



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
JANUARY 11, 2024

2110 McKinley Avenue

Use Permit # ZP2023-0146 to raise the single-family dwelling by 3 feet (total 23 feet) on a lot that exceeds the maximum allowed lot coverage.

I. Background

A. Land Use Designations:

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

B. Zoning Permits Required:

- **Use Permit**, pursuant to Berkeley Municipal Code (BMC) Section 23.324.050(D)(3), to permit the addition to and/or enlargement of a structure or building on a lot that exceeds the maximum allowed lot coverage.
- **Administrative Use Permit**, pursuant to BMC Section 23.202.080, to permit a residential addition over 14 feet in average height.
- **Administrative Use Permit**, pursuant to BMC Section 23.202.110(E)(2), to permit the alteration of the portion of a building (including windows and other openings) projecting into a minimum required setback.

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.

ZONING ADJUSTMENTS BOARD

2110 MCKINLEY AVENUE

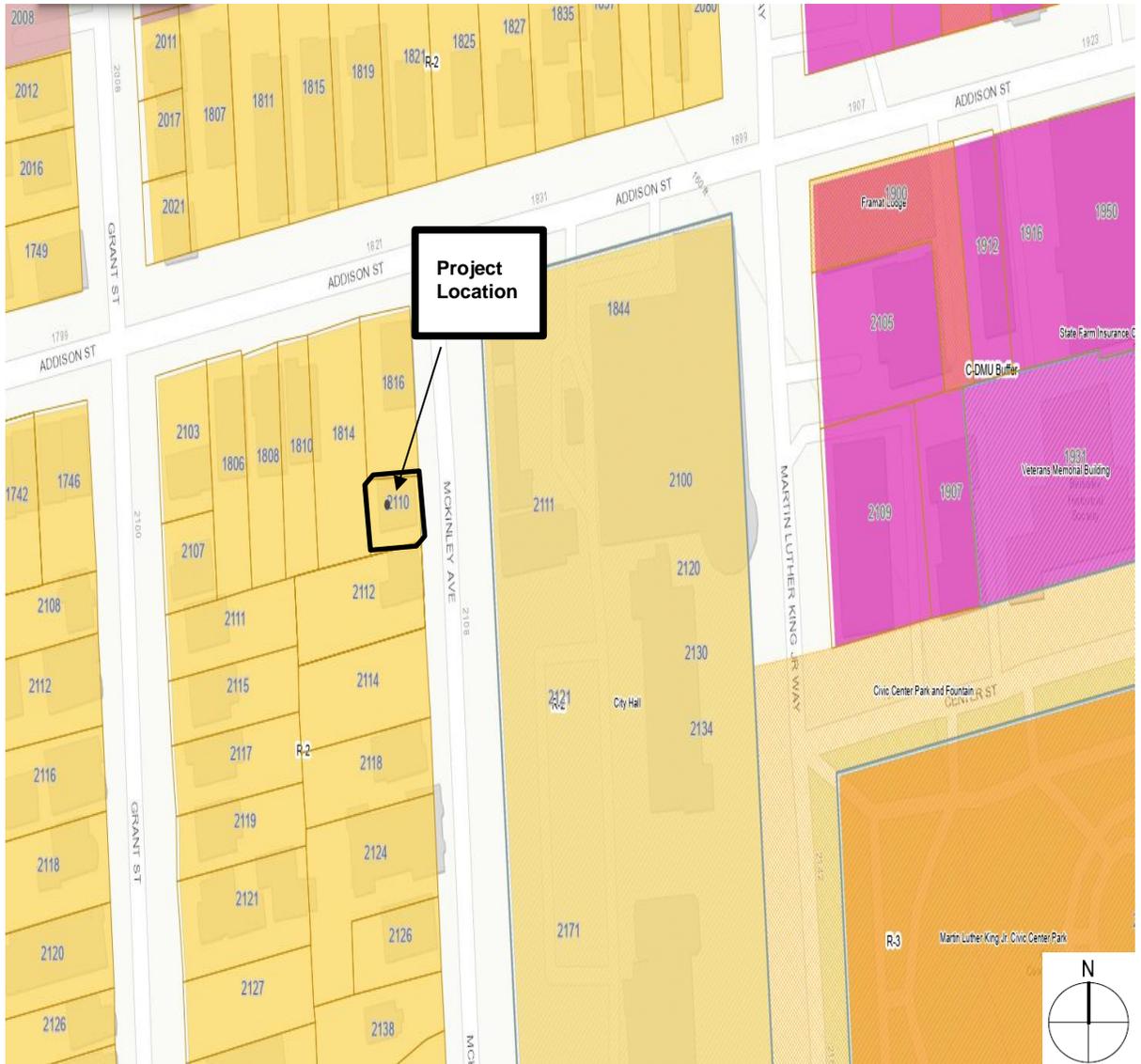
January 11, 2024

Page 2 of 13

D. Parties Involved:

- Applicant: Megan Sveiven., 326 Henry Street., Oakland, CA 94607
- Property Owner: Gustavo De Leon, 2110 McKinley Avenue., Berkeley, CA 94703

Figure 1: Vicinity Map



Legend

- R-2: Restricted Two-Family Residential District
- R-3: Multiple-Family Residential District
- C-DMU: Downtown Mixed-Use District Buffer

Figure 2: Site Plan

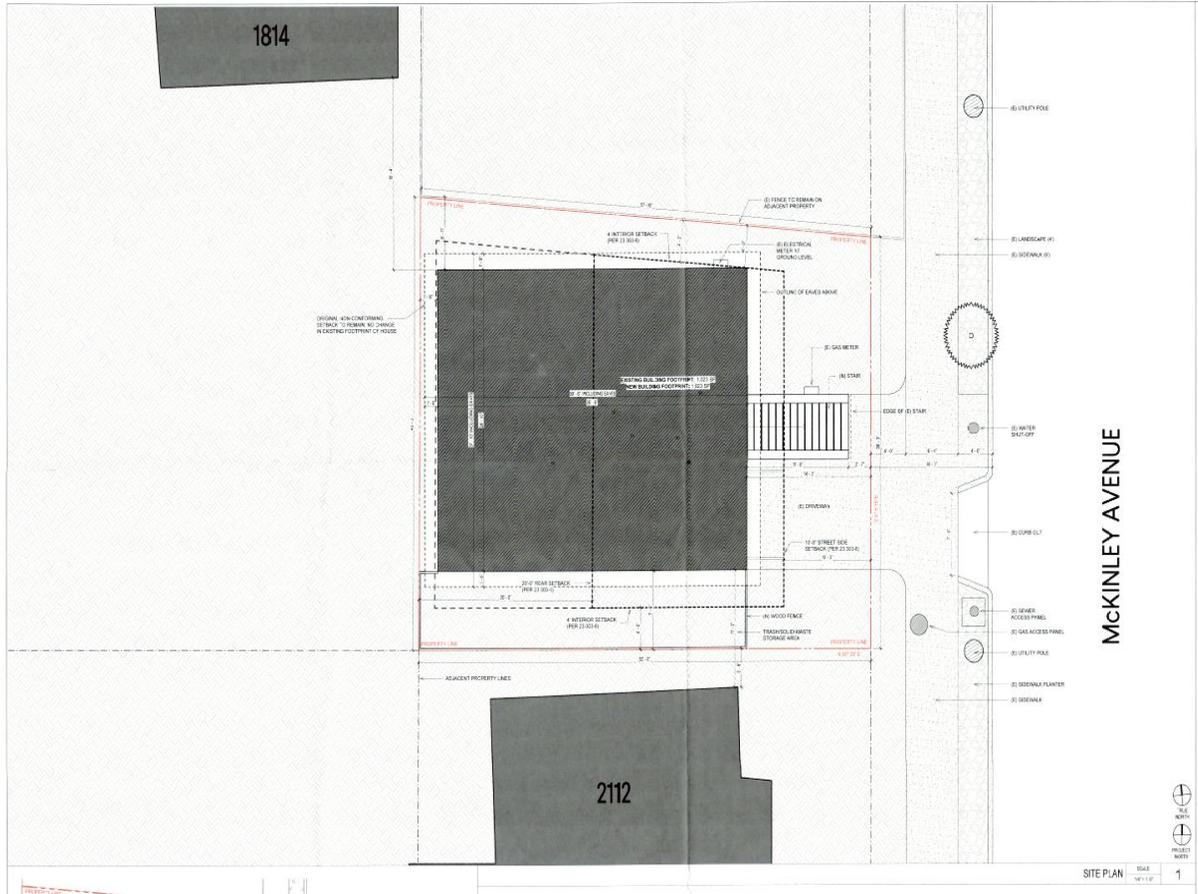
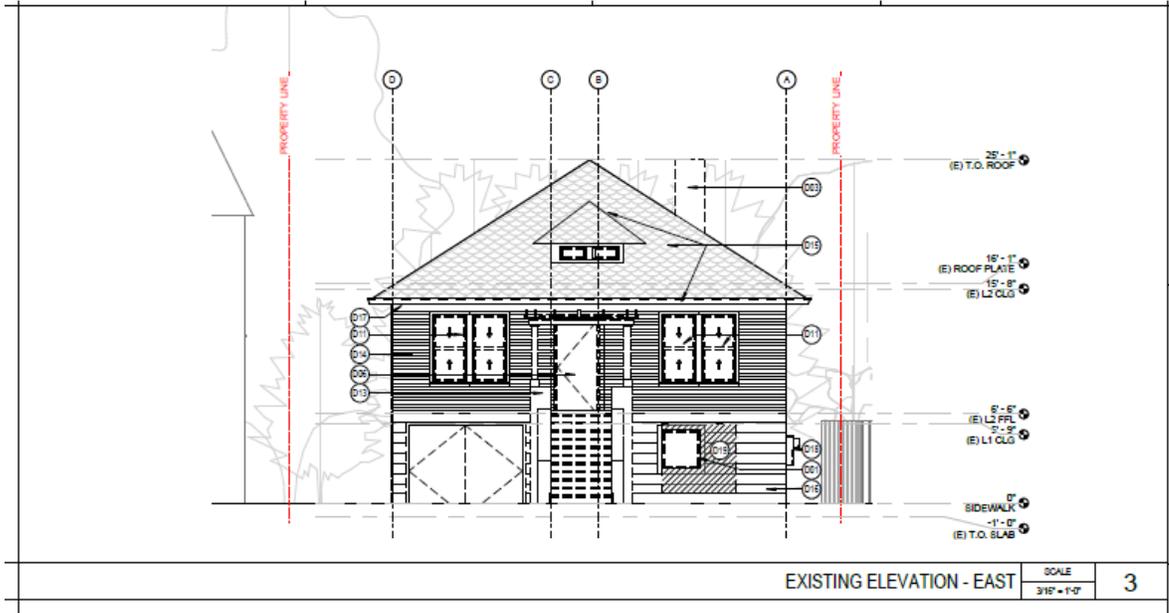
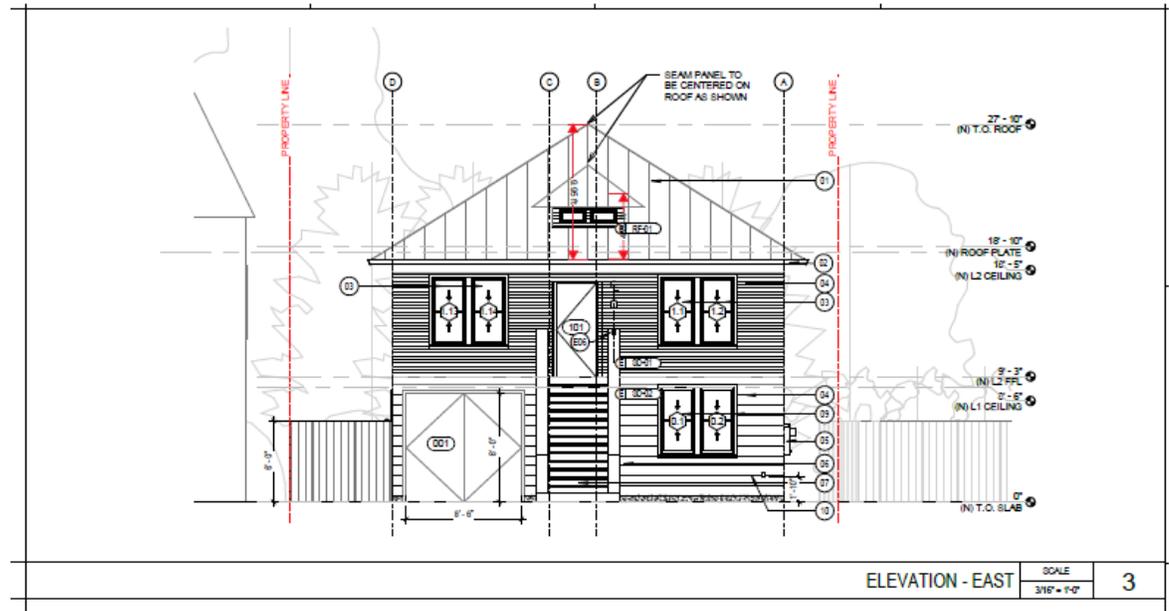


Figure 3: Elevations



1-Existing Front Elevation



2- Proposed Front Elevation

Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Single-Family Dwelling	R-2 (Restricted Two-Family Residential District)	Low Medium Density Residential
Surrounding Properties	North	Multi-Family Dwelling		Low Medium Density Residential
	South	Multi-Family Dwelling		Low Medium Density Residential
	East	Intuitiional/ Government		Institutional
	West	Single-Family Dwelling		Low Medium Density Residential

Table 2: Special Characteristics

Characteristic	Applicability	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.) Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	These fees apply to projects with over 7,500 square feet of net new non-residential floor area. The project involves only new residential floor area, and thus these requirements do not apply.
Affordable / Inclusionary Housing Requirements (BMC Chapter 23.328)	No	The project involves a residential unit existing as of April 1, 2023 that is being expanded, renovated, or rehabilitated, and is exempt from the provisions of BMC 23.328.
Coast Live Oak Trees (BMC Chapter 6.52)	No	There are no Coast Live Oak (<i>Quercus agrifolia</i>) trees on the project site.
Creeks	No	No creek or culvert, as defined by BMC Chapter 17.08, exists on or within 30 feet of the site.
Density Bonus	No	The project is not requesting a Density Bonus.
Historic Resources	No	The existing building is more than 40 years old, and a Historic Resource Evaluation (HRE) was provided by the applicant for staff review, and it was determined that that the building does not meet criteria for historic designation. The design intends to honor the existing exterior character and style by maintaining the rustic siding (patching and repairing as required), and replacing the wood sash windows along McKinley in-kind. The footprint of the house and form of the roof and dormer will also remain unchanged.
Housing Accountability Act (HAA) (Gov't Code Section 65589.5(j))	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

ZONING ADJUSTMENTS BOARD

2110 MCKINLEY AVENUE

January 11, 2024

Page 7 of 13

Characteristic	Applicability	Explanation
		Section 65589.5(h)(2) ¹ , and the Housing Accountability Act does not apply to the project.
Housing Crisis Act of 2019 (SB 330)	No	The project is a minor addition to a single-family dwelling and does not include any new dwelling units, therefore, it is not a "housing development project," and SB 330 does not apply.
Natural Gas Prohibition (BMC Chapter 12.80)	No	This project would not result in the construction of a new building and is therefore not subject to the natural gas prohibition.
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)	Yes	The site is located in the RPP zone area C. The project address has a residential eligibility for RPP permits because it is not a new dwelling unit.
Seismic Hazards (SHMA)	No	The project site is not located in an area susceptible to liquefaction, landslide, or fault rupture as defined by the State Seismic Hazards Mapping Act (SHMA). ²
Soil/Groundwater Contamination	No	The project site is not located within the City's Environmental Management Area and is not on the Cortese List. Standard Conditions of Approval related to hazardous materials would apply.
Transit	Yes	The project area is served by the Downtown Berkeley Bart Station and AC Transit line 12. The Downtown Berkeley Bart Station is approximately 0.5 miles to the east near the intersection of Center Street and Shattuck Avenue. In addition to an existing bus stop approximately 0.3 miles to the north near the intersection of Addison Street and McKinley Avenue.

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.

² California Department of Conservation. DOC Maps: Geologic Hazards. Available: <https://maps.conservation.ca.gov/geologic Hazards/>

Table 3: Project Chronology

Date	Action
October 30, 2023	Application submitted
November 16, 2023	Application deemed complete
December 21, 2023	Public hearing notices mailed/posted
January 11, 2024	ZAB hearing

Table 4: Development Standards BMC Sections 23.202.090

Standard		Existing	Proposed Total	Permitted/ Required
Lot Area (sq. ft.)		2,132	2,132	5,000 min
Gross Floor Area (sq. ft.)		1,846	1,800	N/A
Dwelling Units	Total	1	1	2 max
Building Height (ft. - in.)	Average	20'-0"	22'-9"	14' max (28' with an AUP; 35' with an additional AUP)
	Stories	2	2	
Building Setbacks (ft. - in.)	Front (McKinley Avenue)	14'-3"	14'3"	20' min
	Rear	1'-10"	1'-10"	20' min
	Left Side	7'-6"	7'-6"	4' min
	Right Side	4'	4'	4' min
Lot Coverage (%)		49.4 %	47.9 %	40 max
Usable Open Space (sq. ft.)		612	612	400 min
Parking	Automobile	1	1	N/A
	Bicycle	0	0	N/A

II. Project Setting

A. Neighborhood/Area Description:

The project site is located in central Berkeley, southwest of the intersection of Addison Street and McKinley Avenue. The area is characterized as residential and predominantly comprised of one to three-story single and multi-family dwellings, in addition to Institutional and Government offices.

B. Site Conditions:

The 2,132 square feet square shaped project site is generally flat and oriented in an east to west direction. The property is developed with one single-family dwelling unit. A driveway and stairway located along the eastern property line provides access to the garage and main dwelling respectively.

III. Project Description

- A. Proposed Project Details:** The proposed project would occur on the basement level of the 1,864 square-foot single-family dwelling and will convert the basement to living space, requiring the house to be lifted a maximum of 2 feet – 9 inches (up to 22'-9") to accommodate a building code compliant ceiling height. The project will also reconfigure the interior space of the basement level, resulting in an additional bathroom, powder room, laundry, and two new bedrooms. The vertical addition will not further encroach into the in the nonconforming front and rear setbacks, and will reduce the lot coverage from 49.4 percent to 47.9 percent by removing the front covered balcony during the re-design of the front stair.

IV. Community Discussion

A. Neighbor/Community Concerns:

Prior to submitting this application to the city, 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 December 21, 2023, the City mailed public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations. The City also posted notices within the neighborhood at nearby three locations. At the time of writing this report, staff has not received any communications regarding the project.

B. Landmark Preservation Commission / Design Review Committee Review:

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

V. Issues and Analysis

A. CEQA Approach and Recommendation

It is staff's recommendation that the project qualifies for a Class 1 Categorical Exemption pursuant to CEQA Guidelines Section 15301 ("Existing Facilities"). The project complies with this exemption as this project consists of maintenance and minor alteration of an existing private structure, involving no expansion of the existing residential use. In addition, none of the exceptions to eligibility for a categorical exemption as listed under CEQA Guidelines Section 15300.2, apply to the project:

- The project is currently characterized as developed by the California Natural Diversity Database;³ therefore, it is not located in an environmentally sensitive area;
- The cumulative impact of successive projects of the same type in the same place, over time would not be significant;
- There are no "unusual circumstances" at the project site that would result in significant environmental effects;
- There are no eligible or designated scenic highways within the City of Berkeley;⁴ therefore, the project site is not in view of a state scenic highway;
- The site is not included on a list compiled pursuant to Government Code Section 65962.5;⁵ and
- The project would not result in a substantial adverse change in the significance of a historical resource.

The CEQA determination is made by ZAB, as the decision-making body.

B. General Non-Detriment Finding:

Pursuant to BMC Section 23.406.040(E), 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 vertically by approximately 2 feet – 9 inches and would not significantly exceed the height of the existing structure. As a result, staff believes these shading impacts would not be detrimental. (Shadow studies are provided on Sheet A09 of the plan set.)

Air: Staff believes the proposed project would be consistent with the existing development and building-to-building separation pattern – or air – in this R-2 District

³ California Department of Fish and Wildlife. California Natural Diversity Database. Available: <https://apps.wildlife.ca.gov/bios6/?tool=cnddbqv>

⁴ California Department of Transportation. California Scenic Highway Program's Scenic Highway System List. Available: <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>

⁵ California Environmental Protection Agency. Cortese List Data Resources. Available: <https://calepa.ca.gov/sitecleanup/corteselist/>

neighborhood. The building would meet the side setback requirements, and would not further reduce the existing setback encroachment in the front and rear setback. In addition, the nonconforming lot coverage is improved and decreased from 49.4 percent to 47.9 percent (maximum allowable 40 percent), and the project exceeds the useable open space requirements.

Views: The proposed project would not result in obstruction of significant views in the neighborhood as defined in BMC Section 23.502 (Glossary) because there are limited significant views available to residences in the area. The area is generally flat, developed with one- to two-story buildings, and includes some mature vegetation which provides visual screening and would not be impacted by the addition's vertical or horizontal off-site view angles.

C. 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 residential lot coverage are permitted with a Use Permit provided that the existing use of the property is conforming, the addition/enlargement complies with all applicable laws, and the addition/enlargement does not exacerbate the nonconformity or exceed the height limit.

As described in the Site Conditions (Section II.B), the existing residence will be lifted by 2 feet – 9 inches to allow for a conversion of the basement to living space and be within the 28-foot average foot height allowance. The proposed addition will decrease the existing lot coverage from 49.4 to 47.9 percent (with removal of the front covered balcony during redesign of front stair) where the maximum of 40 percent is allowed and will maintain the current residential density, thereby not exacerbating this condition.

D. Addition to Structure on Parcel with Nonconforming Setbacks

Further, the project would not further exceed height and setbacks as required by BMC Section 23.202.080. The proposed project will only vertically raise the existing single-family dwelling by 2 feet – 9 inches and will not further encroach into the required front and interior side setbacks, as well as the nonconforming front and rear setbacks.

VI. Other Considerations (Land Use Considerations)

A. District Purpose:

The purpose of the Restricted Two-Family Residential (R-2) district is to:

1. Implement the General Plan by encouraging the development of low medium-density residential areas characterized by a reasonably open and spacious type of development with a pattern of housing types ranging from single-family to duplexes and small apartment structures;

2. Make available housing for persons who desire a range of housing choice with a relatively large amount of open space; and
3. Protect adjacent properties from unreasonable obstruction of light and air.

Staff Analysis: The proposed project will revitalize the currently dilapidated and uninhabitable residence, will provide a refreshed low-density residential choice, while creating safer and healthier conditions in the neighborhood. In addition, lifting the house 2 feet – 9 inches will continue to protect adjacent properties from unreasonable obstruction of sunlight and air, and the final height of the residence will remain relatively shorter than adjacent and abutting properties.

B. General Plan Consistency:

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

1. **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.
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 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.

Staff Analysis: The proposed project massing, proportions, design, and use of the residential building would be harmonious with the scale and design characteristics of the neighborhood. Due to the proposed project's existing conditions; and consistency with the R-2 development standards, and the Use Permit and Administrative Use Permit standards, the project would be compatible with surrounding uses and with the built environment in the area.

4. **Policy UD-32 Shadows:** New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

Staff Analysis: As discussed in *Section V.B* of this report, the residential addition will only expand the building envelope vertically by 2 feet – 9 inches and would not significantly exceed the height of the existing structure. As a result, staff believes these shading impacts would not be detrimental. (Shadow studies are provided on Sheet A09 of the plan set.)

VII. 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:

1. **FIND** that the project is categorically exempt from the provisions of the CEQA pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"); and
2. **APPROVE** Use Permit # ZP2023-0146 pursuant to BMC 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 November 1, 2023
3. Notice of Public Hearing, December 21, 2023

Staff Planner: Waqar Shah – Associate Planner, Wshah@berkeleyca.gov,
(510) 981-7469

ATTACHMENT 1

FINDINGS AND CONDITIONS

JANUARY 11, 2024

2110 McKinley Avenue

Use Permit #ZP2021-0146 to raise the single-family dwelling by 3 feet (total 23 feet) on a lot that exceeds the maximum allowed lot coverage.

PERMITS REQUIRED

- Use Permit, pursuant to BMC Section 23.324.050(D)(3), to permit the addition to and/or enlargement of a structure or building on a lot that exceeds the maximum allowed lot coverage.
- Administrative Use Permit, pursuant to BMC Section 23.202.080, to permit a residential addition over 14 feet in average height.
- Administrative Use Permit, pursuant to BMC Section 23.202.110(E)(2), to permit the alteration of the portion of a building (including windows and other openings) projecting into a minimum required setback.

I. CEQA FINDINGS

- A.** 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”).
- B.** 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

- A.** 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:
1. The project will raise the single-family by 3 feet to convert the basement to habitable area with two bedrooms, one bathroom, and laundry facility;
 2. The project is consistent with all R-2 objective development standards;
 3. Because impacts to neighboring residences due to lifting the existing residence will be limited to certain time of a year and during certain hours of a day, shading impacts will not be detrimental;
 4. The proposal will be consistent with the existing development and building-to-building separation pattern;

5. The proposed project will not result in additional obstruction of significant views (BMC Section 23.502.020 (Defined Terms)) in the neighborhood because there are limited significant views available to residences in this area; and
6. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental.

III. OTHER FINDINGS FOR APPROVAL

- IV. Pursuant to BMC Section 23.324.050(D)(3), the residential addition on a lot that is non-conforming by reason of violation of the maximum allowable lot coverage is permissible because the residential use is conforming and the proposal will reduce the lot coverage and bring the lot closer to conformity, and will not exceed the height limit.
 - V. Pursuant to BMC Section 23.324.050(D)(2), the addition and alterations within the front and rear nonconforming setback is permissible because the residential use is conforming and the addition will not further encroach into the existing non-conforming setbacks and will not exceed the district height limit.
-

VI. 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.

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 re-establish 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 comply 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. Hold Harmless. The permittee agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the permittee, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The permittee's duty to defend the City shall not apply in those instances when the permittee has asserted the Claims, although the permittee shall still have a duty to indemnify, protect and hold harmless the City.

VII. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23.404.050(H), 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 percent diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65 percent 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: https://berkeleyca.gov/city-services/community-gis-portal?config=config_Environment.json
- 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 <https://berkeleyca.gov/doing-business/operating-berkeley/hazardous-materials-business-plan>

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 plans, which comply with the Alameda County Organics Reduction and Recycling Ordinance (2021-02). Contact the Zero Waste Division's Recycling Program Manager, Julia A. Heath, at jheath@berkeleyca.gov.
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.

Prior to Demolition or Start of Construction:

16. Construction/No Parking Permits. 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.

During Construction:

17. 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.
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 [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 percent. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff. (Project required to meet applicable code at time of building permit application, if different from above.)
20. 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.
21. 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. All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.
- J. 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.

- K. 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.
22. Public Works. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
23. 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.
24. Public Works. The applicant shall ensure that all excavation accounts for surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
25. 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.
26. 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.
27. 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.
28. Public Works / Building and Safety. 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.
29. 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.
- 30. 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.
- 31. 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.

Prior to Final Inspection or Issuance of Occupancy Permit:

- 32. 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.
- 33.** All landscape, site and architectural improvements shall be completed per the attached approved drawings dated November 1, 2023,

At All Times:

34. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit.
35. 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.
36. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
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.

2110 MCKINLEY AVENUE, BERKELEY, CA 94703

SCOPE OF WORK

THIS PROJECT IS A RENOVATION OF AN EXISTING HOUSE, ORIGINALLY BUILT IN 1901. SCOPE INCLUDES A NEW FOUNDATION, LIFTING OF THE HOUSE TO CONVERT BASEMENT TO LIVING SPACE, NEW ELECTRICAL AND PLUMBING THROUGHOUT, NEW INTERIOR PARTITIONS, ADDITIONAL BEDROOMS AND BATHROOMS. THE EXISTING CHARACTER THE EXTERIOR WILL REMAIN CONSISTENT; EXISTING SIDING TO REMAIN (PATCH/REPAIR AS REQUIRED), NEW WINDOWS TO REPLACE (E), NEW CODE COMPLIANT STAIRS.

REQUIRED SPECIAL INSPECTIONS

TO BE CONFIRMED PRIOR TO BUILDING PERMIT SUBMISSION

SHEET INDEX

SHEET NUMBER	SHEET DESCRIPTION	10/30/23 USE PERMIT
A00	COVER SHEET	X
A01	COMPLIANCE CERTIFICATES	
A02	CALGREEN CHECKLIST & WASTE MANAGEMENT	
A05	SITE PHOTOS	X
A07	SITE PLAN	X
A08	LANDSCAPE AND USABLE OPEN SPACE PLAN	X
A09	SHADOW STUDIES	X
A10	DEMOLITION PLANS	X
A11	CONSTRUCTION PLANS	X
A12	POWER PLANS	
A13	FINISH PLANS	
A14	REFLECTED CEILING PLANS	
A15	ATTIC PLANS	X
A16	ROOF PLAN	
A20	ENLARGED PLANS & ELEVATIONS	
A21	ENLARGED PLANS & ELEVATIONS	
A22	(E) EXTERIOR ELEVATIONS	X
A23	(N) EXTERIOR ELEVATIONS	X
A25	INTERIOR ELEVATIONS	
A26	ARCHITECTURE BUILDING SECTIONS	X
A30	WALL TYPES	
A31	ARCHITECTURAL DETAILS	
A40	SCHEDULES	

CODE/PROJECT INFORMATION

JURISDICTION: CITY OF BERKELEY
NAME & ADDRESS: 2110 MCKINLEY AVENUE, BERKELEY, CA 94703
PARCEL ID / APN: 057-2015-007
ZONING DISTRICT: R-2

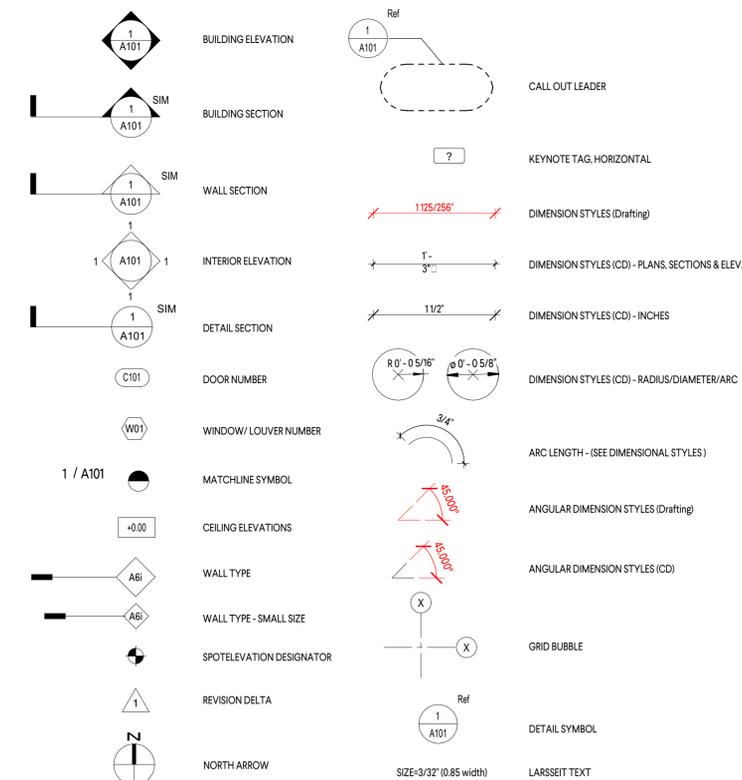
BUILDING CODES: CALIFORNIA BUILDING CODE, 2022 EDITION
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 CALIFORNIA ELECTRICAL CODE, 2022 EDITION
 CALIFORNIA MECHANICAL CODE, 2022 EDITION
 CALIFORNIA PLUMBING CODE, 2022 EDITION
 CALIFORNIA ENERGY CODE, 2022 EDITION
 CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGreen), 2002
 CALIFORNIA FIRE CODE, 2022 EDITION
 2010 ADA STANDARDS

AREA OF WORK
OCCUPANCY GROUP: RESIDENTIAL, SINGLE FAMILY
CONSTRUCTION TYPE: TYPE V
SPRINKLER / FIRE ALARM SYSTEM: NOT REQUIRED

NUMBER OF STORIES: 2
GROSS FLOOR AREA (EXISTING): 1,861 SF (EXCL (E) GARAGE)
GROSS FLOOR AREA (PROPOSED): 1,816 SF (EXCL (N) GARAGE)

LOT SIZE: 2,132 SF
LOT COVERAGE (EXISTING): 1,053 SF (49.4%)
LOT COVERAGE (PROPOSED): 1,023 SF (47.9%)
AVERAGE BUILDING HEIGHT (EXISTING): 20'-0"
AVERAGE BUILDING HEIGHT (PROPOSED): 22'-9"
MAXIMUM BUILDING HEIGHT (EXISTING): 25'-1"
MAXIMUM BUILDING HEIGHT (PROPOSED): 27'-10"

SYMBOL LEGEND



CALGREEN NOTES

- STORM WATER:** GC IS RESPONSIBLE FOR MANAGING STORMWATER DRAINAGE DURING CONSTRUCTION TO PREVENT FLOODING OF ADJACENT PROPERTY, PREVENT EROSION, AND RETAIN SOIL RUNOFF ON THE SITE [CGBSC 4.106.2]
- CONSTRUCTION WASTE MANAGEMENT:** PROVIDE A COMPLETED CITY OF BERKELEY CONSTRUCTION WASTE MANAGEMENT PLAN, FORM #172. USE WASTE FACILITIES THAT CAN PROVIDE VERIFIABLE DOCUMENTATION THAT THE PERCENTAGE OF CONSTRUCTION MATERIAL DIVERTED FROM THE LANDFILL COMPLIES WITH THIS SECTION. [CGBSC 4.408.1 AND BMC 19.37.040]
- FINISH MATERIAL:** ALL ADHESIVES, SEALANTS AND CAULKS USED ON THE PROJECT SHALL COMPLY WITH CALGREEN TABLE 4.504.1 OR 4.504.2 FOR VOC LIMITS. [CGBSC 4.504.2.1]. ARCHITECTURAL PAINTS AND COATINGS SHALL COMPLY WITH VOC LIMITS IN CALGREEN TABLE 4.504.3 [CGBSC 4.504.2.2]
- COMPOSITE WOOD PRODUCTS:** HARDWOOD PLYWOOD PARTICLEBOARD, AND MEDIUM DENSITY FIBERBOARD COMPOSITE WOOD PRODUCTS USED ON THE INTERIOR OR EXTERIOR OF THE BUILDING SHALL MEET THE REQUIREMENTS FOR FORMALDEHYDE AS SHOWN IN CALGREEN TABLE 4.504.5 [CGBSC 4.504.5]
- CAPILLARY BREAK:** CONCRETE SLAB FOUNDATIONS REQUIRED TO HAVE A VAPOR RETARDER SHALL HAVE A CAPILLARY BREAK INSTALLED IN COMPLIANCE WITH CGBSC 4.505.2.1
- MOISTURE CONTENT OF BUILDING MATERIALS:** BUILDING MATERIALS WITH VISIBLE SIGNS OF WATER DAMAGE SHALL NOT BE INSTALLED. WALL AND FLOOR FRAMING SHALL NOT BE ENCLOSED WHEN THE FRAMING MEMBERS EXCEED 19 PERCENT MOISTURE CONTENT. MOISTURE CONTENT SHALL BE VERIFIED IN COMPLIANCE WITH THE FOLLOWING CGBSC 4.505.3
- BATHROOM EXHAUST FANS:** EACH BATHROOM SHALL BE MECHANICALLY VENTILATED AND COMPLY WITH THE FOLLOWING CGBSC 4.506.1

VICINITY MAP



2110 MCKINLEY AVENUE
BERKELEY, CA 94703

Property Owner
Gustavo De Leon
2417 Dunn Rd.
Hayward, CA 94545
415-846-6991

Architectural Designer
Megan Sveiven
326 Henry St.
Oakland, CA 94607
661-575-7304
megvave@gmail.com

M. Sveiven

Structural Engineer
Shane Sveiven, President, RCE 89133
Sveiven Engineering
PO Box 11393
Carson, CA 90749
805-861-9347

ISSUANCE:

01 ZONING - USE PERMIT 10/30/2023

DATE: 10/30/2023

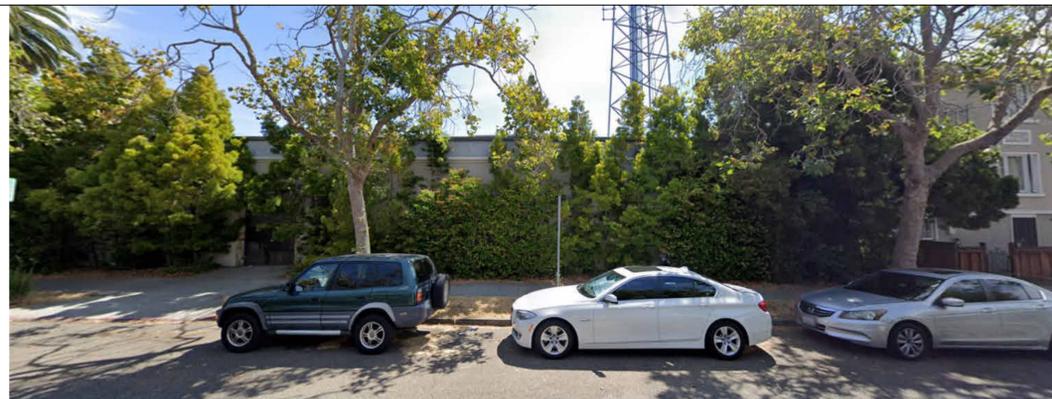
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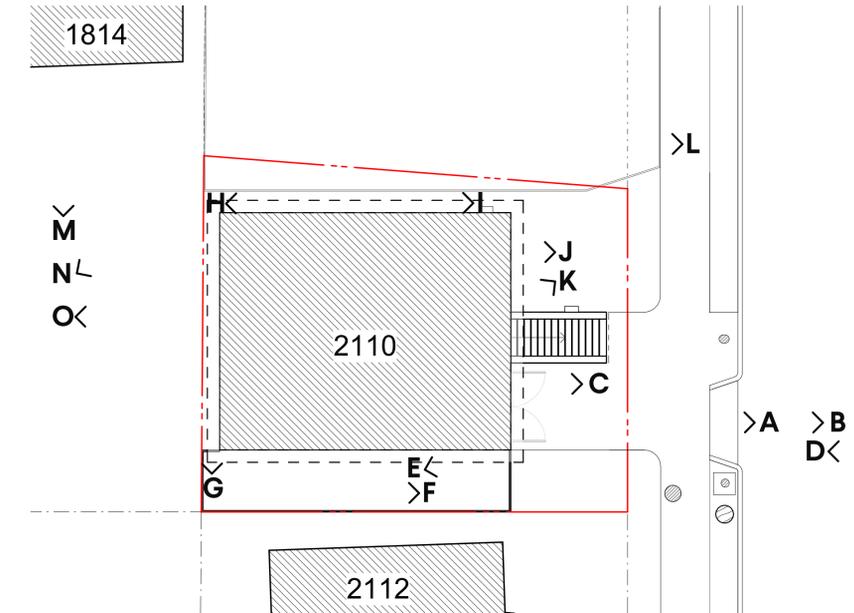
A00



A STREETSIDE ELEV **B** GOOGLE STREET VIEW FROM 2011 WITH ADJ PROPERTIES



C FRONT CLOSE UP **D** GOOGLE STREET VIEW FROM 2023 SHOWING VIEW ACROSS STREET



SITE MAP LEGEND

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 BERKELEY, CA 94703

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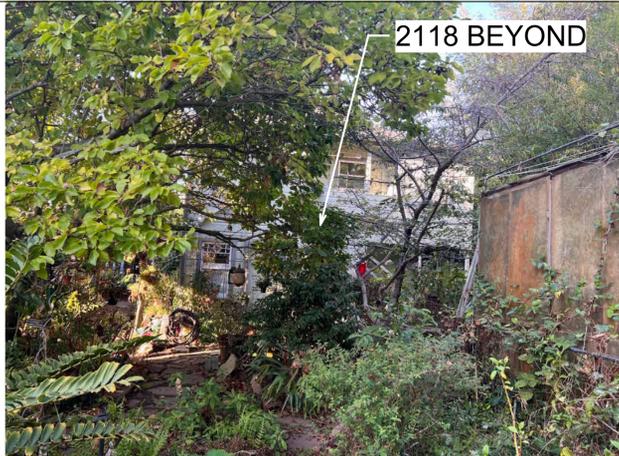
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E SOUTH SIDE **E** SOUTH SIDE **G** WEST SIDE **H** NORTH SIDE **I** NORTH SIDE **J** FRONT CLOSE UP **K** STAIR CLOSE UP



L N NEIGHBORING FENCE **M** 1814 PROPERTY 01 **N** 1814 PROPERTY 02 **O** 1814 PROPERTY 03

ISSUANCE:

01 ZONING - USE PERMIT 10/30/2023

DATE: 10/30/2023

TITLE:

SITE PHOTOS

DRAWING NO.:

A05

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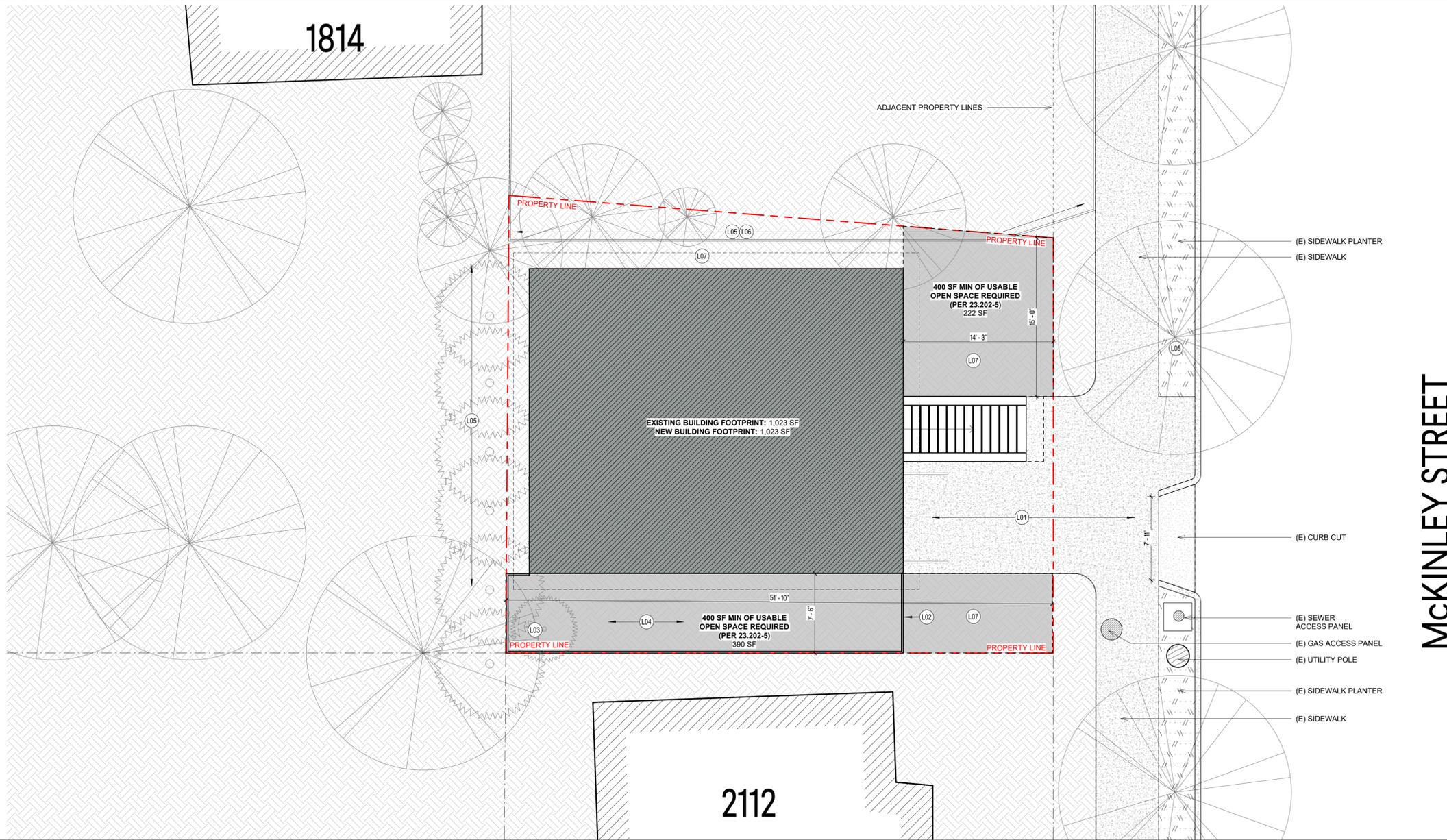
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MCKINLEY STREET



LANDSCAPE PLAN SCALE 3/16" = 1'-0" 1

GENERAL NOTES

KEYNOTE LEGEND

NUMBER	KEYNOTE
L01	(E) CONCRETE DRIVEWAY AND SIDEWALK TO REMAIN
L02	(N) 6'H CEDAR FENCE
L03	(E) FRUIT TREE TO REMAIN
L04	(E) CONCRETE SLAB AT SIDE YARD TO BE REMOVED; GROUND TO REMAIN PERVIOUS FOR FUTURE DROUGHT RESISTANT, NATIVE LANDSCAPING AND GRAVEL TBD
L05	(E) TREES TO REMAIN
L06	(E) 6'H WOOD FENCE ON ADJACENT PROPERTY
L07	NO (E) LANDSCAPING; GROUND TO REMAIN PERVIOUS FOR FUTURE DROUGHT RESISTANT, NATIVE LANDSCAPING AND GRAVEL TBD

ISSUANCE: 01 ZONING - USE PERMIT 10/30/2023

DATE: 10/30/2023

TITLE: LANDSCAPE AND USABLE OPEN SPACE PLAN

DRAWING NO.:

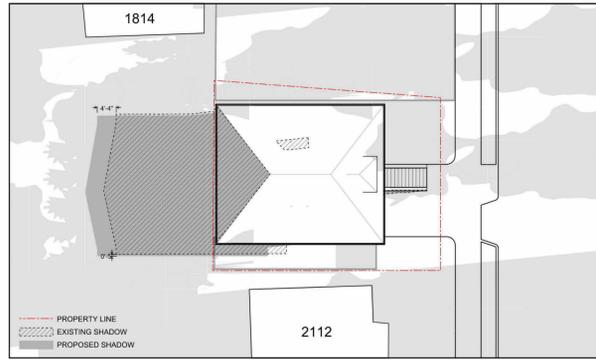
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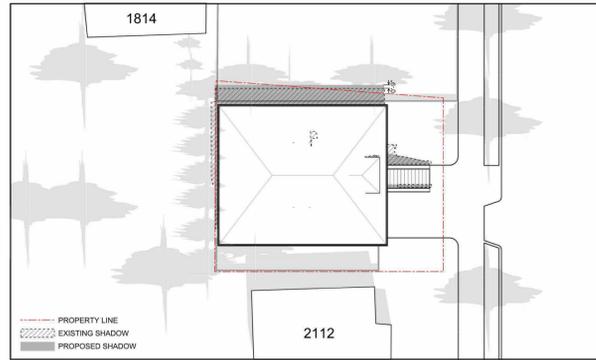
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SUMMER SOLSTICE JUNE 21ST

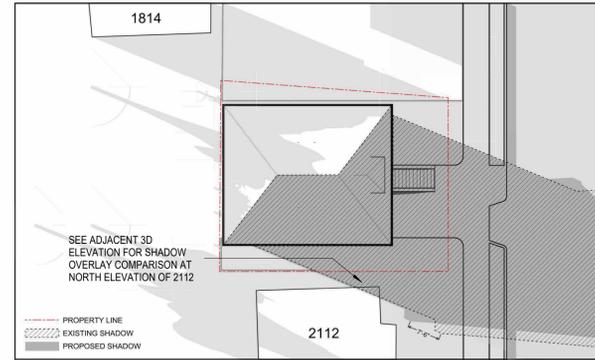
7:48 AM (SUNRISE + 2H)



12:00 PM



6:35 PM (SUNSET - 2H)



2112 MCKINLEY 3D ELEVATION - 6:35 PM



2110 MCKINLEY AVENUE
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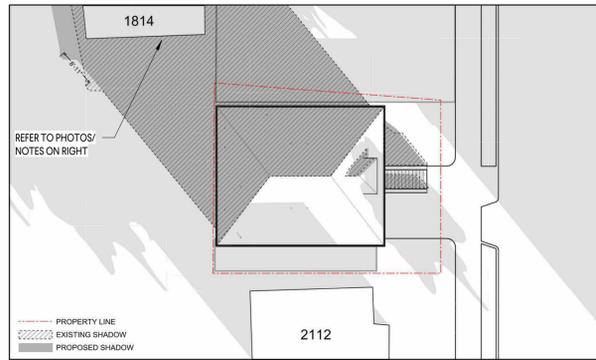
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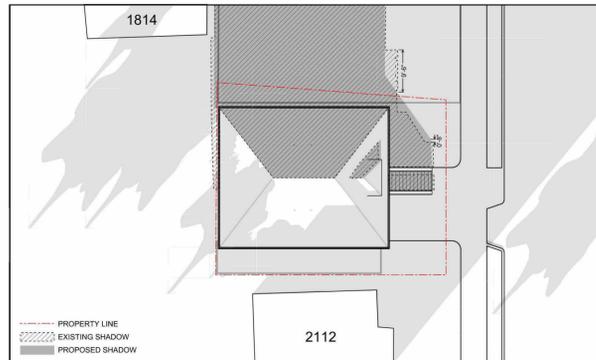
Structural Engineer
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WINTER SOLSTICE DECEMBER 21ST

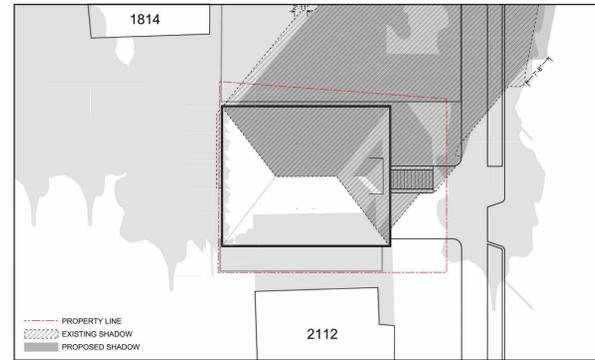
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12:00 PM



2:54 PM (SUNSET - 2H)

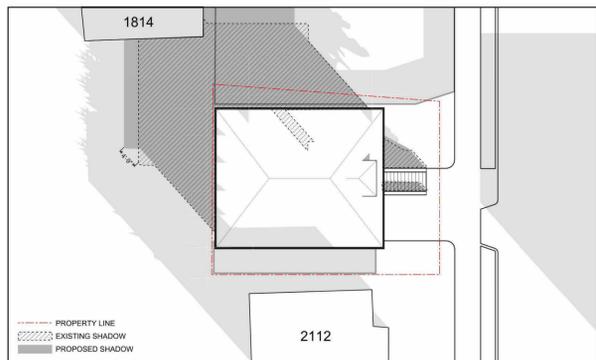


1814 ADDISON SHADOW IMPACTS

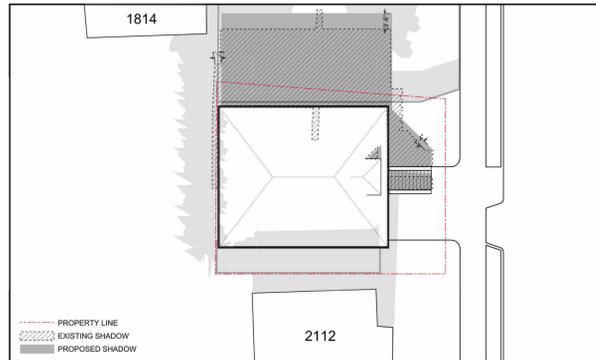


APPLICATION DATE OCTOBER 24, 2023 (SUBMISSION DATE 10/30/23)

10/30/23 9:27AM (SUNRISE + 2H)



10/30/23 12:00 PM



10/30/23 4:17 PM (SUNSET - 2H)

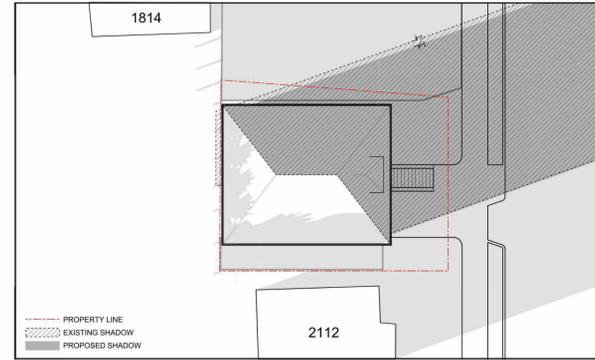


PHOTO TAKEN 10/24/23 AT 3:46 PM



NOTE: ALL BUILDINGS BEING SHADOWED ARE SHOWN ON THE DIAGRAMS. NEIGHBORS AT BOTH 2112 MCKINLEY AND 1814 ADDISON HAVE EXPRESSED FULL SUPPORT FOR OUR PROJECT, AND NO CONCERNS WITH SHADOW STUDY FINDINGS (SEE SIGNATURE ON SITE PLAN).

ISSUANCE:

01 ZONING - USE PERMIT 10/30/2023

DATE: 10/30/2023

TITLE: SHADOW STUDIES

DRAWING NO.:

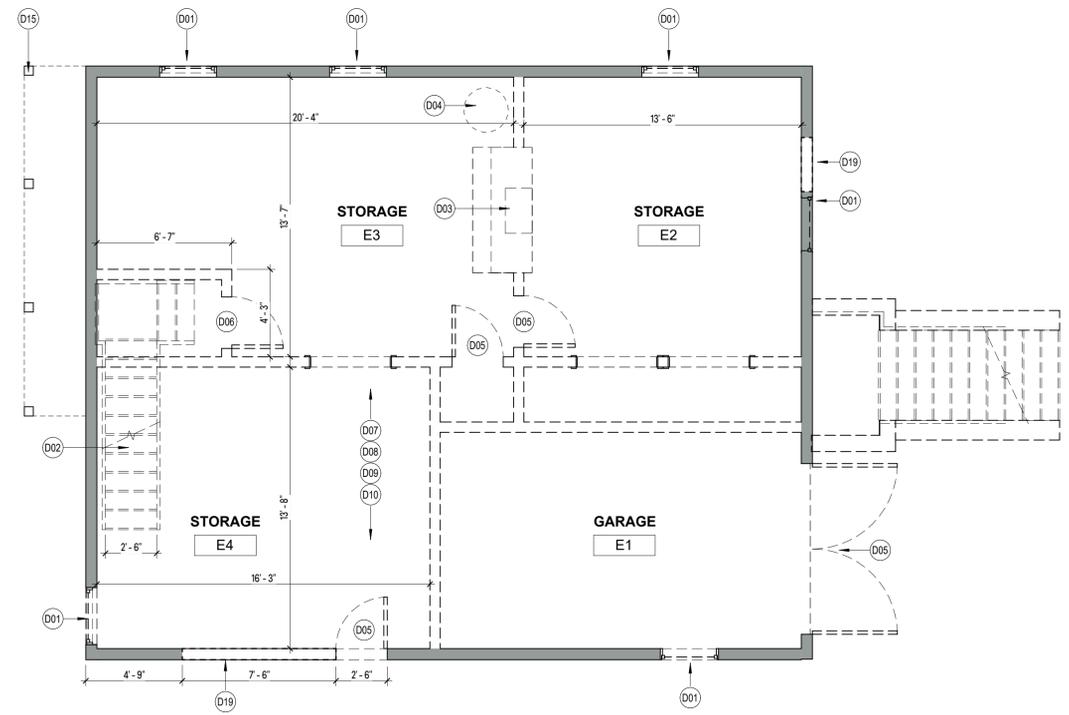
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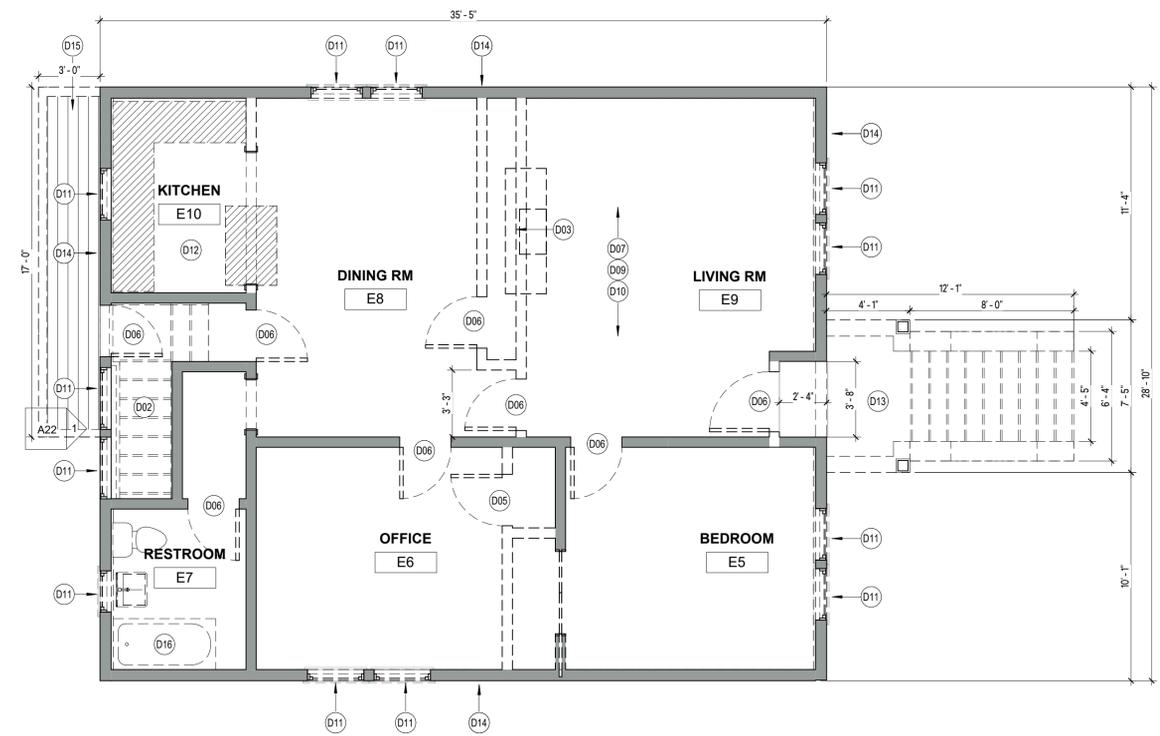
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LOWER LEVEL SCALE 1/4" = 1'-0" 2



UPPER LEVEL SCALE 1/4" = 1'-0" 1

GENERAL NOTES

- VERIFY ALL EXISTING CONDITIONS PRIOR TO COMMENCEMENT OF WORK AND NOTIFY ARCHITECT OF ANY DISCREPANCIES.
- DO NOT DEMOLISH ANY LOAD BEARING WALLS OR CONSTRUCTION THAT WILL COMPROMISE THE INTEGRITY OF THE STRUCTURE. NOTIFY ARCHITECT OF ANY STRUCTURAL ISSUES ARISING FROM DEMOLITION. WHEN LOAD BEARING CONSTRUCTION MUST BE MODIFIED, PROVIDE A SHORING PLAN BY A STRUCTURAL ENGINEER.
- THE DEMOLITION PLAN DOES NOT ACKNOWLEDGE HAZARDOUS MATERIALS AND DOES NOT AUTHORIZE THE DEMOLITION AND/ OR REMOVAL OF HAZARDOUS MATERIALS. ALL HAZARDOUS MATERIALS DISCOVERED DURING THE FIELD INSPECTION AND THE DEMOLITION OF THE WORK SCOPE SHALL BE BROUGHT TO THE ATTENTION OF THE OWNERS REPRESENTATIVE. ALL DEMOLITION AND REMOVAL OF HAZARDOUS MATERIALS SHALL BE IN CONFORMANCE WITH ALL STATE AND LOCAL CODES. ALL PERMITS AND APPROVALS SHALL BE OBTAINED AND COPIES GIVEN TO THE OWNER'S REPRESENTATIVE FOR RECORD.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL OF AND REPLACEMENT OF EXISTING UTILITIES AS REQUIRED TO COMPLETE THE NEW SCOPE OF WORK AS SHOWN IN THE CONTRACT DOCUMENTS. THE CONTRACTOR SHALL COMPLY WITH ALL THE PERTINENT CITY AND COUNTY REQUIREMENTS FOR DEMOLITION, INCLUDING, BUT NOT LIMITED TO, REMOVAL OF DEBRIS, BUILDING PROTECTION, LOCATION AND TYPE OF CONTAINERS AND THE DISCARDING OF MATERIALS.
- PROTECT EXISTING MATERIALS, FINISHES, AND DEVICES TO REMAIN DURING DEMOLITION.
- PATCH AND REPAIR MATERIALS, FINISHES, AND DEVICES THAT ARE TO MATCH NEW MATERIALS, FINISHES, AND DEVICES. PROVIDE AN INDISTINGUISHABLE LIKE NEW FINISH AND MAINTAIN COMPATIBILITY.
- WHERE DEMOLITION OCCURS NEXT TO EXISTING TO REMAIN, PATCH AND REPAIR CONDITIONS TO REMAIN FOR A UNIFORM APPEARANCE.
- MAINTAIN ACCESSIBLE PATH OF TRAVEL DURING CONSTRUCTION.
- REMOVE EXISTING FURNITURE, FIXTURES, AND CASEWORK AS INDICATED. SALVAGE ALL DOORS FOR RE-USE.

LEGEND

- EXISTING CONSTRUCTION TO REMAIN
- EXISTING CONSTRUCTION TO BE REMOVED

DEMO PLAN KEYNOTE LEGEND

NUMBER	KEYNOTE
D01	EXISTING WINDOWS TO BE REMOVED
D02	EXISTING INTERIOR STAIR TO BE REMOVED
D03	EXISTING FIREPLACE TO BE DEMOLISHED
D04	EXISTING WATER HEATER TO BE REMOVED
D05	EXISTING DOOR TO BE REMOVED
D06	EXISTING DOOR TO BE REMOVED AND SALVAGED FOR REUSE
D07	EXISTING NON-STRUCTURAL INTERIOR WALLS TO BE DEMOLISHED
D08	EXISTING SUBGRADE CONCRETE SLAB FOUNDATION TO BE DEMOLISHED
D09	DEMOLISH ALL EXISTING ELECTRICAL AND PLUMBING BACK TO MAIN POINT OF ENTRY THROUGHOUT, TYP
D10	DEMOLISH ALL WALL FINISHES AT PERIMETER WALLS; SALVAGE REDWOOD CLADDING THAT IS IN REUSABLE CONDITION FOR REUSE
D11	EXISTING WINDOWS TO BE REMOVED; EXTERIOR WINDOW TRIM TO REMAIN WHERE POSSIBLE
D12	EXISTING CABINETRY TO BE REMOVED; SALVAGE FOR REUSE WHERE POSSIBLE
D13	EXTERIOR STAIR, SURROUNDING STRUCTURE AND AWNING TO BE DEMOLISHED
D14	EXISTING NARROW REDWOOD SIDING TO REMAIN; PATCH AND REPAIR TO MATCH AS REQUIRED
D15	DEMOLISH ENTIRE DETERIORATING STOOP STRUCTURE AT BACK OF HOUSE
D16	REMOVE EXISTING TUB FROM CURRENT LOCATION; TO BE REUSED
D19	DEMO PORTION OF WALL TO CREATE NEW OPENING FOR WINDOW/DOOR; REFER TO PLAN AND ELEVATION

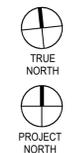
ISSUANCE:

01 ZONING - USE PERMIT 10/30/2023

DATE: 10/30/2023

TITLE: DEMOLITION PLANS

DRAWING NO.:



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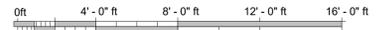
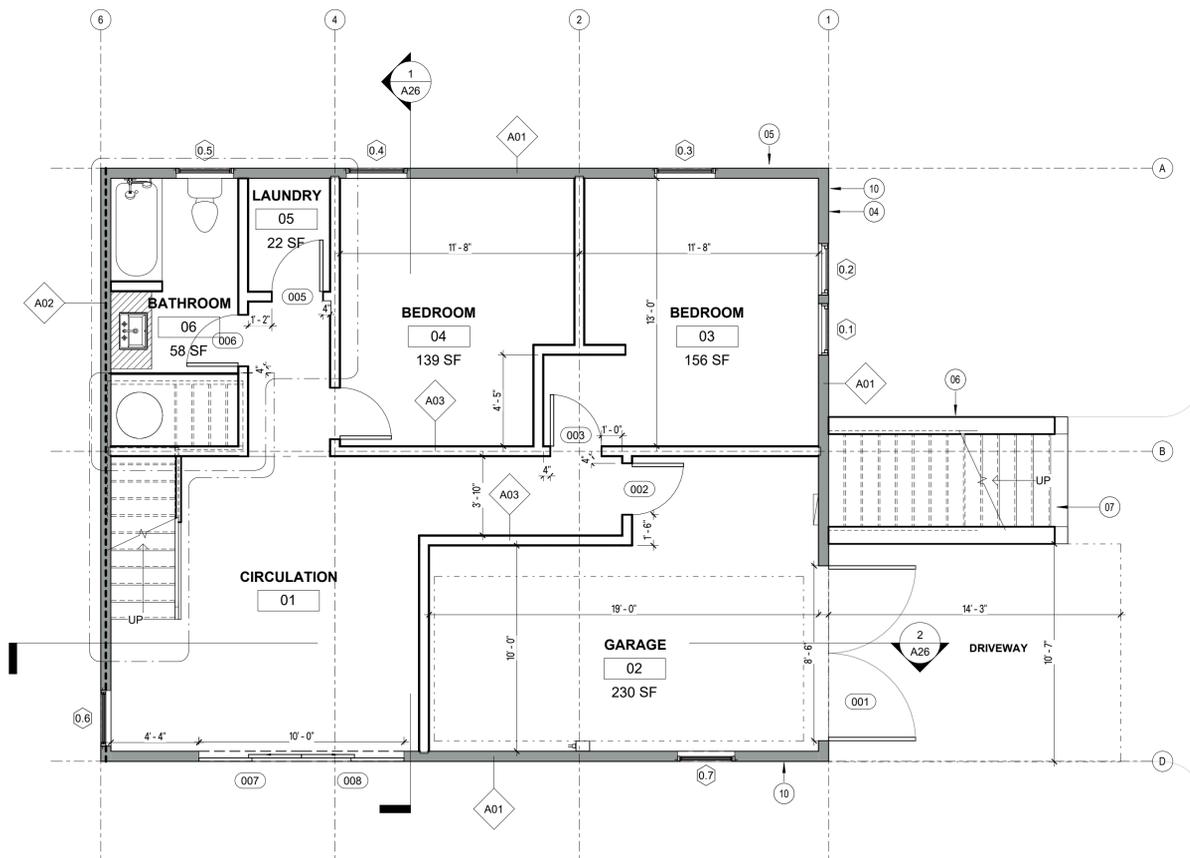
2110 MCKINLEY AVENUE
BERKELEY, CA 94703

Property Owner
Gustavo De Leon
2417 Dunn Rd.
Hayward, CA 94545
415-846-6991

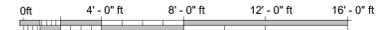
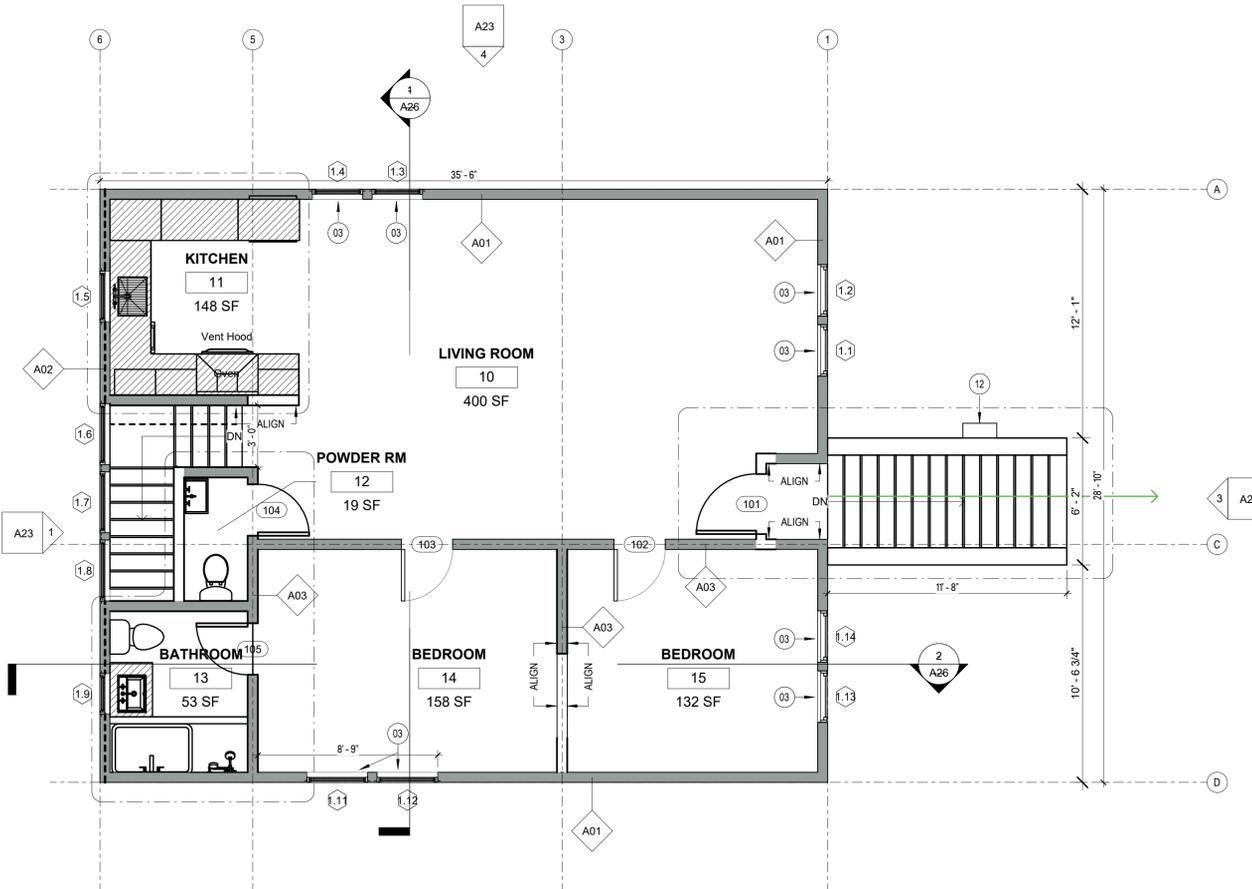
Architectural Designer
Megan Sveiven
326 Henry St.
Oakland, CA 94607
861-575-7304
megvave@gmail.com

M. Sveiven

Structural Engineer
Shane Sveiven, President, RCE 89133
Sveiven Engineering
PO Box 11393
Carson, CA 90749
805-861-9347



LOWER LEVEL SCALE 1/4" = 1'-0" 2



UPPER LEVEL SCALE 1/4" = 1'-0" 1

GENERAL NOTES

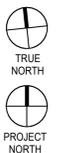
1. NEW DOORS, FRAMES INSTALLED 6" FROM ADJACENT PARTITION, UON. SEE DOOR SCHEDULE FOR ADDITIONAL INFORMATION
2. ALL DIMENSIONS ARE FACE OF PARTITION ASSEMBLY, UON. REFER TO ENLARGED PLANS AND/OR ELEVATIONS FOR ADDITIONAL INFORMATION.
3. WHERE PARTITIONS ARE SHOWN TO ALIGN WITH EXISTING PARTITIONS, THE CONTRACTOR SHALL VERIFY THAT THE SCHEDULED NEW PARTITION WILL ALIGN WITH BOTH SIDES OF EXISTING PARTITION. IN CASES WHERE NEW AND EXISTING PARTITIONS DIFFER IN THICKNESS, THE GC SHALL ACCOMMODATE THE RESOLUTION AT NO ADDITIONAL COST TO OWNER.

LEGEND

- PATH OF TRAVEL TO PUBLIC RIGHT OF WAY
- EXISTING LOAD-BEARING WALLS TO REMAIN. G.C. TO PATCH AND REPAIR AS REQUIRED TO "LIKE-NEW" CONDITION
- 1-HR RATED WALL WITH 5/8" TYPE X GYP AT INTERIOR
- NEW PARTITION TYPE, REFER TO CORRESPONDING PARTITION TYPE ON SHEET IN THIS SET OF DRAWINGS
- CENTERLINE
- WALL TYPE TAG
- DOOR TAG
- WINDOW TAG

CONSTRUCTION PLAN KEYNOTE LEGEND

- | NUMBER | KEYNOTE |
|--------|---|
| 03 | NEW WINDOWS TO COMPLY WITH ENERGY CODE REQUIREMENTS |
| 04 | PATCH AND REPAIR EXISTING SIDING; TO RECEIVE NEW COAT OF PAINT |
| 05 | EXISTING ELECTRIC METER TO BE REINSTALLED; COORDINATE WITH PGE |
| 06 | EXISTING GAS SERVICE TO REMAIN; COORDINATE WITH PGE |
| 07 | NEW CODE COMPLIANT STAIR TO UPPER LEVEL ENTRY |
| 10 | NEW WATER SPIGOT |
| 12 | (E) GAS METER LOCATION TO REMAIN; INSTALL GAS SHUT-OFF VALVES PER 19.34.040 |



ISSUANCE:

01 ZONING - USE PERMIT 10/30/2023

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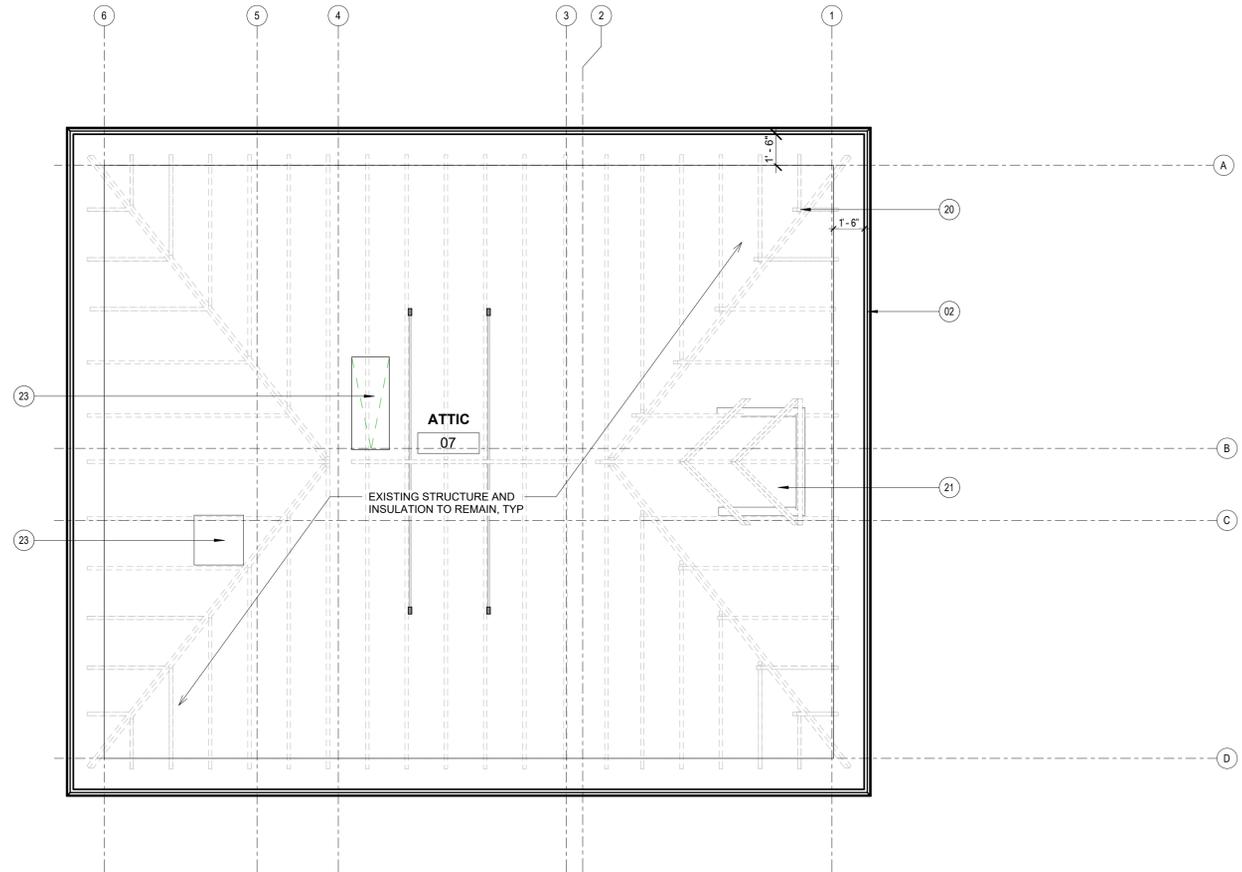
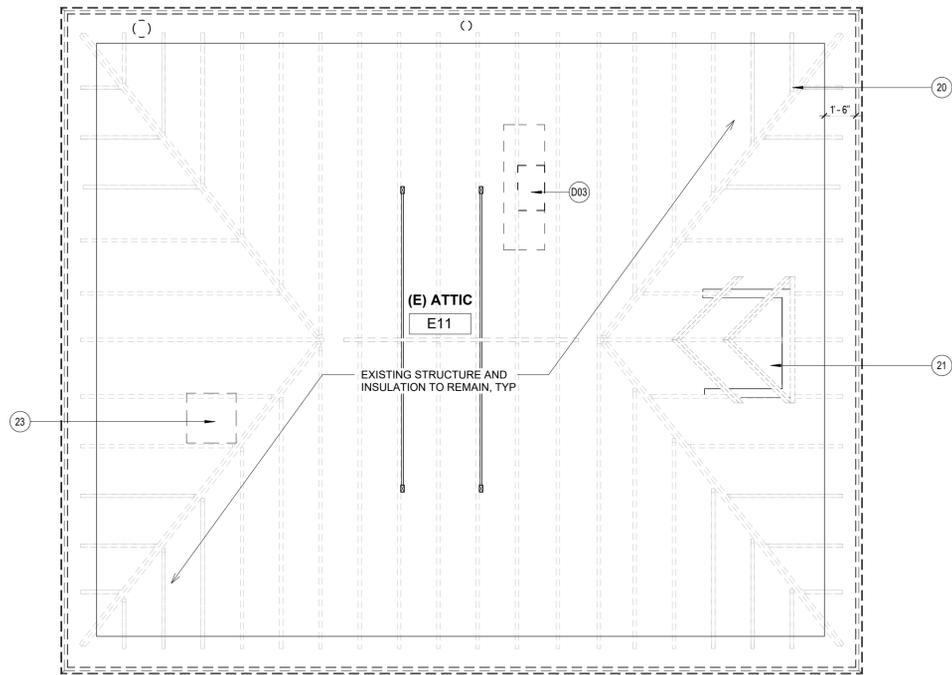
2110 MCKINLEY AVENUE
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Property Owner
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Architectural Designer
Megan Sveiven
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megvave@gmail.com

M. Sveiven

Structural Engineer
Shane Sveiven, President, RCE 89133
Sveiven Engineering
PO Box 11393
Carson, CA 90749
805-861-9347



(E) ATTIC PLAN SCALE 1/4" = 1'-0" 2

(N) ATTIC PLAN SCALE 1/4" = 1'-0" 1

GENERAL NOTES

- NEW DOORS, FRAMES INSTALLED 6" FROM ADJACENT PARTITION, UON. SEE DOOR SCHEDULE FOR ADDITIONAL INFORMATION
- ALL DIMENSIONS ARE FACE OF PARTITION ASSEMBLY, UON. REFER TO ENLARGED PLANS AND/OR ELEVATIONS FOR ADDITIONAL INFORMATION.
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LEGEND

- EXISTING LOAD-BEARING WALLS TO REMAIN. G.C. TO PATCH AND REPAIR AS REQUIRED TO "LIKE-NEW" CONDITION
- 1-HR RATED WALL WITH 5/8" TYPE X GYP AT INTERIOR
- NEW PARTITION TYPE, REFER TO CORRESPONDING PARTITION TYPE ON SHEET IN THIS SET OF DRAWINGS
- CENTERLINE
- WALL TYPE TAG
- DOOR TAG
- WINDOW TAG

ATTIC PLAN KEYNOTE LEGEND

- | NUMBER | KEYNOTE |
|--------|--|
| 02 | PAINTED METAL GUTTER, 5" x 5" TO MATCH ROOF PANEL SYSTEM. |
| 20 | (E) ROOF STRUCTURE TO REMAIN; REPAIR OR REPLACE IN KIND AS REQUIRED |
| 21 | (E) DORMER TO REMAIN |
| 23 | (E) ATTIC ACCESS TO BE INFILLED; RELOCATE ATTIC ACCESS HATCH AS INDICATED IN PLANS |



ISSUANCE:

01 ZONING - USE PERMIT 10/30/2023

DATE: 10/30/2023

TITLE: ATTIC PLANS

DRAWING NO.:

A15

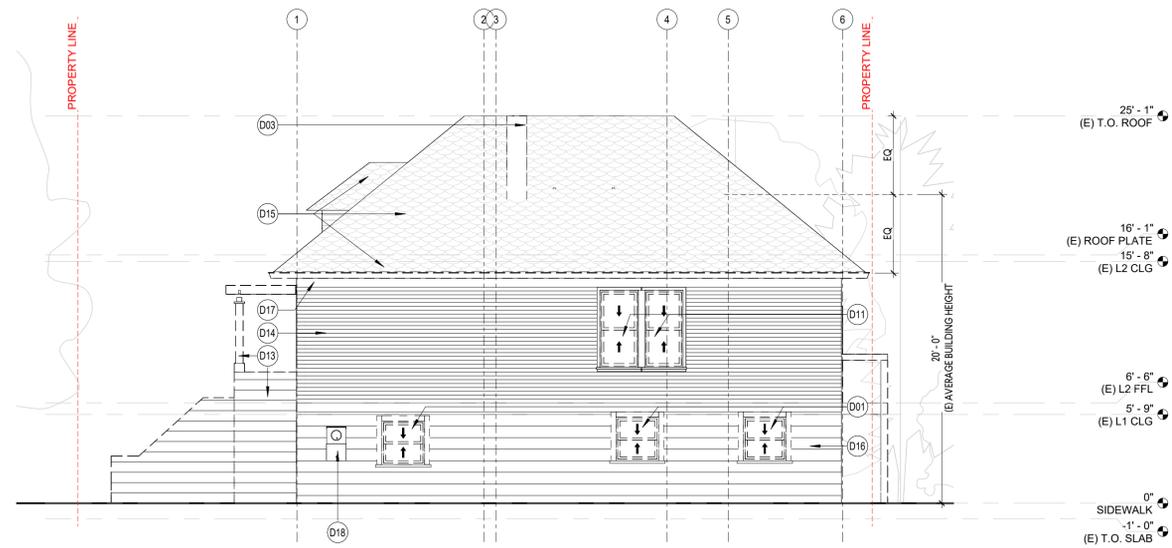
2110 MCKINLEY AVENUE
BERKELEY, CA 94703

Property Owner
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2417 Dunn Rd.
Hayward, CA 94545
415-946-6991

Architectural Designer
Megan Sveiven
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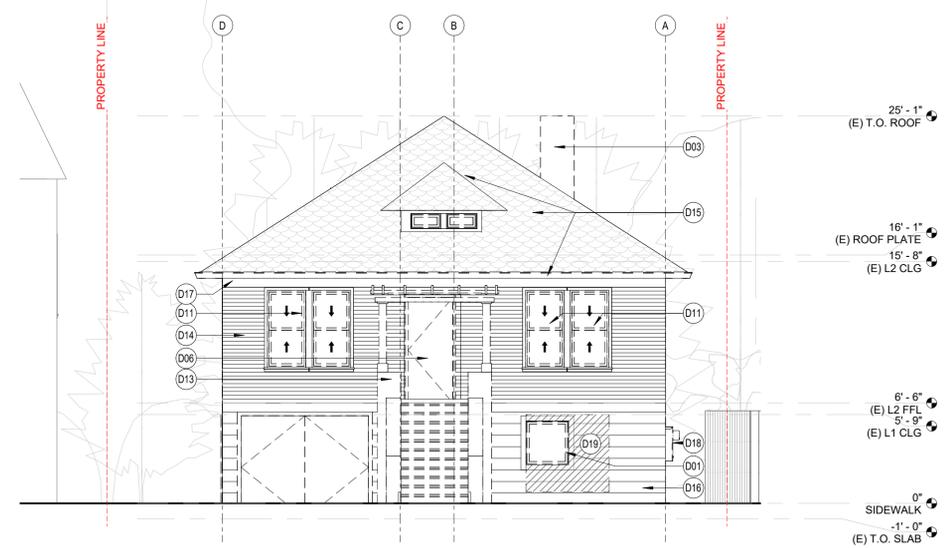
M. Sveiven

Structural Engineer
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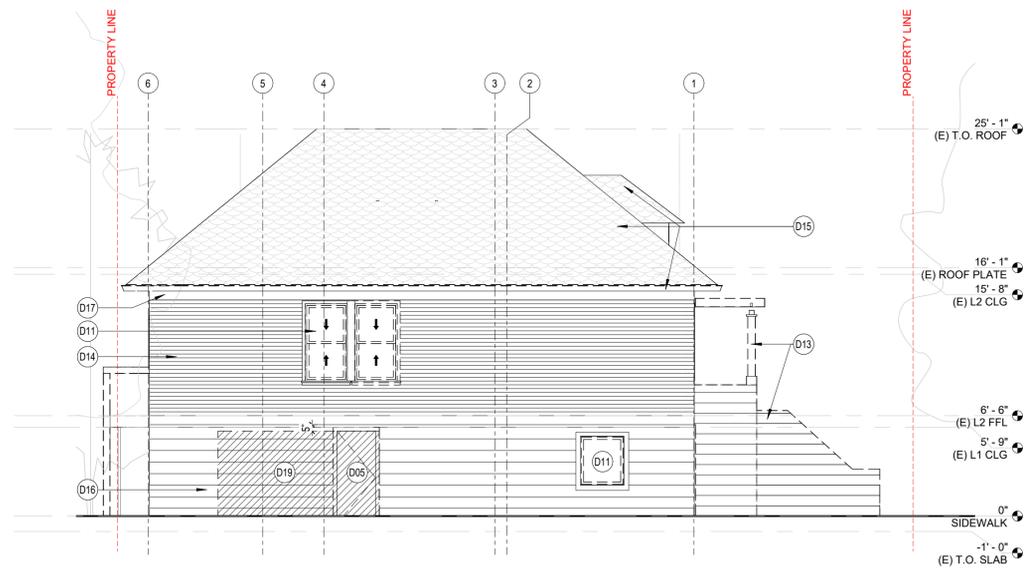
EXISTING ELEVATION - NORTH

SCALE
3/16" = 1'-0"
4



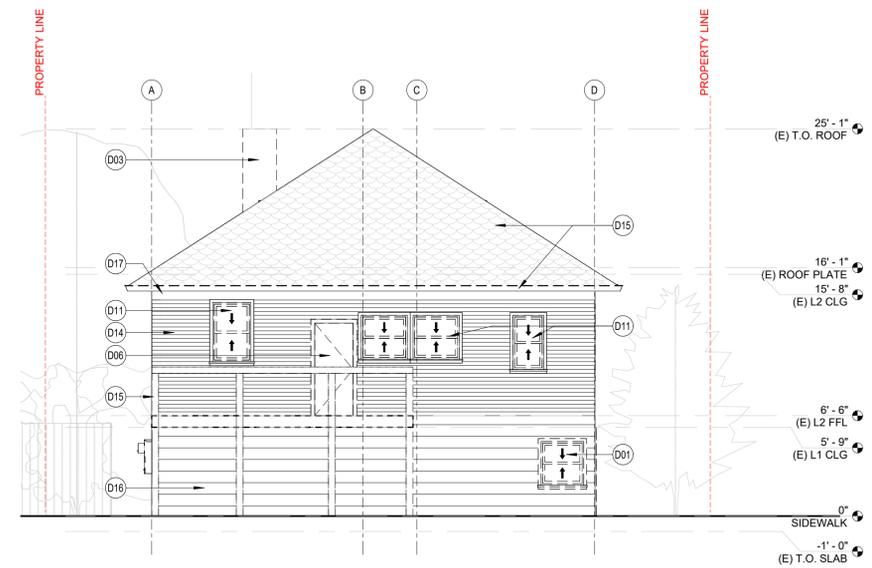
EXISTING ELEVATION - EAST

SCALE
3/16" = 1'-0"
3



EXISTING ELEVATION - SOUTH

SCALE
3/16" = 1'-0"
2



EXISTING ELEVATION - WEST

SCALE
3/16" = 1'-0"
1

KEYNOTE LEGEND

NUMBER	KEYNOTE
D01	EXISTING WINDOWS TO BE REMOVED
D03	EXISTING FIREPLACE TO BE DEMOLISHED
D05	EXISTING DOOR TO BE REMOVED
D06	EXISTING DOOR TO BE REMOVED AND SALVAGED FOR REUSE
D11	EXISTING WINDOWS TO BE REMOVED; EXTERIOR WINDOW TRIM TO REMAIN WHERE POSSIBLE
D13	EXTERIOR STAIR, SURROUNDING STRUCTURE AND AWNING TO BE DEMOLISHED
D14	EXISTING NARROW REDWOOD SIDING TO REMAIN; PATCH AND REPAIR TO MATCH AS REQUIRED
D15	DEMOLISH ENTIRE DETERIORATING STOOP STRUCTURE AT BACK OF HOUSE
D16	REMOVE EXISTING TUB FROM CURRENT LOCATION; TO BE REUSED
D17	EXISTING REDWOOD TRIM TO REMAIN; PATCH AND REPAIR TO MATCH AS REQUIRED
D18	EXISTING NARROW STOOP/PORCH TO BE FULLY DEMOLISHED
D19	DEMO PORTION OF WALL TO CREATE NEW OPENING FOR WINDOW/DOOR; REFER TO PLAN AND ELEVATION

ISSUANCE:

01 ZONING - USE PERMIT 10/30/2023

DATE: 10/30/2023

TITLE:

(E) EXTERIOR ELEVATIONS

DRAWING NO.:

A22

2110 MCKINLEY AVENUE
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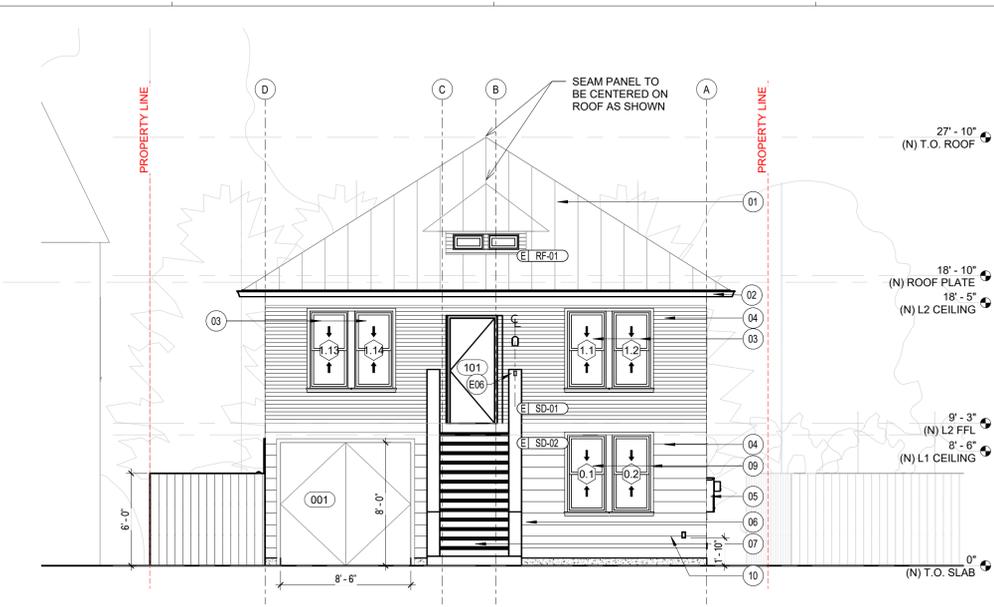
Structural Engineer
Shane Sveiven, President, RCE 89133
Sveiven Engineering
PO Box 11393
Carson, CA 90749
805-861-9347



ELEVATION - NORTH

SCALE
3/16" = 1'-0"

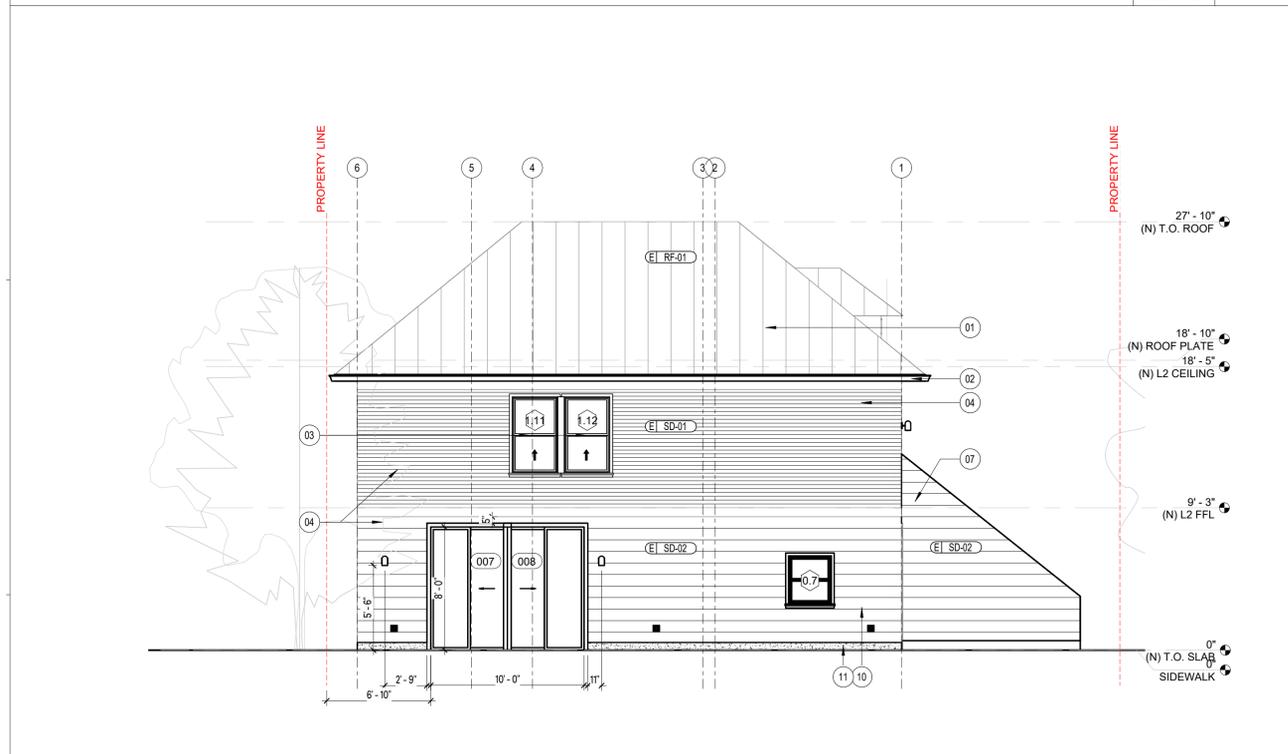
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ELEVATION - EAST

SCALE
3/16" = 1'-0"

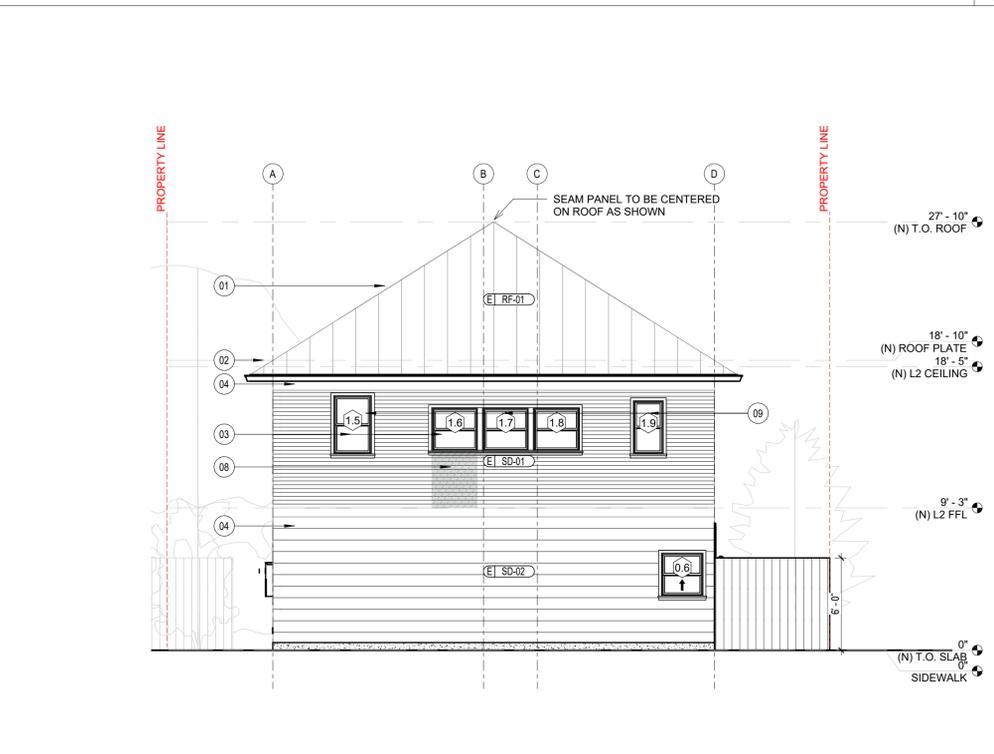
3



ELEVATION - SOUTH

SCALE
3/16" = 1'-0"

2



ELEVATION - WEST

SCALE
3/16" = 1'-0"

1

FINISH LEGEND

LEGEND	
	LOCATION OF FINISH (E = EXTERIOR)
	FINISH TAG
FINISHES	
(E) SD-01	SIDING: EXISTING NARROW SLAT (3") PATCH AND REPLACE TO MATCH EXISTING MFR: ASHBY LUMBER, TBD SPEC: TO MATCH EXISTING PROFILE FINISH: PAINTED
(E) SD-02	SIDING: EXISTING V-GROOVE SIDING (9") PATCH AND REPLACE TO MATCH EXISTING MFR: ASHBY LUMBER, TBD SPEC: TO MATCH EXISTING PROFILE FINISH: PAINTED
(E) RF-01	ROOFING: STANDING SEAM METAL (24" W) MFR: TBD SPEC: 24" W FINISH: BLACK TBD

KEYNOTE LEGEND

NUMBER	KEYNOTE
01	EXISTING WOOD ROOF STRUCTURE TO REMAIN; NEW STANDING SEAM METAL ROOF INSTALLED OVER SELF ADHERING, SELF-HEALING MEMBRANE, OVER 5/8" PLYWOOD SHEATHING FASTENED TO STRUCTURE BELOW. ENSURE FASTENERS DO NOT PUNCTURE THE UNDERSIDE OF ROOF ASSEMBLY
02	PAINTED METAL GUTTER, 5" x 5" TO MATCH ROOF PANEL SYSTEM.
03	NEW WINDOWS TO COMPLY WITH ENERGY CODE REQUIREMENTS
04	PATCH AND REPAIR EXISTING SIDING; TO RECEIVE NEW COAT OF PAINT
05	EXISTING ELECTRIC METER TO BE REINSTALLED; COORDINATE WITH PGE
06	EXISTING GAS SERVICE TO REMAIN; COORDINATE WITH PGE
07	NEW CODE COMPLIANT STAIR TO UPPER LEVEL ENTRY
08	INFILL SIDING TO MATCH EXISTING; TO RECEIVE NEW COAT OF PAINT
09	NEW TRIM AROUND WINDOWS TO MATCH ORIGINAL TRIM
10	NEW WATER SPIGOT
11	CONCRETE CURB AROUND PERIMETER
22	AIR TIGHT DRYER VENT WITH BACK DRAFT DAMPER
E06	HARDWIRED RING DOORBELL; LOW VOLTAGE CONNECTION

ISSUANCE:

01 ZONING - USE PERMIT 10/30/2023

DATE: 10/30/2023

TITLE:

(N) EXTERIOR ELEVATIONS

DRAWING NO.:

A23

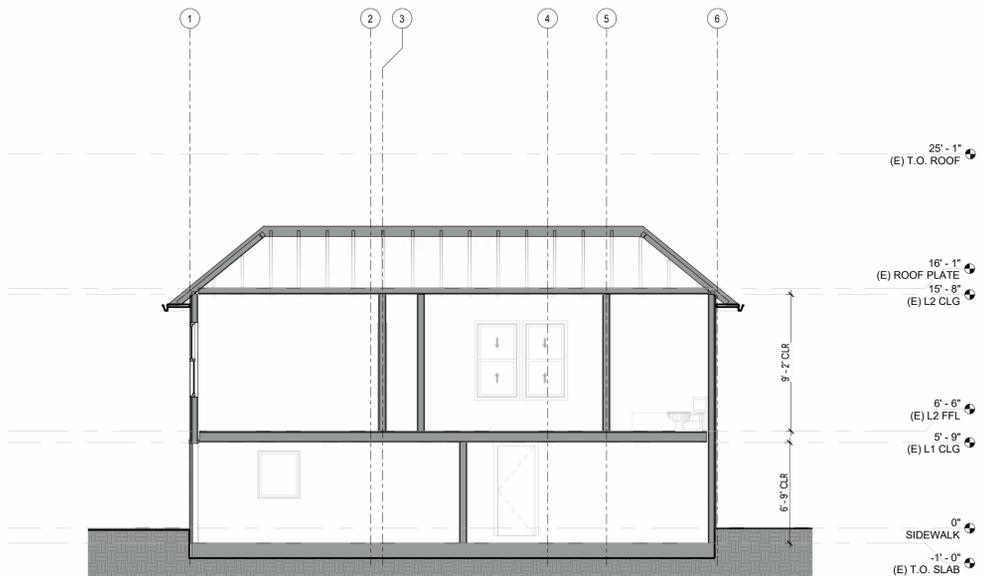
2110 MCKINLEY AVENUE
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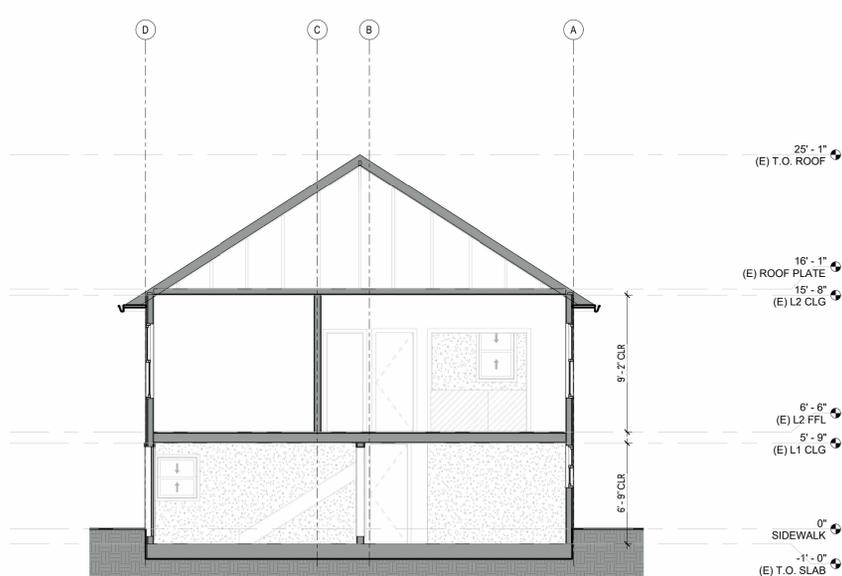
Architectural Designer
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M. Sveiven

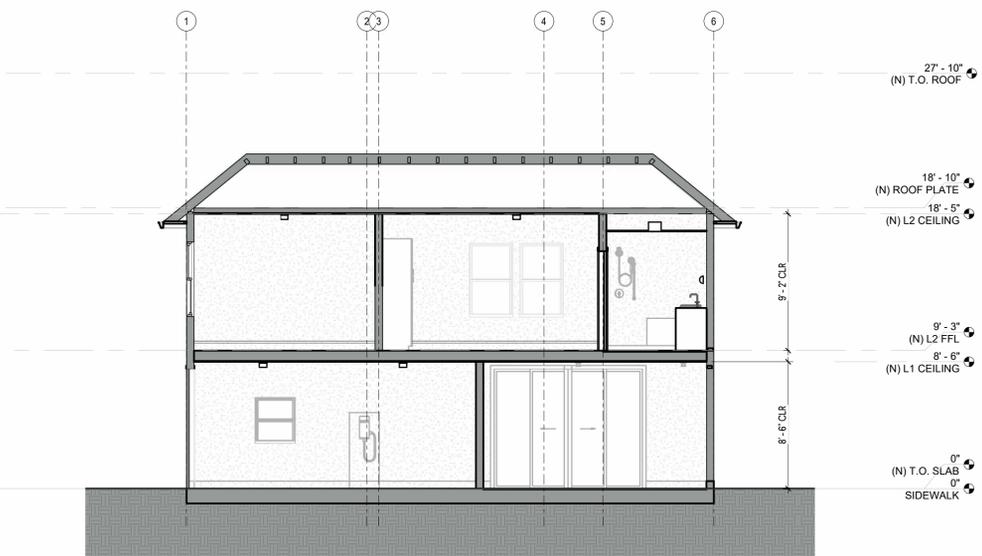
Structural Engineer
 Shane Sveiven, President, RCE 89133
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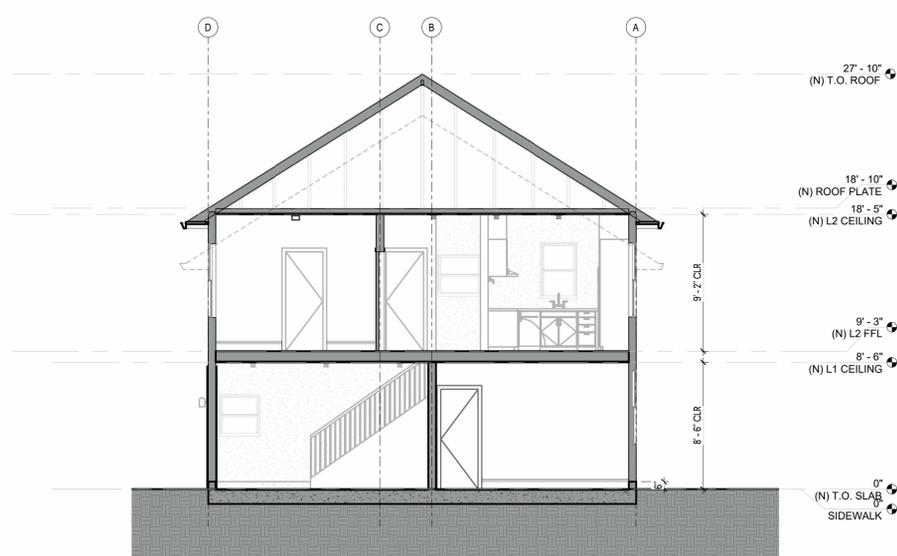
EXISTING E/W SECTION SCALE 3/16" = 1'-0" 4



EXISTING N/S SECTION SCALE 3/16" = 1'-0" 3



PROPOSED E/W SECTION SCALE 3/16" = 1'-0" 2



PROPOSED N/S SECTION SCALE 3/16" = 1'-0" 1

FINISH LEGEND

KEYNOTE LEGEND

ISSUANCE:

01 ZONING - USE PERMIT 10/30/2023

DATE:

10/30/2023

TITLE:

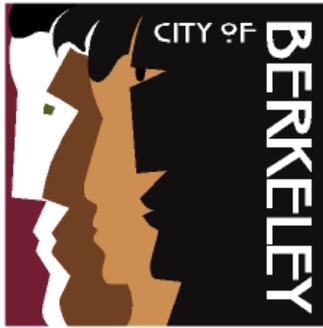
ARCHITECTURE
 BUILDING
 SECTIONS

DRAWING NO.:

A26

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10/29/2023 11:14:38 AM



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

2110 McKinley Avenue

Use Permit #ZP2023-0146 to raise the single-family dwelling by 3 feet (total 23 feet) on a lot that exceeds the maximum allowed lot coverage.

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, January 11, 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: Low Medium Density Residential (LMDR)
- Zoning: R-2 Restricted Two-Family Residential District

B. Zoning Permits Required:

- **Use Permit**, pursuant to Berkeley Municipal Code (BMC) Section 23.324.050(D)(3), to permit the addition to and/or enlargement of a structure or building on a lot that exceeds the maximum allowed lot coverage.

- **Administrative Use Permit**, pursuant to BMC Section 23.202.080₁, to permit a residential addition over 14 feet in average height.
- **Administrative Use Permit**, pursuant to BMC Section 23.202.110(E)(2)₁, to permit the alteration of the portion of a building (including windows and other openings) projecting into a minimum required setback.

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

D. Parties Involved:

- Applicant Megan Sveiven., 326 Henry Street., Oakland, CA 94607
- Property Owner Gustavo De Leon, 2110 McKinley Avenue., Berkeley, CA 94703

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, Waqar Shah, at (510) 981-7469 or wshah@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.