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September 27, 2021

Guy E. Weston
Newport City Hall
43 Broadway
Newport, RI 02840
Via Hand Delivery

Re: Application of Bayberry Inn Newport, LLC;
20 Kay St. (TAP 21, Lot 127)

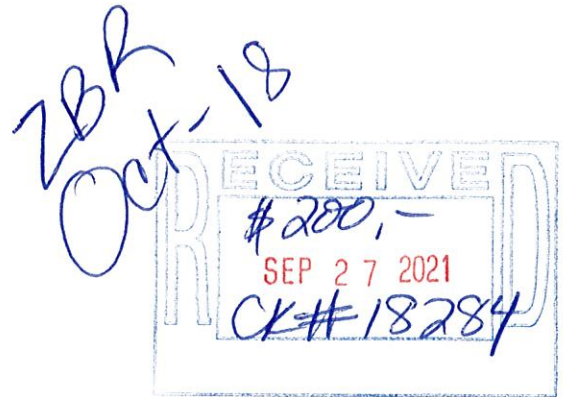
Dear Guy:

Enclosed please find an application for a dimensional variance and special use permit relating to the above referenced property, along with a check for \$200 for the filing fee. Can you please place this on the next available Zoning Board agenda, which I understand is October 25th?

Please feel free to contact me if you have any questions.

Sincerely yours,

Matthew H. Leys



APPLICATION FOR A SPECIAL USE PERMIT/DIMENSIONAL VARIANCE

CITY OF NEWPORT, RI ZONING BOARD OF REVIEW

DATE: September 27, 2021

Board members:

The undersigned hereby petitions the Zoning Board of Review for a special use permit /dimensional variance in the application of the provisions or regulations of the Zoning Ordinance affecting the following described premises in the manner and on the grounds hereinafter set forth.

Location of premises

Street & No: 20 Kay Street

Tax Assessor's Plat 21 Lot 127

Petitioner Information

Applicant Bayberry Inn Newport, LLC Address c/o Matthew H. Leys, 43B Memorial Blvd., Newport, RI 02840

Owner same Address same

Lessee N/A Address N/A

Property Characteristics

Dimensions of lot-frontage 157' 8" depth 132' area 19,708 sq. ft.+/-

Zoning District in which premises is located R-10

How long have you owned above premises? approximately 6 years

Are there buildings on the premises at present? yes

Total square footage of the footprint of existing buildings Approx. 4,720.5 sq. ft.

Total square footage of the footprint of proposed buildings Approx. 4,925.5 square feet

Present use of premises guest house and two dwelling units

Proposed use of premises no change

Give extent of proposed alterations: Remove west side three-story exit stairway, landings, and upper level deck, and rebuild with new three-story exit stairway, landings and upper level deck, as shown on plans.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft.)	19,708+/-	10,000	No change
Lot Coverage	23.9%	20%	24.9%
Dwelling Units	2 ¹	2 by right	No change
Parking (# of spaces)	16	8	No change
Front Setback	30' 6"	15'	No change
Side Setbacks	2' 4 ¾" ' (n)/ 70' 11 1/8" (s)	10'	No change
Rear Setback	31' 7"	20'	24' 9 ¾"
Height	30'	30' ²	No change

What provisions of the Comprehensive Land Use Plan are the applicable to this project?

Goal ED-1—To develop a robust and diverse economy, providing suitable employment opportunities for residents, and a stable tax base.

Goal ED-1, Policy ED1.5: . The City shall build upon thriving sectors to develop a more substantial year round economy.

Goal LU-1—To provide a balanced city consisting of residential, commercial and employment uses consistent with the character, environmental resources and vision of the community.

¹ Plus guest house rooms and living quarters for the owner or resident manager.

² Subject to 17.04.050(D). Deck railings and roofing over stairways to comply with fire code are not subject to height limitations in the Zoning Code.

What special conditions and circumstances exist which are peculiar to the land, structure or building involved, which are not applicable to other lands, structures or buildings in the same district?

The existing three-story exit stairway, landings and deck on the back of the house are old, dilapidated, undersized and not built to code and cannot be reasonably repaired. The house and garage on the property are longstanding structures that already exceed the current maximum lot coverage allowance as built and so modest lot coverage relief is required to have adequately sized, code compliant, safe stairways, landings and decking for ingress and egress and the enjoyment of outdoor space as is common in the surrounding area and district.

Explain how the literal interpretation of the provisions of this zoning code deprive the applicant of rights commonly enjoyed by other property owners in the same district under the provisions of this zoning code?

A literal interpretation of the zoning code would prevent the Applicant from having adequately sized, safe stairways, landings and decking on the back of the house for ingress and egress and for the enjoyment of outdoor space, as is common in the area and district, because the longstanding existing structures already exceed lot coverage.

Explain why this is the minimum variance that will make possible the reasonable use of the land, building or structure.

The reasonable use of the property requires adequately sized, safe stairways, landings and decking for ingress and egress and for the enjoyment of outdoor space as is common in the surrounding area and district. The modified stairways, landings and decking will meet all setback requirements and there will be only a small increase in lot coverage. The new proposed stairways, landings and decking are reasonably sized for their intended purpose. Thus, the requested variance is the least relief necessary. Also, for the above reasons, the variance would not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based. The hardship is due to the unique characteristics of the subject land or structure, as described above, and not to the general characteristics of the surrounding area; and is not due to a physical or economic

disability of the applicant. The hardship is not the result of any prior action of the applicant as it did not build the current structures on the property or plat the lot, and does not result primarily from the desire of the applicant to realize greater financial gain, but is for the reasons stated above. Without the requested variance the Applicant would suffer a hardship amounting to more than a mere inconvenience because it will not have adequately sized, safe stairways, landings and decking for ingress and egress and for the enjoyment of outdoor space as is common in the area and district.

Dimensional variances³⁴

In granting a variance, the zoning board of review shall require that evidence to the satisfaction of the following standards is entered into the record of the proceedings:

1. That the relief to be granted is the least relief necessary.
2. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
3. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in GLRI §45-34-30(a)(16); and
4. That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

³ The Applicant has filed this application for both a special use permit and a variance to be consistent with current practice; however, the Applicant reserves the right to object to the requirement of a dimensional variance pursuant to the Rhode Island Supreme Court decision in Lloyd v. Zoning Board of Review of the City of Newport et al, 62 A.3d 1073 (R.I. 2013).

⁴ No dimensional variance is required for the proposed deck on top of the existing flat roof because it is all within existing footprint. However, to the extent required, the issuance of a special use permit is appropriate for that deck because it essentially is a relocation of an existing upper level deck to a location that is more sensible, the proposed deck is modestly sized, will not impact any surrounding properties, and makes use of the existing flat roof space in a way that is in harmony with the surrounding area.

The zoning board of review shall, in addition to the above standards, require that evidence is entered into the record of the proceedings showing that:

b. In granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief. The zoning board of review shall have the power to grant dimensional variances where the use is permitted by a special use permit.

Special Use Permits

Special use permits shall be granted only where the zoning board of review finds that the proposed use or the proposed extension or alteration of an existing use is in accord with the public convenience and welfare, after taking into account, where appropriate:

1. The nature of the proposed site, including its size and shape and the proposed size, shape and arrangement of the structure;
2. The resulting traffic patterns and adequacy of proposed off-street parking and loading;
3. The nature of the surrounding area and the extent to which the proposed use or feature will be in harmony with the surrounding area;
4. The proximity of dwellings, churches, schools, public buildings and other places of public gathering;
5. The fire hazard resulting from the nature of the proposed buildings and uses and the proximity of existing buildings and uses;
6. All standards contained in this zoning code;
7. The comprehensive plan for the city.

The burden of proof in a special-use permit application is on the applicant. This means that if the applicant fails to present adequate competent evidence to prove the applicable standard for issuing a special-use permit has been met, the board must deny the application.

By signing below, I hereby attest that the information provided is accurate and truthful. I also attest that I have read the section entitled "The Zoning Board's Role."

Bayberry Inn Newport, LLC,

Bayberry Inn Newport, LLC,

By its attorney,

By its attorney,



Applicant's Signature



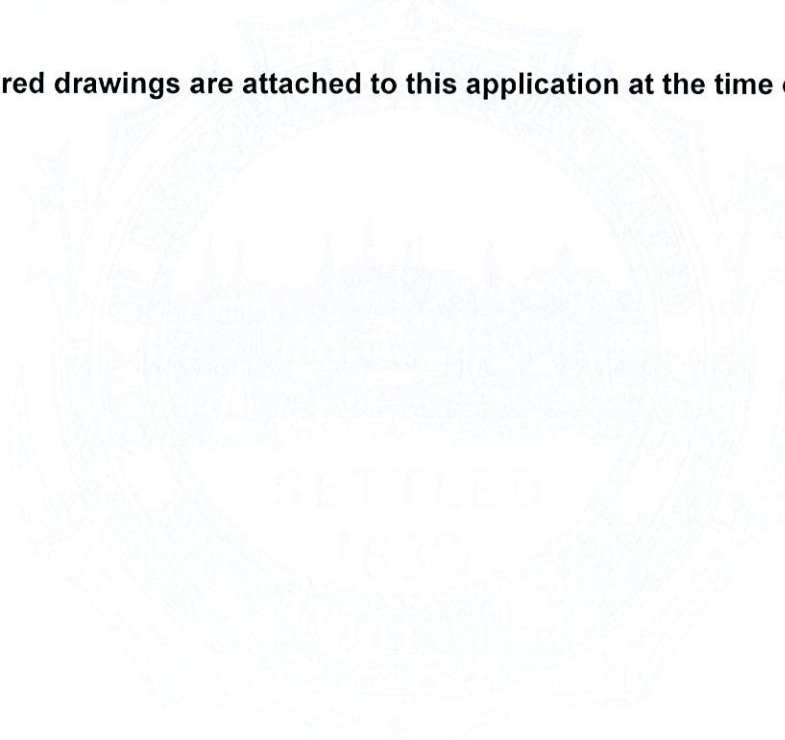
Owner's Signature

(401) 847-0872
Telephone Number

(401) 847-0872
Telephone Number

Email address: mleys@cphnpt.com

Be sure all required drawings are attached to this application at the time of the submittal.



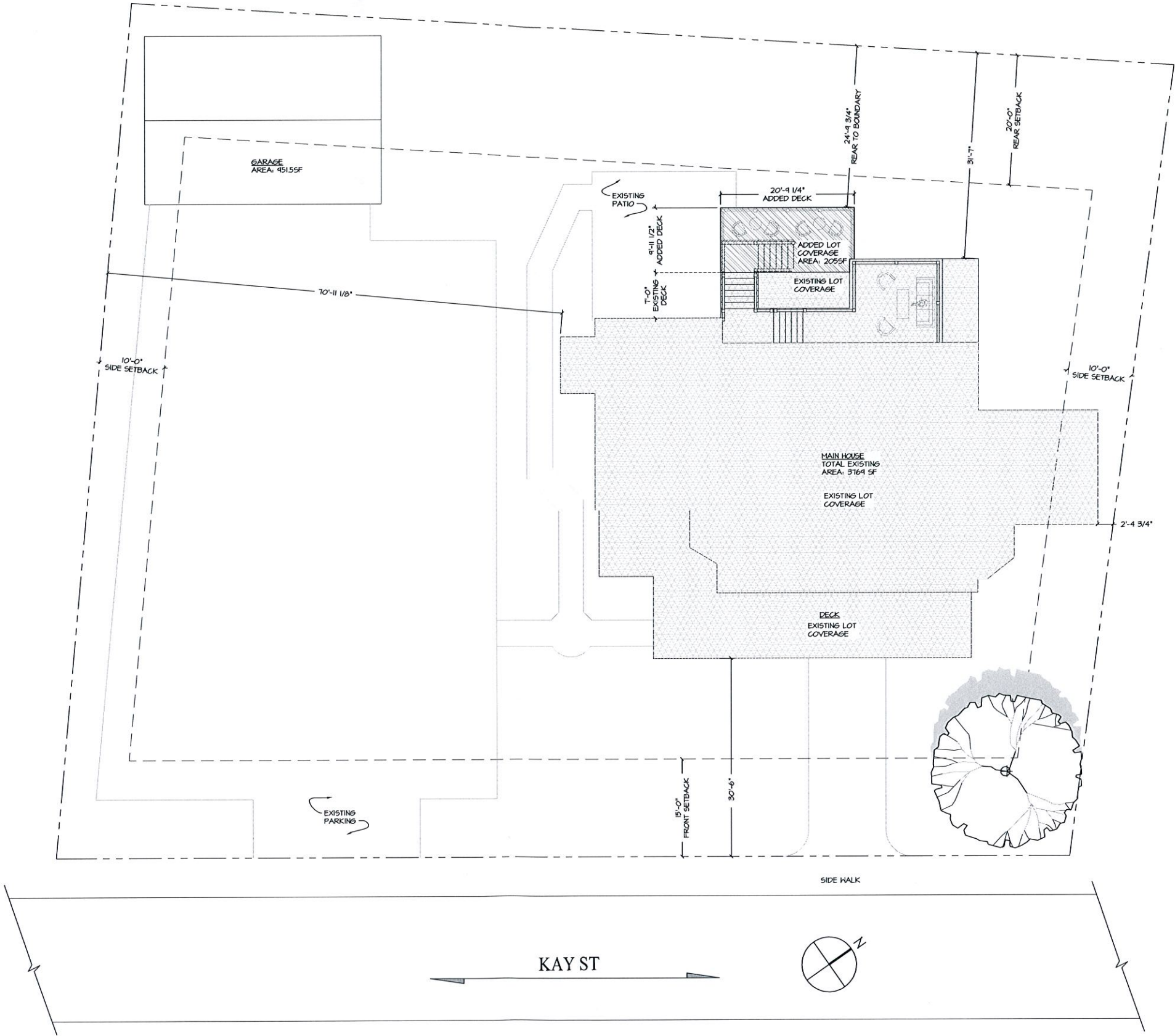
20 KAY STREET - EXISTING IMAGES



VIEWS FROM WEST SIDE YARD

NOTE:
SITE PLAN PROVIDED IS FOR
ARCHITECTURAL PURPOSES ONLY, AND IS
BASED ON FIELD MEASUREMENTS, DATA
ACQUIRED FROM TOWN PLAT MAPS, AND
TAX ASSESSOR'S OFFICE.

20 KAY ST ZONING ANALYSIS PLAT 21, LOT 121	
ZONING DISTRICT	R-10
EXISTING FOOTPRINT	4,720.5 SF
PROPOSED FOOTPRINT	4,925.5 SF
LOT SIZE	
EXISTING (PER TAX ASSESS)	19,108 SF
REQUIRED	10,000 SF
PROPOSED	NO CHANGE
LOT COVERAGE %	
EXISTING W/ GARAGE	23.9% (4,720.5 SF)
ALLOWED	20.0% (3,941.6 SF)
PROPOSED	24.9% (4,925.5 SF)
FRONT (EAST) SETBACK	
EXISTING	30'-6"
REQUIRED	15'-0"
PROPOSED	NO CHANGE
LEFT SIDE (SOUTH) SETBACK	
EXISTING	70'-11 1/8"
REQUIRED	10'-0"
PROPOSED	NO CHANGE
RIGHT SIDE (NORTH) SETBACK	
EXISTING	2'-4 3/4"
REQUIRED	10'-0"
PROPOSED	NO CHANGE
REAR (WEST) SETBACK	
EXISTING	31'-7"
REQUIRED	20'-0"
PROPOSED	24'-4 3/4"
HEIGHT	
EXISTING	30'-0"
ALLOWED	30'-0"
PROPOSED	NO CHANGE

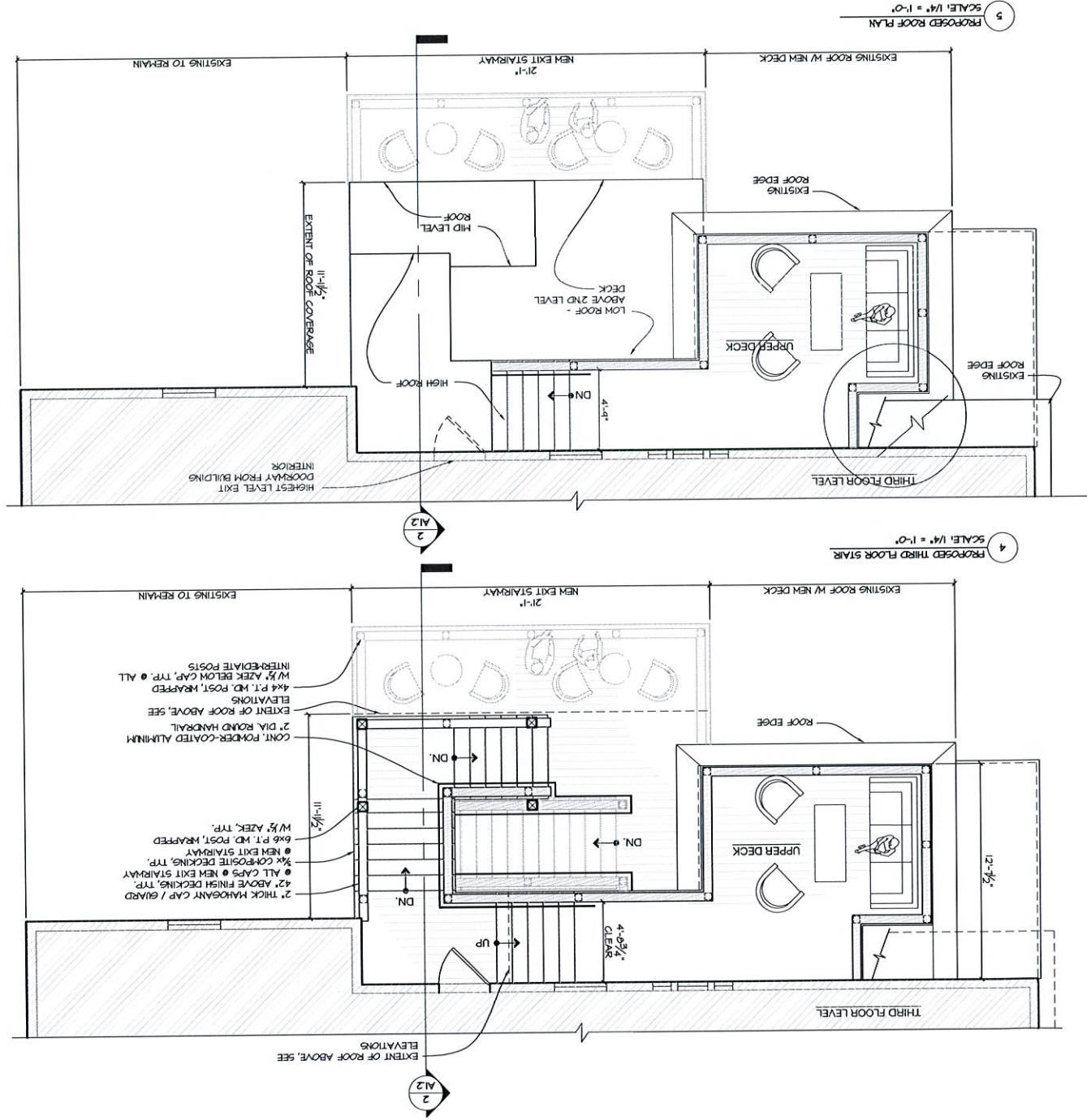


STAIR ADDITION AT THE BAYBERRY

20 KAY STREET, NEWPORT, RI

REVISIONS
STATUS
FOR HDC REVIEW
DATE 9-20-2021
DESCRIPTION PROPOSED SITE PLAN
DRAWING #

SITE



SCALE
AS NOTED

STAIR ADDITION AT THE BAYBERRY
20 KAY STREET, NEWPORT, RI

REVISIONS

STATUS

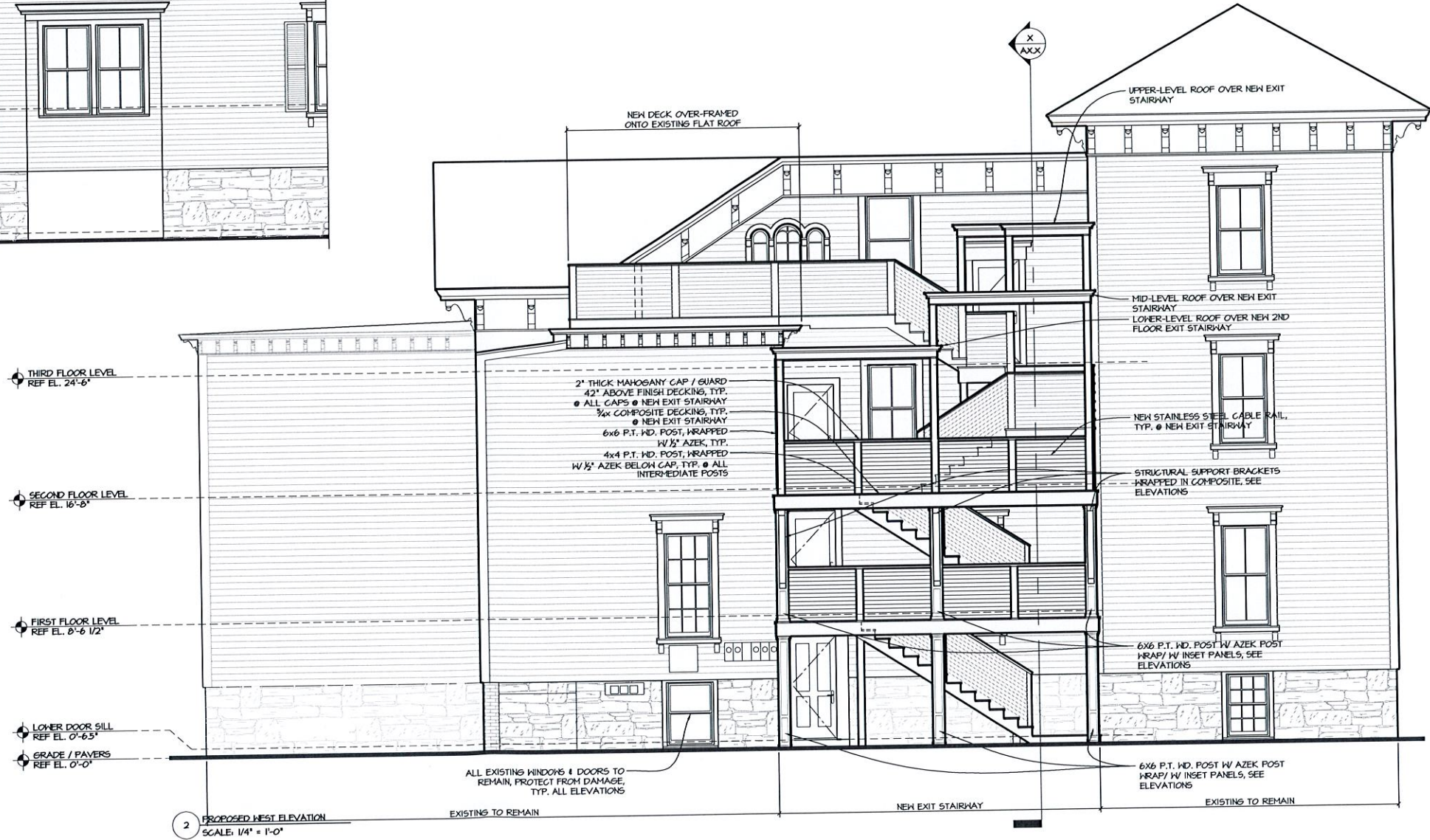
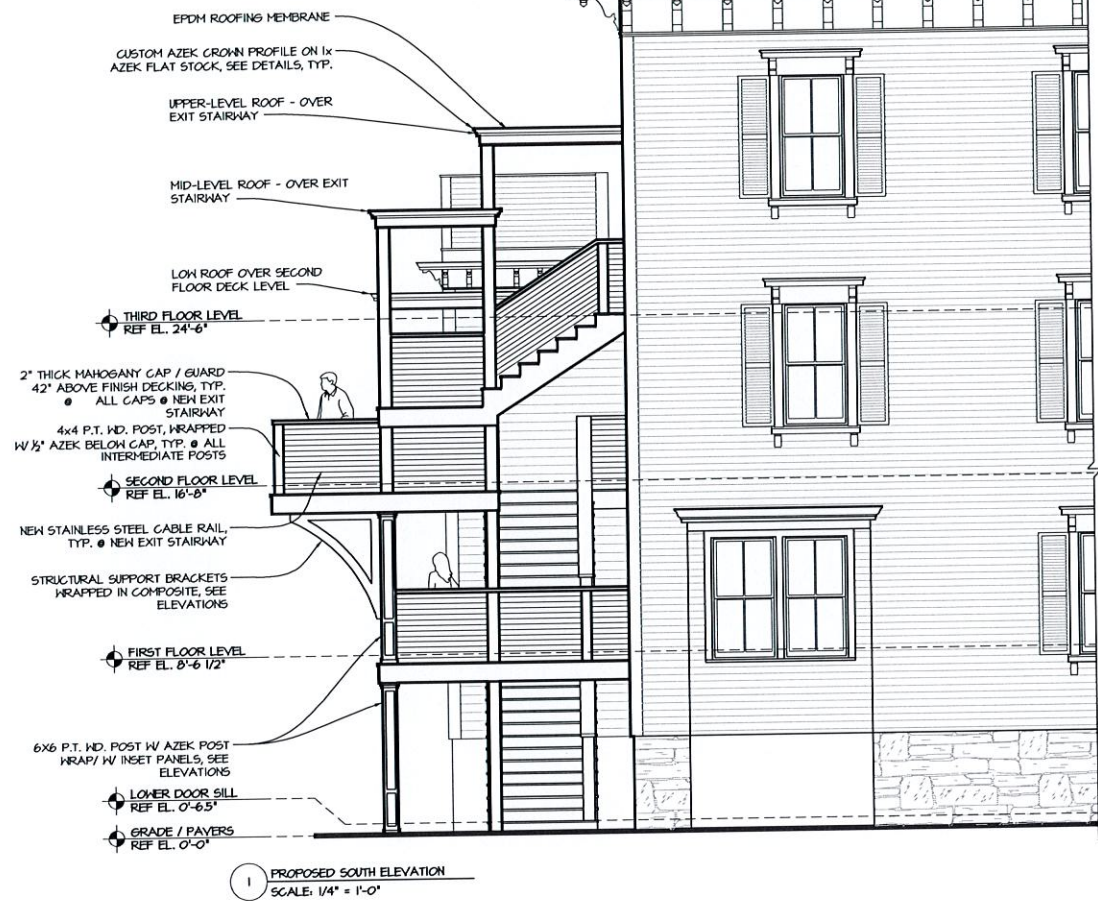
FOR HDC
REVIEW

DATE
9-20-2021

DESCRIPTION
PROPOSED
ELEVATIONS

DRAWING #

A1.1



SCALE
AS NOTED

STAIR ADDITION AT THE BAYBERRY
 20 KAY STREET, NEWPORT, RI

REVISIONS

STATUS

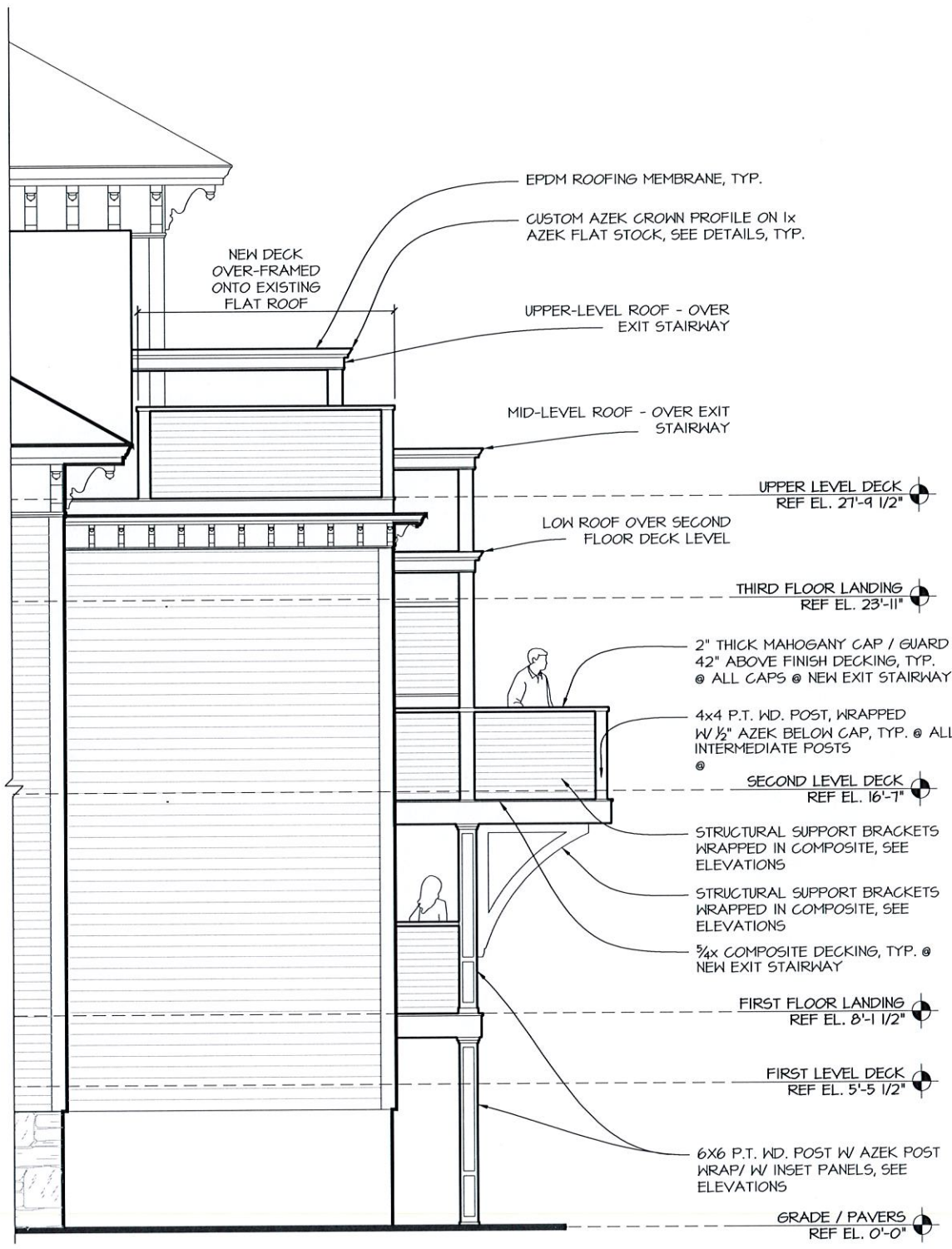
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REVIEW

DATE
9-20-2021

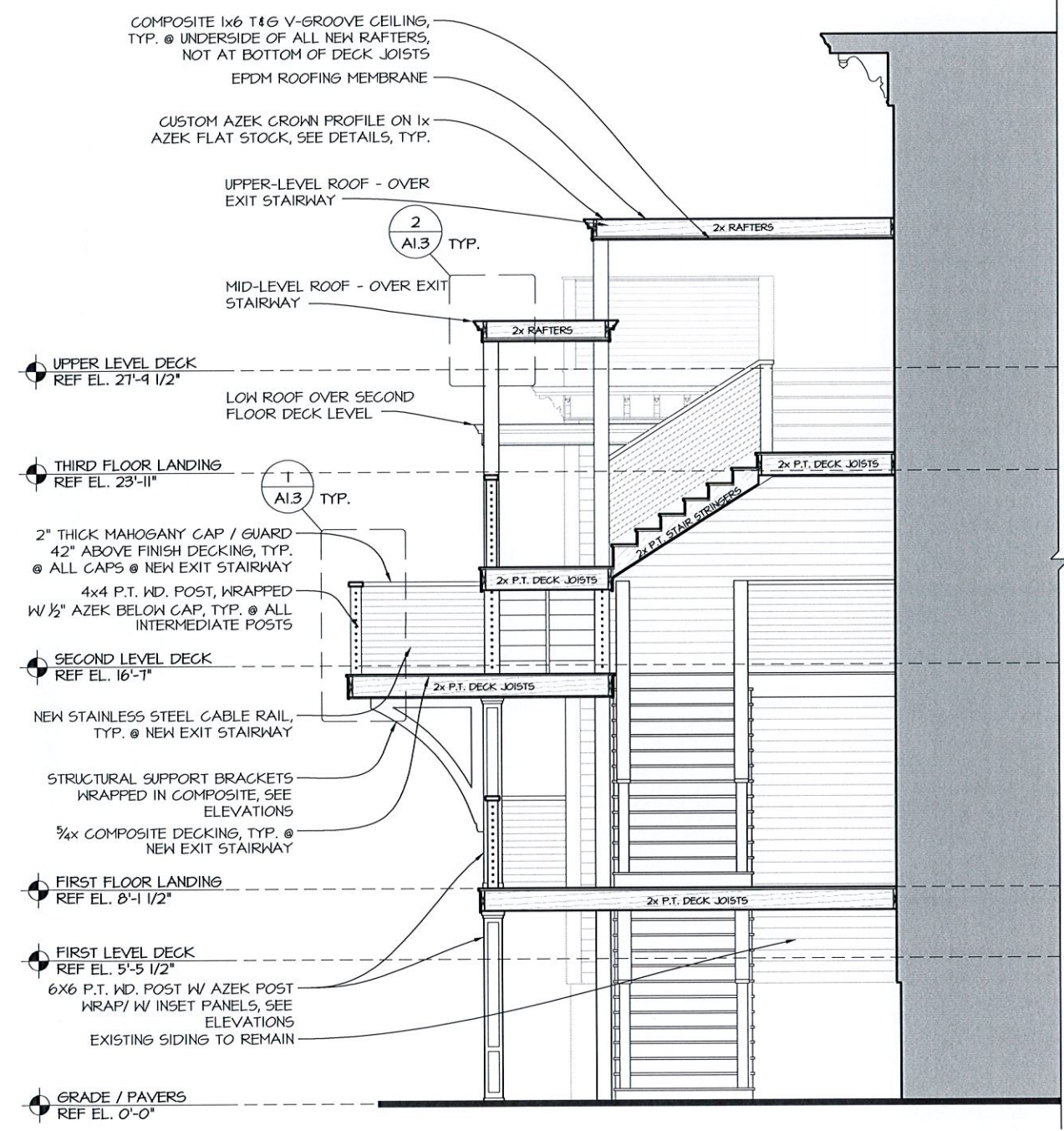
DESCRIPTION
SECTION &
DETAILS

DRAWING #

A1.2



1 PROPOSED NORTH ELEVATION
SCALE: 1/4" = 1'-0"



2 PROPOSED BUILDING SECTION
SCALE: 1/4" = 1'-0"