



**KNOXVILLE HISTORIC ZONING COMMISSION
STAFF REPORT - CERTIFICATE OF APPROPRIATENESS APPLICATION**

PROPERTY ADDRESS: 808 N Fourth St 37917

FILE NO.: 6-F-16-HZ

DISTRICT: Fourth and Gill H-1

MEETING DATE: 6/16/2016

APPLICANT: Kenn Davin (owner)

LEVEL OF WORK: Level II. Construction of carport/deck

PROPERTY DESCRIPTION: Queen Anne (1885)

Two-story frame with weatherboard wall covering. Asphalt shingle hipped roof with lower cross gables. Rectangular front attic vent. Exposed purlins under front gable. Two-over-two double-hung windows. One-story front porch with wood posts with Doric capitals on brick balustrade. Brick interior rear chimneys. Brick foundation. Irregular plan. (Contributing)

► **DESCRIPTION OF WORK:**

Construct 25'x25' carport/deck supported by 6"x6" square stained wood posts mounted on 10"x10" concrete footings with 30" above ground. The deck floor is to be 8 feet above existing grade. The deck floor will be plywood covered with a waterproof acrylic paint finish. The balustrade is to be 36 inches high with a beveled wooden top rail and bottom rail that is 5- 1/2" tall covering the bottom ends of the balusters on the interior. A wood trim piece around the outer edge of the deck floor would be a 2"x12" obscuring the view of the deck floor (carport roof) from ground level. The carport/deck would be offset from the rear facade of the house by 5'-6", but would be connected by extending the existing steps from the first-level back door on the north side up to the deck.

► **APPLICABLE DESIGN GUIDELINES:**

Fourth and Gill Design Guidelines, adopted by the Knoxville City Council on April 20, 1999 and June 29, 1999.

COMMENTS:

- 1) A 25 -foot wide concrete driveway is shown on the submitted drawings; however, the driveway has not been discussed as part of this submittal. Staff believes this driveway is too wide for the lot and context of the house.
- 2) The applicant will submit plans to Building Inspections so that it can be determined whether a variance will be needed for lot coverage, not to exceed 30 percent.

STAFF FINDINGS:

- 1) The proposed carport/deck will not be visible from the front public right-of-way.
 - 2) The carport /deck is proposed to be 5 feet from the rear façade of the house, but the gap between the house and structure will not be readily apparent and the structure will appear more as a deck which will be connected by existing stairs extended from the house.
 - 3) The floor of the deck will not be easily viewed from ground level.
 - 4) The visible framing and railings of the carport/deck are proposed be wood, which is appropriate.
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5) The balusters of the deck are proposed to be black metal rods, which staff believes are not inappropriate given they appear less obtrusive than 2x2 wooden pickets.

6) The concrete material of the 10x10 exposed footing is not a typical material in the district.

7) The carport/deck is at approximately 33% of the size of the house footprint. The HZC has required that accessory structures not be more than 30% of the house footprint.

▶ **STAFF RECOMMENDATION:**

Approval with the conditions that 1) the caport /deck size be reduced to 24 x 24 so that it is only 30% of the size of the house footprint; and 2) the concrete footings be sunken or boxed in with wood siding or lattice and stained or painted.

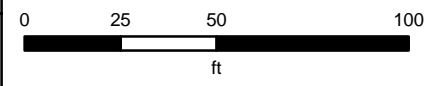


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808 N. 4th Avenue
Fourth and Gill H-1

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Knoxville - Knox County - KUB Geographic Information System



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Certificate (File) No: _____

**APPLICATION FOR CERTIFICATE OF APPROPRIATENESS
KNOXVILLE/KNOX COUNTY HISTORIC ZONING COMMISSION**

Please print all information:

1. **NAME OF APPLICANT:** Stephen R. Wise

Address: 625 S. Gay Street, Suite 160, Knoxville, TN 37902

Telephone: 865-544-1199

E-mail address: srwise@wiseandreeves.com

Relationship to Owner: Attorney

2. **NAME OF OWNER:** Edward P. Whitaker, III

Address: 258 Galway Road, Bristol, TN 37620

Telephone: 423-646-6460

E-mail address: epwhitaker42@aol.com

3. **LOCATION OF PROPERTY:**

Address: 1717 White Avenue, Knoxville, TN

Tax ID/Lot/Parcel No: Tax Map 94N Parcel 16 Group J

4. **LEVEL OF WORK** (circle Level)

Level I Routine repair, replacement of non-original materials in-kind; removal of artificial siding or late additions; installation of gutters, storm windows/doors, screen doors, satellite dishes, or signage; demolition of a noncontributing structure; renewal of COA

Level II Major replacement of materials or architectural elements; construction of addition or outbuilding


Level III Construction of a new primary building; subdivision of individually designated property

Level IV Demolition or relocation of a contributing structure

5. **DESCRIPTION OF WORK:** (See Part 2 of this application for additional information that is required for submittal with the application. (A copy of all information which is submitted with an application must be retained by the Knoxville/Knox County Historic Zoning Commission.)

SEE EXHIBITS ATTACHED

6. **SIGNATURE OF APPLICANT:** _____



Date: _____

Return application to: MPC, Knoxville/Knox County Historic Zoning Commission, Suite 403, City/County Building, 400 Main Street, Knoxville, Tennessee 37902 or Fax: 865-215-2068. **Incomplete applications will not be accepted.**

FOR STAFF USE ONLY

Date Received	Approved	Disapproved	Approved As Modified
Date Acted On			

DEMOLITION PERMIT
AUTHORIZATION

J. DEMOLITION

Property owners may demolish structures in the NC-1 District that the Knoxville Historic Zoning Commission (HZC) finds to be non-contributing to the district. A report, dated July/August 2000, establishes the location of non-contributing structures at the time that the NC-1 district was under consideration.

In the future, the Historic Zoning Commission shall take the following into account in making their determination about whether or not a building may be demolished.

1. **PHYSICAL CONDITION:**
The HZC may allow demolition if a building has been condemned by the City of Knoxville for structural reasons, or if the HZC finds that structural problems and associated costs to address the problems warrant demolition; the decision shall be based on an assessment by a licensed structural engineer or architect.
2. **ARCHITECTURAL INTEGRITY:**
The HZC may allow demolition if the original design is so compromised that historic architectural integrity is lost and cannot, in the Commission's view, be reasonably re-established.

DEMOLITION PERMIT
CRITERIA

MEMORANDUM

TO: City of Knoxville Historic Zoning Commission; MPC Historic Preservation Planner
FROM: Crista Cuccaro, Staff Attorney for the City of Knoxville
RE: Evaluating Economic Factors for Demolition in Ft. Sanders
DATE: August 28, 2015

Issue

How should the City of Knoxville Historic Zoning Commission handle a request to demolish a building within the Fort Sanders Neighborhood Conservation Overlay District?

Background & Recommendation

The City of Knoxville Historic Zoning Commission is authorized to review and regulate demolition in Neighborhood Conservation Overlay (NC-1) Districts within the City of Knoxville. The Historic Zoning Commission ("Commission") must issue a certificate of appropriateness before any property can be demolished within a NC-1 District. The Fort Sanders NC-1 District guidelines provide for the demolition of structures within the District and suggest that the Commission should take into account the physical condition and architectural integrity of a structure when determining whether it should be demolished. The Commission may allow demolition if it finds that structural problems and the associated costs to address such problems warrant demolition. The Commission's decision of the physical condition of the property must be based upon an assessment by a licensed structural engineer or architect. The Commission also may allow demolition if the original design of the structure has been compromised such that its historical integrity has been lost and cannot be reasonably reestablished. Although the Commission does not typically consider cost or economic factors in determining whether to issue a certificate of appropriateness, the Fort Sanders guidelines allow the Commission to consider costs in the context of a demolition. Unfortunately, the Fort Sanders guidelines do not offer any thresholds, procedures, or criteria for evaluating costs to repair the structural condition of a structure.

Conversely, the City of Knoxville Code of Ordinances provides detailed procedures regarding historic properties that are subject to "demolition by neglect." In December 2003, the City of Knoxville City Council adopted its demolition by neglect ordinance (O-427-03), which is authorized under Tenn. Code Ann. § 13-7-407. The ordinance is housed within the building code and is aimed at preventing the slow deterioration of historic buildings by neglect. The ordinance is applicable automatically to properties listed in the National Register for Historic Places or properties located within an H-1 or NC-1 overlay district. Authority for enforcement of the demolition by neglect ordinance is given to a public officer appointed by the City and to the Better Building Board. The ordinance requires the City to provide written notice of a violation to the owner, which in turn prompts the owner to repair the building within a certain time period. If the owner does not take such action, the public officer refers the property to the BBB. The ordinance contains a provision designed to protect an owner from an economic hardship related to the repairs of the building. The

economic hardship provisions require the owner to supply the Better Building Board with information and evidence to support the claim, such as assessed value of the property, annual debt service, and history of the ownership of the property. For income-producing properties, the owner can also offer evidence about the cash flow, operating expenses, and gross income for the property. Ultimately, the BBB must decide if the owner has proved that the building is incapable of earning a reasonable return; that the building cannot be adapted to another use that would result in a reasonable return; *and* that the owner has tried and failed to find a purchaser willing to repair the property. The BBB cannot require the owner to make any repairs that will exceed the appraised value of the property and the land on which it is located. This detailed procedure for consideration of an economic hardship is only applicable to properties that have been identified, petitioned, and properly noticed by the City as qualifying as a demolition by neglect.

Thus, the question remains how the Commission should approach a consideration of costs for a property in the Fort Sanders neighborhood that has not qualified as a property for demolition by neglect. When considering a certificate of appropriateness, state law enables the Commission to give prime consideration to the historical or architectural features of a structure, the relationship of the exterior of the structure to the surrounding area and character of the district, the general compatibility of the proposal, *and any other factor, including aesthetic, which is reasonably related to the purposes of statutes regarding historic zoning.*¹ In one of the few Tennessee cases that discusses economic hardship in the context of historic zoning, the Court of Appeals overturned Nashville's Metropolitan HZC's denial of a demolition permit based on economic hardship.² It is important to note that Nashville's ordinances on historic zoning specifically enable the commission to consider economic hardship and further provide criteria for evaluation. As a result of the Court of Appeals opinion, the Metro code now also includes self-created hardship as a factor for consideration by the commission.

Without criteria to assess the cost of structural repairs, the Commission is left with a large amount of discretion in determining whether the structural problems and costs associated with the repair of the problems warrant demolition. Since the Commission has discretion, the Commission could use information and factors that are commonly used to assess economic hardship. Examples of these factors could include:

¹ The purposes of the historic zoning statutes are stated in Tenn. Code Ann. § 13-7-401: "The purpose of this part is to promote the educational, cultural, and economic welfare of the people of the state of Tennessee by enabling municipalities and counties to preserve and protect historic structures, areas and districts which serve as visible reminders of the history and cultural heritage of the state and the United States. Furthermore, it is the purpose of this part to strengthen the economy of the state and of the adopting governmental entities by stabilizing and improving the property values in historic areas, by encouraging rehabilitation and new construction and development that will be harmonious with the historic structures, areas and districts, and by preserving and rehabilitating buildings which are of significance to historic districts."

² *Byron Ave. 3501, LLC v. Metro. Historic Zoning Comm'n of the Metro. Gov't of Nashville*, No. M2010-01652-COA-R3CV, 2011 WL 2112774 (Tenn. Ct. App. May 24, 2011).

- An estimated cost of demolition and any other proposed redevelopment as compared to the estimated cost of compliance with renovation and restoration of the building
- The estimated market value of the property in its current condition; its estimated market value after the proposed demolition; and its estimated value after renovation or restoration
- An estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure
- Amount paid for the property and current appraised and assessed value of the property
- If the property is income-producing, the annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the previous two years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period
- The past capital expenditures during the ownership of the current owner
- An estimate of the cost of the proposed demolition

Economic hardship often turns on whether the property can generate a reasonable return on investment or provide a reasonably beneficial use. Ultimately, whatever decision the Commission makes, it must base its decision on an assessment by a licensed engineer or architect. It is not sufficient for the Commission to rely on speculative figures to deny a permit; the Commission's decision must be supported by material evidence. Material evidence is relevant evidence that a reasonable person would accept as adequate to support a rational conclusion.

PROPERTY OWNERSHIP
AND
PURCHASE PRICE

This instrument prepared by:

RICK J. BEARFIELD, Attorney at Law
Wesley Plaza, Suite 1
2513 Wesley Street
P.O. Box 4210 CRS
Johnson City, TN 37602
(423) 282-1006
(423) 282-3081 (fax)

STEVE HALL
REGISTER OF DEEDS
KNOX COUNTY

COUNTERSIGNED

FEB 25 2003

JAMES R. WHITEHEAD
KNOX COUNTY
PROPERTY ASSESSOR
BY *[Signature]*

For Register's Office Use

QUITCLAIM DEED

THIS DEED, made and entered into this the 19th day of February, 2003, by and between EDWARD WHITAKER IV, hereinafter known as Party of the First Part, and EDWARD WHITAKER III also known as EDWARD PARRISH WHITAKER, III, hereinafter known as the Party of the Second Part.

WITNESSETH:

The Party of the First Part has this day quitclaimed, and does by these presents hereby quitclaim, transfer and convey unto the Party of the Second Part, all of his one-half (1/2) undivided interest in and to the hereinafter described real estate situate and lying in the 4th Civil District of Knox County, Tennessee, and more particularly described as follows, to-wit:

SITUATED in the Fourth Civil District of Knox County, Tennessee, within the 10th Ward of the City of Knoxville, Tennessee, and being known and designated as Lot 1 in the Property of Hawkeye's Corner, a subdivision to Knox County, Tennessee, as shown by map of said subdivision of record in Map Cabinet N, Slide 236D, in the Knox County Register's Office, said lot being more particularly bounded and described as follows:

BEGINNING at an iron pin (original) located at Tennessee coordinates N 597,653.518 and E 2,580,174.872 and located within the sidewalk at the intersection of the southwestern right-of-way line of Seventeenth Street and the northwestern right-of-way line of White Avenue; thence leaving said point and place of BEGINNING and with the inside edge of the sidewalk along the northwestern right-of-way line of White Avenue, South 64 deg. 08 min. 15 sec. West 253.29 feet to an iron pin, corner to property now or formerly belonging to Shell (Deed reference: Warranty Book 1873, page 1080), said iron pin located at Tennessee coordinates N 597,543.026 and E 2,579,946.952; thence along the common dividing line with Shell, North 25 deg. 15 min. 01 sec. West 124.89 feet to an iron pin (original) located in the southeastern right-of-way line of a 14-foot alley; thence along the southeastern right-of-way line of said alley, North 64 deg. 01 min. 36 sec. East 149.37 feet to a spike, corner to University Concepts (Deed Reference: Warranty Book 1802, page 417); thence along the dividing line with University Concepts the following two calls and distances: First, running South 25 deg. 43 min. 04 sec. East 62.87 feet to an iron pin (original) and North 62 deg. 33 min. 03 sec. East 103.37 feet to an iron pin (original) located at the southwestern edge of the sidewalk along the southwestern right-of-way line of Seventeenth Street; thence with the southwestern edge of the sidewalk along the southwestern right-of-way line of Seventeenth Street, South 25 deg. 20 min. 38



Instr: 200302260076033 Page: 1 of 3
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RECORD FEE: \$17.00
M. TAX: \$0.00 T. TAX: \$0.00

sec. East 65.16 feet to an iron pin (original) marking the point and place of BEGINNING, containing 0.578 acre.

THERE IS SPECIFICALLY LESS AND EXCEPTED from the above-described property that curved portion of the sidewalk which lies southeast of the curve formed by the intersection of the southwestern right-of-way line of Seventeenth Street and the northwestern right-of-way line of White Avenue as shown on said map of record in Map Cabinet N, Slide 236D, in the Knox County Register of Deeds Office.

Being the same property conveyed to Edward Whitaker III and Edward Whitaker IV, from Charles P. Ericson and wife, Linda Ericson by Warranty Deed dated October 18, 2000, and recorded at Instrument No. 200010190027495, in the office of the Register of Deeds for Knox County, Tennessee.

PARCEL IDENTIFICATION: TAX MAP 94-N, GROUP J, PARCEL 16.00

It is understood that this is a Quitclaim Deed for the purpose of conveying whatever interest, if any, the Party of the First Part may have in and to the above-described property. No warranties, either expressed or implied, are made by the Party of the First Part concerning the title and/or use of the above-described property.

This conveyance is made subject to valid restrictive covenants and easements, if any, appearing of record.

IN TESTIMONY WHEREOF the Party of the First Part has executed this instrument the day and year first above written.

Edward Whitaker IV
EDWARD WHITAKER IV

The legal description and the state of title of the property have been furnished to the draftsman by the Grantor, by third parties or from the record. The draftsman assumes no liability as to the accuracy thereof.

STATE OF TENNESSEE)
COUNTY OF Knox)

Personally appeared before me, Brooke Macy, a Notary Public of the State and County aforesaid, EDWARD WHITAKER IV, the within named bargainer, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the within instrument for the purposes therein contained.

Witness my hand, at office, this 19th day of February, 2003.

Brooke Macy
Notary Public

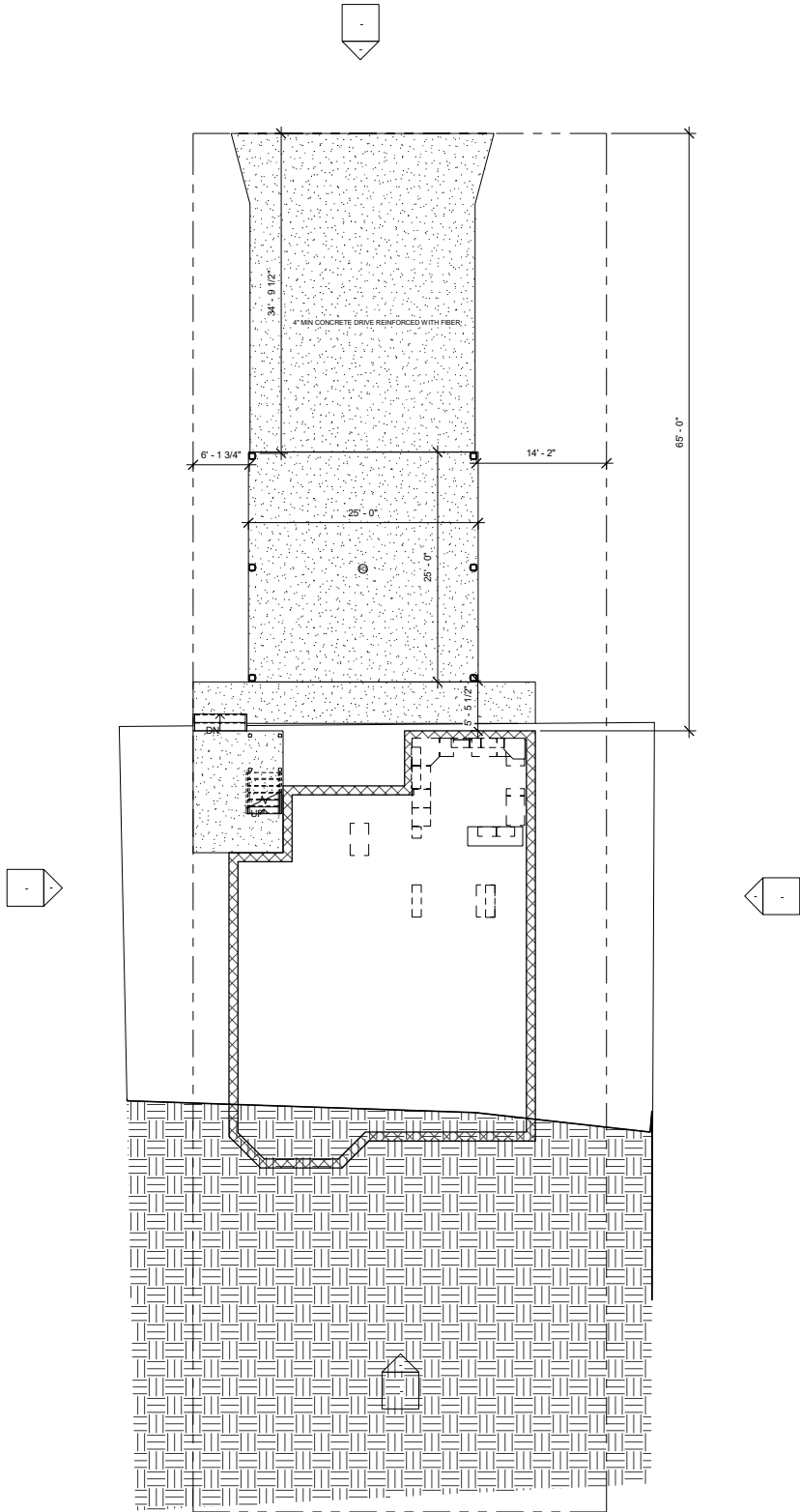


My commission expires Dec. 7, 2006

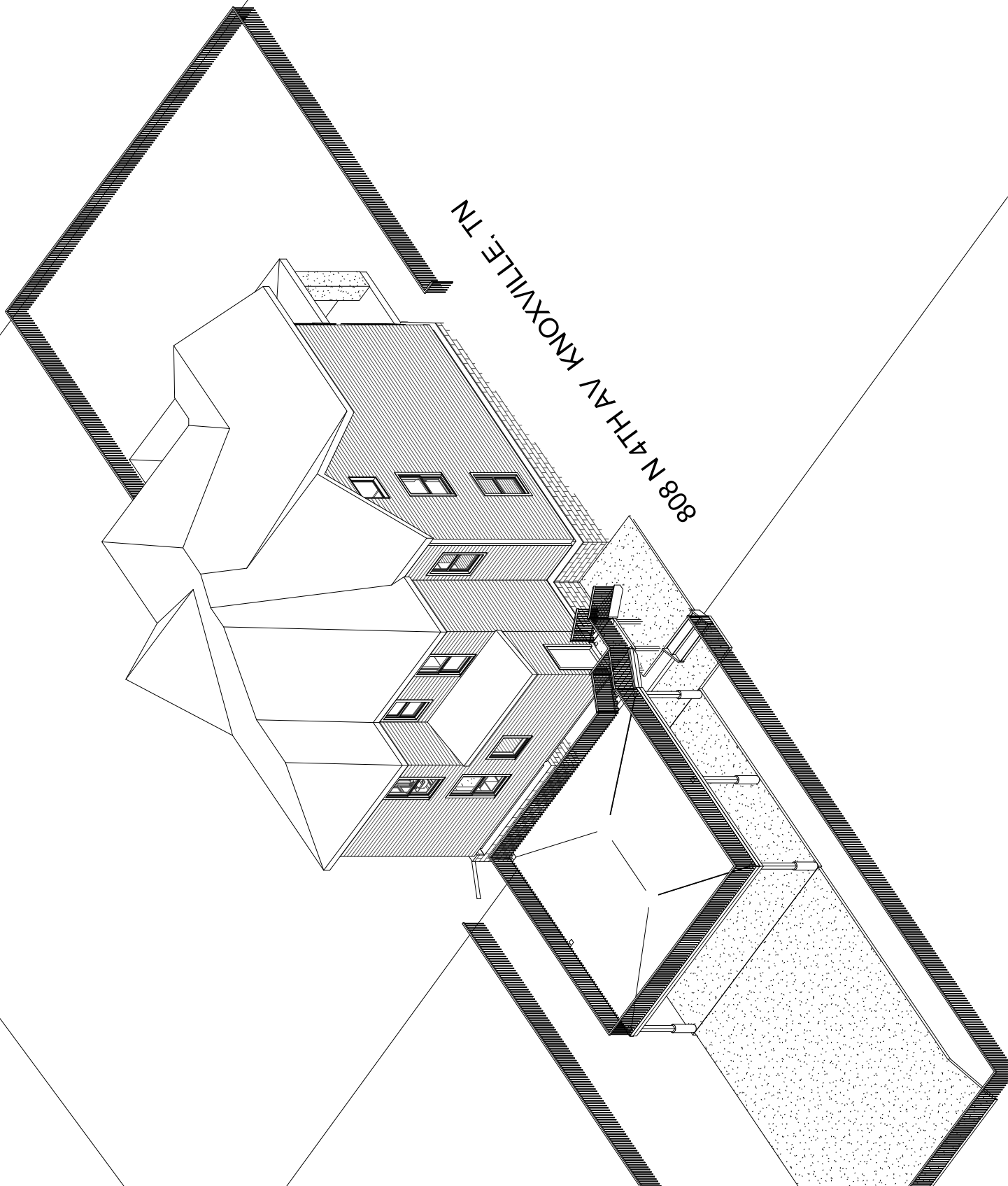




808 N. 4th - Front



808 N. 4th
Birds eye rendering of deck



808 N 4TH AV KNOXVILLE, TN

Peak of Roof
34' - 2"

Level 3
21' - 8"

Level 2
10' - 10"

Level 1
0' - 0"

Basement Level
-6' - 4"

PAINTED WATERPROOFED WOOD DECKING OVER 3/4"
STRUCTURE WOOD SHEATHING NOT VISIBLE FROM BELOW.

3" RAILING TO MATCH PREVIOUS BOARD APPROVED
METAL RAILING WITH WOOD TOP RAILS

Deck
2' x 11"

ABOVE LEVEL ONE

GRADE AT FRONT
ENTRANCE
-1' - 0"

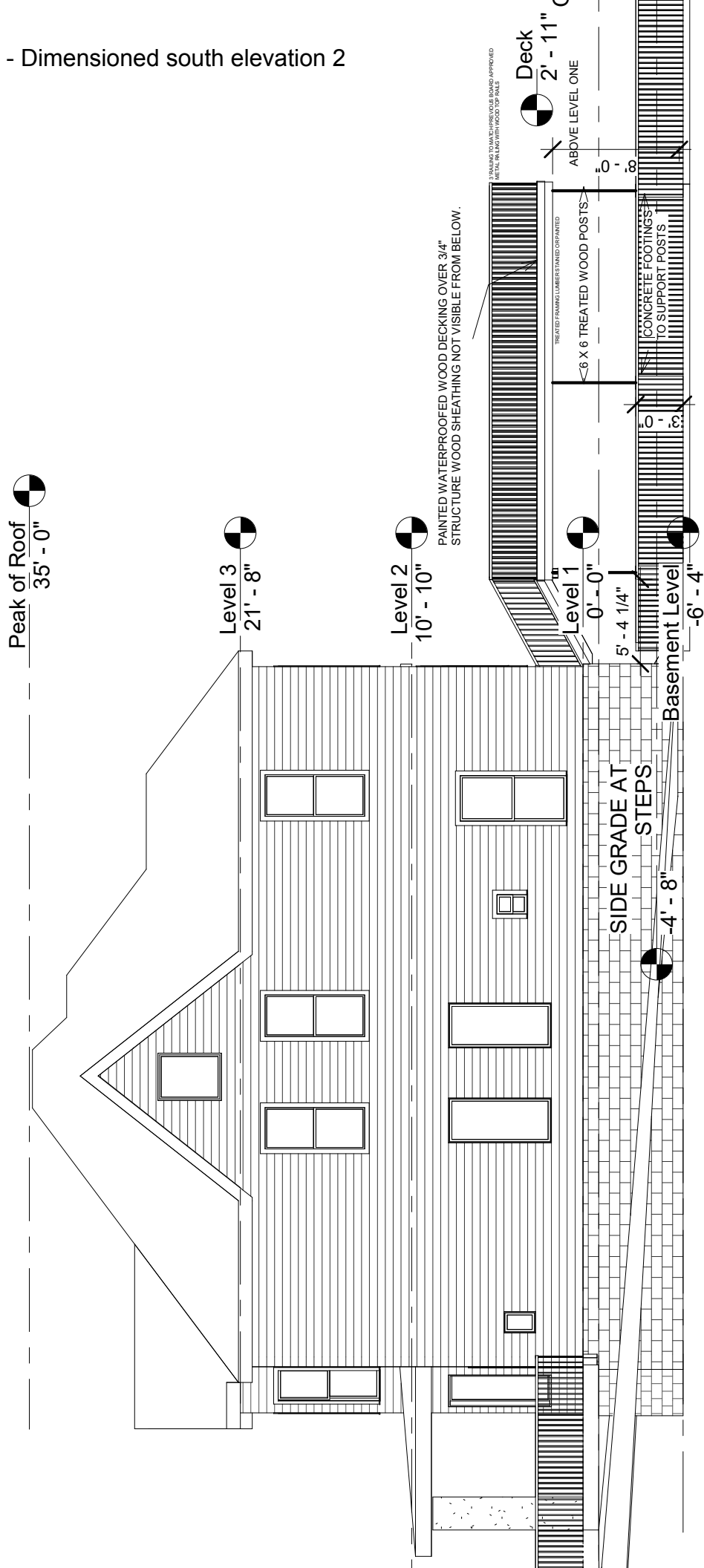
6 X 6 TREATED WOOD POSTS

CONCRETE FOOTINGS
TO SUPPORT POSTS

TREATED FRAMING LUMBER STAINED OR PAINTED

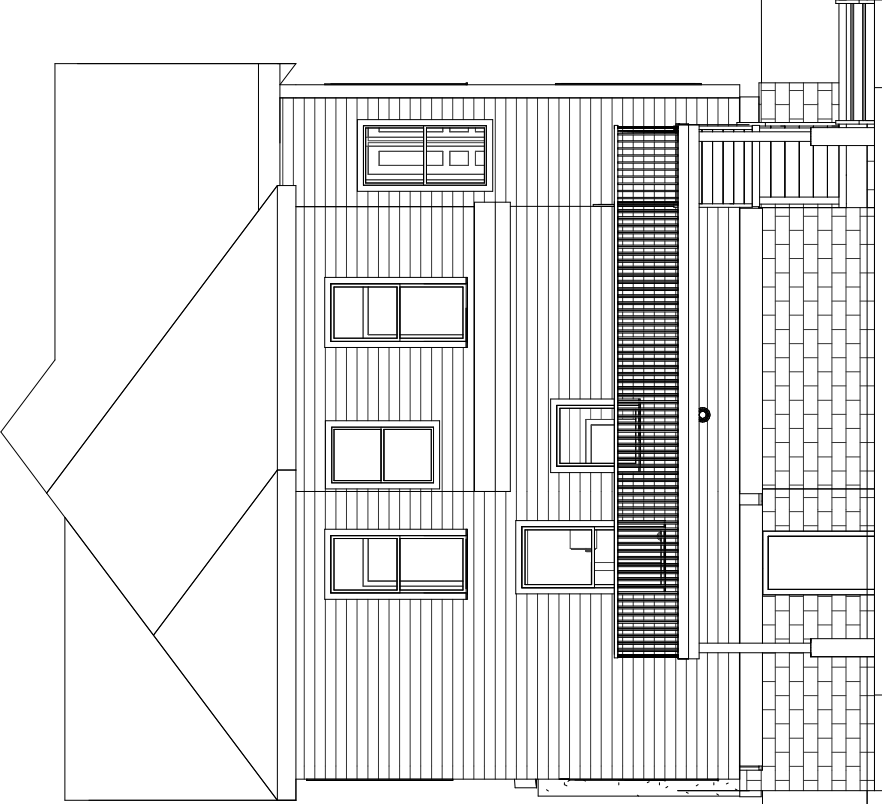
FINISH

808 N 4TH AV
KNOXVILLE, TN 37917



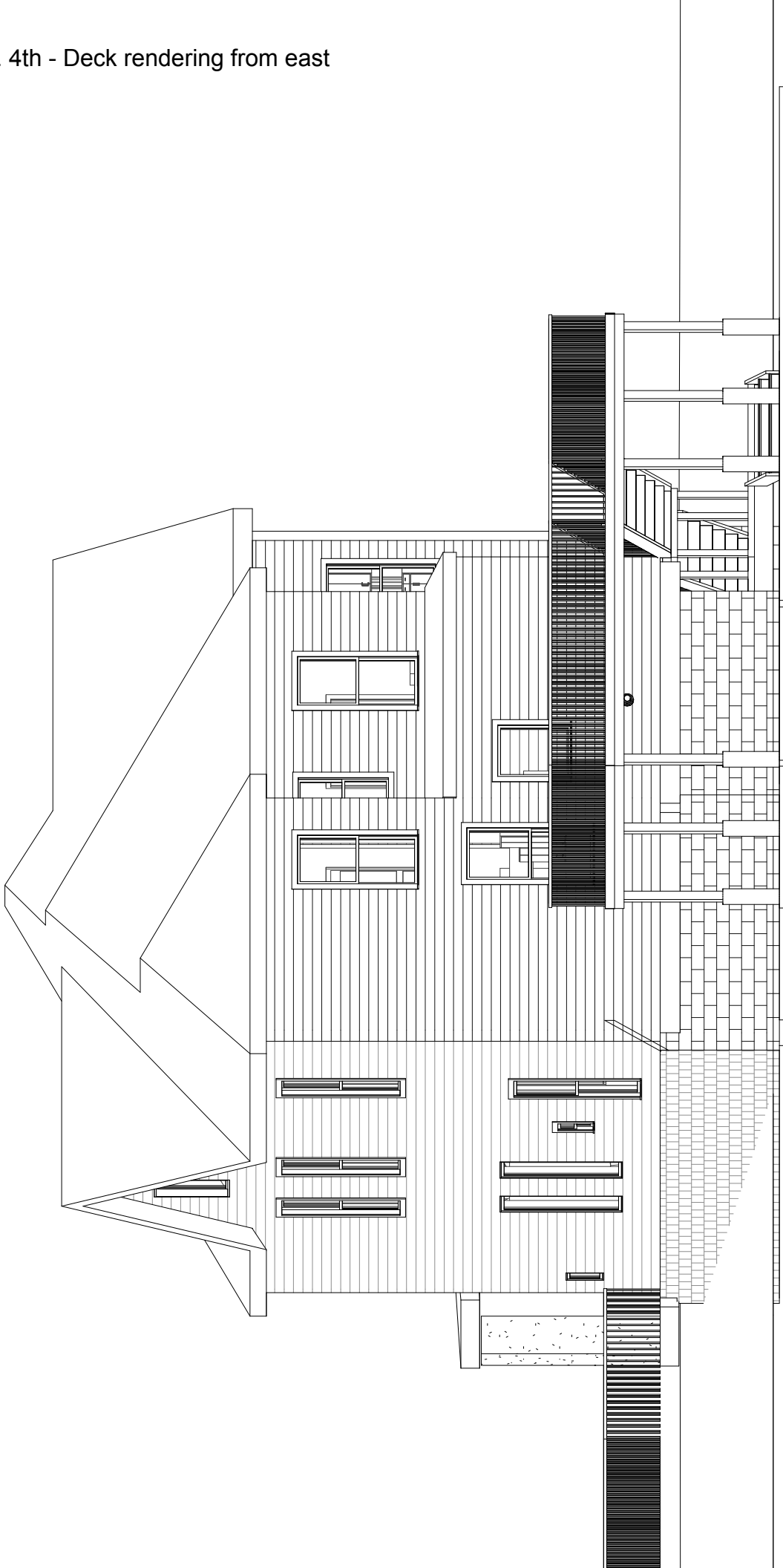
808 N 4TH AV KNOX

808 N. 4th - Deck elevation from east



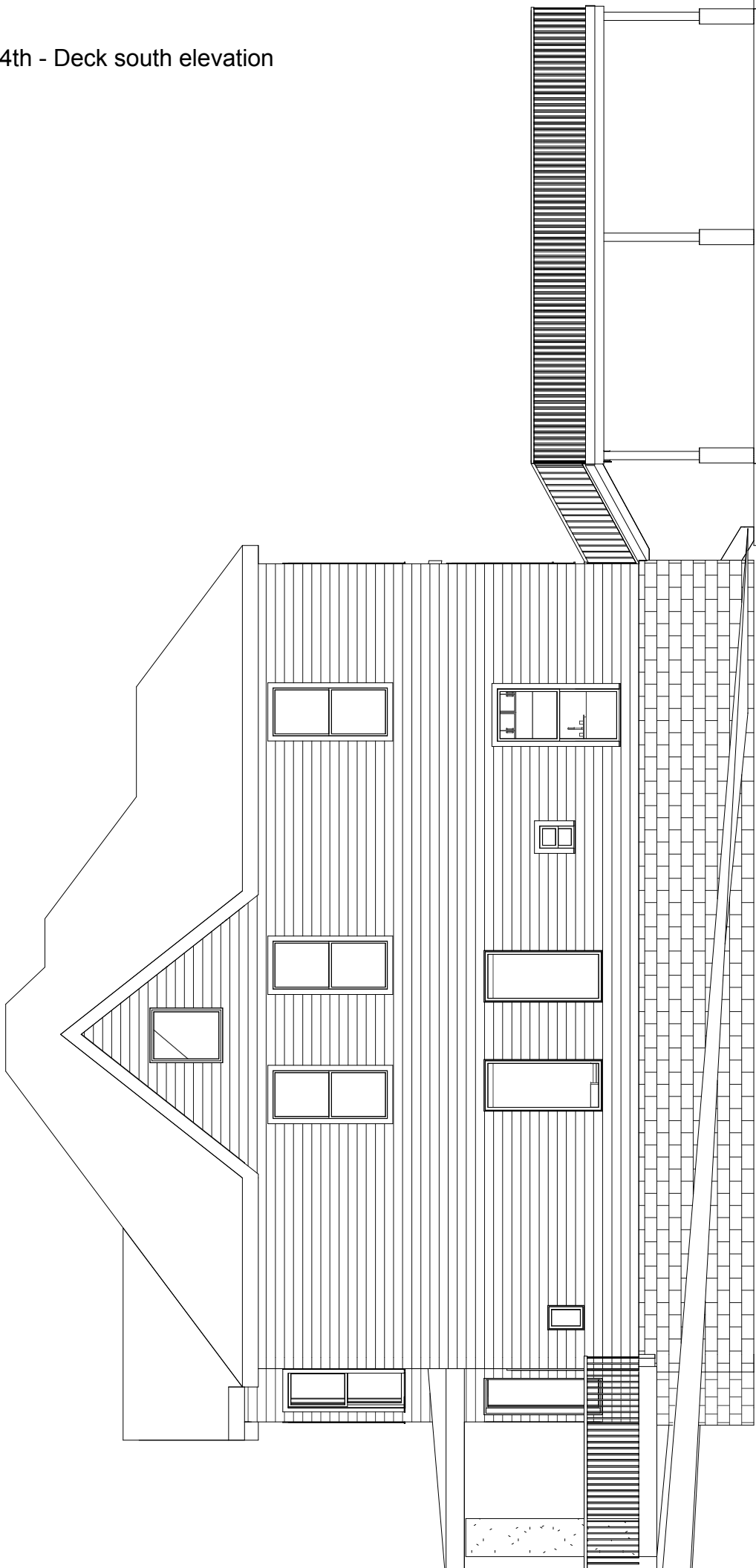
808 N 4TH AV KNOXVILLE, TN

808 N. 4th - Deck rendering from east

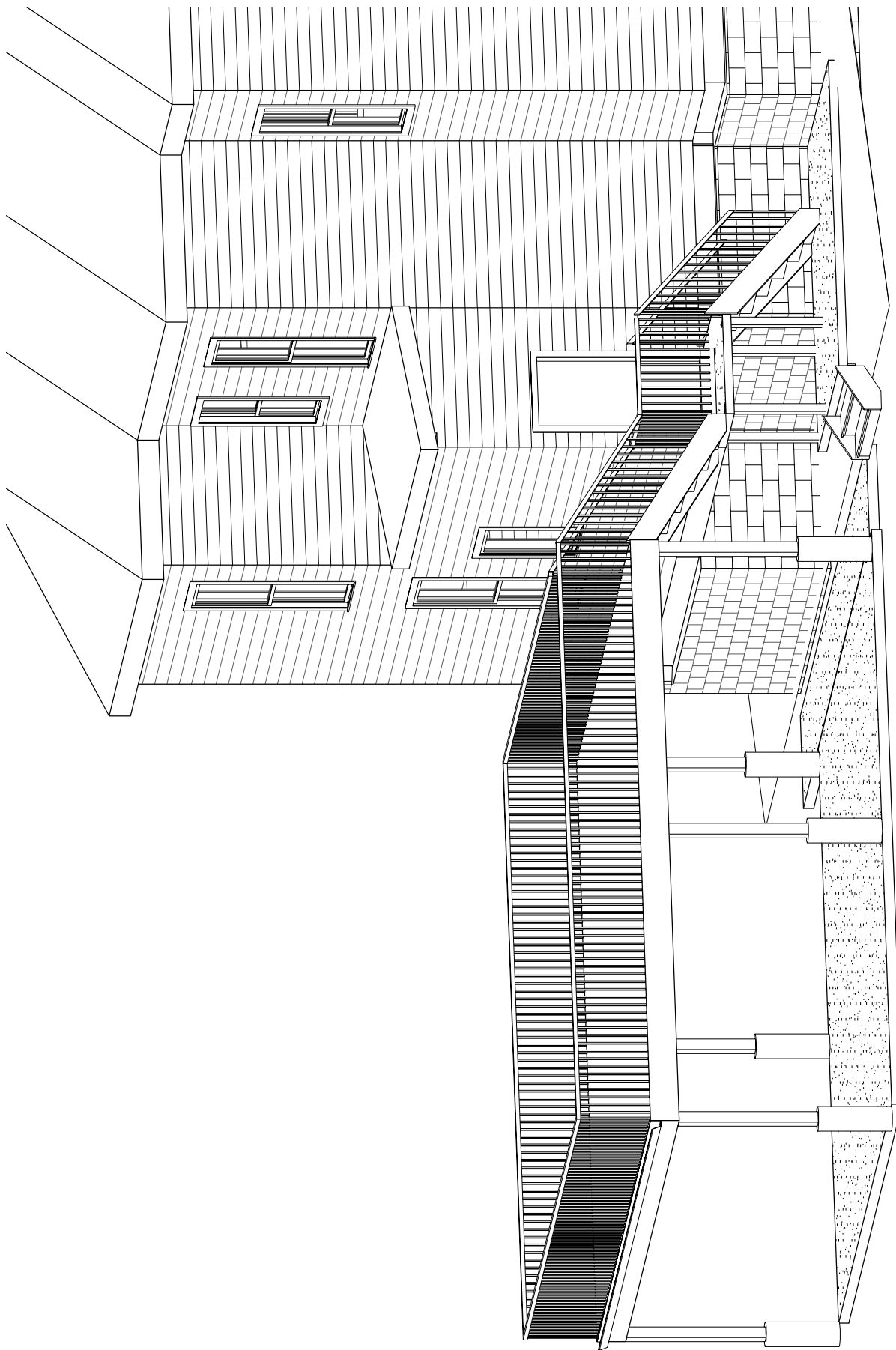


808 N 4TH AV KNOXVILLE, TN

808 N. 4th - Deck south elevation



808 N 4TH AV KNOXVILLE, TN



808 N. 4th - Deck rendering from north

808 N. 4th - Balustrade images



Preassembles yellow pine and aluminum rail kit proposed for deck balustrade for 808 N. 4th Avenue (6/16/2016)