



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

FOR BOARD ACTION
FEBRUARY 24, 2022

3233 Ellis Street

Use Permit #ZP2021-0009 to demolish an existing single-family dwelling and construct three detached single-family dwellings.

I. Background

A. Land Use Designations:

- General Plan: MDR – Medium Density Residential
- Zoning: R-2A – Restricted Multiple Family Zoning District

B. Zoning Permits Required:

- Use Permit, under BMC 23C.08.010, to demolish a dwelling unit
- Use Permit, under BMC Section 23D.32.030 to construct three new dwellings
- Administrative Use Permit, under BMC Section 23D.04.020.C to allow architectural projections over the height limit

C. CEQA Recommendation: It is staff's recommendation that the project is categorically exempt pursuant to Section 15303 of the CEQA Guidelines ("New Construction").

D. Parties Involved:

- Applicant Yuan Lin, 6710 Corte Santa Maria, Pleasanton, CA
- Property Owner Rod Hu, 1711 Cottswald Street, Danville, CA

Figure 1: Vicinity Map

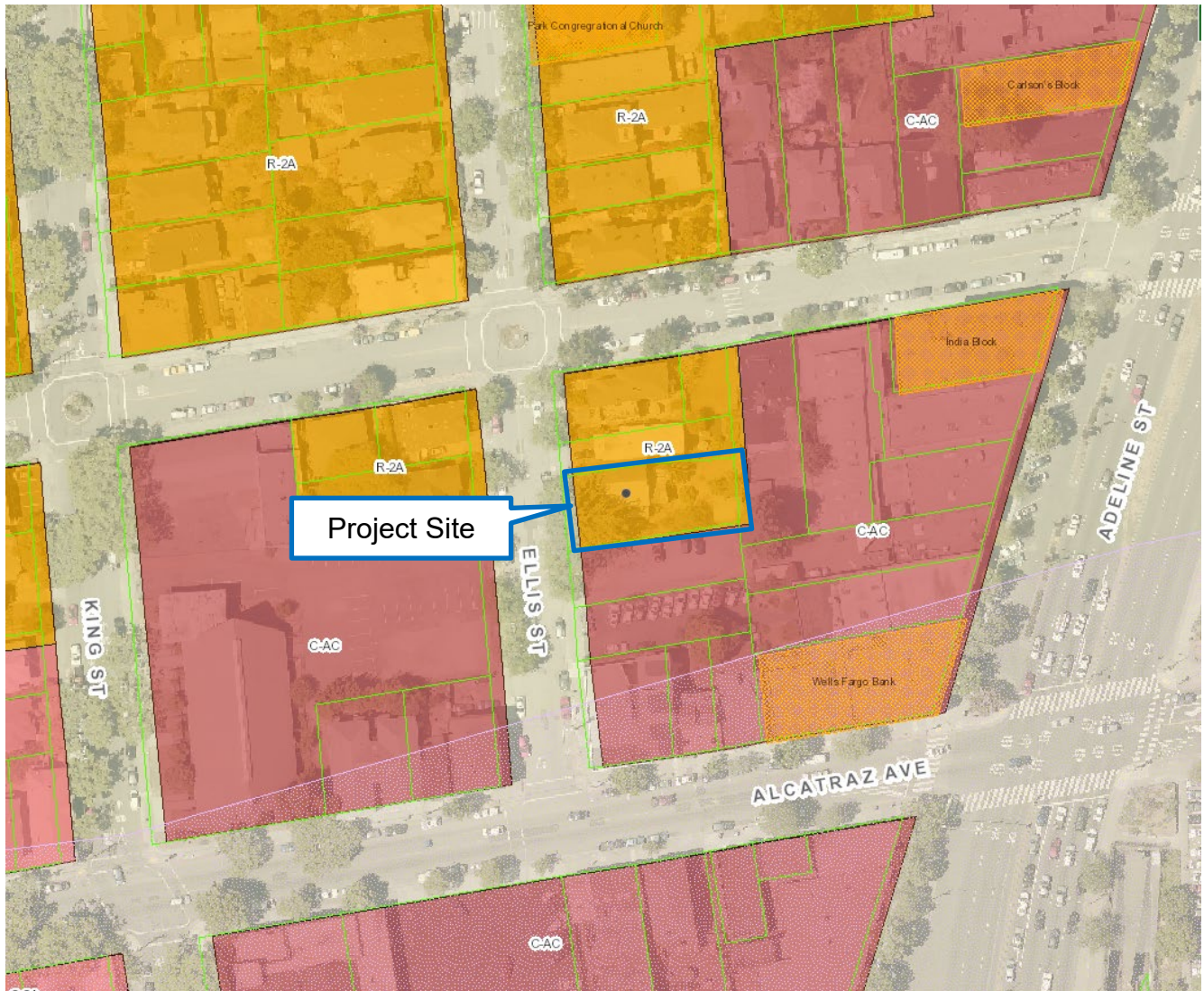


Figure 2: Site Plan

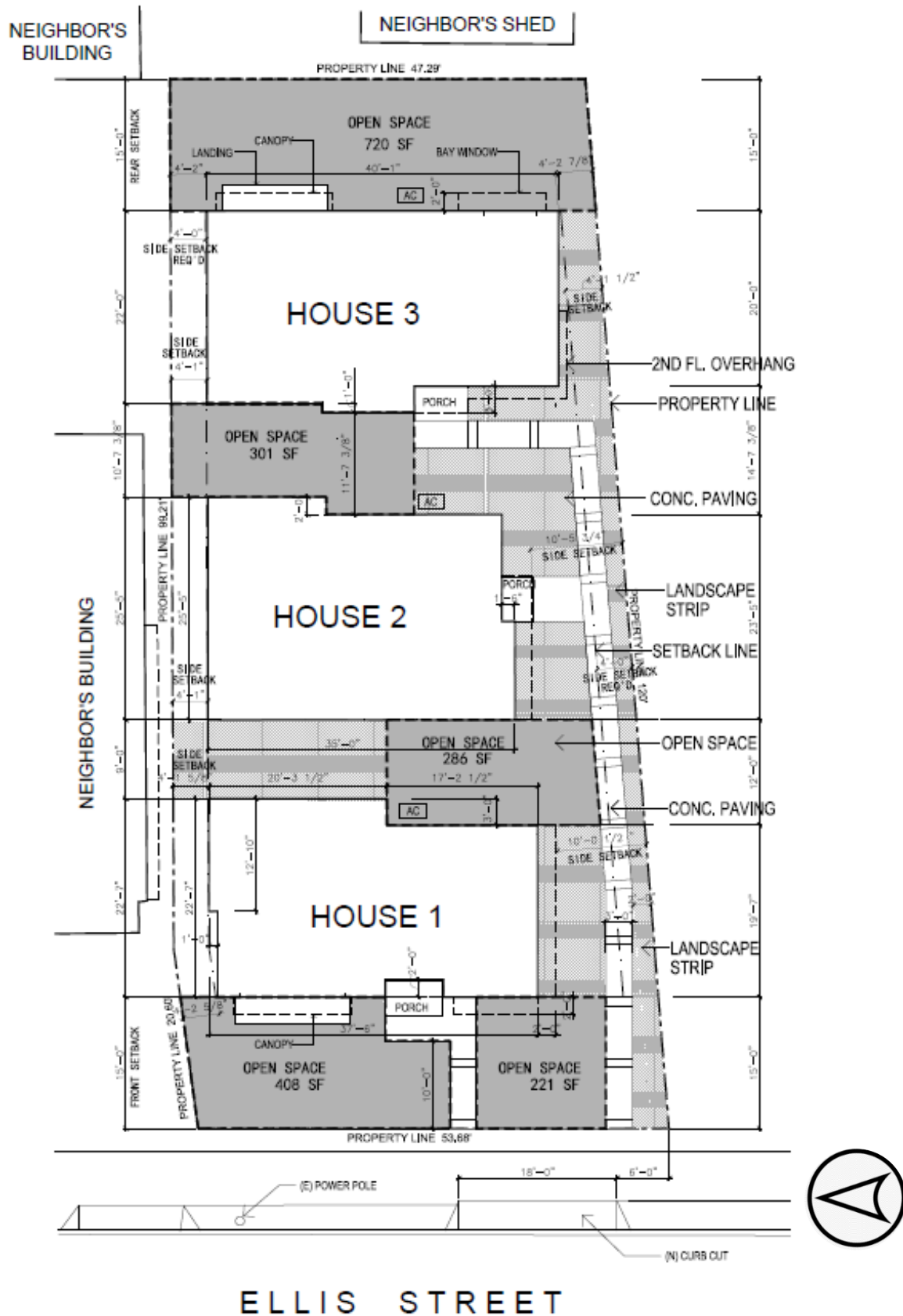


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Single Family Dwelling	R-2A	Medium Density Residential
Surrounding Properties	North	Single-Family Dwelling	R-2A	Medium Density Residential
	South	Parking Lot	C-AC	Neighborhood Commercial
	East	Retail	C-AC	Neighborhood Commercial
	West	Single Family Dwelling	R-2A	Medium Density Residential
Religious Assembly		C-AC	Neighborhood Commercial	

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	This fee applies to projects with net new 7,500 sq. ft. of non-residential floor area. The project involves only new residential floor area, and thus this fee does not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	This fee applies to projects with net new 7,500 sq. ft. of non-residential floor area. The project involves only new residential floor area, and thus this fee does not apply.
Affordable Housing Mitigation Fee for rental housing projects (Per BMC 22.20.065)	No	This fee applies to projects that propose 5 or more rental dwelling units. This project contains 3 units; thus this fee does not apply.
Creeks	No	The project site is not within a creek buffer zone.
Density Bonus	No	The applicant has not applied for a State Density Bonus.
Inclusionary Housing Ordinance (BMC 23C.12)	No	This fee applies to projects that propose 5 or more ownership dwelling units or to projects on parcels that can accommodate 5 or more dwelling units. The project is proposing 3 units, which is the maximum number of dwelling units supportable on a lot of this size.
Natural Gas Prohibition (Per BMC 12.80.020)	Yes	The project is subject to the natural gas prohibition.
Historic Resources	No	The applicant submitted an Historic Resource Evaluation (Left Coast Architecture, May 21, 2021) that concluded the property and building on site do not have potential historical significance under the criteria of Berkeley's Landmarks Preservation Ordinance.
Housing Accountability Act (Gov't Code Section 65589.5(j))	Yes	The project complies with applicable, objective general plan and zoning standards, and thus section (j) of the Housing Accountability Act applies. See Section V.B of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB330)	Yes	The project is a project that is all residential. See Section III.A of this report for additional discussion on the sections of SB330 that apply to the project.
Oak Trees	No	There are no Oak trees on the property

Rent Controlled Units	No	There are no rent controlled units on the subject site.
Residential Preferred Parking (RPP)	No	The neighborhood surrounding the subject site is not located in an RPP Zone.
Seismic Hazards (SHMA)	No	This site is not located within a mapped Liquefaction or Landslide area.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites), however it is located within the City's Environmental Management Area. Standard Toxics Conditions of Approval would be attached to the permit.
Transit	Yes	The site is located mid-block on Ellis Street, one block west of Adeline Street. Adeline St. is served by AC Transit lines 12 and F, and there are bus stops one block away to the east. The site is also located approximately three blocks east of Sacramento Street, which is served by AC Transit line 88. The site is also located one block to the east of King Street, which is a Bike Boulevard.

Table 3: Project Chronology

Date	Action
January 1, 2021	Application submitted
November 8, 2021	Application deemed complete
January 13, 2022	Public hearing notices mailed/posted
January 27, 2022	ZAB hearing

Table 4: Development Standards

Standard		Existing	Proposed Total	Permitted/ Required
BMC Sections 23D.36.070-080				
Lot Area (sq. ft.)		6,176	No Change	5,000 min.
Gross Floor Area (sq. ft.)		1,876	Unit 1: 1,495 sq.ft. Unit 2: 1,635 sq.ft. Unit 3: 1,647 sq.ft Total: 4,777	n/a
Dwelling Units	Total	1	3	3 max.
Building Height	Average (ft.-in.)	20'	27'-6"	28' max.
	Maximum (ft.-in.)	n/a	n/a	n/a max.
	Stories	1.5	2	3 max.
Building Setbacks (ft.-in.)	Front	15'	15'	15' min.
	Rear	51'-3"	15'	15' min.
	Left Side	0'	4'-1"	4' min.
	Right Side	14'-8"	4'-1"	4' min.

Building Separation	n/a	Units 1 and 2: 9' (1 st story); 12' (2 nd story) Units 2 and 3: 10'-7" (1 st story); 12'-7" (2 nd story)	8' min. for 1 st story 12' min. for 2 nd story
Lot Coverage (%)	31	40	40 max.
Usable Open Space (sq. ft.)	3,814	1,660	900 min.
Parking	2	0	0 min.

II. Project Setting

- A. Neighborhood/Area Description:** The project site is in South Berkeley, on the east side of Ellis Street between Harmon Street and Alcatraz Avenue. The neighborhood consists predominantly of one- and two-story residential buildings, a religious institution, and commercial buildings. This portion of the R-2A District provides a transition between the more exclusively residential areas to the northwest and the commercial areas to the southeast in the Adeline Corridor.
- B. Site Conditions:** The project site is generally a flat, 6,176 square foot lot, mostly rectangular in shape, containing a split-level, single-family house constructed in 1886. The existing residential building is non-conforming to the side yard setback, located on the north property line, and contains a detached accessory shed in the rear yard.

III. Project Description

The project would demolish the existing single-family dwelling and detached accessory shed and construct three detached dwelling units. Each building would be two stories, with an average height of 27 feet, six inches, and would provide between 1,495 and 1,647 square feet of floor area. The first floor of each house would contain an open concept living/dining/kitchen area, along with a bedroom and full bathroom. The second floors would contain a family room, three more bedrooms, and two additional bathrooms. A roof deck is proposed on all three houses, accessed via the internal stairwell. This stairway overrun exceeds the 28-foot height limit, but is permitted with an Administrative Use Permit. On-grade usable open space is provided for all three residences, which exceeds the 900 square foot of usable open space required for the project.

IV. Community Discussion

A. Neighbor/Community Concerns: On February 1, 2021, the City mailed postcards to neighboring property owners and occupants within 300 feet to inform the public of the receipt of a Zoning Permit application at this site¹ and posted a project yellow poster. Staff has not received any communications in response to those postcards. On February 10, 2022, the City mailed public hearing notices to property owners and occupants, and to interested neighborhood organizations. The City also posted notices within the neighborhood in three locations. At the time of this writing, staff has received no correspondence regarding this project.

V. Issues and Analysis

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

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

The January 27, 2022 ZAB hearing represents the first public hearing for the proposed project since the project was deemed complete. The City can hold up to four additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.

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

¹ To comply with Public Health Orders related to Covid-19, the standard requirement of installation of a Project Yellow Poster and neighborhood contact and signatures were waived at the time of submission of this application. These standards were re-implemented as of July 2021.

As noted in Table 2: Special Characteristics, the applicant submitted a Historic Resource Evaluation (Left Coast Architecture, May 21, 2021) which concluded that the property and building on-site do not have potential historical significance under the criteria of Berkeley's Landmarks Preservation Ordinance. The Landmarks Preservation Commission Secretary reviewed the report and concurred with the conclusion. Therefore, it was determined the site is not a historic resource. Further, standard conditions of approval have been included in the permit to halt work in case of any unanticipated discovery of archeological, paleontological, or tribal cultural resources.

3. Government Code §65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on November 18, 2021. Should ZAB determine the application is categorically exempt from CEQA at the January 27, 2022 public hearing, the application must be approved or disapproved by March 27, 2022.

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

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

The proposed project complies with applicable, objective general plan and zoning standards, including maximum height, density, and FAR, and minimum setbacks, useable open space, and number of parking spaces. Thus, section (j) of the Housing Accountability Act applies. Staff is not aware of any basis to make the findings listed above.

C. Findings for Use Permit to Demolish a Dwelling Unit: Pursuant to Government Code Section 66300(d)(1), a City "shall not approve a housing development application that will require the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished." This project proposes replacing the one dwelling proposed for demolition with three new dwelling units; therefore, the application complies. Section 66300(d)(2) does not apply because the existing unit is not considered a "protected" unit under SB 330. The findings to approve the demolition of the dwelling unit under BMC Section 23C.08.010.B are therefore satisfied due to compliance with Government Code Section 66300(d)(3). There are no tenants in the existing dwelling unit.

D. Findings for New Dwelling Units in the R-2A District and Neighborhood Compatibility: Pursuant to BMC Section 23D.32.090.A and BMC 23B.32.040.A, the

Zoning Adjustments Board must make a finding of general non-detriment for any Use Permits in the R-2A. This project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City because of the following reasons:

- i. The Project is a medium-density development in proximity to regional transit, shops and amenities that is compatible with the purposes of the zoning district and the surrounding uses and buildings. The project site is located within the Restricted Multiple-Family Residential (R-2A) District. It would create 3 dwelling units consisting of four-bedroom units. The proposal also includes over 1,900 square feet of usable open space. The Project site is well served by public transportation, including multiple bus lines.
- ii. The neighborhood is a mix of residential uses, including apartments and single-family and multi-family homes, as well as commercial businesses. Existing structures in the immediate neighborhood vary in height from one to two stories.
- iii. The project would not create significant impacts on neighboring properties, as it would meet all required setbacks, provide compliant building-to-building separation on-site, and would only cast new shadows on residential buildings to the north during limited hours during certain times of the year.
- iv. In addition, the project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental

Staff believes the proposal is consistent with the overall scale and development pattern of the one- and two-story residences in the neighborhood.

E. Finding to Allow Architectural Projection over Height Limit

Pursuant to BMC Section 23D.04.020.C, the Board may approve an Administrative Use Permit to allow architectural projections to exceed the height limit. The project proposes that each house would contain a stairwell leading to the roof decks. These stairwells would exceed the 28-foot average height limit by approximately 2 feet, with an average height of 30 feet, six inches. These stairwells would represent approximately 10% of the total roof area on each house, less than the 15% maximum area permitted under BMC 23D.04.020.C.

- F. General Non-Detriment:** Pursuant to BMC Section 23D.36.090.A, the Board may approve an application for a Use Permit if the proposed project meets the findings of non-detriment. A discussion of the project's potential impact to sunlight, air or views follows:

Sunlight: Staff believes the project would not result in significant loss of direct sunlight on abutting residences for several reasons. New shadows cast towards the north would add new shading of the bathroom and a bedroom windows of the dwelling units at 3229/31 and to the living room and bathroom windows of 3225 Ellis during the winter months. During the summer months, the new shadow would only impact the back

sides of retail stores on Harmon and Adeline Streets. Because impacts to neighboring residences would be limited to certain hours a day during certain times of the year, staff believes these shading impacts would not be detrimental. (Shadow studies are provided on Sheet A-3.5 and A-3.6 of the plan set.)

Air: Staff believes the proposal would be consistent with the existing development and building-to-building separation pattern – or air – in this R-2A neighborhood because the buildings would meet or exceed minimum setbacks, on-site building-to-building separation, and useable open space requirements.

Views: The proposed project would not result in additional obstruction of significant views in the neighborhood because there are limited significant views as defined in BMC Section 23F.04 (Definitions) available to residences in the area. The area is generally flat, developed with one- to three-story buildings, and includes mature vegetation which provides visual screening.

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

1. Policy LU-3 – Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy H-33 – Regional Housing Needs: Encourage housing production adequate to meet City needs and the City's share of regional housing needs.
3. Policy LU-7 – Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
4. Policy UD-17 – Design Elements: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.
5. Policy UD-24 – Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
6. Policy H-12 – Transit-Oriented New Construction: Encourage construction of new medium- and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.
7. Policy T-16 – Access by Proximity, Action B: Encourage higher density housing and commercial infill development that is consistent with General Plan and zoning standards in areas adjacent to existing public transportation services.

VI. Recommendation

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

Board **APPROVE** Use Permit #ZP2021-0009 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received click and enter date
3. Notice of Public Hearing

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

ATTACHMENT 1

FINDINGS AND CONDITIONS

FEBRUARY 24, 2022

3233 Ellis Street

Use Permit #ZP2021-0009 to demolish an existing single-family dwelling and construct three detached single-family dwellings.

PERMITS REQUIRED

- Use Permit, under BMC 23C.08.010, to demolish a dwelling unit
- Use Permit, under BMC Section 23D.32.030 to construct three new dwellings
- Administrative Use Permit, under BMC Section 23D.04.020.C to allow architectural projections over the height limit

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 of the CEQA Guidelines (“New Construction”).
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

1. As required by Section 23B.32.040.A of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
 - A. The Project is a medium-density development in proximity to regional transit, shops and amenities that is compatible with the purposes of the zoning district and the surrounding uses and buildings. The project site is located within the Restricted Multiple-Family Residential (R-2A) District. It would create 3 dwelling units consisting of four-bedroom units. The proposal also includes over 1,900 square feet of usable open space. The Project site is well served by public transportation, including multiple bus lines.
 - B. The neighborhood is a mix of residential uses, including apartments and single-family and multi-family homes, as well as commercial businesses. Existing structures in the immediate neighborhood vary in height from one to two stories.
 - C. The project would not create significant impacts on neighboring properties, as it would meet all required setbacks, provide compliant building-to-building separation on-site, and would only cast new shadows on residential buildings to the north during limited hours during certain times of the year.

- D. In addition, the project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental

III. FINDINGS FOR DEMOLITION OF A DWELLING UNIT

2. As required by BMC Section 23C.08.010.B of the BMC, the Zoning Adjustments Board finds that the demolition of the single-family dwelling will comply with California Government Code Section §66300(d)(1) because at least as many units will be created as are being demolished. This project will replace the one dwelling proposed for demolition with 3 new dwellings; therefore, the application complies.

IV. REQUIRED ROOFTOP PROJECTION FINDINGS

1. As required by Section 23D.04.020.C of the BMC, the Zoning Adjustments Board finds that the rooftop projections will not be habitable and that the combined floor area of the projections represents less than 15% of the average floor area of the building because:
- A. The stairwell over-run and stair hatch will extend no more than 9'-0" above the roof and will only provide access to the roof and will not provide habitable space; and
 - B. The average floor area of all floors of House 1 is 741 square feet; the average floor area of House 2 is 817 square feet; the average floor area of House 3 is 823 square feet. The total area of all rooftop architectural elements is approximately 77 sq. ft. on each house, or approximately 10%, which is less than the 15% maximum allowed.
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V. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

1. Conditions Shall be Printed on Plans

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

2. Applicant Responsible for Compliance with Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Indemnification Agreement

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

VI. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

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

Prior to Submittal of Any Building Permit:

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

Project Liaison _____
Name Phone #

11. Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior to the applicant's submittal of a building permit application.

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

12. Demolition. Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these conditions.
13. Construction and Demolition Diversion. Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
14. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
- A. Environmental Site Assessments:
- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
 - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
 - 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
- B. Soil and Groundwater Management Plan:
- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
 - 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.

3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

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

Prior to Issuance of Any Building (Construction) Permit

15. Solar Photovoltaic (Solar PV). A solar PV system, on the solar zone specified in Section 110.10 of the 2019 Energy Code, shall be installed (subject to the exceptions in Section 110.10) as specified by the Berkeley Energy Code (BMC Chapter 19.36). Location of the solar PV system shall be noted on the construction plans.
16. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
17. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).
18. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).
19. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

During Construction:

- 20. Construction Hours.** Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
- 21. Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
- 22. Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
- 23. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
 - Storage of building materials, dumpsters, debris anywhere in the public ROW;
 - Provision of exclusive contractor parking on-street; or
 - Significant truck activity.

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

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

- 24. Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified

biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

25. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction). Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:

- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
- B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
- C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
- D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
- E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

26. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

- 27. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).** In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
- 28. Halt Work/Unanticipated Discovery of Tribal Cultural Resources.** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
- 29. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a Building Permit.

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

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

Prior to Final Inspection or Issuance of Occupancy Permit:

36. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
37. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated October 12, 2021, except as modified by conditions of approval.

At All Times:

38. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
39. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
40. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
41. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
42. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
43. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.
-

3233 ELLIS STREET, BERKELEY -- A PROJECT OF 3 NEW HOMES



PROJECT DIRECTORY

Owner : SPACE Y LLC
Address: 1711 Cottswald St.
Danville, CA 94506
Contact Person: Rod Hu, Manager
Email: rxhu55@gmail.com
Phone #: 408 368 5175

Architect: LNX Architecture inc.
Address: 6710 Corte Snata Maria,
Pleasanton, CA 94566
Responsible Person: Yuan Lin, Architect
Phone#: 925 357 5801
Email: yuanlinco@163.com, yuanlin29@yahoo.com

PROJECT INFO.

ADDRESS: 3233 ELLIS ST., BERKELEY, CA

APN: 052153101202
ZONING: R-2A
LOT SIZE: 6176 SF
EXISTING HOUSE AREA(DEMO): 1876 SF
CONSTRUCTION TYPE: TYPE V/B
ALLOWABLE LOT COVERAGE: 40% X 6176 = 2470.4SF

PROPOSED FLOOR AREA: AVE. BUILDING HEIGHT:
HOUSE 1: 1495 SF HOUSE 1: 27'-6" FT
HOUSE 2: 1635 SF HOUSE 2: 27'-8" FT
HOUSE 3: 1647 SF HOUSE 3: 27'-6" FT
TOTAL: 4777 SF

PROPOSED BUILDING FOOTPRINT:
HOUSE 1: 785 SF
HOUSE 2: 825 SF
HOUSE 3: 859 SF
TOTAL: 2469 SF < 2470.4SF

PROPOSED LOT COVERAGE: 40 %

REQ'D SETBACKS: FRONT: 15 FT
REAR: 15 FT
SIDE: 4 FT

INTERIOR SEPARATION: 1ST FL: 8FT, 2ND FL: 12FT

PROPOSED SETBACKS/SEPARATIONS:

	HOUSE 1	HOUSE 2	HOUSE 3
FRONT	15'-0"	9'-0" (TO HOUSE 1)	10'-7 3/8" (TO HOUSE 2)
REAR	9'-0" (TO HOUSE 2)	10'-7 3/8" (TO HOUSE 3)	15'-0"
LEFT SIDE	4'-1 5/8"	4'-1"	4'-1"
RIGHT SIDE	10'-0 1/2"	10'-5 3/4"	4'-1 1/2"

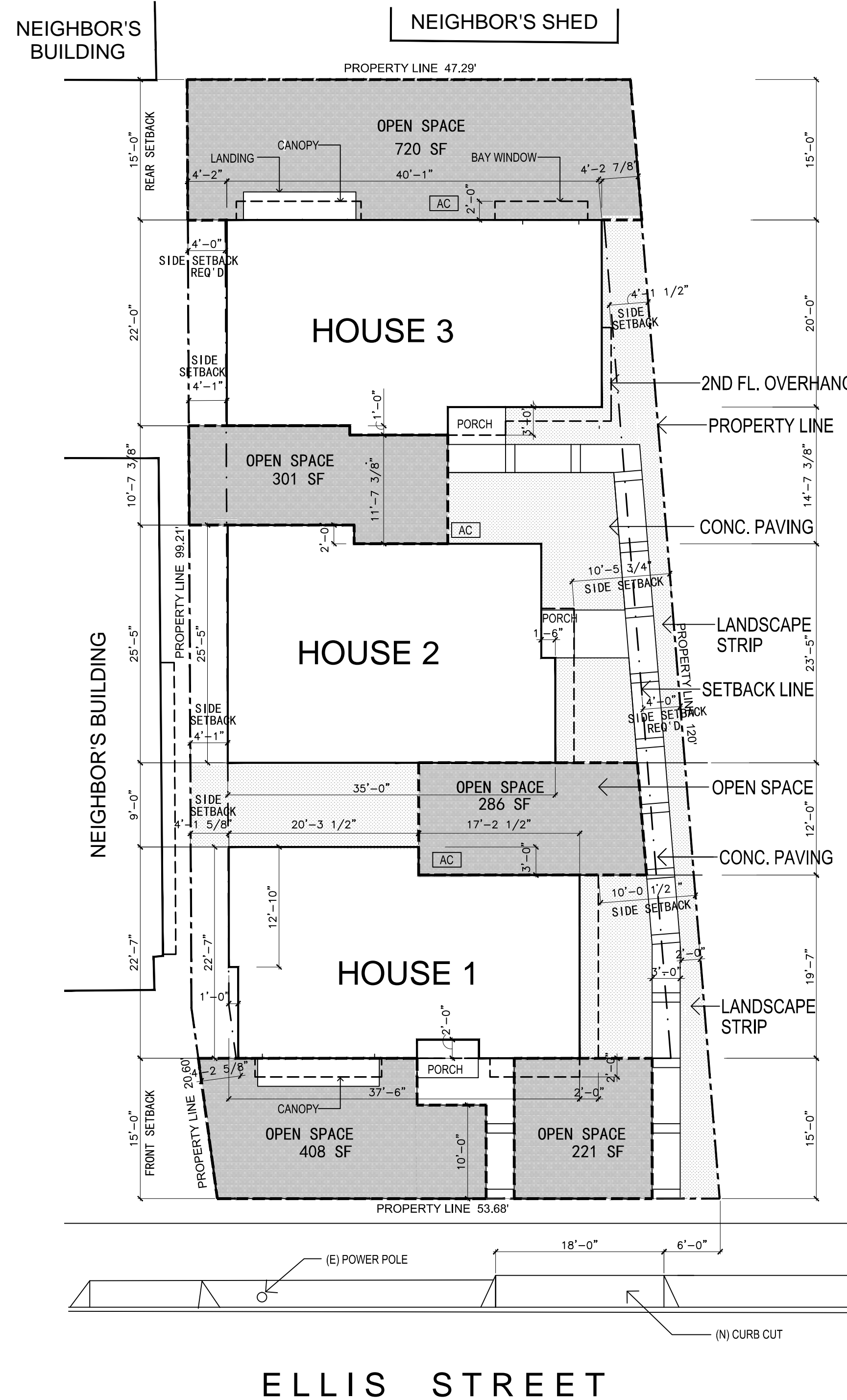
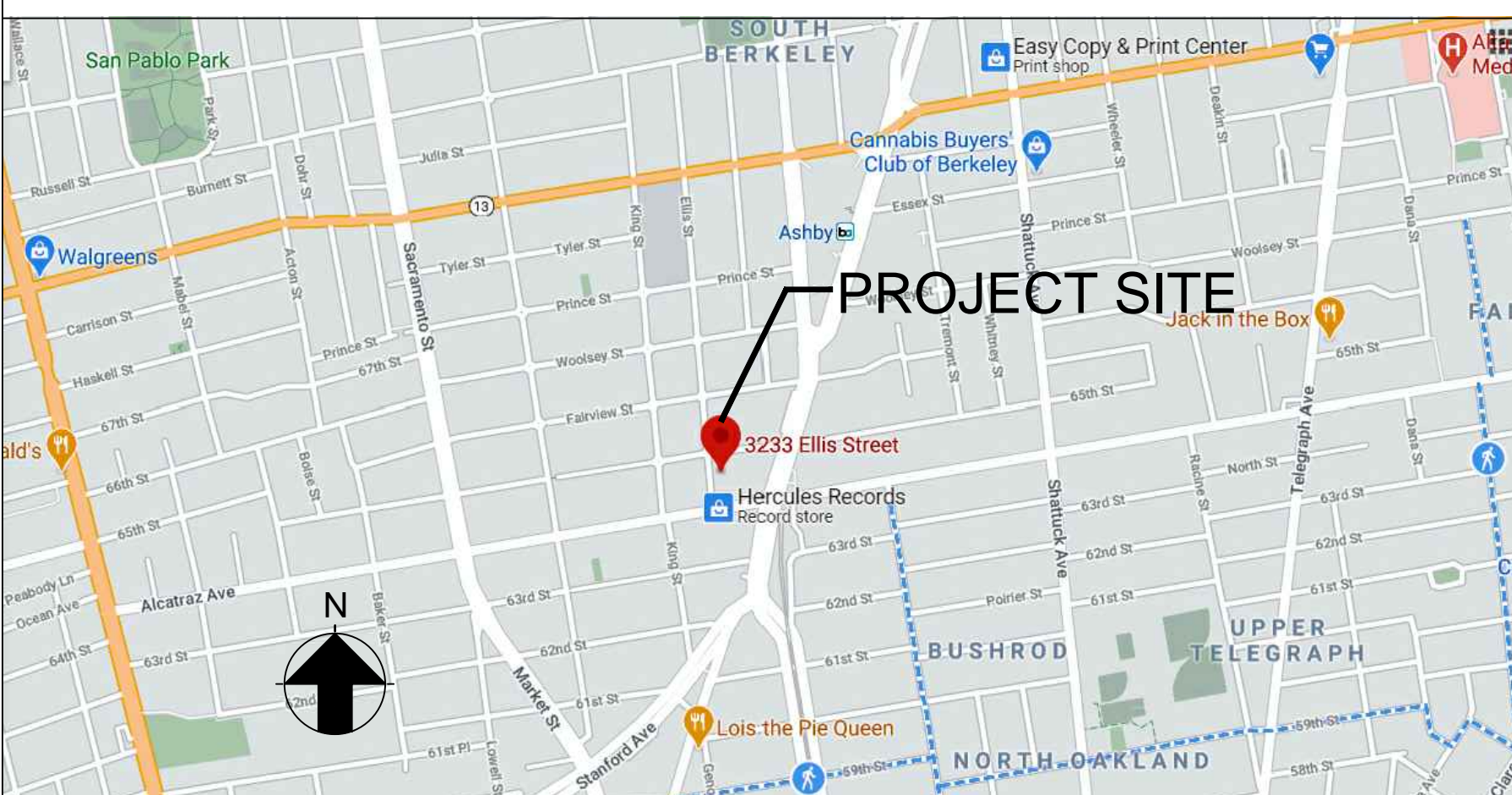
BUILDING AREA TABLE

HOUSE	1ST. FL.	2ND. FL.	COVERED PORCH	TOTAL FLOOR AREA	TOTAL FOOT PRINT
HOUSE 1	772 SF	710 SF	13 SF	1495 SF	785 SF
HOUSE 2	825 SF	810 SF	-	1635 SF	825 SF
HOUSE 3	859 SF	788 SF	-	1647 SF	859 SF

OPEN SPACE CALC.:

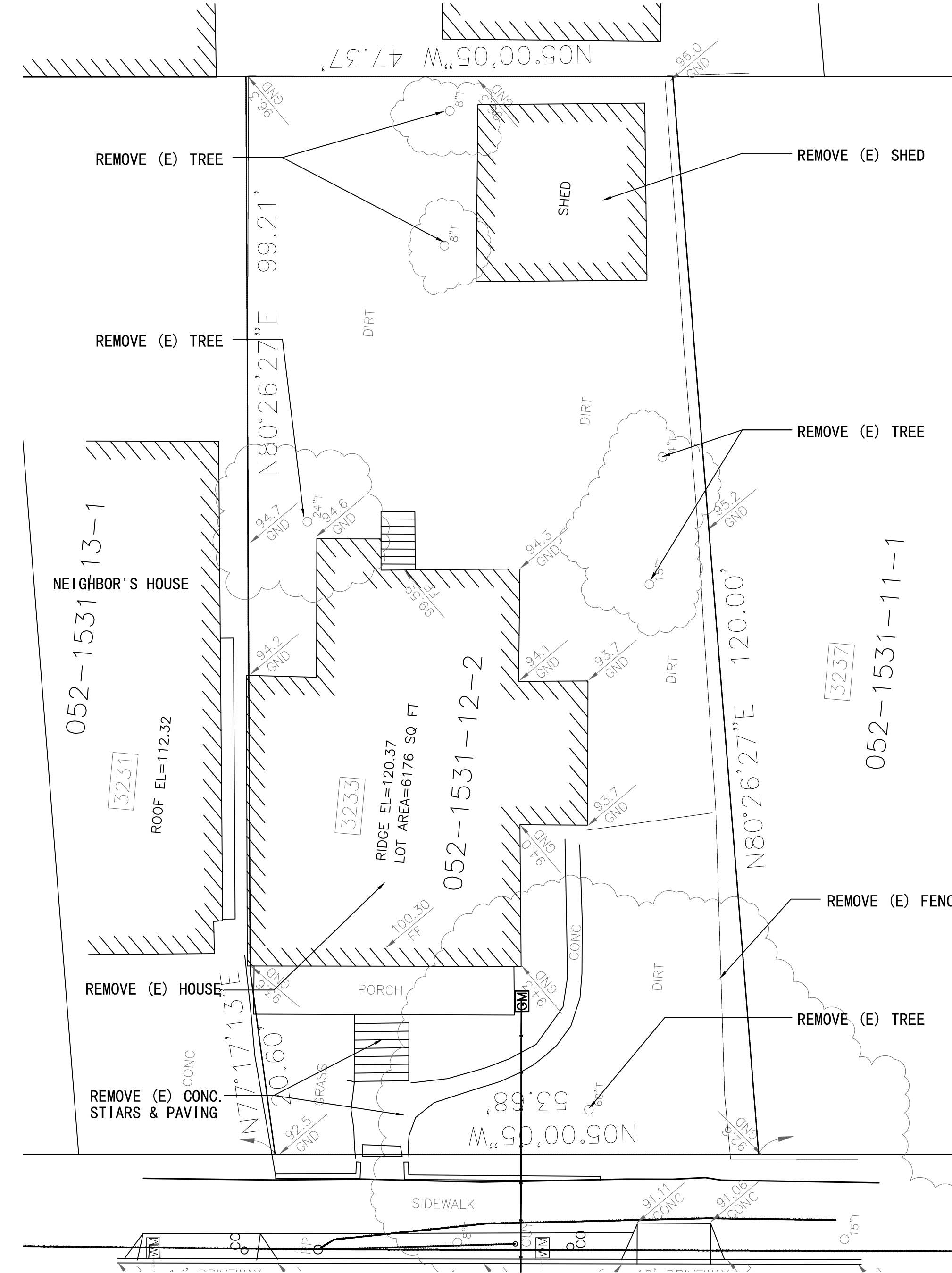
HOUSE	1ST. FL.	2ND. FL.	TOTAL FLOOR AREA	TOTAL FOOT PRINT
HOUSE 1	408 + 221 = 629 SF	222 SF	851 SF	740 SF
HOUSE 2	286 + 301 = 587 SF	270 SF	857 SF	740 SF
HOUSE 3	720 SF	248 SF	968 SF	740 SF
TOTAL USABLE OPEN SPACE:	629 + 587 + 720 = 1936 SF	740 SF		

VICINITY MAP



PROPOSED SITE PLAN & OPEN SPACE PLAN

SCALE: 1"=10'-0"



EXISTING SITE & DEMO PLAN

SCALE: 1"=10'-0"



DRAWING LEGEND

- A-1.1 COVER SHEET AND SITE PLAN
- A-1.2 FLOOR PLANS COMPOSITION
- A-1.3 LANDSCAPE PLAN
- A-1.4 COMPOSITE ELEVATIONS
- A-2.1 HOUSE 1 PLANS
- A-2.2 HOUSE 2 PLANS
- A-2.3 HOUSE 3 PLANS
- A-3.1 HOUSE 1 ELEVATIONS & SECTION
- A-3.2 HOUSE 2 ELEVATIONS & SECTION
- A-3.3 HOUSE 3 ELEVATIONS & SECTION
- A-3.4 STREET SCAPE
- A-3.5 SHADOW STUDIES

WORK SCOPE

- DEMOLISH EXISTING 1876 SF 1-STORY HOUSE AND 369SF STORAGE STRUCTURE.
- BUILD 3 NEW 2-STORY SINGLE FAMILY RESIDENCES OF 1482 SF (4BR./4BATH), 1635 SF (4BR./3BATH), 1647 SF (4BR./4BATH).

CODE COMPLIANCE:

- 2019 CBC,CMC,CPC,CEC, CRC
- 2019 CAL GREEN STANDARDS
- 2019 CALIFORNIA ENERGY CODE
- CITY CODES AND ORDINANCES

ABBREVIATIONS

- | | | | | |
|--------------------------------------|--------------------------------------|--|--------------------------------|---------------------------------|
| &: And | ALT: Alternate, Alteration; Altitude | ALT: Alternate, Alteration; Altitude | INSTL.: Install | VVL.: Vinyl |
| @: At | BR: Bedroom | GAL: Gallon | N: NEW | WD.: Wood |
| ABV: Above | CLG: Ceiling | GC: General Contractor | PNL.: PANEL | WOW.: Window |
| AC: Air Conditioning, Acoustical | CLO.: CLEAN-OUT | GFCI: Ground Fault Circuit Interrupted | S.D.: STRUCTURAL DRAWING | W.P.M.: Water Proofing Membrane |
| ADH: Adhesive | CSMT: CASEMENT | GLZ: Glaze | SH: SINGLE HUNG | WT.: Weight |
| ADJ: Adjust, Adjustable, Adjacent | DTL. DETAIL | GPH: Gallons Per Hour | U.O.N.: Unless Otherwise Noted | YD.: Yard |
| AFF: Above Finished Floor | E: EXISTING | GLV: Gravel | V.C.T.: Vinyl Composition Tile | GYP BD: Gypsum Board |
| AGA: American Gas Association | ELEC.: ELECTRICAL | GYP: Gypsum | V.I.F.: VERIFY IN FIELD | |
| ALT: Alternate, Alteration; Altitude | GA: Gauge, Gage | GYP BD: Gypsum Board | VERT. Vertical | |

REVISIONS

PROJECT NAME

3233 ELLIS ST, BERKELEY, CA
A NEW HOME PROJECT
OWNER CONTACT: JASON TIAN TEL: 925 699 1835




DATE: 06/04/2021
SCALE: AS SHOWN
SHEET NAME

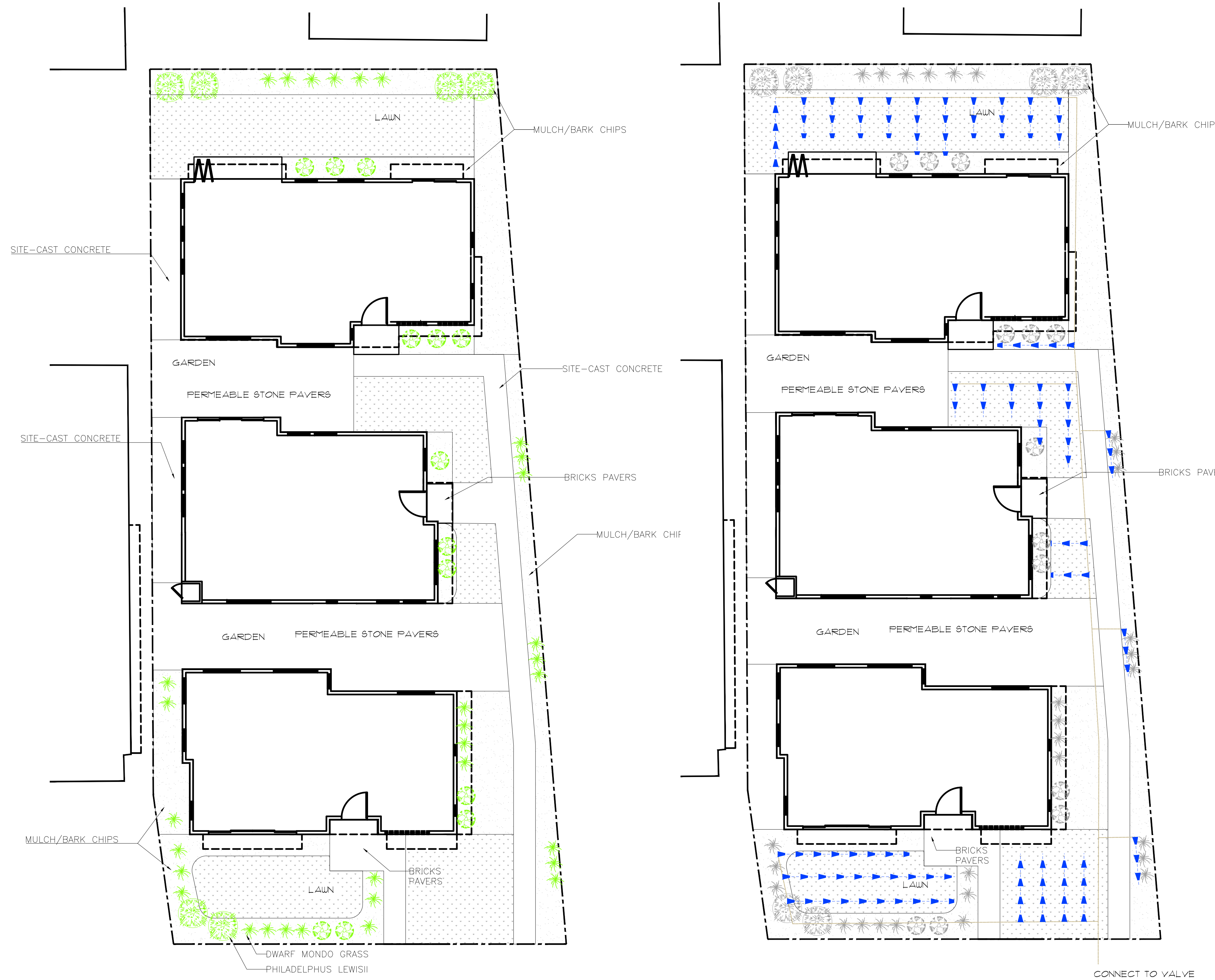
COVER SHEET & SITE PLAN

SHEET NO.

A-1.1

Plants Schedule

SYMBLO	QTY	BOTANICAL NAME	COMMON NAME	HT	WD.
	6	<i>Chamaecyparis obtusa 'Gracilis'</i>	Slender Hinoki Cypress Tree	5'	10'
	13	<i>Philadelphus lewisii</i>	Mock Orange	4'	5'
	25	<i>Ophiopogon japonicus 'Nanus'</i>	Dwarf Mondo Grass	5''	8''



Slender Hinoki Cypress



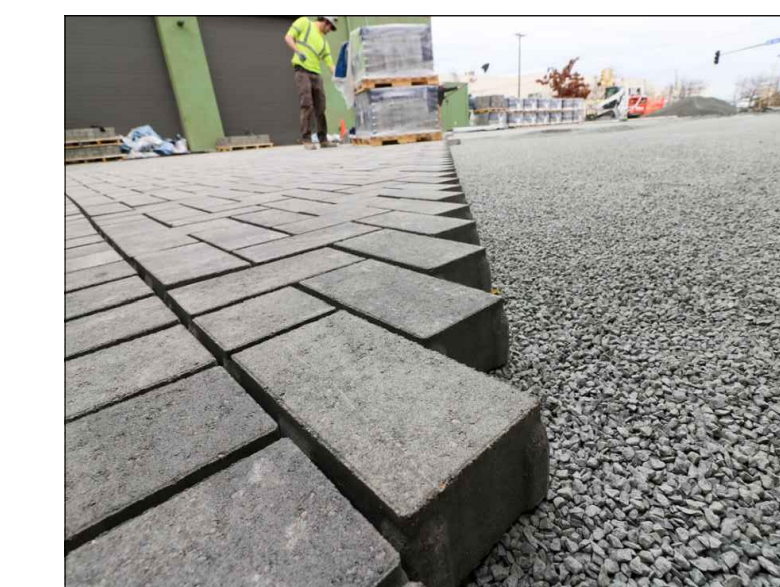
Mock Orange



Dwarf Mondo Grass



Wood chips



Permeable pavers

1 Landscape plan
1/8" = 1'-0"

2 irrigation plan
1/8" = 1'-0"

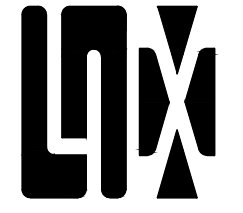
This landscape design plan entails the used of drought tolerant plants with the goal to achieve a low maintenance and drought tolerant residential garden. The well established plants and trees are not required for irrigation and are self sustaining with rainwater.

Drip irrigation is recommenced. Watering is required for the first two year. please see next page for irrigation plan.

Key

 Drip tubing with in-line emitters

 PVC Lateral



LNx
ARCHITECTURE
INC.

6710 CORTE SANTA MARIA
PLEASANTON, CA 94566
TEL: 925 357 5801

REVISIONS

PROJECT NAME

3233 ELLIS ST, BERKELEY, CA
A NEW HOME PROJECT

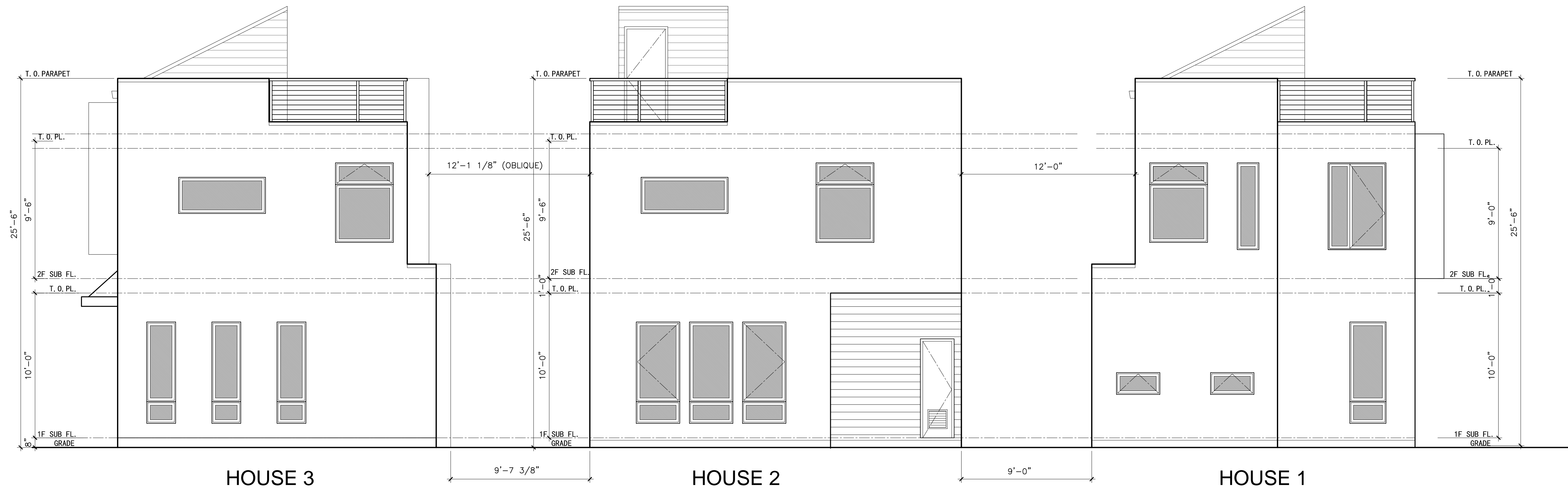
OWNER CONTACT: JASON TIAN TEL: 925 699 1835

DATE: 06/04/2021
SCALE: AS SHOWN
SHEET NAME

COMPOSITE
ELEVATIONS

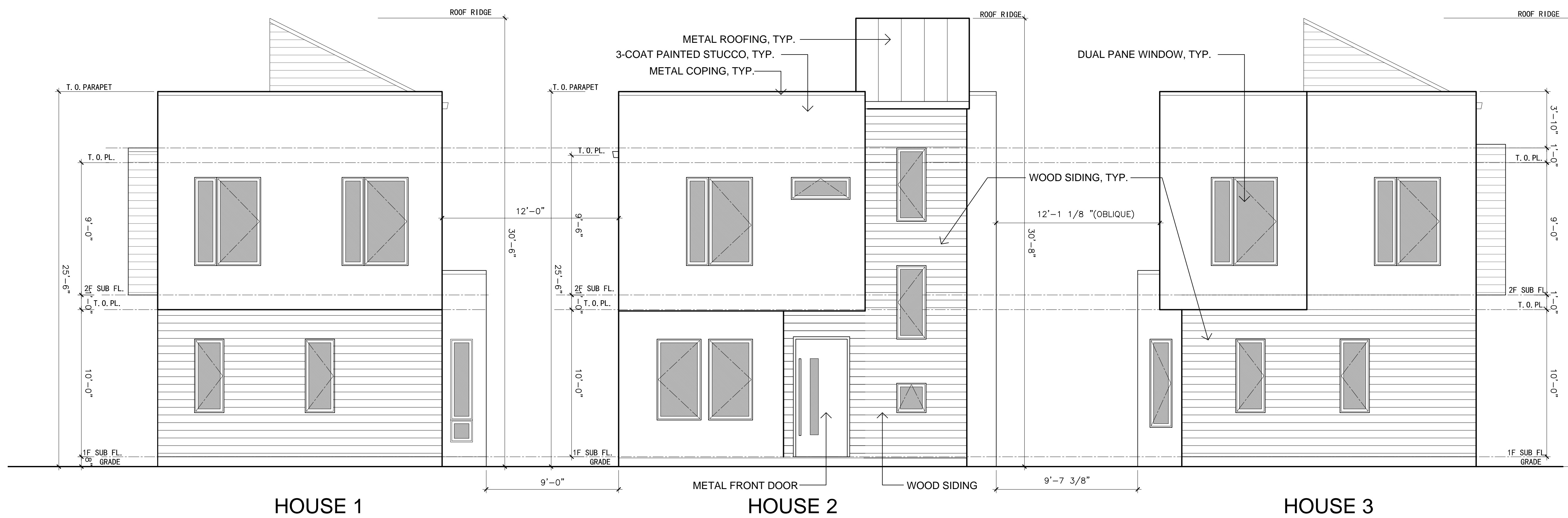
SHEET NO.

A-1.4



COMPOSITE NORTH SIDE ELEVATION

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



COMPOSITE SOUTH SIDE ELEVATION

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

REVISIONS

PROJECT NAME

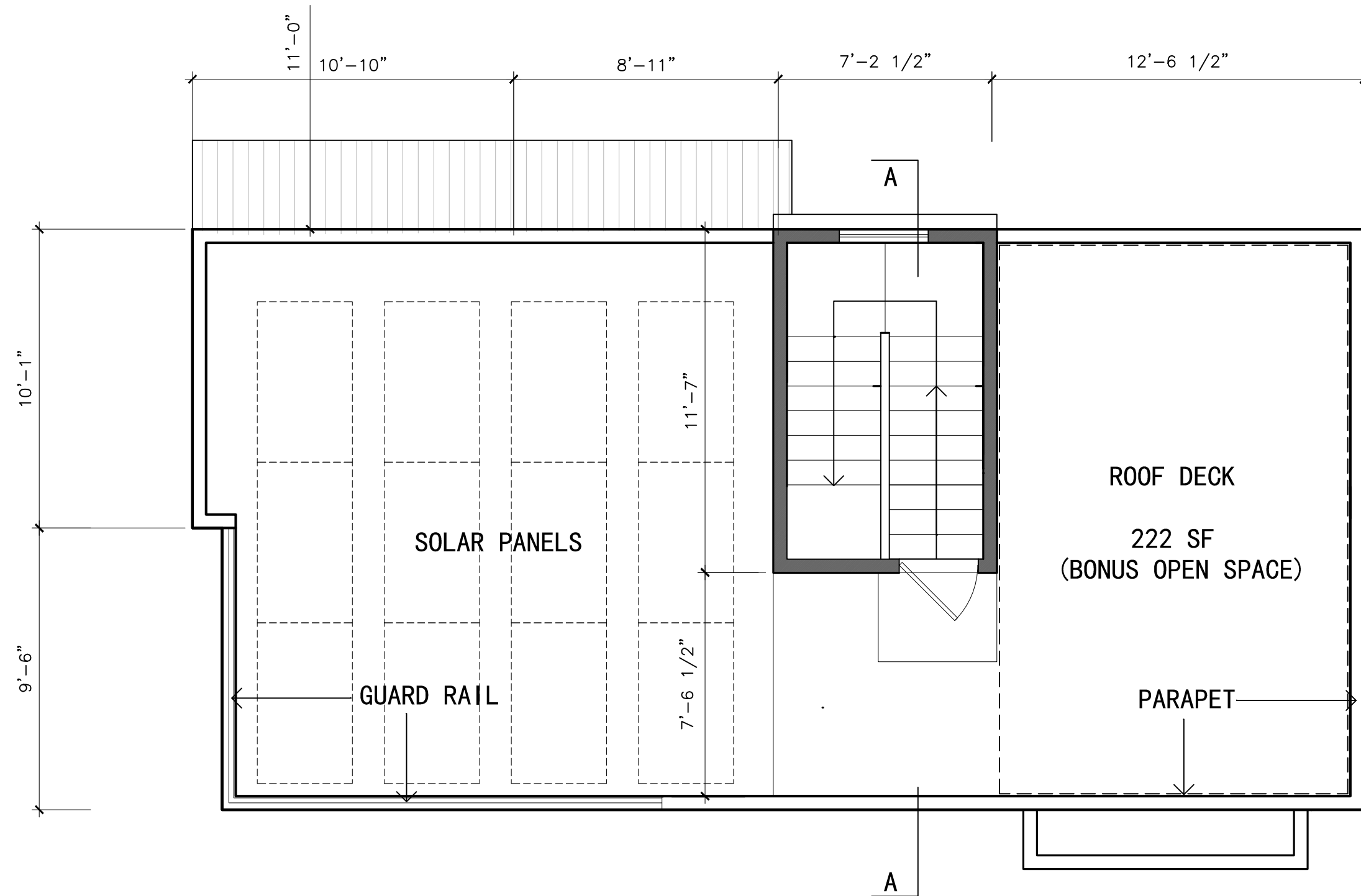
3233 ELLIS ST, BERKELEY, CA
A NEW HOME PROJECT
OWNER CONTACT: JASON TIAN TEL: 925 699 1835

DATE: 06/04/2021
SCALE: AS SHOWN
SHEET NAME

HOUSE 1
FLOOR PLANS

SHEET NO.

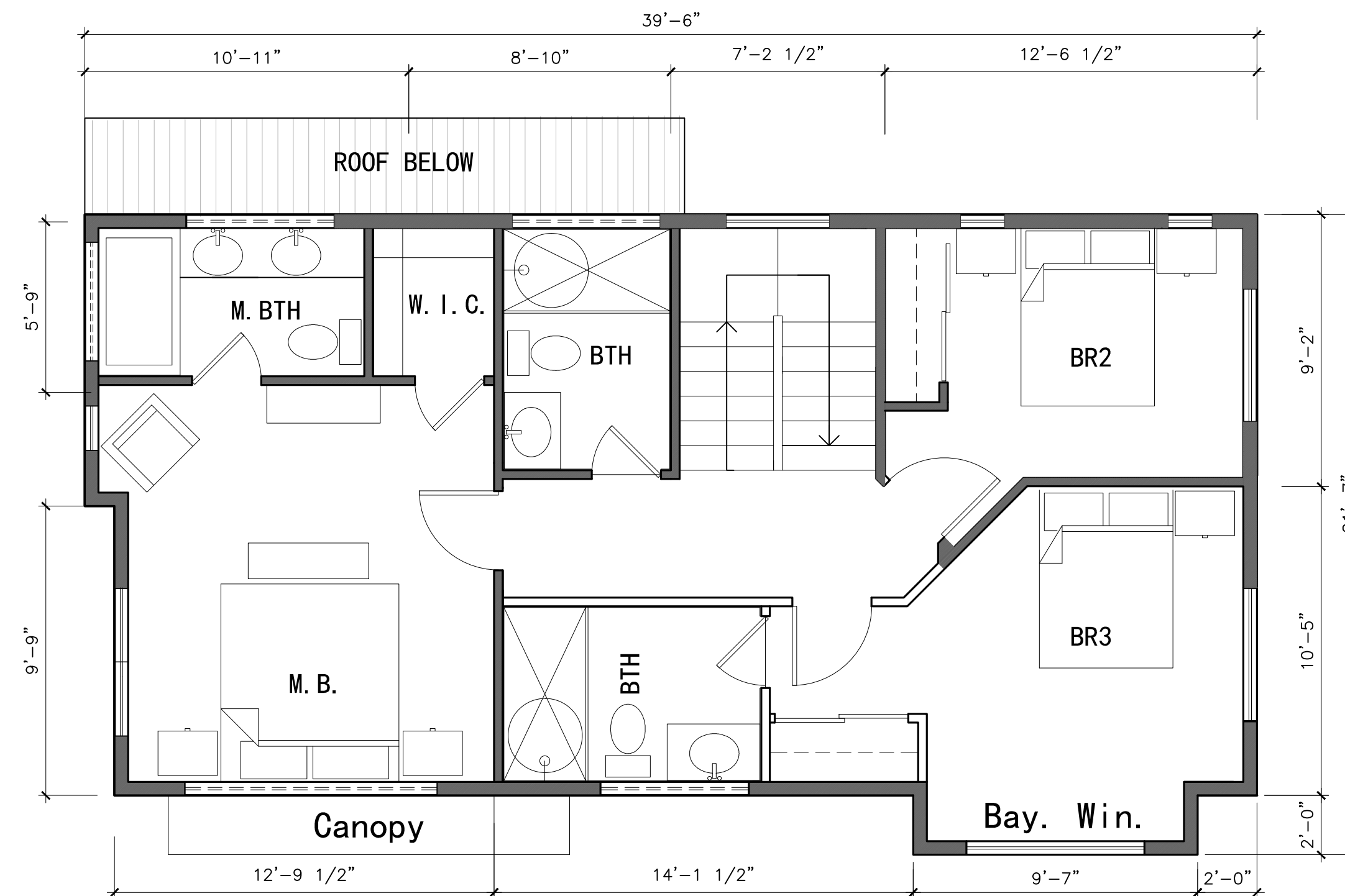
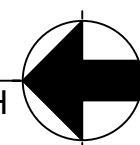
A-2.1



HOUSE 1- ROOF PLAN

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

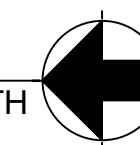
PLAN NORTH



HOUSE 1- 2ND FLOOR PLAN

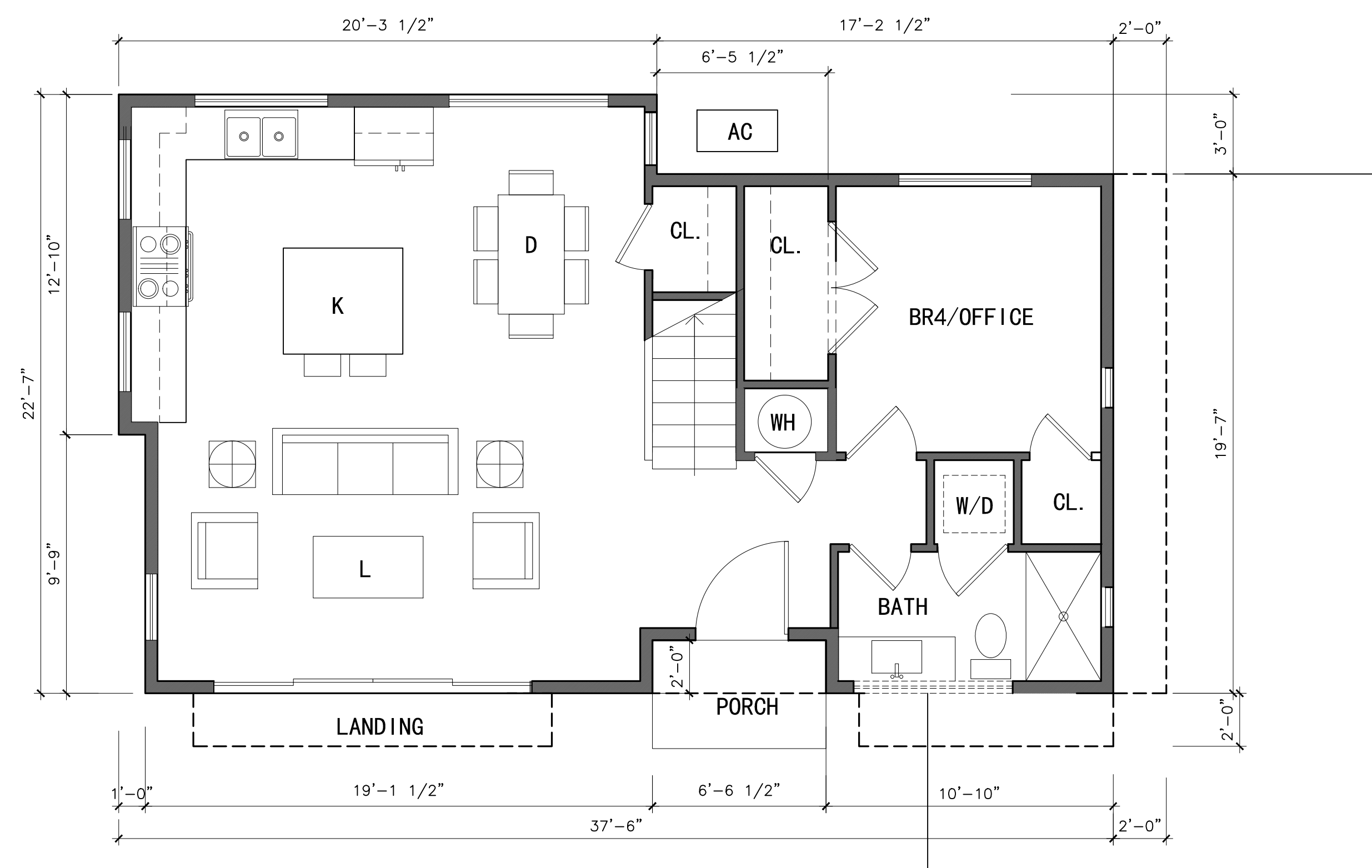
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PLAN NORTH



BUILDING AREA TABLE

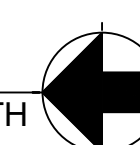
HOUSE 1		
1ST. FL.	772 SF	
2ND. FL.	710 SF	
COVERED PORCH	13 SF	
TOTAL LIVING AREA	1482 SF	
TOTAL FOOT PRINT	785 SF	



HOUSE 1- 1ST FLOOR PLAN

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

PLAN NORTH





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ARCHITECTURE
INC.

6710 CORTE SANTA MARIA
PLEASANTON, CA 94566
TEL: 925 357 5801

REVISIONS

PROJECT NAME

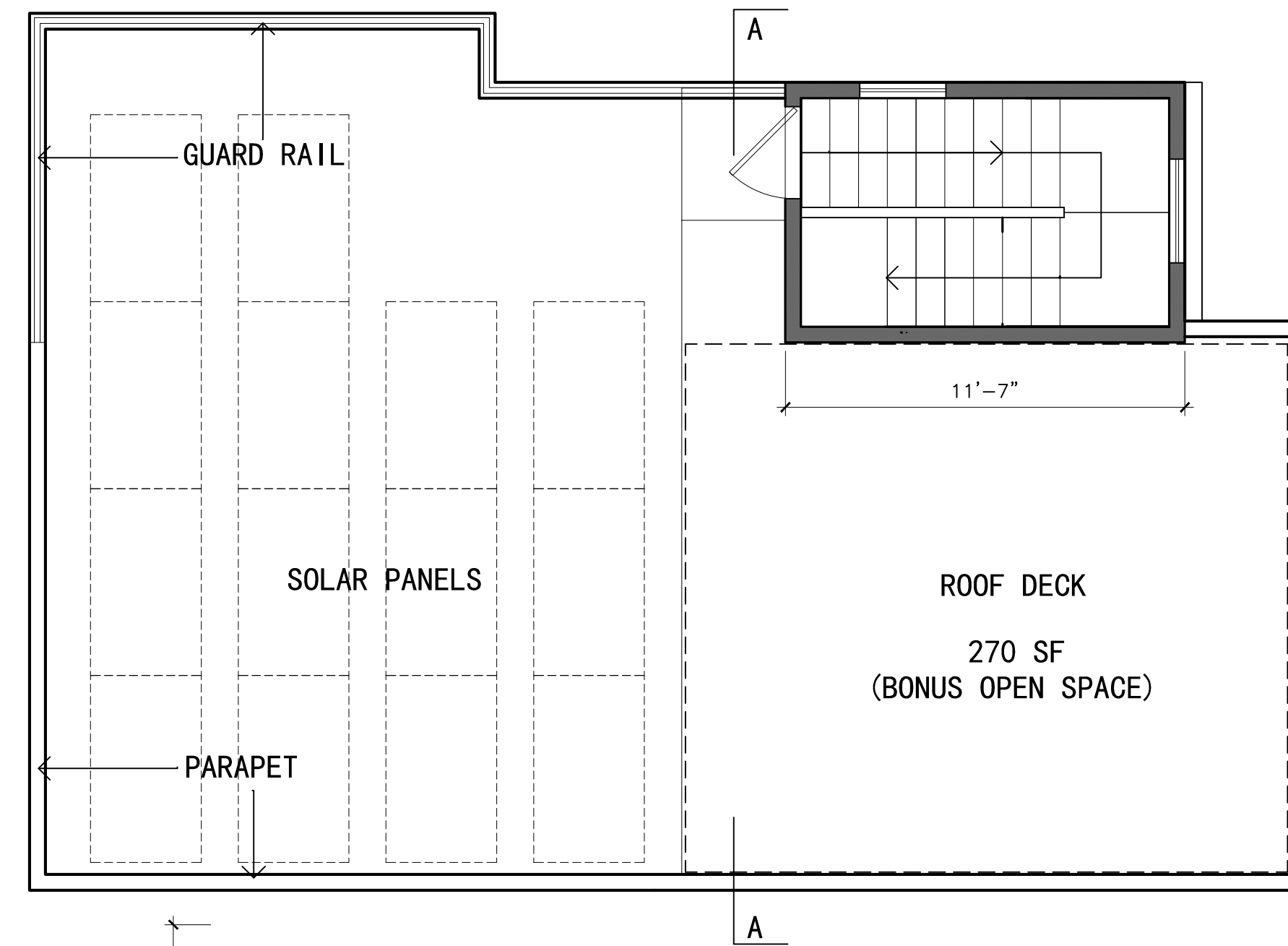
3233 ELLIS ST, BERKELEY, CA
A NEW HOME PROJECT
OWNER CONTACT: JASON TIAN TEL: 925 699 1835

DATE: 06/04/2021
SCALE: AS SHOWN
SHEET NAME

HOUSE 2
FLOOR PLANS

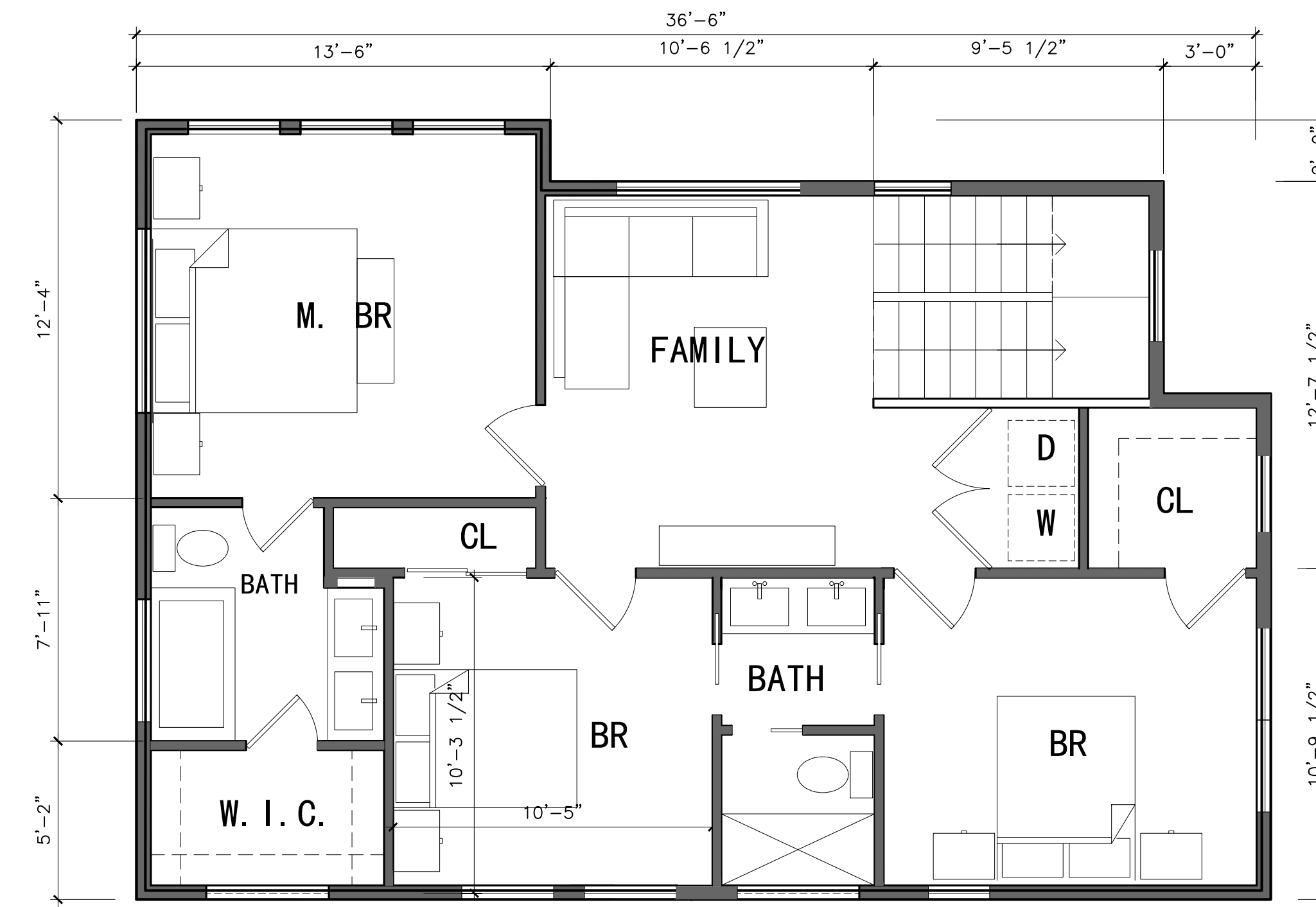
SHEET NO.

A-2.2



HOUSE 2- ROOF PLAN

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



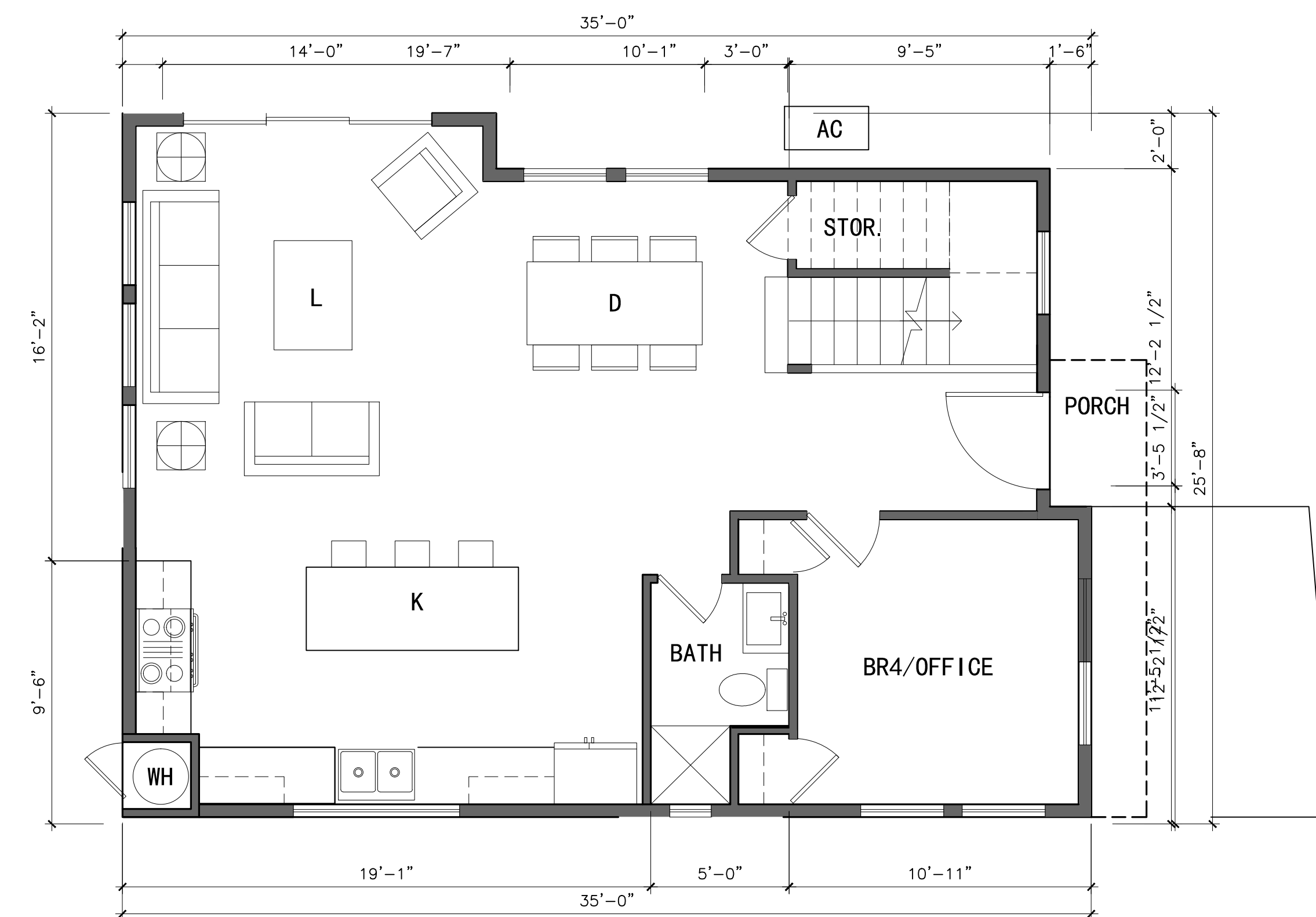
HOUSE 2- 2ND FLOOR PLAN

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



BUILDING AREA TABLE

HOUSE 2		
	1ST. FL.	825 SF
	2ND. FL.	810 SF
	TOTAL LIVING AREA	1635 SF
	TOTAL FOOT PRINT	825 SF



HOUSE 2- 1ST FLOOR PLAN

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





LNK
ARCHITECTURE
INC.

6710 CORTE SANTA MARIA
PLEASANTON, CA 94566
TEL: 925 357 5801

REVISIONS

PROJECT NAME

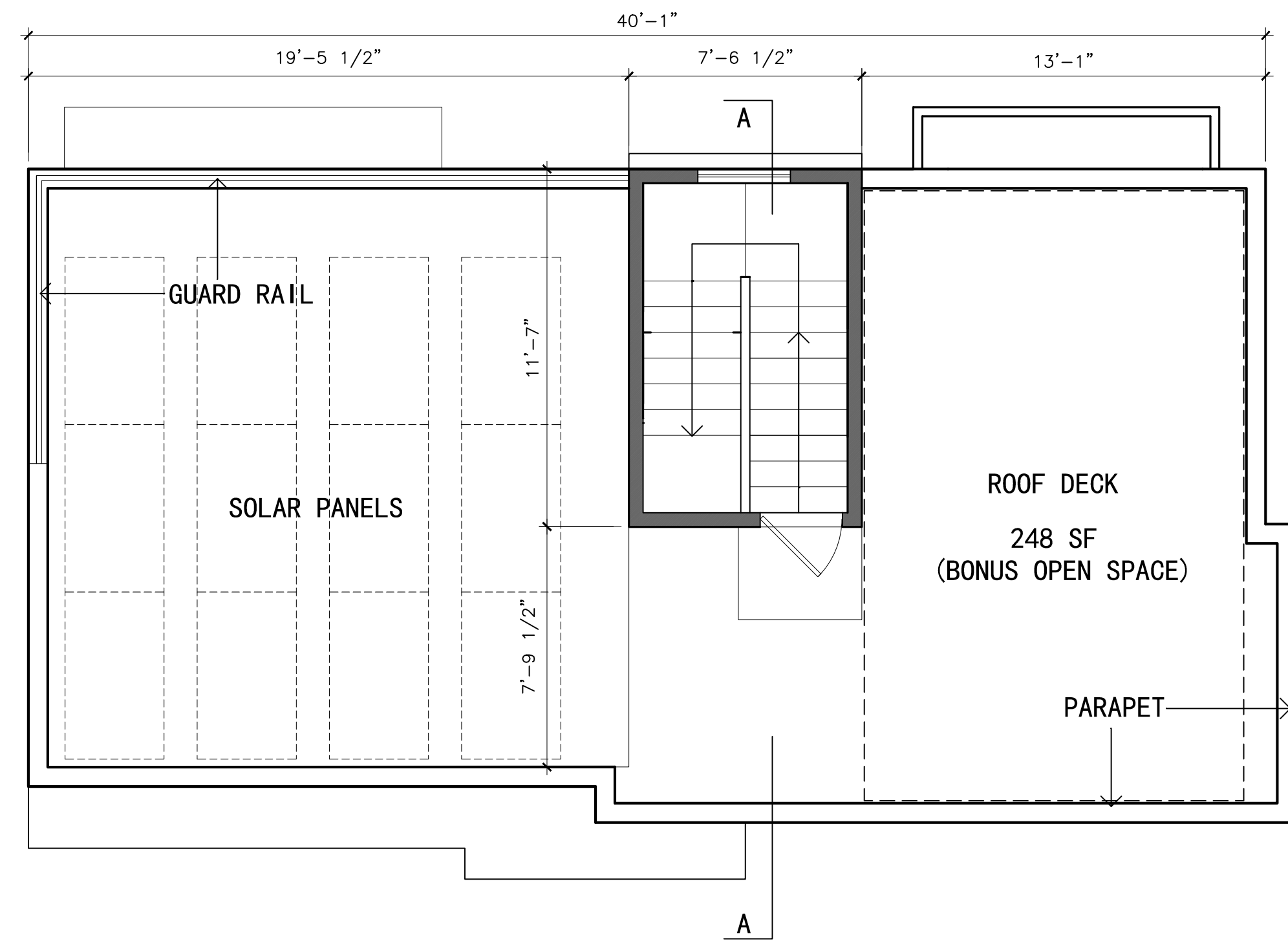
3233 ELLIS ST, BERKELEY, CA
A NEW HOME PROJECT
OWNER CONTACT: JASON TIAN TEL: 925 699 1835

DATE: 06/04/2021
SCALE: AS SHOWN
SHEET NAME

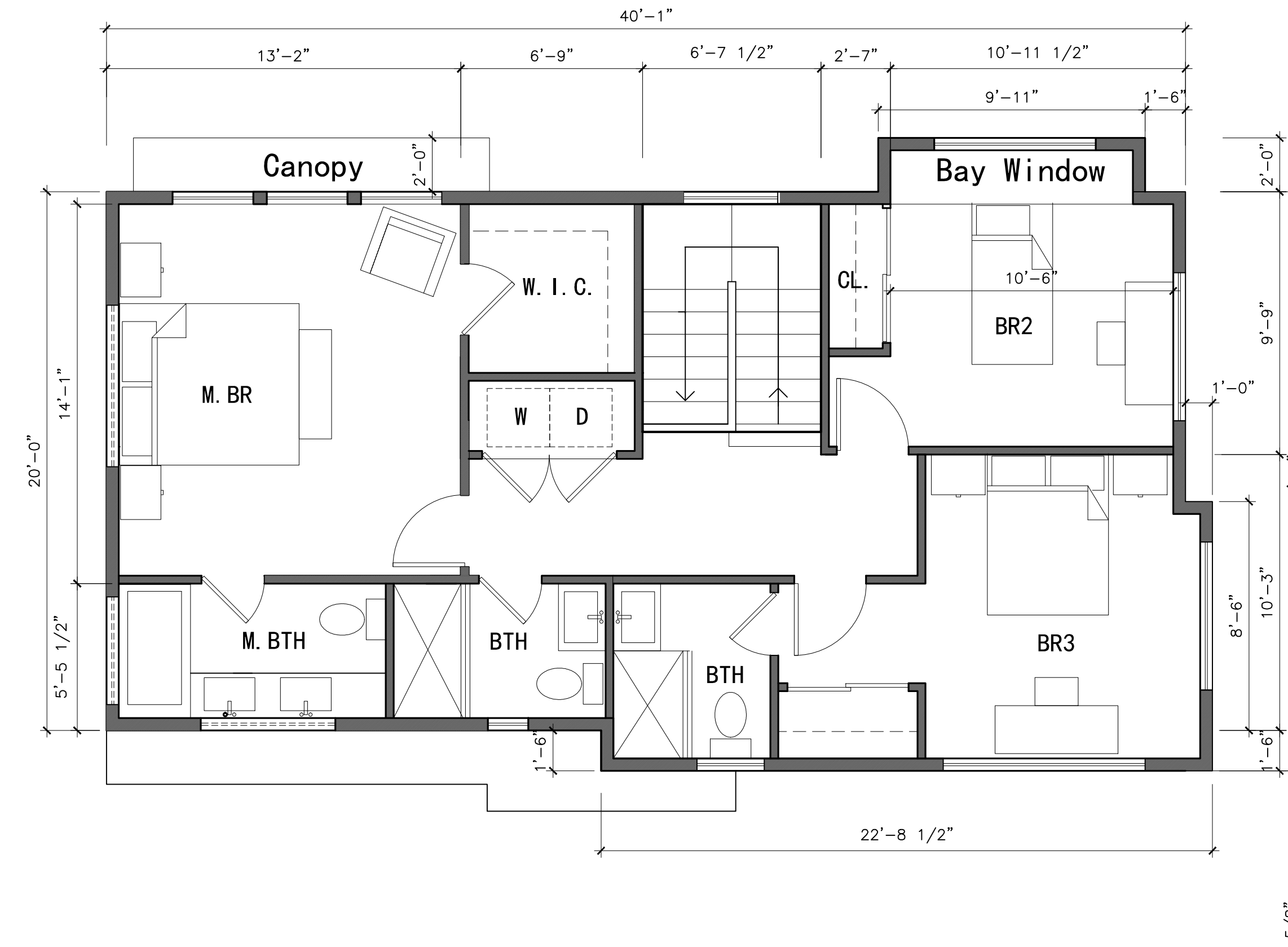
HOUSE 3
FLOOR PLANS

SHEET NO.

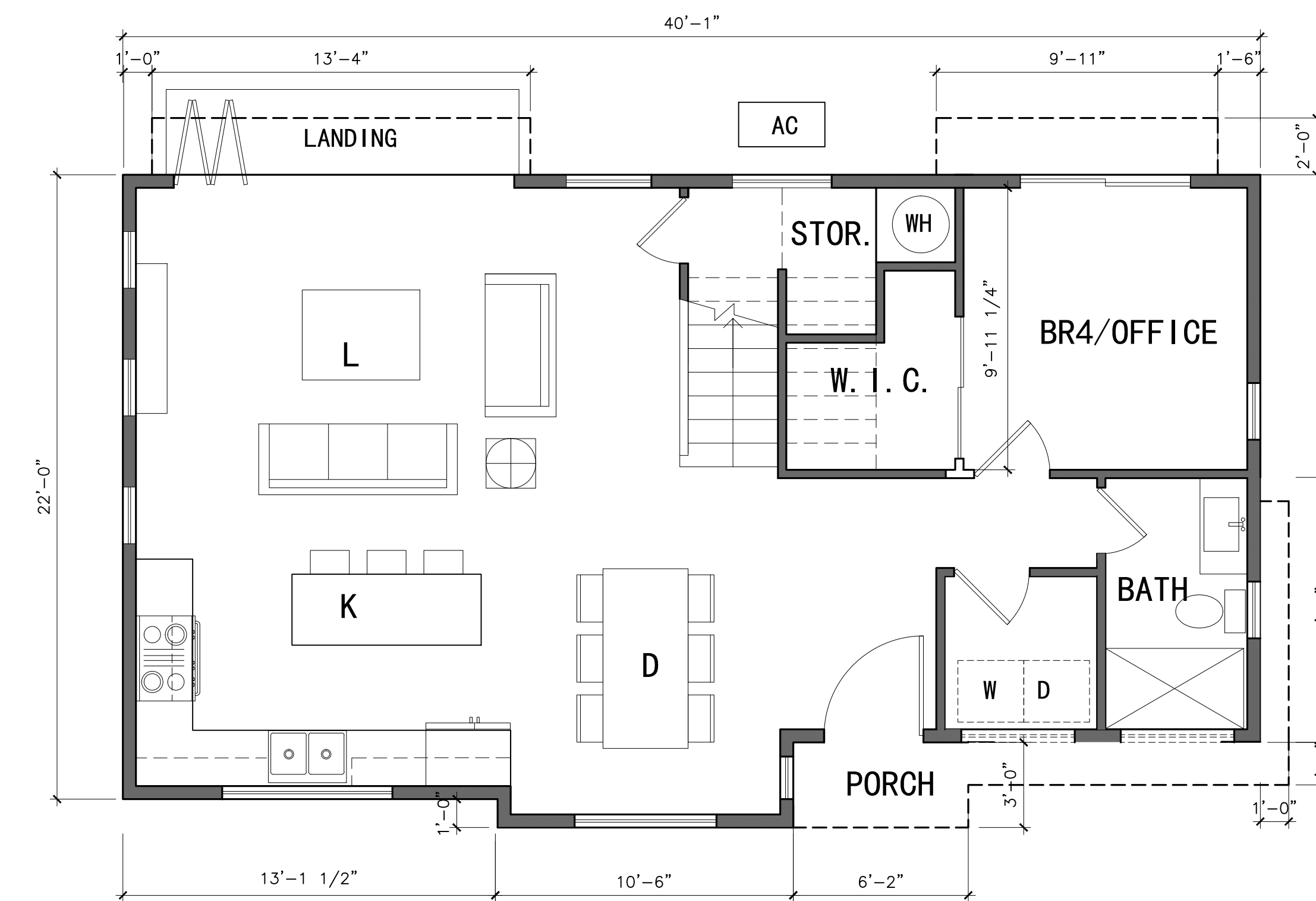
A-2.3



HOUSE 3- LOFT FLOOR PLAN
SCALE: 1/4"=1'-0"
PLAN NORTH



HOUSE 3- 2ND FLOOR PLAN
SCALE: 1/4"=1'-0"
PLAN NORTH



HOUSE 3- 1ST FLOOR PLAN
SCALE: 1/4"=1'-0"
PLAN NORTH

BUILDING AREA TABLE		
HOUSE 2	1ST. FL.	859 SF
	2ND. FL.	788 SF
	TOTAL LIVING AREA	1647 SF
	TOTAL FOOT PRINT	859 SF



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ARCHITECTURE
INC.

6710 CORTE SANTA MARIA
PLEASANTON, CA 94566
TEL: 925 357 5801

REVISIONS

PROJECT NAME

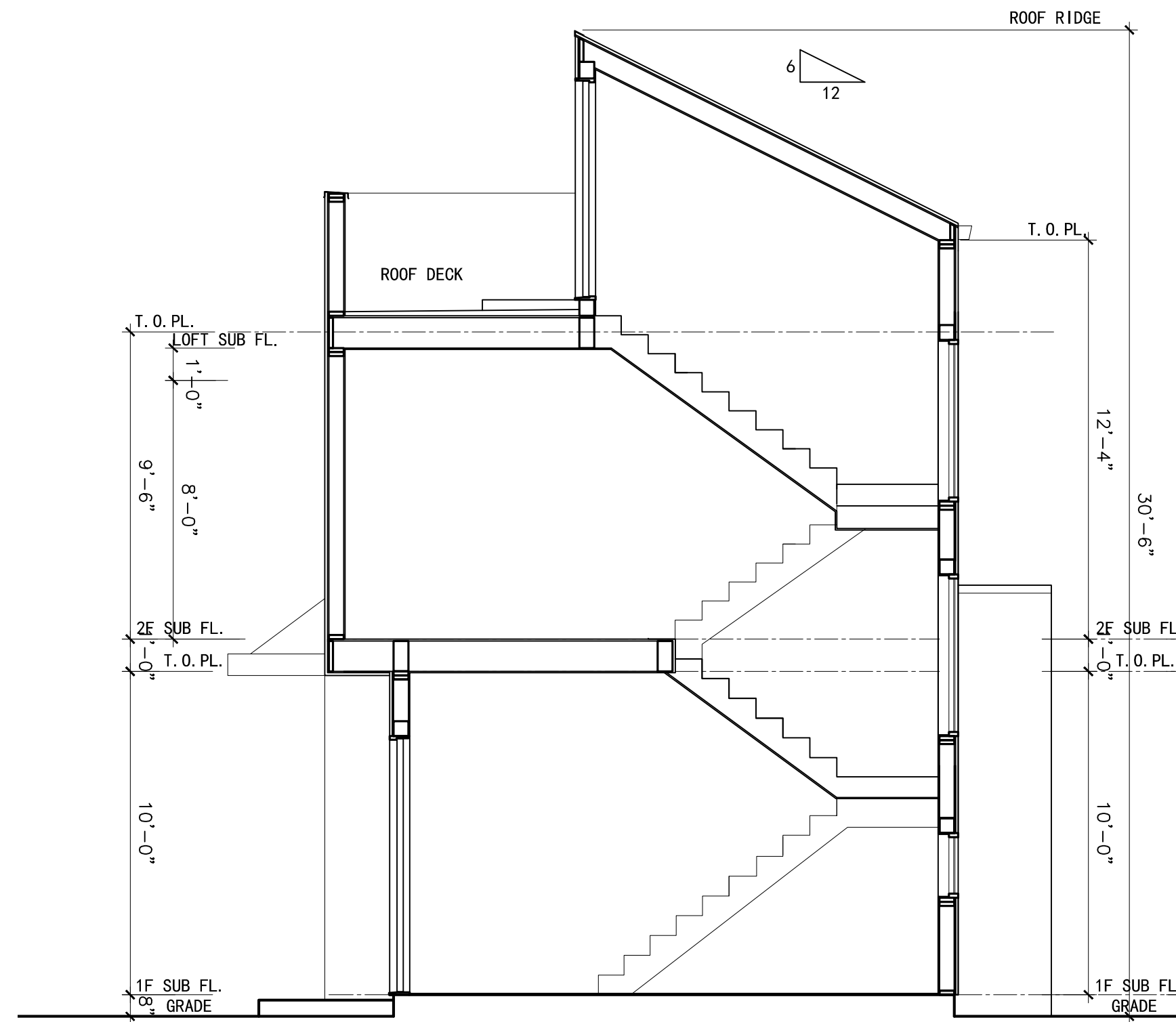
3233 ELLIS ST, BERKELEY, CA
A NEW HOME PROJECT
OWNER CONTACT: JASON TIAN TEL: 925 699 1835

DATE: 06/04/2021
SCALE: AS SHOWN
SHEET NAME

HOUSE 1
ELEVATIONS
& SECTION

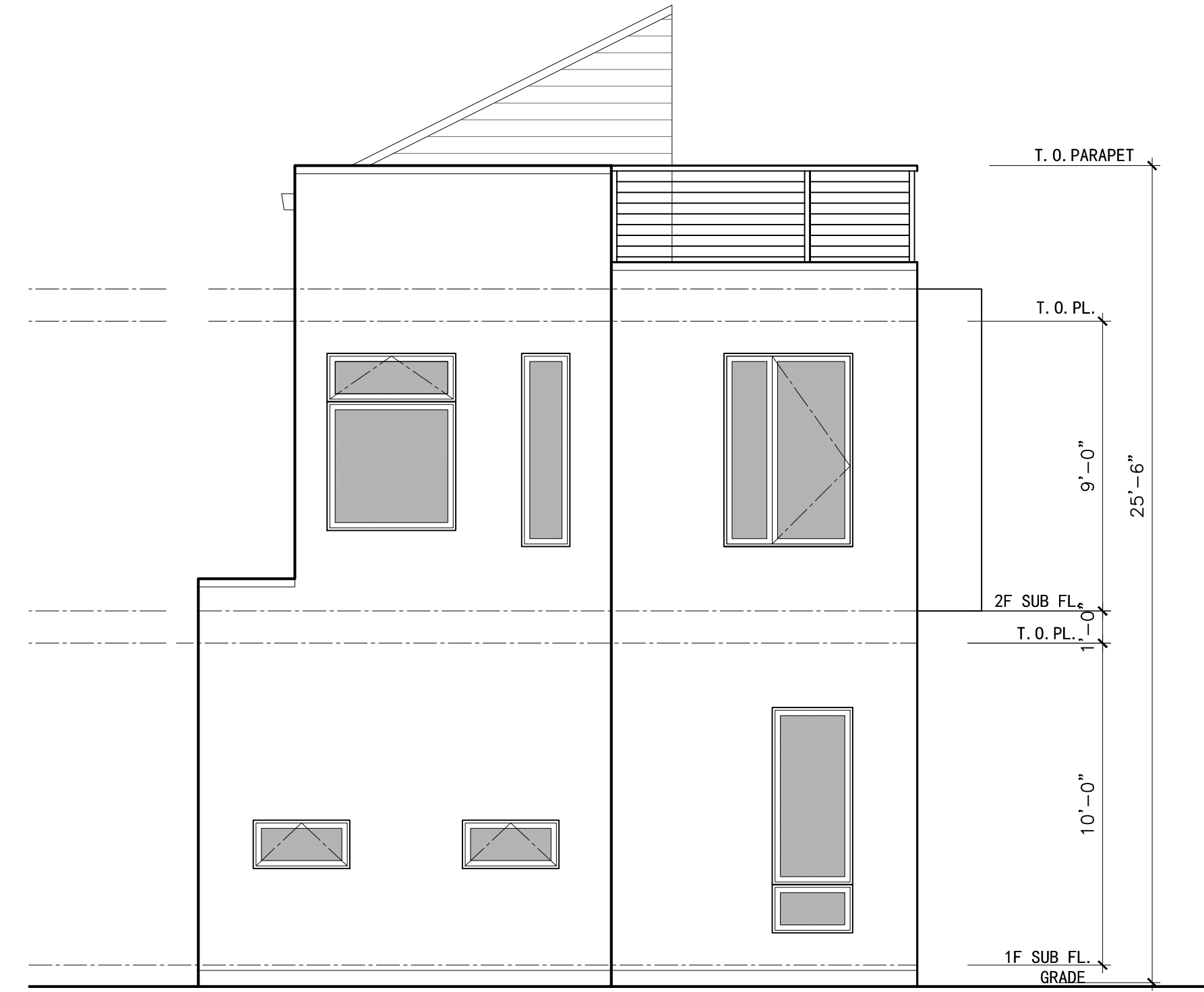
SHEET NO.

A-3.1



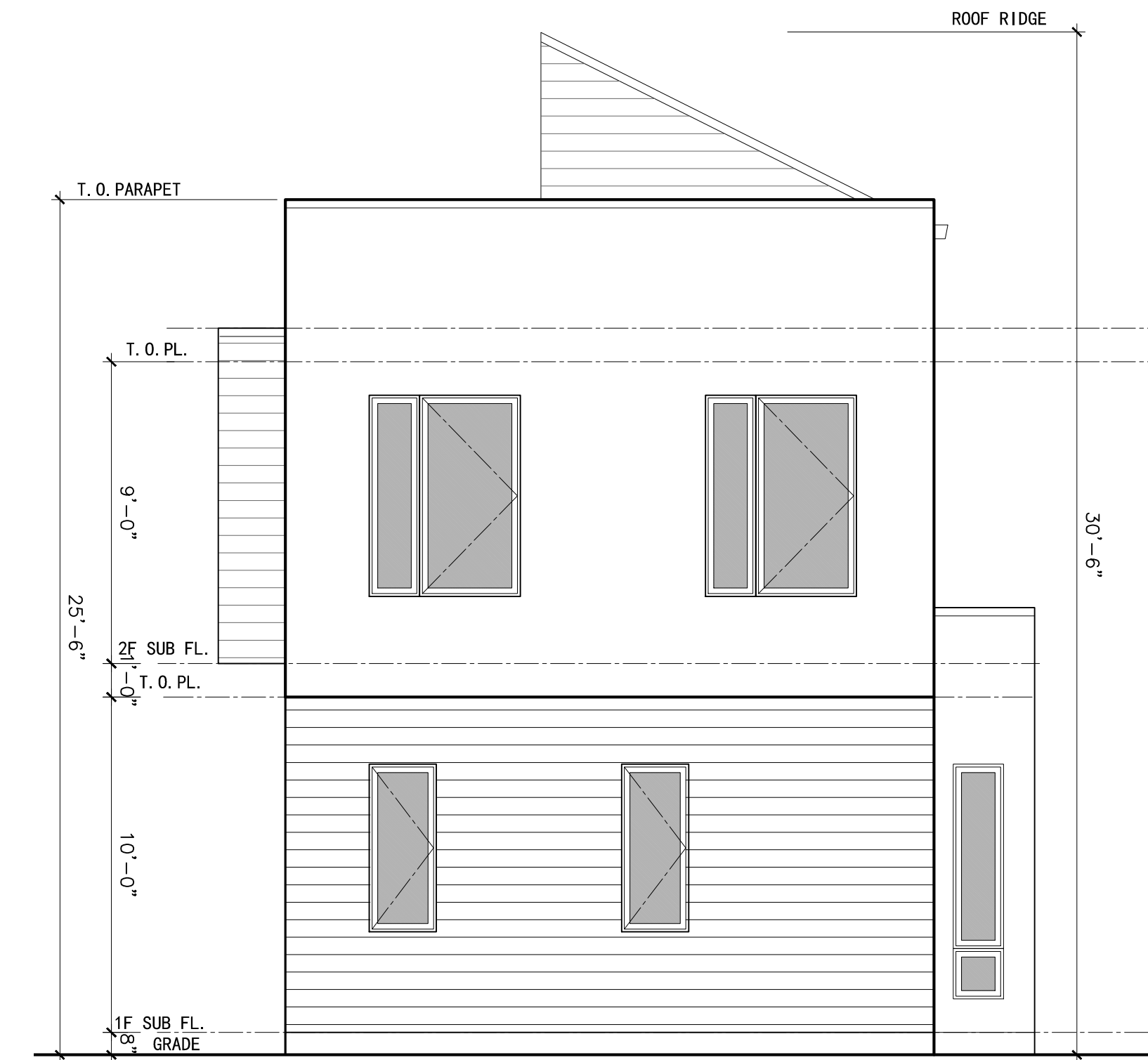
HOUSE 1- SECTION A-A

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



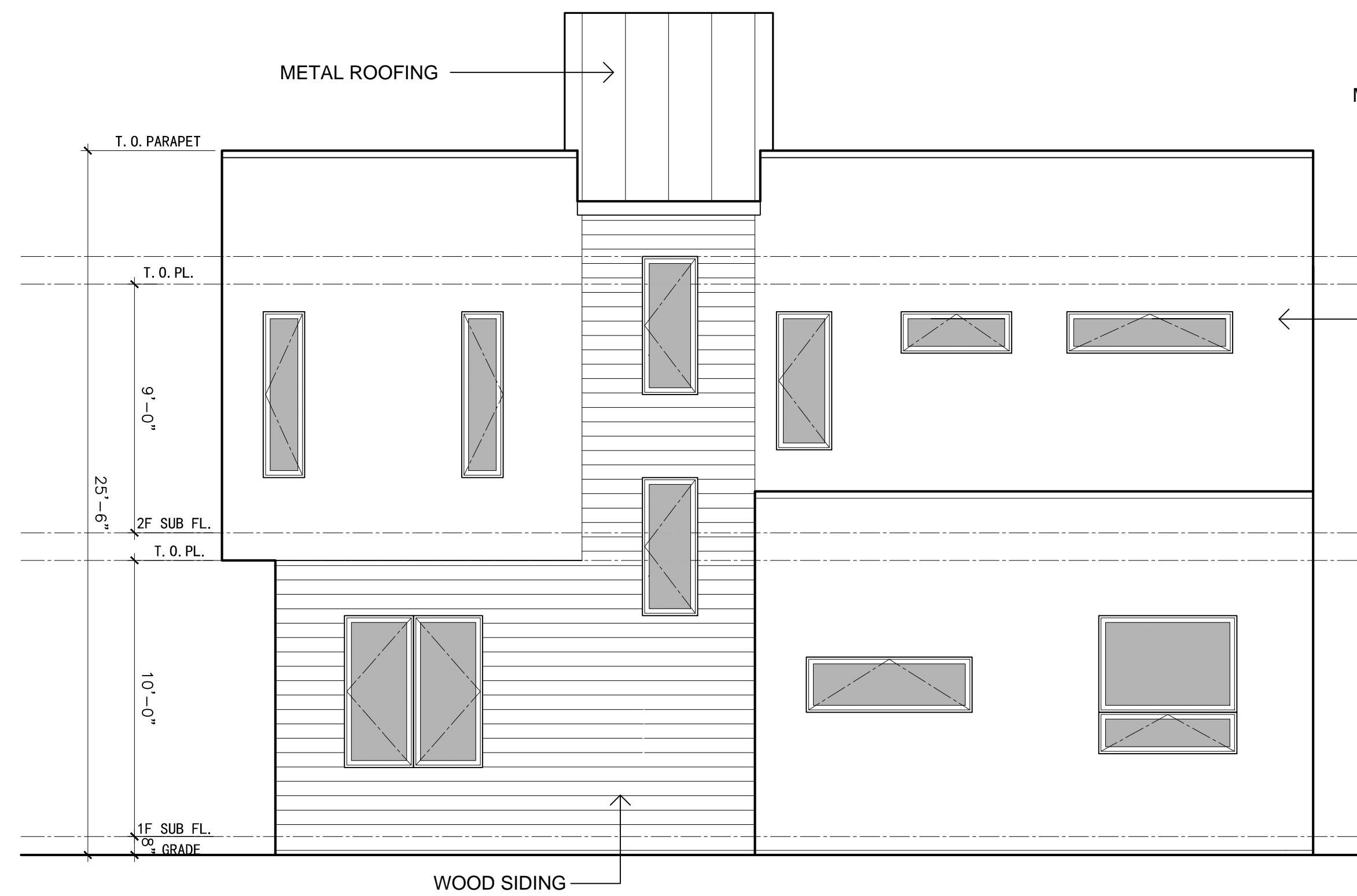
HOUSE 1- LEFT SIDE ELEVATION

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



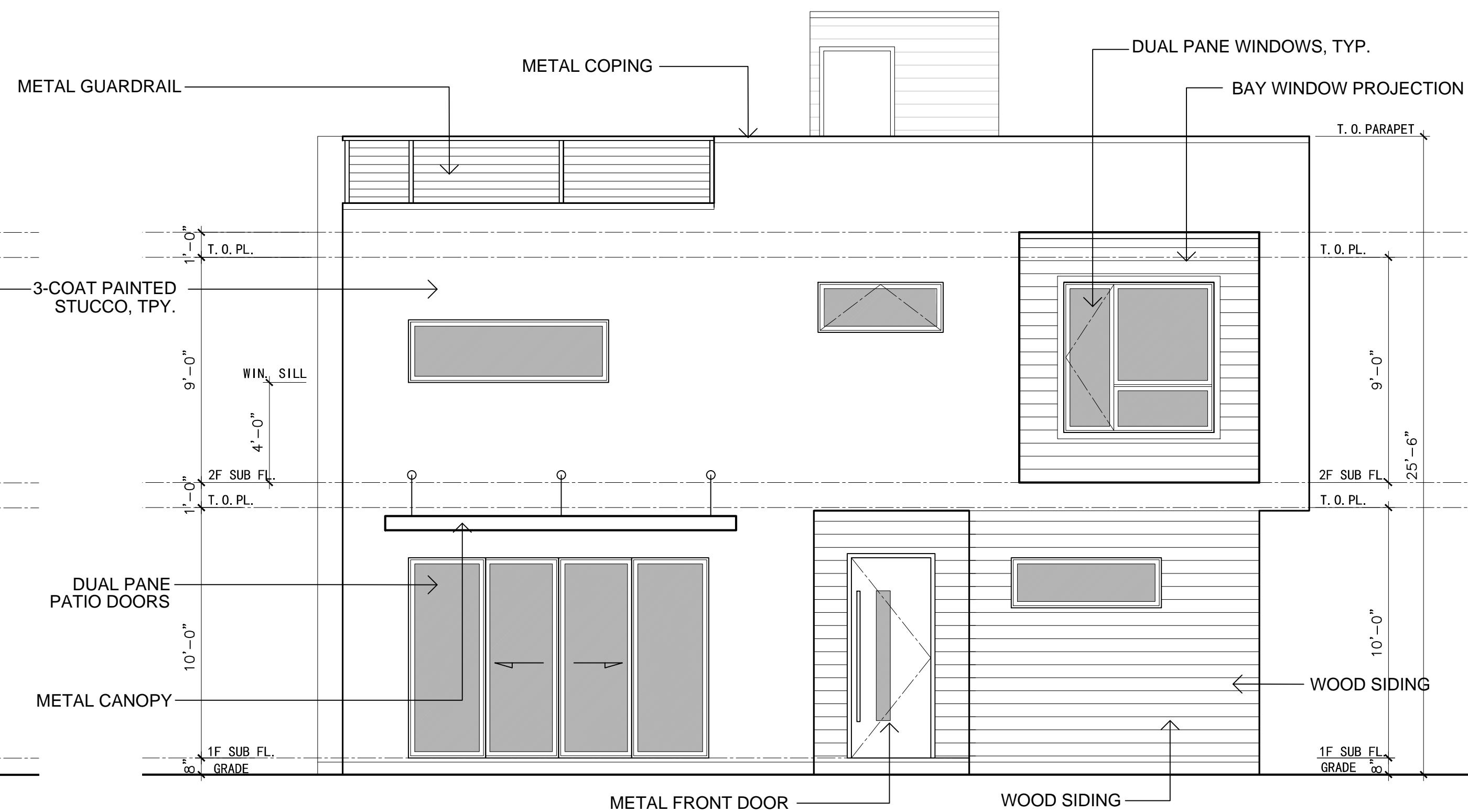
HOUSE 1- RIGHT SIDE ELEVATION

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



HOUSE 1- REAR ELEVATION

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



HOUSE 1- FRONT ELEVATION

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



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REVISIONS

PROJECT NAME

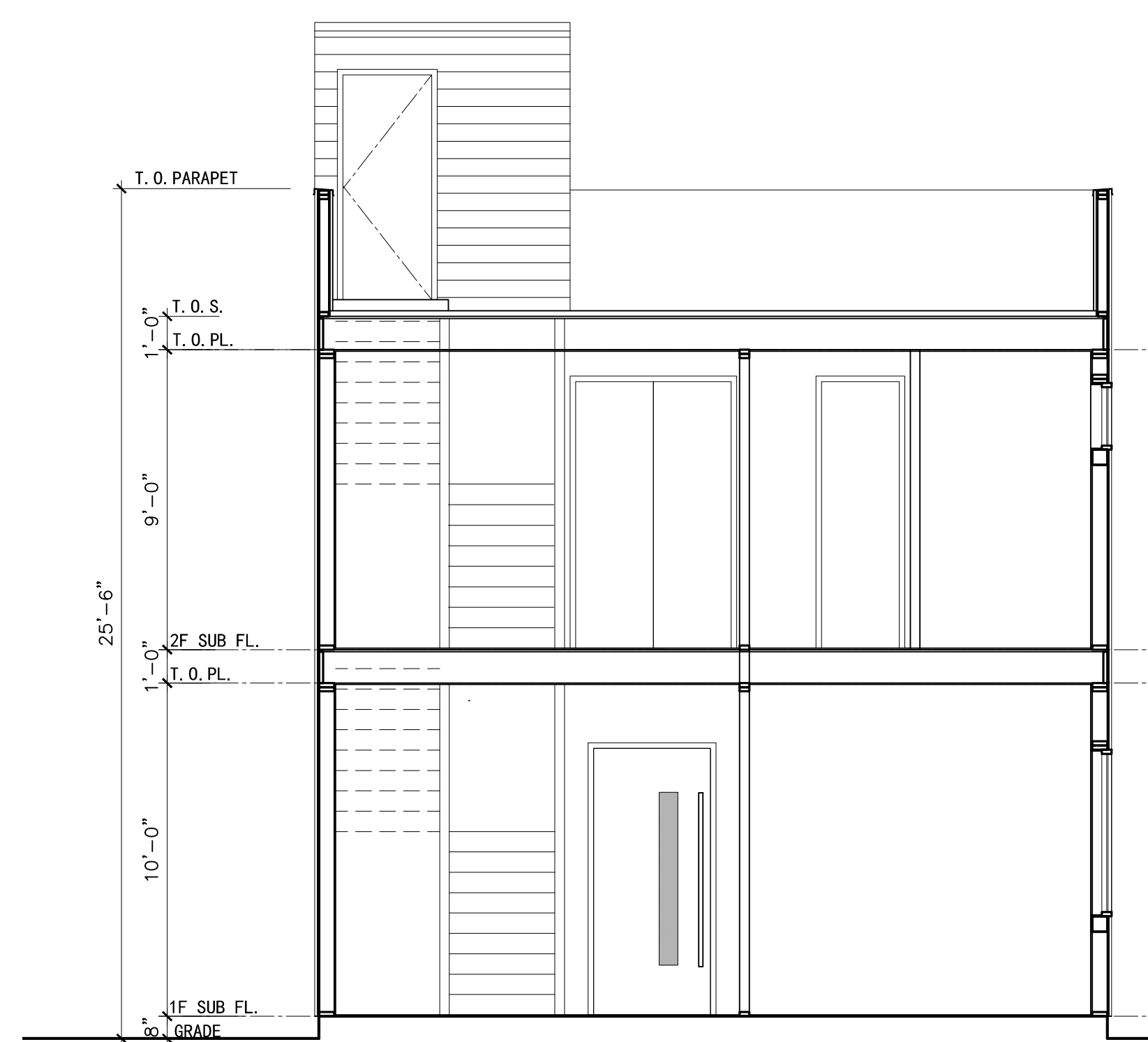
3233 ELLIS ST, BERKELEY, CA
A NEW HOME PROJECT
OWNER CONTACT: JASON TIAN TEL: 925 699 1835

DATE: 06/04/2021
SCALE: AS SHOWN
SHEET NAME

HOUSE 2
ELEVATIONS
& SECTION

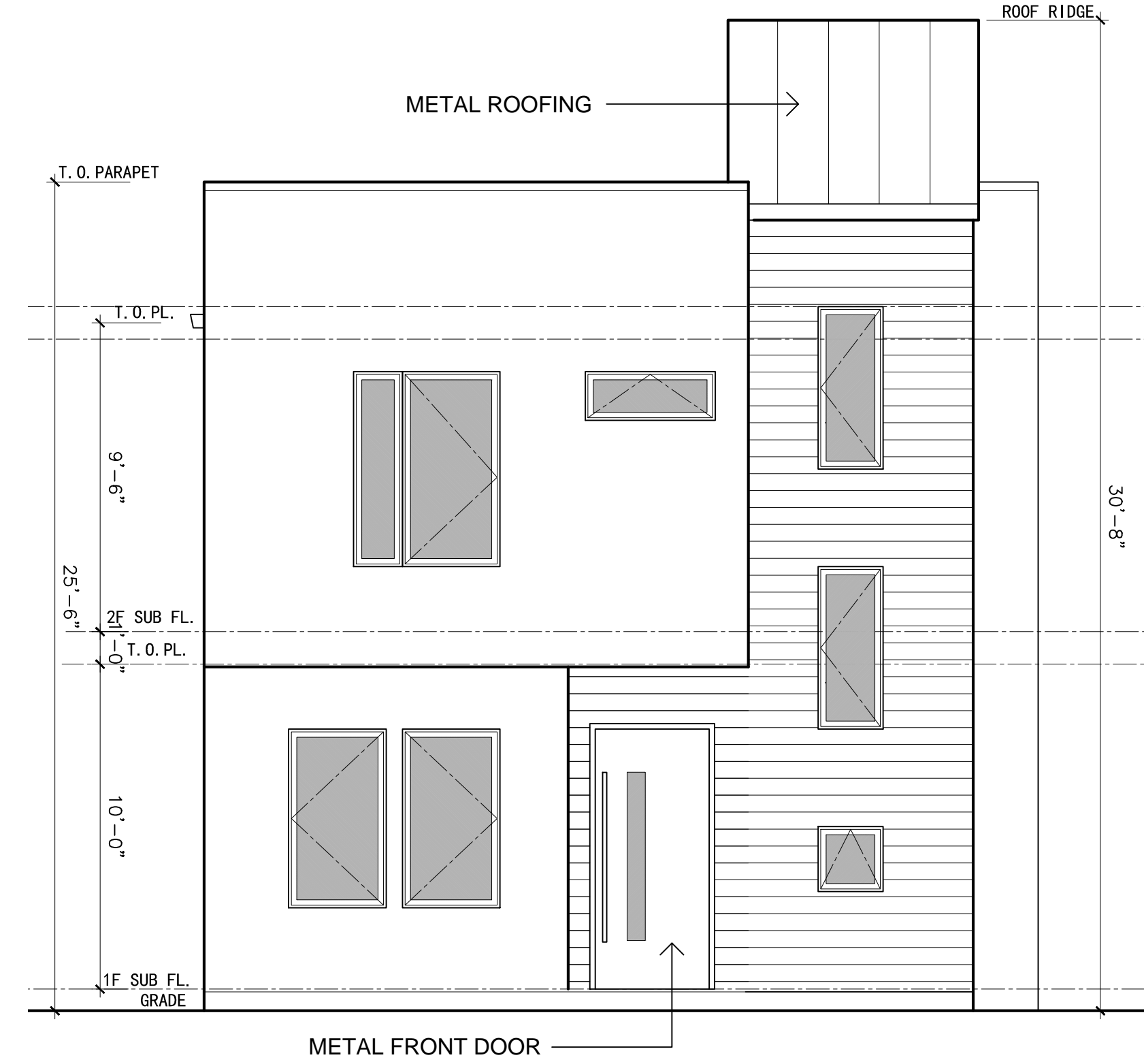
SHEET NO.

A-3.2



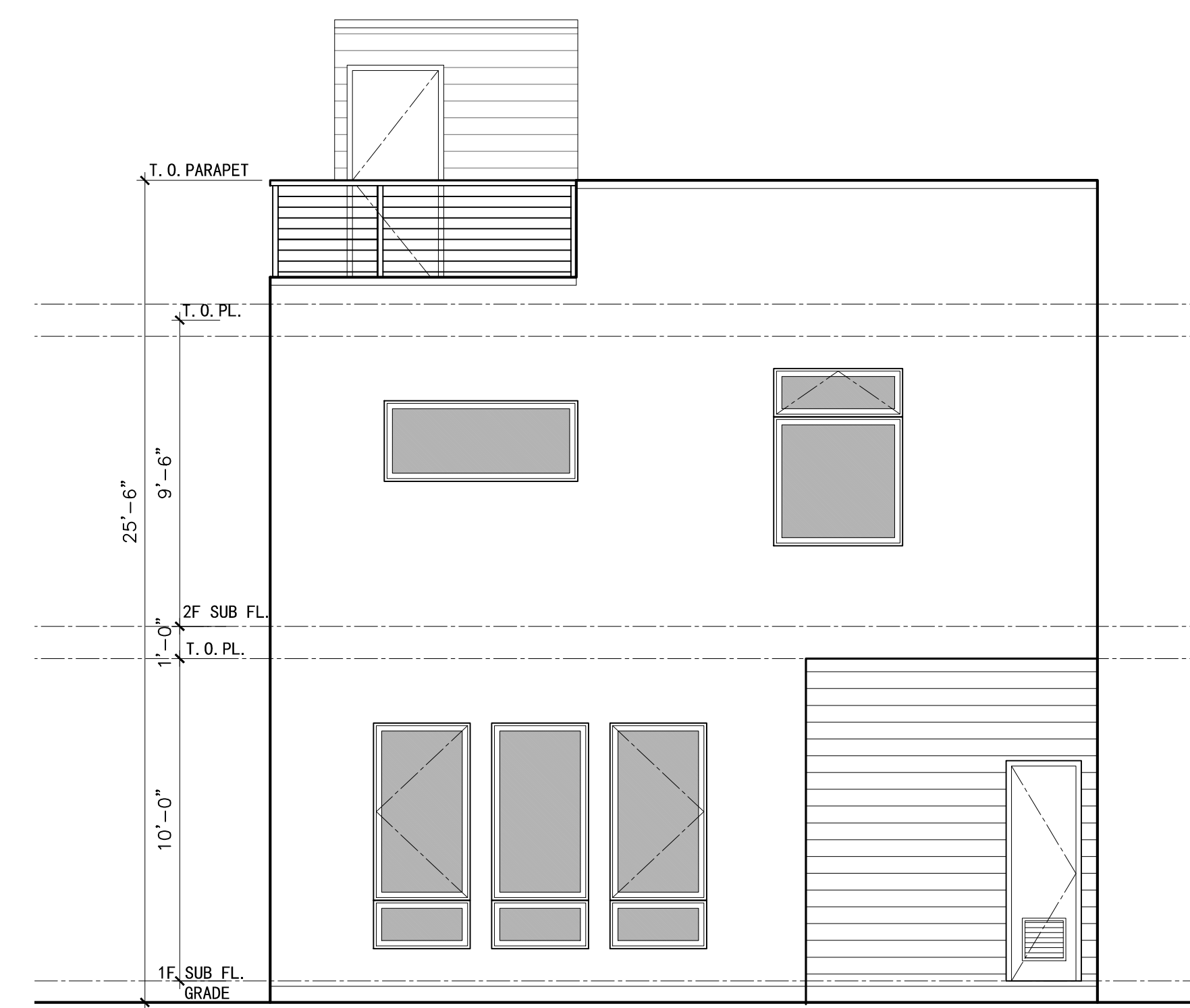
HOUSE 2- SECTION A-A

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



HOUSE 2- RIGHT SIDE ELEVATION

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



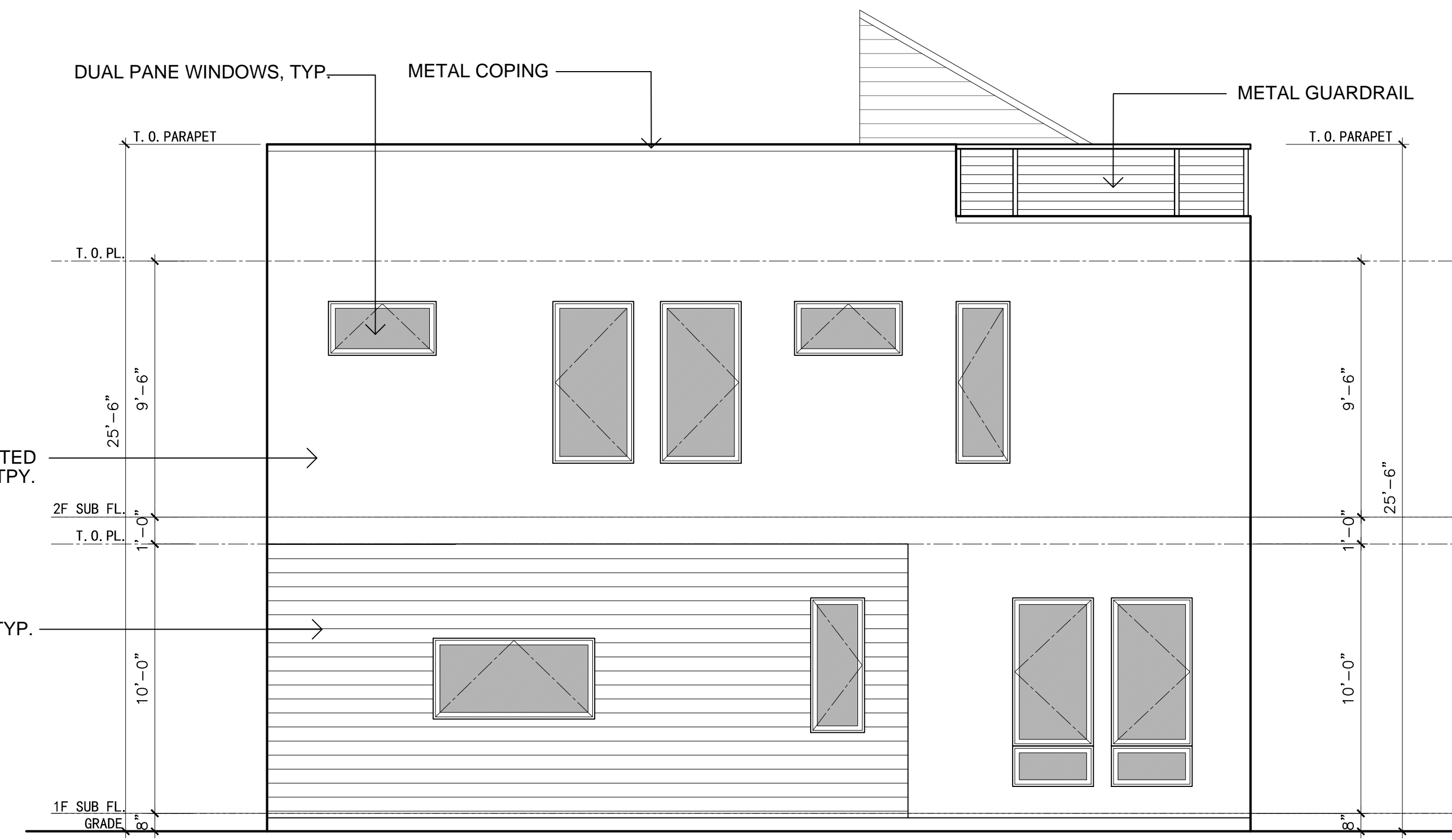
HOUSE 2- LEFT SIDE ELEVATION

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



HOUSE 2- REAR ELEVATION

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



HOUSE 2- FRONT ELEVATION

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



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REVISIONS

PROJECT NAME

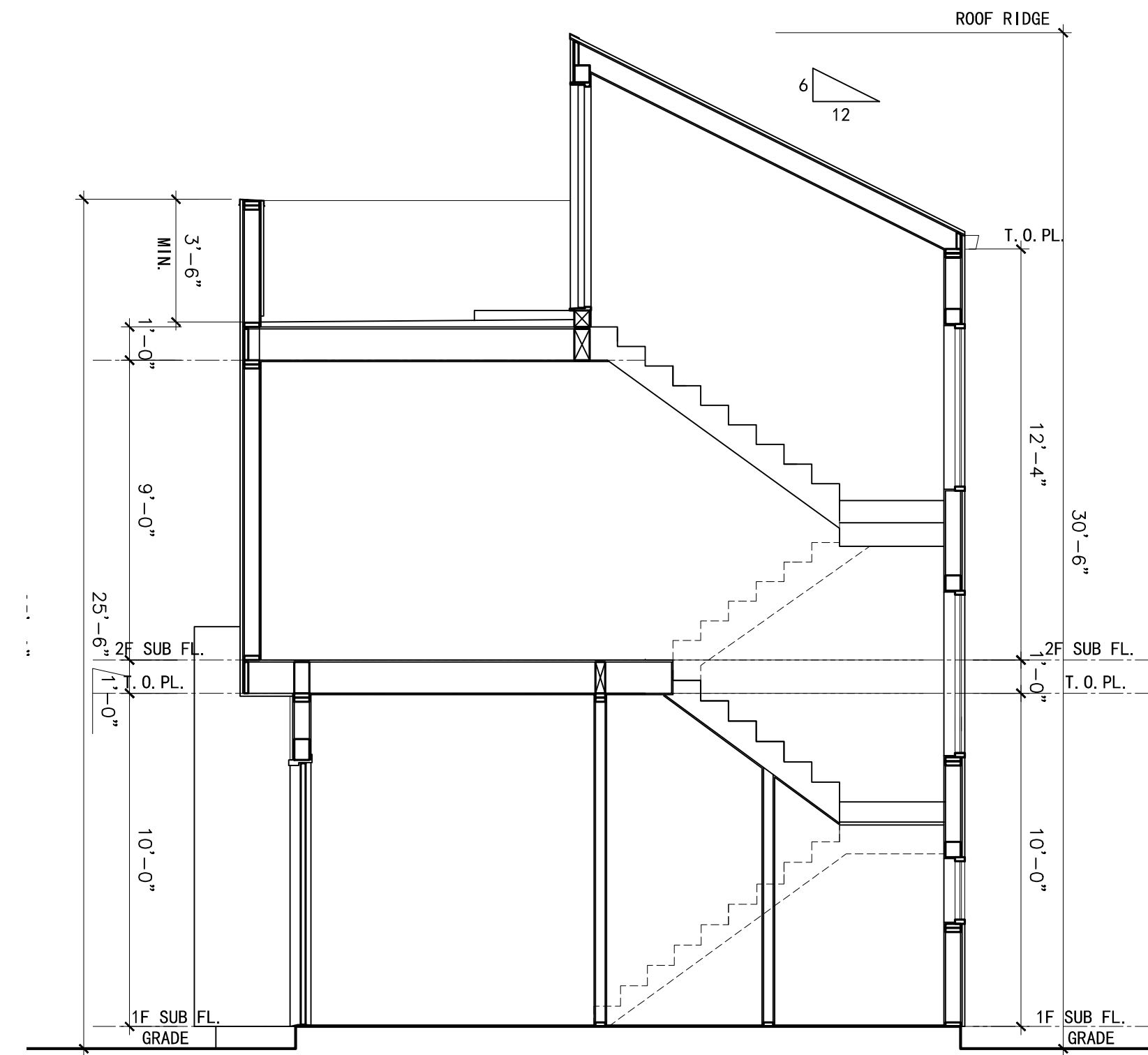
3233 ELLIS ST, BERKELEY, CA
A NEW HOME PROJECT
OWNER CONTACT: JASON TIAN TEL: 925 699 1835

DATE: 06/04/2021
SCALE: AS SHOWN
SHEET NAME

HOUSE 3
ELEVATIONS
& SECTION

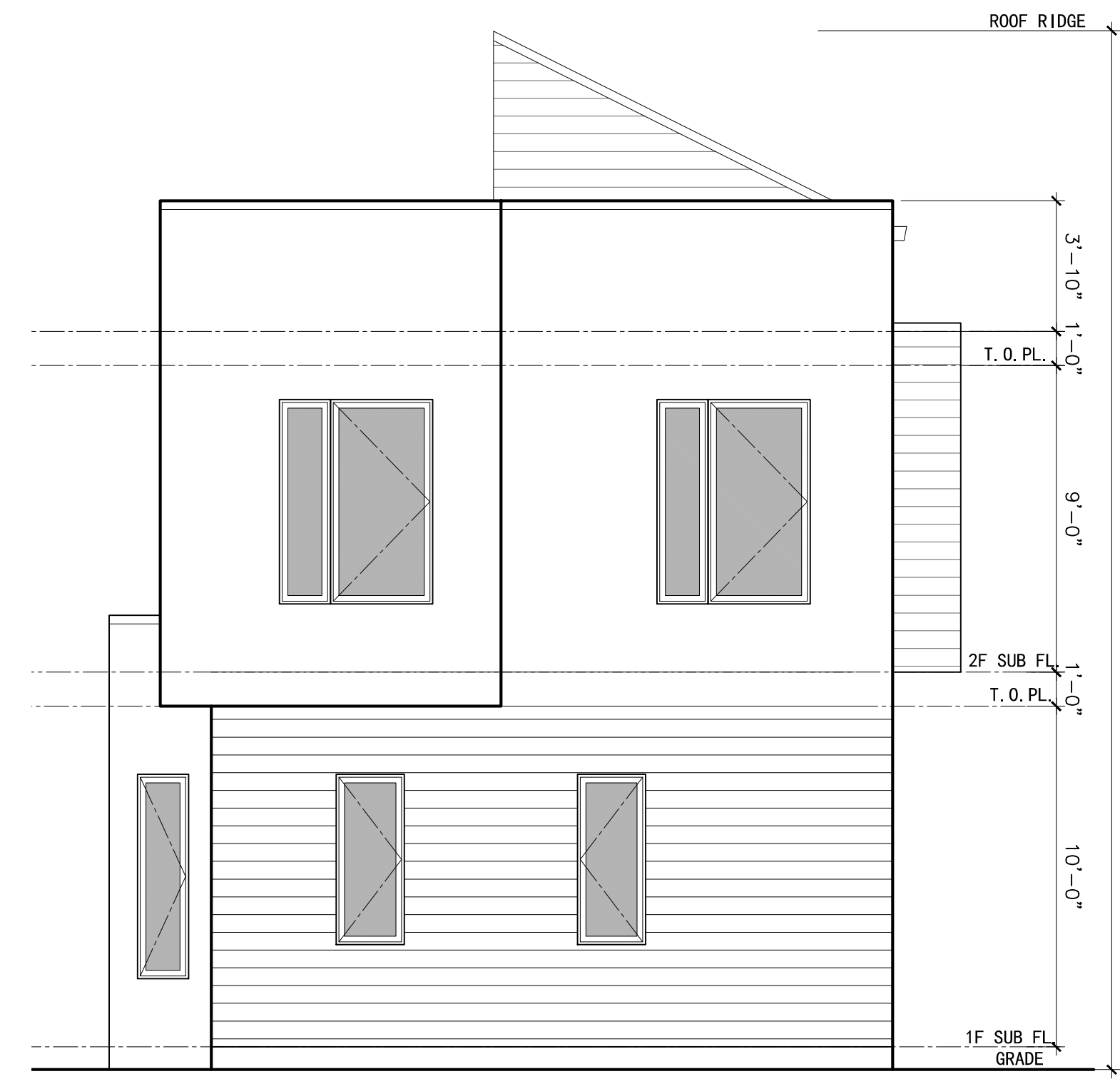
SHEET NO.

A-3.3



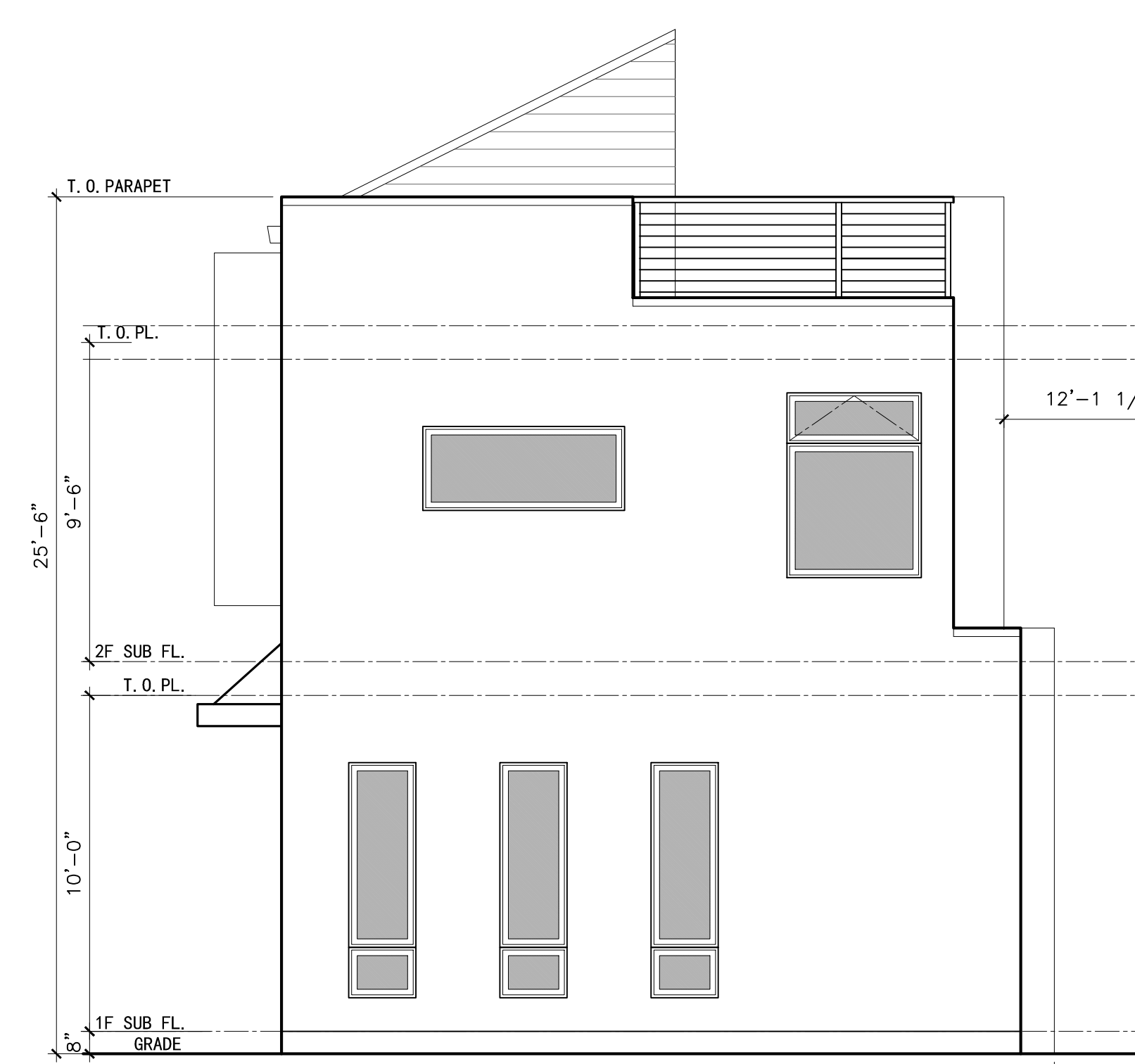
HOUSE 3 - SECTION A-A

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



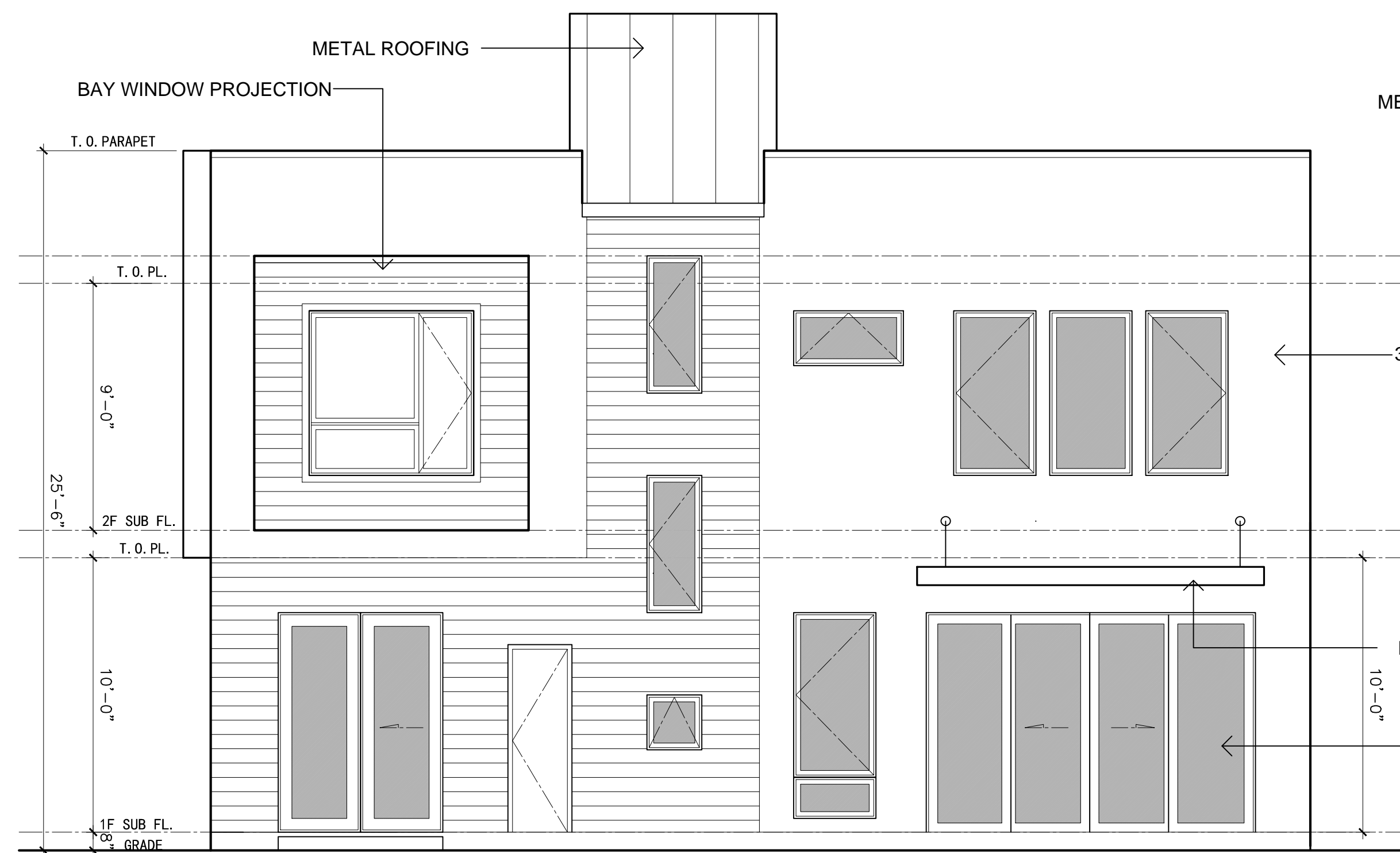
HOUSE 3 - RIGHT SIDE ELEVATION

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



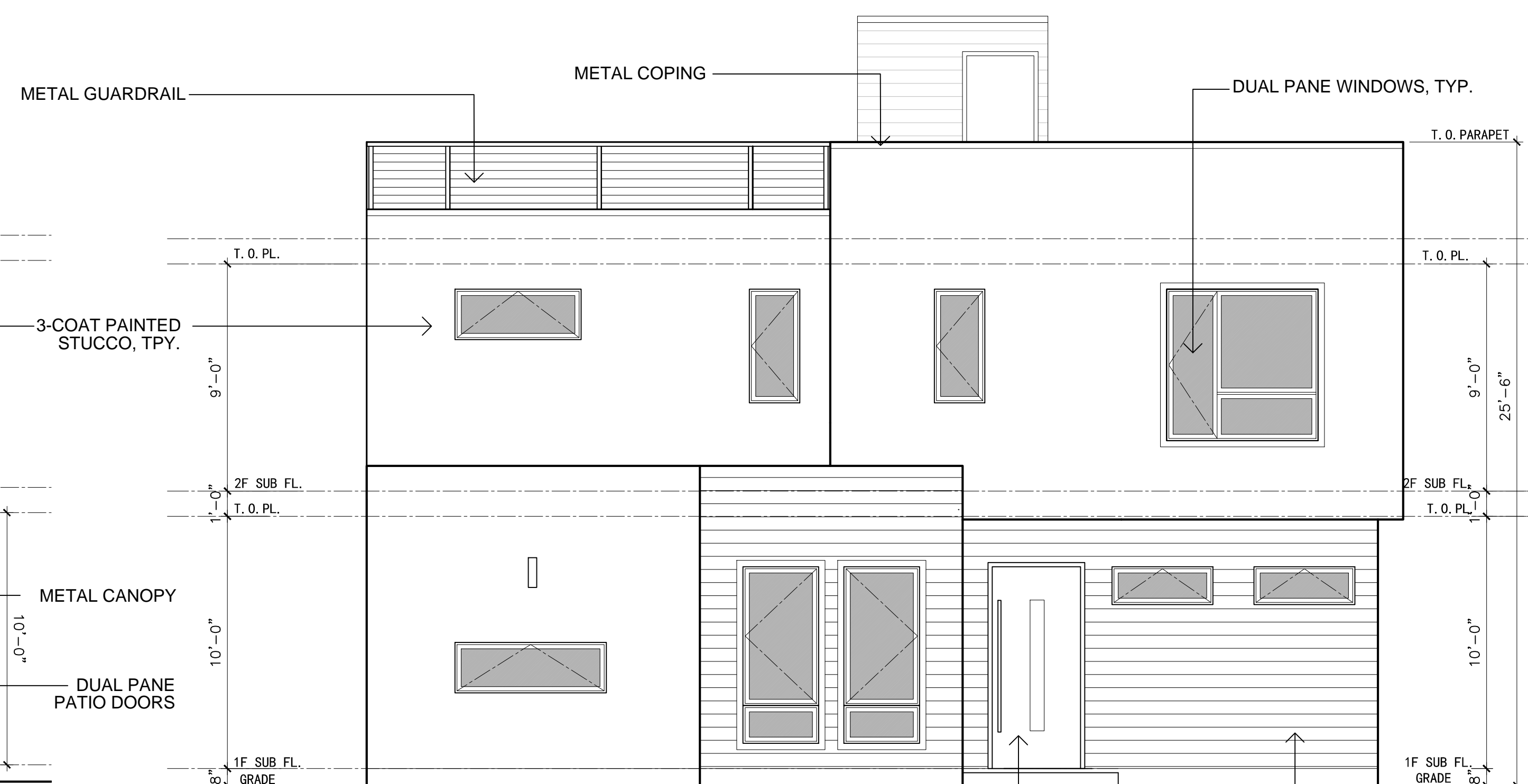
HOUSE 3 - LEFT SIDE ELEVATION

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



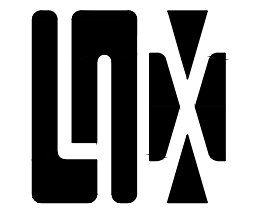
HOUSE 3 - REAR ELEVATION

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

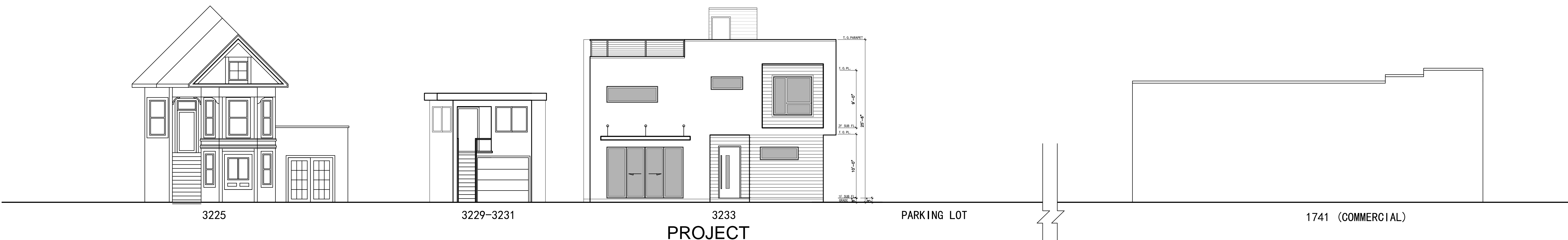


HOUSE 3 - FRONT ELEVATION

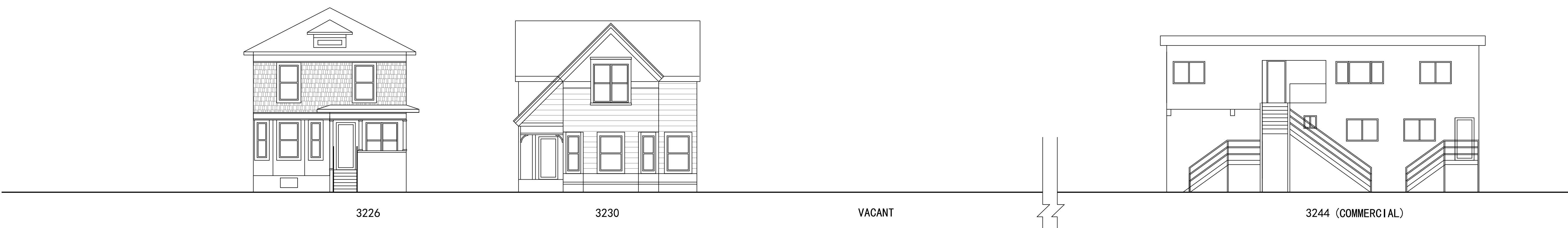
SCALE: 1/4"=1'-0"



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ELLIS STREETScape (EAST SIDE)
SCALE: 1/8"=1'-0"



ELLIS STREETScape (WEST SIDE)
SCALE: 1/8"=1'-0"

REVISIONS

PROJECT NAME

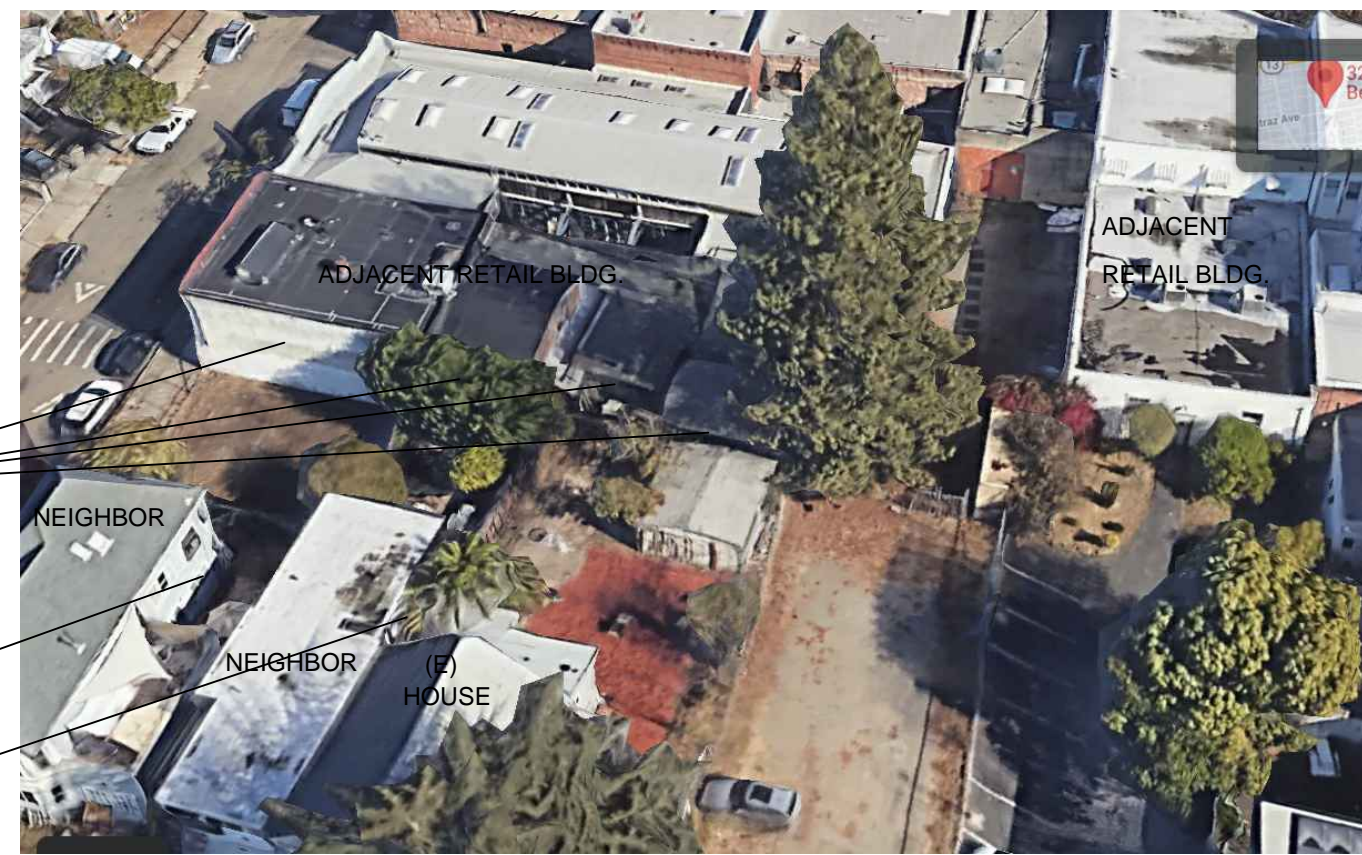
3233 ELLIS ST, BERKELEY, CA
A NEW HOME PROJECT
OWNER CONTACT: JASON TIAN TEL: 925 699 1835

DATE: 06/04/2021
SCALE: AS SHOWN
SHEET NAME

STREETScape

SHEET NO.

A-3.4



No windows this side
Family Room Windows
Bedroom Windows

LEGEND

- SHADOW CAST BY ADJACENT BUILDINGS OR THIS AUP
- EXTRA SHADING ON ADJACENT BUILDINGS AS RESULT OF THIS AUP

WINTER SOLSTICE 12/21

SUMMER SOLSTICE 6/21

SUBMISSION DAY 6/4

Family Rm. windows
Bathroom window



12/21 2 hours after SUNRISE



6/21 2 hours after SUNRISE



6/4 2 hours after SUNRISE

Family Rm. windows
Bathroom window



12/21 12:00 NOON



6/21 12:00 NOON



6/4 12:00 NOON

No windows this side
Family Rm. windows
Bathroom window



12/21 2 hours before SUNSET

Retail buildings
No windows



6/21 2 hours before SUNSET

No windows
this side



6/4 2 hours before SUNSET

REVISIONS

PROJECT NAME

3233 ELLIS ST, BERKELEY, CA
A NEW HOME PROJECT
OWNER CONTACT: JASON TIAN TEL: 925 699 1835

DATE: 06/04/2021
SCALE: AS SHOWN
SHEET NAME

SHADOW
STUDIES

SHEET NO.

A-3.5



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REVISIONS

PROJECT NAME

3233 ELLIS ST, BERKELEY, CA
A NEW HOME PROJECT

OWNER CONTACT: JASON TIAN TEL: 925 699 1835

DATE: 06/04/2021
SCALE: AS SHOWN
SHEET NAME

SHADOW
STUDIES

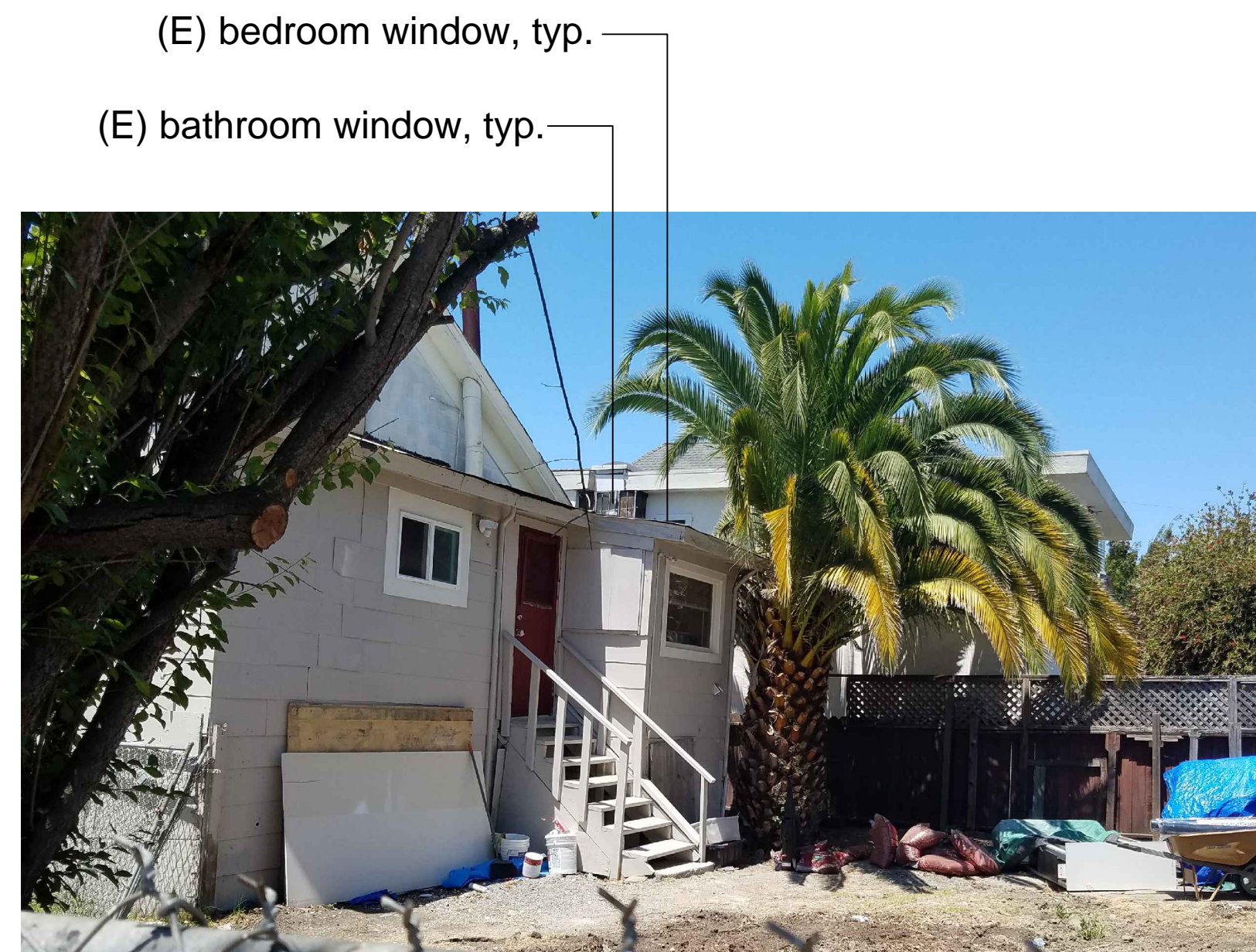
SHEET NO.

A-3.6

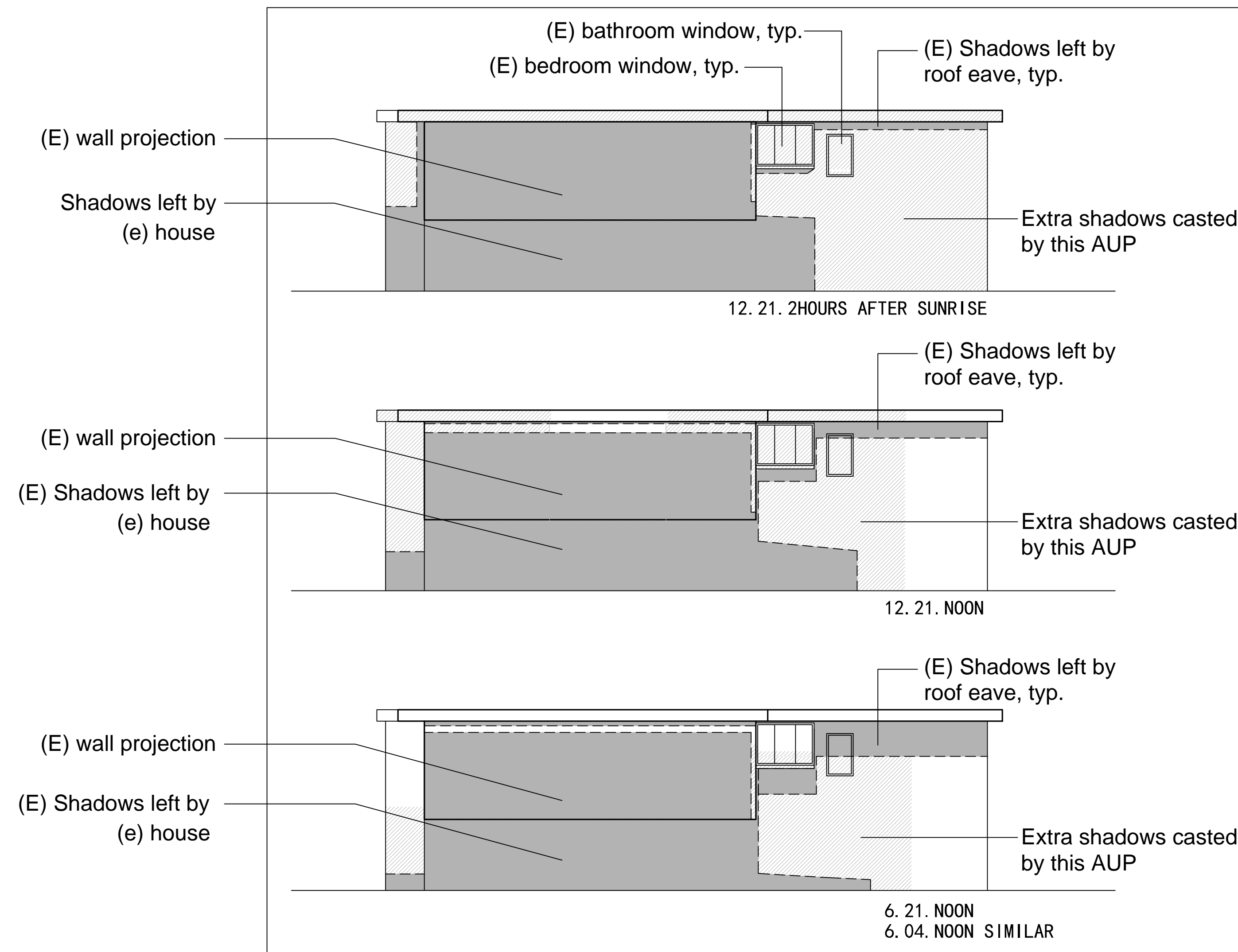
LEGEND

 SHADOW CASTED BY (E) HOUSE ON THE ADJACENT HOUSE

 EXTRA SHADING ON ADJACENT HOUSE AS RESULT OF THIS AUP



ADJACENT HOUSE 3229-3231 ELLIS ST.



SHADOW CASTED ON ADJACENT HOUSE



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

NOTICE OF PUBLIC HEARING

3233 Ellis Street

Use Permit #ZP2021-0009 to demolish an existing single-family dwelling and construct three detached single-family dwellings.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23B.32.020, on February 24, 2022, **conducted via Zoom, see the Agenda for details at:**

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2022-02-24_Draft_ZAB_Agenda.pdf. The meeting starts at 7:00 p.m.

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

A. Land Use Designations:

- General Plan: MDR – Medium Density Residential
- Zoning: R-2A – Restricted Multiple Family Zoning District

B. Zoning Permits Required:

- Use Permit, under BMC 23C.08.010, to demolish a dwelling unit
- Use Permit, under BMC Section 23D.32.030 to construct three new dwellings
- Administrative Use Permit, under BMC Section 23D.04.020.C to allow architectural projections over the height limit

C. CEQA Recommendation: Categorically exempt pursuant to Section 15303 of the CEQA Guidelines (“New Construction”).

D. Parties Involved:

- Applicant Yuan Lin, 6710 Corte Santa Maria, Pleasanton, CA
- Property Owner Rod Hu, 1711 Cottswald Street, Danville, CA

Further Information:

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

Questions about the project should be directed to the project planner, Sharon Gong, at (510) 981-7429 or sgong@cityofberkeley.info.

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

Communication Disclaimer:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

Communications and Reports:

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

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

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

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

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



Accessibility Information / ADA Disclaimer:

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

SB 343 Disclaimer:

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

Notice Concerning Your Legal Rights:

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

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

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

From: [David Kellogg](#)
To: [Zoning Adjustments Board \(ZAB\)](#)
Cc: [Compliance Review@HCD](#)
Subject: Public Comment and compliant re: violation of PRC 21080.2
Date: Thursday, February 10, 2022 11:37:12 AM

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

Dear ZAB and HCD,

I am writing in connection with the zoning permit application at 3233 Ellis Street (Application #ZP2021-0009) for a proposal to demolish an existing home and build three new homes.

The City of Berkeley determined the zoning permit was "complete as of November 8, 2021" (see letter from Planner Nicholas Armour in the administrative record).

Public Resources Code sections 21080.1 and 21080.2 together requires the "lead agency" to determine if the project is CEQA-exempt or will require an EIR, negative declaration, or mitigated negative declaration will be required and also requires the "lead agency" to make that determination within 30 days from the date on which an application for a project has been received and accepted as complete by the lead agency.

Berkeley was therefore required to issue their determination no later than December 8, 2021. Berkeley has not complied with that requirement and routinely fails to comply with the requirements of Public Resources Code sections 21080.1 and 21080.2.

Berkeley has just issued agenda materials for a ZAB hearing on February 24th. In the agenda materials, there is an indication that staff has made a "CEQA recommendation" of CEQA-exemption. Since Berkeley has indicated in the past that staff-level determinations are not binding on the lead agency, the staff level recommendation does not satisfy the requirements of Public Resources Code sections 21080.1 and 21080.2.

Compliance with Public Resources Code sections 21080.1 and 21080.2 is essential, as the compliance of the required tasks is what triggers the next phase of state housing law, the Permit Streamlining Act. Unfortunately, Berkeley's current practices are intentionally designed to (illegally) circumvent the Permit Streamlining Act. This must stop.

Best,
David Kellogg
Attorney at law

From: [David Kellogg](#)
To: [Zoning Adjustments Board \(ZAB\)](#)
Cc: [Compliance_Review@HCD](#)
Subject: Re: Public Comment and compliant re: violation of PRC 21080.2
Date: Thursday, February 10, 2022 11:38:49 AM

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

One additional comment: if Berkeley had not broken the law, the Permit Streamlining Act would have required approval no later than February 2, 2022 (60 days from 12/8/21).

The only reason these homes are not yet approved, is Berkeley's refusal to follow the law.

Best,
David

On Thu, Feb 10, 2022 at 11:36 AM David Kellogg <david.kellogg@gmail.com> wrote:

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David Kellogg
Attorney at law