



LAND USE PRE-APPLICATION CONFERENCE

Thursday, May 5, 2022

Webex*

1:00 pm: **Proposed Reduction of WRA Setbacks**
Applicant: **Matthew Miller**
Property Address: **19412 View Drive**
Neighborhood Assn: **Robinwood Neighborhood Association**
Planner: **Darren Wyss**

Project #: **PA-22-11**





PRE-APPLICATION CONFERENCE

THIS SECTION FOR STAFF COMPLETION		
CONFERENCE DATE:	5/5/22	PROJECT #:
TIME:	1:00 pm	PA-22-11
STAFF CONTACT:	Darren Wyss	FEE:
		\$1,000

Pre-application conferences occur on the first and third Thursday of each month. To schedule a conference, submit this this form with the property owner’s signature, the fee, and accompanying materials by 4:00pm at least **15** days before the conference date. Twenty-four hour notice is required to reschedule. Pre-application notes are valid for 18 months. After 18 months with no application approved or in process, a new pre-application conference is required.

Address of Subject Property (or map/tax lot): **19412 View Drive**

Brief Description of Proposal: **Please see attached (1.) introduction letter, (2.) drawing exhibits, and (3.) WRA Report by our Natural Resource Specialist. Briefly, we are applying to reduce the WRA Setbacks on our property.**

Applicant’s Name: **Matthew Miller, property co-owner**

Mailing Address: **4813 Camino Costado – San Clemente, CA 92673**

Phone No: **949.303.3639** Email Address: **mmmiller78@gmail.com**

Please attach additional materials relating to your proposal including a site plan on paper up to 11 x 17 inches in size depicting the following items:

- North arrow
- Scale
- Property dimensions
- Streets abutting the property
- Conceptual layout, design and/or building elevations
- Easements (access, utility, all others)
- Access to and from the site, if applicable
- Location of existing trees, highly recommend a tree survey
- Location of creeks and/or wetlands, highly recommend a wetland delineation
- Location of existing utilities (water, sewer, etc.)

Please list any questions or issues that you may have for city staff regarding your proposal:

We are preparing our property for sale. Our hope for this pre-application conference is to obtain a clear and less encumbered letter of explanation on what the future owners may do, based on the varying 2 options we are preliminarily proposing.

By my signature below, I grant city staff right of entry onto the subject property in order to prepare for the pre-application conference.



4/6/22

Property owner’s signature

Date

Property owner’s printed name and mailing address if different from above.

Re: Pre-Application Conference for the Reduction of Setbacks & WRA Report for 19412 View Drive

Mr. Wyss,

We truly appreciate your time and assistance to date. As previously discussed, we have made intermittent attempts for years to improve the subject property. Over the course of many calls/emails and meetings with (former) Associate Planner, Peter Spir, it became clear that there was no reasonable path forward. The City Staff was unable to grant the necessary exemptions or variances because the municipal code (at the time) did not offer sufficient flexibility. Fortunately, a lot has since changed. With your guidance and feedback throughout the upcoming Pre-Application Conference, we aim to settle once and for all what is possible to build at 19412 View Drive.

In our view, the purpose of this Pre-App is to establish a path forward for the property's future buyer. As applies to the specific site, we seek to establish which sections of the CDC apply and will be accepted moving forward. Our goal is to then sell our property with a broad array of options, may it be the buyer's desire to build their single-family dream home or develop several multi-family units. In other words, we are seeking clear direction (a letter) from West Linn as to what is possible and allowed based on our Application, Narrative, Drawing Exhibits, and WRA report by EVREN Northwest. We will then include this letter in our seller's packet, with the aim that such information will allow perspective buyers to make informed decisions and shorten the due diligence period. (The new owners will then commission drawings for their favorite site plan option and schedule a Development Review Application.)

When we first tried to re-entitle our property in 2007, I believe the riparian corridor's setbacks were 50-feet. Though our property is now fully encumbered (the 100-foot WRA setback covers the entire site, including our existing house), we now have some items working in our favor, per our discussions with you in Planning:

- there is upcoming legislation that will allow for additional flexibility, including zoning changes which redefine the type of housing and size of lots that are possible in Oregon
- that Planning would now grant access along Kantara Way
- that our agreed upon interpretation of the CDC is that Planning would not require both Mitigation and Restoration (if only Mitigation was chosen), so if only Restoration is chosen Mitigation would not be required; Mitigation is therefore
- that per a Restoration approach and definition, only a 15'-0" buffer would be included within this scope along the portion being daylighted, and that mitigation elsewhere, particularly the upper stream, would not be required
- that there is a recognizable conflict between CDC 32.040.C.1.e (allowing the small existing home's footprint to be expanded by just 500 SF) and 32.110.B.2 (that on a per lot basis, the maximum disturbed area [MDA] is the larger of 5,000 SF or 30% of the WRA)
- that 30% of .85 acres (~11,023 SF) is not necessary to replace a single-family home, but a future buyer could disturb more than 5,000 SF, so it may be inferred that the building footprint wouldn't be limited to 500 SF more

Here are the following two (2) options we wish to explore during the Pre-Application Conference:

Option #1: Demolish the existing 800 SF (1,073 SF footprint) 2 bed/1bath house and build a larger single-family home in the general-existing area

- Necessary Steps/Allowances by the City:
 - Grant a hardship provision for a larger MDA and home footprint
 - Allow the culverted stream to be daylighted and restored; decrease the WRA Setbacks to 15'-0"
 - Grant the stream to be re-routed slightly to favor more optimal and conventional property lines
 - Gain vehicular entrance(s) from Kantara Way

Option #2: Build attached or detached multi-family units on the site, on one or both sides of the stream

Per House Bill 2001, middle (multi-family) housing units can be built on this site (where allowed by reduced setbacks). Per Senate Bill 458, each unit's lot can be partitioned and sold individually starting June 2022.

- Necessary Steps/Allowances by the City:
 - Allow the culverted stream to be daylighted and restored; decrease the WRA Setbacks to 15'-0"
 - Grant the stream to be re-routed slightly to favor more optimal and conventional property lines
 - Gain vehicular entrance(s) from Kantara Way

The following West Linn municipal code references apply specifically to our site's situation:

- CDC 32.060.H.1, 'applicants are encouraged to daylight or open piped-stream areas. Once daylighted, the WRA will be limited to 15-feet on either side of the stream. And, within such a reduced WRA, water quality measure would be required.'
- CDC 32,060H.2, 'The re-opened stream does not have to align with the original piped route but may take a different route on the subject property so long as it makes the appropriate upstream and downstream connections...'

Here is a description of the site's configuration along the WRA, which clearly warrants Restoration:

- At the western edge of the property, there are 2 culverts and 3 ponds. The higher (1st) pond is smaller; it catches the water from the upland forest's stream and channels it into a short culvert that empties into a larger and deeper (2nd) pond. At this lower (2nd) pond, it then channels water into a larger culvert which runs under the driveway. After it emerges on the other side of the driveway, the culvert then empties into a 3rd pond; this is at the bottom of a steep slope near the northern property line. No ponds would accumulate if the stream wasn't culverted.
- A potential reason why the stream was culverted in the first place, is that per the GSI Plan, there is a city water main running over the top of where the stream would naturally run, with the culvert below.
- There is a small dirt clearing to the right of the lower (2nd) pond. It can best be described as an overgrown driveway; what it's really used for is an access point for West Linn Public Works' heavy backhoe equipment. The department thinks it possible that accumulated sediment/debris could fill the 2nd pond and block the driveway's culvert. This could then cause a flood and affect downstream homes. So, the City periodically entered and/or enters the property to dig out the pond to prevent this potential overflow.
- At the end of this small dirt clearing is a berm (debris pile) left by Public Works which has grown higher over time. If the culverts were removed, no debris would accumulate and there would be no risk of floods. This would unburden the City of West Linn.

Therefore, in our view, finally re-entitling this derelict property more favorably is a win-win for us, the city, and the surrounding neighborhood as follows:

- by increasing home values for the surrounding neighborhood
- by requiring less maintenance for Public Works (no need to dig up the sediment from the pond)
- by providing more available housing (if multi-family is selected)
- by providing more property taxes for the city and its schools
- by improving the environment (stream can return to the way it used to be, which will improve flow/wildlife downstream)

In coordination with EVREN Northwest and our research of the CDC Chapter 32 Water Resource Area Protection, it quickly became apparent that the code is not designed to be a 'one-size-fits-all-approach.' Especially as pertains to our unique and irregularly shaped property (with a segmented and culverted stream running through it). We believe it to be important to think creatively and explore the 'design intent' of the code. And at the end of the day, please realize that we are not asking for special treatment; only that reasonable measures be put in place to lift the burdensome encumbrances on our property.

I am an Oregon native; my wife (Erin) is an Ecology and Environmental Studies Professor at our local Community College. We care deeply for the environment, which is why we want to make sure this WRA process is handled right before we relinquish control and sell. After all, this was our first home together and we wish nothing more than to see the riparian habitat be strengthened and protected, while still fostering responsibly built adjacent buildings. That is why we are going through this process to ensure the next buyer not only has clear guidance from the city, but also that the property will be Restored and the stream Daylighted.

Mitigation is not the sole solution. As per CDC 32.080.B.2 in areas 'already significantly degraded,' namely through the removal of invasive vegetation and planting of new native plants, this method was extensively explored by EVREN Northwest in their draft report. It found that:

- Glyphosate-Based Herbicides would be the most efficient and desirable weed killers; otherwise, per the report, less efficient and repeat-use homemade weedkillers are required to kill invasive species prevent regrowth
- The replacement and planting of new native species in the Mitigation Area would require 91,481 gallons of water/year, or 274,443 gallons/project until fully established.

In my view, extensive Mitigation (at our particular property) is not feasible for the following reasons:

- The southwest section of the site's upper stream is unoccupiable. Steep slopes here range from 28%-40% and it is densely wooded and filled with trees and plants, yes many of them invasive. Routinely accessing this area to remove invasive plants, plant new native ones, continuously monitor the section for regrowth and proper & water supply, and replanting when necessary, would cause excess erosion into the stream and disrupt the established habitat of animals already living in this area.
- Pumping water to the upper stream area (and minimizing loss by runoff) would be logistically difficult and inefficient. (Currently there is only one hose bib on the exterior of the house, and insufficient pressure to reach the upper stream's future disbursement points. A pump would be required).
- The high water usage to establish and maintain new native plants is unacceptable.
- The use of toxic herbicides, or any other chemicals that would be necessary to prevent the regrowth of invasive plants living so close to the upper stream or high water table, would inevitably make their way into the stream, river, and aquatic habitat's life cycle.
- Restoration alone could already be a costly site improvement method and should be credited towards any potential (typical) Mitigation costs for the future owners.
- Since the stream was culverted to protect a City Water Main, and such measures would never take place in the 21st century, we would welcome Public Works' collaboration, coordination, and financial contribution in securing and/or re-routing the water main and sharing the costs/efforts to remove the culverts.

On a site such as this, restoration over mitigation is clearly the best choice. Environmentally speaking, daylighting the stream and making it contiguous again provides a greater benefit than removing invasive species. I look forward to our upcoming pre-app meeting discussion and your feedback.

Sincerely,



Matthew M. Miller – AIA, LEED AP

mmmiller78@gmail.com

949.303.3639

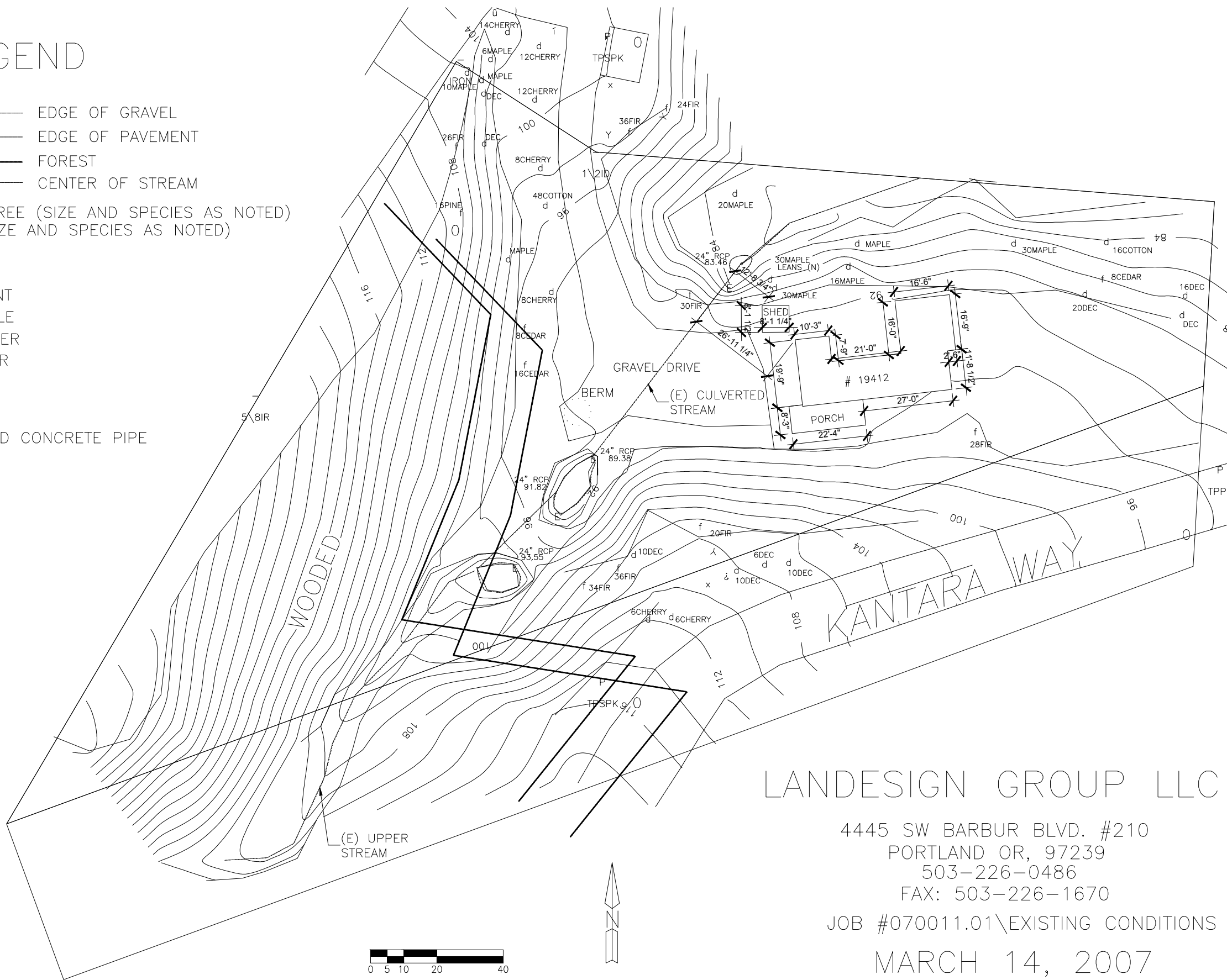
See attached Exhibits #1-#15 & WRA Report by Evren Northwest:



LEGEND

- EDGE OF GRAVEL
- EDGE OF PAVEMENT
- FOREST
- CENTER OF STREAM

- d DECIDUOUS TREE (SIZE AND SPECIES AS NOTED)
- f CONIFER (SIZE AND SPECIES AS NOTED)
- MANHOLE
- ī MAILBOX
- y FIRE HYDRANT
- x UTILITY POLE
- ∩ UTILITY RISER
- 8 WATER METER
- E CULVERT
- ↘ GUY
- û SIGN
- RCP REINFORCED CONCRETE PIPE



Miller Residence
Proposed Property Improvements
 19412 View Drive
 West Linn, OR 97068

LANDESIGN GROUP LLC

4445 SW BARBUR BLVD. #210
 PORTLAND OR, 97239
 503-226-0486
 FAX: 503-226-1670

JOB #070011.01\EXISTING CONDITIONS

MARCH 14, 2007

ISSUE DATE

JOB NO.: 2022-002

SHEET TITLE:

EXISTING SITE PLAN

DATE: 04/06/2022

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DRAWN BY: MMM

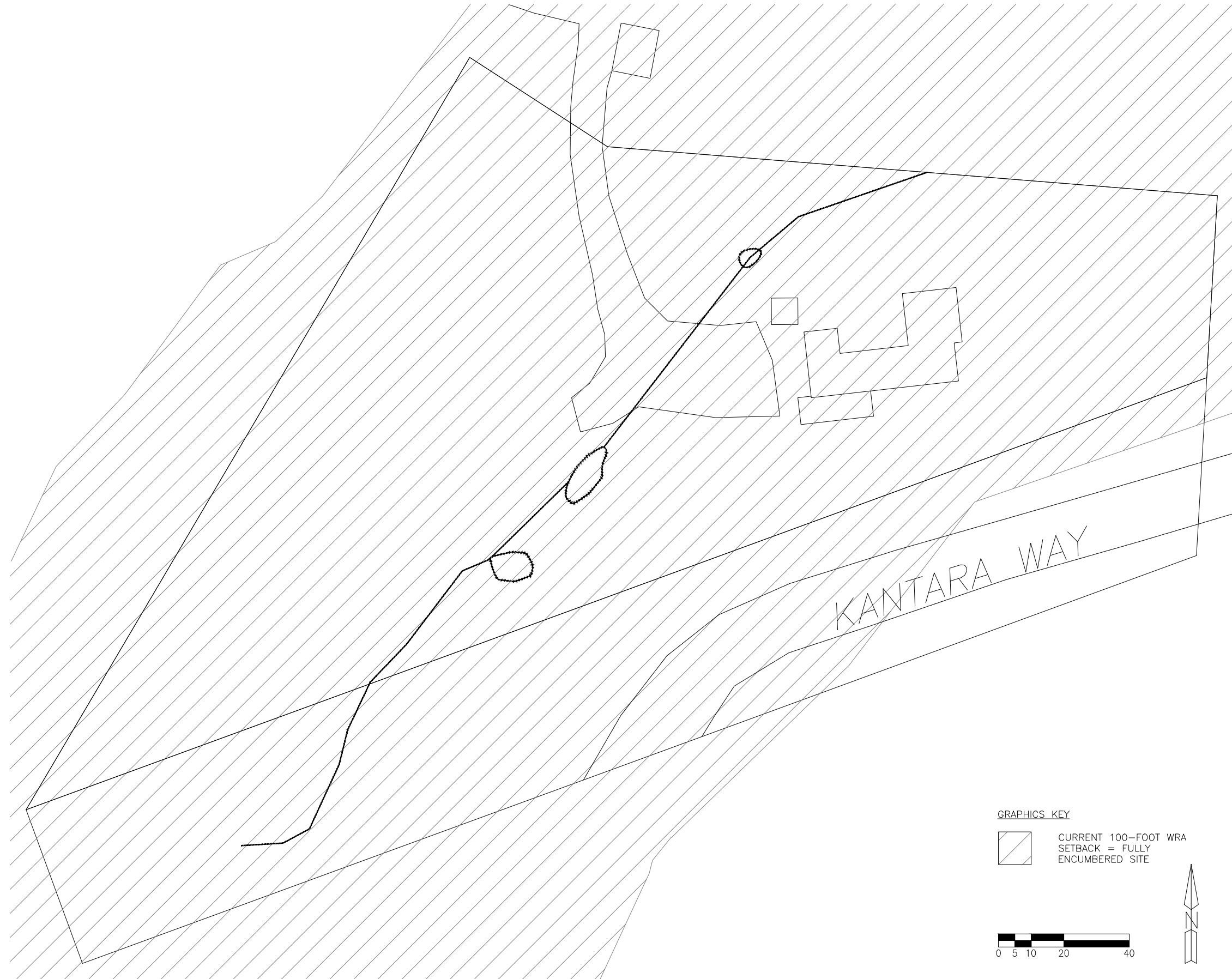
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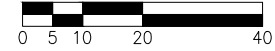
Miller Residence
Proposed Property Improvements

19412 View Drive
West Linn, OR 97068



GRAPHICS KEY

 CURRENT 100-FOOT WRA
SETBACK = FULLY
ENCUMBERED SITE



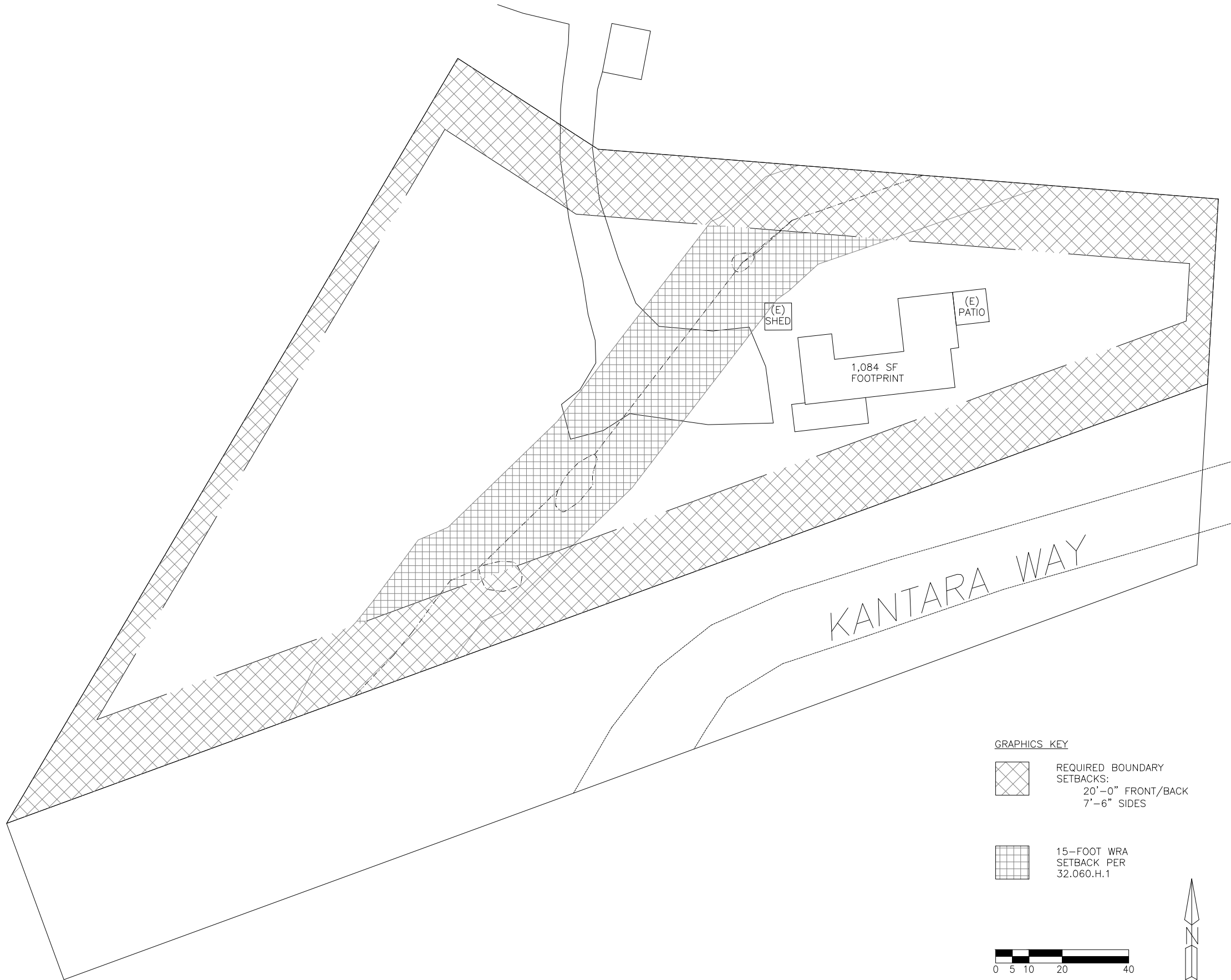
ISSUE DATE

ISSUE	DATE


JOB NO.: 2022-002

SHEET TITLE:
CURRENT SETBACK
CONDITIONS
DATE: 04/06/2022
SCALE:
DRAWN BY: MMM
SHEET NO.:

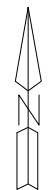
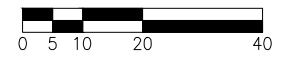
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GRAPHICS KEY

 REQUIRED BOUNDARY SETBACKS:
20'-0" FRONT/BACK
7'-6" SIDES

 15-FOOT WRA SETBACK PER 32.060.H.1



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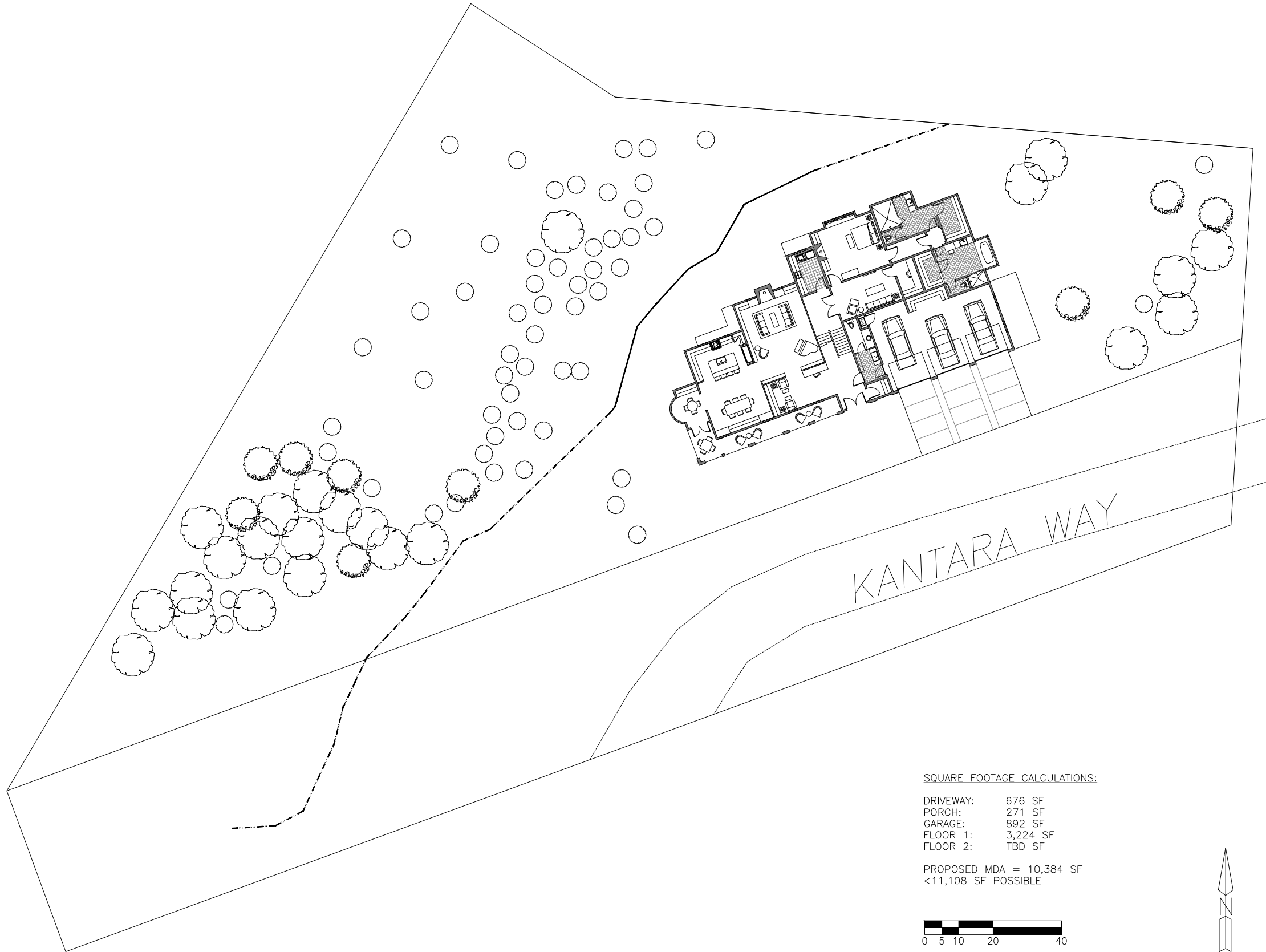
ISSUE	DATE

JOB NO.: 2022-002

SHEET TITLE:
 PROPOSED SETBACKS
 W/ RESTORATION
 DATE: 04/06/ 2022

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 SHEET NO.:

#3

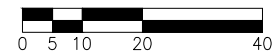


KANTARA WAY

SQUARE FOOTAGE CALCULATIONS:

DRIVEWAY: 676 SF
PORCH: 271 SF
GARAGE: 892 SF
FLOOR 1: 3,224 SF
FLOOR 2: TBD SF

PROPOSED MDA = 10,384 SF
<11,108 SF POSSIBLE



Miller Residence
Proposed Property Improvements

19412 View Drive
West Linn, OR 97068

ISSUE DATE

JOB NO.: 2022-002

SHEET TITLE:
OPTION #1: SINGLE-FAMILY
HOME SITE PLAN
DATE: 04/06/2022

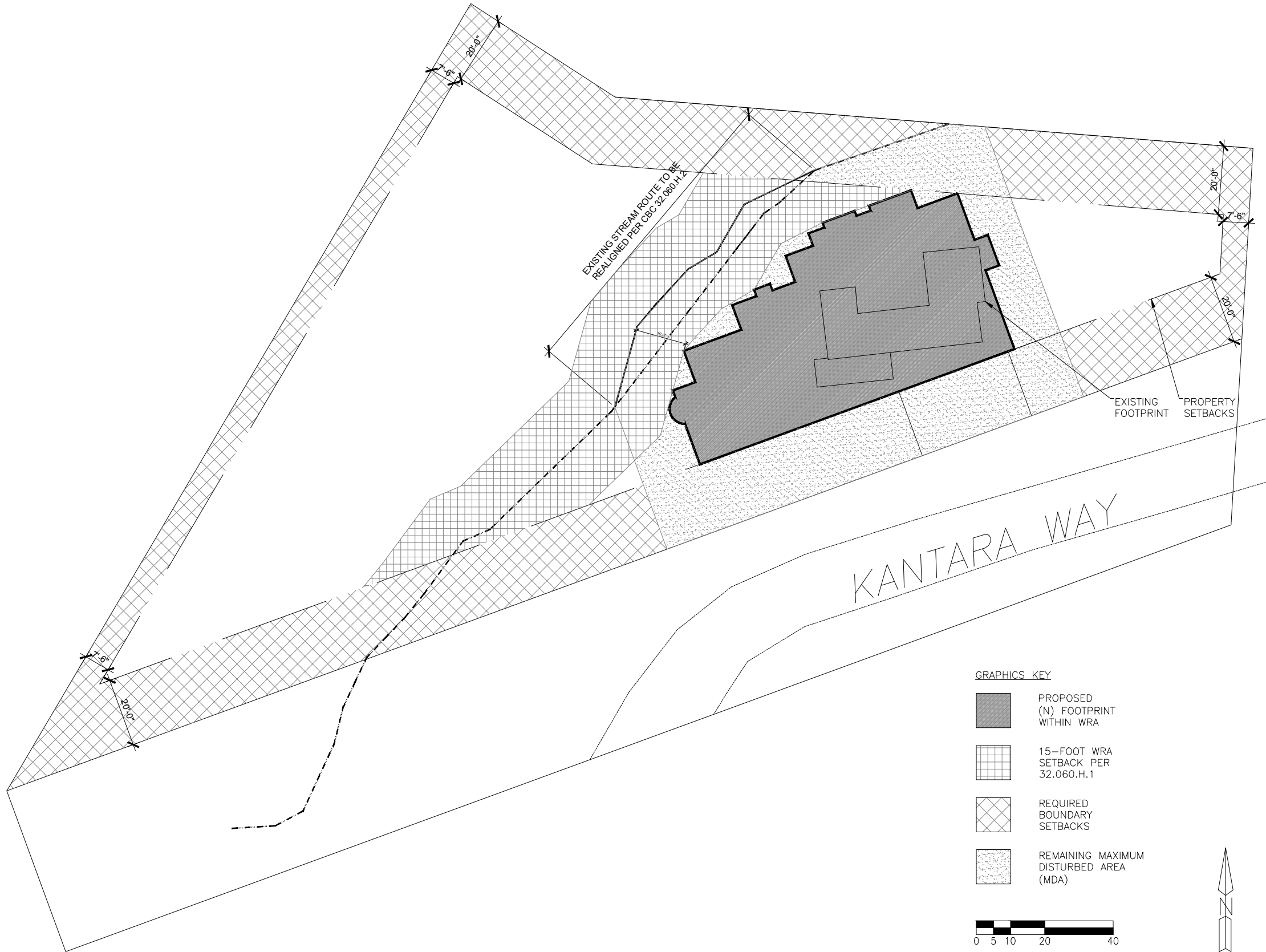
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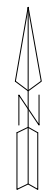
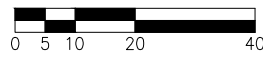
#4



Miller Residence
Proposed Property Improvements
19412 View Drive
West Linn, OR 97068



- GRAPHICS KEY**
- PROPOSED (N) FOOTPRINT WITHIN WRA
 - 15-FOOT WRA SETBACK PER 32.060.H.1
 - REQUIRED BOUNDARY SETBACKS
 - REMAINING MAXIMUM DISTURBED AREA (MDA)



ISSUE DATE

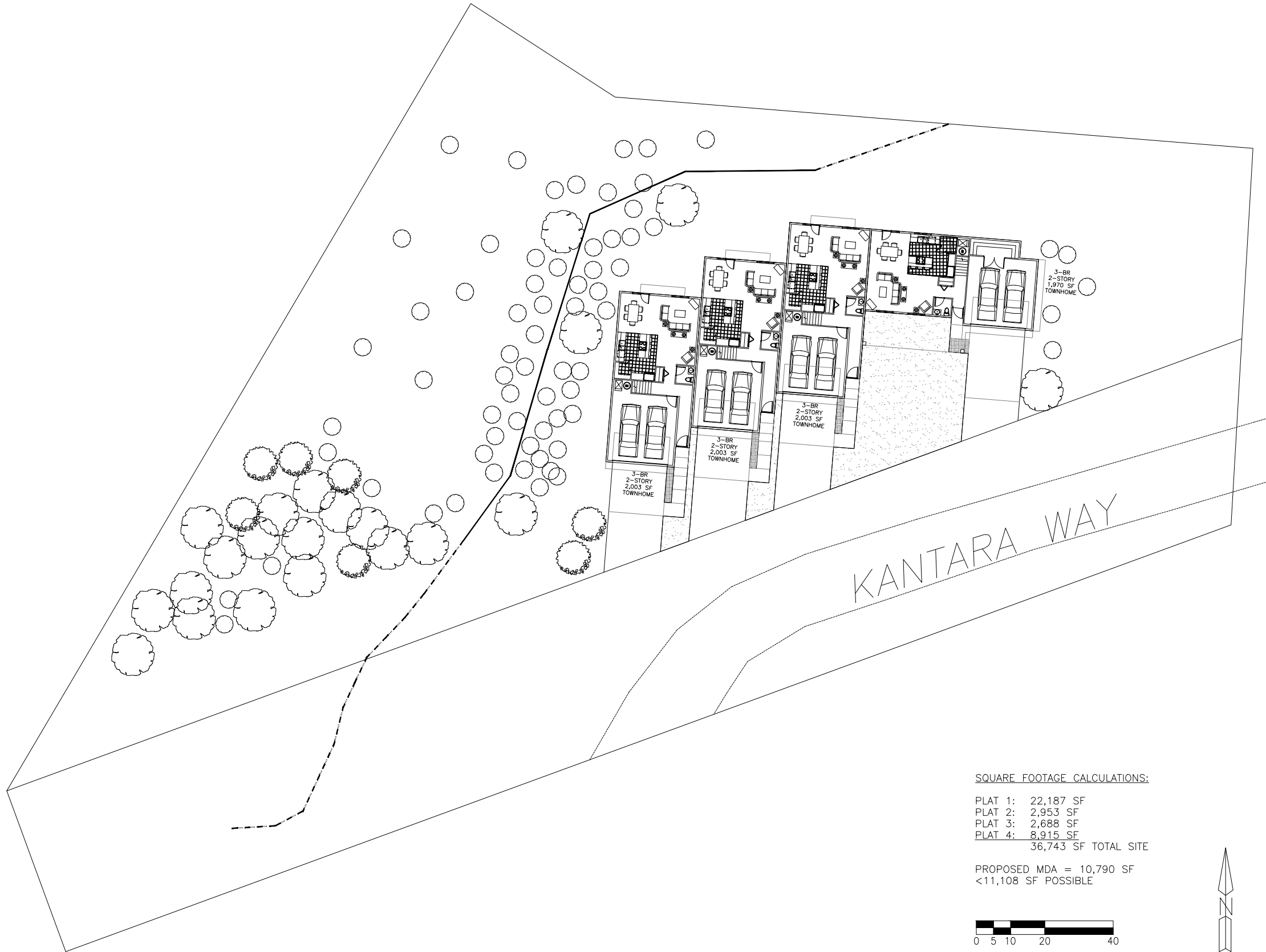
ISSUE	DATE

JOB NO.: 2022-002

SHEET TITLE:
OPTION #1: SINGLE-FAMILY
HOME SETBACK STUDY
DATE: 04/06/2022

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SHEET NO.:

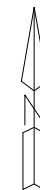
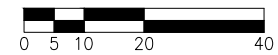
#5



SQUARE FOOTAGE CALCULATIONS:

PLAT 1: 22,187 SF
PLAT 2: 2,953 SF
PLAT 3: 2,688 SF
PLAT 4: 8,915 SF
36,743 SF TOTAL SITE

PROPOSED MDA = 10,790 SF
<11,108 SF POSSIBLE



Miller Residence
Proposed Property Improvements

19412 View Drive
West Linn, OR 97068

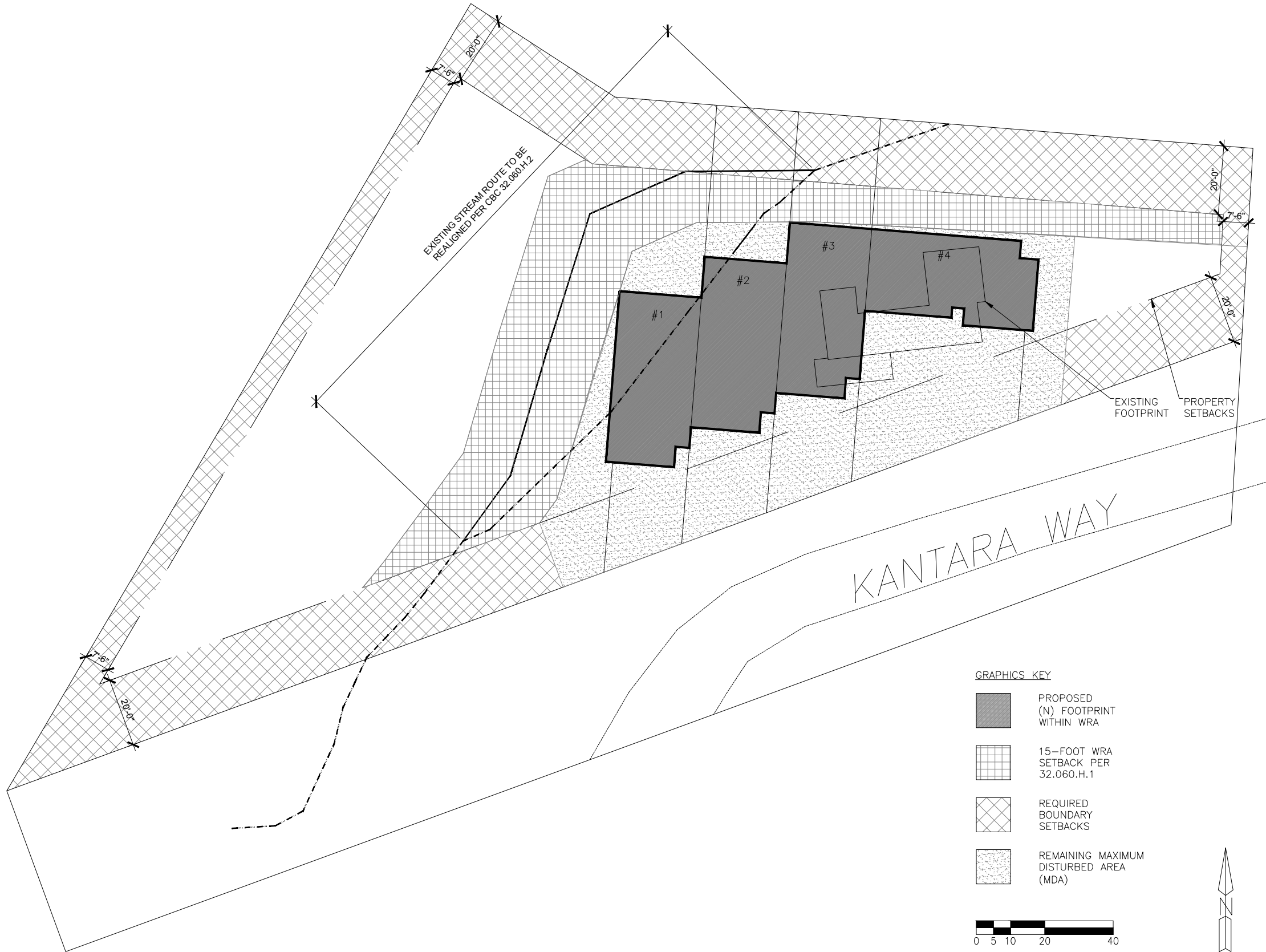
ISSUE DATE





JOB NO.: 2022-002

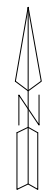
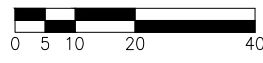
SHEET TITLE:
OPTION #2A: MULTI-UNIT
SITE PLAN EXAMPLE
DATE: 04/06/2022

SCALE:
DRAWN BY: MMM
SHEET NO.:

#6



- GRAPHICS KEY**
-  PROPOSED (N) FOOTPRINT WITHIN WRA
 -  15-FOOT WRA SETBACK PER 32.060.H.1
 -  REQUIRED BOUNDARY SETBACKS
 -  REMAINING MAXIMUM DISTURBED AREA (MDA)

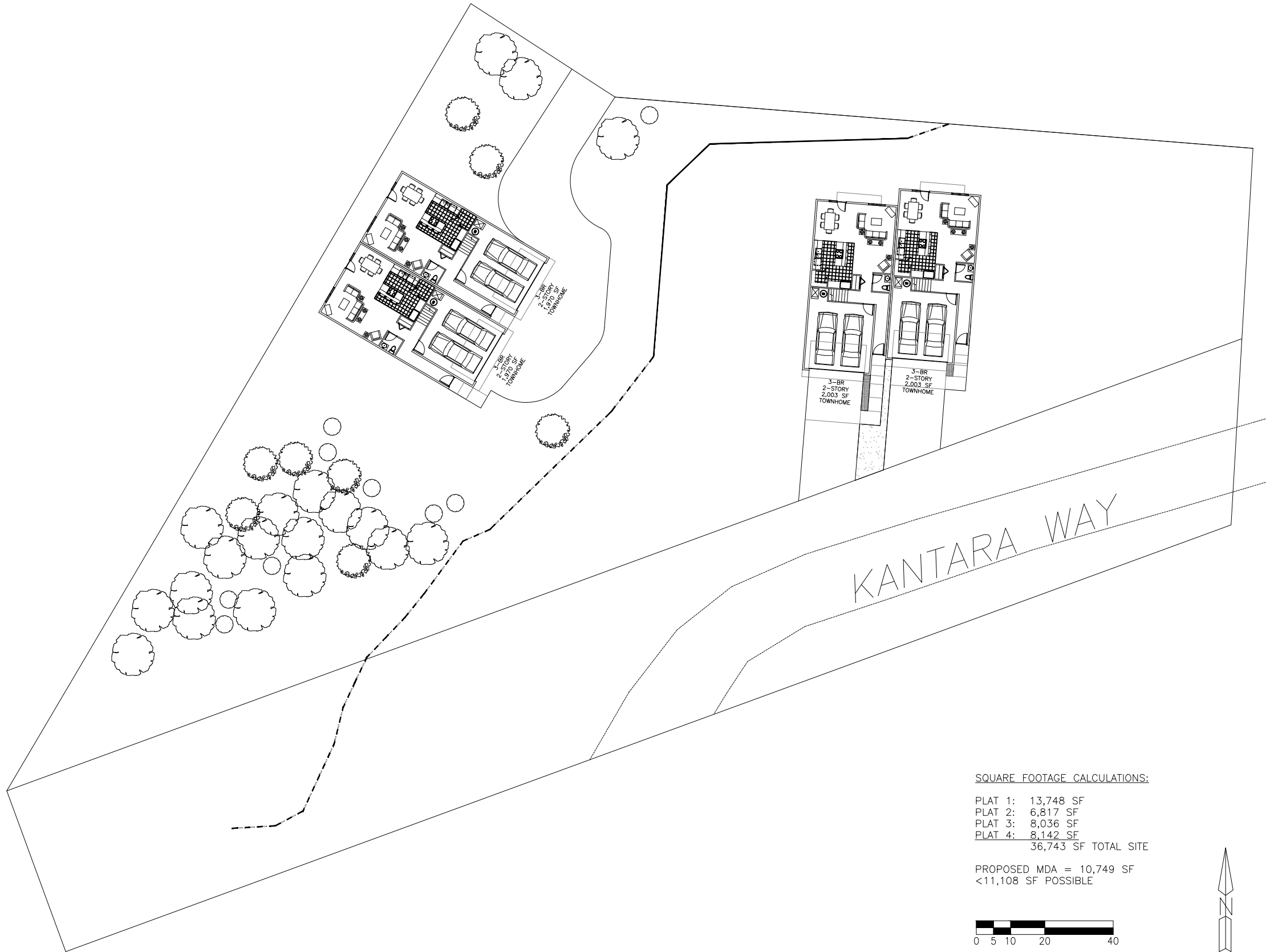


Miller Residence
Proposed Property Improvements
 19412 View Drive
 West Linn, OR 97068

ISSUE	DATE

JOB NO.: 2022-002
 SHEET TITLE:
 OPTION #2A: MULTI-UNIT
 SETBACK STUDY
 DATE: 04/06/2022
 SCALE:
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 SHEET NO.:

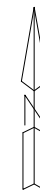
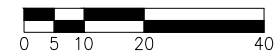
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SQUARE FOOTAGE CALCULATIONS:

PLAT 1: 13,748 SF
PLAT 2: 6,817 SF
PLAT 3: 8,036 SF
PLAT 4: 8,142 SF
36,743 SF TOTAL SITE

PROPOSED MDA = 10,749 SF
<11,108 SF POSSIBLE



Miller Residence
Proposed Property Improvements

19412 View Drive
West Linn, OR 97068

ISSUE DATE

ISSUE	DATE

JOB NO.: 2022-002

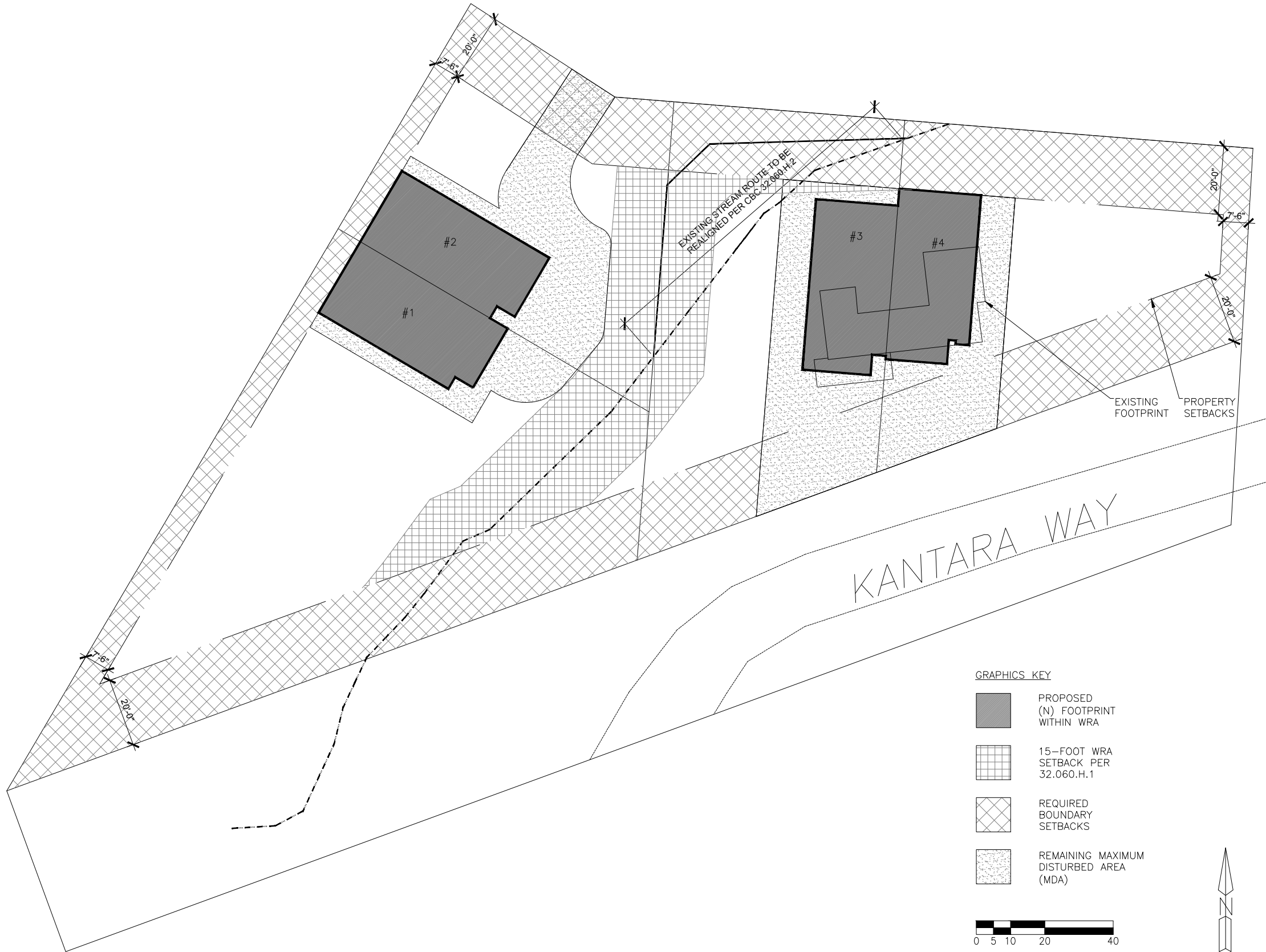
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OPTION #2B: MULTI-UNIT
SITE PLAN EXAMPLE
DATE: 04/06/2022





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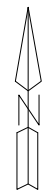
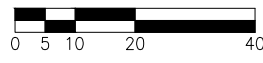
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SHEET NO.:

#8



- GRAPHICS KEY
-  PROPOSED (N) FOOTPRINT WITHIN WRA
 -  15-FOOT WRA SETBACK PER 32.060.H.1
 -  REQUIRED BOUNDARY SETBACKS
 -  REMAINING MAXIMUM DISTURBED AREA (MDA)



Miller Residence
Proposed Property Improvements

19412 View Drive
 West Linn, OR 97068

ISSUE	DATE

JOB NO.: 2022-002

SHEET TITLE:
 OPTION #2B: MULTI-UNIT
 SETBACK STUDY
 DATE: 04/06/2022

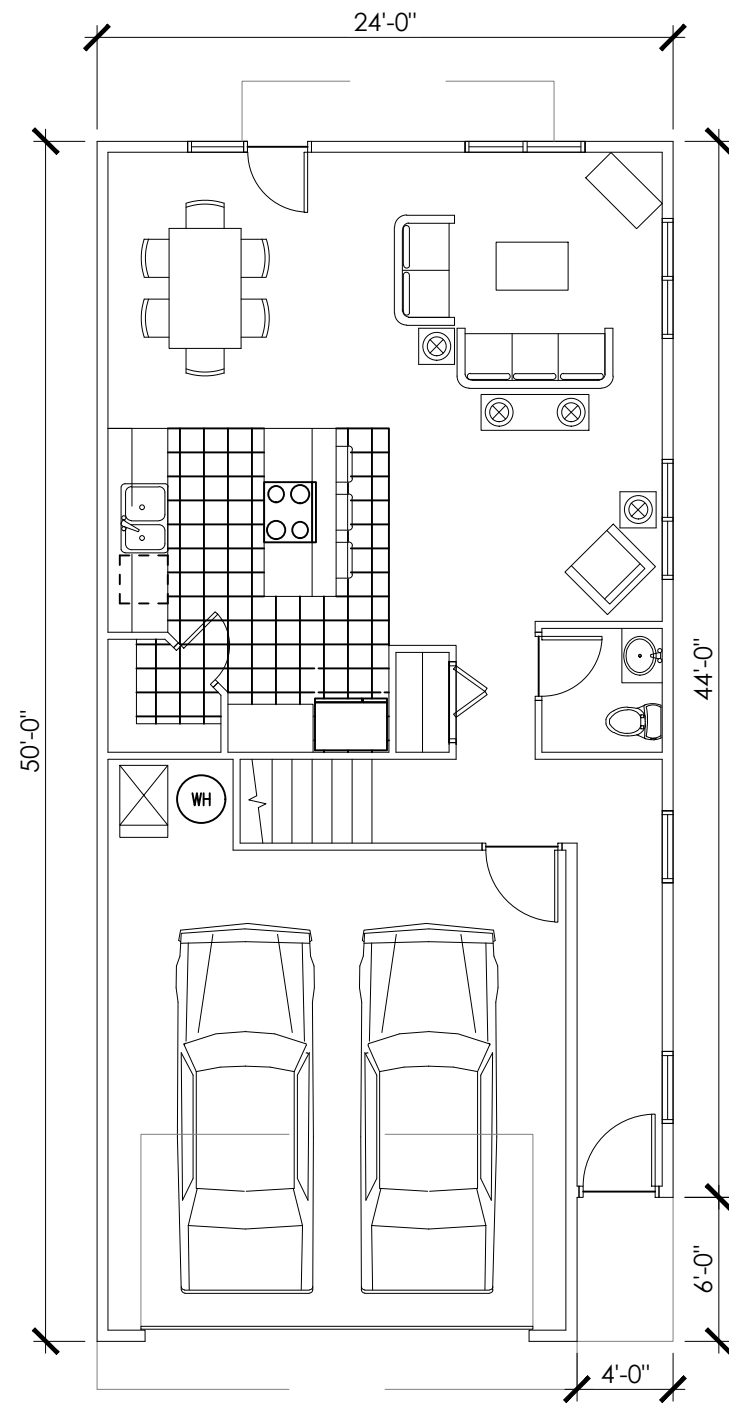
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#9

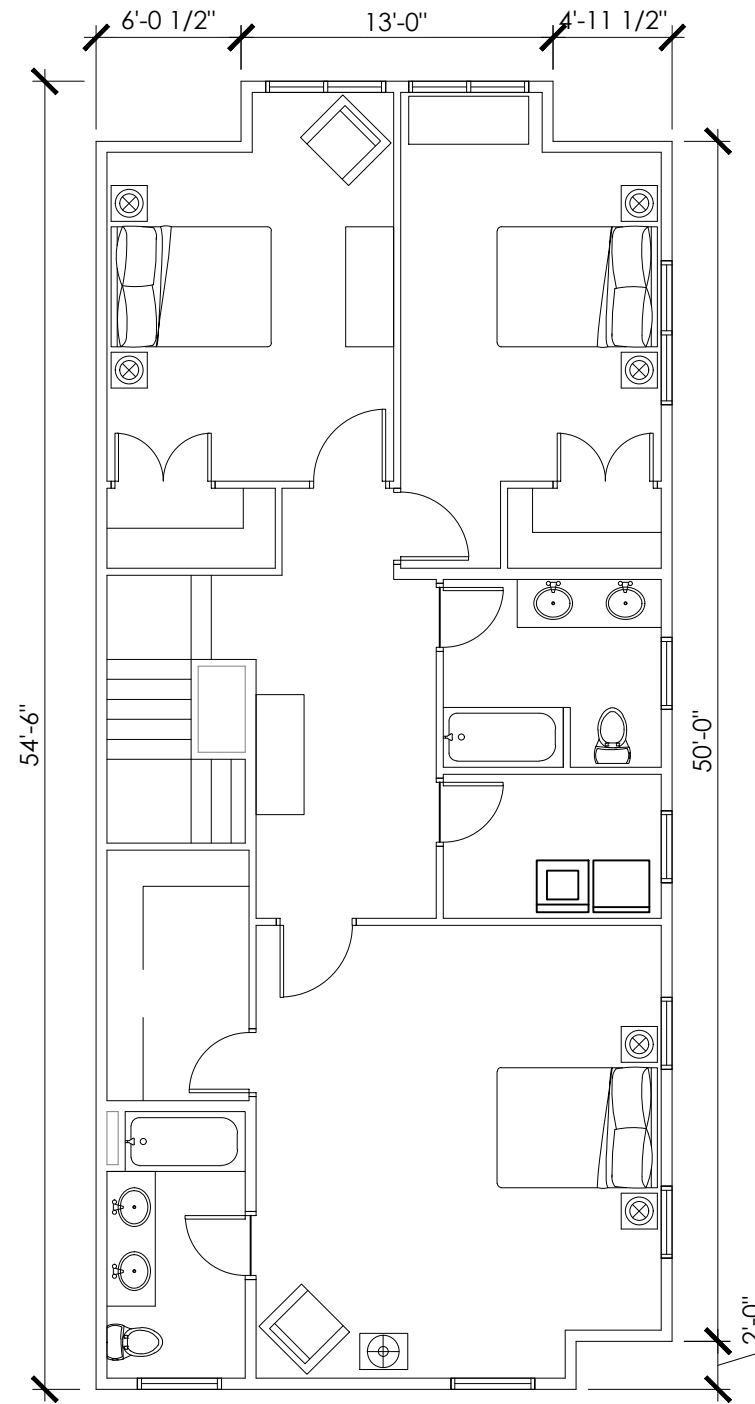


Miller Residence
Proposed Property Improvements

19412 View Drive
West Linn, OR 97068



752 SF
1,176 SF FOOTPRINT



1,251 SF

* = CONDITIONED SPACE

ISSUE DATE

JOB NO.: 2022-002

SHEET TITLE: 2,003 SF

UNIT PLAN

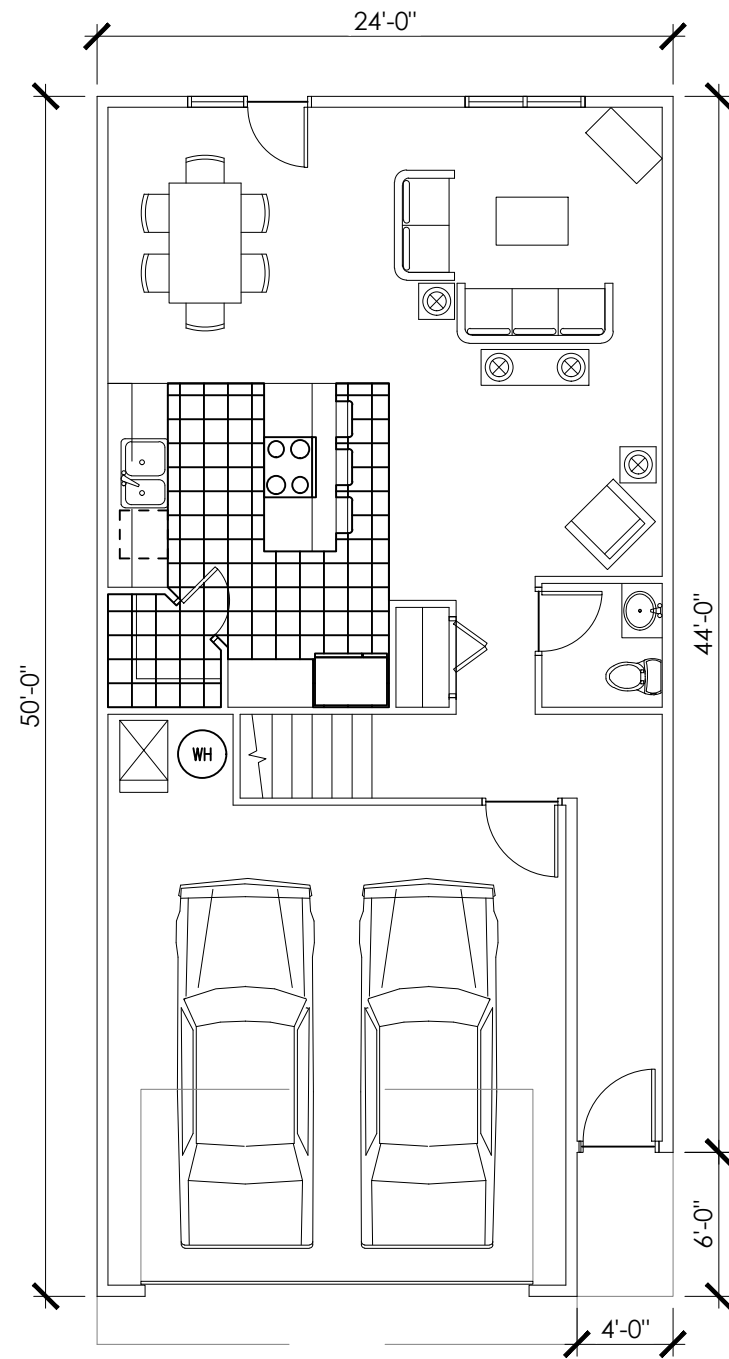
DATE: 04/06/2022

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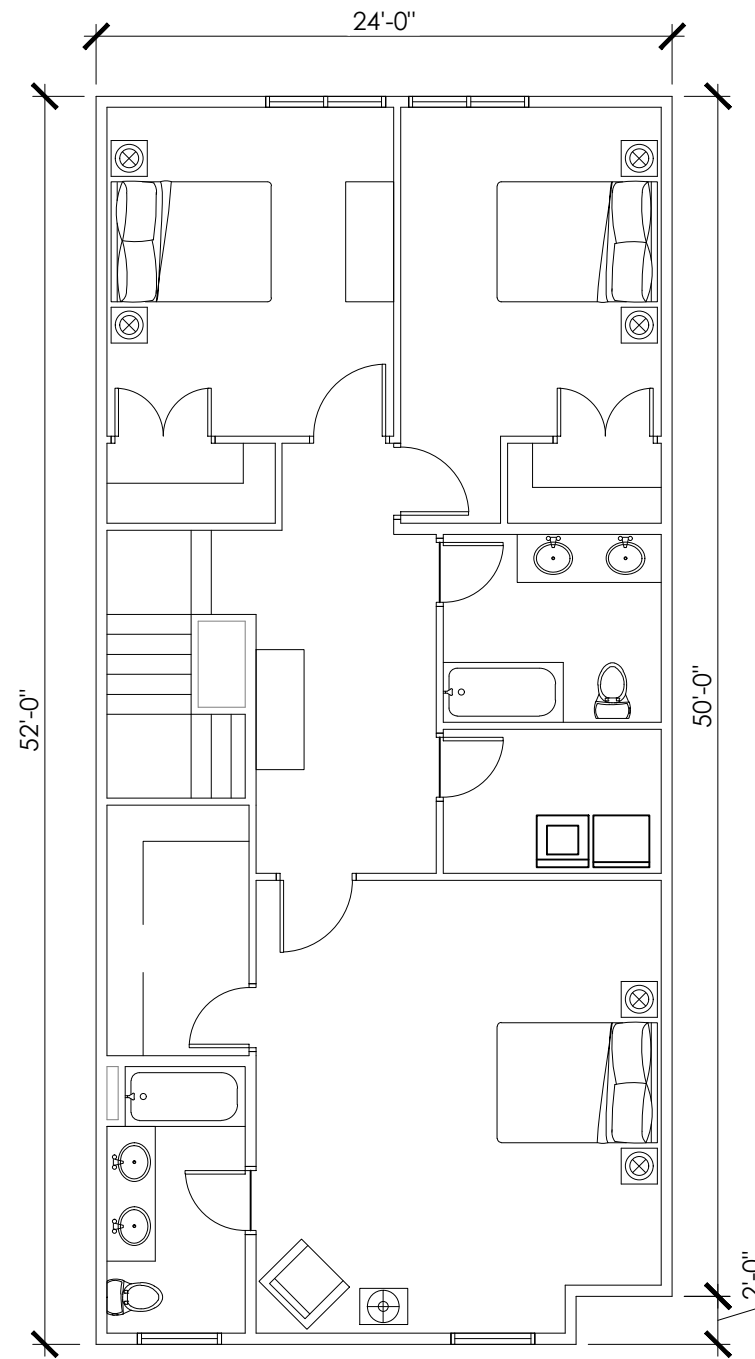
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SHEET NO.:

#10



752 SF
1,176 SF FOOTPRINT



1,218 SF

* = CONDITIONED SPACE

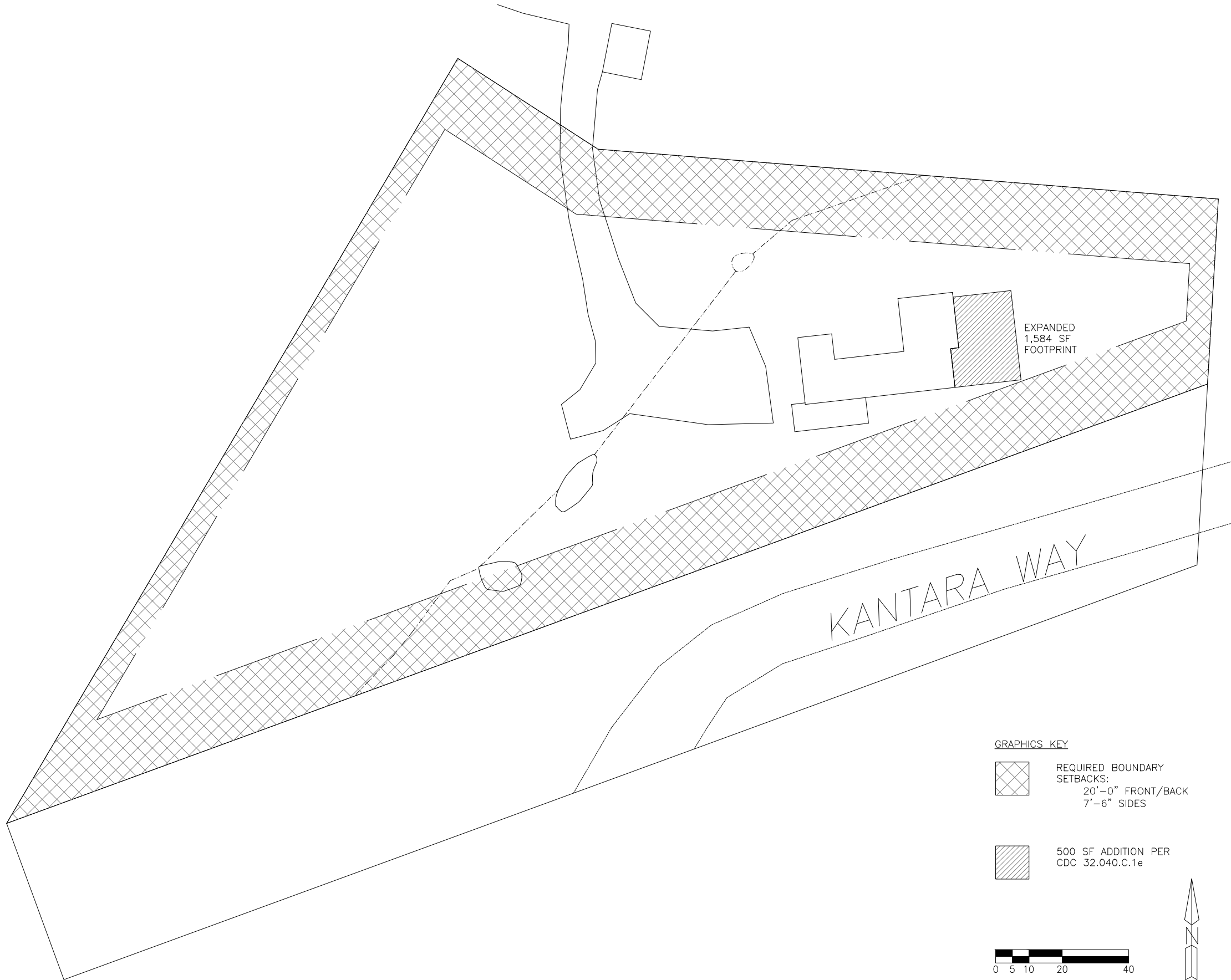
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Proposed Property Improvements
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ISSUE	DATE


JOB NO.: 2022-002


SHEET TITLE:
1,970 SF.
UNIT PLAN
DATE: 04/06/2022
SCALE: 1/8" = 1'-0"
DRAWN BY: MMM
SHEET NO.:

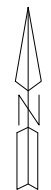
#11



GRAPHICS KEY

 REQUIRED BOUNDARY
SETBACKS:
20'-0" FRONT/BACK
7'-6" SIDES

 500 SF ADDITION PER
CDC 32.040.C.1e



Miller Residence
Proposed Property Improvements

19412 View Drive
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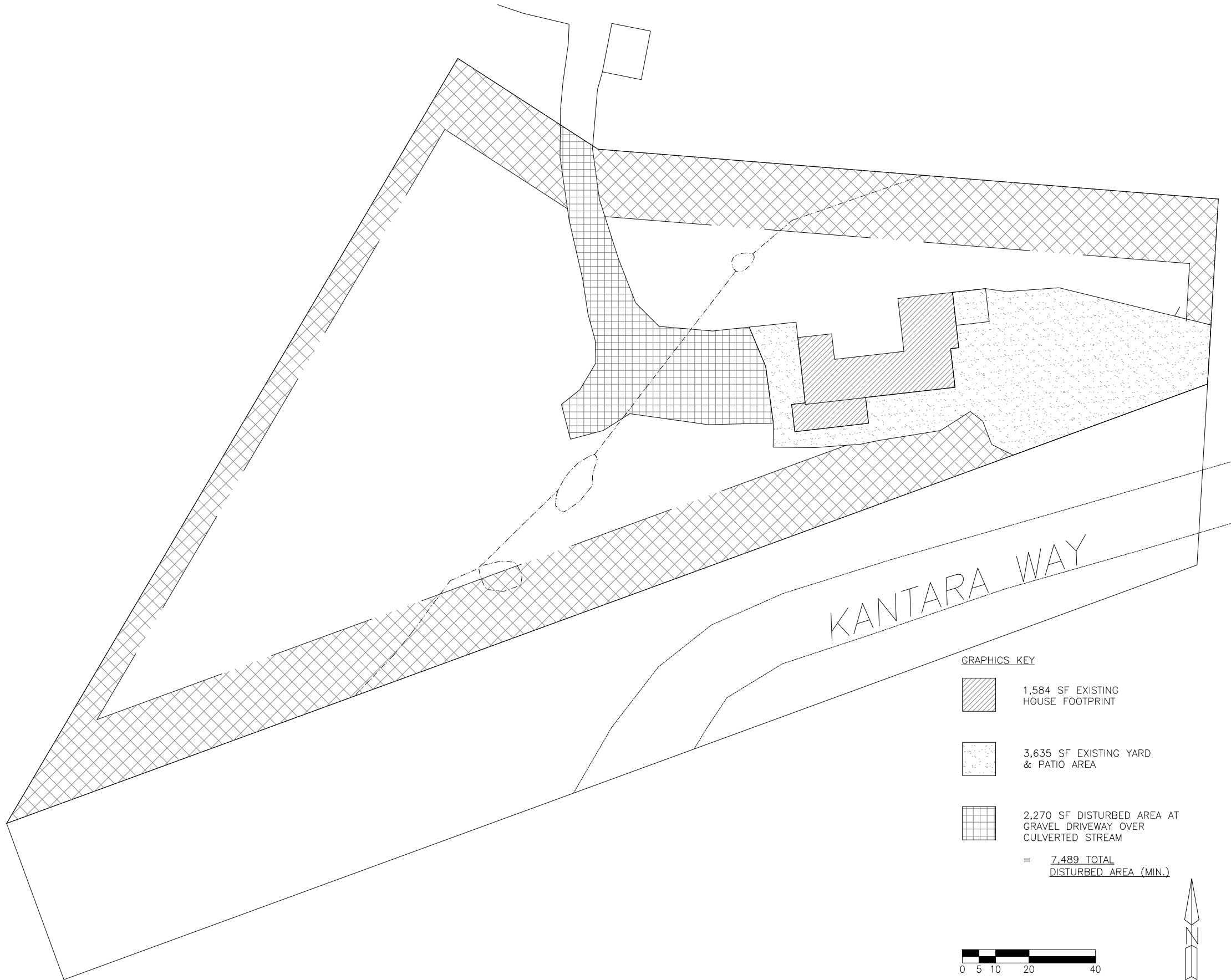
ISSUE	DATE

JOB NO.: 2022-002




SHEET TITLE:
CONDITION W/ NO
STREAM RESTORATION
DATE: 04/06/2022

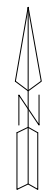
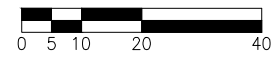
SCALE:
DRAWN BY: MMM
SHEET NO.:

#12



GRAPHICS KEY

-  1,584 SF EXISTING HOUSE FOOTPRINT
 -  3,635 SF EXISTING YARD & PATIO AREA
 -  2,270 SF DISTURBED AREA AT GRAVEL DRIVEWAY OVER CULVERTED STREAM
- = 7,489 TOTAL DISTURBED AREA (MIN.)



Miller Residence
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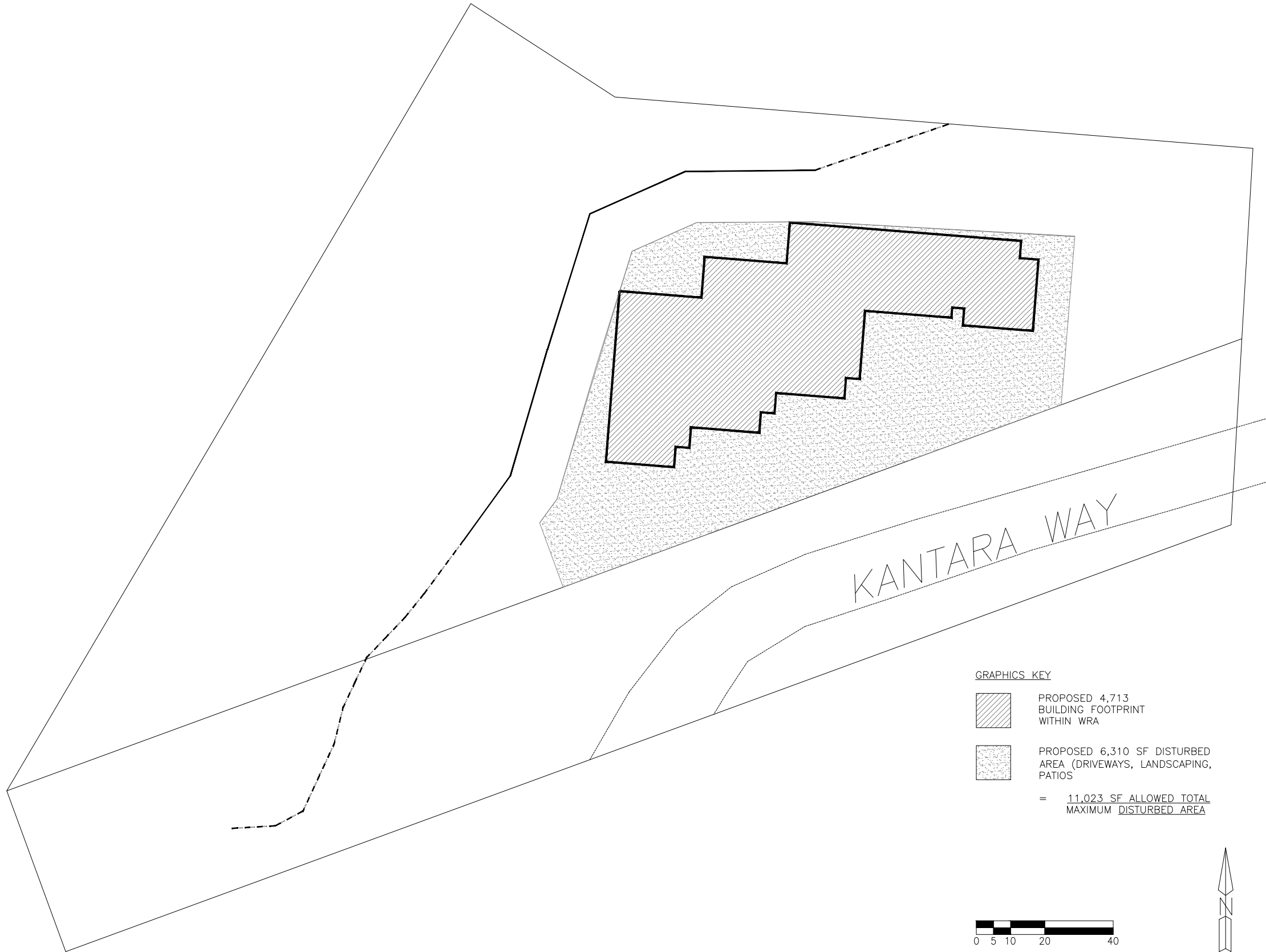
ISSUE	DATE

JOB NO.: 2022-002



SHEET TITLE:
 AS-IS MINIMUM
 DISTURBED AREA
 DATE: 04/06/2022

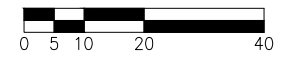
SCALE:
 DRAWN BY: MMM
 SHEET NO.:

#13



GRAPHICS KEY

-  PROPOSED 4,713 BUILDING FOOTPRINT WITHIN WRA
 -  PROPOSED 6,310 SF DISTURBED AREA (DRIVEWAYS, LANDSCAPING, PATIOS)
- = 11,023 SF ALLOWED TOTAL MAXIMUM DISTURBED AREA



Miller Residence
Proposed Property Improvements

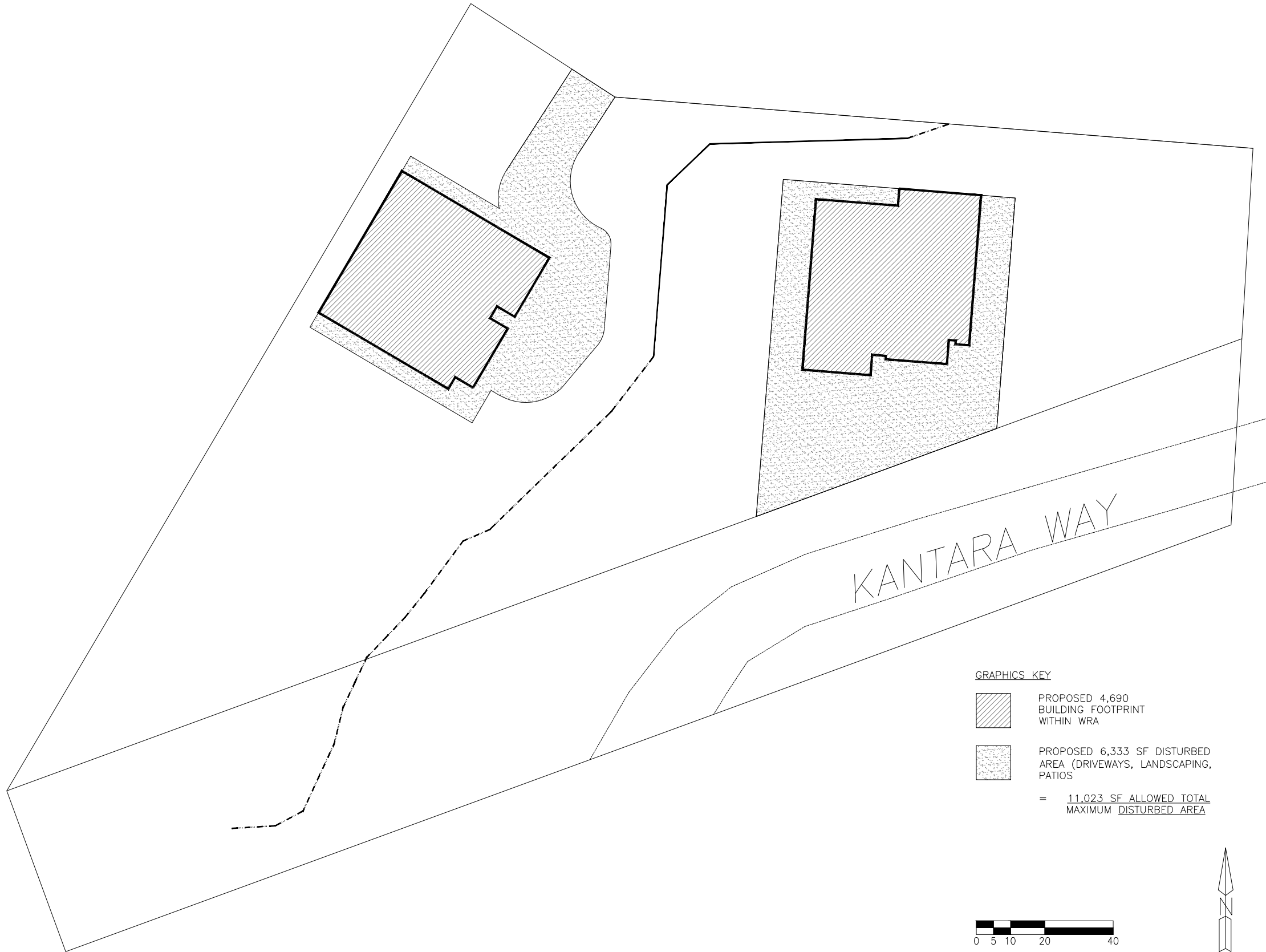
19412 View Drive
 West Linn, OR 97068

ISSUE	DATE

JOB NO.: 2022-002


SHEET TITLE:
 OPTION #2A ALLOWED
 MDA STUDY
 DATE: 04/06/2022
 SCALE:
 DRAWN BY: MMM
 SHEET NO.:

#14

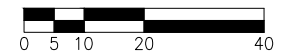


GRAPHICS KEY

 PROPOSED 4,690 BUILDING FOOTPRINT WITHIN WRA

 PROPOSED 6,333 SF DISTURBED AREA (DRIVEWAYS, LANDSCAPING, PATIOS)

= 11,023 SF ALLOWED TOTAL MAXIMUM DISTURBED AREA



Miller Residence
Proposed Property Improvements

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 West Linn, OR 97068

ISSUE	DATE

JOB NO.: 2022-002

SHEET TITLE:
 OPTION #2B ALLOWED
 MDA STUDY
 DATE: 04/06/2022

SCALE:
 DRAWN BY: MMM

SHEET NO.:

#15