



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
SEPTEMBER 28, 2023

2424 Jefferson Avenue

Use Permit #ZP2023-0082 to demolish a portion of a rear deck and construct a 26-square-foot addition to an existing single-family dwelling on a lot that exceeds lot coverage standards.

I. Background

A. Land Use Designations:

- General Plan: Low Medium Density Residential
- Zoning: Restricted Two-Family Residential District (R-2)

B. Zoning Permits Required:

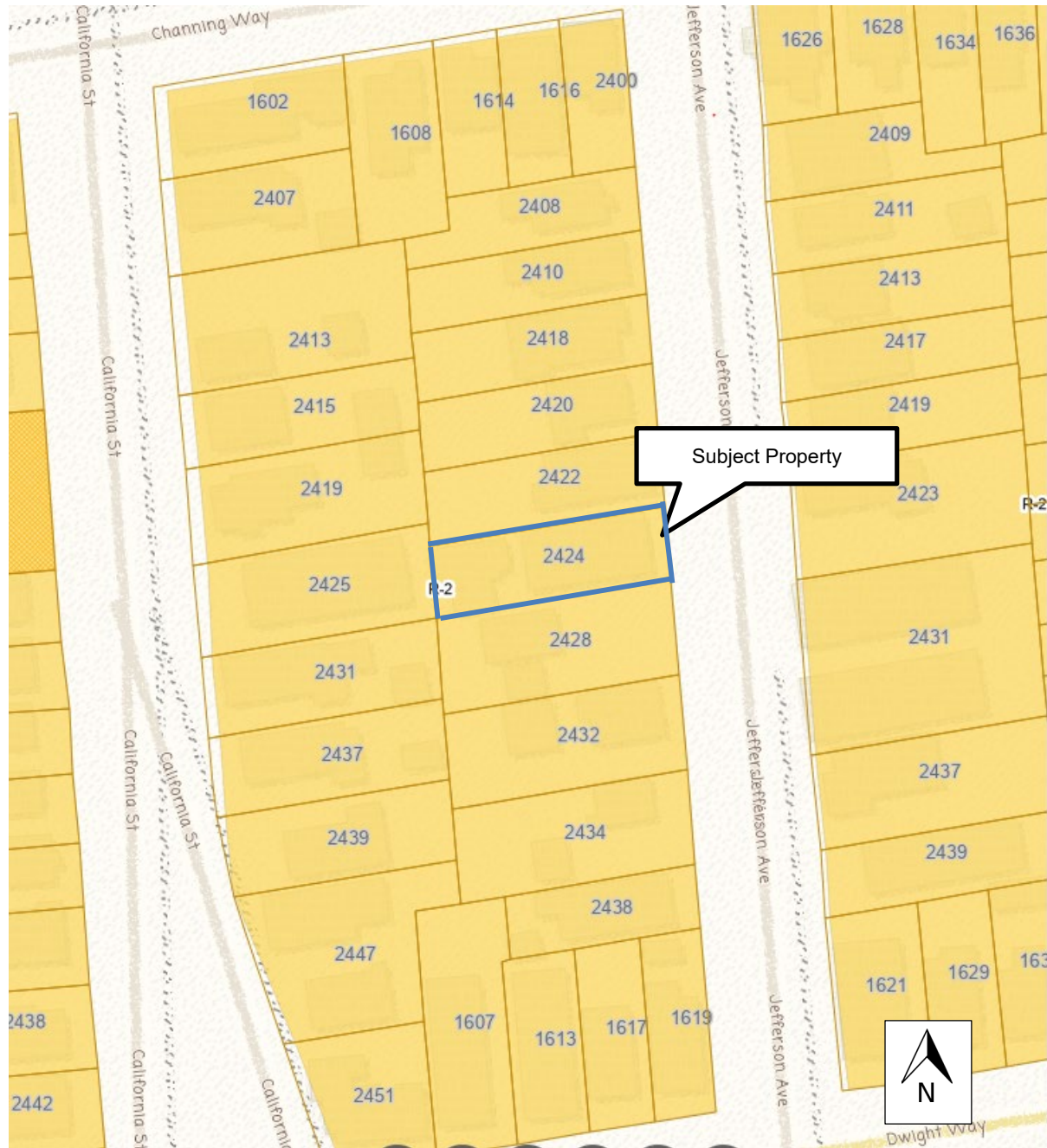
- Use Permit for an addition to a structure that exceeds the maximum allowed lot coverage, under Berkeley Municipal Code (BMC) Section 23.324.050(D)(3)

C. CEQA Recommendation: It is staff's recommendation that to the Zoning Adjustments Board (ZAB) 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 15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"). The determination is made by ZAB.

D. Parties Involved:

- Applicant/Owner Crystal Williams and Brian MacDonald 2424 Jefferson Avenue, Berkeley, CA

Figure 1: Vicinity Map



Legend: R-2 Two-Family Residential District

Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Residential	R-2	Low Medium Density Residential
Surrounding Properties	North	Residential	R-2	Low Medium Density Residential
	South			
	East			
	West			

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	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	No creek or culvert, as defined by BMC Chapter 17.08, exists on or within 30 feet of the site.
Historic Resources	No	The subject property is not a historical resource pursuant to CEQA Guidelines Section 15064.5 and does not propose the demolition or substantial alteration of a building over 40 years old.
Housing Accountability Act (HAA) (Gov't Code Section 65589.5(j))	No	The project is proposing a small addition to an existing dwelling unit. This is not a housing development project because not additional units would be created. As a result, the HAA findings do not apply to this project.
Housing Crisis Act of 2019 (SB330)	No	The project is an addition to a single-family dwelling and does not include any new dwelling units, therefore, it is not a "housing development project" per Government Code Section 65589.5(h)(2) and SB 330 does not apply. ¹
Oak Trees	No	There are no oak trees on the site.
Rent Controlled Units	No	The subject building is a single-family dwelling and therefore not subject to rent control provisions pursuant to BMC Chapter 13.76.
Residential Preferred Parking (RPP)		The project is located in Residential Preferred Parking Area C. This project does not include a proposal to expand current off-street parking.
Seismic Hazards (SHMA)	No	The project site is located in an area susceptible to liquefaction as defined by the State Seismic Hazards Mapping Act (SHMA). However, because

¹ Government Code Section 65589.5(h)(2) "Housing development project" means a use consisting of any of the following: (A) residential units only, (B) mixed-use developments consisting of residential and nonresidential uses in which at least two-thirds of the square footage is designated for residential use, and (C) transitional or supportive housing.

Characteristic	Applies to Project?	Explanation
		the proposed expansion of 32 square feet is less than 50 percent of the existing floor area, additional review is not required to comply with the SHMA. ²
Soil/Groundwater Contamination	No	The site is not located within the City's Environmental Management Area and is not on the Cortese List. ³
Transit		Alameda County (AC) transit routes 36 and 688 are located within 0.3 miles of the subject property.

Table 3: Project Chronology

Date	Action
June 5, 2023	Application submitted
July 3, 2023	Application deemed complete
September, 14 2023	Public hearing notices mailed/posted
September 28, 2023	ZAB hearing

² California Department of Conservation. DOC Maps: Geologic Hazards. Available:

<https://maps.conservation.ca.gov/geologic Hazards/>

³The Cortese List is an annually updated list of hazardous materials sites compiled pursuant Government Code Section 65962.5.

⁴ Addition height greater than 14 ft. up to 28 ft. allowed with an AUP. Addition height greater than 28 ft up to 35 ft allowed with an additional AUP.

⁵ Removal of existing 16 sf. addition on the rear results in Gross floor area decreasing from 1,684.4 sf. to 1,544 sf.

Table 4: Development Standards

Standard		Existing	Addition/ (Reduction) ^a	Proposed Total	Permitted/ Required
BMC Sections 23.202.080					
Lot Area (sq. ft.)		5,200	No change	n/a	5,000 min
Gross Floor Area (sq. ft.)		1,684.8	+26'		n/a
Dwelling Units	Total	2	No change		2
Building Height	Average (ft.)	13'			28' max (35' with AUP)
	Maximum (ft.)	16'-10"			35' max (with AUP)
	Stories	1			3 max
Building Setbacks (ft.)	Front	15'			15' min
	Rear	12'-1.5"			15' min
	Left Side	9'-4.5"			4' min
	Right Side	4'-3"	4' min		
Lot Coverage (%)		53.3%	-0.4%	52.9%	45% max
Usable Open Space (sq. ft.)		1,286.6	-225.8	1,060.8	400 min
Table Notes: Abbreviations: sq. ft. = square feet; max. = maximum; min. = minimum; n/a = not applicable; % = percent; avg. = average, ft = feet ('), in. = inches (")					

II. Project Setting

- A. Neighborhood/Area Description:** The project site is located in the R-2 Zoning District. The area is characterized by residential development comprised of one- to two-story single-family dwellings and multi-family properties.
- B. Site Conditions:** The 5,200 square-foot rectangularly shaped project site is generally flat and oriented in an east to west direction. The property is developed with two single-family dwelling units. Proposed construction would occur on the 1,648 square-foot single-family dwelling located at the front of the property facing Jefferson Street (front dwelling unit). A driveway located along the southern property line provides access to a garage and the second dwelling unit (back dwelling unit).

III. Project Description

The proposed project would demolish a 166 square-foot deck attached to the rear of the front dwelling unit to construct a 26-foot expansion that will result in the reconfiguration of the interior space on the northwestern portion of the dwelling unit. The reduction in square footage would decrease the building separation between the two main buildings on the

parcel from 11 feet, 1.5 inches to 9 feet, 1.5 inches, and reduce lot coverage from 53.3 percent to 52.9 percent.

IV. Community Discussion

- A. Neighbor/Community Concerns:** The applicant installed a pre-application poster and contacted abutting and confronting neighboring property owners and occupants to show them a copy of the proposed project plans and obtain their signature on the proposed plans. On September 14, 2023, the City mailed public hearing notices to property owners and occupants, and to interested neighborhood organizations. The City also posted notices within the neighborhood in three locations. At the time of this writing, staff has not received any communications regarding the project.
- 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. Addition to Structure on Parcel with Nonconforming Lot Coverage:** Pursuant to BMC Section 23.324.050(D)(3), additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of exceeding lot coverage are permitted with a Use Permit provided that if the existing use of the property is conforming, the addition/enlargement complies with all applicable laws, and the addition/enlargement does not increase lot coverage or exceed the height limit.

As described in the Site Conditions (Section II.B), a 26 square foot addition would replace 166 square-foot back. The proposed addition would reduce lot coverage from 53.3 percent to 52.9 percent where the maximum of 45 percent is allowed. Though the reduction in lot coverage would not eliminate the non-conformity, it would reduce it, thereby not exacerbating the condition. Further, the project would not exceed height limits as required by BMC Section 23.324.050(D)(2), and is consistent with all other development standards in the R-2 Zoning District.

- B. General Non-Detriment Findings:** Pursuant to BMC Section 23.406.040, the ZAB may issue a Use Permit if it meets the findings for non-detriment. An analysis of sunlight/shadows, air, and views follows:

Sunlight/Shadow: The residential addition expands the footprint horizontally by 26 feet and would not exceed the height of the existing structure. As a result, the project would not contribute to a significant loss of direct sunlight on abutting residences, and any shading impacts are not deemed detrimental.

Air: The residential addition is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-2

neighborhood because the alteration would not further reduce the front, rear, and -side setbacks. Therefore, there would be minimal, if any, air impacts.

Views: The project would not result in obstruction of significant views in the neighborhood as defined in BMC Section 23.502 (Glossary). This portion of the City is generally flat and developed with one and two-story residences that filter or obscure most views that may be available of the Berkeley hills or the Golden Gate Bridge from off-site view angles.

VI. Other Considerations

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

1. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
2. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
3. Policy LU-7–Neighborhood Quality of Life: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.

Staff Analysis:

The addition would be located at the rear of the property, not visible from the right-of way, and small in scale. The proposed addition is proposed for an existing residential property, would be consistent with R-2 zoning standards, and be compatible in scale and the design characteristics of the neighborhood. Due to the size's location and size, and consistency with development standards and residential use, the project would be compatible with surrounding uses and with the built environment in the area.

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 ZAB **APPROVE** Use Permit #ZP2023-0082 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, May 17, 2023
3. Notice of Public Hearing

Staff Planner: Cecelia Mariscal, cmariscal@berkeleyca.gov, (510) 981-7439

ATTACHMENT 1

FINDINGS AND CONDITIONS

SEPTEMBER 28, 2023

2424 Jefferson Avenue

Use Permit #ZP2023-0082 to demolish a portion of a rear deck and construct a 26-square-foot addition to an existing single-family dwelling on a lot that exceeds lot coverage standards.

PERMITS REQUIRED

- Use Permit for an addition to a structure that exceeds the maximum allowed lot coverage, under Berkeley Municipal Code (BMC) Section 23.324.050(D)(3)

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 15301 of the CEQA Guidelines (“Existing Facilities”).
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) 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:
2. The proposed project conforms to the R-2 District standards, with the exception of the lot coverage, and does not exacerbate any non-conforming condition. The proposed addition is small and allowed on a lot with a legal non-conforming lot coverage, subject to issuance of a Use Permit. Because the proposed project will not increase lot coverage or exceed the height limit, air and light impacts to surrounding properties due to the project will not be detrimental.
3. Pursuant to BMC Section 23.324.050(D), an expansion or enlargement of a nonconforming structure is permitted if the addition complies with all applicable laws, the use of the existing building is conforming, and the addition or enlargement obtains all permits required under BMC 23.324.050(D).
 - A. The project will comply with all applicable laws, and will be subject to review and approval under a building permit;

- B. The existing use is a single-family dwelling, which is a permitted use in the residential district; and
 - C. As required by Section 23.324.050(D)(3) of the BMC, the Zoning Adjustments Board finds that the residential addition to a structure on a lot that is nonconforming by reason of lot coverage will not increase the nonconforming lot coverage, nor exceed the height limit.
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III. 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.

IV. 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 #

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

11. 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.

12. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

A. Environmental Site Assessments:

- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
- 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any

excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.

- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

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

D. Hazardous Materials Business Plan:

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

Prior to Issuance of Any Building (Construction) Permit

13. 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.
14. 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).

15. 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:

16. 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.
17. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
- A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
18. 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.
19. 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.

- 20. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
 - Storage of building materials, dumpsters, debris anywhere in the public ROW;
 - Provision of exclusive contractor parking on-street; or
 - Significant truck activity.

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

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

- 21. 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.
- 22. 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.
- 23. 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.
- 24. 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.
- 25. 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.

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

- J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
27. 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.
28. 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.
29. 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.
30. 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.
31. 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.
32. 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:

33. 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.
34. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated May 17, 2023.

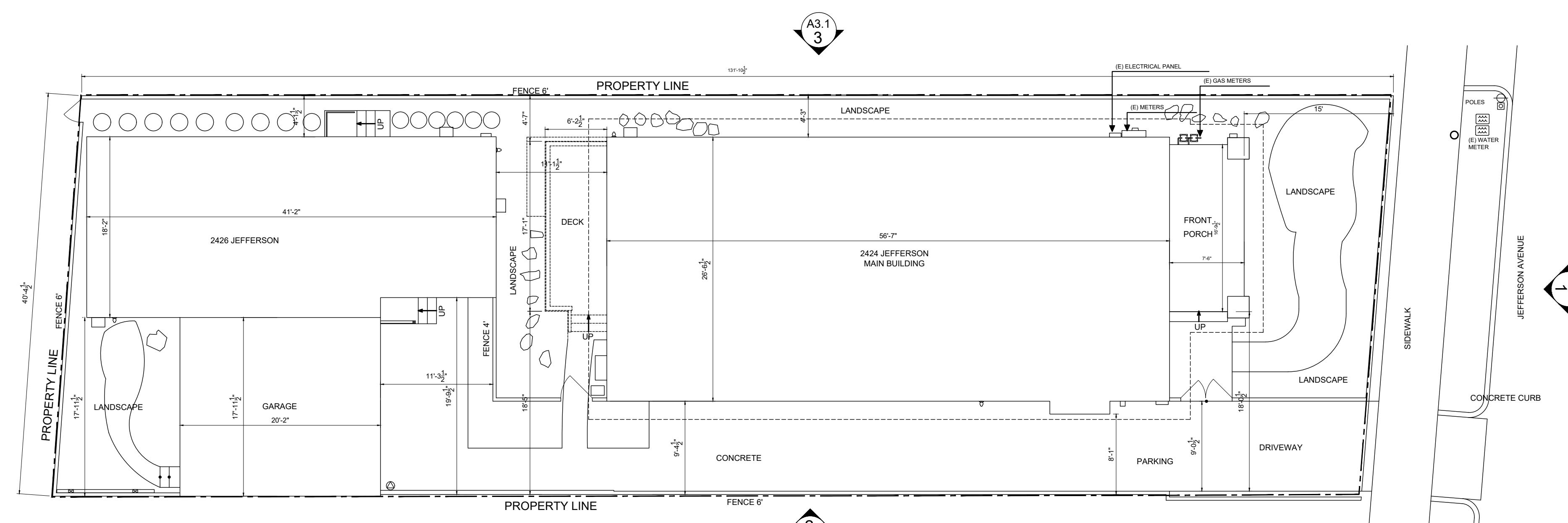
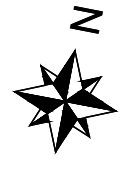
At All Times:

35. 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 May 17, 2023 except as modified by conditions of approval.

36. 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.
 37. 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.
 38. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
 39. This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.
-

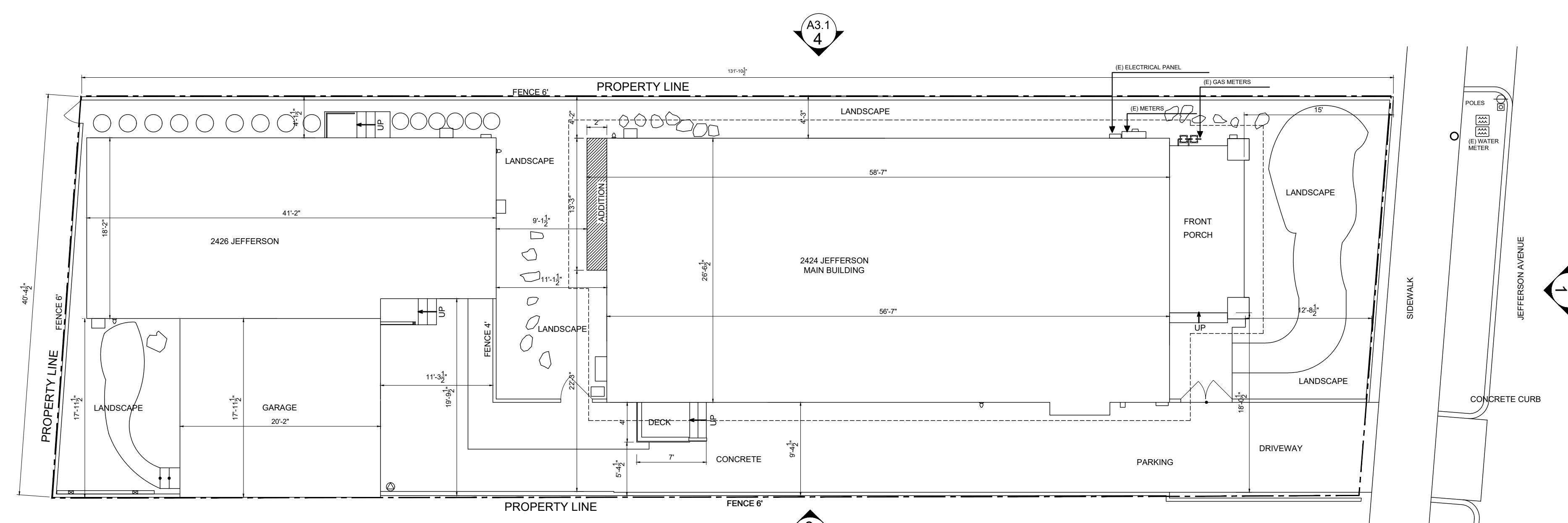
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 - EDGE OF OBJECT ABOVE
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 - (E) WALL TO BE REMOVED
 - (N) 2X STUD WALL
 - (E) WALL TO REMAIN
 - FLOORPLATE
- NOTE: DIMENSIONS TO FACE OF FINISHED WALL



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

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 2. COORDINATE SHORING PRIOR TO ANY DEMOLITION TO MAINTAIN THE STRUCTURAL INTEGRITY OF THE REMAINING ELEMENTS OF THE BUILDING AND ITS SYSTEMS AS REQUIRED.
 3. NOTIFY THE DESIGNER, ENGINEER AND/OR OWNER IF EXISTING CONDITIONS DEVIATE FROM DRAWINGS PRIOR TO EXECUTING THE WORK.
 4. THE CONTRACTOR SHOULD BE RESPONSIBLE FOR THE DEMOLITION, AND REMOVAL OF ALL EXISTING BUILDING COMPONENTS, MATERIALS AND EQUIPMENT AS REQUIRED TO BUILD, ERECT, INSTALL OR ACCOMMODATE ALL NEW CONSTRUCTION.
 5. DISPOSE ALL REMOVED MATERIALS IN AN APPROVED MANNER, AND AS PER CITY CONSTRUCTION WASTE MANAGEMENT REQUIREMENTS.
 6. PATCH AND REPAIR ALL FLOOR, WALL, AND CEILING SURFACES DAMAGED DURING DEMOLITION OR TEMPORARY SHORING. WHERE FINISH IS TO REMAIN, MATCH EXISTING ADJACENT FINISH, PATCH AND REPAIR EXISTING ADJOINING AREAS TO REMAIN.
 7. THE CONTRACTOR IS RESPONSIBLE FOR THE ERECTION, MAINTENANCE AND REMOVAL OF ALL CONSTRUCTION ASSISTANCE DEVICES SUCH AS SCAFFOLDING AND BARRIERS.
 8. PROVIDE TEMPORARY ROOFING AS REQUIRED DURING DEMOLITION. DO NOT LEAVE ANY AREAS EXPOSED TO THE ELEMENTS WITHOUT TEMPORARY ROOFING.
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2 (P) SITE PLAN
Scale: 1/8" = 1'-0"

- PROPOSED NOTES:**
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 2. ALL WORK SHALL BE INSTALLED PLUMB, LEVEL, SQUARE AND TRUE, AND IN PROPER ALIGNMENT.
 3. "ALIGN" SHALL MEAN TO ACCURETLY LOCATE FINISH FACES IN THE SAME PLANE.
 4. "SIMILAR" MEANS COMPARABLE CHARACTERISTICS FOR THE CONDITION NOTED.
 5. SEE SCHEDULES FOR ADDITIONAL INFORMATION.
 6. PROVIDE INSULATION ON ALL NEW WALLS, U.O.N.
 7. THE CONTRACTOR/ SUB-CONTRACTOR SHALL PROVIDE NECESSARY BACKING/ BLOCKING FOR WALL MOUNTED ITEMS INCLUDED BUT NOT LIMITED TO HANDRAILS, CABINETS, COUNTERS, GRAB BARS, AND FIXTURES. PROVIDE BACKING PLATES FOR ALL N.I.C AND O.F.C.I. WALL AND FLOOR MOUNTED EQUIPMENT.
 8. FLOOR FINISH TRANSITIONS TO BE LOCATED AT THE CENTERLINE OF A DOOR LEAF, WHERE OCCURS, IN CLOSED POSITION U.O.N.
 9. ALL FLOOR FINISHES TO BE INSTALLED OVER A SMOOTH AND LEVEL SURFACE, FREE OF CRACKS, CHIPS, VOIDS, BUMPS AND OTHER IRREGULARITIES.
 10. GYPSUM BOARD WALLS AND CEILINGS TO RECEIVE LEVEL 4 FINISH U.O.N.
 11. INSTALL WATER RESISTANT GYPSUM BOARD IN AREAS EXPOSED TO MOISTURE.
 12. ADJUST PARTITION THICKNESS AND CAVITY FOR INTERNAL INCLUSIONS, SUCH AS PLUMBING AND FOR CORRECT INSTALLATION OF FIXTURES, PANELS, BOXES, ETC.
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Fabiana Isaac

Crystal Williams and Brian MacDonald
2424 Jefferson Avenue, Berkeley CA, 94703

EXISTING AND PROPOSED SITE PLAN

Date: 02/27/2023

Issue: Planning Permit Submittal

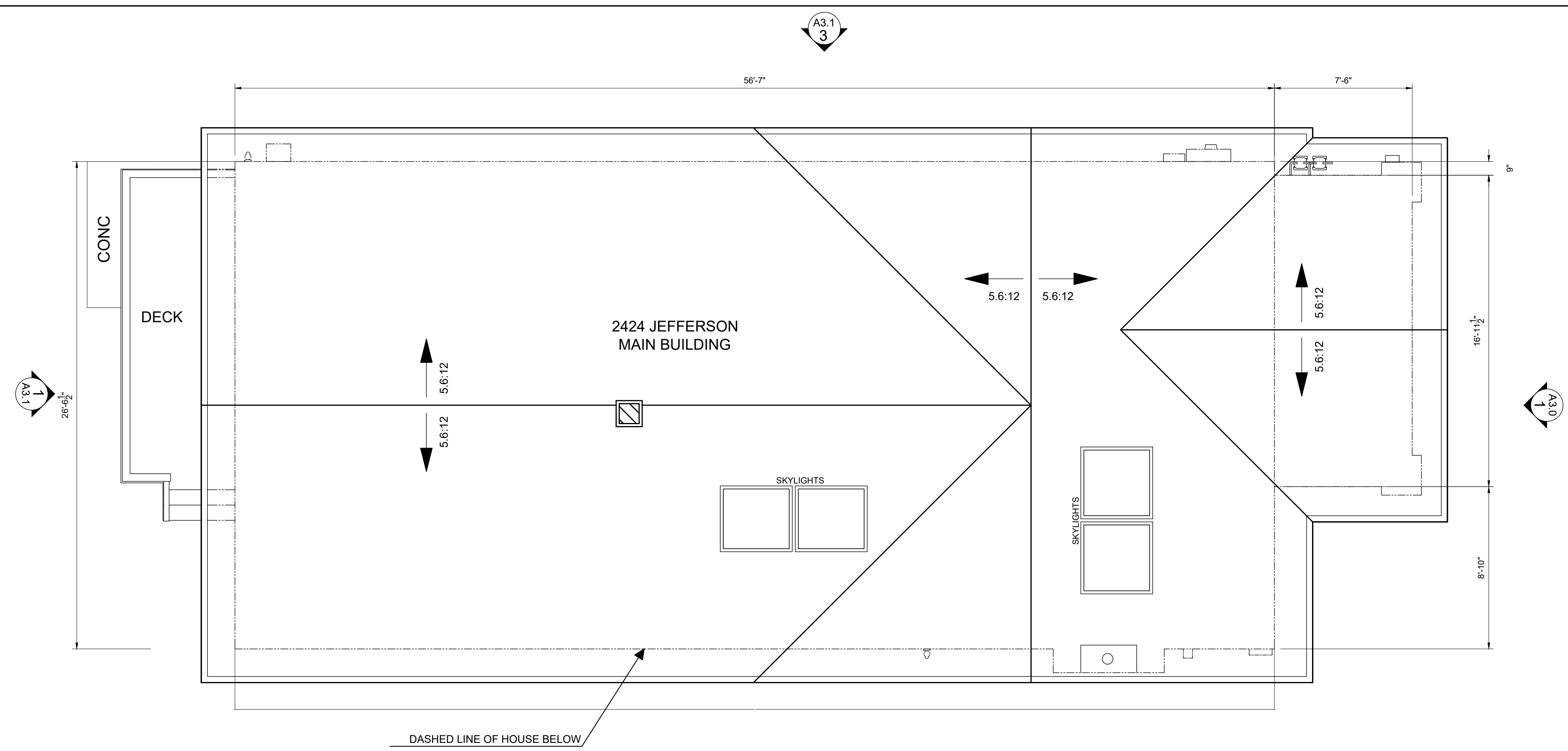
Drawn by: Fabiana Isaac

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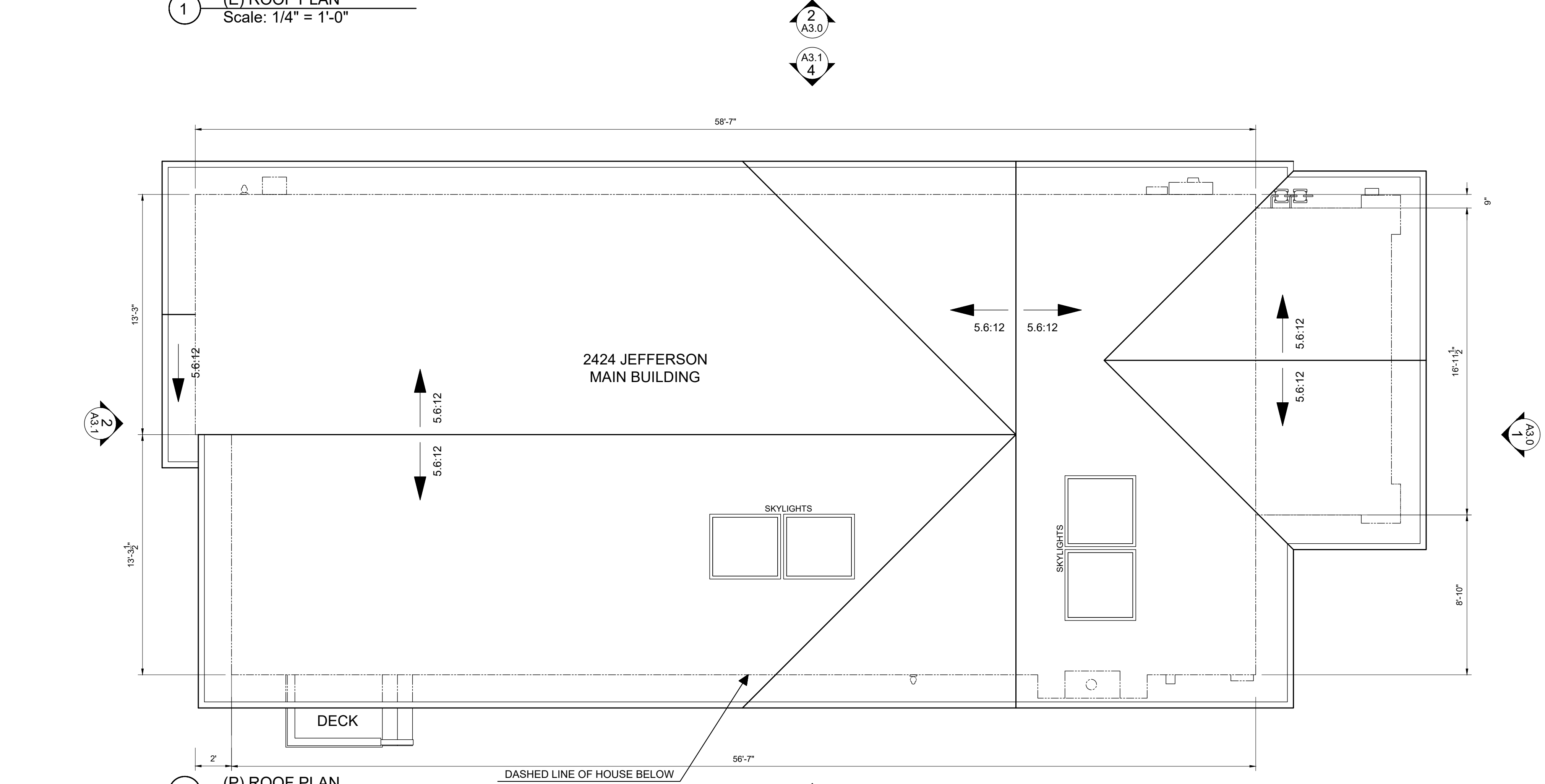
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1 (E) ROOF PLAN
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2 (P) ROOF PLAN
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EXISTING AND PROPOSED ROOF PLAN

Date: 02/27/2023

Issue: Planning Permit Submittal

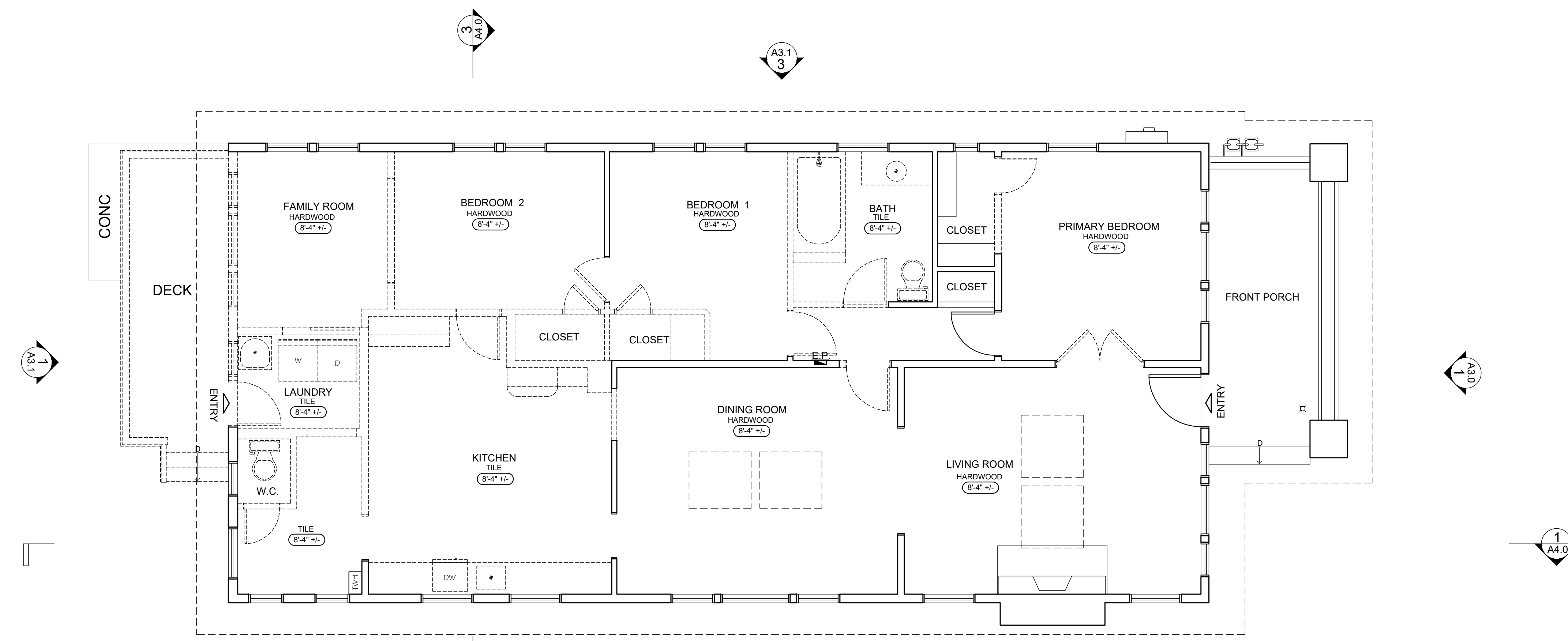
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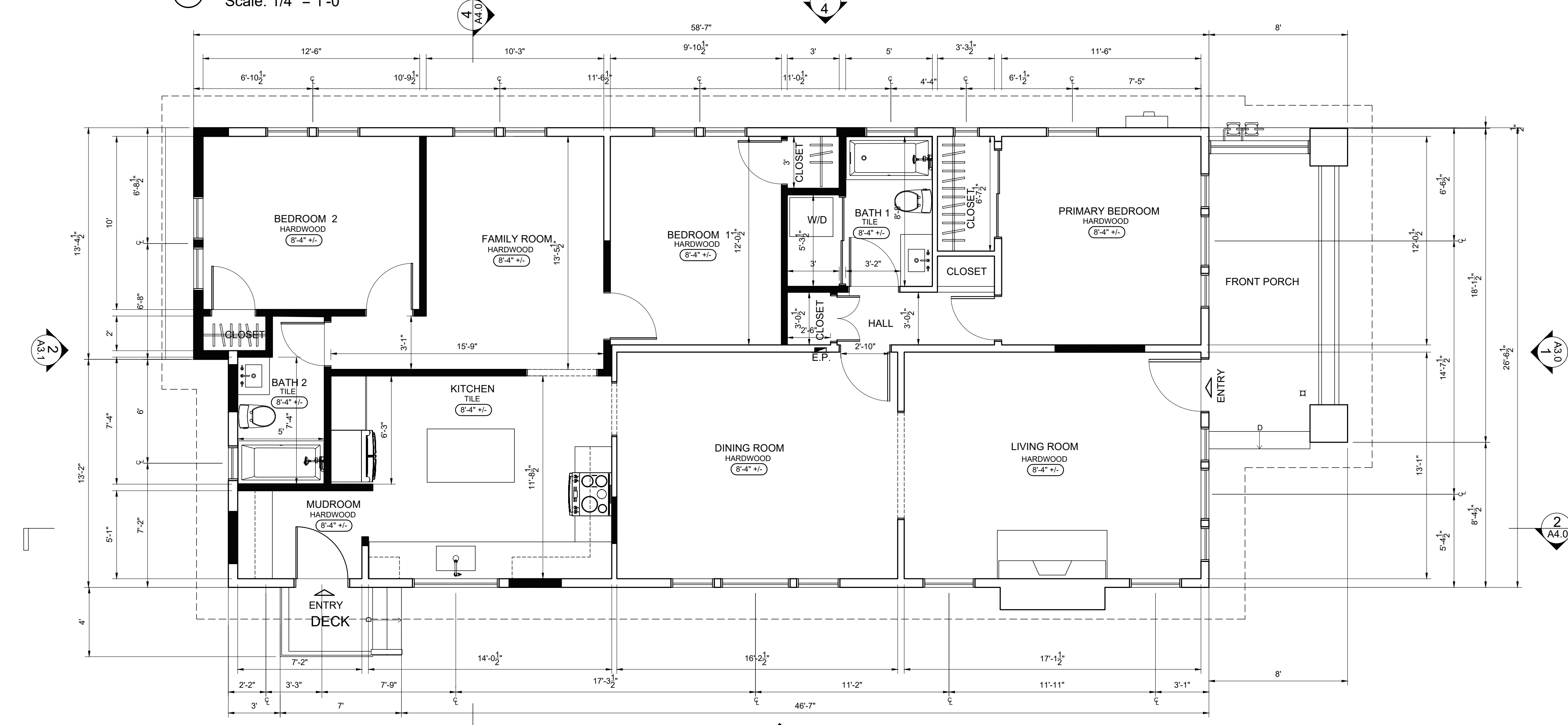
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 - ALL PIPE, DUCT, PENETRATIONS, ETC., THROUGH WALLS SHALL BE ACOUSTICALLY SEALED.
 - ALL FINISHES, FIXTURES, EQUIPMENT, ETC TO BE INSTALLED PER MANUFACTURER'S SPECIFICATIONS, INSTRUCTIONS AND RECOMMENDATIONS.
 - OWNER FURNISHED CONTRACTOR INSTALLED (OFCI) ITEMS: THE CONTRACTOR AND/OR HIS AGENTS SHALL RECEIVE, STORE, PROTECT, INSTALL, CONNECT, AND TEST EACH OFCI ITEM. THE CONTRACTOR SHALL INSPECT ALL OFCI ITEMS PROMPTLY UPON THE ARRIVAL OF THE OFCI ITEMS AT THE JOBSITE. WHEN POSSIBLE, THE CONTRACTOR SHALL INSPECT OFCI ITEMS FOR DAMAGE BEFORE ACCEPTING DELIVERY. THE CONTRACTOR SHALL PROMPTLY NOTIFY THE OWNER AND/OR THE DESIGNER OF ANY DEFECTS OR DAMAGE DISCOVERED ON THE OFCI ITEMS.

**FABIANA ISAAC
DESIGN STUDIO**
605 Longridge Road
Oakland, CA 94610
415.660.0685
contact@fabianaisaacdesignstudio.com

Fabiana Isaac

Crystal Williams and Brian MacDonald
2424 Jefferson Avenue, Berkeley CA, 94703

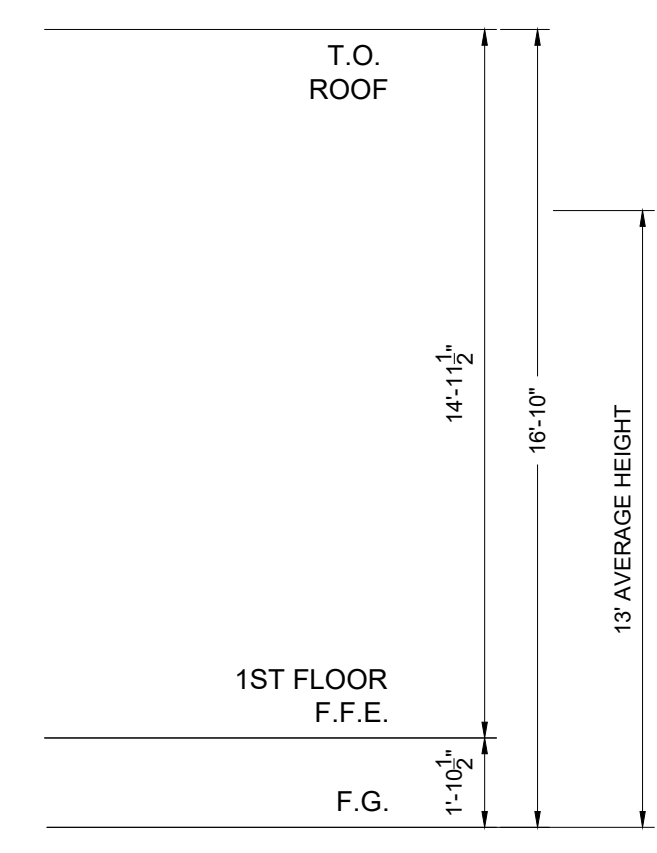
EXISTING AND PROPOSED FLOOR PLAN

Date: 02/27/2023
Issue: Planning Permit Submittal
Drawn by: Fabiana Isaac

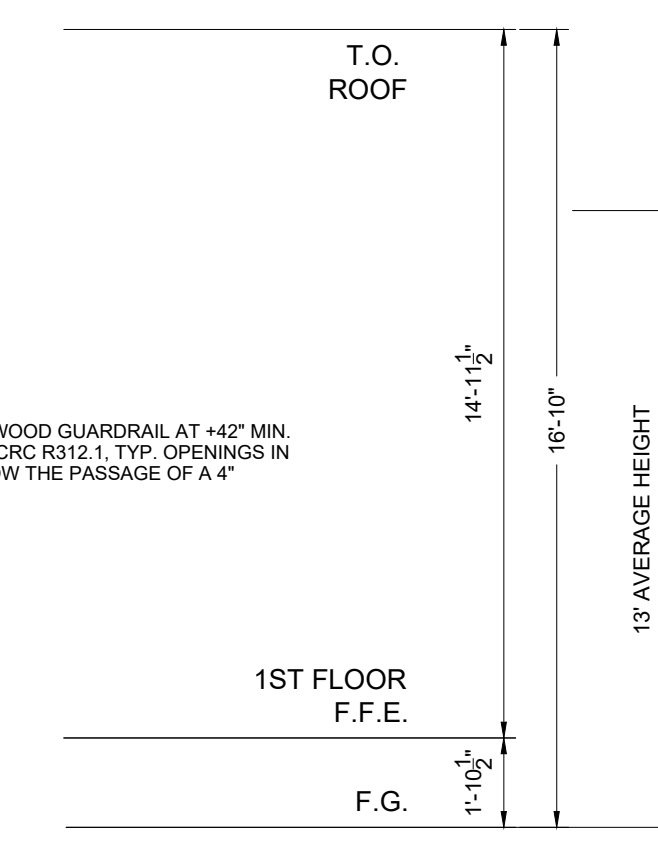
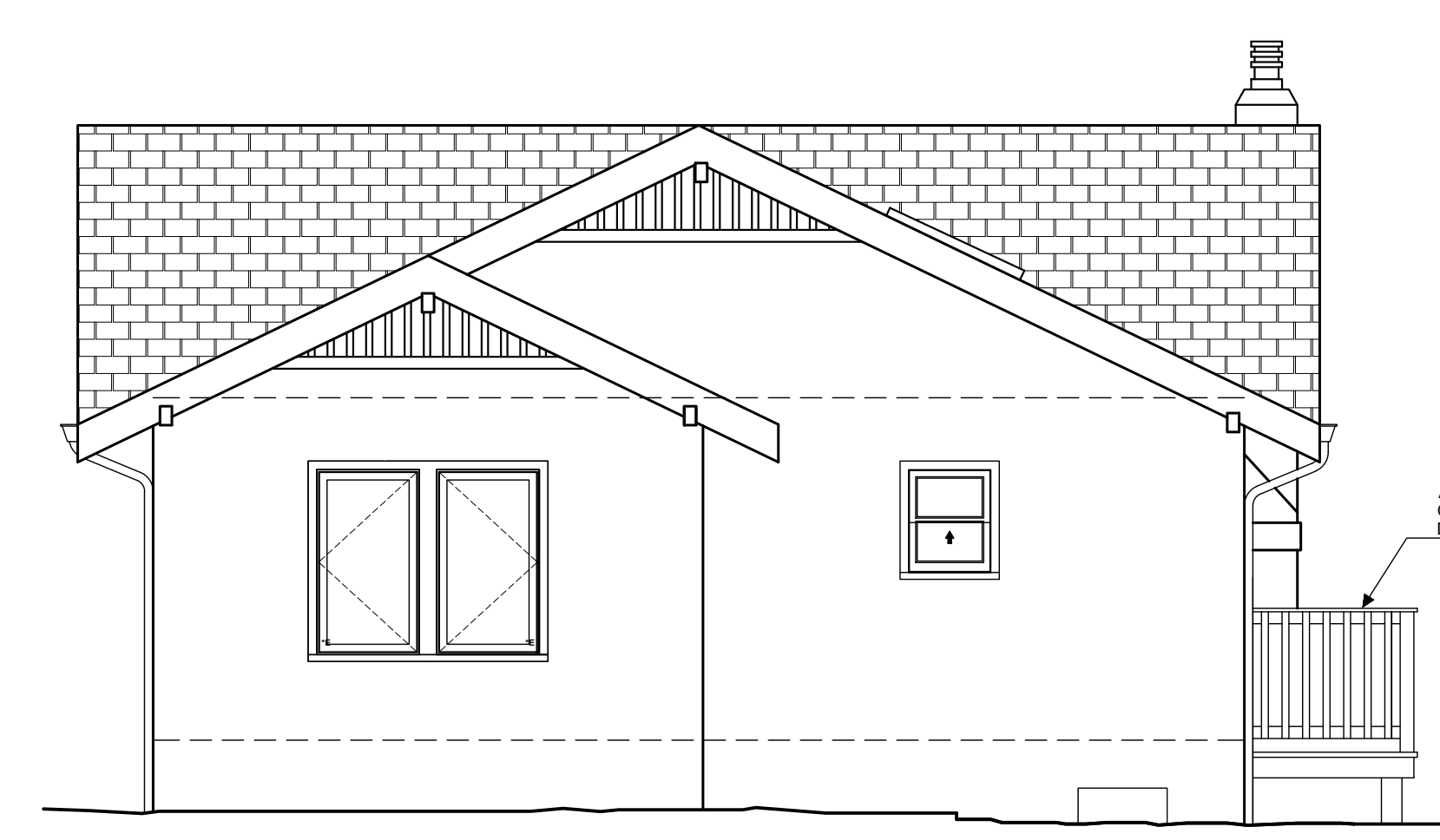
Issue	Date

Sheet
A 2.2

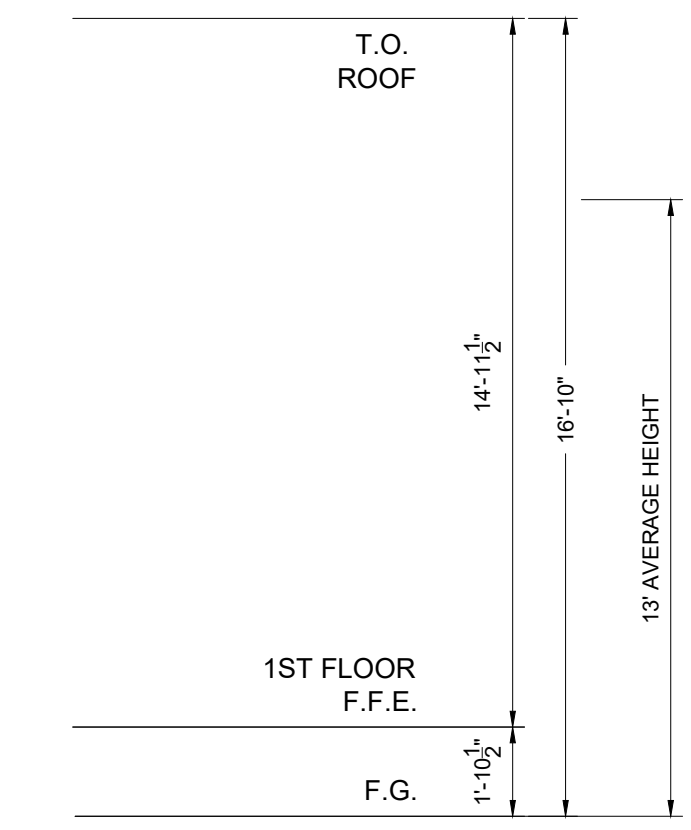
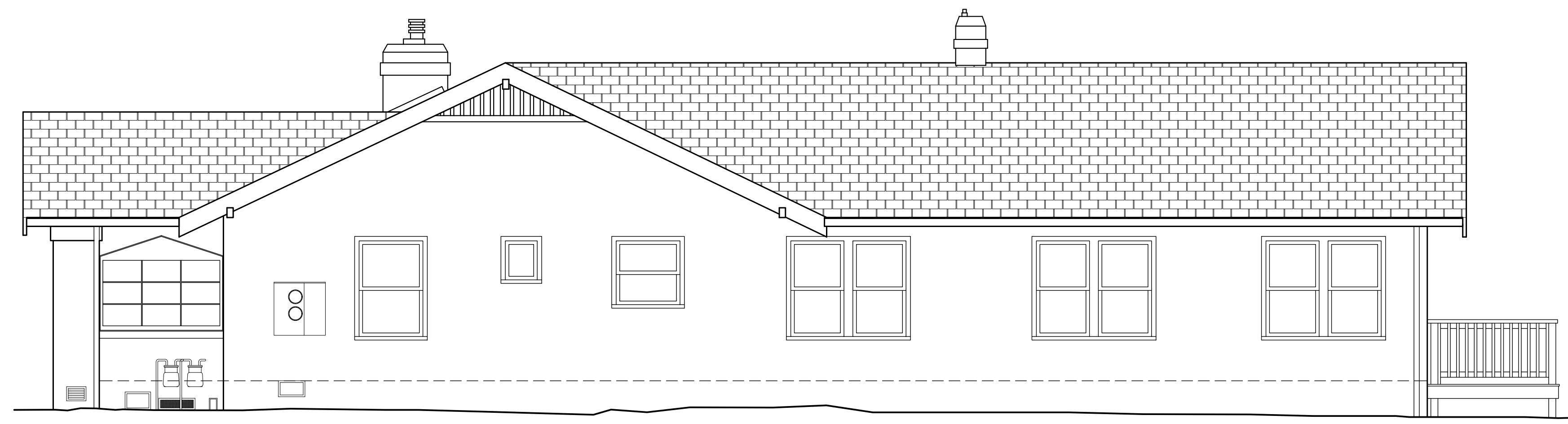
These drawings are instruments of service and the property of Fabiana Isaac Design Studio. All designs and other information on the drawings are for use on the specific project and shall not be used otherwise without express written permission of Fabiana Isaac Design Studio.



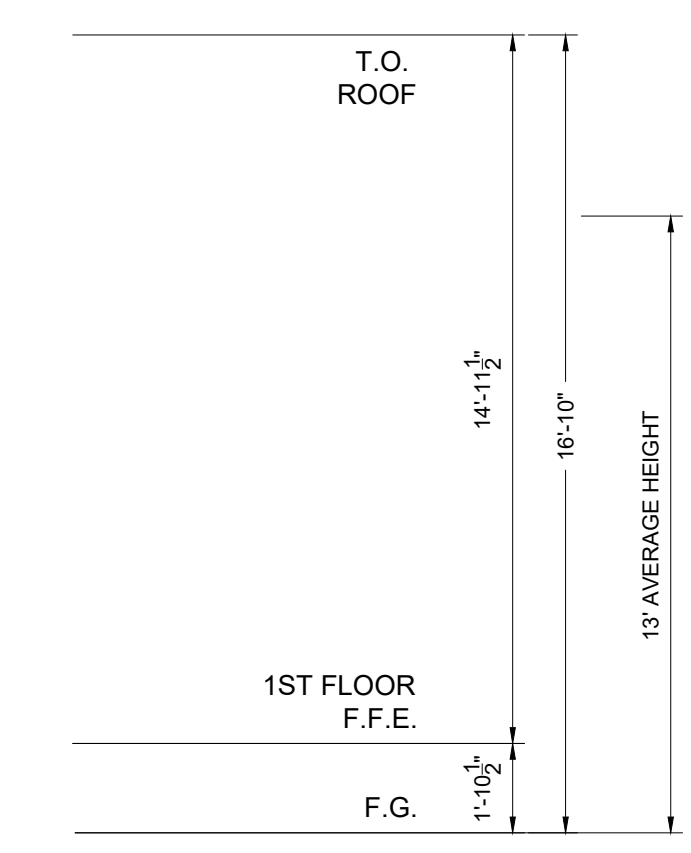
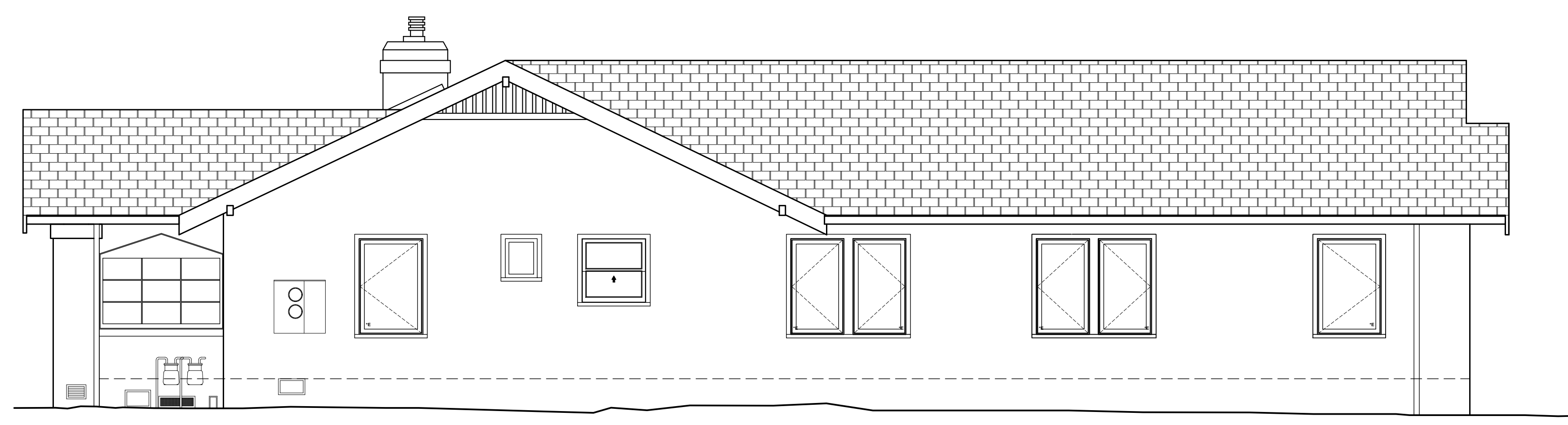
1 (E) WEST ELEVATION
Scale: 1/4" = 1'-0"



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



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



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

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EXISTING AND PROPOSED ELEVATIONS

Date: 02/27/2023

Issue: Planning Permit Submittal

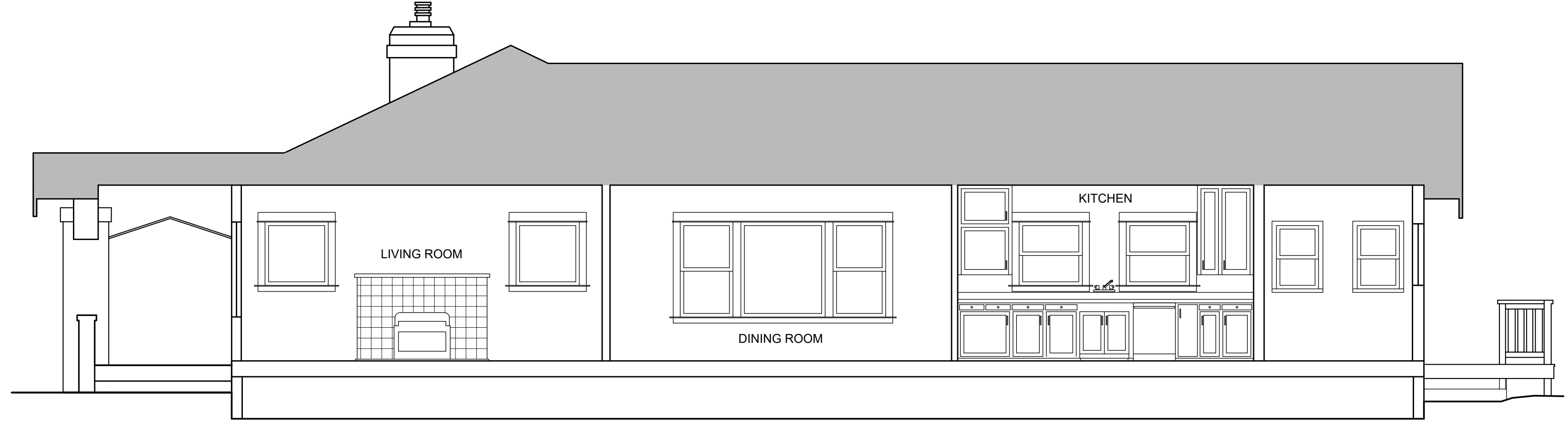
Drawn by: Fabiana Isaac

Issue	Date

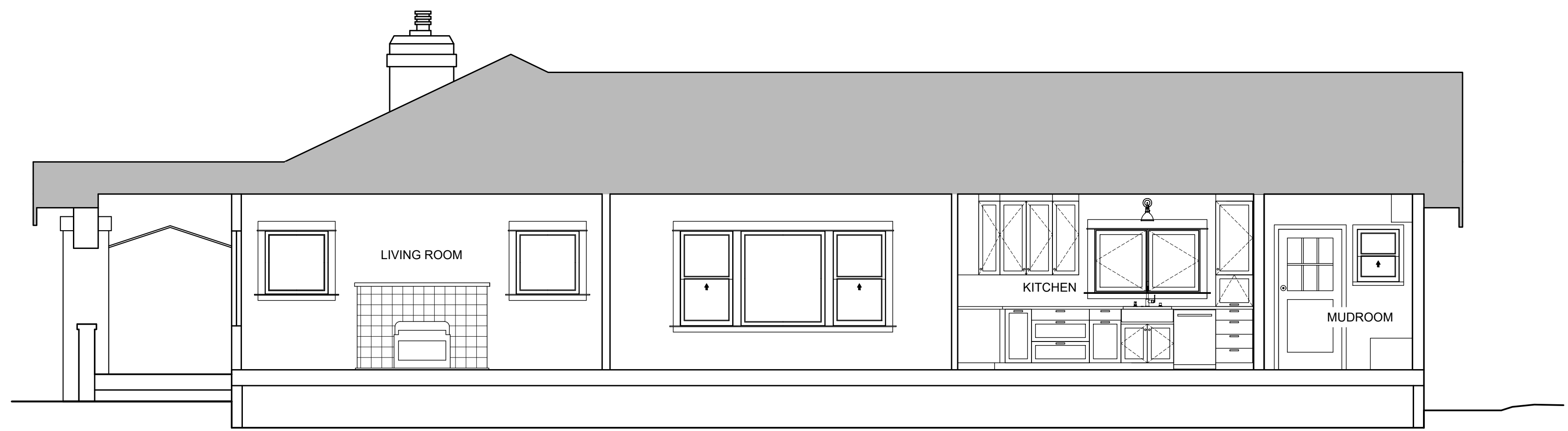
Sheet

A 3.1

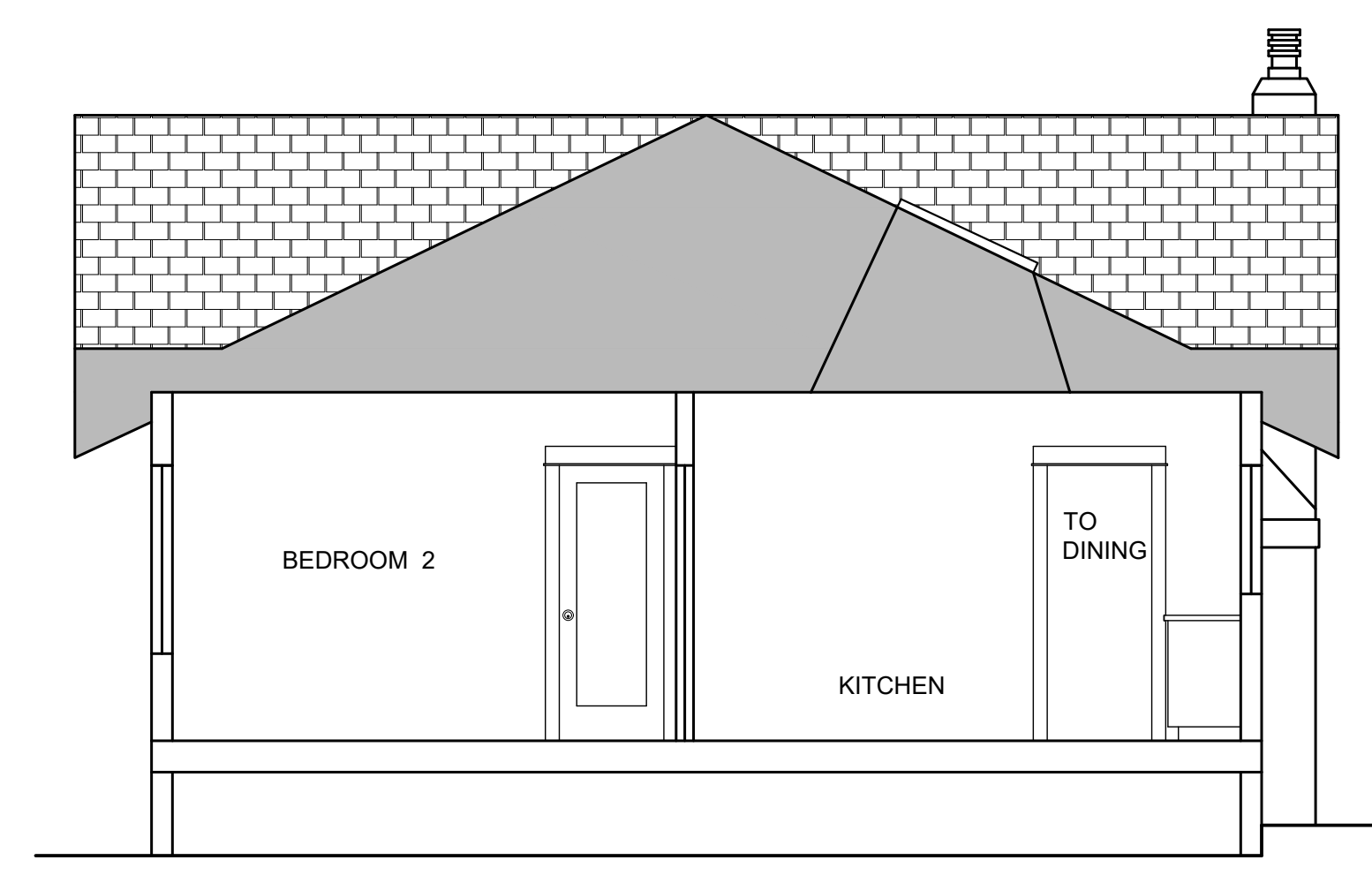
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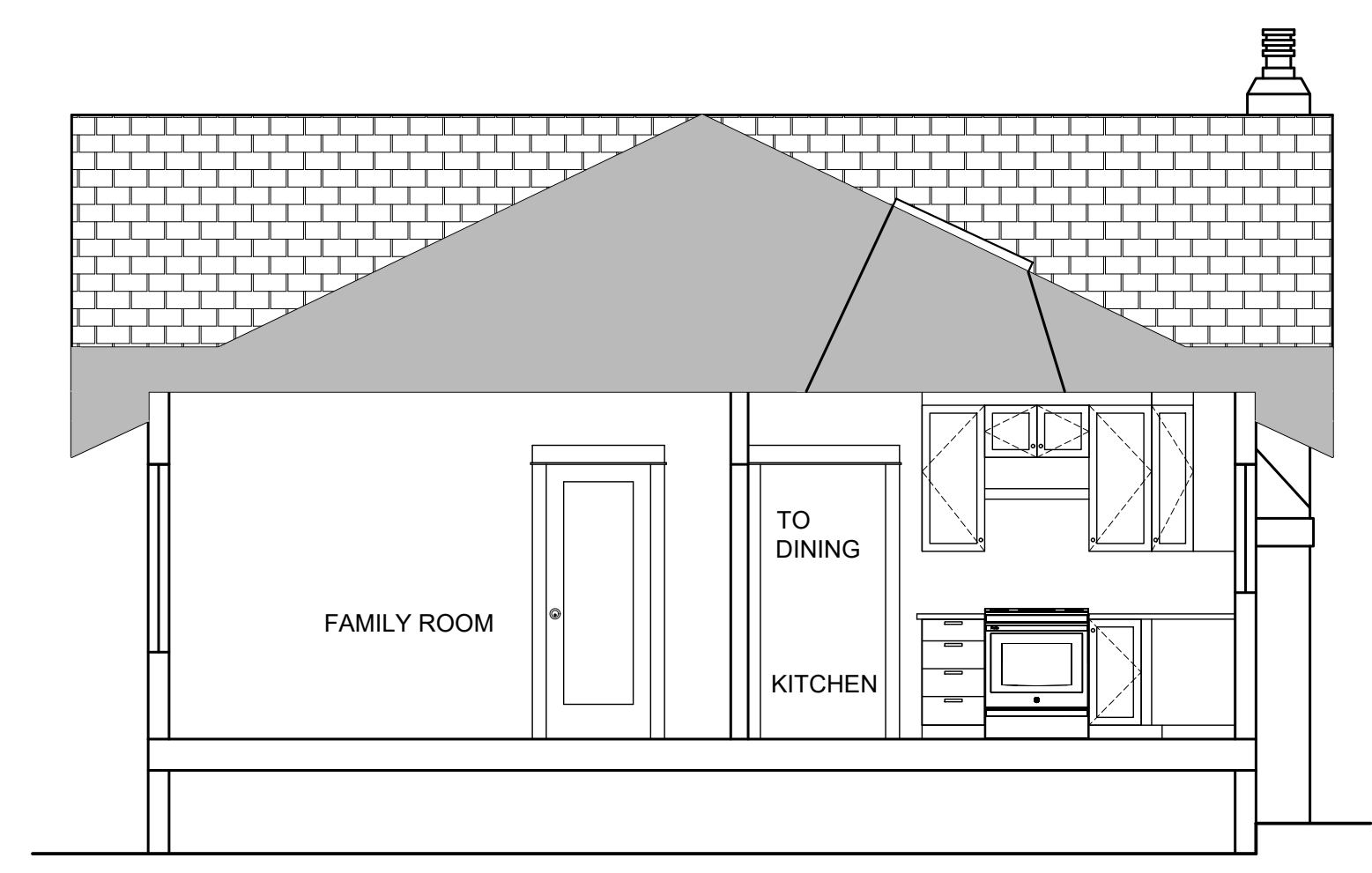
1 (E) SECTION 1
Scale: 1/4" = 1'-0"



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



3 (E) SECTION 2
Scale: 1/4" = 1'-0"



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

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EXISTING AND
PROPOSED
SECTIONS

Date: 02/27/2023

Issue: Planning
Permit Submittal

Drawn by: Fabiana Isaac

Issue	Date

Sheet

A 4.0



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

2424 Jefferson Avenue

Use Permit #ZP2023-0082 to demolish a portion of a rear deck and construct a 26-square-foot addition to an existing single-family dwelling on a lot that exceeds lot coverage standards.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance, Section [23.404.050 \(Public Hearings and Decisions\)](#)

When: Thursday, September 28, 7:00 pm

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

Please visit: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board> and click on the hearing date to access the most up-to-date meeting information, or call the Land Use Planning division (510) 981-7410.

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: General Plan: Low Medium Density Residential
- Zoning: Restricted Two-Family Residential District (R-2)

B. Zoning Permits Required:

- Use Permit for an addition to a structure that exceeds the maximum allowed lot coverage, under Berkeley Municipal Code (BMC) Section 23.324.050(D)(3)

C. CEQA Recommendation: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).

D. Parties Involved:

- Applicant/Owner Crystal Williams and Brian MacDonald 2424 Jefferson Avenue, Berkeley, CA

Further Information:

All application materials are available online at:
<https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx>.

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

Questions about the project should be directed to the project planner, Cecelia Mariscal, at (510) 981-7439 or cmariscal@berkeleyca.gov.

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

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@berkeleyca.gov. 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@berkeleyca.gov) 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 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 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 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.
-