

Dear TRPA Governing Board Members,

**Re: Notice of Appeal of Permit, File Number ERSP2023-0701; Property Address:
32 Moana Circle, Tahoma, Ca. 96142**

This letter serves as the Written Statement of Appeal for our appeal challenging the permit issued for the Figone Garage / Accessory Dwelling Unit (ADU) project (File Number ERSP2023-0701) at 32 Moana Circle, Tahoma, Ca. 96142 filed on February 14, 2024.

We, the appellants, are property owners within the Moana Beach Homeowner's Association whose properties lie in proximity to the project site. Our properties would be significantly and adversely impacted by this project on economic, aesthetic, and environmental grounds. We previously voiced objections in communications to the TRPA dated July 23, 2023, July 24, 2023, and August 6, 2023, and incorporated in our initial Notice of Appeal.

Grounds for Appeal

The basis of our appeal is that the proposed project and associated application do not support TRPA's required findings for permissible uses. The permit application contains incomplete and inaccurate information. This renders the application insufficient to support the findings required by the TRPA Code of Ordinances. Key areas of concern include:

- Finding 21.2.2.A requires, “[t]he project to which the use pertains is of such a nature, scale, density, intensity, and type to be an appropriate use for the parcel on which and surrounding area in which it will be located. The proposed project is inconsistent with reasonable limits on scale otherwise applicable to all other projects in the surrounding area.
 - The proposed project was submitted to and denied on four separate occasions by the Moana Beach Property Owners Association's (MBPOA) Architecture Control Committee (ACC). These denials were based on non-compliance with the MBPOA CCRs requiring (1) ‘the structure to be particularly located to respect topography and finish grade elevation in order to assure the maximum privacy and view for all structures’ and (2) the project to be ‘aesthetically compatible with the natural surroundings of Moana Beach’. These decisions were appealed to the MBPOA Board, and the Board upheld the decision of the ACC and the appeal was denied. The Board's letter is attached as **Exhibit 1** and includes four different alternatives the Board would consider.
 - Throughout the history of the Moana Beach Property Owners Association, projects have been approved for construction on both the lakefront and

interior parcels. Each project has had to meet the same CCR requirements, and each project has been successfully completed. In fact, the lakefront properties on each side of 32 Moana have built 2 story structures with the garage at street level and the living area on the bottom, excavated to “assure maximum privacy and view for all structures”, as required by the CCRs.

- While Homeowner’s associations through application of conditions cannot legally prevent construction of ADUs, there is clear legal authority supporting reasonable restrictions on HOW construction occurs.

- Finding 21.2.2.B requires, “[t]he project to which the use pertains will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water, and air resources of both the applicant’s property and that of the surrounding property owners.”
 - As outlined in the Board’s denial letter, the applicant has numerous design options to construct an ADU on the proposed project site that would avoid these impacts to enjoyment and value of surrounding properties.
 - The rights to construct an ADU under State and local law can be recognized in a way that accommodates **reasonable** HOA conditions that were legally established and not only known to the homeowner long before the currently proposed project but required to be followed as a condition of property purchase in the Moana Beach subdivision.
 - The applicant has been repeatedly notified through formal application denials, personal conversations and attempts to negotiate alternative designs, that the proposed project will be injurious to and disturb the enjoyment of surrounding property owners of their own property as well as their enjoyment of the surrounding air, water, recreation and viewshed resources. The applicant has similarly been put on notice that the proposed design will result in significant, negative, economic impact to other surrounding properties in the neighborhood. There is no basis in the application to support this required finding.

- Finding 21.2.2.C requires, “[t]he project which the use pertains will not change the character of the neighborhood, or detrimentally affect or alter the purpose of the applicable planning area statement, community plan, and specific or master plan, as the case may be.

- As noted in the Placer County Tahoe Basin Area Plan, “TRPA’s strict growth control system has been in place for decades and over \$1 Billion has been invested in environmental restoration. Overall, the efforts appear to be working. Unconstrained growth is no longer a threat, Lake Tahoe’s water clarity has stabilized, and many environmental indicators are showing improvement. Environmental priorities are now targeted to more specific concerns and pollution sources. Socioeconomic conditions are also a concern.” Exactly because of this success and need to address socioeconomic conditions such as affordable housing, it is imperative the efforts to meaningfully increase affordable housing development do not allow complete avoidance and manipulation of local standards that were legally established and do not unreasonably restrict ADU construction. By not preventing such blatant misuse of the deed restricted bonus unit allocation, significant negative impacts to threshold standards set forth for water quality, air quality, soils, wildlife, noise, fisheries, vegetation, scenic quality, and recreation will result. Particularly concerning in this case is to allow lakefront parcels to circumvent reasonable local standards that protect viewsheds. TRPA should not support an argument that reasonable Homeowners Association conditions that apply to everyone else in the neighborhood can be circumvented simply because one lakefront homeowner has refused to agree to an inverted street level floor plan because they would also like to have a lakeview for their ADU.

- **Misrepresentation of ADU Intent:** One of TRPA's goal is to facilitate affordable housing for low, moderate and achievable income individuals. The applicant's project appears to misuse the ADU designation to circumvent both legitimate restrictions within the Moana Beach Property Owners Association's Covenants, Conditions, and Restrictions (CCRs) and TRPA Accessory Dwelling Unit Residential Bonus Unit eligibility as outlined in its TRPA Code of Ordinances policies, section 52.3.4. Evidence for this includes:
 - **Documented Denials:** as outlined above, the applicant’s project was submitted four times to the Architecture Control Committee and denied each time due to non-compliance with the MBPOA CCRs. The applicant escalated the matter to the MBPOA Board, and the appeal was denied due to the project’s non-compliance with the CCRs.
 - **Change in Project Characterization:** In the applicant’s original submission to the ACC, there was no mention of the project being built as an ADU. Beginning with the second submission, the application was

modified to characterize the project as an ADU, with the applicant claiming such a change would render the MBPOA CCRs moot.

- **Applicant's Stated Intent:** In a letter dated October 19, 2022 from the applicant's attorney (**Exhibit 2**, McDonald Carano letter, page 5), the intended use of the applicant's proposed ADU is clearly stated:

"Ms. Figone intends to build this ADU so she can use it as a separate residence since she plans to move full time to Lake Tahoe. California's Department of Housing and Community Development have authored the "ADU Handbook" which states on page 4:

"ADUs also give homeowners the flexibility to **share independent living areas with family members** and others, **allowing seniors to age in place** as they require more care, thus helping extended families stay together while maintaining privacy."

Ms. Figone seeks that independent living area near her family members and, like all California property owners is protected by these new laws that protect her from unreasonable restrictions that unreasonably increase the cost to construct an ADU or effectively prohibit or extinguish the ability to otherwise construct her proposed ADU. All Californians and the Association better get ready – this new law protects everyone in California, including Ms. Figone, and the Association will likely soon see more ADUs proposed for the single-family lots in your subdivision."

- **Inconsistent Application Information:** The original application to TRPA on June 5, 2023, initially sought approval as a deed-restricted ADU, indicating awareness of bonus unit requirements. In its transmittal of the application to TRPA on June 5th, the applicant's representative clearly states in its Project Description "This is a deed-restricted ADU". (**Exhibit 3**) However, in subsequent communications on August 21, 2023, the same representative asks "Can you apply for an achievable/affordable unit of use?" This occurs after the same representative clearly indicates in the original application it is for a deed restricted ADU – clearly understanding the majority of the project is on Land Class Values 1 and 1a and not eligible for a Residential Unit of Use. This inconsistency undermines the application's credibility and raises concerns about deliberate misrepresentation.
- **Scenic Impact Misrepresentation:** The submitted scenic photos are outdated and do not reflect the current situation following the removal of a significant lakefront tree. The June 5, 2023, application claims an approved scenic assessment. However, the approved scenic assessment is from an older project,

ERSP2021-0772, approved September 9, 2021. After that approval in 2021, approval TREE2022-0984 was issued on May 17, 2022, to remove 2 trees, one being lakefront immediately in front of the main house. Included in the approval was the following:

SPECIAL CONDITIONS: Added 1 WF 6/22/22. If lakefront tree is removed scenic mitigation may be required.

The lack of transparency misleads the scenic impact assessment and again undermines the application's credibility and raises concerns about deliberate misrepresentation. **(Exhibits 4,5,6)**

Conclusion

We urge the Board to carefully consider this appeal and the potential precedent it sets. While we support TRPA's goal of increasing affordable housing, it must be done in a way that upholds the environmental integrity of the region, legitimate restrictions within established homeowner associations related to TRPA findings, and credible applications. Misusing the ADU designation undermines these objectives.

Sincerely,

Debbie and Jens Egerland [– 45 Moana Circle Tahoma, CA. 96141](#)

Vaughan and Nick Meyer [– 25 Moana Circle Tahoma, CA. 96141](#)

Jane Catterson [– 35 Moana Circle Tahoma, CA. 96141](#)

Exhibit X – TRPA / Applicant's Representative email exchange:

Brandy McMahon

From: Brandy McMahon

Sent: Thursday, August 31, 2023 1:11 PM

To: Hanni Walsh

Subject: RE: FW: TRPA Case ERSP2023-0701

Hi Hanni,

You cannot transfer an RUU to Class 3. There are some exceptions to this rule, but the project you are proposing would

not qualify. Refer to Section 51.5.3. of the TRPA Code.

Brandy

From: Hanni Walsh <hanni@evolvedesignworks.com>

Sent: Thursday, August 31, 2023 11:45 AM

To: Brandy McMahon <bmcMahon@trpa.gov>

Subject: Re: FW: TRPA Case ERSP2023-0701

Understood.

Can you transfer a RUU to Land class 3? If we were to apply for an LCV and get the classification changed to 3. This have

been discussed because both neighboring parcels are categorized as Class 3 & 5.

Hanni

On Thu, Aug 31, 2023 at 11:25 AM Brandy McMahon <bmcMahon@trpa.gov> wrote:

Hi Hanni,

I am supposed to get you a permit within 120 days. I can put it on hold if you want. I just need something in

writing. The ADU is not eligible for a market rate Residential Unit of Use (RUU) because it's proposed to be located

sensitive land. I sent you an email about this. You are going to need to request a residential bonus unit. I just need to

know if it will be affordable, moderate, or achievable.

Thanks,

Brandy McMahon, AICP
Local Government Coordinator
Permitting and Compliance Department
2
Tahoe Regional Planning Agency
P.O. Box 5310, Stateline, NV 89449
(775) 589-5274
bmcmahon@trpa.gov

From: Hanni Walsh <hanni@evolvedesignworks.com>
Sent: Thursday, August 31, 2023 11:21 AM
To: Brandy McMahon <bmcmahon@trpa.gov>
Subject: Re: FW: TRPA Case ERSP2023-0701

Thanks Brandy. I need to sit down with the homeowner and figure out next steps. They are still working to

resolve HOA disagreements and if they would like to pursue a LCV and purchase of an RUU. This one is

slightly complex for just a little garage!

I appreciate all of your feedback and your review and will update you as soon as I know more. Can you

please tell me when the plan check expires?

Hanni Walsh, PE

VP | Principal Designer

530.318.0001

PO Box 7586

3080 N. Lake Blvd. Suite 203

Tahoe City, CA 96145

3

On Tue, Aug 29, 2023 at 12:15 PM Brandy McMahon <bmcMahon@trpa.gov> wrote:

Dear Hanni,

I have reviewed the above referenced application and have the following comments/questions:

1. I found the attached note from Julie regarding the need for all excess coverage on the parcel needing to be

mitigated. I calculated the excess coverage in the attached excel sheet, but it is not matching the numbers

Julie has provided in the attached note. Any idea why? The permit says total coverage will be reduced, but I

cannot tell by how much. If you don't know, I will reach out to Julie.

2. Is there a reason 103 sq. ft. (348 sq. ft. of verified coverage – 245 sq. ft. proposed coverage) of Class 1b land

coverage was not banked with TRP21-90103? The plans show 23 sq. ft. of banked coverage. It does not look

like any Class 1b coverage was relocated or retired.

3. Is there a reason 24 sq. ft. of Class 5 land coverage was not banked with TRP21-90103?

4. What Option under Level 4 did you review the project under?

5. There's a note on A3.3 that says "THE VISUAL ASSESSMENT FOR THE PROPOSED PROJECT WAS EVALUATED AS A PROJECT AREA TO

INCLUDE APN: 094-191-018." Could you please clarify what this note is for? I don't think it applies.

6. What type of residential bonus (affordable, moderate, or local achievable) do you want to use for this project?

7. Add cut/fill to the plans.

8. Provide a BMP Plan and Calc Sheet for the entire site, not just the garage.

9. Include a note on the plans that the bear box will be on a monopole elevated 18" above ground.

10. Include the location of utilities on plans.

11. Include the construction staging area on the plans.

12. The cross slope shown in the height calculations is 19%. The Code requires that you round to the nearest even

percentage. Please revise the height calculation on the plans.

13. Please make the below height finding.

4

I will move forward with processing the permit once the above items have been addressed. If you have any questions,

feel free to contact me at (775) 589-5274 or bcmcmahon@trpa.gov.

Sincerely,

Brandy McMahan, AICP

5

Local Government Coordinator

Permitting and Compliance Department

Tahoe Regional Planning Agency

P.O. Box 5310, Stateline, NV 89449

(775) 589-5274

bcmcmahon@trpa.gov

From: Hanni Walsh <hanni@evolvedesignworks.com>

Sent: Monday, August 21, 2023 11:04 AM

To: Brandy McMahan <bcmcmahon@trpa.gov>

Subject: Re: FW: TRPA Case ERSP2023-0701

Okay, thanks Brandy. Can you apply for an achievable/affordable unit of use?

Hanni Walsh, PE

VP | Principal Designer

530.318.0001

PO Box 7586

3080 N. Lake Blvd. Suite 203

Tahoe City, CA 96145

6

On Sun, Aug 20, 2023 at 3:20 PM Brandy McMahon <bmcmahon@trpa.gov> wrote:

Hi Hanni,

I started reviewing the plans and just realized that the proposed garage/ADU is in LCD Class 1a. You cannot transfer a

Residential Unit of Use to sensitive lands. See 51.5.3: Transfer of Existing Development.

Brandy

From: Hanni Walsh <hanni@evolvedesignworks.com>

Sent: Thursday, August 17, 2023 10:10 AM

To: Brandy McMahon <bmcmahon@trpa.gov>

Subject: Re: FW: TRPA Case ERSP2023-0701

Okay, I think this is the route we are going to go. I will confirm shortly. Thank you for the quick response!

Hanni Walsh, PE

VP | Principal Designer

530.318.0001

PO Box 7586

3080 N. Lake Blvd. Suite 203

Tahoe City, CA 96145

7

On Thu, Aug 17, 2023 at 10:08 AM Brandy McMahon <bmcMahon@trpa.gov> wrote:

Hi Hanni,

You can transfer a Residential Unit of Use to the parcel for an ADU. You have to pay an application fee and will be

charged a mobility mitigation fee.

Brandy

From: Hanni Walsh <hanni@evolvedesignworks.com>

Sent: Thursday, August 17, 2023 10:06 AM

To: Brandy McMahon <bmcMahon@trpa.gov>

Subject: Re: FW: TRPA Case ERSP2023-0701

Hi Brandy,

The owner is currently reviewing options with her land use attorney. Would it be possible to purchase a PRUU for a non-restricted ADU? We would revise our application and pay the review fees. Please let me know if you see any issues with this option.

Thank you,

Hanni Walsh, PE

VP | Principal Designer

530.318.0001

8

PO Box 7586

3080 N. Lake Blvd. Suite 203

Tahoe City, CA 96145

On Tue, Aug 8, 2023 at 9:24 AM Brandy McMahon <bmcmahon@trpa.gov> wrote:

Hi Hanni,

I will send you comments after I have a chance to do a site visit and review the application. I did notice that you

want a residential bonus unit. Are you requesting a local achievable, moderate, or affordable bonus

unit? Information on bonus units is available at:

https://www.trpa.gov/wpcontent/uploads/documents/Income_Limits_Rent_Sale-Guidance_FINAL.pdf.

Thanks,

Brandy McMahon, AICP

Local Government Coordinator

Permitting and Compliance Department

Tahoe Regional Planning Agency

P.O. Box 5310, Stateline, NV 89449

(775) 589-5274

bmcMahon@trpa.gov

9

From: Hanni Walsh <hanni@evolvedesignworks.com>

Sent: Tuesday, August 8, 2023 9:14 AM

To: Brandy McMahon <bmcMahon@trpa.gov>

Cc: michael.brown@stoel.com; vickifigone@hotmail.com

Subject: Re: FW: TRPA Case ERSP2023-0701

Hi Brandy,

Thank you for the update. Please let me know if there is anything I need to revise.

Thank you,

Hanni Walsh, PE

VP | Principal Designer

530.318.0001

PO Box 7586

3080 N. Lake Blvd. Suite 203

Tahoe City, CA 96145

On Mon, Aug 7, 2023 at

Moana Beach Property Owners Association, Inc.
Moana Circle, Homewood, CA 96142

July 12, 2023

Via Email: michael.brown@stoel.com

Victoria Figone
c/o Stoel Rives LLP
Attn: Michael D. Brown, Esq.
500 Capitol Mall, Suite 1600
Sacramento, CA 95814

Re: Reconsideration of Notice of Decision on Appeal for Proposed Project - 32 Moana Circle

Dear Mr. Brown:

On May 9, 2023, Moana Beach Property Owners Association, Inc. (“Association”) sent your client, Ms. Victoria Figone, as trustee of the Figone Family Trusts (“Owner”), its Notice of Decision on Appeal for Proposed Project – 32 Moana Circle (“Notice of Decision”). The Notice of Decision is enclosed with this letter.

Background/Reconsideration Process

Owner had previously appealed the Architectural Committee’s denial of her proposed new accessory structure (new garage in a new location) and a new second-story accessory dwelling unit project (collectively, the “Project”) at 32 Moana Circle. In the Notice of Decision, the Board denied the appeal and upheld the decision of the Architectural Committee.

The Notice of Decision also proposed a process where the Board would agree to reconsider Owner’s appeal/Project if Owner installed story poles to facilitate the Board’s further review of the Project under the standards of the CC&Rs. The Association agreed to reimburse Owner for up to \$2,000 of the costs to install the story poles. On May 22, 2023, Owner responded to the Notice of Decision indicating an agreement to install story poles subject to three conditions.

Over the subsequent weeks, the Association worked diligently and reasonably to reach an agreement with Owner on the process and timing of the installation of the story poles, a site visit on neighboring properties owned by other members of the Association, and the proposed reconsideration meeting. After the parties reached an understanding on these issues, Owner installed the story poles and the Association facilitated access to three other properties as requested by Owner. Both Owner and the Association took photographs during these site visits.

Board Meeting

On July 1, 2023, Owner submitted a letter to the Board concerning the Project. On July 5, 2023, the Association held an open meeting of the Board (four directors with one recused director) to reconsider Owner's appeal of the Project. In the first half of the meeting, the Board members in attendance observed the story poles and the Project at various locations at the three other uphill structures. One of the directors was unable to attend the July 5th meeting in person, but was able to observe the story poles from the other structures at an earlier date and to participate in the meeting via Zoom. In the second half of the meeting, interested members were allowed to address the Board concerning the Project. The Board received comments about the Project from members in the community, including from Owner.

Because Owner has threatened litigation against the Association, the Board adjourned to executive session to deliberate and decide the reconsideration of its prior decision on the appeal.

Standards for Architectural Review under CC&Rs

The Restatement of and Amendment to Declaration of Subdivision Restrictions ("CC&Rs") for Moana Beach Subdivision, recorded August 24, 2009, as Document No. 2009-0074084 in the Official Records of Placer County, sets forth certain covenants, conditions and restrictions that apply to all lots within Moana Beach. Under Article III, Section 1 of the CC&Rs, "No structure shall be erected, constructed or maintained on any one or more of the lots, nor shall any alteration, additional and/or change by made to the exterior thereof without the prior written approval of the" Moana Beach Architectural and Planning Control Committee ("Architectural Committee").

Article III, Section 3 of the CC&Rs sets forth certain requirements for any such structure, or alteration, addition or change thereto, including that "the structure be particularly located with respect to topography and finish grade elevation in order to assure the maximum privacy and view for all structures" (Article III, Section 3(c), CC&Rs.) Further, all structures, alterations, additions and/or changes thereto shall be "aesthetically compatible with the natural surroundings of Moana Beach" and "all other aspects of planning and construction be consistent with the highest qualify over-all development of Moana Beach." (Article III, Sections 3(d) and 3(e), CC&Rs.)

Reconsideration Decision: Story Poles Confirm Project Does Not Comply with CC&Rs

All of the non-recused directors on the Board visited the three uphill structures and viewed the story poles depicting this Project. The Association took photographs evidencing the views from these structures. The Board also considered the letters and photographs submitted by Owner. The Board reconsidered the Project, including the materials presented to the Board prior to and at the meeting, under the standards of the CC&Rs.

The Board has denied the reconsideration and has confirmed its prior Notice of Decision. The Board voted unanimously (4-0) finding that the Project (i) is not located with respect to topography and finish grade elevation to ensure maximum views for all other structures in the community; (ii)

is not aesthetically compatible with the natural surroundings; and (iii) is not consistent with the highest quality overall development of Moana Beach.

The CC&Rs require the Association to focus on the view impacts caused by new structures (particularly with respect to topography and finish grade elevation) on existing structures. The story poles confirm the Notice of Decision that Owner's Project will have a substantial negative impact on views from other structures in the community (i.e., the Project is not located with respect to topography and finish grade elevation so as to maximize the views). Of note and validating the Board's findings, the Board again received comments from other Owners at the Board meeting objecting to the proposed Project based on impacts on their views from their homes.

The Board also rejects the Owner's framing of the entire Project as an accessory dwelling unit. Owner's garage is a new accessory structure in a new location, and Owner does not qualify for automatic accessory dwelling unit approval under State law. Owner's Project is both a new accessory structure (garage) in a new location and an accessory dwelling unit subject to local discretionary approval standards.

Owner's accessory structure (garage) is not afforded the same accommodations set forth in State law and it is the inclusion of the garage that is causing the increased height, which in turn is impacting the views from other homes in the community in contravention of the CC&Rs. The Association has not "unreasonably" restricted the construction of an accessory dwelling unit as the Association is willing to consider other alternatives that would comply with the CC&Rs and allow Owner to construct an accessory dwelling unit. Many of the alternatives could be built at a reduced cost. The Association remains willing to approve an accessory dwelling unit, including under the alternatives set forth below.

Based on these findings, the Board voted unanimously to deny the reconsideration of, and to confirm in its entirety, the prior Notice of Decision.

Alternatives to Consider

As previously outlined, the Board remains willing to consider alternative Project designs that would comply with the CC&Rs. These alternatives could include:

- Convert the existing garage into a one story accessory dwelling unit; garage conversions of existing garages are supported by the accessory dwelling unit law (even for non-conforming structures) but new garages are subject to local standards.
- Add a second story accessory dwelling unit to the current primary residence.
- Build a garage and a second-story accessory dwelling unit within the footprint of the current garage, and lower height to be consistent with Placer County Code.
- Reduce overall height of current Project to allow for maximum view from other structures. This could be achieved through excavation or by reducing garage height. If engineering challenges exist due to the slope of the driveway, Owner could consider reversing the location of the accessory dwelling unit to the lower floor, and moving the garage to the

upper floor. This design has been used elsewhere in the community as it reduces the overall height of a garage/ADU-type structure.

All of the above options are within the guidelines of accessory dwelling unit law, and many would reduce the overall cost of Owner's Project.

ADR Response


The Association will respond to your July 1, 2023, letter concerning ADR at a later date. The Association is interested in pursuing ADR but is not currently in a position to respond to your letter on this topic. The Association will respond to your letter within thirty days of the date of your letter with its suggestion on how to conduct the ADR.

Conclusion

For the reasons set forth above, the Board has denied reconsideration of Owner's appeal. The Project has been denied. Owner may consider other alternatives for her Project, including those outlined above, that are consistent with the Association's CC&Rs.

This letter relates to a decision on reconsideration of the Notice of Decision on Owner's appeal only and not the various claims and arguments advanced by Owner or her team, which the Association disputes; the Association reserves all rights, remedies and defenses to Owner's claims and arguments. Thank you.

Sincerely,

DocuSigned by:

B68F6D139B754E6...

On Behalf of the Board of Directors

Enclosure (Notice of Decision)



April 7, 2023

Michael B. Brown
500 Capitol Mall, Suite 1600
Sacramento, CA 95814
D. 1 530.582.2282
michael.brown@stoel.com

**VIA OVERNIGHT MAIL
AND VIA E-MAIL (hanley@portersimon.com)**

Brian C. Hanley, Esq.
Porter Simon Law Offices
40200 Truckee Airport Road, Suite 1
Truckee, CA 96161

Re: Appeal to Moana Beach Property Association of Architectural and Planning Control Committee's 11/11/2022 Rejection of Proposed Drawing/Plans for Accessory Dwelling Unit at 32 Moana Circle, Tahoma, CA

Dear Mr. Hanley:

As you know, this firm represents Victoria Figone, trustee of the Figone Family Trusts ("Ms. Figone"), the owner of the property at 32 Moana Circle, Tahoma, California ("Property") within the Moana Beach Subdivision ("Subdivision"). This letter is written on behalf of Ms. Figone in support of her appeal to the board of the Moana Beach Property Association ("Association") with regard to the November 11, 2022 letter ("Denial Letter") from the Association's Architectural Planning Control Committee ("ACC"), which denied the submitted architectural drawings and plans ("ADU Submittal") for a new Accessory Dwelling Unit at the Property. (**Exhibit 1** [Denial Letter].) A copy of the ADU Submittal is attached hereto for your reference as **Exhibit 2**.

We write to respectfully request the board's consideration of this letter and all other prior correspondence¹ in this matter to support this appeal of the ACC's improper denial of the ADU Submittal.

We request that this letter be provided to the Association's Board and all members of the Association.

A. Architectural Standards at Issue

The Association's Restatement of and Amendment to Declaration of Subdivision Restrictions ("CC&RS") provide in pertinent part that prior to approving any structure, the Architectural

¹ This correspondence includes without limitation letters and emails to the ACC and/or Association dated August 15, 2022, August 24, 2022, September 30, 2022, October 5, 2022, and October 19, 2022

Committee shall require “[t]hat the structure be particularly located with respect to topography and finish grade elevation in order to assure the maximum privacy and view for all structures....”

As discussed in more detail below, the proposed ADU is situated in approximately the same location on the Property as the current garage, and its location ensures “the maximum privacy and view of all structures.” Indeed, there are no “structures” that have views materially impacted by the proposed ADU. For example, the view of Lake Tahoe from 35 Moana Circle, the property directly uphill from the Property, will have better views of the lake following the completion of the project. Photographs showing the pre-project view and post-project view with the ADU on the Figone Property confirm this and have previously been provided to the ACC and the Association. (See **Exhibit 3** [pre-project view]; **Exhibit 4** [post-project view with improved view of Lake Tahoe].) See further discussion below on the lack of material impacts to any structure’s views in Section C below.

B. Prior Modifications to Plans to Address ACC and Association’s Concerns

Ms. Figone retained architect Todd Mather to design improvements for her property at 32 Moana Circle. Mr. Mather initially prepared plans to remodel Ms. Figone’s residence from a one-story to two-story residence, and a new two-story garage with a living area above it. Ms. Figone subsequently modified the plans to only remodel the existing single-story residence and the two-story garage and living area.

As to the improvements to the garage, Ms. Figone’s architect prepared plans for an ADU unit and garage in the same general location as the original garage.² Those plans were submitted to the ACC, and on August 1, 2022 and September 15, 2022, the ACC denied the proposals based on the contention that the height of the proposed structure was a “15-foot increase on the height from your current garage” and that the height exceeded other detached garage/guest house in the community. (**Exhibits 5 and 6.**) The denial also alleged that the additional height of the project “will partially block views of at least three of the neighbors across the street.” Two of these neighbors, Jens Egerland (45 Moana Circle) and Jane Catterson (35 Moana Circle) were the Association’s Board President and member of the ACC, respectively. Ms. Figone discussed her proposed ADU with her neighbors, and Mr. Egerland informed Ms. Figone that the Association’s Board would never allow the proposed ADU because it would purportedly lower the value of their homes.

In the course of her discussion with Mr. Egerland, Ms. Figone also informed him that the Association should not be concerned with her plans for the two-story garage since she was no longer moving forward with a two-story residence. Mr. Egerland responded that the Association would never approve a two-story residence where her current one-story residence is located.

² The first submittal on June 14, 2022 was not characterized as an ADU but was modified to do so in the second submittal on August 24, 2022. Furthermore, the proposed ADU cannot be constructed in the exact same footprint of the existing garage due to applicable building restrictions.

Yet, the Association has approved numerous two-story and multi-story units in the neighborhood, including on lakefront lots, which impact the views of other owners and block all views of the lake from many other “structures.” See Section E below regarding the ACC’s inconsistent and arbitrary enforcement of purported view restriction.

While disputing the merit of the ACC’s denial of the proposal, Ms. Figone incurred additional expense to have her architect redesign the proposal that significantly reduced the height of the proposed ADU by over five feet so that the height of the structure would be almost equal to the height of the neighboring garage and living area that had been constructed at 28 Moana Circle in approximately 2015. This ADU Submittal (i.e., the subject of this appeal) was submitted to the ACC on or about September 30, 2022.

Ms. Figone’s prior correspondence in support of the ADU Submittal to the ACC and you on September 30, 2022 and October 19, 2022 describe in detail the many steps taken by Ms. Figone to lower the roof line and pitch of her proposed ADU in what was referred to as Submittal No. 3 as follows:

- Submittal No. 3 reduces the overall height of the structure by 5’-3 1/4”. The original building was 35’-7 1/4” tall and this design on Submittal No. 3 is 30’-4” tall (from the low point per Tahoe Regional Planning Agency (“TRPA”) rules, not the driveway elevation). This is a 15% reduction in height.
- The design on Submittal No. 2 was at the TRPA’s maximum allowable height limit (and compliant with that limit). Submittal No. 3 is 24” below the maximum allowable height (by TRPA).
- Submittal No. 3 also lowers the elevation of the top of the concrete slab of the garage to 6,253.66’—the same height of the current garage slab. This reduction will increase the driveway slope to 12% from the county roadway to the front edge of the garage structure. Section 34.3.2 E of the TRPA Code of Ordinances provides that “[d]riveways shall not exceed ten percent slope, unless TRPA finds that construction of a driveway with a ten percent or less slope would require excessive excavation and that the runoff from a steeper driveway shall be infiltrated as required in Section 60.4. In no case shall the driveway exceed 15 percent slope.”
- The height of the garage doors has been reduced to lower the floor level of the residential level of the ADU. This reduction of the garage door height will result in Ms. Figone’s tall Sprinter van always parked on the driveway or on the public street’s shoulder since the Sprinter van will no longer fit in the reduced height garage.
- The pitch of the roofline was changed from a 6:12 that matched the architecture/design of the original home and garage to a 3:12. This reduced the overall height of the ADU structure.

- Lowering the garage further into the topography was also discussed and a minimum quote of in excess of \$100,000 was discussed to lower the garage slab making the Association's proposal an unreasonable increase in the cost to construct the ADU. That assumes the TRPA Codes will prohibit construction of this steeply pitched driveway. (**Exhibit 7** [October 19, 2022 Letter].)

As explained in the October 19, 2022 letter, Ms. Figone has done everything reasonably possible to reduce the height of the ADU in Submittal No. 3. Moreover, TRPA coverage rules prevent any placement of the ADU at any other location on the Property.

C. Purported Justification for the Denial Letter

Denial of an architectural application requires a written explanation of why the application was denied. (Civ. Code, § 4765(a)(4).) The Association issued its denial of the ADU Submittal on November 11, 2022 and provided the following explanation why the application was denied:

We have reviewed your plans' consistency with current CC&Rs and determined the view considerations are reasonable given the importance of lake views for the entire community. Because your project substantially increases the finish grade elevation of the as-built environment and negatively affects the views of your neighbors and the entire community, both visually and financially, we are denying your application to build your project as currently proposed in the submitted plans.

(Exhibit 1.)

This explanation does not provide a good-faith basis to deny the application and misconstrues the alleged applicable standard. Furthermore, the ACC's denial of the application will be strictly construed against it because it is a general rule that restrictive covenants are construed strictly against the person seeking to enforce them, and any doubt will be resolved in favor of the free use of land. (*White v. Dorfman* (1981) 116 Cal.App.3d 892, 897.)

Here, the ACC improperly applied the view standard to the entire community as compared to only those structures that have views affected by the proposed ADU. Indeed, as shown in materials provided to the ACC, no views are adversely impacted. As the attached photographs show from the deck of the property directly uphill from the proposed ADU at 35 Moana Circle, the views will be improved with the proposed project due to the tree removal. (**Exhibit 3** [pre-project rendering]; **Exhibit 4** [post-project rendering showing improved view of Lake Tahoe].)

It was also previously asserted by the ACC that the view from the property at 25 Moana Circle could *potentially* be impacted by the project. That contention is also wholly without any support since the deck on the second floor of that structure is significantly higher than the proposed ADU

which is not even directly below that property.³ The lack of any impacts to the view of the lake from the structure at 25 Moana Circle is also shown from photographs when that property was listed for sale in or about 2018. These photographs show how the lake views from that property (including from the deck) are not adversely impacted by the garage and living area on the lakefront parcel neighboring the Property at 28 Moana Circle. The proposed ADU for the Property is only 28 inches higher than the garage at 28 Moana Circle and is not even directly below 25 Moana Circle. Accordingly, there is no evidence that the proposed ADU will impact the views from the structure at 25 Moana Circle since it is much higher than the height of the proposed ADU and the garage directly below that property at 28 Moana Circle. (See **Exhibit 8** [Website Listing and Photographs].)

As to the other property owned by the Board's president at 45 Moana Circle. That property is not even directly above the proposed ADU and based on the site plan of the Subdivision, it does not even seem possible that the view would be impacted at all. (**Exhibit 9.**)

The Denial Letter further requests that Ms. Figone consider building the ADU without a garage and consider the use of story poles "to show how your structure will impact the community." These requests are unreasonable and again misconstrue the applicable standard to a vague and undefined "community." As to the request to remove the garage from the project, that is unreasonable because a garage is essential during the winter months at Lake Tahoe and would cause a significant diminishment in the value of the Property. As to the request for story poles, this not necessary because we have already provided photographs showing the lack of any material impacts to the views of the structure directly uphill from the project. Moreover, to the extent other properties were allegedly impacted, Ms. Figone requested that the Association provide her with photographs from the structures toward the lake so that Ms. Figone could have her architect prepare additional demonstrative exhibits to show the lack of any impacts to the view similar to what has been provided in Exhibits 3 and 4. No response was received to this request.

Lastly, another reason the request for story poles is unreasonable is that the construction of story poles would not be possible during the winter months and would require the removal of a ramp constructed for the remodel of Ms. Figone's residence below her current garage. Also, in our experience constructing a story pole structure would require permits from Placer County and the TRPA.

³ The Association's approval of the two-story structure on 25 Moana Circle is also relevant to show the ACC and Association's failure to enforce the view restriction with respect to other properties in the Subdivision. That approval and construction of the new residence in 2018 blocked the view of the lake for the property behind it at 15 Moana Circle.

D. The Denial Letter Will Be Invalidated for Effectively Prohibiting or Unreasonably Restricting the Construction of an ADU

While the Denial Letter will be set aside because it is not supported by a good-faith and reasonable determination in light of the minimal or non-existent view impacts to the neighboring structures, and the ACC's approval of other improvements that fully block views of Lake Tahoe from other structures, the denial of the project is also a violation of California Civil Code section 4741.

In California Government Code section 65852.150, the California Legislature found and declared that, among other things, California is facing a severe housing crisis and ADUs are a valuable form of housing that meets the needs of family members, students, the elderly, in-home health care providers, people with disabilities, and others. Therefore, ADUs are an essential component of California's housing supply including within the Tahoe Basin where an extreme housing shortage exists.⁴ While the Association focuses upon its governing documents restated in 2009, the laws of California have changed. The California Legislature has declared that the Association's governing documents that "unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit" are void and unenforceable. The view restrictions in the Association's CC&Rs relied upon by the ACC in its letters are "void and unenforceable" if they unreasonably increase the cost to construct an ADU or effectively prohibit construction of or extinguish the ability to otherwise construct Ms. Figone's proposed ADU.

As Ms. Figone informed you in her August 24, 2022 letter, these new California laws are explained in an "Accessory Dwelling Unit Handbook" published by the California Department of Housing and Community Development that can be found at <https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf>. Page 26 of that Handbook states:

Can my local Homeowners Association (HOA) prohibit the construction of an ADU or JADU?

No. Assembly Bill 670 (2019) and AB 3182 (2020) amended Section 4751, 4740, and 4741 of the Civil Code to **preclude** common interest developments from prohibiting or **unreasonably restricting** the construction or use, including the renting or leasing

⁴ Indeed, the dire condition of the housing market in the Lake Tahoe area is well documented. See following article links: [Tackling Tahoe's Housing Crisis|Tahoe Regional Planning Agency; TRPA](#); ['We need to step up': Tahoe officials declare housing crisis an emergency \(sfgate.com\)](#); [South Lake Tahoe addressing its housing crisis \(fox40.com\)](#); [Lake Tahoe's housing crisis is dividing region's residents \(sfgate.com\)](#); [Affordable housing crisis in Tahoe – Sierra Nevada Ally](#); and [South Lake Tahoe Addresses Affordable Housing Issue with \\$17 Million Grant - Active NorCal](#)

of, an ADU on a lot zoned for single-family residential use. Covenants, conditions and restrictions (CC&Rs) that **either effectively prohibit or unreasonably restrict** the construction or use of an ADU or JADU on such lots **are void and unenforceable or may be liable for actual damages and payment of a civil penalty**. Applicants who encounter issues with creating ADUs or JADUs within CC&Rs are encouraged to reach out to HCD for additional guidance.

(Emphasis added.)

The Denial Letter appears to suggest that the ACC believes even if an applicant now seeks ACC approval to construct an ADU on a lot zoned for single-family residential use in the Subdivision, the CC&Rs take precedence over these new California laws. The ACC letters repeatedly reference the “CC&Rs concerning views.” The ACC also states that the “inclusion of an ADU does not warrant automatic approval and the Committee may impose reasonable restrictions under the CC&Rs and applicable law.” The ACC’s decisions are contrary to the statutory definition of “reasonable restrictions” included in Civil Code section 4751(b):

Civil Code § 4751. Accessory Dwelling Units.

(a) ...

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, **“reasonable restrictions” means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit** or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

Here, Ms. Figone has already modified the proposed ADU to reduce its height to the comparable level of the neighboring garage that had previously been approved by the ACC and Association. Any further changes requested by the ACC are not possible due to the applicable Code and/or would unreasonably increase its cost including the requests for story-poles. Accordingly, the ACC’s denial of the ADU Submittal is void for this reason as well.

E. Inconsistent and Arbitrary Enforcement of Architectural View Standard

“It is a settled rule of law that homeowners’ associations must exercise their authority to approve or disapprove an individual homeowner’s construction or improvement plans in conformity with the declaration of covenants and restrictions, and in good faith.” (*Cohen v. Kite Hill Cmty. Ass’n*)

(1983) 142 Cal.App.3d 642, 650.) A decision to enforce the restrictions, including a refusal to approve architectural plans, must be reasonable, in good faith, and not exercised in a capricious or arbitrary manner. (*Ibid.*) The court in *Cohen*, recognized the potential for abuse with respect to the enforcement of restrictions and stated:

With power, of course, comes the potential for abuse. Therefore, the Association must be held to a high standard of responsibility: “The business and governmental aspects of the association and the association’s relationship to its members clearly give rise to a special sense of responsibility upon the officers and directors.... ***This special responsibility is manifested in the requirements of fiduciary duties and the requirements of due process, equal protection, and fair dealing.***”

(*Id.* at 651, emphasis added [quoting *Concepts of Liability in the Development and Administration of Condominium and Home Owners Associations* (1976) 12 Wake Forest L. Rev. 915, 921].)

Here, the evidence establishes that the ACC has acted in an unreasonable and arbitrary manner in light of the accommodations Ms. Figone has made to the proposed ADU to reduce its height to approximately the same height as the neighboring garage that was previously approved by the Association. The denial is also unreasonable and arbitrary due to the fact that the Association has previously approved remodels and construction that block all or almost all of the views of the lake from surrounding structures. For example, the house at 28 Moana Circle increased the height of its garage, blocking views. The large two-story residence approved by the Association at 25 Moana Circle blocks the views of 15 Moana Circle. The Association also approved large estate-sized, two-story lakefront residences at 48 Moana Circle and 52 Moana Circle that also block the views of the lake.

The view restriction is also not enforceable because of the changed circumstances in the Subdivision that would render such enforcement inequitable. (See *Wolff v. Fallon* (1955) 44 Cal.2d 695.) For example, there are approximately 29 parcels with structures in the Subdivision and nine on the lake. Of the remaining non-littoral parcels, over half of the structures have no view of the lake, and as described above, many of the approvals for the massive improvements on littoral parcels (e.g., 48 and 52 Moana Circle) blocked off all lake views of the non-littoral structures. In fact, the non-littoral properties with the best lake views in the Subdivision are those three properties for which the ACC has utilized as providing support for its Denial Letter, even though evidence has been provided that the views from those structures will not be materially impacted. Indeed, what is particularly offensive about the course of these events is that the owners of two of those properties, 35 and 45 Moana Circle, are on the ACC and Association’s board. This self-dealing provides further support for the bad faith and unreasonable denial of the proposed ADU improvements.

F. The Association's Failure to Produce Any Documents Requested by Ms. Figone to Support Its Denial and Resulting Violation of Ms. Figone's Due Process Rights

Ms. Figone has requested on multiple occasions documents relating to the ACC and Association's standards for enforcing the purported view restriction. She also has requested documents relating to the approvals of "alterations, additions, or changes, to any members residences since 2002." Other than producing the CC&Rs and bylaws, the Association has not produced one document or scrap of evidence to support the Denial Letter or that its decision is reasonable and consistent with those decisions that have been previously made. As we know from the numerous approvals that have been made for improvements that block all lake views, we suspect there is no evidence to support its decision. Nevertheless, those approvals are relevant to support Ms. Figone's claims to overturn and invalidate the ACC's decision denying the ADU Submittal, and Ms. Figone has a due process right to have this evidence to support her appeal. Those issues will be raised in court as well to the extent the Association upholds the denial.

G. The Association Will Be Liable for Ms. Figone's Attorneys' Fees in an Action to Declare the Denial Letter and Any Denial of the Appeal Invalid

To the extent the appeal is denied, Ms. Figone will be forced to file a legal action to enforce her right to construct the proposed ADU. Pursuant to Civil Code section 5975, Ms. Figone will recover her attorneys' fees in such action when she prevails.

H. Conclusion

Ms. Figone respectfully requests that the appeal be granted and that the Association approve the ADU Submittal. Thank you.

Sincerely,



Michael B. Brown

Attachments – Exhibits 1-9

cc: Vicky Figone, Trustee
Todd G. Mather, AIA

EXHIBIT 1

Moana Circle Beach Architectural and Planning Control Committee
Moana Circle, Homewood, CA 96142

November 11, 2022

Vicki Figone
32 Moana Circle
Homewood, CA 96142

Dear Vicki,

Thank you for submitting your updated garage/ADU plans for our review. The new plans while approximately five feet lower, still encroach on neighboring lake view corridors.

Under Article III, Section 4 of the CC&Rs, the Architectural Committee may waive one or more of the Section 3 requirements with notice to the Board and to affected homeowners. We have reviewed your plans' consistency with current CC&Rs and determined the view considerations are reasonable given the importance of lake views for the entire community. Because your project substantially increases the finish grade elevation of the as-built environment and negatively affects the views of your neighbors and the entire community, both visually and financially, we are denying your application to build your project as currently proposed in the submitted plans.

A few ideas that the Committee would take under consideration, would be to build the garage/ADU in the same footprint as the current garage and be no higher than the neighbor to the right of your home. This would keep the structure in the same location which is already hidden by trees and therefore would not substantially block neighborhood views. We would also consider forgoing the parking requirement and you build an ADU only, with some storage underneath but no formal garage, the height requirement would be the same, no higher than the neighbor to the right. If you are willing to consider these ideas and use story poles, as you originally agreed to do, to show how your structure will impact the community, we would open to reconsidering.

The Committee is not denying your application based on the building of an ADU. Our denial is based on the application of the CC&Rs' reasonable view considerations when reviewing any proposed new structures or modifications to existing structures. If you would like to reconsider your design and submit an alternative design that will maintain reasonable views for all, we are prepared to reconsider your application.

If you would like to appeal our decision, you may appeal to the Moana Beach Property Owners Association's Board of Directors by submitting an appeal in writing to John Abel

(jabel@axiantgroup.com) within fifteen (15) days of the date of this letter. (Jens Egerland has recused himself on this matter as he is directly affected by your project.) Upon your appeal, the Board may reconsider the Architectural Committee's decision. If you do not timely appeal, then the Architectural Committee's decision shall be final.

By the Moana Beach Architectural and Planning Control Committee

Amy Boaman
Carolyn Goetz
Mike Augustine

EXHIBIT 2

Figone ADU & Garage

32 Moana Circle
Tahoma CA 96142
Placer County APN 098-191-018

Vicki Figone
35 Creekview Circle
Larkspur CA 94939
415 377 8817
vickifigone@hotmail.com

REVISIONS

PERMIT NUMBER	
JOB NUMBER	1521.2
FILE NUMBER	1521.2_A1X
ISSUE DATE	19 September 2022
SUBJECT	HOA Review #3
SCALE	1"=10'-0" UNO

TITLE

SITE PLAN

A1.2

ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT WRITTEN CONSENT.
© 2022 TGM, INC

ALLOWABLE LAND COVERAGE			
TOTAL PARCEL AREA			= 14,885 SF
SITE ASSESSMENT: TRPA# LCAP2019-0214, LCAP2019-0215(LCV)			
CAPABILITY	% ALLOW	AREA	ALLOWED
CLASS 1a	1%	6,172 SF	62 SF
CLASS 1b	1%	1,332 SF	13 SF
CLASS 5	25%	7,381 SF	1,845 SF
TOTAL ALLOWABLE COVERAGE:			1,920 SF

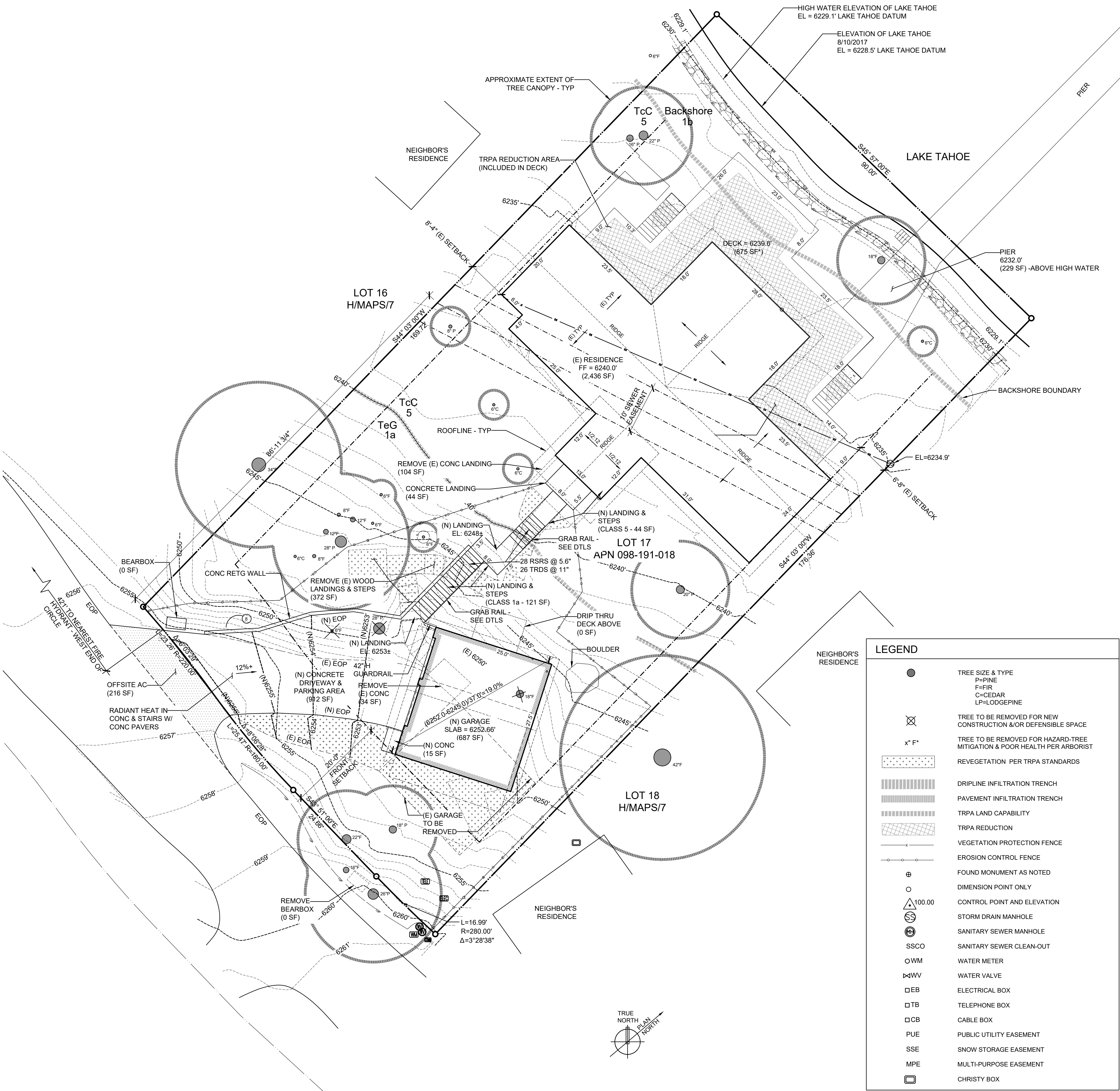
VERIFIED EXISTING LAND COVERAGE						
SITE ASSESSMENT: TRPA# LCAP2019-0214, LCAP2019-0215(LCV)						
ONSITE	CLASS 1a	CLASS 1b	CLASS 5	TOTAL		
RESIDENCE	0	0	2,412	= 2,412 SF		
DECK & STAIRS W/ TRPA REDUCTION	0	191	416	= 607 SF		
PIER-ABOVE HIGH WATER	0	157	72	= 229 SF		
WOOD LANDINGS & STEPS	333	0	39	= 516 SF		
GARAGE	516	0	0	= 876 SF		
CONCRETE DRIVEWAY	876	0	0	= 10 SF		
A/C DRIVEWAY	10	0	0	= 104 SF		
CONC LANDING **	0	0	104	= 104 SF		
TOTAL ONSITE COVERAGE			1,735	348	3,043	= 5,126 SF
OFF SITE						
A/C DRIVEWAY				= 216 SF		
TOTAL OFF SITE COVERAGE					216 SF	= 216 SF
** CONG LANDING NOT INCLUDED IN SITE ASSESSMENT COVERAGE VERIFICATION BUT NOTED ON MAP						

EXISTING LAND COVERAGE (HOUSE REMODEL-TRP21-90103)						
ONSITE	CLASS 1a	CLASS 1b	CLASS 5	TOTAL		
RESIDENCE	0	0	2,412	= 2,412 SF		
RESIDENCE ADDITION	0	0	24	= 24 SF		
DECK & STAIRS W/ TRPA REDUCTION	0	88	787	= 875 SF		
PIER-ABOVE HIGH WATER	0	157	72	= 229 SF		
WOOD LANDINGS & STEPS	333	0	49	= 382 SF		
CONC LANDING	0	0	44	= 44 SF		
GARAGE	516	0	0	= 516 SF		
CONCRETE DRIVEWAY	876	0	0	= 876 SF		
A/C DRIVEWAY	10	0	0	= 10 SF		
TOTAL ONSITE COVERAGE			1,735	245	3,388	= 5,368 SF
* PERVIOUS DECK REDUCTION FOR CLASS 5 LOT (369 SF MAX) FIRST 500 SF(*100%)						
	0	0	369	= <369 SF>		
TOTAL ADJUSTED ONSITE COVERAGE			1,735	245	3,019	= 4,999 SF
OFF SITE						
A/C DRIVEWAY				= 216 SF		
TOTAL OFF SITE COVERAGE					216 SF	= 216 SF

PROPOSED LAND COVERAGE						
ONSITE	CLASS 1a	CLASS 1b	CLASS 5	TOTAL		
RESIDENCE	0	0	2,412	= 2,412 SF		
RESIDENCE ADDITION	0	0	24	= 24 SF		
DECK & STAIRS W/ TRPA REDUCTION	0	88	787	= 875 SF		
PIER-ABOVE HIGH WATER	0	157	72	= 229 SF		
(N) WOOD LANDINGS & STEPS	121	0	44	= 165 SF		
CONC LANDINGS	0	0	44	= 44 SF		
(N) CONC STOOP	15	0	0	= 15 SF		
(N) GARAGE	687	0	0	= 687 SF		
(N) CONCRETE DRIVEWAY	912	0	0	= 912 SF		
TOTAL ONSITE COVERAGE			1,735	245	3,383	= 5,363 SF
* PERVIOUS DECK REDUCTION FOR CLASS 5 LOT (369 SF MAX) FIRST 500 SF(*100%)						
	0	0	369	= <369 SF>		
TOTAL ADJUSTED ONSITE COVERAGE			1,735	245	3,014	= 4,994 SF
OFF SITE						
A/C DRIVEWAY				= 216 SF		
TOTAL OFF SITE COVERAGE					216 SF	= 216 SF

- SURVEYOR NOTES**
- SURVEY PERFORMED BY TERRAGRAPHIC LAND SURVEYING, INC.; DATED 08/10/2017; JOB NUMBER 17085.
 - CONTOUR INTERVAL EQUALS 1'.
 - THE ELEVATION DATUM FOR THIS SURVEY WAS ASSUMED. ELEVATION = 6234.9' BENCHMARK = TOP OF SANITARY SEWER MANHOLE RIM.
 - SPOT ELEVATIONS ARE ACCURATE TO 0.2'± SCALED FEATURE LOCATIONS ARE ACCURATE TO 0.5'±
 - EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS MAP, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS; BUILDING SETBACK LINES; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS; ZONING OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
 - LEGEND IS GENERAL. SOME SYMBOLS MAY NOT BE APPLICABLE TO THIS SURVEY MAP.

FIRE SEVERITY ZONE
STATE RESPONSIBILITY AREA VERY HIGH FIRE HAZARD SEVERITY ZONE



LEGEND	
●	TREE SIZE & TYPE P=PINE F=FIR C=CEDAR LP=LOGS/PINE
⊗	TREE TO BE REMOVED FOR NEW CONSTRUCTION &/OR DEFENSIBLE SPACE
x" F"	TREE TO BE REMOVED FOR HAZARD-TREE MITIGATION & POOR HEALTH PER ARBORIST
[Pattern]	REVEGETATION PER TRPA STANDARDS
[Pattern]	DRIFLINE INFILTRATION TRENCH
[Pattern]	PAVEMENT INFILTRATION TRENCH
[Pattern]	TRPA LAND CAPABILITY
[Pattern]	TRPA REDUCTION
[Pattern]	VEGETATION PROTECTION FENCE
[Pattern]	EROSION CONTROL FENCE
⊕	FOUND MONUMENT AS NOTED
○	DIMENSION POINT ONLY
⊕ 100.00	CONTROL POINT AND ELEVATION
⊕	STORM DRAIN MANHOLE
⊕	SANITARY SEWER MANHOLE
SSCO	SANITARY SEWER CLEAN-OUT
OWM	WATER METER
WV	WATER VALVE
EB	ELECTRICAL BOX
TB	TELEPHONE BOX
CB	CABLE BOX
PUE	PUBLIC UTILITY EASEMENT
SSE	SNOW STORAGE EASEMENT
MPE	MULTI-PURPOSE EASEMENT
⊕	CHRISTY BOX

C:\Users\TGMCA\Dropbox\TGMArchitect\TGM_Architect\Projects\1521.2_Figone\Gar\1521.2_A1X.dwg, A1.2, 9/19/2022 3:27:45 PM, TGMCA, DWG To PDF, k33

DEMOLITION NOTES

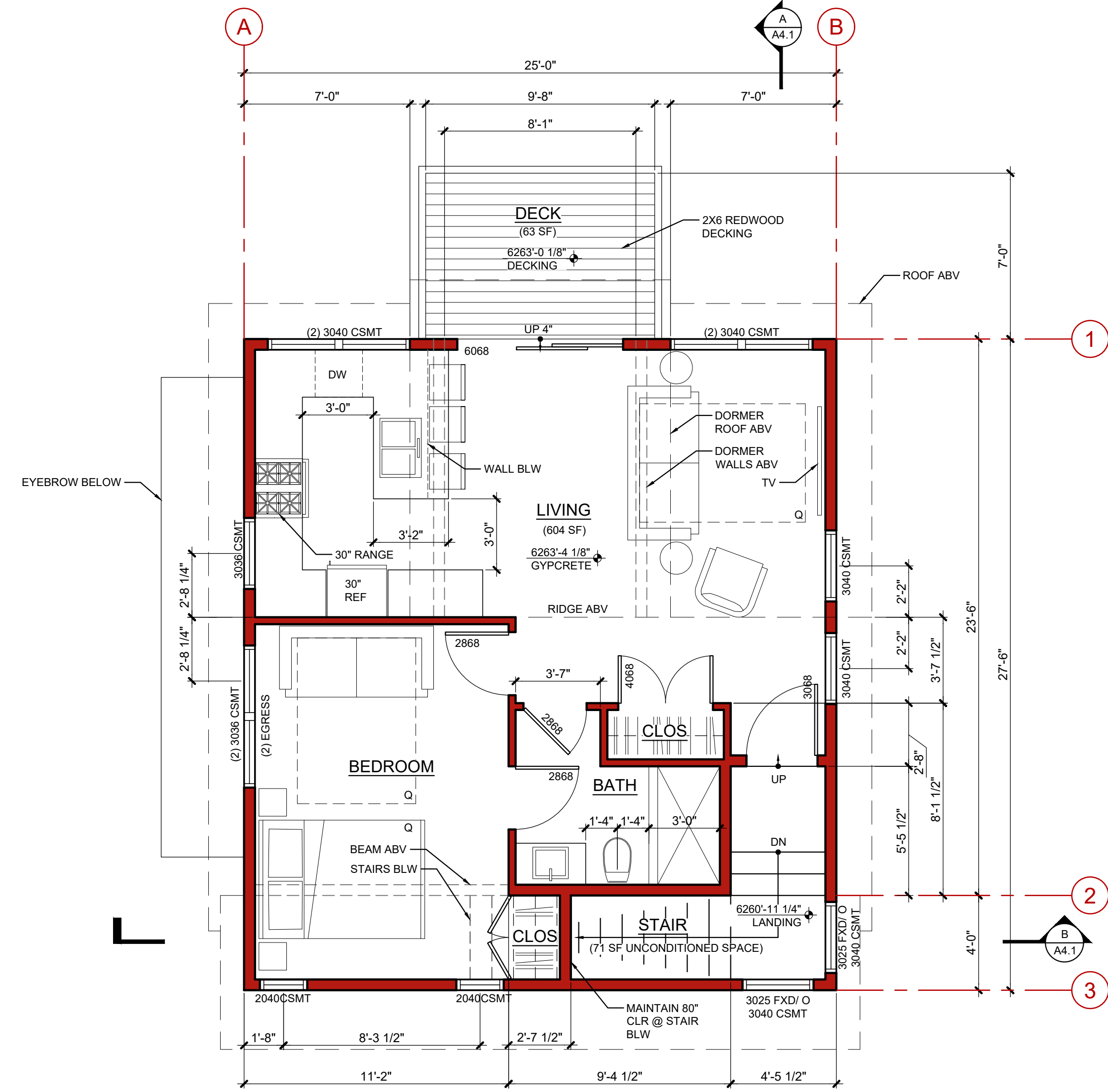
- 1) CONDUCT SELECTIVE DEMOLITION AND DEBRIS REMOVAL OPERATIONS TO INSURE MINIMUM INTERFERENCE WITH ROADS, STREETS, WALKS, EXITS AND OTHER ADJACENT OCCUPIED AND USED FACILITIES.
- 2) OWNER ASSUMES NO RESPONSIBILITY FOR CONDITION OF AREAS TO BE SELECTIVELY REMODELED.
- 3) IF MATERIALS SUSPECTED OF CONTAINING HAZARDOUS MATERIALS ARE ENCOUNTERED, DO NOT DISTURB. IMMEDIATELY NOTIFY ARCHITECT AND OWNER.
- 4) STORAGE OR SALE OF REMOVED ITEMS OR MATERIALS ON SITE WILL NOT BE PERMITTED UNLESS AGREED TO WITH THE OWNER PRIOR.
- 5) MAINTAIN EXISTING UTILITY SERVICES INDICATED TO REMAIN AND PROTECT THEM AGAINST DAMAGE DURING SELECTIVE DEMOLITION OPERATIONS.
- 6) SURVEY EXISTING CONDITIONS AND CORRELATE WITH REQUIREMENTS INDICATED TO DETERMINE EXTENT OF SELECTIVE DEMOLITION REQUIRED.
- 7) WHEN ANTICIPATED MECHANICAL, ELECTRICAL OR STRUCTURAL ELEMENTS THAT CONFLICT WITH INTENDED FUNCTION OR DESIGN ARE ENCOUNTERED, INVESTIGATE AND MEASURE THE NATURE AND INTENT OF CONFLICT. PROMPTLY SUBMIT A WRITTEN REPORT TO ARCHITECT.
- 8) LOCATE, IDENTIFY, DISCONNECT AND SEAL OR CAP OFF INDICATED UTILITIES SERVING AREAS TO BE SELECTIVELY DEMOLISHED. ARRANGE TO SHUT OFF INDICATED UTILITIES WITH UTILITY COMPANIES. CUT OFF PIPE OR CONDUIT IN WALLS OR PARTITIONS TO BE REMOVED PER UTILITY COMPANY'S STANDARDS.
- 9) PROTECT EXISTING SITE IMPROVEMENTS, APPURTENANCES AND LANDSCAPING TO REMAIN.
- 10) PROVIDE TEMPORARY BARRICADES AND OTHER PROTECTION REQUIRED TO PREVENT INJURY TO PEOPLE AND DAMAGE TO ADJACENT BUILDINGS AND FACILITIES TO REMAIN. PROVIDE TEMPORARY WEATHER PROTECTION DURING INTERVAL BETWEEN SELECTIVE DEMOLITION OF EXISTING CONSTRUCTION ON EXTERIOR SURFACES AND NEW CONSTRUCTION TO PREVENT WATER LEAKAGE AND DAMAGE TO STRUCTURE AND INTERIOR AREAS.
- 11) CLEAN ADJACENT IMPROVEMENTS OF DUST, DIRT AND DEBRIS CAUSED BY SELECTIVE DEMOLITION OPERATIONS. RETURN ADJACENT AREAS TO CONDITION EXISTING BEFORE SELECTIVE DEMOLITION OPERATIONS BEGAN.
- 12) DEMOLISH AND REMOVE EXISTING CONSTRUCTION ONLY TO THE EXTENT REQUIRED BY NEW CONSTRUCTION AND/ OR AS INDICATED. USE METHODS REQUIRED TO COMPLETE THE WORK WITH LIMITATIONS OF GOVERNING REGULATIONS AND AS FOLLOWS:
 - a) DISPOSE OF DEMOLISHED ITEMS AND MATERIALS PROMPTLY.
 - b) RETURN ELEMENTS OF CONSTRUCTION AND SURFACES THAT ARE TO REMAIN TO CONDITION EXISTING BEFORE SELECTIVE DEMOLITION OPERATIONS BEGAN.
- 13) PROTECT CONDITIONS INDICATED TO REMAIN AGAINST DAMAGE AND SOILING DURING SELECTIVE DEMOLITION, WHEN PERMITTED BY ARCHITECT, ITEMS MAY BE REMOVED TO A SUITABLE, PROTECTED STORAGE LOCATION DURING SELECTIVE DEMOLITION AND CLEANED AND REINSTALLED IN THEIR ORIGINAL LOCATIONS AFTER SELECTIVE DEMOLITION OPERATIONS ARE COMPLETE.
- 14) PROMPTLY REPAIR DAMAGE TO ADJACENT IMPROVEMENTS CAUSED BY SELECTIVE DEMOLITION OPERATIONS AND NOTIFY OWNER OF INCIDENT(S).
- 15) TRANSPORT DEMOLISHED MATERIALS OFF OF OWNER'S PROPERTY AND LEGALLY DISPOSE OF THEM.

GENERAL NOTES

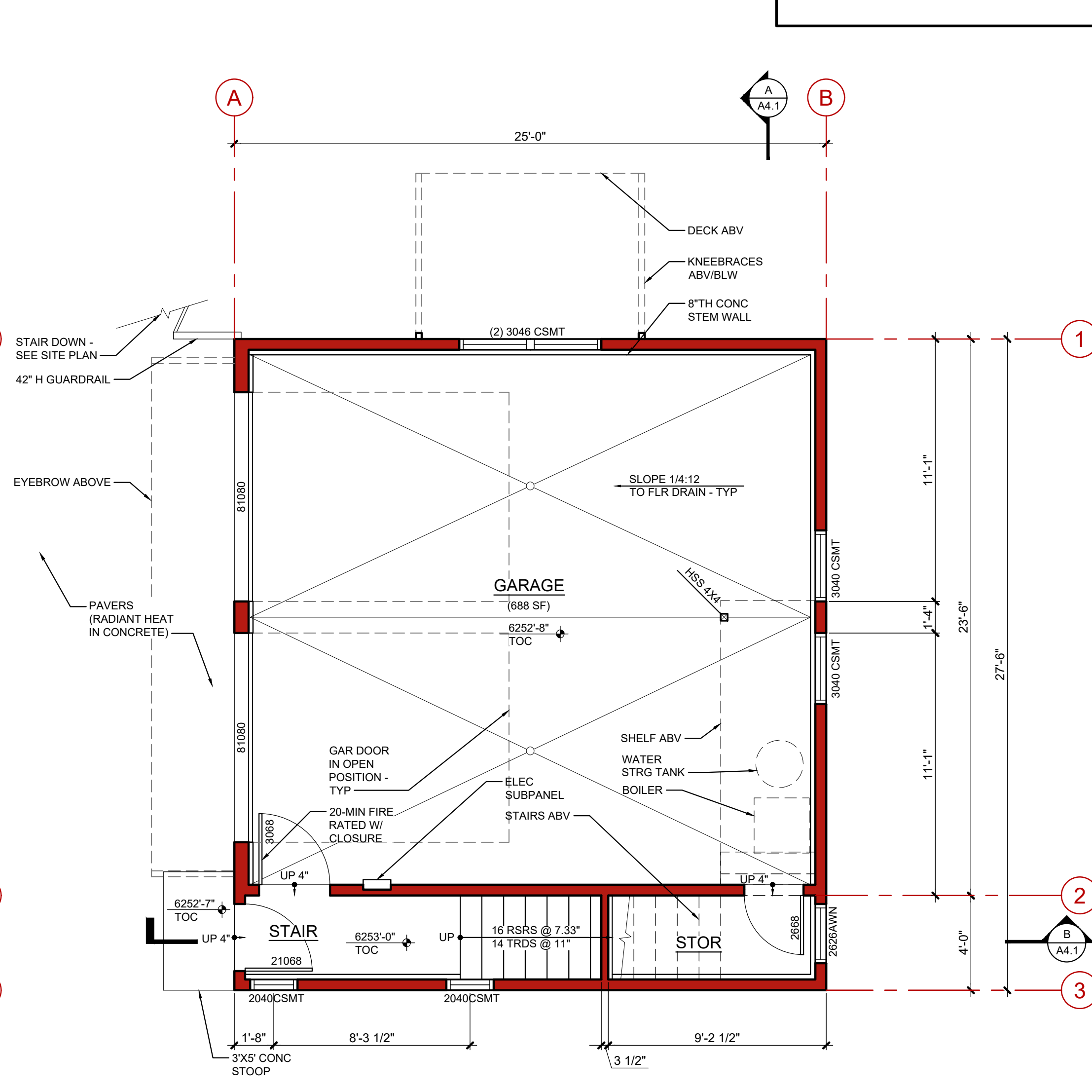
- 1) STAIRWAYS SERVING AN OCCUPANT LOAD LESS THAN 50 SHALL HAVE A WIDTH OF NOT LESS THAN 36 INCHES. CRC SECTION R311.7.1. STAIRWAYS SHALL HAVE A MINIMUM HEADROOM CLEARANCE OF 80 INCHES MEASURED VERTICALLY FROM A LINE CONNECTING THE EDGE OF THE NOSINGS. SUCH HEADROOM SHALL BE CONTINUOUS ABOVE THE STAIRWAY TO THE POINT WHERE THE LINE INTERSECTS THE LANDING BELOW. ONE TREAD DEPTH BEYOND THE BOTTOM RISER. THE MINIMUM CLEARANCE SHALL BE MAINTAINED THE FULL WIDTH OF THE STAIRWAY. CRC SECTION R311.7.2. WITHIN DWELLING UNITS, THE MAXIMUM RISER HEIGHT SHALL BE 7-3/4". THE MINIMUM TREAD DEPTH SHALL BE 10 INCHES. CRC SECTIONS R311.7.4.1 AND R311.7.4.2.
- 2) GUARDRAILS AND HANDRAILS SHALL BE STRUCTURED TO WITHSTAND A 200# LATERAL LOAD.
- a) HANDRAILS: HANDRAIL HEIGHT, MEASURED ABOVE STAIR TREAD NOSINGS, SHALL BE UNIFORM, NOT LESS THAN 34 INCHES AND NOT MORE THAN 38 INCHES. CRC SECTION R311.7.7.1. HANDRAILS WITH A CIRCULAR CROSS-SECTION SHALL HAVE AN OUTSIDE DIAMETER OF AT LEAST 1.25 INCHES AND NOT GREATER THAN 2 INCHES. IF THE HANDRAIL IS NOT CIRCULAR, IT SHALL HAVE A PERIMETER DIMENSION OF AT LEAST 4 INCHES AND NOT GREATER THAN 6.25 INCHES. EDGES SHALL HAVE A MINIMUM RADIUS OF 0.01 INCH. CRC SECTION R311.7.7.3. HANDRAILS WITHIN DWELLING UNITS ARE PERMITTED TO BE INTERRUPTED BY A NEWEL POST AT A STAIR LANDING. CRC SECTION R311.7.7.2. CLEAR SPACE BETWEEN A HANDRAIL AND A WALL OR OTHER SURFACE SHALL BE A MINIMUM OF 1.5 INCHES. CRC SECTION 1012.6. PROJECTIONS INTO THE REQUIRED WIDTH OF STAIRWAYS AT EACH HANDRAIL SHALL NOT EXCEED 4.5 INCHES AT OR BELOW THE HANDRAIL HEIGHT. CRC SECTION 1012.8. PROVIDE CONTINUOUS HANDRAIL FOR STAIRWAY WITH 4 OR MORE RISERS AS PER R311.
- b) GUARDRAILS: GUARDS SHALL FORM A PROTECTIVE BARRIER NOT LESS THAN 42 INCHES HIGH, MEASURED VERTICALLY ABOVE THE LEADING EDGE OF THE TREAD OR ADJACENT WALKING SURFACE. WITHIN DWELLING UNITS, GUARDS WHOSE TOP RAIL ALSO SERVES AS A HANDRAIL SHALL HAVE A HEIGHT NOT LESS THAN 34 INCHES AND NOT MORE THAN 38 INCHES MEASURED VERTICALLY FROM THE LEADING EDGE OF THE STAIR TREAD NOSING. CRC SECTION R312.2. OPEN GUARDS SHALL HAVE INTERMEDIATE RAILS SUCH THAT A 4 INCH DIAMETER SPHERE CANNOT PASS THROUGH ANY OPENING. THE TRIANGULAR OPENINGS FORMED BY THE RISER, TREAD, AND BOTTOM RAIL AT THE OPEN SIDE OF A STAIRWAY SHALL BE OF A MAXIMUM SIZE SUCH THAT A SPHERE OF 6 INCHES IN DIAMETER CANNOT PASS THROUGH THE OPENING. CRC SECTION R312.3.
- 3) THE WALLS AND SOFFITS OF THE ENCLOSED SPACE UNDER STAIRS SHALL BE PROTECTED ON THE ENCLOSED SIDE WITH 1/2" GYPSUM WALLBOARD. CRC SECTION R302.7
- 4) MINIMUM OCCUPANCY SEPARATION BETWEEN GARAGE AND RESIDENCE SHALL BE AS FOLLOWS: 1/2" GYPSUM WALLBOARD SHALL BE INSTALLED ON THE GARAGE SIDE OF THE WALL SEPARATING THE GARAGE FROM THE RESIDENCE AND 5/8" TYPE-X GYPSUM WALLBOARD AT THE UNDERSIDE OF THE HABITABLE ROOM ABOVE THE GARAGE. CRC SECTION AND TABLE R302.6.
- 5) MINIMUM OPENING PROTECTION FOR DOOR BETWEEN GARAGE AND RESIDENCE SHALL BE THE INSTALLATION OF A SELF-CLOSING TIGHT-FITTING SOLID WOOD DOOR 1-3/8" IN THICKNESS OR A SELF-CLOSING TIGHT-FITTING DOOR HAVING A FIRE PROTECTION RATING OF NOT LESS THAN 20 MINUTES. CRC SECTION R302.5.1.
- 6) PROVIDE ROOF TERMINATIONS FOR GAS APPLIANCES. APPLIANCE SHALL BE RATED PER MANUFACTURER'S SPECIFICATIONS. SEE FLUE MANUFACTURER'S SPECIFICATIONS FOR FLUE CLEARANCES. VERIFICATION OR APPROVAL OF VENT HEIGHT AND LOCATION WITH AN INSPECTOR PRIOR TO INSTALLATION IS SUGGESTED. ALL GAS FIREPLACES SHALL BE DIRECT-VENT SEALED-COMBUSTION TYPE PER CALGREEN - GREEN BUILDING CODE SECTION 4.503.
- 7) THE FOLLOWING SHALL BE CONSIDERED HAZARDOUS LOCATIONS REQUIRING SAFETY GLAZING: GLAZING IN DOORS AND ENCLOSURES FOR HOT TUBS, WHIRLPOOLS, SAUNAS, STEAM ROOMS, BATH TUBS, AND SHOWERS; GLAZING ANY PORTION OF A BUILDING WALL ENCLOSED THESE COMPARTMENTS WHERE THE BOTTOM EXPOSED EDGE OF THE GLAZING IS LESS THAN 60" ABOVE A STANDING SURFACE AND DRAIN INLET; GLAZING WITHIN A 24" ARC OF EITHER VERTICAL EDGE OF A DOOR IN CLOSED POSITION; GLAZING ADJACENT TO STAIRWAYS AND LANDINGS WITHIN 96 INCHES HORIZONTALLY OF A WALKING SURFACE WHEN THE EXPOSED SURFACE OF THE GLASS IS LESS THAN 60 INCHES ABOVE THE PLANE OF THE ADJACENT WALKING SURFACE; GLAZING ADJACENT TO STAIRWAYS WITHIN 60 INCHES HORIZONTALLY OF THE BOTTOM TREAD OF A STAIRWAY IN ANY DIRECTION WHEN THE EXPOSED SURFACE OF THE GLASS IS LESS THAN 60 INCHES ABOVE THE NOSE OF THE TREAD. CRC SECTION R308.4.
- a) CONTRACTOR SHALL VERIFY SAFETY GLAZING AT ALL LOCATIONS PER CBC.
- b) EXTERIOR WINDOWS, WINDOW WALLS, GLAZED DOORS, AND GLAZED OPENINGS WITHIN EXTERIOR DOORS SHALL BE INSULATING-GLASS UNITS WITH A MINIMUM OF ONE TEMPERED PANE. CRC SECTION R337.8.2.
- 8) SLEEPING ROOMS BELOW THE FOURTH STORY ABOVE GRADE PLANE SHALL HAVE AT LEAST ONE EXTERIOR EMERGENCY ESCAPE AND RESCUE OPENING. CRC SECTION R310.1. EMERGENCY ESCAPE AND RESCUE OPENINGS SHALL HAVE A MINIMUM NET CLEAR OPENING OF 5.7 SQUARE FEET. THE MINIMUM NET CLEAR OPENING HEIGHT DIMENSION SHALL BE 24 INCHES. THE MINIMUM NET CLEAR OPENING WIDTH DIMENSION SHALL BE 20 INCHES. CRC SECTIONS R310.1.1 THROUGH R310.1.3. EMERGENCY ESCAPE AND RESCUE OPENINGS SHALL HAVE THE BOTTOM OF THE CLEAR OPENING NOT GREATER THAN 44 INCHES MEASURED FROM THE FLOOR. CRC SECTION R310.1.
- 9) DECKING, SURFACES, STAIR TREADS, RISERS, AND LANDINGS OF DECKS, PORCHES, AND BALCONIES WHERE ANY PORTION OF SUCH SURFACE IS WITHIN 10 FEET OF THE PRIMARY STRUCTURE SHALL BE CONSTRUCTED WITH HEAVY TIMBER, EXTERIOR FIRE-RETARDANT-TREATED WOOD OR APPROVED NONCOMBUSTIBLE MATERIALS. CRC SECTION R337.9.
- 10) OPENINGS IN THE BUILDING ENVELOPE SEPARATING CONDITIONED SPACE FROM UNCONDITIONED SPACE NEEDED TO ACCOMMODATE GAS, PLUMBING, ELECTRICAL LINES AND OTHER NECESSARY PENETRATIONS MUST BE SEALED IN COMPLIANCE WITH THE CALIFORNIA ENERGY CODE AND ALSO THE CALIFORNIA RESIDENTIAL CODE CRC R316 WHERE FOAM PLASTIC INSULATION IS PROPOSED FOR COMPLIANCE. EXCEPTION: ANNULAR SPACES AROUND PIPES, ELECTRIC CABLES, CONDUITS, OR OTHER OPENINGS IN PLATES AT EXTERIOR WALLS SHALL BE PROTECTED AGAINST THE PASSAGE OF RODENTS BY CLOSING SUCH OPENINGS WITH CEMENT MORTAR, CONCRETE MASONRY OR SIMILAR METHOD ACCEPTABLE TO THE ENFORCING AGENCY, CALGREEN 4.406.1.
- 11) ATTIC ACCESS SHALL BE WEATHER-STRIPPED TO PREVENT AIR LEAKAGE - ATTIC ACCESS SHALL HAVE PERMANENTLY ATTACHED INSULATION USING ADHESIVE OR MECHANICAL FASTENERS.
- 12) GARAGE SHALL BE SEPARATED FROM THE DWELLING & ITS ATTIC SPACE BY MEANS OF 1/2" GYP BD APPLIED TO THE GARAGE SIDE OF THE COMMON WALLS & CEILING. THE GARAGE SHALL BE SEPARATED FROM THE DWELLING SPACE ABOVE BY 5/8" TYPE X GYP BD @ THE CEILING. NOT LESS THAN 1/2" GYP BD SHALL BE APPLIED TO STRUCTURES SUPPORTING THE FLOOR/ CLG ASSEMBLY USED FOR SEPARATION.
- 13) OPENINGS FROM A PRIVATE GARAGE DIRECTLY INTO A ROOM USED FOR SLEEPING PURPOSES SHALL NOT BE PERMITTED. R302.5.1.
- 14) BEDROOM WINDOWS ARE REQUIRED TO MEET EMERGENCY & ESCAPE & RESCUE OPENING REQUIREMENTS OF 2019 CRC 310. WINDOW CHANGE OUTS ARE EXEMPT FROM SILL HEIGHTS, BUT MUST BE OF A STYLE TO OFFER THE LARGEST SIZE OPENING TO MEET THE MINIMUM OPENING SIZE REQUIRED WITHIN THE EXISTING FRAMED OPENING.

AREA SUMMARY

PROPOSED CONDITIONED SQUARE FOOTAGE	
LOWER FLOOR (BATH)	27 SF
UPPER FLOOR (LIVING)	615 SF
TOTAL	642 SF
PROPOSED UNCONDITIONED SQUARE FOOTAGE	
GARAGE/ STORAGE	646 SF
DECK	63 SF
UPPER STAIR/ LANDING	71 SF
TOTAL	780 SF



UPPER - ACCESS DWELLING UNIT



LOWER - GARAGE

Figone ADU & Garage

32 Moana Circle
Tahoma CA 96142
Placer County APN 098-191-018

Vicki Figone
35 Creekview Circle
Larkspur CA 94939
415 377 8817
vickifigone@hotmail.com

REVISIONS

PERMIT NUMBER	
JOB NUMBER	1521.2
FILE NUMBER	1521.2_A2X
ISSUE DATE	19 September 2022
SUBJECT	HOA Review #3
SCALE	1/4" = 1'-0" UNO

TITLE

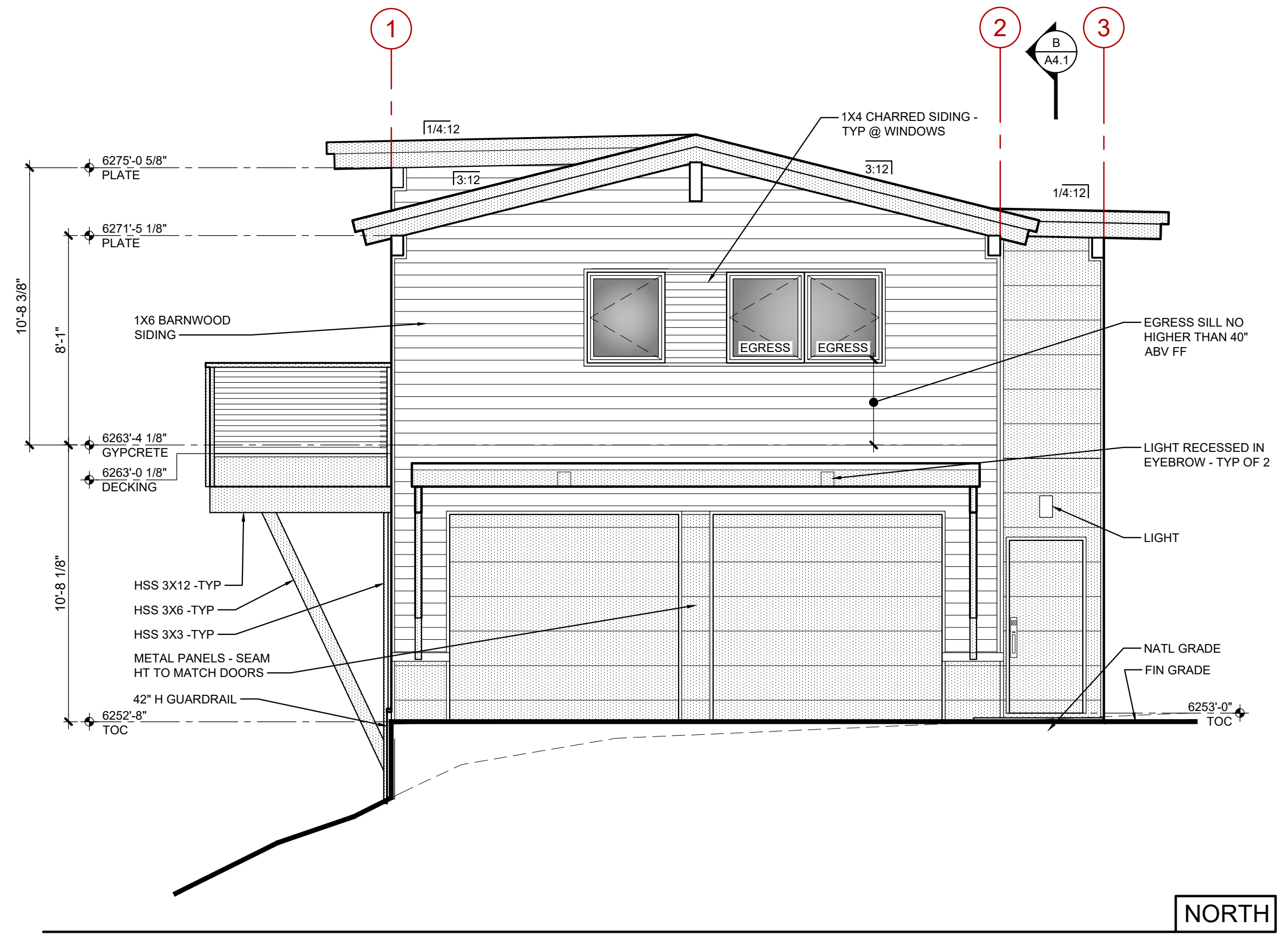
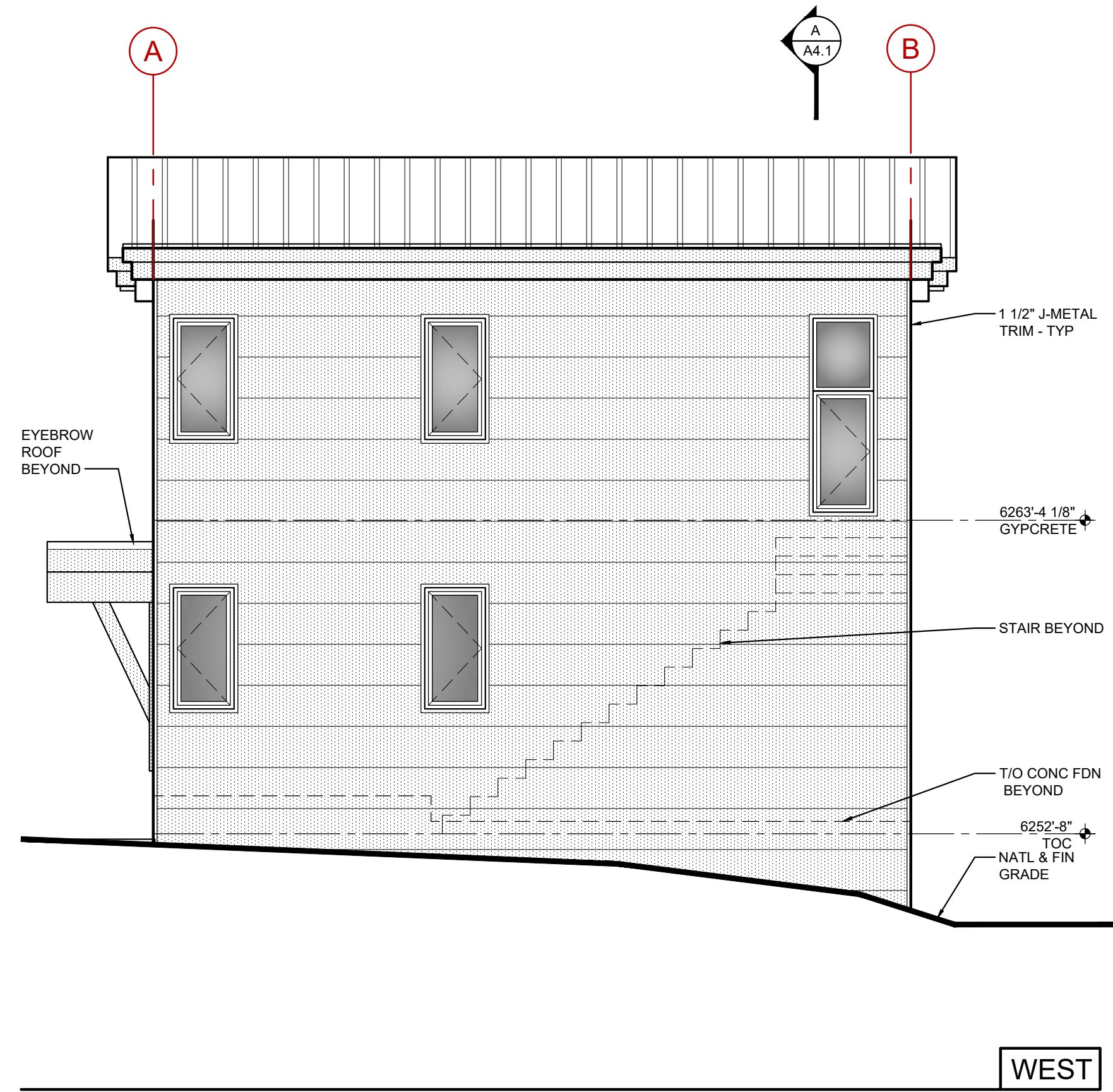
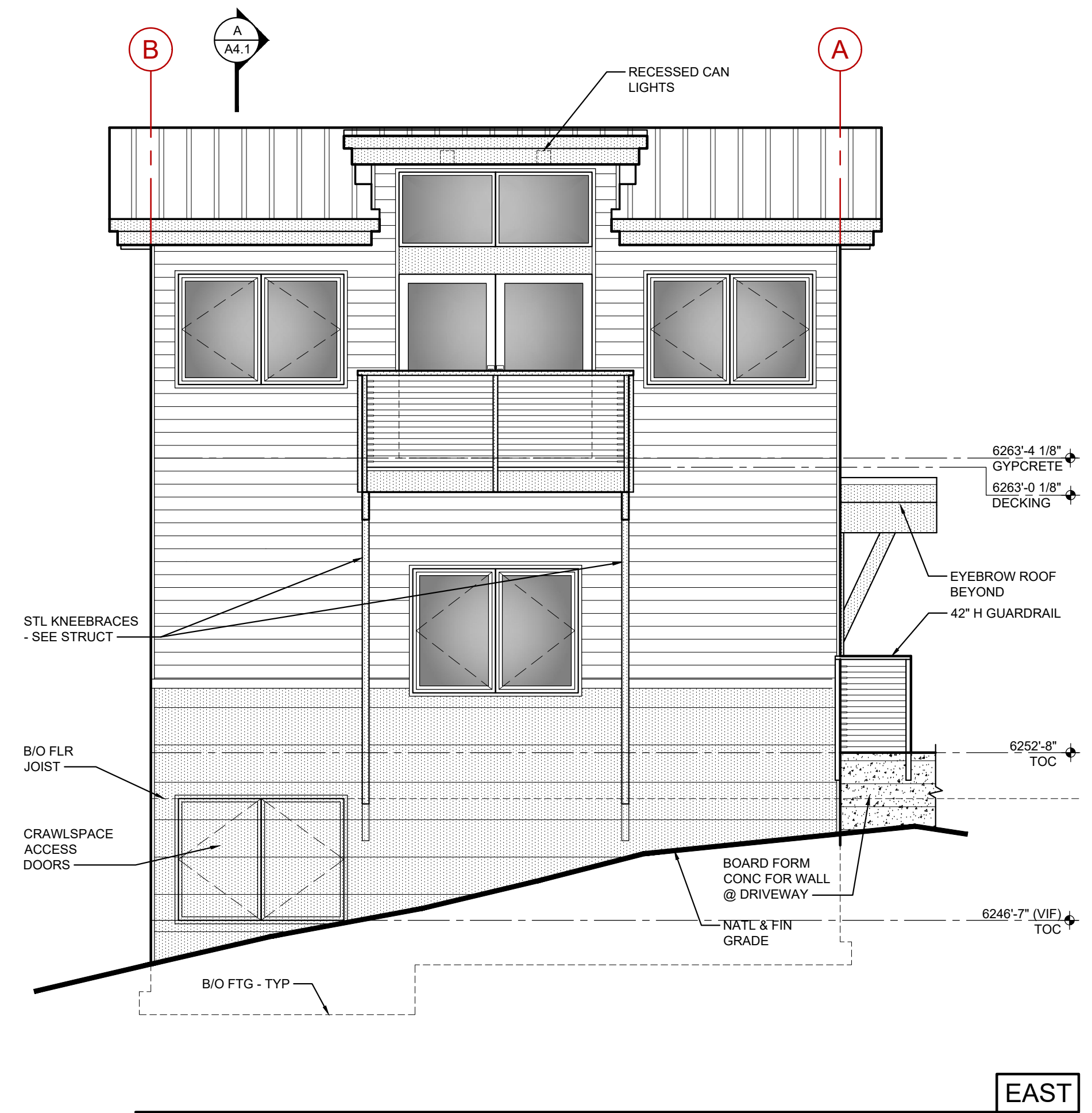
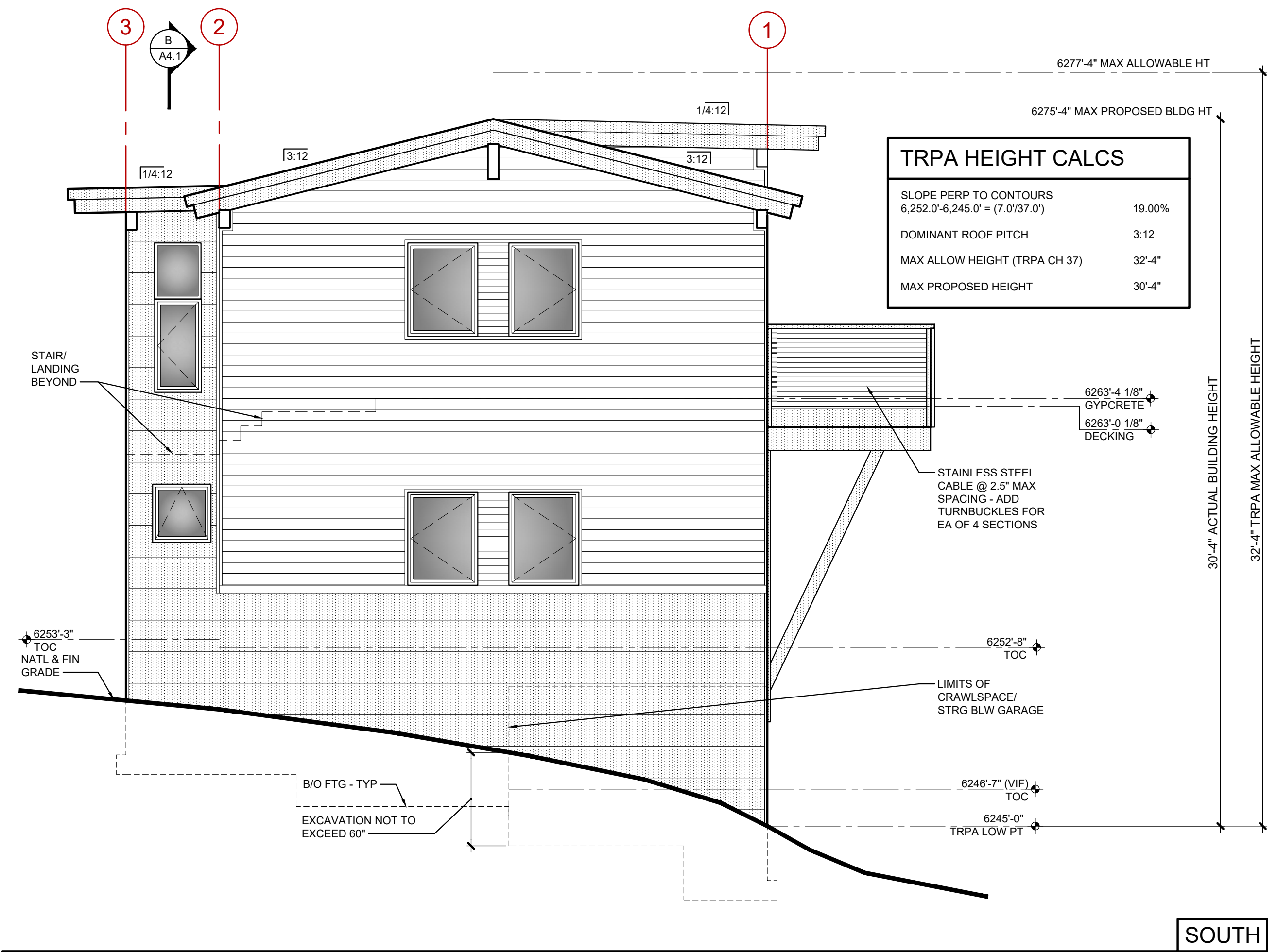
FLOOR PLANS
A2.1

C:\Users\david\Dropbox\TGM\Projects\1521_2_A2X.dwg, A2.1, 9/19/2022 2:57:21 PM, Daily, DWG To PDF, pcd

Figone ADU & Garage

32 Moana Circle
Tahoma CA 96142
Placer County APN 098-191-018

Vicki Figone
35 Creekview Circle
Larkspur CA 94939
415 377 8817
vickifigone@hotmail.com



REVISIONS

NO.	DESCRIPTION

PERMIT NUMBER	
JOB NUMBER	1521.2
FILE NUMBER	1521.2_A3X
ISSUE DATE	19 September 2022
SUBJECT	HOA Review #3
SCALE	1/4" = 1'-0" UNO
TITLE	

BUILDING ELEVATIONS

A3.1

ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT WRITTEN CONSENT.

C:\Users\daily\Dropbox\TGM\Projects\1521.2_Figone\Gar1521.2_CAD\1521.2_A3X.dwg, A3.1, 9/19/2022 2:57:28 PM, Daily, DWG To PDF, pcd

Figone ADU & Garage

32 Moana Circle
Tahoma CA 96142
Placer County APN 098-191-018

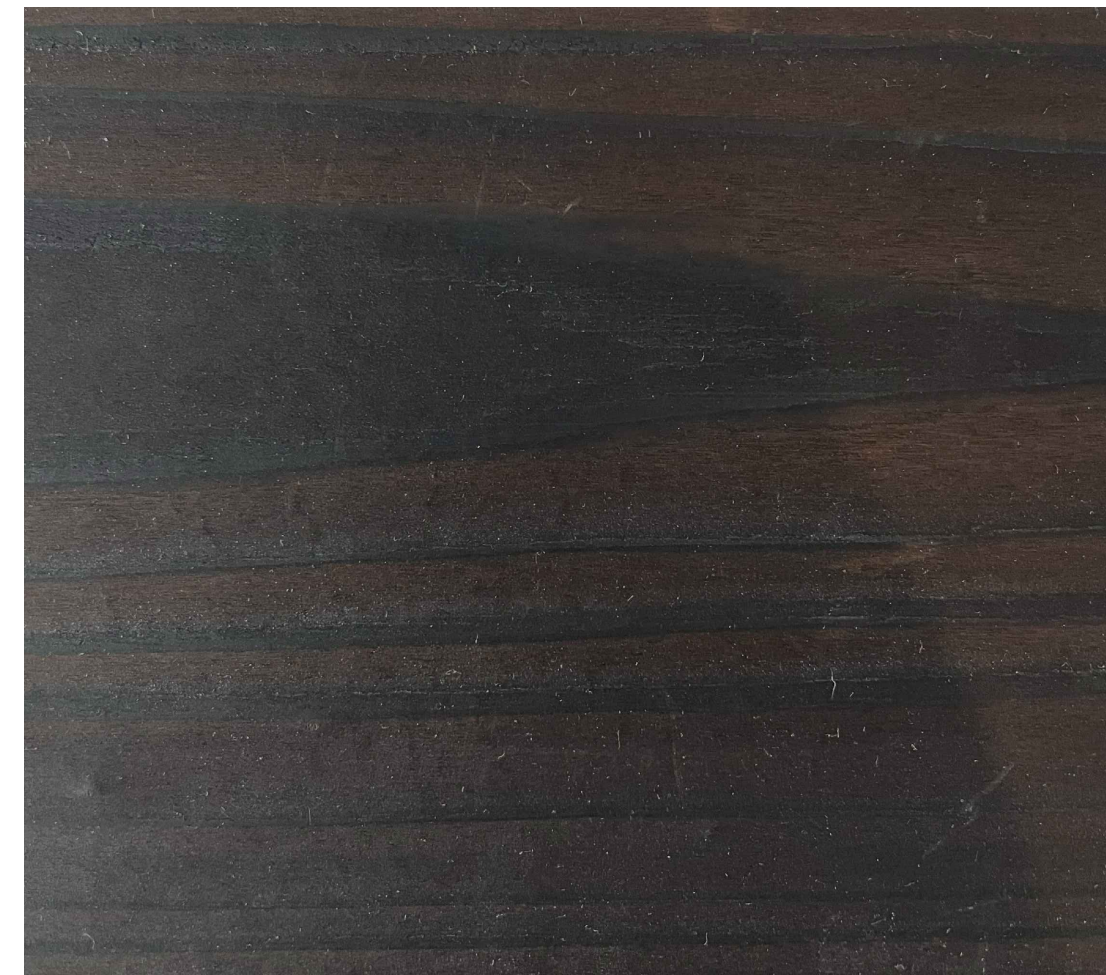
Vicki Figone
35 Creekview Circle
Larkspur CA 94939
415 377 8817
vickifigone@hotmail.com



1) WOOD SIDING (1X6)



2) METAL PANEL SIDING & TRIM DETAIL. COLOR IS NOT AS PROPOSED - SEE SCHEDULE.



6) WOOD SIDING (1X4)

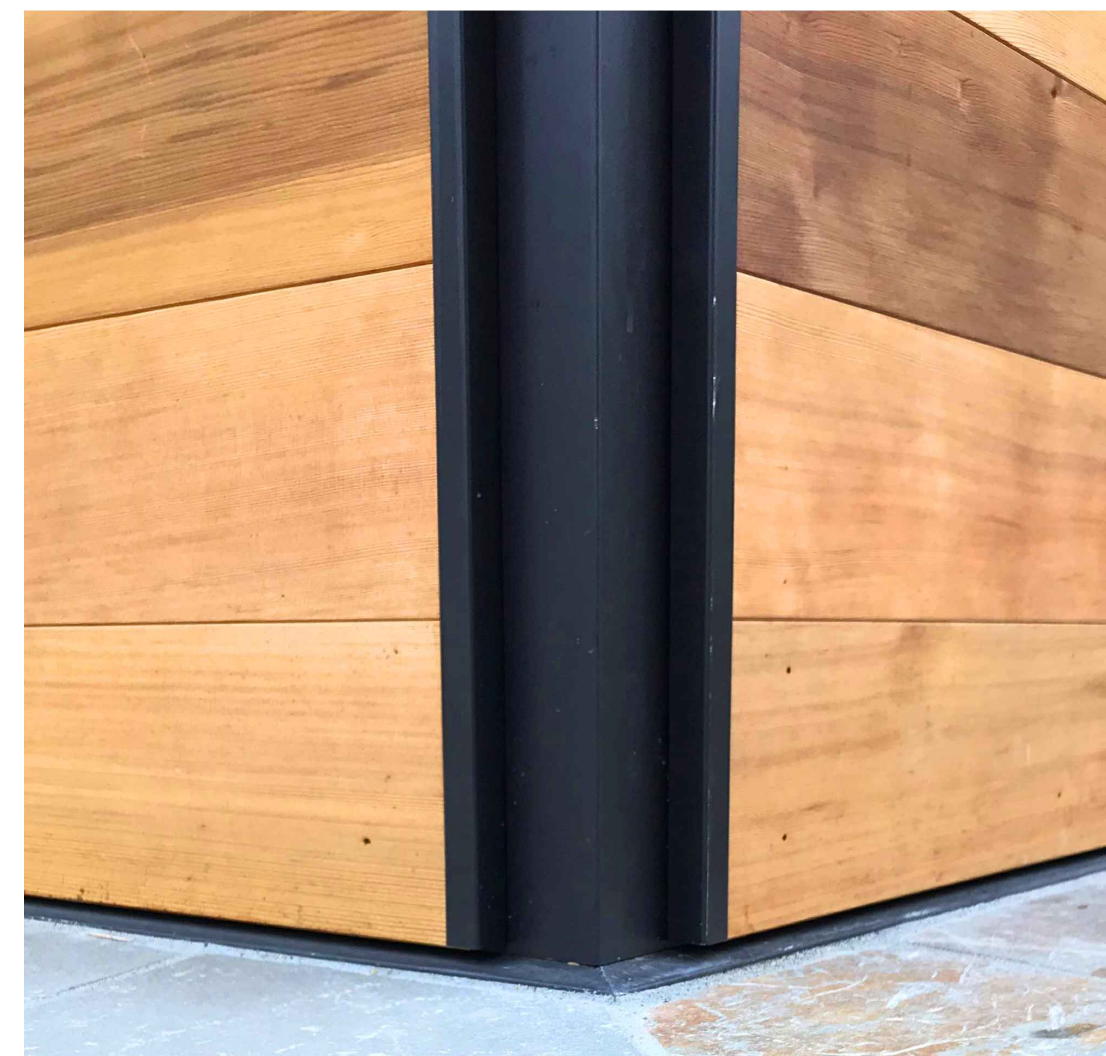
EXTERIOR COVERINGS NOTES
1) EXTERIOR WALLS/COVERINGS SHALL COMPLY WITH THE REQUIREMENTS OF CRC SECTION R703. WALL COVERINGS SHALL HAVE AN ASSEMBLY INSTALLED IN ACCORDANCE WITH ITS LISTING AND THE MANUFACTURER'S INSTALLATION INSTRUCTIONS. WHEN REQUIRED, EXTERIOR WALL COVERINGS SHALL ALSO FULLY COMPLY WITH WUI-CODE CRC SECTION R337.7.
2) EXTERIOR WALL COVERINGS, BACKING MATERIALS AND THEIR ATTACHMENTS SHALL MEET OR EXCEED WATER AND WIND RESISTANCE AS DESCRIBED AND IN ACCORDANCE WITH CRC SECTION R703.1.1, R703.1.2 AND R703.2.
3) EXTERIOR WALL COVERINGS SHALL MEET OR EXCEED THE THICKNESS AND ATTACHMENT/FASTENER REQUIREMENTS AS DESCRIBED AND IN ACCORDANCE WITH CRC SECTION R703.3.
4) PROVIDE CORROSION-RESISTANT FLASHINGS AS DESCRIBED AND IN ACCORDANCE WITH CRC SECTION R703.4.
5) INSTALL HORIZONTAL AND VERTICAL WOOD AND HARDWOOD SIDING IN ACCORDANCE WITH CRC SECTION R705.
6) WATER-RESISTIVE BARRIERS SHALL BE INSTALLED OVER WOOD-BASED SHEATHING AS REQUIRED AND DESCRIBED AND IN ACCORDANCE WITH CRC SECTION R703.7.3.

HEIGHT CALCULATIONS
SEE SHEET A3.1

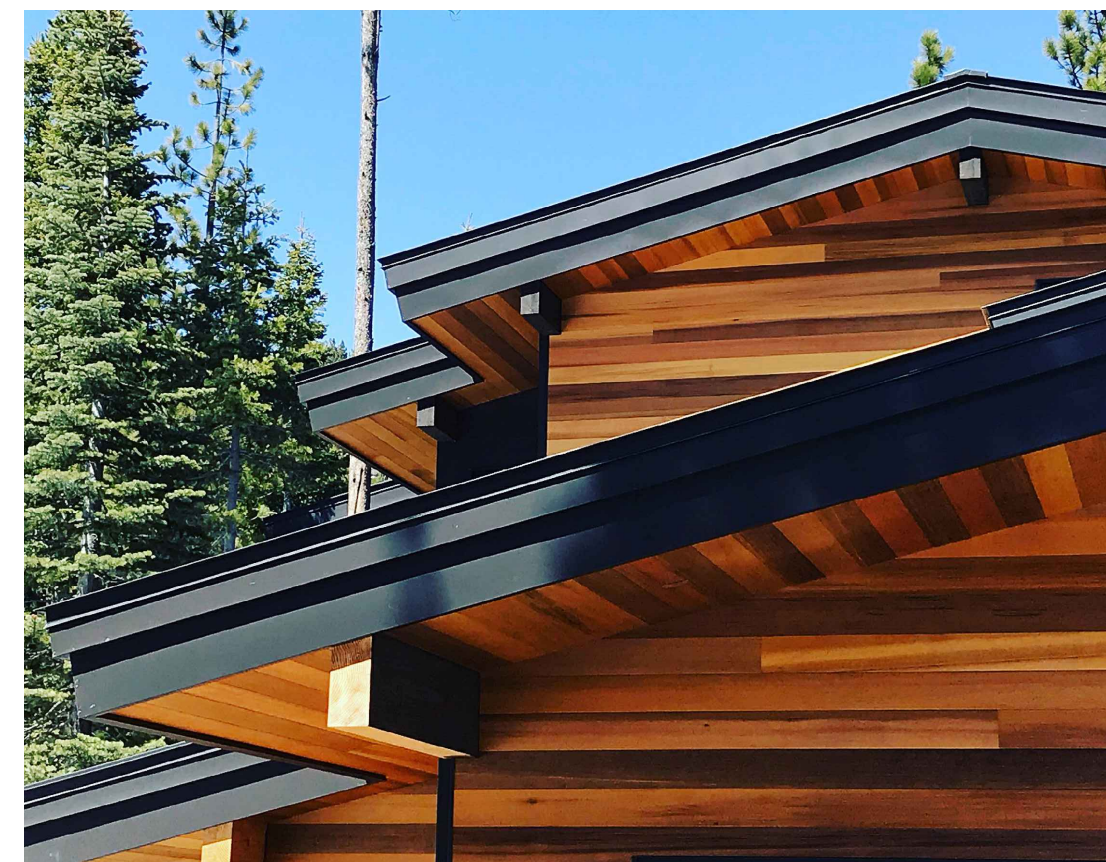
EXTERIOR FINISH SCHEDULE
1) WOOD SIDING: 1X6 <u>TRESTLEWOOD</u> NATURE AGED CEDAR T&G W/1/4"X1/4" CHANNEL; OFSM #8140-2041-0001
2) PAINTED STEEL METAL ROOFING, METAL PANEL SIDING, FLASHINGS, CORNER TRIM, WINDOW & DOOR TRIM, WATERTABLE, FASCIA/SHINGLE MOULD CLADDING: <u>BERRIDGE</u> POWDERCOAT KYNAR 500 LOW GLOSS "AGED BRONZE"
3) LIGHTING FIXTURES/TRIMS: PAINTED TO MATCH METAL PANEL. SCANCES: HINKLEY "KUBE" - SEE SPEC ON SHEET A3.2
4) WINDOWS: <u>ANDERSEN</u> "BLACK"
5) SOFFITS: 1X6 <u>DOLLY VARDEN</u> CLEAR VERT GRAIN CEDAR T&G - FINE LINE - NAT'L STAIN
6) WOOD SIDING: 1X4 <u>CYPRESS</u> T&G DELTA MILLWORKS, BURNED & BRUSHED - NAT'L FINISH - OFSM #8140-2041-0001

EXTERIOR FINISH LEGEND
<u>TRPA DESIGN STANDARDS:</u>
1) COLOR: THE COLOR OF THE STRUCTURE, INCLUDING ANY FENCES ON THE PROPERTY, SHALL BE COMPATIBLE WITH THE SURROUNDINGS. SUBDUED COLORS IN THE EARTH TONE AND WOOD TONE RANGES SHALL BE USED FOR THE PRIMARY COLOR OF THE STRUCTURE. HUES SHALL BE WITHIN THE RANGE OF NATURAL COLORS THAT BLEND, RATHER THAN CONTRAST, WITH THE EXISTING VEGETATION AND EARTH HUES. APPROPRIATE EARTH TONES ARE CONSIDERED TO BE SHADES OF DARK REDDISH BROWN, DARK BROWN, AND DARK GREEN.
2) ROOFS: ROOFS SHALL BE COMPOSED OF NON-GLARE EARTH TONE OR WOOD TONE MATERIALS THAT MINIMIZE REFLECTIVITY. ALL EXPOSED METAL ROOFING MATERIALS, INCLUDING FLASHING AND CHIMNEY CAPS SHALL BE PAINTED OR PRE-WEATHERED TO MINIMIZE REFLECTIVITY. GLOSS RATING (G.R.), AROUND OR BELOW 10. GC SHALL CONFIRM ROOFING G.R. COMPLIANCE W/ TRPA.
3) EXTERIOR LIGHTING: ALL EXTERIOR LIGHTING SHALL BE CONSISTENT WITH TRPA CODE OF ORDINANCES, CHAPTER 30, SECTION 30.8, EXTERIOR LIGHTING STANDARDS.

ROOF NOTES
1) ROOFS SHALL COMPLY WITH THE REQUIREMENTS OF CRC SECTION R337 AND R902. ROOFS SHALL HAVE A ROOFING ASSEMBLY INSTALLED IN ACCORDANCE WITH ITS LISTING AND THE MANUFACTURER'S INSTALLATION INSTRUCTIONS. CRC SECTION R337.5.2.
2) ROOF COVERING MATERIAL SHALL BE METAL, NON-COMBUSTIBLE, OR SHALL BE LISTED AS CLASS "A" FIRE RETARDANT MATERIAL. CERTIFICATE OF COMPLIANCE SHALL BE FILED WITH THE BUILDING DEPARTMENT.
3) WHEN PROVIDED, VALLEY FLASHINGS SHALL BE NOT LESS THAN 0.019-INCH CORROSION-RESISTANT METAL INSTALLED OVER A MINIMUM 3/8-INCH-WIDE UNDERLAYMENT CONSISTING ON ONE LAYER OF NO. 72 ASTM CAP SHEET RUNNING THE FULL LENGTH OF THE VALLEY. CRC SECTION R337.5.3. CBC SECTION 705A.3.
4) ALL ROOFS, REGARDLESS OF COVERING, WITH A PITCH OF LESS THAN 8:12 SHALL BE PROTECTED AGAINST LEAKAGE FROM ICE BUILD UP. ICE GUARD SHALL BE INSTALLED WITH AN APPROVED CEMENTING MATERIAL SO THAT THE MEMBRANE AND ROOF SHEATHING ARE SOLID MOPPED TOGETHER EXTENDING FROM THE EAVE, INCLUDING THE OVERHANG, UP THE ROOF TO A POINT 5 FEET INSIDE THE EXTERIOR WALL LINE OF THE BUILDING. PROTECTION ALSO REQUIRED AT RAKE WALLS AND VALLEYS, 30" ALONG EACH SIDE. THIS SHALL BE COMPLETED IN ADDITION TO UNDERLAYMENT OTHERWISE REQUIRED.
5) EAVES AND SOFFITS SHALL MEET THE REQUIREMENTS OF CRC SECTION R337.7.5 OR SHALL BE PROTECTED BY IGNITION-RESISTANT MATERIALS OR NONCOMBUSTIBLE CONSTRUCTION ON THE EXPOSED UNDERSIDE.
6) ROOF GUTTERS: NOT USED
7) NOT USED.
8) VENTS: (E) ROOF VENTILATION TO REMAIN AND/ OR BE REPAIRED.
9) HOT OR COLD MOP UNDERLAYMENT ROOFING IS REQUIRED AS NOTED IN CRC SECTION R905.7.1
10) ALL PLUMBING VENT, B-VENTS, CHIMNEYS, AND MISC. OBSTRUCTIONS PROJECTING THROUGH A ROOF OF 3:12 SLOPE OR GREATER, SHALL BE PROTECTED FROM DAMAGE BY SLIDING SNOW OR ICE, EXCEPT FOR THOSE PROJECTIONS WITHIN 36" OF THE RIDGE. THIS SHALL BE ACCOMPLISHED BY USING FORMED METAL GUARDS CRICKETS, SADDLES, OR OTHER METHODS APPROVED BY THE CHIEF BUILDING OFFICIAL.



2) 3-PIECE METAL CORNER TRIM DETAIL. COLOR IS NOT AS PROPOSED. WOOD SIDING IS NOT PROPOSED - SEE SCHEDULE.



2) METAL ROOFING, METAL FASCIA & SHINGLE MOULD DETAIL. COLOR IS NOT AS PROPOSED. 5) SOFFITS WOOD SIDING IS NOT AS PROPOSED. SEE SCHEDULE.

6" W

6" H

KUBE

1769SK
SMALL UP/DOWN LIGHT WALL MOUNT
LANTERN

A collection of sleek designs, Kube's contemporary style featuring solid aluminum construction provides a chic, minimalist statement to complement a variety of exteriors.

DETAILS	
FINISH:	Satin Black
MATERIAL:	Extruded Aluminum
GLASS:	Etched Lens

DIMENSIONS	
WIDTH:	6"
HEIGHT:	6"
WEIGHT:	4 lbs.
BACK PLATE:	4.5" Sq.
EXTENSION:	6.8"
TOP TO OUTLET:	3"

LIGHT SOURCE	
LIGHT SOURCE:	Integrated LED
LED NAME:	(2) LC1-60
WATTAGE:	15w LED *Included
VOLTAGE:	120v
COLOR TEMP:	3000,0000k
LUMENS:	1200
CRI:	96
INCANDESCENT EQUIVALENCY:	2-50w
DIMMABLE:	Yes, on any Incandescent, MLV, ELV, or C-L dimmer.

SHIPPING	
CARTON LENGTH:	8.5"
CARTON WIDTH:	9"
CARTON HEIGHT:	10"
CARTON WEIGHT:	4.5 lbs.

PRODUCT DETAILS:

- Suitable for use in wet (interior direct splash and outdoor direct rain or sprinkler) locations as defined by NEC and CEC. Meets United States UL Underwriters Laboratories & CSA Canadian Standards Association Product Safety Standards
- Meets California Energy Commission 2016 Title regulations/JA8
- This fixture will cast light up and down.
- 2 year finish warranty
- LED components carry a 5-year limited warranty
- Bold lines and a clean, minimalist style complement contemporary architecture
- Striking black finish enhances design

HINKLEY

33000 Pin Oak Parkway
Avon Lake, OH 44012

PHONE: (440) 653-5500
Toll Free: 1 (800) 446-5539

hinkley.com

REVISIONS	

PERMIT NUMBER	
JOB NUMBER	1521.2
FILE NUMBER	1521.2_A3X
ISSUE DATE	19 September 2022
SUBJECT	HOA Review #3
SCALE	1/4" = 1'-0 UNO

TITLE

BUILDING MATERIALS & FINISHES

A3.2

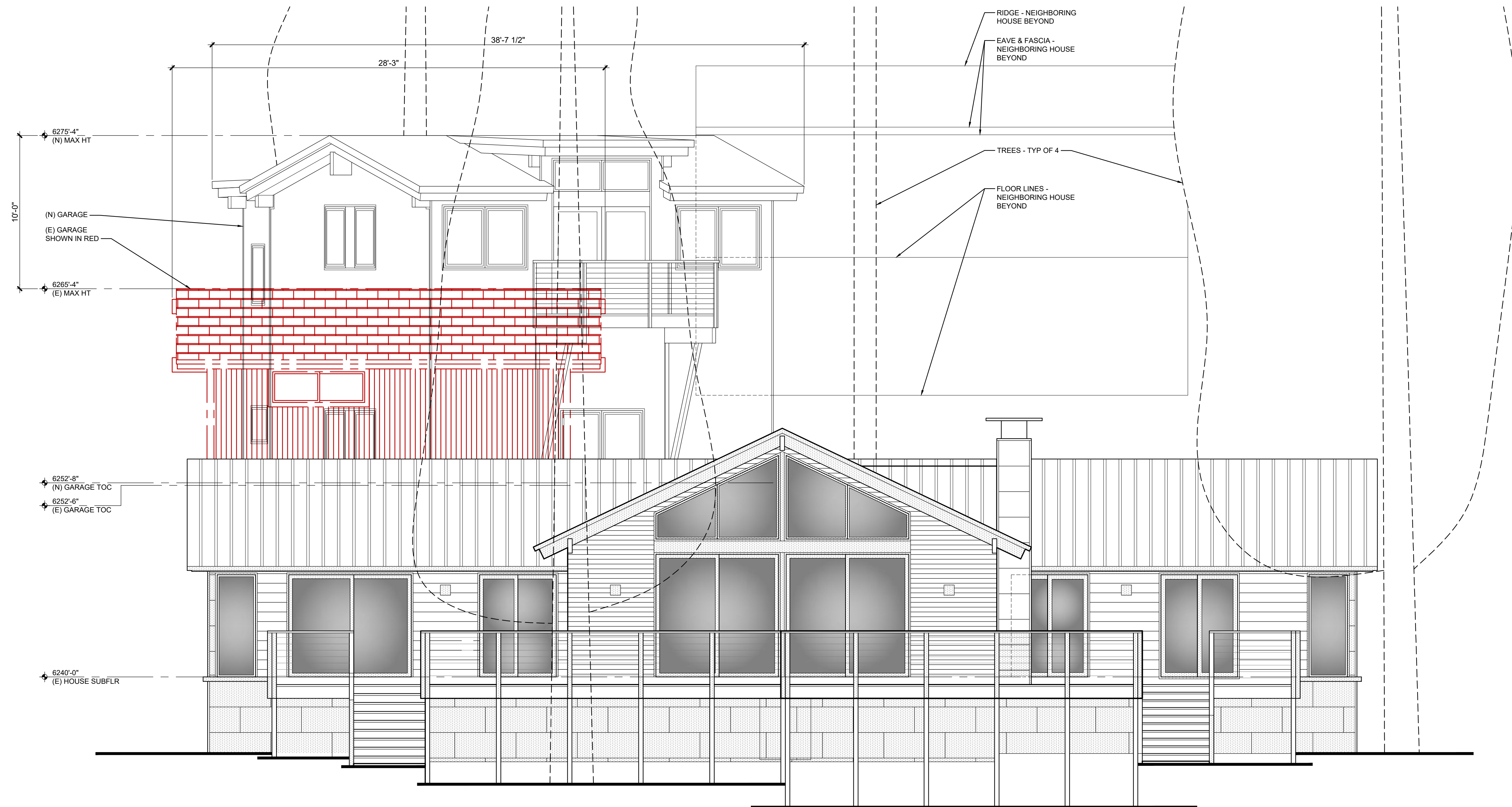
ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT WRITTEN CONSENT.

C:\Users\daily\Dropbox\TGMMA_P\Projects\1521_2_Figone\Gantt\1521_2_CAD\1521_2_A3X.dwg, A3.2, 9/19/2022 2:57:37 PM, Day, DWG To PDF, .pc3

Figone ADU & Garage

32 Moana Circle
Tahoma CA 96142
Placer County APN 098-191-018

Vicki Figone
35 Creekview Circle
Larkspur CA 94939
415 377 8817
vickifigone@hotmail.com



REVISIONS

PERMIT NUMBER	
JOB NUMBER	1521.2
FILE NUMBER	1521.2_A3X
ISSUE DATE	19 September 2022
SUBJECT	HOA Review #3
SCALE	1/4" = 1'-0 UNO

TITLE

**TRPA
ELEVATION
EXHIBIT**

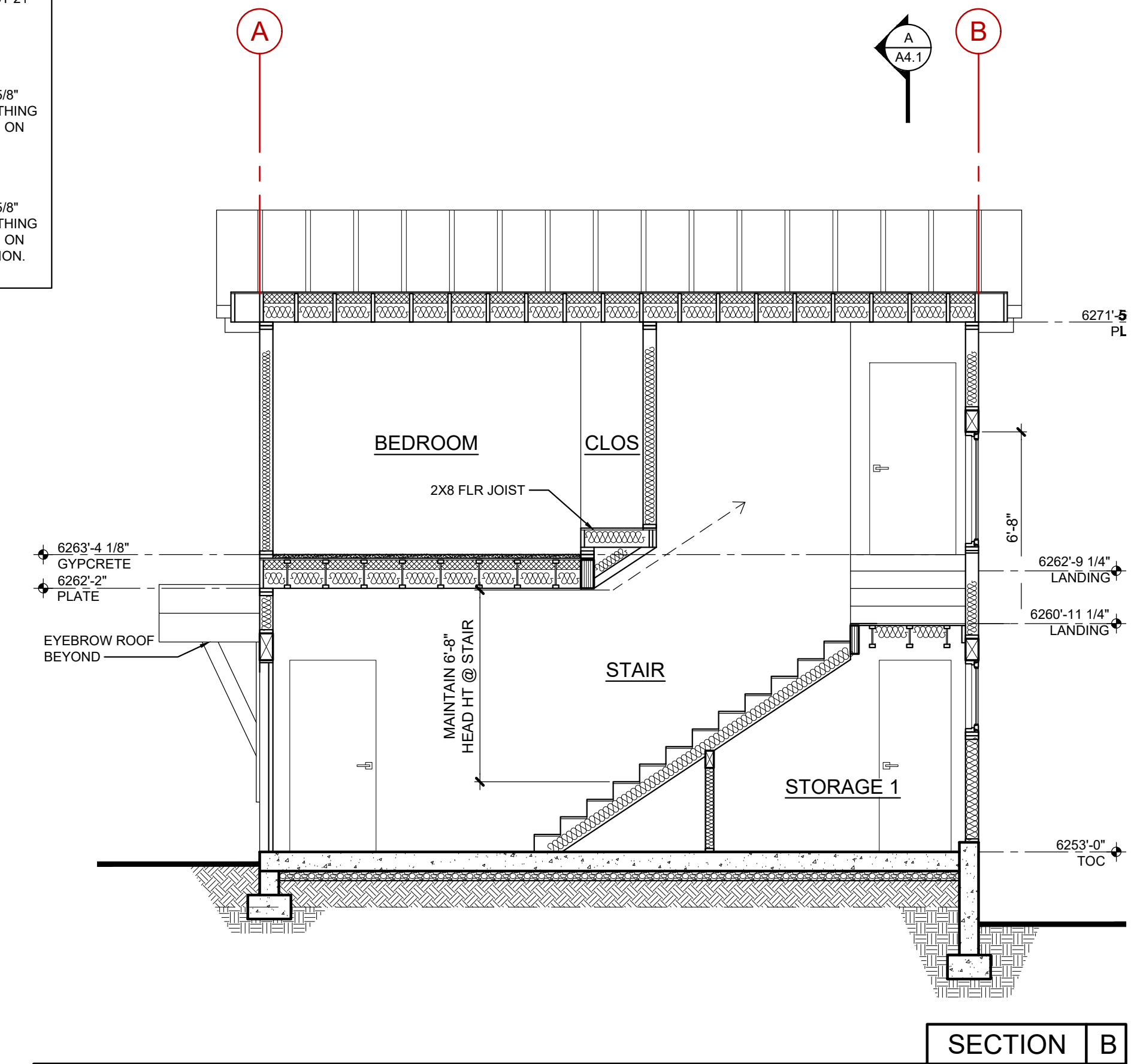
A3.3

Figone ADU & Garage

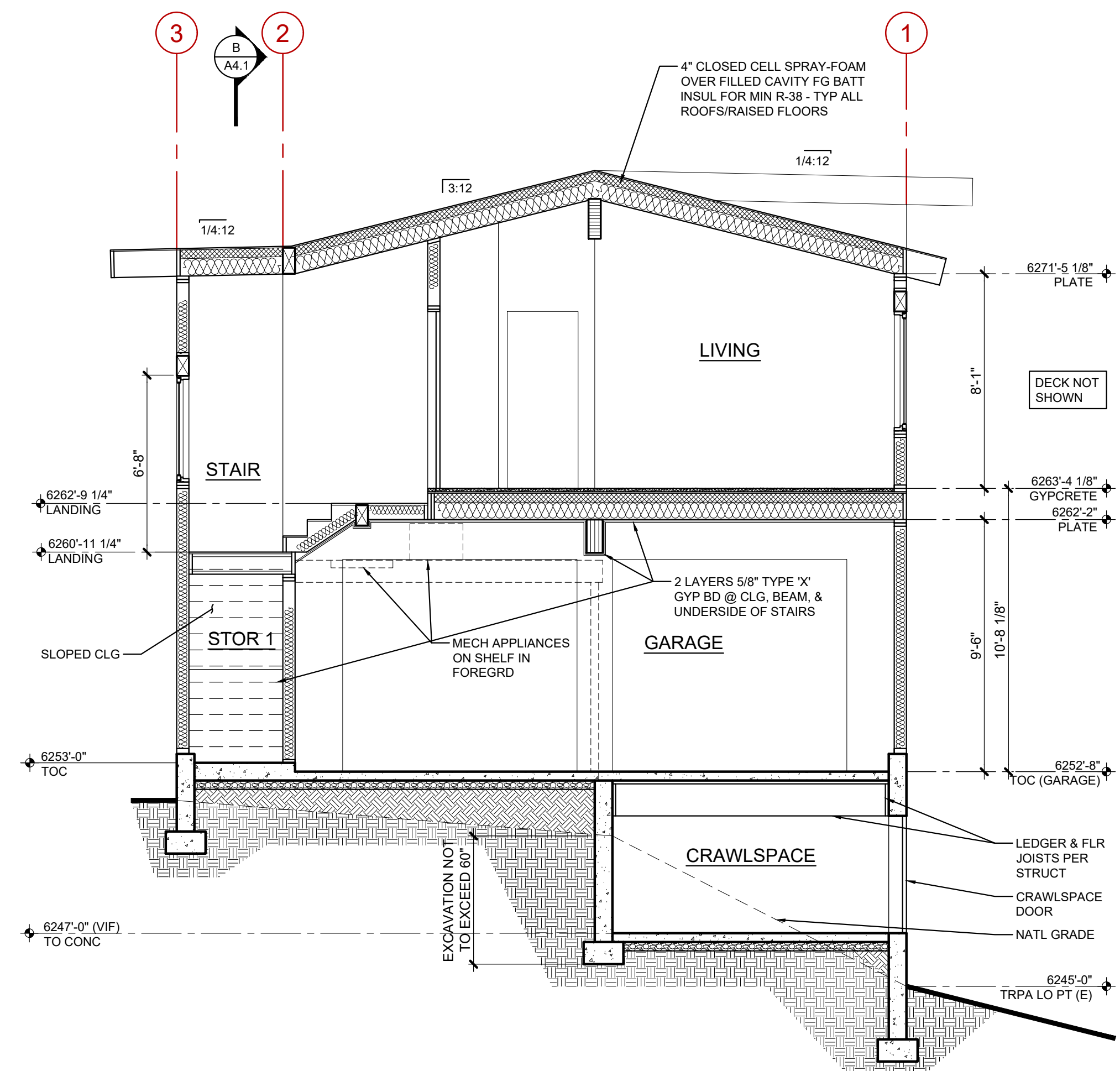
32 Moana Circle
Tahoma CA 96142
Placer County APN 098-191-018

Vicki Figone
35 Creekview Circle
Larkspur CA 94939
415 377 8817
vickifigone@hotmail.com

- NOTES:
1. PROVIDE AN ICE BARRIER UNDERLAYMENT @ THE ROOFING EXTENDING FROM THE EDGES OF ALL ROOF SURFACES TO A POINT AT LEAST 21" INSIDE THE EXTERIOR WALL LINE OF THE BUILDING.
 2. ROOF EAVES & SOFFITS SHALL BE NON-COMBUSTIBLE MATERIAL/ IGNITION RESISTANT MATERIAL OR ONE LAYER OF 5/8" TYPE 'X' EXTERIOR RATED GYPSUM SHEATHING APPLIED BEHIND AN EXTERIOR COVERING ON THE UNDERSIDE OF THE EAVE OR SOFFIT.
 3. FLOOR PROJECTIONS SHALL BE NON-COMBUSTIBLE MATERIAL/ IGNITION RESISTANT MATERIAL OR ONE LAYER OF 5/8" TYPE 'X' EXTERIOR RATED GYPSUM SHEATHING APPLIED BEHIND AN EXTERIOR COVERING ON THE UNDERSIDE OF THE FLOOR PROJECTION.



SECTION B



SECTION A

REVISIONS	

PERMIT NUMBER	
JOB NUMBER	1521.2
FILE NUMBER	1521.2_A4X
ISSUE DATE	19 September 2022
SUBJECT	HOA Review #3
SCALE	1/4" = 1'-0 UNO

BUILDING SECTIONS

A4.1

ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED, USED OR DISCLOSED WITHOUT WRITTEN CONSENT.

© 2022 TGM, INC

EXHIBIT 3



EXHIBIT 4



EXHIBIT 5

Moana Circle Beach Architectural and Planning Control Committee
Moana Circle, Homewood, CA 96142

August 1, 2022

Vicki Figone
32 Moana Circle
Homewood, CA 96142

Dear Vicki,

Thank you for submitting your garage/guest house plans for our review. Thank you also for arranging our in-person meeting with you and your architect Todd Mather on July 7, 2022 and making your contractor available on July 29, 2022 to hold up a pole, provided by a neighbor, so we could gauge the height difference between your current garage and the proposed garage/guest house.

The Restatement of and Amendment to Declaration of Subdivision Restrictions (“CC&Rs”) for Moana Beach Subdivision, recorded August 24, 2009, as Document No. 2009-0074084, sets forth certain covenants, conditions and restrictions that apply to all lots within our community. Under Article III, Section 1 of the CC&Rs, “No structure shall be erected, constructed or maintained on any one or more of the lots, nor shall any alteration, additional and/or change be made to the exterior thereof without the prior written approval of the” Moana Beach Architectural and Planning Control Committee (“Architectural Committee”). Under Article II, Section 1 of the CC&Rs, guest houses also require the approval of the Architectural Committee. Article III, Section 3 of the CC&Rs sets forth certain requirements for any such structure, or alteration, addition or change thereto, including that “the structure be particularly located with respect to topography and finish grade elevation in order to assure the maximum privacy and view for all structures . . .” (See Section 3(c), CC&Rs.)

Under Article III, Section 4 of the CC&Rs, the Architectural Committee may waive one or more of the Section 3 requirements with notice to the Board and to affected homeowners. We have reviewed your plans and discussed them with neighbors whose views are directly affected by the proposed garage/guest house. Because your project substantially increases the finish grade elevation of the as-built environment and negatively affects the views of your neighbors, we are denying your application to build your project as currently proposed in the submitted plans.

Your new project is a 15-foot increase in the height from your current garage and also rotated slightly. The height of the project exceeds other detached garage/guest houses in our community, which is not consistent with the neighborhood and the consideration of the impact

of new structures on other views in the community. The additional height and placement of the project will partially block views of at least three of the neighbors across the street.

You declined our offer to review the project with professional contractor story poles to determine if adjustments could be made to the project to make it approvable. We note that when another homeowner desired to build a similar project, that homeowner lowered the overall height of the garage/guest house by excavating the lower level. This may be something for you and your architect to consider and address in light of the CC&Rs concerning views in order to achieve your project objectives in compliance with the requirements of the CC&Rs.

If you would like to appeal our decision, you may appeal to the Moana Beach Property Owners Association's Board of Directors by submitting an appeal in writing to Jens Egerland (jensegerland@me.com) within fifteen (15) days of the date of this letter. Upon your appeal, the Board may reconsider the Architectural Committee's decision. If you do not timely appeal, then the Architectural Committee's decision shall be final.

By the Moana Beach Architectural and Planning Control Committee

Amy Boaman
Carolyn Goetz
Mike Augustine

EXHIBIT 6

Moana Circle Beach Architectural and Planning Control Committee
Moana Circle, Homewood, CA 96142

September 15, 2022

Vicki Figone
32 Moana Circle
Homewood, CA 96142

Re: Denial of Garage/ADU Plans

Dear Vicki,

Thank you for submitting your garage/ADU plans for our review.

The Restatement of and Amendment to Declaration of Subdivision Restrictions (“CC&Rs”) for Moana Beach Subdivision, recorded August 24, 2009, as Document No. 2009-0074084, sets forth certain covenants, conditions and restrictions that apply to all lots within our community. Under Article III, Section 1 of the CC&Rs, “No structure shall be erected, constructed or maintained on any one or more of the lots, nor shall any alteration, additional and/or change be made to the exterior thereof without the prior written approval of the” Moana Beach Architectural and Planning Control Committee (“Architectural Committee”).

Under Article II, Section 1 of the CC&Rs, guest houses also require the approval of the Architectural Committee. Article III, Section 3 of the CC&Rs sets forth certain requirements for any such structure, or alteration, addition or change thereto, including that “the structure be particularly located with respect to topography and finish grade elevation in order to assure the maximum privacy and view for all structures . . .” (See Section 3(c), CC&Rs.)

Under Article III, Section 4 of the CC&Rs, the Architectural Committee may waive one or more of the Section 3 requirements with notice to the Board and to affected homeowners. We have reviewed your plans’ consistency with current CC&Rs and determined the view considerations are reasonable given the importance of lake views on the entire community. Because your project substantially increases the finish grade elevation of the as-built environment and negatively affects the views of your neighbors and the entire community, we are denying your application to build your project as currently proposed in the submitted plans.

We note that when another homeowner desired to build a similar project, that homeowner lowered the overall height of the garage/ADU by excavating the lower level. To achieve your project objectives in compliance with the requirements of the CC&Rs, this may be something for you and your architect to consider and address in light of the CC&Rs concerning views.

We also note that this submission is substantially similar to your prior submission, which was denied for these same reasons under the CC&Rs. The Committee also noticed that you added an Accessory Dwelling Unit (ADU) on this submission. The inclusion of an ADU does not warrant automatic approval and the Committee may impose reasonable restrictions under the CC&Rs and applicable law.

Please understand that Committee's denial of your plans is not related to the inclusion of an ADU as these new plans continue to raise the same view-related concerns that resulted in the prior denial. The Committee is willing to approve your project with an ADU provided your project otherwise is brought into compliance with the generally applicable view considerations applicable under the CC&Rs to all lots. As we have previously notified you, we believe that a project could be brought into compliance under the CC&Rs with an alternative design that will maintain views of other lots in a manner consistent with the CC&Rs, and we are prepared to consider redesigned plans, including the ADU, that satisfy the CC&Rs, including the view-related concerns.

If you would like to appeal our decision, you may appeal to the Moana Beach Property Owners Association's Board of Directors by submitting an appeal in writing to Jens Egerland (jensegerland@me.com) within fifteen (15) days of the date of this letter. Upon your appeal, the Board may reconsider the Architectural Committee's decision. If you do not timely appeal, then the Architectural Committee's decision shall be final.

By the Moana Beach Architectural and Planning Control Committee

Amy Boaman
Carolyn Goetz
Mike Augustine

EXHIBIT 7

McDONALD  **CARANO**

William A.S. Magrath II, Partner
wmagrath@mcdonaldcarano.com

Reply to: Reno

October 19, 2022

VIA EMAIL ONLY (hanley@portersimon.com)

Brian C. Hanley, Esq.
Porter Simon Law Offices
40200 Truckee Airport Road, Suite 1
Truckee, CA 96161

Re: Owner: Victoria Figone, Trustee the Figone Family Trust
Property: 32 Moana Circle, Tahoma, CA, 96142 (APN 098-191-018) (“Property”)
Submittal of Plans to the Moana Beach Architectural and Planning
Control Committee of the Moana Beach Property Owner’s Association
 (“Association”) seeking approval for a new Accessory Dwelling Unit at
32 Moana Circle, Tahoma, CA.

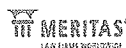
Dear Mr. Hanley:

I have received your letters dated October 5 and 14, 2022. Thank you for your letters. In your October 5th letter you were critical that my September 30, 2022, letter requested production of certain requested documents within five (5) calendar days or requested a response that the requested documents did not exist. You cited CA Civil Code Section 5210(b)(1) to state that the Association has ten (10) business days to make the requested records available to the requesting party. I responded to you that same day and informed you that my September 30, 2022 request for records represented a **third request** for the identical records. Ms. Figone, a member of the Association, had previously requested the identical records in her letters to Jens Egerland on August 15 and August 24 and that **the Association had failed to comply with CA Civil Code Section 5210(b)(1)**. Now, you have forwarded a copy of the CC&Rs and Bylaws of the corporation with your October 14, 2022, letter but **have not forwarded any additional documents** specifically requested in Ms. Figone’s two letters and my September 30, 2022, letter. We take this to be an admission that the Association does not possess any of the specific documents Ms. Figone and I requested.

You and I have different opinions on the impact of California’s new ADA laws and specifically CA Civil Code Section 4741. Perhaps a Court will have to soon consider our differing views on this new law. One thing is clear, the California Legislature has changed the face of land planning with its unambiguous Legislative intent supporting the construction of Accessory Dwelling Units (“ADUs”) and adoption of the amendments to the Davis Sterling Act,

mcdonaldcarano.com

100 West Liberty Street • Tenth Floor • Reno, Nevada 89501 • P: 775.788.2000
2300 West Sahara Avenue • Suite 1200 • Las Vegas, Nevada 89102 • P: 702.873.4100



including CA Civil Code Section 4741. Your letter advocates that associations have authority to make subjective determinations, including consideration of codes, covenants, and restrictions, found in the chain of title of the properties on Moana Circle. Citing case law that predates the new California ADU statutes, you argue that the Association can continue its past experience of enforcing “reasonable restrictions” found in the Association’s CC&Rs. You then discuss whether the CC&Rs requirements “unreasonably restrict” the construction of an ADU (section 4751(a)), which in turn requires an analysis of whether the Association’s CC&Rs requirements “unreasonably increase the cost to construct” the ADU proposed by Ms. Figone. (Section 4751(b)).

As you know, the California Legislature drafted this new law, CA Civil Code Section 4741, and included specific definitions and penalties in that law that will declare “**void and unenforceable**” any CC&R, including the MBPOA view restrictions, that “effectively prohibit or unreasonably restricts” the construction and use of an accessory dwelling unit. From the tenor of your recent letter, including attacks on Ms. Figone’s intent to construct an ADU, it appears that the Association intends to “roll the dice” and risk its view limitations being declared “void and unenforceable.” You also argue that “reasonableness requires looking at all attendant facts and circumstances.” But this ignores the express language of this new statute which specifically defines “reasonable restrictions” by stating that “**reasonable restrictions means restrictions that do not unreasonably increase the cost to construct**” an ADU or “**effectively prohibit the construction of an ADU**” or “**extinguish the ability to otherwise construct an accessory dwelling unit**”. The new statute is only two paragraphs long. CC § 4571 is part of California’s Davis Sterling Act and states:

Civil Code § 4751. Accessory Dwelling Units.

(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, **is void and unenforceable**.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, “reasonable restrictions” means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

(Added by Stats. 2019, Ch. 178, Sec. 2. Effective. January 1, 2020.) (Emphasis added)

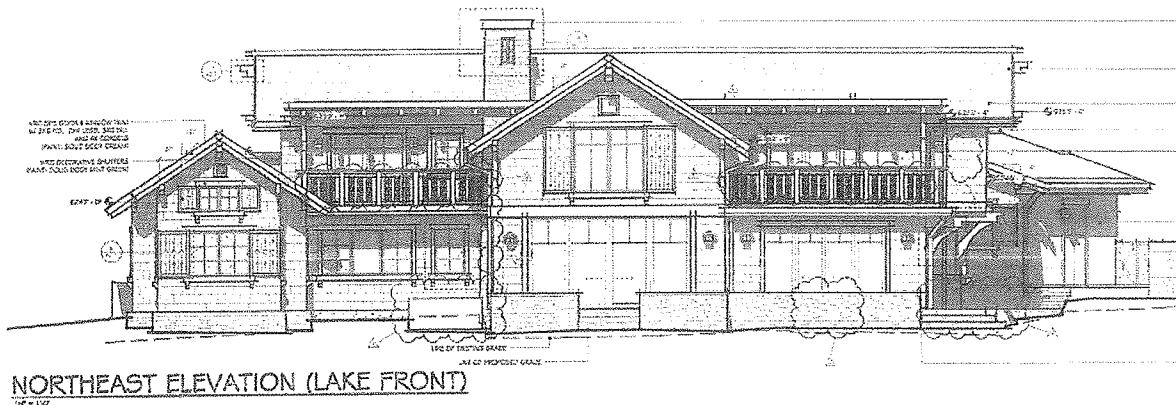
The Association's Architectural Committee has written two letters rejecting prior submissions by Ms. Figone and in both letters, has suggested that Ms. Figone redesign her ADU unit by lowering it into the topography to reduce the impact of this structure on neighbors, including the Association's President, who has personally told Ms. Figone that the Association will never approve a two-story residence where her current one-story residence is located. Yet, the Association has approved numerous two-story and multi-story units in the neighborhood, including on lakefront lots, which impact the views of other owners. The house at 28 Moana Circle increased the height of its garage blocking views. The large two-story residence approved by the Association at 25 Moana Circle blocks the views of 15 Moana Circle. The Association has approved large estate sized two-story lakefront residences at 48 Moana Circle and 52 Moana Circle. The Association will have to be prepared to defend each of these multi-story residences, all of which block views, to prove that the application of the "view limitation" now applied to Ms. Figone's property is not applied arbitrarily or capriciously or intended to protect the views of the Association's President or a former member of the Architectural Committee. As my prior letter states, the Association must act promptly to protect all records, including electronically stored information ("ESI") on private computers, tablets, and smart phones, of all current and past Board and Architectural Committee members. I am sure you have advised the Board and Committee members that any destruction or deletion of any ESI can result in strong penalties.

I would like to discuss some specific sections of your October 14 letter. Your letter spends an inordinate amount of time discussing Ms. Figone's initial proposal to park her Sprinter van in a new garage built as part of this proposed ADU. That proposal was made because of the neighbor directly across the street, known to all Moana Circle neighbors to frequently and loudly complain about many topics, including vehicles parked on the public roadway in front of her home. This particular neighbor has come to Ms. Figone's home and knocked loudly on the front door, waking up the family at early hours in the morning, to demand that vehicles parked in the County roadway during the summer months "be moved" and instructing Ms. Figone to make sure her family and guests never park on this neighbor's side of the public roadway. Ms. Figone's Sprinter van was the subject of many complaints from this neighbor. This neighbor has come to Ms. Figone's home to complain about a motor home parked on Ms. Figone's driveway. This neighbor has repeatedly interrupted the quiet enjoyment of Ms. Figone and her family during dinner parties, and other times, and is a nuisance to Ms. Figone. Now, that same individual, who I understand served on the Architectural Committee that denied Ms. Figone's first submittal of her ADU, has likely loudly voiced her concern that any new ADU unit may block a portion of her view, even though her home's view across and over Ms. Figone's main residence is unimpeded by the new ADU. Because of this continued harassment, Ms. Figone initially designed her garage so her Sprinter van could park inside. Ms. Figone discussed this tall garage and her desire to avoid any contact with this nuisance neighbor with Jens Egerland. Your October 14 letter protests that Ms. Figone is "steadfastly seeking" an "extra-tall thirteen-foot garage" to

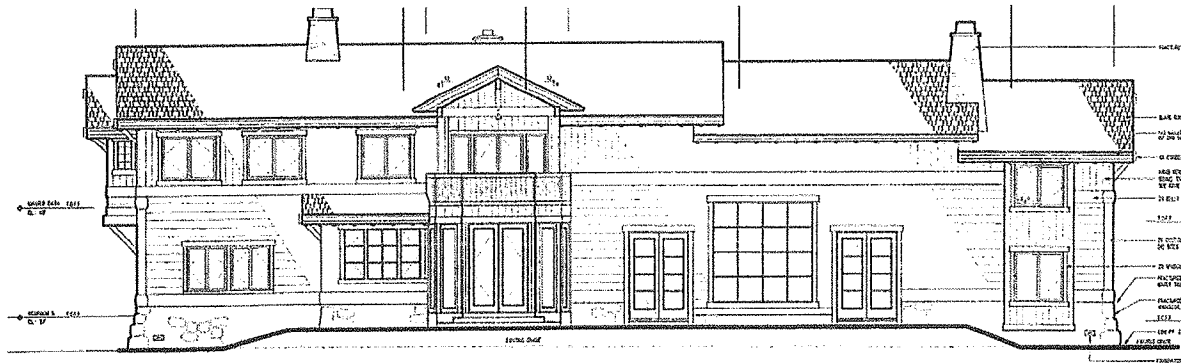
*Brian C. Hanley, Esq.
Porter Simon Law Offices
By Email Only
October 19, 2022
Page 4*

accommodate her Sprinter van. But if you had read my September 30, 2022, letter which described in detail the changes in Submittal No. 3 or looked at Submittal No. 3, you would know that, in an attempt to accommodate the Association’s view concerns, Ms. Figone has deleted the “extra tall thirteen-foot garage” in her Submittal No. 3.

What surprised me most about your October 14 letter was your personal attack on Ms. Figone. You attack her as someone who is seeking to “do whatever is best for her” and you sarcastically demean her lawful decision to add a kitchen in her second submittal. You write that she “added a kitchen to the project to (apparently cynically) **take advantage of** the new housing opportunities.” You further defame Ms. Figone by stating that she “is admittedly not intending to effectuate” the legislature’s desire to create new housing opportunities. Where is this “admission?” Have you met Ms. Figone? Or are you misreading a statement from an unidentified neighbor that she is attempting to build an ADU because it is “best” for her. As a California citizen, she has a right to build an ADU. You then further demean her and state that she has “conducted herself consistently” for her own benefit and in a manner contrary to the community’s long-standing view preservation principles. Should she simply sit back and ignore the Association’s President’s brazen statement to Ms. Figone that the Association will “never” allow a two-story main residence on the Figone property? The President’s residence is across the street and one lot north. He already has a garage built across the street (36 Moana Circle) from him that partially blocks his views. But, because Ms. Figone’s main residence and proposed ADU can be seen from his property (if he ignores his direct views of the lake), he told her that she cannot design a two-story remodel on her lot because it will not be approved. Here is an elevation of the 2-story lakefront residence built 3 lots north of Ms. Figone.



Here is an elevation of the Mozart lakefront residence built 4 lots north of Ms. Figone’s property..



Despite the fact that the Association has approved other two-story additions on lakefront lots, Ms. Figone was told by the Association’s President not to propose a 2-story residence because it will not be approved. This confirms the arbitrary actions of the Association and subjective favoritism in the Association’s approval process. Now, the Association’s continuing refusal to allow Ms. Figone to replace an aged garage and one bedroom unit with a small two-story ADU on her property, designed using only half the square footage allowed for ADU’s by Placer County, continues to diminish the value of Ms. Figone’s property. In addition to that, your letter on behalf of the Association attacks her personally because she “added a kitchen to the project to (apparently cynically) take advantage of new laws concerning ADUs.” Ms. Figone and every Association member has the right under these new California laws to build an ADU and Ms. Figone’s addition of the kitchen to her drawings was intended to make sure her proposed garage/guesthouse qualifies as an ADU.

The decision to delete the kitchen and add an office in Ms. Figone’s first submittal comes from erroneous advice Ms. Figone indirectly received from Jan Brisco, a TRPA consultant, who advised Ms. Figone’s architect, Todd Mather, AIA, to submit the first set of drawings with an “office” instead of a kitchen. Ms. Brisco erroneously informed Mr. Mather that Ms. Figone would encounter substantial extra fees from local governments to seek approval of an ADU. Ms. Brisco was wrong and later withdrew because of a conflict of interest. In Ms. Figone’s Submittal No. 2, the proposed plans showed a kitchen and completely independent unit which meets California’s definition of an ADU. But your letter attacks Ms. Figone’s motives by accusing her of “taking advantage” of California’s new laws. Are you suggesting Ms. Figone is not protected by these new laws? As Ms. Figone told Jens Egerland, Ms. Figone is the trustee of two irrevocable trusts that own this Tahoe property which provide that her two adult children are the beneficial owners of the Moana Circle residence. Ms. Figone intends to build this ADU so she can use it as a separate residence since she plans to move full time to Lake Tahoe. California’s Department of Housing and Community Development have authored the “ADU Handbook” which states on page 4:

“ADUs also give homeowners the flexibility to **share independent living areas with family members** and others, **allowing seniors to age in place** as they require more care, thus helping extended families stay together while maintaining privacy.”

Ms. Figone seeks that independent living area near her family members and, like all California property owners, is protected by these new laws that protect her from unreasonable restrictions that unreasonably increase the cost to construct an ADU or effectively prohibit or extinguish the ability to otherwise construct her proposed ADU. All Californians and the Association better get ready – this new law protects everyone in California, including Ms. Figone, and the Association will likely soon see more ADUs proposed for the single-family lots in your subdivision.

Your attack on Ms. Figone also ignores Ms. Figone’s contribution to the community and housing shortage with her Tahoe residence. She has allowed local workers to live in her garage unit for extended long-term rentals rent free. Just ask the owners/chefs at local restaurants like Chambers Landing, Sunnyside, Homewood, Squaw Valley/Palisades Tahoe, or Swiss Lakewood. Without Ms. Figone’s assistance, some of those restaurant’s employees could not afford to live in the Tahoe Basin and provide service to these businesses. Ms. Figone did not rent her garage unit to these employees. They were allowed to live there rent free. She can do the same with her ADU.

I encourage you and the Association’s directors to again read my September 30, 2022, letter which described in detail the many steps taken by Ms. Figone to lower the roof line and pitch of her proposed ADU in Submittal No. 3.

- Submittal No. 3 reduces the overall height of the structure by 5’-3 ½”. The original building was 35’-7 ½” tall and this design on Submittal No. 3 is 30’-4” tall (from the low point per TRPA rules, not the driveway elevation). **This is a 15% reduction in height.**
- The design on Submittal No. 2 was at the TRPA’s maximum allowable height limit (and compliant with that limit. Submittal No. 3 is 24” below the maximum allowable height (by TRPA).
- Submittal No. 3 also lowers the elevation of the top of the concrete slab of the garage to 6,253.66’ – the same height of the current garage slab. This reduction will increase the driveway slope to 12% from the county roadway to the front edge of the garage structure. Section 34.3.2 E of the TRPA Code of Ordinances provides that **“Driveways shall not exceed ten percent slope, unless TRPA finds that construction of a driveway with a ten percent or less slope would require excessive excavation and that the runoff from a steeper driveway shall be infiltrated as required in Section 60.4. In no case shall the driveway exceed 15 percent slope.”**

- The height of the garage doors has been reduced to lower the floor level of the residential level of the ADU. This reduction of the garage door height will result in Ms. Figone's tall Sprinter van always parked on the driveway or on the public street's shoulder since the Sprinter van will no longer fit in the reduced height garage.
- The pitch of the roofline was changed from a 6:12 that matched the architecture/design of the original home and garage to a 3:12. This reduced the overall height of the ADU structure.
- Lowering the garage further into the topography was also discussed and a minimum quote of in excess of \$100,000 was discussed to lower the garage slab making the Association's proposal an unreasonable increase in the cost to construct the ADU. That assumes the TRPA Codes will prohibit construction of this steeply pitched driveway.

Ms. Figone has done everything reasonably possible to reduce the height of the ADU proposed in Submittal No. 3 except agree to bear unreasonable costs to construct. TRPA coverage rules prevent any placement of the ADU at any other location on the property. Any other demand by the ACC "**effectively prohibits the construction of and extinguishes the ability to otherwise construct**" the ADU and makes the ACC's demand *per se* unreasonable under Civil Code § 4751(a).

In your October 14 letter, you stated the limitations of your letter but confirmed that the Association has not yet made a decision on Ms. Figone's revised Submittal No. 3, discussed above. You also stated that "Your client's recent submission and assertions about the legal effect of Civil Code Section 4751 **will be taken under consideration** by the Architectural Committee in rendering its next decision." Ms. Figone requests that her two letters to Mr. Jens Egerland on August 15 and 22, 2022, my September 30, 2022, letter to the Association Board, and this letter, be submitted to the Architectural Committee in their entirety.

Ms. Figone has received an email from the MBPOA giving her notice of a "**open regular meeting of the MBPOA Board of Directors**" which will be held at 4:00 pm on Wednesday, October 19, 2022, via teleconference (Zoom). **Can you please confirm that all members of the MBPOA have consented in writing to the receipt of notices from the Association, like the one sent on Saturday, October 15, 2022, by electronic means?** Without that written consent, the meeting has not been properly noticed under the Bylaws.

Brian C. Hanley, Esq.
Porter Simon Law Offices
By Email Only
October 19, 2022
Page 8

Thank you. I will attempt to call you to discuss this matter further.

Sincerely,



William A.S. Magrath II

WASM/cd

cc: Vicky Figone, Trustee
Todd G. Mather, AIA

EXHIBIT 8



\$3,400,000

Last Sold Price

4 4.5 3,435

Beds Baths \$990 / Sq. Ft.

25 Moana Circle

Homewood, CA 96141

☆ Save

➦ Share

LISTING UPDATED: 02/23/2019 01:17 PM

Property Details for 25 Moana Circle

Status	Sold
MLS #	20182823
Days on Compass	4
Taxes	-
HOA Fees	-
Condo/Co-op Fees	-
Compass Type	Single Family
MLS Type	Residential / Single Family

Year Built	2018
Lot Size	-
County	Placer County
Architecture	Mountain
Area	MOANA BEACH-5NR
Community	Westshore LK TH
Furnished	None
Garage	Two
Garage/ Parking	Attached
Setting	Street
View	Lake

Location

[Compass](#) ▶ [CA](#) ▶ [Homewood](#) ▶ [Tahoma](#) ▶ [96141](#) ▶ 25 Moana Circle

Listing Courtesy of Coldwell Banker, Jan Chamberlain, DRE #01413886

Sold By Coldwell Banker, Lenny Novick, DRE #00561304

Description

Luxury new home currently under construction designed by Sandbox located a stone's throw from Lake Tahoe. Spacious home features fabulous Lakeviews from large deck, great room and two master suite bedrooms. Private sandy beach a few doors down with pier and buoy field to keep your boat ready for those Tahoe excursions. All bedrooms are en suite, main master is luxurious with a fireplace and spa bathroom including a steam shower. Upstairs has recreation/media room. You will love the upgraded, luxury...

[Continue Reading](#) ▾

Listed by Jan Chamberlain · DRE #01413886 · Coldwell Banker

Building Information for 25 Moana Circle

Stories	2
Year Built	2018
Building Size	-
Lot Size	-







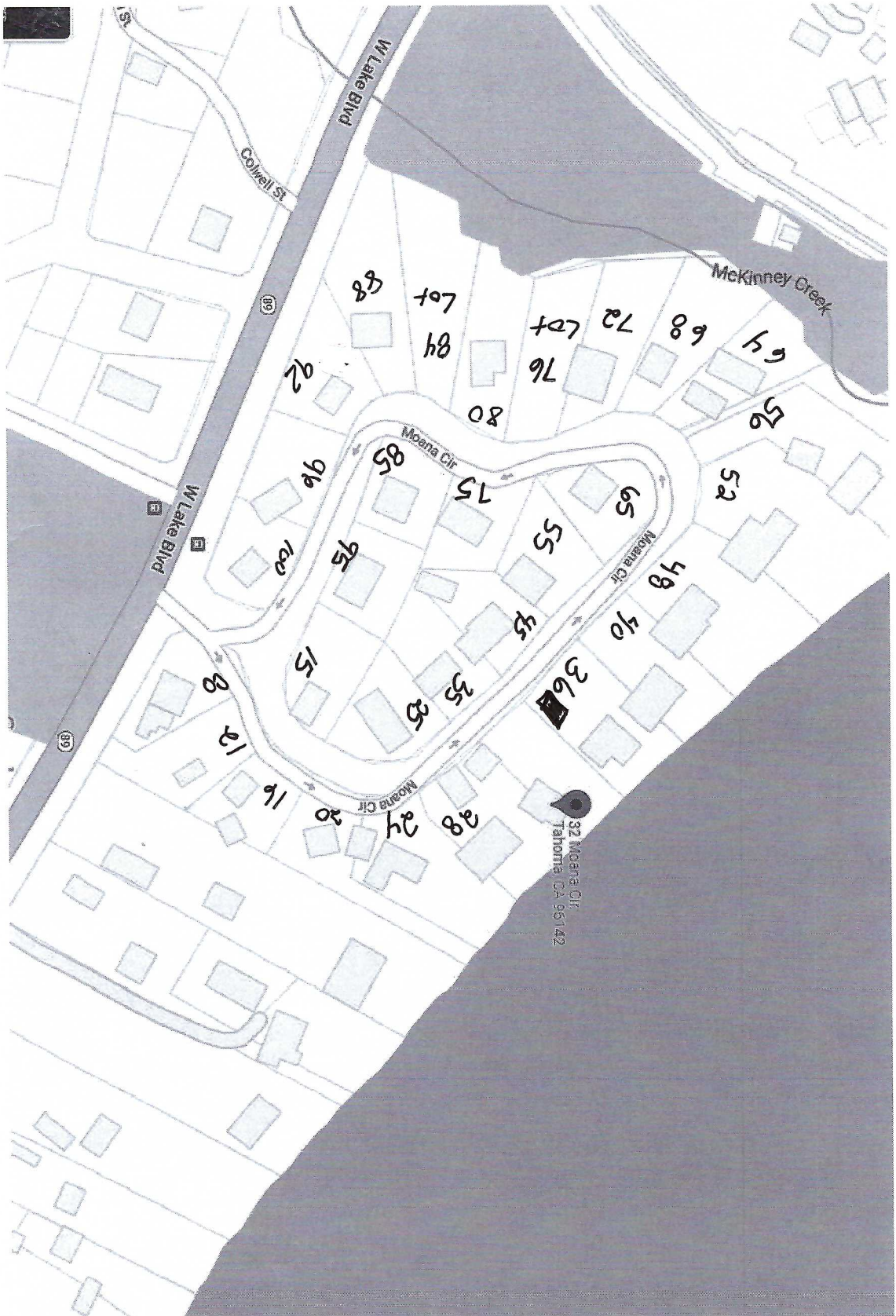


25





EXHIBIT 9





Hanni Walsh, PE
VP | Principal Designer
530.318.0001
hanni@evolvedesignworks.com

PROJECT NO. 2022.062

June 5, 2023

Tahoe Regional Planning Agency
P.O. Box 5310
Stateline, NV 89449

Re: Figone Garage & ADU
APN: 098-191-018
32 Moana Circle
Tahoma, California 96142
Placer County

Dear Project Review Committee:

Project Description

The proposed project intends to demolish the existing garage and rebuild a new detached (2) car garage with an ADU above. This is a deed-restricted ADU. The ADU is 618 sf of living space with (1) bedroom, (1) bathroom, a living room, and kitchen. The garage is 687 sf of unconditioned space. The proposed garage is accessed by a new fire department approved driveway. Proposed changes to coverage and permanent BMP's are shown on the proposed site plan, A1.2.

Attached please find the following items:

1. Single Family Dwelling Application Form
2. Project Description
3. Structural Cost Estimate
4. Applicable Findings Rationale
5. Fire Department Approved Site Plan
6. Proposed Site Plan, Floor Plans & Elevations
7. Scenic Contrast Rating Worksheet
8. BMP Calculations
9. Material Samples
10. Approved Scenic Aspect Photo

Please feel free to give me a call if you have any questions or need any additional information.

Sincerely,

A handwritten signature in blue ink that reads "Hanni Walsh".

Hanni Walsh, PE
VP | Principal Designer

Photos for Figone Scenic Assessment

32 Moana Circle
Tahoma, California
APN 098-191-018



Photo 1 – 300' offshore



Photo 2 – 300' offshore

 **APPROVED**
SCENIC VANTAGE POINT
TRPA FILE # **APN 098-191-018**
BY Bridget R. Cornell DATE 01/04/2021
Executive Director/Designee
Tahoe Regional Planning Agency



