

DECISION AND ORDER

Decision Issue Date Wednesday, May 18, 2022

PROCEEDING COMMENCED UNDER Section 53, Subsection 53(19), and section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): Edward Cocciollo

Applicant(s): Step Design Studio Inc.

Property Address/Description: 3517 St. Clair Ave E

Committee of Adjustment File

Number(s): B0006/21SC

TLAB Case File Number(s): 21 163867 S45 20 TLAB

Hearing date: November 17, 2021

DECISION DELIVERED BY TLAB Panel Member S. Talukder

REGISTERED PARTIES AND PARTICIPANT

Appellant Edward Cocciollo

Appellant's Legal Rep. Step Design Studio Inc.

Applicant Step Design Studio Inc

INTRODUCTION

1. The Applicant, Edward Cocciollo, wishes to sever his property at 3517 St. Clair Avenue East (subject property), into two residential lots and construct a new semi-detached dwelling on each lot. Variances are required for the construction of the semi-detached dwellings. The Applicant applied to the Committee of Adjustment (Committee) for the approval of the severance of the property and the variances for the semi-detached dwellings.

2. The Committee refused the applications for severance and variances. The Applicant appealed and the matter is now before the TLAB.
3. For the reasons below, I deny the application for consent to sever and the applications for approval of variances.

MATTERS IN ISSUE

4. The issue before is me whether the application for severance of the subject property should be granted, and if the consent to sever is granted, whether the variances related to the proposed development of the semi-detached dwellings on the severed lots should be approved.
5. The variances for each of the severed lots are in Schedule A of this decision, with Part 1 being the retained lot and Part 2 being the conveyed lot. The standard TLAB conditions for severance are in Schedule B. The associated site plan and elevations are in Schedule C.
6. The test for a severance is found in subsections 53(12) and 51(24) of the *Planning Act*. Subsection 51(24) lists fifteen factors the Committee must “have regard to” but the extent each factor is weighed or considered is based on the particular circumstances of each severance. Some of the other factors to be considered are also stated in a general way, such as “the welfare of the present and future inhabitants.” I find other factors are inapplicable in a small-scale redevelopment. The factors that are typically most relevant in a built-up area, such as in Toronto, are sections 51(24)(c) and (f):
 - Official Plan (OP) conformity and
 - the “dimensions and shapes” of the lots.
7. The variances from the applicable zoning by-law must individually and cumulatively satisfy the four tests, which are:
 - maintain the general intent and purpose of the OP;
 - maintain the general intent and purpose of the Zoning By-laws;
 - be desirable for the appropriate development or use of the land; and
 - be minor.
8. The *Planning Act* requires compliance with the OP for both applications of severance and approval of variance. For a severance, I must have regard to whether it “conforms” to the Official Plan, whereas for the variances, I should be of the opinion that the variances “maintain the general intent of the OP.” Second, the “dimensions” of the lots appear specifically as a criterion in section 51(24)(f) of the *Planning Act* whereas for variances, I am to consider the “size and configuration of lots.” The tests are similar but not identical.

9. I must also consider higher-level documents, such as the Provincial Policy Statement and the Greater Golden Horseshoe Growth Plan. These policy documents contain a high level of generality; for example, the Provincial Policy Statement discourages lot creation on prime agricultural land and prefers municipal water and sewage over private systems. In this case, I accept that there is consistency and conformity with these policies.

EVIDENCE

10. For context, I visited the subject property, walked the area and familiarized myself with the surrounding neighbourhood. However, my findings and ruling are based solely upon the evidence that was presented during the hearing.
11. The following witnesses testified at the hearing:
- a. John Carlos Tsilfidis, from Step Design Studio Inc., the architectural firm retained by the Applicant
 - b. Stepan Sukiasyan, from Step Design Studio Inc., the architectural firm retained by the Applicant.
12. The documents that were tendered as evidence are as follows with the relevant exhibit numbers:
- 1. Document Disclosure by the Applicant
 - 2. Memorandum by the Manager, Development Engineering, Engineering & Construction Services dated March 17, 2021
 - 3. Urban Forestry Report dated March 1, 2021
13. The Applicant did not file any witness statements, contrary to the requirements under the TLAB's Rules of Practice and Procedure.


ANALYSIS, FINDINGS, REASONS

14. Mr. Sukiasyan testified that the proposal is to sever the subject property into two equal lots, on which two three-storey semi detached dwellings will be built. He submitted that the proposal should be approved because the proposal is similar to and reflective of similar developments in the area such as 3515 St. Clair Avenue East and 517 St Clair Avenue East. He further stated that there are existing semi-detached dwellings within the 200-300 m radius of the subject property.

15. Mr. Sukiasyan also addressed a few of the criteria set out in section 51(24) of the *Planning Act*. He noted that the proposed compact buildings will contribute to an effective use of the land, the subject property is near the public transit, and the proposal would supply the housing shortage. He also noted that the OP policies such as OP policy 4.1.5 are satisfied but did not provide any clear explanation as to why.
16. The above evidence is not sufficient to analysis one of the main OP policies – policy 4.1.5 It is necessary to delineate the geographic neighbourhood for the subject property to analyze OP 4.1.5 and its application. The witnesses did not provide any form of evidence about the geographic neighbourhood, and the immediate and broader context within the neighbourhood. They also did not provide any form of study or analysis to determine the physical character of the neighbourhood and how the proposal respects and reinforces this character of the geographic neighbourhood. While expert evidence is not mandatory in a TLAB hearing, it is necessary for the witnesses to provide planning evidence that can assist the presiding TLAB Member in arriving at a determination as to whether the proposal satisfies the relevant OP policies. Further, the witnesses did not provide any analysis of the severance criteria “dimensions and shapes” of the proposed lots.
17. Mr. Sukiasyan testified that the requested variances are minor in nature as they are numerically close to the requirements set out in the Zoning By-Law. The test of whether a variance is minor relates to whether the proposal will result in adverse negative impacts of a planning nature. In this regard, I find the witnesses’ testimony and evidence were not sufficient to prove that the variances requested are minor.
18. Mr. Sukiasyan also testified that the proposal should be allowed as a semi-detached dwelling is allowed under the Zoning By-law. This proposition does not address whether the variances, individually and cumulatively, maintain the general intent and purpose of the Zoning By-law.
19. Based on the foregoing, I find that the Applicant has not satisfied sections 51(24)(c) and (f) of the *Planning Act* and therefore I deny the application for consent to sever. It is not necessary to determine whether the variances should be approved as the application to sever is denied. However, I find that based on the evidence provided, the Applicant has not proved that the variances, individually and cumulatively, maintain the general intent and purpose of the OP and Zoning By-Law, and that the variances are minor.

DECISION AND ORDER

20. The appeal is denied. The Committee of Adjustment’s decisions on applications for severance and variances dated May 12, 2021 are confirmed.

X .

S. Talukder

Panel Chair, Toronto Local Appeal Body

**Schedule A
Variances**

PART 1

1. Exception RS 48.(B)(i)/(ii), By-law No. 569-2013

If a lot has a semi-detached house, the lot containing the whole of the building must have a minimum frontage of 15 m and a minimum area of 510 m².

The lot containing the whole of the building has a frontage of 12.19 m and an area of 419.32 m².

2. Exception RS 48.(C)(i)/(ii), By-law No. 569-2013

If a lot has a semi-detached house, the lot containing each dwelling unit must have a minimum frontage of 7.5 m and a minimum area of 255 m².

The proposed lot containing a single dwelling unit will have a frontage of 6.09 m and an area of 209.76 m².

3. Chapter 10.40.30.40.(1), By-law No. 569-2013

The maximum permitted lot coverage is 33% of the lot area.

The proposed lot coverage is 43.8% of the lot area.

4. Chapter 10.40.40.10.(1)(A), By-law 569-2013 & Clause VI, Section 16.1, By-law 9174

The maximum permitted height of a dwelling is 9 m.

The proposed dwelling height is 10 m.

5. Chapter 10.40.40.10.(3)(A), By-law 569-2013

A dwelling may have no more than two storeys.

The proposed dwelling is three storeys.

6. Chapter 10.40.40.10.(2)(B), By-law 569-2013

The maximum permitted height of the exterior portion of side main walls is 7 m.

The proposed height of the side main walls is 8.8 m.

7. Chapter 10.40.40.20.(1), By-law 569-2013

The maximum permitted building length is 17 m.

The proposed building length is 17.88 m.

8. Chapter 10.40.40.10.(4), By-law 569-2013

The maximum permitted height of the main pedestrian entrance through the front wall is 1.2 m above established grade.

The proposed height of the main pedestrian entrance is 1.57 m above established grade.

9. Chapter 10.5.50.10.(1)(B), By-law 569-2013

A minimum of 50% of the front yard shall be landscaping.

A total of 37% of the front yard will be maintained as landscaping.

10. Chapter 10.5.50.10.(1)(D), By-law 569-2013

A minimum of 75% percent of the required front yard landscaping must be soft landscaping.

A total of 62% of the front yard landscaping will be maintained as soft landscaping.

11. Chapter 10.40.40.50.(2)(B), By-law 569-2013

The maximum permitted area of a platform at or above the second storey is 4 m².

The proposed rear platform will have an area of 8.9 m².

PART 2

1. Exception RS 48.(B)(i)/(ii), By-law No. 569-2013

If a lot has a semi-detached house, the lot containing the whole of the building must have a minimum frontage of 15 m and a minimum area of 510 m².

The lot containing the whole of the building has a frontage of 12.19 m and an area of 419.32 m².

2. Exception RS 48.(C)(i)/(ii), By-law No. 569-2013

If a lot has a semi-detached house, the lot containing each dwelling unit must have a minimum frontage of 7.5 m and a minimum area of 255 m².

The proposed lot containing a single dwelling unit will have a frontage of 6.09 m and an area of 209.56 m².

3. Chapter 10.40.30.40.(1), By-law No. 569-2013

The maximum permitted lot coverage is 33% of the lot area.

The proposed lot coverage is 43.8% of the lot area.

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The proposed dwelling height is 10 m.

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The proposed dwelling is three storeys.

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The proposed height of the side main walls is 8.8 m.

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The proposed height of the main pedestrian entrance is 1.57 m above established grade.

9. Chapter 10.5.50.10.(1)(B), By-law 569-2013

A minimum of 50% of the front yard shall be landscaping.

A total of 37% of the front yard will be maintained as landscaping.

10. Chapter 10.5.50.10.(1)(D), By-law 569-2013

A minimum of 75% percent of the required front yard landscaping must be soft landscaping.

A total of 49%% of the front yard landscaping will be maintained as soft landscaping.

11. Chapter 10.40.40.50.(2)(B), By-law 569-2013

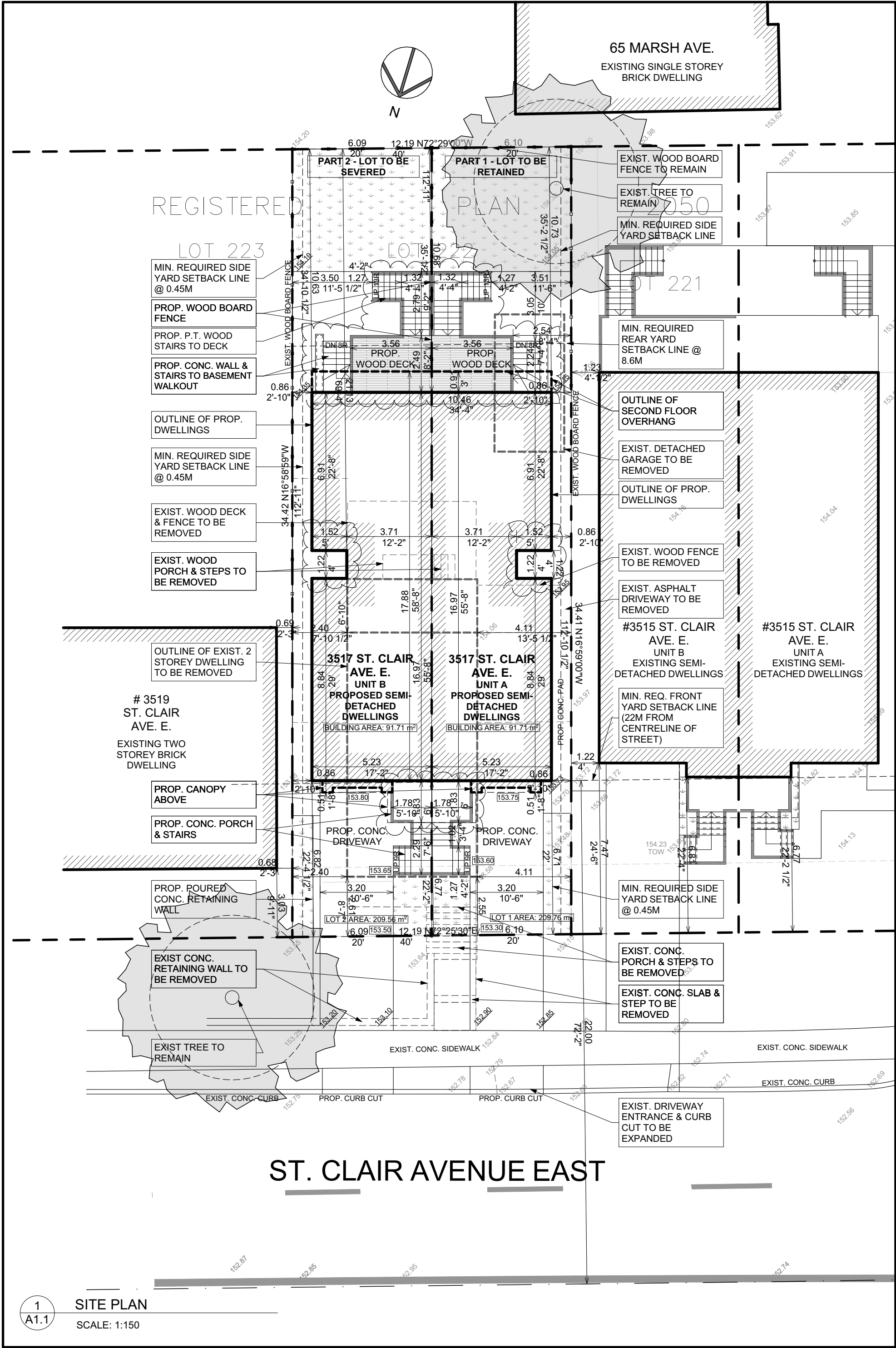
The maximum permitted area of a platform at or above the second storey is 4 m².

The proposed rear platform will have an area of 8.9 m².

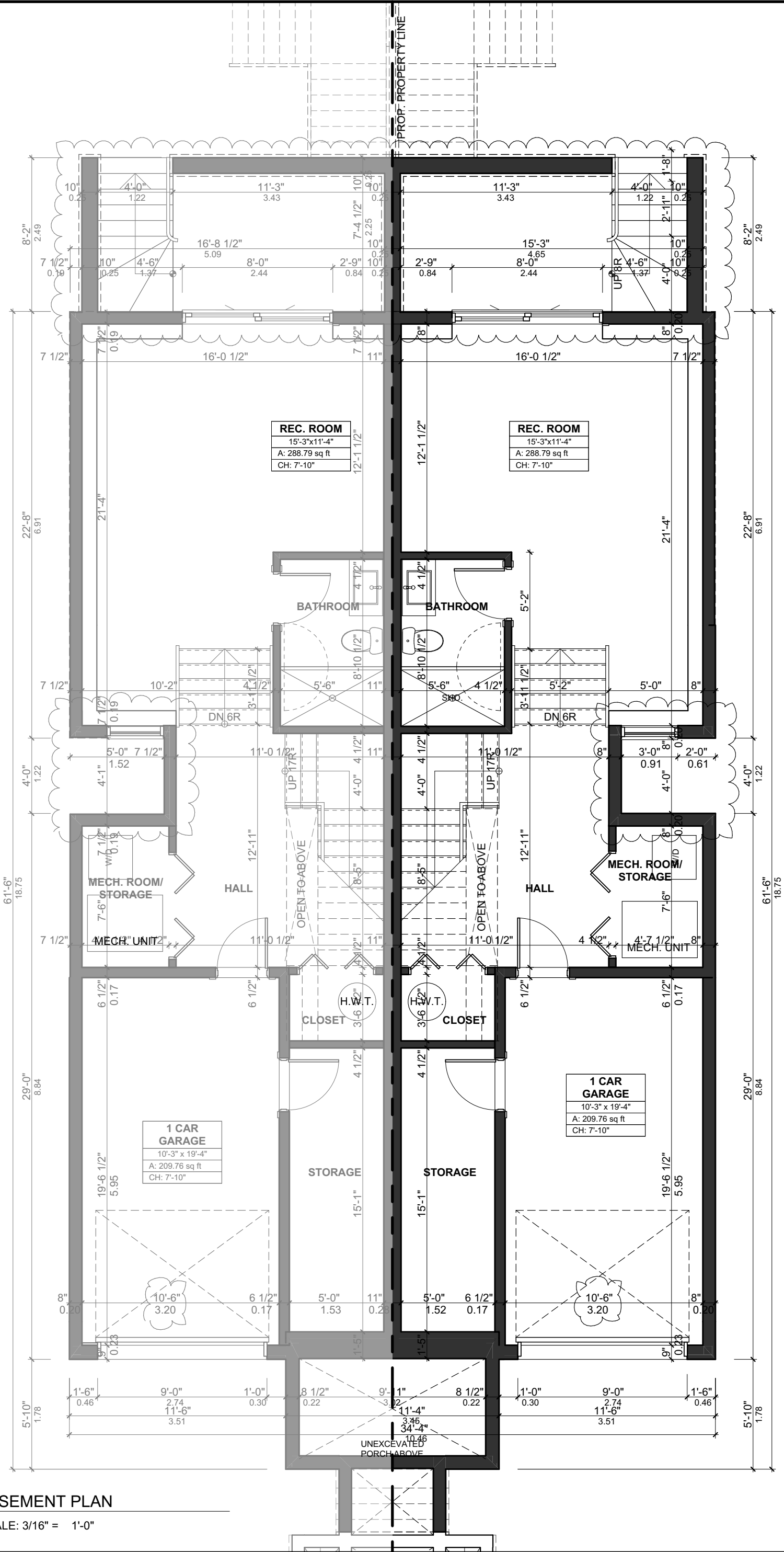
Schedule B
Standard Consent Conditions

If a consent application is approved, the applicant is to fulfill the following conditions to the satisfaction of the Deputy Secretary-Treasurer of the Committee of Adjustment:

- (1) Confirmation of payment of outstanding taxes to the satisfaction of the Revenue Services Division, in the form of a statement of tax account current to within 30 days of an applicant's request to the Deputy Secretary-Treasurer of the Committee of Adjustment to issue the Certificate of Official as outlined in Condition 6.
- (2) Municipal numbers for the subject lots, blocks, parts, or otherwise indicated on the applicable registered reference plan of survey shall be assigned to the satisfaction of the Supervisor, Surveys, Engineering Support Services, Engineering and Construction Services.
- (3) One electronic copy of the registered reference plan of survey integrated to NAD 83 CSRS (3 degree Modified Transverse Mercator projection), delineating by separate Parts the lands and their respective areas, shall be filed with, and to the satisfaction of, the Manager, Land and Property Surveys, Engineering Support Services, Engineering and Construction Services.
- (4) One electronic copy of the registered reference plan of survey satisfying the requirements of the Manager, Land and Property Surveys, Engineering Support Services, Engineering and Construction Services shall be filed with the Deputy Secretary-Treasurer of the Committee of Adjustment.
- (5) Prepare and submit a digital draft of the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) of the Planning Act if applicable as it pertains to the conveyed land and/or consent transaction to the satisfaction of the Deputy Secretary-Treasurer of the Committee of Adjustment.
- (6) Once all of the other conditions have been satisfied, the applicant shall request, in writing, that the Deputy Secretary-Treasurer of the Committee of Adjustment issue the Certificate of Official.
- (7) Within ONE YEAR of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions.



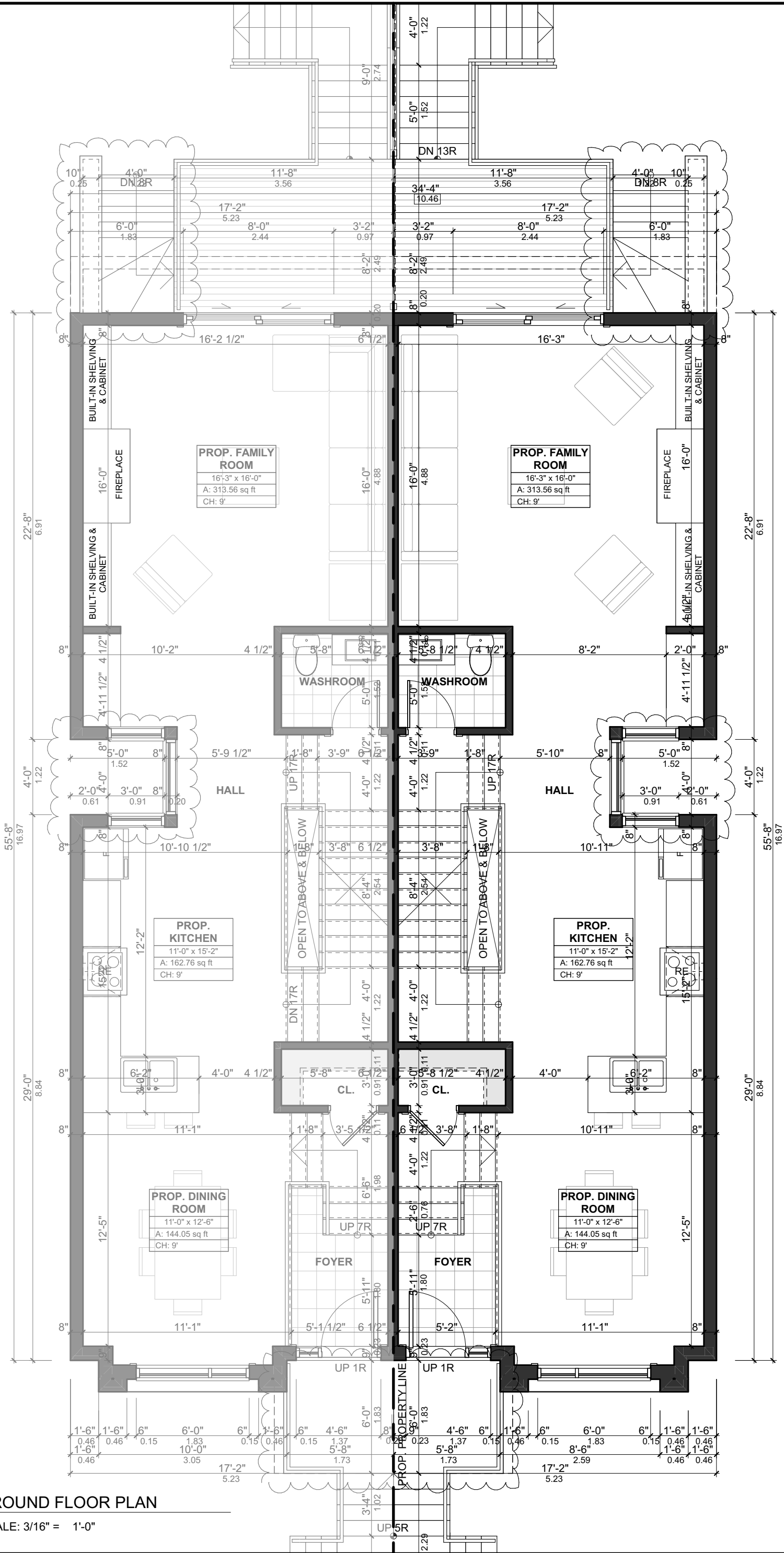
AREA & ZONING INFORMATION										
3517 ST. CLAIR AVE. E., SCARBOROUGH, ONTARIO M1K 1L4										
RS - RESIDENTIAL (f15.0; a510) (x48)										
	ZONING	EXISTING		PROPOSED LOT 1 - UNIT A		PROPOSED LOT 2 - UNIT B		REQUIRED		NOTES
		EXISTING LOT & DWELLING		LOT TO BE RETAINED		LOT TO BE SEVERED		TORONTO ZONING BY-LAW 569-2013		
1.1	LOT AREA	419.32 M²	4,513.52 SQ FT	209.76 M²	2,257.84 SQ FT	209.56 M²	2,255.69 SQ FT	255.00 M²	2,744.80 SQ FT	50% of a510 FOR SEMI-DETACHED DWELLINGS
	SETBACKS									
2.1	LOT FRONTAGE	12.19 M	39.99 FT	6.09 M	19.98 FT	6.09 M	19.98 FT	7.50 M	24.61 FT	50% OF f15.0 OF FOR SEMI-DETACHED DWELLINGS
2.2	LOT DEPTH	34.41 M	112.89 FT	34.41 M	112.89 FT	34.41 M	112.89 FT			
2.3	FRONT SETBACK (ST. CLAIR/NORTH SIDE)	2.55 M	8.37 FT	6.71 M	22.00 FT	6.77 M	22.20 FT	6.71 M	22.00 FT	22.0 M FROM CENTRELINE OF ST. CLAIR AVE. E. (6.71M FROM FRONT LOT LINE)
2.4	SIDE SETBACK (WEST SIDE)	4.11 M	13.48 FT	0.86 M	2.82 FT			0.45 M	1.48 FT	
2.5	SIDE YARD SETBACK (EAST SIDE)	2.40 M	7.87 FT			0.86 M	2.82 FT	0.45 M	1.48 FT	
2.6	REAR YARD SETBACK (SOUTH SIDE)	21.13 M	69.32 FT	10.68 M	35.04 FT	10.63 M	34.88 FT	8.60 M	28.22 FT	
2.7	BUILDING LENGTH	10.67 M	35.01 FT	17.88 M	58.66 FT	17.88 M	58.66 FT	17.00 M	55.77 FT	
2.8	BUILDING DEPTH	13.22 M	43.37 FT	17.88 M	58.66 FT	18.00 M	59.06 FT	19.00 M	62.34 FT	
	SITE AREAS									
3.1	LOT AREA	419.32 M²	4,513.52 SQ FT	209.76 M²	2,257.84 SQ FT	209.56 M²	2,255.69 SQ FT			
3.2	DWELLING AREA	71.94 M²	774.36 SQ FT	91.34 M²	983.18 SQ FT	91.34 M²	983.18 SQ FT			
3.3	ACCESSORY BUILDINGS	18.54 M²	199.56 SQ FT							
3.4	TOTAL BUILDING AREA	90.48 M²	973.92 SQ FT	91.71 M²	987.16 SQ FT	91.71 M²	987.16 SQ FT			
3.5	LOT COVERAGE PERCENTAGE	21.6%		43.7%		43.8%		MAX. 33%		
3.6	FRONT YARD AREA			34.79 M²	374.48 SQ FT	35.13 M²	378.14 SQ FT			
3.7	FRONT YARD LANDSCAPE AREA			13.42 M²	144.45 SQ FT	13.54 M²	145.74 SQ FT			
3.8	FRONT YARD LANDSCAPING PERC.			38.6%		38.5%		MIN. 50%		
3.9	FRONT YARD SOFT LANDSCAPE AREA			10.79 M²	116.14 SQ FT	9.27 M²	99.78 SQ FT			
3.10	FRONT YARD SOFT LANDSCAPING PERC.			80.4%		68.5%		MIN. 75%		
3.11	REAR YARD AREA			59.69 M²	642.50 SQ FT	59.28 M²	638.08 SQ FT			
3.12	REAR YARD LANDSCAPING AREA			33.07 M²	355.96 SQ FT	32.68 M²	351.76 SQ FT			
3.13	REAR YARD LANDSCAPING PERC.			55.4%		55.1%		MIN. 50%		
3.14	DECK AREA			8.85 M²	95.26 SQ FT	8.85 M²	95.26 SQ FT			PARTS OF PLATFORMS THAT DO NOT ENCHROACH ON SETBACK
3.15	DECK & PORCH PERCENTAGE			4.2%		4.2%				
	GROSS FLOOR AREAS									
4.1	BASEMENT GFA			65.86 M²	708.91 SQ FT	65.86 M²	708.91 SQ FT			
4.2	GARAGE GFA			21.06 M²	226.69 SQ FT	21.06 M²	226.69 SQ FT			
4.3	GROUND FLOOR GFA			86.56 M²	931.72 SQ FT	86.56 M²	931.72 SQ FT			
4.4	SECOND FLOOR GFA			86.52 M²	931.29 SQ FT	86.52 M²	931.29 SQ FT			
4.5	TOTAL GFA			238.94 M²	2,571.93 SQ FT	238.94 M²	2,571.93 SQ FT			
4.6	LOT AREA	419.32 M²	4,513.52 SQ FT	209.76 M²	2,257.84 SQ FT	209.56 M²	2,255.69 SQ FT	255.00 M²	2,744.80 SQ FT	
4.7	FLOOR AREA RATIO			1.14		1.14				
	HEIGHTS									
5.1	EST. GRADE	153.58 M		153.80 M		153.80 M				
5.2	GRADE @ GARAGE			153.75 M		153.80 M				
5.3	FIN. FLOOR ELEVATION			155.37 M		155.37 M				
5.4	TOP OF ROOF ELEVATION			163.80 M		163.80 M				
5.5	DWELLING HEIGHT			10.00 M	32.81 FT	10.00 M	32.81 FT	9.00 M	29.53 FT	2 STOREYS MAXIMUM
5.6	FIN. GROUND FLOOR HEIGHT			1.57 M	5.15 FT	1.57 M	5.15 FT	1.20 M	3.94 FT	
5.7	MAIN WALL HEIGHT			8.28 M	27.17 FT	8.28 M	27.17 FT	7.00 M	22.97 FT	



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A2.1

BASEMENT PLAN

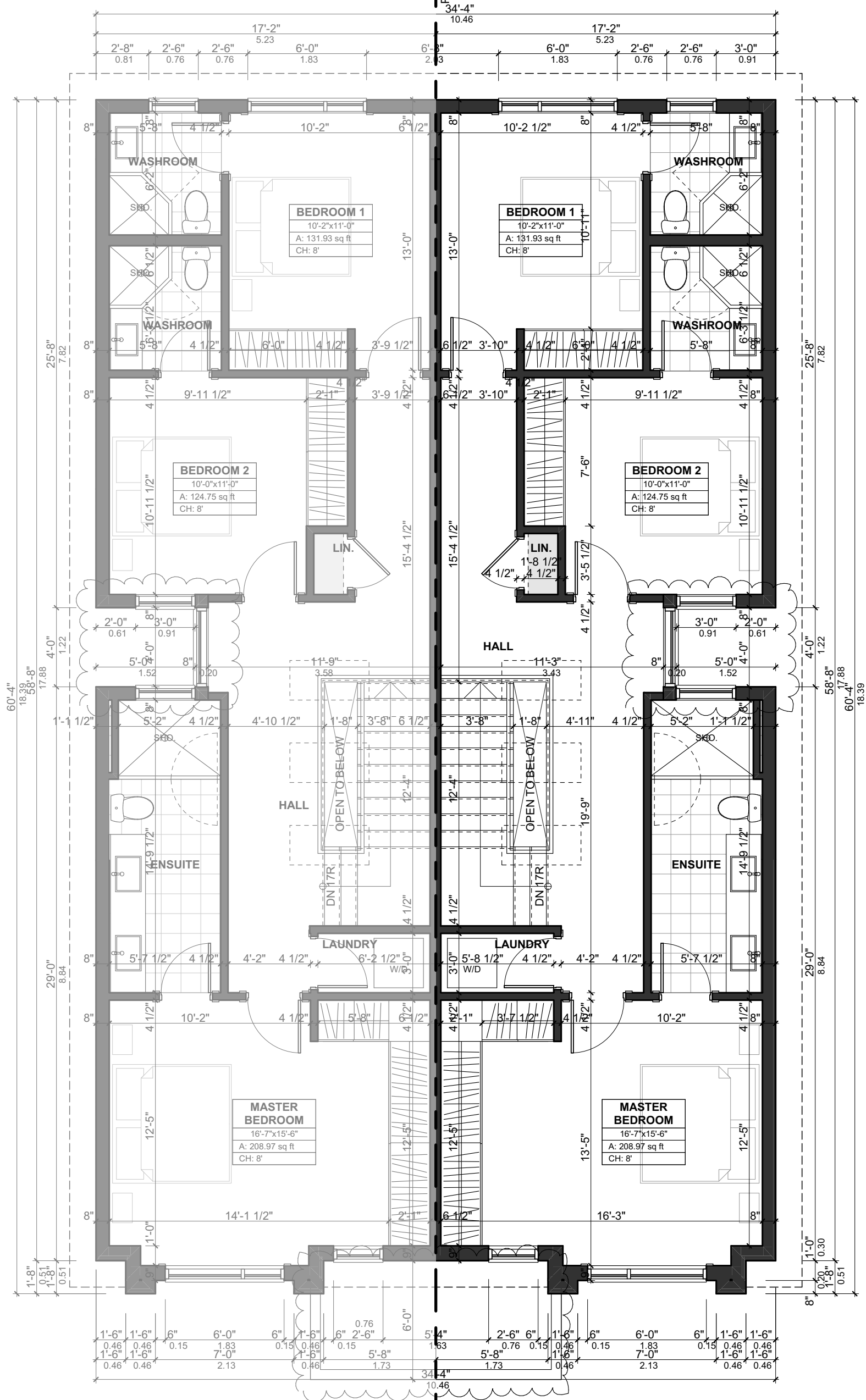
SCALE: 3/16" = 1'-0"



1
A2.2

GROUND FLOOR PLAN

SCALE: 3/16" = 1'-0"



1
A2.2

SECOND FLOOR PLAN

SCALE: 3/16" = 1'-0"

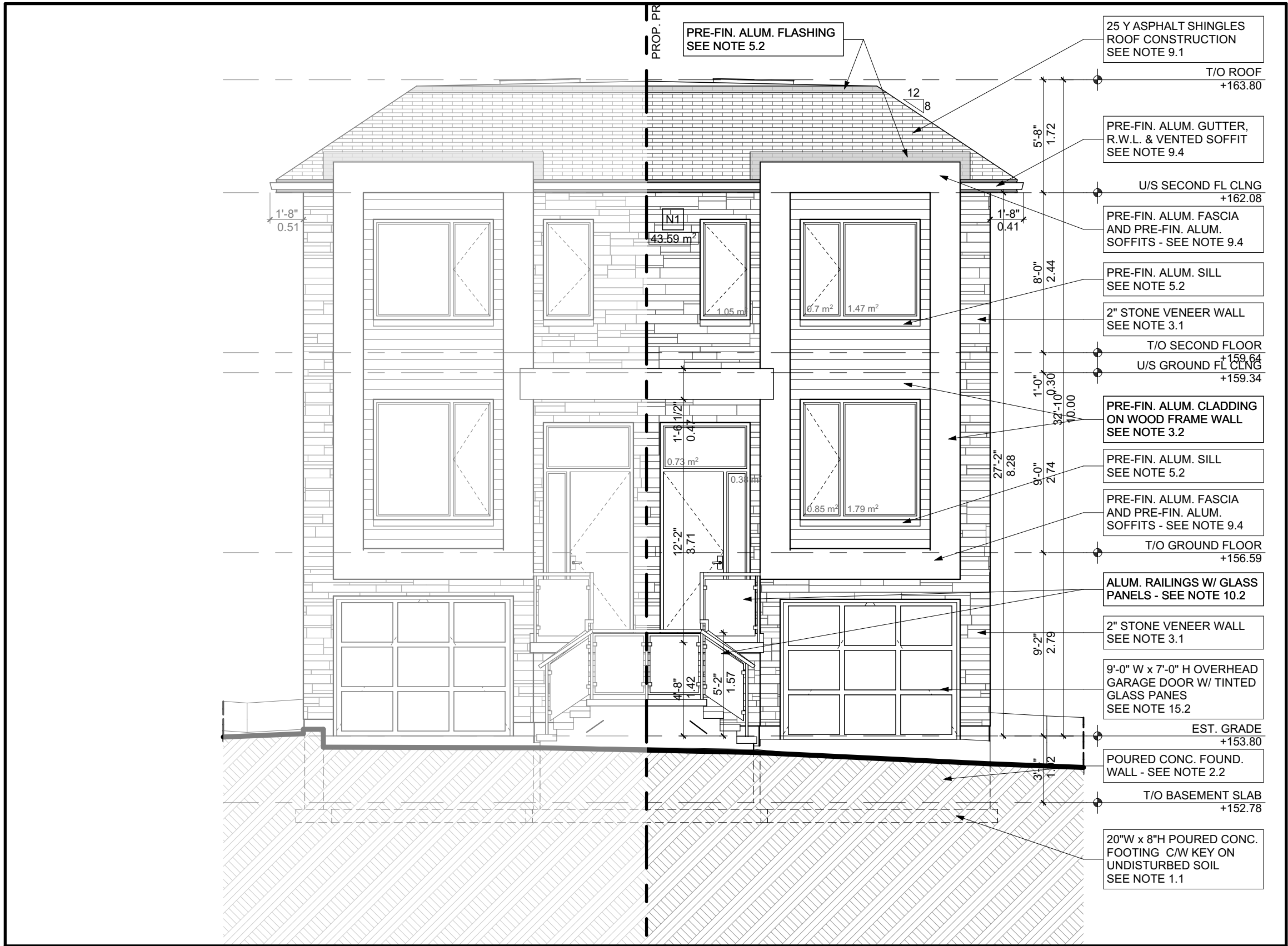


SCALE: 3/16" = 1'-0"



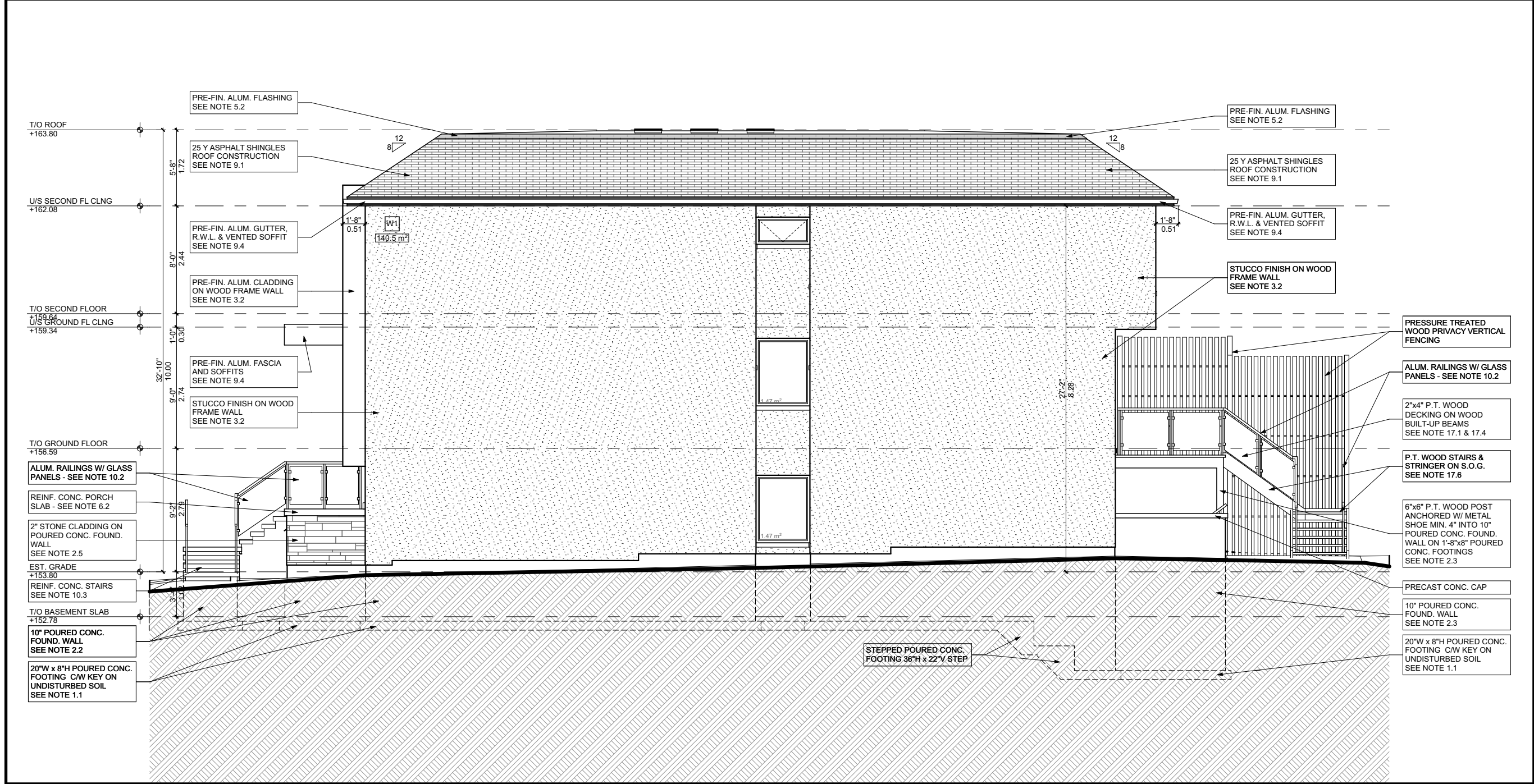
PROJECT NUMBER 20.12
REVISION NUMBER 4.1-2.6
DOCUMENT NUMBER

A2.3

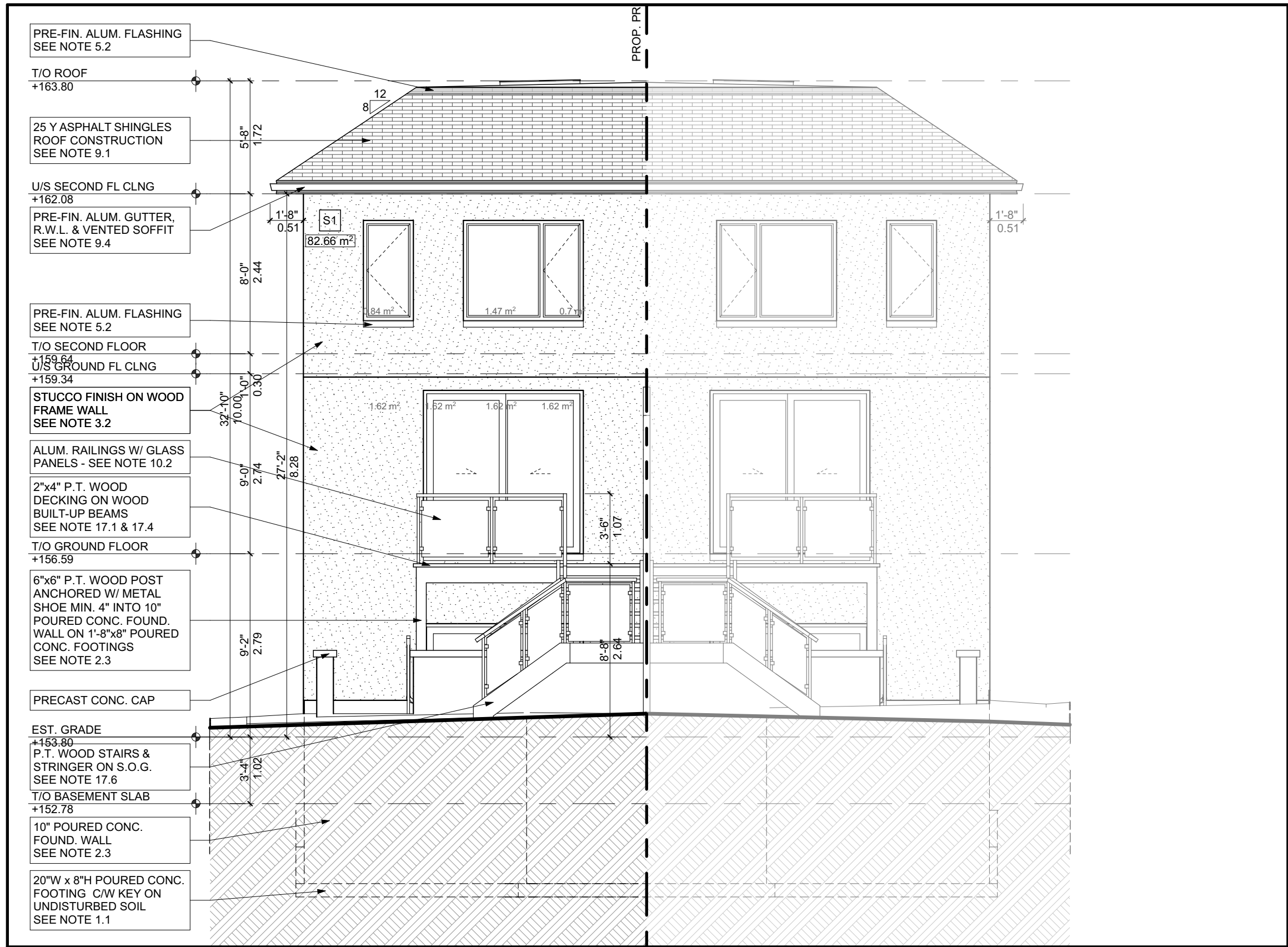


1 NORTH ELEVATION
A3.1 SCALE: 3/16" = 1'-0"

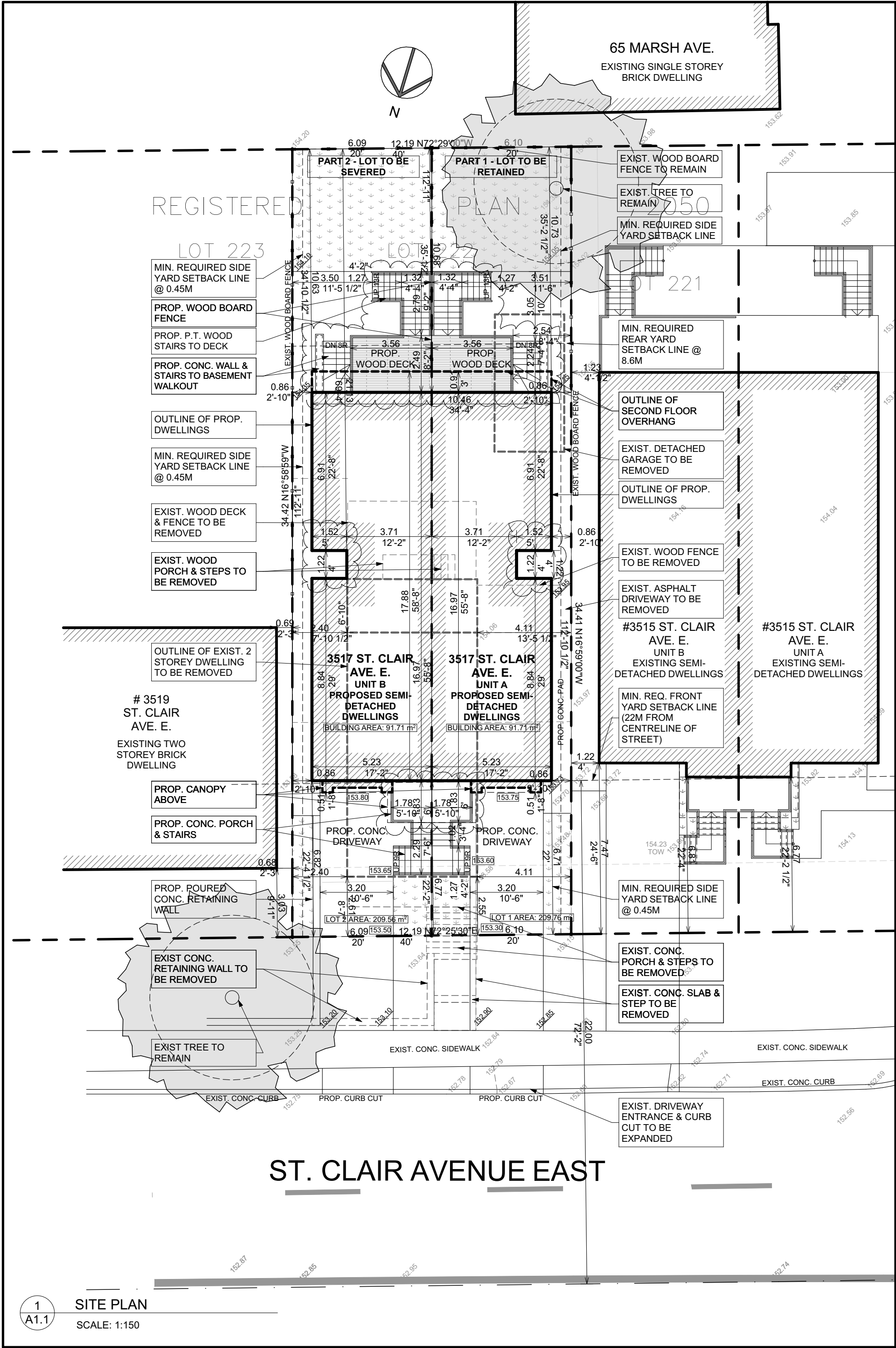
W1	WEST WALL 1
SETBACK FROM PROP. LINE	2.69 m (4'-0")
TOTAL EXPOSING BUILDING FACE AREA	140.5 m ² (1512.3 FT ²)
ALLOWED UNPR'ED OPENINGS PECENTAGE	9%
WALL AREA	140.5 m ² (1512.3 FT ²)
TOTAL UNPR'ED OPENINGS AREA	2.94 m ² (31.6 FT ²)
TOTAL UNPR'ED OPENINGS PECENTAGE	2.0%



1 WEST ELEVATION
A3.2 SCALE: 1/8" = 1'-0"



1 SOUTH ELEVATION
A3.3 SCALE: 3/16" = 1'-0"



AREA & ZONING INFORMATION

3517 ST. CLAIR AVE. E., SCARBOROUGH, ONTARIO M1K 1L4

RS - RESIDENTIAL (f15.0; a510) (x48)

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2.4	SIDE SETBACK (WEST SIDE)	4.11 M	13.48 FT	0.86 M	2.82 FT			0.45 M	1.48 FT	
2.5	SIDE YARD SETBACK (EAST SIDE)	2.40 M	7.87 FT			0.86 M	2.82 FT	0.45 M	1.48 FT	
2.6	REAR YARD SETBACK (SOUTH SIDE)	21.13 M	69.32 FT	10.68 M	35.04 FT	10.63 M	34.88 FT	8.60 M	28.22 FT	
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3.4	TOTAL BUILDING AREA	90.48 M²	973.92 SQ FT	91.71 M²	987.16 SQ FT	91.71 M²	987.16 SQ FT			
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4.2	GARAGE GFA			21.06 M²	226.69 SQ FT	21.06 M²	226.69 SQ FT			
4.3	GROUND FLOOR GFA			86.56 M²	931.72 SQ FT	86.56 M²	931.72 SQ FT			
4.4	SECOND FLOOR GFA			86.52 M²	931.29 SQ FT	86.52 M²	931.29 SQ FT			
4.5	TOTAL GFA			238.94 M²	2,571.93 SQ FT	238.94 M²	2,571.93 SQ FT			
4.6	LOT AREA	419.32 M²	4,513.52 SQ FT	209.76 M²	2,257.84 SQ FT	209.56 M²	2,255.69 SQ FT	255.00 M²	2,744.80 SQ FT	
4.7	FLOOR AREA RATIO			1.14		1.14				
	HEIGHTS									
5.1	EST. GRADE	153.58 M		153.80 M		153.80 M				
5.2	GRADE @ GARAGE			153.75 M		153.80 M				
5.3	FIN. FLOOR ELEVATION			155.37 M		155.37 M				
5.4	TOP OF ROOF ELEVATION			163.80 M		163.80 M				
5.5	DWELLING HEIGHT			10.00 M	32.81 FT	10.00 M	32.81 FT	9.00 M	29.53 FT	2 STOREYS MAXIMUM
5.6	FIN. GROUND FLOOR HEIGHT			1.57 M	5.15 FT	1.57 M	5.15 FT	1.20 M	3.94 FT	
5.7	MAIN WALL HEIGHT			8.28 M	27.17 FT	8.28 M	27.17 FT	7.00 M	22.97 FT	



STEP DESIGN STUDIO INC.
ARCHITECTURAL DESIGN | CONSULTATION
BUILDING PERMITS | PROJECT MANAGEMENT
ARCH. VISUALIZATION | GRAPHIC DESIGN

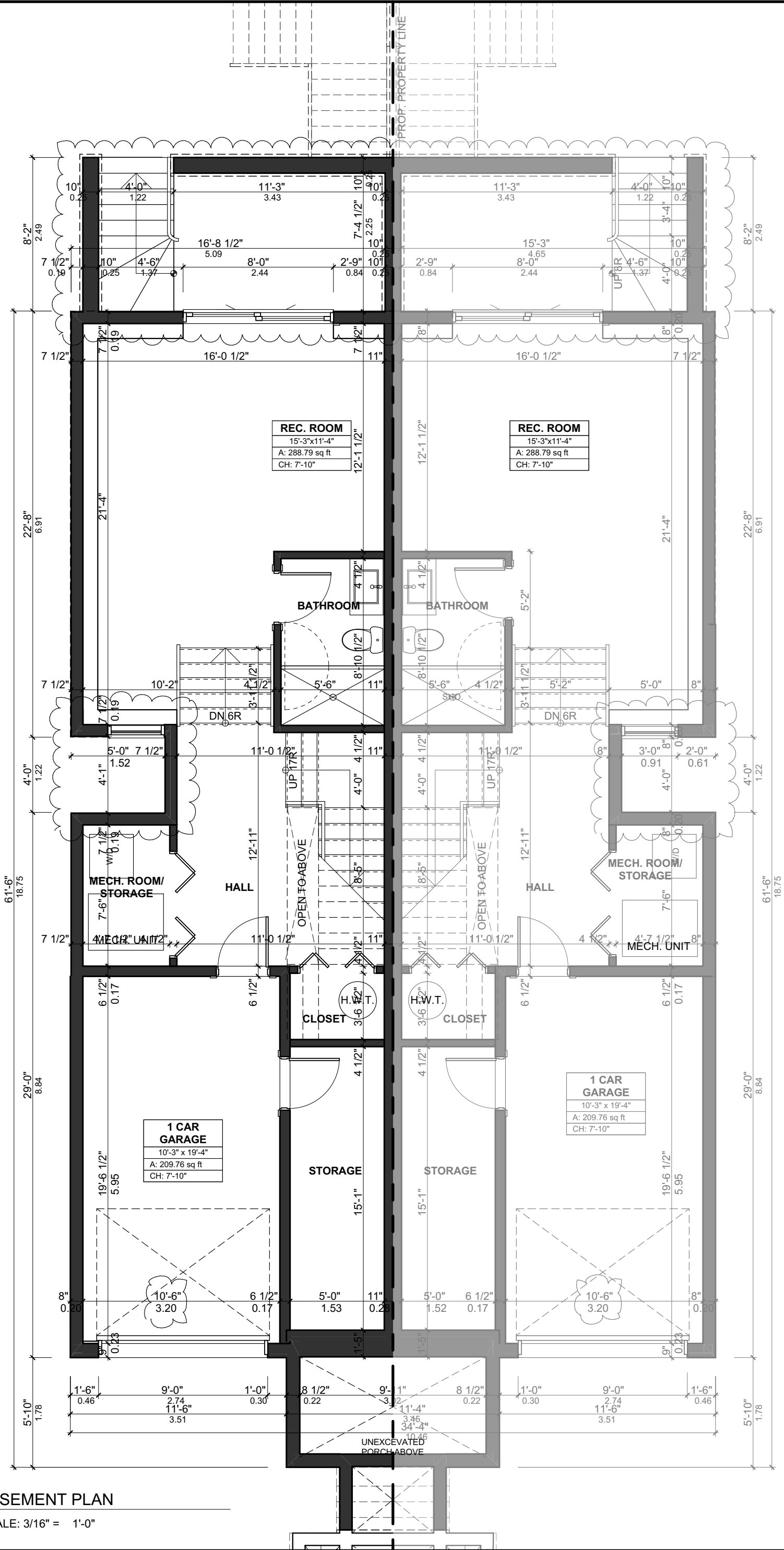
905.470.8677 | 416.407.9528 | INFO@STEPIN.CA
200 TOWN CENTRE BLVD. | UNIT 105 | MARKHAM

PROJECT NAME
3517 ST. CLAIR AVE E.
SCARBOROUGH, ON

DRAWING NAME
SITE STATS

PROJECT DATE	PROJECT NUMBER
11/23/2020	20.12
PREPARED BY	REVISION NUMBER
Stepan Sukiasyan	4.1-2.6
CHECKED BY	DOCUMENT NUMBER
Stepan Sukiasyan	A1.2

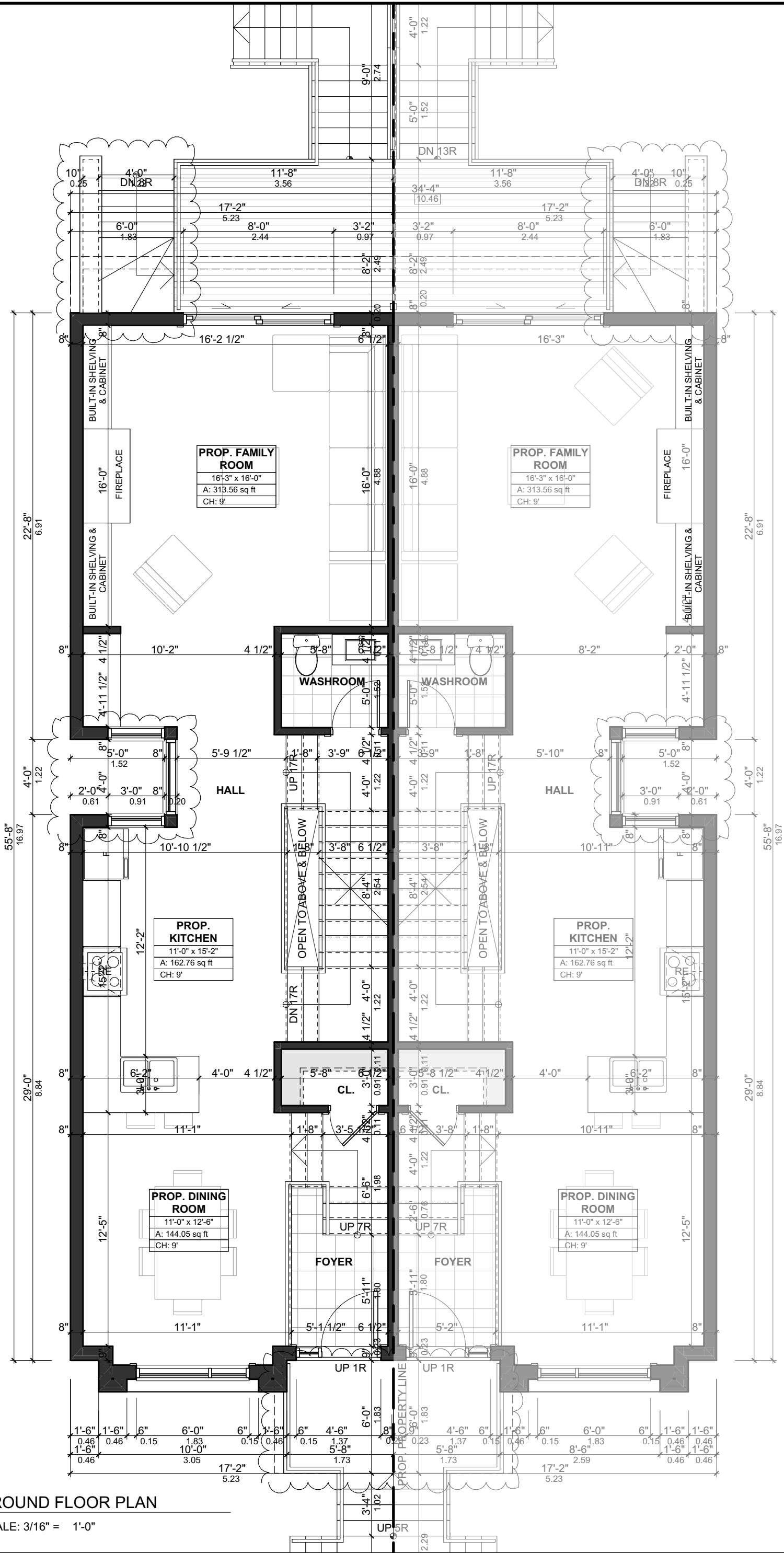
A1.2



1
A2.1

BASEMENT PLAN

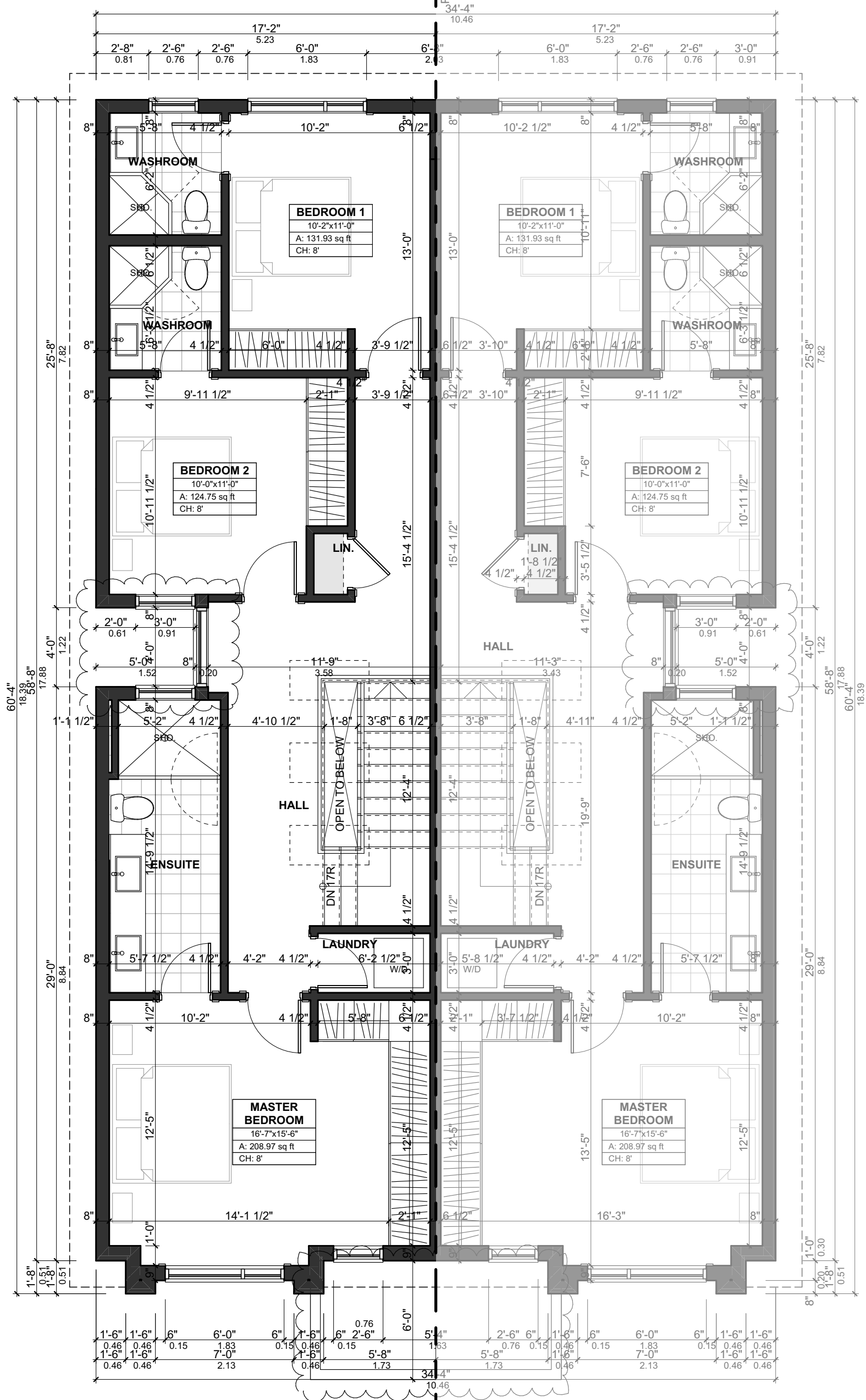
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A2.2

GROUND FLOOR PLAN

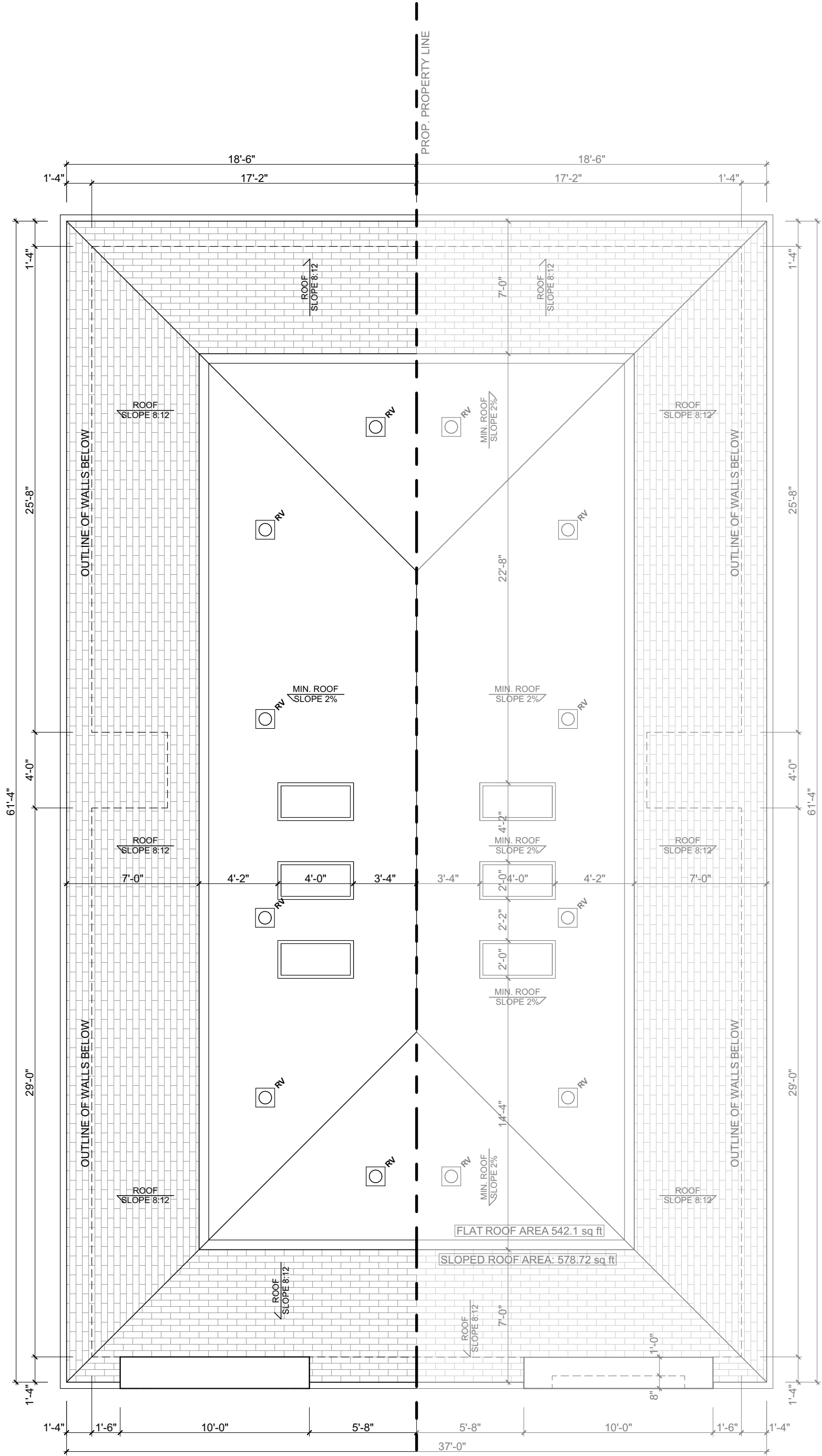
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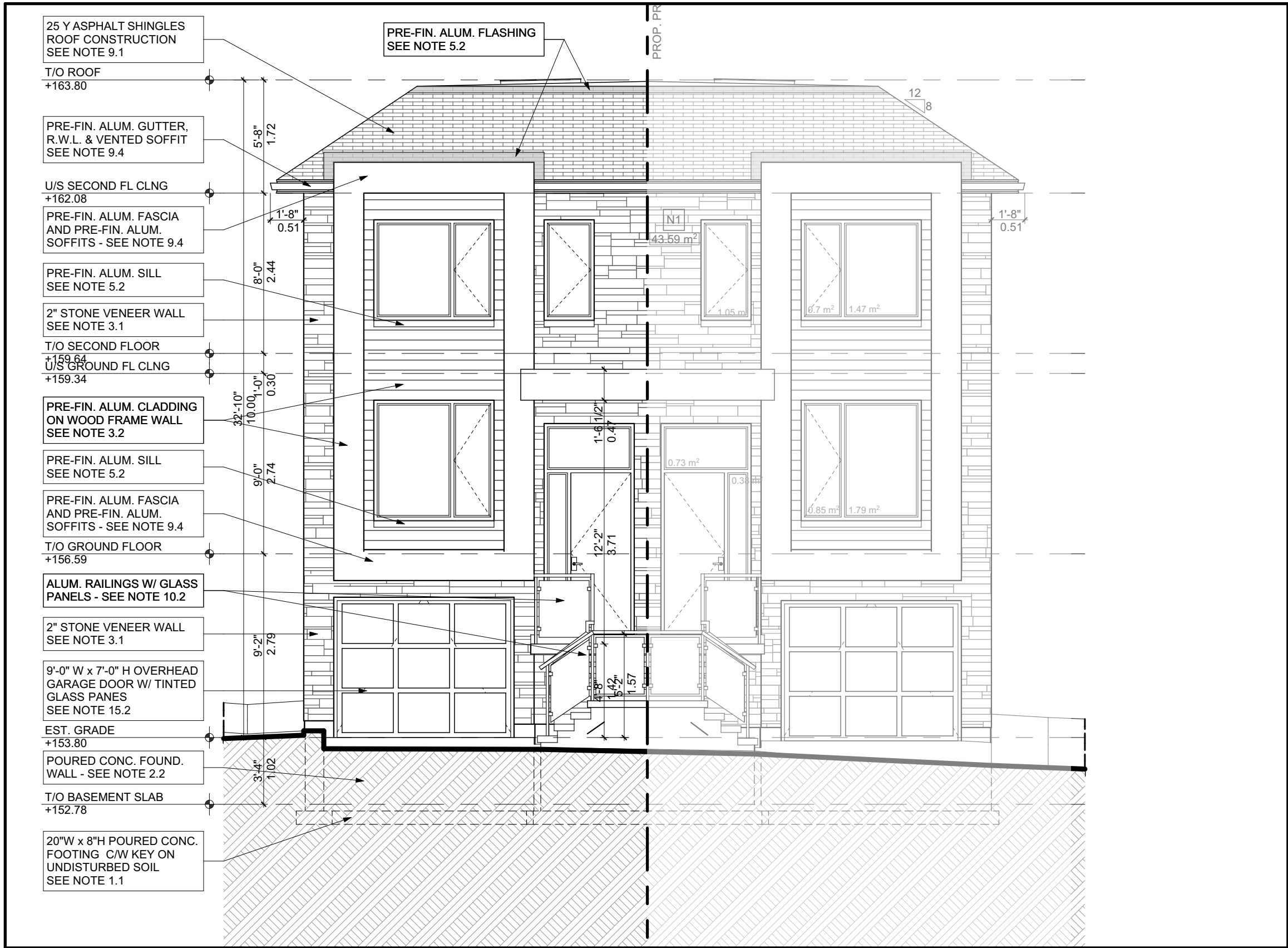
SECOND FLOOR PLAN

SCALE: 3/16" = 1'-0"

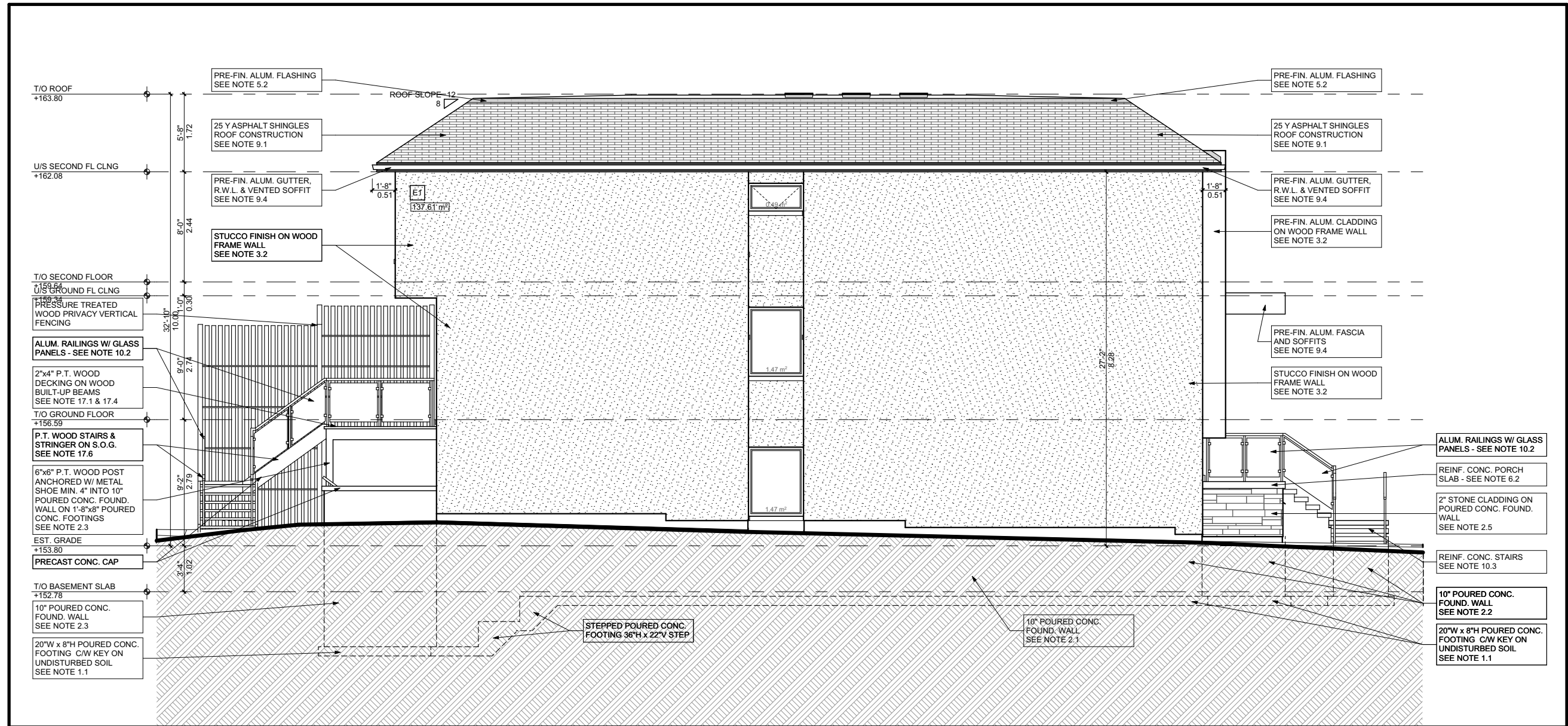


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A2.3

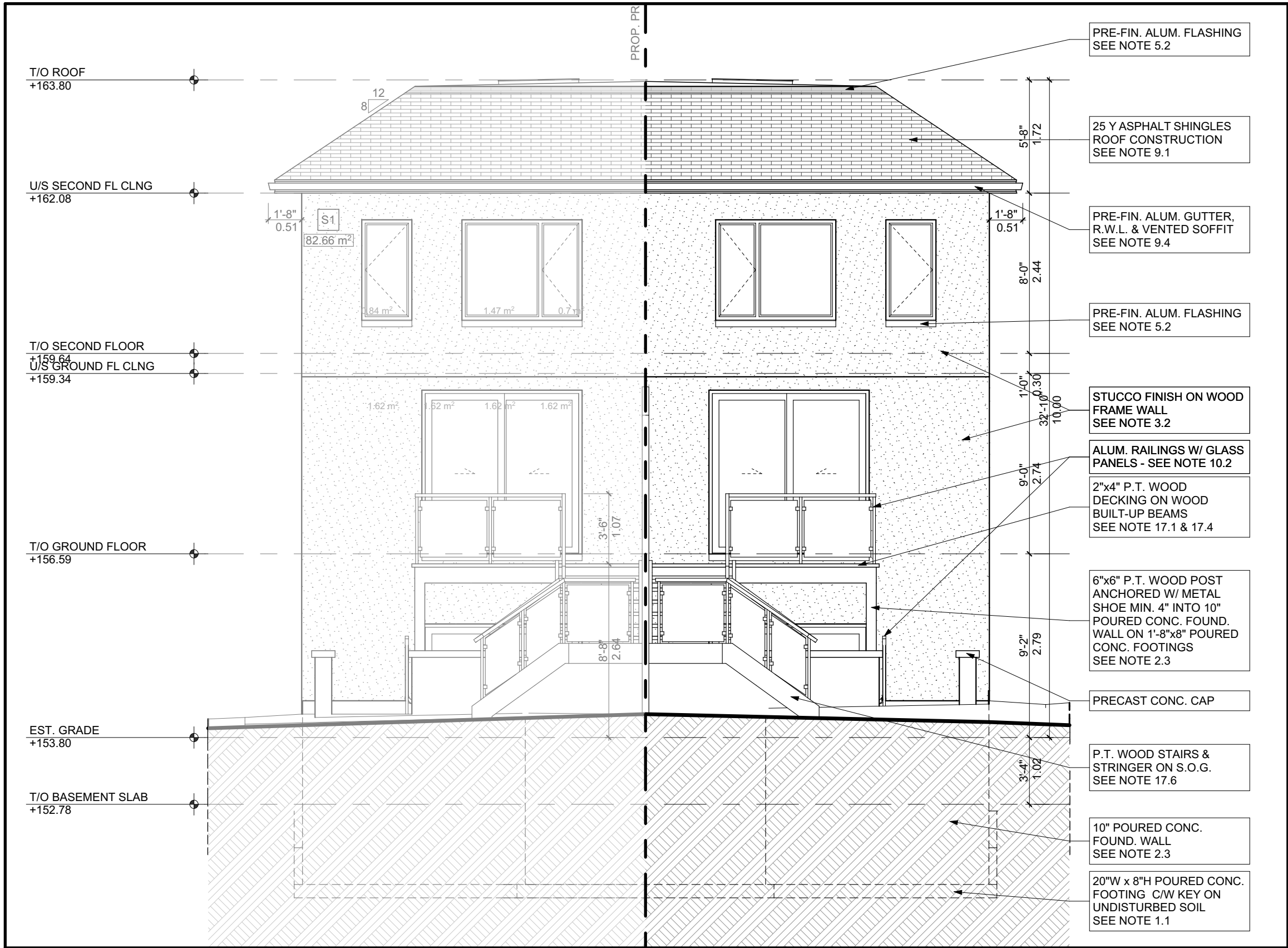
ROOF PLAN
SCALE: 3/16" = 1'-0"



1 NORTH ELEVATION
A3.1 SCALE: 3/16" = 1'-0"



1 EAST ELEVATION
A3.2 SCALE: 1:100



1 SOUTH ELEVATION
A3.3 SCALE: 3/16" = 1'-0"