Before the Zoning Administrator in and for the County of Monterey, State of California

In the matter of the application of:

BALLESTEROS DANIEL W TR (PLN180385) RESOLUTION NO. 19-005

Resolution by the Monterey County Zoning Administrator:

- 1. Find that the project involves a minor alteration of an existing single family dwelling, which qualifies as a Class 1 Categorical Exemption pursuant to Section 15301 (a) of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2; and
- 2. Approve a Coastal Development Permit and Design Approval to allow repairs and minor alterations to an existing 2,886 square foot two-story single family dwelling and an existing 354 square foot guesthouse including maintaining legal nonconforming structure height, floor area ratio and setback.

2361 Bay View Avenue, Carmel, Carmel Land Use Plan, Coastal Zone (APN: 009-422-006-000)

CORRECTED March 19, 2019

(This resolution supersedes the previously mailed resolution on March 1, 2019)

The BALLESTEROS application (PLN180385) came on for a public hearing before the Monterey County Zoning Administrator on February 28, 2019. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Monterey County Zoning Administrator finds and decides as follows:

FINDINGS AND EVIDENCE

1. **FINDING:**

CONSISTENCY – The project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE: a)

- The project has been reviewed for consistency with the text, policies, and regulations in:
 - 1982 Monterey County General Plan (General Plan);
 - Carmel Area Land Use Plan (CAR LUP);
 - Monterey County Coastal Implementation Plan, Part 4 (CIP);
 - Monterey County Zoning Ordinance (Title 20);

No conflicts were found to exist. The subject property is located within the Coastal Zone; therefore, the 2010 Monterey County General Plan does not apply.

b) <u>Allowed Use</u>. The property is located at 2361 Bay View Avenue, Carmel [Assessor's Parcel Number (APN) 009-422-006-000], Carmel Area Land Use Plan, Coastal Zone. The parcel is zoned Medium Density Residential, with a maximum density of 2 units per acre with a 18 foot height limitation and a Design Control Overlay (Coastal Zone) [MDR/2-D(18)(CZ)].

- c) <u>Lot Legality</u>. The subject parcel (0.13 acres), APN 009-422-006-000, is located on a residential subdivision created through the Addition No. 7 Carmel by the Sea map. The recorded map can be found in Volume 2, Page 24. Therefore, the County recognizes the subject parcel as a legal lot of record.
- Legal Nonconforming. The existing single family dwelling and detached guesthouse were constructed in 1938, prior to the establishment of building permits and zoning for this area. The dwelling exceeds the maximum permissible height for the zoning district and the structures on the property (house and guesthouse) exceed the floor area ratio (FAR) maximum for the lot. Additionally, the guesthouse encroaches into the side and rear yard setbacks. The height, FAR and setbacks were adopted after construction of the structures on the site making the structures legal but nonconforming to subsequently adopted regulations (legal nonconforming). As described in Section 20.68.040 of the zoning regulations, ordinary repair and maintenance, including structural repairs of legal nonconforming structures are allowed provided that no structural alterations are made, and such work does not exceed 50% of the appraised value of the structure in any one year. Any further repairs and maintenance would require the site to conform to the current land use regulations. Additional repairs and maintenance can be permitted with a Coastal Development Permit.

For this reason, a Coastal Development Permit is required. The Coastal Development Permit is discretionary. Staff is recommending approval of the additional repairs, maintenance, and alterations because the changes are largely cosmetic in nature, and the framing and structural components of the house and guesthouse will remain in place with new window and door openings created in the existing framing.

Design. Pursuant to Chapter 20.44 of Title 20, the project site and surrounding area are designated as a Design Control Zoning District ("D" zoning overlay), which regulates the location, size, configuration, materials, and colors of structures and fences to assure the protection of the public viewshed and neighborhood character. The existing single family dwelling has an architectural style of a French Mansard roofed cottage. The project proposes to change the exterior features to have a contemporary, modernized architectural style and associated colors and materials including: grayish beige cement plaster with off-white and grayish board and batten siding, gray shingle siding, and a metal and wood arbor/canopy. The architectural style of the homes in the neighborhood ranged between contemporary, Spanish and ranch style homes. The materials, location and nature of the project are consistent with the overall diversity of neighborhood character and will not detract the visual integrity of the site.

The taller, nonconforming single family dwelling does not contrast with surrounding development despite the extra height and the mass of the home when viewed from the surrounding streets and neighborhood. The height and mass appear similar to other developed lots in the area when viewed from the street. The guesthouse to be remodeled is located in the backyard and is not visible from the street. Maintaining the nonconforming height, floor area and setback conditions will not conflict with the neighborhood character.

The project will not impact any visual resources viewed from a public viewing area. Map A of the Carmel Area LUP illustrates that the subject property is not located within a viewshed area, as the property is not visible from Highway 1 or any other major public use area such as Scenic Road, Carmel Beach, or Point Lobos Reserve. Therefore, the project would not create any substantial visual impacts.

f) Review of Development Standards. The subject parcel is zoned Medium Density Residential, 2 units per acre with an 18 foot height limitation, and a Design Control overlay within the Coastal Zone or "MDR/2-D(18)(CZ)." As described above, the project is legal nonconforming as to main structure height, FAR and accessory habitable structure setbacks. The project currently meets the main structure setbacks and building site coverage requirements for this zoning district. However, the project proposes to keep the legal nonconforming main structure height and accessory habitable structure setbacks and reduce the FAR but still exceed the maximum allowed on in the zoning regulations.

The minimum setback required in this zoning district is a front setback of 20 feet, side setback of 5 feet and rear setback of 10 feet. Consistent with these standards, the proposed development maintains a 20 foot front setback, 7 foot side setback and 10 foot rear setback. The maximum building site coverage allowed is 35% and the proposed coverage is 34.8%.

The maximum FAR within this zoning district is 45%. The existing residence and detached guesthouse, as outlined in Finding No. 1, Evidence D, was built with a greater square footage that what is currently allowed in Title 20. Overall the FAR will be reduced from 59% (3,240 square feet) to 54.8% (3,012 square feet), but will still exceed the maximum floor area permitted in the MDR Zoning district of 45%. The current height of the existing single-family dwelling is 22.12 feet. The current setbacks for the detached guesthouse is: 74 foot front, 1 foot side and 2 foot rear. Both the height of the existing single-family dwelling and setbacks for detached guesthouse are proposed to be maintained as a part of this project.

- g) <u>Public Access.</u> As demonstrated in Finding 6, the development is consistent with public access policies of the CAR LUP.
- h) The project was reviewed by the Carmel Unincorporated/Carmel Highlands LUAC on January 22, 2019 and despite not fully being fond of the proposed architectural changes, the project was given a recommendation of approval by a vote of 3-2-0. The LUAC commented on the proposed materials and colors, highlighting the windows as one of the major items. After this meeting, the agent and owner made revisions to the plans to change the proposed windows

- from five square windows to four, 6 foot vertical windows as shown in the plans attached to this resolution. These changes were also forwarded as a notification to the LUAC.
- i) Staff conducted a site inspection on January 22, 2019 to verify that the project on the subject property conforms to the plans submitted.
- j) The application, plans, and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in RMA-Planning File No. PLN180385.

2. **FINDING:**

SITE SUITABILITY - The site is physically suitable for the proposed use.

EVIDENCE:

- a) The project includes minor improvements associated with an established residential use in a residential neighborhood.
- b) The project was reviewed by RMA-Planning, Cypress CSD Fire Protection District, RMA-Public Works, RMA-Environmental Services and Environmental Health Bureau. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
- c) The following reports have been prepared and submitted with the application:
 - Historic Report (LIB190014) prepared by Kent L. Seavey, Pacific Grove, CA on February 26, 2018

County staff independently reviewed this report and concurs with their conclusions. There are no further physical or environmental constraints that would indicate that the site is not suitable for the use proposed. All development shall be in accordance with this report.

- d) Staff conducted a site inspection on January 22, 2019 to verify that the site is suitable for this use.
- e) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN180385.

3. **FINDING:**

HEALTH AND SAFETY – The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: a)

- The project was reviewed by RMA-Planning, Cypress CSD Fire Protection District, RMA-Public Works, RMA-Environmental Services, and Environmental Health Bureau, and conditions have been recommended, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
- b) Necessary public facilities are existing on the subject property. California American Water Company is the domestic water purveyor and the Carmel Area Wastewater District provides wastewater services. The project would not require intensification of services already provided.

- c) The project includes minor improvements associated with an established residential use in a residential neighborhood.
- d) The application, plans, and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in RMA-Planning File No. PLN180385.

4. **FINDING:**

NO VIOLATIONS - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

EVIDENCE: a)

- Staff reviewed Monterey County RMA-Planning and RMA-Building Services records and is not aware of any violations existing on subject property.
- b) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN180385.

5. **FINDING:**

CEQA (Exempt): - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

EVIDENCE:

- a) California Environmental Quality Act (CEQA) Guidelines Section 15301 (a) categorically exempts alterations to existing structures.
- b) The proposed project is to allow the interior and exterior alteration on an existing single family dwelling. Therefore, the project qualifies for a Class 1 categorical exemption pursuant to Section 15301 (a) of the CEQA guidelines.
- c) No adverse environmental effects were identified during staff review of the development application.
- d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource (See Finding 2, Evidence C), a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact.
- e) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN180385.

6. **FINDING:**

PUBLIC ACCESS – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and applicable Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

EVIDENCE: a)

- No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.146.130 of the CIP can be demonstrated.
- b) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

- c) The subject project site is not described as an area where the Local Coastal Program requires public access (Figure 3, Local Coastal Program Public Access, in the Carmel Area Land Use Plan.
- d) Staff conducted a site inspection on January 22, 2019.
- e) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN180385.
- 7. **FINDING: APPEALABILITY -** The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.
 - **EVIDENCE:** a) Board of Supervisors. Pursuant to Section 20.86.030 of Title 20, an appeal may be made to the Board of Supervisors by any public agency or person aggrieved by a decision of an Appropriate Authority other than the Board of Supervisors.
 - b) <u>Coastal Commission</u>. Pursuant to Section 20.86.080.A of Title 20, the project is subject to appeal by/to the California Coastal Commission because it involves development that is permitted in the underlying zone as a conditional use.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Zoning Administrator does hereby:

- 1. Find that the project involves a minor alteration of an existing single family dwelling, which qualifies as a Class 1 Categorical Exemption pursuant to Section 15301 (a) of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2; and
- 2. Approve a Coastal Development Permit and Design Approval to allow repairs and minor alterations to an existing 2,886 square foot two-story single family dwelling and an existing 354 square foot guesthouse including maintaining legal nonconforming structure height, floor area ratio and setback, in general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED this 28th day of February, 2019.

Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON MAR 0 1 2019

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE MAR 1 1 2019

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services offices in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Monterey County RMA Planning

Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN180385

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation
Monitoring Measure:

This Coastal Development Permit and Design Approval (PLN180385) allow repairs and minor alterations to an existing 2,886 square foot two-story single family dwelling 354 square guesthouse including and existina foot maintaining nonconforming structure height, floor area ratio and setback. The property is located at 2361 Bay View Avenue, Carmel (Assessor's Parcel Number 009-422-006-000), Carmel Land Use Plan, Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and No use or construction other than that specified by this subsequent legal action. permit is allowed unless additional permits are approved by the authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

Compliance or Monitoring Action to be Performed:

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:

"A Coastal Development Permit and Design Approval (Resolution Number 19-005) was approved by the Zoning Administrator for Assessor's Parcel Number 009-422-006-000 on February 28, 2019 subject to seven (7) conditions of approval, the permit is on file with Monterey County RMA - Planning."

Proof of recordation of this notice shall be furnished to the Director of RMA - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (RMA - Planning)

Compliance or Monitoring Action to be Performed:

PI N180385

Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

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3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

Responsible Department:

RMA-Planning

Condition/Mitigation Monitoring Measure:

during course of construction, cultural, archaeological, historical paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County RMA - Planning and a archaeologist (i.e., an archaeologist registered with Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery.

(RMA - Planning)

Compliance or Monitoring Action to be Performed:

The Owner/Applicant shall adhere to this condition on an on-going basis.

Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County RMA - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

4. PD006(A) - CONDITION COMPLIANCE FEE

Responsible Department:

RMA-Planning

Condition/Mitigation Monitoring Measure:

The Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors, for the staff time required to satisfy conditions of approval. The fee in effect at the time of payment shall be paid prior to clearing any conditions of approval.

Compliance or Monitoring Action to be Performed: Prior to clearance of conditions, the Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors.

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5. PD014(A) - LIGHTING - EXTERIOR LIGHTING PLAN

Responsible Department:

RMA-Planning

Condition/Mitigation Monitoring Measure:

All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting source shall be shielded and recessed into the fixture. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the Director of RMA - Planning, prior to the issuance of building permits.

(RMA - Planning)

Compliance or Monitoring Action to be Performed:

Prior to the issuance of building permits, the Owner/Applicant shall submit three copies of the lighting plans to RMA - Planning for review and approval. Approved lighting plans shall be incorporated into final building plans.

Prior to final/occupancy, the Owner/Applicant/Contractor shall submit written and photographic evidence demonstrating that the lighting has been installed according to the approved plan.

On an on-going basis, the Owner/Applicant shall ensure that the lighting is installed and maintained in accordance with the approved plan.

6. PW0044 - CONSTRUCTION MANAGEMENT PLAN

Responsible Department:

RMA-Public Works

Condition/Mitigation Monitoring Measure:

The applicant shall submit a Construction Management Plan (CMP) to RMA-Planning and RMA - Public Works for review and approval. The CMP shall include measures to minimize traffic impacts during the construction/grading phase of the project.

CMP shall include, at a minimum, duration of the construction, hours of operation, truck routes, estimated number of truck trips that will be generated, number of construction workers, and on-site/off-site parking areas for equipment and workers and locations of truck staging areas. Approved measures included in the CMP shall be implemented by the applicant during the construction/grading phase of the project.

Compliance or Monitoring Action to be Performed:

1. Prior to issuance of the Grading Permit or Building Permit, Owner/Applicant/Contractor shall prepare a CMP and shall submit the CMP to the RMA-Planning Department and the

Department of Public Works for review and approval.

2. On-going through construction phases Owner/Applicant/Contractor shall implement the

approved measures during the construction/grading phase of the project.

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7. WINTER INSPECTIONS - AREAS OF SPECIAL BIOLOGICAL SIGNIFICANCE (ASBS)

Responsible Department: Environmental Services

Condition/Mitigation
Monitoring Measure:

The owner/applicant shall schedule weekly inspections with RMA-Environmental Services during the rainy season, October 15th to April 15th, to ensure contaminants

are not discharged into the Carmel Bay Area of Special Biological Significance. This inspection requirement shall be noted on the Erosion Control Plan. (RMA-

with

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Environmental Services)

Compliance or Monitoring Action to be Performed:

Compliance or During construction, the owner/applicant shall schedule weekly inspections RMA-Environmental Services in the rainy season (October 15th to April 15th).

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THE BAY VIEW TRUST REMODEL

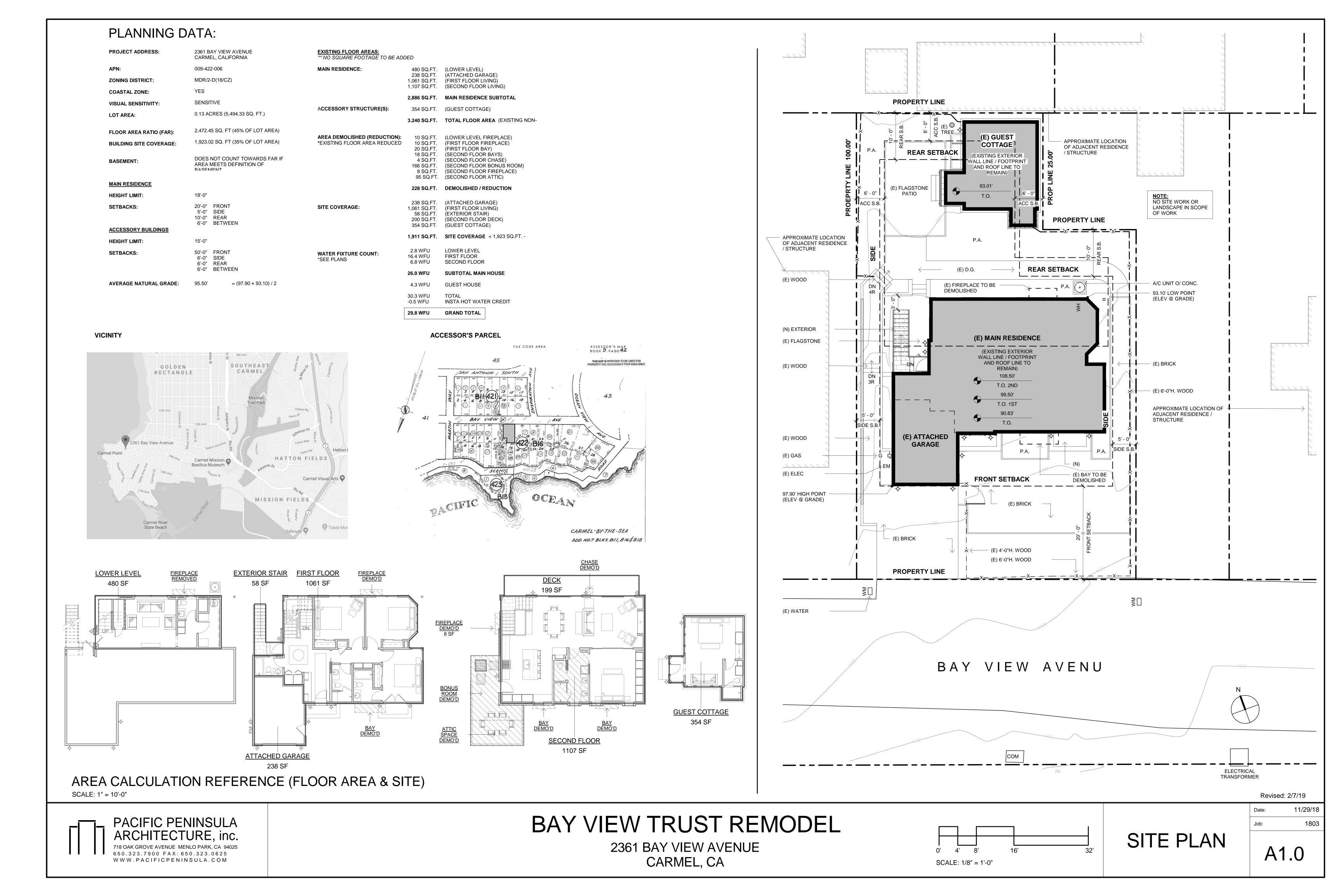
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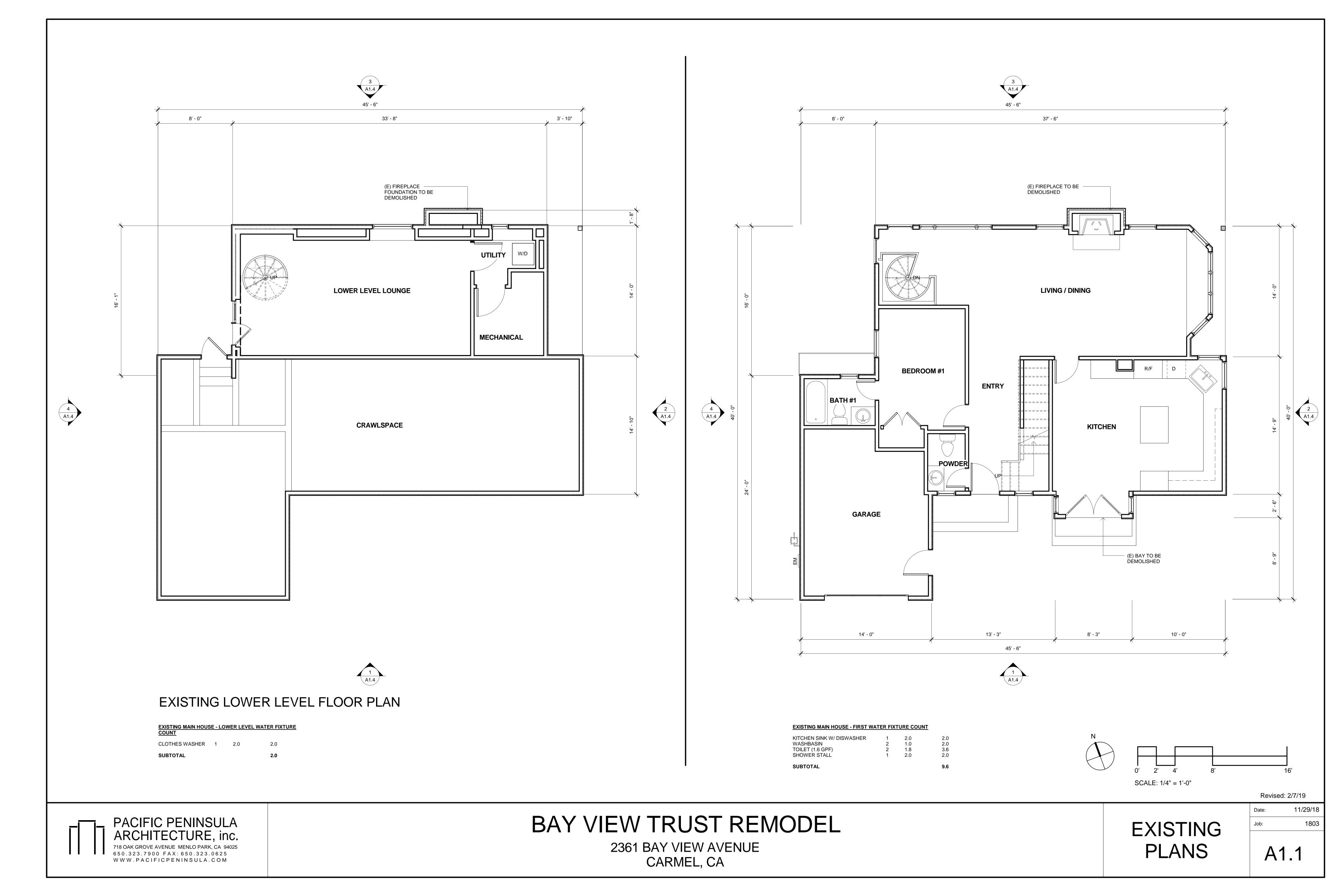
OWNER: THE BAY VIEW TRUST

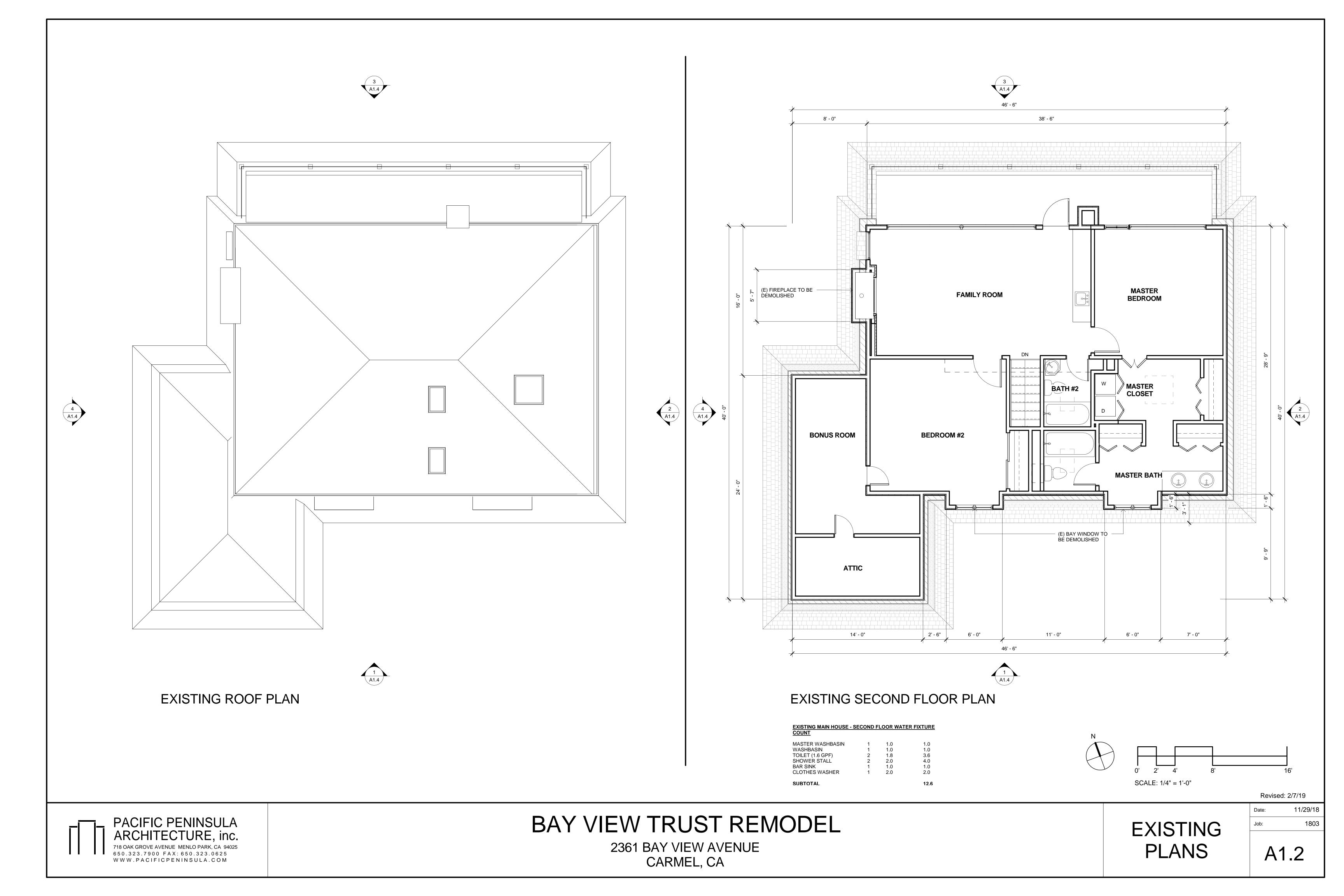
ARCHITECT
PACIFIC PENINSULA ARCHITECTURE, INC.

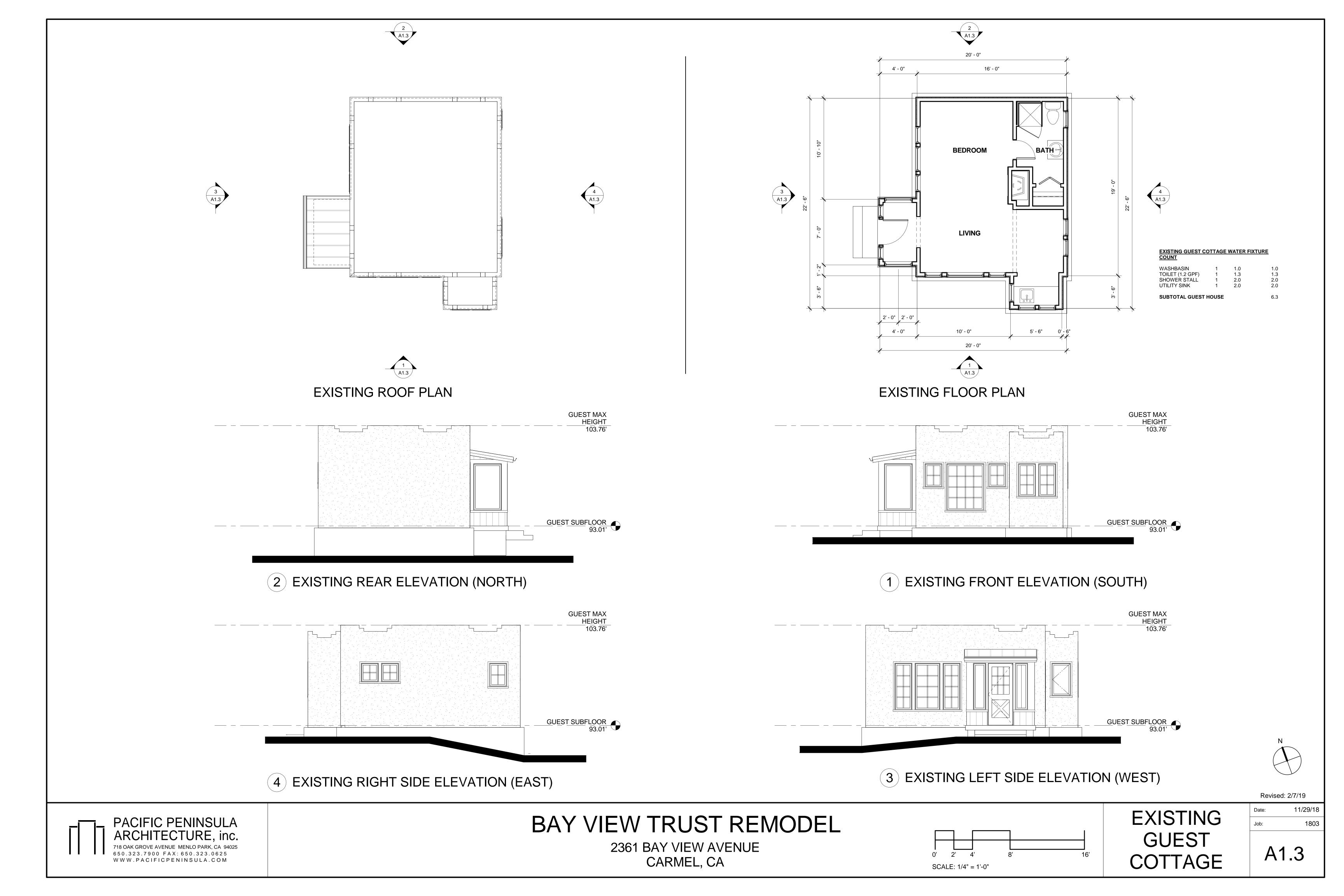
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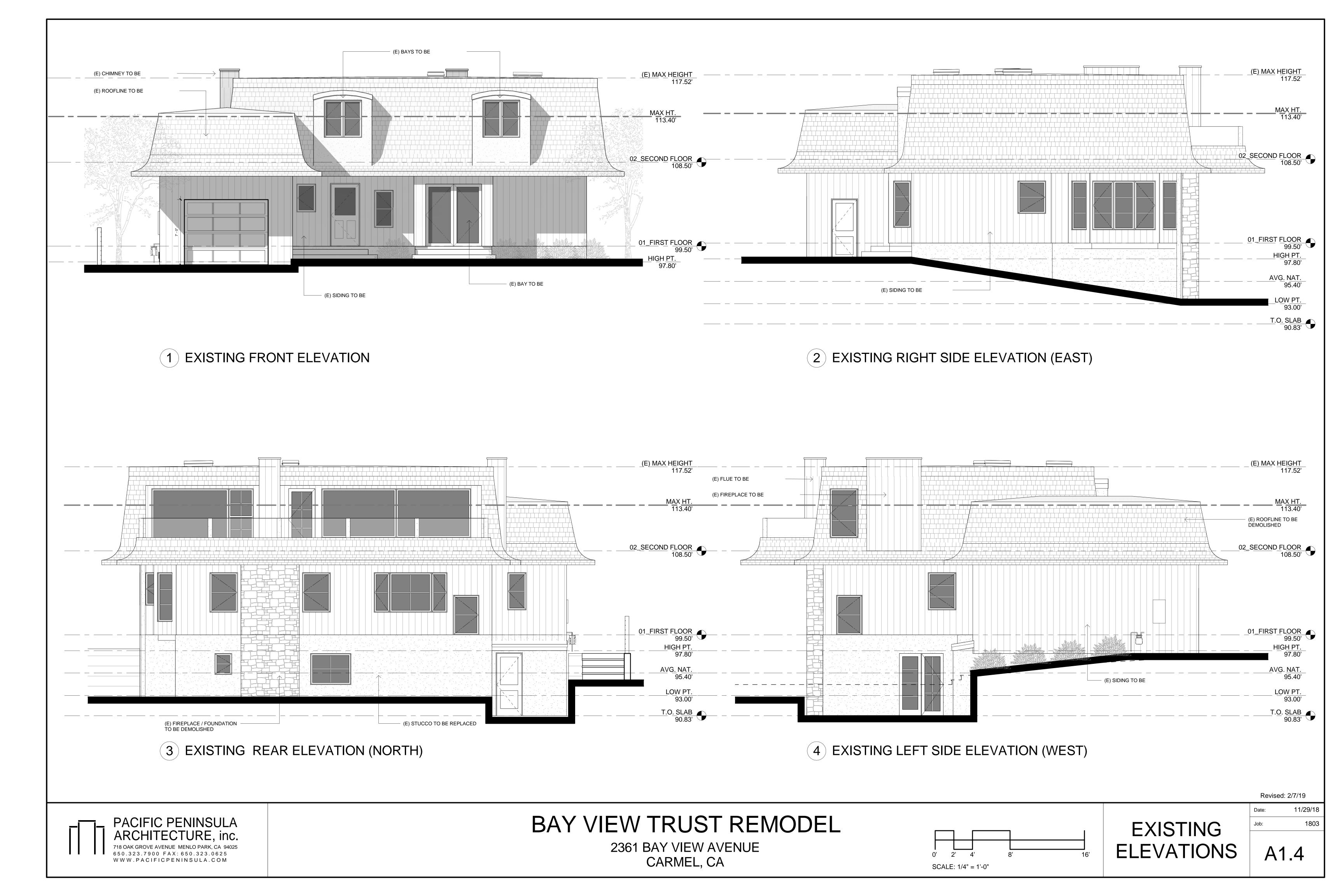


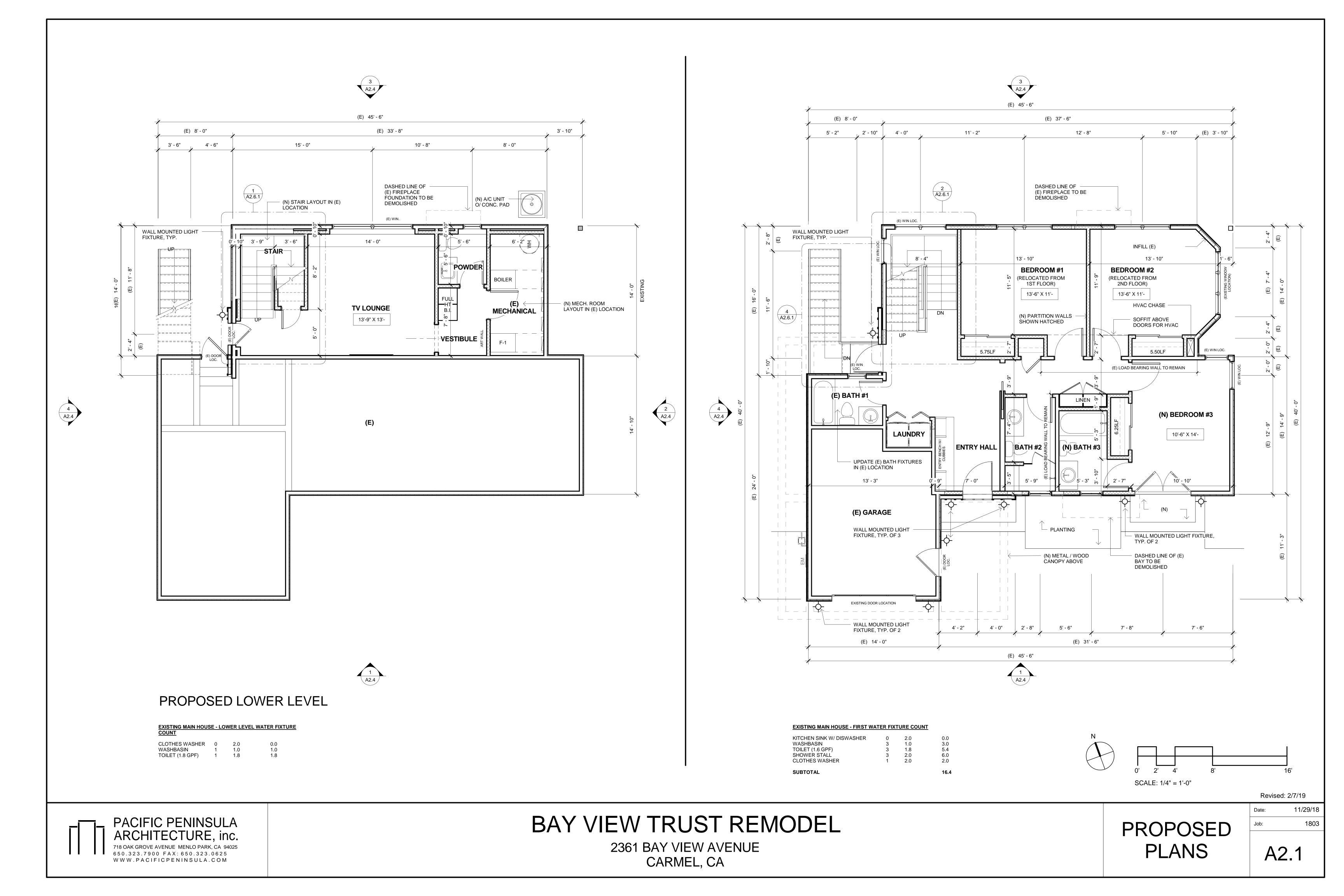


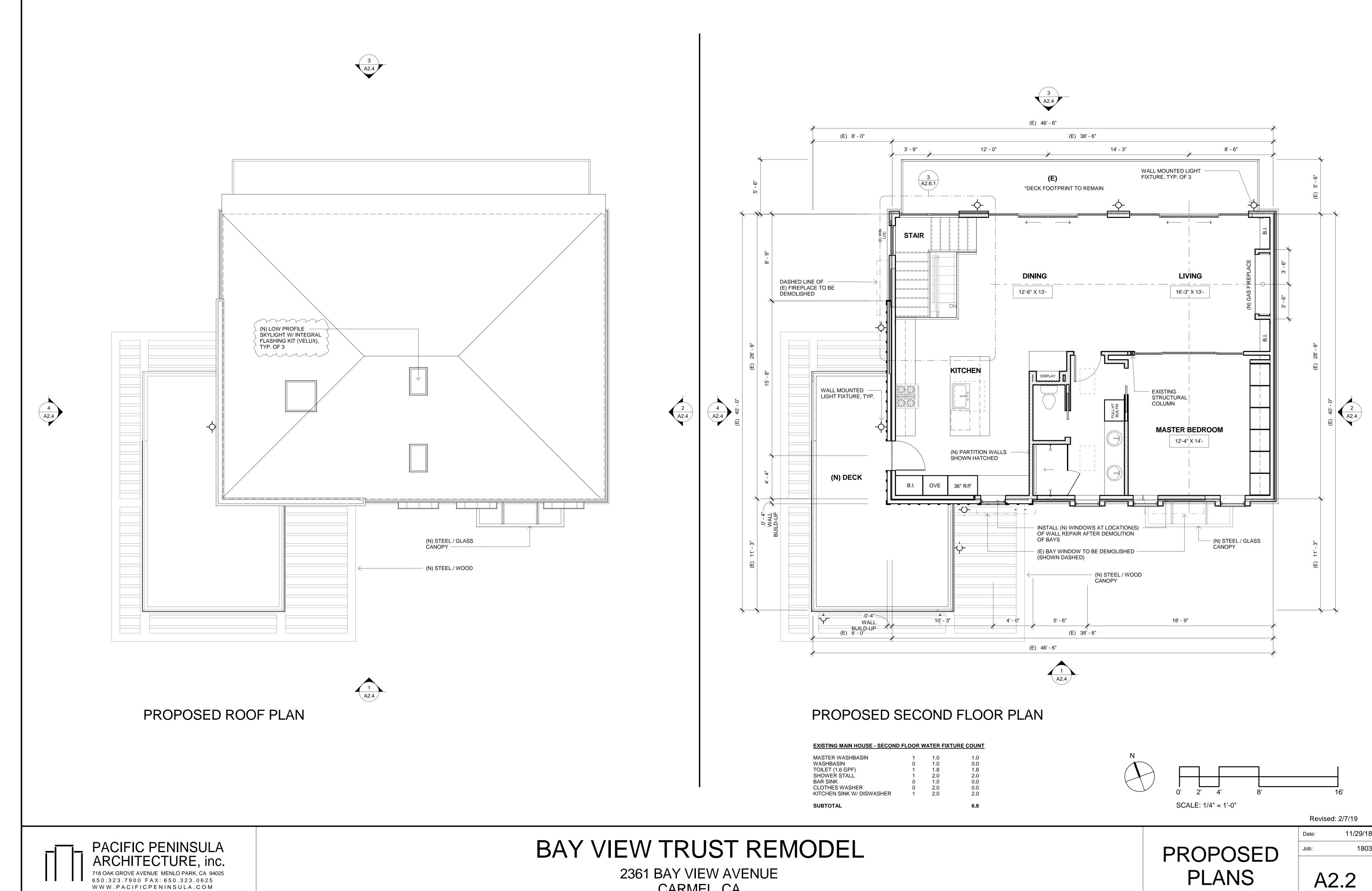






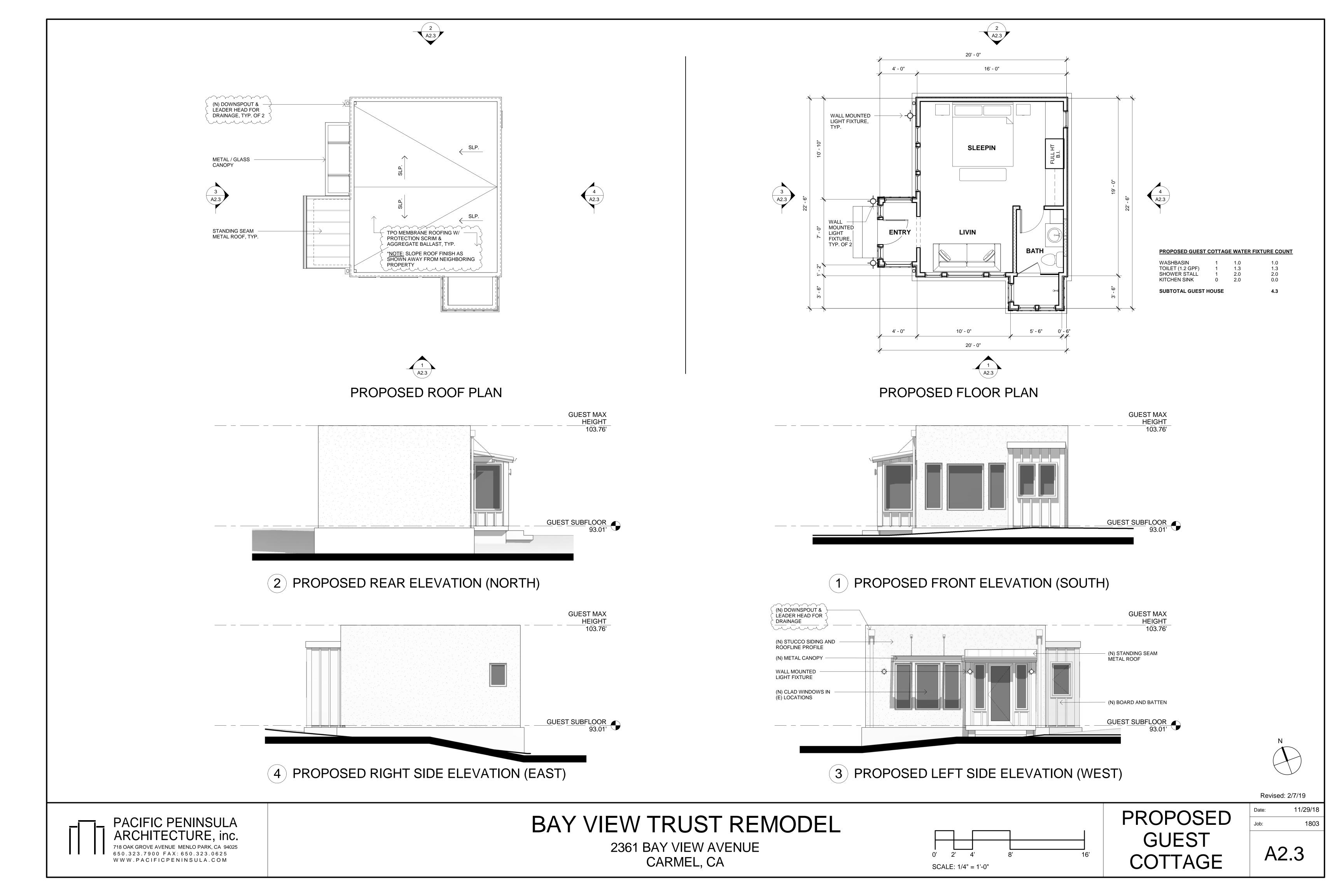


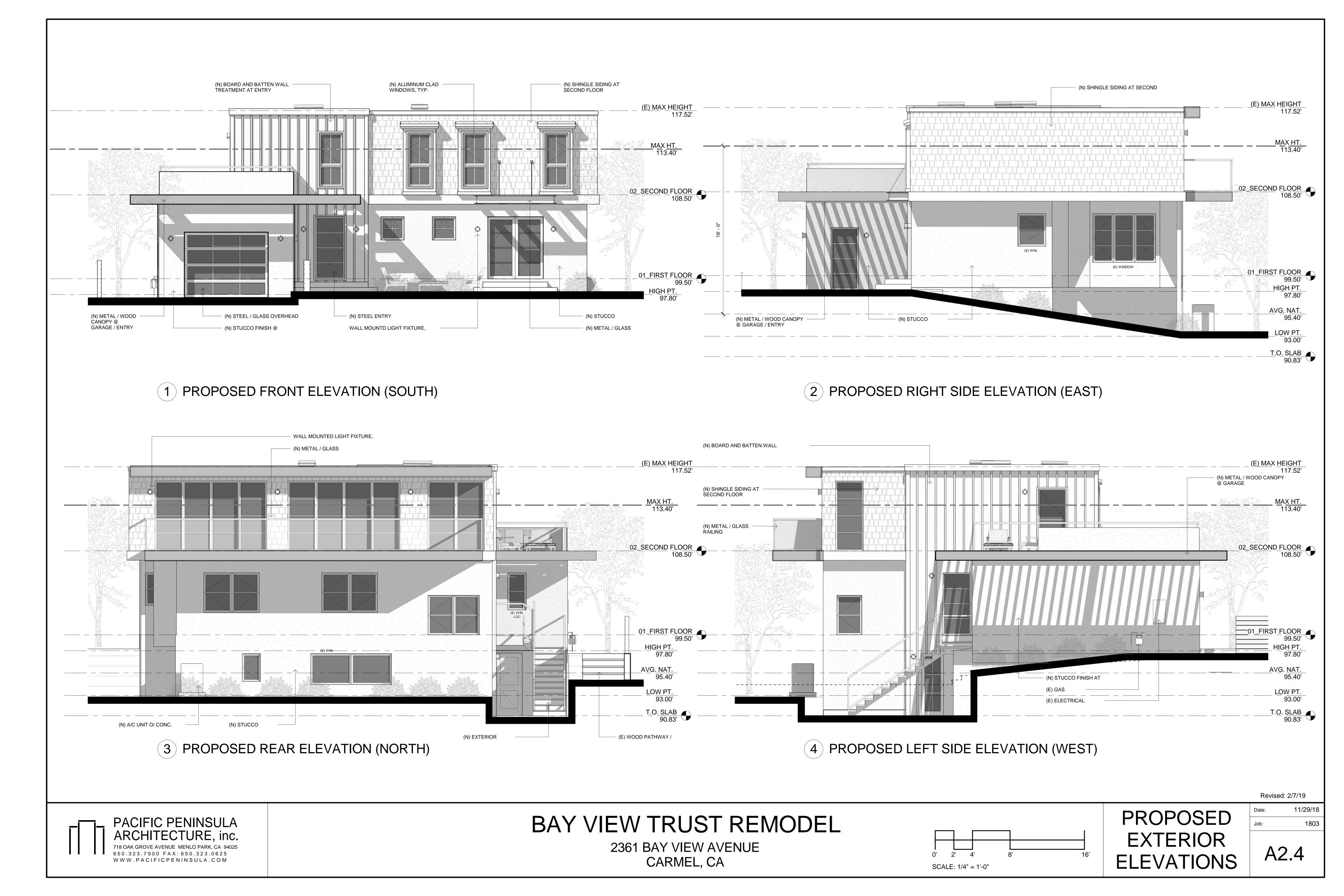




CARMEL, CA

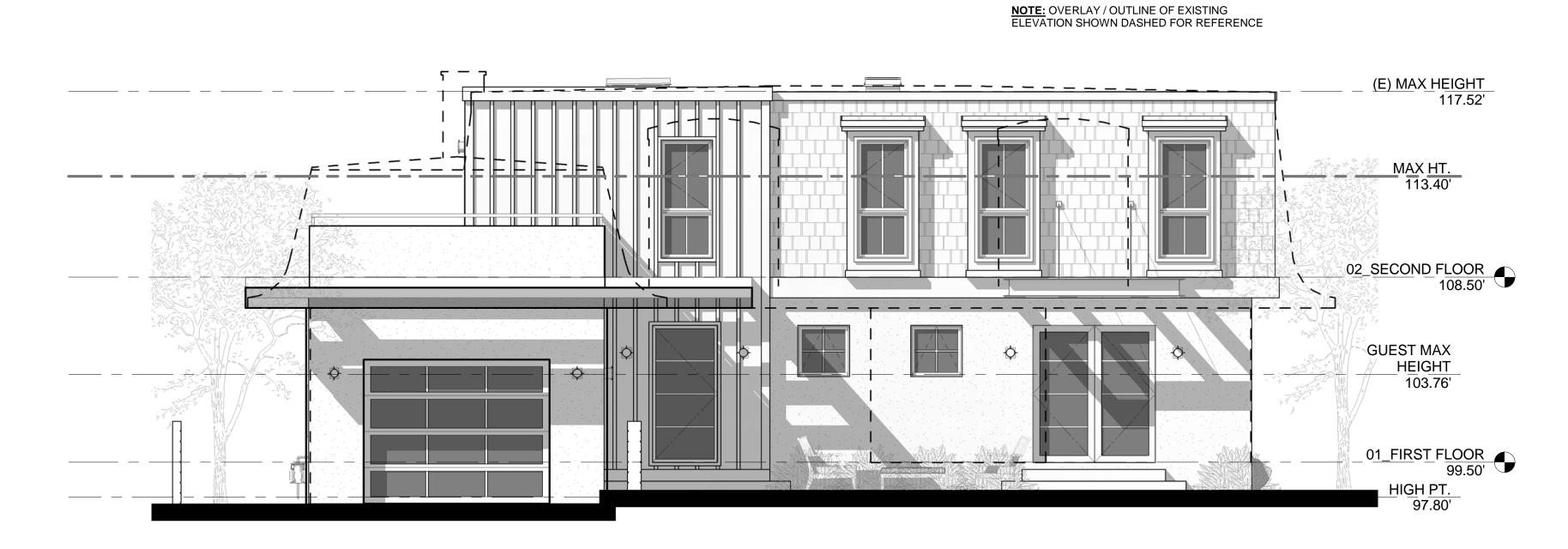
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EXISTING FRONT ELEVATION (SOUTH)



PROPOSED FRONT ELEVATION (SOUTH)

Revised: 2/7/19



EXISTING STREETSCAPE: PHOTO



PROPOSED STREETSCAPE: CONCEPTUAL RENDERING



EXISTING STREETSCAPE: PHOTO



PROPOSED STREETSCAPE: CONCEPTUAL RENDERING

