



**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

File Number	PL 23-072	Contact	Kyle Deming	
Type	Variance – building height	Planning Commission Date		May 9, 2023
Deadline for Action	Application Date	April 4, 2023	60 Days	June 3, 2023
	Date Extension Letter Mailed	April 19, 2023	120 Days	August 2, 2023
Location of Subject		3801-3803, 3805-3807, 3809-3811 London Rd.		
Applicant	London East, LLC	Contact	Ted Stocke	
Agent		Contact		
Legal Description		Lots 17-22, Block 1, London East Division (010-3075-00170, -00180, -00190, -00200, -00210, -00220)		
Site Visit Date		April 24, 2023	Sign Notice Date	
Neighbor Letter Date		April 20, 2023	Number of Letters Sent	14

**Proposal**

A variance to allow three twin homes (a form of two-family dwelling) to be constructed at 39.5 feet tall instead of the 30 feet maximum building height per UDC Section 50-14.5. The project is within the London East development which includes both single-family detached homes and twin homes.

**Recommended Action:** Approve with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Undeveloped	Traditional Neighborhood
<b>North</b>	R-1	Railroad	Traditional Neighborhood
<b>South</b>	MU-N	Apartment buildings	Urban Residential
<b>East</b>	R-1	Undeveloped	Traditional Neighborhood
<b>West</b>	R-1	Twinhomes	Traditional Neighborhood

**Summary of Code Requirements**

Sec. 50-14.5 – Maximum building height – 30 feet

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant's property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and Comprehensive Plan.

### **Comprehensive Plan Governing Principles and/or Policies and Current History (if applicable):**

Housing Strategy 5 - Foster opportunities for creative housing types and concepts, including tiny houses, townhomes, housing for individuals in Duluth on a temporary basis, and passive energy homes. This project fosters opportunities for creative housing type and concepts because it includes single-family detached and twin homes with unique amenities such as roof terraces.

Applicable UDC Purpose Statements - (a) To provide for more sustainable development within the city by reducing carbon emissions, vehicle miles travelled, energy consumption, and water consumption, and by encouraging production of renewable energy and food production; and (k) To promote, preserve, and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development in wetlands, shorelands and floodplains. This project would allow taller buildings that reduce the impervious footprint of the building allowing more space for pervious surfaces and landscaping to reduce water runoff.

Zoning – Residential-Traditional (R-1) - Established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods. Many of the dimensional standards in this district require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas. The overall project includes both single-family detached residences and twin homes (a form of duplex).

Future Land Use – Traditional Neighborhood - Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. .... Includes many of Duluth 's older neighborhoods, infill projects, neighborhood extensions, and new traditional neighborhood areas. Residential unit density of 4 -8 units/acre with a mix of housing types (i.e. town homes and 4-plexes) at corners. This project includes dwellings with shorter dimension to the street and includes a mix of single-family detached and twin homes.

#### **History:**

1. April 14, 2020 – Variance to reduce rear yard setback by 5 feet (PL 20-016) approved by Planning Commission;
2. April 14, 2020 – Vacate utility easement in former 38<sup>th</sup> Ave. E. (PL 20-027, Resolution 20-0470R);
3. April 14, 2020 – Preliminary Plat of London East (PL 20-035) approved by Planning Commission.
4. April 29, 2020 – Approval of Wetland Replacement Plan (PL 20-017) by City Land Use Supervisor;
5. June 9, 2020 – Final Plat approval (PL20-058) approved by Planning Commission;
6. June 14, 2022 – Variance to allow four 40-foot-tall one-family dwellings on certain lots in London East plat;
7. 2020 through today – 4 twinhomes constructed and occupied, 3 twinhomes and 2 one-family dwellings under construction in London East plat.

### **Review and Discussion Items**

Staff finds that:

1. The site for which the variance is requested is part of the 3.14 ac. London East development with a mix of 10 twin homes (a form of two-family dwelling defined in the UDC) and 3 single-family dwellings.
2. Applicant is proposing to construct 3 twin homes in the middle part of the development that would be 39.5 feet tall instead of the 30 feet allowed in the R-1 district. According to the plans, two parts of the building exceed the maximum height, a 22-foot-wide by 26-foot-deep enclosed space and an open terrace/deck with standard height fall protection walls or railings at the building perimeter.
3. The variance application states that MN-DOT's access control on London Rd. requires them to build a frontage road to access each individual lot and City rules require the frontage road to be sufficiently wide for emergency vehicles and guest parking. In addition, because of site slopes, to meet City stormwater requirements the applicant is required to incorporate 7 stormwater retention ponds along the front of the site to accommodate drainage. The application further states that "All of these factors led to a shrinking of the buildable area for each dwelling unit. In keeping with the limited size of the unit [footprints,] building up has made all the difference in being able to market homes that fit in this neighborhood."
4. The applicant is proposing a reasonable use of the site by developing single-family and two-family dwellings (twin homes) which are permitted uses in the R-1 zone district at approximately 7 units per acre, which is consistent with the Comprehensive Plan future land use designation as well as the R-1 zone district.

5. The proposal is consistent with the Comprehensive Plan principles and strategies and UDC intent listed in the section above by facilitating the development of a site that reduces impacts to the environment by shrinking the building footprint while providing a unique housing form with rooftop terraces.
6. The need for a variance is caused by site constraints unique to this site and not caused by the applicant, and includes the need to accommodate vehicle circulation to each lot (due to MN-DOT access restrictions) and storm water treatment (due to site slope) both in the front part of the site. City wetland rules require preservation of four wetland corridors crossing the site while the existing MN-DOT drainage culverts further restrict options for storm water treatment. Additionally, City zoning requirements limit the area on the rear of the site available for building construction and require space be dedicated to planting replacement trees as well as general landscaping. Due to characteristics of the property which require a frontage road and multiple stormwater retention ponds, strict enforcement of the ordinance would cause the landowner exceptional practical difficulties.
7. Granting the variance will not alter the essential character of the area because the proposed 48-foot-wide, 39.5-foot-tall structures will have a similar bulk to the twin homes on the adjacent lots within the development. Additionally, across London Rd. are three large apartment buildings, one 170 feet long by 3 stories, one 270 feet long by 3 stories, and one 240 feet long by 6 stories tall. The recently completed Zvago condominium building is 4 stories tall and the Ecumen Lakeshore complex includes 3-story buildings of a similar height when including the steeply pitched roofs.
8. The variance, if granted, will not impair an adequate supply of light or air because the buildings are proposed to be set far back from London Rd. as well as 20 feet from the railroad right of way line (65 feet from the railroad). Spacing between buildings in the development will be the same as established in the original plat, which includes extra space due to wetland corridors separating the buildings.
9. The variance, if granted, will not increase congestion on public streets because the development will connect to London Rd. via two driveways serving the 23 dwellings rather than 23 individual driveways. MN-DOT has evaluated the traffic situation and issued the two needed driveway permits.
10. The variance, if granted, will not increase fire danger as the Fire Department possesses equipment for fighting fires on structures of this size and larger. Additionally, the project is located in an area already served by police and fire departments and includes an appropriately sized roadway directly in front of the buildings to provide access for emergency vehicles.
11. Granting the variance is not expected to unreasonably diminish established property values in the area because the building height will not impact the view from the northwest compared to the pre-development site condition that consisted of dense tree cover in excess of the proposed building heights. The building locations far back from London Road are not expected to impact the values of property on the lower side of London Road due to the distance and mature vegetation on the properties providing screening.
12. Granting the variance is not expected to impair the health, safety, or public welfare of inhabitants of the city due to factors identified above.
13. No comments from citizens, City staff, or any other entity were received regarding the application.
14. Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one year.

**Staff Recommendation:**

Based on the above findings, Staff recommends that the Planning Commission grant the variance to allow a height of up to 39.5 feet for structures on Lots 17-22, Block 1, London East Division, with the following conditions:

- 1) The project be limited to, constructed, and maintained based on the plans submitted with the application that shows the portion of the building exceeding the maximum height consisting of a 22-foot-wide by 26-foot-deep and an open terrace/deck with standard height fall protection walls or railings at the building perimeter.
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.





PL 23-072

3801-3811 London Rd.

Variance to Building Height

Applicant: London East, LLC

### Area Map

- Legend**
- Zoning Boundaries
  - Streams**
    - Other Stream (GPS)
  - Floodplain (UDC)**
    - General Flood Plain
  - Trails**
    - Multi-Use - Paved

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.



Aerial photography flown 2022

Prepared by: City of Duluth Planning & Economic Development, April 13, 2023. Source: City of Duluth.





PL 23-072

3801-3811 London Rd.  
Variance to Building Height  
Applicant: London East, LLC

## Future Land Use Map

**Legend**

**Streams**  
— Other Stream (GPS)

**Future Land Use**  
■ Open Space  
■ Traditional Neighborhood  
■ Urban Residential  
■ Institutional

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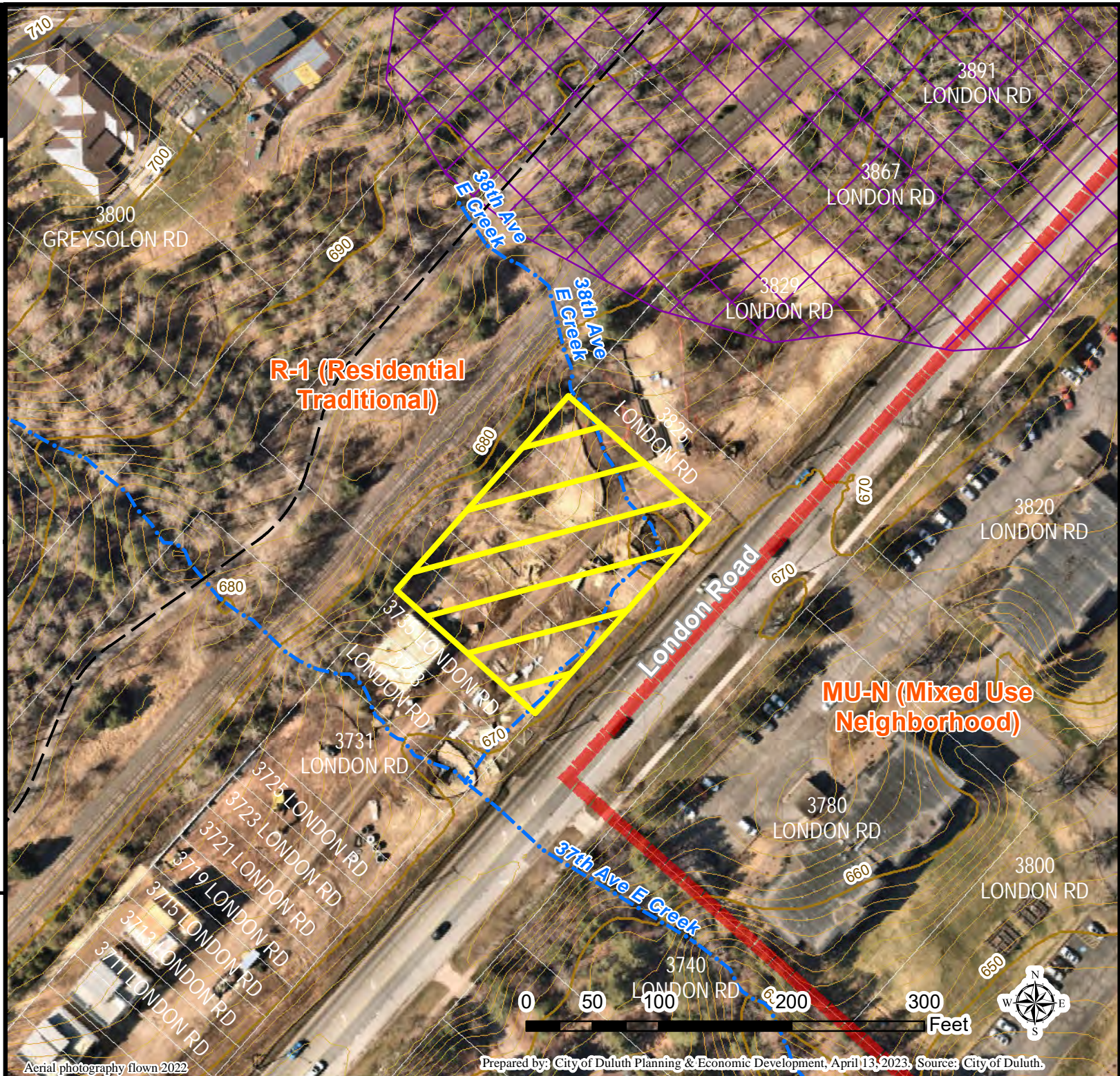
PL 23-072

3801-3811 London Rd.  
Variance to Building Height  
Applicant: London East, LLC

### Site Map

- Legend**
- Zoning Boundaries
  - Streams
  - Other Stream (GPS)
  - Floodplain (UDC)
  - General Flood Plain
  - Trails
  - Multi-Use - Paved
  - Elevation**
  - 1 Ft contour
  - 10 Ft contour

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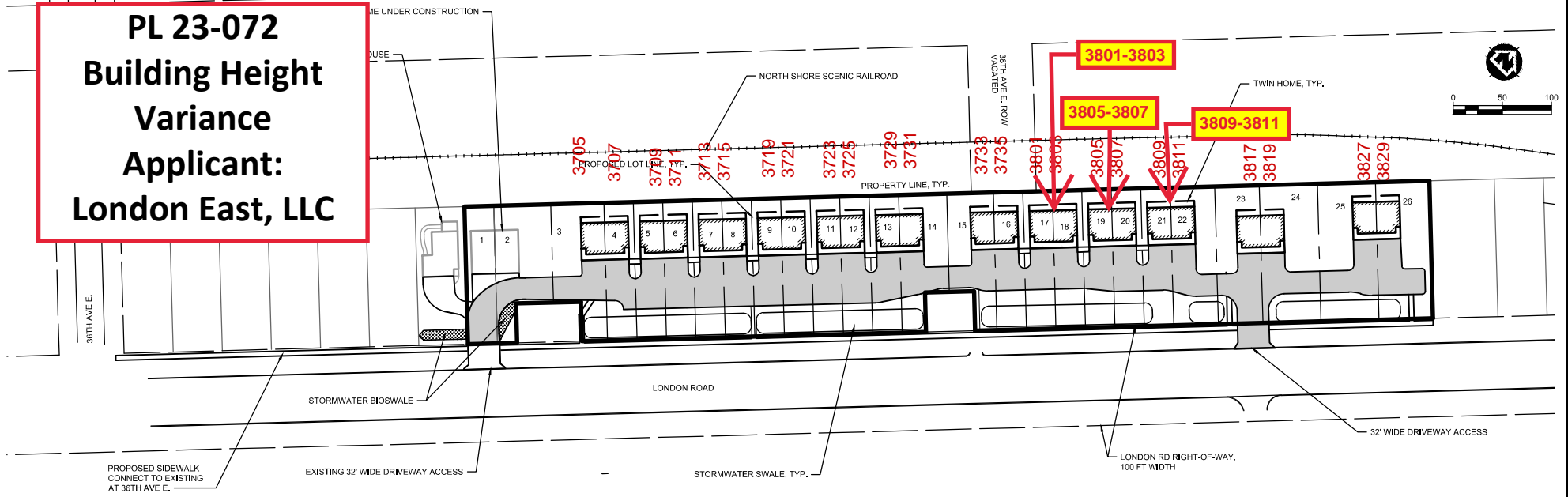


Aerial photography flown 2022

Prepared by: City of Duluth Planning & Economic Development, April 13, 2023. Source: City of Duluth.



**PL 23-072**  
**Building Height**  
**Variance**  
**Applicant:**  
**London East, LLC**



**PROJECT SUMMARY:**

**1. EXISTING PARCELS:**

REARR PART EAST DULUTH & FIRST ADD TO EAST DU LOTS 10 THRU 18 BLK 33 INC W1/2 OF VACATED 38<sup>TH</sup> AVE E; EX SELY40 FT OF LOTS 10 AND 18,  
REARR PART EAST DULUTH & FIRST ADD TO EAST DU LOT 9 INC E1/2 OF 38<sup>TH</sup> AVE E VACATED & ALL OF LOTS 10 THRU 16,  
REARR PART EAST DULUTH & FIRST ADD TO EAST DU LOTS 8 & 9

**PARCEL IDS:**

010-1370-05190, 010-1370-05360, 010-1370-5590

**2. ZONING AND SETBACKS:**

PROPERTY ZONING: R-1  
PROPOSED USE: TWIN-HOMES (NO CHANGE NEEDED)

FRONT SETBACK:	REQUIRED	PROVIDED
REAR SETBACK:	25 FT	31 FT
SIDE YARD SETBACK:	25 FT	25 FT
MAXIMUM HEIGHT OF BUILDING:	6 FT	6 FT
MINIMUM LOT SIZE:	30 FT	30 FT
	3000 SF	4200 SF

DEVELOPER HAS APPLIED FOR A REAR YARD SETBACK REDUCTION FROM 25 FT TO 20 FT DUE TO SITE CONSTRAINTS.

**3. LAND USE BREAKDOWN:**

TOTAL LOT AREA: 3.20 AC  
AREA IMPACTED FOR CONSTRUCTION: 3.0 AC

BUILDINGS: 0.58 AC

PAVEMENT: 1.09 AC

TOTAL IMPERVIOUS: 1.67 AC

TOTAL PERVIOUS: 1.68 AC

**4. PARKING REQUIREMENTS:**

DWELLING, ONE-FAMILY PER UNIT	REQUIRED	PROVIDED
	1 SPACE	2 SPACES

**5. LANDSCAPE/BUFFER REQUIREMENTS:**

STREET FRONTAGE: ONE TREE PER 35 LF, ONE SHRUB PER 25 LF

TREE REPLACEMENT REQUIREMENTS: NOT MORE THAN 30% OF REPLACEMENT TREES SHALL BE THE SAME SPECIES WITHOUT APPROVAL FROM THE CITY FORESTER.

**6. WETLAND DISTURBANCES:**

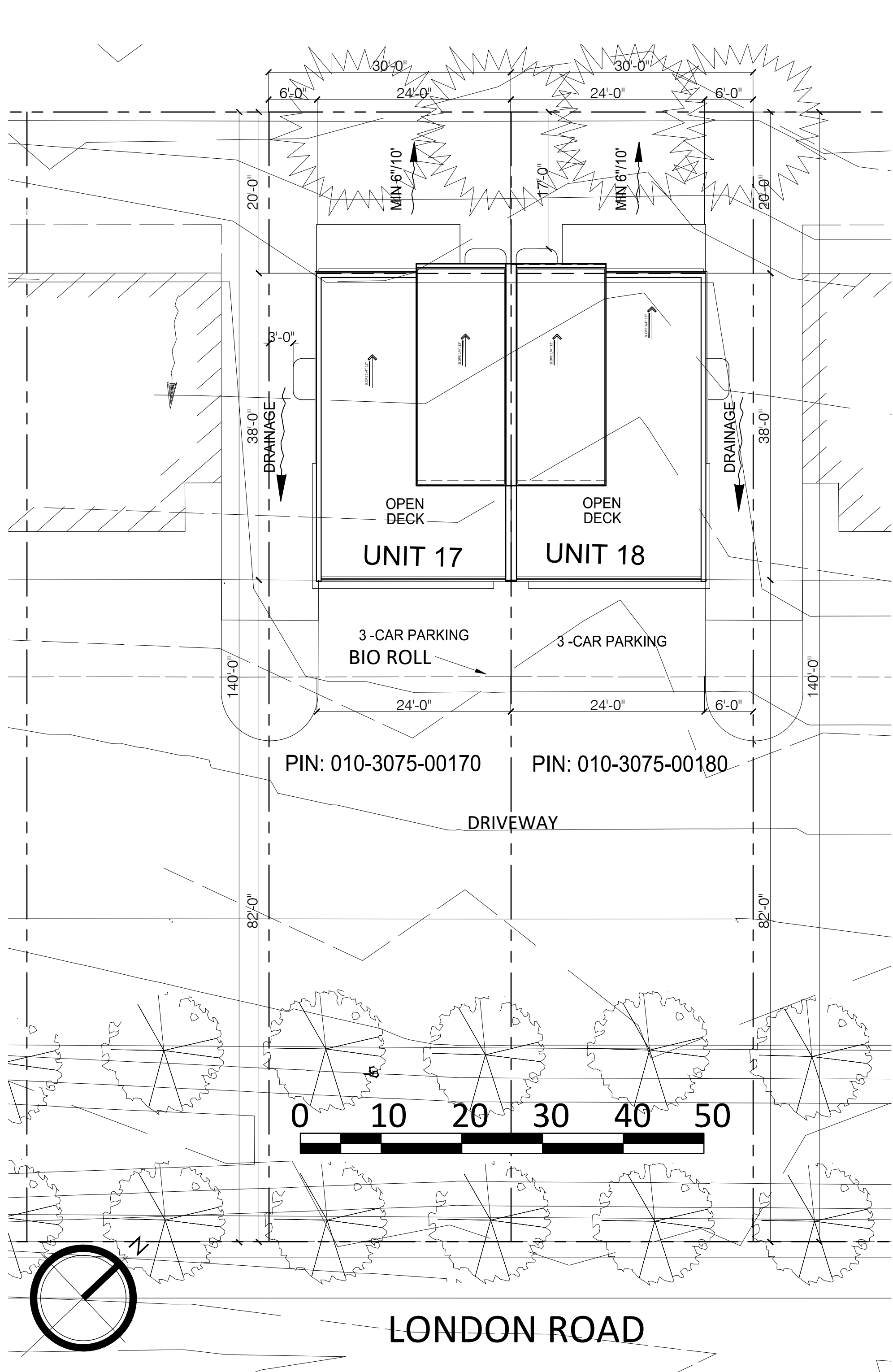
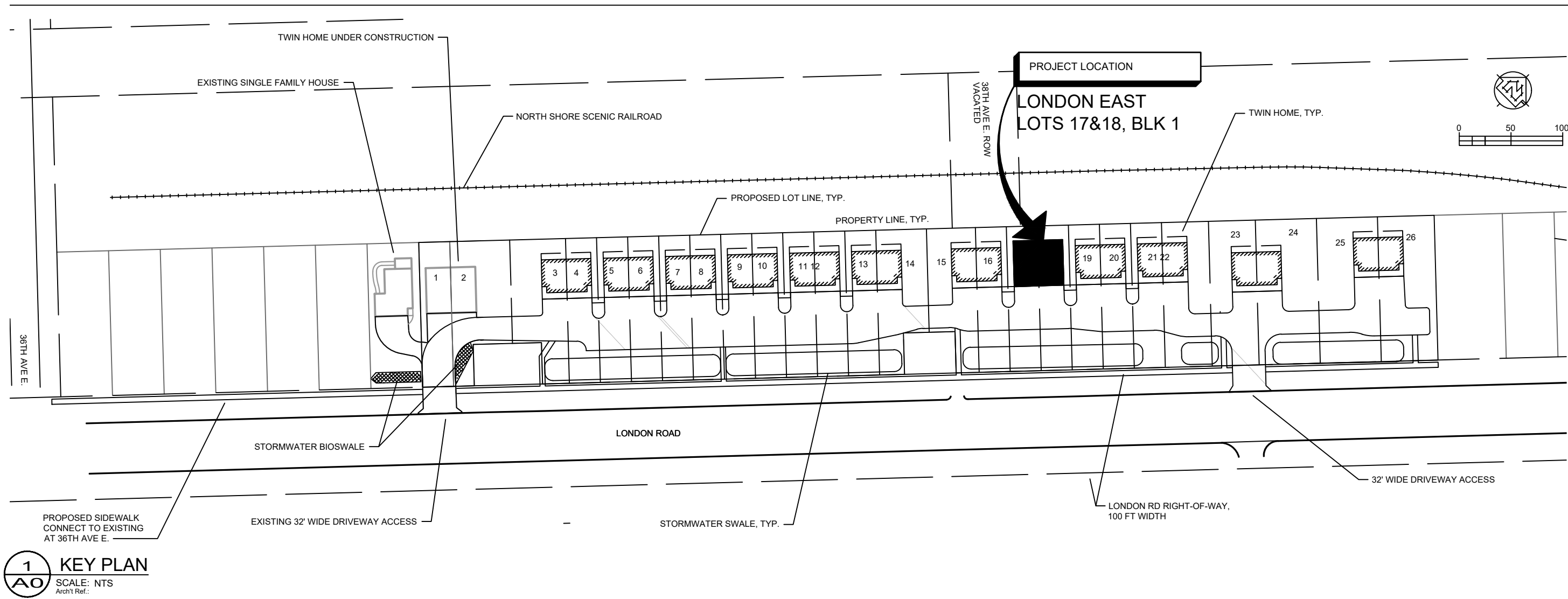
13,613 SF - PERMANENT DISTURBANCE

952 SF - TEMPORARY DISTURBANCE

**Subject Buildings**

PROJECT DATE: 02/17/20	DRAWN BY: EDC	NO.:	DATE:	REVISION:	BY:	LICENSURE CERTIFICATE: THIS PLAN, REPORT, OR SPECIFICATION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULUTH LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.	04/08/20	50306	License No.	MSA	ENGINEERING   ARCHITECTURE   SURVEYING FUNDING   PLANNING   ENVIRONMENTAL 332 W Superior Street, Duluth MN 55802 (218) 722-3915 www.msa-gs.com	LONDON ROAD UTILITY EXTENSIONS 37TH TO 38TH AVENUE EAST DULUTH, MN	OVERALL SITE PLAN	PROJECT NO: 05331006 SHEET G-1
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2 SITE PLAN  
SCALE: 3/32" = 1'-0"  
A0



3 PERSPECTIVE  
SCALE: NTS  
A0

GENERAL NOTES:  
ALL WORK TO BE DONE IN ACCORDANCE WITH LOCAL BUILDING CODES  
ALL REQUIRED BUILDING PERMITS TO BE OBTAINED  
A LICENSED GENERAL CONTRACTOR IS RESPONSIBLE FOR HAVING ALL PROJECT ENGINEERING DONE FOR THIS HOME  
A LICENSED GENERAL CONTRACTOR IS TO VERIFY ALL EXISTING SITE CONDITIONS PRIOR TO START OF CONSTRUCTION  
A LICENSED GENERAL CONTRACTOR IS TO VERIFY ALL PLAN DIMENSIONS AND MEASUREMENTS PRIOR TO START OF PROJECT, AND BEFORE ORDERING ANY SUPPLIES  
STOCKE CONSTRUCTION WILL NOT BE HELD RESPONSIBLE FOR ANY WINDOW OR DOOR ROUGH OPENINGS, CONTRACTOR OR HOMEOWNER MUST VERIFY ALL ROUGH OPENINGS WITH TYPE OF WINDOWS AND DOORS BEFORE CONSTRUCTION BEGINS  
STOCKE CONSTRUCTION IS NOT RESPONSIBLE FOR ANY DISCREPANCIES THAT RESULT IN ERROR OR OMISSION FROM THESE PLANS  
STOCKE CONSTRUCTION REQUESTS THAT ANY DISCREPANCIES OR OMISSIONS FOUND ON THESE DRAWINGS BEFORE, CONSTRUCTION BEGINS BE REPORTED TO STOCKE CONSTRUCTION IMMEDIATELY FOR REVISIONS  
PLANS HAVE BEEN REVIEWED AND APPROVED BY THE HOMEOWNERS OR CONTRACTOR. HOMEOWNER(S) OR CONTRACTOR ARE AWARE THAT STOCKE CONSTRUCTION HAS DONE THEIR BEST TO FURNISH COMPLETE AND ACCURATE PLANS.  
BY SIGNING BELOW THE HOMEOWNER(S) OR CONTRACTOR RELEASES DESIGNER FROM ANY LIABILITY THAT MAY RESULT IN ERROR OR OMISSION ON SAID PLANS.

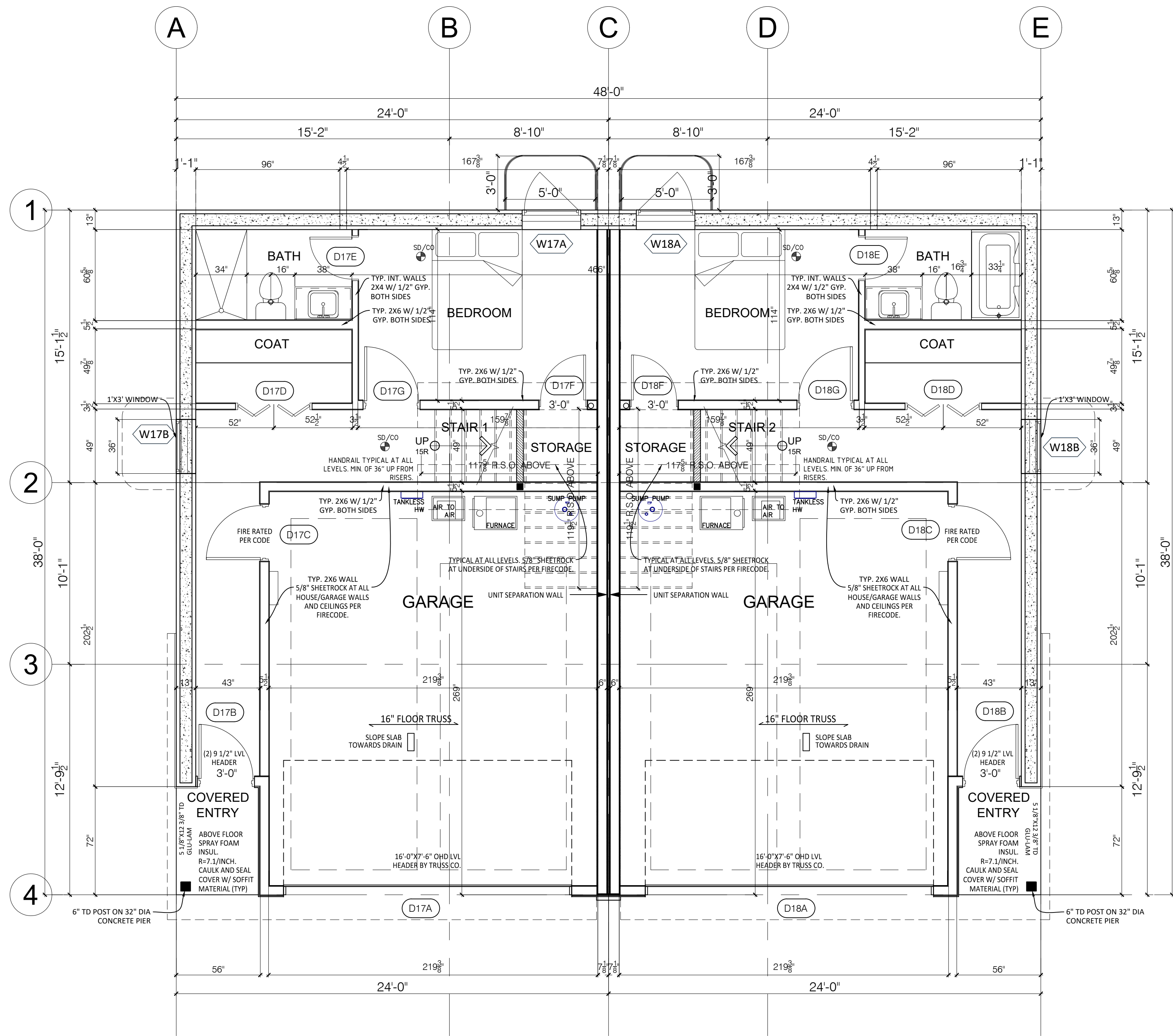
TABLE OF CONTENTS	
SHEET	CONTENTS
A-0	KEY PLAN, SITE PLAN AND PERSPECTIVE
A-1	GROUND FLOOR PLAN AND SECOND FLOOR PLAN
A-2	THIRD FLOOR PLAN AND ROOF DECK PLAN
A-3	FRONT ELEVATION AND REAR ELEVATION
A-4	LEFT ELEVATION AND RIGHT ELEVATION
A-5	ROOF PLAN AND FOUNDATION PLAN
A-6	TYPICAL WALL AT FRONT, TYPICAL WALL AT REAR, DECK DETAIL, PARTY WALL DETAIL AND STAIR DETAILS
A-7	DETAILS
A-8	DOOR & WINDOW SCHEDULE



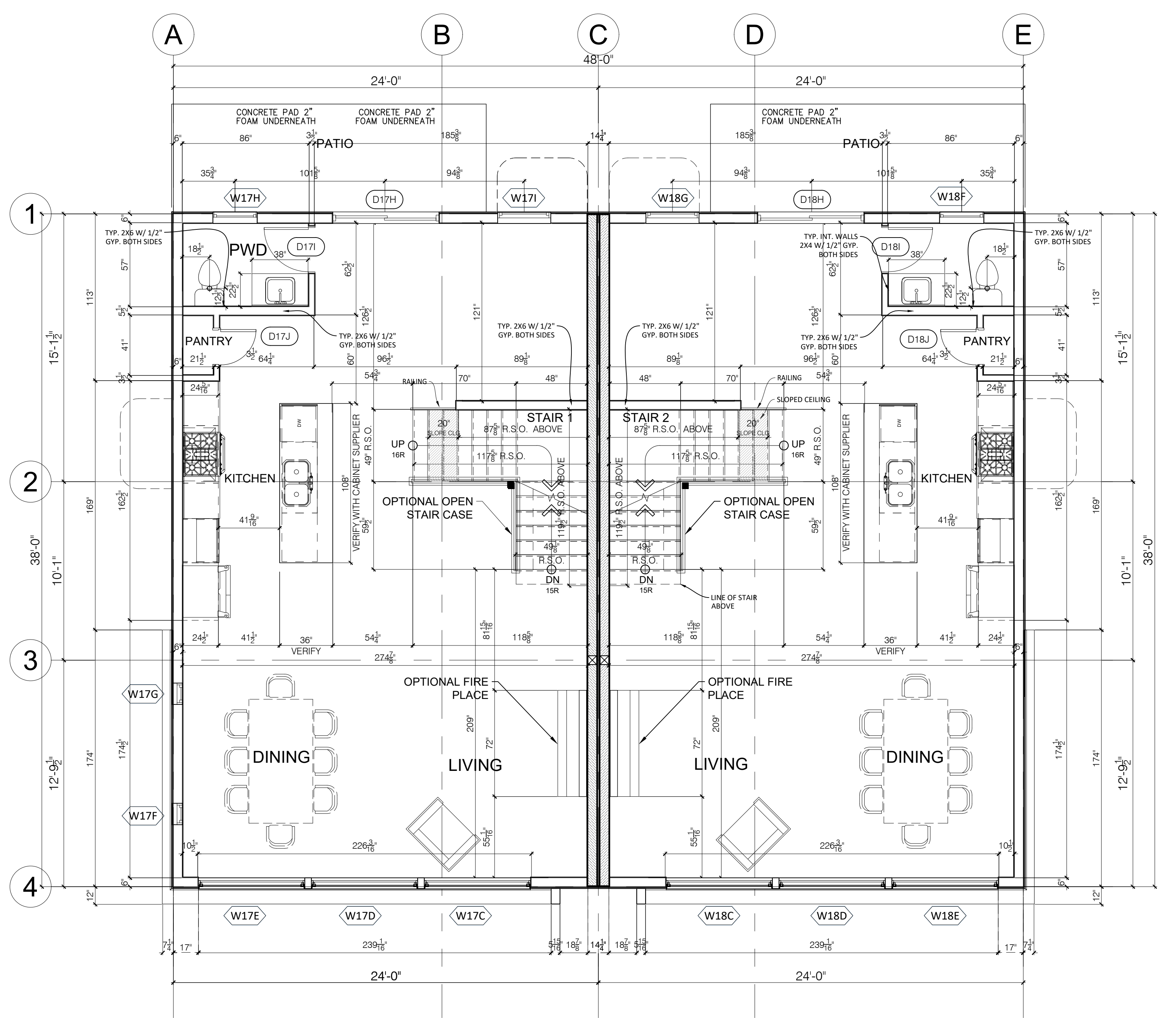
**STOCKE**  
CONSTRUCTION

Project	PROPOSED 3-STOREY DUPLEX		Drawing title	KEY PLAN, SITE PLAN AND PERSPECTIVE	
Client	TED STOCKE		Scale	AS NOTED	Drawing No. <b>A0</b>
			Print Date	Nov. 03, 2022	
			Drawn by		
			Checked by	TS	
	Units: 3801 (LEFT SIDE) & 3803 (RIGHT SIDE) LOT 17&18, BLK 1, LONDON EAST, LONDON ROAD, DULUTH MN 55804 PIN: 010-3075-00170 & PIN: 010-3075-00180		REVISION:		





1  
A1 GROUND LEVEL PLAN  
SCALE: 1/4" = 1'-0"  
NOTED



2  
A1 2ND LEVEL PLAN  
SCALE: 1/4" = 1'-0"  
NOTED

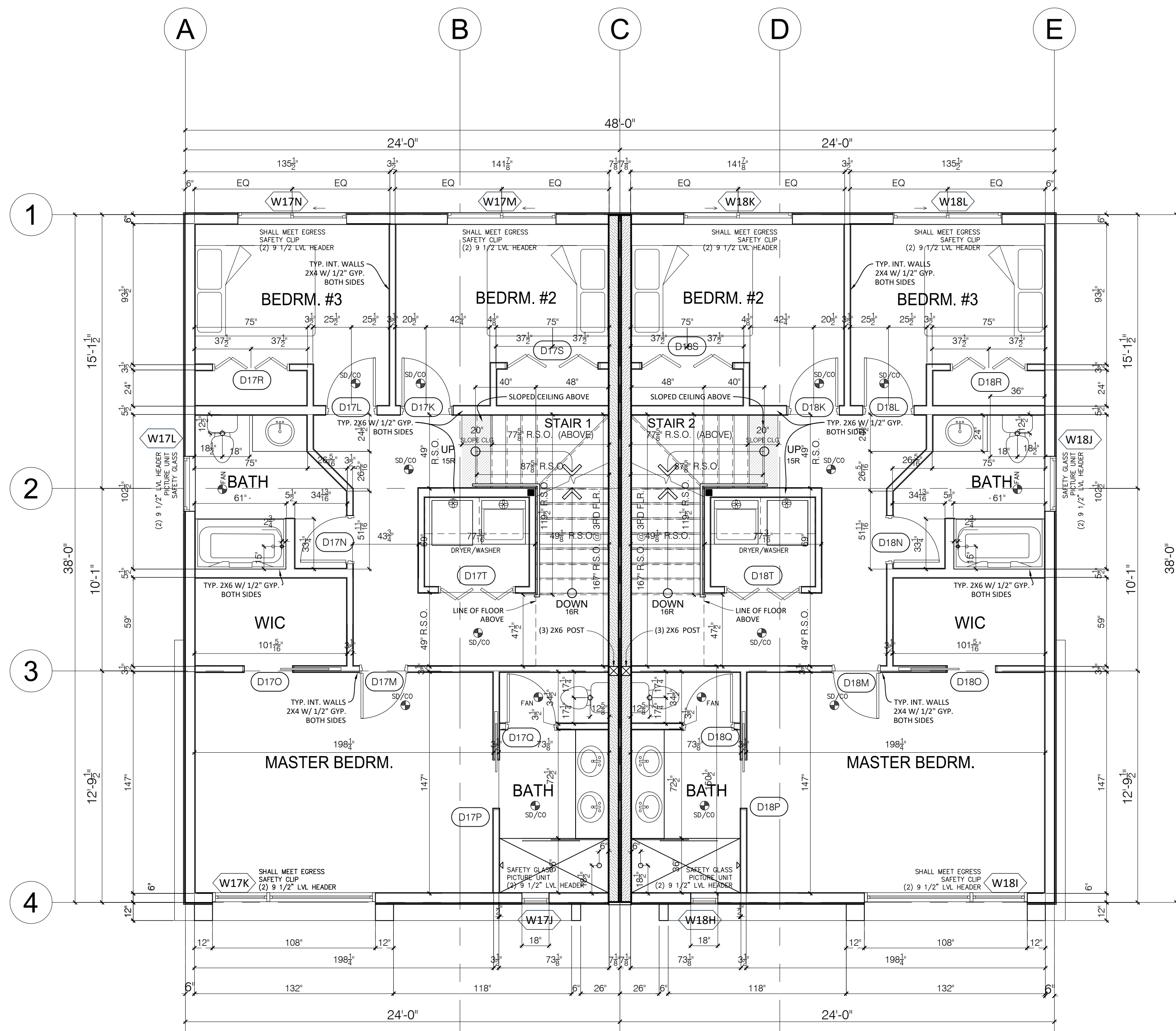
DIMENSIONS ARE TO OUTSIDE OF 2X6 WALL OR ICF FORM. ADJUST FOR WALL SHEATHING.

WINDOW RO'S TO BE PROVIDED BY WINDOW MANUF. WINDOWS SIZES LISTED ARE GENERAL SIZES. U FACTOR IS 0.3 CAULK AND SEAL ALL DOORS/WINDOWS AS PER CODE

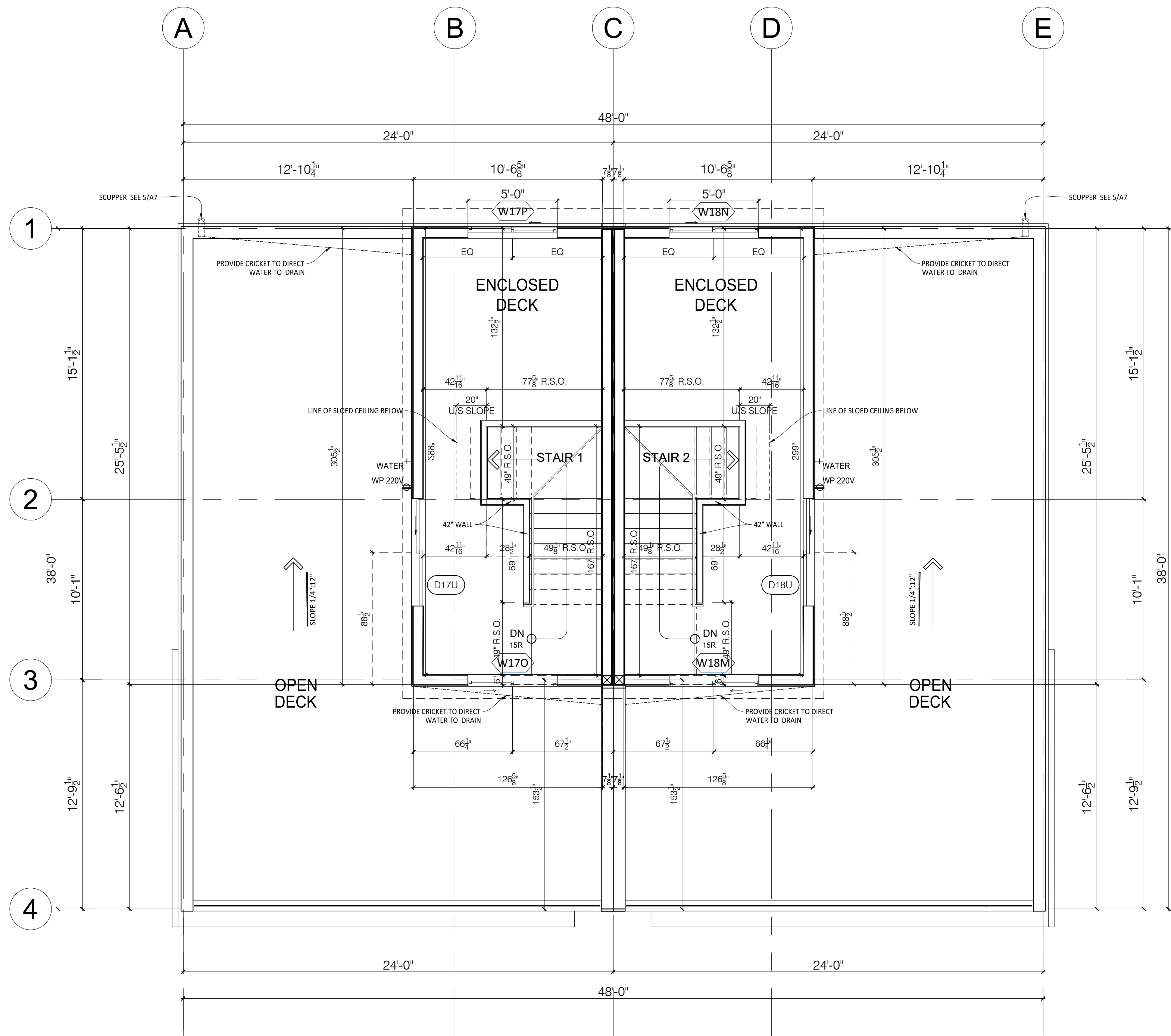


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Client <b>TED STOCKE</b>		Scale AS NOTED	Print Date Nov. 03, 2022	Drawing No. <b>A1</b>
		Drawn by		
		Checked by	TS	
		REVISION:		
Units 3801 (LEFT SIDE) & 3803 (RIGHT SIDE) LOT 17818, BLK 1, LONDON EAST, LONDON ROAD, DULUTH MN 55804 PIN: 010-3075-00170 & PIN: 010-3075-00180				





**1 3RD LEVEL PLAN**  
SCALE: 1/4" = 1'-0"  
A2/10/24



**2 ROOF DECK LEVEL PLAN**  
SCALE: 1/4" = 1'-0"  
A2/10/24

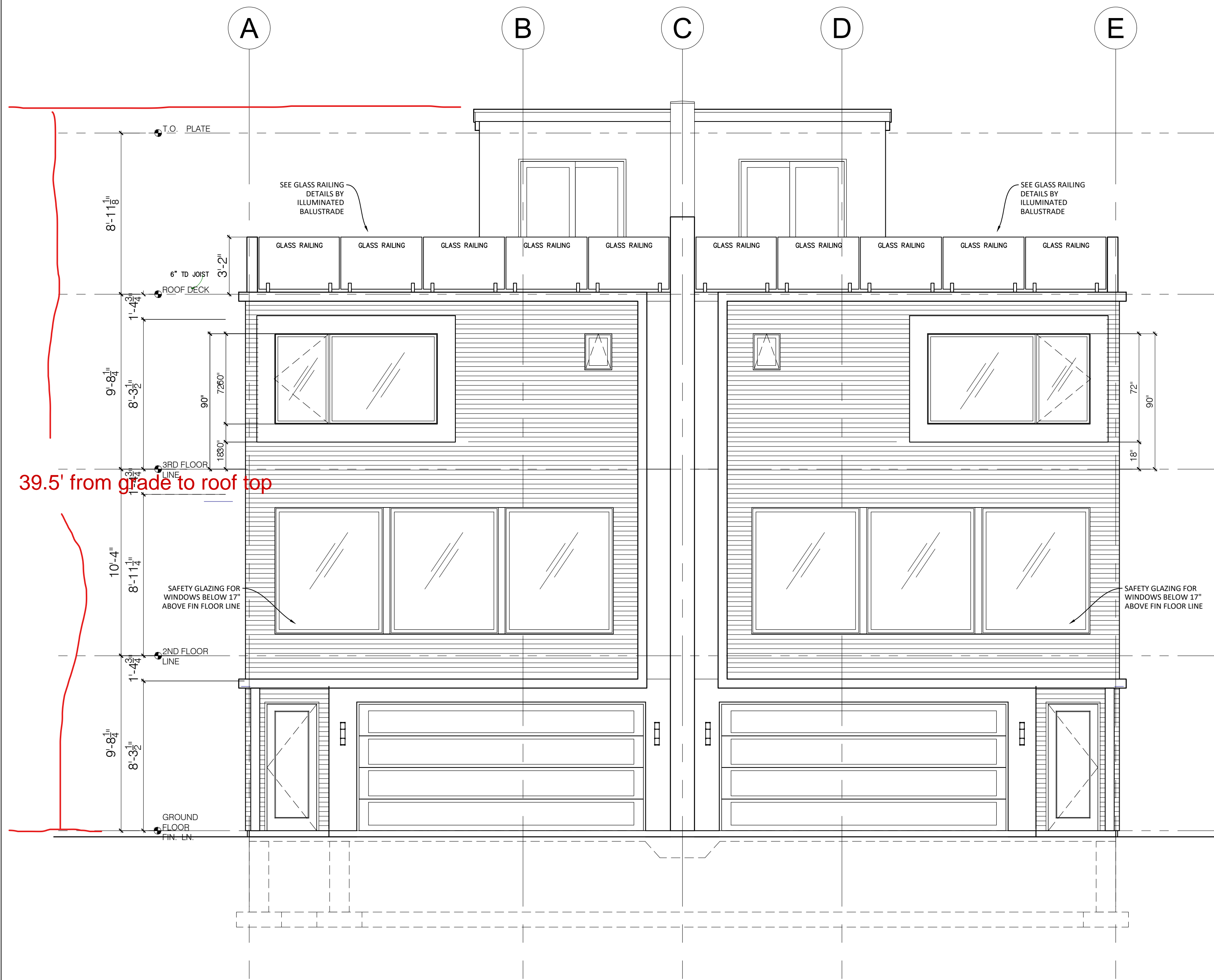
DIMENSIONS ARE TO OUTSIDE OF 2X6 WALL OR ICF FORM. ADJUST FOR WALL SHEATHING.

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Project <b>PROPOSED 3-STOREY DUPLEX</b>		Drawing title <b>FLOOR PLANS</b>	
Client <b>TED STOCKE</b>	Scale	AS NOTED	Drawing No.  <b>A2</b>
	Print Date	Nov. 03, 2022	
	Drawn by		
	Checked by	TS	
	REVISION:		
Units: 3801 (LEFT SIDE) & 3803 (RIGHT SIDE) LOT 178&18, BLK 1, LONDON EAST, LONDON ROAD, DULUTH MN 55804 PIN: 010-3075-00170 & PIN: 010-3075-00180			





1 FRONT ELEVATION  
SCALE: 1/4" = 1'-0"  
Arch Ref:

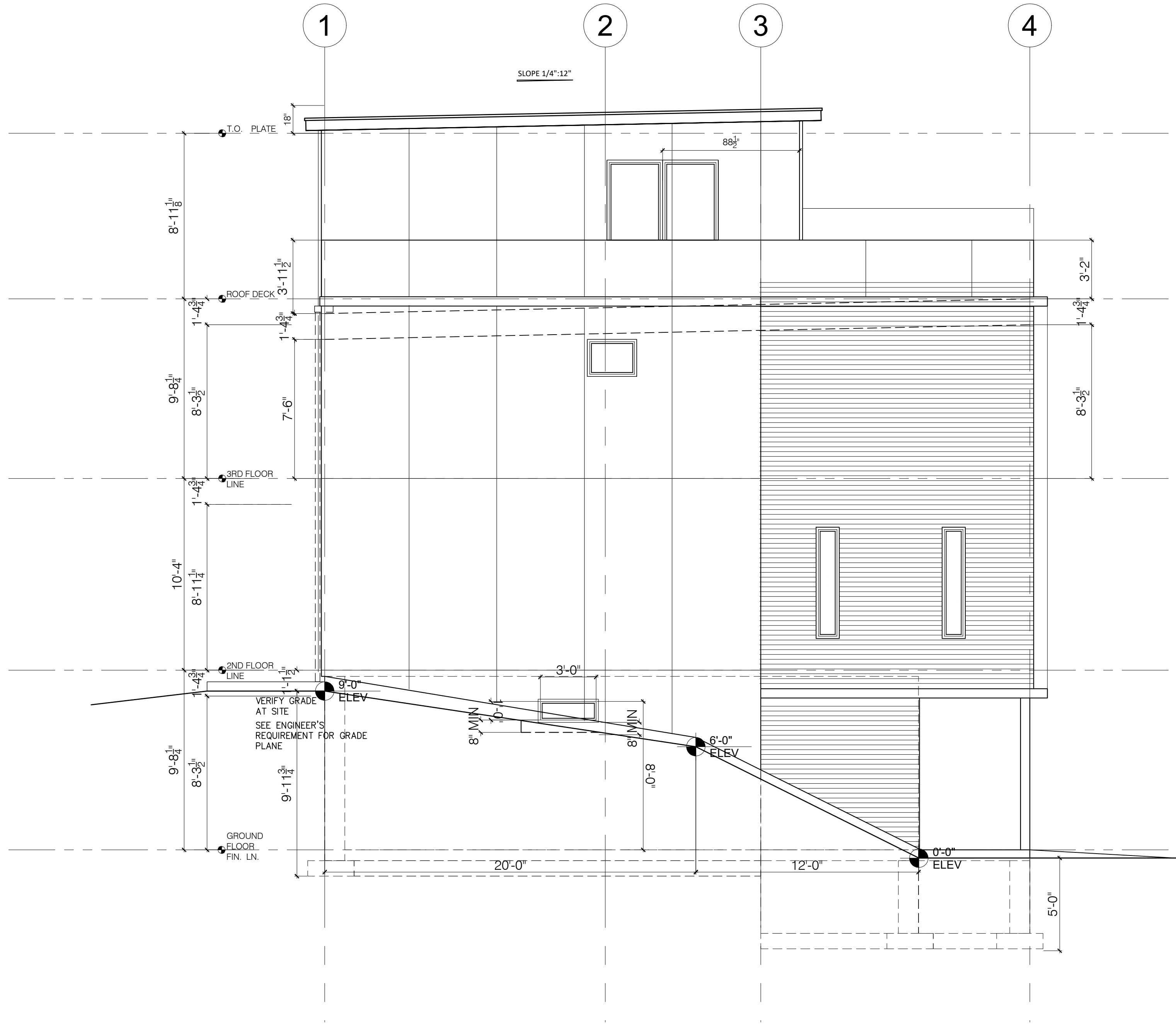


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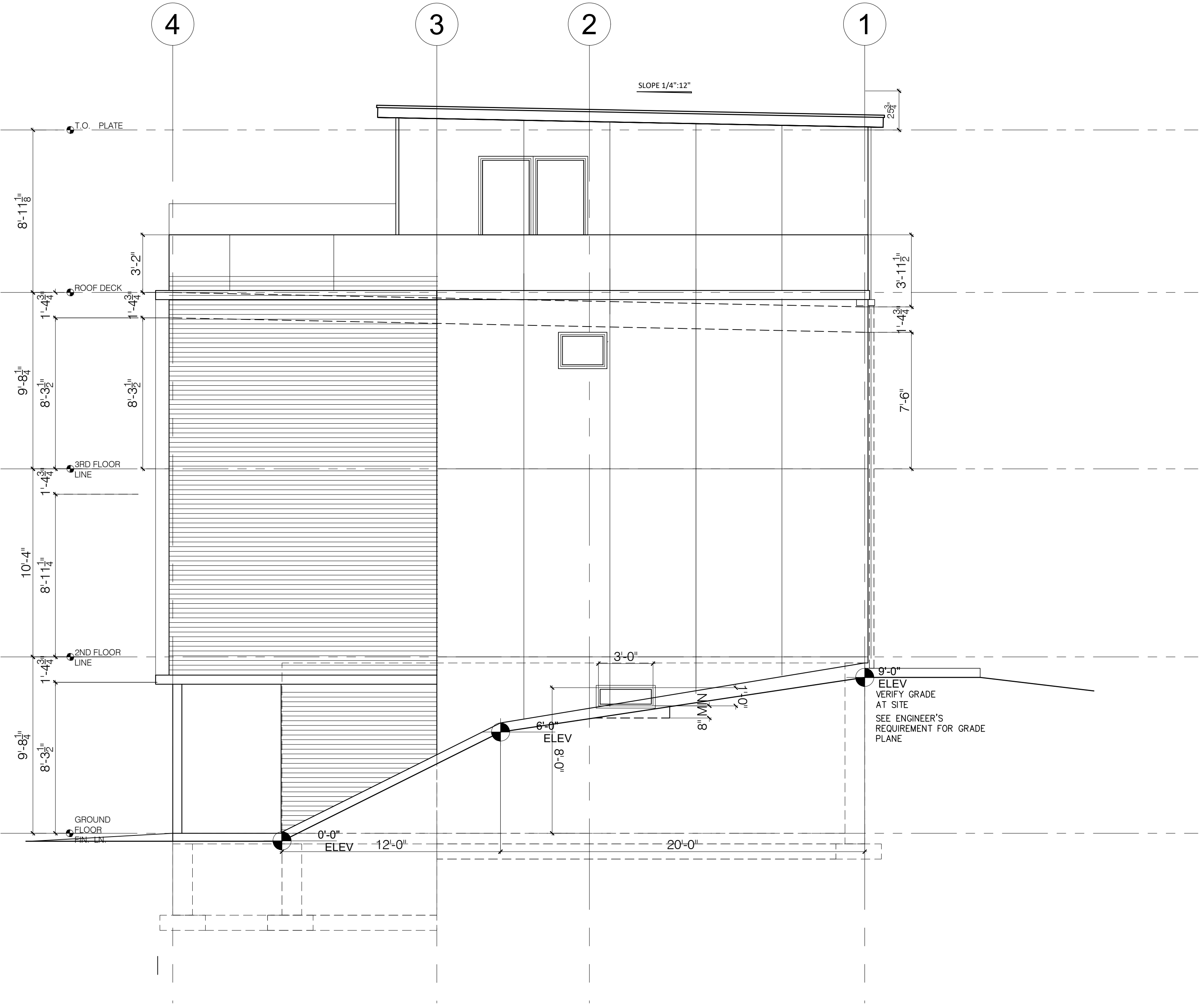


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Client <b>TED STOCKE</b>		Scale AS NOTED	Drawing No. <b>A3</b>
		Print Date Nov. 03, 2022	
		Drawn by TS	
		Checked by TS	
Units: 3801 (LEFT SIDE) & 3803 (RIGHT SIDE) LOT 17&18, BLK 1, LONDON EAST, LONDON ROAD, DULUTH MN 55804 PIN: 010-3075-00170 & PIN: 010-3075-00180		REVISION:	





1 LEFT ELEVATION  
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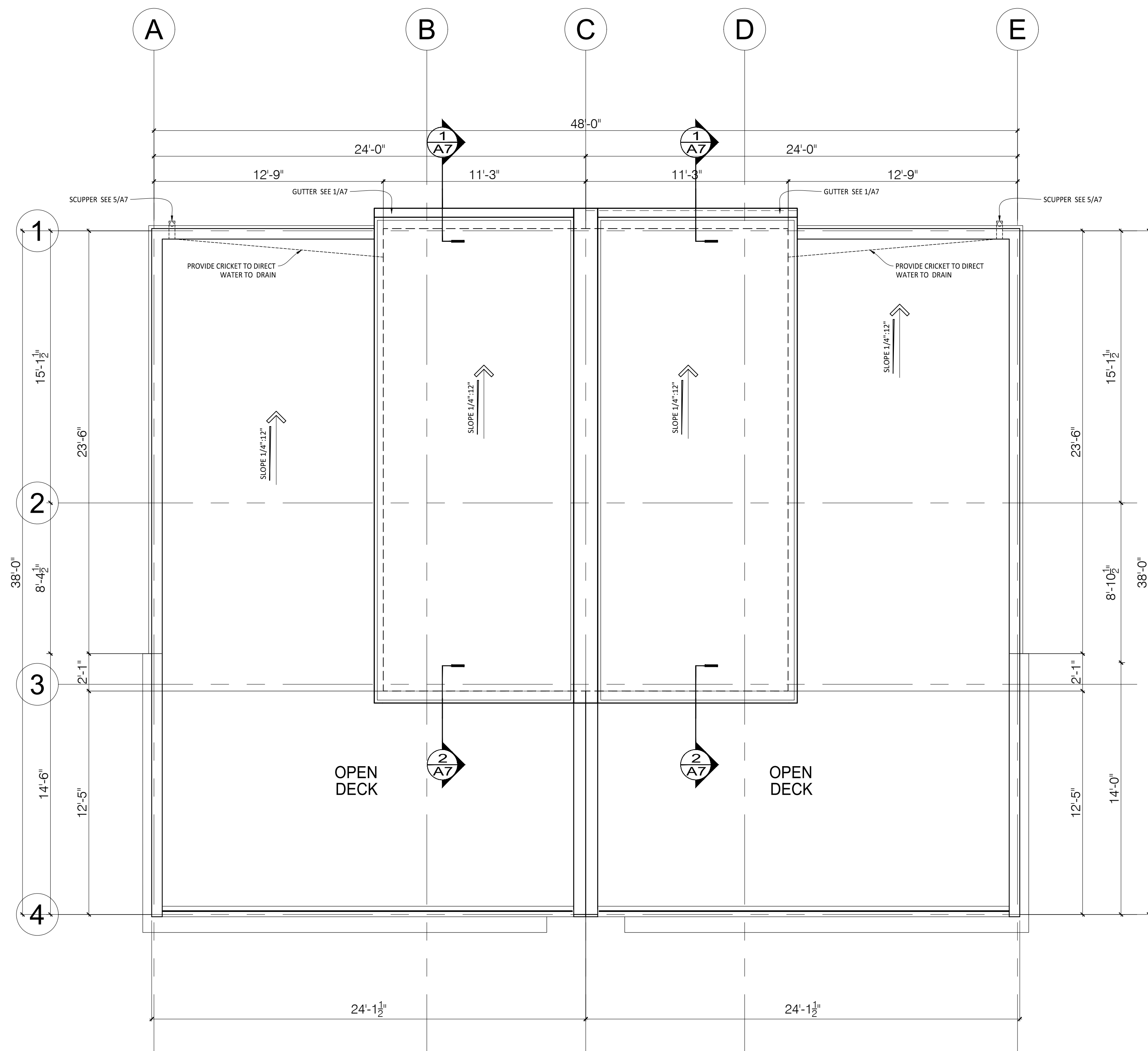


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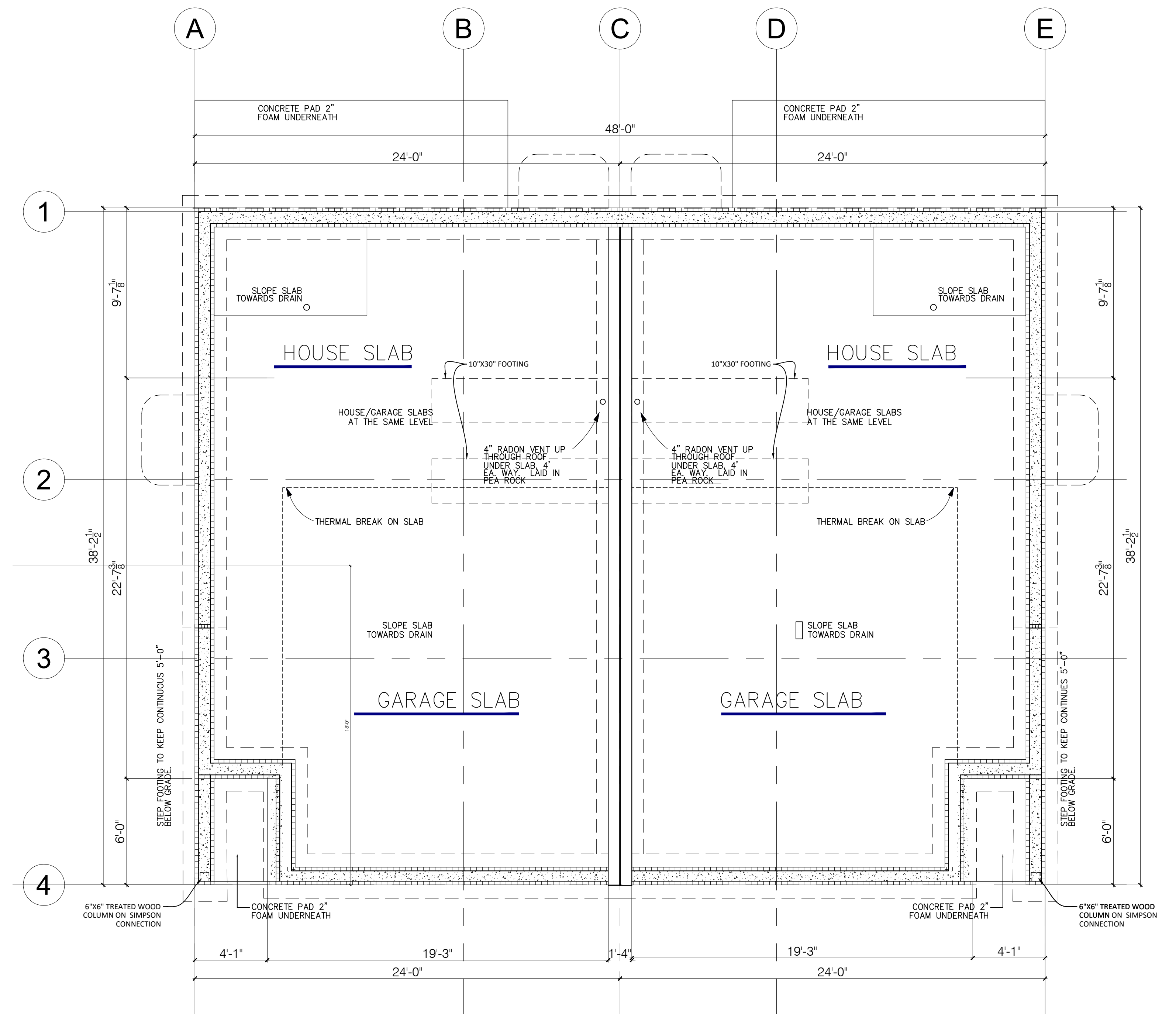


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	Drawn by		
	Checked by	TS	
Units: 3801 (LEFT SIDE) & 3803 (RIGHT SIDE) LOT 17818, BLK 1, LONDON EAST, LONDON ROAD, DULUTH MN 55804 PIN: 010-3075-00170 & PIN: 010-3075-00180		REVISION:	





1 ROOF PLAN  
SCALE: 1/4" = 1'-0"  
NOTES

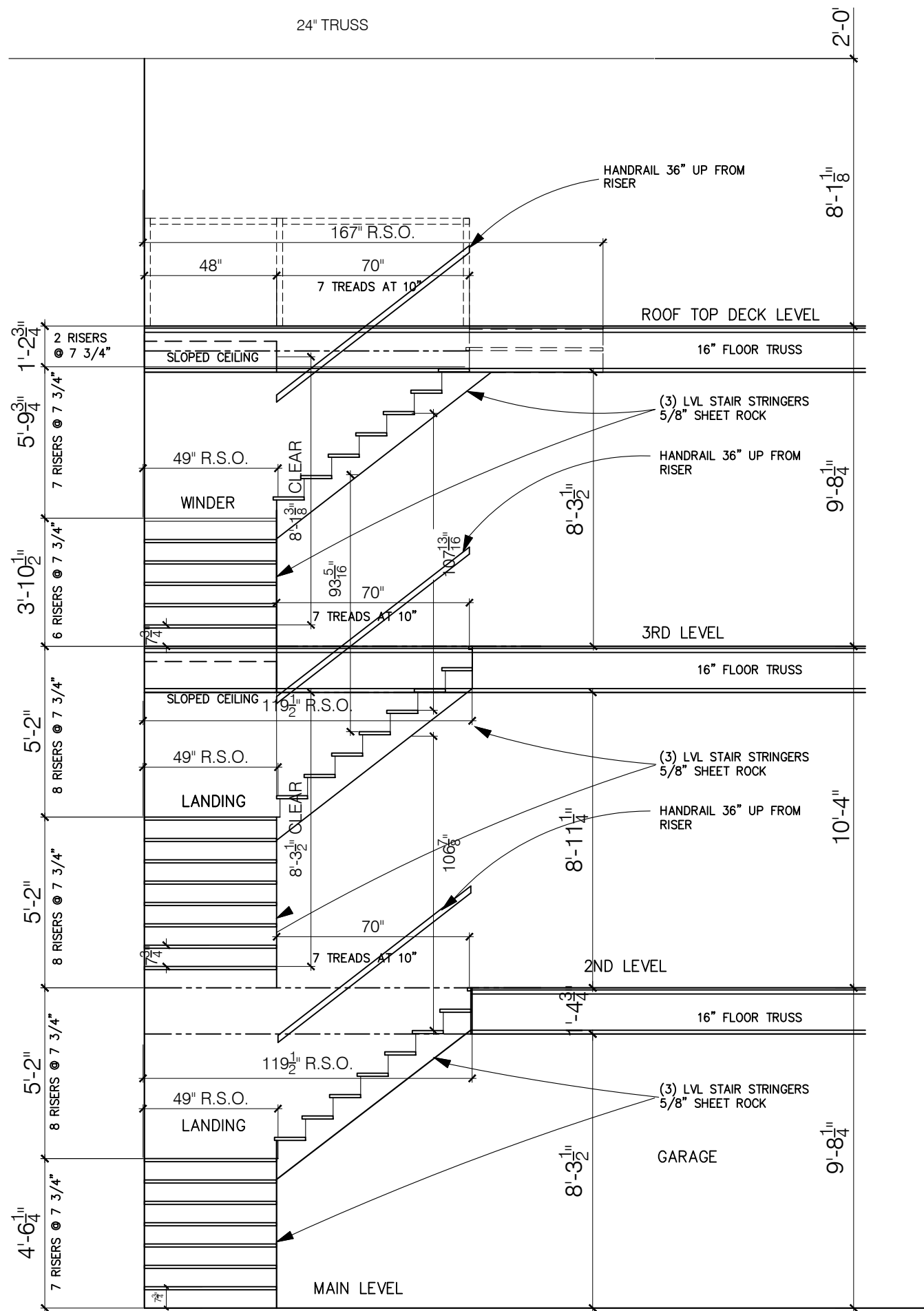


2 FOUNDATION PLAN  
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NOTES

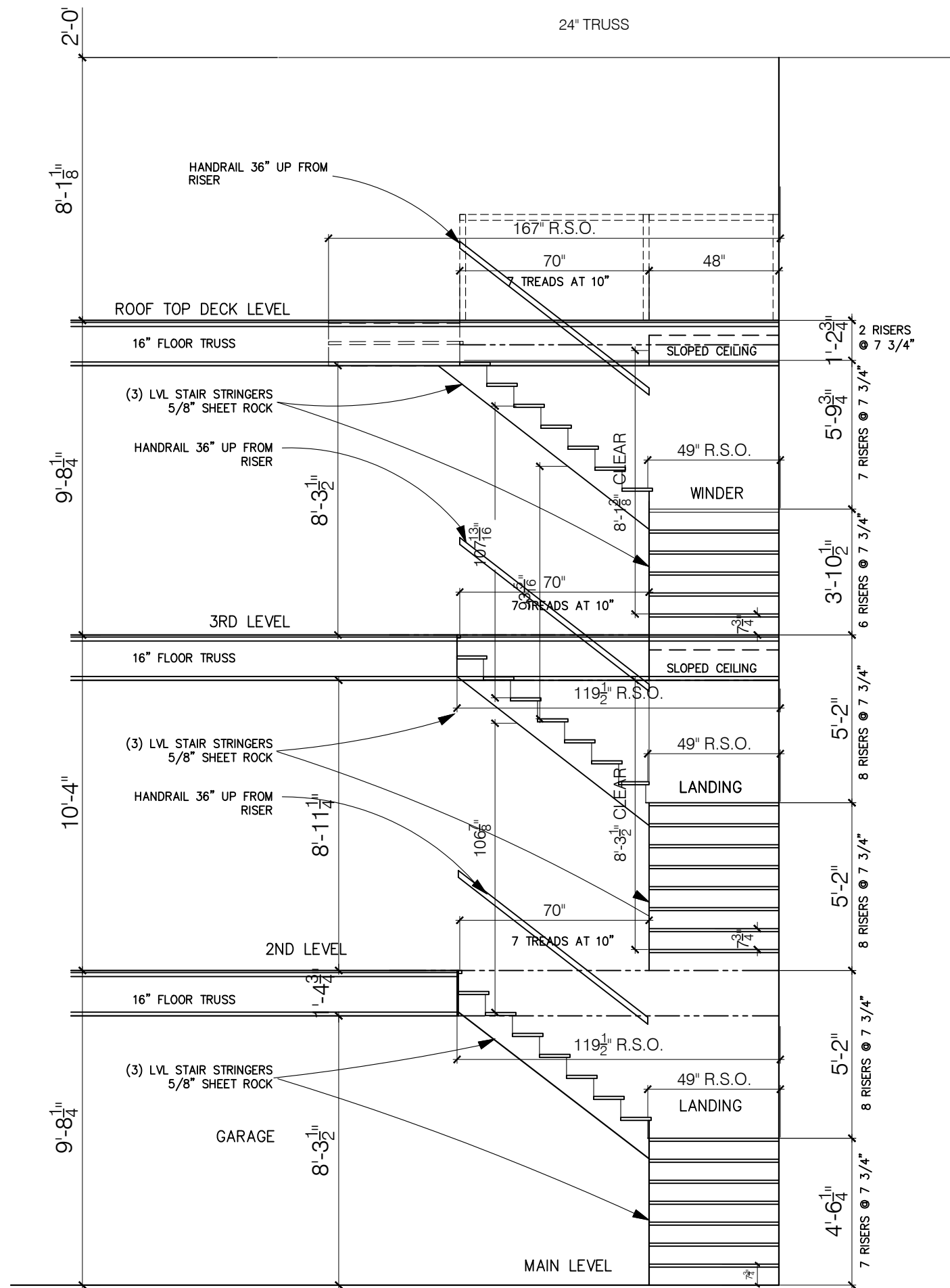


Project  PROPOSED 3-STOREY DUPLEX		Drawing title  ROOF PLAN FOUNDATION PLAN	
Client  TED STOCKE		Scale AS NOTED	Drawing No.  <

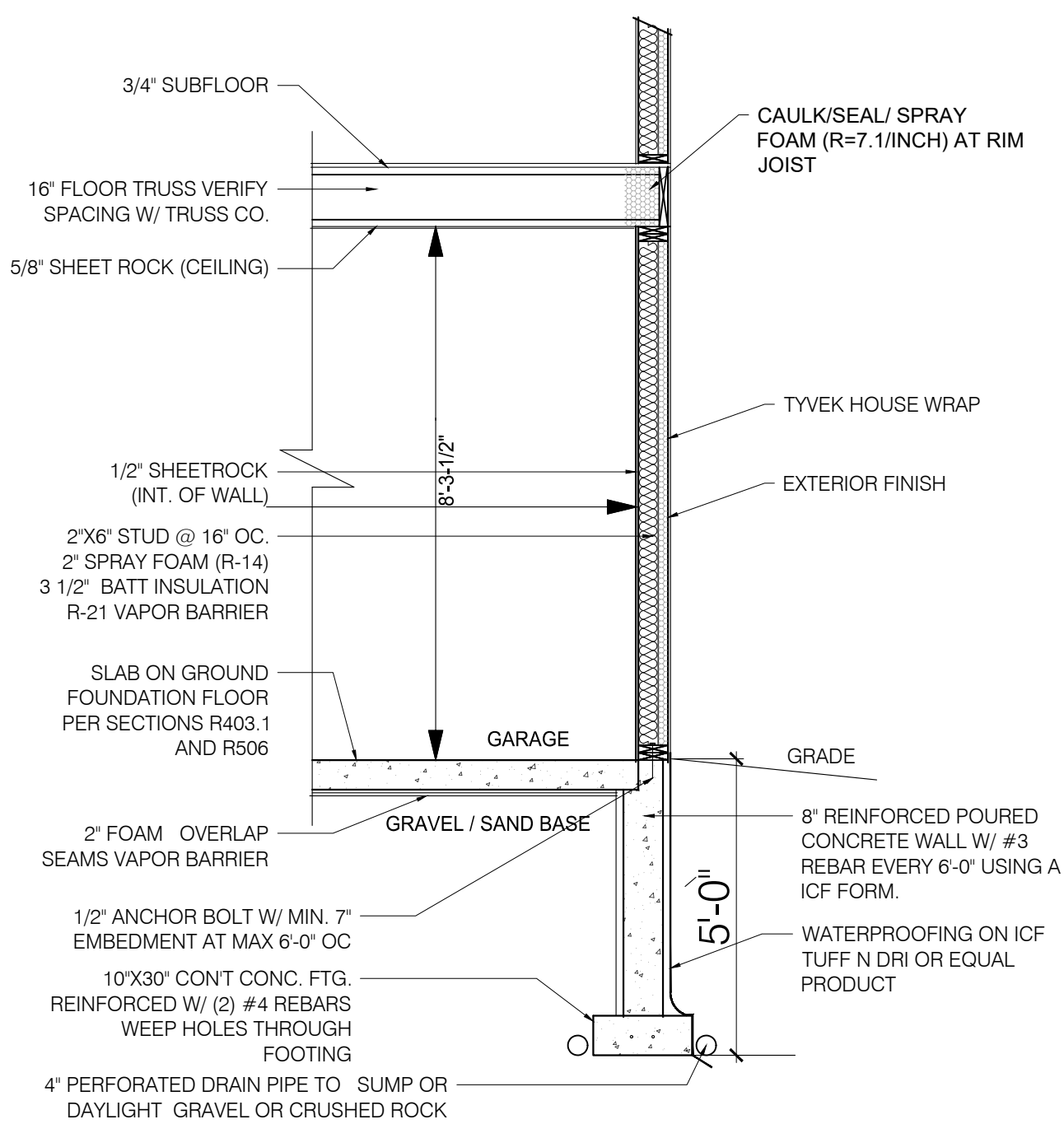




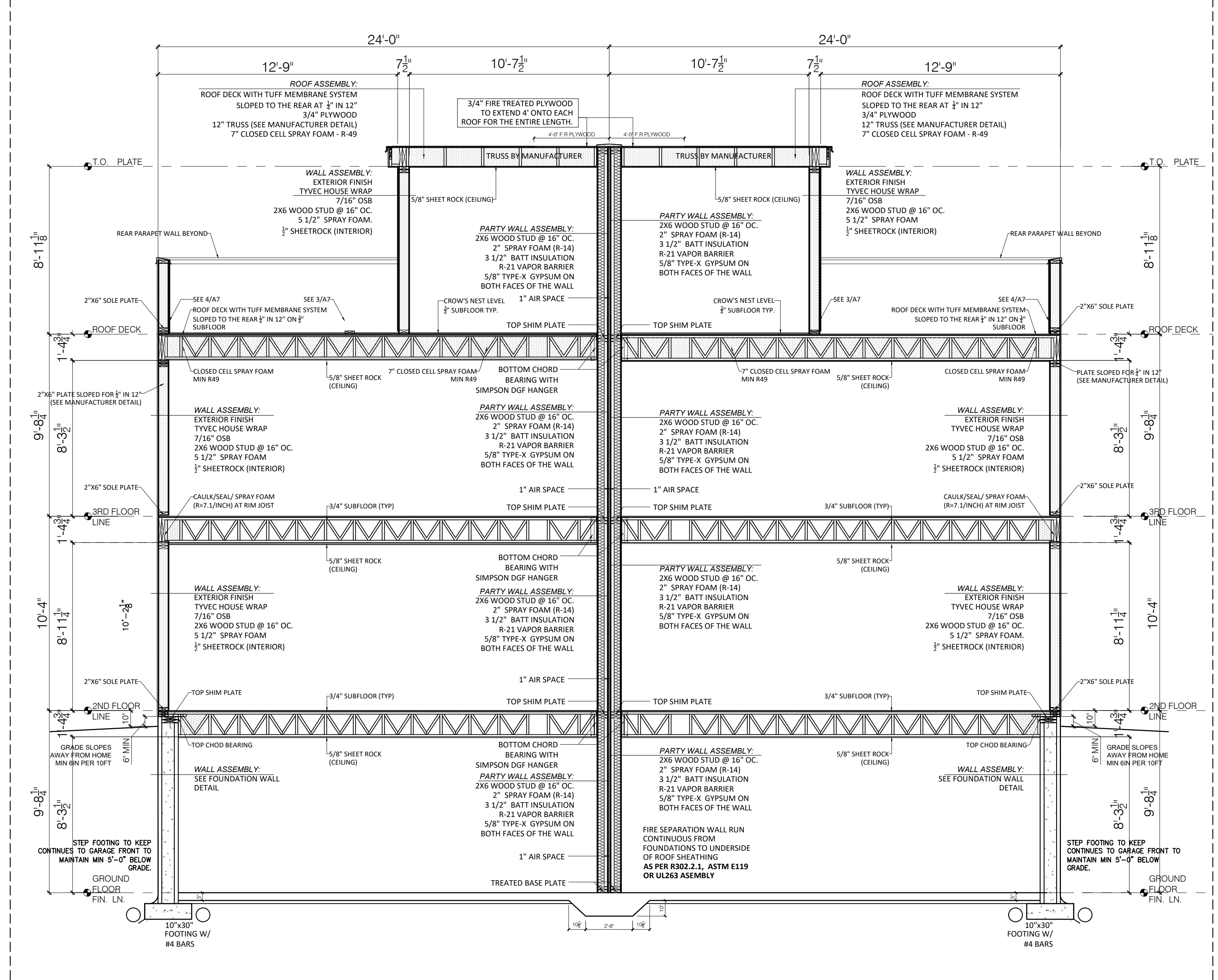
1 STAIR-1 DETAIL  
SCALE: 1/4" = 1'-0"  
NOTED



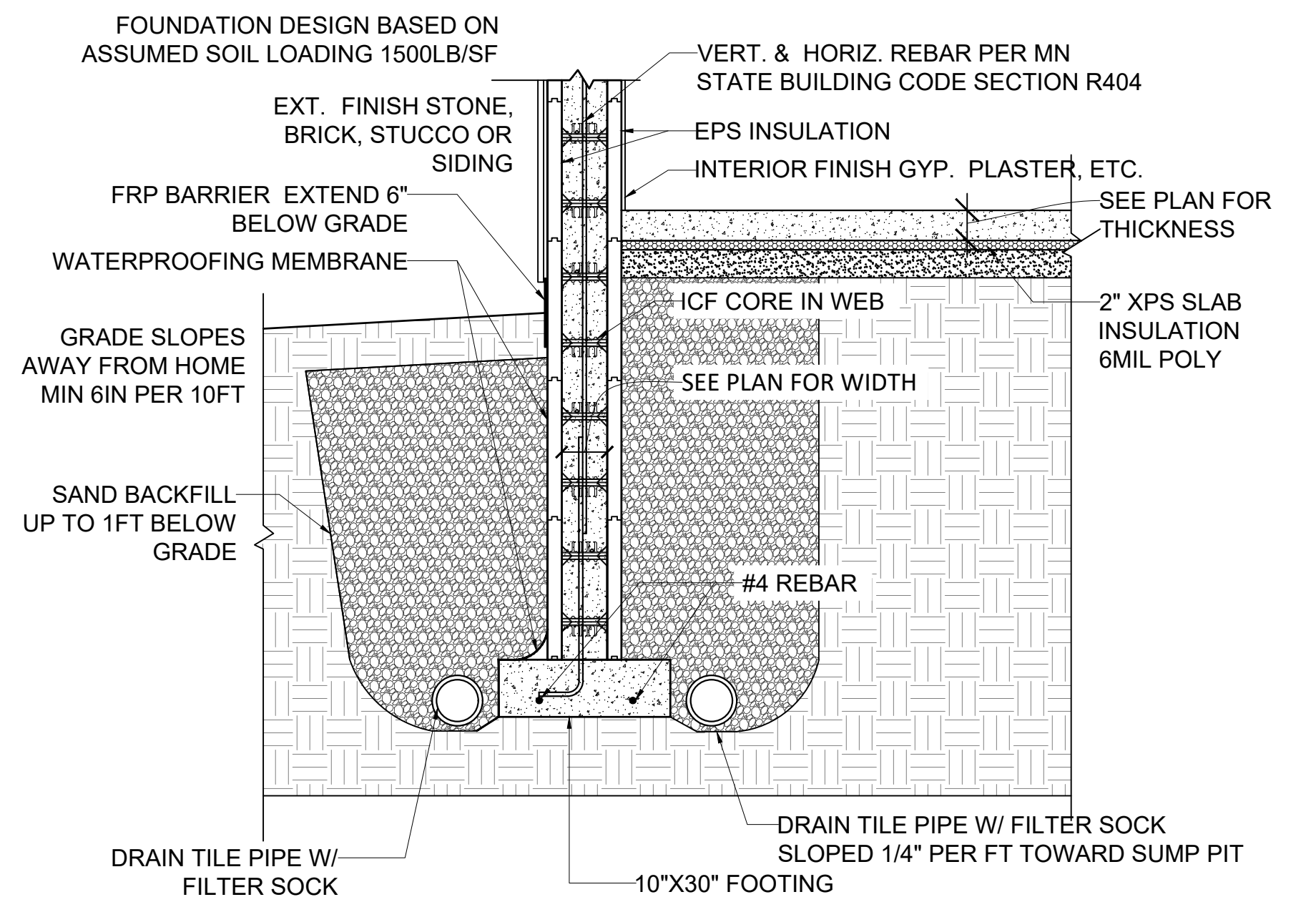
2 STAIR-2 DETAIL  
SCALE: 1/4" = 1'-0"  
NOTED



3 TYPICAL WALL AT FRONT  
SCALE: 3/8" = 1'-0"  
NOTED



4 ASSEMBLY - 3 STORY ON GRADE  
SCALE: 3/8" = 1'-0"  
NOTED



5 ICF FOUNDATION DETAIL  
SCALE: 1/2" = 1'-0"  
NOTED



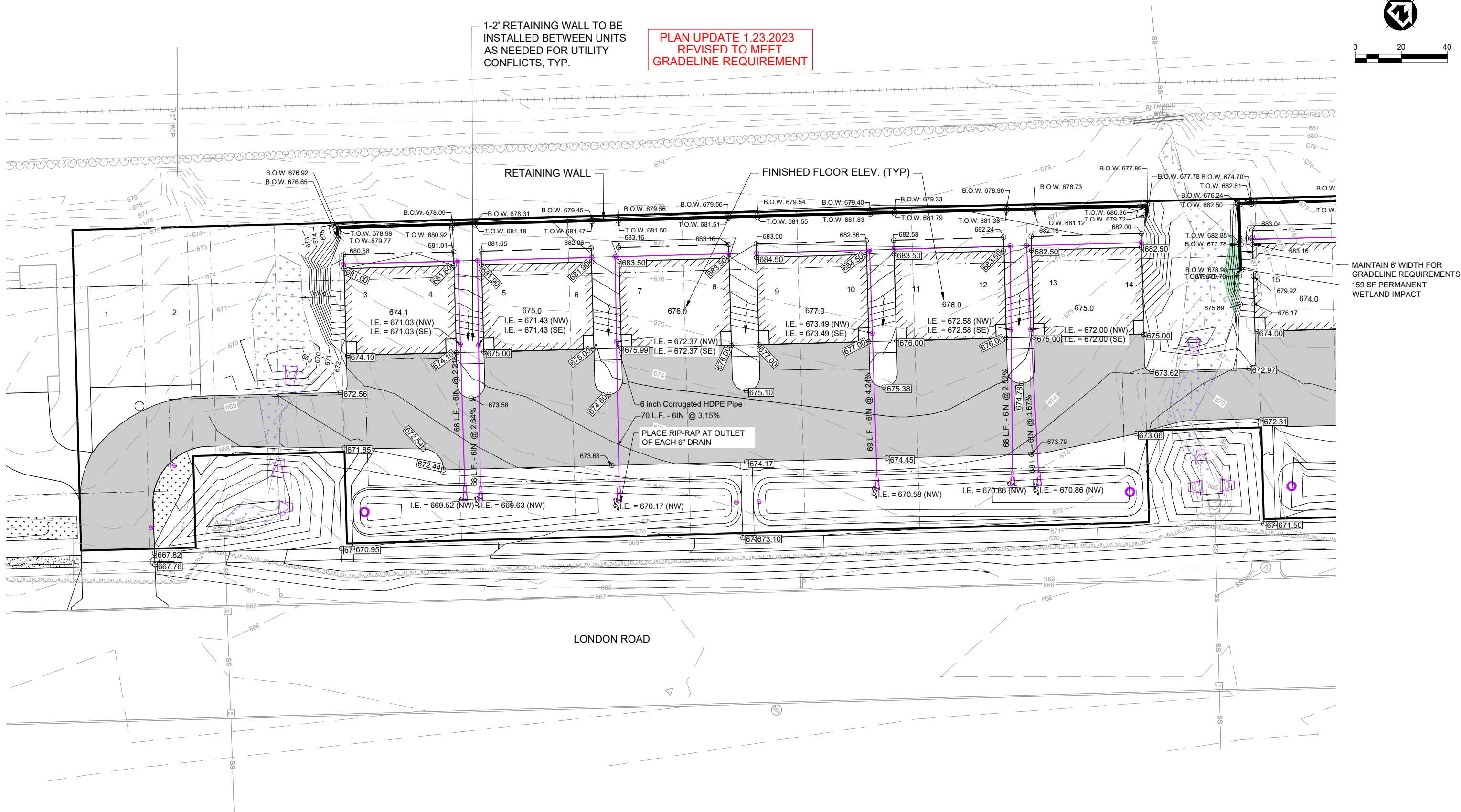
Project <b>PROPOSED 3-STORY DUPLEX</b>		Drawing title <b>DETAILS</b>	
Client <b>TED STOCKE</b>		Scale AS NOTED	Drawing No. <b>A6</b>
Units 3801 (LEFT SIDE) & 3803 (RIGHT SIDE) LOT 17&18, BLK 1, LONDON EAST, LONDON ROAD, DULUTH MN 55804 PH: 612-3075-0017 & 612-3075-0018		Print Date Nov. 03, 2022	
		Drawn by TS	
		Checked by	
		REVISION:	





1-2' RETAINING WALL TO BE  
INSTALLED BETWEEN UNITS  
AS NEEDED FOR UTILITY  
CONFLICTS, TYP.

PLAN UPDATE 1.23.2023  
REVISED TO MEET  
GRADELINE REQUIREMENT



- CONSTRUCTION NOTES:
1. CONTRACTOR TO GRADE BETWEEN BUILDINGS SO WATER FLOWS FROM THE BACK YARDS TO THE ROAD/STORMWATER SWALES.
  2. CONTRACTOR TO GRADE SIDEWALK CROSSING DRIVEWAY TO APPLICABLE ADA REQUIREMENTS.

PROJECT DATE:	NO.	DATE	REVISION	BY
02/17/20	1	8.2.2021	REGRADED BACK OF HOUSE, BOULEVARD, & SIDEWALK	SFS
	2	11.5.2021	ALIGNMENT CHANGES, REGRADE OF PAVED AREAS	JAS
	3	11.18.21	UNDERDRAIN AND REGRADE BACK OF LOTS	DAL
	4	11.22.22	ADDED SIDE RETAINING WALLS & REGRADE	SEA
	5	12.12.22	REVISED GRADING TO MEET GRADELINE REQUIREMENT	SEA

PLOT DATE: 1/23/2023 6:35 AM, P:\3006\53306\5331\05331006\CADD\Construction Drawings\05331006 Grading Plan.dwg

I HEREBY CERTIFY THAT THIS PLAN, REPORT, OR SPECIFICATION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

08/02/2021  
Date  
52222  
License No.  
JON M. LOYE



ENGINEERING | ARCHITECTURE | SURVEYING  
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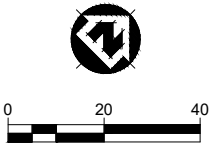
LONDON ROAD UTILITY EXTENSIONS  
37TH TO 39TH AVENUE EAST  
DULUTH, MN

GRADING PLAN 1

PROJECT NO.  
05331006  
SHEET  
S-5



PLAN UPDATE 1.23.2023  
REVISED TO MEET  
GRADELINE REQUIREMENT



1-2' RETAINING WALL TO BE  
INSTALLED BETWEEN UNITS  
AS NEEDED FOR UTILITY  
CONFLICTS, TYP.

GRADING TO BE DETERMINED WITH  
NEW HOUSE DIMENSIONS

RETAINING WALL, TYP.

SAW CUT AND INSTALL  
DRIVEWAY PER MNDOT  
STANDARD PLAN 5-297..254

LONDON ROAD

- CONSTRUCTION NOTES:
1. CONTRACTOR TO GRADE BETWEEN BUILDINGS SO WATER FLOWS FROM THE BACK YARDS TO THE ROAD/STORMWATER SWALES.
  2. CONTRACTOR TO GRADE SIDEWALK CROSSING DRIVEWAY TO APPLICABLE ADA REQUIREMENTS.

PROJECT DATE:	DRAWN BY:	NO.	DATE	REVISION	BY
02/17/20	EDC	1	8.2.2021	REGRADED BACK OF HOUSE, BOULEVARD, & SIDEWALK	SFS
		2	11.5.2021	ALIGNMENT CHANGES, REGRADED OF PAVED AREAS	JAS
	DESIGNED BY: EDC	3	11.18.21	UNDERDRAIN AND REGRADED BACK OF LOTS	DAL
	CHECKED BY: JJJ	4	11.22.22	ADDED SIDE RETAINING WALLS & REGRADED	SEA
		5	11.22.22	REVISED GRADING TO MEET GRADELINE REQUIREMENT	SEA

PLOT DATE: 1/23/2023 6:35 AM, P:\5300s\5330s\5331\05331006\CADD\Construction Drawings\05331006 Grading Plan.dwg

I HEREBY CERTIFY THAT THIS PLAN, REPORT, OR SPECIFICATION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

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LONDON ROAD UTILITY EXTENSIONS  
37TH TO 39TH AVENUE EAST  
DULUTH, MN

GRADING PLAN 2

PROJECT NO:  
05331006  
SHEET  
S-6



Variance Application  
London East  
Height Restrictions

**1. Please explain how the exceptional narrowness, shallowness or shape of the property, or exceptional topographic or other conditions related to the property, would result in practical difficulties under strict application of the requirements of the UDC:**

This project has 28 lots on 3.14 acres along London Road. Being that London Road is state owned & operated, we were only allowed 2 ingress/egress curb cuts. We therefore needed to build a service road to access each individual lot. Further, we were requested to build a wider road than the normal to accommodate emergency vehicles. We also needed to widen the road to accommodate additional guest parking for guests. Additionally, a sidewalk was required to accommodate pedestrian traffic. We also needed to incorporate 7 stormwater retention ponds to accommodate drainage.

All of these factors led to a shrinking of the buildable area for each dwelling unit. In keeping with the it has limited the size of the units and building up has made all the difference in being able to market homes that fit in this neighborhood. (This references Imagine Duluth 2035 plan: policy number 1, S4)

**2. Please explain how the special circumstances or conditions that create the need for relief is due to circumstances unique to the property, and were NOT created by the property owner or the property owners' predecessors-in-interest:**

Being on a state highway with only two curb cuts being allowed created the need to build the service road. Being at the lowest point of the hill that is Duluth created the need for the large retention ponds.

**3. Please explain the special circumstances or conditions applying to the building or land in question are peculiar to this property or immediately adjoining properties, and do not apply generally to other land or buildings in the vicinity:**

The neighborhood is comprised of several mansions, an apartment complex, an assisted living facility, and East High School. The character and feel is for larger structures. We feel these attributes of the neighboring properties are in line with our request.

Also, these proposed Scenery Lofts on these new homes will be exactly the same width as the adjacent townhomes, keeping a similar style and symmetry to the project.



**4. Please explain how the application proposes to use the property in a reasonable manner, which would not be permitted by this code except for a variance:**

As the buildable footprints in this site are small, the only method to design in the square footage necessary to meet the demand for this area is to go up. The views of Lake Superior are at a premium. This use would allow for Scenic Lofts, which are a permitted exception to the height restriction in the code. Also, keeping the footprints to a minimum minimizes the need for excavation on each site.

**5. Please explain how that if the variance is granted it will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety or public welfare of the inhabitants of the city:**

The additional height, if granted, will not affect any surrounding properties as one side is London Road and the other is the railroad. The height variance would not affect the traffic on London Road. The variance requested will not impair safety, as the backyard is similar to any 2 story structure and does not impose an undue safety concern. The height would not impair the established property values. Due to the unique characteristics of the variance, it would help to increase property values.

**6 Please explain how, if the variance is granted, it will not substantially impair the intent of zoning code and the official zoning map, and will not alter the essential character of the neighborhood:**

If the intent of the code is to follow the Imagine Duluth 2035 Forward Together outline; Section 8, Housing, each item in Policy #1 fits with our request:

Policy #1 – Increase density in and around the designated Core Investment Areas

- Promote infill development with a mix of densities appropriate to the context of the surrounding neighborhood.
  - This is an infill site, with the requested variance allowing for a fit with the neighboring properties
- Encourage and incentivize live/work opportunities.
  - With the variance, we are allowing for the space necessary for a home office
- Explore opportunities to increase amenities to create livable and walkable neighborhoods.
  - The sidewalk being added into this project increased the walkability of the neighborhood, but inhibited the horizontal footprint of the structures, necessitating a vertical build to accommodate the square footage necessary to maintain the character of the Congdon neighborhood.
- Focus on creative housing options of a non-traditional neighborhood design, such as homeownership through dense attached or detached single-family housing development fronting a pedestrianized street.



- The variance requested is a creative design approach to overcoming the site's given parameters and helps to keep the character of the Congdon neighborhood.
- Create walk-to-work incentives for employers to support housing near employment centers.
  - This site incentivises walk-to-work for downtown employers. The requested variance adds the square footage that is being demanded of these residents of our city, and also helps to keep the character of the neighborhood.

Further, There is a provision in the code for Exceptions to Height Restrictions; 50-21.3 Exceptions and encroachments for Scenery Lofts and Elevator Penthouses. There are no descriptions in the code under Article 6: Definitions depicting what Scenery Lofts or Elevator Penthouses are. We felt that this variance request fell into this parameter.

**Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M (E. Unsewered Areas, F. Two Family Dwellings in R-1, G. Parking Regulations, H. Reduce Setbacks, I. MU-C District, J. Airport Overlay, K. Flood Plain Regulations, L. Shorelands, or M. Non-Conforming Buildings)? Yes No**

- No