



AGENDA ITEM 17
COMMUNITY DEVELOPMENT DEPARTMENT

455 Mountain Village Blvd.
Mountain Village, CO 81435
(970) 728-1392

TO: Mountain Village Town Council

FROM: Drew Nelson, Senior Planner

FOR: Town Council Regular Meeting; November 21, 2024

DATE: November 12, 2024

RE: Staff Memo – Conceptual Worksession Discussion of a Potential Height Variance and Vested Property Rights for Lot 98, Pursuant to Section 17.4.6 of the Community Development Code

BACKGROUND

The owners of Lot 98, through their representative Ron Bercovitz, are seeking feedback on proposed conceptual height variance for a future single-family residence on the property. The applicants have indicated that the height variance is necessary due to the height of the adjacent Four Seasons project that is slated to begin construction soon. The applicant has provided preliminary designs that show a structure with shed roofs, which allow for a 35-foot height limit in the Single Family zone district. The applicants have proposed maximum roof heights of 56' – 6", exceeding the height limit by 21' – 6".

Section 17.4.16.D of the Community Development Code provides the following criteria for the review authority to consider in order to approve a variance:

- a. *The strict development application of the CDC regulations would result in exceptional and undue hardship upon the property owner in the development of property lot because of special circumstances applicable to the lot such as size, shape, topography or other extraordinary or exceptional physical conditions;*
- b. *The variance can be granted without substantial detriment to the public health, safety and welfare;*
- c. *The variance can be granted without substantial impairment of the intent of the CDC;*
- d. *Granting the variance does not constitute a grant of special privilege in excess of that enjoyed by other property owners in the same zoning district, such as without limitation, allowing for a larger home size or building height than those found in the same zone district;*
- e. *Reasonable use of the property is not otherwise available without granting of a variance, and the variance being granted is the minimum necessary to allow for reasonable use;*
- f. *The lot for which the variance is being granted was not created in violation of Town regulations or Colorado State Statutes in effect at the time the lot was created;*
- g. *The variance is not solely based on economic hardship alone; and*

- h. The proposed variance meets all applicable Town regulations and standards unless a variance is sought for such regulations or standards.*

STAFF ANALYSIS

In reviewing the floor plans and elevations, the applicant is proposing a structure with approximately 7,507 square feet of habitable space. The proposed home would have a two-story profile from Mountain Village Boulevard which appears to meet the height limits in the CDC; however, this is only accomplished through the addition of significant fill to the existing site to raise the structure higher. Based on existing grade, the front of the home off of Mountain Village Boulevard would be approximately 38 feet in height, exceeding CDC limits. It appears possible that the structure could be reconfigured to step down the lot to reduce the height variance required, but it may require reducing the overall square footage below the 7,507 square feet proposed.

There was a height variance granted in 1996 for 4 feet of additional roof height on Lot 94, 741 Mountain Village Boulevard, which is located uphill and across the street from the subject site. It appears the variance was granted due to the way the roadway was constructed as well as the adjacency of the gondola easement.

The applicant is also proposing to apply for a vested right to the variance of a period of up to ten years, which is significantly longer than the three years specified in the CDC; however, the Town Council can approve a longer vesting period based on the scale of the development or other unique circumstances. A vesting period longer than three years may be appropriate for larger developments (such as the Four Seasons), but it would be rare to include a longer period for single-family residences.

RECOMMENDATION

A conceptual work session is a process that allows the Town Council to provide an informal, non-binding review of a conceptual development proposal. The Town Council should evaluate the concept based on the applicable criteria for decision in the future. Any comments or general direction given by the Town Council shall not be considered binding or represent any warranties or guarantees of approval of any kind. No formal action is taken by the Town Council on conceptual work sessions.

Staff recommends the Town Council review and evaluate the proposed concept plans based on the applicable criteria for decision on the future development application and provide nonbinding feedback and direction to the applicant regarding the proposed height variance.

ATTACHMENTS

- Exhibit A: Project Narrative
Exhibit B: Schematic Design

DEVELOPMENT NARRATIVE:

HEIGHT VARIANCE - LOT 98

Owners: Frost and Martha Prioleau

Architect/Applicant: Bercovitz Design, Architects

Submittal Date: 9-26-24

Purpose:

We have submitted a compliant Worksession application with the intention to hear from the Town Council members about their willingness to grant our request of a height variance for a period of not less than 10 years. The Council's comments will be taken into account when finalizing a design to present to the DRB.

History:

About two years ago, approval was granted for a 25 foot height variance for the hotel project on Lot 161CR. This project will likely start construction soon, and with its height, it will block the main mountain peak views that Lot 98 faces, unless we are allowed to build higher than the design regulations allow.

Description:

By building up the base grade of our building site, our current design appears to be similar to other height compliant single family homes in the Mountain Village. No homes on adjacent lots will be hampered by the additional height, since no lots are located directly behind it. The uppermost natural grade of the lot is about 10 feet below the road - the road was constructed 10 feet above the uppermost grade of the lot. From the street, the proposed house appears to be two modest levels above the street. The house is being located as high as possible on the lot to assist in obtaining a clear view over the proposed hotel. **Our proposed maximum building height is 56'-6", which is 21'-6" higher than the maximum allowed height in the CDC.** However, when assessing the building height by taking height intervals using the final grade, the design is compliant.

Timing:

Although we don't have plans to build on lot 98 in the immediate future, it is important we gain acknowledgement of the negative impact that the hotel project will have on our right to light and views, and enable the current Town Council to mitigate the damage to the light and view rights of the property owners that was caused by the approval of significant height variances for the hotel. A separate vested rights application will be submitted in the future with the DRB plans and height variance to enable and extended approval period. The CDC notes that an approval period beyond three years can be approved by the Town Council (per 17.4.17.E.5 "Duration")

Impact:

No homes on adjacent lots will be hampered by the additional height, since no lots are located directly behind it or located such that views will be impacted. The resulting structure will be as accessible as other similar single family structures for maintenance and for emergency (fire fighting) access. Snow shedding from the roof has been designed to enable snow to fall outside vehicular and pedestrian areas. Should there be an objection from a nearby lot, such objection can be heard and addressed at the hearing for approval

Demonstrated Economic Hardship:

Without the additional height requested, views from the future home will be severely restricted. This view blockage will result in a home value much lower than a home on the lot as it existed prior to the hotel height variance was granted.

Public Benefit:

The public benefit of this project is the mitigation of the "right-to views" damage caused to Lot 98 by the approval of significant height variances that have been granted to entice the developer to move forward with the hotel project. The public benefits cited for the hotel project were significant and well documented. The proposed height variance for Lot 98 should be considered as a fair trade for enabling the hotel's public benefits.

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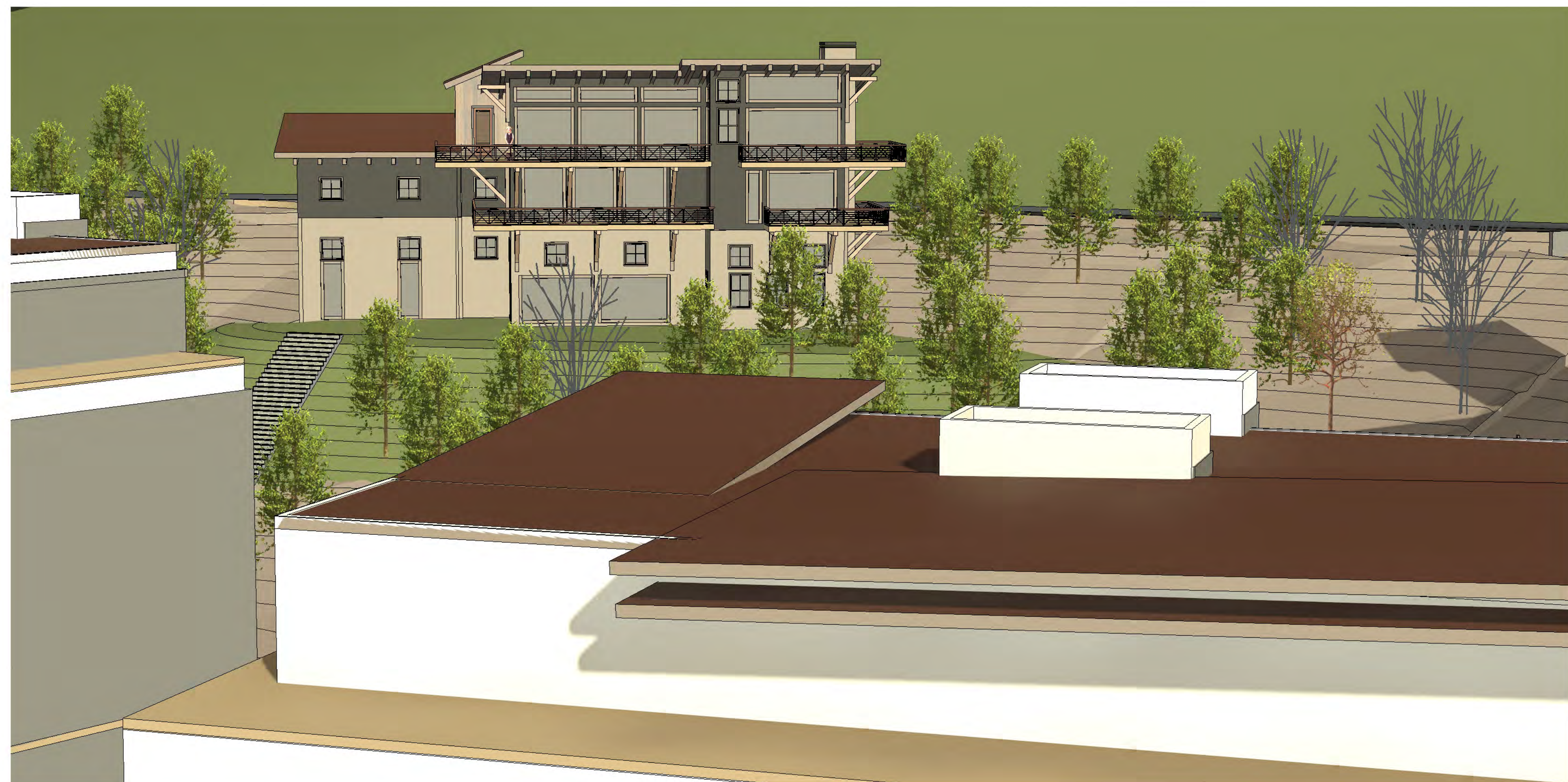
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Lot 98

MOUNTAIN VILLAGE, COLORADO

Schematic Design 09-27-2024



ABBREVIATIONS			
A.B.	ANCHOR BOLT	(E)	EXISTING
A.C.T.	ACoustical CEILING TILE	EA	EACH
AFF	ABOVE FINISH FLOOR	E.J.	EXPANSION JOINT
ALT.	ALTERNATE	E.I.	EXTENSION INSULATION
APPRX.	APPROXIMATE	E.I.S.	ELEVATION INSULATION AND FINISH SYSTEM
ARCH	ARCHITECTURAL	ELEV	ELEVATION
BD	BOARD	ELEC	ELECTRICAL
BLDG	BUILDING	ENCL	ENCLOSURE
BLK	BLOCK	EQ	EQUAL
BLK	BLOCKING	EQUIP	EQUIPMENT
BM	BEAM	EXT	EXTERIOR
B.O.	BOTTOM OF	EXIST	EXISTING
BTM	BOTTOM	EXP	EXPANSION
BTWN	BETWEEN	EXP	EXTERIOR
B.W.	BOTH WAYS	EXT	EXTERIOR
C.J.	CONTROL JOINT	F.A.	FIRE ALARM
C.L.	CENTERLINE	F.D.	FLOOR DRAIN
CLOS.	CLOSET	FOUND	FOUNDATION
CLOS.	CLOSET	F.F.	FINISH FLOOR
CLG	CEILING	FIN	FINISH
CLKG	CAULKING	FLR	FLOOR
CLR	CLEAR	F.O.B.	FACE OF BRICK
CMU	CONCRETE MASONRY UNIT	F.O.C.	FACE OF CONCRETE
COL	COLUMN	FP	FIREPLACE
CONC	CONCRETE	FT	FOOT / FEET
CONN	CONNECTION	FTG	FOOTING
CONSTR	CONSTRUCTION	FURR	FURRING
CONT	CONTINUOUS	GA	GALVE
C.T.	CERAMIC TILE	GALV	GALVANIZED
DET/DTL	DETAIL	GC	GENERAL CONTRACTOR
DA	DIAMETER	GL	GLASS
DAG	DIAGONAL	GLB	GLULAM BEAM
DM	DIMENSION	GYP	GYP SUM
DN	DOWN	GWB	GYP SUM WALL BOARD
DS	DOWNSPOUT		
DW	DWASHER		
DWG/DWGS	DRAWING / DRAWINGS		
H.B.	HOSE BIBB	H.C.	HANDICAPPED
HC	HEAD	HD	HARDWOOD
HD	HEAD	HRZ	HORIZONTAL
HOWD	HORIZONTAL	HT	HEIGHT
HT	HEIGHT	I.D.	INSIDE DIAMETER
I.D.	INSIDE DIAMETER	INSUL	INSULATION
INSUL	INSULATION	INT	INTERIOR
INT	INTERIOR	LAM	LAMINATE
LAM	LAMINATE	LAV	LAVATORY
LAV	LAVATORY	LDRY	LAUNDRY
LDRY	LAUNDRY	MAX	MAXIMUM
MECH	MECHANICAL	MFG	MANUFACTURER
MIN	MINIMUM	MISC	MISCELLANEOUS
MISC	MISCELLANEOUS	MTL	METAL
MTL	METAL	NC	NOT IN CONTRACT
NC	NOT IN CONTRACT	NA	NOT APPLICABLE
NA	NOT APPLICABLE	NTS	NOT TO SCALE
NTS	NOT TO SCALE	O.C.	ON CENTER
O.C.	ON CENTER	O.D.	OUTSIDE DIAMETER
O.D.	OUTSIDE DIAMETER	OH	OVERHEAD
OH	OVERHEAD	OPP.	OPPOSITE
OPP.	OPPOSITE	PL	PLATE
PL	PLATE	PLY	PLYWOOD
PLY	PLYWOOD	PREFAB	PREFABRICATED
PREFAB	PREFABRICATED	REFG	REFRIGERATOR
REFG	REFRIGERATOR	RENF	REINFORCED / REINFORCING
RENF	REINFORCED / REINFORCING	REQD	REQUIRED
REQD	REQUIRED	RM	ROOM
RM	ROOM	R.O.	ROUGH OPENING
R.O.	ROUGH OPENING	SF	SQUARE FEET
SF	SQUARE FEET	SHT	SHEET
SHT	SHEET	SIM	SIMILAR
SIM	SIMILAR	SPEC	SPECIFICATION
SPEC	SPECIFICATION	SQ	SQUARE
SQ	SQUARE	STD	STANDARD
STD	STANDARD	STRUC	STRUCTURAL
STRUC	STRUCTURAL	T & B	TOP AND BOTTOM
T & B	TOP AND BOTTOM	TAG	TONGUE & GROOVE
TAG	TONGUE & GROOVE	T.O.P.	TOP OF
T.O.P.	TOP OF	TS	TUBE STEEL
TS	TUBE STEEL	TV	TELEVISION
TV	TELEVISION	TYP	TYPICAL
TYP	TYPICAL	U/C	UNDERCOUNTER
U/C	UNDERCOUNTER	U.N.O.	UNLESS NOTED OTHERWISE
U.N.O.	UNLESS NOTED OTHERWISE	VERT	VERTICAL
VERT	VERTICAL	VRY	VERY
VRY	VERY	VIF	VERY IN FIELD
VIF	VERY IN FIELD	W/	WITH
W/	WITH	W/O	WITHOUT
W/O	WITHOUT	WC	WATERCLOSET
WC	WATERCLOSET	WP	WATERPROOF
WP	WATERPROOF	WD	WOOD
WD	WOOD		

DRAWING TITLE KEY	GRAPHIC SYMBOLS LEGEND
<p>DRAWING #</p> <p>VIEW TITLE</p> <p>DRAWING SCALE</p> <p>DETAIL, SECTION, OR ELEVATION VIEW</p> <p>CROSS REFERENCE KEY</p> <p>WALL SECTION MARKER</p> <p>BUILDING SECTION MARKER</p> <p>SECTION #</p> <p>SHEET #</p> <p>DETAIL MARKER</p> <p>DETAIL #</p> <p>SHEET #</p> <p>PLAN VIEW</p>	<p>STUD WALL - NEW</p> <p>CONCRETE WALL - NEW</p> <p>STONE VENEER</p> <p>CONCRETE MASONRY UNIT</p> <p>GRAVEL</p> <p>METAL</p> <p>RIGID INSULATION</p> <p>SPRAY FOAM INSULATION</p> <p>BATT INSULATION / BLOWN-IN</p> <p>WOOD - ROUGH</p> <p>WOOD - FINISH</p> <p>EARTH</p> <p>DOOR TAG</p> <p>WINDOW TAG</p> <p>ELEVATION TARGET</p> <p>GRIDLINE</p>

ARCHITECT:
Bercovitz Design Architects
 201 W. Colorado Ave., Suite 205
 P.O. Box 2709
 Telluride CO, 81435
 (970) 728 - 4555
 Contact: Ron Bercovitz, AIA

INTERIOR DESIGNER:
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STRUCTURAL ENGINEER:
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GENERAL CONTRACTOR
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LANDSCAPE DESIGNER:
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CIVIL ENGINEER:
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MECHANICAL ENGINEER:
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SURVEYOR:
Foley Associates

- SHEET INDEX:**
- 0.1 COVER
 - 0.3 PERSPECTIVES
 - 0.4 PERSPECTIVES
 - 0.5 CONTEXT PHOTOS
 - 1.1 SITE PLAN
 - 3.1 FLOOR PLANS
 - 4.1 ELEVATIONS
 - 5.1 SECTIONS
 - S SURVEY

LOT 98
MOUNTAIN VILLAGE, COLORADO

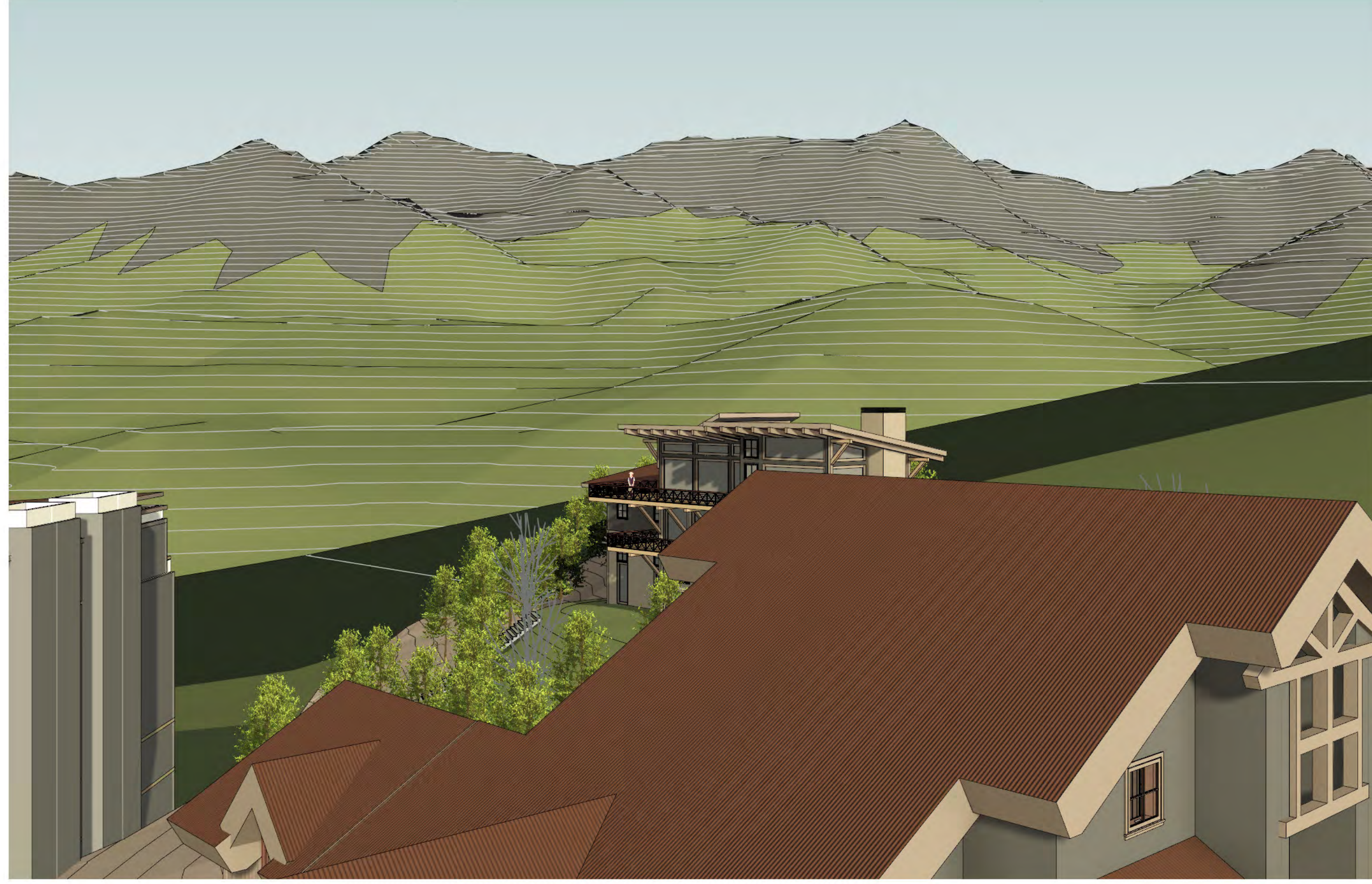
PRELIMINARY - NOT FOR CONSTRUCTION

BERCOVITZ DESIGN
ARCHITECTS
201 W. COLORADO AVENUE, SUITE 205 TELLURIDE CO 81435
P.O. BOX 2709 TELLURIDE, CO 81435
(970) 728-4555

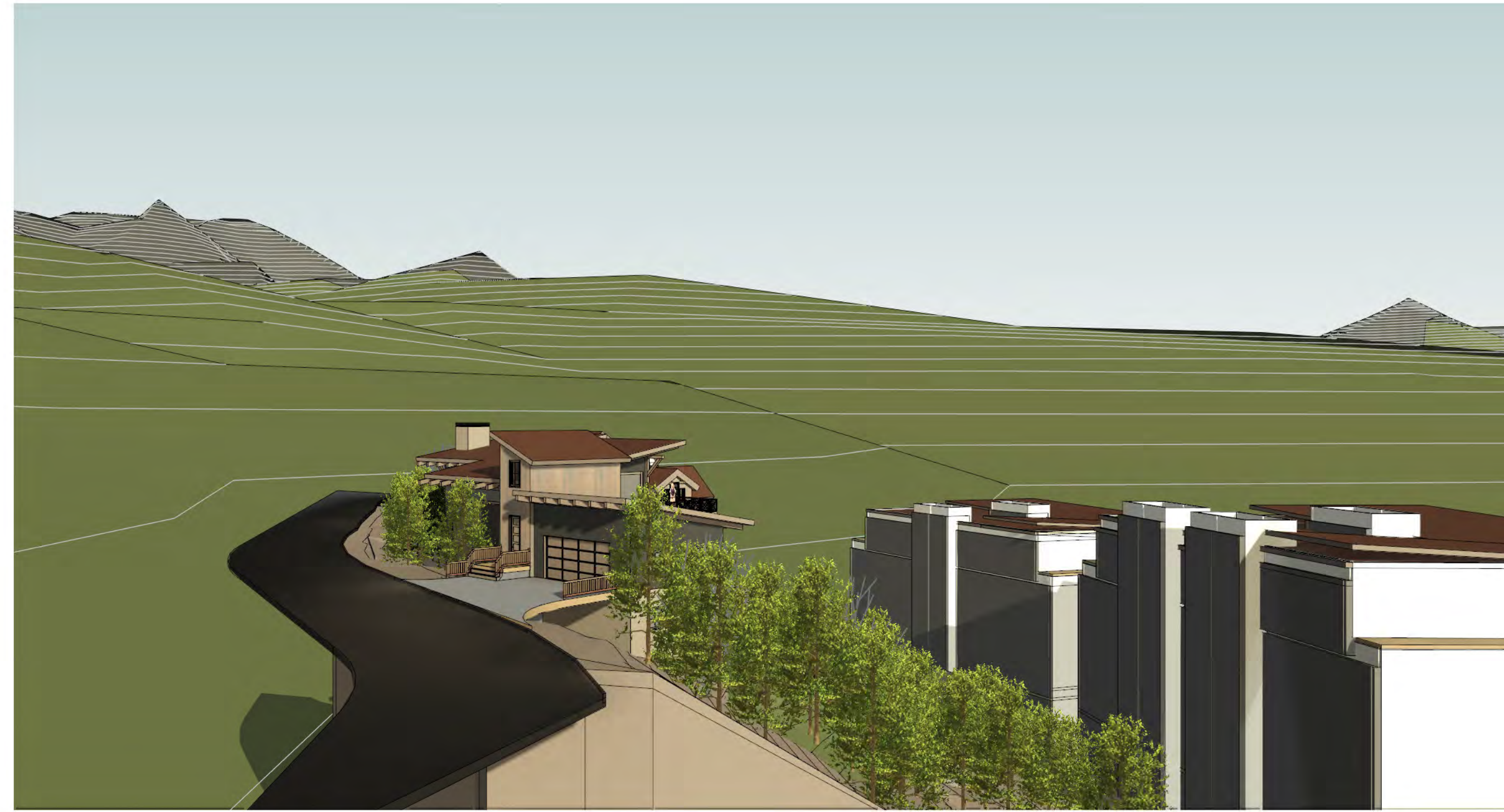
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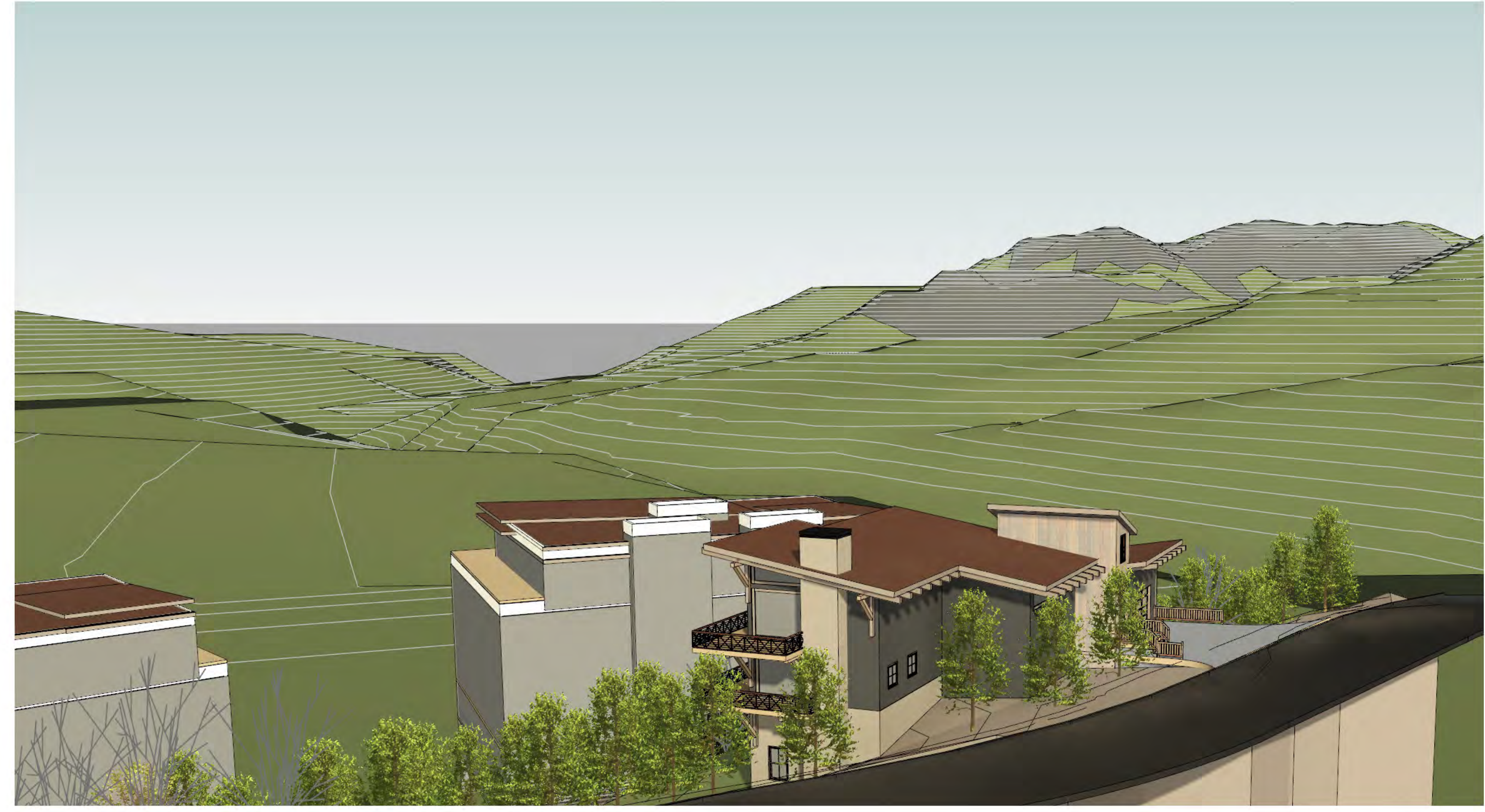
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1 SW
SCALE:



3 NE
SCALE:



2 SE
SCALE:

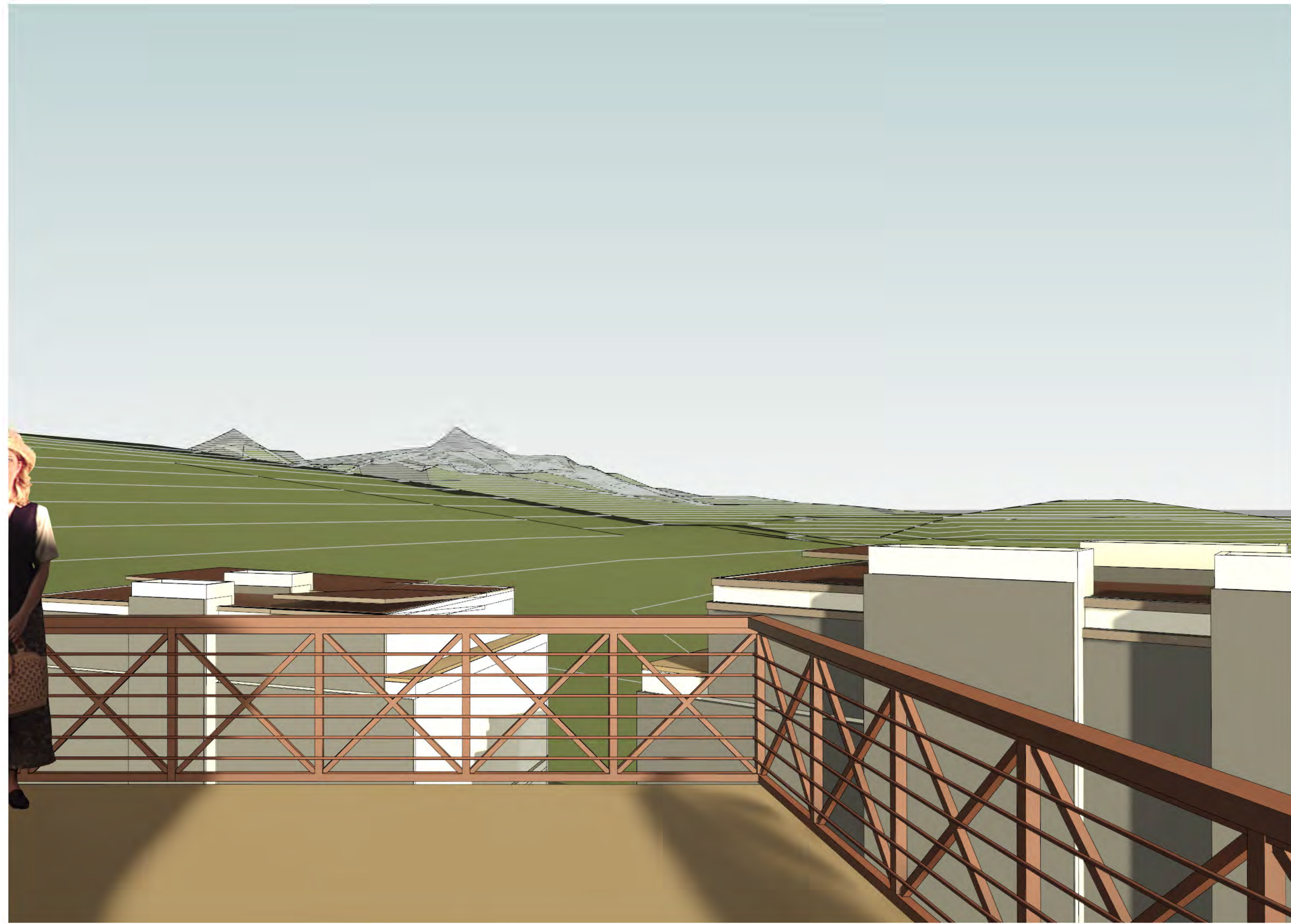


4 NW
SCALE:

PRELIMINARY NOT FOR CONSTRUCTION

PERSPECTIVES

0.3





VIEW FROM LOT 97



VIEW OF HOUSE TO THE NORTH



VIEW OF LOT SHOWING RETAINING WALL



VIEW OF LOT LOOKING SOUTH

LOT 98
MOUNTAIN VILLAGE, COLORADO

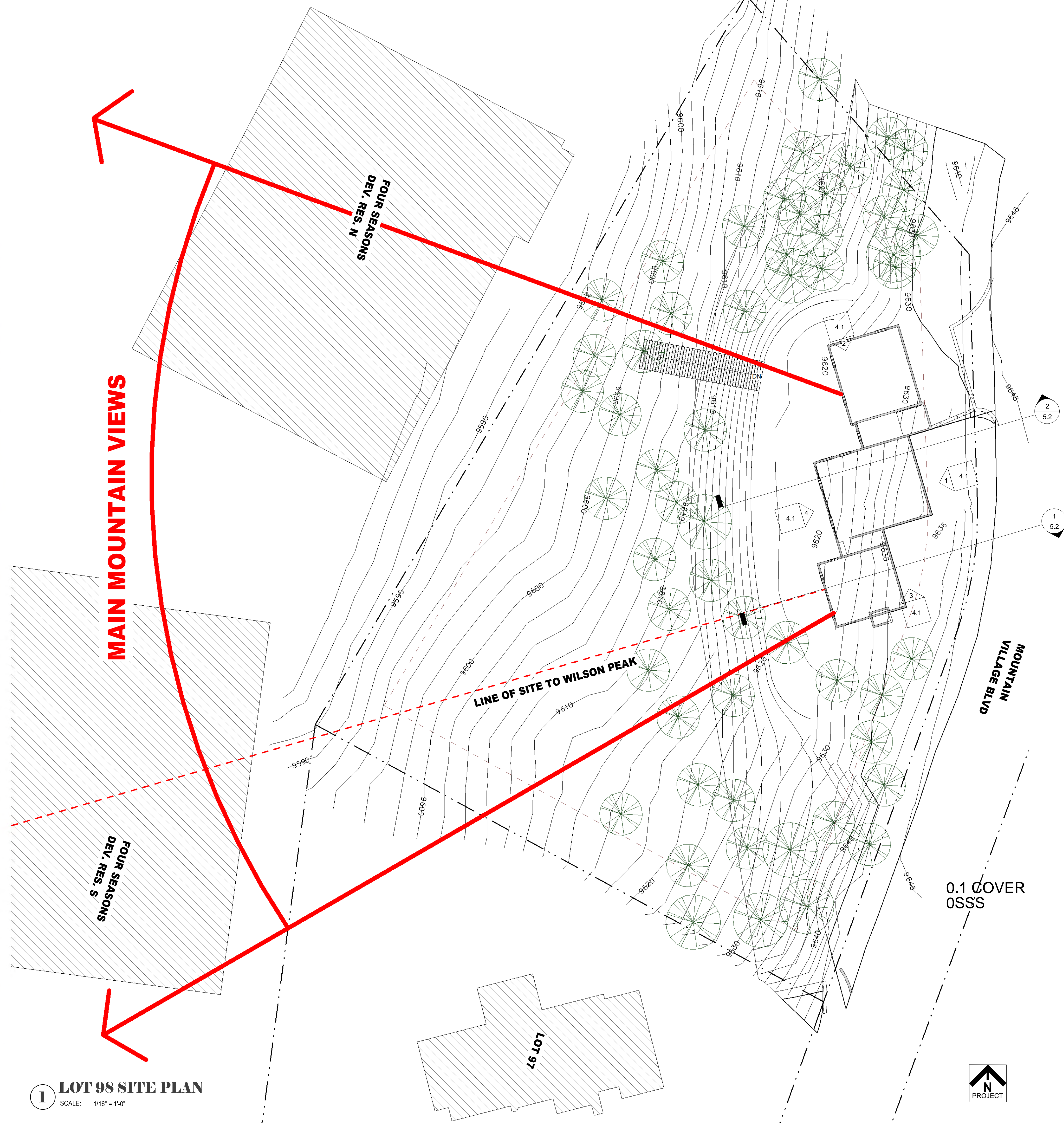
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CONTEXT PHOTOS

0.5



2 EXISTING TREES
SCALE: 1/4" = 1'-0"



1 LOT 98 SITE PLAN
SCALE: 1/16" = 1'-0"

PRELIMINARY NOT FOR CONSTRUCTION

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1.1

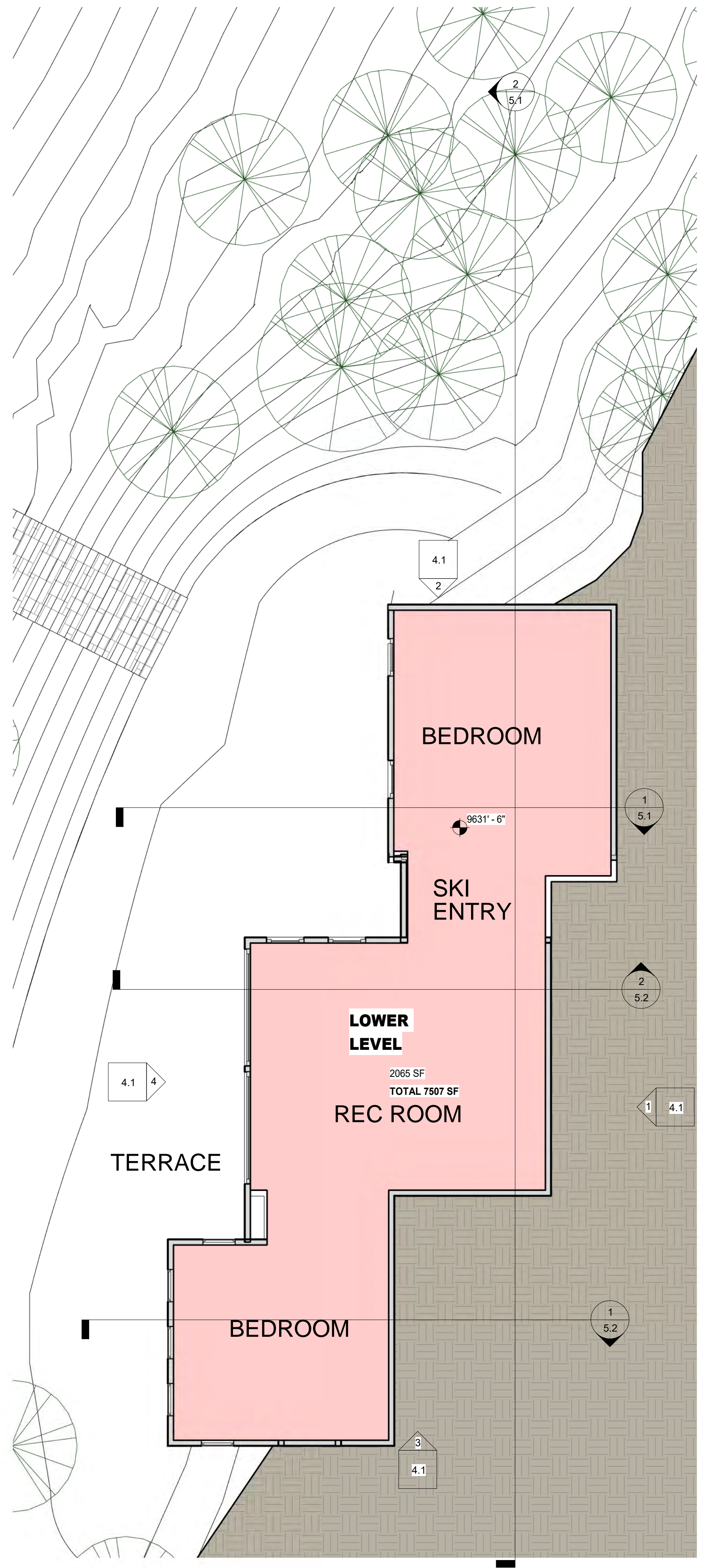
SITE PLAN

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ARCHITECTS
201 W. COLORADO AVENUE, SUITE 205 TELLURIDE CO 81435
P.O. BOX 2709 TELLURIDE, CO 81435
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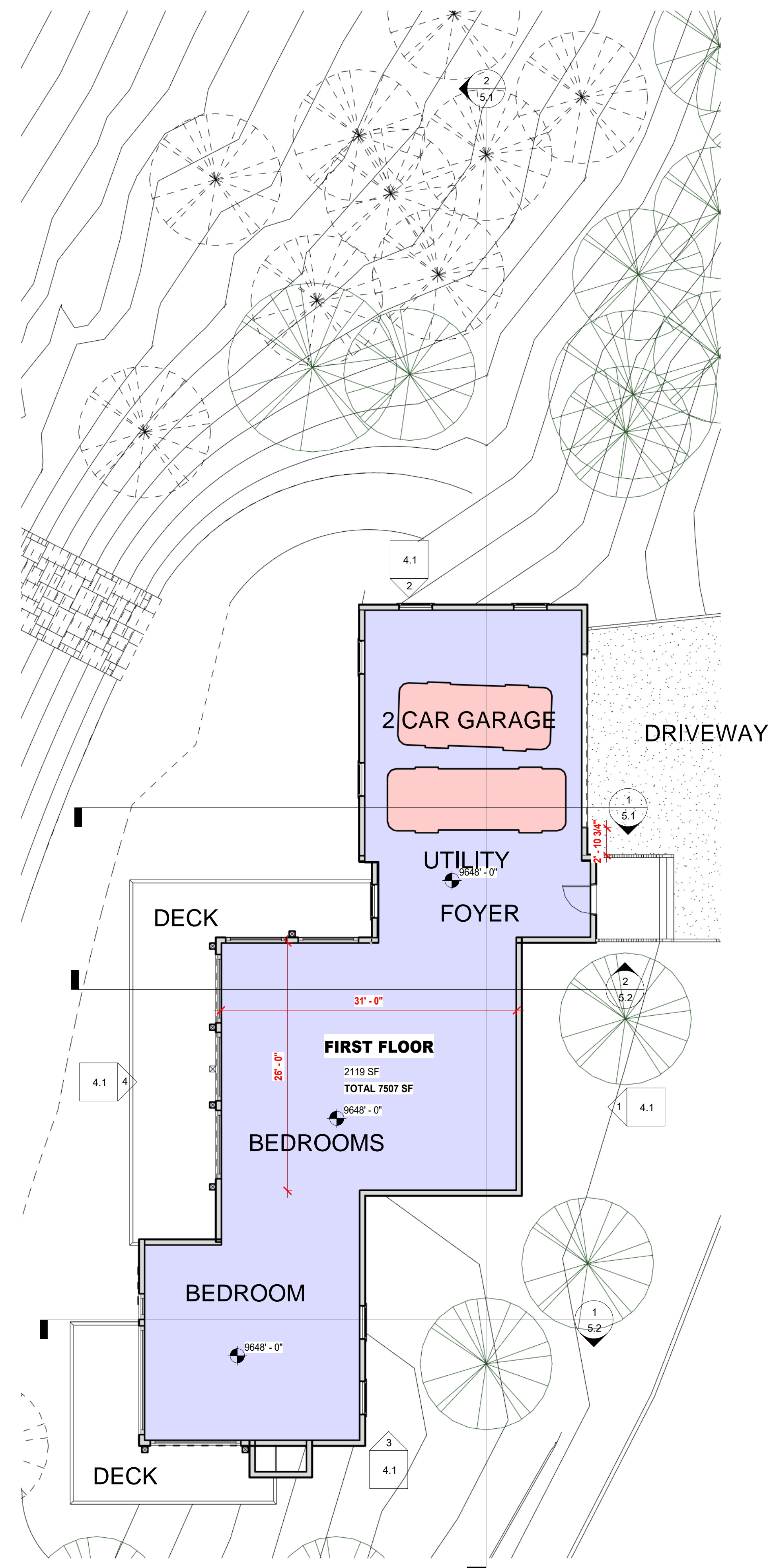
LOT 98
MOUNTAIN VILLAGE, COLORADO

DATE:
09-27-2024

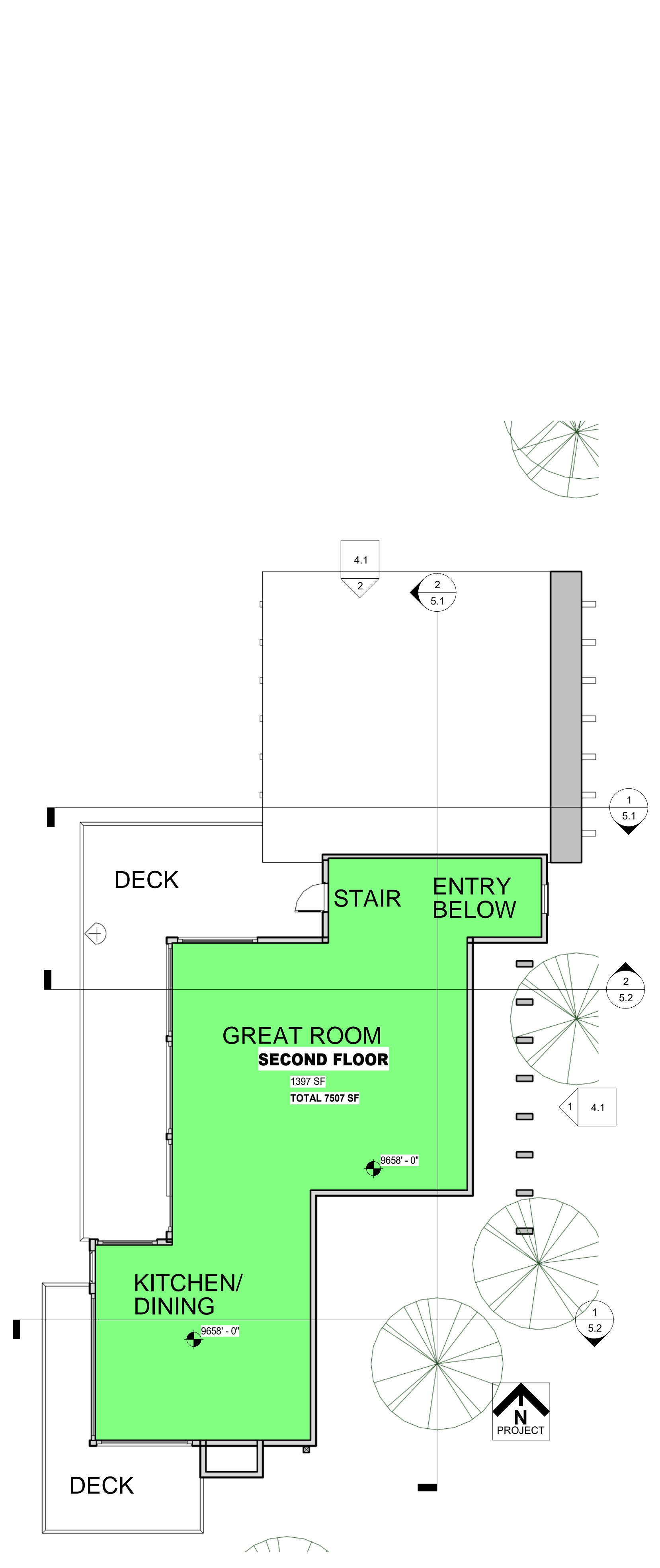
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3 LOWER LEVEL
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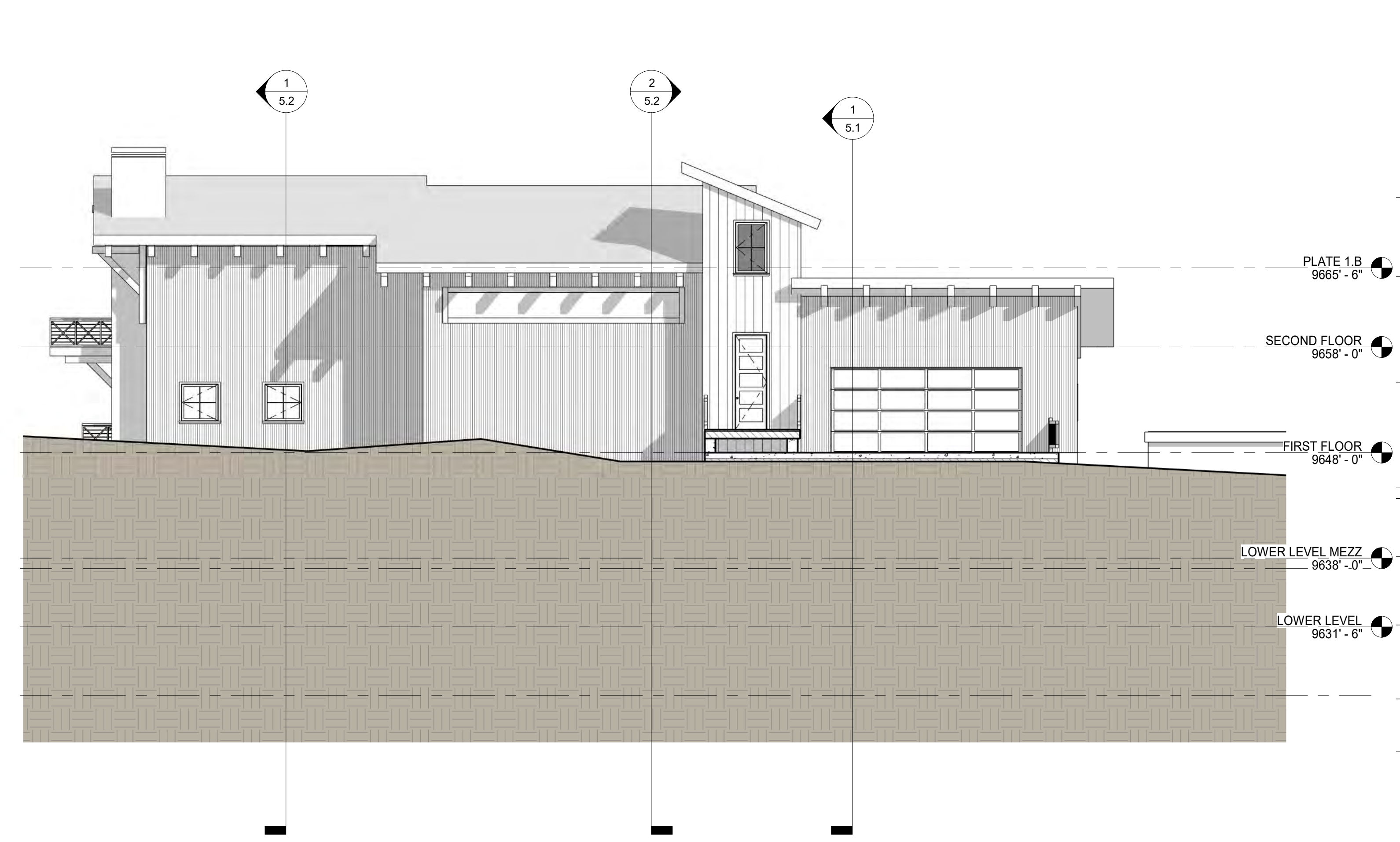
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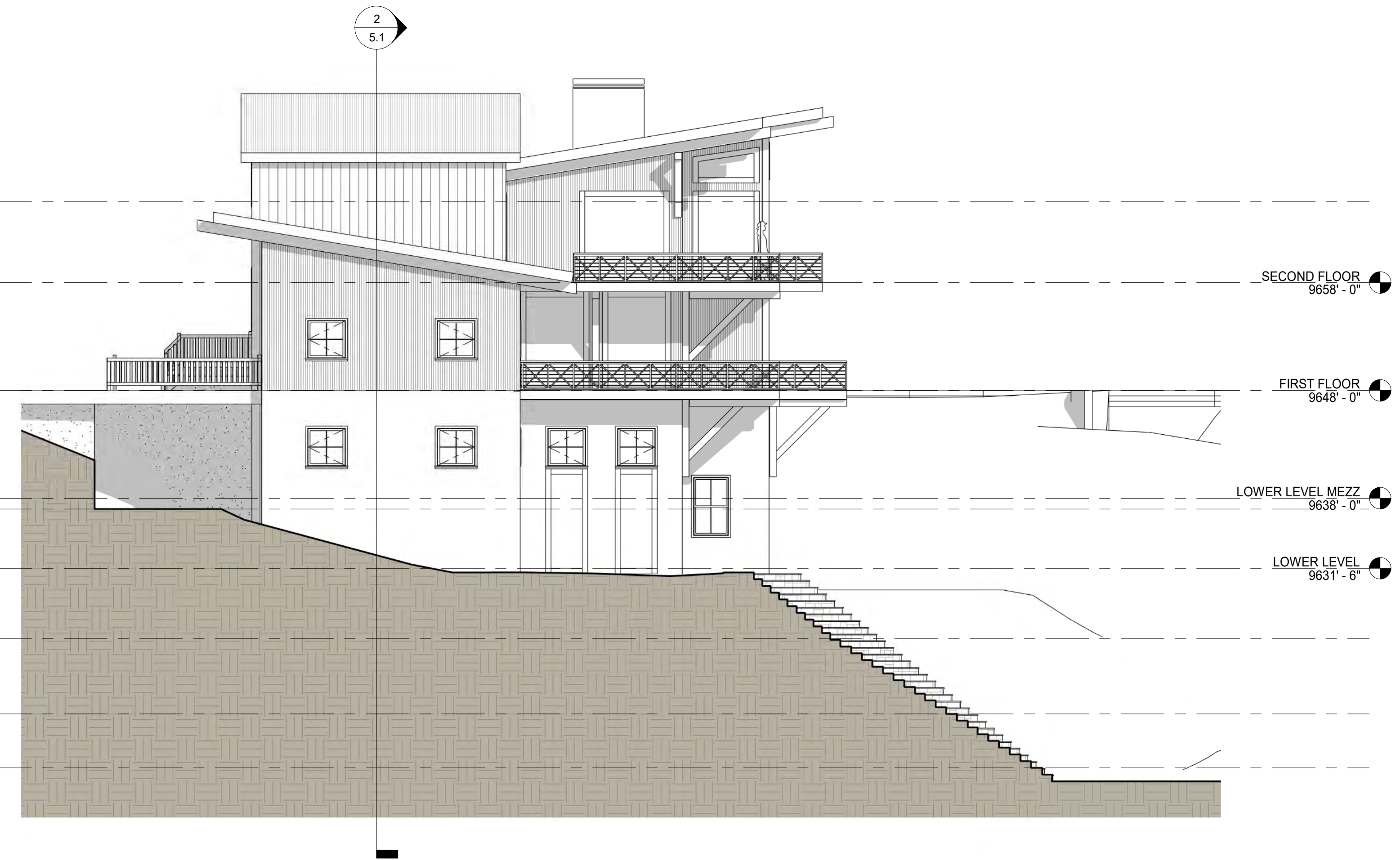
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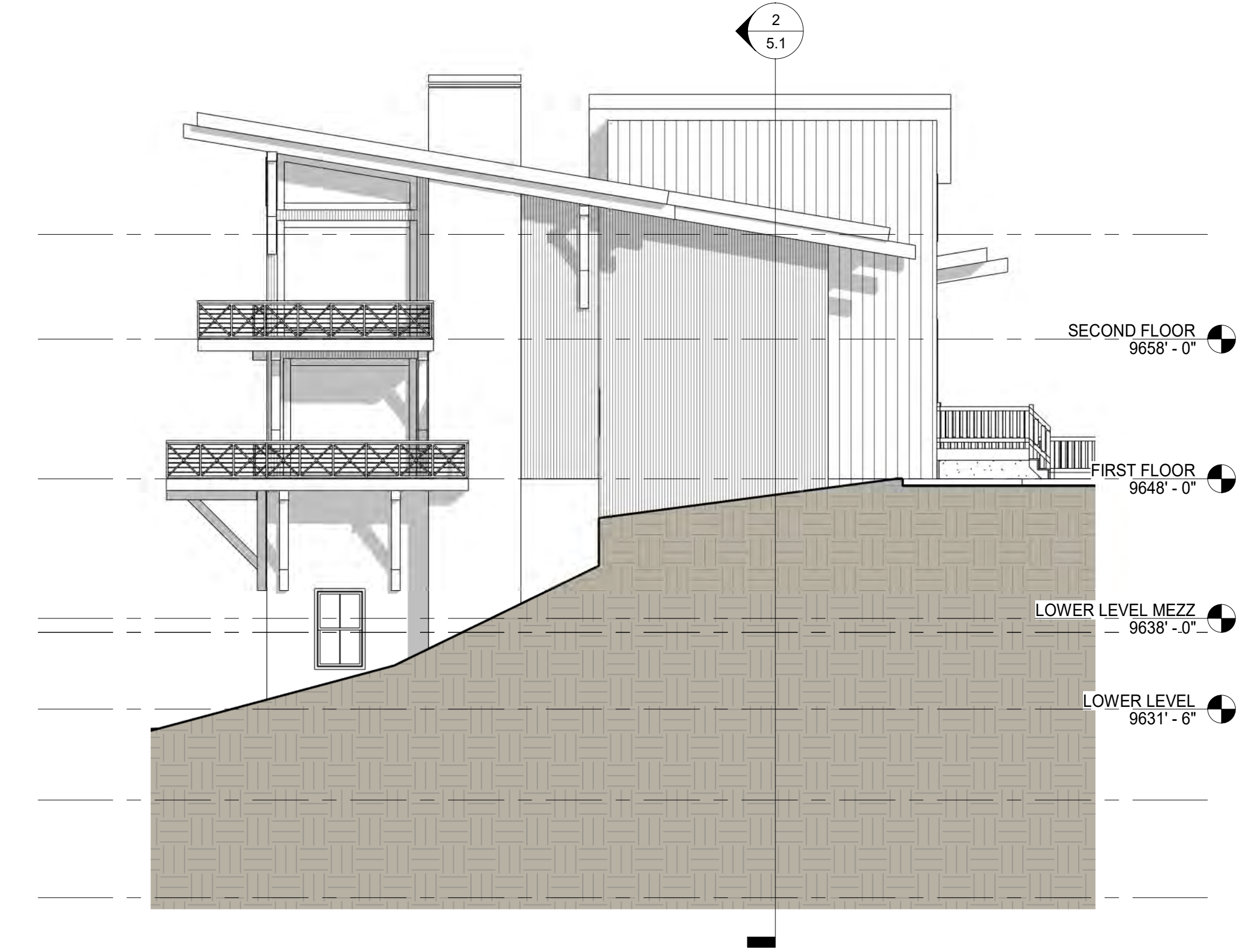
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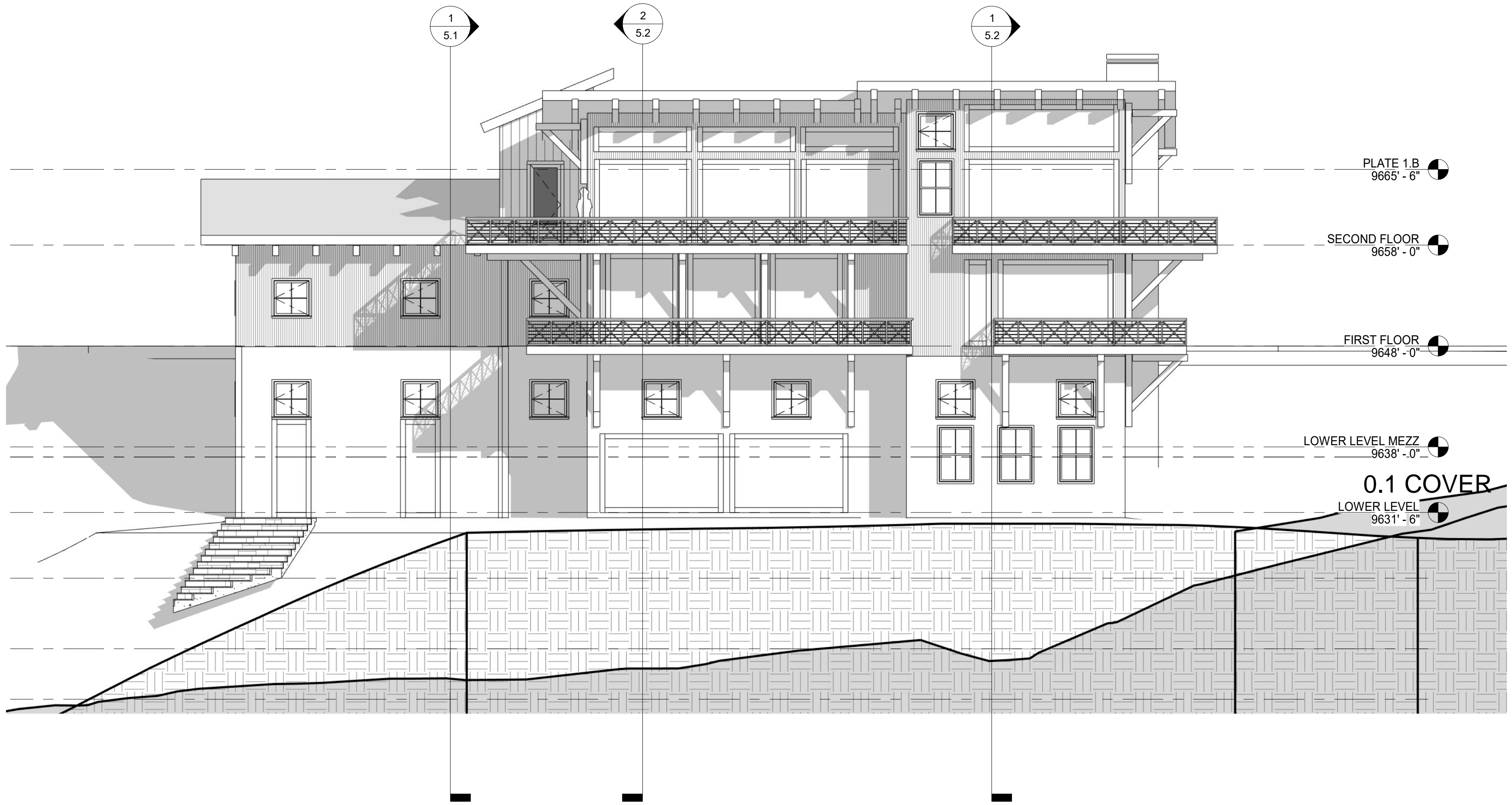
1 EAST ELEVATION
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2 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



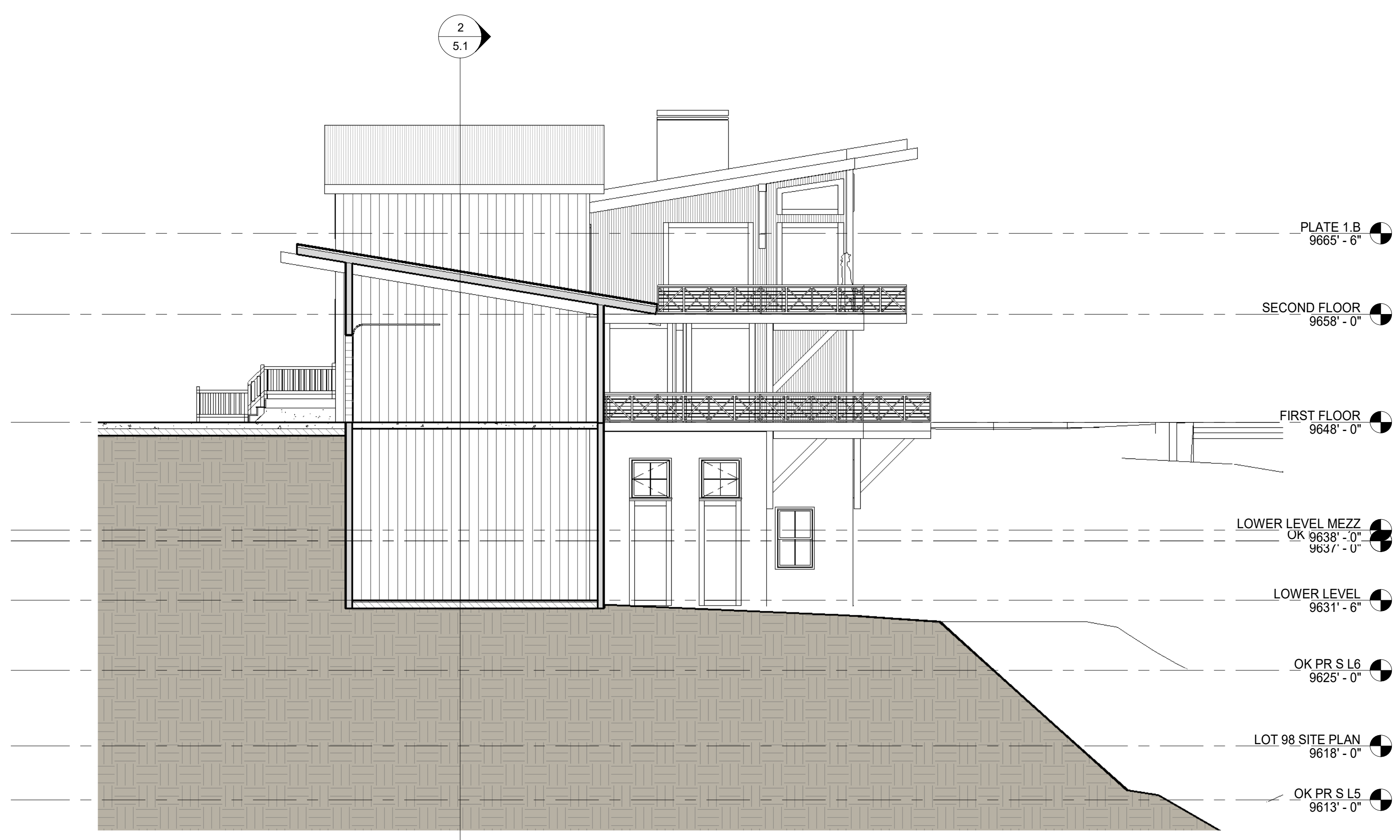
3 SOUTH ELEVATION
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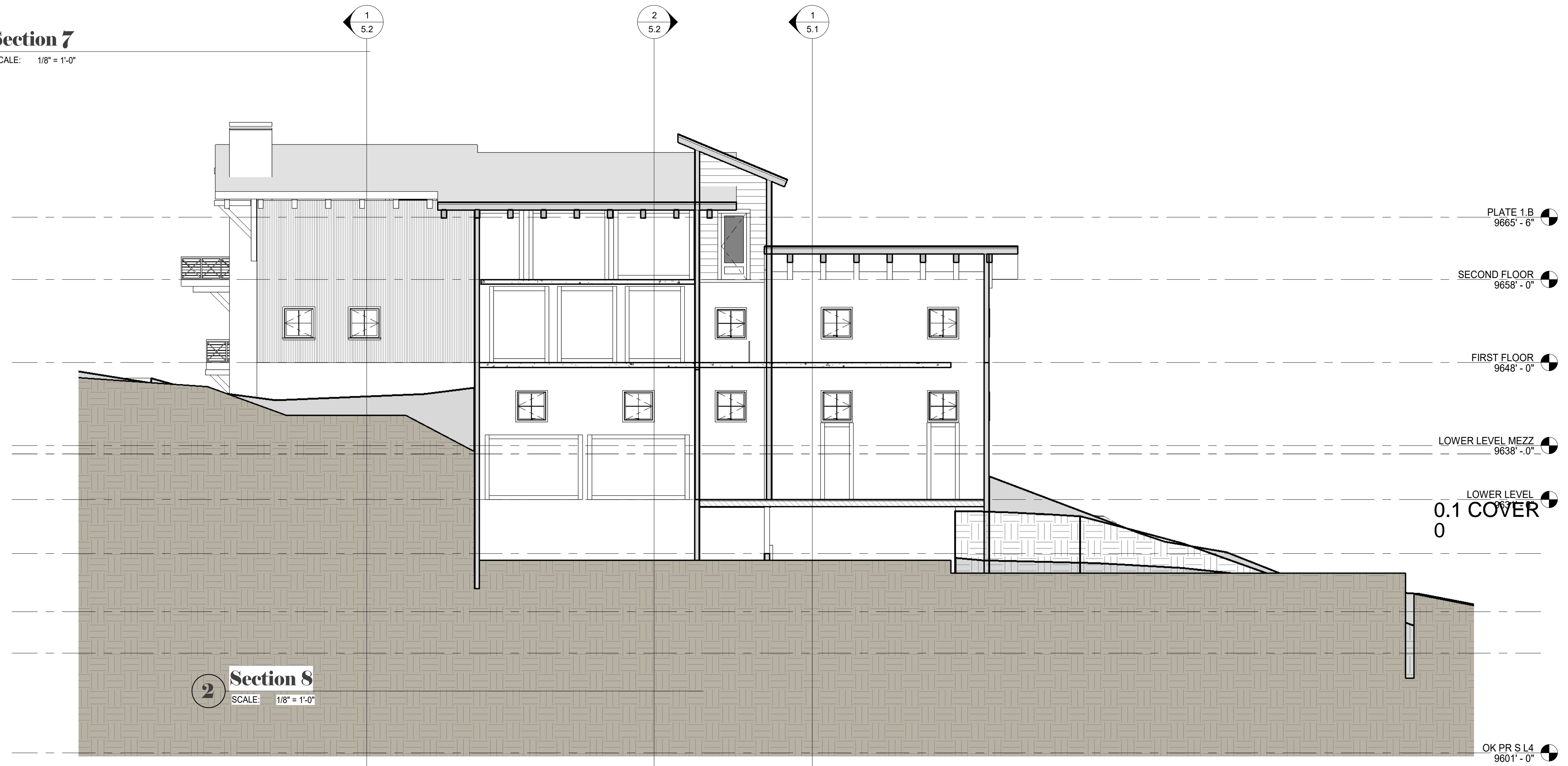
4 WEST ELEVATION
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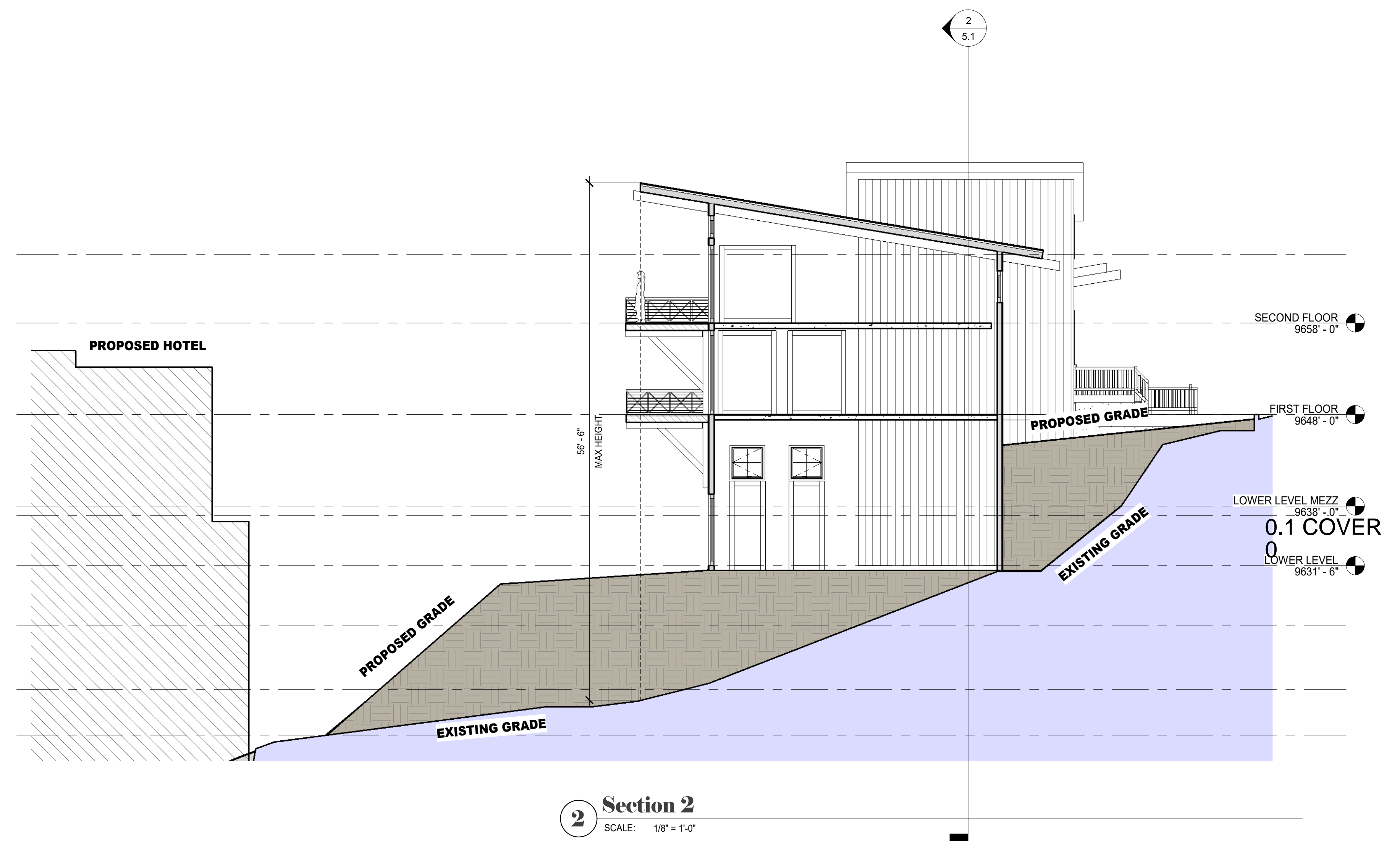
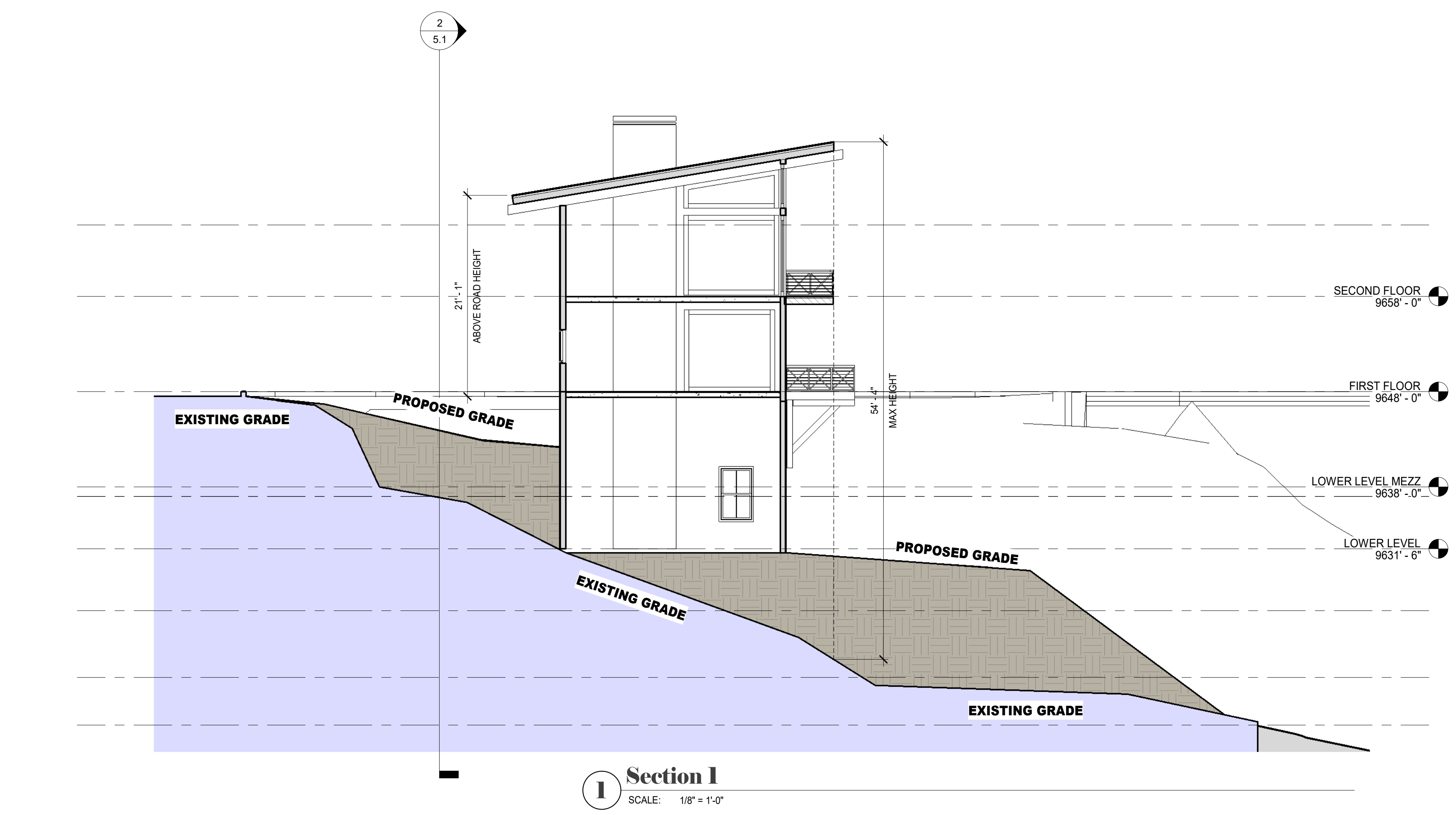


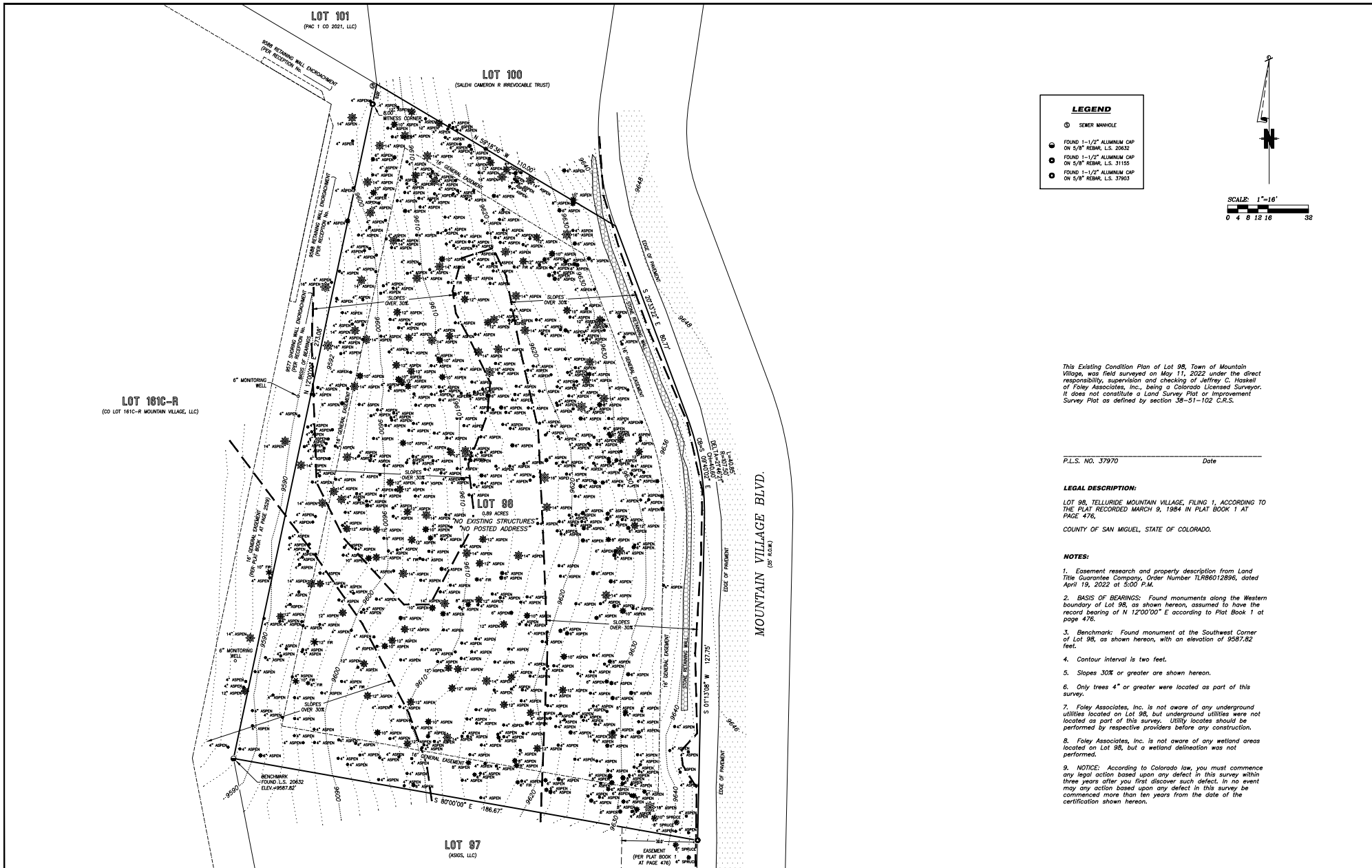
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2 Section 8
SCALE: 1/8" = 1'-0"

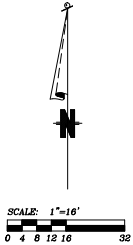
PRELIMINARY NOT FOR CONSTRUCTION





LEGEND

- ⊙ SEMER MANHOLE
- FOUND 1-1/2" ALUMINUM CAP ON 5/8" REBAR, L.S. 20632
- FOUND 1-1/2" ALUMINUM CAP ON 5/8" REBAR, L.S. 31155
- FOUND 1-1/2" ALUMINUM CAP ON 5/8" REBAR, L.S. 37903



This Existing Condition Plan of Lot 98, Town of Mountain Village, was field surveyed on May 11, 2022 under the direct responsibility, supervision and checking of Jeffrey C. Hoskell of Foley Associates, Inc., being a Colorado Licensed Surveyor. It does not constitute a Land Survey Plat or Improvement Survey Plat as defined by section 38-51-102 C.R.S.

P.L.S. NO. 37970 _____ Date _____

LEGAL DESCRIPTION:
 LOT 98, TELLURIDE MOUNTAIN VILLAGE, FLING 1, ACCORDING TO THE PLAT RECORDED MARCH 9, 1984 IN PLAT BOOK 1 AT PAGE 476,
 COUNTY OF SAN MIGUEL, STATE OF COLORADO.

- NOTES:**
1. Easement research and property description from Land Title Guarantor Company, Order Number TLR86012896, dated April 19, 2022 at 5:00 P.M.
 2. BASIS OF BEARINGS: Found monuments along the Western boundary of Lot 98, as shown hereon, assumed to have the record bearing of N 12°00'00" E according to Plat Book 1 at page 476.
 3. Benchmark: Found monument at the Southwest Corner of Lot 98, as shown hereon, with an elevation of 9587.82 feet.
 4. Contour interval is two feet.
 5. Slopes 30% or greater are shown hereon.
 6. Only trees 4" or greater were located as part of this survey.
 7. Foley Associates, Inc. is not aware of any underground utilities located on Lot 98, but underground utilities were not located as part of this survey. Utility locates should be performed by respective providers before any construction.
 8. Foley Associates, Inc. is not aware of any wetland areas located on Lot 98, but a wetland delineation was not performed.
 9. NOTICE: According to Colorado law, you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

EXISTING CONDITIONS PLAN
 Lot 98, Town of Mountain Village,
 located within the NE 1/4 of Section 3, T.42N., R.9W., N.M.P.M., County of San Miguel, State of Colorado.

Project Mgr.: JH	DATE: 05/11/2022	DATE: 05/11/2022		970-728-6153 970-728-6050 fax
Technician: MC				P.O. BOX 1385
Checked by: JH				125 W. PACIFIC, SUITE B-1
Start date: 05/11/2022				TELLURIDE, COLORADO 81435
				Drawing path: c:\22015 EC Plan 04-22.dwg