

PLANNING AND ZONING Cerro Gordo County Courthouse

220 N Washington Ave Mason City, IA 50401-3254 cgcounty.org/planning (641) 421-3075 (641) 421-3110 plz@cgcounty.org

SPECIAL EXCEPTION STAFF REPORT

SUMMARY OF REQUEST

Case No.: 23-4	Hearing Date: January 31, 2022	
Staff Contact: John Robbins, Planning and Zoning Administrator		
Applicant	<u>Owner</u>	
Tony Kockler	Pamela S. Elmitt	
4309 7 th Avenue N	3837 127 th Street	
Clear Lake, IA 50428	Urbandale, IA 50323	

<u>Property Address</u>: 15440 Dodge Avenue <u>Brief Legal Description</u>: Lot 12, Block 6, Dodges Point Park

Zoning: R-3 Single Family Residential

Background

The applicant proposes to construct a 38'x 80.5' house to replace the existing house (See Figure 1). The property on which the existing house sits on was recently split into two, 50'-wide lots, which are the original platted lots in Dodges Point Park. This particular house is proposed to be on the north lot, while the Board will consider a separate request for another new house on the south lot.

SPECIAL EXCEPTION REQUEST*		
Structure	Request(s)	Requirement(s)
House	5.8' south side yard setback	6' minimum side yard setback required (11.6-B)

*See Figure 2

FINDINGS OF FACT

- 1. Pamela S. Elmitt is the owner of the subject property, located on Lot 12, Block 6, Dodges Point Park.
- 2. Tony Kockler is the applicant on behalf of the owner for the request.
- 3. The property is zoned R-3 Single Family Residential.
- 4. The proposed house is 5.8' from the south side lot line.
- 5. A minimum 6' side yard setback is required in the R-3 District.
- 6. The application was filed on December 28, 2022 with the Planning and Zoning Office.

ANALYSIS

The Board of Adjustment is provided the power to grant special exception under Section 24.4(A)(2) of the Zoning Ordinance. The Board may grant special exception to bulk standards of the ordinance if, in its judgement, the standards established in Section 24.4(A)(2)(a) are met. In its review, the Board may attach certain conditions to any special exception granted in order to observe the spirit of the Zoning Ordinance and Comprehensive Plan and mitigate any potential impacts that may directly result from the requested special exception.

Discussion of Standards of Review

Strict compliance with the standards governing setback, frontage, height, or other bulk provisions of this ordinance would result in a practical difficulty upon the owner of such property and only where such exception does not exceed 50 percent of the particular limitation or number in question.

The Elmitts recently had the property surveyed and discovered the lot is not quite square along the side lot lines, getting slightly narrower in width as it gets closer to the lake. The proposed house would meet the required side yard setback if not for this slight narrowing of the lot. The proposed 5.8'setback is nominally too close to the lot line from the minimum 6' south side yard setback requirement—no closer than 50 percent of said requirement. The standard appears to be met.

The exception relates entirely to a permitted use (principal, special, or accessory) classified by applicable district regulations, or to a permitted sign or off-street parking or loading areas accessory to such a permitted use.

A single family home is a principal permitted use in the R-3 District. The standard appears to be met.

The practical difficulty is due to circumstances specific to the property and prohibits the use of the subject property in a manner reasonably similar to that of other property in the same district.

The practical difficulty is entirely due to the slight narrowing of the property's lot width. The proposed house, which is generally average in size for the vicinity, would otherwise meet the required side yard setbacks. The standard appears to be met.

A grant of the special exception applied for, or a lesser relaxation of the restriction than applied for, is reasonably necessary due to practical difficulties related to the land in question and would do substantial justice to an applicant as well as to other property owners in the locality.

The proposed house is an average-size house in Dodges Point Park, and the requested exception for a 5.8' setback is negligible, being only a few inches too close to the south side lot line due to the slight narrowing of the lot. The standard appears to be met.

Such practical difficulties cannot be overcome by any feasible alternative means other than an exception.

The proposed 5.8' south side yard setback would be met if not for the slightly irregular shape of the lot. The house could potentially be constructed narrower, but generally the principle of this standard appears to be met. In staff's opinion, this standard is not intended to prevent construction for a reasonable request such as this that only encroaches a couple inches into the required setback.

Relief can be granted in a manner that will not alter the essential character of the locality.

The proposed house is similar to other houses in the vicinity and consistent with the character of the neighborhood. The standard appears to be met.

Discussion of Potential Impacts to Immediate Area

The property was recently split from the adjacent lot to the south into the original 50'-wide platted lots within Dodges Point Park. Both lots meet the minimum size and widths of the Zoning Ordinance. Generally, the most pressing concern is typically encroachment between buildings and impacting views to the lake on lake lots for neighbors. However, the proposed 5.8' south side yard setback encroaches only a few inches into the required setback, which is generally considered nominal. The proposed house is not located closer to the lake than the existing house and will not block any views for neighbors (See Figure 3). As a result, there are no foreseeable negative impacts from the proposal.

Staff Conclusions and Recommendation

In a literal interpretation of the standards for review, five of the six standards have been met; however, in staff's opinion, all six have been met as they were originally intended.

The one standard that falls into somewhat of a grey area of interpretation is whether there is a feasible alternative. The applicant would have the option to construct a slightly narrower house and would be able to meet the strict standard of a minimum 6' south side yard setback. The proposed 5.8' south yard setback encroaches a few inches into the required setback. This requirement would otherwise be met if not for the slight irregular shape of the lot. As result, staff's opinion is that the intent of the standard as constructed has been met.

Staff recommends approval as requested.

BOARD DECISION

The Board of Adjustment may consider the following alternatives:

<u>Alternatives</u>

- 1. Grant the requested special exception subject to any condition as deemed necessary by the Board.
- 2. Grant relief less or different from the requested special exception.
- 3. Deny the requested special exception.

The following motions are provided for the Board's consideration:

Provided motion of approval:

- I move to adopt the staff report as the Board's findings and to approve the special exception as requested by Tony Kockler on behalf of Pamela Elmitt, subject to the following conditions:
 - 1. All construction shall comply with the site plan submitted with the application.
 - 2. No construction shall begin until a Zoning Permit has been issued by the Planning and Zoning Office.

Provided motion of denial:

• I move to adopt the staff report as the Board's findings and to deny the special exception as requested by Tony Kockler on behalf of Pamela Elmitt for the following reasons:

[STATE REASONS FOR DENIAL]

EXHIBITS

- Exhibit 1: Figures
- Exhibit 2: Special Exception Application
- Exhibit 3: Site plan
- Exhibit 4: Building plans
- Exhibit 5: Plat of survey
- Exhibit 6: Aerial photo of site

Figure 1 Looking at the proposed location of the house



January 18, 2023, J. Robbins

Figure 2 Looking westerly along the south side lot line



January 18, 2023, J. Robbins

Figure 3 Looking northerly at the rear side of the existing deck



January 18, 2023, J. Robbins

SPECIAL EXCEPTION APPEAL

APPLICATION

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IITA when A he A !	
	.03-
Property Owner Name: Pan Elmitt Phone 55577 570	E-Mail: ASE Millan
Property Owner Address: 3837 127 St. URBANDALE	IA 50323
Property Description (Not to be used on legal documents): Parcel # <u>QS- ZZ-3ZL-062.0</u> Towns	ship <u>C.L.</u>
Property Address: Lot 12 BUL 6 DODGES DT Zoning	<u>, Z-3</u>
Property Address: <u>LOT TO BUC 6 DODGES DT</u> Zoning IS 440 Dodge Ave Brief Legal Description:	

Project Description

NEW Harse

Special Exception(s) Requested (As cited on results from denied Zoning Permit Application)

5.8 S. SIDE Set BACK

Criteria Justifying Special Exception under Standards for Review (You may add more details in the Additional Information)

K 80 73 ENCROMH is loss the 50% REQUINERI Be, 1k Contract Purchaser 🎽 Other (Explain) I am the 🛛 Owner of the property affected.

I, the applicant, being duly sworn, depose and say that I am the owner, or that I am authorized and empowered to make affidavit for the owner, who makes the accompanying application; and that the information provided is true and correct and actual construction will proceed in accordance with the purposes herein stated and any conditions and/or requirements the Board of Adjustment may stipulate. The Planning & Zoning staff and Board of Adjustment members are also given permission to enter the above property in reviewing this Application.

Applicant Signature Tay

Date 12-20-2020

12/28/22

Decision Date:

SPECIAL EXCEPTION APPEAL

ADDITIONAL INFORMATION

Please provide any additional details below needed to fully address the standards for review and any potential impacts to the immediate vicinity that may directly result from the special exception requested.

. . . .

SPECIAL EXCEPTION APPEAL

ADDITIONAL INFORMATION

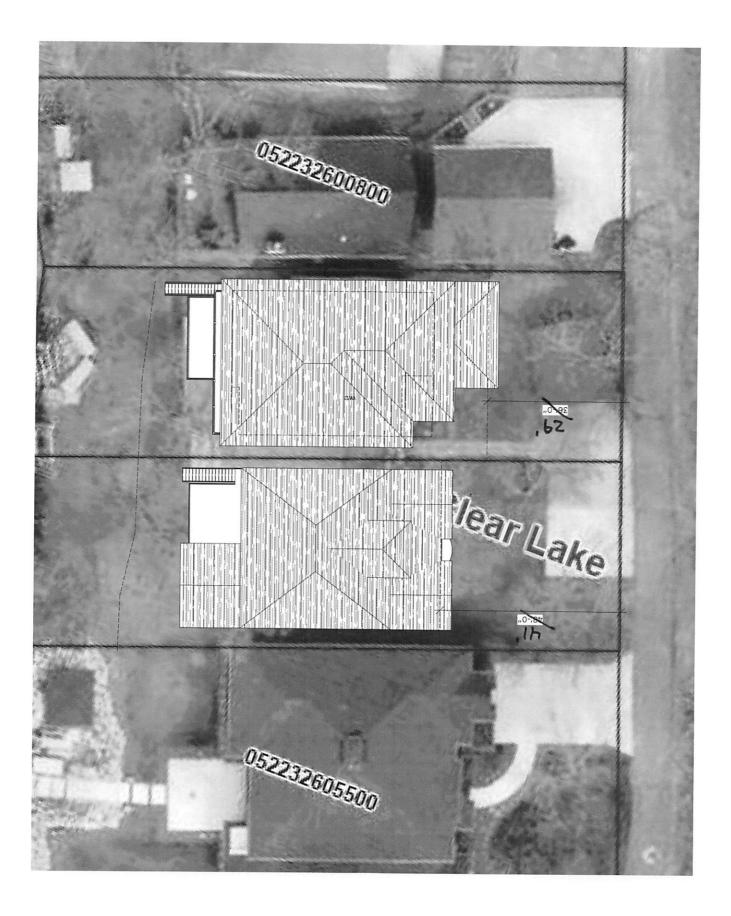
Please provide any additional details below needed to fully address the standards for review and any potential impacts to the immediate vicinity that may directly result from the special exception requested.

· Single FAMily Home - PERMITTED USE. · Concurrent up Existing Hours · Need spacing fou construction And EncroAdtment them Existing How to S. No teasible alterative bocass of proximity of Home

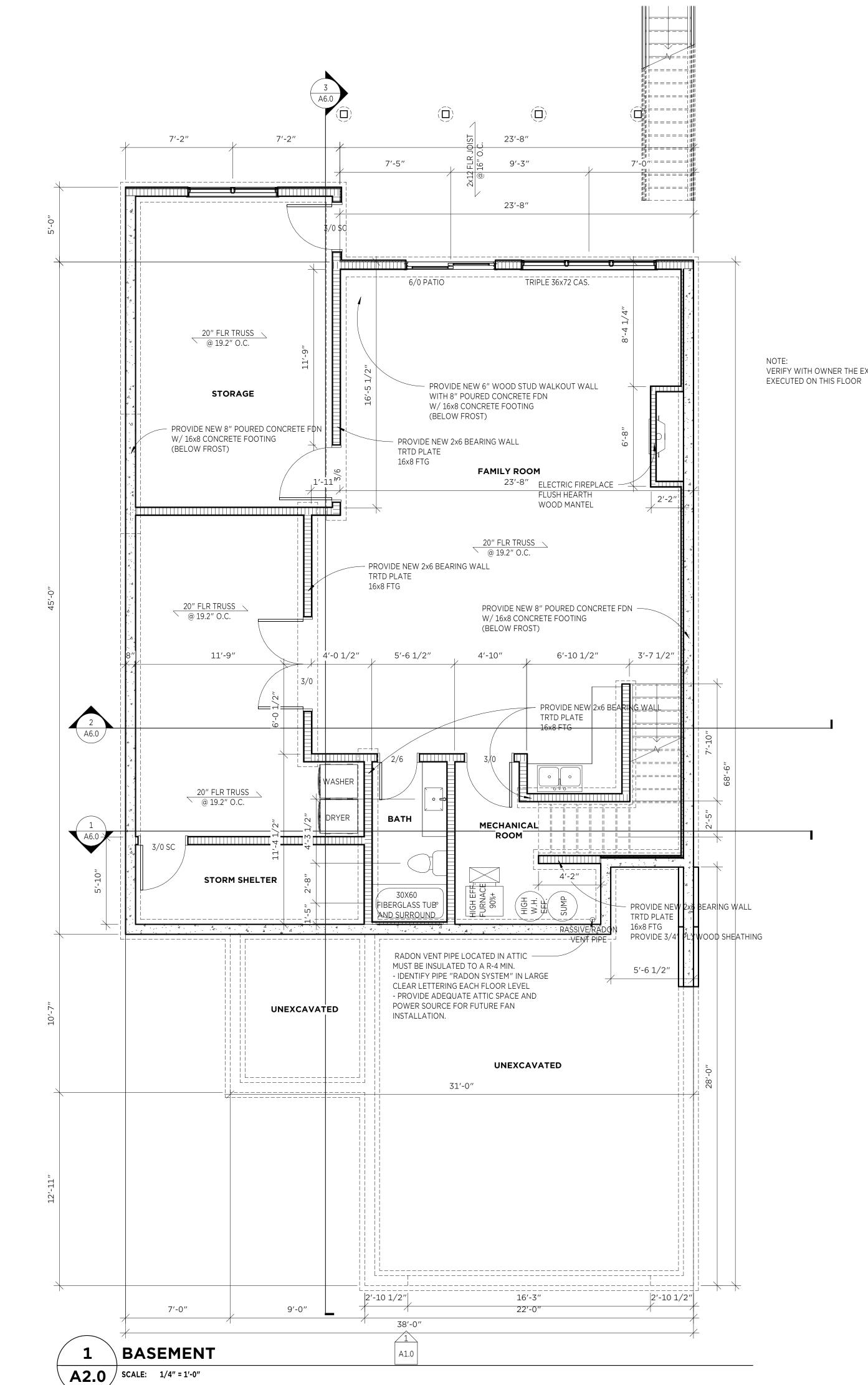
· Proper Spacing Allows for REASONARLE Distances in AREA.

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VERIFY WITH OWNER THE EXTENT OF WORK TO BE

NOTE: ALL INT. & EXT. BEARING OPENINGS LESS THEN 4'-0" SHALL HAVE 2-2x10 HEADERS ALL OTHER HEADERS TO BE 3-2x10 UNLESS OTHERWISE SPECIFIED ON THE DRAWINGS. VERIFY ALL HEADER CHANGERS FROM THE LUMBER CO., TRUSS CO. AND/OR BUILDING OFFICIALS.

> ALL GIRDER TRUSS LOCATIONS ARE AT THE DISCRETION OF THE TRUSS CO. AND ARE TO BE STRUCTURALLY ENGINEERED.

ALL LVL BEAMS ARE TO BE VERIFIED PRIOR TO CONSTRUCTION.

NOTE: BASEMENT FLOOR TO HAVE 8'-9 1/2" RGH CLG HGT FIRST FLOOR TO HAVE 11'-1 1/8" RGH CLG HGT SECOND FLOOR TO HAVE 9'-1 1/8" RGH CLG HGT

NOTE: WINDOWS ARE CALLED OUT BY SIZE (ADJUST AS REQ'D PER MAN'F)

NOTE: PROVIDE 2" RIGID INSULATION AT ALL PERIMETER CONCRETE WALLS

NOTE: PROVIDE SILL SEALER UNDER 2x6 BEARING PLATE TYP.

MECHANICAL & ELECTRICAL NOTES

PLACEMENT OF MECHANICAL COMPONENTS WILL BE DETERMINED BY BUILDING CODES AND MAY VARY FROM THAT SHOWN

ELECTRICAL TO BE PROVIDED TO CODE. LOCATIONS OF OUTLETS MAY VARY FROM THAT SHOWN. UPGRADES AND ADDITIONS MUST BE SPECIFIED ON PLANS

SMOKE DETECTORS TO BE INTERCONNECTED, HARDWIRED, WITH BATTERY BACK-UP. ONE PER LEVEL AND IN EACH BEDROOM

CARBON MONOXIDE ALARMS ARE REQUIRED. THEY MUST BE LOCATED OUTSIDE AND WITHIN 10'-0" OF ANY SLEEPING ROOM. BATTERY OPERATED ARE ALLOWED.

STRUCT ENGINEER STRUCTURAL CONSULTANT ADDRESS CITY, STATE ZIP

MEP ENGINEER MEP CONSULTANT ADDRESS CITY, STATE ZIP Ph. FAX

FAX

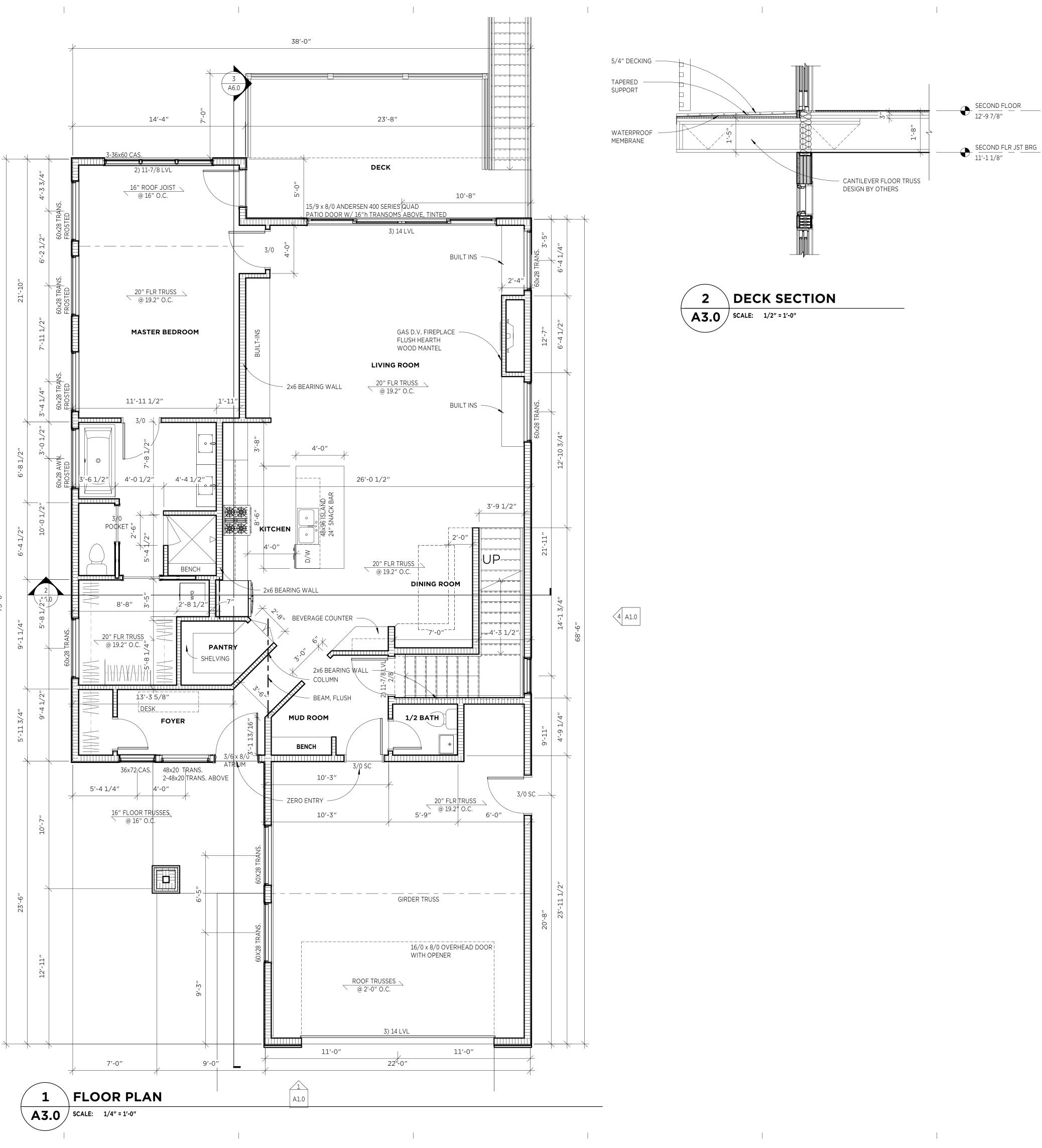
REVISIONS NO. NAME DATE











GENERAL NOTES

- 1. PRIOR TO PROCEEDING WITH THE WORK, THE CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS.
- 2. IT IS NOT THE INTENT OF THE DRAWINGS TO SET FORTH IN DETAIL OR TO OTHERWISE DIRECT EVERY ITEM PROPERLY NECESSARY TO THE COMPLETION OF THIS PROJECT. THE CONTRACTOR MUST RECOGNIZE THAT IT IS HIS SOLE RESPONSIBILITY TO BE FULLY QUALIFIED FOR THE WORK AND THAT HE MUST WITHOUT DIRECTION, ACCOMPLISH EVERYTHING NECESSARY SO AS TO PROVIDE A GOOD AND WORKMANLIKE CONSTRUCTION COMPLETE IN EVERY NECCESSARY RESPECT AND IN ACCEPTABLE CONDITIONS, READY FOR USE WITHOUT ANY ADDITIONAL WORK BEING REQUIRED OTHER THAN EXPLICITYLY STATED IN THE CONTRACTOR'S PROPOSAL.
- 3. ALL NEW MATERIAL SHALL NOT CONTAIN ASBESTOS CONTRACTOR SHALL VERIFY W/ SUPPLIERS & SUBCONTRACTORS. PROVIDE VERIFICATION DOCUMENTATION TO ARCHITECT.
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- 6. PROPERLY PREPARE ALL SURFACES TO RECEIVE A FINISH.
- 7. SLOPE CONCRETE PLATFORM SLABS 1/4" PER FOOT AWAY FROM THE BUILDING.
- 8. EXPANSION JOINTS: 1/2" EXPANSION JOINT FILLER HELD 1/2" BELOW TOP OF CONCRETE SLAB, APPLY SEALANT OVER, FURNISH &
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- 10. WEEPS SHALL BE WICK TYPE AND EXTEND FROM THE EXTERIOR FACE OF THE ROCK-FACE CMU WYTHE TO THE WALL CAVITY, THEN LAY HORIZONTAL 12" ALONG THE BOTTOM OF THE THROUGH-WALL FLASHING.
- 11. ALL THROUGH-WALL FLASHING JOINTS SHALL BE LAPPED AND SEALED WITH SEALANT, WATERTIGHT. END DAM THE ENDS OF ALL THROUGH-WALL FLASHING.
- 12. AT THE COMPLETION OF THE DAILY WORK, PROPERLY COVER THE TOP OF ALL MASONRY WALLS TO PREVENT MOISTURE FROM ENTERING THE WALL.
- 13. PRIOR TO PLACEMENT OF CONCRETE SLABS, CONTRACTOR SHALL PLACE PLASTIC SHEATHING AT THE BOTTOM OF ADJACENT WALLS TO PROTECT THE WALLS FROM CONCRETE SPLATTERS.
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- 17. R502.2.1 POST BEAM CONNECTION WHERE POST AND BEAM OR GIRDER CONSTRUCTION IS USED, THE DESIGN SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THIS CODE. POSITIVE CONNECTION SHALL BE PROVIDED TO ENSURE AGAINST UPLIFT AND LATERAL DISPLACEMENT.
- 18. IF FOUNDATION WALLS ARE PARALLEL TO FLOOR FRAMING, SOLID BLOCKING OR DIAGONAL BRACING MUST BE INSTALLED AT THE ANCHOR BOLT LOCATIONS IN THE FIRST TWO JOIST OR TRUSS SPACES
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- 24. ALL HABITABLE SPACES REQUIRE 8% LIGHT AND 4% VENTILATION
- 25. 6'-8" MINIMUM STAIR HEADROOM. 34" TO 38" HANDRAIL HEIGHT. RETURN ALL ENDS TO POST OR WALL.
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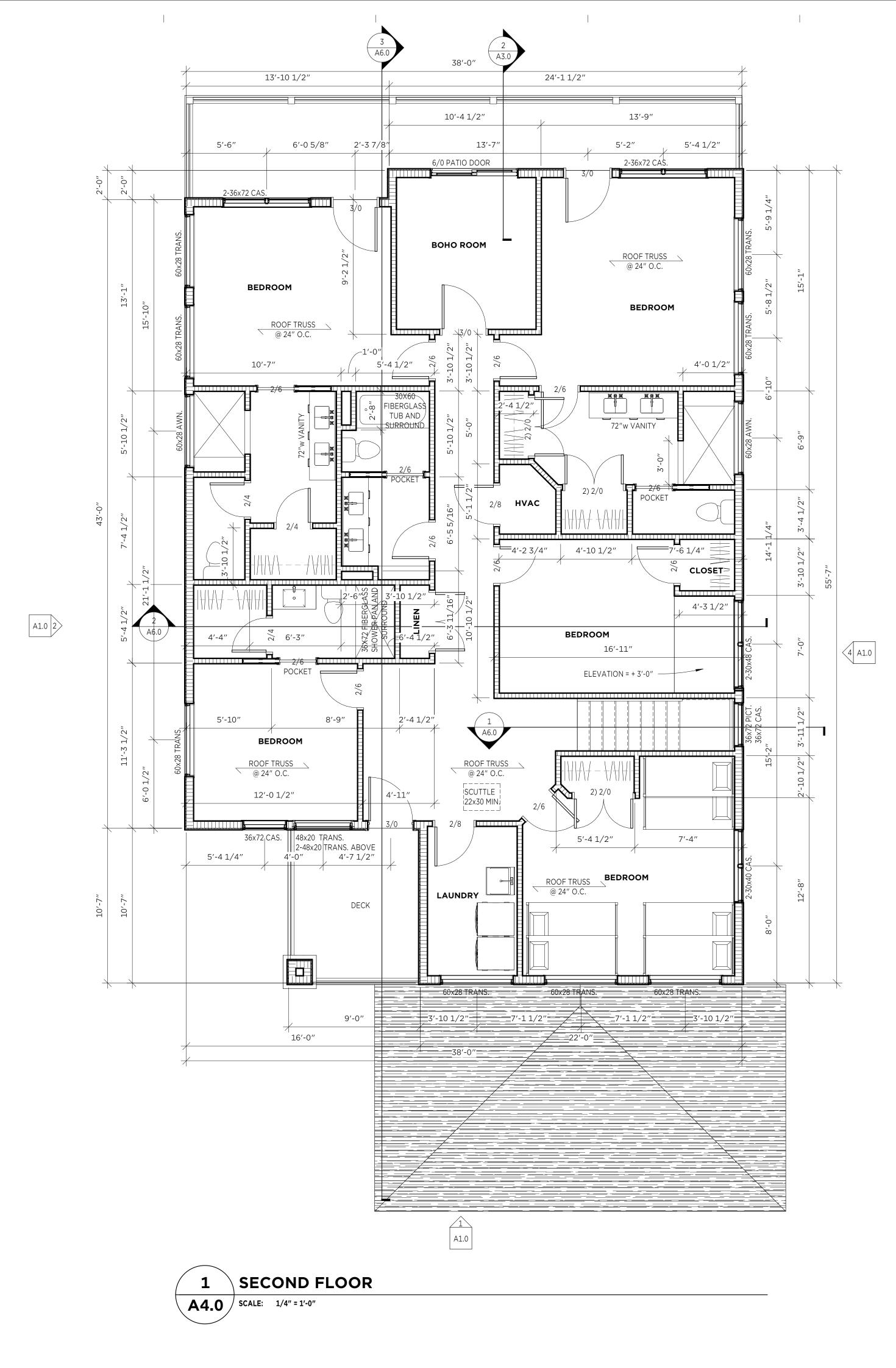
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1/10/2023

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TO CONSTRUCTION.

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NEW RESIDE PAM ELMIT

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CITY, STATE ZIP Ph. FAX MEP ENGINEER

STRUCT ENGINEER

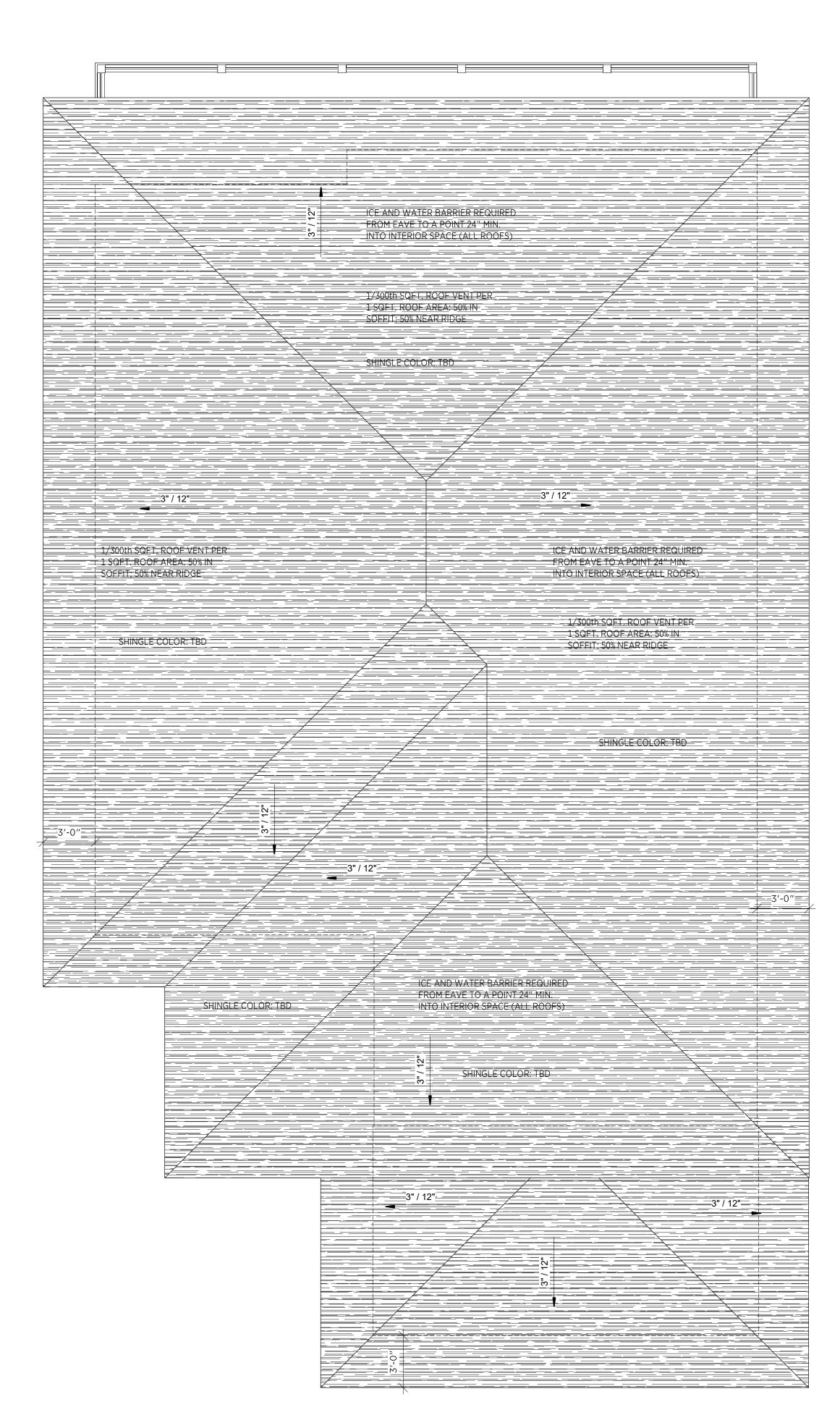
STRUCTURAL CONSULTANT

ADDRESS

MEP CONSULTANT ADDRESS CITY, STATE ZIP Ph. FAX

> REVISIONS NAME DATE

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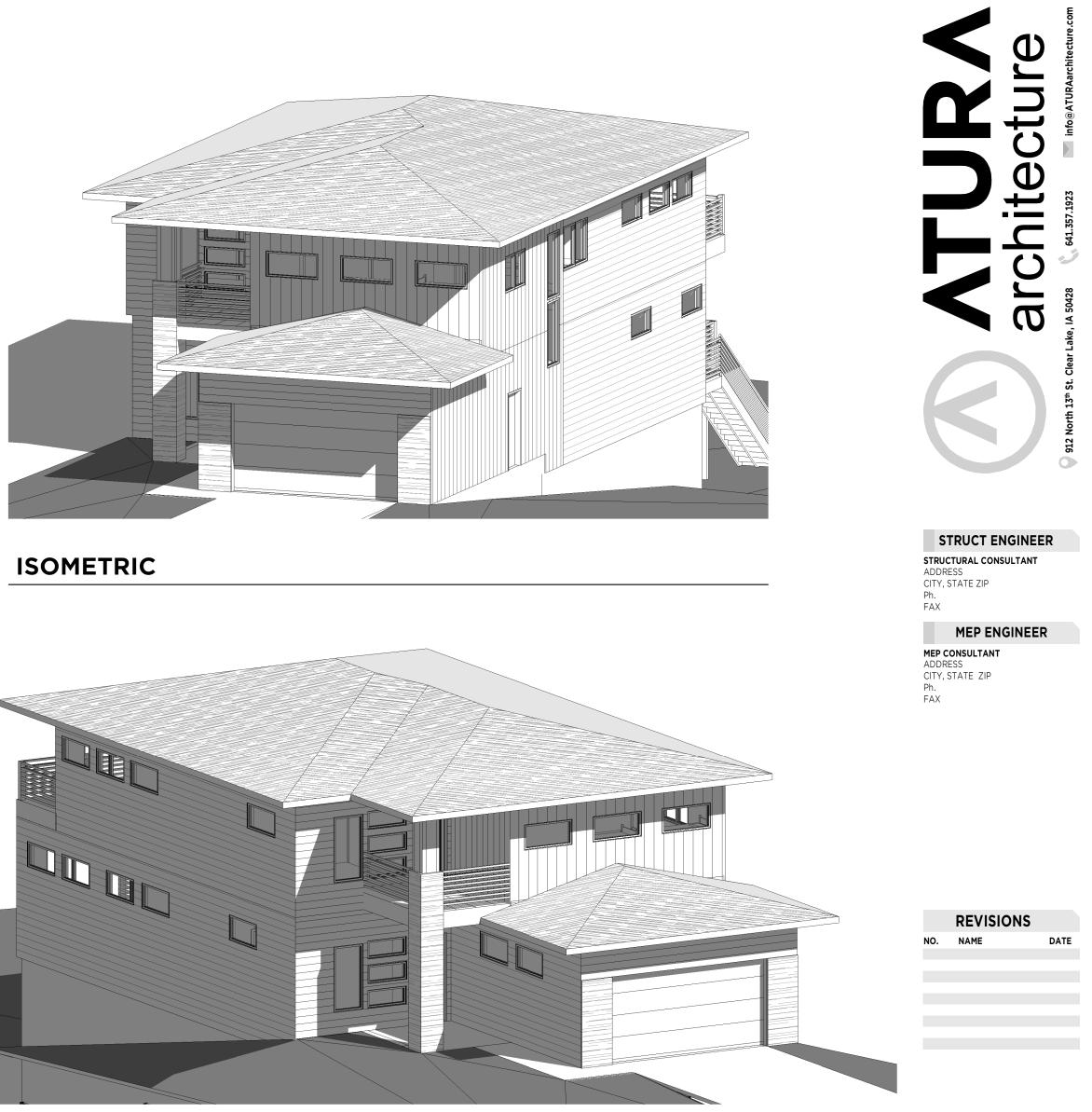
ROOF PLAN GENERAL NOTES

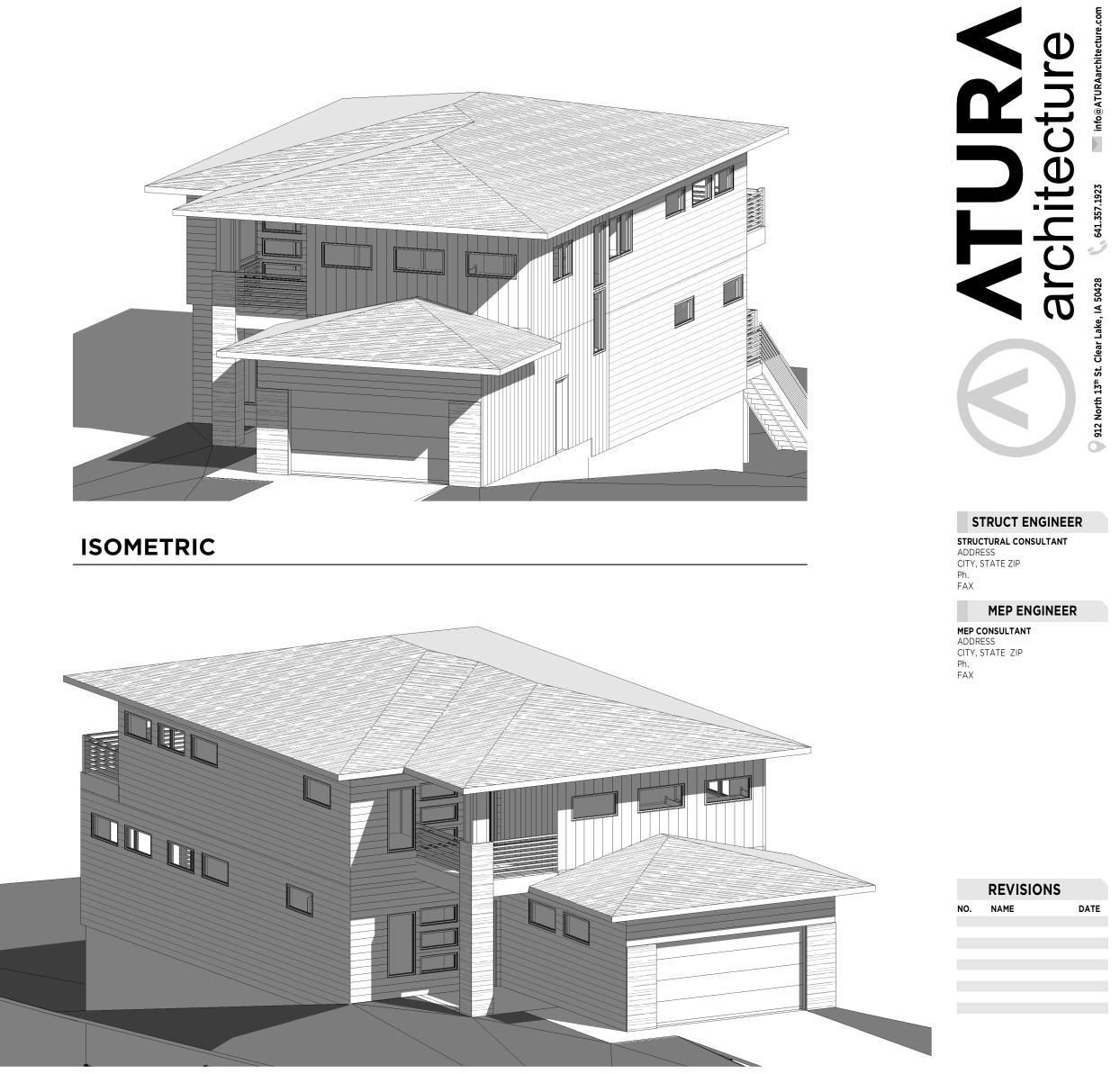
- 1. REFERENCE ROOF KEY PLAN FOR ROOFING, INSUL., AND RELATED WORK.
- 2. ARROWS INDICATE THE DIRECTION OF DOWNWARD SLOPE.
- 3. SEE MECH DRAWINGS FOR MECH. UNITS, OPENINGS, PENETRATIONS, CURBS, CONDUIT, ETC.
- 4. 1/300th SQFT. ROOF VENT PER 1 SQFT. ROOF AREA: 50% IN SOFFIT; 50% NEAR RIDGE
- 5. ICE AND WATER BARRIER REQUIRED FROM EAVE TO A POINT 24" MIN. INTO INTERIOR SPACE (ALL ROOFS)
- 6. SHINGLE COLOR TBD

ROOF PLAN KEYED NOTES

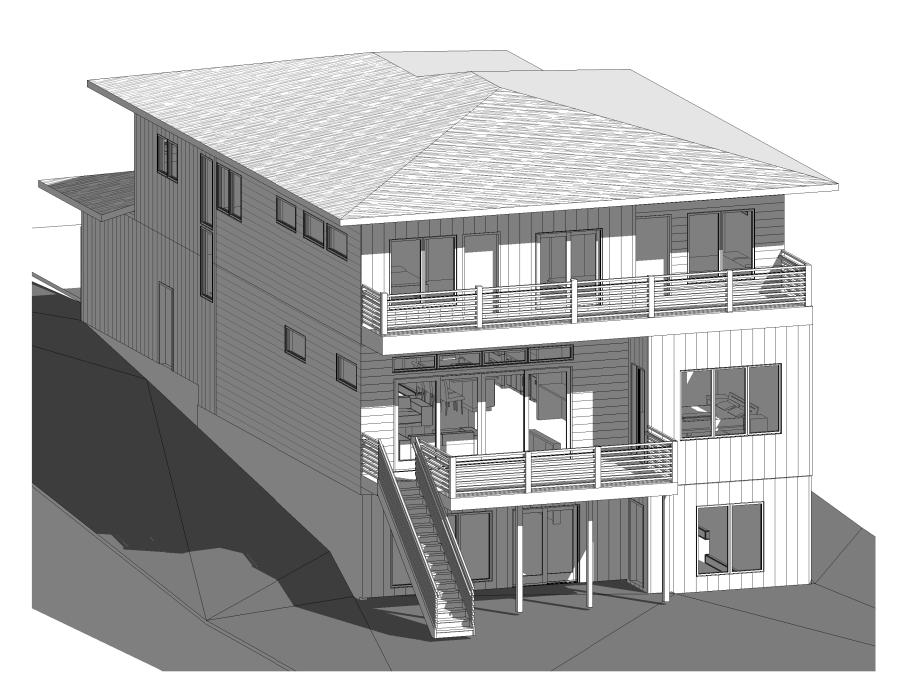
R1 6"X6" PREFIN. MTL. GUTTER - TBD

R2 4"X6" PREFIN. MTL. DOWNSPOUT. - TBD





ISOMETRIC 2



ISOMETRIC 3

Ш NEW RESIDE PAM ELMIT DATE 1/10/2023

SHEET



