



LAND USE APPLICATION SUMMARY

Property Location: 2115 West 52nd Street
Project Name: Variance for new home construction
Prepared By: Andrew Liska, City Planner, 612.673.2264
Applicant: Anthony Waldera
Project Contact: Anthony Waldera
Request: To development within 40' of a steep slope in the Shoreland Overlay District.
Required Applications:

Variance	To develop within 40' of a steep slope in the Shoreland Overlay District
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SITE DATA

Existing Zoning	RI, SH, FP
Lot Area	13,624 square feet
Ward(s)	13
Neighborhood(s)	Lynnhurst Neighborhood Association
Designated Future Land Use	Urban Neighborhood
Land Use Features	NA
Small Area Plan(s)	NA

Date Application Deemed Complete	June 21, 2016	Date Extension Letter Sent	NA
End of 60-Day Decision Period	August 20, 2016	End of 120-Day Decision Period	NA

BACKGROUND

SITE DESCRIPTION AND PRESENT USE. The subject property is approximately 80 feet by 165 feet (13,624 square feet) and is vacant. The property is bound by West 52nd Street to the north and Minnehaha Creek to the south. Due to the proximity of the property to Minnehaha Creek, the grade on site and the location within the SH Shoreland Overlay District, the proposal requires a variance to construct the proposed single-family dwelling on and within 40 feet of the top of a steep slope. A steep slope exists in the middle of this parcel running east and west. The north side and the south side of the parcel are relatively flat. Six mature pines exist on the southwest side of the lot.

In August 2015, permits were issued for the removal of the previous dwelling and the temporary regrading of the site associated with the removal of the basement. The lot was terraced, hydroseeded¹, bio-logs installed, and silt fences installed around the entire perimeter of the property with a double silt fence along the southern border to protect the creek. There are several mature pine trees on the southwest side of the lot near Minnehaha Creek. Some of the retaining walls associated with the previous dwelling still exist on site and contributes to the stabilized grade.

A portion of the subject property is located in the FP Floodplain Overlay District. The FP Overlay District was established to comply with the rules and regulations of the National Flood Insurance Program and govern development within the District in order to minimize damage to property due to flooding and promote public health, safety and welfare. The proposed development will be located outside of the district boundary and is therefore not subject to additional regulations established in this ordinance.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The surrounding properties on the south side of West 52nd Street are predominantly two story single-family dwellings with attached garages. The topography of the slope associated with Minnehaha Creek is fairly uniform for all of the surrounding properties although it is steepest starting on Penn Avenue South – on the west side of the block and becoming more gradual as it moves east towards Newton Avenue South as the creeks runs parallel to West 52nd Street until it meanders south. There have been a few new homes constructed in this area and some older homes have been remodeled.

PROJECT DESCRIPTION. The applicant has proposed a new two story single-family dwelling with an attached garage and a walk out basement. A ground level patio is proposed to the rear with retaining walls holding a flat grade. As proposed, this patio extends 15 feet towards the creek from most of the rear building wall; or approximately 77 feet from the front lot line. Two retaining walls are proposed in the front yard, one on the western corner retaining natural grade and creating a level front yard, the other on the eastern side tying an existing retaining wall into the proposed structure. These retaining

¹ Hydroseeding is a planting process that uses a slurry mixture of mulch, seeds, as well as agents that make the material stick to the ground. It is an erosion control measure especially effective on steep slopes as it germinates quickly resulting in thick vegetation within weeks.

walls do not require any additional variance requests however, they are included in the general proposed development variance request.

No point of the basement is exposed greater than 12 feet nor is more than 6 feet exposed for more than 50% of the perimeter and thus, the lower level is considered a basement and not a story. Code requires that the basement is included in gross floor area calculations if it is exposed greater than 3.5 feet for more than 50% of the perimeter. The basement is exposed more than 3.5 feet for more than 50% of the perimeter and thus, is included in the floor area ratio calculations. The proposed FAR is (6,566 square feet / 13,624 square feet) .482; below the .5 permitted by Code.

PUBLIC COMMENTS. As of writing this staff report, staff has not received any correspondence from the Lynnhurst Neighborhood Association.

ZONING ANALYSIS. An analysis indicates that the proposed dwelling meets the Design Standard points for new 1-4 dwelling units. Seventeen points are the minimum point total needed for approval and this proposal received 22 out of 27 possible points for the following design standards:

- The exterior building materials are masonry, brick, stone, stucco, wood, cement-board siding, and/or glass (6 points);
- The height of the structure is within one-half story of the predominant height of residential buildings within one hundred (100) feet of the site (4 points);
- The total diameter of trees retained or planted equals not less than three (3) inches per one thousand square feet of total lot area, or fraction thereof. Tree diameter shall be measured at four and one-half (4.5) feet above grade (4 points);
- Not less than twenty (20) percent of the walls on each floor that face a public street, not including walls on half stories, are windows (3 points);
- The structure includes a basement as defined by the building code (3 points);
- Not less than ten (10) percent of the walls on each floor that face a rear or interior side lot line, not including walls on half stories, are windows (2 points);

ANALYSIS

VARIANCE

The Department of Community Planning and Economic Development has analyzed the application for a variance of Chapter 525, Article IX Variances, specifically Section 525.520(17) “to permit development in the SH Shoreland Overlay District on a steep slope or bluff, or within forty (40) feet of the top of a steep slope or bluff, based on the following findings:

1. *Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.*

The circumstance upon which the variance is requested is unique to the parcel of land due to the existing steep slope and the proximity to Minnehaha Creek. These conditions were not created by the applicant.

2. *The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.*

The applicant is proposing to use the property in a reasonable matter. This is a residential area and the proposed use is a single-family dwelling; this use is consistent with the character of the area and the future land-use map demonstrated in the Comprehensive Plan. Aside from the steep slope development request, all aspects of the zoning code are met with this proposal.

The proposed patio projects closer to Minnehaha Creek and further down the slope than decks and patios on adjacent properties; staff has added a condition of approval to limit the projection of the rear patio to not extend deeper than 72 feet from the front lot line; this would result in a patio approximately 10 feet in depth to the rear.

The intent of the ordinance authorizing development in the SH Shoreland Overlay District is to protect natural features within the City of Minneapolis from potentially harmful development. The proposal is reasonable and will result in development that will not compromise Minnehaha Creek.

3. *The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.*

The proposed variance will not alter the character of the locality or be injurious to the use or enjoyment of other property in the vicinity. A two story single-family dwelling occupied this site up until 2015. The manner in which the proposed dwelling is designed will allow it to blend into the built environment.

With the condition of approval limiting the depth of the rear patio, this development will not alter the essential character of the area.

Health, safety, and welfare of the general public will not be compromised if this variance is granted. If approved, this new single-family dwelling will provide this area will a quality structure that will not negatively impact the surrounding homes or Minnehaha Creek.

FINDINGS REQUIRED BY THE MINNEAPOLIS CODE FOR DEVELOPMENT IN THE SHORELAND OVERLAY DISTRICT

Chapter 551.470 Location of Development prohibits development except as authorized by variance. Development authorized by variance shall be subject to the following:

1. *Development must currently exist on the steep slope or within 40 feet of the top of a steep slope within 500 feet of the proposed development.*

Single-family dwellings currently exist within 500 feet of the proposed development location.

2. *The foundation and underlying material shall be adequate for the slope condition and soil type.*

The soil, upon which the dwelling is proposed, is adequate in supporting a new dwelling. During the regrading of the site, the heavy presence of clay and sand with black top soil was noted. This soil mixture supported the existing structure since 1927 and supports surrounding dwellings in the area.

In addition to the information provided, Construction Code Services will work closely with the applicant in ensuring the foundation is compatible with the soil type and the slope and confirm that best management practices are followed. If necessary, Construction Code Services may require a soil boring report to demonstrate the existing conditions are able to support the proposed development.

3. *The development shall present no danger of falling rock, mud, uprooted trees or other materials.*

Based on the Building Code analysis of the soil and grade on site, Construction Code Services may require a shoring system in locations during excavation and construction. If the plans are approved and implemented in the manner required by the Building Code and in accordance with the plans, the development should present no danger of any falling rock, mud, uprooted trees or other material.

4. *The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with the surrounding physical contexts.*

Given the proximity to Minnehaha Creek, it is nearly impossible to screen all views of the proposed development. A two story structure existed on the site until 2015 and the applicant has proposed a two story structure.

As a part of the design of the proposed structure, the applicant had two pine trees removed from the middle of the lot as one was located in the proposed footprint and the other was too close to survive. Five mature pines exist on the southwest side of the lot which makes this developed slope appear very similar to the previous view. The applicant has also proposed six new trees located along the base of the slope. In time, the canopy associated with these trees will be greater than the canopy associated with the two pine trees removed. Given the importance of the proposed trees at the base of the slope, staff has conditioned both the proposed new trees along the base of the hill at 2.5 inches in diameter and conditioned the existing five pines to remain.

In addition, the Zoning Board of Adjustment shall consider, but not limited to the following factors when considering conditional use permit or variance requests within the SH Shoreland Overlay District:

1. *The prevention of soil erosion or other possible pollution of public waters, both during and after construction.*

The applicant has been active in preventing soil erosion since removing the previous structure on site. Several best management practices have been deployed and have protected Minnehaha Creek. The terracing of the slope reduces the amount and velocity of water moving across the surface by slowing it down and thus, encouraging absorption. The hydroseeding provided dense vegetation that stabilizes the slope through the root structure, catches eroding soil, and also absorbs water. A silt fence was installed around the perimeter of the site to keep all soil from escaping the site. In addition, the bottom of the slope along Minnehaha Creek, a double silt fence was installed for additional protection. Bio-logs were installed along West 52nd Street to prevent soil from leaving the site and getting into the right-of-way and the catch basins.

This network established to prevent erosion will remain in place through construction and will remain until the proposed vegetation is established. The proposed six trees at the base of the slope will also contribute to the long term preservation of the slope through the roots acting as natural anchors. The applicant has proposed shrubbery and thick ground cover vegetation at the base of the slope for added protection following construction.

2. *Limiting the visibility of structures and other development from protected waters.*

The applicant hoped to retain one pine tree situated in the middle of the lot however, in discussing the location with a landscape architect, the conclusion was reached that the existing tree would likely not live longer than one year as the roots would be compromised with the location of the development. Per the advice from the landscape architect, the applicant has proposed new trees further from the proposed development.

The applicant has proposed six (6) new trees positioned in between the proposed development and Minnehaha Creek. Staff has conditioned that these trees be 2.5 inches in diameter.

The combination of the five existing mature pines on the southwest side and the six new trees proposed between the development and the protected water will limit the visibility from the

protected waters. In addition to the trees, the condition of approval limiting the projection of the rear patio will also limit the visibility of this development.

3. *The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.*

The applicant noted that no watercraft will likely be associated with the proposed development but mentioned that a small kayak or canoe may be used on occasion. There is no dock proposed on Minnehaha Creek and the creek can safely accommodate the occasional use of kayaks and small canoes.

RECOMMENDATIONS

The Department of Community Planning and Economic Development recommends that the Zoning Board of Adjustment adopt staff findings for the application by Anthony Waldera for the property located at 2115 West 52nd Street:

- A. Variance to permit development in the SH Shoreland Overlay District on a steep slope or bluff, or within forty (40) feet of the top of a steep slope or bluff for the construction of a new single-family dwelling.**

Recommended motion: **Approve** the application, subject to the following conditions:

1. Approval of the final site, elevation and floor plans by the Department of Community Planning and Economic Development.
2. The existing five pines (18", 16", 12", 15", and 14") located on the southwest side of the site shall be protected during construction and shall remain.
3. The proposed six (6) new trees proposed along the base of the slope on the south side of the lot shall be 2.5 inches in diameter at 4.5 feet above grade.
4. The patio shall not project to the rear beyond 72 feet from the front lot line.
5. All site improvements shall be completed by July 14, 2018, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

ATTACHMENTS

1. Zoning map
2. Written description and findings submitted by applicant
3. Survey
4. Site plan/Landscaping plan
5. Floor plans
6. Elevations
7. Renderings
8. Photos

To: Andrew Liska, City of Minneapolis, Zoning Department

From: Anthony Waldera, Property Owner

Date: June 21, 2016

Re: Statement of Proposed Use -- 2115 West 52nd Street, Minneapolis

I would like to build a single family house for myself to live in. I am planning to live in this house for the remainder of my life. I am 57 years old.

I would like to start construction on my house sometime next year (i.e. next spring) after I have finished the design process with my architect, Jim McNeal, and after I have received all the appropriate city permits.

Stmtofproposeduse

ALL VARIANCES: *A written statement by the applicant which addresses the following required findings:*

Question 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.

Answer: The property is located on a steep slope overlooking Minnehaha Creek -- see photos I submitted. I had nothing to do with the steep slope -- it was there when the original house was built in the 1920's, and it is the same slope that exists for many of my neighbor's properties / homes.

Question #2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.

Answer: I (the property owner and applicant) will use the property in a reasonable manner.

Question #3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

Answer: The proposed variance will not alter the essential character of the locality, and it will not be injurious to the use or enjoyment of other property in the vicinity. I will build a single family house on the property. The entire stretch of steep slope on Minnehaha Creek (West 52nd Street between Penn Avenue South and Morgan Avenue South) is filled with single family homes right next to each other. My home will be a very nice addition to the neighborhood.

SHORELAND OVERLAY DISTRICT VARIANCE: In addition, the following findings must be addressed for a variance required by the Shoreland Overlay District:

Question #4. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

On the photos, you will see that I have already done a number of things regarding soil erosion.

1. I had bio logs and silt fence put around the entire property
2. I had 2 tiers of silt fence places along the creek for additional erosion control and protection.
3. I had the lot hydro-seeded -- a more costly "best practices" of applying grass seed and ground cover (\$800 for the hydro-seeding alone). As you can see from the recent photos (taken in June), the grass and ground cover is now very well established and thick. Because of how thick / dense the grass and ground cover currently exists, it would be next to impossible for any soil erosion to reach into the creek.
4. The demolition contactor created a couple of flat terraces / plateaus / water catch basins on the property to eliminate any erosion and run off until the grass and ground cover got established (which is now has).

The soil on the property is a combination of clay and sand with black dirt on top. The soil on my property is the same soil that exists on my immediate neighbor's lots.

There is a significant flat area by the creek (aprox. 40') -- below the hill / slope and adjacent to the creek -- that I will have planted with grass or ground cover and shrubbery once the house construction is complete. This will insure that there will be no erosion into the creek occurs once the silt fence and bio logs have been removed.

Question #5. Limiting the visibility of structures and other development from protected waters.

Answer: Both of my immediate neighbor's houses are very visible from the creek. I will be planting native trees such as maple, oak, birch, hackberry. When I am finished, my property will have more native and healthy trees than existed on it when I purchased the property in 2015.

Question #6. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.

Answer: My development (single family home) will not generate any watercraft. The Minnehaha Creek is far too small (narrow and shallow) to allow for any watercraft, except for the occasional canoe or small kayak (1 person).

Yours,

Anthony Waldera

Telephone: 612 889-1735

Email: anthonywaldera@icloud.com

6/24/16

variancequestions

ADVANCE SURVEYING & ENGINEERING CO.

5300 S. Hwy. No. 101 Minnetonka, MN 55345 Phone (952) 474 7964 Fax (952) 225 0502 WWW.ADV SUR.COM

SURVEY FOR: **ANTHONY WALDERA**

SURVEYED: June, 2015
 REVISSED: June 10, 2015, to show additional items to complete survey.
 REVISSED: August 4, 2015, to show approximate dimension from street top of creek bank.
 REVISSED: August 5, 2015, to revise lot line dimensions per client.
 REVISSED: September 2, 2015, to show peak, eave elevations and miscellaneous revisions per client.

LEGAL DESCRIPTION:
 Lot 6, Auditor's Subdivision No. 191, Hennepin County, Minnesota.

Certificate of Title No. 1350221

SCOPE OF WORK & LIMITATIONS:

- Showing the length and direction of boundary lines of the above legal description. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct, and that any matters of record, such as easements, that you wish shown on the survey, have been shown.
- Showing the location of existing improvements we deemed important.
- Setting new monuments or verifying old monuments to mark the corners of the property.
- Showing and tabulating hard cover area and the area of the lot for your review and for the review of such governmental agencies that may have jurisdiction over hard cover requirements.
- Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided a benchmark for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.
- While we show minimum building setback lines, we suggest you contact the city to verify that they are correct and determine if there are any other primary or overlay district requirements that affect the property, before any design or construction work begins.
- While the Hennepin County Tax Legal Description refers to "Lot 6, Auditor's Subdivision No. 191, Hennepin County, Minnesota, except that part taken for Park" and it appears adjacent properties on both sides have said park taking, no reference of any easement or taking is made in said certificate of title thus we show the extents of the property to the creek as evidenced in the underlying legal description and a previous survey.

STANDARD SYMBOLS & CONVENTIONS:

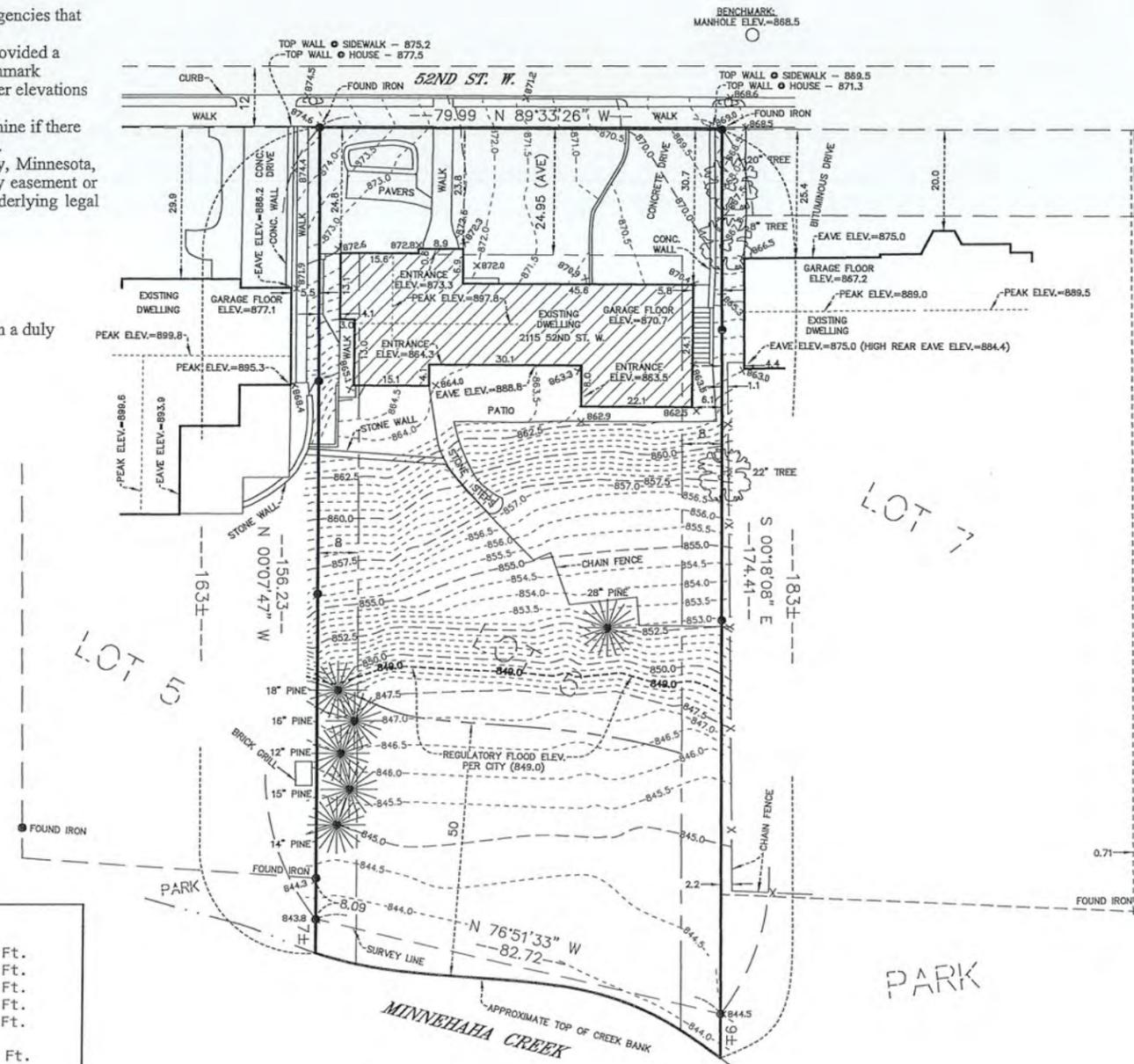
"●" Denotes 1/2" ID pipe with plastic plug bearing State License Number 9235, set, unless otherwise noted.

CERTIFICATION:

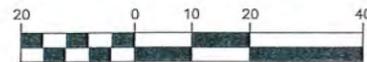
I hereby certify that this plan, specification, report or survey was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer and Licensed Land Surveyor under the laws of the state of Minnesota.

Signature: *James H. Parker* Typed Name: James H. Parker Reg. No.: 9235

Date: September 2, 2015



GRAPHIC SCALE



(IN FEET)

EXISTING HARDCOVER	
House	1,501 Sq. Ft.
Driveway	658 Sq. Ft.
Conc. Patio/Walks/Misc.	671 Sq. Ft.
Misc. Walls	84 Sq. Ft.
Paver Patio and Wall	120 Sq. Ft.
TOTAL EXISTING HARDCOVER	3,034 Sq. Ft.
AREA OF LOT (to top of bank)	13,624 Sq. Ft.
PERCENTAGE OF HARDCOVER TO LOT	22.3%

DWG. NO. 150410 2015 09 02 WP

BENCHMARK
MANHOLE ELEV. = 688.5



TOP WALL ● SIDEWALK -- 876.2
TOP WALL ● HOUSE -- 877.5

62ND ST. N.

TOP WALL ● SIDEWALK
TOP WALL ● HOUSE

RETAINING WALLS TO HOLD EXISTING GRADE

EAVE ELEV. = 686.2 CONC.
CONC. WALL DRIVE
ICE FLOOR
V. = 877.1

865.3

---156.23---
N 00°07'47" W

---183±---
S 00°18'08" E
---174.41---

LOT 6

18" PINE
16" PINE
BRICK GRILL
12" PINE
15" PINE
14" PINE
FOUND IRON

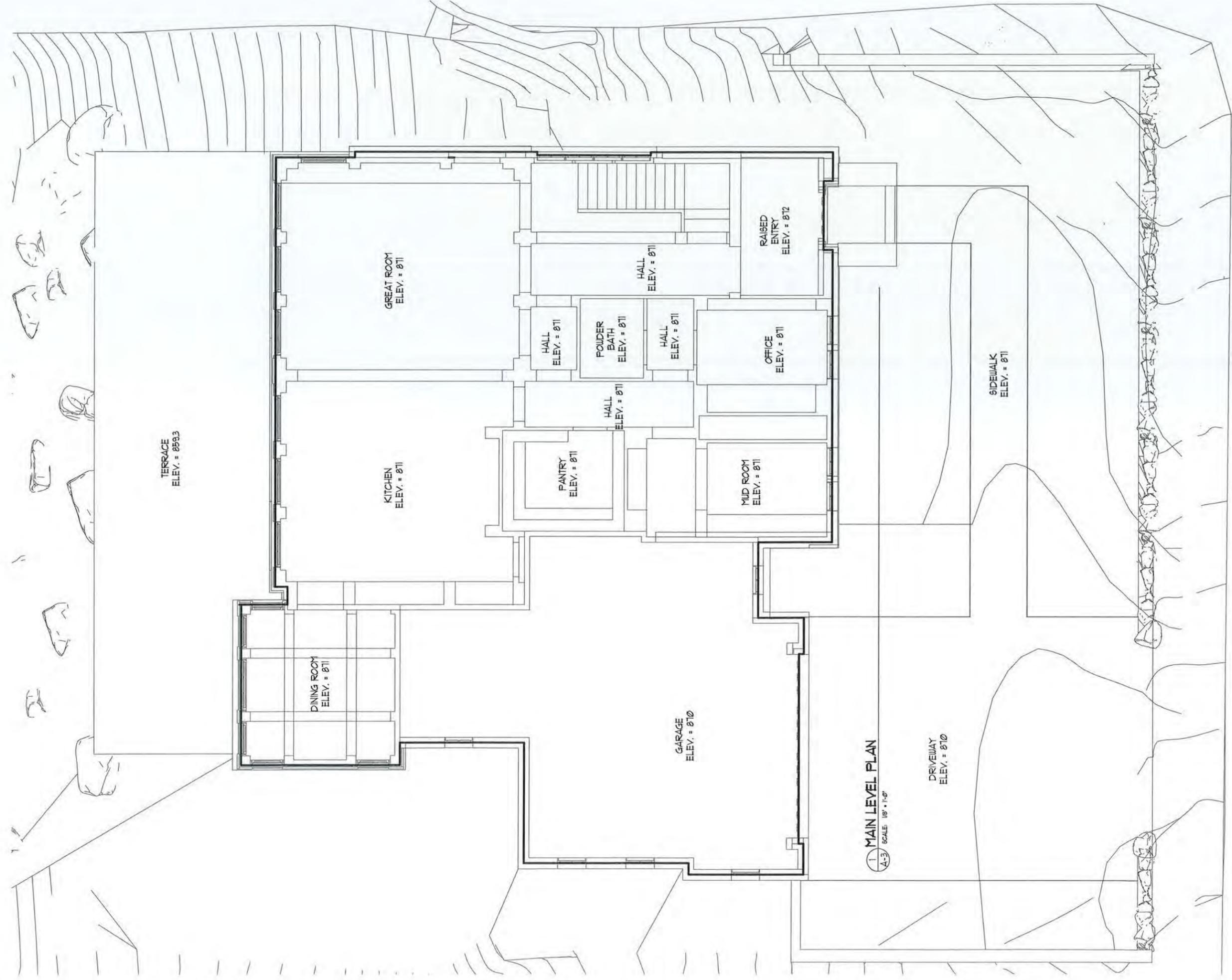
7±

O = OAK
H = HACKBERRY
M = MAPLE
B = BIRCH

MINNEHABA CREEK
APPROXIMATE TOP OF CREEK BANK

ALL TREES ARE:
10 GALLON CONTAINER STOCK
(1" DIA)

SITE PLAN
1/16" = 1'-0"



TERRACE
ELEV. = 819.3

DINING ROOM
ELEV. = 811

KITCHEN
ELEV. = 811

GREAT ROOM
ELEV. = 811

PANTRY
ELEV. = 811

HALL
ELEV. = 811

POWDER
BATH
ELEV. = 811

HALL
ELEV. = 811

HALL
ELEV. = 811

MUD ROOM
ELEV. = 811

OFFICE
ELEV. = 811

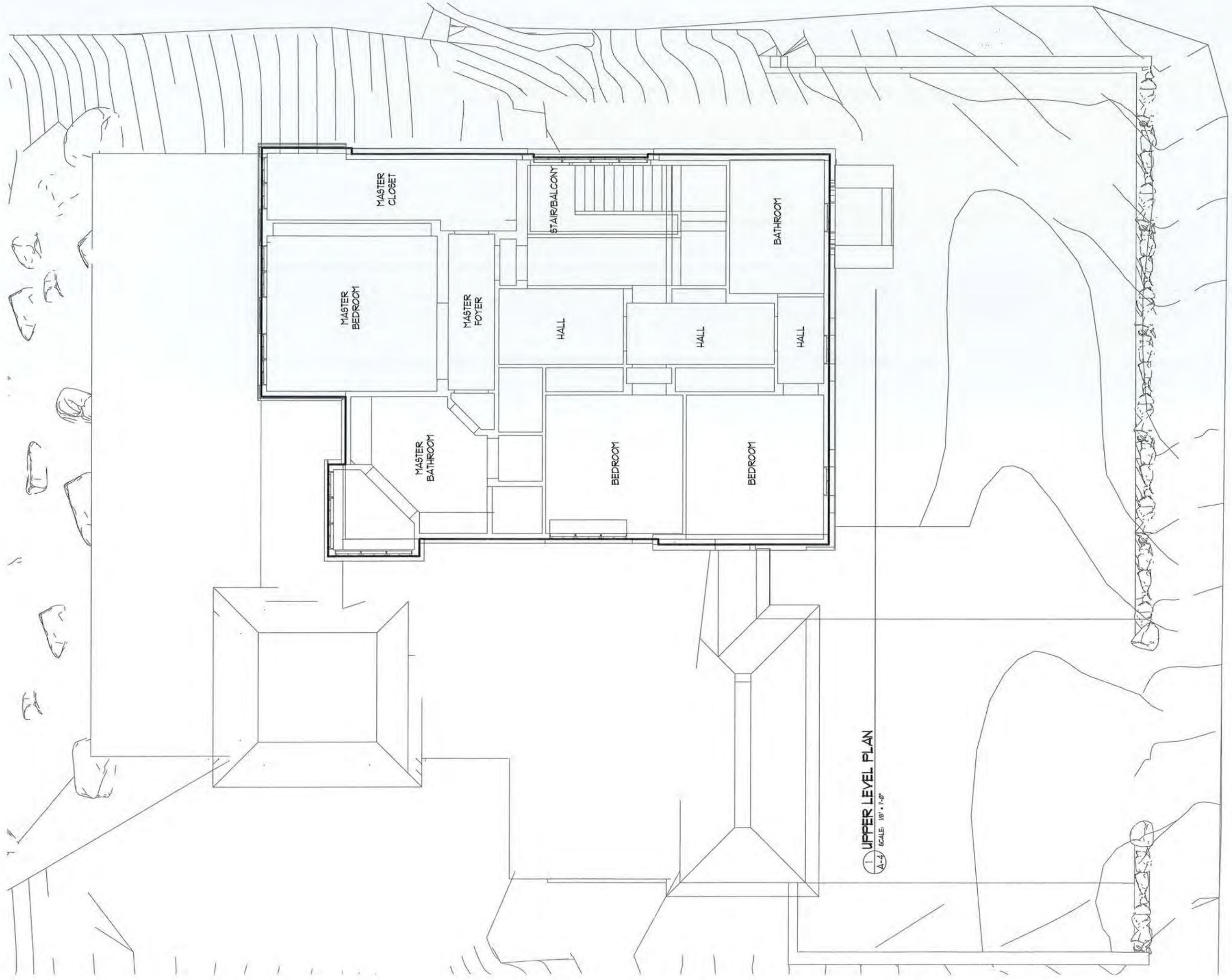
RAISED
ENTRY
ELEV. = 812

GARAGE
ELEV. = 810

1 MAIN LEVEL PLAN
SCALE 1/8" = 1'-0"

DRIVEWAY
ELEV. = 810

SIDEWALK
ELEV. = 811



MASTER CLOSET

MASTER BEDROOM

MASTER FOYER

HALL

HALL

HALL

STAIR/BALCONY

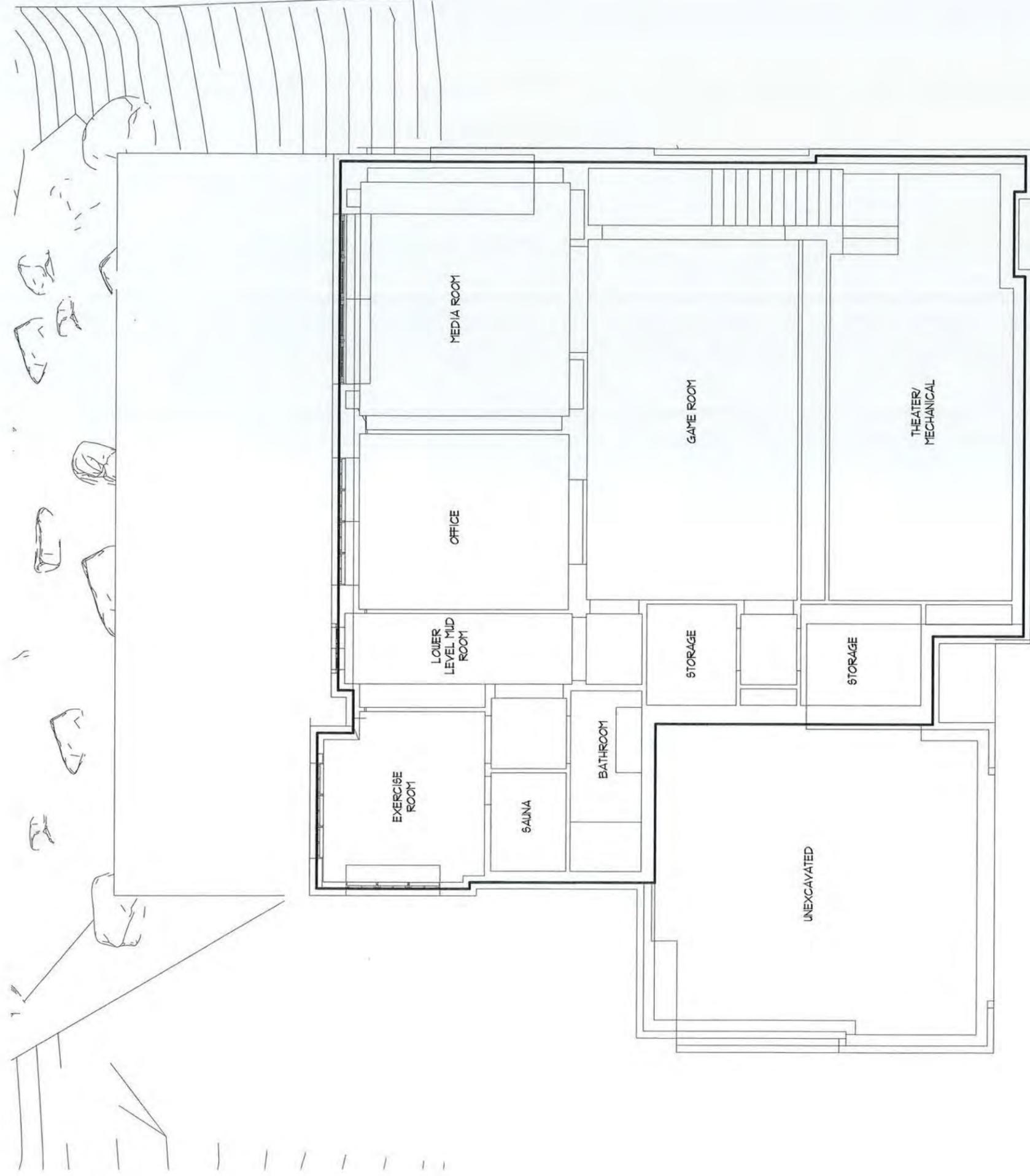
BATHROOM

MASTER BATHROOM

BEDROOM

BEDROOM

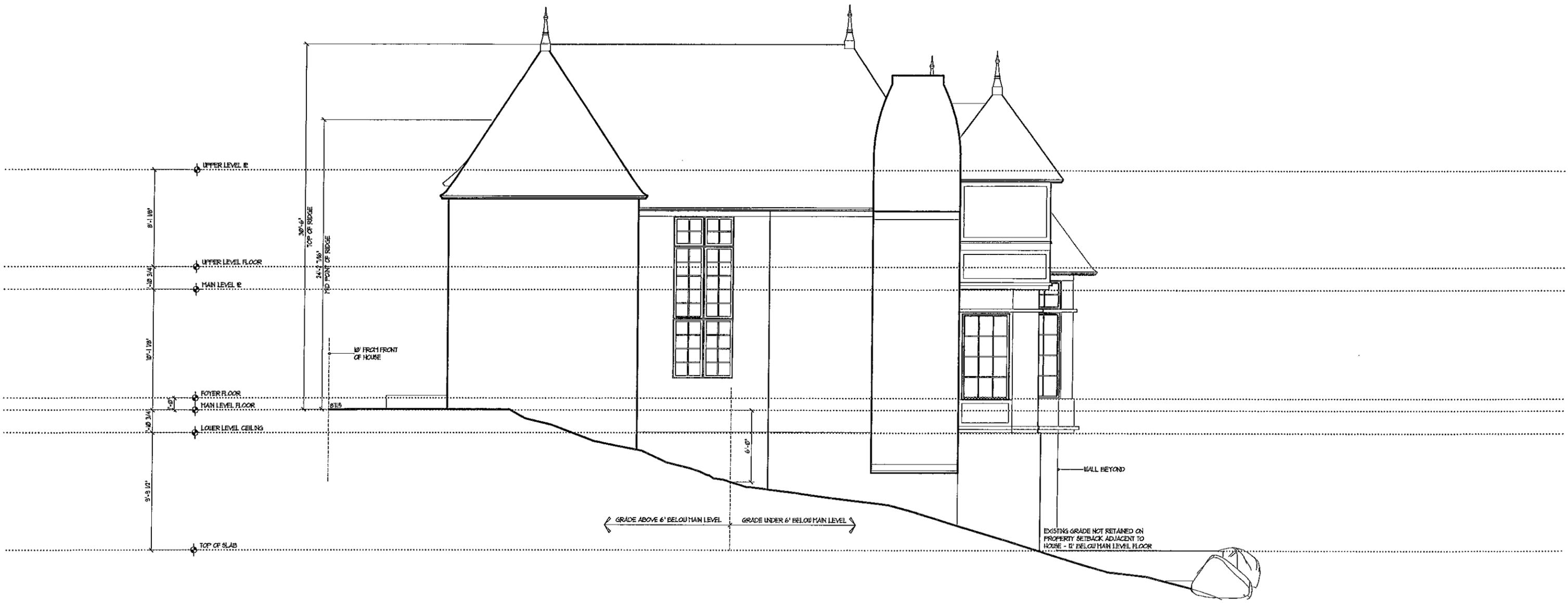
1 UPPER LEVEL PLAN
A-A SCALE: 1/8" = 1'-0"



1 LOWER LEVEL PLAN
A-2 SCALE 1/8" = 1'-0"



1 FRONT ELEVATION (INCLUDING GARAGE IN PERIM. CALCS.)
 A-3 SCALE: 1/8" = 1'-0"

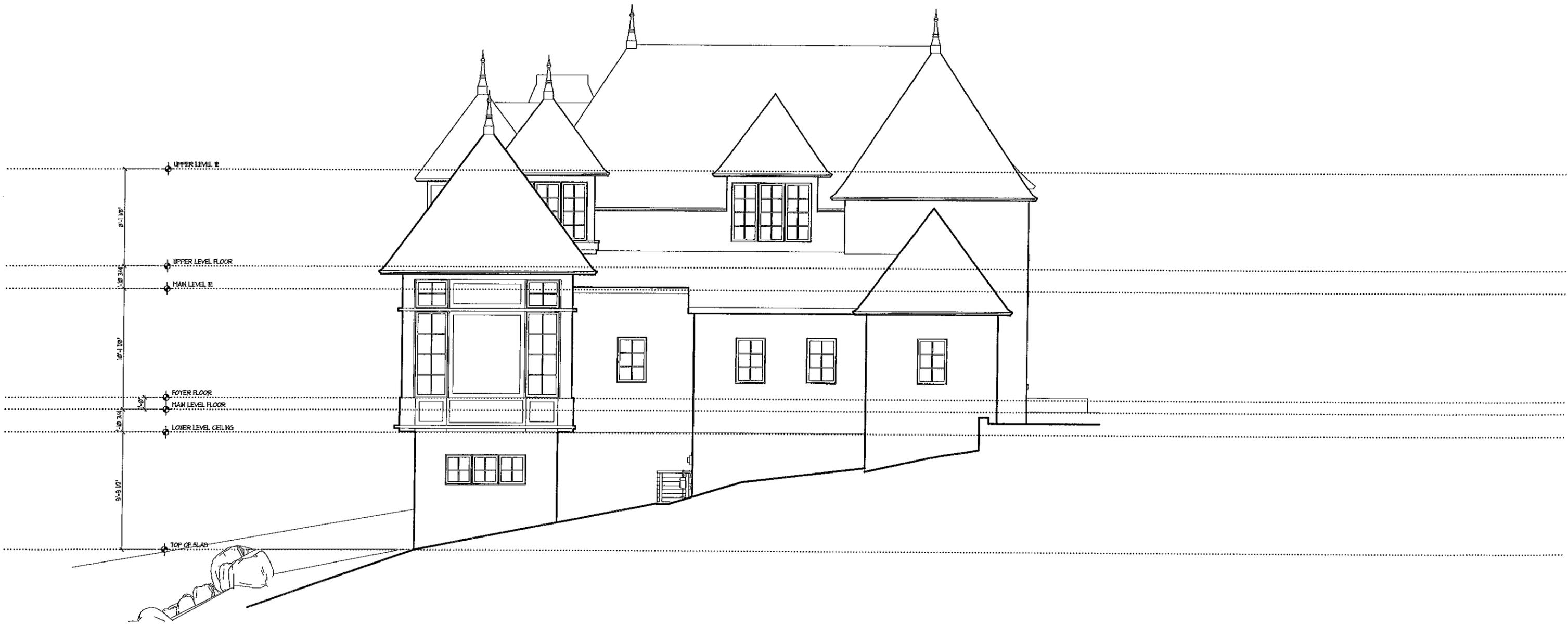


1 RIGHT ELEVATION (INCLUDING GARAGE IN PERIM. CALCS.)
 A-3 SCALE: 1/8" = 1'-0"

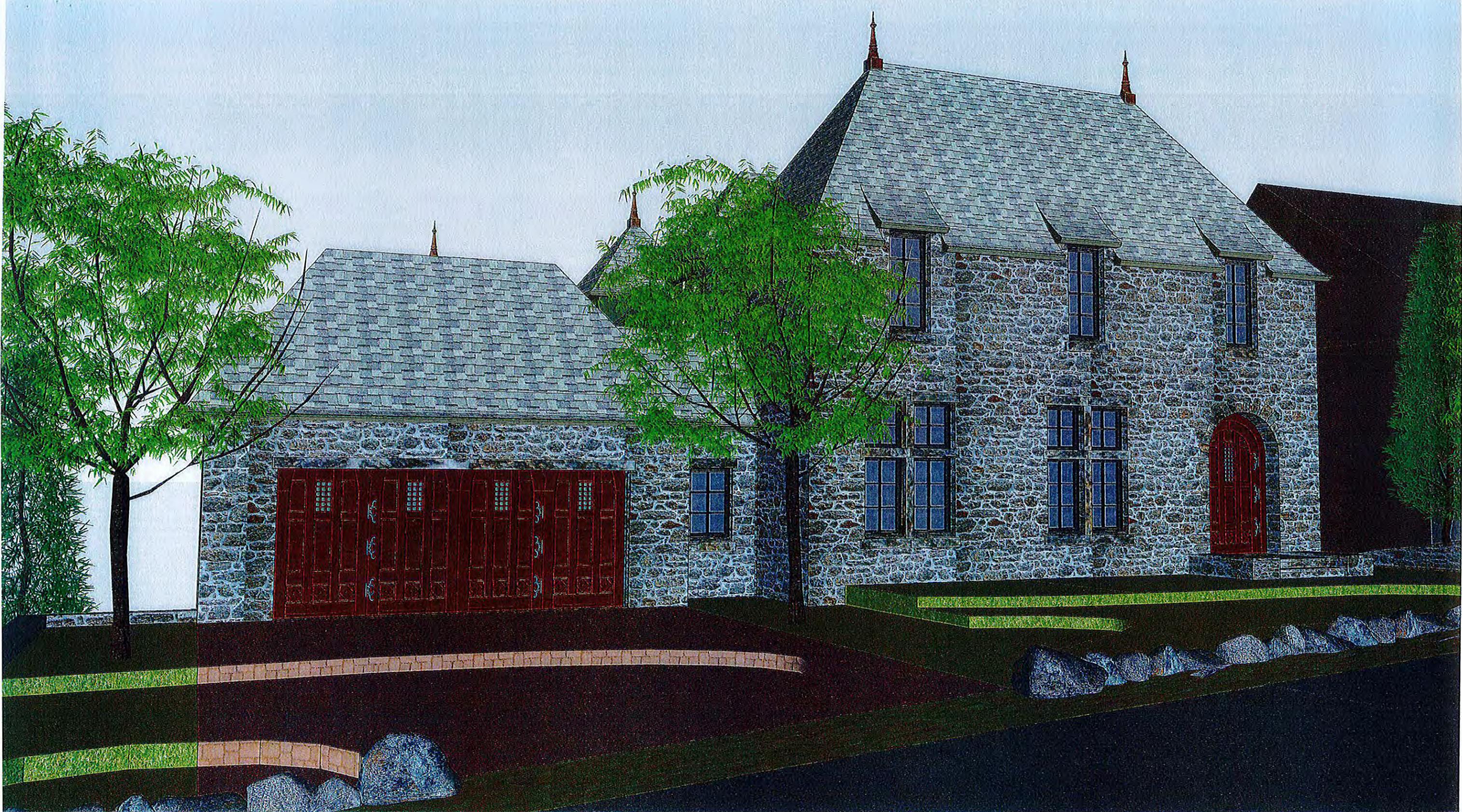


EXISTING GRADE NOT RETAINED ON
PROPERTY SETBACK ADJACENT TO
HOUSE - 12' BELOW MAIN LEVEL FLOOR

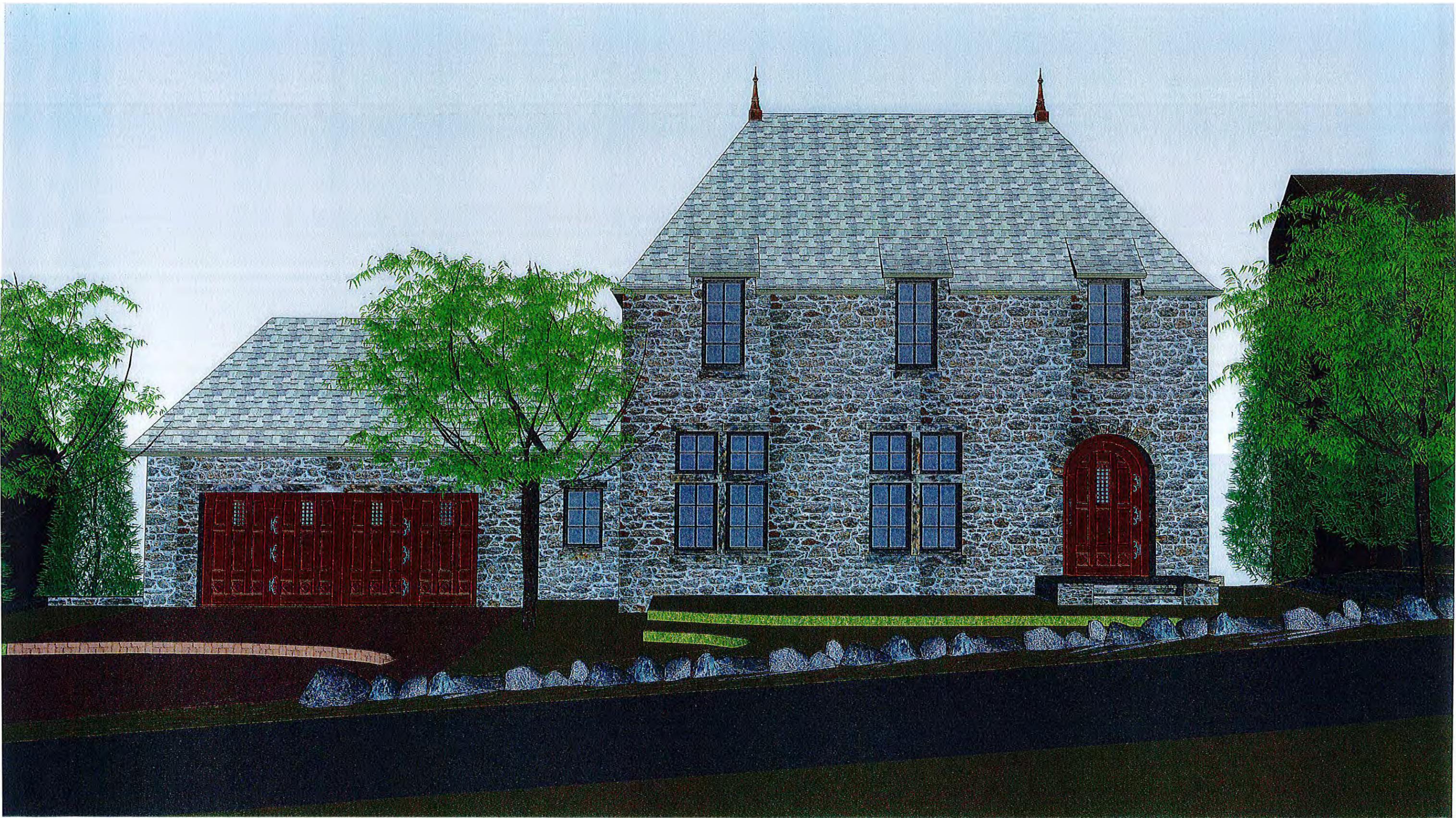
1 REAR ELEVATION (INCLUDING GARAGE IN PERIM. CALCS.)
A-3 SCALE: 1/8" = 1'-0"



1 LEFT ELEVATION (INCLUDING GARAGE IN PERIM. CALC'S.)
 A-3 SCALE 1/8" = 1'-0"



INCLUDES GARAGE IN PERIMETER CALCULATION



INCLUDES GARAGE IN PERIMETER CALCULATION



2016/06/12



2016/03/04



2016/06/12



2016/06/12



2016/03/04



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