

**SAUSALITO PLANNING COMMISSION  
RESOLUTION NO. 2021-20**

**DENIAL OF THE APPEAL AND UPHOLDING OF THE COMMUNITY DEVELOPMENT  
DEPARTMENT'S DETERMINATION OF THE APPROVAL OF AMNESTY ACCESSORY  
DWELLING UNIT PERMIT AT 11 MARION AVENUE  
(PROJECT ID 2021-00182)**

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**WHEREAS**, on March 24, 2021 the Community Development Department received an Amnesty ADU Permit application (Project ID 2021-00080) for 11 Marion Avenue from Applicant Nina Manzo on behalf of property owner Carroll Eugene Aksamit, Trustee Inga Aksamit; and

**WHEREAS**, the Community Development Department reviewed the application and determined that it met the Amnesty Accessory Dwelling Unit Permit Standards listed in Sausalito Municipal Code (SMC) Section 10.44.080.G; and

**WHEREAS**, on June 22, 2021, the Community Development Department approved the Amnesty ADU Permit, pursuant to SMC Section 10.44.080.G which states: "A permit allowing an amnesty accessory dwelling unit shall be issued by the Community Development Director upon compliance with the following development standards or requirements during the amnesty period effective from March 31, 2019, through December 1, 2021."; and

**WHEREAS**, the Community Development Department's decision was subject to a 10-day appeal period ending on July 2, 2021; and

**WHEREAS**, on July 1, 2021 the Community Development Department received an appeal of administrative decision of the Amnesty ADU Permit pursuant to SMC section 10.84.020; and

**WHEREAS**, the Planning Commission conducted a duly-noticed public hearing to consider the appeal on July 21, 2021 at which time all interested persons were given an opportunity to be heard; and

**WHEREAS**, the Planning Commission has reviewed and considered the information contained in the July 21, 2021 Staff Report for the project; and

**WHEREAS**, the Planning Commission finds that the Community Development Department's determination of the approval of the Amnesty ADU Permit at 11 Marion Avenue complies with the Sausalito Municipal Code; and

**WHEREAS**, the determination of approval of an Amnesty ADU Permit is Statutorily Exempt from further environmental review under Section 15268 (Ministerial Projects) of the California Environmental Quality Act (CEQA) guidelines and Section 21080(b)(1) of the Public Resources Code.

**NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES AS FOLLOWS:**

1. The project is Categorically Exempt under §15268 the CEQA Guidelines.
2. The Planning Commission denies the appeal and upholds the Community Development Department's determination of approval of the Amnesty ADU Permit at 11 Marion Avenue on the basis that the Community Development's approval of the Amnesty ADU Permit was consistent with the standards listed in Sausalito Municipal Code (SMC) Section 10.44.080.G.

**RESOLUTION PASSED AND ADOPTED**, at the adjourned regular meeting of the Sausalito Planning Commission on the 21<sup>th</sup> day of July, 2021, by the following vote:

AYES: Commissioner: Graef, Saad, Luxenberg, Junius, Chair Feller  
NOES: Commissioner: None  
ABSENT: Commissioner: None  
ABSTAIN: Commissioner: None

*Lilly Whalen*

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Lilly Whalen, Secretary to the Planning Commission

**ATTACHMENTS**

1. Community Development Departments Notice of Decision regarding approval of an Amnesty Accessory Dwelling Unit at 11 Marion Avenue (Project ID 2021-00080), dated June 22, 2021



# CITY OF SAUSALITO

Community Development Department  
420 Litho Street • Sausalito, CA 94965  
Telephone: (415) 289-4128  
Fax: (415) 339-2256  
[www.sausalito.gov](http://www.sausalito.gov)

**DECISION DATE:** June 22, 2021  
**APPEAL PERIOD:** June 22, 2021 to July 2, 2021  
**EFFECTIVE DATE:** July 3, 2021

**TO:** Nina Manzo  
Via email: [nina@michaelrexarchitects.com](mailto:nina@michaelrexarchitects.com)

**RE:** Notice of Decision regarding approval of Amnesty Accessory Dwelling Unit Permit 2021-00080

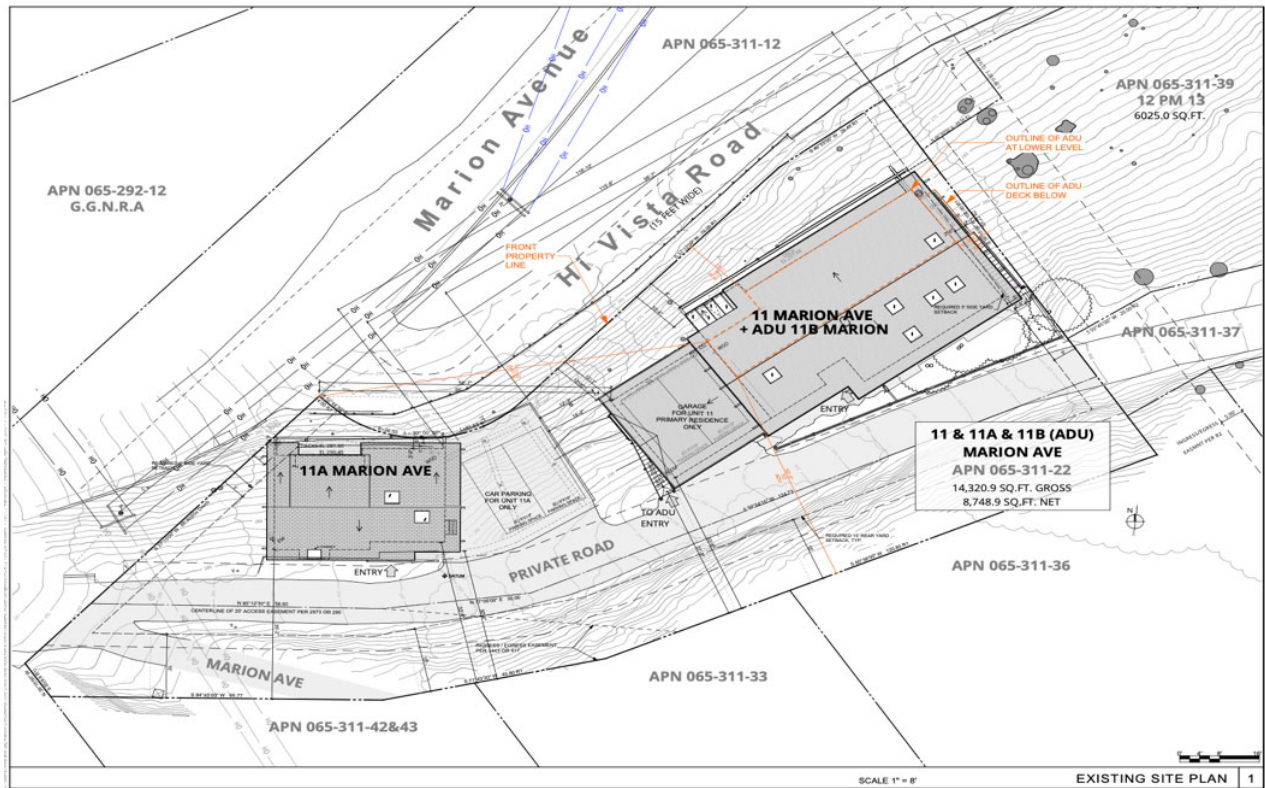
## DECISION

Following review by the Community Development Department, the Community Development Director has approved Amnesty Accessory Dwelling Unit Permit (2021-00080) at 11 Marion Avenue Unit B (APN 065-311-22). This approval will become final ten (10) days from the date of this Notice unless a timely appeal is filed with the Community Development Department (see additional information below). The project is Categorically Exempt from the California Environmental Quality Act (CEQA) under Section 15303.a (Conversion of Small Structures into Second Dwelling Units) of the CEQA Guidelines. The project is approved based upon compliance with the Accessory Dwelling Unit Development Standards and Requirements in Attachment 1 and subject to the Conditions of Approval in Attachment 2 and Advisory Notes in Attachment 3. The approved project plans are provided in Attachment 4.

## PROJECT DESCRIPTION

The subject property, APN 065-311-22 is a 14,321square foot parcel within the R-2-2.5 Two-Family Residential zoning district. There is currently two single family dwelling units and one unpermitted interior ADU developed on the property, 11 Marion Ave. is a 1,553 SF dwelling unit, and 11A Marion Ave. is 1,080 SF dwelling unit and 11B Marion is a 699 SF interior ADU located on the lower level of 11 Marion.

Figure 1: 11 & 11A & 11B Marion Site Plan



Sometime prior to 1996 a 699 SF ADU was constructed at the lower level space of 11 Marion Avenue.

Figure 2: Existing North Elevation

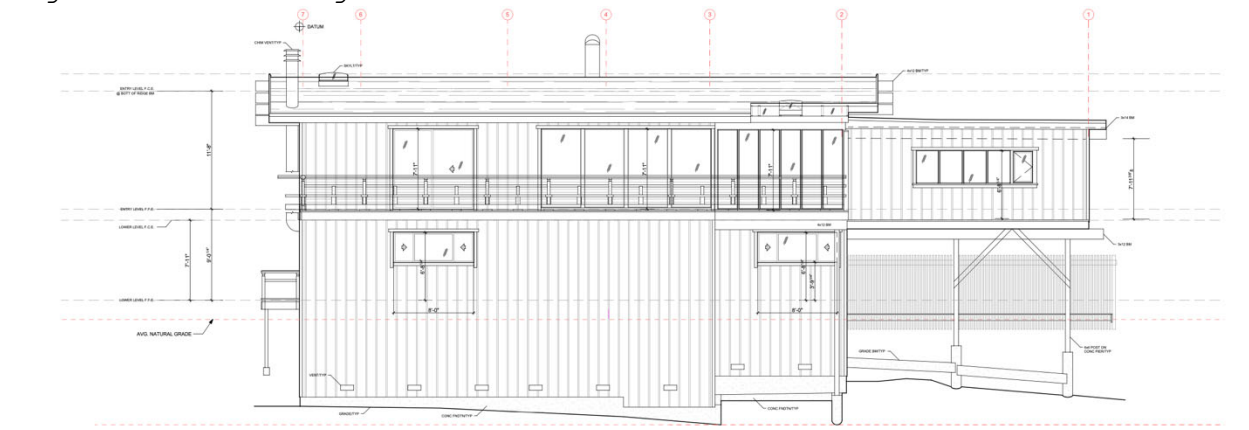
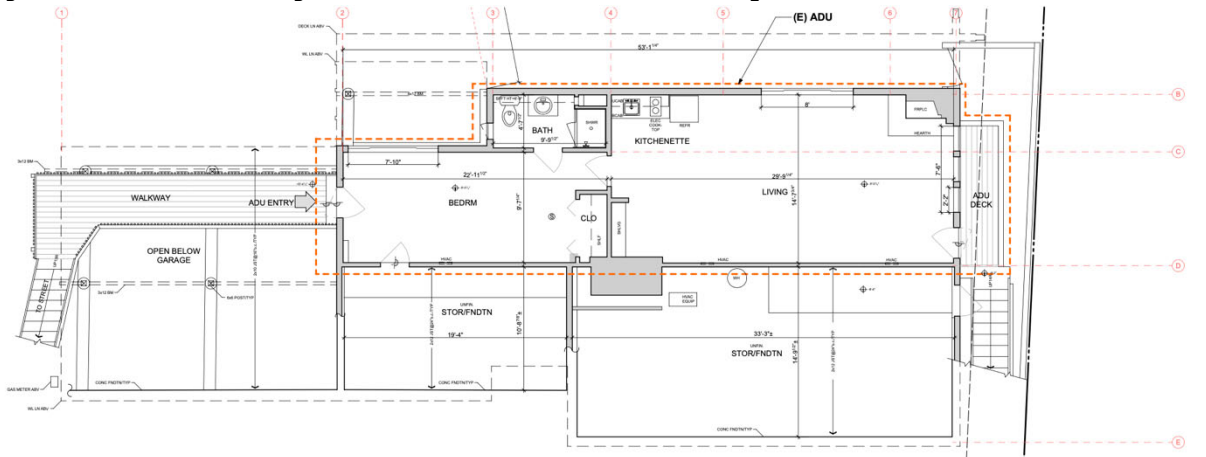


Figure 3: Existing lower level ADU floor plan



The applicant is proposing to complete all health and safety upgrades required by the Building Division and Fire Department for the Amnesty ADU Permit pursuant to Sausalito Municipal Code Section 10.44.080.G.1.c in conjunction with a voluntary remodel of the ADU. Completion of all required health and safety upgrades are a Condition of Approval (**see Condition of Approval 1**) for the Amnesty ADU Permit. On April 12, 2021 Building Inspector Kenneth Henry conducted a Safety Inspection and requires the following correction, which are included as part of the approved project plans of Zoning Permit 2021-00118 & Building Permit B2021-0366.

- Provide compliant emergency escape and rescue window opening serving bedroom (see Sheet A2.1 & A3.1)
- Provide handrail at entry stairway within 34" to 38" range and compliant guard at existing deck located at east elevation (see Sheet A3.1 & A3.2)
- Provide separate heating/cooling controls serving ADU (see Sheet A2.1)
- Provide unobstructed and permanent access to electrical overcurrent device (see Sheet A2.1)
- Provide GFCI electrical receptacle serving kitchen sink (see Sheet A2.1)

\_\_\_\_\_  
 Lilly Whalen  
 Community Development Director

\_\_\_\_\_  
 Date

\* All actions of the Community Development Director are subject to appeal to the Planning Commission in accordance with Chapter 10.84 of the Zoning Ordinance. Any appeal must be made in writing to the Community Development Department within ten (10) days from the date of this Notice and accompanied by an appeal fee.

ATTACHMENTS:

1. Accessory Dwelling Unit Development Standards and Requirements
2. Conditions of Approval
3. Advisory Notes
4. Approved Project Plans

**ATTACHMENT 1  
AMNESTY ACCESSORY DWELLING UNIT PERMIT STANDARDS  
11B MARION AVENUE  
PROJECT ID 2021-00080**

Sausalito Municipal Code (SMC) Section 10.44.080 contains Accessory Dwelling Unit (ADU) regulations. SMC Section 10.44.080.G requires the Community Development Director to issue an Amnesty ADU Permit upon compliance with the following development standards or requirements during the amnesty period effective from March 31, 2019, through December 1, 2021

DEVELOPMENT STANDARD/REQUIREMENT	CITY STAFF DETERMINATION
<p><b>1. Documentation.</b> The existing accessory dwelling unit proposed for legalization must have been constructed or established prior to January 1, 2012, as demonstrated by two forms of evidence. Acceptable means of documenting compliance with this standard include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>i. County Assessor's records;</li> <li>ii. Rental contracts and/or receipts;</li> <li>iii. Income tax records;</li> <li>iv. Utility bills;</li> <li>v. Contractor's bills and/or;</li> <li>vi. Written affidavits from former owners, tenants, or neighbors, signed and notarized under penalty of perjury</li> </ul>	<p><b>Compliance.</b> The applicant has provided to the city two forms of evidence the existing ADU was constructed prior to January 1, 2012. This standard is met.</p>
<p><b>2. Fees.</b> Fees as established by City Council resolution shall be paid</p>	<p><b>Compliance.</b> All fees paid on March 24, 2021 This standard is met.</p>
<p><b>3. Accessory Dwelling Units per Parcel.</b> Only one accessory dwelling unit may be allowed per residential lot containing an existing or proposed single-family dwelling unit. An accessory dwelling unit may be allowed in conjunction with a junior accessory dwelling unit on a residential lot containing an existing or proposed single-family dwelling unit when the requirements of subsection (E)(1)(a) of this section are met. Accessory dwelling units on a residential lot containing an existing multifamily dwelling structure may be allowed when the requirements of subsection (E)(1)(b) of this section are met.</p>	<p><b>Compliance.</b> The existing ADU is the only ADU located on the parcel to accompany the two single-family dwelling units.</p>
<p><b>4. Access.</b> An amnesty accessory dwelling unit shall have a separate entrance. An entrance leading to a foyer with entrances leading from the foyer to the primary dwelling unit and the accessory dwelling unit is permitted.</p>	<p><b>Compliance.</b> The ADU has two separate entrances one at the southwest and another at the northwest elevation leading to the deck. This standard is met.</p>
<p><b>5. Kitchen and Bathroom Facilities.</b> An amnesty accessory dwelling unit shall contain its own kitchen facility and bathroom facility separate from the primary dwelling unit. The kitchen facility must include the following features:</p> <ul style="list-style-type: none"> <li>i. a sink;</li> <li>ii. a refrigerator of more than five cubic feet capacity;</li> </ul> <p>and</p>	<p><b>Compliance.</b> The ADU will contain its own kitchen facility and bathroom facility separate from the primary dwelling unit. The kitchen facilities incorporate all required features. This standard is met.</p>

DEVELOPMENT STANDARD/REQUIREMENT	CITY STAFF DETERMINATION
<p>iii. a range or cooktop.</p> <p><b>6. Owner Restriction.</b> For applications received after January 1, 2025, in single-family residential (R-1-20, R-1-8, R-1-6) zoning districts the owner of the property shall occupy either the primary unit or accessory dwelling unit as their primary residence. Prior to building permit issuance a deed restriction shall be recorded, in a form approved by the City Attorney, to ensure that the primary or accessory dwelling unit is owner-occupied. An owner may be absent from the primary or accessory dwelling unit for up to 12 months during any 36-month period. A property owner who will be absent for more than 12 months may obtain an additional 12 months' absence with the approval of a minor use permit by the Zoning Administrator. In consideration of the minor use permit, the Zoning Administrator may consider the neighborhood impacts such as parking, noise and property maintenance, in addition to the reason for the requested absence.</p>	<p><b>Compliance.</b> The property is Zoned R-2-2.5, the application was received before January 1, 2025 and is exempt from the Owner-Occupancy requirement. This standard is met.</p>
<p><b>7. Development Standards.</b></p> <p>i. Parking. Existing parking for the amnesty accessory dwelling unit shall be documented by the Community Development Department but not counted in determining if the unit is eligible for amnesty. Any existing parking provided for an amnesty accessory dwelling unit located in the required off-street parking areas shall be retained for the exclusive use of the amnesty accessory dwelling unit.</p> <p>ii. Floor Area Ratio. The floor area of the amnesty accessory dwelling units shall be documented by the Community Development Department but not counted in determining if the unit is eligible for amnesty. The floor area of the amnesty accessory dwelling unit shall be counted for future development of the primary dwelling unit parcel.</p> <p>iii. Building Coverage. The building coverage of the amnesty accessory dwelling units shall be documented by the Community Development Department but not counted in determining if the unit is eligible for amnesty. The building coverage of the amnesty accessory dwelling unit shall be counted for future development of the primary dwelling unit parcel.</p> <p>iv. Impervious Surface. The impervious surfaces of the amnesty accessory dwelling unit shall be documented by the Community Development Department but not counted in determining if the accessory dwelling unit is eligible for amnesty. The impervious surfaces of the amnesty accessory dwelling unit shall be counted for future development of the primary dwelling unit parcel.</p> <p>v. Setbacks. The setbacks of the amnesty accessory dwelling unit shall be documented by the Community</p>	<p><b>Compliance.</b> Parking, Building Coverage, and Impervious surfaces have been documented by the Community Development Department and are as follows:</p> <ul style="list-style-type: none"> <li>i. No parking exists nor can it be provided for the ADU at this time.</li> <li>ii. The existing ADU is 699 SF with one-bedroom. The parcel total floor area for the three units is 3,332 or 38% of the net parcel. The max floor area for the R-2-2.5 zoning district is 45%.</li> <li>iii. The total building coverage on the parcel is 4,355 SF or 30% of the net parcel area. The max building coverage is 35%.</li> <li>iv. The total impervious surface area is 7,730 SF or 54% of the net parcel. The max impervious surface area is 67.5%</li> <li>v. The existing setback to the ADU  Front 10'-4"  Rear 33'-6"  Right Side 58'-7"  Left Side to ADU 5'-7"  Left Side to existing ADU deck 2'-7"</li> </ul> <p>These standards are met.</p>



DEVELOPMENT STANDARD/REQUIREMENT	CITY STAFF DETERMINATION
Development Department but not counted in determining if the unit is eligible for amnesty.	
<p><b>8. Nonconformity Provisions.</b> Upon final issuance of an amnesty accessory dwelling unit permit obtained through the processes established by this subsection G, if the amnesty accessory dwelling unit violates any provisions of the municipal code it shall be deemed a legal nonconforming structure which shall be subject to Chapter 10.62 SMC (Nonconforming Uses and Structures).</p>	<p><b>Compliance.</b> The existing interior ADU does not violate any provisions of the municipal code. This standard is met.</p>
<p><b>9. Effect of Conversion.</b> For any amnesty accessory dwelling unit, elimination of any of the required access and facilities elements (i.e., the separate entrance, kitchen, bathroom facilities) shall require the property owner to demonstrate compliance of the main residence with all applicable development standards in the zoning ordinance (taking into account any preexisting legal nonconformities).</p>	<p><b>Advisory Note.</b> Refer to Advisory Note 9. Should the ADU be eliminated, or applicable requirements violated, the property owner shall demonstrate compliance of the property with all applicable development standards in the zoning ordinance.</p>
<p><b>10. Sunset Provision.</b> The amnesty period will be in effect from March 31, 2019, through December 1, 2021, before which time the owner of an existing accessory dwelling unit created prior to January 1, 2012, may submit a complete amnesty accessory dwelling unit permit application to legalize the accessory dwelling unit. The amnesty provisions only apply to complete applications received through December 1, 2021. The City Council may by resolution extend the conclusion of the amnesty period. An unpermitted accessory dwelling unit created prior to January 1, 2012, shall not be subject to code enforcement action prior to expiration of the amnesty period.</p>	<p><b>Compliance.</b> The application was received on March 24, 2021. This standard is met.</p>
<p><b>12. Delay in Building Code Enforcement.</b> Pursuant to Government Code Section 65852.2(n), if the accessory dwelling unit was built prior to November 10, 2020, upon request of the owner of the accessory dwelling unit for a delay in enforcement, the enforcement of building code standards shall be delayed if the basis for correcting the violation is not necessary to protect health and safety.</p>	<p><b>Compliance.</b> No request of the owner for a delay in enforcement has been requested and all Building Division corrections to protect health and safety are included as part of the Amnesty ADU approval.</p>



**ATTACHMENT 2  
CONTITIONS OF APPROVAL  
11B MARION AVENUE  
PROJECT ID 2021-00080**

Conditions of Approval:

1. This amnesty ADU permit is not valid, and occupancy may not be granted, until all the building and fire health and safety corrections, as described below, are satisfactorily completed through the required Building Permit process.
  - a. Provide compliant emergency escape and rescue window opening serving bedroom (see Sheet A2.1 & A3.1)
  - b. Provide handrail at entry stairway within 34" to 38" range and compliant guard at existing deck located at east elevation (see Sheet A3.1 & A3.2)
  - c. Provide separate heating/cooling controls serving ADU (see Sheet A2.1)
  - d. Provide unobstructed and permanent access to electrical overcurrent device (see Sheet A2.1)
  - e. Provide GFCI electrical receptacle serving kitchen sink (see Sheet A2.1)

**ATTACHMENT 3  
ADVISORY NOTES  
11B MARION AVENUE  
PROJECT ID 2020-00080**

<b>1.</b>	Applicant shall defend, indemnify (including reimbursement of all fees and costs reasonably incurred by separate counsel retained by the City) and hold harmless the City and its elected and appointed officials, officers, agents and employees, from and against any and all liability, loss, damage, or expense, including without limitation reasonable attorney's fees which City may suffer or incur as a result of any claims relating to or arising from the City's approval of the project or any portion of the project.
<b>2.</b>	No alternative or unrelated construction, site improvements, tree removal and/or alteration, exterior alterations and/or interior alterations and/or renovations not specified in the project plans, or alterations approved by the Community Development Director, shall be performed on the project site. In such cases, this approval shall be rendered null and void unless approved by the Community Development Department as a modification to this approval.
<b>3.</b>	In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided by law, this approval shall be suspended pending dismissal or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the City and substitute conditions may be imposed.
<b>4.</b>	Construction materials, equipment, vehicles, and debris boxes shall be placed to minimize obstruction of roads and gutters, shall be maintained in a clean and safe condition, and shall not be maintained in a manner that becomes a nuisance to the neighborhood. Debris box shall be emptied on a regular basis, else as directed by the City. Material stock piles & debris boxes shall be covered when not being accessed or filled to prevent material from blowing around the neighborhood. Construction materials, equipment, vehicles, and debris boxes placed off-site shall be done only after securing an encroachment permit.
<b>5.</b>	As a part of the Building Permit application, all advisory notes shall be restated on the construction drawings.
<b>6.</b>	A Fire District Inspection shall be required in order to determine final occupancy requirements.
<b>7.</b>	The applicant shall contact the Marin Municipal Water District and the Sausalito Marin City Sanitary District for additional permitting requirements.
<b>8.</b>	For an accessory dwelling unit, elimination of any of the required access and/or facilities elements (i.e., the separate entrance, kitchen, bathroom facilities) or noncompliance with any requirements shall require the property owner to demonstrate compliance of the property with all applicable development standards in the Zoning Ordinance.

**ATTACHMENT 4  
APPROVED PROJECT PLANS  
11B MARION AVENUE  
PROJECT ID 2020-00080**



























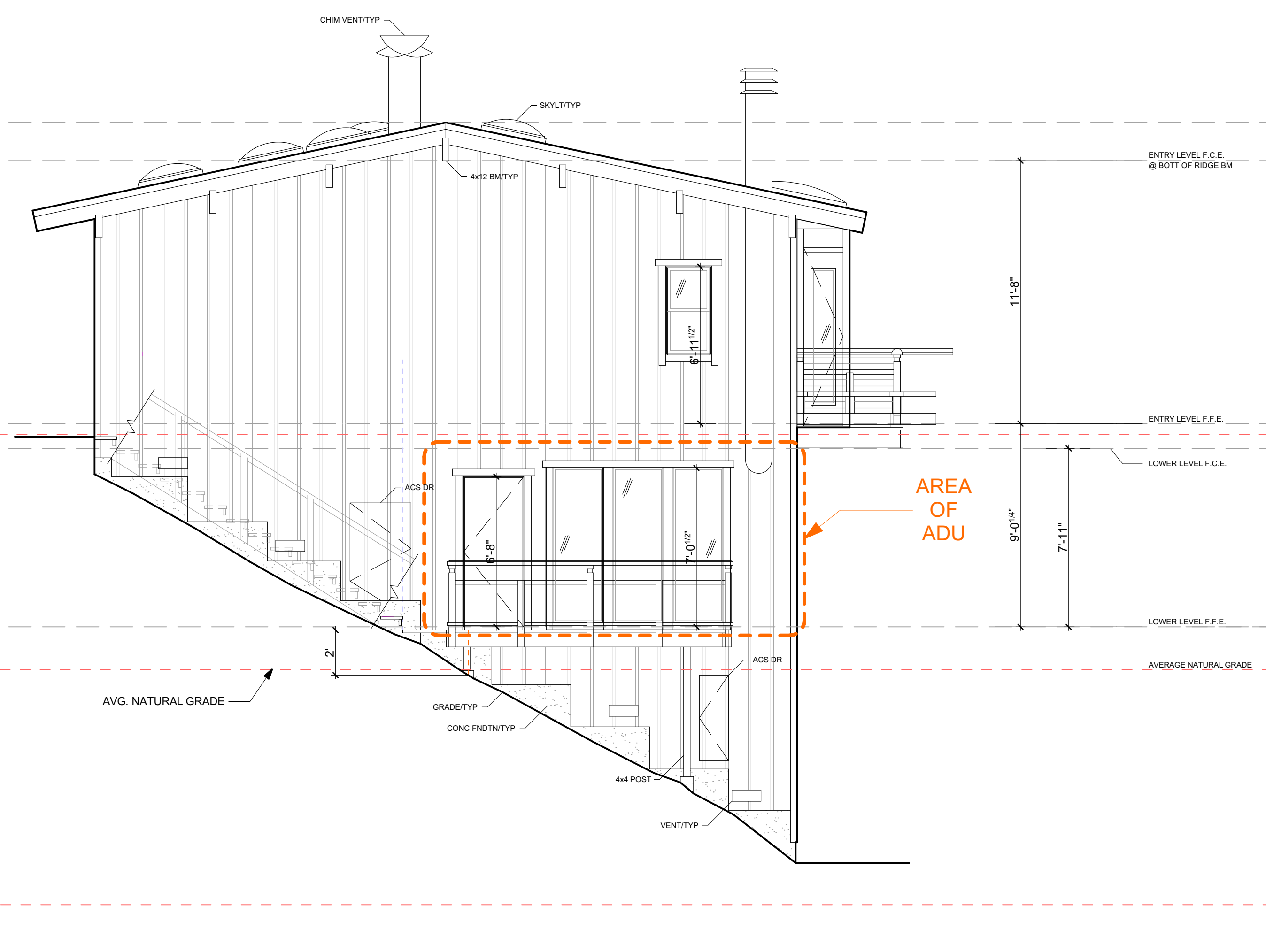






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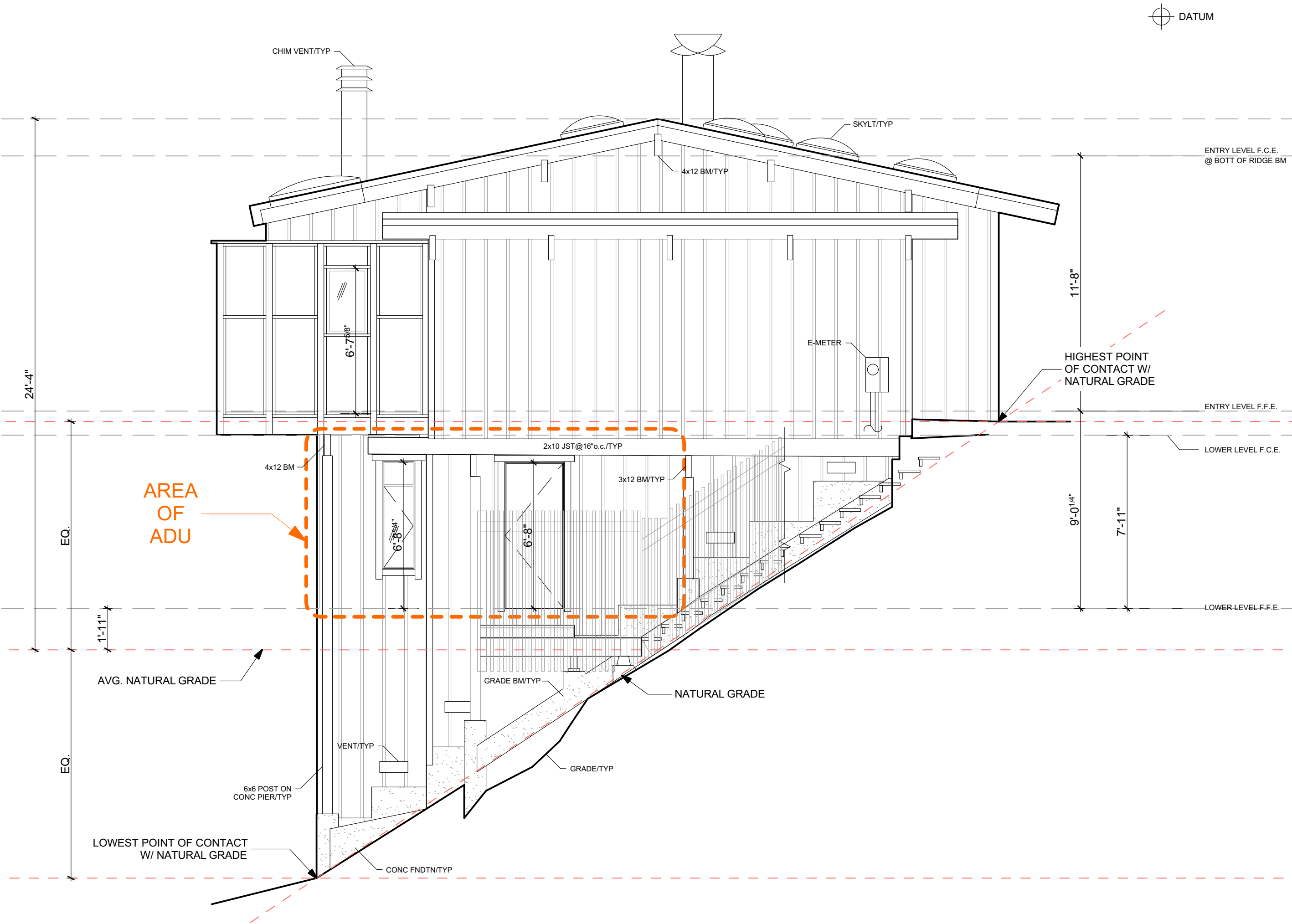


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EXISTING EAST ELEVATION

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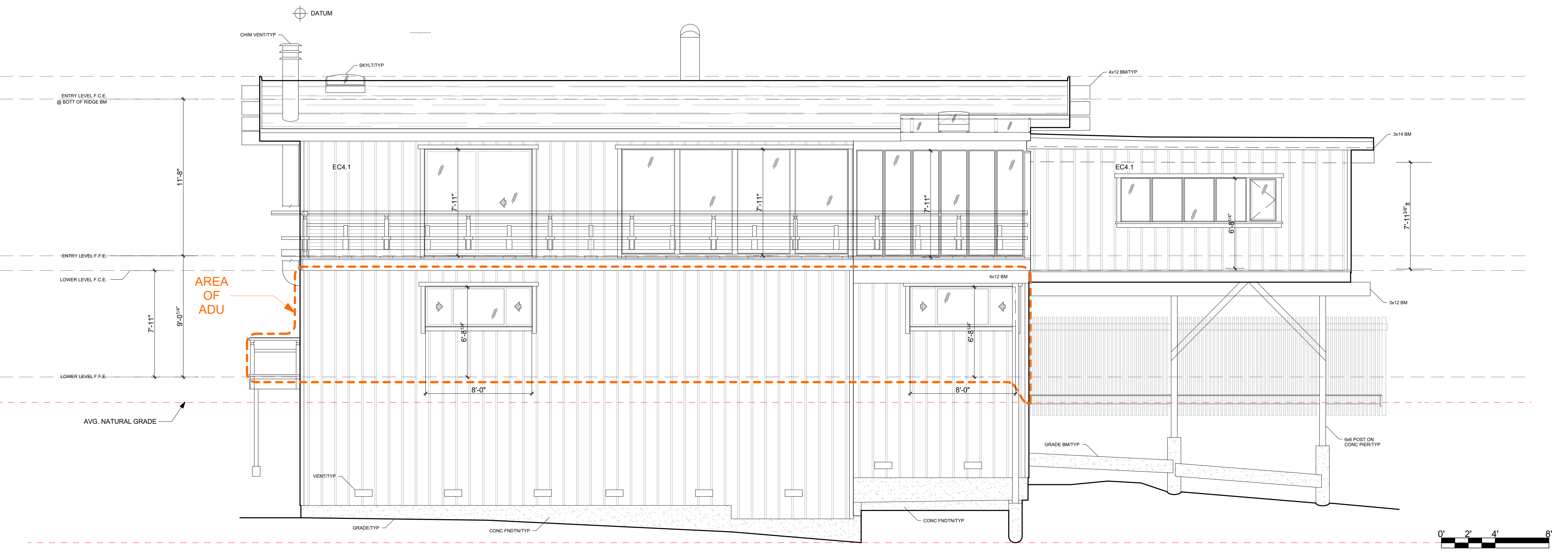


SCALE 1" = 4'

EXISTING WEST ELEVATION

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DATUM



SCALE 1" = 4'

EXISTING NORTH ELEVATION

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MICHAEL REX ARCHITECTS  
1750 BRIDGEWAY, SUITE B211  
SAUSALITO, CA 94965  
MICHAELREXARCHITECTS.COM  
TEL (415) 331-1400  
FAX (415) 331-5463

AMNESTY APPLICATION FOR  
**AKSAMIT EXISTING ADU**  
11 MARION AVENUE  
SAUSALITO, CA 94965  
APN 065-311-22

AMNESTY SUBMITTAL  
24 MAR 2021

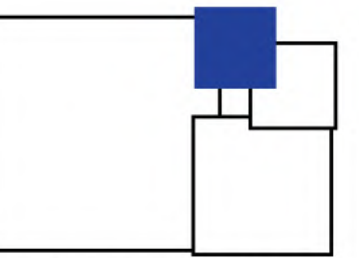
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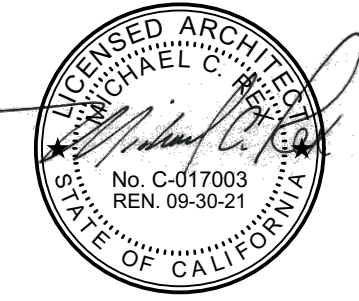
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MICHAEL REX ARCHITECTS

1750 BRIDGEWAY, SUITE B211  
SAUSALITO, CA 94965  
MICHAELREXARCHITECTS.COM  
TEL (415) 331-1400  
FAX (415) 331-5463



AMNESTY APPLICATION FOR  
**AKSAMIT EXISTING ADU**  
11 MARION AVENUE  
SAUSALITO, CA 94965  
APN 065-311-22

AMNESTY SUBMITTAL  
24 MAR 2021

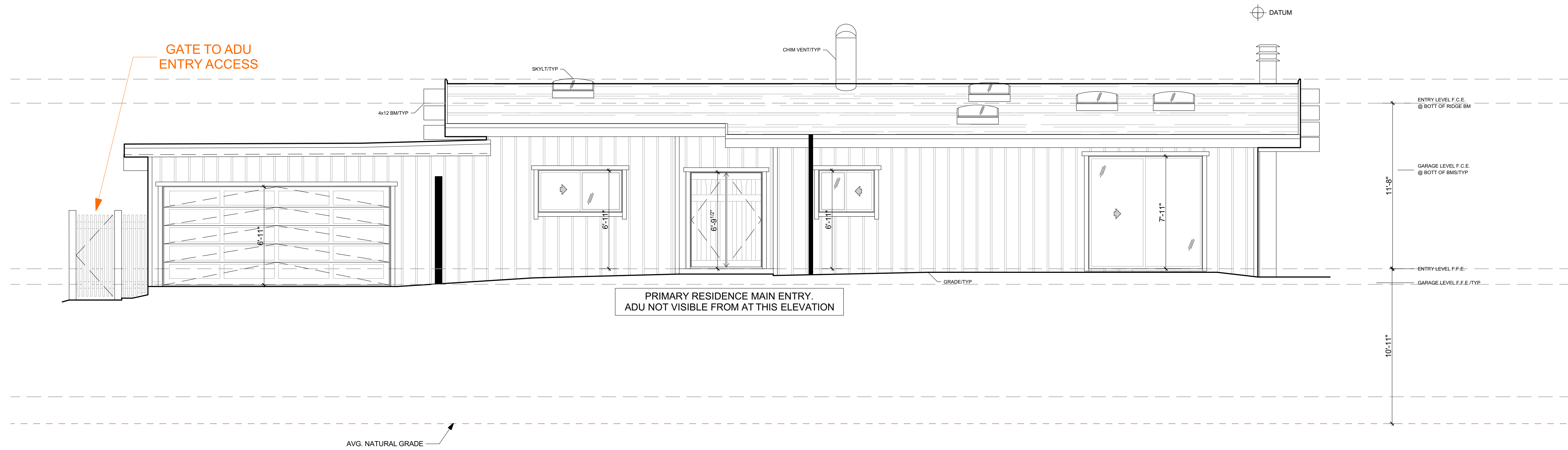
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ELEVATIONS

SHEET

EC3.2



SCALE 1" = 4'

EXISTING SOUTH ELEVATION

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