

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
EDWARD RIGGINS,)
Appellant(s))
vs.)
ZONING ADMINISTRATOR,)
Respondent)

Appeal No. **21-004**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on January 14, 2021, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the DENIAL on January 6, 2021, of a Variance (the proposal is to demolish an existing second story deck and spiral staircase within the required rear yard of the 3-story, single-family house and replace them with a new horizontal expansion with spiral staircase and roof deck; the subject property has a required rear yard of 54 feet; the existing building in noncomplying, as a portion of the building and the existing deck encroach 17 feet into the required rear yard; the proposed project would be within the required yard and needs a rear yard variance; the Zoning Administrator denied the variance on a determination that the project does not meet any of the five findings required by Planning Section 305(c)) at 135 3rd Avenue.

APPLICATION NO. 2020-006556VAR

FOR HEARING ON March 24, 2021

Address of Appellant(s):

Address of Other Parties:

Edward Riggins, Appellant(s) c/o William Pashelinsky, Agent for Appellant(s) 1937 Hayes Street San Francisco, CA 94117	N/A
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Date Filed: January 14, 2021

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 21-004

I / We, **Edward Riggins**, hereby appeal the following departmental action: **DENIAL** of **Variance No. 2020-006556VAR** by the **Zoning Administrator** which was issued or became effective on: **January 6, 2021**, for the property located at: **135 3rd Avenue**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: 4:30 p.m. on **February 11, 2021**, (**no later than three Thursdays prior to the hearing date**). The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org and scott.sanchez@sfgov.org.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **February 25, 2021**, (**no later than one Thursday prior to hearing date**). The brief may be up to 12 pages in length with unlimited exhibits. It shall be doubled-spaced with a minimum 12-point font. An electronic copy should be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org and billpash@gmail.com.

The Board's physical office is closed to the public and hard copies of the brief do NOT need to be submitted. **Only photographs and drawings may be submitted by the parties at the hearing.**

Hearing Date: **Wednesday, March 3, 2021, 5:00 p.m.**, via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule. In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org.

Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously. **Please note** that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:
See attached statement.

Signature: Filed by email

Print Name: William Pashelinsky (Agent)

William Pashelinsky
Architect
1937 Hayes Street
San Francisco, California 94117
(415) 379 3676
Email billpash@gmail.com

January 13th, 2021

Corey Tieg
Zoning Administrator
San Francisco Planning Department
49 South Van Ness
San Francisco, Ca.94103

Re: Variance for 135 3rd Ave.
Case 202-006556 VAR
San Francisco, Ca.

We are hoping to find a way to move forward on providing for a room located below the existing rear yard deck.

We received an email from the assigned planner Moses Corrette on October 8th informing us he had met with you and the “guidance was to have the room below the existing deck footprint and leave the stair in place”.

I sent an email to you and Moses prior to the hearing agreeing with this. I also stated the same at the hearing.

Prior to this I was concerned about the feasibility of the variance. I had advised my client to think about doing the room below as an ADU as well as reducing the size of the room.

My proposal is to provide these revisions as they addresses the issues the variance letter states we do not meet. As the room would be below existing deck there is no impact on open space. The space below the deck is currently dark and dank has no feasible use. One of the conditions not met was the size of the existing home being adequate. As an ADU the project adds housing not space.

The project creates no new massing being below the existing deck and being 9 feet high (below fence level). It is well set back from the side and rear property lines. It adds additional “affordable” rental housing. The owner understands the project would need to meet Building Code requirements including an egress corridor in the garage.

If these options are acceptable to you, we wish to find the most expeditious way forward. Would appealing the decision be the best way forward with the notion that we are willing to provide these revisions or do we need to re-apply? We are obviously hoping to avoid this.

I feel this would be a win-win situation, adding affordable (rental) housing with no disruption to the existing open space.

Thank you

Bill Pashelinsky



VARIANCE DECISION

Date: January 6, 2021
Case No.: 2020-006556VAR
Project Address: 135 3rd Avenue
Block/Lots: 1363 / 009
Zoning: RH-2 (RESIDENTIAL- HOUSE, TWO FAMILY)
Height/Bulk: 40-X Height and Bulk District
Applicant: William Pashelinsky
1937 Hayes Street
San Francisco, CA 94117
Owner: EDWARD RIGGINS/MARY DARLING 05 TR
135 3rd Avenue
San Francisco, CA 94118
Staff Contact: Moses Corrette – 628-652-7356
moses.corrette@sfgov.org

Description of Variance – Rear Yard Variance Sought:

The proposal is to demolish an existing second story deck and spiral staircase within the required rear yard of the 3-story, single-family house and replace them with a new horizontal expansion with spiral staircase and roof deck.

Planning Code Section 134 requires properties in the RH-2 Zoning District to maintain a rear yard equivalent to 45 percent of the total lot depth at grade level and at each succeeding story of the building, unless reduced to the average of qualifying adjacent rear building walls. The subject property, with a lot depth of 120 feet has a required rear yard of 54 feet. The existing building is noncomplying, as a portion of the building and the existing deck encroach approximately 17 feet into the required rear yard. The proposed project furthers the noncompliance by constructing a new horizontal expansion with spiral staircase and roof deck, all of which would be within the required rear yard. Therefore, the project requires a rear yard variance.

Procedural Background:

1. The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 categorical exemption.
2. Variance Case No. 2017-005471VAR was denied on September 27, 2017 for a scope of work very similar to that of Case No. 2020-006556VAR.
3. The Zoning Administrator held a public hearing on Variance Application No. 2020-006556VAR on December 2, 2020.
4. Planning Code Section 311 notification for Building Permit Application No. 201704073489 was

performed between August 9, 2017 and September 8, 2017. While no requests for Discretionary Review were filed, the Planning Department received one phone call in opposition to the request on August 24, 2017 from the resident of a nearby building. Per Planning Department policy, the building permit would require new neighborhood notice because more than 3 years have passed since the original notice and the permit has not yet been issued.

Decision:

DENIED, in general conformity with the plans on file with this application, shown as EXHIBIT A, to demolish the existing deck and spiral staircase and replace them with a new horizontal expansion with spiral staircase and roof deck.

Findings:

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

Requirement Not Met.

- A. The subject structure is on a rectangular and generally flat lot with a lot depth of 120 feet and a lot width of 25 feet. The existing deck and staircase at the rear of the property are noncomplying as they are within the required rear yard. The property is developed under the allowed density with a single-family home in an RH-2 Zoning District. The home on the property is of adequate size with three bedrooms, and a large garage and workshop area at the ground level. There are no other special circumstances applying to this property that do not apply generally to other properties or uses in the same class of district.

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

Requirement Not Met.

- A. Per Finding 1 above, there are no exceptional or extraordinary circumstances for the subject property or proposed development. The proposal is to expand the ground floor garage/workshop of the existing single-family dwelling and add a study and full bathroom. The proposed habitable space could be incorporated into the existing building envelope in a Code-compliant manner. As such, applying the specific provisions of the Planning Code does not result in a practical difficulty or unnecessary hardship for the subject property or proposed development.
- B. The property has ample useable open space within its rear yard. As such, the enforcement of the rear

yard requirement such that a stair to access a roof deck is not permitted does not constitute a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

FINDING 3.

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

Requirement Not Met.

- A. This variance is not necessary for preservation and enjoyment of a substantial property right of the subject property possessed by other properties in the same class of district. The subject property is already significantly developed, and the existing dwelling unit is of a reasonable size and configuration.

FINDING 4.

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Requirement Not Met.

- A. The existing building is of a reasonable depth compared to most neighbors in the same class of district, and the construction of additional habitable space in the rear yard for a study and a full bathroom would have the potential to affect the pattern of mid-block open space.
- B. The Planning Department received no public comment on the current proposal.

FINDING 5.

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

Requirement Not Met.

- A. This development is consistent with some, but not all, aspects of the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project does meet the following priority planning policies:
 - 1. Existing neighborhood retail uses will not be adversely affected by the proposed project.
 - 2. The proposed project will not be in keeping with the existing housing and neighborhood character. Although the proposal would preserve the existing one-family dwelling, it would fail to preserve neighborhood character by adding additional and unnecessary massing within the rear yard.
 - 3. The proposed project will have no effect on the City's supply of affordable housing. No affordable housing is proposed to be eliminated or provided.

4. The proposed project does not adversely affect neighborhood parking or public transit.
5. The project will have no effect on the City's industrial and service sectors.
6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
7. The project will have no effect on the City's landmarks or historic buildings.
8. The project would not affect any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed, or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

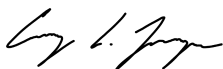
Once any portion of the granted variance is used, all specifications and conditions of the variance authorization become immediately operative.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

APPEAL: Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 49 South Van Ness Ave, Suite 1475 (14th Floor), call 628-652-1150, or visit www.sfgov.org/bdappeal.

Very truly yours,



Corey A. Teague, AICP
Zoning Administrator

This is not a permit to commence any work or change occupancy. Permits from appropriate departments must be secured before work is started or occupancy is changed.

BRIEF(S) SUBMITTED BY APPELLANT(S)

William Pashelinsky
Architect
1937 Hayes Street
San Francisco, California 94117
(415) 379 3676
Email billpash@gmail.com

March 4th, 2021

Board of Permit Appeals
49 South Van Ness
San Francisco, Ca.94103

Re: Appeal No. 21-004
Re: Variance denial for for 135 3rd Ave.
Case 202-006556 VAR
San Francisco, Ca.

We feel there were extenuating circumstances regarding the San Francisco Planning Departments denial of the variance to replace the rear yard 1 story deck and spiral stairs with a new rear yard 1 story addition with roof deck and spiral stairs.

On October 8th we were sent an email that the assigned planner Moses Corette stating he had met with the zoning administrator and that “the guidance was to try to keep the new room the size of the existing footprint including spiral stairs”. Prior to the hearing I emailed the Corey Tieg this was fine. The variance was denied with no mention of this proposal.

Since filing the appeal we have worked with planning to find an acceptable Solution. They requested a design that would be 10’-4” o showing the revised project. The proposed design is indicated on the attached drawings

on sheets A 1.02 (proposed site plan) and A 2.02. It is our understanding the zoning Administrator Corey Tieg supports this layout as long as we have support letters from the 2 adjacent neighbors.

Thank you

William Pashelinsky

Architect

GENERAL NOTES:

INTENT OF DOCUMENTS:

It is the intent of these Contract Documents to establish a high quality of material and workmanship, but not necessarily to note and call for every last item of work to be done. Any item not specifically covered but deemed necessary for satisfactory completion of the work shall be accomplished by the Contractor in a manner consistent with the quality of the work without additional cost to the Owner. All materials and methods of installation shall be in accordance with industry standards and manufacturers recommendations.

A. All materials and workmanship shall conform to the requirements of the following codes and regulations and any other local and state laws and regulations:

- San Francisco Building Code 2016 Edition
- San Francisco Fire Code 2014 Edition
- San Francisco Plumbing Code 2016 Edition
- San Francisco Electrical Code 2016 Edition
- San Francisco Mechanical Code 2016 Edition

Verify all existing conditions and dimensions at the project site. Notify the Architect and/or Engineer of any discrepancies before beginning construction.

B. Provide adequate and proper shoring and bracing to maintain safe conditions at all times. The contractor shall be solely responsible for providing adequate shoring and bracing as required for protection of life and property during the construction of the project.

C. At all times the Contractor shall be solely and completely responsible for all conditions at the jobsite, including safety of persons and property, and all necessary independent engineering reviews of these conditions. The Architects jobsite reviews are not intended nor shall they be construed to include a review of the adequacy of the contractors safety measures.

D. Unless otherwise shown or noted, all typical details shall used where applicable.

E. All details shall be constued typical at similar conditions.

F. All Drawing conflicts shall be brought to the attention of the Architect and/or Consulting Engineer for clarification before work proceeds.

G. The Contractor shall supply all labor, materials, equipment and services, including water and power, necessary for the proper execution of the work shown on these drawings. All materials shall be new and workmanship shall be good quality. All workman and subcontractors shall be skilled in their trade. Any inspections, special or otherwise, that are required by the building codes, local builing departments, on these plans shall be done by an independent inspection company.

H. Finishes: Replace patch, repair and refinish all existing surfaces affected by the new work. All new finishes shall match the adjacent surface. all surfaces shall align.

I. The General Contractor shall visit the site and familiarize themselves with the existing site conditions prior to finalizing of any proposal to the owner.

The general Contractor shall be responsibe to inform the owner or Architect of potential existing conditions that need to be addressed and or modified in order to complete the work as herein described in these Drawings.

J. The General Contractor shall be reponsible for all means and methods of construction including but not limited to leveling, shiming, and blocking. The General Contractor shall make specific note of such items that can not be known prior to the commencement of construction.

DRAWING INDEX:

A 1.01 SITE AND ROOF PLAN, GENERAL NOTES, AND DRAWING INDEX

A 1.02 SITE AND ROOF PLANS

A 2.01 FLOOR PLANS EXISTING

A 2.02 FLOOR PLANS PROPOSED

A 3.01 EXTERIOR ELEVATIONS

A 3.02 EXTERIOR ELEVATIONS

PROJECT INFORMATION:

ZONING: RH-2

OCCUPANCY R-3
PROPOSED USE: SINGLE FAMILY RESIDENCE
3 STORYS
CONSTRUCTION TYPE: 5-B

BLOCK:1363 LOT:009

SCOPE OF WORK: REMOVE 1 STORY WOOD DECK NEW ONE STORY REAR YARD ADDITION INCLUDING BATHROOM AND ROOF DECK ABOVE. REPLACE SPIRAL STAIRS AT DECK IN KIND

PROJECT STATISTICS

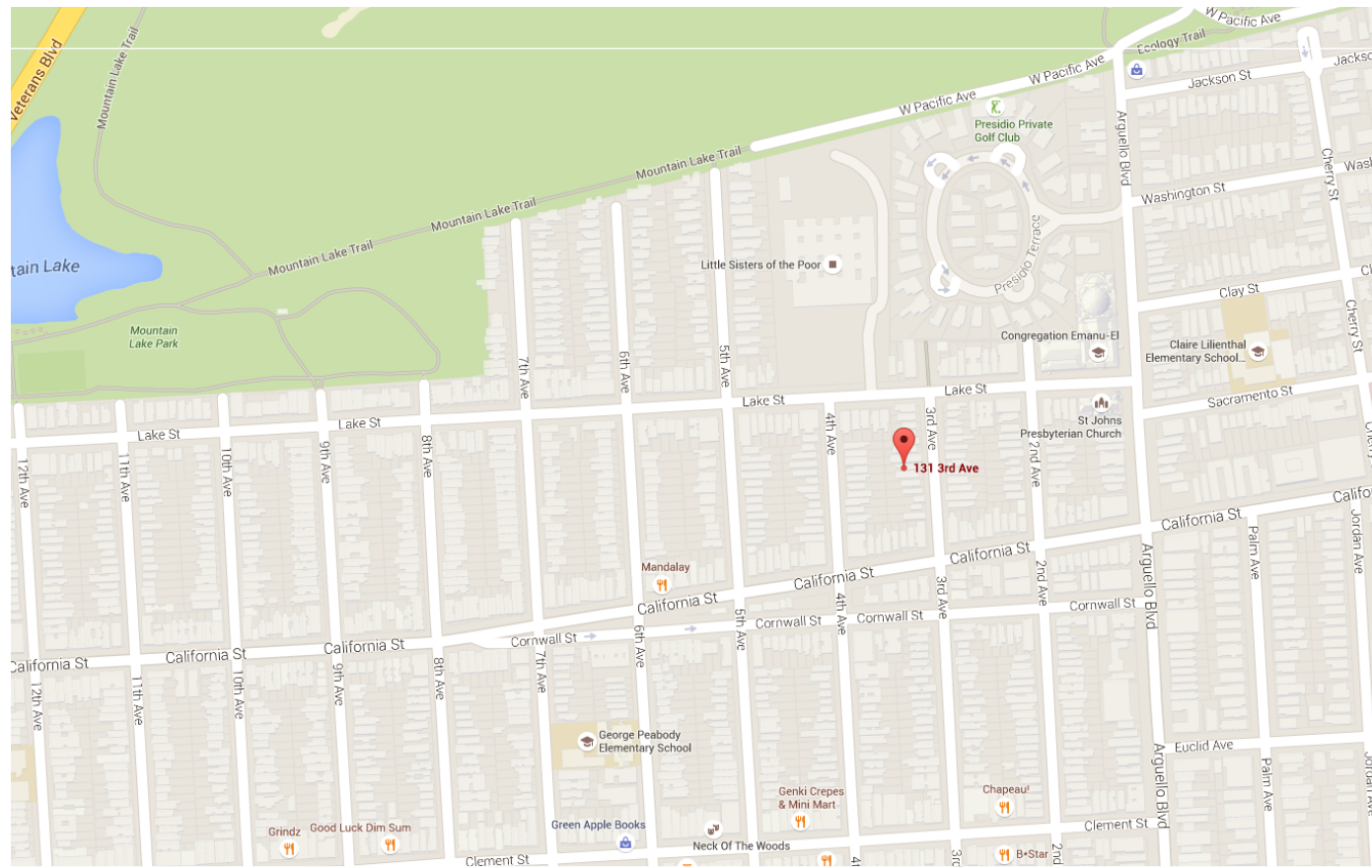
EXISTING	
GARAGE/STORAGE: 1ST FLOOR:	1,387 SQ FT
HABITABLE 2ND FLOOR: 3RD FLOOR: TOTAL HABITABLE:	1,396 SQ FT 818 SQ FT 2,214 SQ FT
PROPOSED	
GARAGE/STORAGE: 1ST FLOOR:	1,387 SQ FT
HABITABLE 1ST FLOOR: 2ND FLOOR: 3RD FLOOR: TOTAL HABITABLE:	155 SQ FT 1,396 SQ FT 818 SQ FT 2,548 SQ FT
ADDITION: ROOF DECK:	155 SQ FT 155 SQ FT

ABBREVIATIONS:

@	AT	HGT./HT.	HEIGHT
⊕	CENTERLINE	INSUL.	INSULATION
∅	DIAMETER OR ROUND	MFG.	MANUFACTURING
(E)	EXISTING	MAX.	MAXIMUM
(N)	NEW	MTL.	METAL
(R)	REPLACE	MIN.	MINIMUM
AFF	ABOVE FINISH FLOOR	O.C.	ON CENTER
BM.	BEAM	PR.	PAIR
BLDG.	BUILDING	PKT.	POCKET
CBC	CALIFORNIA BUILDING CODE	P.T.	PRESSURE TREATED
CLR.	CLEAR	REF.	REFRIGERATOR
CLOS.	CLOSET	REQ'D	REQUIRED
CONC.	CONCRETE	REQ'T	REQUIREMENT
DECK'G	DECKING	RTG.	RETAINING
DET.	DETAIL	R & S	ROD AND SHELF
DIA.	DIAMETER	RM.	ROOM
DISP.	DISPOSAL	SIM.	SIMILAR
DW.	DISHWASHER	S.C.	SOLID CORE
DR.	DOOR	SQ. FT.	SQUARE FOOT/FEET
DBL.	DOUBLE	STOR.	STORAGE
DN.	DOWN	STRUCT.	STRUCTURAL
DRWG'S.	DRAWINGS	TEMP.	TEMPERED
D	DRYER	TRANS.	TRANSPARENT
EA.	EACH	TYP.	TYPICAL
F	FAHRENHEIT	U.O.N.	UNLESS OTHERWISE NOTED
FIN.	FINISH	V.I.F.	VERIFY IN FIELD
F.R.	FIRE RATED	W	WASHER
FLR.	FLOOR	WH.	WATER HEATER
FT.	FOOT OR FEET	WP	WATERPROOF
FR.	FRENCH	WDO.	WINDOW
FURN.	FURNISH	W/	WITH
FURR.	FURRING	WD.	WOOD
GA.	GAUGE		
GL.	GLAZING		
GYP.	GYP SUM		
GYP.BD.	GYP SUM BOARD		

WILLIAM PASHELINSKY ARCHITECT
1937 HAYES STREET
SAN FRANCISCO, CA 94117
415 379 3676

ADDITION AND ALTERATIONS
135 3RD AVE
SAN FRANCISCO, CA



VICINITY MAP

DRAWING SYMBOLS

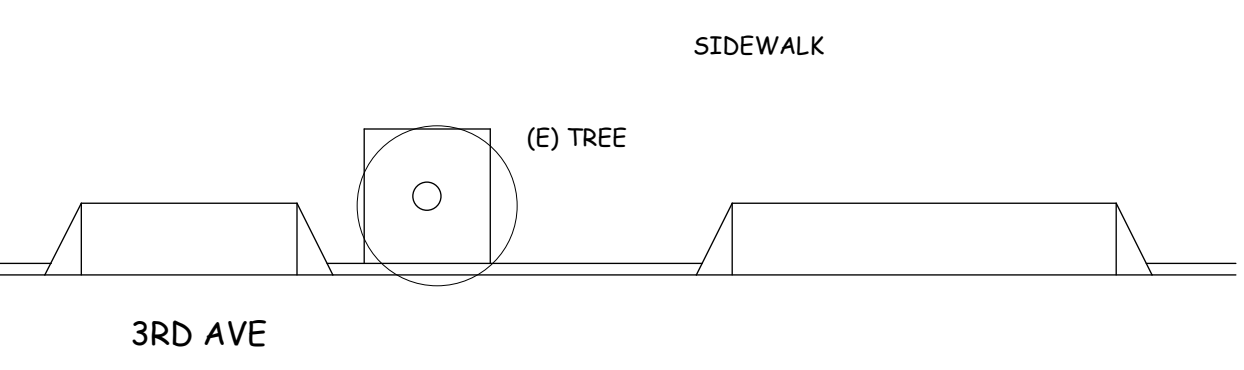
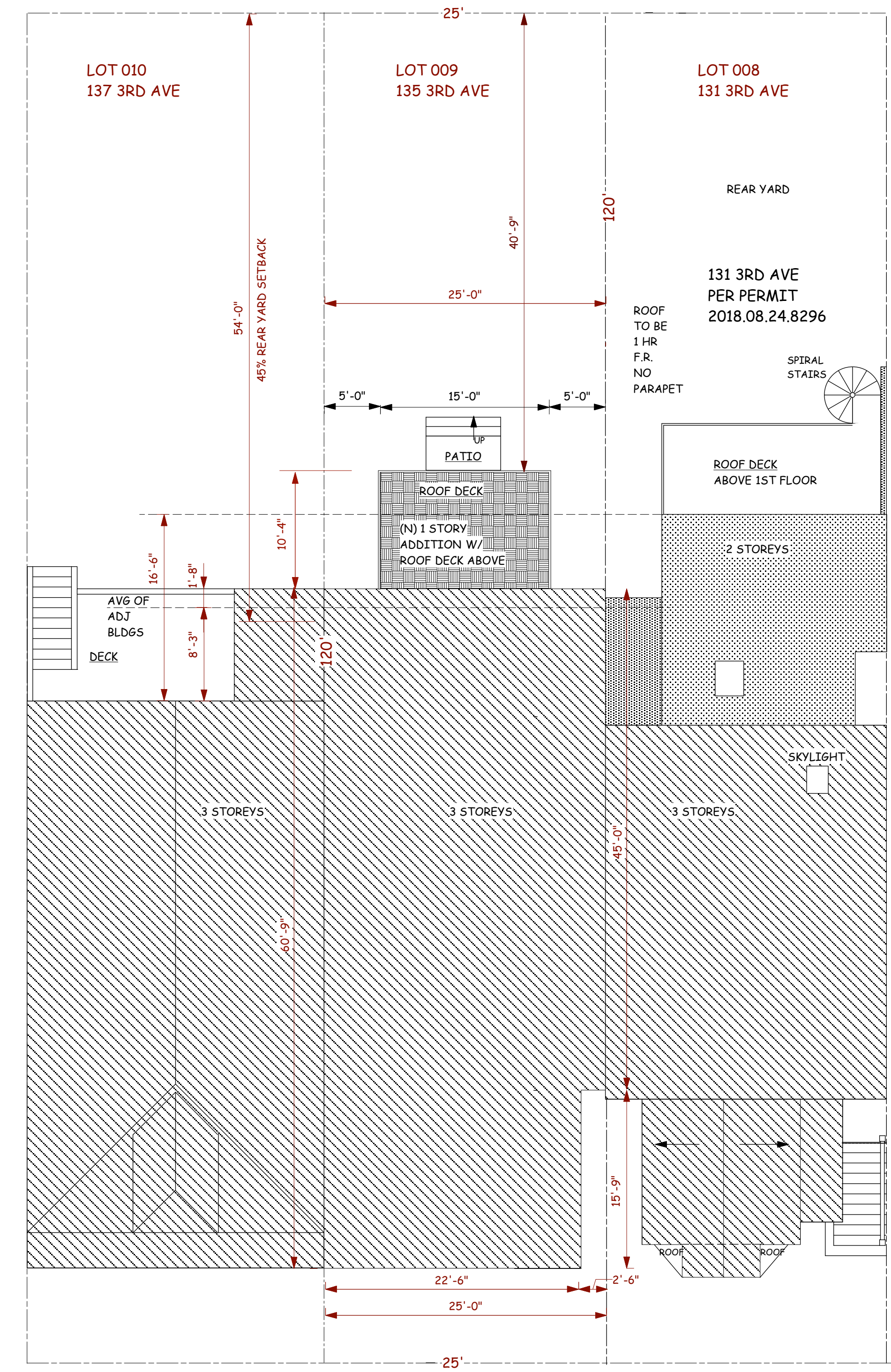
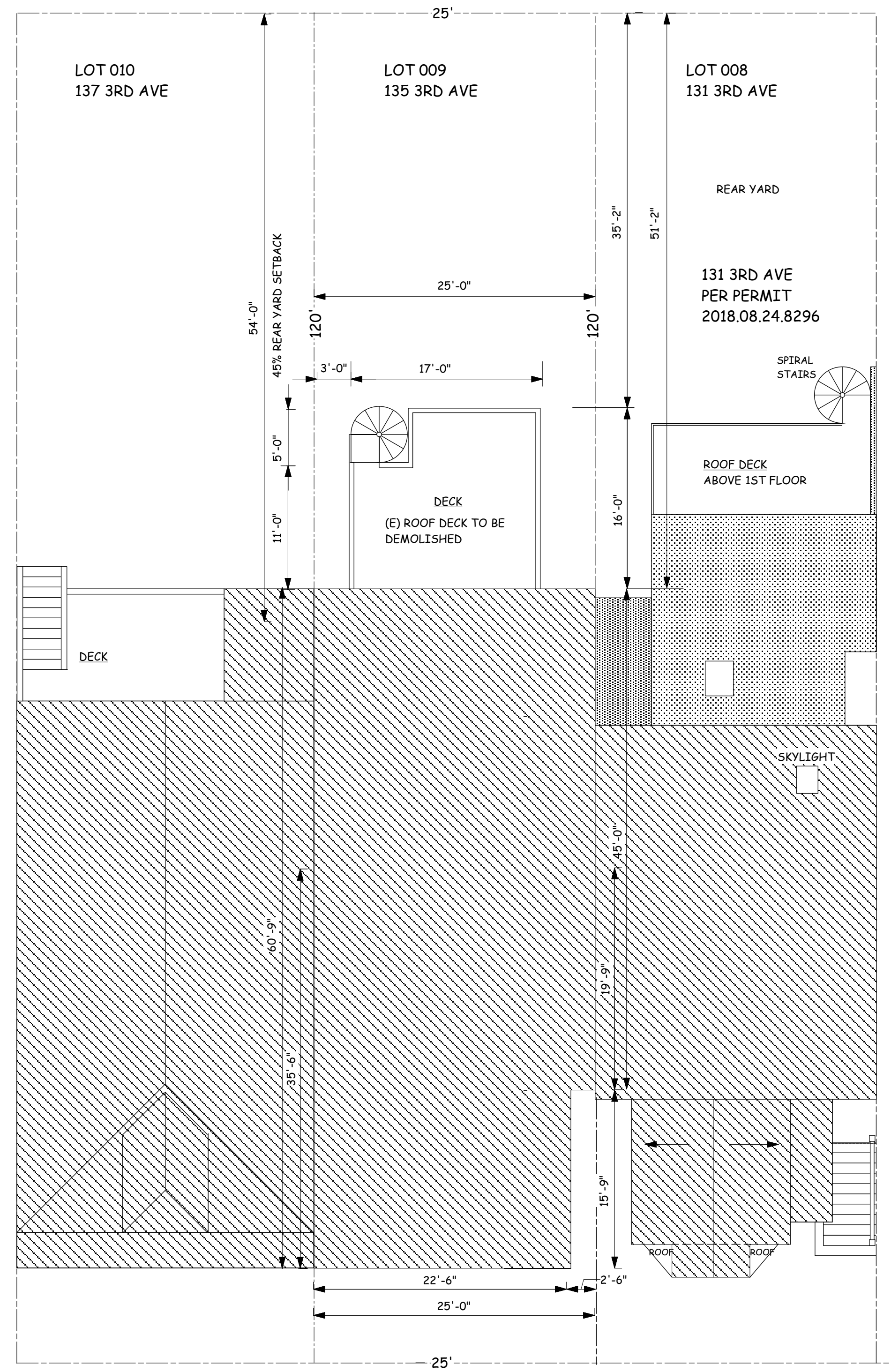
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- WINDOW NUMBER
- SKYLIGHT NUMBER
- DRAWING REVISION
- DETAIL NUMBER AND DRAWING REFERENCE
- NOTE/ITEM NUMBER
- GRADE
- PROPERTY LINE
- ELEV. NO. DRAWING REFERENCE

ALL IDEAS, DESIGNS, ARRANGEMENTS AND PLANS AS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY AND ARE THE PROPERTY OF WILLIAM PASHELINSKY ARCHITECT AND WERE CREATED, EVOLVED AND DEVELOPED FOR USE ON, AND IN CONNECTION WITH THIS SPECIFIC PROJECT. NONE OF THESE IDEAS, DESIGNS, ARRANGEMENTS OF PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF WILLIAM PASHELINSKY ARCHITECT

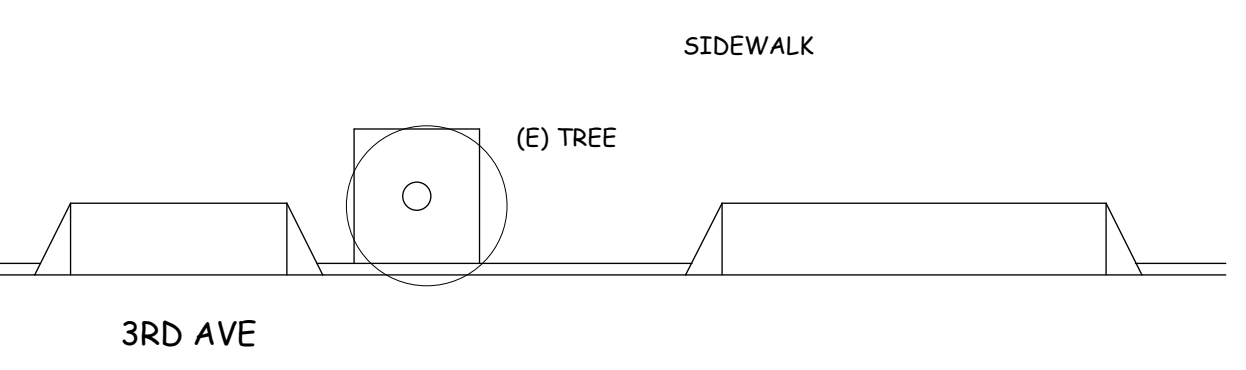
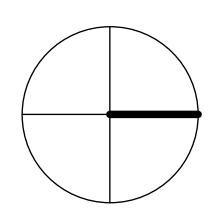
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4	2/25/21	PLANNING

PROJECT NO. 2019.17
SHEET

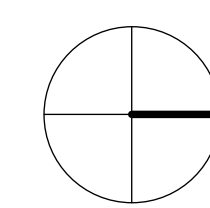
ADDITION AND ALTERATIONS
 135 3RD AVE
 SAN FRANCISCO, CA.



SITE AND ROOF PLAN (E)
 1/8"=1'-0"

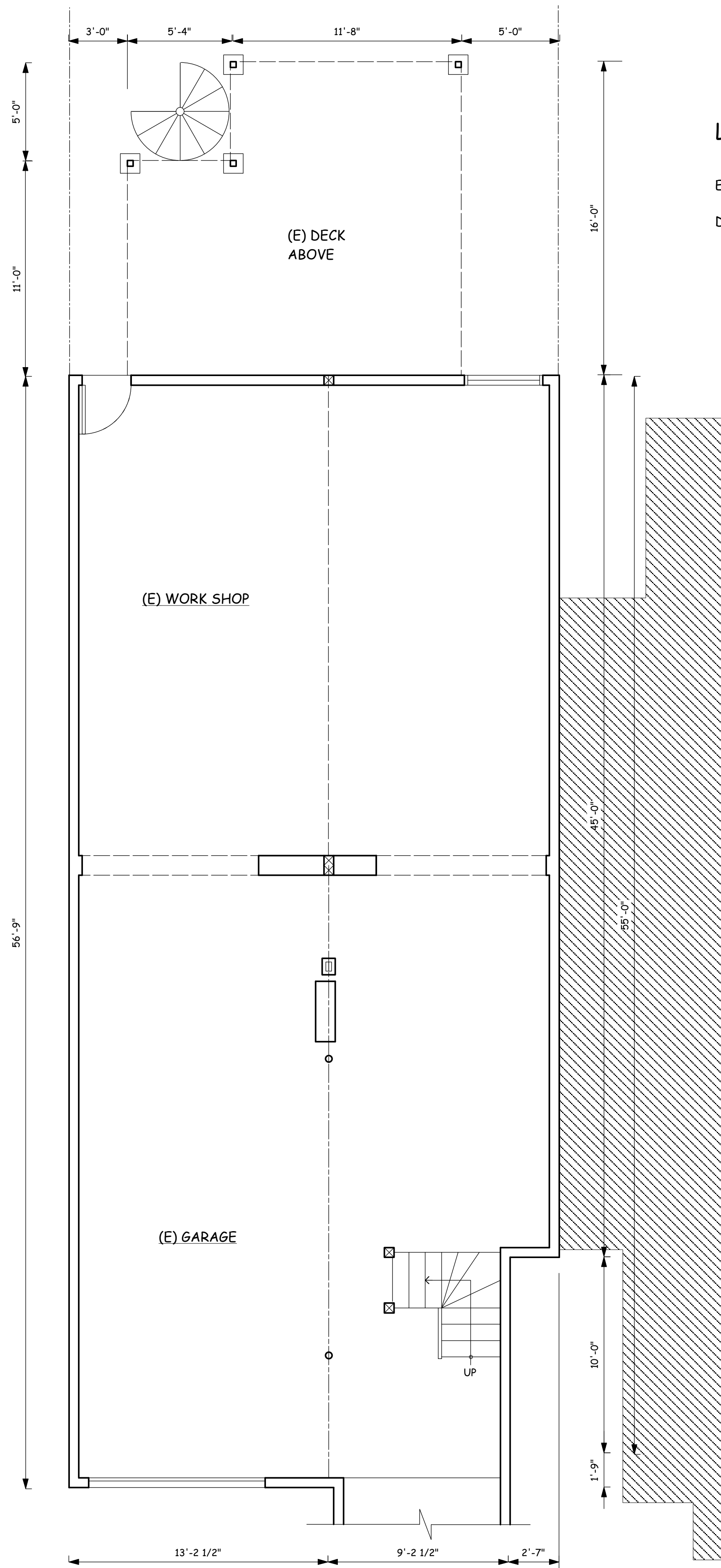


SITE AND ROOF PLAN (E)
 1/8"=1'-0"




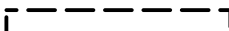
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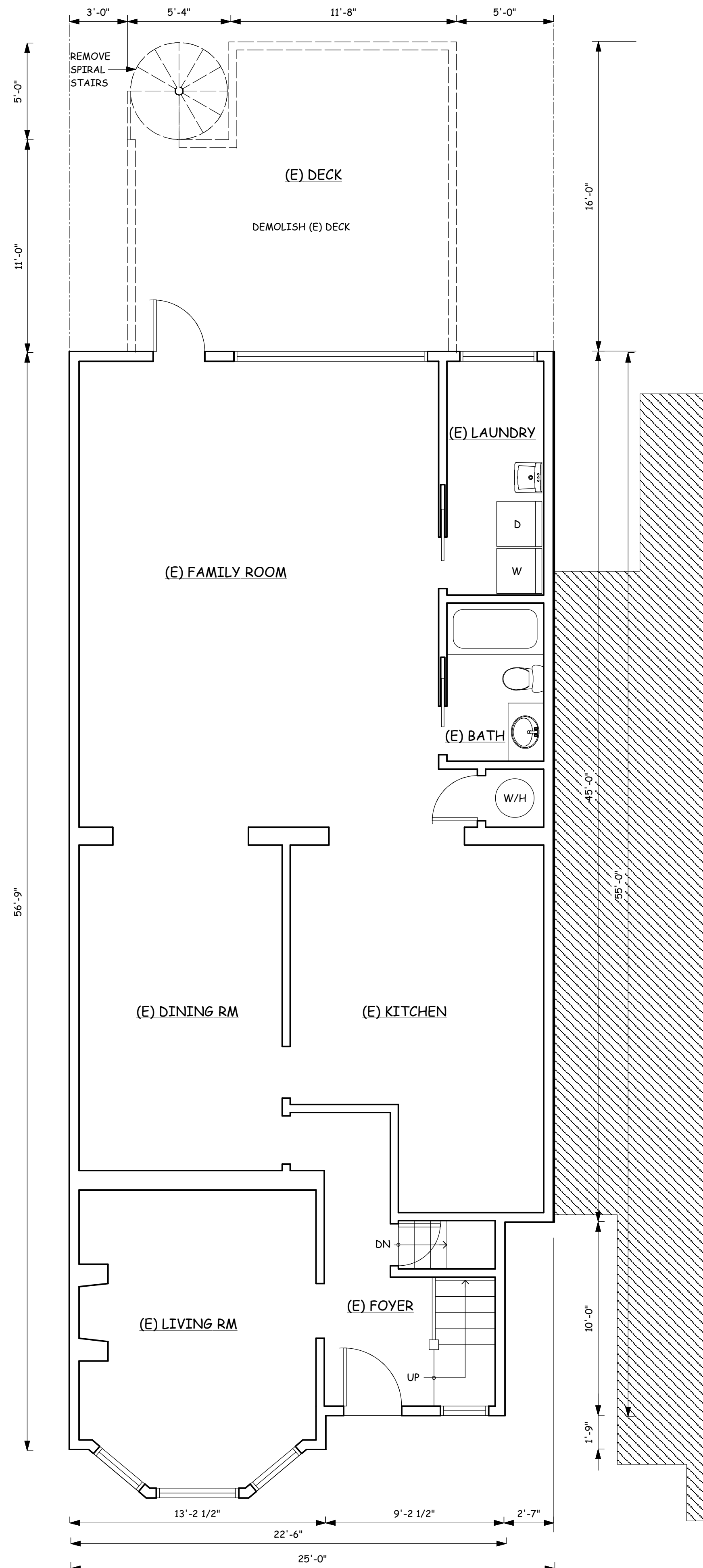
NO.	DATE	DESCRIPTION
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2	5/01/18	PLANNING
3	10/11/19	PLANNING
4	2/25/21	PLANNING



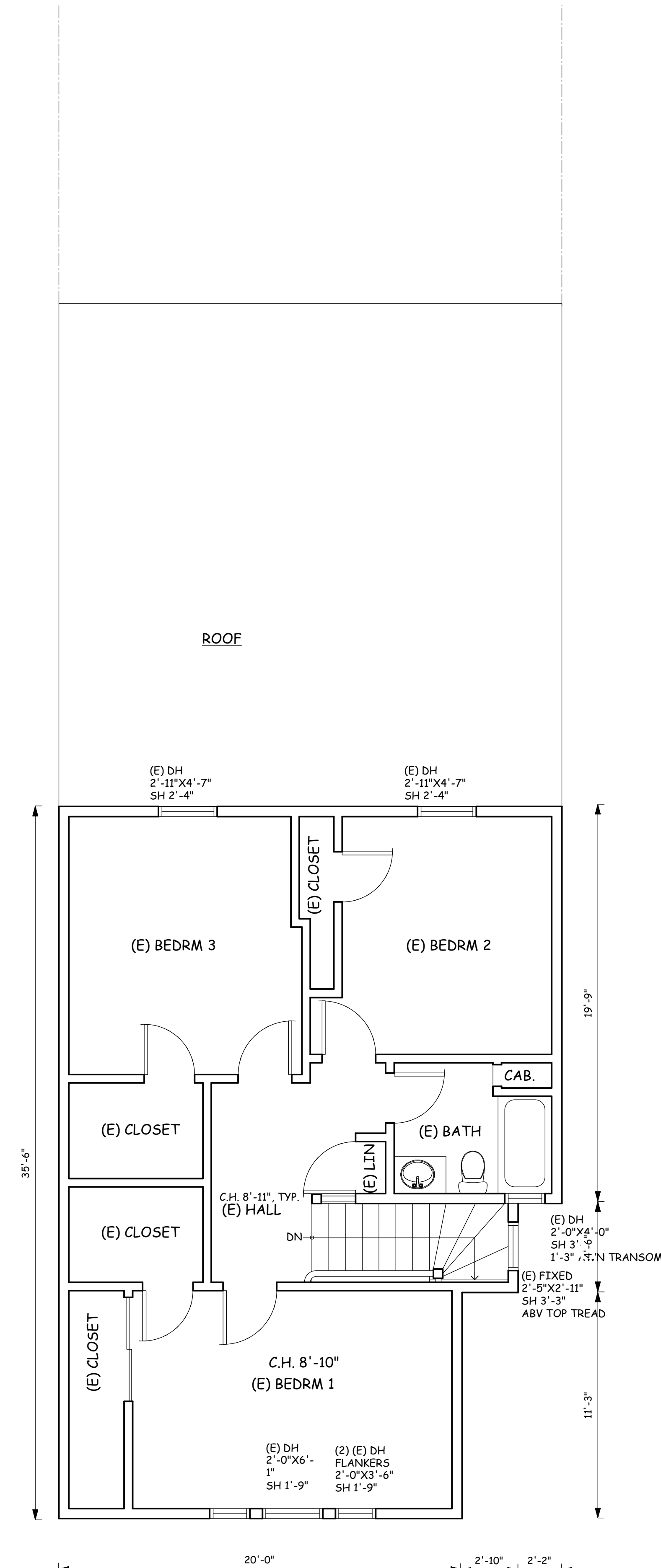
1ST FLOOR PLAN (E)
 1/4"=1'-0"

LEGEND

EXISTING 
 DEMOLISH 





2ND FLOOR PLAN (E)
 1/4"=1'-0"



3RD FLOOR PLAN (E)
 1/4"=1'-0"

WALL LEGEND




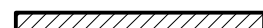

EXISTING: 
 DEMOLISH: 

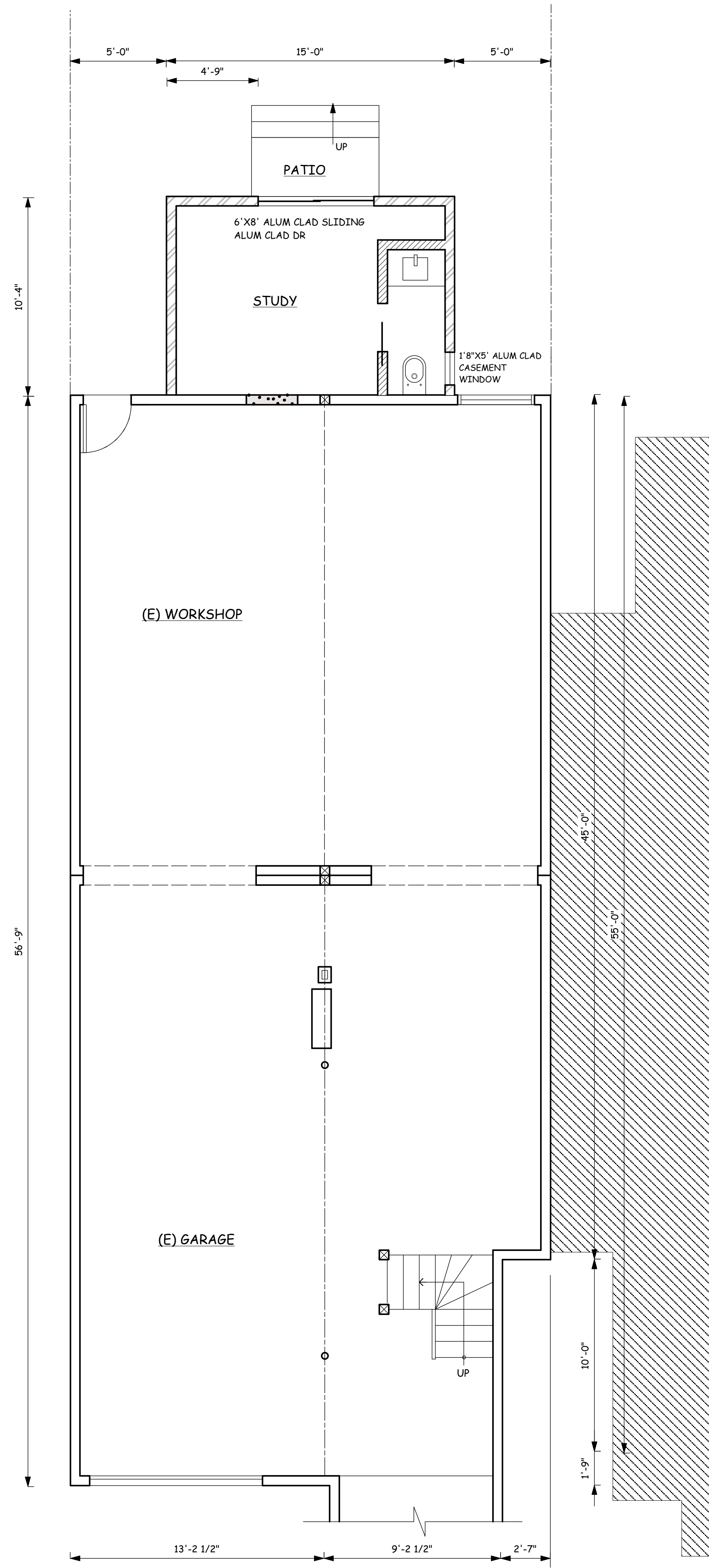
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NO.	DATE	DESCRIPTION

ADDITION AND ALTERATIONS
 135 3RD AVE.
 SAN FRANCISCO, CA.

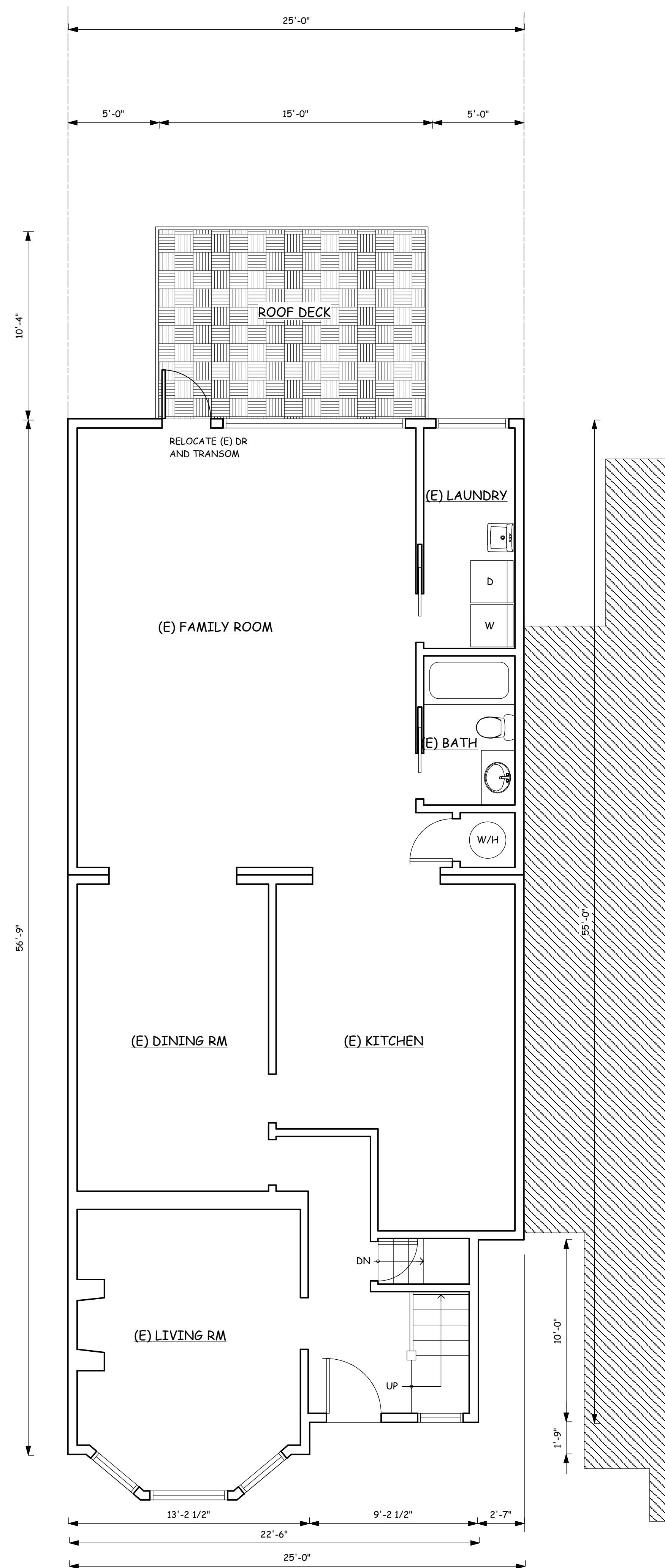
WALL LEGEND

- EXISTING: 
- DEMOLISH: 
- NEW EXTERIOR WALL: 
- NEW INTERIOR WALL: 
- NEW 1 HR INT WALL: 

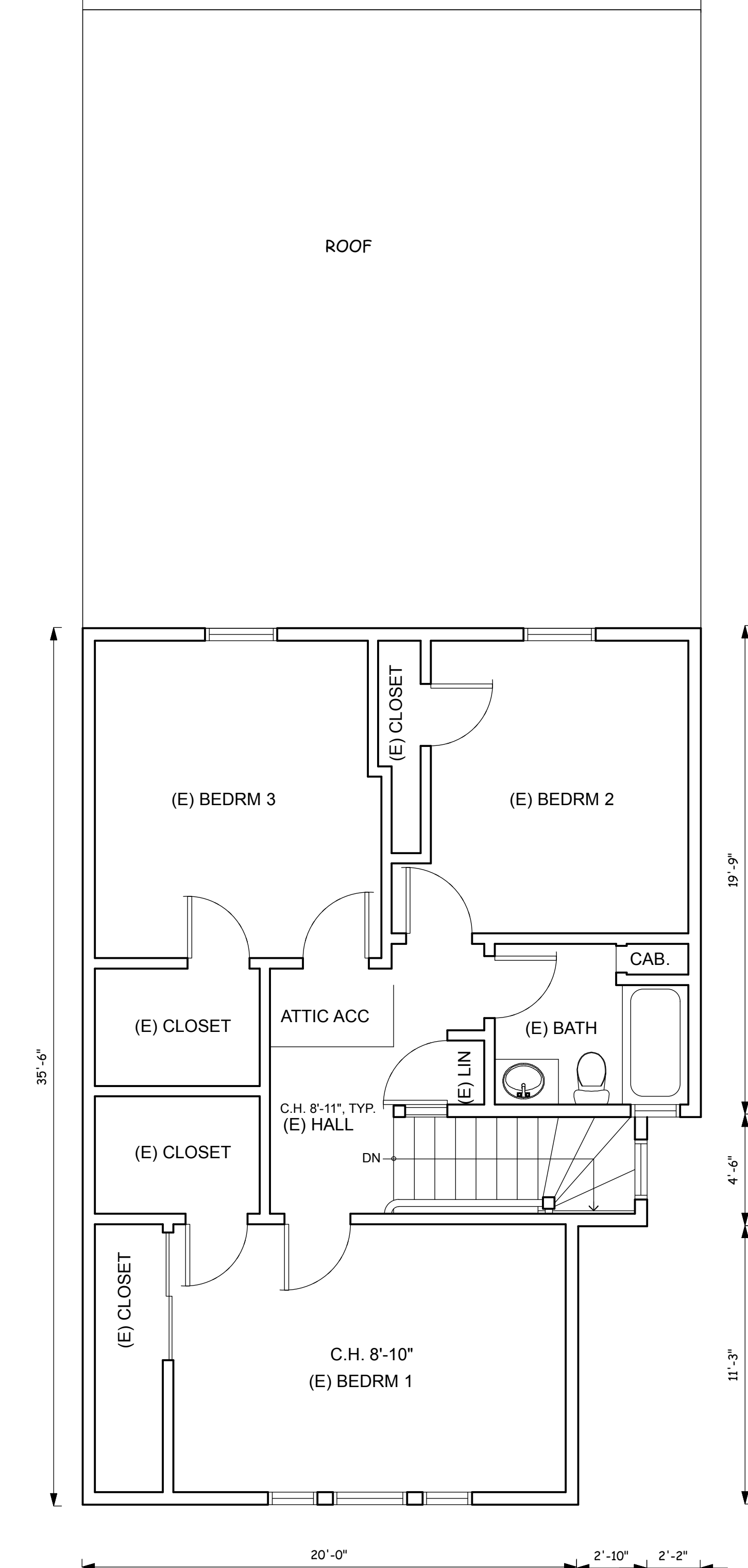


1ST FLOOR PLAN (N)
 1/4"=1'-0"

ALT 1



2ND FLOOR PLAN (N)
 1/4"=1'-0"



3RD FLOOR PLAN (E)
 1/4"=1'-0"

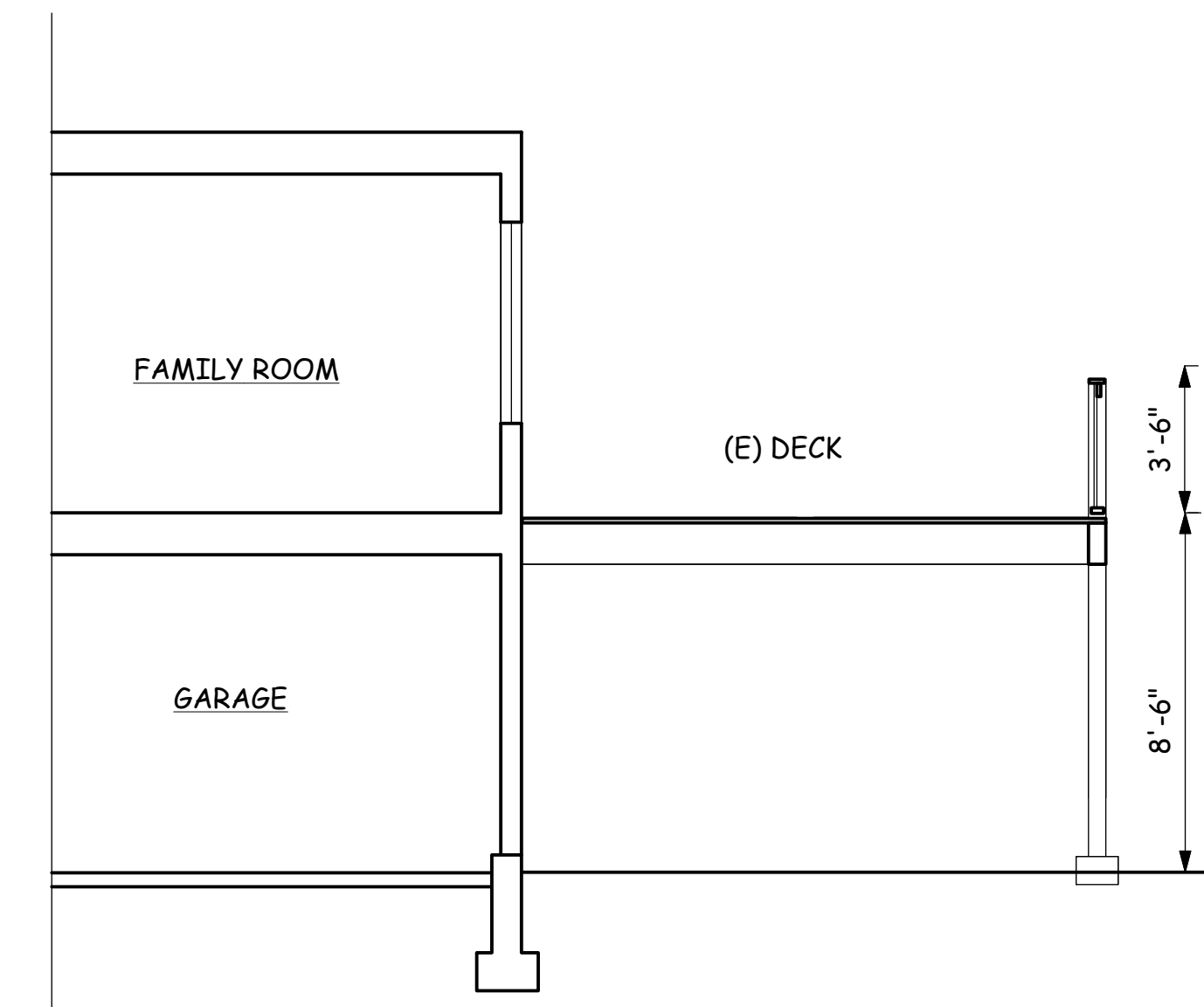
ALL IDEAS, DESIGNS ARRANGEMENTS AND PLANS AS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY AND ARE THE PROPERTY OF WILLIAM PASHELINSKY ARCHITECT AND WERE CREATED, EVOLVED AND DEVELOPED FOR USE ON, AND IN CONNECTION WITH THIS SPECIFIC PROJECT. NONE OF THESE IDEAS, DESIGNS, ARRANGEMENTS OF PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF WILLIAM PASHELINSKY ARCHITECT

NO.	DATE	DESCRIPTION
1	5/30/17	PLANNING
2	5/01/18	PLANNING
3	10/11/19	PLANNING
4	2/25/21	PLANNING

ADDITION AND ALTERATIONS
 135 3RD AVE.
 SAN FRANCISCO, CA.



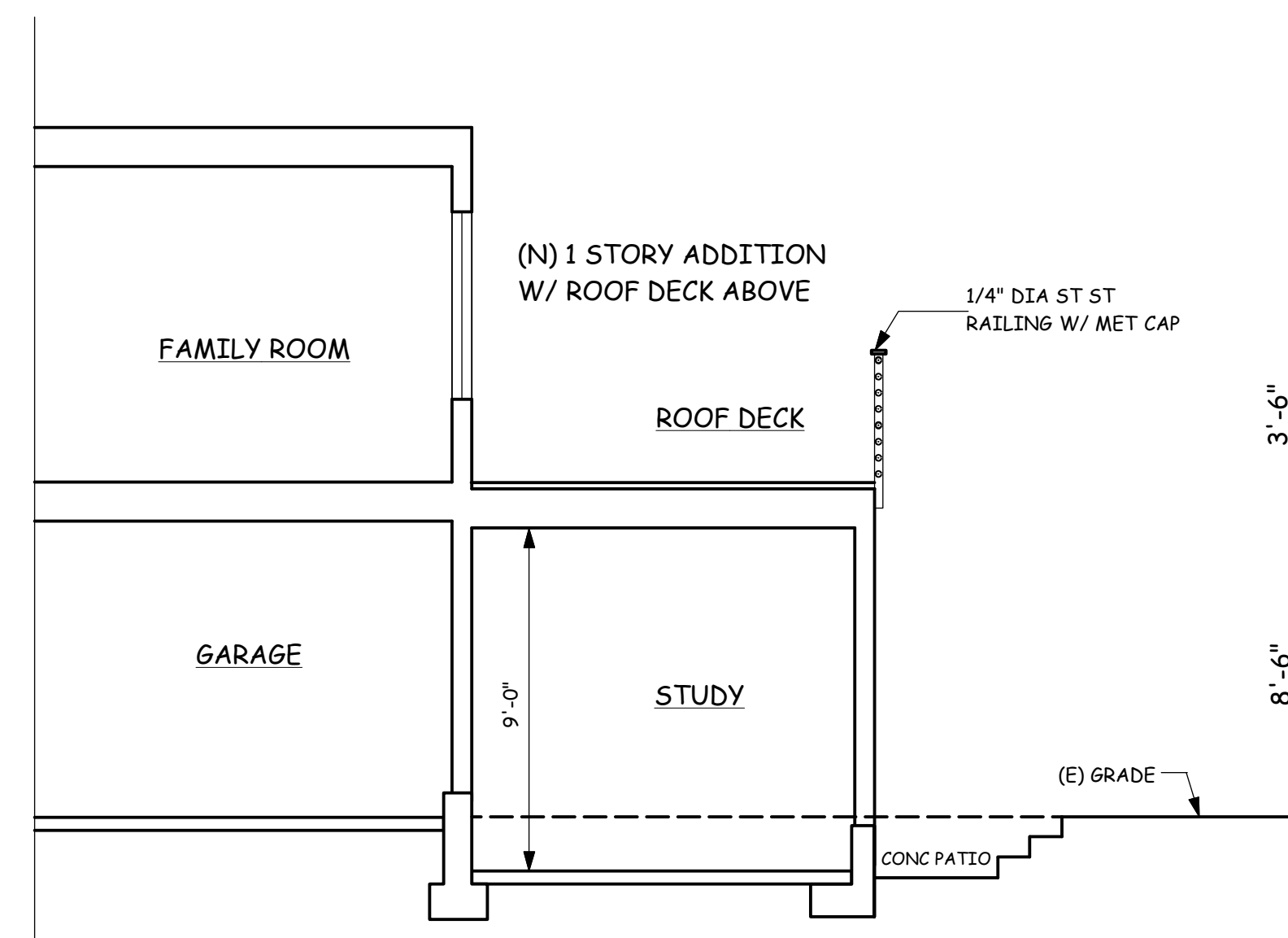
WEST ELEVATION (E)
 1/4"=1'-0"



SECTION A-A (E)
 1/4"=1'-0"



WEST ELEVATION (N)
 1/4"=1'-0"

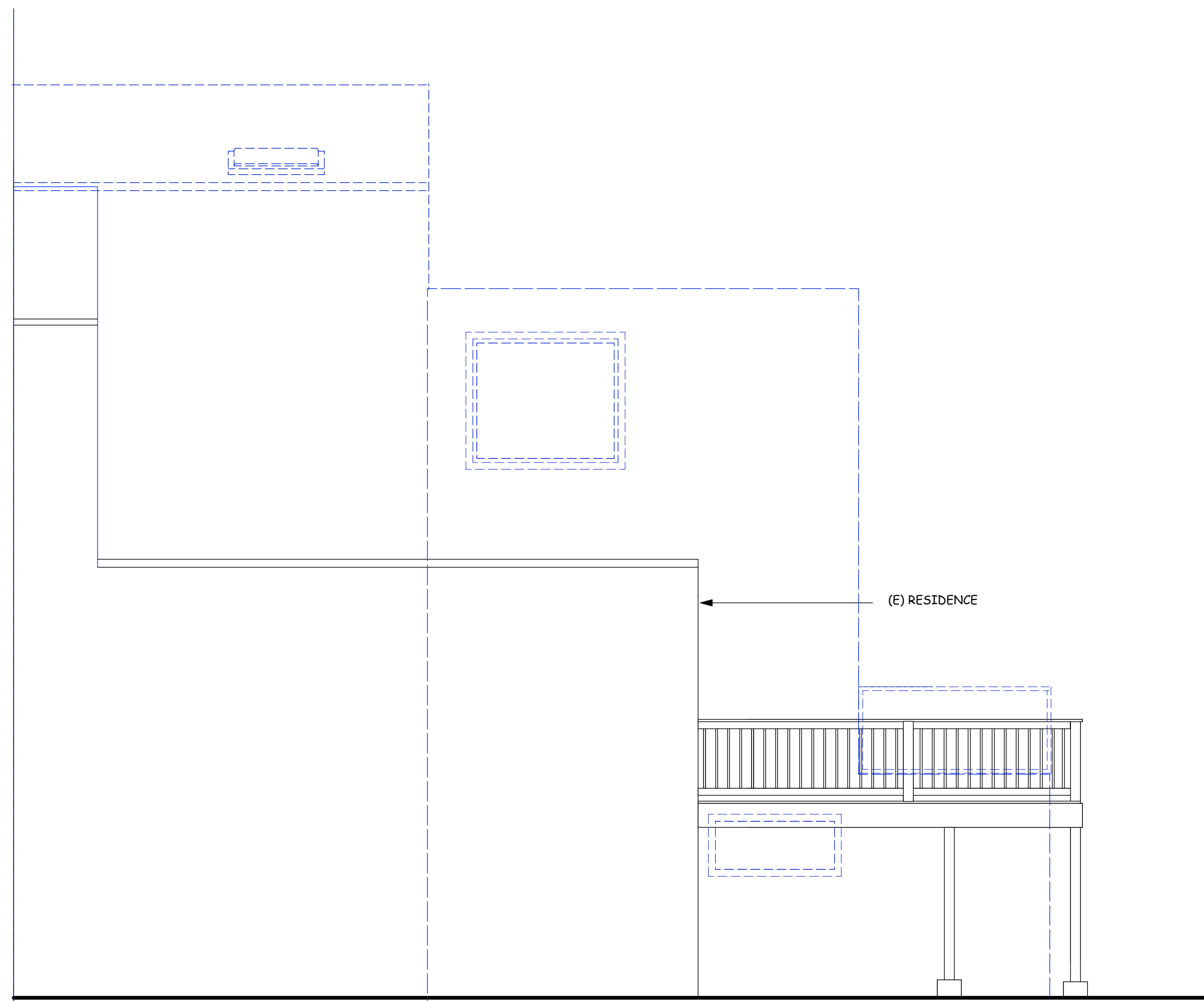


SECTION A-A (N)
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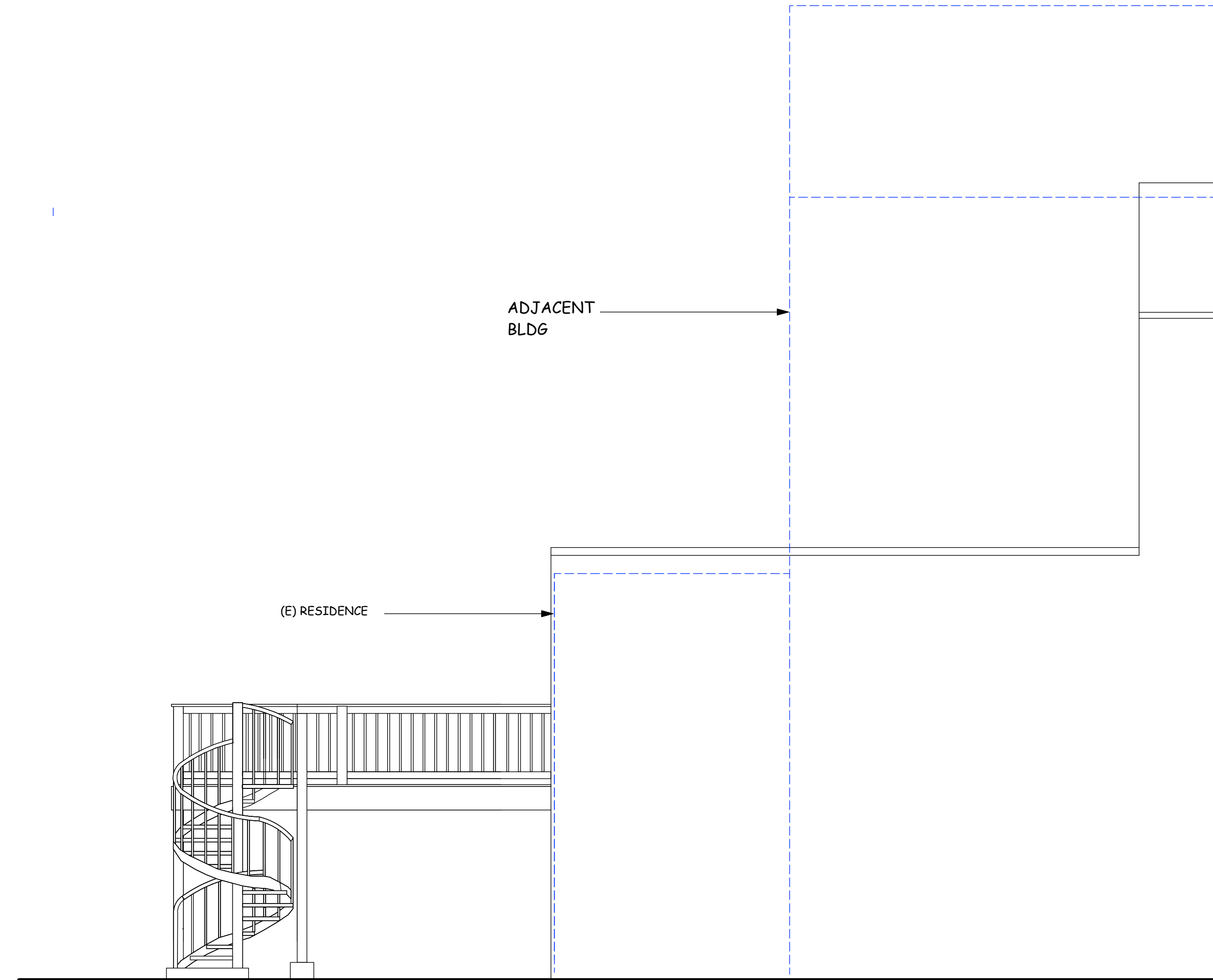
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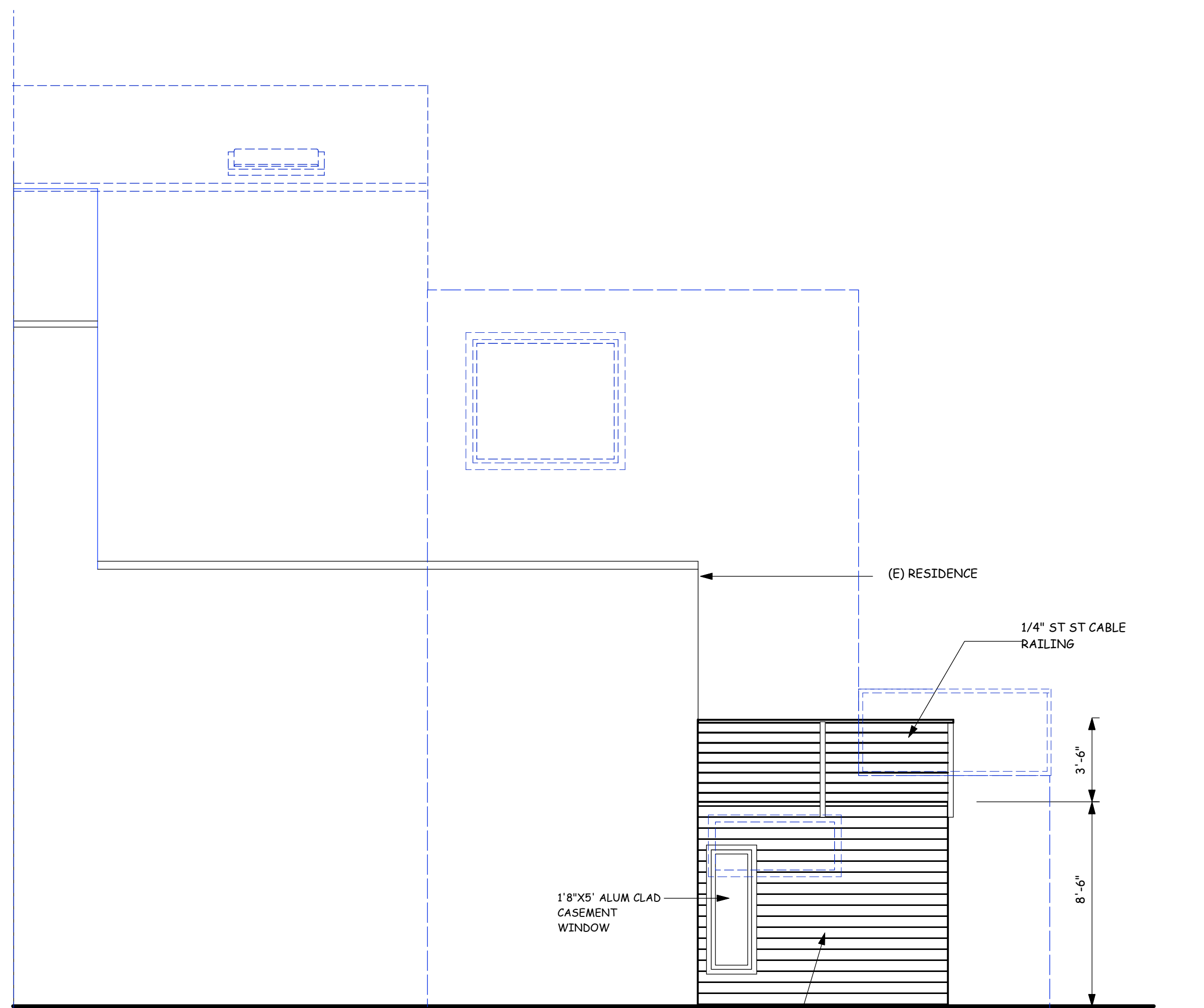
ADDITION AND ALTERATIONS
 135 3RD AVE
 SAN FRANCISCO, CA.



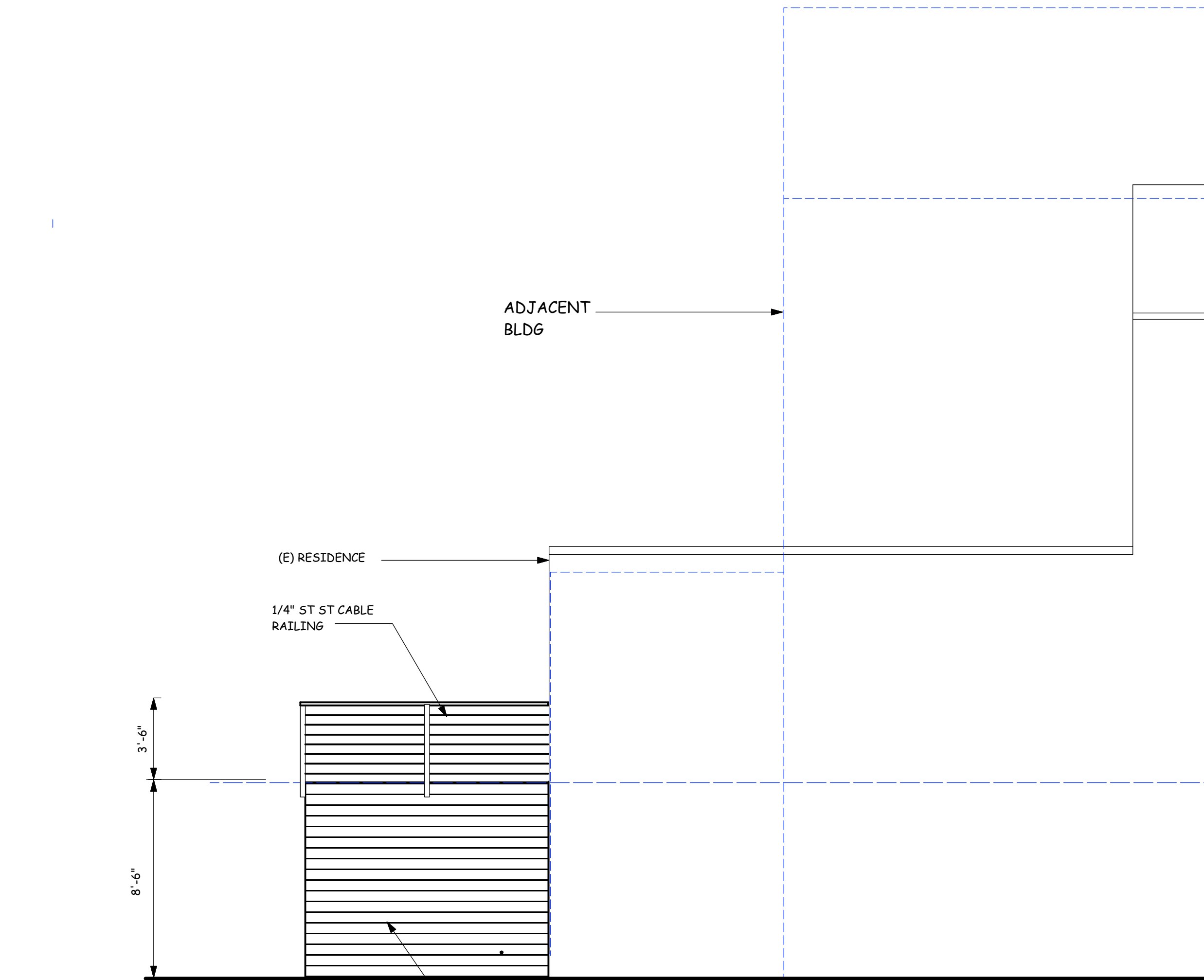
NORTH ELEVATION (E)
 1/4"=1'-0"



SOUTH ELEVATION (E)
 1/4"=1'-0"



NORTH ELEVATION (N)
 1/4"=1'-0"



SOUTH ELEVATION (N)
 1/4"=1'-0"

ALL IDEAS, DESIGNS ARRANGEMENTS AND PLANS AS INDICATED OR REPRESENTED BY THIS DRAWING ARE OWNED BY AND ARE THE PROPERTY OF WILLIAM PASHELINSKY ARCHITECT AND WERE CREATED, EVOLVED AND DEVELOPED FOR USE ON, AND IN CONNECTION WITH THIS SPECIFIC PROJECT. NONE OF THESE IDEAS, DESIGNS, ARRANGEMENTS OF PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF WILLIAM PASHELINSKY ARCHITECT

NO.	DATE	DESCRIPTION
1	5/30/17	PLANNING
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DRAFT FINDINGS SUBMITTED BY THE DEPUTY ZONING ADMINISTRATOR

**Board of Appeals
City and County of San Francisco
Appeal No. 21-004: Edward Riggins v. Zoning Administrator
SUBJECT PROPERTY: 135 3rd Avenue (CASE NO. 2020-006556VAR)**

Variance Findings

On March 24, 2021, this Appeal, filed by Edward Riggins (“Appellant”) of the Zoning Administrator’s issuance of a rear yard variance in Case No. 2020-006556VAR (“Variance”) came on before duly noticed hearings of the Board of Appeals (“Board”). The Variance denied the demolition of an existing rear deck and the construction of a new horizontal expansion with spiral staircase and roof deck at 135 3rd Avenue.

Having heard all the public testimony and reviewed all the documents in the record on the matter, including evidence submitted and testimony presented at the above-referenced hearing, the Board hereby grants the appeal and issues the Variance on the condition that the revised plans, dated February 25, 2021, and attached hereto, are adopted and based on the following Findings, which are sufficient to grant the Variance as required under Planning Code section 305(c):

Findings:

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

Requirement Met.

- A. The subject structure is on a rectangular and generally flat lot with a lot depth of 120 feet and a lot width of 25 feet. The existing building is a legal non-complying structure as it encroaches 1’ - 8” into the required rear yard. The existing deck and staircase at the rear of the property are also noncomplying as they extend an additional 16’ into the required rear yard. The property is developed under the allowed density with a single-family home in an RH-2 Zoning District. The home on the property is of adequate size with three bedrooms, and a large garage and workshop area at the ground level.
- B. The project has been revised to propose a smaller addition that would extend 10’ – 4” beyond the rear building wall for a total projection of 12’ into the required rear yard. This addition would normally be allowed as a permitted obstruction under Planning Code Section 136(c)(25); however, the property is not otherwise eligible for this permitted obstruction because the existing building extends 1’ – 8” into the required rear yard. To account for this encroachment, the proposed one-story addition is setback 5’ from each side property line (which would not otherwise be required if the

existing building did not extend into the required rear yard).

- C. This proposal will result in the removal of an existing non-complying deck and staircase that extend further into the required rear yard and closer to the side property lines, improving compliance with the Planning Code while maintaining usable open space that is directly accessible from the main living level of the home.

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

Requirement Met.

- A. The Property Owner has indicated that the existing deck and stair structure are substandard and in poor physical condition. Granting the variance will allow the Property Owner to remove the existing deck and stairs and replace with a smaller structure that maintains usable open space directly accessible from the main living level and adds amenity space on the ground floor of the building.

FINDING 3.

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

Requirement Met.

- A. This variance is necessary to maintain usable open space directly accessible from the main living level of the home and to add amenity space on the ground floor of the building.

FINDING 4.

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Requirement Met.

- A. The proposal will remove the existing deck and stairs and replace with a smaller structure that is closer in compliance with the Planning Code.
- B. The Board of Appeals received a letter of support from the adjacent property at 131 3rd Avenue.

FINDING 5.

The granting of such variance will be in harmony with the general purpose and intent of this

Code and will not adversely affect the General Plan.

Requirement Met.

- A. This development is consistent with all aspects of the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project meets the following priority planning policies:
1. Existing neighborhood retail uses will not be adversely affected by the proposed project.
 2. The proposed project will be in keeping with the existing housing and neighborhood character.
 3. The proposed project will have no effect on the City's supply of affordable housing. No affordable housing is proposed to be eliminated or provided.
 4. The proposed project does not adversely affect neighborhood parking or public transit.
 5. The project will have no effect on the City's industrial and service sectors.
 6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
 7. The project will have no effect on the City's landmarks or historic buildings.
 8. The project would not affect any existing or planned public parks or open spaces.

This decision shall be subject to the following conditions:

1. The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Site or Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Site or Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
2. Any future physical expansion, even in the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character and scale. If the Zoning Administrator determines that there

would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.

3. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls apply.
4. Minor modifications as determined by the Zoning Administrator may be permitted.
5. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
6. This Board of Appeals Decision and the recorded Notice of Special Restrictions shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the Project, if applicable.

The effective date of this decision shall be the date of this Notice of Decision and Order.

Once any portion of the granted variance is used, all specifications and conditions of the variance authorization become immediately operative.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

The undersigned hereby certify that the findings above were adopted by the Board of Appeals

at its regular meeting on March 24, 2021.

Darry Honda, President

Julie Rosenberg, Executive Director

DRAFT

PUBLIC COMMENT

To the San Francisco Planning Department,

We have lived at 131 3rd Avenue, SF 94118 for the past 9 years and have been neighbors to Mary Darling & Ed Riggins who live at 135 3rd Avenue. The Darling/Riggins family have been and continue to be fantastic neighbors and extremely thoughtful and considerate members of our community and respected neighbors on 3rd Ave.

We are writing to express our support for 135 3rd Avenue to be able to proceed with their plans to add an additional room on the ground level. They have shared their plans with us and we are glad to see that the design is thoughtful and will allow them the additional space at the ground level.

Once again, we offer our support to the proposed project @ 135 3rd Avenue.

Best regards,
Rima Chadha and Sam Kumar
131 3rd Avenue, SF, CA 94118
415.725.0419