



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
JUNE 23, 2022

2328 Channing Way

Use Permit #ZP2020-0052 to demolish the rear, non-historic portion of a City Landmark single-family residence, and to re-locate the building closer to the street with a front yard setback of 8 ft. where a minimum of 10 ft. is otherwise required; to construct a new, four-story 45 ft.-tall residential building containing 13 dwelling units immediately abutting the rear of the historic building, to reduce the minimum building separation from 20 ft. to zero, and to reduce the minimum rear yard setback requirement of 10-17 ft. to 5 ft.

I. Background

A. Land Use Designations:

- General Plan: High Density Residential (HDR)
- Zoning: Residential Southside (R-S)

B. Zoning Permits Required:

- Use Permit, under BMC Section 23.202.130.B to establish dwelling units
- Use Permit, under BMC Section 23.202.130.E to construct a main building with a maximum height of 4 stories and 45 ft.
- Administrative Use Permit, under BMC Section 23.202.130.E to reduce a minimum front yard setback below 10 ft.
- Administrative Use Permit, under BMC Section 23.202.130.E to reduce a minimum rear yard setback below 10-17 ft.
- Administrative Use Permit, under BMC Section 23.202.130.E 23 to reduce a minimum 20-ft. separation between main buildings on lot
- Administrative Use Permit, under BMC Section 23.304.050 to construct a mechanical penthouse above the maximum building height limit

C. CEQA Recommendation: It is staff's recommendation that the project is categorically exempt pursuant to CEQA Guidelines Sections 15331 for Historical Resource Restoration & Rehabilitation and 15332 for In-Fill Development Projects.

D. Parties Involved:

- Applicant Devi Dutta-Choudhury AIA, Devi Dutta Architecture, 928 Carleton Street, Berkeley, CA
- Property Owner Allen Jo, 2328 Channing Way, Berkeley, CA

Figure 1: Vicinity Map

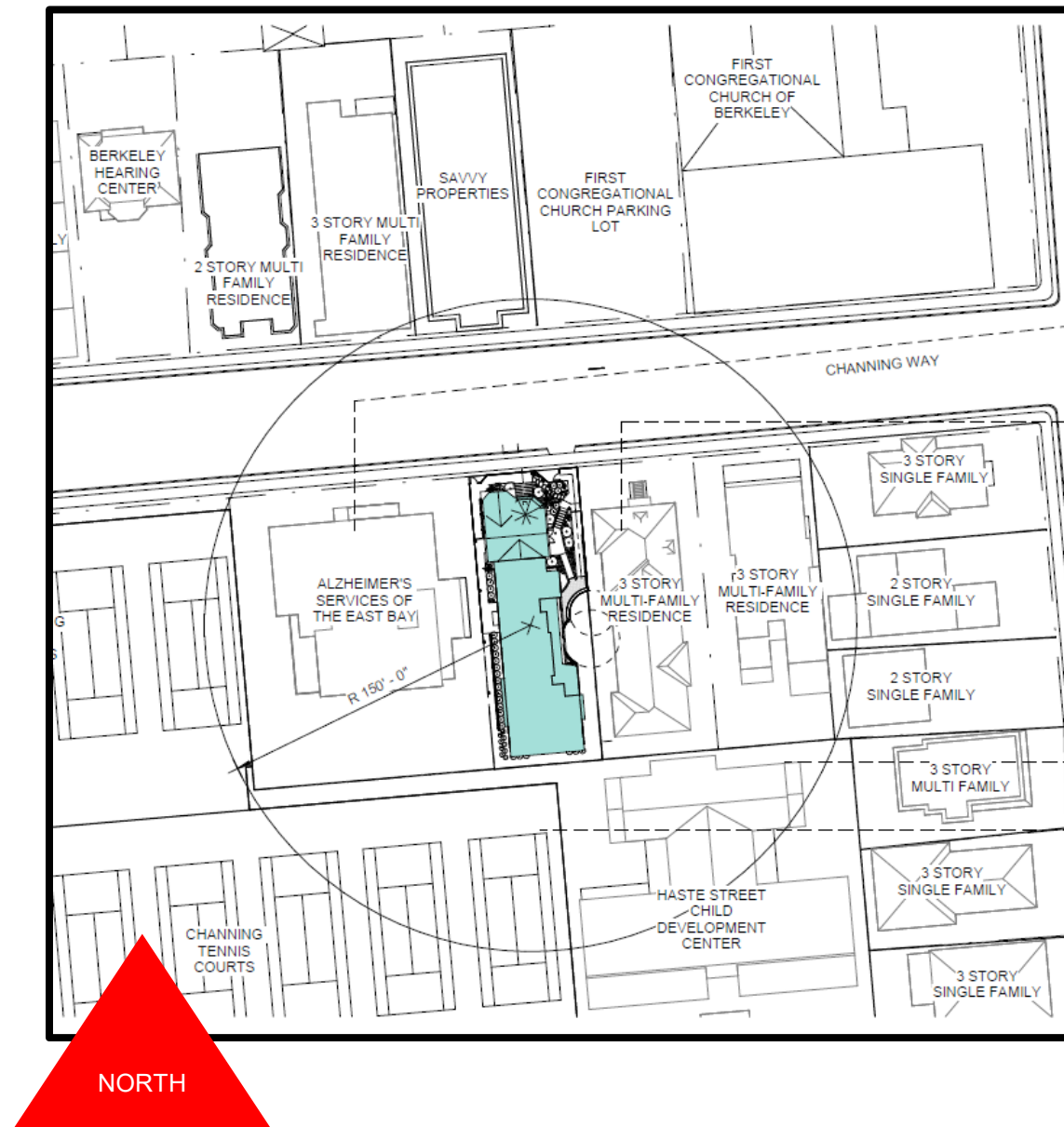


Figure 2: Site Plan

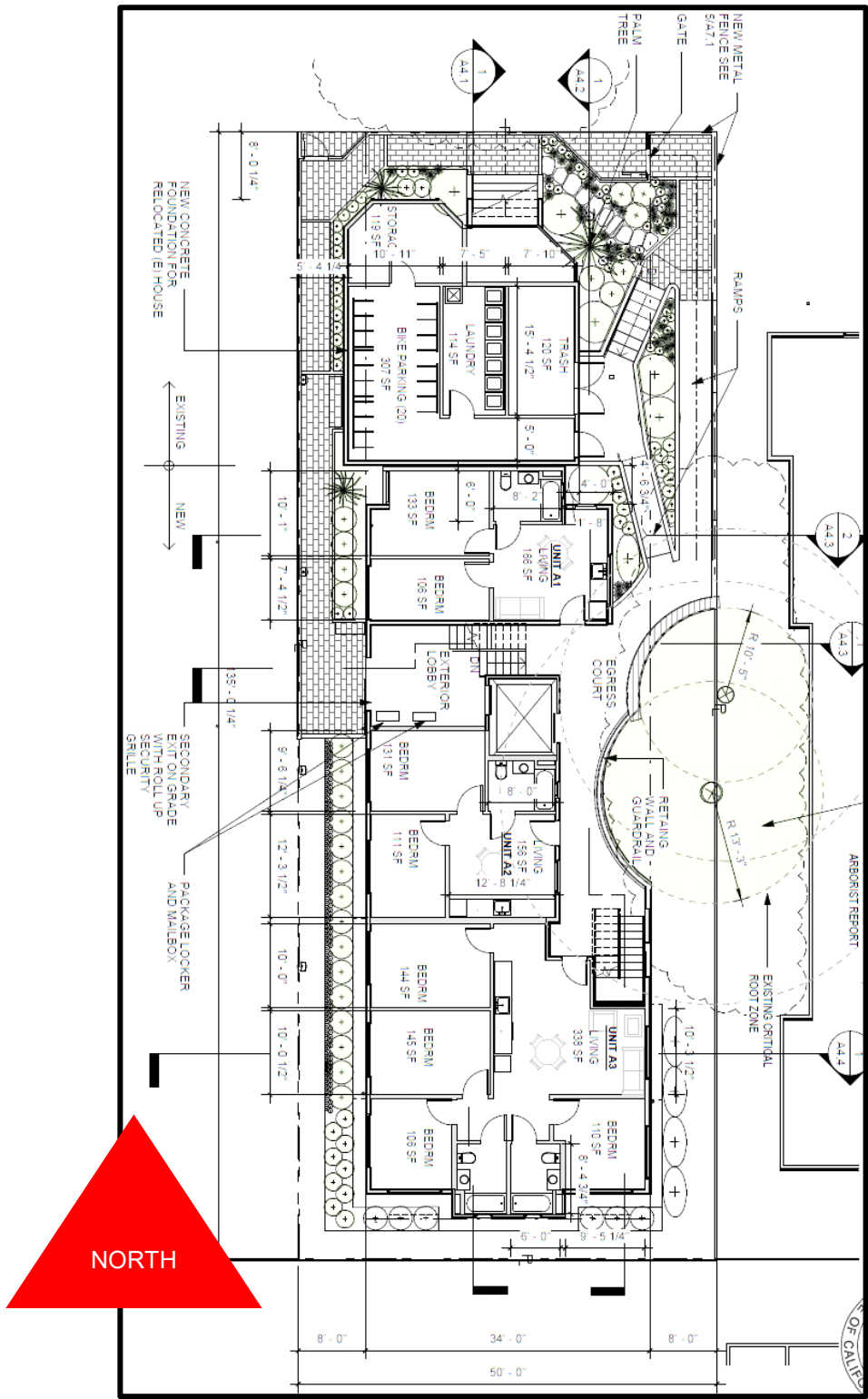


Figure 3: Perspective Rendering



Figure 4: Perspective Rendering



Figure 5: East Elevation



Figure 6: West Elevation



Figure 7: Street Strip Elevation



Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Single-family residence	Residential Southside (R-S)	High Density Residential
Surrounding Properties	North	Multi-family residential		
	South	Childcare		
	East	Multi-family residential		
	West	Care Facility		

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	The project proposal does not include more than 7,500 sq. ft. of net new non-residential floor area and, therefore, is not subject to these fees.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	Yes	This project applicant would be subject to payment of these fees, unless they obtain a waiver or reductions from ZAB in accordance with the ordinance.
Creeks	No	No open creeks are within 30 ft. of this project site.

Characteristic	Applies to Project?	Explanation
Density Bonus (Gov't Code Section 656915)	No	The applicant has not requested a density bonus.
Natural Gas Prohibition (Per BMC 12.80.020)	Yes	If approved, this project proposal would be subject to the natural gas prohibition.
Historic Resources	Yes	The subject property is a City Landmarks site and the proposed project received Structural Alterations Permit approval on February 2, 2022. See Section IV.B of this report.
Housing Accountability Act (Gov't Code Section 65589.5(j))	No	The base project does not comply with applicable, objective general plan and zoning standards, and thus section (j) of the Housing Accountability Act does not apply. See Section III.B of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB330)	Yes	The project is all residential and, therefore, is subject to certain provisions of SB330; See Section V.B of this report.
Oak Trees	Yes	Two mature coast live oak trees are located on the east (side) property line; these trees are subject to City Council moratorium on coast live oak tree removal, Ordinance 6462-N.S.
Rent Controlled Units	No	The subject property is not subject to the provisions of BMC Chapter 13.76 for Rent Stabilization.
Residential Preferred Parking (RPP)	Yes	The project site is eligible for the RPP program; the south side of the 2300-block of Channing is RPP-restricted.
Seismic Hazards (SHMA)	No	The project site is not within an area of Berkeley that has been identified in the accordance with the SHMA.
Soil/Groundwater Contamination	No	The project site is not located within the City's Environmental Management Area, nor does the site appear on the Cortese List (an annually updated list of hazardous materials sites).
Proximity to Transit	Yes	The Southside neighborhood and project site are served by AC Transit Lines 6, 36, 51B, 52 and FS. The site is approximately ½ mile from Downtown Berkeley Bart Station.

Table 3: Project Chronology

Date	Activity
June 9, 2020	Use Permit Application received
July 30, 2021	LPC Structural Alteration Permit (SAP) application received
October 4, 2021	LPC SAP hearing
December 22, 2021	Use Permit Application deemed complete
January 6 & February 2, 2022	LPC SAP hearings continued
February 2, 2022	LPC SAP approved
	CEQA determination
June 9, 2022	ZAB Public hearing notices mailed/posted
June 23, 2022	ZAB hearing
	CEQA determination anticipated

Table 4: Development Standards

Residential Southside Standard		Existing	Proposed	Required/ Permitted
Lot Area (sq. ft.)		6,750	6,750	5,000 min
Gross Floor Area (sq. ft.)		2,450	14,200	Not regulated
Dwelling Units	Total	1	14	Not regulated
	Affordable	-	3	20%
Historic SFR Building Height	Average (ft.)	30.5	30.5	35 max
	Stories	3	3	3 max
Historic SFR Building Setbacks (ft.)	Front	23.25	8	10 min ¹
	Left Side	16.5	16.5	4-6 min
	Right Side	5.5	5.5	4-6 min
New Building Height	Average (ft.)	-	45	35 max ²
	Stories	-	4	3 min ²
	Penthouse	-	52	Not regulated
New Building Setbacks (ft.)	Rear	-	5	10-17 min ³
	Left Side	-	8	4-8 min
	Right Side	-	8	4-8 min
Building-to- Building Separation	First Floor	-	0	20 min ⁴
	Second Floor	-	0	
	Third Floor	-	14	
Lot Coverage (%)		18	53	55 max
Usable Open Space (sq. ft.)		2,150	771	50 per unit; 20 per GLA resident
Parking	Automobile	1	0	0 min
	Bicycle	0	20	0 min

1. In accordance with BMC Section 23.304.030 for *Setbacks*, the Board may grant an Administrative Use Permit to reduce the minimum front yard setback requirement in R-S district.
2. In accordance with BMC Section 23.304.030 for *Development Standards*, the Board may grant a Use Permit to exceed maximum building height from 3 stories and 35 ft. to 4 stories and 45 ft. in the R-S district.
3. In accordance with BMC Section 23.304.030 for *Setbacks*, the Board may grant an Administrative Use Permit to reduce the minimum rear yard setback requirement in R-S district.
4. In accordance with BMC Section 23.304.030 for *Building Separations in Residential Districts*, the Board may grant an Administrative Use Permit to reduce the minimum setback requirements in R-S district.

II. Project Setting

- A. Neighborhood/Area Description:** The project neighborhood is residentially oriented, with a mix of two- to three-story multi-family residential developments, with several one- and two-story medical office buildings in the immediate area. The project site is located on the south side of the 2300-block of Channing Way, two blocks south of the UC Berkeley campus, between Ellsworth Street and Dana Street.
- B. Site Conditions:** The subject parcel contains a three-story main building that was originally constructed in 1889 as well as three, detached accessory structures located on the rear yard area, and one off-street parking space in the side yard. The main building is a single-family residence and appears to be in fair-to-good condition. Two mature coast live oak trees are located on the east side of the parcel, along the interior property line shared the neighboring parcel at 2332 Channing Way.

On July 2, 2020, the Landmarks Preservation Commission (LPC) bestowed City Landmark status on the subject property upon findings that the main building possesses historical significance to the City as evident in its intact Queen Anne design and sustained integrity.

III. Project Description

The applicant proposes to demolish three existing accessory structures in the rear yard as well as the rear (non-historic) portion of the City Landmark Luttrell House. The project would relocate the building to within 8 ft. of the front property line, rehabilitate exterior features, and remodel the interior – retaining a total of five bedrooms and two bathrooms and completing improvements in the basement to provide secure bicycle parking, laundry facilities and a trash room. Exterior features of the Queen Anne design would be restored in accordance with a pending rehabilitation plan that is required under the approved Structural Alteration Permit for this project.

A new building featuring four stories above existing grade and a full basement would be constructed immediately abutting the rear of the Luttrell House, with a zero-ft. building separation. The new building would feature a total of 13 dwelling units: five two-bedroom units, three units with three-bedrooms each, and five units that would provide four-bedrooms.

The main entrance on the east side of the proposed building would be accessed via a pathway from the Channing right-of-way traveling past the Luttrell House. The new building would measure 45 ft. from existing site grade to the top of its proposed parapet walls, and a mechanical penthouse would extend 8 ft. beyond the roof. The project would require excavation on the east side of the new building to install ramps and to achieve ADA access for the proposed basement-level dwelling units and a building elevator.

Exterior materials for the new, four-story building that were approved under the SAP include channel fiber cement board siding, black framed windows, and a laser-cut screen wall. Landscape improvements include a proposal for new plantings with

selections as advised by LPC, a new metal boundary fence and gate along Channing Way with a height of only 5 ft. to ensure visibility of the Luttrell House.

The existing curb cut and drive aisle remnants would be removed as no on-site parking is required or proposed for this project.

The applicant's proposed project plans and landscape sheets, submitted January 24, 2022, in advance of the final LPC hearing on the project design, are provided as Attachment 2 of this report. A detail Applicant Statement is also attached.

IV. Community Discussion

A. Neighbor/Community Concerns: A pre-application poster was erected at the site in 2021. The applicant did not hold public outreach meetings for this application due to COVID-19 social distance requirements. However, prior to submitting this entitlement request, the applicant and their historical resources consultant met with Berkeley Architectural Heritage Association (BAHA) to obtain input and feedback on the initial project design. BAHA commented during the SAP hearings in February and March of 2022.

On June 9, 2022, the City mailed public hearing notices to property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations. At the time of this writing, staff has not received any communications regarding the Use Permit project.

B. Landmarks Preservation Commission (LPC) Review: The subject property is a designated City Landmark site featuring the Luttrell House, originally constructed in 1889. The proposed development project was subject to Structural Alteration Permit (SAP) approval from LPC.

In January 2022, the Commission held an SAP hearing and provided preliminary review and comments on the original project design, then continued the hearing to allow time for the applicant to make design revisions.

On February 3, 2022, the applicant presented a revised project design. The Commission concluded their SAP consideration and then approved the design of the project, subject to a final rehabilitation plan (due prior to building permit submittal) as part of Use Permit approval from ZAB.

The SAP staff report and hearings materials are available on the LPC webpage, linked here:

<https://berkeleyca.gov/your-government/boards-commissions/landmarks-preservation-commission>

V. Issues and Analysis

A. Housing Accountability Act. 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.

There are multiple aspects of the proposed development project that would not meet the base regulatory standards of the BMC: proposed building height of 45 ft. and four stories; reduced front and rear yard setbacks; and the reduced building-to-building separation; see Table 4, Development Standards. However, there are no objective standards for evaluating the request for exceptions to these standards; only a non-detriment finding applies. Therefore, this project is protected by the HAA.

B. SB 330 – Housing Crisis Act of 2019. The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding in urbanized zones throughout the State by expediting the approval process, and by either suspending or eliminating restrictions on housing development. Under these provisions, *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. Therefore, SB 330 applies to the proposed project, and the City is limited to holding no more than five meetings to review the project and to acting on the proposal within 60 days of the CEQA determination.

C. Creation of New Dwelling Units in R-S District. The proposal to create 13 new dwelling units while maintaining an existing GLA unit is found to be beneficial for the City and appropriate for this moderate-to-high-density Southside neighborhood where residential concentration assures neighborhood vitality. The adopted Housing Element (2015) encourages housing production and efforts to achieve Berkeley's regional fair share of new housing units as recognized by the City and the Association of Bay Area Governments. Therefore, increasing the inventory of housing units would be generally beneficial to Berkeley and its residents, and supportive of the City's housing production goals.

Additionally, this proposal responds to several directives of the R-S zoning district *Purposes*, itemized in BMC Section 23.202.130.A, and is not contrary to any, as summarized below.

- The proposal would construct a moderately dense, multi-story residential development that would be located close to shopping, transportation and employment centers.
- The project has been designed to adhere to the Secretary of the Interior's Standards for the Treatment of Historic Properties and would protect the existing, architecturally significant City Landmark building on this site.

- The proposed development is not expected to result in adverse impacts related to massing, or reduced light and air, given its location within a closely-knit residential district where buildings of comparable mass exist and are planned.
- If approved, the proposed project would receive final review and approval by the Building Official prior to construction to ensure compliance with all applicable health and safety codes for new construction of this type and scale.

For all of these reasons, this project proposal is found to be generally permissible and worthy of favorable consideration.

D. Increased Building Height in the R-S District. The R-S zoning district permits the construction of new buildings at a height of three stories and 35 ft. as a matter of right and discretionary approval of buildings in excess of these limits but not greater than four stories and 45 ft. In this case, the applicant seeks approval of the maximum discretionary building envelope in order to create a greater number of dwelling units than would be otherwise achieved under the ministerial building envelope.

Pursuant to BMC Section 23.202.130.E.4 (Development Standards) the Board may approve this request for additional building height upon finding that the proposed project devotes at least 50% of its total floor area to residential uses and aligns with the Purposes of the R-S district. In this case, the entire development would be devoted to residential use, and the project appears to meet all applicable R-S Purposes as described previously in Section V-C of this report.

Further, staff finds that the request for additional building height would be appropriate in this case where the project environs feature two protected coast live oaks with tree canopies that extend into and reduce the standard building envelope for this R-S property. The additional story height would allow for the creation of a residential project that could make more efficient use of this currently under-developed parcel that is located in an urbanize area and a relatively high-density residential district.

E. Front Yard Setback Reduction in R-S district. BMC Section 23.202.130.E requires Administrative Use Permit (AUP) approval of any request to reduce the front yard setback for new construction below the minimum R-S District standard of 10 ft. Board approval is subject to a regulatory finding that the proposed front yard of only 8 ft. would be appropriate given the existing front yard setbacks and the architectural design of surrounding buildings. In this case, the subject property abuts and confronts residential developments that feature front yard setbacks of similar depth and the proposed, new building would reflect the average front yard conditions within its immediate vicinity, and will be comparable to the front yard setback existing on the nearest abutting residential developments at 2332 and 2336 Channing Way, which feature an approximately 10-ft. and a 7-ft. front yard setback (respectively). See Vicinity Map, Figure 1 of this report. Owing to this circumstance, the proposed project would reflect the architectural design of the existing, moderate-to-high-density, multi-family residential developments in this area of the Southside neighborhood. Therefore, the Board may consider favorable action on this request.

- F. Rear Yard Setback Reduction in R-S district.** The applicant proposes to reduce the minimum rear yard setback of 10 to 17 ft. to just 5 ft. in order to construct the proposed project. BMC Section 23.202.130.E.2 allows for the reduction of rear yards in the R-S district upon AUP approval when a property features two or more main buildings that each contain dwelling units. The applicant's proposal meets these conditions and, therefore, the Board may consider this request.

Additionally, staff observes that the subject property's rear yard area abuts a University-owned parcel of approximately 90K sq. ft. in total area that currently contains multiple low-rise structures with non-residential uses. Under these circumstances, the proposed rear yard setback of 5 ft. at the subject property would not result in privacy impacts for abutting residential neighbors where none exist.

The proposed rear yard reduction appears to be appropriate and permissible under the circumstances of this case.

- G. Building Separation Reduction in R-S District.** The applicant has proposed a zero-ft. building-to-building separation between the existing City Landmark building that would be relocated on site (closer to the front property line) and the new main building where a 20-ft. separation is otherwise required under BMC Section 23.202.130.E.2. Such a reduction is permissible in accordance with BMC Section 23.304-4 when the proposal would affect two or more main buildings containing dwelling units and receives AUP approval; the R-S district provision promulgates no other regulatory findings for approval.

The proposed zero-ft. separation appears to be necessary in order to achieve the project objectives where the standard R-S building envelope is constrained by the existing City Landmark Luttrell House and the canopies of two coast live oak trees. Owing to these constraints, the LPC looked favorably at the applicant's proposal and granted Structural Alteration Permit approval for the zero-ft. separation on February 3, 2022, after requesting (and receiving) design revisions that lowered the proposed roof line of an earlier design for the new building where is directly abuts the Luttrell House.

Staff recommends that the Board consider approving the proposed zero-ft. separation given the existing constraints that reduce the otherwise permissible buildable area of the subject property, and the LPC's review and prior approval of project design.

- H. Projection above the roof.** The proposed new building design features a mechanical penthouse that would measure approximately 200 sq. ft. and would project 8 ft. above the proposed building roof. This kind of projection is permitted with an AUP in Residential districts when the proposed area of the penthouse is not greater than 15% of the total roof area. In this case, the proposed penthouse would be approximately 14% of the total roof area of approximately 2,900 sq. ft. and, therefore, would be permitted upon AUP approval by the Board. Because the proposal meets the Zoning ordinance parameters for this kind of projection, staff recommends favorable action on this request.

I. General Plan Consistency: The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy 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.
3. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
4. 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.
5. Policy LU-23–Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.
6. Policy H-33–Regional Housing Needs: Encourage adequate housing production to meet City needs and the City’s share of regional housing needs.
7. Policy EM-5–“Green” Buildings: Promote and encourage compliance with “green” building standards. (Also see Policies EM-8, EM-26, EM-35, EM-36, and UD-6.)
8. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.

Staff Analysis: As described previously in this report, the proposed residential development responds to each of these policy directives. Specifically, the proposal would:

- Create a total of 13 additional units while retaining an existing City Landmark single-family residence / GLA, thereby intensifying a high-density residential neighborhood that is served by transit and bringing the City closer to its established housing production goals.
- Sanction a new, environmentally-sensitive in-fill development on a historically and architecturally significant site that features a compatible building design.
- Align with the permitted development parameters for the R-S District and be consistent with the planned and anticipated scale of development in the area south of the UC campus.

Further, the recommended Conditions of Approval for this project will ensure adherence with applicable requirements and standards for Green Building and environmental sustainability, including: energy usage, water efficiency and waste diversion.

J. Southside Area Plan Consistency: The Southside Area Plan also contains several policies applicable to the project, including the following:

1. Policy LU-A3: Maintain the current supply of housing in Southside.
2. Policy LU-A4: Encourage and promote the rehabilitation and maintenance of existing housing in the area, especially older buildings with architectural and/or historic merit.
3. Policy LU-F3: Conserve, rehabilitate, and improve the maintenance of existing housing in the Residential Subarea.
4. Policy LU-F4: Encourage new residential development in the R-S Residential High Density Subarea.

Staff Analysis: Similar to staff's findings related General Plan consistency, the proposal would maintain and expand the existing housing supply in the Southside residential subarea as well as rehabilitate the City Landmark Luttrell House.

VI. Recommendation

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

- A. APPROVE Use Permit #ZP2020-0052 pursuant to Section 23.406.040.D and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Draft Findings and Conditions
2. Project Plans, received January 24, 2022
3. Applicant Statement, received January 24, 2022
4. Notice of Public Hearing

Staff Planner: Fatema Crane, fcrane@cityofberkeley.info, (510) 981-7410

ATTACHMENT 1

FINDINGS AND CONDITIONS

JUNE 23, 2022

2328 Channing Way

Use Permit #ZP2020-0052 to demolish the rear, non-historic portion of a City Landmark single-family residence, and to re-locate the building closer to the street with a front yard setback of 8 ft. where a minimum of 10 ft. is otherwise required; to construct a new, four-story 45 ft.-tall residential building containing 13 dwelling units immediately abutting the rear of the historic building, to reduce the minimum building separation from 20 ft. to zero, and to reduce the minimum rear yard setback requirement of 10-17 ft. to 5 ft.

PERMITS REQUIRED

- Use Permit, under BMC Section 23.202.130.B to establish dwelling units
- Use Permit, under BMC Section 23.202.130.E to construct a main building with a maximum height of 4 stories and 45 ft.
- Administrative Use Permit, under BMC Section 23.202.130.E to reduce a minimum front yard setback below 10 ft.
- Administrative Use Permit, under BMC Section 23.202.130.E to reduce a minimum rear yard setback below 10-17 ft.
- Administrative Use Permit, under BMC Section 23.202.130.E 23 to reduce a minimum 20-ft. separation between main buildings on lot
- Administrative Use Permit, under BMC Section 23.304.050 to construct a mechanical penthouse above the maximum building 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 CEQA Guidelines Section 15331 for Historical Resource Restoration & Rehabilitation, and Section 15332 for In-Fill Development Projects.

The project meets all of the requirements of this exemption, as follows:

- A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
- B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
- C. The project site has previously been developed and has no value as habitat for endangered, rare or threatened species.
- D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
- E. The site can be adequately served by all required utilities and public services.

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, and (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5.

II. FINDINGS FOR APPROVAL

1. As required by Section 23.406.040.E.1 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 proposal responds to directives of the R-S District (BMC Section 23.202.130.A.1 - *Purposes*), the General Plan (2002) and Southside Plan (2011) by constructing a high-to-moderately dense, multi-story residential development that will be close to shopping, transportation and employment centers.
 - B. Pursuant to BMC Section 23.202.130.A.7, the project has been designed to adhere to the Secretary of the Interior's Standards for the Treatment of Historic Properties and will protect the existing, architecturally significant City Landmark building on this site.
 - C. Pursuant to BMC Section 23.202.130.A.2-3, the proposed development is not expected to result in adverse impacts related to massing, or reduced light and air, given its location within a closely-knit residential district where buildings of comparable mass exist and are planned.
 - D. The proposal to establish 13 new dwelling units is found to be beneficial because it will bring Berkeley closer to its State Regional Housing Needs Assessment allocation as established by the City and the Association of Bay Area Governments.
 - E. As conditioned herein, the proposed project will receive final review and approval by the Building Official prior to construction, which ensures the project's compliance with all applicable health and safety codes for new construction of this type and scale.

III. OTHER FINDINGS FOR APPROVAL

2. As required by Sections 23.202-20 & 23.202.130.E of the BMC for R-S district *Development Standards*, the Zoning Adjustments Board finds that the proposal to construct a four-story, 45 ft.-tall main building in the R-S District is permissible because the project will meet the applicable Purposes of the district, as described above.
3. As required by Sections 23.304-1 & 23.202.130.E of the BMC, the Board finds that the proposal to reduce the minimum front yard setback of 10 ft. to 8 ft. is permissible and appropriate because, on average, it will be comparable to the front yard setback existing on the nearest abutting residential developments at 2332 and 2336 Channing Way, which feature an approximately 10-ft. and a 7-ft. front yard setback (respectively).
4. Pursuant to Sections 23.304-1 & 23.202.130.E of the BMC, the Board finds that the proposal to reduce the minimum rear yard setback of 10-17ft. to just 5 ft. is permissible for this site where the rear abutting property at 2337 Haste Street features low-rise, non-residential uses that would not be unduly affected by potential privacy or massing impacts as a result of the proposed development.
5. As required by Sections 23.202-21 & 23.202.130.E of the BMC, the Board finds that the proposal to reduce the minimum building separation between the existing main building to

remain and the proposed new building is permissible because the existing building is a City Landmark and the project design received favorable action from the Landmarks Preservation Commission. Therefore, this proposed condition featuring a 0-ft. separation is not expected to result in detrimental impacts to the historic structure.

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

1. Conditions Shall be Printed on Plans

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

2. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. 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.

8. Permit Revocation (BMC Section 23.404.080)

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Indemnification Agreement

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

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23.406.040.E, 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. Final Design Review. The Project requires approval of a Final Design Review application by the Design Review Committee.
12. 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.
13. Construction Noise Reduction Program. The applicant shall develop a site specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:
- A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.
 - B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - C. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
 - D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
 - E. Prohibit unnecessary idling of internal combustion engines.
 - F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.

- G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
 - H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
 - I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.
14. Damage Due to Construction Vibration. The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall take into account project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that to avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and include written descriptions and photographs.
- The study shall be reviewed and approved by the Building and Safety Division and the Zoning Officer prior to issuance of a grading permit. Upon completion of the project, the structures (or, in case of large buildings, of the portions of the structures) previously inspected will be resurveyed, and any new cracks or other changes shall be compared to pre-construction conditions and a determination shall be made as to whether the proposed project caused the damage. The findings shall be submitted to the Building and Safety Division and the Zoning Officer for review. If it is determined that project construction has resulted in damage to the structure, the damage shall be repaired to the pre-existing condition by the project sponsor, provided that the property owner approves of the repair.
15. Compliance with Conditions and Environmental Mitigations. The building permit application is subject to verification of compliance to the adopted Southside Plan **Mitigation Monitoring and Reporting Program (Attachment 1- Exhibit A)**. The applicant shall be responsible for demonstrating compliance with all conditions of approval and mitigation measures per the timeline set forth by this use permit. The applicant shall deposit \$10,000 with the City, or less with the approval of the Zoning Officer, to pay for the cost of monitoring compliance with these Conditions of Approval and other applicable conditions and regulations. Should compliance-monitoring expenses exceed the initial deposit, the applicant shall deposit additional funds to

cover such additional expenses upon the request of the Zoning Officer; any unused deposit will be refunded to the applicant.

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

16. Construction Noise Management - Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within **500 feet** of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, and (5) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.
17. Construction Phases. The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or his/her designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these conditions. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.
18. 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.
19. 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

- 20. Parcel Merger.** The applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit.
- 21. Affordable Housing Mitigation Fee:** Consistent with BMC §22.20.065, and fee resolution applicable to this project, the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, and they shall pay this fee.

22. HVAC Noise Reduction. Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.
23. 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.
24. 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).
25. 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).
26. 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.
27. Required Parking Spaces for Persons with Disabilities. Per BMC Section 23.322.040.H of the Zoning Ordinance, "If the number of required off-street parking spaces in a non-residential district is reduced as allowed by this chapter, the number of required parking spaces for persons with disabilities shall be calculated as if there had been no reduction in required spaces."

Prior to Demolition or Start of Construction:

28. Construction Meeting. The applicant shall request of the Zoning Officer an on-site meeting with City staff and key parties involved in the early phases of construction (e.g., applicant, general contractor, foundation subcontractors) to review these conditions and the construction schedule. The general contractor or applicant shall ensure that all subcontractors involved in subsequent phases of construction aware of the conditions of approval.

During Construction:

29. 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.
30. Construction Hours- Exceptions. It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the

developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The project shall not be allowed more than 15 extended working days.

- 31. Project Construction Website.** The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant:
- Contact information (i.e. “hotline” phone number, and email address) for the project construction manager
 - Calendar and schedule of daily/weekly/monthly construction activities
 - The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.
- 32. Public Works - Implement BAAQMD-Recommended Measures during Construction.** For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
- A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.
- 33. Air Quality - Diesel Particulate Matter Controls during Construction.** All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
- A. The project applicant shall prepare a health risk assessment that demonstrates the project’s on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

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

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

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

34. 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.

35. 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.

36. 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.

- 37. 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.
- 38. 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.

39. 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.
40. 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.
41. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).
- A. Qualified Paleontologist. The project applicant shall retain a Qualified Paleontologist prior to excavations or ground disturbance that will exceed three feet in depth. The Qualified Paleontologist shall direct all mitigation measures related to paleontological resources. A qualified professional paleontologist is defined by the SVP standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010).
 - B. Paleontological Worker Environmental Awareness Program (WEAP). Prior to ground disturbance, the applicant shall incorporate information on paleontological resources into the Project's Worker Environmental Awareness Training (WEAP) materials, or a stand-alone Paleontological Resources WEAP shall be submitted to the Department of Planning and Development at the City of Berkeley. The Qualified Paleontologist or his or her designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The Paleontological WEAP training shall be fulfilled simultaneously with the overall WEAP training, or at the first preconstruction meeting at which a Qualified Paleontologist attends prior to ground disturbance. Printed literature (handouts) shall accompany the initial training. Following the initial WEAP training, all new workers and contractors must be trained prior to conducting ground disturbance work.

- C. *Paleontological Monitoring.* The extent of required paleontological monitoring for the project shall be determined by the Qualified Paleontologist based on an evaluation of the previously undisturbed geologic units exposed during ground disturbing activity. The Qualified Paleontologist shall conduct an initial spot check and evaluation of geologic conditions for ground disturbing activity for excavations between 5-10 feet below ground surface (BGS). The evaluation shall be based on field evidence including lithology of geologic units and results of microscreening or other inspections for fossil resources. If the paleontologist determines that geologic units exposed between 5-10 feet BGS have high paleontological sensitivity, then full-time monitoring shall be conducted for the duration of ground disturbing activity. If sediments between 5-10 feet BGS are determined to not be paleontological sensitive, spot checks should be conducted again for ground disturbance between 10-15 feet BGS and again for ground disturbance between 15-20 feet BGS, and again to the full depth of ground disturbance. If spot checks indicate low or no paleontological sensitivity, or if full time monitoring results in no fossil discoveries once the full depth of ground disturbance has been reached, paleontological monitoring can be discontinued for the remainder of project activity. Monitoring shall be reinstated if any new ground disturbances are required to depths exceeding previous depths of previous work, and reduction or suspension shall be reconsidered by the Qualified Paleontologist at that time.
- D. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. A Qualified Paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the Qualified Paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources:
- 1) *Salvage of Fossils.* If fossils are discovered, the paleontological monitor shall have the authority to halt or temporarily divert construction equipment within 50 feet of the find until the monitor and/or lead paleontologist evaluate the discovery and determine if the fossil may be considered significant. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the Construction Contractor may be requested to supply heavy equipment and an operator to assist in the rapid removal of a large fossil specimen(s) or sediment sample(s). Bulk matrix sampling may be necessary to recover small invertebrates or microvertebrates from within paleontologically- sensitive Quaternary old alluvial deposits.
 - 2) *Preparation and Curation of Recovered Fossils.* Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the UCMP), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Qualified Paleontologist.
- E. *Final Paleontological Mitigation Report.* Upon completion of ground disturbing activity (and curation of fossils if necessary) the Qualified Paleontologist shall prepare a final report describing the results of the paleontological monitoring efforts associated with the project. The report shall include a summary of the field and laboratory methods, an overview of the project geology and paleontology, a list of taxa recovered (if any), an analysis of fossils recovered (if any) and their scientific significance, and recommendations. The report shall be submitted to the Department of Planning and Development at the City of Berkeley. If the

monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.

- 42. 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.
- 43. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
 - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.

- H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
44. 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.
45. 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.
46. 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.
47. 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.
48. 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.
49. 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:

50. 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. Occupancy is subject to verification of compliance to the Mitigation Monitoring and Reporting Program.

- 51. 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 January 24, 2022, except as modified by conditions of approval.
- 52. Transportation Demand Management.** Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Planning Department staff to confirm that the physical improvements required in Section 23.334.030(C) and 23.322.090 (bike parking) have been installed. The property owner shall also provide documentation that the programmatic measures required in 23.334.030(A) and 23.334.030(B) will be implemented.
- A. Consistent with Section 23.334.030(A), all parking spaces provided for residents be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units, such that potential renters or buyers shall have the option of renting or buying a dwelling unit at a price lower than would be the case if there were a single price for both the dwelling unit and the parking space(s).
- B. Consistent with Section 23.334.030(C), publicly-available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes.

Property owners may be required to pay administrative fees associated with compliance with this Condition.

BELOW MARKET RATE UNITS

- 53. Number of Below Market Rate Units.** The project shall provide three below market rate rental dwelling units ("BMR Units") to comply with BMC Section 22.20.065.D. The BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.
- 54. Regulatory Agreement.** Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and this Use Permit. The Regulatory Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for the BMR Units shall be 50 percent of area median income (AMI), and the maximum housing payment shall be 30 percent of 50 percent of AMI, as set forth in the following paragraphs of this condition. If the BMR units are occupied by very low income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. The applicant shall submit the Regulatory Agreement to the Housing and Community Services Department (HHCS) via email to affordablehousing@cityofberkeley.info for review and approval.

55. In addition, the following provisions shall apply:

- A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h).
- B. Rent shall include a reasonable allowance for utilities, as published and updated by the Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
- C. BMR units will be provided for the life of the project under Section 22.20.065.

56. Determination of Area Median Income (AMI).

- The “AMI” (Area Median Income) shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.
- The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

Unit Size	AMI Standard
Studio unit	AMI for a one person household
One-bedroom unit	AMI for a two person household
Two-bedroom unit	AMI for a three person household
Three-bedroom unit	AMI for a four person household

57. Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, then are required in the foregoing provisions.

At All Times:

58. Transportation Demand Management Compliance. The property owner shall submit to the Planning Department periodic TDM Compliance Reports in accordance with Administrative Regulations, subject to the review and oversight of the Zoning Officer. Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).

59. 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.

60. 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.

61. Irrigated, water efficient landscape. The property owner shall maintain automatic irrigation and

drainage facilities adequate to assure healthy growing conditions for all required planting and landscape. The landscape shall be drought-tolerant and achieve maximum water efficiency.

62. Design Review. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Landmarks Preservation Commission approval.
 63. 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.
 64. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
 65. 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.
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MITIGATION MONITORING PROGRAM

This Draft Mitigation Monitoring Program (MMP) has been formulated based upon the findings of the Environmental Impact Report (EIR) prepared for the City of Berkeley Draft Southside Plan. The MMP, which is provided in Table 1 of this section, lists mitigation measures recommended in the EIR for the proposed project and identifies mitigation monitoring requirements. The Final MMP must be adopted when the City Council makes a final decision on the project.

This MMP has been prepared to comply with the requirements of State law (Public Resources Code Section 21081.6). State law requires the adoption of an MMP when mitigation measures are required to avoid significant impacts. The MMP is intended to ensure compliance during implementation of the project.

The MMP is organized in a matrix format. The first column identifies the impact and the second column identifies the level of significance of the impact without mitigation. The third column identifies the mitigation measure that would be implemented for each project impact and the fourth column identifies the level of significance of the impact with the mitigation measure. The fifth column, entitled "Monitoring Responsibility," refers to the agency responsible for oversight or ensuring that the mitigation measure is implemented. The sixth column, entitled "Monitoring Timing," refers to when the monitoring will occur to ensure that the mitigation action is completed. The seventh column, entitled "Verification," is for the lead agency to provide verification that the measures have been implemented. These mitigation measures include any minor revisions made as a result of the Response to Comments Document.

Table 1: Mitigation Monitoring Program

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
A. Land Use						
<i>There are no significant land use impacts.</i>						
B. Population, Employment and Housing						
<i>There are no significant population, employment and housing impacts</i>						
C. Transportation and Circulation						
<u>TRANS-1</u> : Potential new construction would significantly affect operations of the Parker Street/Warring Street intersection under Existing Plus Project Conditions.	S	<u>TRANS-1</u> : Remove the stop signs on Warring Street while maintaining stop signs on Parker Street at the Clark Kerr Campus exit. This action will reduce long southbound queues along Warring Street. The side street approach would operate at LOS F; however, the minor street volumes are low and would not meet the peak hour signal warrant. Install a high visibility crosswalk system on the north side of the Clark Kerr exit driveway to permit pedestrians to alert drivers to pedestrian crossings.	SU	City of Berkeley Planning and Development and Public Works Department	To be implemented when it is determined that a project or projects will cause delays at the intersection of more than two seconds from 2007 conditions (as shown in the DEIR) while continuing to operate at an LOS E. Projects will be reviewed during the discretionary approval process and will be required, as necessary, to address impacts through conditions of approval or contribution to a transportation services fee that would provide fair-share funding for improvements. The City cannot guarantee that the improvements will occur by a certain time or prior to a potentially significant impact due to a lack of funding.	

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
<u>TRANS-3</u> : Potential new construction would cause a significant cumulative impact at the intersection of Bancroft Way/Piedmont Avenue.	S	<u>TRANS-3</u> : Re-stripe the existing cross section for north and south bound traffic on Piedmont Avenue to accommodate two lanes of traffic in each direction. The additional lanes will prevent through traffic from being blocked by turning movements. Provide crosswalks only on the north and west sides of the intersection to eliminate pedestrian conflicts with vehicles on the south approach. Relocate the existing northbound bus zone to the north of the intersection to accommodate the second moving traffic lane, and eliminate parking north of Bancroft Way. With implementation of this mitigation measure the intersection would operate at LOS C.	SU	City of Berkeley Planning and Development and Public Works Department	To be implemented when it is determined that a project or projects will exacerbate LOS F conditions at the intersection during the AM peak hour and/or cause operating conditions at the intersection to deteriorate from LOS E to LOS F during the PM peak hour. Projects will be reviewed during the discretionary approval process and will be required, as necessary, to address impacts through conditions of approval or contribution to a transportation services fee that would provide fair-share funding for improvements. The City cannot guarantee that the improvements will occur by a certain time or prior to a potentially significant impact due to a lack of funding.	
<u>TRANS-4</u> : Potential new construction would cause a significant cumulative impact at the intersection of Durant Avenue/Piedmont Avenue.	S	<u>TRANS-4</u> : Re-stripe the existing cross section for north and south bound traffic on Piedmont Avenue to accommodate two lanes of traffic in each direction. The additional lanes will prevent through traffic from being blocked by turning movements. To accommodate two lanes of traffic during the PM peak period, parking would have to be prohibited along Piedmont Avenue between Bancroft Way and 100 feet south of Durant Avenue. With implementation of this mitigation measure the intersection would operate at LOS C.	SU	City of Berkeley Planning and Development and Public Works Department	To be implemented when it is determined that a project or projects will exacerbate LOS F conditions at the intersection during the AM peak hour and/or cause operating conditions at the intersection to deteriorate from LOS E to LOS F during the PM peak hour. Projects will be reviewed during the discretionary approval process and will be required, as necessary, to address impacts through conditions of approval or contribution to a transportation services fee that would provide fair-share funding for improvements. The City cannot guarantee that the improvements will occur by a certain time or prior to a potentially significant impact due to a lack of funding.	

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
TRANS-5: Potential new construction would cause a significant cumulative impact at the intersection of Channing Way/Fulton Street.	S	TRANS-5: Signalize the Channing Way/Fulton Street intersection. With implementation of this mitigation measure the intersection would operate at LOS C. The traffic signal shall provide pedestrian countdown signal indications, bicycle and emergency vehicle detection and necessary equipment capable of transit priority operations.	SU	City of Berkeley Planning and Development and Public Works Department	To be implemented when it is determined that a project or projects will cause operating conditions at the intersection to deteriorate from LOS E to LOS F during the PM peak hour. Projects will be reviewed during the discretionary approval process and will be required, as necessary, to address impacts through conditions of approval or contribution to a transportation services fee that would provide fair-share funding for improvements. The City cannot guarantee that the improvements will occur by a certain time or prior to a potentially significant impact due to a lack of funding.	
TRANS-6: Potential new construction would cause a significant cumulative impact at the intersection of Parker Street/Warring Street.	S	TRANS-6: Implementation of Mitigation Measure TRANS-1 (Remove the stop signs on Warring Street while maintaining stop signs on Parker Street at the Clark Kerr Campus exit) would reduce the cumulative impact on the Parker Street/Warring Street intersection to the less-than-significant level.	SU	City of Berkeley Planning and Development and Public Works Department	To be implemented when it is determined that a project or projects will exacerbate LOS E operations at the intersection by more than 3 seconds from 2007 conditions (as shown in the DEIR) and/or exacerbate LOS F operations at the intersection by increasing the volume-to-capacity ratio by more than 0.01. Projects will be reviewed during the discretionary approval process and will be required, as necessary, to address impacts through conditions of approval or contribution to a transportation services fee that would provide fair-share funding for improvements. The City cannot guarantee that the improvements will occur by a certain time or prior to a potentially significant impact due to a lack of funding.	

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
<u>TRANS-7:</u> Construction on development sites in the Southside area can disrupt pedestrian sidewalks at the vehicle access interface when either driveways or curb-cuts are introduced.	S	<u>TRANS-7:</u> The City shall require all new development to design the vehicle access points to new development sites as driveways. A 6-foot sidewalk width, or 6 feet of clearance on sidewalks, shall be maintained across each new driveway that is in line with the primary walking corridor along the street.	LTS	City of Berkeley Planning and Development and Public Works Department	Prior to design approval.	
<u>TRANS-8:</u> Vehicles and bicycles currently encroach into crosswalks, which may increase as new development allowed pursuant to the Project generates additional trips.	S	<u>TRANS-8:</u> At all signalized intersections and mid-block locations within the Southside area the City shall install limit lines five feet in advance of the crosswalks and install “Turning Traffic Must Yield to Pedestrians” signage consistent with the <i>California Manual on Uniform Traffic Control Devices for Streets and Highways (FHWA’s MUTCD 2003 Edition, as amended for use in California)</i> .	LTS	City of Berkeley Planning and Development and Public Works Department	To be implemented within 5 years through the City’s CIP process	
<u>TRANS-9:</u> Certain elements of the Southside area’s pedestrian facilities are in disrepair or require upgrade to be ADA compliant, which may worsen as development resulting from the Project generates additional pedestrian trips.	S	<u>TRANS-9:</u> The City shall implement Policy T-C4 of the Draft Southside Plan and develop a program for sidewalk and intersection repairs and upgrades. Such a plan should inventory the existing system, identify deficiencies, and prioritize necessary improvements, including ongoing maintenance.	SU	City of Berkeley Planning and Development and Public Works Department	To be implemented when City confirms that conditions warrant its implementation	

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
TRANS-10: The Project will increase bicycle activity, including along the Bancroft Way and Durant Avenue corridors where there are no bicycle facilities, which can create unsafe conditions.	S	TRANS-10: The City shall install Class II bike lanes on Bancroft Way between Dana Street and Fulton Street and on Durant Avenue west of College Avenue. The City shall install shared roadway markings on Bancroft Way west of Fulton Street and east of Dana Street as well as on Durant Avenue east of College Avenue. The shared roadway markings shall be located 11 feet from the face of curb to highlight the preferred bicycle travel path to avoid open vehicle doors.	SU	City of Berkeley Planning and Development and Public Works Department	To be implemented when City confirms that conditions warrant its implementation	
TRANS-14: The Project will bring additional activity to the Southside, including increased vehicular trips. There is a limited amount of short-term parking in the Southside area, which is needed to minimize drivers having to recirculate through the Southside area in search of available parking.	S	TRANS-14: The City shall implement Policy T-F1 of the Draft Southside Plan to improve short term parking opportunities. The City shall explore increasing parking fees to promote use of off-street lots and short-term on-street parking, upgrading its parking enforcement technology to capture long term parkers who move their cars every two hours to avoid ticketing, and pricing parking based on demand.	SU	City of Berkeley Planning and Development and Public Works Department	To be implemented when City confirms that conditions warrant its implementation	

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
D. Air Quality						

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
<u>AIR-1</u> : Demolition and construction period activities could generate significant dust, exhaust, and organic emissions.	S	<u>AIR-1</u>: Consistent with guidance from the BAAQMD, the following actions shall be required of construction contracts and will be incorporated into standard conditions of approval for future development projects. <i>Demolition.</i> The following controls shall be implemented during demolition: • Water during demolition of structures and break-up of pavement to control dust generation; • Cover all trucks hauling demolition debris from the site; and • Use dust-proof chutes to load debris into trucks whenever feasible. <i>Construction.</i> The following controls shall be implemented at all construction sites: • Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers to control dust; • Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard; • Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites; • Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;	LTS	City of Berkeley Building and Safety Division	Throughout demolition and construction period	

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
AIR-1 <i>Continued</i>		• Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets; • Apply non-toxic soil stabilizers to inactive construction areas; • Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.); • Limit traffic speeds on unpaved roads to 15 mph; • Install sandbags or other erosion control measures to prevent silt runoff to public roadways; • Replant vegetation in disturbed areas as quickly as possible; • Install baserock at entryways for all exiting trucks, and wash off the tires or tracks of all trucks and equipment in designated areas before leaving the site; and • Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph. • Implementation of this mitigation measure would reduce construction and demolition air quality impacts to a less-than-significant level.				

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
<u>AIR-2</u> : Project operational emissions would exceed the BAAQMD thresholds of significance for ozone precursors.	S	<u>AIR-2</u> : Changes in land use and zoning and policies in the Draft Southside Plan encourage mixed uses, transit use, pedestrian, and bicycle accessibility, and the provision of limited parking (e.g., LU-D1, LU-E1, LU-F8, LU-F10, LU-F14, T-A1, T-A2, T-A3, T-A4, T-A5, T-C1, T-C4, T-C5, T-C6, T-E1, T-E3, T-E4, T-G3, T-H1). These Plan features would help to reduce new construction-related trips and lower regional emissions. However, even with these reductions, the regional emissions associated with development anticipated to occur with implementation of the Plan would exceed BAAQMD significance thresholds. Additional measures to reduce this impact are not available; therefore, the Project's regional air quality impacts would remain significant and unavoidable.	SU	City of Berkeley Planning and Development and Public Works Department	The changes to land use and zoning policies will be implemented with the adoption of the Southside Plan. The impact will continue to be Significant and Unavoidable because adoption of these mitigation measures will still not mitigate the air quality within the San Francisco Bay Area air basin.	
E. Noise						
<i>There are no significant noise impacts</i>						
F. Public Facilities and Services						
<i>There are no significant public facilities and services impacts</i>						
G. Utilities and Infrastructure						
<i>There are no significant utilities and infrastructures impacts</i>						

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
H. Paleontological and Cultural Resources						
<u>CULT-1</u> : Ground-disturbing activities associated with new construction and associated underground utility installation could result in the destruction of paleontological resources.	S	<u>CULT-1</u> : Should fossils be encountered during construction or site preparation activities, such works shall be halted in the vicinity of the find. A qualified paleontologist shall be contacted to evaluate the nature of the find and determine if mitigation is necessary. All feasible recommendations of the paleontologist shall be implemented. Mitigation may include, but is not limited to, in-field documentation and recovery of the specimen(s), laboratory analysis, the preparation of a report detailing the methods and findings of the investigation, and curation at an appropriate paleontological collections facility.	LTS	City of Berkeley Planning and Development Department	During demolition, grading, and construction activity	

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
<u>CULT-2</u> : Ground-disturbing activities associated with new construction and associated utility installation could result in destruction of unidentified subsurface archaeological deposits.	S	<u>CULT-2</u> : During project-specific environmental review for individual development projects within the Southside area, the City shall apply the conditions of approval and the criteria for determining archaeological impacts required by the City of Berkeley General Plan. If such a system of review is not yet in place, the City shall, prior to the approval of any development pursuant to the Project involving ground disturbance, establish a development process with comparable conditions of approval and safeguards against potential impacts to archaeological deposits. Such conditions and safeguards may include, but are not limited to, archaeological sensitivity assessments, site-specific investigations, intensive surface surveys, and/or subsurface archaeological testing prior to project clearance.	LTS	City of Berkeley Planning and Development Department	Prior to approval	

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
<u>CULT-3</u> : Ground-disturbing activities associated with new construction and associated utility installation could result in destruction of unanticipated archaeological discoveries.	S	<u>CULT-3</u> : If unanticipated deposits of prehistoric or historical archaeological materials are encountered during construction activities, all work within 50 feet of the discovery shall be redirected until a qualified archaeologist can be contacted to evaluate the situation, determine if the deposit qualifies as a historical or archaeological resource, and provide recommendations. If the deposit does not qualify as a historical or archaeological resource, then no further protection or study is necessary. If the deposit does qualify as a historical or archaeological resource, then the impacts to the deposit shall be avoided by project activities. If the deposits cannot be avoided, adverse impacts to the deposit must be mitigated. Mitigation may include, but is not limited to, archaeological data recovery. Upon completion of the archaeological assessment, a report should be prepared documenting methods, findings, and recommendations. The report should be submitted to the City, the project proponent, and the NWIC.	LTS	City of Berkeley Planning and Development Department	During construction activity	

Impact Statement	Level of Significance Without Mitigation	Mitigation Measures	Level of Significance With Mitigation	Monitoring Responsibility	Monitoring Timing	Verification (Date and Initials)
<u>CULT-4</u> : Ground-disturbing activities associated with new construction and associated utility installation could result in destruction or disturbance of human remains, including those interred outside of formal cemeteries.	S	<u>CULT-4</u> : If human remains are encountered during construction activities, all work within 50 feet of the remains should be redirected and the County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Native American Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. The archaeologist shall recover scientifically-valuable information, as appropriate and in accordance with the recommendations of the MLD. Upon completion of the archaeological assessment, a report should be prepared documenting methods and results, as well as recommendations regarding the treatment of the human remains and any associated archaeological materials. The report should be submitted to the City, the project proponent, and the NWIC.	LTS	City of Berkeley Planning and Development Department	During construction activity	

Source: LSA Associates, Inc., 2009.



LUTTRELL HOUSE RESTORATION & NEW BUILDING

2328 CHANNING WAY, BERKELEY, CA, 94704

ARCHITECT/APPLICANT	OWNER	HISTORIC RESOURCE	PROJECT DESCRIPTION
DEVI DUTTA-CHOUDHURY, AIA DEVI DUTTA ARCHITECTURE 928 CARLETON STREET BERKELEY, CA 94710 510/705-1937 hello@devidutta.com	ALLEN JO 1398 TRAILSIDE COURT SAN JOSE, CA 95138 408 209 1203 jo.allen08@gmail.com	STACY FARR www.farrhistoric.com 510/842-6783	RENOVATION OF EXISTING HISTORIC HOME AND CONSTRUCTION OF NEW MULTI- UNIT APARTMENT BUILDING.



DRAWING LIST

- A0.0 COVER SHEET
- A0.1 PROJECT INFORMATION
- A0.2 SITE COVERAGE
- A0.3 SURVEY
- A0.4 STREET ELEVATIONS
- A0.5 VICINITY MAP
- A0.6 SITE PHOTOS
- A1.0 EXISTING/DEMO SITE PLAN
- A1.1 EXISTING / DEMO FIRST FLOOR PLAN
- A1.2 EXISTING/DEMO SECOND FLOOR PLAN
- A1.3 EXISTING/DEMO EAST & NORTH ELEVATIONS
- A1.4 EXISTING/DEMO WEST & SOUTH ELEVATIONS
- A2.0 BASEMENT/SITE PLAN
- A2.1 LEVEL 1
- A2.2 LEVEL 2
- A2.3 LEVEL 3
- A2.4 LEVEL 4
- A2.5 ROOF PLAN
- A3.1 WEST ELEVATION
- A3.2 EAST ELEVATION
- A3.3 NORTH & SOUTH ELEVATION
- A4.1 SECTIONS
- A4.2 SECTIONS
- A4.3 SECTIONS
- A4.4 SECTIONS
- A5.1 AERIAL VIEWS
- A5.3 PERSPECTIVES
- A5.4 PERSPECTIVES
- A5.5 PERSPECTIVES
- A5.6 PERSPECTIVES
- A5.7 PERSPECTIVES
- A6.1 SHADOW STUDY - SUMMER SOLSTICE
- A6.2 SHADOW STUDY - WINTER SOLSTICE
- A6.3 SHADOW STUDY - APPLICATION DATE
- A7.1 PROPOSED DETAILS

DRAWING LIST

- L1 SITE PREP - LANDSCAPE CONSIDERATIONS
- L2 GROUND FLOOR LANDSCAPE - GRADING AND DRAINAGE
- L4 NOT USED
- L5 LANDSCAPE SECTIONS
- L6 PLANTING INFORMATION
- L7 PLANTING INFORMATION
- L8 PLANT IMAGES

A0.0

COVER SHEET

SCALE:

0 4' 8' 16' 32'

2328 Channing Way

Devi Dutta Architecture Inc.

ZONING SUBMITTAL R2

1/24/22



PROJECT ADDRESS

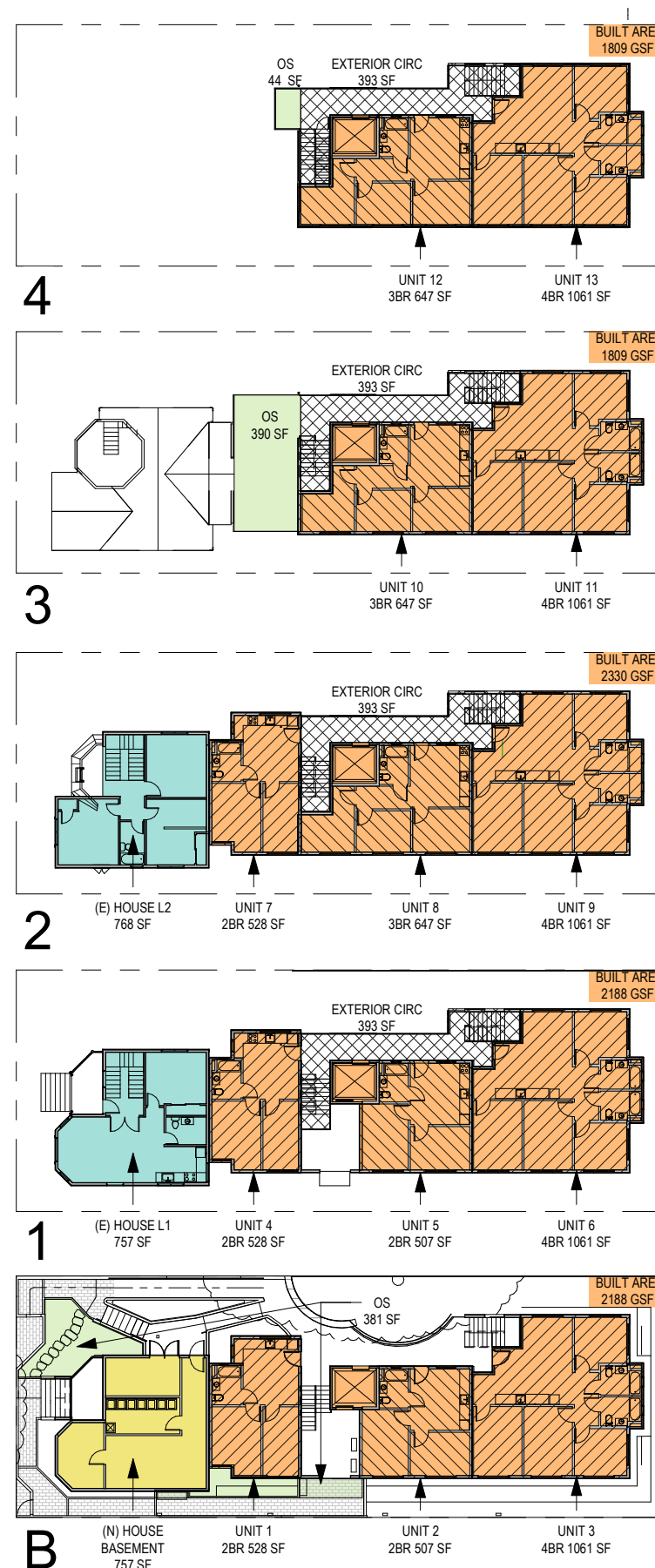
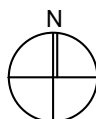
2328 CHANNING WAY, BERKELEY, CA, 94704

ASSESSOR'S PARCEL #:

055-188302700

ZONING INFORMATION

ZONING DISTRICT: R-S
FLOOD ZONE: NO
FIRE ZONE: 1
ENV. MGMT AREA: NO
LANDMARKS STRUCTURE OF MERIT: NO



ZONING DEVELOPMENT STANDARDS

	EXISTING	PROPOSED	REQUIRED/ALLOWED
NUMBER OF DWELLING UNITS	1	14	N/A
AREAS			
LOT SIZE	6750 SF	NO CHANGE	5000 SF MIN.
TOTAL GROSS FLOOR AREA	2451 SF	14187 SF	
EXISTING DWELLING	2451 SF	2282 SF	
BASEMENT	NONE	757 SF	
1ST FLOOR	1215 SF	757 SF	
2ND FLOOR	1236 SF	768 SF	
NEW BUILDING	-	10324 SF	
BASEMENT	-	2188 SF	
1ST FLOOR	-	2188 SF	
2ND FLOOR	-	2330 SF	
3RD FLOOR	-	1809 SF	
4TH FLOOR	-	1809 SF	
EXTERIOR CIRCULATION	-	1572 SF	
BUILDING FOOTPRINT	836 SF	3618 SF	
LOT COVERAGE	18 %	(SEE A0.2)	55% MAX FOR 4 STORIES
IMPERVIOUS SURFACE	1215 SF	577 SF	
USEABLE OPEN SPACE	2153 SF	771 SF	50 SF PER UNIT X 14 UNITS = 700 SF
HEIGHT & STORIES			
EXISTING DWELLING			
AVERAGE	30' - 6 1/2"	30' - 6 1/2"	
MAXIMUM	37' - 7"	37' - 7"	
STORIES	2	2	
NEW BUILDING	-	45'	45'
MAX HEIGHT	-	56'	
INCLUDING PENTHOUSE	-	4 + BASEMENT	4
MAX STORIES	-		
PARKING SPACES			
RESIDENTIAL CAR PARKING	1 SPACE , NON-CONFORMING	NO CHANGE	NONE REQUIRED
BIKE PARKING	NONE	20 LOCKABLE	1 SPACE PER 2000 SQFT 7 SPACES REQUIRED
SETBACKS			
FRONT	23' - 3"	8'	8'
REAR	49' - 5 1/2"	5'	5'
SIDE	16' - 4 3/4" EAST 5' - 4 1/2" WEST	8'	8'

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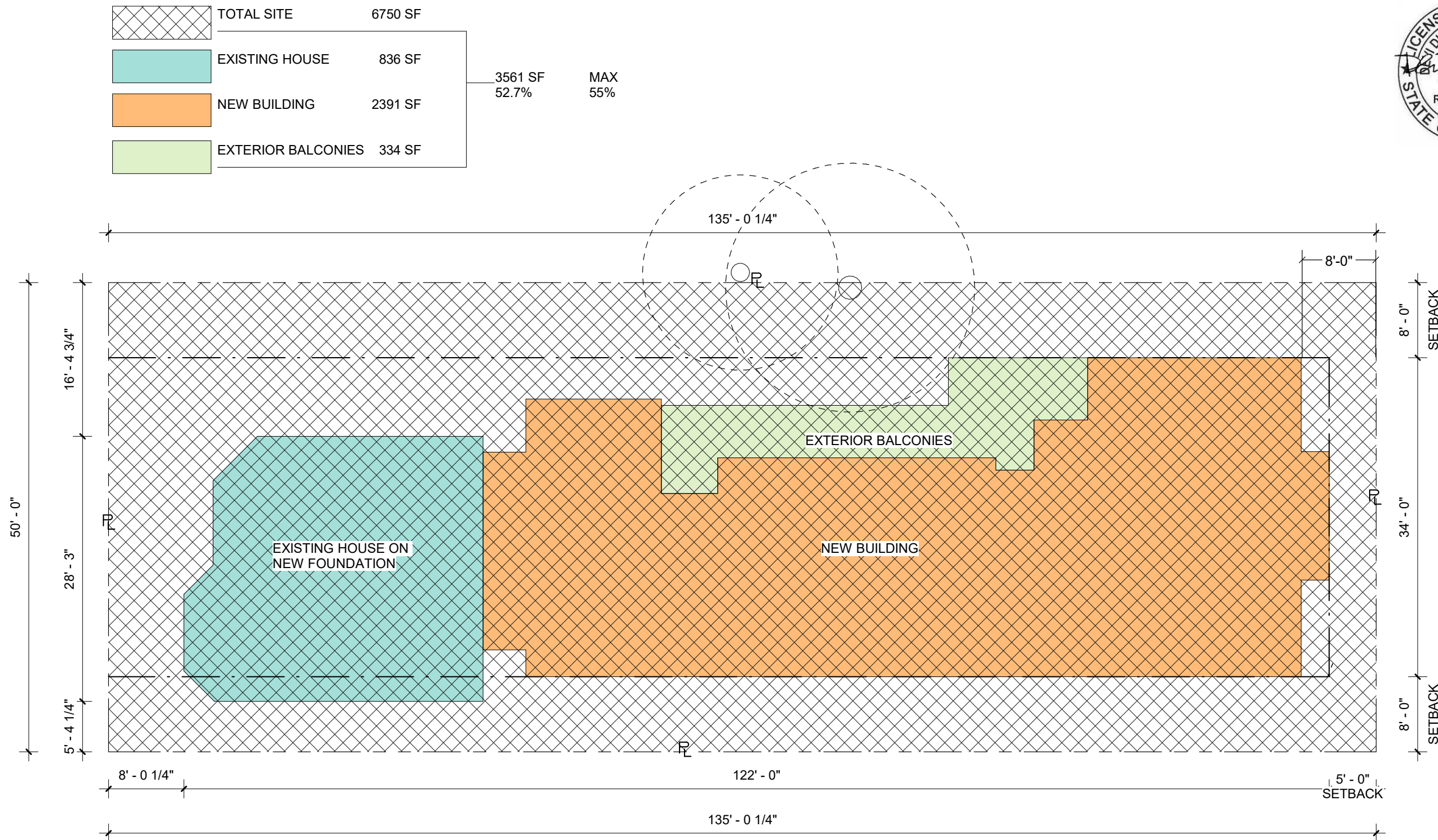
ZONING SUBMITTAL R2

1/24/22

A0.1

PROJECT INFORMATION

SCALE: 1/32" = 1'-0" 0 4' 8' 16' 32'

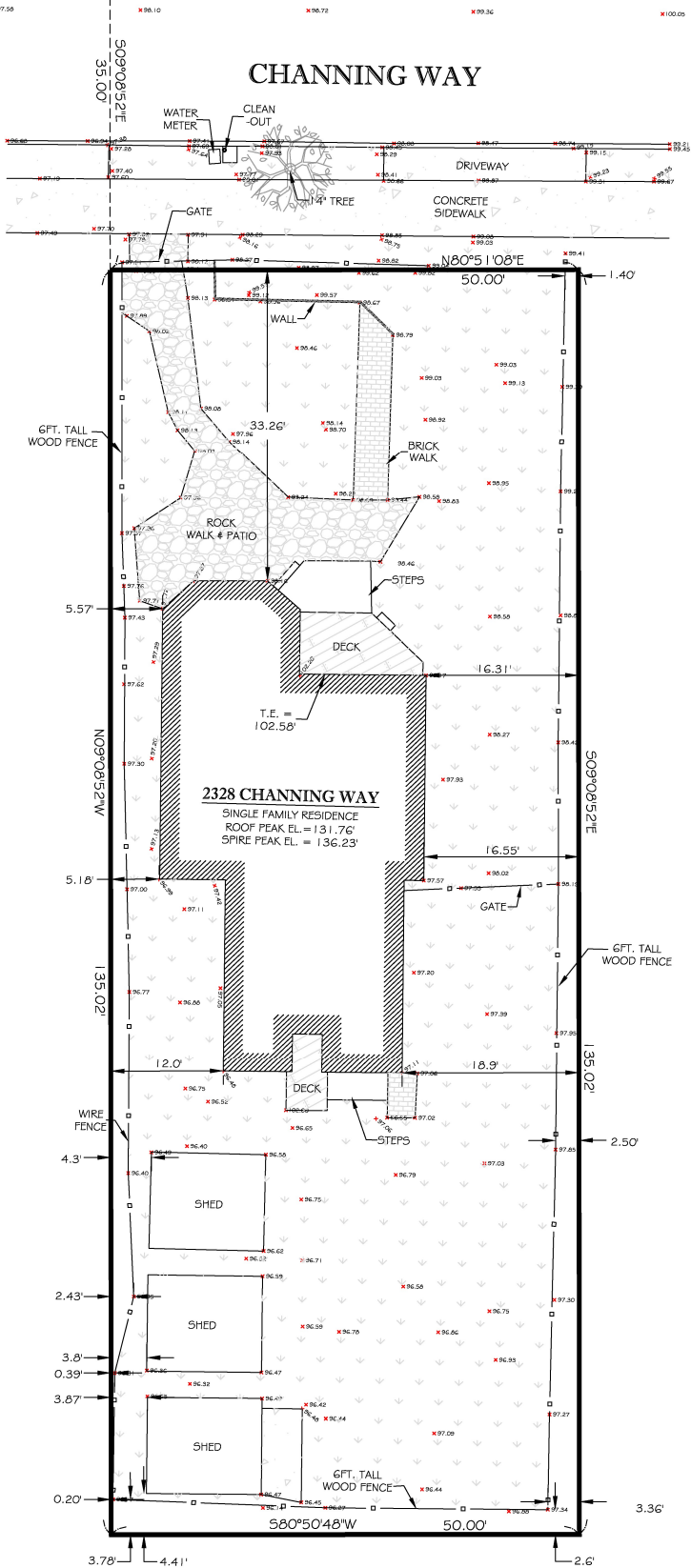


LEGAL DESCRIPTION

BEING SUBDIVISION 1st OF LOT 6, BLOCK 5, SUBDIVISIONS OF PORTION OF LOT 5 AND 6, BLOCK 5, LOTS 7 AND 8, OF BLOCK 6, OF COLLEGE HOMESTEAD, RECORDED OCTOBER 8, 1879, BOOK 1 OF MAPS, PAGE 177, IN THE OFFICE OF THE COUNTY RECORDER, ALAMEDA COUNTY.

SURVEYOR'S NOTES

- ELEVATIONS ARE ON ASSUMED DATUM. SITE BENCHMARK LOCATED HEREON.
- ONLY TREES 6" AND ABOVE WERE LOCATED ON THIS SURVEY. SMALLER TREES AND SHRUBS ARE NOT SHOWN.
- DISTANCES SHOWN HEREON AREA EXPRESSED IN FEET AND DECIMALS THEREOF.



SURVEYOR'S CERTIFICATE

I, KACIE A. PLOUFF, CERTIFY THAT I AM LICENSED AS A PROFESSIONAL LAND SURVEYOR IN THE STATE OF CALIFORNIA (REF. NO. 9013). I FURTHER CERTIFY THAT THIS PLAT REPRESENTS THE RESULTS OF A TOPOGRAPHIC SURVEY CONDUCTED UNDER MY SUPERVISION AT THE REQUEST OF THE CLIENT.



KACIE A. PLOUFF, PLS 9013

CHRISTENSEN & PLOUFF
LAND SURVEYING
• 800 CHURCH STREET, SUITE 200 •
• LOS ANGELES, CA 90009 •
• 408-641-7500 • www.christensenplouff.com



DATE: 09 / 30 / 2019
DRAWING SCALE: 1" = 8'
PREPARED BY: KACIE PLOUFF
APPROVED BY: KACIE PLOUFF
FILE NAME: CA-19-104-2328 CHANNING WAY BERKELEY

2328 CHANNING WAY, BERKELEY
COUNTY OF ALAMEDA
STATE OF CALIFORNIA
APN: 055-1883-027-00

TOPOGRAPHIC SITE PLAN

PROJECT NO.

NCA-19-104

SHEET NO.

1 OF 1



CHANNING SOUTH - EXISTING

2328 CHANNING WAY
SUBJECT PROPERTY



CHANNING SOUTH - PROPOSED



CHANNING NORTH ELEVATION

A0.4

STREET ELEVATIONS

SCALE:

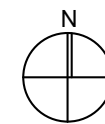
0 4' 8' 16' 32'

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A0.5

VICINITY MAP

SCALE: 1" = 50'-0" 0 4' 8' 16' 32'

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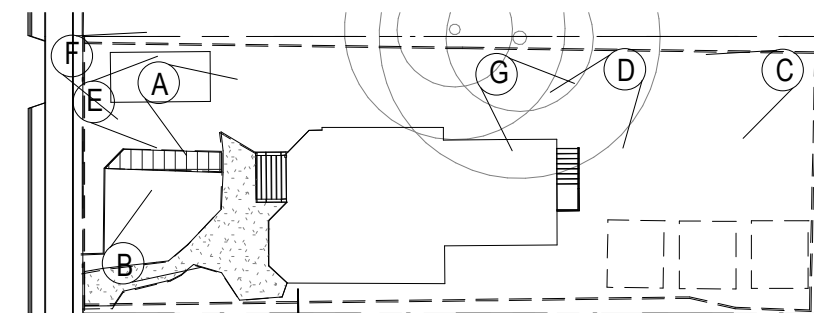
A,B - EXISTING FRONT OF HOUSE



C - EXISTING BACK OF HOUSE



D - EXISTING REAR STAIRWAY



1 SITE PLAN-PHOTO MAP
1/32" = 1'-0"



E - EXISTING DRIVEWAY AND ADJACENT BUILDING



F - EXISTING DRIVEWAY



G - EXISTING REAR YARD

A0.6

SITE PHOTOS

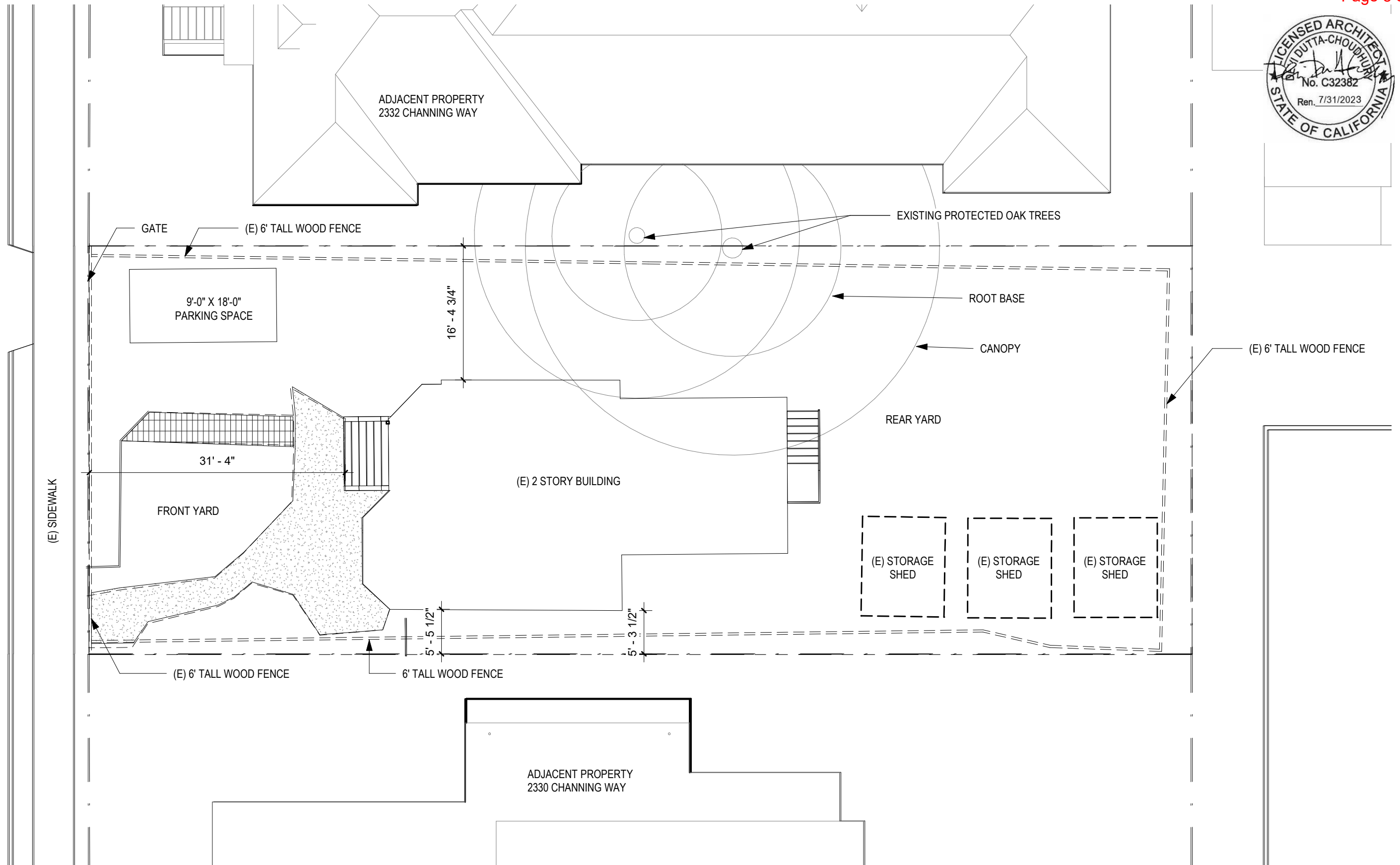
SCALE: 1/32" = 1'-0" 0 4' 8' 16' 32'

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1/24/22



A1.0

EXISTING/DEMO SITE PLAN

SCALE: 3/32" = 1'-0" 0 4' 8' 16' 32'

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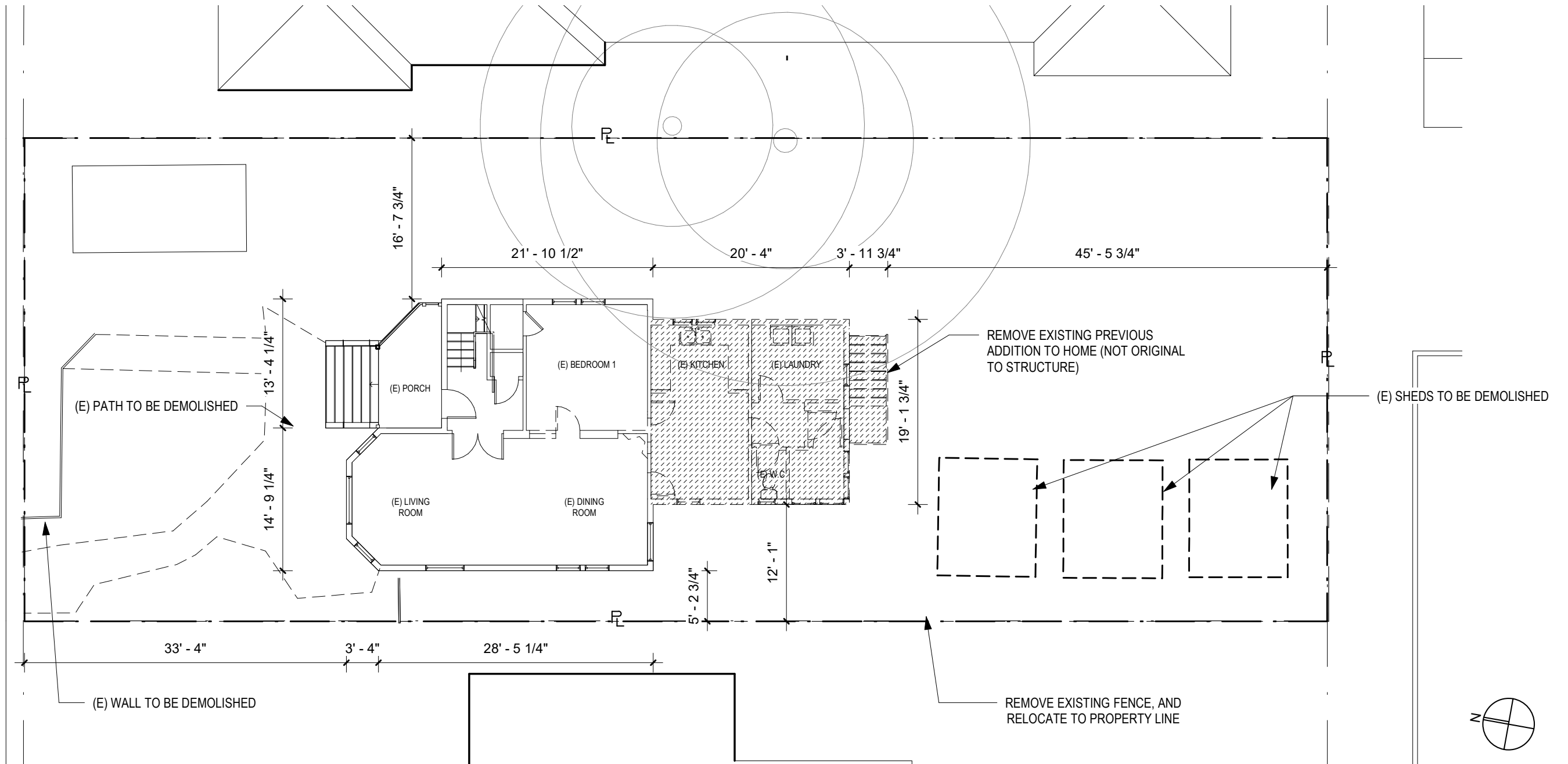
ZONING SUBMITTAL R2

1/24/22



DEMO LEGEND

== == == WALL TO BE DEMOLISHED
===== (E) WALL TO REMAIN



A1.1

EXISTING / DEMO FIRST FLOOR PLAN

SCALE: 3/32" = 1'-0" 0 4' 8' 16' 32'

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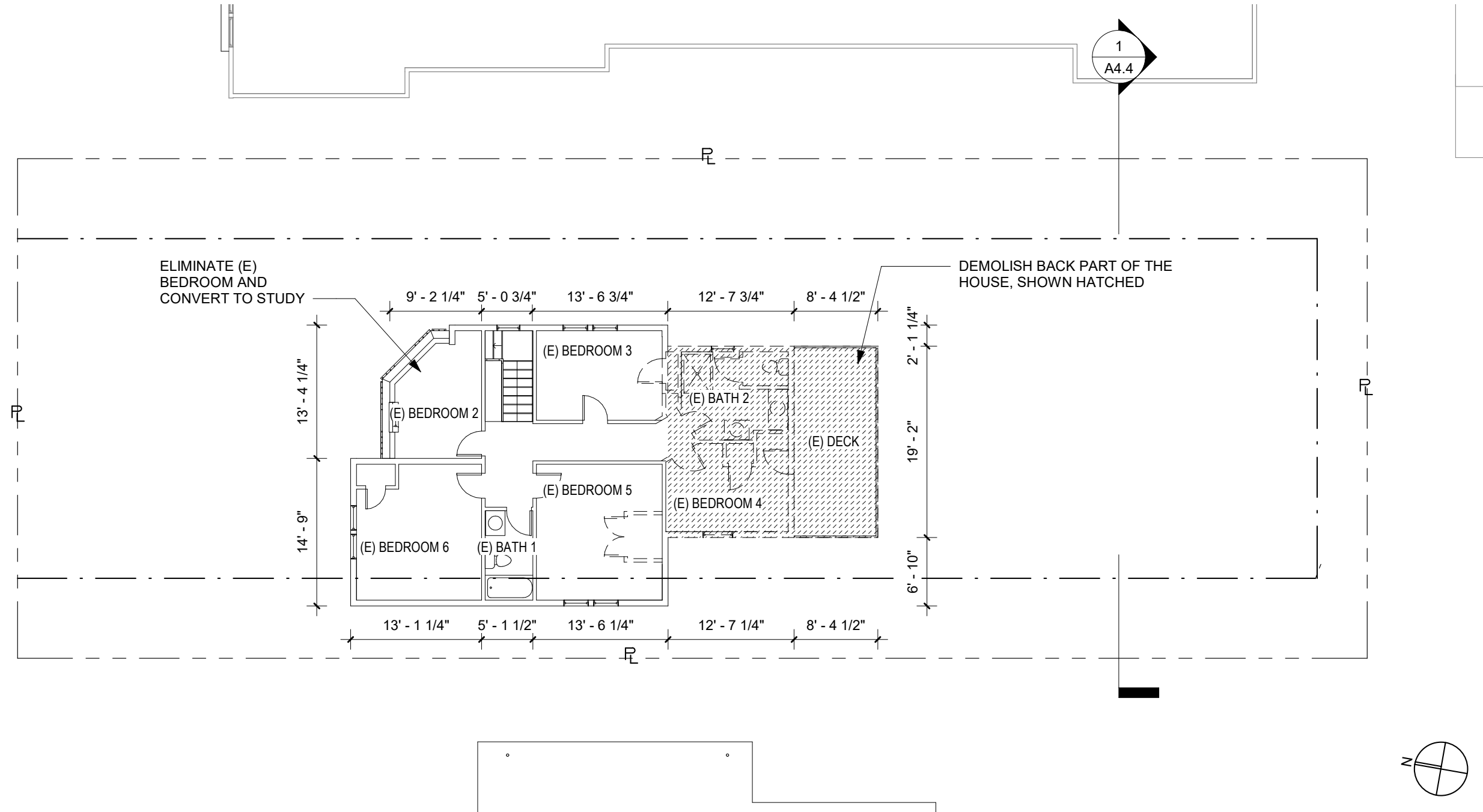
ZONING SUBMITTAL R2

1/24/22



DEMO LEGEND

== == == WALL TO BE DEMOLISHED
===== (E) WALL TO REMAIN



A1.2

EXISTING/DEMO SECOND FLOOR PLAN

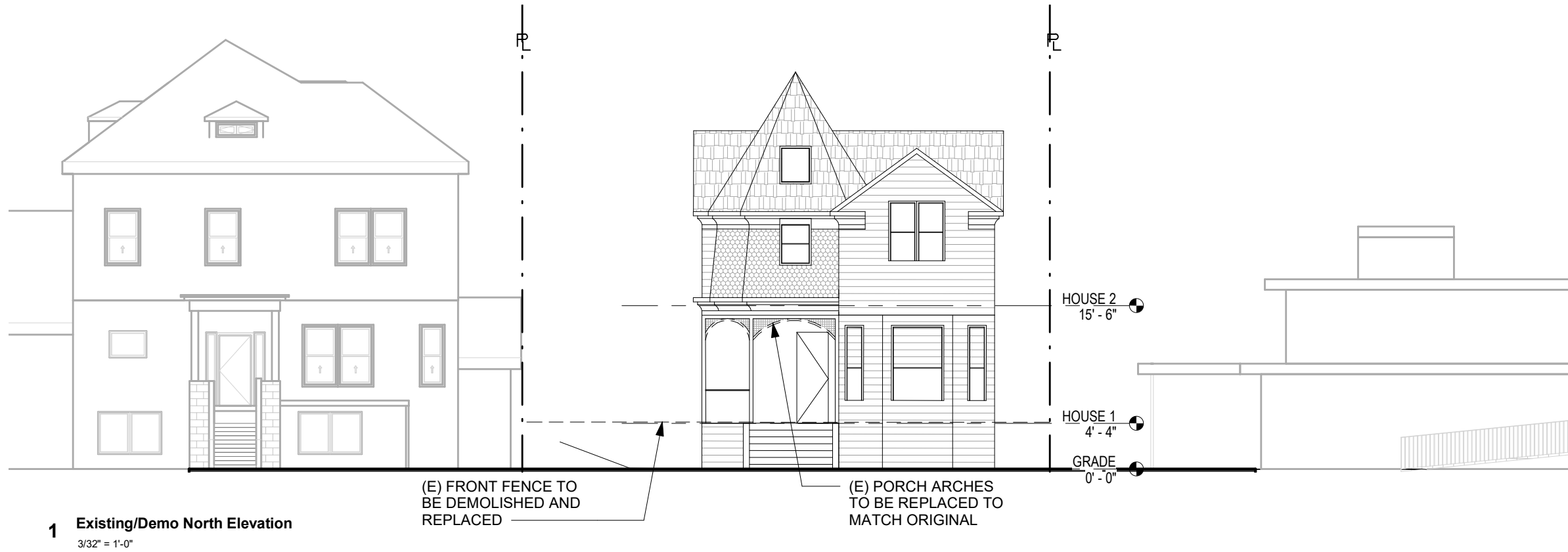
SCALE: 3/32" = 1'-0"

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1/24/22



A1.3

EXISTING/DEMO EAST & NORTH ELEVATIONS

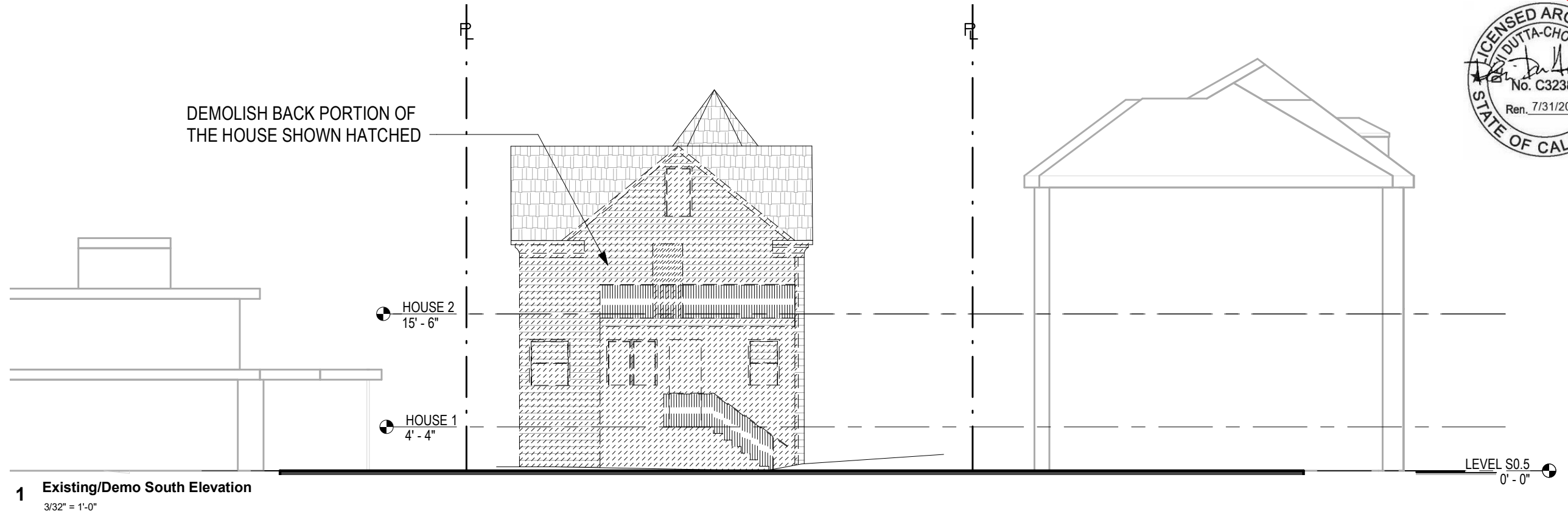
SCALE: 3/32" = 1'-0" 0 4' 8' 16' 32'

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A1.4

EXISTING/DEMO WEST & SOUTH ELEVATIONS

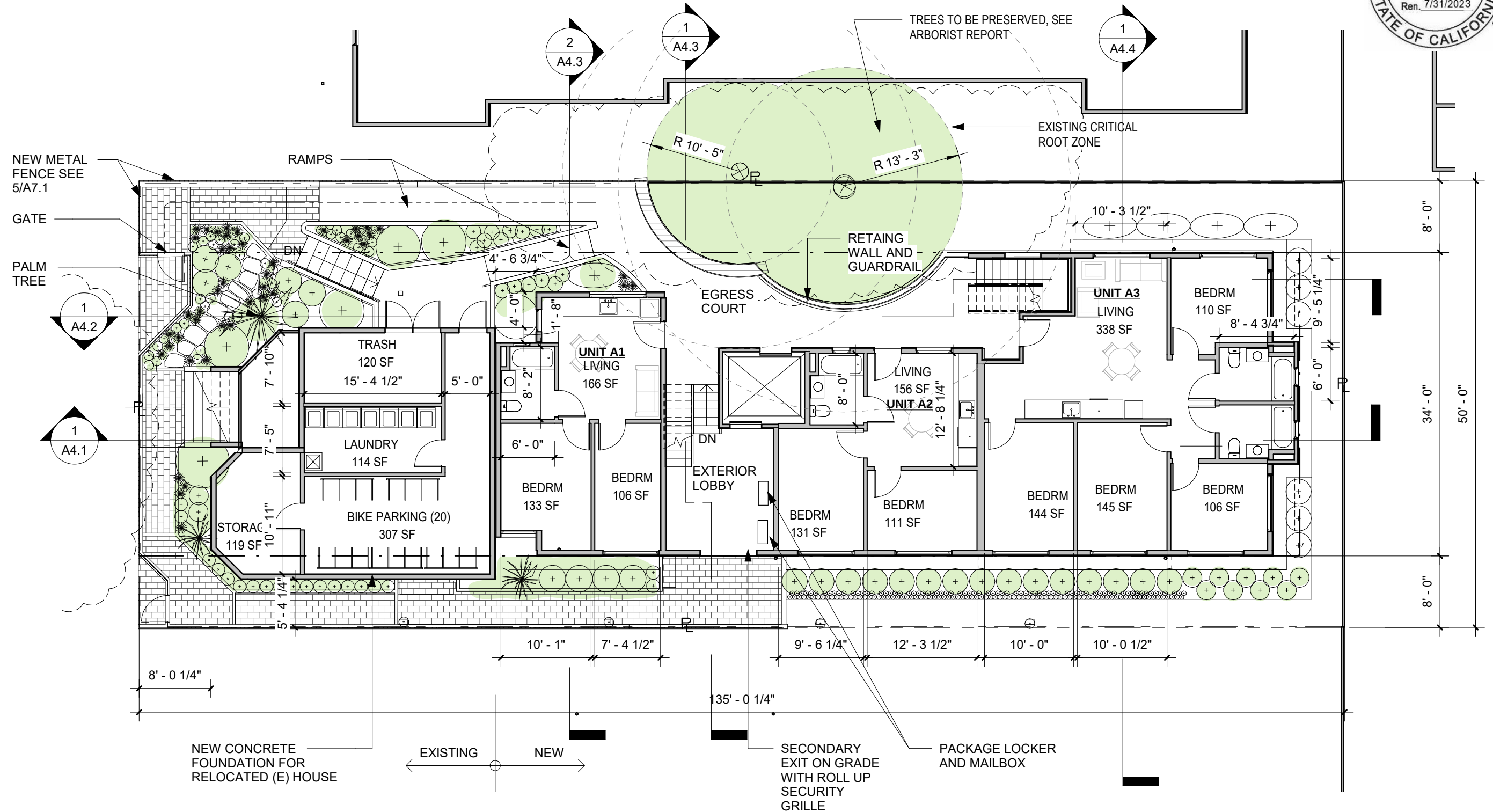
SCALE: 3/32" = 1'-0" 0 4' 8' 16' 32'

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A2.0

BASEMENT/SITE PLAN

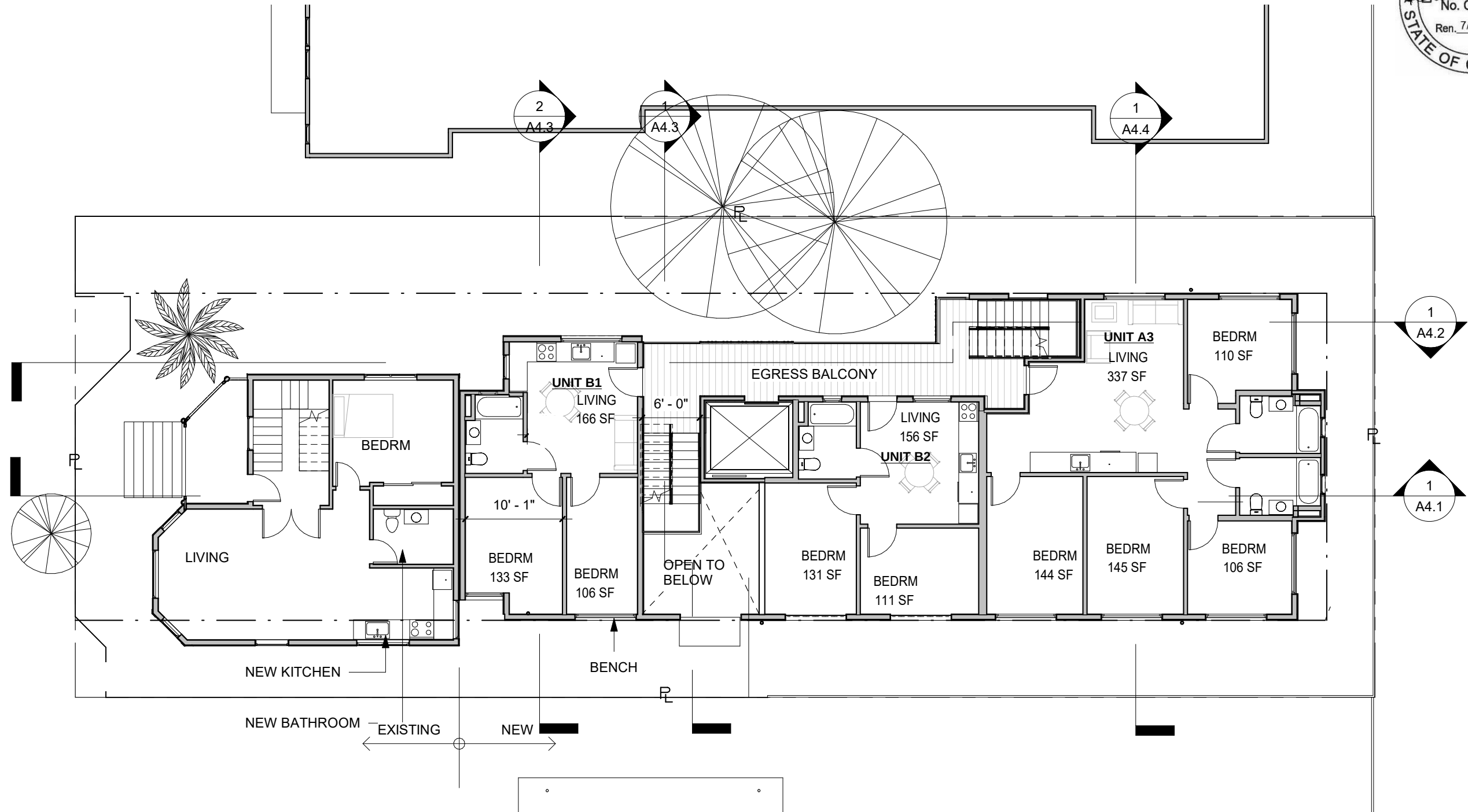
SCALE: 3/32" = 1'-0" 0 4' 8' 16' 32'

2328 Channing Way

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ZONING SUBMITTAL R2

1/24/22



A2.1

LEVEL 1

SCALE:

3/32" = 1'-0"

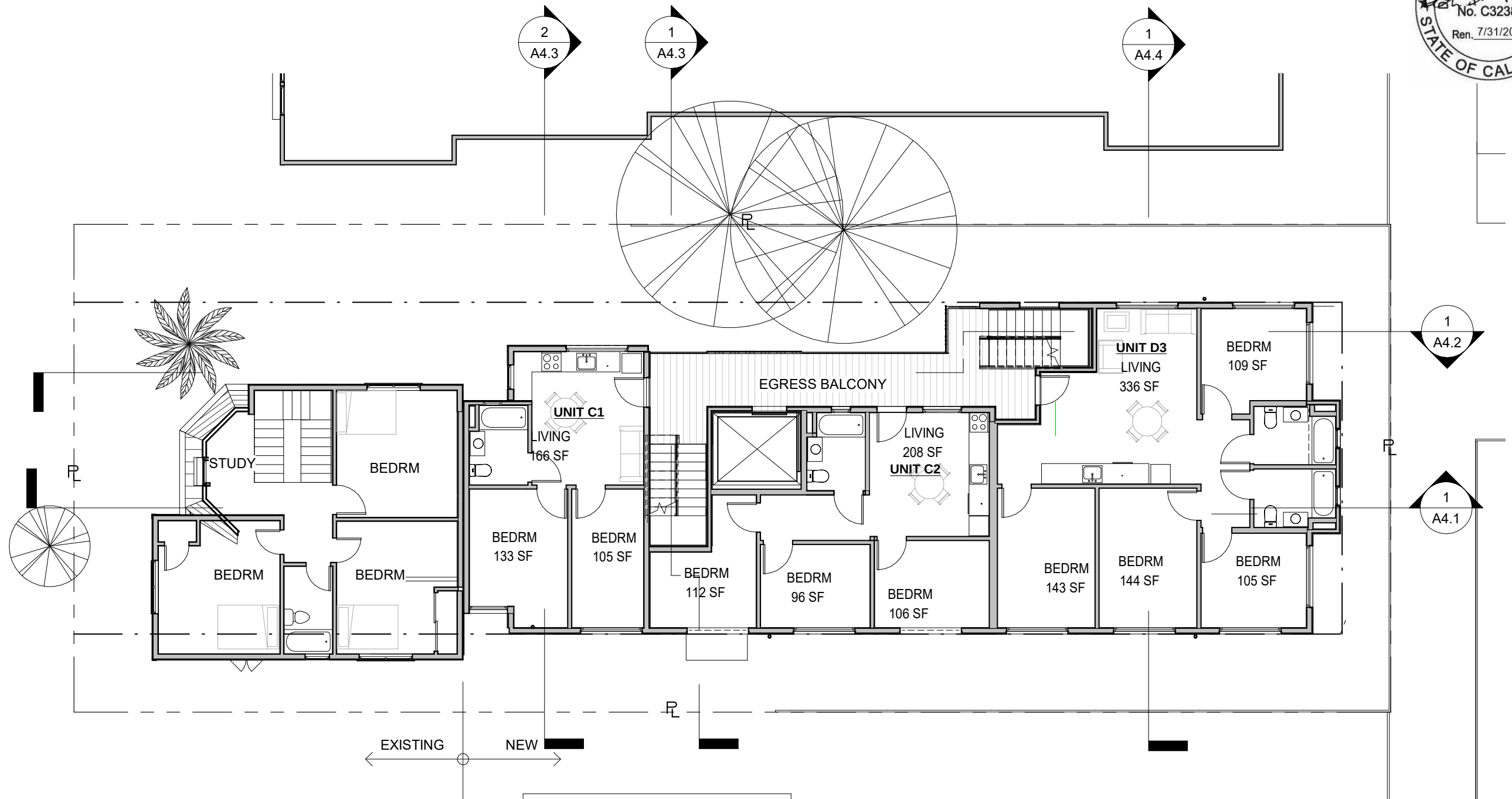
0 4' 8' 16' 32'

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1/24/22



A2.2

LEVEL 2

SCALE:

3/32" = 1'-0"

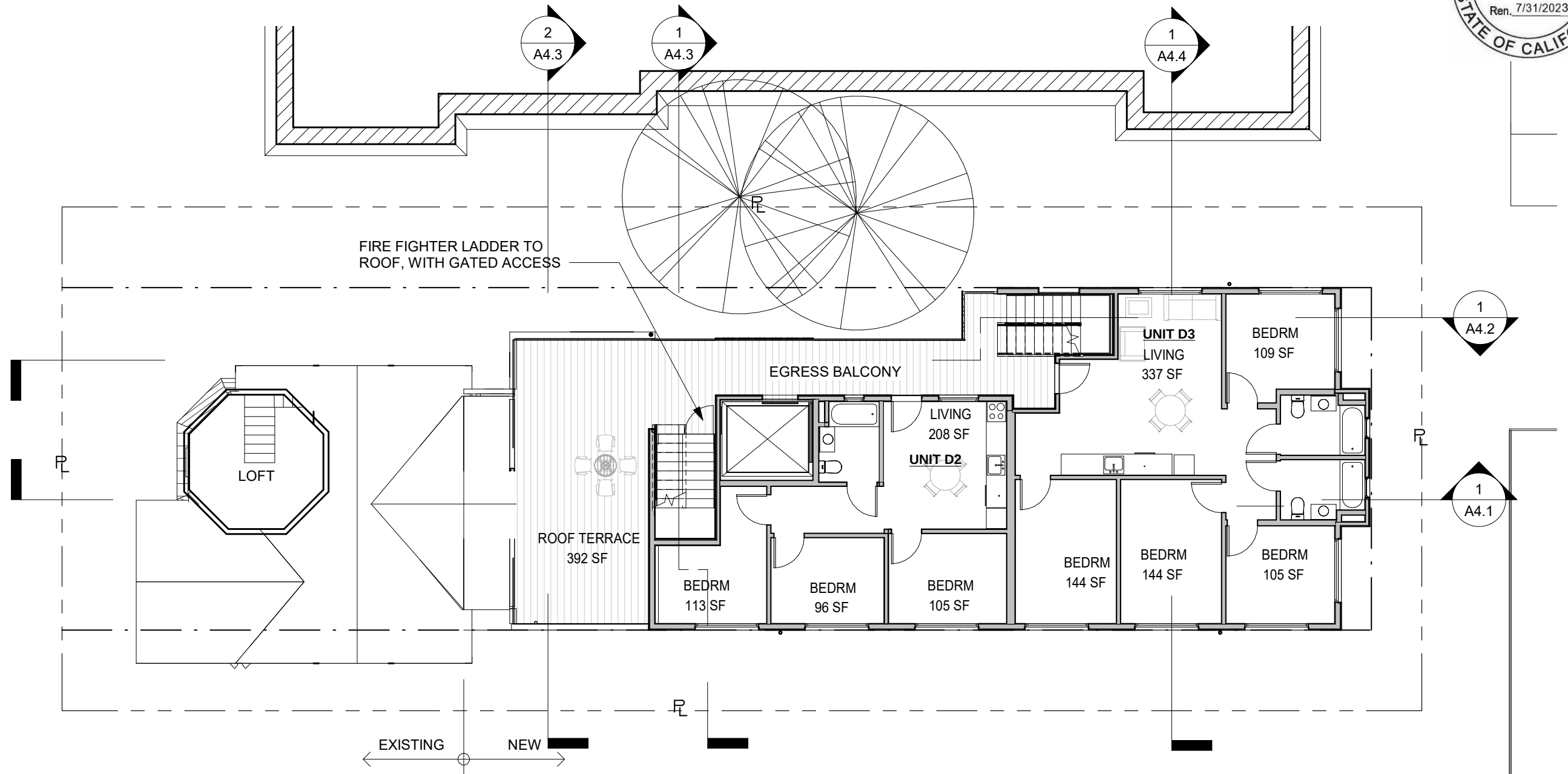
0 4' 8' 16' 32'

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A2.3

LEVEL 3

SCALE:

3/32" = 1'-0"

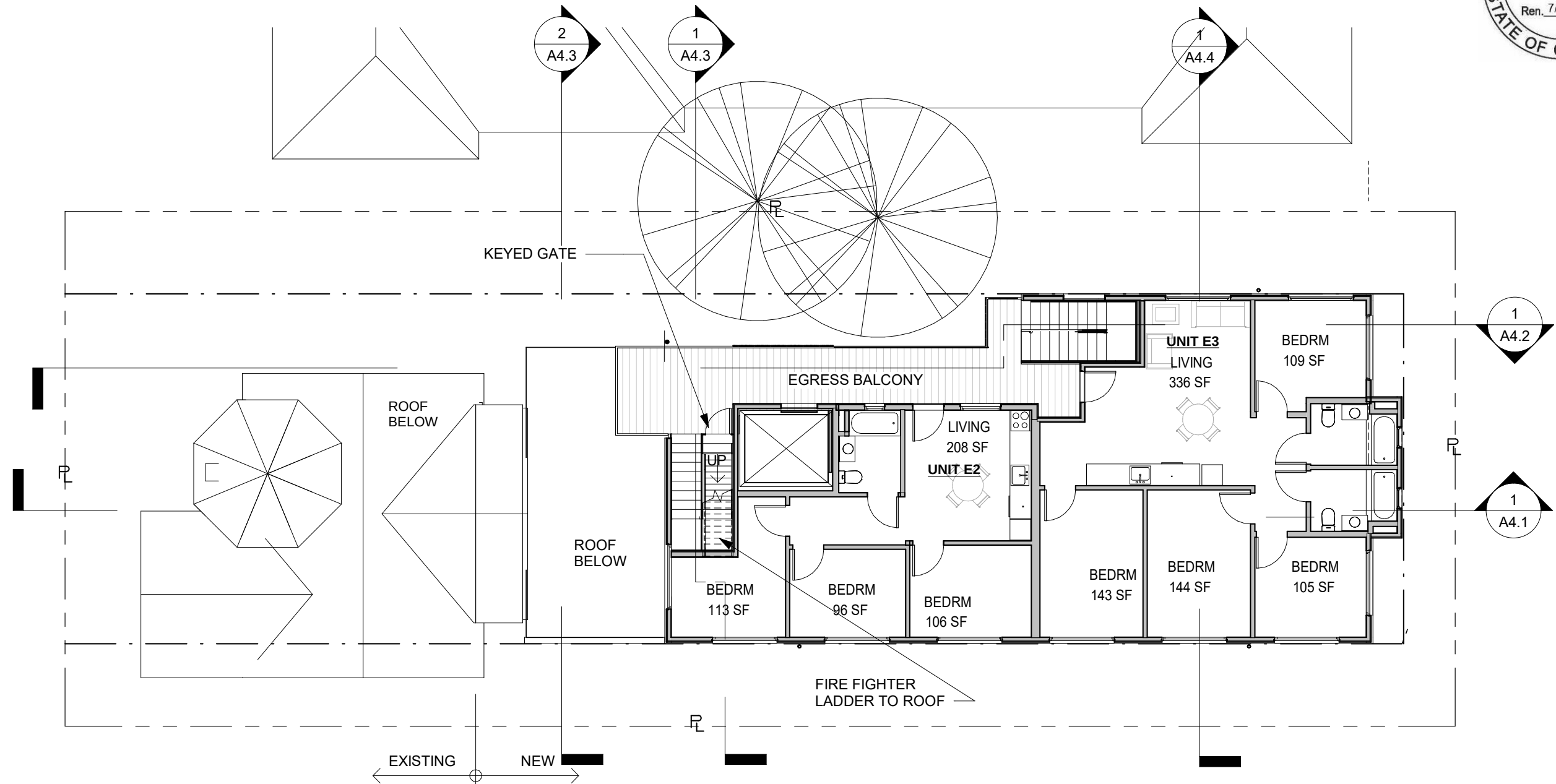
0 4' 8' 16' 32'

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1/24/22



A2.4

LEVEL 4

SCALE:

3/32" = 1'-0"

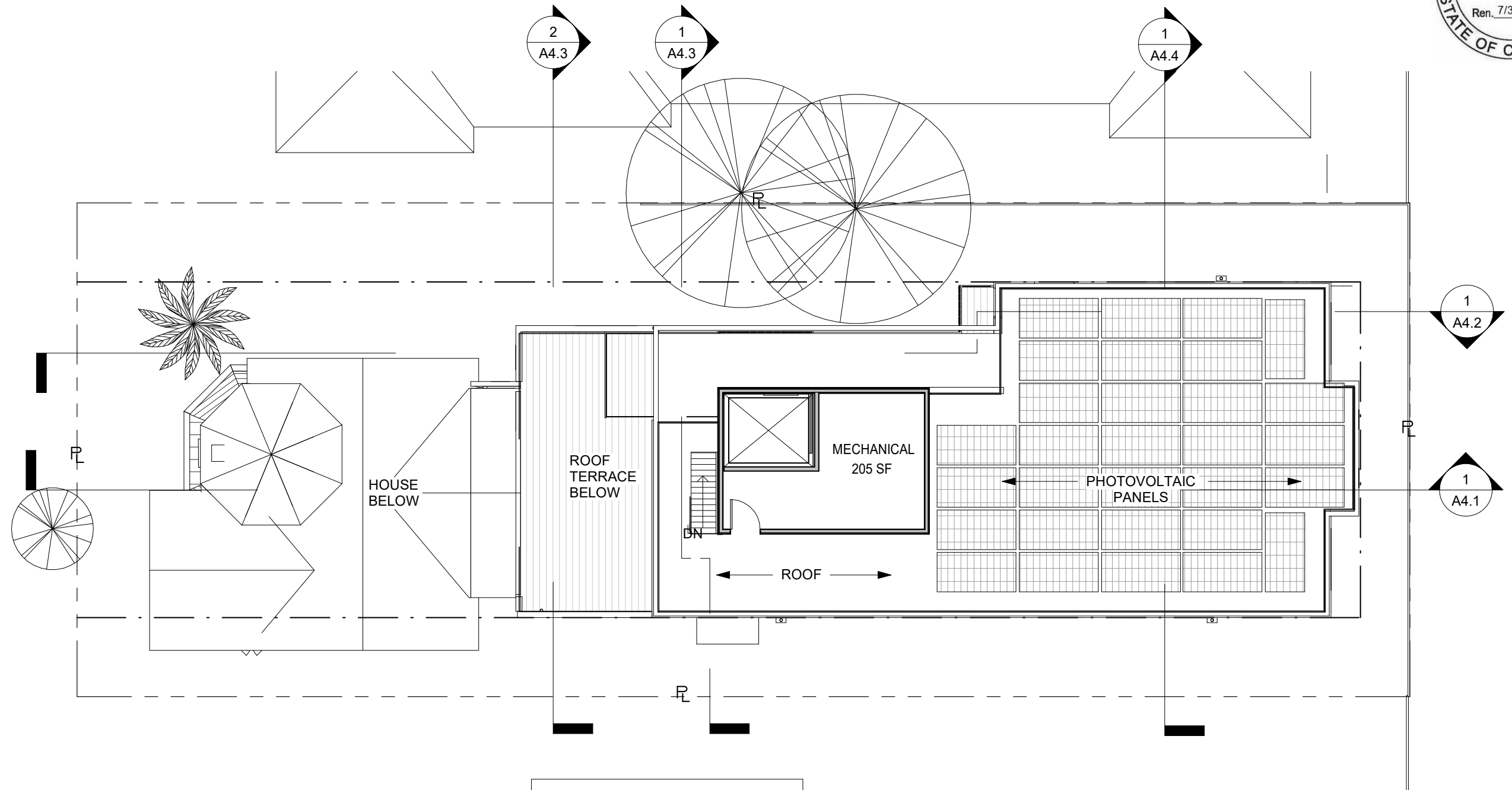
0 4' 8' 16' 32'

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A2.5

ROOF PLAN

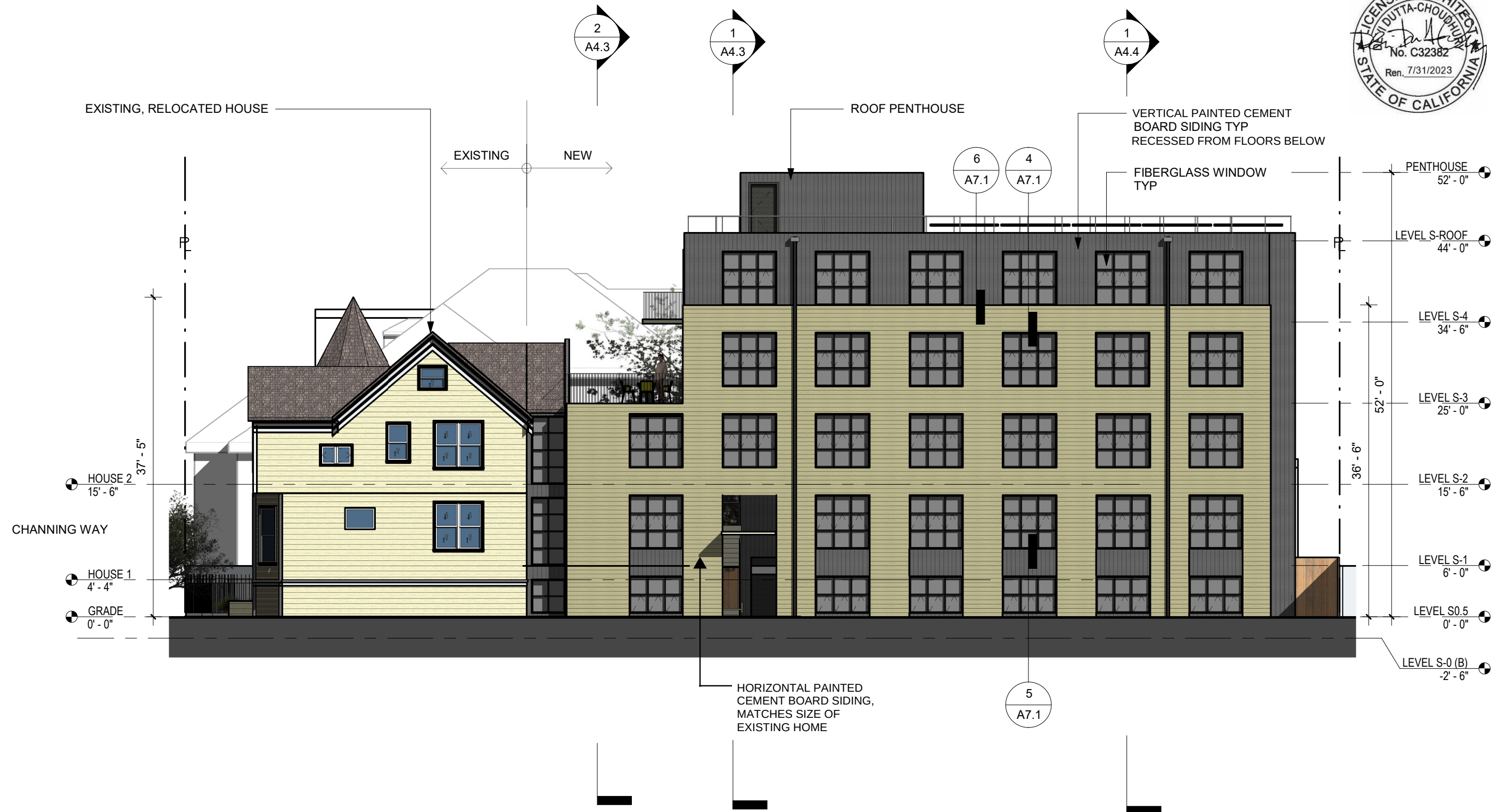
SCALE: 3/32" = 1'-0" 0 4' 8' 16' 32'

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A3.1

WEST ELEVATION

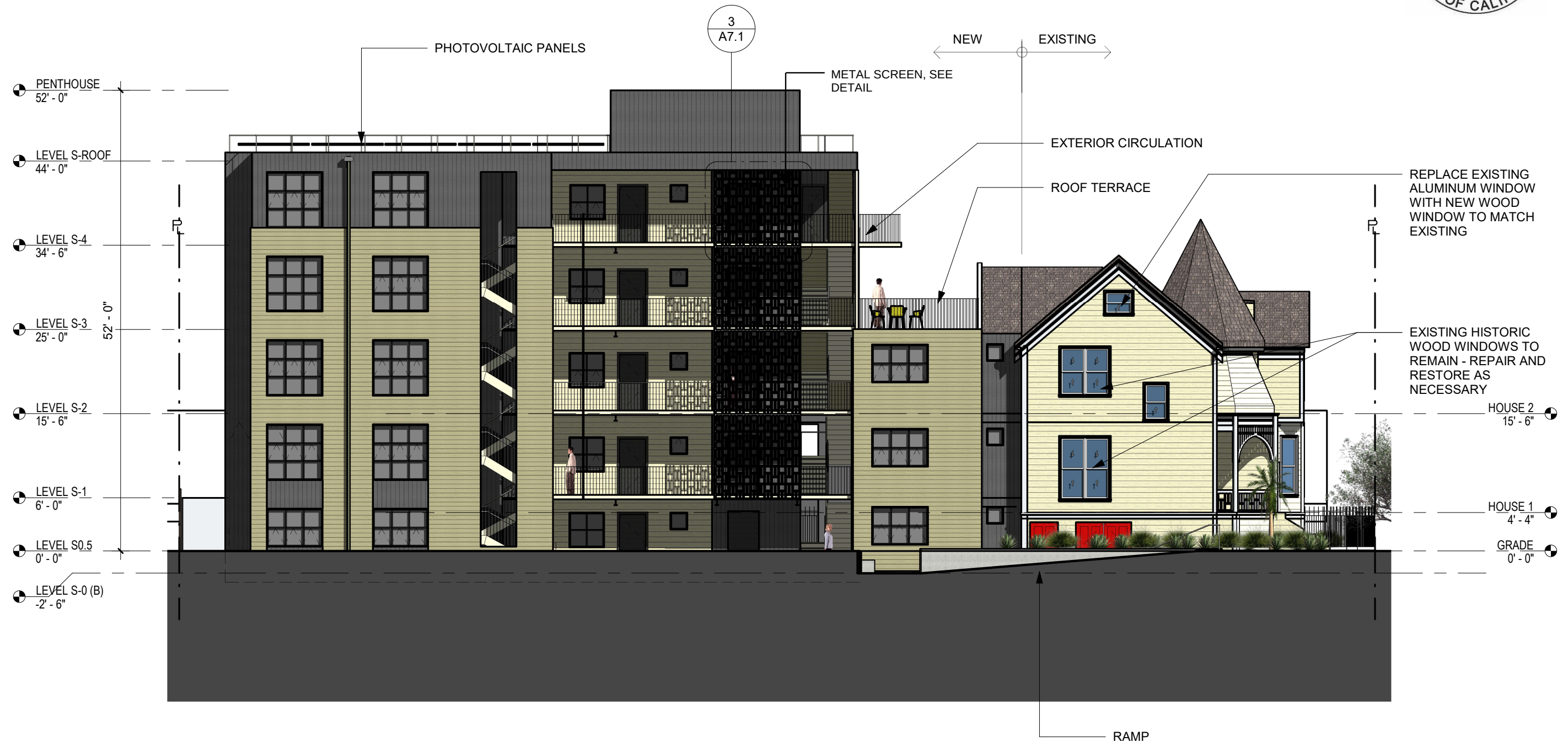
SCALE: $\frac{3}{32}'' = 1'-0''$ 0 4' 8' 16' 32'

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SOUTH ELEVATION



NORTH ELEVATION

A3.3

NORTH & SOUTH ELEVATION

SCALE: 3/32" = 1'-0" 0 4' 8' 16' 32'

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A4.1

SECTIONS

SCALE: 3/32" = 1'-0" 0 4' 8' 16' 32'

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A4.2

SECTIONS

SCALE: 3/32" = 1'-0"

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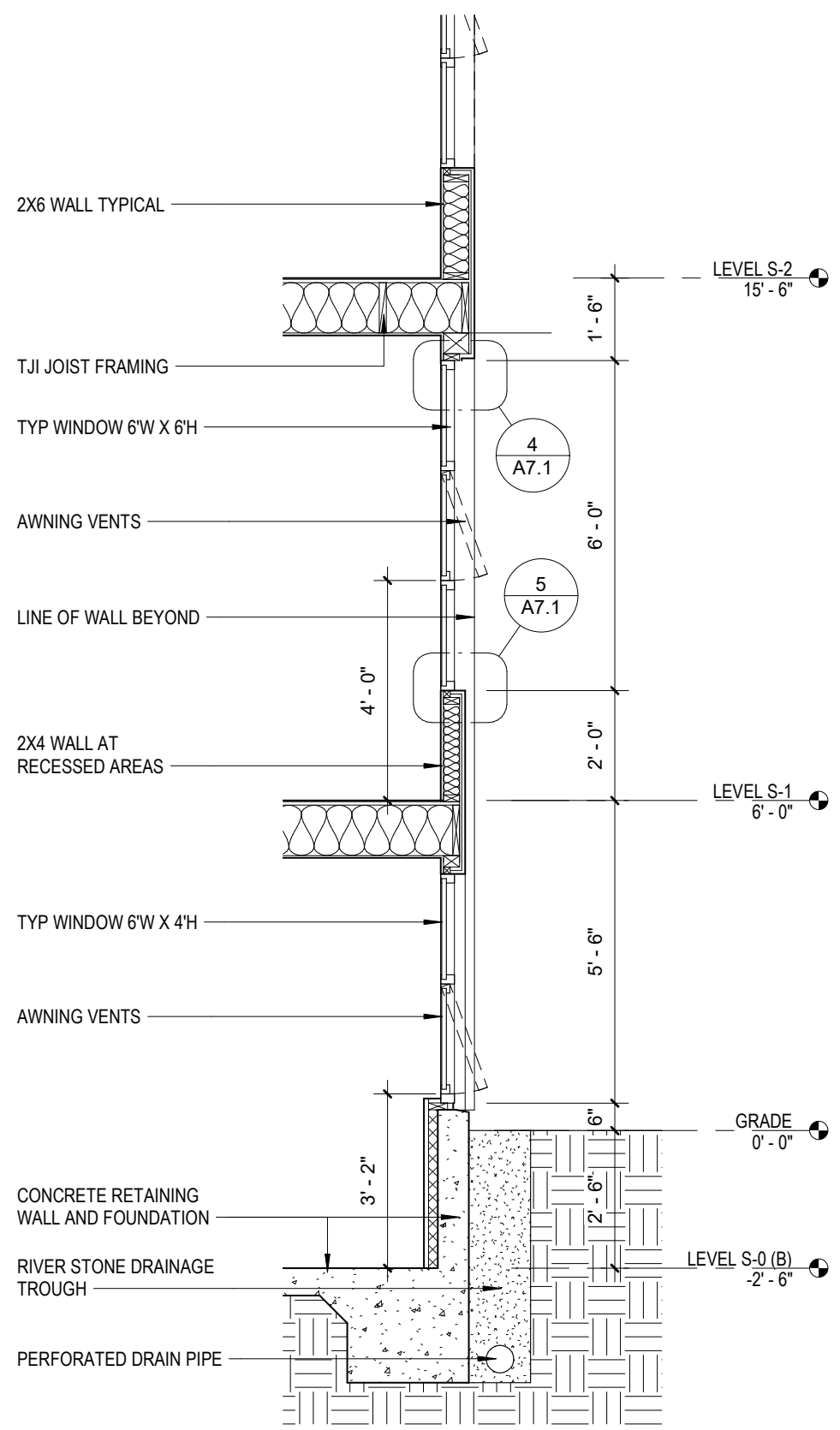
A4.3

SECTIONS

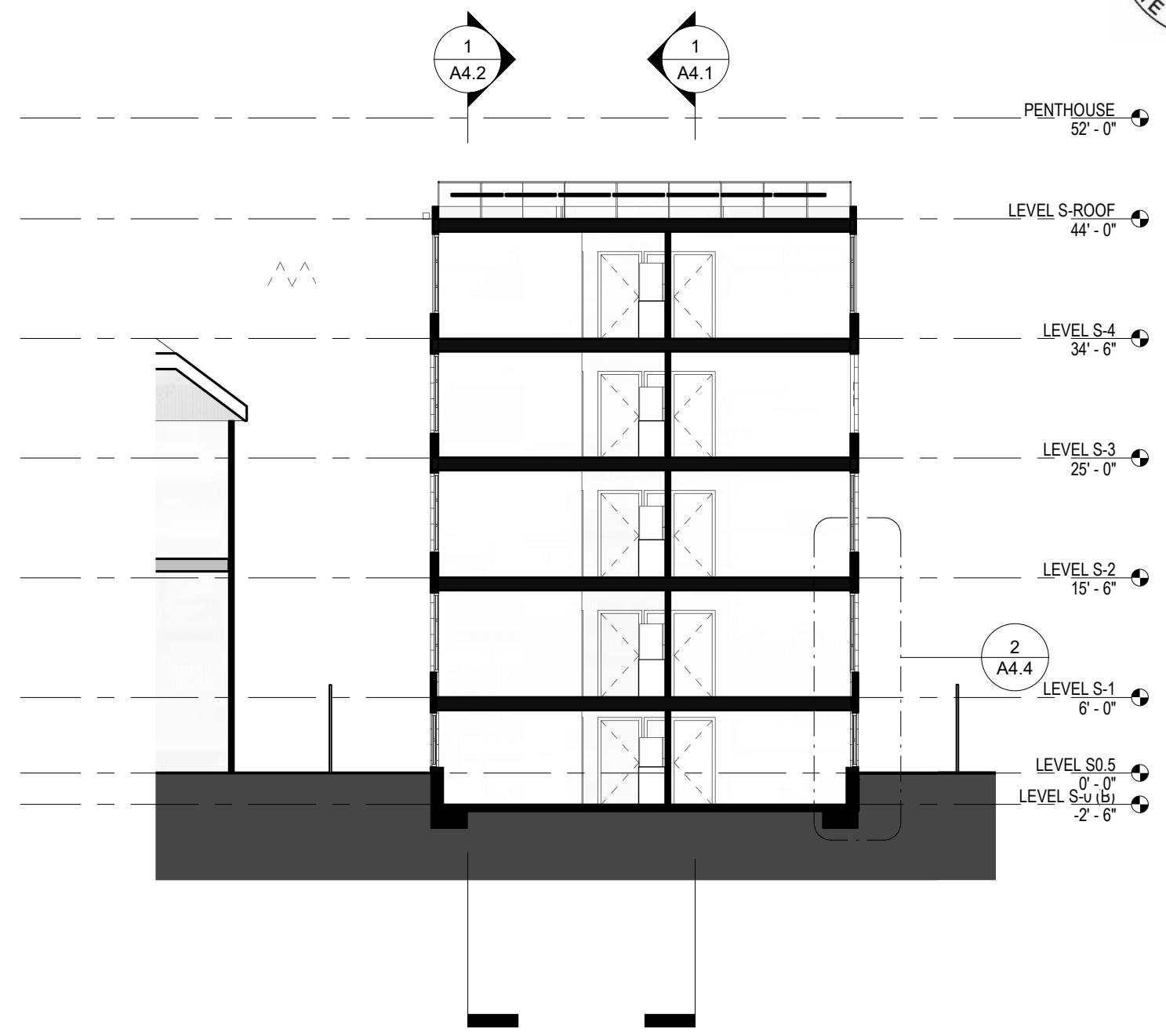
SCALE: 3/32" = 1'-0" 0 4' 8' 16' 32'

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1/24/22



2 ENLARGED WALL SECTION
3/8" = 1'-0"



A4.4

SECTIONS

SCALE: **As indicated**
0 4' 8' 16' 32'

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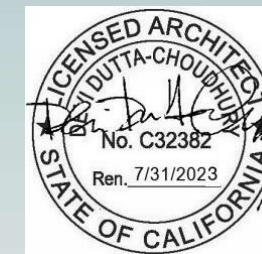
1/24/22



AERIAL VIEW FROM NORTH EAST



AERIAL VIEW FROM NORTH WEST



A5.3

PERSPECTIVES

SCALE:

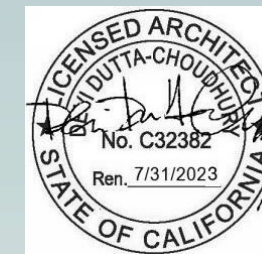
0 4' 8' 16' 32'

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1/24/22



A5.4

PERSPECTIVES

SCALE:

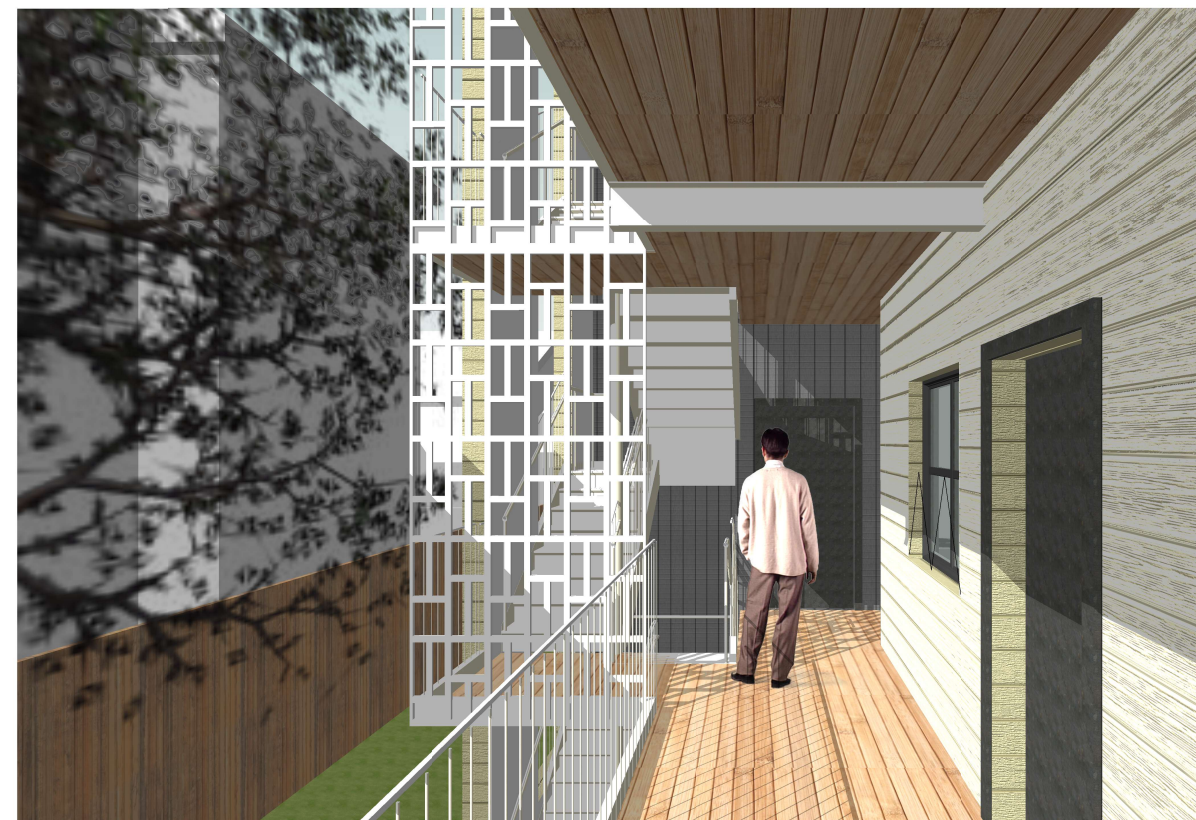
0 4' 8' 16' 32'

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A5.5

PERSPECTIVES

SCALE:

0 4' 8' 16' 32'

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ENTRY YARD LOOKING SOUTH

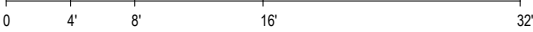


3RD FLOOR ROOF TERRACE LOOKING SOUTH

A5.6

PERSPECTIVES

SCALE:



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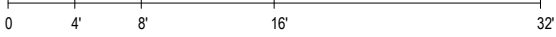
1/24/22



A5.7

PERSPECTIVES

SCALE:



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1/24/22



1 Shadows Existing Summer 7,47am
1" = 80'-0"



2 Shadows Existing Summer 12pm
1" = 80'-0"



3 Shadows Existing Summer 6,35pm
1" = 80'-0"



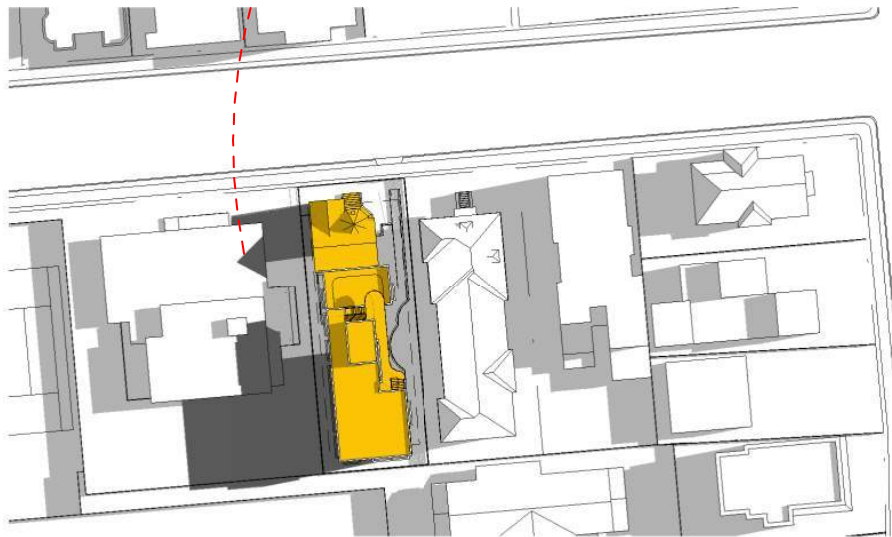
2320 CHANNING WAY,
ALZHEIMER'S
SERVICES EAST BAY

SHADOW STUDY LEGEND

- BUILDING FOOTPRINT
- EXISTING SHADOW
- NEW SHADOW CAST FROM PROPOSED PROJECT

2339 HASTE STREET, CHILD
DEVELOPMENT CENTER

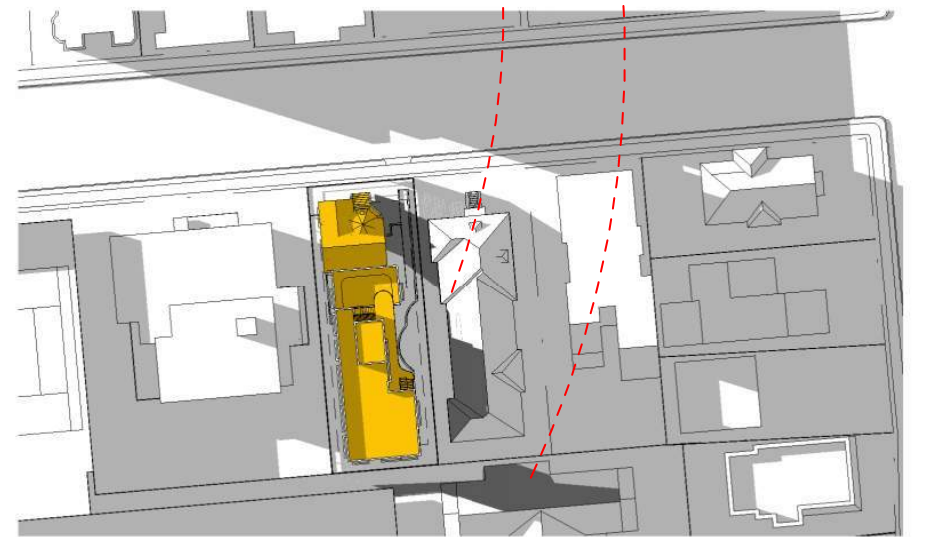
2330 CHANNING WAY, MULTI-
FAMILY RESIDENCE



4 Shadows Summer 7,47am
1" = 80'-0"



5 Shadows Summer 12pm
1" = 80'-0"



6 Shadows Summer 6,35pm
1" = 80'-0"

A6.1

SHADOW STUDY - SUMMER SOLSTICE

SCALE: As indicated 0 4' 8' 16' 32'

2328 Channing Way

Devi Dutta Architecture Inc.

ZONING SUBMITTAL

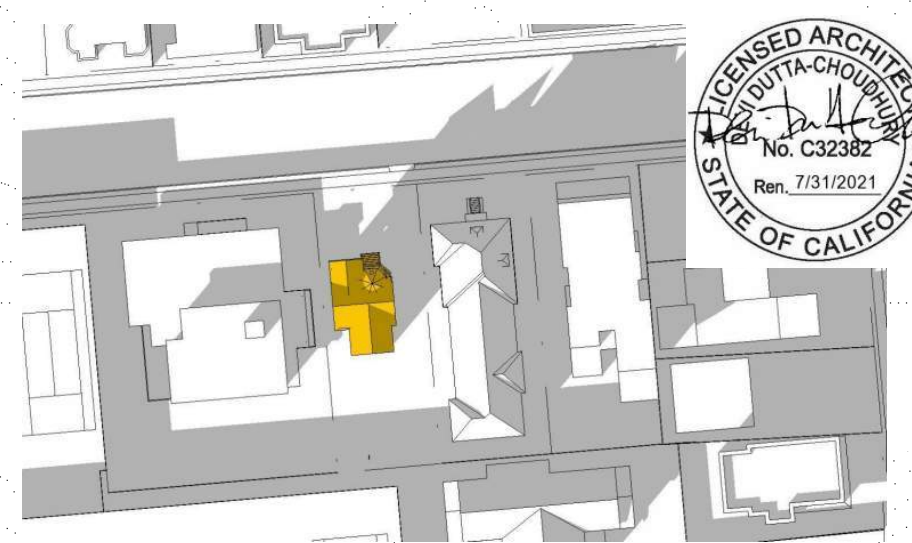
04/27/2021



1 Shadows Existing Winter 9,21 am
1" = 80'-0"



2 Shadows Existing Winter 12pm
1" = 80'-0"



3 Shadows Existing Winter 2,54pm
1" = 80'-0"

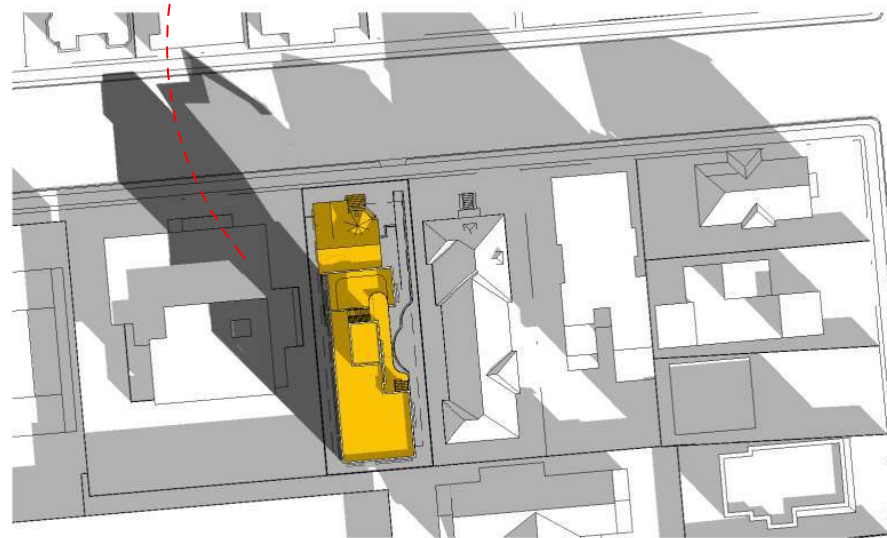


2320 CHANNING WAY,
ALZHEIMER'S
SERVICES EAST BAY

SHADOW STUDY LEGEND

- BUILDING FOOTPRINT
- EXISTING SHADOW
- NEW SHADOW CAST FROM PROPOSED PROJECT

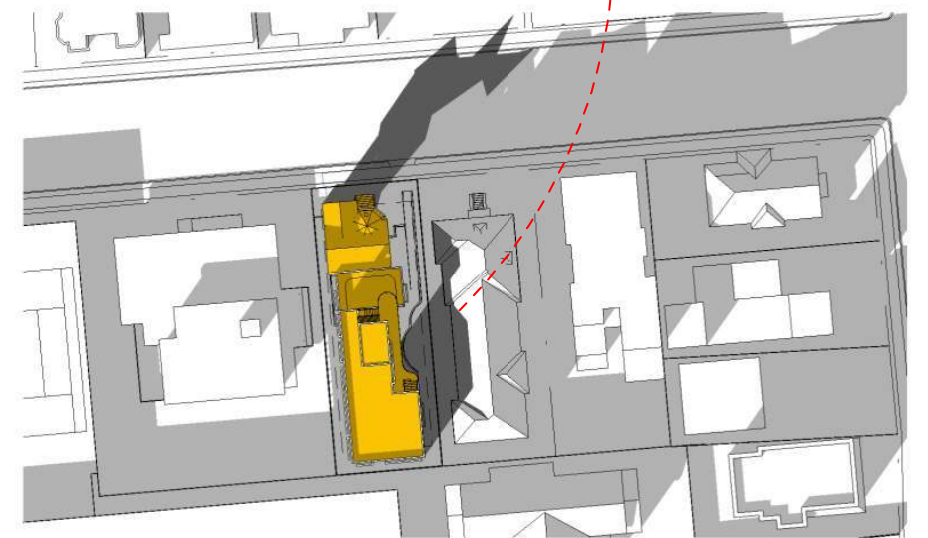
2330 CHANNING WAY, MULTI-
FAMILY RESIDENCE



4 Shadows Winter 9,21am
1" = 80'-0"



5 Shadows Winter 12pm
1" = 80'-0"



6 Shadows Winter 2,54pm
1" = 80'-0"

A6.2 SHADOW STUDY WINTER SOLSTICE
SCALE: As indicated

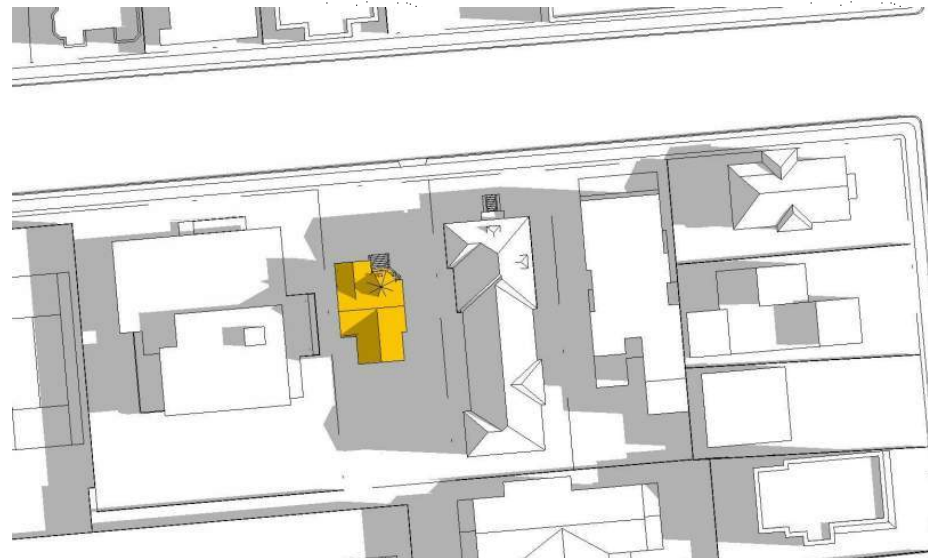
0 4' 8' 16' 32'

2328 Channing Way

Devi Dutta Architecture Inc.

ZONING SUBMITTAL

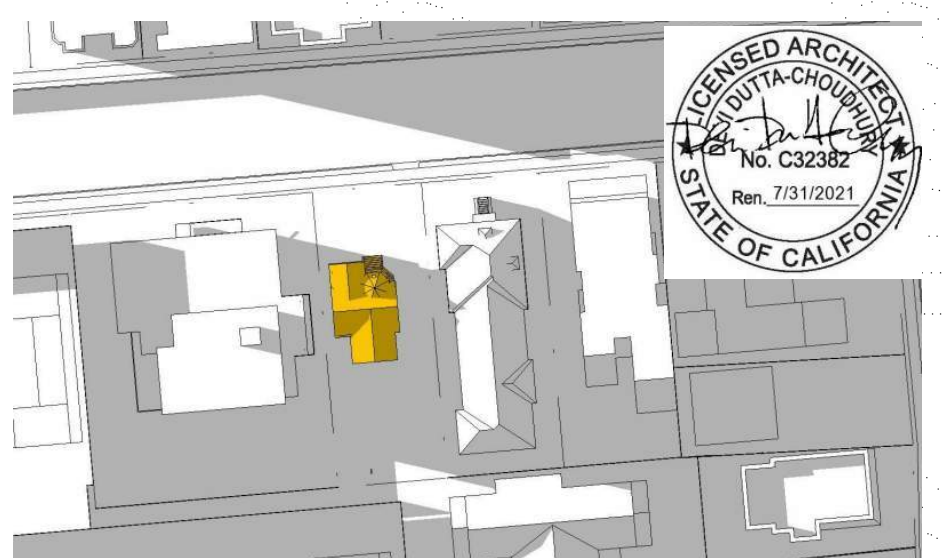
04/27/2021



1 Shadow Existing Application date 7,38am
1" = 80'-0"



2 Shadow Existing Application date 12pm
1" = 80'-0"



3 Shadow Existing Application date 6,18pm
1" = 80'-0"



2320 CHANNING WAY,
ALZHEIMER'S
SERVICES EAST BAY

SHADOW STUDY LEGEND

- BUILDING FOOTPRINT
- EXISTING SHADOW
- NEW SHADOW CAST FROM PROPOSED PROJECT

2339 HASTE STREET, CHILD
DEVELOPMENT CENTER

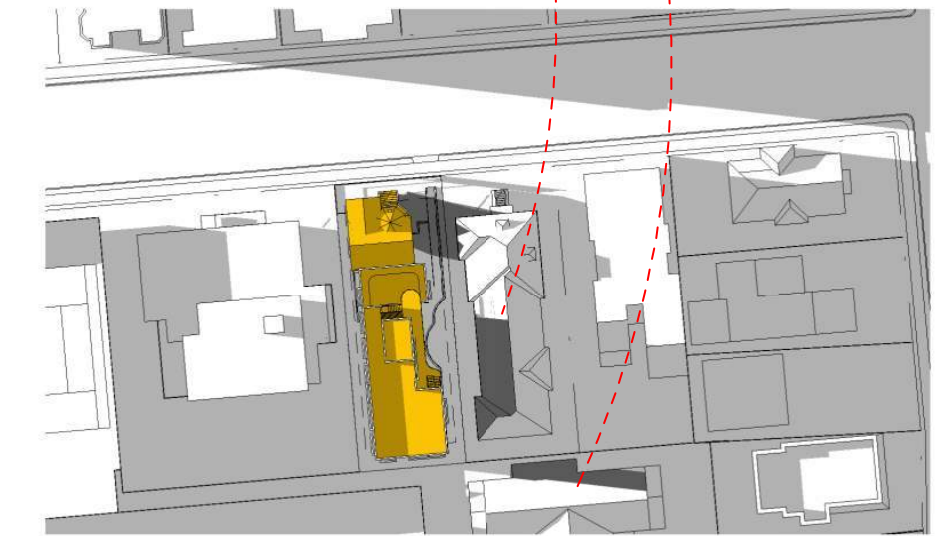
2330 CHANNING WAY, MULTI-
FAMILY RESIDENCE



4 Shadows Application date 7,38am
1" = 80'-0"



5 Shadows Application date 12pm
1" = 80'-0"



6 Shadows Application date 6,18pm
1" = 80'-0"

A6.3

SHADOW STUDY - APPLICATION DATE

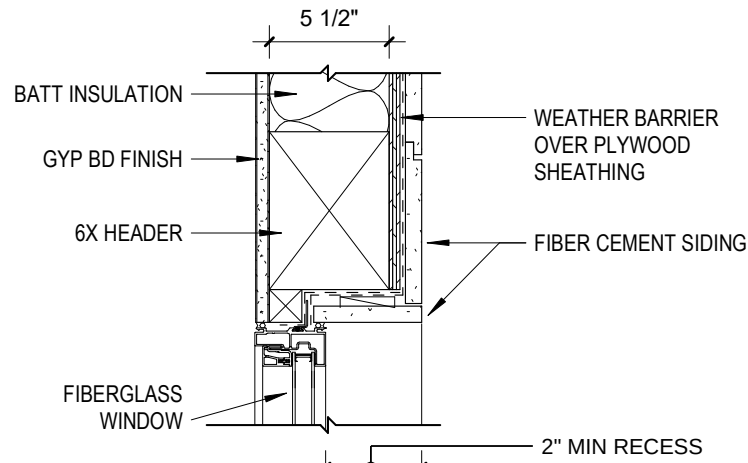
SCALE: As indicated 0 4' 8' 16' 32'

2328 Channing Way

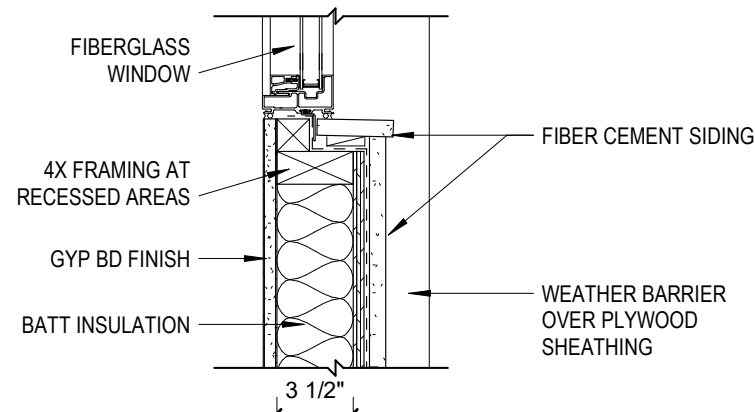
Devi Dutta Architecture Inc.

ZONING SUBMITTAL

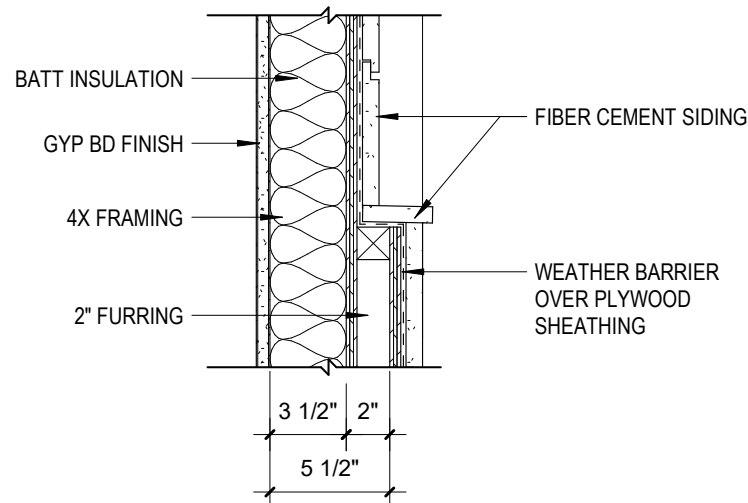
04/27/2021



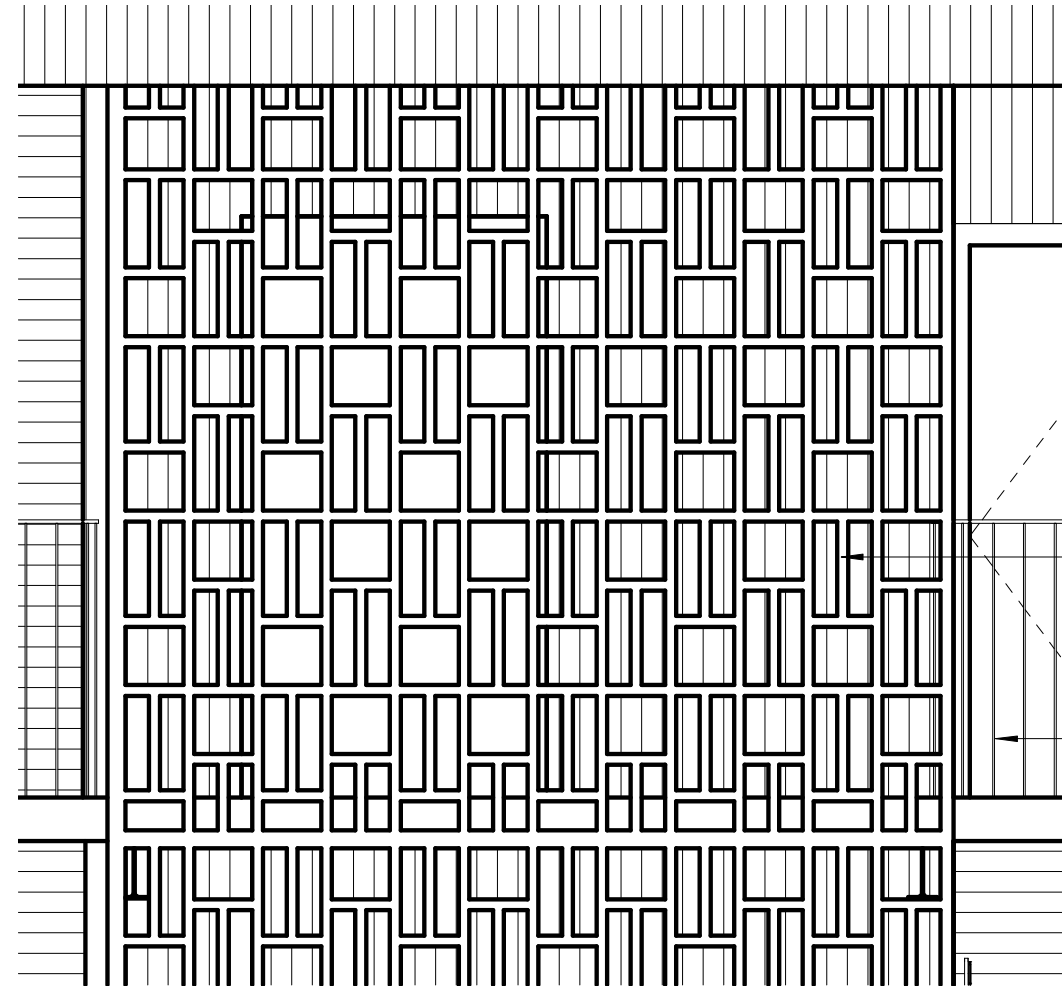
4 TYPICAL WINDOW HEAD (JAMB SIMILAR)
1 1/2" = 1'-0"



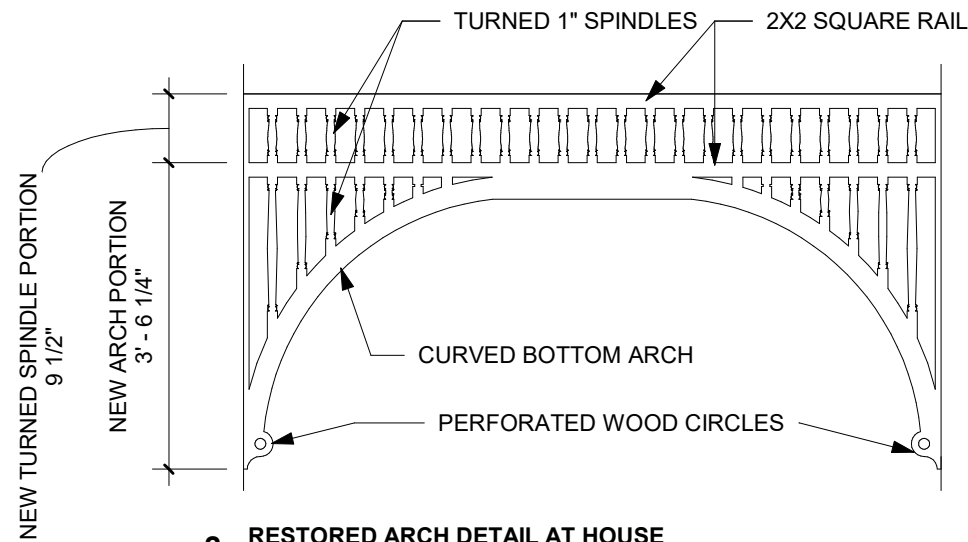
5 WINDOW SILL AT RECESSED AREAS
1 1/2" = 1'-0"



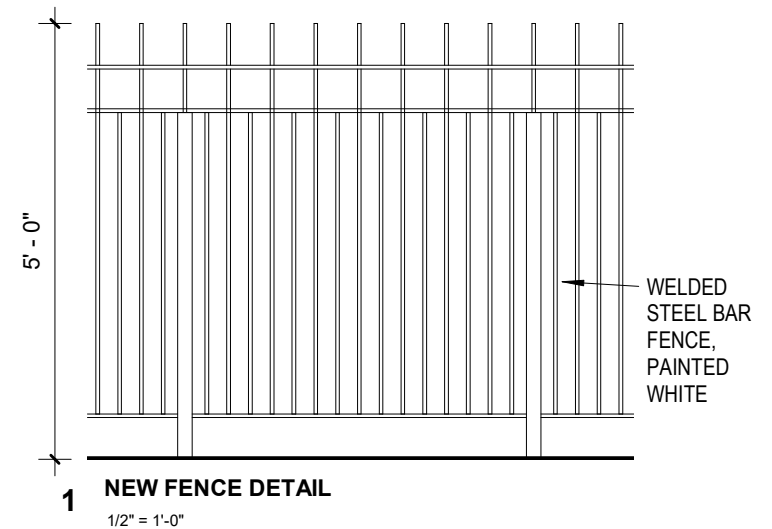
6 DETAIL AT SETBACK
1 1/2" = 1'-0"



3 ENLARGED ELEVATION OF SCREEN
1/2" = 1'-0"



2 RESTORED ARCH DETAIL AT HOUSE
1/2" = 1'-0"



1 NEW FENCE DETAIL
1/2" = 1'-0"

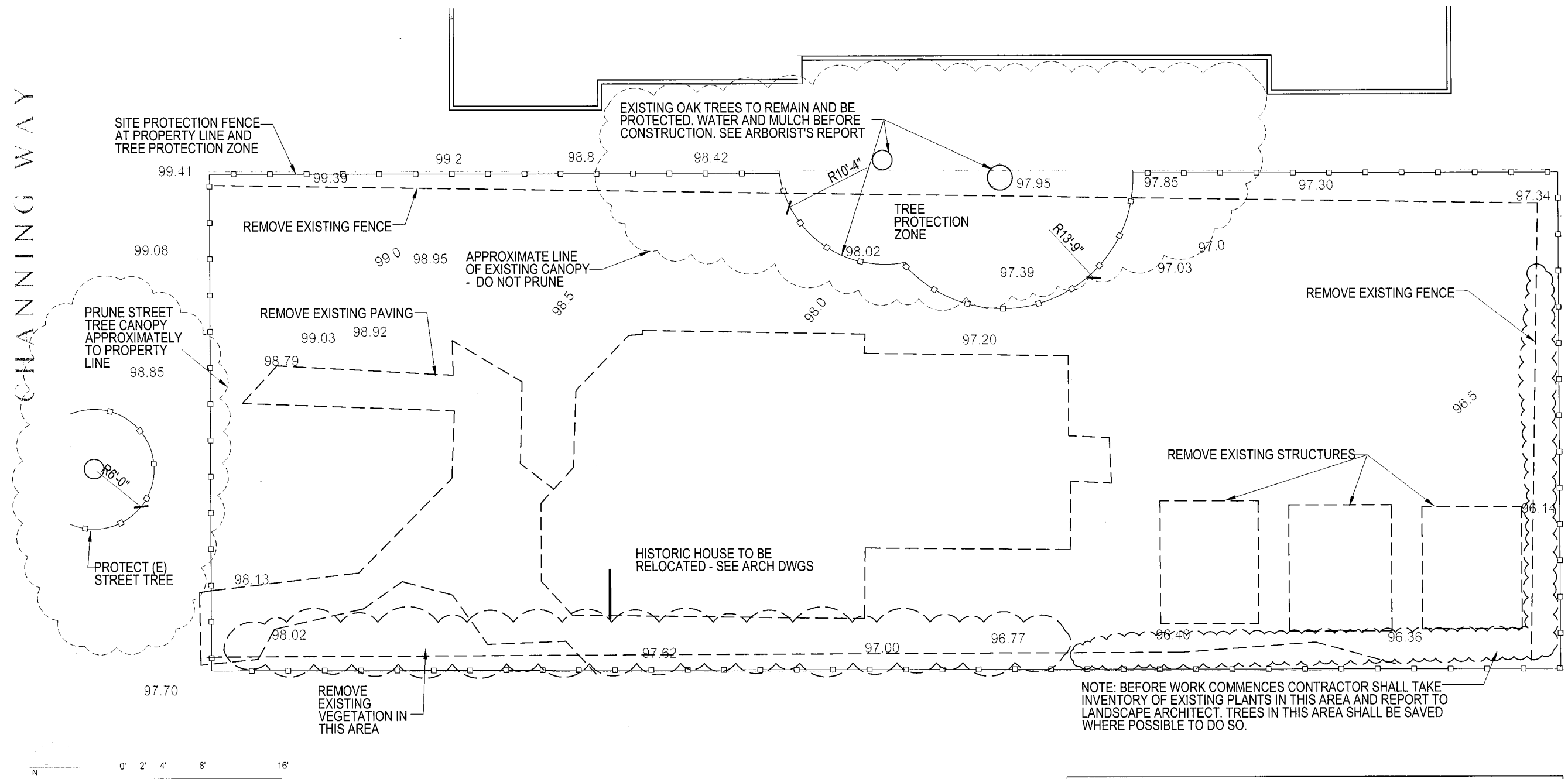
A7.1

PROPOSED DETAILS

SCALE: As indicated 0 4' 8' 16' 32'

2328 Channing Way
Devi Dutta Architecture Inc.

ZONING SUBMITTAL R2
1/24/22



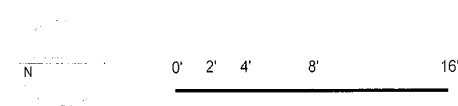
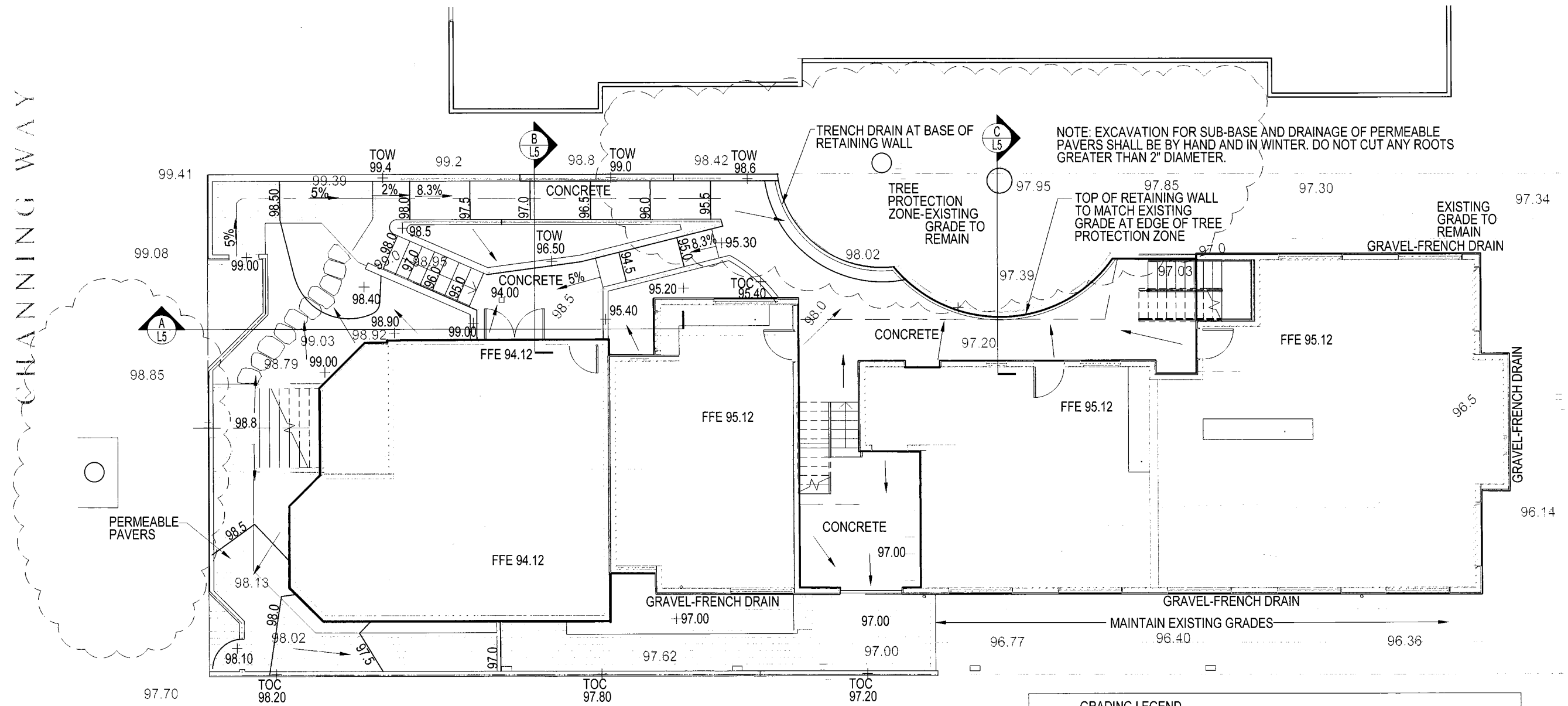
LANDSCAPE SHEET INDEX			
L1 SITE PREPARATION		L6 PLANT INFORMATION	
L2 GRADING PLAN		L7 PLANT INFORMATION	
L3 GROUND FLOOR PLANTING AND MATERIALS PLAN		L8 PLANT IMAGES	
L4 ROOF DECK PLANTING AND MATERIALS PLAN			
L5 LANDSCAPE SECTIONS			

1 SITE PREPARATION
1" = 10'-0"

**L1 SITE PREPARATION
LANDSCAPE CONSIDERATIONS**

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PROJECT: 2328 Channing Way
Submittal: LPC R-2
Date: 24 JAN 2022



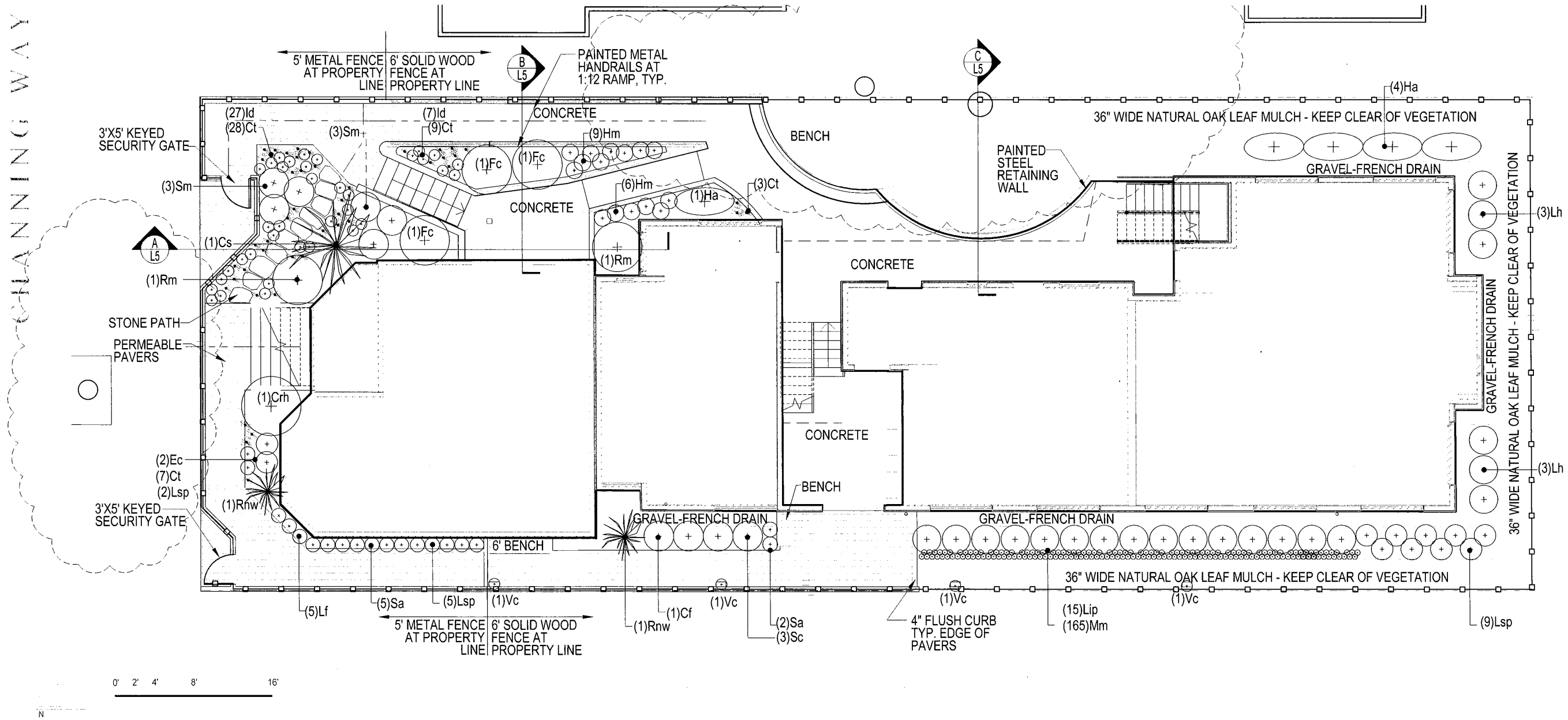
1 GROUND FLOOR GRADING PLAN
1" = 10'-0"

GRADING LEGEND			
97.50	PROPOSED CONTOUR	+97.20	PROPOSED SPOT ELEVATION
5%	PROPOSED SLOPE DOWN	96.77	EXISTING SPOT ELEVATION
98.5	EXISTING CONTOUR	TOC	TOP OF CURB
		TOW	TOP OF WALL
		FFE	FINISHED FLOOR ELEVATION

L2 GROUND FLOOR LANDSCAPE GRADING AND DRAINAGE

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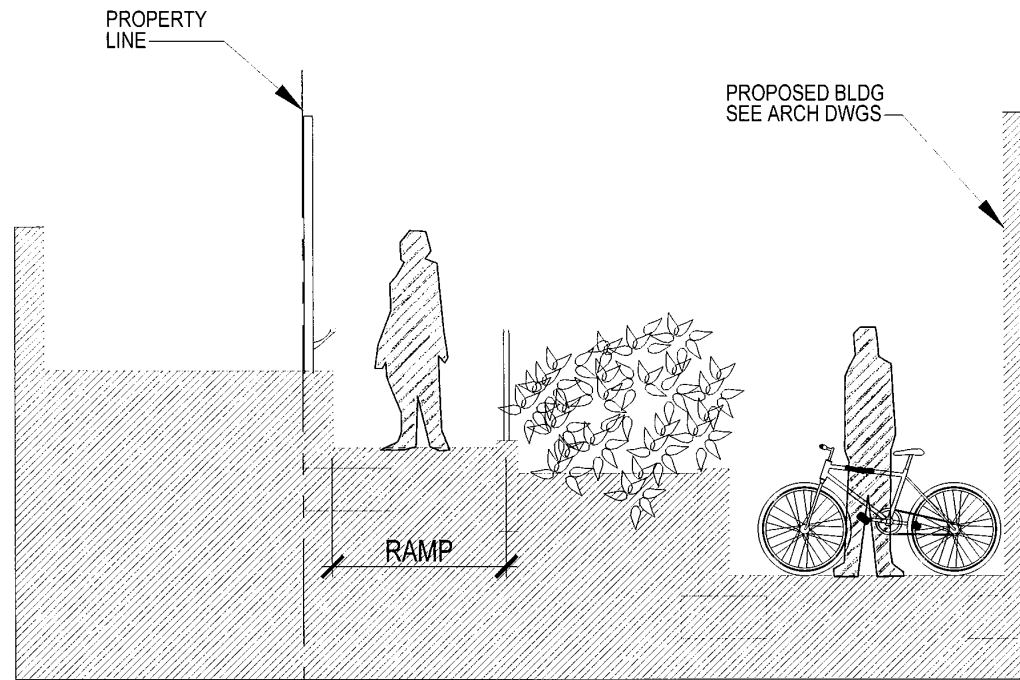


1 GROUND FLOOR PLANTING AND MATERIALS PLAN
1" = 10'-0"

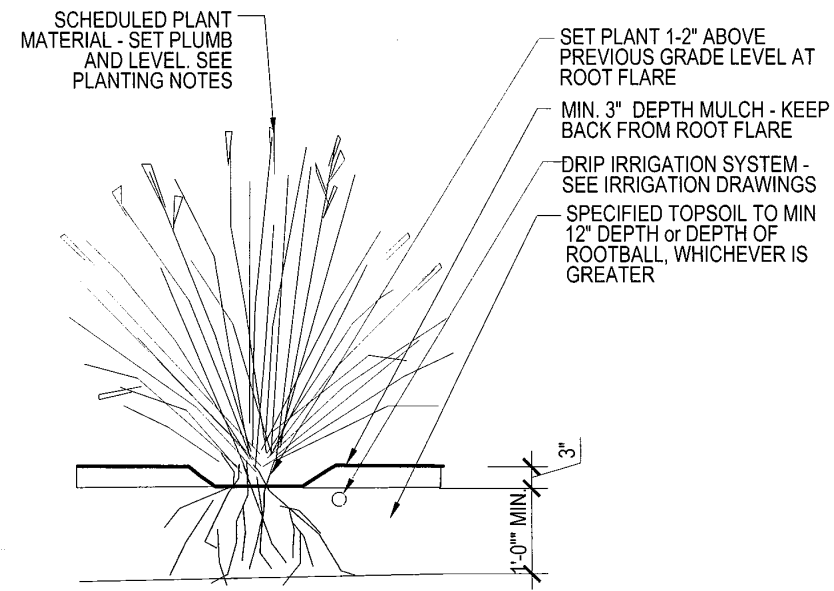
L3 GROUND FLOOR LANDSCAPE
PLANTING AND MATERIALS

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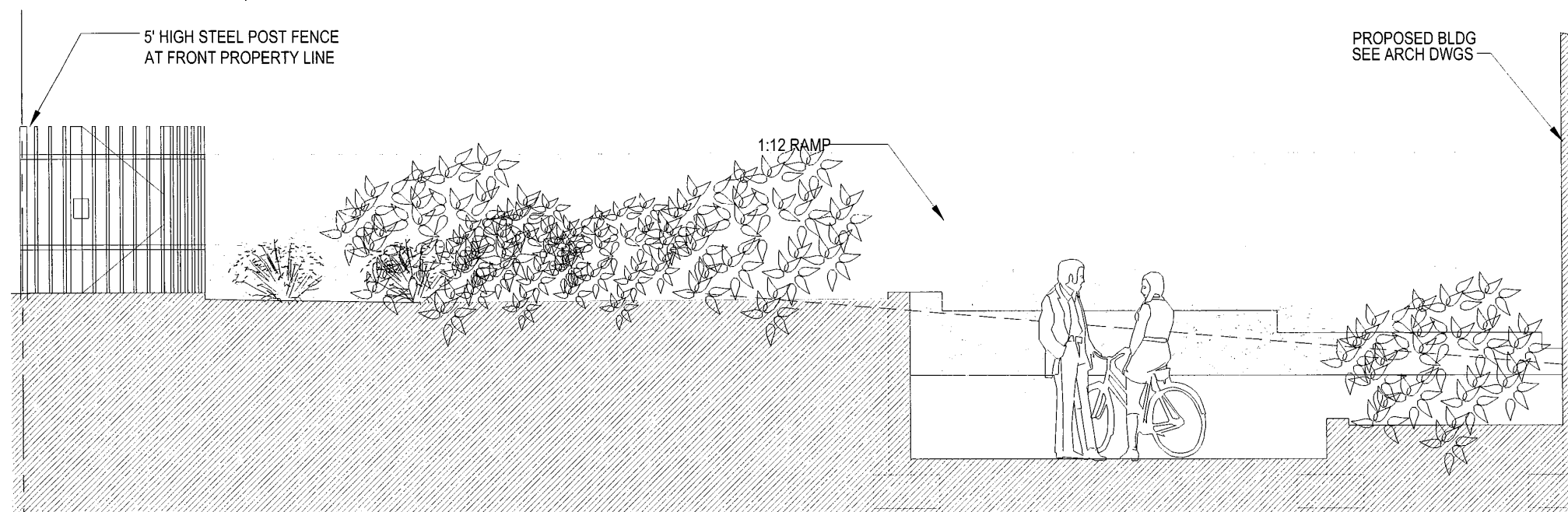
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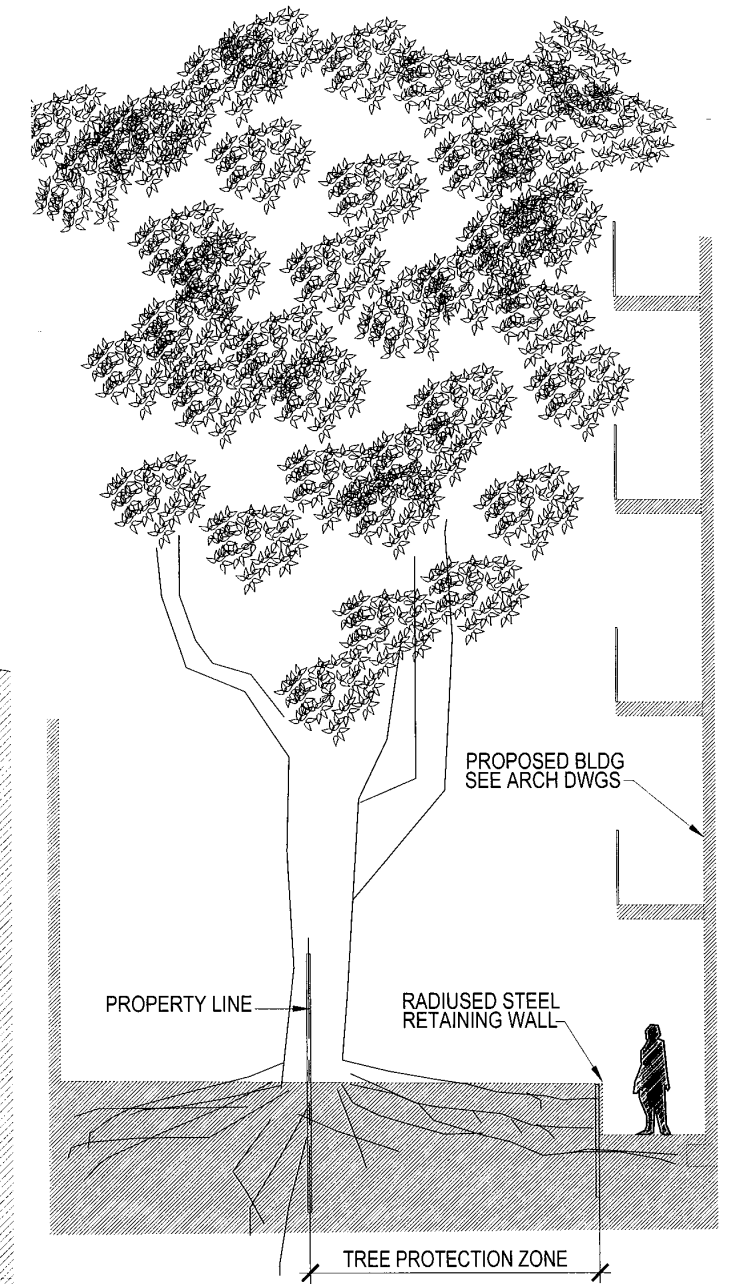
B E-W SECTION
1/4" = 1'-0"



1 TYPICAL PLANTING
NTS



A N-S SECTION
1/4" = 1'-0"



C SECTION AT OAK TREE
1/8" = 1'-0"

L5 LANDSCAPE SECTIONS

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2328 Channing Planting Schedule

ALL SUBSTITUTIONS MUST BE APPROVED BY LANDSCAPE ARCHITECT OR OWNER'S REPRESENTATIVE

symbol	scientific name	common name	mature ht	container	spacing	qty	WUCOLS	bloom	notes
Crh	Ceanothus 'ray hartman'	California lilac	12-20'	5 gal	single	1	low	blue, winter/spring	no summer water
Cf	Corethrogyne filaginifolia	California aster	12"-18"	1 gal	36"oc	1	low	pink-lavender, later summer, purple -spring	spreading silver-white foliage
Cs	Cordyline stricta	lily	to 20'	5 gal	single	1	unknown	blue berries fall	
Ct	Carex tumulicola	slender sedge, foothill sedge	12"	4"pot	18"oc	43	low	spring	fill gaps, good bird food, will spread slowly
Ec	Eriophyllum confertiflorum	golden yarrow	12-18"	1 gal	15" oc	2	low	yellow, winter, spring, summer	
Fc	Frangula californica	coffeeberry	6'-8'	5gal	6'oc	3	low	may-june	fruit turns red to black in summer
Ha	Hetermeles arbutifolia	toyon	6-8'	5gal	6'oc	5	low	white, may-june; red berries in fall	hand clip to maintain 36"clear path
Hm	Heuchera maxima	island alum root	1-2'	1 gal	24"oc	15	low	pink/white, winter-spring	
Id	Iris douglasiana	douglas iris	12-24"	bulb	12"oc	34	low	blue, winter/spring	
Lf	Lupinus formosus	California lupine	18"	1 gal	18"oc	5	low		
Lh	Lonicera hispidula	California honeysuckle	3-4'	1 gal	18"oc	6	low	pink spring, berries in fall	hand clip to maintain 36"clear path
Lip	Lavandula intermedia	French lavender	36"	1 gal	36"oc	15	low	lavender, summer	Cut back after bloom is finished by no more than 1/3rd
Lsp	Lavandula stoechis	Spanish lavender						lavender; spring-summer	Cut back after bloom is finished by no more than 1/3rd
Lsp	'papillon'	'papillon'	18-24"	1 gal	18"oc	16	low	mixed, march-april	25% 'dark eyes' 25% 'peppermint' 25% 'armeriacum' 25% 'pink sunrise'
Mm	Muscari mixed	grape hyacinth	6"	bulb	6"oc	165	low	pink, spring-summer	prune for fire access
Rnw	Rosa 'nearlywild'	heritage rose	6'	1gal	single	2	low	pink; winter	edible fruit
Rm	Ribes malvaceum	chaparral currant	6-9'	5gal	36"oc	3	low	spring-summer; white	Cut back after bloom is finished by no more than 1/3rd
Sa	Salvia apiana "compacta"	dwarf white sage	18-24"	1 gal	18"oc	7		lavender, spring, summer	Cut back after bloom is finished by no more than 1/3rd
Sc	Salvia clevelandii	Cleveland sage	3-4.5'	1 gal	3'oc	3	low	pink, spring	white berries, winter
Sm	Symphoricarpos alba	creeping snowberry	2-3'	5gal	30"oc	6	low	fall color	
Vc	Vitis californica	California wild grape	vine	1 gal	see plan	4	low		

2328 Channing Landscape Concept

The main notable site features include the historic Victorian house dating to 1889 and two large coast live oaks on the eastern property line, of 29 and 21 inches diameter respectively, likely between 80 to 120 years of age. There is also some tall unidentified vegetation along the western and southern property lines.

The planting concept for the new construction employs native, low-water-use grasses, perennials, and shrubs. These fruiting and flowering plants will be drought-tolerant, low-maintenance, and help support the ecology of the existing oak trees. Any plant substitutions or replacements must also meet these criteria.

At the same time, the colorful and diverse planting will enliven the already eclectic character of the block, and the culture of Telegraph Avenue which values exuberance, individuality and creativity.

The front property line fence will be a visually open, durable, steel post fence, five feet high. An open fence will allow views of the historic house, and light to reach the plantings, while still maintaining the security of its residents.

The coast live oaks will be protected according to the recommendations of the arborist's report dated 25 April, 2021. As noted in that report, the trees' canopies have already been heavily pruned by previous owners.

L6 PLANTING INFORMATION

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Planting Notes

1. If factual site conditions vary from what is shown on plans, or if there are discrepancies between the plans, contact the Landscape Architect for direction as to how to proceed.
2. Exact locations and layout of plant materials to be approved by the Landscape Architect in the field prior to installation. Landscape Architect reserves the right to adjust plants to exact location and orientation in field.
3. Verify plant counts and square footages: Quantities are provided for Owner information only. If quantities on plant list differ from graphic indications, then graphics shall prevail.
4. Contractor shall review availability of specified plant materials prior to bid. If plant materials in specified quantities are shown to be unavailable, contractor to notify Landscape Architect and propose substitutions prior to bid. All substitutions are subject to approval by Landscape Architect prior to installation.
5. All plants are to be tagged with project identification at nursery or contractor's operation, for approval or rejection by Landscape Architect in person or by photo, prior to transporting to job site. Plants may also be rejected at the job site if damaged in storage or transit.
6. All new landscape planting shall be guaranteed for a period of one year following final inspection by Landscape Architect or Owner's representative. At the end of this period, plant material termed dead or unsatisfactory by Landscape Architect or Owner's representative shall be replaced at no additional charge by the landscape contractor. The contractor shall notify the Landscape Architect, in writing, of any plants that he feels may not survive in locations indicated.
7. Roof garden soils must be engineered highly specifically to be lightweight, fast-draining, and retain moisture. Ground level soils are to be evaluated by laboratory analysis for pH, organic content, mineral composition, and contamination, prior to planting. Contractor to submit laboratory analysis for approval by Landscape Architect prior to installation on site. Depending on results of analysis, local soil may be modified as required, and reused where possible.
8. Timed automatic weather-based drip irrigation system shall be installed in all planted areas. See Irrigation drawings.
9. Planting shall be November through February only.
10. All and any exposed soil surfaces at roof are to be covered by 3" shredded hardwood bark mulch, aged 6-12 months.
11. All plant materials to be planted plumb and vertical, at root flare or slightly above grade.
12. Coast Live Oak trees to be protected per arborist's report, and mulched with own leaves during construction.
13. Contractor to clearly communicate in writing any relevant information, including final locations and requirements of irrigation equipment, names of specialised suppliers, and any other particulars, to the landscape maintenance team assigned by Owner, before sign-off and handover.

2328 Planting Maintenance Plan

At Least Monthly

1. Check and clean (or replace) emitters that have become clogged. Check water supply and flow rate. Check for leaks.
2. Replenish plantings with specified mulch, maintaining 3" depth minimum.
3. Remove weeds by hand - no herbicides.
4. Remove litter by hand - no leaf blowers.
5. Prune shrubs as required for pedestrian clearance only, hand prune only - no square shrubs.
6. Collect fallen oak leaves from pedestrian areas and leave at base of oak trees.

Yearly - in winter

1. Cut back salvia and lavender by no more than 1/3, after bloom is over.
2. Check for any dead or dying plants, remove and replace with drought tolerant (WUCOLS Low) plants of appropriate shade/sun preference, with wildlife value, native Californian if possible.
3. Clip back leggy growth as needed.

As needed

1. Flush irrigation system thoroughly after any main line break to avoid emitter clogging.
2. If any irrigation hoses have become exposed, conceal beneath mulch layer.

L7

PLANTING INFORMATION

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Applicant statement of revisions to plans

1.24.22

In response to the comments from the members of the Landmarks preservation committee on January 6, 2022, we have made the following revisions to the plans:

1. Recessed windows – window details have been updated to clarify how the windows will be recessed. The vertical siding spandrel panel between the basement and 1st floor windows will be recessed by utilizing a reduced framing size. The 4th floor framing will also be reduced to provide a visual reveal at the top floor.
2. Fencing color – the color of the perimeter fence is noted to be white at the details.
3. Trash door details – the elevations and rendering views show the new doors at the main house basement will be 4-panel wood doors with a simple flat trim detail to differentiate from the historic features of the house. The doors will be painted red to match the front door. Trim will sit below historic floor line trim.
4. Vertical landscaping element - A vertical narrow leafed palm lily, *Cordyline stricta*, is proposed instead of one of the native currants. It's a shade-tolerant plant that is palm-like in shape, can grow to 20' and can survive in a low water use zone
5. Refined interface between historic and new building – the height of the parapet was lowered to the floor level of the deck, with a light metal railing on top. This allows the cross gable of the historic roof to be better expressed. A small parapet at the end of the gable was raised to provide a finished end to the gable, and it creates a feature wall for the 3rd floor roof deck.
6. Increase setbacks – the side setbacks are currently at 8'-0." Since new development typically has 5' setbacks for light, air and egress, we expect any new development to the west or south will be at least 5', creating at least 13' between our buildings. The rear setback was originally designed at 5'-0." We have increased the setback at 2 rear bedrooms to 8'-0", while the bathrooms remain at 5'-0." One bedroom was removed from the back units to accommodate this change, as suggested.
7. Density and bulk – while we have not reduced the height of the building, we have designed a visual break at the fourth floor where the 4th floor is recessed from the lower floors, and is clad in a contrasting color. A continuous sill connects the window line around the building. The massing of the elevator/stair block and walkways were also combined to create a more uniform backdrop for the historic home.

Applicant Statement, revised 5.28.21 (updated again 1.24.21)



Figure 1: Luttrell House

2328 Channing Street is an existing lot in south Berkeley's R-S (Residential – Southside) District. The stated purpose of this zoning district is to encourage "relatively high and moderate density, multi-story residential development close to major shopping, transportation and employment centers." Located just 2 blocks south of UC Berkeley's campus, and 1.5 blocks west of the busy commercial street Telegraph Avenue, this site is well-positioned to provide much needed housing to Berkeley residents. There is an existing single-family home, the Luttrell House, on the site which was designated an historic landmark in 2020. It's a Queen Anne style home with 6 bedrooms, currently housing students. There are 3 storage sheds at the rear of the property. The rest of the property is undeveloped landscaping, featuring 2 large oak trees that flank the east property line. The surrounding properties are mixed use, with UC tennis courts to the south, a social service facility to the west and multi-family housing to the east. Across Channing Street to the north are several multi-family buildings of various sizes.



Figure 3: aerial view of site

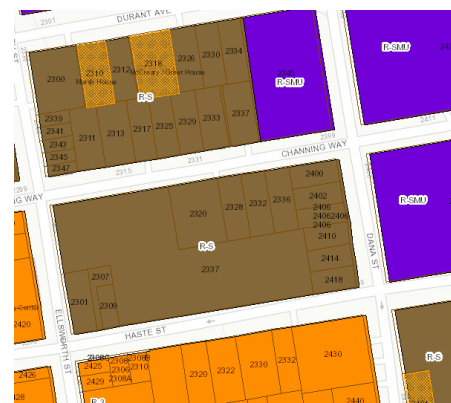


Figure 2: zoning map

This project proposes to make better use of the site while also preserving the existing historic home and important features. As an historic resource, the existing home will be moved forward to a new basement/foundation, at an 8'-0" setback, giving it more prominence from the street while also creating more area for development at the back of the property. Many of the neighboring properties have a similar front setback (see photos).



Figure 4: properties directly east on Channing



Figure 5: properties directly across Channing, looking west



Figure 6: adjacent properties to the west

The siting of the home towards the front of the property will give the home better visibility to the public sphere. As it sits now in the middle of the lot, it is shrouded in shadows from adjacent buildings and dense planting. Non-contributing features of the home, such as a later addition and non-period attic windows will be removed. Original details of the home, such as spindle-work at the porch, will be restored and any proposed alterations will be completed under the Secretary for the Interior's Standards for Treatment of Historic Properties. Minor interior renovations will not otherwise affect the major contributing features. The two large oak trees will be preserved and maintained according to the recommendations of a certified arborist to ensure their continued health.



Figure 8: restored wood filigree arches at porch



Figure 7 new filigree in metal at new building

A new 4-story + basement building is proposed at the rear of the property, and will provide 13 new residential units, including 2-, 3- and 4-bedroom units. As allowable by the zoning regulations, a use permit is requested for the 4th floor, reduced separation between buildings (0') and reduced rear setbacks (5' to 8'). No density bonus is being sought for the project. In-lieu fees will be paid for housing affordability as required by local ordinance (see separate housing affordability statement).

An existing curbcut will be maintained on site, though no car parking will be provided. The driveway will provide access for temporary loading and bike access to the secure bike parking.

The proposed building is set back from the existing root and canopy zones of the oak trees per the recommendations of the arborist's report. It will be separated from the existing home with a fire wall as required by code. It will provide a contrasting backdrop for the home, in taupe wood siding to complement the yellow tones of the existing house. Dark grey accents to the elevator tower and stairs contrasts with the taupe paneling. Overall, the palette of colors and materials differentiates the new building from the historic structure, while still complementary, as recommended by historic resource guidelines. A clear separation between the resource and the new building is obvious yet creates a cohesive site design. The new building, while much more modern and of today's design style, has elements that resonate with the historic home. Large warehouse style windows echo the similar era of the main house, and the massing steps up from the height of the existing house, up to the 4th story and elevator penthouse levels.

After an initial review from our historic resource consultant, Stacy Farr, the interface of the existing and new structures was further refined to provide setbacks that reveal all corners of

the existing home. Disturbed finishes at the roof and walls of the existing home will be replaced in kind.



Figure 9 west side reveal between existing home and new (original design)



Figure 10 east side reveal between existing home and new (original design)



Figure 12 east side reveal between existing and new, current design



Figure 11 west side reveal between existing and new, current design

The neighborhood is mixed in building style and typology, from high-rise student dormitories to low-rise commercial and residential buildings, and this project fits into the neighborhood without major impacts, and provides much needed housing in an amenity-rich neighborhood.



Figure 13: west elevation, original submittal



Figure 14 west elevation, current design proposal



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

2328 Channing Way

Use Permit #ZP2020-0052 to demolish the rear, non-historic portion of the City Landmark Luttrell House, and to re-locate the building closer to the street with a front yard setback of 8 ft. where a minimum of 10 ft. is required; to construct a new, four-story, 45 ft.-tall residential building containing 13 dwelling units immediately abutting the rear of the Luttrell House, to reduce the minimum building separation from 20 ft. to zero ft., and to reduce the minimum rear yard setback requirement of 10-17 ft. ft. to only 5 ft.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.406.040.D, on June 23, 2022, **conducted via Zoom, see the Agenda for details at:**

https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-06-23_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: High Density Residential (HDR)
- Zoning: Residential Southside (R-S)

B. Zoning Permits Required include the following:

- Use Permit, under BMC Section 23.202.130.B to establish dwelling units in the R-S district
- Use Permit, under BMC Section 23.202.130.E to increase the maximum building height, measured in feet and stories, in the R-S district
- Administrative Use Permits, under BMC Section 23.202.130.E to reduce minimum front and rear yard setbacks in the R-S district
- Administrative Use Permit, under BMC Section 23.202.130.E to reduce a minimum building separation in the R-S district

C. CEQA Recommendation: Categorically exempt pursuant to Sections 15331 for Historical Resources and Section 15332 for In-Fill Development Projects.

D. Parties Involved:

- Applicant Devi Dutta Architecture, 928 Carleton Street, Berkeley, CA
- Property Owner Allen Jo, 2328 Channing Way, Berkeley, CA

Further Information:

All application materials are available online at:

<https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx>.

The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>.

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or fcrane@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://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>

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.