

Attachment 4

CDDP23-03024 CPC Staff Report with Exhibits



Department of Conservation and Development

County Planning Commission

Wednesday, March 27, 2024 – 1:30 P.M.

STAFF REPORT

Agenda Item # _____

Project Title:	40 Anson Way Kensington Design Review Development Plan
County File:	CDDP23-03024
Appellant:	Shona Armstrong
Applicant/Owner:	Cari Rosner Jelen (Applicant) / Elena Saxonhouse (Owner)
Zoning/General Plan:	R-6 Single-Family Residential District, -TOV Tree Obstruction of Views Combining District, -K Kensington Combining District / SH Single-Family Residential-High Density
Site Address/Location:	40 Anson Way in the Kensington area of unincorporated Contra Costa County (APN: 572-233-012)
California Environmental Quality Act (CEQA) Status:	Categorical Exemption, CEQA Guidelines Section 15301(e)(2)
Project Planner:	Adrian Veliz, Senior Planner, (925) 655-2879 adrian.veliz@dcd.cccounty.us
Staff Recommendation:	Deny the Appeal and Uphold the Zoning Administrator's Decision (See Section II for full recommendation)

I. PROJECT SUMMARY

This is an appeal of the Zoning Administrator's decision to approve a Kensington Design Review Development Plan to allow a 993 square-foot two-story addition to the northern side of an existing single-family residence.

II. RECOMMENDATION

Department of Conservation and Development, Community Development Division (CDD) staff recommends that the County Planning Commission:

- A. DENY the appeal.
- B. FIND that the project is categorically exempt from CEQA under Section 15301(e)(2) of the CEQA Guidelines.
- C. UPHOLD the Zoning Administrator’s decision to approve County File CDDP23-02034, based on the attached findings and subject to the attached conditions of approval.
- D. DIRECT staff to file a Notice of Exemption with the County Clerk.

III. GENERAL INFORMATION

- A. General Plan: SH Single-Family Residential – High Density.
- B. Zoning: R-6 Single-Family Residential District, -TOV Tree Obstruction of Views Combining District, -K Kensington Combining District.
- C. California Environmental Quality Act (CEQA): CEQA Guidelines Section 15301(e)(2) Existing Structures, Class I exemption for additions to existing structures of no more than 10,000 square feet in an area that is not environmentally sensitive and where all public services and facilities are available for maximum development permissible in the General Plan.

IV. BACKGROUND

- A. CDKR23-00010 Kensington Design Review Application: On May 11, 2023, the applicant submitted the CDKR23-00010 Kensington Design Review application for a two-story residential addition. A Notice of Intent to Render an Administrative Decision was sent to property owners within 300 feet of the subject parcel on June 1, 2023. CDD received a letter requesting a public hearing on June 7, 2023 from the neighboring property owner at 36 Anson Way, located adjacent to and north of the project site. In the letter, the neighboring property

owner requested an opportunity to discuss the compatibility of the proposed addition and its impact on adjacent residences.

- B. CDDP23-03024 Kensington Design Review Development Plan: On July 11, 2023, the applicant submitted the application for the CDDP23-03024 Kensington Design Review Development Plan to allow staff to prepare and schedule a hearing before the Zoning Administrator (ZA) on the proposed two-story residential addition.
- C. Zoning Administrator Decision on the Kensington Design Review Development Plan: On February 5, 2024, the CDDP23-03024 Development Plan application was heard by the ZA. After considering the testimony provided at the public hearing from five persons, including the applicant, owner, an attorney for the neighboring property owner, an architect for the neighboring property owner, and the neighboring property owner, the ZA found the project to be compliant with the letter and spirit of the Kensington Combining District Ordinance, and with development standards regulating residential construction on the project site, and approved CDDP23-03024, as recommended by staff.
- D. Appeal of the Zoning Administrator Decision: An appeal of the Zoning Administrator decision was filed on February 14, 2024, within the 10-day appeal period by Shona Armstrong of Harper & Armstrong, on behalf of the neighboring property owner.

V. SITE/AREA DESCRIPTION

The property at 40 Anson Way is an 8,800 square-foot parcel located on the west side of Anson Way approximately 330 feet north of the intersection of Anson Way and Eureka Avenue. Eureka Avenue slopes downward to the west into the City of El Cerrito. The subject parcel slopes downward from northeast to southwest.

The project neighborhood, including the subject parcel, is comprised of single-family residences. The terrain in this part of Kensington consists of moderate to steeply sloped hillsides. Generally, elevation increases north and east of the site, whereas areas south and west of the site are located downslope. Due to the topography of the area many homes in the neighborhood have distant views to the west of city skylines, the San Francisco Bay, Golden Gate Bridge and/or Bay Bridge.

The subject parcel is rectangular in shape, having a width of 80 feet along Anson Way and a depth of 110 feet. The parcel includes an approximately 1,949 square-foot single-family residence that includes 1,576 square feet on the main floor and 373 square feet on a lower level, which was originally constructed in 1946.

VI. PROJECT DESCRIPTION

The applicant requests approval of a Development Plan to allow a 993 square-foot two-story addition on the northern side of the existing single-family residence behind an existing garage. Currently, the northern side of the existing residence is one-story and approximately 13 feet in height. The two-story addition would expand the residential footprint and increase the northerly height of the home to 24 feet.

VII. APPEAL

An appeal letter from Shona Armstrong on behalf of Kris McClain, the neighboring property owner at 36 Anson Way, was received on February 14, 2024. The appeal letter includes several exhibits including a letter dated September 18, 2023, from Heather Sanders-Jacob of Shelterwerk Architecture and Design, which is included in Exhibit 4, Staff Report for the February 5, 2024 Zoning Administrator Meeting (ZA Staff Report), as Attachment 6. The appeal is based on several appeal points, each of which is summarized below and followed by a staff response.

- A. *Summary of Appeal Point #1: The proposed construction violates General Plan Policies for the Kensington Area by failing to reasonably protect Ms. McClain's residence with regard to views, design compatibility (including building bulk, size, and height), privacy, and access to sunlight.*

Staff Response: The project is consistent with General Plan Policies for the Kensington area, each of which is discussed specifically in Section VIII.A, *Staff Analysis – General Plan Consistency*. The appellant asserts that the project has view impacts, unnecessary building bulk, and impairs access to sunlight, in violation of these policies. The County adopted [Chapter 84-74](#) of the County Ordinance Code, the Kensington Combining District Ordinance (Kensington Ordinance), with the expressed purpose to “provide specific regulation to fairly and efficiently implement the Contra Costa County General Plan policies for the Kensington area¹”. In the following discussion staff evaluates the various respects

¹ Kensington Ordinance Section 84-74.204(a)

that the appellant contends the project conflicts with the provisions of the Kensington Ordinance.

1. Views: The appellant refers to photographs showing that the proposed addition, represented by story poles previously installed by the applicant, would block views of the City of Emeryville skyline from a southern-facing dining room window within 36 Anson Way. The ZA Staff Report in Exhibit 4 included the below photograph taken from this window by staff on October 20, 2023, and a discussion of the impact on views from this southern facing window. As noted in the ZA Staff Report, existing views from this window predominantly consist of neighboring residences and neighborhood trees that do not constitute a "view²" as defined by the Kensington Ordinance.



During the public hearing held February 5, 2024, the owner of 36 Anson Way stressed to the ZA that her southerly views of Emeryville are typically of higher quality, and that the weather conditions on the date of CDD staff's visit

² Kensington Ordinance Section 84-74.404(r)

adversely affected visibility. The ZA acknowledged that the project would obstruct views of Emeryville when viewed from the appellant’s dining room window and specified that this alone would not necessarily conflict with the Kensington Ordinance unless it was determined to be a *substantial* impact to the neighbor’s views.

The appellant’s residence at 36 Anson Way includes several western facing windows which offer unobstructed views across the San Francisco Bay through the Golden Gate. The entire expanse of the Golden Gate Bridge, Angel Island, and Alcatraz Island are prominently visible from multiple vantage points within the appellant’s residence, including kitchen, living room, and bedroom areas located on the upper floor. Despite the relatively poor visibility on the date of staff’s visit, the aforementioned scenic features were immediately apparent on the western horizon. The photograph below provides additional context as to the quality of the viewing corridor to the west, as photographed by CDD staff from the rear yard at the southwestern corner of the appellant’s home on October 20, 2023.



The upper floor of the appellant's home includes four western facing windows and a sliding glass door, through which they presently enjoy westerly views. The proposed addition would have no impact whatsoever on the western facing view corridor depicted above, as viewed from any habitable area within the appellant's home. Additionally, when standing directly in front of the appellant's impacted southern facing window, westerly views towards the bay will remain unobstructed by the addition. The appellant's existing westerly views are both more numerous and of objectively higher quality than that of their southerly views - in terms of scenic landscape, their visibility in less than ideal atmospheric conditions, as well as the lack of existing view obstructions. In approving the project at the public hearing of February 5, 2024, the ZA stated on multiple occasions that a project is not required to demonstrate "no impact" on neighboring properties to comply with the Kensington Ordinance, rather, he specified that some degree of impacts (view, privacy, solar access, or otherwise) are expected to arise from any new construction and that the Kensington Ordinance is designed to prevent *substantial* impacts, as determined by the County Zoning Administrator, and in the case of appeals, by the County Planning Commission and Board of Supervisors. Considering that the proposed addition to 40 Anson Way would only affect a relatively lower quality southerly view from an upstairs south-facing window, and that it does not impact the primary westerly views from several other habitable areas within the neighboring property owner's home, the ZA found that the project would have a marginal impact on views enjoyed from appellants property. Therefore, the project is consistent with view protections codified in the Kensington Ordinance because it does not substantially degrade the quality of existing views, as enjoyed from several vantage points within habitable areas of the appellant's home.

2. Design Compatibility: The appellant contends that the project creates an unnecessarily elevated mass that results in a sense of confinement and visual monotony. The appellant suggests that this can be remedied by redesigning the proposed project such that the second story is relocated to the opposite side of the residence (resulting in a need for a three-story variance), or in a single-story configuration occupying a larger footprint within the rear yard of the project site. Notably, the General Plan policies for the Kensington Area and the Kensington Ordinance only refer to "building bulk" in the context of neighborhood compatibility. The ZA Staff Report notes that the project vicinity consists of a mix of one- and two-story single-family residences. Accordingly, the design of the addition is consistent with the surrounding

neighborhood, which includes two-story residences on immediately adjacent parcels to the north, south, east, and west. The adjacent two-story residences on Anson Way range from 1,578 to 2,881 square feet in habitable living space according to County Assessor's Office data. The project would increase the habitable area of the existing home on the project site from approximately 1,949 square feet to 2,942 square feet, which is compatible with the observed range of homes in the immediate neighborhood. Additionally, the proposed two-story addition would have a height of 24 feet, which is substantially below the 35-foot maximum height for residential development in the R-6 Single-Family Residential District pursuant to Section 84-4.802 of the County Ordinance Code (County Code). The appeal letter does not object to the bulk of the building based on neighborhood compatibility, rather, it expresses the appellant's preference for where the building bulk should be located. Therefore, the appeal point does not demonstrate that the ZA's approval of the project is in conflict with General Plan policies for the Kensington area, or the Kensington Ordinance in terms of neighborhood compatibility.

3. Solar Access: The February 14, 2024 appeal letter reiterates concerns over impacts to solar access that were previously provided to staff in a letter from Heather Sanders-Jacob of Shelterwerk Architecture and Design, dated September 18, 2023, which is Attachment 6 of the ZA Staff Report in Exhibit 4. In response to this specific concern, the ZA clarified that he would consider a solar impact to be substantial if it affected a neighboring property "for much of the day through much of the year". As such, the ZA did not find the concerns raised in the Shelterwerk letter, identifying only one day of the year when the project would prevent morning sunlight from entering a southern facing dining room window to be substantial in nature. An eastern facing window in the dining room will continue to allow morning sunlight into this area of the home, unobstructed by the project, throughout most of the year. The appeal letter reiterates the solar access concerns from the Shelterwerk letter and does not allege solar impacts to living space within appellant's home beyond those already considered by the ZA. The appeal letter does not contest, nor mention, CDD staff's analysis of solar access for the neighboring property, finding solar impacts to be negligible throughout most of the year based on the shadow analysis, which is Attachment 7 of the ZA Staff Report in Exhibit 4.

CDD staff has further evaluated the project's potential effect on solar access for the adjacent northern neighbor using a second web-based resource

(<https://shademap.app>) that renders a three-dimensional model of an urban environment and allows for shadow analysis at a specific date/time at a specified location. Using a feature of the application that simulates new building mass, staff has added a wall to the rear of the existing garage at 40 Anson Way to simulate the height of the proposed second-story addition. Although the proposed addition will have a height of 24 feet, the renderings included in attachment 8 are for an addition 31 feet in height, to provide a conservative approximation of the potential shadow impact resulting from the project. The three-dimensional staff shadow analysis is included on Exhibit 5. Exhibit 5 supports staff's earlier finding that the project impact to solar access would be negligible for most of the year, with no shading over the neighboring property owner's dining room window whatsoever between the Vernal and Autumnal Equinoxes (March 21 through September 21). In the case of the Winter Solstice, the model indicates that the shadow cast from a 31-foot building would traverse the southern side of the neighboring home at 36 Anson Way between 9:00am-3:00pm, with potential shading of the upstairs dining room window occurring between the hours of 12:00pm to 3:00pm. Since the model shows that the shadow cast by the addition would be primarily limited to the lower level of the neighboring property owner's home, it is reasonable to infer from Exhibit 5 that the project would not significantly obstruct sunlight from entering the appellant's upstairs dining room window, even on the date of the Winter Solstice. Therefore, the evidence in the record does not support appellant's claim that the project would result in substantial impacts to solar access enjoyed from habitable areas within their home.

With regards to solar impacts to outdoor gardening areas, including an existing greenhouse on appellant's property, the Kensington Ordinance specifies that "'solar access' means a *living area's* direct sunlight unobstructed by buildings or structures³". Therefore, the provisions of the ordinance protecting solar access do not apply to these areas of the property.

Based on the foregoing, the appeal point does not demonstrate substantial impacts to solar access that conflict with General Plan policies for the Kensington area or the Kensington Ordinance.

³ Kensington Ordinance Section 84-74.404(q) – emphasis added.

B. Summary of Appeal Point #2: The building height violates the clear language of the law.

Staff Response: The appellant contends that the project should be considered a third-story addition that is at variance with development standards for the R-6 Single-Family Residential District. The appellant correctly notes that a basement within the existing residence on the project site is considered a “story”, as defined under Section 82-4.266 of the County Code. The appellant asserts that the project should be considered a third-story addition since it would result in a home with three distinct levels on the project site, whereas Community Development Division (CDD) staff has consistently described the project as a two-story addition. The text of the relevant County Ordinances is provided below:

- [Section 84-4.214](#) (Building Height): *“Building height” means the vertical distance measured from grade to the top of structure directly above with exceptions noted elsewhere in the code. Height may be measured from finished grade when such grade is below natural grade. Height shall be measured from natural grade when the finished grade is higher than the natural grade.*
- [Section 84-4.802](#) (Building Height – Maximum): *No single-family dwelling or other structure permitted in the R-6 district shall exceed two and one-half stories or thirty-five feet in height.*

CDD staff does not consider the proposal to result in a three-story condition because the top level of the addition is positioned such that a vertical plane cannot intersect all three levels at any point within the home. In response to the assertion that the project constitutes a three-story variance, the ZA confirmed that the project complies with building height regulations. The ZA added that this determination is consistent with the way the CDD has routinely enforced building height regulations within unincorporated Contra Costa County for decades.

Development standards for the R-6 District, including County Code Section 84-4.802 (Building Height – Maximum), do not state that building height is to be measured in any manner other than that defined in Section 82-4.214 of the County Code. Thus, pursuant to County Code Section 82-4.214, the “building height” for the addition is “measured vertically from grade to the top of the structure directly above”. Sheet A3.6 of the project plans, included in Exhibit 3,

clearly shows that the basement level is not in the area between grade and the top of the addition. Therefore, the basement is not counted for purposes of measuring “building height” for the proposed addition, based on the plain meaning of the words “from grade to the top of structure directly above”.

Based on the above, staff finds no merit in appellants contention that CDD staff enforces building height regulations based on “secret, unwritten rules that work to [appellants] detriment”. The CDD consistently enforces building height regulations for all new construction based on the published provisions of the County Code. The appellants discussion of ordinances and interpretations from jurisdictions outside of Contra Costa County are not relevant considerations in CDD staff’s interpretation and enforcement of County Code Section 82-4.214, which provide clear direction on how building height is to be measured in unincorporated Contra Costa County.

C. Summary of Appeal Point #3: The proposed project adversely affects Ms. McClain’s property values.

Staff Response: The comments suggest that project-related impacts to views, solar access, and building bulk will cause the neighboring property owner to suffer unspecified loss of property value. As discussed in response to Appeal Point #1, the project will not result in a substantial obstruction of views or solar access for the northerly neighbor, and the project design is compatible with the neighborhood in terms of size, building bulk, and height. It is without question that the appellant’s home will continue to enjoy high quality views that positively contribute to the value of her home. The appellant does not provide any substantiation other than their stated opinion regarding the negative effect the project would have on the value of neighboring properties, if any.

D. Summary of Appeal Point #4: The proposed project does not meet required standards.

Staff Response: The project has been evaluated for consistency with development standards for the R-6 District, including minimum setback and side/rear yard requirements, and maximum building height, as specified in Chapter 84-4 of the County Code, and found to be compliant in all respects. Furthermore, the project has been evaluated for consistency with General Plan policies for the Kensington Area (Policies 3-211 through 3-215), as codified in Chapter 84-74 of the County Code (Kensington Ordinance).

Based on CDD staff's review of the applicable ordinances as they pertain to the proposed addition, the project was added to the February 5, 2024, Zoning Administrator agenda with a staff recommendation for approval. The ZA Staff Report included a detailed discussion of the appellant's claims of project-related impacts to views and solar access, which had been previously raised in the September 18, 2023 Shelterwerk letter, which is Attachment 6 of the ZA Staff Report in Exhibit 4. The ZA addressed view and solar access impacts, and appellant's claim that the project is at variance with building height regulations during the February 5, 2024 public hearing and found that the impacts described by the appellant did not amount to substantial impacts conflicting with the Kensington Ordinance, or any other provision of the County Code. The ZA approved the project as recommended by staff based on the findings and conditions of approval in the ZA Staff Report.

The Kensington Ordinance is intended to balance "the rights of property owners to improve the value and enjoyment of their property while minimizing impacts upon surrounding neighbors, and not *substantially* impairing the value and enjoyment of their neighbor's property⁴". While acknowledging that the neighboring property owner would prefer an alternative design that would eliminate the northerly second story element of the proposed project and preserve all existing views/solar access presently enjoyed from her residence, the Kensington Ordinance does not preclude property owners from building in compliance with applicable development standards (including two-story additions) absent substantial impacts on neighboring property owners. The view impacts from the project would affect a southerly view from a single window in the neighboring property owner's home at 36 Anson Way that offers intermittent fleeting views of Emeryville through surrounding residential development and neighborhood trees. The primary viewing corridor, towards which numerous upper-level windows in the neighboring property owner's home are oriented, will maintain unobstructed views over the San Francisco Bay. The appellant's stated concern with solar access impacts are specific to a single day of the year when the project would cast a shadow over the neighboring property during the morning hours immediately after sunrise. In consideration of the above and the detailed discussion of project compliance with applicable General Plan policies and zoning ordinances in response to Appeal Points #1 and #2, CDD staff does not agree that the project would result in significant impacts to the neighboring

⁴ Kensington Ordinance Section 84-74.204(a) -Emphasis added.

property owner warranting redesign of the project pursuant to the Kensington Ordinance.

- E. Summary of Appeal Point #5: Specified findings for the planning division are not supported by the evidence.*

Staff Response: See the discussion regarding staff findings of project compliance with required standards in response to Appeal Point #4 above.

- F. Summary of Appeal Point #6: Revised plans do not reflect sensitivity to or consideration of Ms. McClain's interests.*

Staff Response: CDD staff cannot characterize or attest to the nature of outreach made by the property owner to neighboring property owners that occurred prior to the submittal of either the Kensington Design Review application or the subsequent Kensington Design Review Development Plan application. The Kensington Ordinance requires CDD staff to evaluate a project's consistency with its provisions, including those protecting views, solar access, privacy, and neighborhood compatibility. There are no codified provisions within the Kensington Ordinance requiring direct input from neighboring property owners. However, the Development Plan process allows neighboring property owners and their consultants to convey their concerns directly to staff for consideration during the planning process. Many of the concerns of the appellant were provided to staff in the September 18, 2023 Shelterwerk letter, which is included as an attachment to and discussed in the February 5, 2024 ZA Staff Report. The February 14, 2024 appeal letter does not claim any additional impacts beyond those previously evaluated by CDD staff and the ZA. Therefore, notwithstanding the appellant's misgivings regarding communication amongst neighbors, the interests of the neighboring property owner were duly considered by CDD staff prior to recommending that the ZA approve the project.

- G. Summary of Appeal Point #7: 40 Anson Way could be developed in a manner that satisfies the applicant's goals without having such significant impacts on Ms. McClain and her property.*

Staff Response: The appellant's comments assert a preference for a single-story addition as a solution to stated concerns with the project. In addition to recognizing the rights of neighboring property owners to avoid substantial impacts, the Kensington Ordinance also recognizes the rights of the property

owner to improve the value and enjoyment of their property. The proposed project is consistent with development standards for the R-6 District in all respects. Further, the ZA found the project to be consistent with the letter and spirit of the Kensington Ordinance in approving the project on February 5, 2024. The ZA did not consider the concerns raised by the appellant during the hearing, and reiterated in the February 14, 2024 appeal letter to be substantial enough to outweigh the property owner's right to construct a two-story addition in conformance with height requirements for the R-6 District. The mere feasibility of a single-story configuration offering a similar increase in square footage does not preclude two-story development pursuant to the Kensington Ordinance, or any other provision of the County Code.

VIII. STAFF ANALYSIS

- A. General Plan Consistency: The subject parcel at 40 Anson Way is located within the SH Single-Family Residential – High Density General Plan Land Use designation. The SH designation is intended to promote the orderly development of single-family residential neighborhoods. The project entails an addition to increase living area within an existing 1,949 square-foot single-family residence by 993 square feet. The proposed addition does not change the established residential use of the site, its residential density, or lot size. Thus, the single-family residential nature of the project does not conflict with the intent and purpose of the SH designation.

The project is also subject to the Policies for the Kensington Area, Policies 3-211 through 3-215 of the General Plan Land Use Element. Collectively, these policies provide for reasonable review of new residential development with protection for existing residences in the Kensington community. New residential projects are evaluated for view impacts, design compatibility, privacy, and solar access. The project's compliance with each of these policies is discussed below.

Additionally, this report includes discussion of the proposed design, including view impacts, design compatibility, parking, privacy, and solar access, as required by General Plan policies for the Kensington area. Therefore, the project is consistent with General Plan Policies 3-211 through 3-215.

Policy 3-211: *Allow for the review of new residential development that provides reasonable protection for existing residences in the Kensington community with regard to: views, design compatibility (including building bulk, size, and height), adequate parking, privacy, and access to sunlight.*

This project was initially submitted to the CDD as administrative Kensington Design Review application CDKR23-00010. Upon the CDD's receipt of a written request for a public hearing on the CDKR23-00010 application in response to public notifications associated therewith, the applicant submitted the current CDDP23-03024 Development Plan application in order to continue the planning process. The processing of this application, culminating in a decision at a noticed public hearing, provides reasonable protection for neighboring property owners by providing a process including public notification and allowing additional opportunities for concerned neighbors to comment on the project before a decision is made. As discussed in detail within Section VIII.B, *Zoning Compliance*, staff finds the proposed residential addition to be consistent and compatible with the surrounding neighborhood and does not anticipate that the addition would a substantial impact on views, privacy, or solar access for neighboring properties.

Policy 3-212: *Preservation of views of scenic natural features (e.g. Bay, mountains) and the developed environment (e.g., bridges, San Francisco skyline) should be incorporated into the review of development applications.*

Section 84-74.404(r) of the Kensington Ordinance defines "view" as "a scene from a window in habitable space of a neighboring residence. The term 'view' includes both up-slope and downslope scenes, but is distant or panoramic range in nature, as opposed to short range." The subject parcel and neighboring parcels are situated on a western facing slope that descends steeply to the west towards the City of El Cerrito. The topography of the area is such that it allows many homes on the hillside to enjoy distant westerly views of city skylines, the San Francisco Bay, Golden Gate Bridge and/or Bay Bridge. On October 6, 2023, at the request of the Kensington MAC, the applicant installed story poles on the subject parcel in order to simulate the height and building mass of the proposed addition. On October 20, 2023, staff was permitted to view the story poles from two neighboring residences at 36 Anson Way (adjacent to and north of the subject parcel) and 39 Anson Way (across the street to the east of the subject parcel) in order to assess potential view impacts. Aesthetically, the proposed addition would have the greatest impact on a southern facing window on the second story of the residence at 36 Anson Way. Existing views from this southern

facing window predominantly consist of neighboring residences and neighborhood trees. Since these existing views are not distant or panoramic in nature, they do not constitute a “view” as defined by the Kensington Ordinance. Based on the October 20, 2023, site visit, the proposed addition does not substantially degrade an existing “view” – as defined by the aforementioned County Ordinance – from within any neighboring residence. Therefore, the project preserves views in a manner consistent with Policy 3-212. Staff photographs depicting the story poles from neighboring residences are included in Exhibit 4, ZA Staff Report, as Attachment 5.

Policy 3-213: Review proposed residential development for design compatibility with nearby development (e.g. building mass, height, mechanical devices) and provisions for adequate parking.

The project neighborhood consists of a mix of one- and two-story single-family residences. Considering that two-story residences presently exist on immediately adjacent parcels to the north, south, east, and west, the building mass of the proposed two-story addition is consistent and compatible with the design of existing residential development in the vicinity. Additionally, the proposed addition would have a height of 24 feet, which is substantially less than the 35-foot maximum for residential development in the R-6 Single-Family Residential District pursuant to Section 84-4.802 of the County Code. Further, the existing two-car garage on the subject parcel meets the off-street parking requirement for the R-6 District pursuant to Section 84-4.1202 of the County Code. Therefore, based on the foregoing discussion, the project is considered compatible with existing development in the vicinity in terms of design, height, and the provision of adequate parking.

Policy 3-214: New residential development will be reviewed against realistic impacts of privacy and sunlight on surrounding neighbors.

Staff has evaluated the project to determine whether realistic impacts of privacy and sunlight would expectedly arise from the addition. This addition is not expected to affect the privacy or solar access on neighboring parcels to any significant degree, as previously discussed in detail in response to Appeal Point #1, and below in Section VIII.B.3 of the Zoning Compliance discussion below.

Policy 3-215: *Consideration will be given to review of non-residential development in the Kensington community with Policies 3-211 through 3-213 herein.*

The proposed project is a residential addition to an existing single-family residence. Thus, this policy does not apply.

- B. Zoning Compliance: The subject parcel is located in the R-6 Single-Family Residential District, -TOV Tree Obstruction of Views Combining District, and -K Kensington Combining District. The proposed project does not involve removal or addition of any tree, and therefore, the regulations of the Tree Obstruction of Views Combining District do not apply to this application.

The intent and purpose of the R-6 District is to facilitate orderly development and maintenance of high-density, single-family residential neighborhoods. The proposed residential addition conforms to all R-6 development standards (e.g. front setback, side and rear yards, building height, off- street parking). Therefore, the proposed addition to an existing single-family residence meets the intent and purpose of the R-6 District.

The Kensington Combining District includes seven criteria for approval of the Development Plan. As detailed below, the project satisfies all seven criteria.

1. *Recognizing the rights of property owners to improve the value and enjoyment of their property.*

Finding: The project is a 993 square-foot two-story addition to the northern side of an existing single-family residence in the R-6 Single-Family Residential District. The proposed addition is in conformance with minimum setback, minimum side and rear yards, maximum building height, and minimum off-street parking requirements applicable to development in the R-6 District. Construction of a residential addition conforming to these development standards is permitted following the application review procedures for the Kensington Combining District, absent substantial impacts to neighboring parcels in terms of views, privacy, or solar access. The property owners have indicated that the increased square-footage is necessary to accommodate the needs of their family, while also providing office areas to better accommodate working from home. Additionally, the proposed two-story configuration will allow for improved views of the San Francisco Bay and city skyline from within

the existing residence, similar to those enjoyed by residents of numerous other properties in the immediate vicinity.

2. *Recognizing the rights of property owners of vacant lots to establish a residence that is compatible with the neighborhood in terms of bulk, scale, and design.*

Finding: The subject parcel is not a vacant lot. Therefore, this criterion does not apply.

3. *Minimizing impacts upon surrounding neighbors.*

Finding: The project involves a two-story residential addition that is in conformance with all applicable development standards for the R-6 District. Section 84-74.204(b) of the Kensington Ordinance specifies that the ordinance is intended to promote the community's values of preservation of views, light and solar access, privacy, parking, residential noise levels. The project is consistent with these values as discussed below:

- Privacy: The project proposes a two-story addition to the northern side of the existing single-family residence on the subject parcel. The neighboring property nearest to the proposed addition is the adjacent property to the north at 36 Anson Way. All upper-level windows of the residence at 36 Anson Way are oriented either towards the street to the east, or towards the scenic San Francisco Bay to the west. Since the addition does not include any northern or southern facing windows, the project would not substantially impair privacy for next door neighboring parcels, including the residence at 36 Anson Way. Therefore, the project minimizes privacy impacts upon surrounding neighbors.
- Light and Solar Access: The potential for residential construction to limit light and solar access on neighboring properties are predominantly influenced by siting (i.e. setbacks), size, and height. The project includes a two-story addition behind an existing garage on the northern side of the existing single-family residence on the subject parcel. The northern side of the existing residence is presently one-story and approximately 13 feet in height. The two-story addition

would expand the residential footprint and increase the northerly height of the home to 24 feet.

The proposed addition would be located at least 42 feet 8 inches and 63 feet 2 inches from the western rear and southern side property lines respectively, and even further from homes located to the east across Anson Way. Therefore, the project would be expected to have negligible impacts to light or solar access on neighboring properties to the south, east, and west of the subject parcel.

The proposed addition would be located 8 feet 3 inches from the northern side property line (where 5 feet is the minimum required) and would be situated approximately 15 to 20 feet south of the existing adjacent residence to the north at 36 Anson Way. The 15 to 20 feet of separation between adjacent residences is typical for development in the R-6 District, where development standards allow for as little as 10 feet of separation. It is not uncommon for adjacent homes in the Kensington community to have less than 10 feet of separation due to lot dimensions and/or existing legal non-conforming residences constructed prior to the implementation of the County zoning code. Additionally, the 24-foot height of the proposed addition conforms to the 35-foot maximum permissible building height for residential development in the R-6 District.

In a letter dated September 18, 2023, included in Exhibit 4, ZA Staff Report, as Attachment 6, the consultant to the owner of the neighboring adjacent property to the north at 36 Anson Way, expressed a concern, amongst others, that the project unreasonably impairs access to daylight by casting shadows on the 36 Anson Way property. The letter includes a diagram depicting shadows cast on the property at 9 AM, 12 noon, and 3 PM on the winter solstice, whereon the proposed addition is approximated to cast a shadow over the western portion of the 36 Anson Way residence and rear yard at 9am, and over the southernmost portions of this residence at noon. Notably, the shadow analysis provided by the neighbor's consultant is limited to conditions expected at a specific time of year when the daylight hours are shortest (i.e. the sun rises later and sets earlier than any other date) and when the sun rises at its southernmost location in the sky. Using a web-based application (www.suncalc.org) that shows the

movement of the sun for a certain date at a certain place, staff has prepared a Shadow Analysis (Exhibit 4, Attachment 7) to approximate the project's effect on solar access for the summer solstice, and at the equinox. The shadow analysis shows the sun rising further to the north and higher in the sky throughout the rest of the year, and the extent of shadows cast on the northerly parcel are typically much less throughout the year than depicted by the consultant. Therefore, the project is not expected to affect the neighboring residence's solar access to any significant degree.

4. *Protecting the value and enjoyment of the neighbors' property.*

Finding: As previously mentioned, the addition would not significantly block any views in the project neighborhood or decrease privacy or access to sunlight. Therefore, absent significant impacts on neighboring parcels, the addition would preserve the value and enjoyment of the neighbors' property.

5. *Maintaining the community's property values.*

Finding: The project involves an addition to an existing single-family residence in an established residential neighborhood. The proposal does not involve an incompatible land use that would conflict with the surrounding residential community in a manner that may negatively affect property values. Additionally, the project does not substantially affect scenic views, privacy, or solar access for neighboring parcels to any significant degree. Therefore, the project maintains the community's property values.

6. *Maximizing the use of existing interior space.*

Finding: The existing single-family residence consists of a main floor at street level having approximately 1,576 square feet of living area and a 372 square foot two-car garage. A lower level beneath the southern end of the existing residence provides an additional 373 square feet of conditioned living space. There is no existing interior space within the residence that is not presently being utilized as part of the residence. Thus, the 993 square-foot increase in living space sought by the property owners could not feasibly be accomplished within the existing building envelope. Therefore, staff finds that the project maximizes the use of existing interior space.

7. *Promoting the general welfare, public health, and safety.*

Finding: The residential addition does not change the land use on the subject parcel and as described above, would have minimal impact on neighboring properties. The project's compliance with applicable zoning standards and the requirement to obtain building permits will ensure that the addition does not present a hazard to public health and safety for the occupants or community at large. Thus, the project promotes the general welfare, public health, and safety of the Kensington community.

IX. CONCLUSION

Construction of the proposed residential addition is consistent with the SH Single-Family Residential-High Density General Plan Land Use designation and complies with the intent and purpose of the R-6 Single-Family Residential Zoning District and the -K Kensington Combining District. Therefore, staff recommends denying the appeal, and upholding the Zoning Administrator's approval of Kensington Design Review Development Plan CDDP23-03024 to allow a 993 square-foot two-story addition to an existing single-family residence, subject to the attached findings and conditions of approval, which are included as Exhibit 1.

X. EXHIBITS

Exhibit 1: Findings and Conditions of Approval

Exhibit 2: Letter of Appeal received on February 14, 2024

Exhibit 3: Maps and Plans

Exhibit 4: Staff Report for the February 5, 2024 Zoning Administrator Meeting

Exhibit 5: 3D Shadow Analysis

Exhibit 6: PowerPoint Presentation

EXHIBIT 1

FINDINGS AND CONDITIONS OF APPROVAL

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE CDDP23-03024;
CARI ROSNER JELEN (APPLICANT), ELENA SAXONHOUSE (OWNER)**

FINDINGS

A. Kensington Combining District Findings

County Code Section 84-74.1206(b) requires a project within the Kensington Combining District to satisfy seven criteria to be approved.

1. *Recognizing the rights of property owners to improve the value and enjoyment of their property.*

Project Finding. The project is a 993 square-foot two-story addition to the northern side of an existing single-family residence in the R-6 Single-Family Residential District. The proposed addition is in conformance with minimum setback, minimum side and rear yards, maximum building height, and minimum off-street parking requirements applicable to development in the R-6 District. Construction of a residential addition conforming to these development standards is permitted following the application review procedures for the Kensington Combining District, absent substantial impacts to neighboring parcels in terms of views, privacy, or solar access. The property owners have indicated that the increased square-footage is necessary to accommodate the needs of their family, while also providing office areas to better accommodate working from home. Additionally, the proposed two-story configuration will allow for improved views of the San Francisco Bay and city skyline from within the existing residence, similar to those enjoyed by residents of numerous other properties in the immediate vicinity.

2. *Recognizing the rights of property owners of vacant lots to establish a residence that is compatible with the neighborhood in terms of bulk, scale, and design.*

Project Finding. The subject parcel is not a vacant lot. Therefore, this criterion does not apply.

3. *Minimizing impacts upon surrounding neighbors.*

Project Finding. The project involves a two-story residential addition that is in conformance with all applicable development standards for the R-6 District. Section

84-74.204(b) of the Kensington Combining District Ordinance specifies that the ordinance is intended to promote the community's values of preservation of views, light and solar access, privacy, parking, residential noise levels. The project is consistent with these values as discussed below:

- Privacy: The project proposes a two-story addition to the northern side of the existing single-family residence on the subject parcel. The neighboring property nearest to the proposed addition is the adjacent property to the north at 36 Anson Way. All upper-level windows of the residence at 36 Anson Way are oriented either towards the street to the east, or towards the scenic San Francisco Bay to the west. Since the addition does not include any northern or southern facing windows, the project will not substantially impair privacy for next door neighboring parcels, including the residence at 36 Anson Way. Therefore, the project minimizes privacy impacts upon surrounding neighbors.
- Light and Solar Access: The potential for residential construction to limit light and solar access on neighboring properties are predominantly influenced by siting (i.e. setbacks), size, and height. The project includes a two-story addition behind an existing garage on the northern side of the existing single-family residence on the subject parcel. The northern side of the existing residence is presently one-story and approximately 13 feet in height. The two-story addition will expand the residential footprint and increase the northerly height of the home to 24 feet.

The proposed addition will be located at least 42 feet 8 inches and 63 feet 2 inches from the western rear and southern side property lines respectively, and even further from homes located to the east across Anson Way. Therefore, the project will have negligible impacts to light or solar access on neighboring properties to the south, east, and west of the subject parcel.

The proposed addition will be located 8 feet 3 inches from the northern side property line (where 5 feet is the minimum required) and will be situated approximately 15 to 20 feet south of the existing adjacent residence to the north at 36 Anson Way. The 15 to 20 feet of separation between adjacent residences is typical for development in the R-6 District, where development standards allow for as little as 10 feet of separation. It is not uncommon for adjacent homes in the Kensington community to have less than 10 feet of separation due to lot dimensions and/or existing legal non-conforming

residences constructed prior to the implementation of the County zoning code. Additionally, the 24-foot height of the proposed addition conforms to the 35-foot maximum permissible building height for residential development in the R-6 District.

In a letter dated September 18, 2023, the consultant to the owner of the neighboring adjacent property to the north at 36 Anson Way, expressed a concern, amongst others, that the project unreasonably impairs access to daylight by casting shadows on the 36 Anson Way property. The letter includes a diagram depicting shadows cast on the property at 9 AM, 12 noon, and 3 PM on the winter solstice, whereon the proposed addition is approximated to cast a shadow over the western portion of the 36 Anson Way residence and rear yard at 9am, and over the southernmost portions of this residence at noon. Notably, the shadow analysis provided by the neighbor's consultant is limited to conditions expected at a specific time of year when the daylight hours are shortest (i.e. the sun rises later and sets earlier than any other date) and when the sun rises at its southernmost location in the sky. Using a web-based application (www.suncalc.org) that shows the movement of the sun for a certain date at a certain place, staff has prepared a Shadow Analysis to approximate the project's effect on solar access for the summer solstice, and at the equinox. The shadow analysis shows the sun rising further to the north and higher in the sky throughout the rest of the year, and the extent of shadows cast on the northerly parcel are typically much less throughout the year than depicted by the consultant. Therefore, the project is not expected to affect the neighboring residence's solar access to any significant degree.

4. *Protecting the value and enjoyment of the neighbors' property.*

Project Finding: As previously mentioned, the addition will not significantly block any views in the project neighborhood or decrease privacy or access to sunlight. Therefore, absent significant impacts on neighboring parcels, the addition will preserve the value and enjoyment of the neighbors' property.

5. *Maintaining the community's property values.*

Project Finding: The project involves an addition to an existing single-family residence in an established residential neighborhood. The proposal does not involve a noncompatible land use that conflicts with the surrounding residential community in

a manner that may negatively affect property values. Additionally, the project does not substantially affect scenic views, privacy, or solar access for neighboring parcels to any significant degree. Therefore, the project maintains the community's property values.

6. *Maximizing the use of existing interior space.*

Project Finding. The existing single-family residence consists of a main floor at street level having approximately 1,576 square feet of living area and a 372 square foot two-car garage. A lower level beneath the southern end of the existing residence provides an additional 373 square feet of conditioned living space. There is no existing interior space within the residence that is not presently being utilized as part of the residence. Thus, the 993 square-foot increase in living space sought by the property owners cannot feasibly be accomplished within the existing building envelope. Therefore, staff finds that the project maximizes the use of existing interior space.

7. *Promoting the general welfare, public health, and safety.*

Project Finding. The residential addition does not change the land use on the subject parcel and as described above, will have minimal impact on neighboring properties. The project's compliance with applicable zoning standards and the requirement to obtain building permits will ensure that the addition does not present a hazard to public health and safety for the occupants or community at large. Thus, the project promotes the general welfare, public health, and safety of the Kensington community.

D. Environmental Findings

The 993 square-foot two-story addition to the northern side of an existing single-family residence is categorically exempt under CEQA Guidelines Section 15301(e)(2), which provides a Class 1 exemption for additions to existing structures of no more than 10,000 square feet in an area that is not environmentally sensitive and where all public services and facilities are available for maximum development permissible in the General Plan.

CONDITIONS OF APPROVAL FOR COUNTY FILE CDDP23-03024

Project Approval

1. Development Plan CDDP23-03024 to allow a 993 square-foot two-story addition to the northern side of an existing single-family residence is **APPROVED**.

2. The Development Plan approval describe above is based on the application and project plans received by the Department of Conservation and Development, Community Development Division (CDD) on July 11, 2023.
3. Any deviation from the approved plans shall require review and approval by the CDD and may require the filing of a new Kensington Design Review application.

Building Permits

5. No construction is approved with this permit. Any construction at the subject parcel will require issuance of building permits from the Department of Conservation and Development, Building Inspection Division, prior to commencement of work.

Application Costs

6. This application was subject to an initial application deposit of \$3,000.00, which was paid with the application submittal, plus time and material costs if the application review expenses exceed 100% of the initial deposit. **Any additional fee due must be paid prior to an application for a grading or building permit, or 60 days of the effective date of this permit, whichever occurs first.** The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2019/553, where a fee payment is over 60 days past due from the date of approval, the application shall be charged interest at a rate of ten percent (10%). The applicant may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance.

Construction

All construction activity shall comply with the following restrictions, which shall be included in the construction drawings.

7. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.

8. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.
9. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
10. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The CDD phone number shall also be visible to ensure compliance with applicable regulations.
11. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:
 - New Year's Day (State and Federal)
 - Birthday of Martin Luther King, Jr. (State and Federal)
 - Washington's Birthday (Federal)
 - Lincoln's Birthday (State)
 - President's Day (State)
 - Cesar Chavez Day (State)
 - Memorial Day (State and Federal)
 - Juneteenth National Independence Holiday (Federal)
 - Independence Day (State and Federal)
 - Labor Day (State and Federal)
 - Columbus Day (Federal)
 - Veterans Day (State and Federal)
 - Thanksgiving Day (State and Federal)
 - Day after Thanksgiving (State)
 - Christmas Day (State and Federal)

For specific details on the actual date the State and Federal holidays occur, please visit the following websites:

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov)

California Holidays: [State Holidays \(sos.ca.gov\)](https://sos.ca.gov)

12. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to 4:00 PM.

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE AND OTHER LEGAL REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

A. NOTICE OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et. seq, the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a ninety-day (90) period after the project is approved.

The 90-day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the CDD within 90 days of the approval date of this permit.

- B. The applicant shall submit building plans to the Building Inspection Division and comply with Division requirements. It is advisable to check with the Division prior to requesting a building permit or proceeding with the project.

- C. The applicant must submit building plans to the Kensington Fire Protection District and comply with its requirements. The applicant is advised that plans submitted for a building permit must receive prior approval and be stamped by the Fire Protection District.
- D. The applicant is required to submit plans to the Stege Sanitary District for approval. Plans submitted for a building permit must receive prior approval and be stamped by the Sanitary District.
- E. The applicant is responsible for contacting the Health Services Department Environmental Health Division regarding its requirements and permits.
- F. The applicant is required to comply with the requirements of the East Bay Municipal Utility District.
- G. The applicant is responsible for contacting the Contra Costa Mosquito and Vector Control District regarding its requirements and permits.

EXHIBIT 2

LETTER OF APPEAL RECEIVED ON FEBRUARY 14, 2024

HARPER & ARMSTRONG, LLP

1634 Telegraph Ave., #3, Oakland, CA 94612

Phone: (510) 420-8455 • Fax: (510) 858-5953 • shona.armstrong@harperarmstrong.com

By E-MAIL

February 14, 2024

Adrian Veliz
Senior Planner
Department of Conservation and Development
Contra Costa County
30 Muir Road
Martinez, CA 94553
1-925-655-2879
Adrian.veliz@dcd.cccounty.us

Re: 40 Anson Way (CDDP23-03024)

Dear Mr. Veliz:

I represent Kris McClain, the owner of 36 Anson Way, which is directly next door to 40 Anson Way. I write on Ms. McClain's behalf to appeal from the recent Zoning Administrator decision to approve a Kensington Design Review Development Plan, which proposes a 993 square-foot "two-story" addition to the northern side of an existing single-family residence at 40 Anson Way (CDDP23-03024) despite Ms. McClain's protests.

As Ms. McClain has made clear at each level of hearing, pursuant to Contra Costa County Code section 26-2.2406(c):

- (1) The proposed project does not comply with the general plan and adversely affects her property rights.
- (2) The proposed project does not meet required standards.
- (3) Specified findings for the planning division are not supported by the evidence.

The negative impacts created by the proposed project warranted two meetings of the KMAC, which culminated in a split decision. In the face of clear law prohibiting the approval of this three-story project and in the face of clear general plan violations that harm the property value of one of Kensington's few Black homeowners at the expense of her neighbors, the Zoning Administrator erred by approving the application based on arbitrary, biased, uncodified grounds.

I. The Design Review Approval Violates the General Plan and Disregards the loss of value to Ms. McClain’s Home.

A. The proposed project violates the General Plan.

The “General Plan Policies for the Kensington Area” appear at pages 3-98 to 3-100 of the General Plan:

Policy #3-211

Allow for the review of new residential development that provides *reasonable protection for existing residences in the Kensington community with regard to: views, design compatibility (including building bulk, size, and height), adequate parking, privacy, and access to sunlight.*

Policy #3-212.

Preservation of views of scenic natural features (e.g., Bay, mountains) and the developed environment (e.g., bridges, San Francisco skyline) should be incorporated into the review of development applications.

Policy #3-213.

Review proposed residential development for design compatibility with nearby development (e.g., building mass, height, mechanical devices) and provisions for adequate parking.

3-214.

New residential development will be reviewed against *realistic impacts of privacy and sunlight* on surrounding neighbors.

1. The proposed project specifically fails to reasonably protect Ms. McClain’s residence with regard to views, building bulk, size, height, privacy, and access to sunlight.

a. Views

The photos Ms. McClain has provided at **Exhibit A and Exhibit B** show the story poles blocking the view from the south-facing window of her dining room out over the Emeryville skyline. The General Plan specifically requires protection and preservation of views of the developed environment. Policy 3-212 provides *examples* of the bridges and the San Francisco skyline, but these are examples; they do not constitute an exclusive list of the views that merit conservation. The County Zoning Administrator explicitly and completely discounted Ms. McClain’s views of the Emeryville skyline, stating they simply do not count. The unnecessary

denigration of Emeryville is puzzling and betrays a condescending disregard for the views that Ms. McClain enjoys from her living space.

b. Design compatibility/building mass unnecessarily impairs Kris McClain's property.

As Heather Sanders-Jacob has already explained in her letter dated September 18, 2024, which is attached hereto as **Exhibit C** and incorporated herein, the proposed project creates an unnecessarily elevated mass that allows the owners of 40 Anson Way to expand *at the explicit and significant expense of Ms. McClain*. Both owners could achieve their aims were 40 Anson Way to build and expand downward along the hillside to create the additional square footage they desire or even were they to move the expansion to the other side of their house.

The owners at 40 Anson Way have never, however, sought input from or discussion about the impacts on Kris McClain. When they first approached Ms. McClain, they requested her before-the-fact approval of a project for which they had no drawings. They denied her permission to come into their home to discuss the options and impacts. The next time they approached Ms. McClain they presented her with a fait accompli.

The planning department makes much of the fact that the owners revised their plans to change the position of a balcony, but that change was motivated by the owners' own concerns. It was not a response to or an accommodation for the benefit of Ms. McClain, as they had never shown Ms. McClain the first round of drawings.

Even as modified, the proposed obstruction damages Ms. McClain's views and has tangible consequences for the value of her property. The diminished view significantly detracts from the appeal of the home to potential buyers or renters, thereby directly affecting its market value.

Furthermore, the presence of a blank wall resulting from the proposed project creates a sense of confinement and visual monotony, diminishing the overall livability and enjoyment of the property. This issue extends beyond mere inconvenience; it constitutes a tangible loss of value and an infringement upon Ms. McClain's rights as a homeowner to enjoy the full benefits of her property.

c. The building height violates the clear language of the law.

i. The language of the law provides an unambiguous definition of "story."

As previously explained, the proposed building exceeds the number of permissible stories. The proposal is within the SH zone of Kensington (Single Family Residential – High) Contra Costa County Code limits buildings to two stories in Kensington. Section 82-4.266 of the code defines a story as follows:

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade at any point, such basement or cellar shall be considered a story.

Per 84-4.802 of the County Code, building height maximums are set by the following criteria:

No single-family dwelling or other structure permitted in the R-6 [single family residential] district shall exceed two and one-half stories or thirty-five feet in height.

All single-family residential districts within Contra Costa County have the same building height restrictions. See Contra Costa County Code sections 84-6.802, 84-8.802, 84-10.802, 84-12.802, 84-14.802, 84-16.802, 84-18.802, 84-20.802.

Because the basement story at 40 Anson Way is a habitable space that includes an existing bedroom, bathroom, and office with full kitchen, the additional proposed level pursuant to the clear language of the Contra Costa County Code constitutes an impermissible third level. The diagram below is what was submitted to the Planning Department. This lower level was not omitted from the architect’s drawing, and it should have compelled the planners to reject the proposal or require a variance application.



ii. **Long pattern and practice and an ongoing informal agreement to disregard the law cannot change the meaning of the words written in the code.**

The staff asserts repeatedly in written recommendations that the proposed project is a two-story building. The applicant asserts that the staff assured them the project would be processed

as a two-story building. The Zoning Administrator likewise asserts that the planning department has the leeway to interpret its code however it likes, and that the planning department always considers a project like this to be a two-story project, because the separate stories are not stacked atop one another. This interpretation appears groundless.

The Zoning Administrator made comments arrogating to the planning department the power to enforce rules either beyond or in contradiction to the language of the law. These comments misconstrue and inflate the powers of the Planning and Conservation Department. The Department and its staff are to execute the laws, not to legislate by fiat. The code is clear. Where neither the language nor the statutory history of an ordinance is ambiguous, “there is no need to defer to [agency] interpretation.” *Riddick v. City of Malibu*, ___ Cal. App. ___, ___ (Feb 1, 2024) 2024 WL376305 (citing *Advanced Real Estate Services, Inc. v. Superior Court*, 196 Cal. App. 4th 338, 350 (2011); *Department of Industrial Relations v. Occupational Safety & Health Appeals Board*, 26 Cal. App. 5th 93, 106 (2018)).

Here, there is no

ambiguity concerning the meaning of the text, it is not composed of “ ‘technical, obscure, complex, open-ended’ ” language “ ‘entwined with issues of fact, policy, and discretion’ ” that would require resort to [the agency’s] *specialized expertise*. (*Yamaha, supra*, 19 Cal. 4th at p. 12, 78 Cal.Rptr.2d 1, 960 P.2d 1031.) [*The agency*] *therefore “enjoy[s] no comparative advantage over a generalist court in interpreting the legal text at issue.”* (*California Veterinary Medical Association v. City of West Hollywood*, (2007) 152 Cal. App. 4th 536, 556, 61 Cal.Rptr.3d 318.)

Riddick v. City of Malibu (Cal. Ct. App., Feb. 1, 2024, No. B323731) 2024 WL 376305, at *5 (emphasis added).

Other jurisdictions that legitimately apply the standard the Contra Costa County Planning Department applied here do so based on a Code or other publicly available guidance. For instance, in some jurisdictions, in which following the hillside’s natural contour allows the approving agency to deem a story not a story when not stacked one atop the other, the examples and diagrams within the ordinances or regulations depict possible scenarios in detail and explain the exceptions to the rules. Attached hereto as **Exhibits D and E** are guidance documents from Berkeley and Los Angeles, which show that it is very easy to publish transparent detailed guidance that does not leave architects and homeowners to guess about when and why an approving agency might simply (and in violation of the law) disregard its own published ordinances.

Citizens rely on transparent, publicly available laws and regulations for setting their expectations about property purchases and making other important decisions. Publicly available, consistently enforced laws ensure that citizens cannot be ambushed by secret, unwritten rules that work to their detriment. Kris McClain bought her house secure in the fact that her views were protected, and she was entitled to set her expectations based on the clear language of the

law. If there is a law or regulation in Contra Costa County that provides an exception, no staff member or official has pointed it out.

Pursuant to the language of the code there can be no argument. This project comprises three stories. Decades of disregarding the clear language of the code in practice does not change the language of the code. If the County truly wishes to count stories only when they are stacked atop each other, then the County must re-write its code to actually say that.

d. Access to Sunlight

The initial solar access study at the winter solstice depicts the time of the year during which Ms. McClain is most highly impacted (and the time of year when sunlight is most valued). The impacts on Ms. McClain are significant.

From her upstairs living spaces, Ms. McClain will now be spending more time in the shadow of a blank wall rather than looking out over the skyline. The photos she has taken and attached as **Exhibit A and B**, particularly the photo taken in the evening when the sun is low (Exhibit B), along with the photos of the story poles, show the significant negative change she will experience due to loss of light. Evening light will be curtailed in Ms. McClain's dining room. On February 4, 2024, there was a power outage from 11:00 AM- 7:30 PM. The sun started to go down around 4:30-5PM. Ms. McClain was able to continue working up until the sun was gone. She had a deadline and was able to make it without losing a day due to loss in power. If 40 Anson was built up as proposed, much of the light she used for the last hours of the day would have been blocked because of the large shadow the third story would have created.

A corrected shadow study attached as **Exhibit F** is relabeled to depict more clearly that it is not only Ms. McClain's downstairs windows that are affected, but also her upstairs dining room windows that will suffer significant loss of light. The Zoning Administrator discounted the shadow study because he erroneously presumed it *only* affected the downstairs windows in Ms. McClain's garage (where, to be clear, she still uses and enjoys the light by growing many plants).

The proposed addition will therefore impair Ms. McClain's ability to nurture the collection of indoor plants she keeps in her dining room. In her own words:

I got into plants in 2021. I have researched plants, their light, water, and placement needs. Each plant that I have is in its ideal spot, which was determined by their specific light requirements. The ones who require the most light, i.e, succulents and cactus plants, are under grow lights. The others depend on the morning sun which isn't as harsh as the afternoon sun. They all rely on light to grow. I have a fiddle leaf fig that was in a 6 inch pot. She is now in a 20 inch pot. If you know anything about the fiddle leaf plant, you'll know that this is a big deal. We all rely on the light coming from the dining room window.

The Zoning Administrator Planner specifically stated the lower-level windows and accessory structures like the greenhouse aren't protected items where solar access is concerned, but the new addition will also impair Ms. McClain's ability to garden the space on the southern side of her house. She takes much joy and finds peace in her landscaping and gardening, and she is concerned about the limitations that the lack of sunlight will impose on her choice of plantings. She chose the spot for her greenhouse based on the rise and fall of the sun. It faces north and south to maximize the sunlight. She also uses her lower deck to read and barbeque. All of these activities will be impaired by the proposed addition's negative impact on her sunlight.

B. The proposed project adversely affects Ms. McClain's property values.

When members of the Kensington Municipal Advisory Council visited Ms. McClain's property, they were impressed with her view and one member joked that his colleague could have such a view if her were willing to pay the price. It is common knowledge that the views create significant value. Ms. McClain's view will be impaired, and her property value will suffer concomitant damage.

In addition to loss of a portion of her view, Ms. McClain's reduced access to sunlight and her new close proximity to a bulky new three-story building will affect her property value.

II. The proposed project does not meet required standards.

As explained above, the Contra Costa County Code is clear, and the proposed project violates that code with respect to building height, and with respect to considering access to sunlight, preservation of views of skylines, and design compatibility. See **Exhibit C** (Letter from Shelterwerk re McClain Appeals 2023-09-18.)

III. Specified findings for the planning division are not supported by the evidence.

As explained above, the County's findings are not supported by the evidence, because the approval does NOT: (1) minimize impacts upon surrounding neighbors; (2) protect the value and enjoyment of the neighbors' property; (3) maintain neighbors' property values; or (4) promote the general welfare, public health, and safety, inasmuch as approving a project that violates the law as written leads to public confusion, abuse, and arbitrary decision making.

IV. Revised plans do not reflect sensitivity to or consideration of Ms. McClain's interests.

The project applicant provided an initial design and then a revised design to the planning staff. The first proposed design had even more extreme impacts on Ms. McClain. The project applicant has misleadingly packaged this redesign as an accommodation to Ms. McClain. In reality, the project applicants redesigned their project without consultation with or input from Ms. McClain.

V. 40 Anson Way could be developed in a manner that satisfies the applicants' goals without having such significant impacts on Ms. McClain and her property.

The owners of 40 Anson could remedy this problem by locating the addition on the southern side of their property or by considering a horizontal addition that would keep the entire home on a single level.

Ms. McClain has been fighting for agency throughout this disempowering design review process. When neighbors can communicate and work together, the project can be improved and the neighborly relationship preserved without negatively impacting the end product. There is still a chance for this to happen here.

VI. Conclusion

The Kensington-specific section of the Contra Costa County Code provides that the purpose of the local ordinances is as follows:

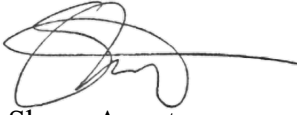
84-74.204 - Purpose and intent.

- (a) The purpose of this chapter is to provide specific regulation to fairly and efficiently implement the Contra Costa County general plan policies for the Kensington Area so that future development recognizes the rights of property owners to improve the value and enjoyment of their property while minimizing impacts upon surrounding neighbors and not substantially impairing the value and enjoyment of their neighbors' property; maintains the community's property values; and promotes the general welfare, public health and safety.
- (b) It is a further purpose of this chapter to promote the community's values of preservation of views, light and solar access, privacy, parking, residential noise levels and compatibility with the neighborhood with regard to bulk and scale
- (c) Features of a development that could influence these values include but are not limited to siting, size, bulk, building envelope, height, setbacks, relative scale, off-street parking spaces, window placement, artificial lighting and location of mechanical devices such as motors, fans and vents.

Part (a) recognizes the right of homeowners to develop their properties, while minimizing any impacts on their neighbors' property value, and while protecting the ability of their neighbors to enjoy their land. Parts (b) and (c) provide criteria for evaluating the impacts of development on neighboring properties. The proposed development at 40 Anson Way fails to minimize impacts as required by the code, violates the General Plan, and unnecessarily robs Ms. McClain of her cherished property values.

We invite you to arrange a visit to my client's property to view the impact the project will have. I can be reached at shona.armstrong@harperarmstrong.com and 510-508-5017.

Regards,

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a horizontal line extending to the right.

Shona Armstrong

EXHIBITS

- Exhibit A: Photos from Ms. McClain's dining area, deck, and garage, showing story pole impact on views from her dining room and deck during October 18-29, 2023
- Exhibit B: Photo from Ms. McClain's dining room window Feb 6, 2024, at 6:56 pm
- Exhibit C: LTR from Shelterwerk re 40 Anson Way 2023-09-18
- Exhibit D: Excerpts from Los Angeles Basin Hillside Ordinance
- Exhibit E: Berkeley Municipal Code section 23.106.060
- Exhibit F: Corrected shadow study pointing out affected upper windows

EXHIBIT A

(Photos from Ms. McClain's dining area, deck, and garage, showing story pole impact on views from her dining room and deck during October 18-29, 2023)









WARNING
EMERGENCY







EXHIBIT B

(Photo from dining room February 6, 2024 at 6:56 pm)



EXHIBIT C

(Letter from Shelterwerk)

SHELTERWERK

ARCHITECTURE & DESIGN

September 18, 2023

Kris McClain
36 Anson Way
Kensington, CA 94707



Re: McClain Appeals

Dear Kris,

We have researched the proposed addition at 40 Anson Way, Kensington, CA, and made determinations about its impacts in consideration of Chapter 84-74 of the Contra Costa County Code, which lays the guidelines for building in Kensington, as well as 84-4 of the Contra Costa County Code, which lays out additional guidelines for residential building not necessarily covered within the Kensington section of the code.

To lay the foundation of our research on the impacts proposed construction at 40 Anson Way, we look at the purposes of the Kensington specific section of the Contra Costa County Code:

84-74.204 - Purpose and intent.

(a) The purpose of this chapter is to provide specific regulation to fairly and efficiently implement the Contra Costa County general plan policies for the Kensington Area so that future development recognizes the rights of property owners to improve the value and enjoyment of their property while minimizing impacts upon surrounding neighbors and not substantially impairing the value and enjoyment of their neighbors' property; maintains the community's property values; and promotes the general welfare, public health and safety.

(b) It is a further purpose of this chapter to promote the community's values of preservation of views, light and solar access, privacy, parking, residential noise levels and compatibility with the neighborhood with regard to bulk and scale

(c) Features of a development that could influence these values include but are not limited to siting, size, bulk, building envelope, height, setbacks, relative scale, off-street parking spaces, window placement, artificial lighting and location of mechanical devices such as motors, fans and vents.

Part (a) recognizes the right of homeowners to develop their properties, while minimizing any impacts on their neighbors' property value, and while protecting the ability of their neighbors to enjoy their land. Parts (b) and (c) provide criteria for evaluating the impacts of development on neighboring properties. The proposed development at 40 Anson Way fails to minimize impacts as required by the code.

SHELTERWERK

ARCHITECTURE & DESIGN

The Building Exceeds the Number of Permissible Stories:

Contra Costa County Code limits buildings to two stories in Kensington. Section 82-4.266 of the code defines a story as follows:

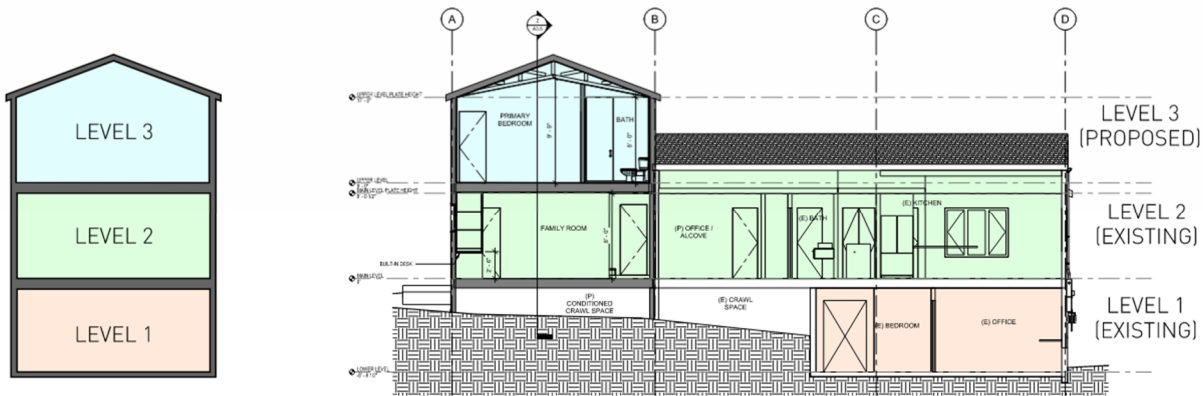
"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade at any point, such basement or cellar shall be considered a story.

Per 84-4.802 of the municipal code, building height maximums are set by the following criteria:

No single-family dwelling or other structure permitted in the R-6 district shall exceed two and one-half stories or thirty-five feet in height.

Due to the existing habitable basement at 40 Anson Way - which includes an existing a bedroom, bathroom, and "office" with full kitchen -the additional proposed level constitutes an impermissible third level. The diagram on the right is what was submitted to the Planning Department. This lower level wasn't omitted from the architect's drawings, and it didn't receive a comment, so maybe it slipped through the cracks, but it should compel the planners to reject the proposal or require a variance application.

BUILDING HEIGHT/STORY DIAGRAMS



The Proposed Building Unreasonably Impairs Views:

The proposed addition adds a large mass adjacent to the dining room window at 36 Anson Way. Panoramic views of the surrounding landscape are negatively impacted. The proposal submitted to the Planning Department provides an image noting views that will be impacted, but the vantage point from which the image was taken is a misrepresentation of reality. It appears to be zoomed in and possibly at a lower vantage point than what one would experience standing in front of the window. The following photo, looking from the backmost windows of 36 Anson Way show more

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accurately the significant negative impact on views caused by the proposed addition at 40 Anson Way.

AREA OF IMPACTED VIEWS
[Image taken from window at 36 Anson Way]

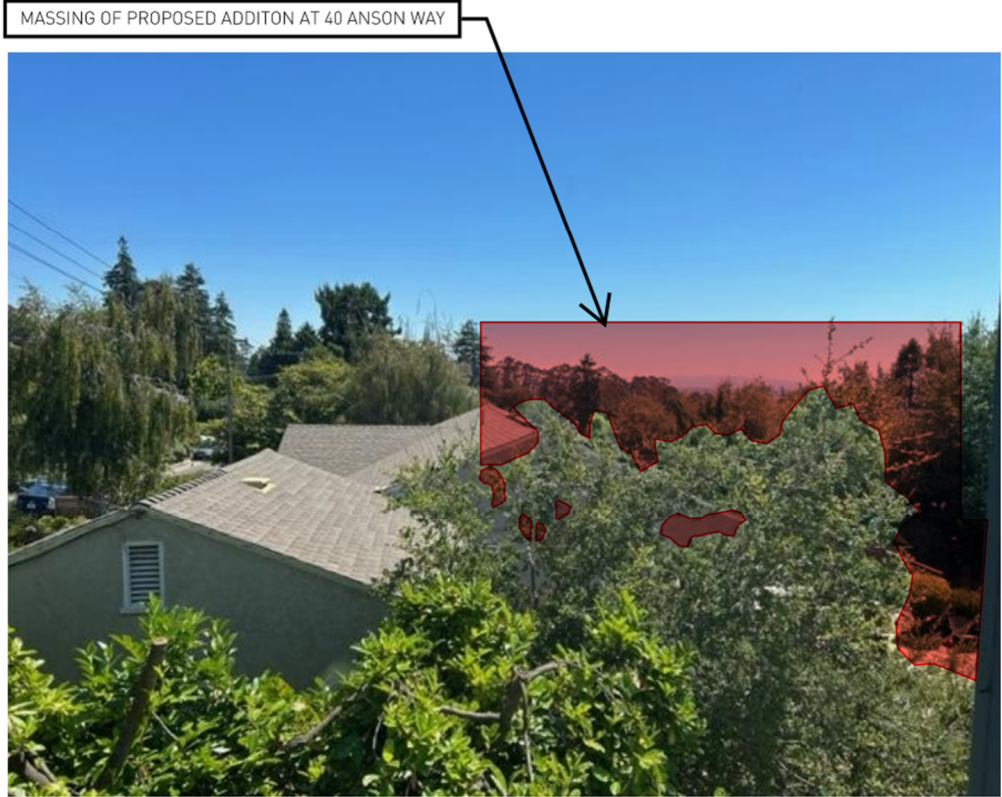


IMAGE OF AREA OF IMPACTED VIEWS SUBMITTED
TO PLANNING DEPARTMENT
[Development Plan Drawing Set dated 07/10/23]



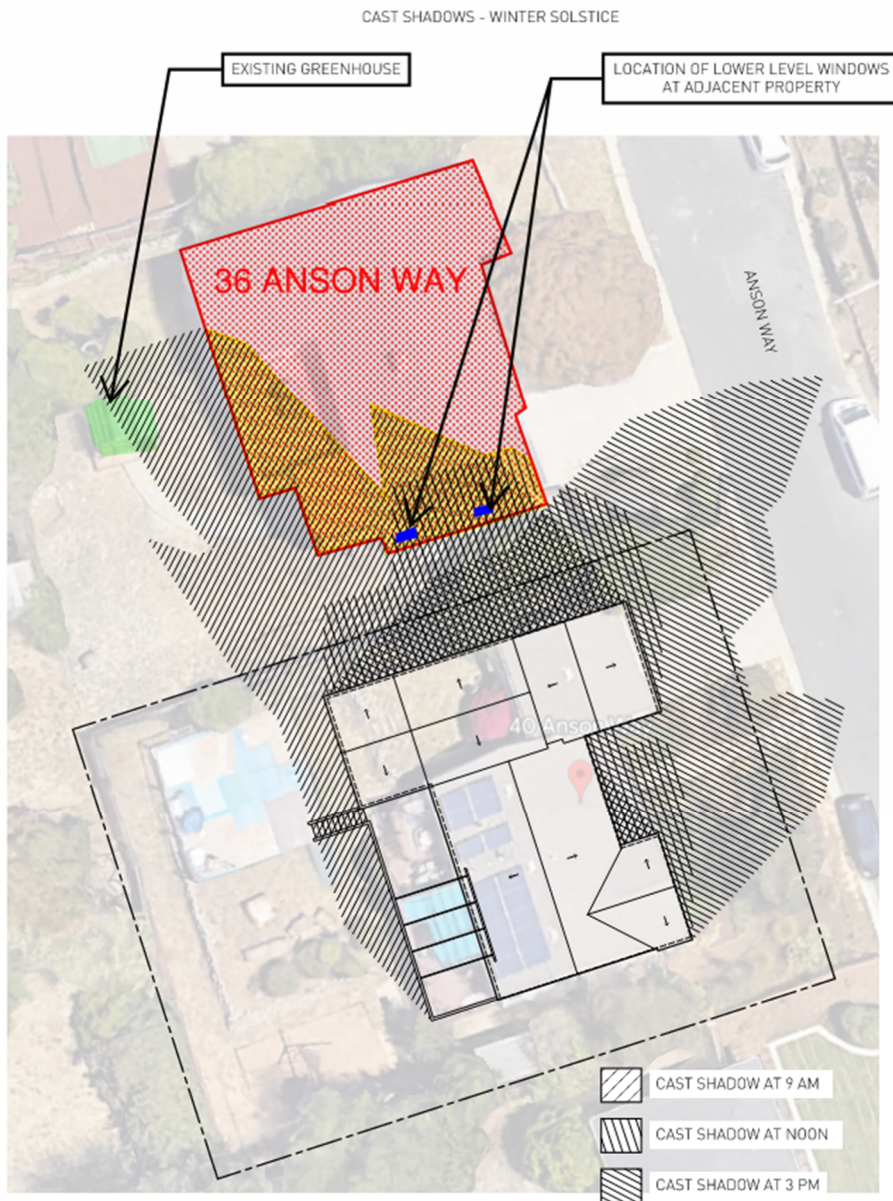
APPROXIMATE NEIGHBOR VIEW TO SOUTHWEST (IMPACTED)

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The Proposed Building Unreasonably Impairs Access to Daylight:

The addition at 40 Anson Way will cast shadows towards and past its northern property line and onto the lot of 36 Anson Way due to its proximity to a shared property line. A study of cast shadows during the Winter Solstice shows that the lower level South-facing windows at 36 Anson Way will be shaded out from 9 am through noon, greatly diminishing solar access during the period of the year where access to the sun is at its greatest premium. Additionally, shadows will be cast through a large part of the rear yard, including over an existing greenhouse and the garden area leading up to it. The excessive height of the proposed building is unnecessary, impermissible, and creates significant problems for the residents of 36 Anson Way that the county should be taking into consideration.



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Large Size of the Home/Location of Addition/Utilization of Existing:

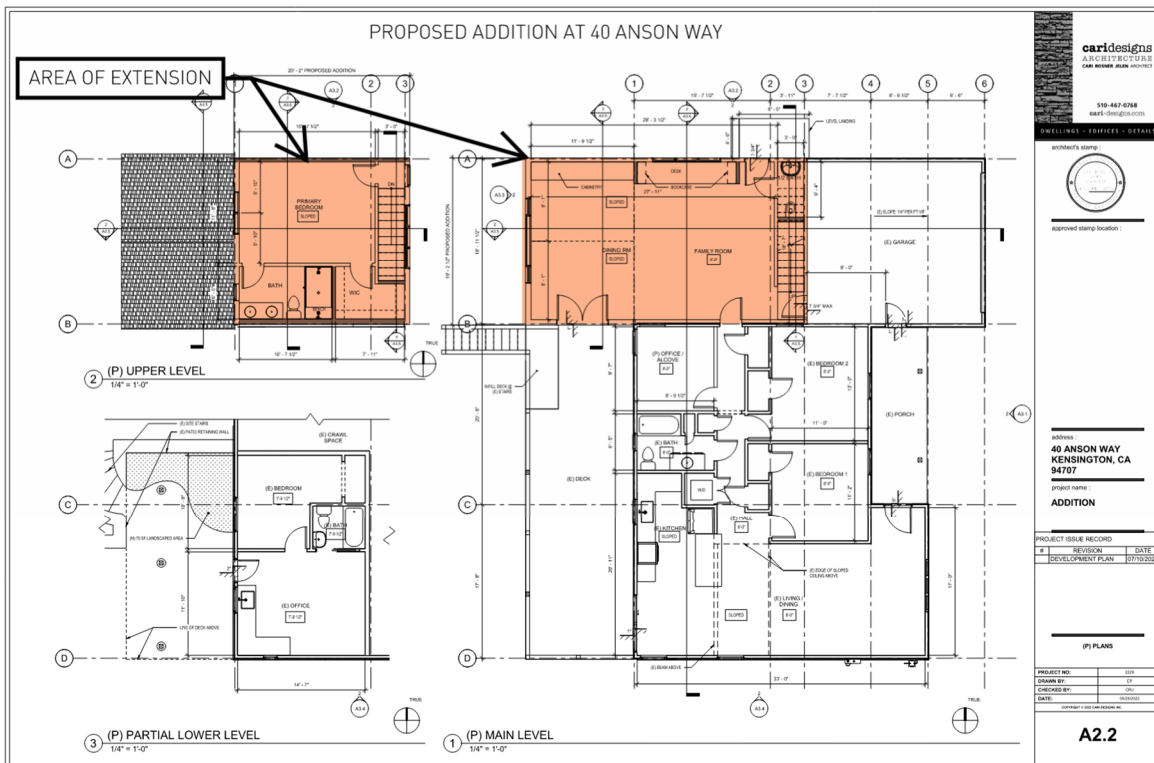
The proposed addition at 40 Anson Way creates a home with the following amenities:

- 5 bedrooms
- 2 kitchens
- 3 living spaces
- 3.5 baths
- 1 parking space

The existing habitable lower level currently has a full bathroom, kitchen, a bedroom, and space that can be used for living. By connecting the main house to the basement, many of the same rooms in the proposed design can be accessed from the main level without the need for extensive new construction.

Alternatively, if the owners of 40 Anson Way are intent on building a third level, then moving the extension to the opposite side of the house would eliminate any shadowing and view impacts on 36 Anson Way, while having a much more limited impact on the neighbors at 44 Anson Way.

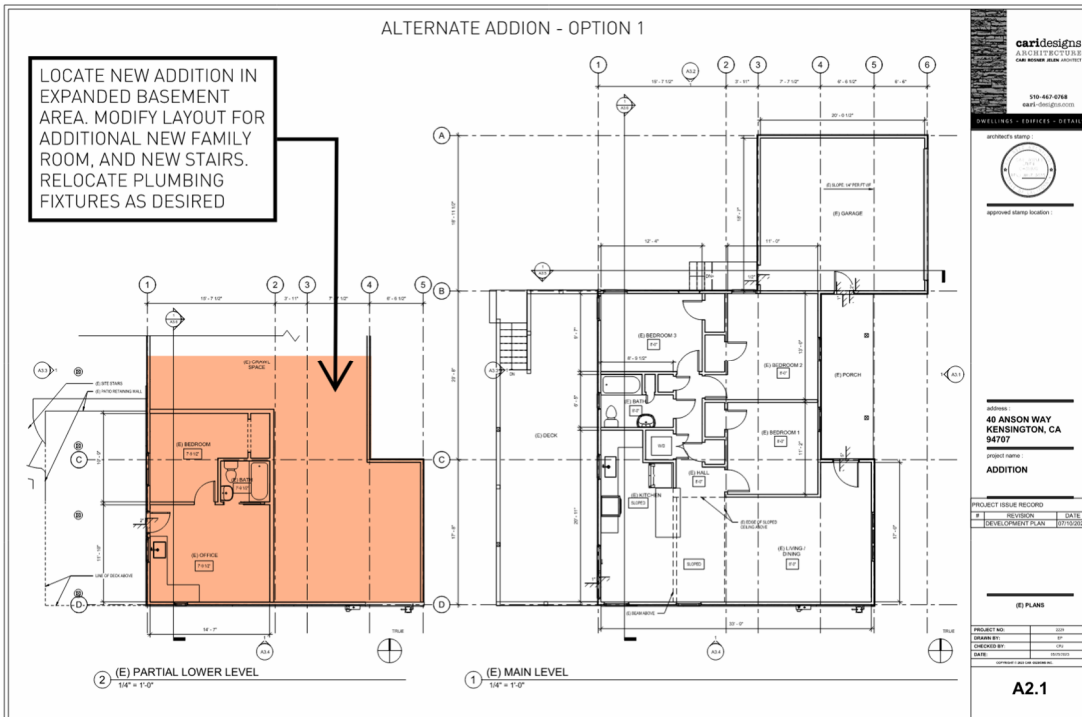
PROPOSED PROJECT WITH 3RD FLOOR ADDITION THAT CREATES SHADOWS AND BLOCKS VIEWS



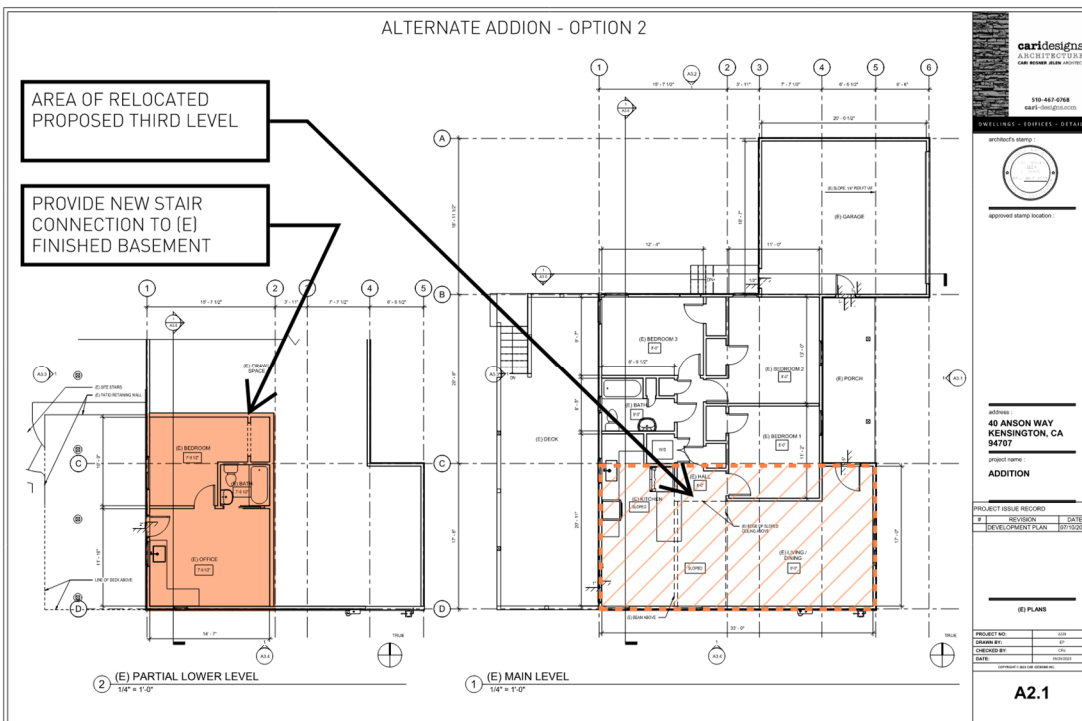
SHELTERWERK

ARCHITECTURE & DESIGN

PROPOSED PROJECT WITH 3RD FLOOR ADDITION MOVED TO OTHER SIDE - OPTION 1



PROPOSED PROJECT WITH 3RD FLOOR ADDITION MOVED TO OTHER SIDE - OPTION 2



SHELTERWERK

ARCHITECTURE & DESIGN

Sincerely,

Heather Sanders-Jacob
Ashwin Biln

EXHIBIT D

(Excerpts from Los Angeles Basin Hillside Ordinance)

4. Height Limits. [§ 12.21 C.10.(d) of the LAMC]

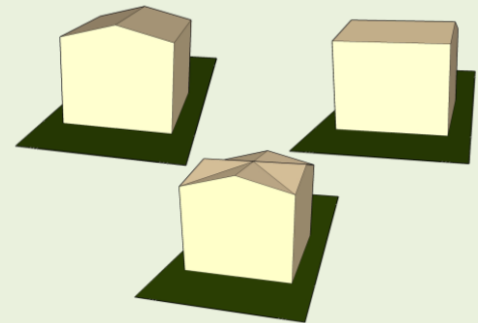
No portion of a Building or Structure shall be erected or enlarged which exceeds the envelope height limits as outlined in [Table 5 – Maximum Height of Structures](#), or as otherwise stated in the paragraphs below. For the provisions below, whenever Grade is mentioned, it shall mean Hillside Area Grade as defined in the Definitions Section of this document (or [Section 12.03 of the LAMC](#)).

Table 5 Maximum Height of Structures (in feet)								
Height Districts	R1	RS	RE9	RE11	RE15	RE20	RE40	RA
When the roof of the uppermost story of a building or structure or portion thereof has a slope of 25% or greater, the maximum height for said portion of building or structure thereof shall be as follows:								
1, 1L, & 1VL	33	33	33	36	36	36	36	36
1XL	30	30	30	30	30	30	30	30
1SS	22	22	22	22	22	22	22	22
When the roof of the uppermost story of a building or structure or portion thereof has a slope of less than 25%, the maximum height for said portion of building or structure thereof shall be as follows:								
1, 1L, & 1VL	28	28	28	30	30	30	30	30
1XL	28	28	28	30	30	30	30	30
1SS	18	18	18	18	18	18	18	18

25% Roof Slope

The 25% roof slope is a Southern California standard which is also commonly referred to as the 3:12 slope. This slope can be expressed as a ratio of 1 foot of vertical rise for every 4 feet of horizontal distance. In order to determine what the minimum height of the standard gabled roof, as measured from the top-plate of the building wall, simply divide the horizontal distance of the wall by 8.

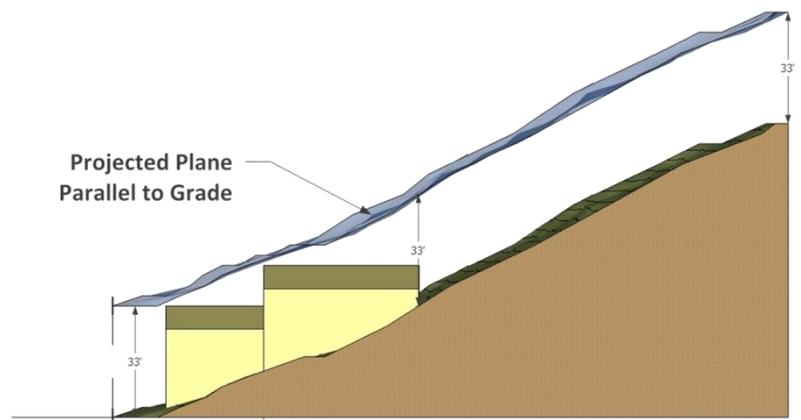
When a roof is made up of a combination of roof slopes, the portions of the structure with a roof slope less than 25% will be considered flat and as a result be required to comply with the lower height.



a. Measurement of Height. [§ 12.21 C.10.(d)(1) of the LAMC]

Notwithstanding any other provision in the Code, the height limits in [Table 5 – Maximum Height of Structures](#) above shall be measured as set forth below.

(1) **Maximum Envelope Height.** Envelope height (otherwise known as vertical height or “plumb line” height) shall be the vertical distance from the Grade of the site to a projected plane at the roof Structure or parapet wall located directly above and parallel to the Grade. Measurement of the envelope height shall originate at the lowest Grade within 5 horizontal feet of the exterior walls of a Building or Structure.



BASELINE HILLSIDE ORDINANCE – COMPREHENSIVE GUIDE

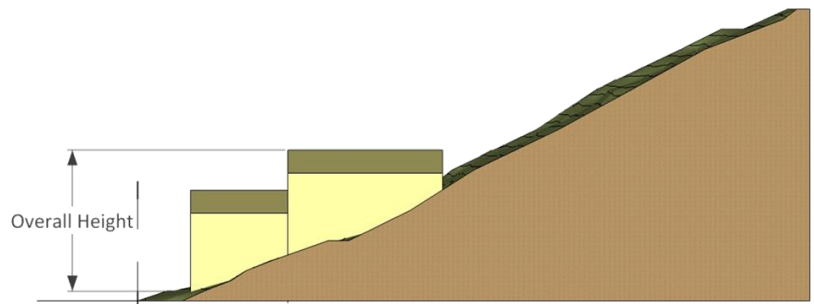
At no point shall any given section of any part of the proposed Building or Structure exceed the maximum envelope height.

A topographic map shall be submitted as a separate plan sheet or as part of the site plan identifying the 5-foot perimeter of the exterior walls, or any other information which the Department of Building and Safety deems necessary to determine compliance with [this provision](#).

b. Zoning Administrator’s Authority. [§ 12.21 C.10.(d)(2) of the LAMC]

A Zoning Administrator may allow Structures which exceed the maximum envelope height requirements of [Table 5 – Maximum Height of Structures](#); however, the increase in height may not result in a Building or Structure which exceeds an overall height of 45 feet, pursuant to the authority and procedures established in [Section 12.24 X.28 of the LAMC](#).

The overall height shall be measured from the lowest Elevation point within 5 horizontal feet of the exterior walls of a Building or Structure to the highest Elevation point of the roof Structure or parapet wall.



c. Prevailing Height. [§ 12.21 C.10.(d)(3) of the LAMC]

Notwithstanding the height limits in [Table 5 – Maximum Height of Structures](#), when 40% or more of the existing One-Family Dwellings with Frontage on both sides of the block have Building heights exceeding these limits, the maximum envelope height for any Building on that block may be the average height of the Dwellings exceeding these limits.

d. Lots in a Single-Story Height District. [§ 12.21 C.10.(d)(4) of the LAMC]

As enabled by [Section 12.21.1 A.1 of the LAMC](#), on Lots in a “SS” Single Story Height District, shown as “1SS” on a Zoning Map, no Building or Structure shall be erected or enlarged which exceeds one Story.

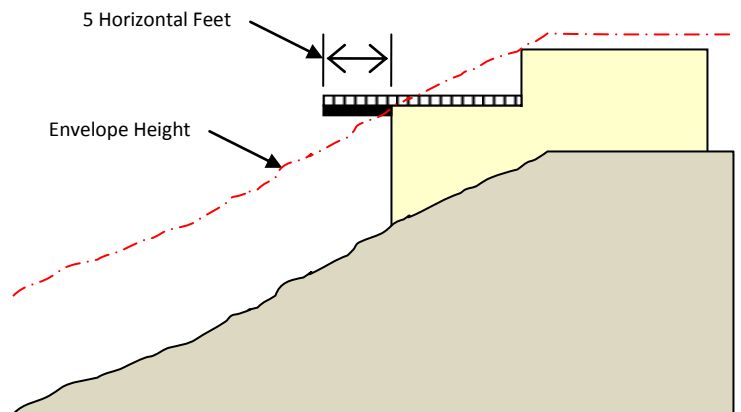
Notwithstanding the provision in [Section 12.21.1 A.8 of the LAMC](#), in determining the number of Stories, any Basement which is exempt from the Residential Floor Area calculation, as outlined in [Section 12.03 of the LAMC](#), shall not be considered a Story.

e. Lots Fronting on Substandard Hillside Limited Streets. [§ 12.21 C.10.(d)(5) of the LAMC]

For any Lot fronting onto a Substandard Hillside Limited Street and subject to the 5-foot Front Yard setback, no portion of a Building or Structure within 20 feet of the Front Lot Line shall exceed 24 feet in height. The 24 foot maximum Building and Structure height shall be measured from the Elevation at the centerline or midpoint of the Street on which the Lot fronts.

f. Unenclosed/Uncovered Rooftop Decks and Cantilevered Balconies. [§ 12.21 C.10.(d)(6) of the LAMC]

Unenclosed/uncovered rooftop decks, cantilevered balconies and “visually permeable railing” (no more than 42 inches in height), may project beyond the maximum envelope height no more than 5 horizontal feet.



For the purposes of [this provision](#), “visually

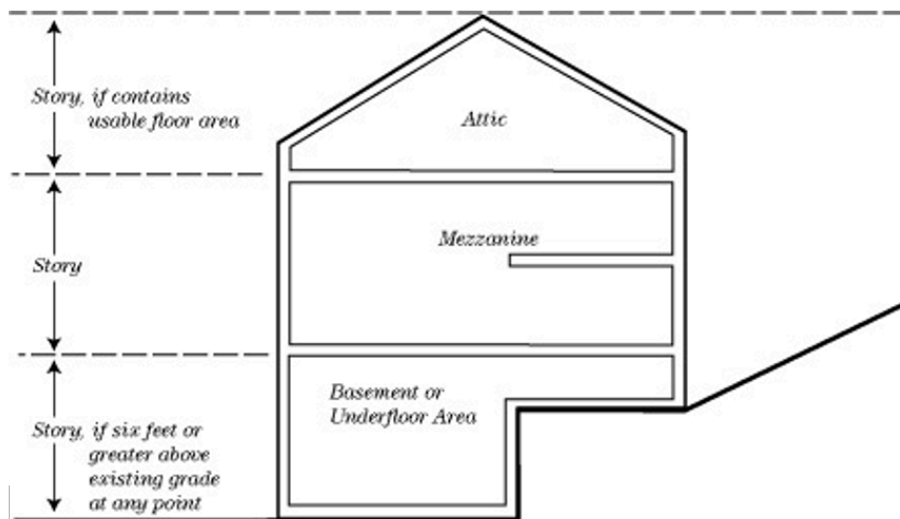
EXHIBIT E

(Berkeley Municipal Code section 23.106.060)

23.106.060 Story.

A. *Story Defined.* A story means the portion of a building included between the upper surface of any floor and the upper surface of the floor next above. See Figure 23.106-2: Story.

Figure 23.106-2. STORY



- B. *Topmost Story.* The topmost story of a building is the portion of a building between the floor of the topmost floor and the ceiling or roof above.
- C. *Below Grade Spaces.* If the finished floor level directly above the ceiling of a basement, garage structure, cellar, or unused underfloor space is more than 6 feet above existing grade at any point, such basement, cellar, or unused underfloor space is considered a story.
- D. *Penthouses.* A penthouse used for purposes other than shelter of mechanical equipment or shelter of vertical shaft openings in the roof is considered a story.
- E. *Mezzanines.* When the total floor area of a mezzanine exceeds 33.3 percent of the total floor area in that room, it constitutes an additional story. (Ord. 7787-NS § 2 (Exh. A), 2021)

The Berkeley Municipal Code is current through Ordinance 7891-NS, passed December 12, 2023.

Disclaimer: The City Clerk's Office has the official version of the Berkeley Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.berkeleyca.gov](http://www.berkeleyca.gov)

[Hosted by Code Publishing Company, A General Code Company.](#)

EXHIBIT E

(Corrected shadow study pointing out affected upper windows)

CAST SHADOWS - WINTER SOLSTICE

EXISTING GREENHOUSE


LOCATION OF WINDOWS AT ADJACENT PROPERTY

36 ANSON WAY

ANSON WAY

40 Anson Way

 CAST SHADOW AT 9 AM

 CAST SHADOW AT NOON

 CAST SHADOW AT 3 PM

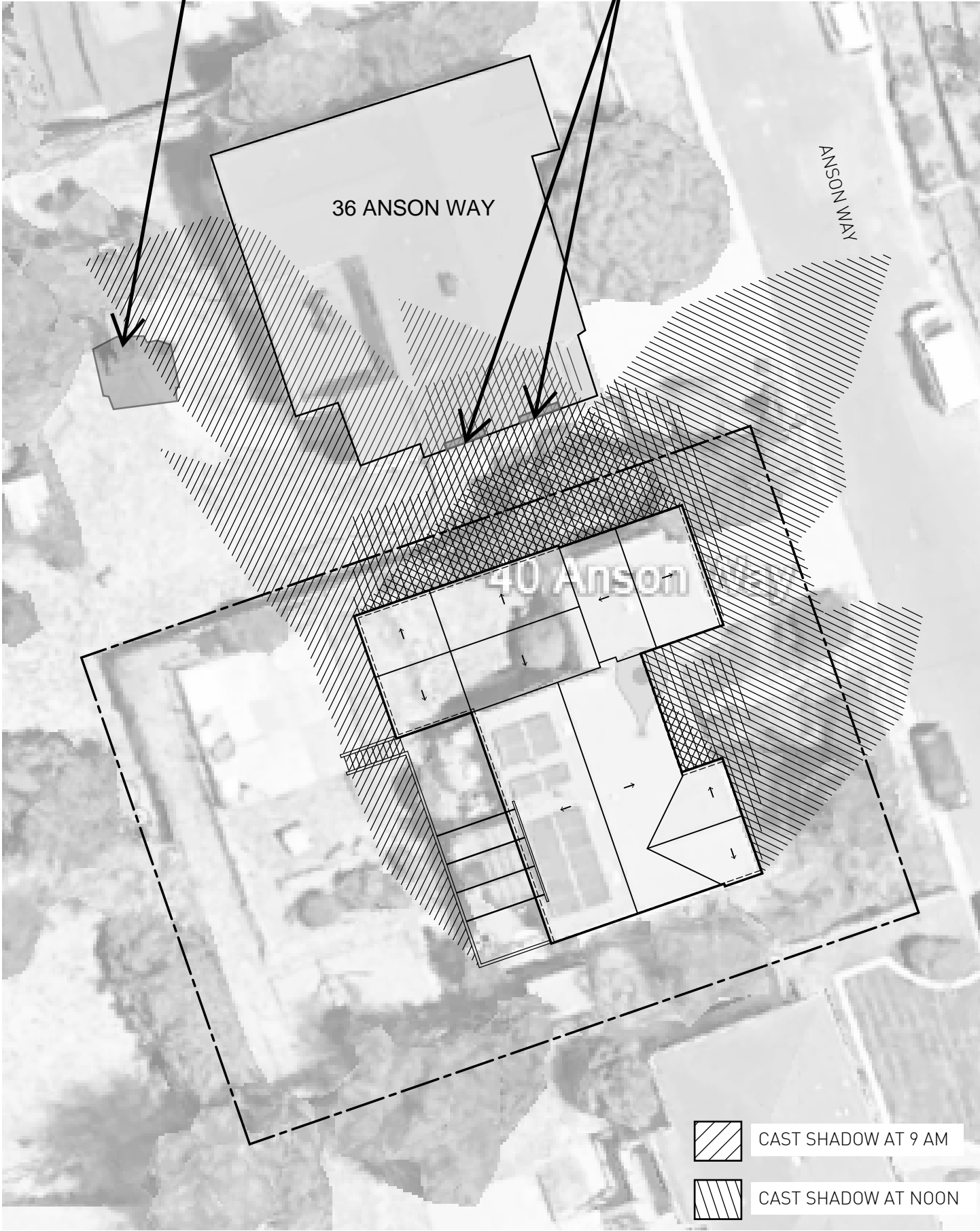


EXHIBIT 3

MAPS AND PLANS



REVISED	CHANGE	BY
9-25-92	100LSM48	MJ

- 231
- 232
- 233
- 234

PROJECT SITE

P.B.
505

(CITY OF EL CERRITO)

General Plan Map



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- 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 Star
 - M-8 (Dougherty Valley Village Cent
 - M-9 (Montalvin Manor Mixed Use)
 - M-10 (Willow Pass Business Park M
 - M-11 (Applan 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)
 - LF (Landfill)
 - PS (Public/Semi-Public)

1: 1,128



0.0 0 0.02 0.0 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

Contra Costa County -DOIT GIS

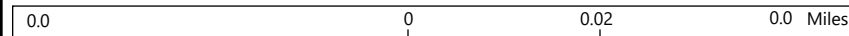
Zoning Map



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Zoning
- R-6 (Single Family Residential)
- R-6, -FH -UE (Flood Hazard and A
- R-6 -SD-1 (Slope Density Hillside E
- 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
- A-2 -FH (Flood Hazard Combining I
- A-2, -FH -SG (Flood Hazard and Sc

1: 1,128



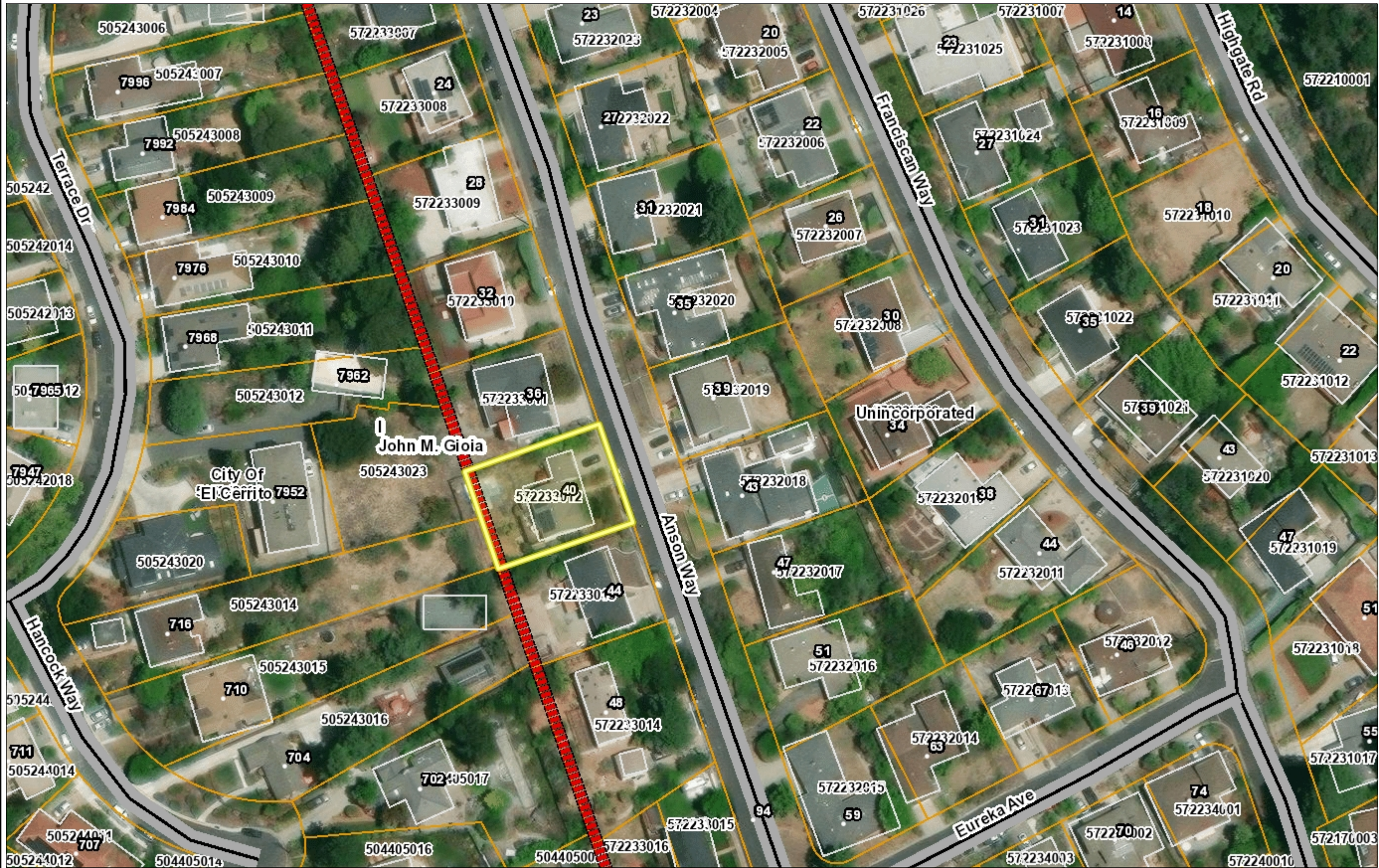
WGS_1984_Web_Mercator_Auxiliary_Sphere

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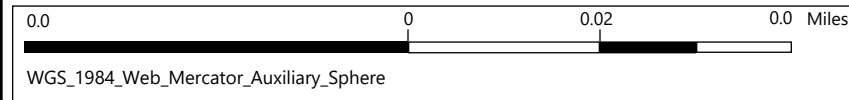
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Contra Costa County -DOIT GIS



- Legend
- Board of Supervisors' Districts
 - City Limits
 - Unincorporated
 - Address Points
 - Streets
 - Building Footprints
 - Assessment Parcels
 - World Imagery
 - Low Resolution 15m Imagery
 - High Resolution 60cm Imagery
 - High Resolution 30cm Imagery
 - Citations



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

1: 1,128

Notes
Contra Costa County -DOIT GIS

ABBREVIATIONS

A.D. AREA DRAIN	GA. GALV.	P.L. PROPERTY LINE
ADJ. ADJUSTABLE	GL. GLASS	P.L. PLASTER
A.F.F. ABOVE FINISHED FLOOR	GLU. LAM. GLUE LAMINATED	PLYWOOD
AGGR. AGGREGATE	G.S.M. GALV. SHEET METAL	PAIR
ASPH. ASPHALT	GYP. GYPSUM	PAINTED
ARCH. ARCHITECTURAL	G.W.B. GYPSUM WALL BOARD	R. RISER
BLDG. BUILDING	H.B. HOSE BIBB	RUN RUN
BLK. BLOCK	H.C.H. HEIGHT	REFR. REFRIGERATOR
BLKG. BLOCKING	H.M. HOLLOW METAL	REINF. REINFORCED
B.O. BOTTOM OF	HOR. HORIZONTAL	RM. ROOM
BW. BOTTOM OF WALL	H.P. HIGH POINT	ROU. ROUGH OPENING
CPT. CARPET	I.D. INSIDE DIAMETER	RTG. RETAINING
CAB. CABINET	INSUL. INSULATION	SAG SUPPLY AIR GRILL
C.J. CONSTRUCTION JOINT	INT. INTERIOR	S.V. SHEET VINYL
C.L. CENTER LINE	JST. JOIST	S.H. SINGLE HUNG
CLOS. CLOSET	J.BOX. JOINT BOX	SHT. SHEATHING
CLG. CEILING	LAB. LABORATORY	SPEC. SPECIFICATION
CLR. CLEAR	LAM. LAMINATE	SQ. SQUARE
C.O. CLEAN OUT	LAV. LAVATORY	S.S. STAINLESS STEEL
COL. COLUMN	LT. LIGHT	STAGG. STAGGERED
CONC. CONCRETE	MAX. MAXIMUM	STD. STANDARD
CONC. CONTINUOUS	MECH. MECHANICAL	STL. STEEL
CSMT. CASEMENT	MEMB. MEMBRANE	STRUC. STRUCTURAL
C.T. CERAMIC TILE	MFR. MANUFACTURER	T. TREAD
C.S. COUNTER SINK	MIN. MINIMUM	TC TOP OF CURB
DEMO. DEMOLITION	MISC. MISCELLANEOUS	T&G TONGUE AND GROOVE
DET. DETAIL	M.O. MASONRY OPENING	THK. THICK
D.H. DOUBLE HUNG	MTL. METAL	T.W. TOP OF WALL
D.F. DOUGLAS FIR	MUL. MULLION	TYP. TYPICAL
DIAG. DIAGONAL	A(N) NEW	U.O.N. UNLESS OTHERWISE NOTED
DIM. DIMENSION	N.I.C. NOT IN CONTRACT	VERT. VERTICAL
DWGS. DRAWINGS	NO. NUMBER	V.I.F. VERIFY IN FIELD
DN. DOWN	NOM. NOMINAL	W. WITH
DS. DOWNSPOUT	N.T.S. NOT TO SCALE	W.C. WATER CLOSET
(E) EXISTING	O.C. ON CENTER	WD. WOOD
E.J. EXPANSION JOINT	O.D. OUTSIDE DIAMETER	WH. WATER HEATER
EL. ELEVATION	O.H. OVERHEAD	W.P. WATERPROOF
EQ. EQUAL	OPG. OPENING	WP. WORK POINT
EXT. EXTERIOR	OPNG. OPENING	YD. YARD
F.A. FIRE ALARM	OPP. OPPOSITE	
F.D. FLOOR DRAIN		
FIN. FINISH		
F.O.S. FACE OF STUD		
F.O.C. FACE OF CONCRETE		
F.O.A. FACE OF WALL		
FTG. FOOTING		

CODE REQUIREMENTS

STATE CODES:
 2022 CALIFORNIA BUILDING CODE
 2022 CALIFORNIA ENERGY CODE
 2022 CALIFORNIA CALGREEN
 2022 CALIFORNIA ELECTRICAL CODE
 2022 CALIFORNIA PLUMBING CODE
 2022 CALIFORNIA MECHANICAL CODE
 2022 CALIFORNIA FIRE CODE

LOCAL CODES:
 CONTRA COSTA CODE
 KENSINGTON PLANNING ORDINANCE

DRAWING LIST	
ARCHITECTURE	
A0.1	COVER SHEET
A0.2	(E) SITE
A0.3	(P) 3D VIEWS
A0.4	GROSS FLOOR AREA PLANS
A2.1	(E) PLANS
A2.2	(P) PLANS
A3.1	(E) & (P) ELEVATIONS
A3.2	(E) & (P) ELEVATIONS
A3.3	(E) & (P) ELEVATIONS
A3.4	(E) & (P) ELEVATIONS
A3.5	(E) & (P) SECTIONS
A3.6	(E) & (P) SECTIONS

PROJECT INFORMATION

PROJECT ADDRESS:
 40 ANSON WAY, KENSINGTON, CA 94707

APN: 572-233-012
 ZONING DISTRICT: R6 - TOV - K
 LOT SIZE: 8,800 SF
 CONSTRUCTION DATE: 1946
 DWELLING UNITS: 1 PRIMARY

SET BACK	ALLOWABLE	EXISTING	DEMO	NEW	COMPLETE
FRONT	20 FT	14'-7 1/2"	---	---	NO CHANGE
SIDE	5 FT / 15 FT AGGREGATE	14'-2 1/2" / 8'-3" / 22'-5 1/2" AGG.	---	7'-3"	14'-2 1/2" / 7'-3" / 21'-5 1/2" AGG.
REAR	15 FT	55'-0"	---	---	NO CHANGE
HEIGHT IN FEET					
HEIGHT	35	20'-0 1/2" +/-	---	24'-0"	24'-0"
STORIES	2.5	2	---	---	2
PARKING - MIN SIZE 9'-0" X 19'-0" AND SHALL BE ENTIRELY OUTSIDE OF SETBACK					
	1 MIN.	2	---	---	NO CHANGE
GROSS FLOOR AREA PER 84-74.404 (SEE SHEET A0.4 FOR BREAKDOWN)					
	3300 OR KMAC HEARING	2,368.6	70	992.6	3,292.2
LOT COVERAGE					
	NA	2,082 SF	---	635	2,717 SF

GROSS FLOOR AREA HEARING THRESHOLD CALCULATION PER 84-74.802:

THRESHOLD = PARCEL AREA X 0.540-0.00002(PARCEL AREA) AND INCREASED TO THE NEXT HIGHEST ONE HUNDRED UNLESS EVENLY DIVISIBLE BY ONE HUNDRED
 THRESHOLD = 8,800 X 0.540-0.00002(8800) = 3,203

GROSS FLOOR AREA HEARING THRESHOLD IS 3,300 SQ FT

SCOPE OF WORK

2-STORY ADDITION

PROJECT TEAM

ARCHITECT: CARI DESIGNS ARCHITECTURE
 800 BANCROFT WAY SUITE 200
 BERKELEY, CA 94710

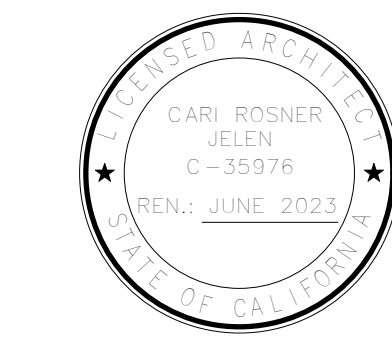
OWNER: TULLEY RAFFERTY AND ELENA SAXONHOUSE
 40 ANSON WAY
 KENSINGTON, CA 94707

CARI ROSNER JELEN
 crj@caridesigns.com
 510-467-0768

hobostew@gmail.com
 510-685-9514

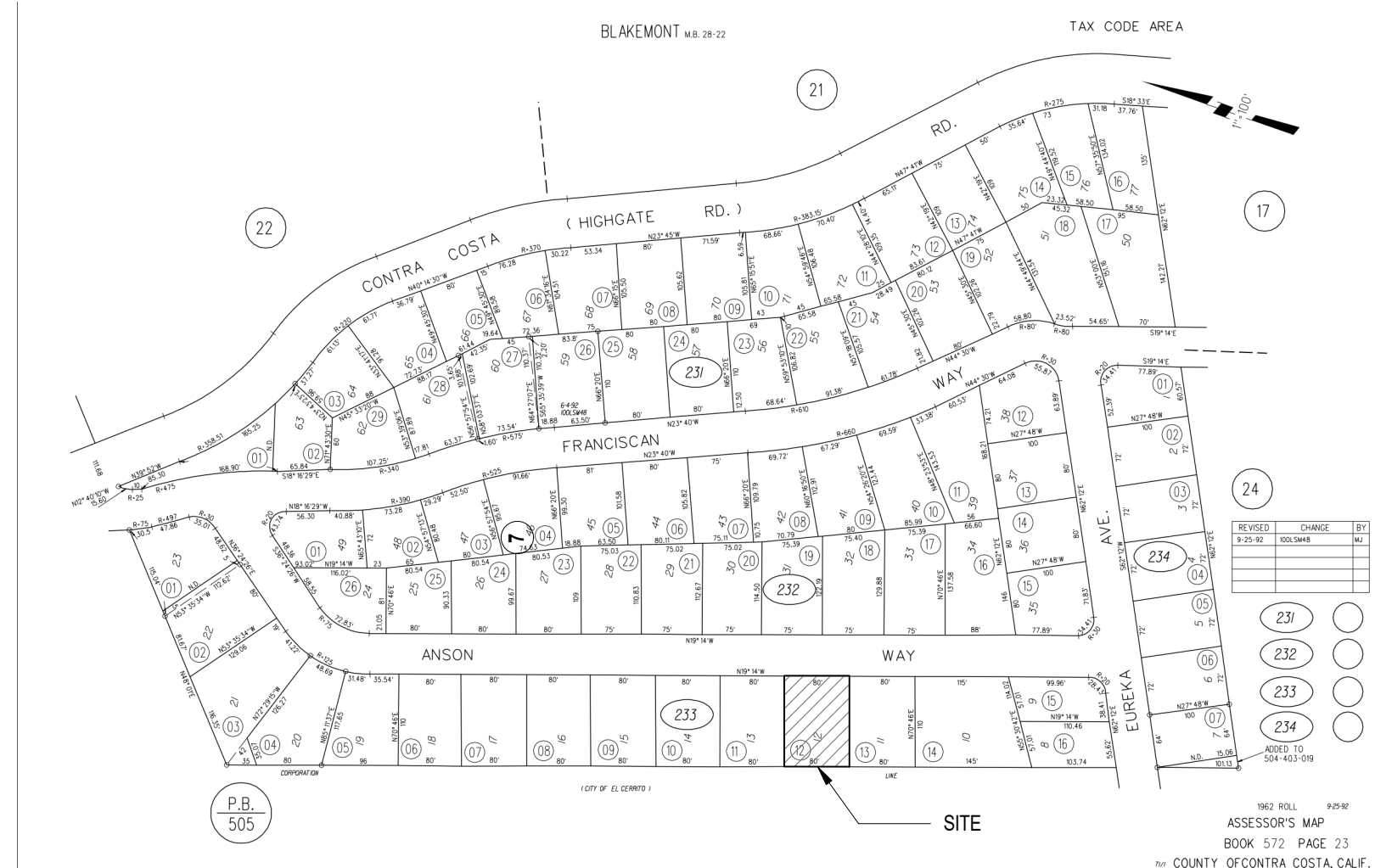
DWELLINGS - EDIFICES - DETAILS

architect's stamp :

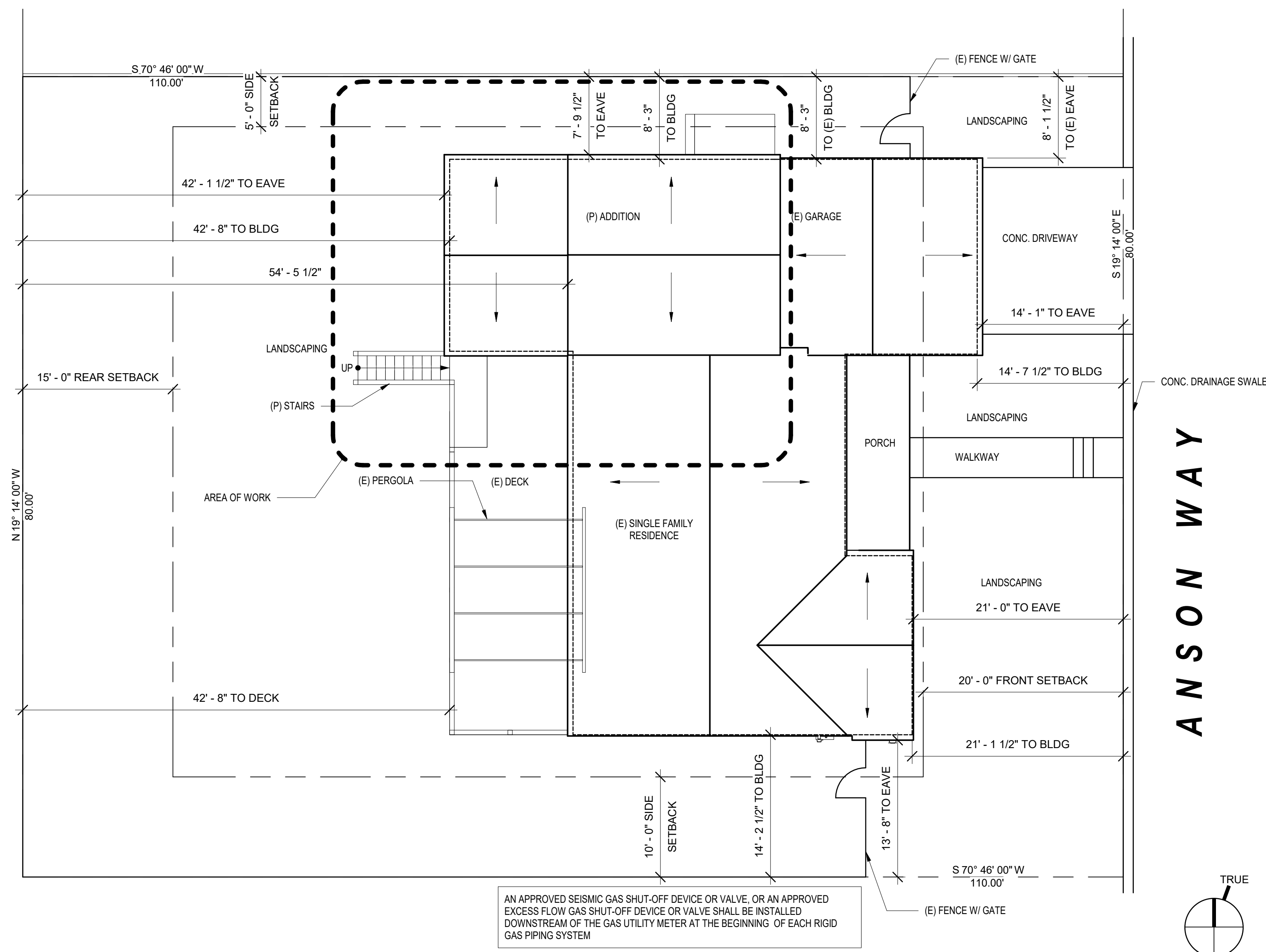


approved stamp location :

RECEIVED on 7/11/2023 **CDDP23-03024**
 By Contra Costa County
 Department of Conservation and Development

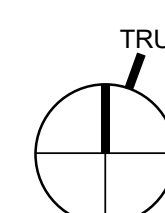


1 (P) SITE PLAN
 1/8" = 1'-0"



AN APPROVED SEISMIC GAS SHUT-OFF DEVICE OR VALVE, OR AN APPROVED EXCESS FLOW GAS SHUT-OFF DEVICE OR VALVE SHALL BE INSTALLED DOWNSTREAM OF THE GAS UTILITY METER AT THE BEGINNING OF EACH RIGID GAS PIPING SYSTEM

ANSON WAY



address :
40 ANSON WAY
KENSINGTON, CA
94707

project name :
ADDITION

PROJECT ISSUE RECORD		
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

COVER SHEET

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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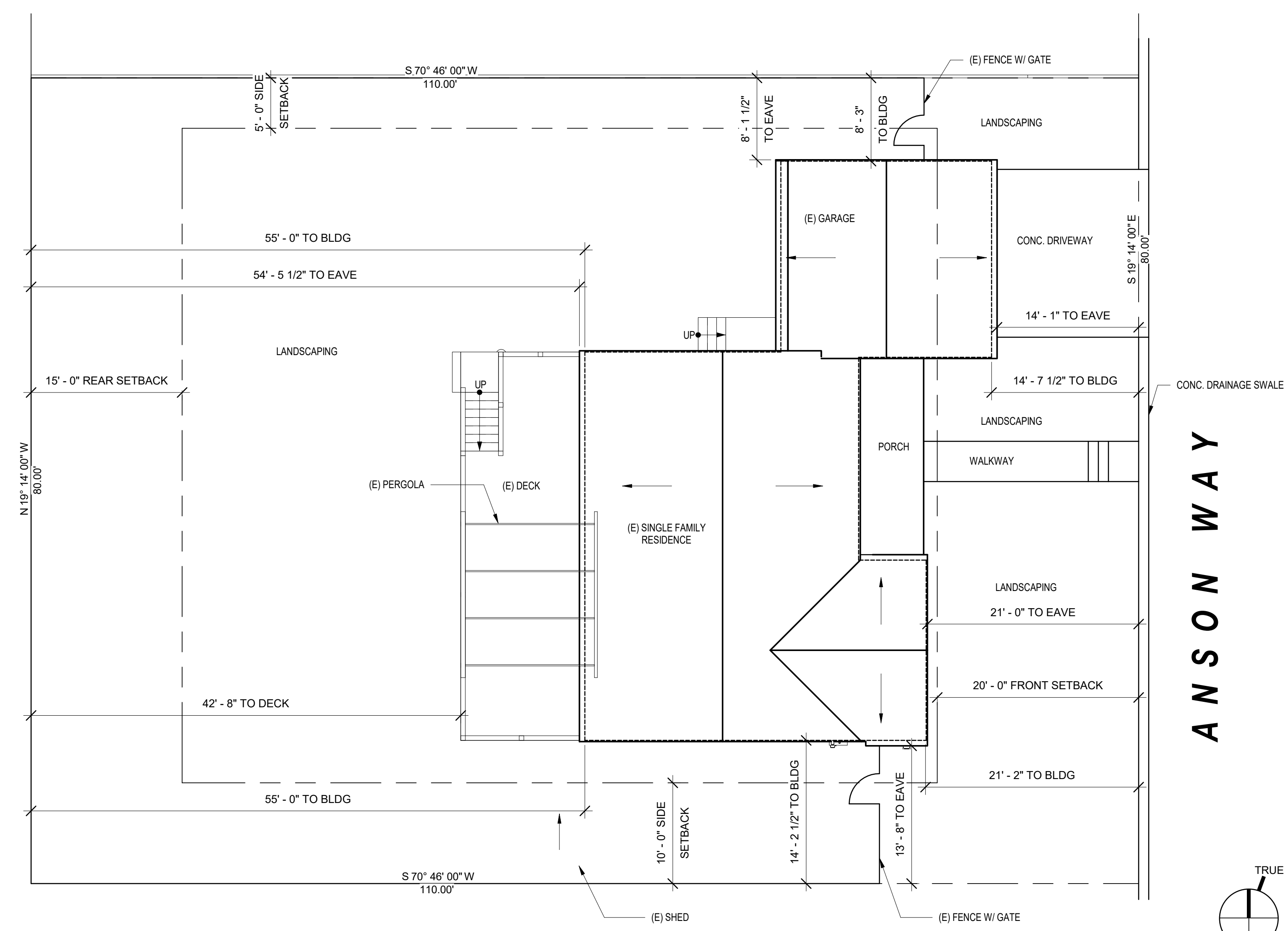
A0.1



APPROXIMATE NEIGHBOR VIEW TO SOUTHWEST (IMPACTED)



APPROXIMATE PARTIAL NEIGHBOR VIEW TO WEST (UN-IMPACTED)



2 (E) SITE PLAN
1/8" = 1'-0"

architect's stamp :

approved stamp location :

address :
**40 ANSON WAY
KENSINGTON, CA
94707**

project name :
ADDITION

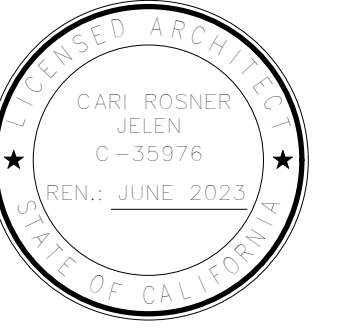
PROJECT ISSUE RECORD		
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(E) SITE

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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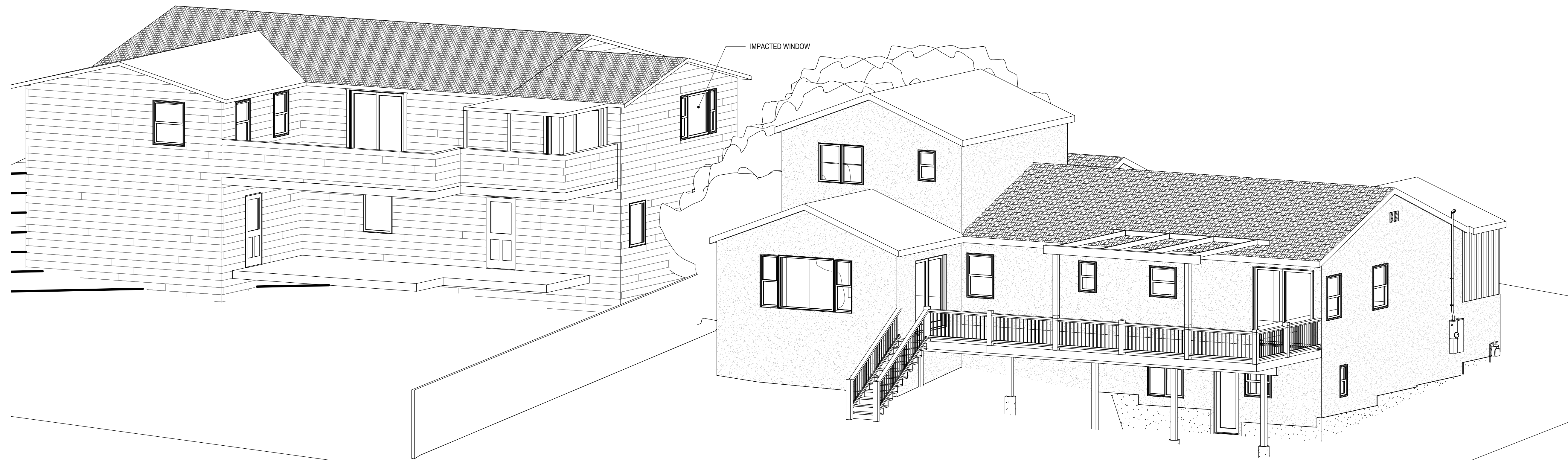
architect's stamp :



approved stamp location :



2 3D VIEW - INITIAL PROPOSED DESIGN



1 3D VIEW - PROPOSED DESIGN AFTER NEIGHBOR OUTREACH

address :

**40 ANSON WAY
KENSINGTON, CA
94707**

project name :

ADDITION

PROJECT ISSUE RECORD

#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(P) 3D VIEWS

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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A0.3

architect's stamp :



approved stamp location :

address :
**40 ANSON WAY
KENSINGTON, CA
94707**

project name :
ADDITION

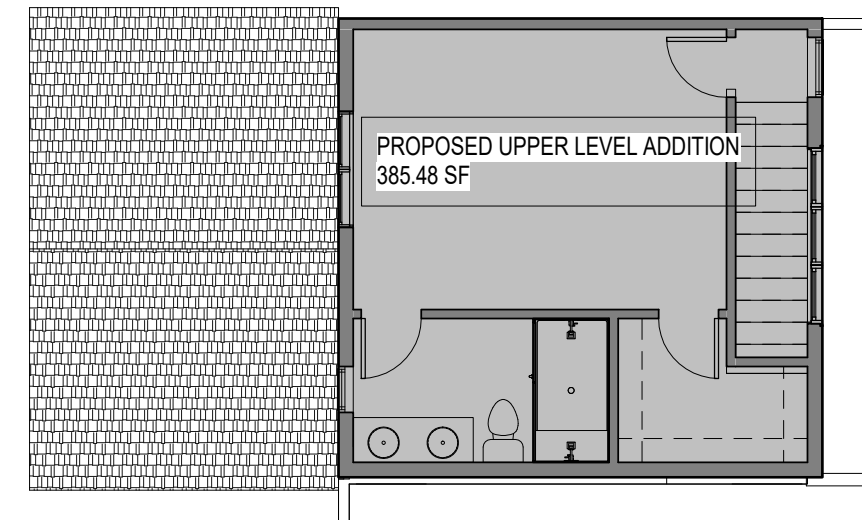
PROJECT ISSUE RECORD		
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

GROSS FLOOR AREA PLANS

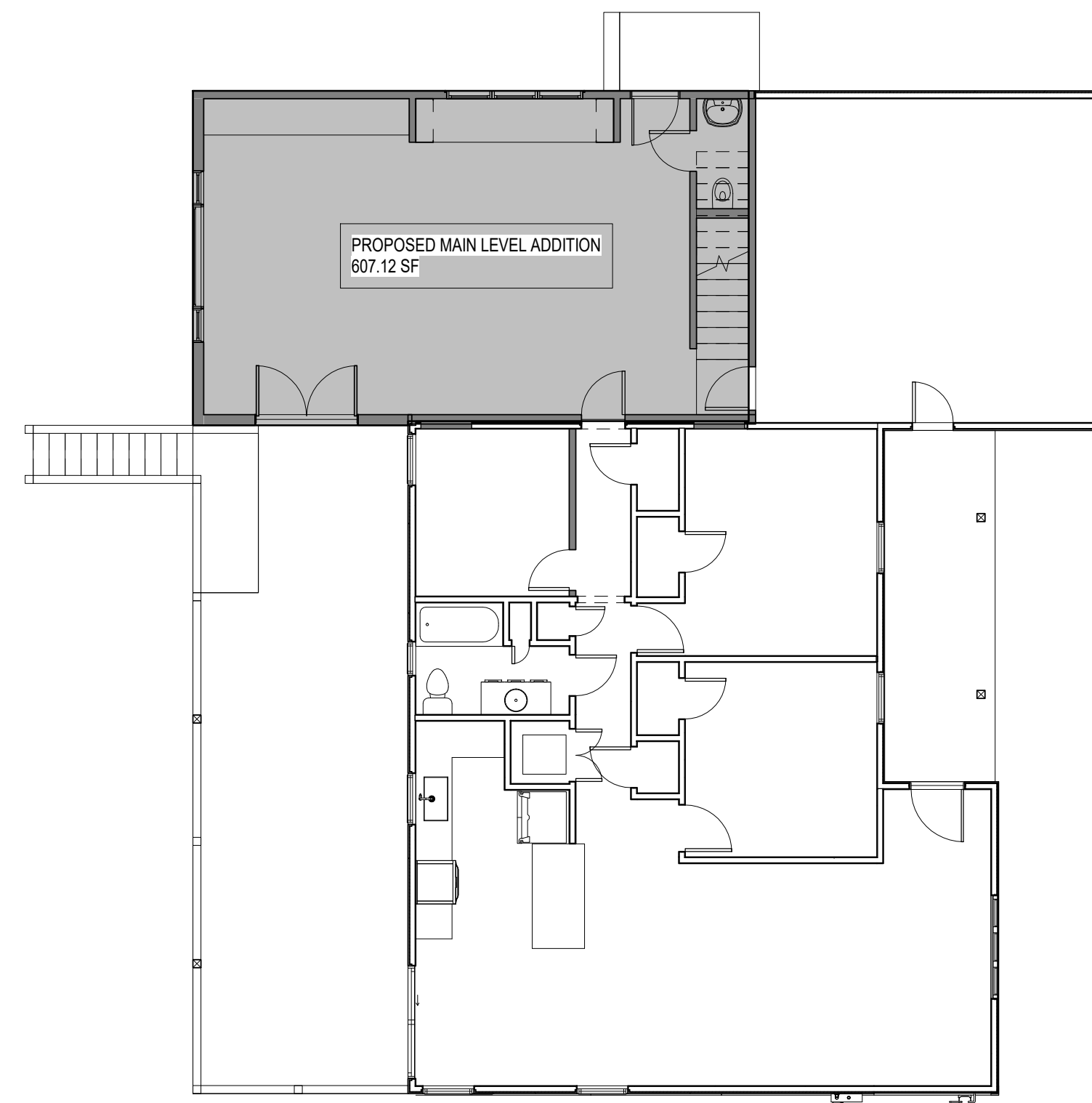
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DRAWN BY:	Author
CHECKED BY:	Checker
DATE:	05/25/2023

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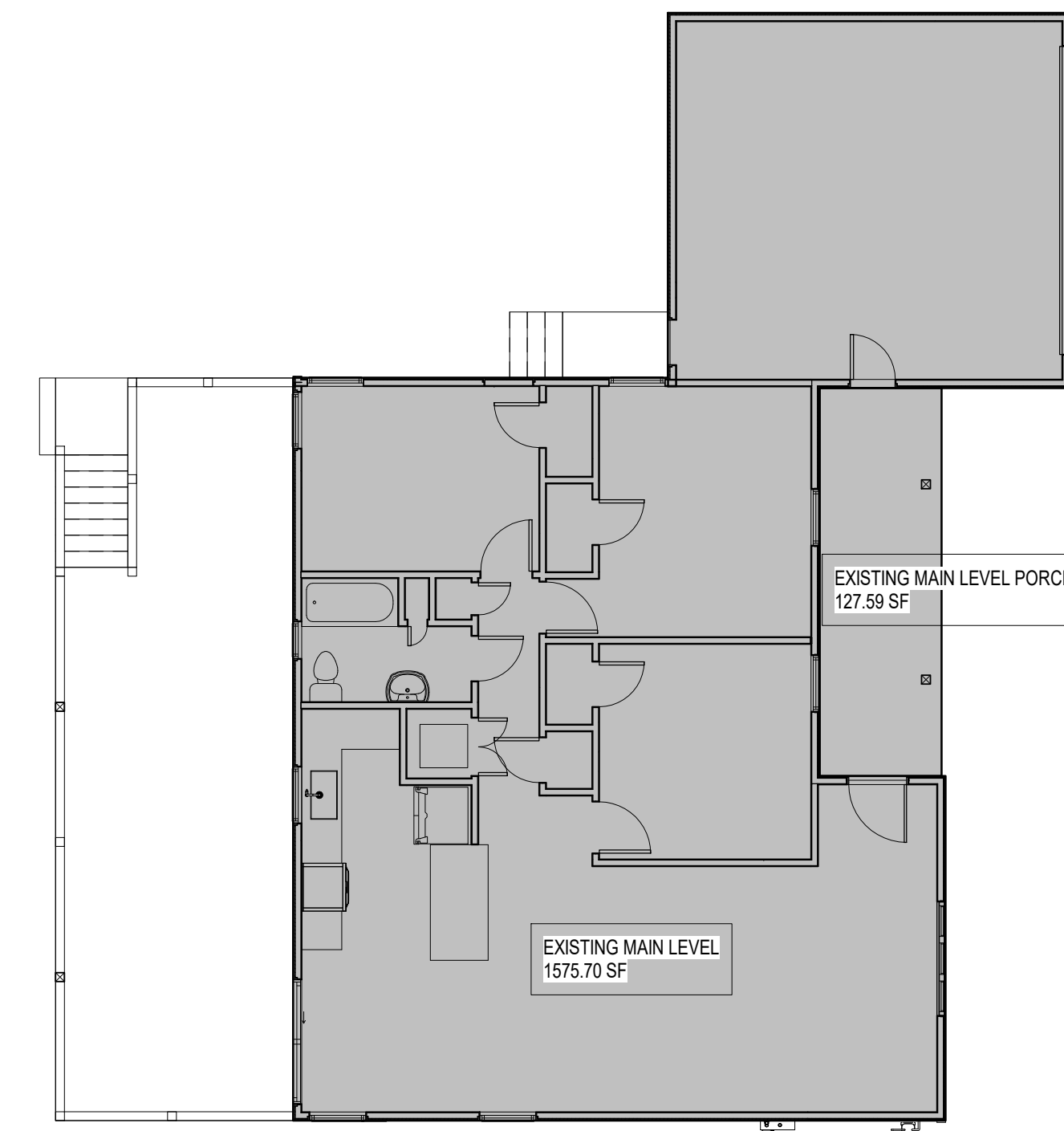
GROSS FLOOR AREA CHART					
		EXISTING	DEMO	PROPOSED	FINAL
LOWER LEVEL	RESIDENCE	372.94 SF	---	---	372.94 SF
	COVERED PATIO	292.40 SF	70.00 SF	---	222.40 SF
MAIN LEVEL	RESIDENCE	1,575.70 SF	---	607.12 SF	2,182.82 SF
	PORCH	127.59 SF	---	---	127.59 SF
UPPER LEVEL	RESIDENCE	---	---	385.48 SF	385.48 SF
PROJECT TOTAL		2,368.63 SF	70.00 SF	992.60 SF	3,291.23 SF



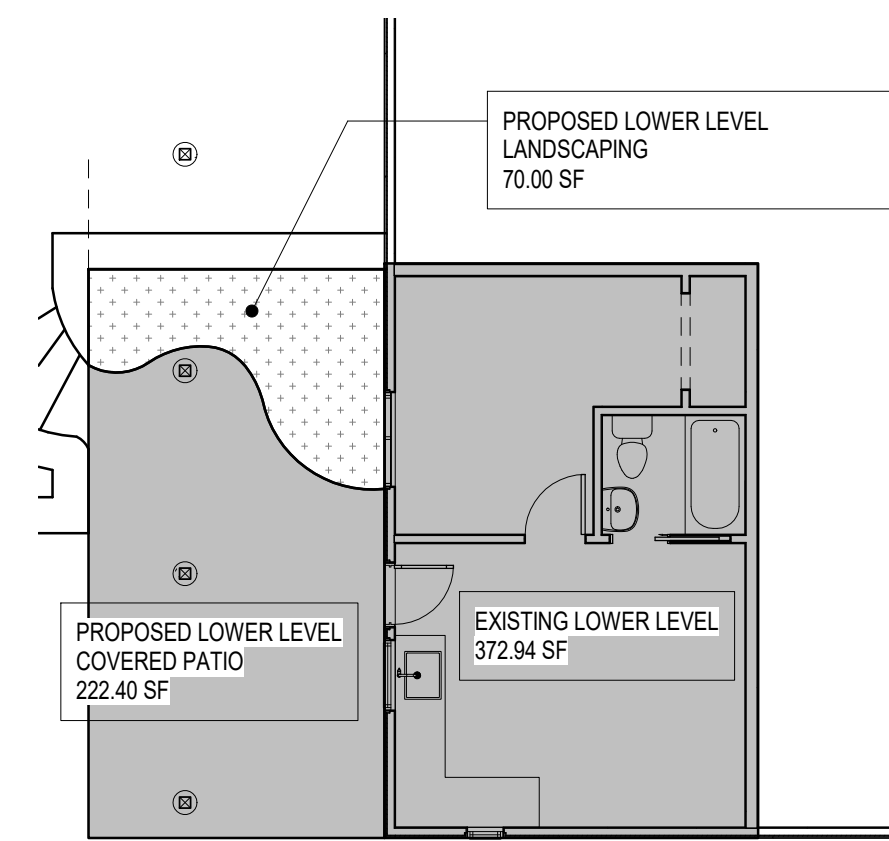
5 (P) UPPER LEVEL - GROSS FAR PLAN
1/8" = 1'-0"



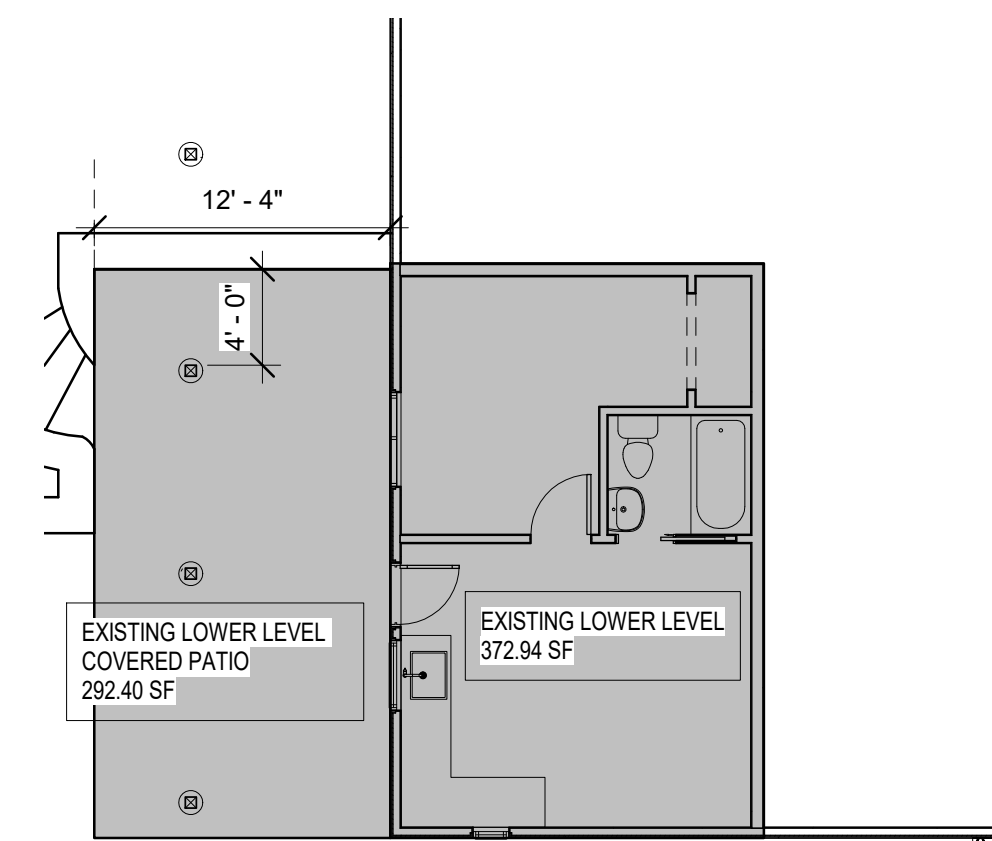
4 (P) MAIN LEVEL - GROSS FAR PLAN
1/8" = 1'-0"



2 (E) MAIN LEVEL GROSS FAR PLAN
1/8" = 1'-0"



3 (P) LOWER LEVEL - GROSS FAR PLAN
1/8" = 1'-0"



1 (E) LOWER LEVEL - GROSS FAR PLAN
1/8" = 1'-0"

architect's stamp :



approved stamp location :

address :
**40 ANSON WAY
KENSINGTON, CA
94707**

project name :
ADDITION

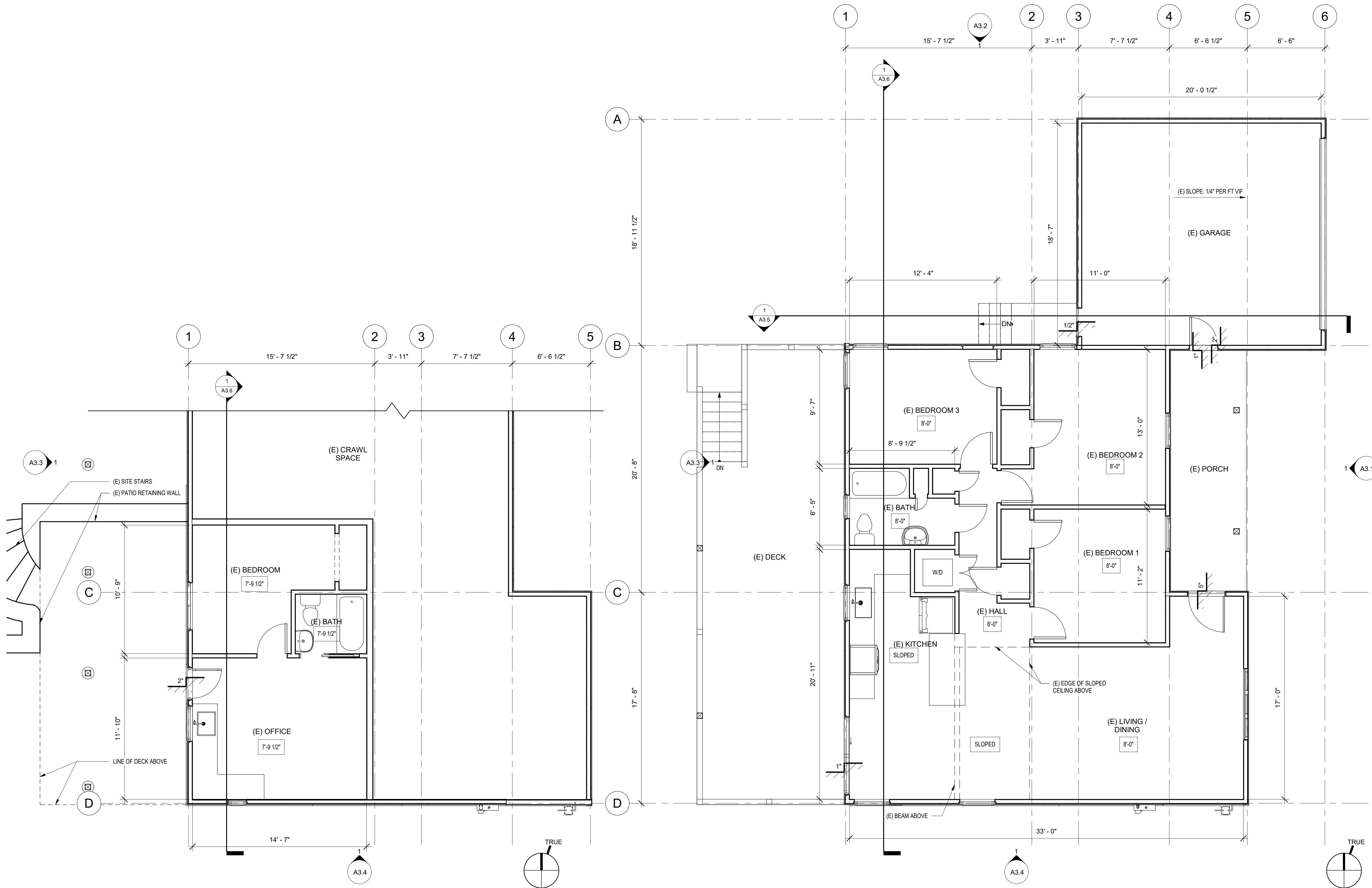
PROJECT ISSUE RECORD		
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(E) PLANS

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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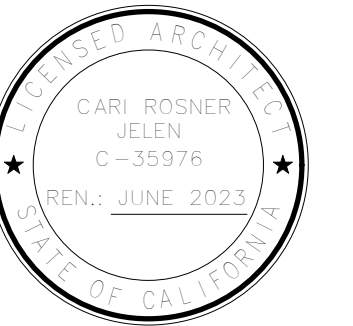
A2.1



2 (E) PARTIAL LOWER LEVEL
1/4" = 1'-0"

1 (E) MAIN LEVEL
1/4" = 1'-0"

architect's stamp :



approved stamp location :

address :
**40 ANSON WAY
KENSINGTON, CA
94707**

project name :
ADDITION

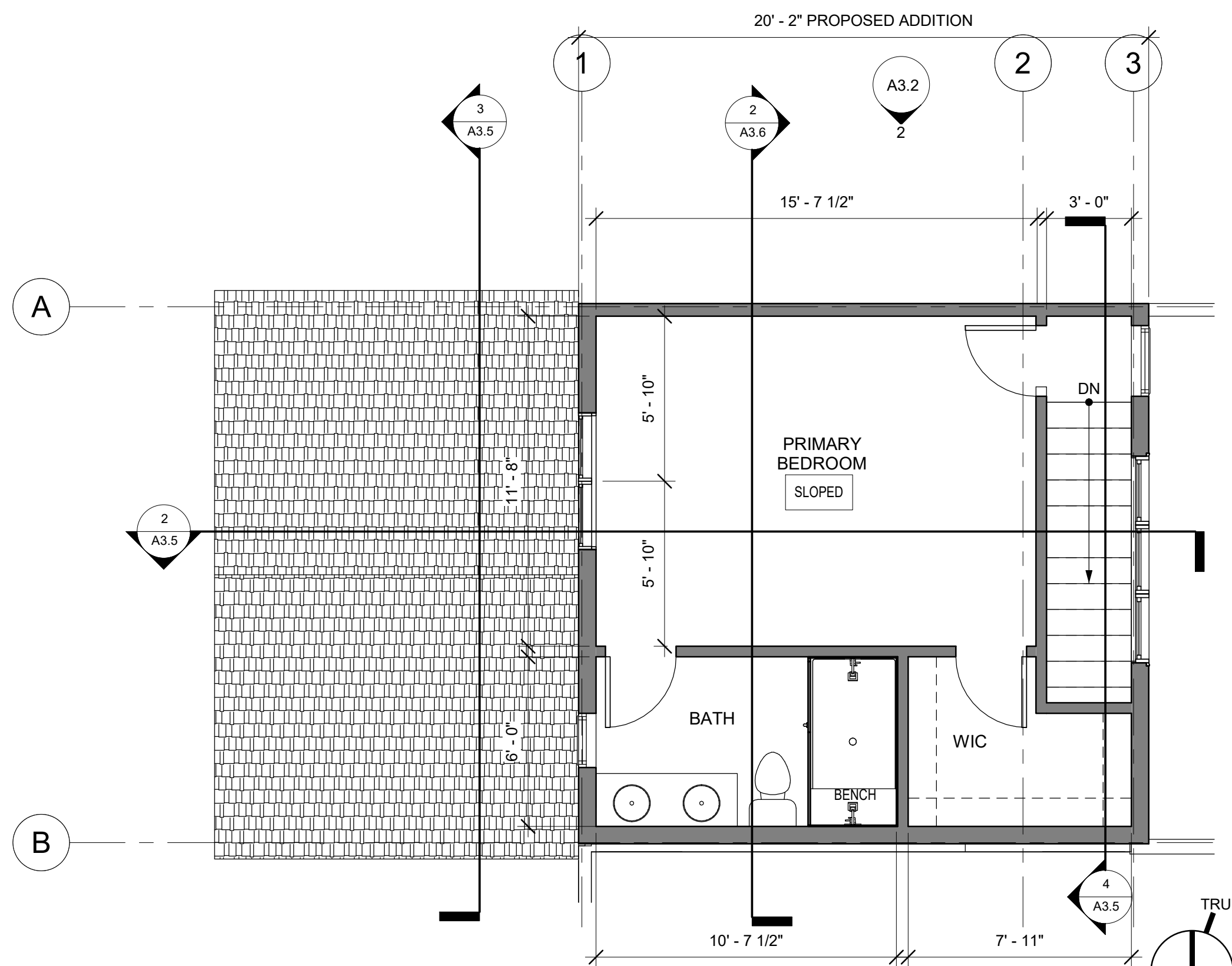
PROJECT ISSUE RECORD		
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(P) PLANS

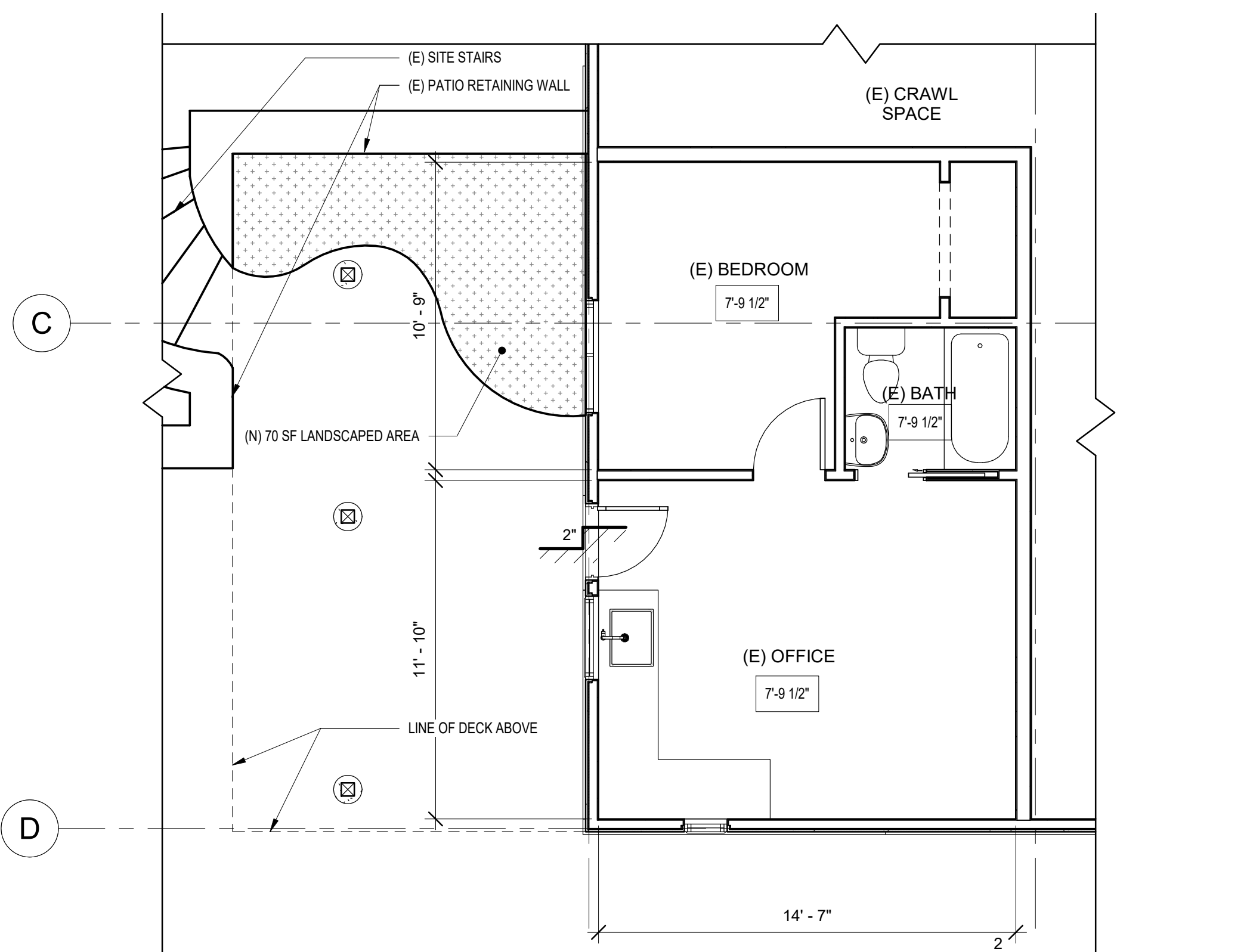
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CHECKED BY:	CRJ
DATE:	05/25/2023

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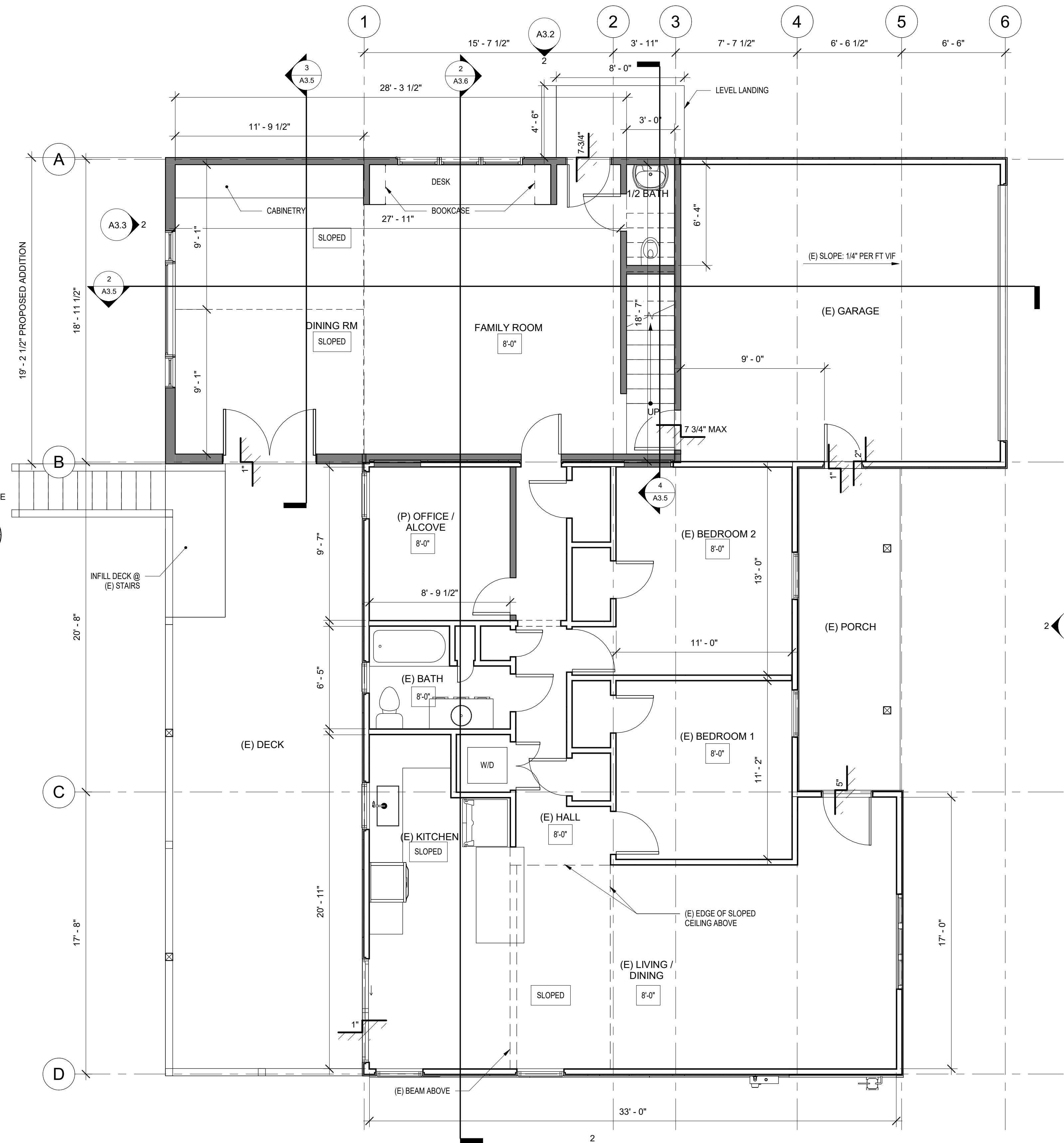
A2.2



2 (P) UPPER LEVEL
1/4" = 1'-0"



3 (P) PARTIAL LOWER LEVEL
1/4" = 1'-0"



1 (P) MAIN LEVEL
1/4" = 1'-0"

architect's stamp :



approved stamp location :

address :

**40 ANSON WAY
KENSINGTON, CA
94707**

project name :

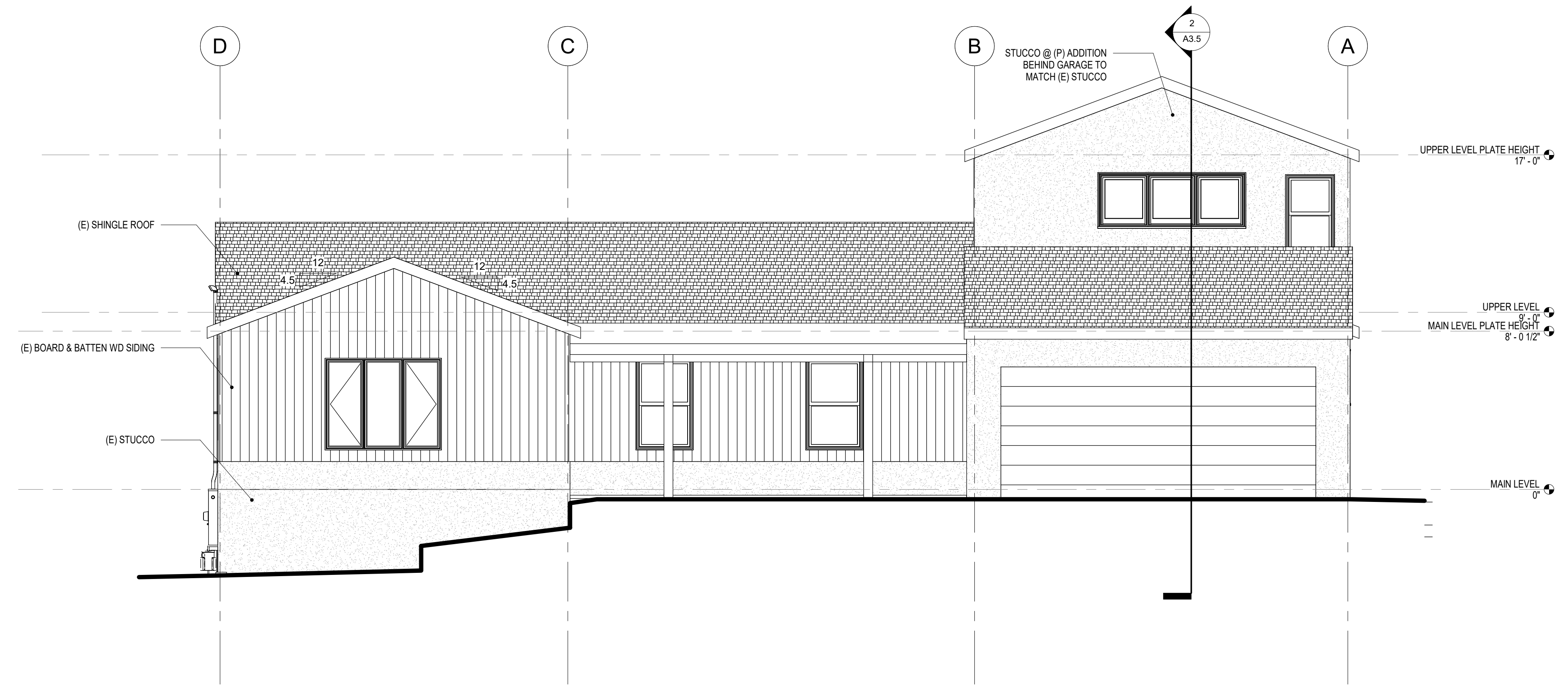
ADDITION

PROJECT ISSUE RECORD

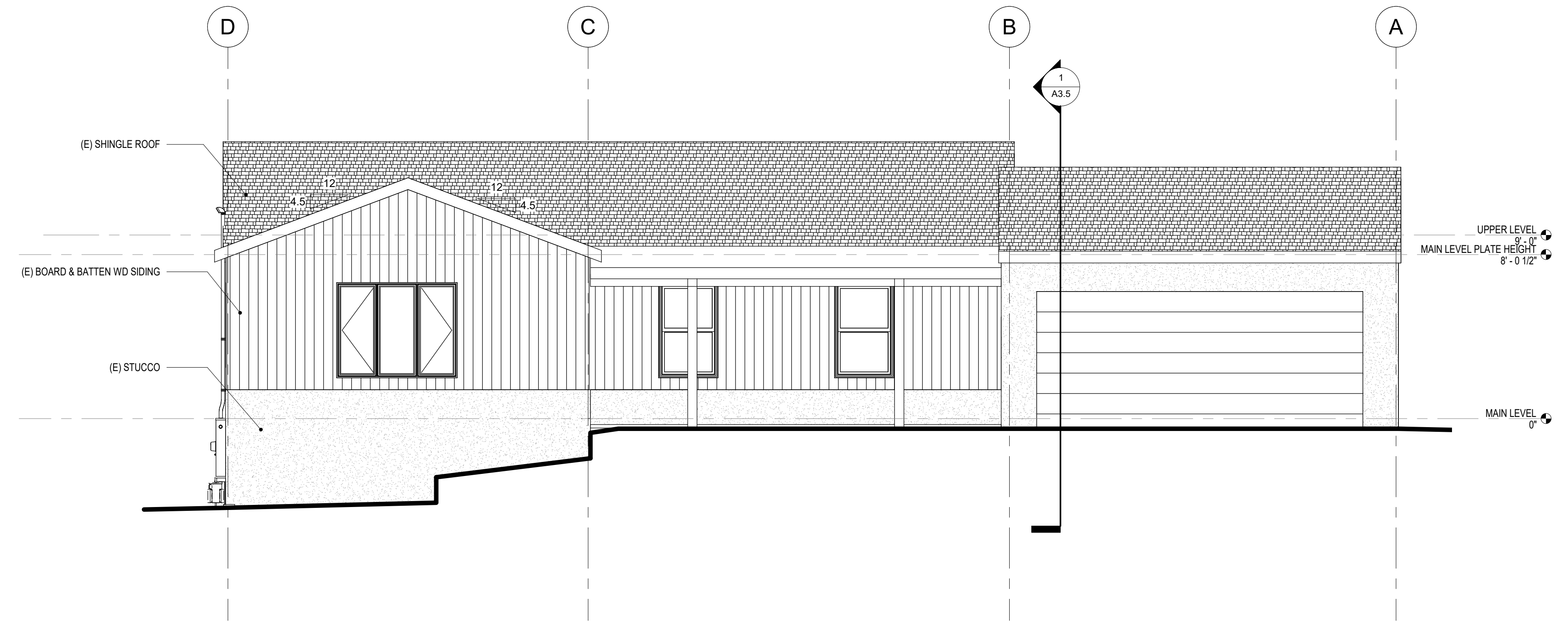
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(E) & (P) ELEVATIONS

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

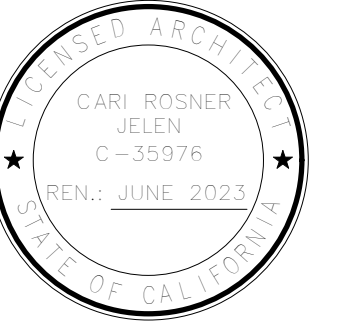


2 (P) EAST ELEVATION
1/4" = 1'-0"



1 (E) EAST ELEVATION
1/4" = 1'-0"

architect's stamp :



approved stamp location :

address :

**40 ANSON WAY
KENSINGTON, CA
94707**

project name :

ADDITION

PROJECT ISSUE RECORD

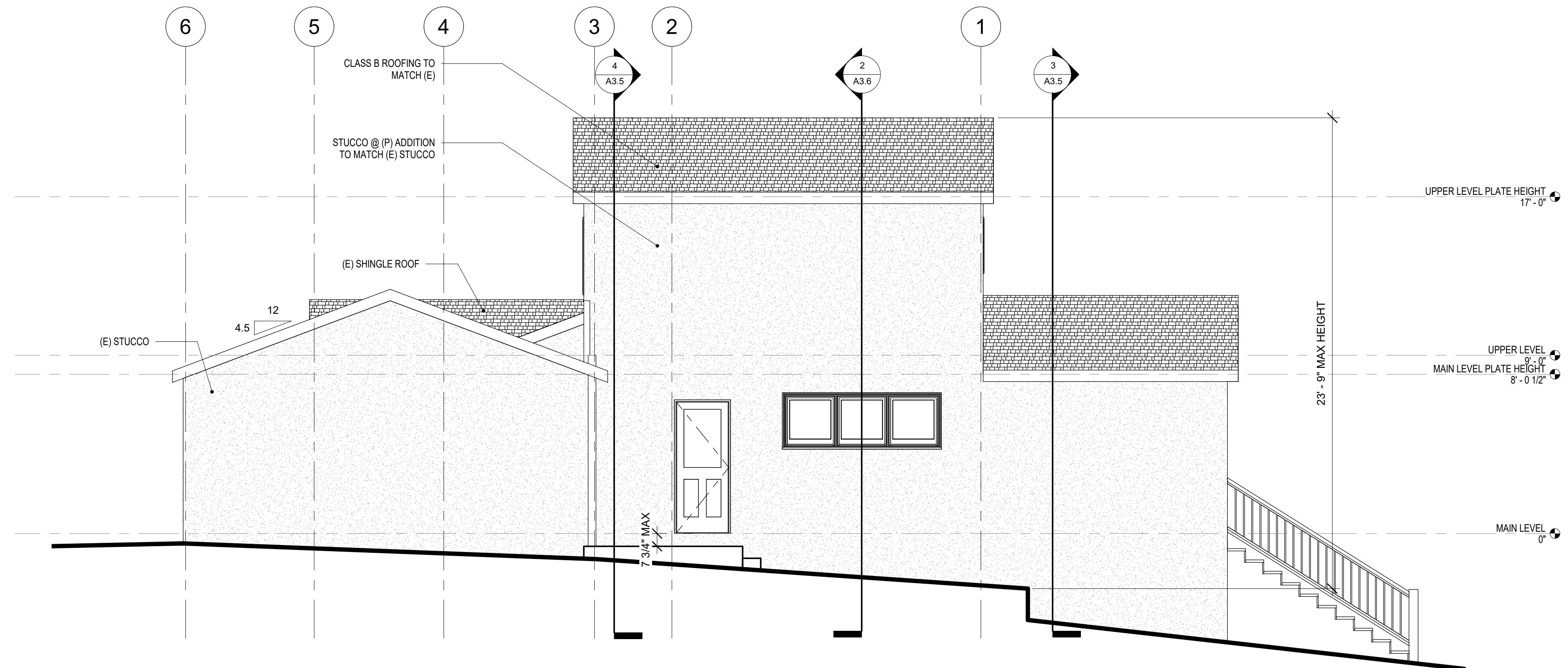
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(E) & (P) ELEVATIONS

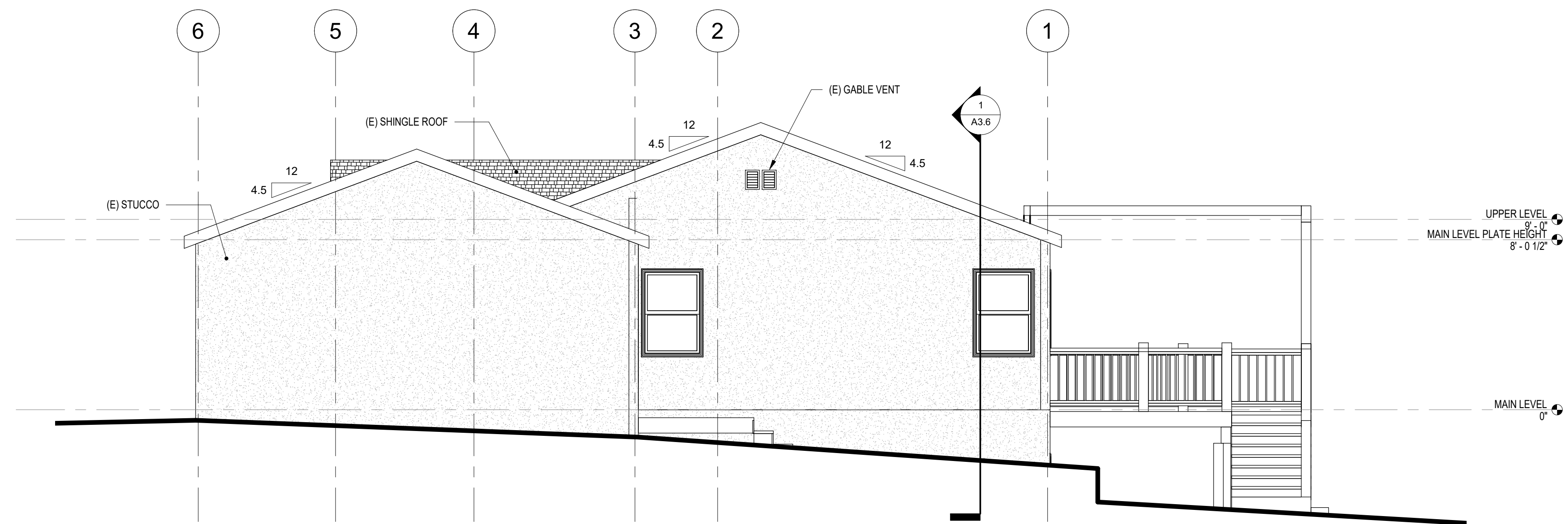
PROJECT NO:	2229
DRAWN BY:	EP
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DATE:	05/25/2023

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A3.2

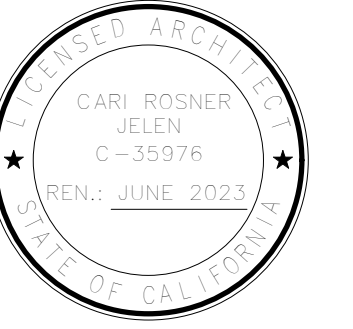


2 (P) NORTH ELEVATION
1/4" = 1'-0"

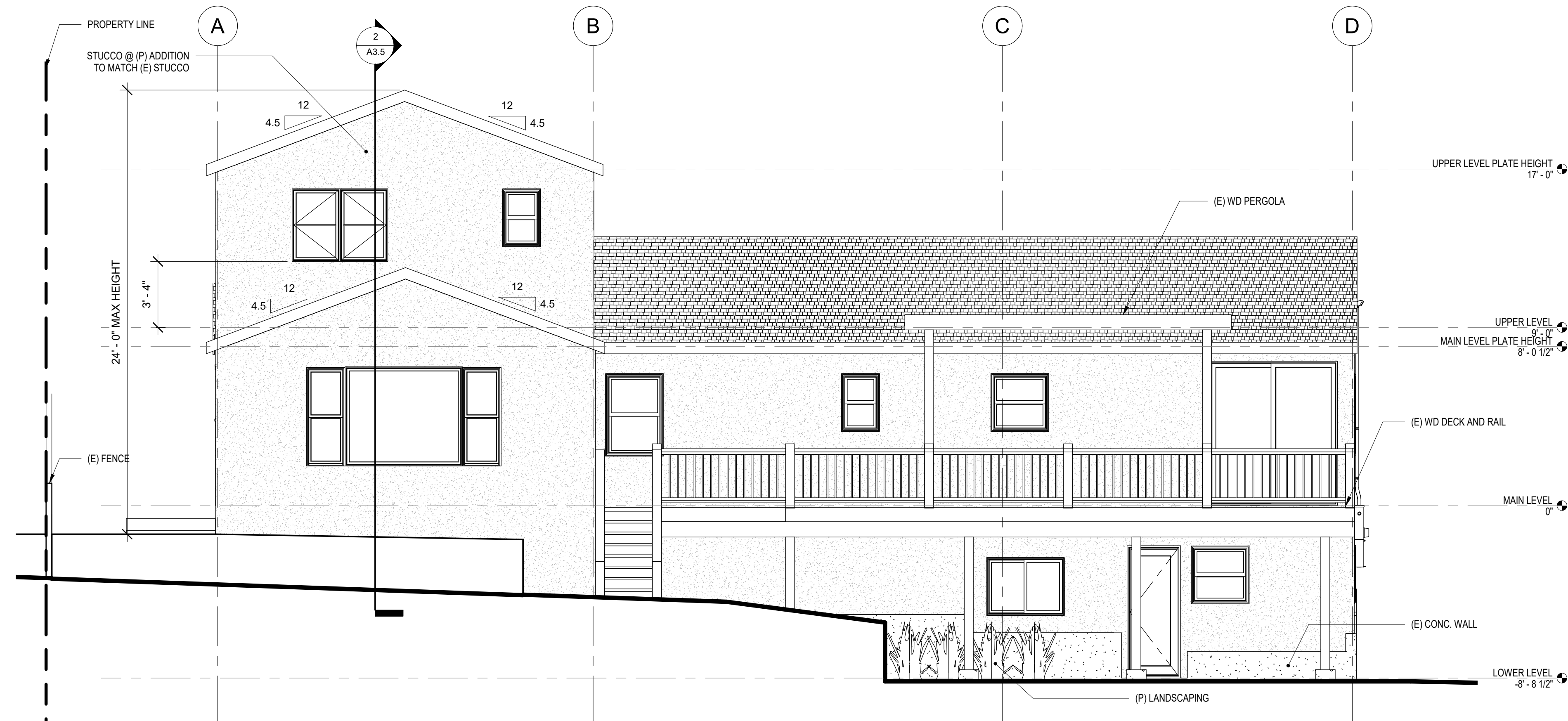


1 (E) NORTH ELEVATION
1/4" = 1'-0"

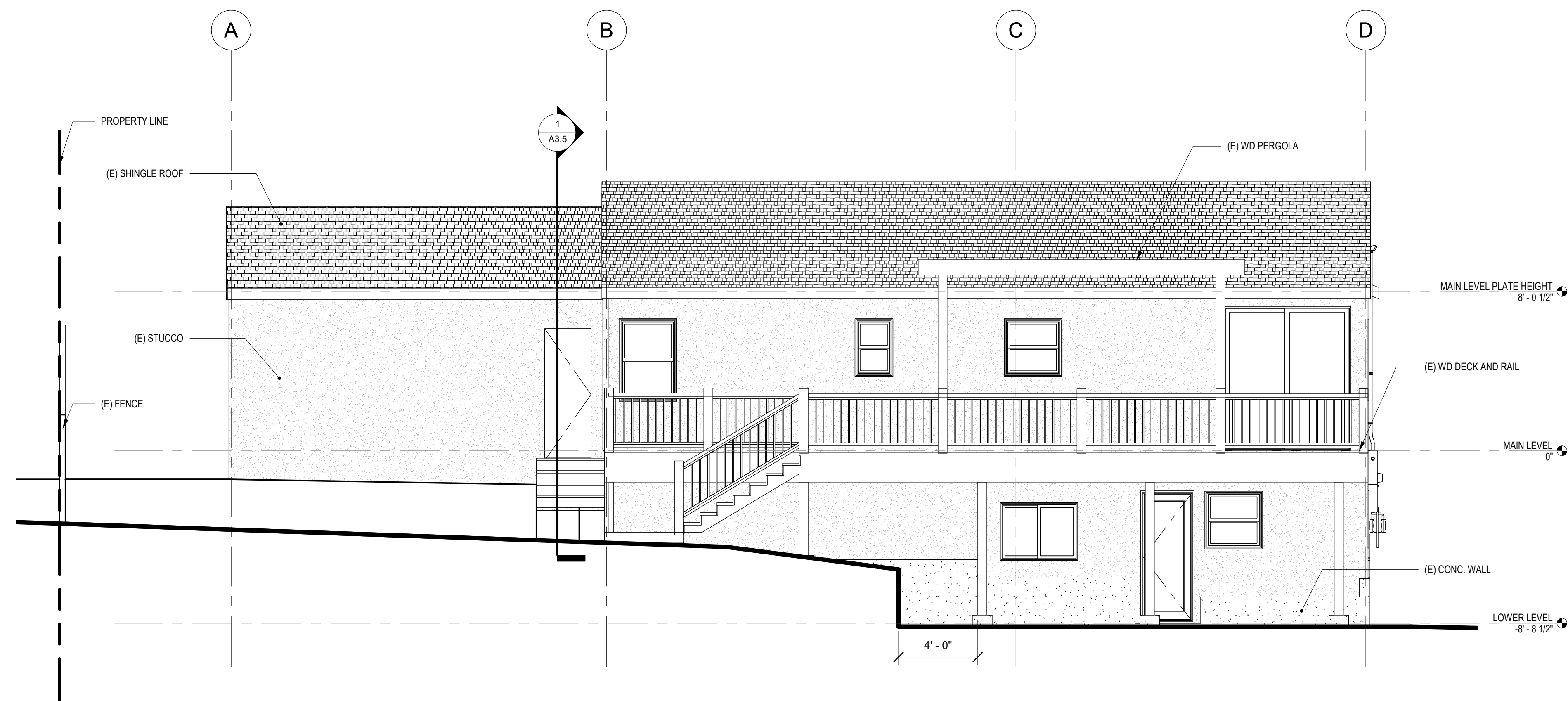
architect's stamp :



approved stamp location :



2 (P) WEST ELEVATION
1/4" = 1'-0"



1 (E) WEST ELEVATION
1/4" = 1'-0"

address :

**40 ANSON WAY
KENSINGTON, CA
94707**

project name :

ADDITION

PROJECT ISSUE RECORD

#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

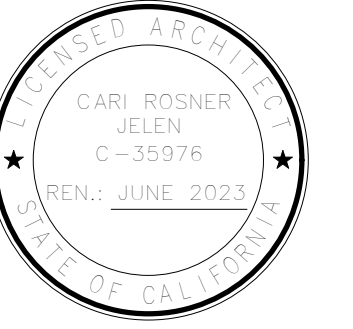
(E) & (P) ELEVATIONS

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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A3.3

architect's stamp :



approved stamp location :

address :

**40 ANSON WAY
KENSINGTON, CA
94707**

project name :

ADDITION

PROJECT ISSUE RECORD

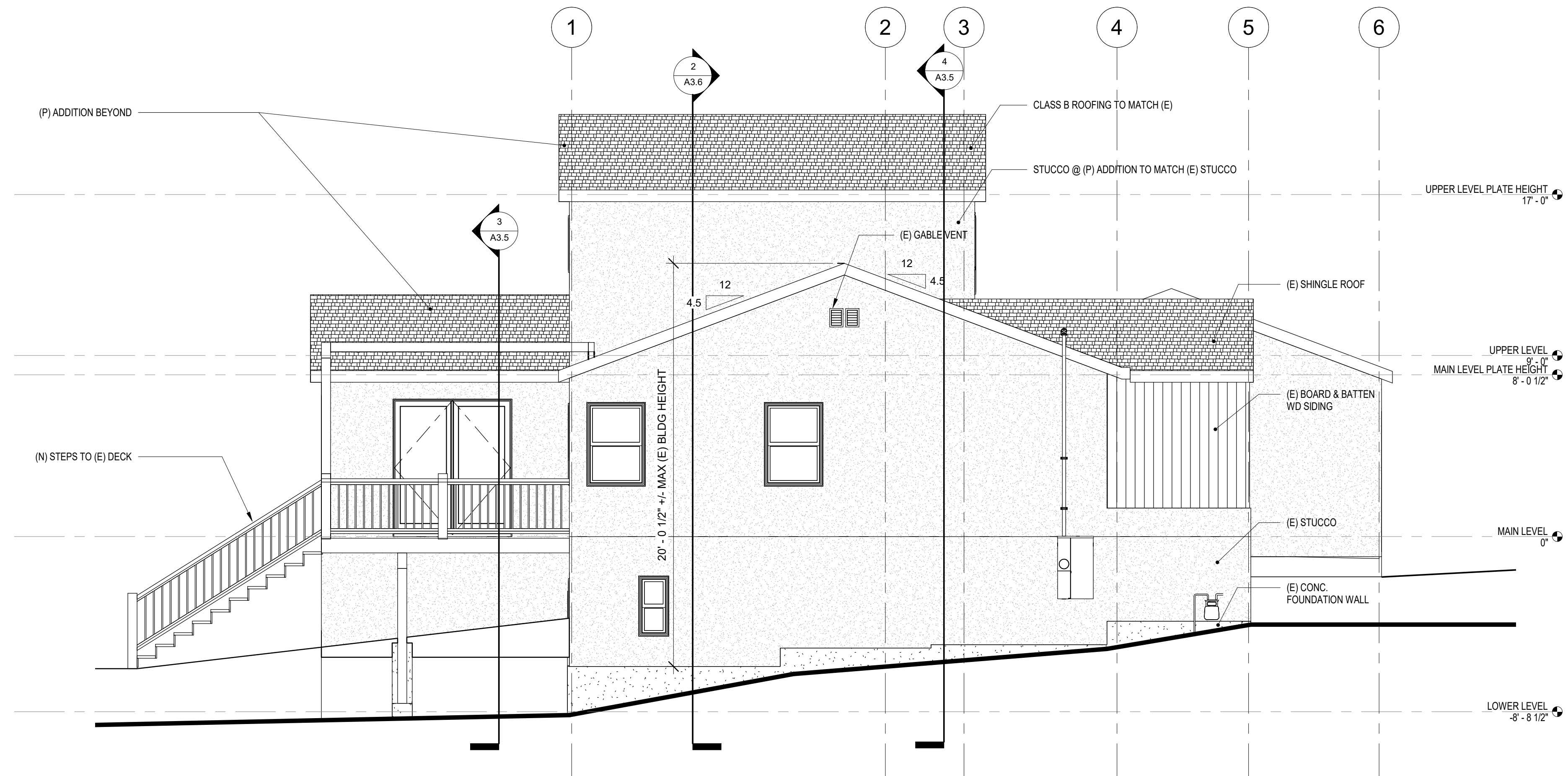
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(E) & (P) ELEVATIONS

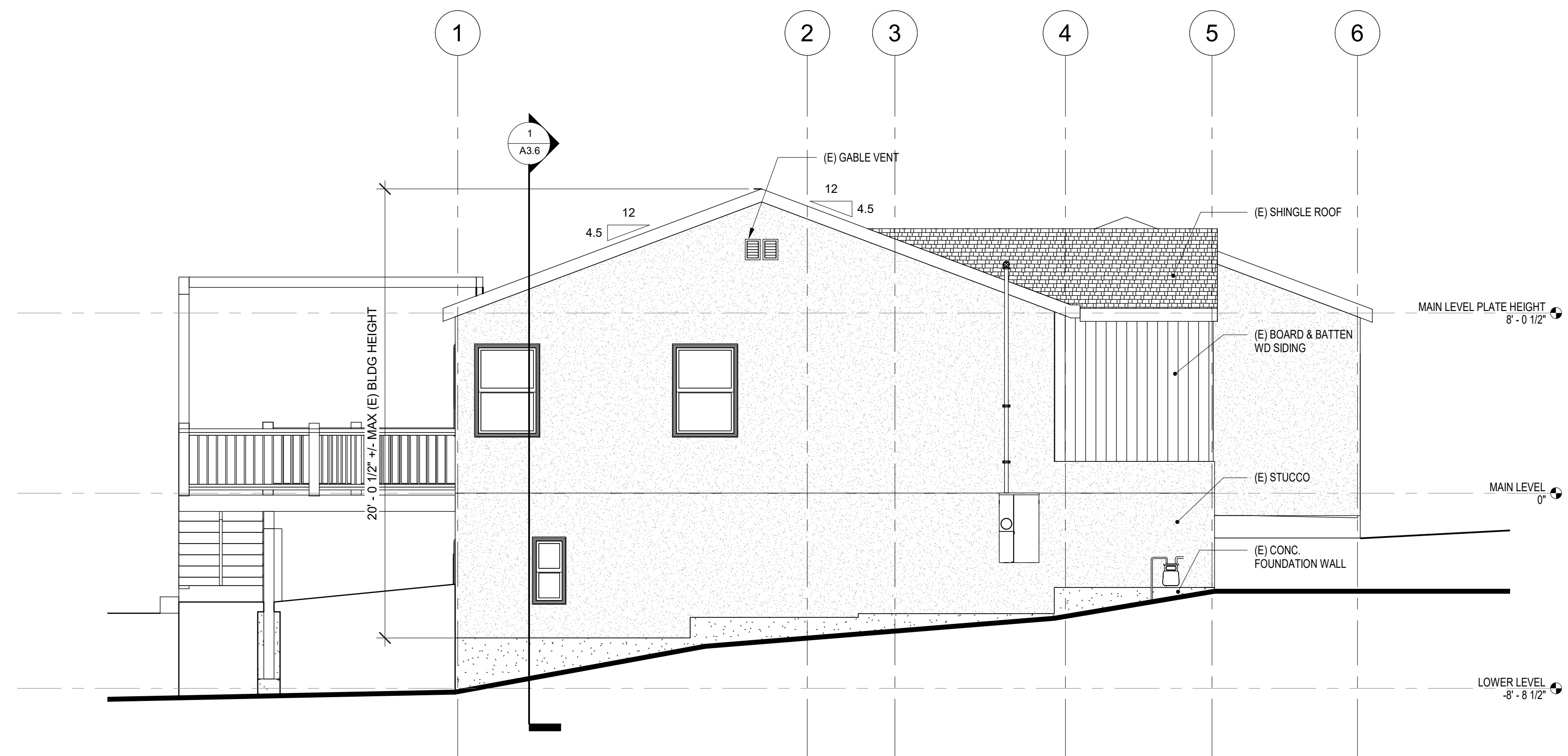
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DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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A3.4

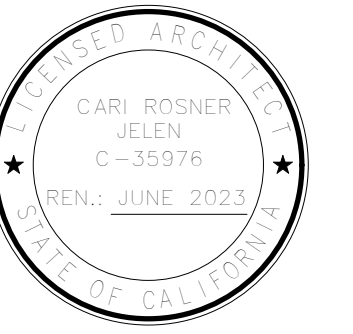


2 (P) SOUTH ELEVATION
1/4" = 1'-0"



1 (E) SOUTH ELEVATION
1/4" = 1'-0"

architect's stamp :



approved stamp location :

address :

**40 ANSON WAY
KENSINGTON, CA
94707**

project name :

ADDITION

PROJECT ISSUE RECORD

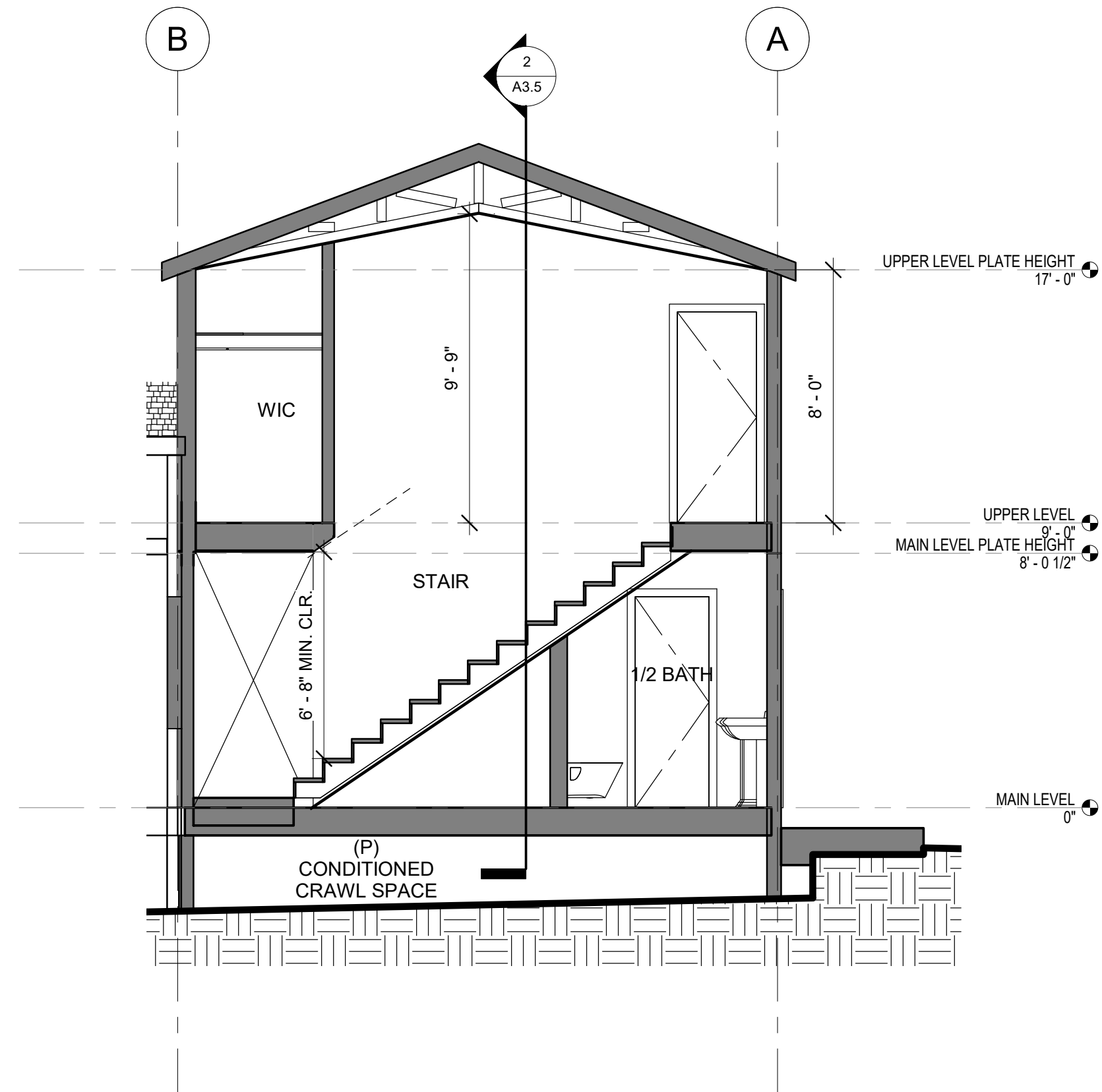
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(E) & (P) SECTIONS

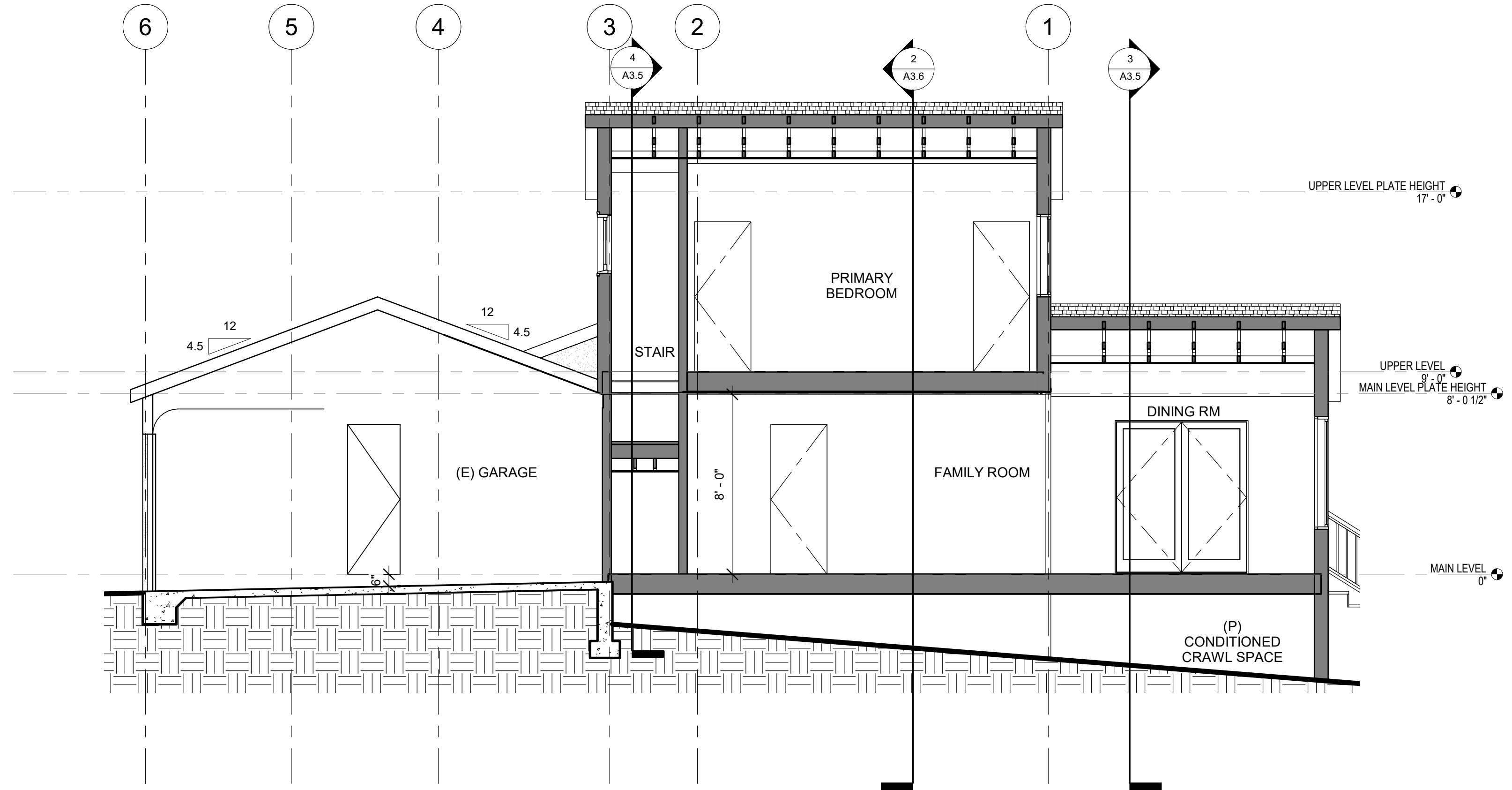
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DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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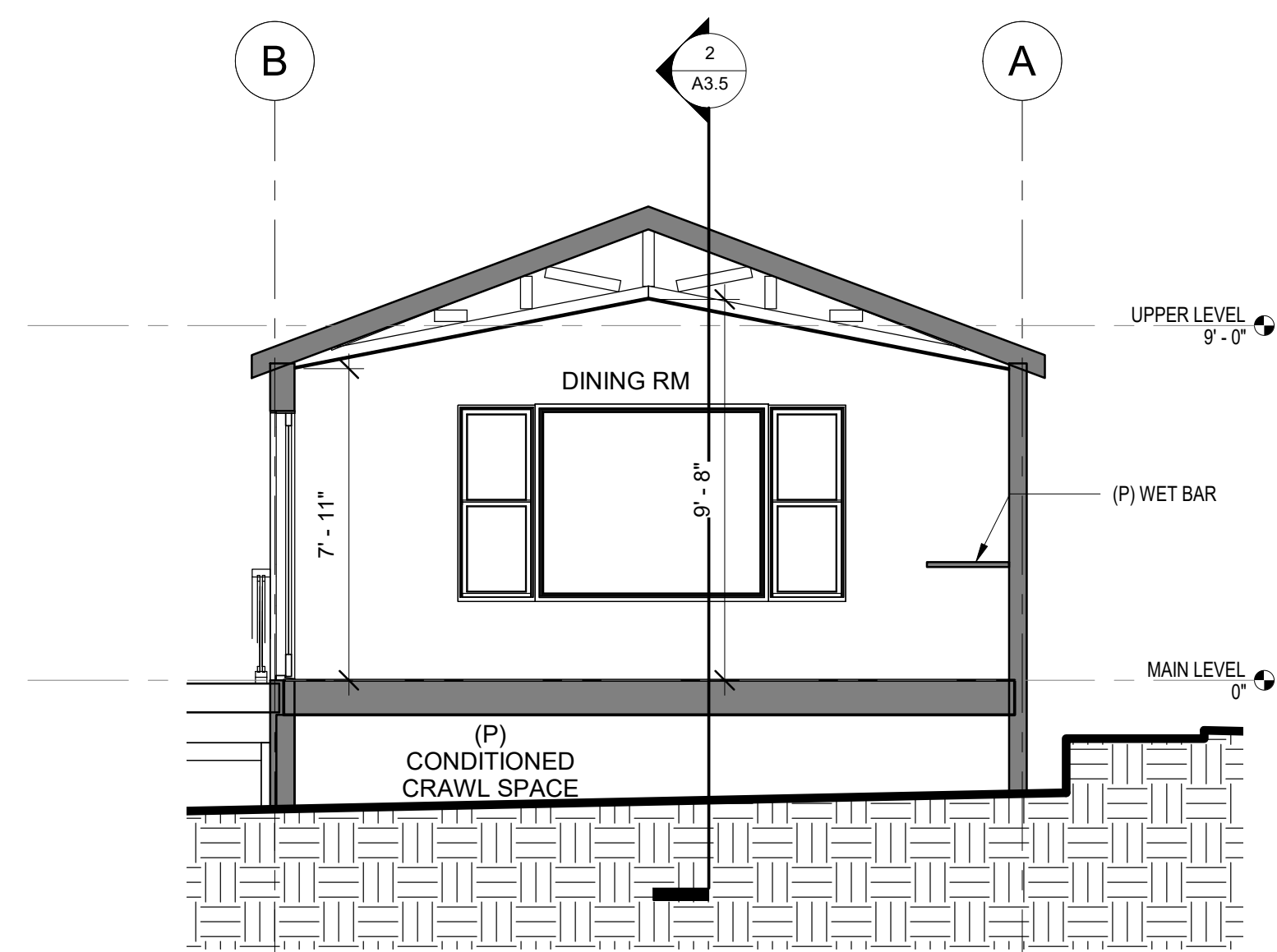
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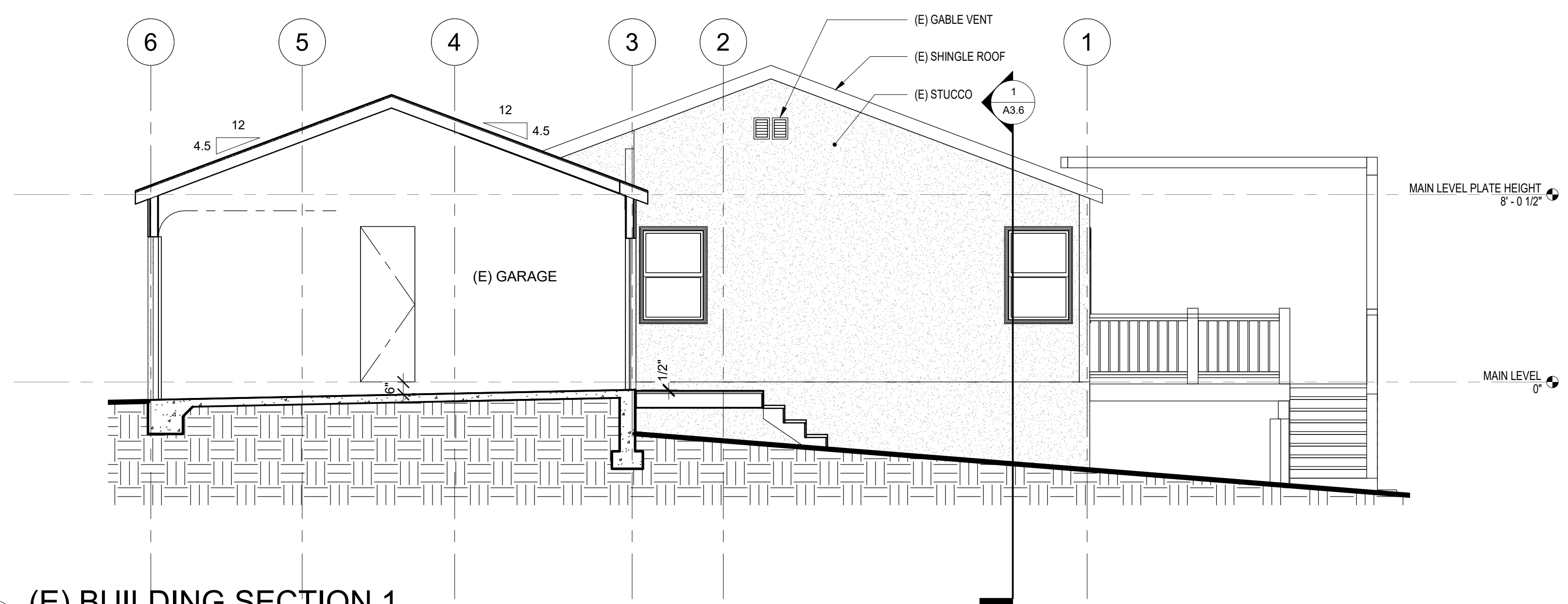
4 (P) STAIR SECTION
1/4" = 1'-0"



2 (P) BUILDING SECTION 1
1/4" = 1'-0"

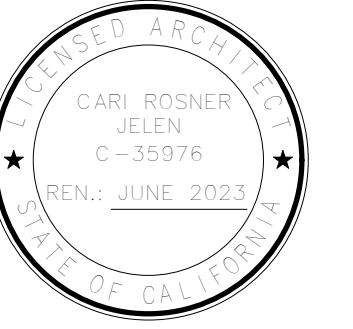


3 (P) BUILDING SECTION 2
1/4" = 1'-0"

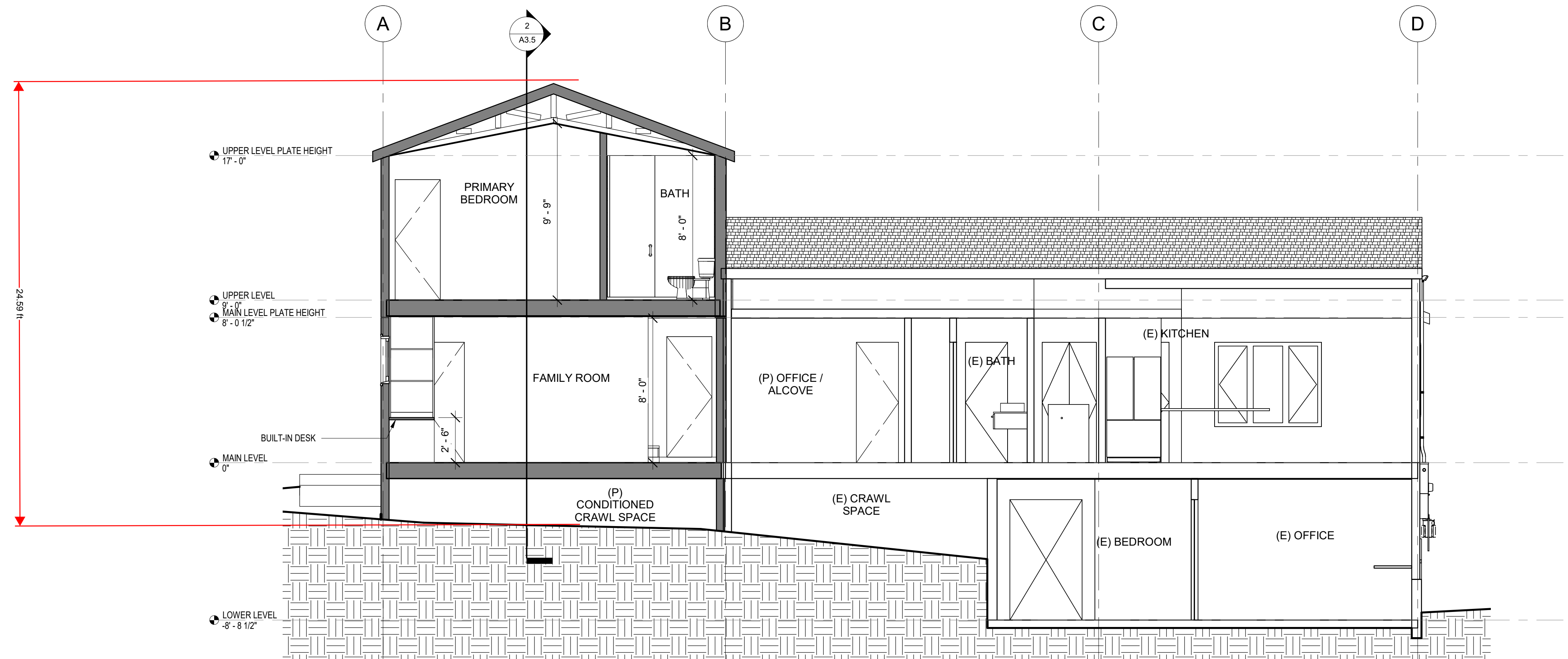


1 (E) BUILDING SECTION 1
1/4" = 1'-0"

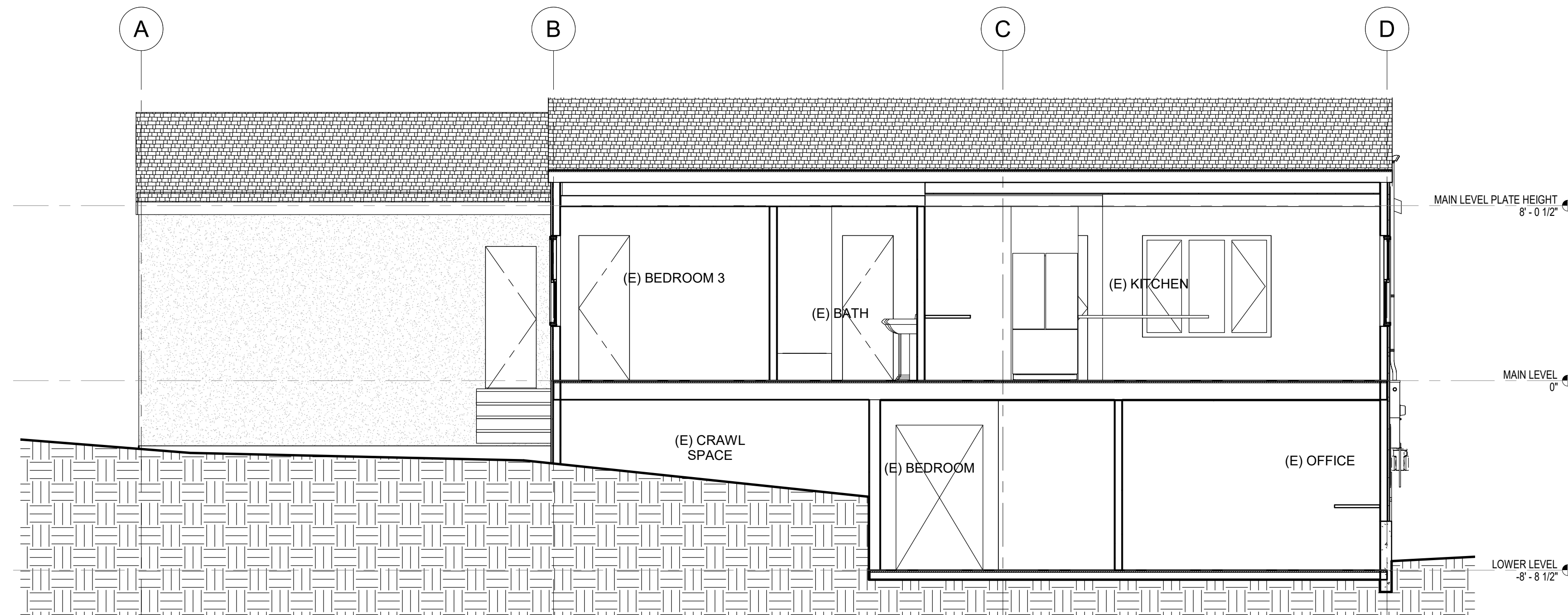
architect's stamp :



approved stamp location :



2 (P) BUILDING SECTION 3
1/4" = 1'-0"



1 (E) BUILDING SECTION 3
1/4" = 1'-0"

address :

**40 ANSON WAY
KENSINGTON, CA
94707**

project name :

ADDITION

PROJECT ISSUE RECORD

#	REVISION	DATE
1	DEVELOPMENT PLAN	07/10/2023

(E) & (P) SECTIONS

PROJECT NO:	2229
DRAWN BY:	EP
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DATE:	05/25/2023

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EXHIBIT 4

**STAFF REPORT FOR THE FEBRUARY 5, 2024
ZONING ADMINISTRATOR MEETING**



Department of Conservation and Development

County Zoning Administrator

Monday, February 5, 2024 – 1:30 P.M.

STAFF REPORT

Agenda Item # _____

Project Title:	40 Anson Way Kensington Design Review Development Plan
County File(s):	CDDP23-03024
Applicant/Owners:	Cari Rosner Jelen (Applicant) / Elena Saxonhouse (Owner)
Zoning/General Plan:	R-6 Single-Family Residential District, -TOV Tree Obstruction of Views Combining District, -K Kensington Combining District / SH Single-Family Residential-High Density
Site Address/Location:	40 Anson Way in the Kensington area of unincorporated Contra Costa County (APN: 572-233-012)
California Environmental Quality Act (CEQA) Status:	Categorical Exemption, CEQA Guidelines Section 15301(e)(2)
Project Planner:	Adrian Veliz, Senior Planner, (925) 655-2879 adrian.veliz@dcd.cccounty.us
Staff Recommendation:	Approve (See section II for full recommendation)

I. PROJECT SUMMARY

The applicant requests approval of a Kensington Design Review Development Plan to allow a 993 square-foot two-story addition to the northern side of an existing single-family residence.

II. RECOMMENDATION

Department of Conservation and Development, Community Development Division (CDD) staff recommends that the County Zoning Administrator:

- A. FIND that the project is categorically exempt from CEQA under Section 15301(e)(2) of the CEQA Guidelines.
- B. APPROVE Kensington Design Review Development Plan CDDP23-03024 to allow a 993 square-foot two-story addition to an existing single-family residence, subject to the attached findings and conditions of approval.
- C. DIRECT staff to file a Notice of Exemption with the County Clerk.

III. GENERAL INFORMATION

- A. General Plan: SH Single-Family Residential – High Density.
- B. Zoning: R-6 Single-Family Residential District, -TOV Tree Obstruction of Views Combining District, -K Kensington Combining District.
- C. California Environmental Quality Act (CEQA): CEQA Guidelines Section 15301(e)(2) Existing Structures, Class I exemption for additions to existing structures of no more than 10,000 square feet in an area that is not environmentally sensitive and where all public services and facilities are available for maximum development permissible in the General Plan.
- D. Previous Application:

CDKR23-00010: This application for Kensington Design Review for a two-story residential addition was submitted on May 11, 2023. A Notice of Intent to Render an Administrative Decision was sent to property owners within 300 feet of the subject parcel on June 1, 2023. On June 7, 2023, the CDD received a written request for a hearing, and the applicant submitted an application for the CDDP23-03024 Development Plan on July 11, 2023.

IV. SITE/AREA DESCRIPTION

The property at 40 Anson Way is an 8,800 square-foot parcel located on the west side of Anson Way approximately 330 feet north of the intersection of Anson Way and Eureka Avenue. Eureka Avenue slopes downward to the west into the City of El Cerrito. The subject parcel slopes downward from northeast to southwest.

The project neighborhood, including the subject parcel, is comprised of single-family residences. The terrain in this part of Kensington consists of moderate to steeply sloped hillsides. Generally, elevation increases north and east of the site, whereas areas south and west of the site are located downslope. Due to the topography of the area many homes in the neighborhood have distant views to the west of city skylines, the San Francisco Bay, Golden Gate Bridge and/or Bay Bridge.

The subject parcel is rectangular in shape, having a width of 80 feet along Anson Way and a depth of 110 feet. The parcel includes a 1,357 square-foot single-family residence, which was originally constructed in 1946

V. PROJECT DESCRIPTION

The applicant requests approval of a Development Plan to allow a 993 square-foot two-story addition behind an existing garage on the northern side of the existing single-family residence. Currently, the northern side of the existing residence is one-story and approximately 13 feet in height. The two-story addition would expand the residential footprint and increase the northerly height of the home to 24 feet.

VI. AGENCY COMMENTS

An Agency Comment Request packet for the proposed residential addition was sent on March 14, 2023, to a number of public agencies, including Building Inspection Division, Kensington Fire Protection District, Stege Sanitary District, East Bay Municipal Utility District, and Kensington Municipal Advisory Council. Agency comments received by staff are included in Attachment 3. Following are summaries of the agency comments received.

- A. East Bay Municipal Utility District: On July 28, 2023, the East Bay Municipal Utility District submitted a memorandum stating that if additional water service is needed, the applicant should contact their New Business Office and that new water service will not be provided unless applicable water efficiency measures are installed.

An Advisory Note is included in the Conditions of Approval and Advisory Notes whereby the applicant is responsible for contacting the East Bay Municipal Utility District regarding additional water service.

- B. Kensington Municipal Advisory Council (MAC): On October 26, 2023, the Kensington MAC submitted an email stating that at its meeting on October 25, 2023, the MAC recommended approval of the application by a vote of 3-1, with a fifth member abstaining.

VII. REQUEST FOR PUBLIC HEARING

On June 7, 2023, the neighboring property owner at 36 Anson Way, located adjacent to and north of the subject parcel submitted a letter requesting a public hearing on Kensington Design Review CDKR23-00010. The letter is included in Attachment 4. In the letter, the neighboring property owner requested an opportunity to discuss the compatibility of the proposed addition and its impact on adjacent residences.

VIII. STAFF ANALYSIS

- A. General Plan Consistency: The subject parcel at 40 Anson Way is located within the SH Single-Family Residential – High Density General Plan land use designation. The SH designation is intended to promote the orderly development of single-family residential neighborhoods. The project entails an addition to increase living area within an existing 1,357 square-foot single-family residence by 993 square feet. The proposed addition does not change the established residential use of the site, its residential density, or lot size. Thus, the single-family residential nature of the project does not conflict with the intent and purpose of the SH designation.

The project is also subject to the Policies for the Kensington Area, Policies 3-211 through 3-215 of the General Plan Land Use Element. Collectively, these policies provide for reasonable review of new residential development with protection for existing residences in the Kensington community. New residential projects are evaluated for view impacts, design compatibility, privacy, and solar access. The project's compliance with each of these policies is discussed below.

Additionally, this report includes discussion of the proposed design, including view impacts, design compatibility, parking, privacy, and solar access, as required by General Plan policies for the Kensington area. Therefore, the project is consistent with General Plan Policies 3-211 through 3-215.

Policy 3-211: *Allow for the review of new residential development that provides reasonable protection for existing residences in the Kensington community with*

regard to: views, design compatibility (including building bulk, size, and height), adequate parking, privacy, and access to sunlight.

This project was initially submitted to the CDD as administrative Kensington Design Review application CDKR23-00010. Upon the CDD's receipt of a written request for a public hearing on the CDKR23-00010 application in response to public notifications associated therewith, the applicant submitted the current CDDP23-03024 Development Plan application in order to continue the planning process. The processing of this application, culminating in a Zoning Administrator decision at a noticed public hearing, provides reasonable protection for neighboring property owners by providing a process including public notification and allowing additional opportunities for concerned neighbors to comment on the project before a decision is made. As discussed in detail within the Zoning Compliance section of this report, staff finds the proposed residential addition to be consistent and compatible with the surrounding neighborhood and does not anticipate that the addition would have a substantial impact on views, privacy, or solar access for neighboring properties.

Policy 3-212: *Preservation of views of scenic natural features (e.g. Bay, mountains) and the developed environment (e.g., bridges, San Francisco skyline) should be incorporated into the review of development applications.*

Section 84-74.404(r) of the Kensington Combining District Ordinance (County Code Chapter 84-74) defines "view" as *"a scene from a window in habitable space of a neighboring residence. The term 'view' includes both up-slope and downslope scenes, but is distant or panoramic range in nature, as opposed to short range."* The subject parcel and neighboring parcels are situated on a western facing slope that descends steeply to the west towards the City of El Cerrito. The topography of the area is such that it allows many homes on the hillside to enjoy distant westerly views of city skylines, the San Francisco Bay, Golden Gate Bridge and/or Bay Bridge. On October 6, 2023, at the request of the Kensington MAC, the applicant installed story poles on the subject parcel in order to simulate the height and building mass of the proposed addition. On October 20, 2023, staff was permitted to view the story poles from two neighboring residences at 36 Anson Way (adjacent to and north of the subject parcel) and 39 Anson Way (across the street to the east of the subject parcel) in order to assess potential view impacts. Aesthetically, the proposed addition would have the greatest impact on a southern facing window on the second story of the residence at 36 Anson Way. Existing views from this southern facing window

predominantly consist of neighboring residences and neighborhood trees. Since these existing views are not distant or panoramic in nature, they do not constitute a “view” as defined by the Kensington Combining District Ordinance. Based on the October 20, 2023 site visit, the proposed addition does not substantially degrade any existing “view” – as defined by the aforementioned County Ordinance – from within any neighboring residence. Therefore, the project preserves views in a manner consistent with Policy 3-212. Staff photographs depicting the story poles from neighboring residences are included in this report as Attachment 5.

Policy 3-213: Review proposed residential development for design compatibility with nearby development (e.g. building mass, height, mechanical devices) and provisions for adequate parking.

The project neighborhood consists of a mix of one- and two-story single-family residences. Considering that two-story residences presently exist on immediately adjacent parcels to the north, south, east, and west, the building mass of the proposed two-story addition is consistent and compatible with the design of existing residential development in the vicinity. Additionally, the proposed addition would have a height of 24 feet, which is substantially less than the 35-foot maximum for residential development in the R-6 Single-Family Residential District pursuant to Section 84-4.802 of the County Code. Further, the existing two-car garage on the subject parcel meets the off-street parking requirement for the R-6 District pursuant to Section 84-4.1202 of the County Code. Therefore, based on the foregoing discussion, the project is considered compatible with existing development in the vicinity in terms of design, height, and the provision of adequate parking.

Policy 3-214: New residential development will be reviewed against realistic impacts of privacy and sunlight on surrounding neighbors.

Staff has evaluated the project to determine whether realistic impacts of privacy and sunlight would expectedly arise from the addition. The addition is not expected to affect the privacy or solar access on neighboring parcels to any significant degree, as discussed in detail in the below Zoning Compliance Section B.3 below.

Policy 3-215: *Consideration will be given to review of non-residential development in the Kensington community with Policies 3-211 through 3-213 herein.*

The proposed project is a residential addition to an existing single-family residence. Thus, this policy does not apply.

- B. Zoning Compliance: The subject parcel is located in the R-6 Single-Family Residential District, -TOV Tree Obstruction of Views Combining District, and -K Kensington Combining District. The proposed project does not involve removal or addition of any tree, and therefore, the regulations of the Tree Obstruction of Views Combining District do not apply to this application.

The intent and purpose of the R-6 District is to facilitate orderly development and maintenance of high-density, single-family residential neighborhoods. The proposed residential addition conforms to all R-6 development standards (e.g. front setback, side and rear yards, building height, off- street parking). Therefore, the proposed addition to an existing single-family residence meets the intent and purpose of the R-6 District.

The Kensington Combining District includes seven criteria for approval of the Development Plan. As detailed below, the project satisfies all seven criteria.

1. *Recognizing the rights of property owners to improve the value and enjoyment of their property.*

Finding: The project is a 993 square-foot two-story addition to the northern side of an existing single-family residence in the R-6 Single-Family Residential District. The proposed addition is in conformance with minimum setback, minimum side and rear yards, maximum building height, and minimum off-street parking requirements applicable to development in the R-6 District. Construction of a residential addition conforming to these development standards is permitted following the application review procedures for the Kensington Combining District, absent substantial impacts to neighboring parcels in terms of views, privacy, or solar access. The property owners have indicated that the increased square-footage is necessary to accommodate the needs of their family, while also providing office areas to better accommodate working from home. Additionally, the proposed two-story configuration will allow for improved views of the San Francisco Bay and city skyline from within

the existing residence, similar to those enjoyed by residents of numerous other properties in the immediate vicinity.

2. *Recognizing the rights of property owners of vacant lots to establish a residence that is compatible with the neighborhood in terms of bulk, scale, and design.*

Finding: The subject parcel is not a vacant lot. Therefore, this criterion does not apply.

3. *Minimizing impacts upon surrounding neighbors.*

Finding: The project involves a two-story residential addition that is in conformance with all applicable development standards for the R-6 District. Section 84-74.204(b) of the Kensington Combining District Ordinance specifies that the ordinance is intended to promote the community's values of preservation of views, light and solar access, privacy, parking, residential noise levels. The project is consistent with these values as discussed below:

- Privacy: The project proposes a two-story addition to the northern side of the existing single-family residence on the subject parcel. The neighboring property nearest to the proposed addition is the adjacent property to the north at 36 Anson Way. All upper-level windows of the residence at 36 Anson Way are oriented either towards the street to the east, or towards the scenic San Francisco Bay to the west. Since the addition does not include any northern or southern facing windows, the project would not substantially impair privacy for next door neighboring parcels, including the residence at 36 Anson Way. Therefore, the project minimizes privacy impacts upon surrounding neighbors.
- Light and Solar Access: The potential for residential construction to limit light and solar access on neighboring properties are predominantly influenced by siting (i.e. setbacks), size, and height. The project includes a two-story addition behind an existing garage on the northern side of the existing single-family residence on the subject parcel. The northern side of the existing residence is presently one-story and approximately 13 feet in height. The two-story addition

would expand the residential footprint and increase the northerly height of the home to 24 feet.

The proposed addition would be located at least 42 feet 8 inches and 63 feet 2 inches from the western rear and southern side property lines respectively, and even further from homes located to the east across Anson Way. Therefore, the project would be expected to have negligible impacts to light or solar access on neighboring properties to the south, east, and west of the subject parcel.

The proposed addition would be located 8 feet 3 inches from the northern side property line (where 5 feet is the minimum required) and would be situated approximately 15 to 20 feet south of the existing adjacent residence to the north at 36 Anson Way. The 15 to 20 feet of separation between adjacent residences is typical for development in the R-6 District, where development standards allow for as little as 10 feet of separation. It is not uncommon for adjacent homes in the Kensington community to have less than 10 feet of separation due to lot dimensions and/or existing legal non-conforming residences constructed prior to the implementation of the County zoning code. Additionally, the 24-foot height of the proposed addition conforms to the 35-foot maximum permissible building height for residential development in the R-6 District.

In a letter dated September 18, 2023, included with this report as Attachment 6, the consultant to the owner of the neighboring adjacent property to the north at 36 Anson Way, expressed a concern, amongst others, that the project unreasonably impairs access to daylight by casting shadows on the 36 Anson Way property. The letter includes a diagram depicting shadows cast on the property at 9 AM, 12 noon, and 3 PM on the winter solstice, whereon the proposed addition is approximated to cast a shadow over the western portion of the 36 Anson Way residence and rear yard at 9am, and over the southernmost portions of this residence at noon. Notably, the shadow analysis provided by the neighbor's consultant is limited to conditions expected at a specific time of year when the daylight hours are shortest (i.e. the sun rises later and sets earlier than any other date) and when the sun rises at its southernmost location in the sky. Using a web-based application (www.suncalc.org) that shows the movement

of the sun for a certain date at a certain place, staff has prepared a Shadow Analysis (Attachment 7) to approximate the project's effect on solar access for the summer solstice, and at the equinox. The shadow analysis shows the sun rising further to the north and higher in the sky throughout the rest of the year, and the extent of shadows cast on the northerly parcel are typically much less throughout the year than depicted by the consultant. Therefore, the project is not expected to affect the neighboring residence's solar access to any significant degree.

4. *Protecting the value and enjoyment of the neighbors' property.*

Finding: As previously mentioned, the addition would not significantly block any views in the project neighborhood or decrease privacy or access to sunlight. Therefore, absent significant impacts on neighboring parcels, the addition would preserve the value and enjoyment of the neighbors' property.

5. *Maintaining the community's property values.*

Finding: The project involves an addition to an existing single-family residence in an established residential neighborhood. The proposal does not involve a incompatible land use that would conflict with the surrounding residential community in a manner that may negatively affect property values. Additionally, the project does not substantially affect scenic views, privacy, or solar access for neighboring parcels to any significant degree. Therefore, the project maintains the community's property values.

6. *Maximizing the use of existing interior space.*

Finding: The existing single-family residence consists of a main floor at street level having approximately 1,202 square feet of living area and a 372 square foot two-car garage. A lower level beneath the southern end of the existing residence provides an additional 373 square feet of conditioned living space. There is no existing interior space within the residence that is not presently being utilized as part of the residence. Thus, the 993 square-foot increase in living space sought by the property owners could not feasibly be accomplished within the existing building envelope. Therefore, staff finds that the project maximizes the use of existing interior space.

7. *Promoting the general welfare, public health, and safety.*

Finding: The residential addition does not change the land use on the subject parcel and, as described above, would have minimal impact on neighboring properties. The project's compliance with applicable zoning standards and the requirement to obtain building permits will ensure that the addition does not present a hazard to public health and safety for the occupants or community at large. Thus, the project promotes the general welfare, public health, and safety of the Kensington community.

IX. CONCLUSION

- A. Construction of the proposed residential addition is consistent with the SH Single-Family Residential-High Density General Plan land use designation and complies with the intent and purpose of the R-6 Single-Family Residential Zoning District and the -K Kensington Combining District. Therefore, staff recommends approval of Kensington Design Review Development Plan CDDP23-03024 to allow a 993 square-foot two-story addition to an existing single-family residence, subject to the attached findings and conditions of approval.

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE CDDP23-03024;
CARI ROSNER JELEN (APPLICANT), ELENA SAXONHOUSE (OWNER)**

FINDINGS

A. Kensington Combining District Findings

County Code Section 84-74.1206(b) requires a project within the Kensington Combining District to satisfy seven criteria to be approved.

1. *Recognizing the rights of property owners to improve the value and enjoyment of their property.*

Project Finding. The project is a 993 square-foot two-story addition to the northern side of an existing single-family residence in the R-6 Single-Family Residential District. The proposed addition is in conformance with minimum setback, minimum side and rear yards, maximum building height, and minimum off-street parking requirements applicable to development in the R-6 District. Construction of a residential addition conforming to these development standards is permitted following the application review procedures for the Kensington Combining District, absent substantial impacts to neighboring parcels in terms of views, privacy, or solar access. The property owners have indicated that the increased square-footage is necessary to accommodate the needs of their family, while also providing office areas to better accommodate working from home. Additionally, the proposed two-story configuration will allow for improved views of the San Francisco Bay and city skyline from within the existing residence, similar to those enjoyed by residents of numerous other properties in the immediate vicinity.

2. *Recognizing the rights of property owners of vacant lots to establish a residence that is compatible with the neighborhood in terms of bulk, scale, and design.*

Project Finding. The subject parcel is not a vacant lot. Therefore, this criterion does not apply.

3. *Minimizing impacts upon surrounding neighbors.*

Project Finding. The project involves a two-story residential addition that is in conformance with all applicable development standards for the R-6 District. Section

84-74.204(b) of the Kensington Combining District Ordinance specifies that the ordinance is intended to promote the community's values of preservation of views, light and solar access, privacy, parking, residential noise levels. The project is consistent with these values as discussed below:

- Privacy: The project proposes a two-story addition to the northern side of the existing single-family residence on the subject parcel. The neighboring property nearest to the proposed addition is the adjacent property to the north at 36 Anson Way. All upper-level windows of the residence at 36 Anson Way are oriented either towards the street to the east, or towards the scenic San Francisco Bay to the west. Since the addition does not include any northern or southern facing windows, the project will not substantially impair privacy for next door neighboring parcels, including the residence at 36 Anson Way. Therefore, the project minimizes privacy impacts upon surrounding neighbors.
- Light and Solar Access: The potential for residential construction to limit light and solar access on neighboring properties are predominantly influenced by siting (i.e. setbacks), size, and height. The project includes a two-story addition behind an existing garage on the northern side of the existing single-family residence on the subject parcel. The northern side of the existing residence is presently one-story and approximately 13 feet in height. The two-story addition will expand the residential footprint and increase the northerly height of the home to 24 feet.

The proposed addition will be located at least 42 feet 8 inches and 63 feet 2 inches from the western rear and southern side property lines respectively, and even further from homes located to the east across Anson Way. Therefore, the project will have negligible impacts to light or solar access on neighboring properties to the south, east, and west of the subject parcel.

The proposed addition will be located 8 feet 3 inches from the northern side property line (where 5 feet is the minimum required) and will be situated approximately 15 to 20 feet south of the existing adjacent residence to the north at 36 Anson Way. The 15 to 20 feet of separation between adjacent residences is typical for development in the R-6 District, where development standards allow for as little as 10 feet of separation. It is not uncommon for adjacent homes in the Kensington community to have less than 10 feet of separation due to lot dimensions and/or existing legal non-conforming

residences constructed prior to the implementation of the County zoning code. Additionally, the 24-foot height of the proposed addition conforms to the 35-foot maximum permissible building height for residential development in the R-6 District.

In a letter dated September 18, 2023, the consultant to the owner of the neighboring adjacent property to the north at 36 Anson Way, expressed a concern, amongst others, that the project unreasonably impairs access to daylight by casting shadows on the 36 Anson Way property. The letter includes a diagram depicting shadows cast on the property at 9 AM, 12 noon, and 3 PM on the winter solstice, whereon the proposed addition is approximated to cast a shadow over the western portion of the 36 Anson Way residence and rear yard at 9am, and over the southernmost portions of this residence at noon. Notably, the shadow analysis provided by the neighbor's consultant is limited to conditions expected at a specific time of year when the daylight hours are shortest (i.e. the sun rises later and sets earlier than any other date) and when the sun rises at its southernmost location in the sky. Using a web-based application (www.suncalc.org) that shows the movement of the sun for a certain date at a certain place, staff has prepared a Shadow Analysis to approximate the project's effect on solar access for the summer solstice, and at the equinox. The shadow analysis shows the sun rising further to the north and higher in the sky throughout the rest of the year, and the extent of shadows cast on the northerly parcel are typically much less throughout the year than depicted by the consultant. Therefore, the project is not expected to affect the neighboring residence's solar access to any significant degree.

4. *Protecting the value and enjoyment of the neighbors' property.*

Project Finding: As previously mentioned, the addition will not significantly block any views in the project neighborhood or decrease privacy or access to sunlight. Therefore, absent significant impacts on neighboring parcels, the addition will preserve the value and enjoyment of the neighbors' property.

5. *Maintaining the community's property values.*

Project Finding: The project involves an addition to an existing single-family residence in an established residential neighborhood. The proposal does not involve a noncompatible land use that conflicts with the surrounding residential community in

a manner that may negatively affect property values. Additionally, the project does not substantially affect scenic views, privacy, or solar access for neighboring parcels to any significant degree. Therefore, the project maintains the community's property values.

6. *Maximizing the use of existing interior space.*

Project Finding: The existing single-family residence consists of a main floor at street level having approximately 1,202 square feet of living area and a 372 square foot two-car garage. A lower level beneath the southern end of the existing residence provides an additional 373 square feet of conditioned living space. There is no existing interior space within the residence that is not presently being utilized as part of the residence. Thus, the 993 square-foot increase in living space sought by the property owners cannot feasibly be accomplished within the existing building envelope. Therefore, staff finds that the project maximizes the use of existing interior space.

7. *Promoting the general welfare, public health, and safety.*

Project Finding: The residential addition does not change the land use on the subject parcel and as described above, will have minimal impact on neighboring properties. The project's compliance with applicable zoning standards and the requirement to obtain building permits will ensure that the addition does not present a hazard to public health and safety for the occupants or community at large. Thus, the project promotes the general welfare, public health, and safety of the Kensington community.

D. Environmental Findings

The 993 square-foot two-story addition to the northern side of an existing single-family residence is categorically exempt under CEQA Guidelines Section 15301(e)(2), which provides a Class 1 exemption for additions to existing structures of no more than 10,000 square feet in an area that is not environmentally sensitive and where all public services and facilities are available for maximum development permissible in the General Plan..

CONDITIONS OF APPROVAL FOR COUNTY FILE CDDP23-03024

Project Approval

1. Development Plan CDDP23-03024 to allow a 993 square-foot two-story addition to the northern side of an existing single-family residence is **APPROVED**.

2. The Development Plan approval describe above is based on the application and project plans received by the Department of Conservation and Development, Community Development Division (CDD) on July 11, 2023.
3. Any deviation from the approved plans shall require review and approval by the CDD and may require the filing of a new Kensington Design Review application.

Building Permits

5. No construction is approved with this permit. Any construction at the subject parcel will require issuance of building permits from the Department of Conservation and Development, Building Inspection Division, prior to commencement of work.

Application Costs

6. This application was subject to an initial application deposit of \$3,000.00, which was paid with the application submittal, plus time and material costs if the application review expenses exceed 100% of the initial deposit. **Any additional fee due must be paid prior to an application for a grading or building permit, or 60 days of the effective date of this permit, whichever occurs first.** The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2019/553, where a fee payment is over 60 days past due from the date of approval, the application shall be charged interest at a rate of ten percent (10%). The applicant may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance.

Construction

All construction activity shall comply with the following restrictions, which shall be included in the construction drawings.

7. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.

8. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.
9. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
10. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The CDD phone number shall also be visible to ensure compliance with applicable regulations.
11. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:
 - New Year's Day (State and Federal)
 - Birthday of Martin Luther King, Jr. (State and Federal)
 - Washington's Birthday (Federal)
 - Lincoln's Birthday (State)
 - President's Day (State)
 - Cesar Chavez Day (State)
 - Memorial Day (State and Federal)
 - Juneteenth National Independence Holiday (Federal)
 - Independence Day (State and Federal)
 - Labor Day (State and Federal)
 - Columbus Day (Federal)
 - Veterans Day (State and Federal)
 - Thanksgiving Day (State and Federal)
 - Day after Thanksgiving (State)
 - Christmas Day (State and Federal)

For specific details on the actual date the State and Federal holidays occur, please visit the following websites:

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov)

California Holidays: [State Holidays \(sos.ca.gov\)](https://sos.ca.gov)

12. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to 4:00 PM.

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE AND OTHER LEGAL REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

A. NOTICE OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et. seq, the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a ninety-day (90) period after the project is approved.

The 90-day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the CDD within 90 days of the approval date of this permit.

- B. The applicant shall submit building plans to the Building Inspection Division and comply with Division requirements. It is advisable to check with the Division prior to requesting a building permit or proceeding with the project.

- C. The applicant must submit building plans to the Kensington Fire Protection District and comply with its requirements. The applicant is advised that plans submitted for a building permit must receive prior approval and be stamped by the Fire Protection District.
- D. The applicant is required to submit plans to the Stege Sanitary District for approval. Plans submitted for a building permit must receive prior approval and be stamped by the Sanitary District.
- E. The applicant is responsible for contacting the Health Services Department Environmental Health Division regarding its requirements and permits.
- F. The applicant is required to comply with the requirements of the East Bay Municipal Utility District.
- G. The applicant is responsible for contacting the Contra Costa Mosquito and Vector Control District regarding its requirements and permits.

ATTACHMENTS

ATTACHMENT 1: MAPS

ATTACHMENT 2: PROJECT PLANS

ATTACHMENT 3: AGENCY COMMENTS

ATTACHMENT 4: REQUEST FOR PUBLIC HEARING

ATTACHMENT 5: SITE VISIT PHOTOGRAPHS

ATTACHMENT 6: PUBLIC COMMENTS

ATTACHMENT 7: SHADOW ANALYSIS

ATTACHMENT 1

MAPS



REVISED	CHANGE	BY
9-25-92	100LSM48	MJ

- 231
- 232
- 233
- 234

P.B.
505

PROJECT SITE

Zoning Map



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Zoning
- R-6 (Single Family Residential)
- R-6, -FH -UE (Flood Hazard and A
- R-6 -SD-1 (Slope Density Hillside E
- 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
- A-2 -FH (Flood Hazard Combining I
- A-2, -FH -SG (Flood Hazard and Sc

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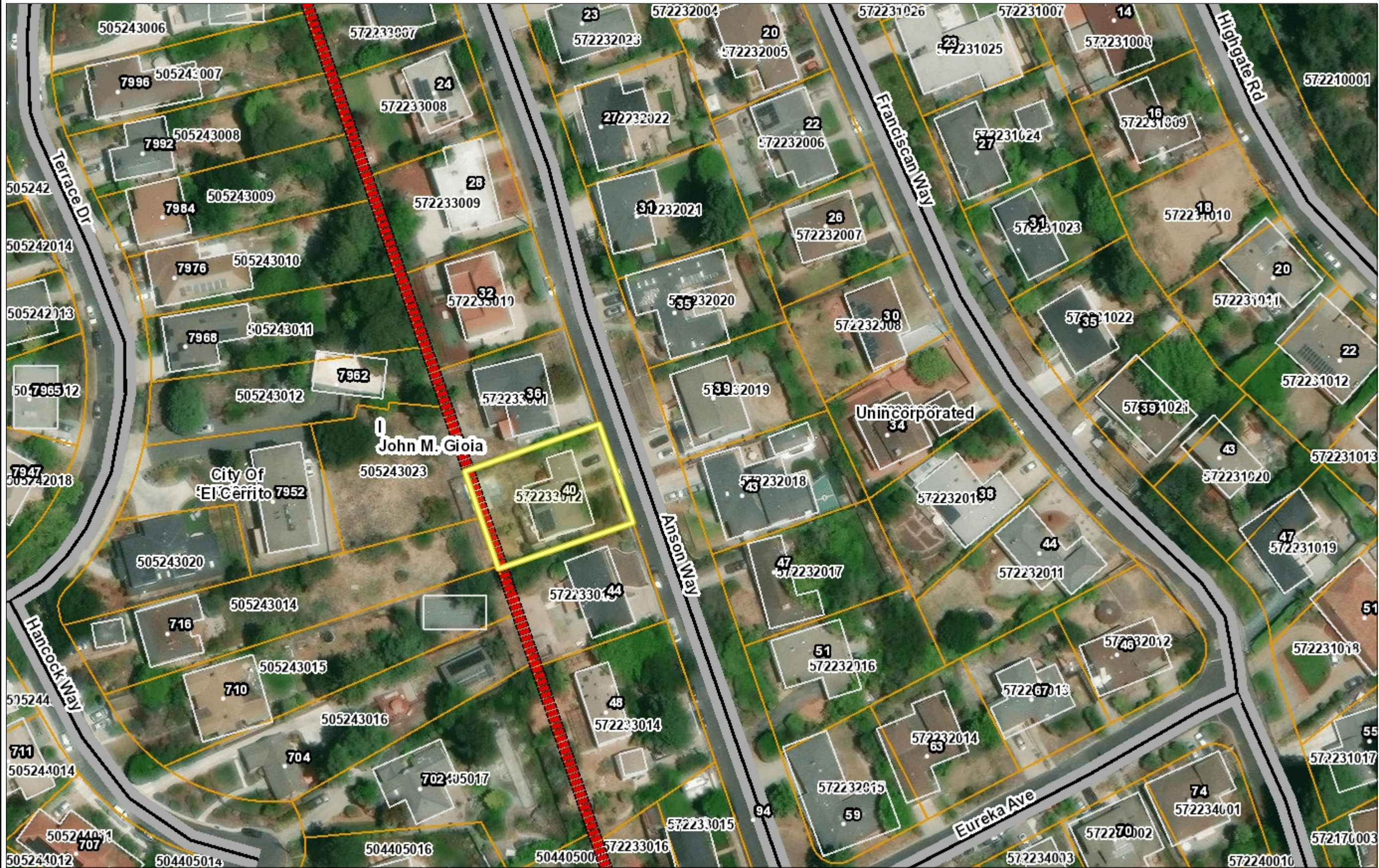
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This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

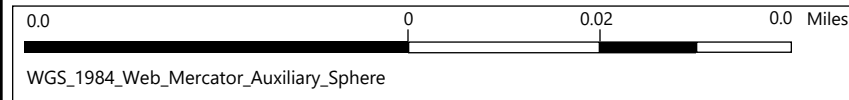
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Contra Costa County -DOIT GIS



- Legend
- Board of Supervisors' Districts
 - City Limits
 - Unincorporated
 - Address Points
 - Streets
 - Building Footprints
 - Assessment Parcels
 - World Imagery
 - Low Resolution 15m Imagery
 - High Resolution 60cm Imagery
 - High Resolution 30cm Imagery
 - Citations



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.
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1: 1,128

Notes
Contra Costa County -DOIT GIS

ATTACHMENT 2

PROJECT PLANS

ABBREVIATIONS

A.D. AREA DRAIN	GA. GALV.	GALV. GALVANIZED	P.L. PROPERTY LINE
ADJ. ABOVE FINISHED FLOOR	GL. GLASS	GLASS	PL. PLASTER
AGGR. AGGREGATE	GLU. LAM. GLUE LAMINATED	PLYWOOD	PR. PAIR
ASPH. ASPHALT	G.S.M. GALV. SHEET METAL	PAIR	PTD. PAINTED
ARCH. ARCHITECTURAL	GYP. GYPSUM	RY. RISER	R. RUN
	G.W.B. GYPSUM WALL BOARD	R.F. REFR.	REFR. REFRIGERATOR
BLDG. BUILDING	H.B. HOSE BIBB	RENF. REINFORCED	RM. ROOM
BLK. BLOCK	H.C. HEIGHT	R.O. ROUGH OPENING	RTG. RETAINING
BLKG. BLOCKING	H.M. HOLLOW METAL	SAG SUPPLY AIR GRILL	
B.O. BOTTOM OF	H.P. HORIZONTAL HIGH POINT	S.V. SHEET VINYL	
BW. BOTTOM OF WALL		S.H. SINGLE HUNG	
		SHT. SHEET	
CPT. CARPET		SHTG. SHEATHING	
CAB. CABINET		SPEC. SPECIFICATION	
C.J. CONSTRUCTION JOINT		SQ. SQUARE	
C.L. CENTER LINE		S.S. STAINLESS STEEL	
CLOS. CLOSET		STAGG. STAGGERED.	
CLG. CEILING		STD. STANDARD	
CLR. CLEAR		STL. STEEL	
C.O. CLEAN OUT		STRUC. STRUCTURAL	
COL. COLUMN			
CONC. CONCRETE	LAB. LABORATORY	T. TREAD	
CONT. CONTINUOUS	LAM. LAMINATE	TC TOP OF CURB	
CSMT. CASEMENT	LAV. LAVATORY	T&G TONGUE AND GROOVE	
C.T. CERAMIC TILE	LT. LIGHT	THK. THICK	
C.S. COUNTER SINK		T.W. TOP OF WALL	
	MAX. MAXIMUM	TYP. TYPICAL	
	MECH. MECHANICAL	U.O.N. UNLESS OTHERWISE NOTED	
MEMB. MEMBRANE	MFR. MANUFACTURER	VERT. VERTICAL	
MIN. MINIMUM	MISC. MISCELLANEOUS	V.I.F. VERIFY IN FIELD	
M.O. MASONRY OPENING	MTL. METAL	W. WITH	
MUL. MULLION	N. NEW	W.C. WATER CLOSET	
	N.C. NOT IN CONTRACT	WD. WOOD	
	NO. NUMBER	WH. WATER HEATER	
	NOM. NOMINAL	W.P. WATERPROOF	
	N.T.S. NOT TO SCALE	W.P.T. WORK POINT	
	O.C. ON CENTER	YD. YARD	
	O.D. OUTSIDE DIAMETER		
	O.H. OVERHEAD		
	OPG. OPENING		
	OPNG. OPENING		
	OPP. OPPOSITE		

CODE REQUIREMENTS

STATE CODES:
 2022 CALIFORNIA BUILDING CODE
 2022 CALIFORNIA ENERGY CODE
 2022 CALIFORNIA CALGREEN
 2022 CALIFORNIA ELECTRICAL CODE
 2022 CALIFORNIA PLUMBING CODE
 2022 CALIFORNIA MECHANICAL CODE
 2022 CALIFORNIA FIRE CODE

LOCAL CODES:
 CONTRA COSTA CODE
 KENSINGTON PLANNING ORDINANCE

DRAWING LIST

ARCHITECTURE	
A0.1	COVER SHEET
A0.2	(E) SITE
A0.3	(P) 3D VIEWS
A0.4	GROSS FLOOR AREA PLANS
A2.1	(E) PLANS
A2.2	(P) PLANS
A3.1	(E) & (P) ELEVATIONS
A3.2	(E) & (P) ELEVATIONS
A3.3	(E) & (P) ELEVATIONS
A3.4	(E) & (P) ELEVATIONS
A3.5	(E) & (P) SECTIONS
A3.6	(E) & (P) SECTIONS

PROJECT INFORMATION

PROJECT ADDRESS:
 40 ANSON WAY, KENSINGTON, CA 94707

APN: 572-233-012
 ZONING DISTRICT: R6 - TOV - 4K
 LOT SIZE: 8,800 SF
 CONSTRUCTION DATE: 1946
 DWELLING UNITS: 1 PRIMARY

SET BACK	ALLOWABLE	EXISTING	DEMO	NEW	COMPLETE
FRONT	20 FT	14'-7 1/2"	---	---	NO CHANGE
SIDE	5 FT / 15 FT AGGREGATE	14'-2 1/2" / 8'-3" / 22'-5 1/2" AGG.	---	7'-3"	14'-2 1/2" / 7'-3" / 21'-5 1/2" AGG.
REAR	15 FT	55'-0"	---	---	NO CHANGE

HEIGHT IN FEET	EXISTING	DEMO	NEW	COMPLETE
HEIGHT	35	20'-0 1/2" +/-	---	24'-0" / 24'-0"
STORIES	2.5	2	---	2

PARKING - MIN SIZE 9'-0" X 19'-0" AND SHALL BE ENTIRELY OUTSIDE OF SETBACK

	MIN.	2	---	---	NO CHANGE
GROSS FLOOR AREA PER 84-74.404 (SEE SHEET A0.4 FOR BREAKDOWN)	3300 OR KMAC HEARING	2,368.6	70	992.6	3,292.2

LOT COVERAGE

	NA	2,082 SF	---	635	2,717 SF
GROSS FLOOR AREA HEARING THRESHOLD CALCULATION PER 84-74.802:					
THRESHOLD = PARCEL AREA X 0.540-0.00002(PARCEL AREA) AND INCREASED TO THE NEXT HIGHEST ONE HUNDRED UNLESS EVENLY DIVISIBLE BY ONE HUNDRED					
THRESHOLD = 8,800 X 0.540-0.00002(8800) = 3,203					
GROSS FLOOR AREA HEARING THRESHOLD IS 3,300 SQ FT					

SCOPE OF WORK

2-STORY ADDITION

PROJECT TEAM

ARCHITECT: CARI DESIGNS ARCHITECTURE
 800 BANCROFT WAY SUITE 200
 BERKELEY, CA 94710

OWNER: TULLEY RAFFERTY AND ELENA SAXONHOUSE
 40 ANSON WAY
 KENSINGTON, CA 94707

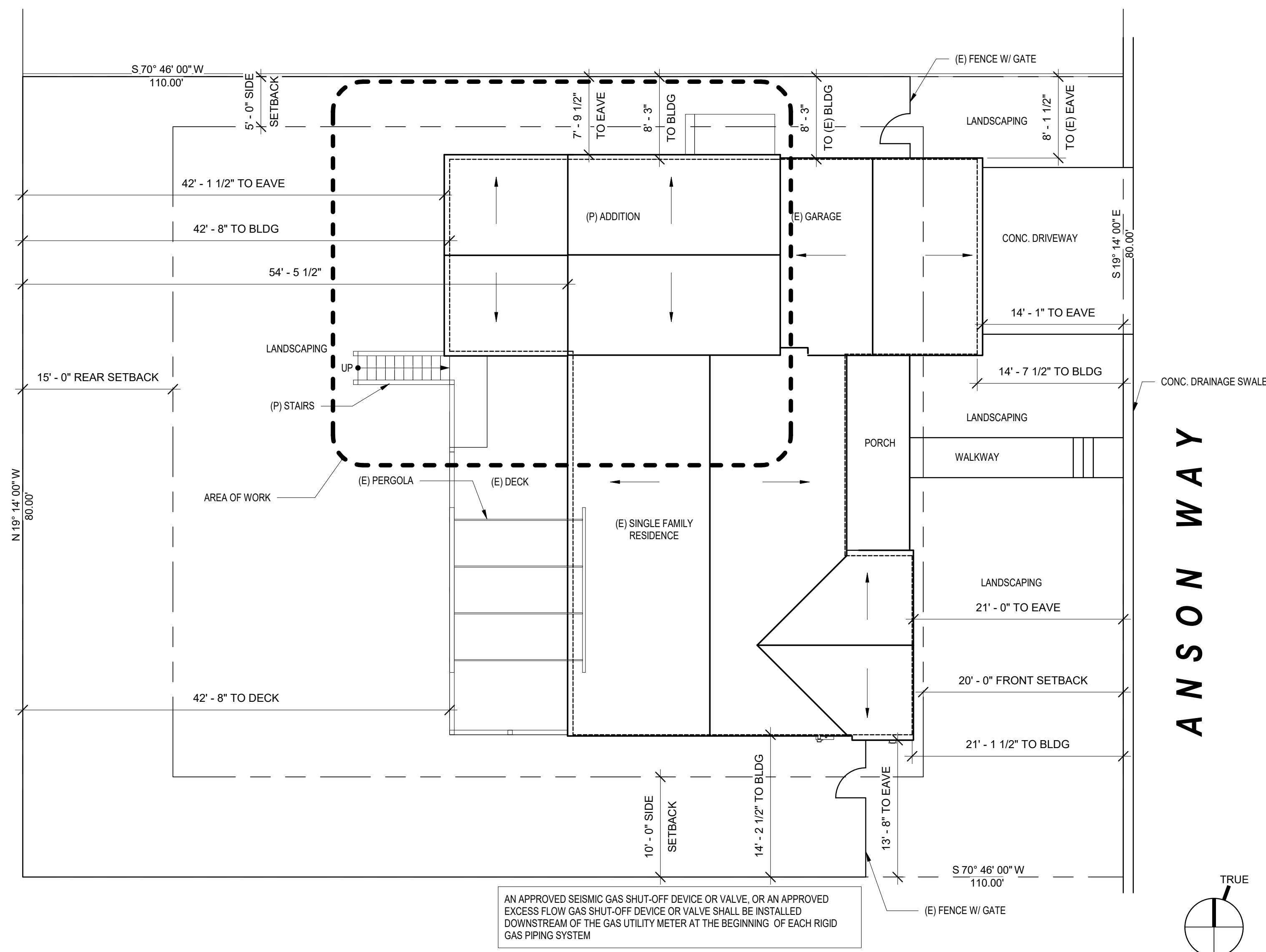
CRJ@carl-designs.com
 510-467-0768

hobostew@gmail.com
 510-685-9514

RECEIVED on 7/11/2023 **CDDP23-03024**
 By Contra Costa County
 Department of Conservation and Development



1 (P) SITE PLAN
 1/8" = 1'-0"



AN APPROVED SEISMIC GAS SHUT-OFF DEVICE OR VALVE, OR AN APPROVED EXCESS FLOW GAS SHUT-OFF DEVICE OR VALVE SHALL BE INSTALLED DOWNSTREAM OF THE GAS UTILITY METER AT THE BEGINNING OF EACH RIGID GAS PIPING SYSTEM

DWELLINGS - EDIFICES - DETAILS

architect's stamp :



approved stamp location :

address :
40 ANSON WAY
KENSINGTON, CA
94707

project name :
ADDITION

PROJECT ISSUE RECORD

#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

COVER SHEET

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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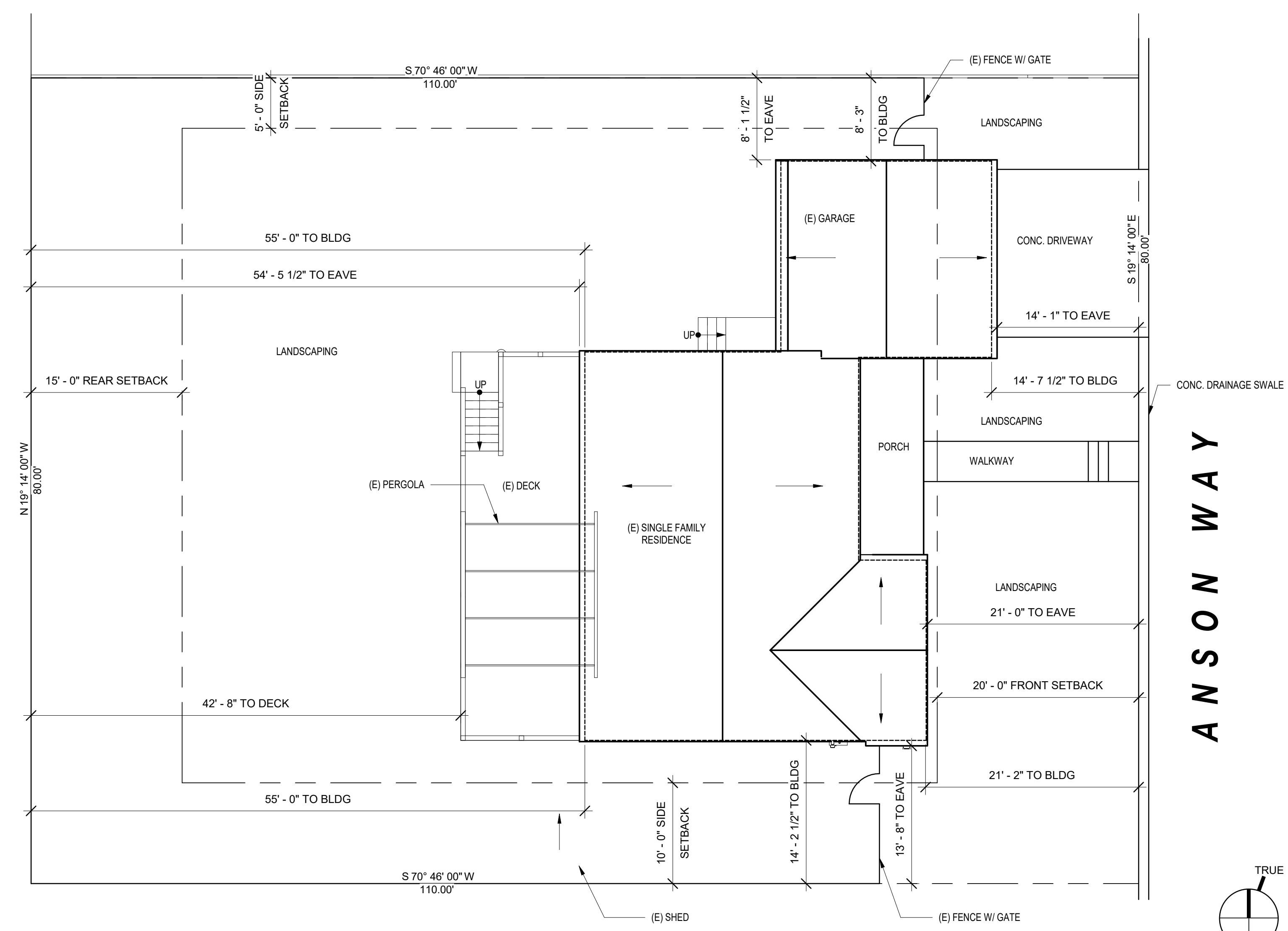
A0.1



APPROXIMATE NEIGHBOR VIEW TO SOUTHWEST (IMPACTED)



APPROXIMATE PARTIAL NEIGHBOR VIEW TO WEST (UN-IMPACTED)



2 (E) SITE PLAN
1/8" = 1'-0"

DWELLINGS - EDIFICES - DETAILS

architect's stamp :



approved stamp location :

address :
**40 ANSON WAY
KENSINGTON, CA
94707**

project name :
ADDITION

PROJECT ISSUE RECORD		
#	REVISION	DATE
1	DEVELOPMENT PLAN	07/10/2023

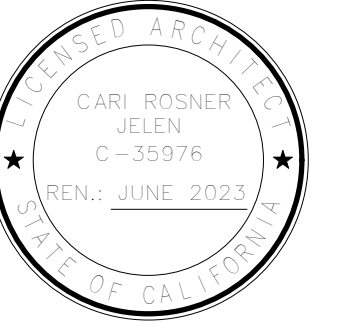
(E) SITE

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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A0.2

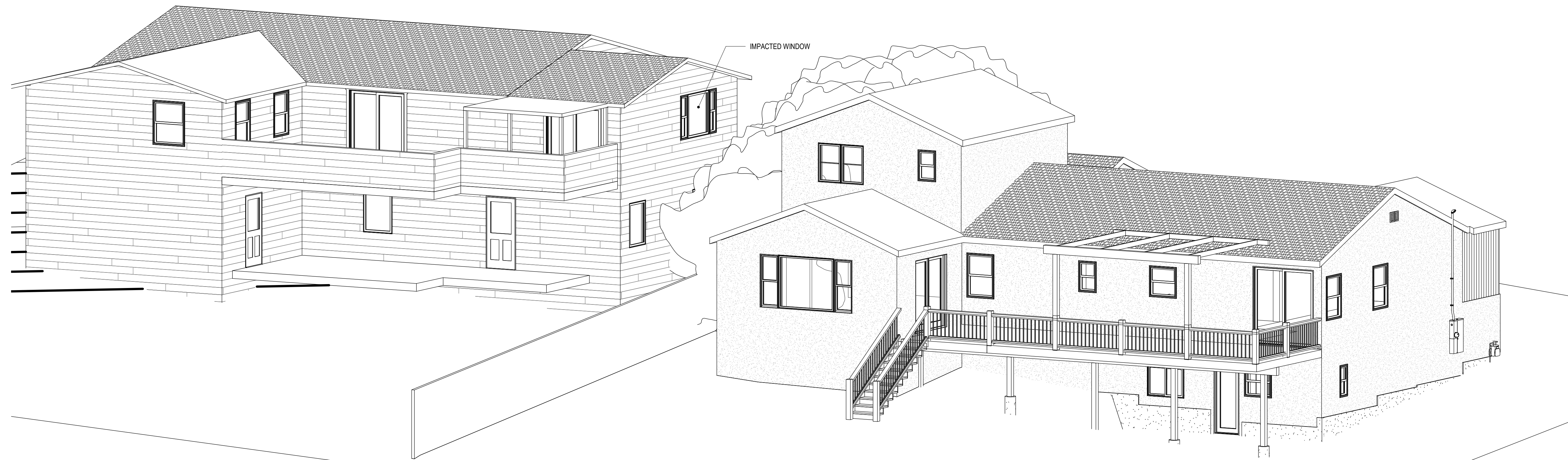
architect's stamp :



approved stamp location :



2 3D VIEW - INITIAL PROPOSED DESIGN



1 3D VIEW - PROPOSED DESIGN AFTER NEIGHBOR OUTREACH

address :

**40 ANSON WAY
KENSINGTON, CA
94707**

project name :

ADDITION

PROJECT ISSUE RECORD

#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

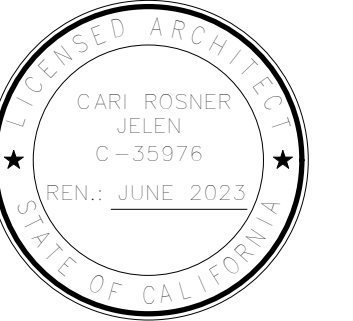
(P) 3D VIEWS

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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A0.3

architect's stamp :



approved stamp location :

address :
**40 ANSON WAY
KENSINGTON, CA
94707**

project name :
ADDITION

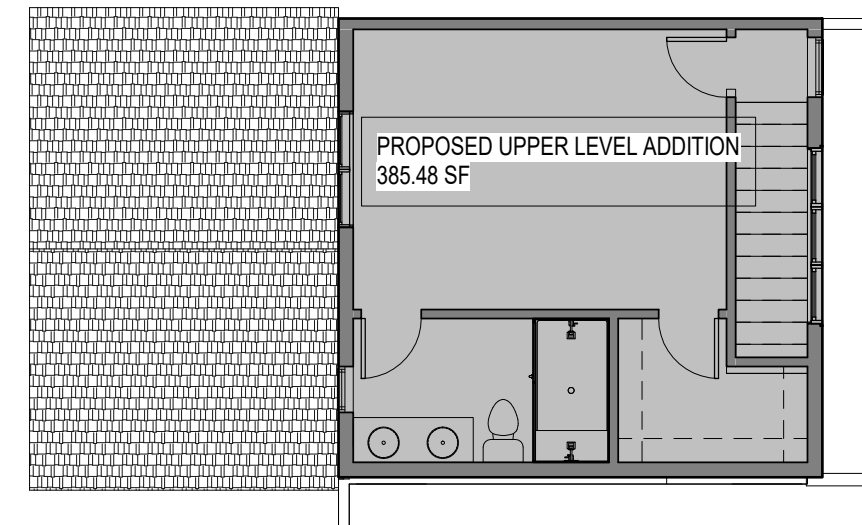
PROJECT ISSUE RECORD		
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

GROSS FLOOR AREA PLANS

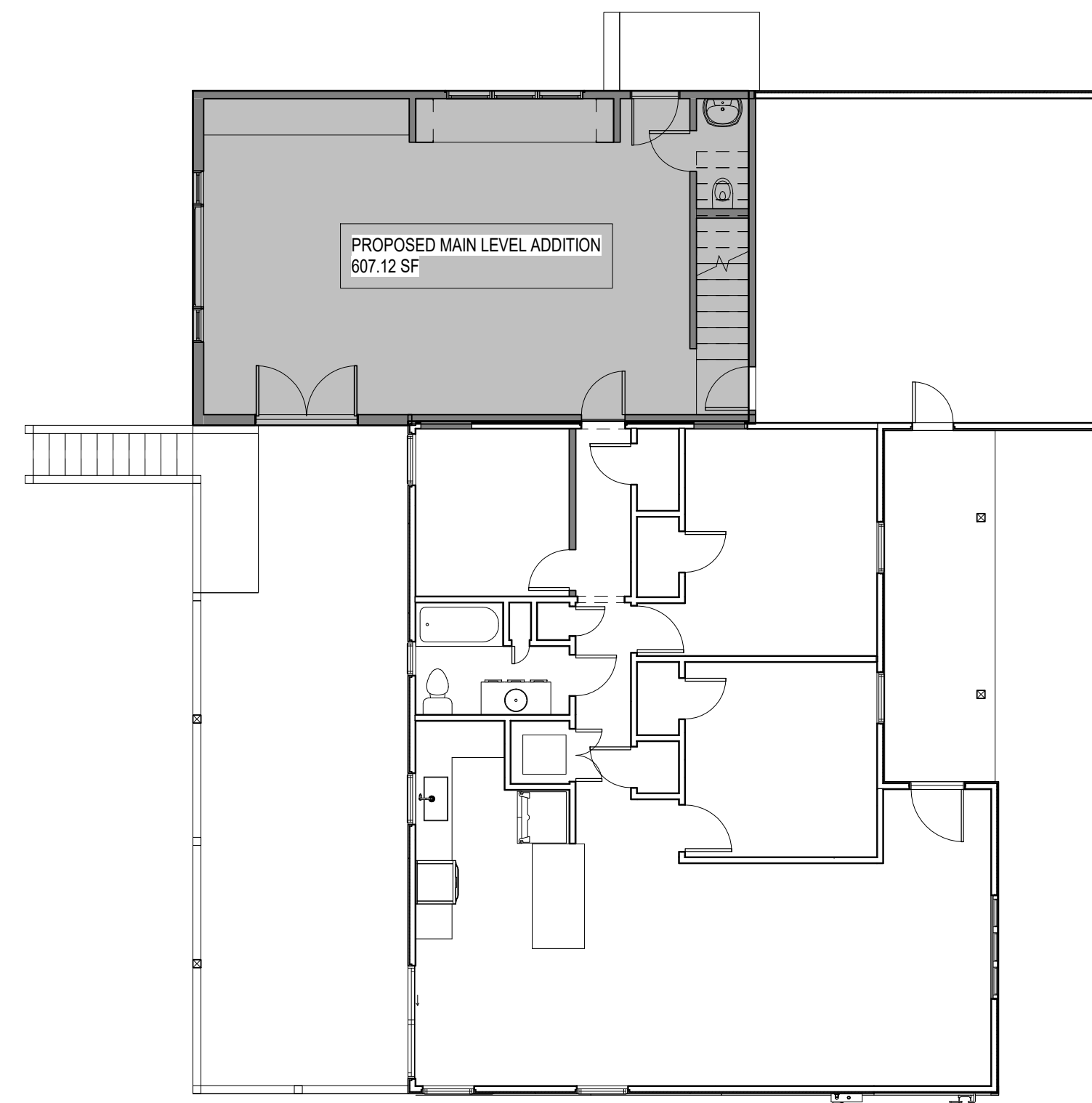
PROJECT NO:	2229
DRAWN BY:	Author
CHECKED BY:	Checker
DATE:	05/25/2023

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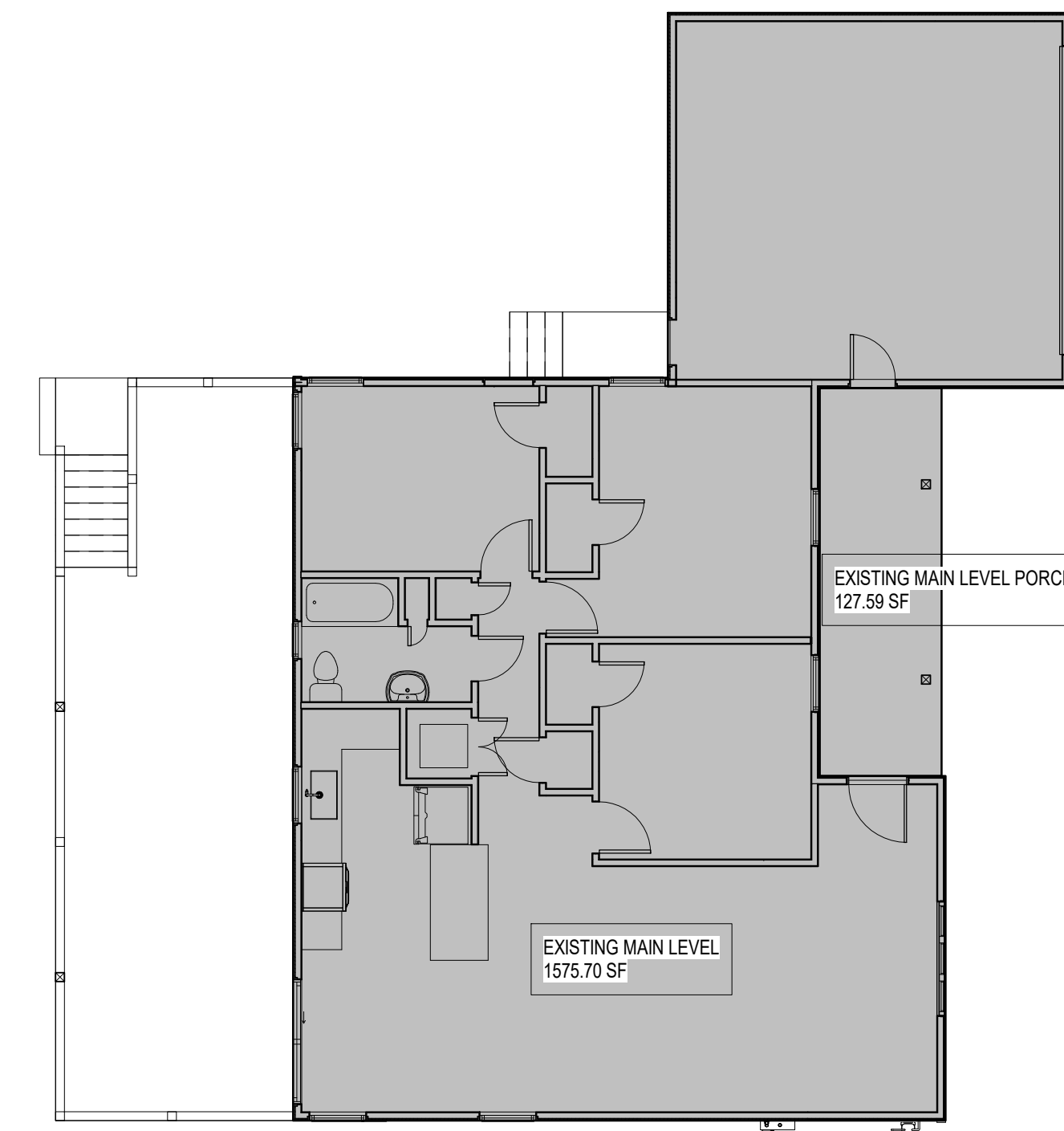
GROSS FLOOR AREA CHART					
		EXISTING	DEMO	PROPOSED	FINAL
LOWER LEVEL	RESIDENCE	372.94 SF	---	---	372.94 SF
	COVERED PATIO	292.40 SF	70.00 SF	---	222.40 SF
MAIN LEVEL	RESIDENCE	1,575.70 SF	---	607.12 SF	2,182.82 SF
	PORCH	127.59 SF	---	---	127.59 SF
UPPER LEVEL	RESIDENCE	---	---	385.48 SF	385.48 SF
PROJECT TOTAL		2,368.63 SF	70.00 SF	992.60 SF	3,291.23 SF



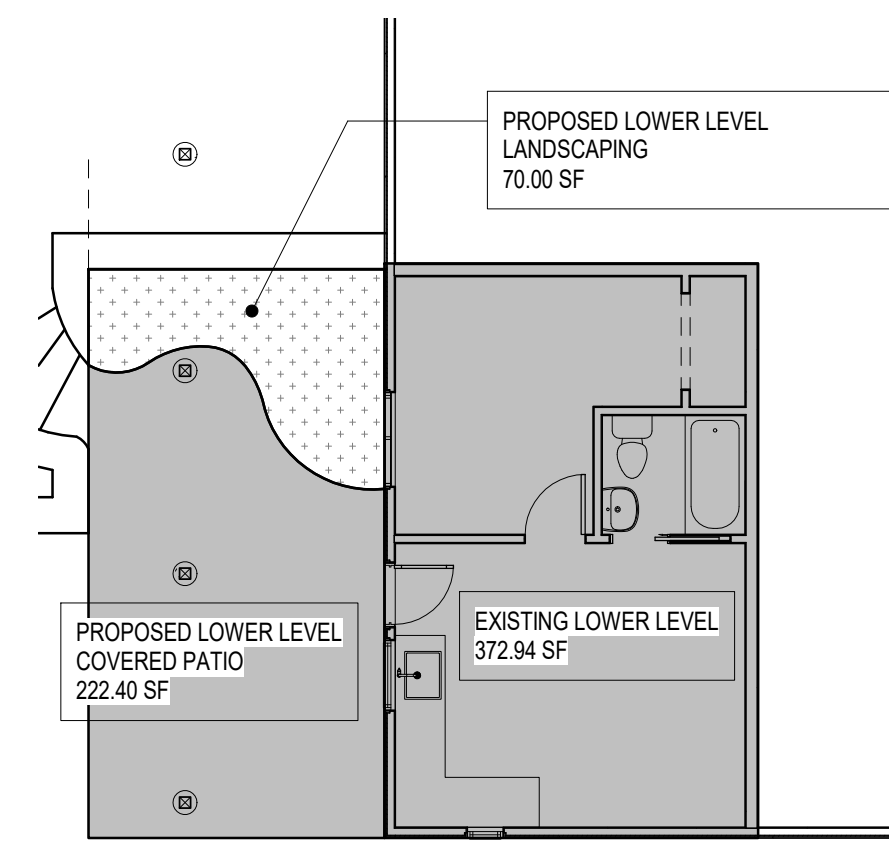
5 (P) UPPER LEVEL - GROSS FAR PLAN
1/8" = 1'-0"



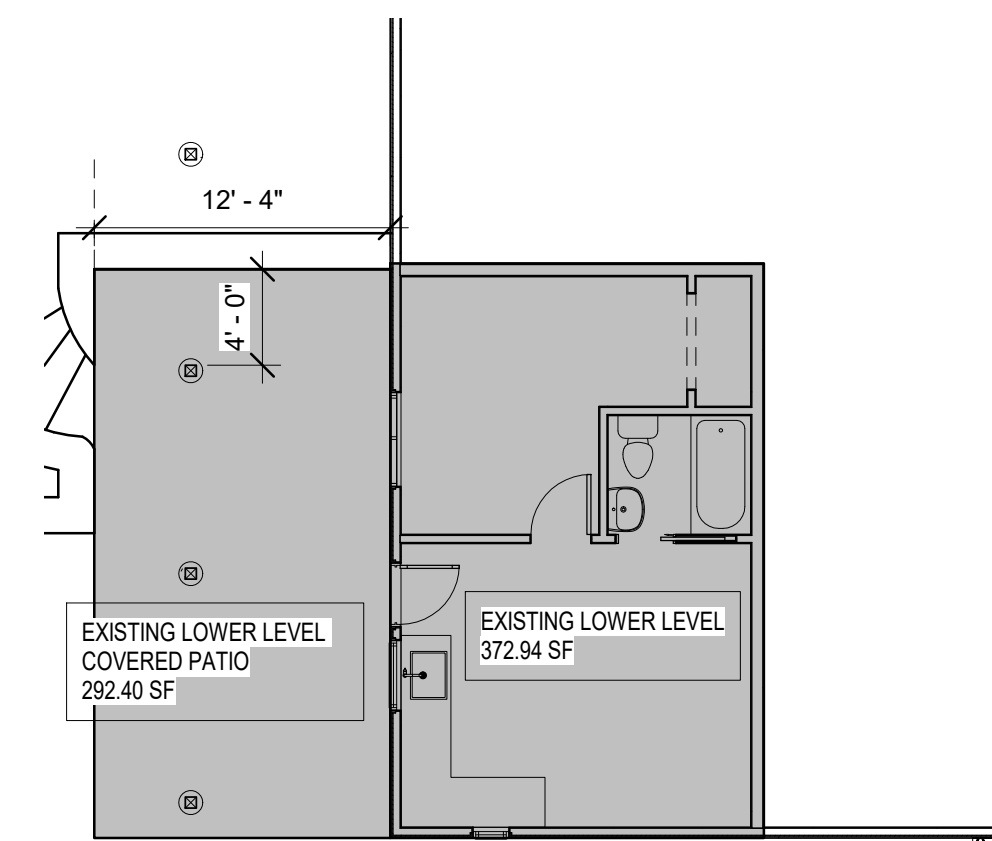
4 (P) MAIN LEVEL - GROSS FAR PLAN
1/8" = 1'-0"



2 (E) MAIN LEVEL GROSS FAR PLAN
1/8" = 1'-0"



3 (P) LOWER LEVEL - GROSS FAR PLAN
1/8" = 1'-0"



1 (E) LOWER LEVEL - GROSS FAR PLAN
1/8" = 1'-0"

architect's stamp :



approved stamp location :

address :
**40 ANSON WAY
KENSINGTON, CA
94707**

project name :
ADDITION

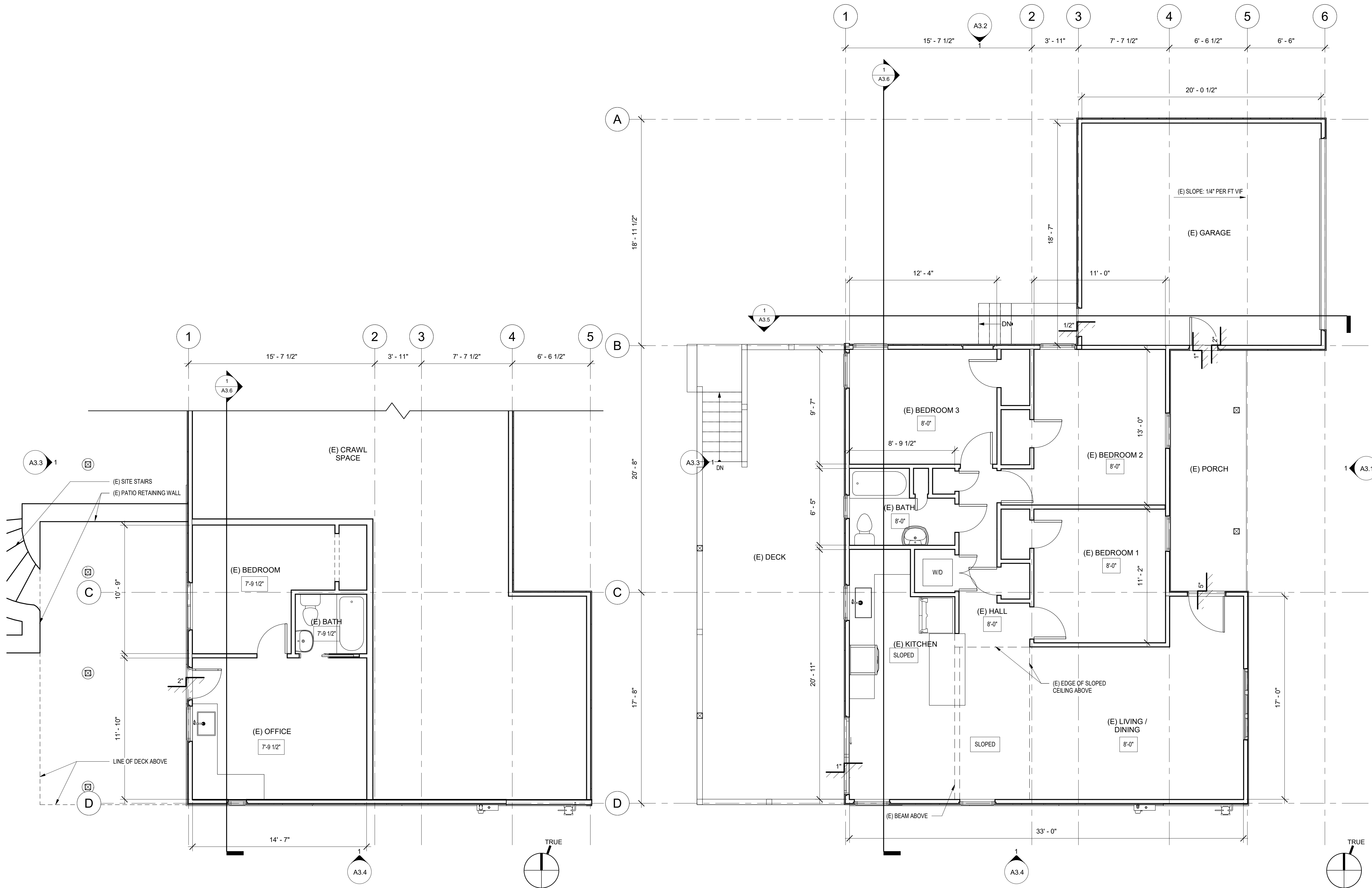
PROJECT ISSUE RECORD		
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(E) PLANS

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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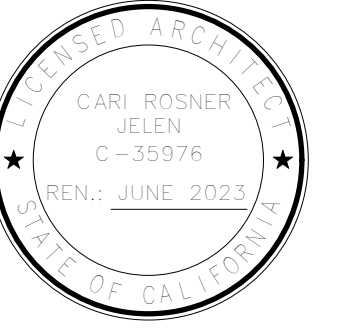
A2.1



2 (E) PARTIAL LOWER LEVEL
1/4" = 1'-0"

1 (E) MAIN LEVEL
1/4" = 1'-0"

architect's stamp :



approved stamp location :

address :
**40 ANSON WAY
KENSINGTON, CA
94707**

project name :
ADDITION

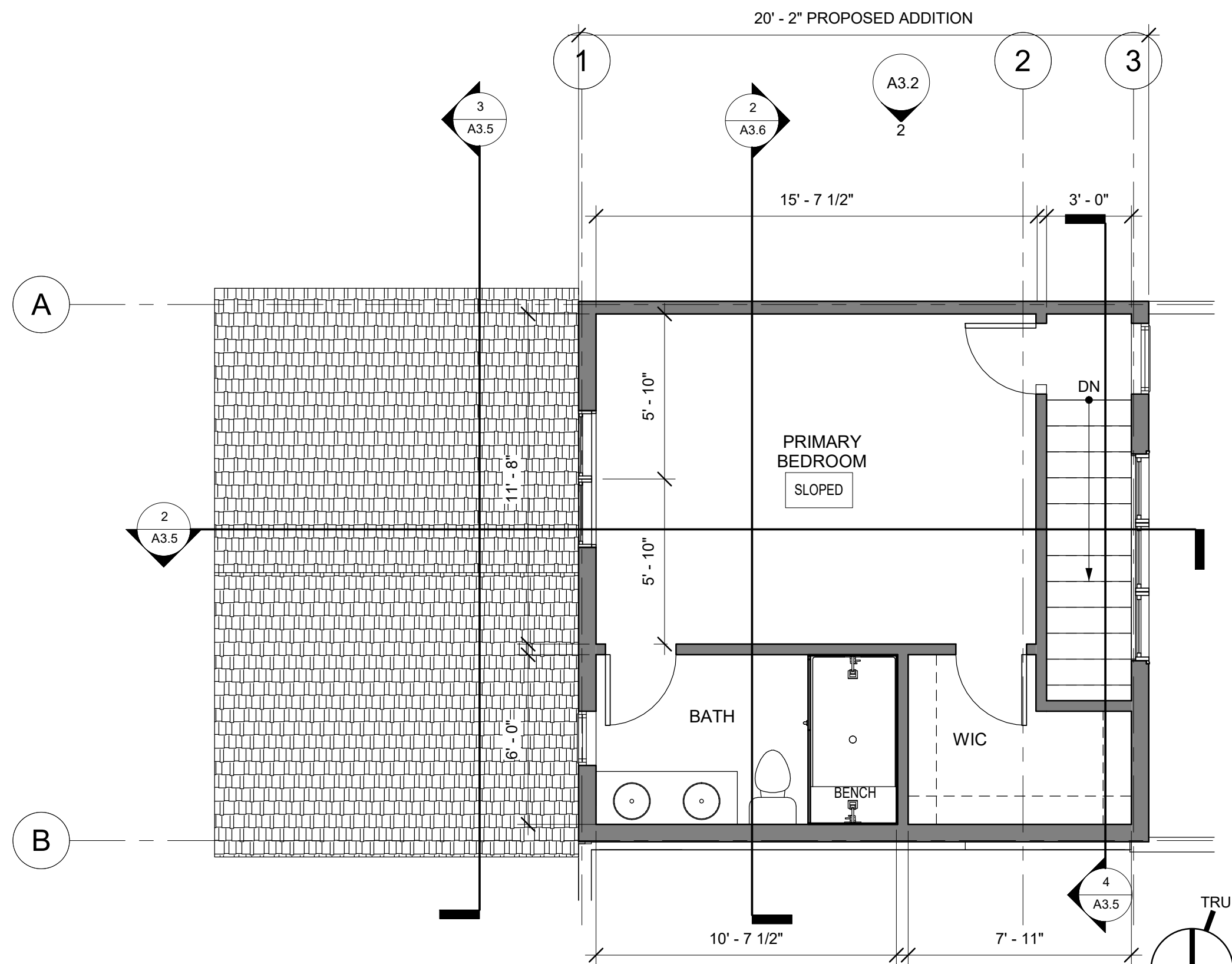
PROJECT ISSUE RECORD		
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(P) PLANS

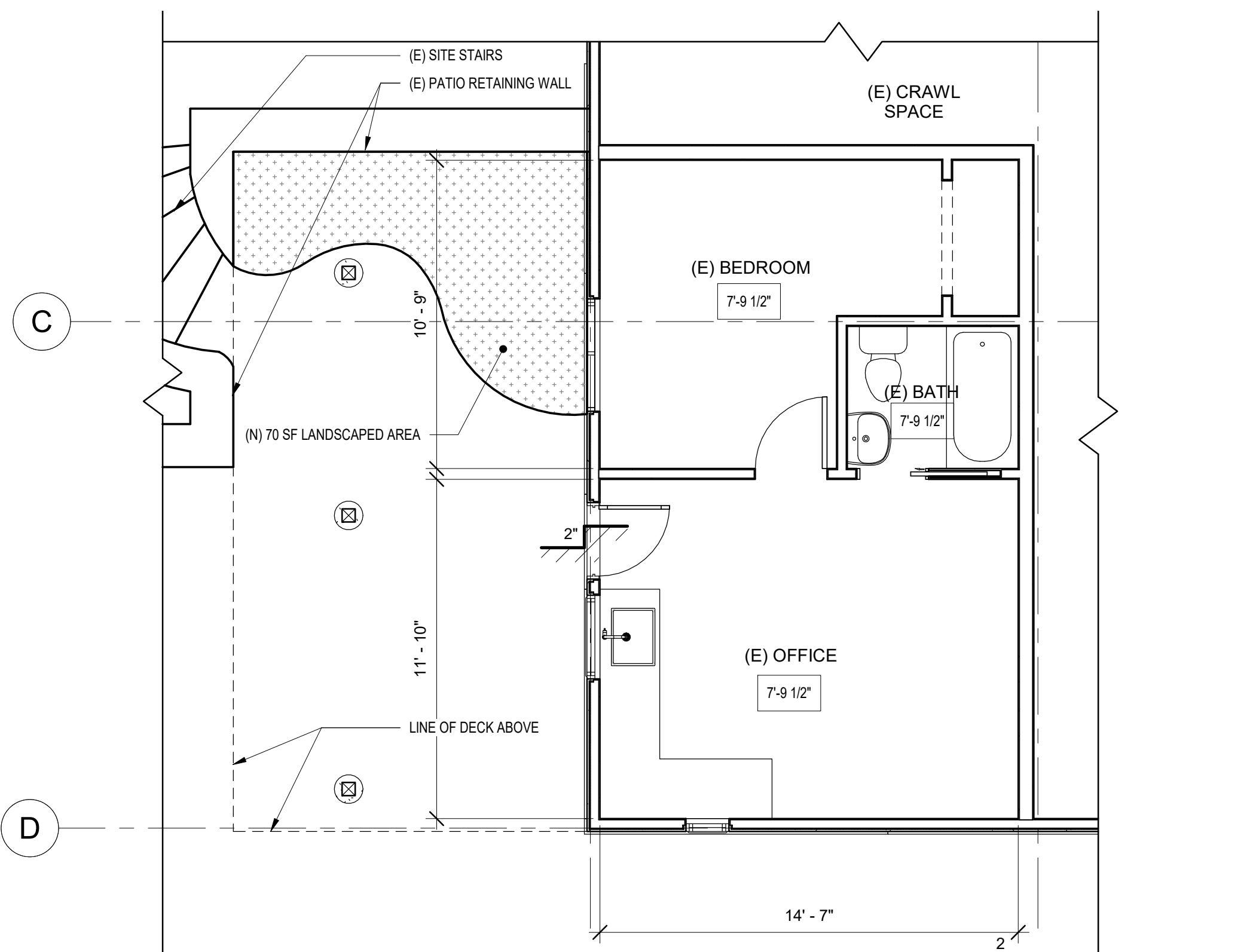
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DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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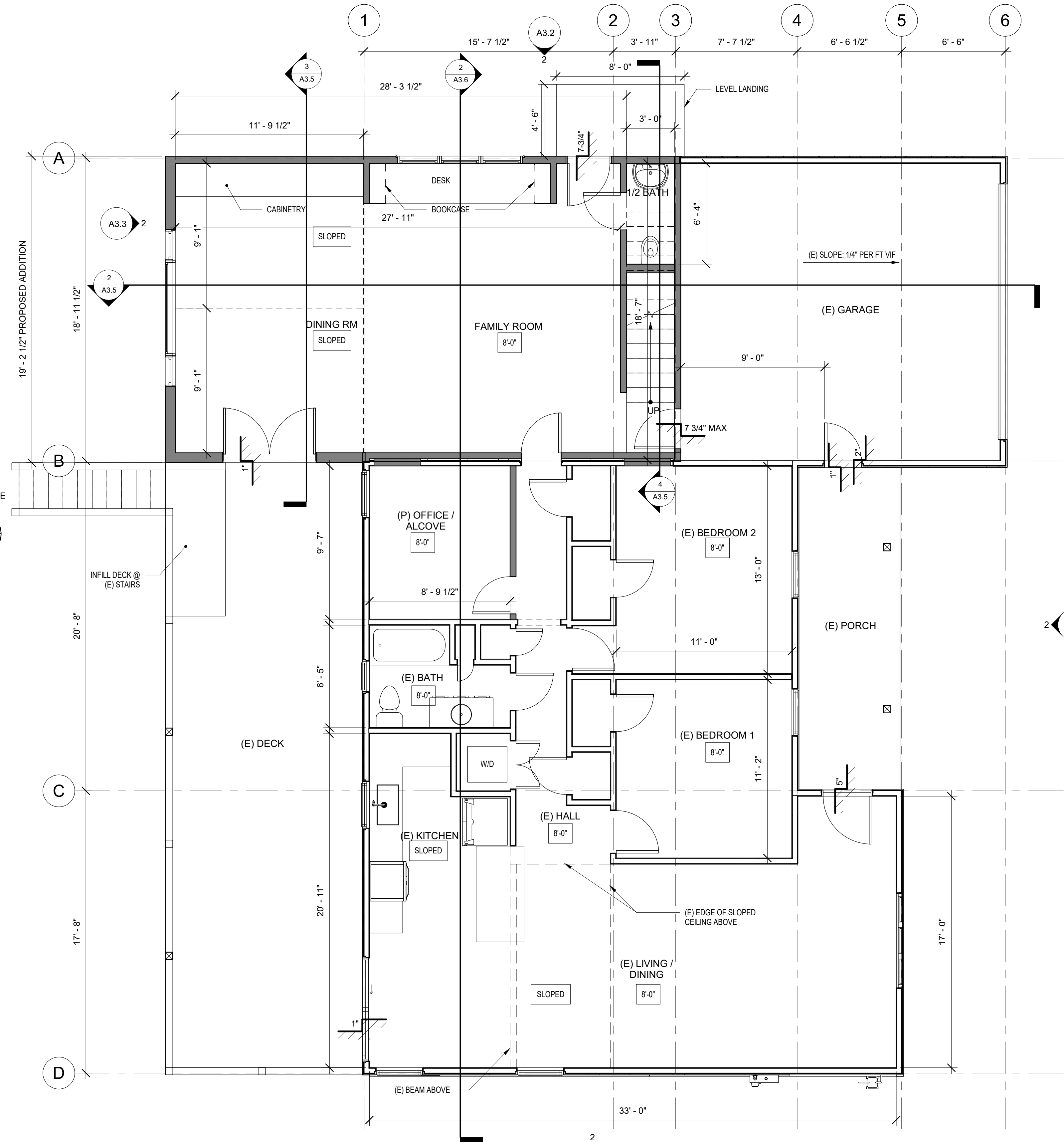
A2.2



2 (P) UPPER LEVEL
1/4" = 1'-0"



3 (P) PARTIAL LOWER LEVEL
1/4" = 1'-0"



1 (P) MAIN LEVEL
1/4" = 1'-0"

architect's stamp :



approved stamp location :

address :

**40 ANSON WAY
KENSINGTON, CA
94707**

project name :

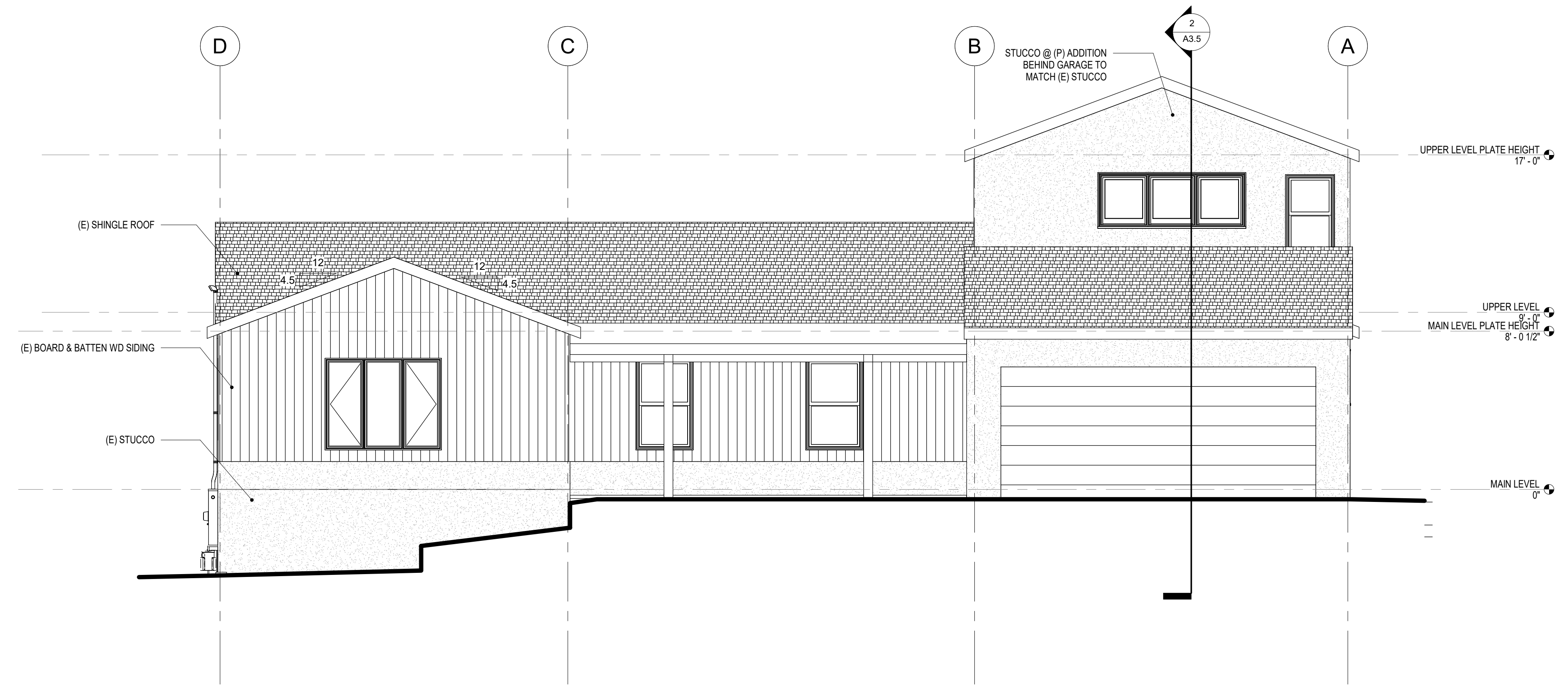
ADDITION

PROJECT ISSUE RECORD

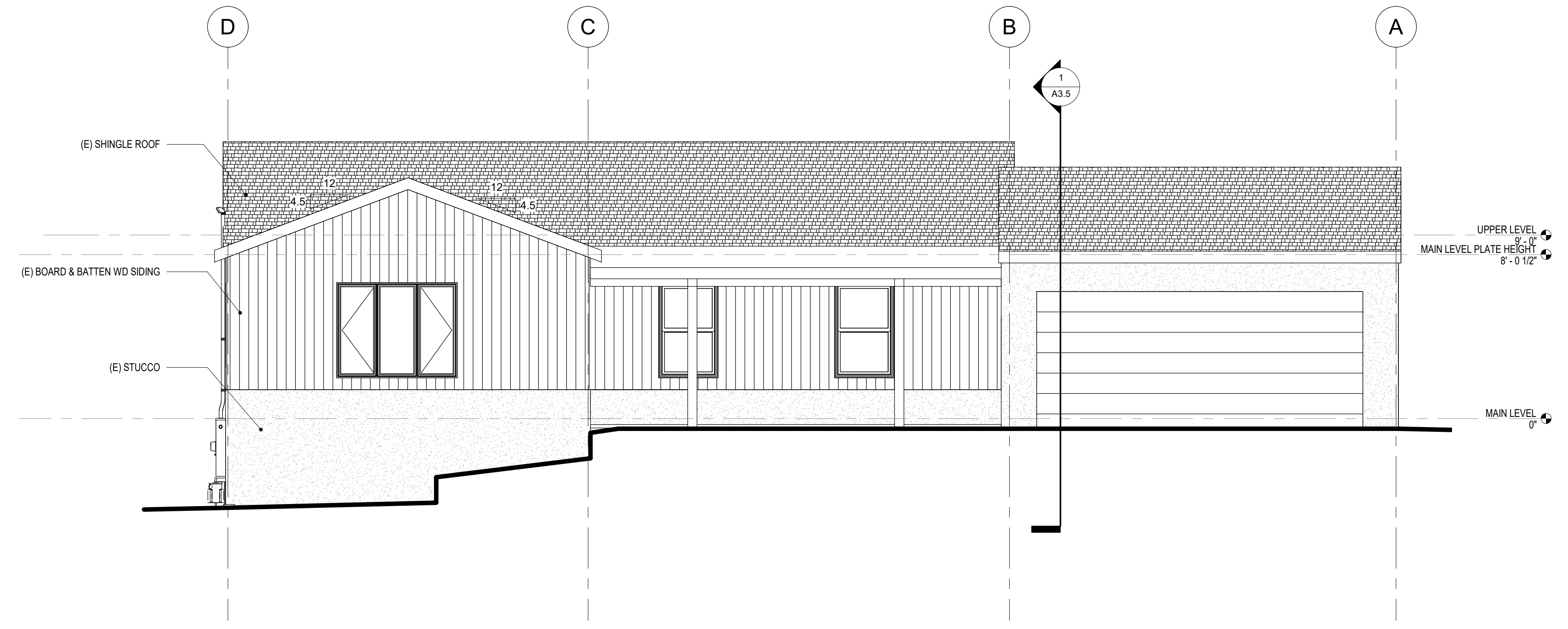
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(E) & (P) ELEVATIONS

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

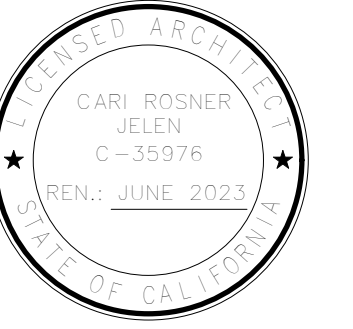


2 (P) EAST ELEVATION
1/4" = 1'-0"



1 (E) EAST ELEVATION
1/4" = 1'-0"

architect's stamp :



approved stamp location :

address :

**40 ANSON WAY
KENSINGTON, CA
94707**

project name :

ADDITION

PROJECT ISSUE RECORD

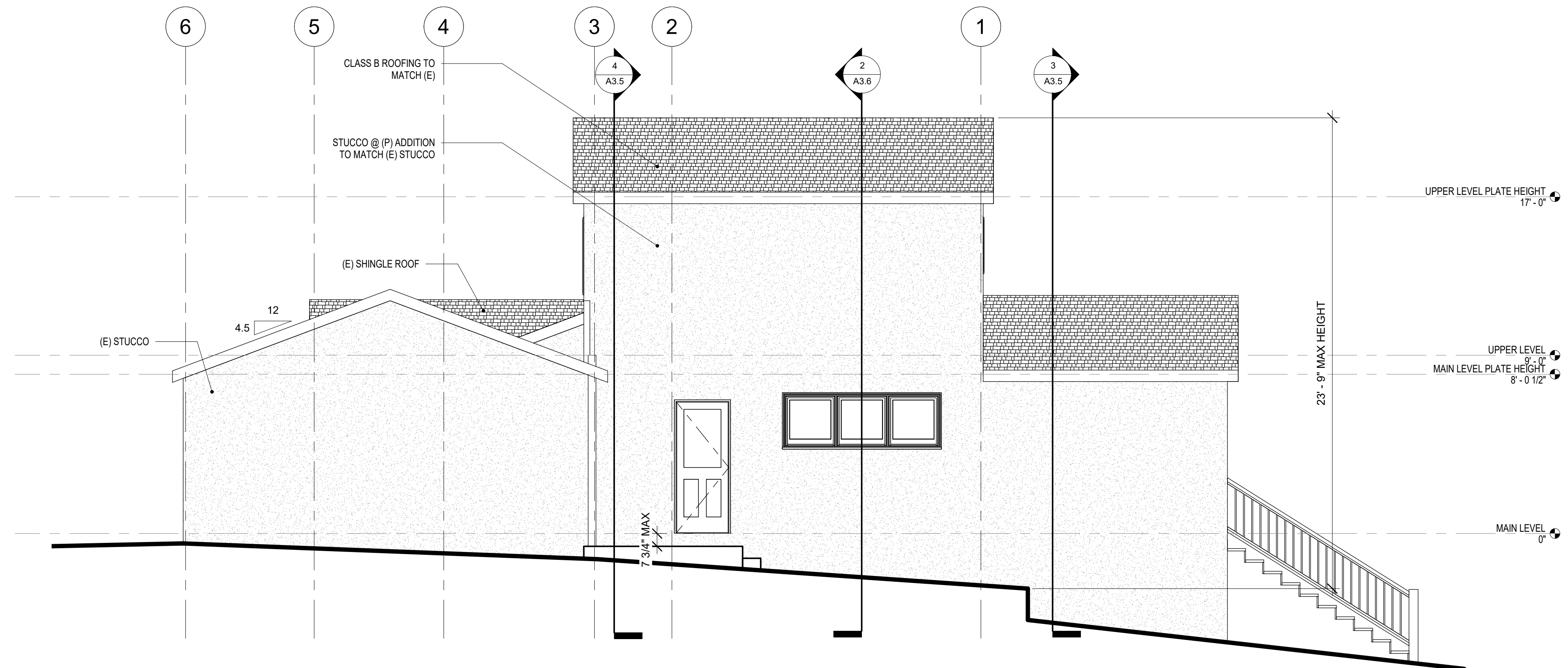
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(E) & (P) ELEVATIONS

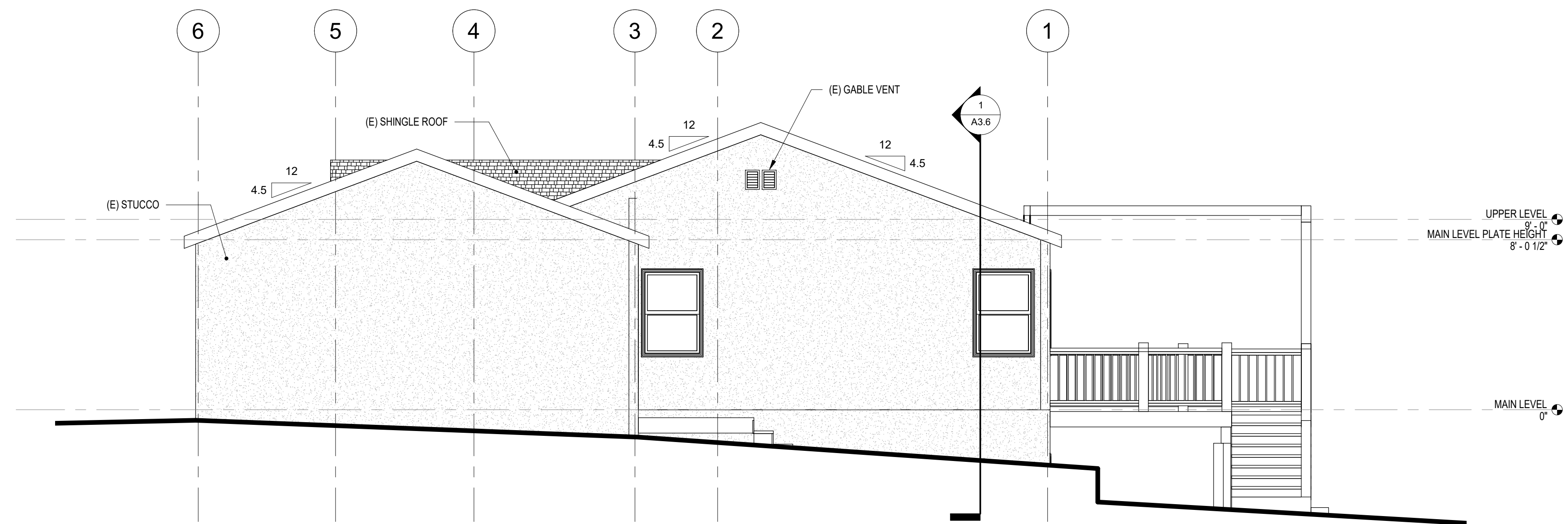
PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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A3.2

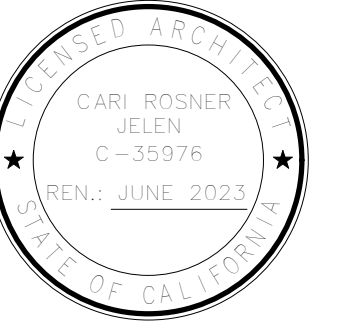


2 (P) NORTH ELEVATION
1/4" = 1'-0"

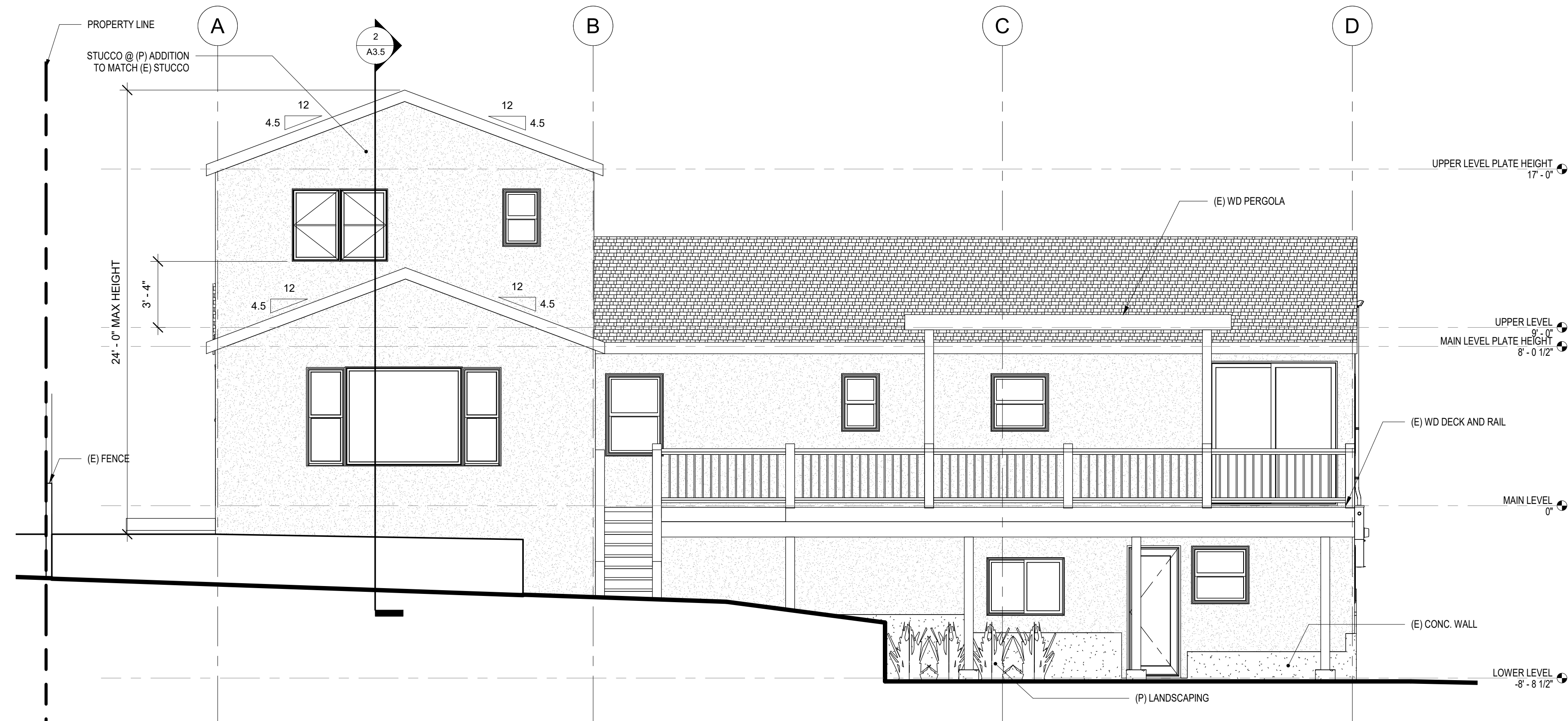


1 (E) NORTH ELEVATION
1/4" = 1'-0"

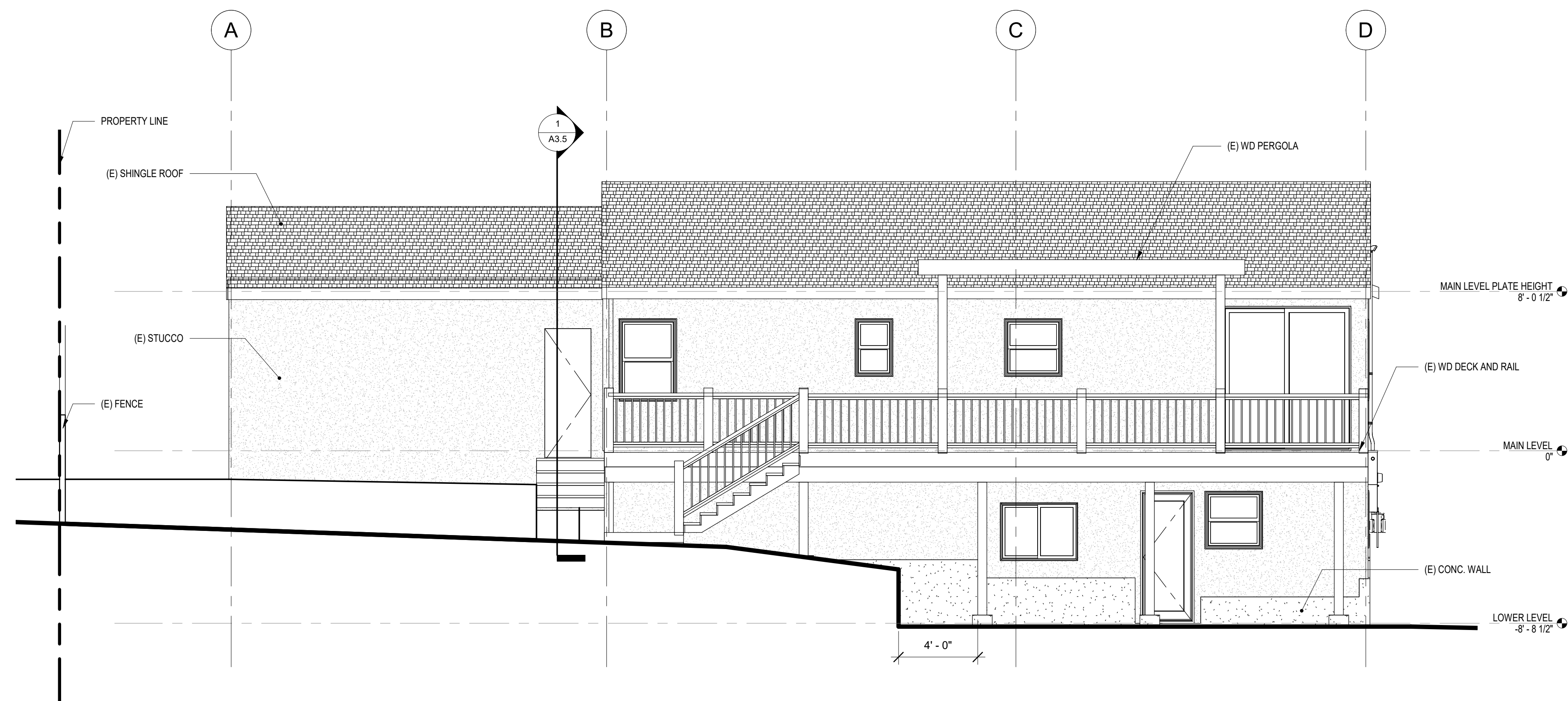
architect's stamp :



approved stamp location :



2 (P) WEST ELEVATION
1/4" = 1'-0"



1 (E) WEST ELEVATION
1/4" = 1'-0"

address :

**40 ANSON WAY
KENSINGTON, CA
94707**

project name :

ADDITION

PROJECT ISSUE RECORD

#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

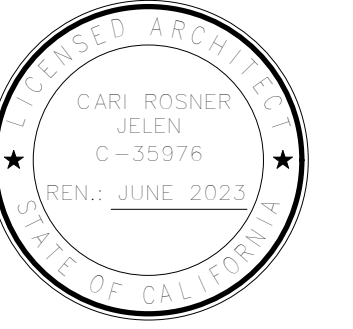
(E) & (P) ELEVATIONS

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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A3.3

architect's stamp :



approved stamp location :

address :
**40 ANSON WAY
KENSINGTON, CA
94707**

project name :
ADDITION

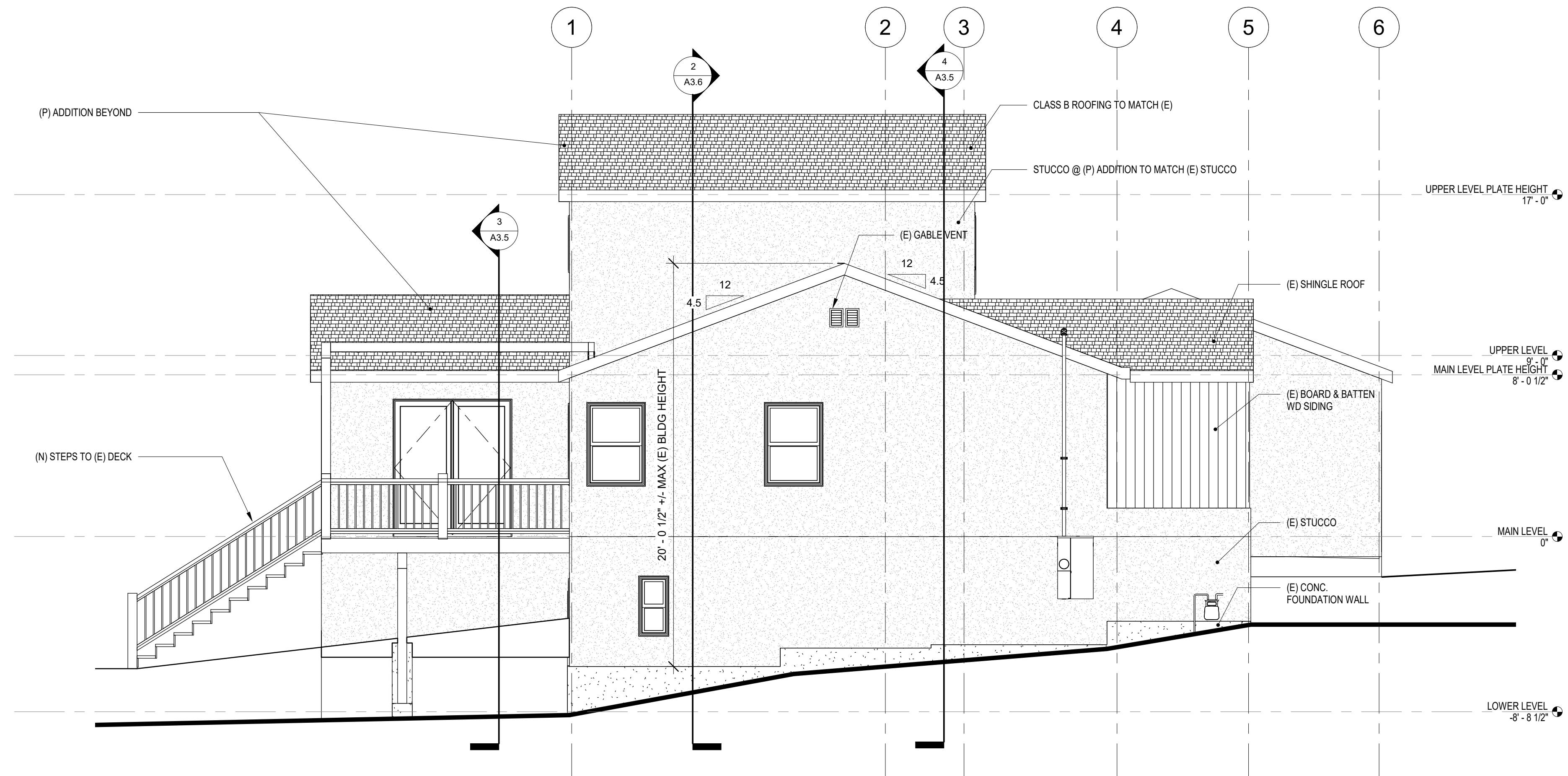
PROJECT ISSUE RECORD		
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(E) & (P) ELEVATIONS

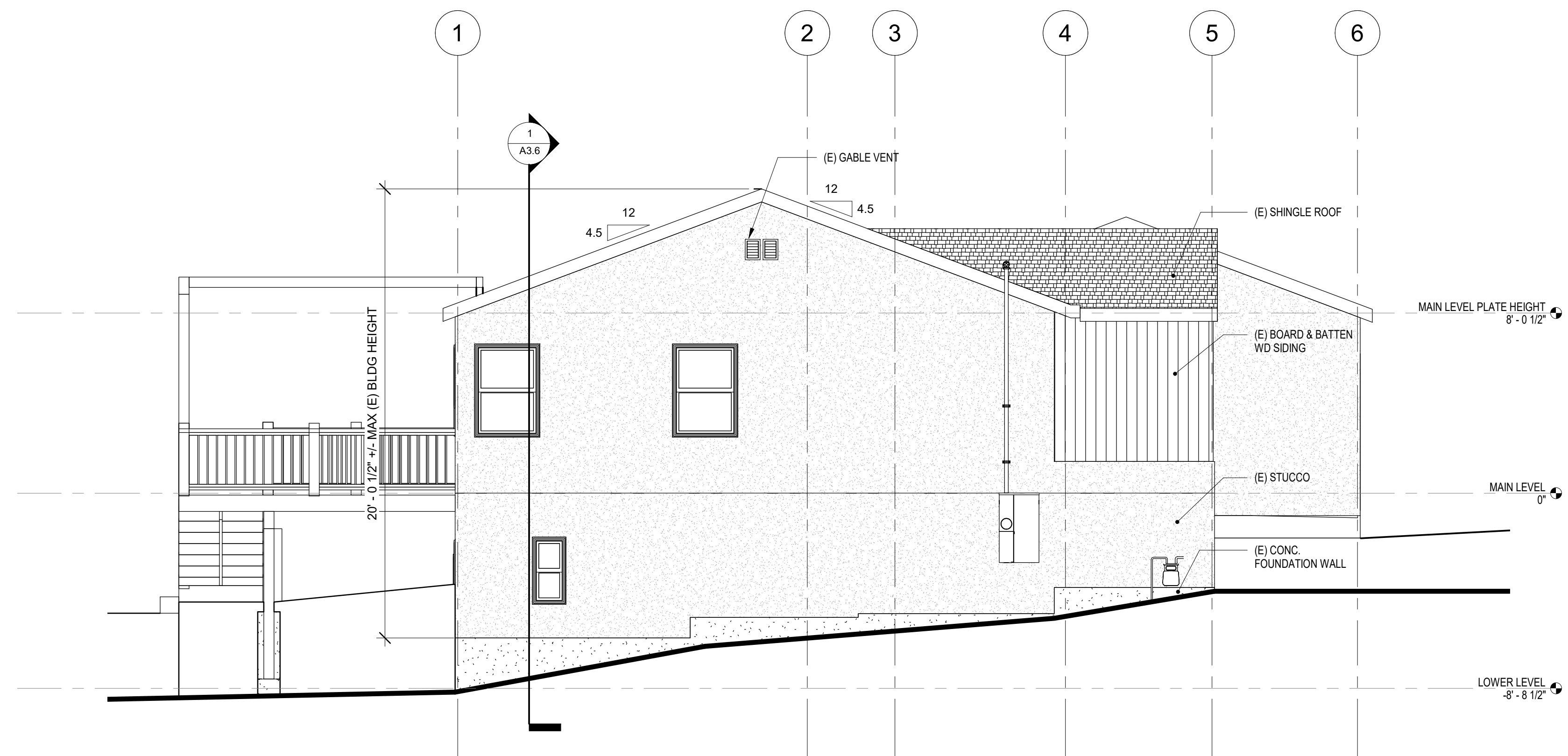
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DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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A3.4

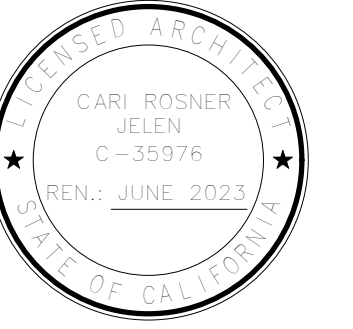


2 (P) SOUTH ELEVATION
1/4" = 1'-0"



1 (E) SOUTH ELEVATION
1/4" = 1'-0"

architect's stamp :



approved stamp location :

address :

**40 ANSON WAY
KENSINGTON, CA
94707**

project name :

ADDITION

PROJECT ISSUE RECORD

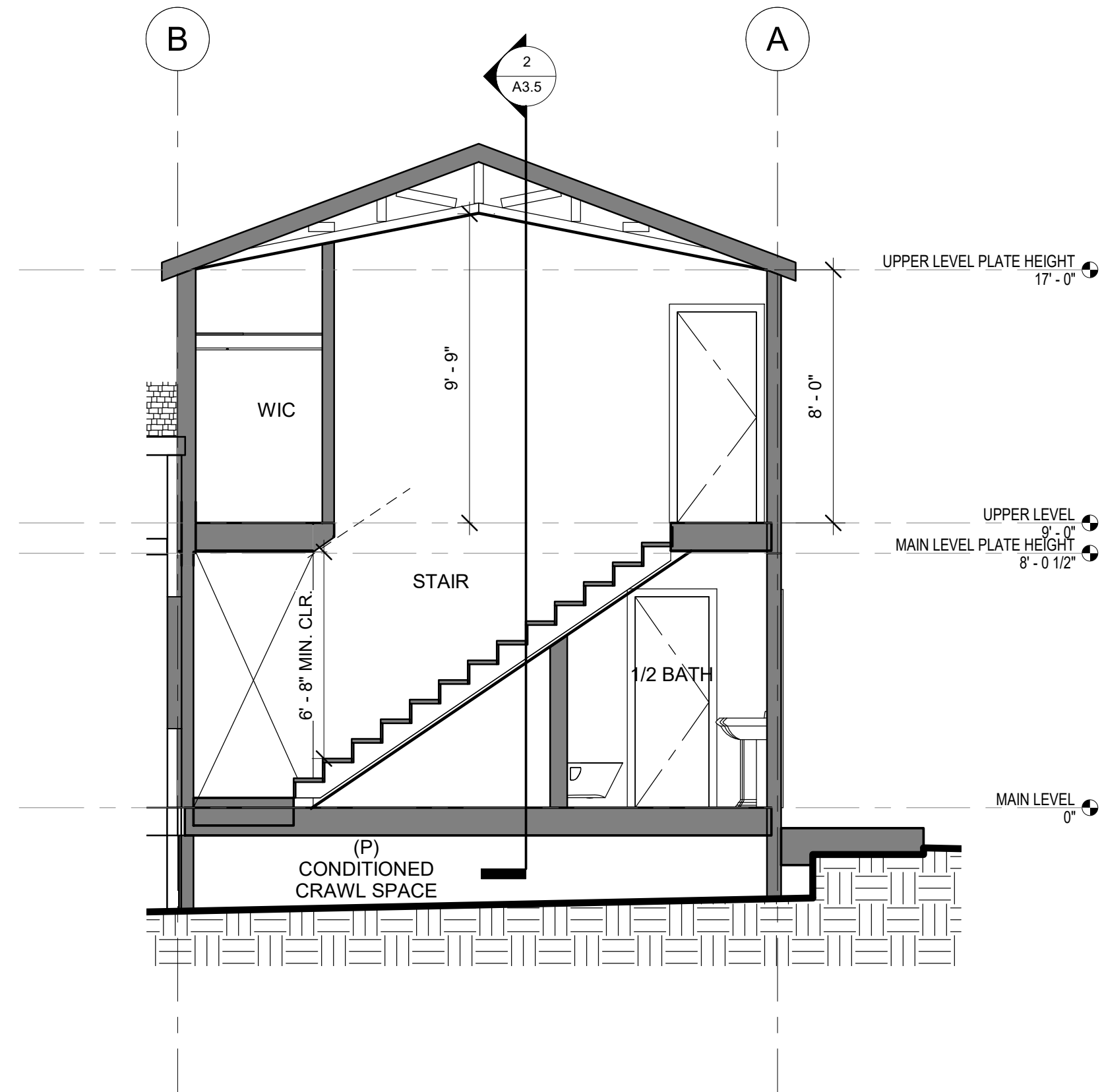
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(E) & (P) SECTIONS

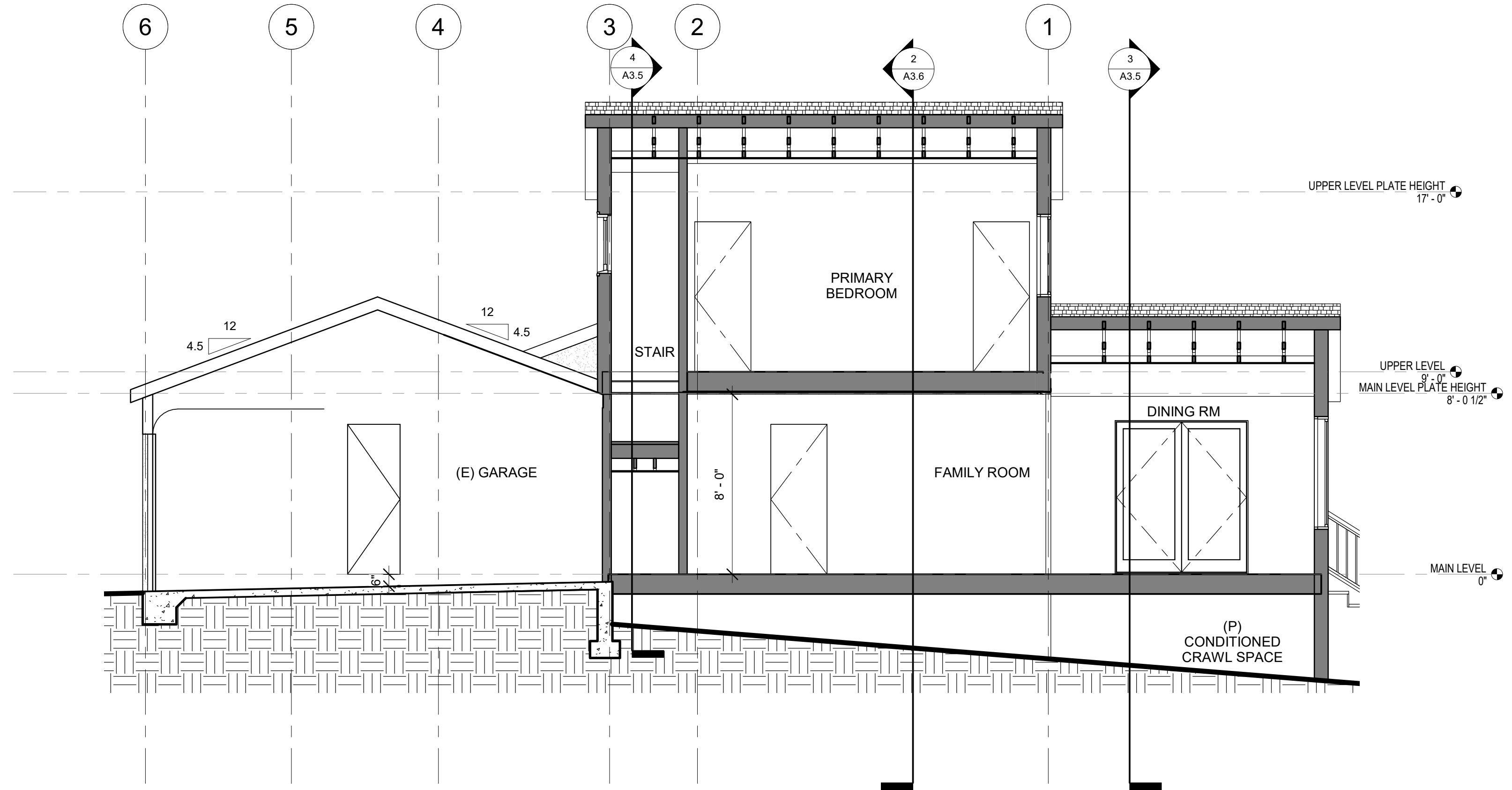
PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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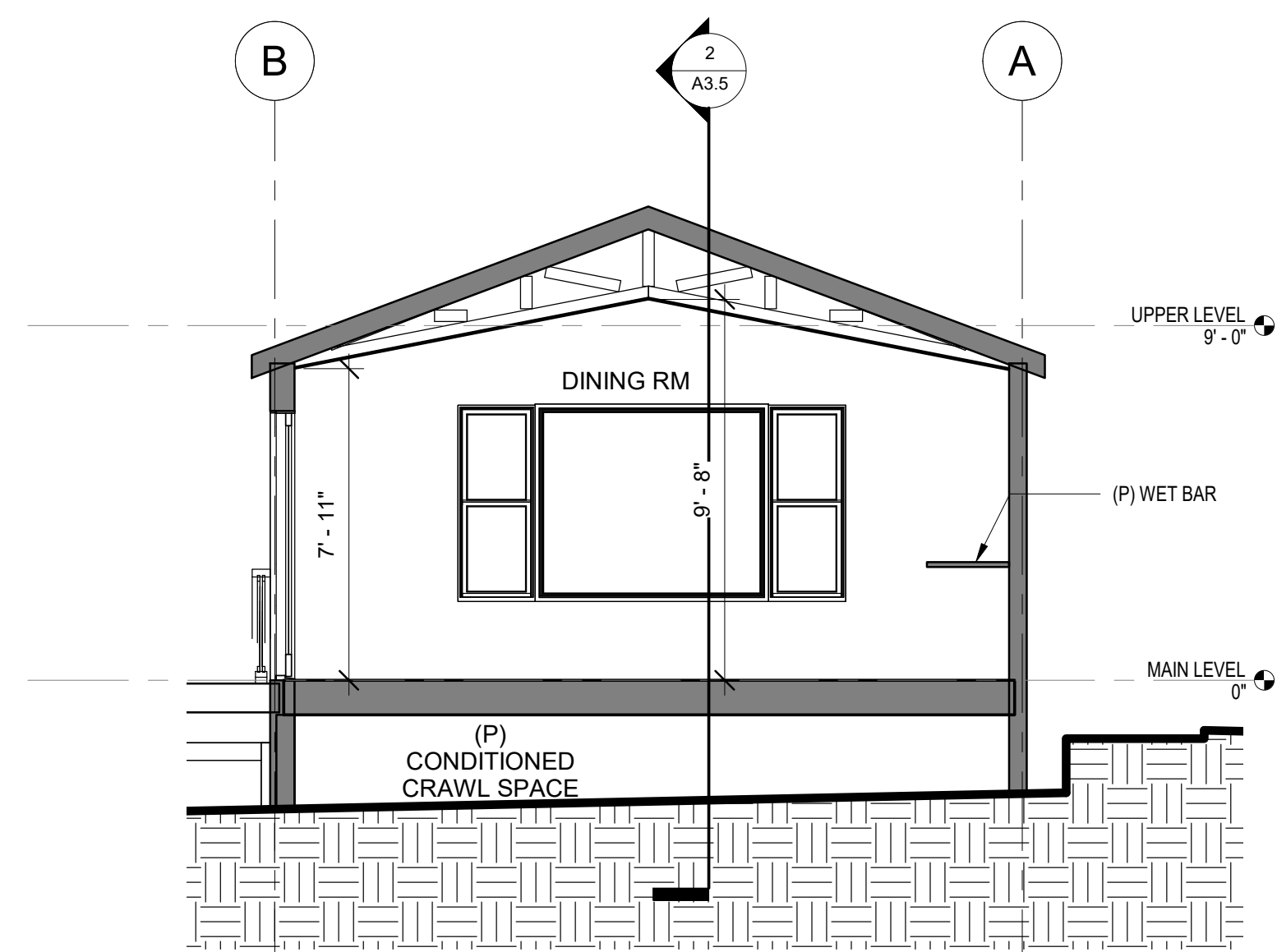
A3.5



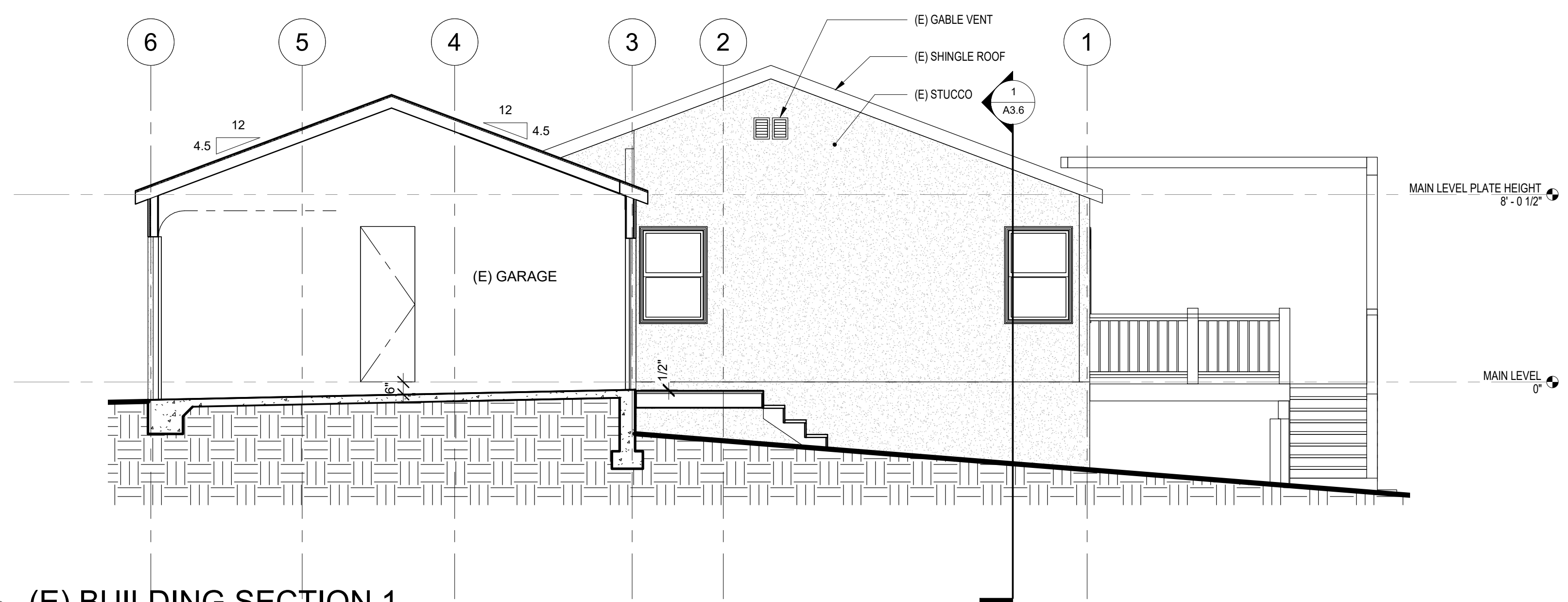
4 (P) STAIR SECTION
1/4" = 1'-0"



2 (P) BUILDING SECTION 1
1/4" = 1'-0"



3 (P) BUILDING SECTION 2
1/4" = 1'-0"

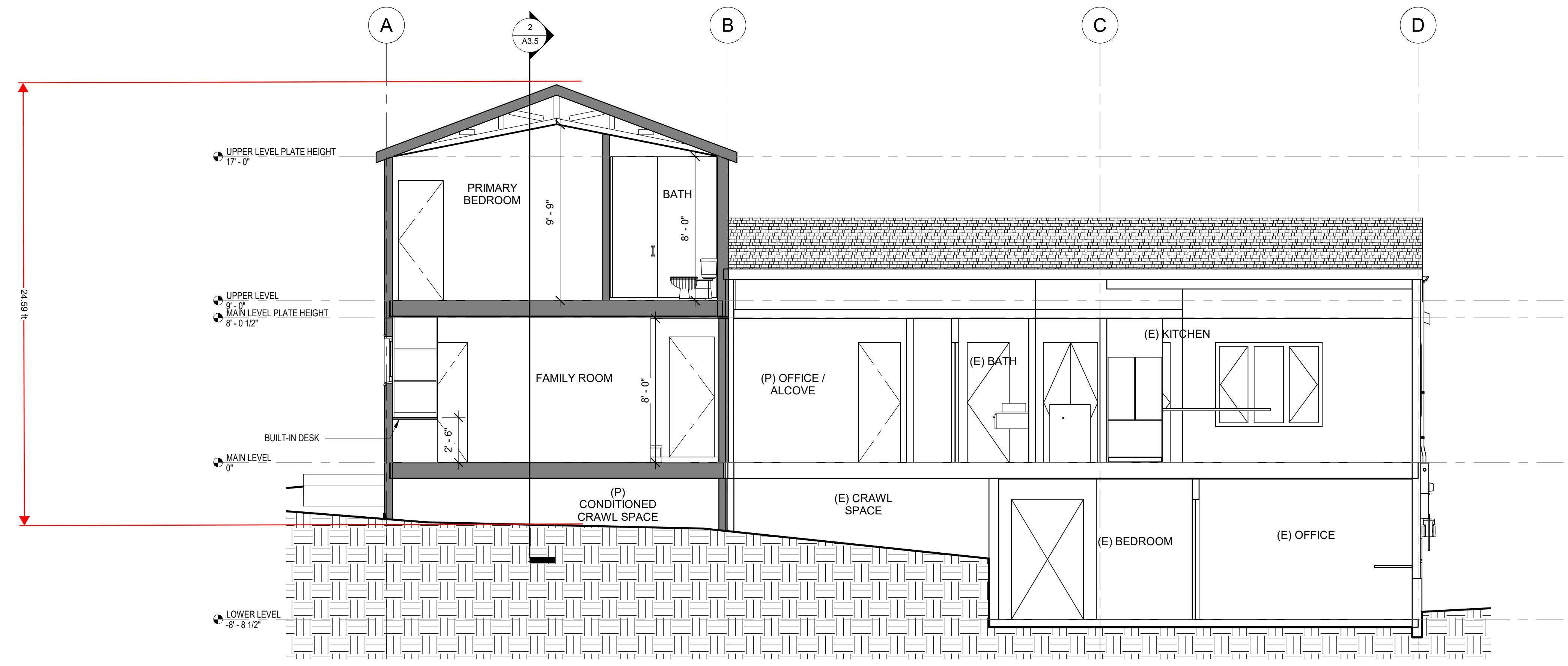


1 (E) BUILDING SECTION 1
1/4" = 1'-0"

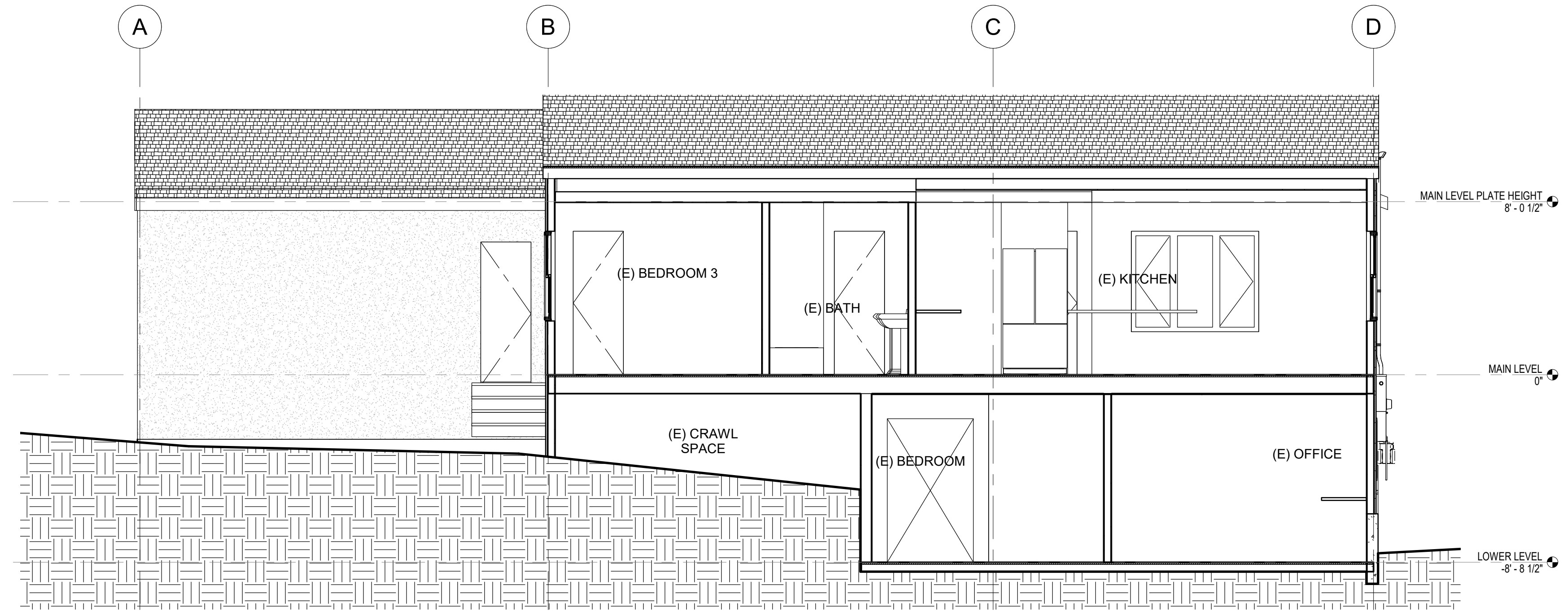
architect's stamp :



approved stamp location :



2 (P) BUILDING SECTION 3
1/4" = 1'-0"



1 (E) BUILDING SECTION 3
1/4" = 1'-0"

address :
**40 ANSON WAY
KENSINGTON, CA
94707**

project name :
ADDITION

PROJECT ISSUE RECORD		
#	REVISION	DATE
	DEVELOPMENT PLAN	07/10/2023

(E) & (P) SECTIONS

PROJECT NO:	2229
DRAWN BY:	EP
CHECKED BY:	CRJ
DATE:	05/25/2023

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ATTACHMENT 3

AGENCY COMMENTS



REVIEW OF AGENCY PLANNING APPLICATION

THIS IS NOT A PROPOSAL TO PROVIDE WATER SERVICES		
The technical data supplied herein is based on preliminary information, is subject to revision and is to be used for planning purpose ONLY		
DATE: 07/28/2023	EBMUD MAP(S): 1482B518	EBMUD FILE:S-11443
AGENCY: Department of Conservation and Development Attn: Adrian Veliz 30 Muir Road MARTINEZ, CA 94553	AGENCY FILE: CDDP23-03024	FILE TYPE: Development Plan
APPLICANT: Cari Rosner Jelen 800 Bancroft Way, Suite 200 Berkeley, CA 94710	OWNER: Elena Saxonhouse 40 Anson Way Kensington, CA 94707-1105	
DEVELOPMENT DATA		
ADDRESS/LOCATION: 40 Anson Way City:KENSINGTON Zip Code: 94707-1105		
ZONING:R-6, -TOV -K PREVIOUS LAND USE:		
DESCRIPTION: A 2-story addition to an existing single family home including a new deck and bathroom	TOTAL ACREAGE:0.2 ac.	
TYPE OF DEVELOPMENT: <p style="text-align: center;">Single Family Residential:1 Units</p>		
WATER SERVICES DATA		
PROPERTY: in EBMUD	ELEVATION RANGES OF STREETS: 423-445	ELEVATION RANGE OF PROPERTY TO BE DEVELOPED: 414-431
All of development may be served from existing main(s) Location of Main(s):Anson Way		
None from main extension(s) Location of Existing Main(s):		
PRESSURE ZONE	SERVICE ELEVATION RANGE	PRESSURE ZONE
A4BA	400-500	SERVICE ELEVATION RANGE
COMMENTS		
If additional water service is needed, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine the costs and conditions of providing additional water service to the development. Engineering and installation of water meters requires substantial lead time which should be provided for in the project sponsor's development schedule. No water meters are allowed to be located in driveways. The project sponsor should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water-efficiency measures described in the regulation are installed at the project sponsor's expense. Due to EBMUD's limited water supply, all customers should plan for shortages in time of drought.		
AAL		
CHARGES & OTHER REQUIREMENTS FOR SERVICE: Contact the EBMUD New Business Office at (510)287-1008.		
 _____ 07/28/2023 Jennifer L. McGregor, Senior Civil Engineer; DATE WATER SERVICE PLANNING SECTION		

From: [Everett Louie](#)
To: [Adrian Veliz](#)
Subject: FW: KMAC Votes and video
Date: Thursday, October 26, 2023 2:40:02 PM

See below for 40 anson way in kensington.

From: Robert Rogers <Robert.Rogers@bos.cccounty.us>
Sent: Thursday, October 26, 2023 1:54 PM
To: Branka Tatarevic <Branka.Tatarevic@dcd.cccounty.us>; Everett Louie <Everett.Louie@dcd.cccounty.us>; Grant Farrington <Grant.Farrington@dcd.cccounty.us>; Maria Lara-Lemus <Maria.Lara-Lemus@dcd.cccounty.us>
Cc: Lloyd Cowell <lloydcowell@hotmail.com>
Subject: KMAC Votes and video

Hi all,

Last night's KMAC Meeting can be viewed here: <https://youtu.be/ApYhsbTPbHI>

Action items:

Votes:

30 Kingston: Approved 5-0
40 Anson: Approved 3-1-1
211 Yale: Approved 5-0
418 Colusa: Approved 5-0
154 Lawson: Approved 5-0

Thank you,
Robert

Robert Rogers
District Coordinator
Office of County Supervisor John Gioia
11780 San Pablo Ave., Suite D
El Cerrito, CA, 94530
510.942.2224
www.cocobos.org/gioia

ATTACHMENT 4

REQUEST FOR PUBLIC HEARING

FROM THE DESK OF

K. McClain

June 7, 2023

Kris McClain
36 Anson Way
Kensington, CA 94707
Ph. (510) 407-1305

To Whom it may concern,

By way of this letter, I am requesting a public hearing in reference to File number **CDKR23-00010**. The property is located at 40 Anson Way, Kensington, CA 94707. The request is to have an opportunity to discuss the compatibility of the project, and how it could have an impact on adjacent homes.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'K. McClain', written in a cursive style.

K. McClain

ATTACHMENT 5

SITE VISIT PHOTOGRAPHS







ATTACHMENT 6

PUBLIC COMMENTS

SHELTERWERK

ARCHITECTURE & DESIGN

September 18, 2023

Kris McClain
36 Anson Way
Kensington, CA 94707



Re: McClain Appeals

Dear Kris,

We have researched the proposed addition at 40 Anson Way, Kensington, CA, and made determinations about its impacts in consideration of Chapter 84-74 of the Contra Costa County Code, which lays the guidelines for building in Kensington, as well as 84-4 of the Contra Costa County Code, which lays out additional guidelines for residential building not necessarily covered within the Kensington section of the code.

To lay the foundation of our research on the impacts proposed construction at 40 Anson Way, we look at the purposes of the Kensington specific section of the Contra Costa County Code:

84-74.204 - Purpose and intent.

(a) The purpose of this chapter is to provide specific regulation to fairly and efficiently implement the Contra Costa County general plan policies for the Kensington Area so that future development recognizes the rights of property owners to improve the value and enjoyment of their property while minimizing impacts upon surrounding neighbors and not substantially impairing the value and enjoyment of their neighbors' property; maintains the community's property values; and promotes the general welfare, public health and safety.

(b) It is a further purpose of this chapter to promote the community's values of preservation of views, light and solar access, privacy, parking, residential noise levels and compatibility with the neighborhood with regard to bulk and scale

(c) Features of a development that could influence these values include but are not limited to siting, size, bulk, building envelope, height, setbacks, relative scale, off-street parking spaces, window placement, artificial lighting and location of mechanical devices such as motors, fans and vents.

Part (a) recognizes the right of homeowners to develop their properties, while minimizing any impacts on their neighbors' property value, and while protecting the ability of their neighbors to enjoy their land. Parts (b) and (c) provide criteria for evaluating the impacts of development on neighboring properties. The proposed development at 40 Anson Way fails to minimize impacts as required by the code.

SHELTERWERK

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The Building Exceeds the Number of Permissible Stories:

Contra Costa County Code limits buildings to two stories in Kensington. Section 82-4.266 of the code defines a story as follows:

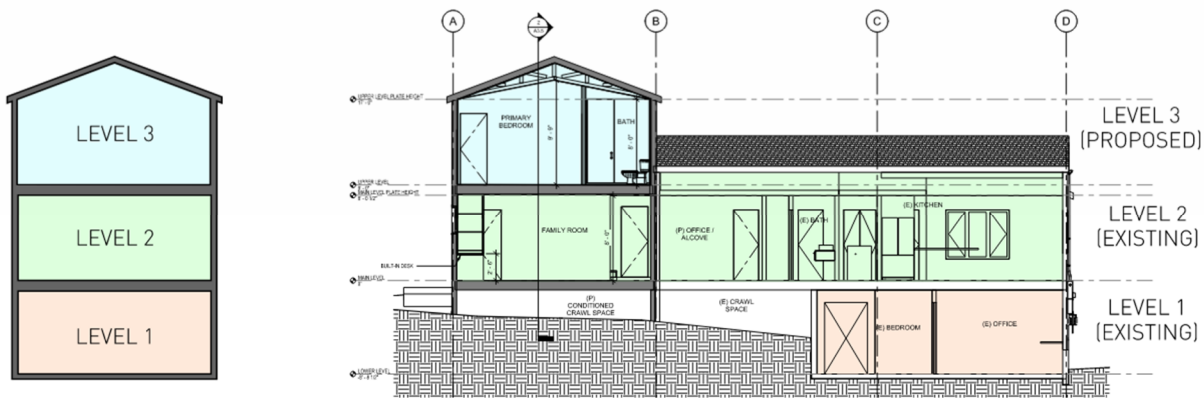
"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade at any point, such basement or cellar shall be considered a story.

Per 84-4.802 of the municipal code, building height maximums are set by the following criteria:

No single-family dwelling or other structure permitted in the R-6 district shall exceed two and one-half stories or thirty-five feet in height.

Due to the existing habitable basement at 40 Anson Way - which includes an existing a bedroom, bathroom, and "office" with full kitchen -the additional proposed level constitutes an impermissible third level. The diagram on the right is what was submitted to the Planning Department. This lower level wasn't omitted from the architect's drawings, and it didn't receive a comment, so maybe it slipped through the cracks, but it should compel the planners to reject the proposal or require a variance application.

BUILDING HEIGHT/STORY DIAGRAMS



(a) standard story stacking

(b) proposed story stacking at 40 Anson Way

The Proposed Building Unreasonably Impairs Views:

The proposed addition adds a large mass adjacent to the dining room window at 36 Anson Way. Panoramic views of the surrounding landscape are negatively impacted. The proposal submitted to the Planning Department provides an image noting views that will be impacted, but the vantage point from which the image was taken is a misrepresentation of reality. It appears to be zoomed in and possibly at a lower vantage point than what one would experience standing in front of the window. The following photo, looking from the backmost windows of 36 Anson Way show more

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ARCHITECTURE & DESIGN

accurately the significant negative impact on views caused by the proposed addition at 40 Anson Way.

AREA OF IMPACTED VIEWS
[Image taken from window at 36 Anson Way]

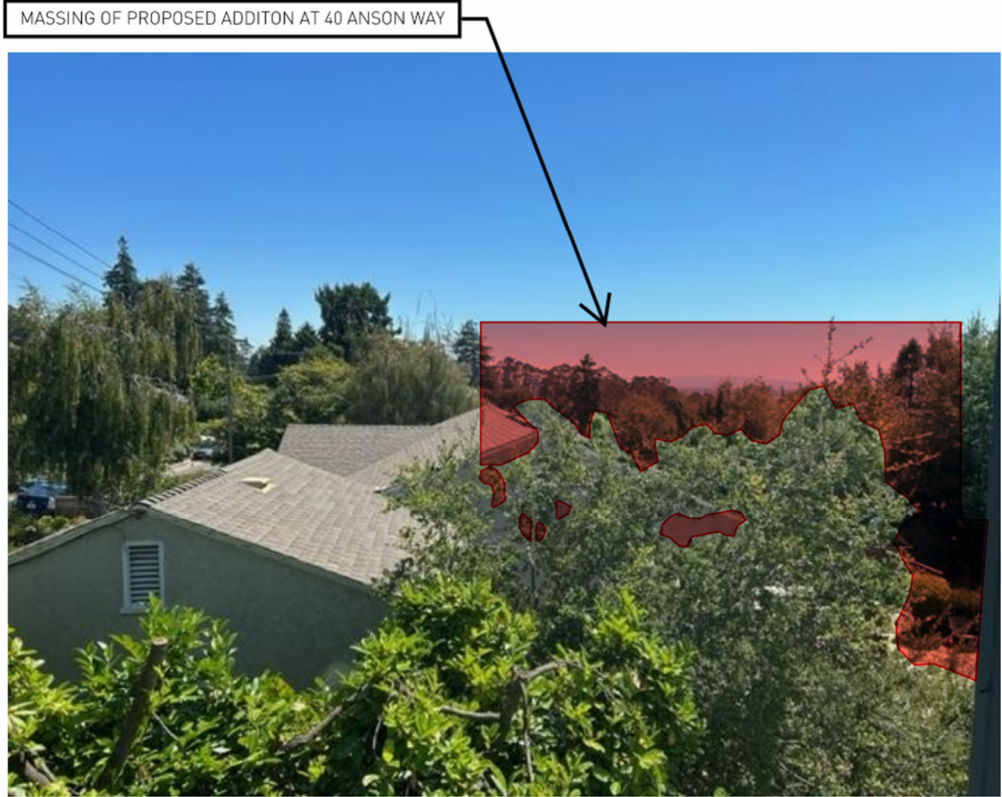


IMAGE OF AREA OF IMPACTED VIEWS SUBMITTED
TO PLANNING DEPARTMENT
[Development Plan Drawing Set dated 07/10/23]



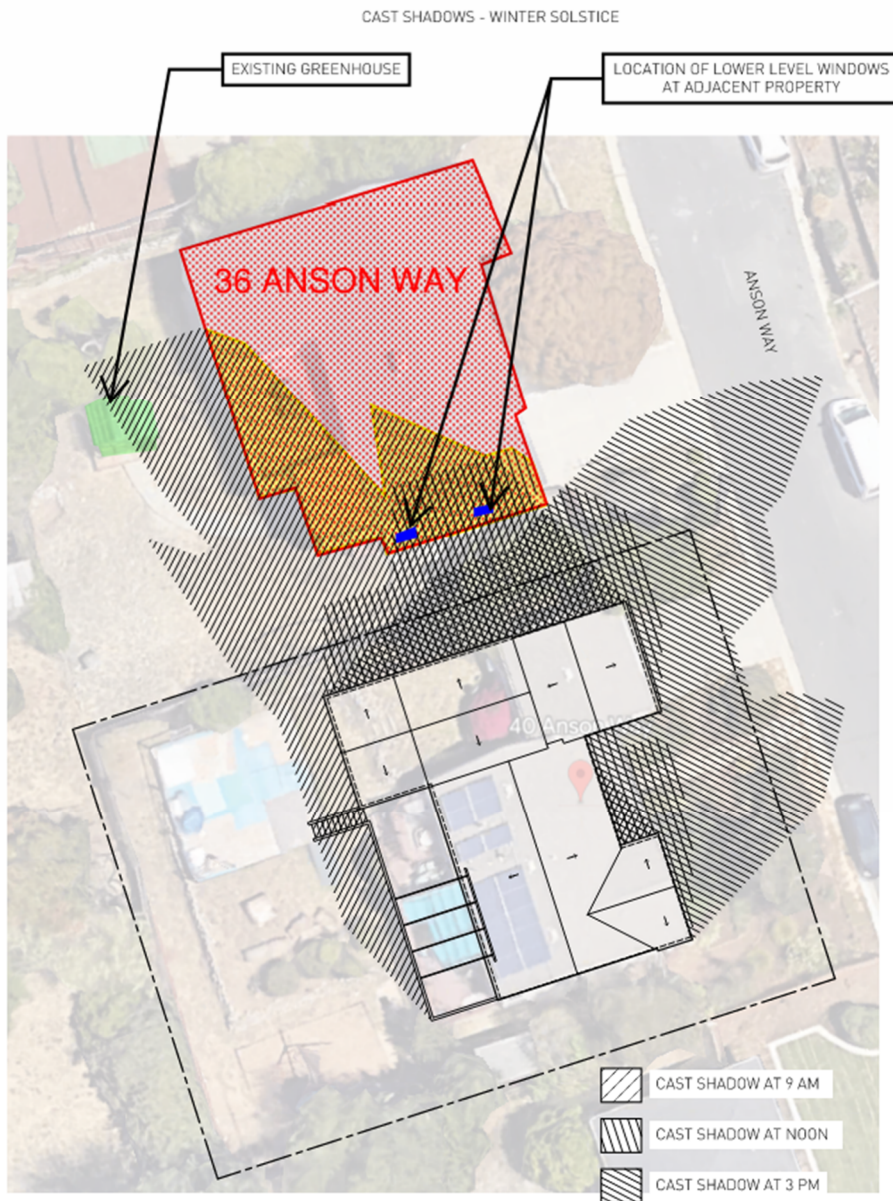
APPROXIMATE NEIGHBOR VIEW TO SOUTHWEST (IMPACTED)

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The Proposed Building Unreasonably Impairs Access to Daylight:

The addition at 40 Anson Way will cast shadows towards and past its northern property line and onto the lot of 36 Anson Way due to its proximity to a shared property line. A study of cast shadows during the Winter Solstice shows that the lower level South-facing windows at 36 Anson Way will be shaded out from 9 am through noon, greatly diminishing solar access during the period of the year where access to the sun is at its greatest premium. Additionally, shadows will be cast through a large part of the rear yard, including over an existing greenhouse and the garden area leading up to it. The excessive height of the proposed building is unnecessary, impermissible, and creates significant problems for the residents of 36 Anson Way that the county should be taking into consideration.



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Large Size of the Home/Location of Addition/Utilization of Existing:

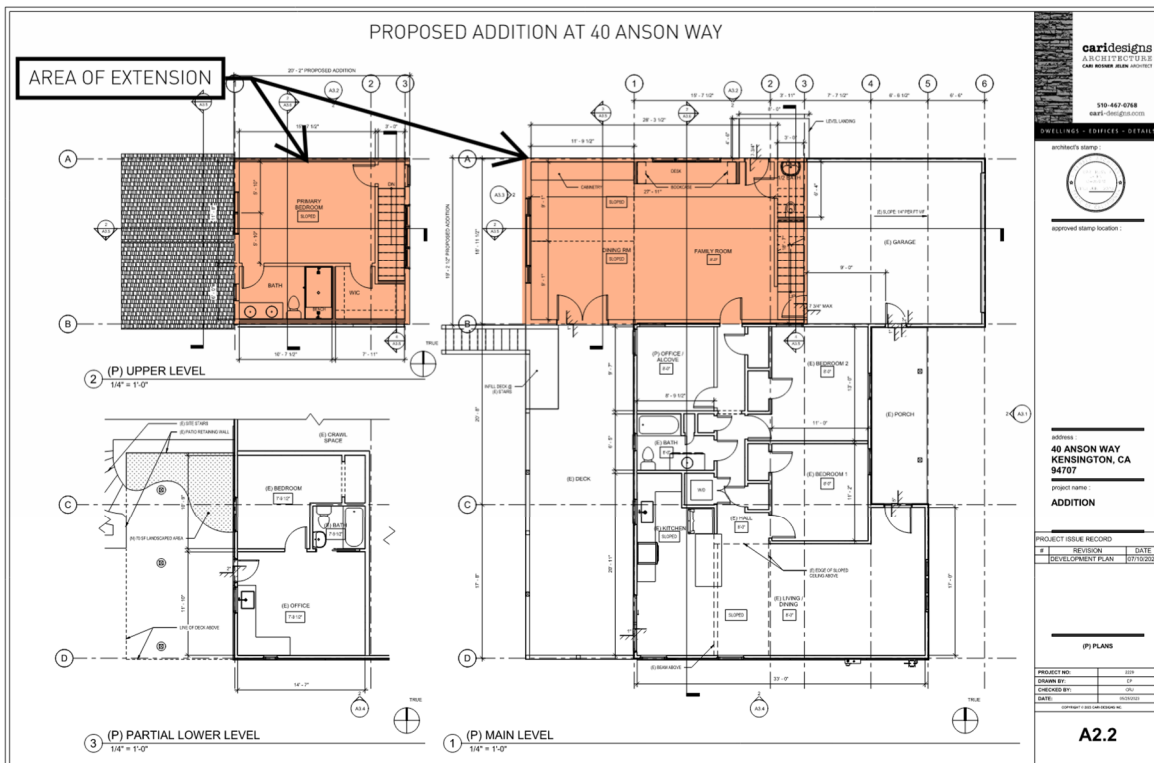
The proposed addition at 40 Anson Way creates a home with the following amenities:

- 5 bedrooms
- 2 kitchens
- 3 living spaces
- 3.5 baths
- 1 parking space

The existing habitable lower level currently has a full bathroom, kitchen, a bedroom, and space that can be used for living. By connecting the main house to the basement, many of the same rooms in the proposed design can be accessed from the main level without the need for extensive new construction.

Alternatively, if the owners of 40 Anson Way are intent on building a third level, then moving the extension to the opposite side of the house would eliminate any shadowing and view impacts on 36 Anson Way, while having a much more limited impact on the neighbors at 44 Anson Way.

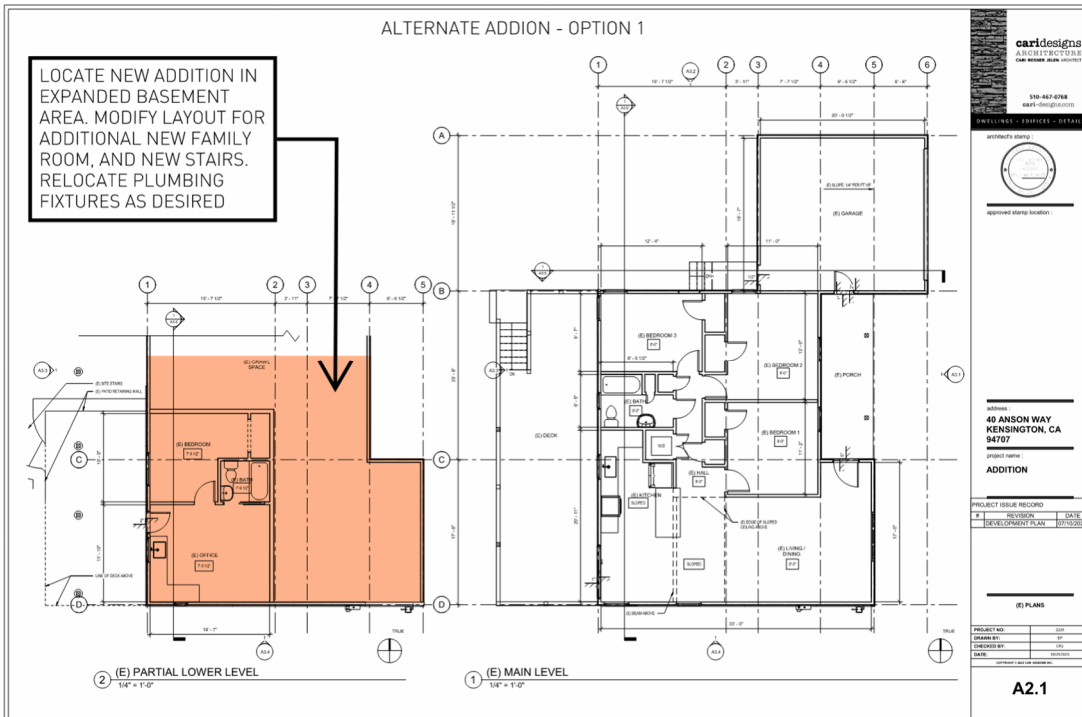
PROPOSED PROJECT WITH 3RD FLOOR ADDITION THAT CREATES SHADOWS AND BLOCKS VIEWS



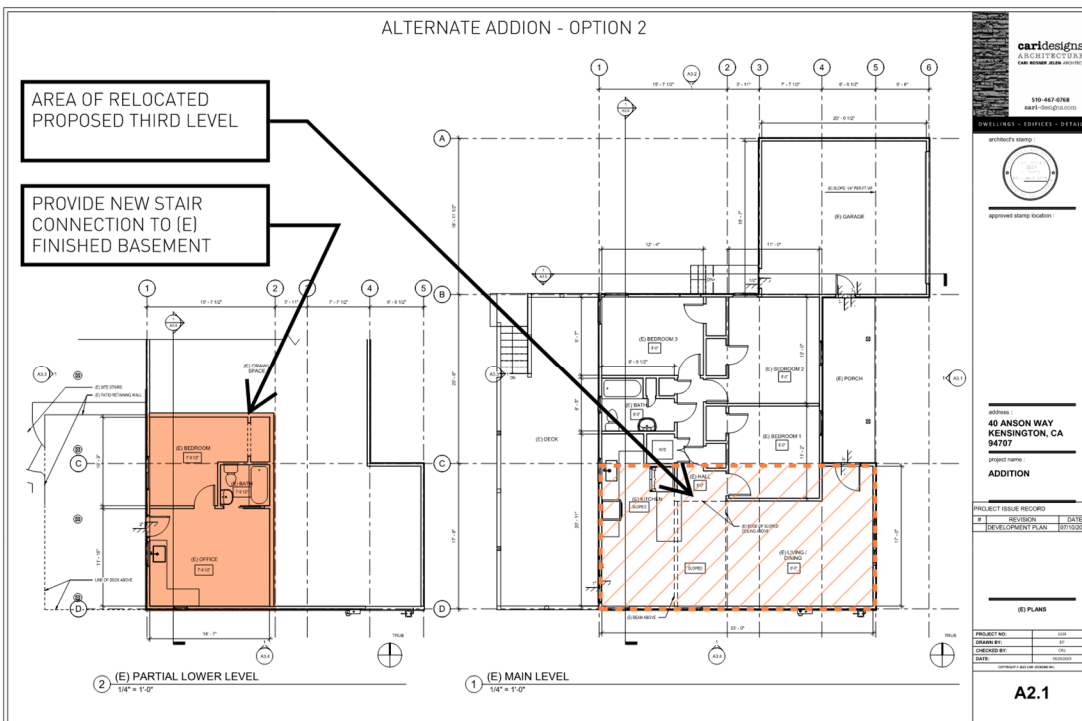
SHELTERWERK

ARCHITECTURE & DESIGN

PROPOSED PROJECT WITH 3RD FLOOR ADDITION MOVED TO OTHER SIDE - OPTION 1



PROPOSED PROJECT WITH 3RD FLOOR ADDITION MOVED TO OTHER SIDE - OPTION 2



SHELTERWERK

ARCHITECTURE & DESIGN

Sincerely,

Heather Sanders-Jacob
Ashwin Biln

September 22, 2023

Re: 40 Anson Way, CDDP23-03024 (on September KMAC Meeting Agenda)

Dear KMAC members,

We write to respond to the letter from Shelterwerk Architects to Kris McClain, 36 Anson Way, forwarded to you by the County of Contra Costa Department of Conservation and Development. While we plan to make an oral presentation at the KMAC meeting next week, we thought it would be most efficient to respond to some of the assertions in the letter in advance.

Permissible Stories

- As our architect will explain at the upcoming meeting, the issue of the number of stories of our home with the addition did not “slip through the cracks.” (Shelterwerk letter, p. 2.) Rather, our architect directly addressed this issue with the assigned planner. The planner found that the home with planned addition is still properly characterized as a two-story home. The planner determined that the project does not require a variance for number of stories, or for any other reason.

Impairment of Views

- The Shelterwerk letter addresses the south-facing window at 36 Anson, but neglects to mention the unobstructed views of the San Francisco Bay and Golden Gate Bridge from 36 Anson, which would not be impacted by the proposed addition. The west-facing view pictured below is taken from the roof of 40 Anson Way, which approximates the height of the west-facing windows of 36 Anson Way. When taken in this context, the impact to the south-facing window will not “substantially impair” the value and enjoyment of 36 Anson. CCC Code 84-74.204(a).



- Even if the south-facing view were significant in the context of the unimpacted west-facing view, blocking it would not impair Ms. McClain's enjoyment of her property for the simple reason that the shade of the south-facing window remains almost permanently down. We investigated this issue by placing a time-lapse camera in our backyard. Reviewing the footage, we were only able to identify one instance in which the shade was raised between the first day we began recording, July 12, 2023, and today's date. It appears that the shade was raised for 10 minutes or fewer that day (September 2, 2023). This is consistent with our experience over the past nearly 10 years— we rarely have seen the shade of the impacted window raised in the entire time we have lived next door. We would be happy to present the time-lapse evidence to KMAC if you find it to be relevant.

Characterization of 40 Anson and Proposed Addition

- Shelterwerk's characterization of our current home is misleading. The basement area, accessed by a separate entrance below the deck, is approximately 370 square feet, with two rooms and a bathroom. Though it has a wetbar and microwave, it is misleading to describe the outer room's amenities as including a "full kitchen."
- Shelterwerk's characterization of the home's amenities post-addition is incorrect. The bedroom that is currently at the northwest corner of the house would become an office nook as it would be too small to be properly characterized as a bedroom and will lack a closet. Accordingly, there would be 4 bedrooms, not 5. It is also misleading to describe the basement's amenities as including a "kitchen" and "living space," bringing those totals to 2 and 3, respectively.
- Post-addition, apart from the separately-accessed basement, our home will be similarly sized to Ms. McClain's home (2,183 square feet for 40 Anson, compared with 1,952 square feet for 36 Anson, per Zillow).

Proposed Alternative Designs

- Building another story on top of the southern part of the house would appear to require a variance for 3 stories.
- Building another story on top of the southern part of the house would block the Western facing view of our neighbors to the East.
- It is unclear where staircases could be placed to the proposed alternative upper or lower levels, other than in the middle of our current kitchen, living room, or hallway to the bedrooms.
- Building either staircase would substantially reduce the square-footage of our main level.
- The proposal to solely build out the basement and current crawlspace for our addition would deprive us of the ability to capitalize on the western facing views of the Bay for which Kensington is known.

- Both proposed alternatives would require us to move out of our home for the entire renovation, causing major disruptions and additional cost to our family of four with two young children. The proposed addition would allow us complete most of the construction without having to move out of our home.

We look forward to sharing more next week about the proposed project and the changes we made prior to submitting the plans to reduce the impact on our neighbor at 36 Anson.

Sincerely,

Elena Saxonhouse
Tulley Rafferty
40 Anson Way
Kensington, CA 94707

cc: Adrian Veliz, Senior Planner

ATTACHMENT 7

SHADOW ANALYSIS

Shadow Analysis for Summer Solstice at 1:00 pm

Computation path of the sun for:
40 Anson Way, Berkeley, CA, 94707, USA
21 Jun. 2024 13:00 UTC-7 **LIVE**

Solar data for the selected location

Dawn:	05:15:48
Sunrise:	05:46:53
Culmination:	13:11:09
Sunset:	20:35:24
Dusk:	21:06:29
Daylight duration:	14h48m31s
Distance [km]:	152,035,549
Altitude:	75.33°
Azimuth:	169.85°
Shadow length [m]:	1.91
at an object level [m]:	<input type="text" value="7.3"/>

Geodata for the selected location

Height: 159m	<input type="text" value="Set Lat/Lon"/>
Lat: N 37°54'44.9"	37.91247°
Lng: W 122°17'17.11"	-122.28809°
UTM: 10S 562579 4196343	
TZ: America/Los_Angeles DST PDT	

More solar data & Photovoltaic

Print

Contact

Help

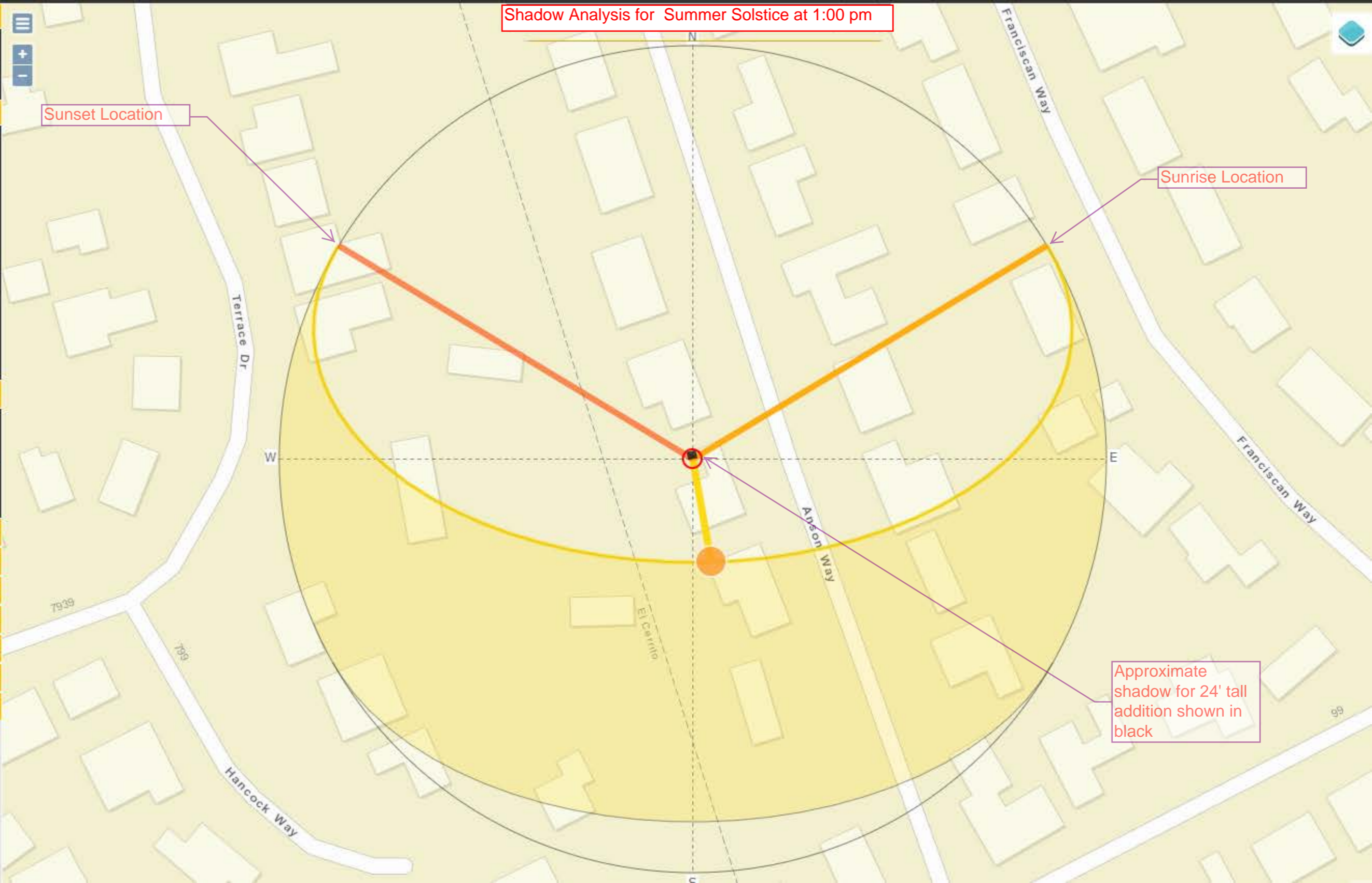
More for Moon|Planets|Satellites

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Start

1. Click 'Start'
2. Download on our website



Sunset Location

Sunrise Location

Approximate shadow for 24' tall addition shown in black

Computation path of the sun for:

40 Anson Way, Berkeley, CA, 94707, USA
21.Mar.2024 12:30 UTC-7 LIVE

Solar data for the selected location

Dawn: 06:43:53
Sunrise: 07:09:48
Culmination: 13:16:04
Sunset: 19:22:56
Dusk: 19:48:55
Daylight duration: 12h13m8s
Distance [km]: 149,052,737
Altitude: 51.29°
Azimuth: 161.39°
Shadow length [m]: 5.85
at an object level [m]: 7.3

Geodata for the selected location

Height: 159m Set Lat/Lon
Lat: N 37°54'44.9" 37.91247°
Lng: W 122°17'17.11" -122.28809°
UTM: 10S 562579 4196343
TZ: America/Los_Angeles DST PDT

More solar data & Photovoltaic

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Contact

Help

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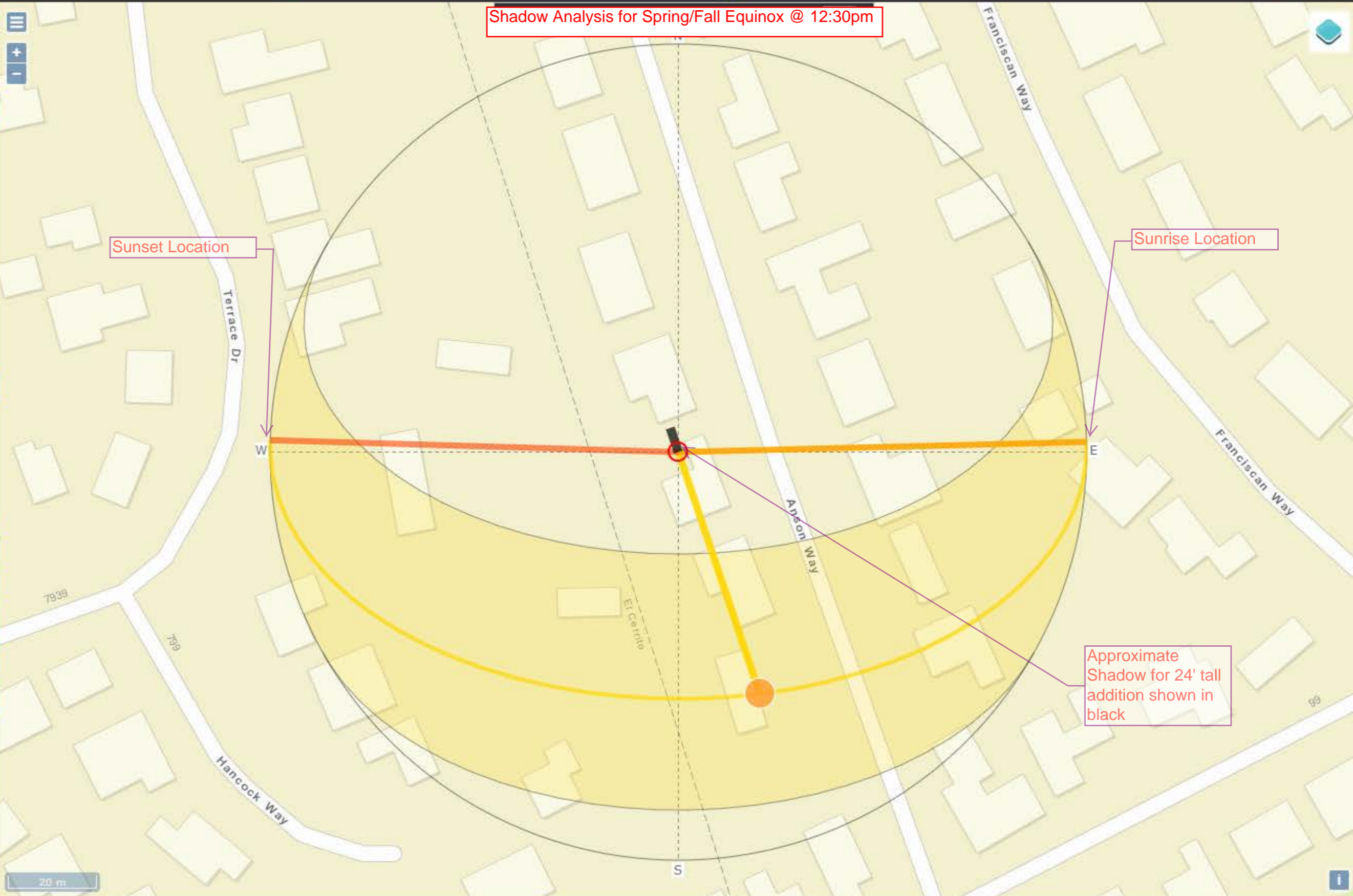
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Start

- 1. Click 'Start'
- 2. Download on our website
- 3. Enjoy Easy PDF!

Shadow Analysis for Spring/Fall Equinox @ 12:30pm



Computation path of the sun for:

40 Anson Way, Berkeley, CA, 94707, USA

21.Dec.2024 11:00 UTC-8 LIVE

Solar data for the selected location

Dawn:	06:52:06
Sunrise:	07:21:15
Culmination:	12:07:38
Sunset:	16:54:01
Dusk:	17:23:10
Daylight duration:	9h32m46s
Distance [km]:	147,161,450
Altitude:	26.66°
Azimuth:	162.64°
Shadow length [m]:	14.54
at an object level [m]:	<input type="text" value="7.3"/>

Geodata for the selected location

Height:	159m	<input type="button" value="Set Lat/Lon"/>
Lat:	N 37°54'44.9"	37.91247°
Lng:	W 122°17'17.11"	-122.28809°
UTM:	10S 562579 4196343	
TZ:	America/Los_Angeles PST	

- More solar data & Photovoltaic
- Print
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- Help
- More for Moon|Planets|Satellites
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Start

1. Click 'Start'
2. Download on our website
3. Enjoy Easy PDF!

Shadow Analysis for Winter Solstice @ 11:00am

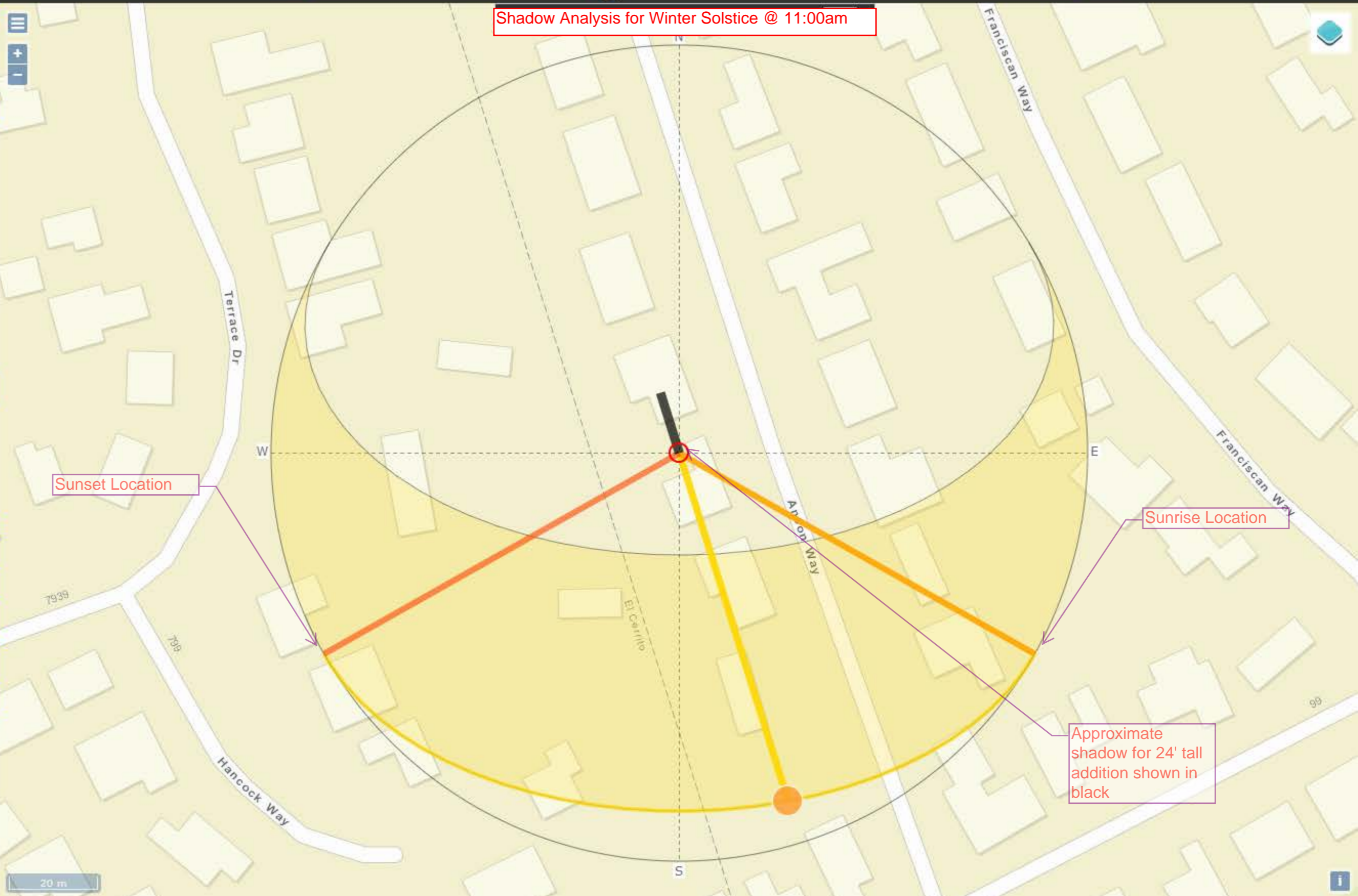


EXHIBIT 5

3D SHADOW ANALYSIS

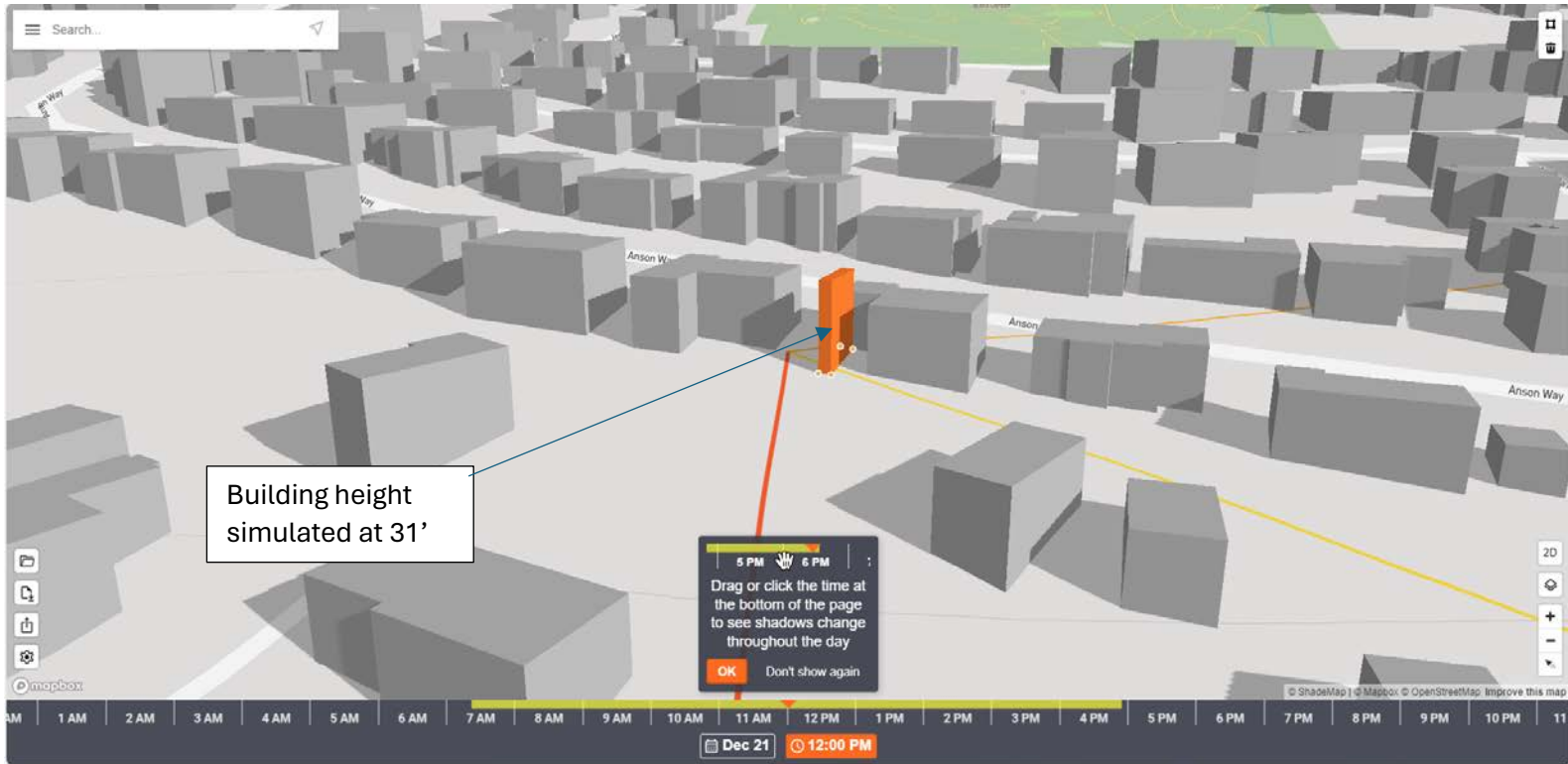
Simulated Shadow - Winter Solstice @ 9:00 a.m.



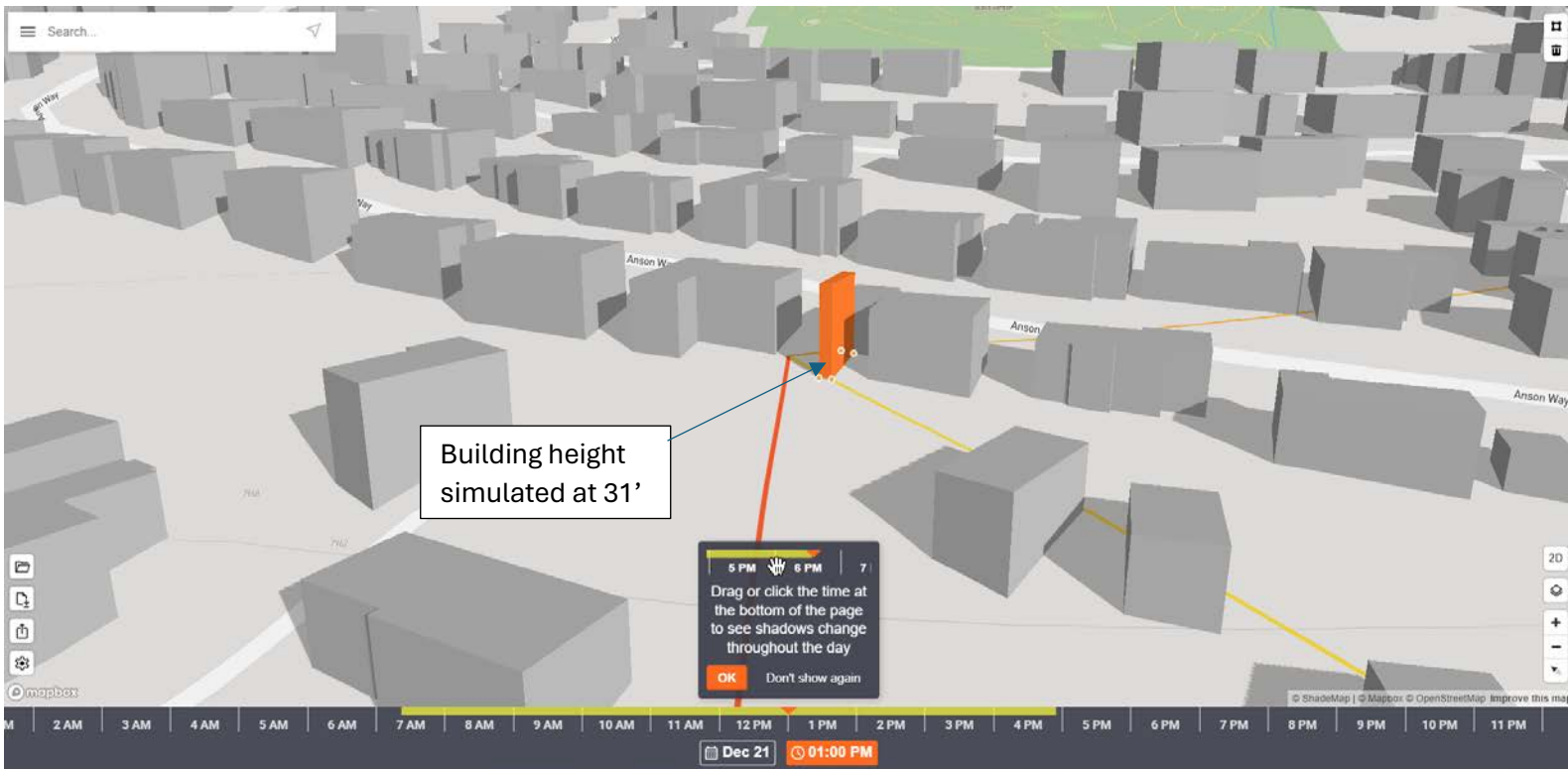
Simulated Shadow – Winter Solstice @ 11:00 a.m.



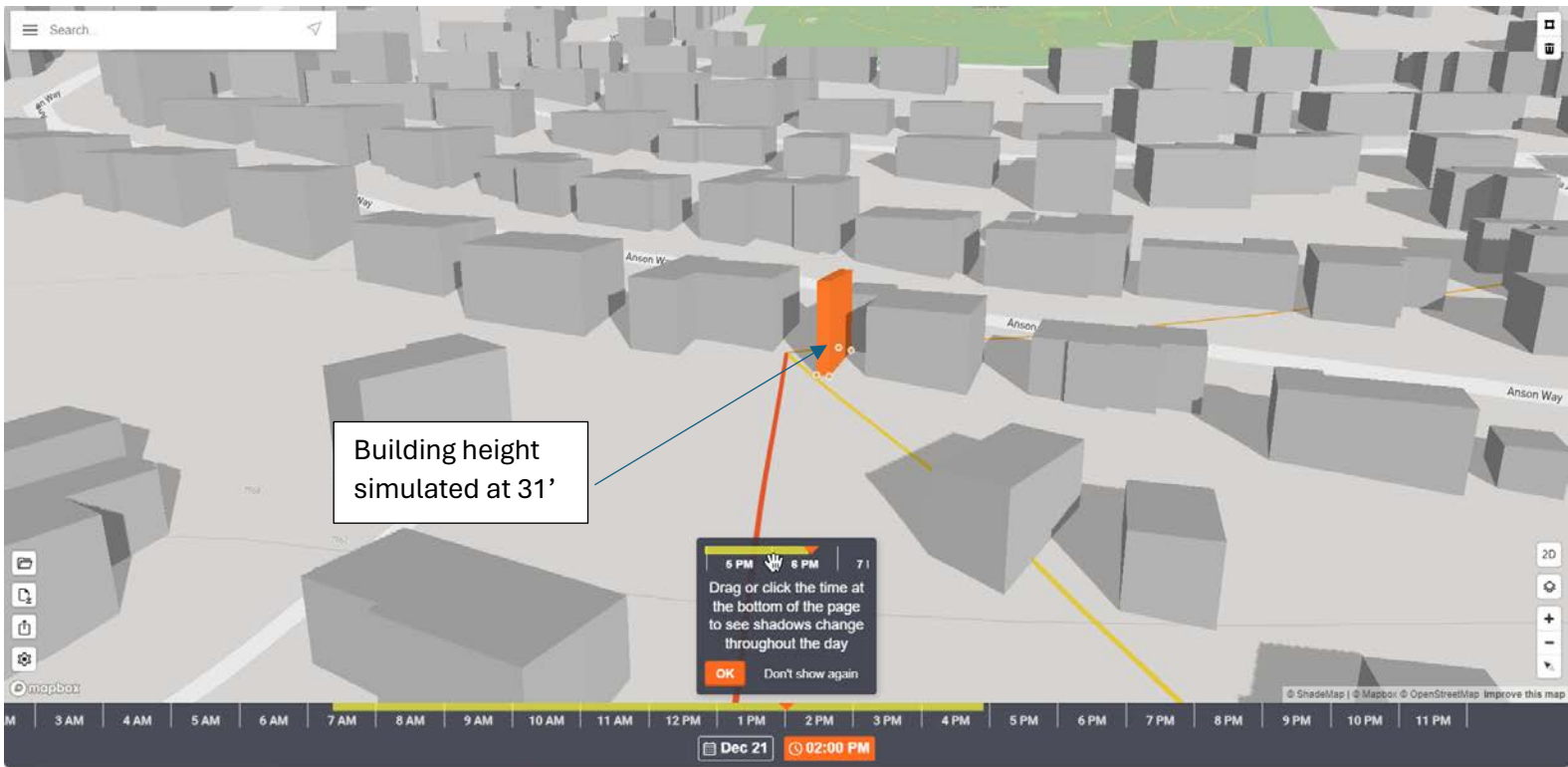
Simulated Shadow – Winter Solstice @ 12:00 p.m.



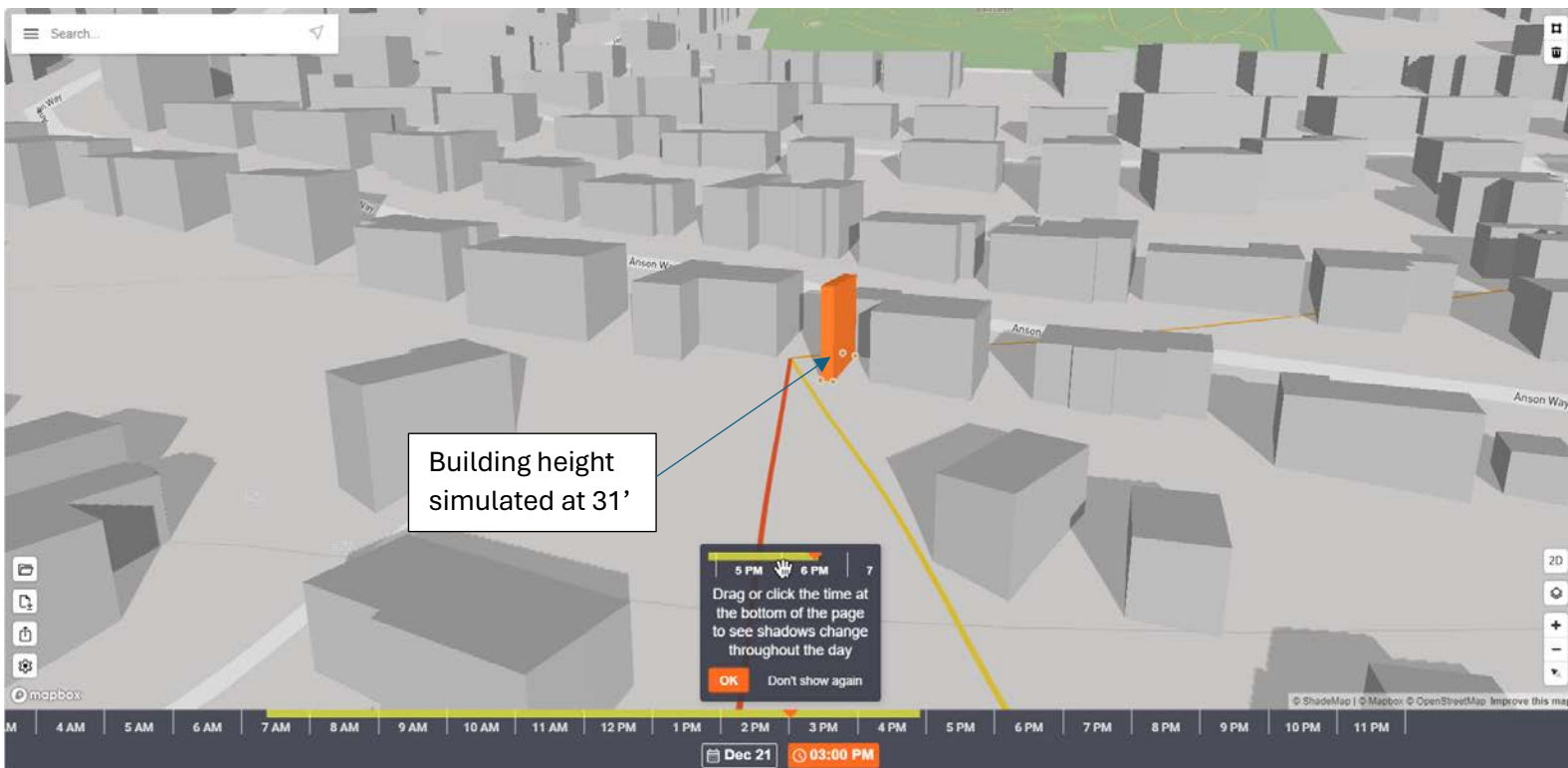
Simulated Shadow – Winter Solstice @ 1:00 p.m.



Simulated Shadow – Winter Solstice @ 2:00 p.m.



Simulated Shadow – Winter Solstice @ 3:00 p.m.



Simulated Shadow – Equinox @ 12:30 p.m.



Simulated Shadow – Summer Solstice @ 12:45 p.m.

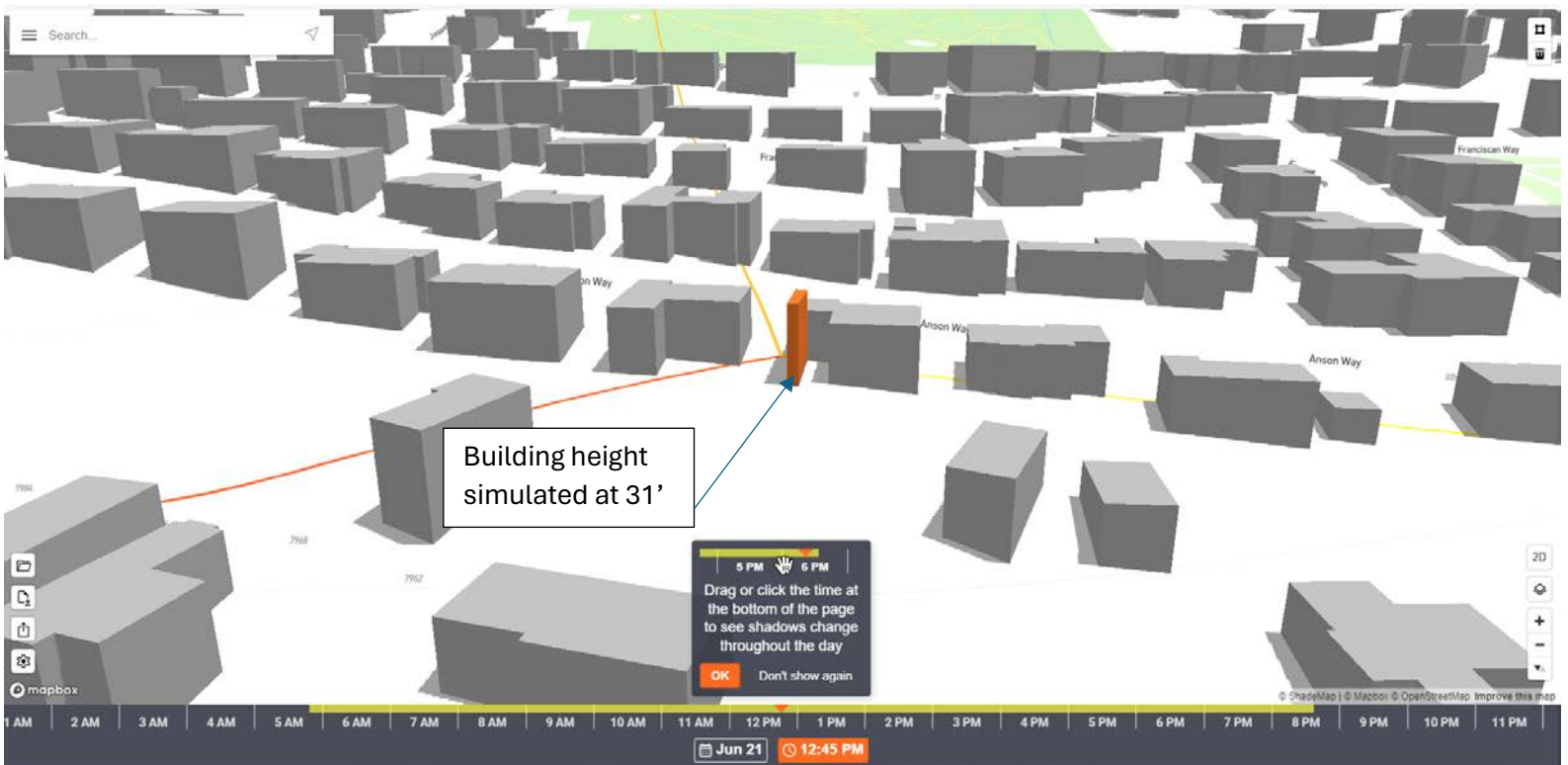


EXHIBIT 6

POWERPOINT PRESENTATION



Anson Way Development Plan Permit Appeal

County File: CDDP23-03024

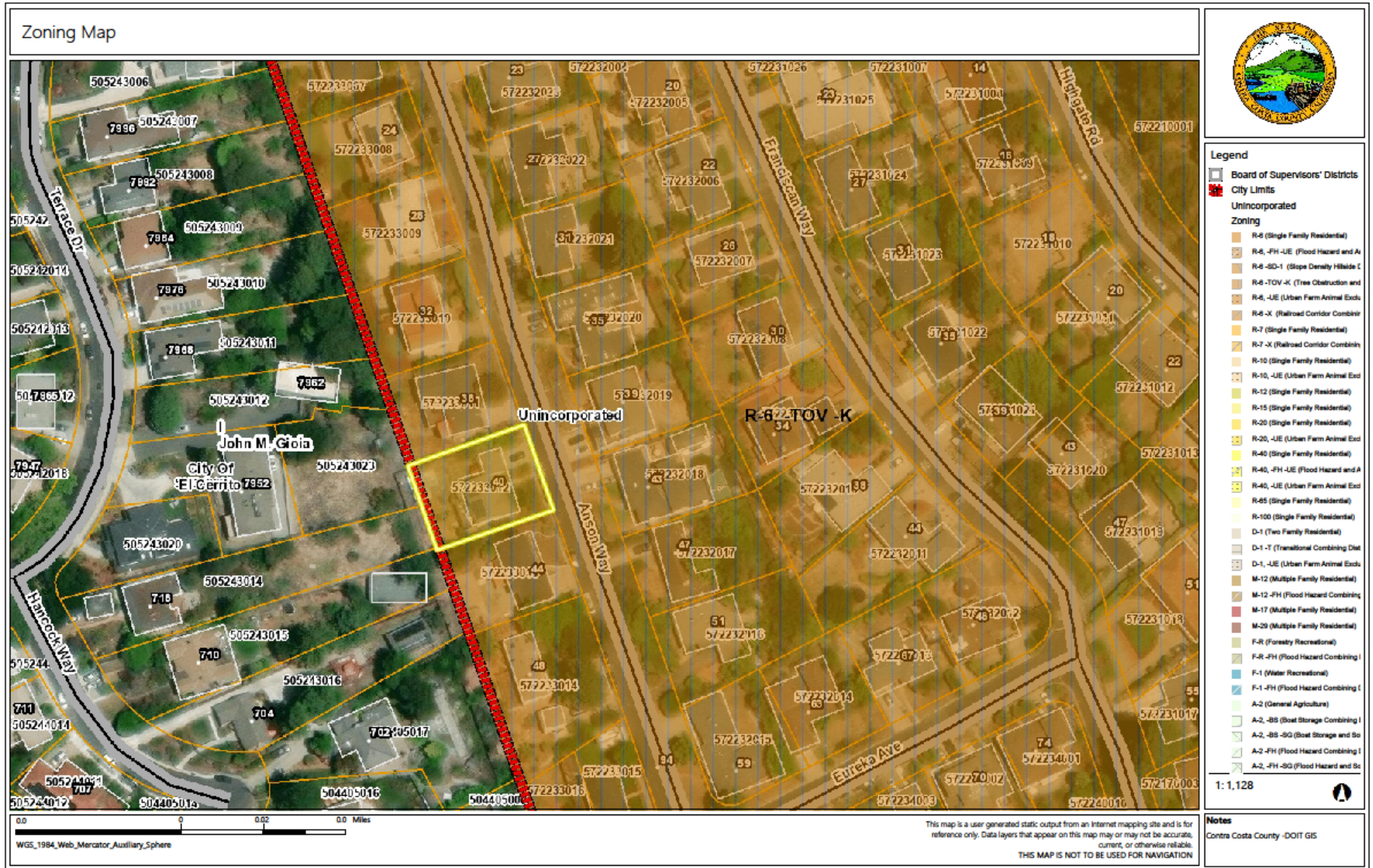
COUNTY PLANNING COMMISSION

MARCH 27, 2024

Background

- ▶ A public hearing request in response to Kensington Design Review CDKR23-00010 was received by CDD staff on June, 7 2023, necessitating the submittal of Development Plan CDDP23-03024 for the proposed addition.

Zoning Map



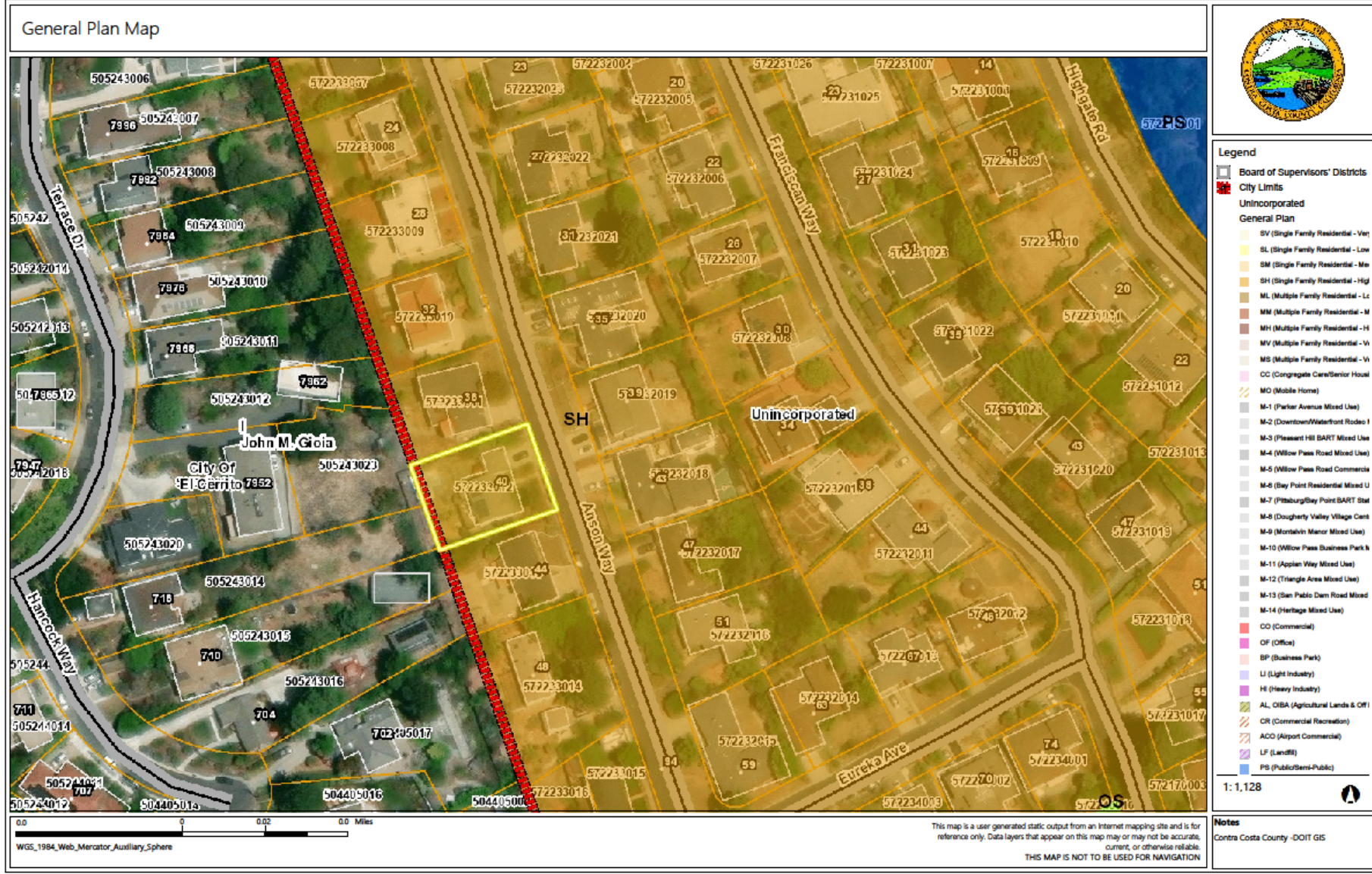
Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Zoning
 - R-6 (Single Family Residential)
 - R-6, -FH -UE (Flood Hazard and A)
 - R-6 -SD-1 (Slope Density Hillside C)
 - R-6 -TOV -K (Tree Obstruction and
 - R-6, -UE (Urban Farm Animal Excls
 - R-6 -X (Railroad Corridor Combin
 - R-7 (Single Family Residential)
 - R-7 -X (Railroad Corridor Combin
 - R-10 (Single Family Residential)
 - R-10, -UE (Urban Farm Animal Excl
 - R-12 (Single Family Residential)
 - R-15 (Single Family Residential)
 - R-20 (Single Family Residential)
 - R-20, -UE (Urban Farm Animal Excl
 - R-40 (Single Family Residential)
 - R-40, -FH -UE (Flood Hazard and A
 - R-40, -UE (Urban Farm Animal Excl
 - R-45 (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 Excls
 - M-12 (Multiple Family Residential)
 - M-12 -FH (Flood Hazard Combining
 - M-17 (Multiple Family Residential)
 - M-20 (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
 - A-2 -FH (Flood Hazard Combining I
 - A-2, -FH -SG (Flood Hazard and So

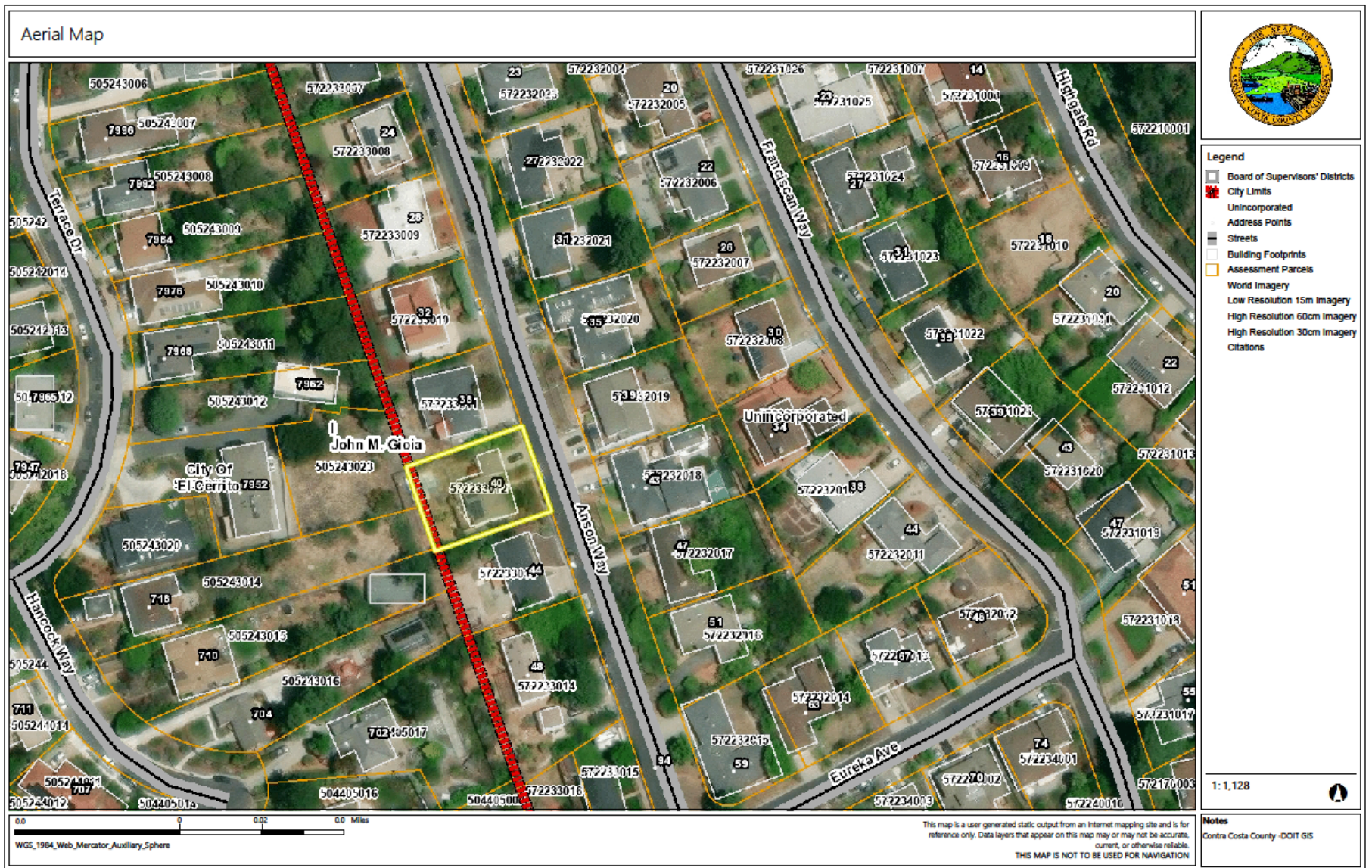
1:1,128

Notes
Contra Costa County -DOIT GIS

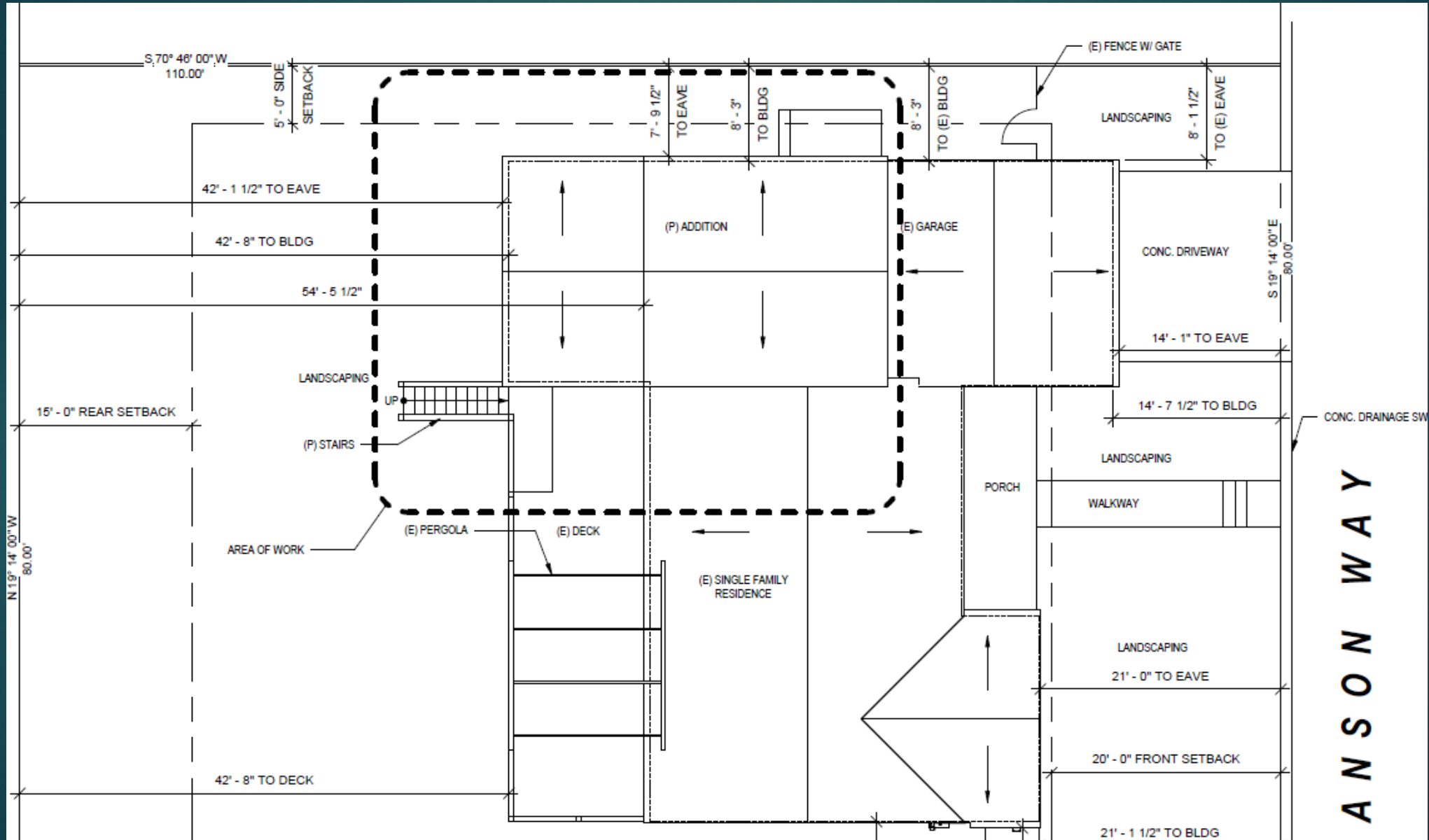
General Plan Map



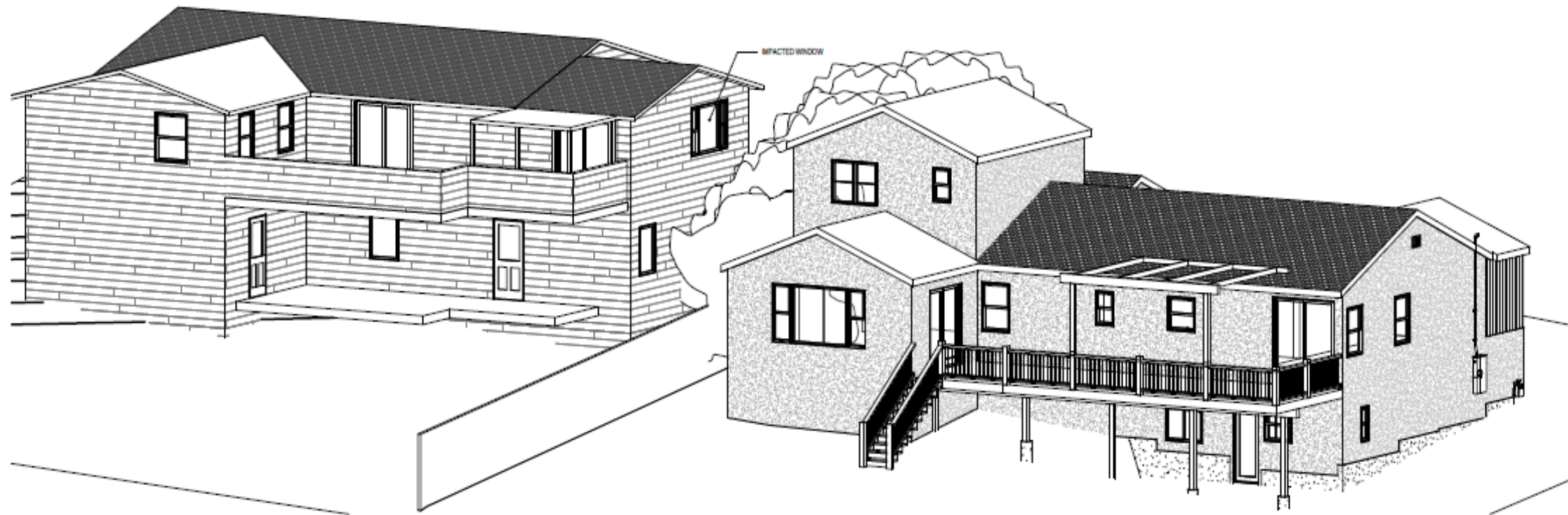
Aerial Map



Proposed Two-Story Addition



Proposed Two-Story Addition



Zoning Administrator's Decision

- ▶ On February 5, 2024, the County Zoning Administrator approved the project, finding the addition to be in compliance with Kensington Combining District Ordinance, and all applicable development standards for the R-6 single-family residential zoning district.
- ▶ On February 14, 2024, CDD staff received a formal appeal from Shona Armstrong on behalf of neighboring property owner Kris McClain.

Armstrong Appeal

- ▶ The project violates general plan policies protecting views and solar access due to unnecessary building bulk.
- ▶ The project exceeds height limitations codified in County Ordinances.
- ▶ The project does not meet findings required under Kensington Ordinances for approval of the proposed addition.
- ▶ The project adversely affects the neighbor's property value.
- ▶ The project does not adequately consider the interests of the appellant.

View Impact

10



View Impact

11



View Impact

12



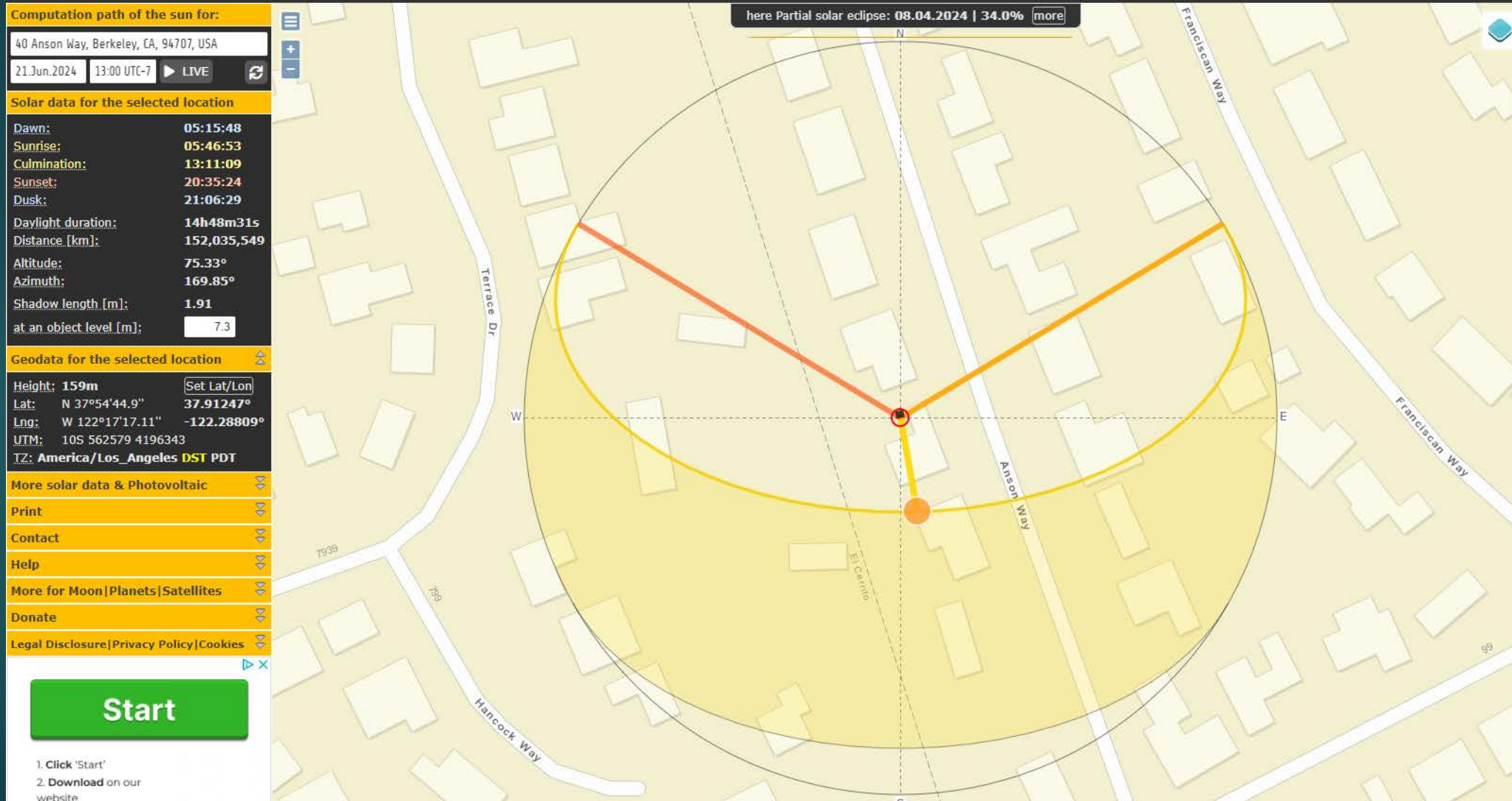
View Impact

13



Solar Access Impact (Summer Solstice)

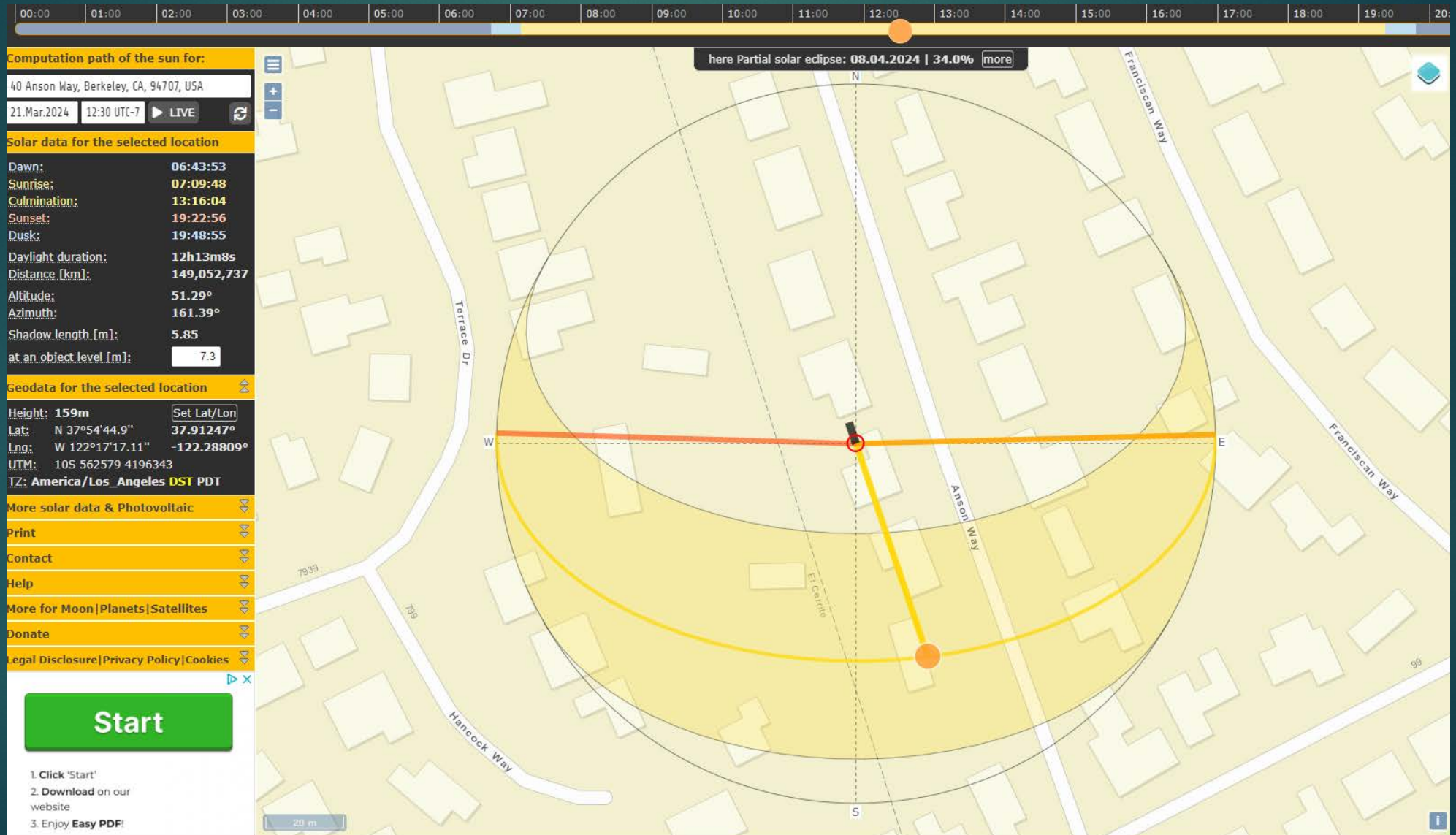
www.suncalc.org



Solar Access Impact (Equinox)

www.suncalc.org

15



Solar Access Impact (Winter Solstice)

www.suncalc.org

00:00 01:00 02:00 03:00 04:00 05:00 06:00 07:00 08:00 09:00 10:00 11:00 12:00 13:00 14:00 15:00 16:00 17:00 18:00 19:00 20:00

here Partial solar eclipse: 08.04.2024 | 34.0% [more](#)

Computation path of the sun for:
40 Anson Way, Berkeley, CA, 94707, USA
21.Dec.2024 11:00 UTC-8 [LIVE](#) [↻](#)

Solar data for the selected location

Dawn:	06:52:06
Sunrise:	07:21:15
Culmination:	12:07:38
Sunset:	16:54:01
Dusk:	17:23:10
Daylight duration:	9h32m46s
Distance [km]:	147,161,450
Altitude:	26.66°
Azimuth:	162.64°
Shadow length [m]:	14.54
at an object level [m]:	<input type="text" value="7.3"/>

Geodata for the selected location

Height:	159m	Set Lat/Lon
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Lng:	W 122°17'17.11"	-122.28809°
UTM:	10S 562579 4196343	
TZ:	America/Los_Angeles PST	

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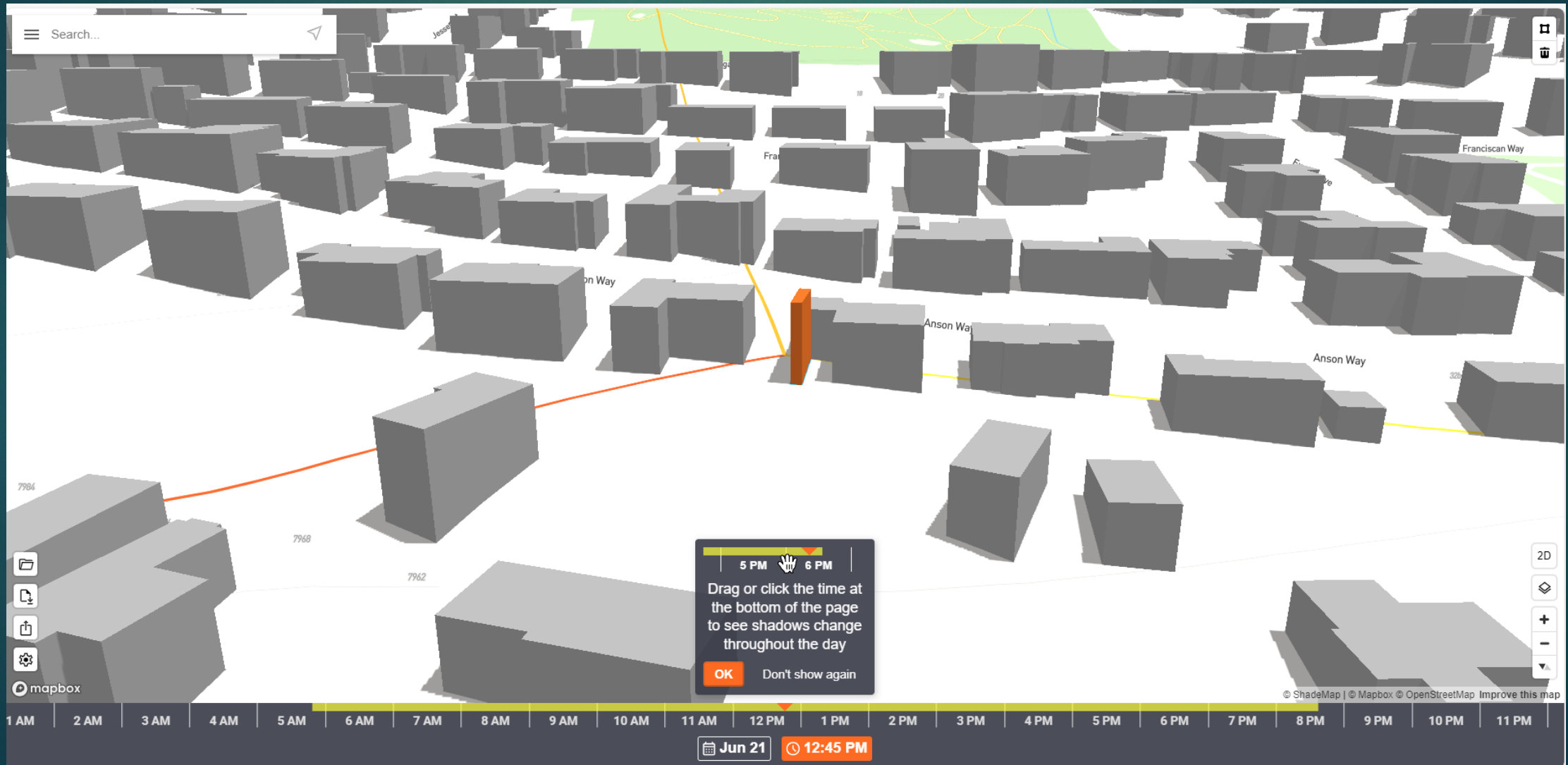
1. Click 'Start'
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3. Enjoy **Easy PDF!**

20 m

Solar Access Impact (Summer Solstice)

<https://shademap.app>

17



Solar Access Impact (Equinox)

<https://shademap.app>

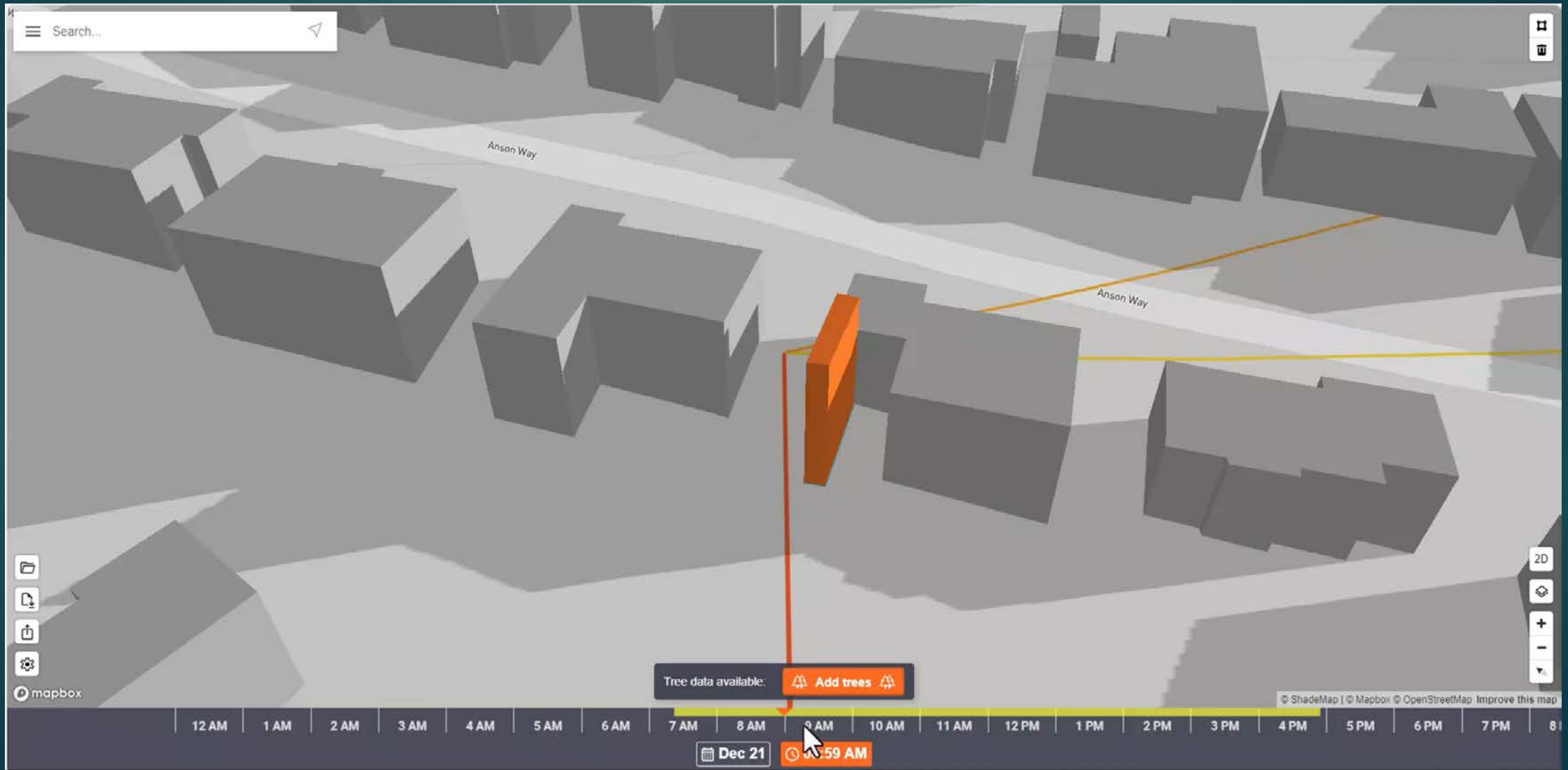
18



Solar Access Impact (Winter Solstice)

<https://shademap.app>

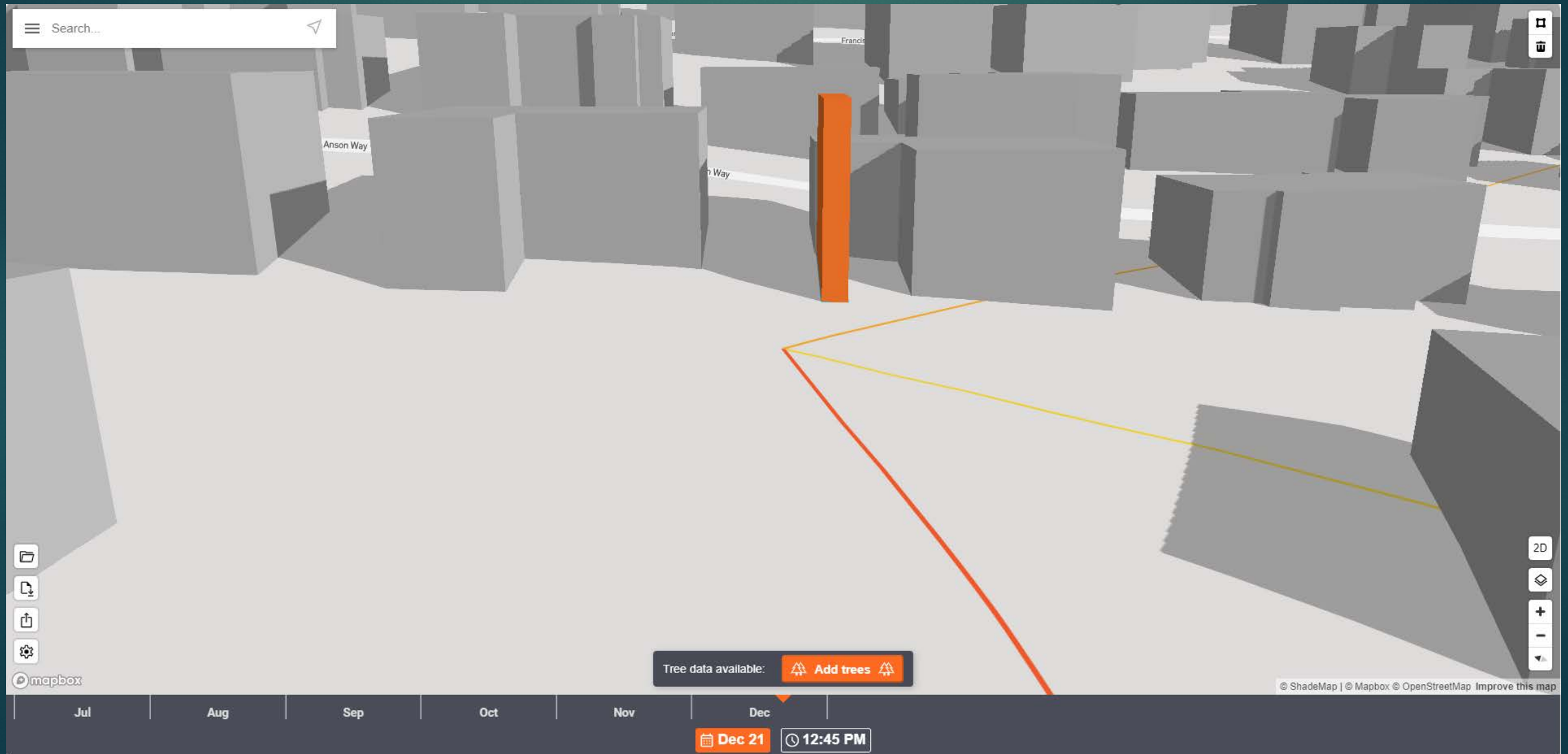
19



Solar Access Impact (Model Perspective)

<https://shademap.app>

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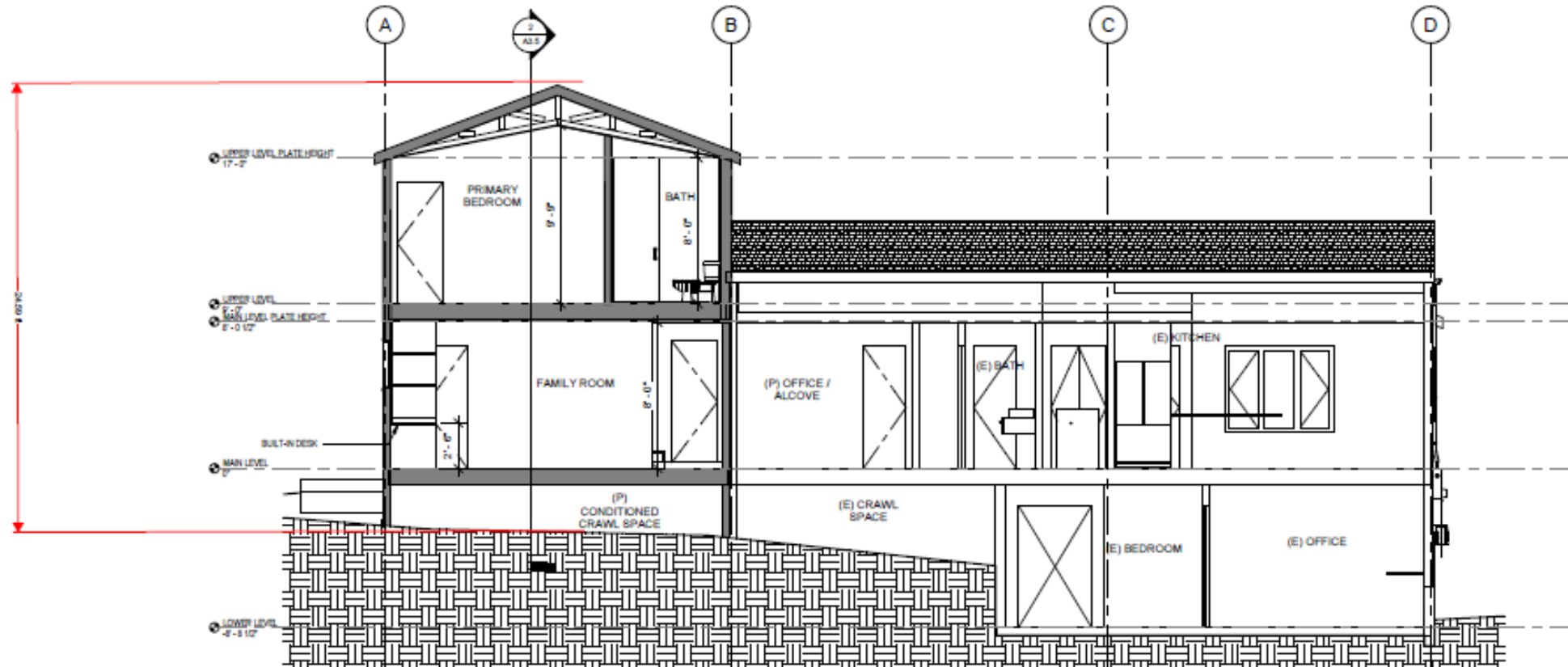


Building Height

- ▶ County Ordinance Section 82-4.214 (Building Height): *“Building height” means the vertical distance measured from grade to the top of structure directly above with exceptions noted elsewhere in the code. Height may be measured from finished grade when such grade is below natural grade. Height shall be measured from natural grade when the finished grade is higher than the natural grade.*
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Building Height

22



2 (P) BUILDING SECTION 3
1/4" = 1'-0"

Staff Response to Appeal

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Questions?



Anson Way Development Plan Permit Appeal

County File: CDDP23-03024

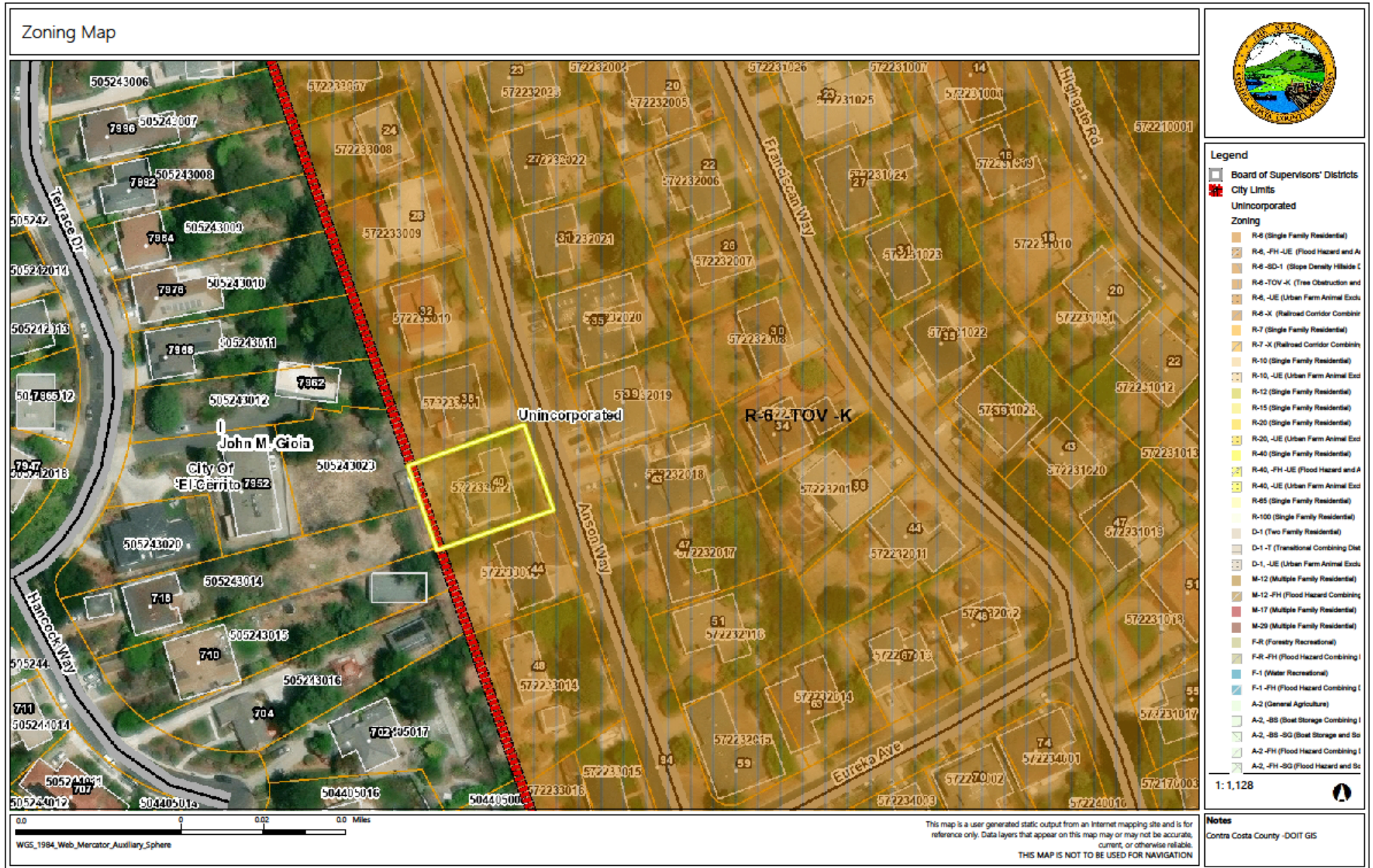
COUNTY PLANNING COMMISSION

MARCH 27, 2024

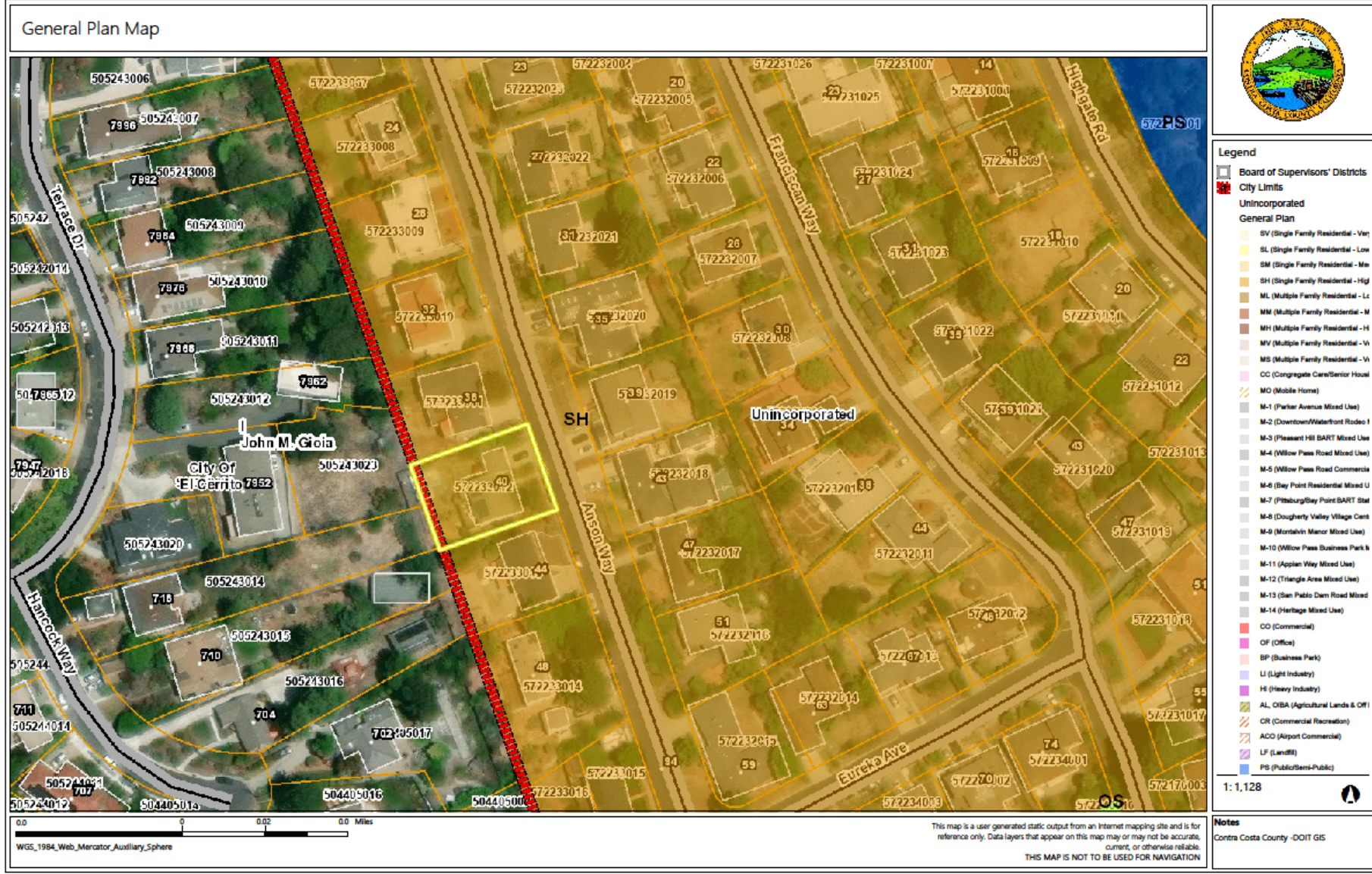
Background

- ▶ A public hearing request in response to Kensington Design Review CDKR23-00010 was received by CDD staff on June, 7 2023, necessitating the submittal of Development Plan CDDP23-03024 for the proposed addition.

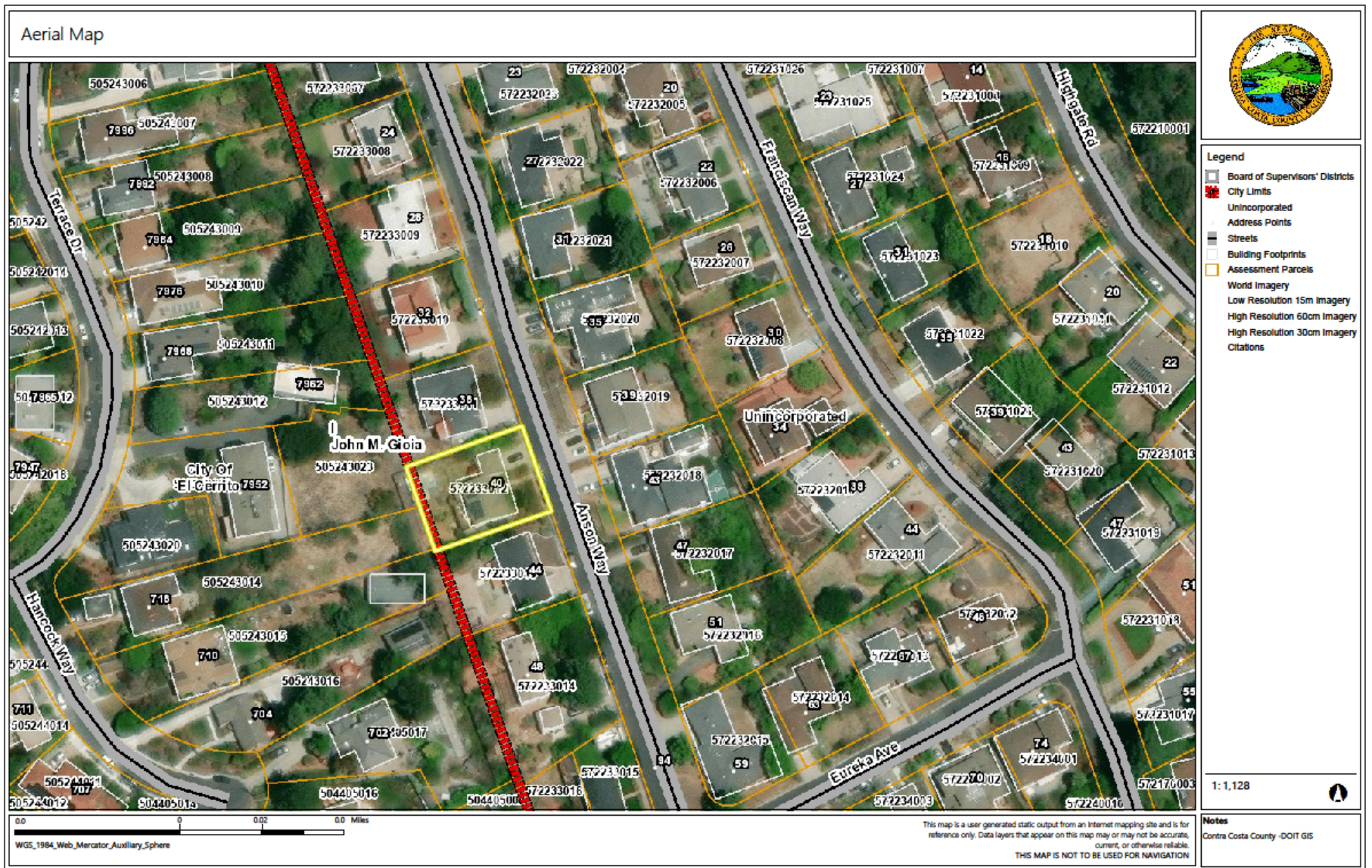
Zoning Map



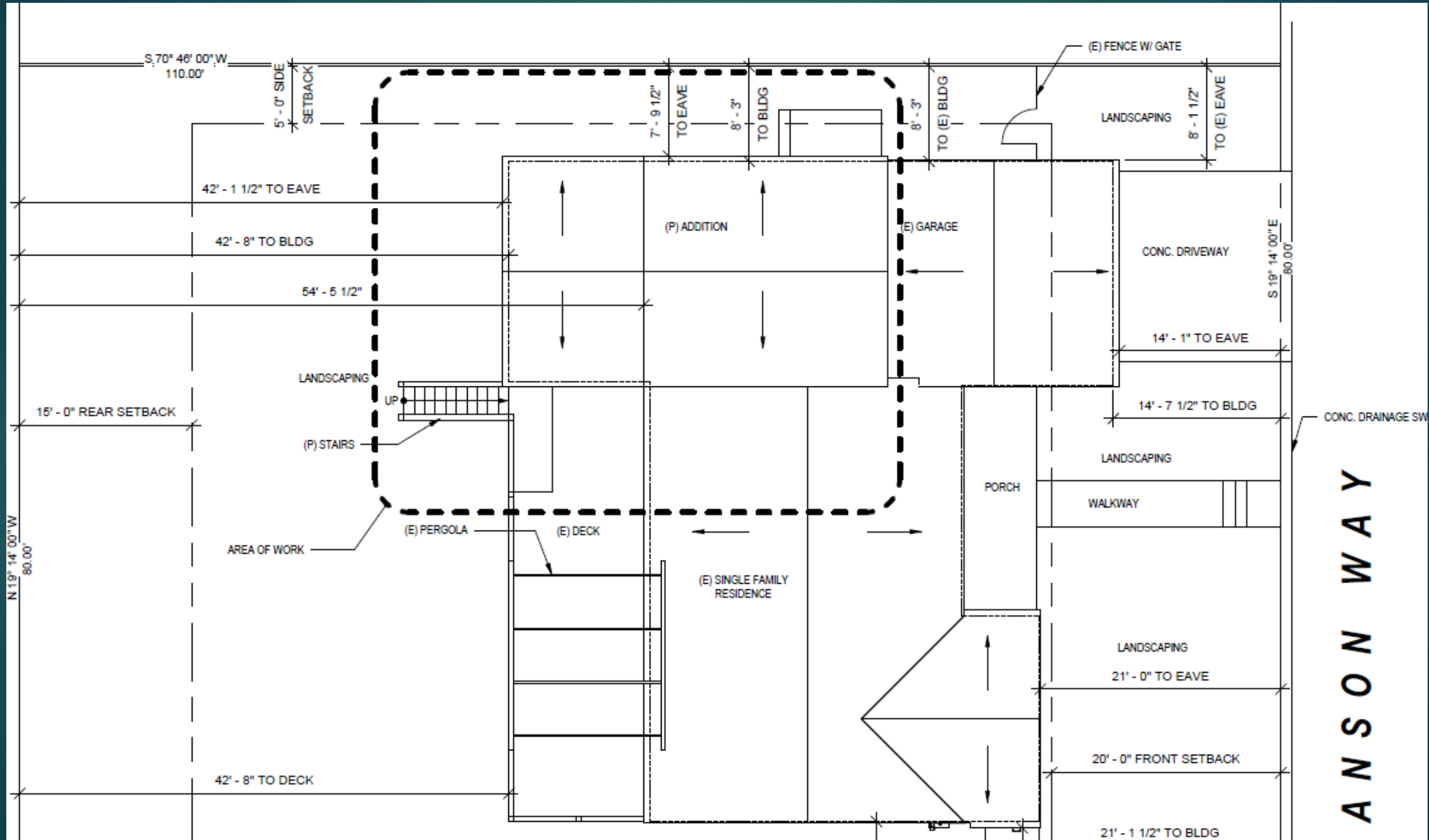
General Plan Map



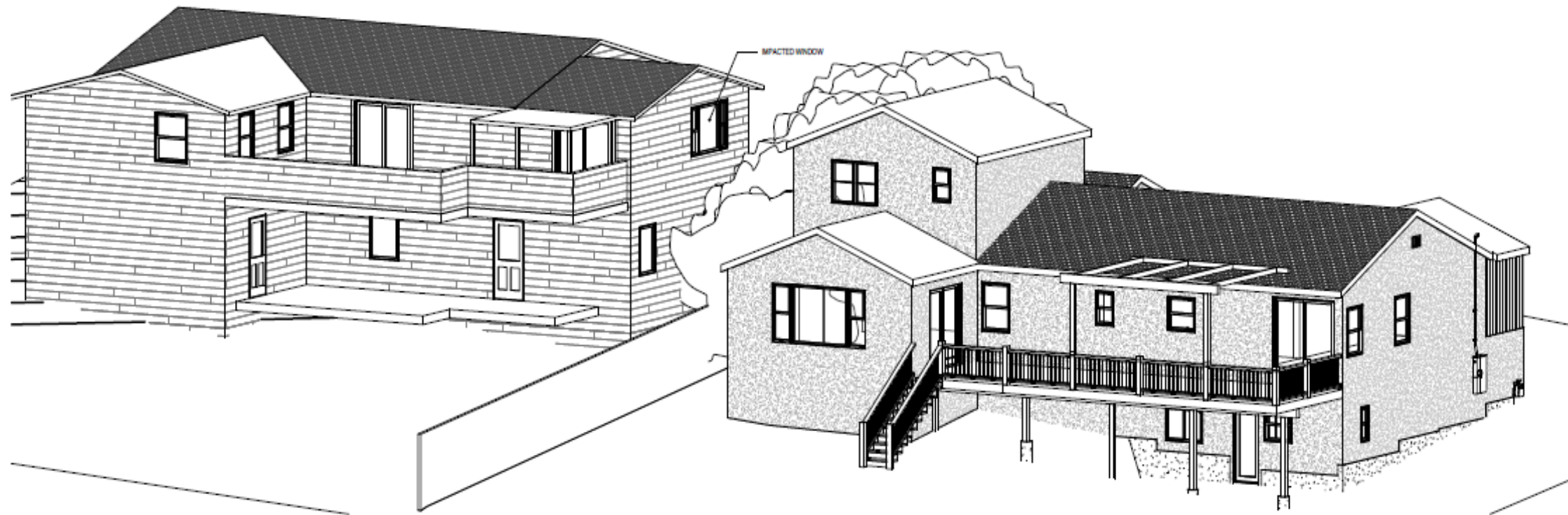
Aerial Map



Proposed Two-Story Addition



Proposed Two-Story Addition



Zoning Administrator's Decision

- ▶ On February 5, 2024, the County Zoning Administrator approved the project, finding the addition to be in compliance with Kensington Combining District Ordinance, and all applicable development standards for the R-6 single-family residential zoning district.
- ▶ On February 14, 2024, CDD staff received a formal appeal from Shona Armstrong on behalf of neighboring property owner Kris McClain.

Armstrong Appeal

- ▶ The project violates general plan policies protecting views and solar access due to unnecessary building bulk.
- ▶ The project exceeds height limitations codified in County Ordinances.
- ▶ The project does not meet findings required under Kensington Ordinances for approval of the proposed addition.
- ▶ The project adversely affects the neighbor's property value.
- ▶ The project does not adequately consider the interests of the appellant.

View Impact

10



View Impact

11



View Impact

12



View Impact

13



Solar Access Impact (Summer Solstice)

www.suncalc.org

Computation path of the sun for:
40 Anson Way, Berkeley, CA, 94707, USA
21 Jun. 2024 13:00 UTC-7 LIVE

here Partial solar eclipse: 08.04.2024 | 34.0% more

Solar data for the selected location

Dawn:	05:15:48
Sunrise:	05:46:53
Culmination:	13:11:09
Sunset:	20:35:24
Dusk:	21:06:29
Daylight duration:	14h48m31s
Distance [km]:	152,035,549
Altitude:	75.33°
Azimuth:	169.85°
Shadow length [m]:	1.91
at an object level [m]:	<input type="text" value="7.3"/>

Geodata for the selected location

Height:	159m	<input type="button" value="Set Lat/Lon"/>
Lat:	N 37°54'44.9"	37.91247°
Lng:	W 122°17'17.11"	-122.28809°
UTM:	10S 562579 4196343	
TZ:	America/Los_Angeles DST PDT	

More solar data & Photovoltaic

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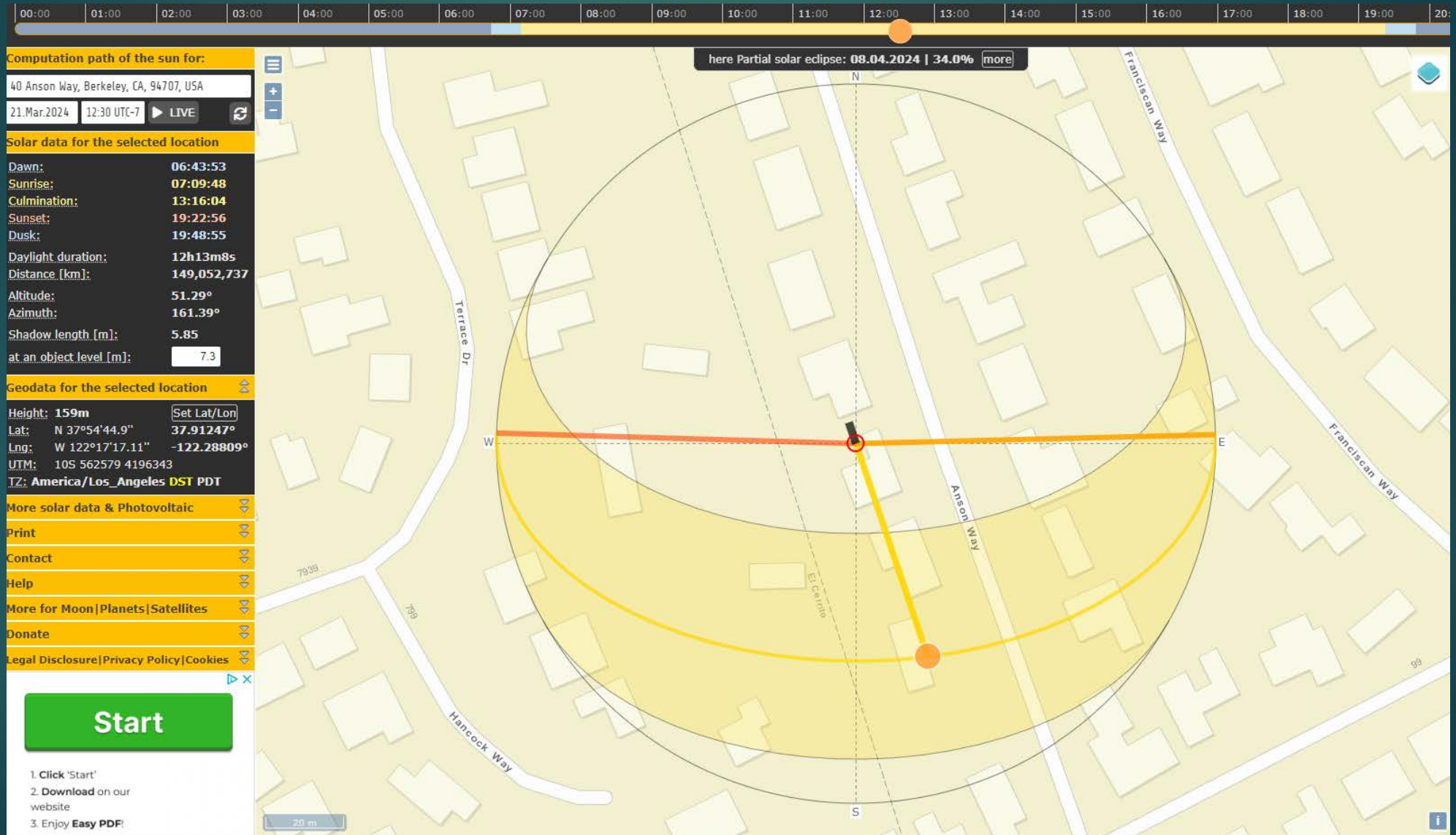
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1. Click 'Start'
2. Download on our website

Solar Access Impact (Equinox)

www.suncalc.org

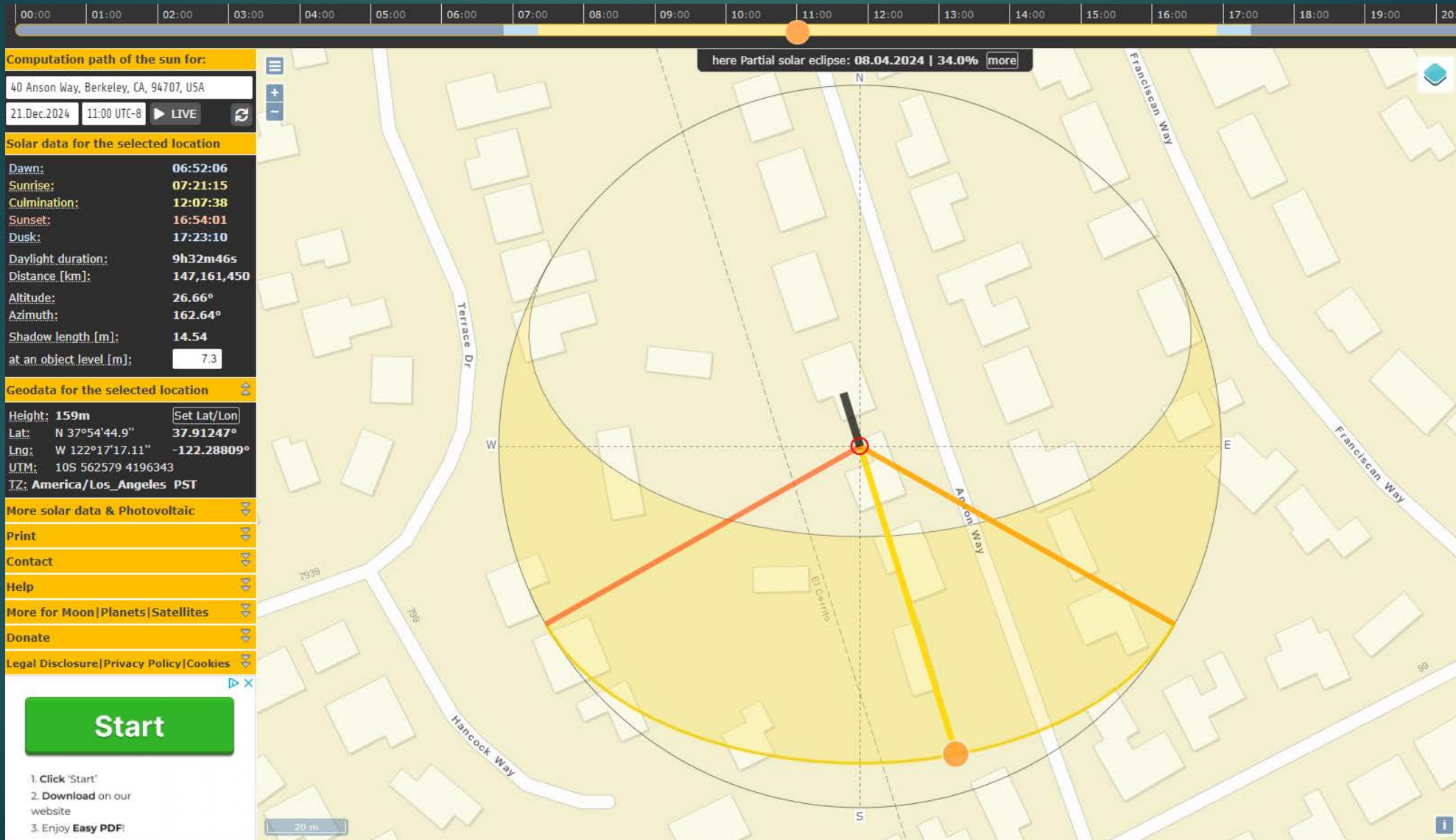
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Solar Access Impact (Winter Solstice)

www.suncalc.org

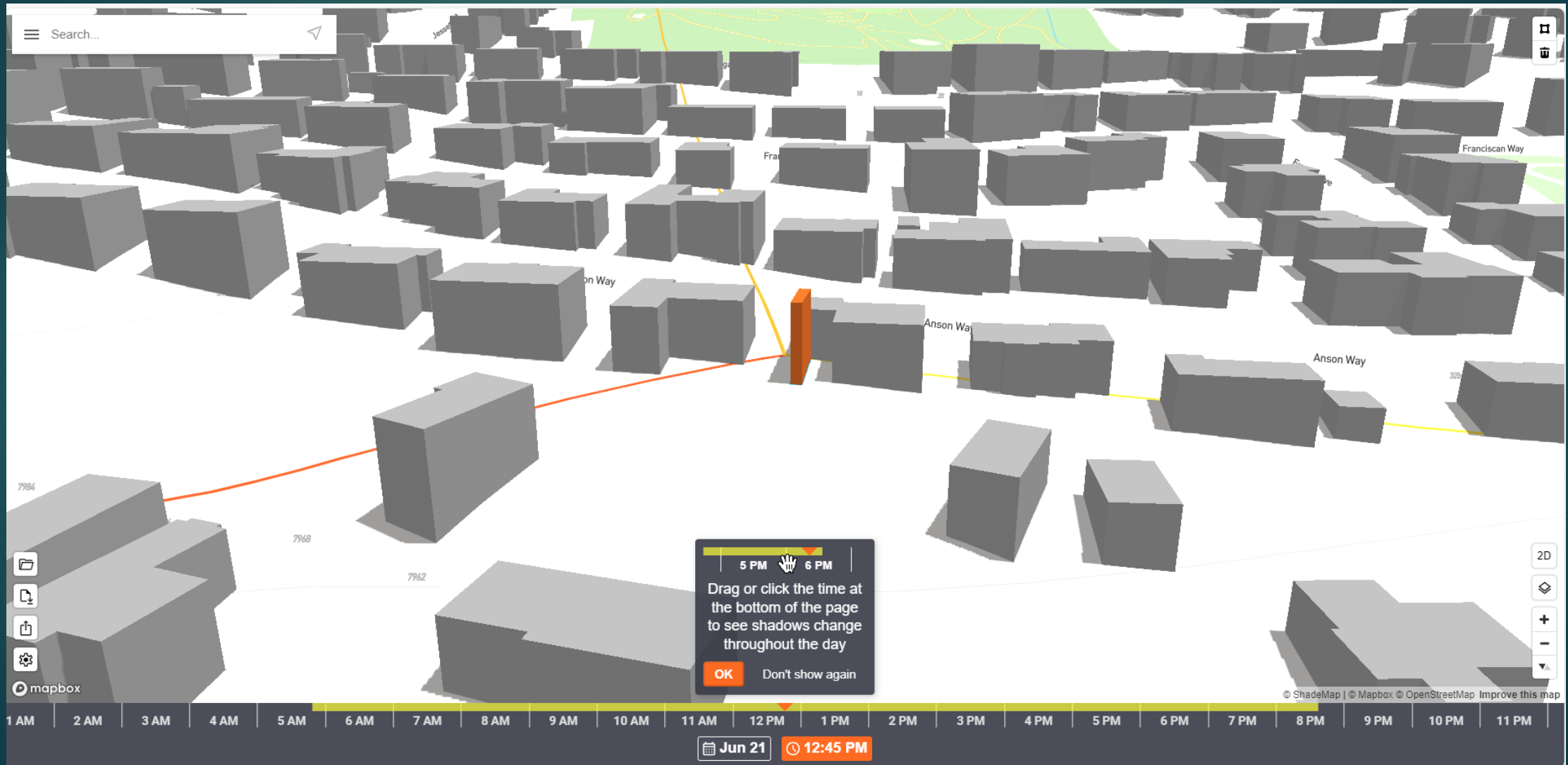
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Solar Access Impact (Summer Solstice)

<https://shademap.app>

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Solar Access Impact (Equinox)

<https://shademap.app>

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Solar Access Impact (Winter Solstice)

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Solar Access Impact (Model Perspective)

<https://shademap.app>

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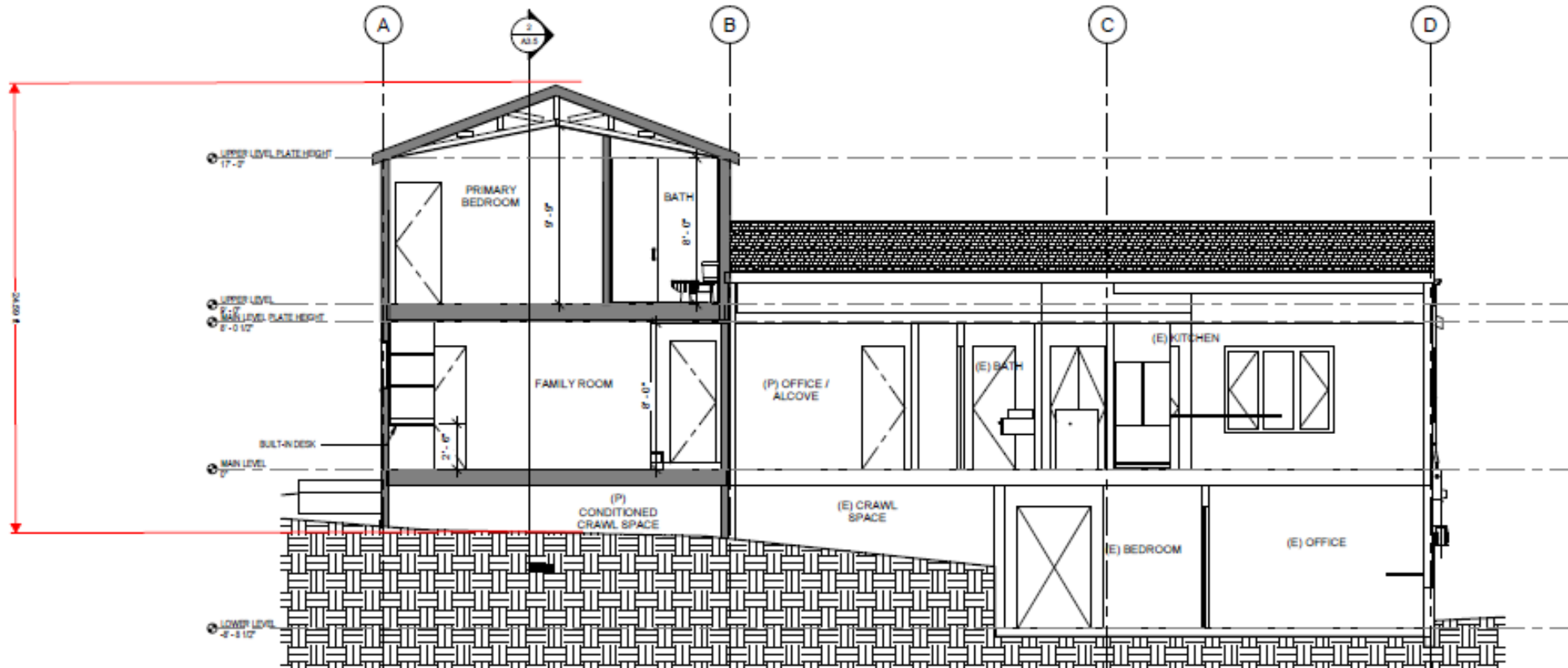


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