



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 12, 2023

469 KENTUCKY AVENUE

Use Permit #ZP2022-0087 to demolish a single-family dwelling and construct a 3,310 square foot three-story single-family residence and two-car garage.

I. Background

A. Land Use Designations:

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

B. Zoning Permits Required:

- Use Permit to demolish a dwelling unit, per Berkeley Municipal Code (BMC) Section 23.326.030
- Use Permit to construct a new single-family dwelling, per BMC Section 23.202.020(A)
- Use Permit for a sixth bedroom on a parcel, per BMC Section 23.202.030
- Administrative Use Permit for exceeding 28-feet in average height, per BMC Sections 23.202.050(D) and 23.210.020(C)(2)
- Administrative Use Permit for a reduced front setback in the Hillside Overlay, per BMC Section 23.210.020(C)(4)
- Administrative Use Permit for a new accessory building, per BMC 23.304.060(A)
- Administrative Use Permit for an unenclosed accessory structure within a required setback, per BMC 23.304.070(C)(1)

CEQA Recommendation: It is staff's recommendation to ZAB that this 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 Sections 15303 ("New Construction or Conversion of Small Structures") of the CEQA Guidelines. The determination is made by ZAB

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.

A. Parties Involved:

- Applicant: Maurice Levitch, 1029 Heinz Avenue, Berkeley
- Property Owner: Aidan Keefe, 469 Kentucky Avenue, Berkeley

Figure 1: Vicinity Map

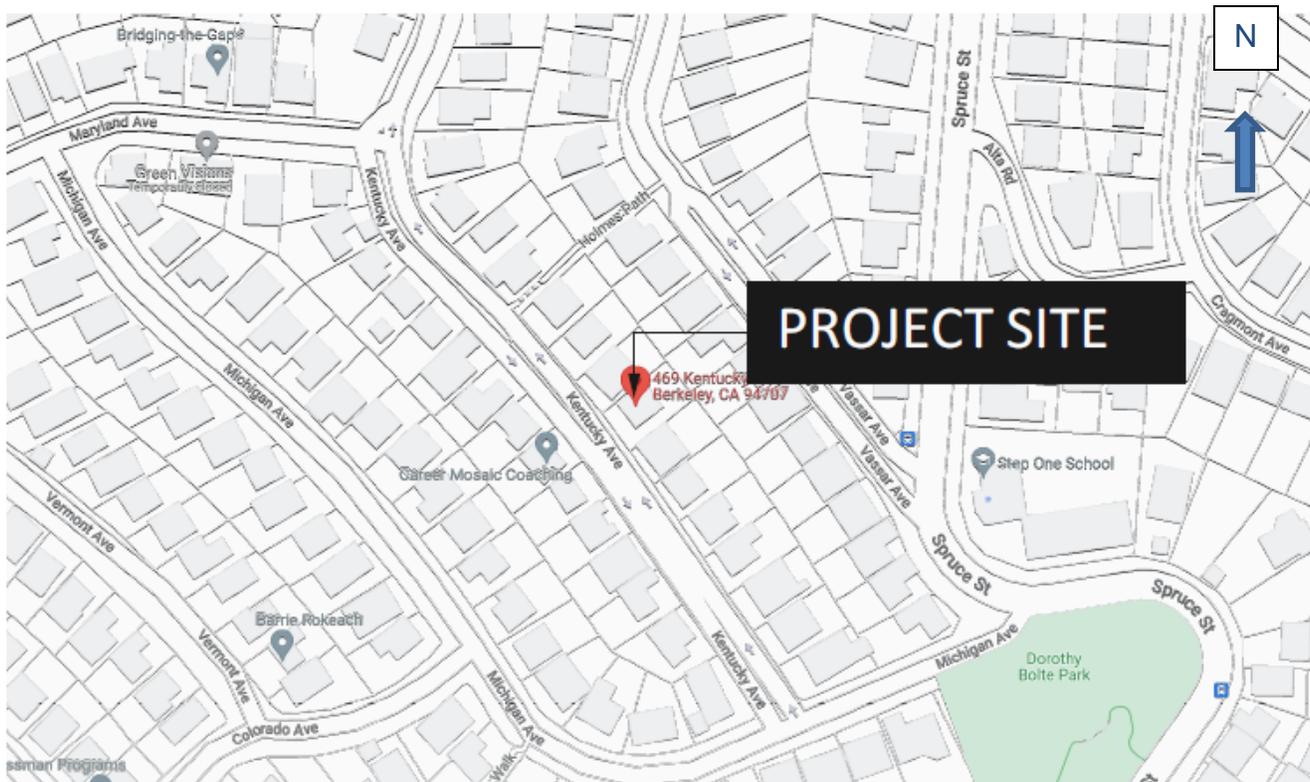


Figure 3: Front Elevation

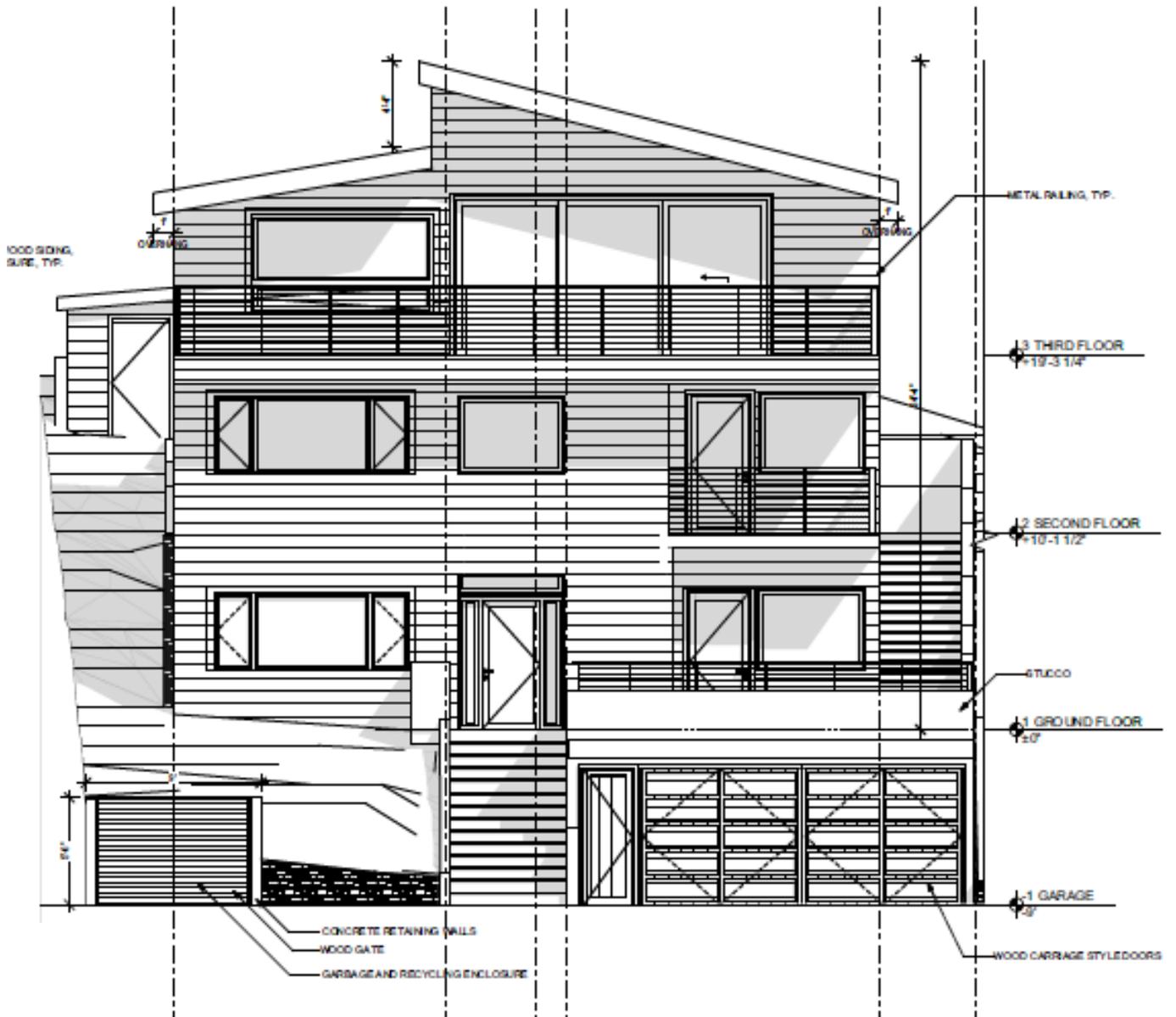


Figure 4: South Elevation

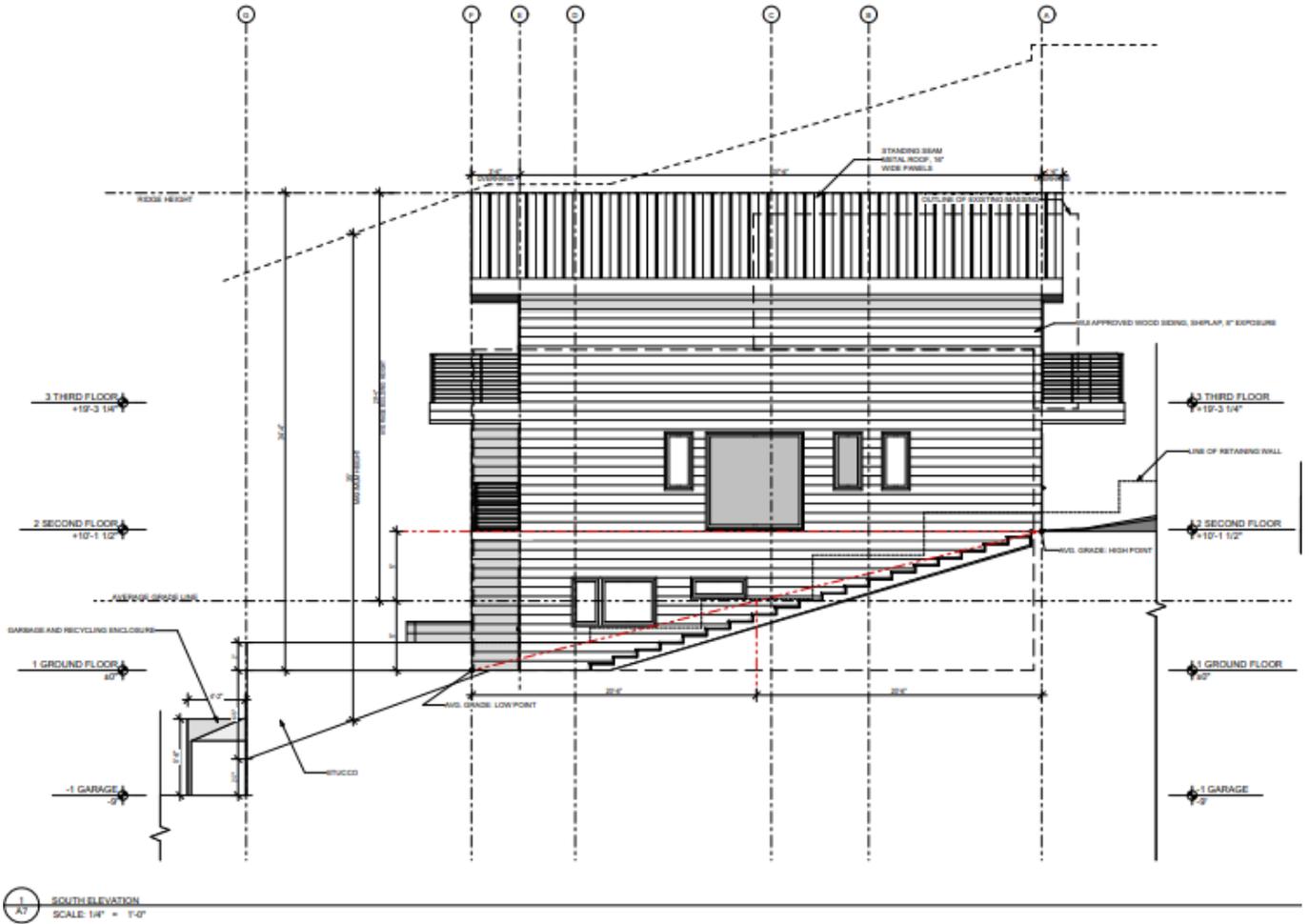


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Single-Family Dwelling	R-1(H) – Single-Family Residential, Hillside Overlay	Low Density Residential
Surrounding Properties	North	Single-Family Dwelling (467 Kentucky Avenue)		
	South	Single-Family Dwelling (475 Kentucky Avenue)		
	East	Single-family Dwellings (476 & 480 Vassar Avenue)		
	West	Kentucky Avenue (Single-Family Residential across the street)		

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 non-residential floor area. The project involves only new residential floor area, and thus these requirements do not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	This fee applies to projects that involve five or more dwelling units on the same lot. The applicant proposes only one new dwelling unit, and thus this requirement does not apply.
Creeks (Per BMC Section 17.08.045)	No	The project site is not within a creek buffer zone.
Density Bonus	No	The project is not requesting a Density Bonus.
Historic Resources	Yes	The project involves the demolition of an existing residential building that is greater than 40 years old. An historic resource evaluation (HRE) was prepared by the California Department of Parks and Recreation and found that this property is not eligible for listing in the California Register of Historic Resources (Attachment 4).
Housing Accountability Act (Gov't Code Section 65589.5(j))	No	The project only consists of one unit.
Housing Crisis Act of 2019 (SB330)	No	The project proposes only one dwelling unit and is not considered a "housing development project," therefore SB 330 does not apply.
Natural Gas Prohibition (Per BMC 12.80.020)	Yes	This project is an application for new construction and was submitted after January 1, 2020, and is therefore subject to the Natural Gas Prohibition.
Oak Trees (Per BMC Section 6.52.010)	No	There are no Coast Live Oak trees on the site.
Rent Controlled Units (Per BMC Chapter 13.76)	No	There are no rent-controlled units at the site, nor would the new unit be subject to rent control restrictions.
Residential Preferred Parking (RPP)	No	The project site is not within an RPP zone.
Seismic Hazards (Per State Hazards Mapping Act SHMA)	Yes	The site is located within an area susceptible to liquefaction, Fault Rupture, or Landslides as

		shown on the State Seismic Hazard Zones map. A geotechnical report was submitted by the applicant that has been peer reviewed by the City's consultant. Conditions of approval will be included in the permit to ensure oversight by the applicant's geotechnical consultant.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites), nor is it within the City's Environmental Management Area.
Transit	Yes	The project area is served by AC Transit line 67. There is an existing bus stop within 0.2 miles to the east near the intersection of Vasser Avenue and Spruce Street.

Table 3: Project Chronology

Date	Action
July 8, 2022	Application submitted
July 22, 2022	Application incomplete
August 24, 2022	Application resubmitted
September 7, 2022	Application incomplete
October 25, 2022	Application resubmitted
November 8, 2022	Application deemed complete
December 22, 2022	Public hearing notices mailed/posted
December 23, 2022	Received revised drawings
January 12, 2022	ZAB hearing

Table 4: Development Standards

Standard		Existing	Proposed Total	Permitted/Required
BMC Sections 23D16.070-080 & 23E.96.070				
Lot Area (sq. ft.)		5,088	No Change	5,000 min
Gross Floor Area (sq. ft.)		1,733	4,350	n/a
Dwelling Units		1	1	1 max
Building Height	Average (ft.)	25.5	29.3	28 max (35 with AUP)
	Maximum (ft.)	28.75	31.687	35 max
	Stories	3	3	3 max
Building Setbacks (ft.)	Front (Kentucky Ave)	4	4	20 min
	Rear	38.8	38.16	20 min

	Left Side	4.7	5	4 min
	Right Side	9.7	9.25	4 min
Lot Coverage (%)		31.5	39.7	40 max
Usable Open Space (sq. ft.)		181	922	400 min
Parking	Automobile	1	2	1 min

II. Project Setting

- A. Neighborhood/Area Description:** This is a residential area with a mix of one-, two-, and three-story single-family dwellings, with areas of open space in excess of that required, and mature vegetation. Lots in the neighborhood are generally rectangular with some irregularities due to existing slopes and curved roadways. The neighborhood hills generally slope downwards from the northeast to the southwest and provide primary views westward towards the San Francisco Bay. Given the hilly terrain and limited availability of on-street parking, the dwellings in the neighborhood tend to include attached one- or two-car garages within front setbacks, and often right up to the sidewalks.
- B. Site Conditions:** The project site is located on the east side of Kentucky Avenue, half a block north of Michigan Avenue in the North Berkeley hills, on an upslope lot. The generally rectangular project site is 50 feet wide along Kentucky Avenue, and approximately 99.5 feet deep. Vegetation on the lot is dominated by a large red maple in the back yard. There are not, nor has there recently been, protected Coast Live oak trees on the site.

III. Project Description

- A. Proposed Project:** The subject parcel is currently developed with a 1,773 square foot three-story single-family home with a single-car garage within the front setback. The owner has applied to demolish the house and garage and replace them with a 3,310 square foot three-story single-family home with an attached Accessory Dwelling Unit (ADU)¹, and a two-car garage with the same front setback as the original garage. The project also includes a detached shed in the rear of the property, and an uncovered garbage and recycling enclosure at the front property line. The proposed dwelling unit is contemporary in style and would have a shed roof with a maximum height of 31 feet, 8.5 inches and an average height of 29 feet, 4 inches. The applicant team have shared that the new home is designed to only minimally expand the footprint beyond that of the existing home, and that the proposed full excavation of the ground floor level adds floor area while minimizing taller construction.

The proposed ground floor level would consist of a TV room, a laundry room, and a studio-style ADU with access via an exterior staircase and landing over the garage roof. The second floor would consist of four bedrooms and two bathrooms, with access to a front balcony. The top floor would contain the kitchen, dining room, family room, and a study. This floor would open onto front and rear balconies. Both the TV room

¹ Per BMC 23.306.030, ADU's are permitted with a Zoning Certificate. They are not part of ZAB's discretionary review. They ADU is only mentioned here for purposes of context.

and the study meet the definition of a bedroom² (23.502.020(B)), bringing the total number of bedrooms to six. Bedrooms located in ADUs are not included in the count because they are not subject to discretionary review, however, if the ADU is not developed concurrently with the proposed project a Use Permit Modification would be required for any additional rooms that meet the zoning criteria for a bedroom.

Because of the steep terrain, the partially-subterranean attached two-car garage will be located at the front of the lot. It will have a 4-foot nonconforming setback, which is identical to that of the existing garage.

Two accessory structures are also proposed. A 9-foot high, 85 square foot workout shed will be at the rear of the backyard. There will be a roofless garbage and recycling enclosure at the front of the lot at the property line.

The red maple in the back yard is not slated for removal. A small lemon tree and a yucca in the front of the lot are slated for removal, but they are to be replaced by a new tree (species yet to be determined) and other plantings.

IV. Community Discussion

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

However, upon erection of the story poles, the new owners of a house behind the subject site (480 Vasser Avenue) objected to what they perceived as excessive obstruction of their view, and expressed this directly to the applicants. The applicants responded by negotiating a compromise with them, which involved adjusting the roof height and orientation and erecting new story poles. After installation of the new story poles, the next-door neighbor at 467 Kentucky Avenue expressed concerns about privacy. Specifically, he was concerned that the front balcony would allow occupants to look down onto his deck and into his bedroom window. He said he was in contact with the applicant about working out a solution. However, the complaint, came in too late for any solution to be included in this report.

On December 22, 2022, public hearing notices were mailed to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations (Attachment 3). The City also posted notices within the neighborhood at

² *Bedroom.* Any habitable space in a dwelling unit or habitable accessory structure other than a kitchen or living room that is intended for or capable of being used for sleeping with a door that closes the room off from other common space such as living and kitchen areas that is at least 70 square feet in area, exclusive of closets and other appurtenant space, and meets Building Code standards for egress, light and ventilation. A room identified as a den, library, study, loft, dining room, or other extra room that satisfies this definition will be considered a bedroom for the purposes of applying this requirement. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

three locations. As of the date of this report, Staff has not received any public comments regarding the project.

B. Committee Review: This project is not subject to Design Review.

V. Issues and Analysis

A. Findings for Use Permit Approval in the R-1(H) District: Pursuant to BMC Section 23.202.020(B), a new single-family dwelling is allowed in the R-1 zoning district with a Use Permit, provided that its siting meets applicable development standards and subject to the non-detriment finding. As shown in Table 4, the proposed project would meet or exceed all development standards for the dwelling, with the exception of front setback. The average height may be increased from 28 feet up to 35 feet with an Administrative Use Permit (AUP) in the R-1 (BMC 23.202.050(D) as well as under the Hillside Overlay (BMC 23.210.020(C)(2)). Since it comes in well below the allowed maximum height, and the applicant revised the proposed height in response to concerns raised by a neighbor, it is Staff's opinion that height-related issues will be negligible.

In the Hillside Overlay, an AUP to reduce required setbacks (BMC 23.210.020(C)(4)) can be approved upon finding the project is consistent with the purpose of the Hillside overlay zone as state in BMC 23.210.020(A). While the main dwelling meets the 20-foot front setback, the proposed two-car garage would be located in the front setback, about 4 feet from the front lot line. This is necessary due to the steep upward slope of the lot. It is also consistent with many neighboring properties, which also have garages at the fronts of their lots.

The proposed project would meet the following purposes of the Single-Family Residential, Hillside Overlay, R-1(H) District:

1. Implement General Plan policies regarding Hillside Development while recognizing and protecting the existing pattern of development in the low density, single family residential areas of the City;
2. Make available housing for persons who desire detached housing accommodations and a relatively large amount of Usable Open Space;
3. Protect adjacent properties from unreasonable obstruction of light and air;
4. Protect the character of Berkeley's Hillside Districts and their immediate environs;
5. Give reasonable protection to views yet allow appropriate development of all property; and
6. Allow modifications in standard yard and height requirements when justified

because of steep topography, irregular lot pattern, unusual street conditions, or other special aspects of the Hillside District area.

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

1. Sunlight/Shadow: Shadow studies submitted by the applicant document the existing and proposed shadow effects at three times each day at the summer and winter solstices and the spring equinox. The studies show that the new dwelling would cast slight new shadows on neighboring yards and buildings at certain times of year and times of day. However, while the proposed dwelling would cast new shadows, impacts would be limited in duration and effect and would not substantially diminish sunlight for the affected residences. The most significant shadow effects on neighboring properties are already in existence due to the existing house at 469 Kentucky. Additional effects due to increased heights mostly avoid impacts on neighboring lots. Staff recommends that the Board find that these potential impacts are non-detrimental.
2. Privacy: The proposed dwelling would result in smaller setbacks from property lines, but would still exceed required minimums except in the front of the lot. The main dwelling is setback 20 feet, while the two-car garage would be located in the required front setback in the same area as the existing single-car garage. The garage location is necessary due to topography. The proposed new garage would not change this setback (see Table 4 above).

Front and rear third-floor balconies are proposed for the new house. Due to window locations and terrain, the rear balcony does not appear to be cause for any privacy concerns. The front balcony could potentially cause privacy concerns for the properties at 469 and 475 Kentucky Avenue. While there is already a balcony on the third floor of the existing house, views of 475 Kentucky are currently blocked by a row of juniper trees. However, those would be removed, which would open up views between dwellings. Other than this issue, which is common in an urban residential environment, Staff believes the proposed dwelling would not be detrimental regarding privacy.

3. Air: As discussed above, the proposed single-family dwelling unit exceeds all side and rear setback requirements in the R-1(H) Zoning District, and would be consistent with the existing development and building-to-building separation pattern – or air – in this neighborhood. The reduced front setback to accommodate the garage on this uphill lot is a common in this area, and is

adjacent to the open area of the street. Additionally, the proposed project would exceed the usable open space requirement. (See Table 4 above).

4. Views: Per BMC Chapter 23.502.020(V), a significant view is a view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark or any other significant vista that substantially enhances the value and enjoyment of real property. As described above under Project Setting, substantial southwestward views are available from the area surrounding the project site, including from Kentucky Avenue, neighboring residences, and the residences uphill to the northeast of the project site.

The proposed three-story residence replaces an existing three-story residence. The new residence would be approximately three feet higher than the existing residence. Story poles, erected in November 2022, revealed that the view of San Francisco Bay from at least one residence, 480 Vasser Avenue, would be partially diminished due to the width of the new third story. After receiving this feedback from the owners of 480 Vasser Avenue, the applicants revised their plans and erected new story poles. The new plans changed the orientation of the proposed roof so that views of the bay were substantially preserved. (Attachment 5). Staff believes the proposed project, as revised, would not unreasonably obstruct views.

VI. Other Considerations

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

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
4. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
5. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.
6. Policy H-16–Family Housing: Support and encourage housing projects that include units affordable and suitable for households with children and large families.

7. Policy H-33–Regional Housing Needs: Encourage adequate housing production to meet City needs and the City’s share of regional housing needs.

Staff Analysis: The proposed project is architecturally compatible with neighboring development. It is consistent with development standards of the Hillside Overlay Zone. It does not cause substantial air, sunlight, or privacy issues for the adjacent properties, and it is compatible with the General Plan goal of providing family housing in the R-1 District.

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 APPROVE Use Permit ZP2022-0087 pursuant to Section 23.406.040 and subject to the attached Findings and Conditions (Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received December 23, 2022
3. Notice of Public Hearing
4. Historic Evaluation Report
5. Story Pole Photos

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

ATTACHMENT 1

FINDINGS AND CONDITIONS

JANUARY 12, 2022

469 Kentucky Avenue

Use Permit #ZP2022-0087 to demolish a single-family dwelling and construct a 3,310 square foot three-story single-family residence and two-car garage.

PERMITS REQUIRED

- Use Permit to demolish a dwelling unit, per Berkeley Municipal Code (BMC) Section 23.326.030
- Use Permit to construct a new single-family dwelling, per BMC Section 23.202.020(A)
- Use Permit for a sixth bedroom on a parcel, per BMC Section 23.202.030
- Administrative Use Permit for exceeding 28-feet in average height, per BMC Sections 23.202.050(D) and 23.210.020(C)(2)
- Administrative Use Permit for a reduced front setback in the Hillside Overlay, per BMC Section 23.210.020(C)(4)
- Administrative Use Permit for a new accessory building, per BMC 23.304.060(A)
- Administrative Use Permit for an unenclosed accessory structure within a required setback, per BMC 23.304.070(C)(1)

I. CEQA FINDINGS

1. This 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 Sections 15303 (“New Construction or Conversion of Small Structures”)
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

1. As required by BMC Section 23.326.020-030 of the BMC, the demolition phase of the project would not be materially detrimental to the housing needs and public interest of the affected neighborhood and Berkeley. It does not eliminate two or more units constructed before June 1980. The building was not removed from the rental market under the Ellis Act during the preceding five years, and there have not been any verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.
2. As required by Section 23.406.040(E)(1) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons

residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

- A. Consistency with Development Standards: The proposed project conforms to the applicable Development Standards for the R-1(H) District (BMC Sections 23.202.050(D) & 23.210.020(C)(2), with the exception of the front setback. The proposal to construct one dwelling unit at this site is permissible because: (1) the proposed construction of a dwelling on the subject property conforms to the R-1(H) District standards for Uses Permitted; (2) the proposed side and rear setbacks meet or exceed the R-1(H) District requirements; (3) the proposed three-stories and 31.687 foot maximum height will not exceed the R-1 District limit of 35 feet; (4) the proposed average height is 29.3 feet, which is approvable with an AUP; (5) the proposed lot coverage is 39.7 percent where 40 percent is allowed, and (6) the project includes 1,308 square feet of usable open space where 400 square feet is required.
- B. Shadows: The new dwelling will cast slight new shadows on neighboring yards and buildings at certain times of year and times of day. However, impacts would be limited in duration and effect and would not substantially diminish sunlight for the affected residences.
- C. Views: Substantial southwestward views are available from the area surrounding the project site, including from Kentucky Avenue, neighboring residences, and the residences uphill to the northeast of the project site. Sightlines available from these residences occur mostly over and beyond the proposed residence, and views of the San Francisco Bay will be substantially maintained. Thus, given existing conditions, including existing trees that obstruct views and the existing slope in the neighborhood, and the proposed height of the new dwelling, the proposed project will not unreasonably obstruct views.
- D. Privacy and Air: The proposed single-family dwelling unit exceeds side and rear setback requirements in the R-1(H) Zoning District, and is consistent with the existing development and building-to-building separation pattern in this neighborhood.
- E. Accessory Building and Unenclosed Accessory Structure. The proposed eighty-five square foot accessory building at the rear of the lot is under ten feet in average height and is more than seventy-five feet from the front lot line, and meets the applicable development standards. The garbage enclosure within the front setback will provide screening of solid waste containers.
- F. Number of Bedrooms. The sixth bedroom will provide additional living area for the residents of the single-family dwelling and will not increase the density on the lot.
- G. General Non-Detriment: The proposed project will have minimal impact on the neighborhood. New shading will be limited on nearby residential uses, and privacy impacts have been kept minimal. In addition, the project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the

adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.

3. Per BMC 23.210.020(A), the project will meet the purpose of the Hillside Overlay Zone because:
 - A. The proposed two-car garage in the front setback is necessary due to the steep upward slope of the lot and is consistent with neighboring properties, which also have garages at the fronts of their lots. It will provide two off-street parking spaces on a narrow street in a location that is vulnerable to wildfire.
 - B. The additional height responds to the topography of the site while giving reasonable protection to views.
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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 23.404.050(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 #

11. Roof Color. To avoid glare towards above grade residents, the roof shall be a shade of gray, green, brown or blue. The roof shall not be white or a similarly bright color, and shall not be of reflective material. Prior to issuance of a Building Permit, the applicant shall provide a sample and/or information regarding roof material and color for review and approval by the Zoning Officer.
12. Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior to the applicant's submittal of a building permit application.

Prior to Issuance of A Building Permit

13. Per the Supplemental Geotechnical Peer Review prepared by Cotton, Shires and Associates, Inc., and dated November 8, 2022:

Geotechnical Plan Review - The applicant's geotechnical consultant should review and approve all geotechnical aspects of the final project building and grading plans (i.e., site preparation and grading, shoring design, site surface and subsurface drainage improvements including site runoff discharge, and design parameters for foundations and retaining walls) to ensure that their recommendations have been properly incorporated.

The results of the plan review should be summarized by the Geotechnical Consultant in a letter and submitted to the City Engineer for review and approval prior to issuance of building permits.

14. Number of Bedrooms / Accessory Dwelling Unit (ADU): If the proposed ADU is not developed concurrently with the project, the applicant shall obtain a Use Permit Modification if the additional rooms that meet the definition of a bedroom bring the total number of bedrooms over six.
15. 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.

16. 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

17. 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.
18. Electric Vehicle (EV) Charging. Each dwelling unit shall install a listed raceway, wiring, and power to allow for future Level 2 (240 Volt/40 amp) plug-in electric vehicle (EV) charging system installation as specified by the Berkeley Green Code (BMC Section 19.37.040). Readiness for EV charging and EV charging station installations shall be noted on the construction plans.
19. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
20. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).
21. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).
22. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

During Construction:

23. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

24. The height and location of the proposed structure, property lines and spot elevations shall be verified by a licensed surveyor or engineer on site after foundation forms are placed, but before pouring concrete or placing construction material in its permanent position. This verification shall be to the satisfaction of the Zoning Officer.
25. Per the Supplemental Geotechnical Peer Review prepared by Cotton, Shires and Associates, Inc., and dated November 8, 2022:

Geotechnical Construction Inspections - The Geotechnical Consultant should inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections should include, but not necessarily be limited to: site preparation and grading, site surface and subsurface drainage improvements, and excavations for foundations and other improvements prior to the placement of steel and concrete.

The results of these inspections and the as-built conditions of the project should be described by the geotechnical consultant in a letter and submitted to the City Engineer for review prior to final (granting of occupancy) project approval.

26. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
- A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
27. 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.

28. 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.
29. 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.

30. 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.

- 31. 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.
- 32. 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.
- 33. 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.

34. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).

- A. *Qualified Paleontologist.* The project applicant shall retain a Qualified Paleontologist prior to excavations or ground disturbance that will exceed three feet in depth. The Qualified Paleontologist shall direct all mitigation measures related to paleontological resources. A qualified professional paleontologist is defined by the SVP standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010).
- B. *Paleontological Worker Environmental Awareness Program (WEAP).* Prior to ground disturbance, the applicant shall incorporate information on paleontological resources into the Project's Worker Environmental Awareness Training (WEAP) materials, or a stand-alone Paleontological Resources WEAP shall be submitted to the Department of Planning and Development at the City of Berkeley. The Qualified Paleontologist or his or her designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The Paleontological WEAP training shall be fulfilled simultaneously with the overall WEAP training, or at the first preconstruction meeting at which a Qualified Paleontologist attends prior to ground disturbance. Printed literature (handouts) shall accompany the initial training. Following the initial WEAP training, all new workers and contractors must be trained prior to conducting ground disturbance work.
- C. *Paleontological Monitoring.* The extent of required paleontological monitoring for the project shall be determined by the Qualified Paleontologist based on an evaluation of the previously undisturbed geologic units exposed during ground disturbing activity. The Qualified Paleontologist shall conduct an initial spot check and evaluation of geologic conditions for ground disturbing activity for excavations between 5-10 feet below ground surface (BGS). The evaluation shall be based on field evidence including lithology of geologic units and results of micro-screening or other inspections for fossil resources. If the paleontologist determines that geologic units exposed between 5-10 feet BGS have high paleontological sensitivity, then full-time monitoring shall be conducted for the duration of ground disturbing activity. If sediments between 5-10 feet BGS are determined to not be paleontological sensitive, spot checks should be conducted again for ground disturbance between 10-15 feet BGS and again for ground disturbance between 15-20 feet BGS, and again to the full depth of ground disturbance. If spot checks indicate low or no paleontological sensitivity, or if full time monitoring results in no fossil discoveries once the full depth of ground disturbance has been reached, paleontological monitoring can be discontinued for the remainder of project activity. Monitoring shall be reinstated if any new ground disturbances are required to depths exceeding previous depths of previous work, and reduction or suspension shall be reconsidered by the Qualified Paleontologist at that time.
- D. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. A Qualified Paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the Qualified Paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources:

- 1) *Salvage of Fossils.* If fossils are discovered, the paleontological monitor shall have the authority to halt or temporarily divert construction equipment within 50 feet of the find until the monitor and/or lead paleontologist evaluate the discovery and determine if the fossil may be considered significant. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the Construction Contractor may be requested to supply heavy equipment and an operator to assist in the rapid removal of a large fossil specimen(s) or sediment sample(s). Bulk matrix sampling may be necessary to recover small invertebrates or microvertebrates from within paleontologically- sensitive Quaternary old alluvial deposits.
 - 2) *Preparation and Curation of Recovered Fossils.* Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the UCMP), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Qualified Paleontologist.
- E. *Final Paleontological Mitigation Report.* Upon completion of ground disturbing activity (and curation of fossils if necessary) the Qualified Paleontologist shall prepare a final report describing the results of the paleontological monitoring efforts associated with the project. The report shall include a summary of the field and laboratory methods, an overview of the project geology and paleontology, a list of taxa recovered (if any), an analysis of fossils recovered (if any) and their scientific significance, and recommendations. The report shall be submitted to the Department of Planning and Development at the City of Berkeley. If the monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.
35. 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.
36. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system;

these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.

- C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
 - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
 - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 37. 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.
- 38. 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.

39. 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.
40. 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.
41. 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.
42. 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:

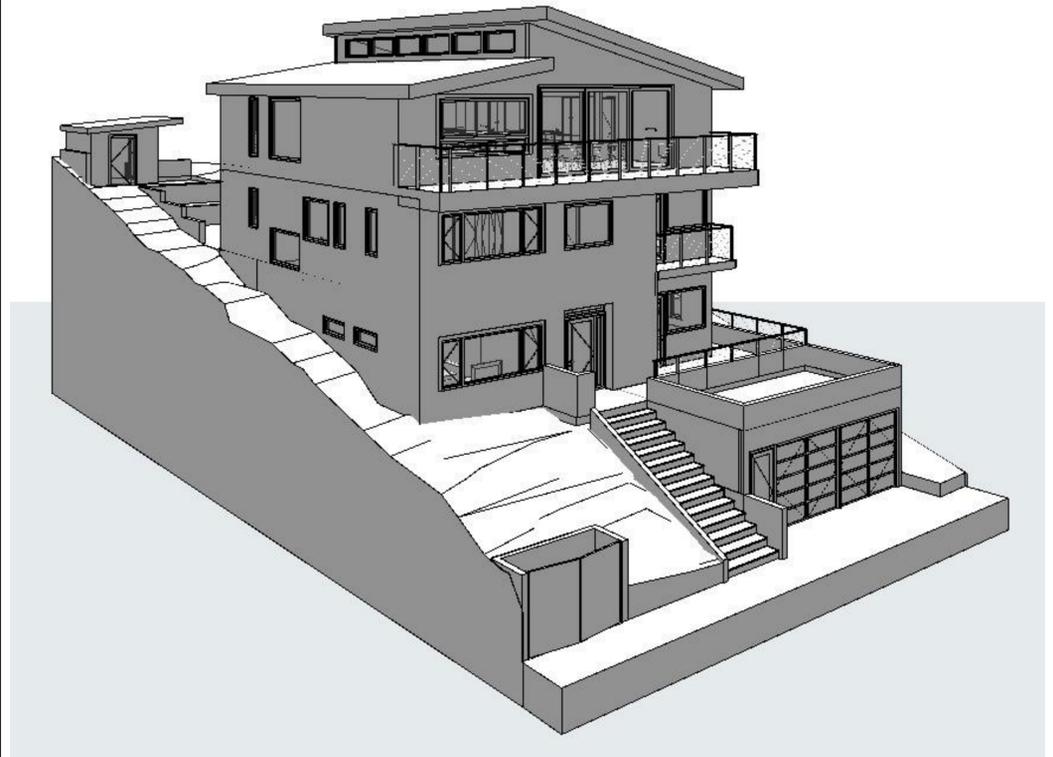
40. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
41. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated December 19, 2022, except as modified by conditions of approval.

At All Times:

42. 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.
43. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
44. 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.
45. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.

- 46.** Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.
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MASSING PERSPECTIVE



N.T.S.

KEEFE RESIDENCE

469 KENTUCKY AVE., BERKELEY CA 94707

SCOPE OF WORK

DEMOLISH EXISTING 3 STORY SINGLE FAMILY 4 BEDROOM HOME: 1,733 SF WITH EXISTING DETACHED 240 SF 1-CAR GARAGE. CONSTRUCT NEW 3 STORY SINGLE FAMILY 3.5 BATH, 5 BEDROOM (4 BEDROOMS ON SECOND FLOOR + 1 BEDROOM ON GROUND FLOOR, LABELLED TV ROOM) HOME WITH ATTACHED GROUND FLOOR ADU: 3,310 SF PRIMARY UNIT AND 494 SF ADU WITH DETACHED 488 SF 2-CAR GARAGE. PROJECT INCLUDES NEW GRADING/LANDSCAPING, TRASH ENCLOSURE, AND 85 SF ACCESSORY BUILDING.

SITE INFORMATION

APN#: 062 294502800
ZONING DISTRICT: R-1H
LOT SIZE: 5,088 sq. ft.
YEAR BUILT: 1926
WILDFIRE ASSESSMENT DISTRICT:
HISTORIC: NO
LIQUEFACTION (SEISMIC HAZARDS MAPPING ACT): NO
LIQUEFACTION SEVERITY: N/A

FLOOD ZONE (100-YEAR OR 1%): NO
LANDSLIDE (SEISMIC HAZARDS MAPPING ACT): YES
CREEK BUFFER: NONE
FIRE ZONE: 2

BUILDING INFORMATION

EXISTING:
NUMBER OF UNITS: 1
CONSTRUCTION TYPE: V
OCCUPANCY: R
FIRE SPRINKLERS: NO
STORIES: 2 + PARTIAL BASEMENT
GROSS FLOOR AREA: 1773 SF
YEAR BUILT: 1926

PROPOSED:
NUMBER OR UNITS: 2
PRIMARY DWELLING UNIT (3310 SF) + ATTACHED ADU (494 SF)

CONSTRUCTION TYPE: TBD
OCCUPANCY: R
FIRE SPRINKLERS: YES
STORIES: 3
GROSS FLOOR AREA: 3,804 SF

PROJECT TEAM

ARCHITECT

MAURICE LEVITCH, AIA
LEVITCH ASSOCIATES, INC.

1029 HEINZ AVENUE
BERKELEY, CA 94710
TEL: 510.845.6941
FAX: 510.845.6950
EMAIL: MAURICE@LEVITCH.COM

SURVEYORS

MORAN ENGINEERING, INC.
1930 SHATTUCK AVE. SUITE A
BERKELEY, CA 94704
TEL: 510.848.1930

Keefe Residence

Project Address:
469 KENTUCKY AVE.
BERKELEY, CA 94707

Owner:
AIDAN KEEFE

469 KENTUCKY AVE.
BERKELEY, CA 94707
MOBILE: (415) 317-7845
EMAIL: aidan.keefe@gmail.com

APPROVALS

SHEET INDEX

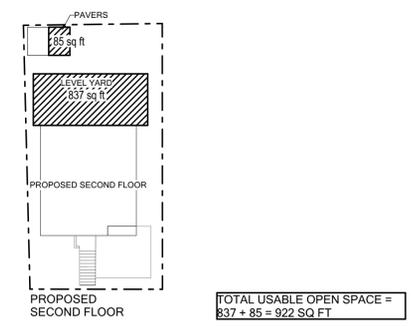
PRELIMINARY

- A1 COVER SHEET
- A2 SITE PLAN
- A3 EXISTING FLOOR PLANS
- A4 PROPOSED FLOOR PLANS
- A5 PROPOSED FLOOR PLANS
- A6 PROPOSED ELEVATIONS
- A7 PROPOSED ELEVATIONS
- A8 PROPOSED ELEVATIONS
- A9 PROPOSED ELEVATIONS
- A10 PROPOSED SECTIONS
- A11 LANDSCAPE AND GRADING PLAN
- A12 SHADOW STUDY
- A13 SHADOW STUDY ELEVATIONS
- S1 SITE SURVEY

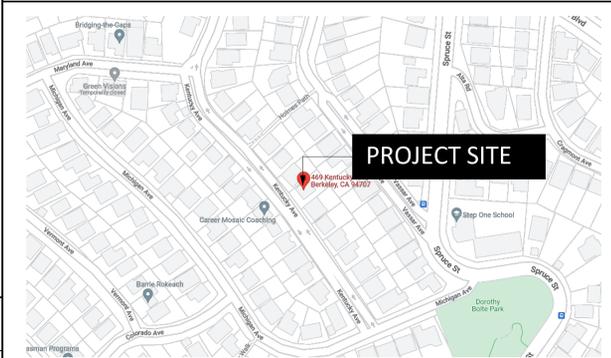
AREA TABULATIONS

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
# OF DWELLING UNITS	1	1 + ADU	-
# OF PARKING SPACES	1	2	1
# OF BEDROOMS	4	5	-
# OF BATHROOMS	2	3.5	-
FRONT YARD SETBACK	4'	4'	20'
SIDE YARD SETBACK (LEFT)	4.7'	5'	4'
SIDE YARD SETBACK (RIGHT)	9.7'	9.25'	4'
REAR YARD SETBACK	38.8'	38.16'	20'
BUILDING HEIGHT (# OF STORIES)	3	3	3
AVERAGE HEIGHT	25.5'	29.3'	28'
MAXIMUM HEIGHT	28.75'	31.687'	35'
LOT AREA	5,088 sq ft	5,088 sq ft	5,000 sq ft
GROSS FLOOR AREA	1,773 sq ft	4,350 sq ft	-
BUILDING FOOTPRINT	1,601 sq ft	2,020 sq ft	2,035.2
LOT COVERAGE	31.5%	39.7%	40%
USEABLE OPEN SPACE	181 sq ft	922 sq ft	800 sq ft

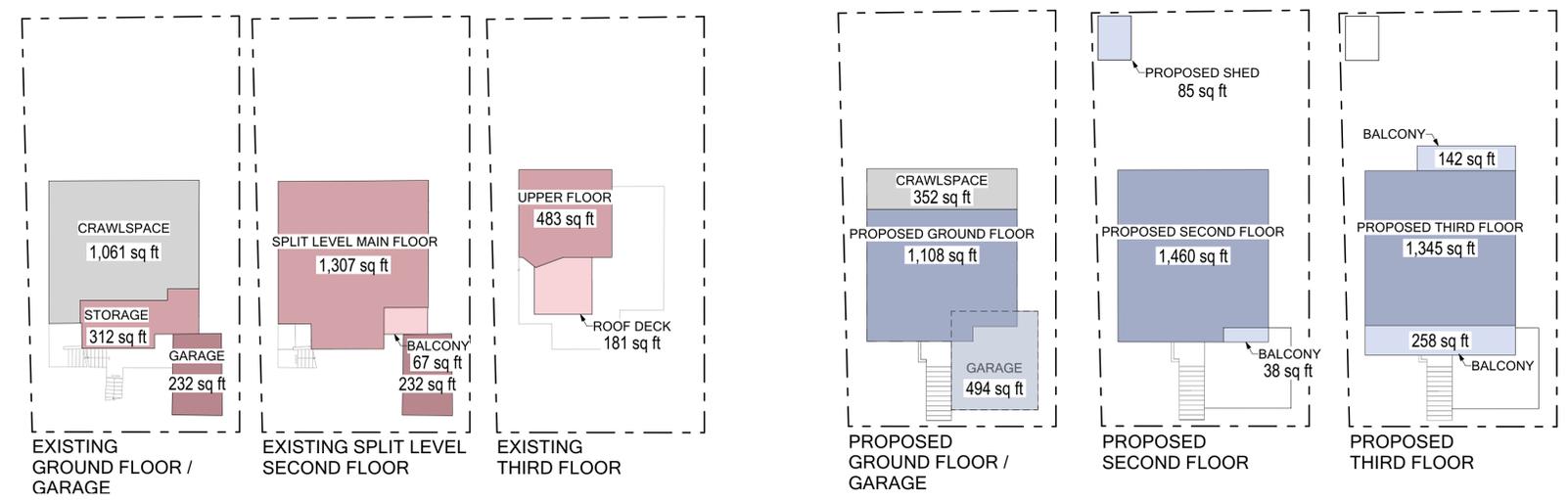
USABLE OPEN SPACE DIAGRAM



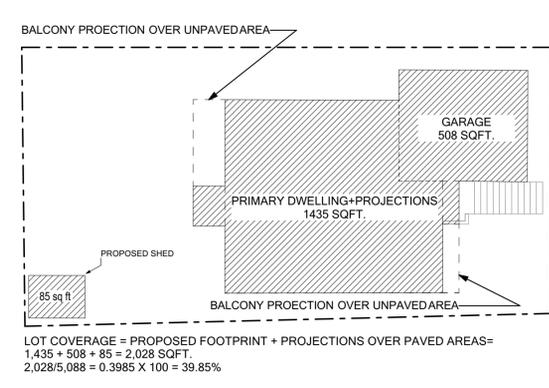
VICINITY MAP



AREA CALCULATIONS AND DIAGRAMS



LOT COVERAGE DIAGRAM



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December 19, 2023

Drawn By:
CH/KM

Checked By:
SG

A1

I HAVE REVIEWED THE PLANS FOR DEMOLITION OF EXISTING 4-BEDROOM HOME AND CONSTRUCTION OF A NEW 4,292 GROSS SQUARE FOOT PROJECT, INCLUDING A 5-BEDROOM HOME WITH AN ATTACHED 1-BEDROOM ACCESSORY DWELLING UNIT AND AN ATTACHED 2-CAR GARAGE AT 469 KENTUCKY AVE

NAME (PRINTED)	SIGNATURE	ADDRESS	RENTER OR OWNER	DATE	HAVE NO OBJECTIONS	HAVE OBJECTIONS (PLEASE STATE BRIEFLY)	HAVE NO COMMENT
		467 KENTUCKY AVE.	RENT / OWN				
		475 KENTUCKY AVE.	RENT / OWN				
		462 KENTUCKY AVE.	RENT / OWN				
		466 KENTUCKY AVE.	RENT / OWN				
		472 KENTUCKY AVE.	RENT / OWN				
		470 VASSAR AVE.	RENT / OWN				
		476 VASSAR AVE.	RENT / OWN				
		480 VASSAR AVE.	RENT / OWN				

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Owner:
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EMAIL: aidan.keefe@gmail.com



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Sheet Contents:
SITE PLAN

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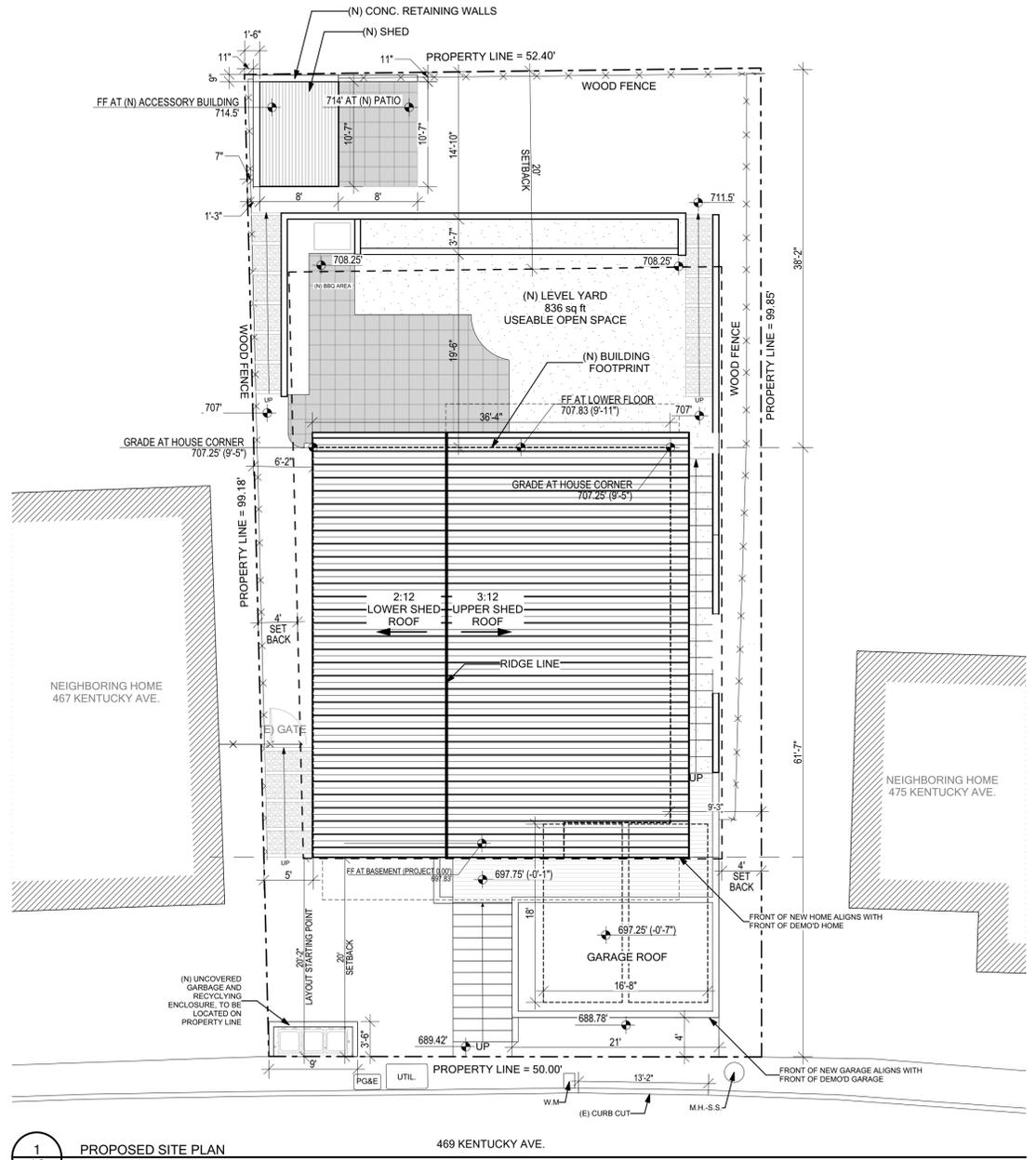
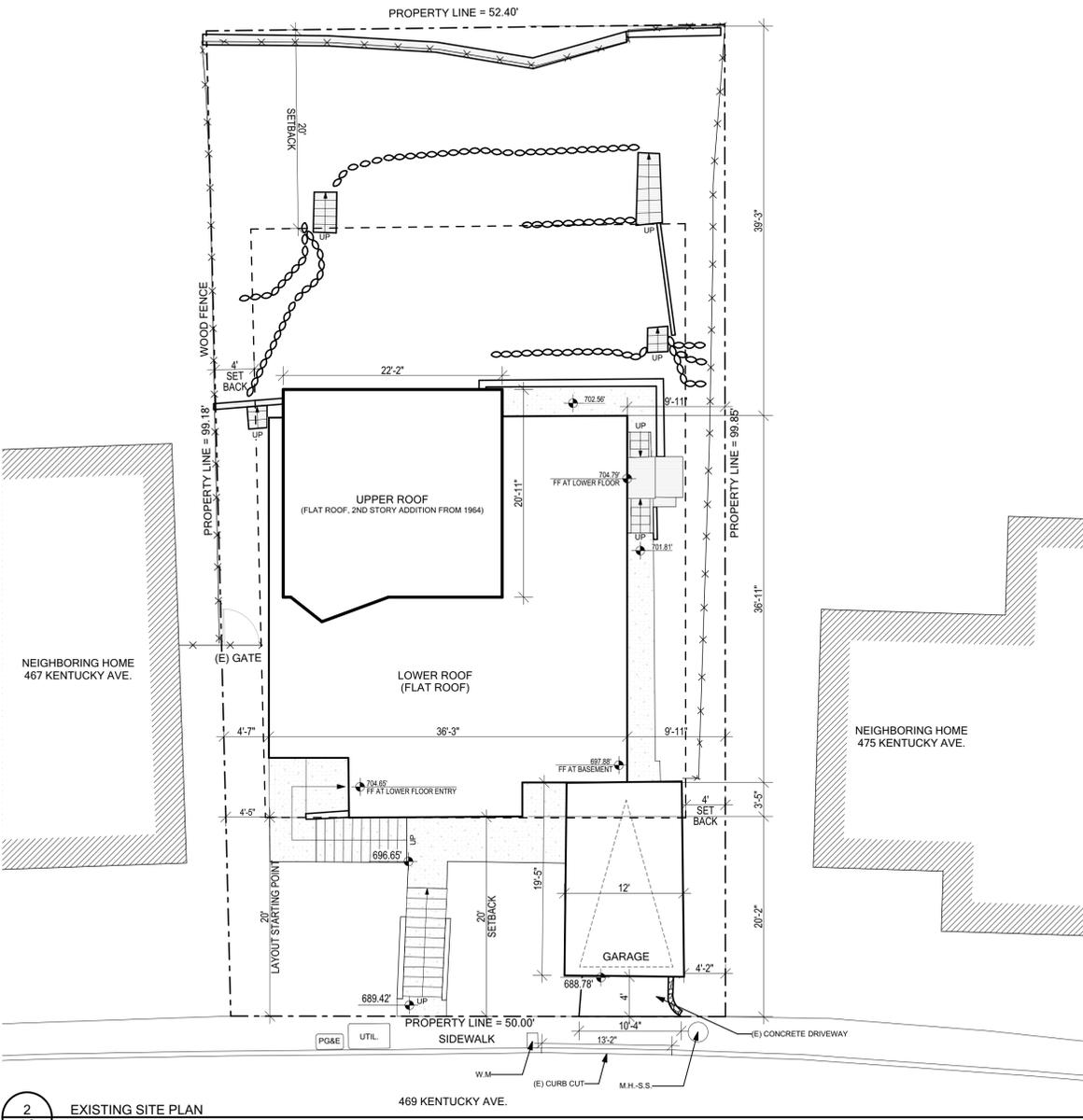
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A2



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Sheet Contents:
EXISTING FLOOR PLANS

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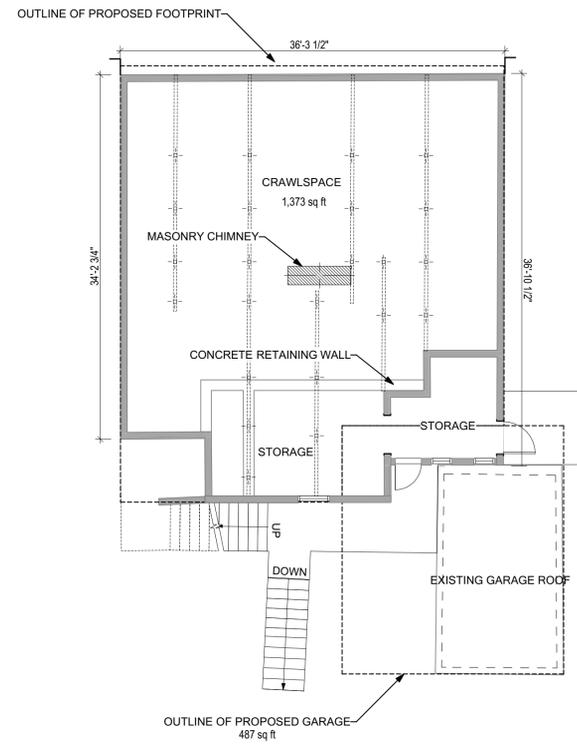
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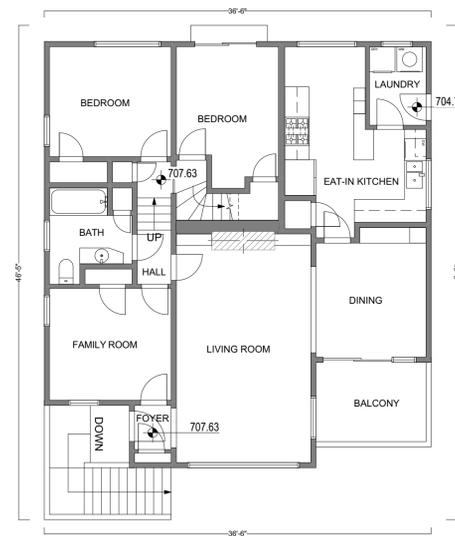
Drawn By:
CH/KM

Checked By:
SG

A3



1
A3 EXISTING GROUND FLOOR / GARAGE
SCALE: 1/8" = 1'-0"



2
A3 EXISTING SPLIT LEVEL SECOND FLOOR
SCALE: 1/8" = 1'-0"



3
A3 EXISTING THIRD FLOOR
SCALE: 1/8" = 1'-0"

2' 4' 8' 12'



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PROPOSED FLOOR PLANS

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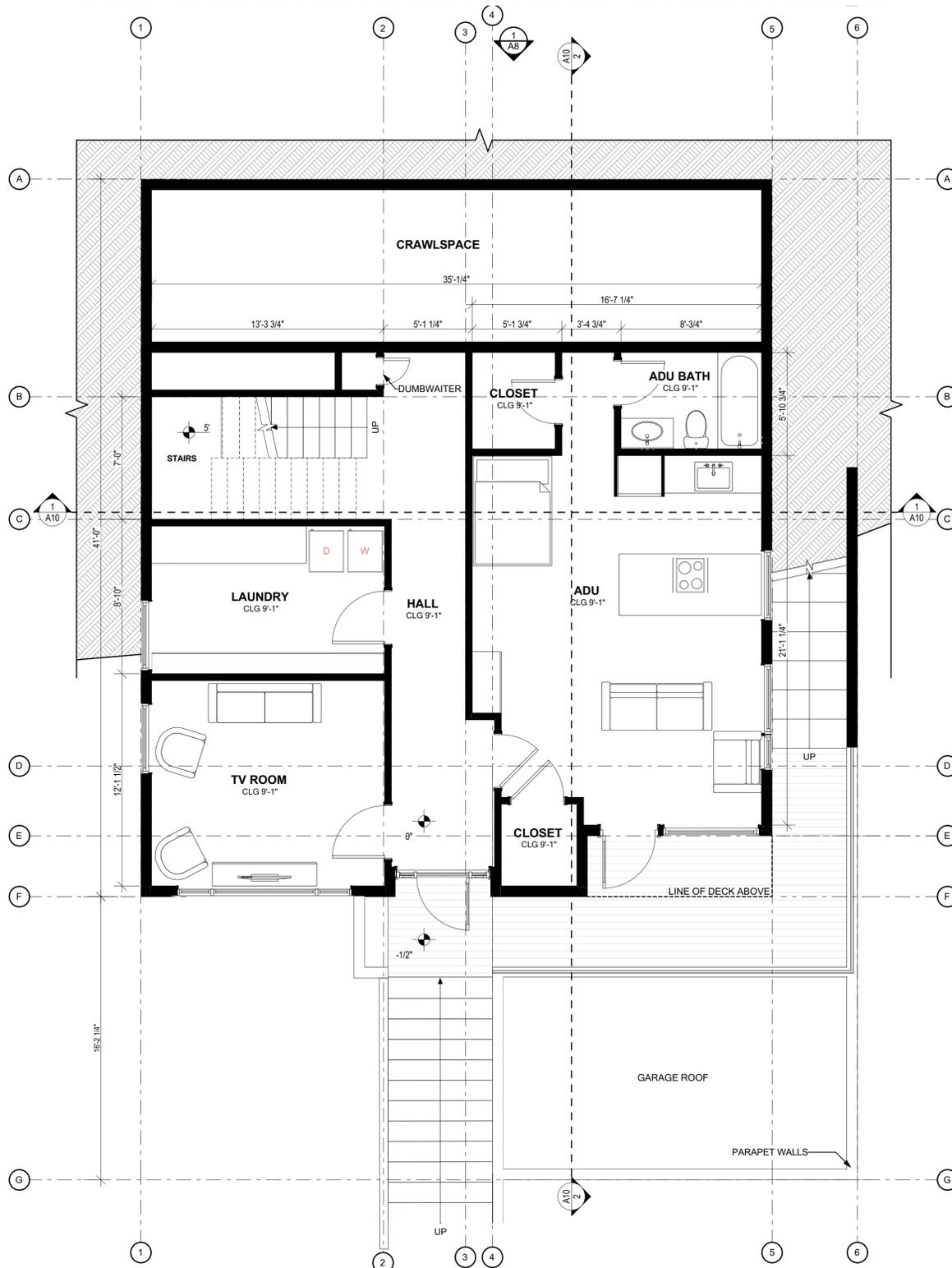
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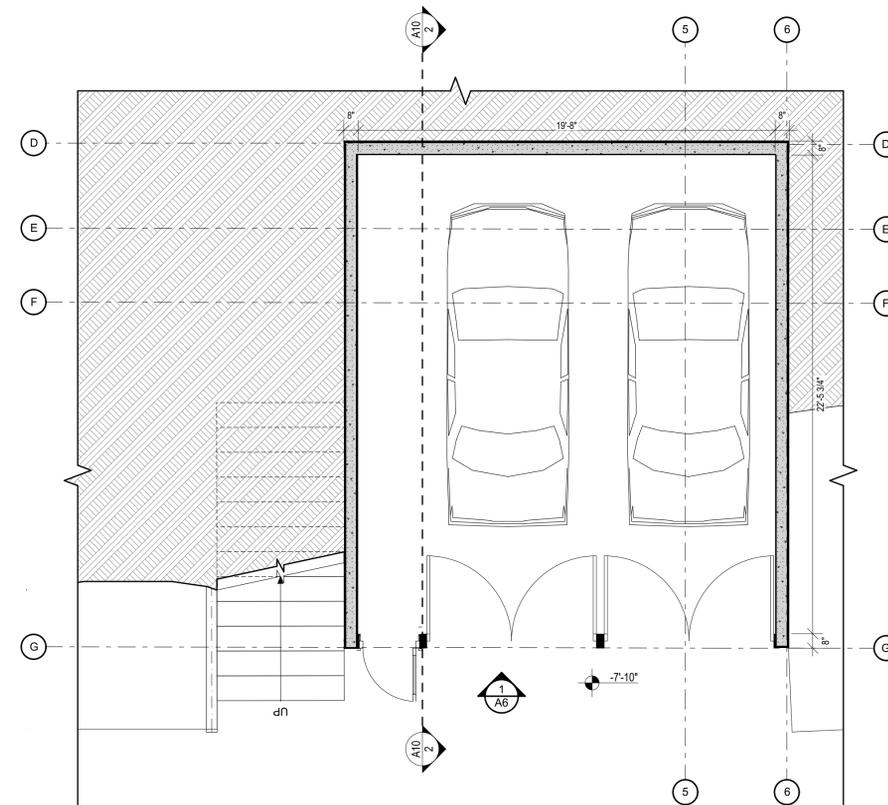
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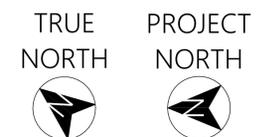
A4



2
A4
PROPOSED GROUND FLOOR
SCALE: 1/4" = 1'-0"



1
A4
PROPOSED GARAGE FLOOR
SCALE: 1/4" = 1'-0"



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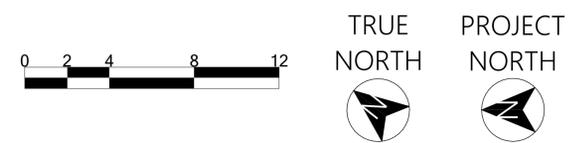
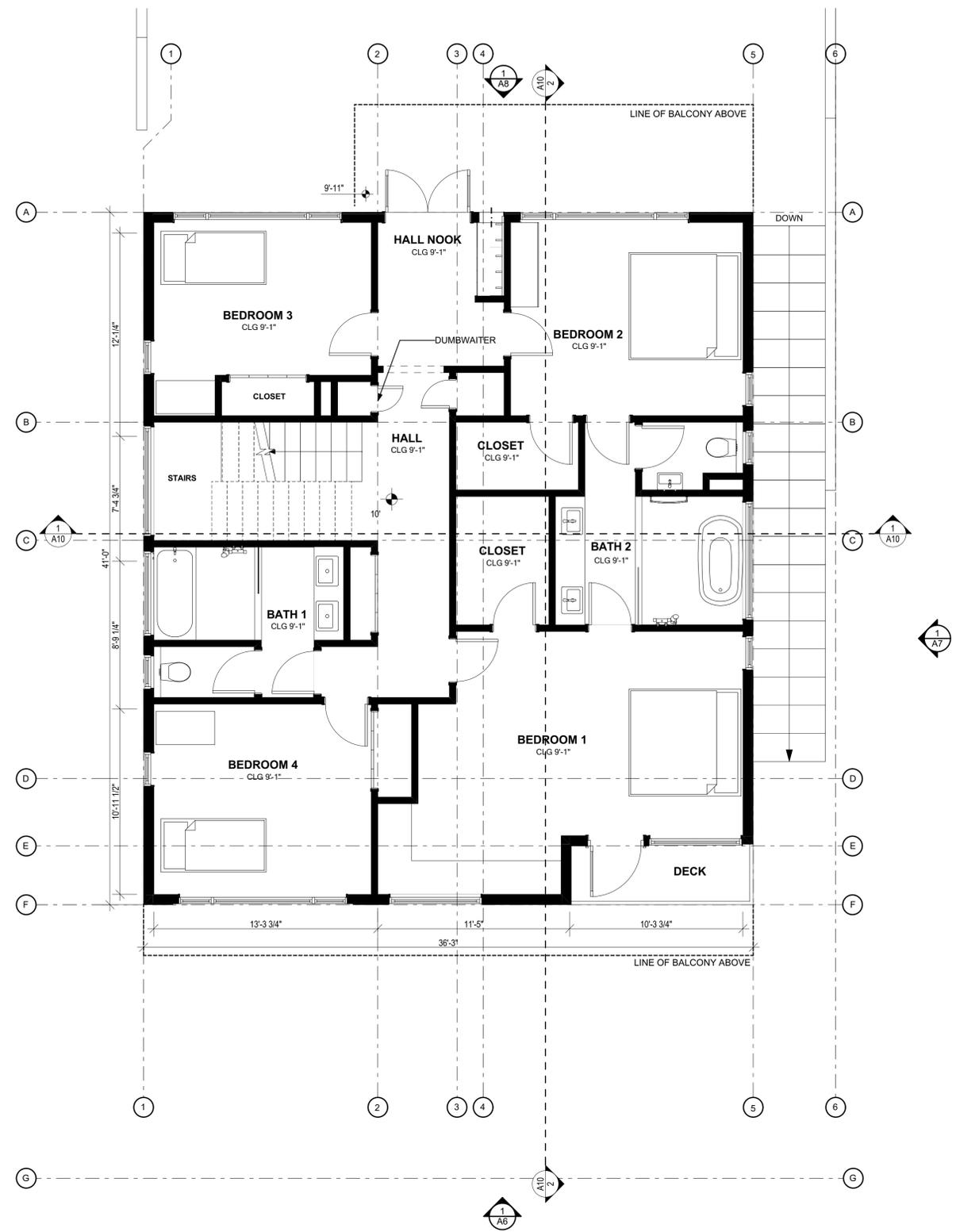
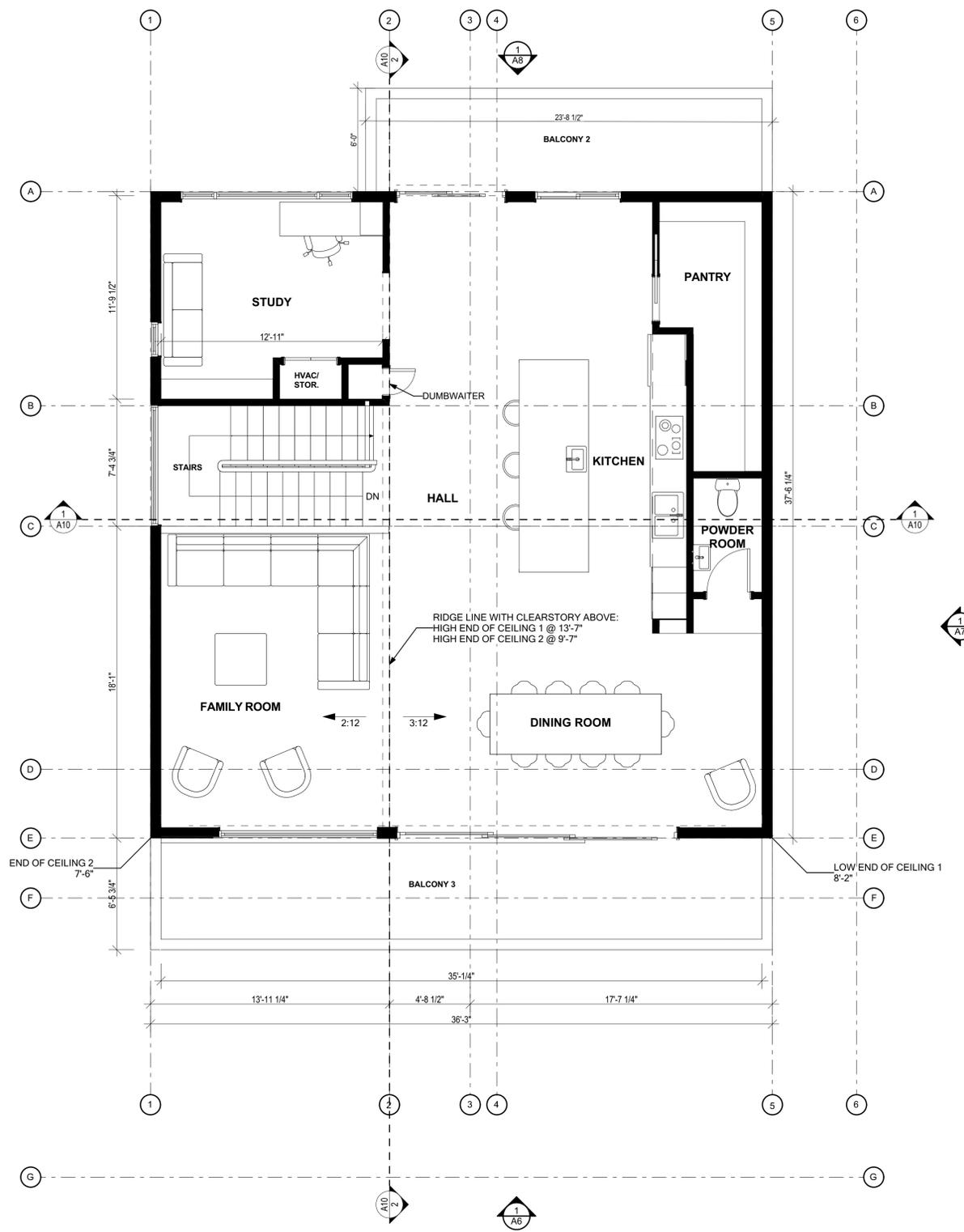
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A5



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Sheet Contents:
PROPOSED ELEVATIONS

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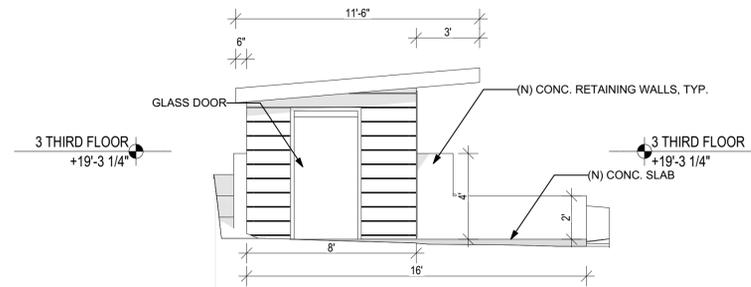
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December 19, 2023

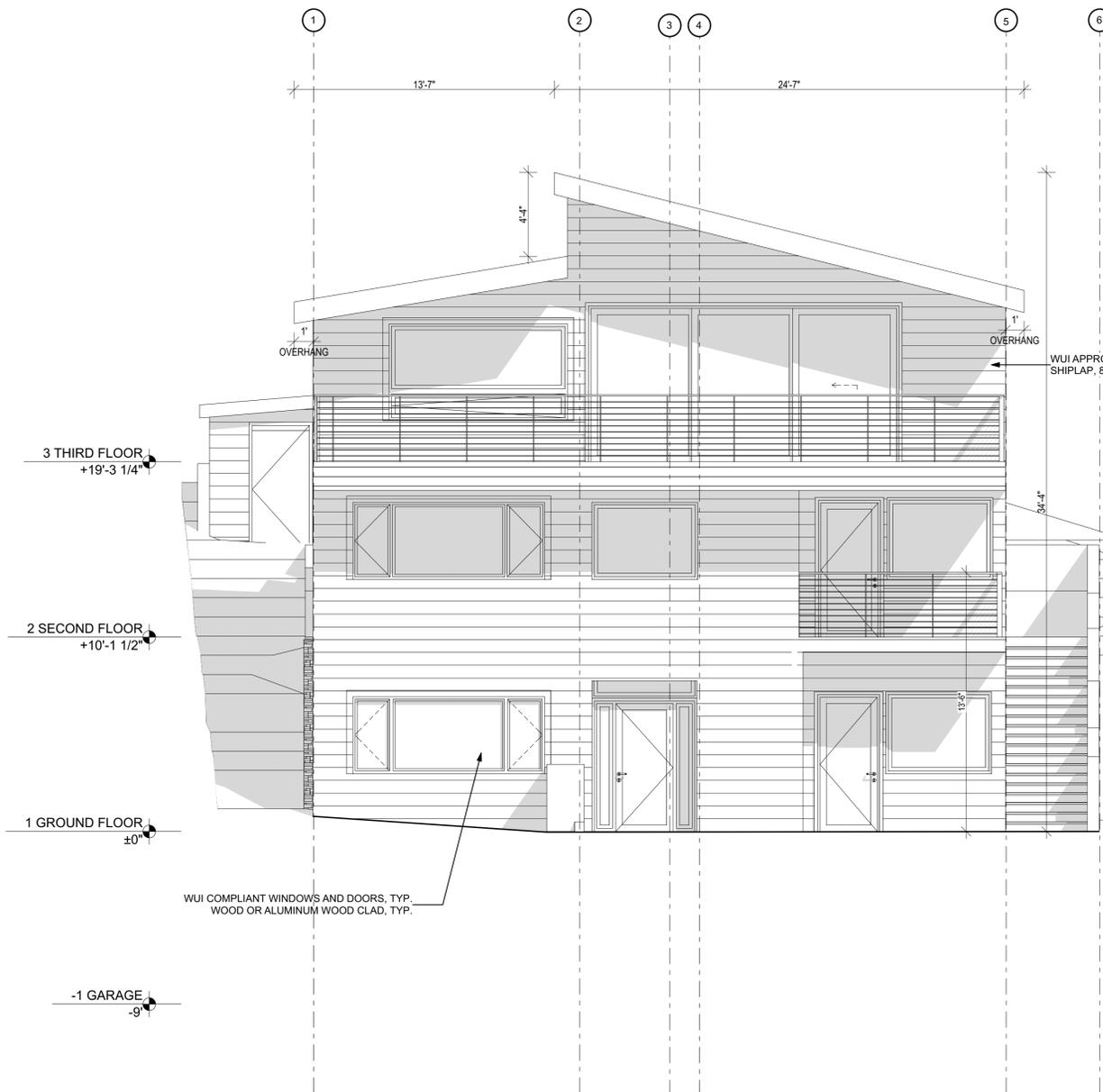
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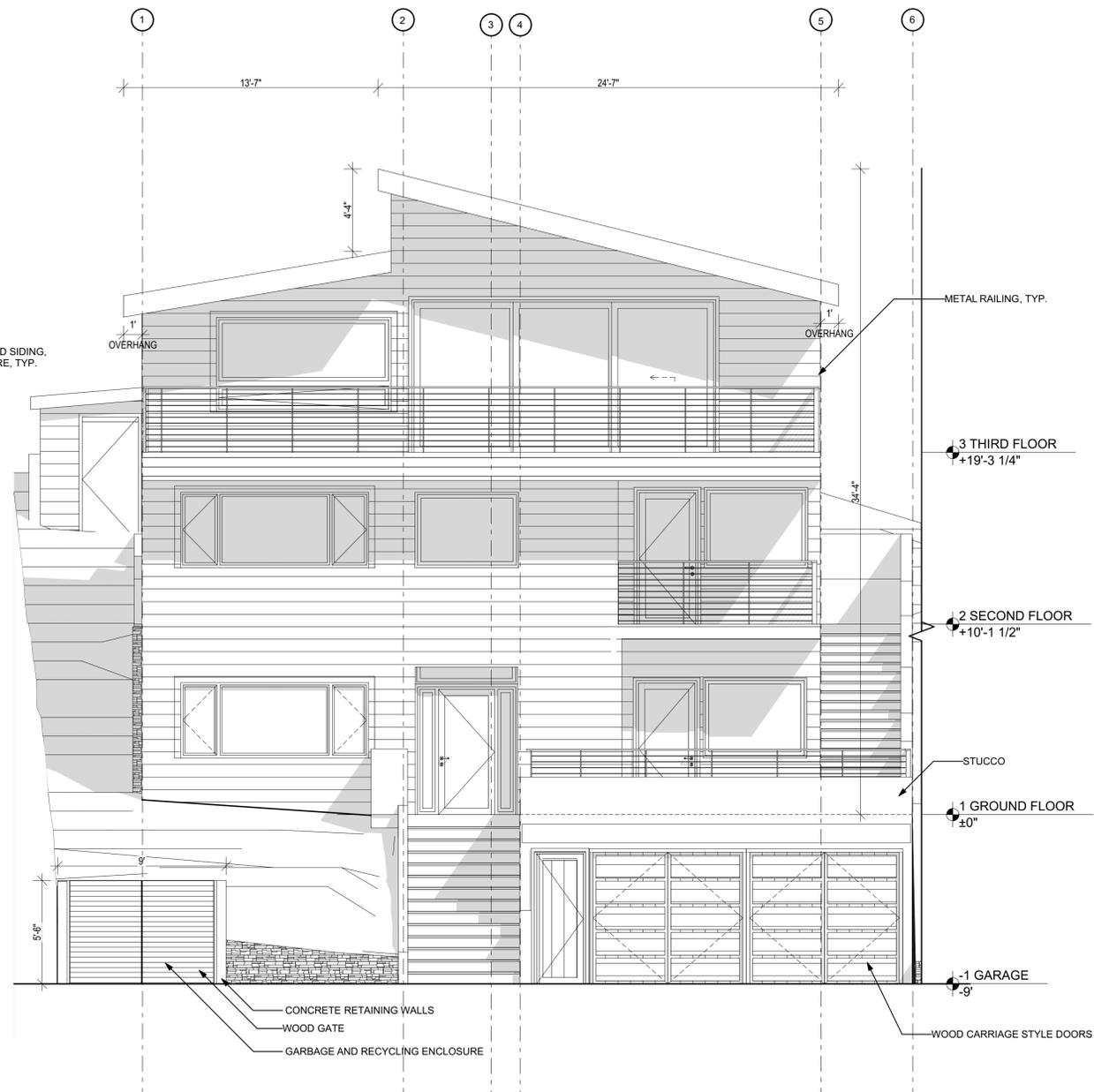
A6



3 WEST ELEVATION: SHED
A6 SCALE: 1/4" = 1'-0"



1 WEST ELEVATION MAIN HOUSE
A6 SCALE: 1/4" = 1'-0"



2 WEST ELEVATION STREET VIEW
A6 SCALE: 1/4" = 1'-0"



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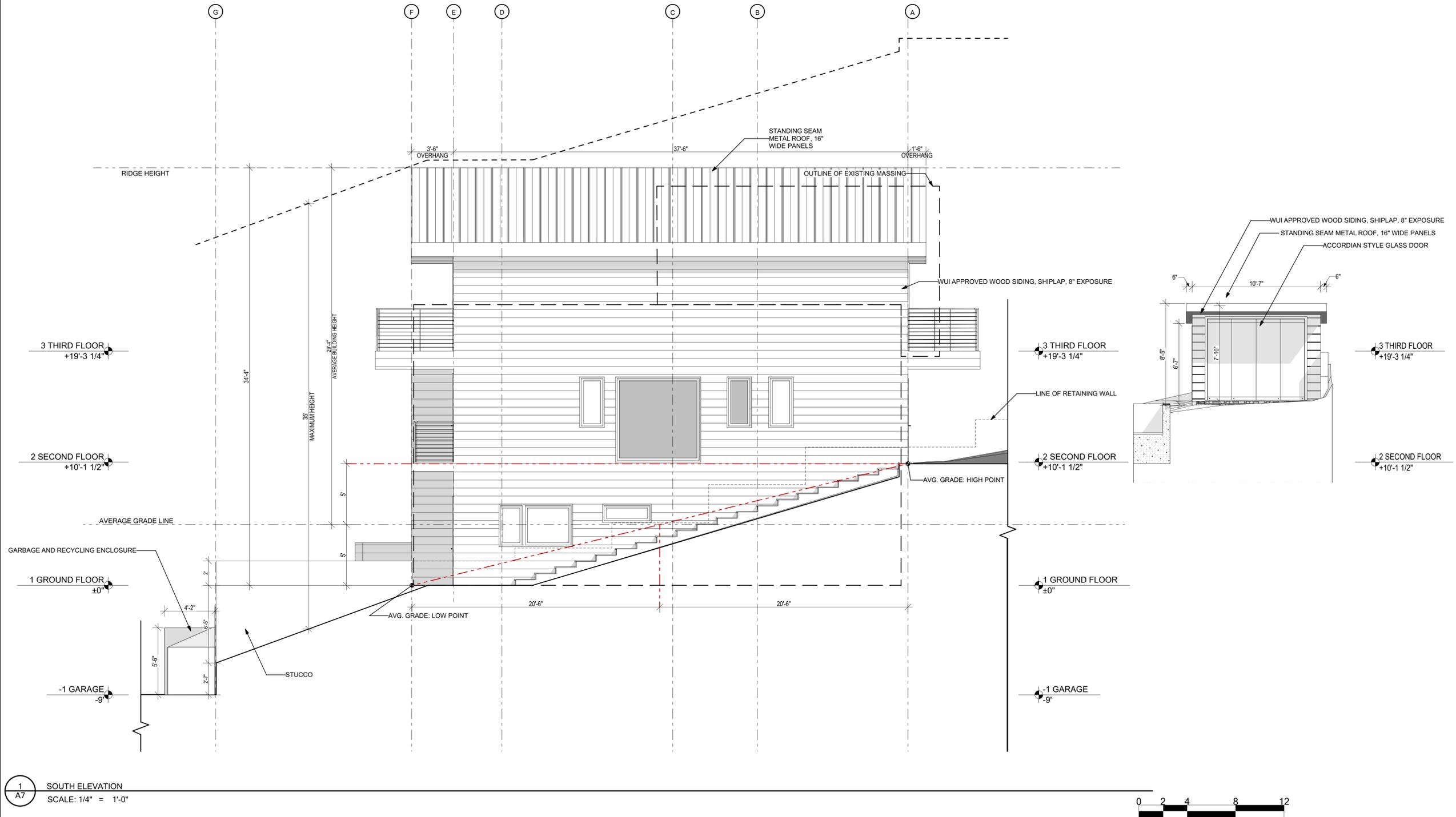
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A7



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



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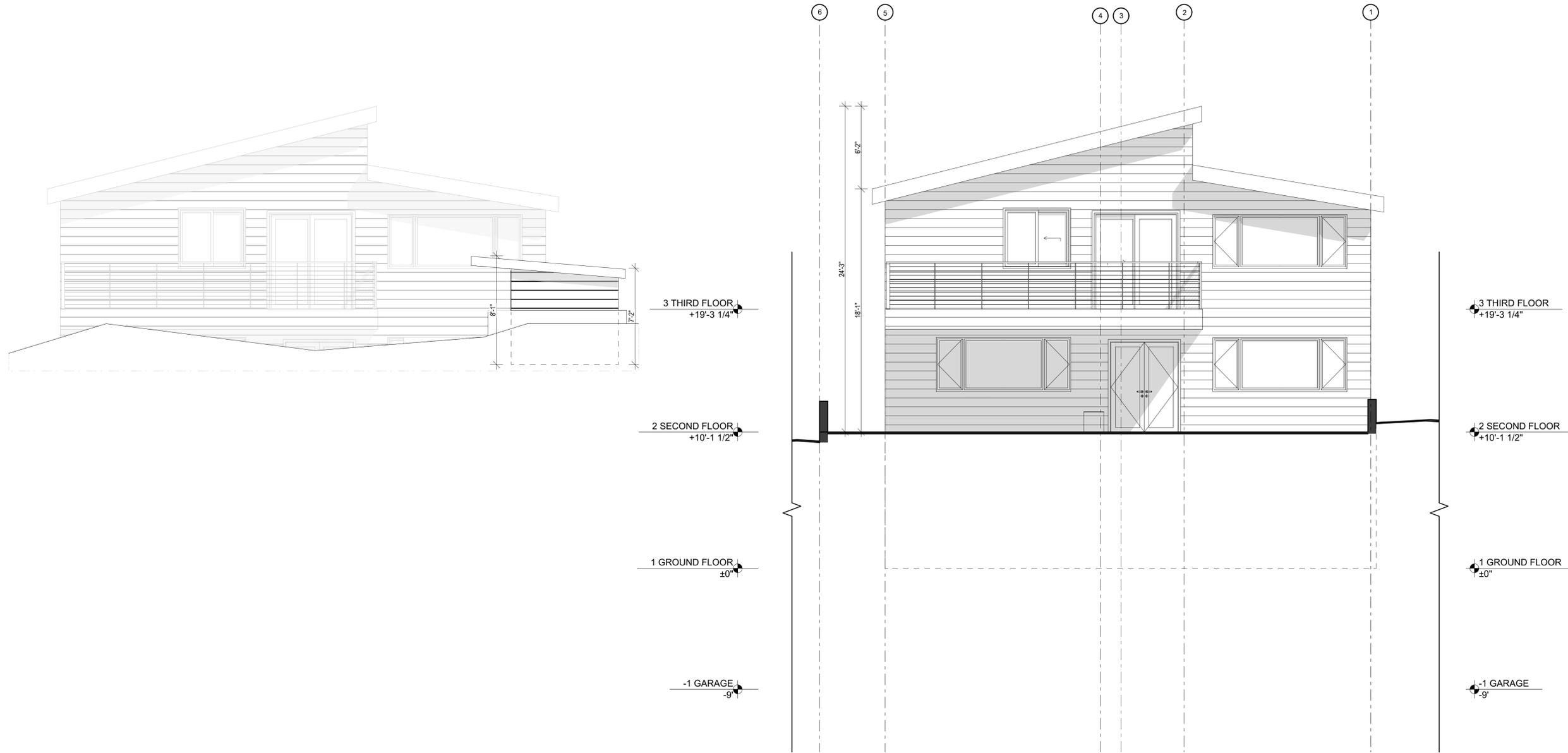
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A8



2 EAST ELEVATION: SHED
A8 SCALE: 1/4" = 1'-0"

1 EAST ELEVATION
A8 SCALE: 1/4" = 1'-0"



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PROPOSED ELEVATIONS

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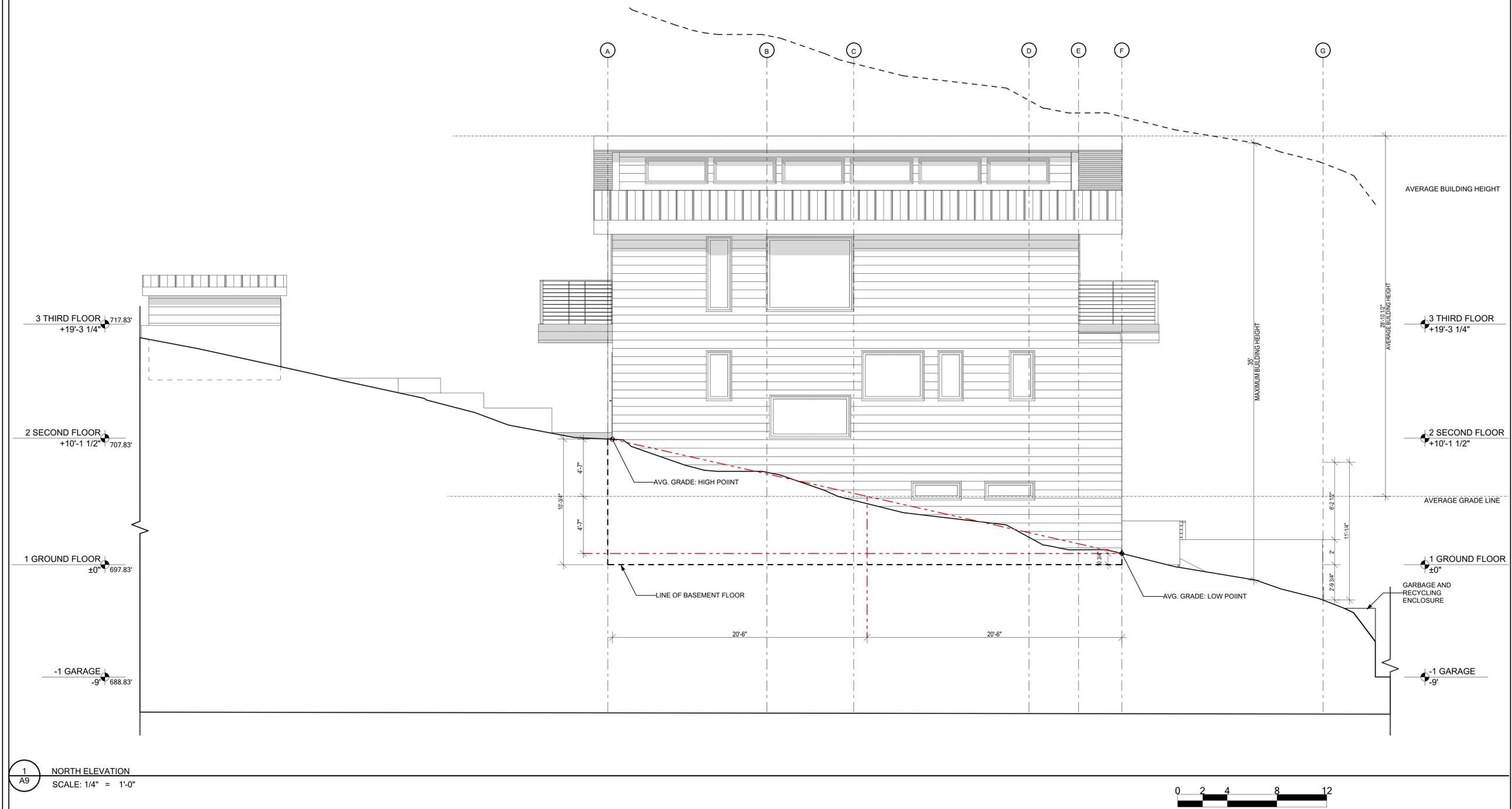
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A9



1 NORTH ELEVATION
A9 SCALE: 1/4" = 1'-0"

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Sheet Contents:
PROPOSED SECTIONS

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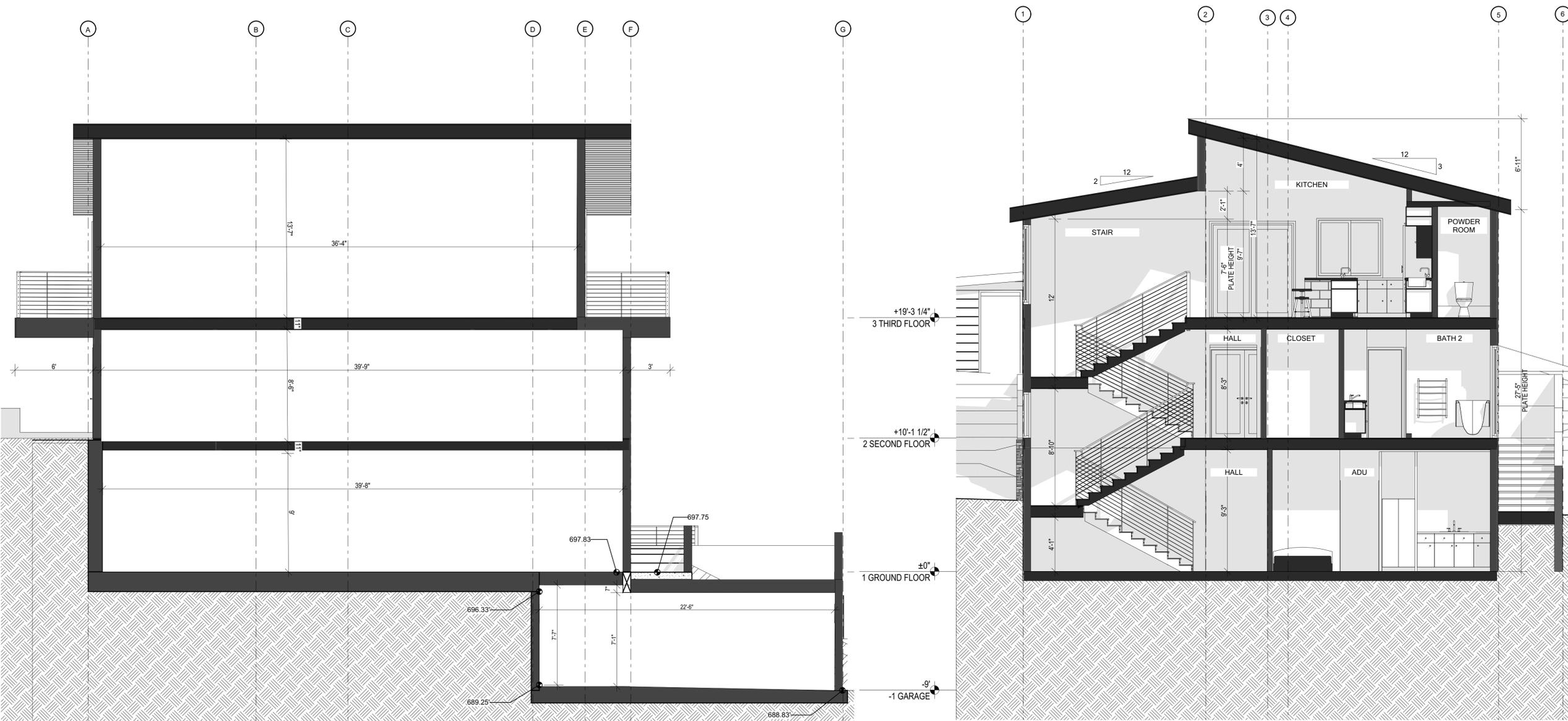
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A10



2 SECTION B
A10 SCALE: 1/4" = 1'-0"

1 SECTION A
A10 SCALE: 1/4" = 1'-0"



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Sheet Contents:
LANDSCAPE AND GRADING PLAN

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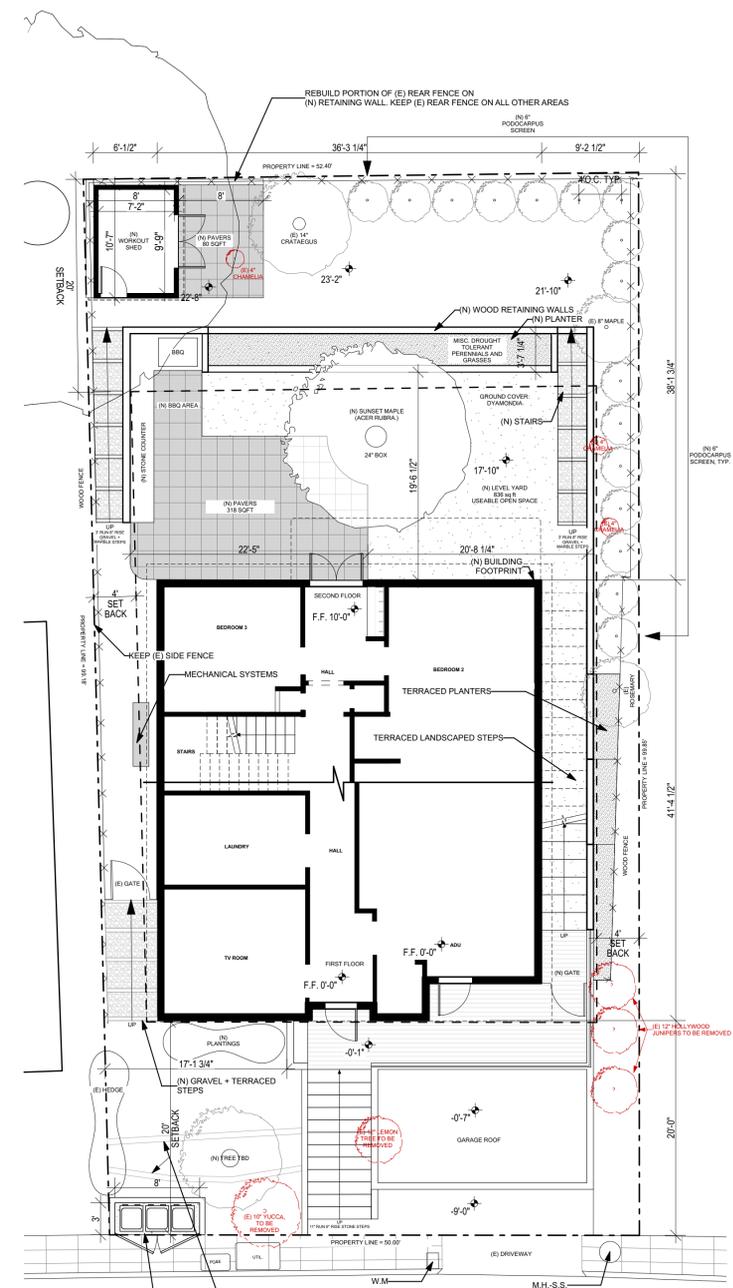
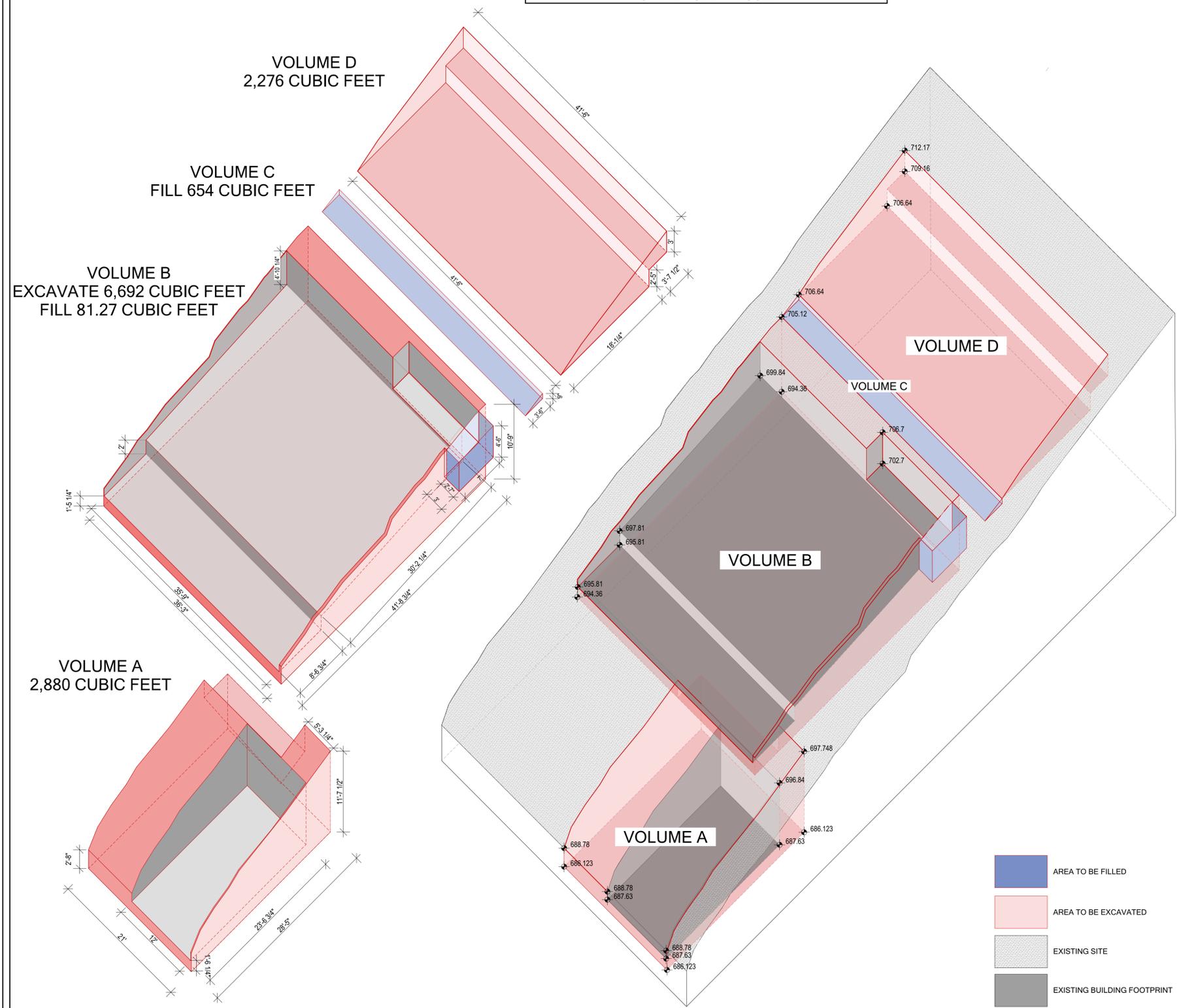
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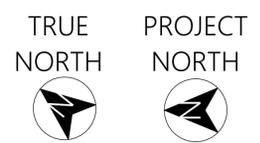
A11

TOTAL EXCAVATION = 11,848 CUBIC FEET
TOTAL FILL = 735.27



5 A11 CONCEPTUAL GRADING DIAGRAM
SCALE: 1/8" = 1'-0"

1 A11 LANDSCAPE PLAN
SCALE: 1/8" = 1'-0"



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Sheet Contents:
SHADOW STUDY

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A12

2 HOURS AFTER SUNRISE

NOON

2 HOURS BEFORE SUNSET

12/21

6/21

5/11

SHADOW DOES NOT HIT NEIGHBORING HOME DUE TO NEIGHBORING HOME BEING ON HIGHER ELEVATION

NOTE: ALL BUILDINGS BEING SHADOWED ARE SHOWN IN THE DIAGRAM



2 SHADOW STUDY
A12 SCALE: 1/32" = 1'-0"



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Sheet Contents:
SHADOW STUDY
ELEVATIONS

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A13



BEDROOM
HALLWAY



BASEMENT PLAYROOM



DINING
IN-LAW UNIT

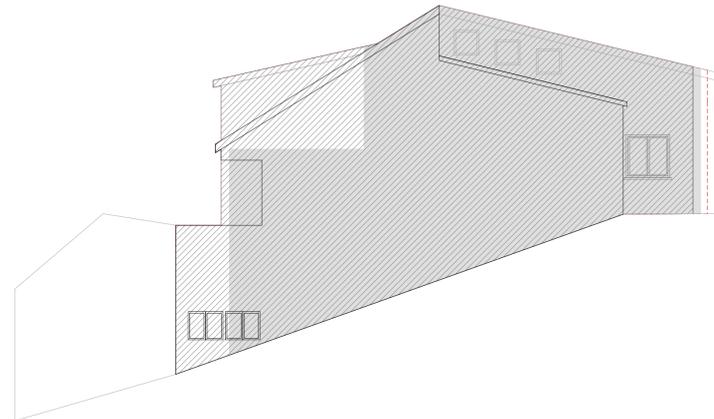


KITCHEN NOOK
BEDROOM



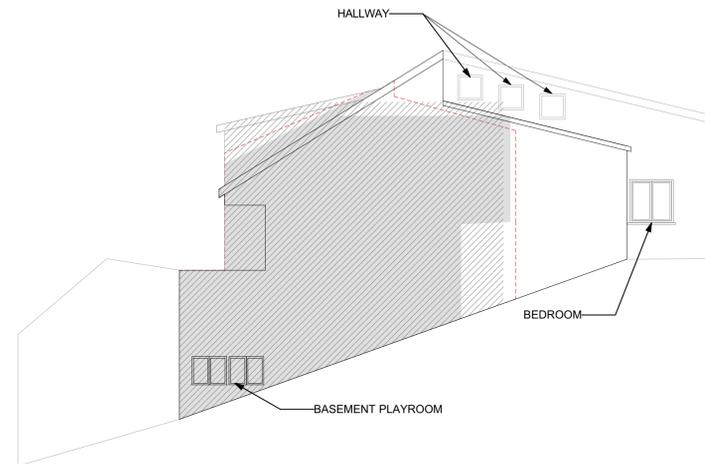
BEDROOM
FAMILY ROOM

467 KENTUCKY AVE.



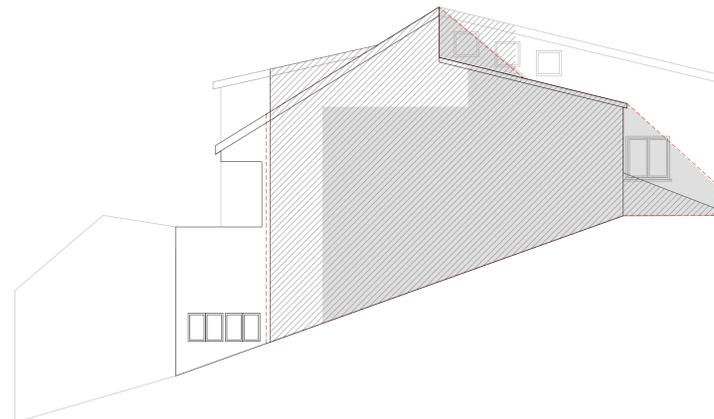
DECEMBER 2 HOURS AFTER SUNRISE

467 KENTUCKY AVE.



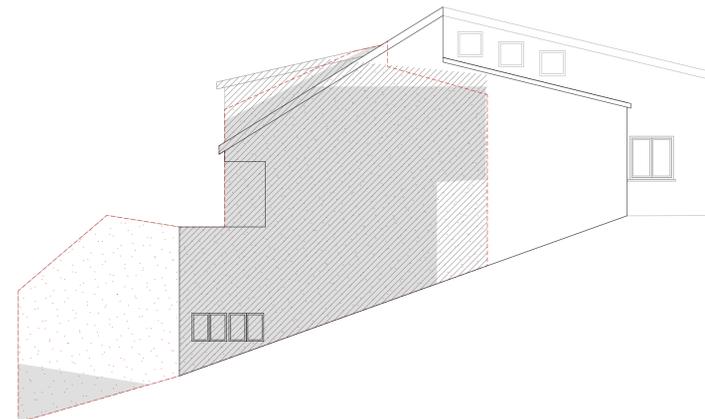
JUNE - 2 HOURS AFTER SUNRISE

467 KENTUCKY AVE.



DECEMBER, NOON

467 KENTUCKY AVE.



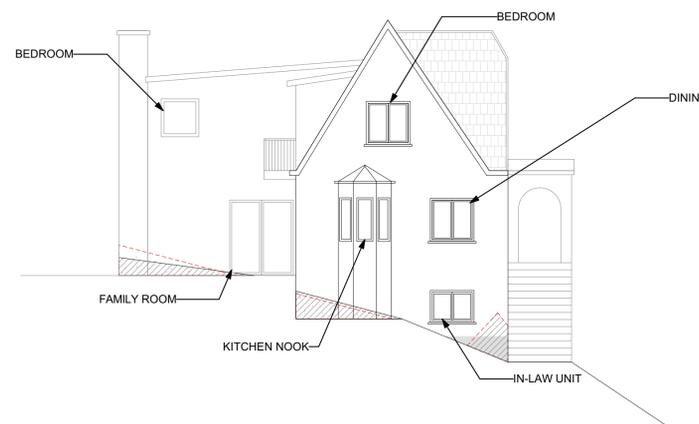
5/11 - 2 HOURS AFTER SUNRISE

475 KENTUCKY AVE.



JUNE - 2 HOURS BEFORE SUNSET

475 KENTUCKY AVE.

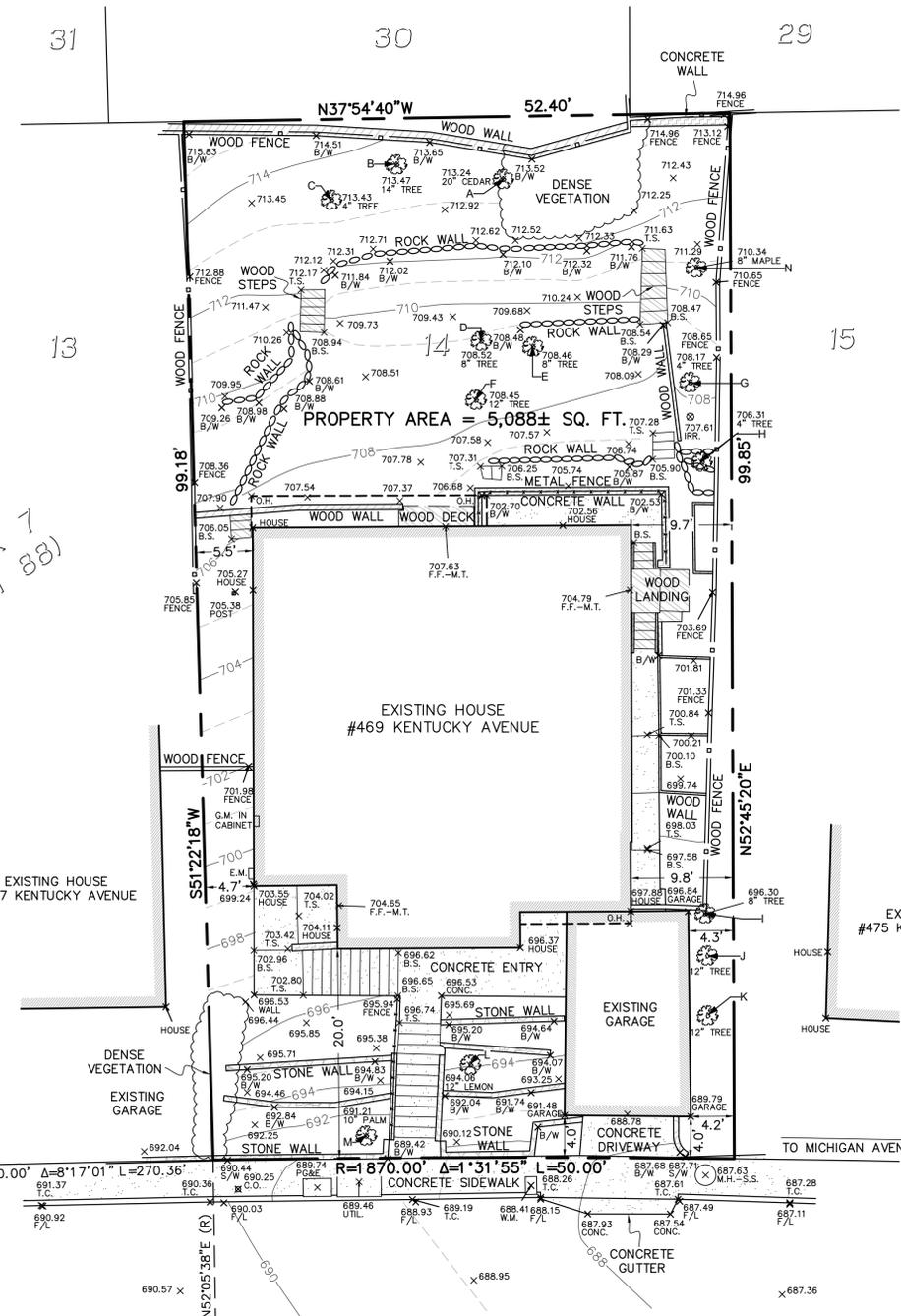
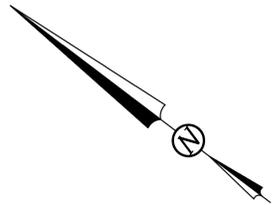


5/11 - 2 HOURS BEFORE SUNSET

1 SHADOW STUDY ELEVATIONS
A13 SCALE: 1/8" = 1'-0"

EXISTING SHADOW PROPOSED SHADOW PREVIOUSLY PROPOSED SHADOW

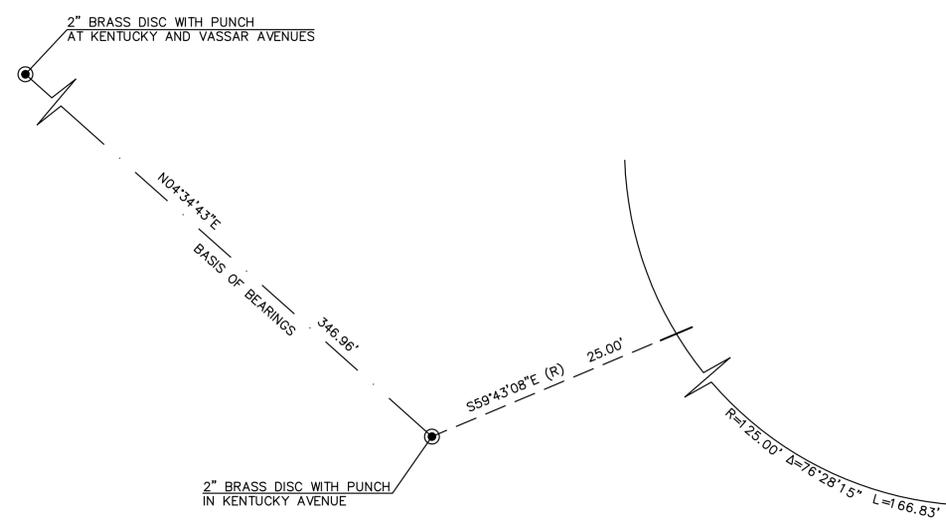
TREE INVENTORY PREPARED BY LEVITCH ASSOCIATES		
X	SPECIES NAME	DBH
A	CALOCEDRUS DECURRENS	20"
B	CRATAEGUS PHAENOPYRUM	14"
C	CAMELLIA JAPONICA	4"
D	POPULUS FREMONTI	8"
E	POPULUS FREMONTI	8"
F	POPULUS FREMONTI	12"
G	CAMELLIA JAPONICA	4"
H	CAMELLIA JAPONICA	4"
I	JUNIPERAS OCCIDENTALIS	8"
J	JUNIPERAS OCCIDENTALIS	12"
K	JUNIPERAS OCCIDENTALIS	12"
L	CITRUS LIMON	12"
M	YUCCA ALOIFOLIA	10"
N	ACER JAPONICUM	8"



BLOCK 7
(26 M 88)

- LEGEND**
- B.S. BASE OF STEPS
 - B/W BASE OF WALL
 - C.O. CLEAN OUT
 - CONC. CONCRETE
 - E.M. ELECTRIC METER
 - F.F. FINISHED FLOOR
 - F/L FLOWLINE
 - G.M. GAS METER
 - IRR. IRRIGATION
 - M.H. MAINTENANCE HOLE
 - M.T. METAL THRESHOLD
 - O.H. OVERHANG
 - PG&E PACIFIC GAS AND ELECTRIC
 - S.S. SANITARY SEWER
 - S/W SIDEWALK
 - T.C. TOP OF CURB
 - T.S. TOP OF STEPS
 - UTIL. UNKNOWN UTILITY
 - W.M. WATER METER
 - BUILDING LINE
 - CONCRETE
 - CONCRETE WALL
 - ROCK WALL
 - STONE
 - WOOD
 - WOOD WALL
 - METAL FENCE
 - WOOD FENCE
 - FOUND MONUMENT IN WELL, AS NOTED
 - (R) RADIAL

GENERAL NOTES:
THIS MAPPING IS BASED ON A FIELD SURVEY PERFORMED ON APRIL 19, 2021.
DIMENSIONS ARE IN FEET AND DECIMAL FEET.
DIMENSIONS SHOWN TO THE PROPERTY LINES WERE MEASURED FROM THE BUILDING CORNERS.
NO TITLE REPORT WAS PROVIDED, EASEMENTS MAY EXIST.
BASIS OF BEARINGS:
THE MONUMENT LINE IN KENTUCKY AVENUE WAS TAKEN AS NORTH 04°34'43" EAST AS SHOWN ON THOUSAND OAKS HEIGHTS (26 M 88).
BENCHMARK:
ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM.
THE 2" BRASS DISC MONUMENT AT THE INTERSECTION OF KENTUCKY AND VASSAR AVENUES, DESIGNATED "B1625" WAS TAKEN AS ELEVATION = 697.93 FEET PER CITY OF BERKELEY ENGINEERING RECORDS.



05-28-2021

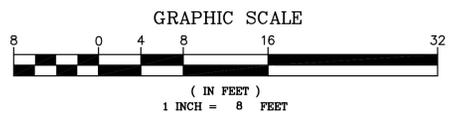
KENTUCKY AVENUE (50' WIDE)

BOUNDARY AND TOPOGRAPHIC SURVEY

LOT 14, BLOCK 7, THOUSAND OAKS HEIGHTS (26 M 88)
LOCATED AT 469 KENTUCKY AVENUE
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

MAY 28, 2021 SCALE: 1" = 8'

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





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

469 Kentucky Avenue

Use Permit #ZP2022-0087 to demolish a single-family dwelling and construct a 3,310 square foot three-story, single-family residence and two-car garage.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.406.040.D, on January 12, 2023, **conducted via Zoom, see the Agenda for details at: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-01-12_ZAB_Agenda.pdf**. The meeting starts at 7:00 p.m.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the Zoning Adjustments Board (ZAB) will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

A. Land Use Designations:

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

B. Zoning Permits Required:

- Use Permit to demolish a dwelling unit, per Berkeley Municipal Code (BMC) Section 23.326.030
- Use Permit to construct a new single-family dwelling, per BMC Section 23.202.020(A)
- Use Permit for a sixth bedroom on a parcel, per BMC Section 23.202.030
- Administrative Use Permit for exceeding 28-feet in average height, per BMC Sections 23.202.050(D) and 23.210.020(C)(2)
- Administrative Use Permit for a reduced front setback in the Hillside Overlay, per BMC Section 23.210.020(C)(4)
- Administrative Use Permit for an enclosed accessory structure in the first 50 percent of the lot depth and less than 4 feet from the side lot line, per BMC 23.304.060(C)(2)

C. CEQA Recommendation: It is staff's recommendation to ZAB that this 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 Sections 15303 (“New Construction or Conversion of Small Structures”) of the CEQA Guidelines.

D. Parties Involved:

- Applicant Maurice Levitch, 1029 Heinz Avenue, Berkeley CA 94710
- Property Owner Aidan Keefe, 469 Kentucky Avenue, Berkeley, CA 94707

Further Information:

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

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

Questions about the project should be directed to the project planner, Russell Roe, at (510) 981-7548 or rroe@cityofberkeley.info.

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

Communication Disclaimer:

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

Communications and Reports:

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

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

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

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

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



Accessibility Information / ADA Disclaimer:

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

SB 343 Disclaimer:

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

Notice Concerning Your Legal Rights:

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

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

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

State of California <input type="checkbox"/> The Resources Agency DEPARTMENT OF PARKS AND RECREATION PRIMARY RECORD	Primary #	
	HRI #	
	Trinomial	
	NRHP Status Code	
Other Review Code	Reviewer	Date
		Listings

Page 1 of 4 *Resource Name or #: 469 Kentucky Ave., Berkeley, CA
 P1. Other Identifier: None

*P2. Location: Not for Publication Unrestricted

*a. County Alameda

*b. USGS 7.5' Quad Oakland West Date 1993 Township & Range T1S/R3W

c. Address 469 Kentucky Ave. City Berkeley Zip 94707

d. UTM: Zone 18, 50 mE/ 47 mN

e. Other Locational Data: Assessor's Parcel Number: 62-2945-28

*P3a. Description:

The subject residential property lies on the upper (northeast) side of Kentucky Ave., which site is steeply sloped, with the house standing a full story above the street and with a small garage at the street. The lot, with a slightly curved 50 foot frontage and approximately 100 foot depth, occupies some 5,095 square feet. The wood frame, single family house is partly 1 and partly 2-stories with a partial basement. It is basically square in plan with a central projection at the front and, alongside, a notch in its southern corner, where there is a deck at the first floor and a basement room below. Exterior cladding is a mix of stucco and wood board siding. Both upper and lower roofs are flat. (cont.)

P5a. Photograph



Fig.1 – 469 Kentucky Ave., front, from street

*P3b. Resource Attributes: HP2:
Single-family property

*P4. Resources Present: Building
 Structure Object Site District
 Element of District Other

P5b. Description of Photo:
Fig.1,3,4) MH, 2022;
2) Sanborn map, 1950

*P6. Date Constructed/Age and Source: Historic Prehistoric
 Both

1926 (bldg.permit #23525)

*P7. Owner and Address:
Aiden Keefe
469 Kentucky Ave.,
Berkeley, CA 94708

*P8. Recorded by:
Mark Hulbert
446 17th St. #302
Oakland, CA 94612

*P9. Date Recorded:
April 22, 2022

*P10. Survey Type:
Intensive

*P11. Report Citation:
none

*Attachments: NONE Location Map Continuation Sheet Building, Structure, and Object Record
 Archaeological Record District Record Linear Feature Record Milling Station Record Rock Art Record
 Artifact Record Photograph Record Other (List): _____

State of California The Resources Agency Primary #
DEPARTMENT OF PARKS AND RECREATION HRI#
BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Name or #: 469 Kentucky Ave., Berkeley *NRHP Status Code _____
Page 2 of 4

B1. Historic Name: --
B2. Common Name: 469 Kentucky Ave.
B3. Original Use: Single-family residence B4. Present Use: same
*B5. Architectural Style: Minimal Spanish/Mediterranean
*B6. Construction History:

The subject, single-family house was permitted in Dec. 1925, thus constructed in 1926 on a previously vacant parcel first mapped as lot 13 and a portion of lot 14 in block 3 of the 1912 map of Thousand Oaks Heights. The 1925 permit record identified the owner and builder as the Berkeley Building Co., who developed a range of other residences in the Thousand Oaks neighborhoods (including, across the street, 452 and 472 Kentucky). A Dec. 1925 entry in the periodical *Building & Engineering News* reported the permit application for 469 Kentucky and additionally noted that no architect was engaged. Both the 1929 and 1950 Sanborn maps depict the plan of the original, 1-story house with its detached garage. (cont.)

*B7. Moved? No Yes Unknown Date: _____ Original Location: _____
*B8. Related Features: None
B9a. Architect: none (original); Charles Bloszies (1986 addition) b. Builder: Berkeley Building Co. (original)
*B10. Significance: Theme -- Area North Berkeley, CA
Period of Significance -- Property Type Residential Applicable Criteria --

Per the following evaluation, the subject property and building have no identifiable associations to any events or persons important to history. Additionally, the existing house is a basic and undistinguished design without construction characteristics of interest, without an identifiable original architect, and its original developed developer is of no identifiable historic importance. Additionally, the residence has been substantially altered. Consequently, as the property, residence and garage at 469 Kentucky Ave. in Berkeley do not meet any California Register (CR) criteria, they are not CR eligible. (cont.)

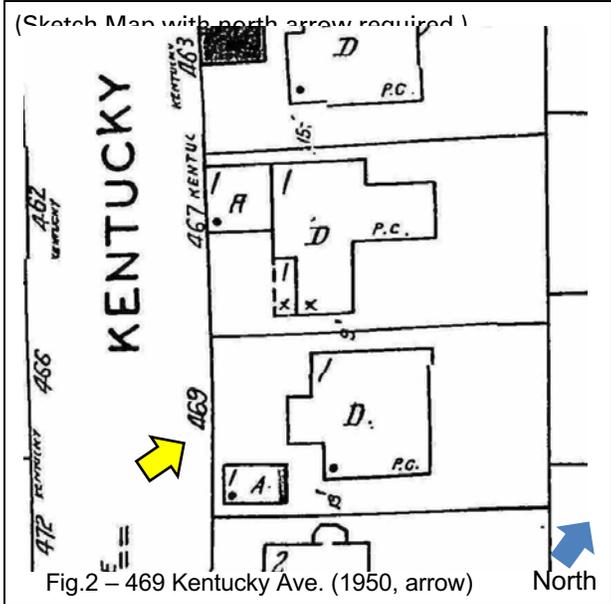
B11. Additional Resource Attributes: none

*B12. References:
City of Berkeley permit records; Alameda County Assessor's records; 1929 and 1950 Sanborn maps (@sfpl.org); U.S. censuses (@heritagequest.org); Alameda County directories (@loc.org); *Building & Engineering News* (@sfpl.org).

B13. Remarks:

*B14. Evaluator: Mark Hulbert, Preservation Architect
*Date of Evaluation: April 22, 2022

(This space reserved for official comments.)



State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Primary#
HRI #
Trinomial

CONTINUATION SHEET

Property Name: 469 Kentucky Ave., Berkeley
Page 3 of 4

Description (cont.)



Fig.3 – 469 Kentucky Ave. – Front



Fig.4 – 469 Kentucky Ave. – Rear

Like the exterior siding, doors and windows are a mix of types – swinging, sliding, fixed, casement and hung – and wood and metal siding materials. These mixed treatments reflect the sequential development of the existing residence and garage, which were first built and occupied in 1926. Subsequent permit records identify the structural alteration of the garage, including a widened door, in 1958; then repairs and an addition to the house in 1964, that addition presumably the first floor deck and wood clad, ground floor room at the southern front corner, when it would also appear that design changes to the front exterior were made. In 1986, the house was again altered and added to with the existing second story bedroom and bath addition above and to the rear. Thus, the designed character of the original house is not readily discerned. Given its period of origin, it was presumably a minimal “Spanish style,” though the vestiges thereof – the tripartite arched window front and center and the embedded tile pediment above – are few and appear to have been altered or, if original, were at most curious design treatments. In sum, the extant house and garage are a mix of 1926, 1958, 1964 and 1986 design and construction.

Construction History (cont.)

Available permits include (from City of Berkeley microfiche records):

<i>date</i>	<i>work</i>	<i>owner/architect</i>
Dec.1925	New dwelling and garage	Berkeley Building Co./--
Mar.1958	Garage alterations	F. A. Holmes/--
Jun.1958	Reroof	F. A. Holmes/--
Jan.1964	Repairs and addition	Mogens Ring/--
Apr.1986	New bed and bath addition	David & Deborah Keefe/Charles Bloszies
Feb.2001	Kitchen and bath remodel	Deborah & David Keefe/Custom Kitchens

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Primary#
HRI #
Trinomial

CONTINUATION SHEET

Property Name: 469 Kentucky Ave., Berkeley
Page 3 of 4

Significance (cont.)

Associated Persons

The Berkeley Building Co., a real estate and development company under the partnership of T. R. Wheldon, Percy Nutt and R. W. Thomas, speculatively developed this residential property in 1925-1926.

Per deed records, in Mar. 1926, the then yet incomplete residence was sold to Frederick Austin Holmes (1889-1975) and Bodel Marie Holmes (1888-1962), who were first listed at this address in the 1926 directory. Census and directory listings throughout their 1926-1963 ownership period identified F. A. Holmes as a U.S. post office clerk. After his wife's passing, Holmes sold the property to Mogens and Marianne Ring in June 1963 who, in turn, deeded it to its current owners c1980.

Evaluation

The following addresses historic resource potential per the four California Register of Historical Resources (CR) evaluation criteria:

Under **critterion 1**, the 1926 residence falls under the historic context of single-family residential development in Berkeley and the San Francisco Bay region in the early 20th century. In that broad context, the subject house was one of a large number of residences of its type built in the 1920s in the immediate vicinity as well as throughout the Bay Area and California. In its historic period and context, there are no specifically associated events or patterns of any identifiable historic importance.

Under **critterion 2**, no persons of potential historic importance are associated with the subject property.

Under **critterion 3**, in terms of its design and construction, the extant residence is a mix of original construction and later additions. Overall, the extant house clearly lacks architectural distinction as it is a highly modest and minor residential design without any distinctive forms or embellishments. The original design was by the developer and builder, Berkeley Building Co., who are also without identifiable importance. One architect has been identifiably engaged, Charles Bloszies, yet his involvement was less than 40 years ago so is, at this juncture, without potential historic importance. This residential property is also without any artistic values.

As the subject house does not embody design or construction distinction or embody artistry, is not the work of any identifiable architect or of an historically important builder, and lacks artistic value, the residence at 469 Kentucky Ave. does not meet *CR critterion 3*.

Lastly, under **critterion 4**, beyond the current effort, the subject property and house have not yielded any historical information and do not have further historical information potential.

Conclusion

In conclusion, the property and residence at 469 Kentucky Ave. in Berkeley do not meet any CR criteria so are not CR eligible.

