

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Long Beach, CA 90802-4302
(562) 590-5071



[Click here to go to
original staff report](#)

F6d

ADDENDUM

January 6, 2017

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: Permit Application **#5-16-0548(Shah, Newport Beach)** for the Commission meeting of **January 13, 2017**.

Correspondence

The attached two letters from Denys H. Oberman/David Sherbeck received on December 30, 2016 and from C. Leventhal received on January 5, 2017 expressed concerns regarding Coastal Development Permit (CDP) application 5-16-0548(Shah) for the demolition of an existing ocean front single family residence and construction of a new single family residence at 1200 W. Oceanfront, Newport Beach. Ms. Leventhal's letter questions the hearing time and location and the size and height of the proposed new residence. The Oberman/Sherbeck letter raises four issues: 1) pointing out an error in the staff report stating the site is designated R2 (two-unit residential) when in fact it is zoned R1 (one-unit residential); 2) a concern regarding an existing low concrete wall along the oceanfront side of the lot; 3) concern regarding front setback; and 4) a concern that the geotechnical report dated 2014 submitted with the CDP application does not contain current information.

To address their first concern, Commission staff proposes to correct the staff error identifying the site as designated R2 (two unit residential) and to correctly identify the site as R1 (single unit residential) per the City of Newport Beach Land Use Plan. The proposed development of a single family residence conforms to the R1 designation.

The second stated concern is that a statement in the staff report identifying a low concrete wall on the ocean front side of 1200 W. Oceanfront is not accurate, that there is instead a wood shingle wall along the lot's oceanfront side. In response, staff has attached a new Exhibit #3 to the staff report with photographs of the project site and a few lots in each direction. The photos clearly show that existing development at the subject site includes a 3 foot tall masonry wall built right up to the City's paved Oceanfront Boardwalk. As noted in the staff report and shown on Exhibit #2, page 1 of 12, a current property survey conducted by a certified licensed surveyor of the subject site clearly shows the all property lines in a bold dashed line, and the existing low wall is clearly shown to be located approximately 2 feet beyond the private property's oceanfront property line. As part of the project, the applicant is proposing to demolish the existing low garden wall encroaching beyond their property line and build a new 3 foot tall garden wall within their private property as no encroachments onto public property are permitted in this area of the City. As noted in the staff report, the applicant will thus restore the area back to natural sand, leaving that portion of the Oceanfront public right-of-way unencumbered by private encroachments.

The third concern cited is that there is an insufficient front and side yard setback proposed for the new residence and that light and views for surrounding properties will be adversely impacted. As proposed, the project adheres to the City of Newport Beach development standards regarding front and side yard setbacks. The City has determined that an 8 foot front yard setback from the ocean front property line and 3 foot side yard setbacks in this area of the City are sufficient to provide an adequate buffer between a private residence and the public Oceanfront Boardwalk and public sandy beach beyond. The City also allows upper story balconies to encroach 3 feet into the front yard setback. Exhibit #2, page 6 of 12, depicts the project's proposed elevations. The proposed project is setback approximately 14-16 feet at ground level from the ocean front property line. The second floor balcony and roof deck encroach 2 feet 8 inches into the 8 foot front yard setback as allowed by the City. As proposed, the project has been deemed not to have any adverse impacts on public views. The project meets all City requirements including height and density and is in character with development on West Ocean Front along Balboa Peninsula in Newport Beach. This issue does not raise any Coastal Act concerns.

The last concern raised is that the geotechnical report submitted with CDP application 5-16-0548(Shah) is from 2014 and that from 2014 to 2016 conditions have since changed and a new geotechnical study and report based on current conditions is needed. The Commission considers documents/studies to be current if they are written within 2 years of submittal. A soils/geotechnical report from 2014 would still be considered current in 2016. Additionally, once a coastal development permit is issued by the Commission and prior to the issuance of a grading permit by the City, the City of Newport Beach requires an updated letter from the geotechnical consultant confirming existing soil conditions. The geotechnical recommendations made in the submitted geotechnical study are typical to single family construction on Balboa Peninsula. No major grading is proposed, only removal and re-compaction of existing earth materials, typical earthwork for residential foundation support. The average removal depth is 3 feet below existing grade and 1 foot below proposed new foundations. To provide adequate support along property lines, excavations are proposed to be sloped at 1:1 gradient from property line down to the excavation bottom, a standard construction method. Coast Geotechnical, Inc. confirmed in a phone conversation with Commission staff on January 6, 2017 that there has been no change in site soil conditions since the date of their geotechnical engineering investigation.

Ms. Oberman and Mr. Sherbeck did not submit any new geotechnical information to support their claims. As the proposed project does not include deepened footings or caisson foundations and based on the minimum amount of site grading proposed, no additional special conditions regarding site stability/geology are imposed.

Correction and Additional Information to the Staff Report

Commission staff proposes to correct the staff error identifying the site as designated R2 (two unit residential) and to correctly identify the site as R1 (single unit residential) per the City of Newport Beach Land Use Plan. Additional detailed information to the project description is included in this addendum to clarify points of dispute raised by Denys H. Oberman and David Sherbeck in their letter of opposition. . As no Coastal Act concerns are raised by the letter in opposition, staff proposes no changes to the staff report recommendation. Staff recommends the item remain on the Commission's Consent Calendar for the January meeting.

Deleted language is shown in ~~striketrough~~ and new language is in **bold, underlined italic.**

Beginning from the top of page 8 of the staff report:

The City of Newport Beach Land Use Plan (LUP) designates the site as ~~RT (Two-Family Residential)~~ **R-1 (Single Unit Residential)**; the proposed project is a single-family residence

allowable under this land use designation. The project is located within an existing urban residential area on the Balboa Peninsula. The site is a 4,033 sq. ft. beachfront lot located between the first public road and the sea. **The proposed project meets the City's height limit for the area (29' from finished floor) and is compatible with the character of single family residences along West Ocean Front.** There is a wide sandy public beach (approximately 530 feet wide) between the subject property and the Pacific Ocean. The public sandy beach seaward of the site is developed with the City's paved 12 ft. wide Ocean Front Boardwalk, a multi-use public lateral access way. The City holds the public right-of-way for street/walkway/bikeway purposes along Ocean Front. The public right-of-way is identified on the site survey as Ocean Avenue (**Exhibit #2, page#1**). The subject site is located along portions of West Ocean Front in the central part of the Balboa Peninsula between the City's two municipal piers developed with a public walkway/bikeway. Other portions of the Ocean Front public right-of-way remain unimproved with no boardwalk. Vertical public access to the park and beach is available immediately adjacent to the site at the 12th St. street-end. Lateral public access is available along the Ocean Front Boardwalk and the wide sandy beach immediately seaward of the subject site. **Photos of existing development at the subject site and adjacent development is provided as Exhibit #3.**

Per the submitted geotechnical report by Coast Geotechnical, Inc. dated April 10, 2014, no major grading is proposed, only removal and re-compaction of existing earth materials, for site preparation, typical earthwork for residential foundation support. The average removal depth proposed is 3 feet below existing grade and 1 foot below proposed new foundations. To provide adequate support along property lines, excavations are proposed to be sloped at 1:1 gradient from property line down to the excavation bottom, a standard construction method. Coast Geotechnical, Inc. confirmed in a phone conversation with Commission staff on January 6, 2017 that there has been no change in site soil conditions since the date of their geotechnical engineering investigation.

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cc: Calif. Coastal Comm.

re: Permit 5-16-0548 F6d
1200 W. OCEANFRONT
N.B. 92661

Why is this hearing being held

for 1/13/17 at 9:00 AM. in

San Luis Obispo Property
is in Orange County.

Yes we all have concerns.

2,543 sq ft. — torn down 29 ft.
tall — 5096^{sq} replacement

Permitted

(949) 783-0744

Fax 949 683-6100

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F6d

December 30, 2016

Re. South Coast District- Agenda item 6.d
Application number 5-16-0548
Denys Oberman and David Sherbeck
Opposed to the Project

Attention : Liliana Roman, Analyst South Coast District-
Please distribute this letter to the members of the Coastal Commission and enter into the public record in connection with the Commission hearing of January 13, 2017.

Dear Honorable Members of the Coastal Commission and Commission Staff:

We are interested parties as neighbors living in close proximity to the proposed project. We respectfully submit this letter , as we are unable to attend the upcoming hearing of January 13, 2017.

We understand that the Commission will be considering the proposed Application and the staff report, number referenced above. We are writing this letter to express our opposition to the project proposed to be located at 1200 West Oceanfront, Newport Beach CA 92661. The Applicant and their Agent have proposed to demolish an existing two story 2,543 sq. ft. single family residence and detached garage, and construct a new two story 29 ft. tall, 5,475 sq ft. single family residence including attached three car garage. The project proposes to include various minor grading and site improvements, and removal of an existing concrete block wall claimed to be encroaching 2 feet onto the public right of way, on an oceanfront lot.

Our opposition to the project as proposed by the applicant and recommended by staff is based on the following:

1. The applicant states that the site is zoned for Two family Residential by the City. This is incorrect. The subject lot, is clearly zoned as R-1, designated in the City's General Plan, as, Single Family Residential, Detached(RS-D). The single family residential zoning is consistent with that of all of the lots/parcels in the west 12th street block along the Ocean front .

We are concerned as to whether there is underlying intent to position the property for a prospective occupancy or use inconsistent with that contemplated in a strictly Single family residential zone, by misstating the use allowed by the City in its plans and regulations.

Applicant recently completed the development of a single family residence on the previously undeveloped lot, now known as 1204 W. Oceanfront, immediately adjacent to the proposed project, and our residence on the other side. There were numerous issues with the plans and this project; therefore it is reasonable to expect that applicant should be knowledgeable of local zoning requirements and regulations.

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2. The statement that there is currently a concrete block wall on the oceanfront side of the 1200 West Oceanfront lot is not accurate. There is currently, and has been for many years, a wood shingle wall along the lot's oceanfront side. There is a wood fence along the site's easterly side next to a sidewalk and in the rear alley, all of which border public rights of way.
The only place that there is a concrete block wall on this lot is on its westerly inner side, along the boundary between 1200 and 1204, which does not border a public right of way. We question why such a representation of the wall has been made. The stated encroachment of 2 feet into the public right of way is unclear. We believe that, along with current accurate survey information, and should be provided in order to consider the plans in their entirety. The validation is particularly important given the scale of the proposed residence of 5,475 sq. feet on a lot of approximately 4,042 sq. feet.
3. We are concerned that there will be insufficient net front setback and that elevations are such that the light and views for surrounding neighborhood will be fully maintained, particularly given the scale of the proposed structure on the lot of scale summarized, above. We are also concerned that required side setback fire and safety clearance is maintained. This needs to be carefully evaluated.
4. The report includes an Exhibit referencing a Geotechnical report prepared in 2014 on behalf of the applicant in anticipation of development of the parcel, 1204 West Oceanfront, next to the site of the proposed new project. There have been material shifts in the earth and changes in soil conditions as the result of construction of the 4,000 sq. ft. house on 1204 recently completed, causing adverse impact and destabilization to ours, and prospectively other surrounding properties. A new geotechnical study and report based on current conditions is needed. This is particularly important given the exceptional density of the lots in this area.

In principle, we would be in favor of the development of a new single family home on the 1200 West Oceanfront lot, but only if properly scaled and situated, where the plans, construction, and use concerns and items above are compliant and addressed in a full, satisfactory manner.

We respectfully request that the Commission deny the project as currently proposed, and remand to the applicant and agent to revise and address the issues, above.

Thank you for your consideration.

Sincerely,

Denys H. Oberman and David Sherbeck
1210 West Oceanfront
Newport Beach CA 92661

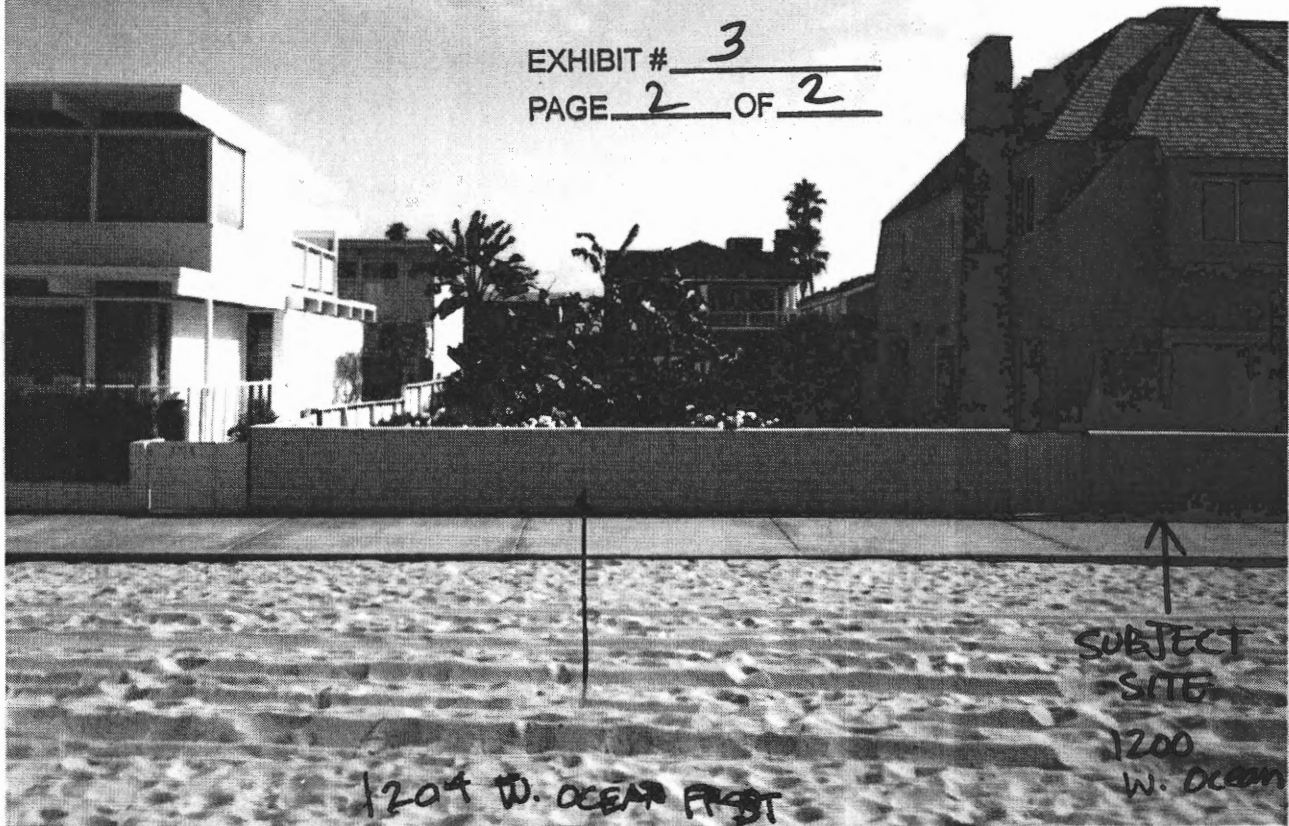


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EXHIBIT # 3
PAGE 1 OF 2

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EXHIBIT # 3
PAGE 2 OF 2



CALIFORNIA COASTAL COMMISSION

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(562) 590-5071

**F6d**

Filed:	11/16/16
180th Day:	5/15/17
Staff:	L. Roman-LB
Staff Report:	12/22/16
Hearing Date:	1/13/17

STAFF REPORT: CONSENT CALENDAR

Application No.:	5-16-0548
Applicant:	Sharish and Sandhys Shah
Agent:	Derek Wolf, Wolf Design Studio
Location:	1200 West Ocean Front, Newport Beach (Orange County)
Project Description:	Demolition of an existing two-story, 2,543 sq. ft. single family residence and detached garage and construction of a new two-story, 29-ft. tall, 5,475 sq. ft. single-family residence including attached three-car garage, minor grading for site compaction and drainage improvements, hardscape improvements, minor landscaping, and removal of an existing concrete block wall encroaching 2-ft. onto the public right of way on an ocean front lot.
Staff Recommendation:	Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing demolition of an existing single family residence and construction of a new single family residence on a beach-fronting lot in Newport Beach. The major issues of this

staff report concerns beachfront development that could be affected by wave up rush and flooding during strong storm events, hazards, and water quality.

Staff is recommending APPROVAL of the proposed project with seven (7) special conditions regarding: 1) final plans and sea level rise adaptation measures; 2) assumption of risk; 3) no future shoreline protective device; 4) landscaping; 5) construction best management practices; 6) future development; and 7) a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program for the relevant area. The City of Newport Beach does not have a certified LCP. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Area Map and Aerial Photos

Exhibit 2 –Project Plans

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the Coastal Development Permit Applications included in the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Final Plans and Sea Level Rise Adaptation Measures.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of final plans. The final project plans shall incorporate plans and accompanying analysis of potential adaptation measures to minimize hazards to life and property from potential flooding from sea level rise (up to 5.5 feet) including but not limited to, flood proofing the first floor, elevating the structure, sand bags and, if the site is flooded regularly during routine high tides, possibly converting the lowest building level to non-habitable uses. The final project plans shall be in substantial conformance with the plans submitted June 10, 2016 to the South Coast District Office. The revised plans submitted to the Executive Director shall bear evidence of Approval-in-Concept of the revised design from the City of Newport Beach Community Development Department.

The applicant shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

2. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from flooding, wave uprush, erosion and sea level rise; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
3. **No Future Shoreline Protective Device.** By acceptance of this permit, the applicants agree, on behalf of themselves and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-16-0548 including, but not limited to, the residence, garage, foundations, and patio, and any future improvements, in the event that

the development is threatened with damage or destruction from waves, erosion, storm conditions, sea level rise, or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

By acceptance of this permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit, including the residence, garage, foundations, and patio, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

- 4. Landscaping - Drought Tolerant, Non Invasive Plants.** Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>).
- 5. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The permittee shall comply with the following construction-related requirements:
 - (a) No construction materials, debris, or waste shall be placed or stored where it may enter the storm drain system leading to the Pacific Ocean;
 - (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
 - (c) Erosion control/sedimentation Best Management Practices (BMP’s) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and a pre-construction meeting to review procedural and BMP guidelines;
 - (d) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of outside the coastal zone, as proposed by the applicant.

6. **Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-16-0548. Pursuant to Title 14 California Code of Regulations Section 13250(b) (6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-16-0548. Accordingly, any future improvements to the single-family house authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-16-0548 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
7. **Generic Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT LOCATION AND DESCRIPTION

The applicant is proposing to demolish an existing two-story, 2,543 sq. ft. single-family residence and attached garage and construct a new two-story, 29-ft. high, 5,475 sq. ft. single-family residence including the attached three-car garage, minor grading for site compaction and drainage improvements, hardscape improvements, minor landscaping, and removal of an existing concrete block wall encroaching 2 feet onto the public right of way on an ocean front lot. The subject site is located at 1200 West Ocean Front in the City of Newport Beach, Orange County (**Exhibit #1**). Hardscape improvements include drainage improvements, a paved front patio and demolition of an existing 3-ft. high garden wall that encroaches 2 feet beyond the oceanfront private property line enclosing and privatizing this small area between the property line and the Ocean Front Boardwalk. The applicant proposed removal of the 3-ft. high wall and construction of a new 3.5-ft. high wall at the property line, thereby restoring the area back to natural sand, leaving that portion of the Ocean Front public-right-of-way unencumbered by private encroachments. Plans are included as **Exhibit #2** of the staff report.

The City of Newport Beach Land Use Plan (LUP) designates the site as RT (Two-Family Residential); the proposed project is a single-family residence allowable under this land use designation. The project is located within an existing urban residential area on the Balboa Peninsula. The site is a 4,033 sq. ft. beachfront lot located between the first public road and the sea. There is a wide sandy public beach (approximately 530 feet wide) between the subject property and the Pacific Ocean. The public sandy beach seaward of the site is developed with the City's paved 12 ft. wide Ocean Front Boardwalk, a multi-use public lateral access way. The City holds the public right-of-way for street/walkway/bikeway purposes along Ocean Front. The public right-of-way is identified on the site survey as Ocean Avenue (**Exhibit #2, page#1**). The subject site is located along portions of West Ocean Front in the central part of the Balboa Peninsula between the City's two municipal piers developed with a public walkway/bikeway. Other portions of the Ocean Front public right-of-way remain unimproved with no boardwalk. Vertical public access to the park and beach is available immediately adjacent to the site at the 12th St. street-end. Lateral public access is available along the Ocean Front Boardwalk and the wide sandy beach immediately seaward of the subject site.

The plans for the proposed project show that the finished floor elevation of the residence will be at 12.77 feet NAVD. According to the *Coastal Hazards and Wave Runup Study* conducted by GeoSoils, Inc. (dated March 26, 2014), the project has been designed to be above the maximum observed water elevation of +7.5 feet NAVD88 and above the City of Newport Beach design flood height of +9.0 feet NAVD88. The proposed height of the finished floor will be 5.27 feet above the maximum highest water elevation. A low level projection of a 3.5 foot rise in sea level by 2050 would result in a water level of 11 feet NAVD88 (7.5 feet NAVD88 + 3.5 feet = 11 feet NAVD88). As proposed, the project would be safe from flooding hazards under this low sea level rise projection. However, the proposed finished floor would be below the upper range (maximum) of sea level rise projections by 2100, which based on the 2012 National Research Council Report, is 5.5 feet. If there were to be 5.5 feet of sea level rise by 2100, an extreme high tide water level of 13.01 feet (7.5 feet + 5.5 feet = 13.0 feet MLLW) would flood the ground floor of the proposed residence.

Therefore, to minimize risks to life and property from projected maximum sea level rise-related flood hazards, **Special Condition 1** requires the applicant identify adaptation measures to deal with potential flooding in the event that the foundation is overtopped. Such adaptation may not result in the installation of or reliance upon shoreline armoring. Acceptable adaptation options could include implementing measures such as flood proofing the first floor, elevating the structure, temporary barriers such as sand bagging, converting the lower floor to non-habitable uses, etc. In the future, other flood-reduction options may have been developed; however it is important to demonstrate now that there are options other than shoreline armoring for future adaptation. Also, **Special Condition 2** requires the applicant to accept responsibility for all hazards associated with coastal development.

Given that the applicant has chosen to implement the project on a beachfront lot despite risks from liquefaction, wave attack, erosion, sea level rise, and storm flooding, the applicant must assume the risks and agree to no future shoreline protective devices. Therefore, the Commission imposes **Special Conditions 3**. Any future improvements to the single-family house authorized

by this Coastal Development Permit No. 5-16-0548, including but not limited to repair and maintenance identified as requiring a permit, will require an amendment to Permit No. 5-16-0548 from the Commission as imposed by **Special Condition 6**. In addition, because the project site is on a beachfront lot and in proximity to coastal waters, the Commission imposes construction-related requirements and best management practices under **Special Condition 5** to prevent pollution of the coast during construction. To address water quality concerns for the life of the project, the applicant is proposing directing site drainage and runoff from impervious areas of the lot to landscaped areas or porous gravel areas at the front and side yards, as indicated on the landscape plan included as **Exhibit 2, page #11**. Minimal landscaping is proposed over the pervious portions of the front and side yards, the applicant proposes and **Special Condition 4** requires use of drought tolerant, non-invasive plants for any landscaping on the oceanfront site.

The proposed project will not have an adverse effect on public access. The project site is located on the inland portion of Oceanfront fronted by the City's paved public lateral access way (boardwalk). The applicant proposes removal of an existing 3-ft. high wall currently encroaching onto the public right-of-way and to construct a new 3.5-ft. high wall at the property line, thereby restoring the area back to natural sand, leaving that portion of the Ocean Front public-right-of-way unencumbered by private encroachments. The Commission has found through previous permit actions in this area that the City's setback in this area is acceptable for maintaining public access. The proposed project meets the City's 8-foot required setback from the seaward property line along this portion of Oceanfront.

The Commission imposes **Special Condition 7** requiring the applicant to record a Deed Restriction acknowledging that, pursuant to this permit (CDP No. 5-16-0548), the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property.

B. HAZARDS

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned for one or more of the following: require an appropriate setback from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; prohibit construction of protective devices (such as a seawall) in the future; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. DEVELOPMENT

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that

future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. Section 30610 of the Coastal Act provides that certain improvements to existing single-family homes do not require a coastal development permit. Section 13250 of the Commission's regulations lists certain improvements to single-family structures that require a coastal development permit, including those improvements to a structure that is located on a beach. The Commission finds that section 30610 does not apply to the proposed single-family structure because it is located on a beach. Thus, to assure that future improvements are consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that it is necessary to impose a special condition prohibiting the construction of future improvements to the proposed single-family structure without first obtaining a coastal development permit. Therefore, as conditioned, the development conforms to the Chapter 3 policies of the Coastal Act.

D. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

E. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, one or more of the following: the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

F. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability. Therefore, the Commission finds that the proposed development, as conditioned, conforms to the Coastal Act by ensuring that any successors-in-interest have proper actual notice, recorded against the subject parcel, of the proposed development's required mitigation measures that mitigate the development's impacts on coastal resources.

G. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 2005. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

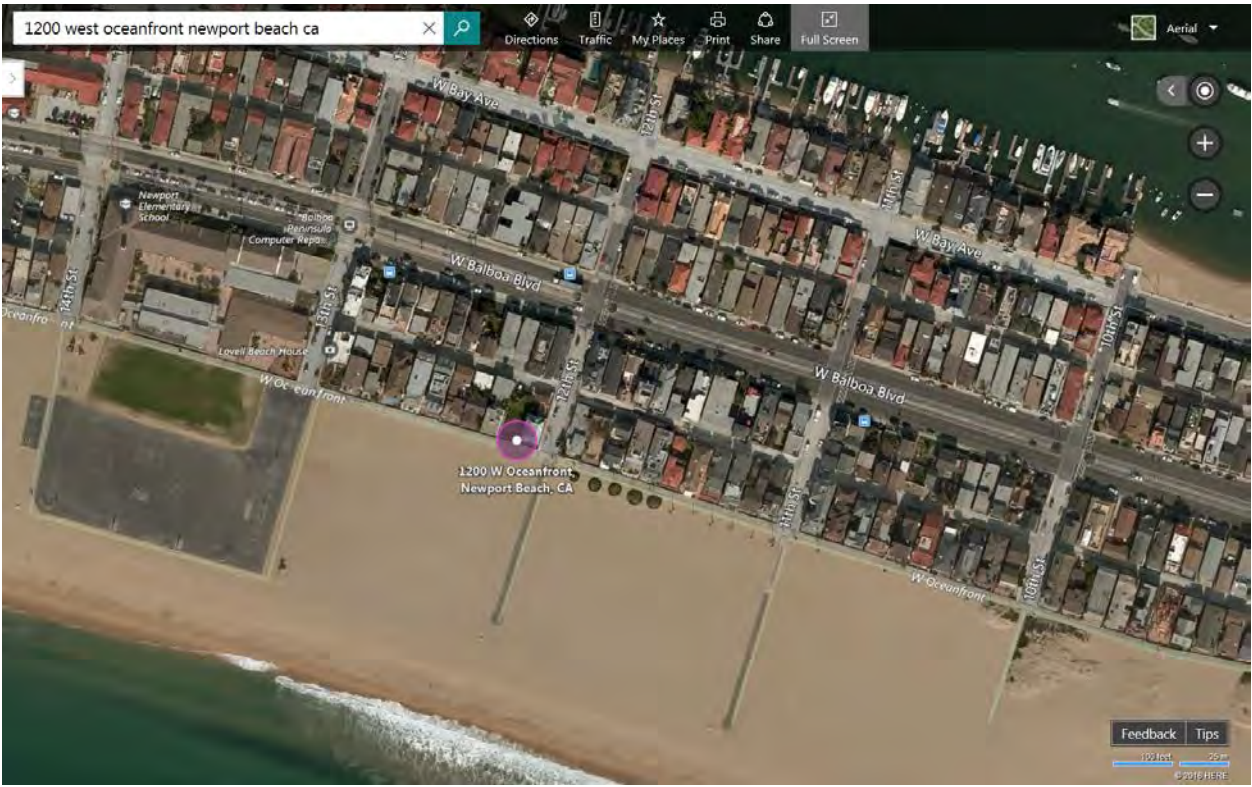
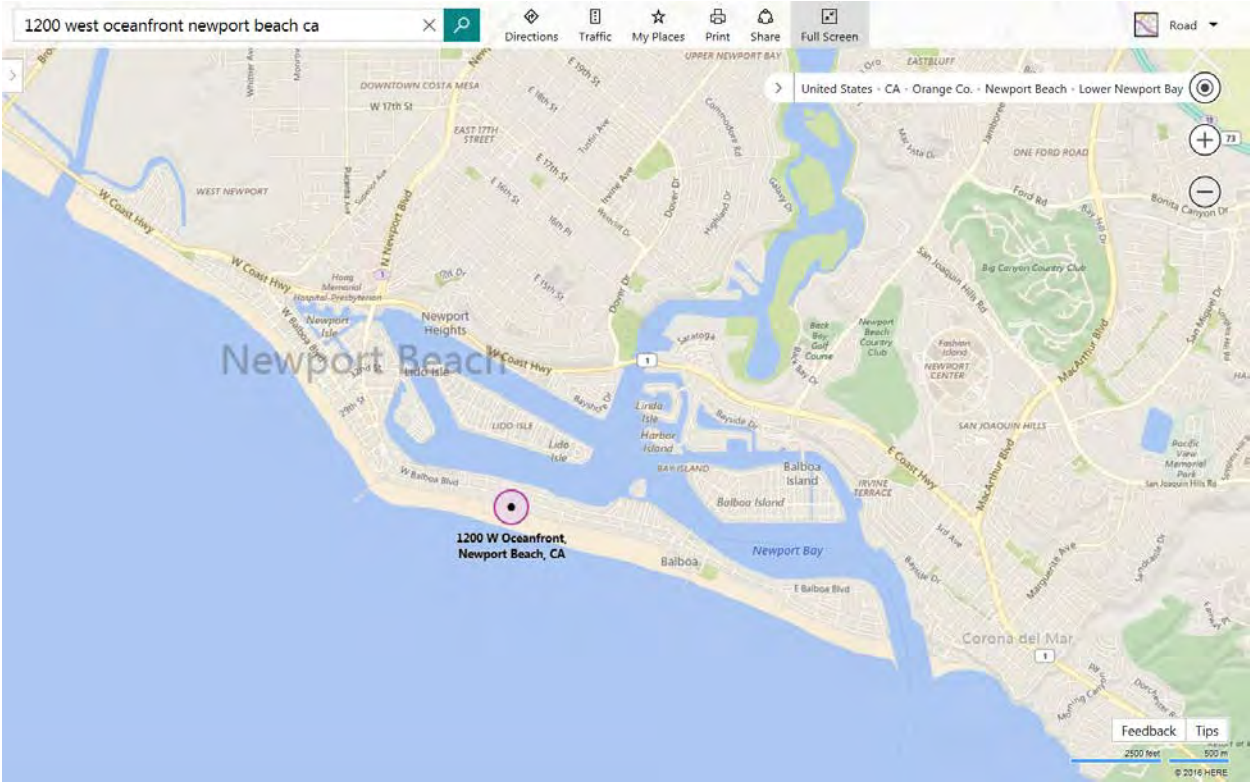
Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Newport Beach is the lead agency responsible for CEQA review. As determined by the City, this project is categorically exempt from CEQA as a Class 15268 (ministerial project) exemption. As conditioned, there are no additional feasible alternatives or additional feasible mitigation measures available which will substantially lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified possible impacts, is consistent with CEQA and the policies of the Coastal Act.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

- 1) City of Newport Beach certified Land Use Plan
- 2) City of Newport Beach Approval in Concept No. 2016-009 dated 5/23/16
- 3) *Coastal Hazards and Wave Runup Study, 1200 West Oceanfront, Newport Beach, Orange County, California* prepared by GeoSoils Inc., dated March 26, 2014
- 4) *Geotechnical Engineering Investigation of Proposed Two Residences at 1200 West Ocean Front, Newport Beach, California* by Coast Geotechnical, Inc. dated April 10, 2014



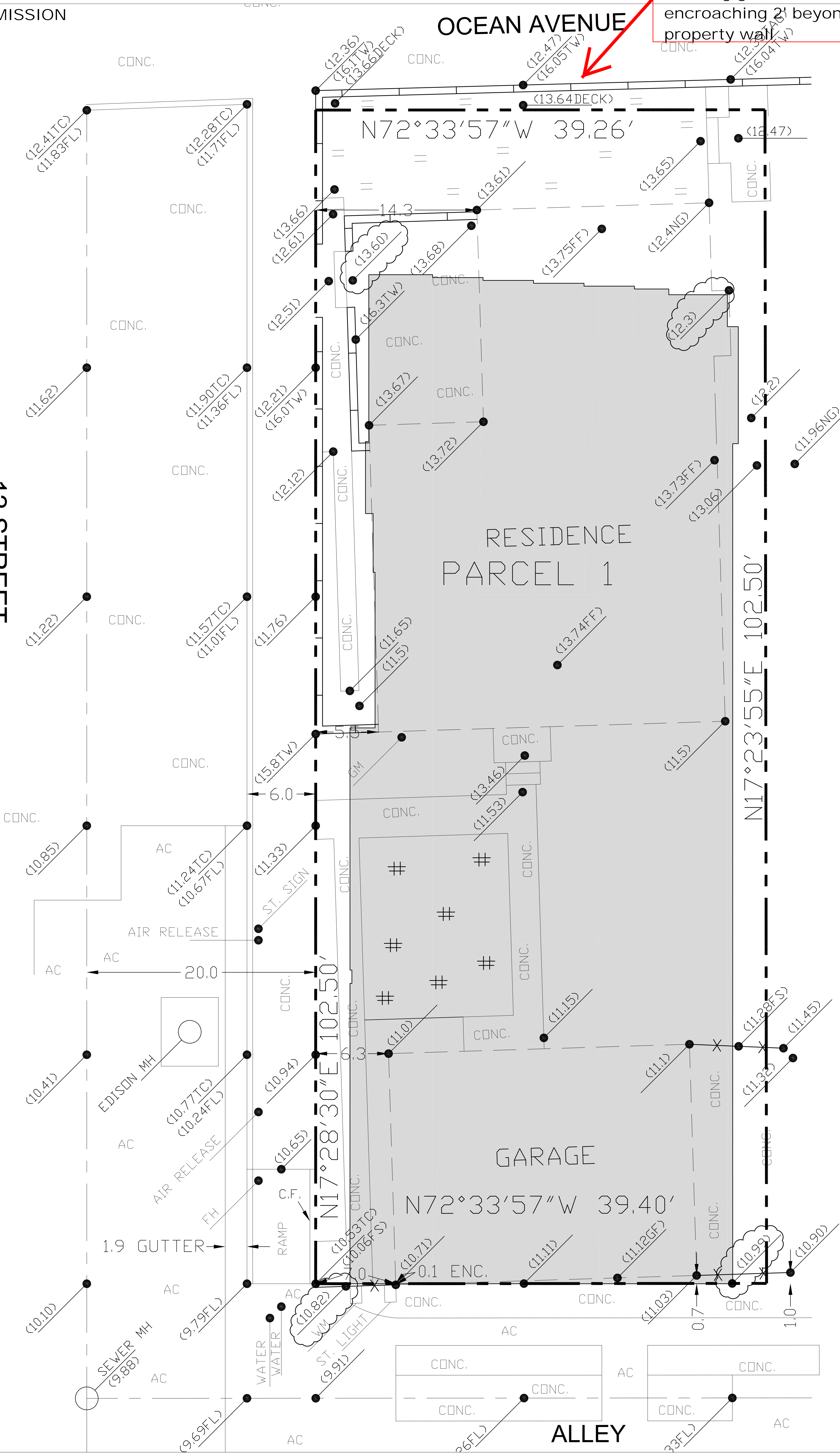
01
A1
SITE PLAN
SCALE: 1/4"=1'-0"

ESTABLISHED GRADE = 13.6 + 12.3 + 10.99 + 10.82 = 47.71/4 = 11.92'
LOT SLOPE = 13.6 - 10.82 = 2.78'/88.16' = 3% SLOPE

12 STREET

OCEAN AVENUE

TO BE REMOVED:
Existing garden wall
encroaching 2' beyond
property wall



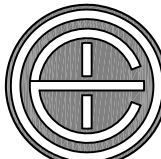
SHAH RESIDENCE

1200 W. OCEANFRONT
NEWPORT BEACH, CA 92661
APN: 047-241-29

AO

Date: 4/26/16
Job No.: 14-0513
Scale:
Drawn: DFW
Title:
ESTABLISHED GRADE EXHIBIT

WOLF DESIGN
ARCHITECTS
555 N. OCEANFRONT
LAJOLLA BEACH, CA 92035
TEL: (949) 273-2911 FAX: (949) 273-2910
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ARCHITECTS
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DRAFTING: DEREK F. WOLF
WWW.WOLFDESIGNSTUDIO.NET

Drawn: Derek F. Wolf
Reviewed: Derek F. Wolf
Signature: Derek F. Wolf

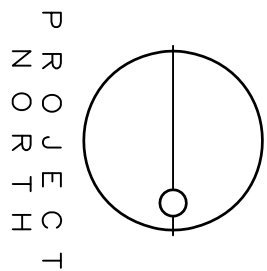
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NEWPORT BEACH, CA 92661
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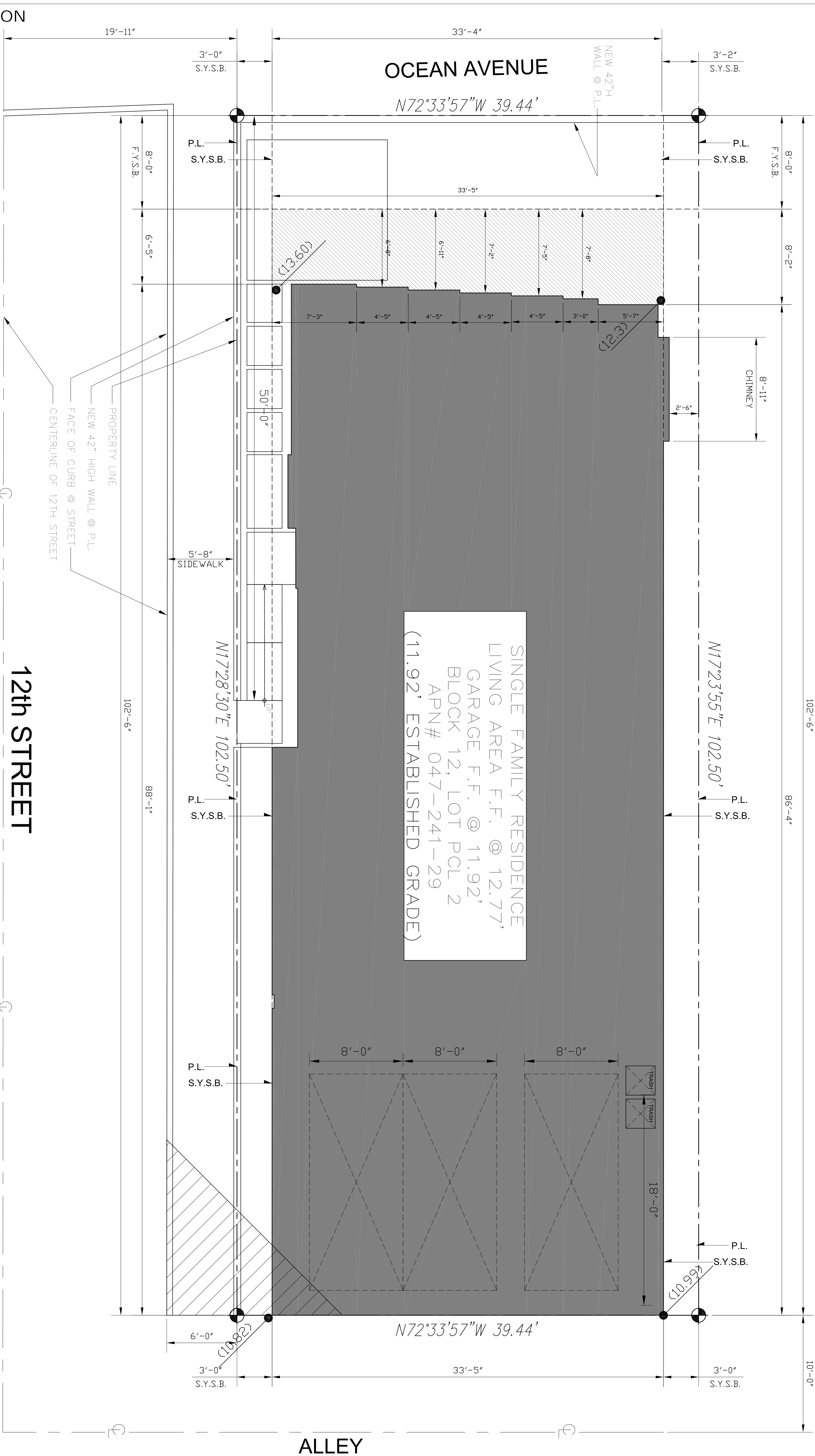
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Job No.: 14-0513
Scale:
Drawn: DFW
Title:
SITE PLAN

Sheet:

A1



PROJECT
NORTH



OPEN SPACE AREA CALCULATION:

HEIGHT OF OPEN SPACE VOLUME:

@ 1ST FLOOR = 10'-0"
@ 2ND FLOOR = 10'-0" (MIN.)

12th STREET

ESTABLISHED GRADE = 13.6 + 12.3 + 10.99 + 10.82
= 47.71/4 = **11.92'**

LOT SLOPE = 13.6 - 10.82 = 2.78/88.16' = **3% SLOPE**

PROPOSED HOME (FOOTPRINT) - 2,853 SF

OPEN SPACE AREA - 479SF

LOT AREA - 4,042.6 SF
BUILDABLE AREA - 3,160 SF
OPEN VOLUME REQ. (15%) - 474 SF
OPEN VOLUME PROVIDED (15%) - 478 SF

7.25 x 6.42 = 46.54sf
4.42 x 6.67 = 29.48sf
4.42 x 6.92 = 30.58sf
4.42 x 7.16 = 31.65sf
4.42 x 7.42 = 32.80sf
3.00 x 7.67 = 23.00sf
5.58 x 8.16 = 45.53sf

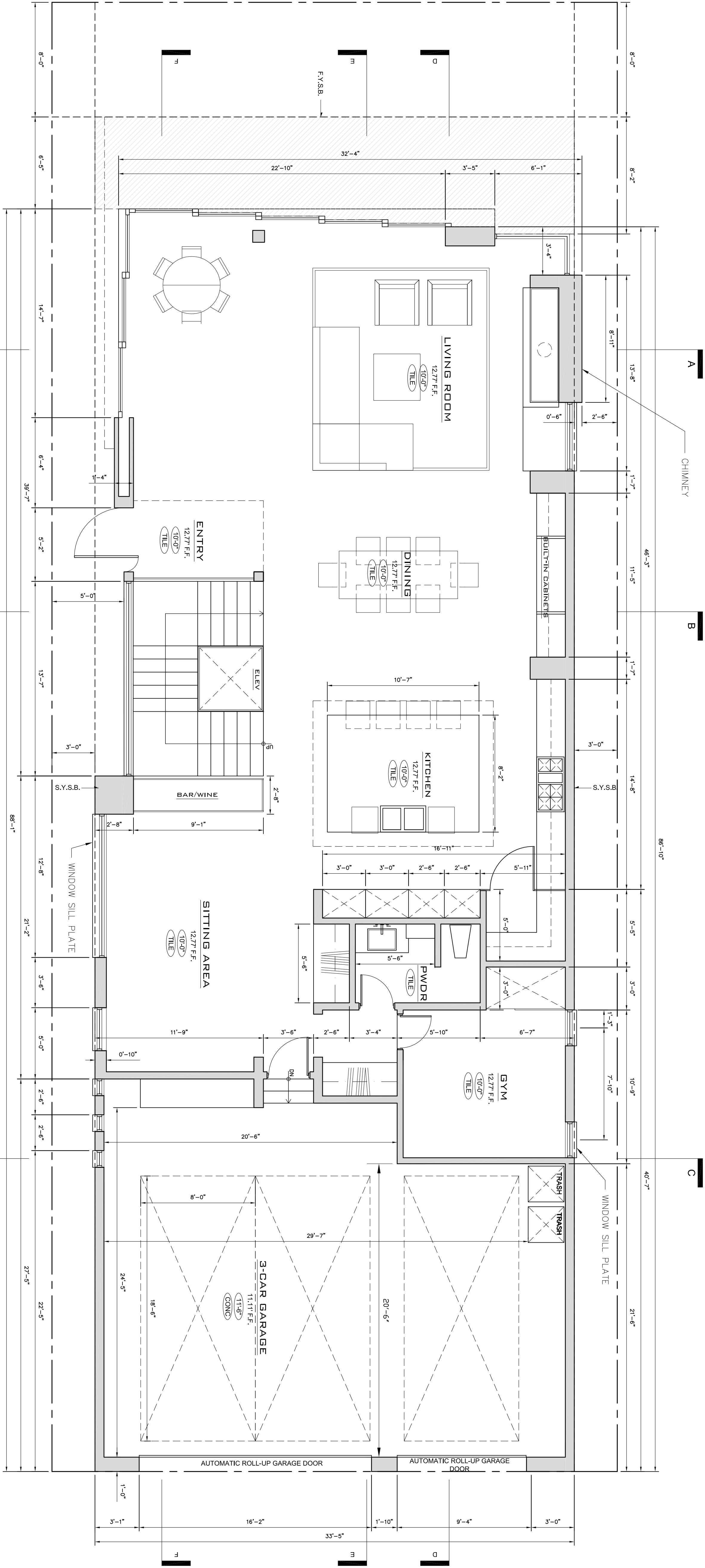
TOTAL = 239.58sf
X2 = 479.17sf

COASTAL COMMISSION
EXHIBIT 2
PAGE 2 OF 12

01 SITE PLAN

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

A1



A

B

C

OPEN SPACE AREA

NOTE: ALL DIMENSIONS TO FACE OF FINISH

20.30.110 D

5. BALCONIES ABUTTING EAST OCEAN FRONT AND WEST OCEAN FRONT.

A. BALCONIES MAY ENCRDACH UP TO A MAXIMUM OF THIRTY-SIX (36) INCHES INTO A REQUIRED FRONT SETBACK AREA ALONG EAST OCEAN FRONT AND WEST OCEAN FRONT. BALCONY RAILINGS SHALL NOT EXCEED A MAXIMUM HEIGHT OF FORTY-TWO (42) INCHES AND SHALL BE CONSTRUCTED OF EITHER TRANSPARENT MATERIAL (EXCEPT FOR SUPPORTS) OR OPAQUE MATERIAL (E.G., DECORATIVE GRILLWORK, WROUGHT IRON, LATTICEWORK, OR SIMILAR OPEN MATERIALS) SO THAT AT LEAST FORTY (40) PERCENT OF THE RAILING IS OPEN.

SHAH RESIDENCE

1200 W. OCEANFRONT
NEWPORT BEACH, CA 92661
APN: 047-241-29

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Date: 5/19/16
Job No.: 14-0513
Scale:
Drawn: DFW
Title:
PLANS - FIRST FLOOR

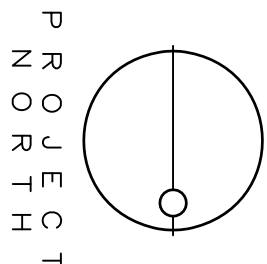
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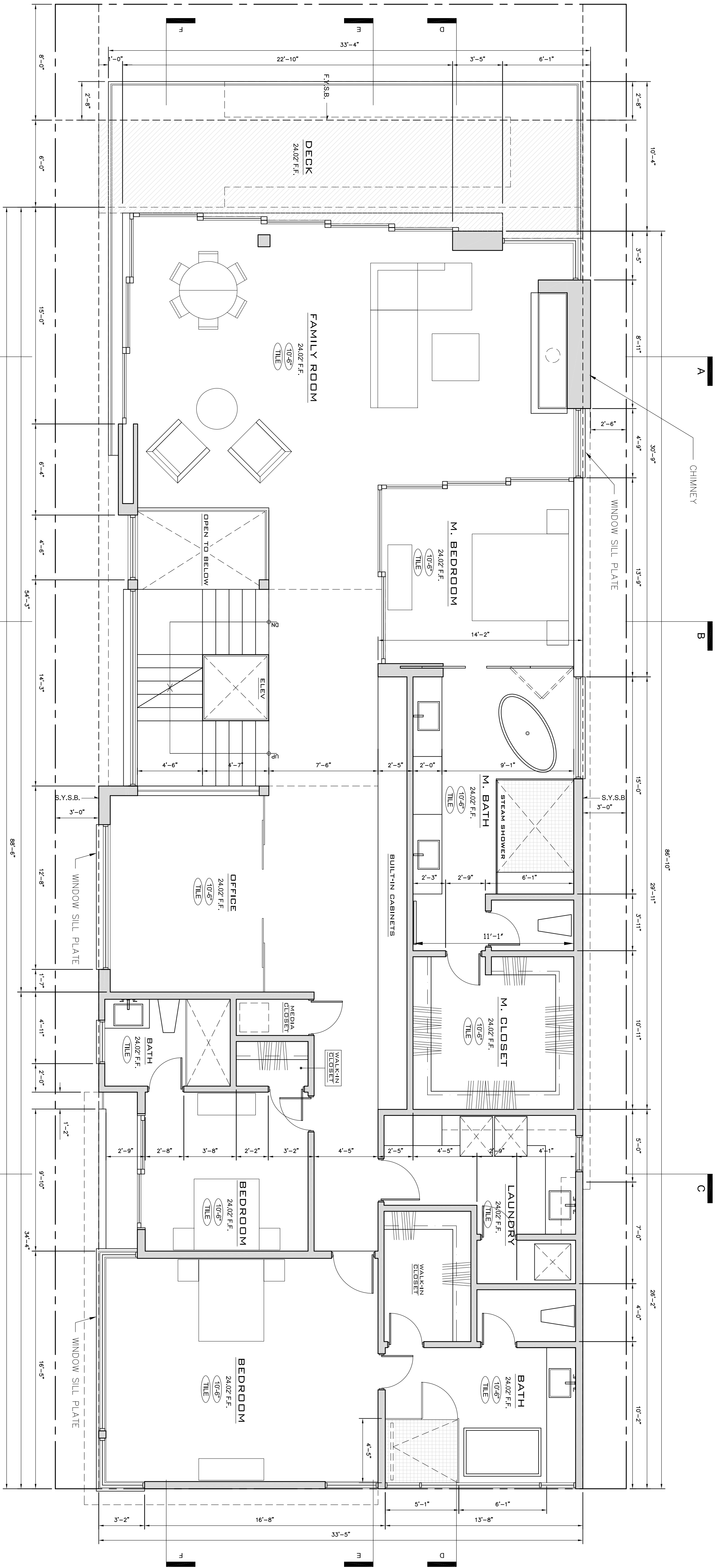
01
A2

1ST FLOOR PLAN

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



PROJECT
NORTH



OPEN SPACE AREA

NOTE: ALL DIMENSIONS TO FACE OF FINISH

20.30.110 D

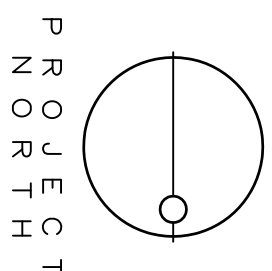
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A. BALCONIES MAY ENCRoACH UP TO A MAXIMUM OF THIRTY-SIX (36) INCHES INTO A REQUIRED FRONT SETBACK AREA ALONG EAST OCEAN FRONT AND WEST OCEAN FRONT. BALCONY RAILINGS SHALL NOT EXCEED A MAXIMUM HEIGHT OF FORTY-TWO (42) INCHES AND SHALL BE CONSTRUCTED OF EITHER TRANSPARENT MATERIAL (EXCEPT FOR WROUGHT IRON, LANTERNWORK, OR WIRE MATERIALS) SO THAT AT LEAST FORTY (40) PERCENT OF THE RAILING IS OPEN.

01
A3

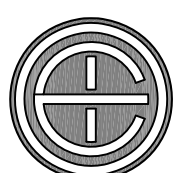
2ND FLOOR PLAN

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



PROJECT
NORTH

A3



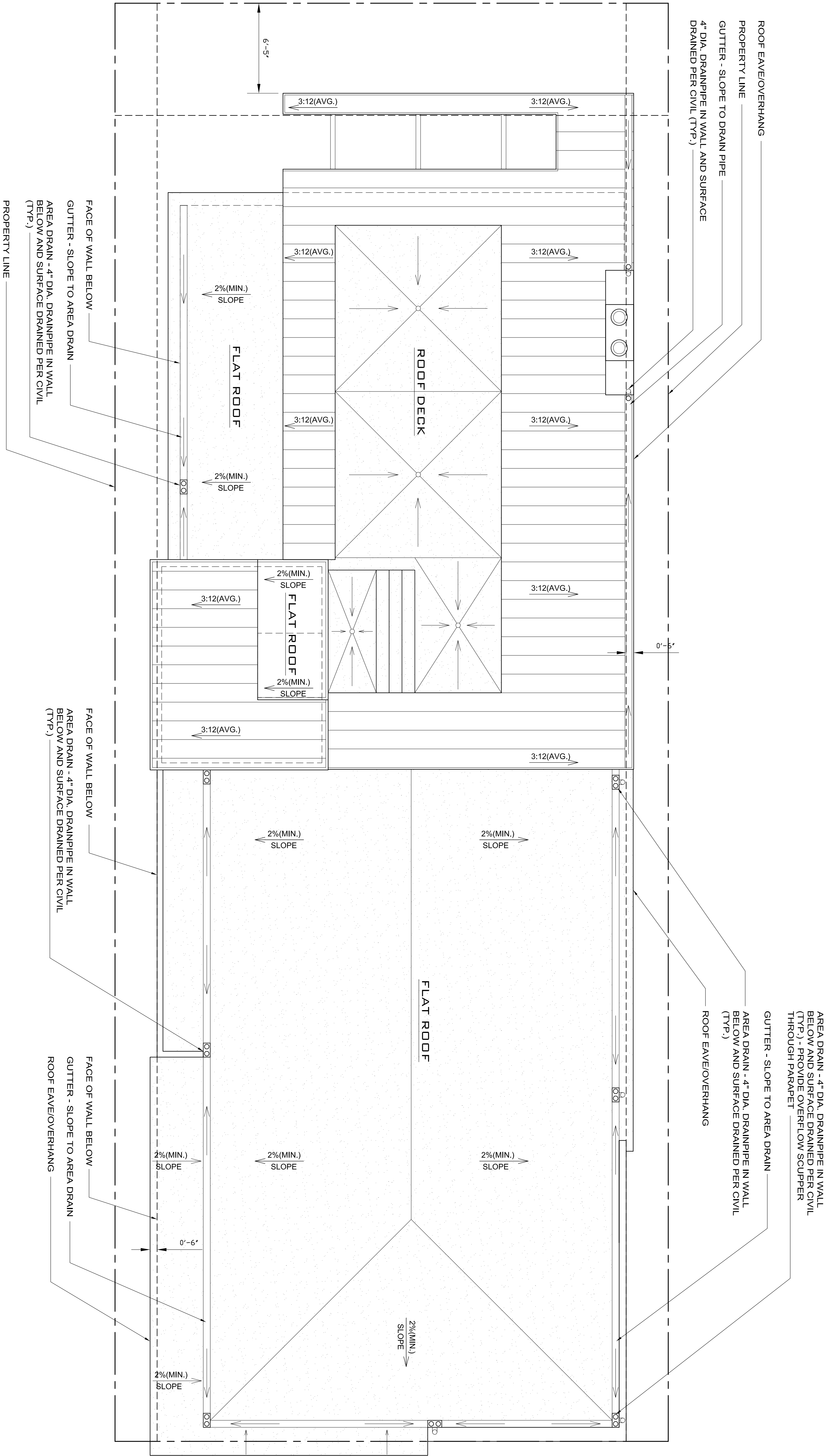
WOLF DESIGN
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APN: 047-241-29

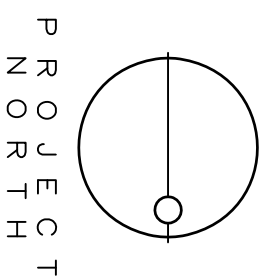
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Title:

PLANS - SECOND FLOOR



01
A4
ROOF DRAINAGE PLAN

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



A4.1



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DFW

SHAH RESIDENCE

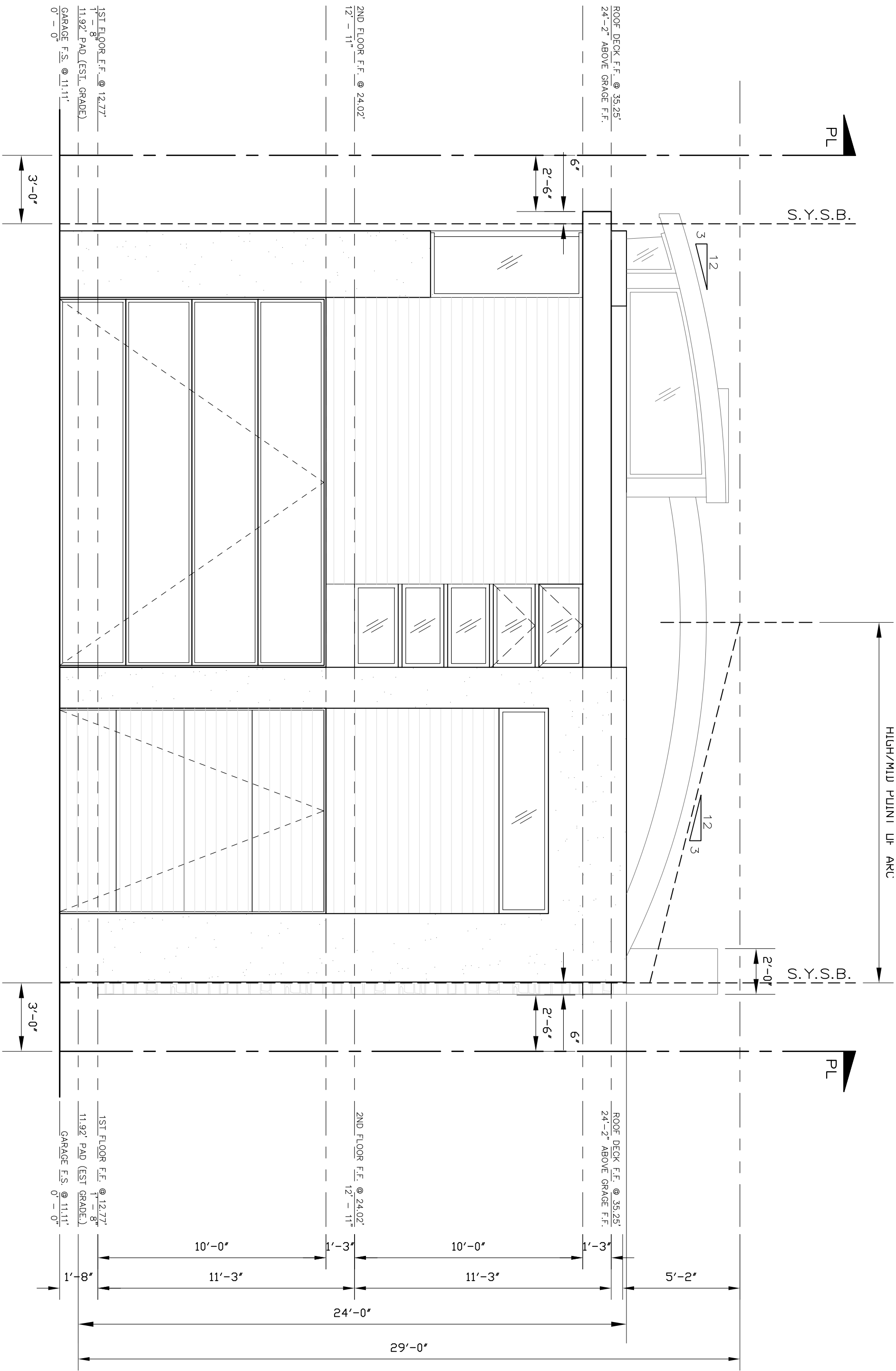
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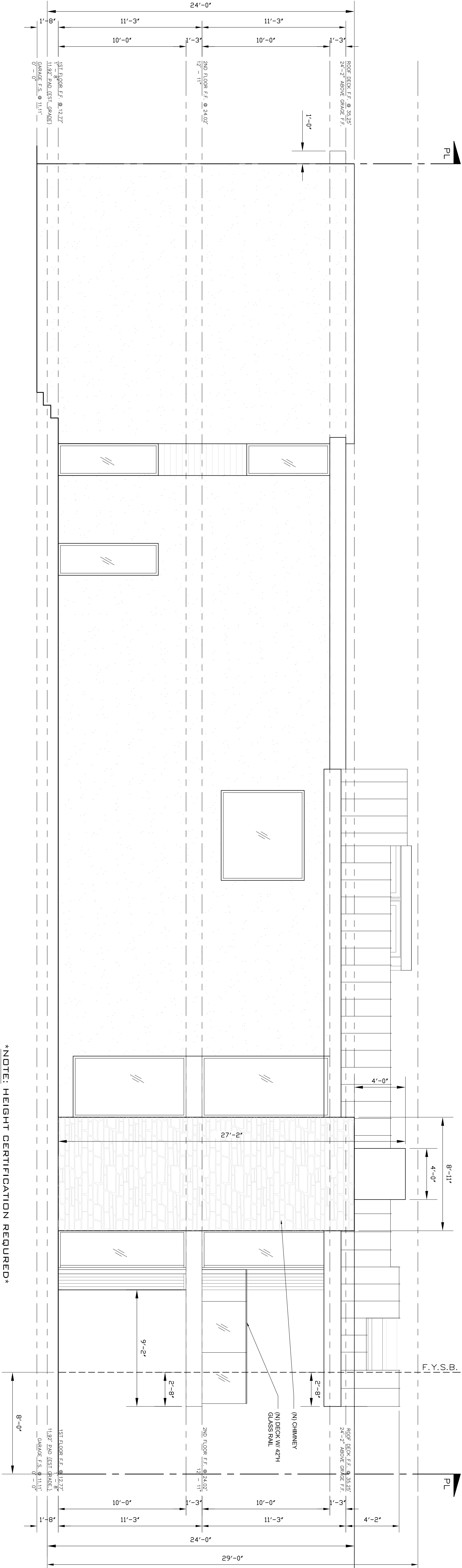
ROOF DRAINAGE PLAN

Sheet:

A4.1



01 EAST ELEVATION
SCALE: 1/4"=1'-0"



02 NORTH ELEVATION
SCALE: 1/4"=1'-0"

NOTE: HEIGHT CERTIFICATION REQUIRED

20.30.110 D

5. BALCONIES ABUTTING EAST OCEAN FRONT AND WEST OCEAN FRONT.

A. BALCONIES MAY ENCRDACH UP TO A MAXIMUM OF THIRTY-SIX (36) INCHES INTO A REQUIRED FRONT SETBACK AREA ALONG EAST OCEAN FRONT AND WEST OCEAN FRONT. BALCONIES SHALL BE CONSTRUCTED OF EITHER TRANSPARENT MATERIAL (EXCEPT FOR SUPPORTS) OR OPAQUE MATERIAL (E.G., DECORATIVE GRILLWORK, WROUGHT IRON, LATTICEWORK, OR SIMILAR OPEN MATERIALS) SO THAT AT LEAST FORTY (40) PERCENT OF THE RAILING IS OPEN.

SHAH RESIDENCE

1200 W. OCEANFRONT
NEWPORT BEACH, CA 92661
APN: 047-241-29



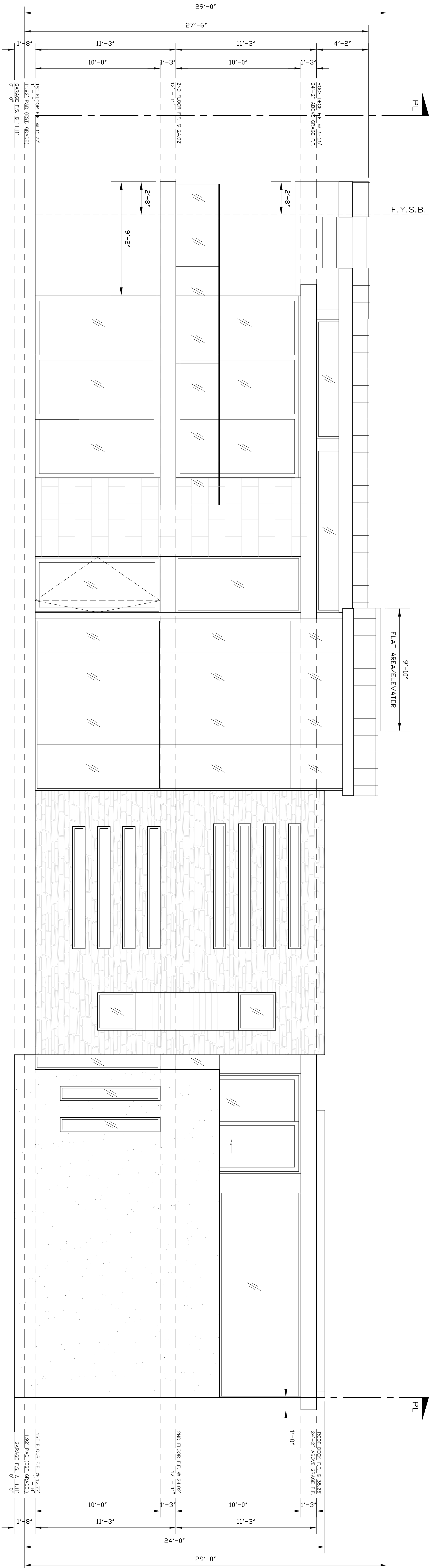
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Date: 5/19/16
Job No.: 14-0513
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Title:
ELEVATIONS

Sheet:

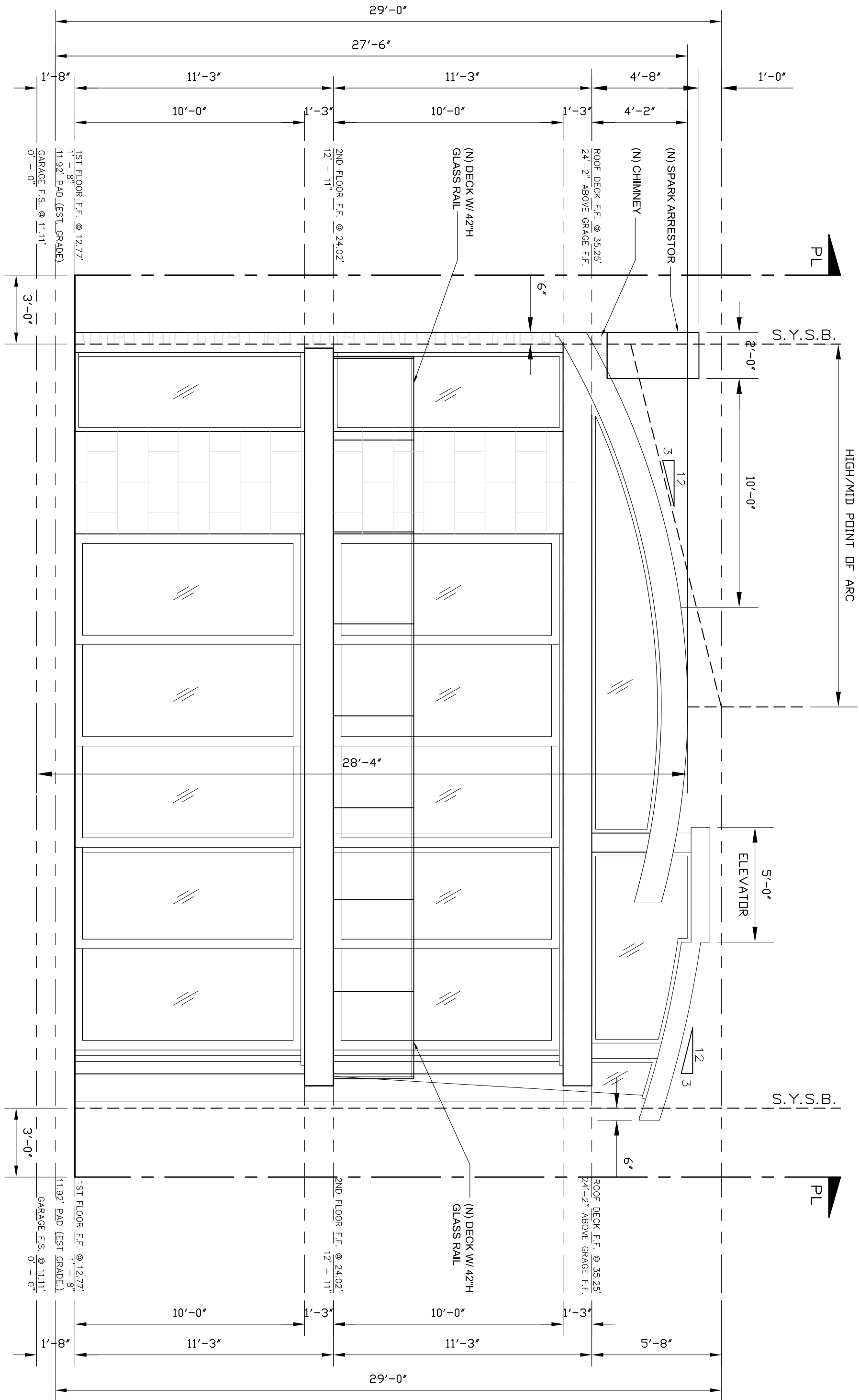
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NOTE: HEIGHT CERTIFICATION REQUIRED

01
A6 SOUTH ELEVATION

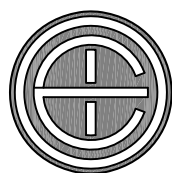
SCALE: 1/4"=1'-0"



02
A6 WEST ELEVATION

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

NOTE: HEIGHT CERTIFICATION REQUIRED



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SHAH RESIDENCE

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NEWPORT BEACH, CA 92661
APN: 047-241-29

Date: 5/19/16
Job No.: 14-0513
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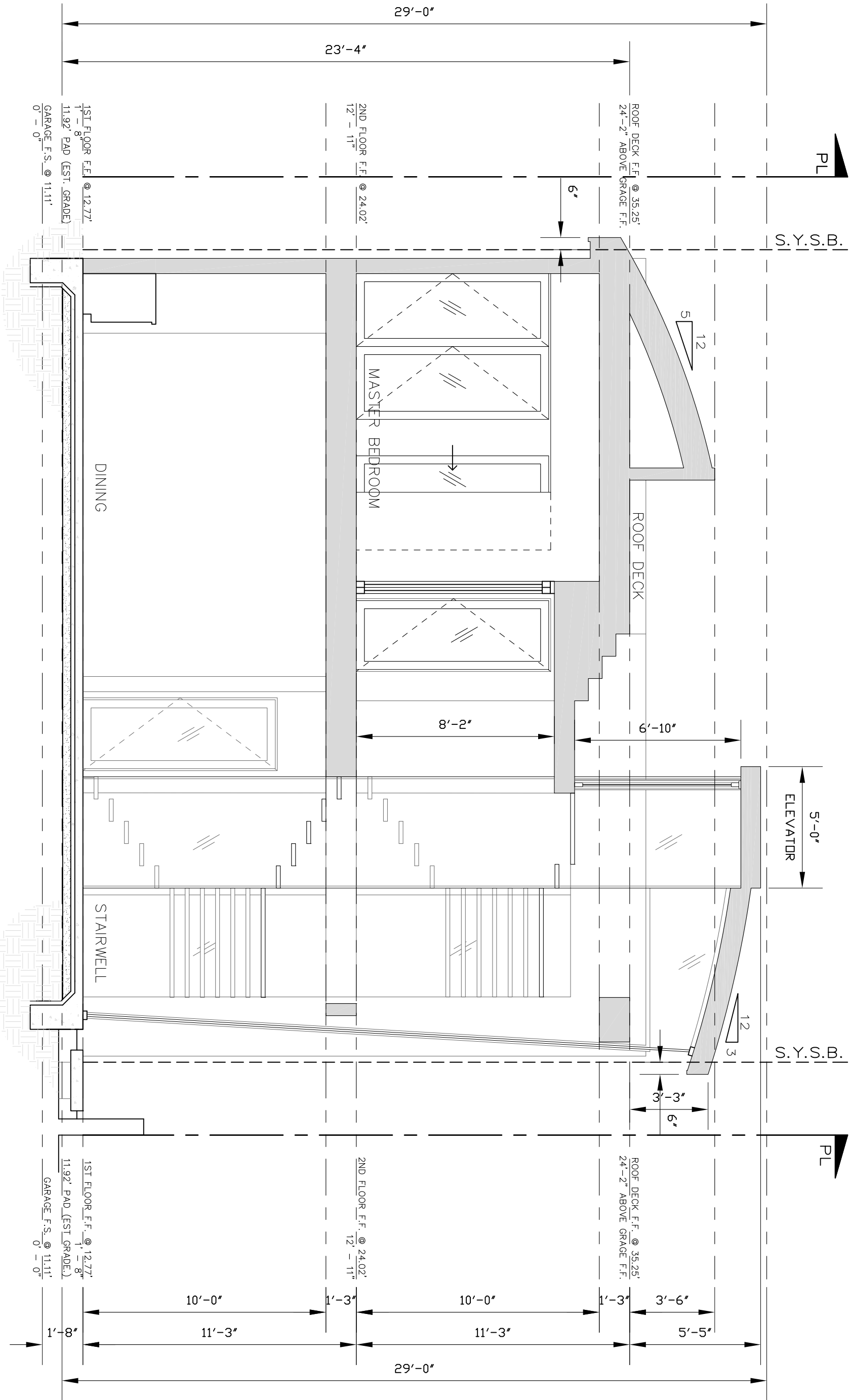
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02
SECTION B

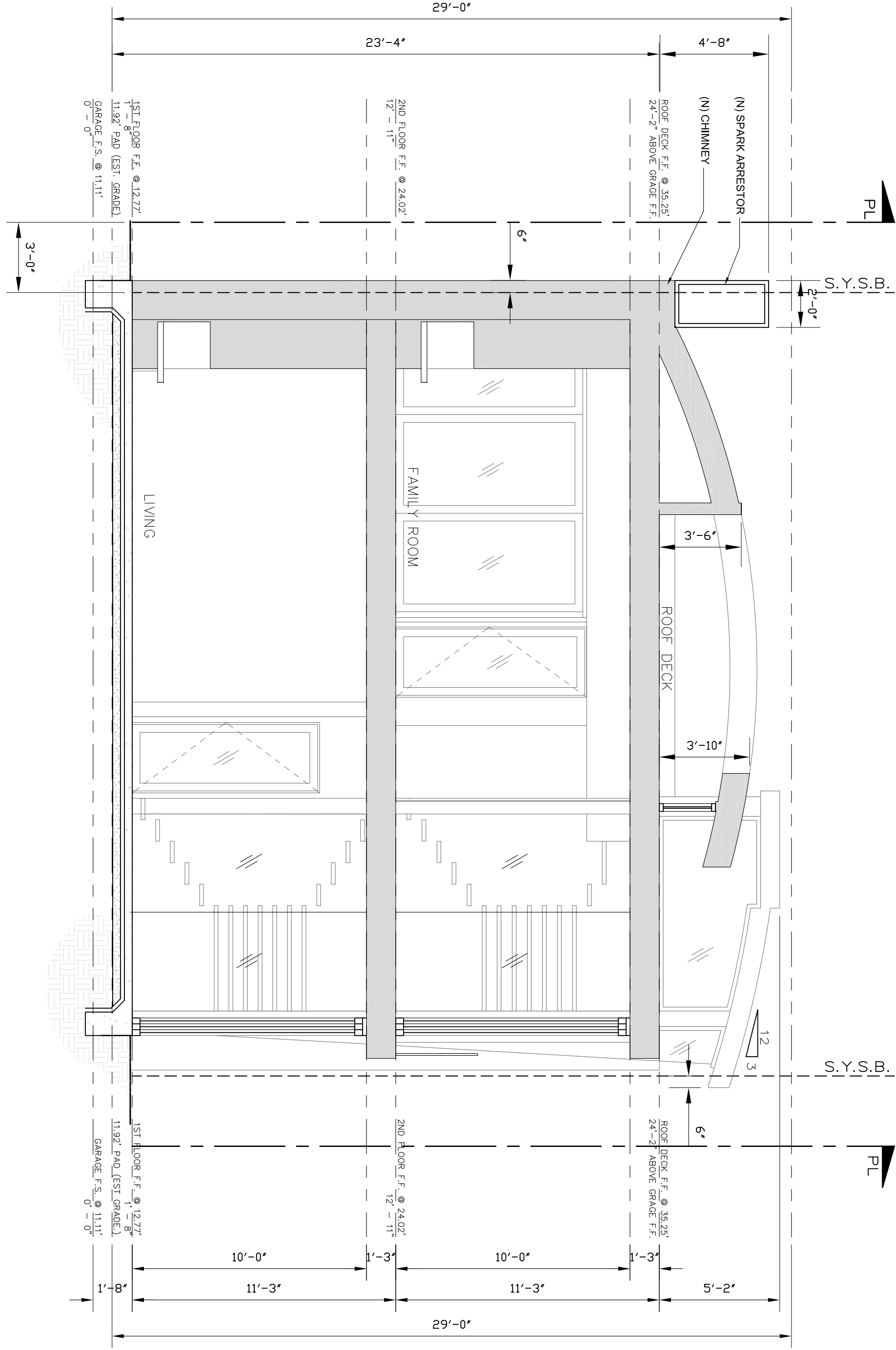
SCALE: 1/4"=1'-0"

NOTE: HEIGHT CERTIFICATION REQUIRED



01
SECTION A

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



SHAH RESIDENCE

1200 W. OCEANFRONT
NEWPORT BEACH, CA 92661
APN: 047-241-29

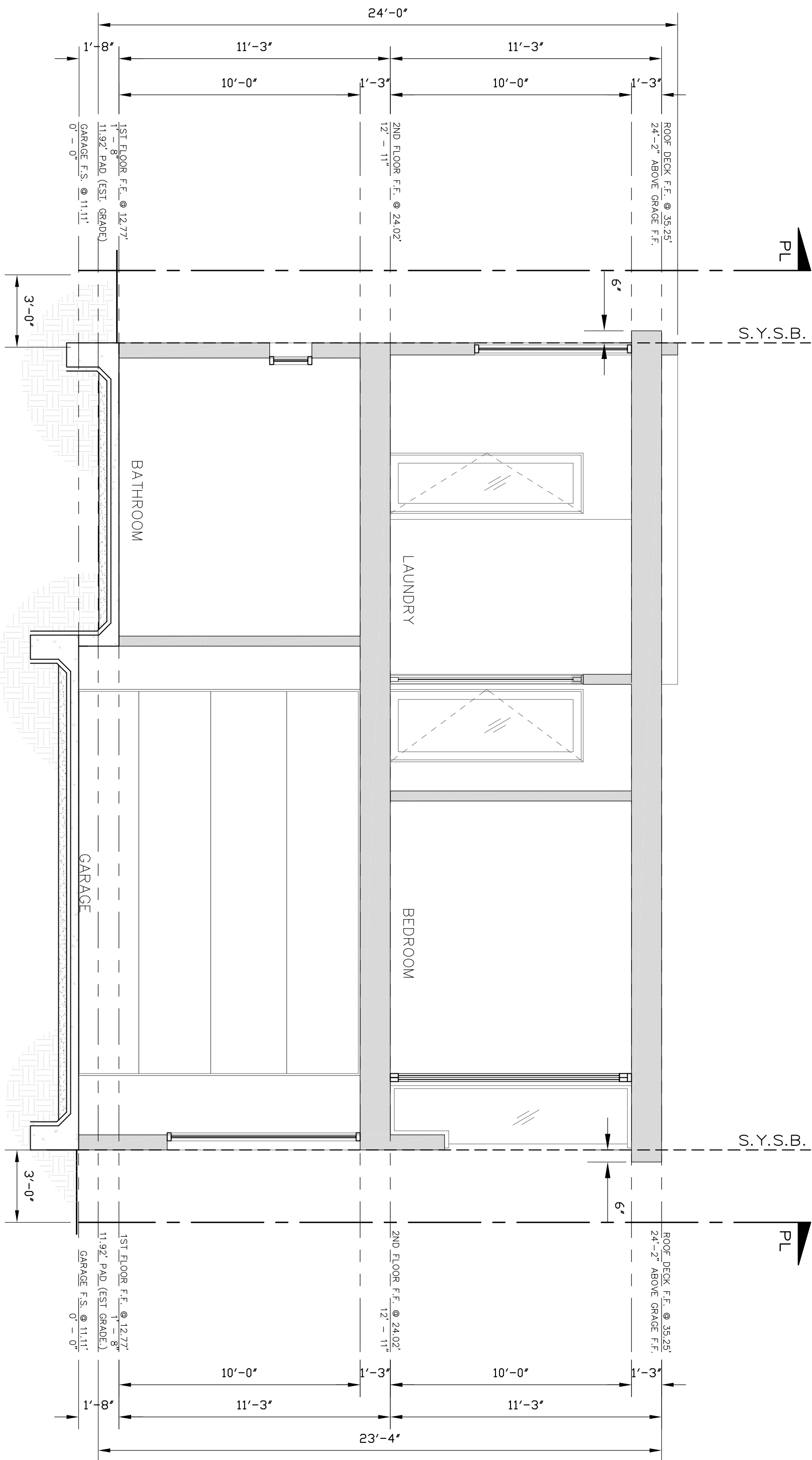


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WWW.WOLFDESIGNSTUDIO.NET

DATE: 5/19/16
JOB NO.: 14-0513
SCALE:
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TITLE:

SECTIONS

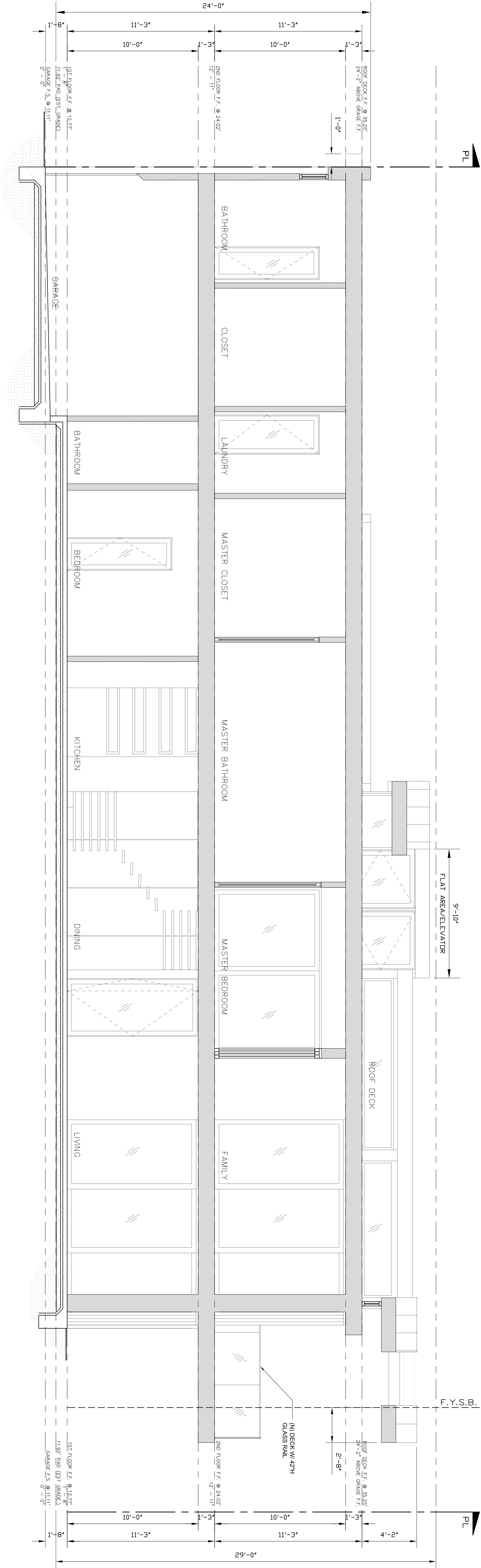
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01
A8
SECTION C

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

NOTE: HEIGHT CERTIFICATION REQUIRED



02
A8
SECTION D

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

NOTE: HEIGHT CERTIFICATION REQUIRED



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[Signature]

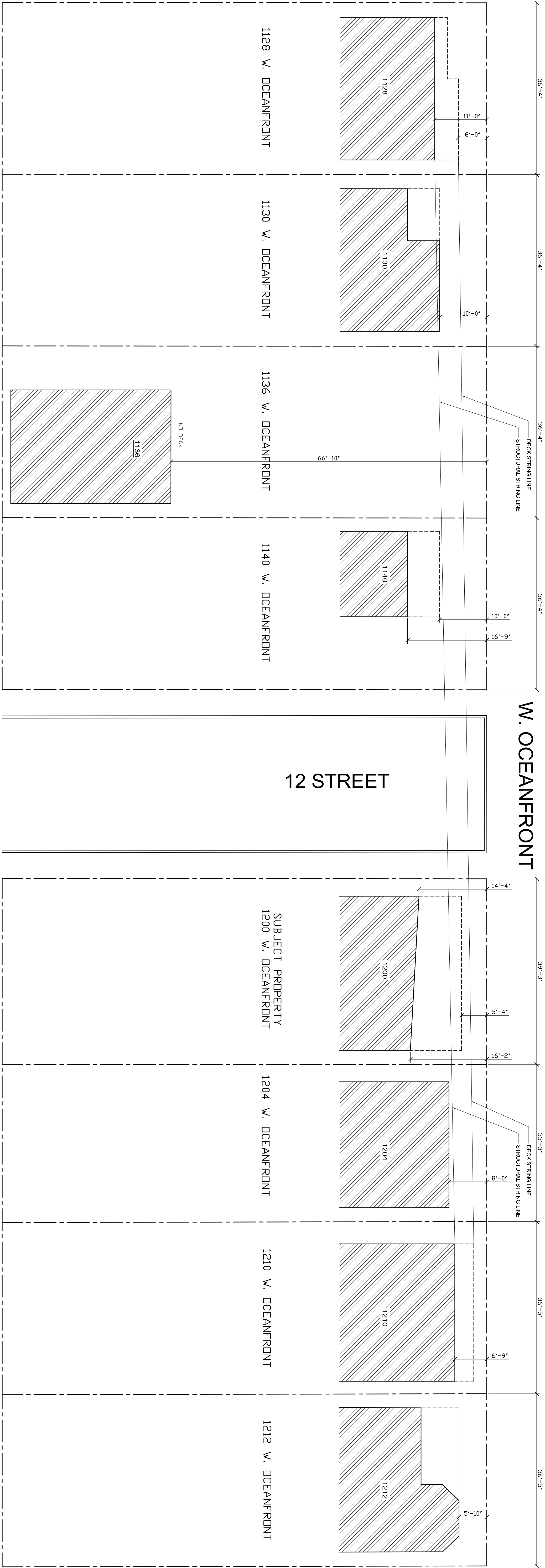
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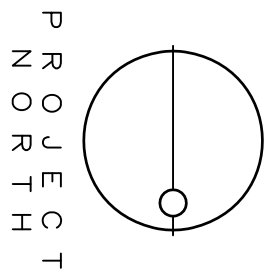
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Title:
SECTIONS

Sheet:

A8



01
A0.1
STRINGLINE EXHIBIT
SCALE: 1/4"=1'-0"



A0.1

Date: 8/25/16
Job No.: 14-0513
Scale:
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Title:
STRINGLINE EXHIBIT

Sheet:

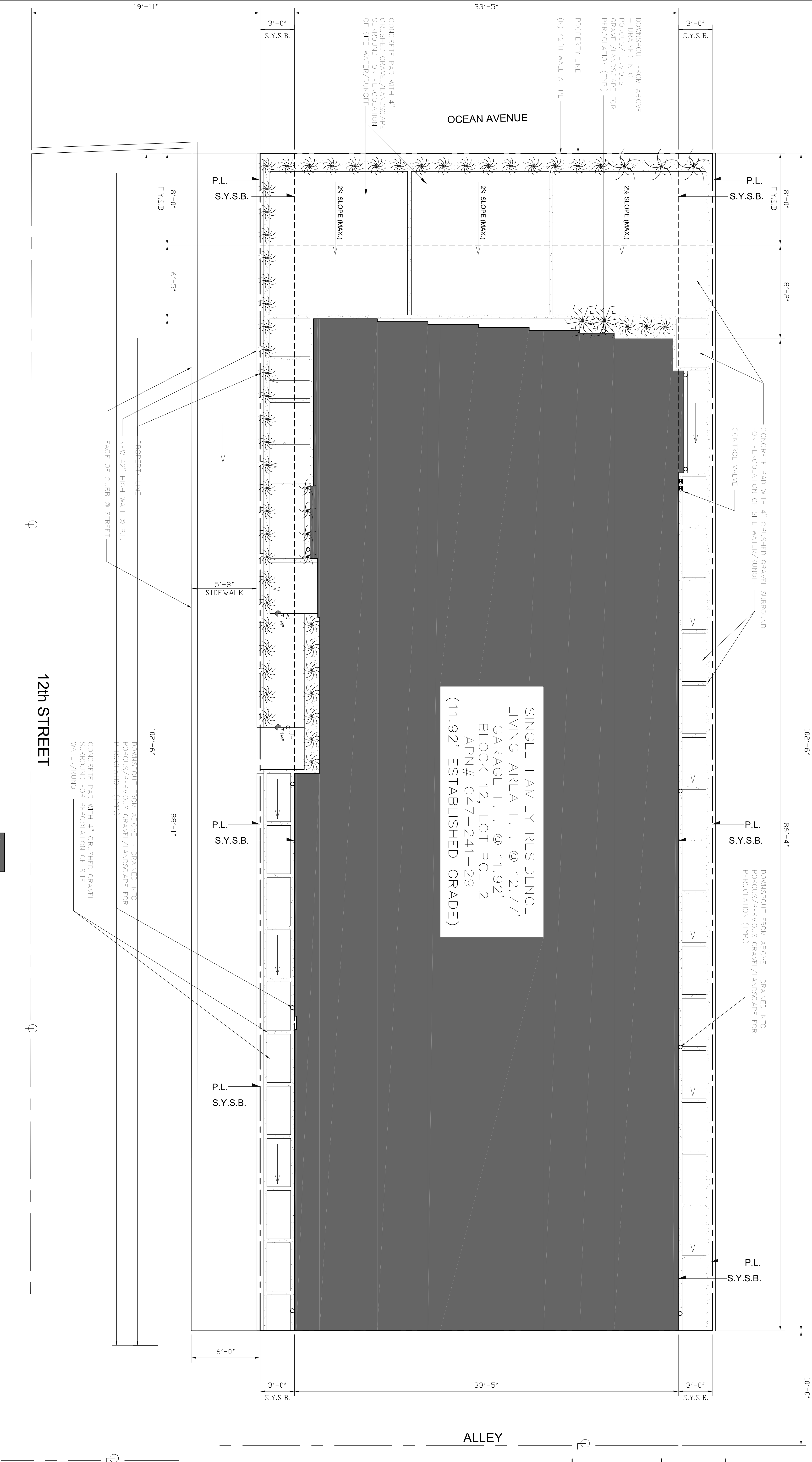
SHAH RESIDENCE

1200 W. OCEANFRONT
NEWPORT BEACH, CA 92661
APN: 047-241-29



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5528 N. OCEAN DRIVE
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12 STREET

OCEAN AVENUE

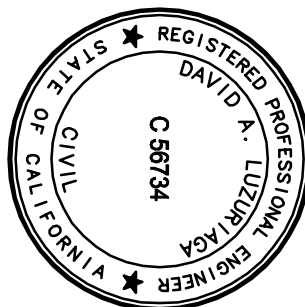
PARCEL 2

LEGEND

(FS XX.XX) EXISTING GRADE
FS XX.XX PROPOSED GRADE



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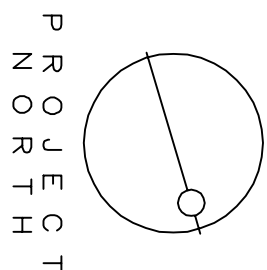


SHAH RESIDENCE

1200 W. OCEANFRONT
NEWPORT BEACH, CA 92661
APN: 047-241-29

PRELIMINARY GRADING PLAN

Date: 5/19/16
Job No.: 14-0513
Scale: 1"=4'
Drawn: DFW
Title: GRADING PLAN



C3.0