

**TOWN COUNCIL
RESOLUTION NUMBER 24-298**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING WITH CONDITIONS VARIANCE 20240100, REQUESTING VARIANCES FROM LDC TABLE 34-3 OF 1) 7.3 FEET FROM THE STREET SETBACK FOR A FRONT SETBACK OF 17.7 FEET, 2) A VARIANCE OF 3 FEET FROM THE WEST SIDE SETBACK FOR A SIDE SETBACK OF 4 FEET 6 INCHES FOR THE MECHANICAL EQUIPMENT AND 3) A VARIANCE OF 12.1% FROM THE BUILDING COVERAGE FOR A BUILDING COVERAGE OF 52.1% TO BUILD A NEW SINGLE FAMILY STRUCTURE IN THE RM ZONING DISTRICT, FOR THE PROPERTY LOCATED AT 51 PEARL STREET, FORT MYERS BEACH, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Penelope Porter (“Applicant”) is the owner(s) of the property located at 51 Pearl Street (Property), and is requesting variances from LDC Table 34-3 of 7.3 feet from the street setback for a front setback of 17.7 feet, a variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and a variance of 12.1% from the building coverage for a building coverage of 52.1% to build a new single-family structure in the RM zoning district; and

WHEREAS, the STRAP number for the subject property is 19-46-24-W4-00445.0000; and

WHEREAS, the Property is located in the “Boulevard” and “Recreation” Future Land Use of the Comprehensive Plan and the “Residential” and “Multifamily” zoning districts of the Official Zoning Map of the Town of Fort Myers Beach, Florida; and

WHEREAS, a public hearing on this matter was legally noticed and held before the Local Planning Agency (LPA) on August 23, 2024, and at said hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Section 34-87 of the LDC. The LPA found that the request is not consistent with the comprehensive plan and the requirements of the LDC and by roll call voted 6 to 1 to recommend denial of the variances; and

WHEREAS, on December 16, 2024, the Town Council held a duly noticed public hearing to fully consider the request of the Applicant, the recommendations of Town staff and the LPA, the documents in the record, and testimony of all interested persons as required by 34-87 of the LDC; and

WHEREAS, the Town Council determined it is in the best interest of the Town to **approve with conditions the request**.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council determines the Applicant **did** meet its burden of proof that the requested Variances **do** meet the requirements of the Town Comprehensive Plan and LDC and **approving with conditions** the Variances is in the best interest of the Town. Therefore, based upon the recommendations, testimony, and evidence presented by the Applicant, Town staff, interested parties and public, the Town Council **APPROVES WITH CONDITIONS** a request for variances from LDC 34-3 of 7.3 feet from the street setback for a front setback of 17.7 feet, a variance of 3 feet from the west side setback for a side setback of 4 feet 6 inches for the mechanical equipment and a variance of 12.1% from the building coverage for a building coverage of 52.1% to build a new single-family structure in the RM zoning district.

Section 3. In **approving with conditions** the Variance, the Town Council makes the following findings and conclusions in accordance with the requirements of Section 34-87 of the LDC:

- A. There **are** exceptional or extraordinary conditions or circumstances that are inherent to the property in question, and the request **is** for de minimis variances under circumstances or conditions where rigid compliance is not essential to protect public policy.
- B. The conditions justifying approval of the variances **are not** the result of actions of the Applicant taken after the adoption of the regulation in question.
- C. The variances **are** the minimum variances that will relieve the Applicant of an unreasonable burden caused by the application of the regulation to the Property.
- D. The granting of the variances **will not** be injurious to the neighborhood or otherwise detrimental to the public welfare.
- E. The conditions or circumstances on the Property **are not** of so general or recurrent a nature as to make it more reasonable and practical to amend the regulation in question.

Section 4. If the Town Council approves the requested variances, the following conditions of approval are imposed on the Applicant and the Property:

- A. Approval of these variances does not give the Applicant an undeniable right to permit approval. Development of the Property must comply with all applicable requirements of the Fort Myers Beach Comprehensive Plan and LDC in effect at the time of permit approval, except as specifically modified herein.
- B. Property owner must adhere to the neighborhood flooding ordinance for drainage and 67% maximum impervious requirements.
- C. The variance shall only apply to the single-family home as shown on the provided site plan. Demolition or substantial damage to the residential structure shall render the variances to be null and void.
- D. No portions of the structure shall extend past the 1978 Lee County Line (CCCL).

Section 5. This resolution shall be effective upon adoption by the Town Council.

The foregoing Resolution was adopted by the Town Council upon a motion by Mayor Allers and seconded by Council Member Safford, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice-Mayor	Nay
John R. King, Council Member	Absent
Karen Woodson, Council Member	Aye
Scott Safford, Council Member	Aye

ADOPTED this 16th day of December 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers
Dan Allers (Dec 19, 2024 18:12 EST)

 Dan Allers, Mayor

ATTEST:

Amy Baker
Amy Baker (Dec 20, 2024 08:44 EST)

 Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

NASA
NASA (Dec 19, 2024 15:22 EST)

 Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 18th day of December 2024.

EXHIBIT A: Proposed Site Plan

**A NEW HOME FOR:
THE PORTER FAMILY**
51 PEARL ST.
FORT MYERS BEACH, FL

CONSULTANT:

ALBERT DAMBROSE
AR93689

PRELIMINARY
REVIEW SET

NOT FOR
CONSTRUCTION

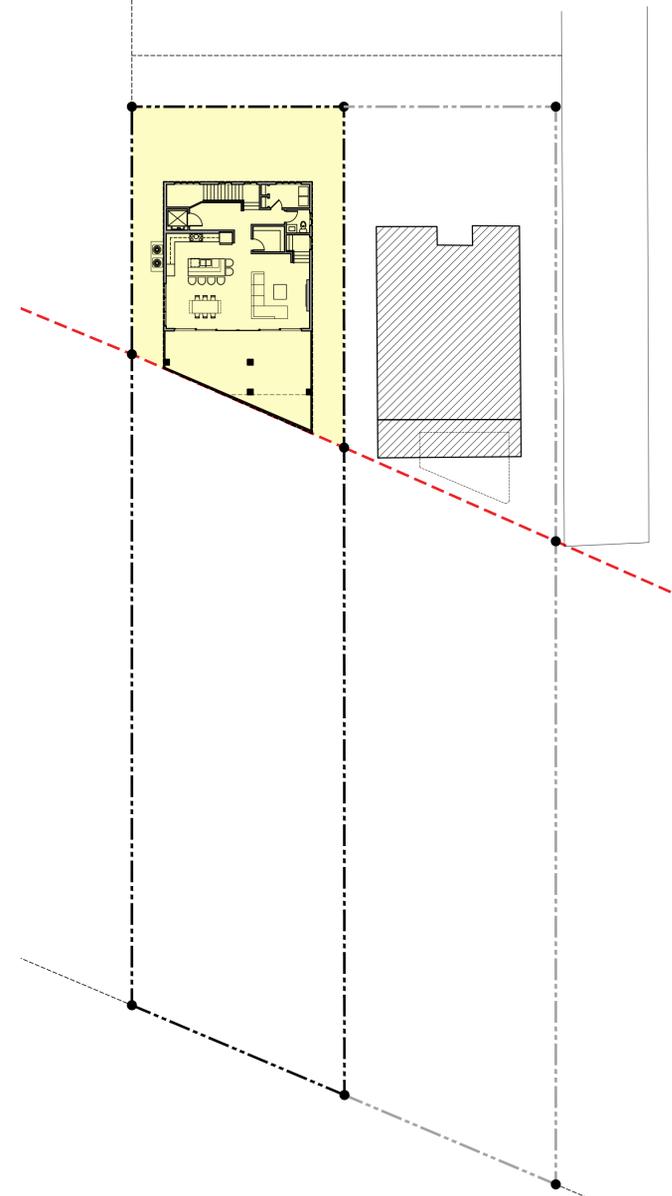
DATE ISSUED: 15 NOV 2024

REVISIONS:

SHEET

D1

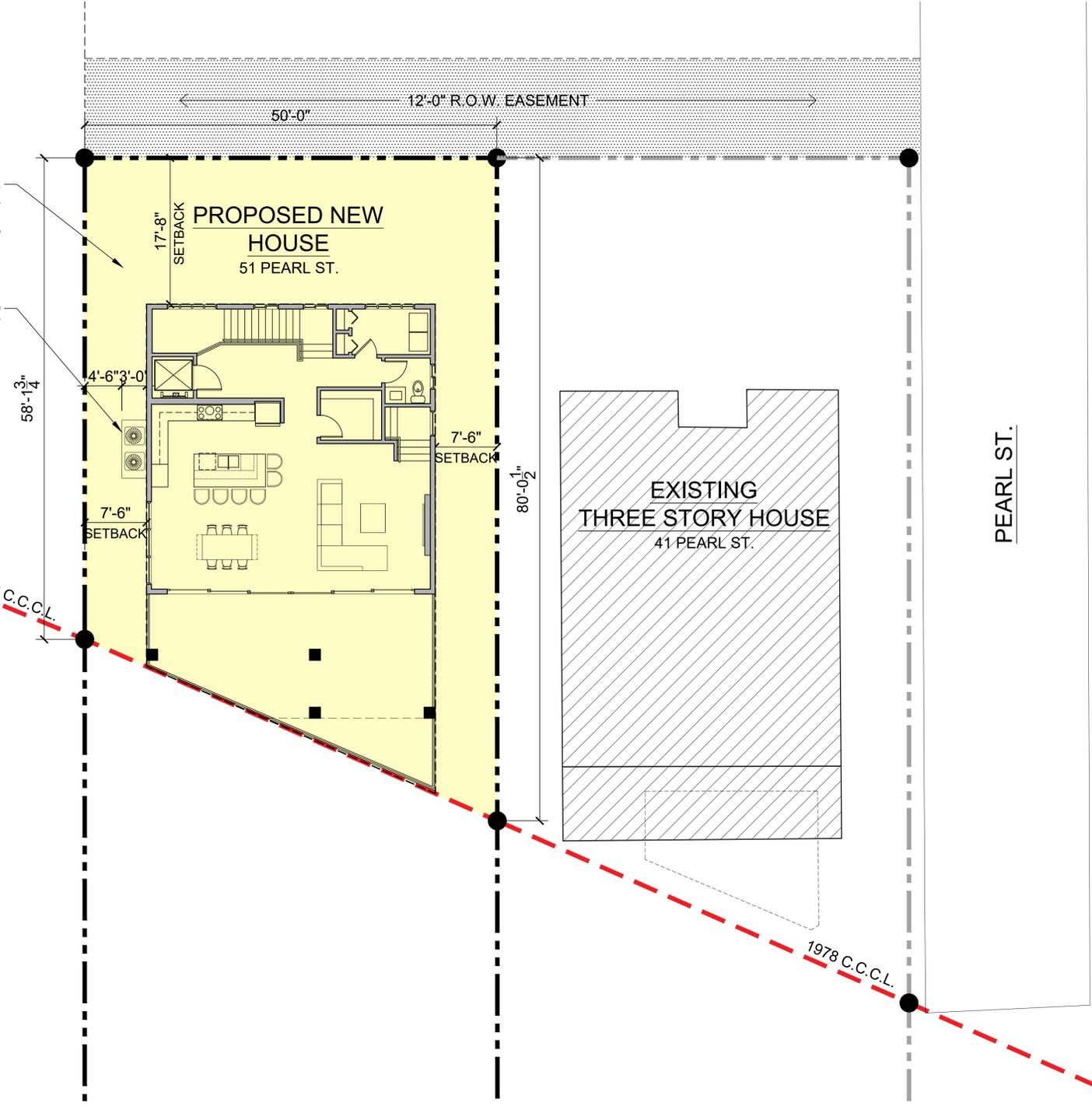
OF 2



NORTH
OVERALL SITE PLAN
SCALE: 1" = 20'-0"

3456 SQ. FT. BUILDABLE AREA
40% LOT COVERAGE = 1382.4 SQ. FT.
1801 SQ. FT. ACTUAL LOT COVERAGE = 52.1%

3'-0" ENCROACHMENT FOR ELEVATED
A/C EQUIPMENT



NORTH
ENLARGED SCHEMATIC SITE PLAN
SECOND FLOOR PLAN SHOWN
SCALE: 1/8" = 1'-0"

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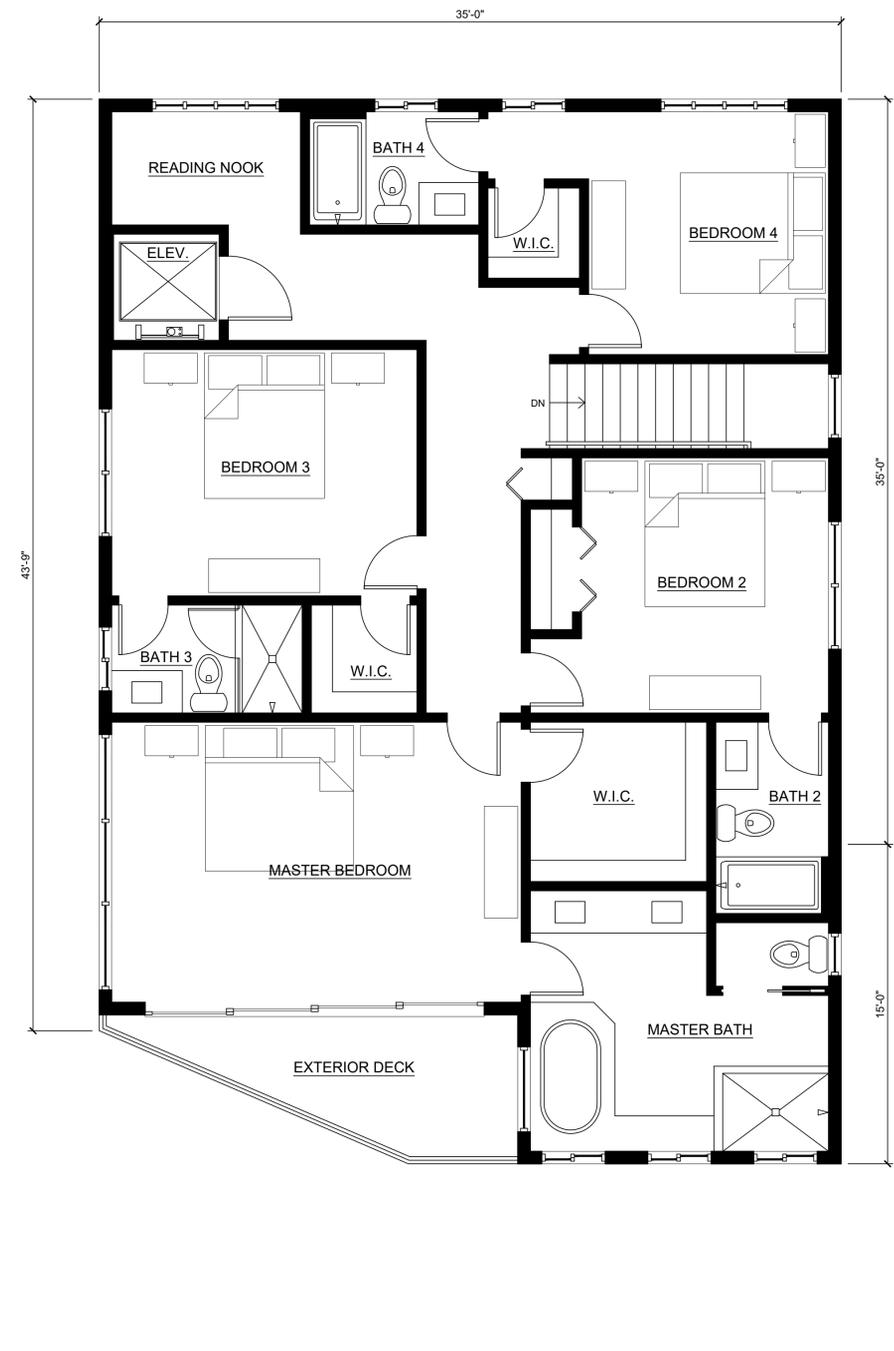
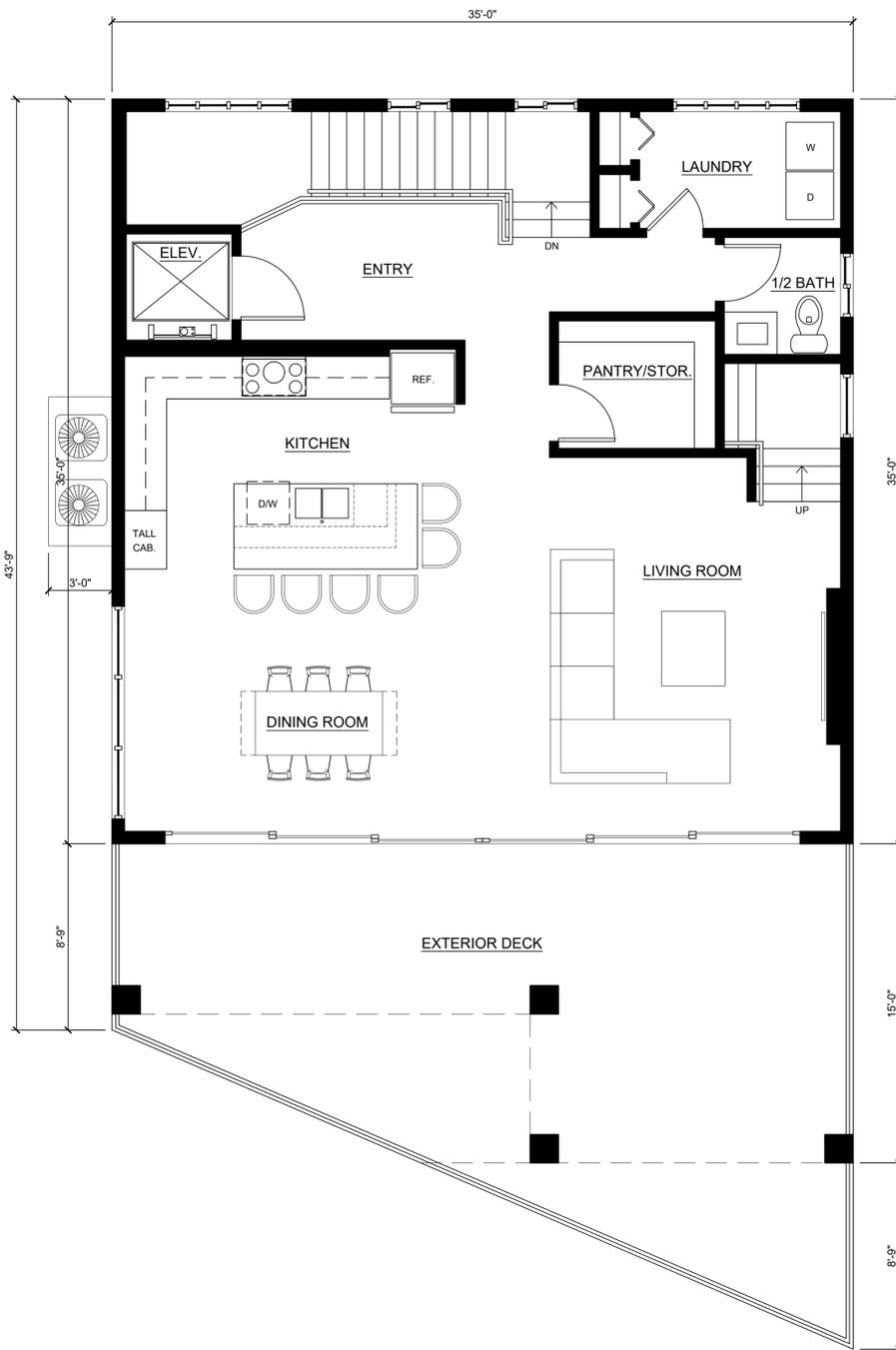
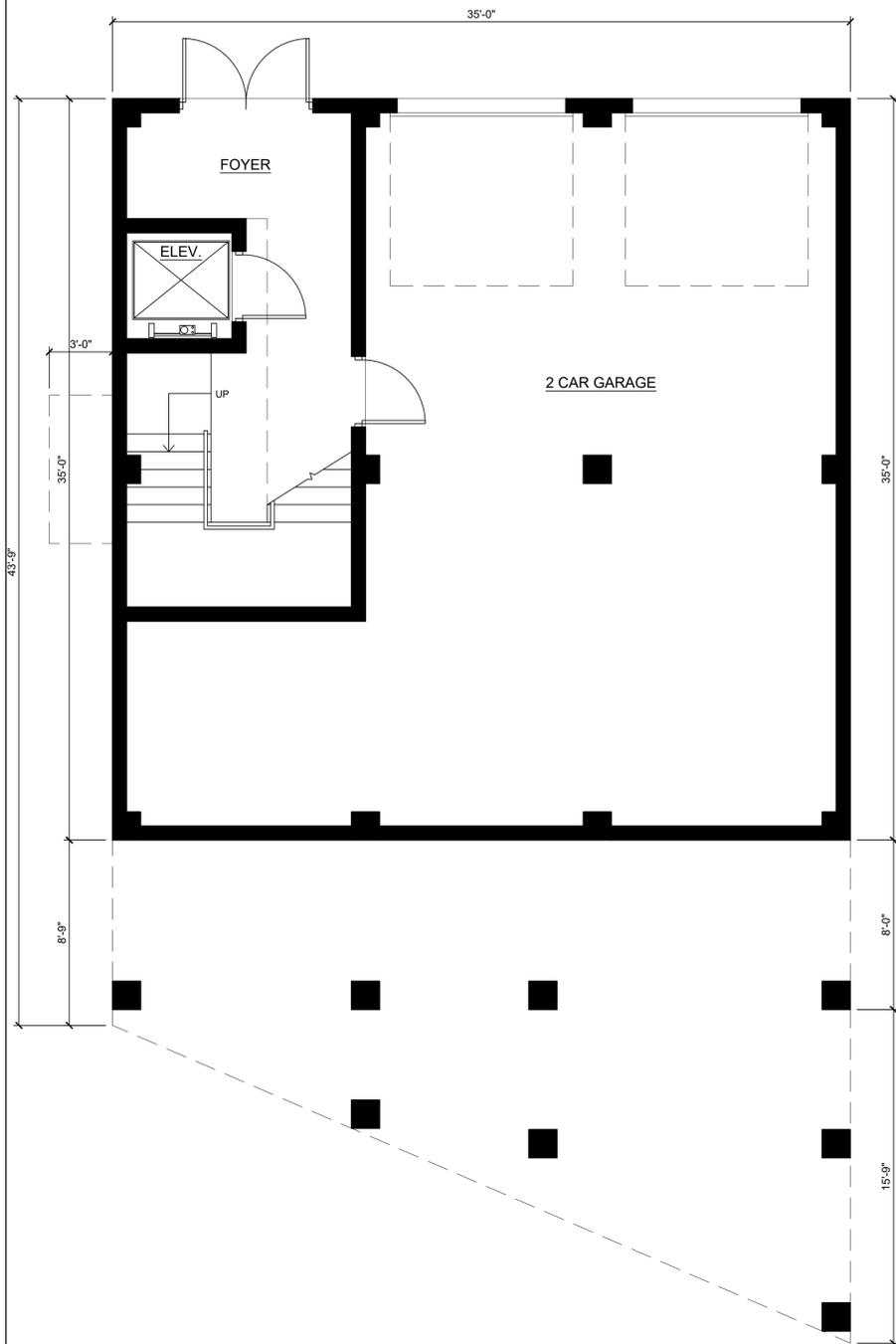
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REVISIONS:

SHEET

D2

OF 2



AREA ANALYSIS

FIRST FLOOR GARAGE/ENTRY FOYER ENCLOSED	1225 S.F.
SECOND FLOOR LIVING AREA (UNDER AIR)	1225 S.F.
THIRD FLOOR LIVING AREA (UNDER AIR)	1612 S.F.
SECOND FLOOR REAR OUTSIDE DECK	569 S.F.
THIRD FLOOR REAR OUTSIDE DECK	93 S.F.
TOTAL AREA (UNDER AIR)	2837 S.F.