#### **AGENDA**

# **CITY OF BERKELEY LAKE**

# PLANNING & ZONING COMMISSION MEETING

#### September 13, 2022 at 7:15 PM

4040 South Berkeley Lake Road Berkeley Lake, GA 30096

- I. CALL TO ORDER
- II. APPROVAL OF OR CHANGES TO THE AGENDA
- III. APPROVAL OF MINUTES
  - 1. August 9, 2022
- IV. OLD BUSINESS
- V. NEW BUSINESS
  - 1. PZV-22-03, 3945 N. Berkeley Lake Rd., Owners Malissa Hunter and Eric Wilson request relief from Section 78-141 to alter and expand a non-conforming structure and from Section 78-197 (7) to reduce the side setback to 7 feet for a second story addition.

#### **CITIZEN COMMENTS**

- VI. DISCUSSION SESSION
- VII. ADJOURNMENT

# CITY OF BERKELEY LAKE 4040 SOUTH BERKELEY LAKE ROAD BERKELEY LAKE, GEORGIA 30096

# **PLANNING & ZONING COMMISSION MEETING**

DRAFT MINUTES August 9, 2022 7:15 PM

Those in attendance at the meeting were as follows:

Commission Members: Dan Huntington, Chair

Rand Kirkus Robin Sansone

City Administrator: Leigh Threadgill

Citizens Present: 2

#### I. CALL TO ORDER

Huntington called the meeting to order at 7:19 PM. A quorum was present. City Administrator Leigh Threadgill was also present.

#### II. APPROVAL OF OR CHANGES TO THE AGENDA

Huntington asked if there were any suggested changes to the agenda.

Sansone moved to approve the agenda as submitted. Kirkus seconded and all voted to approve the agenda.

#### III. MINUTES

1. Minutes of July 12, 2022

Sansone moved to approve the minutes of the July 12<sup>th</sup> meeting. Kirkus seconded and all voted to approve the minutes.

#### **IV. OLD BUSINESS**

 PZV-22-02, 156 Bayway Circle, Applicant Kathy Sanders requests relief from Sections 78-141 of the zoning ordinance to alter and expand the roof of a non-conforming boathouse.

Huntington introduced the application as a continuance from the last meeting due to a desire to further review the impact from the adjacent property owner's premises. Prior to that, the

only perspective had been from the lake. Huntington noted that he had pictures from his site visit to the adjacent property and reviewed those with the commission.

Huntington indicated that in the month since the last meeting, he has further reflected on this. He stated that normally when someone has a variance request for a side setback encroachment it is a big deal. The more you encroach into the side setback, normally the commission will condition approval to limit the height.

In this case, the boathouse is on the property line, and it is completely enclosed. To approve this variance is counter to anything he has ever seen approved in his years on the commission. If approve, how could future requests be denied.

Huntington asked if the applicant had anything to offer as a compromise.

Kathy Sanders, 156 Bayway Circle, asked if it would be a compromise for the part of the boathouse roof that gets extended to be left open, which is about 18 inches. There was further discussion.

Sansone stated that the boathouse is visible from the Kitchens' patio based on the pictures Huntington brought to the meeting.

There was further discussion.

Huntington stated that if the commission denies the variance, the applicant could appeal the decision to the city council.

Sansone stated that the proposal would add value to the property, but it is already non-conforming, and she mentioned that the commission has to find a hardship in order to grant a variance. Huntington concurred and noted that the city council typically takes the hardship requirement very seriously. There was further discussion.

Huntington asked Ginny Nevins, 116 Lakeshore Drive, about what would happen from a real estate standpoint if the boathouse was opened.

Nevins indicated that the boat wouldn't be protected. She went on to say that she always thought that if the neighbor was in favor, then it would be approved. She noted other situations around the lake where boathouse setbacks aren't met.

Nevins stated that an enclosed boathouse is better from a real estate value standpoint.

There was further discussion.

Sanders noted that the advantage too is the pollen in the spring with regard to having an enclosed boathouse and noted that she would have to do some housekeeping on the existing structure.

There was further discussion about property maintenance.

There was discussion regarding the voting rules.

Sansone moved to deny the application. Huntington seconded the motion. Huntington and Sansone voted in favor of denying. Kirkus voted in opposition of denying the application. The application failed for lack of three votes to approve.

#### **V. NEW BUSINESS**

There was no new business.

#### **VI. CITIZEN COMMENTS**

There were no citizen comments.

#### VII. DISCUSSION

There was no further discussion.

#### **VIII. ADJOURNMENT**

There being no further business, Kirkus moved to adjourn. Sansone seconded the motion. All voted in favor and Huntington adjourned the meeting at 7:40 PM.

Respectfully submitted,

Leigh Threadgill
City Administrator

City of Berkeley Lake Staff Analysis

CASE NUMBER: PZV-22-03, 3945 NORTH BERKELEY LAKE RD.

RELIEF REQUESTED: EXPAND NON-CONFORMING STRUCTURE AND

REDUCE SIDE SETBACK TO APPROXIMATELY 7 FEET

FOR SECOND STORY ADDITION

EXISTING ZONING: R-100, RESIDENTIAL

PROPOSED USE: SINGLE FAMILY RESIDENCE

APPLICANT: KENNETH ELLSWORTH

1631 S GORDON STREET ATLANTA, GA 30096

OWNERS: MALISSA HUNTER AND ERIC WILSON

3945 N. BERKELEY LAKE RD. BERKELEY LAKE, GA 30096

MEETING DATE: SEPTEMBER 13, 2022 P&Z COMMISSION

#### PROPOSED PROJECT:

The applicant proposes to expand the existing non-conforming house located at 3945 North Berkeley Lake Road. Plans submitted with the variance application indicate a 1,956-square-foot first floor addition and a 3,411-square-foot second floor addition. The existing house has a 2,779-square-foot footprint (2,126 heated square feet) and the proposed house will have a 4,735-square-foot footprint (7,129 heated square feet). The horizontal addition is compliant with zoning standards. However, the vertical addition of the second floor is proposed to have the same side setback encroachment of the existing house, approximately 5.5 feet.

# FINDINGS OF FACT:

- 1.) The existing house is located at 3945 North Berkeley Lake Road on a 0.99-acre lot.
- 2.) It was originally built in 1970 according to Gwinnett County property records.
- 3.) In 2004, a variance and building permit were issued for the construction of a 2-story accessory building in the front yard. According to the certificate of completion, the total building footprint is 936 square feet (1,226 heated square feet).
- 4.) The house currently sits too close to the south side property line, with a side setback of 7 feet as opposed to the required 12.5 feet.
- 5.) As proposed, the new addition to the north side of the house will comply with all setback requirements. The second story addition, however, will encroach 5.5 feet into the side setback line to keep the same setback as the existing house.
- 6.) The expanded house will meet the 15% building coverage and 30% lot coverage standards with actual coverage percentages of 15% and 25.7% (27.8% if existing concrete is not replaced with approved pervious pavers).

- 7.) Sec. 78-141 requires a variance to be issued for an extension or enlargement of a non-conforming structure.
- 8.) In addition, the new second story addition requires a variance to Sec. 78-197 (7) to encroach 5.5 feet into the required side yard setback of 12.5 feet for a setback of 7 feet, as measured to the roof overhang.
- 9.) Properties to the north and south are zoned R-100 and the location of single-family residences. Lake Berkeley is adjacent to the east and the right-of-way of North Berkeley Lake Road is adjacent to the west.

#### STANDARDS FOR APPROVAL:

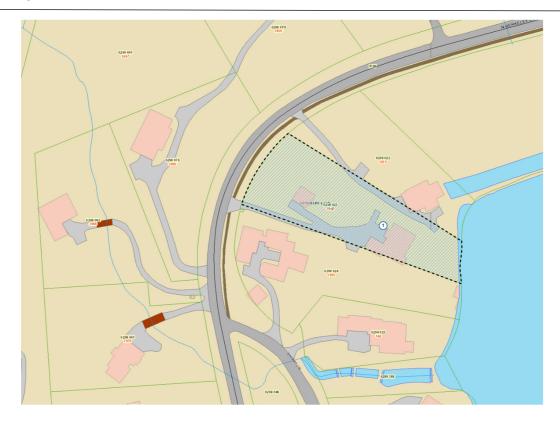
In considering whether to grant or deny this variance request, the commission must evaluate the application based on the criteria specified in Section 78-366 (a)(1) of the zoning ordinance:

- a) Applications for variances.
  - (1) All applications for variances shall be submitted initially, in writing, to the planning and zoning commission of the city, which shall consider these requests at its next called meeting. The planning and zoning commission may authorize such variance from the terms of this zoning chapter as will not be contrary to the public interest. The spirit of this chapter shall be observed, the public safety, health and welfare secured and substantial justice done. At the hearing, any party may appear in person or have authorized representation. Such variances may be granted in individual cases if the planning and zoning commission finds that:
    - a. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography; and
    - b. The application of this chapter to this particular piece of property would create an unnecessary hardship; and
    - c. Such conditions are peculiar to the particular piece of property involved; and
    - d. Such conditions are not the result of any actions of the property owner; and
    - e. Relief, if granted, would not cause substantial detriment to the public nor impair the purposes or intent of this chapter; and
    - f. The variance is granted for a use of land or building or structure that is not prohibited by this chapter.

#### SITE PHOTOS



# **LOCATION MAP**



# AERIAL PHOTOS





# **Application for Variance**

For Office Use Only
Application #: V/AVV-22-03
Check #: Credit Cash:
Date Paid: 8/9/2022
P&Z hearing date: 9/13/2022
Action:
Appeal filed:
Council hearing date:
Account 100.34.1390.2
Variance App <u>§ 450.00</u>

# **Part 1: Applicant Information**

APPLICANT IS: ☐ Owner	☑ Agent	☐ Attorney		
NAME Kenneth Ellsworth		D/	ATE 08-08-2022	
MAILING ADDRESS 1631 S Gordon				
CITY Atlanta	STATE GA		ZIP 30310	
TELEHONE 678-592-9676				
E-MAIL kenny@studiosogo.com				
Part 2: Property Owner Information Name(S) Malissa Hunter, Eric Wil				
MAILING ADDRESS 3945 N Berkele				
CITY Duluth			ZIP 30096	
TELEPHONE 404-732-3961				
E-MAIL eric@theretnuhagency.co				
Part 3: Property and Use Inforr				
PROPERTY ADDRESS 3945 N Berke	ley Lake Rd	PARCEL ID		
PARCEL SIZE		ZONING _		
EXISTING USE Single Family Resid	lential			
I am requesting relief from code	section <u>78-197 (7)</u>	fo	r the purpose of:	
Addition of a second floor of the request a variance to recompliance. Because the page 1997	educe the side setb	ack to 8.7' to match	the existing non-	j'.

noncompliance is 68 sf.

NOTICE: The granting of a Variance does not affect any requirement for a Building Permit for proposed construction.

# The following supplemental documentation must be submitted with this application:

- ☑ Letter of Intent describing the proposed construction, development or improvements.
- ☑ Site Plan showing all existing and proposed improvements on the property.
- ☑ Survey of the property

**REV 201609** Page 1 of 2

# Variance Application: Part 3: Property and Use Information (continued)

Applicant: Please provide written responses to the following items in order to support the request. Attach a separate sheet if necessary:

	non-conforming structure, explain v		ography of the subject property; OR if this riance would result in an increase in the non-
The granting of this variance building within the side setbace		n-conformity. There is r	no proposed change to the footprint of the
2) Explain how the application of	the ordinance to the subject proper	ty would create an unn	ecessary hardship.
The non-conformity is due to	existing construction.		
3) Explain how the conditions are pe	eculiar or unique to the subject property.		
The property line is at an ang non-conformity at the rear co		n the setback at the fron	nt building line. The angle creates the
4) Are the conditions requiring a var	iance the result of any actions of the prop	perty owner? If YES, expl	ain.
No, the conditions are existi	ng now.		
5) What, if any, detriment to the pub	lic or impairment to the purposes of the c	ordinance would result if th	ne variance were granted.
There will be no public det	iment.		
6) Is the proposed use of land, build	ing or structure permitted by the zoning o	ordinance?	
Yes, the land and building	use is permitted by zoning.		
information provided here, a Variance, to the best of my considered just cause for invait is my/our responsibility to be required and that failure to	bove and contained in all mate knowledge is true, complete an alidation of this application and a conform to all City of Berkeley La o do so will result in enforcement	rial I submit for the nd accurate, and I u ny action taken as a ake ordinances in full	renced property. I do hereby affirm that the purposes of supporting my request for a understand that any inaccuracies may be result of this application. I understand that and obtain any additional permits as may City.
Applicant's Signature	20 7\$LD	Date	08-08-2022

REV 201609 Page 2 of 2

Owner's Signature

08-08-2022

Date



# Variance Application Authorization of Property Owner

This form is to be used when the applicant is someone other than the property owner.

This form may be completed in Adobe Acrobat Reader and printed for signature or it may be printed and completed in handwriting.

	or it may be printed and completed in handwriting.
Part 1: Applicant Information	on

Name	Kenneth Ellsworth		
Mailing Address	1631 S Gordon St SW		
City Atlanta		State GA	ZIP 30310
Telephone 678-5	92-9676	Mobile	
Part 2: Property	Owner Information		
Name (s)	Eric Wilson, Malissa Hunter		
Mailing Address	3945 N Berkeley Lake Rd		
City Duluth		State GA	ZIP 30096
Telephone 404-7	32-3961	Mobile	
Property address of I hereby certify that Lake, Gwinnett Cour of a variance for that	I am the owner of the propenty, Georgia, and I authorize	erkeley Lake Rd erty identified in Part 3 of this do the applicant named above to	ocument, in the City of Berkeley act as the applicant in the pursu
Signature of Owner		Print Name of Owner	Ric Wilson
Personally appeared before	ore me this day	of AUGUST, 2	0_22_
Notary Public		* Notary  Public  Significate County  Public  Signification  Signification  Public  Public  Signification  Public  Pub	
L:\Forms\P&Z\AuthorizationOff	PropertyOwner.pdf REVISED: 4/9/2008	OF GO	



August 8, 2022

Kenneth Ellsworth 1631 S Gordon St SW Atlanta, GA 30310

Letter of Intent for 3945 N Berkeley Lake Rd

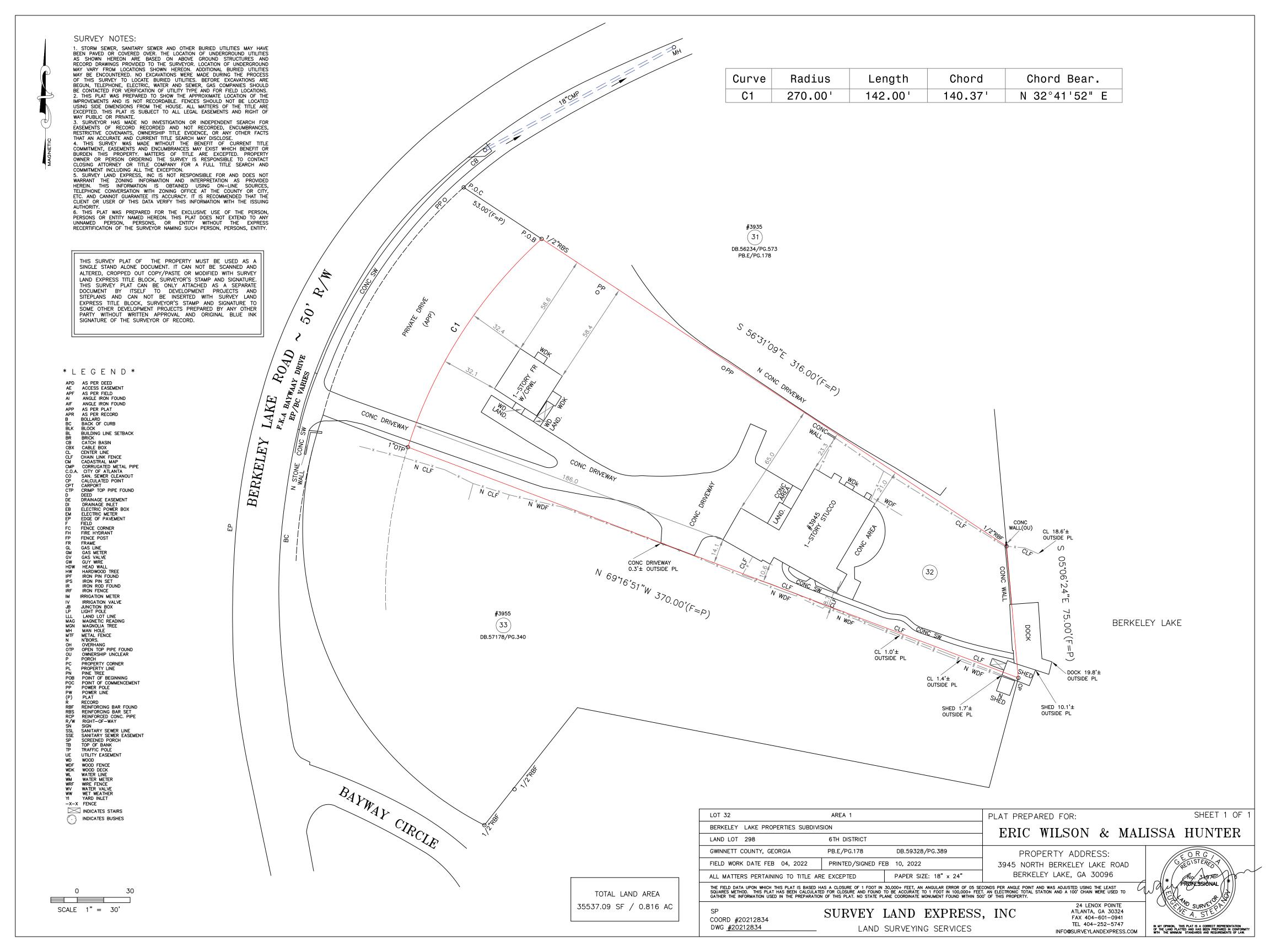
The intent of this project is to build an addition to the existing one story single family house of Malissa Hunter and Eric Wilson. The addition is both horizontal and vertical - expanding the footprint by 1,956 sf and adding a second story. The existing house is currently non-conforming to zoning (R-100) because it encroaches into the side setback by 3.8 feet. The horizontal addition does not increase the level of non-conformity. The vertical addition uses the existing exterior walls and does encroach to the same extent as the lower level.

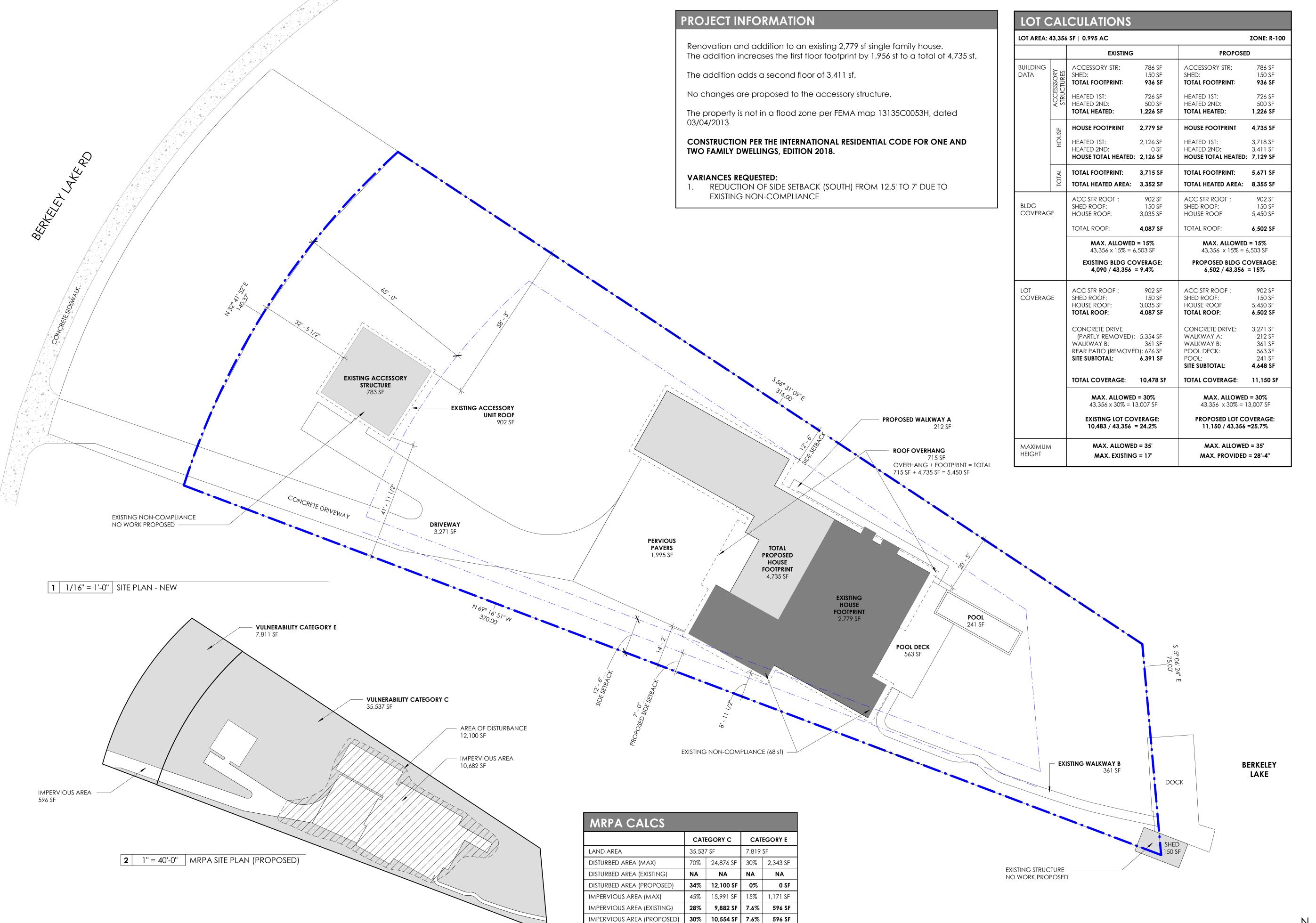
The variance request is to reduce the side yard setback to 8.7 feet to match existing conditions.

Regards,

20 7\$LD

Kenneth Ellsworth, RA Principal, Studio SOGO Architecture + Interiors









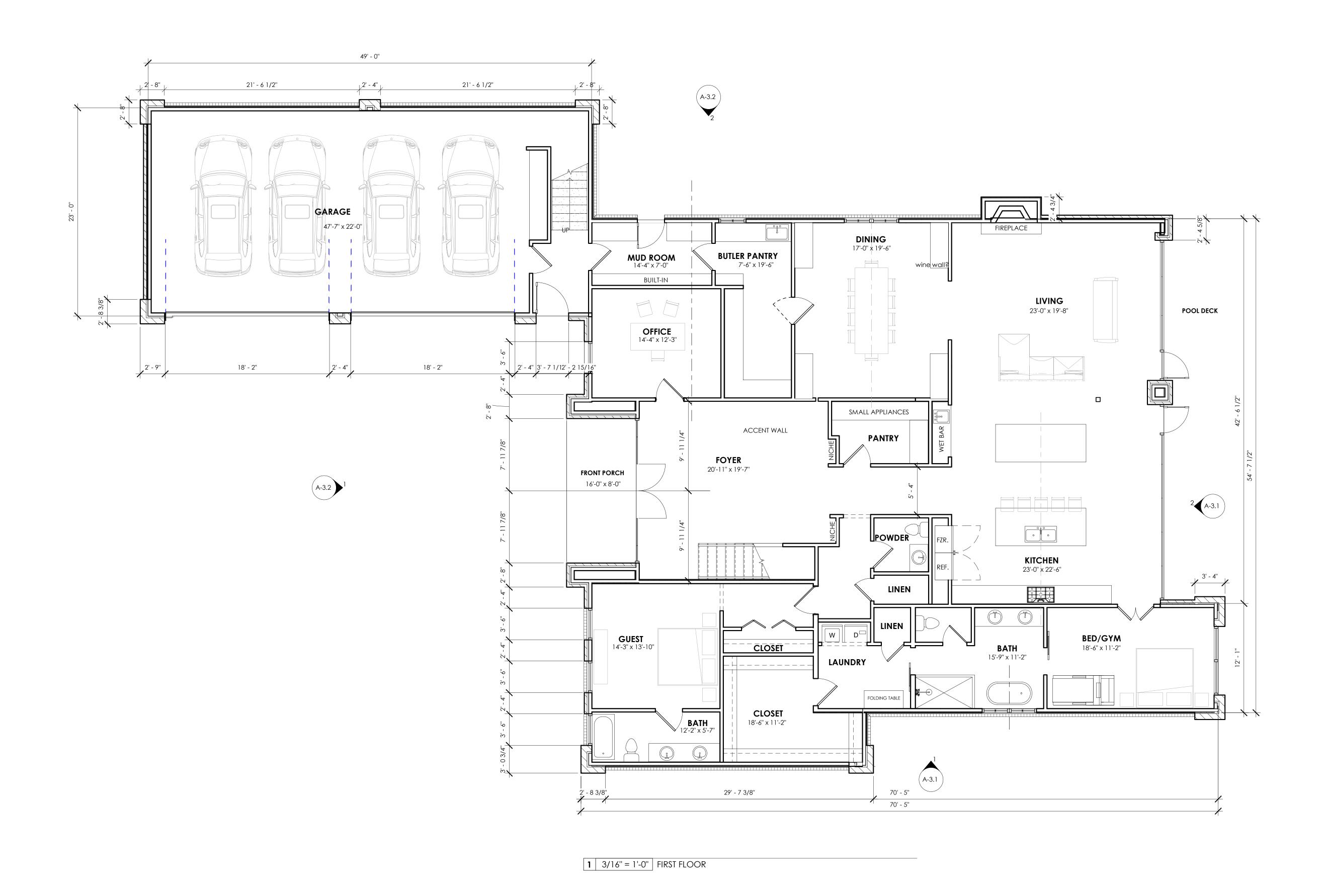
MARK DATE DESCRIPTION

Project ID	2203
Drawn By	Author
Checked By	Checker
Sheet Title	

SITE PLAN







2203 Author Drawn By Checked By Checker

Project ID

ISSUANCE SCHEDULE

REVISION SCHEDULE

MARK DATE DESCRIPTION

ATLANTA, GA TEL 678.271.8054 STUDIOSOGO.COM

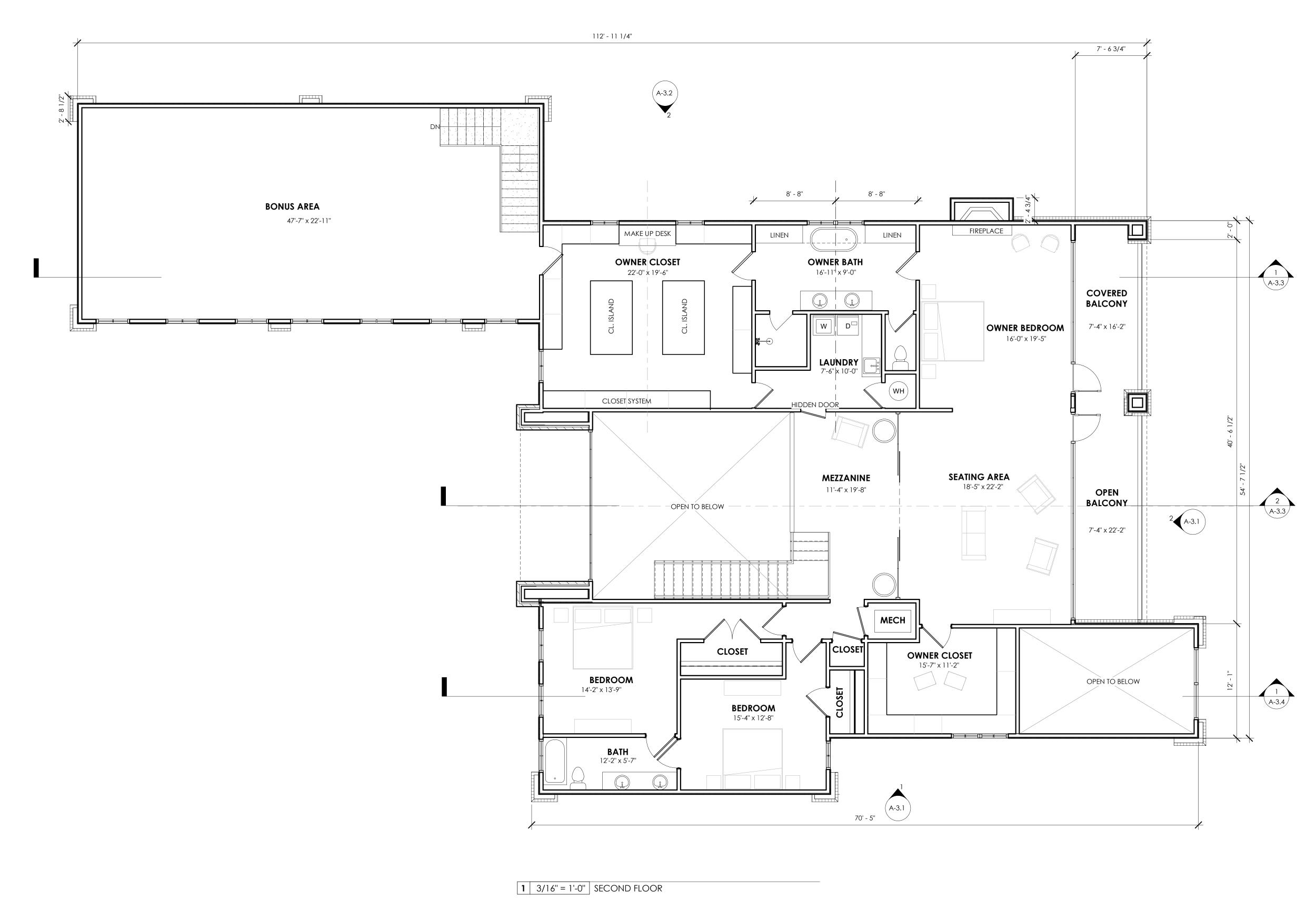
30' lap pool

RESIDENCE

FIRST FLOOR PLAN







Project ID 2203

Drawn By Author

Checked By Checker

Sheet Title

ISSUANCE SCHEDULE

REVISION SCHEDULE

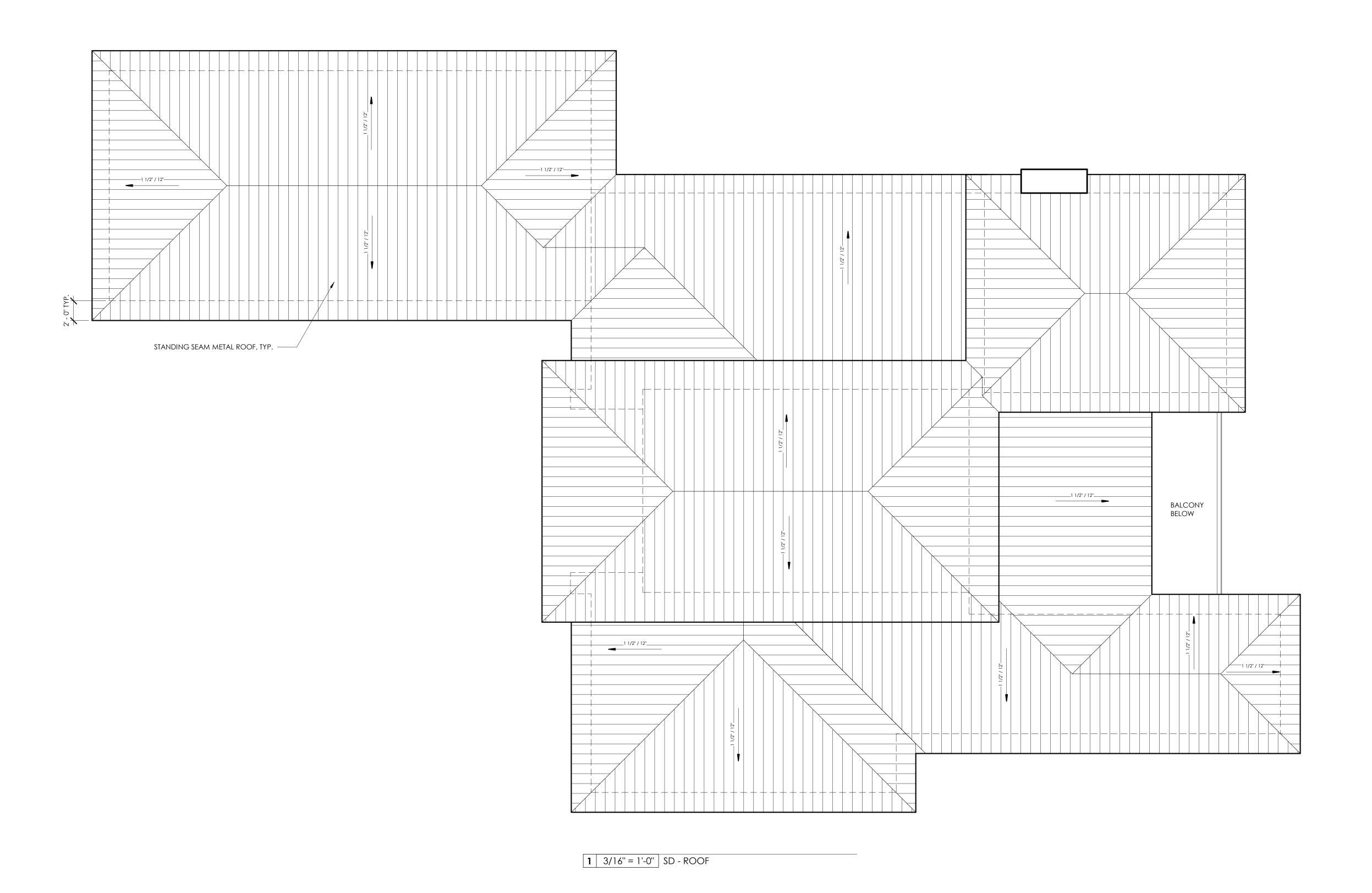
MARK DATE DESCRIPTION

RESIDENC

ATLANTA, GA TEL 678.271.8054 STUDIOSOGO.COM

SECOND FLOOR PLAN







ATLANTA, GA TEL 678.271.8054 STUDIOSOGO.COM

Project ID 2203

Drawn By Author

Checker

ROOF PLAN

Checked By

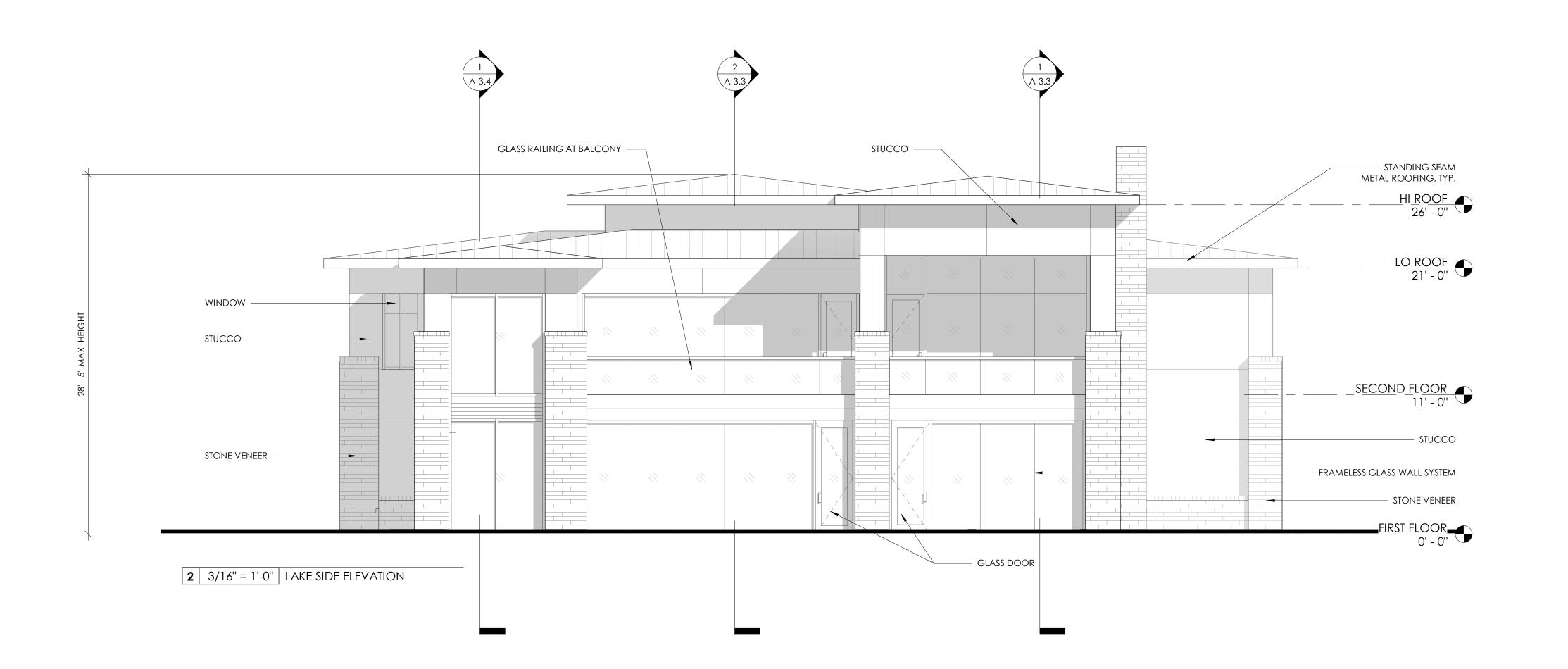


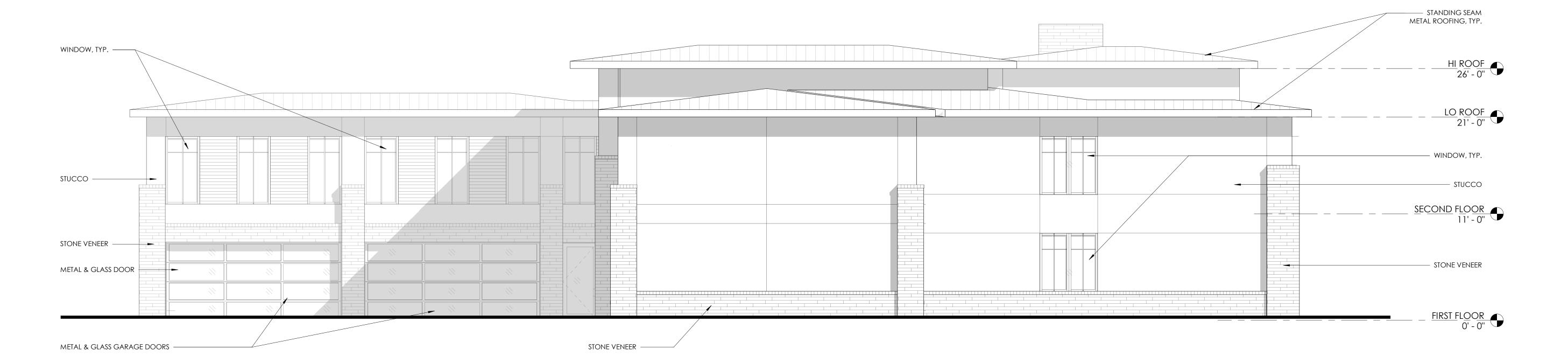
ATLANTA, GA TEL 678.271.8054 STUDIOSOGO.COM

Project ID	2203
Drawn By	Author
Checked By	Checker
Sheet Title	

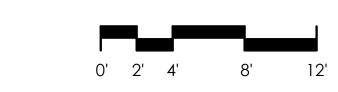
ELEVATIONS







**2** 3/16" = 1'-0" NORTH ELEVATION





ELEVATIONS

REVISION SCHEDULE

MARK DATE DESCRIPTION

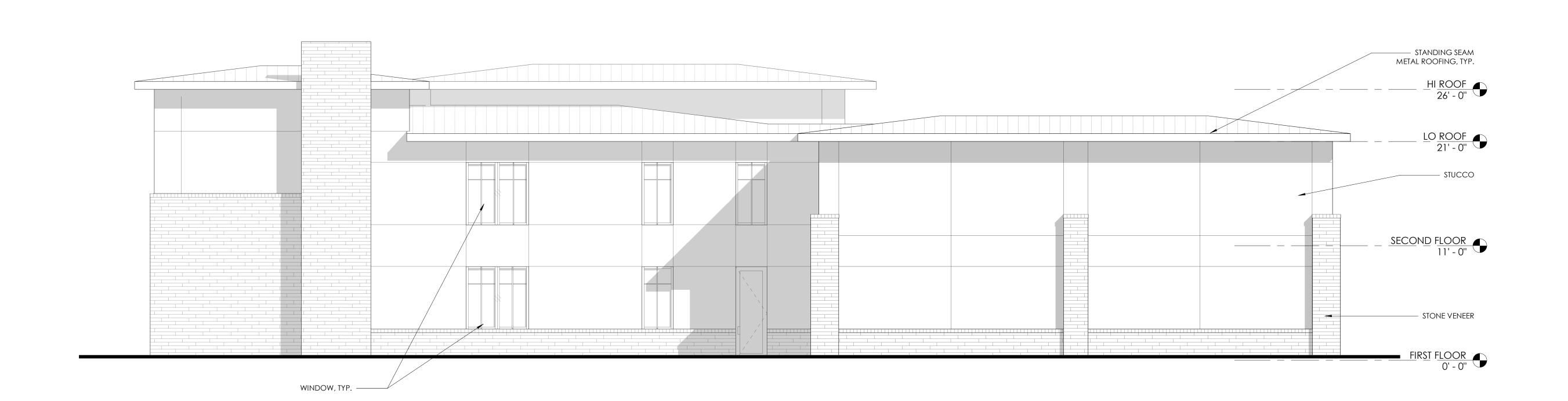
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Checked By

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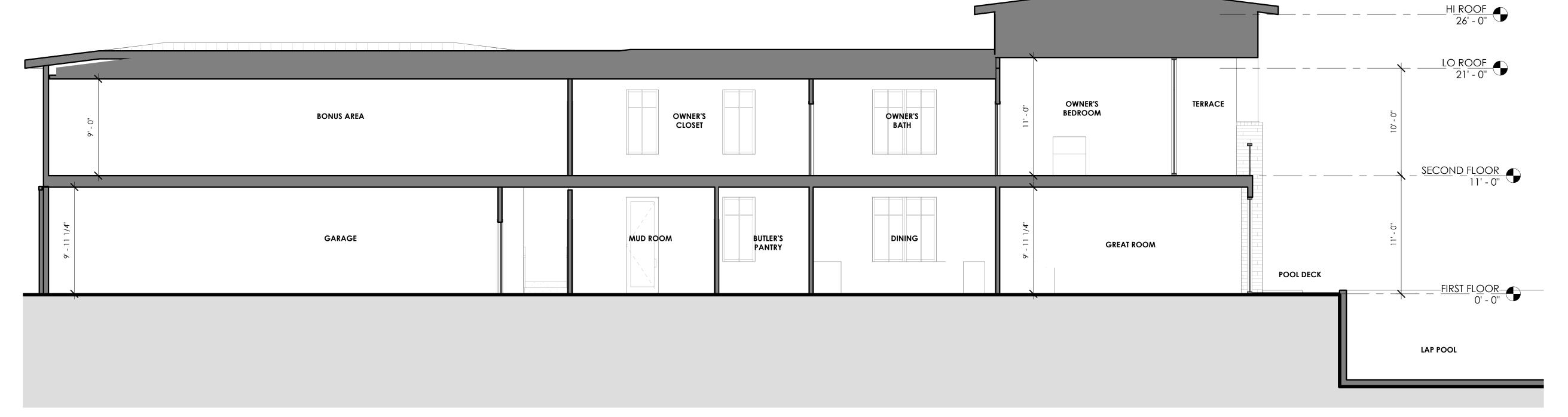
Author

Checker

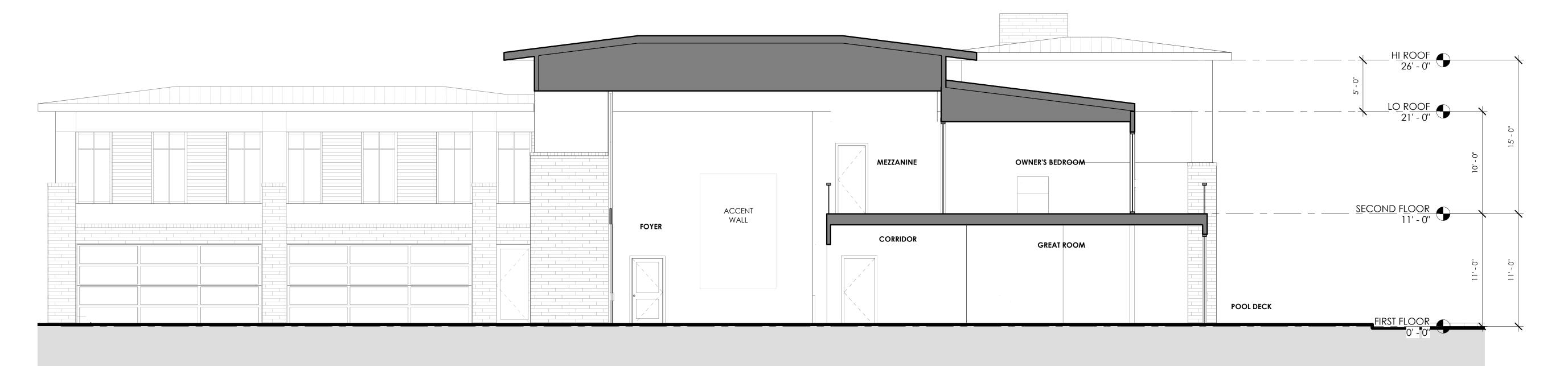








**2** 3/16" = 1'-0" SECTION 2 - FOYER





RESIDENCE HUNTER WILSON I 3945 N BERKELEY LAKE RD NW DULUTH, GA 30096

REVISION SCHEDULE

MARK DATE DESCRIPTION

SECTIONS

A-3.3

Project ID

Drawn By

Checked By

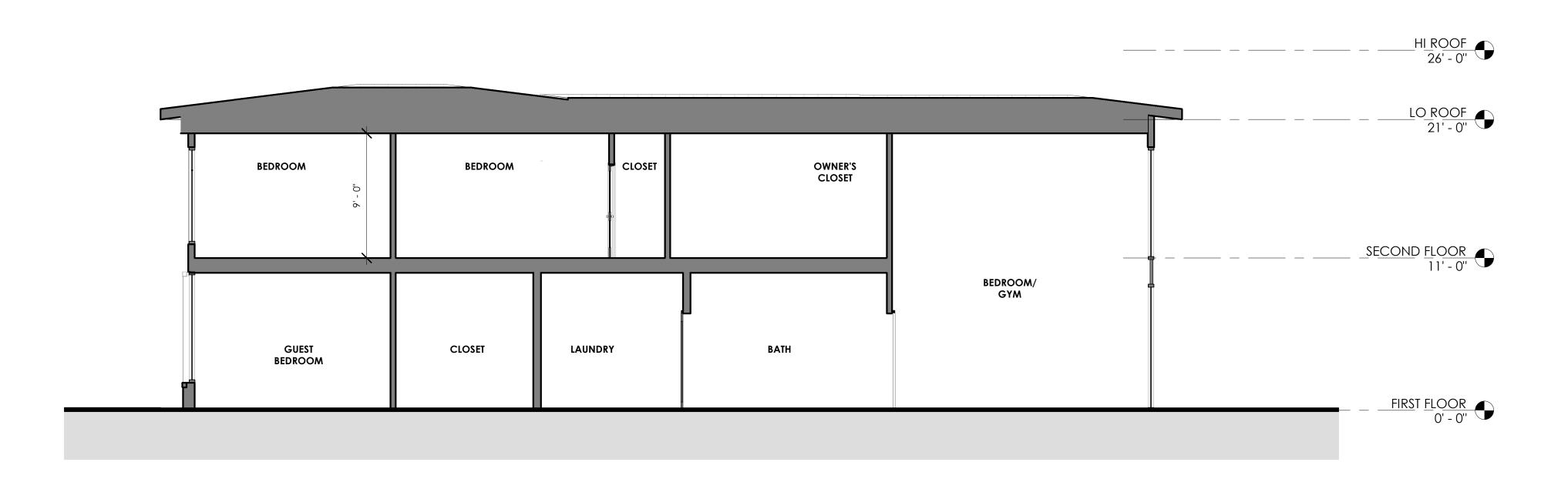
2203

Author

Checker

24" x 36"

ARCHITECTURE & INTERIORS
ATLANTA, GA TEL 678.271.8054 STUDIOSOGO.COM



1 3/16" = 1'-0" SECTION 3 - BEDROOMS

HUNTER WILSON RESIDENCE
3945 N BERKELEY LAKE RD NW
DULUTH, GA 30096

REVISION SCHEDULE

MARK DATE DESCRIPTION

SECTIONS

Project ID

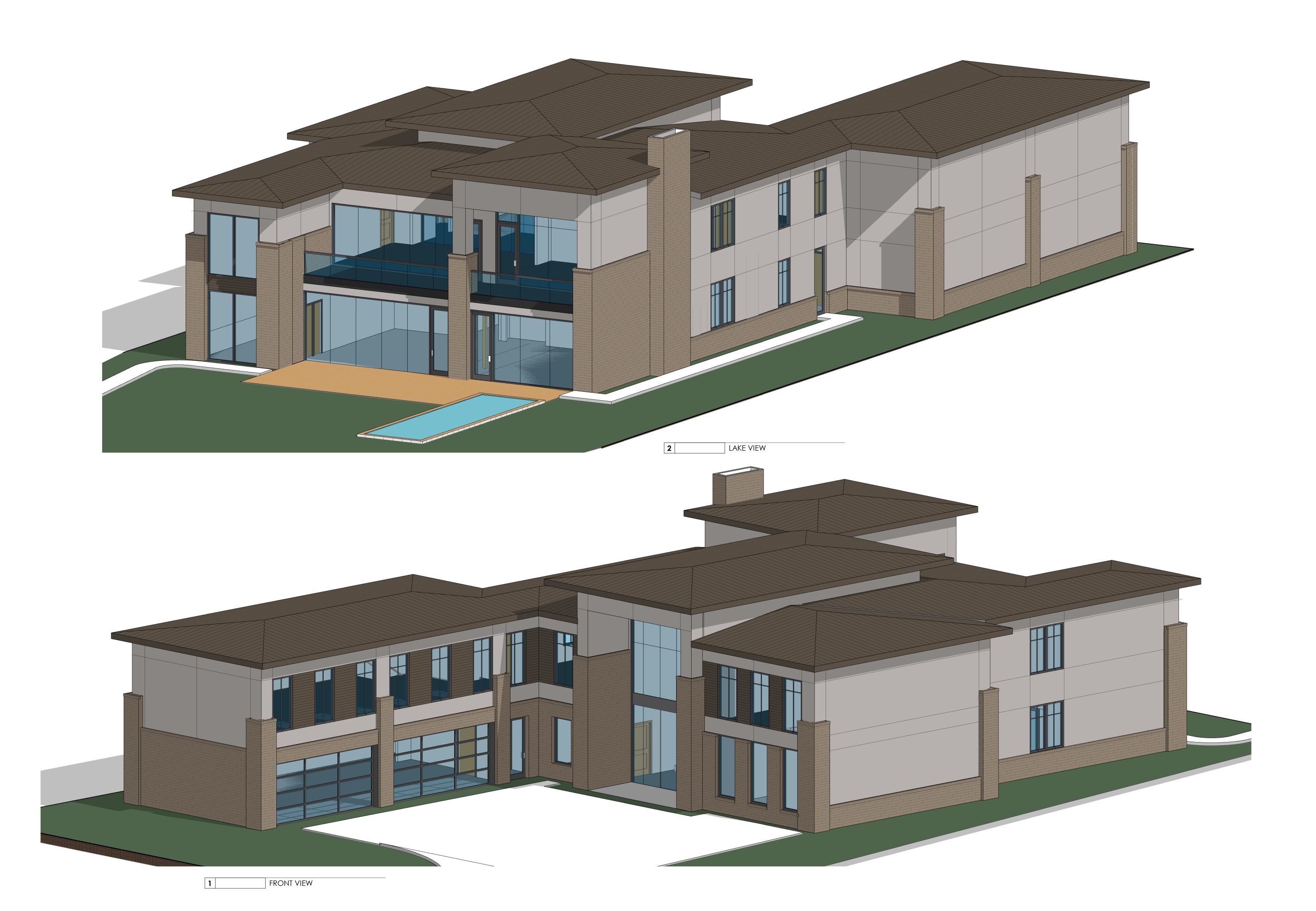
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Checked By
Sheet Title

2203

Author Checker

24" x 36"

ARCHITECTURE & INTERIORS
ATLANTA, GA TEL 678.271.8054 STUDIOSOGO.COM





HUNTER WILSON

HUNTER WILSON

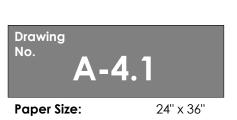
3945 N BERKELEY LAKE RD NW

DULUTH, GA 30096

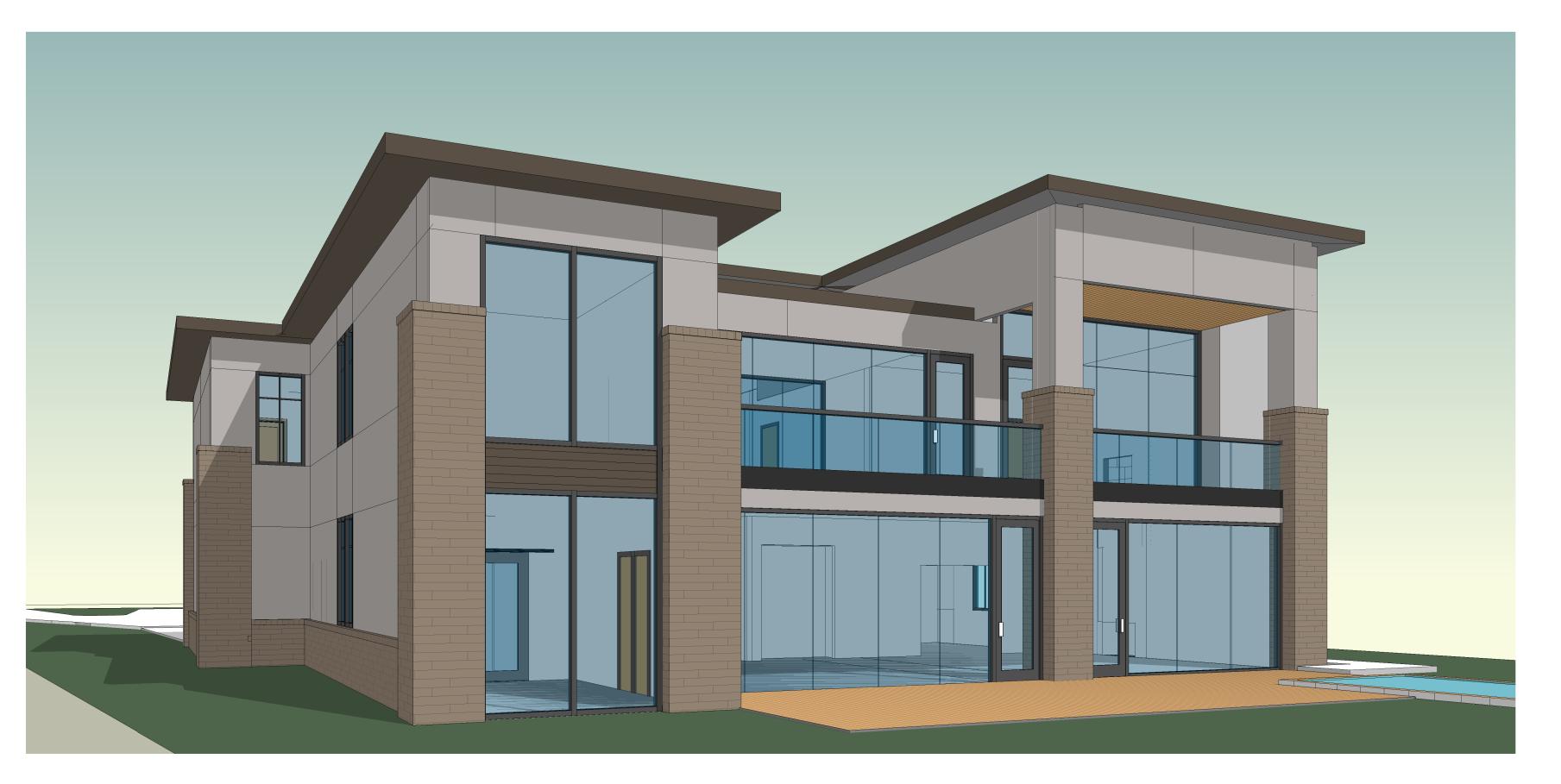
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AXONOMETRICS







LAKE APPROACH



HUNTER WILSON RESIDENCE
3945 N BERKELEY LAKE RD NW
DULUTH, GA 30096

REVISION SCHEDULE

MARK DATE DESCRIPTION

Project ID	2203
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PERSPECTIVES

