

CITY OF BLOOMINGTON



March 21, 2024 @ 5:30 p.m.
City Hall, 401 N. Morton Street
Common Council Chambers, Room #115

[https://bloomington.zoom.us/j/82448983657?pwd=enJxcnArK1pLVDI
nWGROTU43dEpXdz09](https://bloomington.zoom.us/j/82448983657?pwd=enJxcnArK1pLVDI
nWGROTU43dEpXdz09)

Meeting ID: 824 4898 3657
Passcode: 319455

**CITY OF BLOOMINGTON
BOARD OF ZONING APPEALS (Hybrid Meeting)**

City Hall, 401 N. Morton Street
Common Council Chambers, Room #115 and via Zoom

March 21, 2024 at 5:30 p.m.

❖ **Virtual Meeting:**

<https://bloomington.zoom.us/j/82448983657?pwd=enJxcnArK1pLVdInWGROTU43dEpXdz09>

Meeting ID: 824 4898 3657

Passcode: 319455

Petition Map: <https://arcg.is/H0m15>

ROLL CALL

APPROVAL OF MINUTES: January 18, 2024 & February 22, 2024

PETITIONS CONTINUED TO: April 18, 2024

- AA-17-22 **Joe Kemp Construction, LLC & Blackwell Construction, Inc.**
Summit Woods (Sudbury Farm Parcel O) W. Ezekiel Dr.
Parcel(s): 53-08-07-400-008.002-009, 53-08-07-400-008.004-009...
Request: Administrative Appeal of the Notice of Violation (NOV) issued
March 25, 2022. Case Manager: Jackie Scanlan
- V-05-24 **Candi Sipes**
2303 S Rockport Road
Parcel: 53-01-51-137-500.000-009
Request: Variances from accessory structure size standards, accessory structure setbacks, driveway width standards, and a determinate sidewalk variance to allow construction of a new single-family dwelling structure in the Residential Medium Lot (R2) zoning district.
Case Manager: Gabriel Holbrow
- V-27-22 **Cutters Kirkwood 123, LLC**
113 E. Kirkwood Ave.
Parcel: 53-05-33-310-062.000-005
Request: Variances from Downtown Character Overlay standards to allow less non-residential area and less large display windows; and a variance from the requirement to align with the front setback of an adjacent historic structure in the Mixed-Use Downtown zoning district with the Courthouse Square Character Overlay (MD-CS). Case Manager: Jackie Scanlan

****Next Meeting: April 18, 2024**

The City is committed to providing equal access to information. However, despite our efforts, at times, portions of our board and commission packets are not accessible for some individuals. If you encounter difficulties accessing material in this packet, please contact Melissa Hirtzel at hirtzelm@bloomington.in.gov and provide your name, contact information, and a link to or description of the document or web page you are having problems with.

PETITIONS:

- V-02-24 **Mohsen Kianizadeh & Sara Noorihoseini**
2214 E. Maxwell Lane
Parcel: 53-08-03-100-037.000-009
Request: Variance from riparian buffer standards to allow tree removal for a building site in the Residential Medium Lot (R2) zoning district.
Case Manager: Gabriel Holbrow
- V-03-24 **Bryan Rental, Inc.**
430 E. Kirkwood Avenue
Parcel: 53-05-33-310-035.000-005
Request: Variances from the Downtown Character Overlay standards to allow wood and concrete block as primary façade materials in the Mixed-Use Downtown zoning district with the University Village character overlay (MD-UV) in Kirkwood Corridor. Case Manager: Katie Gandhi
- V-06-24 **Ace 318, LLC (Cedarview Management)**
318 E. 3rd Street
Parcel: 53-05-33-300-015.001-005
Request: Variance from use specific standards to allow a ground floor dwelling unit within 20' of the first floor façade within the Mixed-Use Downtown Downtown Edges (MD-DE) zoning district.
Case Manager: Eric Greulich

Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call [812-349-3429](tel:812-349-3429) or E-mail human.rights@bloomington.in.gov.

****Next Meeting: April 18, 2024**

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BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 2214 East Maxwell Lane

CASE #s: V-02-04
/ VAR2024-02-0022
DATE: March 21, 2024

PETITIONER/OWNER: Mohsen Kianizadeh and Sara Noorihoseini
106 East 2nd Street
Bloomington, IN

CONSULTANT: Michael L. Carmin
116 West 6th Street, Suite 200
Bloomington, IN

REQUEST: Variance from riparian buffer standards to allow tree removal for a building site in the Residential Medium Lot (R2) zoning district

REPORT: The property is located on the south side of East Maxwell Lane, east of South High Street, in the Residential Medium Lot (R2) zoning district. The property contains 0.61 acres, currently undeveloped, and until recently was almost entirely covered by a closed-canopy wooded area. All surrounding properties are also in the R2 district and contain detached single-family dwellings. To the north of the houses across Maxwell Lane from the property is the shared campus of Binford Elementary School and Rogers Elementary School, which is in the Mixed-Use Institutional (MI) zoning district.

The petitioner seeks a variance from riparian buffer standards to legitimize tree removal that the petitioner conducted in December 2023 or early January 2024 without approvals. The requested variance would also allow construction of a new detached single-family dwelling on the property.

Planning and Transportation Department staff most recently received an inquiry from the petitioner in October 2023 about the standards that would apply to building a house on the property as well as the procedure for local approvals. At that time, staff confirmed by email to the petitioner that the property is a legal lot of record where a detached single-family dwelling is allowed; but noted that the property contains a stream which subjects the property to riparian buffer standards in the Unified Development Ordinance (UDO); and noted that the property contains a closed-canopy wooded area which is subject to tree and forest preservation standards in the UDO. After scheduling a site visit for staff to observe the site and the stream on the property later in October, the petitioner cancelled the site visit. Staff did not visit the site in 2023.

Planning and Transportation Department staff was contacted on January 5, 2024 with a concern that tree removal was occurring at the property. Staff inspected the site on January 9 and January 23, and found that all trees had been cut down on the northern portion of the property between Maxwell Lane and the stream bed. The Department issued a Notice of Violation (NOV) to the petitioner on February 1, 2024 for violations including failure to comply with tree and forest preservation standards and riparian buffer standards. In response to the NOV, the petitioner promptly installed a silt fence and other temporary erosion control measures and has been working on a mitigation plan to plant replacement trees. As of the date of this hearing, the petitioner has not submitted a mitigation plan, due to the availability and workload of landscape design consultants. The petition also filed this variance petition on February 22, 2024 as part of resolving the violations.

The stream on the property stream runs from west to east across the lot, roughly 118 feet south of the edge of Maxwell Lane at its closest and 138 feet at its farthest on the lot. The stream is recognized by City of Bloomington Utilities (CBU) as a privately maintained portion of the city's stormwater infrastructure. In addition to collecting drainage from surrounding land, the stream takes drainage from two CBU-owned culverts under Maxwell Lane upstream of the property as well as from a third CBU-owned culvert under Maxwell Lane downstream of the property. Downstream, the stream flows into a CBU-owned pipe under the cul-de-sac end of South Nota Drive, then continues through a series of open-air segments and CBU-owned segments until it drains into the headwaters of Jackson Creek. Planning and Transportation Department staff is aware of complaints of occasional flooding and other drainage issues at the cul-de-sac of South Nota Drive and surrounding properties.

The UDO's riparian buffer standards includes a set a three graduated buffer zones, each 25 feet wide: streamside zone (zone 1), intermediate zone (zone 2), and fringe zone (zone 3). The streamside zone is the most restrictive of disturbance, but building construction is prohibited in all zones. All together, the buffer zones create a 75-foot buffer from the center of the street where building construction is not allowed. Applied strictly to this property, and in combination with the minimum 15-foot front setback in the R2 district, there would be approximately between 28 and 48 feet of available lot depth to build on. The riparian buffer standards include an exception for "platted lots of record of less than one-half acre in size" so that these lots only have to comply with the streamside zone and are exempt from the intermediate zone and fringe zone. In effect, these excepted lots have a 25-foot buffer instead of a 75-foot buffer. The exception does not apply to this property in part because at 0.61 acres it is more than one-half acre in size. Other existing houses on the south side of Maxwell Lane are within 75 feet of the stream, whether because their construction pre-dates the establishment of the current riparian buffer standards or because of permits issued in error or because of other circumstances, but none of the existing houses on Maxwell Lane are within 25 feet of the stream.

The UDO's tree and forest preservation standards allow limited removal of closed-canopy wooded areas, as long as minimum percentages of existing canopy are preserved. Although the recent tree removal has temporarily brought the property out of compliance with tree and forest preservation standards, the remaining trees south of the stream along with the petitioner's proposed remediation plantings within 25 feet north of the stream are sufficient to bring the property back into compliance and resolve the violation. The petitioner has not requested a variance from tree and forest preservation standards.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.06.080(b)(3)(E)(i)(1) Standards for Granting Variances from Development Standards: Pursuant to Indiana Code 36-7-4-918.5, the Board of Zoning Appeals or Hearing Officer may grant a variance from the development standards of this UDO if, after a public hearing, it makes findings of fact in writing, that:

- (1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and*

PROPOSED FINDING: Relief from intermediate zone and fringe zone riparian buffers on the north side of the stream will not be injurious to the public hearing, safety, morals, and

general welfare of the community. However, temporary or permanent relief from the streamside zone riparian buffer would significantly impair the natural absorption and drainage manage capacity of the stream, increase erosion, and reduce habitat and connectivity corridors for wildlife in the urban environment.

- (2) *The use and value of the area adjacent to the property included in the development standards variance will not be affected in a substantially adverse manner; and*

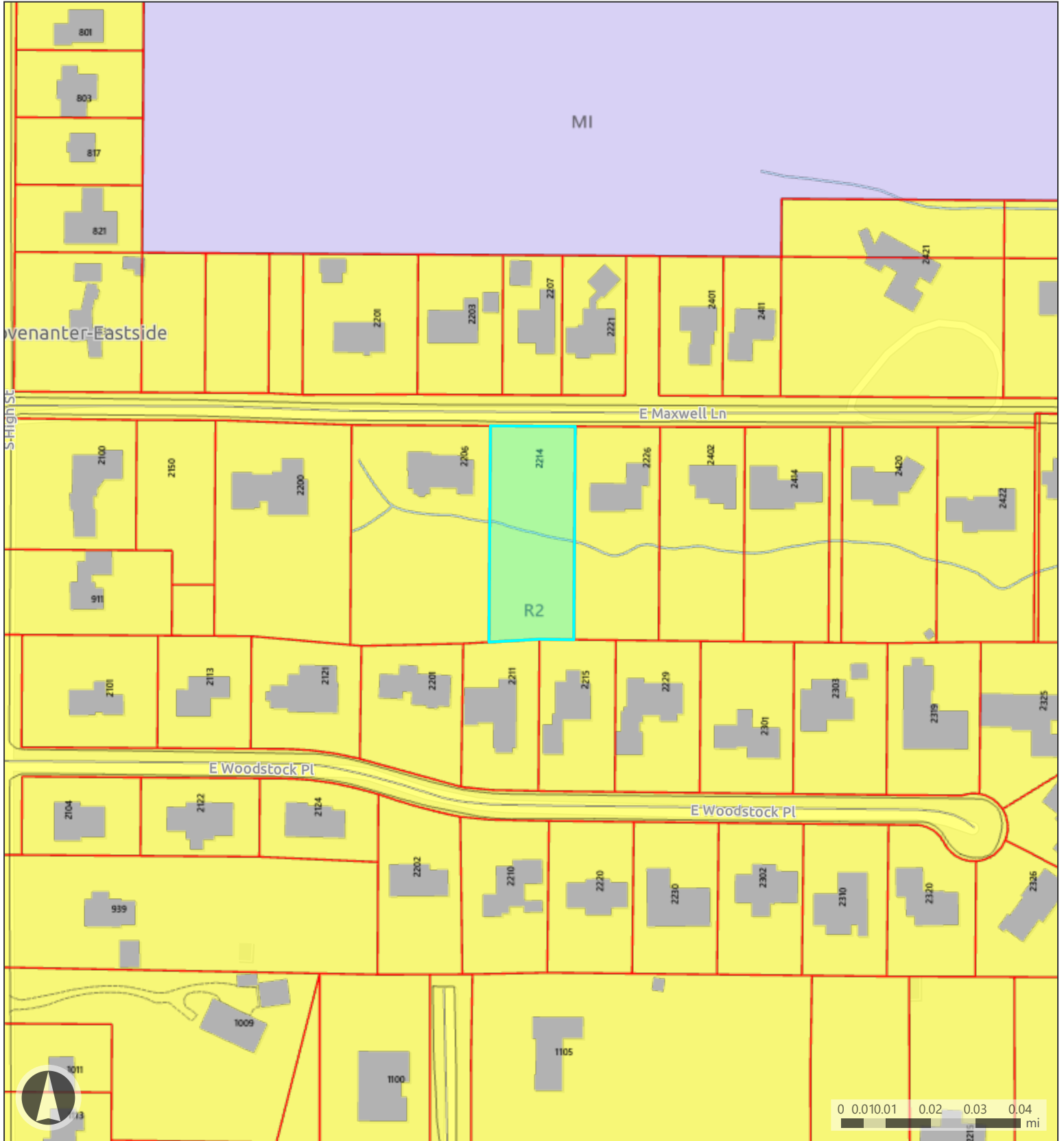
PROPOSED FINDING: Relief from intermediate zone and fringe zone riparian buffers on the north side of the stream will not substantially affect adjacent properties. Other existing houses on the south side of Maxwell Lane are within 75 feet from the stream. However, temporary or permanent relief from the streamside zone riparian buffer would exacerbate known drainage problems for adjacent properties downstream.

- (3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in questions; that the development standards variance will relieve the practical difficulties.*

PROPOSED FINDING: Practical difficulty is found in the limited buildable area available on the lot outside of all riparian buffer zones. The location of the stream near the middle of the lot is a peculiar feature that maximizes the area encompassed by the riparian buffer zones compared to otherwise similar lots that may have a stream near a lot boundary. Relief from the intermediate zone and fringe zone riparian buffers on the north side of the stream is adequate to provide area for a house with the footprint proposed by the petitioners which is reasonable and of similar size to other houses in the immediate neighborhood. Strict application of only the streamside zone riparian buffer would provide adequate buildable area and would not result in practical difficulties in the use of the property.

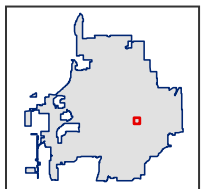
RECOMMENDATION: Based upon the report and written findings of fact above, the Department recommends that the Board of Zoning Appeals adopt the proposed findings for V-02-24 / VAR2024-02-0022 and grant the requested variance with the following conditions:

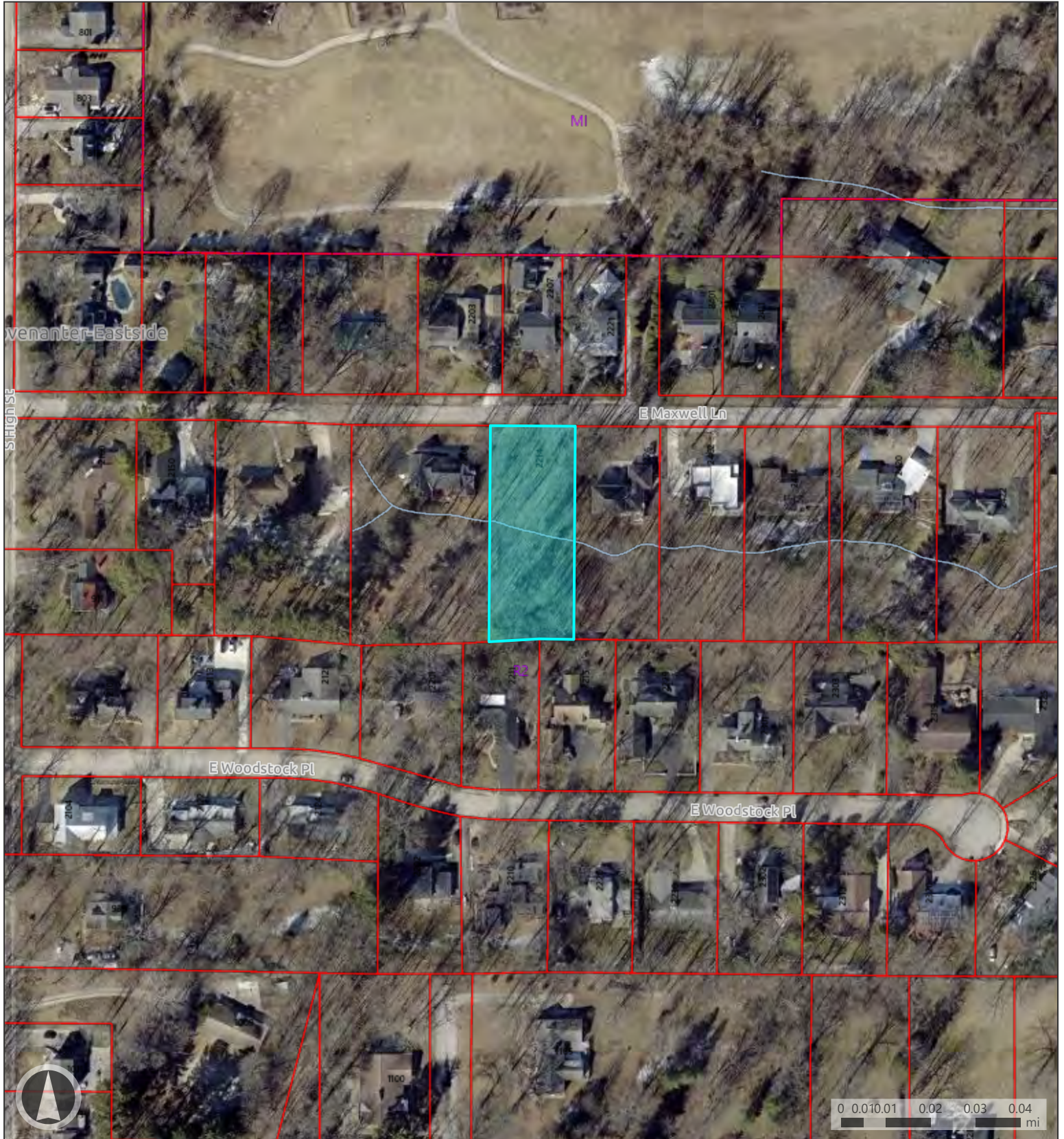
1. This variance grants relief from the requirements of the intermediate zone and fringe zone riparian buffers on the north side of the stream. The property remains subject to all requirements related to the 25-foot streamside zone riparian buffer on both sides of the stream as well as the requirements of all riparian buffer zones on the south side of the stream.
2. Prior to issuance of a certificate of zoning compliance for any building construction on the property, the property owner shall record an easement in a form approved by the Planning and Transportation Department and in accordance with UDO section 20.04.030(f)(3) that covers all land on the lot within 25 feet north of the stream and within 75 feet south of the stream.



Map Legend

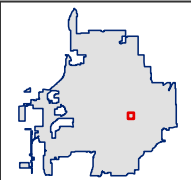
- | | | | |
|-----------|---------------|--------------------------|-------------------------|
| Parcels | Drive | Street Typology | Waterlines |
| Buildings | OtherPavement | Neighborhood Connector | Mixed-Use Institutional |
| Pavement | | Neighborhood Residential | Residential Medium Lot |





Map Legend

- Parcels
- Waterlines
- Zoning District Boundary





116 West 6th Street, Suite 200
P.O. Box 2639
Bloomington, Indiana 47402-2639
TEL: 812.332.6556
FAX: 812.331.4511
michael@carminparker.com

February 22, 2024

City of Bloomington Board of Zoning Appeals
401 N. Morton Street
Bloomington, IN 47403

RE: 2214 E. Maxwell Lane
Variance Application

Board of Zoning Appeals Members:

On behalf of our clients, Mohsen Kianizadeh and Sara Noorihoseini, we respectfully request to be placed on the March, 2024 agenda for consideration of a variance from riparian buffer zones under UDO section 20.04.030(f). Our clients, the owners, acquired the property at the common address 2214 E. Maxwell Lane as a vacant property. The lot is one of the few undeveloped lots in the entire neighborhood and much of the City. The lot is completely surrounded by fully developed lots with single family homes. When our clients began the process to obtain a building permit to construct a single family home on the lot, they learned that the lot is subject to riparian buffer zone requirements based on an intermittent stream on the property. Enclosed with this Variance Application is an aerial photograph of the surrounding properties. This photograph is taken from the GIS system program (Elevate). The subject lot is outlined and all of the surrounding lots are depicted with fully developed residential structures.

The proposed footprint of the structure is outside of the principal riparian buffer zone. Owners request a temporary variance to allow construction equipment to be placed in the north ten (10) feet of the first riparian buffer zone. The construction activity will all take place outside of the buffer zone. Safe and reasonable movement of equipment and materials may require minimal entry and passage through the north edge of the riparian buffer zone. Owners request a temporary variance during the construction of the home for vehicle and equipment encroachment into the north ten (10) feet of the riparian buffer zone. The variance would end upon completion of construction of the home. As a condition or approval of this portion of the variance request, erosion control measures will be installed along the ten (10) foot line in the buffer zone. The erosion control measures will serve not only as a barrier to delineate the extent of the temporary variance allowing the encroachment, but will also serve to provide erosion or siltation protection.



February 22, 2024

Page 2

The second enclosure is the aerial photograph with the elevation contour lines inserted. The contour lines demonstrate that residential structures built in recent years on the east and west sides of the subject lot were likely subject to the same riparian buffer zone setback requirements as is the subject lot, but nevertheless, building permits were drawn without requiring a variance. More importantly the residence on either side of the subject lot had building pads built up and elevated to flatten out the area for the footprint of the structures. The development of the lots east and west of the subject lot artificially created, or if not actually created, contributed to the development of the intermittent stream. The storm water drainage on the lots on either side of the subject lot has been changed by elevating the grade on the adjacent lots contributing to compressing storm water drainage as it flows south on the lots and then west to east. The disbursed drainage through the wide swale was narrowed creating the characteristics of an intermittent stream.

The contour lines are also shown on the third exhibit enclosed with the aerial photograph removed.

Location: The property is located at 2214 E. Maxwell Lane. It is the fifth lot on the south side of Maxwell Lane east of South High Street. The four lots on Maxwell Lane west of the subject lot are fully developed with substantial single family home structures. Maxwell Lane is a dead end street at the east end. There are six lots to the east of the subject line on the south side of Maxwell Lane. Each of those six lots is fully developed with a substantial residential structure. Each structure borders, if not encroaches, into the riparian buffer zones of the same intermittent stream.

Enclosed is a site plan of the property depicting the lot location, the elevation contours, and the footprint of a proposed residential structure. The home would be accessed from Maxwell Lane on the north side of the lot and not from the east, west or south sides which would require passage through the intermittent stream or the 25-foot riparian buffer zone.

Environmental: The intermittent stream is the only regulated environmental feature on the subject lot.

Drainage: Drainage on the lot flows south to the intermittent stream.

A plot plan, enclosed, depicts the centerline of the intermittent stream and the first required riparian buffer zone.

The site plan depicts the proposed footprint of the residential structure including attached garage. The footprint meets both side yard, rear yard and front yard setbacks. The footprint is above the first 25-foot riparian buffer zone.



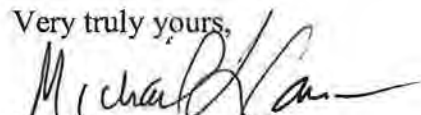
February 22, 2024

Page 3

The proposed footprint of the residential structure is compatible with and consistent with the front yard setback line for the block face and is in close alignment with the rear or south lines of the residential structure on adjacent lots. The proposed single family home is compatible with the fully developed neighborhood.

Appropriate measures for erosion control during construction and pending stabilization of any disturbed soils can and will be implemented during the construction and for a period of time post construction as required until the disturbed soils have established vegetative cover.

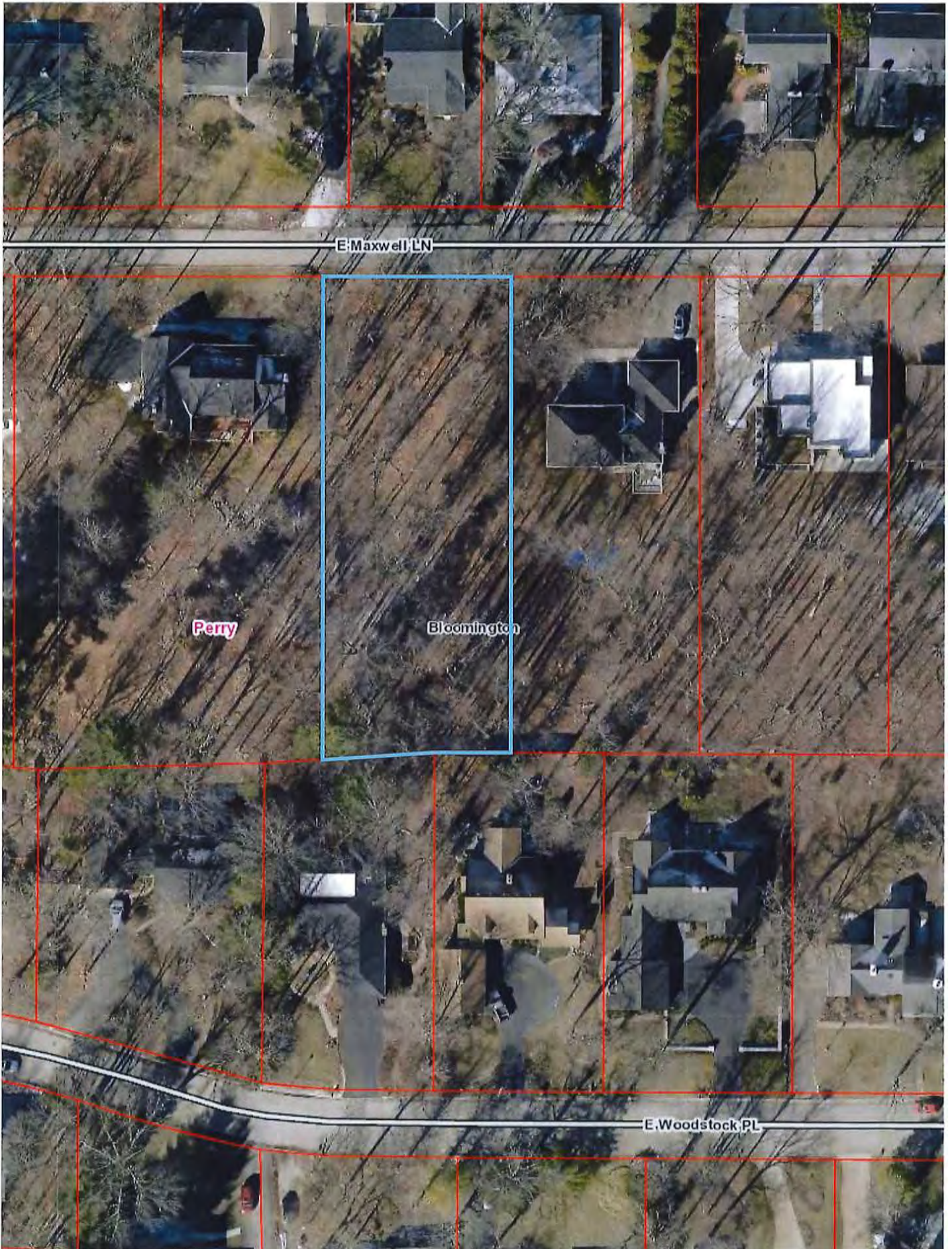
Very truly yours,

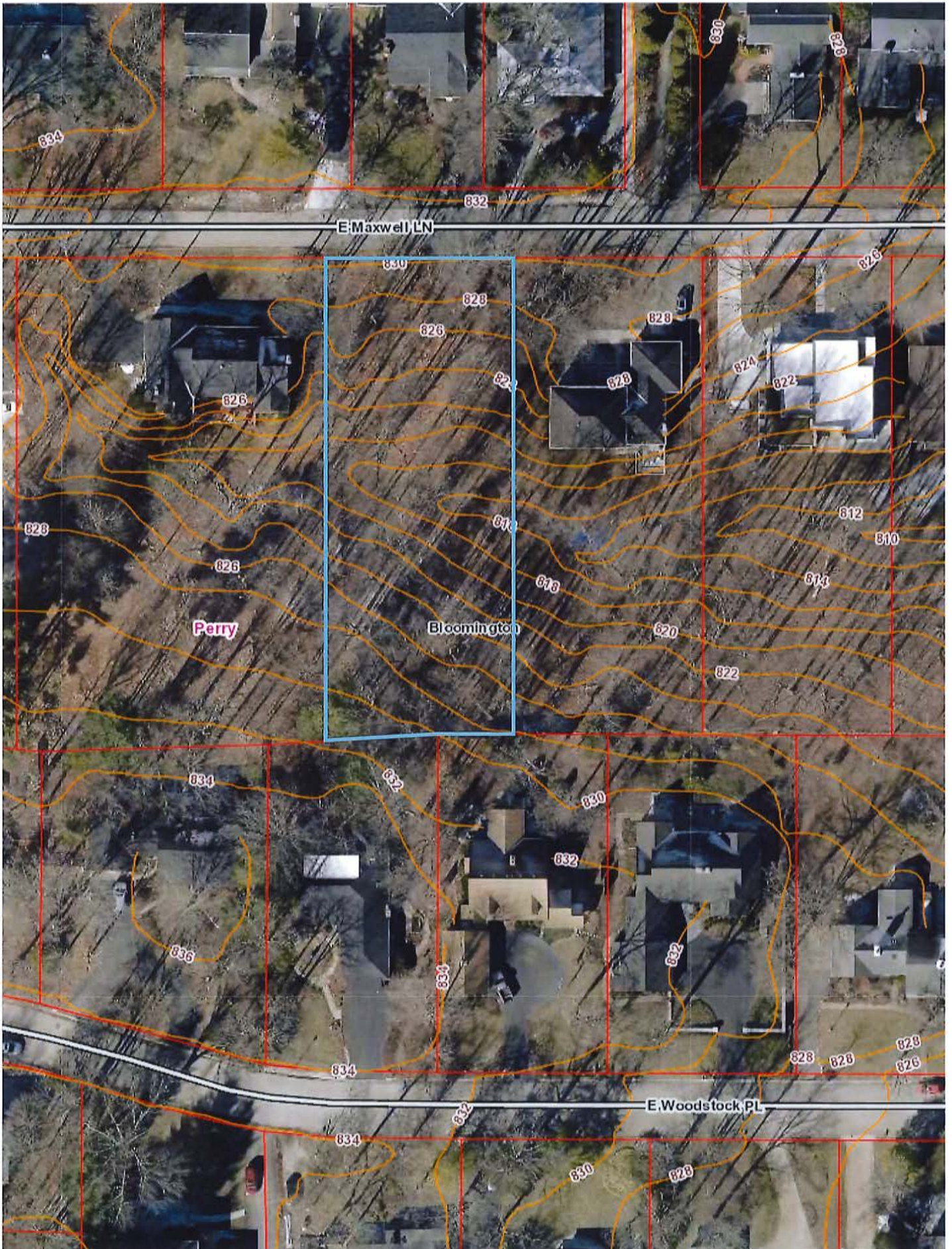


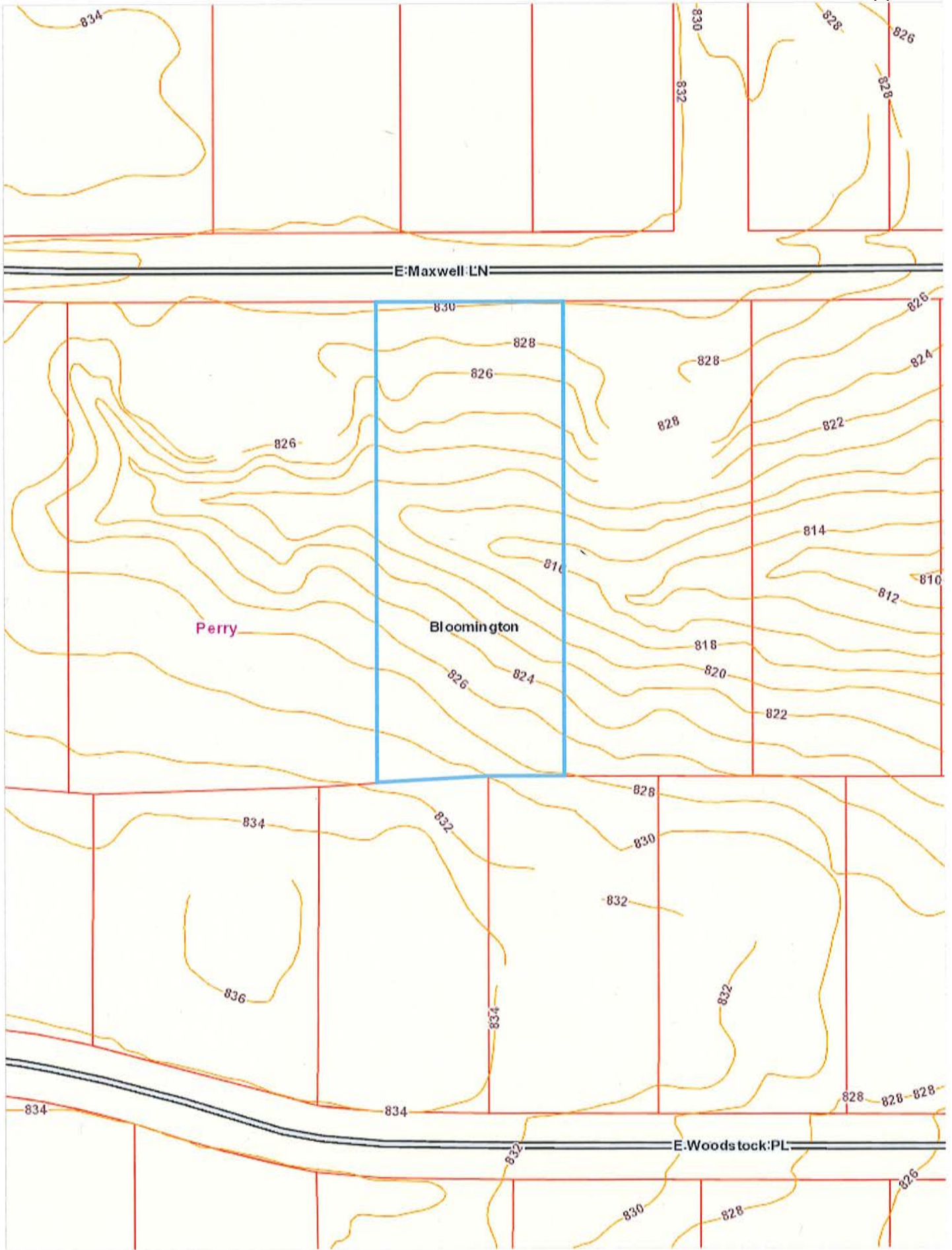
Michael L. Carmin

MLC/srh
Enclosures
446567

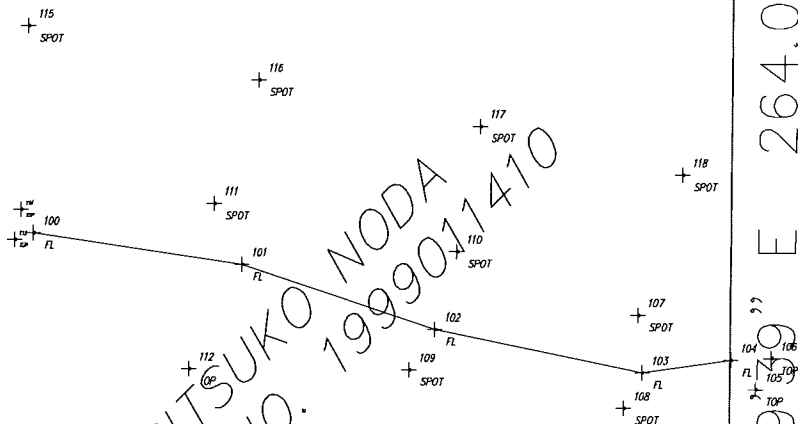




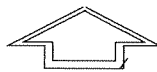




N 00°29'39" E 264.00'(R)



RITSUKO NODA
INST. NO. 1999011410



NORTH



SCALE 1" = 60 ft

BEARINGS BASED ON SPCS IN WEST NAD 83

FIELD DATE: 03/04/2021

PROPERTY LINE

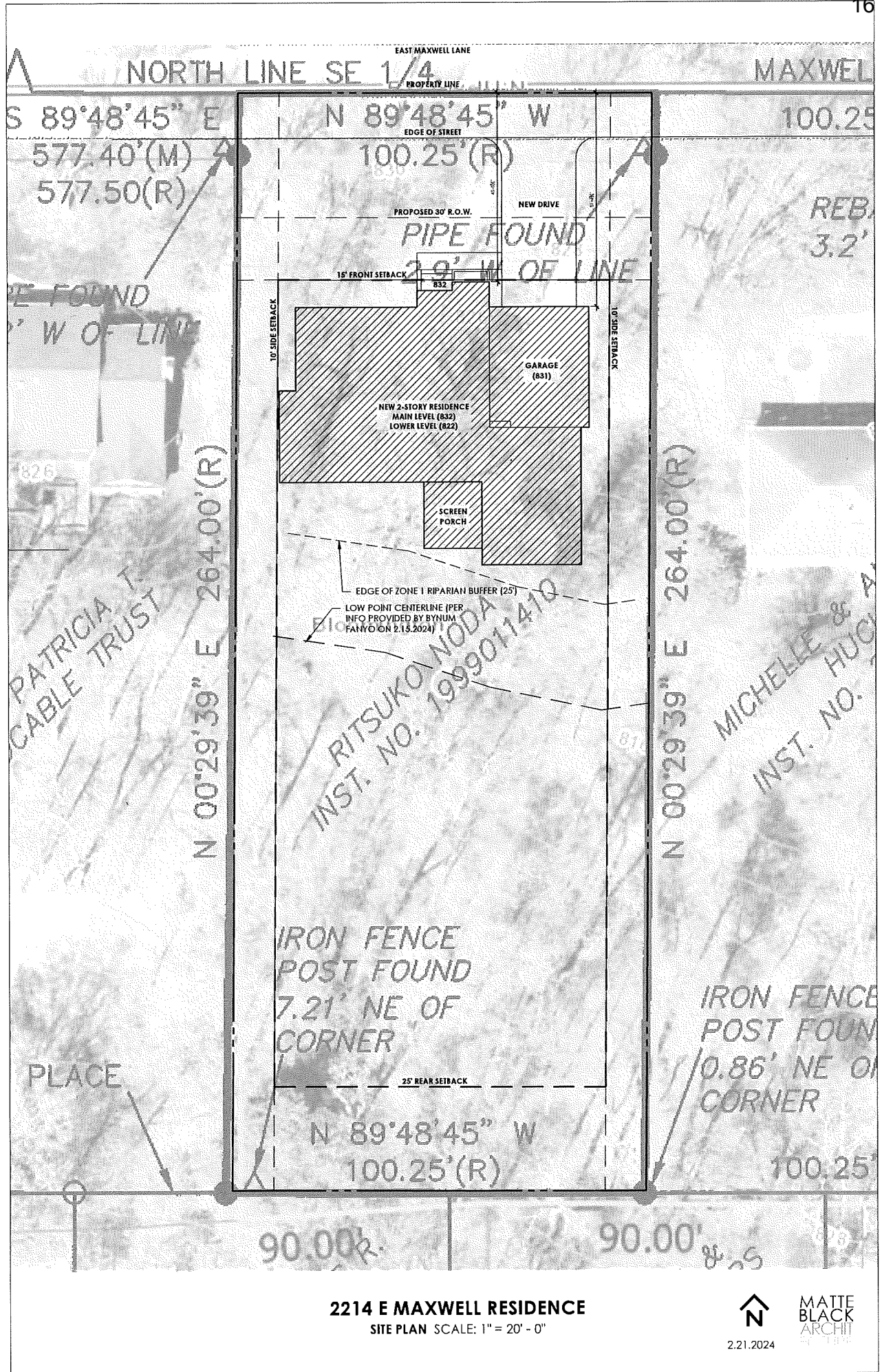
REBAR SET 'BFA 9500014'

REBAR FOUND

MAG NAIL SET

N 00°29'39" E 264.00'(R)





2214 E MAXWELL RESIDENCE

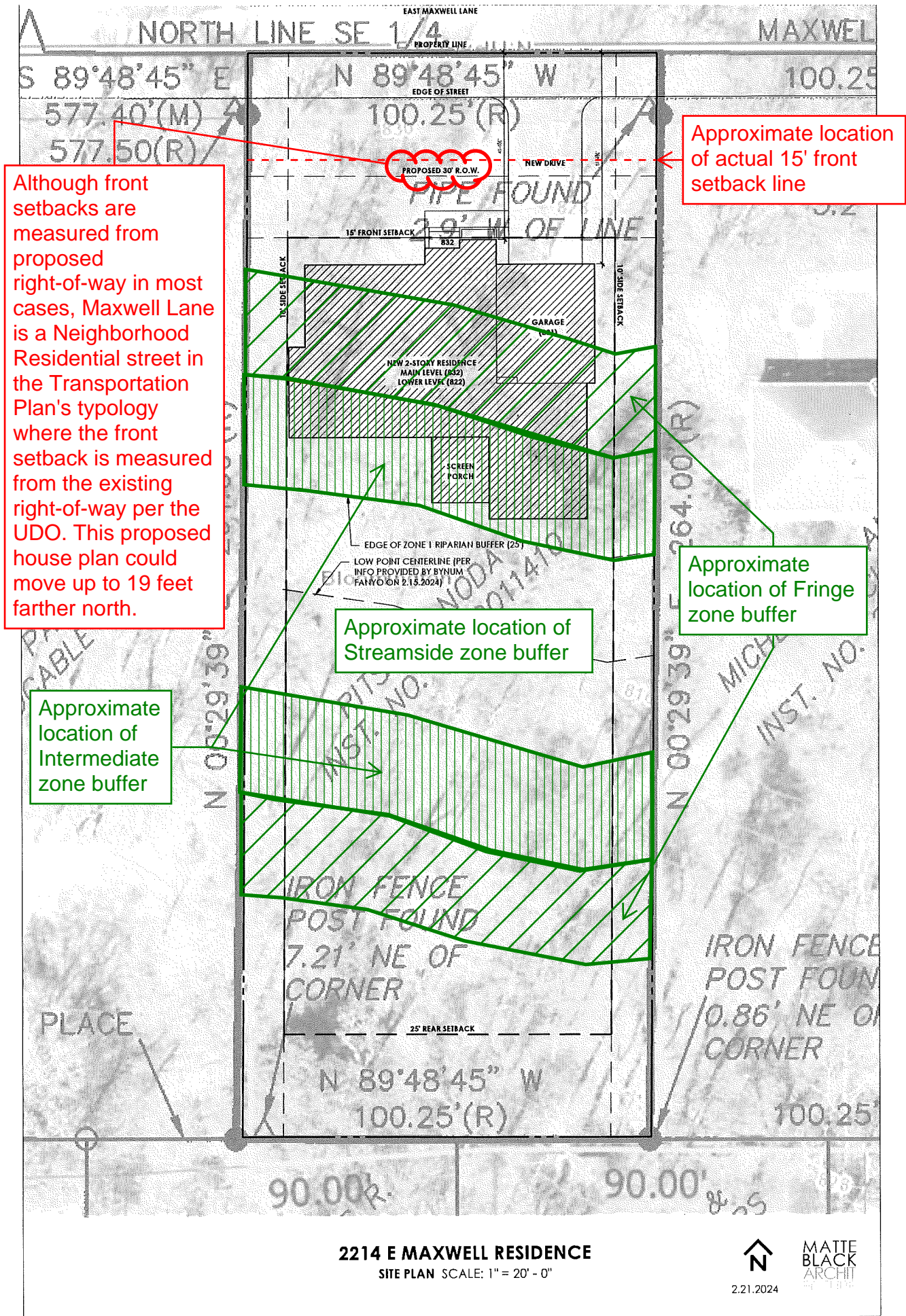
SITE PLAN SCALE: 1" = 20' - 0"



MATTE BLACK ARCHITECTURE

2.21.2024

Possible house site plan, annotated by Planning and Transportation Department Staff





2214 E Maxwell Ln

Gabriel Holbrow <gabriel.holbrow@bloomington.in.gov>
To: Mohsen Kianizadeh <mohsenkianizadeh@yahoo.com>

Mon, Oct 16, 2023 at 1:17 PM

Dear Mohsen,

There are a few issues related to constructing a new house at 2214 East Maxwell Lane.

First, we discussed last week that I believed the property is a buildable lot but I needed to confirm. I was able to confirm that it is a buildable lot. Although 2214 and 2226 East Maxwell were under identical ownership for more than 30 years from 1989 until 2021, the properties were created as separate lots in 1975--before Bloomington's first subdivision ordinance was adopted--and were under separate ownership from 1976 to 1989. This confirms that the properties were intended to be separate lots and are therefore each separately buildable today.

Second, I wanted to look into whether there are any environmental constraints on the property. There is appears to be a mapped stream on the property, and there is a closed-canopy wooded area covering nearly the entire property.

The stream runs from west to east across the property, roughly 110 feet south of the front property line on Maxwell Lane. The presence of a stream triggers riparian buffer standards in the [City of Bloomington Unified Development Ordinance \(UDO\)](#) found in [section 20.04.030\(f\)](#). The riparian buffer standards include exceptions for "platted lots of record less than one-half acre in size". However, 2214 East Maxwell Lane is neither platted (the property is described by metes and bounds, instead of by a recorded plat) nor less than a half acre (the property is approximately 0.61 acres). Strict application of the riparian buffer standards in the UDO requires riparian buffer easements which limit disturbance activity adjacent to the stream, effectively creating a minimum building setback of 75 feet from the center of the stream. Combined with the minimum required front setback of 15 feet from the front property line along Maxwell Lane, that does not leave very much room to build a house.

If you find that the available buildable area is indeed not enough to build your desired house, there are at least two way that I can think of to try to resolve the situation. First, you could ask Planning and Transportation Department staff (me and my colleagues) to conduct a site visit to reconsider whether there actually is a stream on the property that triggers riparian buffer standards. At this time, I see a mapped stream in our GIS, so the default initial determination is that there is a stream. However, that default initial determination can be overturned based on an actual site visit.

Another possible way to resolve the stream buffer is to pursue a variance from the riparian buffer standards. If the determination, that the stream exists, stands and the riparian buffer standards apply to the property, then you can petition for a variance. While the language of the UDO does not provide an exemption for this property, it is easy to see that an exemption from at least some of the buffer standards in this case would be consistent with the intent of the UDO. You can see other houses on the south side of Maxwell Lane nearby that are less than 75 feet from the stream, including some that have been built in recent years. There is a case to be made that the UDO standards should not be more restrictive on this property than other similar properties nearby.

The property also contains a closed-canopy wooded area covering nearly the entire lot, which triggers compliance with tree and forest preservation standards found in [UDO section 20.04.030\(i\)](#). Based on UDO table 04-8, it appears that up to 50 percent of the canopy cover could be removed for a house site (subject to riparian buffer standards as well). Because the property is less than two acres, UDO section 20.04.030(i)(4) also gives the Planning and Transportation Director authority to approve more tree clearing as long as individual specimen trees or trees along property lines are preserved. It seems that the tree and forest preservation standards would not prevent any reasonable house design, but it is a standard that does have to be met and something to keep in mind when laying out the site.

Generally, new construction on the property would have to comply with the lot development standards for the Residential Medium Lot (R2) zoning district where it is located. The R2 district standards are found in [UDO section 20.02.010\(i\)\(2\)](#).

For approval procedures, once you have a site layout and building design that complies with all of the applicable UDO standards, you need to apply for a building permit from the [Monroe County Building Department](#). As part of the building permit application, you need to submit a site plan which we here in the City of Bloomington Planning and Transportation Department will review and approve. As long as the site plan compliance with the applicable UDO standards, we will issue the CZC. At the same time as the building permit, you will need to apply to [City of Bloomington Utilities \(CBU\)](#) for approval of water and sewer connections and possibly site drainage.

If you wish to request that Planning and Transportation Department staff to conduct a site visit to reconsider whether there actually is a stream on the property that triggers riparian buffer standards, please let me know. Or, if you wish to set up a meeting to discuss the procedures to petition for a variance, please let me know that.

I hope this information is helpful.

Gabriel



----- Previous message -----

From: **Mohsen Kianizadeh** <mohsenkianizadeh@yahoo.com>

Date: Wed, Oct 11, 2023 at 5:29 PM

Subject: Re: 2214 E Maxwell Ln

To: Gabriel Holbrow <gabriel.holbrow@bloomington.in.gov>

Hi Gabriel,
 Thanks, I will be waiting for your email.

Best,
 Mohsen

On Wednesday, October 11, 2023 at 05:16:50 PM EDT, Gabriel Holbrow <gabriel.holbrow@bloomington.in.gov> wrote:

Dear Mohsen,

We spoke on the phone this morning about the property you own at 2214 East Maxwell Lane, the standards for building a house there, and the procedure for local approvals.

I am still looking into the situation at this property specifically. I hope to have a thorough answer for you by early next week. I ask for your patience.

Gabriel Holbrow





City of Bloomington
Planning and Transportation Department

February 1, 2024

Mohsen Kianizadeh and Sara Noorihoseini
106 E 2nd Street
Bloomington, IN 47401

Re: Notice of Violation

Siltation and Erosion Prevention
Tree and Forest Preservation
Riparian Buffers
Prohibited Storage Materials

Dear Sir or Madam:

This Notice of Violation (NOV) serves as a formal warning of non-compliance at 2214 E Maxwell Lane. Specifically, UDO Section 20.04.030 (d) [Development Standards & Incentives; Environment; Siltation and Erosion Prevention]; UDO Section 20.04.030(i) [Development Standards & Incentives; Environment; Tree and Forest Preservation]; UDO Section 20.04.030 (f) [Development Standards & Incentives; Environment; Riparian Buffers]; UDO Section 20.03.030(e)(1)(C) [Use-Specific Standards; Employment Uses; Storage, Outdoor; Prohibited Storage Materials]. Records show that you are the owner of this property.

The City of Bloomington Planning and Transportation Department received a complaint that land-disturbing work including the removal of vegetation was occurring at 2214 E Maxwell Lane on 01/05/2024. Staff inspected the site on 01/09/2024 and 01/23/2024 (photographs enclosed) and found that trees had been cut down throughout the north side and central portion of the property. Staff also observed the prohibited outdoor storage of building materials, such as concrete blocks on the site. Additionally, no erosion controls were observed on the site during either of the site visits.

Based on evaluation of satellite imagery, staff confirmed a portion of this lot was considered a closed canopy wooded area. As well, staff confirmed the presence of an intermittent stream during the 01/23/2024 site visit with the property owners at 2214 E Maxwell Lane. Due to the presence of an intermittent stream, riparian buffer standards would apply to the site. This property is located in the Residential Medium Lot (R2) Zoning District.

According to Unified Development Ordinance (UDO) Section 20.04.030(d) [Development Standards & Incentives; Environment; Siltation and Erosion Prevention];

(3) Erosion and Pollutant Control Requirements

(A) Current Preferred Practices

All sites undergoing land disturbing activities, regardless of size, shall prevent the erosion of sediment or any other contaminant off site or conveyed into any bodies of water, either by wind or water. All land disturbing activities shall be protected by current preferred practices (CPP) including, but not limited to silt or erosion-control fences, filter socks, straw bales, sedimentation basins, articulated concrete blocks, mechanically stabilized earth, storm grate filters, or erosion control mats.

According to Unified Development Ordinance (UDO) **Section 20.04.030(i) [Development Standards & Incentives; Environment; Tree and Forest Preservation];**

- (1) Applicability
This section shall apply to all land-disturbing activities on properties containing closed-canopy wooded areas.
- (2) Retention of Existing Canopy
The following table shall be used to determine the minimum amount of existing vegetation canopy that must be retained during land-disturbance activity.

Table 04-8: Minimum Required Vegetation Canopy

Baseline Canopy Cover	Retained Canopy Cover
80—100%	0.50 × Baseline canopy cover
60—79%	0.60 × Baseline canopy cover
40—59%	0.70 × Baseline canopy cover
20—39%	0.80 × Baseline canopy cover
0—19%	0.90 × Baseline canopy cover

Example:

For a property of 20 acres with 50 percent canopy cover (i.e., 10 acres), a development would be required to maintain at least seven acres (10 acres × 0.70) of canopy cover.

According to Unified Development Ordinance (UDO) **Section 20.04.030 (f) [Development Standards & Incentives; Environment; Riparian Buffers];**

- (1) Applicability
 - (A) This subsection shall apply to all land development activities on properties that are contiguous with or contain intermittent or perennial streams. However, platted lots of record of less than one-half acre in size shall not be subject to 20.04.030(f)(6) nor 20.04.030(f)(7) of this section. Any new, non-single-family development that is exempt from providing riparian buffer zones as outlined in 20.04.030(f)(1), shall provide at least a 25-foot wide streamside buffer zone in compliance with the design standards of 20.04.030(f)(5). Additionally, two of the following best management practices, including plans for post-installation maintenance of such practices, shall be incorporated into the site design:
 - i. Use of 100 percent native vegetation;
 - ii. Use of permeable pavement for at least 50 percent of all the on-site parking areas;
 - iii. Biofiltration swales;
 - iv. Culverts outfalls; or
 - v. 50 percent vegetated roof.
- (2) Applicability
Where intermittent or perennial streams are present on adjacent properties, and where required buffer zones for such streams would extend onto the subject property, the buffer zones required by this subsection (f) shall be established.
- (3) Easements
All riparian buffer zones required to be preserved subject to this subsection (f) shall be placed within riparian buffer easements pursuant to the standards of Section 20.05.040 (Easements).
- (4) Graduated Buffer Zones
All intermittent or perennial streams shall be protected by a riparian buffer composed of three distinct zones. These zones shall be defined as:
 - (A) Streamside Zone (Zone 1)
The primary function of the streamside zone is to ensure stream-bank stabilization.
 - (B) Intermediate Zone (Zone 2)
The primary function of the intermediate zone is to protect soil particles that trap nutrients and chemicals.

(C) Fringe Zone (Zone 3)

The primary function of the fringe zone is to filter runoff, and to maximize infiltration, water storage, and nutrient absorption.

(5) Streamside Zone Design

The streamside zone (Zone 1) shall be designed as follows:

(A) Location

Immediately adjacent to the stream channel.

(B) Buffer Width

The width of this zone shall be a minimum of 25 feet on each side of the stream, measured from the centerline of the stream.

(C) Vegetation Requirements

All vegetative cover within this zone shall consist of undisturbed, existing vegetation, except that invasive and nonnative plants may be removed. In cases where little or no existing vegetation is present, only native, water tolerant species shall be planted. Acceptable species for planting within buffer zones are listed in Section 20.04.080(d) (Permitted Plant Species). Plant spacing and density for new vegetation within buffer zones shall comply with specifications of the natural resource's conservation service for each plant type.

(D) Disturbance Activities

Only the following land disturbance activities may be allowed within this zone, subject to approval of the City Planning and Transportation Department:

- i. Utility installation; if no alternative location is available;
- ii. Street crossings, where necessary to achieve connectivity;
- iii. Bicycle and/or pedestrian crossings, where necessary to achieve connectivity;
- iv. Connector path and multi-use trail constructed with a permeable surface.

(6) Intermediate Zone Design

The intermediate zone (Zone 2) shall be designed as follows:

(A) Location

Immediately outside the streamside zone (Zone 1).

(B) Buffer Width

The required width shall be a minimum 25 feet on each side, measured perpendicularly from the outer boundary of Zone 1.

(C) Vegetation Requirements

Vegetative cover within this zone shall consist of undisturbed, existing vegetation, supplemented by native, groundcover and edge vegetation except that invasive and non-native plants may be removed. In cases where little or no existing vegetation is present, only native, water tolerant species shall be planted. Appropriate species for planting within buffer zones are listed in Section 20.04.080(d) (Permitted Plant Species). Plant spacing and density for new vegetation within buffer zones shall comply with specifications of the natural resource's conservation service for each plant type.

(D) Disturbance Activities

Only the following land disturbance activities may be allowed within this zone, subject to approval of the City Planning and Transportation Department:

- i. All activities allowed in Zone 1 (streamside zone); and
- ii. Stormwater management facilities.

(7) Fringe Zone Design

The fringe zone (Zone 3) shall be designed as follows:

(A) Location

Immediately outside the intermediate zone (Zone 2).

(B) Buffer Width

The required width shall be a minimum of 25 feet measured perpendicular from the outer boundary of Zone 2.

(C) Vegetation Requirements

The vegetative cover for the outer zone shall be native grasses, sedges, and forbs that perform phytofiltration, except that invasive and non-native plants may be removed. In addition, woody plants may be utilized where appropriate. Appropriate species for planting within buffer zones are listed in Section 20.04.080(d) (Permitted Plant Species). Plant spacing and density for new vegetation within buffer zones shall comply with specifications of the natural resource's conservation service for each plant type.

(D) Disturbance Activities

Only the following land-disturbance activities may be allowed within this zone, subject to approval of the City Planning and Transportation Department:

- i. All activities allowed within Zones 1 and 2.
- ii. Streets, as needed to achieve connectivity where no reasonable alternative route can be identified and where a need for new streets has been established, as required by adopted City regulations and Common Council policy.

(8) Additional Riparian Buffer Design Standards

(A) Riparian buffer design shall be fitted to the topography and soil conditions of the site.

Preference shall be given to preserving existing vegetation within riparian buffer areas.

Protection of tree crowns and root zones within the dripline shall be required for all trees planned for retention.

(B) Temporary vegetation, sufficient to stabilize the soil, may be required on all disturbed areas as needed to prevent soil erosion. New plantings shall be given sufficient water and protection to ensure reestablishment.

(C) In order to ensure vegetative diversity, a minimum of nine different plant species shall be used within the overall riparian buffer area. At least three of these species shall be trees selected from Section 20.04.080(d) (Permitted Plant Species).

(D) No alteration to the shoreline or bed of a stream or creek shall be made unless written approval is obtained from the appropriate governmental agencies. Alterations subject to this requirement include, but are not limited to, filling, damming, or dredging of a stream, creek, ditch, or wetland.

(9) Riparian Buffer Maintenance

Management of riparian buffers shall be limited to the minimum necessary, with no alterations of forest understory, except for the removal of nonnative or invasive species. Limited mowing may occur in Zone 3 but shall be prohibited in Zones 1 and 2.

According to Unified Development Ordinance (UDO) **Section 20.03.030(e)(1) [Use-Specific Standards; Employment Uses; Storage, Outdoor];**

(C) Prohibited Storage Materials

In all zoning districts where this use is allowed, except for the MI zoning district, outdoor storage of equipment, materials, waste or scrap materials, and pallets is prohibited.

According to Unified Development Ordinance (UDO) **Section 20.07.010 [Definitions; Defined Words];**

Storage, Outdoor

The storage of any material outside of an enclosed building for a period greater than 24 hours, including but not limited to storage of items awaiting processing or repair. This use does not include "Vehicle Sales or Rental" or accessory "Outdoor Retail and Display" uses.

In accordance with UDO Section 20.06.100, a Violation of Illegal Land Use for prohibited storage of materials may result in a two thousand five hundred dollar (\$2,500) fine, a Violation of Environmental Standards may result in a two thousand five hundred dollar (\$2,500) fine. Each day a violation is allowed to continue is considered a distinct and separate violation. Subsequent violations are twice the previous fine, up to a maximum daily fine of seven thousand five hundred dollars (\$7,500).

If the violations remain unresolved, fines will begin to accrue daily on 02/09/2024 in accordance with above referenced UDO Section 20.06.100 [Enforcement and Penalties] until such a time as the violation is remedied. To remedy the situation, the following actions need to be taken:

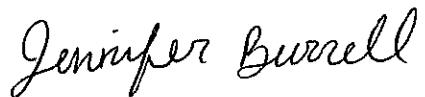
1. Install erosion controls on or before 02/08/2024.
2. Remove the outdoor storage of materials from the property on or before 02/08/2024.
3. Submit a timeline for a remediation plan to return the site to a compliant state on or before 02/08/2024. The remediation plan must include specifications on number and species of trees and vegetation to be replanted. **OR;**
Make a phone appointment with a Planner to occur on or before 02/08/2024 to discuss filing a variance request, AND file for a variance on or before 02/23/2024 for the 03/21/2024 Board of Zoning Appeals hearing.

If you dispute the City's assertion that the property is in violation of the above referenced sections of the Unified Development Ordinance, you may file an appeal with the City's Board of Zoning Appeals. Said appeal shall be filed with the Planning and Transportation Department within ten (10) days of your receipt of this Notice of Violation and shall conform to the requirements of UDO Section 20.06.080(d).

Failure to resolve this violation may result in further enforcement action. If a fine is issued, the final fine amount shall be paid to the City of Bloomington. All fines may be contested in the Monroe County Circuit Courts.

Please contact the Planning and Transportation Department at planning@bloomington.in.gov or 812-349-3423 with any questions or concerns.

Sincerely,



Jennifer Burrell
Senior Zoning Compliance Planner, Planning and Transportation Department

CC: Jackie Scanlan, AICP, Interim Director & Development Services Manager, Planning and Transportation Department
Beth Rosenbarger, AICP, Assistant Director, Planning and Transportation Department

Enclosure (11): (9) Photographs, (2) July 2023 Google Street View Images



Photo 1: Earth disturbance, absence of erosion control measures, and trees removed on the northeastern side of 2214 E Maxwell Lane on 01/09/2024.



Photo 2: Earth disturbance, absence of erosion control measures, and trees removed on the northwestern side of 2214 E Maxwell Lane on 01/09/2024.



Photo 3: Earth disturbance, absence of erosion control measures, and trees removed at 2214 E Maxwell Lane on 01/09/2024 from the north, facing south.



Photo 4: Earth disturbance, absence of erosion control measures, and trees removed on the northern side at 2214 E Maxwell Lane on 01/23/2024 from central portion of site, facing north.



Photo 5: Intermittent stream, earth disturbance, absence of erosion control measures, and trees and vegetation removed near the intermittent stream (south-central area of the lot) at 2214 E Maxwell Lane on 01/23/2024, facing west.



Photo 6: Intermittent stream, earth disturbance, absence of erosion control measures, and trees and vegetation removed near the intermittent stream (south-central area of the lot) at 2214 E Maxwell Lane on 01/23/2024, facing west.



Photo 7: Intermittent stream, earth disturbance, absence of erosion control measures, and trees and vegetation removed near the intermittent stream (south-central area of the lot) at 2214 E Maxwell Lane on 01/23/2024, facing east.



Photo 8: Intermittent stream, earth disturbance, absence of erosion control measures, and trees and vegetation removed near the intermittent stream (south-central area of the lot) at 2214 E Maxwell Lane on 01/23/2024, facing east.



Photo 9: Prohibited outdoor storage of materials, intermittent stream, earth disturbance, absence of erosion control measures, and trees and vegetation removed near the intermittent stream (south-central area of the lot) at 2214 E Maxwell Lane on 01/23/2024, facing east.



Photo 10: July 2023 Google Street View image of 2214 E Maxwell Lane from west, facing southeast.



Photo 11: July 2023 Google Street View image of 2214 E Maxwell Lane from east, facing southwest.

BLOOMINGTON BOARD OF ZONING APPEALS CASE #: V-03-24 / VAR2024-02-0023
STAFF REPORT DATE: March 21, 2024

LOCATION: 430 East Kirkwood Avenue (parcel #53-05-33-310-035.000-005)

PETITIONER/OWNER: Bryan Rental Inc.
1440 South Liberty Drive
Bloomington, IN 47403

REQUEST: Variances from the Downtown Character Overlay standards to allow wood and concrete block as primary façade materials within Kirkwood Corridor in the Mixed-Use Downtown zoning district with the University Village character overlay (MD-UV).

REPORT: This .31-acre property is located at 430 E Kirkwood Ave and is zoned Mixed-Use Downtown zoning district with the University Village character overlay (MD-UV), and is also located in the Kirkwood Corridor. This property has been developed with an 11,900 square foot multi-tenant building known as Dunkirk Square, which contains commercial uses.

All surrounding properties are also zoned MD-UV. Surrounding land uses include commercial and residential uses to the north, a restaurant to the east, parking lot to the south, and mixed-use residential and commercial to the west.

The Upstairs Pub, one of the tenants located at 430 E Kirkwood, is proposing a remodel of the second floor of the northwest portion of the building. The remodel includes raising of the roof, an extension of the 2hr concrete block parapet wall, rerouting of utilities, removing and installation of new siding and new windows, and the installation of new 90 minute exit doors and new exit stairs along the west façade of the building.

The UDO states that “minor repairs and maintenance of nonconforming structures are permitted and encouraged, provided that they do not increase the degree of nonconformity and that they conform to the building code and other applicable regulations of this UDO” ([BMC 20.06.090\(b\)](#), [BMC 20.06.090\(d\)\(3\)](#), [BMC 20.04.070\(b\)\(2\)](#), [BMC 20.01.020\(b\)\(1\)](#)). This proposed renovation increases the degree of nonconformity because it's an expansion of a wall area using a nonconforming material and because it proposes the installation of materials that don't conform to current UDO standards.

The UDO states that “if the renovation is proposed for only a portion of a building, the Planning and Transportation Director may waive compliance with the site and building design standards if” meeting the current UDO standards would cause “the renovation to be inconsistent with the overall design of the existing structure” ([BMC 20.04.070\(b\)\(2\)](#)). The director has not waived compliance with the site and building design standards for this proposal, as a compatible design could be used.

This variance petition includes two variances:

1. [BMC 20.02.050\(a\)\(9\)](#) Downtown Character Overlay District Façade Materials

UDO Requirement - Wood is prohibited as a *primary* exterior facade material for all street and non-street facing facades of a primary building in the MD-UV Kirkwood Corridor. Wood may be used as a *secondary* facade material on floors above the first floor - *secondary exterior finish materials* [are defined as](#): "*An exterior finish material that covers 20 percent or less of a building facade. Windows, doors, building trim, cornices, and similar architectural features shall not count toward calculation of the square footage of the building facade.*"

Proposed by the petitioner - Remove existing wood siding on the second floor, increase the surface area of the second floor facade, and install new wood siding on both the existing and new portions of the second floor in a new pattern. The existing and new wood exterior finish material will cover more than 20 percent of the building façade.

2. [BMC 20.02.050\(a\)\(9\)](#) Downtown Character Overlay District Façade Materials

UDO Requirement - Cement block and cementitious siding are prohibited as a *primary* exterior facade materials for all street and non-street facing facades of a primary building in the MD-UV Kirkwood Corridor. Cement block and cementitious siding may be used as a *secondary* facade material on floors above the first floor - *secondary exterior finish materials* [are defined as](#): "*An exterior finish material that covers 20 percent or less of a building facade. Windows, doors, building trim, cornices, and similar architectural features shall not count toward calculation of the square footage of the building facade.*"

Proposed by the petitioner – Increase the height of the west wall of the building by installing new concrete block, to accommodate the increased roof height. The existing and new concrete block exterior finish material will cover more than 20 percent of the building façade.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.06.080(b)(3)(E) Standards for Granting Variances from Development Standards:

A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

PROPOSED FINDING: The granting of variance requests one (1) and two (2) will not be injurious to the public health, safety, morals, or general welfare of the community.

- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

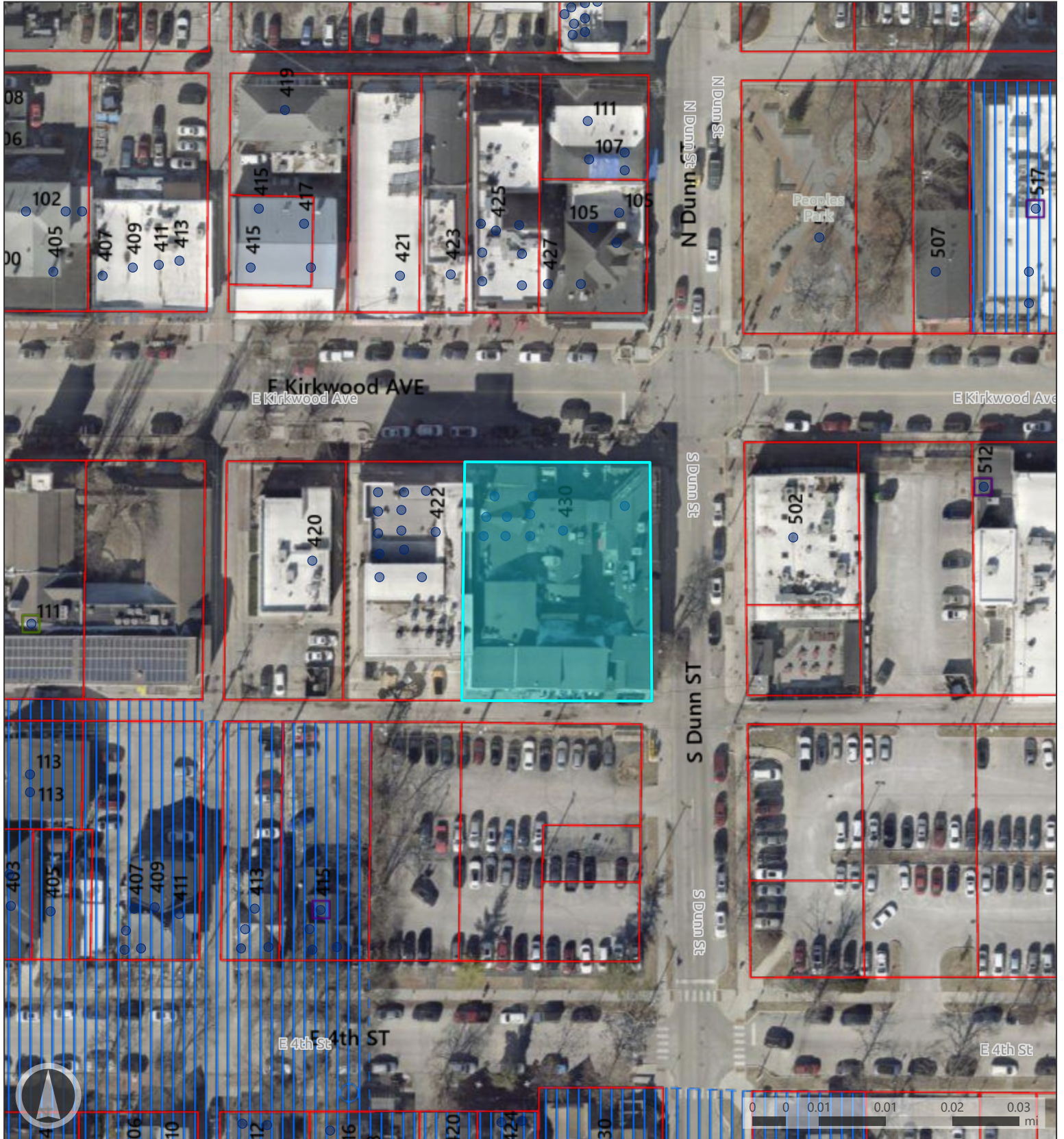
PROPOSED FINDINGS: The use and value of the area adjacent to the property included in the Development Standards Variances one (1) and two (2) will not be affected in a substantially adverse manner. While the majority of surrounding properties on Kirkwood

Corridor are built with metal, stone or brick, maintaining a wood exterior façade material and extending the existing concrete fire wall at 430 E Kirkwood will likely not alter the use, value, and foot traffic of visitors to this street and the properties surrounding 430 E Kirkwood. This proposal is in line with the [City of Bloomington Downtown Vision and Infill Strategy Plan](#), which emphasizes that “Downtown Bloomington conveys a sense of time and place, which is expressed through numerous historic and traditional buildings and this unique and cherished character should be respected.” The wood siding at 430 E Kirkwood brings diversity to the downtown architecture and connects downtown Bloomington to its history.

3. *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

PROPOSED FINDING: The strict application of the terms of the Unified Development Ordinance for Development Standards Variances one (1) and two (2) will not result in practical difficulties in the use of the property – the property will still be usable as a commercial multi-tenant center if the development standards variances are not approved. Though the proposed wood siding for the remodel matches existing materials used on the first and second floor of the building and will produce an aesthetic similar to what is there now, there are approved materials that could mimic the appearance of wood or blend well with the existing wood, if that is what is desired by the petitioner.

RECOMMENDATION: Based upon the report and written findings of fact above, the Department recommends that the Board of Zoning Appeals adopt the proposed findings for V-03-24 / VAR2024-02-0023 and deny the requested variances.

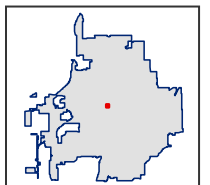


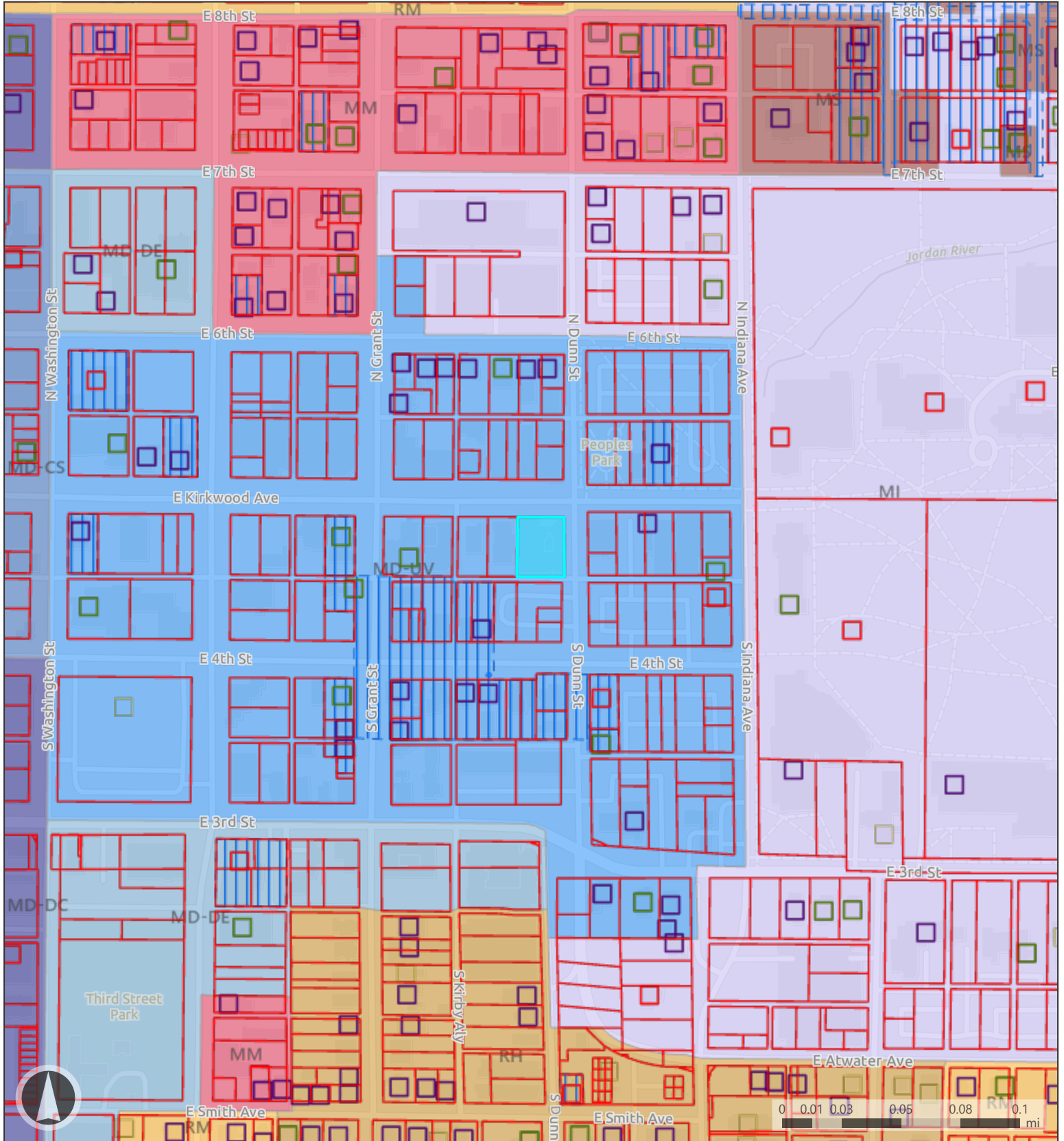
Map Legend

- Addresses
- Parcels

- Rating**
- Notable
 - Contributing

- Local Historic Districts
- Bloomington Municipal Boundary





Map Legend

Parcels

Rating

Outstanding

Notable

Contributing

Non-Contributing

Local Historic Districts

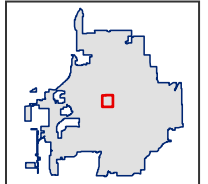
Bloomington Municipal Boundary

Mixed-Use Downtown Courthouse Square

M

M

M



March 5, 2024

City of Bloomington
401 N. Morton St.
Bloomington, IN 47404

Re: The Upstairs Pub
UDO Prohibited Façade Material Standards
430 E. Kirkwood Ave.
Bloomington, IN

Dear BZA Members,

On behalf of The Upstairs Pub and Bryan Rental Inc., we respectfully request the acceptance of the attached variance application and supporting documents for the proposed wood and cement block siding at 430 E. Kirkwood Ave. (“Dunnkirk Square”).

About The Upstairs Pub

The Upstairs Pub has roots to Dunnkirk Square since 1984 where the bar initially launched as Hooligan’s. In 1988, the bar moved to the NE upstairs section of the building where it has since been known as The Upstairs Pub. The Upstairs Pub has been a part of the Bloomington community for almost 40 years, and has kept its deep roots with the community. The Upstairs Pub is owned by Bloomington locals, run by Bloomington locals, and has provided resources and funds for local charities such as Big Brothers Big Sister, Riley’s Children Hospital and the Monroe County Humane Society. The Upstairs Pub has and continues to commit resources to improving the experience of its patrons and the overall community. The Upstairs Pub looks forward to initiating its proposed remodel.

Project Narrative:

The Upstairs Pub is planning a remodel of the NW wing of the 2nd floor of Dunnkirk Square. The proposed work includes raising the roof on part of the NW side of the building, which will include the north elevation facing Kirkwood Ave. The roof is being raised in order to install a large, original IU scoreboard that had been used in Assembly Hall during IU’s NCAA basketball championships under Coach Bobby Knight. Our goal is to restore this scoreboard so it can be utilized to keep real-time scores during IU sporting events.

Dunnkirk Square, built in 1972, has a visible façade comprised of limestone, white stucco, and mainly stained wood siding. More than half of the building utilizes wood siding and has been such wood siding for more than 52 years. As part of the remodel and in keeping with the 1970’s architecture, we propose to use matching wood siding on the exterior upper walls, and to replace a portion of the existing 2nd floor wood siding with new wood siding installed at an angle to match the roof slope. To be clear, there is currently wood siding on the walls and the proposal is to install wood siding when the same walls are made taller. In addition, the west wall - which isn’t very visible due to its close proximity to the Rubicon Building located immediately west at 422 East Kirkwood Ave. - is comprised of painted concrete block, which we’d like to extend with the same concrete block. In short, we want to continue to compliment the nostalgic façade of Dunnkirk Square, and not stray in a different direction that changes the overall appearance of the building. Locally renowned Architect Michael Chamblee, carefully drafted these plans

to create a great appropriate look to the exterior of the building as well as other aspects of this remodeling project.

We respectfully request variance from: Bloomington Indiana Unified Development Ordinance:

- 1. BMC 20.02.050(a)(9) Overlay Districts, DCO – Downtown Character Overlay District, Façade Materials, Prohibited Façade Materials, “Wood”**
- 2. BMC 20.02.050(a)(9) Overlay Districts, DCO – Downtown Character Overlay District, Façade Materials, Prohibited Façade Materials, “smooth-faced cement block”**

The current UDO does not allow wood siding on exterior walls in the MD-UV Kirkwood Corridor. Metal siding or limestone on the 2nd level is permitted, although, the building would appear very awkward and otherwise harm the ambiance of Kirkwood Avenue if those materials were used on the 2nd floor, therefore, contrasting against the 1st floor original wood siding.

In addition, we’re seeking a variance regarding the west concrete block, two hour, fire rated wall. We’re proposing to raise this concrete block wall ten feet utilizing the same concrete block material, and then repaint. As with wood, concrete block is listed as a Prohibited Façade Material. It’s worth noting that there’s 4’-6” between this west concrete block wall and the neighboring Rubicon Building’s east wall, which is barely visible from the street. It just doesn’t seem logical to prohibit a mere extension of an already fire rated concrete block wall with a different material. In short, it would look peculiar introducing a new material 10’ above the existing concrete block wall.

Development Standards Variance Criteria:

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:**

The variances requested will not be injurious to the public health, safety, morals, and general welfare of the community and will in fact create a more aesthetically pleasing building for the community. We believe it would be in the best interest of the public to view the building with matching wood siding on the north and east elevations; and to match the fire rated concrete block wall extension on the west side. Dunnkirk Square is a nostalgic building to those that have called Bloomington “home”. Introducing a new façade material will compromise the aesthetics of the building and would appear as a misfit. The goal is to NOT introduce different/new façade materials, thereby taking away from the nostalgia Dunnkirk Square provides to Kirkwood.

- 2. The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner:**

The use and value of the area adjacent to the property will not have adverse effects, and in fact, will greatly benefit from having a building look like it is not strangely introducing different materials to its appearance. Neither of the proposed materials would create any harm to the adjacent properties whatsoever. Strict application of the UDO would present a problem to adjacent property owners by aesthetically changing the primary corner of Kirkwood Ave in a negative way.

- 3. The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties:**

Given the large size and nature of the building and street frontage, it is not practical to obligate the Petitioner to introduce different façade materials. Literal enforcement of the UDO will result in the

building design being unnecessarily compromised. We're not asking to introduce an otherwise prohibited façade material for any gain other than to remain consistent with what the community has cherished over the past 52+ years. We want the building to look attractive and remain an asset to the community. The BZA body has the ability to allow Dunnkirk Square to remain the same Dunnkirk Square we all love and cherish. It would be hard to find a Bloomington local and/or IU student who hasn't made a memory at this center. We encourage the BZA to waive compliance with building design standards for the proposed Upstairs Pub renovation, as strict application would require the building to be inconsistent with the overall design and aesthetics of the existing structure.

Upstairs Pub looks forward to unveiling its remodel to the community.

We sincerely thank you for your time and consideration and look forward to our presentation to you on March 21, 2024.

Sincerely,

Architect Michael Chamblee & The Upstairs Pub & Bryan Rental Inc.



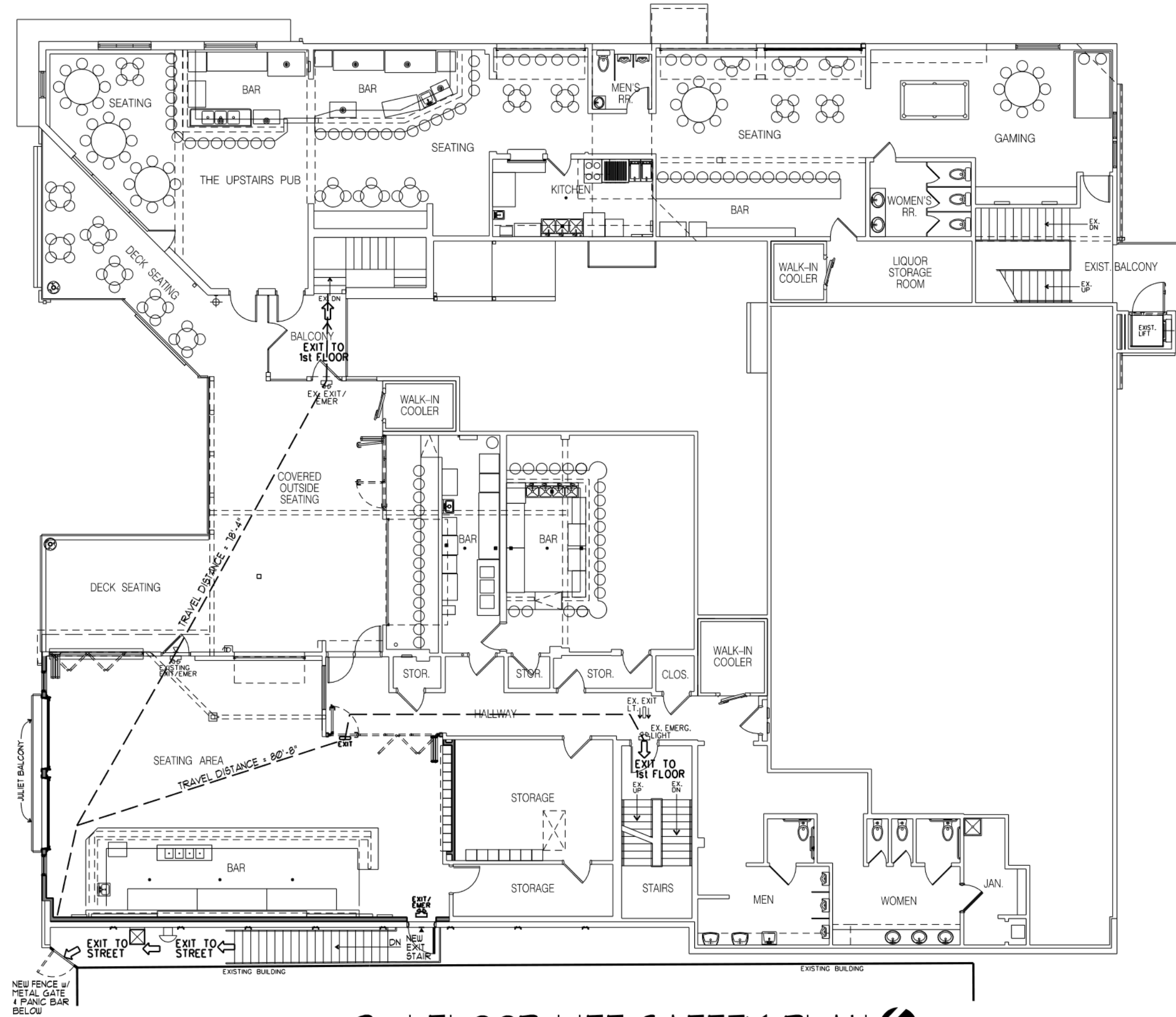


MICHAEL CHAMBLEE
ARCHITECT

1833 COUNTRY CLUB ROAD
NASHVILLE, INDIANA 47448
812-345-2942
michaelchambleearchitect@gmail.com

INTERIOR REMODEL FOR
UPSTAIRS PUB WEST BAR
430 E. KIRKWOOD AVE.
BLOOMINGTON, INDIANA

LS1
Date: 12/29/23



NEW FENCE w/
METAL GATE
& PANIC BAR
BELOW

2nd FLOOR LIFE SAFETY PLAN 
SCALE: 1" = 12'-0"

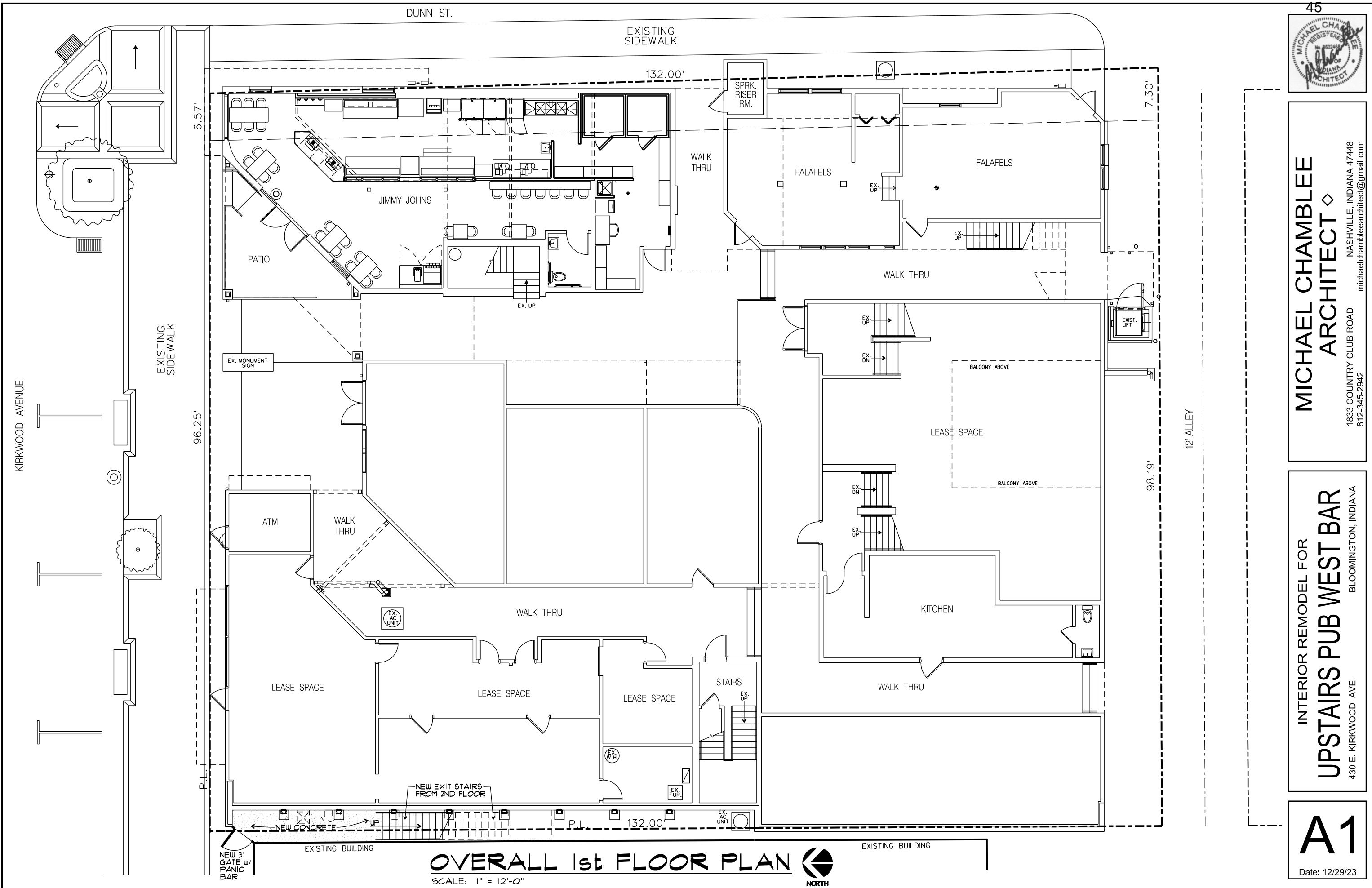


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INTERIOR REMODEL FOR
UPSTAIRS PUB WEST BAR
430 E. KIRKWOOD AVE.
BLOOMINGTON, INDIANA

A1
Date: 12/29/23



OVERALL 1st FLOOR PLAN
SCALE: 1" = 12'-0"
NORTH

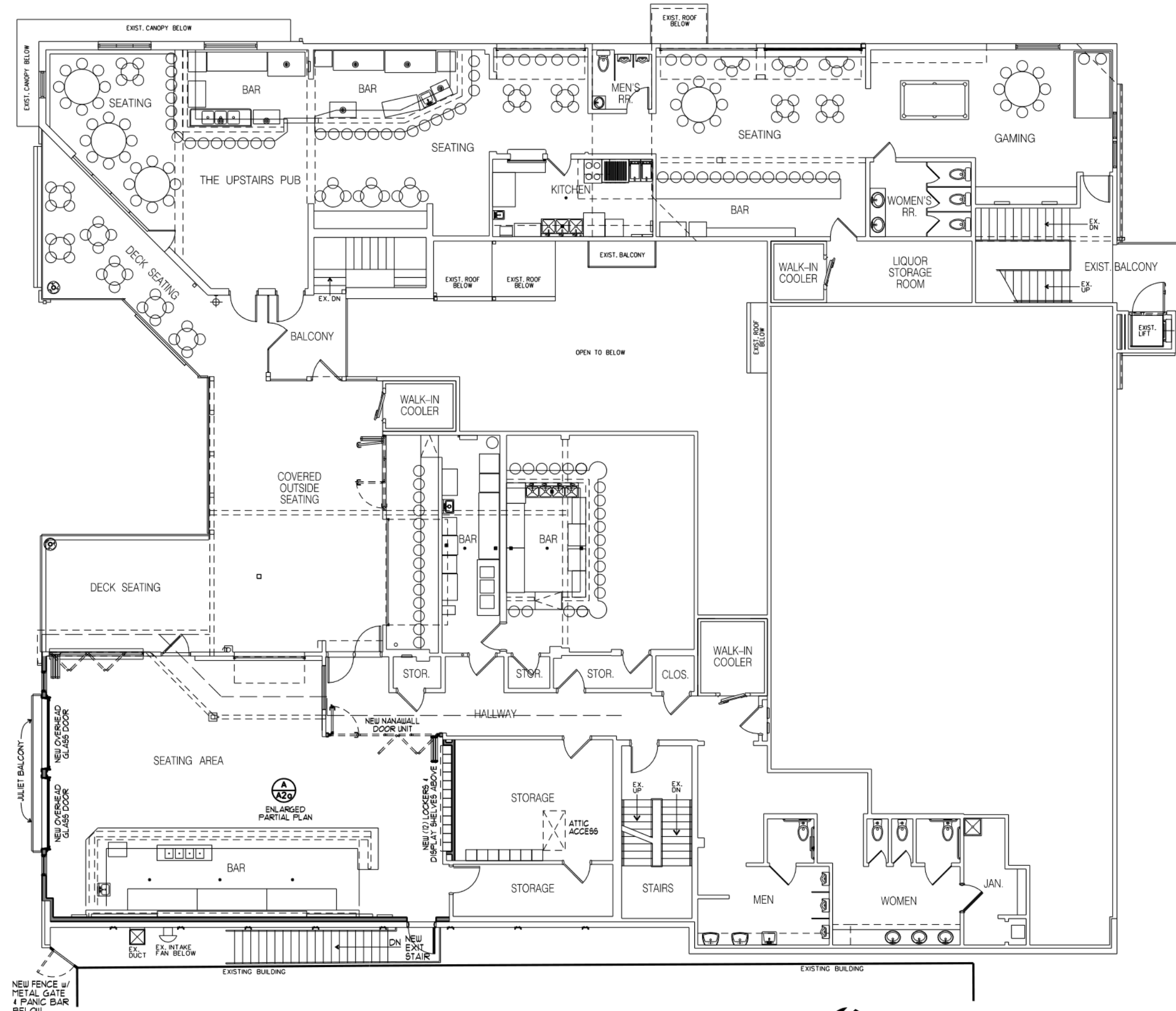


MICHAEL CHAMBLEE
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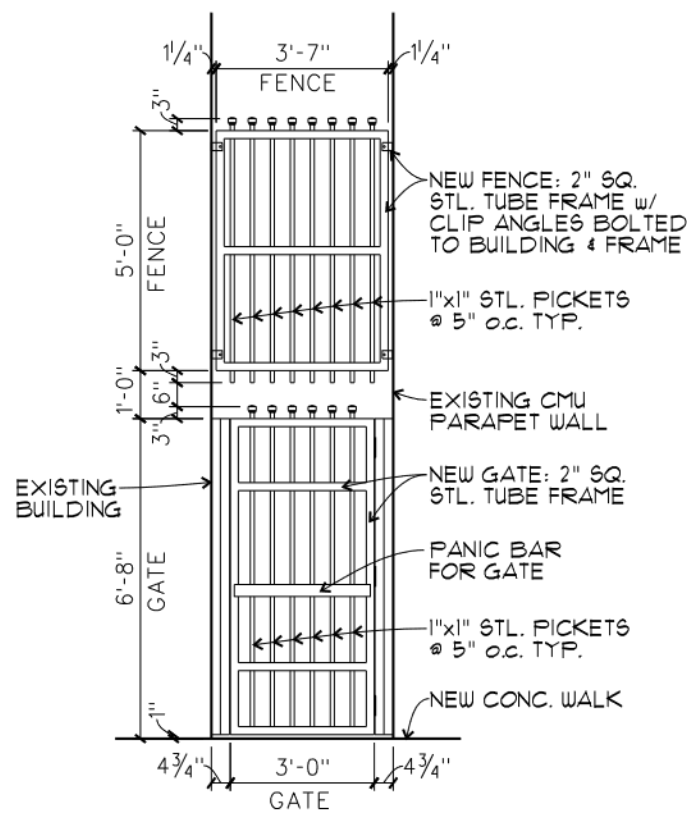
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INTERIOR REMODEL FOR
UPSTAIRS PUB WEST BAR
430 E. KIRKWOOD AVE.
BLOOMINGTON, INDIANA

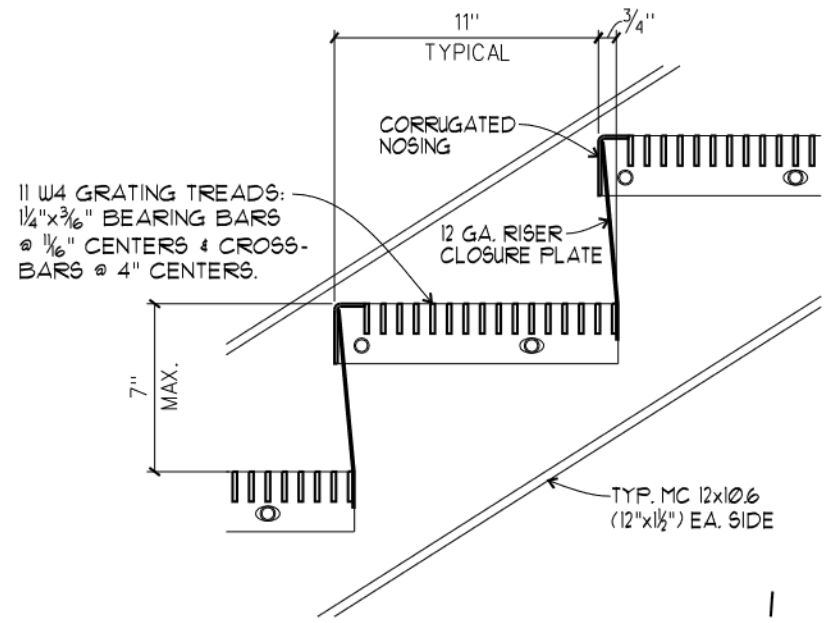
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Date: 12/29/23



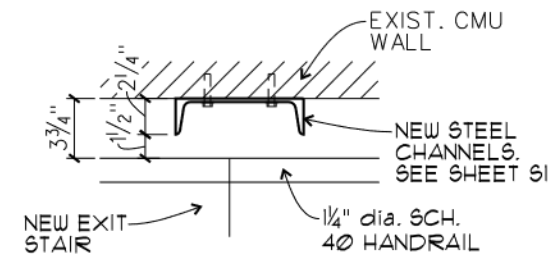
OVERALL 2nd FLOOR PLAN
SCALE: 1" = 12'-0"
NORTH



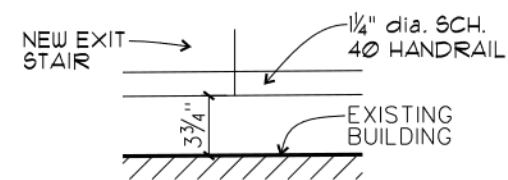
E NEW GATE/FENCE
SCALE: 1/2" = 1'-0"



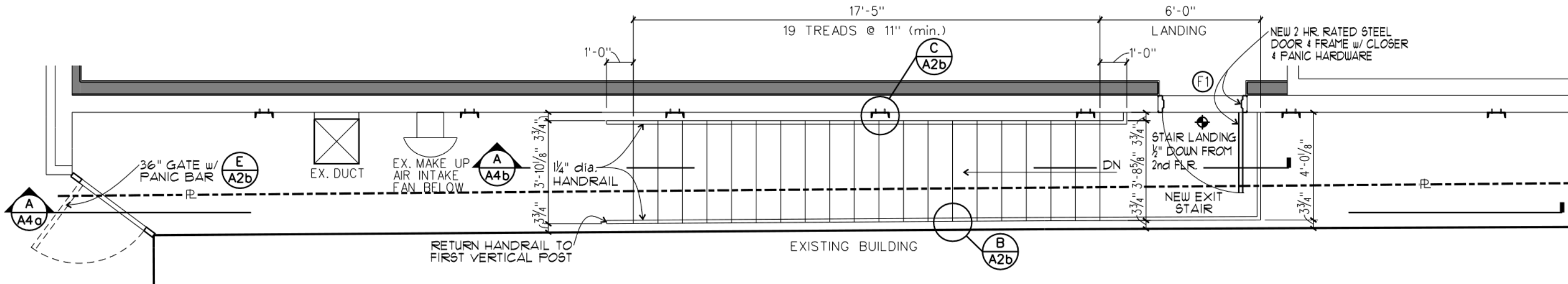
D EXIT STAIR DETAIL
SCALE: 1/2" = 1'-0"



C STAIR PLAN DETAIL
SCALE: 1/2" = 1'-0"



B STAIR PLAN DETAIL
SCALE: 1/2" = 1'-0"



A ENLARGED EXIT STAIR PLAN
SCALE: 1/4" = 1'-0"

MICHAEL CHAMBLEE ARCHITECT
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michaelchambleearchitect@gmail.com

INTERIOR REMODEL FOR
UPSTAIRS PUB WEST BAR
430 E. KIRKWOOD AVE.
BLOOMINGTON, INDIANA

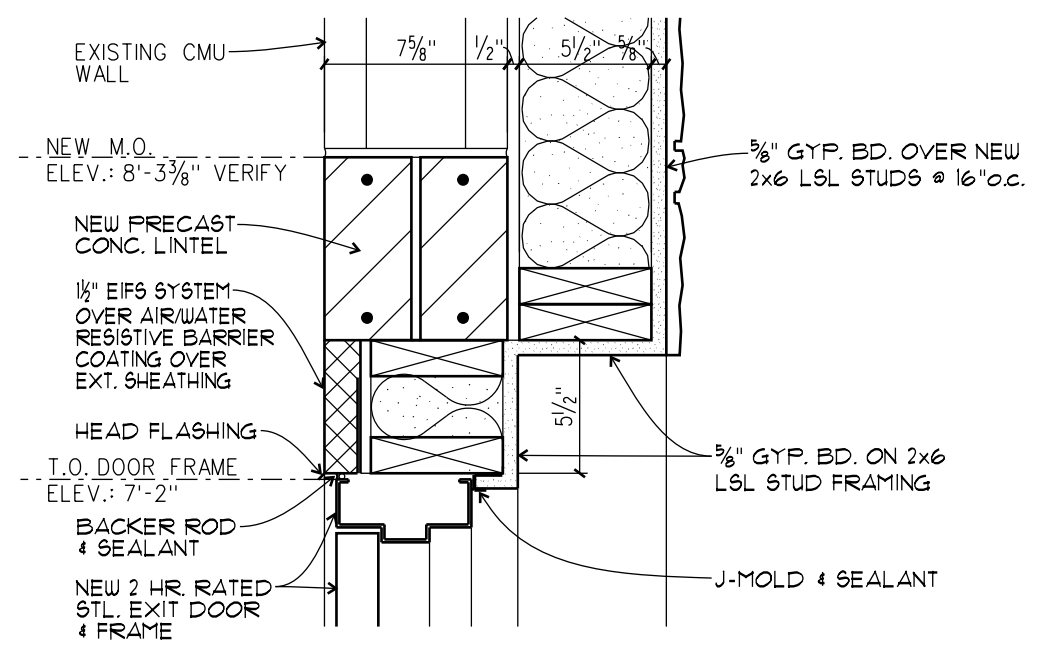


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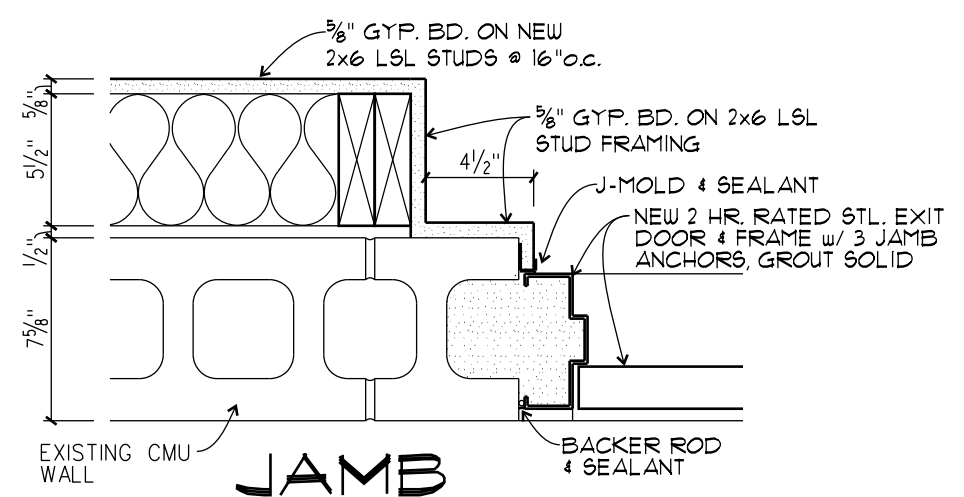
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michaelchambleearchitect@gmail.com

INTERIOR REMODEL FOR
UPSTAIRS PUB WEST BAR
BLOOMINGTON, INDIANA
430 E. KIRKWOOD AVE.

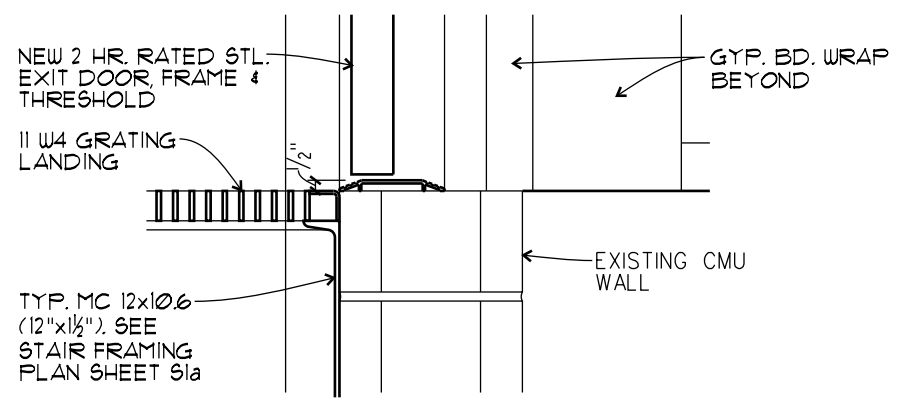
A3
Date: 12/29/23



HEAD

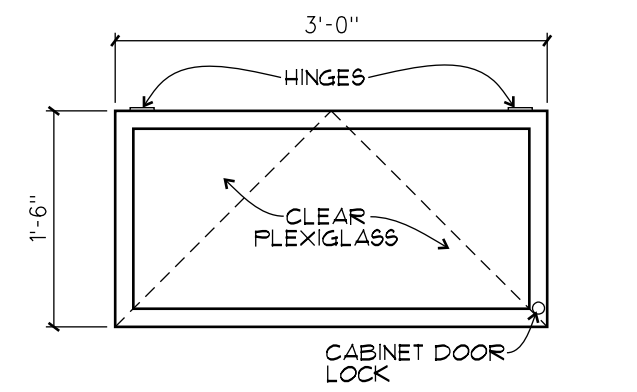


JAMB

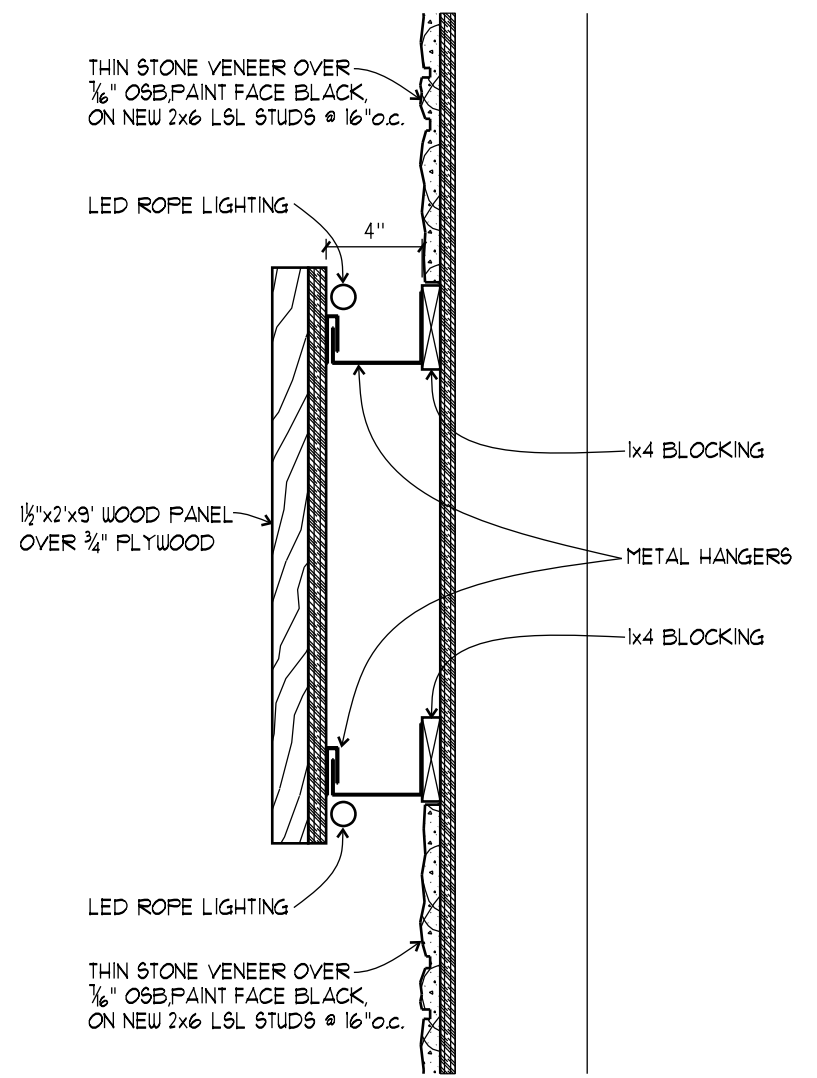


SILL

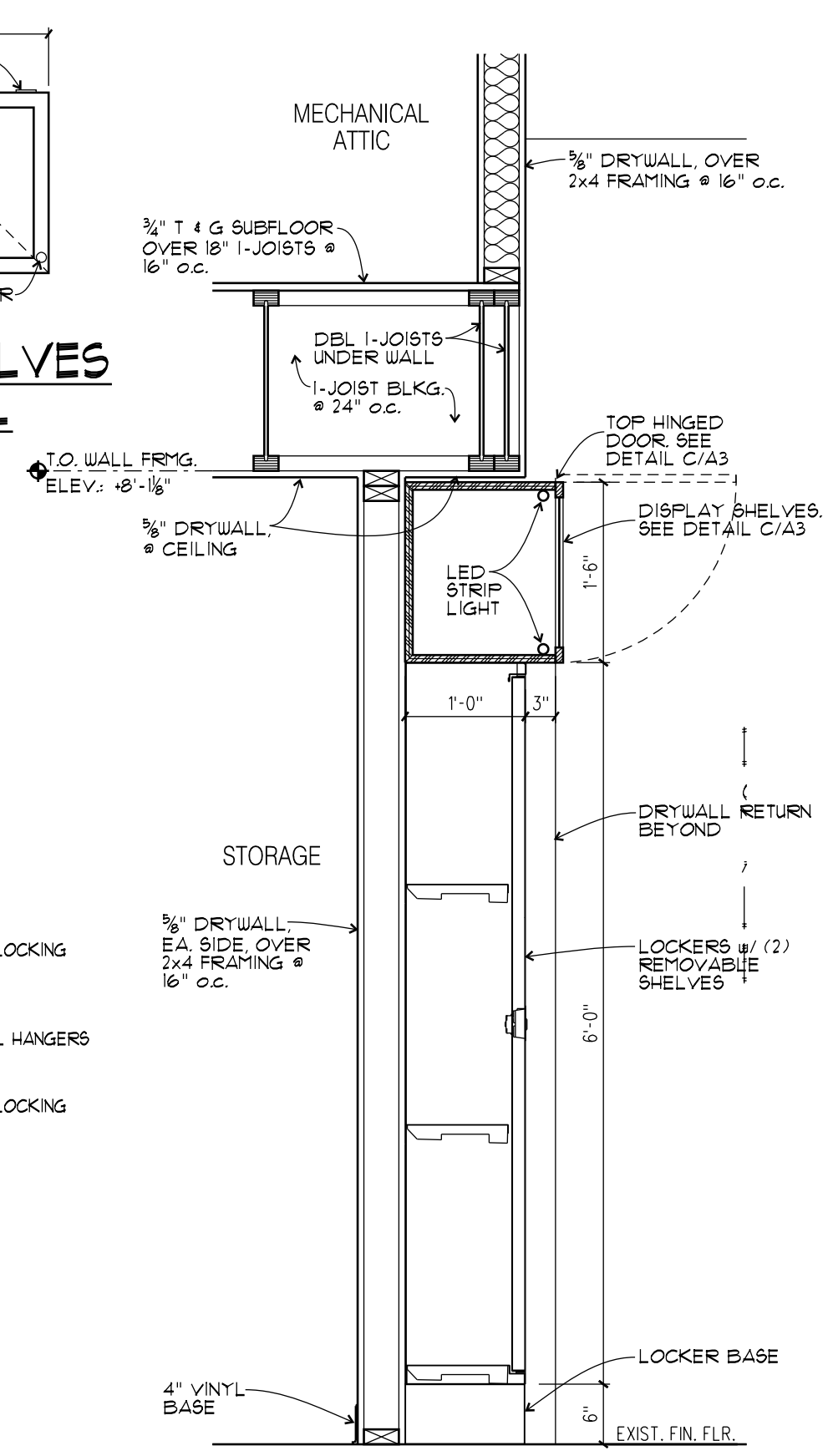
C EXIT DOOR DETAILS
SCALE: 1/2" = 1'-0"



D DISPLAY SHELVES DOOR DETAIL
SCALE: 3/4" = 1'-0"



B WEST WALL DETAIL
SCALE: 1/2" = 1'-0"



A LOCKER DETAIL
SCALE: 3/4" = 1'-0"

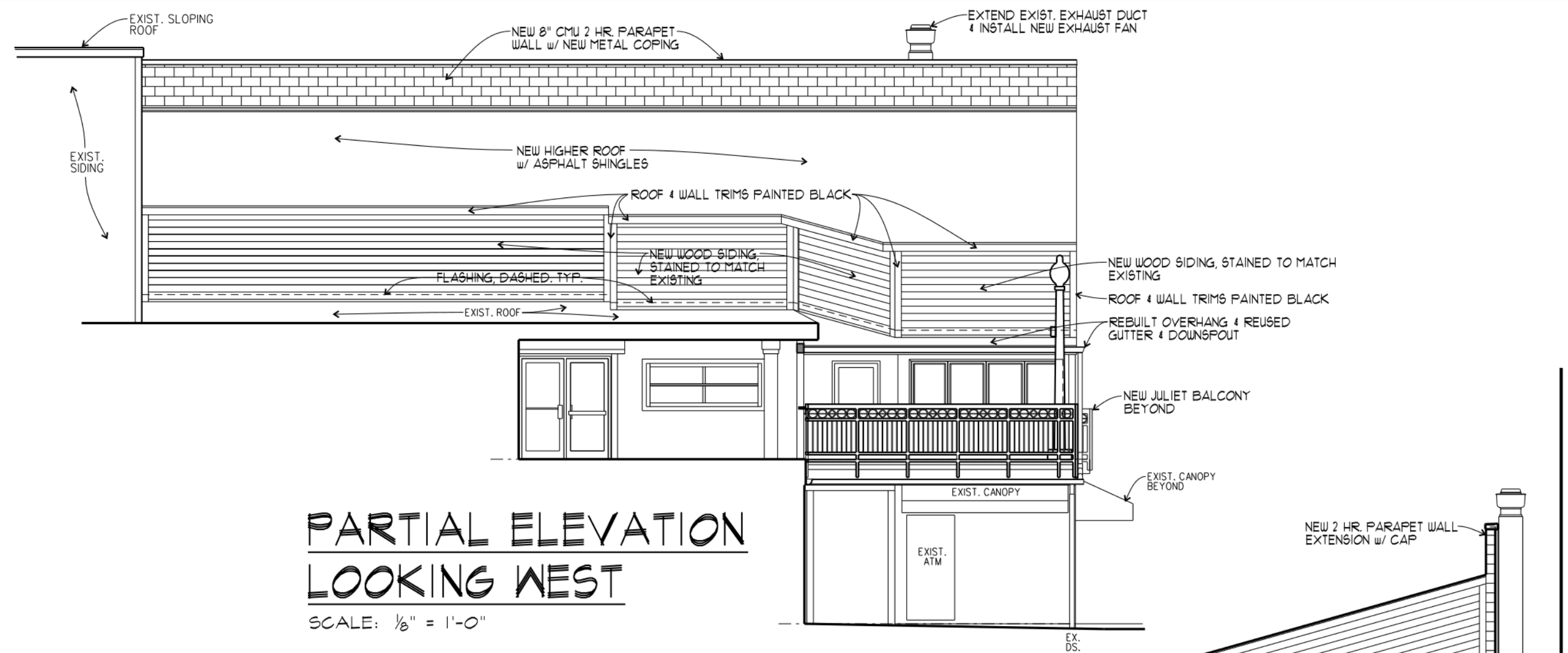


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A4
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PARTIAL ELEVATION LOOKING WEST

SCALE: 1/8" = 1'-0"



NORTH ELEVATION

SCALE: 1/8" = 1'-0"



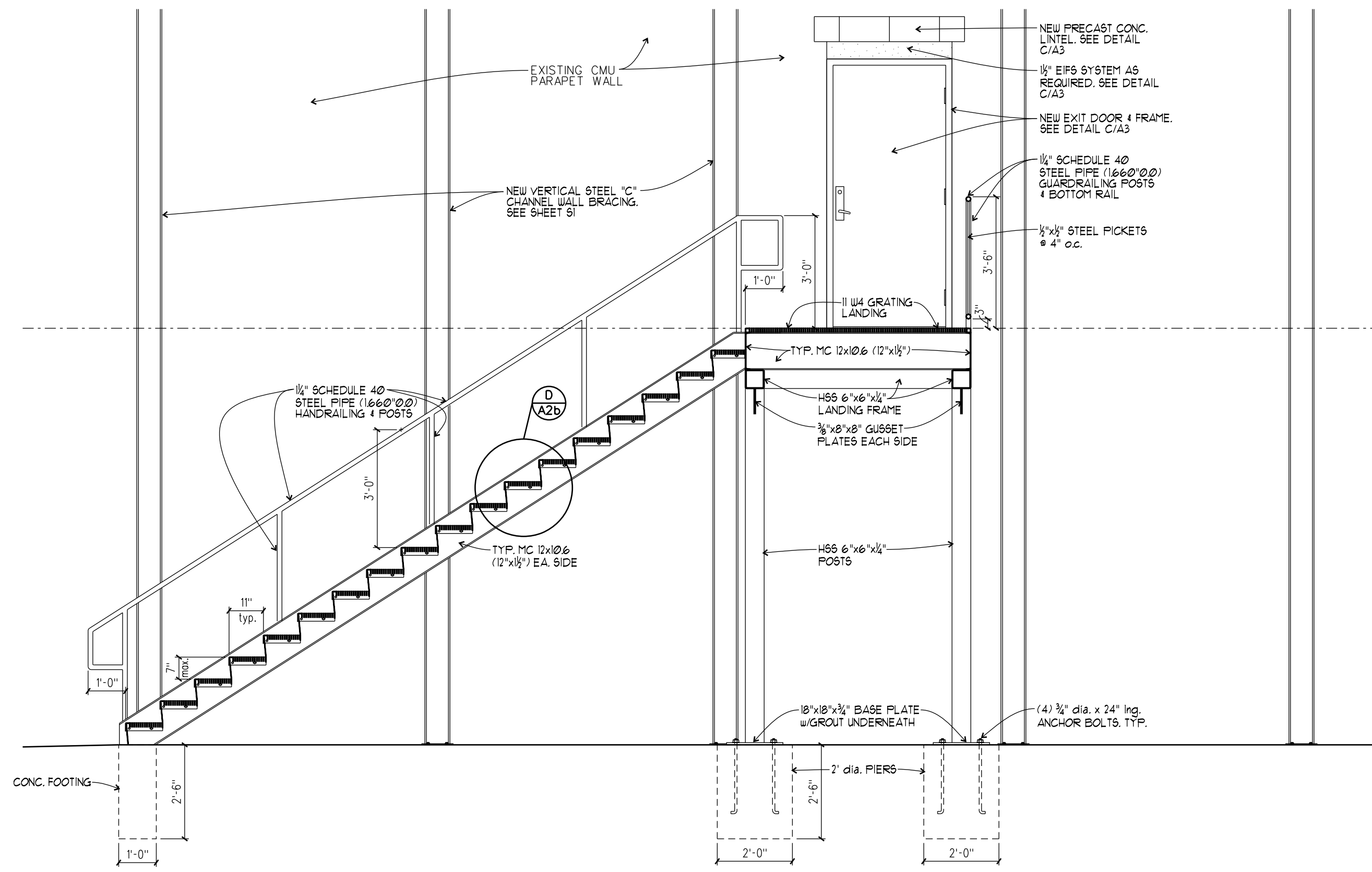
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A4b

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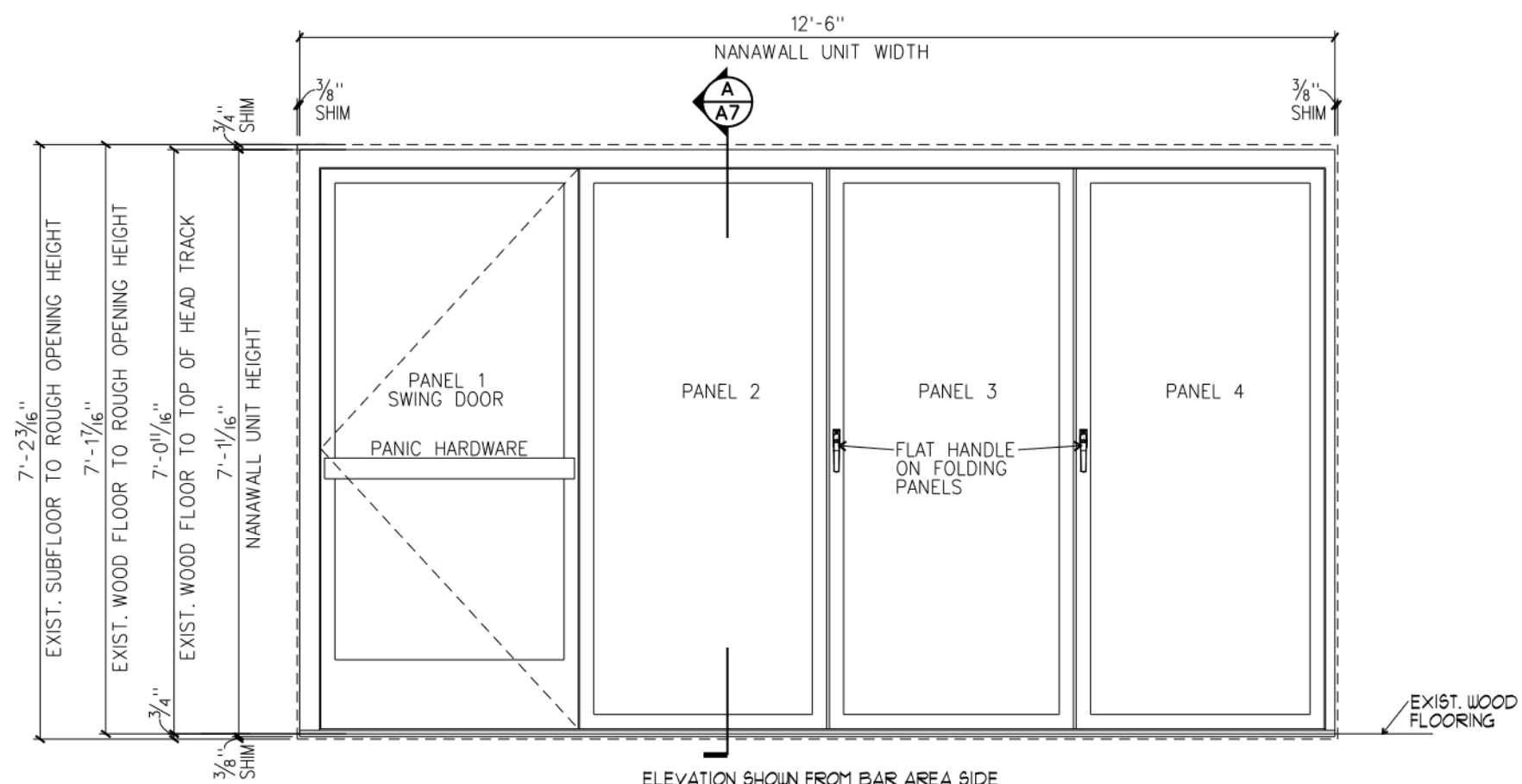
A ENLARGED EXIT STAIR ELEVATION
SCALE: 3/8" = 1'-0"



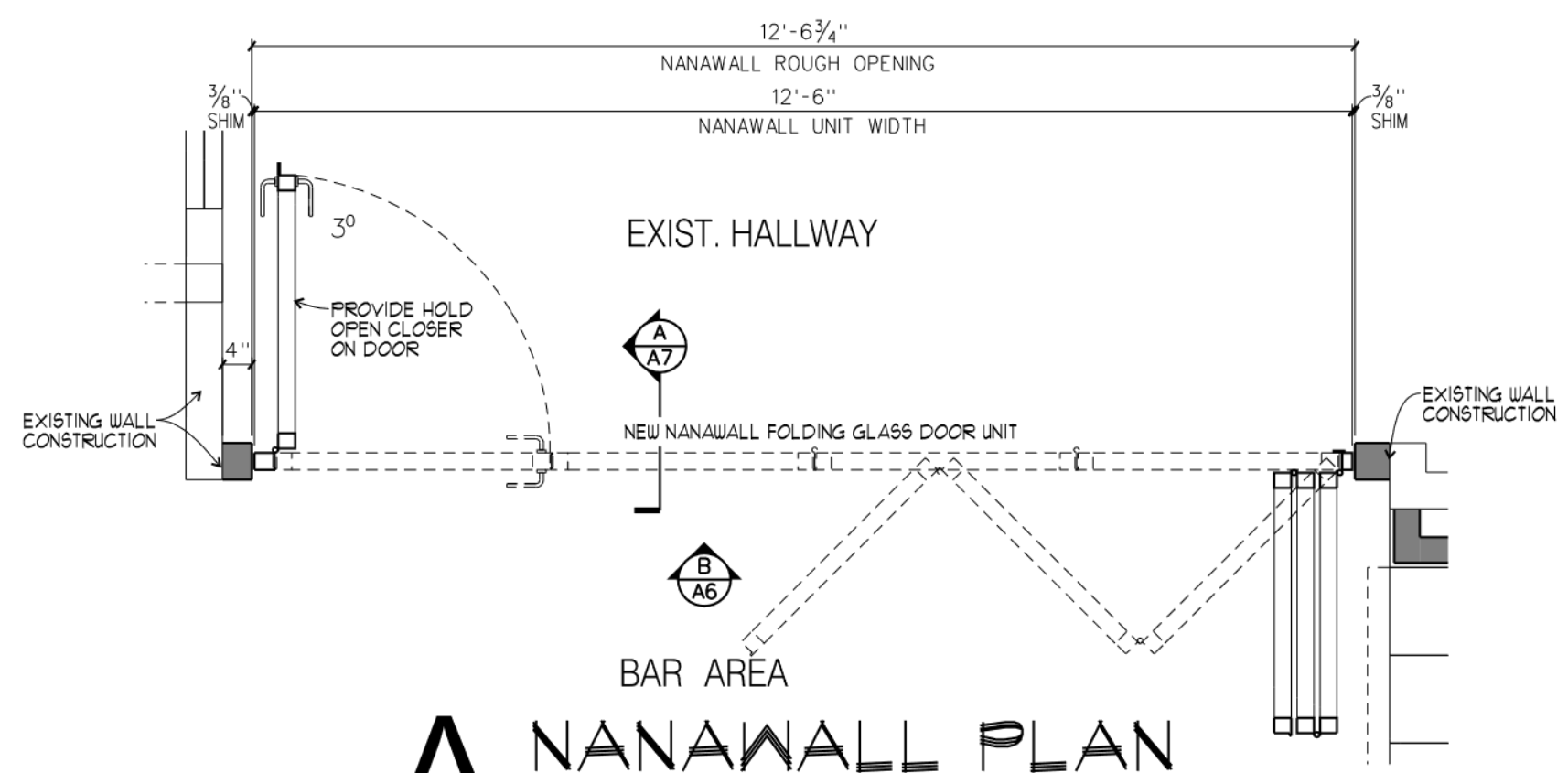
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INTERIOR REMODEL FOR
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 BLOOMINGTON, INDIANA

A6
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B NANAWALL ELEVATION
 SCALE: 1/2" = 1'-0"



A NANAWALL PLAN
 SCALE: 1/2" = 1'-0"



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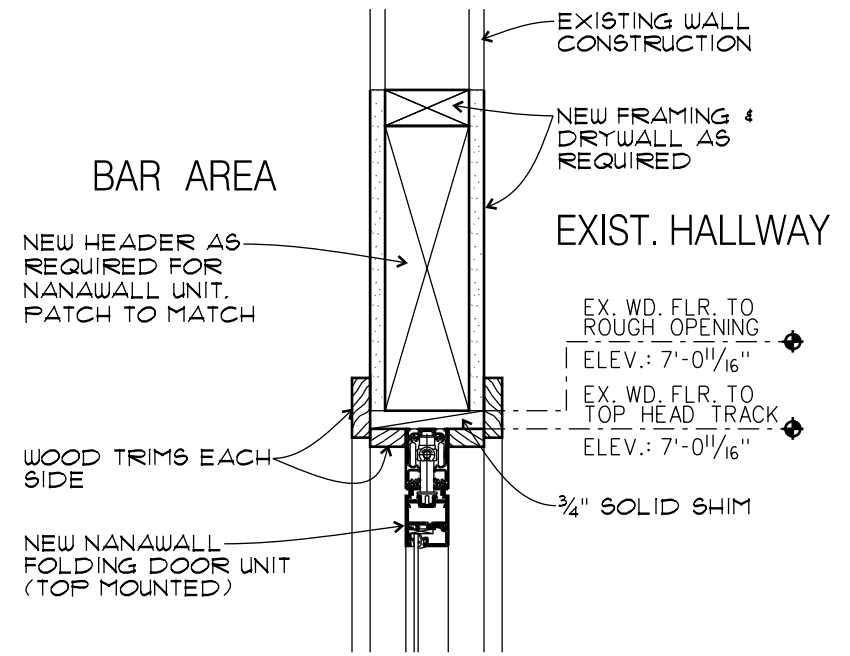
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INTERIOR REMODEL FOR
UPSTAIRS PUB WEST BAR

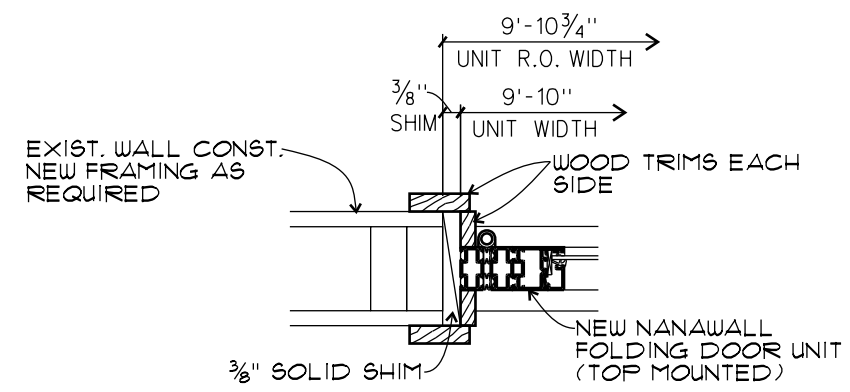
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A7

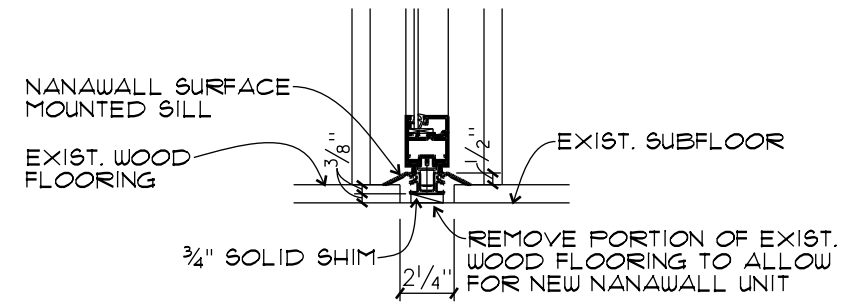
Date: 12/29/23



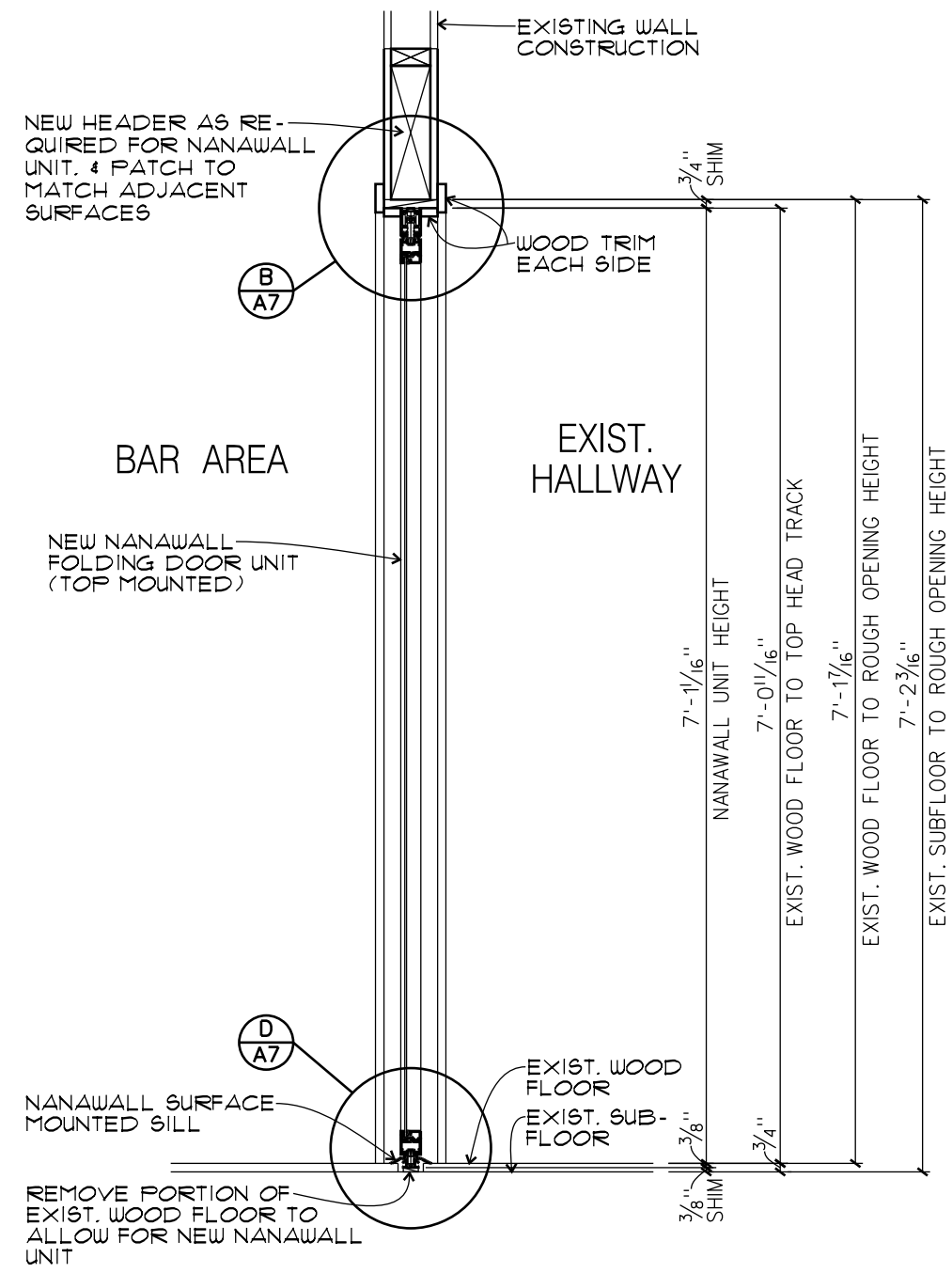
B HEAD DETAIL
SCALE: 1/2" = 1'-0"



C JAMB DETAIL
SCALE: 1/2" = 1'-0"



D SILL DETAIL
SCALE: 1/2" = 1'-0"



A NANAWALL SECTION
SCALE: 3/4" = 1'-0"

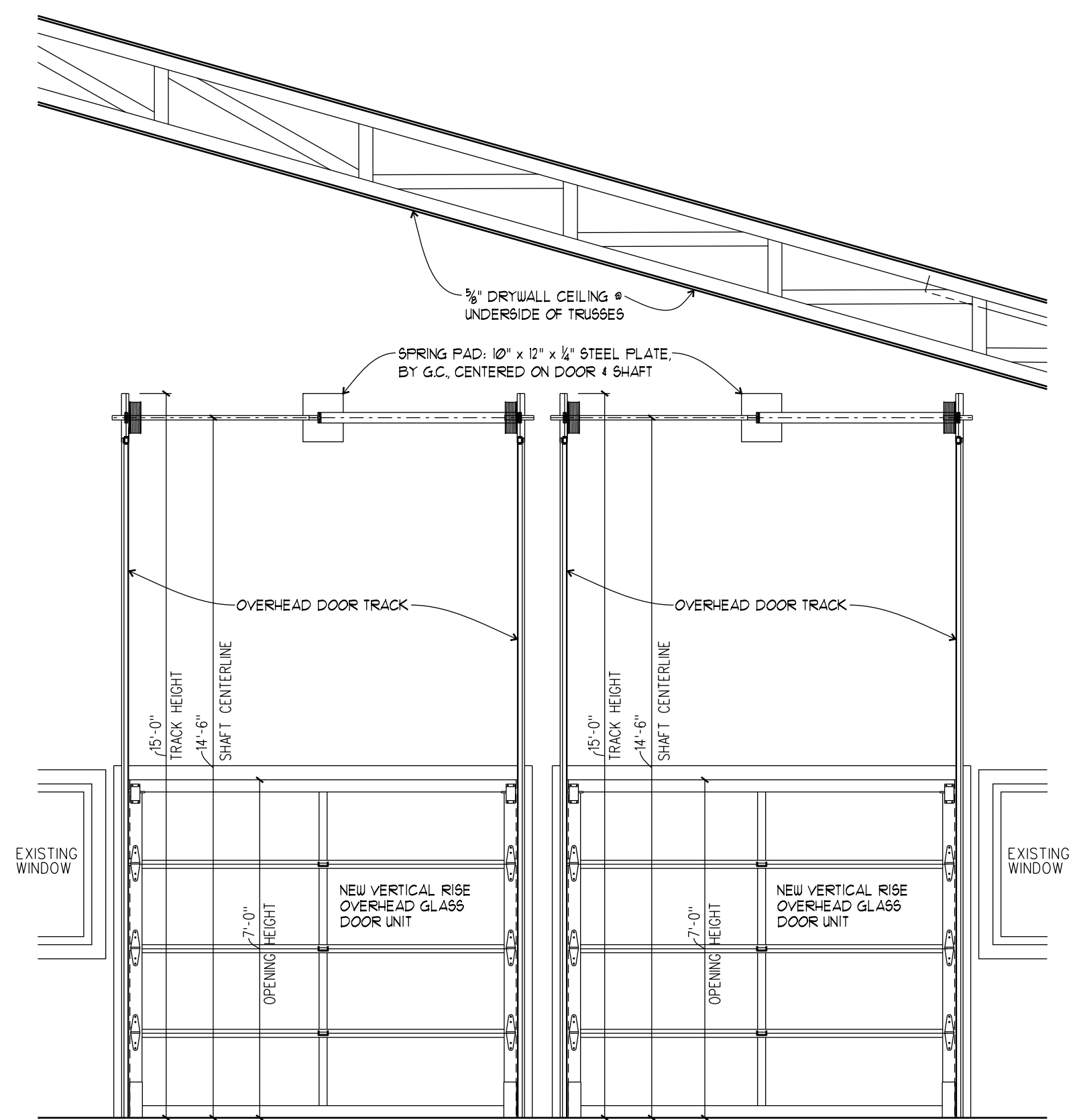


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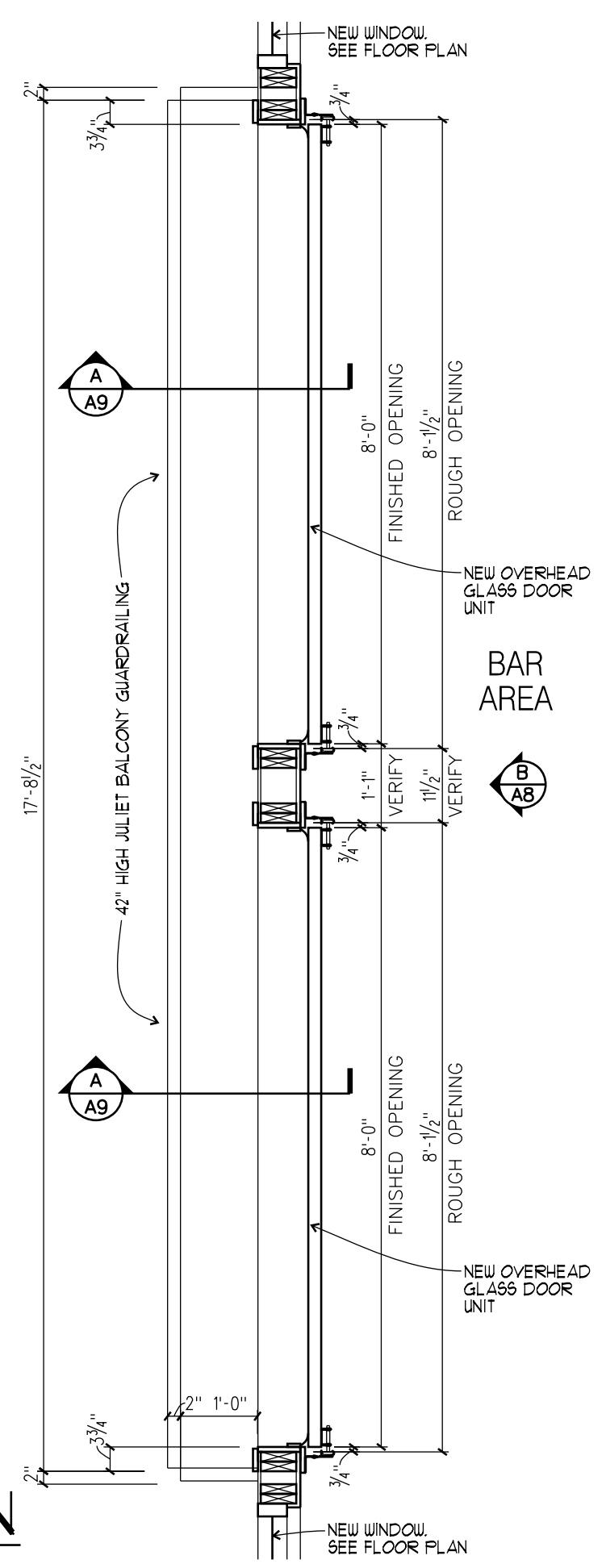
A8
Date: 12/29/23



ELEVATION SHOWN FROM BAR AREA SIDE

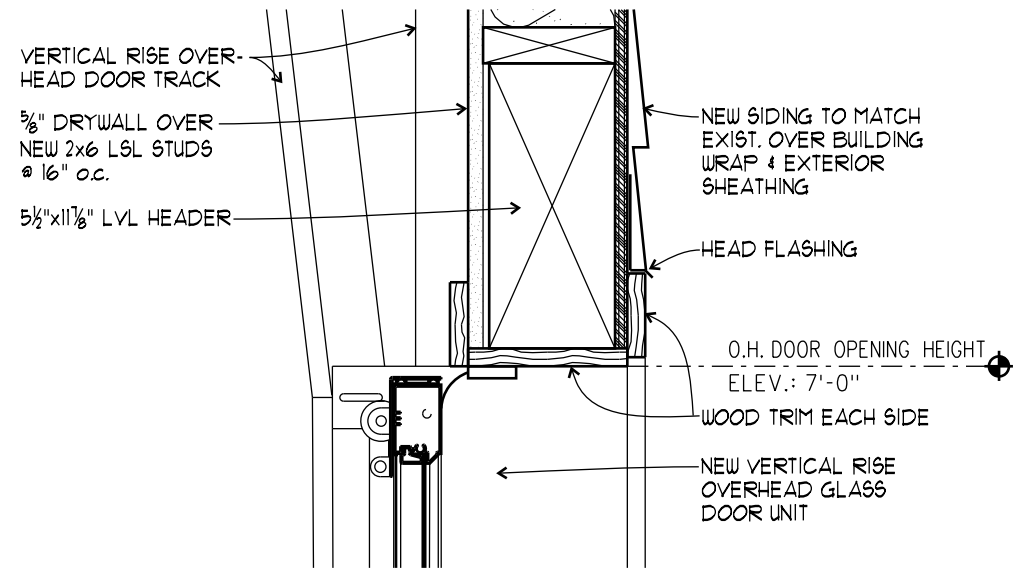
B OVERHEAD DOORS ELEVATION

SCALE: 3/8" = 1'-0"

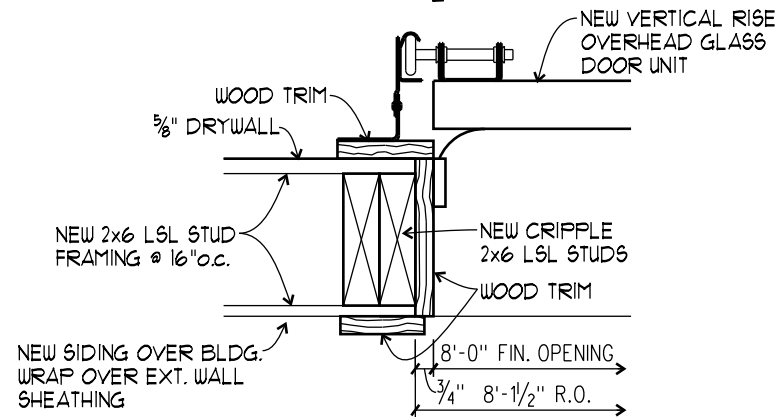


A OVERHEAD DOORS PLAN

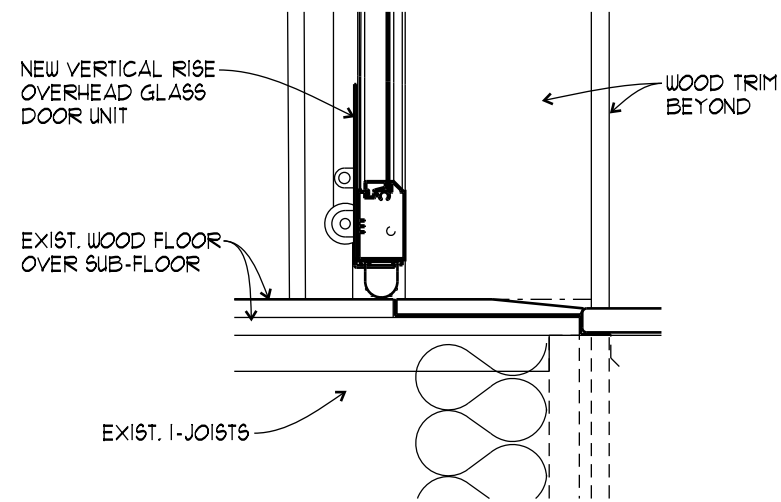
SCALE: 1/2" = 1'-0"



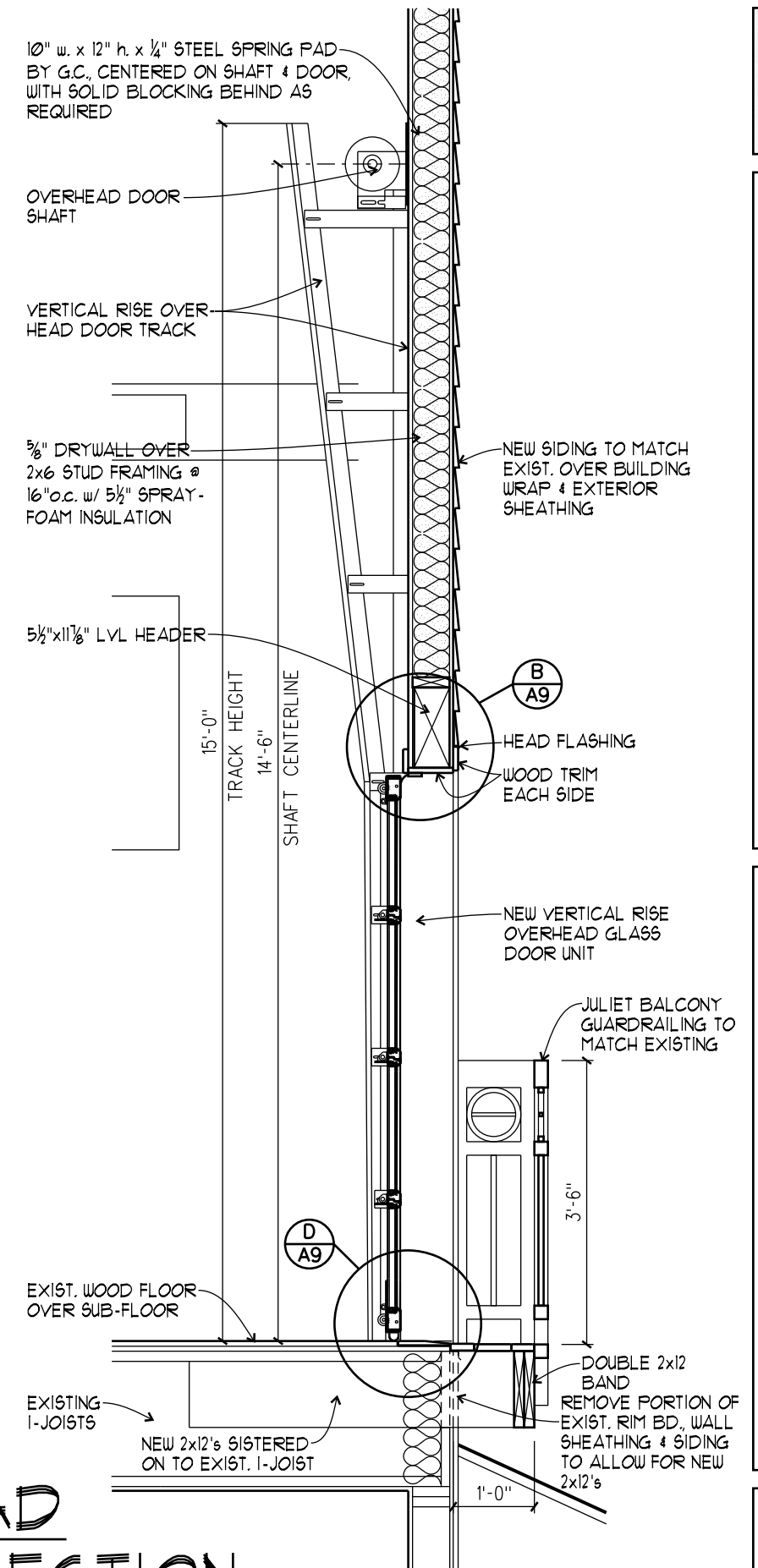
B HEAD DETAIL
SCALE: 1/2" = 1'-0"



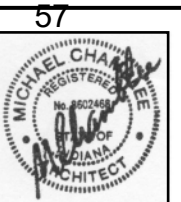
C JAMB DETAIL
SCALE: 1/2" = 1'-0"



D SILL DETAIL
SCALE: 1/2" = 1'-0"



A OVERHEAD DOORS SECTION
SCALE: 1/2" = 1'-0"



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A9
Date: 12/29/23

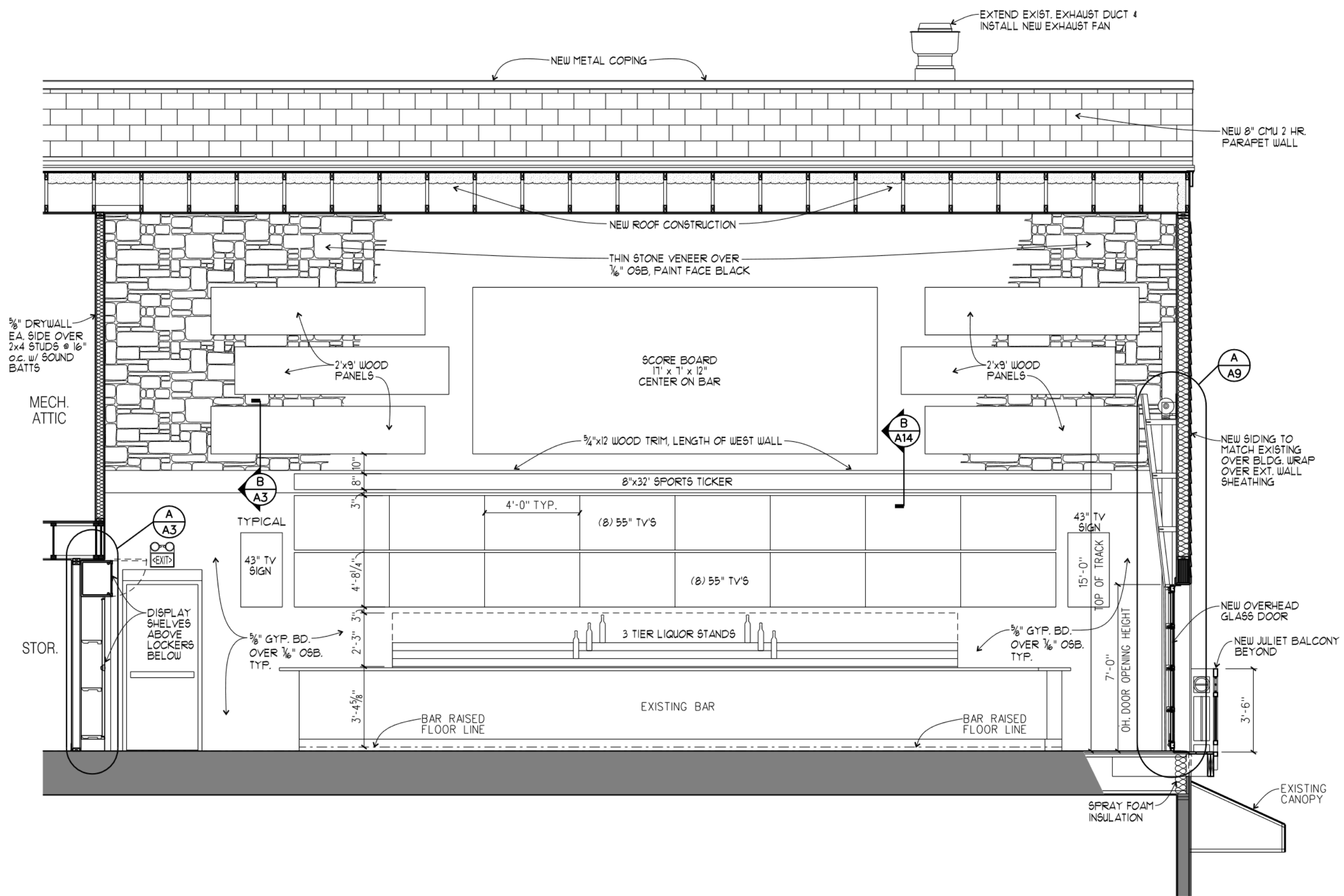


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A10
Date: 12/29/23



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

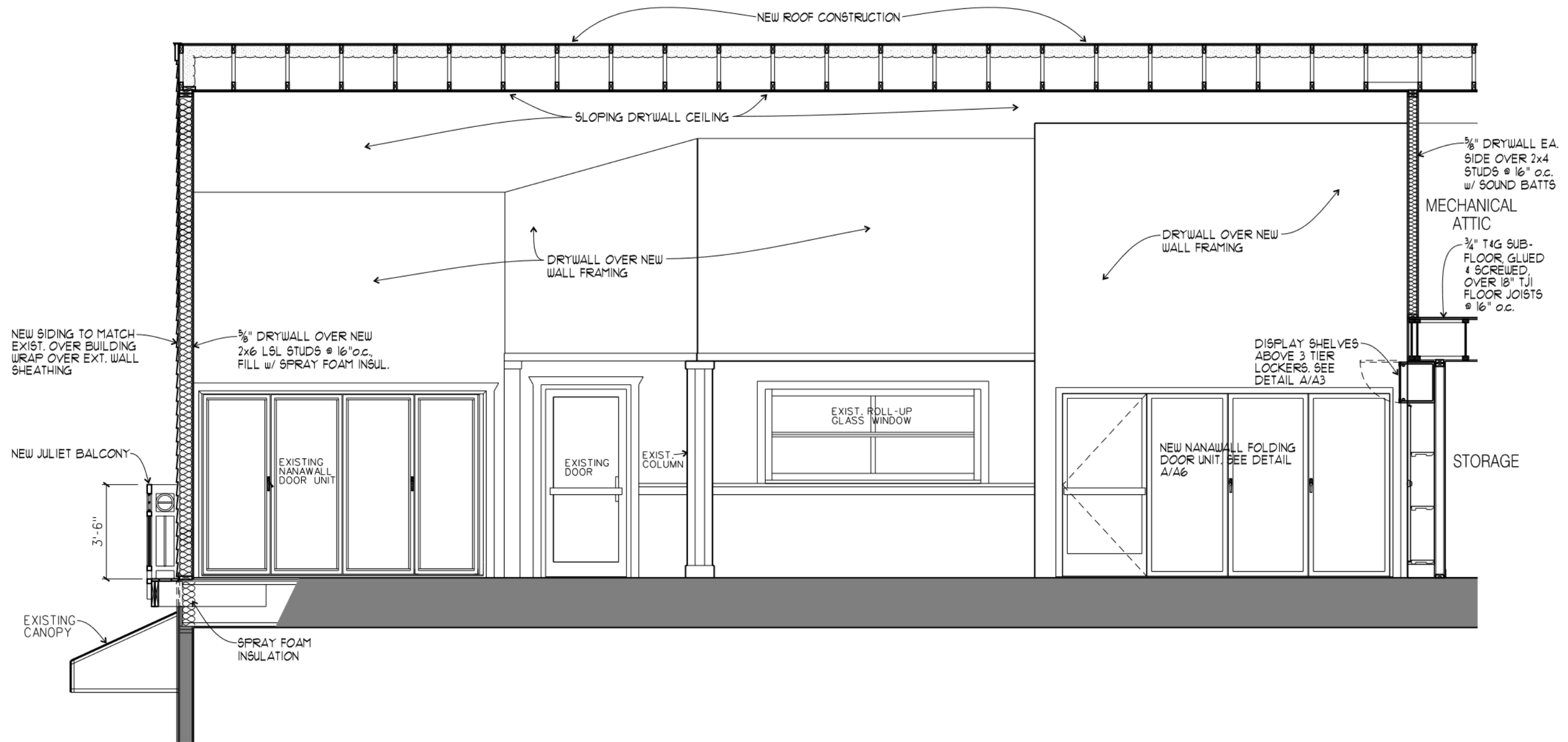


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INTERIOR REMODEL FOR
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A10a
Date: 12/29/23



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

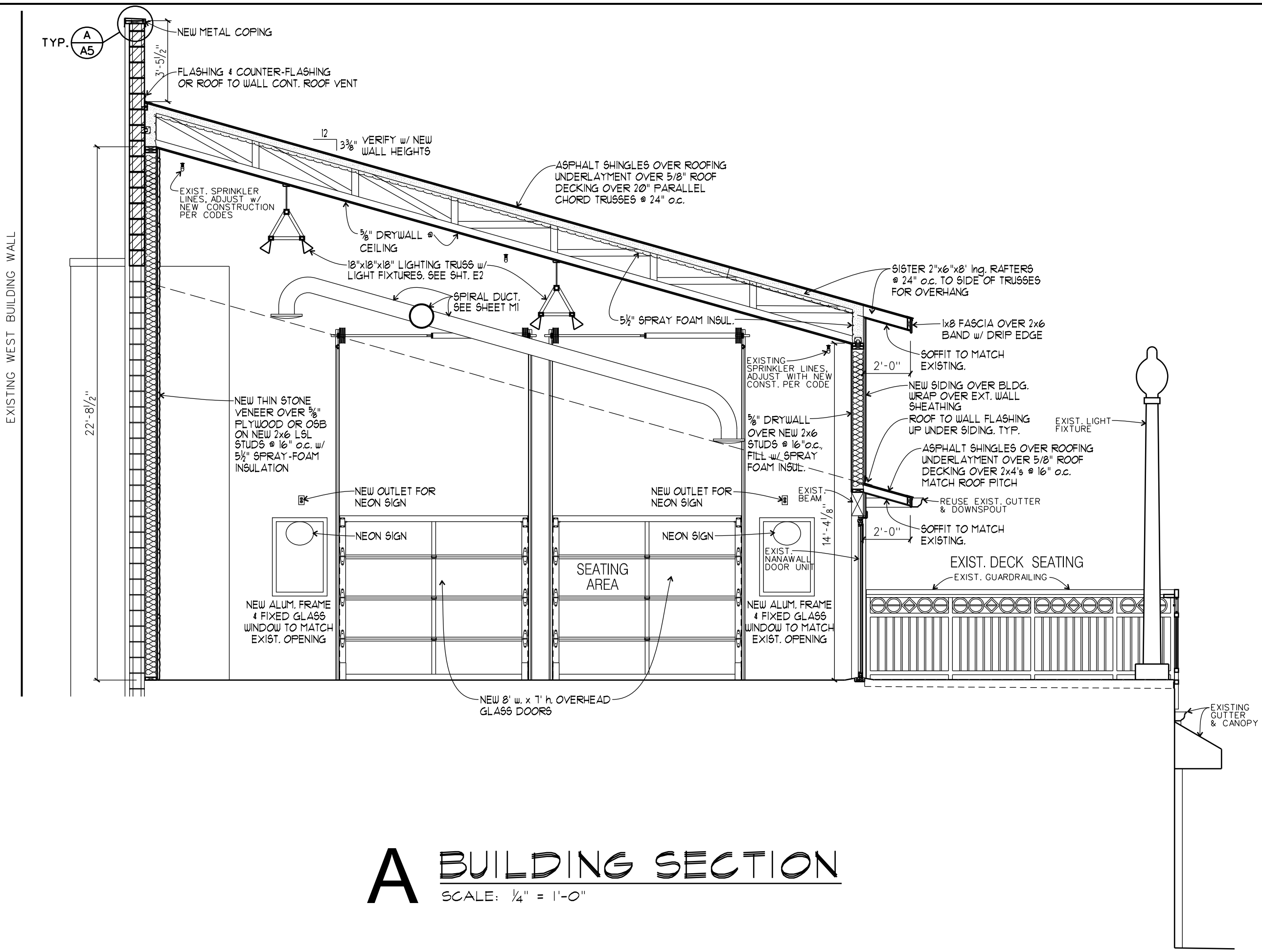


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A11
Date: 12/29/23



A BUILDING SECTION

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

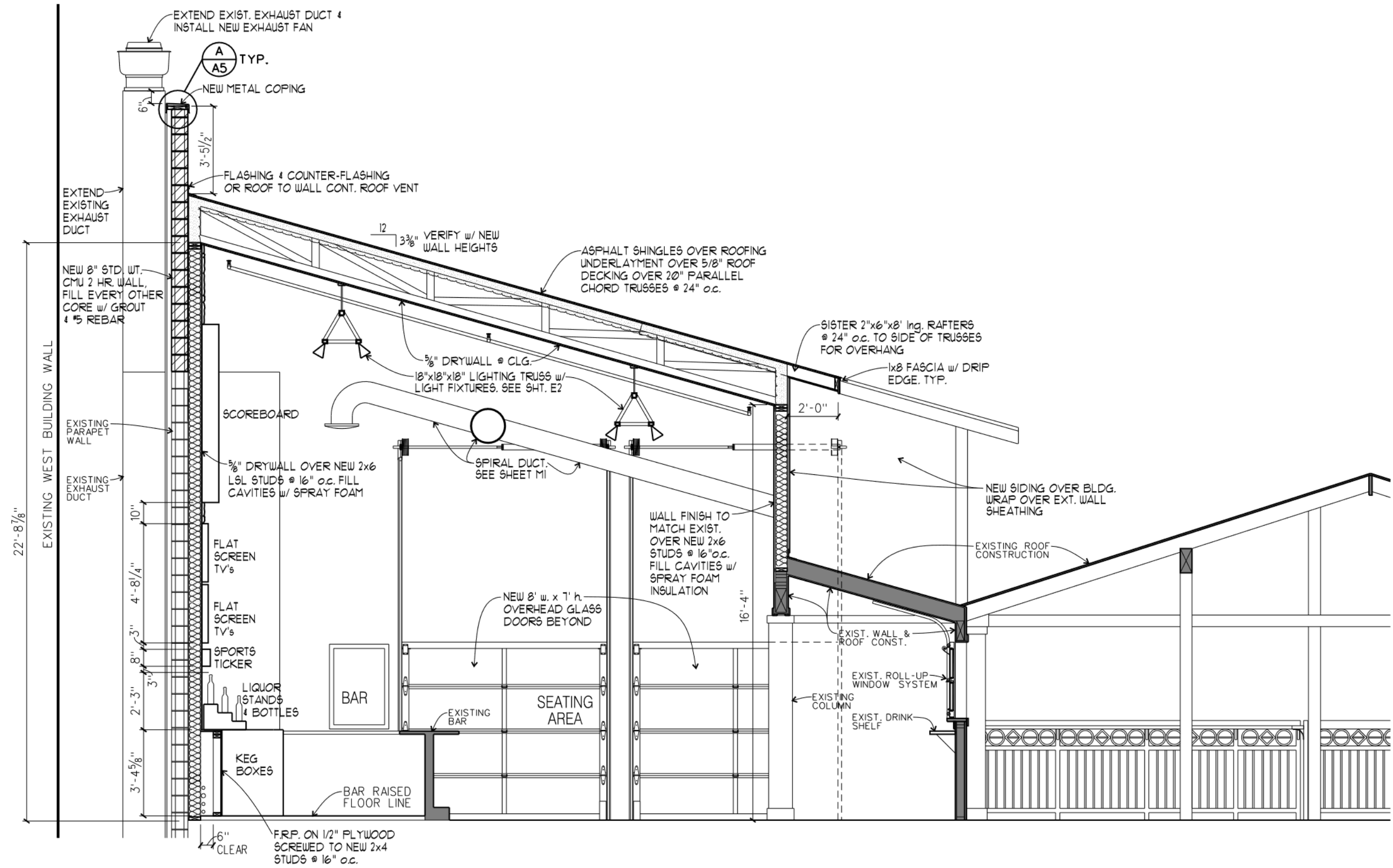


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A12
Date: 12/29/23



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

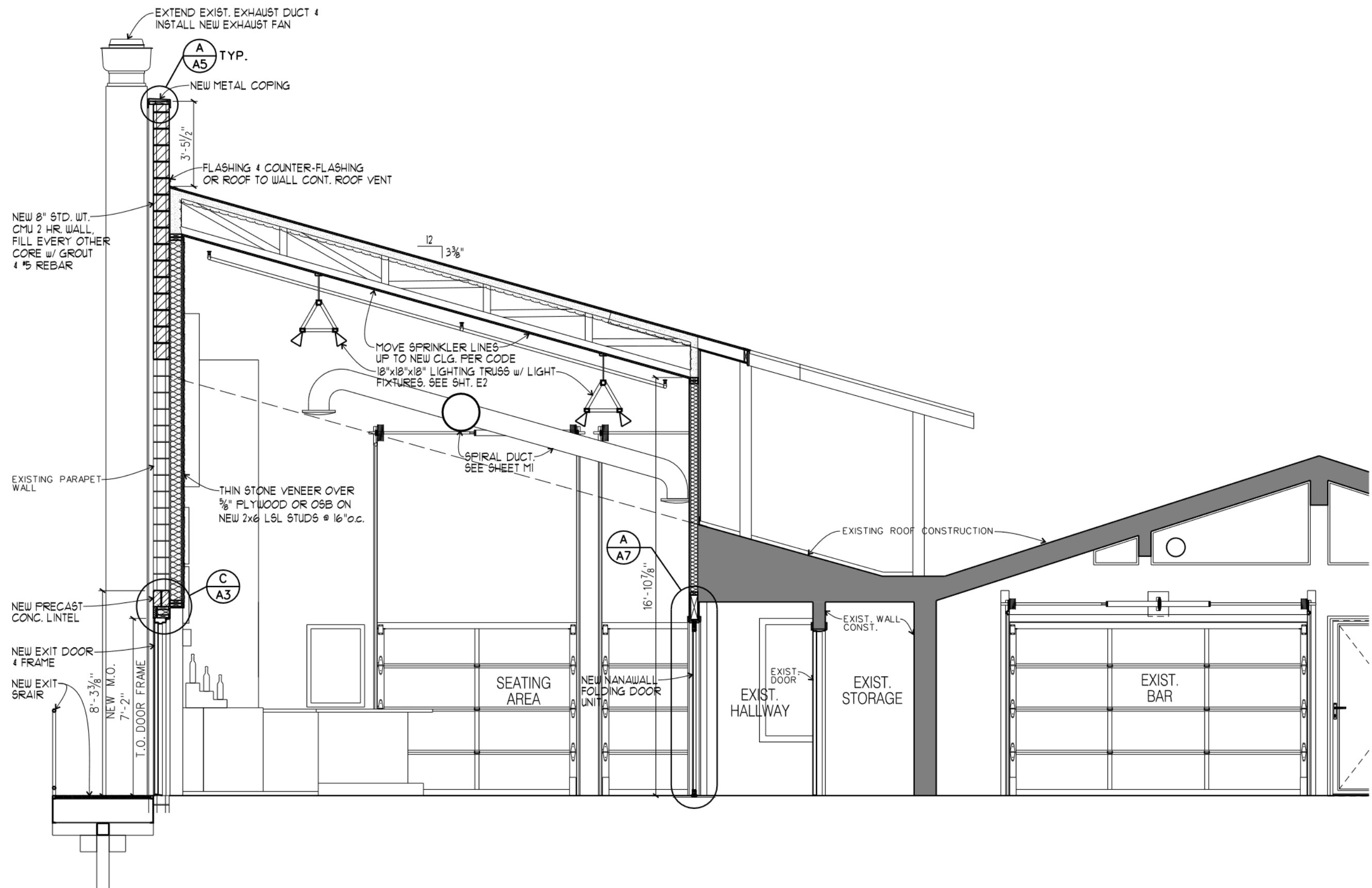


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A13
Date: 12/29/23



A BUILDING SECTION

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

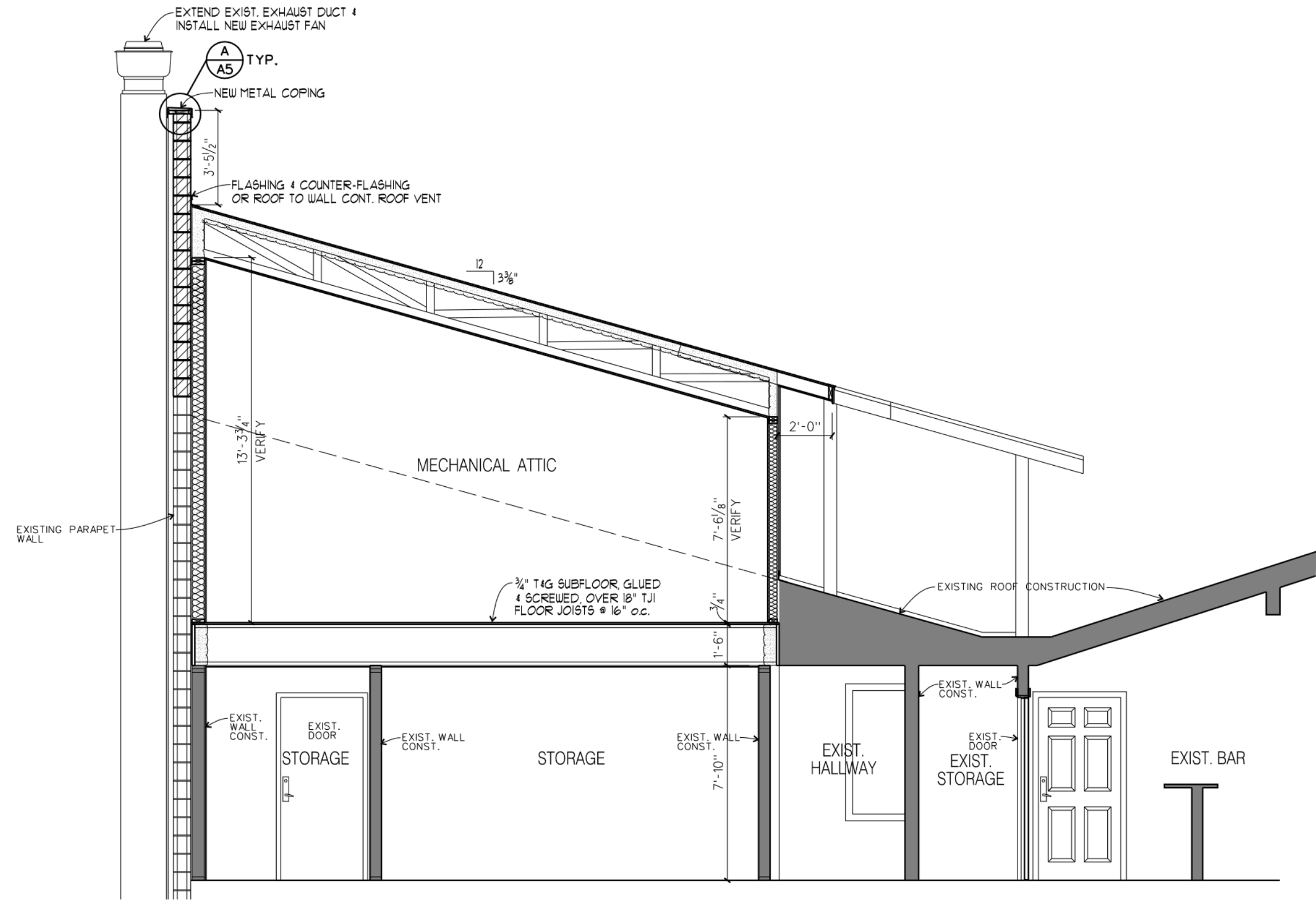


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A15
Date: 12/29/23



A BUILDING SECTION

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

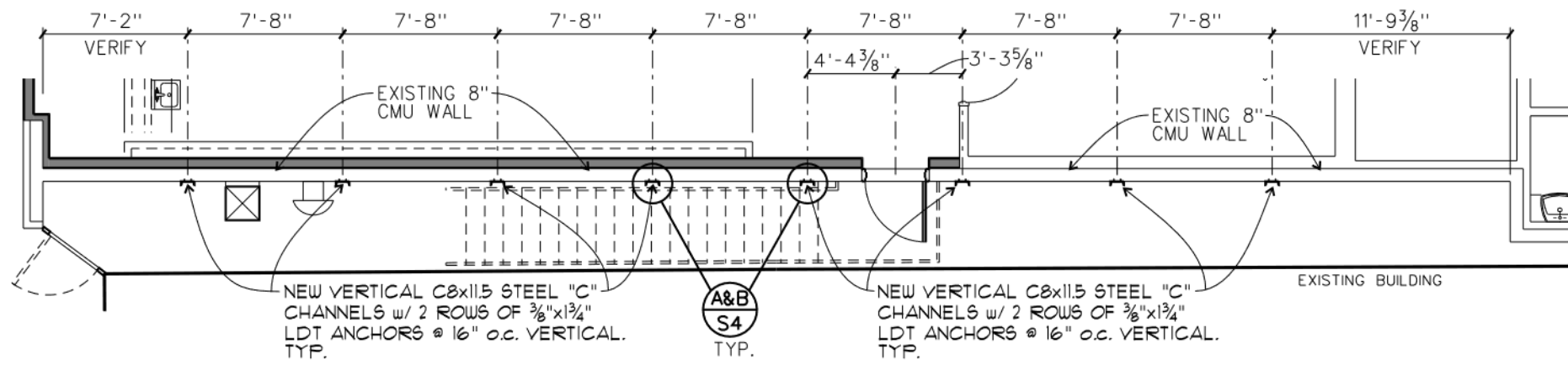


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INTERIOR REMODEL FOR
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 430 E. KIRKWOOD AVE.
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S1
 Date: 12/29/23

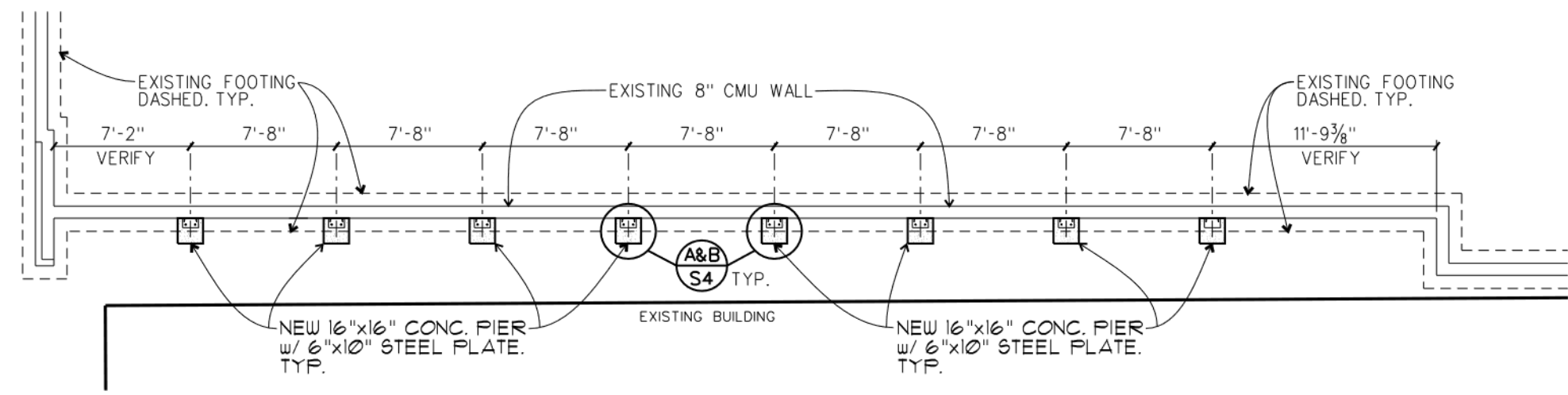
PARTIAL 2nd FLOOR WEST WALL



*NOTE: NEW EXIT STAIR SHOWN DASHED FOR CLARITY

PARTIAL WEST CMU WALL REINFORCING PLAN

SCALE: 1/8" = 1'-0"



PARTIAL 1st FLOOR WEST WALL

PARTIAL FOUNDATION PLAN

SCALE: 1/8" = 1'-0"



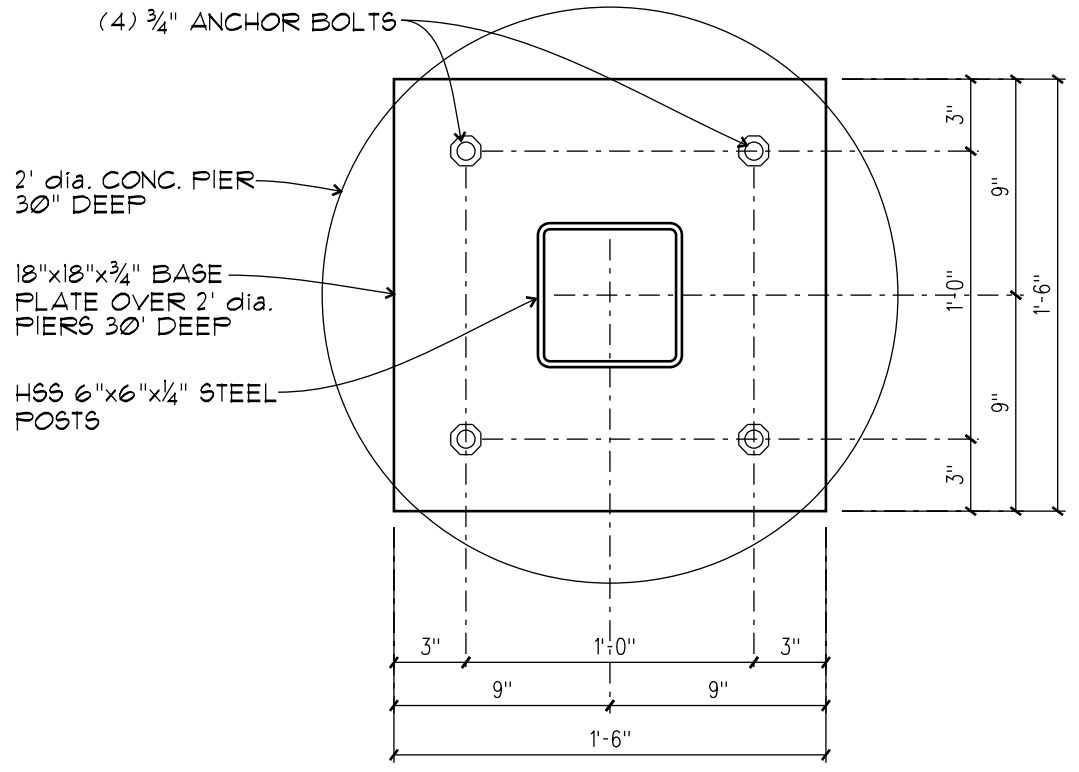


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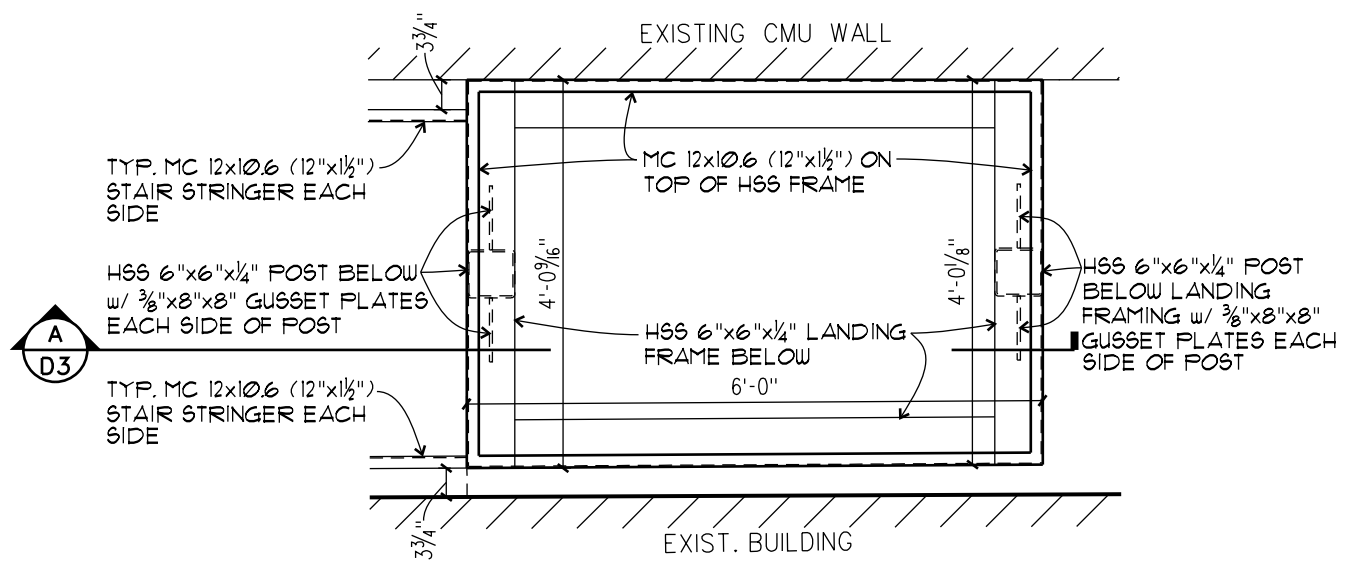
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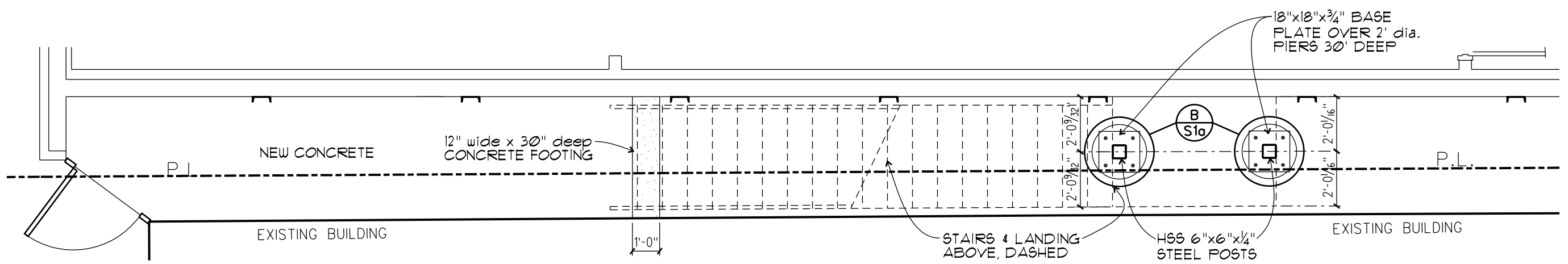
S1a
Date: 12/29/23



**B STAIR PIER/BASE
PLATE DETAIL**
SCALE: 1/2" = 1'-0"

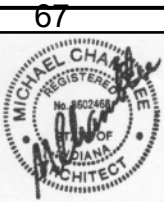


A STAIR FRAMING PLAN
SCALE: 1/2" = 1'-0"



EXIT STAIR FOUNDATION PLAN
SCALE: 1/4" = 1'-0"

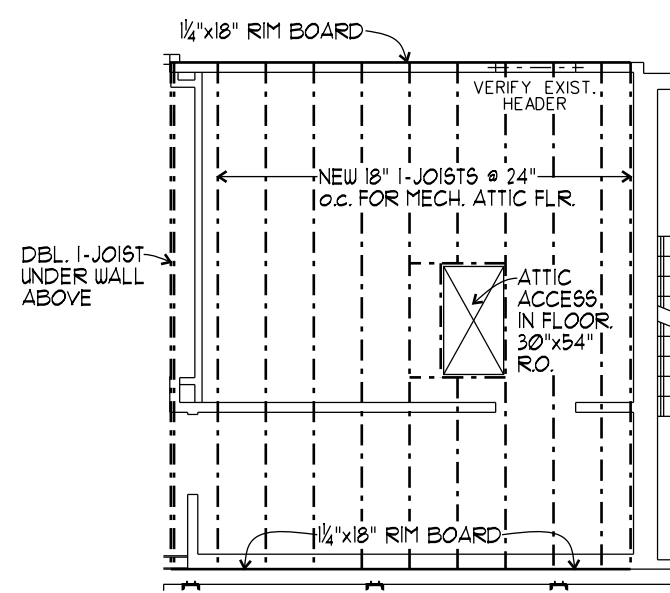




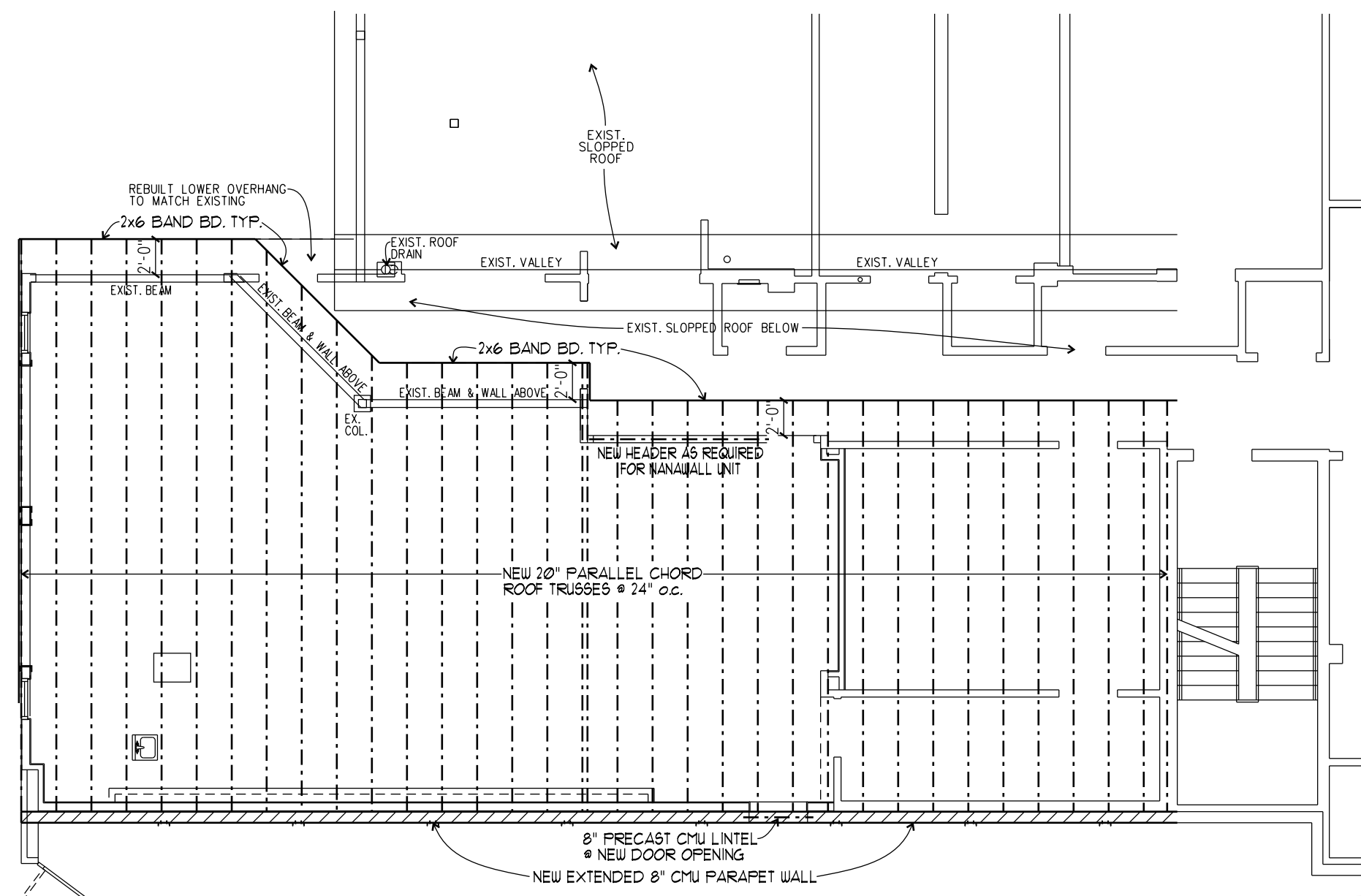
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INTERIOR REMODEL FOR
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 BLOOMINGTON, INDIANA

S2
 Date: 12/29/23



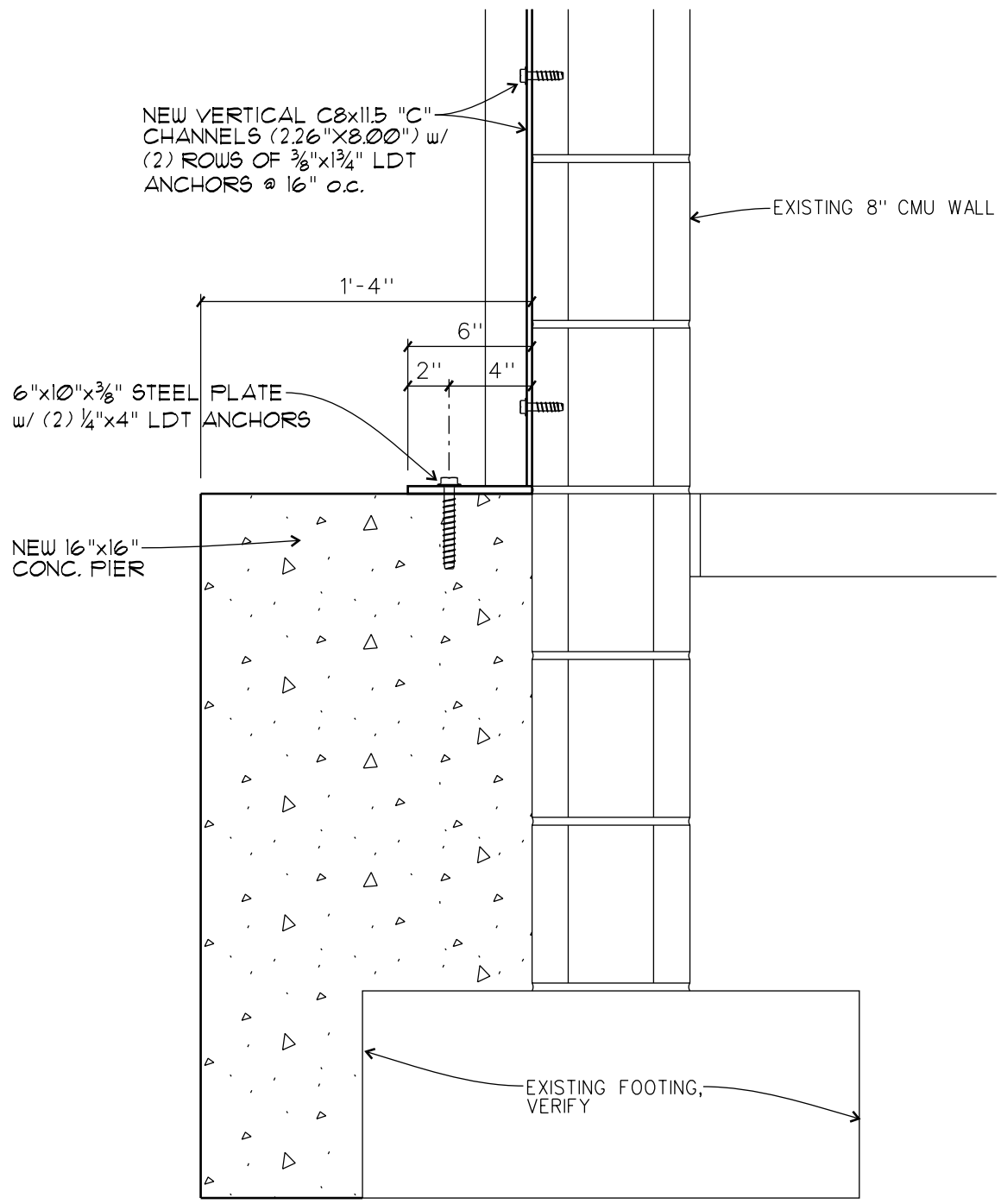
A MECH. ATTIC FLOOR FRAMING
 SCALE: 1/8" = 1'-0"



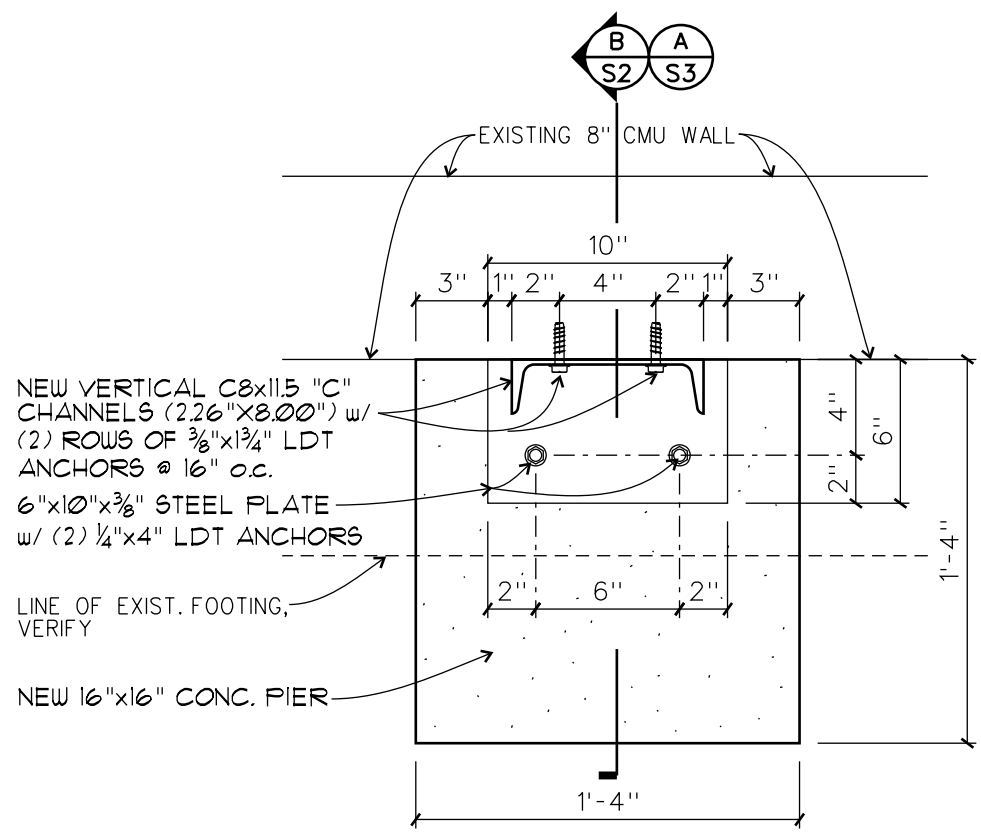
PARTIAL ROOF FRAMING PLAN
 SCALE: 1/8" = 1'-0"
 NORTH

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INTERIOR REMODEL FOR
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 430 E. KIRKWOOD AVE.
 BLOOMINGTON, INDIANA



B WEST WALL FOOTING DETAIL
 SCALE: 1/2" = 1'-0"



A WEST WALL BASE DETAIL
 SCALE: 1/2" = 1'-0"

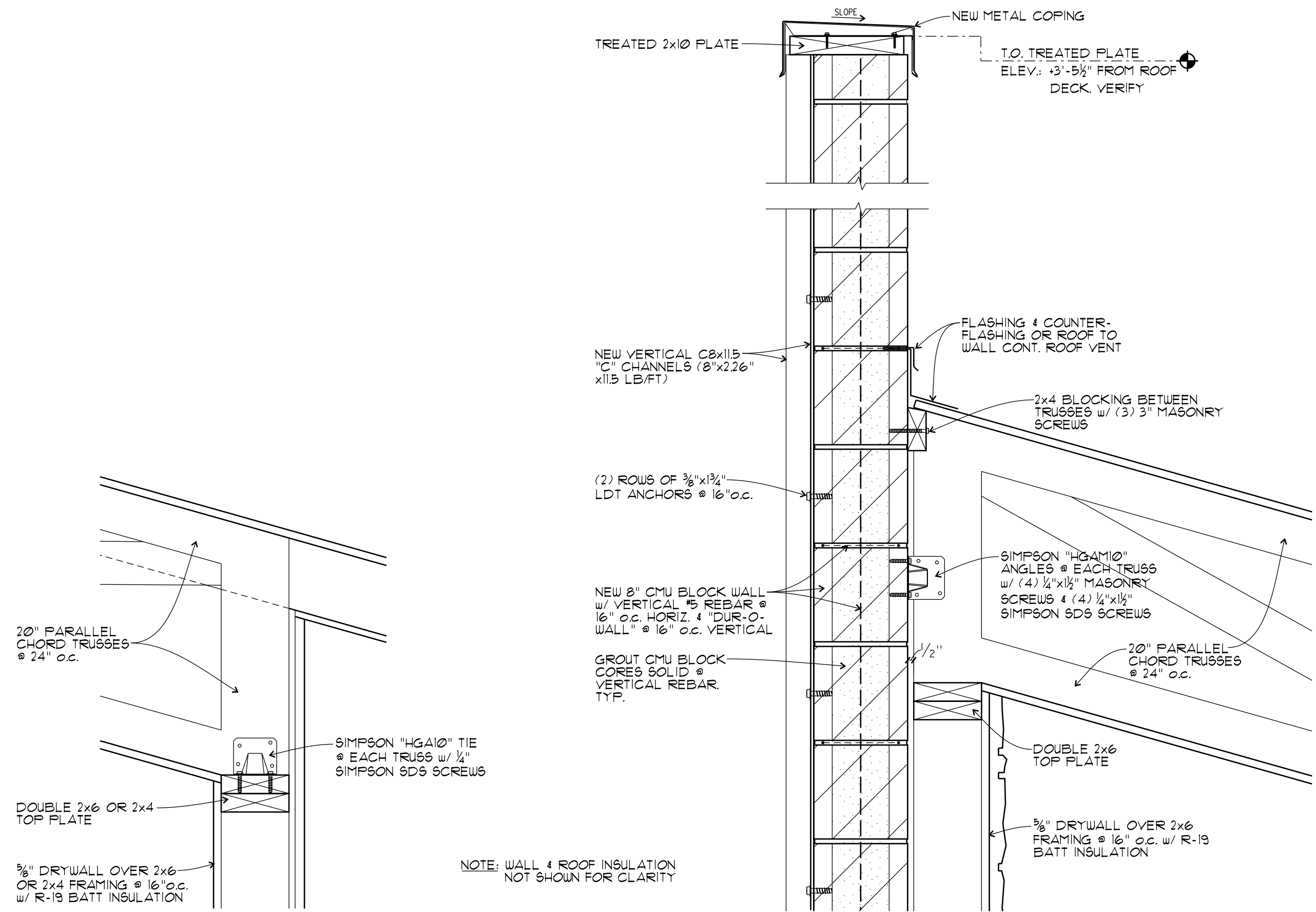


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INTERIOR REMODEL FOR
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BLOOMINGTON, INDIANA

S4
Date: 12/29/23



B EAST WALL DETAIL
SCALE: 1/2" = 1'-0"

A WEST WALL DETAIL
SCALE: 1/2" = 1'-0"



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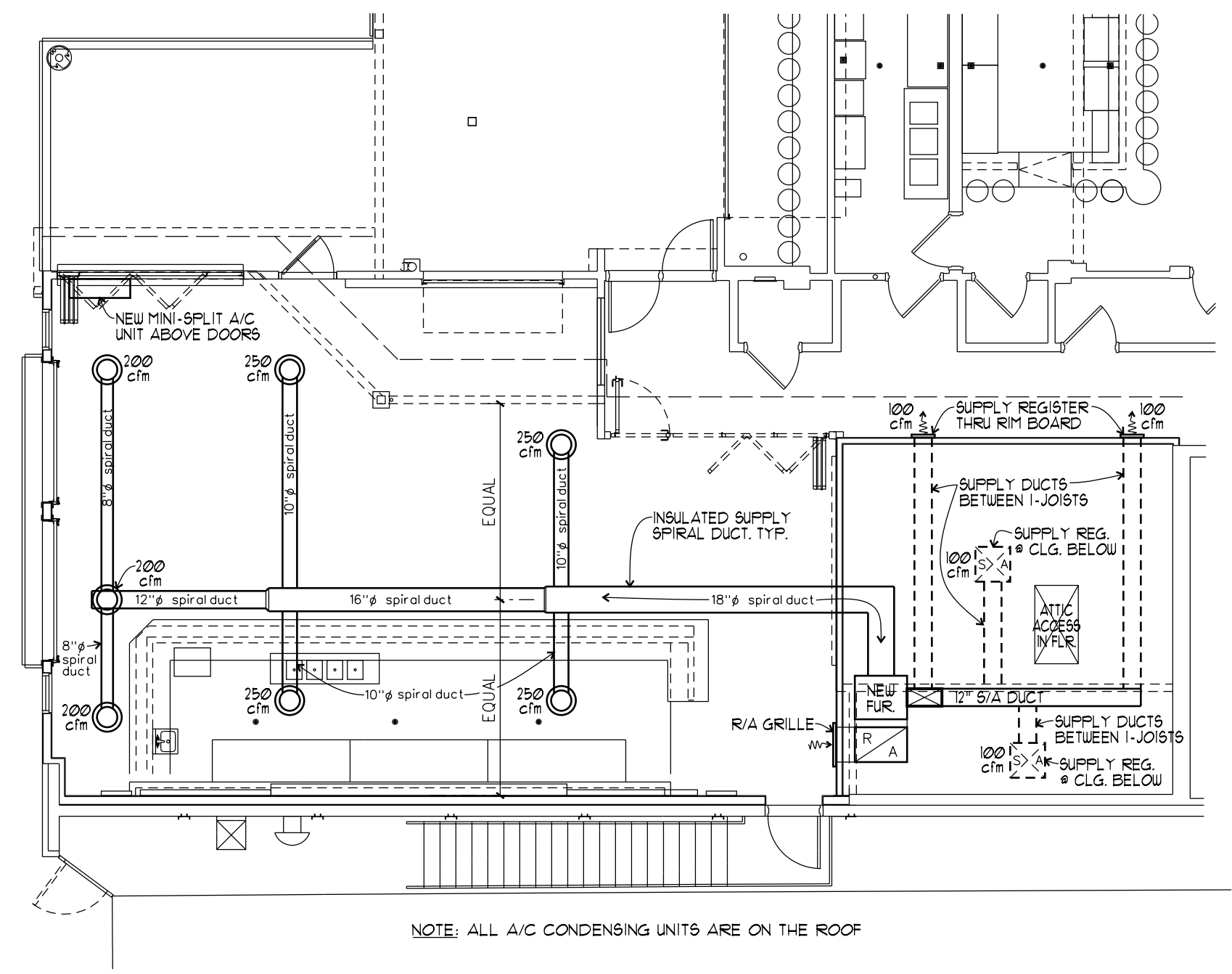
M1
 Date: 12/29/23

MECHANICAL UNITS:


FURNACE: TRANE GAS FURNACE TWO STAGE 91% VARIABLE SPEED OPTION,
 99V212OU5P5B, 120,000 BTU, MAX. FUSE 15, EVAP. COIL 4PXADU6OB5HAA

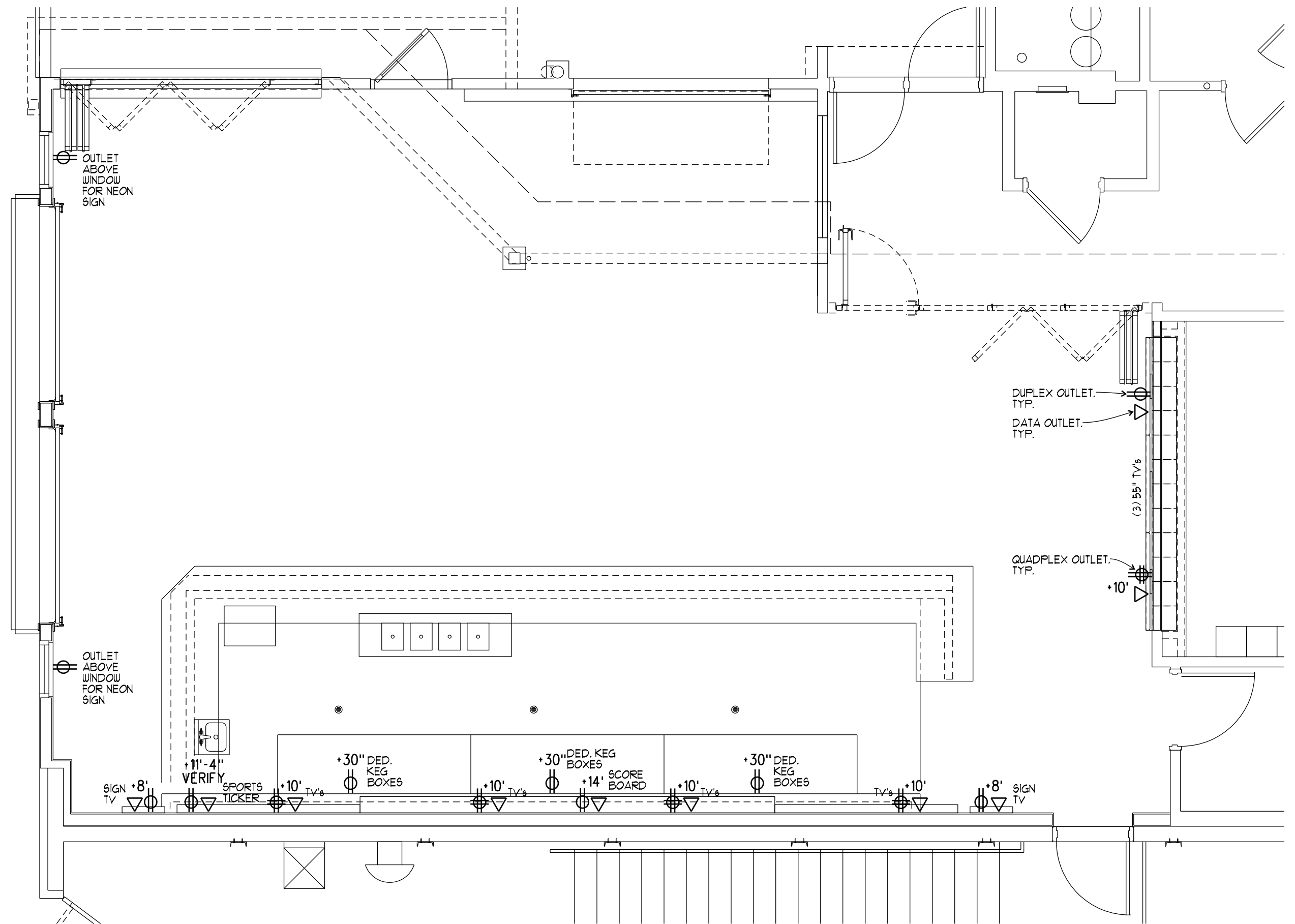
A/C UNIT: TRANE XR17 TWO STAGE, 5 TON A/C, 17 SEER, 4TR 1060 A 1000B,
 208 / 1 PH MCA 31, MAX. FUSE 60

MINI-SPLIT A/C UNIT: LG L5363HLV3, 18.5 SEER, EER 10, 208-230 / 60 / 1



NOTE: ALL A/C CONDENSING UNITS ARE ON THE ROOF

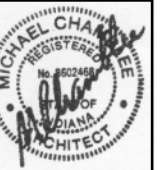
HVAC PLAN 
 SCALE: 1/8" = 1'-0"
 NORTH



NOTE: VERIFY w/ OWNER OUTLETS REQUIRED FOR BLENDERS & MISC.

ELECTRICAL PLAN

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



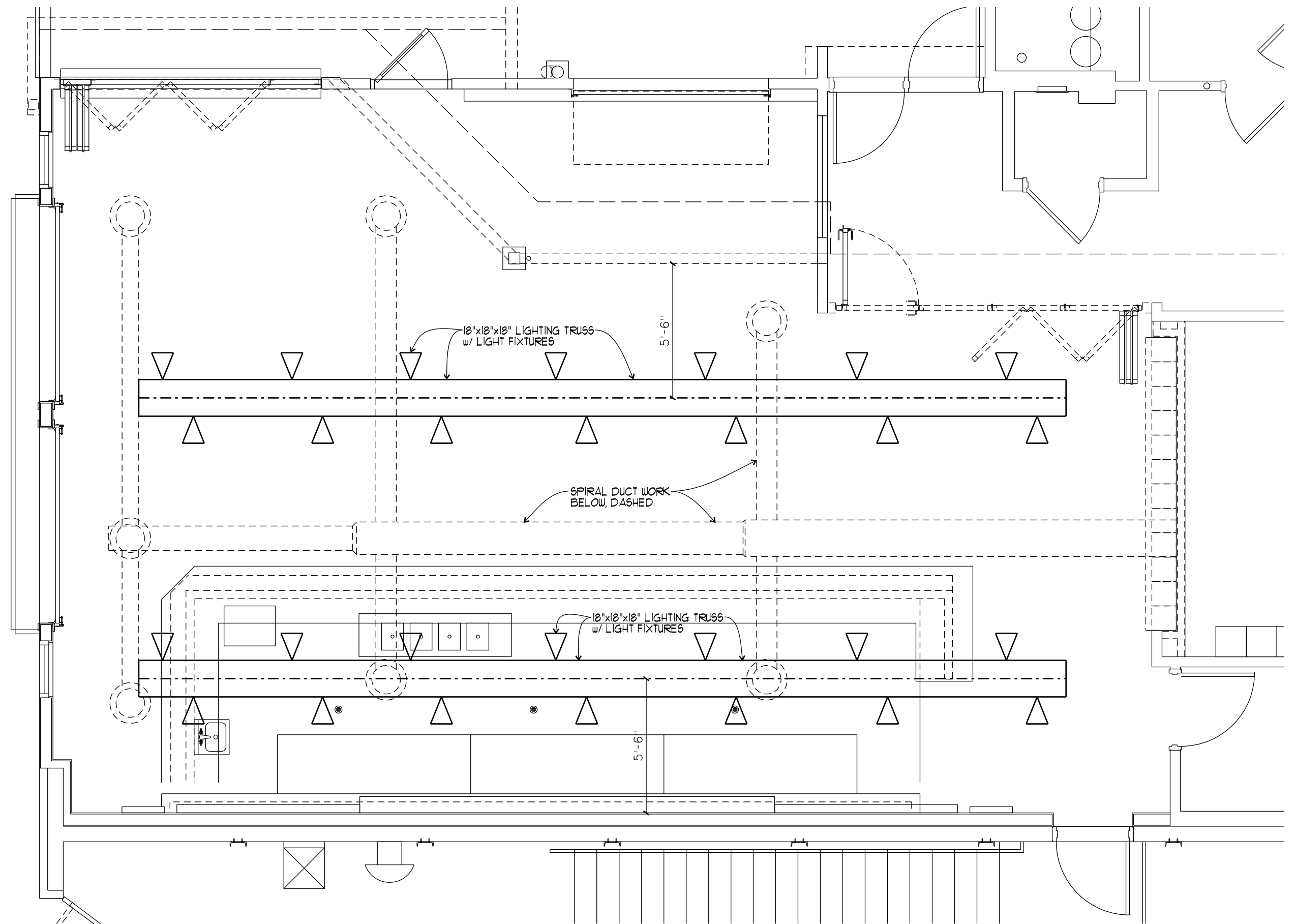
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E1

Date: 12/29/23



LIGHTING PLAN

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



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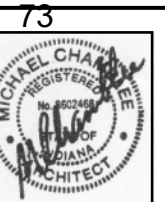
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INTERIOR REMODEL FOR
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BLOOMINGTON, INDIANA

E2

Date: 12/29/23

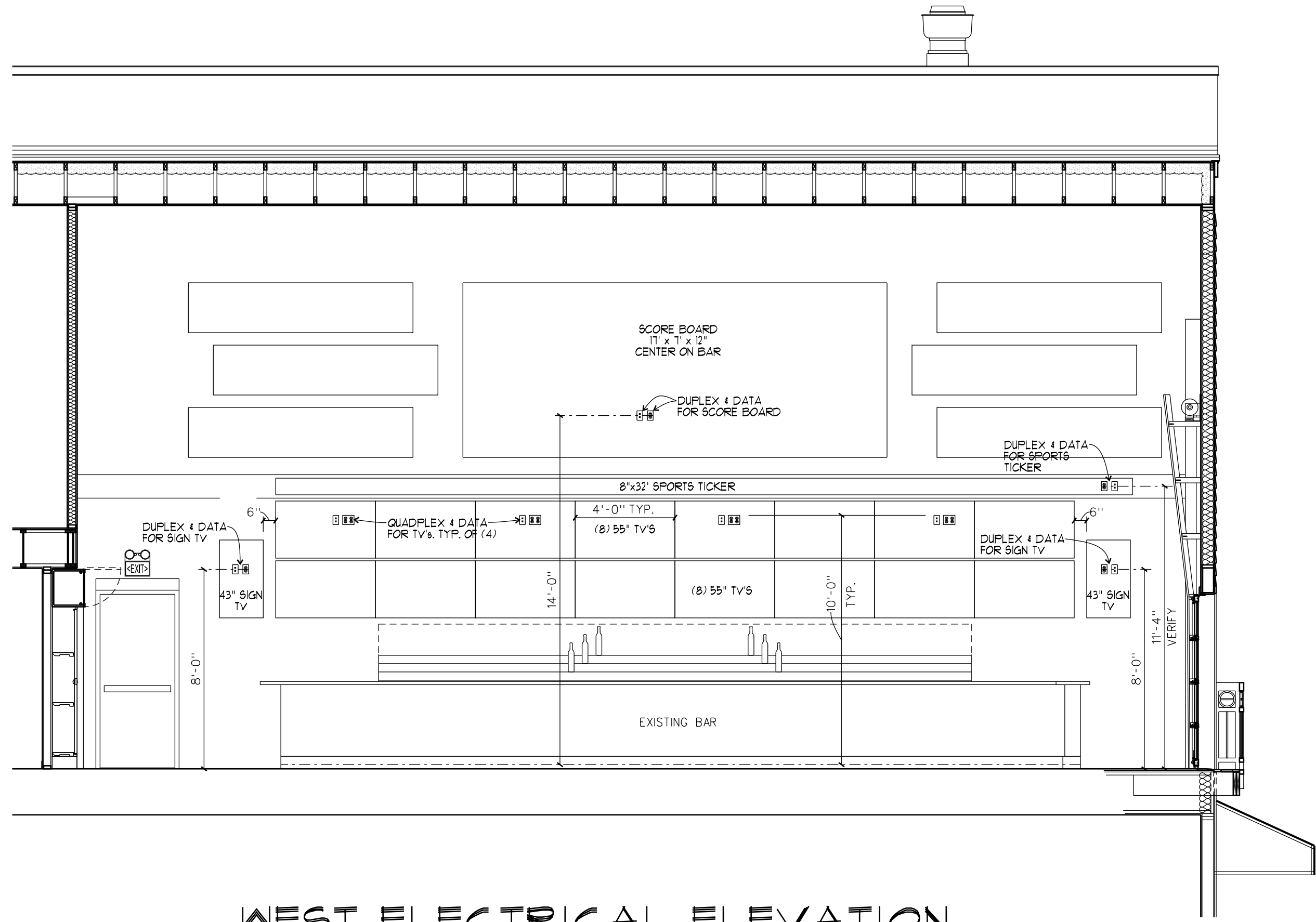


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INTERIOR REMODEL FOR
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E3
Date: 12/29/23



WEST ELECTRICAL ELEVATION

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

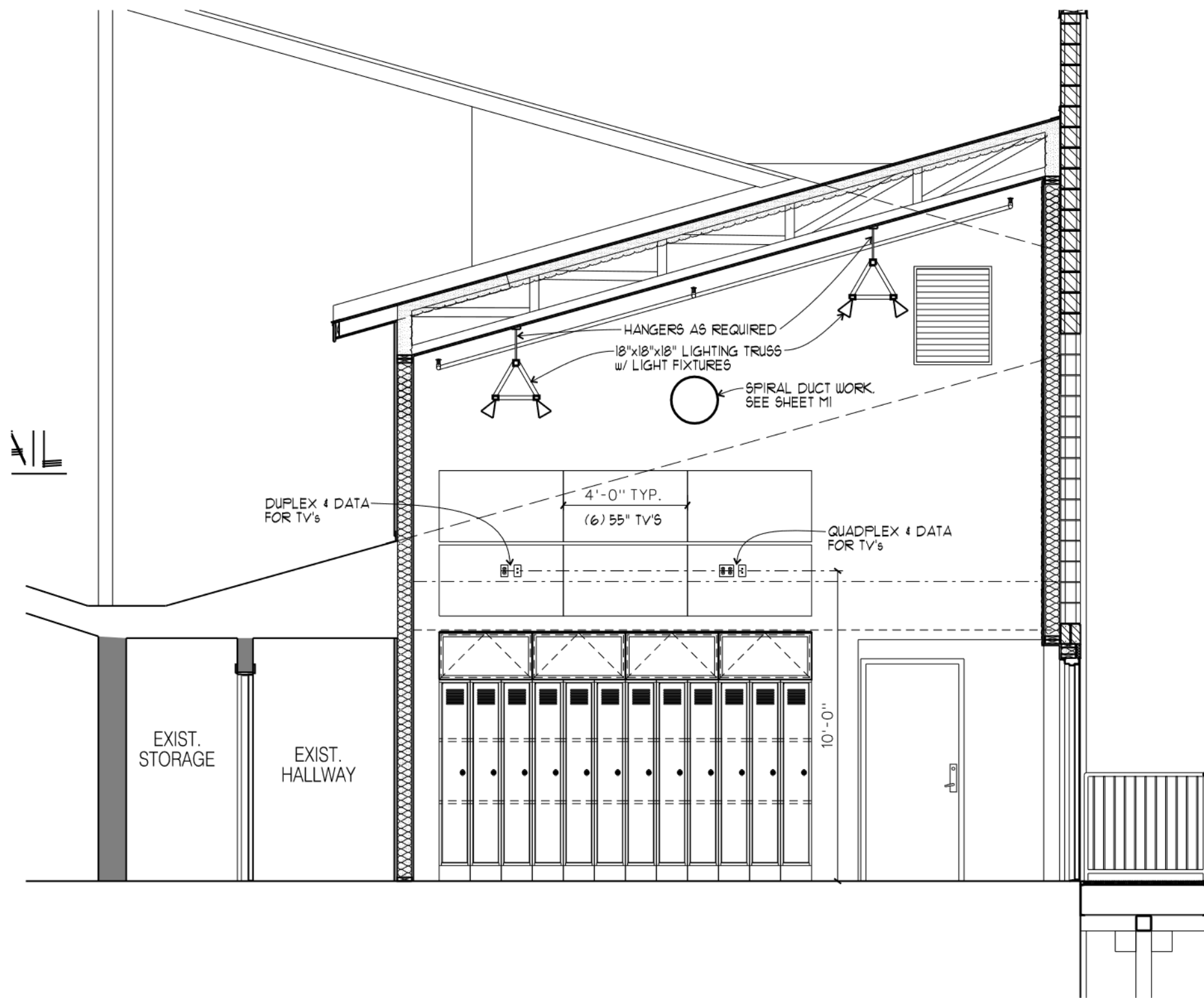


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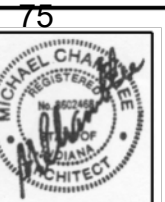
INTERIOR REMODEL FOR
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E4
Date: 12/29/23



SOUTH ELECTRICAL ELEVATION

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

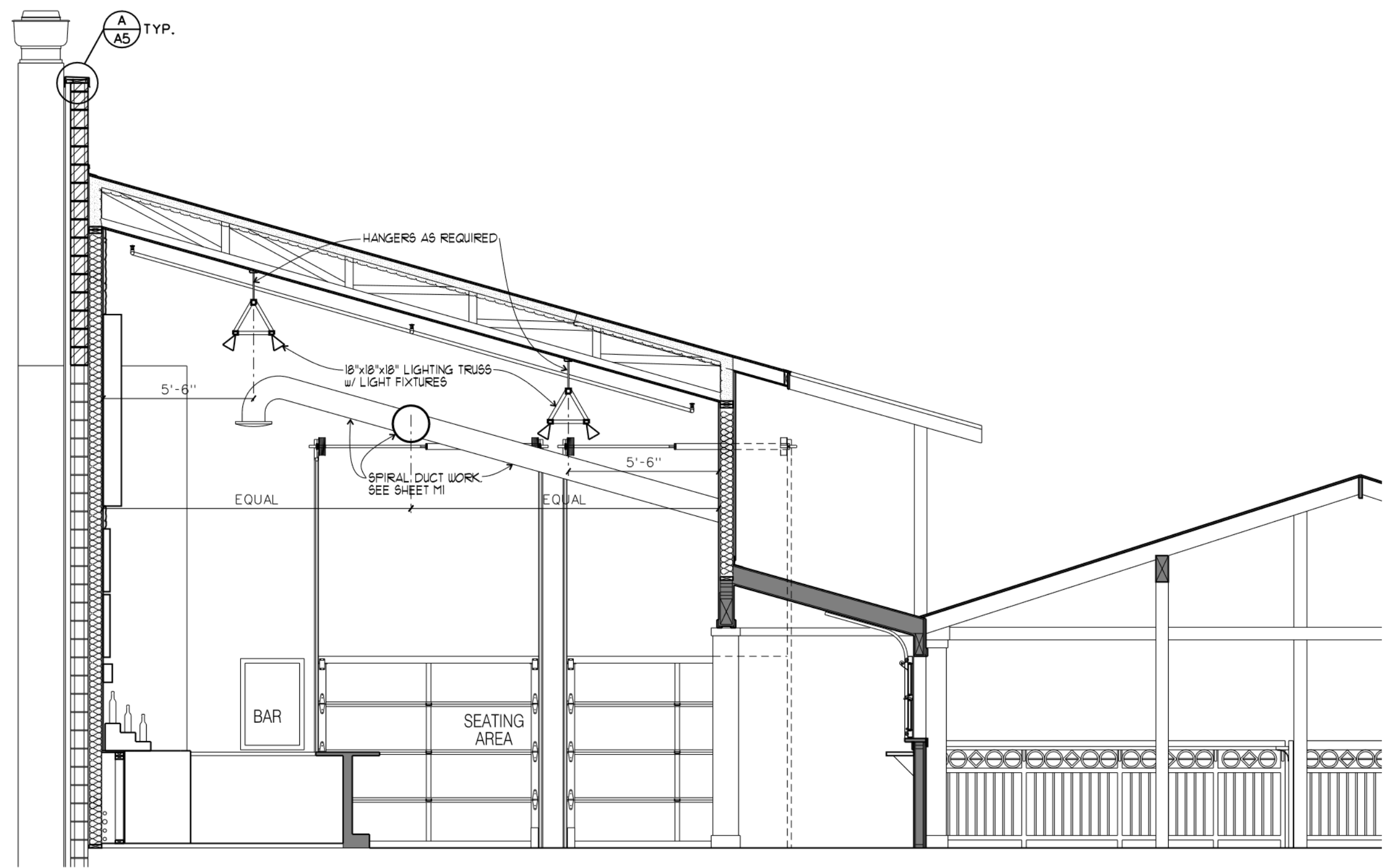


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INTERIOR REMODEL FOR
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E5
Date: 12/29/23



NORTH ELECTRICAL ELEVATION

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

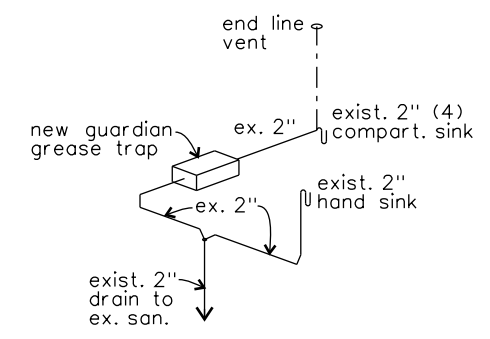
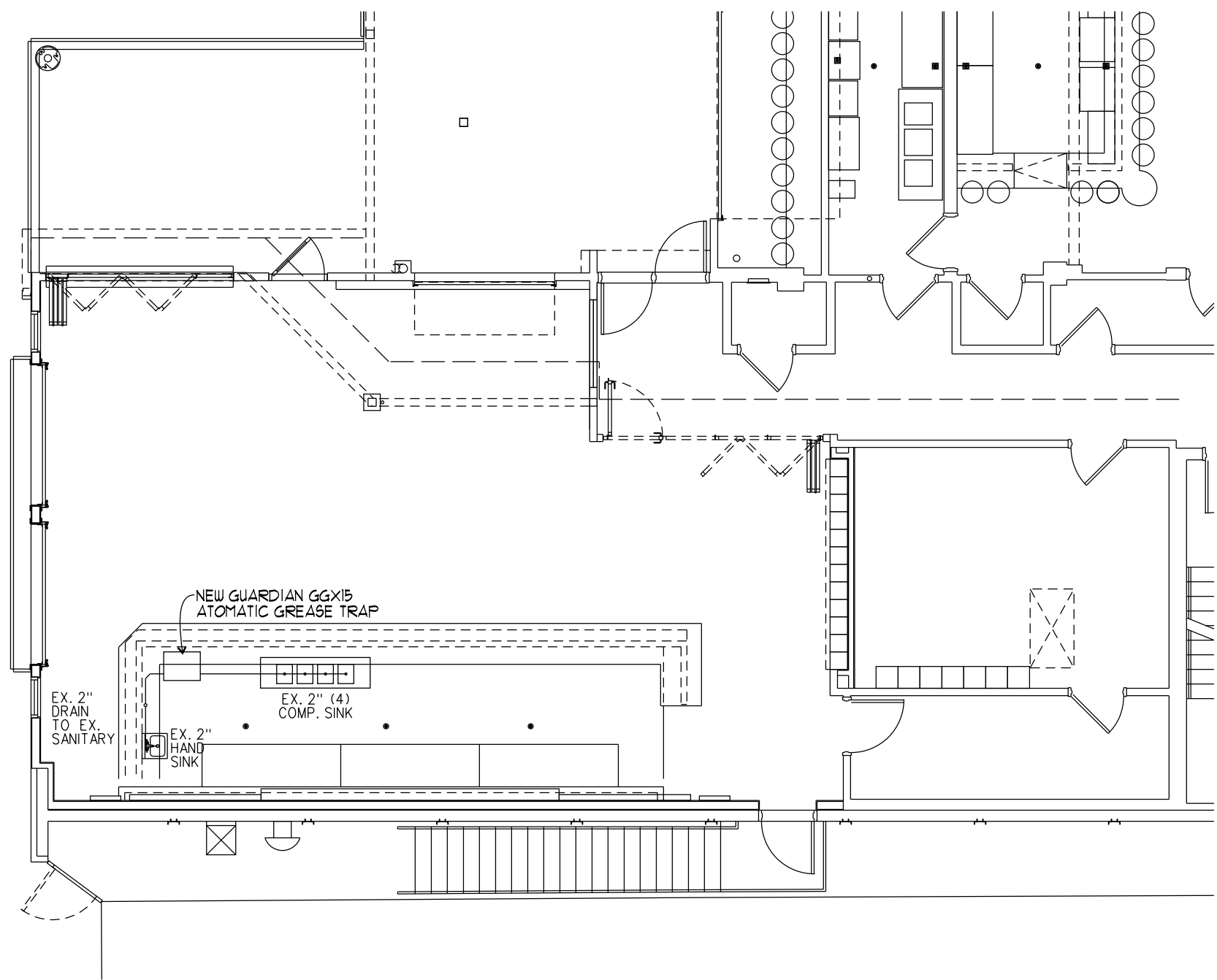


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INTERIOR REMODEL FOR
UPSTAIRS PUB WEST BAR
430 E. KIRKWOOD AVE.
BLOOMINGTON, INDIANA

P1
Date: 12/29/23



PLUMBING ISOMETRIC
NOT TO SCALE

PLUMBING PLAN

SCALE: 1/8" = 1'-0"



BLOOMINGTON BOARD OF ZONING APPEALS
STAFF REPORT
Location: 318 E 3rd Street

CASE #: V-06-24
VAR-2024-03-0025
DATE: March 21, 2024

PETITIONER: Ace 318, LLC (Cedarview Management)
601 N. College Avenue, Bloomington, IN

CONSULTANTS: Studio 3 Design
10748 Sky Prairie Street, Fishers, IN

REQUEST: Variance from use specific standards to allow ground floor dwelling units within 20' of the first floor façade within the Mixed-Use Downtown in the Downtown Edges Overlay (MD-DEO).

REPORT: This 0.26 acre property is located at the southwest corner of E. 3rd Street. and S. Grant Street and is zoned Commercial Downtown (CD), within the Downtown Edges Overlay (DEO) district. Surrounding land uses include mixed-use buildings to the north, commercial uses to the east and west, and single and multi-family residences to the south.

This site received site plan approval (SP-06-17) in 2017 to allow for the construction of a 4-story, mixed-use building with 35 studio units and a 757 square foot commercial space. The approved site plan included 2 ground floor units to the west of the commercial space. The commercial space within the building was placed at the northeast corner of the building directly adjacent to the corner of E. 3rd Street and S. Grant St. At the time the site plan was approved in 2017, the UDO required 50% of the ground floor to be used as nonresidential space and did not allow for ground floor dwelling units. The Plan Commission approved two ground floor units and a reduction from the 50% required nonresidential space to allow only 10% of the ground floor as nonresidential space. The Plan Commission based their approval to allow a reduced amount of nonresidential space on the location of the proposed commercial space at the corner of the building immediately adjacent to the streets and the fact that the ground floor units were elevated above the sidewalk and were not ground level. The petitioner stated that the nonresidential space would be used as an on-site leasing office. The standards of the UDO have changed since this was approved and the UDO does not require this building to have 50% of the ground floor as nonresidential space, however as mentioned above, the UDO does require ground floor units to be 20' behind the front façade. No changes to the exterior of the building are proposed to accommodate the conversion of the space into a dwelling unit and the unit would be accessed directly from an existing door facing 3rd Street.

The petitioner is requesting to convert the commercial space into one, 2-bedroom apartment. Section 20.03.030(b)(5)(D)(ii) of the UDO states that in the MD zoning district, each dwelling unit located on the ground floor shall be located at least 20 feet behind each building façade facing a public street.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE
20.06.080(b)(3)(E) Standards for Granting Variances from Development Standards:

A variance from the development standards of the Unified Development Ordinance may be

approved only upon determination in writing that each of the following criteria is met:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

PROPOSED FINDING: The granting of the variance will not be injurious to the public health, safety, morals, or general welfare of the community. There will be no impact to the overall safety in the design of the building with the granting of this variance.

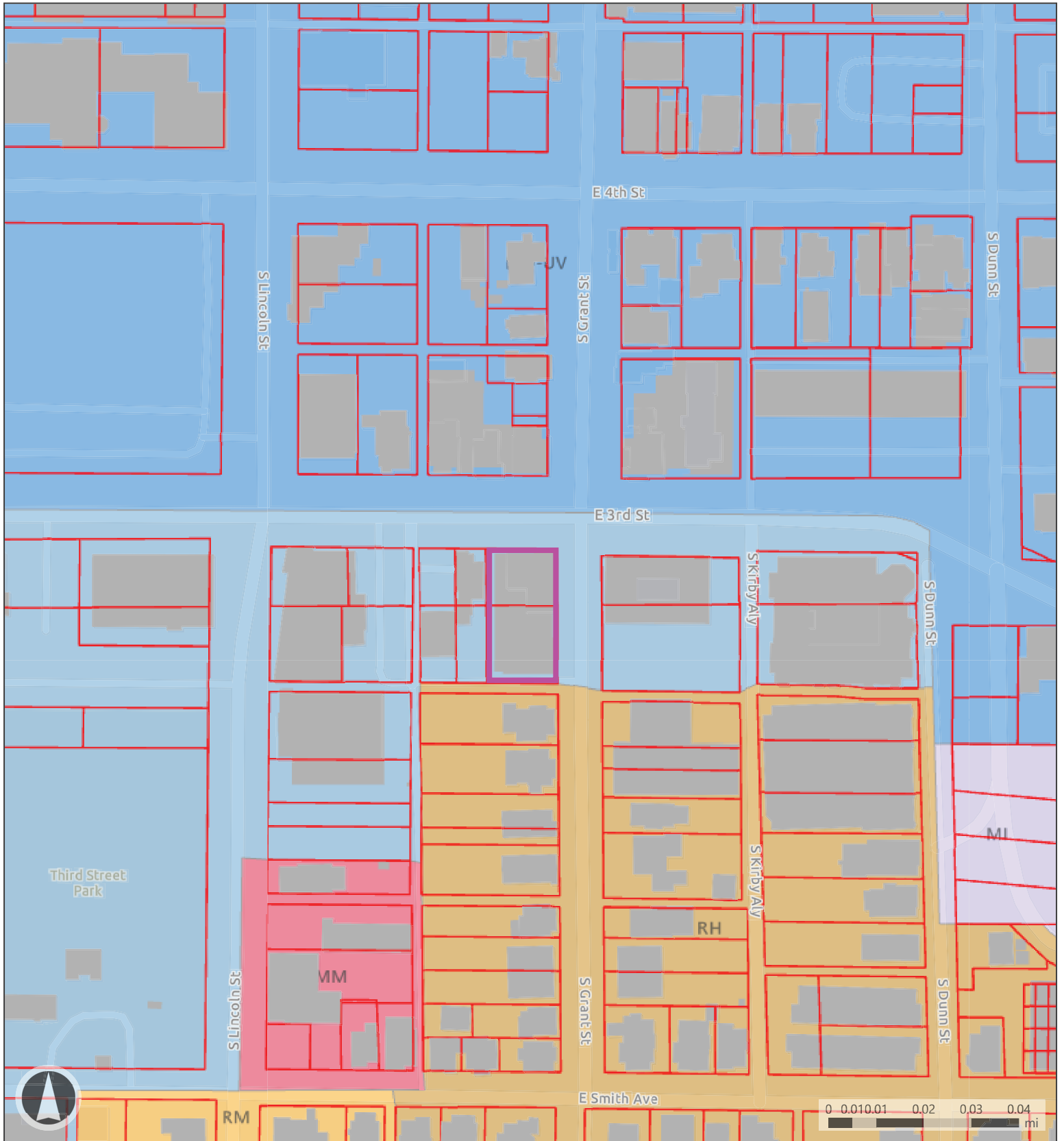
- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

PROPOSED FINDING: While no direct adverse impacts to the use and value of surrounding properties as a result of the requested variance are found, the presence of the ground floor unit does detract from the overall pedestrian experience that was desired by the UDO with the requirement that residences be located 20' behind the façade. The intent of this regulation is to create active, nonresidential space along the portions of a building immediately adjacent to the sidewalk and pedestrian area. The location of a residence immediately adjacent to the sidewalk does not provide the desired pedestrian experience within the Downtown that is desired by the UDO and adopted policies.

- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

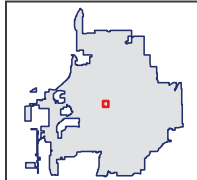
PROPOSED FINDING: The Department does not find that the strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property as the ground floor of the building, including this location, was built with the intentional placement of the nonresidential space at this location of the building and met all of the requirements of the UDO. There do not appear to be any practical difficulties that are peculiar to the property in question that prevent a nonresidential use from occupying this space. The building was designed and constructed with the specific intent and requirement that this space be nonresidential space. There are many different arrangements that could have been designed for the ground floor of the building that would meet the UDO requirements, however the building was designed as recently constructed with the knowledge that ground floor units would not be allowed along the street frontage. The requirement of the UDO to have ground floor units be 20' back from the street frontage is to create a pedestrian friendly and active ground floor presence along a street, this specific regulation is not related to providing a certain percentage of commercial space nor the viability of commercial space at this location. The space could be used as amenity space for the building or any other nonresidential use, so the denial of the variance is not placing a hardship or practical difficulty in the use of the property.

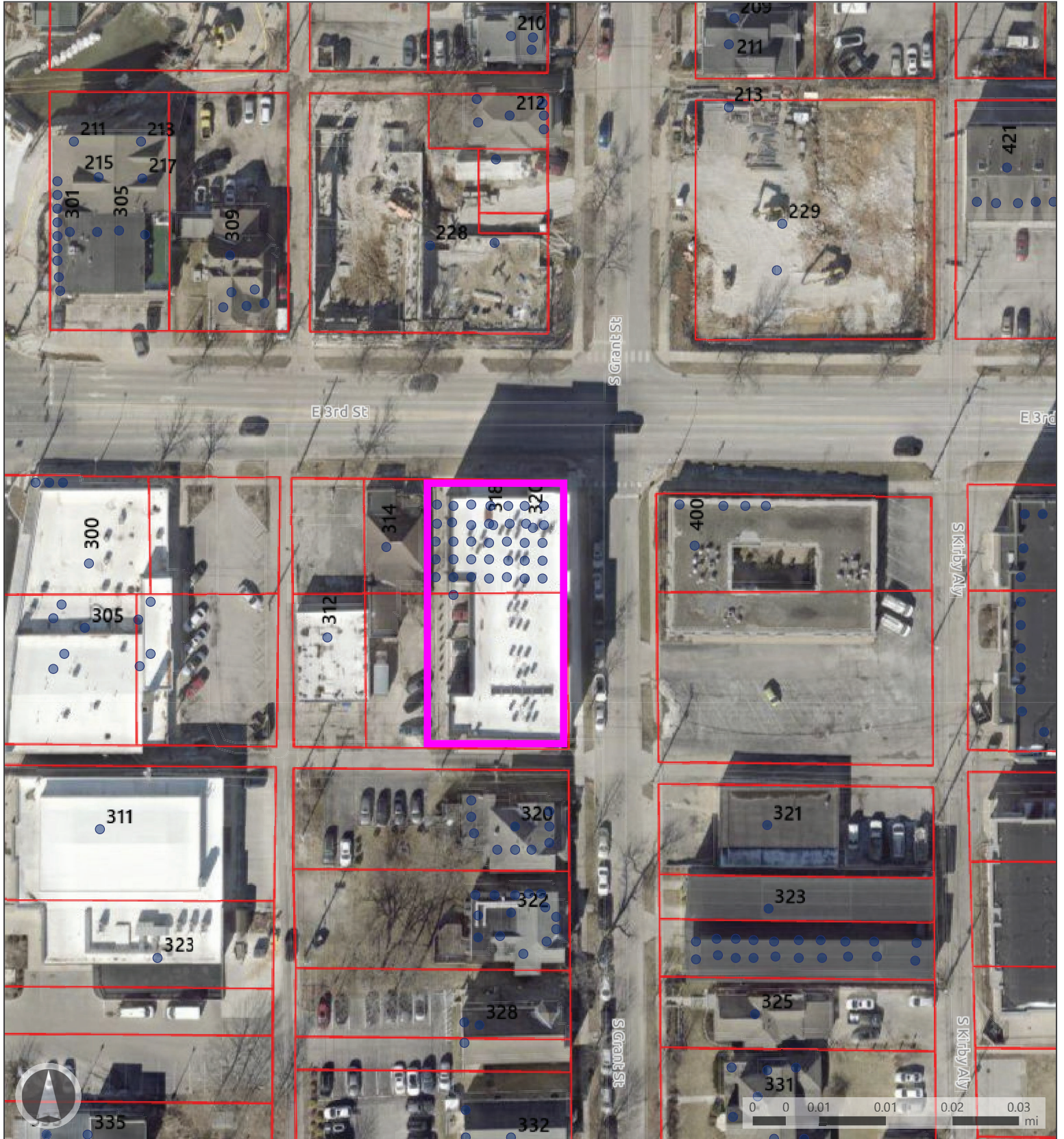
RECOMMENDATION: The Department recommends that the Board of Zoning Appeals adopt the proposed findings and deny V-06-24.



Map Legend

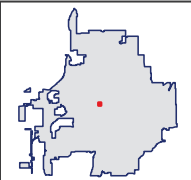
- Parcels
- Buildings
- Bloomington Municipal Boundary
- Mixed-Use Downtown Downtown Edges
- Mixed-Use Downtown University Village
- Mixed-Use Medium-Scale
- Residential High-Density Multifamily
- Mixed-Use Institutional
- Residential Multifamily





Map Legend

- Addresses
- Parcels
- Bloomington Municipal Boundary





Feb. 23rd, 2024
Revised March 5th, 2024

City of Bloomington Planning Department
 P.O. Box 100
 Bloomington, IN 47402

Attn: Mr. Eric Greulich

RE: G3
3rd and Grant Variance request – Petitioner’s statement

PETITIONERS STATEMENT

Dear Eric;

Studio 3 Design is pleased to submit the attached variance request for the G3 apartment project located at 318 3rd street in Bloomington Indiana. The following document outlines the project scope. Please take time to review and contact us with any additional questions.

Variance Request:

We are requesting a Development Standards Variance Criteria under BMC 20.09.130e

Specific variance is under 20.03 Use Regulations, 20.03.030 (5) dwelling, multifamily, (B) ii. In the MD zoning district, each dwelling unit located on the ground floor shall be located at least 20 feet behind each building façade facing a public street.

Project Location

318 E. 3rd Street (SW Corner of Grant and 3rd)
 35 studio units, 18 on-site parking spaces and 4 off-site parking spaces.

Owner provided commitments to this project

Owner has committed to providing the below items previously as part of this development.

1. \$150,000 to the affordable housing fund. This is \$30,000 higher than the typical ask for the fund in similar situations.
2. Solar array on roof to power the common area exterior lighting
3. 100% of required bike parking in long term class 1 Bike Parking facilities or in covered class 2 bike parking.
4. On Site Bike parking

G3 – 3rd and Grant
 Feb. 23rd, 2024
 Revised: March 5th, 2024
 Page 2

Level 1 on-site residential- History on previous approval:

The current approval of the G3 apartment building allowed for two ground floor apartment units to be provided off of 3rd street adjacent to a 1,076 gsf sf. Retail space (subject of this variance request).

The approval was based on the fact the previous owner had owned the building for over 10 years and had encountered significant problems in leasing the commercial space. **As such (2) ADA compliant apartments were approved (both of which are “ground Floor Dwelling Units that are Not located 20’ behind the building façade.** The small office space was approved and intended as the previous owner’s office space.

The project was sold to ACE 318 LLC and the previous owner backed out on providing office space on the ground level of the building.

The project opened in 2021 with a 1,076 gsf retail space in the NE corner of the first floor facing 3rd street and Grant Street intersection. The retail space has remained vacant with minimal inquiries on the space. There is no parking available on 3rd Street and the only parking available on Grant is permitted residential parking only.

The retail space sets back at the corner making it primarily visible from traffic heading West on 3rd street. After the building was constructed and occupied, the City of Bloomington added medians on 3rd street restricting the ability to turn south onto Grant Street from the westbound lane on 3rd street. This change to traffic flow further crippling the ability to access the site and limiting interest from potential businesses.

Over past 3 years 12-15 potential tenants have walked due to these limitations. The most common feedback as to why tenants are not interested in renting space: limited access from the main thorough-fare and no retail parking on street to support the business.

Criteria and Findings for Development Standards Variance:
Ground Floor Residential 20’ Behind Front Building Façade

20.09.130e) Standards for granting Variances from Development Standards:

Pursuant to IC 36-7-4-918.5, the Board of Zoning appeals or Hearing Officer may grant a variance from the development standards of the unified development Ordinance if, after public hearing, it makes findings of fact in writing on the following 3 items that:

- (1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

Approval of this variance will not be injurious to public health, safety or welfare. The removal requested allows the building to be 100% residential by adding (1) two-bedroom unit in an area that is established as a residential zone. The removal of a vacant non-residential shell space will have no negative impact on the area. The new accessible unit will complement the other two ADA accessible studio units and activate an otherwise dead corner along the street.

- (2) *The use and value of the area adjacent to the property included in the development Standards Variance will not be affected in a substantially adverse manner:*

Providing a variance to allow one additional ground floor unit will not adversely impact the use or value of the surrounding properties. It will conversely improve the area by not creating a vacant storefront at the corner of 3rd and Grant. The additional ground floor accessible unit is consistent with the residential feel and fabric of Grant Street and the surrounding residential neighborhood.

- (3) *The Strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property: that the practical difficulties are peculiar to the property in question; the development Standards Variance will relieve the practical difficulties:*

Staff will rightfully point out that this variance request is not about whether or not retail is viable at this location but about whether or not to allow a residential use to be located within 20' of the street frontage along 3rd street. Staff will also point out that the spirit of this UDO requirement is to provide an activated street front along the sidewalk.

Under the previous UDO, when the project was first approved, waivers were available. The commission recognized the lack of viability of a non-residential use being successful at this site and allowed 2/3rds of the street frontage to be converted into accessible ground floor apartment units. This leaves the 27'-6" strip of vacant non-residential space that we are discussing here.

The practical difficulty that is peculiar to this site is simple:

The 1,076 sf space that is in question can by the defined use of the UDO be a non-residential use (business or retail being the implied option) that can be the only use that exist within this 20' zone facing the street. For almost 3 years the space has sat empty with limited interest due to two basic business / retail needs on or around the property. First is on-street public parking, there is none on 3rd street and the limited parking on Grant is permit parking only for residential. The second is site access. Since the opening of the project in mid-2021, the City of Bloomington has added a median along 3rd street that cuts off the ability for westbound traffic of 3rd (the traffic that can actually see the recessed vacant space) from being able to turn onto Grant Street. This forces any potential customer to continue west for 2 blocks to Washington Street, then make their way East and back to the building through residential neighborhoods or alleys to arrive at a site where there is no public parking available. The addition of a median that prevents access to the site has sealed the fate of this 27'-6" strip.

If not residential- then what use does the City see as viable to activate what has sat as a dead corner for almost 3 years? The recessed façade sits off the street by an added 5', pulled back from the building façade above.

The granting of a variance will take away the existence of a vacant storefront and add more life to the street front. Life and Activity that will discourage vandalism, crime and vagrants from hanging out at an empty corner.

Executive Summary:

1. Variance request is for ground floor residential 20' behind front of building façade. 2/3rd's of the front of the building (ground level) was previously approved as ground floor units and provided as fully accessible units. This variance will impact the last 27'-6" of the 3rd street façade and provide a 3rd accessible unit that is a 2 bed room unit.
2. The developer made a tremendous commitment to the affordable housing initiative of \$150,000 dollars. This is \$30,000 greater than what would normally be required for a development of this scale.
3. The variance is not injurious to the surrounding area, it is in fact a benefit. The variance replaces a vacant storefront with a 2 bed room accessible unit that compliments the other two accessible units already opening onto 3rd street. The infill of residential will provide life and activity to the corner and fit in with the neighborhood fabric.
4. There is a surplus of retail office and commercial leasing space on the market with heavy concessions being made by landlords to hold onto existing tenants – adding more retail into this market is simply not practical or viable.
5. There is no public parking in the area to support office or retail.
6. The scale of the space, 1076 sf, caters to a minimal market. With so much retail and office on the market, there are ample locations with parking, cross traffic created by other established retail and much greater pedestrian foot traffic.
7. The addition of a median on 3rd street after the building was opened that prohibits the ability for vehicles to turn onto Grant Street and access the site when traveling westbound has sealed the fate of this location as a vacant storefront.

Respectfully submitted,

STUDIO 3 DESIGN, INC

A handwritten signature in black ink that reads "Tim Cover". The signature is written in a cursive, flowing style with a large initial "T" and "C".

Tim Cover
Architect

DEVELOPER

CEDARVIEW
MANAGEMENT

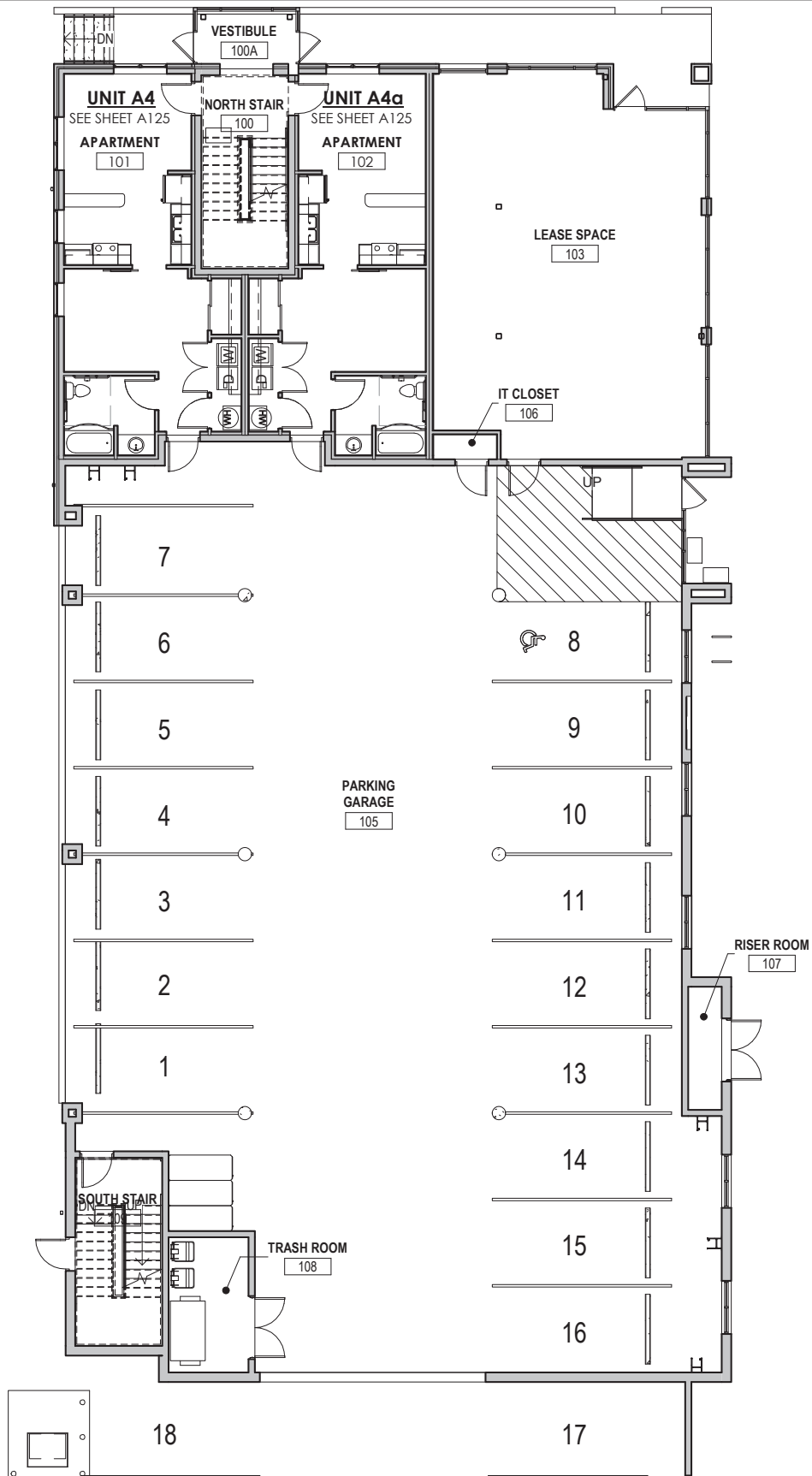
7/29/2020

G3 DEVELOPMENT

318 E. 3RD STREET
BLOOMINGTON, IN 47401

STUDIO 85
THREE
DESIGN

317 595 1000 main 317 572 1236 fax
8504 Allisonville Road, Suite 330 Indianapolis, IN 46250



LEVEL 1 - OVERALL PLAN

3/32" = 1'-0"

DRAFT - "SUBJECT TO CHANGE"

DEVELOPER
CEDARVIEW
MANAGEMENT

G3 DEVELOPMENT

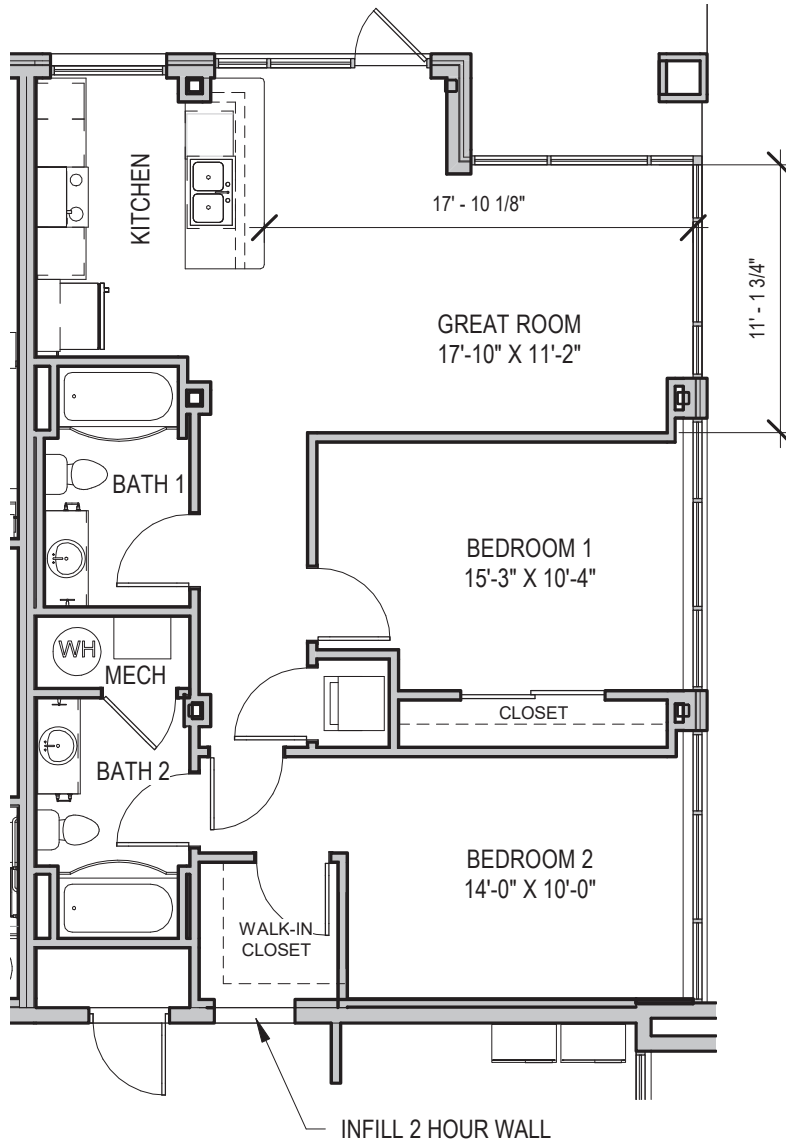
318 E. 3RD STREET
BLOOMINGTON, IN 47401

06/14/2023

8611
STUDIO
THREE
DESIGN

architecture — interior design
www.studio3design.net

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8604 Allisonville Road, Suite 330 Indianapolis, IN 46250



UNIT B1

1/8" = 1'-0"

1,076 SF

DRAFT - "SUBJECT TO CHANGE"