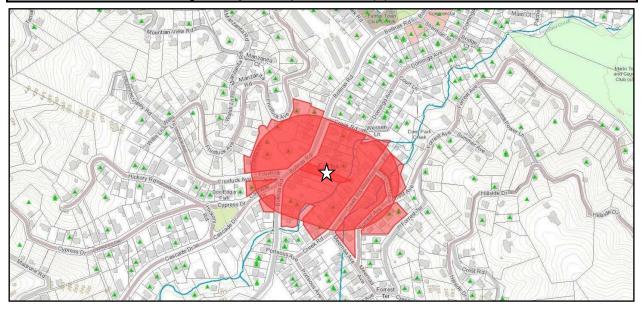
#### TOWN OF FAIRFAX STAFF REPORT Department of Planning and Building Services

то:	Fairfax Planning Commission
DATE:	August 17, 2023
FROM:	Kara Spencer, Assistant Planner
LOCATION:	299 Bolinas Road; APN: 002-033-01
ZONING:	RD-5.5-7 Residential Zone
PROJECT:	Construct an approximately129 square-foot deck and access
	stairway on a detached Accessory Dwelling Unit (ADU)
ACTION:	Conditional Use Permit (CUP); Application No. 23-21
APPLICANT:	Cottage Technologies, Inc.
OWNER:	John Boldrick
CEQA STATUS:	Categorically exempt, § 15301(a).



### 299 BOLINAS ROAD

#### PROJECT DESCRIPTION

The project consists of the construction of an approximately 129 square foot deck onto the side of an existing approximately 595 square foot, single-story, one-bedroom, one-bathroom, detached Accessory Dwelling Unit (ADU). The deck and stairway would be constructed of wood with metal railings. The deck would be elevated approximately 1'-7" off the ground. It would provide access to and egress from the ADU bedroom.

#### BACKGROUND

The approximately 12,389 square foot property is relatively flat. It slopes down from Bolinas Road towards San Anselmo Creek at an average rate of approximately 17 percent. It is developed with an approximately 1,283 square foot house, the

approximately 595 square foot ADU, an approximately 306 square foot accessory building (shed), and various walkways, decks, and patios. Native and non-native vegetation is scattered throughout the site. The house was originally constructed in 1948. Records in the property file indicate that the accessory building(shed) has been on the property since at least 1983. The Planning Department approved the ADU in September 2022, which was still under construction as of the writing of this staff report. The project site is not within a quarter mile of a known Northern Spotted Owl (NSO) nesting site according Marin County Parks/Marin Audubon Society NSO surveys. The property is within a Wildland Urban Interface (WUI) Zone according to the Ross Valley Fire Department "Town of Fairfax Wildland-Urban Interface Zones" Map.

Table 1 below demonstrates the property's compliance with the regulations of the RD-5.5-7 Residential Zone, High-Density District where the property is located. As indicated in Table 1, the existing property meets the front setback, the rear setback, the combined front and rear setback, the FAR, lot coverage, and building height requirements, but not the minimum or combined side-yard setback requirements.

	Front Setback	Rear Setback	Combined Front/Rear Setback	Side Setbacks	Combined Side Setbacks	FAR	Lot Coverage	Height
Required/ Permitted	6 ft.	10 ft.	35 ft.	5 ft. & 5 ft.	20 ft.	.40	.35	28.5 ft., 2 stories
Existing	24 ft.	36 ft.	60 ft.	1'-6" & 3'-7"	5'-1"	.18	.23	20 ft., 2 stories
Proposed	No change	No change	No change	No change	No change	No change	No change	No change

 Table 1: 299 Bolinas Road Compliance with RD 5.5-7 Regulations

#### DISCUSSION

#### **Required Discretionary Approvals**

Town Code § 17.084.050 specifies that any physical improvement on a property in the RD 5.5-7 zone that does not meet the minimum size and width requirements based on its slope requires approval of either a Conditional Use Permit (CUP) or a Hill Area Residential Development (HRD) Permit. Based on the approximate 17 percent slope of the project site, it would need to be 9,000 square feet in area and 71 feet wide to conform to the size and width requirements of § 17.084.050(C). At approximately 12,389 square feet in area the property meets the minimum size requirement. However, the property is approximately 53 feet wide along the street frontage and does not meet the minimum width required by the Code. The project does not require any excavation and would result in minimal site disturbance. Therefore, the HRD permit is not applicable and the proposed deck addition requires the approval of a CUP.

#### Conditional Use Permit (Town Code Chapter 17.032)

The proposed deck would elevate the existing outdoor living space approximately 1'-7" off the ground. It would comply with the minimum and combined side yard setback,

height, and lot coverage regulations of the RD 5.5-7 zone. The proposed location would be approximately 22 feet away from the closest neighboring residential structure at 287 Bolinas Road and approximately 50 feet from the other nearest neighboring structure, the ADU at 303 Bolinas Road. It would not be visible to passersby using Bolinas Road. It would not be expected to negatively impact surrounding development, given its compliance with the setback and height regulations and its distance from the nearest neighboring residential structures. There are similar sized decks in the immediate area so the project will not result in development out of character with the surrounding neighborhood.

#### OTHER DEPARTMENT/AGENCY COMMENTS/CONDITIONS OF APPROVAL

No comments or conditions were received from the Ross Valley Fire Department (RVFD) or the Town of Fairfax Police, Building, or Public Works Departments. Marin Municipal Water District (MMWD) and Ross Valley Sanitary District (RVSD) had conditions relating to the provision of water and sewer service to the ADU. Those conditions and the standard conditions of approval for all projects from the RVFD have been included in the attached Resolution No. 2023-12 and can be viewed in their entirety in that document.

#### RECOMMENDATION

Conduct the public hearing. Move to approve application No. 23-21 by adopting the attached Resolution No. 2023-18 setting forth the findings and the conditions of project approval.

#### ATTACHMENTS

Attachment A - Resolution No. 2023-18

#### **RESOLUTION NO. 2023-18**

#### A Resolution of the Fairfax Planning Commission Approving Application No. 23-21 for a Conditional Use Permit for a 129 Square-foot Deck Addition to a Detached Accessory Dwelling Unit at 299 Bolinas Road

**WHEREAS**, the Town of Fairfax received an application from John Boldrick for a 129 square-foot, deck addition to the detached Accessory Dwelling Unit (ADU) at 299 Bolinas Road; and

**WHEREAS**, the Planning Commission held a duly noticed Public Hearing on August 17, 2023, at which time the Planning Commission determined that the project complies with the Town Code and that findings can be made to grant the requested Conditional Use Permit; and

**WHEREAS**, based on the plans and other documentary evidence in the record the Planning Commission determined that the applicant met the burden of proof required to support the findings necessary to approve the discretionary Conditional Use Permit; and

**WHEREAS**, The project is exempt from the California Environmental Quality Act per Categorical Exemption Section 15301(a); and

WHEREAS, the Commission has made the following findings:

The project is consistent with the 2010-2030 Fairfax General Plan as follows:

Policy LU-7.1.5: New and renewed residential development shall preserve and enhance the existing characteristics of the Town's neighborhoods in their diverse architectural style, size, and mass.

Policy LU-7.2.1: New and renewed development shall be compatible with the general design and scale of structures in the vicinity.

Policy LU-8.1.2: The Town of Fairfax shall permit construction of well-designed second units consistent with state law, zoning requirements, and building codes, parking requirements and street capacity.

#### Conditional Use Permit Findings (Town Code § 17.032.060)

- 1. The approval of the Conditional Use Permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment. The proposed deck addition complies with the RD 5.5-7 Residential Zone setback and height regulations and the deck does not affect the site floor area ratio which considers interior space square footage, or the lot coverage percentage which does not apply to the permeable deck.
- 2. The deck complies with the minimum and combined side yard setback regulations and would be approximately 22-feet away from the closest residential structure at



287 Bolinas Road and approximately 50-feet from the other nearest neighboring structure, the ADU at 303 Bolinas Road. The deck would also not be visible to passersby using Bolinas Road. Therefore, the development and use of the property, as approved under the Conditional Use Permit, shall not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, any or all of which effects are substantially beyond that which might occur without approval or issuance of the Conditional Use Permit. The project would not increase the number of bedrooms in the structure. It would not impact neighboring properties visually or increase the use of public parking.

- 3. The project does not require the approval of any variances and does not change the residential use of the site. Therefore, approval of the Conditional Use Permit is not contrary to those objectives, goals, or standards pertinent to the particular case and contained within the RD 5.5-7 Residential Zone regulations; and
- 4. Approval of the Conditional Use Permit will result in equal or better development of the premises than would otherwise be the case, and that the approval is in the public interest and for the protection or enhancement of the community.

**WHEREAS**, the Commission has approved the project subject to the applicant's compliance with the following conditions:

- 1. The project is approved per the plans by Cottage Technologies, Inc. received by the Town on 7/27/23 subject to the plans submitted for the building permit application not containing any notation that the existing deck at the rear of the yard would be partially removed to meet combined setback requirements.
- 2. During the construction process the following shall be required:
  - a. All construction-related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the Building Official on a case-by-case basis with prior notification from the project sponsor.
  - b. Any proposed temporary closures of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.
- 3. Prior to the final inspection approval and sign off, the Planning Department shall field check the completed project to verify that it has been constructed per the plans that were approved by the Planning Commission.

- 4. The roadways shall be kept free of dust, gravel, and other construction materials by sweeping them, daily, if necessary.
- 5. Any changes, modifications, additions, or alterations made to the approved set of plans will require a modification of Application # 23-21. Modifications that do not significantly change the project, the project design or the approved discretionary permits *may* be approved by either the Planning Commission or the Planning Director. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 23-21 will result in the job being immediately stopped and red tagged.
- 6. Any damage to the public portions of Bolinas Road or other public roadway used to access the site resulting from construction-related activities shall be the responsibility of the property owner.
- 7. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town of Fairfax, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.
- 8. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32, and the Americans with Disabilities Act.
- 9. In accordance with Town Code §8.20.060(C)(1) and (2), the operation of any tools or equipment used in construction or demolition work or in property

maintenance work between the hours of 6:00 PM and 8:00 AM Monday through Friday, or on weekends and holidays between 4:00 PM and 9:00 AM is prohibited.

10. Conditions placed upon the project by outside agencies may be eliminated or amended with that agency's written notification to the Planning Department prior to issuance of the building permit.

#### **Ross Valley Fire Department (RVFD) Conditions**

- 11. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of each sleeping room in a central location in the corridor, and over the center of all stairways with a minimum of one detector on each story of the occupied portion of the residence.
- 12. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alterations, repairs, or addition and the cost of the permit exceeds \$1,000.00. Carbon monoxide alarms shall be located outside of each sleeping area in the immediate vicinity of the bedrooms and on every level of the dwelling, including basements.
- 13. Address numbers at least 4" tall visible from the street and internally illuminated or illuminated by and adjacent light controlled by a photocell and switched off only by a breaker so it will remain illuminated all night shall be installed.
- 14. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
- 15. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.

#### Marin Municipal Water District (MMWD) Conditions

- 16. Complete a High Pressure Water Service Application.
- 17. Submit a copy of the building permit.
- 18. Pay appropriate fees and charges.
- 19. Comply with the District's rules and regulations in effect at the time service is requested including the installation of a separate meter to serve the accessory dwelling unit.
- 20. Comply with all indoor and outdoor requirements of District Code Title 13 Water Conservation. This may include verification of specific indoor fixture efficiency compliance.

- 21. Any landscaping project subject to review by the Fairfax Planning Department and/or subject to a Town permit shall be reviewed and approved by the district water conservation department.
- 22. Backflow prevention requirements must be met.
- 23. Comply with Ordinance No. 429, requiring the installation of gray water recycling systems when practicable for all projects required to install new water service.

#### **Ross Valley Sanitary District (RVSD) Conditions**

- 24. Apply for a sewer lateral permit and obtain a Certificate of Compliance for the ADU.
- 25. The sewer lateral serving the main residence is exempt as of 9/23/16, and this lateral will not require testing so long as there are no new sewer lateral additions/changes. Lateral exemption lasts for 20 years since the last passed lateral inspection date.

**NOW, THEREFORE BE IT RESOLVED**, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Conditional Use Permit is in conformance with the 2010 – 2030 Fairfax General Plan, the Fairfax Town Code and the Fairfax Zoning Ordinance, Town Code Title 17; and

Construction of the project can occur without causing significant impacts on neighboring residences and the environment.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 17th day of August 2023 by the following vote:

AYES: NOES: ABSTAIN: ABSENT:

Chair Cindy Swift

Attest:

Linda Neal, Principal Planner



# BOLDRICK RESIDENCE

299 BOLINAS RD. , FAIRFAX

## DETACHED ADU

PLANNING APPLICATION

REVISION: Planning Application Rev. 1 ISSUE DATE: 04/17/2022

INITIAL SUBMISSION

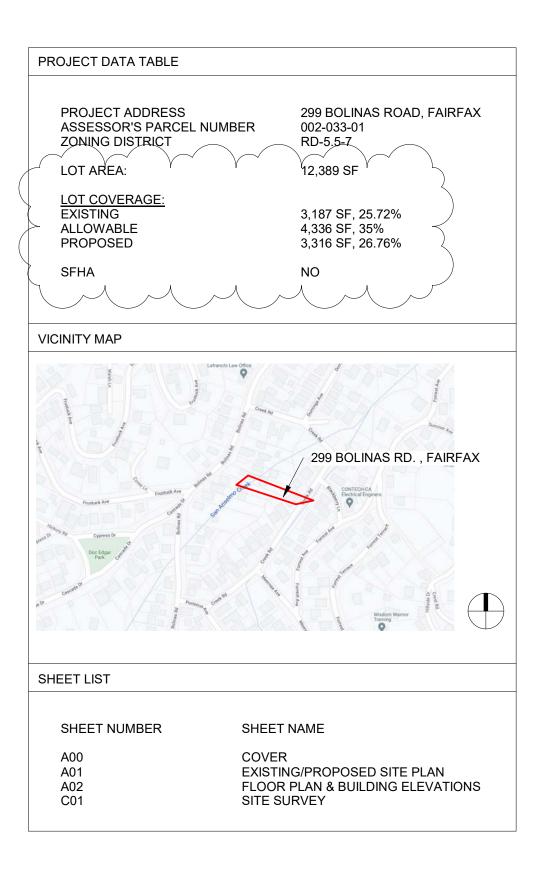
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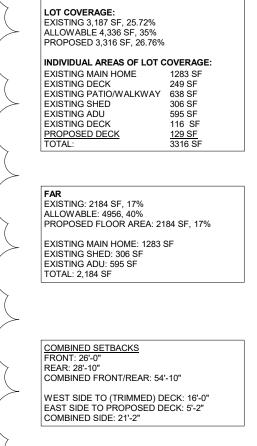
REVISIONS

304/17/2022Planning Application Rev. 1NO.DATENOTE

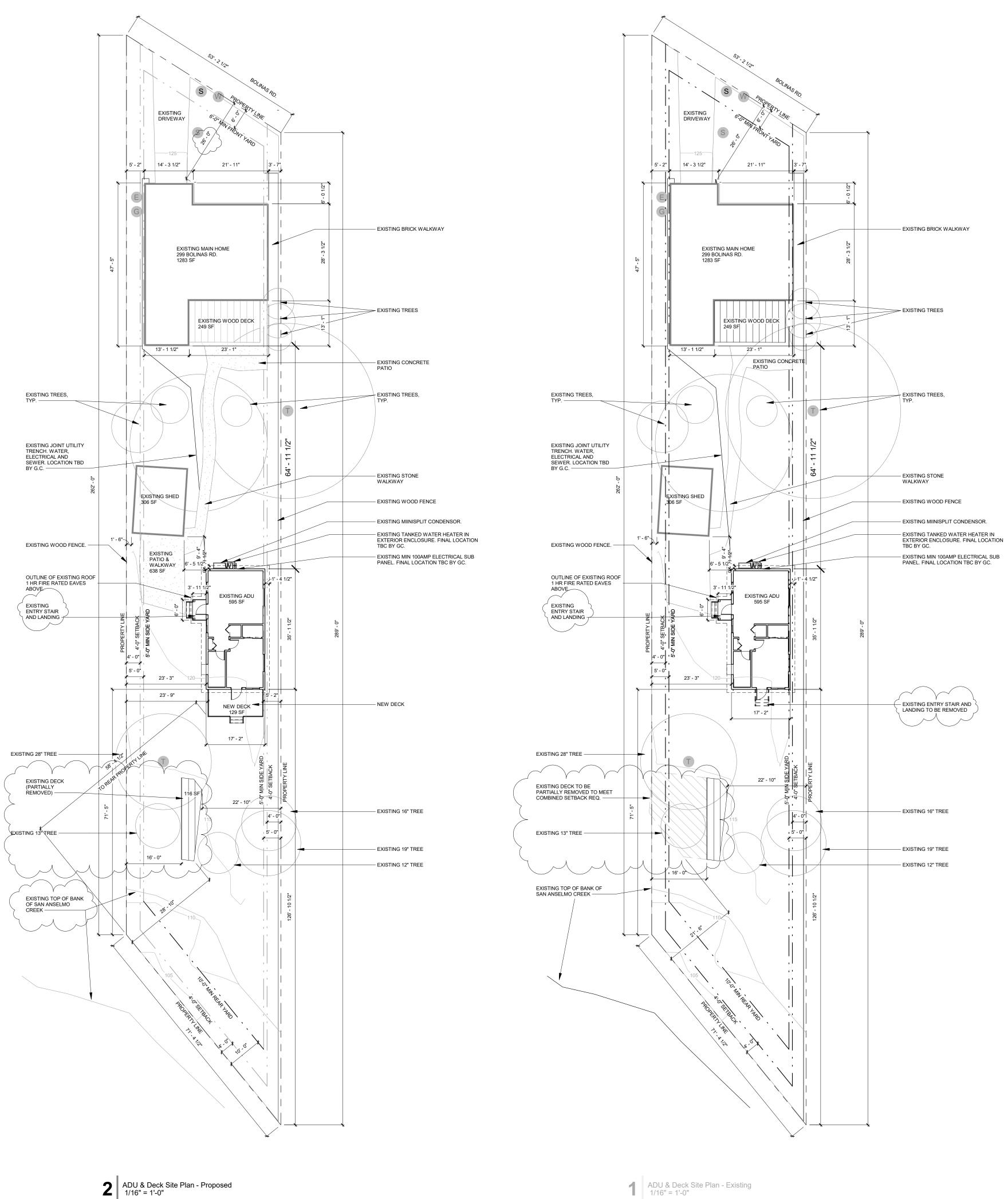
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LOT AREA: 12,389 SF



## BOLDRICK RESIDENCE

## 299 BOLINAS RD., FAIRFAX

## DETACHED ADU

ASSESSOR'S PARCEL NUMBER 002-033-01

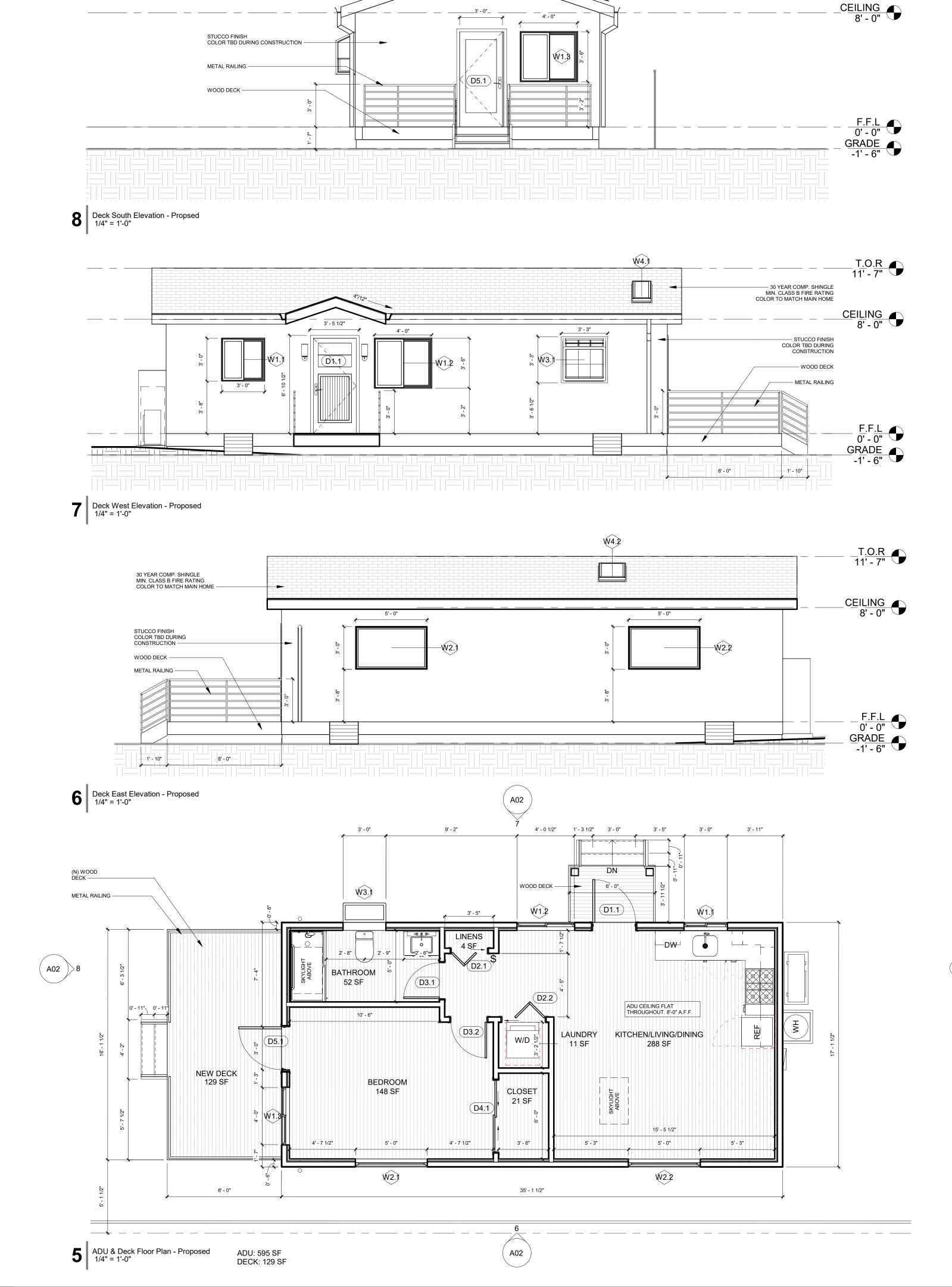
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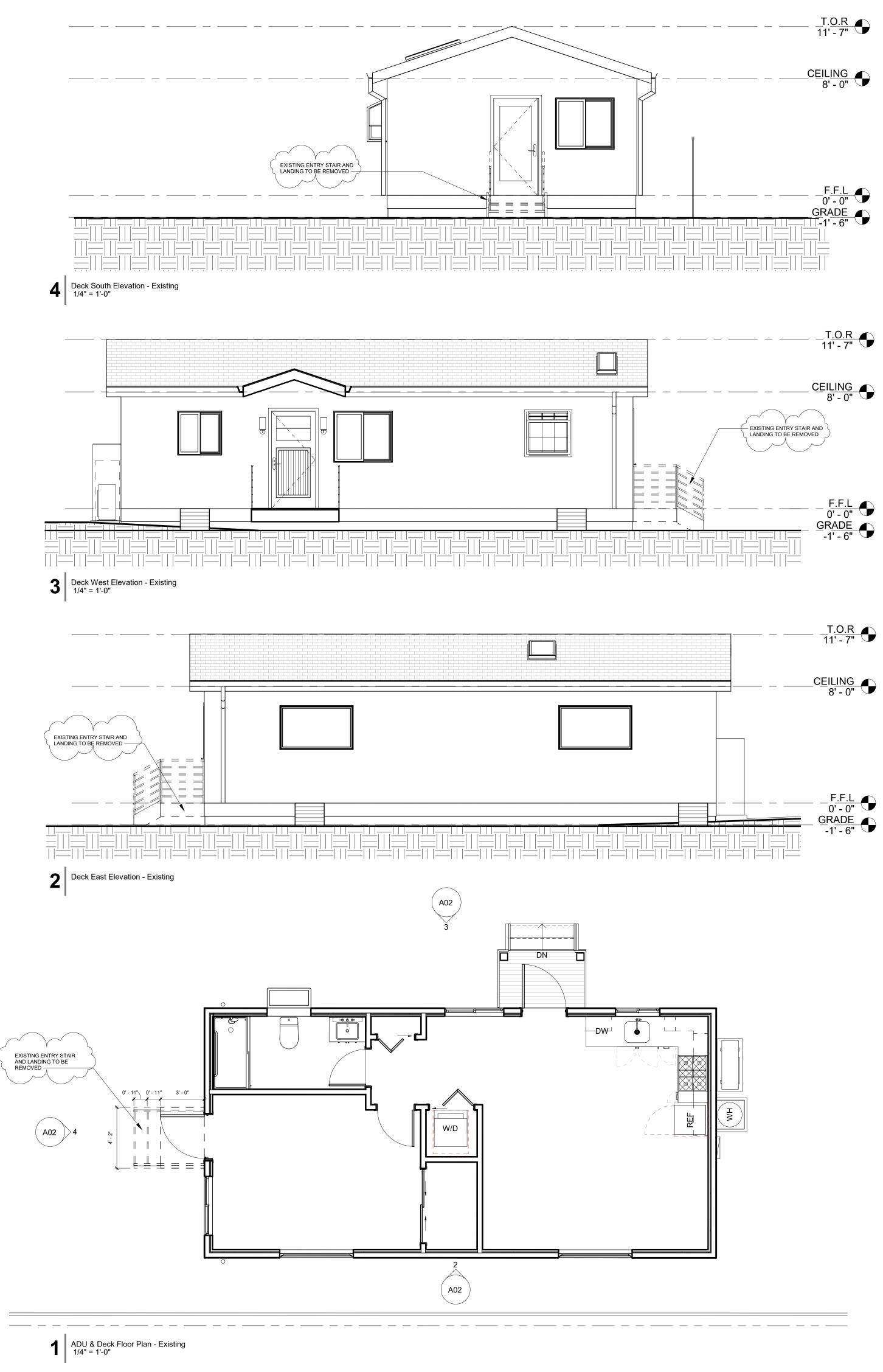
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- S Sewer / Septic
- C Crawl Space Access
- G Gas Meter T Protected Tree

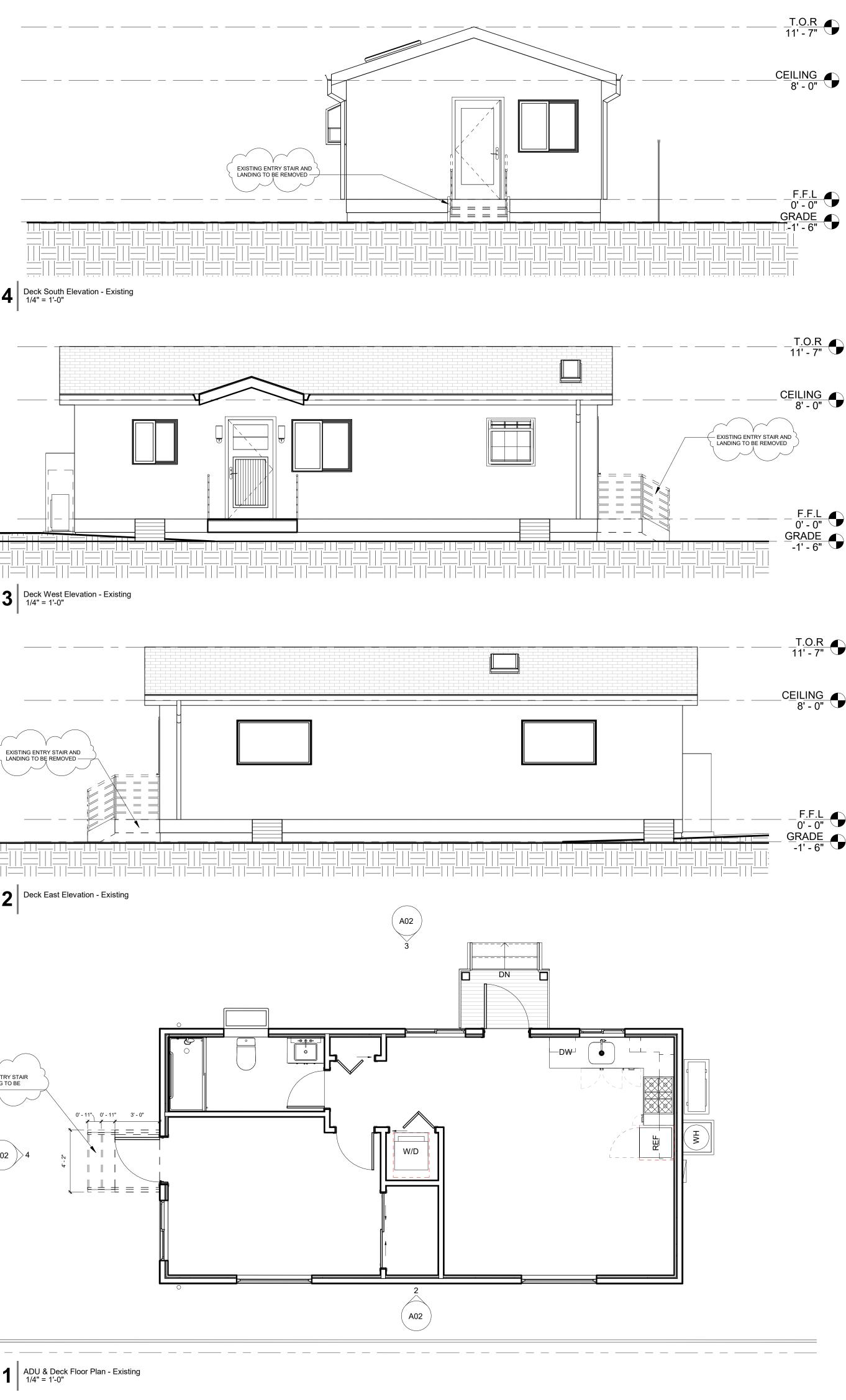
PROJECT ORIENTATION REVIEWED BY ANAMIKA GOYAL COTTAGE TECHNOLOGIES INC. 2525 16TH ST., SUITE 316 SAN FRANCISCO, CA (415) 237-3715 PREPARED BY SALLY SHADLUN PROJECT DESIGNER JUSTEN PEEK (ADVANCED ENGINEERING) STRUCTURAL CONSULTANT JASON BENNETT (ADVANCED ENGINEERING) TITLE 24 COMPLIANCE CONSULTANT REVISIONS 04/17/2022 Planning Application Rev. 1 3 NO. DATE NOTE SHEET NAME Existing/Proposed Site Plan





<u>T.O.R</u> 11' - 7"





## PROJECT ORIENTATION REVIEWED BY ANAMIKA GOYAL COTTAGE TECHNOLOGIES INC. 2525 16TH ST., SUITE 316 SAN FRANCISCO, CA (415) 237-3715 PREPARED BY SALLY SHADLUN PROJECT DESIGNER JUSTEN PEEK (ADVANCED ENGINEERING) STRUCTURAL CONSULTANT JASON BENNETT (ADVANCED ENGINEERING) TITLE 24 COMPLIANCE CONSULTANT REVISIONS 04/17/2022 Planning Application Rev. 1 . DATE NOTE NO. DATE SHEET NAME Deck Floor Plan, Building **Elevations** A02 SCALE: 1/4" = 1'-0"

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RESIDENCE
299 BOLINAS RD. , FAIRFAX
DETACHED ADU

BOLDRICK

ASSESSOR'S PARCEL NUMBER 002-033-01

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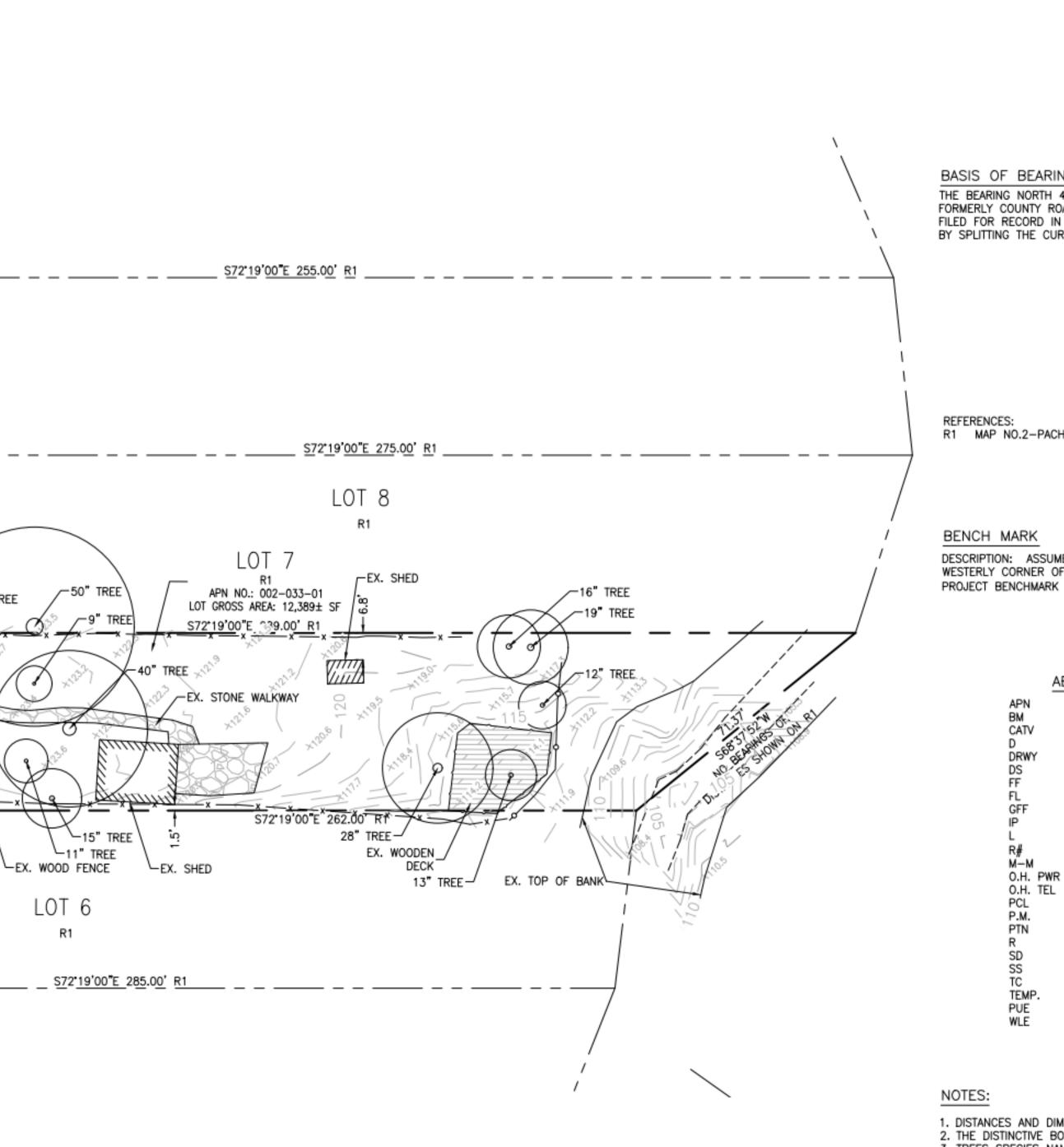
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	SHEET BT2 of <u>2</u> sheets	NO. DATE NOTE SHEET NAME SITE SURVEY C01.01 SCALE:

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