



**North Fair Oaks Community Council**  
San Mateo County Coordinated  
Departmental Response



**DATE:** January 26, 2022  
**NFOCC MEETING DATE:** January 27, 2022  
**SPECIAL NOTICE/HEARING:** 10 days, within 300 feet  
**VOTE REQUIRED:** Majority

**TO:** Members, North Fair Oaks Community Council

**FROM:** Planning Staff

**SUBJECT:** Consideration of a Non-Conforming Use Permit, pursuant to Section 6133.3 of the County's Zoning Regulations, to construct a single-family residence with a 3-foot right side yard setback where 5 feet is required, encroachment into the daylight plane, one covered parking space and one uncovered parking space where two covered parking spaces are required, and three habitable stories (two above ground and a habitable subgrade basement) where two habitable stories is the maximum allowed, on a substandard 2,675 sq. ft. parcel; located at 647 San Benito Avenue in North Fair Oaks. No tree removal and 200 cubic yards of grading is proposed.

County File Number: PLN 2019-00491(Matós/Chu)

### **PROPOSAL**

The applicant is seeking a Non-conforming Use Permit for relief from the R-1/S-73 (Single-Family Residential/5,000 sq. ft. lot minimum) Zoning Regulations to construct a 2,425 sq. ft. two-story single-family dwelling which includes a 426 sq. ft. habitable basement, with a 3-ft. right side yard setback where 5 feet is required, a one-car attached carport (180 sq. ft.), encroachment into the daylight plane, one covered parking space and one uncovered parking space where two covered parking spaces are required, and three habitable stories (two stories above ground and a habitable subgrade basement) where two habitable stories is the maximum allowed, on a 2,675 sq. ft. non-conforming parcel. The project includes 200 cubic yards of grading and no tree removal.

### **RECOMMENDATION**

That the North Fair Oaks Community Council provide a recommendation to the Zoning Hearing Officer on the proposed Non-Conforming Use Permit, PLN 2018-00491.

## **BACKGROUND**

Report Prepared By: Olivia Boo, Planner, [oboo@smcgov.org](mailto:oboo@smcgov.org)

Applicant: Francisco Matos, Architect SF

Owner: Chu Joe Trust

Location: 647 San Benito Avenue, North Fair Oaks

APN: 060-124-080

Parcel Size: 2,675 sq.ft.

Existing Zoning: R-1/S-73 (Single-Family Residential/5,000 sq. ft. lot minimum)

General Plan Designation: Medium Density Residential

Existing Land Use: Developed with a one-story single-family modular unit.

Water Supply: California Water Service - Bear Gulch

Sewage Disposal: Fair Oaks Sewer District

Flood Zone: Zone X, Panel Number 06081C0302E, Effective Date: October 16, 2012, area of minimal flood hazard

Environmental Evaluation: The project is categorically exempt pursuant to Section 15303, Class 3(a), (New Construction of Small Structures) of the California Environmental Quality Act (CEQA) Guidelines, related to new construction of small structures, including single-family residences in a residential zone.

Setting: The property is located in the unincorporated community of the North Fair Oaks area. It is developed with a one -story single-family modular residence with a one car carport. The parcel size is 2,675 sq. ft., and is non-conforming in size, as it does not meet the 5,000 sq. ft. minimum parcel size required in the S-73 Zoning District. The surrounding parcels include both 5,000 sq. ft. and substandard size parcel. The area is developed with both one story and two-story single-family residences.

## **DISCUSSION**

### **A. KEY ISSUES**

#### **1. Compliance with the General Plan/North Fair Oaks Community Plan**

The County General Plan and North Fair Oaks Community Plan designate the parcel as Medium Density Residential and Single-Family Residential,

respectively. Current use of the property as a single-family residence is consistent with these designations and the proposed land use will remain single-family residential. Furthermore, all public services and infrastructure are available to serve the project.

2. Compliance with the Zoning Regulations

a. Development Standards

A summary of the project’s compliance with the current requirements of the S-73 Zoning District is provided in the table below. The Non-Conforming Use Permit is required to seek relief for the proposed non-conforming right side yard setback, the daylight plane encroachment, the request for one uncovered parking space where two covered parking spaces are required and to develop a 2,675 sq. ft. non-conforming parcel. Non-conforming aspects of the property and proposal are indicated by an asterisk (\*) and discussed under the Non-Conforming Use Permit section.

Development Standard	Required	Proposed
Minimum Building Site	5,000 sq. ft.	2,675 sq.ft.(existing) *
Minimum Side Yards	5 ft.	Left side 5 ft. Right side 3 ft. first floor*, Right side 5 ft. second floor.
Maximum Building Height	28 ft.	24 ft.
Lot Coverage	50% (1,337 sq. ft.)	39% (1,055 sq. ft.)
Floor Area Ratio	2,600 sq. ft.	2,425 sq. ft. (includes a 426 sq. ft. habitable basement)
Daylight Plane Required	16ft./45 (degree)	Encroaches*
Number of stories	2	3 (including subgrade basement)*
Parking	2 independently accessible covered spaces	1 covered space, 1 uncovered space (both spaces are independently accessible)

b. Covered Parking Standards

Section 6118 and 6119 of the County Zoning Regulations (Parking) requires two independently accessible covered parking spaces for all single-family dwelling units with two (2) or more bedrooms, located outside of the required front yard setback. The applicant proposes to construct a new 2,425 sq. ft. two-story single-family residence plus basement with four (4) bedrooms while proposing one covered parking space and a one uncovered parking space where two independently accessible covered parking spaces are required beyond the required 20 feet front setback. In cases of practical difficulties and unusual hardship, Section 6120 (Parking) provides an exception mechanism to the required parking standards. In this particular instance, the applicant is proposing one covered and one uncovered parking space, independently accessible, outside of the 20-foot front yard setback. There is not enough parcel width to construct a second covered parking space without encroaching into the right-side yard setback.

Providing one covered parking space and one uncovered parking space, side by side, in lieu of tandem parking, is an improvement to the property and shows the applicants effort to comply with parking regulations. Staff believes the project is as nearly in compliance with the parking requirements as reasonably possible due to the substandard size parcel.

3 Conformance with Non-Conforming Use Permit Findings

The applicant is seeking to construct a two-story single-family residence with a habitable subgrade basement. The proposal will require relief from the daylight plane, right side yard setback, covered parking space standard and maximum allowed number of habitable stories. The proposed project is as nearly in conformance with the development standards and zoning regulations as reasonably possible for a substandard 2,675 sq. ft. parcel.

A Non-Conforming Use Permit, per Zoning Regulations Section 6133.3, allows the proposed non-conforming elements if the following findings can be made by the Zoning Hearing Officer. The findings are discussed below:

a. **The proposed development is proportioned to the size of the parcel on which it is being built.**

The proposed parcel is a legal 2,657 sq. ft. non -conforming parcel where 5,000 sq. ft. is the minimum required parcel size in the S-73 Zoning District. The project complies with the allowed lot coverage and floor area ratio and thus is reasonably proportioned to the size of the 2,675 sq. ft. parcel.

- b. **All opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible.**

All parcels contiguous to the parcel are privately owned and developed with single-family residences. The contiguous parcels are not large enough to allow a lot line adjustment for the subject parcel to acquire and gain additional square feet to meet the 5,000 sq. ft. minimum parcel size without making a contiguous parcel non-conforming in size and setbacks. The parcel to the north is also a substandard, approximately 3,959 sq. ft. parcel. The parcel to the south is approximately 5,350 sq. ft. parcels.

- c. **The proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible.**

To develop a reasonably sized house, the applicant requests a 17-foot-wide home with a reduced 3-foot-wide right side yard setback; the left side yard will comply with the required 5-foot side yard setback minimum. Furthermore, the project proposes encroaching into the daylight plane and a subgrade habitable basement that counts as a story to allow more needed habitable space. Proposing additional habitable space by means of a subgrade basement will be less visually impactful with less bulk to the property and the community and will allow for better utilization of the property for a reasonably sized house where housing supply is a challenge in the bay area. The exception to allow two on-site, side by side parking spaces, one covered and one uncovered, will be an improvement to the property and the neighborhood. The current residence provides one covered parking space with a one-foot right side yard setback from the property line with a second parking space as tandem uncovered parking in the existing driveway. The proposal to provide two side by side parking spaces, one covered and one uncovered, beyond the 20-foot front yard setback is an improvement to the property. Both the new carport and the uncovered parking space will be complying with the required five (5) feet right and left side yard setbacks. The 25-foot-wide parcel does not allow adequate width for a two-car carport or garage without encroaching into a side yard setback, thus only one carport is proposed. The current modular unit is single-story residence with a one car carport, the structure has a total footprint of approximately 690 square feet. The modular unit is an older structure, while the proposed structure will be a visual improvement to the property and neighborhood. All of the exceptions are as nearly in conformance with the Zoning Regulations currently in effect as is reasonably possible while still allowing for a reasonably sized residence on the constrained parcel.

- d. **The establishment, maintenance, and /or conduction of the proposed use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources or be detrimental to the public welfare or injurious to the property or improvements in the said neighborhood.**

The proposed single-family residence will be located within the required building envelope with the exception of the proposed 3-foot right side yard setback. The project has been reviewed by Menlo Park Fire Protection District, Department of Public Works and the Building Inspection Section and has been preliminarily approved. The project is not located in the coastal zone and therefore would not impact coastal resources. The residence would be compatible with the surrounding residences. Based on the foregoing, staff has determined that this proposal would not be detrimental to the public welfare or injurious to the property or improvements.

- e. **Use permit approval does not constitute a granting of special privileges.**

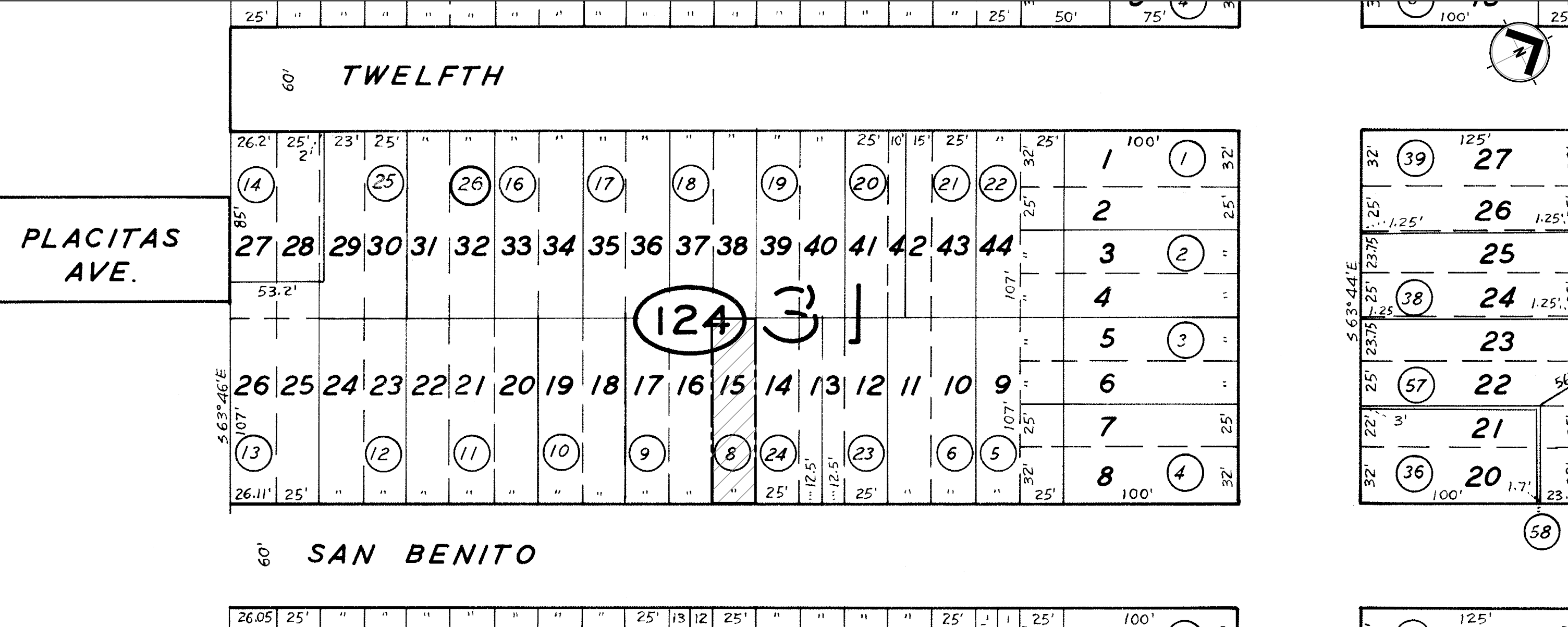
The proposed development involves exceptions to the daylight plane, on-site covered parking, and a right-side yard setback and to allow a subgrade habitable third story in order to better utilize the parcel for needed housing in the area. The substandard parcel size is a physical constraint to developing a modest residence. Many homes in the unincorporated area of San Mateo County that are being demolished and rebuilt are proposing the maximum footprint allowed for the parcel. The subject parcel allows a lot coverage of 50 percent (1,337 sq. ft.) and floor area ratio of 2,600 square feet. The project proposed 39 percent (1,055 sq. ft.) lot coverage and a floor area ratio of 2,520 sq. ft. of floor area, thus under the maximum limits for these development standards. The County's Zoning Regulations for development of non-conforming sized parcels provides an opportunity for applicants to seek a non-conforming use permit for proposed development on non-conforming parcel that does not conform with the zoning regulations currently in effect, such as proposed in this project. Therefore, the proposed development does not constitute the granting of a special privilege not available to others in similar situated.

## **ATTACHMENTS**

- A. Vicinity Map
- B. Plans

OSB:cmc – OSBGG0009\_WCU.DOCX

LOCATION PLAN



# NEW SINGLE FAMILY HOUSE

647 SAN BENITO AVENUE, MENLO PARK, CA 94025

APN:060124080

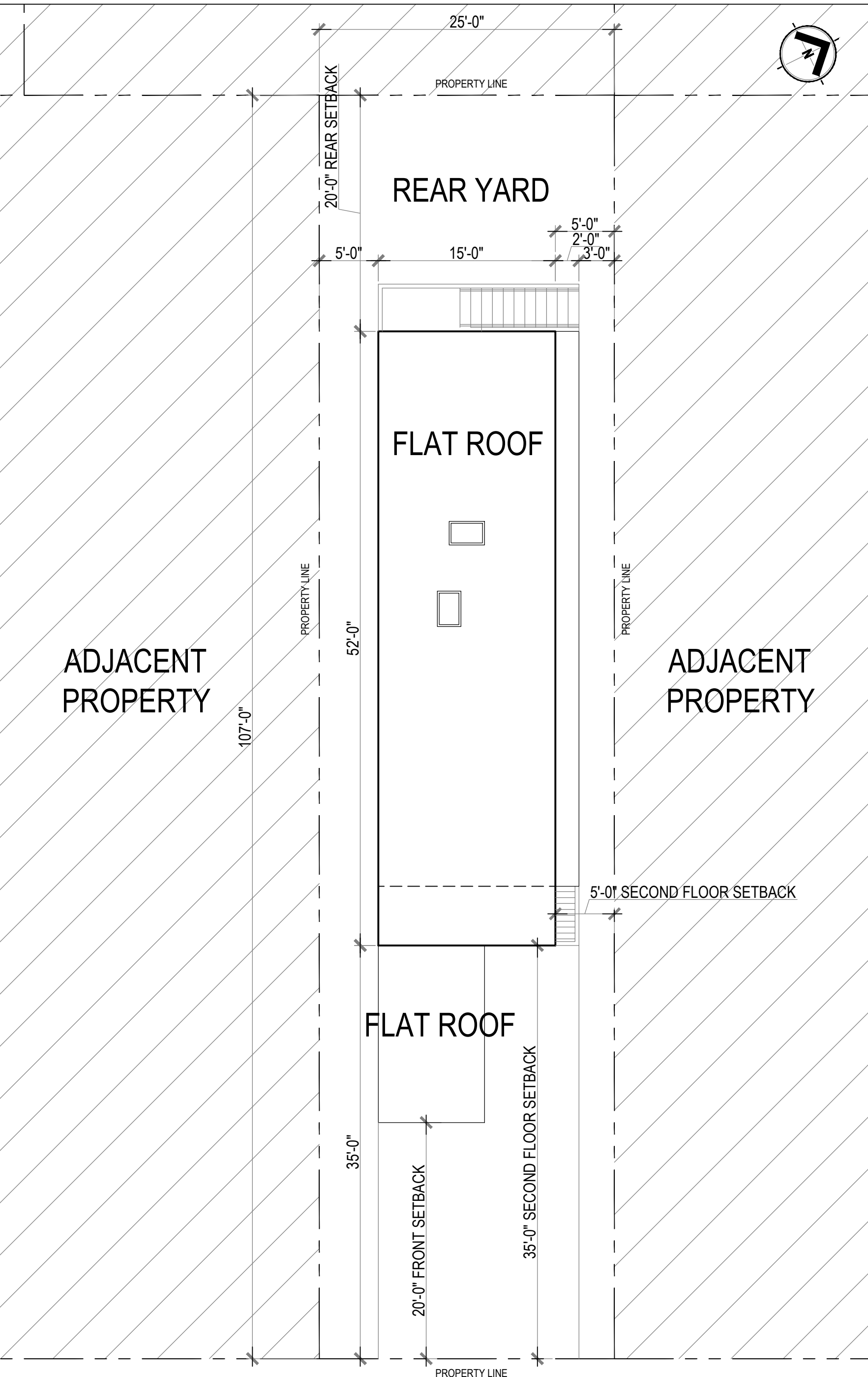
## PROJECT SUMMARY

BUILD A NEW SINGLE FAMILY HOUSE  
 BASEMENT: 1 NO. BEDROOM, 1 NO. FAMILY, 1NO. BATHROOM, 1 NO. LAUNDRY  
 FIRST FLOOR: 1 NO. LIVING/DINING AREA, 1 NO. KITCHEN, 1 BEDROOM, 1 BATHROOM  
 SECOND FLOOR: 2 NOS. BEDROOM, 2 NOS. BATHROOM  
 PROVIDING 1 NO. CARPORT AND 1 NO. UNCOVERED PARKING SPACE.

## DRAWING INDEX

00 - GENERAL	
G-000	TITLE, COVER SHEET & SHEET INDEX
G-001	PHOTOS
ARCHITECTURAL DRAWINGS	
A-100	SITE SURVEY PLAN
AB-101	EXISTING FLOOR PLAN
A-101	PROPOSED BASEMENT AND FIRST FLOOR PLANS
A-102	PROPOSED SECOND AND ROOF FLOOR PLANS
A-201	PROPOSED FRONT AND LEFT ELEVATIONS
A-202	PROPOSED REAR AND RIGHT ELEVATIONS
A-301	PROPOSED LONG SECTION

## PROPOSED SITE PLAN SCALE: 3/16" = 1'-0"



## CODE ANALYSIS

NOTE:  
 ALL WORK SHALL BE IN COMPLIANCE WITH ALL APPLICABLE LOCAL AND STATE LAWS AND REGULATIONS INCLUDING THE FOLLOWING:

APPLICABLE CODES	
2016 EDITION OF TITLE 24, CALIFORNIA CODE OF REGULATIONS (CCR)	
PART 1 - CALIFORNIA BUILDING STANDARDS ADMINISTRATIVE CODE	
PART 2 - CALIFORNIA BUILDING CODE	
PART 2.5 - CALIFORNIA RESIDENTIAL CODE	
PART 3 - CALIFORNIA ELECTRICAL CODE	
PART 4 - CALIFORNIA MECHANICAL CODE	
PART 5 - CALIFORNIA PLUMBING CODE	
PART 6 - CALIFORNIA ENERGY CODE	
PART 8 - CALIFORNIA HISTORICAL BUILDING CODE	
PART 9 - CALIFORNIA FIRE CODE	
PART 10 - CALIFORNIA EXISTING BUILDING CODE	
PART 11 - CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGreen CODE)	
PART 12 - CALIFORNIA REFERENCE STANDARDS CODE	

## PROJECT DIRECTORY

NAME TITLE COMPANY	ADDRESS City, ST Zip	PHONE, MOBILE, FAX, E MAIL
Tommy Chu	647 San Benito Ave, Menlo Park, CA 94025	Tel: Email: tommychu69@yahoo.com
Francisco Matos -Architect Architect-SF	1390 MARKET ST. SAN FRANCISCO, CA 94102	Tel: (415) 519-4954 Email: francisco@architect-sf.com Web: http://www.architect-sf.com/

## BUILDING INFORMATION

ZONING INFORMATION	
ZONING DISTRICT	R-1 S-73
PARCEL AREA	2,675 sq.ft.
MAX. SITE COVERAGE	0.5
MAX. BUILDING FLOOR AREA	2,600 sq.ft.
MAX. HEIGHT	28 ft., 2 STORIES

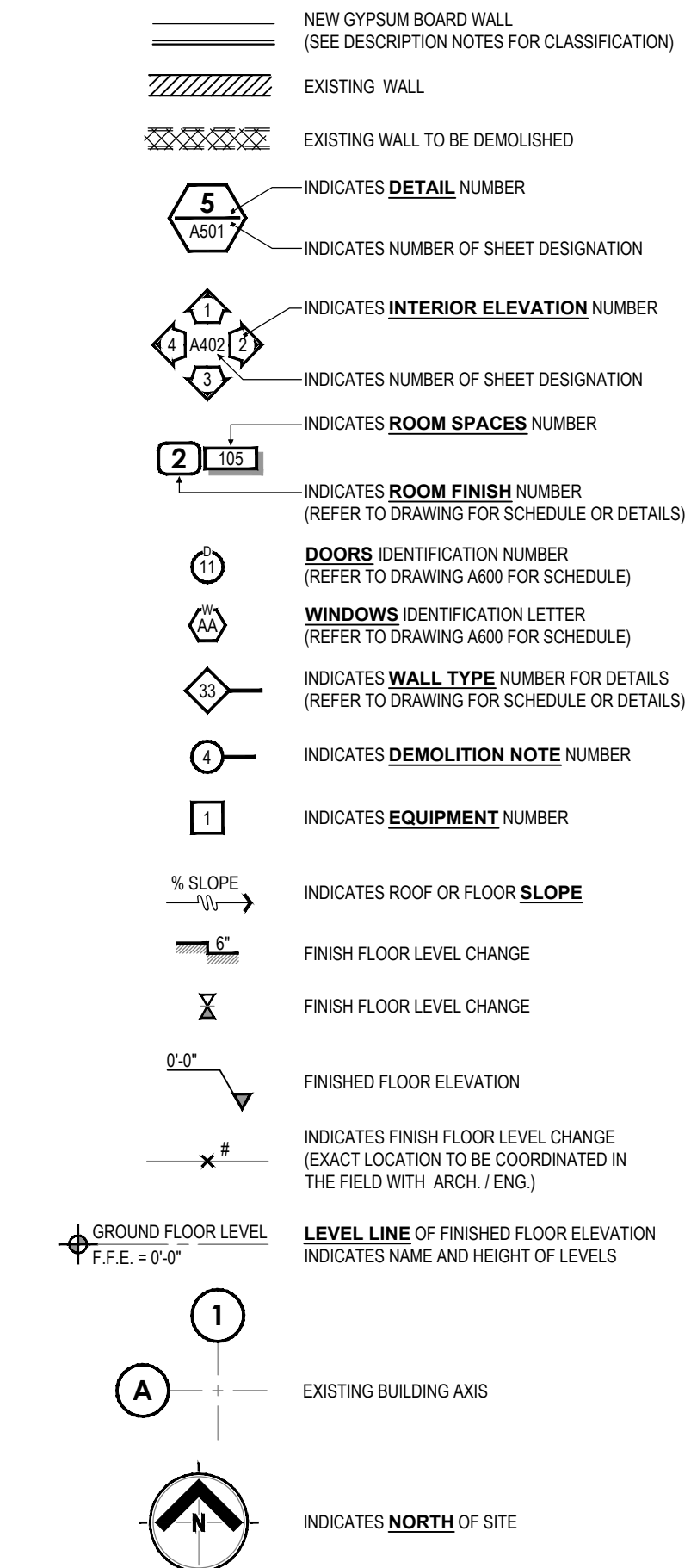
  

BUILDING INFORMATION	
CONSTRUCTION TYPE	VB
STORIES	2 + BASEMENT
OCCUPANCY	R3
PROPOSED SITE COVERAGE	0.38
PROPOSED BUILDING AREA	2,425 SQ.FT.
PROPOSED BUILDING HEIGHT	24'-0"
PROPOSED VOLUME OF EXCAVATION	5,402.8 CU. FT. (200.1 CU. YARD)

## GENERAL NOTES

- CONTRACTOR SHALL VISIT THE SITE AND ACQUAINT THEMSELVES WITH THE CONDITIONS AS THEY ACTUALLY EXIST AND VERIFY LOCATIONS, CONDITIONS AND DETAILS REQUIRED TO COMPLETE THE WORK.
- DISPOSAL SHALL BE PERFORMED IN ACCORDANCE WITH CURRENT LAWS AND REGULATIONS.
- THE CONTRACTOR SHALL USE MATERIALS THAT ARE COMPATIBLE TO EXISTING MATERIALS AND COMPLY WITH APPLICABLE REGULATIONS. BEFORE PROCEEDING, EXAMINE THE SURFACES TO BE MODIFIED AND THE CONDITIONS UNDER WHICH THE WORK IS TO BE PERFORMED. IF UNSAFE OR OTHERWISE UNSATISFACTORY CONDITIONS ARE ENCOUNTERED, TAKE CORRECTIVE ACTION BEFORE PROCEEDING WITH THE WORK. CUT USING SMALL POWER TOOLS DESIGNED FOR SAWING OR GRINDING, NOT HAMMERING AND CHOPPING. RESTORE FINISHES OF PATCHED AREAS AND, WHERE NECESSARY, EXTEND FINISH RESTORATION INTO ADJOINING SURFACES.
- ALL MATERIAL SHALL BE INSTALLED WITH THE APPROVAL OF THE AUTHORITY HAVING JURISDICTION AND IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE MANUFACTURER.
- THE CONTRACTOR SHALL VERIFY EXISTING CONDITIONS AT THE SITE AND SHALL VERIFY ALL MEASUREMENTS.
- EXISTING OPENING FRAME SHALL REMAIN UNALTERED. ALL NEW WINDOWS OR DOORS SHALL FIT THE EXISTING ROUGH OPENING.
- PERFORM ALL WORK IN A WORKMANLIKE MANNER. CONTRACTOR TO REPLACE OR REPAIR ANY DAMAGE TO EXISTING AREAS TO REMAIN, AS DETERMINED BY THE OWNER.

## SYMBOLS LEGEND:



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Revisions Number	Date	Description

Project Title:  
**NEW SINGLE FAMILY HOUSE**  
 647 SAN BENITO AVENUE, MENLO PARK, CA 94025

Drawing Title:  
**TITLE, COVER SHEET AND INDEX**

Sheet:  
**G000**



PHOTO - FRONT SIDE



PHOTO - REAR SIDE



PHOTO - FRONT SIDE

**Revisions**

Number	Date	Description

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 Dwg. Date:



**General Note:**

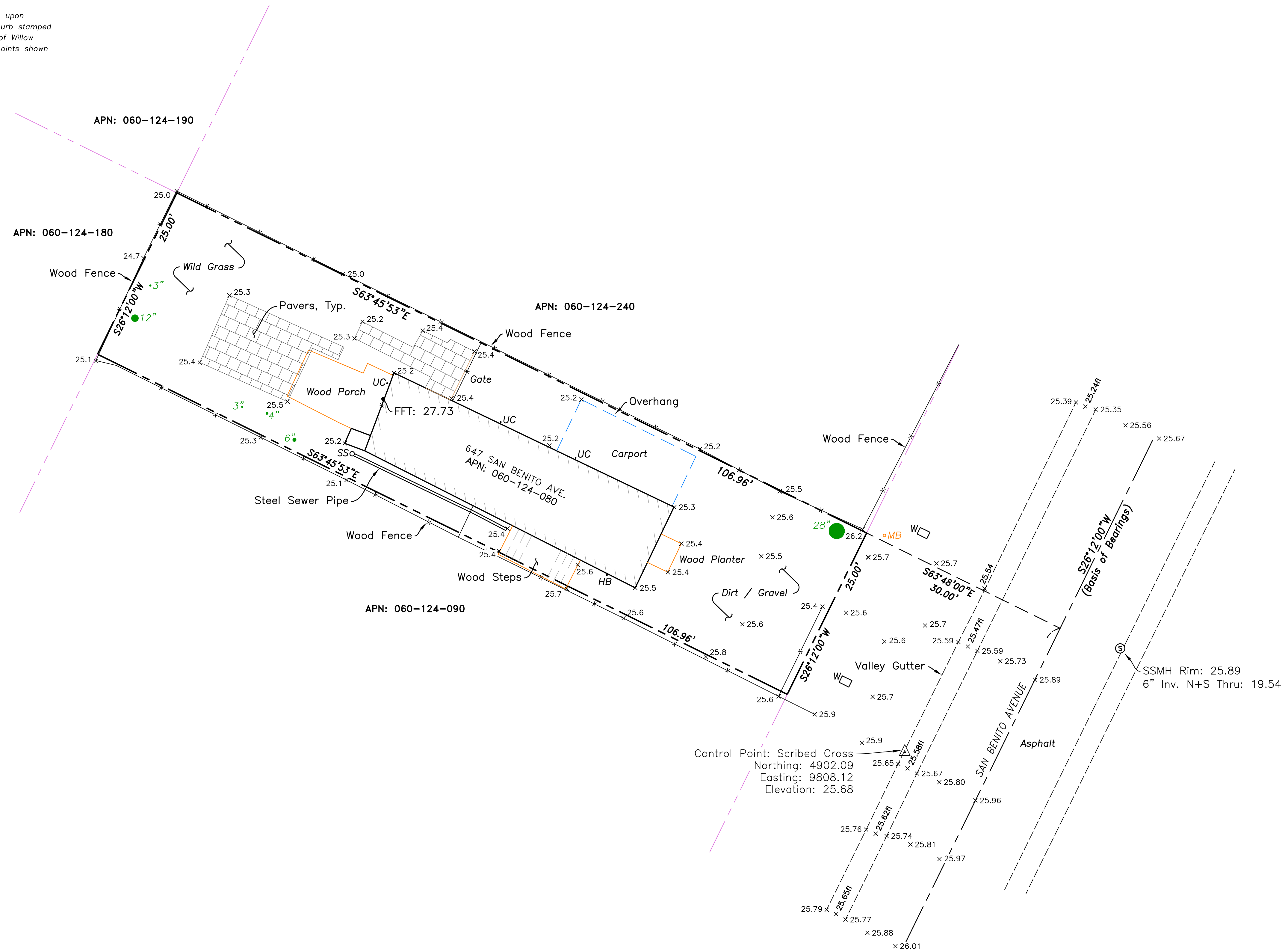
All features shown hereon represent surface conditions of the project area as compiled from a ground survey conducted on February 23, 2018. No attempt has been made to determine the existence or extent of underground utilities or other features not surface visible.

**Basis of Bearings:**

Bearings shown hereon are based upon the centerline of San Benito Avenue as shown on that certain map filed for record in Book 6 of Maps at Page 7 and found monumentation per Field Book 759-4 Page 17, San Mateo County Records; Said bearing taken as North 26°12'00" East.

**Datum Note:**

Horizontal datum is based upon an assumed local coordinate system. Vertical datum is based upon NAVD88 from ties to the City of Menlo Park Benchmark #6, a brass disc set in the top of curb stamped "City Benchmark 6" at the northerly end of the southwesterly curb return at the intersection of Willow Road and Durham Street; Top of disc elevation taken as 31.14', NAVD88. Temporary control points shown hereon have been established to perpetuate the project datum for future use.



**Legend**

---	Boundary
▨	Building
---	Centerline
----	Concrete
----	Concrete Grate Break
x	Fencline
FFT	Finish Floor - Threshold
HB	Hose Bib
MB	Mailbox
SS	Sanitary Sewer Cleanout
⊙	Sanitary Sewer Manhole
x 15.18	Spot Elevation
● 12"	Tree Trunk / Size
UC	Utility Connection
W	Water Meter

**SITE SURVEY PLAN**  
SCALE: 1/8"=1'-0"

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**NEW SINGLE FAMILY HOUSE**  
647 SAN BENITO AVENUE, MENLO PARK, CA 94025

Drawing Title:  
**SITE SURVEY PLAN**


Sheet:  
**A100**

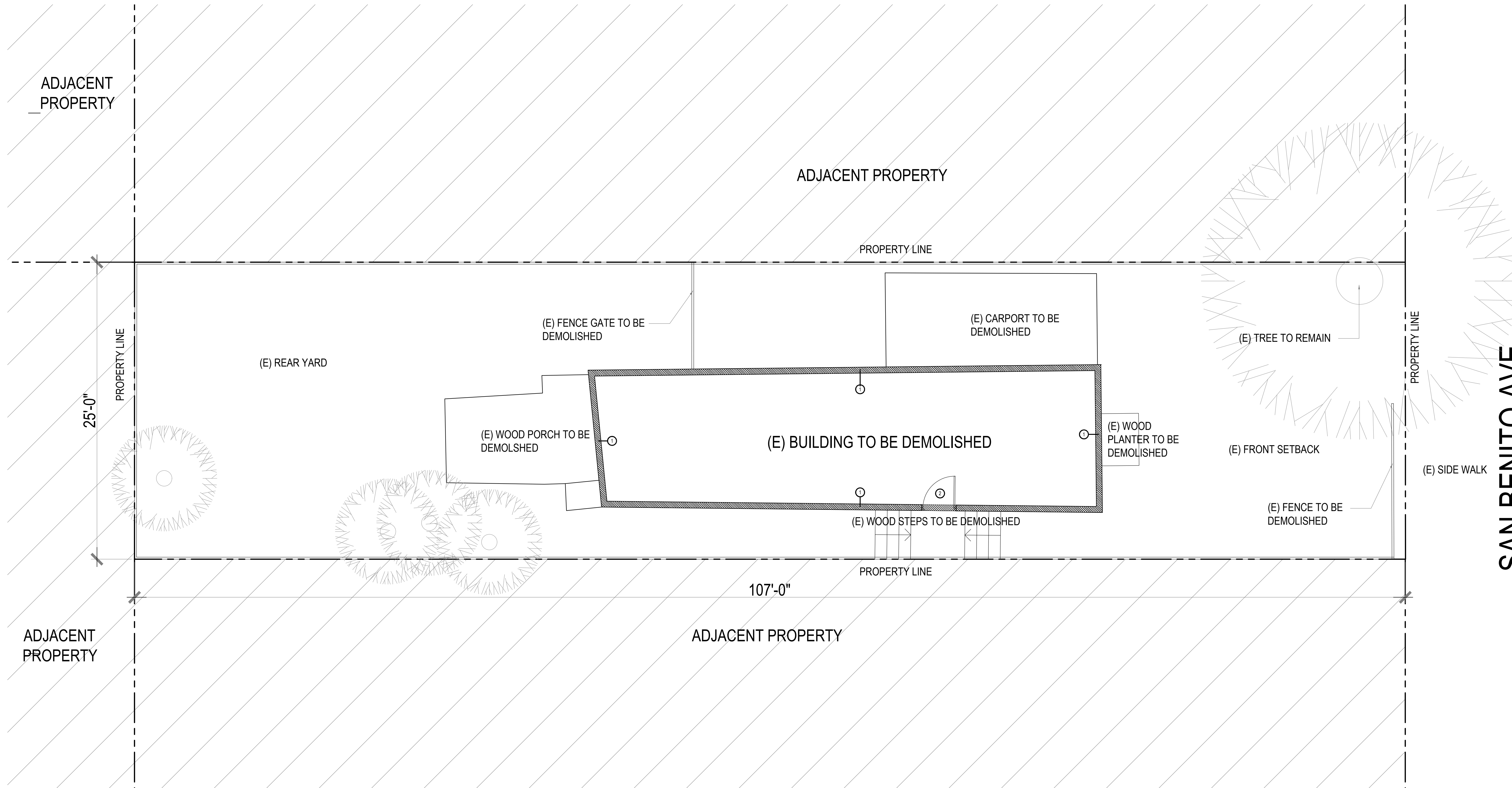
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**DEMOLITION NOTES:**

- ① (E) WALL TO BE DEMOLISHED
- ② (E) DOOR TO BE DEMOLISHED
- ③ (E) WINDOW TO BE DEMOLISHED

**DEMOLITION LEGEND:**

 TO BE DEMOLISHED OR MODIFIED.



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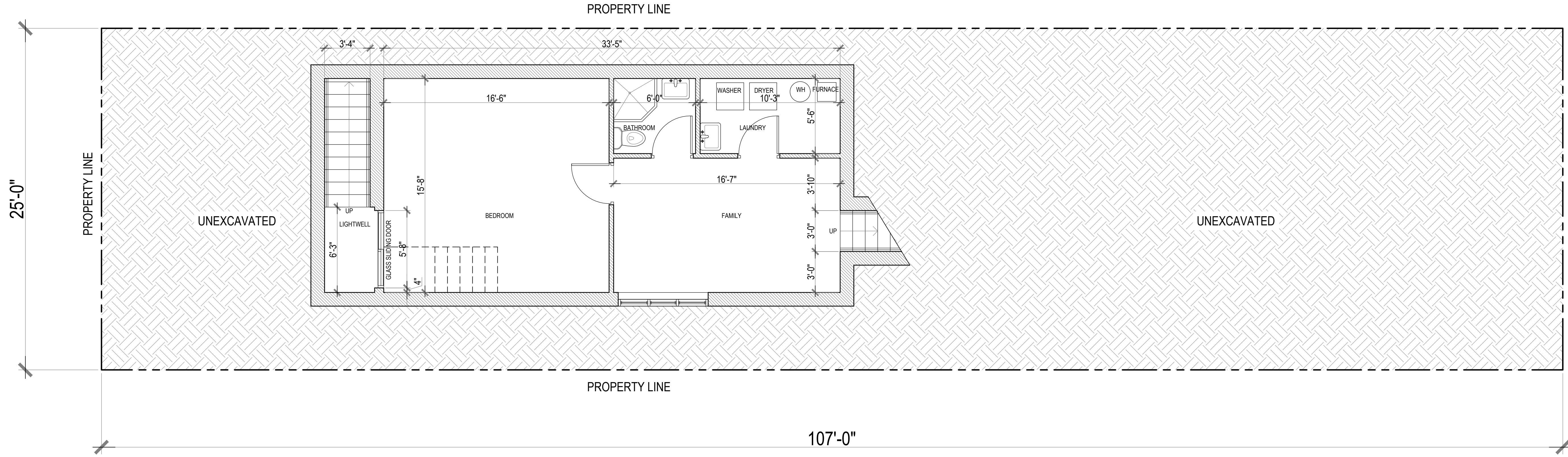
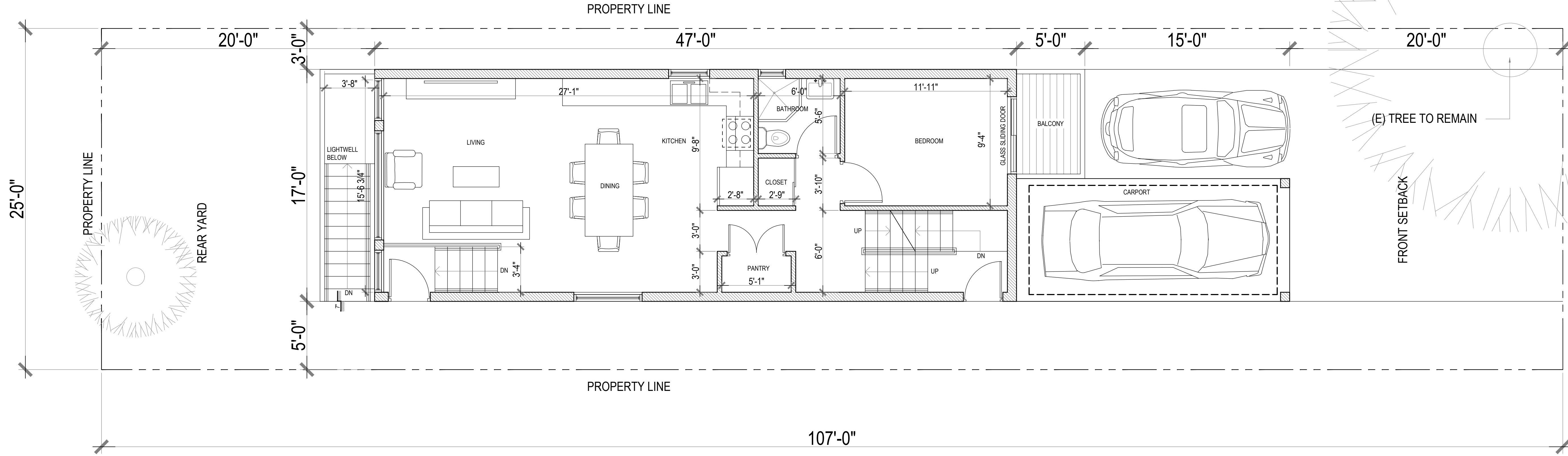
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**SAN BENITO AVE.**

**NEW SINGLE FAMILY HOUSE**  
 647 SAN BENITO AVENUE, MENLO PARK, CA 94025

Project Title:  
 Drawing Title:  
**EXISTING FLOOR PLAN**

Sheet:  
**AB101**



SAN BENITO AVE.

SAN BENITO AVE.

Sheet: A101

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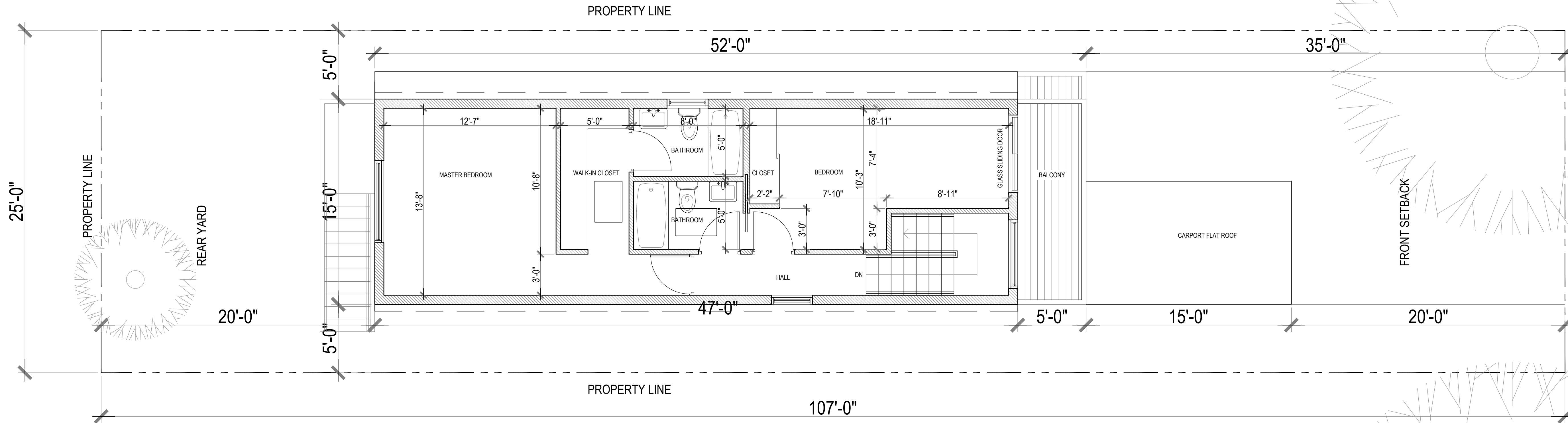
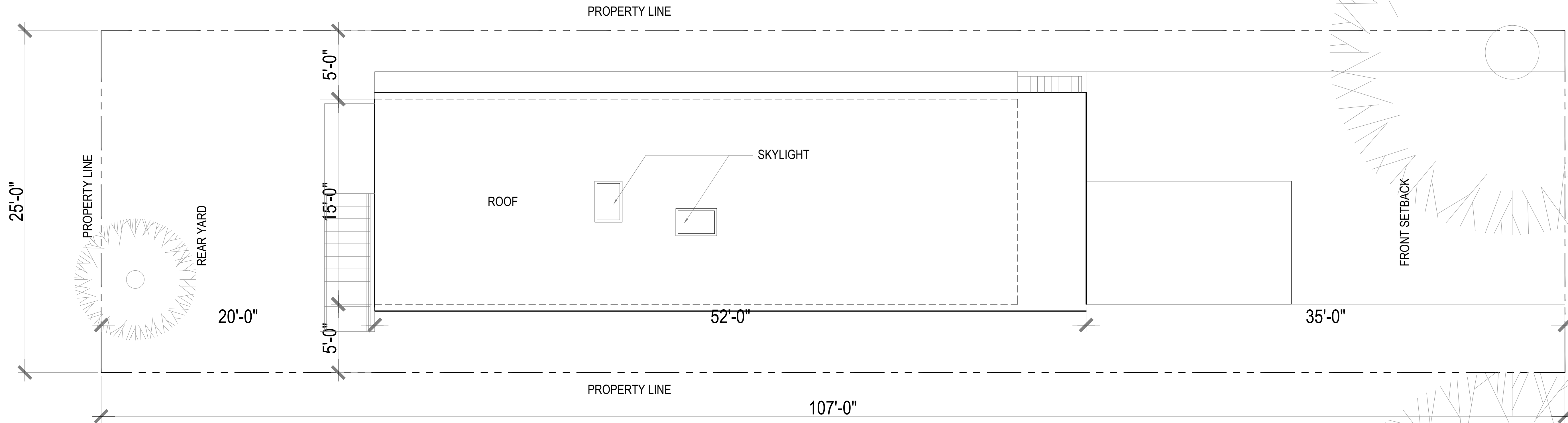
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Drawing Title:  
**PROPOSED BASEMENT AND FIRST FLOOR PLANS**



SAN BENITO AVE.

SAN BENITO AVE.

Sheet: Project Title:

**NEW SINGLE FAMILY HOUSE**  
 647 SAN BENITO AVENUE, MENLO PARK, CA 94025

**A102**

Drawing Title:

**PROPOSED SECOND AND ROOF FLOOR PLANS**

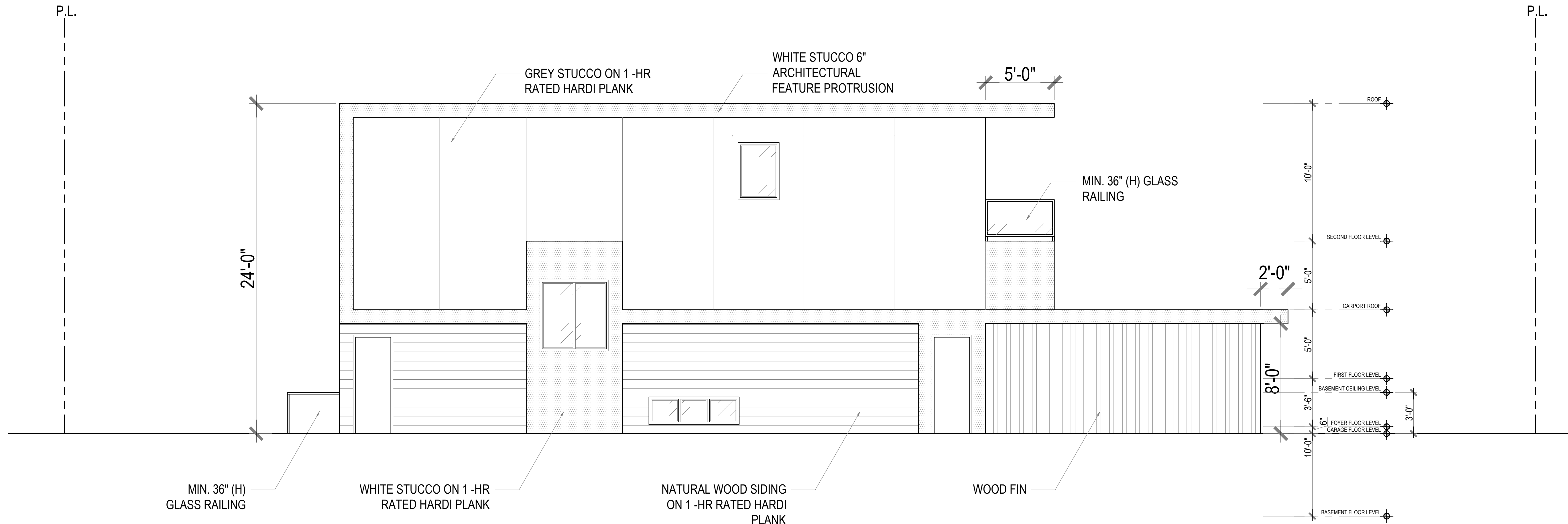
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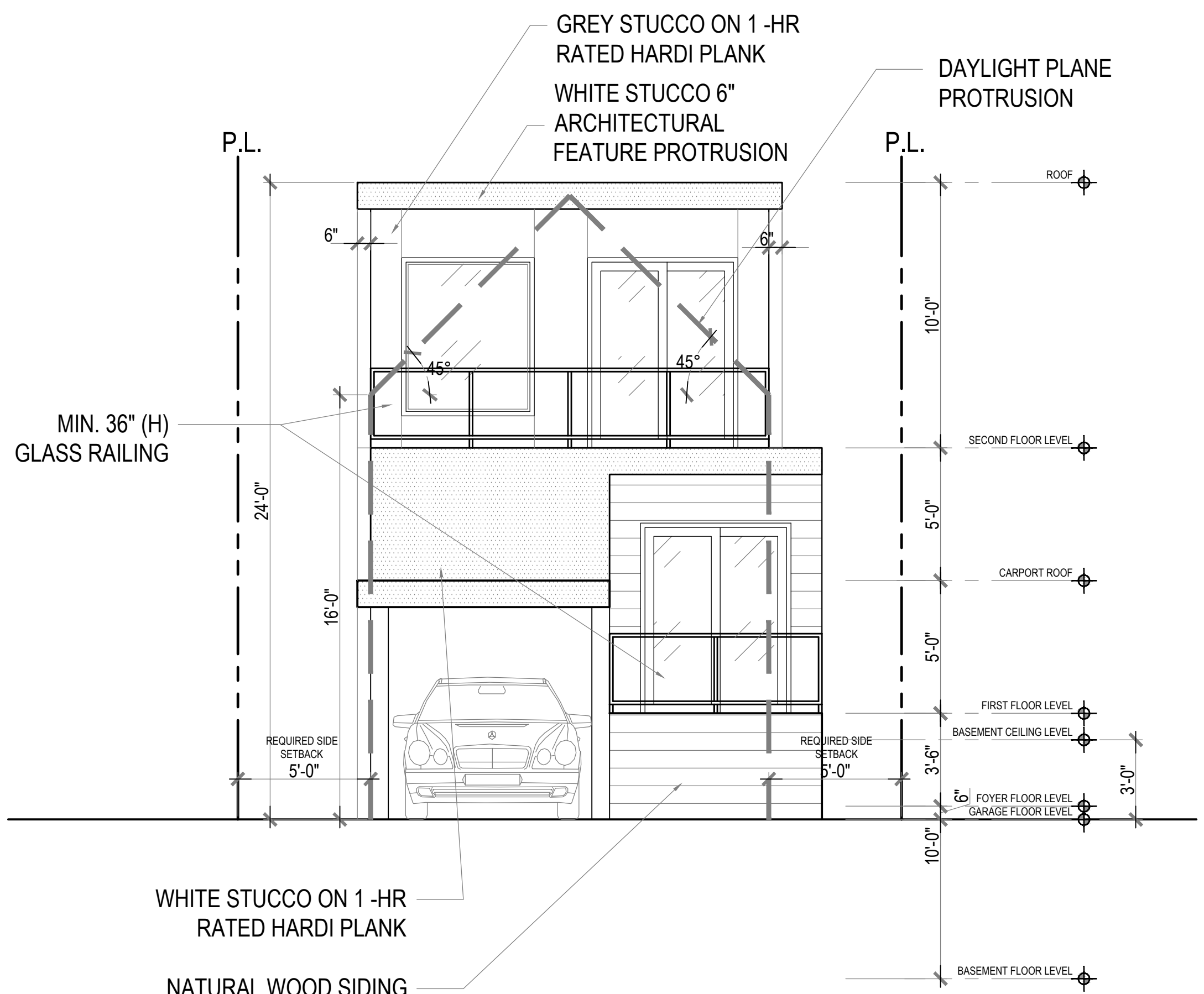


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**PROPOSED LEFT ELEVATION**  
SCALE: 1/4"=1'-0"



**PROPOSED FRONT ELEVATION**  
SCALE: 1/4"=1'-0"

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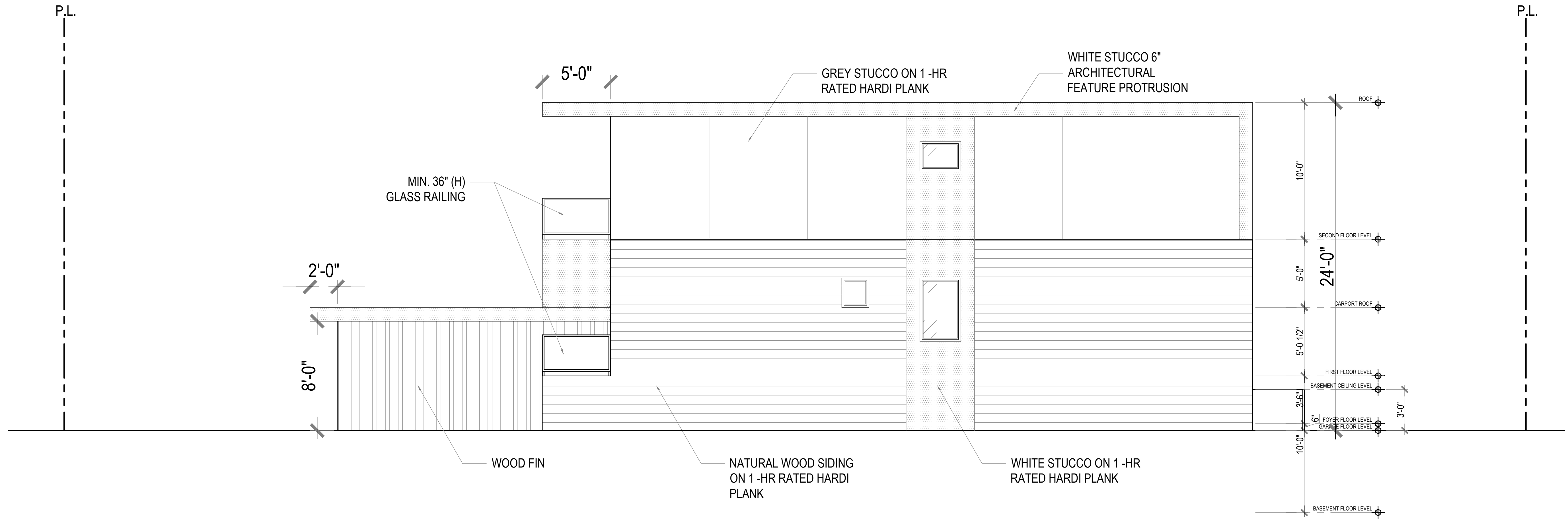
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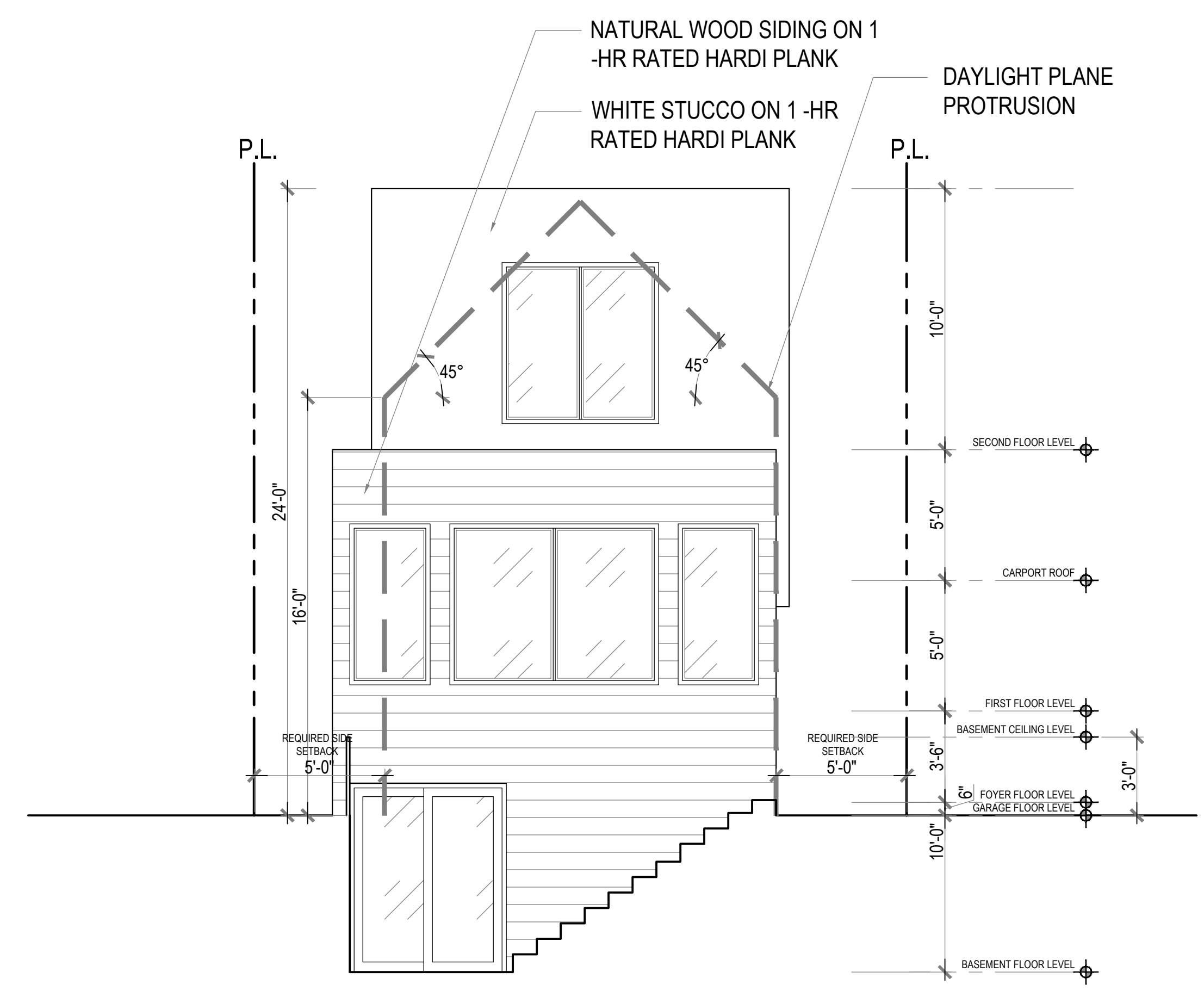
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**NEW SINGLE FAMILY HOUSE**  
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Sheet:  
**A201**

Drawing Title:  
**PROPOSED FRONT AND LEFT ELEVATIONS**



**PROPOSED RIGHT ELEVATION**  
SCALE: 1/4"=1'-0"



**PROPOSED REAR ELEVATION**  
SCALE: 1/4"=1'-0"

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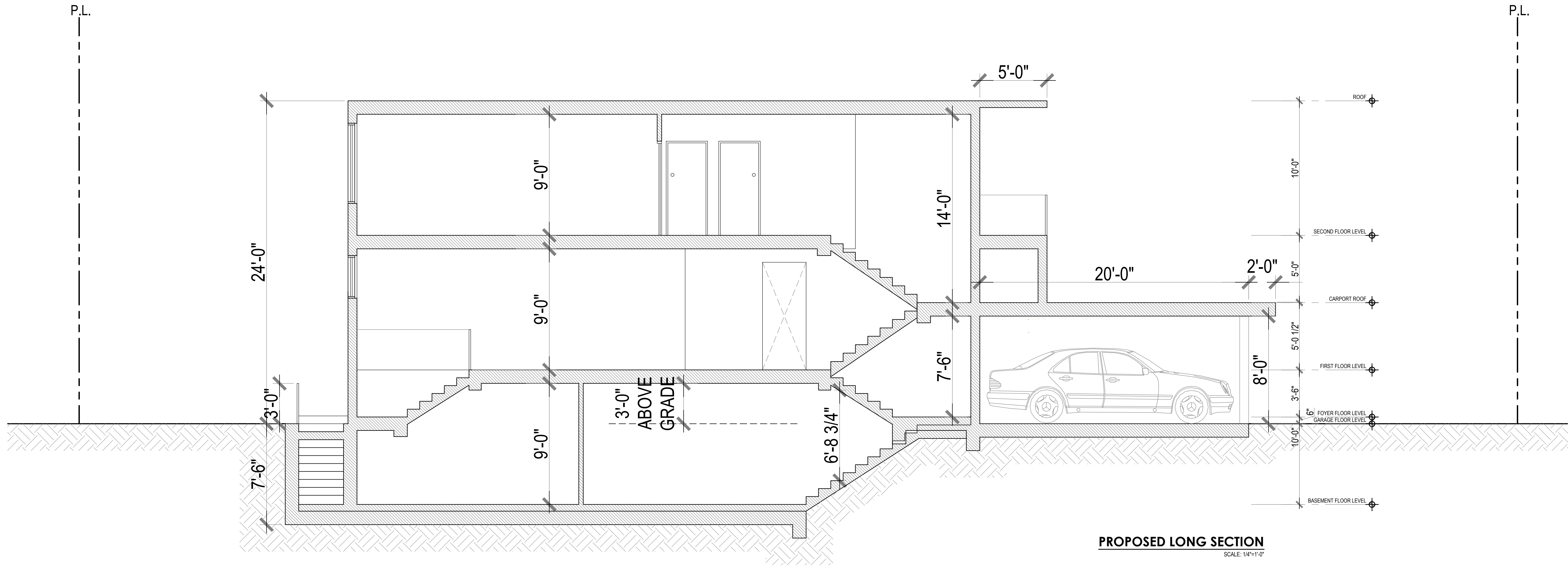
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Sheet:  
**A202**

Drawing Title:  
**PROPOSED REAR AND RIGHT ELEVATION**



Project Title:  
**NEW SINGLE FAMILY HOUSE**  
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Sheet:  
**A301**

Drawing Title:  
**PROPOSED LONG SECTION**

Revisions  
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 Dwg. Date:



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