



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

Room 160  
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 Duluth, Minnesota 55802



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planning@duluthmn.gov

File Number	PL 21-023	Contact	Kyle Deming, <a href="mailto:kdeming@duluthmn.gov">kdeming@duluthmn.gov</a>	
Type	Variance – building height	Planning Commission Date		April 13, 2021
Deadline for Action	Application Date	March 9, 2021	60 Days	May 8, 2021
	Date Extension Letter Mailed	March 24, 2021	120 Days	July 7, 2021
Location of Subject		601 E. 4 <sup>th</sup> St. (East Hillside)		
Applicant	Brewery Creek LLLP	Contact	Jeff Corey – 1Roof Community Housing	
Agent	LHB Architects and Engineers	Contact	Emily Timm	
Legal Description		Lots 1-10, including vacated 20 feet of E. 4 <sup>th</sup> St., Block 93, Portland Division (010-3830-14230)		
Site Visit Date		March 15, 2021	Sign Notice Date	March 25, 2021
Neighbor Letter Date		April 1, 2021	Number of Letters Sent	23

**Proposal**

Construct a 209 foot by 69 foot, 52-unit 5-story apartment building at the northeast corner of 6<sup>th</sup> Ave. E. and E. 4<sup>th</sup> St. A variance is requested to exceed the 55 foot maximum building height by 5 feet – 1 inch to a height of 60 feet – 1 inch.

**Recommended Action:** Approve variance with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-6 Mid-Rise Neighborhood Shopping	Vacant commercial	Neighborhood Mixed Use
<b>North</b>	MU-N and R-1	Apartment Building	Neighborhood Mixed Use
<b>South</b>	F-6 Mid-Rise Neighborhood Shopping	Commercial	Neighborhood Mixed Use
<b>East</b>	F-6 Mid-Rise Neighborhood Shopping	Apartments	Neighborhood Mixed Use
<b>West</b>	MU-N	Parking lot	Neighborhood Mixed Use

**Summary of Code Requirements**

Sec. 50-22.12.B – Maximum Overall Height – 55 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 for 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 the Comprehensive Plan.

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

Governing Principle #5 – Promote reinvestment in neighborhoods. Project redevelops an underutilized site in a portion of the neighborhood with access to transit, jobs, and services.

Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods. Project provides 52 additional housing units for the community.

Zoning – F-6 Mid-Rise Neighborhood Shopping - Corridor Building II - Corridor buildings are primarily meant to house office or multi-family residential uses, with less transparency required on the ground floor. Corridor Building II is an intermediary building type between the more neighborhood scale locations and the intensity of Downtown.

Future Land Use – Neighborhood Mixed Use - A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets. Site design should maintain a largely residential building character. Commercial-only uses should be adjacent to non-residential or other mixed-use areas.

History – the site formerly featured an oil change business and a liquor store with apartments above. They have been vacant and blighted for several years. The site was acquired by One Roof Development as a redevelopment site in 2018.

**Review and Discussion Items**

Staff finds that:

- 1) The applicant’s property is 250 x 150 feet comprising 0.86 acres. It currently is primarily parking lot with two small commercial buildings that have been unoccupied for several years and a large billboard sign. F-6 Zoning with a Corridor Building II sets a maximum building height of 55 feet and the proposal is a 60 foot – 1 inch tall building as measured from the center of the principal front of the building on E. 4<sup>th</sup> St.
- 2) The applicant is proposing to use the property in a reasonable manner by constructing a 52 unit apartment building at the corner of the property with parking to the rear off the alley. However, the steep grade and the presence of the buried creek are special circumstances that present a practical difficulty in putting the property to this use.
- 3) The applicant’s property is severely impacted by the slope dropping 22 feet from the northwest corner to the southeast corner. The zoning requires the building be located at the street intersection, which is at an elevation of 796 ft. and the MN Accessibility Code requires the rear entrance be at grade with the parking lot (elevation 809 ft.). The differences in grade (13 ft.) is not enough to allow for two floors between 4<sup>th</sup> St. and the alley, and so the building has been designed with a 13 foot distance between 1<sup>st</sup> and 2<sup>nd</sup> floor, which makes the building taller to get the same number of total floors.
- 4) To mitigate for the taller first floor (13 ft.), the applicant is proposing to use 8 ft. studs rather than 9 ft. studs on floors 2 through 5 to reduce the height of the building.
- 5) In addition to the slope, the presence of a Brewery Creek, in a subterranean tunnel running along the east property boundary, also presents a practical difficulty to the reasonable use of the site. The applicant is prevented from using the easterly 30 feet of the site for the apartment building in order to provide a safety buffer to protect the building’s stability on the site. If the entire width of the site were available for apartments and the slope allowed apartments to be constructed on the “uphill” side of the first floor, the fifth floor would not be needed to fit the 52 apartments.
- 6) The variance, if granted, would not alter the essential character of the area that includes the Village Place Apartments (602 E. 5<sup>th</sup> St.) across the alley from the subject property that is 5 stories tall from E. 5<sup>th</sup> St. and 6 stories tall from the alley. The subject property will be 4 stories tall from the alley elevation. Other buildings within two blocks of the site are generally 3 stories tall, with the exception of the Essentia Health St. Mary’s Hospital that is 9 stories tall from E. 3<sup>rd</sup> St. and the St. Mary’s support building (with helipad) at 407 E. 4<sup>th</sup> St. that is the equivalent of 5-6 stories tall.
- 7) This addition is at the corner of the property and will have a limited effect on access to light and air for the rowhouse to the east due to the 30 foot setback from the east property line. Additionally, the subject building is 85 feet south of the Village Place Apartments providing sufficient access to light and air.
- 8) The 36 parking spaces will access the existing alley which has sufficient capacity to convey vehicles to either 6<sup>th</sup> or 7<sup>th</sup> Ave. E. where they can utilize the grid pattern of streets. No vehicle congestion is expected to result.

9. The health, safety, and public welfare are not expected to be effected by the granting of the variance. Construction of the building according to current building codes will not result in danger of fire or other safety issues any more so if it were constructed within the normal building height according to the Fire Marshall.
10. The variance, if granted, would result in a building that is 5 feet taller than what could normally be built on this lot. This is only marginally taller and, therefore, the impact to values of upslope properties is also likely to be marginal.
11. The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Neighborhood Mixed Use and the intent of the Corridor Building II being an “intermediary building type between the more neighborhood-scale locations and the intensity of Downtown.”
12. No comments from citizens, City staff, or any other entity were received regarding the application.
13. 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.

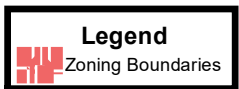
#### **Staff Recommendation**

Based on the above findings, staff recommends that Planning Commission adopt the findings of fact in the staff report and approve the Variance with the following conditions:

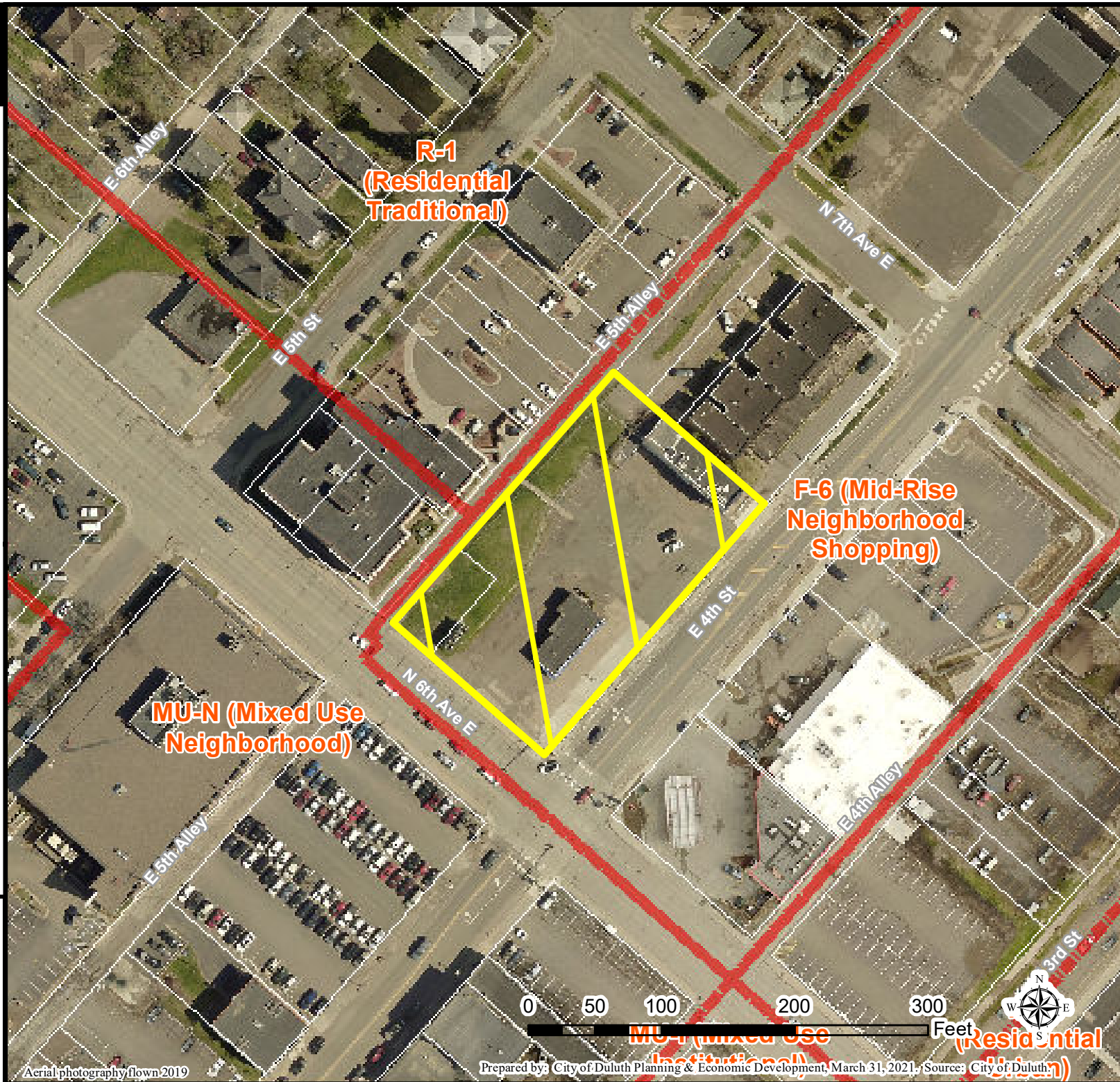
- 1) The project be limited to a constructing a 60 foot – 1 inch tall building occupying the areas of the site shown on Sheet C300 of plans drawn by LHB titled “Brewery Creek” date 3/8/2021.
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 21-023  
601 E 4th St.  
Building Height Variance



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.







VIEW OF MAIN ENTRY FROM SOUTHWEST



VIEW FROM NORTHWEST



VIEW FROM SOUTHEAST





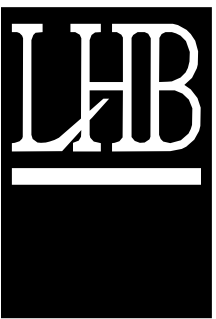
**2 NORTH ELEVATION**  
3/32" = 1'-0"

**EXTERIOR ELEVATION KEY**

- AN ADDRESS NUMBERS
- C1 CORNICE 1 - PREFINISHED SHEET METAL WITH HORIZONTAL EXPRESSION LINES
- C2 CORNICE 2 - PREFINISHED SHEET METAL WITH HORIZONTAL EXPRESSION LINES
- C3 CORNICE 3 - PREFINISHED SHEET METAL
- D1 DOOR 1 - MAIN ENTRY
- D2 DOOR 2 - COMMUNITY ROOM
- D3 DOOR 3 - STAIR B EMERGENCY EXIT
- D4 DOOR 4 - ENTRY DOOR
- D5 DOOR 5 - TRASH DOORS
- EC1 ENTRANCE CANOPY 1
- EO ELEVATOR OVERRUN
- FCL1 FIBER CEMENT LAP SIDING 1
- FCL2 FIBER CEMENT LAP SIDING 2
- FCP1 FIBER CEMENT PANEL 1
- FCP2 FIBER CEMENT PANEL 2
- FCP3 FIBER CEMENT PLANK
- HR1 METAL HANDRAIL
- ML1 ALUMINUM VTAC LOUVER - MATCH COLOR OF ADJACENT CLADDING
- RW CAST IN PLACE CONCRETE RETAINING WALL
- SG SLOPED GRADE BEYOND



**1 SOUTH ELEVATION**  
3/32" = 1'-0"



PERFORMANCE  
DRIVEN DESIGN.  
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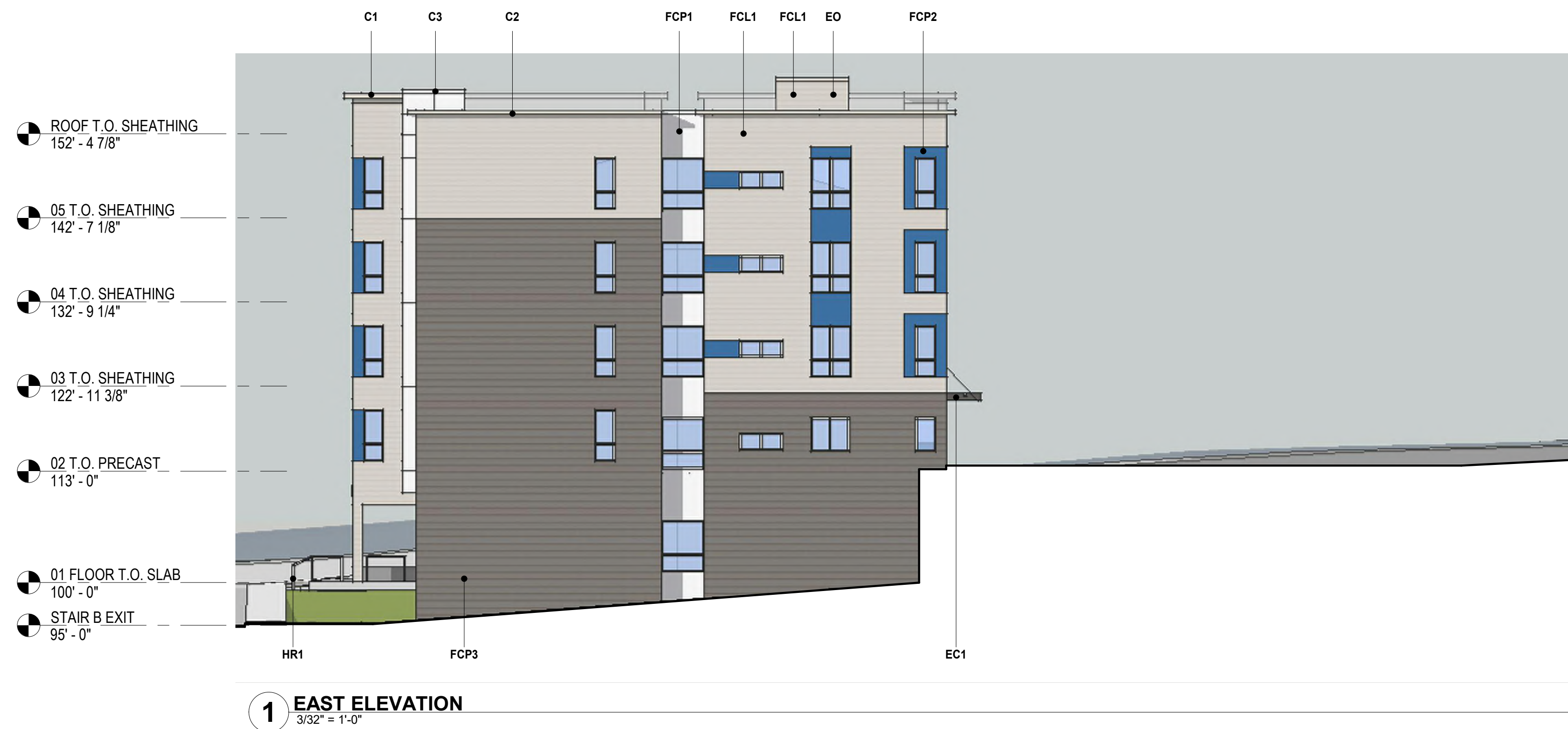
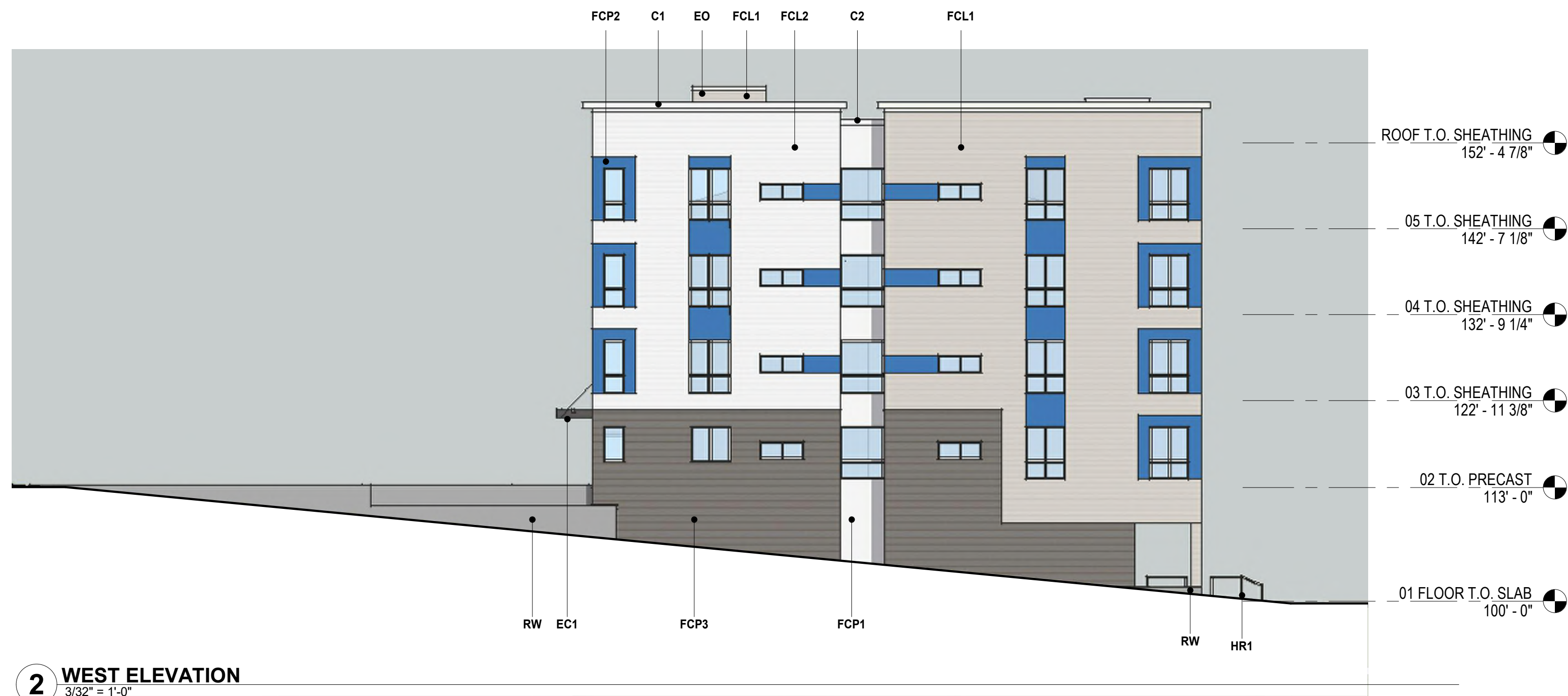
Brewery Creek  
Brewery Creek LLLP

03/09/2021



## EXTERIOR ELEVATION KEY

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21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8446

CLIENT:  
BREWERY CREEK LLLP

THIS SQUARE APPEARS 1/2" x 1/2" ON  
FULL SIZE SHEETS.

NO DATE ISSUED FOR

NO DATE REVISION

**PRELIMINARY**  
**NOT FOR CONSTRUCTION**  
03/08/2021

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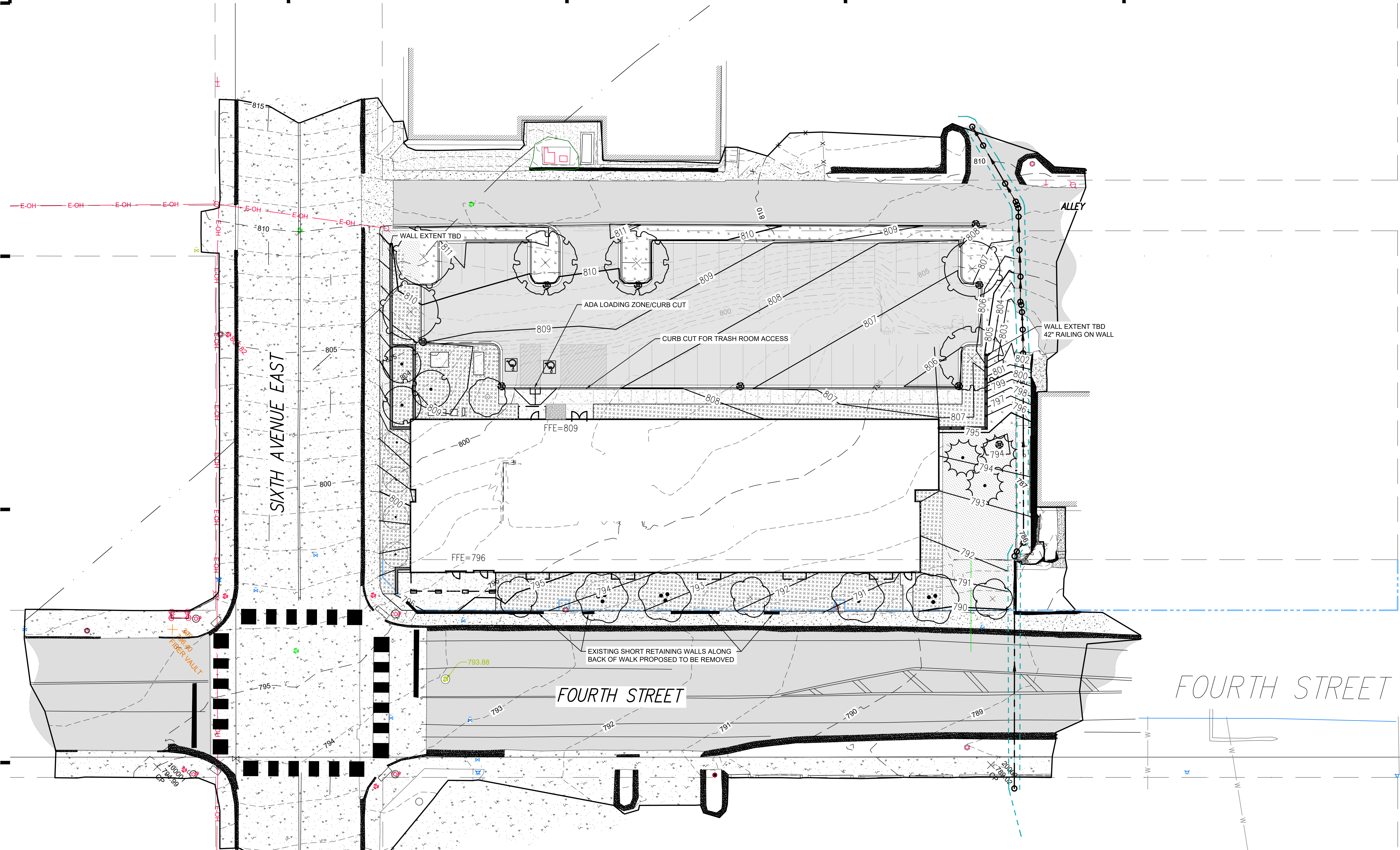
PROJECT NAME:  
BREWERY CREEK

601-619 EAST 4TH ST  
DULUTH, MN

DRAWING TITLE:  
GRADING PLAN

FILE: .\200146\500 Drawings\Civil\200146 C200 Grading.dwg  
DRAWN BY: XXX  
CHECKED BY: XXX  
PROJ. NO: 200146  
DRAWING NO:

**C200**







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CLIENT: **BREWERY CREEK LLLP**

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PROJECT NAME: **BREWERY CREEK**

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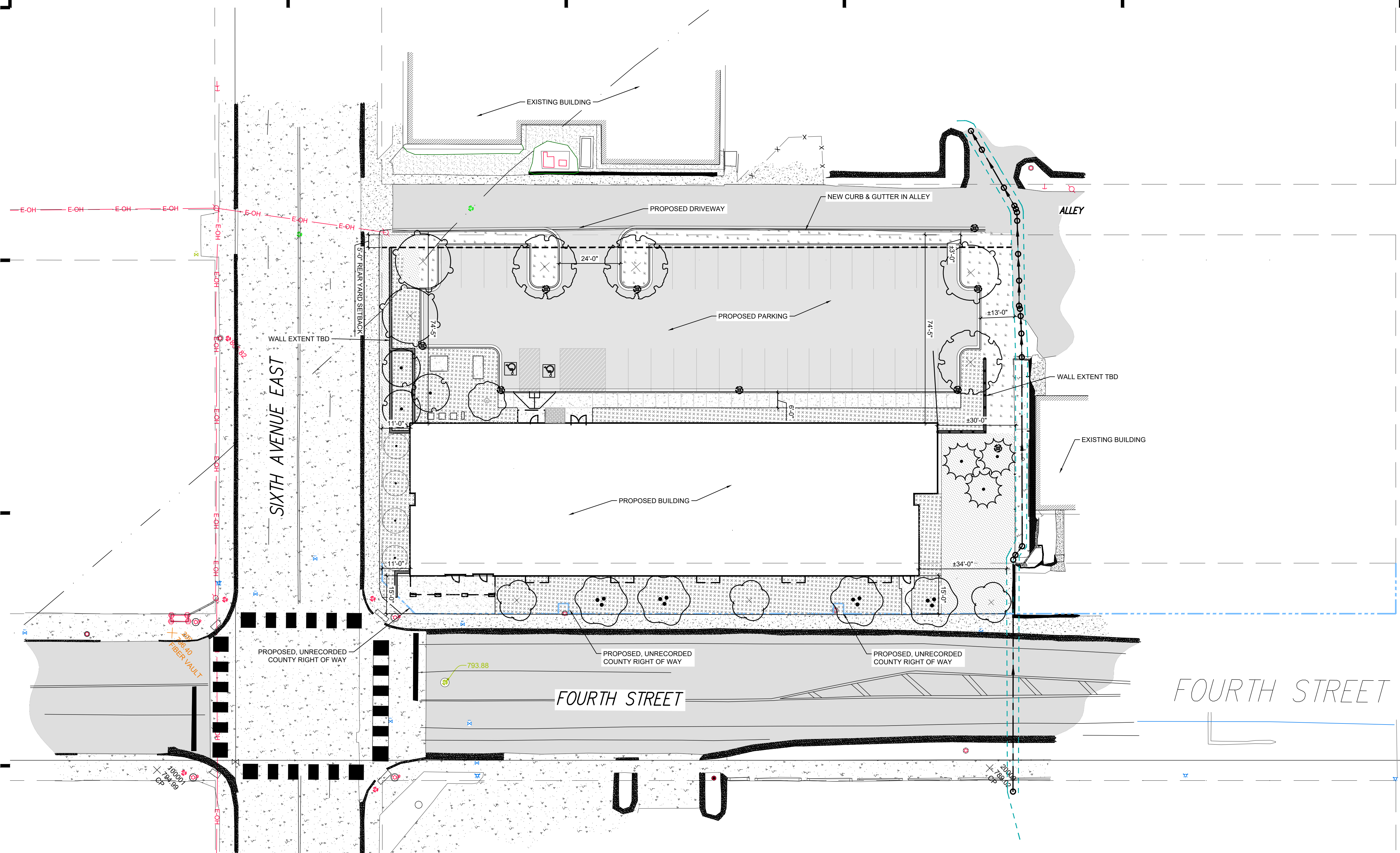
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# SURFACING & LAYOUT PLAN

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CHECKED BY: XXX  
PROJ. NO: 200146  
DRAWING NO:

**C300**

# C300







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NO	DATE	REVISION

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02/25/2021

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PROJECT NAME:  
**BREWERY CREEK**

601-619 EAST 4TH ST  
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DRAWING TITLE:  
EMERGENCY ACCESS  
EXHIBIT

FILE: .\200146\500 Drawings\Civil\200146 C300 Layout and Surfacing.dwg  
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CHECKED BY: XXX  
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DRAWING NO: