



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending June 28, 2013

**ZONING ADMINISTRATOR ACTIONS
JUNE 27, 2013**

- Item 1: Uptown Newport Parcel Map No. NP2013-010 (PA2013-085)
4311 and 4321 Jamboree Road, N/S of Jamboree Road between Birch Street and MacArthur Boulevard
- Action: Approved by Resolution No. ZA2013-033 Council District 3
- Item 2: Hula Dog Minor Use Permit No. UP2013-008 (PA2013-107)
2233 W. Balboa Boulevard, Unit 109
- Action: Approved by Resolution No. ZA2013-034 Council District 1
- Item 3: Birch Street Off-Site Construction Yard - Limited Term Permit No. XP2013-004
(PA2013-111)
20372 -20412 Birch Street
- Action: This item was tabled. Council District 3

**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS**

- Item 4: Staff Approval No. SA2013-005 (PA2013-095)
211 Goldenrod Avenue
- Action: Approved Council District 6

APPEAL PERIOD: An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO. ZA2013-033

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2013-010 FOR A FOUR-LOT SUBDIVISION LOCATED AT 4311-4321 JAMBOREE ROAD (PA2013-085)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Uptown Newport LP, property owner, with respect to property located at 4311-4321 Jamboree Road, and legally described as Lots 1 and 2 of Tract No. 7953, in the City of Newport Beach, County of Orange, State of California, as shown on a map recorded in Book 310, Pages 7 to 11 inclusive of miscellaneous maps in the Office of the County Recorder of Orange County, State of California requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map application to create four legal parcels for conveyance purposes. No exceptions to Title 19 (Subdivision Code) development standards are proposed with this application. Tentative Tract Map No. 17438 was approved by the City Council on February 26, 2013, to accommodate the Uptown Newport mixed-use residential planned community of up to 1,244 residential units, 11,500 square feet of retail use, and two acres of public park space.
3. The property is currently improved with two existing industrial buildings, surface parking lots, driveways, and ancillary improvements. No development or improvements are proposed as part of this application.
4. The subject property is located within the Airport Business Area and has a General Plan designation of Mixed-Use District Horizontal-2 (MU-H2). The Uptown Newport Planned Community Development Plan (Uptown Newport PC) has been adopted to regulate development within the subject property.
5. The subject property is not located within the Coastal Zone.
6. Public hearings were held on June 13 and June 27, 2013, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. All significant environmental concerns for the proposed project have been addressed in the previously certified Environmental Impact Report No. ER2012-001 (SCH No. 2010051094), and the City of Newport Beach intends to use said document for the

above noted project. Furthermore, there are no additional reasonable alternative or mitigation measures that should be considered in conjunction with said project. Copies of the previously prepared environmental document are available for public review and inspection at the Planning Division or at the City of Newport Beach website at www.newportbeachca.gov/cegadocuments

SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the proposed parcel map is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19:

Finding:

- A. *That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

Facts in Support of Finding:

- A-1. The Property has a General Plan designation of Mixed-Use District Horizontal-2 (MU-H2), and the Property is located within the Airport Business Area. The Uptown Newport PC has been adopted to regulate development within the subject property.
- A-2. The proposed tentative parcel map will create four legal parcels: Parcels 1 and 3 will be conveyed to merchant builders for Phase 1 development and Parcels 2 and 4 will be conveyed to future builders for Phase 2 development.
- A-3. Section 19.04.035 "Development Across Property Lines" prohibits construction of a principal or accessory structure across a lot line. There is an existing condition where an overhead canopy along the corridor connecting the two existing buildings on the property crosses through the property line. This condition will continue to remain between Parcels 1 and 4. It should be noted, however, that this is an existing condition and that the existing property line, as currently mapped, has this same condition.
- A-4. No development or improvements are proposed with the proposed tentative parcel map. Any improvements will require future application submittals and approvals. Prior to development of the site pursuant to the Uptown Newport PC, subsequent final maps to implement the proposed parcels and improvements shown on Tentative Tract Map No. 17438 will be submitted to the City for review and approval.
- A-5. The Uptown Newport PC permits the existing industrial development as an allowed interim use until the existing TowerJazz lease expires, or until March 2027, whichever occurs first.

Finding:

B. That the site is physically suitable for the type and density of development.

Facts in Support of Finding:

B-1. No development or improvements are proposed with the proposed tentative parcel map. Any improvements will require future application submittals and approvals as required per the Uptown Newport PC.

Finding:

C. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Facts in Support of Finding:

C-1. This project has been reviewed and is deemed consistent with the previously certified Environmental Impact Report No. ER2012-001 (SCH No. 2010051094) for the Uptown Newport project.

Finding:

D. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Facts in Support of Finding:

D-1. No development or improvements are proposed with the proposed tentative parcel map. Any improvements will require future application submittals and approvals as required by the Uptown Newport PC. All future development or construction will require future applications and approvals and will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

E. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be

provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.

Facts in Support of Finding:

- E-1. The design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public easements located on the property.
- E-2. A Declaration of Easements is proposed to be recorded concurrent with the recordation of this tentative parcel map for ingress, egress, reciprocal parking and traffic circulation, and utilities. The Declaration of Easements provides for access, circulation, parking, and utility services to serve each of the four proposed parcels.

Finding:

- F. *That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

- F-1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.

Finding:

- G. *That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) There is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

- G-1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code because the proposed subdivision does not contain 50 or more parcels.
- G-2. The project is located within the Uptown Newport PC, which permits the existing industrial development as an allowed interim use until the existing TowerJazz lease

expires, or until March 2027, whichever occurs first. The project is consistent with the Uptown Newport PC.

Finding:

- H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.*

Facts in Support of Finding:

- H-1. The proposed parcel map and improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

- I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Facts in Support of Finding:

- I-1. The tentative parcel map proposes the subdivision of two lots into four lots. No development or improvements are proposed. Any improvements will require future application submittals and approvals. Therefore, the proposed tentative parcel map will not affect the City in meeting its regional housing need.

Finding:

- J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Facts in Support of Finding:

- J-1. No development or improvements are proposed. Existing wastewater discharge into the existing sewer system are designed to comply with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

- K. *For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Facts in Support of Finding:

- K-1. The project is not located within the Coastal Zone, and therefore, is not applicable in regards to conformance with the certified Local Coastal Program and public access and recreation policies of Chapter Three of the Coastal Act.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2013-010, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective ten days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 27th DAY OF JUNE, 2013.

By:



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. A parcel map shall be recorded. The map shall be prepared on the California coordinate system (NAD88). Prior to recordation of the map, the surveyor/engineer preparing the map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
2. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set on each lot corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
3. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Uptown Newport Parcel Map including, but not limited to, Tentative Parcel Map No. NP2013-010 (PA2013-085). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.
4. This parcel map shall expire if the map has not been recorded within 24 months of the date of approval, unless an extension is granted by the Director of Community Development in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.
5. All existing City easements along Jamboree Road shall remain.
6. The approval of Tentative Parcel Map No. NP2013-010 shall be for financing and conveyance purposes only. Development of each parcel shall be in accordance with

the requirements of the Conditions of Approval of Tentative Tract Map No. 17438 (NT2012-002) for Uptown Newport.

7. Any development of the numbered lots shown on this parcel map shall require further discretionary approvals, at which time conformance to the development standards and land use regulations established by the Uptown Newport Planned Community Development Plan.
8. Prior to development of the site pursuant to the Uptown Newport PC, Final Map(s) to implement the proposed parcels and improvements shown on Tentative Tract Map No. 17438 shall be submitted to the City for review and approval.
9. An access easement shall be provided for each parcel onto all other parcels.
10. A Declaration of Easements shall be reviewed and approved by the Public Works Department and recorded concurrent with the recordation of Tentative Parcel Map No. NP2013-010 for ingress, egress, reciprocal parking and traffic circulation, and utilities.
11. Prior to recordation of Tentative Parcel Map No. NP2013-010, the Master Site Development Plan required, pursuant to Condition No. 52 for Tentative Tract Map No. 17438, shall be approved by the Planning Commission.

RESOLUTION NO. ZA2013-034

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING USE PERMIT NO. UP2013-008 FOR A TAKE-OUT SERVICE, LIMITED EATING AND DRINKING ESTABLISHMENT USE (HULA DOG) LOCATED AT 2233 WEST BALBOA BOULEVARD, SUITE 109 (PA2013-107)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ken Kowalski on behalf of Lolo Ono, LLC dba Hula Dog, with respect to property located at 2233 West Balboa Boulevard, Suite 109, and legally described as Lot 9, 10, 11, 12, 13, 14 and 15, in Block 22 of Newport Beach, as shown on map recorded in Book 3, Page 26, Miscellaneous Maps, Records of Orange County requesting approval of a Minor Use Permit.
2. The applicant proposes to convert a 930-square-foot, currently vacant retail tenant space to a take-out service, limited eating and drinking establishment.
3. The subject property is located within the MU-W2 (Mixed-Use Water Related) Zoning District and the General Plan Land Use Element category is MU-W2 (Mixed-Use Water Related).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is MU-W (Mixed-Use Water Related)
5. A public hearing was held on June 27, 2013, in the City Hall Council Chambers, 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The project has been reviewed, and it qualifies for a categorical exemption pursuant to Section 15301 under Class 1 (Existing Facilities) of the Implementing Guidelines of the California Environmental Quality Act.
2. The Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use. The proposed project involves interior alterations to improve an existing commercial space to an eating and drinking establishment.

SECTION 3. REQUIRED FINDINGS.

Minor Use Permit

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding

1. The General Plan land use designation for the site is MU-W2 (Mixed-Use Water-Related), which applies to properties on or near the waterfront in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors.
2. The proposed eating and drinking establishment – take-out service, limited use is consistent with the General Plan Mixed-Use Water Related (MU-W2) land use designation as it is intended to provide a service not only to visitors, but also to residents within the immediate area.
3. The subject property is not part of a specific plan area.

Finding

B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding

1. The site is located within the Mixed-Use Water Related (MU-W2) Zoning District of the Newport Beach Zoning Code. The intent of this district is to provide for areas appropriate for a limited range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area. The proposed eating and drinking establishment – take-out service, limited use is consistent with the land uses permitted within this zoning district and the conditions of approval will ensure that the use is compatible with the adjacent residential areas.
2. Pursuant to Section 20.22.020 (Table 2-9 Allowed Uses and Permit Requirements), the proposed project requires approval of a minor use permit.
3. Pursuant to Section 20.38.060 (Nonconforming Parking), a nonconforming use in a nonresidential zoning district may be changed to a new use allowed in that zoning district without providing additional parking, provided no intensification or

enlargement (e.g., increase in floor area, or lot area) occurs, and the new use requires a parking rate of no more than one space per 250 square feet of gross building area. Eating and drinking establishment – take-out service, limited uses have a required parking ratio of one space per 250 square feet of gross floor area.

4. The proposed project complies with the requirements of Section 20.38.060 (Nonconforming Parking) because the square footage of the existing suite will not be increased; the eating and drinking establishment – take-out service, limited use requires the same number of parking spaces required for the currently vacant retail space ($890/250 = 4$ spaces).

Finding

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding

1. The proposed project involves improvements to an existing vacant retail space to construct kitchen facilities for the new establishment. The six existing parking spaces on site will be maintained.
2. The proposed operation will consist of a kitchen, storage area, customer waiting area, and a restroom. A maximum of three employees will be present at any one time. The proposed hours of operation will be 8:00 a.m. to 11:00 p.m., 7 days per week.
3. The proposed eating and drinking establishment – take-out service, limited use will be complementary to the other uses in the commercial building, which include retail stores and an eating and drinking establishment (Tutti Frutti Frozen Yogurt).
4. The proposed eating and drinking establishment will provide a convenience for residents of the neighborhood and visitors to the area and will not require the provision of additional parking spaces on the site.
5. The proposed eating and drinking establishment – take-out service, limited use will be located within an existing commercial floor of a mixed-use building on a site located at the corner of West Balboa Boulevard and 23rd Street on the Balboa Peninsula. Due to its corner location, opportunities for on-street parking will be available along West Balboa Boulevard and 23rd Street in addition to the parking spaces provided on the site. Furthermore, its close proximity to the boardwalk is anticipated to yield walking and biking customers.

Finding

- D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding

1. The proposed project will be located in a tenant space within an existing commercial floor of a mixed-use building and will involve improvements of the space to construct kitchen facilities. There are no proposed changes to the site or the exterior of the building.
2. Adequate public and emergency vehicle access, public services, and utilities are provided on-site and are accessed from 23rd Street, West Ocean Front Alley, or the alley at the rear of the site.
3. The tenant improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

1. The project has been reviewed and this approval includes conditions to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The restrictions on seating and net public area prevent adverse traffic impacts for the surrounding residential and commercial uses.
3. The proposed food service, eating and drinking establishment will help revitalize the project site and provide an economic opportunity for the property owner to update the tenant space, and provide additional services to the residents and visitors alike.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2013-008 subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 27TH DAY OF JUNE, 2013.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****Planning Division Conditions**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Use Permit No. UP2013-008 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
5. This minor use permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
6. The hours of operation for the establishment shall be limited to 8:00 a.m. through 11:00 p.m., daily.
7. The sale of alcohol shall not be permitted.
8. The maximum number of seats allowed within the eating and drinking establishment shall be six (6). No outdoor seating is permitted unless an amendment to this use permit is acquired.
9. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require subsequent review and may require an amendment to this use permit or the processing of a new use permit.
10. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
11. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the

current business owner, property owner or the leasing agent.

12. No outside paging system shall be utilized in conjunction with this establishment.
13. All trash shall be stored within the building or within the existing dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
14. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
15. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
16. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
17. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
18. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
19. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Hula Dog MUP including, but not limited to, the Minor Use Permit No. UP2013-008 (PA2013-107). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Fire Department Conditions

20. A 2A 10BC fire extinguisher shall be placed in a conspicuous location.
21. Commercial cooking equipment that produces grease laden vapors shall be provided with a Type I Hood, and an automatic fire extinguishing system consisting of a wet chemical extinguishing system complying with UL 300.

Building Division Conditions

22. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915

(949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

COMMUNITY DEVELOPMENT DIRECTOR **ACTION LETTER**

Application No.	Staff Approval No. SA2013-005 (PA2013-095)
Applicant	Wiley Architects
Site Address	211 Goldenrod Avenue
Legal Description	Southeasterly ½ of Lot 1, Block 133, Resubdivision of Corona del Mar

On **June 25, 2013**, the Community Development Director approved Staff Approval No. SA2013-005. This approval is based on the information and findings below.

I. PROJECT DESCRIPTION

A Staff Approval application for changes to the floor plans approved under Variance No. VA2012-006 (PA2012-126) by the Planning Commission on December 6, 2012. The changes include removing floor area from the first floor and adding floor area to the third floor, with a net decrease of 1-square-foot in floor area and minor changes to the exterior of the building.

- **Zoning District:** R-1 (Single-Unit Residential)
- **General Plan:** RS-D (Single-Unit Residential)

II. PROPOSED CHANGES

The applicant proposes minor changes to the first and third floor plans, which will result in minor changes to the exterior windows, walls, and doors. The approved first floor plan included two bedrooms and two bathrooms. The applicant proposes to have one bedroom and one bathroom on the first floor and to convert the remaining first floor area to a storage area that would be less than 6 feet in height and would not count towards the floor area of the structure.

The approved third floor plan was designed as an entertainment room loft and restroom, with a deck that faces Goldenrod Avenue and a deck towards the southwest of the property with stair access to the roof deck. The proposed third floor would be a master bedroom loft, walk in closet, and bathroom. No changes are proposed to the decks. Table 1 below compares the previously approved floor area of each floor to the proposed floor area.

Table 1 - Floor Area Changes

	Approved	Proposed	Difference
First Floor	1,056 sf	830 sf	-226 sf
Second Floor	572 sf	572 sf	0 sf
Third Floor	220 sf	445 sf	+225 sf
Total	1,848 sf	1,847 sf	-1 sf

III. **BACKGROUND**

On December 6, 2012, the Planning Commission adopted Resolution No. 1899 approving Variance No. VA2012-006 (PA2012-126). The proposed project was for the construction of a new single-unit dwelling with a two-car garage on a sub-standard size lot. The applicant requested a variance to encroach 5 feet into the required 10-foot rear setback, to exceed the maximum allowed floor area limit for the property (1,404 square feet) by 444 square feet, and to deviate from the third floor size and location limitations. The third floor would exceed the maximum floor area of 187 square feet by 33 square feet. The third floor would be located 6 feet 4 inches from the front setback line, where 15 feet is required, for a total of 16 feet 4 inches from the front property line. Construction has not yet begun on the project.

At the public hearing, the Planning Commission addressed the challenges faced with the size of the lot as a half lot. The focus of the discussion was on providing equity with similar properties in the vicinity for the maximum square footage and setback requirements by comparing the floor area ratio and the front and rear setbacks as a percentage of the depth of the lot. The Planning Commission approved the project unanimously.

The proposed changes would allow a 445-square-foot third floor, 225 square feet more than what was previously approved and 258 square feet over the 20 percent limitation. The third floor would maintain the same front setback as previously approved (16 feet 4 inches). The proposed changes are consistent with the previous approval as the third floor of the proposed project is not a typical third floor. The first floor is partially subterranean and the entire structure is designed with a flat roof under the 24-foot height limit. The facts and findings from the previous approval remain applicable and valid. Furthermore, the exterior of the structure will have minimal changes and the massing and bulk of the building will remain unchanged.

IV. **FINDINGS**

Finding:

- A. *This project has been determined to be categorically exempt under Section 15303, of the California Environmental Quality Act ("CEQA") Guidelines - Class 3 (New Construction or Conversion of Small Structures).*

Facts in Support of Finding:

1. Class 3 allows for the construction of new, small structures, including one single-unit residence in a residential zone. In this case, an existing single-unit dwelling would be demolished and a new single-unit dwelling would be constructed on the lot located within the Single-Unit Residential Zoning District.

In accordance with Zoning Code Section 20.54.070 (Changes to an Approved Project), the following findings for approval and facts in support of such findings are set forth:

Finding:

- B. The proposed changes are consistent with all applicable provisions of this Zoning Code.*

Facts in Support of Finding:

1. The Zoning Code designates the site as Single-Unit Residential (R-1), which is intended to provide for detached single-unit residential dwellings on a single legal lot. The proposed development is consistent with this designation and will not change the use of the property.
2. Deviations in setback, floor area, and third floor area and location requirements were approved by the Planning Commission under Variance No. VA2012-006, consistent with the requirements of Title 20 (Zoning Code). The proposed changes are in substantial conformance with the previously approved plans.
3. The third floor is not a typical third floor because the first floor is partially subterranean and the structure is designed with a flat roof under the 24-foot height limit.

Finding:

- C. The proposed changes do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.*

Facts in Support of Finding:

1. In approving Variance No. VA2012-006 (PA2012-126), the Planning Commission determined that the project was categorically exempt under Section 15303, of the CEQA Guidelines - Class 3 (New Construction or Conversion of Small Structures. Class 3 allows for the construction of new, small structures, including one single-unit residence in a residential zone. In this case, an existing single-unit dwelling would be demolished and a new single-unit dwelling would be constructed on the lot located within the Single-Unit Residential Zoning District.

2. The single-unit dwelling with the proposed changes qualifies for an exemption from environmental review pursuant to Section 15303, of the CEQA Guidelines (Class 3 - New Construction or Conversion of Small Structures).
3. The project plans and floor area previously approved were not a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report. The proposed changes do not affect the environmental review and were not a basis for exemption in a negative declaration or Environmental Impact Report.

Finding:

- D. The proposed changes do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.*

Facts in Support of Finding:

1. No changes are proposed to the setbacks or height of the proposed project, which were features specifically considered by the Planning Commission for the original approval. The floor area is proposed to be decreased by 1-square-foot from what was previously approved.
2. The third floor area and location changes were not a condition of approval for the originally approved project. The proposed changes are in substantial conformance with the previously approved plans, and the facts and findings remain applicable and valid. Although the square footage of the third floor is increasing, the exterior of the structure is not changing in size or height; therefore, the massing and building bulk will remain the same.
3. The third floor analysis from the previous approval was considered as part of the project, but not as a finding or fact used to approve the application.

Finding:

- E. The proposed changes do not result in an expansion or change in operational characteristics of the use.*

Facts in Support of Finding:

1. The proposed changes will not change the nature or use of the originally approved single-unit dwelling.
2. The proposed changes to the floor plans are minor in nature and do not represent a substantial change in the operational characteristics of the use.

3. The conditions of approval from Planning Commission Resolution No. 1899 are still valid and applicable.

APPEAL PERIOD

An appeal may be filed with the Director of Community Development, within fourteen (14) days following the date the action or decision was rendered. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

On behalf of Kimberly Brandt, AICP, Community Development Director

By:



Fern Nueno, Associate Planner

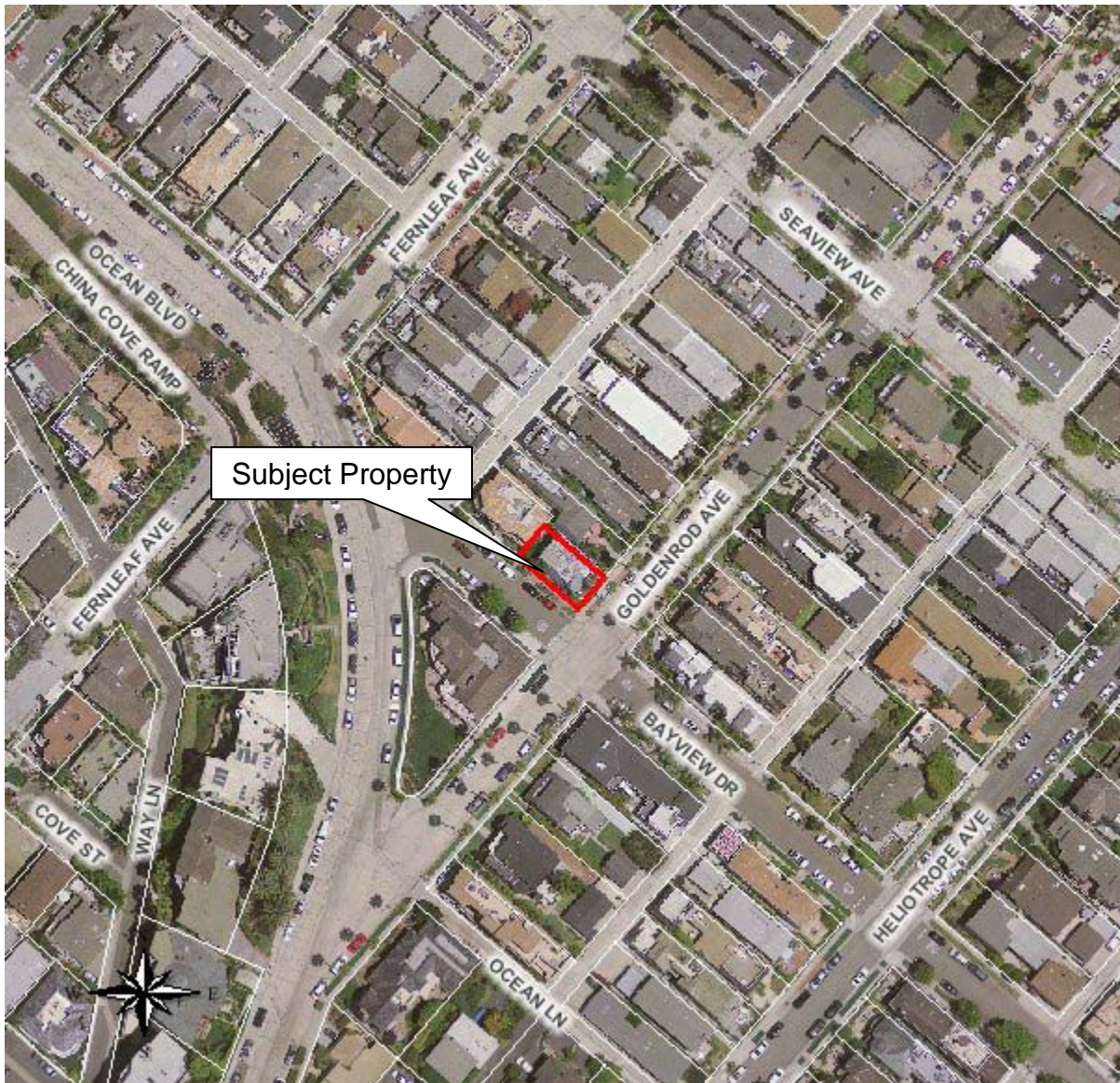
GBR/fn

Attachments: CD 1 Vicinity Map
CD 2 Applicant's Project Description
CD 3 Planning Commission Resolution No. 1899
CD 4 Minutes from December 6, 2012, Planning Commission Meeting
CD 5 Previously Approved Plans
CD 6 Proposed Project Plans

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval No. SA2013-005
PA2013-095

211 Goldenrod Avenue

Attachment No. CD 2

Applicant's Project Description

211 Goldenrod
AP No. 052-071-009
REQUEST FOR CHANGE TO APPROVED PROJECT
04.25.2013

Project Description and Justification:

The project, as previously approved by the Planning Department, consists of the demolition of the existing structure and construction of a new single family residence of 1,848 square feet which includes a two-car garage.

Change Requested:

To relocate the Owner's bedroom from the first floor to the third floor, increasing the third floor area to 445 SF and decreasing the first floor area by the same amount resulting in no gain in square footage to the approved overall allowed area of 1,848 SF.

Reasons and Justification for Change:

The Owner would like to move the primary sleeping area to the third floor to have access to daylight and views to nature, fresh air and better natural ventilation, as well as greater privacy from the adjacent street traffic along Bayview.

This minor change would be to the interior plan only and require no exterior elevation changes with two exceptions:

Windows removed and partial height storage access door added to elevation facing West (which is not visible from outside the property).

Moved the third floor deck access door slightly to the South on the East elevation.

The changes are consistent with all applicable provisions of the Zoning Code and:

Do not involve any controversial feature covered by a negative declaration or EIR.

Do not modify any conditions of approval for the project.

Do not result in expansion or change in use.

Attachment No. CD 3

Planning Commission Resolution No. 1899

RESOLUTION NO. 1899

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING VARIANCE NO. VA2012-006 FOR AN ENCROACHMENT INTO THE REAR SETBACK, AN INCREASE IN FLOOR AREA LIMIT, AND EXECPTIONS FROM THE THIRD FLOOR LIMITATIONS ASSOCIATED WITH THE CONSTRUCTION OF A NEW SINGLE-UNIT DWELLING LOCATED AT 211 GOLDENROD AVENUE (PA2012-126)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Annette Wiley, with respect to property located at 211 Goldenrod Avenue, and legally described as the southeasterly ½ of Lot 1, Block 133, Re-subdivision of Corona del Mar, requesting approval of a variance.
2. The applicant proposes to construct a new single-unit dwelling with a two-car garage on a sub-standard size lot. The applicant is requesting a variance to encroach 5 feet into the required 10-foot rear setback, to exceed the maximum allowed floor area limit for the property (1,404 square feet) by 444 square feet, and to deviate from the third floor size and location limitations. The third floor would exceed the maximum floor area of 187 square feet by 33 square feet. The third floor would be located 6 feet 4 inches from the front setback line, where 15 feet is required, for a total of 16 feet 4 inches from the front property line.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential (RS-D).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-B).
5. A public hearing was held on December 6, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place, and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under Section 15303, of the California Environmental Quality Act ("CEQA") Guidelines - Class 3 (New Construction or Conversion of Small Structures).

2. Class 3 allows for the construction of new, small structures, including one single-unit residence in a residential zone. In this case, an existing single-unit dwelling would be demolished and a new single-unit dwelling would be constructed on the lot located within the Single-Unit Residential Zoning District.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.090 of the Newport Beach Municipal Code, the following findings for approval of a variance and facts in support of such findings are set forth:

Finding:

- A. *There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification.*

Facts in Support of Finding:

- A-1. The subject lot is a half lot measuring 30 feet by 59 feet, totaling 1,770 square feet in area. The surrounding typical lots in Corona del Mar are 30 feet by 118 feet, totaling 3,540 square feet in area. The lot depth, lot size, and buildable area of the subject property are significantly smaller than that of typical lots in the area.
- A-2. The typical lots in Corona del Mar maintain alley access and are subject to a 5-foot rear alley setback. In this case, the subject property is sub-standard in size and lacks alley access as a result of a prior re-subdivision, resulting in a 10-foot required rear setback and a proportionately smaller buildable area compared with the typical lots in the area.

Finding:

- B. *Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.*

Facts in Support of Finding:

- B-1. Applying standard setbacks to the subject property results in a smaller buildable area and floor area ratio ("FAR") than for typical lots in Corona del Mar. Additionally, the rear property line is not adjacent to an alley as with most typical lots within the vicinity and throughout Corona del Mar; therefore, the required rear yard setback is 10 feet instead of the typical 5-foot alley setback. This is an unusually large setback for not only the subject property, but for a typical lot within the vicinity. Strict application of these default setbacks results in a buildable area that is 53 percent of the total lot area, while the buildable area of the larger, typical lot with a 10-foot front setback equates to 70 percent of the total lot area.

- B-2. Strict application of the Zoning Code required floor area limit ("FAL") to the subject site allows a maximum area of 1,404 gross square feet, which results in an FAR of 0.79. The allowed FAR of a typical lot with a 10-foot front setback located within the Single-Unit Residential Zoning District in Corona del Mar is 1.05.
- B-3. The lack of alley access results in a 10-foot rear setback that is intended for larger-sized lots and is not required for the typical lot throughout Corona del Mar. Application of a 10-foot rear setback and 10-foot front setback would equate to approximately 33.9 percent of the lot depth as a required setback. In comparison, application of the standard 10-foot front setback and 5-foot rear alley setback on the typical lot in the vicinity would equate to 12.7 percent of the lot depth.
- B-4. Strict application of the third floor limitations would limit the third floor area to 20 percent of the buildable area (187 square feet), and would require the third floor to be set back an additional 15 feet from the front setback line. The application of the standard third floor area location requirements would allow a 9-foot by 24-foot area in which to construct a third floor. A nearby typical lot with a 10-foot front setback and 5-foot alley setback would have an area of 73 feet by 24 feet in which to construct a third floor with a maximum third floor area of 494 square feet.

Finding:

- C. Granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.*

Facts in Support of Finding:

- C-1. The application of the 10-foot rear setback is unusually large and not typical of other lots in Corona del Mar and it significantly limits the buildable depth of the lot. The proposed encroachment into the rear setback is reasonable in this case due to the extremely short depth of the lot and affords the property owner a more usable buildable area and lot depth.
- C-2. The requested variance to exceed the 1.5 floor area limit with a single-unit dwelling that has a gross floor area of 1,848 square feet results in a 1.04 FAR, which is more consistent with the typical lots within the vicinity and allows the property owner the right to construct a dwelling with a similar FAR to other dwellings in Corona del Mar.
- C-3. The application of the third floor area limitations prevents the construction of a usable third floor area. Due to the short depth of the lot, the additional third floor setback requirements are not consistent with the intent of the Zoning Code as it results in an area that is 9 feet by 24 feet in which to construct the third floor and limits the size to 187 square feet in area.

Finding:

D. Granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.

Facts in Support of Finding:

- D-1. The proposed 5-foot rear setback does not result in a special privilege because it is consistent with the standard 5-foot alley setback and is compatible with the 4-foot side setback on the abutting property and with other dwellings in the area that maintain 3-foot side setbacks.
- D-2. The FAR is a method to compare the maximum square footage allowed on a site based on the lot size. Using an FAR comparison to determine the appropriate maximum square footage allowed on a site provides equity for sub-standard lots without granting special privilege. The proposed gross floor area results in an FAR of 1.04, which is less than the 1.05 FAR of typical lots in the area with a 10-foot front setback, ensuring that the increased floor area does not result in a special privilege not enjoyed by other property owners in the vicinity.
- D-3. The proposed deviations from third floor area limitations do not result in a special privilege because the limitations are based on the buildable area, which is proportionately smaller compared with the typical lots in the area. The first floor is partially below grade, so the third floor is not a typical third floor area and it is designed with a flat roof under the 24-foot height limit. Most third floors are constructed with a pitched roof built to the 29-foot pitched roof height limit.

Finding:

E. Granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.

Facts in Support of Finding:

- E-1. The proposed dwelling would provide adequate setbacks consistent with the neighborhood pattern of development and would ensure the protection of air, light, and separation that exists with other properties in the vicinity.
- E-2. The size of the proposed dwelling is proportionate to the other dwellings within the immediate neighborhood and throughout Corona del Mar.
- E-3. The design of the structure includes articulation and modulation through the use of several decks and windows to minimize bulk and enhance the aesthetics of the structure.

- E-4. The required two-car parking would be provided in a tandem garage.
- E-5. The property is located on a corner, which provides street access on two sides for emergency access.

Finding:

F. Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.

Facts in Support of Finding:

- F-1. The intent of a rear setback is to provide adequate separation for light, air, and usable outdoor living space adjacent to other residential properties. However, in Corona del Mar, most properties abut an alley and do not have usable rear yards, but instead utilize their front yards for outdoor living space. The proposed 5-foot rear setback is consistent with the standard 4-foot side setback on the abutting property and other dwellings in the area that maintain 3-foot side setbacks. The proposed design maintains the required 10-foot front setback providing for usable outdoor living space consistent with the other properties in the vicinity, in addition to the two balconies and roof deck.
- F-2. The intent of floor area limits is to ensure each residential structure can be developed with a reasonable sized dwelling in relationship to the lot size and setbacks; however, in this case, utilizing the FAL disproportionately reduces buildable area on this site due to the sub-standard lot size and larger rear setback requirement. Allowing additional floor area above the allowed FAL, would allow for the construction of a reasonable sized dwelling that remains consistent with the development of other dwellings in the vicinity.
- F-3. Due to the short depth of the lot, the additional third floor setback requirements are not consistent with the intent of the Zoning Code. The request to deviate from the third floor limitations is reasonable and justified due to the depth and size of the lot and the design of the proposed structure.
- F-4. The proposed project meets all other required code requirements, including parking, height, and open volume.
- F-5. The requested Variance is consistent with the intent of Zoning Code and General Plan because the proposed deviations from the Zoning Code allow for a single-unit dwelling with a comparable FAR to other properties in the vicinity. The design provides usable open volume area and articulation and modulation so that the bulk is consistent with other properties in the area.

SECTION 4. DECISION.**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby approves Variance No. VA2012-006 as described in Section 1, and hereby approves a single-unit dwelling with a two-car garage subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 6TH DAY OF DECEMBER, 2012.

AYES: Brown, Kramer, Myers, Toerge, and Tucker

NOES: None

ABSTAIN: None

ABSENT: Ameri and Hillgren

BY: 
Michael Toerge, ChairmanBY: 
Kimberly Brandt, Ex-Officio Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval, except as modified by applicable conditions of approval.
2. Variance No. VA2012-006 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. Prior to issuance of building permits, approval from the California Coastal Commission shall be required.
5. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
6. DELETED.
7. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code, including the glass railing, projections, stairway, and automatic fire sprinkler system requirements.
8. All improvements shall be constructed as required by ordinance and the Public Works Department.
9. All damaged or broken concrete curb, gutter, and sidewalk along Goldenrod Avenue and Bayview Drive shall be reconstructed.
10. The existing curb access ramp at the corner of Goldenrod Avenue and Bayview Drive shall be upgraded to by ADA compliant.
11. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development shall be removed. All brick carriage walks, planter walls, decorative stones, and stair risers along Goldenrod Avenue and Bayview Drive are considered non-standard improvements.
12. The existing sewer cleanout shall be upgraded per STD-406-L within the public right-of-way if constructed with substandard material. Replacement shall be determined by a City Public Works Inspector.

13. An encroachment permit is required for all work activities within the public right-of-way.
14. All improvements shall comply with the City's sight distance requirements (City Standard 110-L).
15. Landscaping within the sight distance triangle shall be a maximum height of 24 inches. Landscaping within 24 inches from the curb face shall be low growing ground cover. Landscaping within the public right-of-ways shall be limited to a maximum height of 36 inches.
16. The existing street tree along Goldenrod Avenue shall be protected in place. Unauthorized tree removal will trigger substantial penalties for all of the parties involved.
17. Pursuant to Chapter 13 of the Municipal Code, one (1) 36 inch box Maytenus boaria (Mayten Tree) street tree shall be planted along the Bayview Drive frontage per City Standard 118-L-B.
18. The existing 4 inch outlet drain shall be plugged. If an overflow outlet is required, a new curb drain shall be installed per City Standard 184-L.
19. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way shall be required at the discretion of the Public Works Inspector.
20. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Variance No. VA2012-006. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Attachment No. CD 4

Minutes from December 6, 2012, Planning
Commission Meeting

VII. PUBLIC HEARING ITEMS**ITEM NO. 2 Goldenrod Variance (PA2012-126)
Site Location: 211 Goldenrod Avenue**

Associate Planner Fern Nueno presented details of the report addressing location, typical lots in the vicinity, lot size, project details, requirement for Coastal review, required setbacks, request by the applicant of a five-foot rear setback, FAR, buildable area, zoning code requirements and limitations, and details of variances requested. She addressed the roof and height limit, proposed garage, adjacent properties and comparisons with typical lots in the area. Ms. Nueno presented recommendations as stated in the report.

Chair Toerge opened the public hearing and invited the applicant to make a presentation.

Annette Wiley, Bauer and Wiley Architects, offered to respond to questions noting that her client is not a developer and is prepared to make substantial investment in the project. She noted working closely with City staff and addressed the plan adding that it involved compromises by all parties. She addressed challenges overcome, respecting adjacent property views and modifications made to the plan. She stated agreement with the report and acceptance of the conditions of approval.

Interested parties were invited to address the Commission on this project.

Jim Mosher referenced comments submitted in writing and expressed confusion regarding condition of approval number four regarding approval from the Coastal Commission.

Discussion followed regarding triggers for Coastal Commission requirements.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

Chair Toerge addressed the challenges faced with the size of the lot and spoke in support of the project.

A reference was made to the most recently updated Resolution presented in the Commission's packets, clarifying the project description, verifying what was being approved, and deleting condition number six.

Motion made by Chair Toerge and seconded by Commissioner Kramer and carried 5 – 0, to adopt Resolution No. 1899 approving Variance No. VA2012-006.

AYES: Brown, Kramer, Myers, Toerge, and Tucker
NOES: None
ABSTENTIONS: None
ABSENT (Excused): Ameri and Hillgren

**~~ITEM NO. 3 Plaza Corona del Mar (PA2010-061)
Site Location: 3900 and 3928 East Coast Highway~~**

~~Assistant Planner Makana Nova presented details of the project addressing location, development standards, surrounding land uses, project components, floor area ratios for commercial districts, density requirements for residential uses, parking, existing conditions, consolidation of parcels, the~~

Attachment No. CD 5

Previously Approved Plans

RECEIVED BY
COMMUNITY

NOV 29 2012

DEVELOPMENT
CITY OF NEWPORT BEACH



APPROVED BY:

- | | |
|---|---|
| <input type="checkbox"/> Planning Director | <input type="checkbox"/> Zoning Administrator |
| <input checked="" type="checkbox"/> Planning Commission | <input type="checkbox"/> City Council |
| <input checked="" type="checkbox"/> As Submitted | <input type="checkbox"/> As Modified |

Refer to: ☒ Resolution ☐ Approval Letter

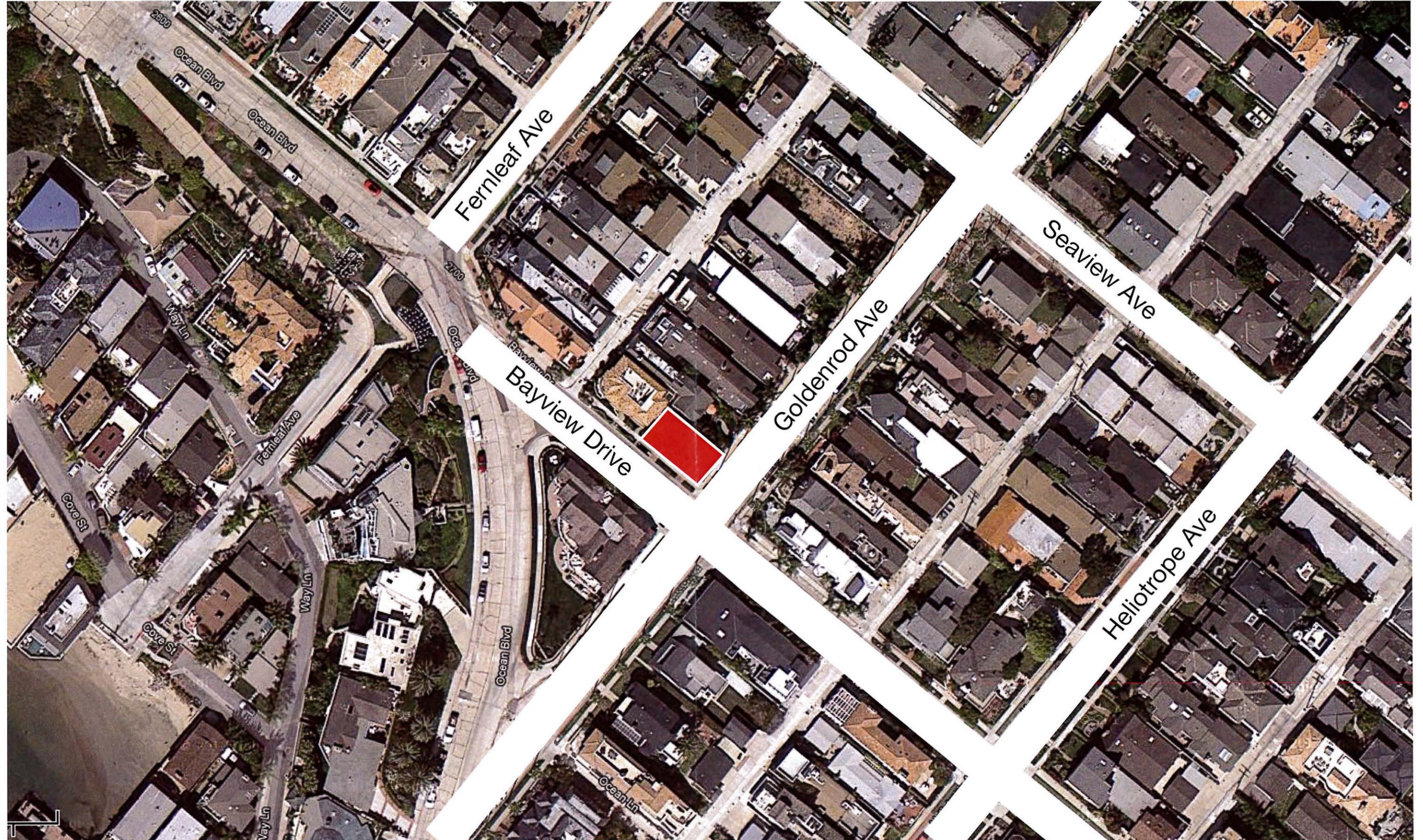
of Pgs Approved: 18

Date: 12/04/2012

CITY OF NEWPORT BEACH, VARIANCE PERMIT APPLICATION

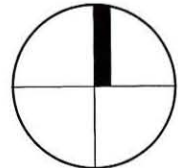
WILEY
ARCHITECTS

PA2012-126 for VA2012-006
211 Goldenrod Avenue
Annette Wiley, AIA – Wiley Architects



Vicinity Map

NORTH

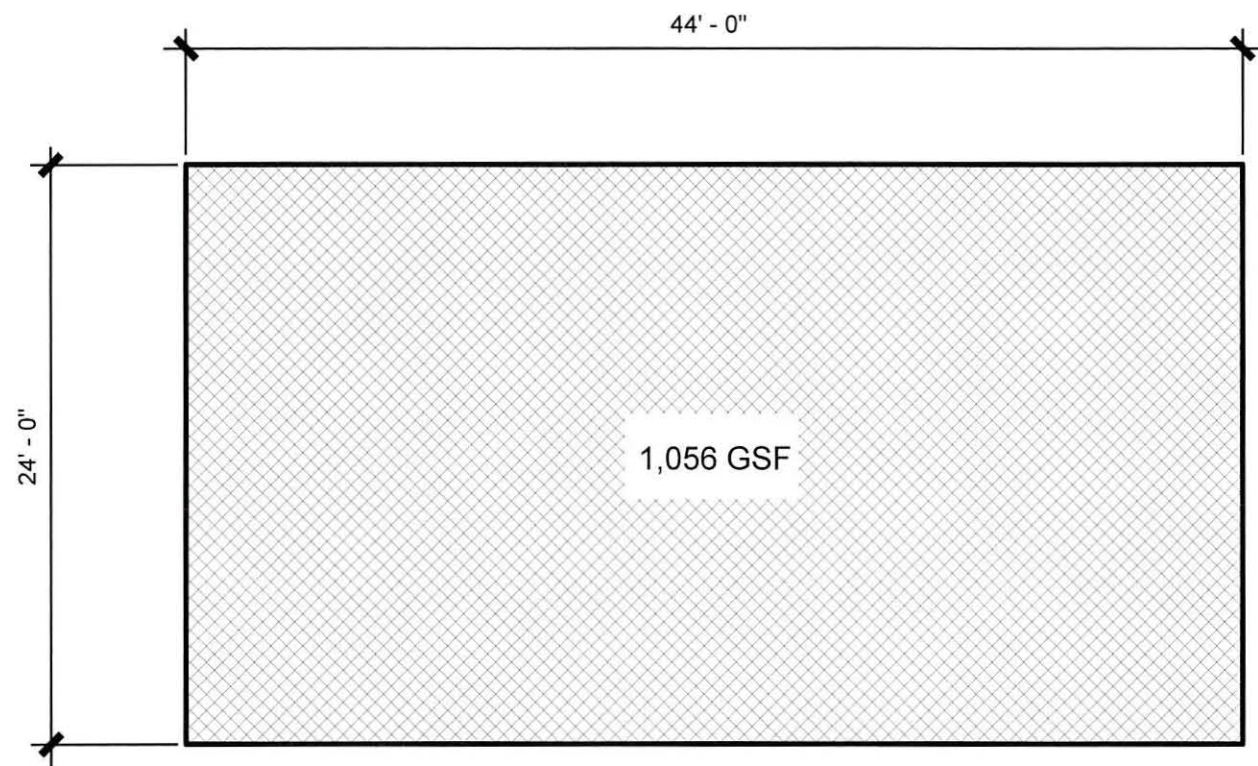


Project Address:
211 Goldenrod Ave
Corona Del Mar, CA

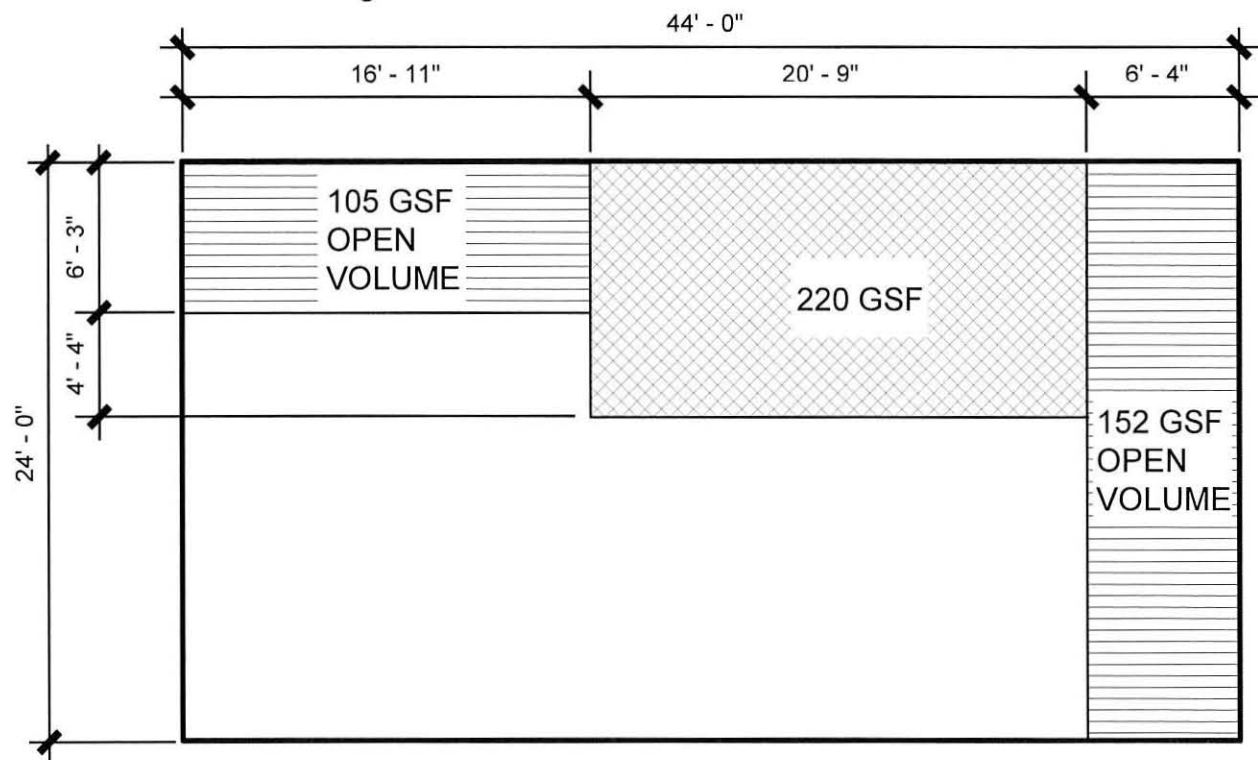
Legal Description:
EAST ONE HALF OF LOT 1, BLOCK 133
OF RE SUB, CORONA DEL MAR TRACT

Contact Person:
Annette Wiley
949-371-9793

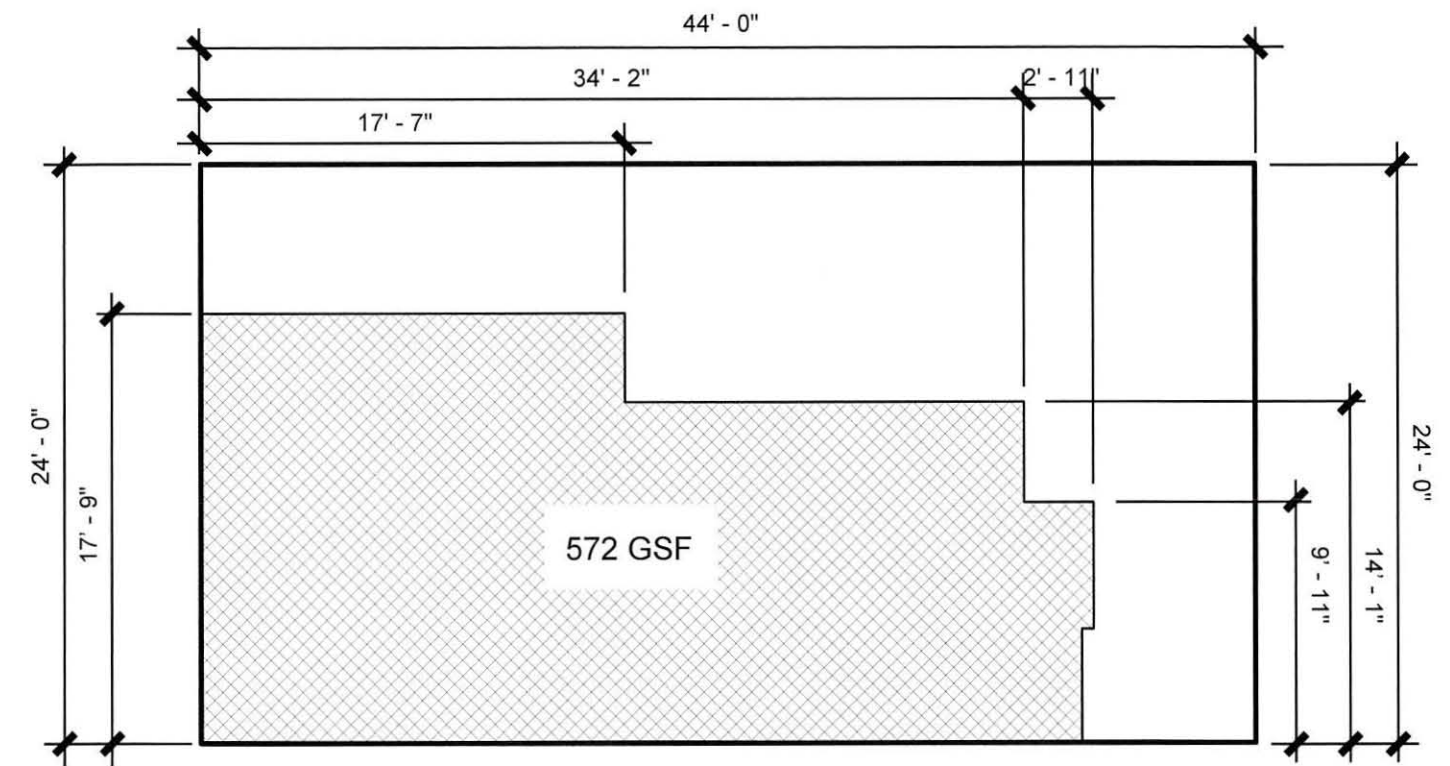
WILEY
ARCHITECTS 1



First Floor Plan
Area Diagram



Third Floor Plan
Area Diagram



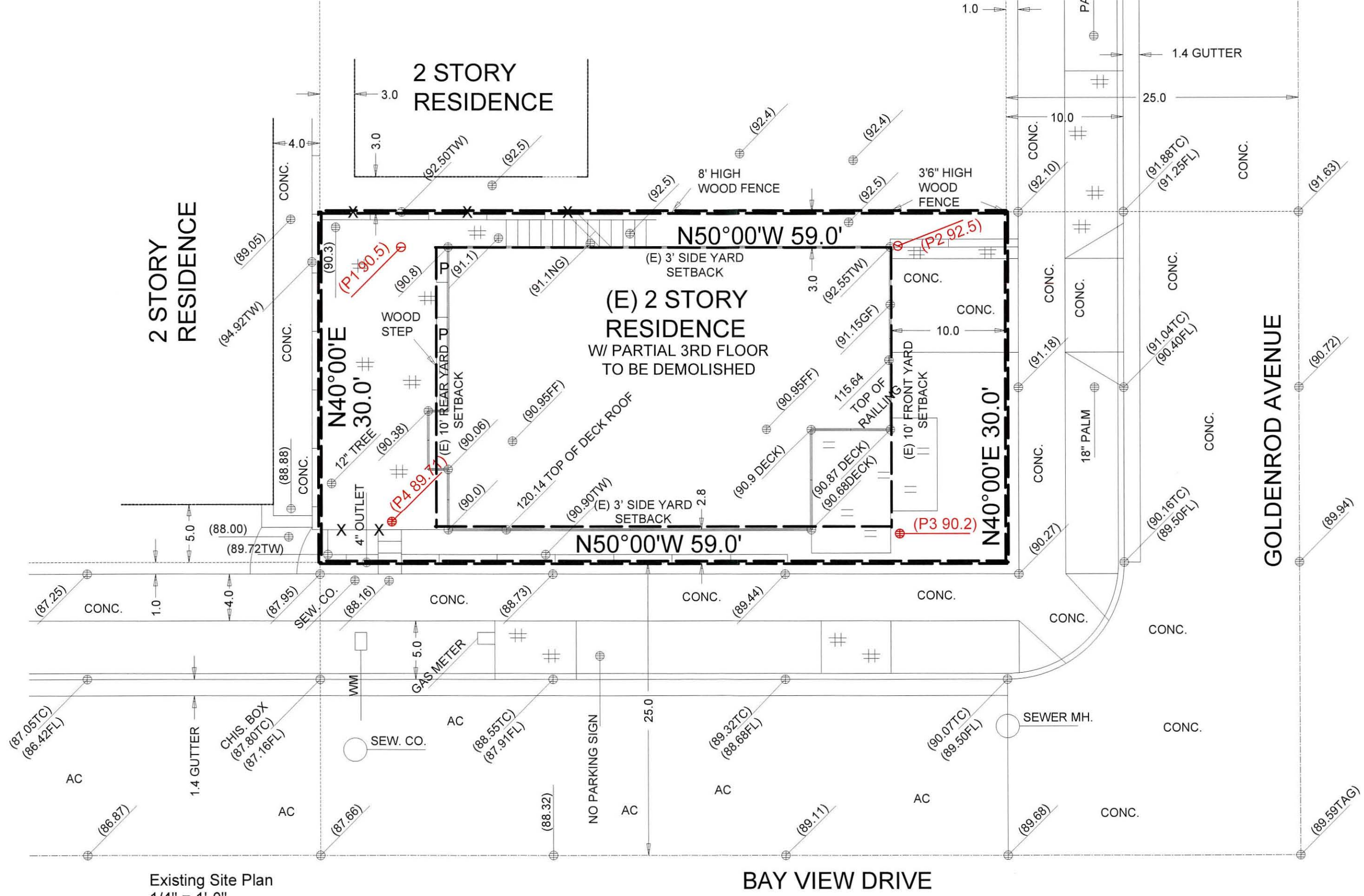
Second Floor Plan
Area Diagram

Open Volume required 20% buildable:
 Buildable: 44' x 24' = 1,056 sf
 20% buildable: .20 x 1,056 = 211.2 sf
 Actual Open Volume: 257 sf

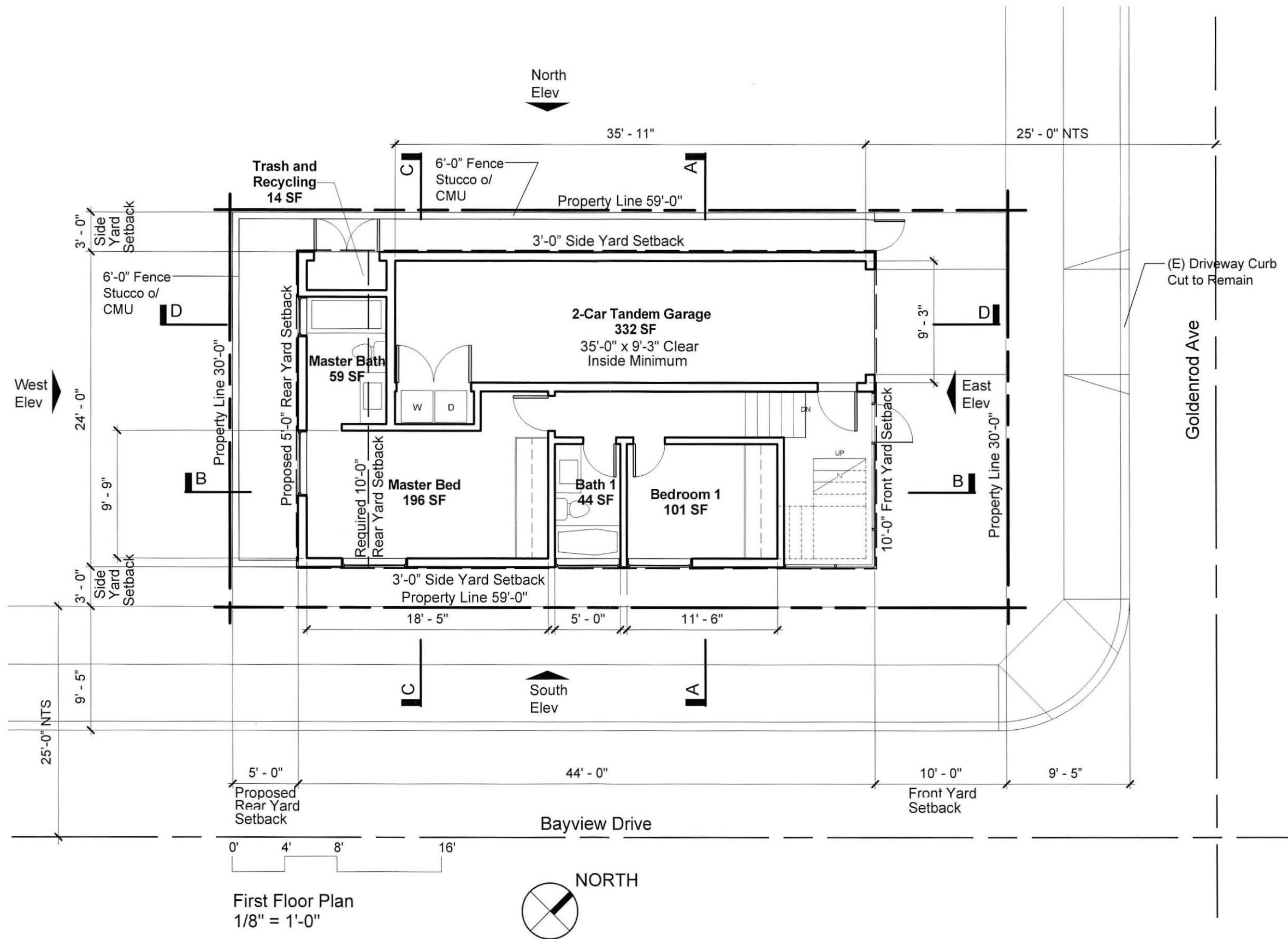
Area Diagrams for Open Volume Calculations

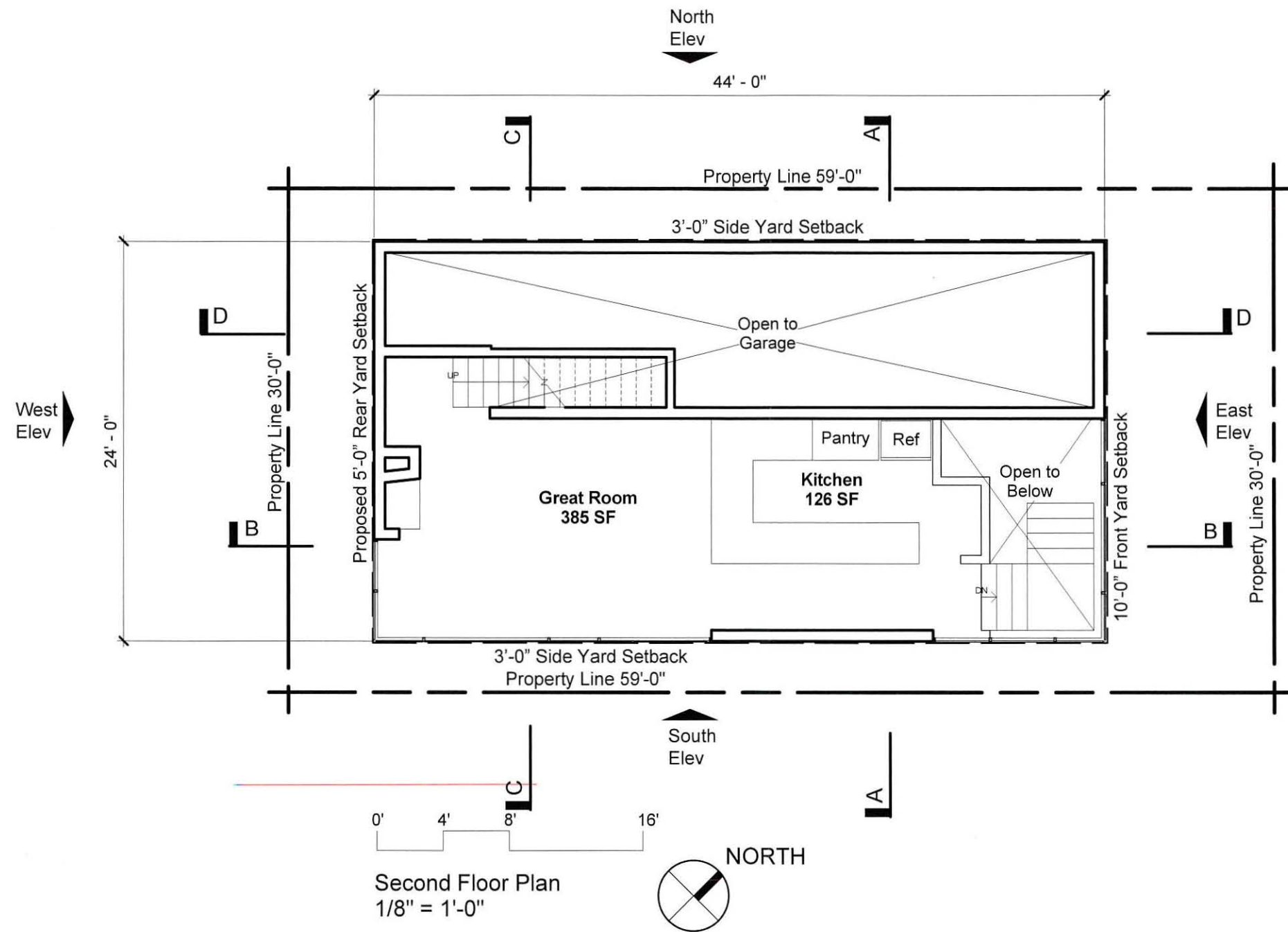
Project Area

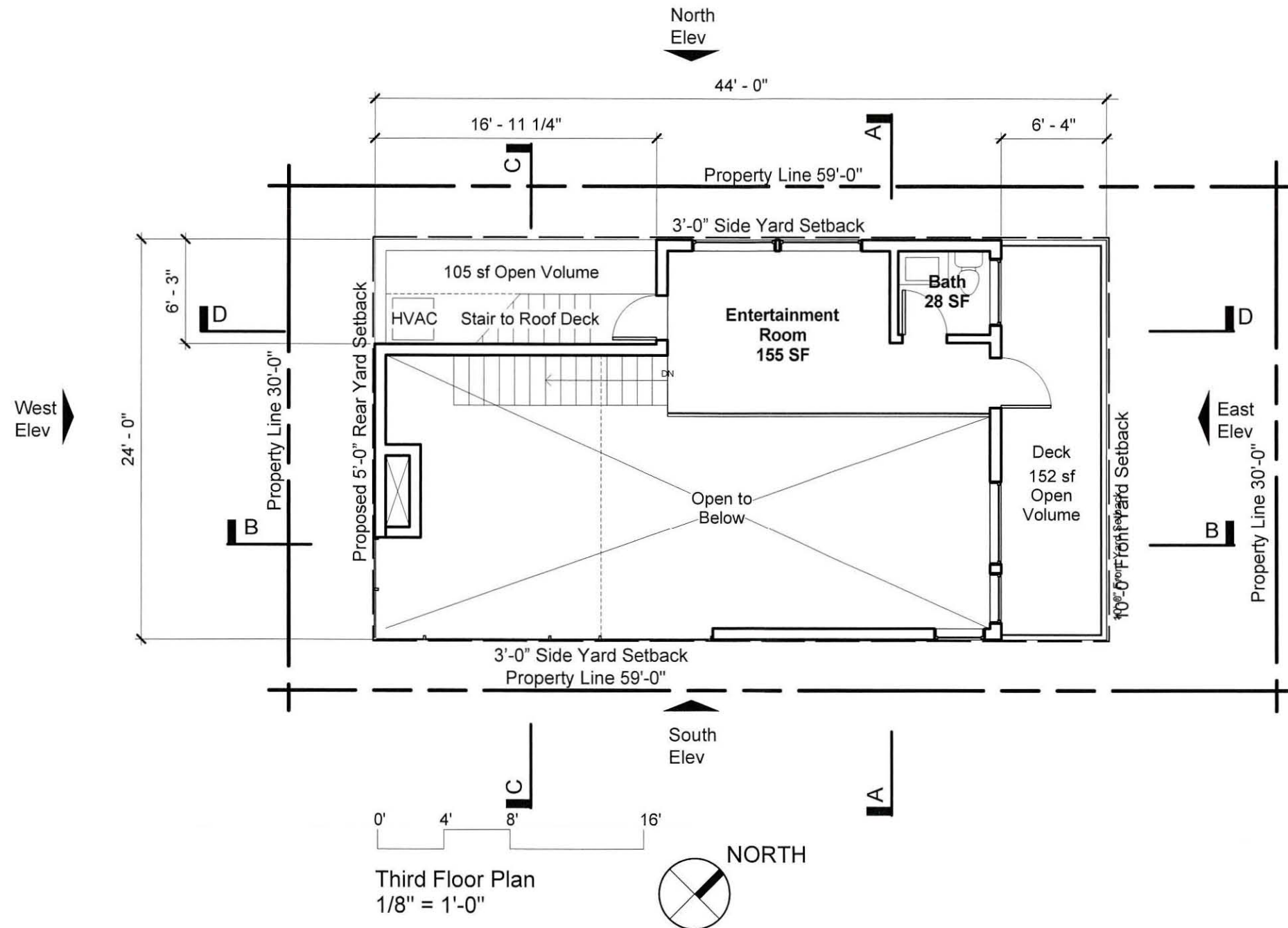
Floor 1 - 1,056 gsf
 Floor 2 - 572 gsf
 Floor 3 - 220 gsf
 Total GSF: 1,848 gsf

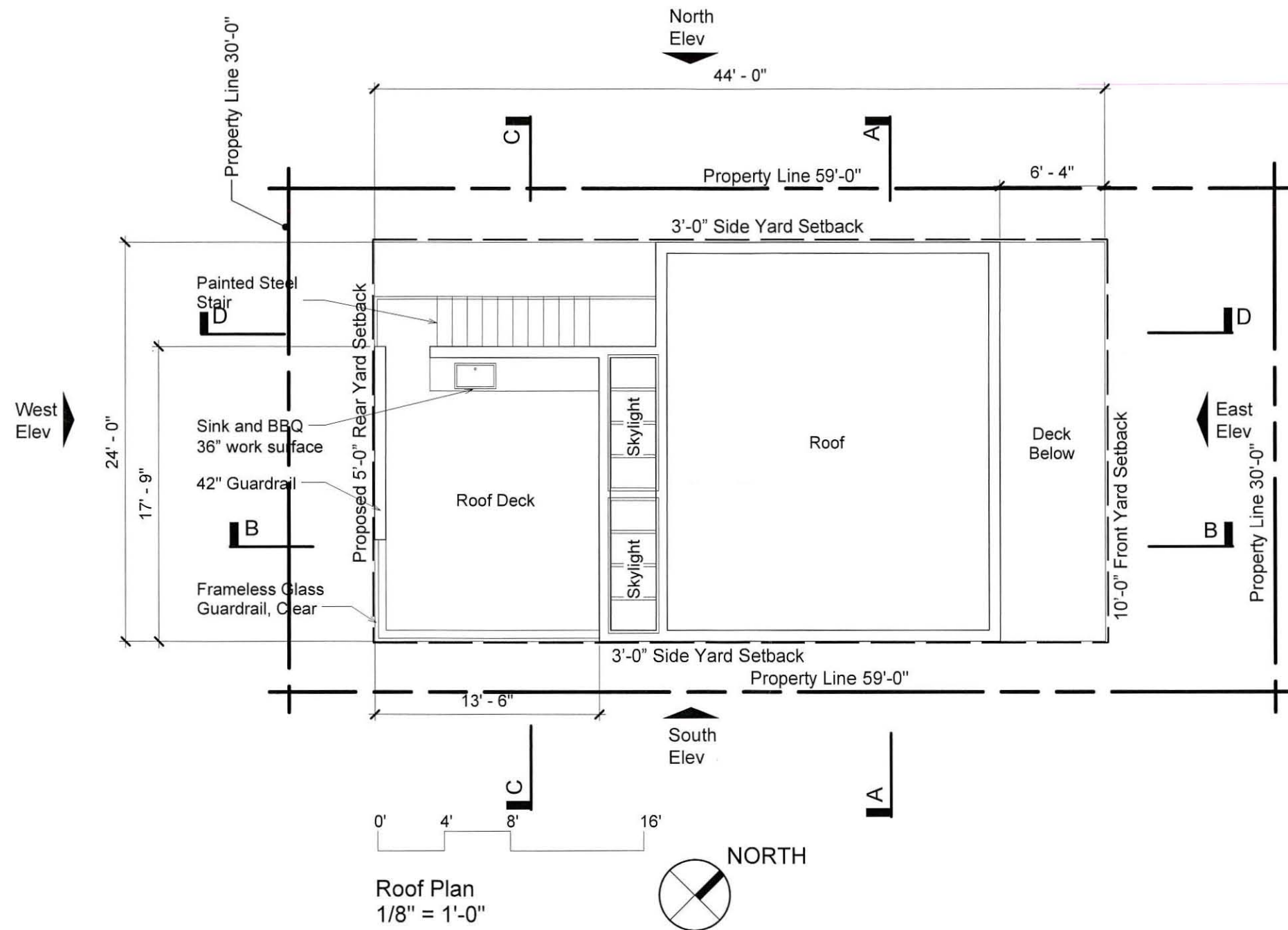


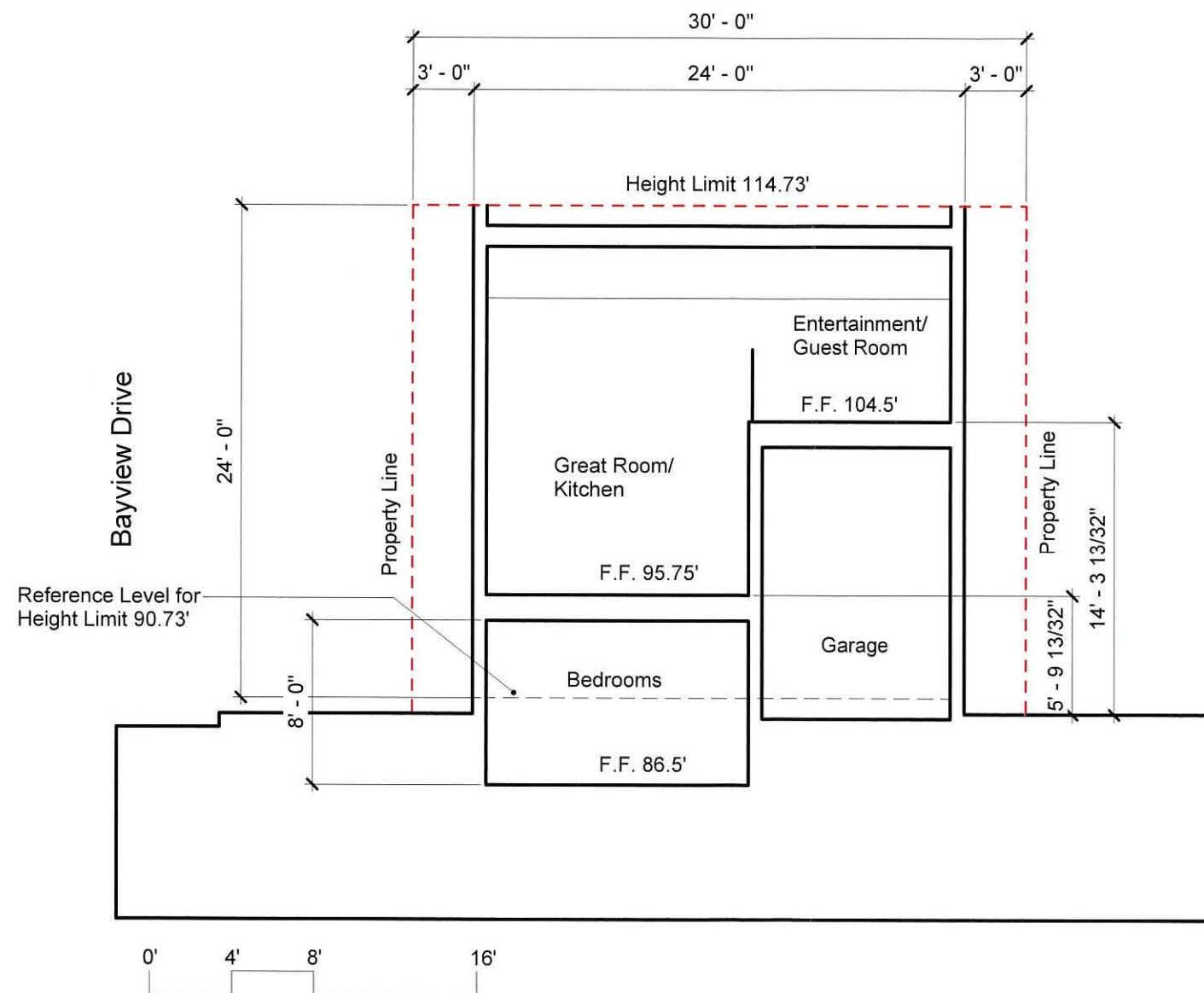
Existing Site Plan
1/4" = 1'-0"



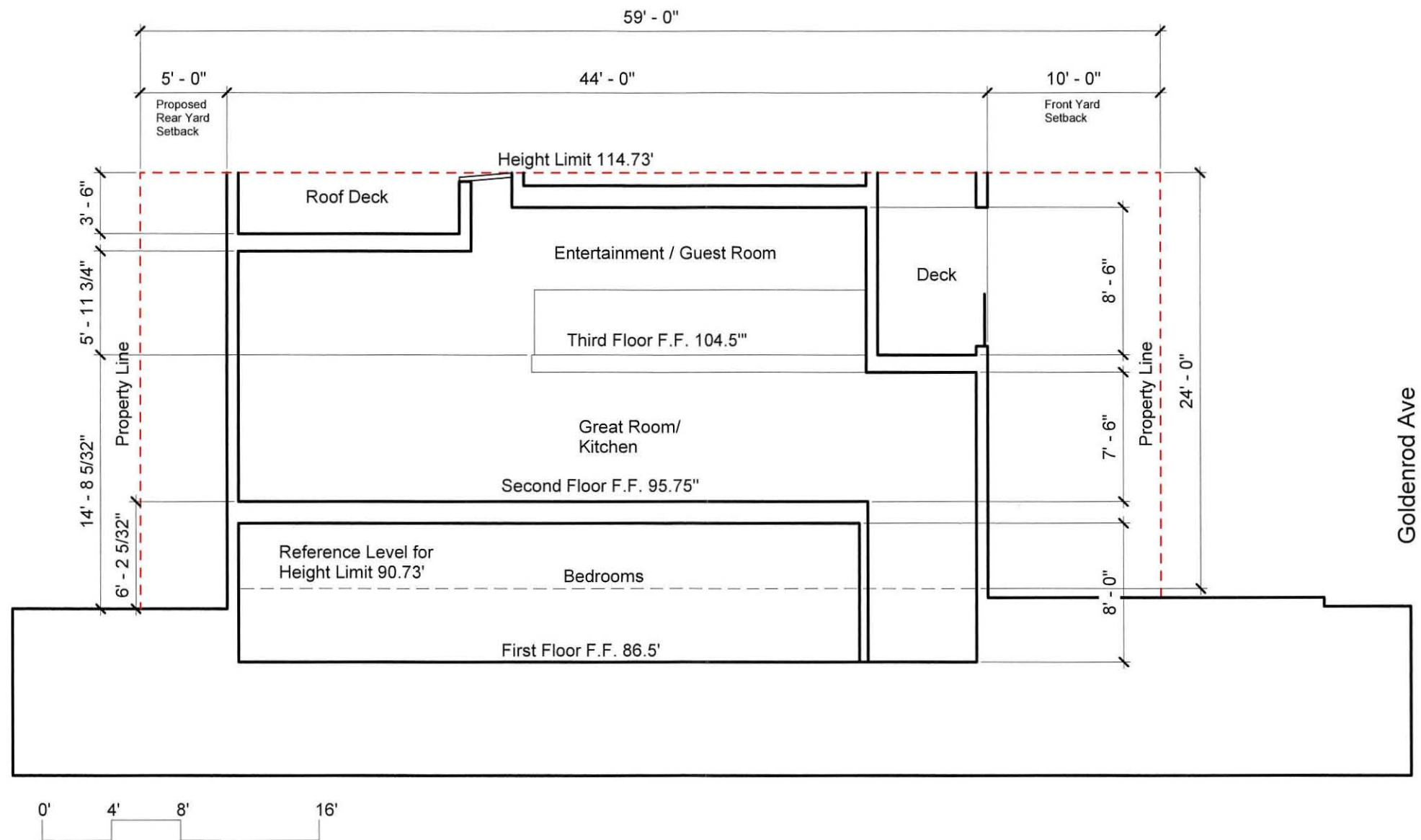




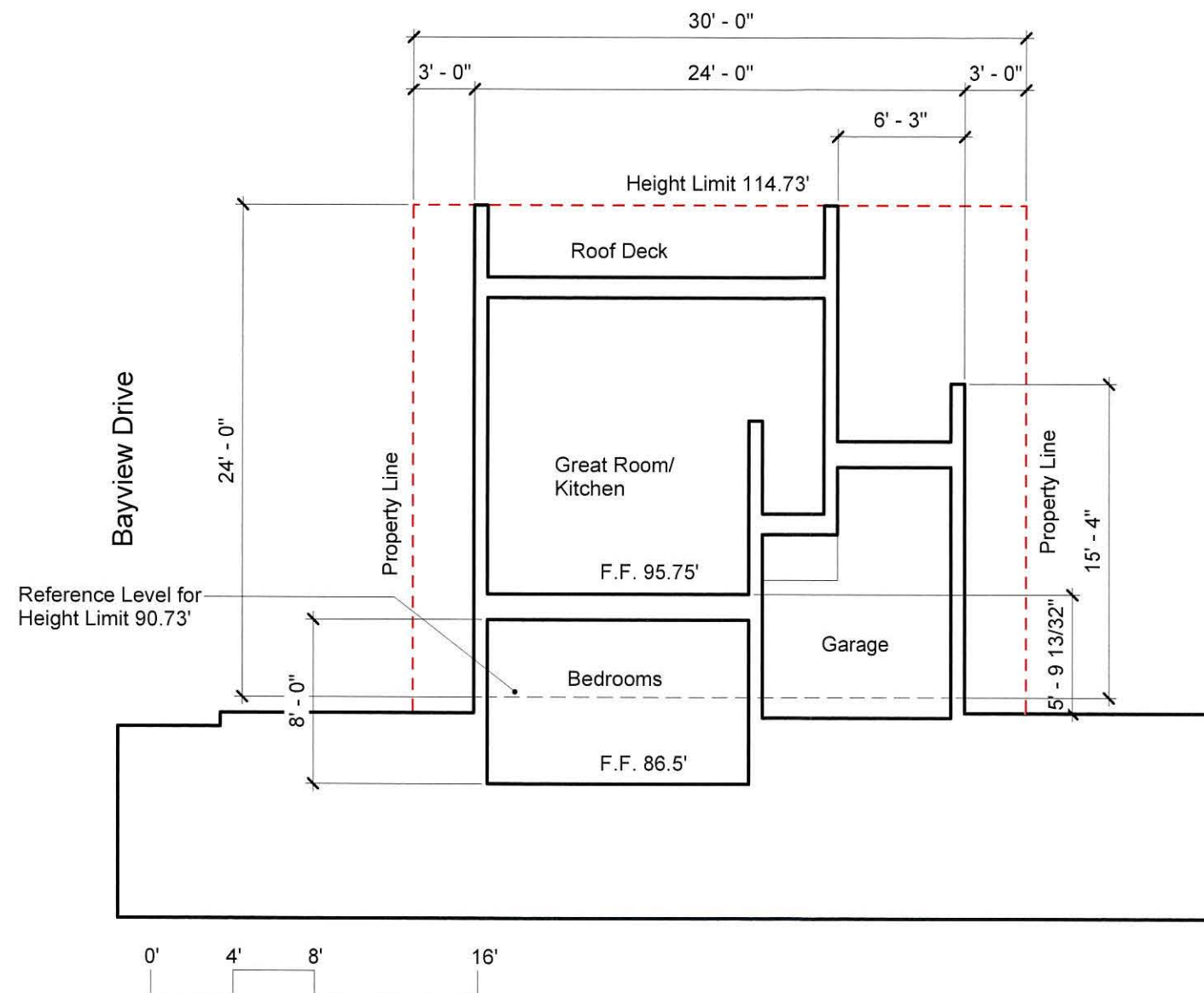




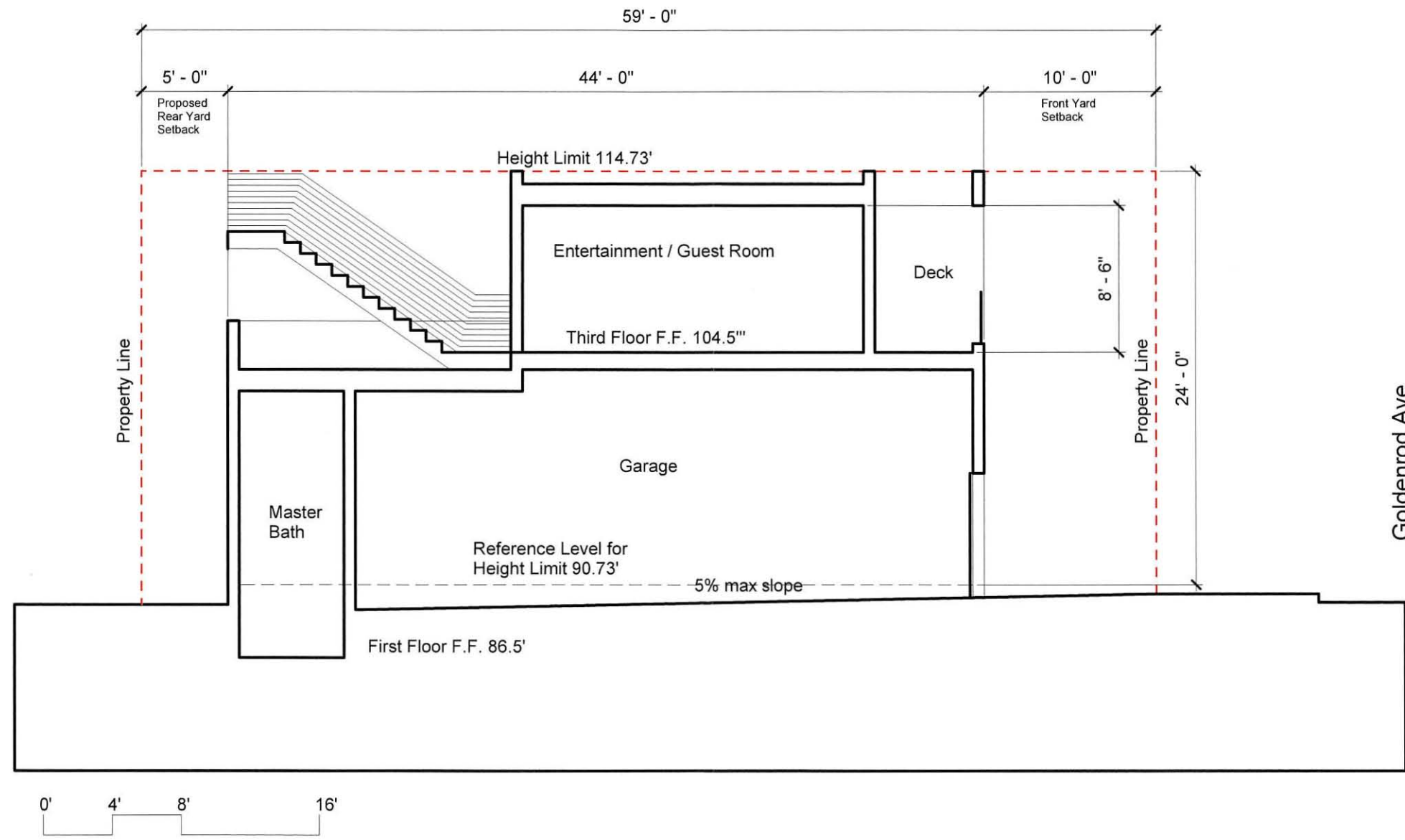
Section A-A
1/8" = 1'-0"



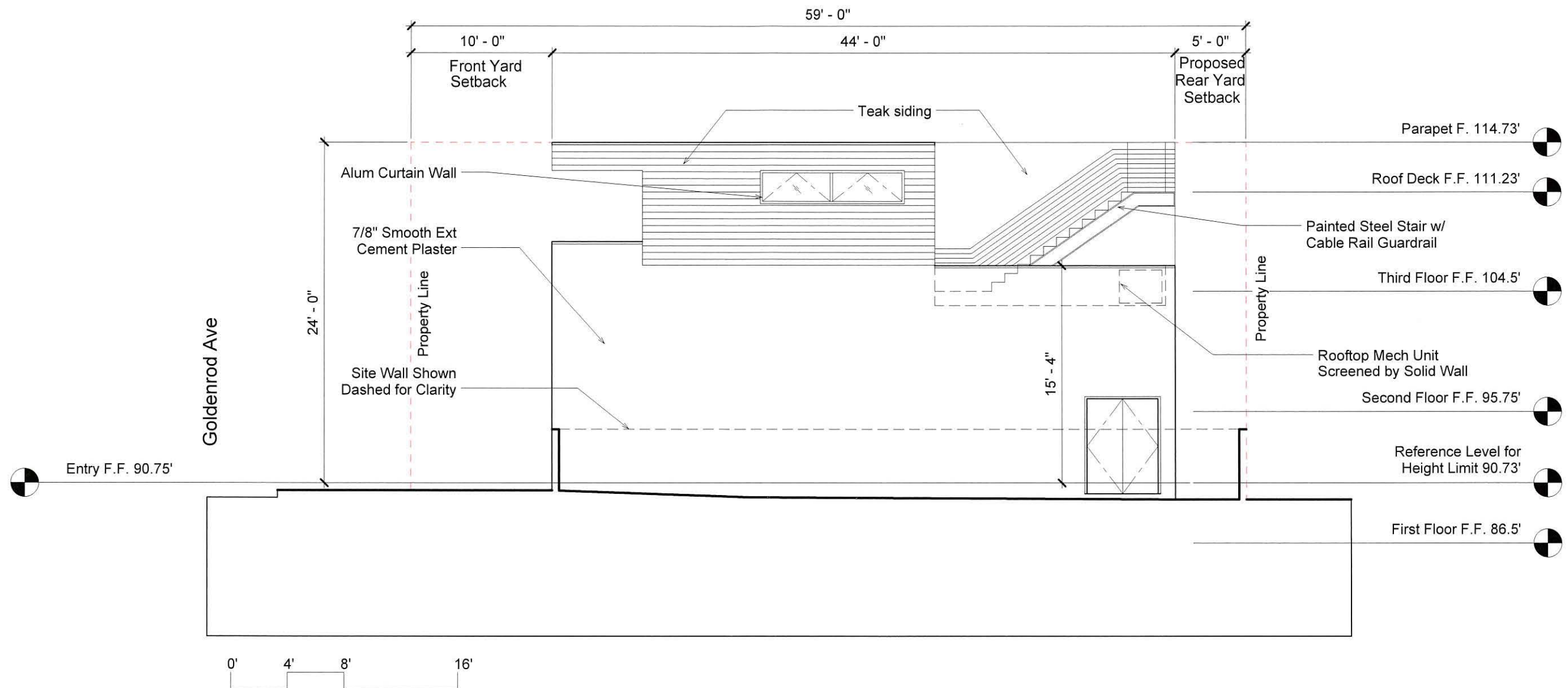
Section B-B
1/8" = 1'-0"



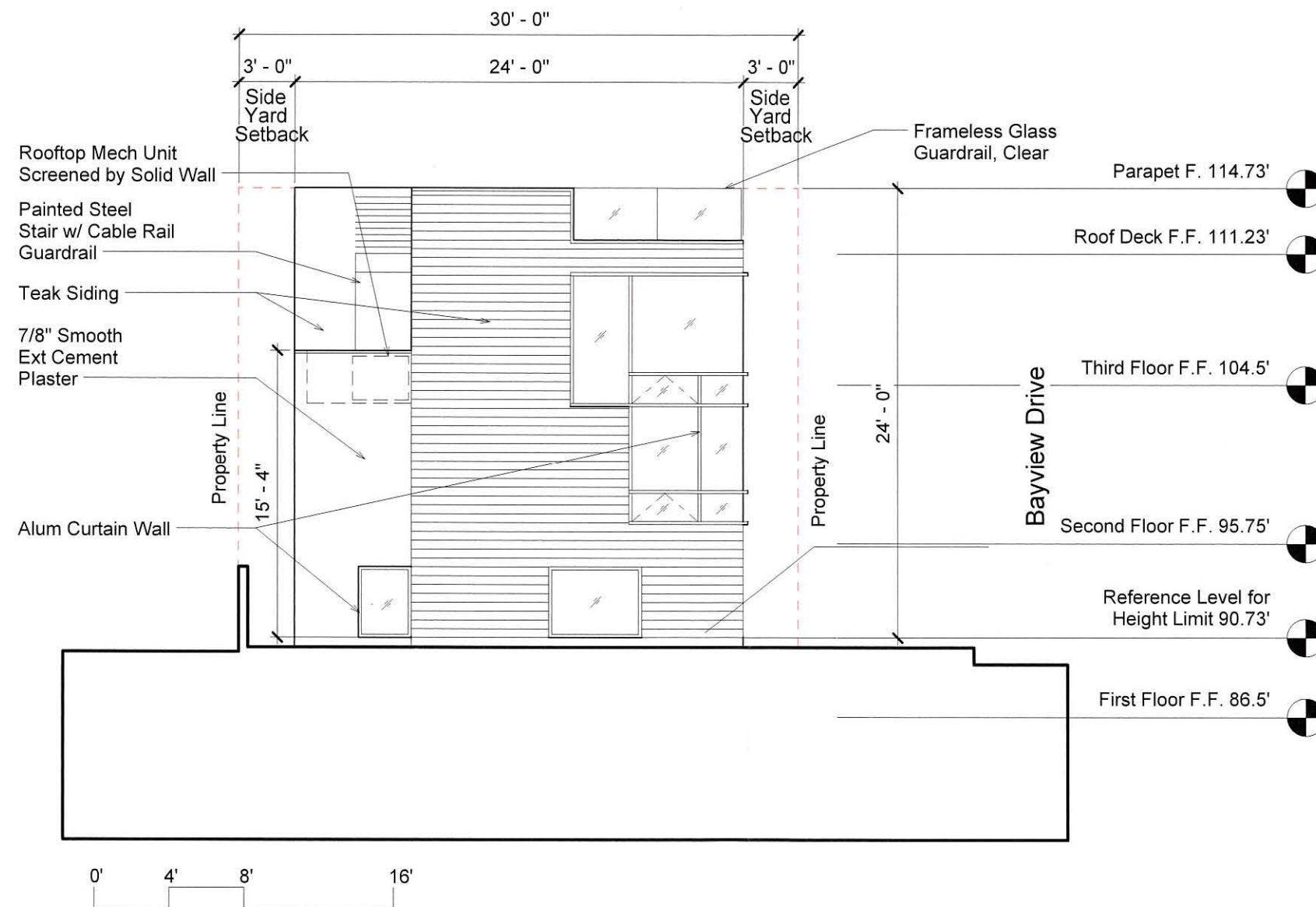
Section C-C
1/8" = 1'-0"



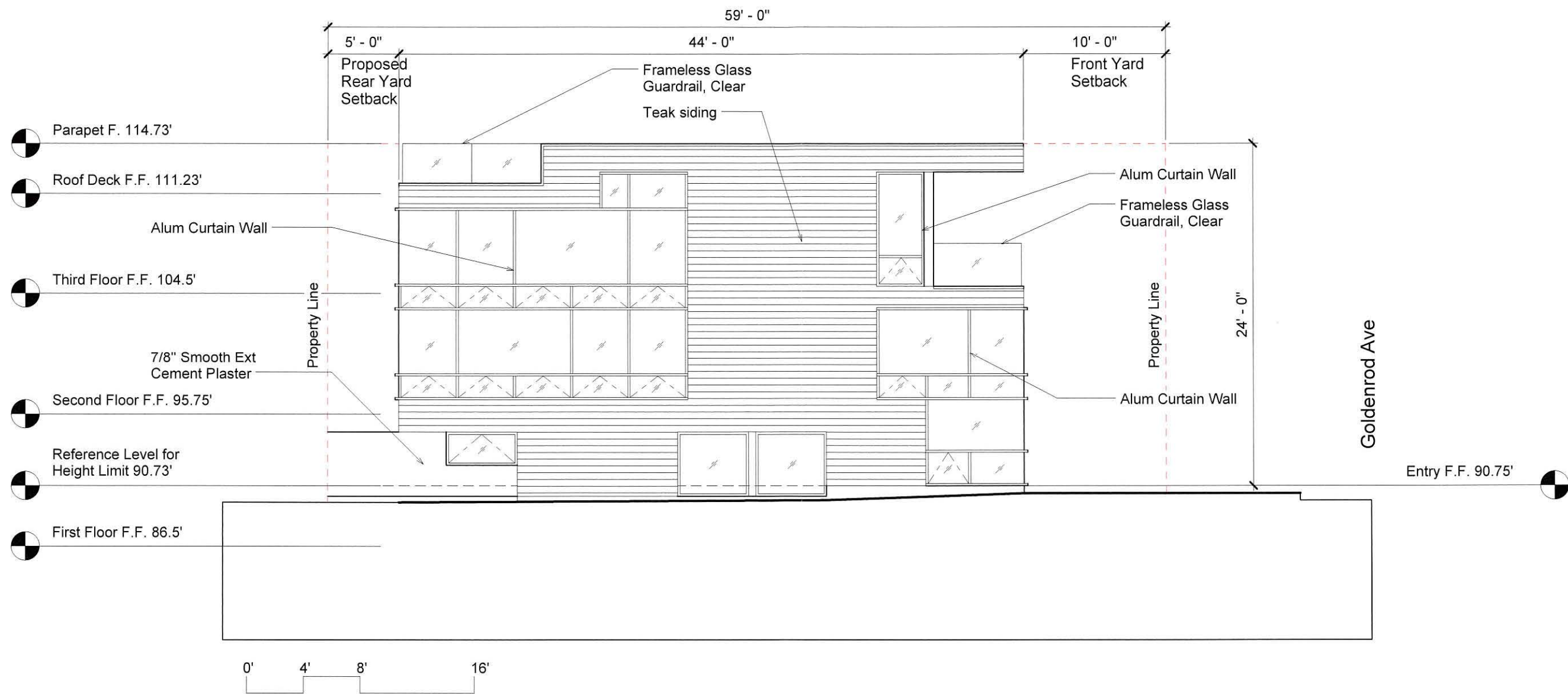
Section D-D
1/8" = 1'-0"



North Elevation
1/8" = 1'-0"



West Elevation
1/8" = 1'-0"



South Elevation
1/8" = 1'-0"



Existing Condition, North Property Line



Existing Condition, Neighbor to South



Existing Condition, Neighbor to North



Existing House, Bayview Elevation



Existing House, Corner of Bayview abd Goldenrod



Existing Condition, Neighbor to West



Existing Condition, Neighbor to West



View from corner Bayview and Goldenrod



View from Bayview Drive looking North



Aerial View



Aerial View

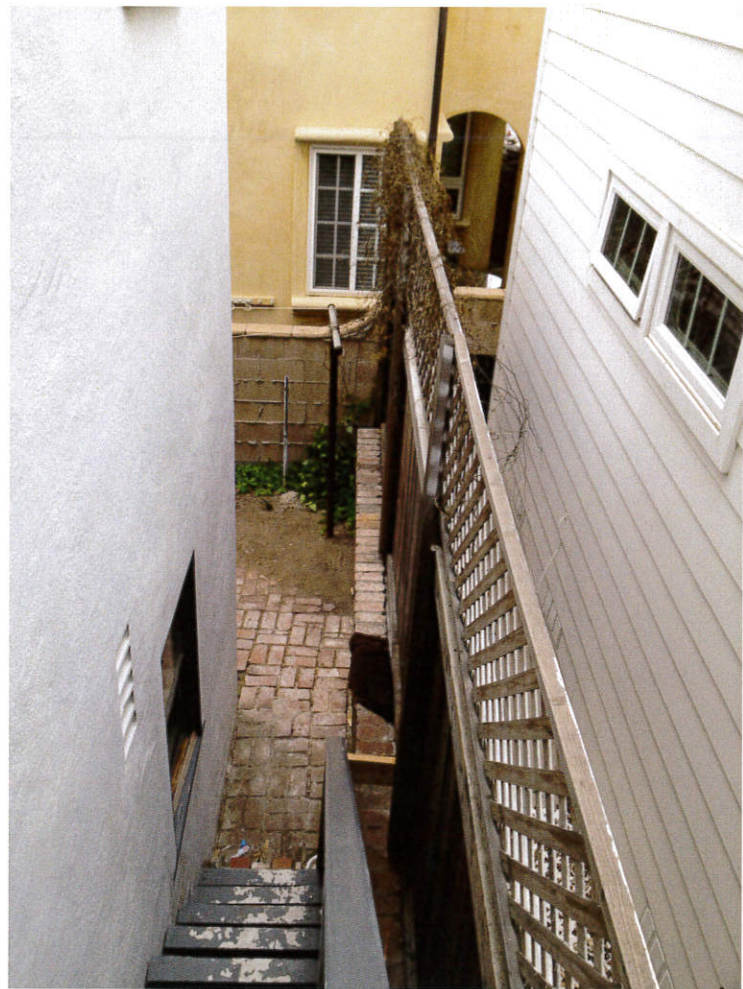
Attachment No. CD 6

Proposed Project Plans



CITY OF NEWPORT BEACH, 211 Goldenrod Request for
Changes to an Approved Project

WILEY
ARCHITECTS



Existing Condition, North Property Line



Existing Condition, Neighbor to South



Existing Condition, Neighbor to North



Existing House, Bayview Elevation



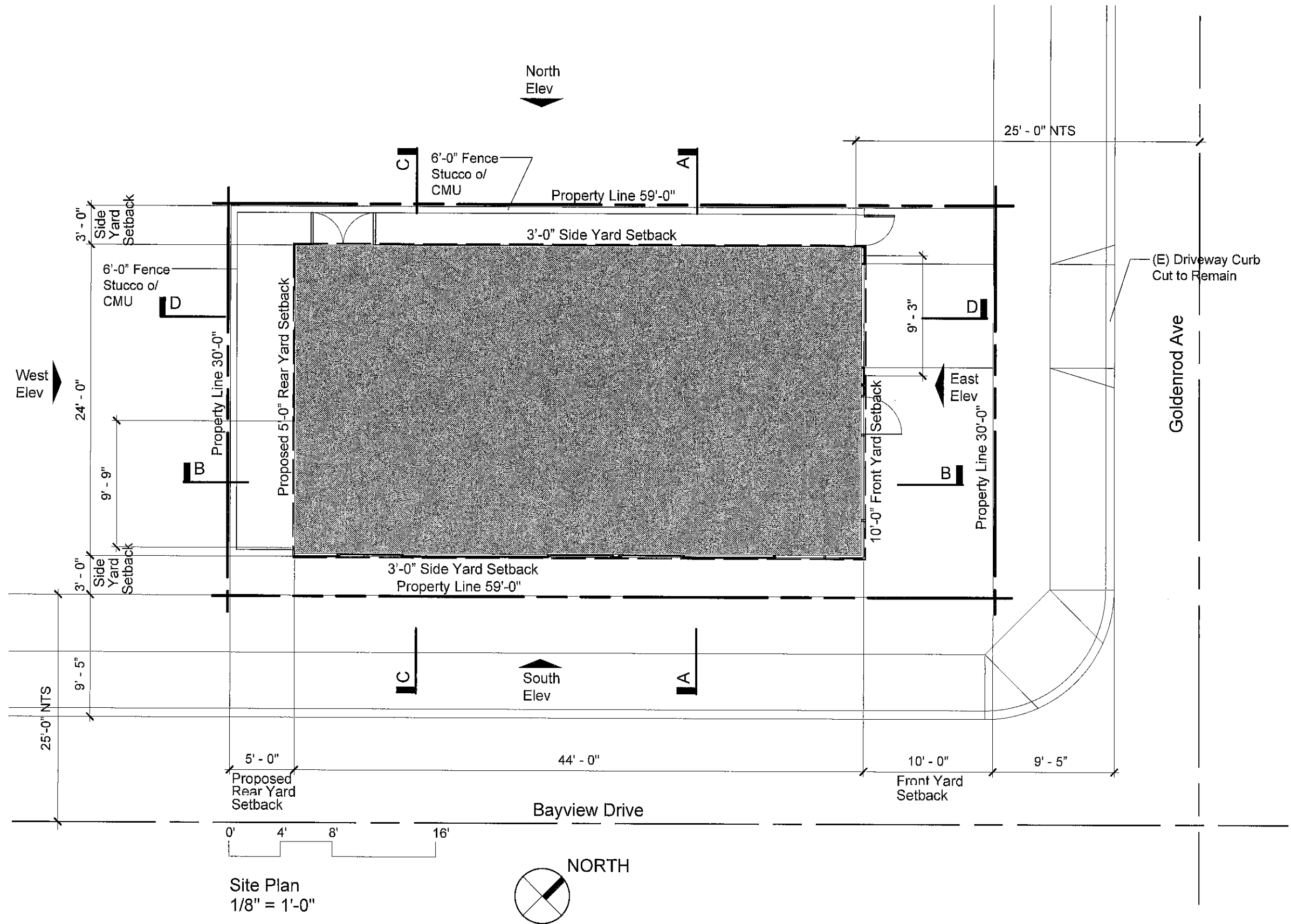
Existing House, Corner of Bayview abd Goldenrod

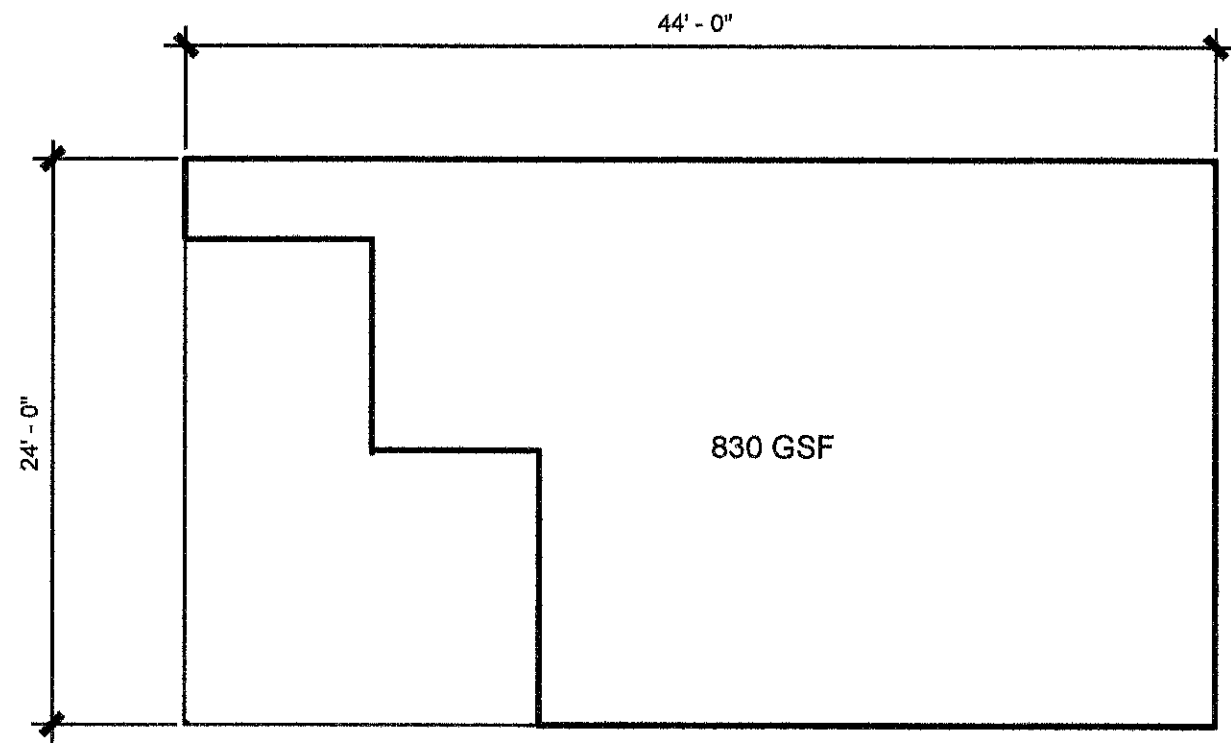


Existing Condition, Neighbor to West

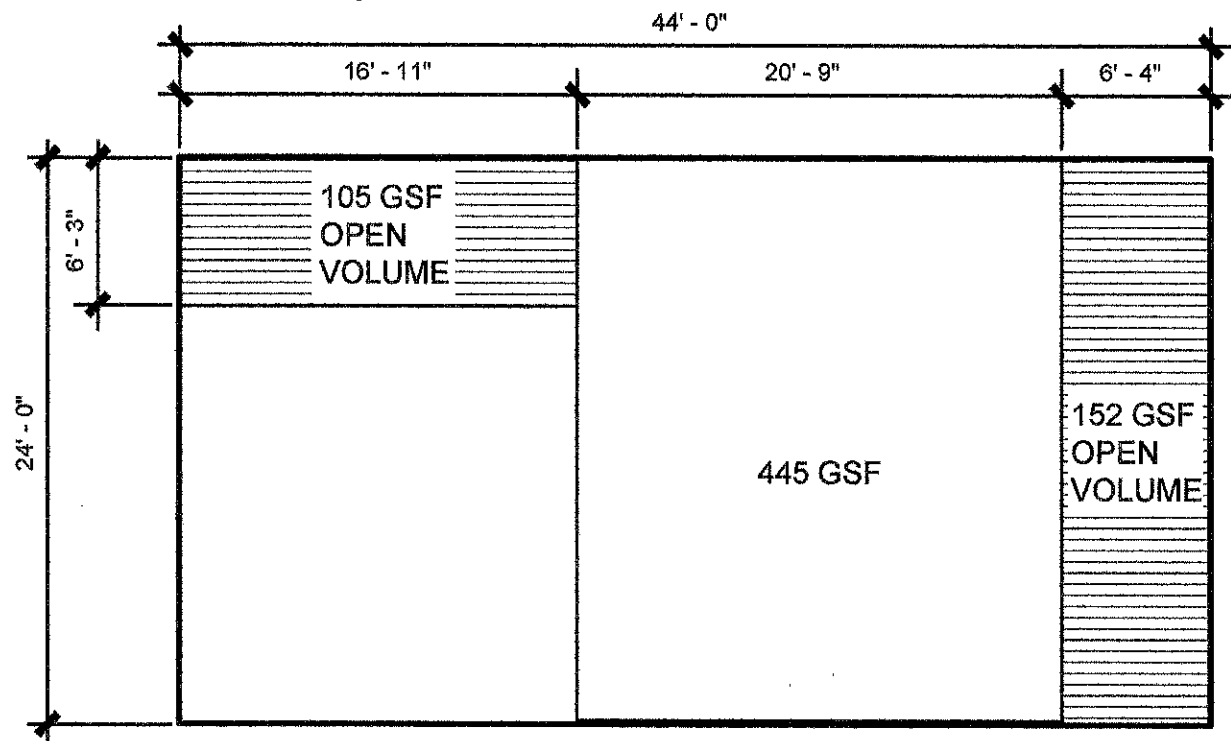


Existing Condition, Neighbor to West

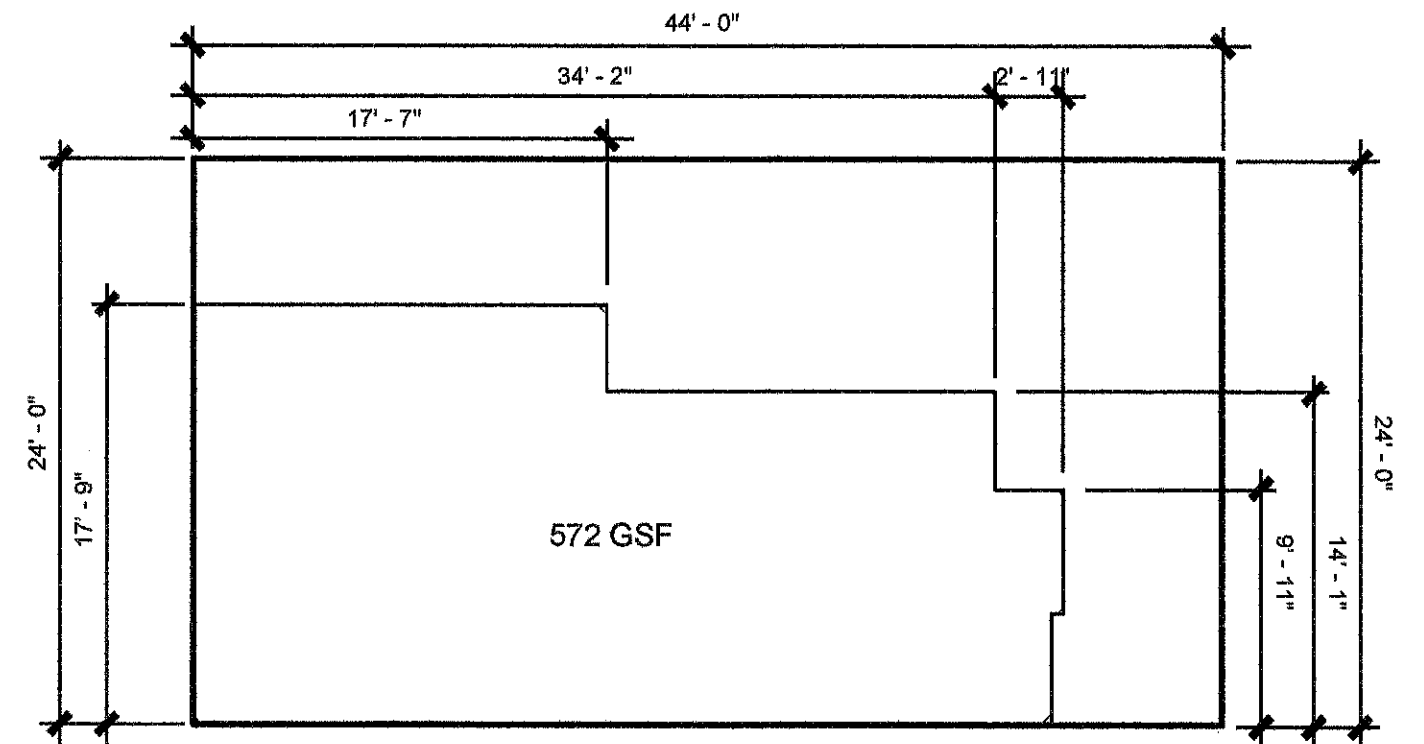




First Floor Plan
Area Diagram



Third Floor Plan
Area Diagram



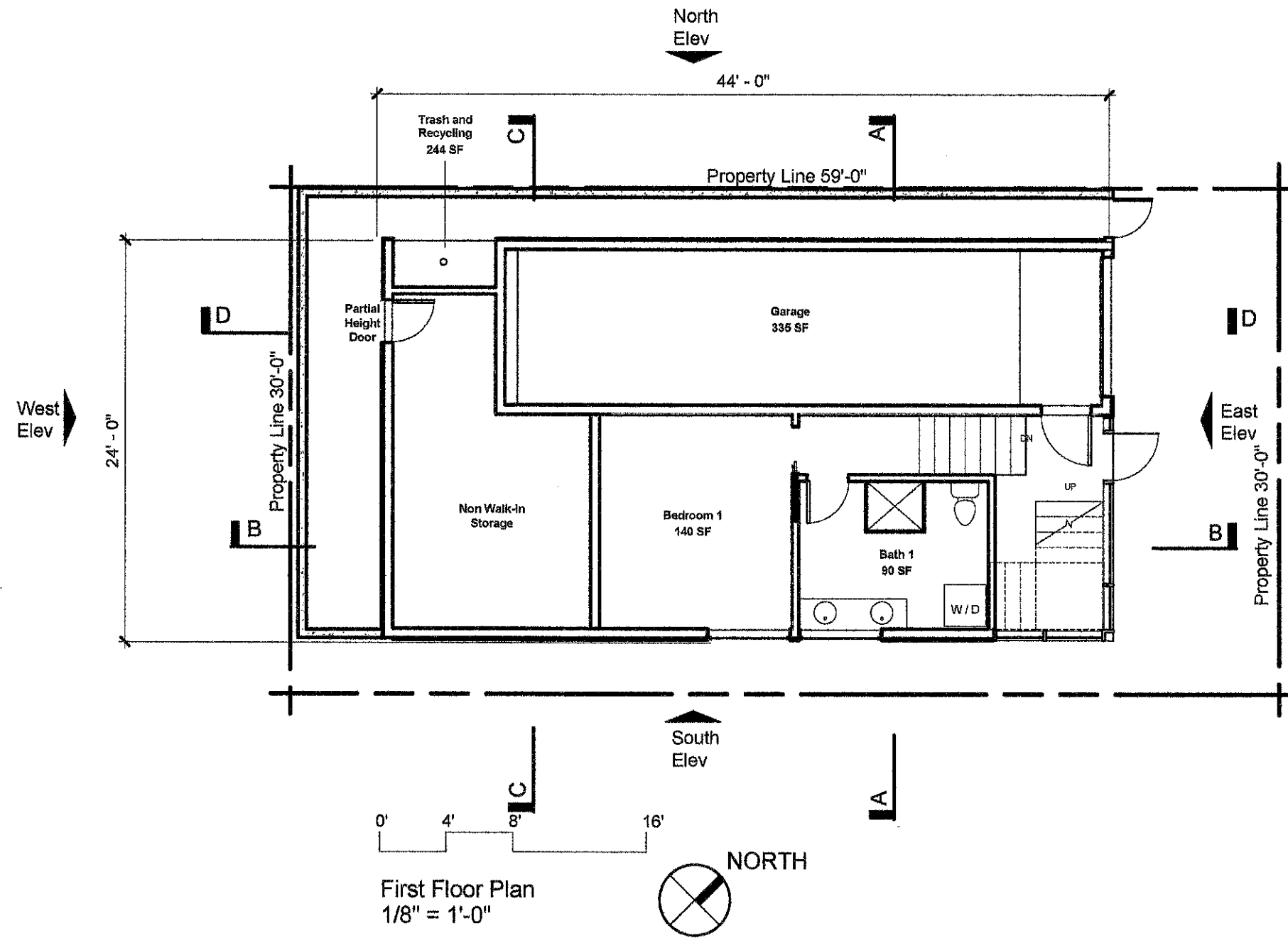
Second Floor Plan
Area Diagram

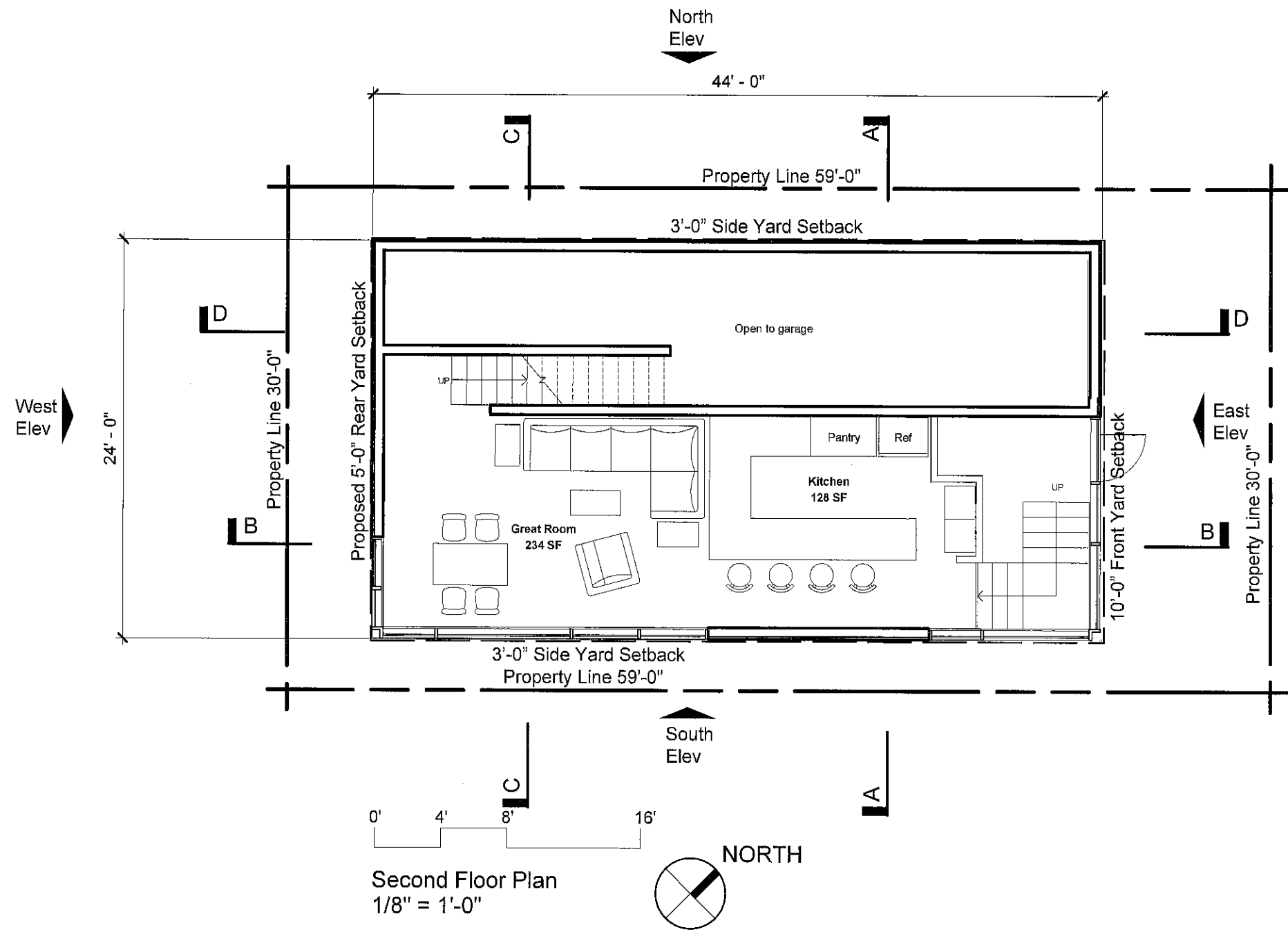
Open Volume required 20% buildable:
 Buildable: $44' \times 24' = 1,056 \text{ sf}$
 20% buildable: $.20 \times 1,056 = 211.2 \text{ sf}$
 Actual Open Volume: 257 sf

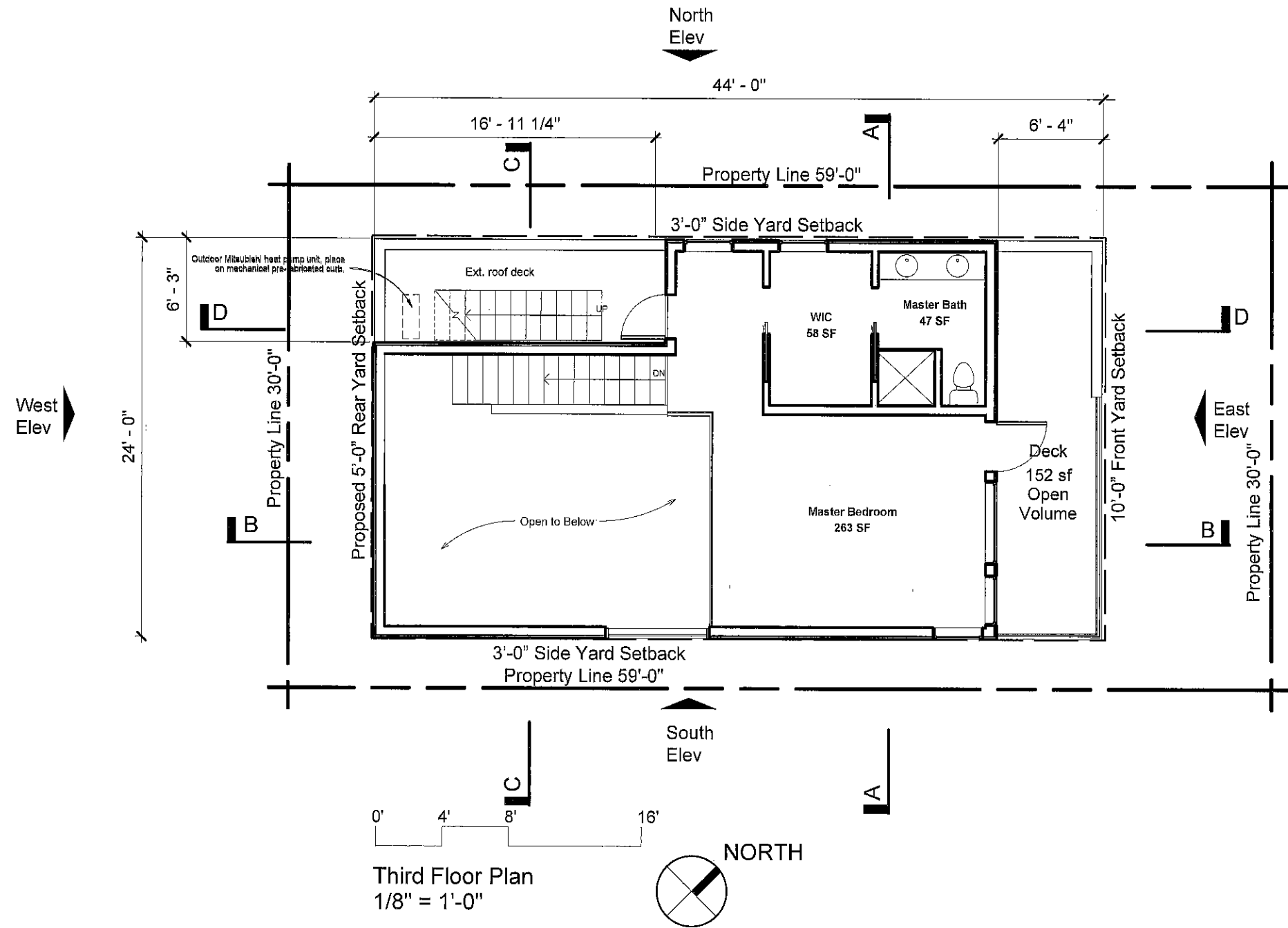
Area Diagrams for Open Volume Calculations

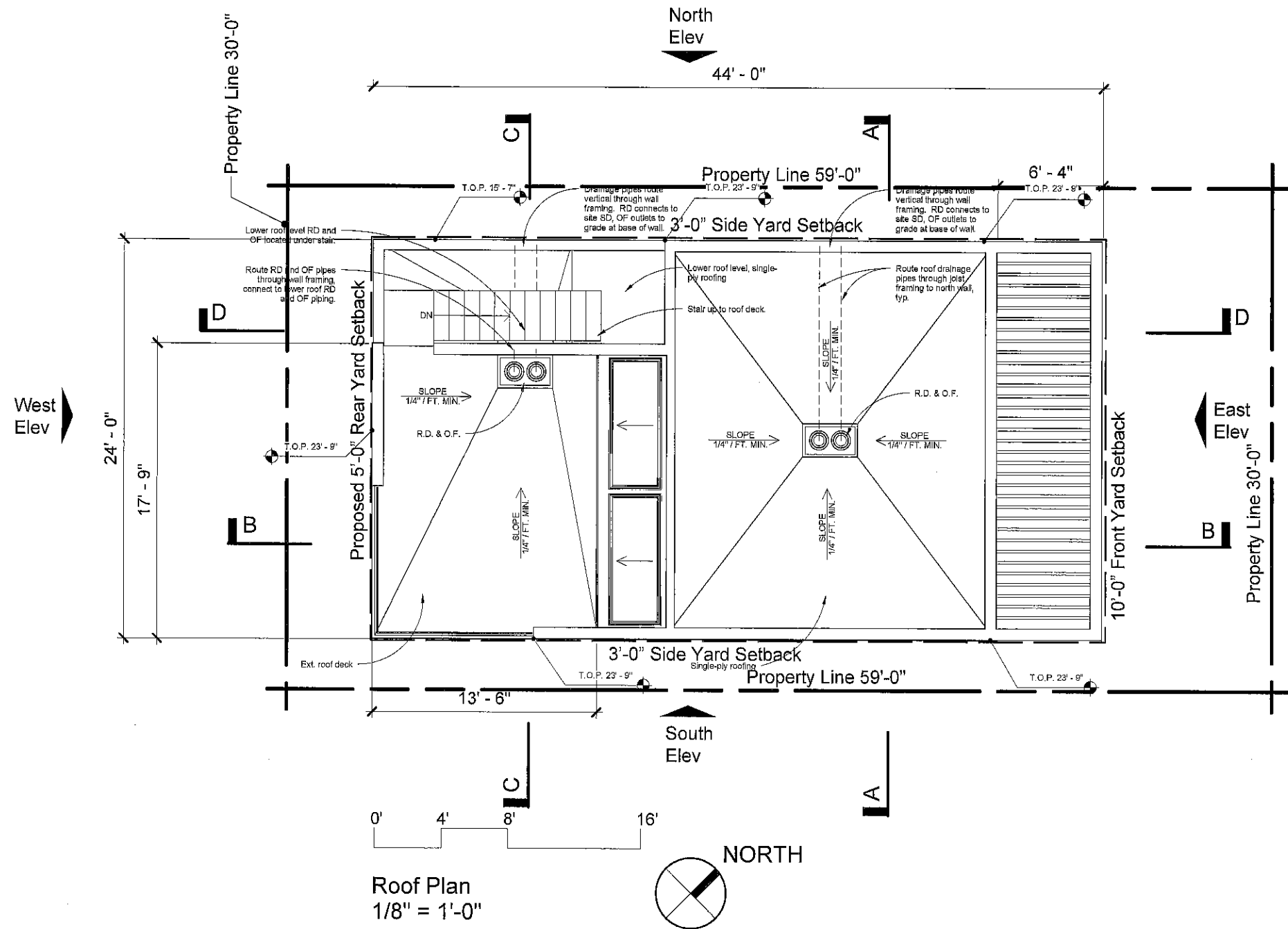
Project Area

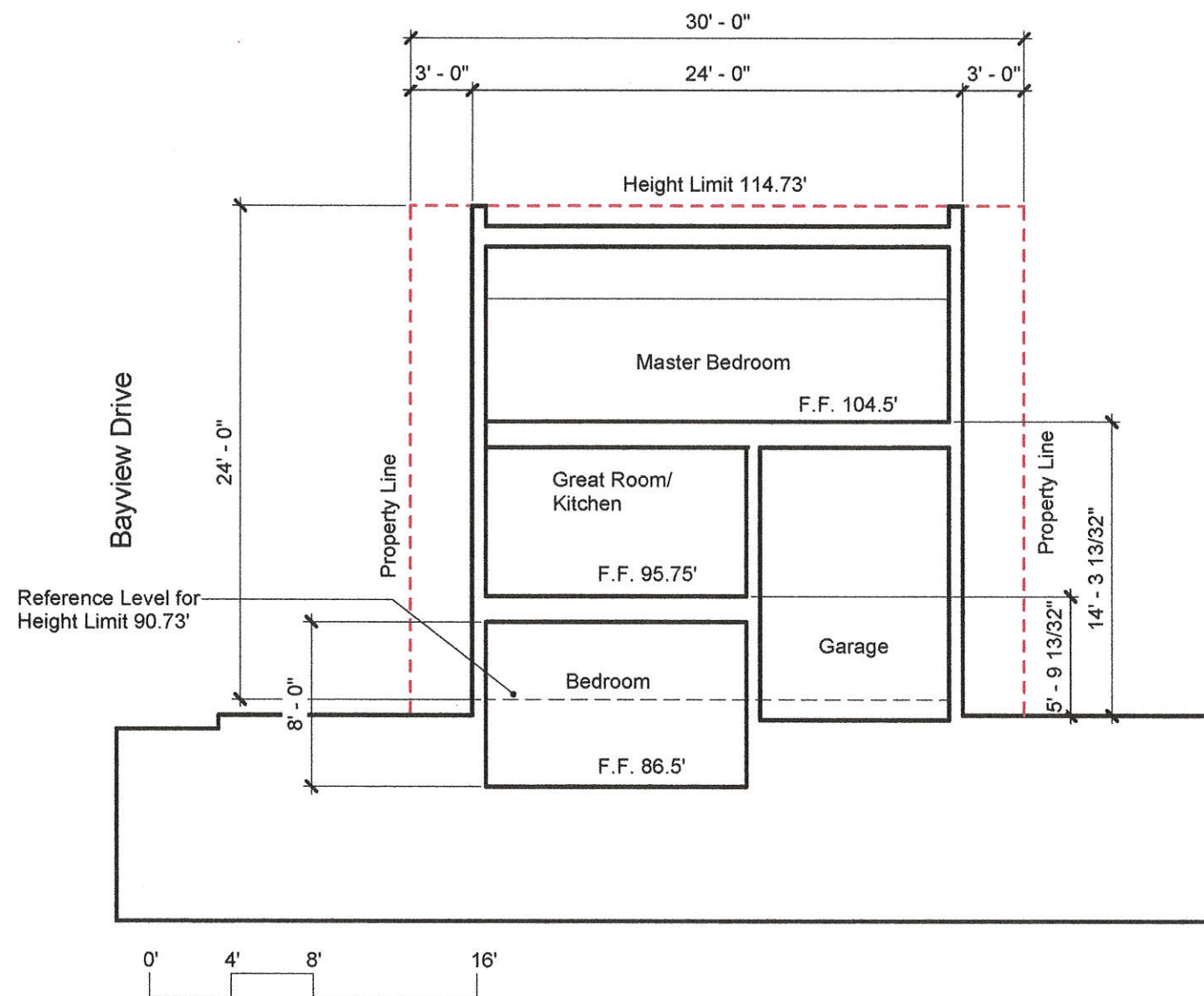
Floor 1 - 830 gsf
 Floor 2 - 572 gsf
 Floor 3 - 445 gsf
 Total GSF: 1,847 gsf



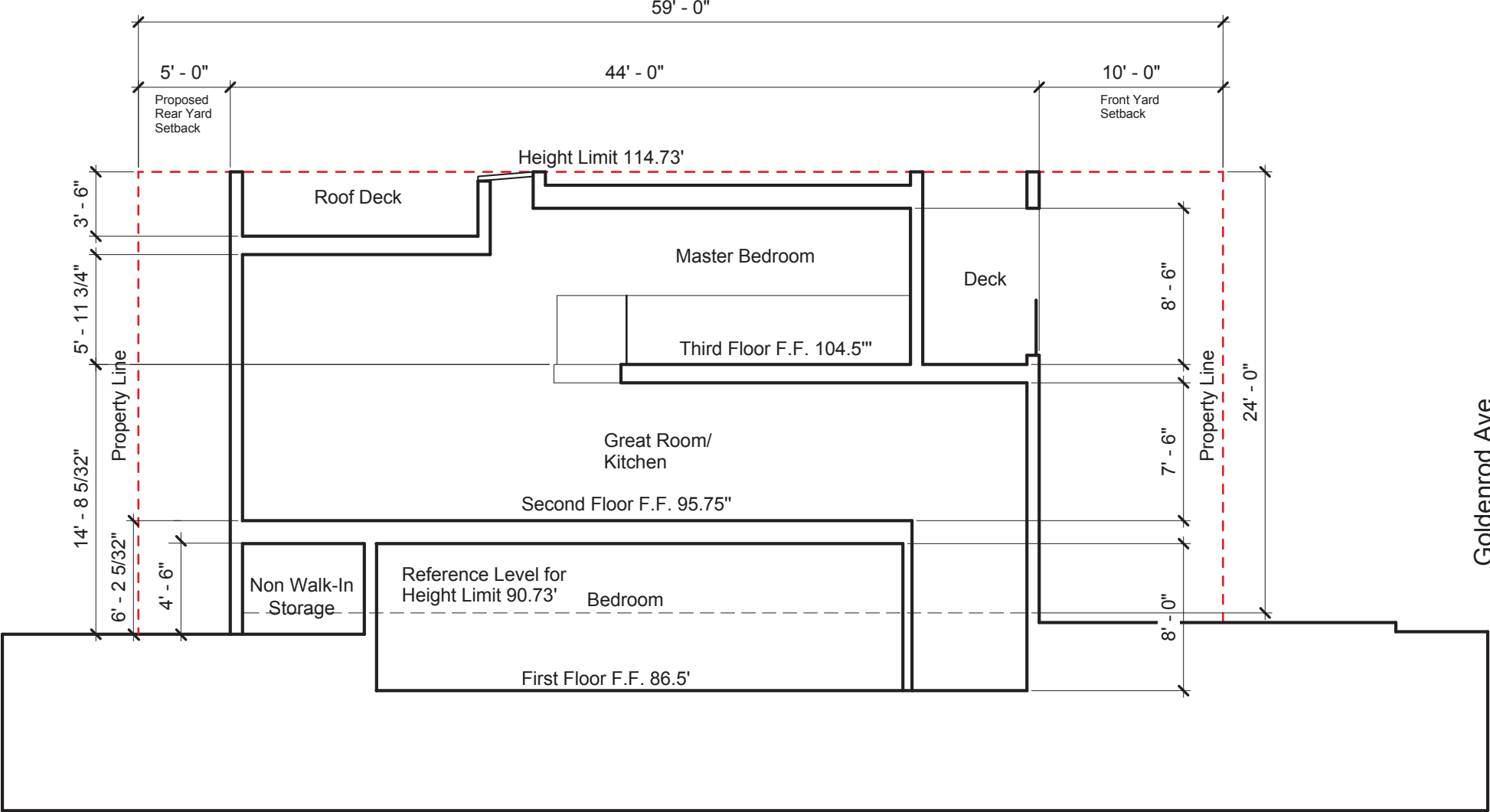




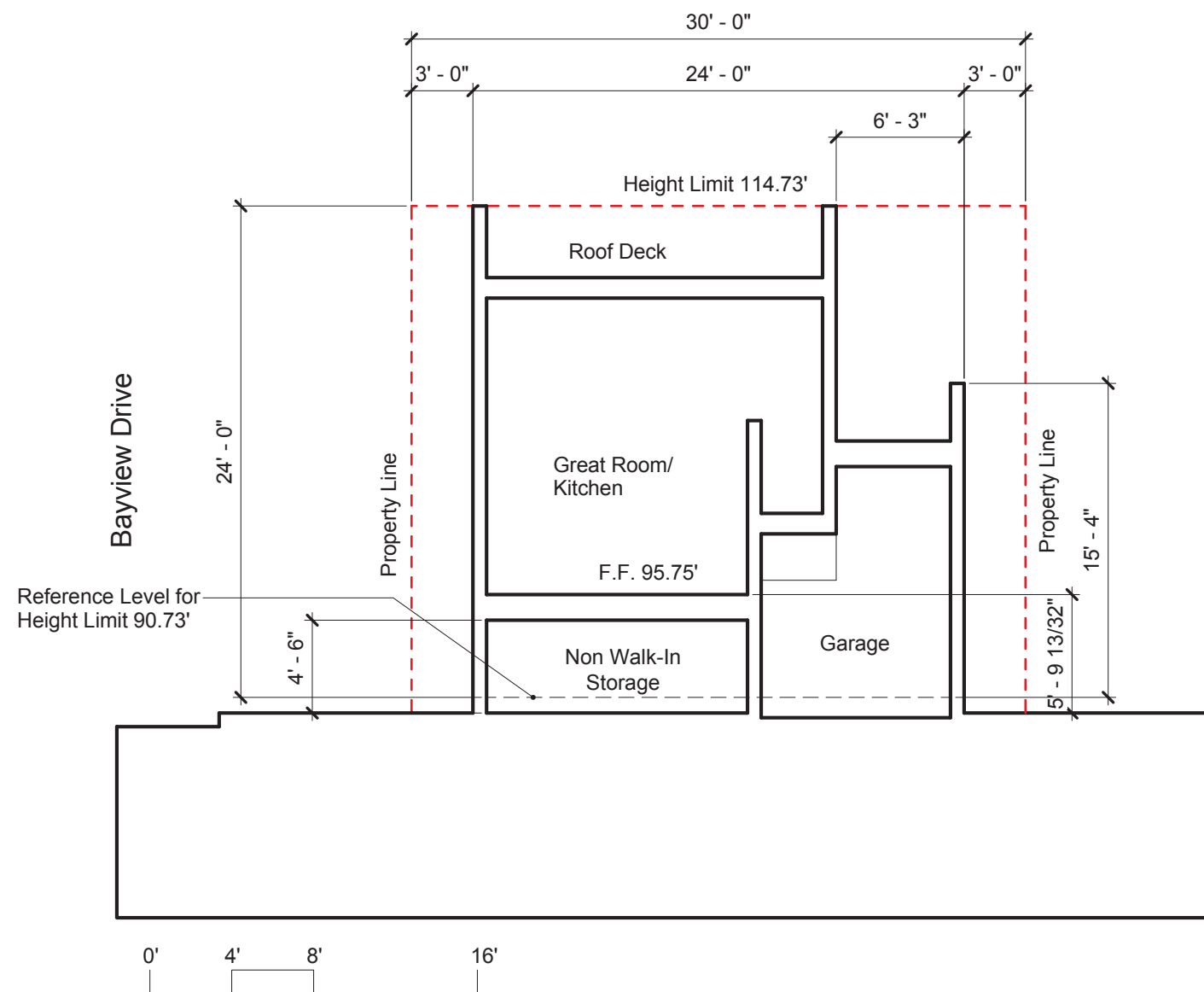




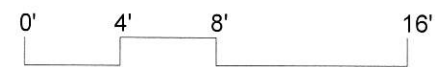
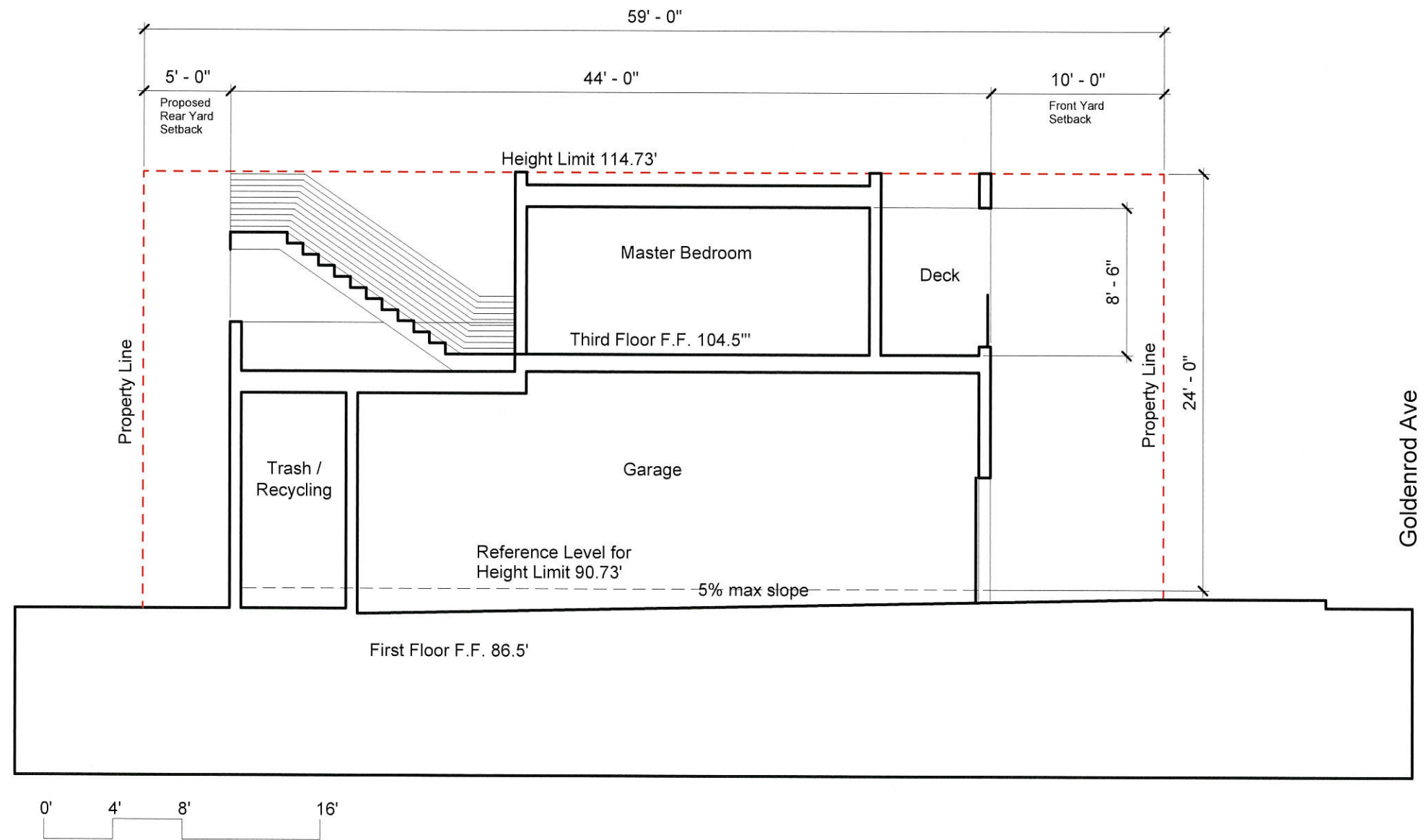
Section A-A
1/8" = 1'-0"



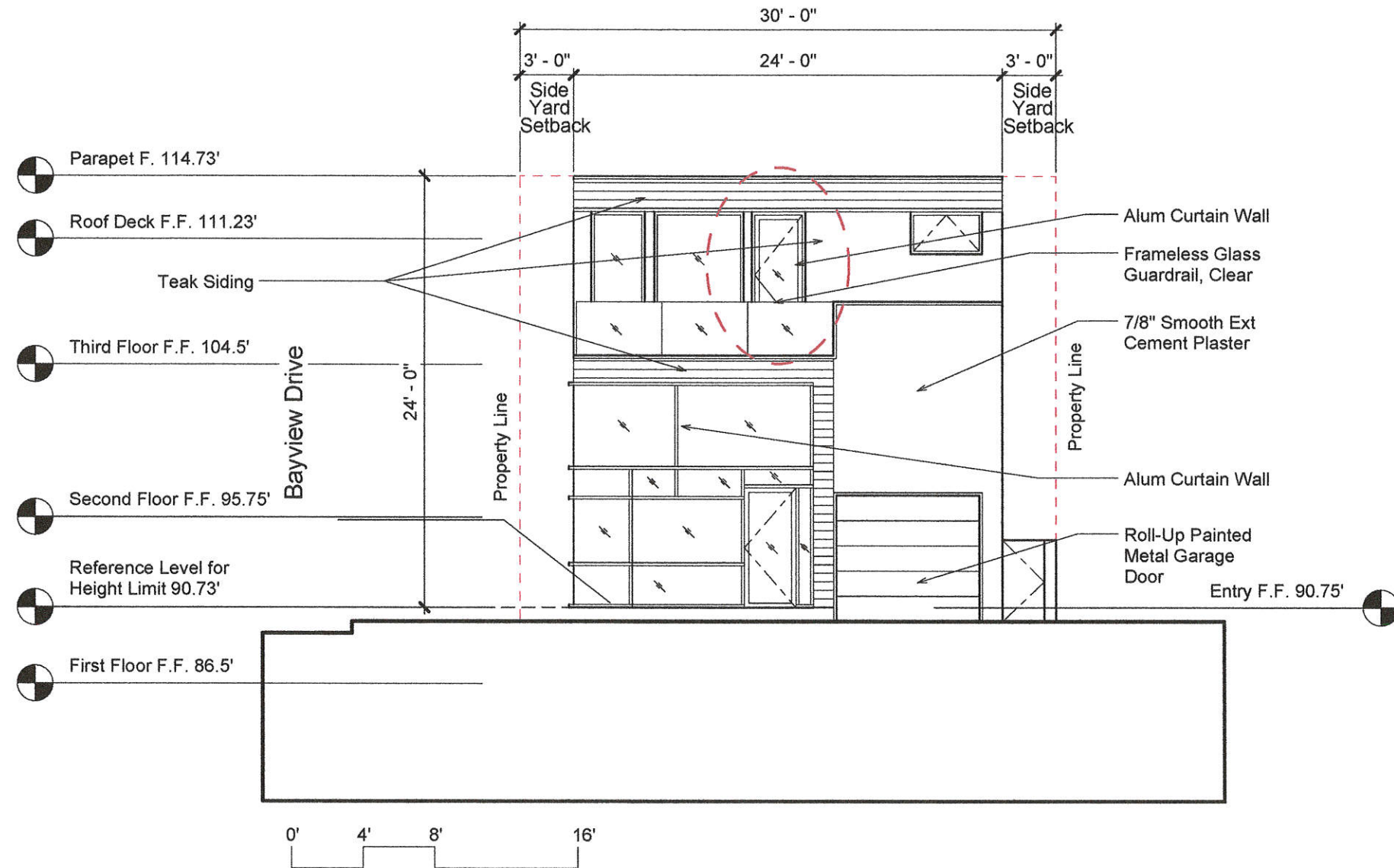
Section B-B
1/8" = 1'-0"

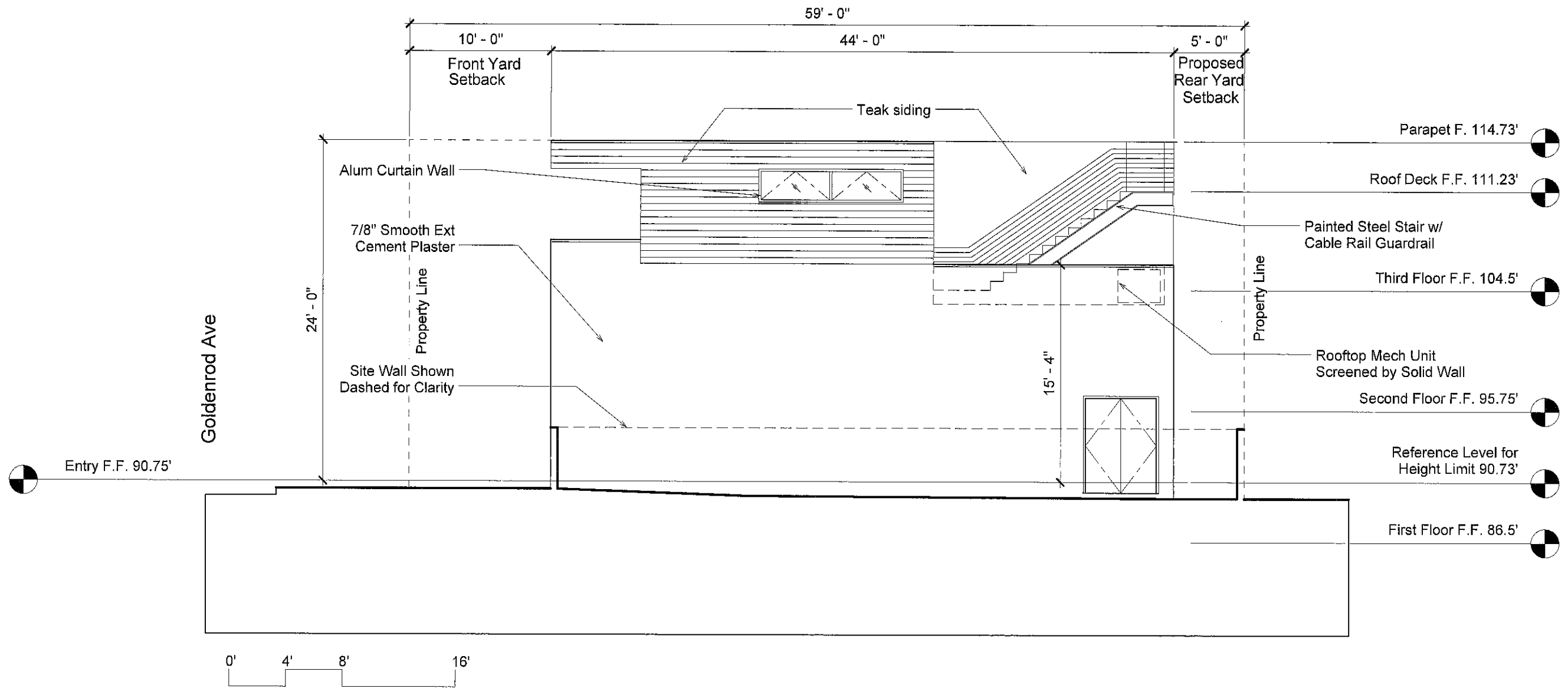


Section C-C
1/8" = 1'-0"

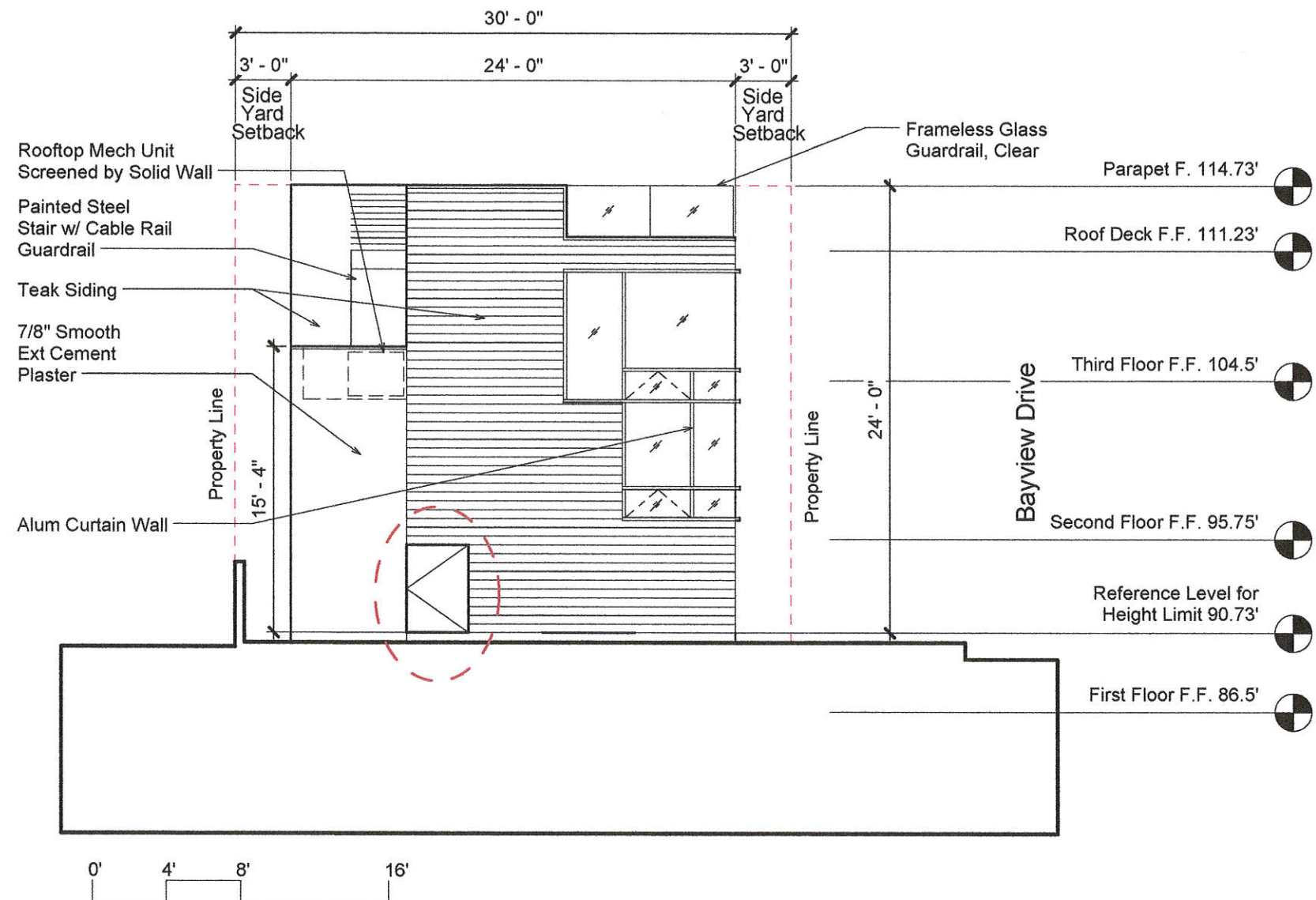


Section D-D
1/8" = 1'-0"

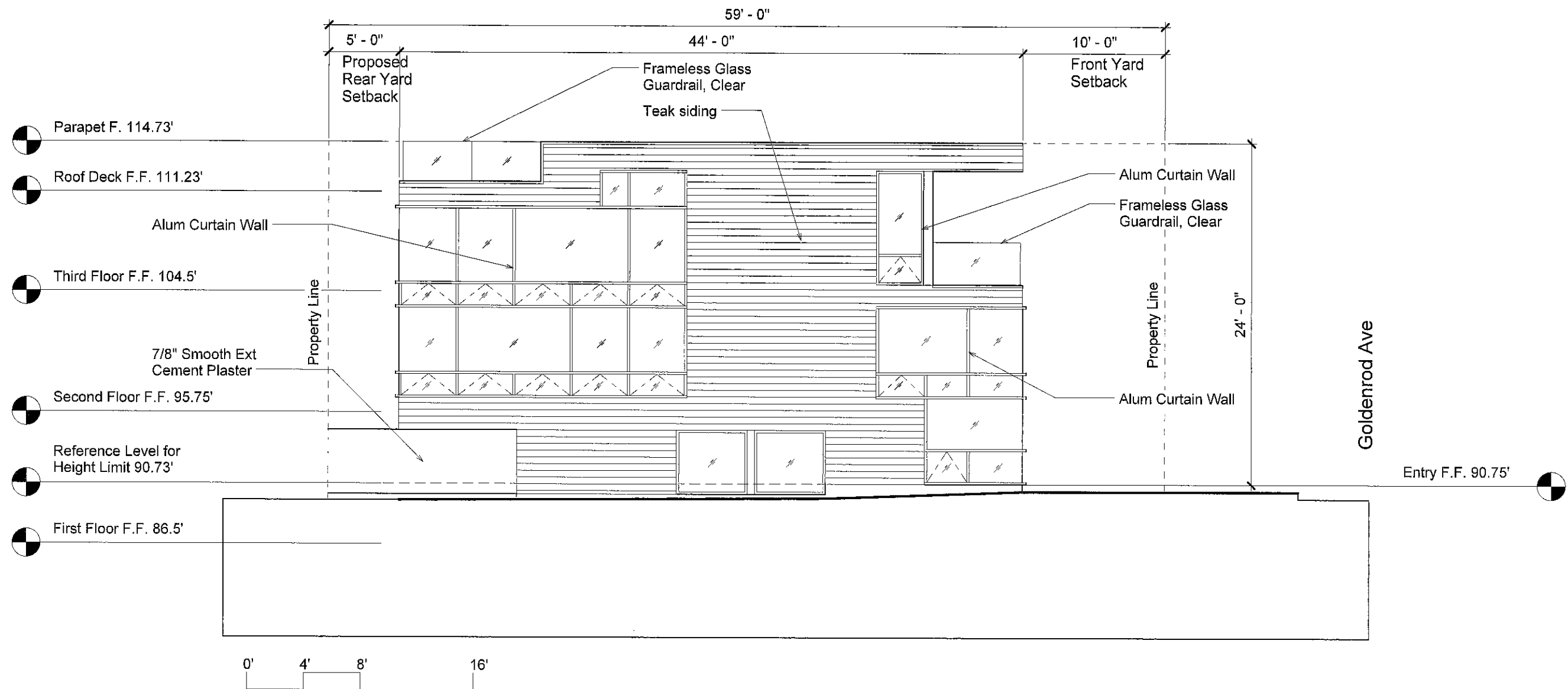




North Elevation
1/8" = 1'-0"



West Elevation
1/8" = 1'-0"



South Elevation
1/8" = 1'-0"