



Land Use Hearing Officer Summary & Analysis

Date: 1/12/2023
File Number LUHO-22-021
Request Type: Request to Enlarge a Nonconforming Structure
Parcel ID: 22-01-403-016
Address: 4450 S Mathews Way
Zone: R-1-10, Single-Family Residential Zone
Applicant: Stewart Landau
Planner: Katie Larsen, Planner

SUMMARY DESCRIPTION

The applicant is requesting to enlarge and modify their home, which is currently classified as legally non-conforming. The request is to add a deck on the second story of their home. The second story of the home does not comply with the Building Envelope, thus, the proposed deck intersects in this envelope.

19.88.070 Additions, Enlargements, Moving And Reconstruction Of A Structure

1. A noncomplying structure or building occupied by a nonconforming use shall not be **added to** or enlarged in any manner or moved to another location on the lot or reconstructed at another location on the lot except as provided by subsection B of this section unless such additions and enlargements comply with the regulations and intent of this title.
 2. A building occupied by a nonconforming use or a noncomplying structure may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a permit authorized by the land use hearing officer, provided that the land use hearing officer shall find:
 1. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location on the lot is in harmony with one or more of the purposes of this title as stated in MKZ 19.02.020, and is in keeping with the intent of this title;
 2. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location of the lot is compatible with existing development within a reasonable distance in terms of height, mass and applicable building envelope requirements, and lot coverage; and
 3. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location of the lot will not be detrimental to the health, safety and general welfare of persons residing within a reasonable distance of the subject property.
 4. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.
 3. The Land Use Hearing Officer may impose conditions and limitations upon issuance of a permit for an addition to, enlargement of, moving of, or reconstruction of a structure as necessary to prevent or mitigate adverse effects on other properties in the neighborhood of the subject property, consistent with the standards of this Title.
-

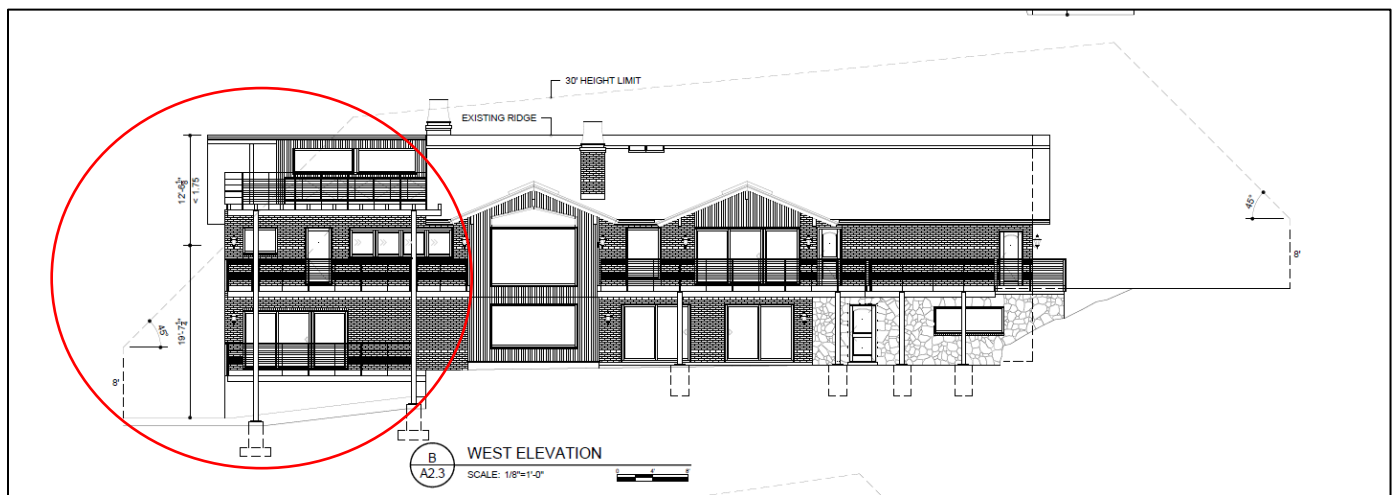


The subject property comprises of .49 acres and is located at 4450 S Mathews Way. The property is sloped quite significantly as seen in the following exhibit.

STAFF FINDINGS, ANALYSIS, & SUPPORTING DOCUMENTS

Staff Findings:

1. Non-conforming structures may be expanded according to the terms set forth in the land use ordinance. Utah Code § 17-27a-510 and Millcreek Code §19.88.070
2. As per 19.71.030, Building Envelope: The height of all structures is further limited by the building envelope created by starting at a point eight feet above ground at each point on the property line of the lot and extending on a line at a forty-five degree angle from the vertical toward the interior of the lot, the projection of such line on the horizontal plane of the lot to be perpendicular to the property line. The entire building must fit under this envelope except for dormers and gables that satisfy the following limitations:
 - a. A gable may exceed the graduated height envelope, provided:
 - i. The height of the gable is no more than 1.75 times higher than the point where the graduated height envelope intersects the gable; and
 - ii. The height of the gable is less than the maximum building height.
3. A gable exception does not apply in this instance.
4. The envelope intersects into wall space of the upper level of the home.
5. The applicant will not be changing the overall height or massing of the home.
6. Pictured below is the area in which the applicant is requesting relief to encroach in the building envelope.
 - a. The proposed change does not affect where the envelope lies.



Staff recommends approval of the proposed request, as it is only an aesthetic change and does not affect land use or the structure overall.



Millcreek Planning and Zoning

3330 South 1300 East

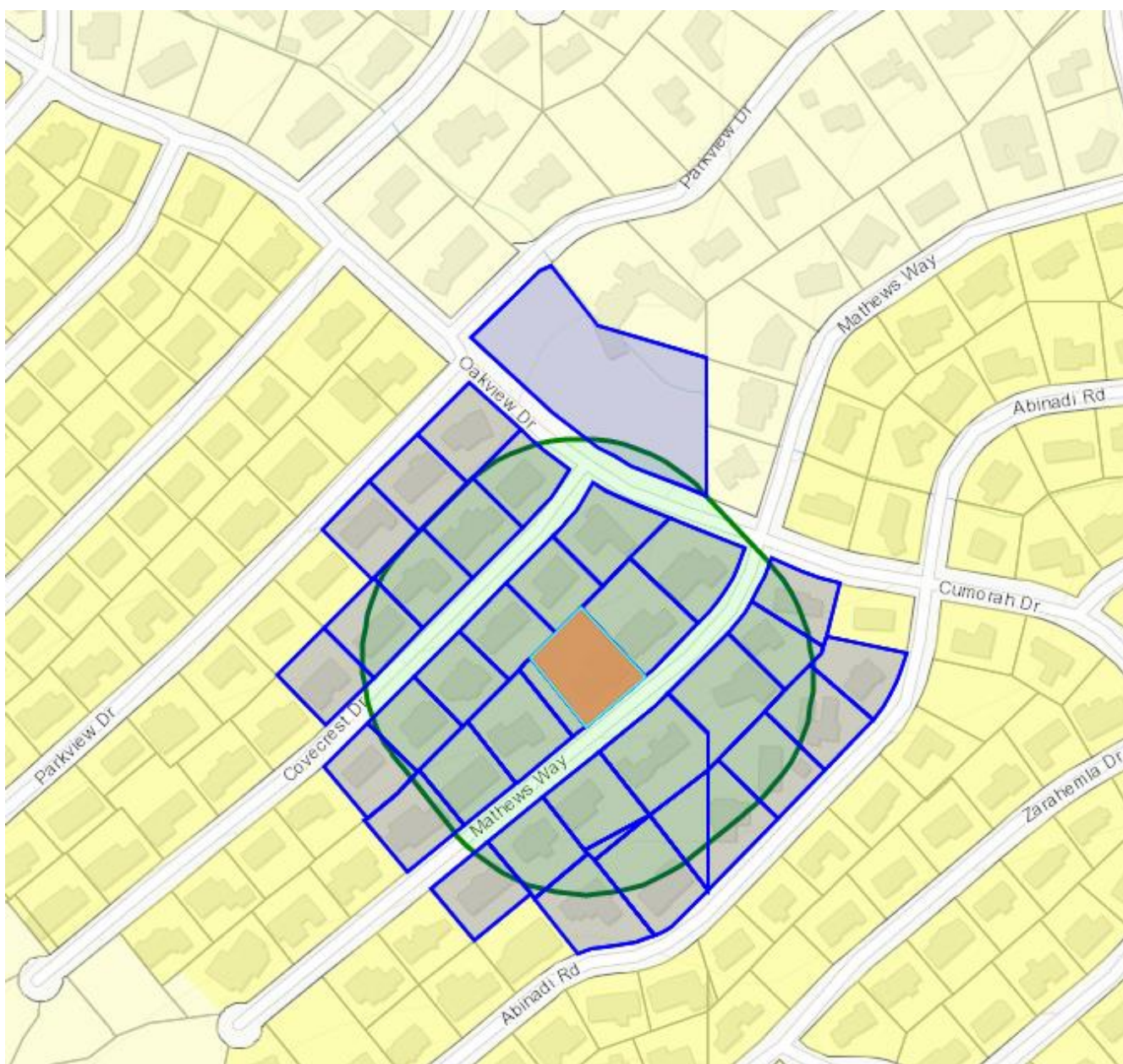
Millcreek, Utah 84106

801-214-2700

millcreek.us

Supporting Documents:

- **Exhibit A** - Vicinity Map
 - **Exhibit B** - Applicant's Response
 - **Exhibit D** - Plans
-



A R C H I T E C T ' S T R A N S M I T T A L

client
Stewart Landau

project
Landau Remodel

project address
4450 S. Mathews Way
Salt Lake City, UT 84124

transmittal date
11.28.22

description

To whom it may concern,

The Landaus are planning to remodel their home at 4450 S. Mathews Way. During the planning process, we discovered that the existing, primary structure breaches the building envelope as defined by the current zoning ordinance. Since their home was built prior to 2009, we have been informed that the existing structure is classified as a legally-approved “noncomplying structure”.

After some discussion with Francis Lilly, we understand that repairs and alterations to noncomplying structures are permitted and we will be subject to standard 19.88.040. This ordinance states that *“any remodel or structural alteration that requires the demolition of an outside wall of a noncomplying structure shall only be allowed upon approval of the land use hearing officer, unless the new construction complies with the ordinance.”* Hence, we are requesting to make repairs and structural alterations to a noncomplying structure, which requires the demolition of an outside wall.

The work we are proposing will entail the removal of a portion of the existing roof and gable wall in preparation for a new roof-top deck and exterior stair. It is our intent to demonstrate through the written description that follows and supplemental drawings that the proposed design brings the existing residence closer to compliance with the current building envelope requirements.

According to the criteria outlined in 19.88.040, there are four items that we’ll need to address:

1. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location of the lot is in harmony with one or more of the purposes of this title as stated in MKZ19.02.020, and is keeping with the intent of the title;
2. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location of the lot is compatible with the existing development within a reasonable distance in terms of height, mass and applicable building envelope requirements, and lot coverage; and
3. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location of the lot will not be detrimental to the health, safety and general welfare of persons residing within a reasonable distance of the subject property.
4. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

description continued

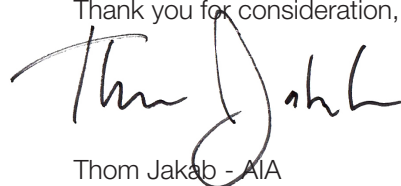
In consideration of MKZ19.02.020, to the best of our knowledge, our project does not increase congestion in the street since there is not an increase in the number of dwelling units or occupants. The proposed design does not expose residents to any further risk of fire or other dangers than any other exterior deck within the neighborhood would be exposed to. One of the many positive qualities of the new roof top deck is that it provides more light and air to the interior and the exterior of the home. In no way does the proposed alteration change the classification of land use and distribution of land development and utilization - decks are an allowed accessory use and there is no increase in building footprint. Lastly, the improvements the Landaus are proposing will not negatively affect the tax base as they are investing in improving the quality and performance of their home for the betterment of their property and the neighborhood.

To address item number two, it is our primary objective to respect the surrounding neighbors by creating an outdoor amenity that is compatible with the existing development. First and foremost, we are not increasing the height of the existing residence. Rather, our approach is about subtraction. We will be removing the gable wall at the north side of the home, thus reducing the overall building mass and bringing it closer into compliance with the building envelope requirements. Through careful analysis, we have proven that the new deck railing is the only building element that breeches the envelope. As this is an essential safety feature to any deck, the railing cannot be removed to meet the ordinance. Aside from its height, the railing design will serve as a screen to adjacent neighbors, concealing occupants and creating privacy between properties. In addition, it should be noted that the design does not increase the existing lot coverage. Taking account of all mentioned above, it is clear that the pros outweigh the cons in terms of compatibility and bringing the existing residence into compliance.

Item number three is a top priority in any building design. To protect the health, safety, and general welfare of persons residing within a reasonable distance of the Landau's property we intend to preserve the existing view corridor and privacy between adjacent properties. Reiterating the points made above, reducing the building mass will certainly improve the existing view corridor. The Landau's home is tucked into the hillside and the new roof top deck will be hidden from the street and adjacent neighbors. Where it is exposed to view, we plan to increase privacy between neighbors with a railing that screens its occupants from one another.

Lastly, we believe that the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure. The proposed design is a remodel that does not add building footprint to the land. Our approach utilizes the existing footprint while making improvements to the property and increasing its use. In our case, reusing the existing structure has a great advantage over building anew - it will not disturb the established topography and vegetation and will maintain the look and feel of the home from the street.

Thank you for consideration,

A handwritten signature in black ink, appearing to read "Thom Jakab". The signature is fluid and cursive, with the first name "Thom" and last name "Jakab" clearly distinguishable.

Thom Jakab - AIA
360 J. St.
SLC, UT 84103

**Millcreek Planning and Zoning**

3330 South 1300 East

Millcreek, Utah 84106

Phone: 801.214.2750

LAND USE AND DEVELOPMENT APPLICATION

OFFICE USE ONLY	File Number		Zone	
	Date Received		Community Council	

Property Address		Parcel No.	
Name of Project		Project Size in SF	

Please describe your request. Include Supplemental Application if Required. Add additional pages if necessary.

New Development**Modify Existing Development****Other**

- ☐ Accessory Dwelling Unit
- ☐ Conditional Use
- ☐ Development Agreement
- ☐ PUD (# units _____)
- ☐ Rezone
- ☐ Sign
- ☐ Site Plan Review
- ☐ Subdivision (# lots ____)

- ☐ Lot Consolidation
- ☐ Lot Line Adjustment
- ☐ Subdivision Amendment

- ☐ Appeal of a Land Use Decision
- ☐ Exception Request: _____
- ☐ General Plan Amendment
- ☐ Nonconforming Use
- ☐ Noncomplying Structure
- ☐ RCOZ B Approval
- ☐ RCOZ C Special Exception
- ☐ Reasonable Accommodation
- ☐ Research Request
- ☐ Street Vacation
- ☐ Text Amendment
- ☐ Variance

PLANNING REVIEW PERIOD

Each application is subject to a planning review period. Upon payment of all applicable fees and submission of a complete land use application for an approval that requires a public meeting, planning staff will have a review period of fifteen business days to review the application for substantial compliance with all the requirements of applicable ordinances before scheduling the application for the first public meeting or hearing. If staff requires additional information, clarification or an updated application submittal as part of their review, the time to provide the additional information, clarification, or submittal will be in addition to the review period. Staff will schedule your application at the first available public meeting after the review period concludes.



Millcreek Planning and Zoning

3330 South 1300 East

Millcreek, Utah 84106

Phone: 801.214.2750

APPLICANT'S NAME:

First _____ Last _____ Initial _____

Address _____ City _____ State _____ ZIP _____

Phone _____ Email _____

PROPERTY OWNER(S) – Note: A signed affidavit is required of all property owner(s).

First _____ Last _____ Initial _____

Address _____ City _____ State _____ ZIP _____

Phone _____ Email _____

PROFESSIONALS

_____ Engineer _____ Architect _____ Other

Company _____ Contact _____

Address _____ City _____ State _____ ZIP _____

Phone _____ Email _____

Applicant hereby authorizes the city to reproduce this application and all documents attached to the application for staff, officials, and the interested public. Applicant further authorizes city staff to access the property for inspections and assessments as required as part of an application review.

Applicant's Signature: _____ Date: _____



9.02.22

LANDAU REMODEL - PHASE II

4450 S. MATHEWS WAY
SALT LAKE CITY, UT 84124

THOM JAKAB - AIA

3RD FLOOR - SALT LAKE CITY, UTAH 84103

GENERAL NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE APPLICABLE CODES.
2. THE CONTRACTOR ALONE SHALL BE RESPONSIBLE FOR THE SAFETY AND ADEQUACY OF HIS PLANT, APPLIANCES, METHODS AND FOR DAMAGE WHICH MAY RESULT FROM THEIR IMPROPER REMOVAL, CONSTRUCTION, MAINTENANCE OR OPERATION. HE SHALL ERECT AND PROPERLY MAINTAIN AT ALL TIMES PROPER SAFEGUARDS FOR THE PROTECTION OF WORKMEN, OWNER, AND OWNER'S PROPERTY AND POST DANGER WARNINGS AGAINST HAZARDS CREATED BY CONSTRUCTION OPERATIONS.
3. THE CONTRACTOR ACKNOWLEDGES AND AGREES THAT HE HAS AN INTRANSFERABLE AND CONTRACTUAL OBLIGATION TO THE OWNER TO INSPECT THE WORK AND SUPERVISE AND SUPERINTEND THE PERFORMANCE OF THE WORK TO CONFIRM, CERTIFY, AND CORROBORATE THAT THE WORK HAS BEEN EXECUTED ACCORDING TO THE CONTRACT DOCUMENTS.
4. THE CONTRACTOR GUARANTEES THAT HE IS FAMILIAR WITH THE CODES AND REGULATIONS APPLICABLE TO THE WORK AND THAT HE HAS THE SKILL, KNOWLEDGE, COMPETENCE, ORGANIZATION, AND PLAN TO EXECUTE THE WORK IN COMPLIANCE WITH THE REQUIREMENTS OF THE CONTRACT DOCUMENTS, INCLUDING THE TIME SCHEDULE.
5. IF THERE IS DISCREPANCY BETWEEN THE ARCHITECTURAL DRAWINGS AND THE ENGINEERING DRAWINGS THAT WOULD CAUSE AN IMPROPER INSTALLATION, IT SHALL BE BROUGHT TO THE ARCHITECT'S ATTENTION FOR CLARIFICATION PRIOR TO INSTALLATION.
6. DO NOT SCALE THE DRAWINGS. EXPLICIT DIMENSIONS SHALL HAVE PRECEDENCE OVER SCALE.
7. THE CONTRACTOR SHALL VISIT THE SITE & BE KNOWLEDGEABLE OF CONDITIONS THEREON PRIOR TO SUBMITTING A BID. HE SHALL VERIFY AND BE RESPONSIBLE FOR ALL CONDITIONS OF THE PROJECT AND SHALL NOTIFY THE OWNER OF ANY CONDITIONS REQUIRING MODIFICATION BEFORE PROCEEDING WITH THE WORK.

DRAWING INDEX

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A6.1	SCHEDULES - DOORS & WINDOWS
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PROJECT NO.

062020

DATE

09.02.22

SHEET

AS1.1

SITE PLAN

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



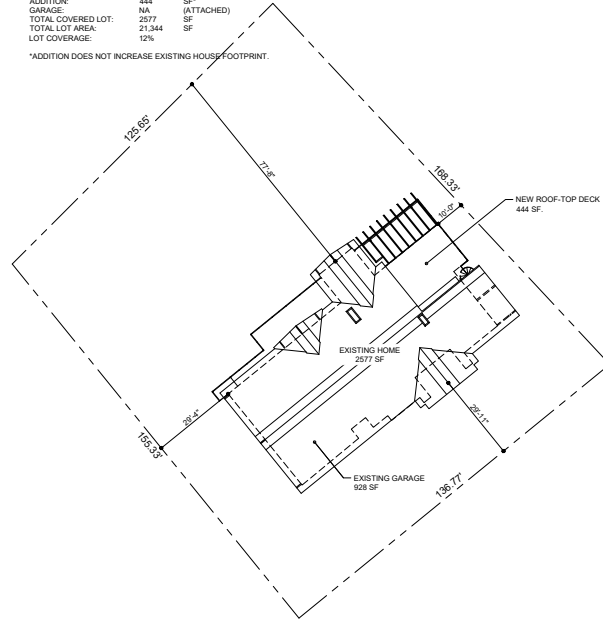
VICINITY MAP

SCALE: NTS

LOT COVERAGE:

EXISTING HOUSE:	2577	SF
ADDITION:	444	SF*
GARAGE:	NA	(ATTACHED)
TOTAL COVERED LOT:	2577	SF
TOTAL LOT AREA:	21,344	SF
LOT COVERAGE:	12%	

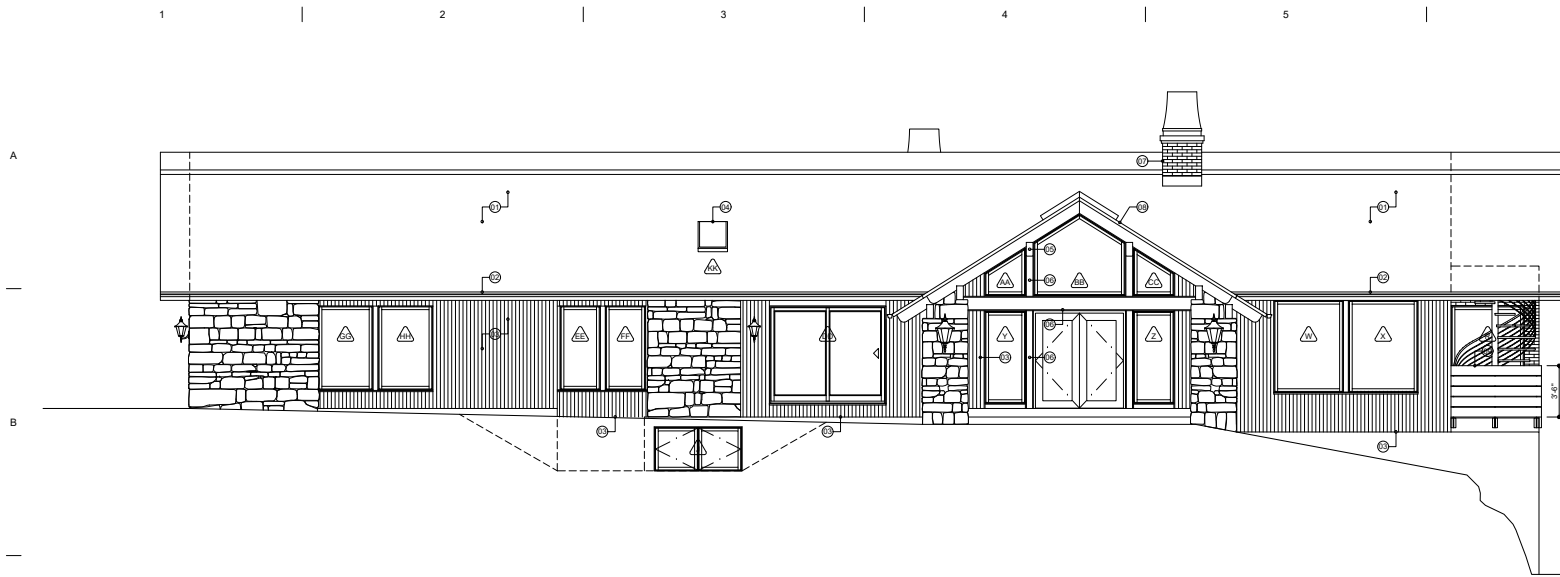
*ADDITION DOES NOT INCREASE EXISTING HOUSE FOOTPRINT.



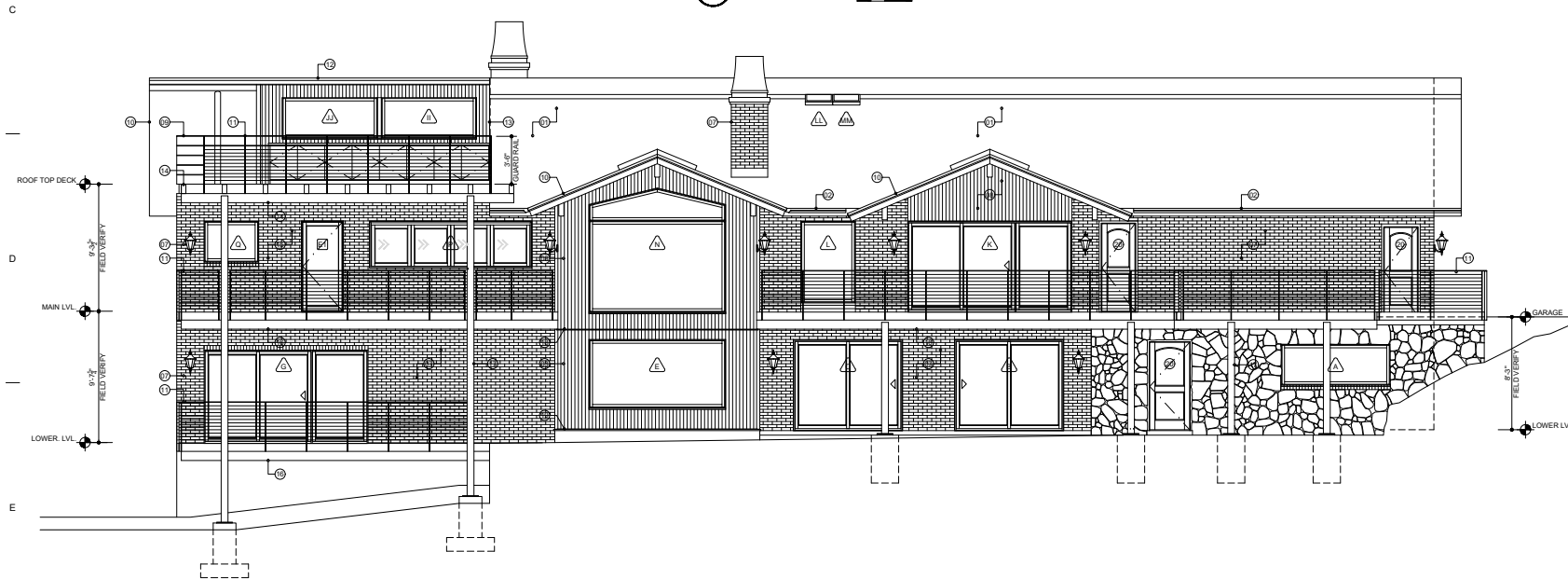
NOTE: SITE PLAN IS DRAWN FROM SALT LAKE COUNTY RECORDS - CONTRACTOR TO FIELD VERIFY EXISTING CONDITIONS.

SITE PLAN

SCALE: 1" = 20'



A
A2.1
EXTERIOR ELEVATION
SCALE: 1/4"=1'-0"



B
A2.1
EXTERIOR ELEVATION
SCALE: 1/4"=1'-0"

KEY NOTES

- EXISTING ROOFING TO REMAIN. REPAIR &/OR REPLACE AS NEEDED.
- INSPECT CONDITION OF METAL FLASHING, FASCIA, TRIM, GUTTER & DOWNSPOUTS. REPAIR &/OR REPLACE AS NEEDED. REMOVE ALL SOFFIT BOARD & VENTS & INSTALL NEW SOFFIT BOARD & VENTS.
- REMOVE WOOD SIDING. INSTALL NEW WEATHER BARRIER & EXTERIOR SIDING. TRU-EXTERIOR 1/4" NICKEL GAP. WOOD GRAIN EXPOSED. PAINT COLOR SELECTED BY ARCHITECT.
- NEW SKYLIGHT. REFER TO PHASE I DRAWINGS FOR LOCATION. PATCH, REPAIR &/OR REPLACE ROOFING AS NEEDED.
- BLAST EXISTING BEAMS, PURLINS, & 2x6 WOOD DECKING ON EXTERIOR & INTERIOR. NEW STAIN COLOR TO BE SELECTED BY ARCHITECT.
- REMOVE EXISTING TRIM & REPLACE W/ TRU-EXTERIOR 5/4" TRIM. MATCH EXISTING PROFILE & DETAIL. PAINT COLOR SELECTED BY ARCHITECT.
- STAIN EXISTING BRICK. COLOR SELECTED BY ARCHITECT. CONTRACTOR TO PROVIDE SAMPLES FOR APPROVAL.
- INSPECT CONDITION OF METAL FLASHING & FASCIA ON RAKE. REPAIR OR REPLACE AS NEEDED. PAINT COLOR TO BE SELECTED BY ARCHITECT.
- NEW GUARD RAIL. PAINTED 1/2" x 2" STEEL POSTS BOLTED TO EXISTING RM. W/ PAINTED 10 GA x 4" PAINTED STEEL SLATS - EACH SIDE OF POSTS & TOP RAIL.
- INSPECT CONDITION OF EXISTING EAVE & SOFFIT. REPAIR AND/OR REPLACE AS NEEDED. PAINT COLOR SELECTED BY ARCHITECT.
- NEW GUARD RAIL. PAINTED 1/2" x 2" STEEL POSTS & CABLE RAILING (BLACK). WELD POSTS TO STEEL PLATE OR "L".
- NEW EAVE.
- NEW RAKE.
- PAINTED STEEL PERGOLA.
- SLAVAGED OR NEW BRICK VENEER - STAIN COLOR SELECTED BY ARCHITECT.
- PAINTED STEEL DECK - TYP. COLOR SELECTED BY ARCHITECT.
- PAINTED STEEL COLUMN - TYP. COLOR SELECTED BY ARCHITECT.
- TRU-EXTERIOR 5/4" TRIM SILL - SLOPED.
- TRU-EXTERIOR 5/4" TRIM & MUD SILL.
- EXISTING DOOR TO REMAIN. PAINT DOOR & TRIM. COLOR SELECTED BY ARCHITECT.
- TRU-EXTERIOR 5/4" TRIM @ EXISTING & NEW BEAM.
- SPIRAL STAIR - PAINTED.
- STEEL PLATE - PAINTED. FLASH OVER EXISTING BRICK.

PERMIT SET



THOM JAKAB
9.02.22

LANDAU REMODEL - PHASE II
4450 S. MATTHEWS WAY
SALT LAKE CITY, UT 84124

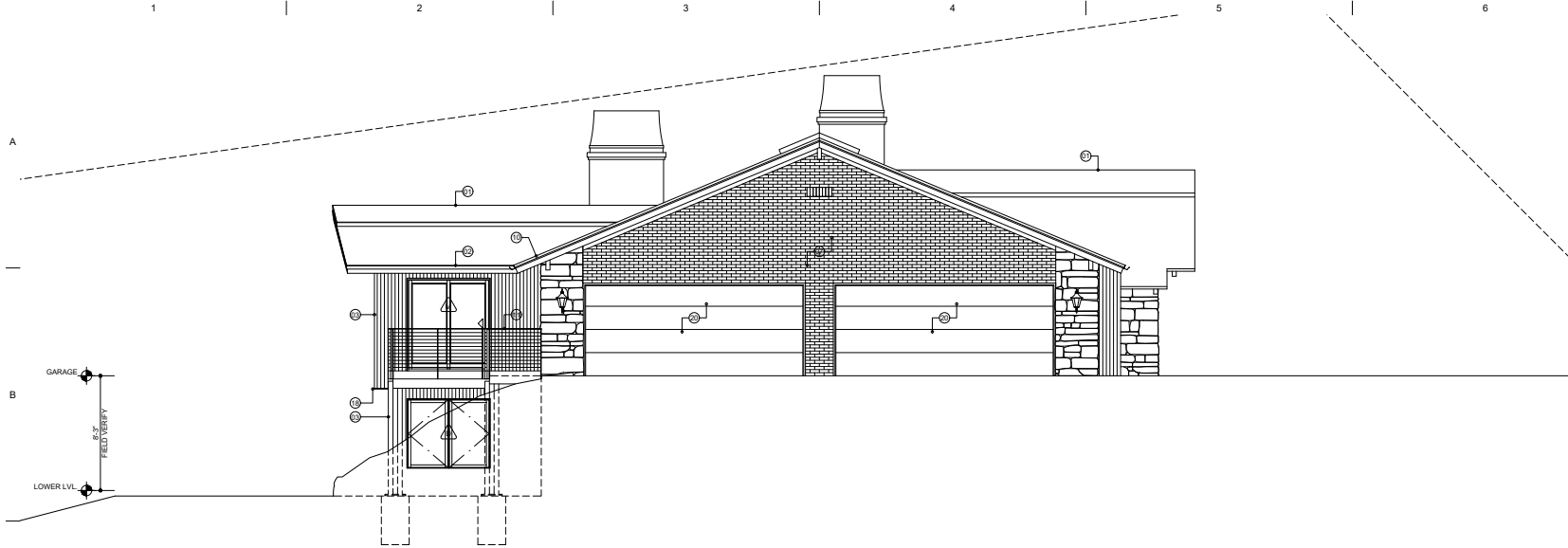
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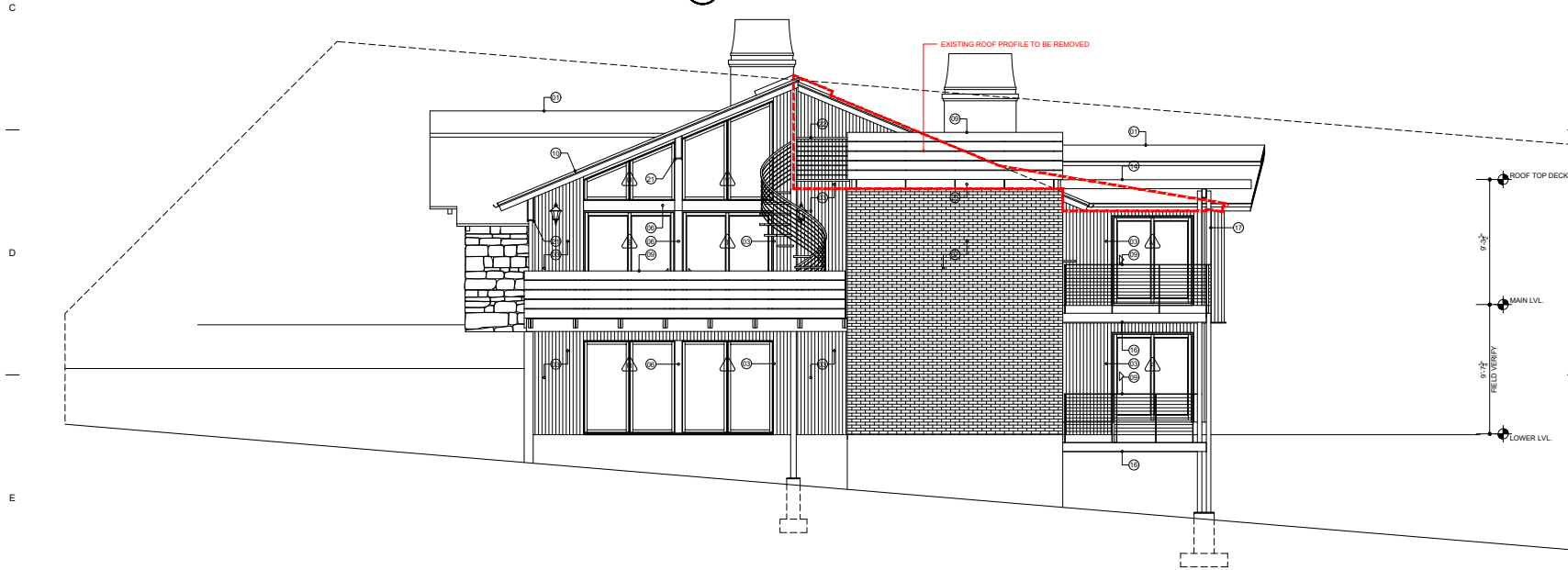
PROJECT NO.
062020
DATE
09.02.22
SHEET
A2.1

EXTERIOR ELEVATIONS

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



A
A2.2
EXTERIOR ELEVATION
SCALE: 1/4" = 1'-0"



B
A2.2
EXTERIOR ELEVATION
SCALE: 1/4" = 1'-0"

- KEY NOTES**
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PERMIT SET



THOM JAKAB
9.02.22

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4450 S. MATTHEWS WAY
SALT LAKE CITY, UT 84124

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100 S. 100 E. SALT LAKE CITY, UTAH 84103

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A2.2

**DEMOLITION
EXTERIOR ELEVATIONS**

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



LANDAU REMODEL - PHASE II
4460 S. MATHEWS WAY
SALT LAKE CITY, UT 84124

THOM JAKOB - AIA
3RD FLOOR, SALT LAKE CITY - UTAH 84103

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A2.3

BUILDING ENVELOPE

SCALE: 1/8" = 1'-0"

