



STAFF REPORT

Date: May 15, 2024

To: TRPA Governing Board

From: TRPA Staff

Subject: Appeal of Approval of an Accessory Dwelling Unit Permit, 32 Moana Circle, Placer County, CA, Assessor's Parcel Number 098-191-018, TRPA File No. ERSP2023-0701, Appeal File No. ADMIN2024-0005

Requested Action:

To consider and act upon an appeal filed by Debbie and Jens Egerland, Vaughan and Nick Meyer, and Jane Catterson (the "Neighbors") of an Executive Director-issued permit to Vicki Figone for the construction of an accessory dwelling unit ("ADU") over a detached garage at a developed residential parcel in Tahoma, California.

Staff Recommendation:

Staff recommends that the Governing Board deny the appeal and affirm the decision of the Executive Director to issue the ADU permit as it meets all requirements of the [TRPA Code of Ordinances](#) ("Code").

Motion:

1. A motion to grant the appeal, which motion should fail, to affirm the Executive Director's determination.

The motion to grant the appeal will fail unless it receives five affirmative votes from California and nine overall.

Background:

On January 25, 2024, the TRPA Executive Director issued Permit No. 2023-0701 to provide TRPA approval of an ADU over a detached garage at Ms. Figone's residential property. (Attachment A.) The ADU would consist of 618 square feet of living space and meets all design and location criteria of the Code.

On February 14, 2024, Appellants – owners of three neighboring parcels – appealed the Executive Director's permit decision to the TRPA Governing Board. On March 15, 2024, the Neighbors filed a Statement of Appeal providing their grounds for challenging the permit. (Attachment B.) On May 3, 2024, Ms. Figone, through counsel, submitted her Opposition to the Statement of Appeal. (Attachment C.)

The Neighbors argue TRPA cannot make certain findings required for special use approvals (TRPA Code, § 21.2.2A-C), citing in large part the project's impact on the views of Lake Tahoe from their own properties. The Neighbors also claim that the Moana Beach Homeowner's Association's ("HOA") objection to the project is further grounds to negate a finding that the project is consistent with the surrounding area and neighborhood. (Attachment B, at 1-3.) Finally, the Neighbors argue that Ms. Figone's project is based on certain misrepresentations that make it ineligible for a bonus unit, and that undermine the scenic assessment. (Attachment B, at 3-5.) Ms. Figone disputes the Neighbors' contentions. (Attachment C.) Each issue is discussed below.

Discussion:

The project meets all TRPA development standards, including coverage limits, height restrictions, and scenic shoreland design constraints. The Neighbors do not contest that the Executive Director correctly applied these criteria. Instead, the Neighbors cite private view impacts and the HOA's application of its own covenants, conditions, and restrictions ("CC&Rs") as reasons TRPA cannot make certain findings set forth in TRPA Code Section 21.2.2 for special uses.

A. The Special Use Findings Set Forth in TRPA Code Section 21.2.2 Are Not Applicable

Special use findings are not required where, as here, the proposed use is designated an "allowed" use rather than a "special" use under the local plan. (TRPA Code, §§ 21.2.1, 21.2.2.) Unlike special uses, which cannot be approved without additional findings and a public hearing before the TRPA Hearings Officer, "[a]llowed uses are assumed to be compatible with the direction of the Regional Plan and the surrounding uses" and may be permitted at the TRPA staff level. (TRPA Code, § 21.2.1.) Ms. Figone's proposed project is an "allowed" use in Placer County's Tahoe Basin Area Plan ("TBAP"). (Attachment C, at 3-4.) Therefore, the Executive Director was not required to make the special use findings in issuing the permit.

That Ms. Figone's consultant mistakenly included special use findings in the application does not transmute an allowable use into a special use. TRPA is ultimately responsible for determining the applicable findings, and correctly found special use findings were not required. Even had they been required, Ms. Figone demonstrates they could have been made. (See Attachment C, at 4-7.)

B. Impacts on Neighboring Parcel Private Views

TRPA does not protect private views absent unique circumstances not present here. TRPA evaluates scenic impacts from Lake Tahoe toward the shorezone, as well as views from scenic highway corridors including federal and state highways (TRPA Code, § 62.2), and did so here. The project complies with all scenic code requirements. The Neighbors contend that the project's impact on their views is inconsistent with the special use findings regarding neighborhood character. As demonstrated above, these special use findings do not apply to this project. Yet even if they did, scenic views from adjacent homes do not conflict with community character in this case. (See Attachment C, at 6.)

C. HOA Restrictions on ADUs Do Not Apply to TRPA

The Neighbors – one of whom is or was on the HOA's Board – point to the HOA's repeated objections to Ms. Figone's project as a reason TRPA must find the project inappropriate for the

neighborhood. But TRPA permit decisions are not subject to HOA CC&Rs; their interpretation and application should be considered the exclusive domain of the HOA. TRPA should decline the Neighbors' request to serve as the HOA's proxy.

D. The Project Qualifies for an Achievable Housing Bonus Unit

The Neighbors assert that Ms. Figone's project is a "misuse of the deed restricted bonus unit allocation," but their only support is vague references to how they believe Ms. Figone intends to use the property. In actuality, the permit is subject to Ms. Figone recording a TRPA-approved deed restriction that will permanently restrict the ADU to achievable housing and subject Ms. Figone and future owners to enforcement action for non-compliance. On these grounds, the Executive Director correctly determined the project is eligible for a bonus unit.

ADUs are eligible for a residential bonus unit provided they meet the requirements of TRPA Code Section 52.3.4, including that the owner record a deed restriction running with the land that limits the occupancy of the unit to affordable, moderate, or achievable housing as defined in Chapter 90 of the Code. (TRPA Code, §§ 21.3.2; 52.3.4.) Here, TRPA assigned Ms. Figone's project a bonus unit upon condition that Ms. Figone record a TRPA-approved deed restriction prohibiting the use of the ADU as a vacation rental and limiting its occupancy to residents who meet the Code's definition of achievable housing. Achievable housing is limited to (1) occupants with a household income not in excess of 120 percent of the respective county's area median income (moderate income households and below); (2) households where at least one occupant is required for their job to work at least 30 hours per week or full-time equivalency for a local employer within the Tahoe region or Tahoe-Truckee Unified School District; or (3) retired persons who have lived in a deed restricted unit within the Tahoe Basin for more than seven years. ADUs may additionally qualify as achievable housing where the occupant is a family member related by birth, marriage or adoption to the owner of the primary dwelling. (TRPA Code, § 90.2.)

As a condition of the permit, Ms. Figone must record a deed restriction limiting the use of the ADU to achievable housing. Ms. Figone and subsequent owners will be required to report annually on compliance with the deed restriction, and either a failure to report or an audit that reveals a violation of the deed restriction will subject the owner to enforcement action. TRPA need not theorize about an applicant's motives when the project is otherwise eligible for a bonus unit and the applicant is willing to encumber the property with a deed restriction of actual legal consequence. The deed restriction speaks for itself, and applicants are not required to prove precisely how they will comply during project approval, particularly because deed restrictions exist in perpetuity and there are several different ways a property may be used in compliance with the restriction.

E. There Are No Material Defects in the Scenic Assessment

Lastly, the Neighbors argue that the scenic assessment for the project is defective due to the inclusion of a photograph of the property, taken from Lake Tahoe, which shows a lakefront tree that was subsequently removed with TRPA approval. Although this is true, TRPA staff worked with the project consultant to confirm the scenic assessment prepared for the project did not include the tree at issue. TRPA staff confirmed this in response to prior communications from the Neighbors during the application review process. (Attachment D.)

In sum, the appeal should be denied and the decision of the Executive Director to issue Permit No. 2023-0701 should be affirmed.

Contact Information:

For questions regarding this agenda item, please contact Graham St. Michel, Associate Attorney, at (775) 589-5337 or gstmichel@trpa.gov, or Brandy McMahon, Principal Planner, at (775) 589-5274 or bcmcmahon@trpa.gov.

To submit a written public comment, email publiccomment@trpa.gov with the appropriate agenda item in the subject line. Written comments received by 4 p.m. the day before a scheduled public meeting will be distributed and posted to the TRPA website before the meeting begins. TRPA does not guarantee written comments received after 4 p.m. the day before a meeting will be distributed and posted in time for the meeting.

Attachments:

- A. Conditional Permit No. 2023-0701
- B. Statement of Appeal, dated March 15, 2024
- C. Opposition to Statement of Appeal, dated May 3, 2024
- D. Emails between Brandy McMahon, TRPA Principal Planner, and Evolve Design Works (Ms. Figone's consultants).

Attachment A

Conditional Permit No. 2023-0701



Mail
PO Box 5310
Stateline, NV 89449-5310

Location
128 Market Street
Stateline, NV 89449

Contact
Phone: 775-588-4547
Fax: 775-588-4527
www.trpa.gov

January 25, 2024

Hanni Walsh
P.O. Box 7586
Tahoe City, CA 96145

Sent via email to hanni@evolvedesignworks.com, vickifigone@hotmail.com, sevilla@evolvedesignworks.com, and michael.brown@stoel.com

FIGONE GARAGE/ACCESSORY DWELLING UNIT, 32 MOANA CIRCLE, PLACER COUNTY, CALIFORNIA, ASSESSOR'S PARCEL NUMBER (APN) 098-191-018, TRPA FILE NUMBER ERSP2023-0429

Dear Ms. Walsh:

Enclosed please find the Tahoe Regional Planning Agency (TRPA) permit and attachments for the project referenced above. If you accept and agree to comply with the Permit conditions as stated, please make a copy of the permit, sign the "Permittee's Acceptance" block on the first page the Permit, and return the signed copy to TRPA within twenty-one (21) calendar days of issuance. Should the permittee fail to return the signed permit within twenty-one (21) calendar days of issuance, the permit will be subject to nullification. Please note that signing the permit does not of itself constitute acknowledgement of the permit, but rather acceptance of the conditions of the permit.

TRPA will acknowledge the original permit only after all standard and special conditions of approval have been satisfied. Please e-mail me a written response explaining how the special conditions of approval are being addressed and final plans for electronic stamping. Pursuant to Rule 11.2 of the TRPA Rules of Procedure, this permit may be appealed within twenty-one (21) days of the date of this correspondence.

If you have any questions, please contact me at (775) 589-5274 or bmcmahon@trpa.gov.

Sincerely,

A handwritten signature in black ink that reads "Brandy McMahon".

Brandy McMahon, AICP
Local Government Coordinator

Enclosures

cc: Vicki Figone
35 Creekview Circle
Larkspur, CA 94939



Mail
PO Box 5310
Stateline, NV 89449-5310

Location
128 Market Street
Stateline, NV 89449

Contact
Phone: 775-588-4547
Fax: 775-588-4527
www.trpa.gov

PERMIT

PROJECT DESCRIPTION: Figone Garage/Accessory Dwelling Unit

PERMITTEE(S): Vicki Figone

APN: 098-191-018

COUNTY/LOCATION: Placer County/32 Moana Circle

FILE #: ERS2023-0701

Having made the findings required by Agency ordinances and rules, TRPA approved the project on January 25, 2024, subject to the standard conditions of approval attached hereto (Attachment R) and the special conditions found in this permit.

This permit shall expire on January 25, 2027, without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action which delayed or rendered impossible the diligent pursuit of the permit.

NO DEMOLITION, TREE REMOVAL, CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL:

- (1) TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE(S) HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT;
- (2) ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT;
- (3) THE PERMITTEE OBTAINS A COUNTY BUILDING PERMIT. TRPA'S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY BUILDING PERMIT. THE COUNTY PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS; AND
- (4) A TRPA PRE-GRADING INSPECTION HAS BEEN CONDUCTED WITH THE PROPERTY OWNER AND/OR THE CONTRACTOR.

Brandy McMahon

1/25/2024

TRPA Executive Director/Designee

Date

PERMITTEE'S ACCEPTANCE: I have read the permit and the conditions of approval and understand and accept them. I also understand that I am responsible for compliance with all the conditions of the permit and am responsible for my agents' and employees' compliance with the permit conditions. I also understand that if the property is sold, I remain liable for the permit conditions until or unless the new owner acknowledges the transfer of the permit and notifies TRPA in writing of such acceptance. I also understand that certain mitigation fees associated with this permit are non-refundable once paid to TRPA. I understand that it is my sole responsibility to obtain any and all required approvals from any other state, local or federal agencies that may have jurisdiction over this project whether or not they are listed in this permit.

Signature of Permittee(s) _____

Date 2/2/2024

PERMIT CONTINUED ON NEXT PAGE

APN 098-191-018

FILE NO. ERSP2023-0701

Project Security (1): Amount \$3,300 Paid _____ Receipt No. _____

Excess Coverage Mitigation Fee (2): Amount \$27,047 Paid _____ Receipt No. _____

Scenic Security (3): Amount \$2,500 Paid _____ Receipt No. _____

Scenic Monitoring Fee (3): Amount \$ _____ Paid _____ Receipt No. _____

Project Security Administration Fee (4): Amount \$ _____ Paid _____ Receipt No. _____

Project Scenic Administration Fee (4): Amount \$ _____ Paid _____ Receipt No. _____

Notes:

- (1) See Special Condition 3.A below.
- (2) See Special Condition 3.B below.
- (3) See Special Condition 3.C below.
- (4) Refer to the TRPA Fee Schedule for the current fee.

Required plans determined to be in conformance with approval: Date: _____

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date:

TRPA Executive Director/Designee

Date

SPECIAL CONDITION

1. This permit authorizes the construction of an accessory dwelling unit (ADU) over a garage at 32 Moana Circle, Placer County, California. An achievable residential bonus unit (TRPA-ALLOC-2348) will be used for the ADU. A complete Site Assessment was completed on September 20, 2019, by TRPA (LCAP2019-0214, LCAP2019-0217). TRPA identified that the total Base Allowable Coverage on the parcel is 1,920 square feet, with 62 square feet of Class 1a, 12 square feet of Class 1b, and 1,845 square feet of Class 5. The total verified land coverage is 5,126 square feet, including 1,735 square feet of Class 1a, 348 square feet of Class 1b, and 3,043 square feet (2,939 square feet plus 104 square feet) of Class 5. *The Site Assessment verified 2,939 square feet of Class 5 land coverage, but with TRPA File # ERSP2021-0772 a 104 square foot existing concrete slab was added to the total.*

This project will result in 1,735 square feet Class 1a land coverage, 245 square feet of LCD Class 1b land coverage, 103 square feet of LCD Class 1b banked land coverage, 3,014 square feet of LCD Class 5 land coverage, and 29 square feet of banked LCD Class 5 land coverage. Temporary and permanent Best Management Practices (BMPs) will be used for this project.

2. The Standard Conditions of Approval listed in Attachment R shall apply to this permit.
3. Prior to permit acknowledgement, the following conditions of approval must be satisfied:
 - A. The security required under Standard Condition A.3 of Attachment R shall be \$3,300. Please see Attachment J, Security Procedures, for appropriate methods of posting the security and for calculation of the required security administration fee.
 - B. The affected property has 3,182 square feet of excess land coverage (3,206 sq. ft. of excess coverage – 24 sq. ft. previously mitigated excess coverage). To take advantage of coverage exemptions, the permittee shall mitigate all of the excess land coverage on this property by submitting an excess coverage mitigation fee of \$27,047 (3,182 sq. ft. x \$8.50 in Hydrologic Area 7 – McKinney Bay).
 - C. The shorezone scenic security of \$2,500 shall be required per TRPA Code of Ordinances Section 5.9. A non-refundable monitoring review fee is due at permit acknowledgement.
 - D. The permittee shall record a TRPA approved deed restricting the ADU above the garage to Achievable Area Median Income Housing and prohibiting the use of the ADU as a vacation rental. TRPA will prepare the deed restriction upon submittal of the latest grant deed for the property. Evidence of document recordation is required prior to finalizing the permit.
 - E. The plans shall include a note that the bear box is on a monopole and elevated at least 6 inches above the ground.
 - F. The coverage table shall include all coverage being banked with this project.
 - G. The permittee shall e-mail one final set of plans to TRPA for electronic stamping.
4. The maximum excavation depth for this project shall not exceed five feet.
5. The visual assessment for the proposed project was evaluated under and complies with Level 4, Option 1, of the Visual Magnitude System (Section 66.3.3) of the TRPA Code of Ordinances. The total square feet of visible area allowed for this project per Code with a contrast rating score of 24 is 1,035 square feet. The approved visible area for this project is 992 square feet.
6. By acceptance of this permit, the permittee agrees that the scenic mitigation authorized under this permit shall be maintained in perpetuity. Failure to meet scenic mitigation requirements is a

violation of the permit and TRPA Code of Ordinance Section 5.4 and is subject to enforcement actions.

A contrast rating score of 24 will be achieved to comply with the required scenic mitigation and qualify for security release. The project has a maximum of 5 years from final inspection to meet the necessary requirements. When the scenic mitigation requirements have been met, the following documentation shall be submitted to TRPA:

- Post project visible mass elevation drawings on photos taken from 300 feet offshore; and
 - Post project contrast rating sheet *(this will only be required if there are significant changes from approved contrast rating sheet)*
7. Prior to project security release, photos shall be provided to TRPA demonstrating that all areas disturbed from the project have been restored.
 8. Temporary and permanent BMPs may be field fit by the Environmental Compliance Inspector where appropriate.
 9. TRPA reserves the right to amend any portion of this permit or construction operation while in progress if it is determined that the project construction is causing significant adverse effects.
 10. TRPA reserves the right to amend any portion of this permit or construction operation while in progress if it is determined that the project construction is causing significant adverse effects.
 11. To the maximum extent allowable by law, the permittee agrees to indemnify, defend, and hold harmless TRPA, its Governing Board, its Planning Commission, its agents, and its employees (collectively, TRPA) from and against any and all suits, losses, damages, injuries, liabilities, and claims by any person (a) for any injury (including death) or damage to person or property or (b) to set aside, attack, void, modify, amend, or annul any actions of TRPA. The foregoing indemnity obligation applies, without limitation, to any and all suits, losses, damages, injuries, liabilities, and claims by any person from any cause whatsoever arising out of or in connection with either directly or indirectly, and in whole or in part (1) the processing, conditioning, issuance, or implementation of this permit; (2) any failure to comply with all applicable laws and regulations; or (3) the design, installation, or operation of any improvements, regardless of whether the actions or omissions are alleged to be caused by TRPA or Permittee.

Included within the Permittee's indemnity obligation set forth herein, the Permittee agrees to pay all fees of TRPA's attorneys and all other costs and expenses of defenses as they are incurred, including reimbursement of TRPA as necessary for any and all costs and/or fees incurred by TRPA for actions arising directly or indirectly from issuance or implementation of this permit. TRPA will have the sole and exclusive control (including the right to be represented by attorneys of TRPA's choosing) over the defense of any claims against TRPA and over their settlement, compromise or other disposition. Permittee shall also pay all costs, including attorneys' fees, incurred by TRPA to enforce this indemnification agreement. If any judgment is rendered against TRPA in any action subject to this indemnification, the Permittee shall, at its expense, satisfy and discharge the same.

12. This approval is based on the permittee's representation that all plans and information contained in the subject application are true and correct. Should any information or representation submitted in connection with the project application be incorrect or untrue, TRPA may rescind this approval, or take other appropriate action.

END OF PERMIT



OFFICE
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Stateline, NV

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trpa@trpa.org
www.trpa.org

HOURS
Mon. Wed. Thurs. Fri
9 am-12 pm/1 pm-4 pm
Closed Tuesday

New Applications Until 3:00 pm

ATTACHMENT R

STANDARD CONDITIONS OF APPROVAL FOR RESIDENTIAL PROJECTS

I. CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION:

The following conditions shall be satisfied prior to commencement of any construction activity on the project site, including but not limited to, grading, excavation, and clearing of trees. Failure to satisfy these conditions of approval prior to commencement of constructions activity shall be grounds for revocation of the permit. NOTE: The plans have been reviewed and approved as required under Tahoe Regional Planning Agency (TRPA) Rules, Regulations, and Ordinances only. TRPA has not reviewed and shall not be responsible for any elements contained in the plans, i.e., structural, electrical, mechanical, etc., which are not required for review under said Rules, Regulations, and Ordinances.

- A. The permittee shall return a signed copy of the permit form stating that the permit was received and that the permit is understood, and the contents are accepted prior to any activity or grading occurring within the project area. Plans shall not be stamped approved without TRPA receiving a copy of the signed permit.
- B. A security shall be posted with TRPA to ensure compliance with the conditions of the permit. In most cases, the security shall be determined by TRPA, and will typically be equal to 110 percent of estimated costs of the revegetation, drainage improvements slope stabilization plans and other conditions of approval. For further information on acceptable types of securities, see Attachment J.
- C. The permittee shall submit all required mitigation fees.
- D. Prior to commencement of activity on the site, the permittee shall contact TRPA at least 48 hours in advance and arrange for a pre-grading inspection to verify that all temporary erosion control measures and protective fencing for vegetation are in place.
- E. It is the permittee's obligation to locate all subsurface facilities and/or utilities prior to any grading, dredging or other subsurface activity. The permittee is responsible for contacting the Northern Underground Service Alert (USA, usually known as USA DIGS, 1-800-227-2600) prior to commencement of any activity on the site.
- F. The permittee shall submit final construction drawings and a plan(s) showing revegetation, slope stabilization, and drainage improvements. Revegetation, slope stabilization and drainage improvement plans shall be designed in conformance with the Lake Tahoe Basin Water Quality Management Plan, Volume II, Handbook of Best Management Practices (BMPs).

II. CONSTRUCTION RELATED CONDITIONS:

- A. Any normal construction activities creating noise in excess of the TRPA noise standards shall be considered exempt from said standards provided all such work is conducted between the hours of 8:00 am and 6:30 pm.
- B. The permittee shall allow TRPA to enter and inspect the site at any time to determine compliance with the permit.

- C. Engine doors shall remain closed during periods of operation except during necessary engine maintenance.
- D. Stationary equipment (e.g. generators or pumps) shall be located as far as feasible from noise-sensitive receptors and residential areas. Stationary equipment shall be equipped with temporary sound barriers that are near sensitive noise sources or residential areas.
- E. Sonic pile driving shall be utilized instead of impact pile driving where feasible. Holes shall be predrilled to minimize noise impacts from pile driving subject to design engineer's approval.
- F. GRADING
 - 1) All material obtained from excavation work shall be either contained within the foundations, retaining walls, or be disposed of at a site approved by TRPA.
 - 2) The length of open trenches (excluding foundations) shall not exceed 50 feet at the end of each working day, unless approved by the TRPA.
 - 3) Whenever possible, utilities shall occupy common trenches to minimize site disturbance.
 - 4) All excavated material shall be stored upgrate from excavated areas. No material shall be stored in stream environment zones or other areas with saturated ground.
 - 5) No grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall take place in areas where any historic or prehistoric ruins or monuments or objects of antiquity are present or could be damaged. If any historic or prehistoric ruins or monuments or objects of antiquity are discovered, all grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall immediately cease and shall not recommence until a recovery plan is approved by the TRPA.
 - 6) Excavation equipment shall be limited to the foundation footprint to minimize site disturbance. No grading or excavation shall be permitted outside of the building footprint.
 - 7) All excavated materials that are not to be reused on site shall be hauled to a disposal site approved by the TRPA Compliance Inspector or to a location outside of the Tahoe Basin.
 - 8) Maximum excavation depth shall not exceed five feet, unless otherwise approved by TRPA.
 - 9) If groundwater is encountered during construction, cease work and contact TRPA immediately to discuss possible changes in design or dewatering options.
- G. WINTERIZATION
 - 1) There shall be no grading or land disturbance performed with respect to the project between October 15 and May 1, except as follows:
 - i. The grading or land disturbance is for excavation and backfilling for a volume not in excess of three cubic yards for projects approved under the IPES system or parcels within land capability districts 4 through 7.
 - ii. The activity is completed within a 48-hour period.

- iii. The excavation site is stabilized to prevent erosion.
 - iv. A pre-grade inspection is performed by TRPA staff, and the activity passes the inspection.
 - v. The grading/project does not represent or involve a series of excavations, which, when viewed as a whole, would exceed the provisions of this Standard Condition of Approval, and Subsection 2.3 of the TRPA Code of Ordinances.
- 2) Work shall be performed in such a manner that the project can be winterized within 24 hours.
- 3) All construction sites shall be winterized no later than October 15 of each year as follows:
- i. Inactive winter sites shall contain erosion and drainage improvements necessary to prevent discharge from the site, including, but not limited to:
 - Installation of temporary erosion controls;
 - Installation of temporary protective fencing of vegetation;
 - Stabilization of all disturbed areas;
 - Cleanup and removal of all construction slash and debris;
 - Installation of permanent mechanical stabilization and drainage improvements, where feasible, and;
 - Removal or stabilization of spoil piles.
 - ii. Active winter sites shall comply with the following:
 - Installation of all permanent mechanical erosion control devices, including paving of all driveway and parking areas;
 - Installation of all permanent drainage improvements;
 - Parking of vehicles, equipment, and storage of materials shall be restricted to paved areas.

H. VEGETATION PROTECTION

- 1) Tree roots must be protected during excavation to prevent damage to the tree. The following practices are recommended:
- Tree roots four inches in diameter or greater shall not be severed, if avoidable. Hand dig around roots if necessary.
 - If roots cannot be avoided, cut as far away from the trunk as possible.
 - A clean, vertical cut will provide more protection for the tree than leaving roots torn or crushed.
 - Construction materials shall not be stored within the dripline of the tree.
- 2) Tree protection fencing shall be at least 48 inches high and shall be constructed of metal posts and either orange construction fencing or metal mesh fencing also at least 48 inches high (Section 33.6.1). Job sites with violations of the fencing standards will be required to re-fence the job site with a high gauge metal fencing.

- 3) No material or equipment shall enter or be placed in the areas protected by fencing or outside the construction areas without prior approval from TRPA. Fences shall not be moved without prior approval.
- 4) No trees shall be removed or trimmed without prior TRPA written approval unless otherwise specifically exempted under Chapter 2 of the Code of Ordinances.

I. CONSTRUCTION BMPS

- 1) Temporary and permanent BMPs may be field fit by the Environmental Compliance Inspector where appropriate.
- 2) Soil and construction materials shall not be tracked offsite. Grading operations shall cease in the event of a danger of violating this condition exists. The site shall be cleaned, and the road right-of-way shall be swept clean when necessary.
- 3) Loose soil mounds or surfaces shall be protected from wind and water erosion by being appropriately covered and contained when active construction is not occurring.
- 4) Equipment of a size and type that will do the least amount of damage to the environment shall be used. Cleaning of equipment, including cement mixers, shall not be permitted unless approved by TRPA.
- 5) Vehicles or heavy equipment shall not be allowed in a stream environment zone or other saturated areas unless specifically authorized by TRPA. All vehicles and heavy equipment shall be confined to the area within the vegetative protection fencing unless specifically authorized by TRPA.
- 6) At all times during construction, environmental protection and control devices shall be maintained in a functioning state. Such devices include, but are not limited to, dust control devices and vegetative protection.
- 7) All waste resulting from the saw-cutting of pavement shall be removed using a vacuum (or other TRPA approved method) during the cutting process or immediately thereafter. Discharge of waste material to surface drainage features is prohibited and constitutes a violation of this permit.
- 8) To reduce soil disturbance and damage to vegetation, the area of disturbance during the construction of a structure shall be limited to the area between the footprint of the building and the public road. For the remainder of the site the disturbance areas shall not exceed 12 feet from the footprint of the structure, parking area or cut/fill slope. The approved plans should show the fencing and approved exceptions (Section 36.2).

III. CONDITIONS TO BE SATISFIED PRIOR TO COMPLETION OF THE PROJECT:

- A. The residence or residence addition shall be completed within two years of the pre-grading inspection. A completed residence or residence addition shall consist of a finished shell and roof. All permanent drainage improvements, slope stabilization and revegetation shall be complete. Permittee may apply for a one-time-only one-year extension of the two-year completion condition. Application shall be made in writing and an application fee submitted prior to the expiration of the two-year period. TRPA must find that the project has been diligently pursued each building season

or that events beyond the control of the permittee prevented diligent pursuit of the project. An additional security may be required to be posted as a condition of the approved permit extension.

- B. Revegetation of disturbed and compacted dirt areas shall follow the guidelines delineated in Chapter 5: Soil and vegetation Management in the Handbook of Best Management Practices. Only species approved by TRPA shall be used for landscaping or revegetation. A list of acceptable native and adapted species is available from TRPA.
- C. Rehabilitation and cleanup of the site following construction shall include, but not be limited to, removal of all construction waste and debris.
- D. Upon completion of the project, as a condition of the release of the security, TRPA shall conduct a final site inspection to verify that all required improvements and revegetation are properly installed and that all the conditions of the permit have been satisfied.
- E. Prior to security release, photos shall be provided to the TRPA Environmental Compliance Inspector taken during the construction of any subsurface BMP's or of any trenching and backfilling with gravel.
- F. All Best Management Practices shall be maintained in perpetuity to ensure effectiveness which may require BMPs to be periodically reinstalled or replaced.

IV. DESIGN STANDARDS:

- A. All exterior lighting shall be consistent with TRPA Code of Ordinances Section 36.8 Exterior Lighting Standards. Specifically, all exterior lighting shall be fully shielded and directed downward so as not to produce obtrusive glare onto the public right-of-way or adjoining properties. Illumination for aesthetic or dramatic purposes of any building or surrounding landscape utilizing exterior light fixtures projected above the horizontal is prohibited.
- B. The architectural design of this project shall include elements that screen from public view all external mechanical equipment, including refuse enclosures, satellite receiving dishes, communication equipment, and utility hardware on roofs, buildings or the ground. Roofs, including mechanical equipment and skylights, shall be constructed of non-glare finishes that minimize reflectivity.
- C. Existing natural features outside of the building site shall be retained and incorporated into the site design to the greatest extent feasible. The site shall be designed to avoid disturbance to rock outcrops and to minimize vegetation removal and maintain the natural slope of the project site.
- D. The roof shall be constructed with a non-glare finish to minimize reflectivity.
- E. The project shall conform to the following design standards for color, roofs, and fences:
 - (a) Color: The color of this structure, including any fences on the property, shall be compatible with the surroundings. Subdued colors in the earthtone and woodtone 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. Earthtone colors are considered to be shades of reddish brown, brown, tan, ochre, and umber.

- (b) **Roofs:** Roofs shall be composed of non-glare earthtone or woodtone materials that minimize reflectivity.
 - (c) **Fences:** Wooden fences shall be used whenever possible. If cyclone fence must be used, it shall be coated with brown or black vinyl, including fence poles.
- F. Fertilizer use on this property shall be managed to include the appropriate type of fertilizer, rate, and frequency of application to avoid release of excess nutrients and minimize use of fertilizer.
- G. Equipment specifications shall be in conformance with the following:
 - i. Gas water heaters shall not emit nitrogen oxides greater than 40 nanograms of nitrogen dioxide (as NO₂) per joule of heat output at sea level.
 - ii. Water conservation devices shall be used on all fixtures.
 - iii. Gas space heaters shall not emit nitrogen oxides greater than 40 nanograms of nitrogen dioxide (as NO₂) per joule of heat output at sea level.
 - iv. Wood heaters installed in the Region shall not cause emissions of more than 7.5 grams of particulates per hour for noncatalytic wood heaters or 4.1 grams per hour for catalytically equipped wood heaters.
 - v. Woodstoves and fireplace inserts should be operated to minimize particulate emissions. Use only dry, seasoned wood; operate the unit with the doors closed (except when starting the fire); and do not allow a fire to smolder in the unit in a choked condition. A list of acceptable and recommended gas space and water heaters and fireplace inserts is available from TRPA.

V. OTHER GENERAL CONDITIONS

- A. The TRPA Code of Ordinances prohibits the use of the structures authorized by this permit for other than a residential use. Prohibited uses include, but are not limited to, Tourist Accommodation commercial and public service. By acceptance of this permit, the permittee agrees to use the authorized structures solely for residential purposes.
- B. The TRPA permit and the final construction drawings shall be present on-site from the time construction commences until the final TRPA site inspection.
- C. Violation of any of the Special or Standard Conditions shall be grounds for revocation of the permit. Failure to commence construction within the approval period shown on the permit face or failure to diligently pursue construction within the two-year completion period shall result in the expiration of the permit, without notice, by operation of law, on the date shown on the permit face.
- D. The permittee is responsible for ensuring that the project, as built, does not exceed the approved land coverage figures shown on the site plan. The approved land coverage figures shall supersede scaled drawings when discrepancies occur.
- E. This approval is based on the permittee's representation that all plans and information contained in the subject application are true and correct. Should any information or representation submitted in

connection with the project application be incorrect or untrue, TRPA may rescind this approval, or take other appropriate action.

- F. TRPA reserves the right to amend any portion of this permit or construction operation while in progress if it is determined that the project construction is causing significant adverse effects.
- G. To the maximum extent allowable by law, the Permittee agrees to indemnify, defend, and hold harmless TRPA, its Governing Board, its Planning Commission, its agents, and its employees (collectively, TRPA) from and against any and all suits, losses, damages, injuries, liabilities, and claims by any person (a) for any injury (including death) or damage to person or property or (b) to set aside, attack, void, modify, amend, or annul any actions of TRPA. The foregoing indemnity obligation applies, without limitation, to any and all suits, losses, damages, injuries, liabilities, and claims by any person from any cause whatsoever arising out of or in connection with either directly or indirectly, and in whole or in part (1) the processing, conditioning, issuance, or implementation of this permit; (2) any failure to comply with all applicable laws and regulations; or (3) the design, installation, or operation of any improvements, regardless of whether the actions or omissions are alleged to be caused by TRPA or Permittee.

Included within the Permittee's indemnity obligation set forth herein, the Permittee agrees to pay all fees of TRPA's attorneys and all other costs and expenses of defenses as they are incurred, including reimbursement of TRPA as necessary for any and all costs and/or fees incurred by TRPA for actions arising directly or indirectly from issuance or implementation of this permit. TRPA will have the sole and exclusive control (including the right to be represented by attorneys of TRPA's choosing) over the defense of any claims against TRPA and over their settlement, compromise or other disposition. Permittee shall also pay all costs, including attorneys' fees, incurred by TRPA to enforce this indemnification agreement. If any judgment is rendered against TRPA in any action subject to this indemnification, the Permittee shall, at its expense, satisfy and discharge the same.

**ATTACHMENT J
SECURITY PROCEDURES**

I. SECURITY REQUIREMENTS

As a condition of project approval, permittees may be required to post a security with TRPA to ensure compliance with conditions of project approval. The amount of the required security will be specified in the special conditions of your permit but in most cases the amount will be equal to 110% of the estimated costs of installation of required water quality Best Management Practices (revegetation, slope stabilization, drainage improvements). An additional or alternate security may be required to ensure compliance with other specific conditions of approval. All securities must be for the amount specified in the permit and be valid for an indefinite amount of time. When conditions of approval are complied with (including completion of revegetation), the owner may request a final inspection with the TRPA Compliance Team (online inspection request form available at www.trpa.gov).

II. SECURITY ADMINISTRATION FEES

All securities posted require a non-refundable administration fee. The administration fee will be charged based on the current fee listed in the [TRPA Filing Fee Schedule](#) (#109) at the time the fee is paid.

III. ACCEPTABLE TYPES OF SECURITIES

TRPA is unable to accept credit card payments for securities. If a security is paid by credit card, the amount will be refunded and returned with a check in the mail, and another appropriate security shall be posted.

A. CHECK

If paying with a physical check it must have an identifying name and address. Please send by mail or drop off at the TRPA office with the required amount (including security administration fee) and application file number.

B. ELECTRONIC CHECK

Electronic checks can be used to pay fees online with your checking account. If choosing this payment method, please coordinate with your Planner to have the fees available to pay through the online Citizen Access portal.

C. CERTIFICATE OF DEPOSIT (CD)

The CD should read: "Purchased by owner/permittee and then made payable to TRPA." "Made payable to owner/permittee and TRPA" is only acceptable if endorsed by the owner/permittee. CDs made out to "Owner/permittee or TRPA" cannot be accepted. The CD must have an open maturity date or be automatically renewable. The following information must be included on the CD: Owner's name, mailing address, Assessor parcel Number. Interest earned on the account may be payable to the holder. (see example, page 4)

D. LETTER OF CREDIT

The security must be in the owner's name, irrevocable for an indefinite period of time, and documented by a letter or statement from a bank showing the following information: Owner's name and mailing address, assessor parcel number of the project, the amount of the letter of credit, and documentation required by the bank. The letter or statement must clearly state that TRPA is a beneficiary of the credit amount. (see example, page 6)

E. ASSIGNMENT OF A PERSONAL SAVINGS ACCOUNT

Must consist of the actual savings passbook and a separate notice of assignment. The notice of assignment must include the owner's name and mailing address, account number, assessor's parcel number of the project, and the amount of assignment. (see example, page 5)

F. FAITHFUL PERFORMANCE BOND

This option is only allowed for securities greater than \$10,000 and must be in TRPA's name. The bond must have the insurance company, bond number, owner of security or principle's name and mailing address, the assessor's parcel number of the project, and the amount. The obligee, TRPA, must be clearly identified. The bond must be valid for an indefinite amount of time. Please contact TRPA for an example of how to set up a bond.

IV. PAYING FEES ONLINE WITH MULTIPLE PAYMENT TYPES

When multiple fees are due at acknowledgement (i.e., security, mitigation fees, administrative fees, inspection fees) the applicant has the option to pay fees other than the security with a credit card. To split your payment method, you must pay in two separate transactions. The security shall be paid first with an electronic check. The remainder of the fees will then be totaled and available for payment by credit card. Coordinate with your Planner to get each set of fees active at the appropriate time.

V. PAYING SECURITY THROUGH ONLINE CITIZEN ACCESS PORTAL

For a tutorial on how to create an Accela Citizen Access account visit: www.trpa.gov/apply-online/ and start with step 5.

Once logged into the Accela Citizen Access database follow this process:

1. Search for application (if having difficulty, try entering parcel number only and hit search)



General Search

El Dorado XXX-XXX-XX; Placer XXX-XXX-XXX; Washoe XXX-XXX-XX; Douglas XXXX-XX-XXXX-XXX

Parcel Number: please include dashes File Number:

Street No.: Street Name: Direction: Street Type:

City: State: Zip:

2. Locate the correct file and click 'Pay Fees Due'.



3. When under payment options, select "Pay with Bank Account." Reminder: securities cannot be paid by credit card.

Payment Options

Amount to be charged: \$944.00

Pay with Credit Card

Pay with Bank Account

VI. EXAMPLES OF NON-CASH SECURITIES

See following pages

SAMPLE CERTIFICATE OF DEPOSIT

TIME DEPOSIT

BRANCH _____ No _____

PURCHASED BY Owner/Permittee _____

PAYABLE TO TAHOE REGIONAL PLANNING AGENCY _____

DATE _____

RATE _____ YIELD _____

\$ AMOUNT _____

TERM _____

ACCOUNT # _____

AUTHORIZED SIGNATURE _____

The publication(s) you receive contains the terms and condition of this account. This time deposit will be reinvested automatically for the same term upon maturity or on the effect date of a deposit or withdrawal made during the grace period. (The grace period is two business days for terms of 89 days or less, ten calendar days for terms of 90 days or more beginning on the maturity date.) The new interest rate will be the interest rate in effect on the date your funds are reinvested.

*Interest compounded daily. Yield assumes deposit and interest remain in the account for a year at the same interest rate.

IMPORTANT INFORMATION

If you withdraw all or part of your deposit before it matures a substantial interest penalty will be imposed. A personal time deposit evidenced by this receipt is **NOT TRANSFERABLE EXCEPT IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE FEDERAL RESERVE BOARD.**

R-102 6-09

NOT NEGOTIABLE

Bank of America NTS SA • Member FDIC

SAMPLE ASSIGNMENT OF PERSONAL SAVINGS ACCOUNT

MUST BE ON BANK LETTERHEAD WHICH INCLUDES BANK ADDRESS & PHONE NUMBER

NOTICE OF ASSIGNMENT TO ACCOMMODATE SAVINGS ACCOUNT PASSBOOK

NOTICE OF ASSIGNMENT

[Name of Owner(s)] hereinafter called Assignor, does (do) hereby assign and set over to the Tahoe Regional Planning Agency (TRPA), all right, title, and interest of whatever nature, of Assignor, in and to the insured account of the Assignor in the name [Name of Bank/Savings & Loan] evidenced by an account in the amount of \$ _____ numbered _____ which is delivered to the TRPA herewithin. Assignor agrees that this assignment carried with it the right in the insurance of the account by the Federal Savings and Loan Insurance Corporation/Federal Deposit Insurance Corporation, and includes the right of the TRPA to redeem, collect, and withdraw the full amount of such account at any time WITHOUT NOTICE TO THE ASSIGNOR. This assignment is given as security liability for:

Assurance that the owner will comply with the TRPA permit conditions as required by the TRPA Code of Ordinances, Section 8.8. the amount is set aside solely for that purpose and is available on demand to the TRPA if the conditions are not satisfied. Please advise the office when the assignment can be released.

Assignor hereby notified the above-named institution of this agreement. Assignor hereby certifies that he/she/they agree that the above-referenced account will be renewed in its full amount if performance of the above-referenced conditions have not been certified by the Agency prior to the maturity date of the subject account.

Dated this _____ day of _____, _____

Assignor _____ Assignor _____

Owner's Name _____

Account Number _____

APN _____

Amount of Assignment _____

Bank Acknowledgement _____

SAMPLE LETTER OF CREDIT

MUST BE ON BANK LETTERHEAD WHICH INCLUDES BANK ADDRESS & PHONE NUMBER

Date _____

Tahoe Regional Planning Agency (TRPA)
P.O. Box 5310
Stateline, BV 89449

Assessor's Parcel Number _____

At the request for the account of (owner/permit name and mailing address), we hereby open in your favor our irrevocable Letter of Credit No. _____ in the aggregate amount of \$ _____ available by your draft drawn on us at sight when accompanied by the following documents:

1. Your signed certification executed by a TRPA official stating that (owner/Permitee) has not completed revegetation, slope stabilization, and/or drainage improvements as per file _____ entered into with TRPA.
2. This original Letter of Credit

The irrevocable Standby Letter of Credit expires on _____. However, it is a condition of this Letter of Credit that it shall be deemed automatically extended without amendment for successive one-year periods from the present and all future expiration dates hereof unless 60 days prior to any such date (Name of Bank) shall notify the TRPA *in writing by certified mail, return receipt requested*, at the above address that (Name of Bank) elects not to consider this Letter of Credit renewed for any such additional period. Upon receipt of such notice, you may draw on us hereunder by means of your draft on us a sight for the full amount of this Letter of Credit, accompanied by your name above noted signed certification.

Sincerely,

Name of Bank

By: _____

By: _____

SAMPLE LETTER OF HOLD ON PERSONAL SAVINGS

MUST BE ON BANK LETTERHEAD WHICH INCLUDES BANK ADDRESS & PHONE NUMBER

Date _____

Tahoe Regional Planning Agency (TRPA)
P.O. Box 5310
Stateline, BV 89449

Assessor's Parcel Number _____

This letter is to advise you that (Owner's name and mailing address) has authorized (Name of Bank/Savings & Loan) to place a hold on account _____ in the amount of \$ _____ for an indefinite period of time.

The hold on the account is assurance that the owner will comply with TRPA permit conditions as required by the TRPA Code of Ordinances, Section 8.8. This amount is set aside solely for that purpose and is available on demand to the TRPA if conditions are not satisfied. Please advise this office when the hold on account can be released.

Sincerely,

Name of Bank/Savings & loan

By: _____

Attachment B

Statement of Appeal, dated March 15, 2024

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 charter 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

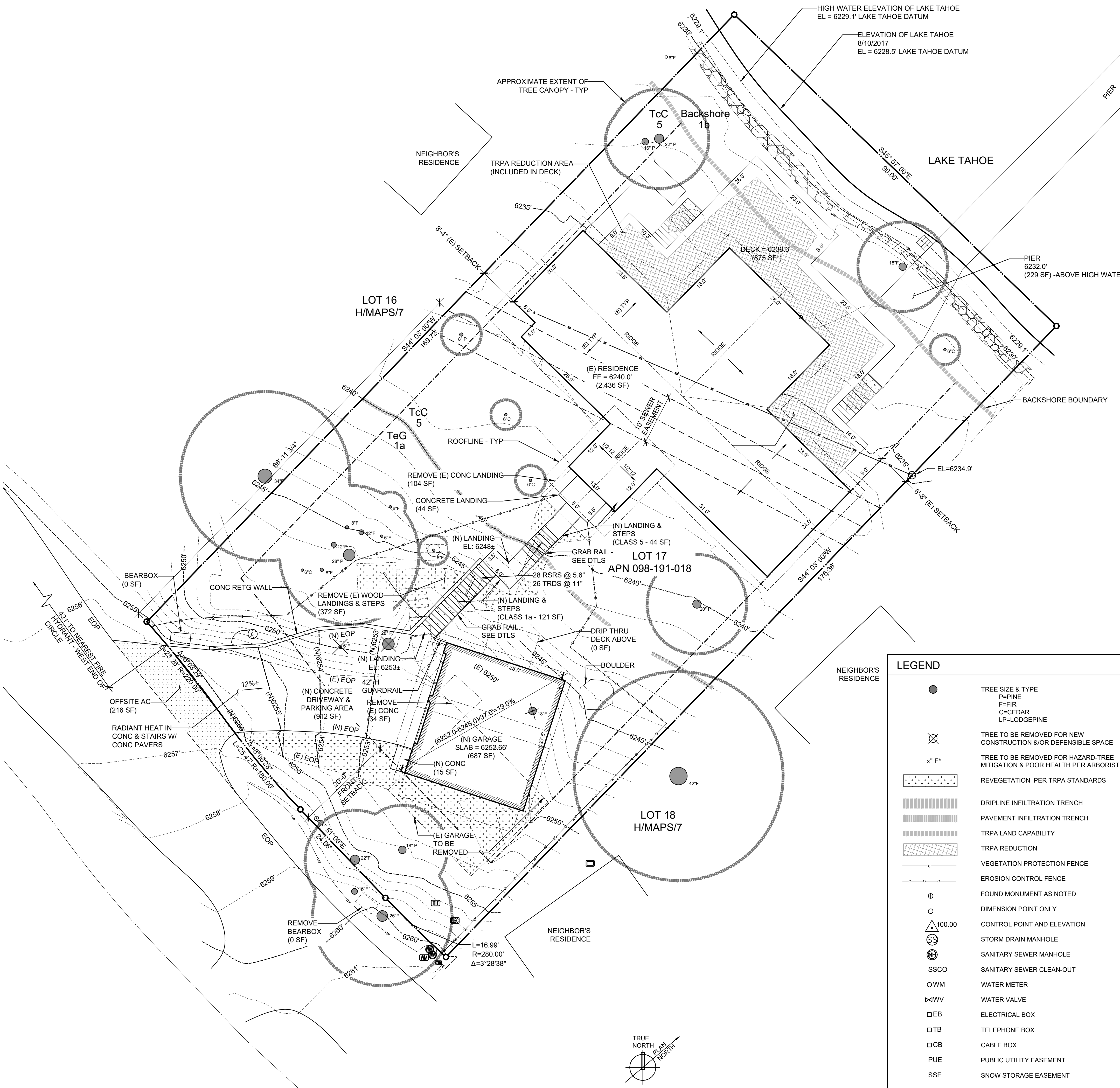
TITLE

SITE PLAN

A1.2

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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	104	= 104 SF
CONC LANDING **	0	0	0	= 0 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

** CONC 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

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

- ### 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

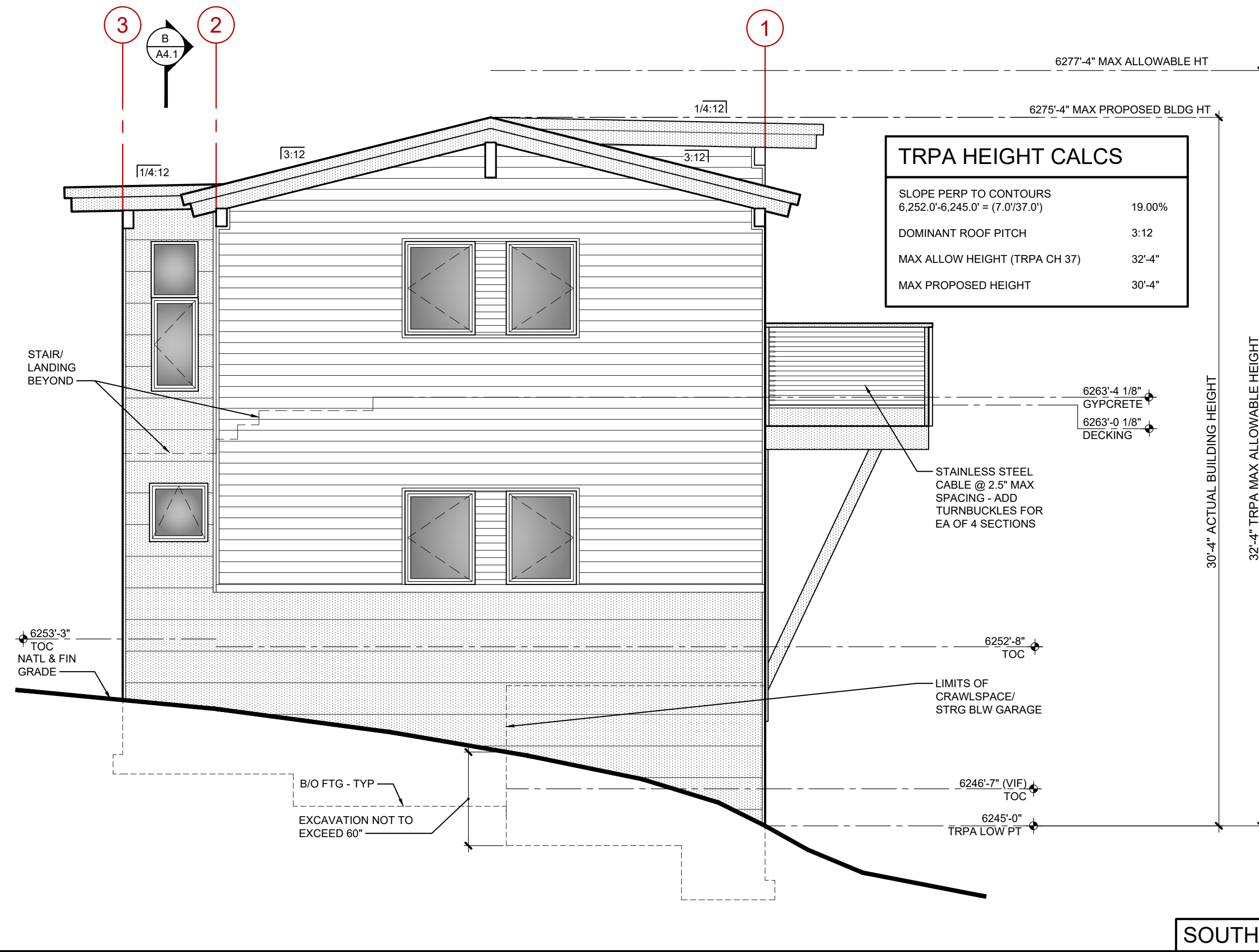
- TREE SIZE & TYPE
P=PINE
F=FIR
C=CEDAR
LP=LOGS/PINE
- ⊗ TREE TO BE REMOVED FOR NEW CONSTRUCTION &/OR DEFENSIBLE SPACE
- x" F" TREE TO BE REMOVED FOR HAZARD-TREE MITIGATION & POOR HEALTH PER ARBORIST
- ▨ REVEGETATION PER TRPA STANDARDS
- ▨ DRIPLINE INFILTRATION TRENCH
- ▨ PAVEMENT INFILTRATION TRENCH
- ▨ TRPA LAND CAPABILITY
- ▨ TRPA REDUCTION
- ▨ VEGETATION PROTECTION FENCE
- ▨ 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

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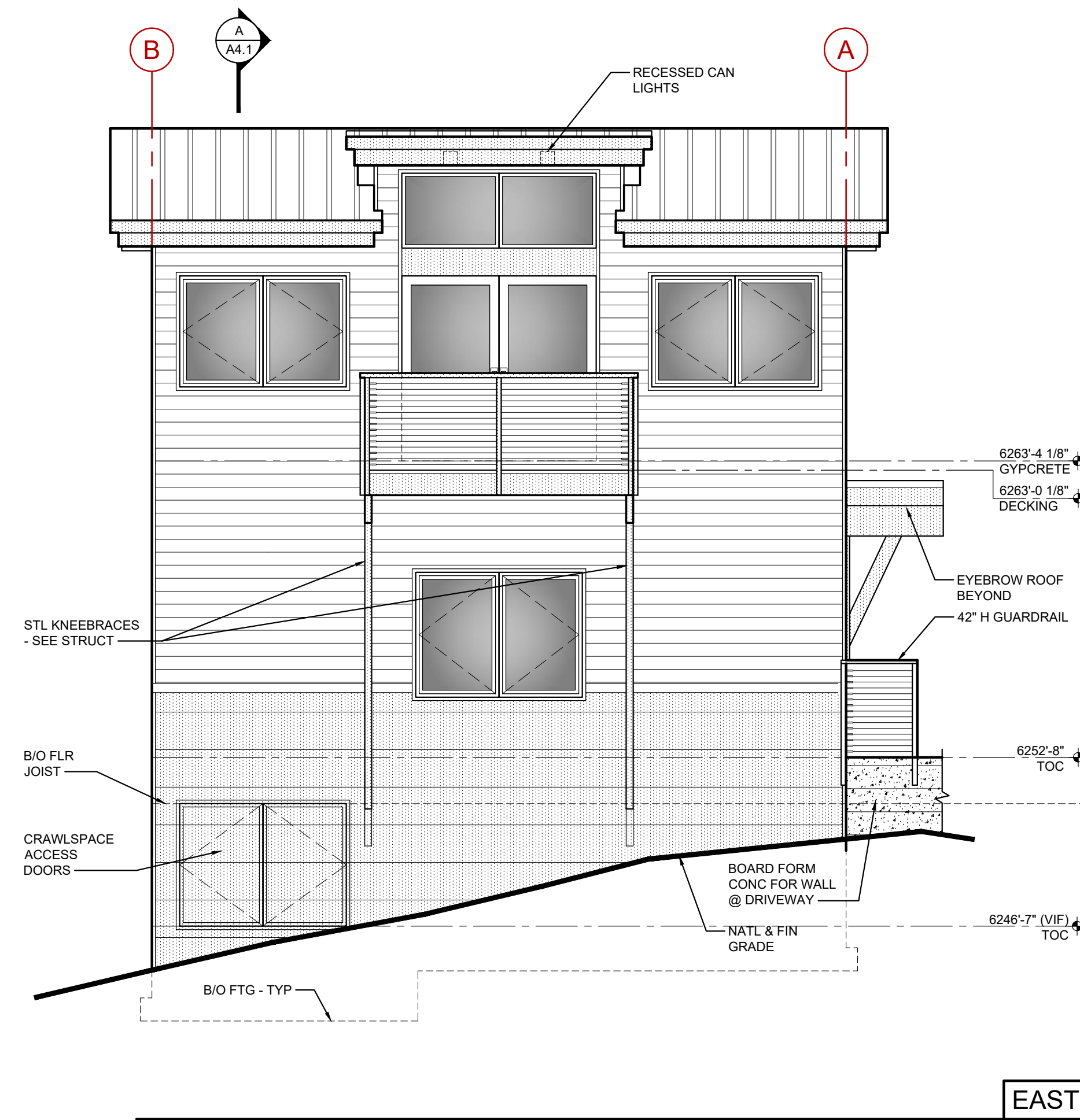
Figone ADU & Garage

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

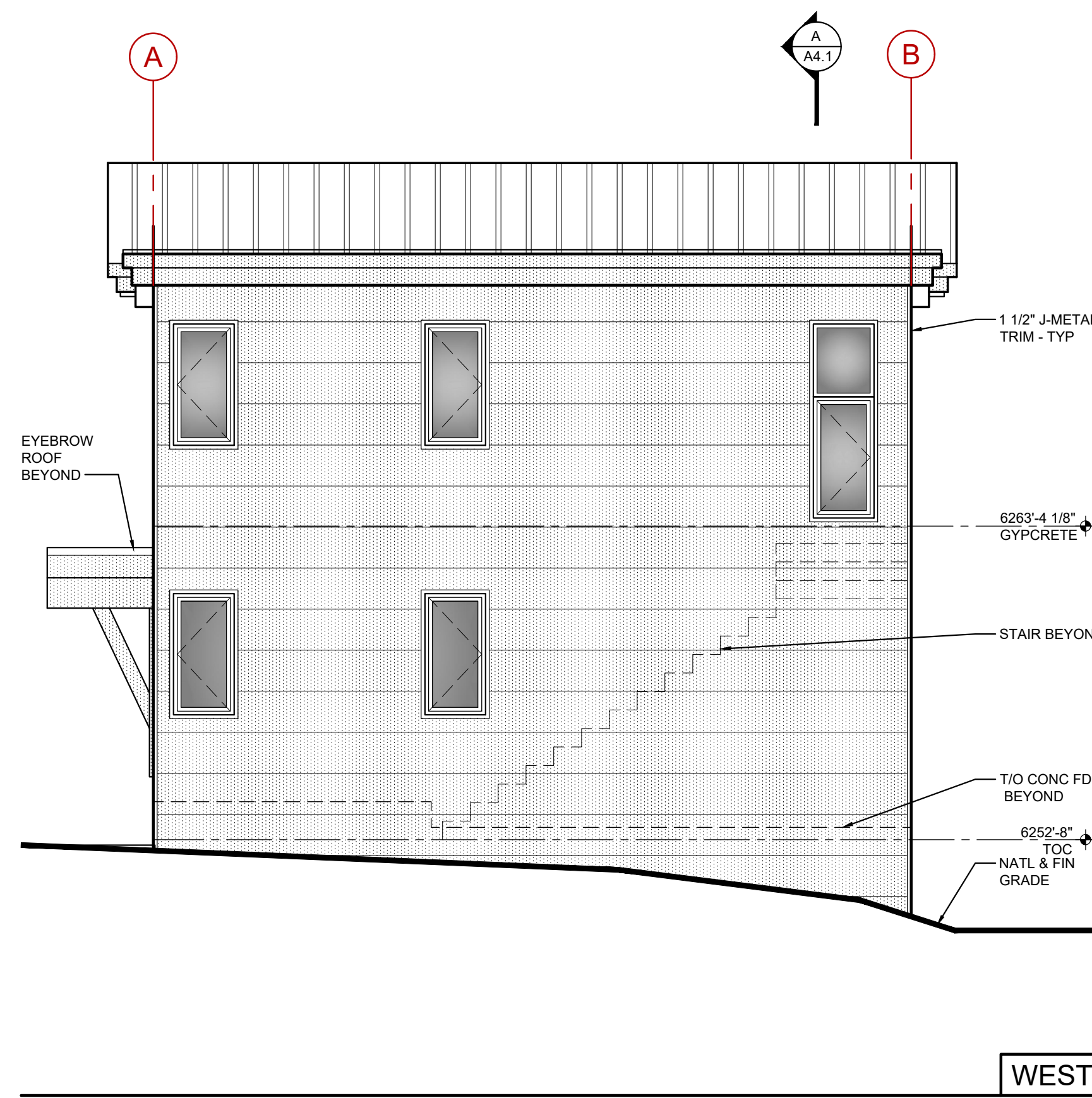
Vicki Figone
35 Creekview Circle
Larkspur CA 94939
415 377 8817
vickifigone@hotmail.com



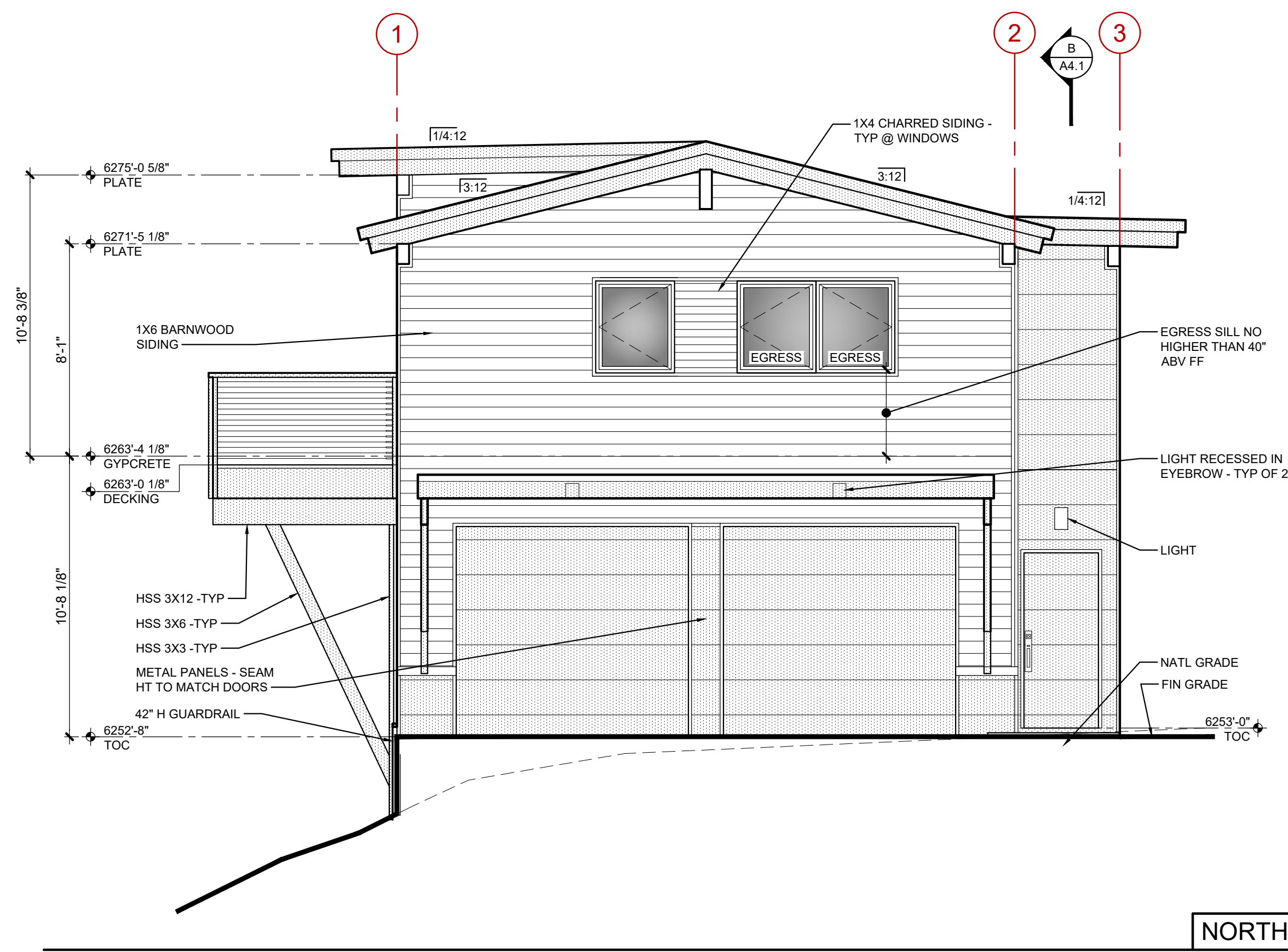
SOUTH



EAST



WEST



NORTH

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 ELEVATIONS

A3.1

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LEGAL COMMITTEE ITEM NO. 3 & AGENDA ITEM NO. VIII.A

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Figone ADU & Garage

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

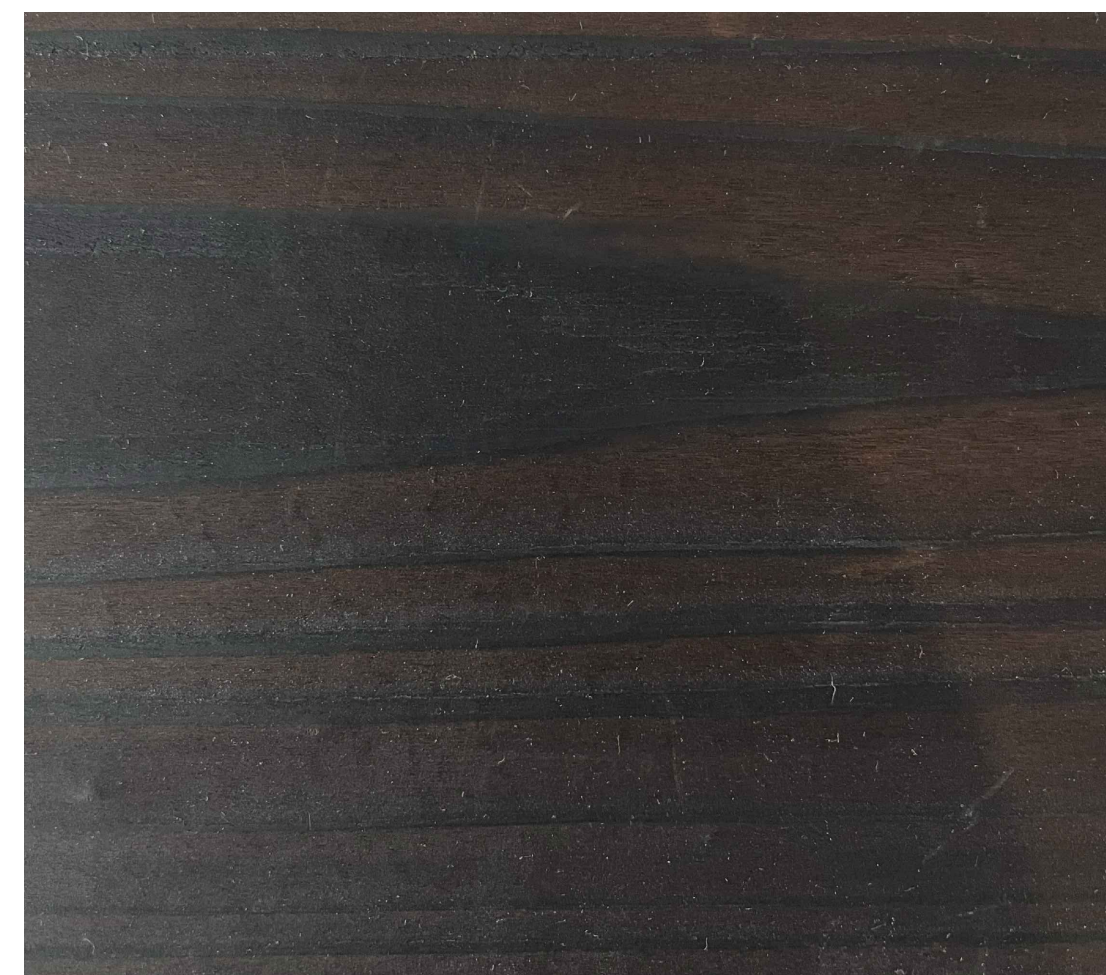
Vicki Figone
35 Creekview Circle
Larkspur CA 94939
415 377 8817
vickifigone@hotmail.com



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 TRESTLEWOOD 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: BERRIDGE 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: ANDERSEN "BLACK"
- 5) SOFFITS: 1X6 DOLLY VARDEN CLEAR VERT GRAIN CEDAR T&G - FINE LINE - NAT'L STAIN
- 6) WOOD SIDING: 1X4 CYPRESS T&G DELTA MILLWORKS, BURNED & BRUSHED - NAT'L FINISH - OFSM #8140-2041-0001

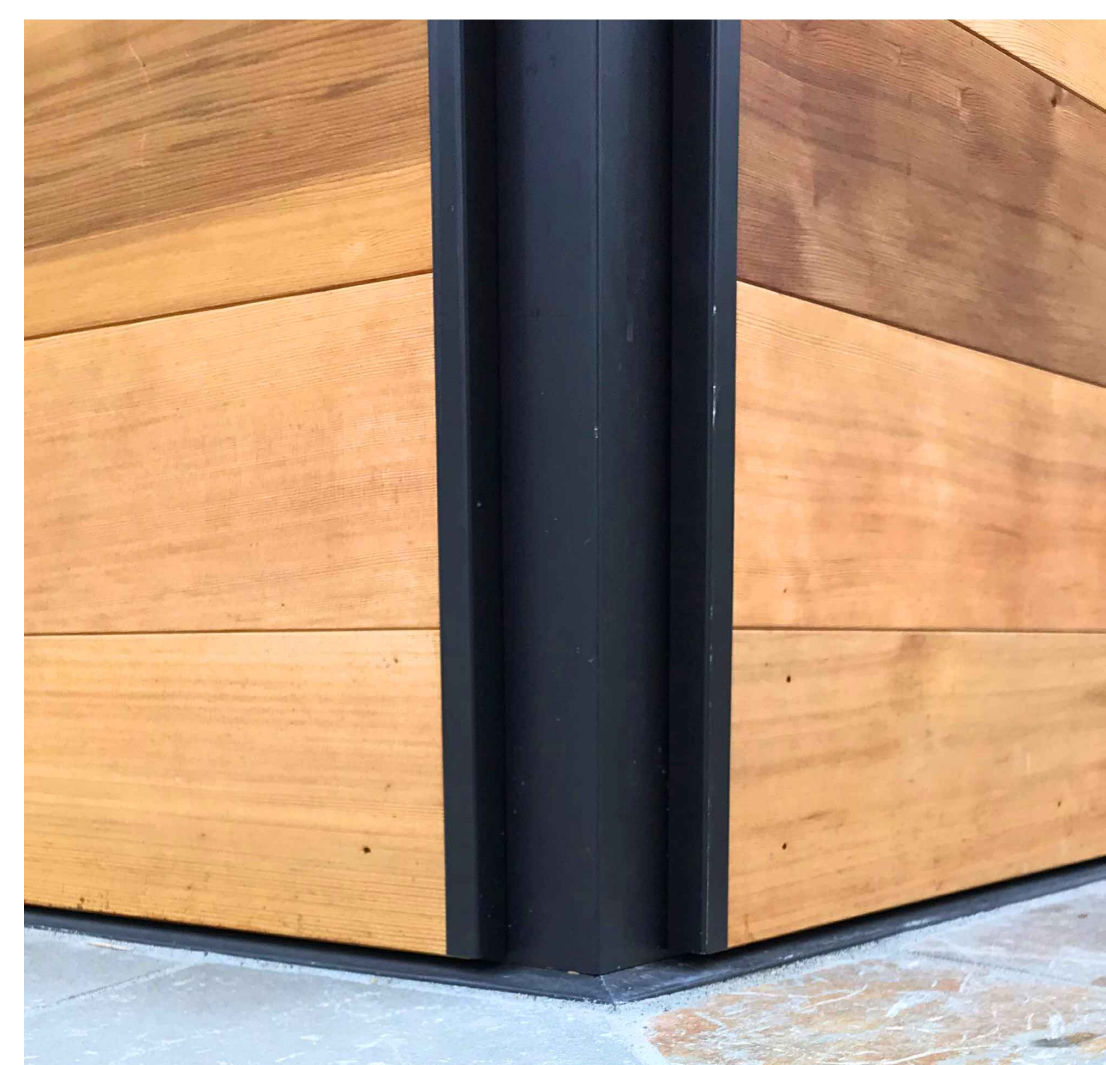
EXTERIOR FINISH LEGEND

TRPA DESIGN STANDARDS:

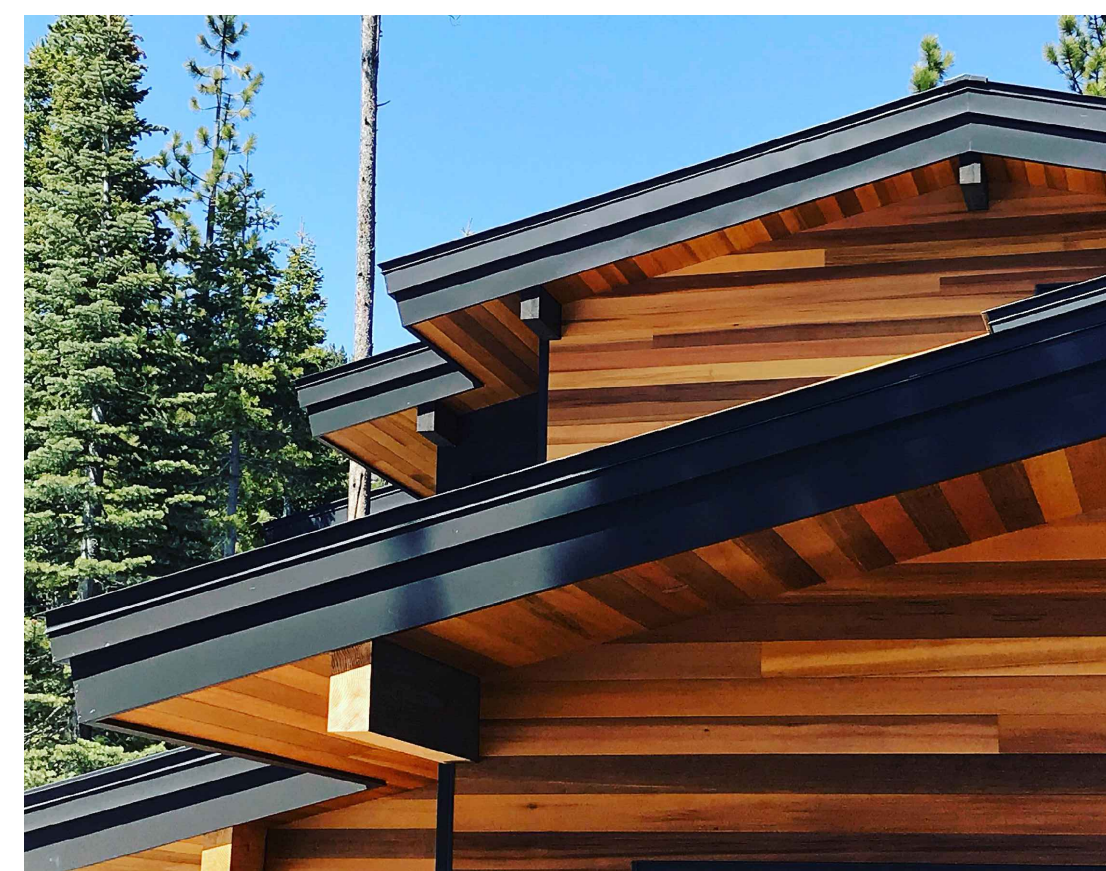
- 1) COLOR: THE COLOR OF THE STRUCTURE, INCLUDING ANY FENCES ON THE PROPERTY, SHALL BE COMPATIBLE WITH THE SURROUNDINGS. SUBDUED COLORS IN THE EARTH TONE AND WOOD TONE RANGES SHALL BE USED FOR THE PRIMARY COLOR OF THE STRUCTURE. HUES SHALL BE WITHIN THE RANGE OF NATURAL COLORS THAT BLEND, RATHER THAN 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

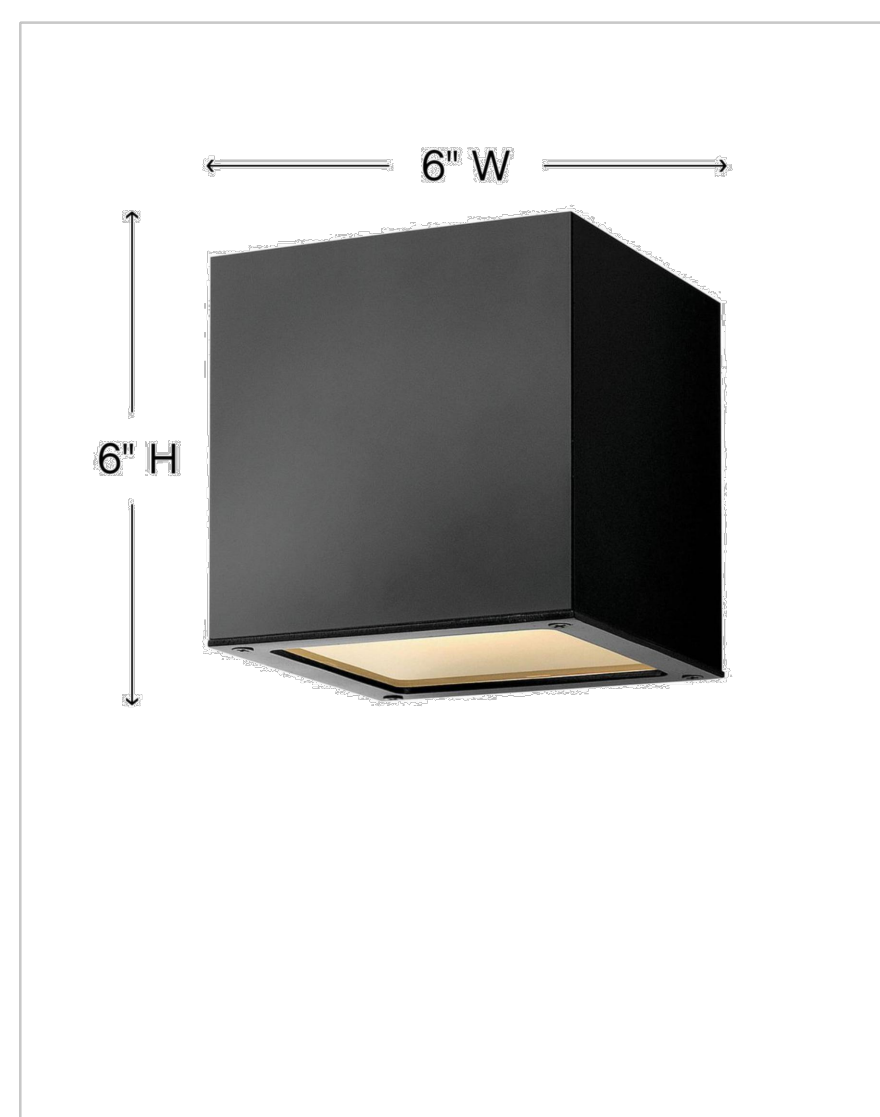
- 1) ROOFS SHALL COMPLY WITH THE REQUIREMENTS OF CRC SECTION R337 AND R902. ROOFS SHALL HAVE A ROOFING ASSEMBLY INSTALLED IN ACCORDANCE WITH ITS LISTING AND THE MANUFACTURER'S INSTALLATION INSTRUCTIONS. CRC SECTION R337.5.2.
- 2) ROOF COVERING MATERIAL SHALL BE METAL, NON-COMBUSTIBLE, OR SHALL BE LISTED 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 MAPPED 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.



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

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

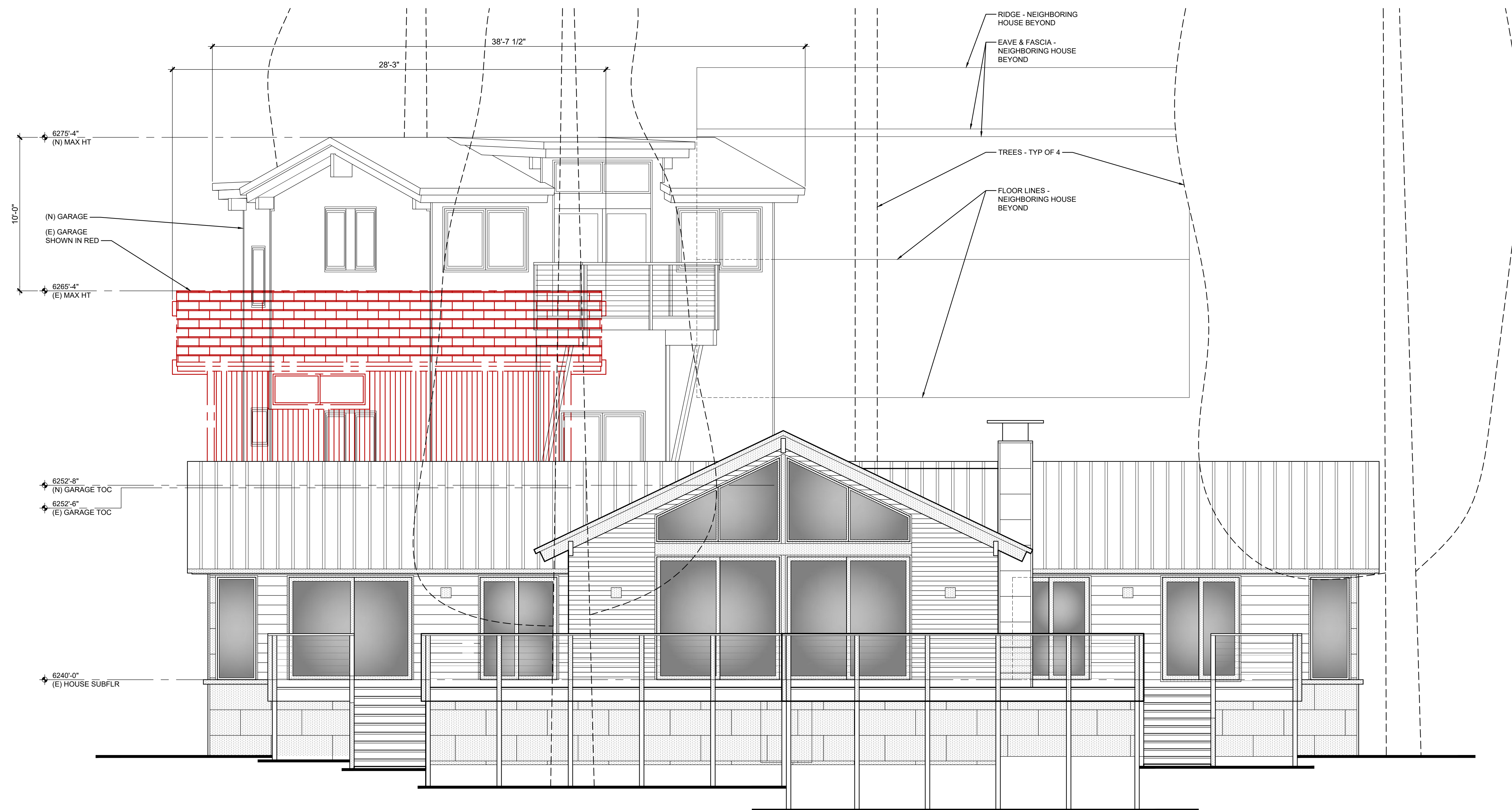
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Figone ADU & Garage

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

Vicki Figone
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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

TRPA ELEVATION EXHIBIT

A3.3

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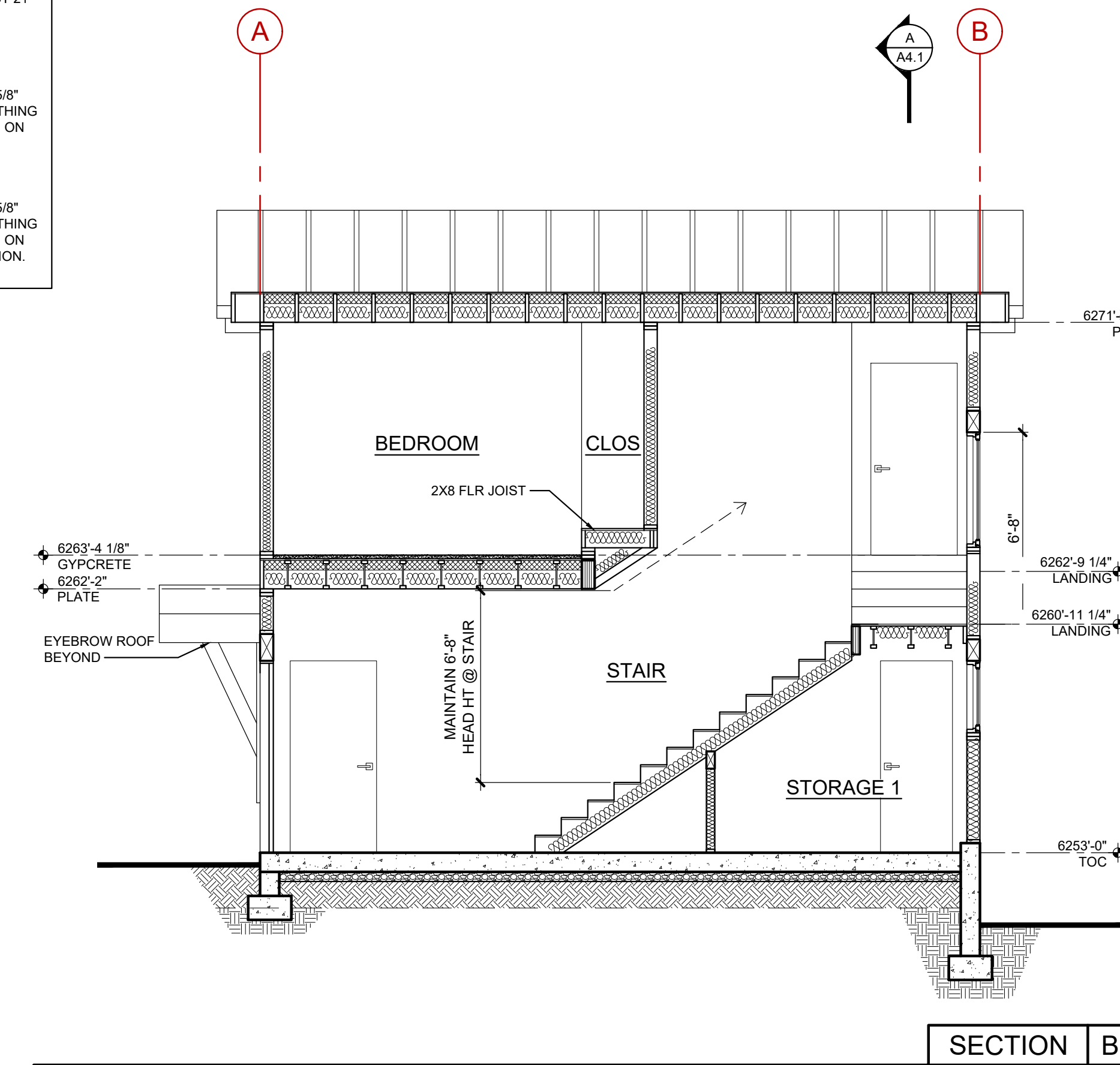
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Figone ADU & Garage

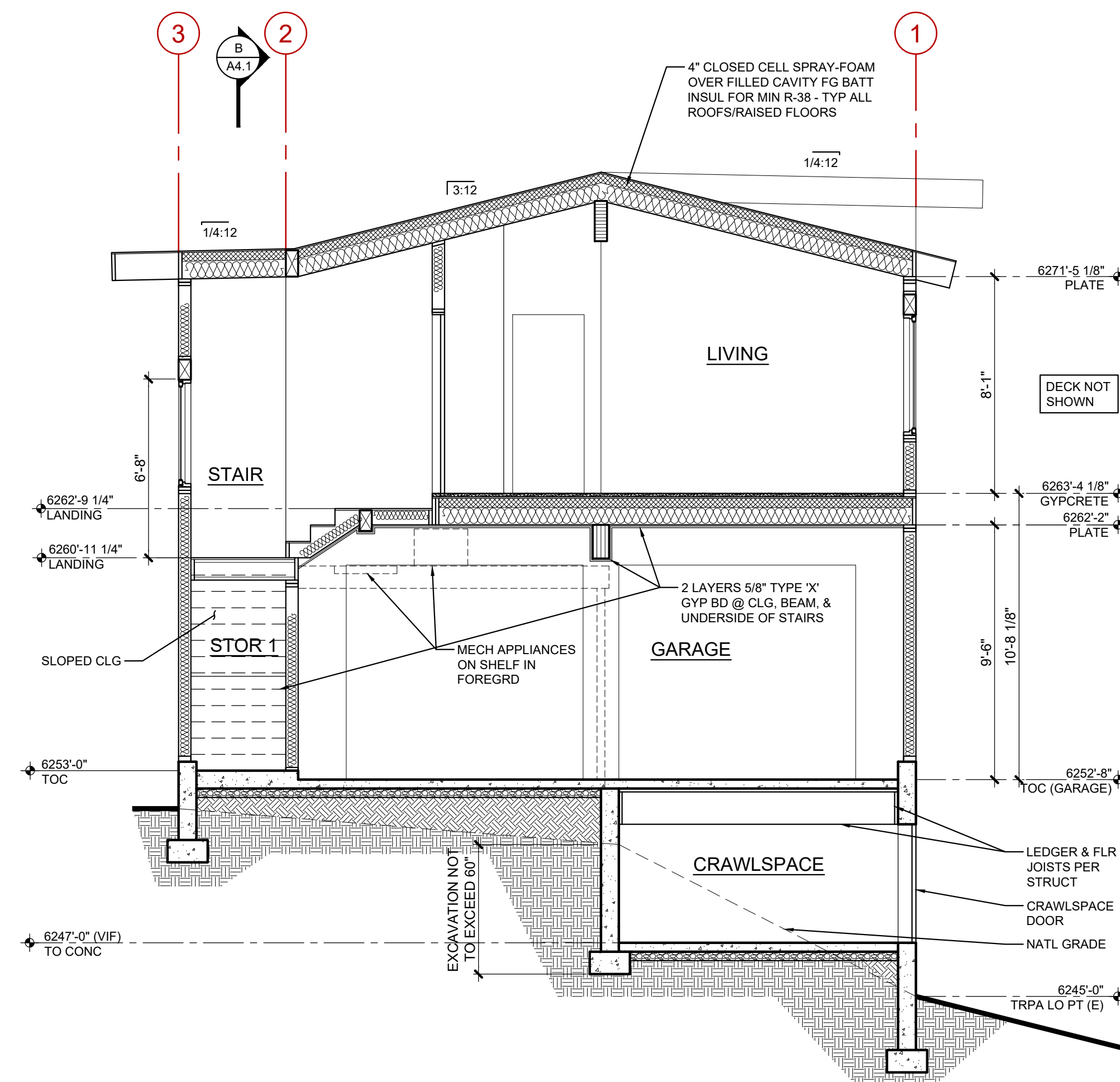
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Tahoma CA 96142
Placer County APN 098-191-018

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

TITLE

BUILDING SECTIONS

A4.1

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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 by 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”)
Submission 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.

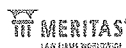
Dear Mr. Hanley:

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



**LEGAL COMMITTEE ITEM NO. 3 &
AGENDA ITEM NO. VIII.A**

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)

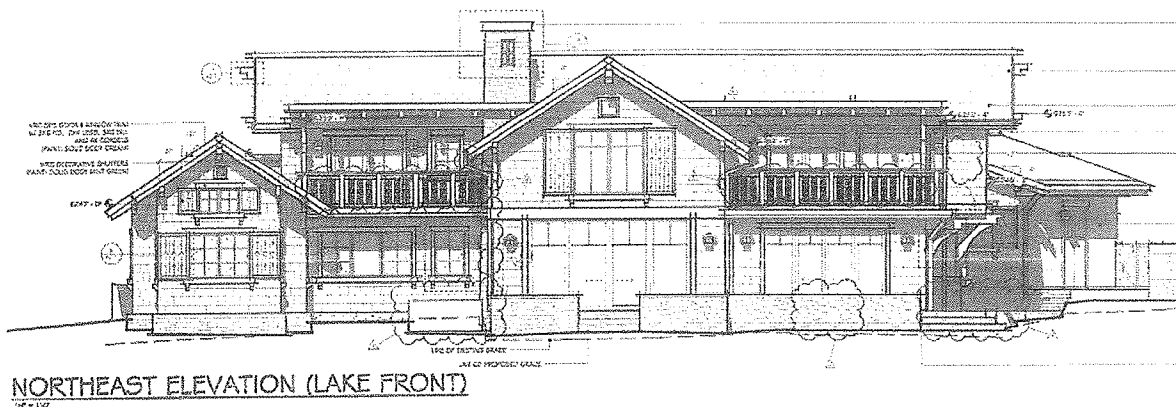
The Association's Architectural Committee has written two letters rejecting prior submissions by Ms. Figone and in both letters, has suggested that Ms. Figone redesign her ADU unit by lowering it into the topography to reduce the impact of this structure on neighbors, including the Association's President, 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

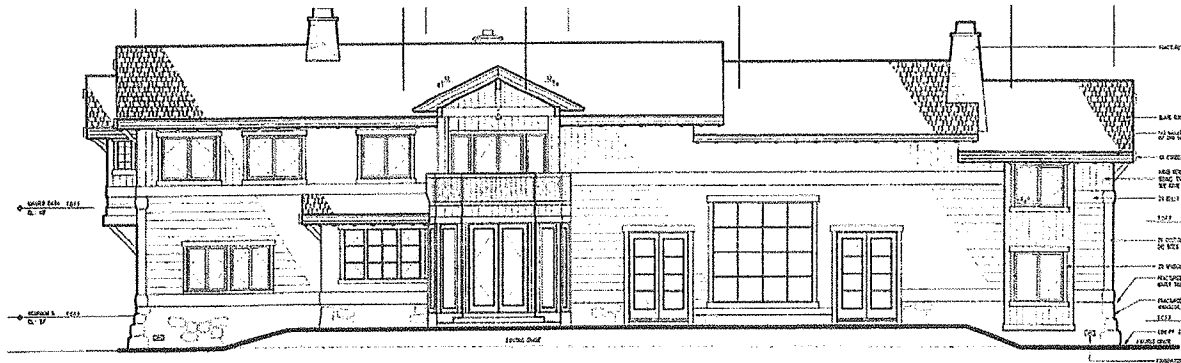
*Brian C. Hanley, Esq.
Porter Simon Law Offices
By Email Only
October 19, 2022
Page 4*

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

**LEGAL COMMITTEE ITEM NO. 3 &
AGENDA ITEM NO. VIII.A**

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



117958954.1 0079588-00001



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





Attachment C

Opposition to Statement of Appeal, dated May 3, 2024



May 3, 2024

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

VIA E-MAIL (GSTMICHEL@TRPA.GOV)

Tahoe Regional Planning Agency
Governing Board
c/o Graham St. Michel, Associate Attorney
P.O. Box 5310
Stateline, NV 89449

Re: Opposition to Statement of Appeal of Figone Garage / Accessory Dwelling Unit (ADU) Project - TRPA Project File Number ERSP2023-0701

Dear Honorable Members of the Governing Board and Mr. St. Michel:

This Opposition to the Egerland, Meyer, and Catterson's (collectively, "Appellants") Written Statement of Appeal is respectfully submitted on behalf of Victoria Figone ("Ms. Figone"), trustee of the Figone Family Trusts. Ms. Figone is the owner of the property at 32 Moana Circle, Tahoma, California (the "Property") and applicant for a garage/accessory dwelling unit ("ADU") project, TRPA Project File Number ERSP2023-0701 (the "Project").

TRPA's findings are supported by substantial evidence and the appeal raises no issue sufficient to overturn staff approval. As such, we respectfully ask the Governing Board to deny Appellants' appeal and affirm staff's approval.

I. Background Facts

a. Ms. Figone's Plans to Improve the Property

Ms. Figone is the Trustee of family irrevocable trusts that own a lakefront property within the Moana Beach Subdivision. The Property has been in Ms. Figone's family for over 50 years. Ms. Figone began the process of improving the Property for her family in 2020. Ms. Figone has since worked tirelessly with architects, the Moana Beach Property Owners Association ("HOA") and, as pertinent here, TRPA staff on her application to build living space above her garage (the "ADU").

The Property is currently a one-story residence with 2,204 square feet of living space and a 687 square foot detached garage. The Project proposes to add a deed restricted ADU with 618 square feet of living space with one bedroom, one bathroom, a living room, and kitchen. (Evolve Design Works letter to Project Review Committee, dated June 5, 2023.) The garage is 687 square foot of unconditioned, detached space. (*Id.*) Thus, with the ADU, the total living space of the Property will be 2,822 square feet.

b. HOA's Illegal Attempts to Block Improvement

Appellants are property owners within the Moana Beach Subdivision. Appellants allege that the Project will adversely impact their properties on “economic, aesthetic, and environmental grounds,” yet provide no facts to support their position and misrepresent both the record and required findings in their Statement of Appeal. The proposed improvements of the Project would have no material impact to Appellants’ views. Moreover, private views are not part of TRPA’s review and approval process. There is a separate proceeding in the Placer County Superior Court between Ms. Figone and the HOA and its board members regarding the HOA’s improper and arbitrary denial of Ms. Figone’s proposed improvements based on the opposition by insider board and architectural review committee members.¹

TRPA need not engage with Appellant’s HOA-related claims, as these claims are being separately adjudicated in court and are not part of TRPA’s purview. To the extent Appellants attempt to bring the HOA dispute into this TRPA appeal, such attempts are improper and should be disregarded.

c. Ms. Figone’s Process with TRPA

Ms. Figone submitted a single-family dwelling project application to TRPA on April 20, 2023. Ms. Figone worked closely with TRPA staff on design development to ensure the proposed plans complied with TRPA’s Code. TRPA made proper findings as required by the Agency’s ordinances and rules in approving the Project. In addition, TRPA properly made a complete Site Assessment and coverage findings.

TRPA approved the Project and issued the permit on January 25, 2024 subject to standard conditions of approval and special conditions.

II. Standard of Review

In general, when challenging the approval of a project, it is the appellant’s burden to demonstrate that there is insufficient evidence in the record to justify the agency’s action. (*See Citizens for a Megaplex-Free Alameda v. City of Alameda*, 149 Cal.App.4th 91, 112-13 (2007).) As with all substantial evidence challenges, an appellant challenging an agency’s findings for insufficient evidence “must lay out the evidence favorable to the other side and show why it is lacking. Failure to do so is fatal.” (*Tracy First v. City of Tracy*, 177 Cal.App.4th 912, 934-35 (2009).)

Appellant’s Statement of Appeal fails to demonstrate why TRPA’s findings were insufficient. The Statement of Appeal erroneously bases its arguments on TRPA Code Chapter 21.2.2 but, as further explained below, Chapter 21.2.2 does not apply to the Project since the Project is not a “special use.” Appellants also cite information regarding the HOA’s denial of the Project which is not pertinent to TRPA’s review or findings, and which is being adjudicated in a separate

¹ The HOA’s denial is also illegal, as California law prohibits a HOA from prohibiting or unreasonably restricting ADUs on a lot zoned for single-family residential use. (Civ. Code, § 4751.)

forum. Finally, Appellants argue without bases that there is misrepresentation in the application materials and on scenic impact. Ms. Figone worked closely with TRPA staff on her application materials which were complete and accurate. A baseline scenic assessment was approved on September 5, 2021 and a separate scenic assessment for the Project was prepared on June 6, 2023. TRPA staff included a condition in the permit requiring scenic mitigation maintenance for the project, ensuring compliance with TRPA’s scenic standards in perpetuity.

TRPA’s staff decision is supported by substantial evidence and should be upheld by the Governing Board.

III. Argument

a. The Project is Not Subject to Special Use Findings in Chapter 21.2.2

The main basis stated in Appellants’ Statement of Appeal, and the sole basis tied to TRPA’s Code regarding the project approvals, relates to Code section 21.2.2. Code section 21.2.2 identifies the findings that are required for approval of special uses. These findings are not required for the Project, as the ADU that TRPA permitted is an allowed land use, not a special land use.

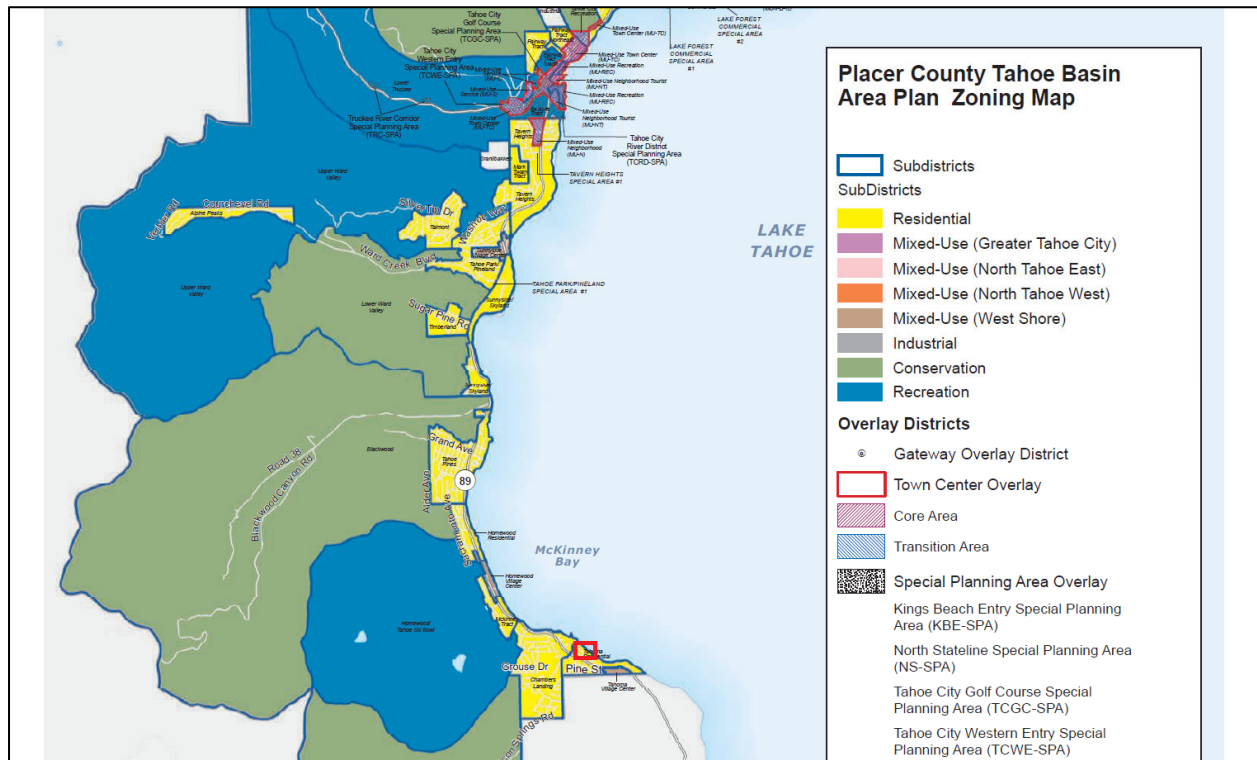
TRPA Code section 21.2.1 states:

- Uses listed in applicable local plans, redevelopment plans, or specific or master plans as “allowed” (“A”) are appropriate uses for the specified area, and projects and activities pursuant to such uses may be permitted. Allowed uses are assumed to be compatible with the direction of the Regional Plan and the surrounding uses.

(TRPA Code, § 21.2.1 (emphasis added).)

In contrast, uses that are listed in applicable local plans, redevelopment plans, or specific or master plans as “special” (“S”) may be permitted only with certain additional findings. Specifically, “[t]o allow a special use, TRPA shall conduct a public hearing according to the procedures in the TRPA Rules of Procedure,” and make findings consistent with 21.2.2 subsections A, B, and C. (TRPA Code, § 21.2.2.)

Ms. Figone’s Property is located in the Tahoma Residential Subdistrict of the Tahoe Basin Area Plan (“TBAP”). (Exhibit A, TBAP Zoning Map.) As shown in the below excerpt of the Area Plan Land Use Diagram (Figure 4-5), the Property (depicted with the red box) is in the yellow Residential zone of the TBAP.



According to the TBAP Implementing Regulations, single family residential are allowed in the Residential zone, as well as multi-person dwellings if 100% of the units are deed restricted to affordable, moderate, or achievable housing per TRPA Code of Ordinances Chapter 90. (TBAP Implementing Regulations, Table 2.03.BB-1.)

TRPA Code section 21.3.2 states that ADUs “shall be considered an accessory use to the primary use it serves and may be permitted where the primary use is a permissible use.” (TRPA Code, § 21.3.2.) The primary use of the Project is a single-family residence, a permissible use under the TBAP. As such, the ADU is a permissible use, and the Project does not necessitate special findings under Code section 21.2.2.

Appellants arguments related to Finding 21.2.2.A, 21.2.2.B, and 21.2.2.C are baseless and must be dismissed. These special findings are not required for the Project since the Project is a permissible use, rather than a special use, under applicable local plans.

b. If Chapter 21.2.2 Findings Were Required, the Project Complies and is an Appropriate Use for the Parcel

Even if Code section 21.2.2 findings were required, which they are not, the Project would be an appropriate use for the parcel as it will not disturb health and safety or the general welfare or not alter or detrimentally affect the purposes of the TBAP.

i. The Project Complies with Finding 21.2.2.A

Finding 21.2.2.A requires the project to be of such a nature, scale, density, intensity, and type to be an appropriate use for the parcel and surrounding area. (TRPA Code, § 21.2.2.A.)

Of the approximately 29 residential properties within the Moana Circle Subdivision, depicted on the site map below, 24 to 25 have two story residences. Ms. Figone's existing residence, highlighted in yellow in the below site map, is single-story. Ms. Figone considered adding a second story, consistent with other residences in the neighborhood, but decided to proceed with the smaller improvement of a second story garage and ADU. The Project's improvements are consistent with and on a smaller scale than other recent development within the subdivision.



Several lakefront residences that neighbor Ms. Figone's are much larger than Ms. Figone's Property. For example, 48 Moana Circle is located three lots north of the Figone Property. The owners at 48 Moana Circle completed a large remodel and addition of over double the size of the prior residence to an approximately 4,654 sq. ft. two-story residence and garage in or around 2015. As a further example, the improvements at 52 Moana Circle included a large two-story residence and two-car garage that doubled the size of the residence to over 6,040 square feet of living area. In addition, in 2010, TRPA issued a permit for the replacement of a detached garage with living quarters for 28 Moana Circle, another lakefront property in the Moana Beach Subdivision that is located directly across the street from one of the Appellants. (TRPA File No. ERSP 2010-1065.) Finally, TRPA recently approved the teardown of an existing single-family

dwelling and rebuild of a new single-family dwelling on 56 Moana Circle that will result in 10,120 square feet of coverage. (TRPA File No. ERSP 2022-0609.)

In contrast, Ms. Figone's Project proposes a 618 sq. ft. ADU with one bedroom, one bathroom, a living room and kitchen. The Project proposes 4,994 square feet of coverage, less than the 5,022 square feet of coverage allowed for the parcel. (Evolve Design Works Findings, dated January 10, 2024.) With the additional 618 square feet of living space, Ms. Figone's Property will be a total of 2,822 square feet of living space, a fraction of the living space in other Moana Bay lakefront residences.

Ms. Figone's Property will be a comparable size or smaller than Appellants' properties. Appellant Meyer's property at 25 Moana Circle is a two-story residence with 3,435 square feet of living space with an 876 square foot garage. Appellant Catterson's property at 35 Moana Circle is a two-story residence with 2,030 square feet and a 370 square foot garage. Appellant Egerland's property at 45 Moana Circle is a single-story residence with 2,934 square feet and a 336 square foot garage.

The Project complies with Finding 21.2.2.A, as it is a consistent nature, scale, density, intensity, and type to the surrounding area.

ii. The Project Complies with Finding 21.2.2.B

Finding 21.2.2.B requires the project to not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons in the neighborhood or general welfare of the region, and requires the applicant to take reasonable steps to protect against any such injury and to project the land, water, and air resources of the applicant's property and that of surrounding property owners. (TRPA Code, § 21.2.2.B.)

While Appellants repeatedly raise concerns about their private views, the "hindrance of private views" are not considered a significant environmental impact. (*Sierra Club v. Tahoe Reg'l Planning Agency*, 916 F. Supp. 2d 1098, 1150 (E.D. Cal. 2013) (citing *Mira Mar Mobile Cmty. v. City of Oceanside*, 119 Cal. App. 4th 477, 494 (2004) ("neither state nor local law protects private views from private lands and the rights of one private landowner cannot prevail over the rights of another private landowner")); see also *Mira Mar*, 119 Cal.App.4th at 492 ("California landowners do not have a right of access to air, light and view over adjoining property." (citing *Wolford v. Thomas*, 190 Cal. App. 3d 347, 358 (1987))).) Appellants' arguments regarding their private views are both factually false, as the Project will not detrimentally impact views, and irrelevant to the current proceeding.

iii. The Project Complies with Finding 21.2.2.C

Finding 21.2.2.C requires the project to not change the character of the neighborhood, or detrimentally affect or alter the purpose of the applicable local plan, and specific or master plan, as applicable. (TRPA Code, § 21.2.2.C.)

The mountain architecture style of the residence and associated landscaping blends with the character of the existing neighborhood of similar sized and designed single-family residences. (Evolve Design Works Findings, dated January 10, 2024.) The TBAP states that the Tahoe Residential Subdistrict “should continue to be residential, maintaining the existing character of the neighborhood.” (TBAP Implementing Regulations 2.03 BB.) The Project is consistent with the local plan’s goals and purposes and, as such, complies with Finding 21.2.2.C.

In sum, while the Project does not need to comply with TRPA Code section 21.2.2, as it is a permissible land use, it complies with all three special findings. The Governing Board should accordingly reject Appellants’ baseless arguments to the contrary.

c. The Project Complies with Placer County and TRPA Code for ADUs

TRPA Code states that ADUs “shall be considered an accessory use to the primary use it serves and may be permitted where the primary use is a permissible use.” (TRPA Code, § 21.3.2.) Further, “[u]p to two accessory dwelling units per parcel shall be considered accessory uses where the primary use is a single-family or multi-family use and is a permissible use.” (*Id.*)

Ms. Figone complied with TRPA’s procedures for permitting the Project, as she completed a single-family residential application through TRPA, worked with TRPA staff on the submittal, and received a lawful permit from TRPA. (See *Accessory Dwelling Units in East Placer County*, Placer County and TRPA, <https://www.placer.ca.gov/DocumentCenter/View/55810/Accessory-Dwelling-Units-in-Placer-County-Tahoe?bidId=>.)

Appellants argue that Ms. Figone “appears to misuse the ADU designation” in order to circumvent HOA CC&Rs and TRPA rules. Appellants cite no evidence or support for this contention. Indeed, Ms. Figone has the right as a California citizen to build an ADU on her property. California’s ADU laws protect all homeowners, including Ms. Figone. Appellants further misconstrue Ms. Figone’s changes to the Project to imply deviousness when, in fact, Ms. Figone did so to clarify the scope of the Project, minimize impacts, such as reducing the overall height of the structure, and ensure compliance with TRPA’s rules. Appellants’ arguments that Ms. Figone has misrepresented facts or tried to “take advantage” of ADU laws are unfounded.

As Ms. Figone’s property is a permissible single-family residence, the proposed improvement of adding one ADU is consistent with TRPA’s Code and processes. Condition 3.D of the permit requires a TRPA deed restriction restricting the ADU to Achievable Area Median Income Housing and prohibiting the use of the ADU as a vacation rental, consistent with the TBAP

Implementing Regulations. TRPA staff's careful and thoughtful review of the Project should be upheld.

d. Scenic Mitigation

Appellants' final argument is that the scenic photos are outdated and the scenic assessment is from an older project approved in 2021. Again, this contention is baseless.

A baseline scenic assessment was approved on September 5, 2021. This assessment was prepared and approved prior to removal of the lakefront tree, and thus, the lakefront tree was included as part of the baseline and any visual impacts associated with the project must account for the loss of the tree and any associated screening.

A separate scenic assessment for the proposed project was prepared on June 6, 2023, after the removal of the lakefront tree. This assessment took into account the removal of the lakefront tree and the contrast rating was scored based on the current conditions. The contrast rating for the proposed project is 25, which allows up to 1,190 square feet of visible mass. The project as approved proposes only 1,158 square feet of visible mass, 32 sf less visible mass than allowed. The project conditions of approval require post project visible mass elevation drawings on photos taken from 300 feet offshore to ensure scenic compliance. Indeed, removal of the tree actually increases the view to the lake for surrounding homeowners which cuts against Appellants' argument.

Condition 6 of the Project requires maintenance of scenic mitigation in perpetuity. Ms. Figone intends to comply with Condition 6 and all conditions of the permit. TRPA properly reviewed scenic mitigation and Appellants raise no substantial evidence to the contrary.

IV. Conclusion: TRPA Committed No Errors in Approving the Project

Appellants cite a variety of alleged bases in their Statement of Appeal, but each is baseless and should be rejected by the Governing Board. TRPA has not committed any procedural errors in processing Ms. Figone's permit.

Based on the foregoing, Ms. Figone respectfully requests that the Board uphold the determination of TRPA approving the Project.

Yours very truly,



Michael B. Brown

cc: Katherine Huston, TRPA (khuston@trpa.gov)

Attachment D

Emails between Brandy McMahon, TRPA Principal Planner, and Evolve Design Works (Ms. Figone's consultants).

From: Brandy McMahon <bcmcmahon@trpa.gov>
Sent: 5/3/2024 2:25:39 PM
To: Graham St. Michel <gstsmichel@trpa.gov>
Subject: FW: TRPA Case ERSP2023-0701
Attachments: [image001.jpg](#), [32 Moana Cir - Findings 2024.01.10.pdf](#), [32 Moana Circle - revised TRPA Plan Set 2024.01.10.pdf](#)

FYI

Brandy McMahon, AICP
Principal Planner
Permitting & Compliance Department
(775) 589-5274
bcmcmahon@trpa.gov



trpa.gov | [facebook](#) | [twitter](#) | [instagram](#)

Parcel and permit information can be found at LTInfo.org.

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From: Sevilla Santana <sevilla@evolvedesignworks.com>
Sent: Wednesday, January 10, 2024 11:29 AM
To: Brandy McMahon <bcmcmahon@trpa.gov>
Cc: Hanni Walsh <hanni@evolvedesignworks.com>
Subject: Re: TRPA Case ERSP2023-0701

Hi Brandy,

1. I have revised sheet A3.3 with the correct APN.
2. The BMP plan for the entire site is shown on page C1.1.
3. I recalculated the slope of the driveway - the 12.5% slope calculation was incorrect. I have recalculated the slope of the driveway to be 10% based on the proposed driveway. I have addressed the finding and included it in this email.
4. I have confirmed the tree was removed and revised the scenic assessment accordingly. See sheet A3.3.

I have attached the revised TRPA Set, and findings.

Sevilla Santana
Staff Engineer
sevilla@evolvedesignworks.com
530.807.7578

PO Box 7586
3080 N. Lake Blvd. Suite A
Tahoe City, CA 96145

On Tue, Jan 9, 2024 at 8:32 AM Brandy McMahon <bcmcmahon@trpa.gov> wrote:

Dear Sevilla,

I reviewed the revised plans and have the following comments/questions:

1. The note on A3.3 that reads "THE VISUAL ASSESSMENT FOR THE PROPOSED PROJECT WAS EVALUATED AS A PROJECT AREA TO INCLUDE APN: 094-191-018" needs to be revised to reference APN: 098-191-018 (the subject site). *I will condition this change be made in the permit.*

LEGAL COMMITTEE ITEM NO. 3 &
AGENDA ITEM NO. VIII.A

2. I still need a BMP plan for the entire site, not just the proposed ADU/garage.
3. A driveway with a 12.5% slope is proposed. Please address the attached finding and email me a copy.
4. In one of the public comment letters, it says "the photos for the scenic assessment are from 2021. The landscape has changed a bit, including the removal of a large tree in front of the main house, which could perhaps affect the scenic assessment." TRPA approved a tree removal permit (ref. TREE2022-0984). Please confirm that the tree that was removed is not included in the scenic assessment.

I will move forward with issuing the conditional permit once the above items have been addressed.

Sincerely,

Brandy McMahon, AICP
Local Government Coordinator
Permitting & Compliance Department
(775) 589-5274
bcmcmahon@trpa.gov



trpa.gov|[facebook](https://www.facebook.com/trpa)|[twitter](https://twitter.com/trpa)|[instagram](https://www.instagram.com/trpa)

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From: Sevilla Santana <sevilla@evolvedesignworks.com>
Sent: Tuesday, January 2, 2024 3:41 PM
To: Brandy McMahon <bcmcmahon@trpa.gov>
Subject: Re: TRPA Case ERSP2023-0701

Hi Brandy,

I am following up on this email. Any update with the status of the TRPA permit for 32 Moana Circle.

Let me know if you have any questions.

Thanks,

Sevilla Santana
Staff Engineer
sevilla@evolvedesignworks.com
530.807.7578

□ PO Box 7586
3080 N. Lake Blvd. Suite A
Tahoe City, CA 96145

On Mon, Dec 11, 2023 at 2:47 PM Sevilla Santana <sevilla@evolvedesignworks.com> wrote:

Hi Brandy,

I know this is delayed, but I am following up with the project at 32 Moana Circle. The attached files address your questions/comments sent to Hanni 8/29.

Let me know if you have any questions.

Thanks!

Sevilla Santana
Staff Engineer
sevilla@evolvedesignworks.com
530.807.7578

□ PO Box 7586
3080 N. Lake Blvd. Suite A
Tahoe City, CA 96145

January 10, 2024

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

Applicable Findings

Findings Necessary to Approve Any Project

4.4.1.A-C Finding Rationale: The proposed single-family residential project is consistent with the TRPA Goals and Policies and the TRPA Code of Ordinances. The rebuilt single-family residence will not impact environmental threshold carrying capacities. Temporary and permanent BMP's are proposed and shown on the proposed site plan.

Permissible Uses

21.2.2.A-C Finding Rationale: The proposed single-family residential project is consistent with residential zoning designation. This project will not be injurious or disturbing to the welfare of persons or property in the neighborhood or region. Through implementation of BMPs, LID, and green building principles there should be no impact to the resources on the property or surrounding area. Temporary and permanent BMP's are proposed in conjunction with this project as shown on the civil plan set and will protect water and air quality. Due to the mountain architecture style of the residence and associated landscaping the project fits in with the character of the neighborhood and the greater Tahoe region.

Land Coverage

30.4.1 Finding Rationale: A site assessment was completed September 20, 2019 by TRPA – LCAP2019-0214. The TRPA identified that the total verified existing coverage on the parcel is 1,735 SF of class 1a area, 348 SF of 1b area, and 3,043 SF of Class 5 area, with a total of 5,022 SF. The project proposes 4,994 SF of coverage, which is less than the allowable 5,022 SF of coverage.

33.3.1 Grading Standards – Seasonal Limitations

Finding Rationale – All grading will be done between May 1st and October 15th.

33.3.6 Excavation Limitations – Groundwater Interception

Finding Rationale – The proposed project does not interfere or intercept ground water. The proposed excavations and foundations are required to comply with local building codes for minimum depth below natural grade.

34.3.1 Driveways

Finding Rationale – The proposed driveway was approved for fire safe access by the North Tahoe Fire Protection District and conforms to the general standards for driveways in the Tahoe Basin and Placer County. The proposed complies with Section 34.3.1 and has two parking spots available.

34.3.2. E. Slope of Driveways

Finding rationale – The slope of the proposed driveway is 10%. The proposed slope complies with section 34.3.2.

37.4.1 Height Standards for Buildings

Finding Rationale – The maximum allowable height is 32'-1", citing a 3:12 roof pitch and 18% slope across the building footprint. The proposed maximum height is 30'-4". The proposed project is in compliance with the height standards set forth by Section 37.4.

37.5.1. Approval of Building Heights Greater Than 26

A. Additional Height for Roof Pitch of Up to 5:12

Finding Rationale – The proposed maximum building height is 30'-4", citing a 3:12 roof pitch. When viewed from major arterials, scenic turnouts, public recreation areas, or the waters of Lake Tahoe, from a distance of 300 feet, the additional height does not cause the proposed building to extend above the forest canopy, or a ridgeline. The proposed project is in compliance with the height standards set forth by Section 37.5.1.A and 37.7.1.

60.4.6. BMP Infiltration Requirements

Finding Rationale - Permanent BMPs proposed with this project include drip line trenches, drip line armoring, and dry wells. The infiltration facilities are designed to accommodate a twenty year, one-hour storm. Temporary construction BMPs include soil protection/erosion prevention(silt fence and fiber rolls) and tree protection. These measures are in conformance with the current TRPA Handbook of Best Management Practices.

61.1.6.c Minimum Standards for Tree Removal

Finding Rationale - The proposed trees to be removed comply with the minimum standards of tree removal and the removal methods outlined in Table 61.1.6-4.

66.3.3.E.2 Scenic Quality Review in the Shoreland

Finding Rationale: The proposed project complies with Level 4 Scenic Review.

A comprehensive assessment of the parcel was prepared which resulted in the cumulative contrast rating of 24. The subject project proposes 992 square feet of total visible lakefront façade. This is within the maximum allowable visible area of 1,035 square feet based on the composite contrast score of 24 points.



Hanni Walsh, PE
VP | Principal Designer
530.318.0001
hanni@evolvedesignworks.com
PROJECT NO. 2022.062

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". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Hanni Walsh

Figone ADU & Garage

stamp

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 appearing herein constitute original and
 unpublished work of the designer and may
 not be duplicated, used or disclosed
 without written consent of the designer.

project number	2022.062	
drawn by	- checked by -	
ISSUES & REVISIONS		
no.	description	date
A	NTDFP LAR	2023.03.23
1	TRPA Submittal	2023.06.05

project location

GOVERNING AGENCIES, ORGANIZATIONS, & UTILITIES

PLACER COUNTY BUILDING DEPT.
 (TAHOE BUILDING DIVISION OFFICE)
 775 N. LAKE BLVD.
 P.O. BOX 5036
 TAHOE CITY, CA. 96145
 PHONE: 530.581.6200
 FAX: 530.581.6204

PLACER COUNTY ENVIRONMENTAL HEALTH
 775 N. LAKE BLVD., SUITE 203
 TAHOE CITY, CA. 96145
 PHONE: 530.581.6240
 envhealthtahoec@placer.ca.gov

TAHOE CITY PUBLIC UTILITY DISTRICT
 221 FAIRWAY DRIVE
 TAHOE CITY, CA 96145
 PHONE: 530.583.3796
 http://www.tahoecitypubd.com

MEEKS BAY FIRE PROTECTION DISTRICT
 8041 EMERALD BAY ROAD
 MEEKS BAY, CALIFORNIA
 P.O. BOX 189
 TAHOMA, CALIFORNIA 96142
 PHONE (530) 525-7548
 FAX (530) 525-4502

LIBERTY ENERGY
 701 NATIONAL AVE.
 P.O. BOX 107
 TAHOE VISTA, CA 96148
 PHONE: 800.782.2506
 http://www.liberty-energy.com/pages/home.php

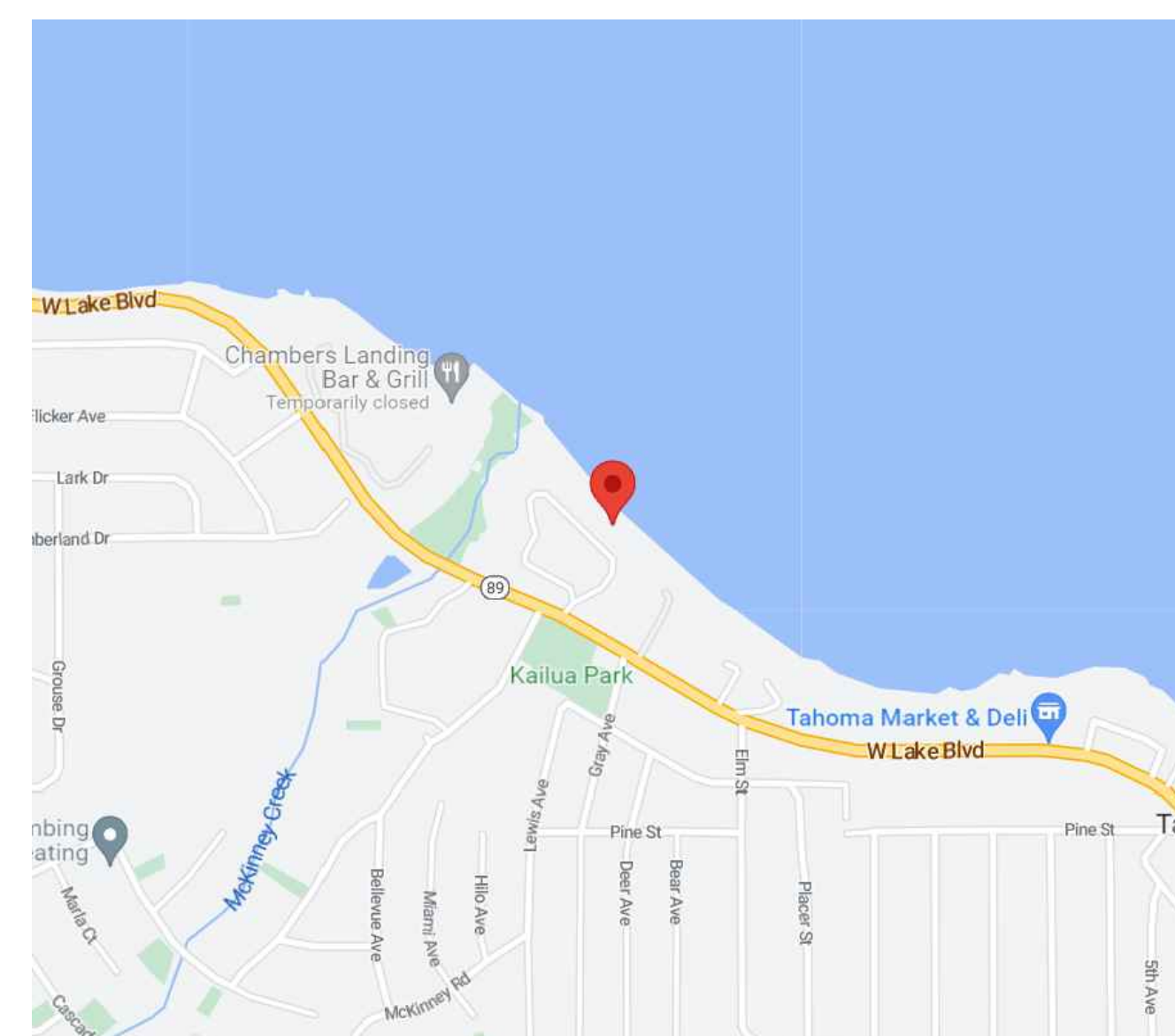
SOUTHWEST GAS CORPORATION
 (LOCAL CUSTOMER ASSISTANCE LOCATION)
 10682 PIONEER TRAIL
 TRUCKEE, CA 96161-0218
 PHONE: 877.860.6020
 http://www.swgas.com/contactus/nnvcontacts.php

PROJECT CONTACT INFORMATION

OWNER
 Vicki Figone
 35 Creek View Circle
 Larkspur, California
 415.377.8817
 vickifigone@hotmail.com

ENGINEER OF RECORD & DESIGNER
 EVOLVE DESIGN WORKS
 HANNI WALSH, PE
 PO BOX 7586
 TAHOE CITY, CA 96145
 530.318.0001
 hanni@evolvedesignworks.com

VICINITY MAP / PROJECT LOCATION



APPLICABLE CODES

2022 CALIFORNIA BUILDING CODE (2022 CBC)
 2022 CALIFORNIA ELECTRICAL CODE (2022 CEC)
 2022 CA ENERGY CODE
 2022 CALIFORNIA MECHANICAL CODE (2022 CMC)
 2022 CALIFORNIA PLUMBING CODE (2022 CPC)
 2022 CALIFORNIA RESIDENTIAL CODE (2022 CRC)
 2022 CALIFORNIA FIRE CODE (2022 CFC)
 NTFDP ORDINANCE 02-2022, MBFPD ORDINANCE 22-01
 2022 CALIFORNIA GREEN BUILDING CODE (2022 CALGREEN)
 2022 BUILDING ENERGY EFFICIENCY STANDARDS

CODE ANALYSIS

Occupancy: R-3, CBC 310.5
 Type of Construction: Type VB, CBC 602.5

SPACE CALCULATIONS

UNCONDITIONED	
GARAGE/STORAGE	687 SQ. FT.
DECK	67 SQ. FT.
UPPER STAIR/LANDING	69 SQ. FT.
CONDITIONED	
UPPER FLOOR (LIVING)	618 SQ. FT.

DEFERRED SUBMITTALS

1. FIRE SPRINKLERS

PROJECT SCOPE

REMOVE (E) GARAGE. NEW GARAGE WITH ADU ABOVE. NEW DRIVEWAY AND PARKING AREA.

SHEET INDEX

COVER SHEET	0.0
CIVIL	
SITE PLAN	A1.2
BMP PLAN	C1.1
BMP DETAILS	C1.2
ARCHITECTURAL	
FLOOR PLANS	A2.1
BUILDING ELEVATIONS	A3.1
BUILDING MATERIAL AND FINISHES	A3.2
TRPA SCENIC ELEVATION	A3.3
BUILDING SECTIONS	A4.1

New Garage & ADU for:

Vicki Figone
 32 Moana Circle
 Tahoma California
 Placer County 098-191-018

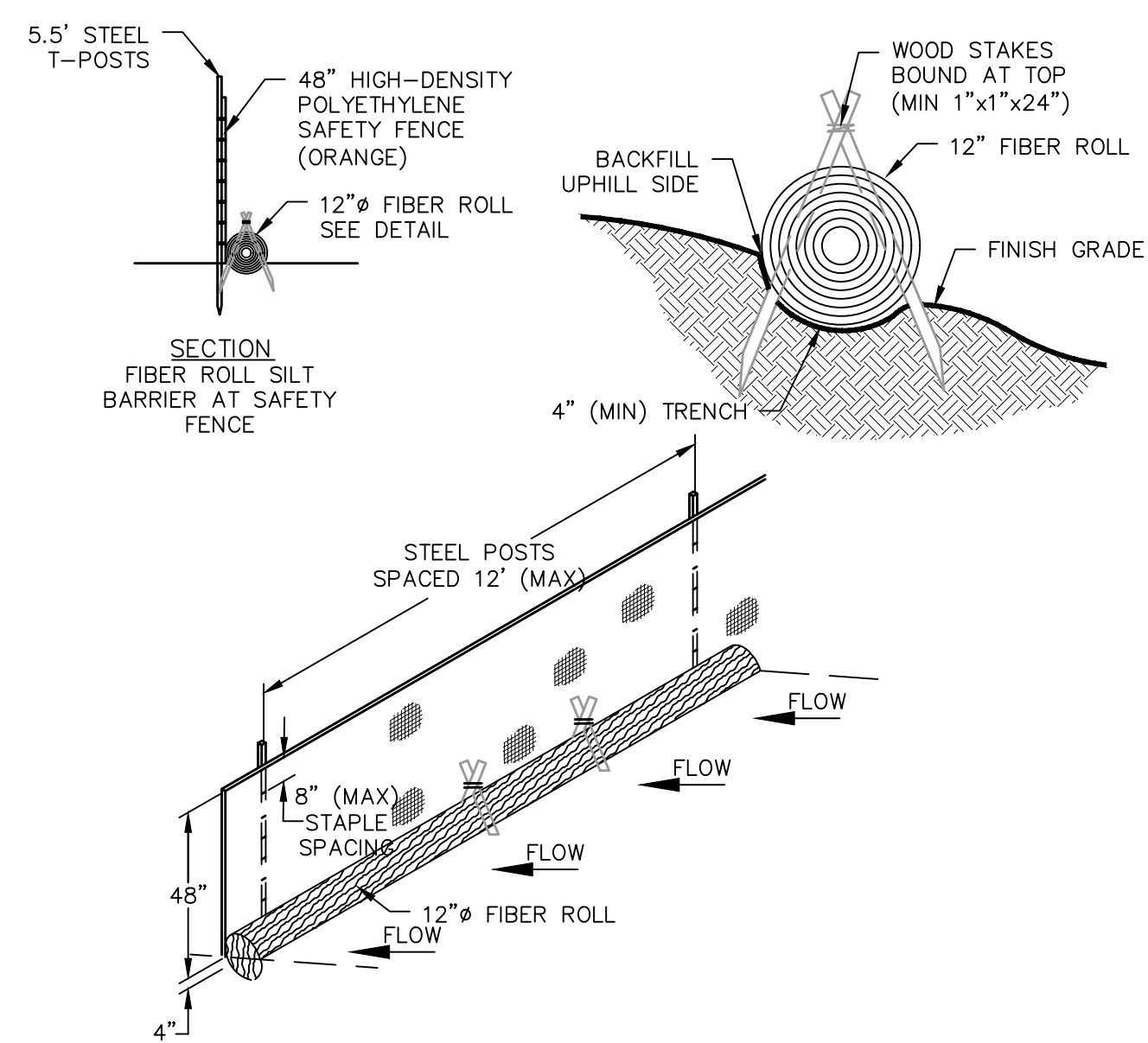
description

Cover Sheet

sheet

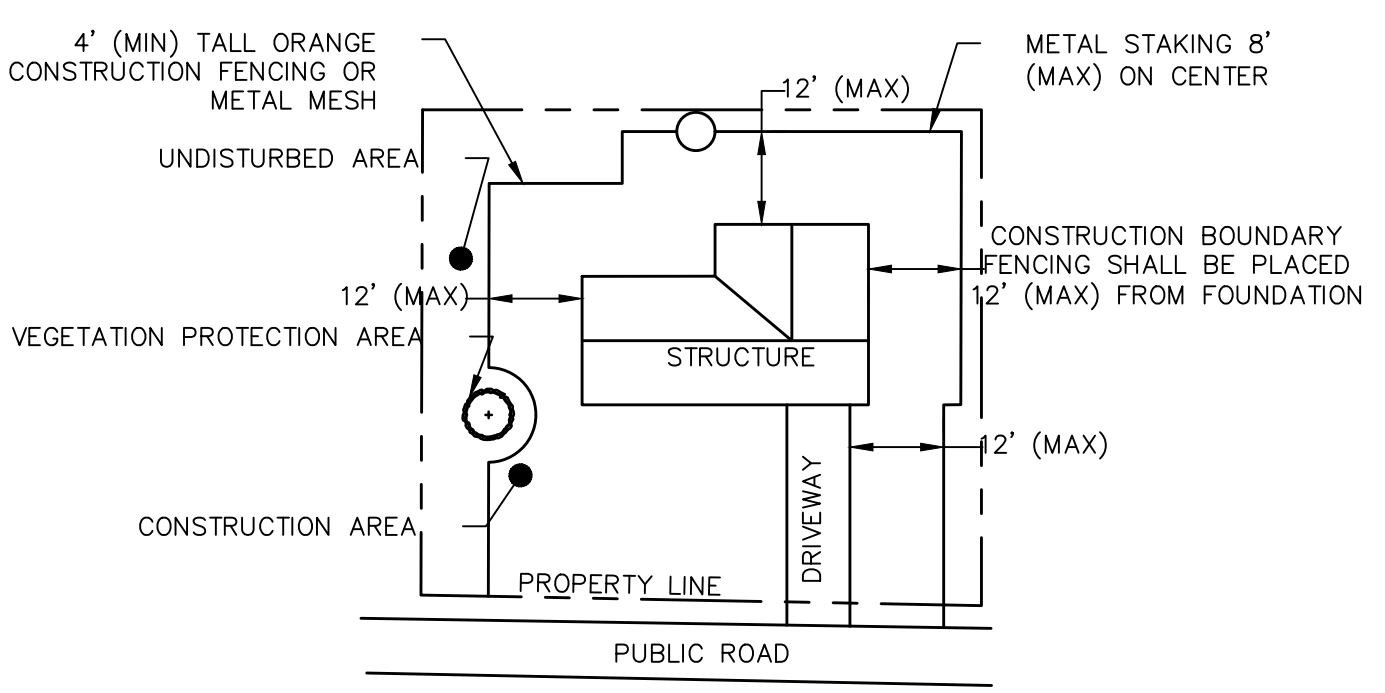
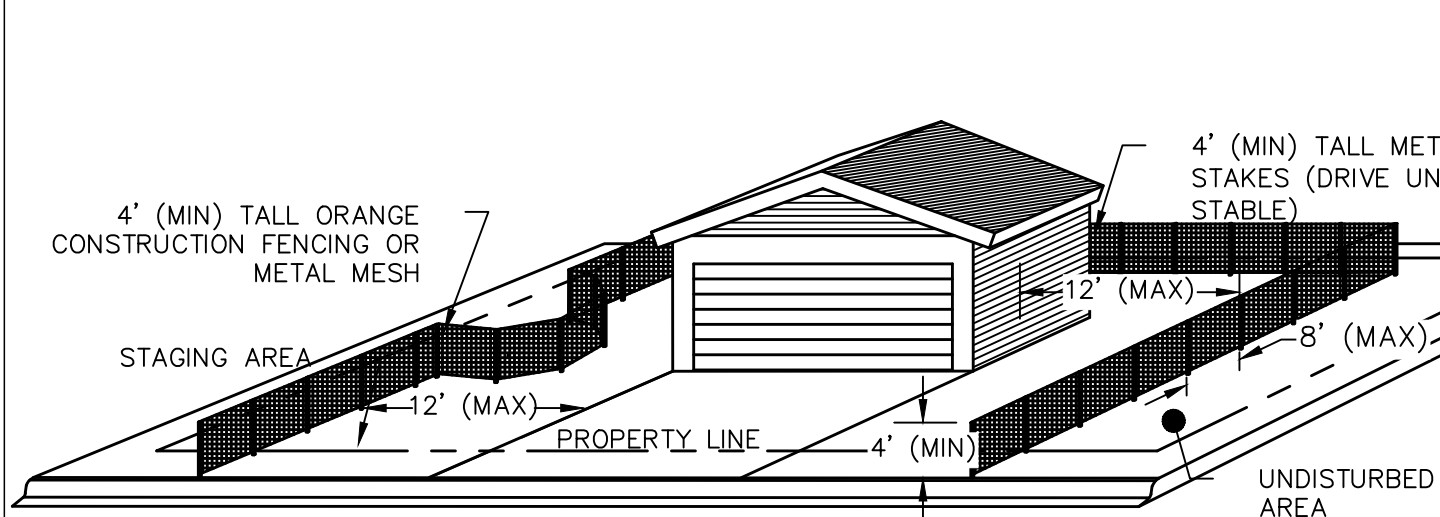
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C:\Users\sew\OneDrive\Documents\Drawings\2022\PROJECTS\2022\062\Figone Garage\DRAWINGS\3.0 PERMITS\2022\062\Figone BMP Plan 2023.05.17.dwg, 6/5/2023 10:17:35 AM, DWG To PDF.pc3



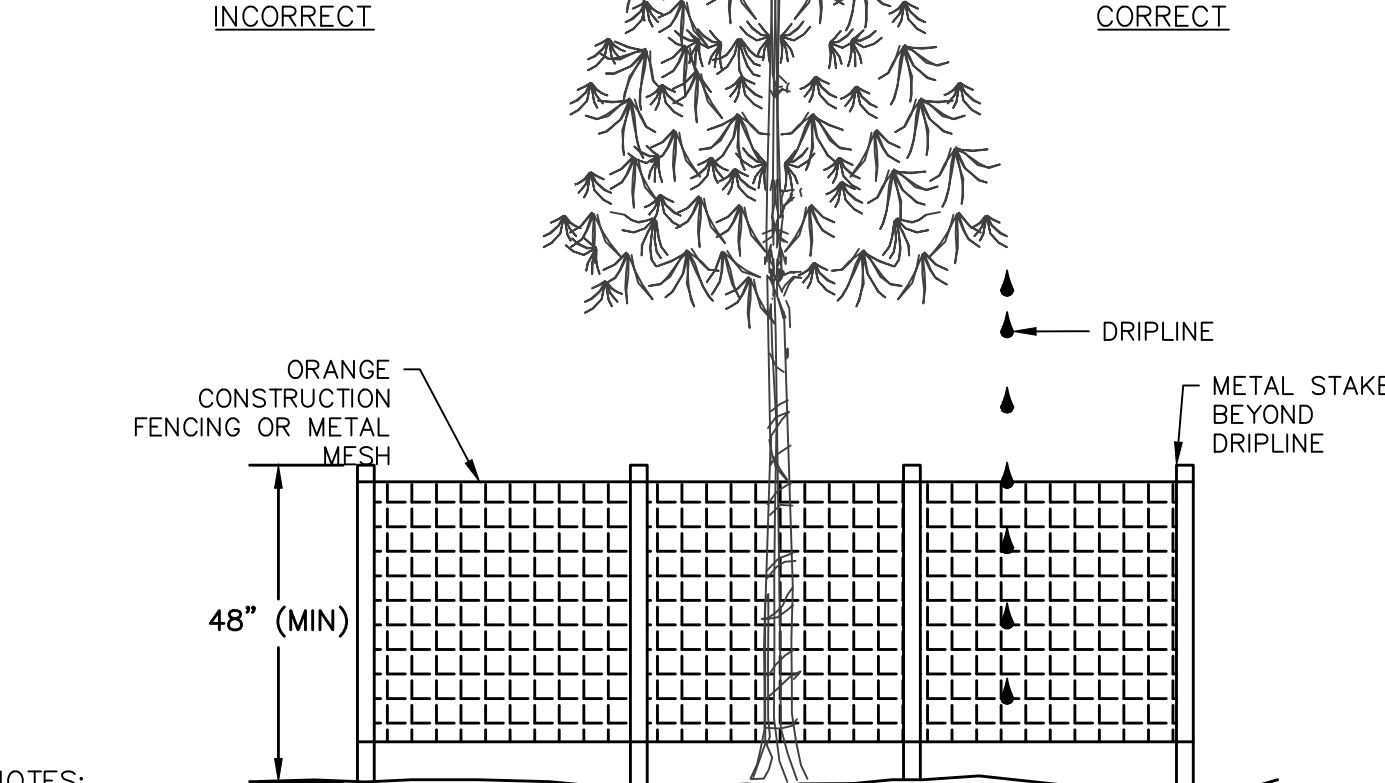
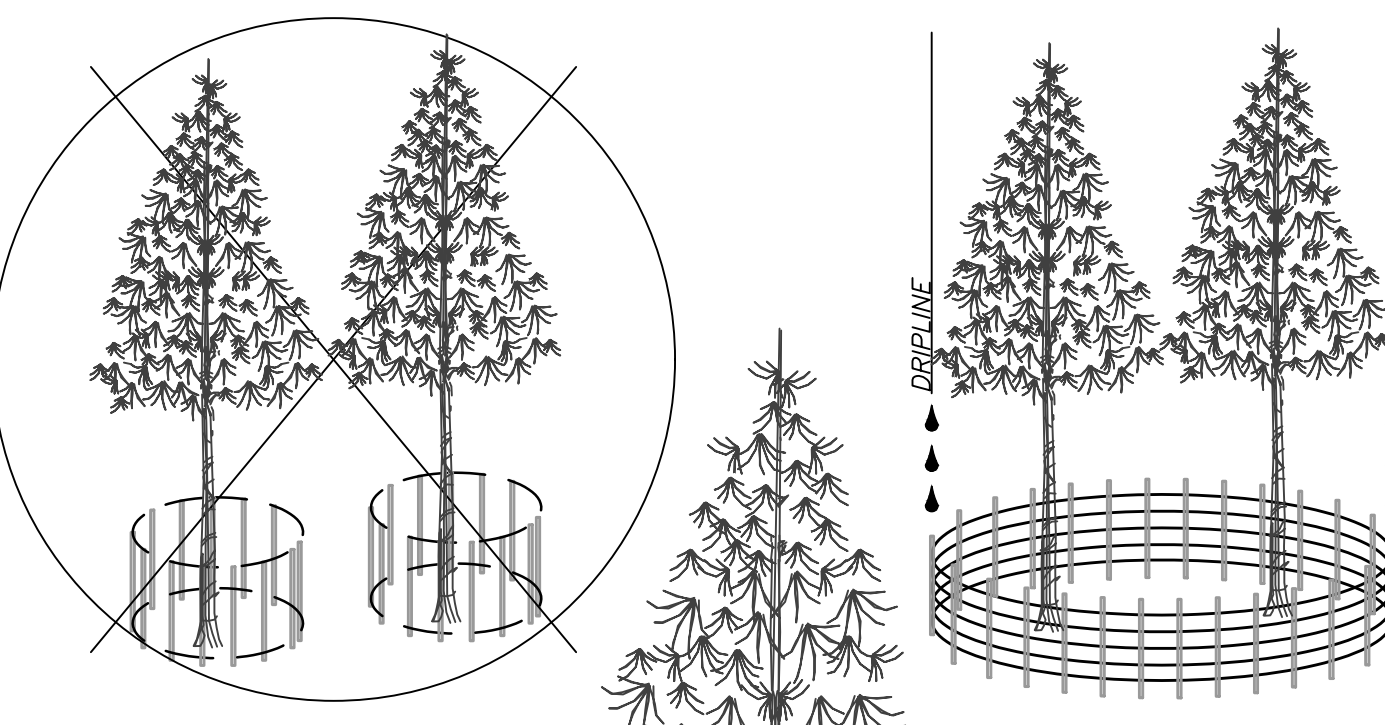
- NOTES:**
- FIBER ROLL SHALL NOT BE MADE FROM STRAW. FIBER ROLLS SHALL BE BOUND BY HIGH STRENGTH COIR NETTING, AND HAVE A MINIMUM WEIGHT OF 5 LBS PER LINEAL FOOT.
 - ORANGE SAFETY FENCE IS INTENDED TO PROTECT FIBER ROLLS FROM COMPRESSION BY VEHICLES, CONSTRUCTION EQUIPMENT, ETC. FENCES SHALL BE HIGH DENSITY POLYETHYLENE WITH A MESH OPENING OF APPROXIMATELY 1 INCH BY 4 INCHES AND A MINIMUM HEIGHT OF 4 FEET. SAFETY FENCE MAY BE OMITTED IN LOW TRAFFIC AREAS.
 - FIBER ROLL SILT BARRIER SHALL BE INSTALLED ALONG CONTOUR AND ON SLOPES 5H:1V OR FLATTER UNLESS OTHERWISE APPROVED BY TRPA.
 - THE INSTALLATION CONFIGURATION SHALL PREVENT RUNOFF FROM LEAVING THE SITE OR ENTERING A WATERCOURSE WITHOUT PASSING THROUGH A SILT BARRIER.
 - THE MAXIMUM LENGTH OF SLOPE DRAINING TO THE SILT BARRIER SHALL BE 100 FEET.
 - FIBER ROLL SHALL BE INSTALLED BY SHARPING A 4 INCH DEEP FURROW TO MATCH THE SHAPE OF THE LOG, SECURING IN FURROW WITH WOOD STAKES, AND TAMPING THE GROUND AROUND THE FIBER ROLL TO FILL VOIDS BETWEEN THE LOG AND THE GROUND.

FIBER ROLL SILT BARRIER TRPA BMP-517



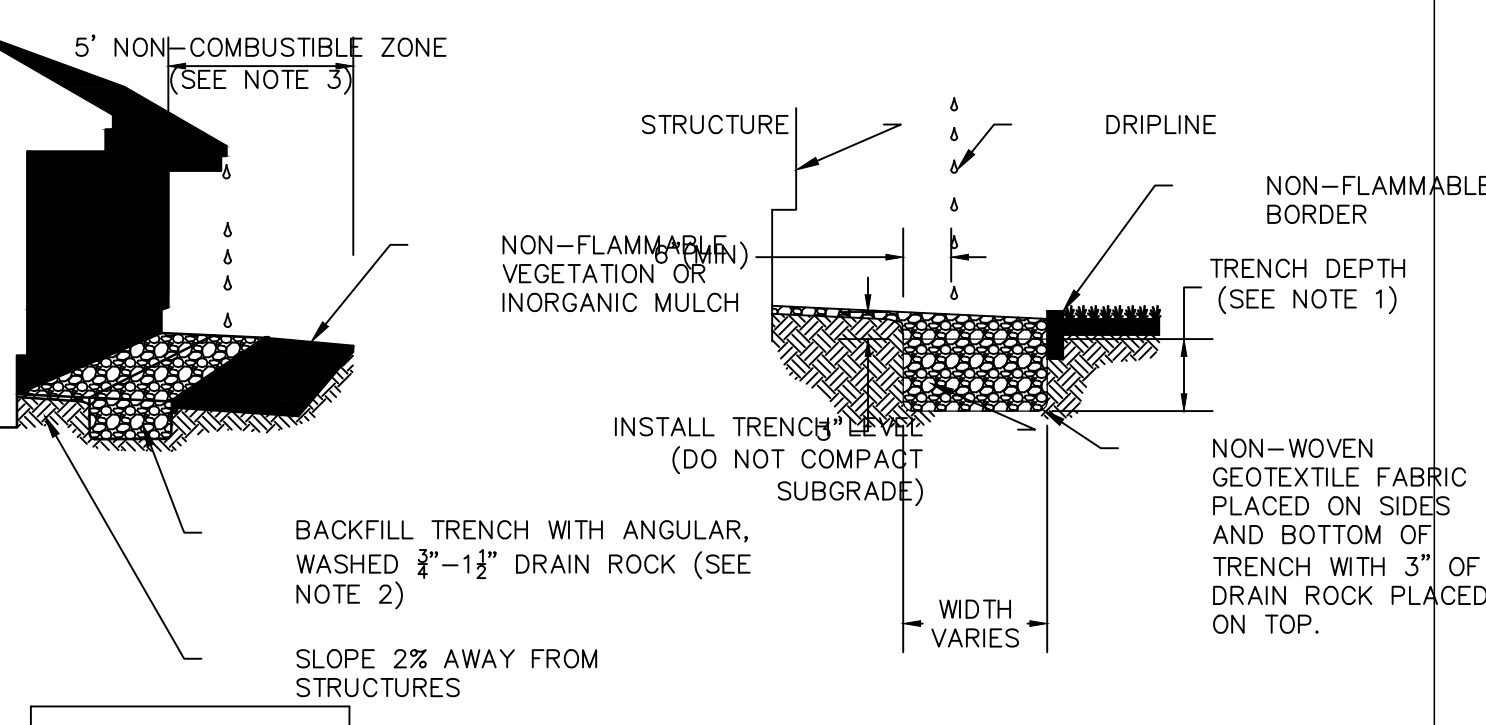
- NOTES:**
- METAL OR WIRE MESH FENCING MAY BE REQUIRED FOR SITES THAT CONSISTENTLY FAIL TO MAINTAIN PERMITTED FENCING REQUIREMENTS.
 - INSPECTIONS SHALL BE MADE DAILY AND DOWNED SECTIONS REPAIRED IMMEDIATELY.
 - ALL DISTURBED SOIL WITHIN THE CONSTRUCTION AREA MUST BE DE-COMPACTED AND RESTORED. PLANT WITH NATIVE AND/OR ADAPTED PLANTS POST-CONSTRUCTION.

TEMPORARY BOUNDARY CONSTRUCTION FENCING TRPA BMP-501

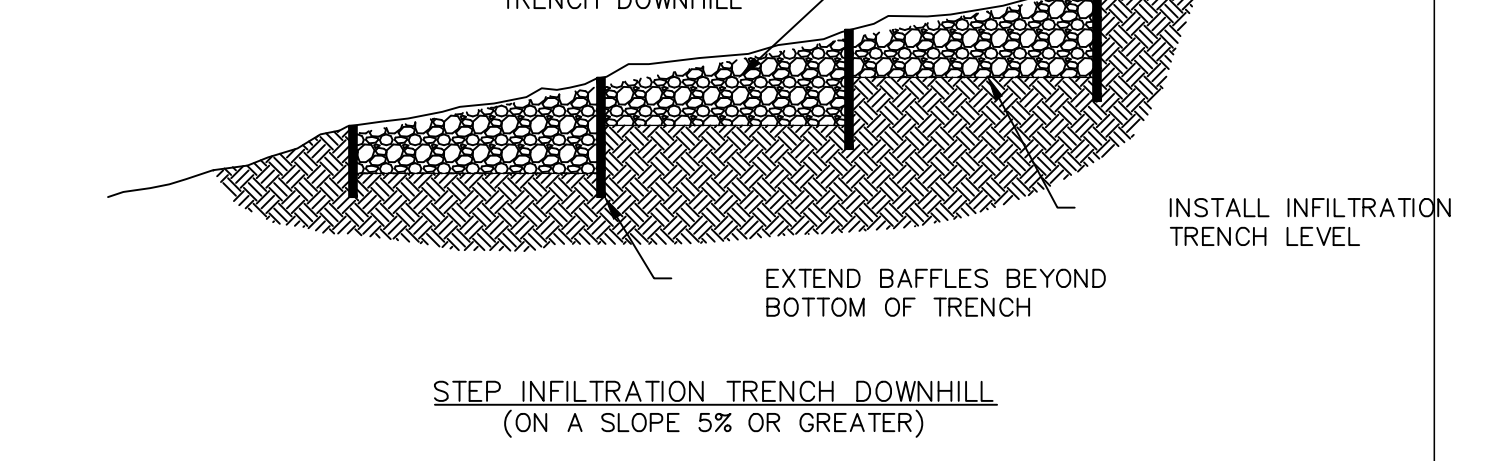


- NOTES:**
- DO NOT PERMIT PERSONNEL, CONSTRUCTION MATERIALS, OR EQUIPMENT, TEMPORARY OR OTHERWISE, WITHIN PROTECTIVE FENCING.
 - VEGETATION PROTECTION IS REQUIRED FOR ALL PROJECTS AS A CONDITION OF PROJECT APPROVAL.
 - METAL OR WIRE MESH FENCING MAY BE REQUIRED.
 - CALCULATE THE PROTECTIVE PERIMETER FOR SHIELDING LARGER SPECIMEN TREES MEASURING OVER 30" DBH AS FOLLOWS: COMPUTE THE PROTECTIVE RADIUS BY ADDING ONE FOOT, AS MEASURED OUT FROM THE TREE BOLE, FOR EVERY INCH IN DBH. (E.G. A TREE WITH A 30" DBH WOULD RECEIVE A 30' PROTECTIVE PERIMETER)

VEGETATION PROTECTION TRPA BMP-507

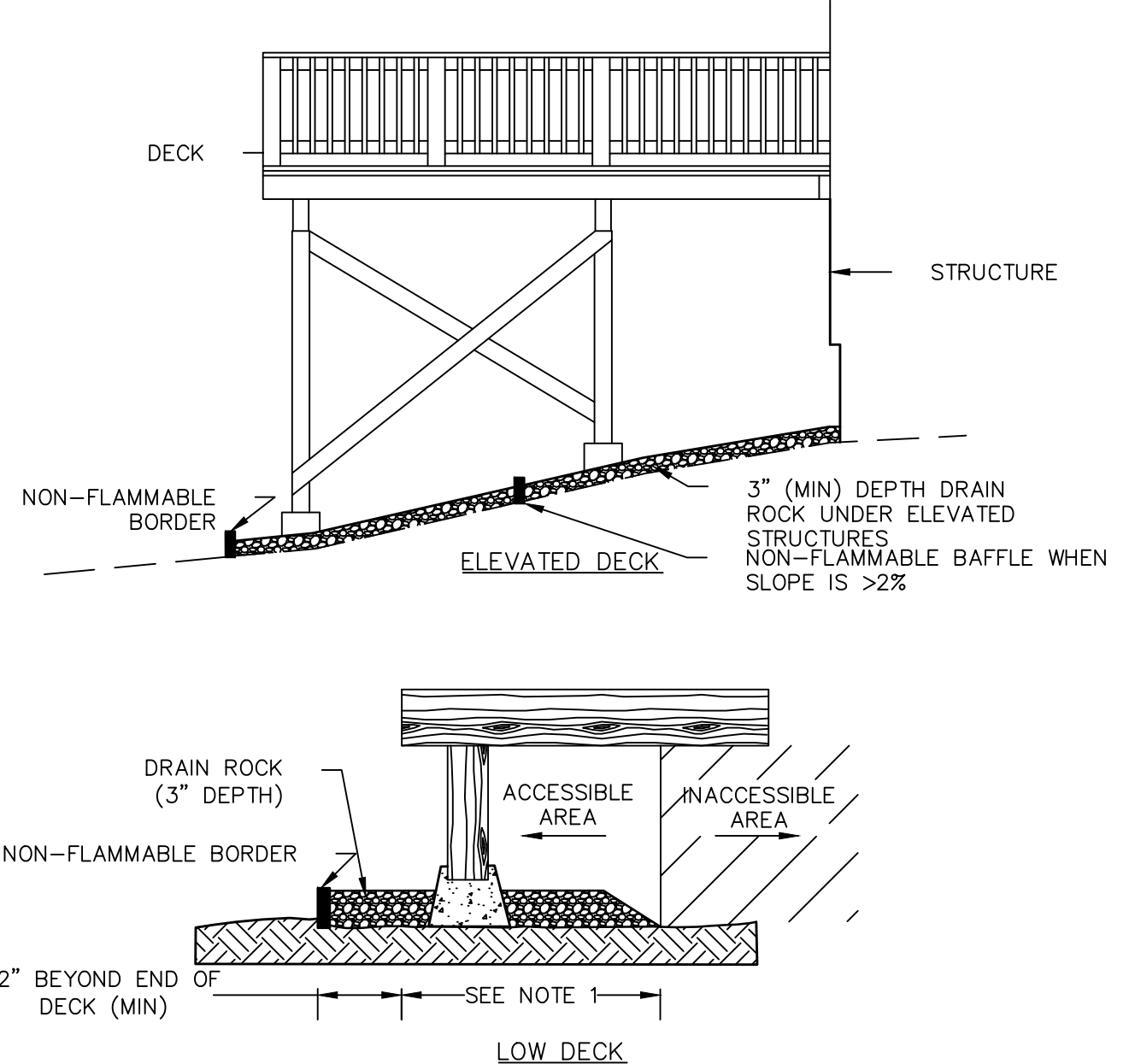


TRENCH WIDTHS	
1 STORY	18" MIN
2 STORY	24" MIN
3 STORY	30" MIN



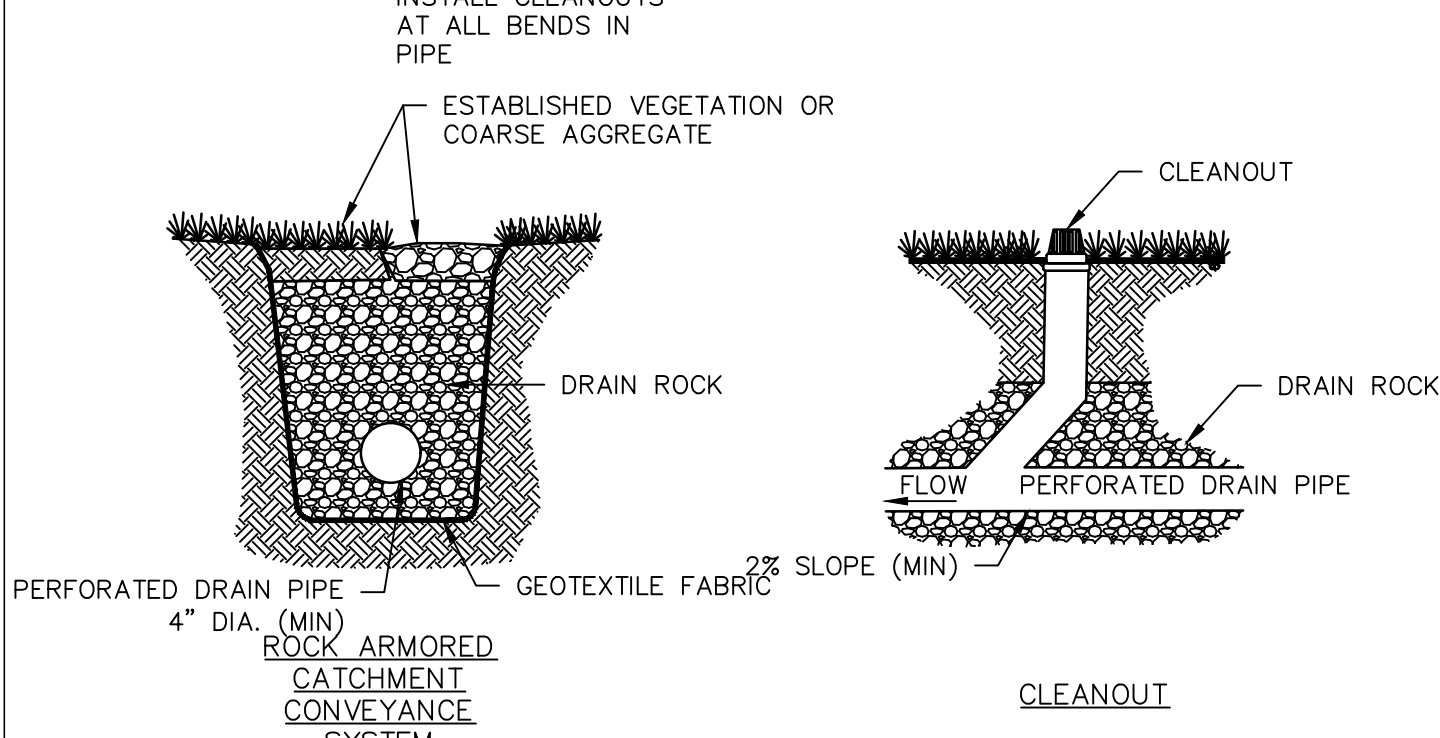
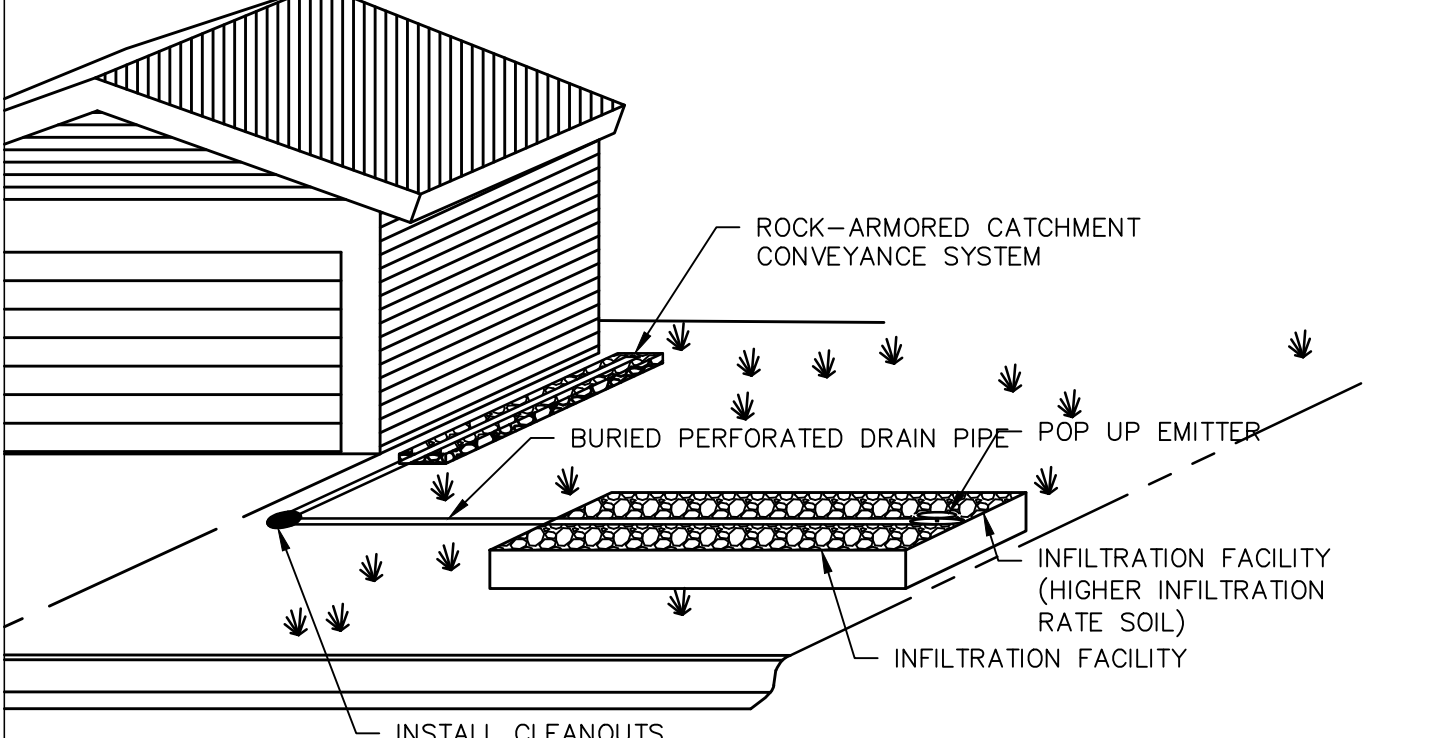
- NOTES:**
- LENGTH, WIDTH, AND DEPTH OF INFILTRATION TRENCHES SHALL BE DESIGNED TO STORE THE 20-YEAR 1-HOUR STORM EVENT. THE BMP CALCULATION SPREADSHEET AVAILABLE AT WWW.TAHOEBMP.ORG MAY BE USED TO SIZE INFILTRATION TRENCHES.
 - PROPRIETARY PRODUCTS MAY BE USED TO PROVIDE ADDITIONAL STORAGE CAPACITY RELATIVE TO DRAIN ROCK. INSTALL PER MANUFACTURER'S SPECIFICATIONS.
 - FIRE DEFENSIBLE SPACE GUIDELINES FOR LAKE TAHOE RECOMMEND A 5' NON-COMBUSTIBLE ZONE AROUND THE BUILDING PERIMETER. SEE "LIVING WITH FIRE" AT WWW.LIVINGWITHFIRE.INFO

INFILTRATION TRENCH TRPA BMP-103



- NOTES:**
- FOR THE RETROFIT OF EXISTING DECKS, DRAIN ROCK SHOULD BE INSTALLED AS FAR BACK UNDER THE LOW ELEVATED STRUCTURE AS POSSIBLE. DISTANCE DEPENDS ON ACCESSIBILITY UNDER THE STRUCTURE.
 - USE WASHED, CLEAN 3/4" TO 1-1/2" DRAIN ROCK. NATIVE ROCK MAY BE SUBSTITUTED IF AVAILABLE.
 - FOLLOW FIRE DEFENSIBLE SPACE GUIDELINES. SEE "LIVING WITH FIRE" AT WWW.LIVINGWITHFIRE.INFO

ROCK ARMOR ELEVATED STRUCTURE TRPA BMP-211



- NOTES:**
- THE TRENCH SHALL BE CONSTRUCTED ON A CONTINUOUS GRADE WITH NO REVERSE GRADES OR LOW SPOTS.
 - SOILS UNDER THE DRAIN SHALL BE STABILIZED WITH GRAVEL OR OTHER SUITABLE MATERIAL.
 - DRAIN ROCK SHALL BE PLACED AS SPECIFIED WITH AT LEAST 3 INCHES OF ROCK ON ALL SIDES OF THE PIPE.
 - BACKFILL MATERIAL SHALL BE PLACED IN THE TRENCH IN SUCH A MANNER THAT THE DRAIN PIPE IS NOT DISPLACED OR DAMAGED.

SUBSURFACE DRAIN TRPA BMP-307

stamp

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project number 2022.062
drawn by --- checked by ---

ISSUES & REVISIONS

no.	description	date
1	TRPA Submittal	2023.06.05
-	-	-

project location

New Garage & ADU for:
Vicki Figone
32 Moana Circle
Tahoma California
Placer County 098-191-018

description

BMP Details

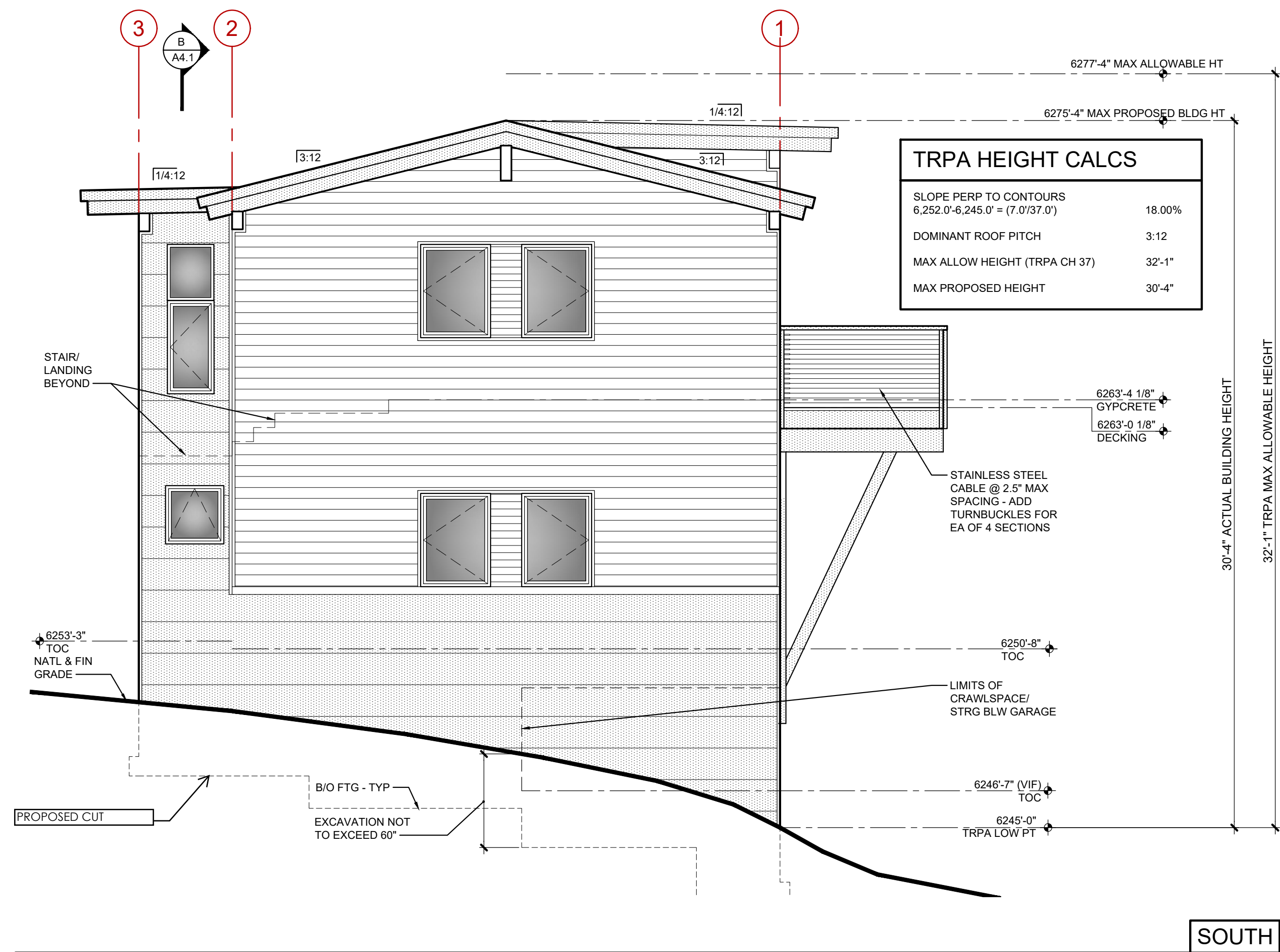
sheet

C1.2

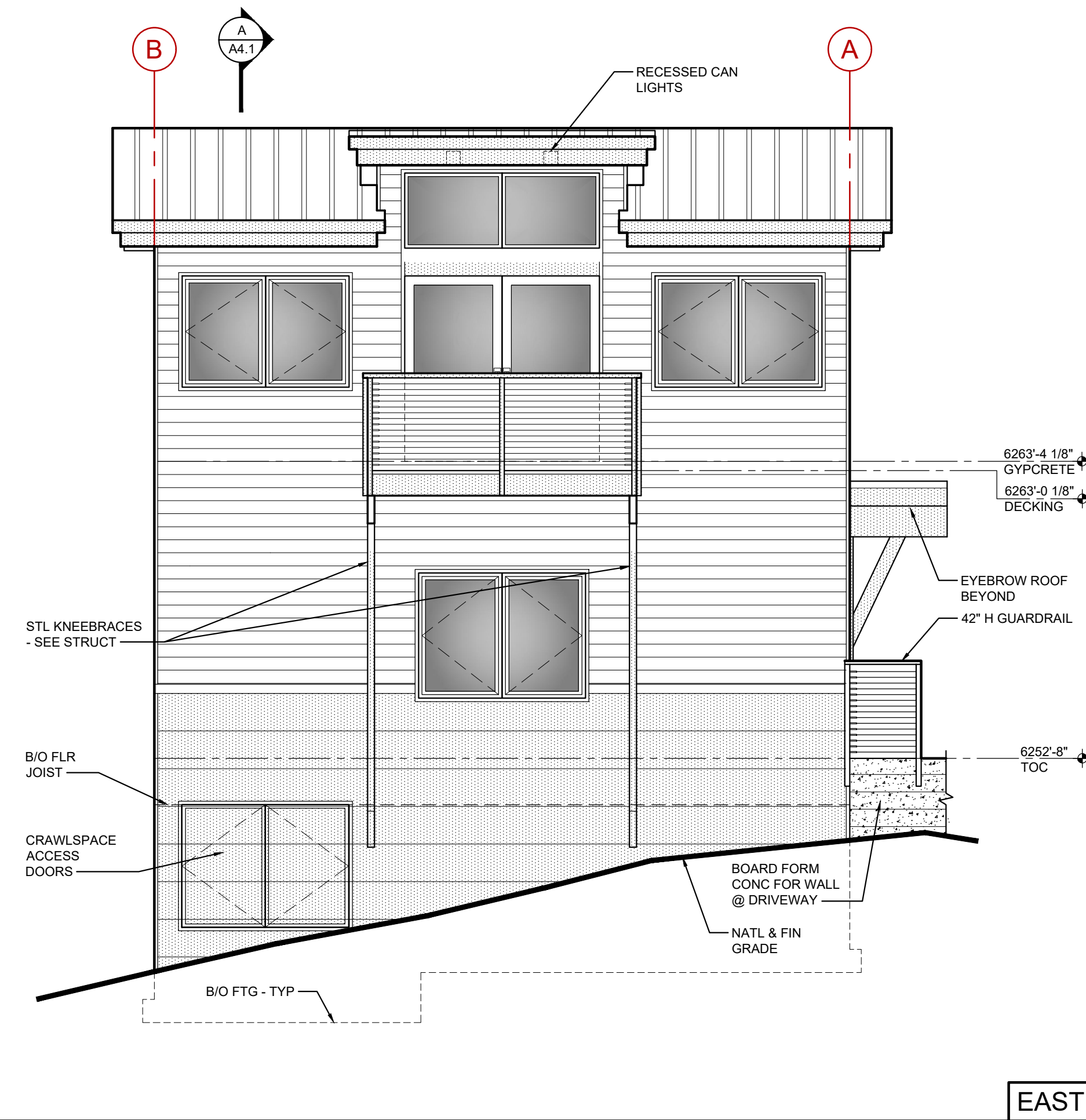
Figone ADU & Garage

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

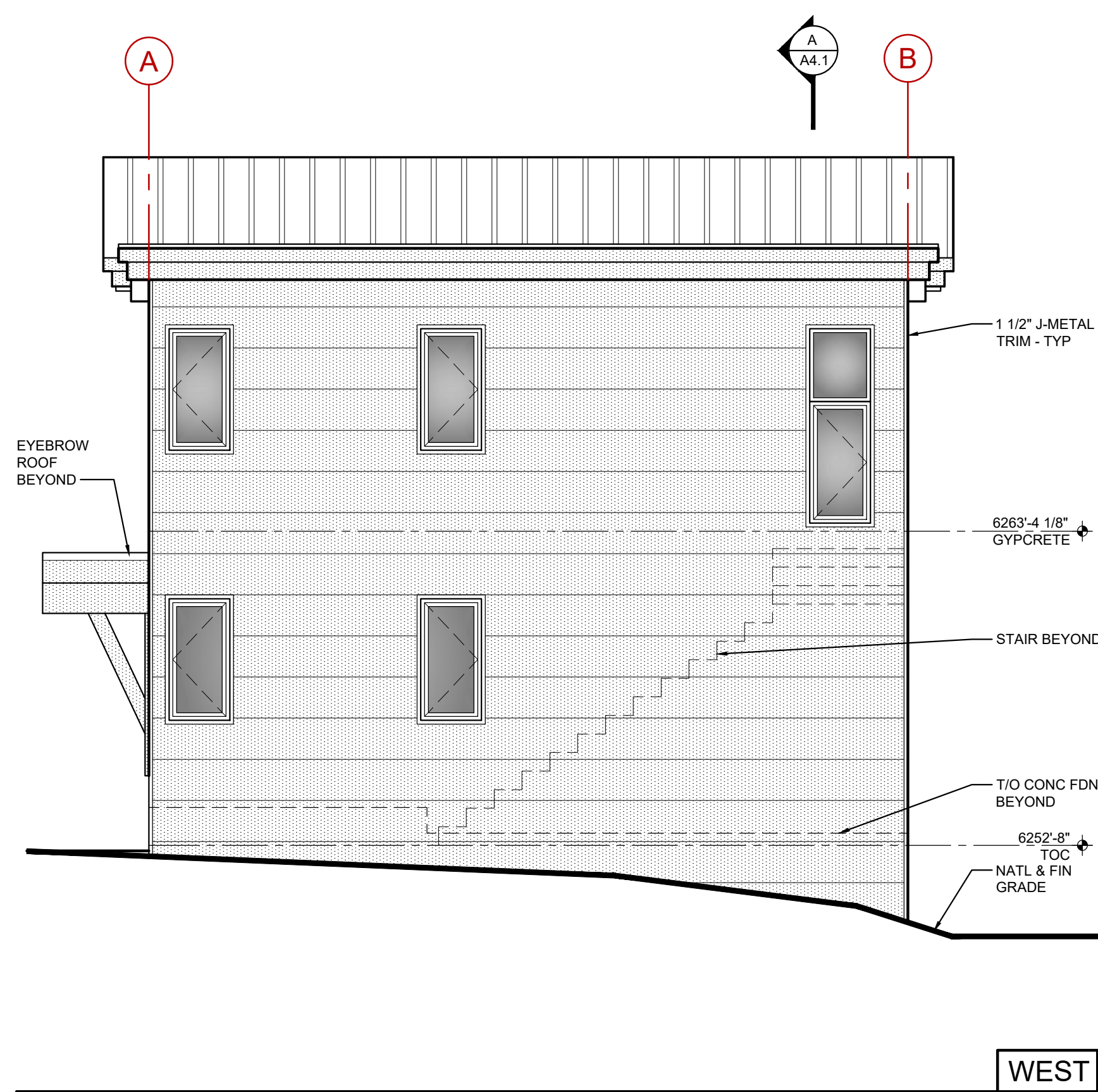
Vicki Figone
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415 377 8817
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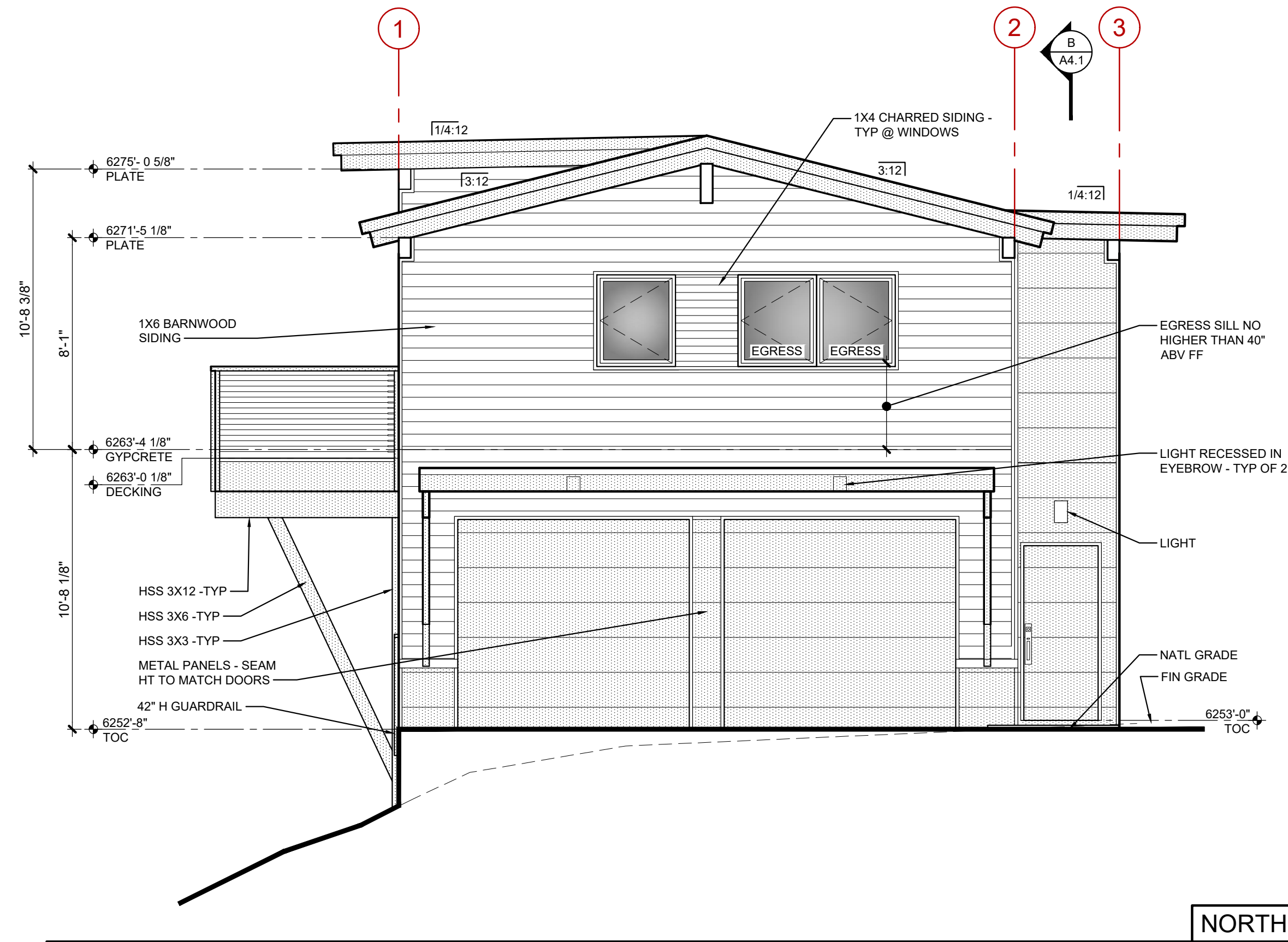
SOUTH



EAST



WEST



NORTH

REVISIONS

PERMIT NUMBER	
JOB NUMBER	1521.2
FILE NUMBER	1521.2_A3X
ISSUE DATE	21 January 2023
SUBJECT	HOA Review #3
SCALE	1/4" = 1'-0 UNO

TITLE

BUILDING ELEVATIONS

A3.1

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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 WALLS/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: 1X8 TRESTLEWOOD 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: BERRIDGE POWDERCOAT KYNAR 500 LOW GLOSS "AGED BRONZE"
- 3) LIGHTING FIXTURES/TRIMS: PAINTED TO MATCH METAL PANEL. SCONES: HINKLEY "KUBE" - SEE SPEC ON SHEET A3.2
- 4) WINDOWS: ANDERSEN "BLACK"
- 5) SOFFITS: 1X6 DOLLY VARDEN CLEAR VERT GRAIN CEDAR T&G - FINE LINE - NAT'L STAIN
- 6) WOOD SIDING: 1X4 CYPRESS T&G DELTA MILLWORKS, BURNED & BRUSHED - NAT'L FINISH - OFSM #8140-2041:001

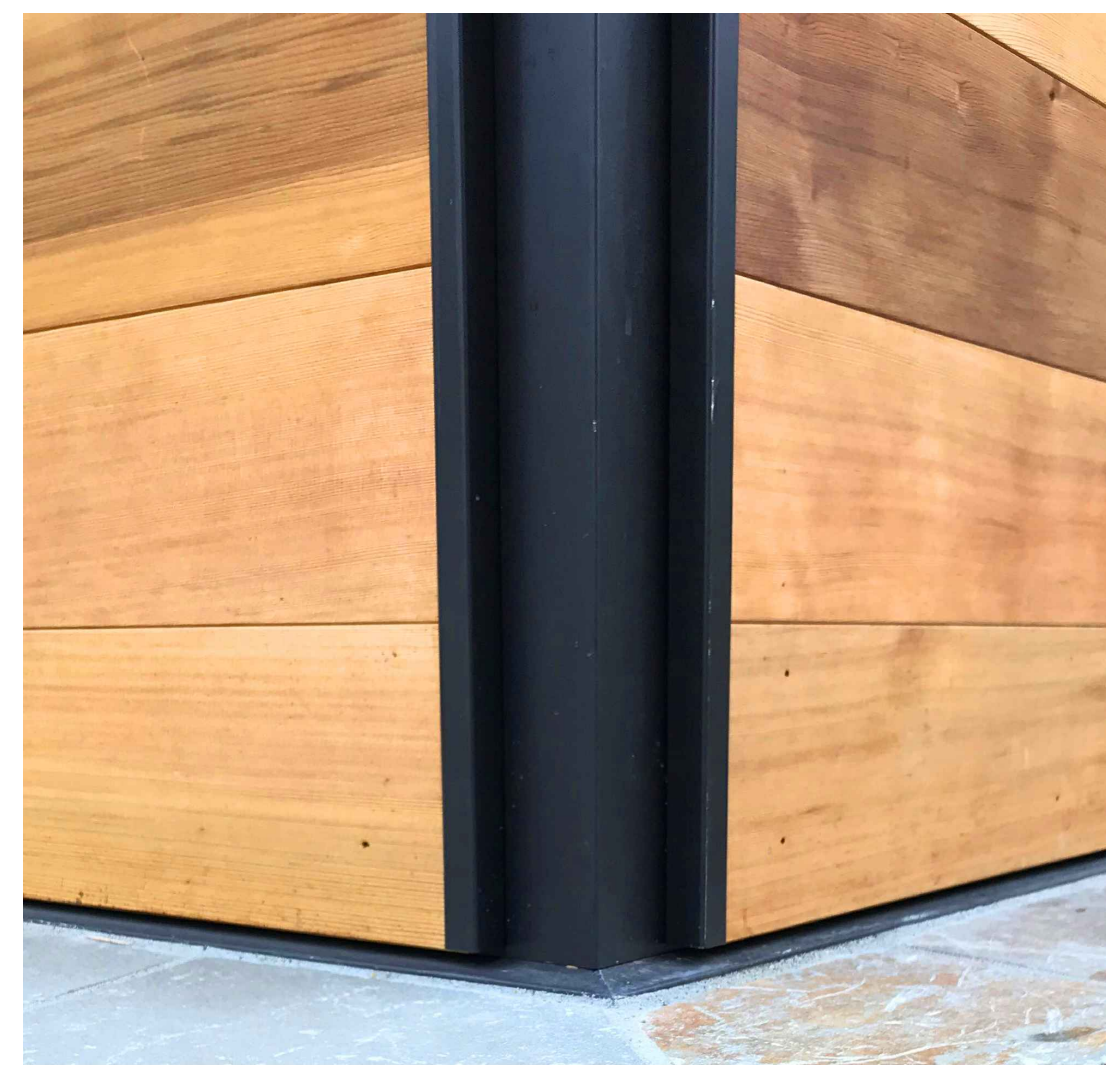
EXTERIOR FINISH LEGEND

TRPA DESIGN STANDARDS:

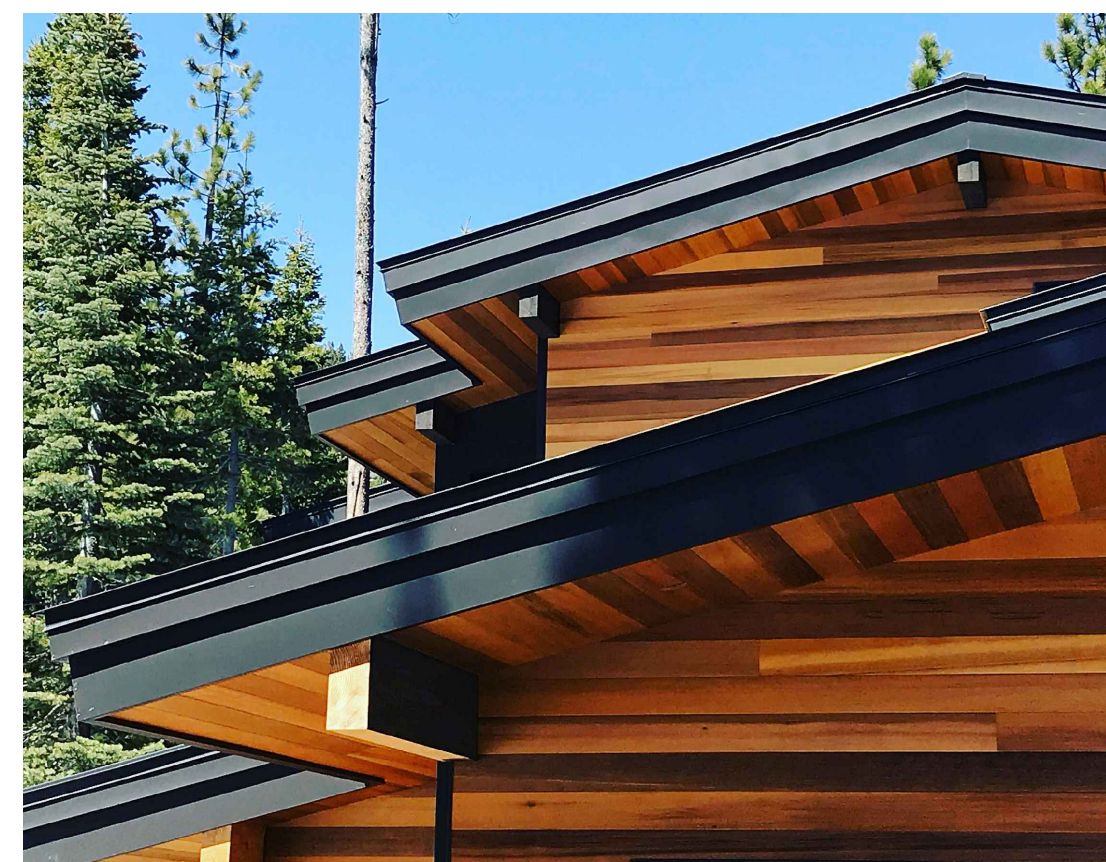
- 1) COLOR: THE COLOR OF THE STRUCTURE, INCLUDING ANY FENCES ON THE PROPERTY, SHALL BE COMPATIBLE WITH THE SURROUNDINGS. SUBDUED COLORS IN THE EARTH TONE AND WOOD TONE RANGES SHALL BE USED FOR THE PRIMARY COLOR OF THE STRUCTURE. HUES SHALL BE WITHIN THE RANGE OF NATURAL COLORS THAT BLEND, RATHER THAN 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

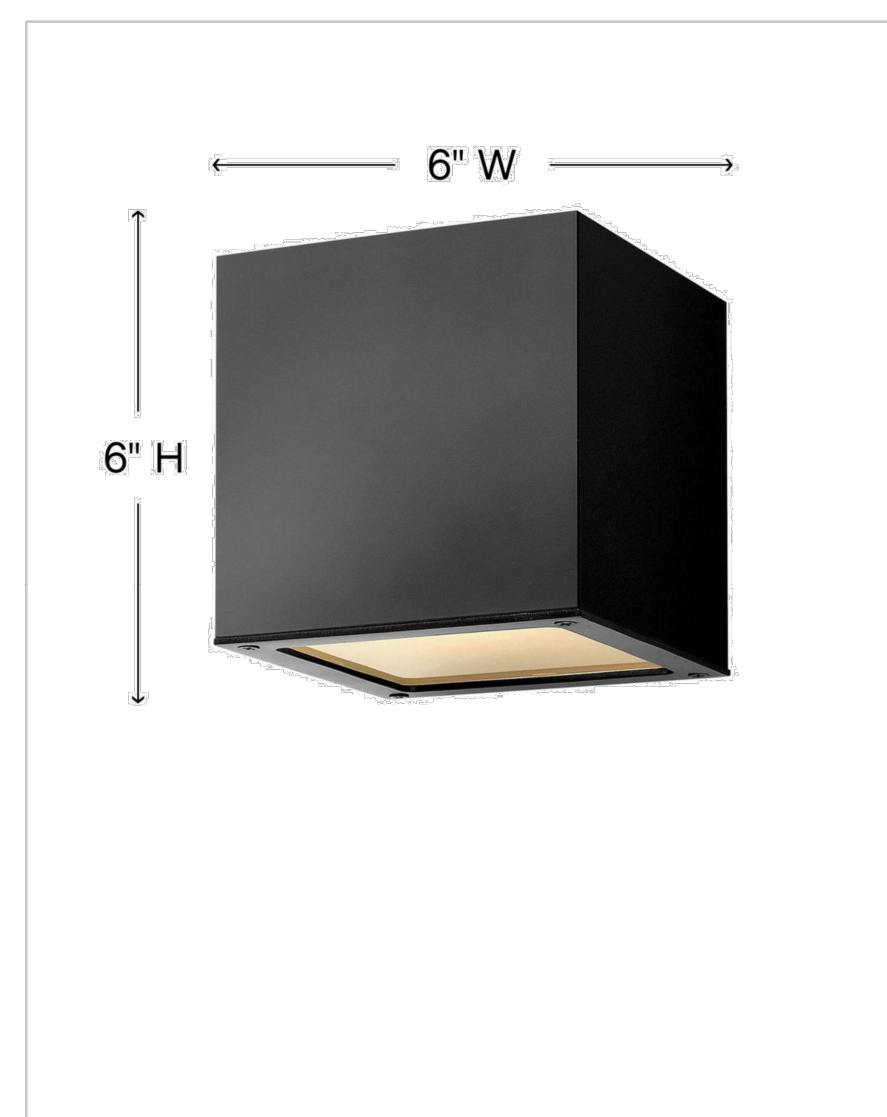
- 1) ROOFS SHALL COMPLY WITH THE REQUIREMENTS OF CRC SECTION R337 AND R902. ROOFS SHALL HAVE A ROOFING ASSEMBLY INSTALLED IN ACCORDANCE WITH ITS LISTING AND THE MANUFACTURER'S INSTALLATION INSTRUCTIONS. CRC SECTION R337.5.2.
- 2) ROOF COVERING MATERIAL SHALL BE METAL, NON-COMBUSTIBLE, OR SHALL BE LISTED 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 36-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 MORTED 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 SKIDING 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.



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 IUL 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

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 21 January 2023

SUBJECT HOA Review #3

SCALE 1/4" = 1'-0 UNO

TITLE

BUILDING MATERIALS & FINISHES

A3.2

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no.	description	date
A	INTFPD LAR	2023.03.23
1	TRPA Submittal	2023.06.05

FIGONE RESIDENCE - EXISTING HOUSE

	TRESTLE- WOOD 1x6 T&G SIDING	SAN SUGI BAN 1x4 T&G SIDING	METAL ROOF	FASCIA & TRIM	METAL PANELS	DECK & RAILING POSTS	(E) TOP RAIL	WINDOW FRAMES	WINDOW GLAZING	Lakefront Façade
Area SF	102.0	111.0	376.0	84.0	282.0	97.5	7.0	49.0	293.0	1402
Percentage	7.3%	7.9%	26.8%	6.0%	20.1%	7.0%	0.5%	3.5%	20.9%	100%
Color and Reflectance Rating ¹	9	17	17	17	17	17	15	17	3	
Munsell Color for surface and Reflectance for glass	10YR - 5/2	10YR - 2/1	GLEY 1 2.5/1	GLEY 1 2.5/1	GLEY 1 2.5/1	GLEY 1 2.5/N	7.5YR - 4/6	GLEY 1 2.5/1	>11-13	
Percentage	0.7	1.3	4.6	1.0	3.4	1.2	0.1	0.6	0.6	13.5
Surface Plane/ Texture Score ²	8	8	6	6	6	6	6	6	5	
Texture:	heavy	heavy	minimal	minimal	minimal	minimal	minimal	minimal	no texture	
# of Planes: 6	0.6	0.6	1.6	0.4	1.2	0.4	0.0	0.2	1.0	6.0
Percent of Perimeter Visible:	45%									Perimeter Score ³
CONTRAST RATING										26

FIGONE RESIDENCE - PROPOSED GARAGE

	TRESTLE- WOOD 1x6 T&G SIDING	SAN SUGI BAN 1x4 T&G SIDING	METAL ROOF	FASCIA & TRIM	WINDOW GLAZING	DECK RAIL & STRUCTURE	Lakefront Façade
Area SF	450.0	5.0	48.0	80.0	88.0	35.0	706
Percentage	63.7%	0.7%	6.8%	11.3%	12.5%	5.0%	100%
Color and Reflectance Rating ¹	9	17	17	17	3	17	
Munsell Color for surface and Reflectance for glass	10YR - 5/2	10YR - 2/1	GLEY 1 2.5/1	GLEY 1 2.5/1	>11-13	GLEY 1 2.5/1	
Percentage	5.7	0.1	1.2	1.9	0.4	0.9	10.2
Surface Plane/ Texture Score ²	7	7	5	5	4	5	
Texture:	heavy	heavy	minimal	minimal	no texture	minimal	
# of Planes: 5	4.5	0.0	0.3	0.6	0.5	0.3	6.2
Percent of Perimeter Visible:	50%						Perimeter Score ³
CONTRAST RATING							22

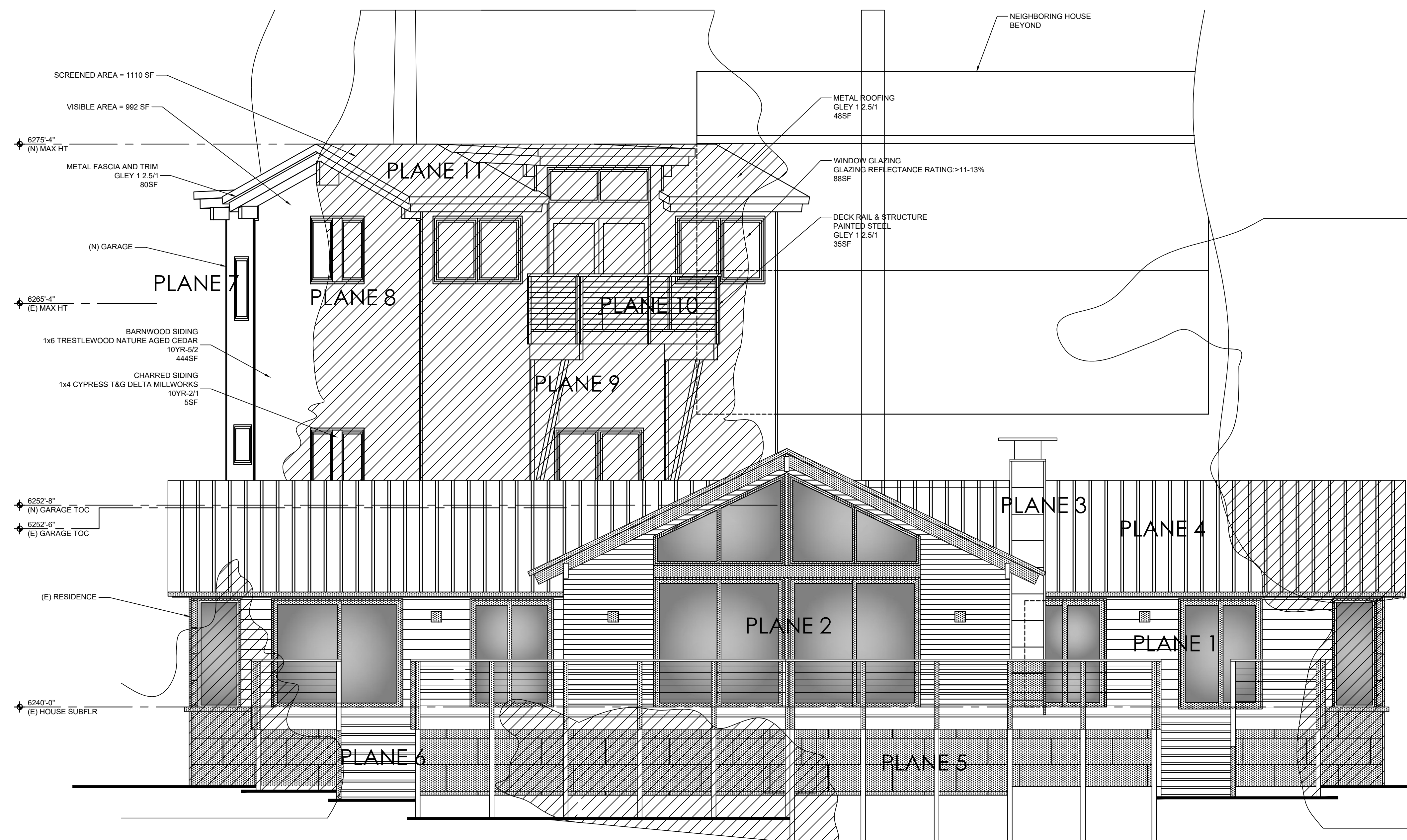
COMPOSITE SCORE

	Proposed Residence	Proposed Garage	Total Lakefront Façade
Area SF	1402	706	2108
Percentage	67%	33%	
CONTRAST RATING	26	22	24.7
	17.4	7.3	25

	Proposed house	Proposed Garage	TOTAL VISIBLE AREA
LAKEFRONT FAÇADE:	1402	706	
SCREENED AREA:	400	550	
VISIBLE AREA:	1002	156	1158 SF
VISIBLE S.F. ALLOWED	1190		
L.F. of Shoreline > 100'	0		
Possible Allowed Vis. S.F.	1190		

SCENIC GENERAL NOTES:

- THE VISUAL ASSESSMENT FOR THE PROPOSED PROJECT WAS EVALUATED AS A PROJECT AREA TO INCLUDE APN: 098-191-018
- THE PROJECT COMPLIES WITH LEVEL 4 OF THE VISUAL MAGNITUDE SYSTEM (SECTION 66.3.3) OF THE TRPA CODE OF ORDINANCES.
- THE TOTAL SQUARE FEET OF VISIBLE AREA ALLOWED FOR THIS PROJECT PER CODE IS 1,190SF. THE PROPOSED TOTAL VISIBLE AREA FOR THIS PROJECT IS 1,158SF.
- COLOR: THE COLOR OF THIS STRUCTURE, INCLUDING ANY FENCES ON THE PROPERTY, SHALL BE COMPATIBLE WITH THE SURROUNDINGS. SUBTLED 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. EARTH TONE COLORS ARE CONSIDERED TO BE SHADES OF REDDISH BROWN, BROWN, TAN, OCHRE, AND UMBER.
- ROOFS: ROOF SHALL BE COMPOSED OF NON-GLARE EARTH TONE OR WOOD TONE MATERIALS THAT MINIMIZE REFLECTIVITY.
- FENCES: WOODEN FENCES SHALL BE USED WHENEVER POSSIBLE. IF CYCLONE FENCE MUST BE USED, IT SHALL BE COATED WITH BROWN OR BLACK VINYL, INCLUDING FENCE POLES.



NORTH ELEVATION - LAKEFRONT FAÇADE

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

