



City of Sunnyvale

Notice and Agenda - Final Planning Commission

Monday, October 2, 2017

6:30 PM

Council Chambers and West Conference
Room, City Hall, 456 W. Olive Ave.,
Sunnyvale, CA 94086

Special Meeting - Study Session - 6:30 PM | Special Meeting - Public Hearing 7 PM

6:30 P.M. STUDY SESSION

Call to Order in the West Conference Room

Roll Call

Study Session

A. [17-0953](#)

File #: 2017-7633

Location: 1010 Sunnyvale Saratoga Road (APN: 211-21-032)

Zoning: C1/PD

Proposed Project:

SPECIAL DEVELOPMENT PERMIT: to allow development of an 18,600-square foot commercial building to be used for a child care and preschool for up to 240 children.

Applicant / Owner: DPM Property Management, Inc. / William A Antonioli Trustee

Project Planner: Momoko Ishijima, (408) 730-7532,
mishijima@sunnyvale.ca.gov

Public Comment on Study Session Agenda Items

Adjourn Study Session

7 P.M. PLANNING COMMISSION MEETING

CALL TO ORDER

SALUTE TO THE FLAG

ROLL CALL

ORAL COMMUNICATIONS**CONSENT CALENDAR**

1. A [17-0933](#) Approve Planning Commission Meeting Minutes of September 11, 2017

Recommendation: Approve Planning Commission Meeting Minutes of September 11, 2017 as submitted.

PUBLIC HEARINGS/GENERAL BUSINESS

2. [17-0922](#) **File #:** 2015-7144
Location: 584 Crawford Drive (APN: 201-33-042)
Zoning: R-0
Proposed Project: Appeal of a decision by the Zoning Administrator to deny the following:
DESIGN REVIEW for a 1,142 sq. ft. one-story addition to an existing 1,227 sq. ft. one-story single-family home (2,369 sq. ft. living area and 1,205 sq. ft. garage), resulting in 3,574 sq. ft. and 36% FAR. The project includes attaching the existing garage to the home and a minor architectural modification to the existing front porch.
VARIANCE to allow a 12-foot, 4-inch combined side yard setback when 15 feet is required.
Applicant / Appellant / Owner: Bob Fuselier
Environmental Review: Class 1 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions that include minor additions to an existing-single family residence (CEQA Guidelines Section 15301).
Project Planner: George Schroeder, (408) 730-7443, gschroeder@sunnyvale.ca.gov

Recommendation: Alternative 1. Deny the appeal and affirm the Zoning Administrator's determination to deny the Design Review permit and Variance.

3. [17-0845](#) Recommend that City Council adopt an ordinance to amend Sunnyvale Municipal Code Sections 19.92.050 and 19.92.060 (votes required for Planning Commission recommendations) and an ordinance to amend Section 19.38.040 (individual lockable storage space for multiple-family residential) and find that the actions do not require environmental review pursuant to CEQA Guidelines Section 15061(b)(3).

Recommendation: Recommend Alternatives 1 and 2 to the City Council: Make the finding that the actions are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) and introduce two ordinances (Attachments 2 and 3 of the report) to adopt the proposed amendments to Sunnyvale Municipal Code Sections 19.92.050 and 19.92.060 (votes required for Planning Commission to recommend General Plan and zoning amendments) and Section 19.38.040 (individual lockable storage space for multiple-family residential).

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

Please note this is the last Planning Commission meeting for 2017 study issue proposals.

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

-Staff Comments

ADJOURNMENT



City of Sunnyvale

Agenda Item A.

17-0953

Agenda Date: 10/2/2017

SUBJECT

File #: 2017-7633

Location: 1010 Sunnyvale Saratoga Road (APN: 211-21-032)

Zoning: C1/PD

Proposed Project:

SPECIAL DEVELOPMENT PERMIT: to allow development of an 18,600-square foot commercial building to be used for a child care and preschool for up to 240 children.

Applicant / Owner: DPM Property Management, Inc. / William A Antonioli Trustee

Project Planner: Momoko Ishijima, (408) 730-7532, mishijima@sunnyvale.ca.gov



City of Sunnyvale

Agenda Item 1.A

17-0933

Agenda Date: 10/2/2017

SUBJECT

Approve Planning Commission Meeting Minutes of September 11, 2017

RECOMMENDATION

Approve Planning Commission Meeting Minutes of September 11, 2017 as submitted.



City of Sunnyvale

Meeting Minutes - Draft Planning Commission

Monday, September 11, 2017

6:30 PM

Council Chambers and West Conference
Room, City Hall, 456 W. Olive Ave.,
Sunnyvale, CA 94086

Special Meeting - Study Session - 6:30 PM | Special Meeting - Public Hearing 7 PM

6:30 P.M. STUDY SESSION

Call to Order in the West Conference Room

Roll Call

Study Session

A. [17-0859](#)

File #: 2016-7573

Location: 623-625 N. Pastoria Avenue (APN's: 165-41-029,
165-41-030)

Zoning: PPSP/MIC

Proposed Project:

PEERY PARK PLAN REVIEW PERMIT to construct a new
52,755 sq. ft. three-story office building with one level of
underground parking. The two existing industrial buildings totaling
23,520 sq. ft. will be demolished.

Applicant / Owner: Arc Tec, Inc., / George And Josefa Yagmourian
Trustee

Environmental Review: The project is exempt from additional CEQA
review per CEQA Guidelines section 15168(c)(2) and (4). The project is
within the scope of the Peery Park Specific Plan Program EIR as no new
environmental impacts will occur and no new mitigation measures are
required.

Project Planner: Ryan Kuchenig, (408) 730-7431,
rkuchenig@sunnyvale.ca.gov

Public Comment on Study Session Agenda Items

Adjourn Study Session

7 P.M. PLANNING COMMISSION MEETING

CALL TO ORDER

Chair Rheaume called the meeting to order at 7:01 PM in the Council Chambers.

SALUTE TO THE FLAG

Chair Rheaume led the salute to the flag.

ROLL CALL

Present: 6 - Commissioner Sue Harrison
Chair Ken Rheaume
Commissioner Daniel Howard
Commissioner Ken Olevson
Commissioner David Simons
Vice Chair Carol Weiss
Absent: 1 - Commissioner John Howe

Status of absence; Commissioner Howe's absence is excused.

ORAL COMMUNICATIONS

CONSENT CALENDAR

Commissioner Simons clarified the number of required votes and process for abstentions with Senior Assistant City Attorney Rebecca Moon and Planning Officer Andrew Miner.

Commissioner Harrison moved and Commissioner Simons seconded the motion to approve the Consent Calendar. The motion carried by the following vote:

Yes: 3 - Commissioner Harrison
Chair Rheaume
Commissioner Olevson

No: 0

Absent: 1 - Commissioner Howe

Abstained: 3 - Commissioner Howard
Commissioner Simons
Vice Chair Weiss

1. A [17-0857](#) Approve Planning Commission Meeting Minutes of August 28, 2017

PUBLIC HEARINGS/GENERAL BUSINESS

2. [17-0865](#) Study of Accessory Dwelling Unit Development Standards: Forward a Recommendation to the City Council to Adopt an Ordinance Amending Sunnyvale Municipal Code Section 19.68.040 (Accessory Dwelling Units), Adopt a Resolution Amending the Master Fee Schedule to Impose Transportation Impact Fees for Accessory Dwelling Units, and Find that these Actions are Exempt from CEQA.
Project Planner: Shila Behzadiaria, (408) 730-7456, sbehzadiaria@sunnyvale.ca.gov

Assistant Planner Shila Behzadiaria presented the staff report.

Commissioner Howard asked staff about the difference between new construction of an Accessory Dwelling Unit (ADU) and a conversion ADU. Planning Officer Andrew Miner explained that there are some differences in the requirements for newly built ADUs compared to conversion ADUs, as required by state law. Housing Officer Suzanne Ise advised that the State law prevents the City from imposing a minimum lot size requirement on conversion ADUs. Commissioner Howard asked about parking requirements for converting a garage into an ADU and Planning Officer Miner explained that any parking spaces eliminated by the permitted ADU must be replaced on the site. Commissioner Howard asked staff about unit size maximums related to State law. Planning Officer Miner provided information about the scope of this study.

Commissioner Howard asked staff about preventive measures for renting out portions of a home. Planning Officer Miner provided details about short term rental unit requirements. Housing Officer Ise provided details about the requirements for a conversion ADU.

Commissioner Harrison clarified with Planning Officer Miner that per the staff recommendation, the front door of the ADU should not be on the same plane as the front door of the main home.

Vice Chair Weiss asked staff about the maximum number of ADUs that could be permitted. Housing Officer Ise and Senior Assistant City Attorney Rebecca Moon advised that the state law prohibits cities from imposing a strict cap on the number of ADUs that can be developed. Planning Officer Miner and Housing Officer Ise provided details about the current number of ADUs in the City.

Vice Chair Weiss confirmed the deed restriction requirements with Planning Officer Miner.

Vice Chair Weiss clarified with Planning Officer Miner that an ADU can legally be used as a short-term rental if the owner lives on the property and has obtained a short-term rental permit from the City.

Commissioner Simons discussed the Transportation Impact Fee (TIF) with Planning Officer Miner and Senior Assistant City Attorney Moon. Senior Assistant City Attorney Moon advised that the City Council determines allocation of TIF funds, but that a study issue could be proposed to analyze the use of TIF fees generated through ADU permits for purposes such as ecopasses.

Commissioner Simons confirmed with Housing Officer Ise that a change in the owner-occupancy requirement would not retroactively nullify any active deed restrictions.

Commissioner Simons commented on the need for more on street parking as indicated by residents. Planning Officer Miner provided details about the parking requirements for new and conversion ADUs and advised that on-street parking is public parking, and that no changes to the current parking requirements for ADUs are being proposed at this time.

Commissioner Olevson asked staff how reducing the minimum lot size for ADUs would affect other requirements such as Floor Area Ratio (FAR), setbacks and height restrictions for a new ADU. Assistant Planner Behzadaria stated that each project will be reviewed to ensure compliance with those standards as well. Planning Officer Miner advised that all the same standards will apply.

Commissioner Olevson asked staff why the number of available lots for ADUs should increase if only a small percentage of lots currently have ADUs. Housing Officer Ise advised that the primary reason is for owners whose properties are smaller than the current minimum lot size and want an ADU, usually to house extended family members. Housing Officer Ise noted that staff has determined that the proposed new lot sizes are a reasonable compromise. Commissioner Olevson asked staff about further justification for this change. Planning Officer Miner advised that the goal is to allow further opportunities, which will accomplish the goal of adding housing.

Commissioner Olevson stated an understanding that ADUs will have a negligible impact on transportation issues and asked staff about the consideration for different

TIF rates. Planning Officer Miner stated that the closest factor already in use is the multi-family rate and that renting an ADU likely means the use of a car, so an ADU should be subject to those fees.

Chair Rheume confirmed with Assistant Planner Behzadiaria that the deed restriction would not apply for a new owner if the 20-year period has already been met.

Chair Rheume asked staff about enforcement for owners who rent both units within an active 20-year deed restriction. Planning Officer Miner advised that it is difficult to track but noted that the goal is to inform future property owners about the standard and not develop a trend towards two rental units.

Commissioner Harrison asked staff about addressing concerns regarding unpermitted ADUs. Planning Officer Miner stated that it is outside the scope of this study, and that it would be difficult for staff to identify and track these instances.

Chair Rheume opened the Public Hearing.

Kevin Jackson, Sunnyvale resident, discussed his concerns with the need to balance additional parking with safe street configuration for cyclists.

Commissioner Howard asked questions of Mr. Jackson regarding his opinion on parking.

Sue Serrone, Sunnyvale resident, spoke in support of reducing minimum lot sizes for ADUs in pursuit of the goal to add more housing and suggested further reduction of the minimum lot sizes.

Commissioner Simons confirmed with Ms. Serrone that in her opinion it would not be an impediment to build an ADU if it was tied to an obligation for street improvements.

Daryoush Nafar, Sunnyvale resident, spoke in support of ADUs and encouraged the Planning Commission to lessen regulations.

Ladan Dalla Betta, Sunnyvale resident, spoke in support of reducing minimum lot sizes for ADUs and noted the current difficulties of meeting ADU requirements.

Emerson Stewart, Sunnyvale resident, spoke in support of reducing minimum lot sizes for ADUs.

Valerie Soares, Sunnyvale resident, discussed her concerns with existing ADUs and asked the Planning Commission to consider removing the minimum lot sizes for ADUs and the deed restriction.

Commissioner Howard discussed the request for removal of the deed restriction with Ms. Soares. Commissioner Weiss clarified that the 20-year deed restriction is tied to the property, not the owner.

Josie Johnson, Sunnyvale resident, spoke in support of reducing minimum lot sizes for ADUs.

Chair Rheaume closed the Public Hearing.

MOTION: Commissioner Howard moved Alternative 3 – Consider other minimum lot sizes than those shown in Alternative 1. Commissioner Howard suggested that there should be no minimum lot size.

This motion failed for lack of a second.

MOTION: Commissioner Simons moved and Commissioner Harrison seconded the motion for Alternative 1 – Introduce an ordinance to reduce the minimum lot size for ADUs to 8,000 square feet in the R-1 zone and to 7,000 square feet in the R-0 zone (Attachment 7).

Commissioner Simons stated an opinion that issues need to be mitigated and that hopefully future mitigation would occur.

Commissioner Harrison stated an opinion that this proposal is moderate in regards to lot size and considers resident concerns as well as the need for more flexibility with ADUs. Commissioner Harrison commented that this is not permanent since future ADU revision can be considered. Commissioner Harrison stated that this change can create additional housing for the City.

Commissioner Howard spoke about the need for residents to expand their homes with ADUs. Commissioner Howard commented that if large minimum lot sizes for

ADUs are maintained then residents will circumvent the rules. Commissioner Howard stated an opinion that streamlining the ADU process to align new construction and conversion of existing space would be of benefit.

Commissioner Olevson stated an opinion that based on public comments and the staff report any changes should be incremental, such as reducing the minimum lot sizes for ADUs. Commissioner Olevson commented that the outcome of this change should be analyzed before additional reductions or elimination of a minimum lot size. Commissioner Olevson stated that he will be supporting the motion.

Chair Rheume stated that he will be supporting the motion and agrees with the reduction of minimum lot sizes for ADUs as an incremental change. Chair Rheume stated that staff has done a thorough job.

Planning Officer Miner recommended that Alternative 13 be included in the motion. Commissioner Simons modified the motion to include Alternative 13. Commissioner Harrison accepted the modification.

MOTION: Commissioner Simons moved and Commissioner Harrison seconded the motion for Alternatives 1 and 13 –

1. Introduce an ordinance to reduce the minimum lot size for ADUs to 8,000 square feet in the R-1 zone and to 7,000 square feet in the R-0 zone (Attachment 7)
13. Find that the amendments to Municipal Code Section 19.68.040 are exempt from CEQA pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15378(b)(4)

The motion carried by the following vote:

Yes: 5 - Commissioner Harrison
Chair Rheume
Commissioner Olevson
Commissioner Simons
Vice Chair Weiss

No: 1 - Commissioner Howard

Absent: 1 - Commissioner Howe

MOTION: Vice Chair Weiss moved and Commissioner Simons seconded the motion for Alternative 6 –make permanent the owner-occupancy requirement and deed

restriction.

Vice Chair Weiss stated an opinion that this modification is important to preserve the quality of single family neighborhoods. Vice Chair Weiss commented that the quality, appearance, sense of community and place are all impacted by having an owner on site. Vice Chair Weiss stated an opinion that this should not be a burden as the property can be sold with a rental unit.

Chair Rheume clarified with Vice Chair Weiss that her suggestion is to make permanent the owner-occupancy requirement and deed restriction.

Commissioner Simons noted his agreement with Vice Chair Weiss's comments. Commissioner Simons stated an opinion that the main problem in residential neighborhoods is unoccupied Airbnb rentals and noted that a more complicated enforcement issue could develop if owners are not on site. Commissioner Simons stated that he will be supporting the motion.

Commissioner Howard commented that less regulation could stimulate growth of ADUs but noted resident concerns with real estate for profit. Commissioner Howard commented that potentially in the future incentives for ADUs as affordable housing units could be analyzed. Commissioner Howard stated an opinion that this will be favorable for the City and that he will be supporting the motion.

Commissioner Olevson noted his concern that allowing an ADU with a 20-year restriction is insufficient due to the change of character in the land use. Commissioner Olevson stated that he will be supporting the motion and commented that a future homeowner could remove the ADU and apply to have the deed restriction removed.

Commissioner Harrison stated that she will not be supporting the motion. Commissioner Harrison stated an opinion that ADUs in her neighborhood are rented to family members. Commissioner Harrison commented on the concerns presented but stated an opinion that those concerns do not match the City's current reality. Commissioner Harrison commented that a 20-year deed restriction is a moderate stance.

Chair Rheume stated that he will be supporting the motion and noted his agreement with the comments provided by Commissioner Weiss, Commissioner Olevson and Commissioner Simons.

The motion carried by the following vote:

Yes: 5 - Chair Rheaume
Commissioner Howard
Commissioner Olevson
Commissioner Simons
Vice Chair Weiss

No: 1 - Commissioner Harrison

Absent: 1 - Commissioner Howe

MOTION: Commissioner Simons moved and Commissioner Olevson seconded the motion for Alternatives 11 and 12 –

11. Modify the requirement that the entry door of ADU not face the public street (included in proposed ordinance, Attachment 7)

12. Clarify the ADU requirements in the zoning code

Commissioner Simons stated an opinion that this is a logical, non-controversial addition that would be required to support the Alternatives which have already passed.

Commissioner Olevson stated that he fully supports not having two front doors face the street to avoid neighborhood degradation.

Commissioner Howard asked for clarification on Alternative 12. Senior Assistant City Attorney Moon advised that Alternative 12 is superfluous and does not need to be included. The motion was modified to exclude Alternative 12.

MOTION: Commissioner Simons moved and Commissioner Olevson seconded the motion for Alternative 11 – Modify the requirement that the entry door of ADU not face the public street (included in proposed ordinance, Attachment 7).

The motion carried by the following vote:

Yes: 6 - Commissioner Harrison
Chair Rheaume
Commissioner Howard
Commissioner Olevson
Commissioner Simons
Vice Chair Weiss

No: 0

Absent: 1 - Commissioner Howe

MOTION: Commissioner Simons moved for Alternative 9 – Adopt a Resolution amending the Master Fee Schedule to establish the TIF for ADUs to be same as the senior housing rate, or other specific rate.

Commissioner Simons provided details about his request regarding fees and Planning Officer Miner advised that it would best be addressed as a study issue. Commissioner Simons modified his motion.

MOTION: Commissioner Simons moved and Commissioner Howard seconded the motion for Alternative 8 – Adopt a Resolution amending the Master Fee Schedule to establish the TIF for ADUs to be same as the multi-family rate (Attachment 8).

Commissioner Simons noted his disappointment that Alternative 9 cannot accommodate his request and that a study issue would be needed per staff's recommendation.

Commissioner Howard noted that this rate would be consistent with the TIF for a small apartment unit and less expensive than the single-family rate.

Senior Assistant City Attorney Moon recommended that the motion include Alternative 14. Commissioner Simons modified the motion to include Alternative 14. Commissioner Howard accepted the modification.

MOTION: Commissioner Simons moved and Commissioner Howard seconded the motion for Alternatives 8 and 14 –

8. Adopt a Resolution amending the Master Fee Schedule to establish the TIF for ADUs to be same as the multi-family rate (Attachment 8)

14. Find that amendments to the Master Fee Schedule are exempt from CEQA

The motion carried by the following vote:

Yes: 6 - Commissioner Harrison
Chair Rheume
Commissioner Howard
Commissioner Olevson
Commissioner Simons
Vice Chair Weiss

No: 0

Absent: 1 - Commissioner Howe

Planning Officer Miner advised that this item goes to the Housing and Human Services Commission on September 20th, 2017 and to the City Council on October 17th, 2017.

3. [17-0756](#)

File #: 2017-7556

Location: 801-819 Allison Way (APNs: 323-03-023 through 323-03-026 and APNs: 323-04-034 through 323-04-036), 1315-1381 Lennox Way (APNs: 323-03-027 through 323-03-038), 804-816 Lennox Court (APNs: 323-03-039 through 323-03-042), 801-814 Blanchard Way (APNs: 323-03-043 through 323-03-045 and APNs: 323-04-025 through 323-04-027), and 801-814 Beaverton Court (APNs: 323-04-028 through 323-04-033).

Zoning: R-1

Proposed Project: Introduction of Ordinance to **REZONE** 35 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)

Applicant / Owner: Tom Verbure (plus multiple owners)

Environmental Review: The Ordinance being considered is categorically exempt from review pursuant to CEQA Guidelines Section 15305 (minor alteration in land use) and Section 15061(b)(3) (a general rule that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, the activity is not subject to CEQA).

Project Planner: Aastha Vashist (408) 730-7458,
avashist@sunnyvale.ca.gov

Assistant Planner Aastha Vashist presented the staff report.

Chair Rheume opened the Public Hearing.

Tom Verbure, applicant, presented images and information about the proposed project.

Commissioner Harrison discussed the impact of two-story developments with Mr. Verbure.

Vice Chair Weiss commented that most of the lot sizes in this neighborhood would allow Accessory Dwelling Units (ADU's) and asked Mr. Verbure for his comments on the potential impact of ADU's. Mr. Verbure stated an opinion that ADU's would not be practical in Eichler backyards.

Commissioner Olevson commented that less than a third of these Eichler homes are backed by other Eichler homes and that surrounding neighborhoods could build two story homes. Commissioner Olevson asked the applicant how that impacts their desire for privacy. Mr. Verbure provided details about the lot depths as a mitigating factor and the benefits of restricting two story homes adjacent to Eichler homes.

Chair Rheume commented that two-thirds of these properties could have a second story built next to them and asked for the applicant's comments. Mr. Verbure stated that many residents are concerned about retaining the Eichler character. Chair Rheume reiterated that the Eichler Guidelines would dictate the requirements for any additions to Eichler homes.

Commissioner Howard clarified with Mr. Verbure that the Eichler homes in their neighborhood are elevated between the street and house level.

Commissioner Howard confirmed with Mr. Verbure the feasible options for expanding an Eichler home. Commissioner Howard asked the applicant about concerns in preventing second story developments for future homeowners. Mr. Verbure advised that all the residents in the neighborhood are in favor of this application and that they want to preserve their Eichler homes.

Commissioner Howard commented on the deeper lots and asked the applicant if a buffer zone would make sense. Mr. Verbure confirmed.

Commissioner Simons provided details about this particular Eichler neighborhood.

Commissioner Howard confirmed with Mr. Verbure that they had not considered

applying for a historical preservation district designation. Commissioner Howard discussed the process for historical preservation with Mr. Verbure.

Lou Wirtz, Sunnyvale resident, spoke in support of the rezone request and requested that the Planning Commission recommend approval.

Vice Chair Weiss confirmed with Mr. Wirtz that he was not familiar with the Single Family Home Design Techniques. Vice Chair Weiss suggested that those guidelines could mitigate privacy concerns regarding second story developments. Mr. Wirtz requested single story protection for the Eichler homes and noted that no homeowner has voiced objection to the SSCD application.

Chair Rheume closed the Public Hearing.

Commissioner Howard commented on a two-story development cited in Attachment 4 and asked for staff comments. Planning Officer Miner provided details about that application and confirmed that the development met the standards of the Eichler Design Guidelines.

MOTION: Commissioner Simons moved and Commissioner Harrison seconded the motion for Alternatives 1 and 2 –

1. Find the project exempt from CEQA pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3)
2. Introduce an Ordinance (Attachment 6 of this report) to Rezone 35 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)

Commissioner Simons commented that this neighborhood consists of beautiful, high quality Eichler homes and that it could qualify for a historical district if a majority of homeowners were interested.

Commissioner Harrison commented that this application meets the intent of the Single Story Combining District (SSCD) in that the homeowners are almost 100% in agreement to restrict second story development in their neighborhood.

Commissioner Harrison noted that these residents have presented their desire to retain the neighborhood character and will not gain additional benefits from this restriction. Commissioner Harrison stated that all the SSCD guidelines have been met and that she will be supporting the motion.

Commissioner Olevson stated that he will be supporting the motion. Commissioner Olevson commented that this application meets all the City Council established criteria for an SSCD. Commissioner Olevson noted that it follows a tract and has substantial support from the homeowners.

Commissioner Howard commented on his concern with SSCD's given the housing crisis and noted his agreement with Commissioner Simons that this district is worthy of historical preservation. Commissioner Howard stated an opinion that allowing SSCD's can potentially undermine future historical preservation and that he will not be supporting the motion for this reason.

Vice Chair Weiss stated that she will be supporting the motion because it meets the SSCD criteria. Vice Chair Weiss stated an opinion that the Single Family Home Design Techniques are sufficient and that SSCD's are redundant. Vice Chair Weiss noted that SSCD's make it difficult for residents to accommodate growing families but that she will reluctantly be supporting the motion.

Chair Rheume stated that he will be supporting the motion and noted his agreement with the comments made by Commissioner Harrison. Chair Rheume noted that only 13 of the 35 properties will be protected all on sides. Chair Rheume stated that he can make the findings for the SSCD.

The motion carried by the following vote:

Yes: 5 - Commissioner Harrison
Chair Rheume
Commissioner Olevson
Commissioner Simons
Vice Chair Weiss

No: 1 - Commissioner Howard

Absent: 1 - Commissioner Howe

Planning Officer Miner advised that this item goes to the City Council on October 17th, 2017.

4. [17-0758](#) **File #:** 2017-7565

Location: 1666-1698 Swallow Drive (Assessor Parcel Number 313-41-010 thru 012, 313-41-027 and 028), 1104-1121 Lorne Way

(APNs 313-41-013 thru 026), 1103-1111 Homestead Road (APNs 313-41-005 thru 009) and 18771 East Homestead Road (APNs 313-41-070 and 071).

Zoning: R-0 and R-0/PD for 18771 Homestead Road

Proposed Project: REZONE Introduction of Ordinance to **REZONE** 24 contiguous single family home lots from R-0 (Low Density Residential) to R-0/S (Low Density Residential/Single-Story) and one single family home lot (with 2 assessor parcels) from R-0/PD (Low Density Residential/Planned Development) to R-0/S/PD (Low Density Residential/Single-Story) (25 lots total)

Applicant / Owner: Craig Milito (plus multiple owners)

Environmental Review: The Ordinance being considered is categorically exempt from review pursuant to CEQA Guidelines Section 15305 (minor alteration in land use) and Section 15061(b)(3) (a general rule that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, the activity is not subject to CEQA).

Project Planner: Shétal Divatia (408) 730-7637,
sdivatia@sunnyvale.ca.gov

Senior Planner Shetal Divatia presented the staff report.

Planning Officer Andrew Miner commented that this is a difficult Single Story Combining District (SSCD) application due to the lack of properties needed to meet the minimum 20 lot requirement. Planning Officer Miner provided the rationale for the staff recommendation to deny the rezone.

Commissioner Howard confirmed with Senior Planner Divatia that this application contains the only Eichler tract in this neighborhood.

Chair Rheume opened the Public Hearing.

Craig Milito, applicant, presented images and information about the proposed project.

Commissioner Harrison confirmed with Mr. Milito that they feel a second story development would impede the peaceful nature of their neighborhood and the ability of children to play. Commissioner Harrison clarified with Mr. Milito that their concern

is in regards to the development proposal for the large lot at 18771 East Homestead and that they would prefer single family homes at that location.

Vice Chair Weiss confirmed with Mr. Milito that their concern pertains to the potential for Lorne Way to extend to Homestead Road. Planning Officer Miner provided details about the 18771 East Homestead lot. Planning Officer Miner stated that the Department of Public Works (DPW) would not allow the extension of Lorne Way to Homestead Road and that regardless, that aspect would be within the Planning Commission's purview.

Chair Rheame asked for comments about the reason for this SSCD request. Mr. Milito stated that their goal is to preserve the neighborhood and keep the single-story nature and uniformity of the properties.

Deborah Iturralde spoke in opposition of the proposed rezone and provided details about the hardship it would pose for smaller homes. Ms. Iturralde requested that her home be excluded from the application.

Commissioner Simons discussed the potential for larger homes to be developed adjacent to this neighborhood with Ms. Iturralde.

Stephanie Pestarino spoke in opposition of the proposed rezone and requested that the Planning Commission support staff's recommendation. Ms. Pestarino discussed her concerns regarding negative impact on property values and the lack of a minimum of 20 lots.

Rene Vargas-Voracek, Sunnyvale resident, spoke in support of the proposed rezone and discussed his concerns with the development potential for the lot at 18771 East Homestead and adherence to the Eichler Guidelines.

Commissioner Harrison clarified with Mr. Vargas-Voracek about his understanding of the restrictions that would be imposed if the SSCD application is approved. Commissioner Harrison confirmed with Mr. Vargas-Voracek that his desire is to restrict the lot at 18771 East Homestead.

Amer Siddiquee, Sunnyvale resident, spoke in opposition of the proposed rezone and discussed his concerns with the burden placed on the non-Eichler homes on Swallow Drive.

John Savanyo, Sunnyvale resident, spoke in support of the proposed rezone if it only applies to the Eichler homes. Mr. Savanyo discussed his concerns with privacy and the Eichler Design Guidelines.

Commissioner Harrison confirmed Mr. Savanyo's familiarity with the Eichler Design Guidelines. Mr. Savanyo clarified that his concern stems from the lack of prevention for building two story homes.

Volker Joehnk, Sunnyvale resident, spoke in support of the proposed rezone and asked the Planning Commission to consider Option 2.

David Berbessou, Sunnyvale resident, spoke in support of the proposed rezone and asked the Planning Commission to consider Option 2. Mr. Berbessou discussed his concerns with privacy, development potential of the lot at 18771 East Homestead and subsequent impacts on traffic.

Craig Milito presented additional information about the proposed project and asked the Planning Commission to consider Option 2.

Chair Rheaume closed the Public Hearing.

Commissioner Simons asked staff about the process to modify the required 20 lot minimum. Planning Officer Miner stated that this would need to be examined as a study issue and that it could be incorporated in the SSCD study issue. Planning Officer Miner provided details about the lot at 18771 East Homestead and clarified that it is one legal lot.

Commissioner Howard clarified with Planning Officer Miner that a maximum of seven housing units would be permitted at 18771 East Homestead.

Commissioner Harrison confirmed with Planning Officer Miner that DPW is not supportive of extending Lorne Way to Homestead Road. Planning Officer Miner provided details about access for the potential development at 18771 East Homestead.

Vice Chair Weiss asked staff about the qualification of this neighborhood as a historic district. Planning Officer Miner provided details about the application and initiation process for a historic district.

MOTION: Commissioner Olevson moved and Commissioner Harrison seconded the motion for Alternatives 1 and 4 –

1. Find the project exempt from CEQA pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3)
4. Deny the rezone

Commissioner Olevson noted his appreciation that the Eichler homeowners want to maintain the character of their cul-de-sac but stated his concern of restricting non-Eichler homes and a Planned Development (PD) lot. Commissioner Olevson commented that this SSCD application does not meet the City's criteria, as unrelated properties have been grouped to meet the minimum 20 lot requirement. Commissioner Olevson stated that he will recommend to the City Council to deny the rezone.

Commissioner Harrison stated that she cannot make the finding that to the extent feasible the proposed SSCD district shall follow a recognizable feature such as a street, stream, or tract boundary. Commissioner Harrison commented on the concern presented regarding the extension of Lorne Way but noted that City staff agrees with that concern. Commissioner Harrison noted that the minimum 20 lot requirement should be reviewed within the context of the SSCD Study Issue and wished the applicant good luck.

Commissioner Howard noted his agreement with the comments made by Commissioner Harrison. Commissioner Howard commented that the property at 18771 East Homestead will be subject to great scrutiny, require Planning Commission approval and that the residents have done a good job raising their concerns. Commissioner Howard commented on not meeting the minimum 20 lot requirement and stated that he will be supporting the motion.

Vice Chair Weiss commented that she is sensitive to the concerns raised by residents, such as increased traffic, need for quiet and the desire for a safe place for children to play. Vice Chair Weiss stated that it doesn't appear that Lorne Way will be extended and that developers may understand the limitations of the lot at 18771 East Homestead. Vice Chair Weiss stated that she will be supporting the motion because the criteria have not been met.

Commissioner Simons stated that he will not be supporting the motion and cited the cost of submitting an application. Commissioner Simons recommended to put this item on indefinite hold so that potentially in the future the applicant can return

without additional application fees.

Chair Rheume stated that he will be supporting the motion and noted his agreement with Commissioner Harrison that he cannot make the finding for a recognizable tract boundary. Chair Rheume stated that there are alternatives to address the neighborhood's concerns and noted his appreciation that neighbors want to ensure that each other's concerns are addressed.

The motion carried by the following vote:

Yes: 5 - Commissioner Harrison
Chair Rheume
Commissioner Howard
Commissioner Olevson
Vice Chair Weiss

No: 1 - Commissioner Simons

Absent: 1 - Commissioner Howe

Planning Officer Miner advised that this item goes to the City Council on October 17th, 2017.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

Commissioner Simons proposed a study issue regarding techniques designed to reduce stormwater runoff.

Chair Rheume opened the Public Hearing.

Chair Rheume asked there if were any objections to adding this as a study issue.

Vice Chair Weiss asked if this could be incorporated under the Climate Action Plan. Commissioner Simons advised that this pertains more to zoning and land use impact. Commissioner Harrison asked if this study issue would identify areas for flooding. Commissioner Simons clarified that it just pertains to stormwater retention.

Chair Rheume confirmed that there were no objections to adding this as a study issue.

Commissioner Howard proposed a study issue regarding flexibility with variances for

setbacks for Accessory Dwelling Units (ADU's) while providing a lower income housing unit in the ADU. Planning Officer Andrew Miner and Senior Assistant City Attorney Rebecca Moon provided feedback about this idea and noted that the ramifications would have to be studied.

Chair Rheume asked there if were any objections to adding this as a study issue.

Commissioner Harrison stated her opposition to the proposed study issue.

Chair Rheume took an informal vote and all Planning Commissioners were opposed except for Commissioner Howard.

Commissioner Simons proposed a study issue for a density incentive bonus that would still meet setback requirements and zoning restrictions but not require a Public Hearing.

Chair Rheume asked there if were any objections to adding this as a study issue.

Commissioner Harrison stated her opposition to the proposed study issue.

Chair Rheume took an informal vote and all Planning Commissioners were opposed except for Commissioner Simons.

Commissioner Harrison proposed an ADU study issue that would consider density bonuses, green building incentives, legalizing illegal ADU's, lowering the required lot size and increasing housing.

Chair Rheume took an informal vote and all Planning Commissioners were in favor of the proposed study issue.

Chair Rheume closed the public hearing.

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

Commissioner Harrison thanked the Planning Commission for approving the gravity fed sewer system for her ADU.

-Staff Comments

Planning Officer Miner advised that Split Zoning Ordinance and the Hollenbeck

Single Story Combining District Buffer Study will be heard tomorrow at the September 12th, 2017 City Council Meeting.

ADJOURNMENT

Chair Rheaume adjourned the meeting at 10:21 PM.



City of Sunnyvale

Agenda Item 2

17-0922

Agenda Date: 10/2/2017

REPORT TO PLANNING COMMISSION

File #: 2015-7144

Location: 584 Crawford Drive (APN: 201-33-042)

Zoning: R-0

Proposed Project: Appeal of a decision by the Zoning Administrator to deny the following:

DESIGN REVIEW for a 1,142 sq. ft. one-story addition to an existing 1,227 sq. ft. one-story single-family home (2,369 sq. ft. living area and 1,205 sq. ft. garage), resulting in 3,574 sq. ft. and 36% FAR. The project includes attaching the existing garage to the home and a minor architectural modification to the existing front porch.

VARIANCE to allow a 12-foot, 4-inch combined side yard setback when 15 feet is required.

Applicant / Appellant / Owner: Bob Fuselier

Environmental Review: Class 1 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions that include minor additions to an existing-single family residence (CEQA Guidelines Section 15301).

Project Planner: George Schroeder, (408) 730-7443, gschroeder@sunnyvale.ca.gov

SUMMARY OF ZONING ADMINISTRATOR ACTION

The Zoning Administrator considered this item on August 30, 2017 (see Attachment 5 for the Report to Zoning Administrator and Attachment 6 for meeting minutes). No members of the public were in attendance. The Zoning Administrator took the item under advisement to consider the applicant's justifications at the hearing and subsequently denied the Design Review permit and Variance on August 31st. The Zoning Administrator was unable to make the required finding that there are exceptional or extraordinary circumstances or conditions applicable to the property that prevents the project design from meeting City zoning requirements.

APPEAL

The applicant filed an appeal of the Zoning Administrator's denial on September 13, 2017. No other appeals were received during the 15-day appeal period. The applicant's basis for the appeal is included in Attachment 7. The applicant lists the following reasons for the appeal:

1. There are exceptional and extraordinary conditions on the project site, particularly a large nonconforming detached garage that is unique to other properties in the City. There is also a large setback from the garage to the nearest structure on the neighboring property which is consistent with the intent of setback requirements.
2. Staff's suggested alternatives to meet the combined side yard setback requirement would create undue hardships in terms of increased project costs, potential protected tree removal, and impacts to the desired floor plan.
3. The project is subject to a nonconforming code section (SMC 19.50.020) that allows the home to expand without requiring a Variance since there is no increase in nonconformity. The garage will

not be expanded into the required setback and the proposed addition follows the existing conforming building setback on the opposite side.

4. Other new structures in the neighborhood were built with closer setbacks and more floor area than what is proposed with the project. The proposed addition will not be visible from the street and will not impact neighboring properties.

Pursuant to Sunnyvale Municipal Code (SMC) Section 19.98.070 (f)(2) and (3), the Planning Commission hearing is a de novo hearing and the Planning Commission is not bound by the decision that has been appealed or limited to the issues raised in the appeal by the appellant. After the hearing, the Planning Commission shall affirm, modify, or reverse the original decision based on the evidence and findings.

STAFF COMMENTS ON THE APPEAL

1. Exceptional and Extraordinary Conditions

The applicant states that the size and location of the existing detached garage presents an exceptional condition that is not present in the neighborhood or City. The 1,205 square-foot garage is larger than typically found in the city and is considered nonconforming because its side setback of 2'-4". The applicant proposes to attach the garage to the house in conjunction with a 1,142-square foot, one-story addition. The garage itself does not require a variance because it is legal non-conforming and there would be no increase in nonconformity for the garage, because it would not be enlarged in area or height, nor be located closer to the side property line. But attaching the garage to the house would result in one principal structure, which is subject to the combined side yard setback requirement.

The need for a Variance for the project is due to the house addition design. In calculating the combined side yard setback requirement, the total of both sides must be at least 15 feet. In the subject application, that would require the setback for the addition along the east property line to be 12'-8" rather than 10' as requested. Although the existing garage location close to the west property line results in a larger setback requirement for the addition along the east property line, the property is relatively wide at 75', which provides sufficient room for an addition to the home.

There are two options available to avoid the need for a Variance. One would be to move the addition along the east property line an additional 2'-8" to meet the required 15' combined side yard setback. The other option would be to not connect the home to the existing garage and maintain a 5' separation between the house addition and garage because the combined side yard setback requirement does not apply to detached accessory structures.

Staff maintains the position that the property is not considered unique to the neighborhood or R-0 zoning district, because the lot is rectangular and has the same approximate dimensions as most other properties in the neighborhood. Additionally, the lot area of 9,921 sq. ft. exceeds the 6,000 sq. ft. minimum lot size of the zoning district, and the lot width of 75 feet exceeds the 57-foot minimum lot width of the zoning district, and there are many other design options that could meet the setback requirements and allow additions to the home.

2. Undue Hardship

The applicant lists reasons for how staff's suggested alternatives to comply with the combined side

yard setback requirement would create undue hardships. Additional project costs would be involved with these alternatives, such as increasing the setback of the proposed addition, or the full or partial demolition of the garage to meet the combined setback requirement. The applicant states that increasing the setback of the proposed addition would impact the form and function of the floor plan. Additionally, the applicant believes that increasing the setback would lead to shifting floor area further to the rear of the property, which may impact an existing protected tree.

The alternatives suggested by staff are a typical consideration for property owners that intend to retain nonconforming structures in conjunction with addition projects. Staff finds that minor changes to the floor plan layout could accommodate the proposed addition, while meeting the combined side yard setback requirement. Staff does not find that implementing the additional setback on the proposed addition would impact an existing protected tree in the rear yard. The tree is 12 feet away from the rear of the currently proposed addition and there is 28 feet of area between the addition and the existing garage where the addition could be relocated.

3. Interpretation of the Nonconforming Code Section

The applicant believes that SMC Section 19.50.020 relieves his project from having to meet the combined side yard setback requirement. This code section allows existing legal nonconforming structures (such as the existing garage) to be repaired, altered, enlarged or replaced by-right if no increase in nonconformities (such as encroaching further into the required setback) will result. SMC Section 19.50.020 allows the garage to remain in its current location with a nonconforming minimum side yard setback, because it is not increasing in nonconformity.

The combined side yard setback requirement is triggered because the garage would be attached to the house, which makes it one principal structure. If the garage is to be retained in its current location with a 2'-4" side yard setback, then the addition on the opposite side of the garage would need to be setback a total of 12'-8" to meet the 15-foot combined side yard setback requirement. Alternatively, the garage could remain detached from the house so that it is not subject to the combined side yard setback requirement.

The applicant contends that SMC Section 19.50.020 would allow the addition as proposed on the opposite side of the garage, because it follows the existing building wall line and does not increase the nonconformity. This building wall line is currently conforming in both the minimum and combined side yard setback, and does not fall under this code section. Even if the wall was nonconforming, expanding it along a nonconforming setback would increase the nonconformity. SMC Section 19.50.020 only applies to retention of existing legal nonconforming structures, not proposed additions.

4. Inconsistency in Neighborhood Development

The applicant claims that the strict application of the code standards that pertain to existing structures deprive them of other privileges enjoyed by other property owners in the neighborhood. This is supported by examples of other properties that built larger homes with closer setbacks than what is proposed with the project. The applicant notes that their project will not impact neighboring properties because the addition would not be visible from the street and it follows the existing side yard setback. The additional 2'-8" setback needed for the proposed addition to meet the combined side yard setback would not significantly contribute to neighbor's privacy and building separation as intended in the code.

The combined side yard setback requirement went into effect in 2009, and the reduced setback examples that the applicant mentions are from projects that were approved prior to adoption of this code requirement. There have not been any Variance applications or approvals for combined side yard setbacks in the neighborhood since the requirement went into effect. The applicant is also able to build a similar-sized home as others in the neighborhood. Staff can make the finding that the proposed project would not be materially detrimental to the public welfare or injurious to other properties in the neighborhood, but approving the Variance could set a precedent and may grant a special privilege to the property owner not enjoyed by applicants that have built additions after the combined side yard setback requirement went into effect.

PUBLIC CONTACT

58 notices were sent to surrounding property owners and residents within a 300-foot radius of the subject site in addition to standard noticing practices, including advertisement in the Sunnyvale Sun Newspaper and on-site posting. No written correspondence or calls were received from the public at the time of staff report production.

ALTERNATIVES

1. Deny the appeal and affirm the Zoning Administrator's determination to deny the Design Review permit and Variance.
2. Grant the appeal and reverse the Zoning Administrator's determination to deny the Design Review permit and Variance with recommended Conditions in Attachment 2.
3. Grant the appeal and reverse the Zoning Administrator's determination to deny the Design Review permit and Variance with modified conditions.

RECOMMENDATION

Alternative 1. Deny the appeal and affirm the Zoning Administrator's determination to deny the Design Review permit and Variance.

If the Planning Commission is able to make the required findings and approve the project, staff has included Conditions of Approval in Attachment 2.

Prepared by: George Schroeder, Senior Planner

Reviewed by: Ryan Kuchenig, Senior Planner

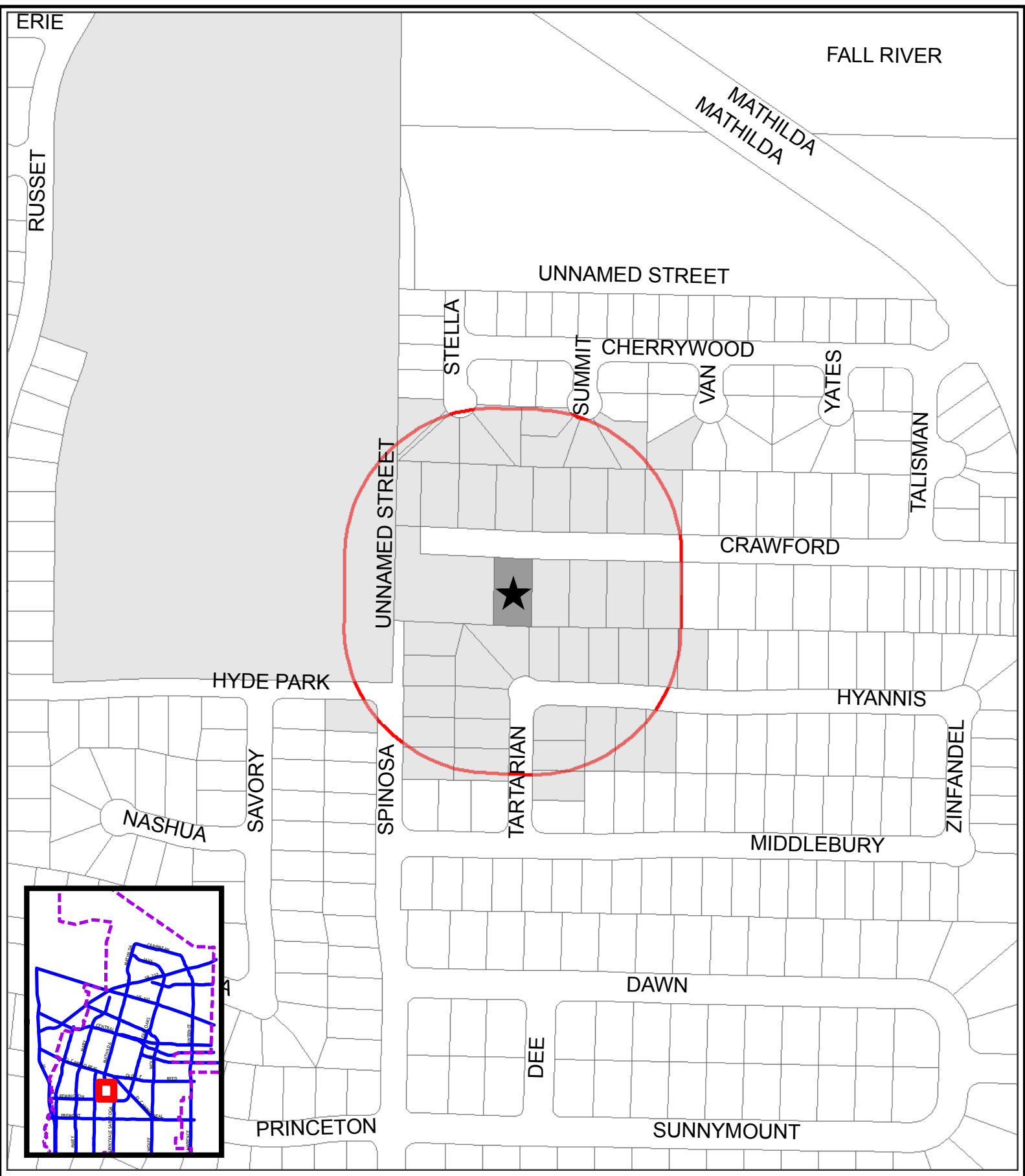
Approved by: Andrew Miner, Planning Officer

ATTACHMENTS

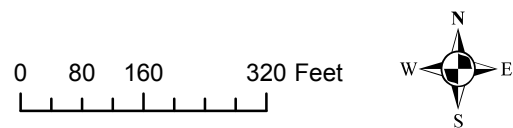
1. Noticing and Vicinity Map
2. Standard Requirements and Recommended Conditions of Approval (if approved) **(updated with Planning Commission hearing date)**
3. Site and Architectural Plans
4. Applicant's Variance Justifications

Additional Attachments for Report to Planning Commission

5. Report to Zoning Administrator 17-0820, August 30, 2017 (without attachments)
6. Minutes from the Zoning Administrator Meeting of August 30, 2017
7. Applicant's Basis for the Appeal



2015-7144
 584 Crawford Dr. (APN: 201-33-042)
 DESIGN REVIEW
 300-ft Area Map



IF APPROVED - RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
OCTOBER 2, 2017

Planning Application 2015-7144
584 Crawford Drive

Design Review for a 1,142 sq. ft. one-story addition to an existing 1,227 sq. ft. one-story single-family home (2,369 sq. ft. living area and 1,205 sq. ft. garage), resulting in 3,574 sq. ft. and 36% FAR. The project includes attaching the existing garage to the home and a minor architectural modification to the existing front porch.

Variance to allow a 12-foot, 4-inch combined side yard setback when 15 feet is required.

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. PERMIT EXPIRATION:

The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] [PLANNING]

GC-3. INDEMNITY:

The applicant/developer shall defend, indemnify, and hold harmless the City, or any of its boards, commissions, agents, officers, and employees (collectively, "City") from any claim, action, or proceeding against the City to attack, set aside, void, or annul, the approval of the project when such claim, action, or proceeding is brought within the time period provided for in applicable state and/or local statutes. The City shall promptly notify the developer of any such claim, action or proceeding. The City shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith. [COA] [OFFICE OF THE CITY ATTORNEY]

GC-4. NOTICE OF FEES PROTEST:

As required by California Government Code Section 66020, the project applicant is hereby notified that the 90-day period has begun as of the date of the approval of this application, in which the applicant may protest any fees, dedications, reservations, or other exactions imposed by the city as part of the approval or as a condition of approval of this development. The fees, dedications, reservations, or other exactions are described in the approved plans, conditions of approval, and/or adopted city impact fee schedule. [SDR] [PLANNING / OCA]

PS: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT, AND/OR GRADING PERMIT.

PS-1. EXTERIOR MATERIALS REVIEW:

Final exterior building materials and color scheme are subject to review and approval by the Director of Community Development prior to submittal of a building permit. [COA] [PLANNING]

BP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).

-
- BP-1. **CONDITIONS OF APPROVAL:**
Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]
- BP-2. **RESPONSE TO CONDITIONS OF APPROVAL:**
A written response indicating how each condition has or will be addressed shall accompany the building permit set of plans. [COA] [PLANNING]
- BP-3. **BLUEPRINT FOR A CLEAN BAY:**
The building permit plans shall include a “Blueprint for a Clean Bay” on one full sized sheet of the plans. [SDR] [PLANNING]
- BP-4. **TREE PROTECTION PLAN:**
Prior to issuance of a Demolition Permit, a Grading Permit or a Building Permit, whichever occurs first, obtain approval of a tree protection plan from the Director of Community Development. Two copies are required to be submitted for review. The tree protection plan shall include measures noted in Title 19 of the Sunnyvale Municipal Code and at a minimum:
- a) An inventory shall be taken of all existing trees on the plan including the valuation of all ‘protected trees’ by a certified arborist, using the latest version of the “Guide for Plant Appraisal” published by the International Society of Arboriculture (ISA).
 - b) All existing (non-orchard) trees on the plans, showing size and varieties, and clearly specify which are to be retained.
 - c) Provide fencing around the drip line of the trees that are to be saved and ensure that no construction debris or equipment is stored within the fenced area during the course of demolition and construction.
 - d) The tree protection plan shall be installed prior to issuance of any Building or Grading Permits, subject to the on-site inspection and approval by the City Arborist and shall be maintained in place during the duration of construction and shall be added to any subsequent building permit plans. [COA] [PLANNING/CITY ARBORIST]
- BP-5. **BEST MANAGEMENT PRACTICES - STORMWATER:**
The project shall comply with the following source control measures as outlined in the BMP Guidance Manual and SMC 12.60.220. Best management practices shall be identified on the building permit set of plans and shall be subject to review and approval by the Director of Public Works:

- a) Storm drain stenciling. The stencil is available from the City's Environmental Division Public Outreach Program, which may be reached by calling (408) 730-7738.
- b) Landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices and programs such as Bay-Friendly Landscaping.
- c) Appropriate covers, drains, and storage precautions for outdoor material storage areas, loading docks, repair/maintenance bays, and fueling areas.
- d) Covered trash, food waste, and compactor enclosures.
- e) Plumbing of the following discharges to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards:
 - i) Discharges from indoor floor mat/equipment/hood filter wash racks or covered outdoor wash racks for restaurants.
 - ii) Dumpster drips from covered trash and food compactor enclosures.
 - iii) Discharges from outdoor covered wash areas for vehicles, equipment, and accessories.
 - iv) Swimming pool water, spa/hot tub, water feature and fountain discharges if discharge to onsite vegetated areas is not a feasible option.
 - v) Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option. [SDR] [PLANNING]

DC: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.

DC-1. BLUEPRINT FOR A CLEAN BAY:

The project shall be in compliance with stormwater best management practices for general construction activity until the project is completed and either final occupancy has been granted. [SDR] [PLANNING]

DC-2. TREE PROTECTION:

All tree protection shall be maintained, as indicated in the tree protection plan, until construction has been completed and the installation of landscaping has begun. [COA] [PLANNING]

DC-3. CLIMATE ACTION PLAN – OFF ROAD EQUIPMENT REQUIREMENT:

OR 2.1: Idling times will be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]), or less. Clear

signage will be provided at all access points to remind construction workers of idling restrictions.

OR 2.2: Construction equipment must be maintained per manufacturer's specifications.

OR 2.3: Planning and Building staff will work with project applicants to limit GHG emissions from construction equipment by selecting one of the following measures, at a minimum, as appropriate to the construction project:

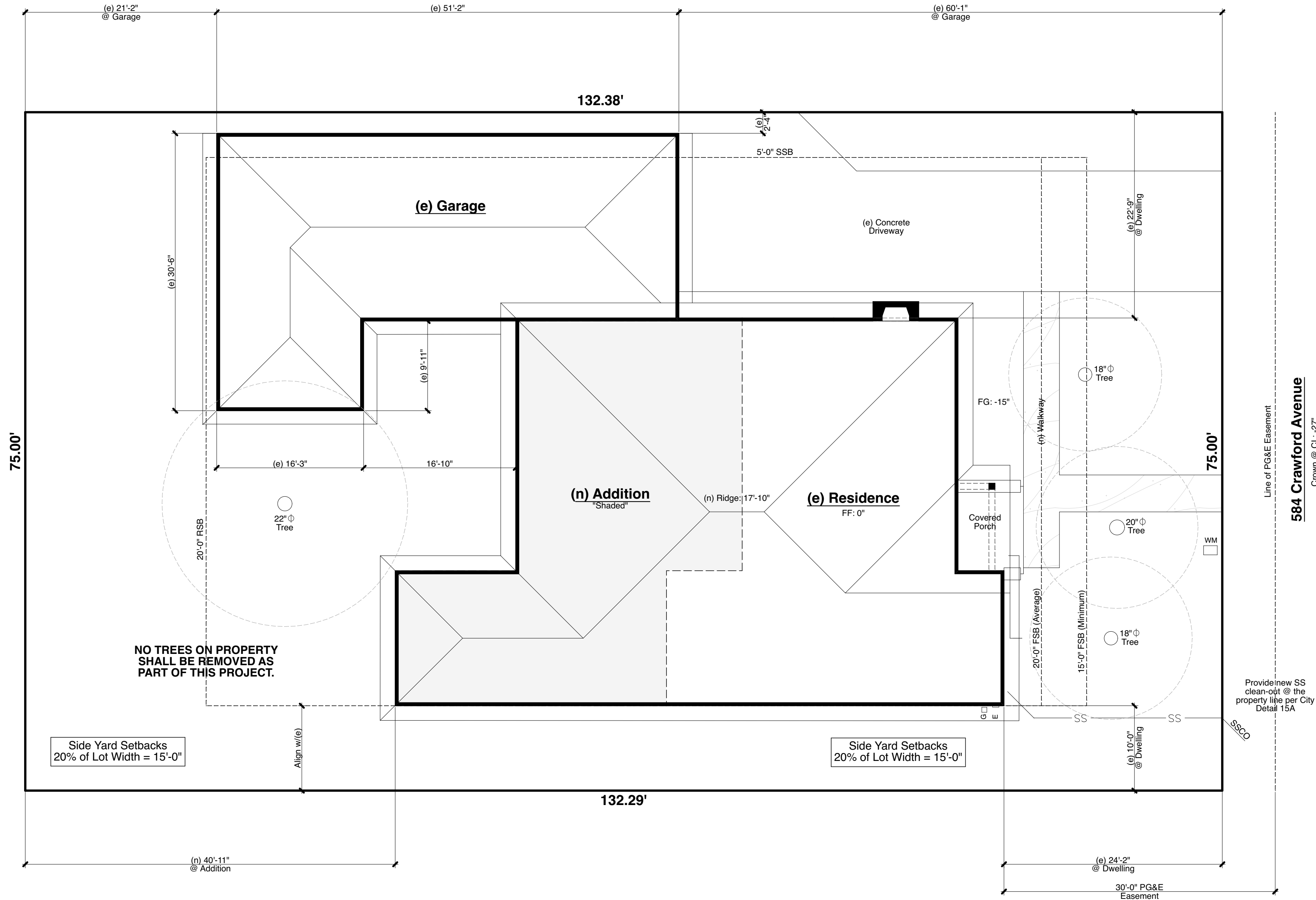
- a) Substitute electrified or hybrid equipment for diesel- and gasoline-powered equipment where practical.
- b) Use alternatively fueled construction equipment on-site, where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane, or biodiesel.
- c) Avoid the use of on-site generators by connecting to grid electricity or utilizing solar-powered equipment.
- d) Limit heavy-duty equipment idling time to a period of 3 minutes or less, exceeding CARB regulation minimum requirements of 5 minutes. [COA] [PLANNING]

DC-4. DUST CONTROL:

At all times, the Bay Area Air Quality Management District's CEQA Guidelines and "Basic Construction Mitigation Measures Recommended for All Proposed Projects", shall be implemented. [COA] [PLANNING]

SITE PLAN NOTES:

1. See Civil Engineer's "Grading & Drainage Plan(s)" as applicable and/or required for topography, site work & underground construction (typ.) All grading shall be performed in accordance with all local codes & requirements. Civil Engineer's plans shall take precedence over any architectural site plan(s) and/or landscape plan(s).
2. In new construction, all proposed utilities shall be installed underground: See specific utility provider's engineered drawings and/or details for layout, design & specification of service. When existing sewer laterals are approved for reuse, existing lines shall be televised and approved by the local sanitation district prior to final inspection.
3. When required and as applicable, a licensed Civil Engineer or Licensed Land Surveyor shall provide written certification of setback compliance from property lines & all relative pad elevations for all new construction on the site.
4. Unless noted otherwise on Civil Engineering Plans (Grading & Drainage), the ground immediately adjacent to the foundation shall be sloped away from the building at a slope of 5% for a minimum distance of 10'-0" measured perpendicular to the face of the wall. If physical obstructions or lot lines prohibit 10'-0" of horizontal distance, a 5% slope shall be provided to an approved alternative method of diverting water away from the foundation. Drainage swale used for this purpose shall be sloped 2% where located within 10'-0" of the building foundation. Impervious surfaces within 10'-0" of the building foundation shall be sloped a minimum of 2% away from the building. CBC 1803.3. See exception for allowable finish grade slope reduction to 2% away from structure.
5. All trees marked on the "Site Plan" not scheduled for removal shall be protected by the appropriate tree protection measures identified by the consulting Arborist of record or local planning jurisdiction as applicable & required as a condition of approval. No equipment, materials or work shall commence until all tree protection fencing is installed. Tree protection fencing shall remain in place until the project is ready for final inspection. Any work required within the fenced protected area shall be performed with hand tools.
6. As applicable, see consulting Landscape Architect's drawings for flatwork, paving, recreational fixtures, proposed planting & irrigation installations.
7. **PREMISE IDENTIFICATION:** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained. CFC 505.1



Site Plan

584 Crawford Drive
Lot Area: 9921 SF (.22 Acres)
APN: 201-33-042
Zoning: R0

Notes:

1. Water service in this area is provided by CalWater. Please contact CalWater @ (650) 917-0920 or (650) 917-1380 for all water related issues.
2. Construction related materials, equipment, etc., must be stored on site unless permitted in advance by the Public Works Department. This is to avoid causing safety and/or operational issues for the movements of pedestrians, cyclists and vehicular traffic.
3. Prior to any work in the public right of way, obtain an encroachment permit with insurance requirements for all public improvements including, a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Department of Public Works. Follow the attached link for the Encroachment Permit application and requirements.
<http://sunnyvale.ca.gov/Departments/Public+Works/Engineering/Encroachment+Permits/>

REVISIONS: #

BR

Britt • Rowe
108 N. Santa Cruz Ave.
Los Gatos, CA 95030

408.354.6224 (office)
408.354.6514 (fax)
www.britt-rowe.com

Britt Rowe shall retain all rights and ownership to all drawings and specifications. The contents of the drawings may not be used in whole, or in part, without expressed written consent given by Britt Rowe. All construction shall comply with all local & national building codes. All contractors shall verify all conditions to assure conformance to these codes.

FUSILIER/ORLANDO RESIDENCE

584 Crawford Avenue
Sunnyvale, CA 94087

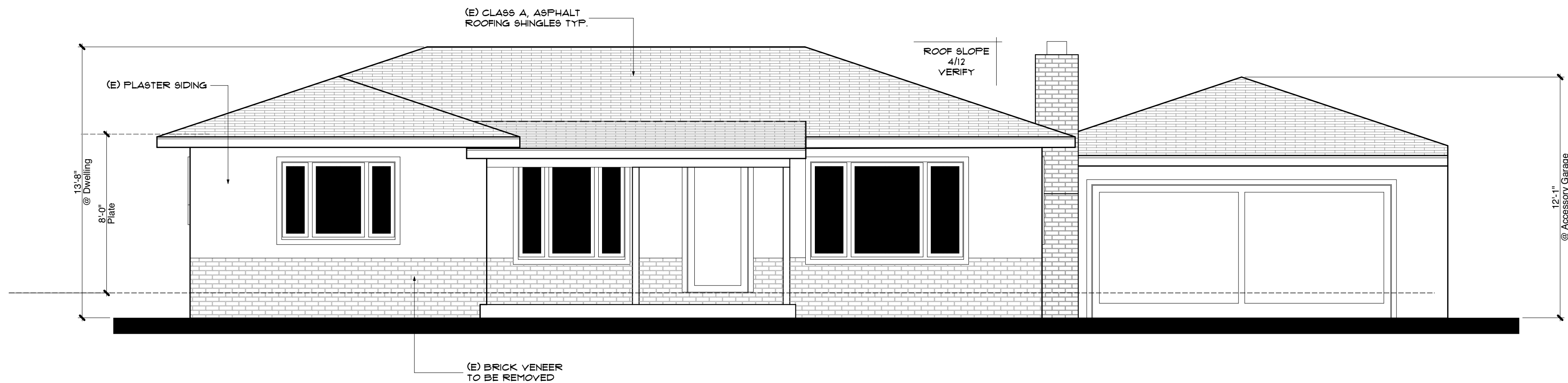
DRAWING: Site Plan

DATE: 8/9/17

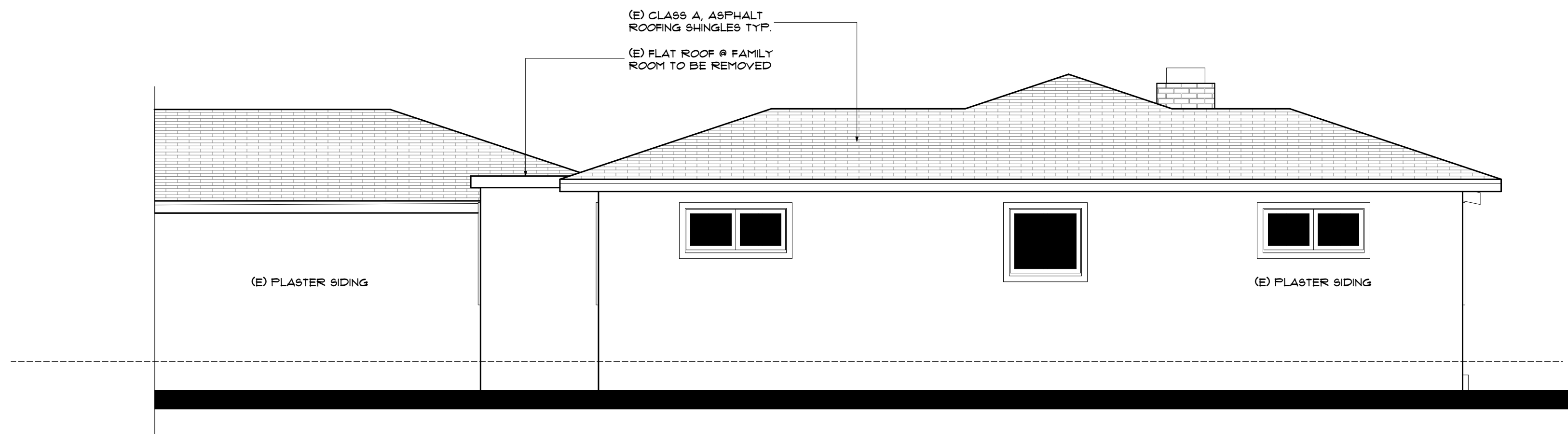
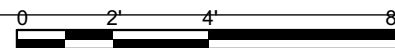
SCALE: Noted

DRAWN BY: MAR

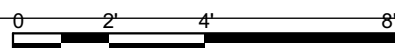
A1.1



(e) Front Elevation (N)
SCALE: 1/4" = 1'-0"



(e) Left Side Elevation (E)
SCALE: 1/4" = 1'-0"



REVISIONS:	#

BR

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FUSILIER/ORLANDO RESIDENCE

584 Crawford Avenue
Sunnyvale, CA 94087

DRAWING:	(c) Exterior Elevations
DATE:	8/9/17
SCALE:	Noted
DRAWN BY:	MAR

A2.2

REVISIONS:	#

BR

Britt • Rowe

108 N. Santa Cruz Ave.
Los Gatos, CA 95030

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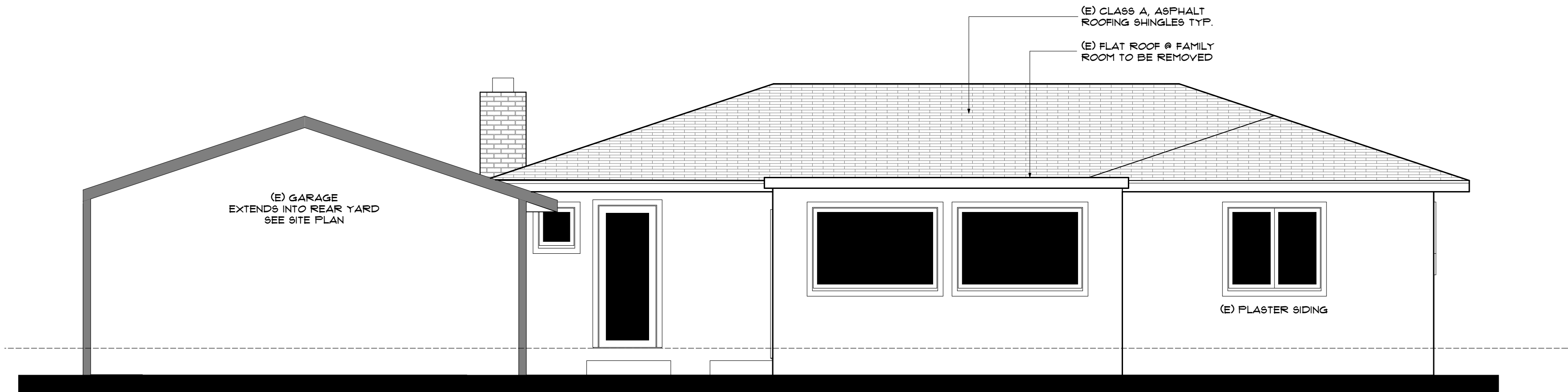
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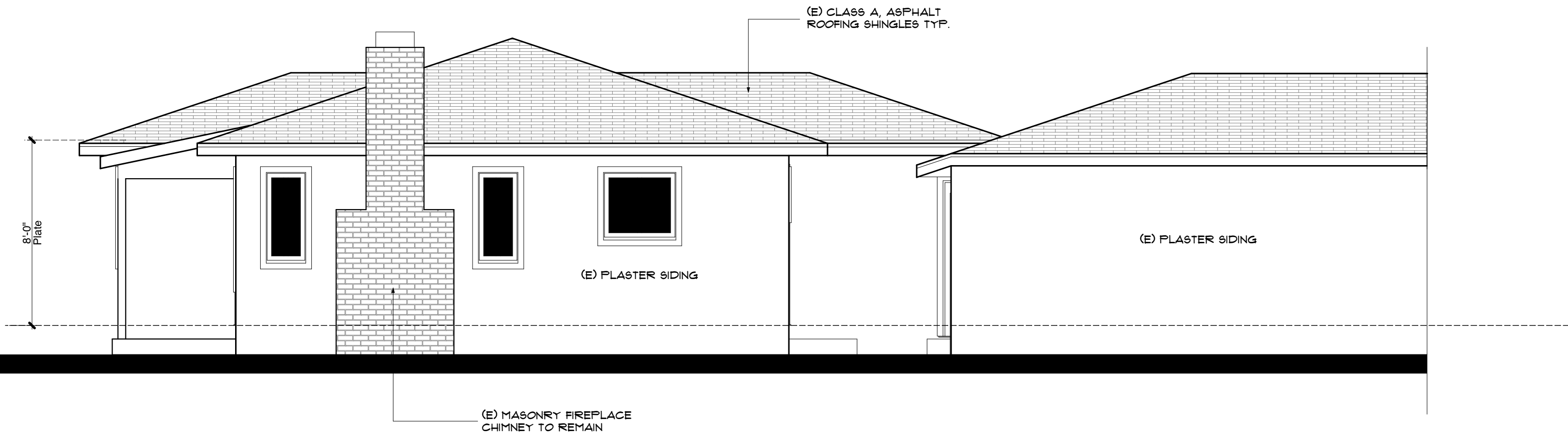
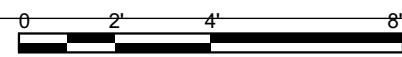
DRAWING:	(c) Exterior Elevations
DATE:	8/9/17
SCALE:	Noted
DRAWN BY:	MAR

A2.3



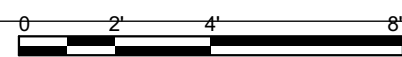
(e) Rear Elevation (S)

SCALE: 1/4" = 1'-0"



(e) Right Side Elevation (W)

SCALE: 1/4" = 1'-0"



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FUSILIER/ORLANDO RESIDENCE

584 Crawford Avenue
Sunnyvale, CA 94087

(n) Floor Plan

8/9/17

Noted

Noted

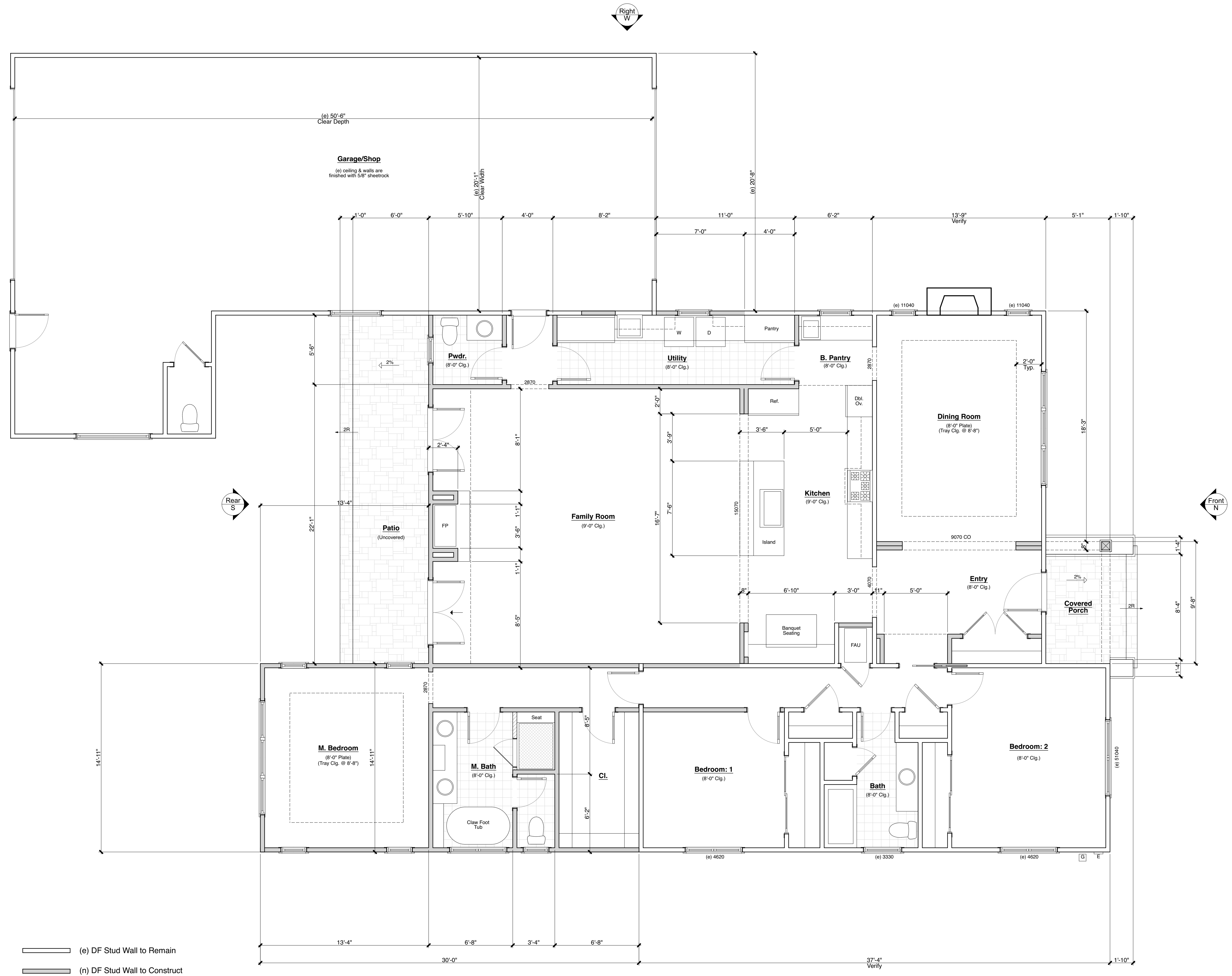
DRAWING:

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SCALE:

DRAWN BY:

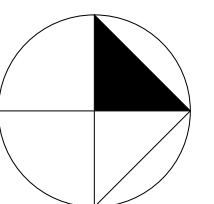
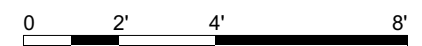
A3.1

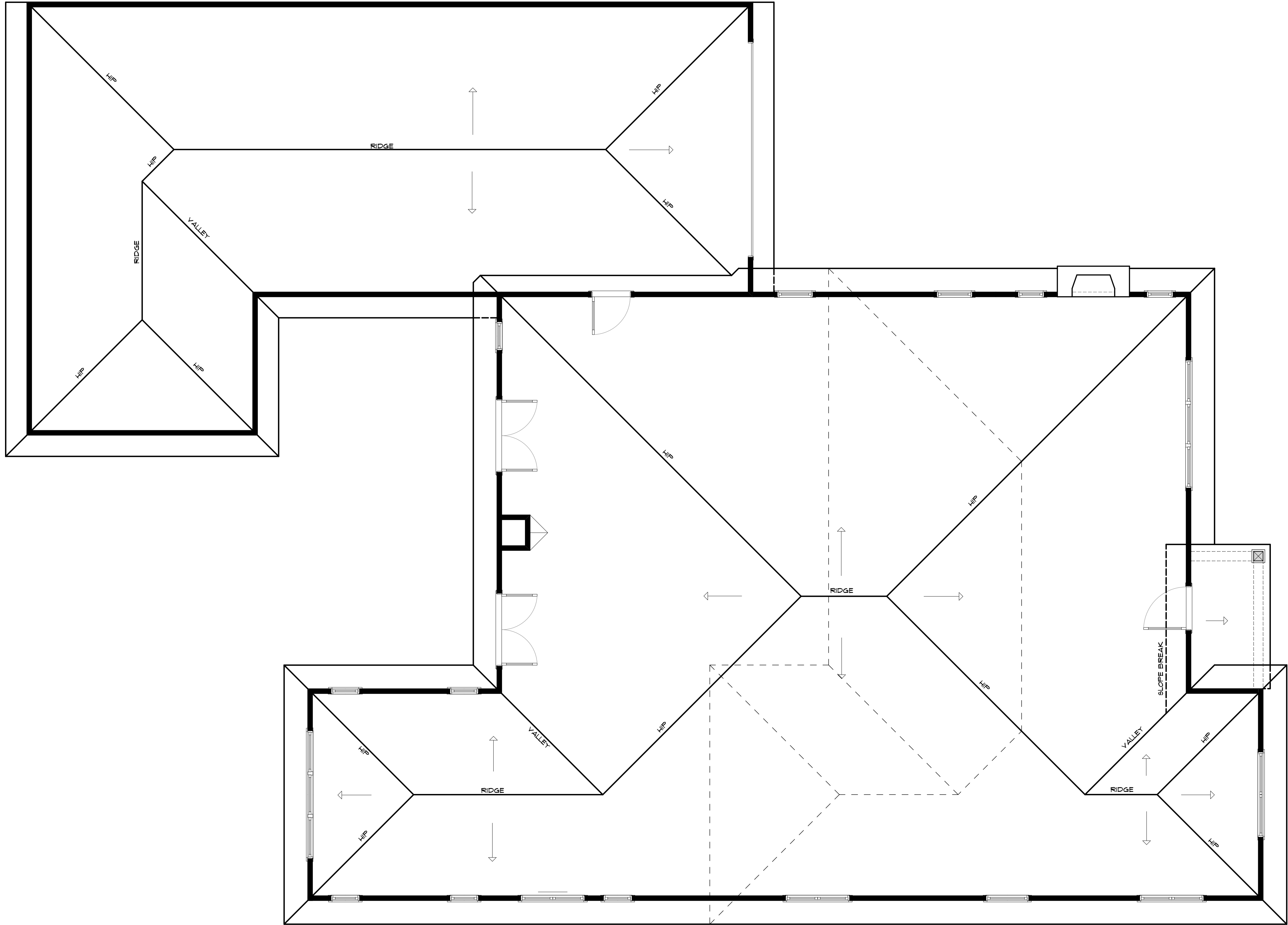


New Floor Plan

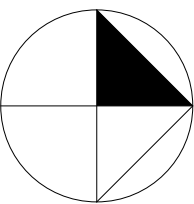
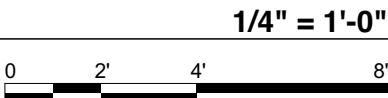
(e) Living Area: 1227.00 SF
(e) Front Porch: 76.00 SF
(e) Accessory Garage/Shop: 1205.00 SF
(n) Addition: 1142.00 SF

1/4" = 1'-0"





Roof Plan
Roof Slope: 4/12 Verify & Match (e)
Overhang: Match (e)
Material: Class A, Asphalt Shingles



REVISIONS:	#

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584 Crawford Avenue
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DRAWING:	(n) Roof Plan
DATE:	8/9/17
SCALE:	Noted
DRAWN BY:	MAR

A4.1

REVISIONS:	#

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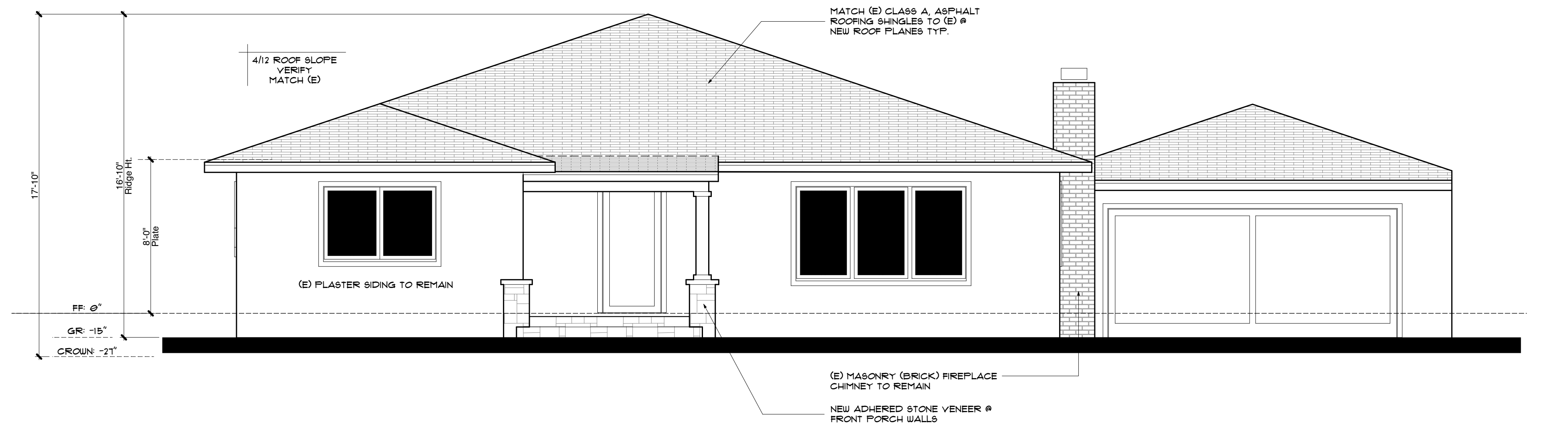
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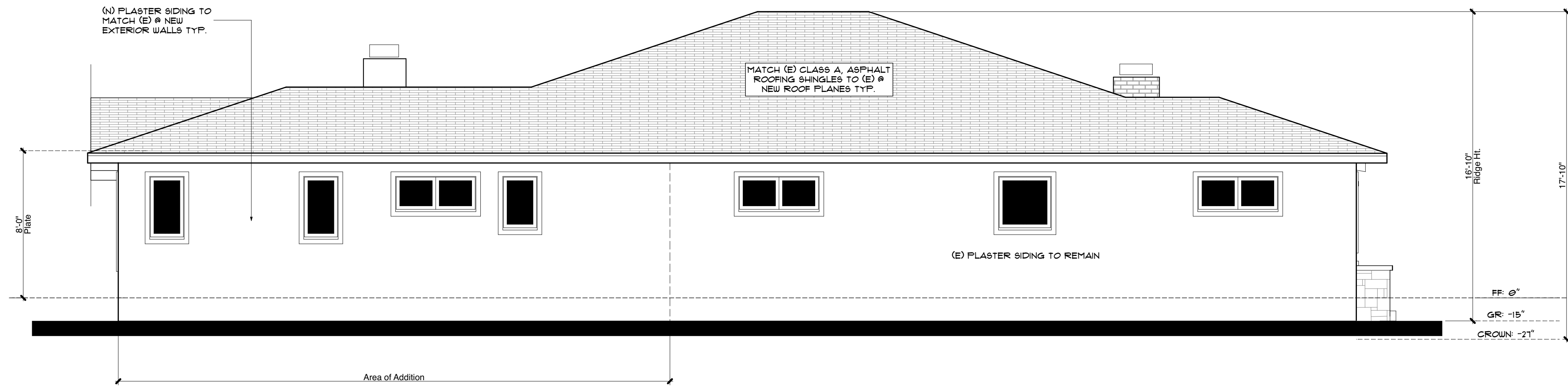
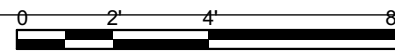
584 Crawford Avenue
Sunnyvale, CA 94087

DRAWING:	(n) Exterior Elevations
DATE:	8/9/17
SCALE:	Noted
DRAWN BY:	MAR

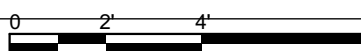
A5.1



(n) Front Elevation (N)
SCALE: 1/4" = 1'-0"



(n) Left Side Elevation (E)
SCALE: 1/4" = 1'-0"



REVISIONS:	#

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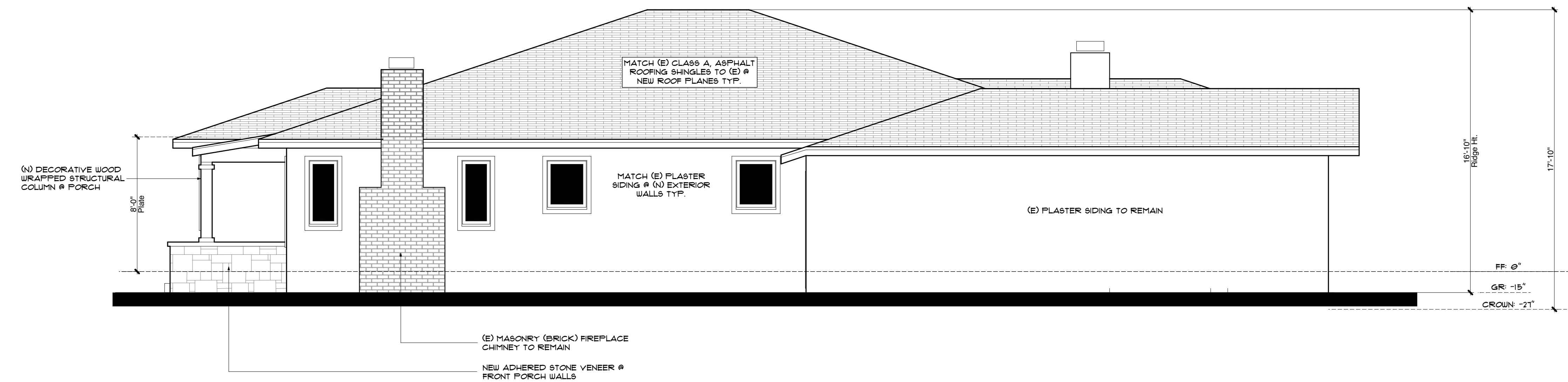
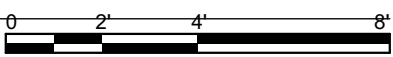
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Sunnyvale, CA 94087

DRAWING:	(n) Exterior Elevations
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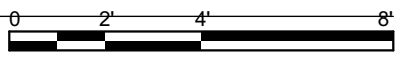
A5.2



(n) Rear Elevation (S)
SCALE: 1/4" = 1'-0"



(n) Right Side Elevation (W)
SCALE: 1/4" = 1'-0"



Request for Variance

Preamble

The following is the preamble to the variance request for Property 584 Crawford Drive. We are using this variance process because this is the method provided to us by the City that allows us to submit an expansion to our property that appears to have questionable code requirements. This document will explain the property situation and the desired expansion. We will highlight the code (19.50.020) that allows for our plan to proceed without a variance. However, if the City feels that the code is not enough information to allow for the project to move forward the document as a whole has overwhelming evidence why this is the best plan and that we are not gaining any further privileges not afforded to other neighbors. In fact, the rejection of the variance and our plan would be a direct discrimination to our family and our property that is being afforded by other property owners.

We are happy to meet with the proper City Authority to discuss the situation and request immediate approval to advance with our plan. We have been in extensive talks with various City officials and we have addressed each and every concern with conditions or situations that allow for the city to move forward with approval.

In order to address some immediate comments made by the City, see our response to your inquiries below:

1. Inquiry: Provide demolition plan showing which existing walls are to be demolished.
Answer: See floor plan A1.1 showing the expansion. The walls to the back of the house are the only walls that will be removed in order to create a great room concept. We will not be taking any front or side walls down. The wall to the garage will stay intact and we will work out those details with the designer and the City.
2. Inquiry: Provide elevations of ceiling height.
Answer: See attached schematic front elevation. The elevation is the same except there are window and door features that are different. This elevation represents the fact that you will not see the new structure in the back. As for ceiling heights, the existing ceiling height is 8' and we may increase the new great room and master bedroom to 10', which does not affect the look of the house.
3. Inquiry: The City has reiterated that we need to follow local codes and coordinate the sign-off process with the City and attain all required permits.
Answer: As for all other comments that were set as advisory comments, we understand that we need to coordinate with City agencies in order to get the proper permits. We fully intend to meet those requirements and all code requirements.

Variance Report

584 Crawford Drive

2 bedroom 1.5 bath home

This is our formal request for a variance to current building ordinances. The variance is being requested to allow us to have side yard setbacks less than the current 20% of the width of the lot. Therefore the request is to have a total of 12'-4" side yard setback instead of the required 15'. We have four people living in the house and we needed to expand our house to make our living space large enough for our family. My wife is a teacher and I work for a construction management company. We looked at options to move within the same area but we cannot afford to sell and buy another home in the same school district. I have been a Sunnyvale resident for 14 years and my wife's family has been residents since the 1930s. We truly believe that Sunnyvale is a great place to live and we want to reside here for the rest of our lives. In order to make that a reality we request that we can move forward with our home expansion with the requested variance.

The variance will first address the fact that a variance is not needed based on current code (19.50.020 Nonconforming residential building). We understand that this fact needs to be properly interpreted and utilizing this variance process will be the first step toward that interpretation. The report will then address the three major requirements necessary to allow for a variance. We have also included case studies showing how the city has allowed for other projects in our neighborhood to move forward that are extremely impactful, unlike our expansion that will not even be seen or felt by our next door neighbors. Finally, we also have a case study (666 Princeton Dr.) that shows precedents for allowing for reduced side setbacks, therefore allowing our property to have the same privileges afforded by other property owners.

The following are reasons for moving forward with our current plan:

1. Code 19.50.020 Nonconforming residential buildings allows for enlarging nonconforming structures as long as nonconformities are not increased, which is the case with our property.
2. Undue hardship to remove an existing legal but non-compliant structure.
3. With the suggested City solution of pushing in the eastside setback, this will result in an expansion of the project to the back yard which would require a removal of a mature tree that is over forty feet high.
4. Strict application of code is depriving us of privileges that are enjoyed by others. In addition, other neighbors have been allowed more egregious modifications to their houses that are extremely impactful to their neighbors.
5. Existing conditions, as a whole, still meet city codes for combined setbacks with existing properties. The property to the west is 45' away exceeding the 8' combined setbacks of two properties.
6. Precedence has been set with property 666 Princeton Drive, to expand without meeting the setback codes.

Code requirement voiding the need for a variance.

The major code interpretation that we are referencing is to allow for a legal but non-compliant garage and house to expand without increasing existing setbacks. Code 19.50.020 Nonconforming residential building, is the code that allows for existing legal but noncompliant situations to expand or modified as long as the existing setbacks do not have an increase in nonconformities, as written in the code. As is intended with all updates to new codes, the update is not to provide undue hardship to existing long-term residents. Long-term residents should not be punished by refusing to accept a variance because the current legal but non-compliant structure may not meet current code. Non-compliant structures are typically grandfathered in and this code is written with that in mind (see attached code 19.50.020). In fact this code is the reason that the City can allow for the project to move forward without a variance because there are no increases in nonconformities. See the interpretation of the code as intended:

Code 19.50.020 specifically states that an expansion of a nonconforming residential dwelling does not require a variance:

“A building legally built and occupied as a dwelling, in all zoning districts except R-1 and R-2, which does not meet current development standards except for lot area per dwelling unit may be repaired, altered, enlarged or replaced without requiring a variance provided:

- 1) No increase in non-conformities will result; and
- 2) Any required permits are obtained.”

The existing structure was legally built with permits through the County of Santa Clara. It is not an R-1 or R-2 structure and does not meet the current setback standards. However the code is specifically intended to guard against past codes that are now considered non-compliant. This code allows for the structure to be enlarged as long as the existing setbacks do not have an increase of nonconformities. Our intention is to extend the dwelling at the same 10 foot separation to the existing east property line. Therefore this plan does not increase any existing nonconformities.

The City suggested that their interpretation included the evaluation of the house and the garage being in the same plane going from east to west. Their interpretation mentioned that if both the house and garage are both in the same plane, then a one foot expansion to the south changes the non-conformity to a different condition. Even though that is an interpretation and that opinion is not sited in any code, it doesn't matter because our property structures are not in the same plane. See attachment A-0 of floor plan A2.1 that shows the existing overlap of the house and the garage.

Therefore, the code allows a legally built structure that does not meet current development standards (the garage) to be enlarged without requiring a variance. It is clear that this code is setup for this type of situation, to allow a long-term resident that has an exceptional or extraordinary circumstance that enables a structure to be enlarged as long as the non-conformity is not increased. Refer to floor plan A3.1 that shows the continual extension along

the existing setback. The non-conformity is a combined setback of 12'-4" instead of 15' and after completion of our expansion the combined setback will continue to be 12'-4".

Variance Requirements Above and Beyond Code Consideration

Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

Our objective is to install an addition that flows with the interior and exterior of our existing home. By following current building setbacks this would impact the design on the side of the house causing us to jog the interior by three feet and creating offsets of the house inside and out and providing visual barriers and safety concerns. We would prefer to have a contiguous exterior wall that is in alignment with the existing wall. We have a neighbor that was able to install a pop-out window that is less than one foot from our fence but current setback codes does not allow for me to keep the flow of the house on a linear line that is 10' from the property line. This jog creates aesthetic and safety issues and cost increases.

Undue hardship:

The extraordinary circumstance is that the current detached garage was expanded upon and the current garage is 1200sf. This is a sizeable structure and it is currently a legal but non-conforming garage because it is only 2'-4" from the property line. We want to connect our house to the garage for safety and convenience reasons. This non-compliant issue started when the County allowed for the original construction in 1957 of the garage to be too close to the property line. The 1949 tract language (see top of page 2 of the Declaration of Restrictions) states that all new structures have to be minimum 5 feet from the property line. Again in 1996 the County allowed for an expansion of the garage to 1200 square feet including plumbing, a new electrical panel and finished interior walls. These continual allowances put us into an awkward situation unlike others within the neighborhood.

One of the suggestions by the City was to remove the garage to allow for setback compliance. With this expansion it would cost more than \$60,000 to remove and put back a compliant structure. We do not have enough of a budget to eliminate this structure and add a new garage. This would be an unusual hardship on a long-term resident of Sunnyvale. This existing condition is causing extreme difficulty to design a home that flows and meets our needs as a family. This undue hardship cannot be required of us since every other property does not have to remove their non-compliant structures in order to meet current codes.

The other hardship that may affect us is if this one story plan does not meet our needs then we may need to consider a two story addition. A two story design is much more expensive and much more obtrusive to our neighbors. We also know that our neighbors have voiced objections to a two story addition next to their home because there is already a two story on the other side of their home. We have a limited budget and the two story scenario is not a viable solution.

Our current plan is setup to save a tree:

The City has suggested that we can increase the setback on the east side of the property by 2'-8" to meet the current code. This will push the expansion to the back of the property to meet the same requirements we are looking for in this expansion. We were told that there is room on our property and this is needed to increase the setback. However, this expectations will result in pushing the expansion back into the dew line of a forty foot tree that is over 25 years old, requiring us to remove the tree. We would prefer to stay in our plan and not have to remove a historic tree, as suggested by the City.

Depriving us of privileges enjoyed by others:

We have sited many conditions within this variance that show that other neighbors are enjoying privileges that we are not. The first condition is case study three shown below. Our neighbor to the east is afforded the privilege of an expansion of their house but they do not have the minimum combined setback of 15'. They are enjoying the expansion and not having the proper setbacks. This is clearly why code 19.50.020 is in place to allow for older house to benefit of expansion without increasing the non-conformities. In fact, their gutter is less than one foot from the property line. To date, I cannot find an answer from the City, explaining the impact difference of a 10' setback or a 12'-8" setback on the east side of the property. But I can tell you the impact difference of a structure that is supposed to be a minimum of 4' away and is essentially right on the property line. Clearly there is a privilege that is enjoyed by our neighbor that we are not afforded. In fact, there house is less that one foot away and we are being asked to move our house to 12'-8" away. The City needs to have a full explanation of why one neighbor is granted such privileges and another neighbor is being forced to move a set back from 10' to 12'-8".

In addition, our request to stay at the same 10' setback is not an impact to any neighbors and our next door neighbor would prefer that opposed to a two story structure. Our proposed expansion will not even be seen and the neighbors will enjoy the benefit of higher housing prices in the area. Unlike our neighbor at 591 Crawford who is constructing a 4,100 square feet home that is three stories tall. This is major impact on our street and a benefit that is far beyond any request being asked of us. We want a simple expansion and not a structure that does not fit in the neighborhood.

The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity and within the same zoning district.

The addition will be in the back of the house and will not be noticed from the street. In addition, the left side of the house complies with the 4' minimum and in fact it is currently 10'. We are adding a single story to the existing structures and will not affect any neighboring houses. The City's suggestion is to move the setback to 12'-8" instead of the 10' that exists. I have not heard anyone explain the difference between 10' and 12'-8" setback and the affect it has on the properties as a whole. Moving in to 12'-8" does not create a more favorable situation for the house on the east or the west.

The west side of the structure, at the garage, is 2'-4" and does not meet the current code of 4'-0" minimum setback. However, the existing condition needs to be taken into account. The adjacent house on the west side is more than 45 feet away from my property. If the setback along the garage was for

safety, fire protection or privacy then the existing condition exceeds those requirements. The City needs to evaluate not just the existing condition of the property but the existing condition of both properties as a whole. This is the **exceptional or extraordinary circumstance or condition**, as stated in the variance language. No other property in this adjacent neighborhood can show a similar situation.

I was told by the City that, if I had an easement with the west property, stating that no structure can be built any closer than 5'-8" from the property line, then a variance was not needed because the condition would meet the minimum 8' setback for both properties. This suggests that a combined 8' separation is an acceptable setback. In this case it is over a 45' combined setback far exceeding the current code. Therefore the existing condition needs to be considered as an acceptable current condition. If an easement is acceptable then the existing condition is acceptable to meet the current code as it stands today.

Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

It is our understanding that the intent of the code is to provide safe barriers from each home. Our neighbor to the east has a pop-out window that is less than one foot from the property line and our current structure is ten feet along with the planned home addition. Our neighbor to the west side of our property is farther than forty five feet from the next home. So it appears that the safe setbacks zones would still be intact. Our house is located near the end of a dead-end street, away from regular traffic. We are next door to an acre lot and our house is more than forty five feet from that house. They would not have any objection to our expansion. In fact we are related to the Olson's and they encourage us to upgrade the house. Our next door neighbor to the east just renovated their house and would be happy to see additional upgrades to the street and would prefer that we are not pushed into doing a two story because of an additional 2'-8" setback. Our neighbor across the street also renovated their house and encourages us to do the same. We are not asking for anything more than allowing us to connect to a garage that was originally installed and then expanded upon in 1997 but is a non-conforming structure.

The benefit that we will be receiving is to allow us to connect to our existing non-conforming garage in order to increase our safety and convenience that is afforded by most other neighbors on our street. In addition, it allows for us to create a flow for the house on the inside and outside that is not observable from the street. We feel this is not an evasive project and it ultimately will be a benefit for the community, county and city, through increased property value and desire to be in Sunnyvale.

The following are case studies that exhibit the fact that we will not be granted special privileges not enjoyed by others.

Case Studies:

We have taken pictures throughout the neighborhood and have found many properties that are currently non-conforming with current codes. We wanted to review three case studies that show the true benefit other neighbors are receiving. These case studies show the benefits others are receiving and therefore not setting a precedent within the community.

1. 666 Princeton Dr., 94087 – They finished their remodel and expansion to their existing non-conforming house. The expansion appears to be a modification/expansion to the second story. Their expansion is clearly visible from the street. Their lot size is 62' in width with an 11' total setback. The reason for the identification of this property is because their modification/expansion is similar to our situation in the fact that they are expanding to a non-conforming structure. If this property has been able to expand to an existing non-conforming structure then I know precedence has been set and that we would be afforded the same benefit. See pictures A1 through A6 showing the renovation and the side yards.

As for drawings A5 and A6 those are before and after pictures of the property. I was told by the City that there was no increase of square footage on that renovation therefore there was no need to do a variance. The pictures actually show a pop-out in the front of the house that was not there before. This illustrates that a neighbor has already set precedence and that an expansion to a non-conforming structure is acceptable as this report already outlined in code 19.50.020.

2. 569 Sunnymount Dr., 94087 – This property had a recent expansion in the back that is clearly visible from the street. In addition, the lot size is approximately 75' across and the side yards total to less than the minimum 15' setback. It appears the expansion was done prior to the code change but that neighbor is currently reaping the benefit of a larger expansion with a non-conforming house. Therefore, we are not creating precedent and our expansion will not be seen from the street. See pictures B-1 through B-2 showing the side yards and expansion.
3. 582 Crawford Dr., 94087 – This property is our next door neighbor. They completely modified their property back in 2012, prior to the code change. There was an expansion in the back east side for their master bedroom along with an expansion on the west side for their living room. Their current setbacks are 5' on both sides for a 75' lot width. They are currently benefitting from a non-conforming home. In addition, they also made a pop-out on the west side toward our property and the gutter is less than 12" from the property line. This modification is an egregious privilege, far exceeding our request for staying with the same setback. See Picture C-1 showing the setback of the gutter.

We appreciate your consideration for our code evaluation and the variance. We are available to answer any questions regarding the property and the expansion. I can be reached at 408-828-9258.

Sincerely,

A handwritten signature in blue ink, appearing to be "Bob Fuselier" and "Lisa Orlando" joined together.

Home Owners Bob Fuselier and Lisa Orlando

Sunnyvale Municipal Code						
Up	Previous	Next	Main		Search	Print

[Title 19. ZONING](#)

[Article 4. GENERAL DEVELOPMENT STANDARDS](#)

[Chapter 19.50. NONCONFORMING BUILDINGS AND USES](#)

19.50.020. Nonconforming residential building.

(a) A building legally built and occupied as a dwelling, in all zoning districts except R-1 and R-2, which does not meet current development standards except for lot area per dwelling unit, may be repaired, altered, enlarged or replaced without requiring a variance provided:

- (1) No increase in nonconformities will result; and
- (2) Any required permits are obtained.

(b) A building legally built and occupied as a single-family or duplex dwelling in the R-0, R-1 and R-2 zoning districts may be repaired, altered, enlarged or replaced without a variance even if it does not meet current development standards for lot area per dwelling unit, provided all other current development standards are met and any required permits are obtained. (Ord. 2745-04 § 1; Ord. 2623-99 § 1; prior zoning code § 19.28.005).

View the [mobile version](#).

DECLARATION OF RESTRICTIONS

605383

This Declaration made and dated this 23rd day of November, 1949, by Elsie R. Kay.

WHEREAS, said parties are the owners of a certain tract of land situate in the County of Santa Clara, State of California, described as follows:

That certain Tract entitled, "Tract No. 671 Talisman Tract", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on November 21, 1949 in Book 24 of Maps, at page 46, to which said Map and the said record thereof, reference is hereby made, and

WHEREAS, said parties are about to sell property shown on said Map, which they desire to subject to certain restrictions, conditions, covenants and agreements between themselves and the purchasers of said property, as hereinafter set forth:

NOW THEREFORE, said parties declare that the property shown on the Map of Talisman Tract is held and shall be conveyed subject to restrictions, conditions, covenants, charges and agreements set forth in the Declaration, to-wit:

DEFINITION: The word "Lot" as herein used refers to one of the numbered lots as delineated upon the original recorded Map of the Tract within which the above described real property is located.

The word "Plots" as herein used refers to an individual site for a residence, together with the grounds in connection therewith, whether composed of one or more "lots" or portions or combination thereof, as said "Lots" are above defined.

a. All of the lots, plots and parcels hereinbefore described are declared to be residential in character and no structure shall be erected on Lots 1 and 10 to 23, inclusive, other than one detached single family dwelling, not to exceed two stories in height, with a private garage and other outbuildings incident to the residential use of the plot.

A Multiple family dwelling or one detached single family dwelling not to exceed two stories in height may be erected on Lots 2 to 9 inclusive, and Lot 24, together with a private garage with liveable quarter above and other outbuildings incident to the residential use of the plot.

A Multiple family dwelling, two family dwelling or one detached single family dwelling, not to exceed two stories in height, may be erected on Lot 25, together with a private garage and other outbuildings incident to the residential use of the plot.

b. No dwelling shall be erected on any building plot nearer than twenty-five (25) feet to the front property line nor nearer

than eight (8) feet to a side street line. No dwelling or structure shall be erected nearer than five (5) feet to any property line.

c. All of said lots are held and owned and shall be conveyed subject to the express condition that said real property shall not be used or occupied by any person of African, Japanese, Chinese, Mongolian or Malay descent; provided, however, that said conditions shall not be construed as prohibiting persons of such descent from residing upon said property while in the employment as servants of the persons occupying the said property.

d. No trailers, basement, tent, shack, garage, barn or other out-building shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be permitted.

e. No dwelling house having a ground floor area of less than 800 square feet, in the case of a single family dwelling; 1000 square feet in the case of a two family dwelling; 2000 square feet in the case of a multiple family dwelling, exclusive of garage, open porches, terraces and other appurtenances, shall be erected upon any building plot, within the area subject to these restrictions.

f. No commercial or manufacturing enterprise shall be carried on upon any plot nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

g. No livestock rabbits nor creatures of any kind shall be kept or bred upon any lot for commercial purposes. ~~Nothing~~ herein contained shall be construed as restricting the right to keep household pets upon said premises.

h. No structure shall be moved onto any building plot without prior approval in writing by the subdivider's, their heirs or assigns.

i. All of the restrictions, conditions, covenants, and agreements shall affect all of the lots as hereinabove set forth and are made for the direct and reciprocal benefit thereof, and in furtherance of a general plan for the improvement of said Tract, and the covenants shall attach to and run with the land. Said restrictions, conditions and covenants shall be binding on all parties and all persons claiming under them until November 1, 1969, at which time they shall be automatically extended for successive periods of five years, provided, however, that such restrictions, conditions, covenants and agreements, or any of them, may be changed, rescinded or annulled in any or all particulars at any time by a majority of the then individual property owners in said Tract, evidenced by an instrument in writing executed by the said owners in the manner provided by law for the conveyance of real property, and duly recorded in the office of the Recorders aforesaid, and upon such recordation shall be valid and binding upon the Sellers and owners of the said lots in said Tract, and upon all other persons.

j. If the parties hereto, or their successors or assigns shall violate or attempt to violate any of the covenants herein before November 1,

1969, ordering any of the extended periods for which they are in force, it shall be lawful for any persons owning any real property subject thereto, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants, and either to prevent him or them from so doing or to recover damages or other dues for such violation.

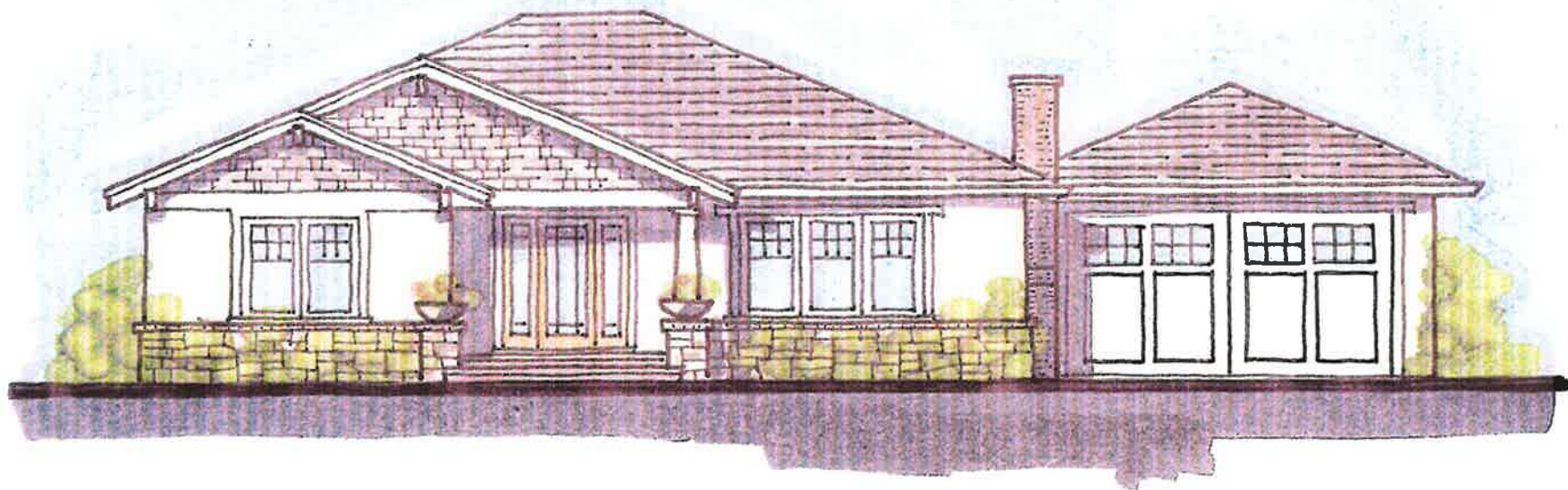
k. It is further provided that a breach of any of the conditions contained herein or of any re-entry by reason of such breach, shall not defeat or render invalid the lien of any Mortgage or Deed of Trust made in good faith and for value as to said premises or any part thereof; but said conditions shall be binding upon and effective against any owner of said premises whose title thereto is acquired by foreclosure, trustee's sale or otherwise.

l. Invalidation of any one or more of these covenants by judgment or court order shall in no wise affect any of the other provision which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has hereunto set their hands and seals the day and year first hereinabove written.

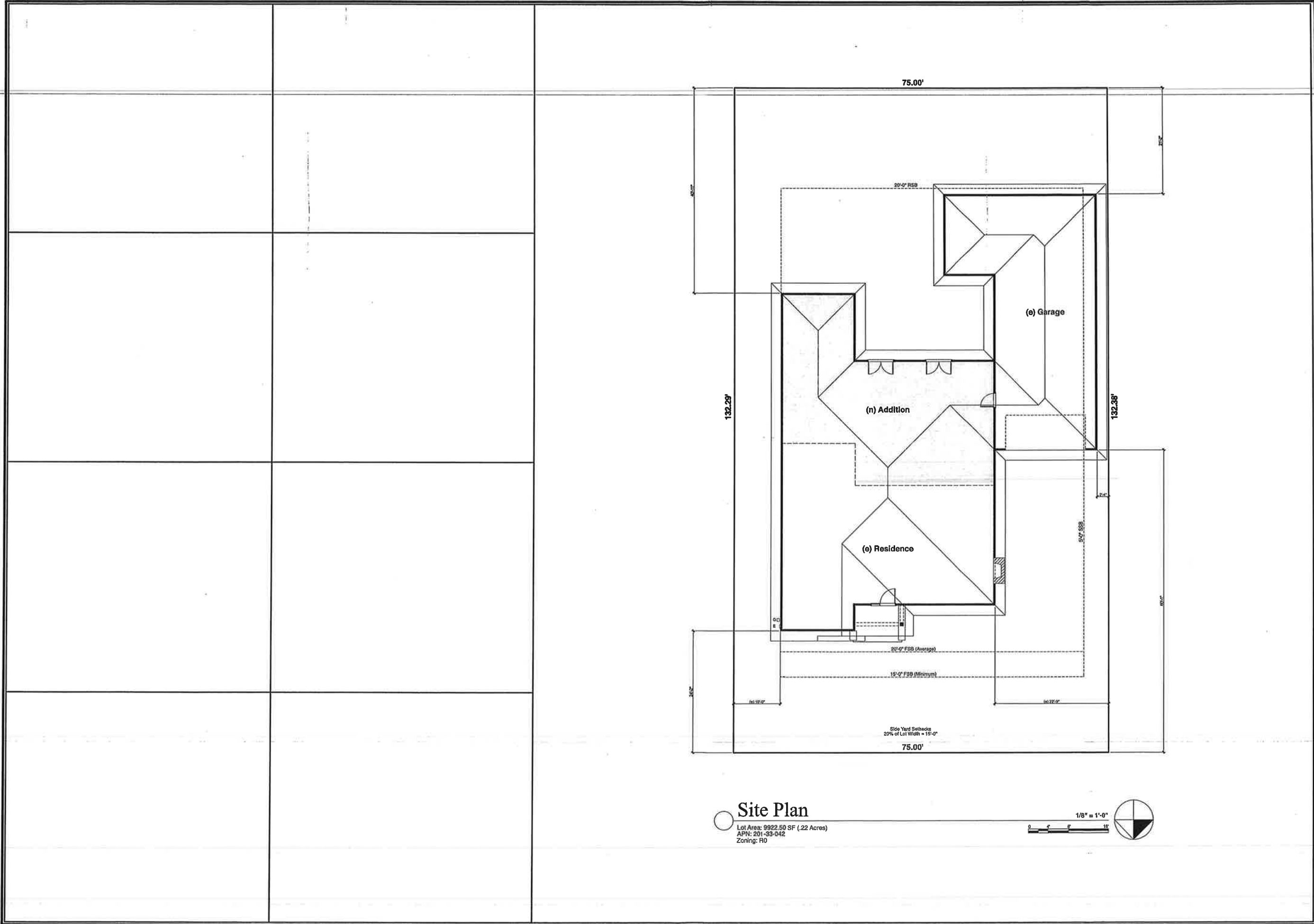
----- ELSIE R. KAY -----
Elsie R. Kay

Recorded November 29, 1949
Recorder's Serial Number 605383
Book 1882 Official Records, page 460

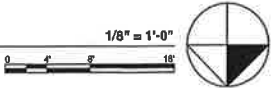


Schematic Front Elevation Ver. 1.0

1/8" = 1'-0"



Site Plan
Lot Area: 9922.50 SF (.22 Acres)
APN: 201-33-042
Zoning: R0



REVISIONS:	
#	

BR

Britt • Rowe
108 N. Santa Cruz Ave.
Los Gatos, CA 95030

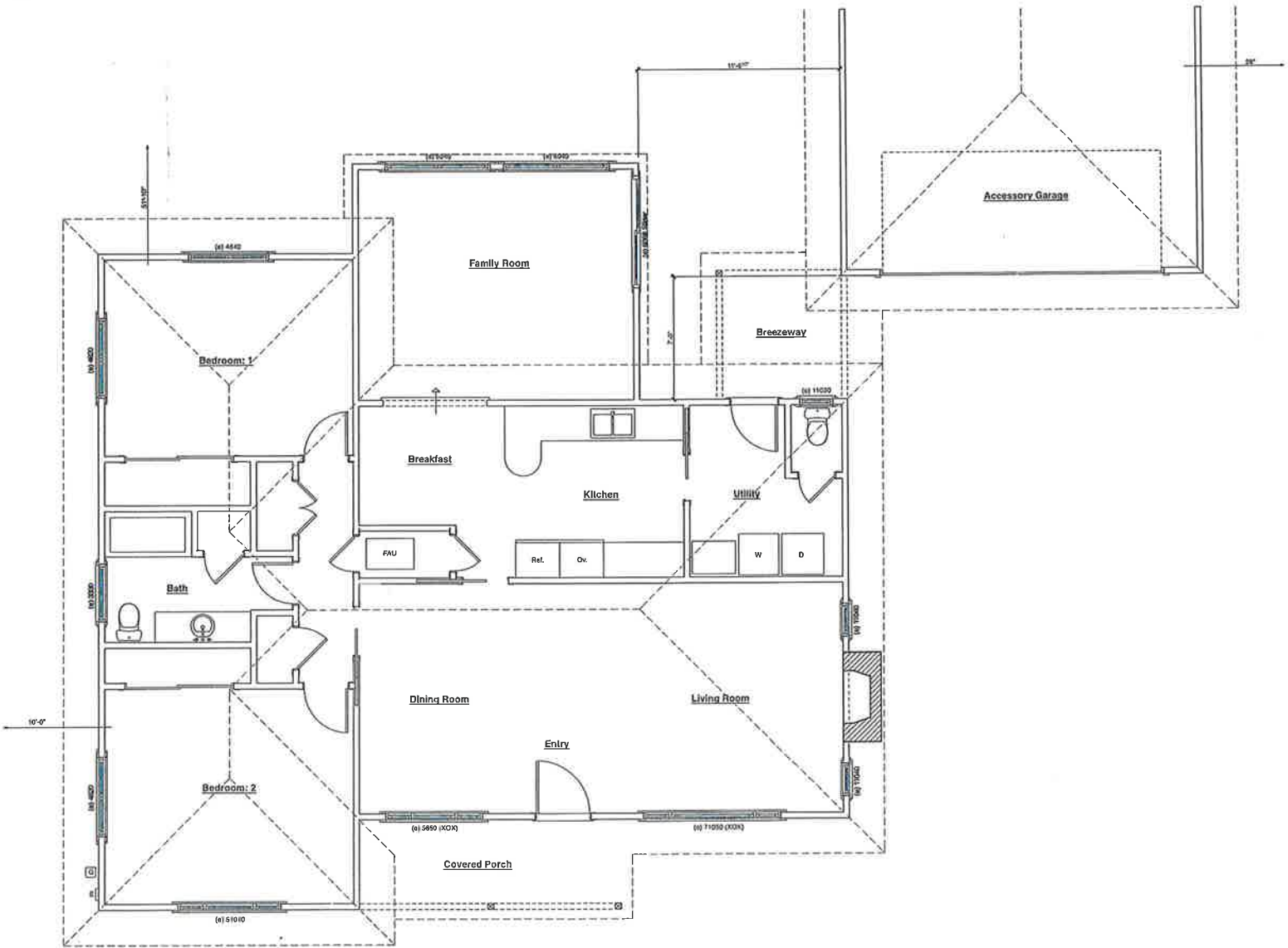
408.354.6224 (office)
408.354.6514 (fax)
www.britt-rowe.com

Britt Rowe shall retain all rights and ownership to all drawings and specifications. The contents of the drawings may not be used in whole, or in part, without expressed written consent given by Britt Rowe. All construction shall comply with all local codes and regulations. All contractors shall verify all conditions to assure conformance to these codes.

FUSILIER RESIDENCE
584 Crawford Drive
Sunnyvale, CA 94087

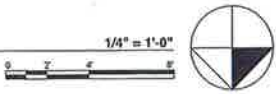
DRAWING:	Site Plan
DATE:	5/21/14
SCALE:	Noted
DRAWN BY:	MAR

A1.1



Existing Floor Plan

(e) Living Area: 1441.74 SF
(e) Front Porch: 75.88 SF
(e) Accessory Garage/Shop: 1222.47 SF



REVISIONS:	#

BR

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Los Gatos, CA 95030

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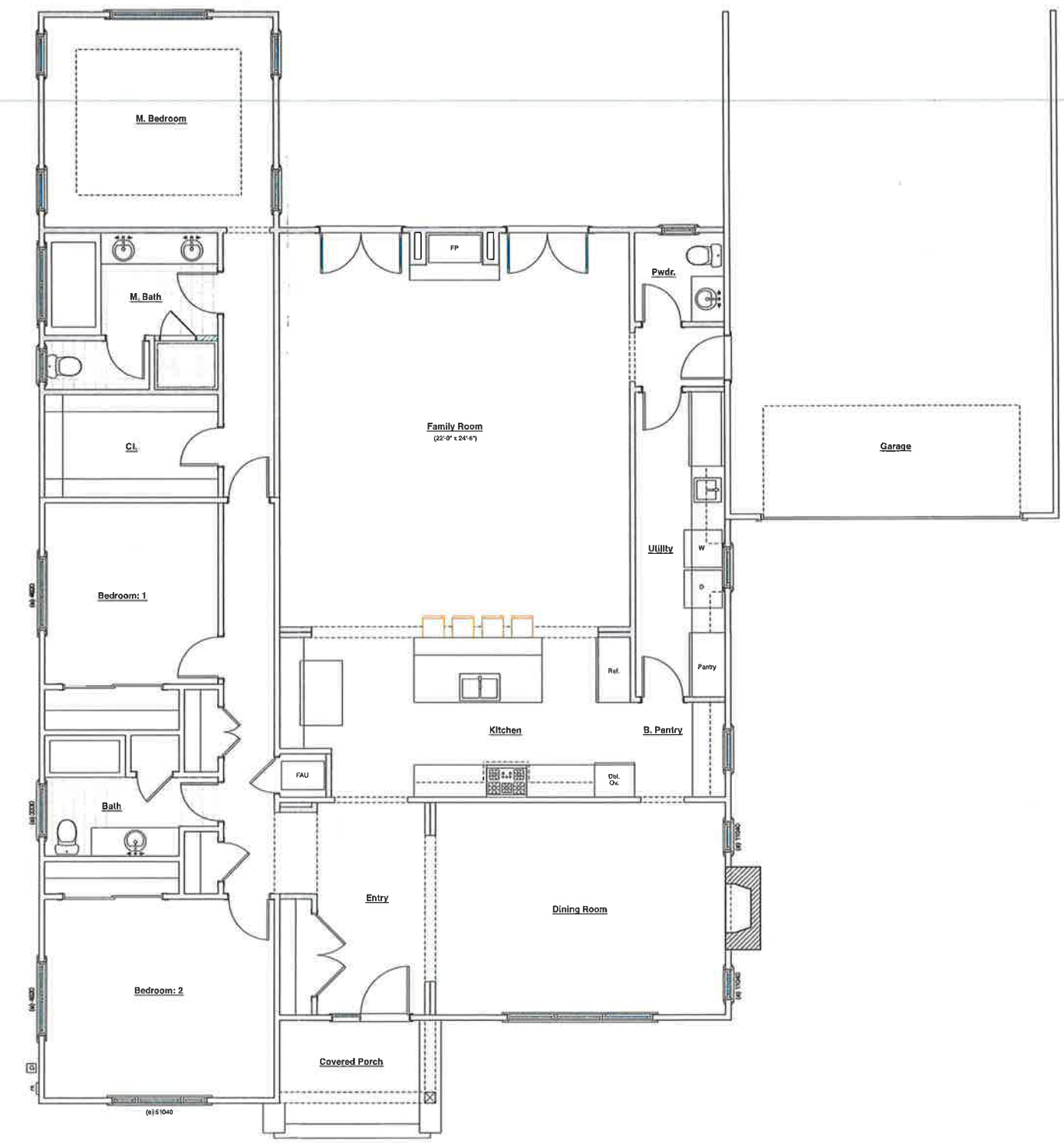
Britt Rowe shall retain all rights and ownership in and to the drawings and specifications. The contents of the drawings may not be used in whole, or in part, without expressed written consent given by Britt Rowe. All construction shall comply with all local & national building codes and regulations to ensure conformance to these codes.

FUSILIER RESIDENCE

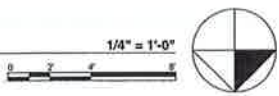
584 Crawford Drive
Sunnyvale, CA 94087

DRAWING:	Existing Floor Plan
DATE:	5/21/14
SCALE:	Noted
DRAWN BY:	MAR

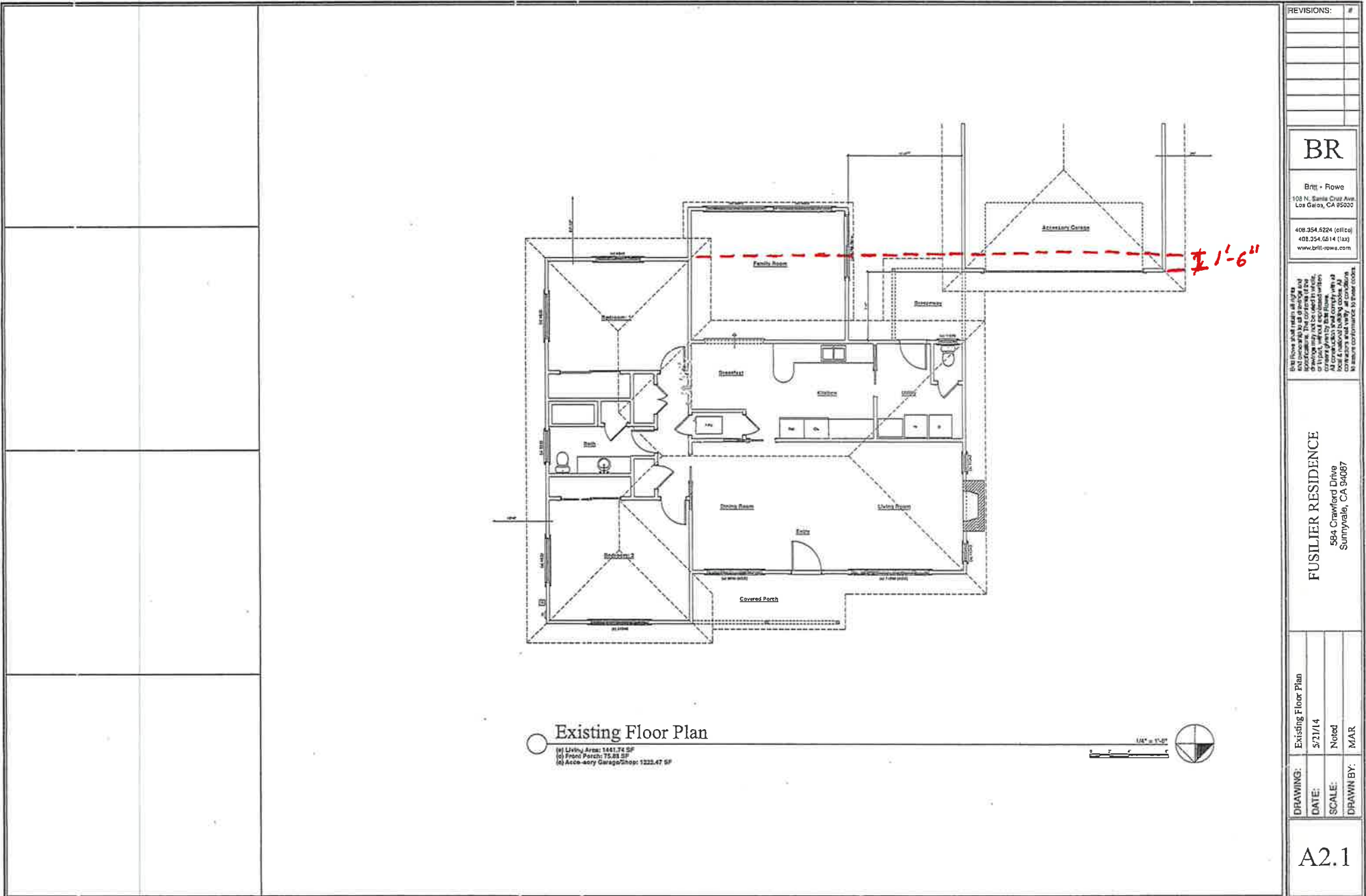
A2.1



New Floor Plan
(e) Living Area: 1441.74 SF
(e) Front Porch: 75.88 SF
(e) Accessory Garage/Shop: 1222.47 SF
(n) Addition: 782.76 SF



REVISIONS:		#
BR		
Britt + Rowe 108 N. Santa Cruz Ave. Los Gatos, CA 95030 408.354.8224 (office) 408.354.6514 (fax) www.britt-rowe.com		
<small>Britt Rowe shall retain all rights and ownership to all drawings and specifications. The contents of this drawing are not to be used, copied, or in part, without expressed written consent given by Britt Rowe. All construction shall comply with all local & national building codes. All contractors shall verify all conditions to assure conformance to these codes.</small>		
FUSILIER RESIDENCE 584 Crawford Drive Sunnyvale, CA 94087		
DRAWING:	New Floor Plan	
DATE:	5/21/14	
SCALE:	Noted	
DRAWN BY:	MAR	
A3.1		



**FLOOR PLAN EXISTING
A-0**



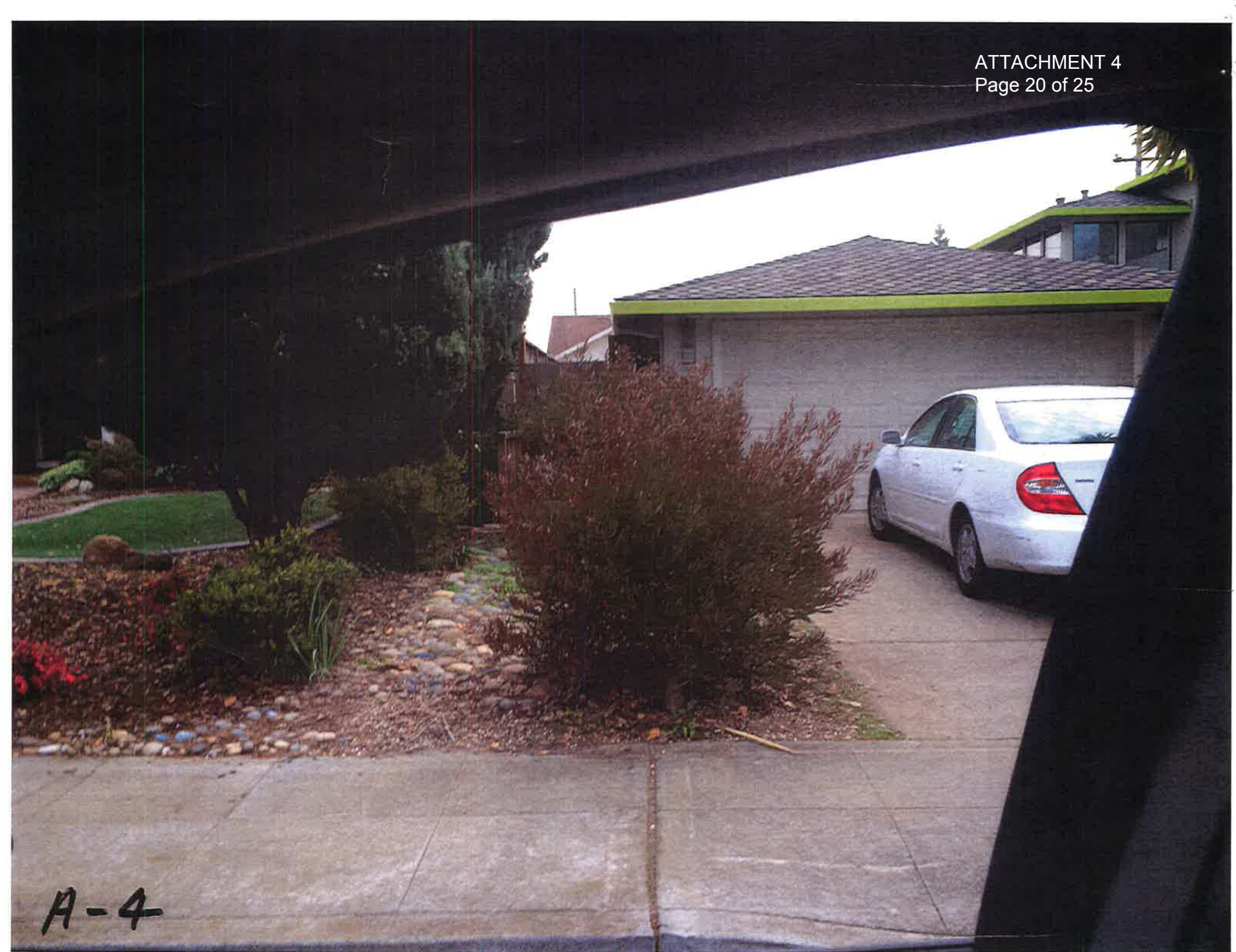


A-2



A-3

A-4



Google Maps

666 Princeton Dr
version 161209 picture

*666 PRINCETON
EXPANSION OF HOUSE*



Imagery ©2016 Google, Map data ©2016 Google 20 ft

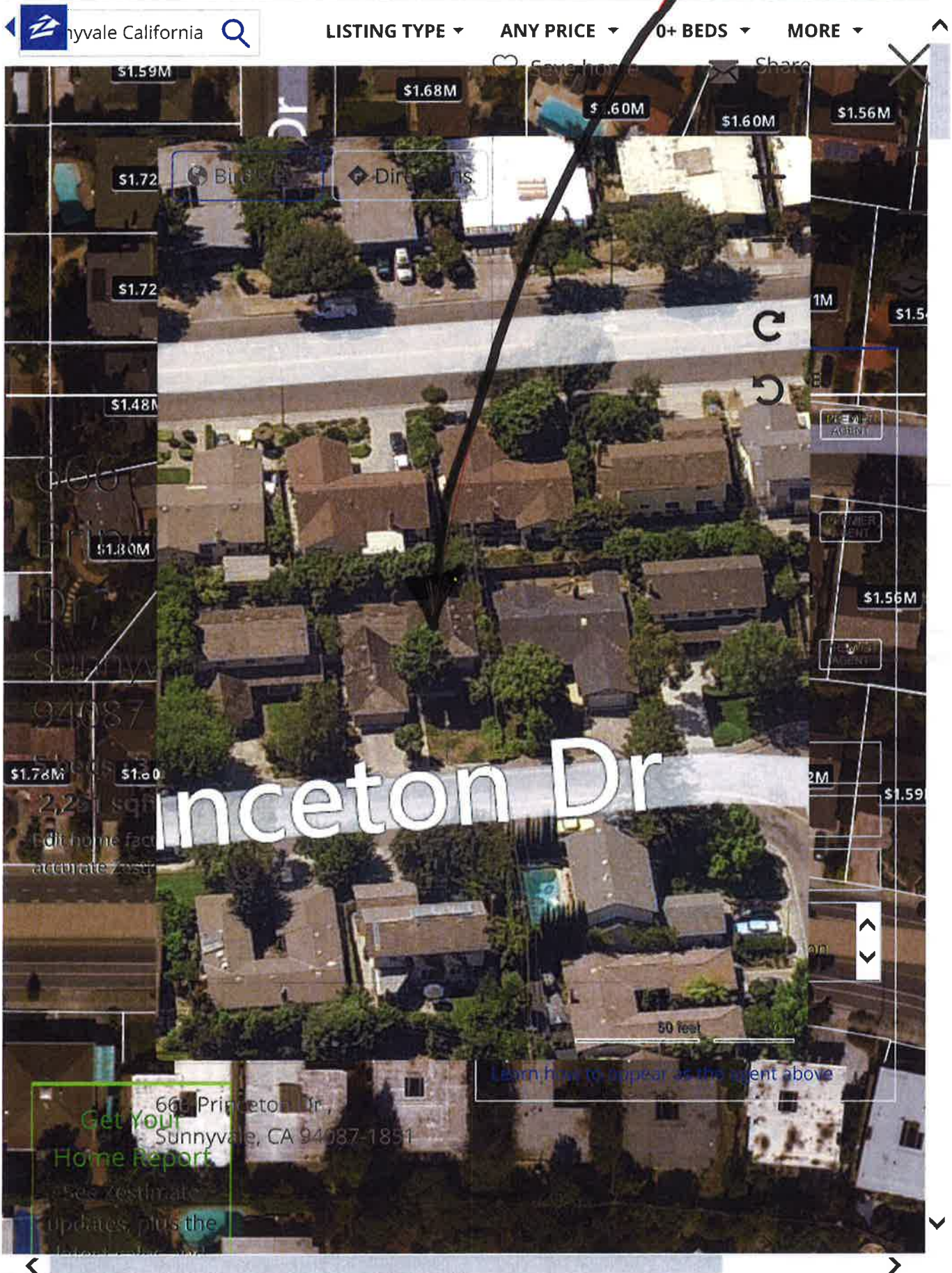


666 Princeton Dr
Sunnyvale, CA 94087



A-6

666 PRINCETON - PRIOR
TO RENOVATION.







B-2





City of Sunnyvale

Agenda Item

17-0820

Agenda Date: 8/30/2017

REPORT TO THE ZONING ADMINISTRATOR**File #:** 2015-7144**Location:** 584 Crawford Drive (APN: 201-33-042)**Applicant / Owner:** Bob Fuselier**Proposed Project:**

DESIGN REVIEW for a 1,142 sq. ft. one-story addition to an existing 1,227 sq. ft. one-story single-family home (2,369 sq. ft. living area and 1,205 sq. ft. garage), resulting in 3,574 sq. ft. and 36% FAR. The project includes attaching the existing garage to the home and a minor architectural modification to the existing front porch.

VARIANCE to allow a 12-foot, 4-inch combined side yard setback when 15 feet is required.

Reason for Permit: A Design Review permit is required for an addition that adds more than 20 percent of the existing home area. A Variance is required for the request for a reduced combined side yard setback.

Project Planner: George Schroeder, (408) 730-7443, gschroeder@sunnyvale.ca.gov

Issues: Setbacks, Neighborhood Compatibility

Recommendation: Deny the Design Review and Variance

PROJECT DESCRIPTION

	Existing	Proposed	Required/Permitted
Zoning:	R-0	Same	N/A
Lot Size:	9,921 sq. ft.	Same	N/A
Gross Floor Area:	2,432 sq. ft.	3,574 sq. ft.	3,600 sq. ft. (threshold for Planning Commission review)
Floor Area Ratio (FAR):	25%	36%	45% (threshold for Planning Commission review)
Lot Coverage:	25%	37%	45% max.
Building Height:	14'-8"	17'-10"	30' max.
No. of Stories:	1	Same	2 max.
Front Yard Setback:	24'-2"	Same	20' min.
Rear Yard Setback:	70'-11"	21'-2" (existing garage setback)	20' min. with up to a 10' encroachment
Left Side Setback:	10'	Same	4' min.

17-0820

Agenda Date: 8/30/2017

Right Side Setback:	22'-9"	2'-4" (existing garage setback)	4' min.
Combined Side Setback:	32'-9"	12'-4"	15' min.

Previous Planning Projects related to Subject Application:	None
Neighborhood Preservation Complaint:	None
Deviations from Standard Zoning Requirements: 12-foot, 4-inch combined side yard setback when 15 feet is required per Sunnyvale Municipal Code (SMC) Table 19.34.030.	Yes

Background

The applicant is proposing a 1,142-square foot addition at the rear of an existing one-story single-family home, resulting in 36% Floor Area Ratio (FAR) and 3,574 sq. ft. The addition would connect the existing nonconforming detached garage to the house. The existing front porch would also be modified in design. The proposed addition meets the Single Family Home Design Techniques and Sunnyvale Municipal Code (SMC) development standards, except for the combined side yard requirement. The applicant is requesting a Variance from this standard to allow for a desired floor plan (see Attachment 3 - Site and Architectural Plans).

Site Plan and Architecture

The subject property is rectangular in shape and 75 feet wide throughout the depth of the lot. The combined side yard setback requirement per SMC Table 19.34.030 is 20% of the lot width at the front setback line, which results in 15 feet for this property. The minimum side yard setback requirement on one side is four feet. The proposed addition would be setback ten feet on the left side, and the right side setback would change from 22-feet, 9-inches to 2-feet, 4-inches because the existing nonconforming garage would be attached to the house. This results in a 12-foot, 4-inch combined side yard setback where 15 feet is required.

The existing detached garage along the right side was constructed when this property was in the jurisdiction of Santa Clara County. This property, along with others on Crawford Drive, was annexed by the City in 2002. Per SMC Section 19.50.020, legal nonconforming residential structures can continue to remain, as long as there is no increase in its nonconformity. Aside from attaching the garage to the house, there would be no changes to its size, location, or height. Therefore, this existing nonconforming side yard setback can continue to remain. However, on the left side, the addition would continue the existing ten-foot side yard setback and would be at the same plane as the garage, resulting in the 12-foot, 4-inch combined side yard setback, which requires a Variance. This combined side yard setback occurs for the entire 30-foot length of the addition on the left side. In order to meet the required setback, the new addition would need to be setback an additional 2-feet, 8-inches from the left (east) side property line or 12-feet, 8-inches total.

The applicant proposes to attach the garage to the house for safety and convenience purposes. The applicant's Variance justifications (Attachment 4) note that the existing nonconforming garage setback is not increasing in nonconformity and it would be an undue hardship to demolish the garage to meet setbacks when it was originally permitted by the County. The applicant mentions the new

17-0820

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addition is minimally impactful because it would not be visible from the street and would continue along the existing house's conforming (on one side) left side setback. According to the applicant, increasing the setback on the side of the addition would result in shifting floor area further to the rear of the property, which may impact an existing protected tree. Further, the applicant notes that the application of the required combined side yard setback would deprive them of privileges enjoyed by neighboring property owners, because they observed other examples in the neighborhood where the combined setbacks were not met. One of these examples is 666 Princeton Drive, where a Variance was approved in 1981 for a one-foot encroachment into the required side yard setback. The other two examples include combined side yard setbacks that are less than 20 percent of the lot width, but these were approved before the current requirement went into effect in 2009. Staff did not find any Variance approvals on record for the examples mentioned, nor on Crawford Drive.

Neighborhood Impacts/Compatibility

The proposed setback encroachment would have minimal visual impact on the neighborhood, however, approval of a Variance could be considered as setting a precedent for such requests of deviations from the code that are intended to maintain community expectations, privacy impacts and aesthetic values.

Public Contact: 58 notices were sent to surrounding property owners and residents within a 300-foot radius of the subject site in addition to standard noticing practices, including advertisement in the Sunnyvale Sun Newspaper and on-site posting. No letters or calls were received from the public at the time of staff report production.

Environmental Determination: A Class 1 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions that include minor additions to an existing-single family residence.

FINDINGS

Design Review

In order to approve the Design Review permit the following finding must be made:

1. *The proposed project is desirable in that the project's design and architecture complies with the policies and principles of the Single Family Home Design Techniques.*

The proposed addition respects the scale, bulk, and character of homes in the adjacent neighborhood by its consistency with the existing house's architecture and form. The proposed addition also respects immediate neighbors in terms of height, setbacks on one side, and privacy. The architectural modifications to the front entry are consistent with the existing architectural style and would continue its orientation to Crawford Drive. However, connecting the existing garage with the proposed addition to the main house would not reinforce prevailing neighborhood home orientation, as it would result in a combined side yard setback that is less than the minimum required. There is not a neighborhood pattern of existing homes with nonconforming combined side yard setbacks, and approval of a Variance could be considered as setting a precedent. -

Finding not met.

17-0820

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Variance

In order to approve the Variance, all of the following findings must be made:

1. *Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.*

While the new addition area exceeds the minimum setback on one side, attaching the existing nonconforming garage at the same plane results in a combined side yard setback that is less than the minimum required. The lot is rectangular and has the same approximate dimensions as the majority of other lots on the block. Additionally, the lot area of 9,921 sq. ft. exceeds the 6,000 sq. ft. minimum lot size of the zoning district, and the lot width of 75 feet exceeds the 57-foot minimum lot width of the zoning district. Therefore, the lot is not considered unique to the neighborhood or zoning district and does not create a hardship that prevents code requirements from being met.

Staff finds that minor changes to the floor plan layout could accommodate the proposed addition, while meeting the combined side yard setback requirement. Staff does not find that implementing the additional setback on the proposed addition would impact an existing protected tree in the rear yard. The tree is 12 feet away from the rear of the addition and there is 28 feet of area between the addition and existing garage where the addition could be relocated. Alternatively, the proposed addition could maintain a minimum five-foot clearance from the detached garage and a Variance would not be required. The existing protected tree in the rear yard There is not a neighborhood pattern of existing homes with nonconforming combined side yard setbacks -

Finding not met.

2. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.*

The proposed addition exceeds the minimum four-foot side yard requirement on one side, but would result in a combined side yard setback less than the minimum required because the existing nonconforming garage would be attached to the house. This would not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district because the new area is within setbacks and the existing garage is not expanding in size or changing location. Granting of the Variance would not have an adverse visual impact to the surrounding area. - **Finding met.**

3. *Upon granting of the variance the intent and purpose of the ordinance will still be served and the recipient of the variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.*

The granting of the Variance does not serve the intent and purpose of the code to require greater setbacks for wider lots, and the recipient of the Variance may be granted a special privilege not enjoyed by other surrounding property owners within the same zoning district. Code requirements could be met with minor modifications to the floor plan layout or by not attaching the garage to the house. - **Finding not met.**

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Staff is unable to make all the required Variance findings as noted above.

ALTERNATIVES

1. Approve the Design Review permit and Variance with recommended Conditions in Attachment 2.
2. Approve the Design Review permit and Variance with modifications.
3. Deny the Design Review permit and Variance.

RECOMMENDATION

Alternative 3. Deny the Design Review permit and Variance.

If the Hearing Officer is able to make the required findings and approve the project, staff has included Conditions of Approval in Attachment 2.

Prepared by: George Schroeder, Senior Planner

Approved by: Ryan Kuchenig, Senior Planner

ATTACHMENTS

1. Noticing and Vicinity Map
2. Standard Requirements and Recommended Conditions of Approval (if approved)
3. Site and Architectural Plans
4. Applicant's Variance Justifications



City of Sunnyvale

Meeting Minutes

Zoning Administrator Hearing

Wednesday, August 30, 2017

3:00 PM

West Conference Room, City Hall, 456 W.
Olive Ave., Sunnyvale, CA 94086

CALL TO ORDER

Gerri Caruso, Principal Planner, called the meeting to order at 3:00 p.m.

PUBLIC HEARINGS

File #: 2015-7144

Location: 584 Crawford Drive (APN: 201-33-042)

Applicant / Owner: Bob Fuselier

Proposed Project:

DESIGN REVIEW for a 1,142 sq. ft. one-story addition to an existing 1,227 sq. ft. one-story single-family home (2,369 sq. ft. living area and 1,205 sq. ft. garage), resulting in 3,574 sq. ft. and 36% FAR. The project includes attaching the existing garage to the home and a minor architectural modification to the existing front porch.

VARIANCE to allow a 12-foot, 4-inch combined side yard setback when 15 feet is required.

Reason for Permit: A Design Review permit is required for an addition that adds more than 20 percent of the existing home area. A Variance is required for the request for a reduced combined side yard setback.

Project Planner: George Schroeder, (408) 730-7443,
gschroeder@sunnyvale.ca.gov

Issues: Setbacks, Neighborhood Compatibility

Recommendation: Deny the Design Review and Variance

Ms. Caruso asked if George Schroeder, project planner, had any additional updates or comments.

Mr. Schroeder stated there were no updates nor comments from members of the public and proceeded to summarize the project. The design is consistent with the city's development standards except for the combined sideyard setback. The design would result in a nonconforming sideyard setback of 12 feet where 15 feet is required. Staff recommends denial of the variance as there are other alternatives that can be utilized to meet the setback requirements. Changes should be made prior to approval.

Ms. Caruso inquired whether a variance would be needed if the design kept the addition separate to the garage.

Mr. Schroeder stated there would be no need for a variance in that instance. The garage was built under the jurisdiction of the county and the neighborhood was annexed in 2002.

Ms. Caruso opened the hearing to the applicant.

Bob Fuselier, applicant, proceeded to explain why the property is an unusual circumstance. Based on the variance, there are three conditions why the application should be approved. The first is exceptional extraordinary condition, the second the granting of the variance will not be materially detrimental to the public, and third is that the applicant would not gain any privileges than anyone else.

Mr. Fuselier stated the tract was developed in 1949. The garage and house were built in 1956 where the garage was built two feet from the property line when the requirement should be six feet. The county allowed for the building to not follow the tract requirements. In 1998, the county allowed for the construction of the current garage, which includes a bathroom. It does not make sense to take the structure out in order to gain two and a half feet on the other side of the house. Mr. Fuselier stated there would be a significant loss of structure space and money. The other option was to have a breezeway for a 2-story house while another option would affect form and function and impedes a 40 foot tree. The undue hardship deprives the applicant the same privileges the neighbors enjoy. The setback will stay the same and the expansion will not be visible from the street.

Mr. Fuselier stated multiple single family developments have more allowances for setbacks while single family home owners are more restricted. Mr. Fuselier stated code 19.50.020 in the city municipal code negated the need for a variance. The current presented solution is the least impactful for neighbors on both sides and is a benefit, as it will increase the value of the neighborhood. The form and function of the development will be fully utilized as presented. Neighbors were allowed to expand their homes previous to the new setback requirements, which would violate the current standards today.

Lisa Orlando, applicant, stated she does not have the means to tear down the house and start over. She was not aware of the code change until after drawing plans.

Ms. Caruso closed the hearing to the applicant and stated the floor plan was reasonable however the new code increased the setback. The size of the applicants' property makes it difficult to make an argument that other options could not be considered. Ms. Caruso stated she will consider the points made by the applicant carefully, and will take the application under advisement and confer with the planning officer.

Mr. Fuselier stated the nonconforming code would allow to expand without increasing the nonconforming. Ms. Caruso stated the expansion would increase the non-conformity since the building would be longer. Mr. Fuselier stated the plane perspective should be considered, as a one and half foot difference is not adjusting the conformance at that perspective.

Seeing no members of the public in attendance, Ms. Caruso closed the hearing.

ACTION: 8/31/17 Denied - Staff was unable to make the required findings as there were no exceptional or extraordinary circumstances or conditions applicable to the property or use that prevents design of a project that meets Sunnyvale zoning requirements.

ADJOURNMENT

Ms. Caruso adjourned the meeting at 3:25 p.m.

September 19, 2017

George Schroeder
Planner
City of Sunnyvale
Planning Division
2310 North First Street, Suite 200
San Jose, CA 95131

**RE: 584 Crawford Dr. Expansion and Upgrade
Appeal to Zoning Administrator's Position**

Dear George,

As requested, the following is our appeal letter addressing the Zoning Administrator's position of our variance for 584 Crawford Drive. We understand that our Basis of Appeal will be based on the portion of the denial by the zoning administrator, however there are still components of the process and codes that have not been fully explained or make no sense with regards to "property development equity", even on Crawford Drive. Our desired action is for the Planning Commission to allow for us to move forward with our variance. For full edification to the Planning Commission, the following is the statement from your email regarding the denial by the zoning administrator (Refer to attached email):

"I wanted to let you know that the Zoning Administrator made the decision today to deny the Variance and Design Review application at 584 Crawford Dr. The reason for the denial is that there are options to redesign the floor plan with an increased setback that meets the code requirement. The finding is that there are no exceptional or extraordinary circumstances or conditions applicable to the property or use that prevents the design from meeting the combined side yard setback requirement."

We hope that the Planning Commission can look past staff's stringent interpretation of current codes, that are detrimental to long-term residents with exceptional or extraordinary conditions, and see that we are not asking for any more privileges than our neighbors are already afforded.

Our Basis for Appeal are the following items:

1. Exceptional and Extraordinary Conditions of the Property
2. Undue Hardship to Deviate from Existing Plan
3. Consistent Code Interpretation
4. Inconsistency of "Property Development Equity"

1. Exceptional and Extraordinary Conditions of the Property

City staff continues to evaluate that our property is not exceptional or an extraordinary condition. There is not another property in Sunnyvale that has the same condition as us, therefore that is exceptional as defined in the Webster Dictionary. The County allowed for an existing garage to be placed out of compliance in 1956 and then again allowed the property owner to expand that non-compliant garage in 1997 to 1210 square feet. No-one in Sunnyvale has a similar situation as us and this situation is unique to this property. This exceptional

condition has created a major cost impact to our plans that would not normally have been an issue on other properties.

In addition, the Planning Commission should know that the existing condition should be fully evaluated because of the unusual Talisman Tract setup. The property dwelling to the west of our property is more than 45 feet away from my dwelling. If the setback along the garage was for safety, fire protection or privacy then the existing condition exceeds those requirements. The City needs to evaluate not just the existing condition of the property but the existing condition as a whole. I was told that, if I had an easement with the west property, stating that no structure can be built any closer than 5'-6" from the property line then a variance was not needed. This would provide a restriction for future development. That makes no sense, because we do not know if the property will have future development and we do not know, in the future, if the minimum setback between two properties is supposed to be 8'. If an easement is acceptable to City staff then the existing condition is acceptable for the current code as it stands today. This extraordinary condition currently meets guidelines between dwellings and should be part of the evaluation process.

2. Undue Hardship to Deviate from Existing Plan

City staff has suggested that there are other alternatives to our plan to meet the setback guidelines. The following are the suggestions and the impacts to the alternative solutions:

- a. Removal of the garage and rebuild to meet setbacks.
 - i. We have evaluated this solution and the cost impact to remove and replace a 1200 square foot garage with plumbing and subpanel would be an additional cost of \$60,000 to \$80,000.
- b. Provide a 5' breezeway through the middle of the development. The breezeway would be between the existing garage and the new expansion.
 - i. The form and function of such a solution is not ideal. No designer and city planning would allow for a 5' alley way to be placed between the garage and the main house. It does not create a safe zone, is an inefficient use of space and is cost prohibitive.
 - ii. The cost for this solution would include additional foundation work, additional walls, exterior finishes, additional roofing configuration and hardscape in the alley way. That would be a cost impact of \$30,000 to \$35,000.
- c. Provide a setback of 12'-8" instead of 10'-0" on the east side of the property.
 - i. This increased setback considerably impacts form and function inside the house, creating jogs in hallways, squeezing a great room and master bedroom and impacting costs.
 - ii. The cost for this solution would include additional foundation work, relocation of existing bearing walls, adding new bearing walls, additional carpentry for the roof structure to accommodate the jog and removal of a tree in the back yard. With this increased set back we have to go further into the property and remove a 40' heritage tree. Another extraordinary condition. That would be a cost impact of \$25,000 to \$30,000.

Because of the extraordinary conditions of this property we would be responsible for major cost impacts. Therefore, we are not afforded the same privileges as others on the street and especially our neighbor to the east of us.

3. Consistent Code Interpretation

City Staff continues to interpret the combined setback of 20% however continues to dismiss Code 19.50.020. If City staff strictly interprets Code 19.50.020 they would have to conclude that we have a non-conforming dwelling and we can expand upon that dwelling as long as there is not an increase in non-conformities. Our intention is to extend the dwelling at the same 10' separation to the existing east property line. Therefore, this plan does not increase any existing nonconformities, we will have the same 12'-4" combined setback.

For reference, Code 19.50.020 is stated below:

"A building legally built and occupied as a dwelling, in all zoning districts except R-1 and R-2, which does not meet current development standards except for lot area per dwelling unit may be repaired, altered, enlarged or replaced without requiring a variance provided:

- 1) No increase in non-conformities will result; and
- 2) Any required permits are obtained."

The existing structure was legally built with permits through the County of Santa Clara. It is not an R-1 or R-2 structure and does not meet the current setback standards. However, the code is specifically intended to guard against past codes that are now considered non-compliant. This code allows for the structure to be enlarged as long as the existing setbacks do not have an increase of nonconformities.

To date, we have not been given any interpretation of the intent of Code 19.50.020. We have been told it does not pertain to this situation, without explanation. Codes are not to be interpreted for convenience but for intended purposes and our situation is ideal for this intended purpose of the code. Residents should not be penalized for inconsistent interpretation of Codes.

4. Inconsistency of "Property Development Equity"

It appears that property development is continually inconsistent especially with older properties. There appears to be double standards when it comes to residential property development, creating public perception of inequities. One example of double standards resides between our property and the neighbor to the west. They were afforded the ability to place a gutter less than 12 inches from the property line but City Planning has denied my development to continue a 10' setback, consistent with the existing structure (See reference attachment C-1). Is the neighbor enjoying the benefit of more privacy and safety by placing the new structure at 12'-8" opposed to 10'-0"? The answer is no, however we are asked to pay a premium to have considerably less benefit than our neighbor is afforded. It does not make sense to ask one neighbor to be 12'-8" away from the property line and the other neighbor can be less than a foot.

In addition, the inconsistency of code requirements and impacts to the neighborhood are continually felt as we have seen with a 4100 square foot eye-sore structure that is being built on my street (See attachment). To date, the City cannot tell me why a structure of this magnitude is acceptable but an expansion to the back of our property, that will not be seen, is not acceptable. The public perception is that affluent people can demolish their existing homes and create mega-homes. While the less affluent residents are penalized to follow a setback code that was established for new developments not necessarily existing conditions. Following strict guidelines that were arbitrarily instituted for existing structures is not a proper solution for property development equity.

Finally, this letter should serve as our Basis for Appeal that clearly exhibits that this is an Extraordinary and Exceptional Condition. In addition, our desired action is to receive approval to move forward with our variance request. We look forward to Planning Commission hearing and strongly believe that our situation is different than other properties and that our situation should not be punitive because of a strict interpretation of the code.

If you should have any questions or comments, please do not hesitate to contact me directly at (408) 828-9258 or via email at bob.fuselier@gmail.com.

Sincerely,

A handwritten signature in black ink, appearing to be 'M FL', likely representing the initials of the home owners.

Home Owners Bob Fuselier and Lisa Orlando



Bob Fuselier <bobfuselier@gmail.com>

ZA Decision 584 Crawford Drive

11 messages

George Schroeder <GSchroeder@sunnyvale.ca.gov>

Thu, Aug 31, 2017 at 5:37 PM

To: Bob Fuselier <bobfuselier@gmail.com>

Cc: Orlando Lisa <orlando_lisa@cusdk8.org>

Hi Bob,

I wanted to let you know that the Zoning Administrator made the decision today to deny the Variance and Design Review application at 584 Crawford Dr. The reason for the denial is that there are options to redesign the floor plan with an increased setback that meets the code requirement. The finding is that there are no exceptional or extraordinary circumstances or conditions applicable to the property or use that prevents the design from meeting the combined side yard setback requirement.

There is a fifteen day appeal period from this date. An appeal to the Planning Commission is made by filing an application, providing a written basis for the appeal, and paying an appeal fee of \$174.50 by end of business on September 15, 2017. The application form is available here - <https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?BlobID=23616>

I will be back in the office next Tuesday and can answer any questions you have then.



George Schroeder

Senior Planner

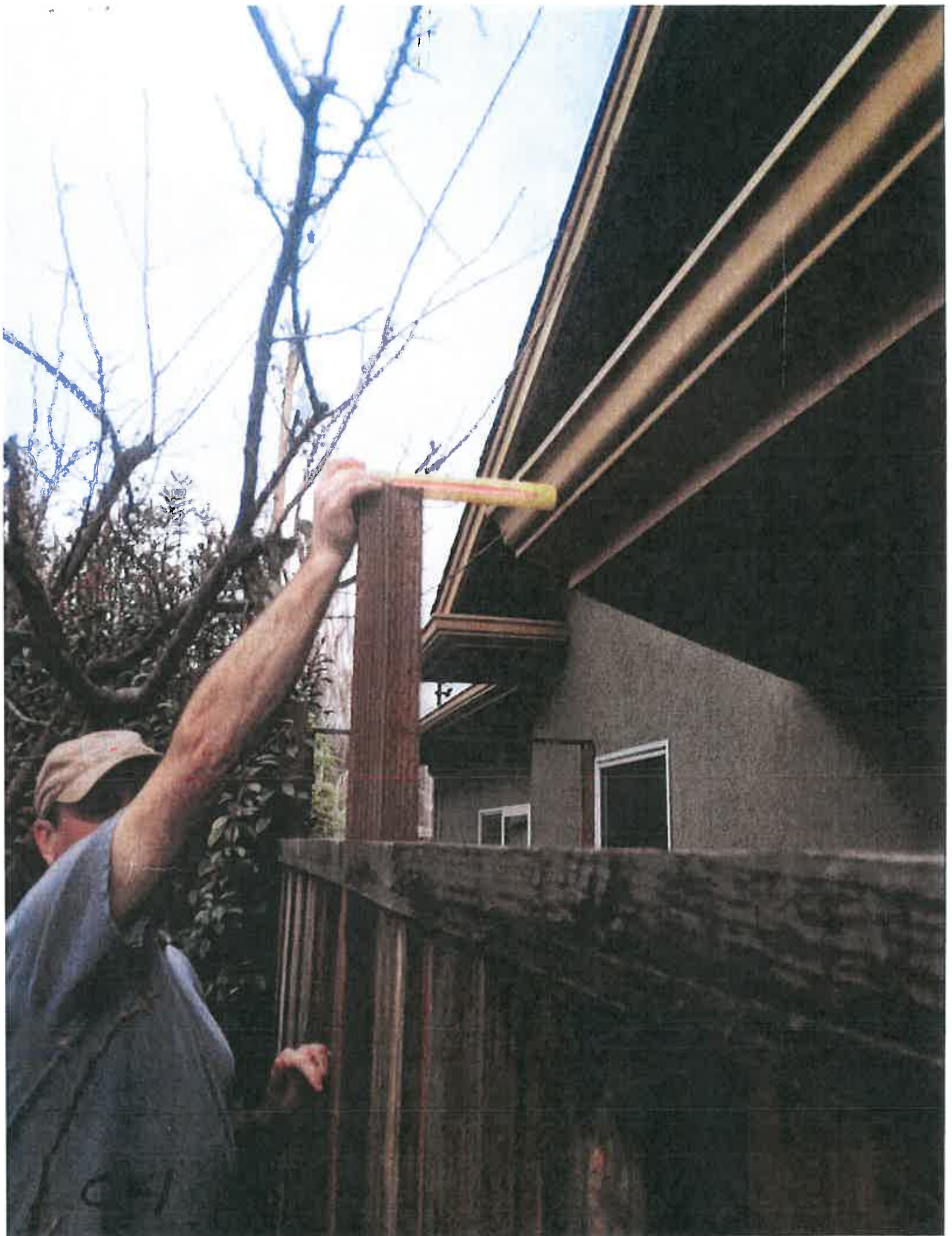
Community Development Department

Phone: 408-730-7443

Sunnyvale.ca.gov

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City of Sunnyvale

Agenda Item 3

17-0845

Agenda Date: 10/2/2017

REPORT TO PLANNING COMMISSION

SUBJECT

Recommend that City Council adopt an ordinance to amend Sunnyvale Municipal Code Sections 19.92.050 and 19.92.060 (votes required for Planning Commission recommendations) and an ordinance to amend Section 19.38.040 (individual lockable storage space for multiple-family residential) and find that the actions do not require environmental review pursuant to CEQA Guidelines Section 15061(b)(3).

REPORT IN BRIEF

This staff report includes two unrelated amendments to Title 19 of the Sunnyvale Municipal Code (Zoning). The proposed amendments involve: (1) the votes required for Planning Commission to make recommendations for approval or denial of General Plan and zoning amendments; and (2) correction of a drafting error in the recently adopted lockable storage ordinance. The items are presented together for convenience, as the first item is a procedural matter and the second is a minor clean-up.

This item will be considered by the City Council on November 7, 2017.

EXISTING POLICY

GENERAL PLAN

Land Use and Transportation

- *Implementation Action LT-2.1a:* Prepare and update land use and transportation policies, design guidelines, regulations and engineering specifications to reflect community and neighborhood values.

ENVIRONMENTAL REVIEW

The proposed amendments to the Zoning Code do not require review under the California Environmental Act in that it can be seen with certainty that there is no possibility that these changes will have a significant impact on the environment. (CEQA Guidelines Section 15061(b)(3))

DISCUSSION

Votes Required for Planning Commission Actions

The role and duties of the Planning Commission are governed by the City Charter and Chapter 19 (Zoning) of the Municipal Code. Section 1010 of the Charter provides that the Planning Commission shall "recommend to the City Council the adoption, amendment, or repeal of Master, General, or Precise Plans, or any part thereof, for the physical development of the City". The Planning Commission may also "[e]xercise such functions with respect to land subdivisions, planning, and zoning as may be prescribed by ordinance". The Charter does not specify the number of votes required for the Planning Commission to make recommendations to City Council.

To implement the City Charter, the City Council adopted Sections 19.92.050 and 19.92.060 of the Sunnyvale Municipal Code. These sections require that the City Council receive a recommendation from the Planning Commission before it can consider a general plan or zoning amendment. Sections 19.92.050(c) and 19.92.060(d) further provide that “the planning commission shall, by the affirmative vote of a majority of its members . . . make a recommendation to the city council to approve or deny” the proposed amendment. This means that 4 votes are always required for the Planning Commission to make a recommendation, regardless of how many members are present, and regardless of whether the motion is for approval or denial.

When there are absences or vacancies on the Commission, impasses can potentially occur because the vote is tied (a tie vote is legally considered “no action”), or splits 3-2 or 3-1. If this occurs, a commissioner may have to switch his or her vote for the item to proceed to the City Council. Alternatively, the item has to be continued to another meeting when more members are present, which is inconvenient for applicants and members of the public who have come to speak on the project. There is currently no mechanism in place for the City Council to act on a proposed General Plan or zoning amendment if the Planning Commission fails to make a recommendation.

It isn’t uncommon for cities to require that a majority of the entire Planning Commission vote to recommend approval of a general plan or zoning amendment, but typically a recommendation for denial can be by a majority of a quorum. That means that only 3 votes are needed to recommend denial when 4 or 5 members are present. This is consistent with the Government Code provisions that apply to general law cities. In particular, Government Code 65354 provides that a recommendation to approve a general plan amendment “shall be made by the affirmative vote of not less than a majority of the total membership of the [planning] commission.” There is no equivalent voting requirement for recommending denial. By default, unless a statute requires otherwise, a legislative body can take action by a majority vote of the members present.

In order to address the situations discussed above, staff recommends that Sunnyvale Municipal Code Sections 19.92.050(c) and 19.92.060(d) be amended (as shown in Attachment 2) to allow the Commission to recommend the denial of general plan and zoning amendments by a majority of members present. This means that if 4 or 5 members are present, and the motion to recommend approval fails with a 1-3 or 2-3 vote, the motion to recommend denial can pass with a 3-1 or 3-2 vote.

Staff also recommends amending Sections 19.92.050(d) and 19.92.060(e) to provide that if a tie vote cannot be resolved by subsequent motions, it will be deemed a recommendation for denial. This will allow the item to proceed to the City Council for a decision.

Lockable Storage

A recent amendment to Sunnyvale Municipal Code Section 19.38.040 regarding the requirements for lockable storage in multifamily residential projects, inadvertently deleted an exception for dwelling units that include 2-car garages. Even without this provision, staff can find on a case-by-case basis that a 2-car garage has sufficient storage capacity to meet the lockable storage requirement. Nevertheless, staff recommends putting the exception back into the ordinance for clarity. (Attachment 3)

FISCAL IMPACT

None.

PUBLIC CONTACT

Public contact regarding this item was made in the following ways:

1. Posting the Agenda for Planning Commission on the City's official-notice bulletin board outside City Hall and by making the agenda and report available at the Sunnyvale Public Library and on the City's website;
2. Publication in the Sun newspaper, at least 10 days prior to the hearing; and
3. E-mail notification of the hearing dates sent to all interested parties and neighborhood associations.

This item will be considered by the City Council on November 7, 2017.

ALTERNATIVES**Recommend that the City Council:**

1. Make the finding that the action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) and introduce an ordinance (Attachment 2) to adopt the proposed amendments to Sunnyvale Municipal Code Sections 19.92.050 and 19.92.060 (votes required for Planning Commission to recommend General Plan and zoning amendments).
2. Make the finding that the action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) and introduce an ordinance (Attachment 3) to adopt the proposed amendments to Sunnyvale Municipal Code Section 19.38.040 (individual lockable storage space for multiple-family residential).
3. Do not make the finding that the action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) and do not adopt the proposed amendments to Sunnyvale Municipal Code Sections 19.92.050 and 19.92.060 (votes required for Planning Commission to recommend General Plan and zoning amendments).
4. Do not make the finding that the action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) and do not adopt the proposed amendments to Sunnyvale Municipal Code Section 19.38.040 (individual lockable storage space for multiple-family residential).

STAFF RECOMMENDATION

Recommend Alternatives 1 and 2 to the City Council: Make the finding that the actions are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) and introduce two ordinances (Attachments 2 and 3 of the report) to adopt the proposed amendments to Sunnyvale Municipal Code Sections 19.92.050 and 19.92.060 (votes required for Planning Commission to recommend General Plan and zoning amendments) and Section 19.38.040 (individual lockable storage space for multiple-family residential).

Prepared by: Rebecca Moon, Sr. Asst. City Attorney

Reviewed by: John A. Nagel, City Attorney

Reviewed by: Trudi Ryan, Director of Community Development

Reviewed by: Andrew Miner, Planning Officer

Approved by: Kent Steffens, Assistant City Manager

ATTACHMENTS:

1. Not Used (Reserved for Report to Council)
2. Proposed ordinance to amend Sunnyvale Municipal Code Sections 19.92.050 and 19.92.060.

3. Proposed ordinance to amend Sunnyvale Municipal Code Section 19.38.040

ATTACHMENT 1

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Rum

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO AMEND SECTIONS 19.92.050 (GENERAL PLAN AMENDMENT PROCEEDINGS) AND 19.92.060 (ZONING AMENDMENT PROCEEDINGS) OF CHAPTER 19.92 (GENERAL PLAN AND ZONING AMENDMENTS) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 19.92.050 AMENDED. Section 19.92.050 of Chapter 19.92 (General Plan and Zoning Amendments) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Section 19.38.050. General plan amendment proceedings.

(a)-(b) [Text unchanged]

(c) Planning Commission Recommendation. Following a public hearing, the planning commission shall make a recommendation on the general plan amendment. A recommendation for approval shall be, by the affirmative vote of a majority of its members and based on Section 19.92.080 (Finding), ~~make a recommendation to the city council to approve or deny the general plan amendment. In the event of a tie vote that that cannot be resolved by any subsequent motion, the tie vote shall be deemed a recommendation for denial.~~

(d) [Text unchanged]

SECTION 2. SECTION 19.92.060 AMENDED. Section 19.92.060 of Chapter 19.92 (Zoning Amendment Proceedings) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Section 19.38.050. Zoning amendment proceedings.

(a)-(b) [Text unchanged]

(c) Planning Commission Recommendation. Following a public hearing, the planning commission shall make a recommendation on the zoning amendment. A recommendation for approval shall be, by the affirmative vote of a majority of its members and based on Section 19.92.080 (Finding), ~~make a recommendation to the city council to approve or deny the zoning amendment. In~~

the event of a tie vote that cannot be resolved by any subsequent motion, the tie vote shall be deemed a recommendation for denial.

(d) [Text unchanged]

SECTION 3. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 4. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 6. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2017, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2017, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

KATHLEEN FRANCO SIMMONS

City Clerk

Date of Attestation: _____

GLENN HENDRICKS

Mayor

(SEAL)

APPROVED AS TO FORM:

REBECCA L. MOON

Sr. Assistant City Attorney

DRAFT 9/1/17 *RLM*

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE TO AMEND 19.38.040 (INDIVIDUAL
LOCKABLE STORAGE SPACE FOR MULTIPLE-FAMILY
RESIDENTIAL) OF CHAPTER 19.38 (REQUIRED
FACILITIES) OF TITLE 19 (ZONING) OF THE
SUNNYVALE MUNICIPAL CODE**

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS
FOLLOWS:

SECTION 1. SECTION 19.38.040 AMENDED. Section 19.38.040 of Chapter 19.38 (Required Facilities) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Section 19.38.040. Individual lockable storage space for multiple-family residential.

(a)-(e) [Text unchanged]

(f) **Location.** The storage space may be accessible from inside or outside the dwelling unit such as a patio, deck, balcony, interior or exterior hallway, interior room or separate structure. If storage space is attached to a bedroom it must be in addition to a bedroom closet. Required storage space shall not be located in an attic. A two-car garage meeting the minimum area and dimensions may satisfy the lockable storage requirement.

(g) [Text unchanged]

SECTION 2. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

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AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

KATHLEEN FRANCO SIMMONS
City Clerk
Date of Attestation: _____

GLENN HENDRICKS
Mayor

(SEAL)

APPROVED AS TO FORM:

REBECCA L. MOON
Sr. Assistant City Attorney