




# VARIANCE APPLICATION

## #23-05

*Applicants: Stuart Hunt  
and Karen Hunt*

*Location: Vacant Land  
(1N1005BA09900)*



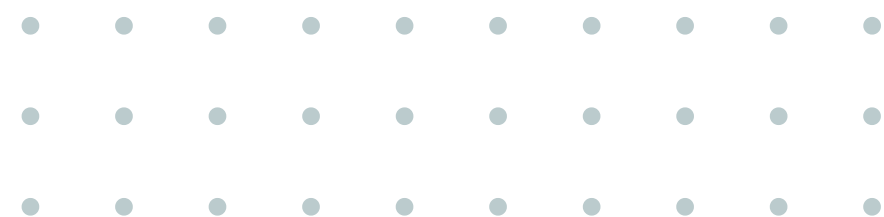


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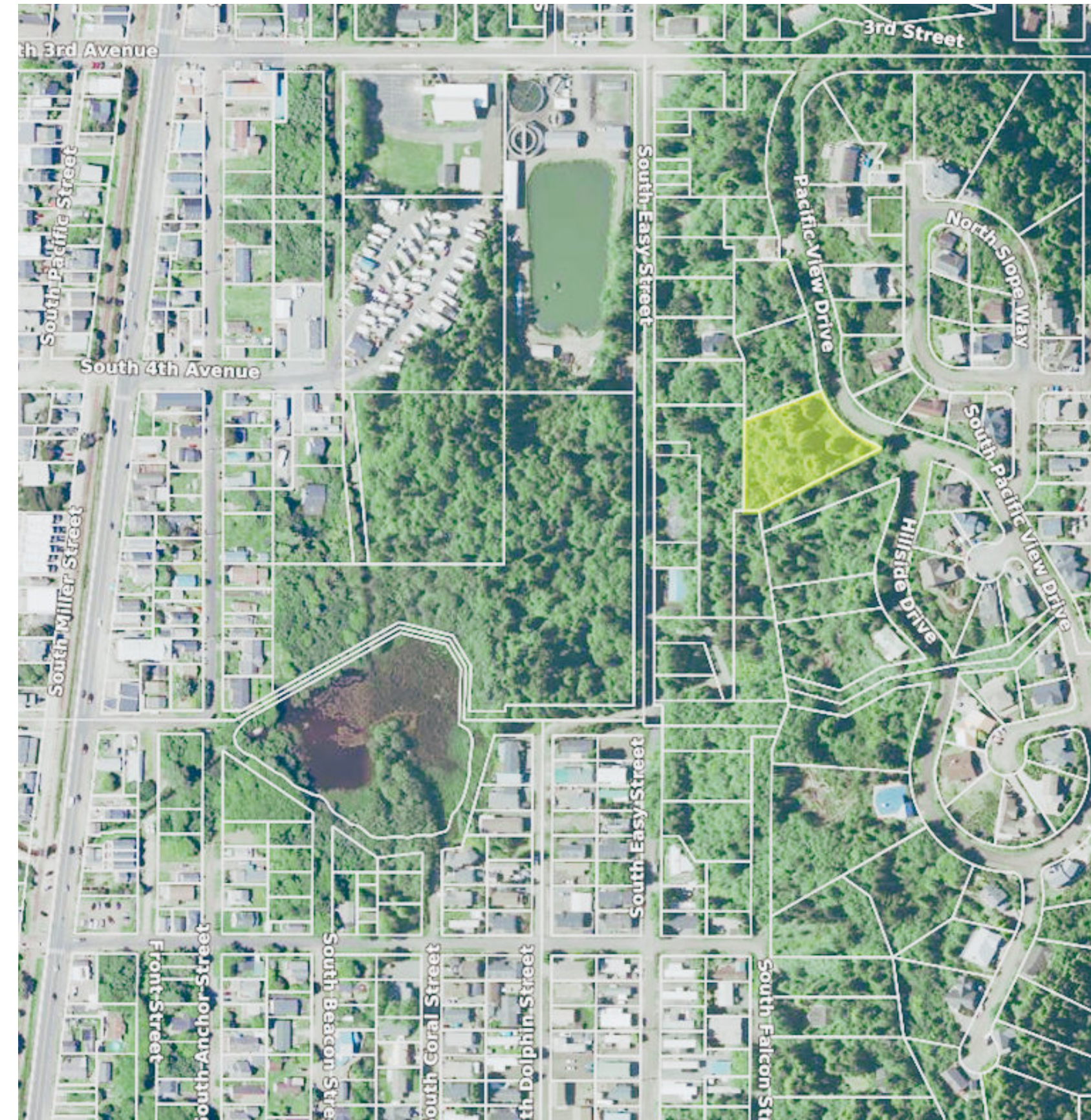
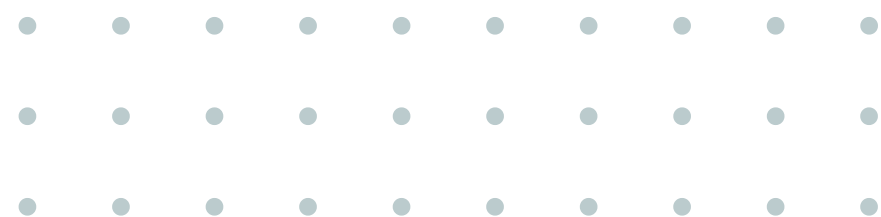


**STAFF  
REPORT**



# PROPERTY INFORMATION

- Unimproved vacant land, located in the Pacific View neighborhood in Rockaway Beach
- Approximately 37,170 SF
- Zoned R1 (Single Family)
- The subject property is surrounded unimproved vacant lots on the North, South, and East and existing single-family dwellings on West
- This lot is located on an exceptionally steep slope off Pacific View Drive and is further identified as an area of potential land slide







# APPLICANT'S REQUEST

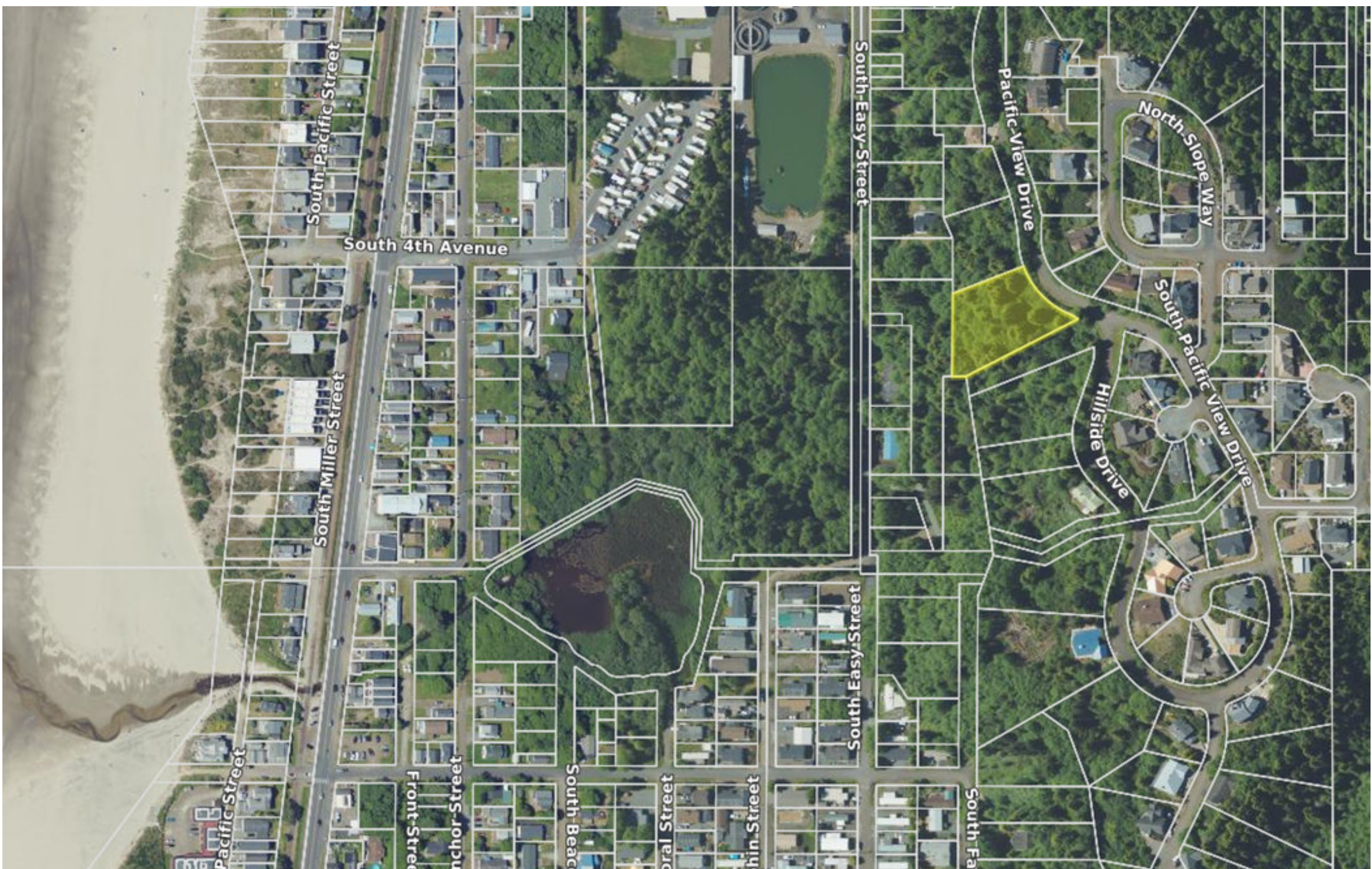
The Applicants are requesting a variance for a reduction in the front yard setback and building height to construct a new home. This property is in the R1 zone, which has a 15' front yard setback and 29' building height.

The Applicants seek to reduce the front yard setback 3'3", for a 11'7" front yard setback.

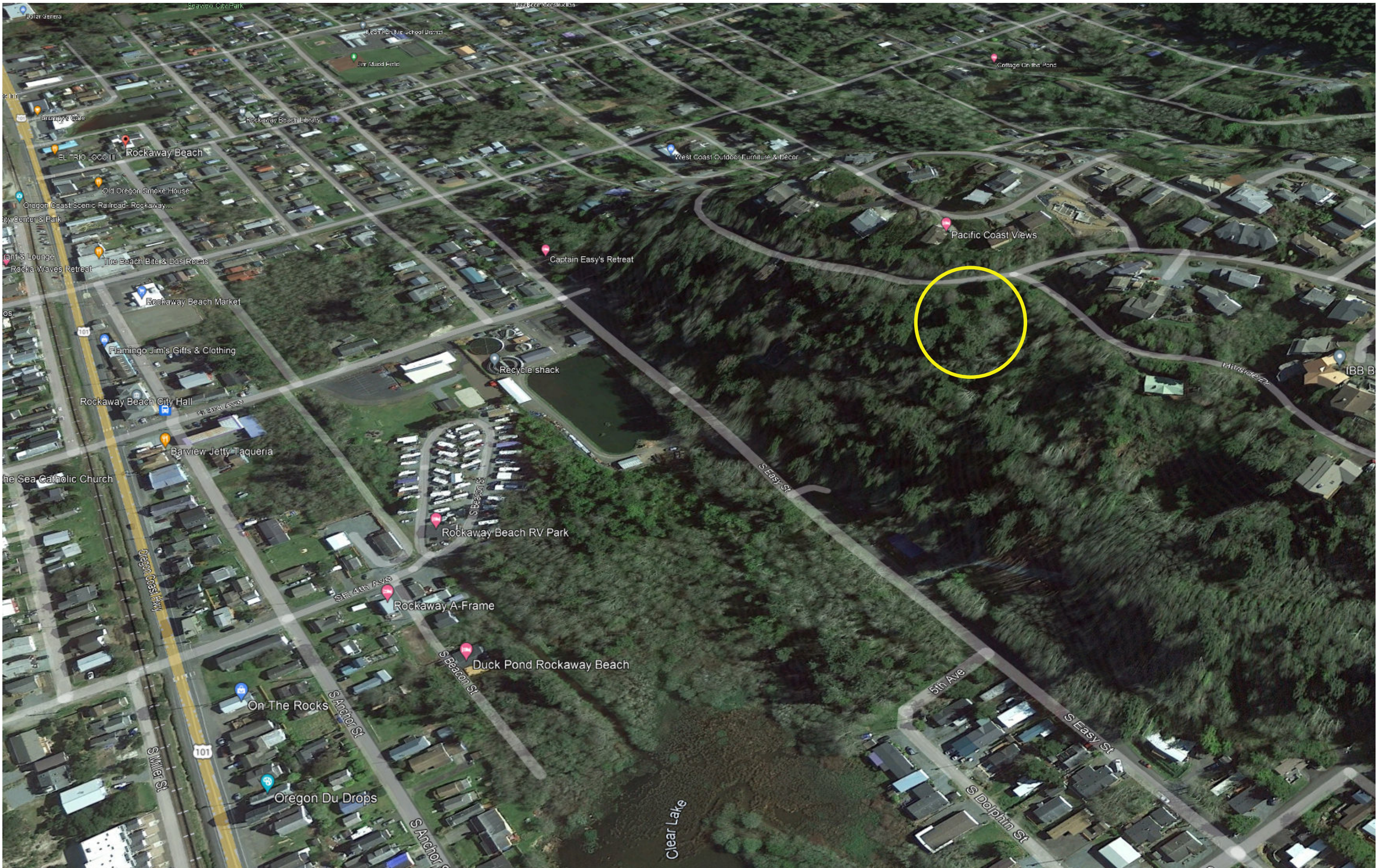
The Applicants seek to build a 39' home, which is 10' above the 29' building height limit.











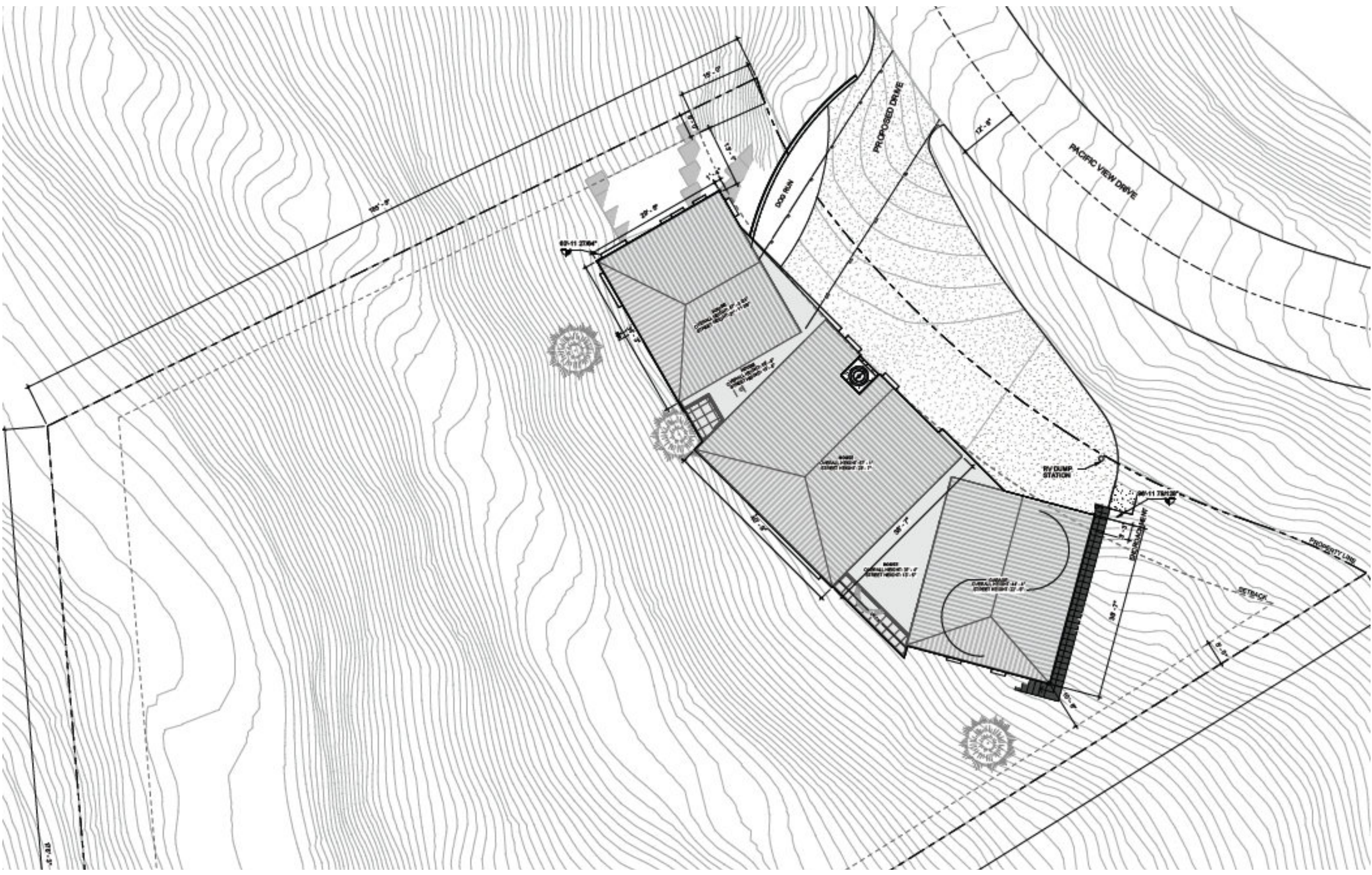




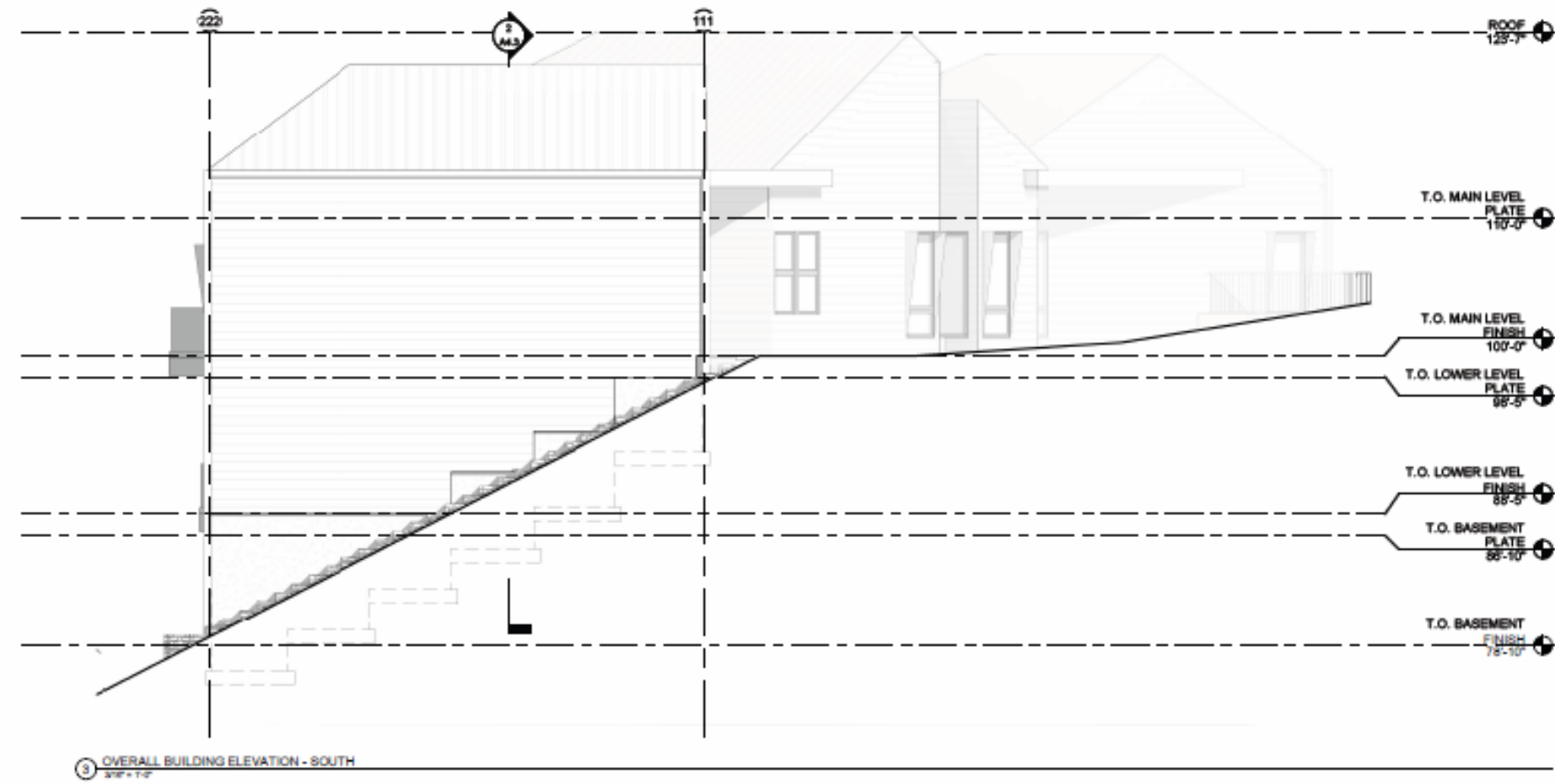
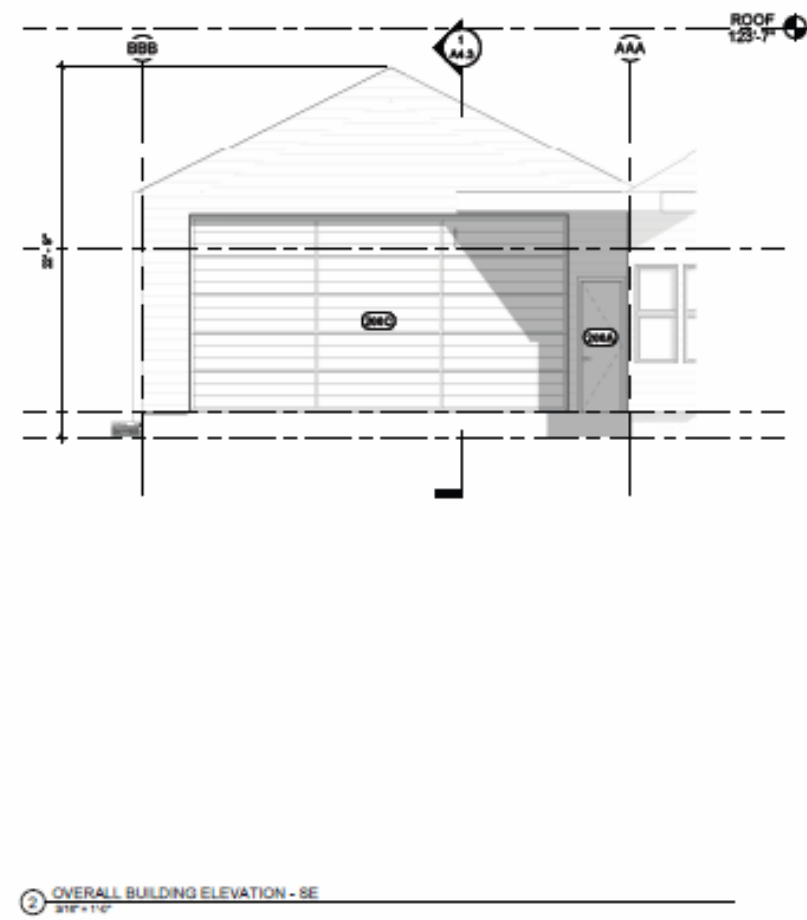
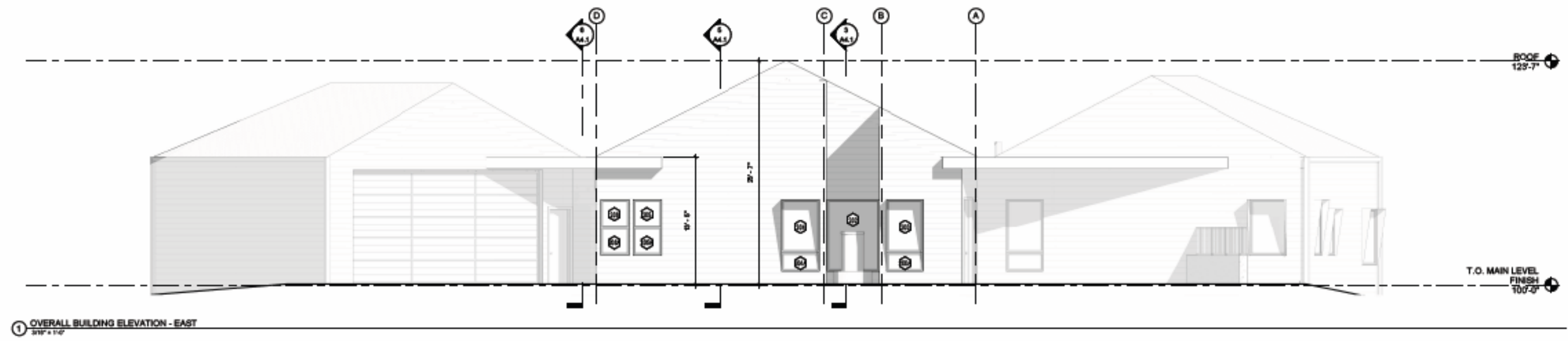




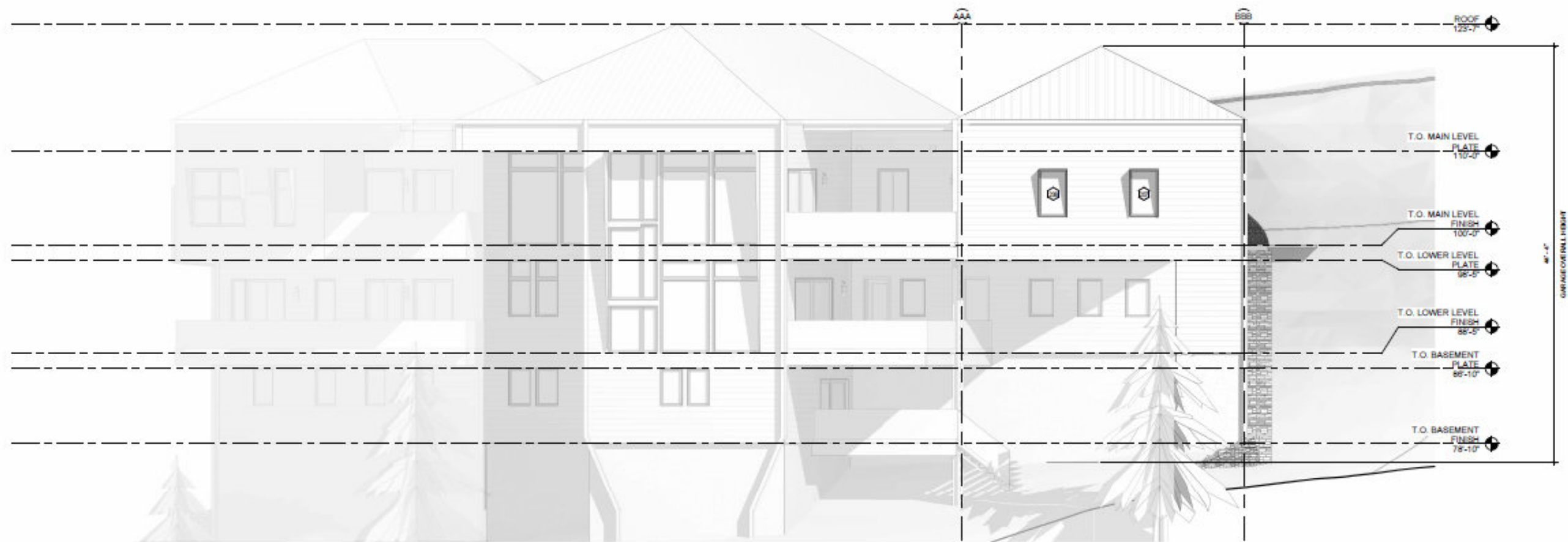




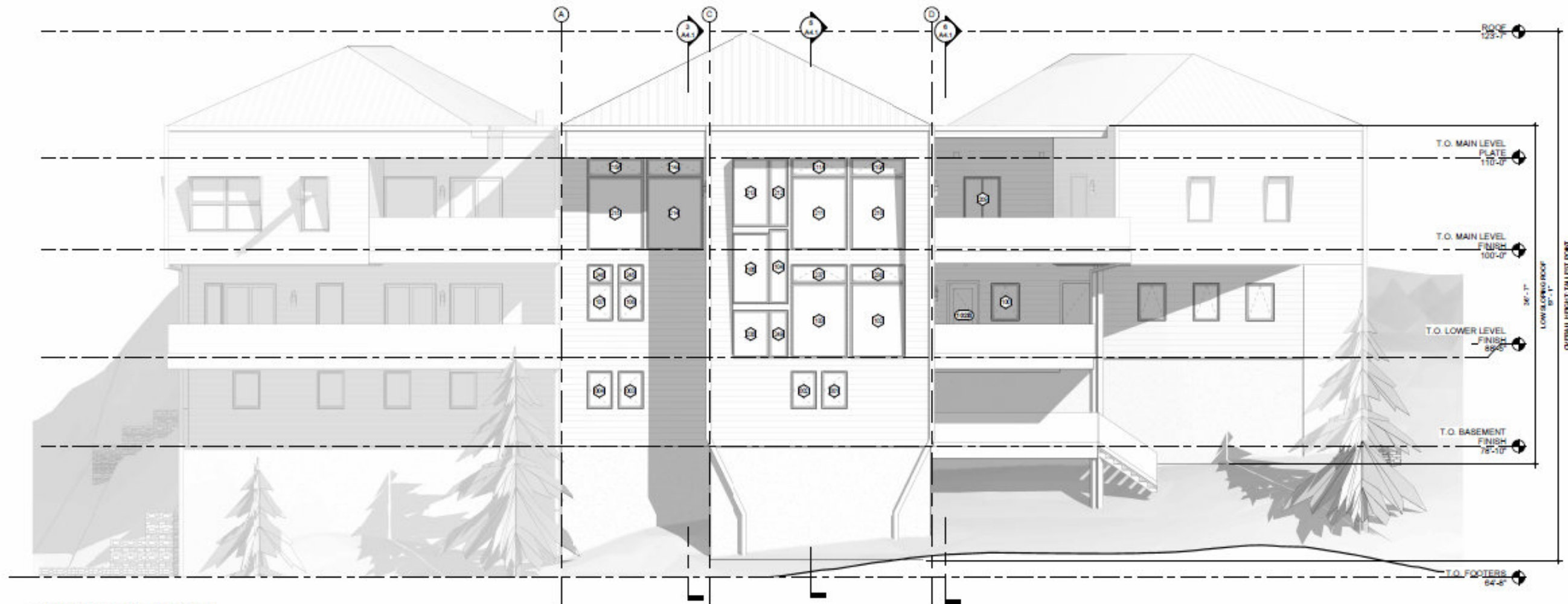






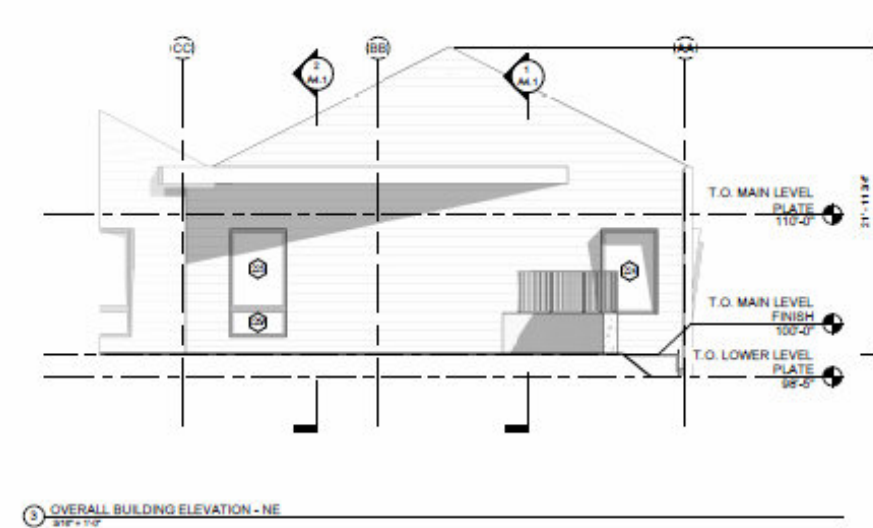
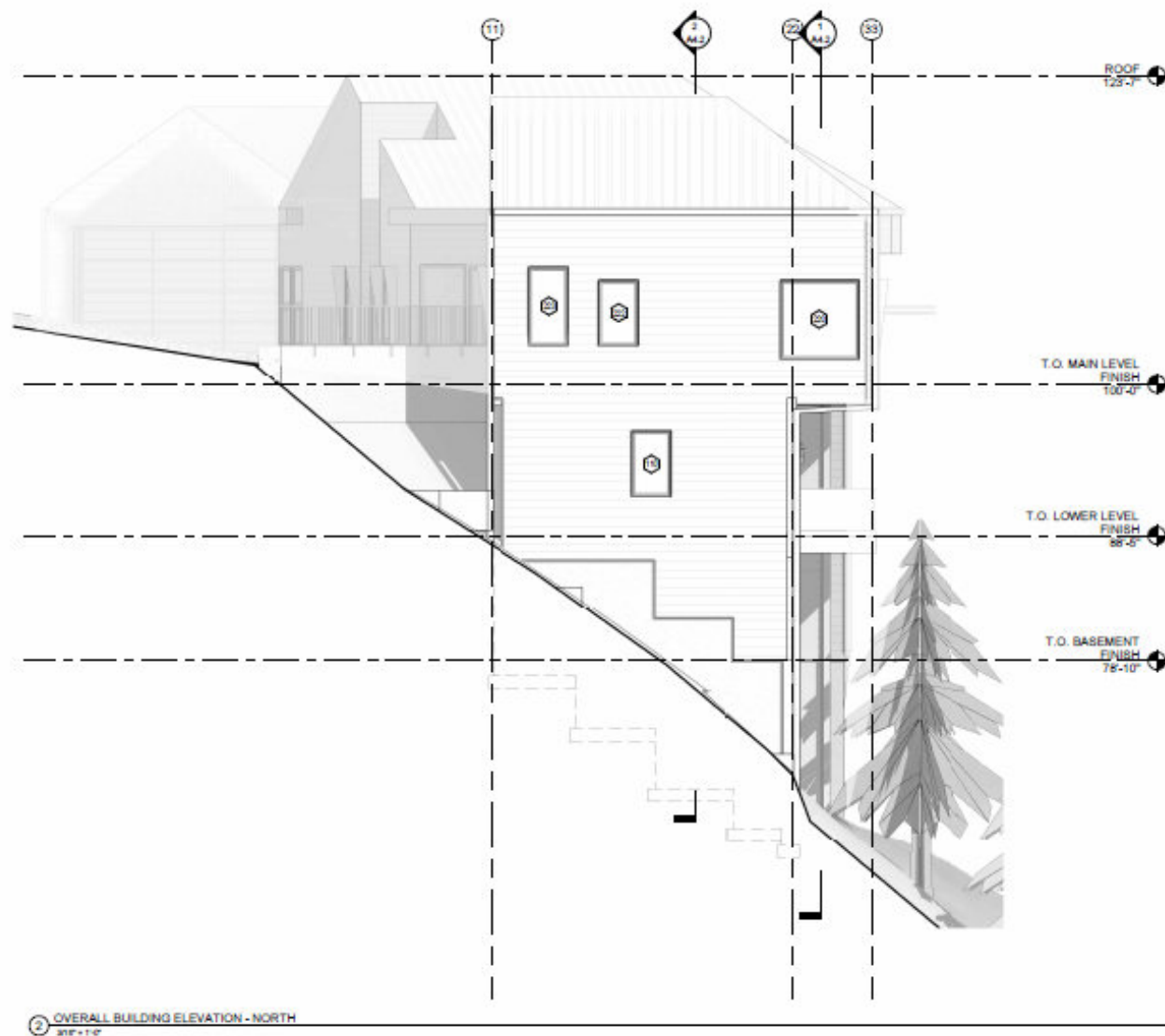
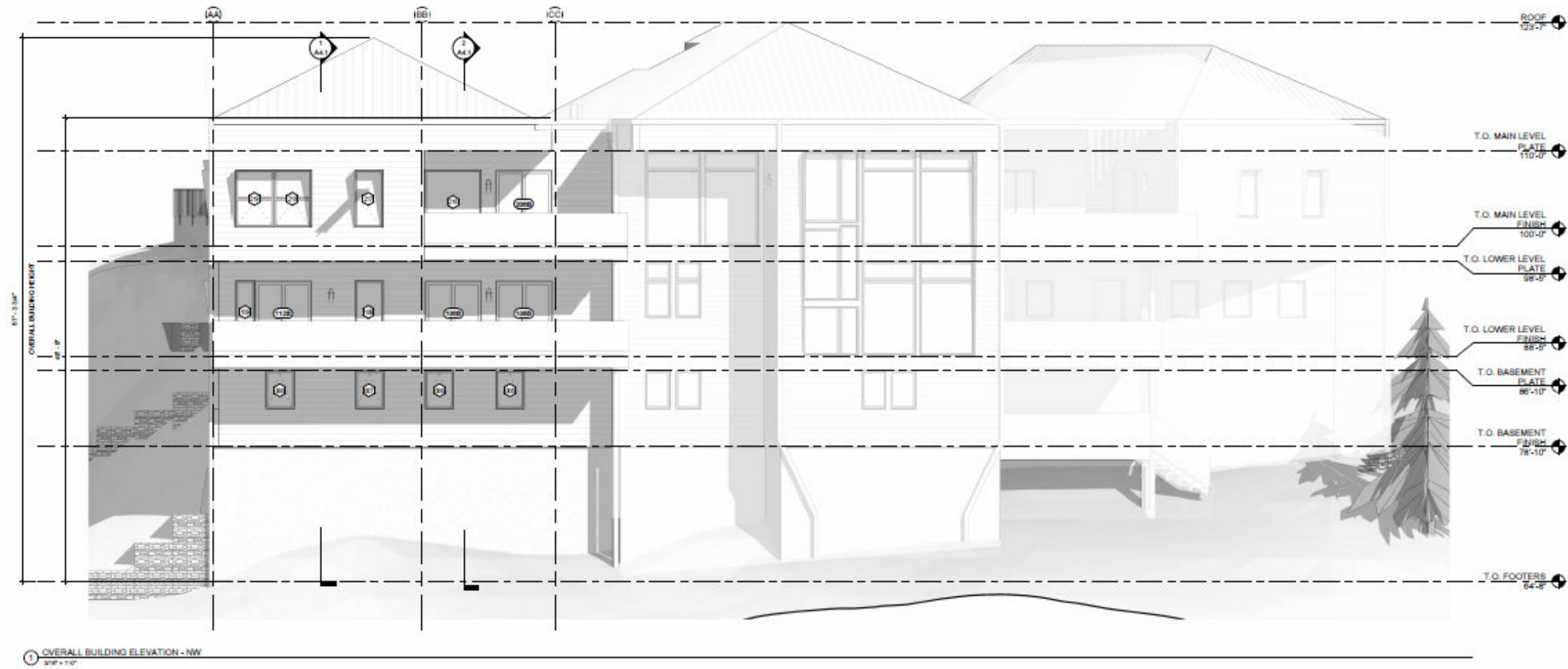


1 OVERALL BUILDING ELEVATION - SW  
31'0" x 11'0"

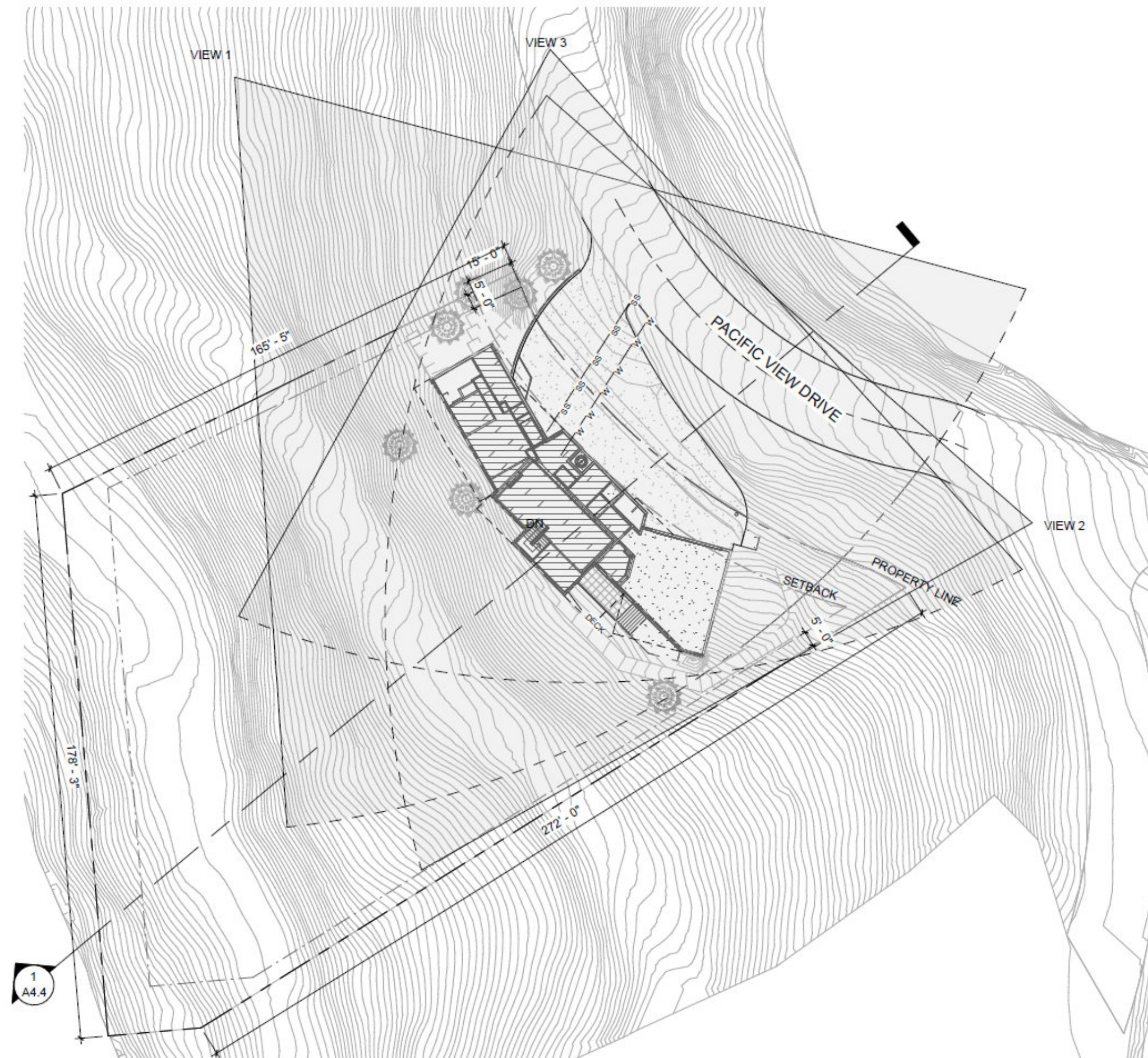


2 OVERALL BUILDING ELEVATION - WEST  
31'0" x 11'0"

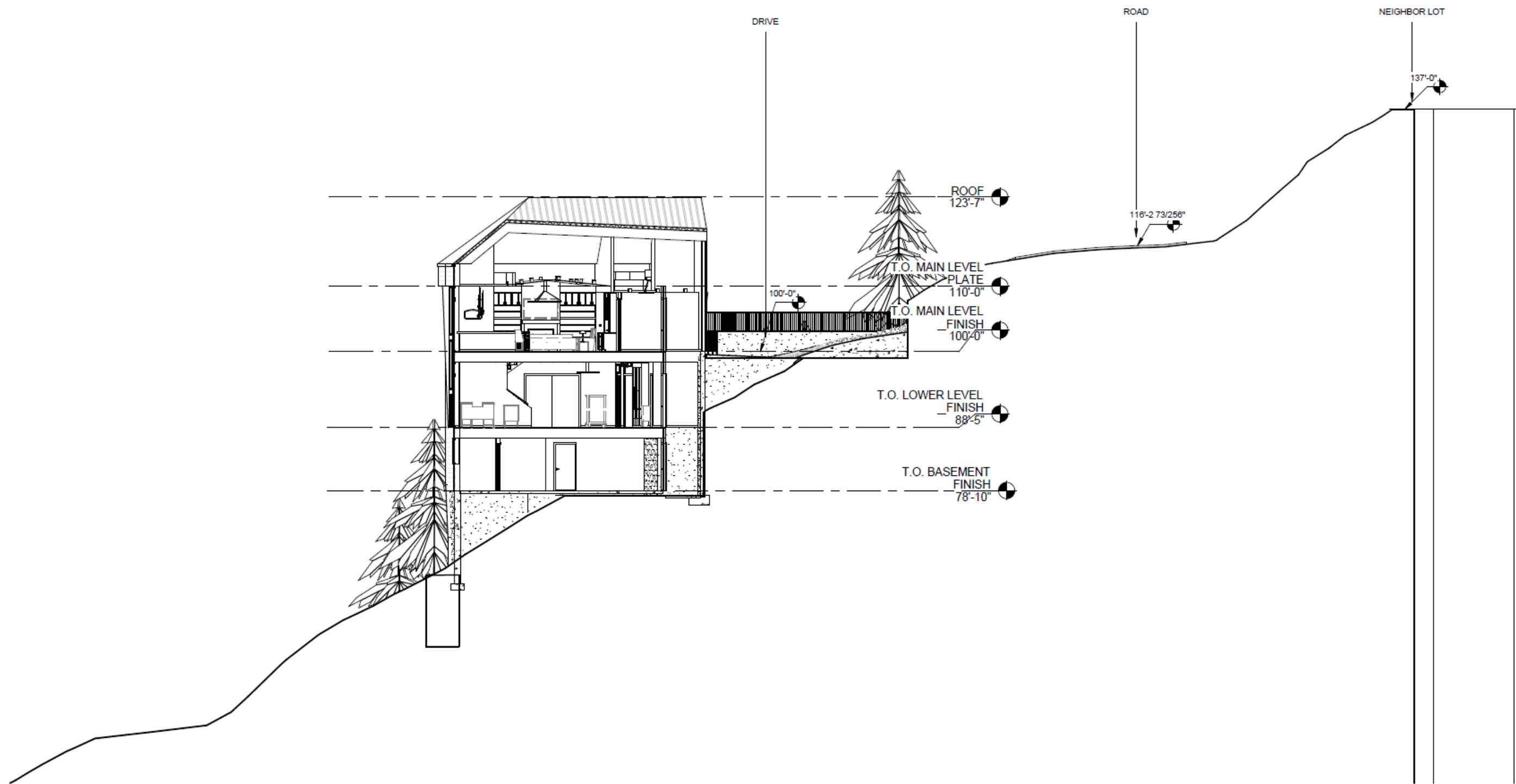




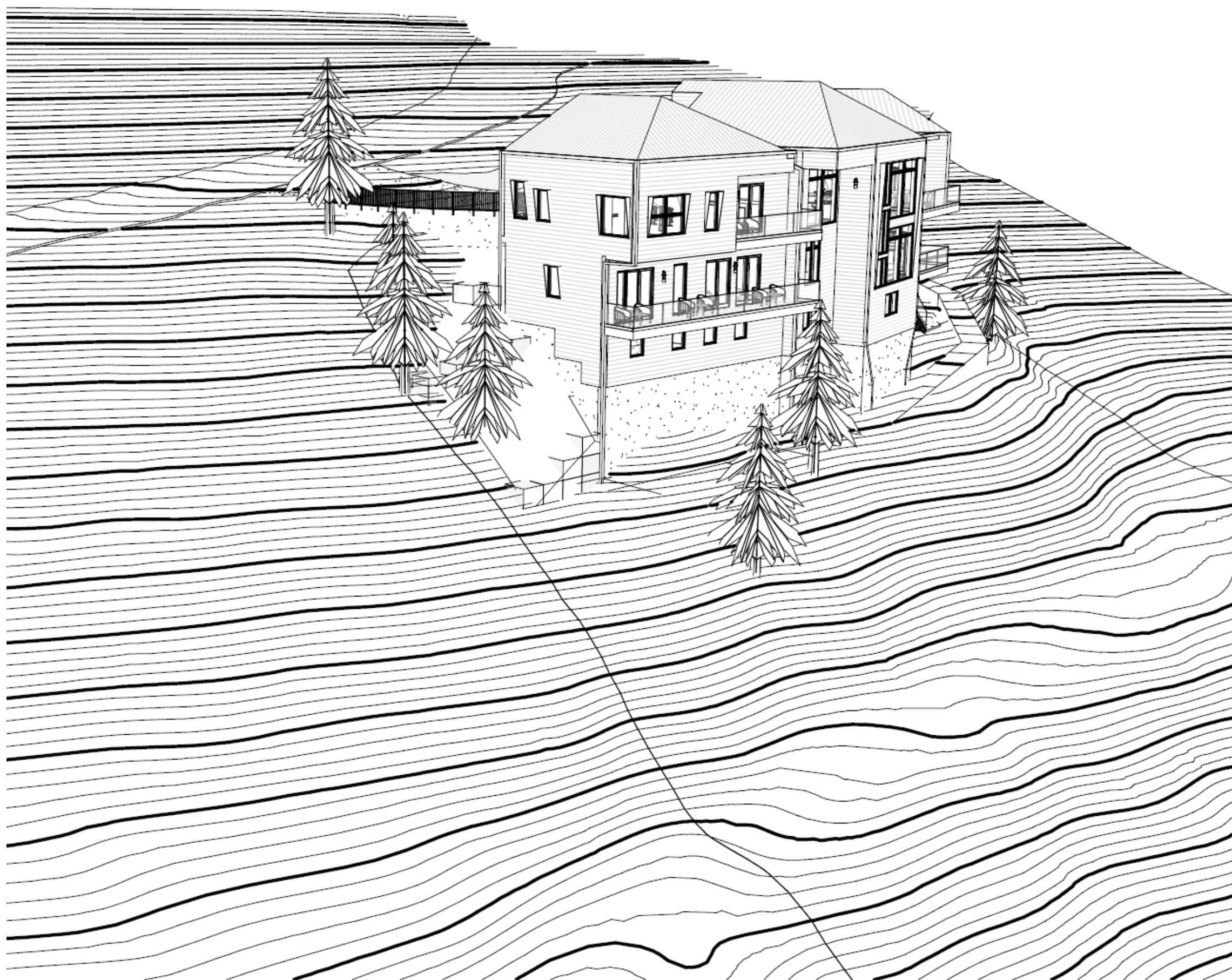




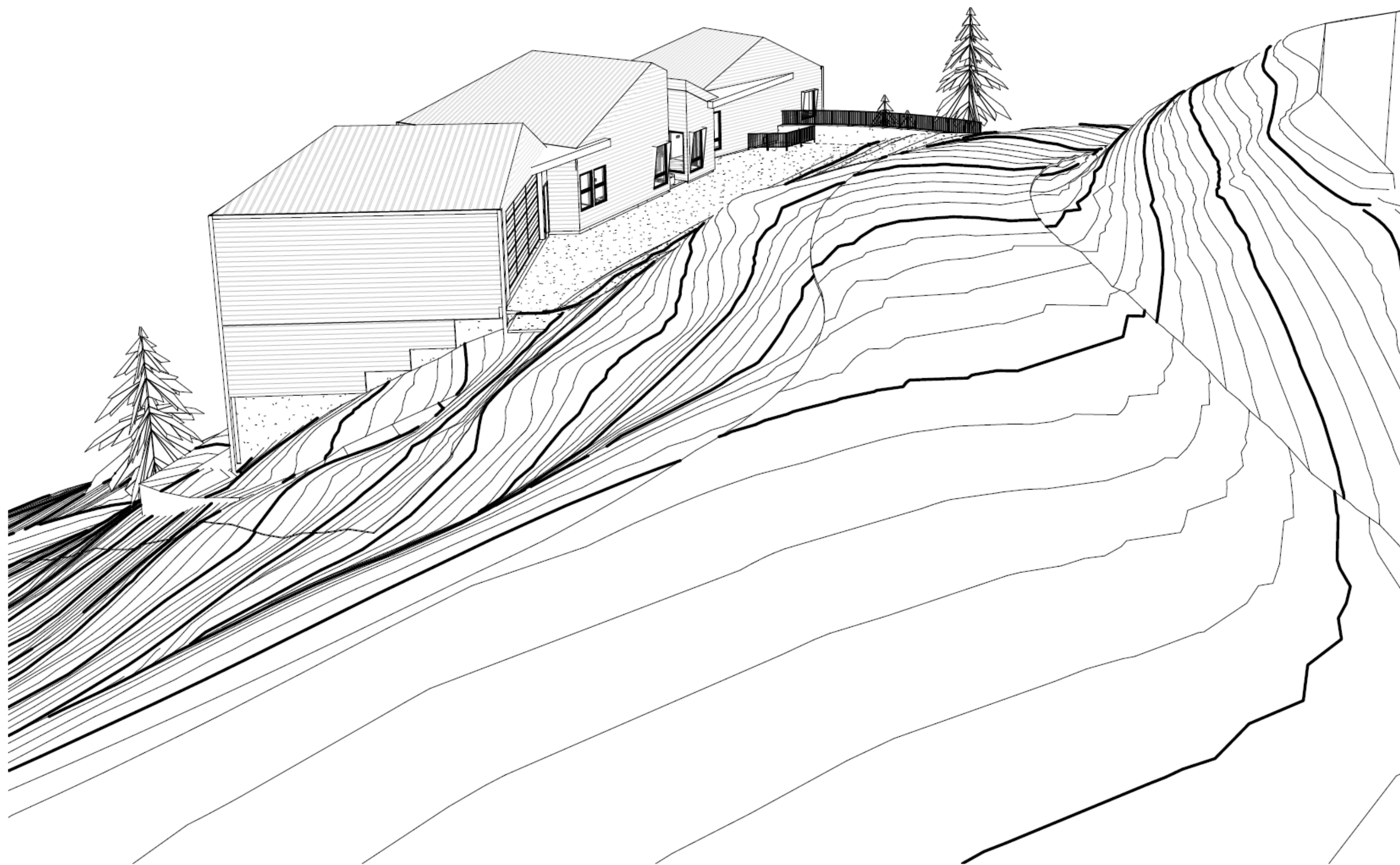




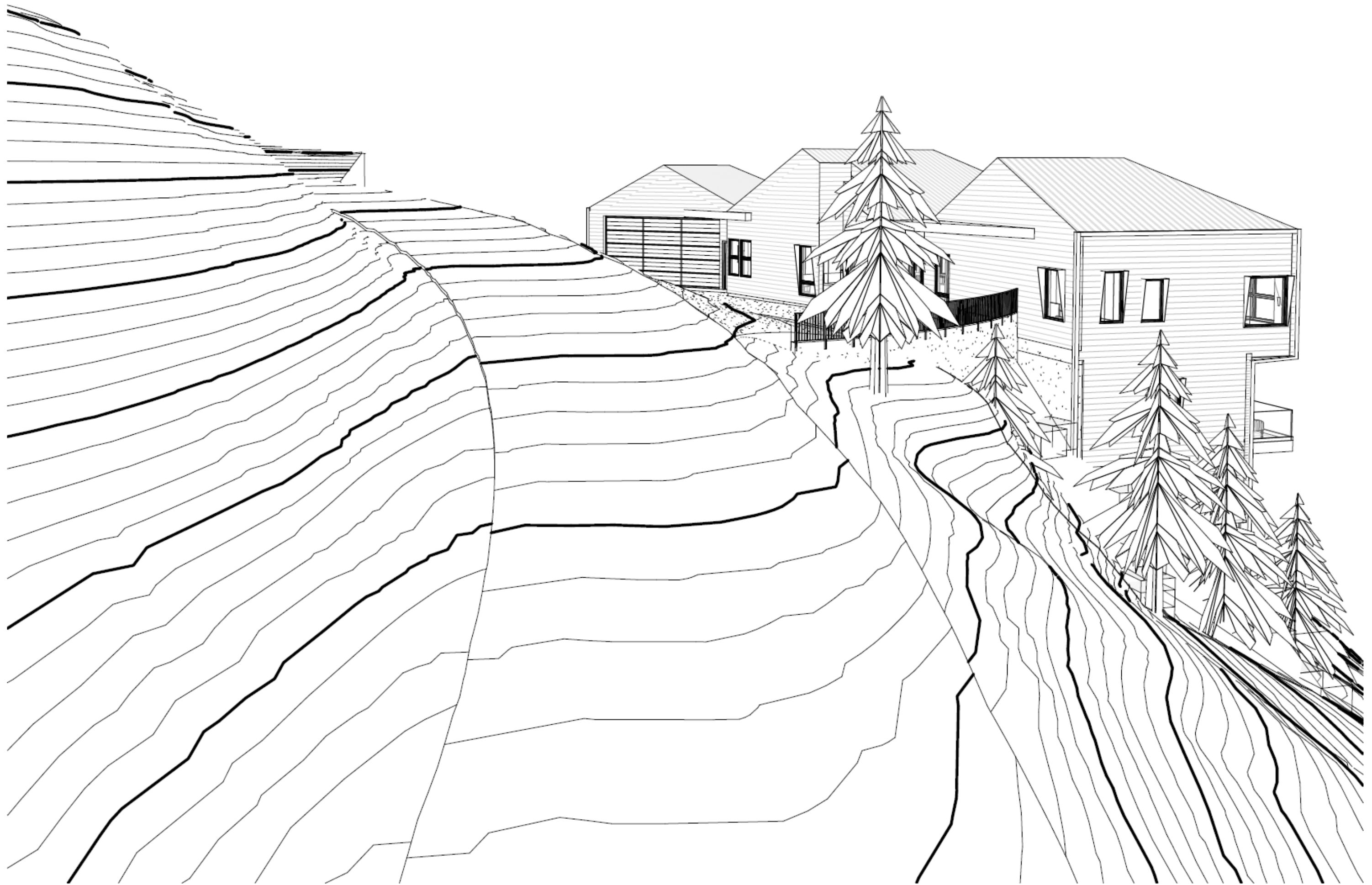














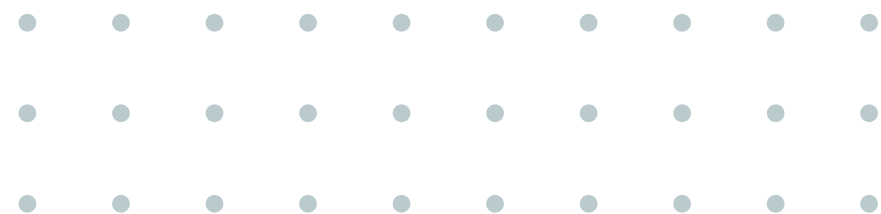
# PUBLIC COMMENT

## Testimony in Opposition

- Nirmala & Sanjay Dhar
- Doug Circosta
- Doug Sellers

## Testimony in Support

- *None*







# CC&Rs

## COVENANTS, CONDITIONS & RESTRICTIONS

CC&Rs act as private contracts (covenants) between the homeowners and the neighborhood association. These private covenants are enforced and regulated by the association and its homeowners, not the City. The association and its homeowners may seek to enforce CC&R terms through the process detailed within the contract.

It is important to note that CC&Rs may be more restrictive than zoning laws.

The City does not enforce private contracts, even if they conflict with a proposed zoning or land use permit. The City may only enforce its own zoning law and regulations.

CC&Rs are not applicable criteria for a variance and may not be considered by the Planning Commission in their deliberations of this application.







# CRITERIA FOR GRANTING A VARIANCE

Variances may be granted only if, on the basis of the application, investigation, and evidence submitted by the Applicants, all four expressly written findings are made:







1

That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives or the Comprehensive Plan

2

That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone

That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity



3

That the granting of the variance would support policies contained within the Comprehensive Plan. Variances in accordance with this section should not ordinarily be granted if the special circumstances upon which the Applicant's relies are a result of the actions of the Applicants

4



# 01. THAT A STRICT OR LITERAL INTERPRETATION AND ENFORCEMENT OF THE SPECIFIED REQUIREMENT WOULD RESULT IN PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP AND WOULD BE INCONSISTENT WITH THE OBJECTIVES OR THE COMPREHENSIVE PLAN

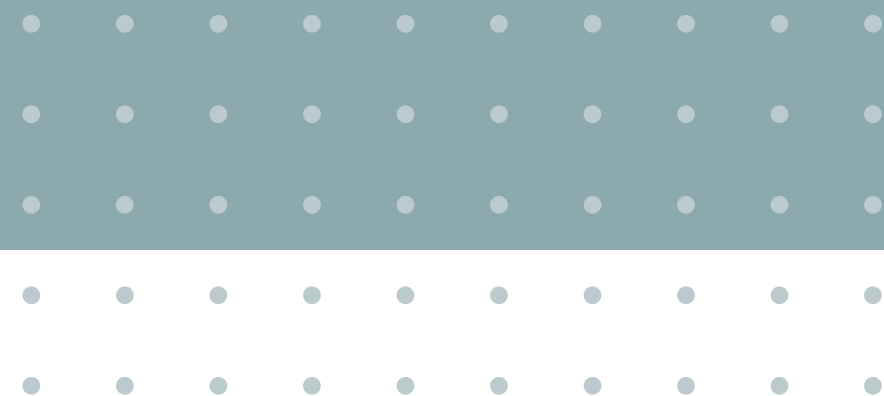
*As detailed in the Variance Application, the subject property is heavily sloped. The majority of the building's height is caused by the need to build down the grade of the hillside. Unlike the majority of the City, which is typically flat, this lot is sloped at a near 45 degree angle. As noted in the Variance Application, the Applicants propose to construct a single-family home. This type of home construction is in line with the Comprehensive Plan, which calls out single-family development in this area.*





## 02. THAT THERE ARE EXCEPTIONAL OR EXTRAORDINARY CIRCUMSTANCES OR CONDITIONS APPLICABLE TO THE PROPERTY INVOLVED OR TO THE INTENDED USE OF THE PROPERTY WHICH DO NOT APPLY GENERALLY TO OTHER PROPERTIES IN THE SAME ZONE

*As detailed in the Variance Application, the subject lot is exceptionally sloped, unlike the majority of the lots in the City.*





# 03. THAT THE GRANTING OF THE VARIANCE WILL NOT BE • DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OR MATERIALLY INJURIOUS TO PROPERTIES OR IMPROVEMENTS IN THE NEAR VICINITY

*It is not apparent that granting the requested height and front yard setback variances would be detrimental to public health, safety or welfare, nor does it appear that granting the variances would be materially injurious to properties or improvements in the near vicinity. It is important to note that the Applicant's have detailed through their application that the proposed home would appear as a single-family dwelling, from the street view, allowing the homes located above the subject property to preserve their view.*





# 04. THAT THE GRANTING OF THE VARIANCE WOULD SUPPORT POLICIES CONTAINED WITHIN THE COMPREHENSIVE PLAN. VARIANCES IN ACCORDANCE WITH THIS SECTION SHOULD NOT ORDINARILY BE GRANTED IF THE SPECIAL CIRCUMSTANCES UPON WHICH THE APPLICANT'S RELIES ARE A RESULT OF THE ACTIONS OF THE APPLICANTS

*The Applicant's state that their request for the building height and front yard setback variances should be granted, as they intend to be full time residents. They have highlighted that the Comprehensive Plan outlines issues with second home ownership within the City.*





# 04.

*As outlined previously in this report, the subject lots steep slope creates for a challenging build. While the material provided for this application do not include details of the proposed home size in number of rooms or square footage, from the architectural drawings, the home appears to be substantial in size. The question of whether a smaller home could be constructed on this lot, not requiring the requested variances, remains. However, again, due to the slope of the subject property, a variance is height may still be required for even a smaller home.*








# STAFF CONCLUSION

*Staff conclude that the criteria required to approve the requested building height and front yard setback variances have substantially been met. However, Staff direct the Planning Commissioners to carefully consider Section 8.020. (d) and make a determination if this criterion has been met. The criteria specifically states that the variance should not be granted if the “special circumstances” for needed a variance are a “result of the actions of the applicant or owner”. Since the proposal and variance requests are for a home yet to be constructed, Staff question if the Applicants are creating the special circumstance. However, it cannot be overlooked that the subject lot is extremely sloped and that even a smaller home could possibly require a height variance.*





# PLANNING COMMISSION ACTION

The Planning Commission should carefully consider the request, including all oral and written testimony on record and presented at the public hearing. After considering the testimony as it relates to the applicable criteria, the Planning Commission will need to make a decision on the request.

If the Commission determines that sufficient facts exist to grant the variance request and the standards of the Rockaway Beach Zoning Ordinance have been met, it can make a motion to approve the variance request, including a statement that generally reflects the facts and rationale relied upon to reach the decision. The motion should also direct staff to prepare findings, conclusions, and final order to implement the decision.

A motion to deny the variance request should set forth the general facts and rationale for the decision and direct staff to prepare the final order.

