



Michael L. Thurmond
Chief Executive Officer

DeKalb County Zoning Board of Appeals
Department of Planning & Sustainability
330 Ponce De Leon Avenue, Suite 300
Decatur, GA 30030



Wednesday, July 10, 2019 at 1:00 PM
Planning Department Staff Analysis

N.2 Case No: A-19-1243333 Parcel ID(s): 18-109-03-009

Commission District: 02 Super District 06

Applicant: Erik W Lewitt
914 Howell Mill Road NW
Atlanta, GA 30318

Owner: Ocean Sloan Square, LLC
1349 West Peachtree Street-Suite 1430
Atlanta, GA 30309

Project Name: 1555 LaVista Road

Location: The property is located south of Lavista Road, approximately 348 feet east of Shepherds Lane, at 1555 Lavista Road, Atlanta, Georgia, 30329.

REQUEST: Appeal to a denial of a stream buffer variance (Section 14-44.4 of the DeKalb County Land Development Ordinance) to relocate an existing pool pump building located within the DeKalb County's Stream Buffer.

Staff Recommendation: "Approval" of the appeal to allow the stream buffer variance to be issued.

STAFF FINDINGS:

Table 1: Surround Zoning and Land Use

	Adjacent Zoning	Adjacent Land Use
North	R-85	Detached single family homes
East	MR-2	Multi-Family Homes
South	R-75	Detached single family homes
West	OI	Office
Northeast	R-85	Detached single family homes
Northwest	R-85	Detached single family homes
Southeast	R-75	Detached single family homes
Southwest	R-75	Detached single family homes
Street Type		Minor Arterial

Site Location: The property is located south of Lavista Road, approximately 348 feet east of Shepherds Lane, at 1555 Lavista Road, Atlanta, Georgia, 30329.

Administrative Appeal: Applicant is petitioning staff determination and seeking a reversal of denial of a stream buffer variance pursuant to case number 1243240 (Section 14-44.4 of the DeKalb County Land Development Ordinance) to relocate an existing pool pump building located within the DeKalb County’s Stream Buffer.

Per Chapter 14, Sec. 14-44.1

(B) (4) General variance requirements for redevelopment of any kind of existing structures. In all cases, where any kind of existing structure(s) encroaches into the stream buffer and any such existing structure(s) is to be demolished in whole or in part and replaced with a new structure or a new addition, no stream buffer variance shall be granted if the total size of the new encroachment exceeds twenty (20) percent of the total square footage of the existing encroachment of the structure prior to demolition. In such cases, the new encroachment shall be kept furthest from the stream.

(B) (5) Redevelopment of existing multifamily residential, commercial or institutional structures.

b. Existing multifamily structures, existing commercial structures and existing institutional structures erected prior to the enactment of the fifty-foot stream buffer may obtain a stream buffer variance within the outer twenty-five (25) feet of the county buffer, but such variance shall be limited to a maximum depth of ten (10) feet into the outer county twenty-five-foot stream buffer. The director shall verify that the subject multifamily residential, commercial or institutional structure possesses all required county permits before a variance may be issued. Existing multifamily residential, commercial or institutional structures which are proposed for redevelopment or enlargement may obtain a stream buffer variance provided that the encroachment remains the same and does not alter the existing building footprint resting in the stream buffer.

STAFF ANALYSIS:

The purpose this stream buffer variance is to allow for renovations of an existing pool deck and relocation of a pool pump building at the Sloan Square Apartment, located at 1555 Lavista Road. The DeKalb County’s Stream buffer ordinance limits the Director of Planning and Sustainability to grant a variance no more than 10 feet into the outer County 25-foot stream buffer for redevelopment of existing multifamily developments that were erected prior to the enactment of the 50-foot stream buffer. The applicant was denied April 29, 2019 for a stream buffer variance to relocate an existing pool pump building that is currently located beyond 10 feet in the DeKalb County’s Stream Buffer.

Per County Records, the existing apartment complex and pool deck were built in 1990, prior to the enactment of DeKalb County’s additional 50 foot of buffer, on December 28, 2000.

The existing pool deck is built outside of the State's 25-foot buffer, and the proposed renovation of the pool deck and the pool pump building would not encroach any further towards the State's buffer.

The applicant has provided a detailed site plans, indicating the relocation and reconstruction of the existing pool pump building within the boundaries of the existing pool deck. Per the applicant, the area where the pool pump building is currently located will be converted into a seating area for the pool deck. The site plan also includes a new retaining wall and new concrete pool deck in place of the existing pool bump building. The resulting work if approved would not have a negative impact to the health and welfare of the Buffer, as well as the residents and wildlife in the area. Therefore, Staff recommends that the Zoning Board of Appeals finds in FAVOR of Staff's determination of APPROVAL.

STAFF RECOMMENDATION: "Approval" of the appeal to allow the stream buffer variance to be issued.



Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

Application for Administrative Variance of Development

Standards Per Code 14-34 (C)

CD 02

SD 06

Zoning MZ

Fee: \$200.00 - Existing home and \$300.00 for new Development (non-refundable) payable when application is filed. Attach a scale site plan showing all property lines with dimensions; location, size and species of all significant and specimen trees; all existing and proposed buildings; storm drains; sanitary sewers; flood plains; state waters; buffers; easements and fences; north arrow; and land lot and district. The plan must depict the exact nature of the site conditions from which the variance is sought (grading, soil erosion and sedimentation control, storm water management, water quality control) per 14-34(C) 3.

* See checklist for plan requirements.

AIP 1243240

PROPERTY OWNER: Atlantic Pacific Real Estate Group

ADDRESS FOR WHICH THE VARIANCE IS REQUESTED: 1555 Lavista Road
Atlanta, GA 30329

PHONE: 404-698-4635 E-MAIL (required): rrojas@apmanagement.net

AGENT: Erik W Lewitt AGENT PHONE: 404-456-2987

AGENT ADDRESS: 914 Howell Mill Road NW AGENT E-MAIL: elewitt@plexusrd.com
Suite 400
Atlanta, GA 30318

DESCRIPTION OF REQUESTED VARIANCE: We are seeking a variance, to allow us to build a new wood arbor on an existing pool deck and rebuild an outdoor grille and an existing pool pump building in new locations on the existing pool deck.

TYPE OF CONSTRUCTION (CHECK ONE):

NEW RESIDENTIAL CONSTRUCTION: NEW COMMERCIAL CONSTRUCTION:

REDEVELOPMENT OF EXISTING MULTI-FAMILY RESIDENTIAL, COMMERCIAL OR INSTITUTIONAL:

REDEVELOPMENT OR ADDITION TO EXISTING SINGLE FAMILY RESIDENTIAL:

14-44.4. Except as further limited herein, an applicant may request a variance from the terms of the requirements of sections 14-37, 14-38, 14-40, 14-42 AND 14-44 of Chapter 14. The director shall have no power to consider or to grant variances which are the responsibility of the director of the EPD pursuant to O.C.G.A. § 12-2-8 and other relevant state statutes and regulations. Where variances involving the same project are requested from both the director of the EPD and the director, the director shall take no action on any such request for variance until the director of the EPD grants the variance or otherwise approves the request pending before the EPD. Receiving a variance from the director of the



DEPARTMENT OF PLANNING & SUSTAINABILITY

EPD does not obligate the director to permit the project to proceed if the project does not also meet all the other requirements of this article. No variance from the provisions of Chapter 14 shall be authorized except as specifically authorized in this section or specifically authorized in another section of Chapter 14.

14-44.4(i)(1). In considering any request for a variance to the terms of this Chapter authorized in subsection (1) above, the director shall apply all of the following criteria:

a. The request, while not strictly meeting the requirements of Chapter 14, will in the judgment of the director be at least as protective of natural resources and the environment as would a plan which met the strict application of these requirements. In making such a judgment, the director shall examine whether the request will be at least as protective of the natural resources and the environment with regard to the following factors:

1. Stream bank or soil stabilization.
2. Trapping of sediment in surface runoff.
3. Removal of nutrients, heavy metals, pesticides and other pollutants from surface runoff.
4. Terrestrial habitat, food chain, and migration corridor.
5. Buffering of flood flows.
6. Infiltration of surface runoff.
7. Noise and visual buffers.
8. Downstream water quality.
9. Impact on threatened and endangered species, as those species are designated by law or federal or state regulation. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property.
10. The locations of all streams on the property, including along property boundaries.
11. The location and extent of the proposed buffer or setback intrusion.
12. Whether alternative designs are possible which require less intrusion or no intrusion.
13. The long-term and construction water-quality impacts of the proposed variance.

RESPONSE: The majority of the existing pool and pool deck in this existing apartment
complex is located within the stream buffers. We have located our new wood
arbor and replacement pool pump building within the confines of the existing
fencing and pool deck, in order to avoid increasing any existing non-
conformance. There should be no affect to the existing stream bank.

b. By reason of exceptional topographic or other relevant physical conditions of the subject property that was not created by which were not created by the owner or applicant, there is no opportunity for any development under any design configuration unless a variance is granted.

RESPONSE: The topography is not an issue with this site. Our work is located on the
existing, gently sloping pool deck, and our proposed plan does not affect any
existing topography



DEPARTMENT OF PLANNING & SUSTAINABILITY

c. The request does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privileges inconsistent with the limitations upon other properties which are similarly situated.

RESPONSE We are not asking for anything beyond the minimum necessary. Our plan does not propose building within any green space, or landscaped areas. Our plan only seeks to build within the limits of the existing built environment.

d. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area in which the property is located.

RESPONSE The granting of this variance will not affect the public welfare in any way, since our proposal is to build within the confines of the existing pool deck, and therefore does not increase the non-conformity beyond its existing limits.

e. Whether the applicant has provided a mitigation plan designed and stamped by Georgia licensed design professionals and whether that proposed mitigation plan is (a) non-structural; (b) designed to improve the quality of the stream and the associated buffer; and (c) includes a planting schedule and channel protection design.

RESPONSE Our mitigation plan includes limiting construction to be within the existing fenced areas, and on top of the existing pool deck. We have noted on the plans that we will provide erosion control fencing in front of the existing fencing during construction, to prohibit any construction debris or soils from leaving the work area.

f. Whether the literal interpretation and strict application of the applicable provisions or requirements of Chapter 14 would cause an extreme hardship, so long as the hardship is not created by the owner. The applicant is responsible for providing proof of hardship. The proof shall demonstrate the difficult site conditions and possible alternate designs. The director shall not grant any stream buffer variances if the actions of the property owner of a given property have created the conditions of hardship on the property.



DEPARTMENT OF PLANNING & SUSTAINABILITY

RESPONSE The hardship in this case, is that the pool deck is an existing condition, within a buffer. Our proposed plan includes rebuilding a dilapidated structure for the pool pump equipment, and adding an amenity which provides shelter from sun for the users. Due to the configuration of the existing pool deck and the extent of the buffer into this area, we are limited to the area proposed for the new structures. There are no alternative locations for these elements, adjacent to the pool, as their functions require.

APPLICANT Erik W Lewitt DATE: April 10, 2019

SIGNATURE

AMOUNT: _____ MAP REFERENCE _____

RECEIPT _____ ZONING DISTRICT _____

DATE RECEIVED: _____ FILE # _____

TYPE OF VARIANCE

Stream Buffer
Pool Deck, Grille Area, Pump House
Re-Build in separate location
* Retaining wall shown on plans 30' from Stream.

ACTION TAKEN:

Denial
More than Allowed under code
14.44.1 (b)(4) + (5)(B)

DATE 4-29-19

DIRECTOR OF DEVELOPMENT









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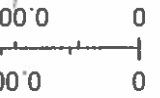
Stream Buffer Variance

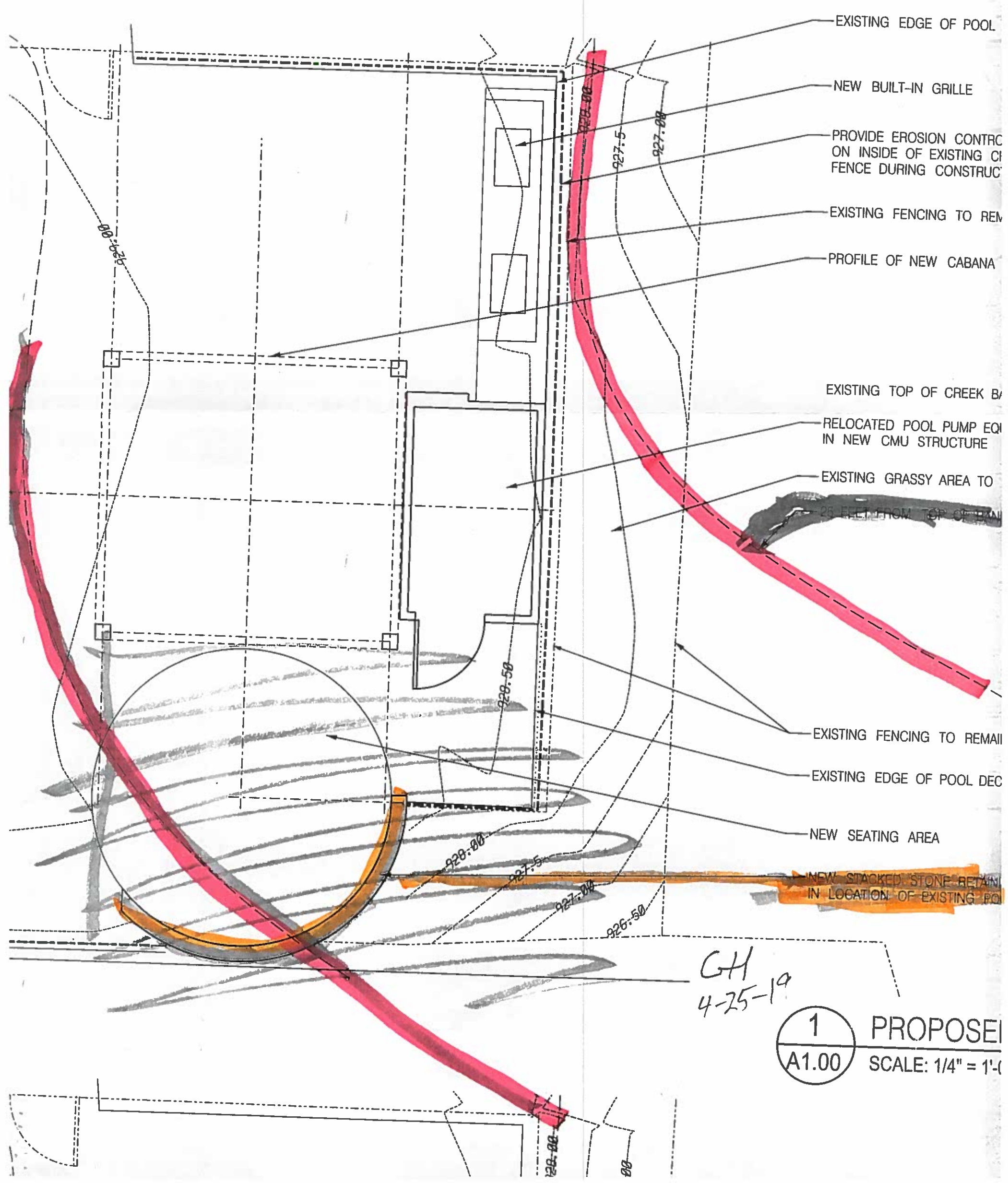
"Example Sign"

(Sign must be 20" x 22" Minimum)

Name of Applicant:	<u>ERIK W. LEWITT</u>
Address of Property:	<u>1555 LAVISTA ROAD</u> <u>ATLANTA, GA</u>
Site Plan Designer:	<u>PLEXUS RESEARCH + DESIGN</u>
Contractor:	<u>TBD</u>
Type of Work:	<u>RENOVATION OF AMENITY</u> <u>SPACE AT POOL</u>
AP Number:	<u>1243240</u>
Date Variance Applied for:	<u>APRIL 10 2019</u>

-  Trench Drain
-  City Line
-  Swale
-  Pond
-  District
-  Lake Line





EXISTING EDGE OF POOL

NEW BUILT-IN GRILLE

PROVIDE EROSION CONTROL ON INSIDE OF EXISTING CURB FENCE DURING CONSTRUCTION

EXISTING FENCING TO REMAIN

PROFILE OF NEW CABANA

EXISTING TOP OF CREEK BANK

RELOCATED POOL PUMP EQUIPMENT IN NEW CMU STRUCTURE

EXISTING GRASSY AREA TO BE MAINTAINED 25 FEET FROM TOP OF BANK

EXISTING FENCING TO REMAIN

EXISTING EDGE OF POOL DECK

NEW SEATING AREA

NEW STACKED STONE RETAINING WALL IN LOCATION OF EXISTING POOL

GH
4-25-19

1 PROPOSED
A1.00 SCALE: 1/4" = 1'-0"