

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANT: Armond & Lisa B. Spikell

ASSESSMENT DISTRICT: 3rd

CASE NUMBER: 2024-0061-V

COUNCILMANIC DISTRICT: 3rd

HEARING DATE: June 20, 2024

PREPARED BY: Sara Anzelmo
Planner



REQUEST

The applicants are requesting variances to allow dwelling additions (living space and deck¹) with less setbacks and buffer than required and with disturbance to slopes of 15% or greater on property located at 714 Skywater Road in Gibson Island.

LOCATION AND DESCRIPTION OF SITE

The subject property consists of approximately 1.23 acres of land and is located on the southwest side of Skywater Road, north of Yerbury Road. It is identified as Lot 234 & Part of Lot 233 of Parcel 138 in Grid 12 on Tax Map 33 in the Gibson Island subdivision.

The property is zoned R1 – Residential District, as adopted by the comprehensive zoning for Council District 3, effective January 29, 2012.

This lot fronts the Magothy River, is located within the Chesapeake Bay Critical Area overlay, and is designated as LDA – Limited Development Area. The shoreline is not mapped as buffer modified and is subject to the standard buffer regulations. The property is currently improved with a single-family detached dwelling and other associated facilities.

PROPOSAL

The applicants propose to construct a dwelling addition (basement, first floor kitchen expansion, second floor loft, and a deck) onto the waterfront side of the existing dwelling.

REQUESTED VARIANCES

§ 18-13-104(a) of the Anne Arundel County Zoning Code requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams, and tidal wetlands. § 18-13-104(b) provides for an expanded buffer where there are, among other things, steep slopes. Section 17-8-301 of the Subdivision and Development Code states that development on

¹ The applicants' letter of explanation and prior communication with the Critical Area Team indicate that they may have a future plan for the reconfiguration of the existing accessory structure to include a wheelchair accessible entrance, a bathroom addition, and a reconfigured roof. However, the current application does not include a request for a variance associated with this accessory structure within the expanded buffer, nor is there any proposed change to this structure or associated limit of disturbance shown on the applicants' site plan. Should the applicants decide to pursue redevelopment of the accessory structure in the future, an additional variance will be required at that time.

properties containing buffers shall meet the requirements of Title 27 of the State Code of Maryland (COMAR). Section 27.01.01(B)(8)(ii) of COMAR states a buffer exists “to protect a stream, tidal wetland, tidal waters, or terrestrial environment from human disturbance.” Section 27.01.09 E.(1)(a)(ii) of COMAR authorizes disturbance to the buffer for a new development activity or redevelopment activity by variance. The proposed addition would necessitate a variance to disturb an unspecified area of the expanded buffer. If approved, the actual amount of buffer disturbance would be determined at permitting.

§ 17-8-201(a) provides that development in the Limited Development Area (LDA) may not occur within slopes of 15% or greater unless development will facilitate stabilization of the slope; is to allow connection to a public utility; or is to provide direct access to the shoreline. The proposed addition would necessitate a variance to disturb an unspecified area of slopes of 15% or greater. If approved, the actual amount of slope disturbance would be determined at permitting.

A review of the bulk regulations for development within an R1 District reveals that a setback variance is not required. Similarly, while the applicants requested a variance to disturb slopes of 15% or greater for the replacement of an existing retaining wall that they’ve described as a “bulkhead”, the retaining wall is allowed to be replaced in order to cure the erosive condition. Therefore, the Critical Area Team has determined that a variance is not required for the wall.

FINDINGS

The subject property is irregular in shape and exceeds the minimum 40,000 square foot area and minimum 125 foot width required for a lot in an R1 District. The existing critical area lot coverage is shown as 7,875 square feet, and the post-construction coverage is shown as the same. However, as indicated in their comments, the Critical Area Team has raised questions about the accuracy of these calculations. If the variances are approved, the applicants will be required to demonstrate compliance with the maximum coverage limitations at the time of permitting.

The property was the subject of a prior variance application (2015-0227-V) under which approval was granted to allow a two-story dwelling addition (first floor garage expansion and second floor master bedroom) with less setbacks than required. The applicants’ letter explains that the currently proposed variance is necessary to allow them to modernize interior and exterior spaces so that they will be able to age-in-place. They contend that the new addition and deck would allow them to enjoy the primary waterfront feature of their home without the need to negotiate stairs from the main level, should they ever need a wheelchair in the future.

The **Cultural Resources Section** commented that the property is a significant historic resource within the Gibson Island Historic District (AA-936). In general, the Cultural Resources Section does not object to the variance application to allow an addition with less setbacks and buffer and disturbance to steep slopes. All development shall comply with Article 17-6-501 Historic Resources. Their Office will conduct their review of the proposed addition for compliance with this section of code once the building permit has been submitted. The applicants are advised that a site visit by Cultural Resources staff may be required to conduct this review.

The **Development Division (Critical Area Team)** commented that the existing home has 4,623 square feet of habitable space with a 3,644 square foot footprint. Although the addition is minimal, the applicants have not adequately demonstrated why the needed renovations could not occur within the existing footprint, eliminating the need for the variance altogether. The applicants will need to provide this information to demonstrate that the proposed request meets the test for the minimum necessary to

afford relief. The proposed deck expansion cannot be supported. There are ample outdoor amenities; and, although the Code provides for access to the water, it does not provide for access to a view. The applicants' application of the exemption for lot coverage for direct water access is incorrect. This site could be subject to the 10% reduction requirement for sites that exceed the lot coverage limitations. This will be determined at permitting and will need to be addressed prior to permit approval.

The **Critical Area Commission** also questioned the accuracy of the lot coverage calculations. The applicants' letter notes that they desire to modernize the interior of their home to allow for them to age in place and construct a new deck to allow for them to access the outside of their home via a wheelchair. It is unclear if the applicants are currently unable to access their existing outside recreational amenities (i.e. several patios and a courtyard) due to access issues. The Commission notes that the Critical Area Law provides for accommodations under the Americans with Disabilities Act (ADA). Under § 8-1808(c)(1)(iii)(11) of the Natural Resources Article, a local jurisdiction shall consider "reasonable accommodations in policies or procedures when the accommodations are necessary to avoid discrimination on the basis of physical disability, including provisions that authorize a local jurisdiction to require removal of a structure that was installed or built to accommodate a physical disability and require restoration when the accommodation permitted by this paragraph is no longer necessary." An appropriate accommodation must be based on the particular facts and circumstances of each case, and it is necessary to balance the interests of the disabled individuals against the legitimate interests of the local jurisdiction's Critical Area program. It does not appear that the applicants are seeking relief from the Critical Area development standards under reasonable accommodations. Therefore, the applicants bear the burden of proof and persuasion that they have overcome each and every one of the Critical Area variance standards including unwarranted hardship.

As proposed, the Critical Area Commission opposes this variance request as this request does not meet all of the Critical Area variance standards, including that of unwarranted hardship. Furthermore, impacts to sensitive environmental features such as the Critical Area Buffer and steep slopes have not been minimized. State law defines "unwarranted hardship" to mean that, without the requested variance, an applicant shall be denied reasonable and significant use of the entire parcel or lot. It does not appear that this request can meet this variance standard as the applicant currently has reasonable and significant use of the entire property with the dwelling, patios, accessory building, courtyard, and walkways. While the applicant indicates that they cannot access the existing patio via a wheelchair with the current layout, it appears that the applicants are also proposing major and structural renovations inside the existing footprint of the home such as relocating stairs located within the kitchen to flank the south side of the dwelling. The documentation provided does not detail alternative analysis to show that the current request is the only viable design to provide wheelchair access to outdoor recreational areas (existing and proposed). Nevertheless, if the request to construct a three story, 291-square foot addition and a 300-square foot deck were to be denied, the applicant would still have reasonable and significant use of the entire lot or parcel with the existing improvements. Additionally, the County's Critical Area program and the State Critical Area regulations place strict limits on disturbance to the Critical Area Buffer, steep slopes, and the steep slope buffer in order to meet the goals of the Critical Area law. Approving a variance to allow steep slope and Critical Area Buffer disturbance for the construction of approximately 600 square feet of additional improvements when there appears to be opportunities to renovate the existing footprint of the home to provide the desired accommodations, and when there are already expansive areas used for outdoor recreational use, is not a right commonly enjoyed by other, similar properties developed under the County's Critical Area program. No property owner has the right to disturb steep slopes and the Critical Area Buffer in order to provide expanded living and outdoor recreational space when the property owner already enjoys over 4,623 square feet of existing habitable space and expansive outdoor areas.

Denying the request to construct the 291 square foot addition and 300 square foot deck in the Critical Area Buffer and within steep slopes is not depriving the applicant of a use that would be permitted to others under the local Critical Area program. Conversely, the granting of this variance would absolutely confer a special privilege upon the applicant. The Anne Arundel County Code and the Critical Area regulations place strict limits on disturbance to steep slopes and to the Critical Area Buffer in order to meet the goals of the Critical Area law. Approval of this variance would grant the applicant a special privilege that would be denied others within the Critical Area, as no individual is permitted to construct an addition and deck within the Buffer with no proof that this request is required to provide reasonable accommodations and when a site is already improved with expansive habitable space and outdoor/recreational areas. The Critical Area Commission has previously opposed similar variance requests from others; therefore, granting this applicant's request would confer upon the applicant a special privilege denied to others. Further, the cumulative impact of development in the Critical Area has a substantial and negative impact on the Chesapeake Bay. Given the lot is waterfront to the Magothy River and the request is for additional lot coverage on steep slopes and within the Critical Area Buffer, this request is not in harmony with the spirit and intent of the Critical Area law and regulations or the County's Critical Area program. Lastly, the request to construct the dwelling addition and deck at the top of steep slopes and within the Critical Area buffer can increase the volume and velocity of stormwater runoff flowing down the steep slopes. Especially given that the applicant already enjoys expansive habitable and outdoor amenities within the Critical Area Buffer and on steep slopes, this request will absolutely have an adverse effect on water quality and habitat within the Critical Area. For the reasons explained above, the Critical Area Commission opposes this variance and recommends denial of this request.

The **Department of Health** does not have an approved plan for this project, but has no objection to the proposal as long as a plan is submitted and approved by the Department.

The **Soil Conservation District** reviewed the proposal and provided no comment.

The Office of Planning and Zoning concurs with the detailed analysis of the critical area variance standards provided by the State Critical Area Commission above. With regard to the requirements for all variances, approval would not necessarily alter the essential character of the neighborhood, substantially impair the appropriate use or development of the adjacent properties, reduce forest cover in the limited development area, be contrary to acceptable clearing and replanting practices, or be detrimental to the public welfare. However, given the expansive existing footprint and associated improvements and the excessive size of the proposed three-level addition and deck, the variance is not considered to be the minimum necessary to afford relief.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends *denial* of the proposed Critical Area variances to § 17-8-301 and § 17-8-201(a). Should the Administrative Hearing Officer determine that variance relief is warranted, any approval must be conditioned on the proposal satisfying the Cultural Resources Section reviewer(s) in accordance with Section 17-6-501 of the Code at the time of permitting.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant to construct the structure(s) as proposed, the applicant shall apply for and obtain the necessary building permits, and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.

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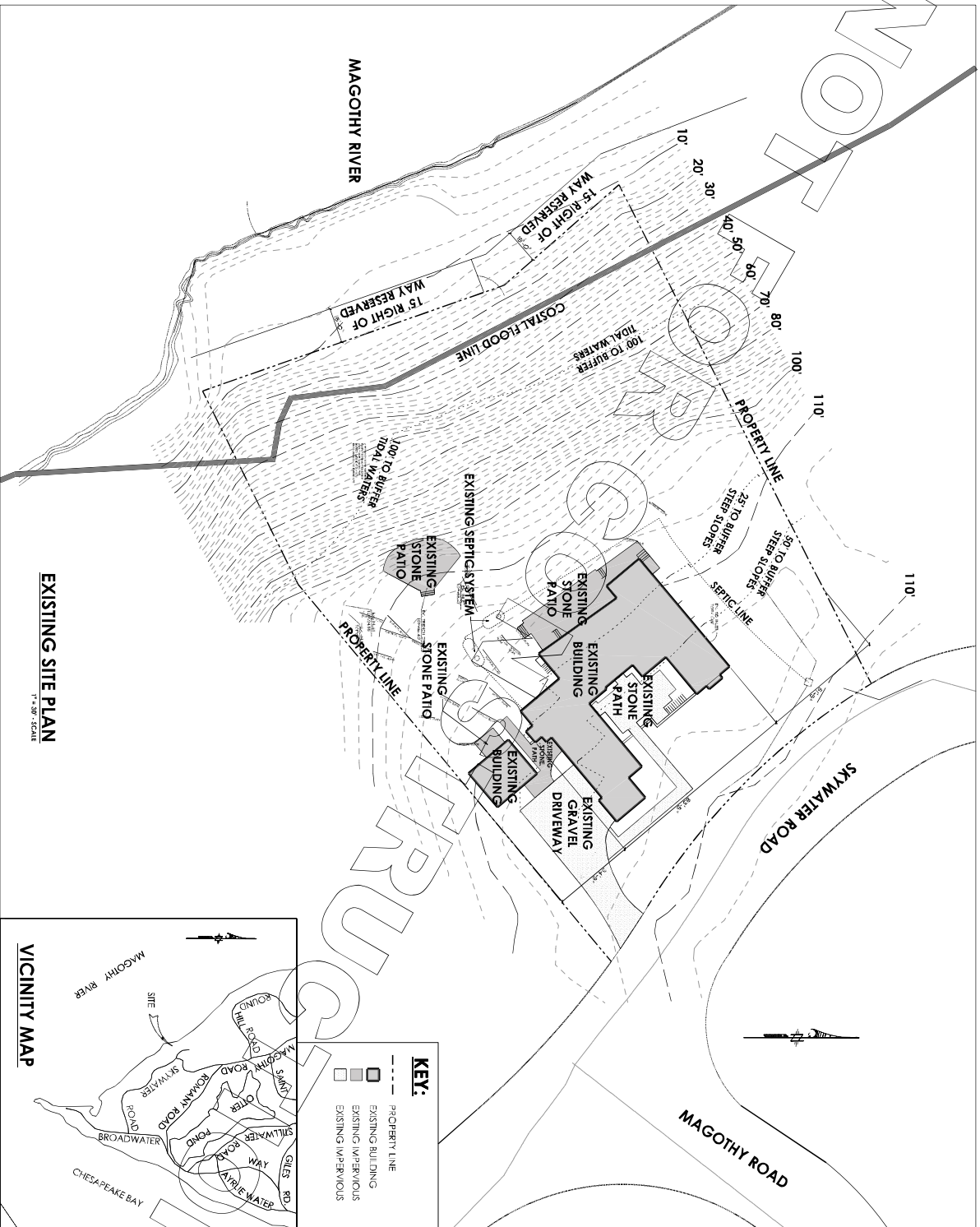
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EXISTING SITE

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EXISTING SITE PLAN
1" = 30' SCALE

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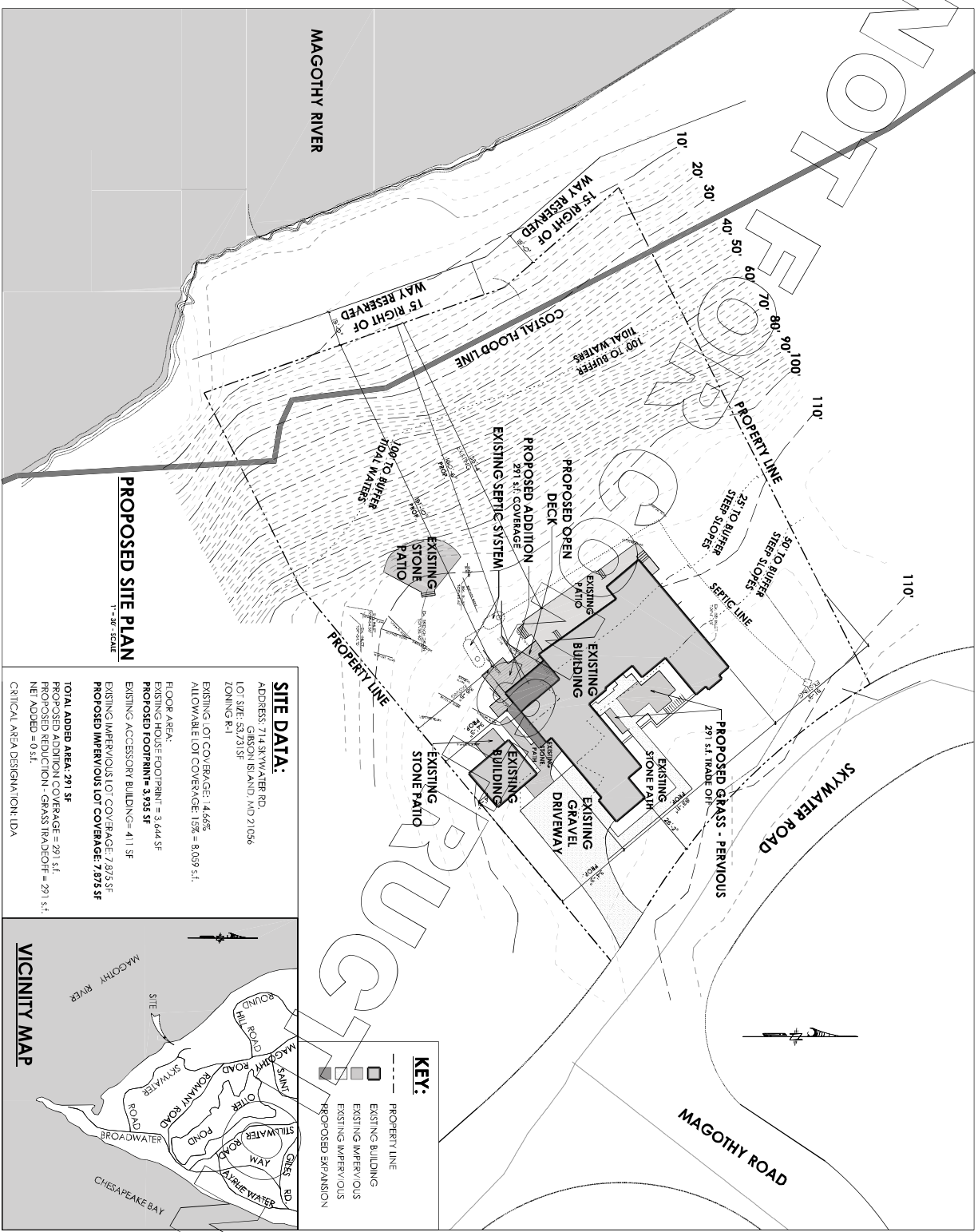
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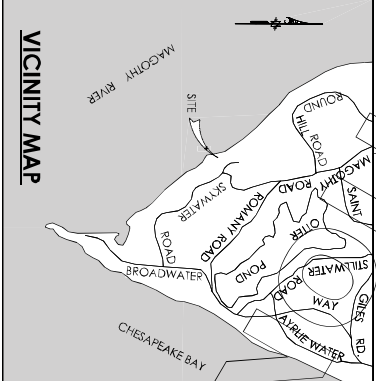
SCALE: 1" = 30'-0"

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PROPOSED SITE

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SITE DATA:
ADDRESS: 714 SKYWATER RD,
GIBSON ISLAND, MD 21056
LOT SIZE: 52,731 SF
ZONING R1
EXISTING LOT COVERAGE: 14.66%
ALLOWABLE LOT COVERAGE: 15% = 8,099 S.F.
FLOOR AREA:
EXISTING HOUSE FOOTPRINT = 3,644 SF
PROPOSED FOOTPRINT = 3,935 SF
EXISTING ACCESSORY BUILDING = 411 SF
EXISTING IMPERVIOUS LOT COVERAGE: 7,875 SF
PROPOSED IMPERVIOUS LOT COVERAGE: 7,875 SF
TOTAL ADDED AREA: 291 SF
PROPOSED ADDITION COVERAGE = 291 S.F.
PROPOSED REDUCTION - GRASS TRADEOFF = 291 S.F.
NET ADDED = 0 S.F.
CRITICAL AREA DESIGNATION: LDA



PROPOSED SITE PLAN
1" = 30' - 0" SCA

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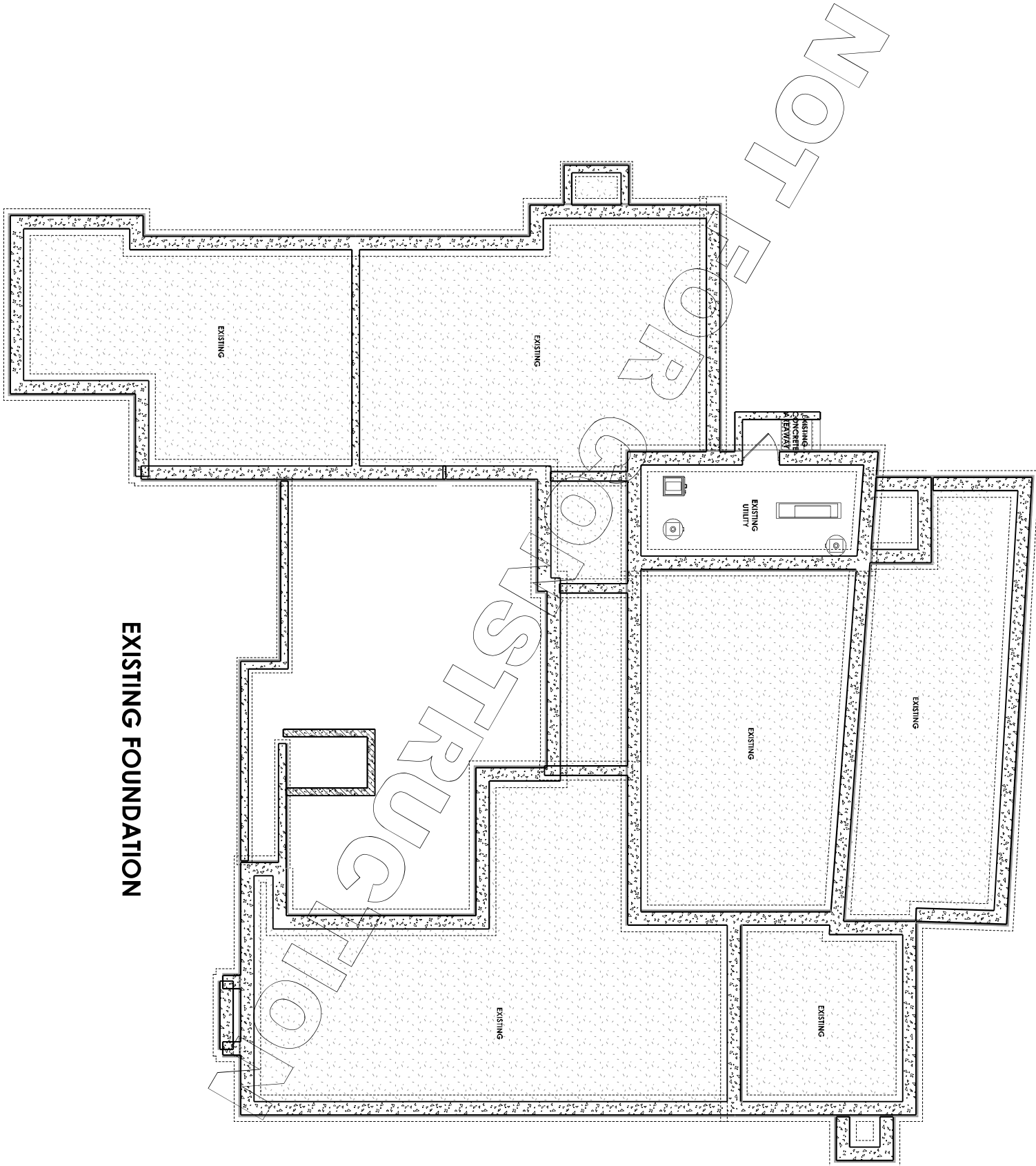
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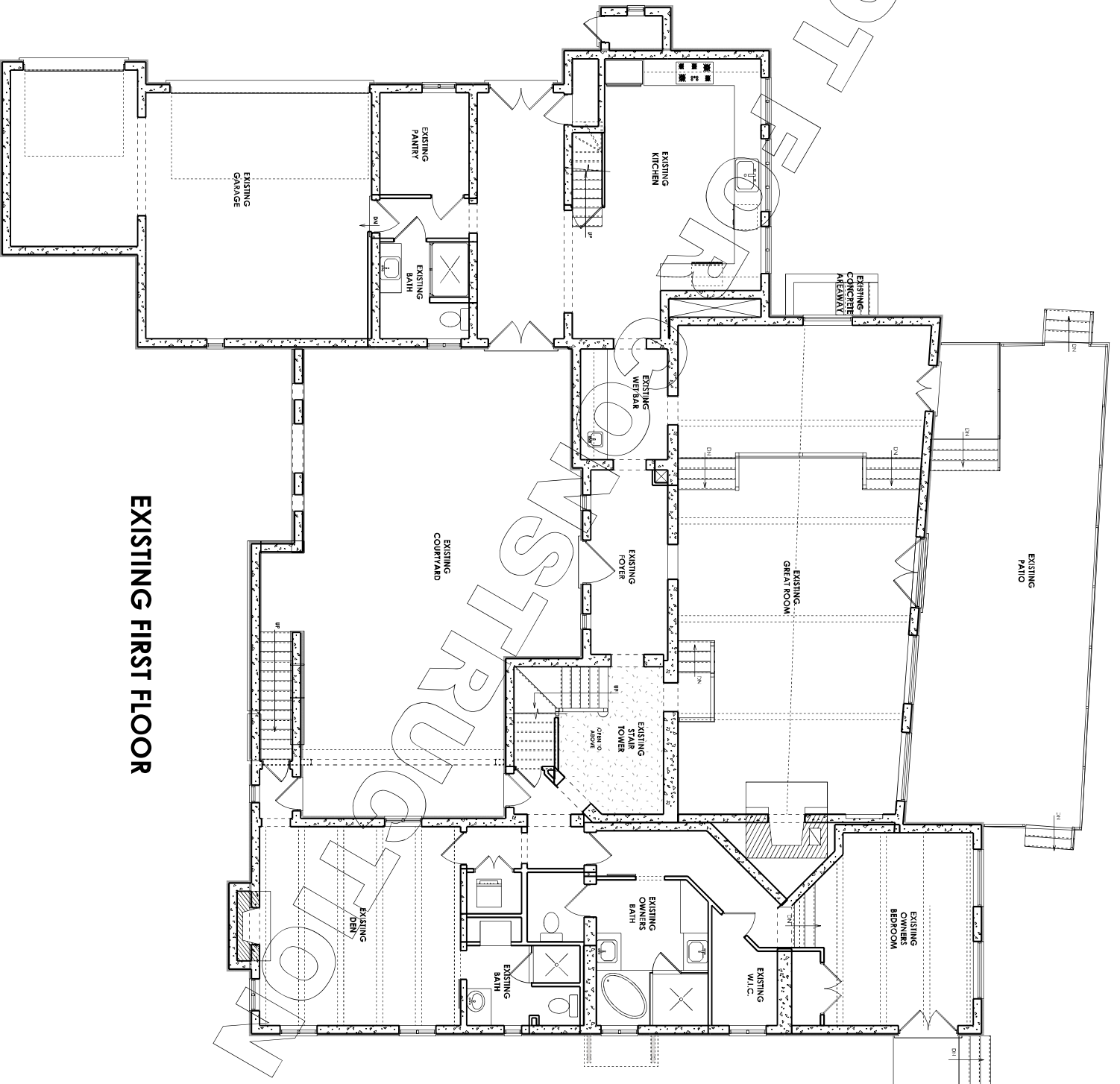
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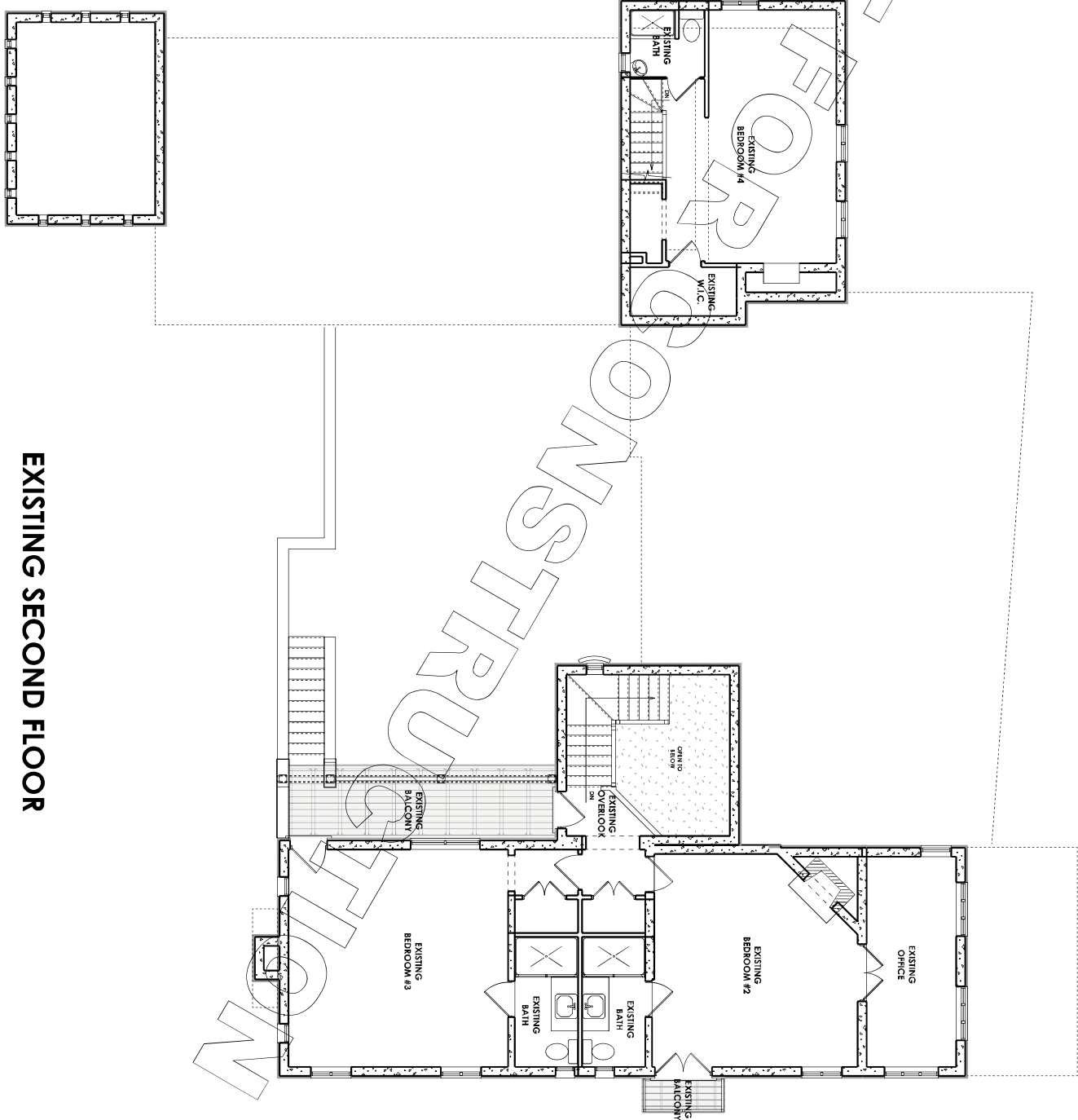
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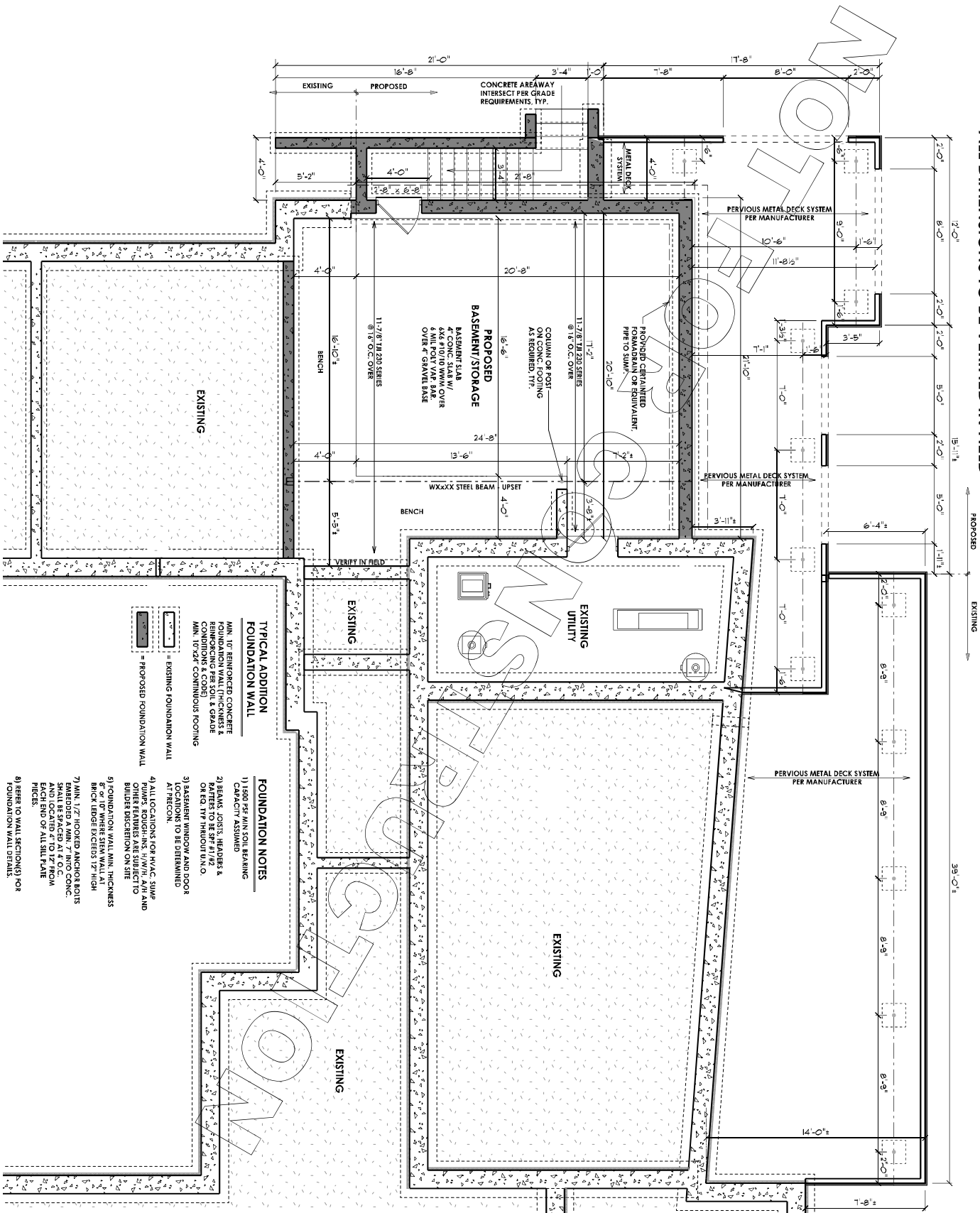
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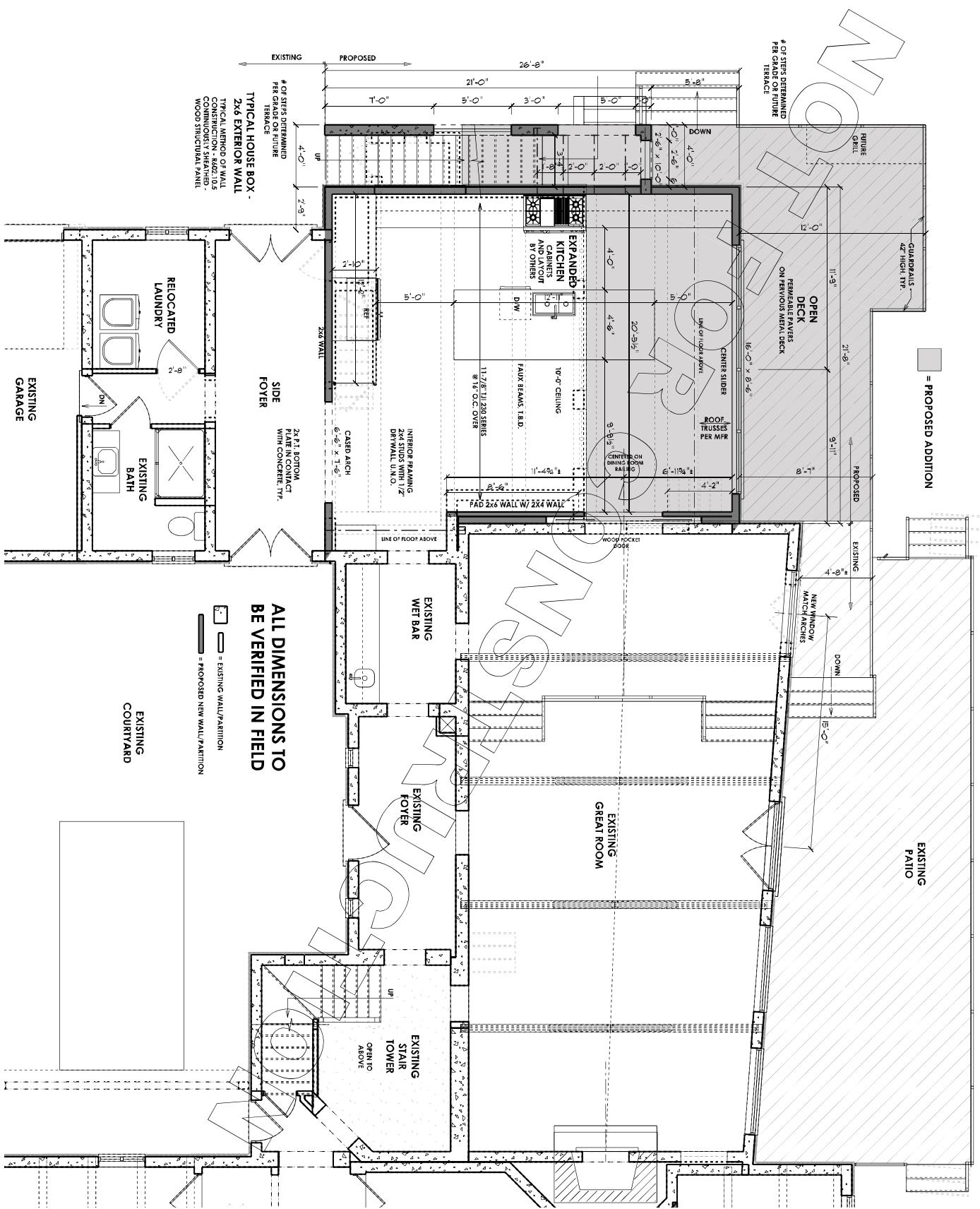
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**ALL DIMENSIONS TO
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▮ = EXISTING WALL/PARTITION
 ▮ = PROPOSED NEW WALL/PARTITION

**TYPICAL HOUSE BOX -
 2x6 EXTERIOR WALL**

TYPICAL METHOD OF WALL
 CONSTRUCTION: SHEATHED
 WOOD STRUCTURAL PANEL

OF STEPS DETERMINED
 PER GRADE OR FUTURE
 TERRACE

OF STEPS DETERMINED
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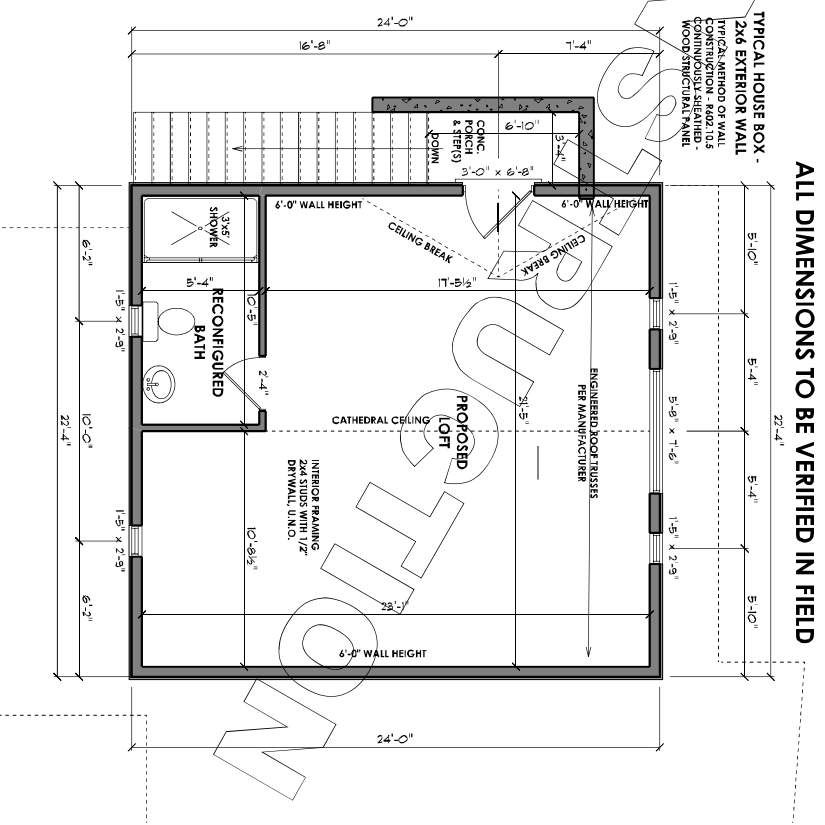
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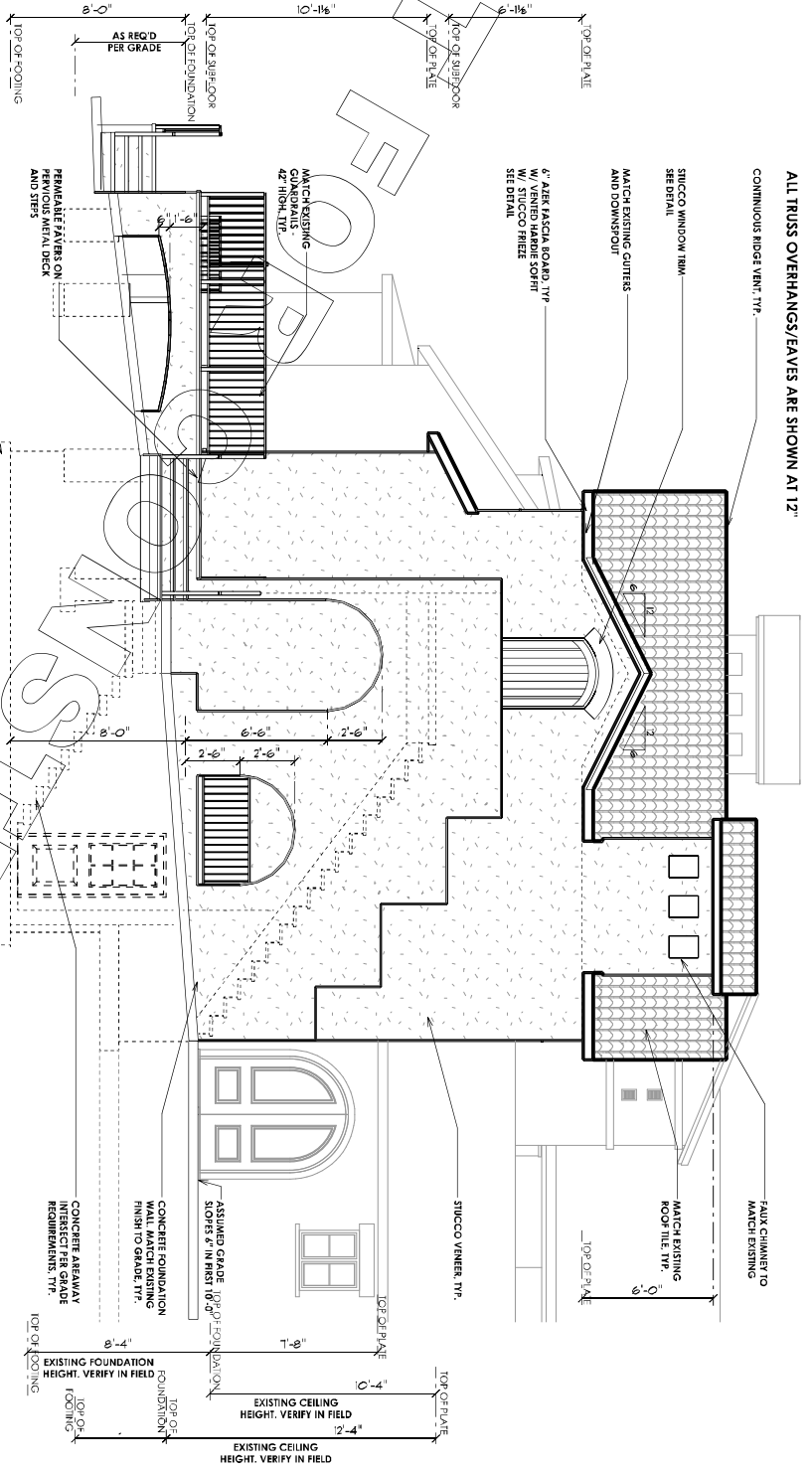


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TYPICAL HOUSE BOX - 2X6 EXTERIOR WALL CONSTRUCTION - REPT TO S. WOOD STRUCTURAL PANEL

NOT FOR CONSTRUCTION

ALL TRUSS OVERHANGS/EAVES ARE SHOWN AT 12"



LEFT ELEVATION

NOTE:
 STAIRS WITH 2 OR MORE RISERS SHALL BE PROVIDED WITH HANDRAILS. HANDRAILS SHALL BE A MINIMUM OF 34" IN HEIGHT AND NOT MORE THAN 38" IN HEIGHT. RAILS ARE TO BE MEASURED VERTICALLY FROM THE NOSING OF THE TREADS.
 PORCHES, DECKS, BALCONIES OR RAISED FLOOR SURFACES LOCATED MORE THAN 30" ABOVE THE FLOOR OR GRADE BELOW SHALL HAVE GUARDS A MINIMUM OF 36" HIGH.
 RISERS ARE TO BE CLOSED SUCH THAT THE OPENING BETWEEN THE TREADS DOES NOT PERMIT THE PASSAGE OF A 4" DIA. SPHERE.

CONT. CONC. FOOTING AT LEAST 30" BELOW GRADE
 AS REQ'D PER GRADE
 TOP OF FOUNDATION
 TOP OF SUB-GRADE
 TOP OF PLATE
 MATCH EXISTING GUTTERS AND DOWNSPOUTS
 6" X 6" FASCIA BOARD, TYP. W/ SISSICO FRIEZE SEE DETAIL
 PERMANENT FASTENERS ON PREVIOUS METAL DECK AND STEPS
 MATCH EXISTING GUTTERS AND DOWNSPOUTS
 SISSICO WINDOW IRM SEE DETAIL
 MATCH EXISTING ROOF TILE, TYP.
 FAUX CHIMNEY TO MATCH EXISTING
 SISSICO VINYL, TYP.
 ASSUMED GRADE 4" IN FIRST 10' OF SLOPE 6" IN FIRST 10'
 CONCRETE FOUNDATION WALL MATCH EXISTING FINISH TO GRADE, TYP.
 CONCRETE AREAWAY INTERSECT PER GRADE REQUIREMENTS, TYP.
 EXISTING FOUNDATION HEIGHT. VERIFY IN FIELD
 EXISTING CEILING HEIGHT. VERIFY IN FIELD
 EXISTING CEILING HEIGHT. VERIFY IN FIELD

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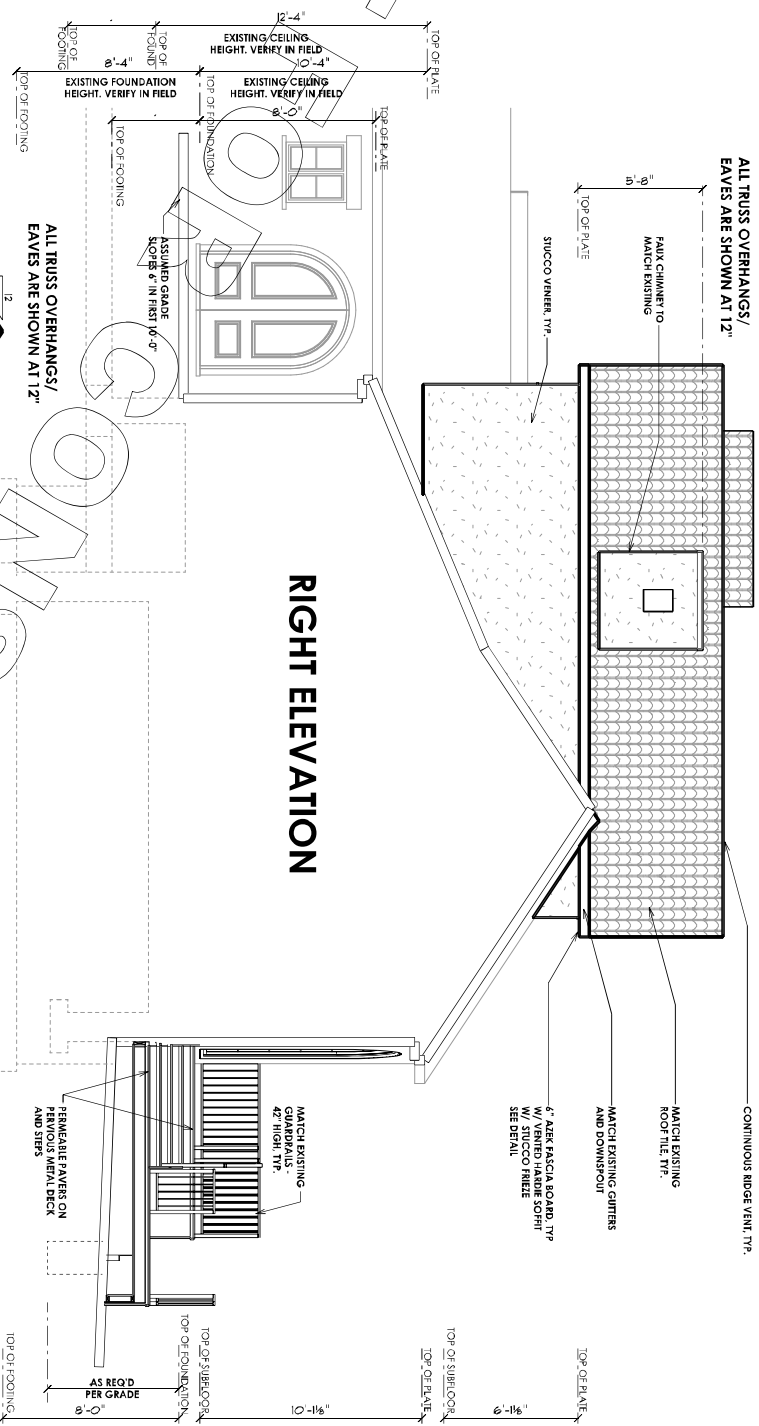
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ELEVATIONS
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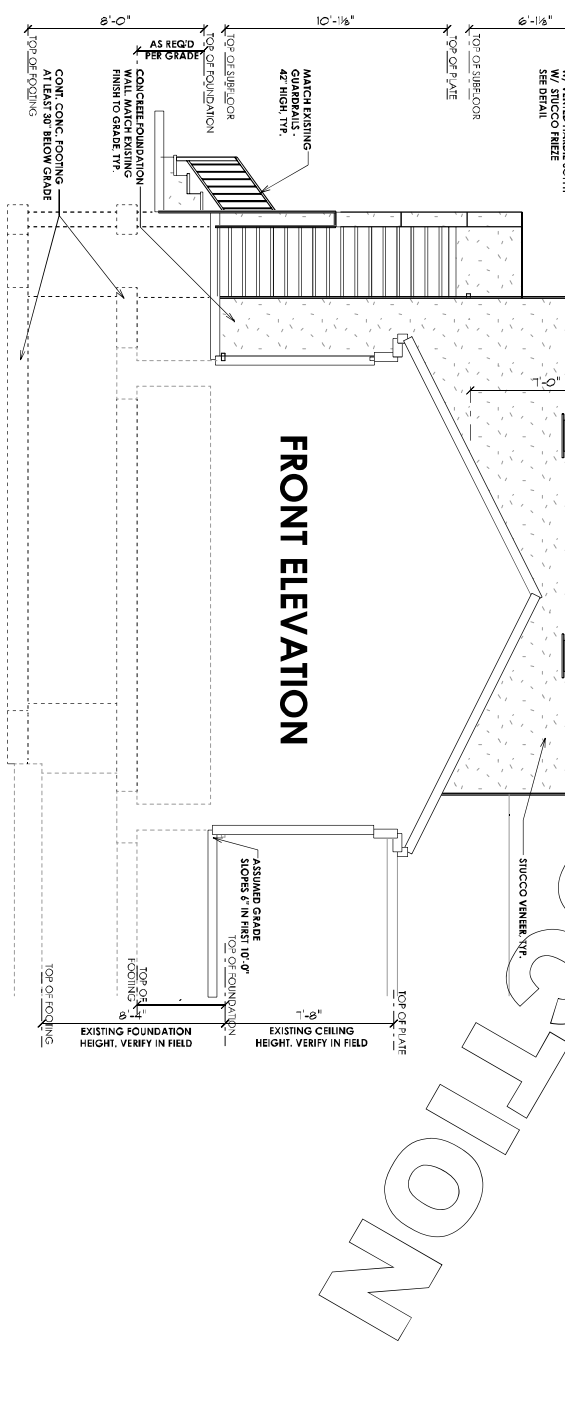
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EAVES ARE SHOWN AT 12"



RIGHT ELEVATION

FRONT ELEVATION

NOTE:
STAIRS WITH 2 OR MORE RISERS SHALL BE PROVIDED WITH HANDRAILS. HANDRAILS SHALL BE A MINIMUM OF 34" IN HEIGHT AND NOT MORE THAN 42" HIGH. HANDRAILS SHALL BE MEASURED VERTICALLY FROM THE NOSE OF THE TREADS.
FLOORING: DECKS, BALCONIES OR RAISED FLOOR SURFACES LOCATED UNDER OR ADJACENT TO THE PROPOSED ADDITION SHALL HAVE FINISHES TO BE CLOSED TOUGH THAT THE OPENING BETWEEN THE FLOORING DOES NOT EXCEED THE FINISHES OF A 4" DIA. SCHEDULE.



JONATHAN RIVERA ARCHITECTURE
 (443) 226-5745
 JONATHANRIVERA.COM

PROFESSIONAL CERTIFICATION
 I certify that these documents were prepared by me or under my direct supervision and that I am a duly licensed professional architect under the laws of the State of Maryland.
 License Number #14678
 Expiration Date 6/30/2024

PROPOSED ADDITION
SPIKELL RESIDENCE
 7114 Spikell Road
 Gibson Island, Maryland
 21056

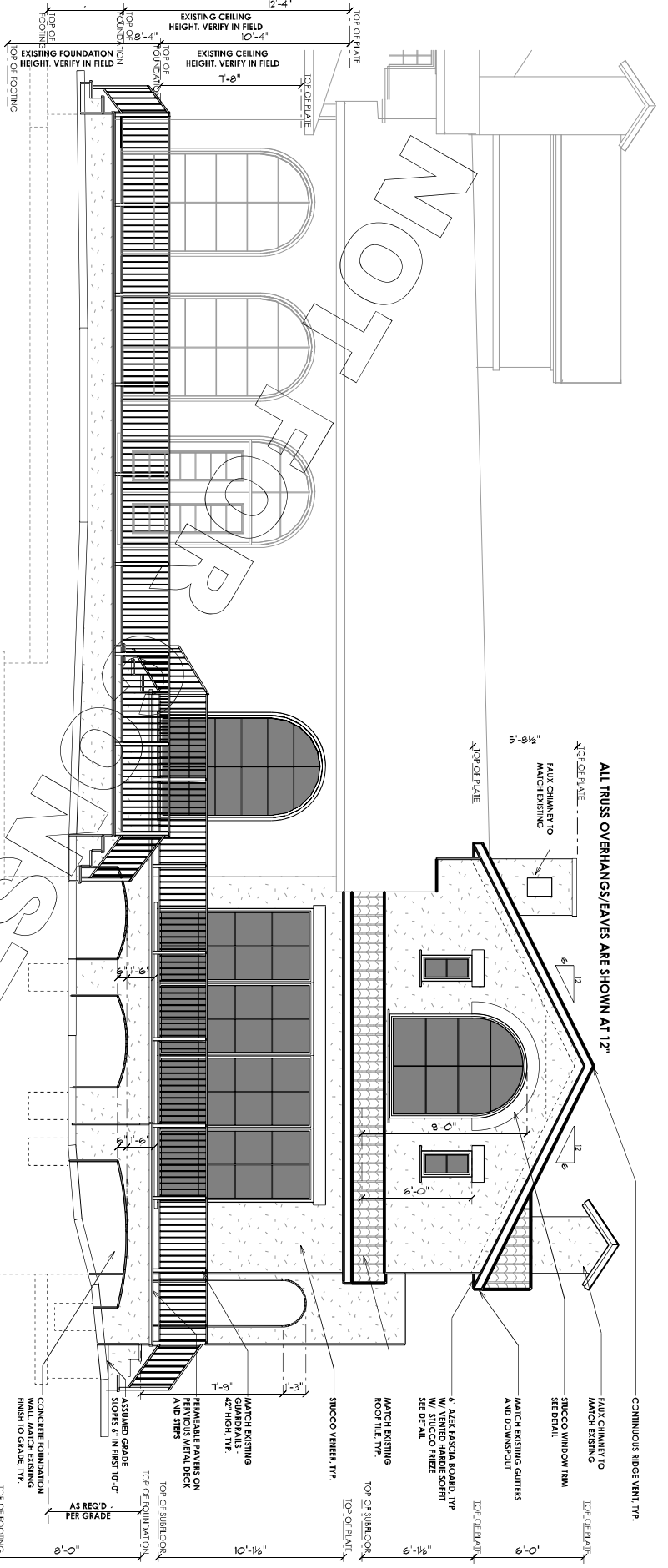
ARCHITECT
 Jonathan Rivera AIA, NCARB
 Licensed Architect, Maryland
 443.226.5745
 jrivera@jonathrivera.com

BUILDER
 Name _____
 Address location _____
 Phone number _____
 email _____

ISSUE DATE
 2-20-24 REVIEW SET

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

2.02
 PRINT DATE: Tuesday, February 13, 2024



ALL TRUSS OVERHANGS/EAVES ARE SHOWN AT 12"

REAR ELEVATION

NOTE:
 STAIRS WITH 2 OR MORE RISERS SHALL BE PROVIDED WITH HANDRAILS. HANDRAILS SHALL BE MEASURED VERTICALLY FROM THE FINISHING OF THE TREADS.
 POCKETS, DICKS, BALCONIES OR RAISED FLOOR SURFACES LOCATED MORE THAN 30" ABOVE THE FLOOR OR GRADE BELOW SHALL HAVE GUARDS A MINIMUM OF 36" HIGH.
 RISERS ARE TO BE CLOSED SUCH THAT THE OPENING BETWEEN THE TREADS DOES NOT PERMIT THE PASSAGE OF A 4" DIA SPHERE.

NOT FOR CONSTRUCTION

JONATHAN RIVERA ARCHITECTURE
 Every Detail Matters
 (443) 226-5745
 JONATHANRIVERA.COM

PROFESSIONAL CERTIFICATION
 I certify that these documents were prepared by me and that on a day licensed professional architect under the laws of the License Number 114878 Expiration Date: 6/30/2024

FOR RECORD
 THIS SET OF ARCHITECTURAL DRAWINGS OR ANY PART THEREOF IS NOT TO BE REPRODUCED, COPIED, REPRODUCED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.
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 Jonathan Rivera Architect
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PROPOSED ADDITION

SPIKELL RESIDENCE
 714 Spynover Road,
 Gibson Island, Maryland
 21056

ARCHITECT
 Jonathan Rivera AIA, NCARB
 443.226.5745
 jrivera@jonathandrivera.com

BUILDER
 Name _____
 address/location _____
 phone number _____
 email _____

ISSUE DATE	REVISION
2/20/24	REVISION SET

SCALE: 1/4" = 1'-0"
ELEVATIONS
2.03
 PRINT DATE:
 Tuesday, February 13, 2024

**Armond & Lisa Spikell
714 Skywater Road
Gibson Island, Maryland 21056**

March 27, 2024

Anne Arundel County
Department of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

RE: 714 Skywater Road
Gibson Island, Maryland 21056
Variance Letter of Explanation

My wife and I own a property located along the west side of Skywater Road, north of Yerbury Road, on Gibson Island. The street address is 714 Skywater Road, Gibson Island, Maryland 21056. The property is identified on Tax Map 33 as Lot 234 and part of Lot 233 in Grid 012 Parcel 0138 in the 3rd District. Tax Account # 03-352-00296825. Our waterfront lot is zoned R1 Residential District and is designated in the Chesapeake Bay Critical Area as a limited development area (LDA). The site is heavily encumbered by steep slopes and the expanded buffer to tidal waters. According to State tax records, the dwelling was constructed in 1928. The house is in the Gibson Island Historic District (AA-936) and is historically significant, it was designed by the artist and architect Harold Holms Wren and is built in the Spanish Revival style, constructed using stucco covered block making interior modifications difficult.

The property is our primary residence. We are both retired and are looking to modernize interior and exterior spaces so that we will be able to age-in-place. The house is sited at an elevation of approximately 111 feet above the Magothy River, has no access to the shoreline, nevertheless its primary waterfront feature is a commanding view of the river from its terrace.



However, the house is a two-level structure with a split level first floor with the entrance, a bedroom, kitchen, and dining room on one level and the living room and terrace accessed via stairs. The passage between the kitchen and dining room is by way of a hallway and two doorways too narrow for the use of a wheelchair. The only way to create an ADA accessible route to the terrace would be to modify two bearing walls and install a ramp from the dining area down to the living room. There is not enough room in the existing structure to construct a ramp of the proper length to access the waterfront view (see Exhibit C). Therefore, we would like to add a pervious deck to the kitchen so that it would be possible to enjoy the primary waterfront feature of the home without the need to negotiate stairs from the main level. Creating an opening from the kitchen would remove counter space and the existing plumbing (see Exhibit B).

We seek approval to construct an approximately 291 square foot addition to the kitchen within the expanded buffer as shown on Exhibit B.

That square footage is the minimum necessary to replace the lost kitchen counter space and create a direct passage between the kitchen, dining area and exterior deck. And While constructing the addition we would like to add a basement to provide space for the potential placement of Geothermal equipment.

The county code recognizes that having direct access to the shoreline is a primary feature of a waterfront property, § 17-8-201 specifically allows the construction of a shoreline access within a steep slope. We are requesting accommodation to provide direct ADA access to an exterior view of the shoreline within the steep slope buffer.

The property also has an existing accessory structure of approximately 417 square feet just to the east of the house. We would like to make an entrance to that structure that is wheelchair accessible, add a bathroom and reconfigure the roof. None of that work would involve any change to the building size or footprint but like the kitchen addition and deck the accessory structure is within the expanded buffer.

The existing impervious area of the lot is 7,875 square feet as shown on Exhibit F.

Natural Resources Article, § 8-1802, of the Maryland Code (iii) provides that (iii) “Lot coverage” does not include:

2. *A walkway in the buffer or expanded buffer ...*

Therefore, the area of Lot Coverage is 6,815 square feet or 14.9% of the area of the lot as shown in the county records. However, Exhibit A is a survey of the property dated September 14, 2023, that shows a total land area of 53,731 square feet indicating that the existing coverage is actually only 12.7% of the total land area or 1,255 square feet less than the maximum allowable area. The house currently has an open courtyard of approximately 507 square feet covered with stone, gravel, and a stone water feature. If

necessary, we could replace approximately 291 square feet of coverage in the courtyard with Dwarf Mondo Grass, a type of grass that now covers a portion of the walkway from the driveway to the courtyard. The total coverage therefore shall remain approximately the same and in no event exceed 15% of the total land area shown in the county records.

There are two existing Crape Myrtle trees which will need to be removed to perform the work, but plantings can be replaced elsewhere on the property.

The applicants have been advised by the Anne Arundel County Health Department that the proposed work would not be in conflict with the existing septic system as long as a distance of 10 feet is maintained between the system and any structure or footer for any deck and 20 feet to any basement.

This proposal meets ALL of the variance standards provided under Section 18-16-305 of the Zoning Code, as follows.

(1) Providing direct ADA access to a primary feature of the home internally is not feasible and the exterior change required faces practical difficulties because of the exceptional topographical conditions peculiar to and inherent in this particular lot, because it is so significantly impacted by the steep slope there is no reasonable possibility of making changes to the structure in strict conformance with the article; and

(b) Granting a variance for this project complies with Natural Resources Article, § 8-1808, of the State Code, in

11. *Provisions for reasonable accommodations in policies or procedures when the accommodations are necessary to avoid discrimination on the basis of physical disability,*

(2) The literal interpretation of COMAR, Title 27, Criteria for Local Critical Area Program Development or the County's critical area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas as permitted in accordance with the provisions of the critical area program within the critical area of the County and the loss of significant use of the property; Generous patios, terraces, porches and decks are a common feature of waterfront homes on Gibson Island and throughout the county.

(3) The granting of a variance will not confer on an applicant any special privilege that would be denied by COMAR, Title 27, the County's critical area program to other lands or structures within the County critical area, or the County's bog protection program to other lands or structures within a bog protection area;

(4) The variance request is not based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development before an application for a variance was filed, and does not arise from any condition relating to land or building use on any neighboring property;

(5) The area to be disturbed for the kitchen expansion is approximately 240 feet from the water, 60 feet from the top of the cliff which is retained by the wood bulkhead and a concrete and steel structure. The area between the proposed addition and the top of the cliff has an existing drainage system to prevent erosion and is maintained as lawn. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area or a bog protection area and will be in harmony with the general spirit and intent of the County's critical area program or bog protection program;

(6) The requested variance is not within the 100-foot upland buffer.

(7) The applicant, along with an Architect and Civil Engineer have prepared the attached exhibits which present substantial evidence to overcome the presumption contained in the Natural Resources Article, § 8-1808, of the State Code; and

(8) The applicant has evaluated and implemented site planning alternatives in accordance with § 18-16-201(c) by meeting with staff and filing a Pre-file application (2024-0015-P)

This variance would meet all of the following requirements.

- (1) the variance is the minimum variance necessary to afford relief; and
- (2) the granting of the variance will not:
 - (i) alter the essential character of the neighborhood or district in which the lot is located;
 - (ii) substantially impair the appropriate use or development of adjacent property;
 - (iii) reduce forest cover in the limited development and resource conservation areas of the critical area;
 - (iv) be contrary to acceptable clearing and replanting practices required for development in the critical area or a bog protection area; nor
 - (v) be detrimental to the public welfare.

The property has no outstanding violations.

Respectfully
Armond & Lisa Spikell

List of Exhibits

- A. Full Survey With Topography
- B. Concept Plans Showing Existing Conditions and Proposed Changes
- C. Study of Internal Ramps

- D. Please Disregard
- E. Please Disregard
- F. Site Data with Coverage Calculations

Additional Attachments

Variance Application

Deed

List of Neighboring Properties Within 300 Feet

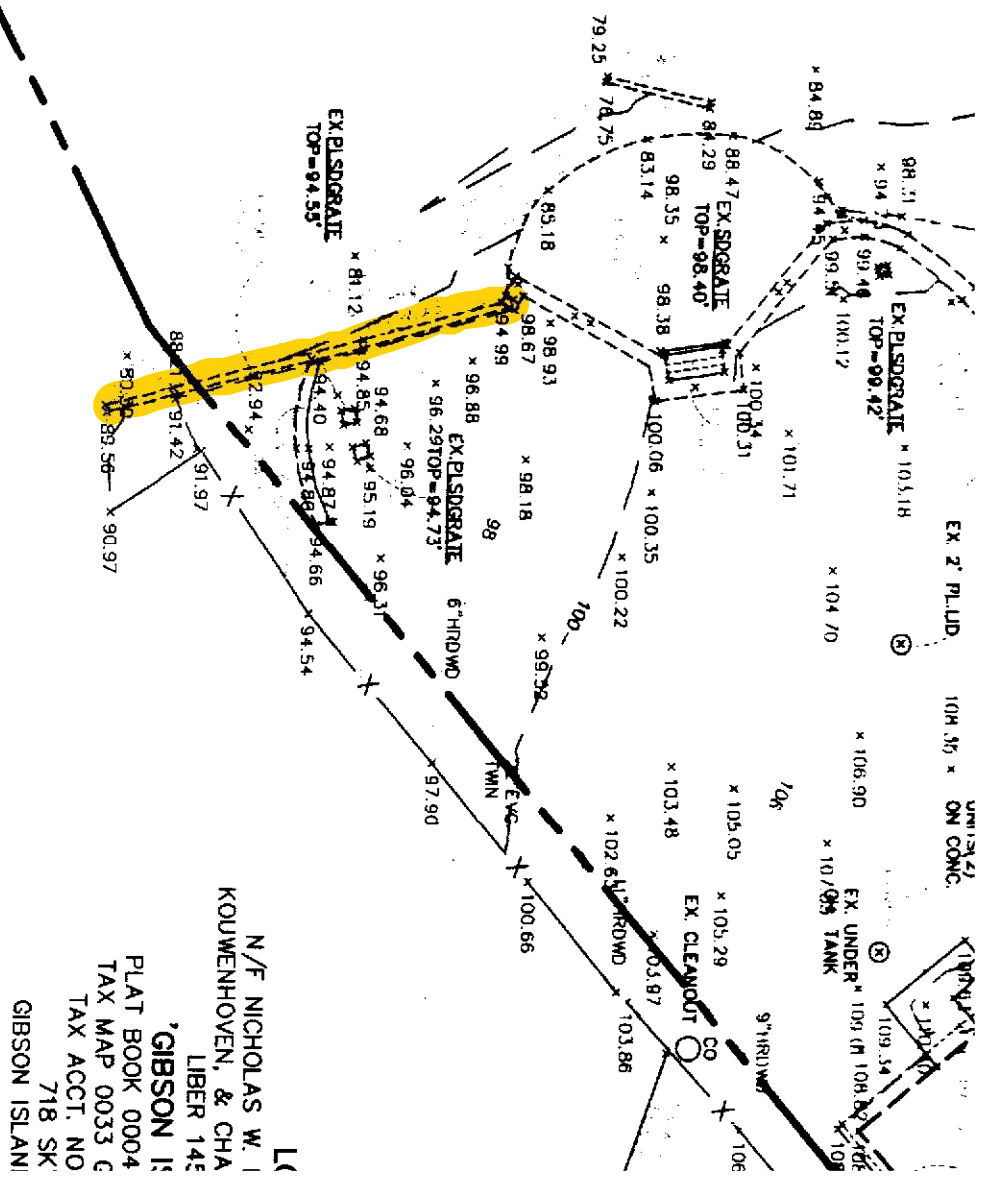
Pre-file Comments Received

LOT 234 AND P/O LOT 233
 N/F ARMOND AND LISA SPIKELL
 LIBER 26478 FOLIO 00033
 'GIBSON ISLAND PLAT A'
 PLAT BOOK 0004 PAGE 0047 PLAT 0167
 TAX MAP 0033 GRID 0012 PARCEL 0138
 TAX ACCT. NO. 03-350-00296825
 714 SKYWATER ROAD
 GIBSON ISLAND, MARYLAND 21056
 53,731 SQ. FT. ± 1.23 Ac. ±

LOT 234

PROPERTY LINE FOLLOWS APPROXIMATE MEAN
 R BASED ON ANNE ARUNDEL COUNTY 1' CONTOURS
 -22. ACTUAL SHORELINE AND ELEVATIONS WERE NOT
 THE TIME OF THE SURVEY, DUE TO SITE CONDITIONS.

41.32' N
 73.27' W
 63.43' S
 30.60' W
 97.17' N



N/F NICHOLAS W. I
 KOUWENHOVEN, & CHA
 LIBER 14E
 'GIBSON ISLAND'
 PLAT BOOK 0004
 TAX MAP 0033 G
 TAX ACCT. NO
 718 SK
 GIBSON ISLAND



2024-0061-V

Menu Cancel Help

Task
OPZ Cultural Resources
Assigned to Department
OPZ Cultural Resources
Action by Department
OPZ Cultural Resources
Start Time

Due Date
04/26/2024
Assigned to
Stacy Poulos
Action By
Stacy Poulos
End Time

Assigned Date
04/05/2024
Status
Complete w/ Comments
Status Date
04/29/2024
Hours Spent
0.0

Billable
No

Overtime
No

Comments
As the applicant noted in their letter of explanation, the property is a significant historic resource within the Gibson Island Historic District (AA-936). In general, our office does not object to the variance application to allow an addition with less setbacks and buffer and disturbance to steep slopes. All development shall comply with Article 17-6-501 Historic Resources. Our office will conduct our review of the proposed addition for compliance with this section of code once the building permit has been submitted. Note that a site visit by Cultural Resources staff may be required to conduct this review.

Time Tracking Start Date
Display E-mail Address in ACA
No

Est. Completion Date
 Display Comment in ACA

In Possession Time (hrs)
Comment Display in ACA

- All ACA Users
- Record Creator
- Licensed Professional
- Contact
- Owner

Estimated Hours
0.0

Action
Updated

Workflow Calendar

Task Specific Information

Expiration Date
Reviewer Phone Number

Review Notes
Reviewer Email

Reviewer Name

2024-0061-V

Menu Cancel Help

Task
OPZ Critical Area Team
Assigned to Department
OPZ Critical Area
Action by Department
OPZ Critical Area
Start Time

Due Date
04/26/2024
Assigned to
Kelly Krinetz
Action By
Kelly Krinetz
End Time

Assigned Date
04/05/2024
Status
Complete w/ Comments
Status Date
04/24/2024
Hours Spent
0.0

Billable
No

Overtime
No

Comments
The existing home has 4,623 sq ft of habitable space with a 3,644 sq ft footprint. Although the addition is minimal, the applicant has not adequately demonstrated why the needed renovations could not occur within the existing footprint eliminating the need for the variance all together. The applicant will need to provide this information to demonstrate that the proposed request meets the test for the minimum necessary to afford the applicant relief.
The proposed deck expansion cannot be supported. There are ample outdoor amenities and although the Code provides for access to the water, it does not provide for access to a view. The applicants application of the exemption for lot coverage for direct water access is incorrect. This site could be subject to the 10% reduction requirement for sites that exceed the lot coverage limitations. This will be determined at permit and will need to be addressed prior to permit approval.

Time Tracking Start Date
Display E-mail Address in ACA
No

Est. Completion Date
 Display Comment in ACA

In Possession Time (hrs)
Comment Display in ACA

- All ACA Users
- Record Creator
- Licensed Professional
- Contact
- Owner

Estimated Hours
0.0

Action
Updated

Workflow Calendar

Task Specific Information

Expiration Date
Reviewer Phone Number

Review Notes
Reviewer Email

Reviewer Name

Wes Moore
Governor

Aruna Miller
Lt. Governor



Erik Fisher
Chair

Katherine Charbonneau
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

April 19, 2024

Ms. Sterling Seay
Planning Administrator
Anne Arundel County Zoning Division
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Spikell Variance (2024-0061-V)

Dear Ms. Seay:

Thank you for providing information on the above-referenced variance request to construct a 3-story, 291-square foot addition as well as an approximately 300-square foot deck off the first-floor kitchen addition. The property is a 1.05-acre waterfront lot located entirely within the Critical Area on lands designated as a Limited Development Area (LDA). The lot is currently improved with a driveway, an attached garage, a courtyard, two large patios (one attached and one detached and at the top of a steep slope), walkways, and an accessory building with a patio. The lot coverage limit for a lot of this size is 6,834 square feet. While the exact amount of lot coverage is currently unclear based on the documentation provided, it appears that the existing lot coverage totals 7,875 square feet which is 1,041 square feet over the allowed limit. The applicant may also be required to seek a lot coverage variance for this proposal or may be required to reduce the existing lot coverage by 10% of the coverage. This should be clarified prior to the Administrative Hearing Officer (AHO) hearing this case.

The March 27, 2024, letter from the applicant notes that they desire to modernize the interior of their home to allow for them to age in place and construct a new deck to allow for them to access the outside of their home via a wheelchair. It is unclear if the applicants are currently unable to access their existing outside recreational amenities (i.e. several patios and a courtyard) due to access issues. We would like to note that the Critical Area Law provides for accommodations under the Americans with Disabilities Act (ADA). Under § 8-1808(c)(1)(iii)(11) of the Natural Resources Article, a local jurisdiction shall consider "reasonable accommodations in policies or procedures when the accommodations are necessary to avoid discrimination on the basis of physical disability, including provisions that authorize a local jurisdiction to require removal of a structure that was installed or built to accommodate a physical disability and require restoration when the accommodation permitted by this paragraph is no longer necessary." An appropriate accommodation must be based on the particular facts and circumstances of each case, and it is necessary to balance the interests of the disabled individuals against the legitimate interests of the local jurisdiction's Critical Area program. It does not appear that the applicants are seeking relief from the Critical Area development standards under reasonable accommodations.

Therefore, the applicant bears the burden of proof and persuasion that they have overcome each and every one of the Critical Area variance standards including unwarranted hardship.

As proposed, the Critical Area Commission opposes this variance request as this request does not meet all of the Critical Area variance standards, including that of unwarranted hardship. Furthermore, impacts to sensitive environmental features such as the Critical Area Buffer and steep slopes have not been minimized.

State law defines “unwarranted hardship” to mean that, without the requested variance, an applicant shall be denied reasonable and significant use of the entire parcel or lot. It does not appear that this request can meet this variance standard as the applicant currently has reasonable and significant use of the entire property with the dwelling, patios, accessory building, courtyard, and walkways. While the applicant indicates that they cannot access the existing patio via a wheelchair with the current layout, it appears that the applicants are also proposing major and structural renovations inside the existing footprint of the home such as relocating stairs located within the kitchen to flank the south side of the dwelling. The documentation provided does not detail alternative analysis to show that the current request is the only viable design to provide wheelchair access to outdoor recreational areas (existing and proposed). Nevertheless, if the request to construct a three story, 291-square foot addition and a 300-square foot deck were to be denied, the applicant would still have reasonable and significant use of the entire lot or parcel with the existing improvements.

Additionally, the County’s Critical Area program and the State Critical Area regulations place strict limits on disturbance to the Critical Area Buffer, steep slopes, and the steep slope buffer in order to meet the goals of the Critical Area law. Approving a variance to allow steep slope and Critical Area Buffer disturbance for the construction of approximately 600 square feet of additional improvements when there appears to be opportunities to renovate the existing footprint of the home to provide the desired accommodations, and when there are already expansive areas used for outdoor recreational use, is not a right commonly enjoyed by other, similar properties developed under the County’s Critical Area program. No property owner has the right to disturb steep slopes and the Critical Area Buffer in order to provide expanded living and outdoor recreational space when the property owner already enjoys over 4,623 square feet of existing habitable space and expansive outdoor areas. Denying the request to construct the 291-square foot addition and 300-square foot deck in the Critical Area Buffer and within steep slopes is not depriving the applicant of a use that would be permitted to others under the local Critical Area program.

Conversely, the granting of this variance would absolutely confer a special privilege upon the applicant. The Anne Arundel County Code and the Critical Area regulations place strict limits on disturbance to steep slopes and to the Critical Area Buffer in order to meet the goals of the Critical Area law. Approval of this variance would grant the applicant a special privilege that would be denied others within the Critical Area, as no individual is permitted to construct an addition and deck within the Buffer with no proof that this request is required to provide reasonable accommodations and when a site is already improved with expansive habitable space and outdoor/recreational areas. This office has previously opposed similar variance requests from others; therefore, granting this applicant’s request would confer upon the applicant a special privilege denied to others.

Ms. Sterling
Spikell Variance
April 19, 2024
Page 3

Further, the cumulative impact of development in the Critical Area has a substantial and negative impact on the Chesapeake Bay. Given the lot is waterfront to the Magothy River and the request is for additional lot coverage on steep slopes and within the Critical Area Buffer, this request is not in harmony with the spirit and intent of the Critical Area law and regulations or the County's Critical Area program.

Lastly, the request to construct the dwelling addition and deck at the top of steep slopes and within the Critical Area buffer can increase the volume and velocity of stormwater runoff flowing down the steep slopes. Especially given that the applicant already enjoys expansive habitable and outdoor amenities within the Critical Area Buffer and on steep slopes, this request will absolutely have an adverse effect on water quality and habitat within the Critical Area.

For the reasons explained above, this office opposes this variance and recommends denial of this request. Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at (410) 260-3468 or jennifer.esposito@maryland.gov.

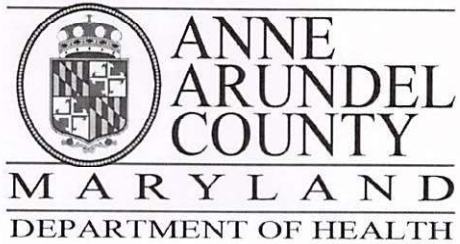
Sincerely,

A handwritten signature in blue ink that reads "Jennifer Esposito". The signature is written in a cursive, flowing style.

Jennifer Esposito
Natural Resources Planner

cc: Kelly Krinetz, Anne Arundel County
Charlotte Shearin, CAC

AA 81-24



J. Howard Beard Health Services Building
3 Harry S. Truman Parkway
Annapolis, Maryland 21401
Phone: 410-222-7193 Fax: 410-222-7479
Maryland Relay (TTY): 711
www.aahealth.org

Tonii Gedin, RN, DNP
Health Officer

MEMORANDUM

TO: Sadé Medina, Zoning Applications
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager *BC*
Sanitary Engineering Program

DATE: April 9, 2024

CASE
NUMBER: 2024-0061-V
Armond Spikell
714 Skywater Road
Gibson Island, MD 21056

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow dwelling additions (deck and kitchen) with less setbacks and buffer than required and with disturbance to slopes of 15% or greater. The Health Department offers the following comments:

The Health Department does not have an approved plan for this project. The Health Department has no objection to the above reference variance request as long as a plan is submitted and approved by the Health Department.

If you have further questions or comments, please contact Brian Chew at 410-222-7024.

cc: Sterling Seay

