



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
APRIL 27, 2023

705 Euclid Avenue

Use Permit #ZP2022-0104 to construct a new three-story (41 feet and 11 inches), 4,528 square foot single family dwelling with two parking spaces and associated retaining wall located in the required front setback, on a 6,024 square foot vacant lot.

I. Background

A. Land Use Designations:

- General Plan: LDR- Low Density Residential
- Zoning: R-1H- Single Family Residential, Hillside Overlay Zone

B. Zoning Permits Required:

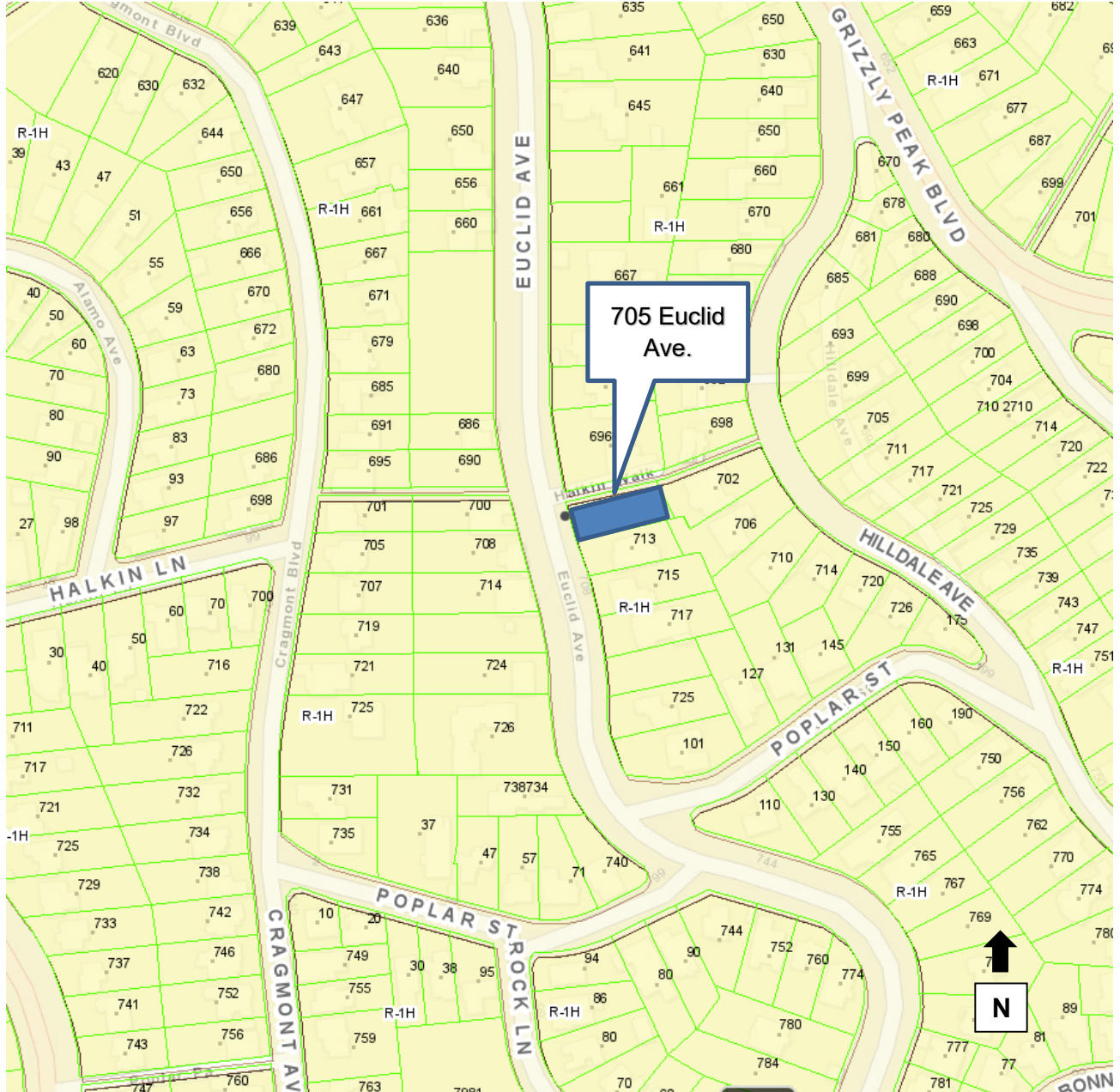
- Use Permit for a new single-family dwelling, under Berkeley Municipal Code (BMC) Section 23.202.020(A)
- Administrative Use Permit to construct a building with a maximum height over 35 feet in the Hillside Overlay Zone, under BMC Section 23.210.020
- Administrative Use Permit to construct two parking spaces in a required front setback, under BMC Section 23.322.080
- Administrative Use Permit to construct an accessory structure (backyard retaining walls) encroaching into a required setback, under BMC Section 23.304.070(B)

C. CEQA Recommendation: It is staff's recommendation to the Zoning Adjustments Board (ZAB) that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq. and California Code of Regulations, Section 1500, et seq.) pursuant to Section 15303 of the CEQA Guidelines ("New Construction or Conversion of Small Structures"). The determination is made by ZAB.

D. Parties Involved:

- Applicant John Newton, 5666 Telegraph Avenue, Oakland, CA
- Property Owner Tarek and Michel Khoury, 903 Ventura Avenue, Albany, CA

Figure 1: Vicinity Map



Legend

R-1H: Single-Family Residential District within the Hillside Overlay Zone

Figure 2: Site Plan

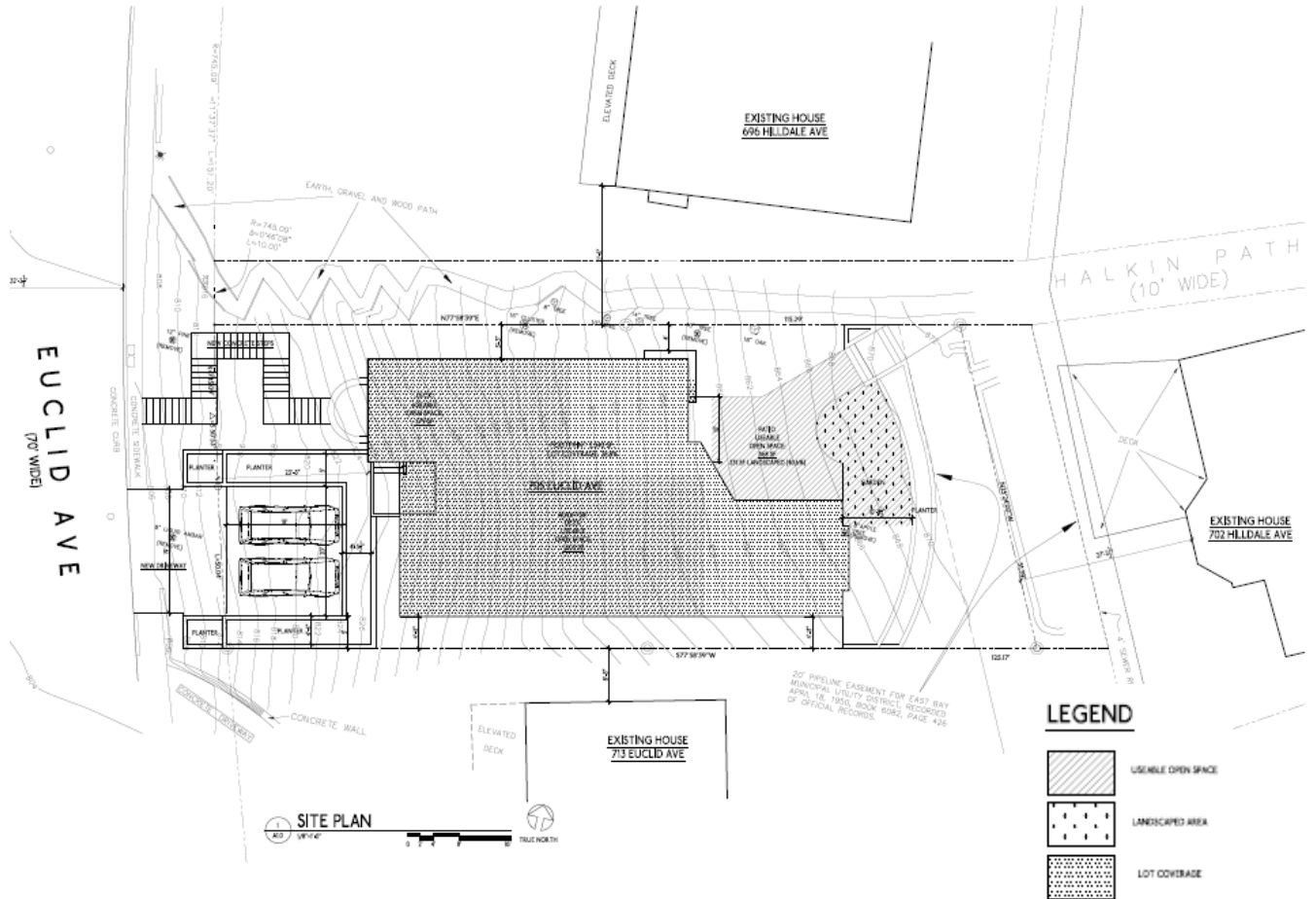


Figure 3: Front Elevation

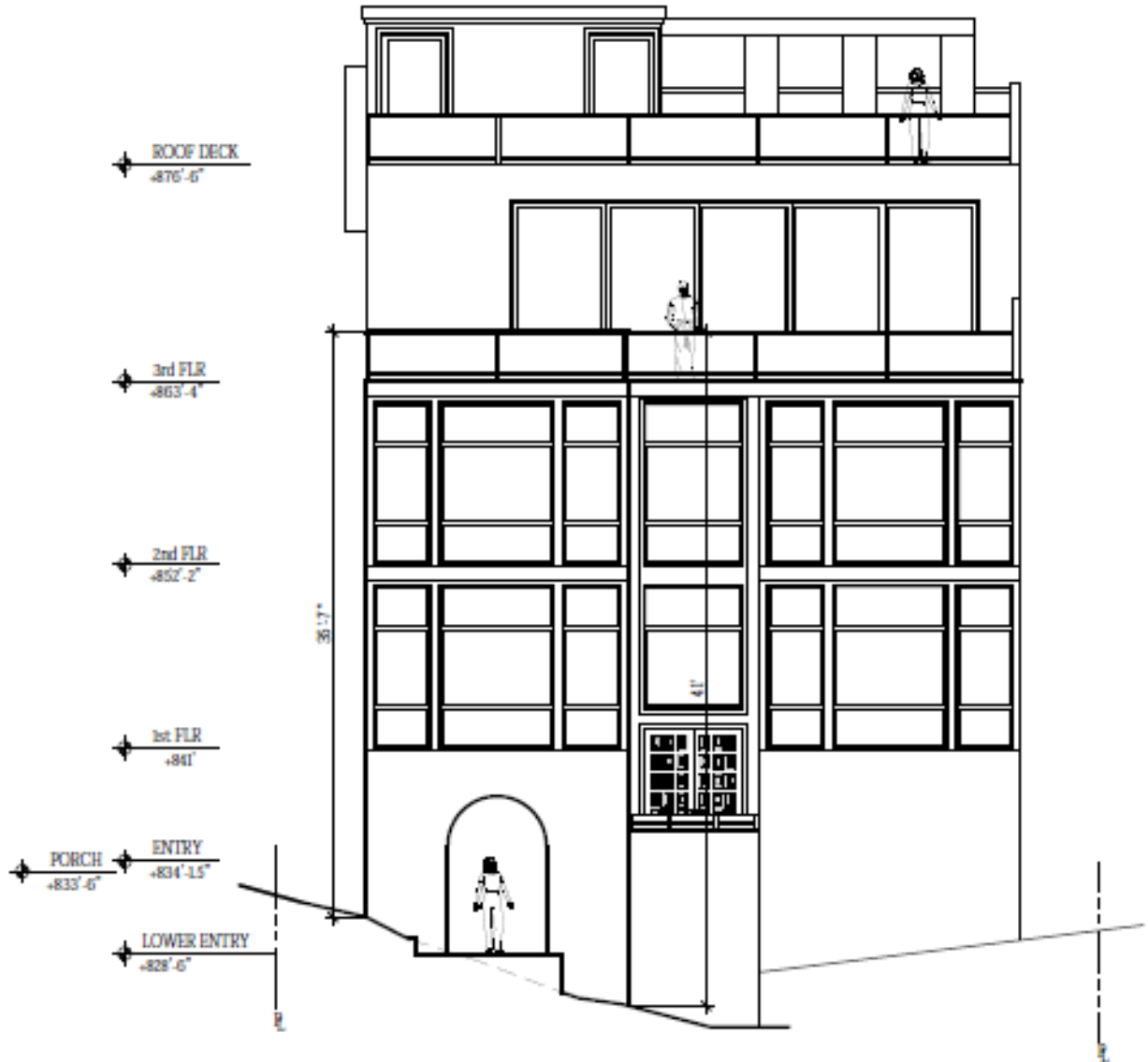


Figure 3: Side Elevations

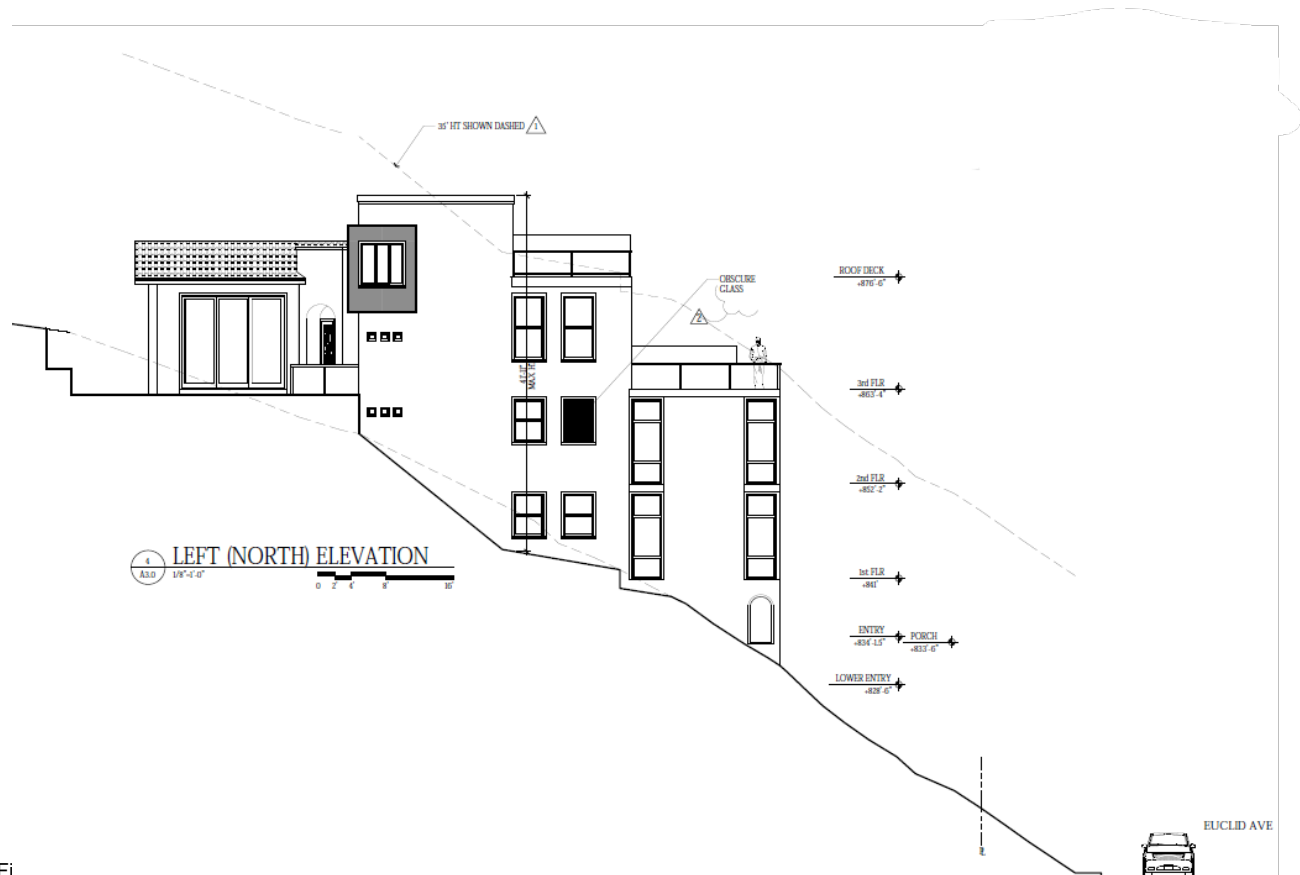
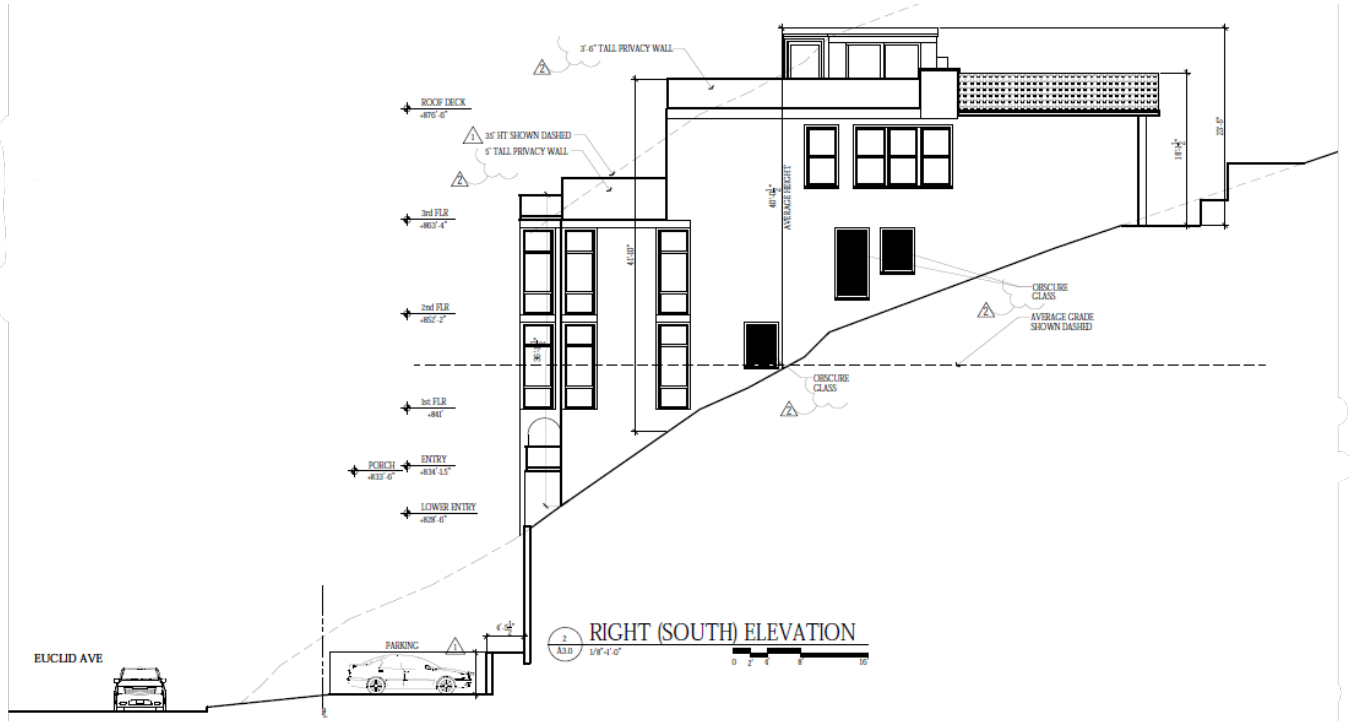


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Vacant lot	R-1H	LDR- Low Density Residential
Surrounding Properties	North	Single-Family dwelling	R-1H	LDR- Low Density Residential
	South	Single-Family dwelling	R-1H	LDR- Low Density Residential
	East	Single-Family dwelling	R-1H	LDR- Low Density Residential
	West	Single-Family dwelling	R-1H	LDR- Low Density Residential

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	These fees apply to projects with net new 7,500 square feet of non-residential floor area. The project involves only new residential floor area; therefore, this requirement does not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	This fee applies to projects that propose 5 or more rental dwelling units. This project does not propose rental units; therefore, this does not apply.
Creeks	No	The project site is not within a creek buffer zone.
Density Bonus	No	Pursuant to California Government Code Section 65917.2, a project must contain five or more residential units to qualify for state density bonus. This project would construct a single-family dwelling; therefore, this does not apply.
Natural Gas Prohibition (Per BMC 12.80.020)	Yes	The project is subject to the natural gas prohibition.
Historic Resources	No	The proposed project is located on a vacant lot.
Housing Accountability Act (California Government Code Section 65589.5(j))	No	A "housing development project" means a use consisting of residential units only, mixed use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term "units" is plural, a development has to consist of more than one unit to qualify under the Housing Accountability Act (HAA) (California Government Code Section 65589.5, subdivision (h)(2)). Therefore, HAA does not apply to this project.
Housing Crisis Act of 2019 (SB330)	No	A development has to consist of more than one unit to qualify under the HAA. The proposed project includes a single-family dwelling, and does not meet the definition of a "Housing Development Project" per California Government Code Section 65589.5(h)(2)1. Therefore, SB 330 does not apply.

Oak Trees	Yes	There is one protected Coast Live Oak on the project site. Three protection measures were provided by the City's Arborist as Conditions of Approval, refer to Attachment 3.
Rent Controlled Units	No	The proposed project is located on a vacant lot.
Residential Preferred Parking (RPP)	No	The project site is not located within the City of Berkeley RPP area
Seismic Hazards (SHMA)	Yes	The project site is located within the California Geological Survey Alquist Priolo Earthquake Fault Zone. The applicant submitted a geotechnical investigation for the project (insert name of report preparer and year), which was peer reviewed by the City's peer reviewer who recommended geotechnical approval of the subject land use permit application subject to specific geotechnical conditions of approval.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites pursuant to Government Code Section 65962.5), nor is it within the City's Environmental Management Area.
Transit	Yes	There is an AC Transit stop located approximately 260 feet south of the project site.

Table 3: Project Chronology

Date	Action
August 9, 2022	Application submitted
August 30, 2022	Application deemed incomplete
September 29, 2022	New plans submitted
October 21, 2022	Application deemed incomplete
December 29, 2022	New plans submitted
January 19, 2023	Application deemed complete
April 13, 2023	Public hearing notices mailed/posted
April 27, 2023	ZAB hearing

Table 4: Development Standards

Standard	Existing	Addition/ (Reduction)	Proposed Total	Permitted/ Required
BMC Sections 23.202.050 & 23.210.020				
Lot Area (sq. ft.)	6,024	0	6,024	5,000 min
Gross Floor Area (sq. ft.)	n/a	4,528	4,528	No maximum
Floor Area Ratio	n/a	n/a	n/a	No maximum

Dwelling Units	Total	n/a	1	1	1 max
	Affordable	n/a	n/a	n/a	n/a
Building Height	Average (ft.)	n/a	40' - .5"	40'-.5"	28 max ¹
	Maximum (ft.)	n/a	41'-11"	41'-11"	35 max ¹
	Stories	n/a	3	3	3 max
Building Setbacks (ft.)	Front	n/a	23'-3"	23'-3"	20 min ¹
	Rear	n/a	23'-11"	23'-11"	20 min ¹
	Left Side	n/a	4'	4'	4 min
	Right Side	n/a	4'-11"	4'-11"	4 min
Lot Coverage (%)		n/a	39.1%	39.1%	40 max
Usable Open Space (sq. ft.)		n/a	1,155	1,155	400 min
Parking	Automobile	n/a	2	2	1 min
	Bicycle	n/a	n/a	n/a	n/a

1. Threshold can be exceeded with an AUP
2. Abbreviations: sq.ft.= square feet; ft = feet; min.=minimum; max.=maximum; % = percent

II. Project Setting

A. Neighborhood/Area Description: The project site is located in a residential area with a mix of one-, two-, and three-story single-family dwellings, with areas of open space in excess of that required by the BMC, and mature vegetation. Lots in the neighborhood are generally rectangular in shape with some irregularities due to existing slopes and curved roadways. The neighborhood hills generally slope downwards from the northeast to the southwest and provide primary views westward towards the San Francisco Bay. Given the hilly terrain, the dwellings on the block tend to include attached one- or two-car garages, and/or uncovered parking spaces, within front setbacks. Access to dwellings is typically provided via exterior stairways.

B. Site Conditions: The project site is an undeveloped upslope lot on the east side of Euclid Avenue in the North Berkeley hills. It is bordered on the north by a public stairway (Halkin Walk), on the south by a three-story house at 713 Euclid Avenue, and to the east by a three-story house upslope at 702 Hilldale Avenue. To the west, across Euclid Avenue, houses are on downslope lots, typically with only their top stories and/or garages at street level. The lot, like it's neighbors, provides a significant view of San Francisco Bay. Much of the lot is bordered by trees of various species, including one coast live oak on the lot's northern border.

III. Project Description

The project would construct a three-story single-family dwelling, with two off-street parking spaces located within the required front setback (out of necessity because of the

steep terrain). The project will include two front decks to compensate for minimal flat ground available for usable open space, and have a maximum height of 41-feet, 11-inches. The height is consistent neighboring houses in the area.

The proposed first floor will be accessible by a lower entry porch and stairs, necessitated by the steep slope. This floor will contain two bedrooms and two bathrooms. The second floor will consist of two more bedrooms, two more bathrooms, and a laundry area. The top floor will be a mostly open floor plan with the kitchen, dining area, and family room, plus a half-bath. There will be access to a rear ground-level patio and an uncovered front deck. All floors and a rooftop deck will be accessible via an elevator and staircases.

Off-street parking, accessible from Euclid Avenue, will consist of an uncovered parking pad protected by retaining walls, with planter boxes above the retaining walls. The backyard will consist of a patio area, garden, and retaining wall, located in the setback, with access above via exterior steps.

Some of the trees on the lot will be removed in preparation for construction. Others, located along the northern border of the property will remain. The Coast Live Oak located on the northern border will remain and will not be encroached upon by any of the new structures.

IV. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting this application to the city, the applicant posted a pre-application poster at the project site. The applicant also submitted drawings of the proposed plans to all adjacent and abutting neighbors (Attachment 2). No comments in opposition were received at that time.

Story poles were installed on the project site in December 2022. No public comments were received after the installation of the story poles.

On April 13, 2023, 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 received one public comment, a letter in opposition to the project from the neighbor to the north at 696 Hilldale Avenue (which overlooks Euclid Avenue)(Attachment 5).

B. Committee Review: This project is not subject to review by the Design Review Committee or the Landmarks Preservation Commission because it is not a use located in a district subject to design review, commercial or manufacturing district, and does not involve the demolition of a non-residential building, respectively.

V. Issues and Analysis

- A. Findings for Use Permit Approval in the R-1(H) District:** Pursuant to BMC Section 23.202.020(B), a new single-family dwelling is allowed in the R-1 zoning district with a Use Permit, provided that its siting meets applicable development standards and subject to the non-detriment finding. As shown in Table 4, the proposed project would meet or exceed all development standards for the dwelling, with the exception of the height limits. The average and maximum heights within the Hillside Overlay Zone may be increased to above specified limits with an Administrative Use Permit (AUP) (BMC 23.210.020(C)(2)).

Staff believe that the increased height above the 35-foot maximum are justifiable with an AUP because the height of the proposed structure is compatible with those of neighboring structures. Further, installation of the story poles on the project site did not reveal an unreasonable obstruction of significant views from neighboring properties. As noted above, no public comments were received after the installation of the story poles.

In the Hillside Overlay District, an AUP to reduce required setbacks (BMC 23.210.020(C)(4)) can be approved upon finding the project is consistent with the purpose of the Hillside Overlay District as stated in BMC 23.210.020(A). While the main dwelling meets the 20-foot front setback, the proposed parking area, and its associated retaining walls, as well as the front exterior stairs, would be located within the front setback. This is necessary due to the steep upward slope of the lot. It is also consistent with many neighboring properties that have similar parking areas and stairs within their front setbacks.

The proposed project would meet the following purposes of the Hillside overlay zone pursuant to BMC 23.21.020(A):

1. Implement General Plan policies for Hillside Development;
2. Protect the safety and health of residents where steep topography, unusual street conditions and proximity to the wildland-urban interface create severe risk from wildfire;
3. Protect the character of Berkeley's Hillside Districts and their immediate environs;
4. Give reasonable protection to views yet allow appropriate development of all property; and
5. Allow modifications in standard yard and height requirements when justified because of steep topography, irregular lot pattern, unusual street conditions, or other special aspects of the Hillside District area.

B. General Non-Detriment Finding: Per BMC 23.406.040(E)(1), staff believes the project would not be detrimental to the health, safety, peace, morals, comfort, or general welfare of residents or workers in the area because it would be consistent with the development pattern in the area. The applicant proposes to construct a single-family dwelling in a neighborhood comprised of single-family dwellings. with the siting/design of the proposed structure would also be compatible with the surrounding built environment. Staff believes that the proposed project would not unreasonably obstruct sunlight, privacy, air, or views as analyzed below:

1. Sunlight/Shadow: Shadow studies submitted by the applicant document the existing and proposed shadow effects at three times each day at the summer and winter solstices and on February 25. The studies reveal that shadow effects on neighboring properties would be minimal. The most significant potential effects would be on 696 Hilldale Avenue for a few hours a day in the winter months. However, these effects are mitigated by the fact that significant shadows are already cast on that lot by the existing row of tall trees along Halkin Walk. Staff recommends that the Board find that these potential impacts are non-detrimental.
2. Privacy: The proposed dwelling would have first, second, and third floor windows on both sides. Some of these windows could potentially be perceived by neighbors as affecting their privacy. However, the applicant has proposed obscured glass on the windows that have the greatest potential for causing privacy issues. Views from other windows would be obscured by existing and new trees along both sides of the lot.

The proposed front balconies are set mostly forward of the fronts of the neighboring houses at 696 Hilldale Avenue and 713 Euclid Avenue. Therefore, they would not pose a significant threat to privacy. Staff believes the proposed dwelling would not be detrimental regarding privacy.

3. Air: The proposed structure would be approximately 20-25 feet from its northern neighbor and more than 13 feet from its southern neighbor. The project would also exceed the usable open space requirement. Therefore, it is not expected to have an effect on available fresh air.
4. Views: Per BMC 23.502.020 (Defined Terms), a significant view is a view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island or any other significant vista that substantially enhances the value and enjoyment of real property. As described above under Project Setting, dwellings in the immediate neighborhood of the proposed project have significant views of San Francisco Bay and the Golden Gate. The story poles installed on the project site revealed that these views will not be substantially affected by the new building.

VI. Other Considerations

A. 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-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.
4. Policy H-33–Regional Housing Needs: Encourage adequate housing production to meet City needs and the City’s share of regional housing needs.

Staff Analysis: The proposed project will be infill in a mostly developed neighborhood and will constitute an increase in the available housing units in the region. Its design is compatible with the surrounding houses in the neighborhood, and its effects on light and significant views will be minimal.

VI. Recommendation

Because of the project’s consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board: **APPROVE** use permit #ZP2022-0104 pursuant to Section 23.406.040.D and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received December 29, 2022
3. Arborist’s Report dated May 26, 2022
4. Notice of Public Hearing
5. Public Comment, received April 17, 2023

Staff Planner: Russell Roe, roe@cityofberkeley.info, (510) 981-7548

ATTACHMENT 1

FINDINGS AND CONDITIONS

APRIL 27, 2023

705 Euclid Avenue

Use Permit #ZP2022-0104 to construct a new three-story (41 feet and 11 inches), 4,528 square foot single family dwelling with two parking spaces and associated retaining wall located in the required front setback, on a 6,024 square foot vacant lot.

ZONING PERMITS REQUIRED

- Use Permit for a new single-family dwelling, under Berkeley Municipal Code (BMC) Section 23.202.020(A)
- Administrative Use Permit to construct a building with a maximum height over 35 feet in the Hillside Overlay Zone, under BMC Section 23210.020
- Administrative Use Permit to construct two parking spaces in a required front setback, under BMC Section 23.322.080
- Administrative Use Permit to construct an accessory structure (backyard retaining walls) encroaching into a required setback, under BMC Section 23.304.070(B)

I. CEQA FINDINGS

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

II. FINDINGS FOR APPROVAL

1. As required by Section 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. Shadow studies submitted by the applicant show that new shadow effects would be minor due to the orientation of the new and existing structures, as well as the existence of tall trees along some of the property lines; and
- B. Privacy intrusions would be minimal because the proposed front balconies are set mostly forward of the fronts of the neighboring houses at 696 and 713 Euclid Avenue, the applicant has proposed obscured glass for the windows that have the greatest potential for causing privacy concerns, and new and existing trees will act as visual obstructions between the properties; and
- C. Reduced availability of air will not be an issue because the proposed structure would be roughly 20-25 feet from its northern neighbor and more than 13 feet from its southern neighbor, and the project would exceed the usable open space requirement; and
- D. Story poles erected on the site show that significant views from neighboring properties will not be unreasonably affected.

III. OTHER FINDINGS FOR APPROVAL

- 2. As required by BMC 23.202.020(B), the Zoning Adjustments Board finds that:
 - A. The proposed project would meet all applicable development standards for the R-1 District except the height limits;
 - B. The proposed increased height limits are justifiable and approvable with an AUP because the proposed height is compatible with those of neighboring structures and story poles erected on the site did not reveal an unreasonable obstruction of significant views from neighboring properties; and
 - C. The proposed parking area, retaining walls, and exterior stairs are approvable in the front setback with an AUP because of the steep upward slope of the lot, and it would be consistent with many neighboring properties that have similar parking areas and stairs in their front setbacks; and
 - D. The proposed project would meet the purposes of the Single-Family Residential District and the Hillside Overlay Zone.

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. 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.
12. Tree Preservation Conditions. The Arborist Report dated May 26, 2022 shall be included with any application for a building permit, and shall be with the approved set of plans on the job site at all times while work is taking place.
13. Tree Protection Fencing. To protect the Specified Tree Protection Zone will be shown on all applicable site, landscape, grading, and utility plans. Such fencing shall comply with the guidelines specified in the Arborist Report dated May 26, 2022.

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

14. 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.
15. 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](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

16. 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.
17. Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS). A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans.
18. Electric Vehicle (EV) Charging. Each dwelling unit shall install a listed raceway, wiring, and load capacity to allow for future Level 2 (40 amp) plug-in electric vehicle (EV) charging system installation, or any more stringent EV charging requirements as specified by the Berkeley Green Code (BMC Chapter 19.37). Readiness for EV charging and EV charging station installations shall be noted on the construction plans.
19. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELo). MWELo-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
20. 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). The building permit plan set submission shall both include a cover sheet declaration: 'Natural Gas-Free Design as required by BMC Chapter 12.80.

21. 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).
22. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

During Construction:

23. 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.
24. Tree Protection Fencing to protect the Specified Tree Protection Zone must be installed prior to any site or demolition work, in accordance with the approved plans, and remain during all stages of site work and construction.
25. Tree Monitoring. Trees identified for protection in the Arborist Report dated May 26, 2022 shall be monitored monthly during construction by the project arborist.
26. Geotechnical Report. The contractors shall implement the recommendations of the Geotechnical Soil Report, dated March 15, 2022, including site preparation and earthwork, surface and subsurface drainage, foundation reinforcements, retaining wall design, lateral lode resistance, and seismic reinforcements.
27. The height and location of the proposed structure, property lines and spot elevations shall be verified by a licensed surveyor or engineer on site after foundation forms are placed, but before pouring concrete or placing construction material in its permanent position. This verification shall be to the satisfaction of the Zoning Officer.
28. 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 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.
- 29. 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.
- 30. 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.
- 31. 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.
- Please contact the Office of Transportation at (510) 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.

- 32. 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.
- 33. 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.

- 34. 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.
- 35. 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.
- 36. 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.

- 37. 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.
- 38. 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.
- 39.** 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.
- 40.** 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.
- 41.** 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.
- 42.** 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.

43. 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.
44. 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.

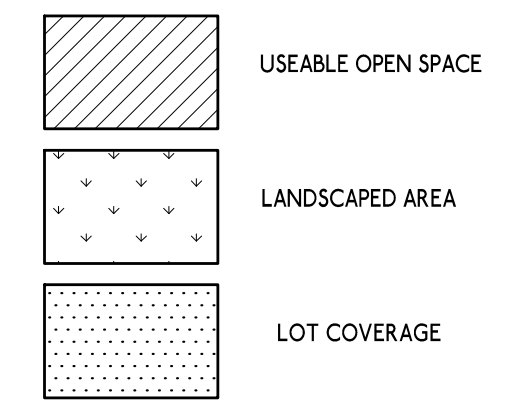
Prior to Final Inspection or Issuance of Occupancy Permit:

45. 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.
46. 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 December 29, 2022, except as modified by conditions of approval.

At All Times:

47. 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.
 48. 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.
 49. 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.
 50. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
 51. This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.
-

LEGEND



OPEN SPACE
 PATIO - 568 SF OPEN SPACE
 231 SF LANDSCAPED (40.6%)
 DECK - 579 SF OPEN SPACE
 ROOF DECK - 1,005 SF OPEN SPACE
 2,152 SF TOTAL USEABLE OPEN SPACE

LOT COVERAGE
 FOOTPRINT 2,340 SF;
 LOT COVERAGE: 38.8%

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 Design & Development
 5666 Telegraph Ave, Ste A
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 DESIGN CONSULTATION
 & PROJECT MANAGEMENT

CM Engineers
 (925) 818-0570
 Cyrus Mashhoodi, PE
 REGISTERED DESIGN
 PROFESSIONAL IN
 RESPONSIBLE CHARGE

NEW RESIDENCE

PROJECT ADDRESS:
 705 Euclid Avenue
 Berkeley, CA 94708
 APN: 63-2955-40-1

OWNER:
 Tarek Khoury
 903 Ventura Ave.,
 Albany, CA 94707
 (510)-387-7100

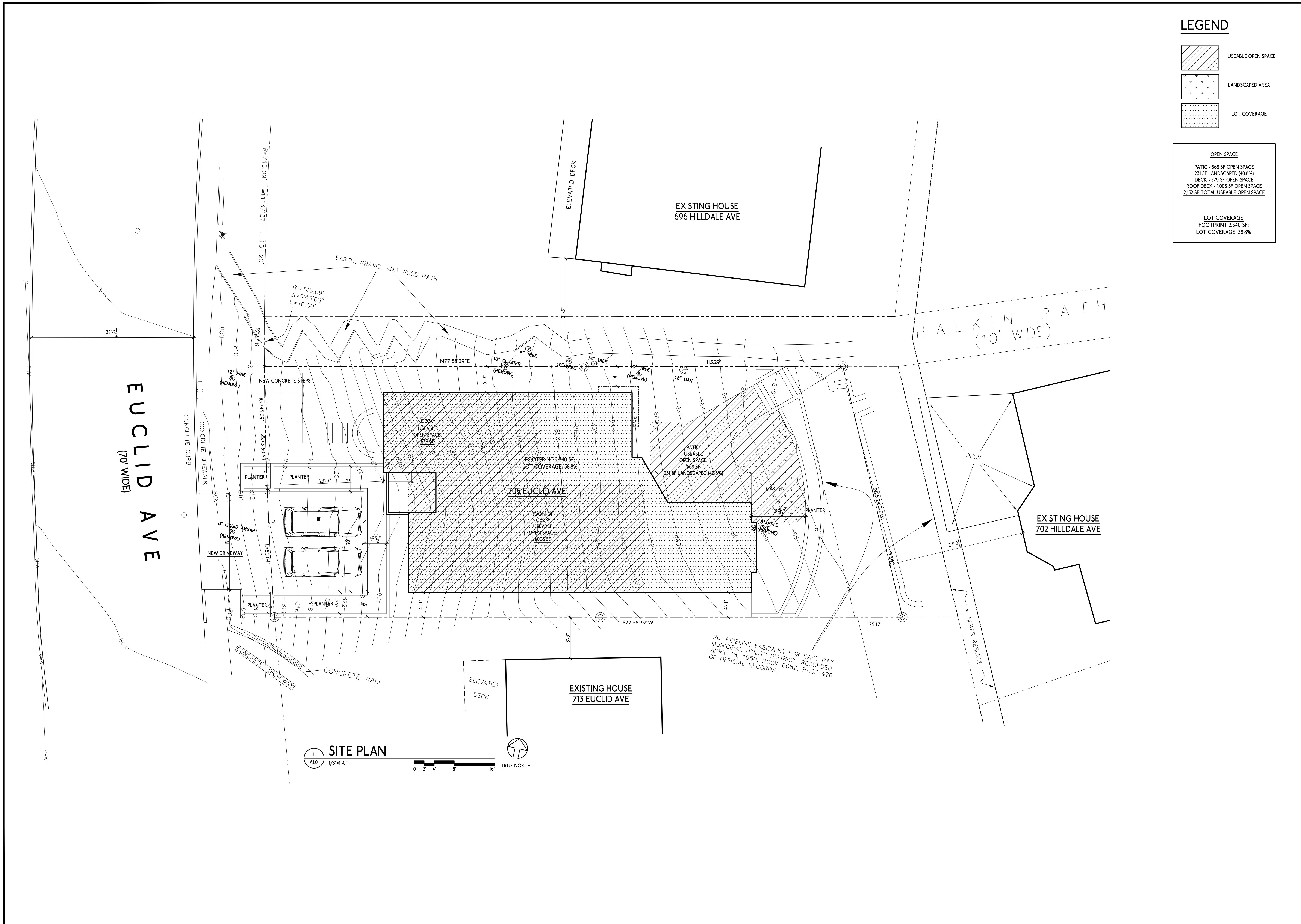
LOT COVERAGE & USEABLE OPEN SPACE DIAGRAM

REVISION

No.	Description	Date
1	DESIGN REV	9/21/22

PROJECT No.:
DRAWN BY: ML
CHECKED BY: JMN
DATE: 9/28/22

A1.1



SITE PLAN
 1/8"=1'-0"
 0 2 4 8 16' TRUE NORTH

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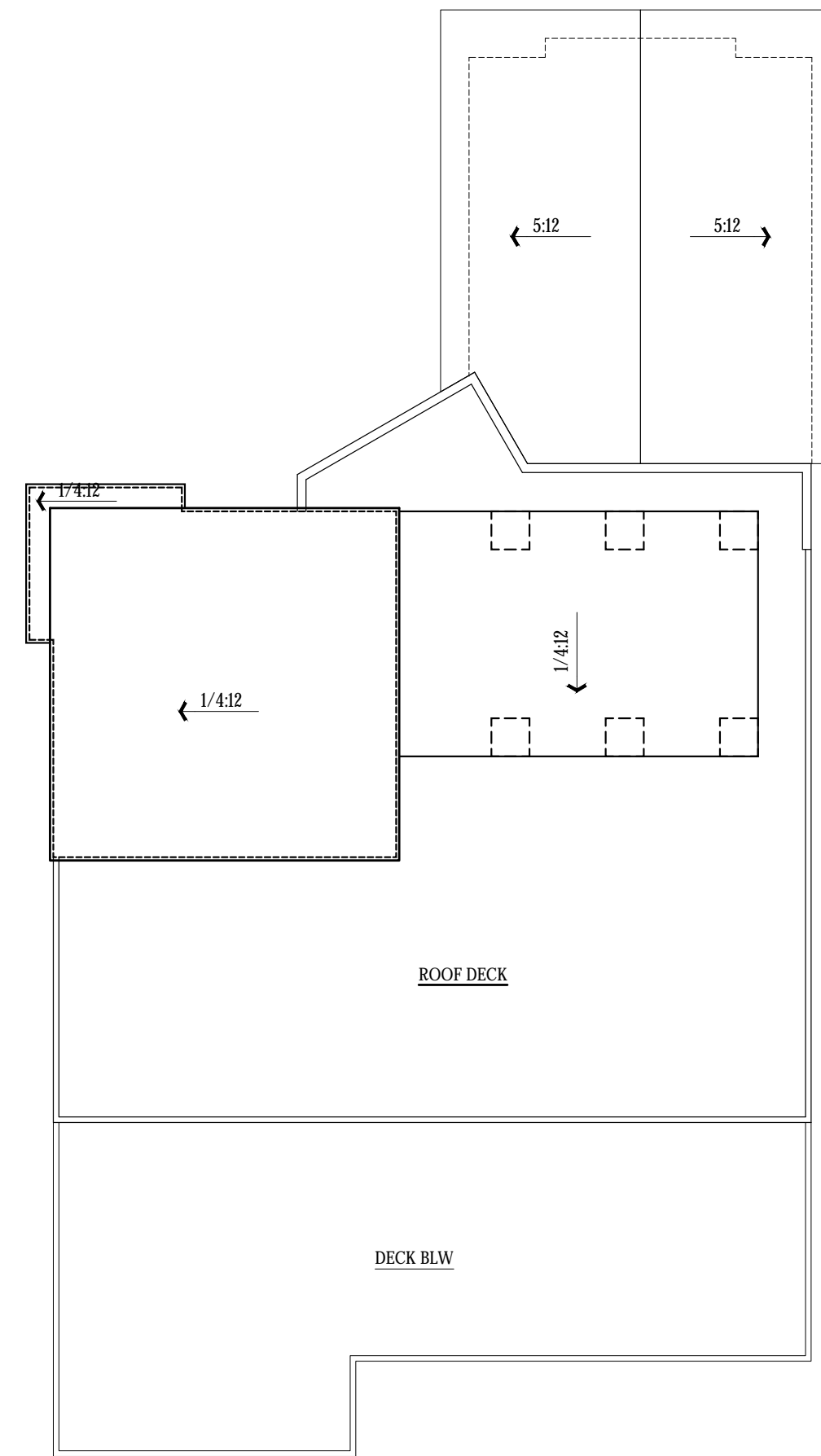
FLOOR PLANS

REVISION

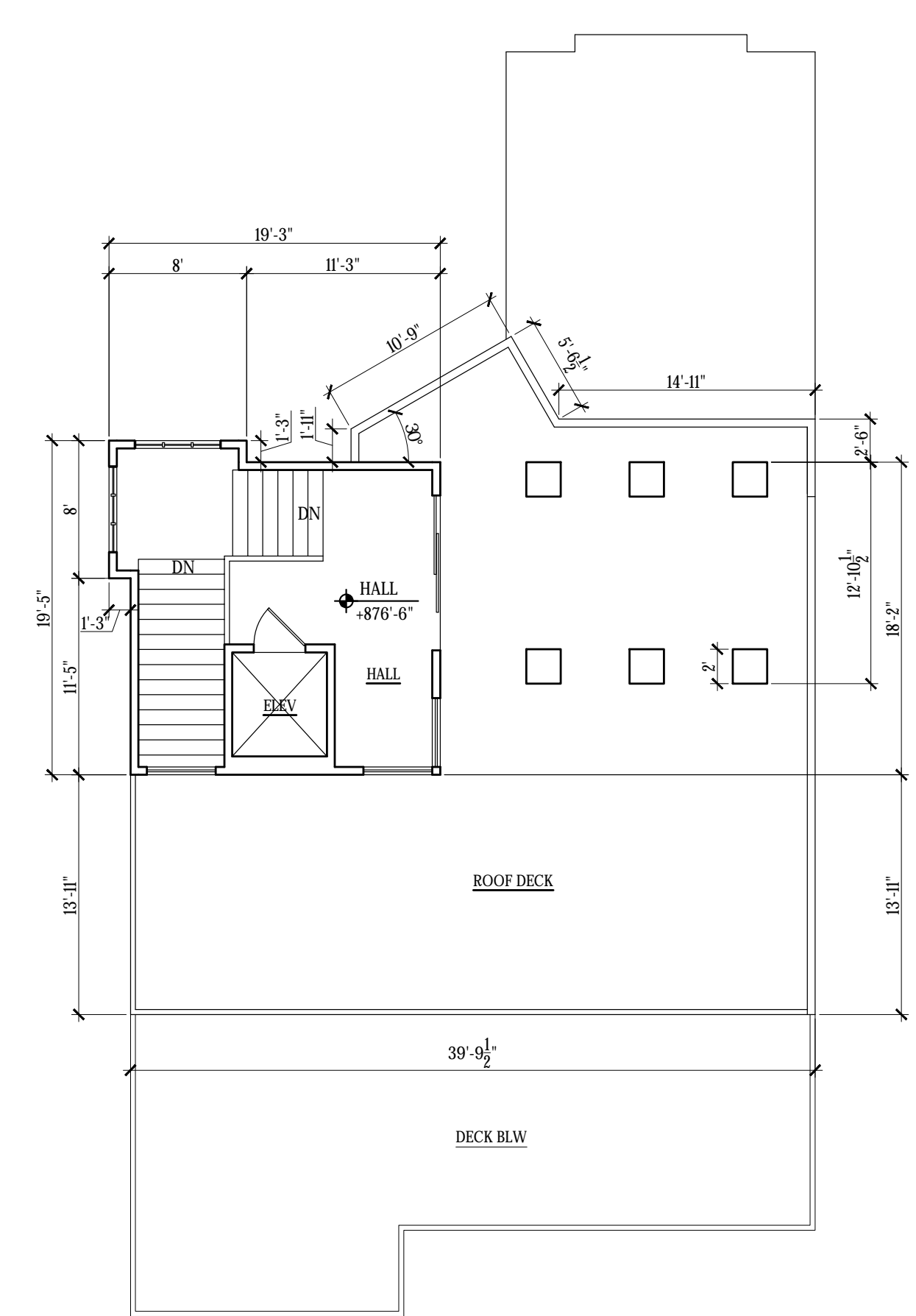
No.	Description	Date
△	DESIGN REV	9/21/22
△	PLAN CHECK	12/28/22

PROJECT No.:
DRAWN BY: ML
CHECKED BY: JMN
DATE: 12/28/22

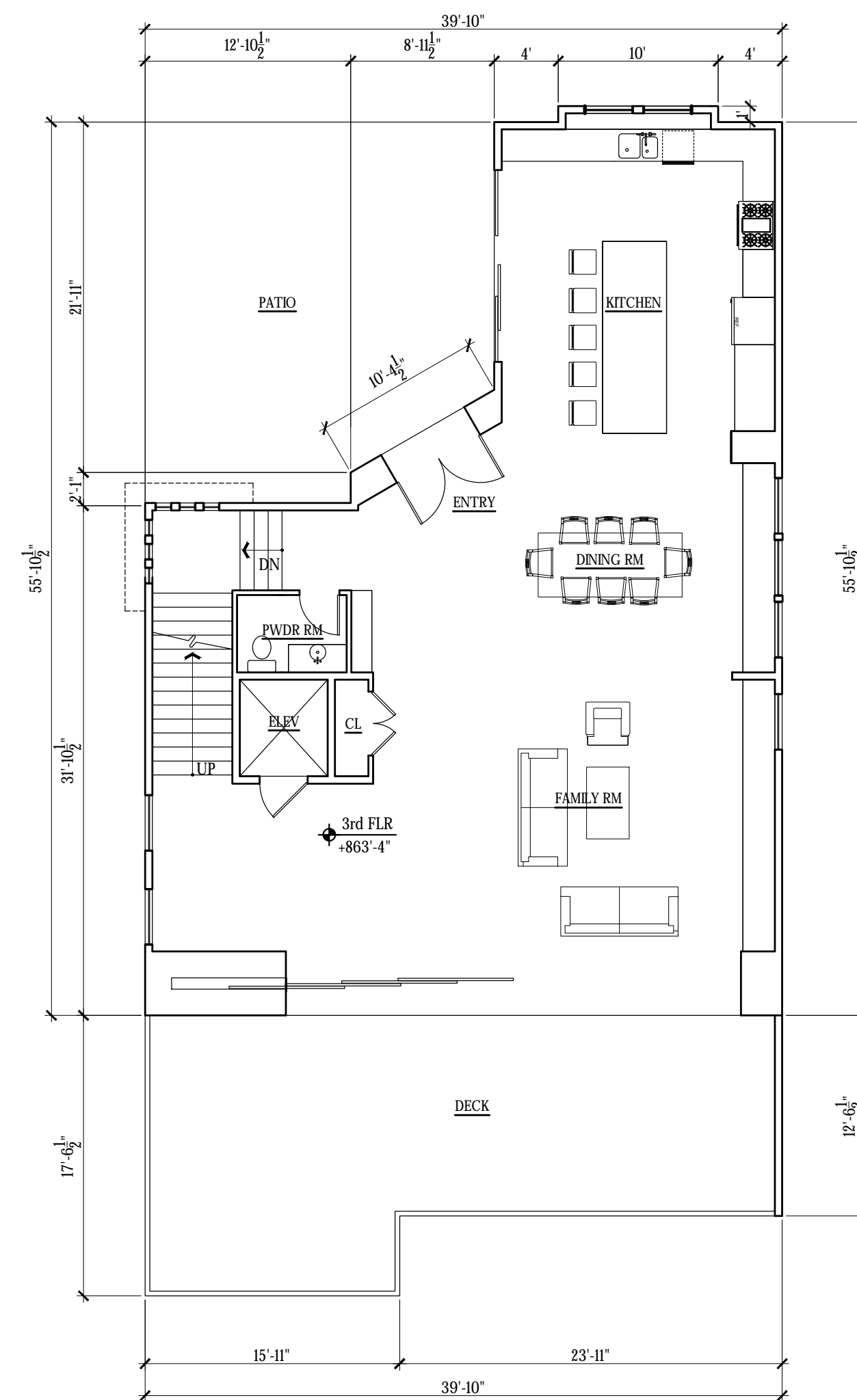
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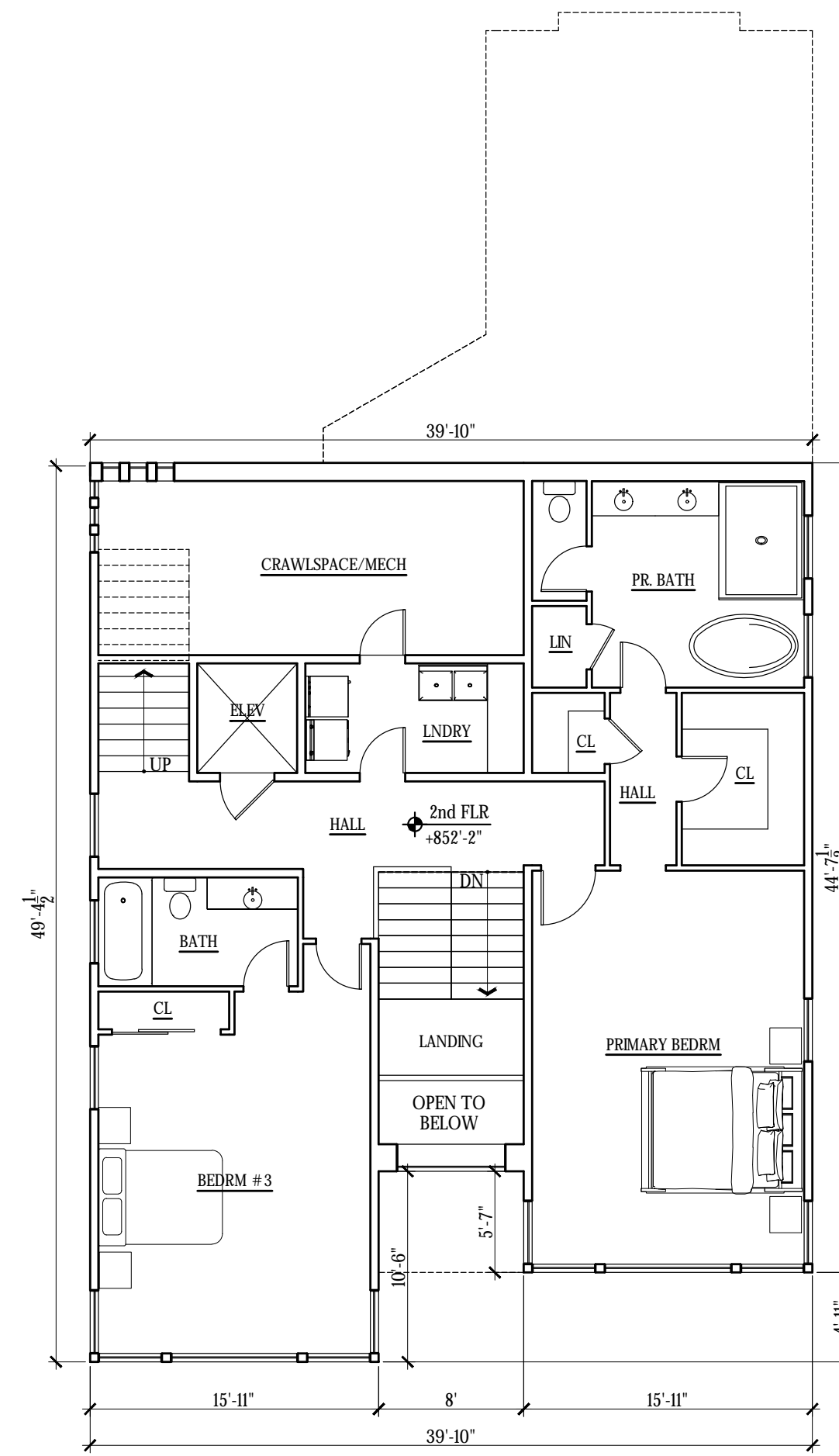
6 ROOF PLAN
A2.0 1/8"=1'-0"
0 2 4 8 16 TRUE NORTH



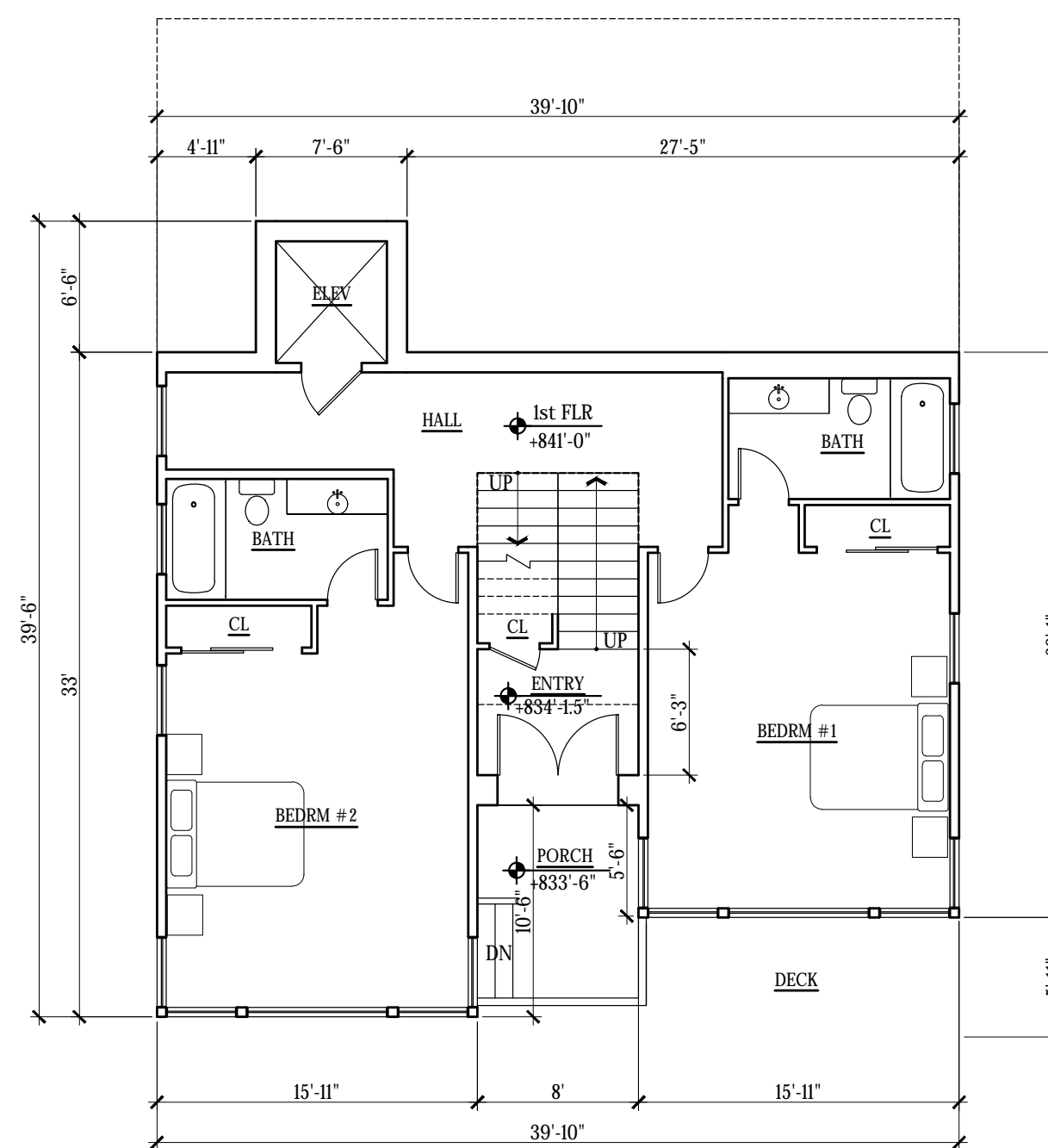
5 ROOF DECK FLOOR PLAN
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245 SF 0 2 4 8 16 TRUE NORTH



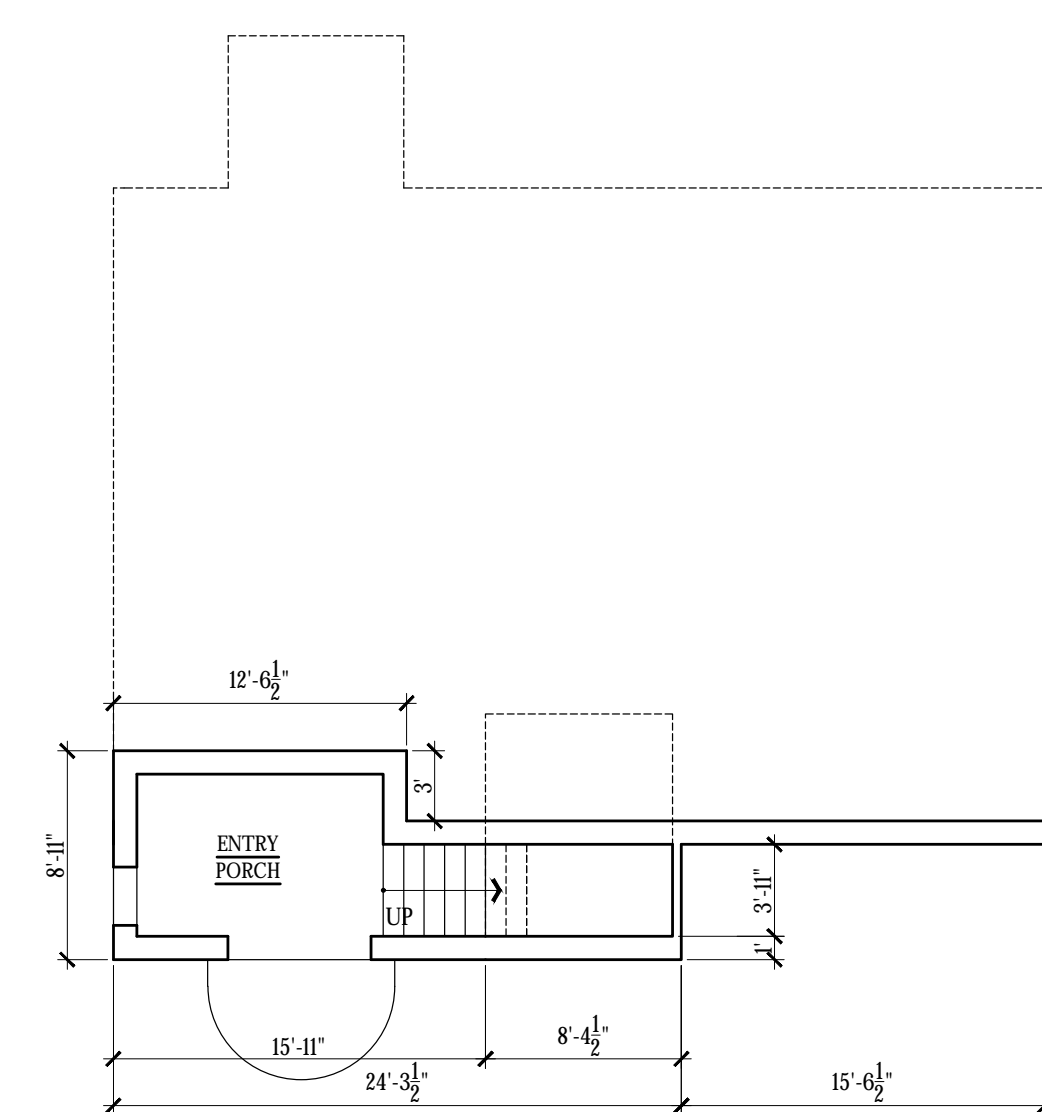
4 3rd FLOOR PLAN
A2.0 1/8"=1'-0"
3rd FLR: 1689 SF 0 2 4 8 16 TRUE NORTH



3 2nd FLOOR PLAN
A3.0 1/8"=1'-0"
2nd FLR: 1393 SF 0 2 4 8 16 TRUE NORTH



2 1st FLOOR PLAN
A2.0 1/8"=1'-0"
1st FLR: 1201 SF 0 2 4 8 16 TRUE NORTH



1 LOWER ENTRY PLAN
A2.0 1/8"=1'-0"
0 2 4 8 16 TRUE NORTH

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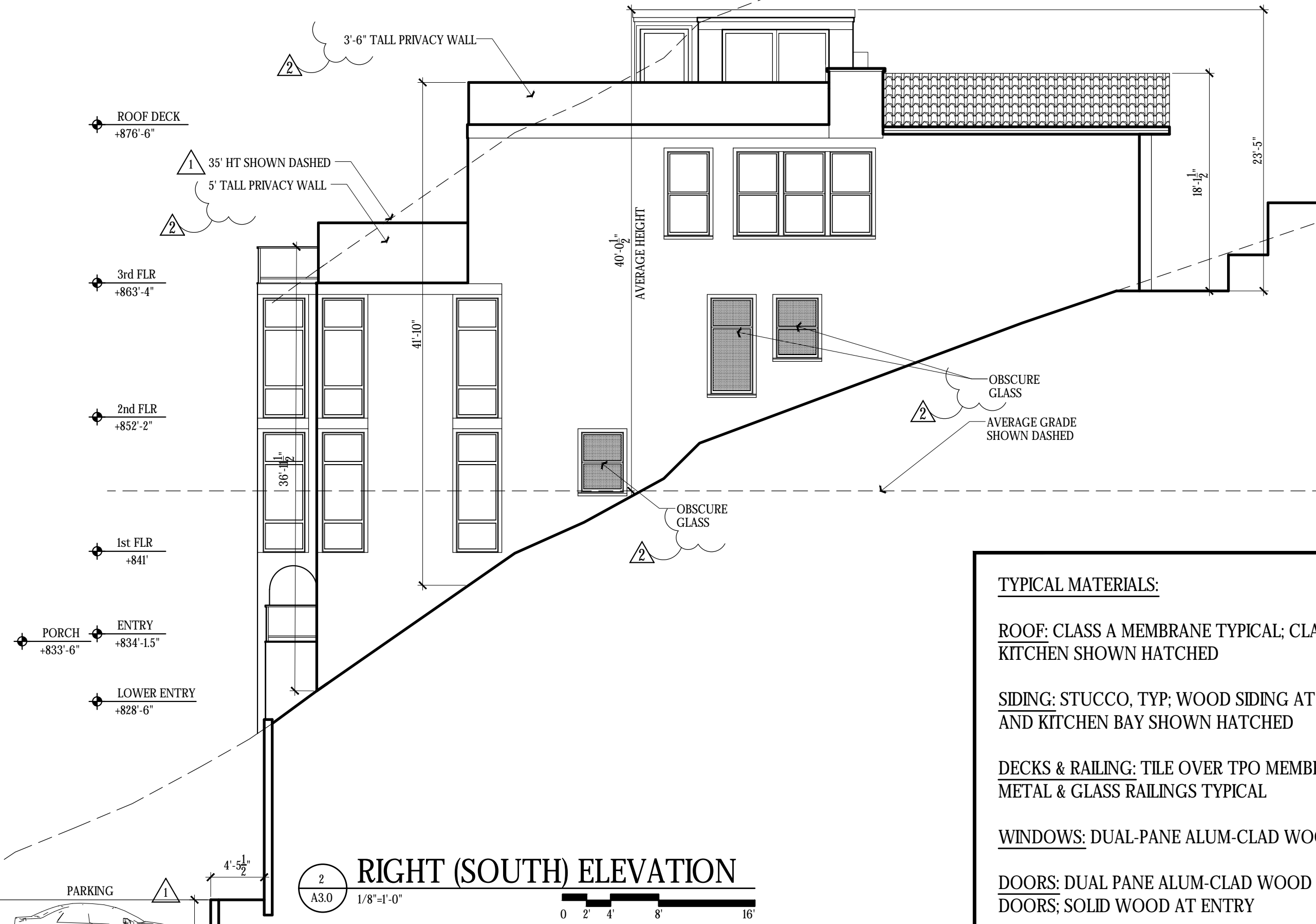
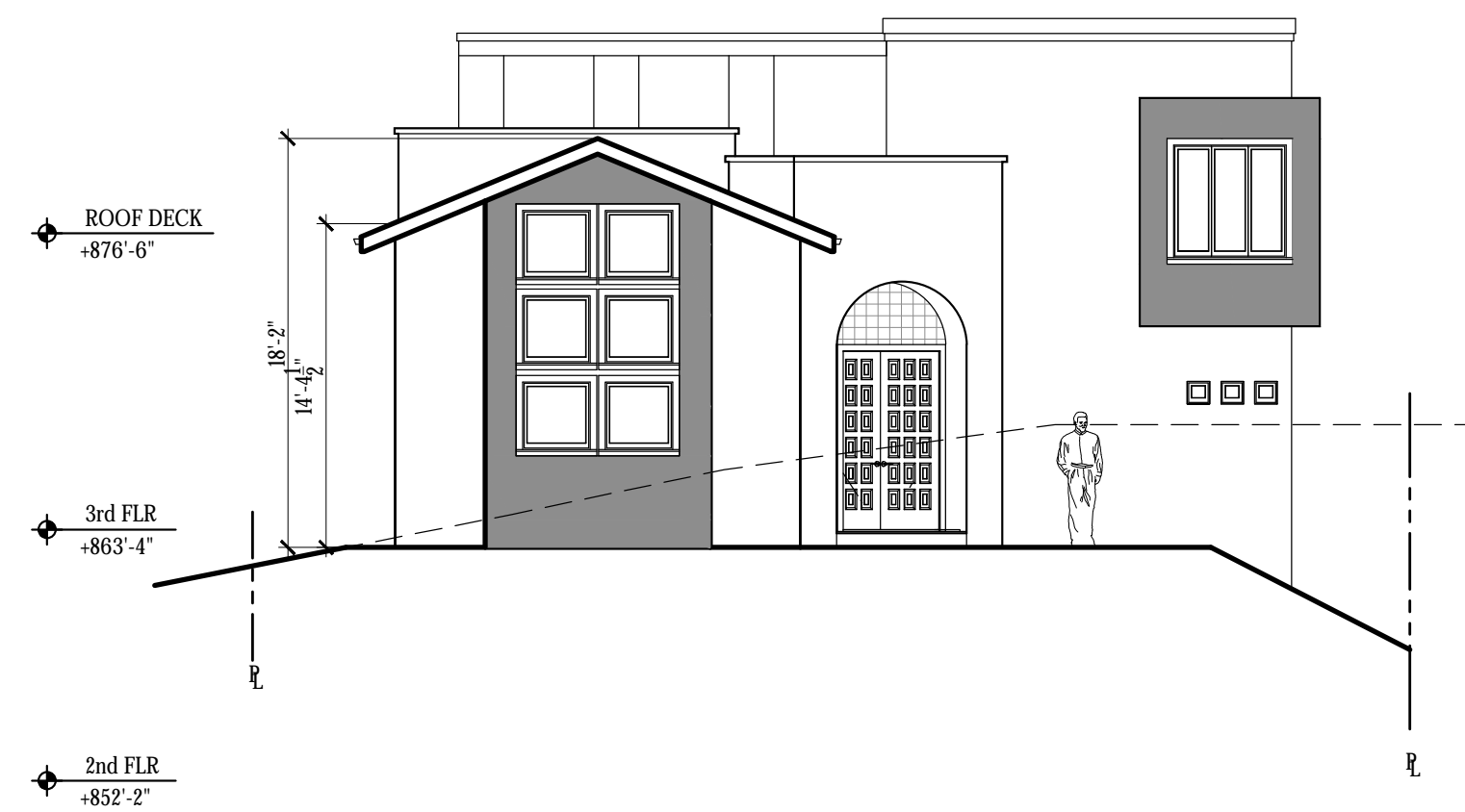
**PROPOSED
ELEVATIONS**

REVISION

No.	Description	Date
△	DESIGN REV	9/21/22
△	PLAN CHECK	12/28/22

PROJECT No.:
DRAWN BY: ML
CHECKED BY: JMN
DATE: 12/28/22

A3.0



TYPICAL MATERIALS:

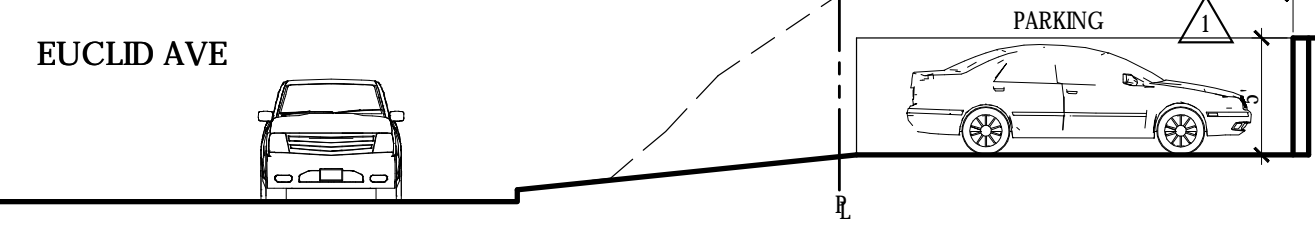
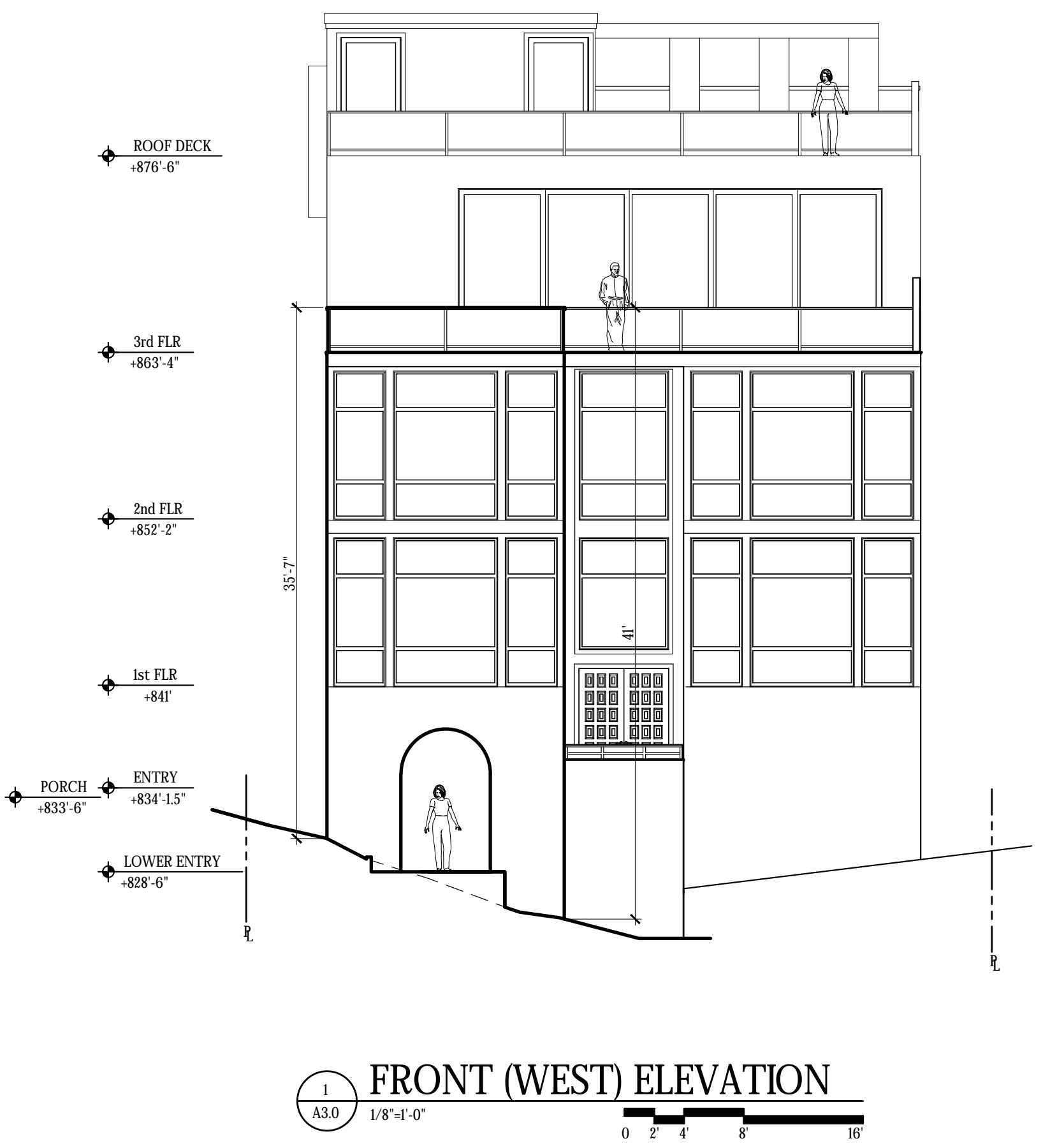
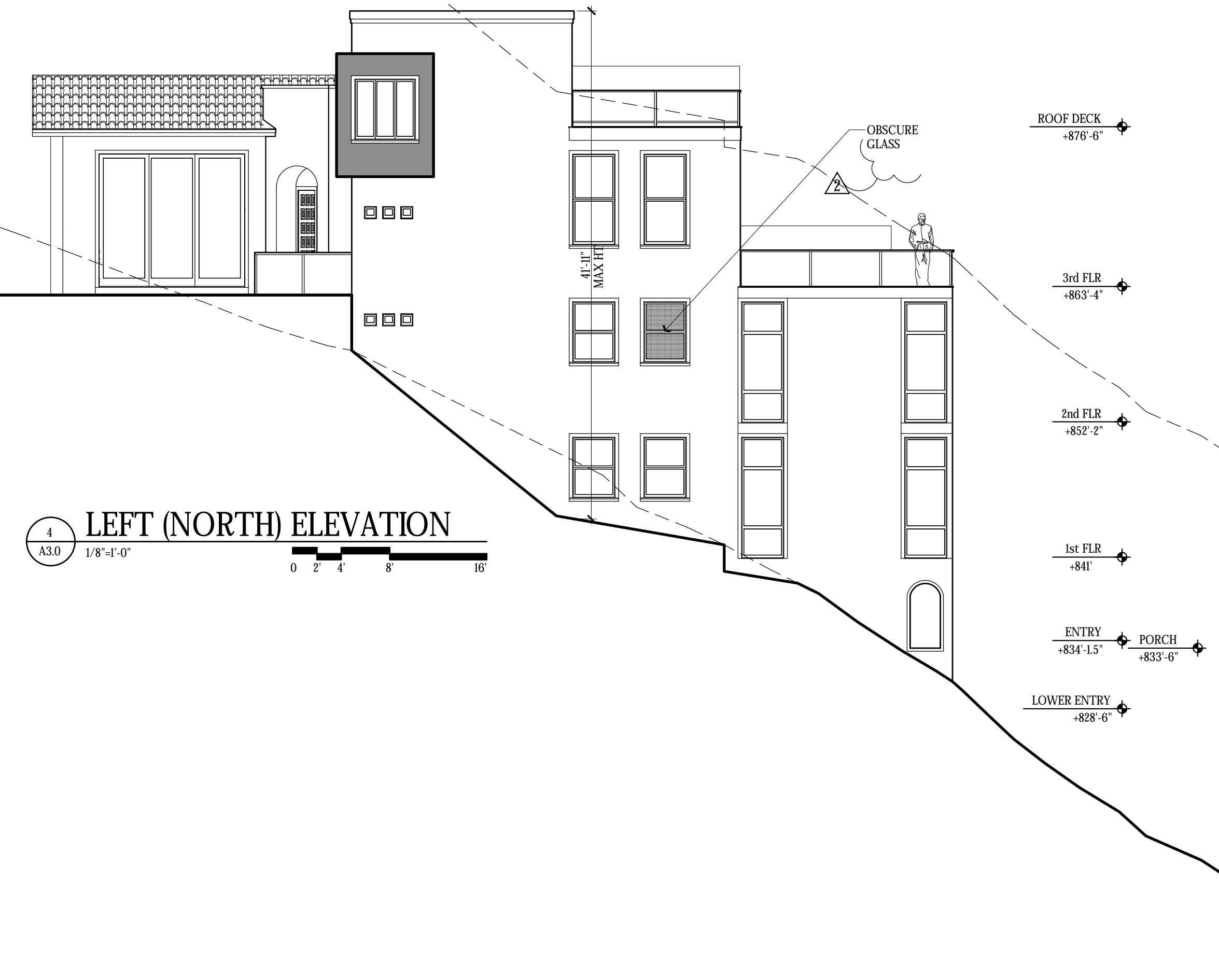
ROOF: CLASS A MEMBRANE TYPICAL; CLAY TILE AT KITCHEN SHOWN HATCHED

SIDING: STUCCO, TYP. WOOD SIDING AT OVERHANG AND KITCHEN BAY SHOWN HATCHED

DECKS & RAILING: TILE OVER TPO MEMBRANE TYP.; METAL & GLASS RAILINGS TYPICAL

WINDOWS: DUAL-PANE ALUM-CLAD WOOD

DOORS: DUAL PANE ALUM-CLAD WOOD FRENCH DOORS; SOLID WOOD AT ENTRY



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& PROJECT MANAGEMENT

CM Engineers
(925)818-0570
Cyrus Mashhoodi, PE
REGISTERED DESIGN
PROFESSIONAL IN
RESPONSIBLE CHARGE

**NEW
RESIDENCE**

PROJECT ADDRESS:
705 Euclid Avenue
Berkeley, CA 94708
APN: 63-2955-40-1

OWNER:
Tarek Khoury
903 Ventura Ave.,
Albany, CA 94707
(510)-387-7100

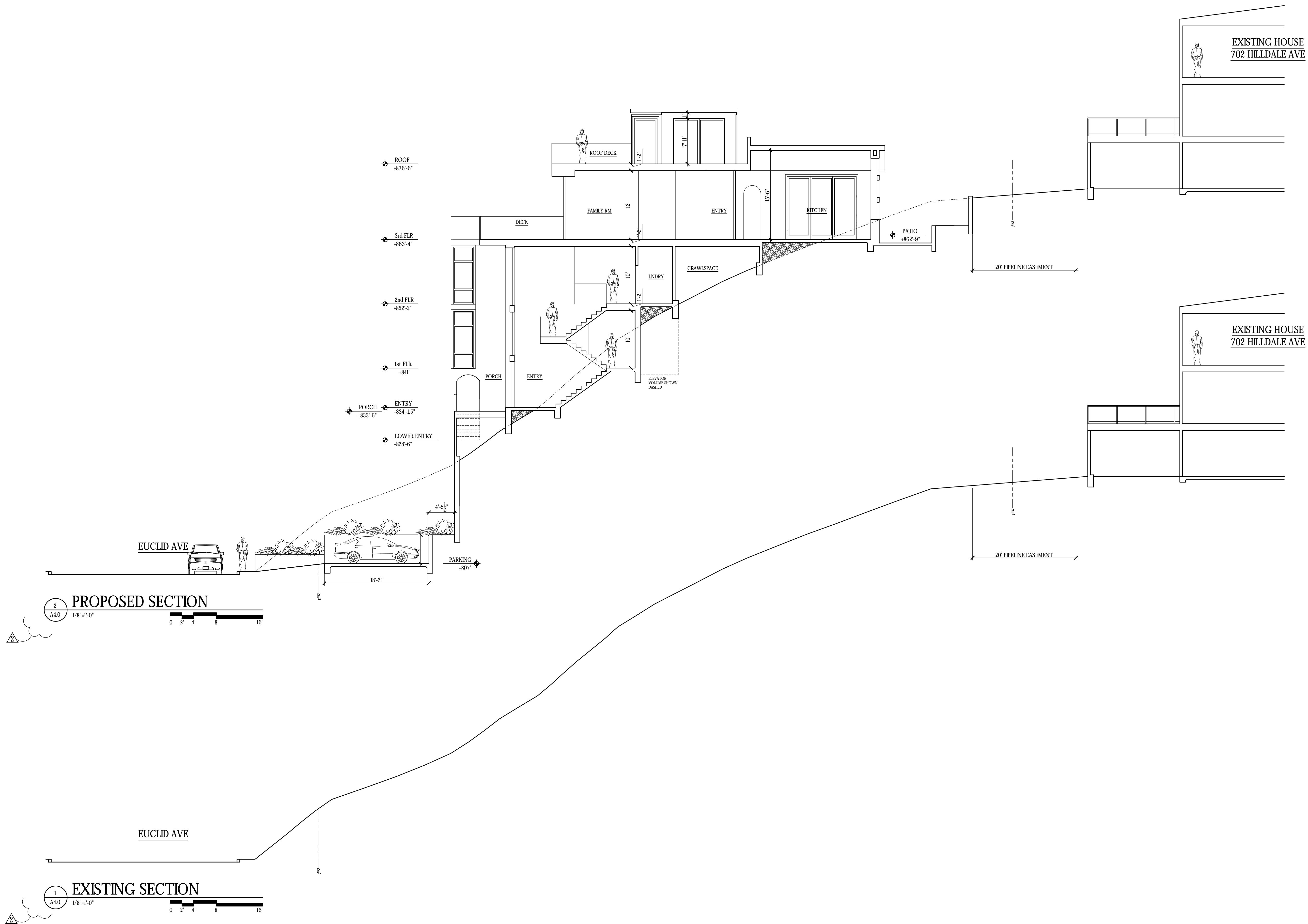
**EXISTING &
PROPOSED
SECTIONS**

REVISION

No.	Description	Date
△	DESIGN REV	9/21/22
△	PLAN CHECK	12/28/22

PROJECT No.:
DRAWN BY: ML
CHECKED BY: JMN
DATE: 12/28/22

A4.0



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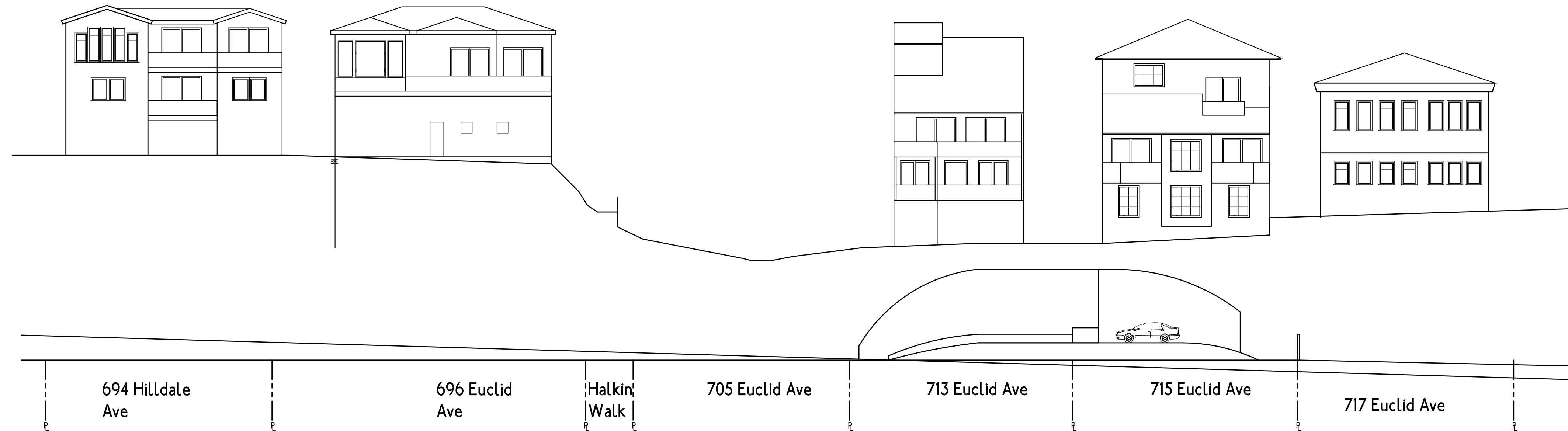
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 PROFESSIONAL IN
 RESPONSIBLE CHARGE

*NEW
 RESIDENCE*

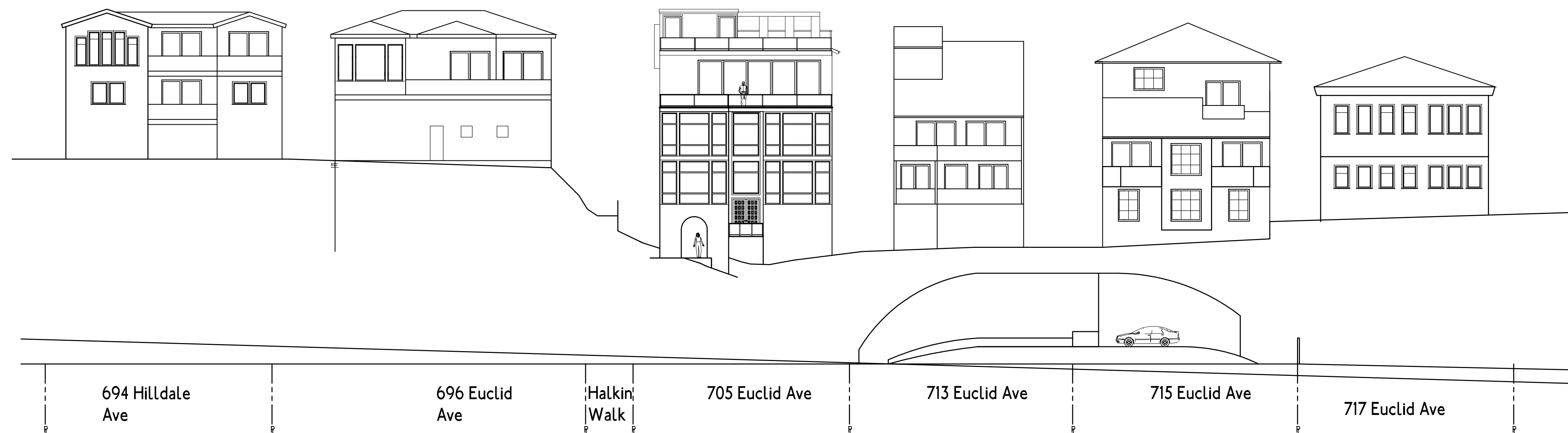
*PROJECT ADDRESS:
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 Berkeley, CA 94708
 APN: 63-2955-40-1*

*OWNER:
 Tarek Khoury
 903 Ventura Ave.,
 Albany, CA 94707
 (510)-387-7100*

**EXISTING &
 PROPOSED
 STREETScape**



EXISTING STREETScape
 2
 A5.0 1/16"=1'-0"
 0 4 8 16 32



PROPOSED STREETScape
 1
 A5.0 1/16"=1'-0"
 0 4 8 16 32

REVISION

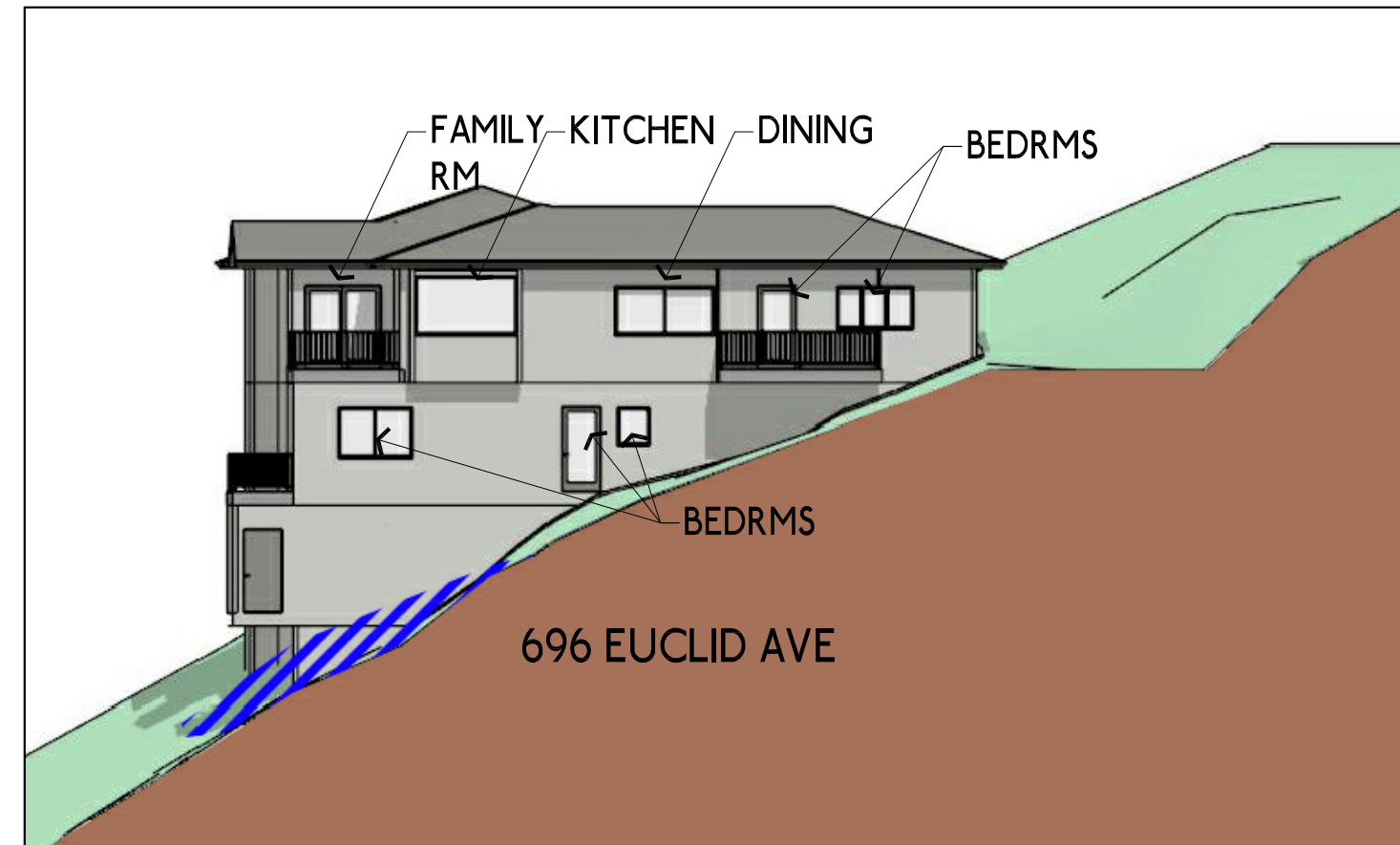
No.	Description	Date
△	DESIGN REV	9/21/22

PROJECT No.:
DRAWN BY: ML
CHECKED BY: JMN
DATE: 3/21/22

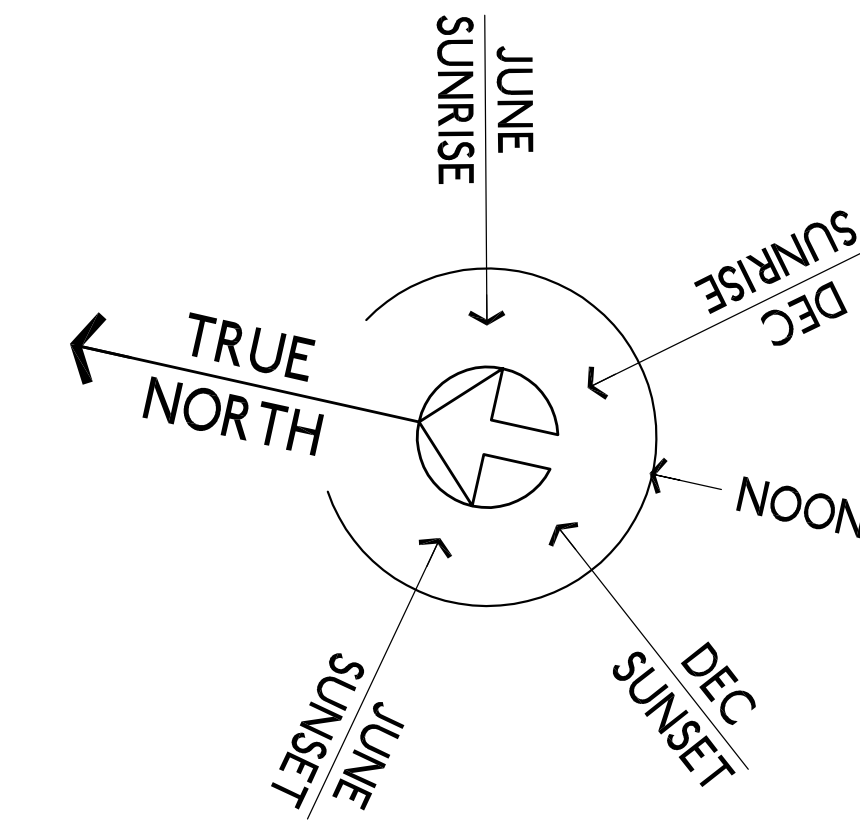
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NEW RESIDENCE

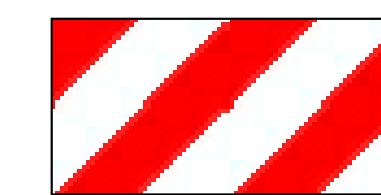
705 Euclid Ave, Berkeley, CA 94708
APN: 63-2955-40-1



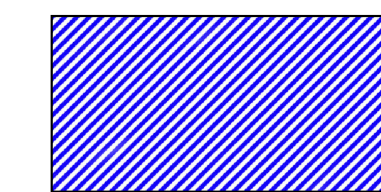
FEBRUARY 26-NOON



LEGEND

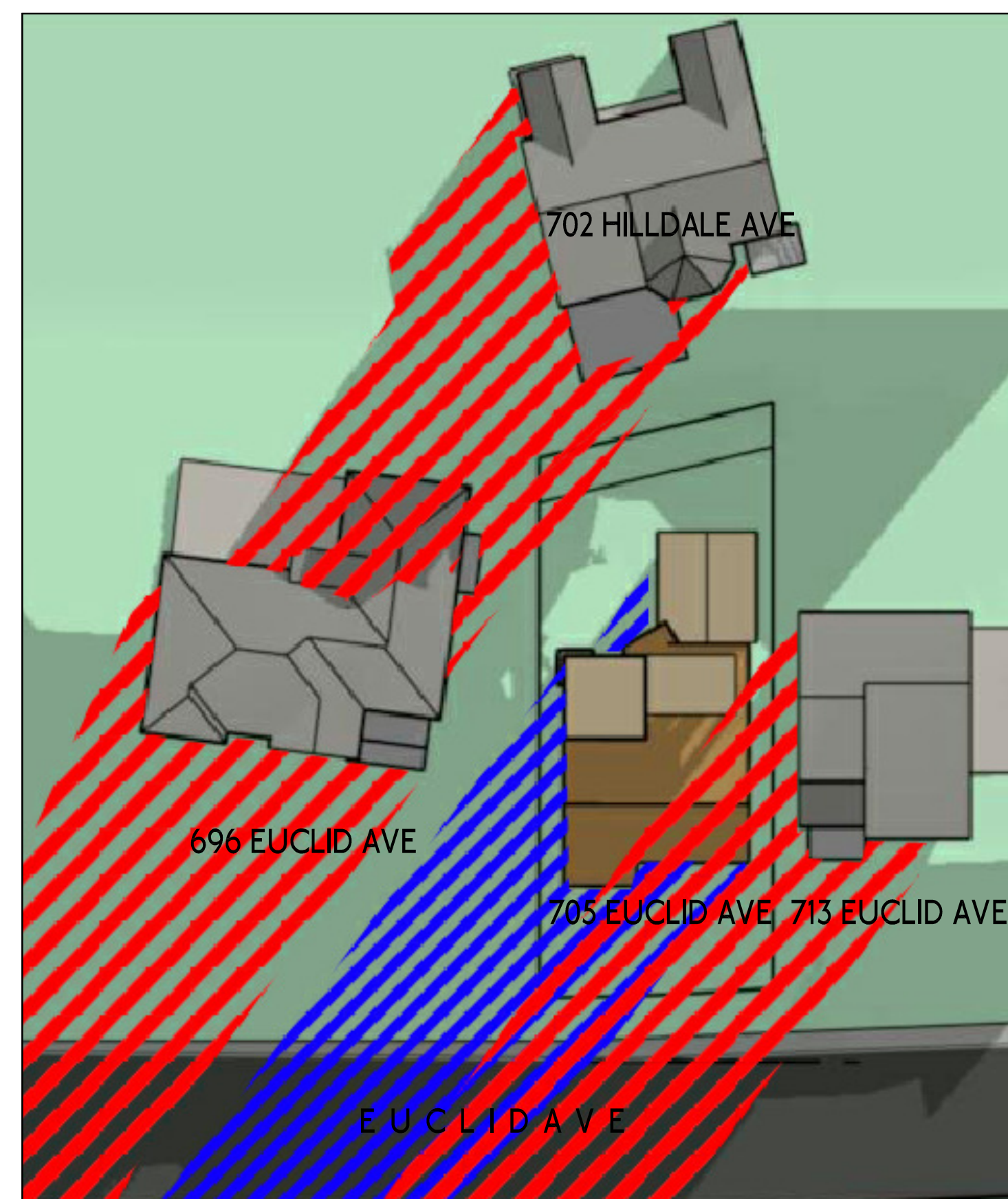


NEIGHBORING BUILDINGS
EXISTING SHADOW

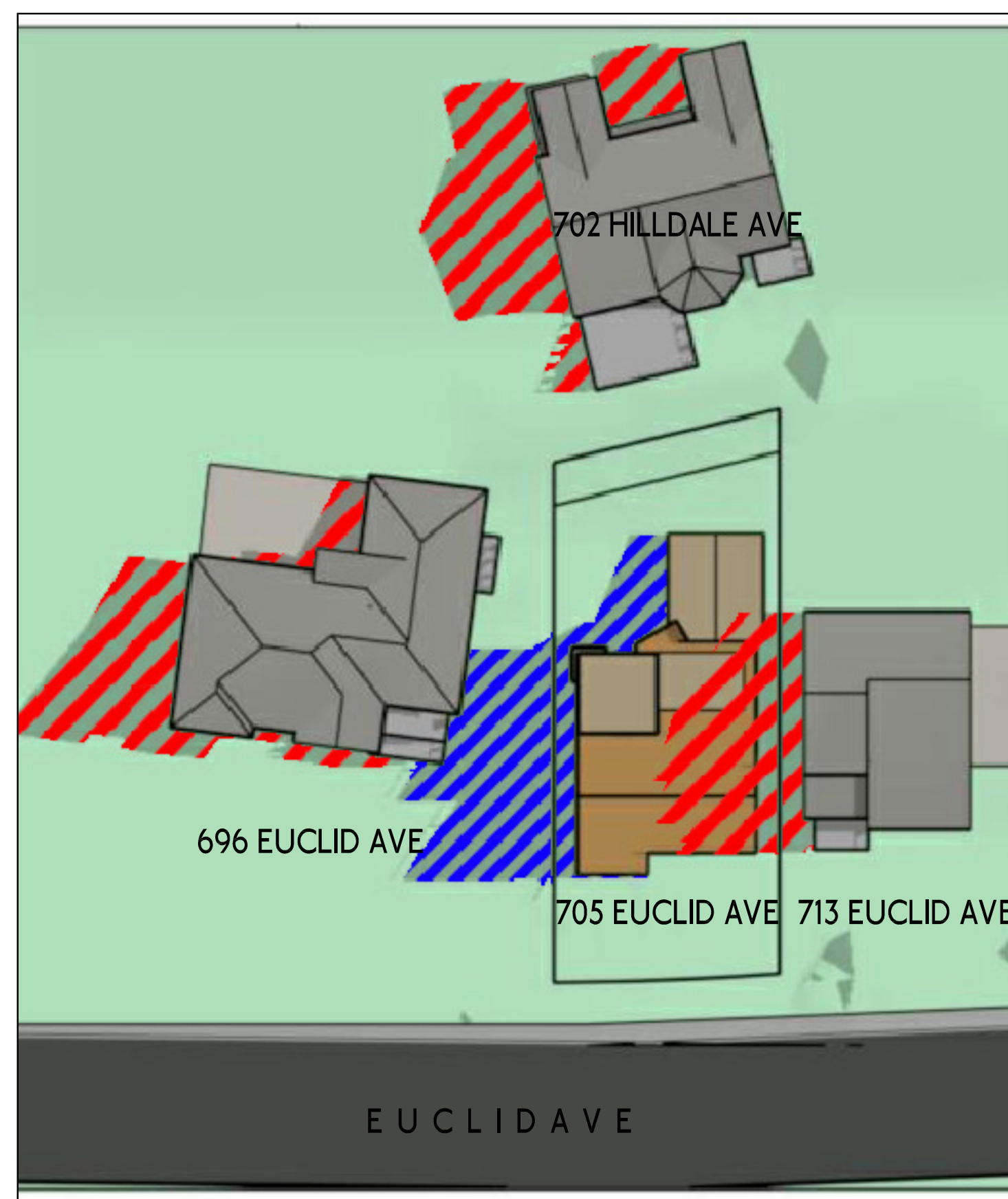


NEW SHADOW

NOTE:
SHADOW STUDY PLAN VIEWS ANALYZE
WORST CASE SCENARIO AND DOES NOT
INDICATE THE MASS OF NEIGHBORING
BUILDINGS AND (E) TREES. THIS STUDY
ONLY GIVES MASS TO 705 EUCLID AVE.
ALL HABITABLE BUILDINGS AFFECTED BY
THE NEW SHADOWS CAST ARE SHOWN
IN ELEVATION.



1 FEBRUARY 26-8:45 AM



2 FEBRUARY 26-NOON



3 FEBRUARY 26-4:00 PM



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SHADOW STUDY PART 1

REVISION

No.	Description	Date
1	DESIGN REV	9/21/22

PROJECT No.:
DRAWN BY: ML
CHECKED BY: JMN
DATE: 3/21/22

A6.0

NEW RESIDENCE

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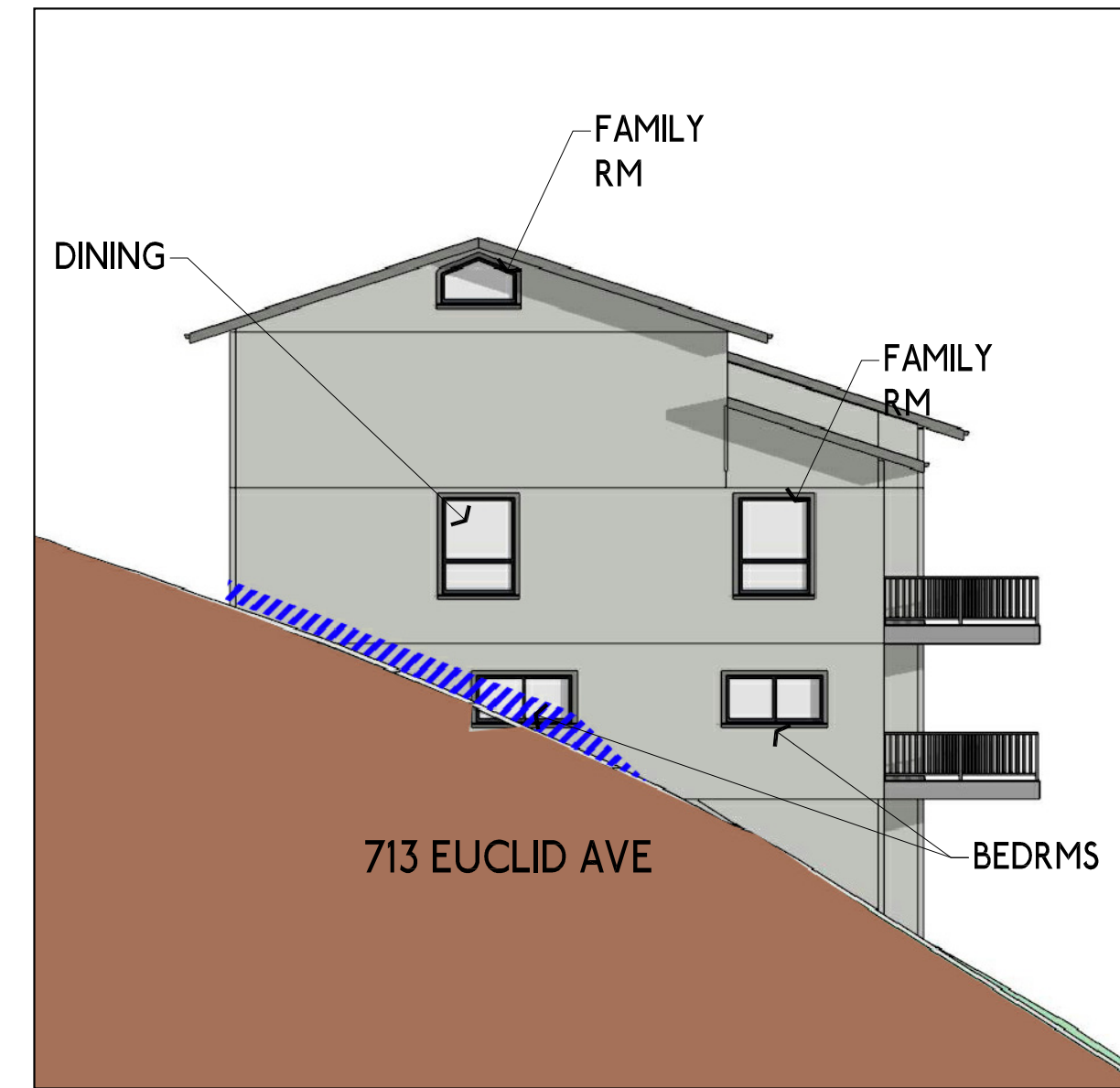
SHADOW STUDY PART 2

REVISION

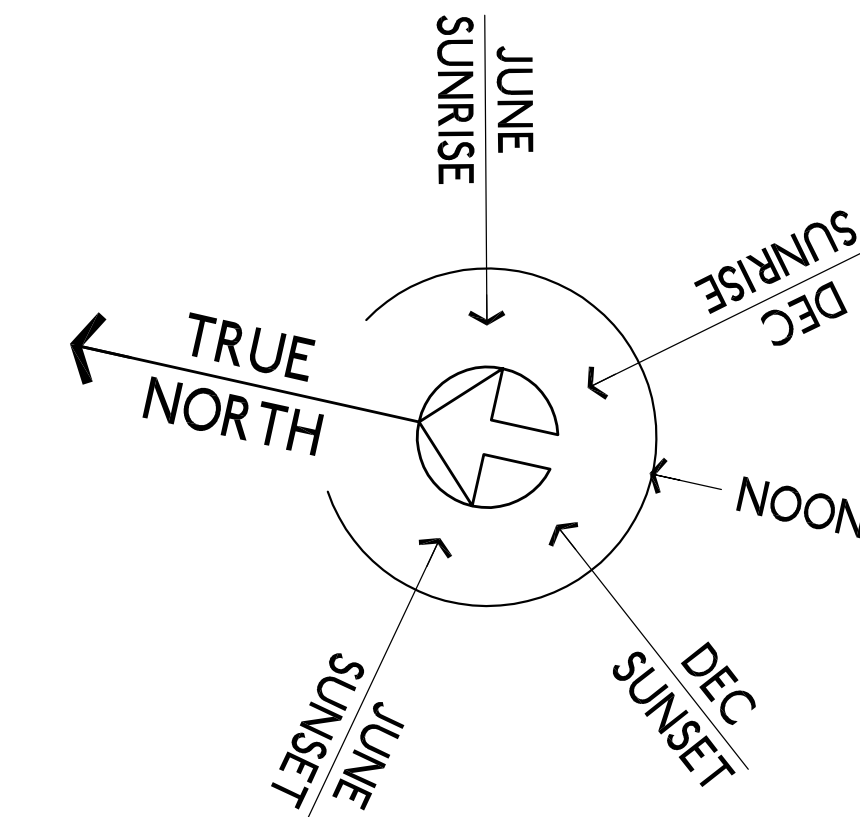
No.	Description	Date
1	DESIGN REV	9/21/22

PROJECT No.:
DRAWN BY: ML
CHECKED BY: JMN
DATE: 3/21/22

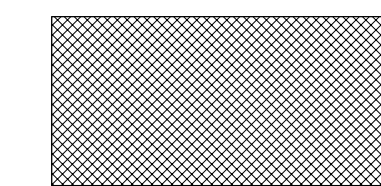
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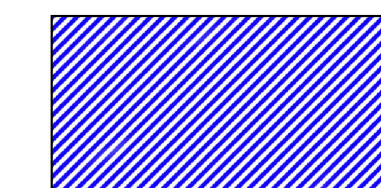
JUNE 21-6:35 PM



LEGEND



NEIGHBORING BUILDINGS
EXISTING SHADOW

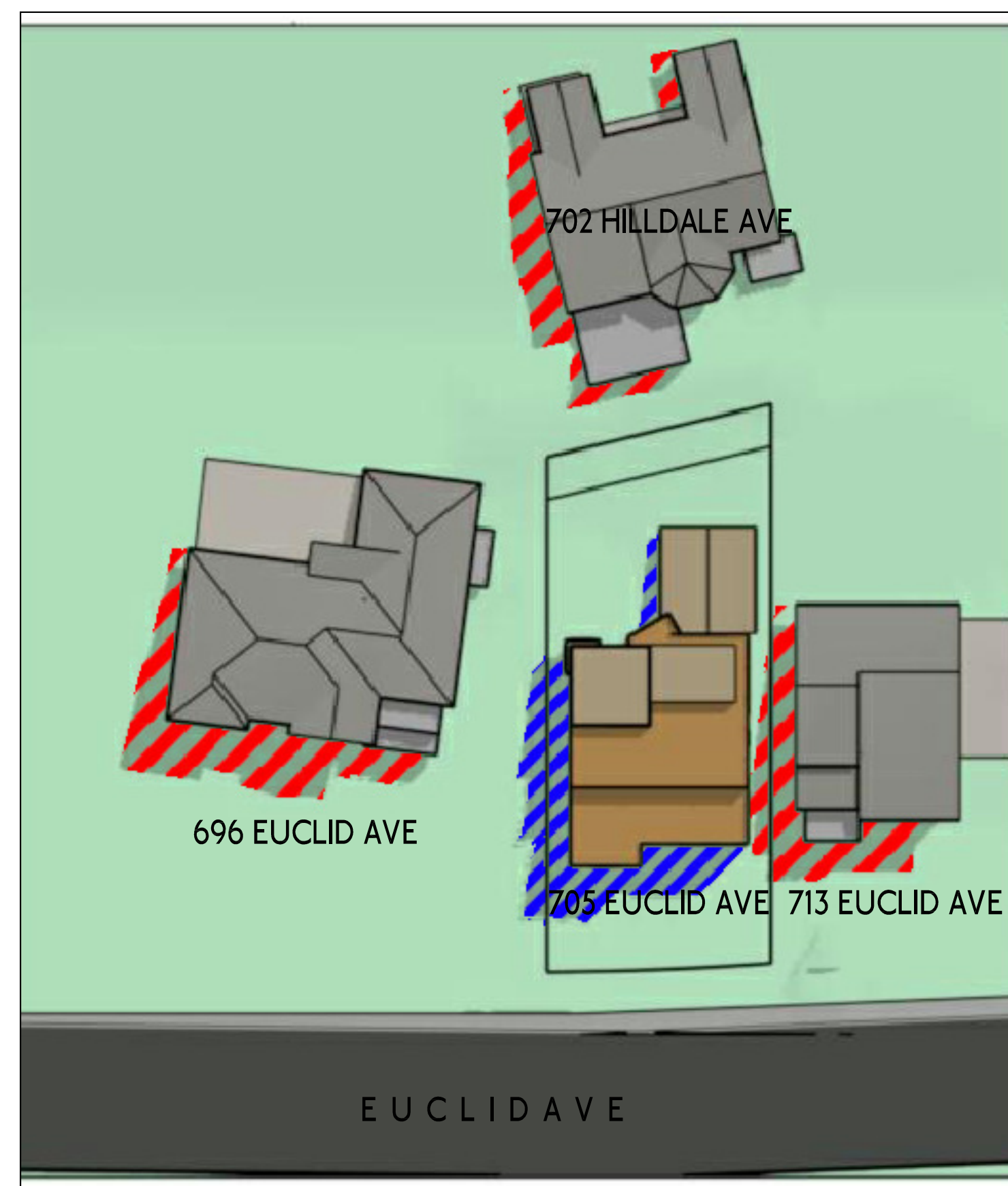


NEW SHADOW

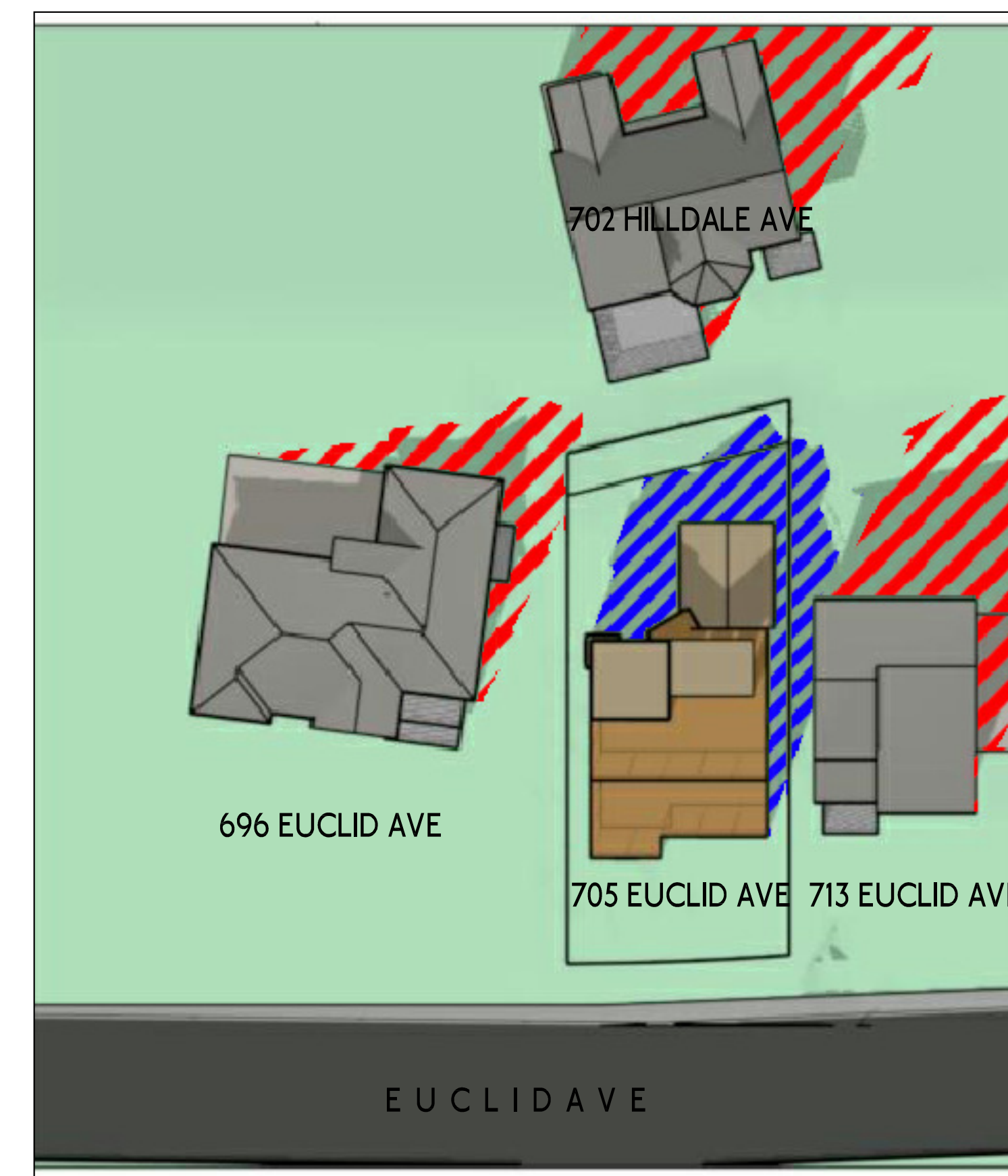
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IN ELEVATION.



1
A51 JUNE 21-7:47 AM



2
A51 JUNE 21-NOON



3
A51 JUNE 21-6:35 PM

NEW RESIDENCE

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APN: 63-2955-40-1

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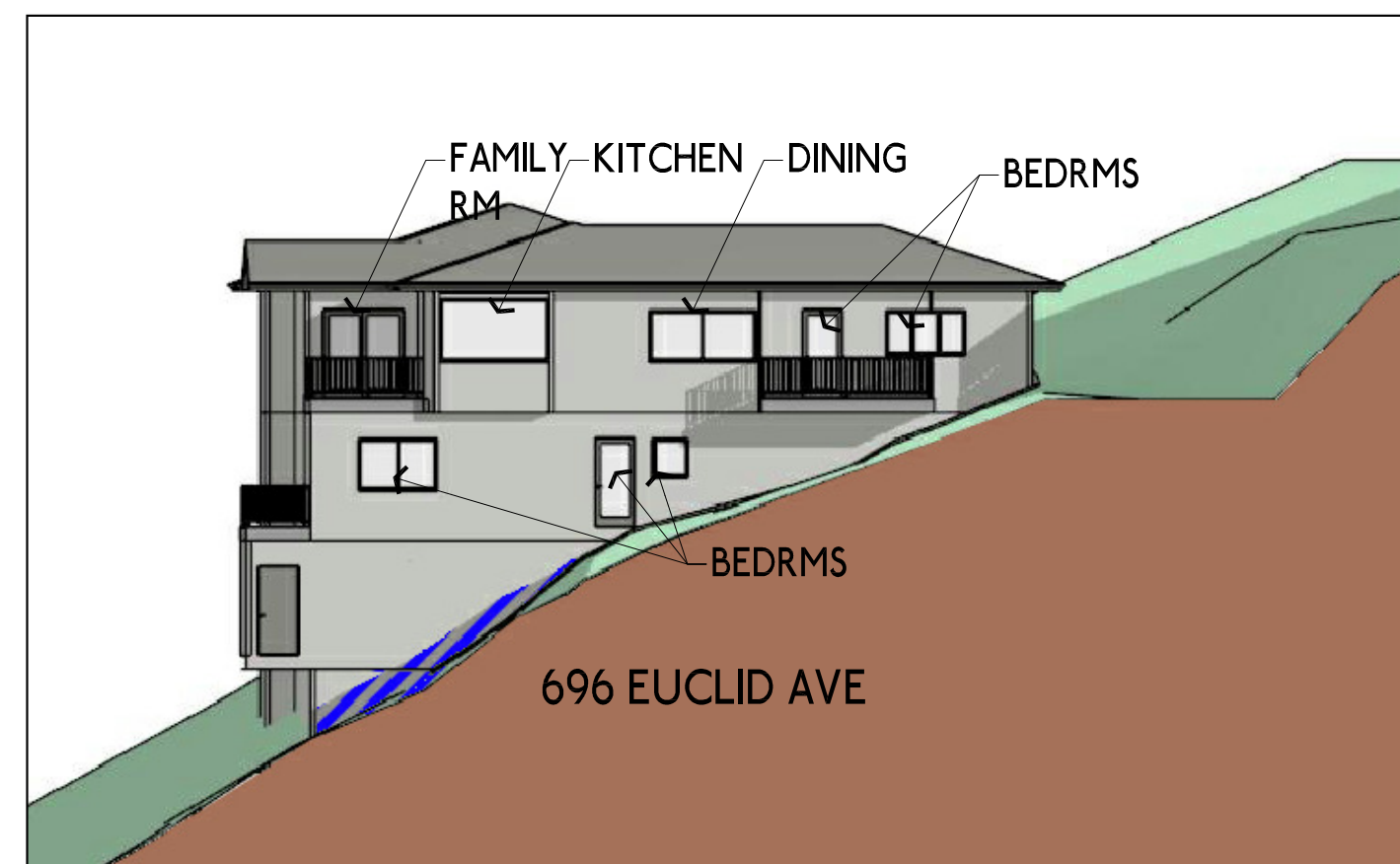
SHADOW STUDY PART 3

REVISION

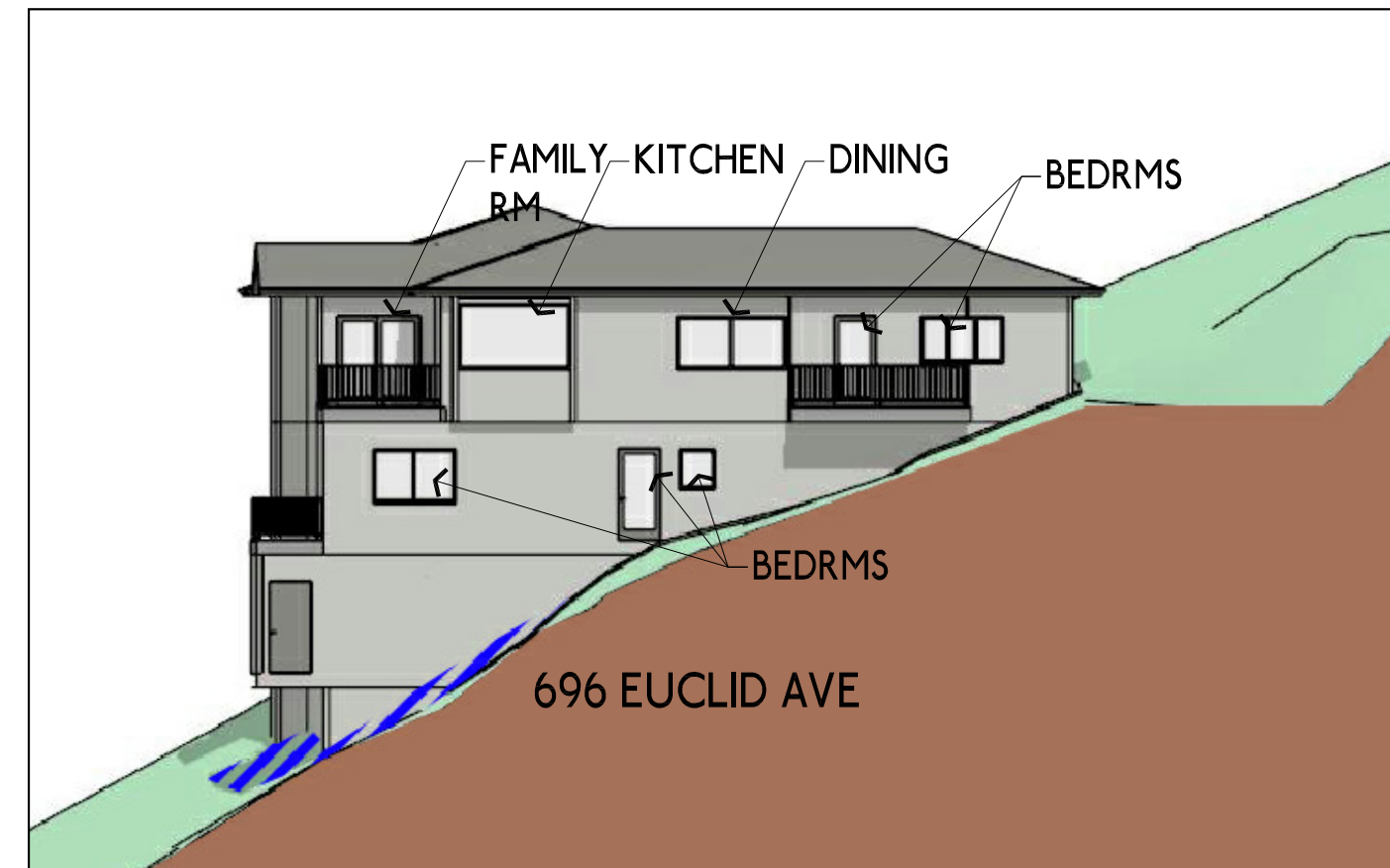
No.	Description	Date
1	DESIGN REV	9/21/22

PROJECT No.:
DRAWN BY: ML
CHECKED BY: JMN
DATE: 3/21/22

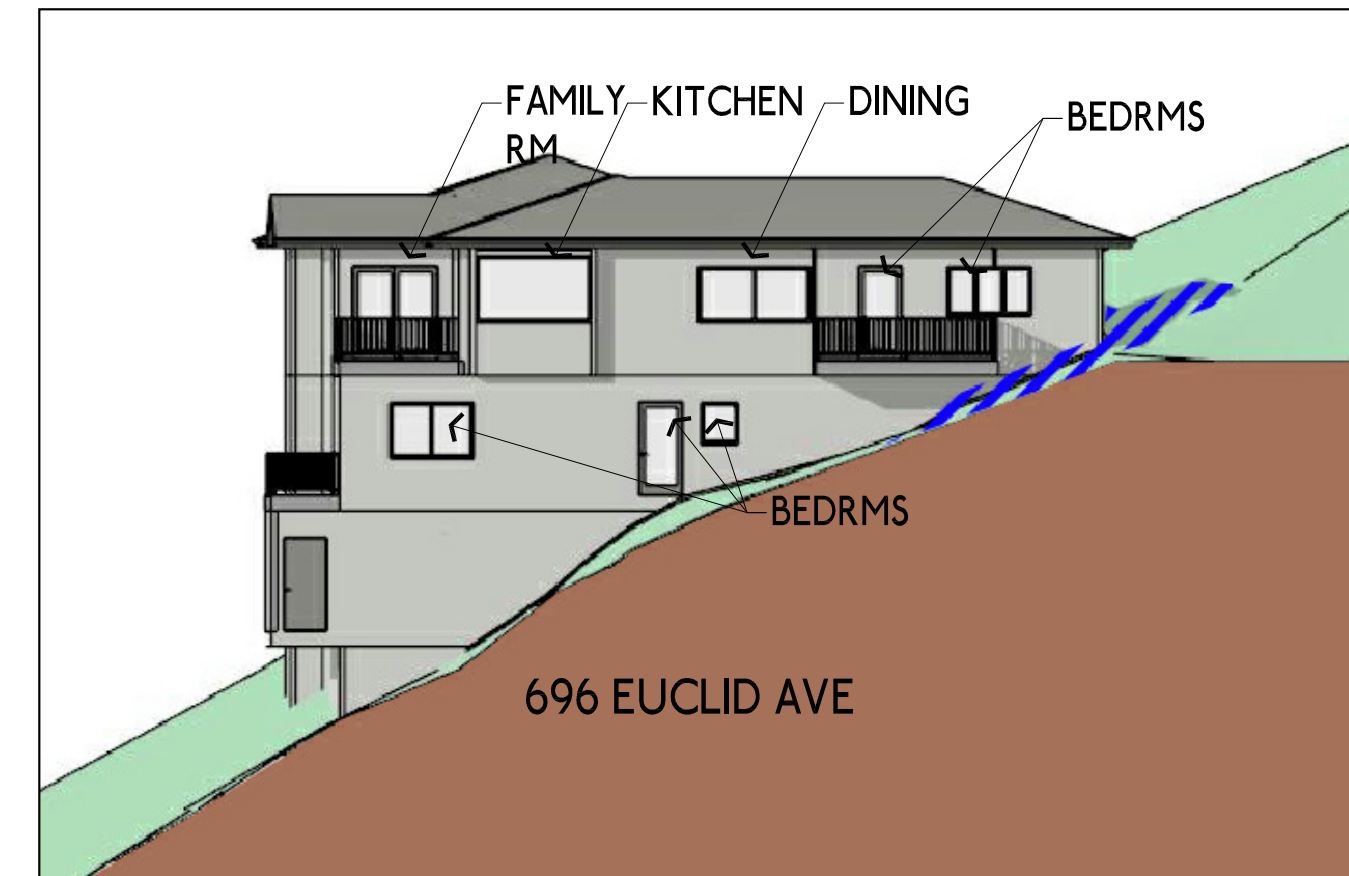
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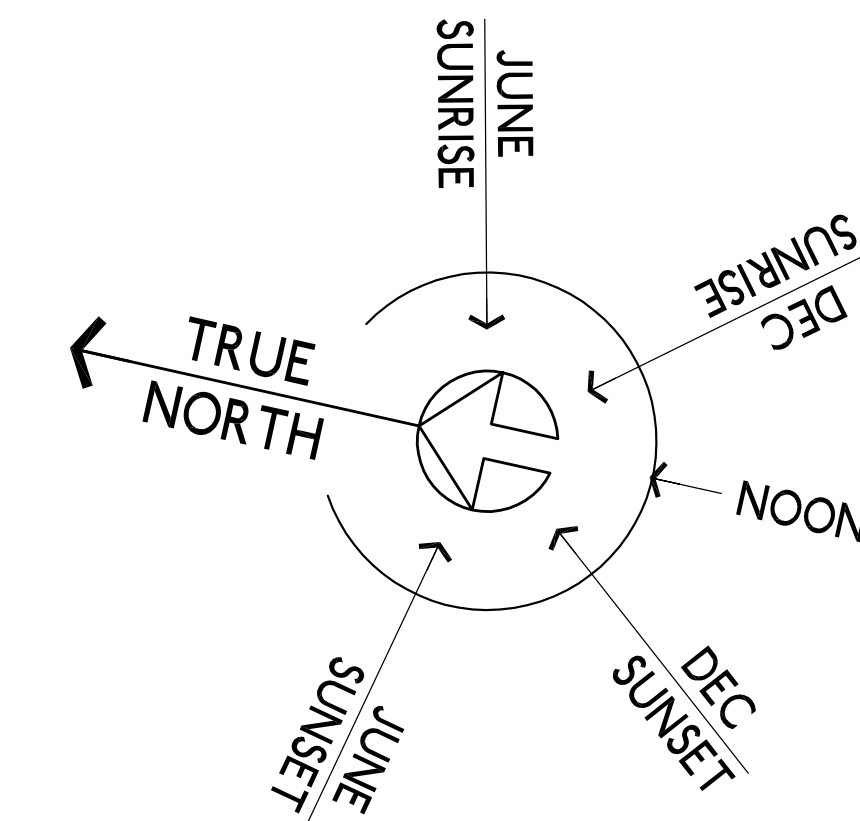
DECEMBER 21-9:21 AM



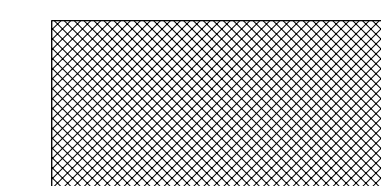
DECEMBER 21-NOON



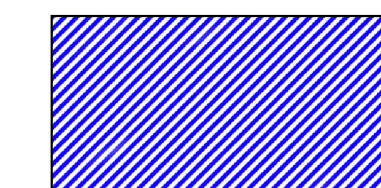
DECEMBER 21-2:53 PM



LEGEND

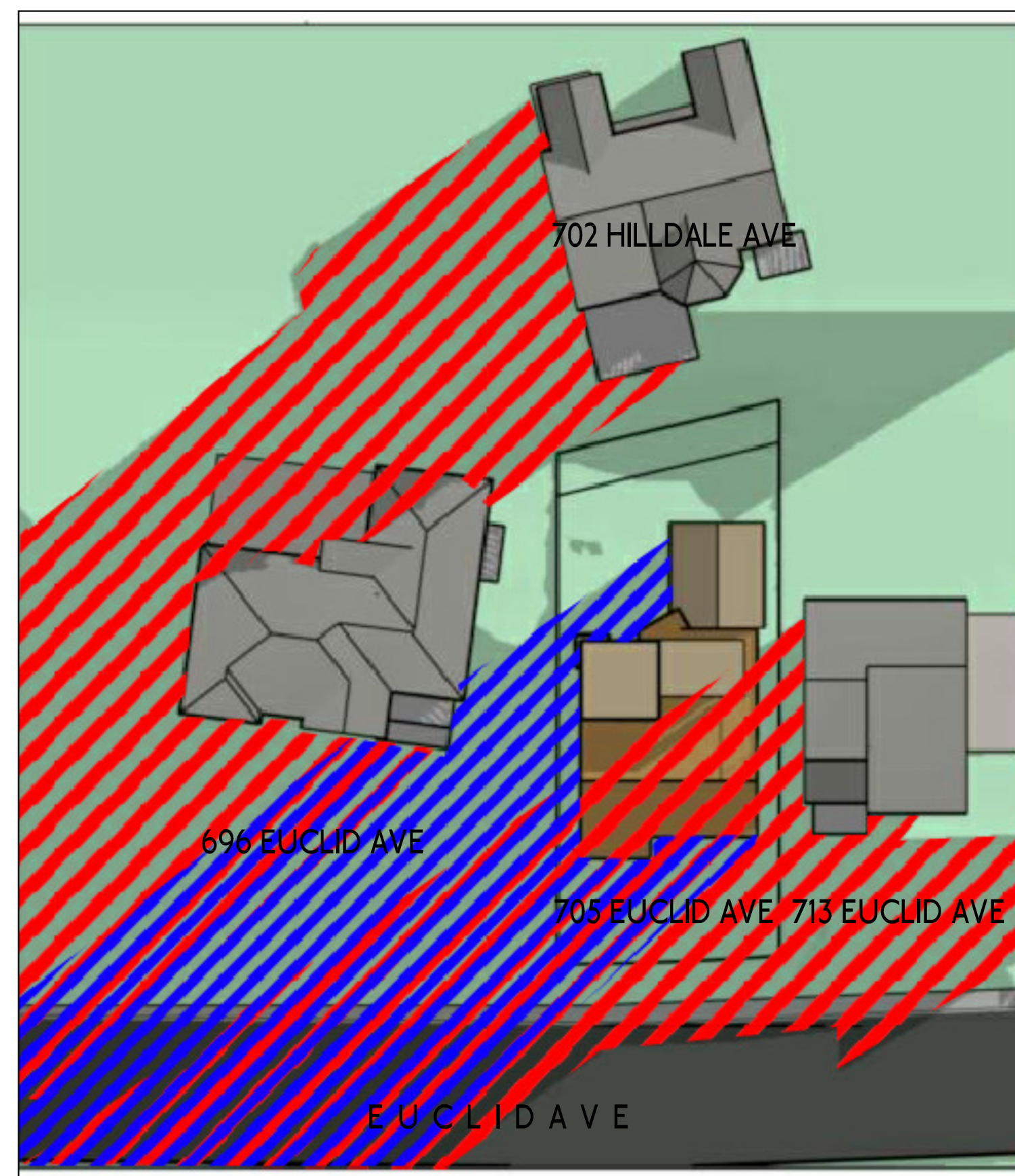


NEIGHBORING BUILDINGS
EXISTING SHADOW

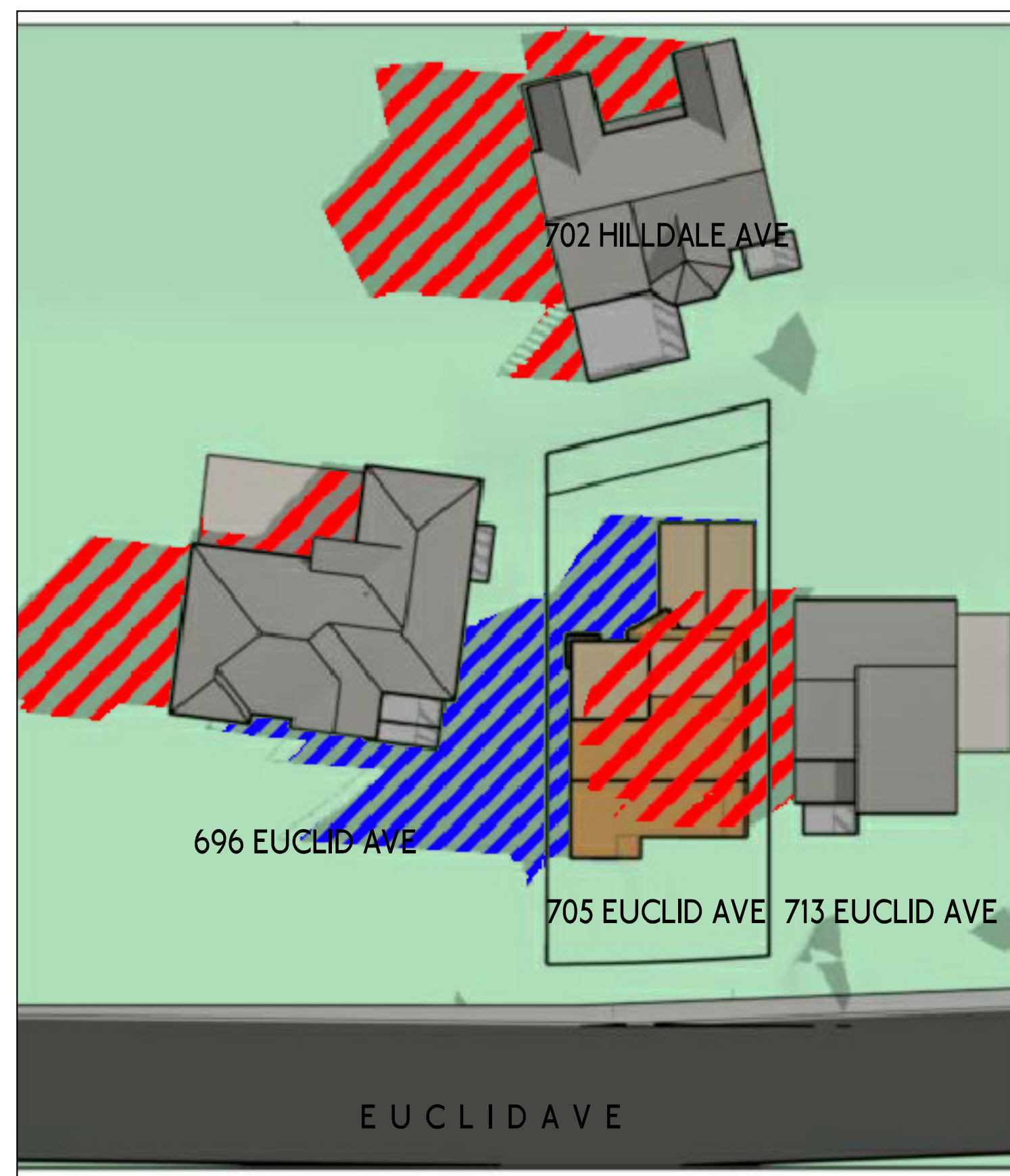


NEW SHADOW

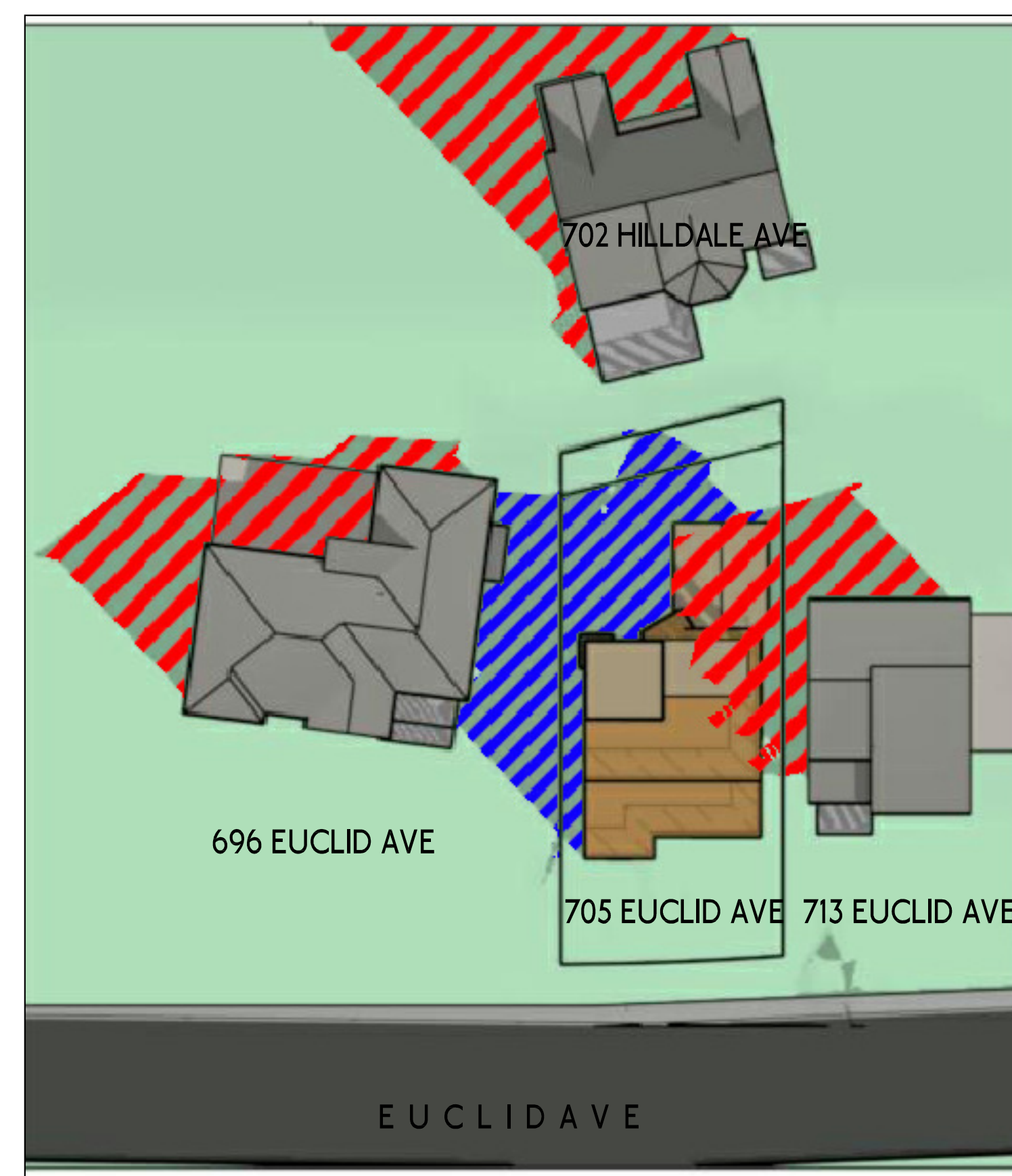
NOTE:
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IN ELEVATION.



1 AS1 DECEMBER 21-9:21 AM



2 AS1 DECEMBER 21-NOON

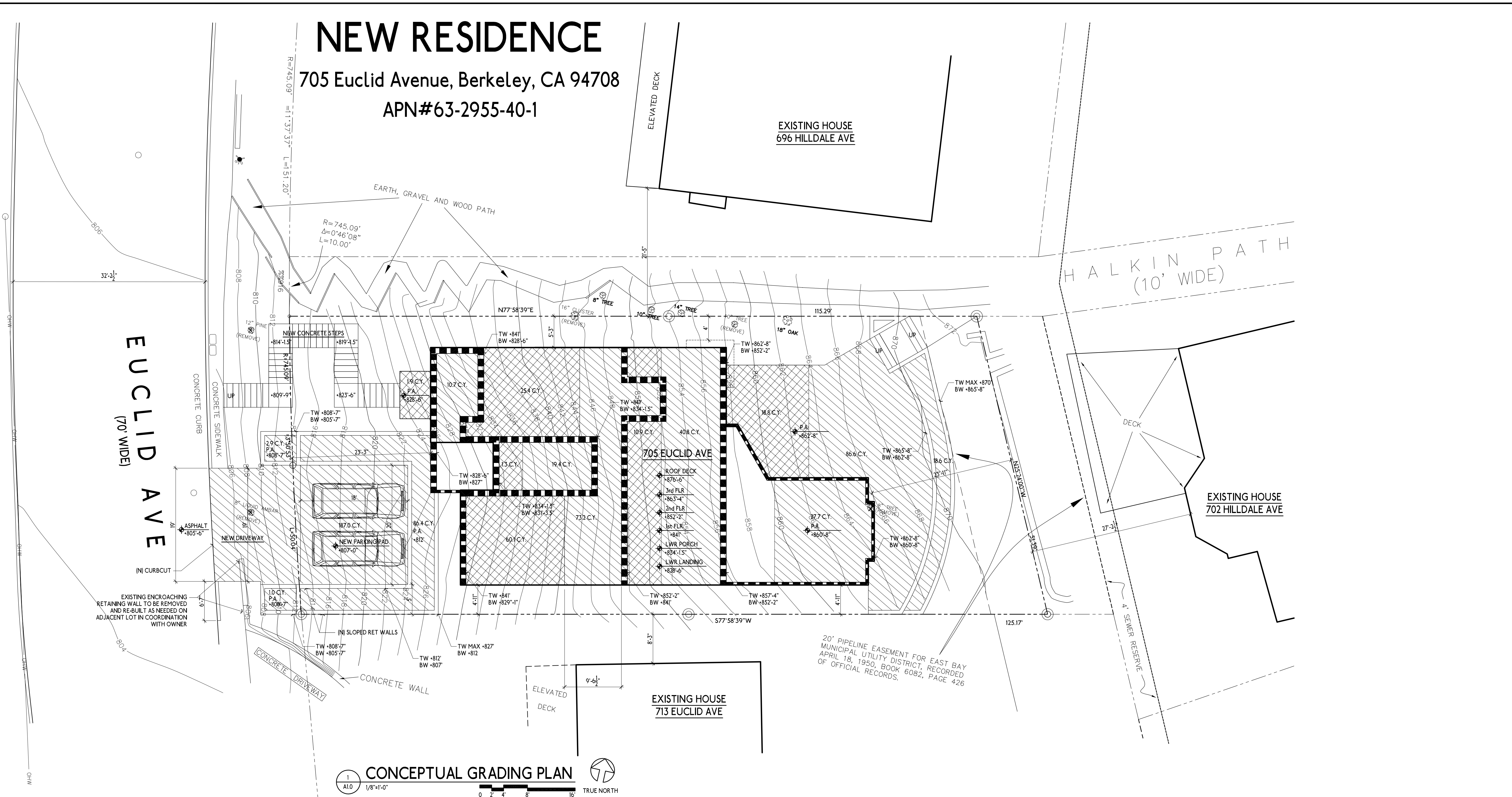


3 AS1 DECEMBER 21-2:53 PM



NEW RESIDENCE

705 Euclid Avenue, Berkeley, CA 94708
APN#63-2955-40-1



CONCEPTUAL GRADING PLAN
1/8"=1'-0"
0 2 4 8 16
TRUE NORTH

ESTIMATED EARTHWORK QUANTITIES

CUT: 554.3 C.Y.
FILL: 118.4 C.Y.
EXPORT: 435.9 C.Y.

NOTE: GRADING QUANTITIES REPRESENT BANK YARDAGE. IT DOES NOT INCLUDE ANY SWELLING OR SHRINKAGE FACTORS AND IS INTENDED TO REPRESENT IN-SITU CONDITIONS. QUANTITIES DO NOT INCLUDE OVER-EXCAVATION (IF ANY). NOTE ADDITIONAL EARTHWORKS, SUCH AS KEYWAYS OR BENCHING MAY BE REQUIRED BY THE GEOTECHNICAL ENGINEER IN THE FIELD AT THE TIME OF CONSTRUCTION. CONTRACTOR TO VERIFY QUANTITIES

- CUT EARTH
- FILLED EARTH

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Cyrus Mashhoodi, PE
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RESPONSIBLE CHARGE

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APN: 63-2955-40-1

OWNER:
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Albany, CA 94707
(510)-387-7100

CONCEPTUAL GRADING PLAN

REVISION

No.	Description	Date
1	DESIGN REV	9/21/22

PROJECT No.:
DRAWN BY: ML
CHECKED BY: JMN
DATE: 3/21/22

C1

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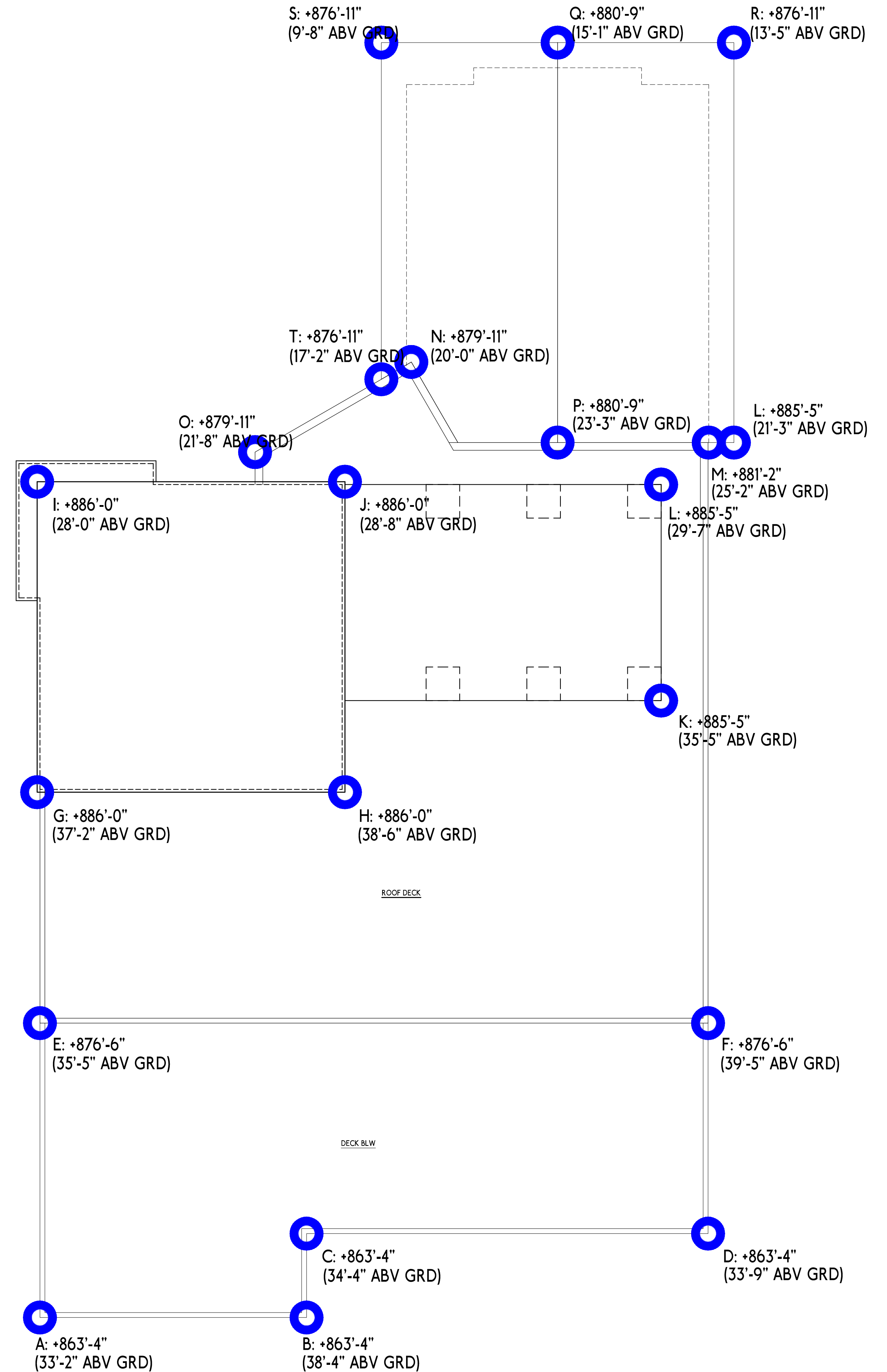
**STORY POLE
 PLAN**

REVISION

No.	Description	Date
1	DESIGN REV	9/21/22

PROJECT No.:
 DRAWN BY: ML
 CHECKED BY: JMN
 DATE: 9/28/22

SP.1

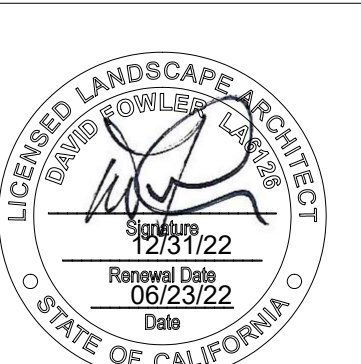


STORY POLE PLAN
 1/4"=1'-0"
 TRUE NORTH

David Fowler Designs

2475 BRUSH CREEK ROAD
SANTA ROSA, CA 95404
707.331.5199
RLA# 6126
www.davidfowlerdesigns.com
dfowlerdesigns@gmail.com

landscape architecture | arboriculture | sculpture



APN: 63-2955-40-1
705 EUCLID AVE
BERKELEY, CA 94708

PLANTING PLAN

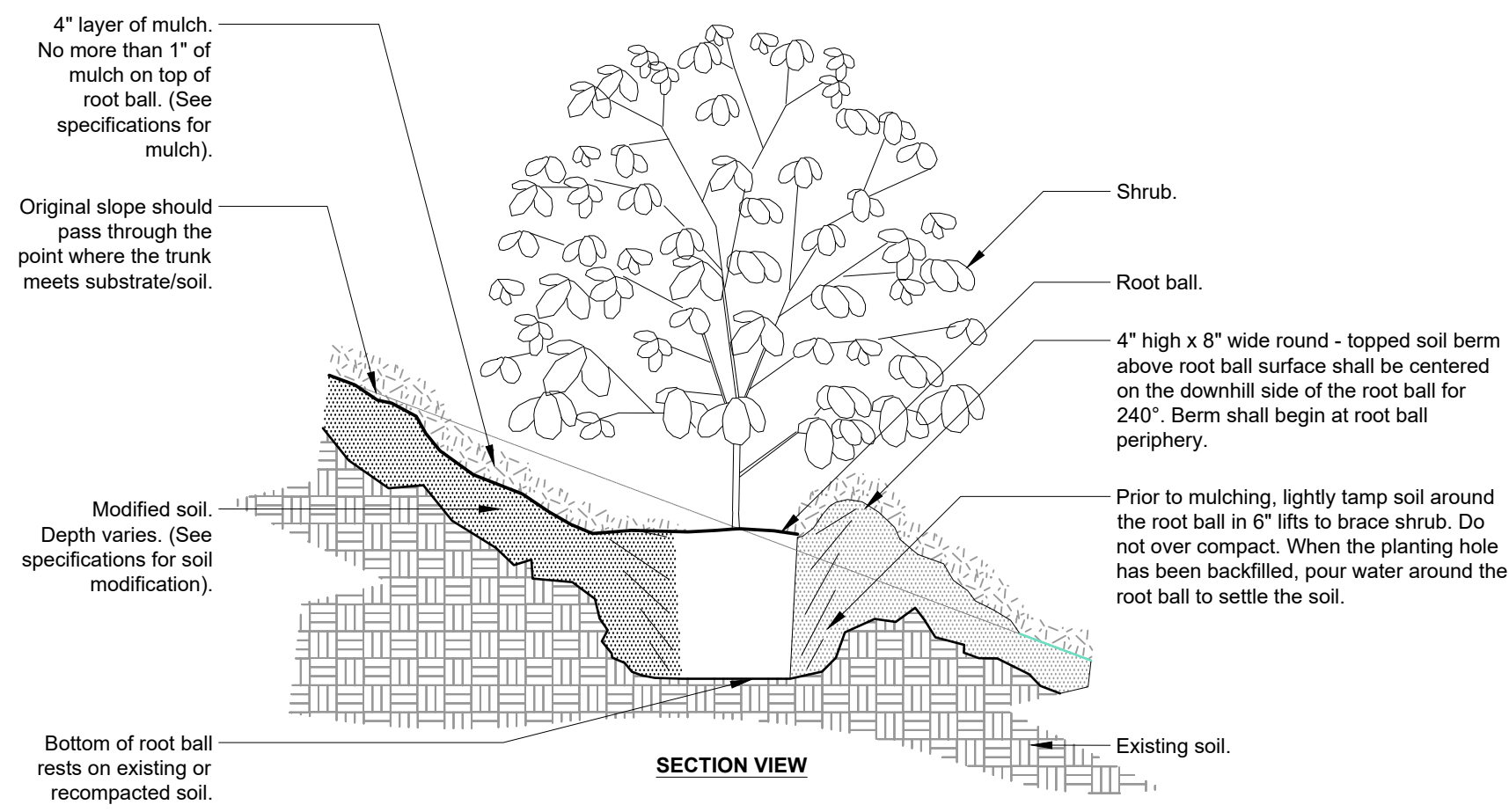
REVISIONS:

DATE	BY	DESCRIPTION

SCALE
1/8"=1'-0"

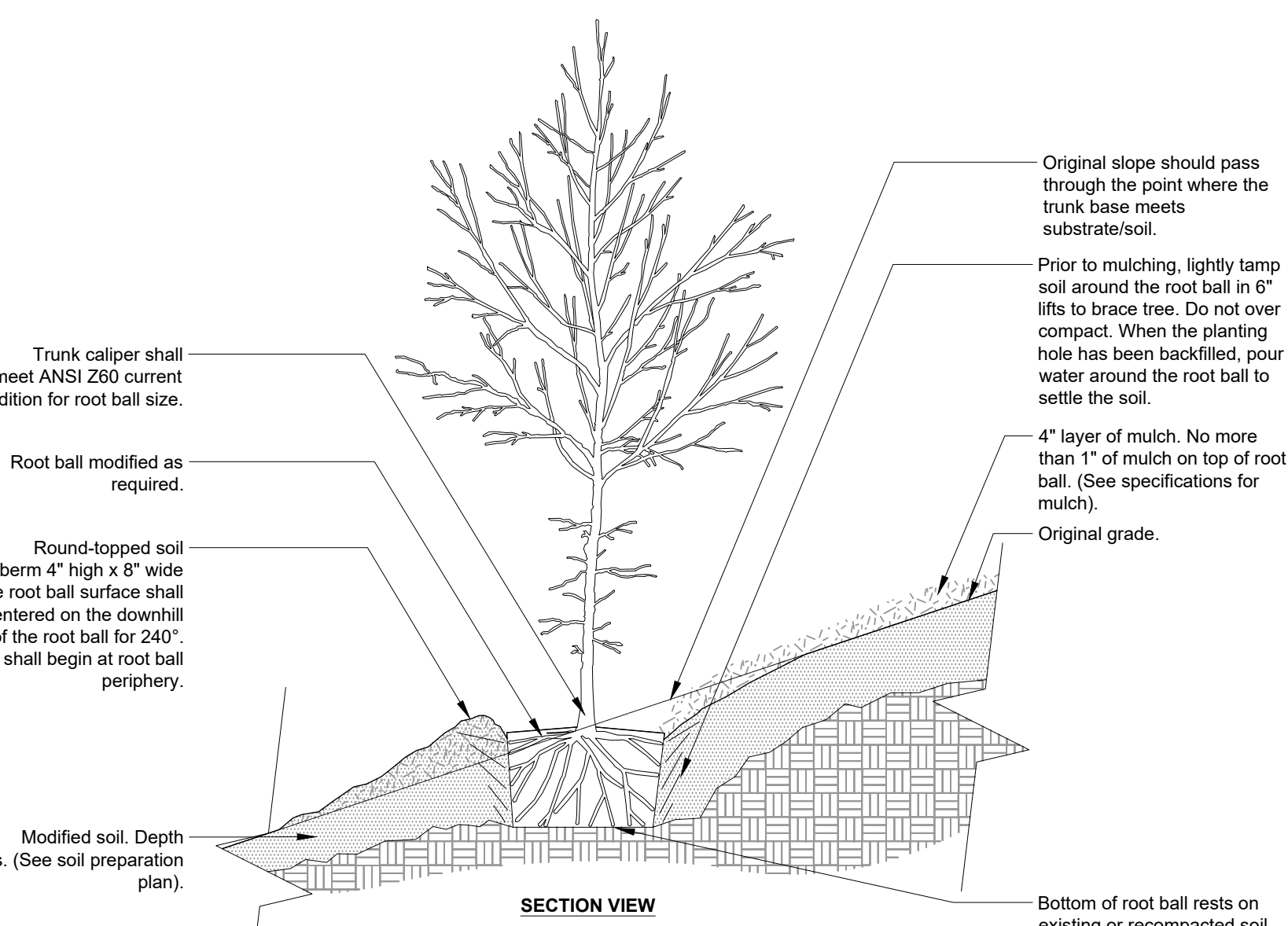
DATE
06/23/22

L1



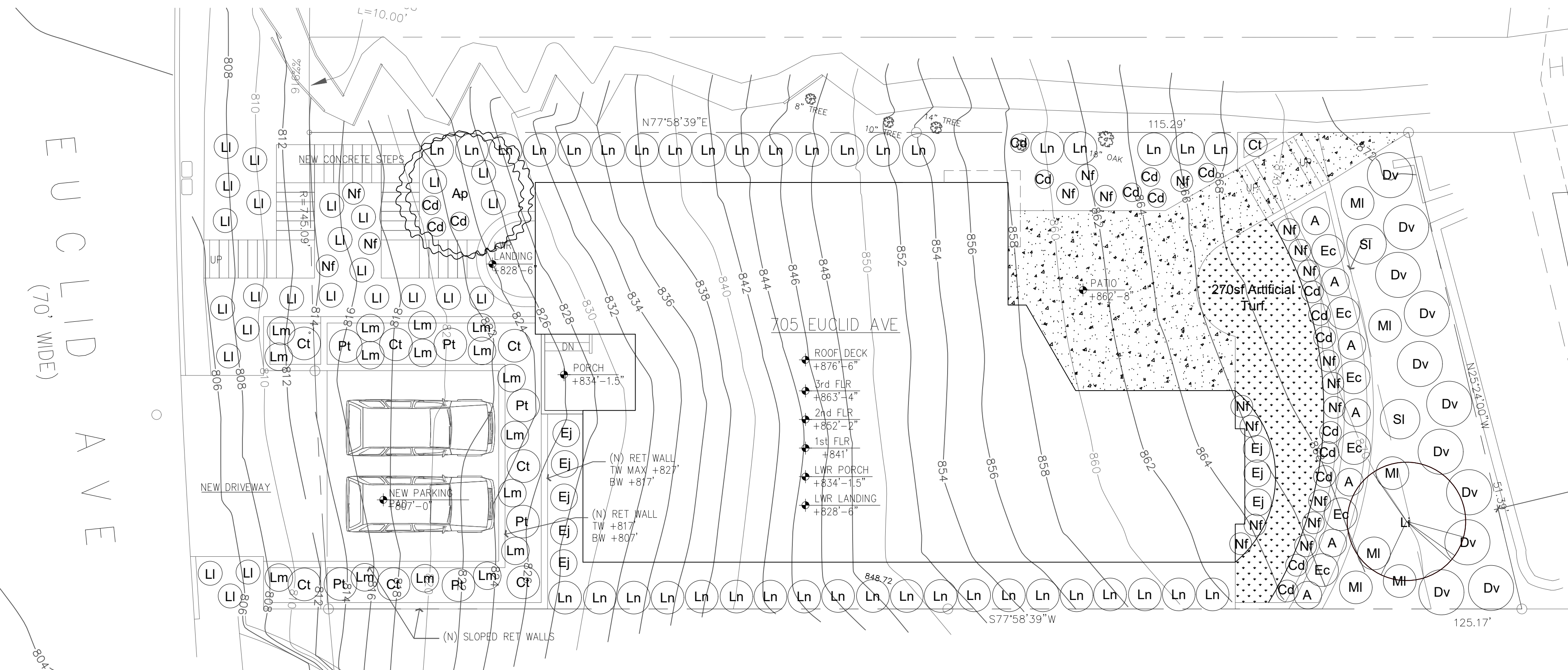
SHRUB ON SLOPE 5% (20:1) TO 50% (2:1) - MODIFIED SOIL

3/4" = 1'-0"



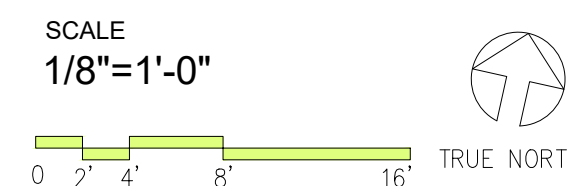
TREE ON SLOPE 5% (20:1) TO 50% (2:1) (EXISTING SOIL MODIFIED)

1/2" = 1'-0"



PLANTING LEGEND

SYMBOLS	BOTANICAL NAME	COMMON NAME	SIZE	QUANTITY	WELQ
A	Anigozanthus flavidus 'Bush Ranger'	Kangaroo Paw	1 gal	7	L
Cd	Carex divulsa	European gray sedge	1 gal	17	L
Ct	Chondropetalum tectorum	Dwarf Cape Rush	5 gal	5	L
Dv	Dodonea viscosa 'Purpurea'	Purple Hopseed Bush	15 gal	11	L
Ec	Euphorbia characias	Mediterranean spurge	1 gal	6	L
Ej	Euonymus japonicus	Evergreen Euonymus	5 gal	8	L
Ln	Laurus nobilis	Bay laurel	15 gal	39	L
Li	Lomandra longifolia 'breeze'	Dwarf Mat Rush	1 gal	21	L
Lm	Lantana montevidensis 'Trailing White'	White Trailing Lantana	1 gal	14	L
MI	Muhlenbergia lindheimeri	Lindheimer's Muhly	1 gal	6	L
Nf	Nepeta faassennii 'Walker's Low'	Catmint	1 gal	20	L
Pt	Phormium tenax 'Maori Queen'	New Zealand Flax	5 gal	6	L
SI	Salvia leucantha	Mexican Bush Sage	5 gal	2	L
TREES					
Ap	Acer palmatum 'Bloodgood'	Bloodgood Japanese Maple	15 gal	1	M
Li	Lagerstroemia indicia 'Natchez' (Std)	Natchez Crape Myrtle	15 gal	1	L



Soil and Planting Notes:

1. A minimum of 8" of non-mechanical compacted soil shall be available for water absorption and root growth in planting areas.
2. Incorporate compost or natural fertilizer into the soil to a minimum depth of 8" at a minimum rate of 6 cubic yards per 1000 square feet or per specific amendment recommendations from a soils laboratory report.
3. A minimum 3" layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers or direct seeding applications.

"I have complied with the criteria of the ordinance and applied them for the efficient use of water in the planting design"

Maximum Applied Water Allowance Calculations for New and Rehabilitated Residential Landscapes		
Enter value in Pale Blue Cells		
Tan Cells Show Results		
Messages and Warnings		
Click on the blue cell on right to Pick City Name	Oakland	Name of City
ET ₀ of City from Appendix A	41.80	ET ₀ (inches/year)
	0	Overhead Landscape Area (ft ²)
	1955	Drip Landscape Area (ft ²)
	0	SLA (ft ²)
Total Landscape Area	1,955.00	
Results:		
(ET ₀) x (0.62) x [(0.55 x LA) + (1.0 - 0.55) X SLA]		Gallons
		Cubic Feet
		HCF
		Acre-feet
		Millions of Gallons
MAWA calculation incorporating Effective Precipitation (Optional)		
ET ₀ of City from Appendix A	41.80	ET ₀ (inches/year)
Total Landscape Area	1,955.00	LA (ft ²)
Special Landscape Area	0.00	SLA (ft ²)
	24	Total annual precipitation (inches/year)
Enter Effective Precipitation	6.00	Eppt (in/yr)(25% of total annual precipitation)
Results:		
MAWA = [(ET ₀ - Eppt) x (0.62)] x [(0.55 x LA) + ((1.0 - 0.55) x SLA)]	23,870.55	Gallons
	3,191.04	Cubic Feet
	31.91	HCF
	0.07	Acre-feet
	0.02	Millions of Gallons

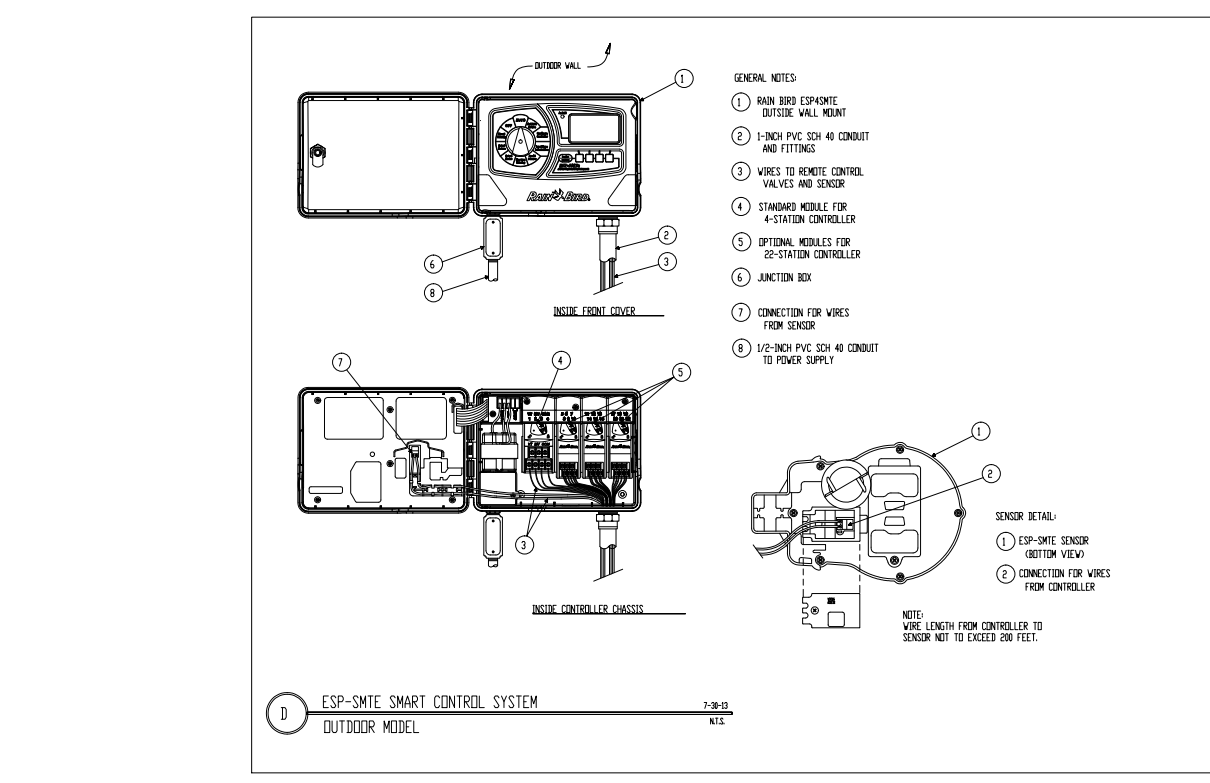
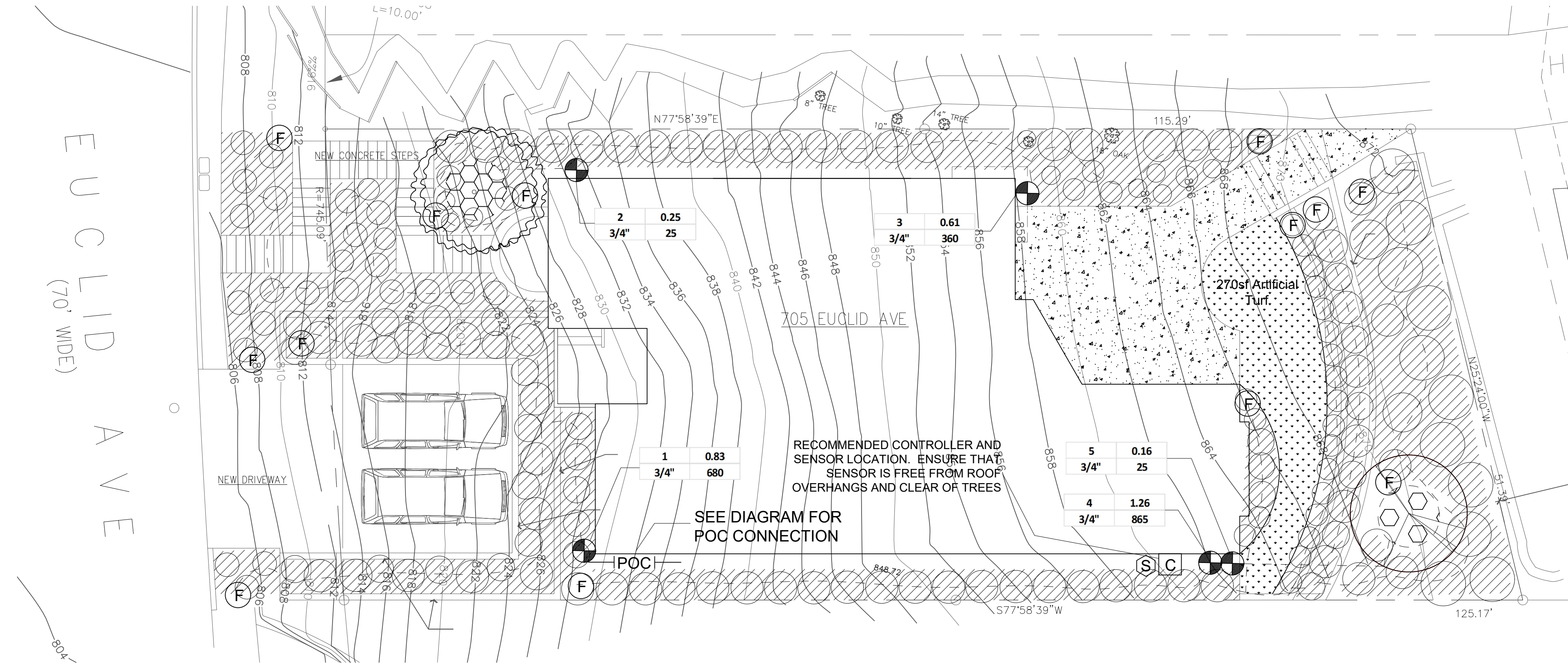
Estimated Total Water Use		
Equation: ETWU = ET ₀ x 0.62 x [(PF x HA)/IE] + SLA; Considering precipitation ETWA = (ET ₀ - Eppt) x 0.62 x [(PF x HA)/IE] + SLA		
Enter values in Pale Blue Cells		
Tan Cells Show Results		
Messages and Warnings		

Irrigation Efficiency Default Value for overhead 0.75 and drip 0.81.		
Plant Water Use Type	Plant Factor	
Very Low	0 - 0.1	
Low	0.2 - 0.3	
Medium	0.4 - 0.6	
High	0.7 - 1.0	
SLA	1	

Hydrozone	Select System From the Dropdown List click on cell below	Plant Water Use Type (s) (low, medium, high)	Plant Factor (PF)	Hydrozone Area (HA) (ft ²) Without SLA	Irrigation Efficiency (IE)	(PF x HA) / IE
Zone 1	Drip	Low	0.20	680	0.81	168
Zone 2	Drip	Medium	0.50	25	0.81	15
Zone 3	Drip	Low	0.20	360	0.81	89
Zone 4	Drip	Low	0.20	865	0.81	214
Zone 5	Drip	Low	0.20	25	0.81	6
						492
		SLA		0		0
		Sum		1,955		

Results		
MAWA =	23,871	ETWU = 10,922 Gallons
		1,480 Cubic Feet
		15 HCF
		0 Acre-feet
		0 Millions of Gallons

ZONE #	FLOW RATE (GPM)	PLANT DESCRIPTION	HYDROZONE TYPE	IRRIGATION METHOD	AREA (SQ FT)
1	0.83	SHRUBS/GROUND COVER	LOW	POINT SOURCE DRIP	680
2	0.25	TREES	MOD	DRIP RING	25
3	0.61	SHRUBS/GROUND COVER	LOW	POINT SOURCE DRIP	360
4	1.26	SHRUBS/GROUND COVER	LOW	POINT SOURCE DRIP	865
5	0.16	TREES	LOW	DRIP RING	25
		TOTAL SF			1955



"I have complied with the criteria of the ordinance and applied them for the efficient use of water in the irrigation design"

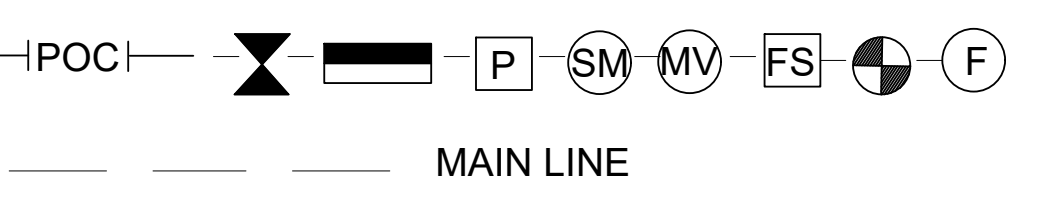
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Irrigation Legend

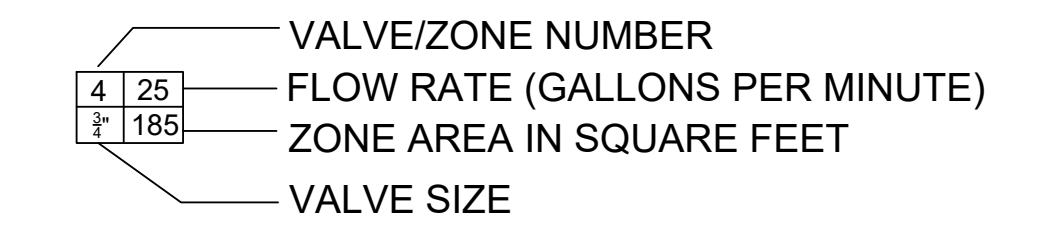
- C** RAINBIRD SMART IRRIGATION CONTROLLER- SEE SPECS ON THIS SHEET
- P** PRESSURE REGULATOR
- S** RECOMMENDED RAIN SENSOR LOCATION
- +** NEW VALVE LOCATION. ALL IRRIGATION VALVES FOR DRIP AND INLINE EMITTERS TO HAVE 30 PSI PRESSURE REDUCER
- F** FLUSH VALVE LOCATION
- POC-** POINT OF CONNECTION
- SM** PRIVATE IRRIGATION SUBMETER (ONLY AS REQUIRED FOR LANDSCAPES OVER 5000 SF)
- MV** MASTER VALVE

- FS** PRESSURE REGULATOR: WATTS LFN45B PRESSURE REDUCING VALVE MODEL #LFN45BM1-U 3/4" OR EQUIVALENT
- ▲** BACKFLOW PREVENTION DEVICE AND MANUAL SHUTOFF LOCATION: WATTS 800M4 BRONZE FNPT PRESSURE VACUUM BREAKER. Model #800M4-QT OR EQUIVALENT

IRRIGATION POINT OF CONNECTION DIAGRAM



--- 5/8" POLY IRRIGATION LINE FROM VALVE. USE (1) RAINBIRD XB20PC 1.0 GPH XERI-BUG EMITTER AT BASE OF EACH PLANT. MODERATE WATER USE PLANTS TO HAVE (2) EMITTERS. TREES TO HAVE RING OF NETAFIM IN LINE EMITTERS (12" SPACING) 16" AWAY FROM TRUNK.



Irrigation Notes

- USE BELOW GROUND VALVES AND LOCATE IN AREAS HIDDEN FROM VIEW IF POSSIBLE.
- USE RAINBIRD SMART CONTROLLER WITH RAINSENSOR AND SEASONAL ADJUSTMENT
- ALL PLANTINGS TO USE DRIP IRRIGATION UNLESS OTHERWISE NOTED
- LAWN TO USE SUBSURFACE DRIP IRRIGATION SUCH AS NETAFIM TECHLINE
- BERM AROUND ALL TREES. PLACE MULTIPLE EMITTERS AT LEAST 6-12" AWAY FROM TRUNK OF TREE. TREES TO BE ON SEPARATE VALVE FROM LANDSCAPE PLANTS
- SEE PLANTING PLAN FOR EXACT NUMBER OF EMITTERS NECESSARY
- NO SPRINKLERS OR OVERHEAD SPRAY DEVICES ARE TO BE USED ON THIS PROJECT

Hydrozone Legend

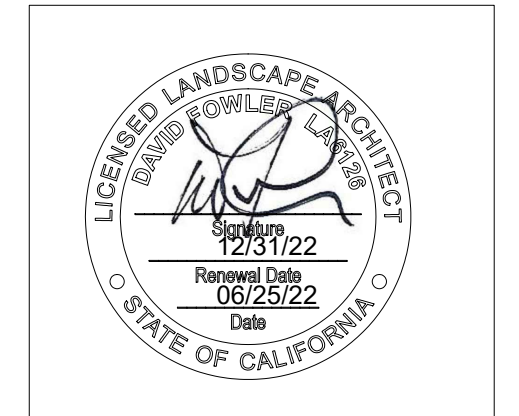
- LOW WATER USE - HYDROZONE SHRUBS & GRASSES
- LOW WATER USE - HYDROZONE TREES
- MOD WATER USE - HYDROZONE TREES

Project Notes:

- Total landscaped area: 1955 sf
- 100% of landscaped area on drip irrigation (no spray heads)
- Low and moderate water use plants on separate valves
- Trees on separate valves
- Dedicated irrigation meter not required because landscaped area is less than 5000 sf
- Certificate of completion: applicant shall submit a landscape audit report verifying installation and irrigation efficiency per design on a form provided by the East Bay Municipal Utility District

David Fowler Designs
2475 BRUSH CREEK ROAD
SANTA ROSA, CA 95404
707.531.5199
www.davidfowledesigns.com
dfowledesigns@gmail.com

landscape architecture | arboriculture | sculpture



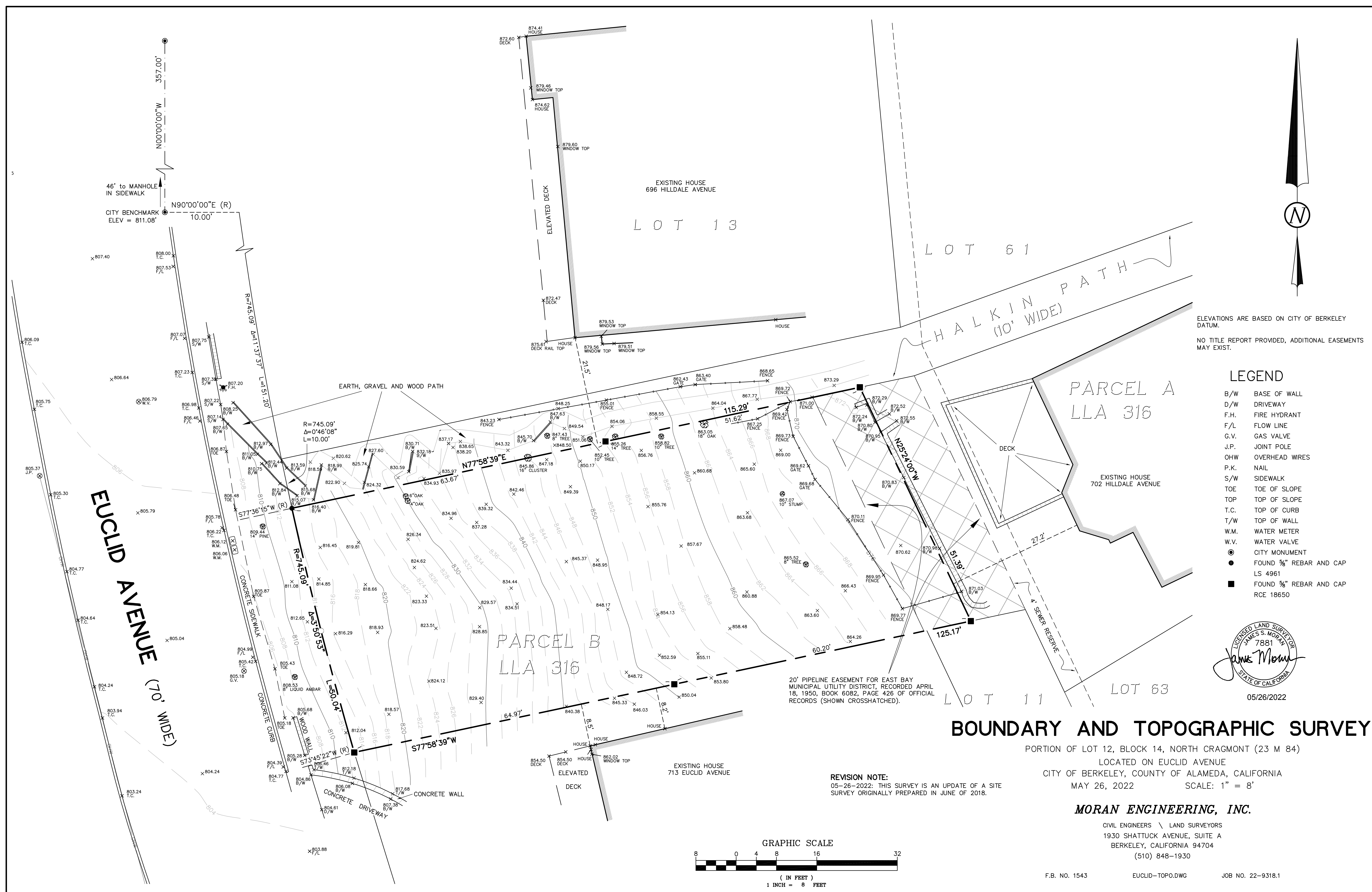
IRRIGATION PLAN

REVISIONS:	DATE	BY	DESCRIPTION

SCALE
1/8"=1'-0"

DATE
06/23/22

L2



ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM.
NO TITLE REPORT PROVIDED, ADDITIONAL EASEMENTS MAY EXIST.

LEGEND

- B/W BASE OF WALL
- D/W DRIVEWAY
- F.H. FIRE HYDRANT
- F/L FLOW LINE
- G.V. GAS VALVE
- J.P. JOINT POLE
- OHW OVERHEAD WIRES
- P.K. NAIL
- S/W SIDEWALK
- TOE TOE OF SLOPE
- TOP OF SLOPE
- T.C. TOP OF CURB
- T/W TOP OF WALL
- W.M. WATER METER
- W.V. WATER VALVE
- CITY MONUMENT
- FOUND 5/8" REBAR AND CAP LS 4961
- FOUND 5/8" REBAR AND CAP RCE 18650

LICENSED LAND SURVEYOR
JAMES S. MORAN
7881
James Moran
STATE OF CALIFORNIA
05/26/2022

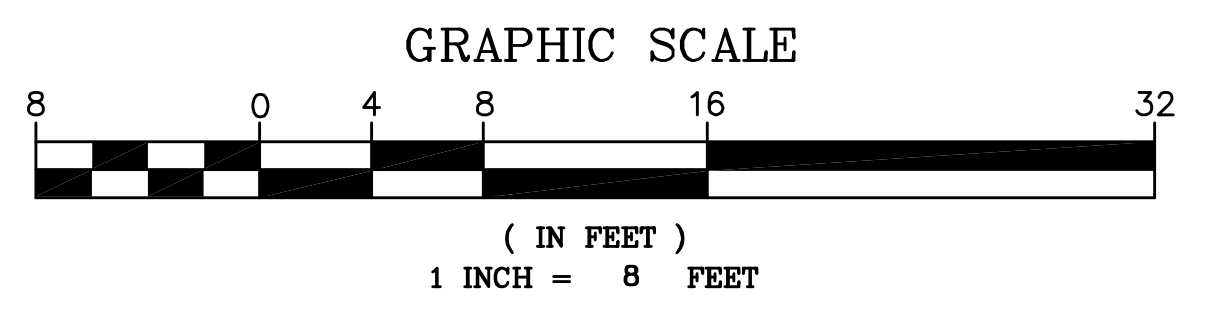
20' PIPELINE EASEMENT FOR EAST BAY MUNICIPAL UTILITY DISTRICT, RECORDED APRIL 18, 1950, BOOK 6082, PAGE 426 OF OFFICIAL RECORDS (SHOWN CROSSHATCHED).

BOUNDARY AND TOPOGRAPHIC SURVEY

PORTION OF LOT 12, BLOCK 14, NORTH CRAGMONT (23 M 84)
LOCATED ON EUCLID AVENUE
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
MAY 26, 2022 SCALE: 1" = 8'

MORAN ENGINEERING, INC.

CIVIL ENGINEERS \ LAND SURVEYORS
1930 SHATTUCK AVENUE, SUITE A
BERKELEY, CALIFORNIA 94704
(510) 848-1930



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Martin Arnest
Certified Arborist

ISA Cert. Arborist WE-6548A

Arborist Assessment and Plan for Tree Protection

re: Coast Live Oak (*Quercus agrifolia*)

Prepared for the applicant:

Tarek Khoury

project stie:

705 Euclid Ave., Berkeley, APN 63-2955-40-1

May 26, 2022



(fig. 1)

SUMMARY:

This Arborist Assessment and Plan for Tree Protection specifically regards the mature Coast Live Oak (*Quercus agrifolia*) (fig. 1) located just within the property line of 705 Euclid Avenue in Berkeley, approximately 12' off the location of the north corner of the proposed new structure, and is submitted for the City of Berkeley as a condition for approval of the project, regarding the construction of a new home on an undeveloped lot.

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Page A1 of the project plans, titled "SITE PLAN & PROJECT INFO," (hereafter referred to as "site plan") shows a tree denoted as '18" Oak' on the site plan, and is the only tree covered in this report.

Based on my preliminary, visual, non-invasive observations of the tree and the site of the proposed work; my understanding of the work to be performed; and my consideration of the site and preliminary plans; my opinion is that the tree is not likely to be severely impacted by the activities that will be necessarily performed in the vicinity of the tree, provided that the contractor(s) faithfully observe the tree protection plan.

OBSERVATIONS:

The tree is a mature example of the species, approximately 20" **dbh** (see Definitions below). While the foliage is robust and the tree appears at present to be vigorous, there are signs of a complicated past. The main trunk has a moderate lean, but separates into two main stems which have developed with corrective, generally upright growth. (*fig. 1,2*)



(*fig.2*)

However, the tree has obviously been subjected to several instances of severe pruning. On the one hand, several large limbs were removed at sometime in the recent past, and on the other, the tree shows clear signs of having been **topped**. Based on the amount of re-growth, the

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topping cuts appear to have been made at least a decade ago, and the result is a somewhat erratic and leggy limb distribution. (fig.3)



(fig.3)

The **root crown** has a well-formed flare, and there does not appear to have been at any time a grade change, two conditions that lend themselves to the stability of the tree. (fig.4) The tree stands just inside the property line, just over the other side of which exists a foot path running through the **inner critical root zone** of the the tree. (see *SITE PLAN, appendix A*) The foot path does not appear to be subject to heavy traffic that might lead to soil compaction, but it is notable that the path is not privately owned and burdened by easement, but is in fact City-owned land.



(fig.4)

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There exist several pronounced bark fissures on the main trunk below the main fork, discussed below. (fig.5.1, .2)

(fig.5.1)



(fig.5.2)



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The lot is a steep undeveloped lot, and lush vegetation conceals much of the open space from the street below and in some areas from neighboring properties. As such the property no doubt has a history that might be beyond discovery, notably including the improper topping that was performed on the Oak.

CONSIDERATIONS:

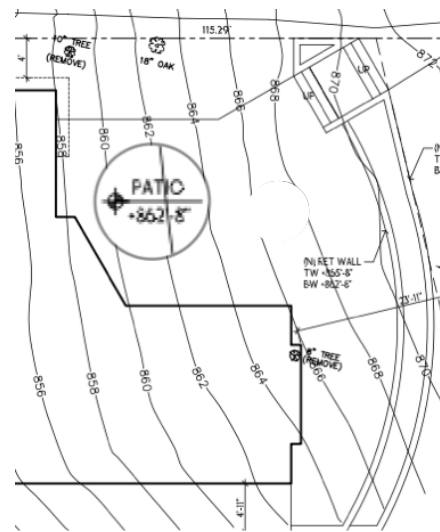
The Coast Live Oak, with its extensive network of shallow roots, is well known by arborists to be as sensitive to construction stress as it is worthy of extra protection and consideration during construction projects. Any basic tree protection plan will tend to include measures to mitigate the severity of such conditions and their long term impacts on the health and stability of the tree or trees.

During a typical construction project — even those that are not being performed within, but that might require traffic of workers and equipment through the tree’s **drip line** — the most likely causes of negative impact for trees is mechanical injury to the trunk or limbs, and soil compaction. As such, minimizing traffic and activity within the drip zone of the tree over the course of the entire project, and even in the months after the project is complete, will be the primary consideration. Whenever the work includes trenching, digging or significant grade changes in the drip zone, the additional need to minimize mechanical injury to significant roots and root structures must also be taken into consideration.

In the present case, an unusual circumstance exists in that several significant large trunks have been removed over the property of unknown size and orientation, and at an indeterminate time. Thus, it is not possible to conclude in the normal fashion what part of the property includes the drip zone of the tree, so the term **critical root zone (CRZ)**, often considered synonymous with “drip zone” would be a better term to refer to this area. The possibility that significant roots exist in areas where there is no canopy overhead can not be ruled out.

Otherwise, nearly all of the canopy overhangs the public pathway and the neighboring property to the north. While every measure will be taken to minimize impact to the CRZ of the tree, a significant share of the critical root zone exists outside the control of the property owner.

The plans call for a significant excavation to be performed in order to construct a retaining wall and create a terraced space for the area marked ‘Patio’ (dtl.2); and to construct some indeterminate section of the rear foundation of the house. At its closest, this area appears to skirt to within approximately 8’-10’ to the tree. In spite of the condition described



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above, it would be in this area and during this phase of the work that roots two-inch or larger may be encountered, and precautions to mitigate damage to such roots is described below in the Measures for Tree Protection section. Nevertheless, it is my opinion that the impacted portion represents sufficiently limited square footage relative to the overall area of the tree's root system to be of only minor concern

The bark fissures noted above should not be mistaken for stress fractures or the like. Often when transitory conditions such as high winds or heavy rains result in atypical, high loads, it is normal for Oaks to effectuate significant wood production to build compensatory strength and stability. This wood development often outpaces the production of bark, and tends to result in such fissures, and tends also to be a sign of good health and vigor. The added condition that the tree has had a significant amount of growth removed in the indeterminate past suggests that in spite of the unusual branch distribution, the forces that might compromise the stability of the tree have been reduced, while the strength of the wood and roots has not.

More concerning to the long-term health and stability of the tree in my opinion would be the possibility of excessive foot traffic on the public foot path through the inner critical root zone causing compaction of soil; but from what I am able to observe, the use of the path is infrequent, and thus appears to be of only minimal concern.

As the project is on an undeveloped lot, there are no existing utilities to be noted.

None of the proposed construction will necessitate pruning, given the existing configuration of the canopy. None of the proposed work will be performed in the tree's **inner critical root zone**, obviating the need for protection of the tree trunk from mechanical injury. Given the lack of canopy overhanging the property itself, for the most part tree protection will consist mostly of implementing best practices when roots larger than two inches are encountered, and delineating a tree protection zone for the duration of the project, discussed in detail below.

CONCLUSIONS:

The construction plan will in my opinion have minimal direct impact to the tree's long-term health, provided that the contractor(s) faithfully observe the tree protection plan.

Arborist disclosure: All observations are based on conditions present during the date or dates of arborist visits, and observable without recourse to excavating, probing, climbing, dissecting, or any other form of invasive inspection. Opinions, recommendations and conclusions are based on such observations, as well as on the reports of owners and agents as to existing conditions and proposed work. Observations, opinions and conclusions regarding the health, safety and stability of the tree or trees does not reflect assumptions about conditions that exist outside the purview of this report.

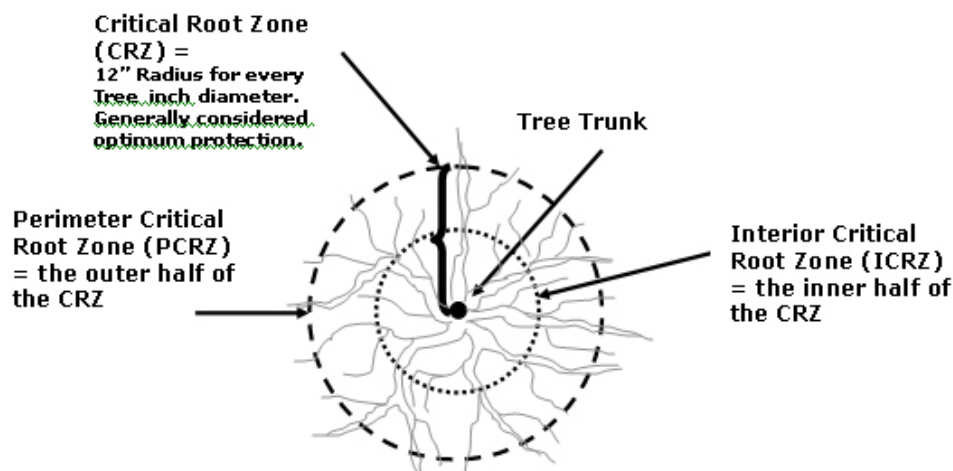
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DEFINITIONS:

Critical Root Zone (CRZ): Though arborists use a variety of ratios to calculate the critical root zone of a tree, it generally corresponds to a foot of radius surrounding the tree for every inch of diameter of the tree's trunk measured at breast height. It describes the area where the majority of any tree's critical below-grade processes of water and nutrient uptake occurs.



DBH: Diameter at Breast Height; considered roughly 4' above existing grade, the point on any tree where the main stem or stems are measured to standardize tree diameter measurements.

Drip Line: the area directly located under the outer circumference of the tree branches. The area within the Drip Line is often considered roughly to comprise the Critical Root Zone, though the CRZ can often extend beyond the Drip Line.

Inner Critical Root Zone (ICRZ): also known as the interior critical root zone, the inner half of the critical root zone.

Root Crown: The horizon, often but not always flaring, between a tree's above ground parts and below ground parts.

Tree Topping: Topping is the indiscriminate cutting of tree branches to stubs or to lateral branches that are not large enough to assume the terminal role. Topping is often used to reduce the size of a tree, but it is perhaps the most harmful tree pruning practice known. Topping can lead to unacceptable risk, tree stress, and decay. (ISA)

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MEASURES FOR TREE PROTECTION:

While some municipalities rely on arborists to create site specific tree protection plans for construction projects, the City of Berkeley has numerous minimum requirements for tree protection plans that refer specifically to the protection of the Coast Live Oak. (Ordinance NO. 6,905-N.S.)

These minimum requirements direct implementation of all aspects of the plan; and notably also include specific issues that require the consultation with the City Arborist. Time sensitive activities that may involve consultation with the City Arborist should be planned with this scheduling necessity in mind.

To minimize activity within the CRZ:

Establish a Tree Protection Zone (TPZ)

Section II(c) of the City of Berkeley Minimum Requirements states: "Install 6 foot chain-link fencing to protect the area within the Drip Line of any protected tree in the development area. Fencing shall be mounted to posts that are driven into the ground. Where this is not possible because of existing structures, tree roots, or other obstacles, chain-link panels mounted to stanchions and connected to each other may be approved. In areas where difficult terrain makes this impractical, orange construction fencing may be approved."

The balance of construction activities overall will take place outside of the CRZ, however excavation for the rear patio, and some foundation installation may take place within.

Subject to the approval of the City Arborist, the TPZ should be established for the duration of the project in the area not projected to be excavated or trenched. Small trees and shrubbery within this area ought to be retained until the project is completed, or until landscaping is being installed, to provide further protection, and minimize disruption to the root zone.



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Whenever possible, workers and materials should refrain from transiting from front to back of the lot by way of the North-side public pathway. (Whether the contractors will fence the project site off from this pathway is outside the purview of this report.)

Section II(g) states: "No storage of building materials, refuse, excavated spoils, or dumping of poisonous materials, is permitted within the drip line of any protected tree. Poisonous materials include, but are not limited to, paint, petroleum products, concrete or stucco mix, dirty water, or any other material which may be deleterious to tree health."

To minimize the impacts of soil compaction within the Drip Line:

Section II(e) states: "When any approved construction activity will occur within the Drip Line of a protected tree that is not surrounded by protective fencing...the area shall be covered with a 6 inch layer of mulch topped with 3/4 inch plywood that is fastened together. If any large or motorized equipment (mini excavator, Bobcat®, powered wheelbarrow) will travel over this area, the plywood must be a minimum of 1 inch and adequate for the weight of the equipment that will travel over it. If larger equipment (backhoe, tractor) will be used, consult the City Arborist. **Construction activity refers to any movement of people, tools, or equipment; or storage of any tools, equipment, or supplies.**"

Not applicable; very little if any work appears to be planned within the drip line.

To minimize the risk of injury to the tree's trunk:

Section II(e) states: "When any approved construction activity will occur within the Drip Line of a protected tree that is not surrounded by protective fencing, the trunk shall be protected by wrapping it with straw tubes (wattle) or vertical wood slats (ex. 2x4), up to a minimum of 8 feet from grade (see Figure 1, page 6). Slats shall be angled to protect the root flare at the base of the tree; and closed cell foam or equivalent material shall be used to protect the trunk of the tree where it contacts the slats.

Not applicable; very little if any work appears to be planned within the drip line.

To minimize root damage and the effects of root pruning:

The possibility that significant roots will be encountered while working within the CRZ, especially when performing foundation work and excavating for the patio, is relatively minimal, but must not be overlooked. For the purposes of this plan, workers should consider any root more than 2" in diameter that is encountered at any time to be "significant" and cause for attention. When roots of this size are encountered, and especially if they are inadvertently damaged or severed, work should stop and the arborist should be consulted. Such roots will

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be inspected with the purpose of determining if the root can be cut, or if alterations to anchorage plans need to be contemplated.

Roots that are greater than 2" inches in diameter should be cut with a saw, not hacked with digging tools. Roots of this size that are inadvertently damaged by excavation should be "re-cut" with a branch or chain saw, attempting as close as is practicable to perform a proper pruning cut to undamaged wood, in order to facilitate the compartmentalization of wood decay.

(Example, before and after: significant roots damaged by excavation, are properly re-cut to sound tissue)



Though there appears not to be any work planned for the area within 3' of the Root Crown, this area ought to be considered entirely protected. Any damage to this area should be reported to the project arborist. No work should be done in this area without consulting the project arborist.

Arborist inspection, consultation, notification and documentation:

The project arborist will plan to visit the site prior to or at the outset of work, to summarize the plan and answer contractor questions; and to inspect (or perform, if applicable) and document the following: establishment and installation of fenced-off TPZ; discovery and mitigation of any and all roots greater than 2" in diameter prior to covering.

Signage will be affixed to the protective fencing surrounding the TPZ, regardless of its configuration, with contact information for the project arborist, and the following verbiage:

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TREE PROTECTION ZONE (TPZ):

All construction related activities including grade alterations, excavation, transit, equipment or materials storage, and disposal of liquid or refuse are not permitted within this TPZ. This barrier must remain in good condition, and must not be removed or re-configured without consultation with the project arborist.

The arborist will also plan for a follow up visits, to be arranged with the property owners, after construction is finalized to assess any impacts to the health of the tree. The contractor assumes responsibility for documentation and resolution for any conditions that arise outside the knowledge and presence of the arborist.



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

705 Euclid Avenue

Use Permit #ZP2022-0104 to construct a new three-story (41 feet and 11 inches), 4,528 square foot single family dwelling with two parking spaces and associated retaining wall located in the required front setback, on a 6,024 square foot vacant lot.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.404.

When: Thursday, April 27, 2023, 7:00 pm

Where: Berkeley Unified School District meeting room, 1231 Addison Street, (wheelchair accessible) with remote/hybrid option (via Zoom).

Please see the Agenda for details:

https://berkeleyca.gov/sites/default/files/documents/2023-04-27_ZAB%20Agenda.pdf

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION AVAILABLE FOR MEMBERS OF THE PUBLIC.

For in-person attendees, face coverings or masks that cover both the nose and mouth are encouraged. If you're feeling sick, please do not attend the meeting in-person as a public health precaution.

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as "distanced seating" to accommodate persons that need to distance for personal health reasons.

A. Land Use Designations:

- General Plan: LDR – Low Density Residential
- Zoning: R-1H – Single Family Residential, Hillside Overlay Zone

B. Zoning Permits Required:

- Use Permit for a new single-family dwelling, under Berkeley Municipal Code (BMC) Section 23.202.020(A)
- Administrative Use Permit to construct a building with a maximum height over 35 feet in the Hillside Overlay Zone, under BMC Section 23.210.020

- Administrative Use Permit to construct two parking spaces in a required front setback, under BMC Section 23.322.080
- Administrative Use Permit to construct an accessory structure (backyard retaining walls) encroaching into a required setback, under BMC Section 23.304.070(B)

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

D. Parties Involved:

E. Applicant	John Newton, 5666 Telegraph Avenue, Oakland, CA
F. Property Owner	Tarek and Michel Khoury, 903 Ventura Avenue, Albany, 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, Russell Roe, at (510) 981-7548 or rroe@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.

Written Comments, 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 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.



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.
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HARPER & ARMSTRONG, LLP

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April 15, 2023

BY E MAIL & US MAIL

City of Berkeley
Planning and Development
1947 Center St., 2nd Fl.
Berkeley, CA 94704
510-981-7410
planning@cityofberkeley.info

Re: Withdrawal of Support for and Objection to Application for Zoning Permit No. ZP2022-0104, 705 Euclid Avenue

To Whom It May Concern:

I write on behalf of Yoshiko Wada, owner of 696 Hilldale Avenue, Berkeley, CA 94708 to formally withdraw her approval for and issue an objection against a proposed new structure at 705 Euclid Avenue, Berkeley, CA 94708. The owners of 705 Euclid Avenue (APN 063-295504001) have submitted an application for a zoning permit to the City of Berkeley, which currently is under review as Record No. ZP2022-0104.

Ms. Wada lives at 696 Hilldale Avenue, which is bordered to the south by an empty lot with the address 705 Euclid Avenue. In early 2022, the owners of 705 Euclid contacted Ms. Wada seeking to obtain her approval to construct a four-story building on the empty lot. The contemplated structure would require the owners to obtain a zoning permit to exceed the allowable building height. Ms. Wada asked for the story poles to determine whether the proposed new building would block her view of the bay. The owners told her that the story poles were not ready, but they offered to meet to explain to her how tall the building would be in relation to her home.

In April 2022, Ms. Wada met with the owners of 705 Euclid. Based on their representations, Ms. Wada determined that her view would not be obscured and granted her approval to allow the project to proceed.

Thereafter, Ms. Wada was out of the country for several months. The owners of 705 Euclid Avenue filed the above-mentioned application seeking permission to construct a new dwelling exceeding 28 feet in average height and 35 feet in maximum height. They also erected the story poles for the proposed new building in late 2022 while she was away.

When Ms. Wada returned from abroad in April 2023, she observed the story poles in place and discovered that contrary to the owners' explanation, the new building will significantly block her view of the bay. Based on this discovery, Ms. Wada hereby withdraws her approval for the project currently under review as Record No. ZP2022-0104 and formally objects to the issuance of a zoning permit to allow the building to be constructed as currently planned.

Regards,

A handwritten signature in black ink, appearing to read 'Kathryn Rauber', with a long horizontal flourish extending to the right.

Kathryn Rauber