

STAFF REPORT

ZONING ADMINISTRATOR

PROJECT: David-Rech Residence/199 Santa Rosa
Variance VA 10-059

MEETING DATE: May 20, 2010

STAFF: Alison Thornberry, Assistant Planner 

REQUEST

Approval of a **Variance** to allow the rear deck to extend one foot, four inches into the required five foot setback at 199 Santa Rosa Avenue (APN 065-181-19).

PROJECT INFORMATION

Applicant Don Olsen and Associates

Property Owners Matt David and Renee Rech

Location/Size 199 Santa Rosa Avenue
10,320 sq. ft. parcel (see **Exhibit A** for vicinity map)

General Plan Medium Low Density Residential Land Use Designation

Zoning Single Family Residential (R-1-6) Zoning District

Authority Variance (Zoning Ordinance Section 10.68.020)

Environmental Review The subject application is Categorically Exempt from the California Environmental Quality Act (CEQA), in accordance with Section 15303, New Construction or Conversion of Small Structures, of the CEQA Guidelines.

BACKGROUND

In 2006 the property owners submitted an application for a Design Review Permit allowing the addition of more than 300 square feet of floor area with new building coverage to remodel the first level and basement of an existing single-family home. The project was approved by the Planning Commission in November 2006. Also in 2006 a Building Permit was issued for the construction of the Planning Commission approved plans.

During construction, it was noted by the applicant's construction contractor that the building plans were internally inconsistent. The architectural drawings showed a "cut-out area" for the northern deck, which was consistent with the plans approved by the Planning Commission. However the structural plans did not show a cut-out area and instead showed an approximate six foot portion of the deck extending into the eastern side setback by approximately one-foot six-inches. The applicant notified the City of this discrepancy in fall 2009 and submitted an application for a Variance on March 9, 2010.

PROJECT DESCRIPTION

SITE LOCATION

The property is situated on an upslope hillside from Santa Rosa Avenue and measures approximately 75 feet in width by 129 feet in depth. The property has vehicular and pedestrian access from a rear access easement along the property's southern property line. The section of street at the Subject Parcel does not contain a sidewalk. The property contains one single-family dwelling built in 1960. Its basement was structurally upgraded in 1995.

The neighborhood consists of medium low-density single-family homes as permitted by Zoning. The neighborhood is on a hillside having a moderate slope. Other adjacent properties are located on both sides of the easement described in the previous section

STRUCTURES, DESIGN AND MATERIALS

The proposed project site consists of a two story, 1,864 square foot residence that was constructed in 1960. A major remodel and addition, approved in 2006 is currently under construction. Once construction is completed, the residence will be approximately a 2,586 square foot home on a 10,320 square foot piece of land. The residence is designed to mix with the existing residence in the neighborhood with redwood siding, stainless steel frames, translucent glass, and a rear deck with wood siding.

Currently, a large portion of the east elevation of the residence is located approximately three feet from the property line. The required side setback in the R-1-6 Zoning Designation is five feet; the existing residence is considered legal nonconforming in terms of the setback at the east elevation of the residence.

The project, currently under construction, includes a deck extension that received a building permit in December of 2006. The deck extension, which was referenced in the structural drawings, and not the architectural drawings, showed the installation of steel c-channel beams and supporting joists. The architectural plans show a small cutout on the deck's northeast corner, due to the property setback.

The steel c-channel beams which extended the deck are an integral component of the building's structural integrity. The project's Structural Engineer stated that deviating from the approved structural plans in regard to the steel c-channel beams or joists would compromise the overall integrity of the structure.

In September 2009, it was noted by the property owner that the deck extension could not be constructed with the "cut-out area" as shown on the plans approved by the Planning Commission and as specified on the architectural drawings for the building permit, because the joists have no termination point without building into the required cut-out area. Demolition of the old deck is complete and the steel c-channel beams and joists have been installed, extending into the side setback.

A Variance is necessary to allow an approximate six-foot wide portion of the deck to extend approximately one foot four inches into the required setback. Approval of the requested variance would retain a three foot six-inch setback for this portion of the deck, which is slightly larger than the existing setback along a large portion of the eastern side of the structure. The project would only cover an area currently approved by building permits with the existing decking materials to support the rest of the approved deck area and to cover the large structural beams and joists so they are not exposed, creating an eyesore for the neighboring properties.

PROJECT ANALYSIS

GENERAL PLAN CONSISTENCY

To approve the proposed project the Zoning Administrator must determine that the project is consistent with all applicable General Plan policies. Staff has identified the following policies and programs of the Community Design and Historical Preservation Element as most relevant to the proposed project:

Objective CD-1.0: Scale and Architectural Diversity. Strive to retain the village like quality of Sausalito by respecting the City's existing scale and promoting diverse architecture that is in harmony with neighboring structures.

Staff Comment: The proposed project would expand the approved deck slightly into the side setback. The form and massing of the residence would remain representative of other structures in the neighborhood. The design of the building is of a classic nature with wood siding and decorative bands that is in keeping with the visual appeal of the surrounding structures in the existing neighborhood. Therefore, Staff concludes that the project is consistent with this objective.

Policy CD-1.3: Neighborhood Compatibility. Provide that all new residential structures, all residential structures that are to be removed and replaced, and those structures that are to be significantly remodeled, are designed to complement their setting and the other buildings in the neighborhood.

Staff Comment: The construction of the proposed deck expansion is designed with the same materials, structure and mass as the existing residence located on the project site, and would be increasing the building foot print only slightly by a few square feet. As the homes and other accessory structures in the immediate vicinity are very similar in architectural design/materials to the subject project, Staff concludes that the project is consistent with this objective.

VARIANCE

Pursuant to Section 10.68, the purpose of the Variance is to provide "relief from the strict application of the zoning ordinance when special circumstances apply to the property, including size, shape, topography, location or surroundings and the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning district." A Variance is requested to allow the extension of an approved deck to extend approximately one foot, four inches into a required five foot setback.

In order to grant a Variance the Zoning Administrator must find that there are exceptional circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same district, and due to these circumstances the literal enforcement of the provisions of the Zoning Ordinance would result in a practical difficulty. The existing deck and garage currently extend two feet into the required five foot side setback, because the existing structure is not parallel to the side property line, any expansion along that side to the residence would encroach into the side setback. A building permit was issued for the construction and installation of the two c-channel beams and joists, causing the encroachment into the side setback. Because a building permit was issued and the beams have been installed, their removal would affect the integrity of the entire structure, creating an exceptional and extraordinary circumstance for the need of this Variance into the side setback.

Because of the error in issuing a building permit which allowed the deck to extend into the side setback, the property owner has relied upon the building permit plans and put forth a great expense to construct the project per the approved building permit plans. Removal of the approved steel beams in the side setback would disrupt the entire building's structure, would create a large unnecessary hardship on the property owner. In addition, the encroachment of the deck into the side setback is only continuing an existing non-conformance of the east setback for an additional three feet, six inches. This section of the deck can only be seen by the immediate neighbor to the west, who has submitted a letter in support of the requested variance and, because of these reasons, the small extension of the deck will not be detrimental to the public welfare or injurious to the properties in the near vicinity.

In order to approve or conditionally approve the Variance, the Zoning Administrator must determine the project is in conformance with the required Variance Findings (Section 10.68.050 of the Zoning Ordinance). Staff has concluded that the required findings can be made to support the approval of the project.

PUBLIC NOTICE AND CORRESPONDENCE

- May 7, 2010 – Notices were mailed to all residents and property owners and interested persons within 300 feet of the project site.
- Written correspondence was received on May, 7 2010 (see **Exhibit C**).

RECOMMENDATION

Staff recommends the Zoning Administrator approve the attached draft resolution (**Exhibit B**), which: Approves a Variance to allow the rear deck to extend one foot, four inches into the required five foot setback at 199 Santa Rosa Avenue.

EXHIBITS

- A. Vicinity Map
- B. Resolution – Draft
- C. Correspondence from Craig Robbins, date-stamped received May, 7, 2010.

Vicinity Map

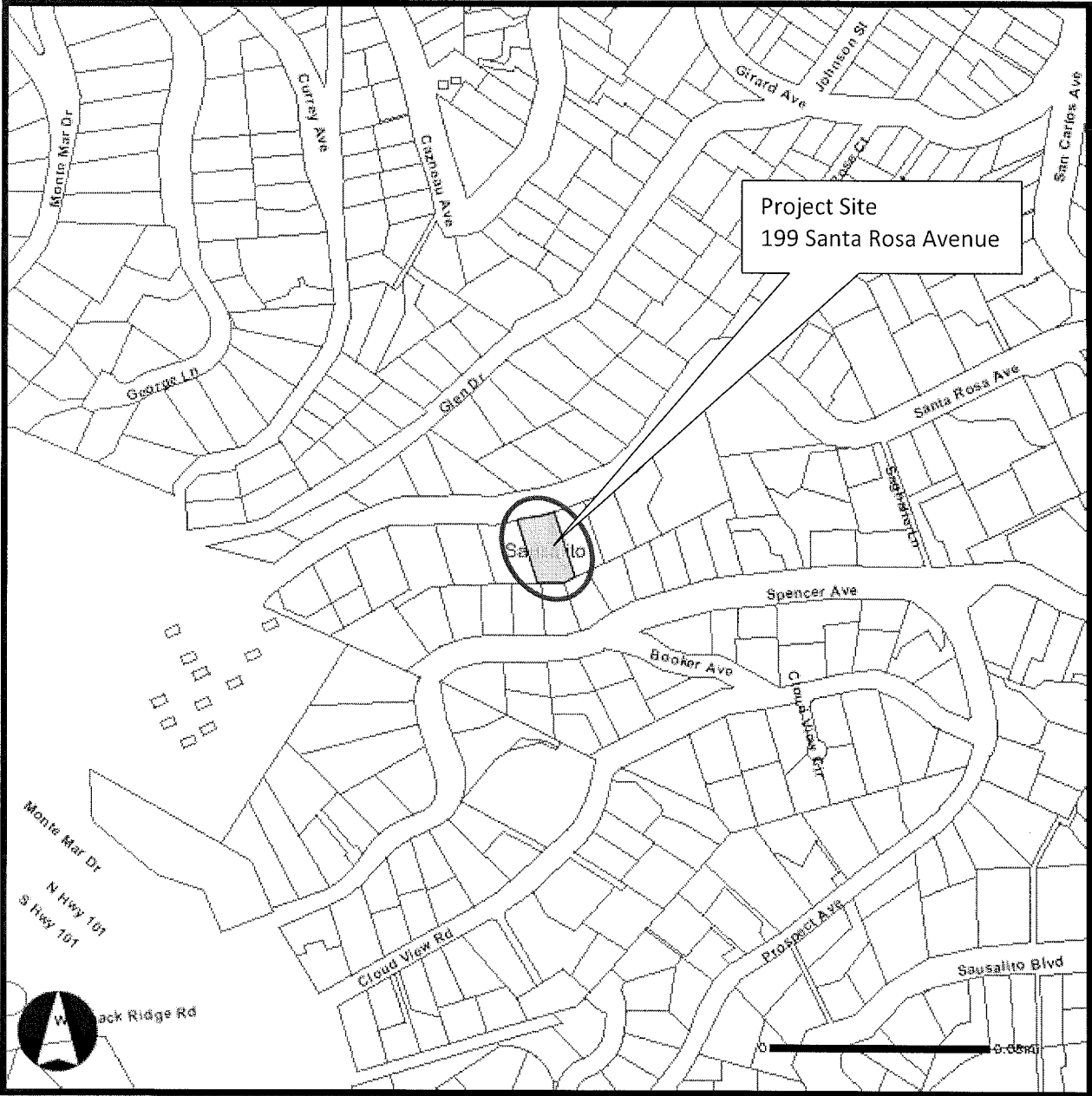


Exhibit A

**SAUSALITO ZONING ADMINSTRATOR
RESOLUTION NO. 2010-XX**

**A RESOLUTION APPROVING A VARIANCE TO ALLOW A REAR DECK TO
EXTEND INTO A SIDE SETBACK AT 199 SANTA ROSA AVENUE
(VA 10-059)**

WHEREAS, an application has been filed by the applicant, Don Olsen and Associates on behalf of property owners, Matt David and Renee Rech, requesting Zoning Administrator approval of a Variance to allow a deck to extend one foot, four inches into a required five foot side setback at 199 Santa Rosa Avenue (APN 065-181-19); and

WHEREAS, the Zoning Administrator conducted a duly noticed public hearing on May 20, 2010 at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Zoning Administrator has reviewed and considered the project plans titled "199 Santa Rosa Avenue" date-stamped received on May 5, 2010; and

WHEREAS, the Zoning Administrator has considered all oral and written testimony on the subject application; and

WHEREAS, the Zoning Administrator has considered the information contained in the staff report dated May 20, 2010; and

WHEREAS, the Zoning Administrator finds that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303; and

WHEREAS, the Zoning Administrator finds that, as conditioned herein, the proposed project complies with the requirements of the General Plan and Zoning Ordinance as described in the staff report dated May 20, 2010.

NOW, THEREFORE, THE ZONING ADMINISTRATOR HEREBY RESOLVES AS FOLLOWS:

The Variance VA 10-059 to allow a deck to extend one foot, four inches into a required five foot side setback at 199 Santa Rosa Avenue is approved based upon the findings in **Attachment 1**, and subject to the conditions of approval provided in **Attachment 2**. The project plans are provided in **Attachment 3**.

Date

Jeremy Graves, AICP
Zoning Administrator

ATTACHMENTS

1. Findings
2. Conditions of Approval
3. Project Plans entitled "199 Santa Rosa Avenue" and date-stamped received on May 5, 2010

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Exhibit B
[15 pages]

ZONING ADMINISTRATOR RESOLUTION
May 20, 2010
VA 10-059
DAVID-RECH RESIDENCE/199 SANTA ROSA AVENUE

ATTACHMENT 1: FINDINGS

VARIANCE FINDINGS

In accordance with Zoning Ordinance Section 10.68 (Variances), a Variance from the required side setback (Section 10.44.020.C.4 of the Zoning Ordinance) is approved based on the following findings:

- A. There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same district.

The existing deck and garage currently extend two feet into the required five foot side setback, because the existing structure is not parallel to the side property line, any expansion along that side to the residence would encroach into the side setback. A building permit was issued for the construction and installation of the two c-channel beams and joists, causing the encroachment into the side setback. Because a building permit was issued and the beams have been installed, their removal would affect the integrity of the entire structure, creating an exceptional and extraordinary circumstance for the need of this Variance into the side setback.

- B. Owing to such exceptional or extraordinary circumstances the literal enforcement of the provisions of the Title would result in practical difficulty or unnecessary hardship.

Because of the mistake of issuing a building permit that would permit the deck to expand into the side setback, the property owner has put forth a great expense to construct the project per the approved building permit plans. Removal of the approved steel beams in the side setback would disrupt the entire building's structure, this along with the financial burden, would create a large unnecessary hardship on the property owner.

- C. Such Variance is necessary for the preservation of a substantial property right of the petitioner, possessed by other property in the same district.

There are many homes in this immediate area that are nonconforming in way or another, be it height of the structure, setbacks, or overall size of the building. This property would merely be constructing what was drawn and approved by the building permit, and would only preserve a right of the property owner that is currently possessed by other properties in the same area.

- D. The granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvement in the vicinity or in the district in which the subject property is located.

The encroachment of the deck into the side setback is only continuing an existing non-conformance of the east setback for an additional three feet, six inches. This section of the deck can only be seen by the immediate neighbor to the west, who has showed support of the project, because of these reasons, the small extension of the deck will not be detrimental to the public welfare or injurious to the properties in the near vicinity.

- E) The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

The granting of the Variance does not constitute a grant of special privilege, being that there are other residences in the area with nonconforming structures and setbacks.

- F) The granting of such Variance will be in harmony with the general purpose and intent of this title and General Plan.

The project is consistent with all applicable policies, standards, and regulations of the General Plan and Zoning Ordinance as described in the May 20, 2010 Staff Report.

ZONING ADMINISTRATOR RESOLUTION
May 20, 2010
VA 10-059
DAVID-RECH RESIDENCE/199 SANTA ROSA AVENUE

ATTACHMENT 2: CONDITIONS OF APPROVAL

These conditions apply to the project plans prepared by Don Olsen and Associates and entitled "199 Santa Rosa Avenue" and date-stamped received on May 5, 2010:

General Conditions

1. 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 Director as a modification to this approval.
2. 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.
3. The applicant shall indemnify the City for any and all costs, including without limitation attorneys' fees, in defending this project or any portion of this project and shall reimburse the City for any costs incurred by the City's defense of the approval of the project.

Advisory Notes

Advisory notes are provided to inform the applicant of Sausalito Municipal Code requirements, and requirements imposed by other agencies. These requirements include, but are not limited to, the items listed below.

1. This approval will expire in one (1) year from the effective date of this resolution if the property owner has not exercised the entitlements hereby granted, or an extension has not been filed prior to the expiration date.
2. An approval granted by the Zoning Administrator does not constitute a building permit or authorization for construction. Appropriate construction permit(s) issued by the Building Division must be obtained prior to construction.
3. All applicable City fees as established by City Council resolutions and ordinances shall be paid. Third party review fees (cost plus 10%) shall be paid.
4. Pursuant to Municipal Code Chapter 11.17, dumping of residues from washing of painting tools, concrete trucks and pumps, rock, sand, dirt, agricultural waste, or any other materials discharged into the City storm drain system that is not composed entirely of storm water is prohibited. Liability for any such discharge shall be the responsibility of person(s) causing or responsible for the discharge. Violations constitute a misdemeanor in accordance with

Section 11.17.060.B.

5. Pursuant to Municipal Code Section 12.16.140, the operation of construction, demolition, excavation, alteration, or repair devices and equipment within all residential zones and areas within a 500 foot radius of residential zones shall only take place during the following hours:

Weekdays – Between 8:00 a.m. and 6:00 p.m.

Saturdays – Between 9:00 a.m. and 5:00 p.m.

Sundays – Prohibited

City holidays (not including Sundays) – Between 9:00 a.m. and 7:00 p.m.

Homeowners currently residing on the property and other legal residents may operate the equipment themselves on Sundays and City holidays between 9:00 a.m. and 6:00 p.m.

6. Permits required by other agencies having jurisdiction within the construction area must be obtained in accordance with the respective agency's regulations.
- a. Marin Municipal Water District – (415-945-1400), including landscaping and irrigation regulations;
 - b. Southern Marin Fire Protection District -- (415-388-8182); and
 - c. Bay Conservation and Development Commission – (415-352-3600).

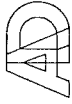
ZONING ADMINISTRATOR RESOLUTION

May 20, 2010

VA 10-059

DAVID-RECH RESIDENCE/199 SANTA ROSA AVENUE

ATTACHMENT 3: PLANS AND ELEVATIONS



aidlin darrling design
 500 King Street
 San Francisco, CA 94107
 415.374.8445 fax
 415.374.5662 phone

199 Santa Rosa Av.

Sausalito, CA 94965

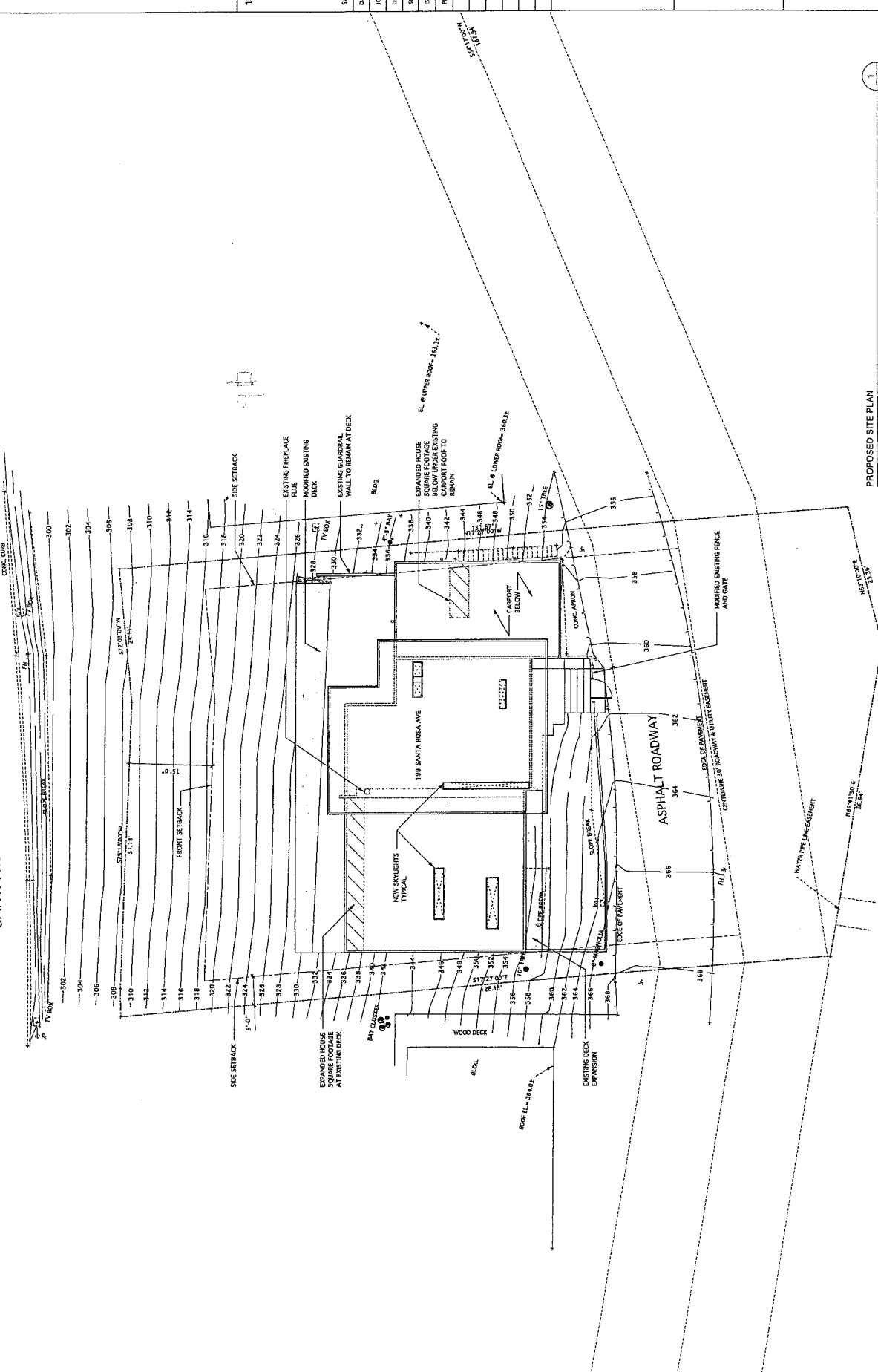
DATE:	6-31-06
JOB:	0509
DRAWN:	MS
SCALE:	AS NOTED
ISSUE:	DATE
Planning Design Review 8-31-06	



A1.2

Proposed
SITE PLAN

SANTA ROSA AVE.



PROPOSED SITE PLAN
 0 4' 8' 16'

1



adlin drafting design
 500 Blvd. #100
 Irvine, CA 92618
 415.334.8844 Fax
 415.334.8800 Phone

199 Santa Rosa Av.

Sausalito, CA 94965

DATE: 8-31-06

JOB: 0509

DRAWN: BG

SCALE: AS NOTED

ISSUE:

DATE:

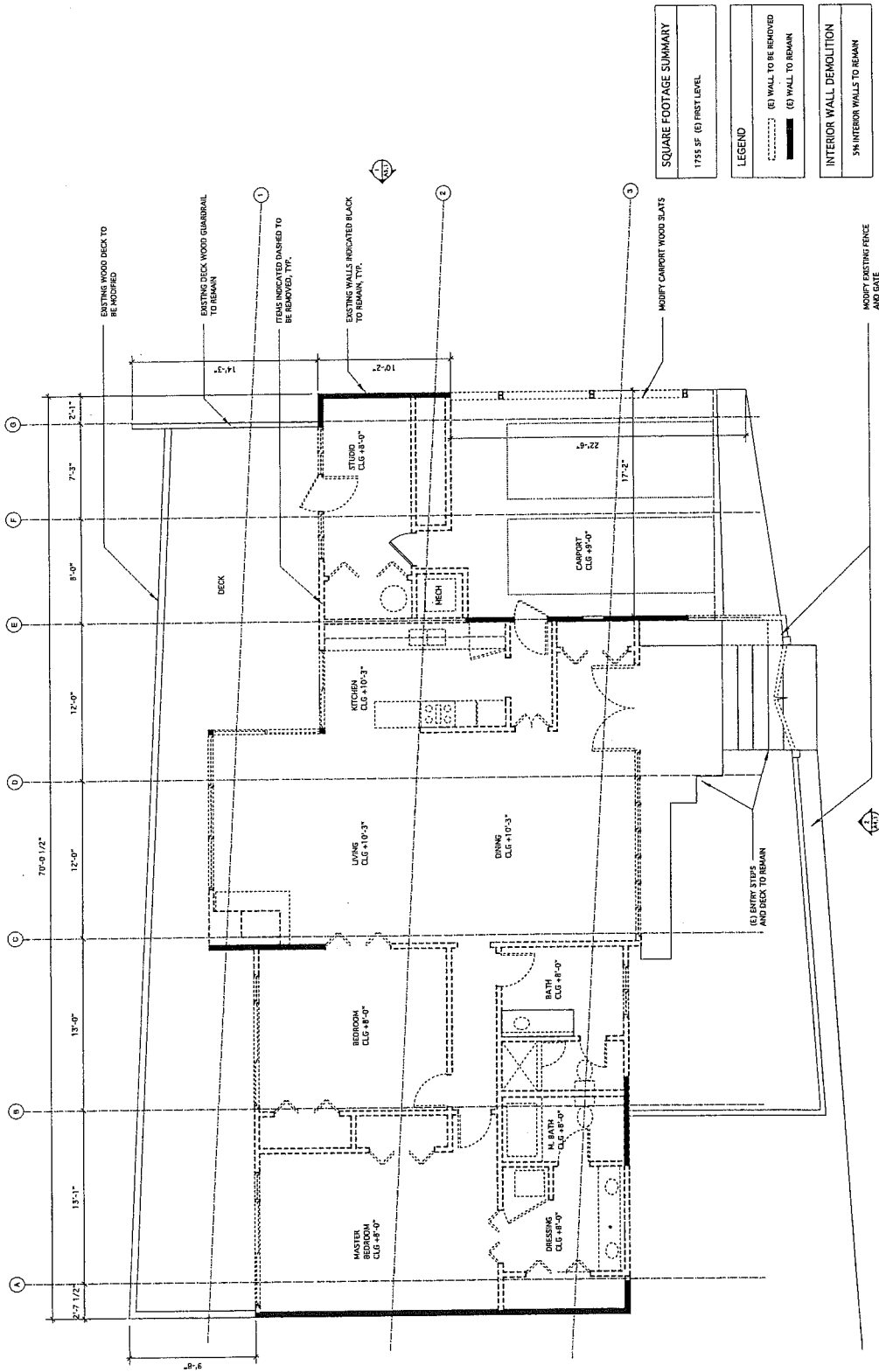
Planning Design Review: 8-31-06

NORTH



A2.1

DEMOLITION
 EXISTING FIRST LEVEL
 PLAN



SQUARE FOOTAGE SUMMARY	
1755 SF	(E) FIRST LEVEL
LEGEND	
---	(E) WALL TO BE REMOVED
---	(E) WALL TO REMAIN
INTERIOR WALL DEMOLITION	
---	5% INTERIOR WALLS TO REMAIN



DEMOLITION - EXISTING FIRST LEVEL PLAN





aidlin drafting design
 500 Highland Street,
 San Francisco, CA 94107
 415 874 0845 fax
 415 874 5083 phone

1999 Santa Rosa Av

San Francisco, CA 94107

DATE: 8-31-06

JOB: 0509

DRAWN: EG

SCALE: AS NOTED

DATE

REVISION

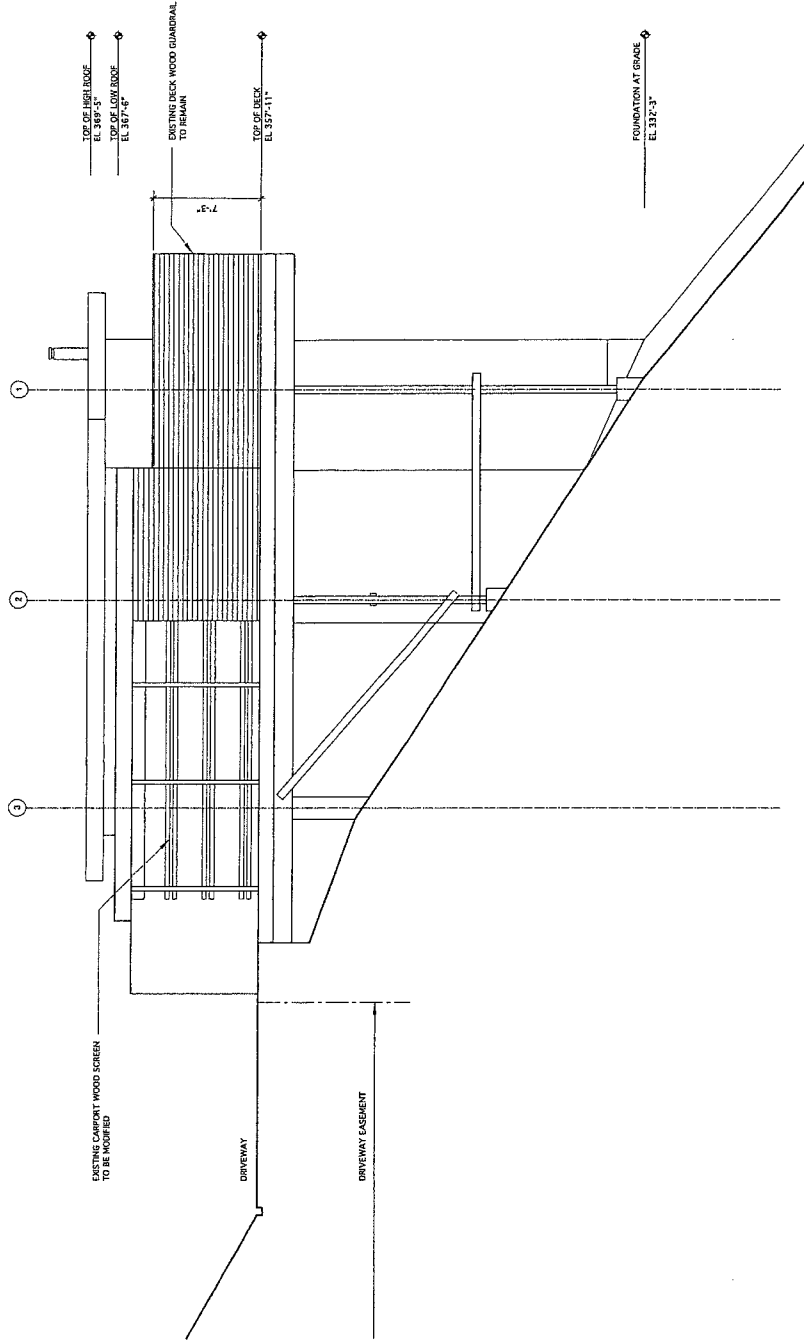
Planning Design Review 8-31-06

NORTH



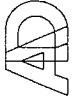
A5.1

EXISTING
EAST ELEVATIONS



EXISTING EAST ELEVATION
 0 2 4 6

3



addin, starting design
 1000 15th Street
 San Francisco, CA 94107
 415 394 8800 phone

199 Santa Rosa Av.

Sausalito, CA 94965

DATE: 8/31/06

JOB: 0809

DRAWN: BG

SCALE: AS SHOWN

ISSUE:

DATE:

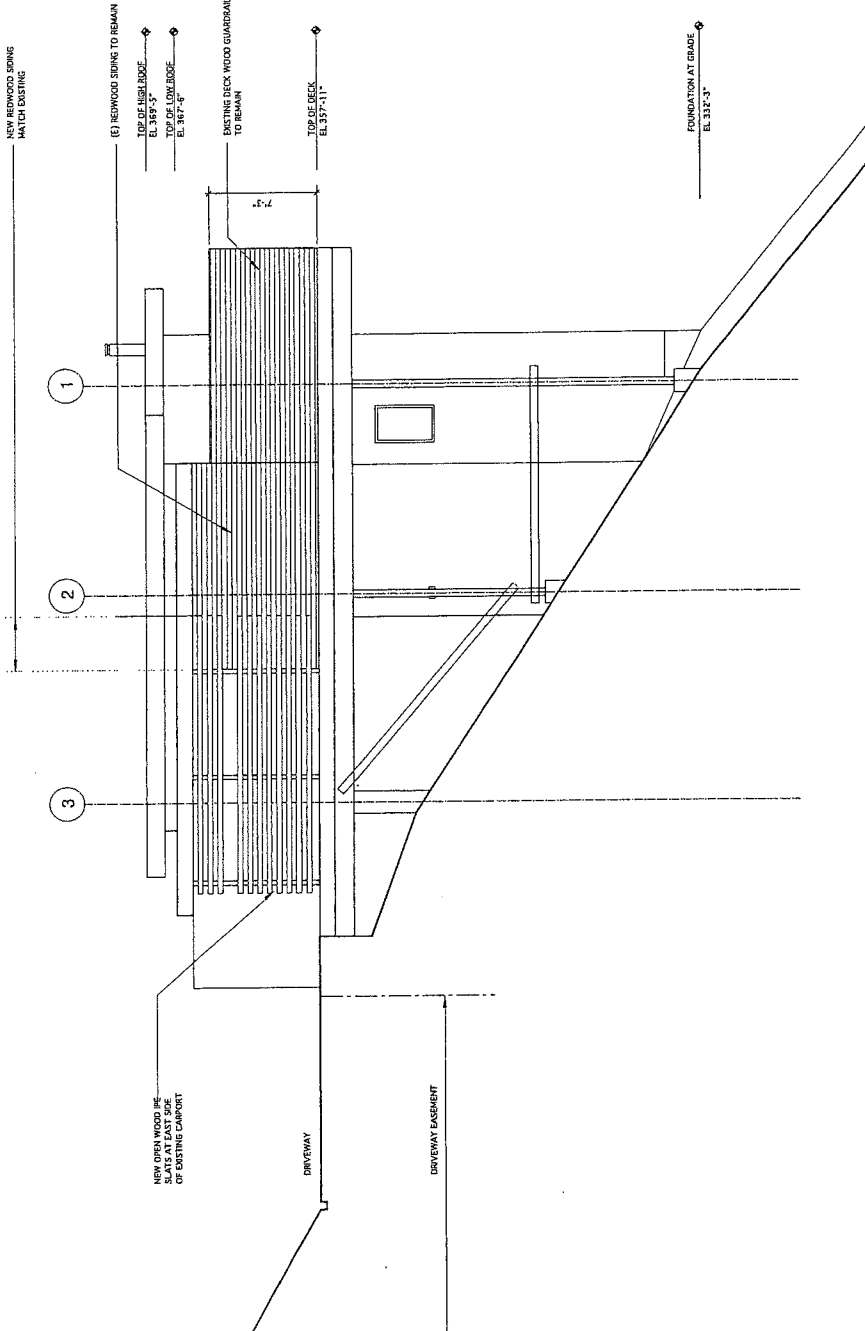
Revised Design Review: 8/31/06



NORTH

A5.2.

PROPOSED East Elevation



PROPOSED EAST ELEVATION
 0 4 8 16



aidin drafting design
500 4th street
San Francisco, CA 94107
415 371 8843 fax
415 371 7883 phone

199 Santa Rosa Ave.

San Francisco, CA 94105

DATE: 8-31-06

JOB: 0109

DRAWN: RG

SCALE: AS NOTED

DATE

Revision Number

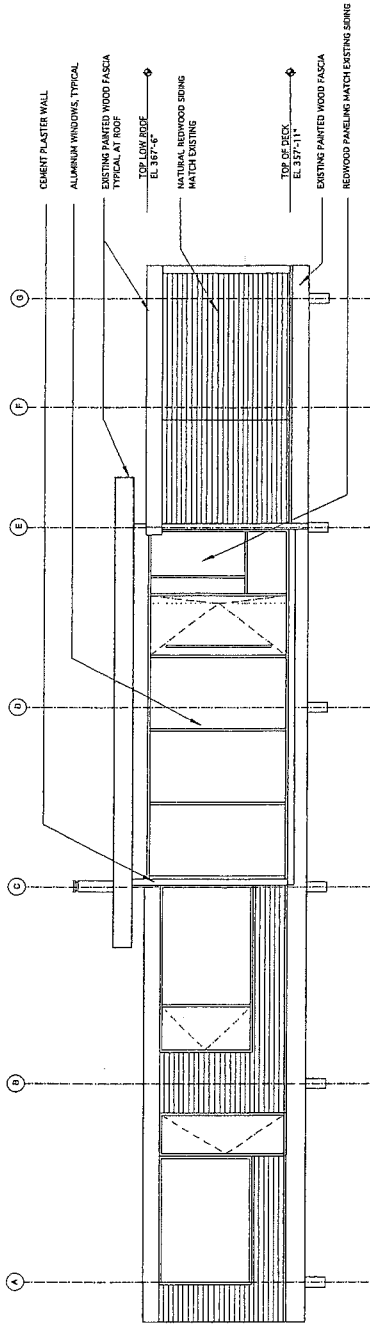
8-31-06

NORTH



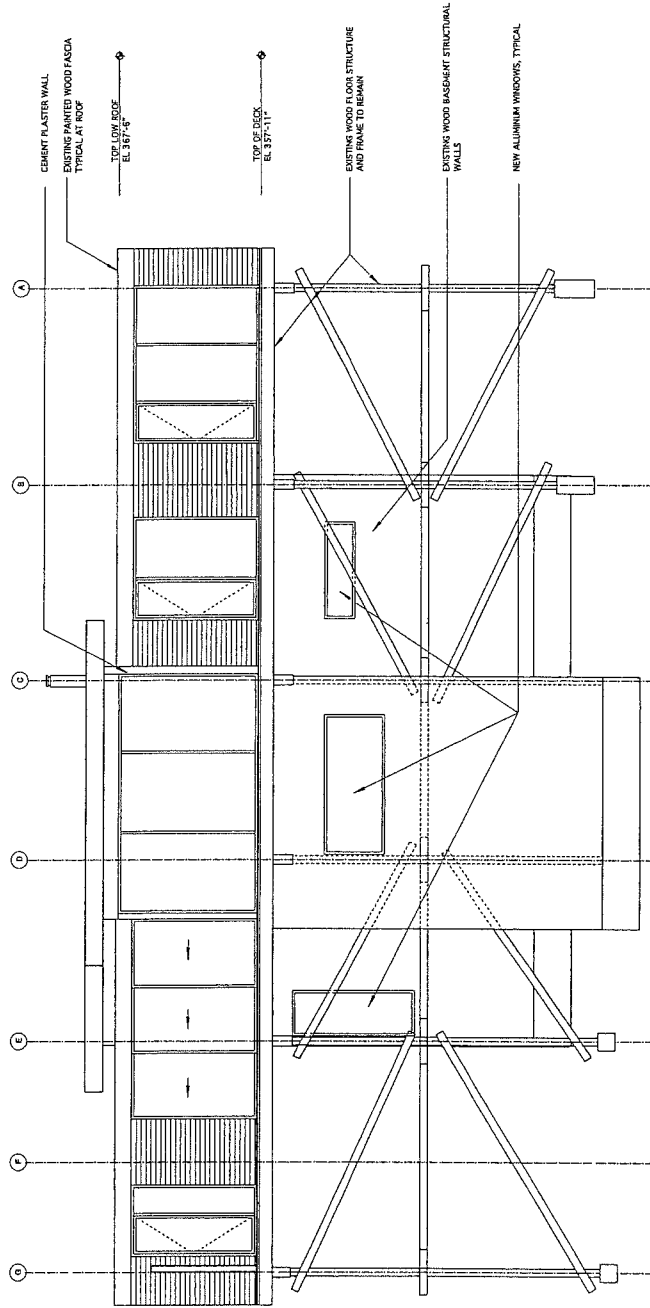
A4.2

PROPOSED
NORTH
Elevation



SOUTH ELEVATION

0' 4' 8' 16'



PROPOSED NORTH ELEVATION

0' 4' 8' 16'

