

**COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT**

DATE: March 21, 2019

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Non-Conforming Use Permit to allow a second story addition and expansion to the first floor of the main residence and construction of a new two-car garage with an attached additional dwelling (ADU) unit above. The Non-Conforming Use Permit is to allow an existing 9 inch substandard left side setback for the main residence first floor to continue, as well as the corners of the second story addition to encroach into the daylight plane. Two significant trees are proposed for removal in association with the development.

County File Number: PLN 2017-00531 (Strathdee/Dyer)

PROPOSAL

The applicant (Strathdee), has proposed an expansion of a current single-family home through a remodeling of the first floor, and the addition of a 1,191sq. ft. second story. There is also proposed construction of a 408 sq. ft. two-car garage with an additional dwelling unit of 441 sq. ft. above. The total floor area of the site will be 3,370 sq. ft. There will be a removal of two (2) significant trees (one (1) 16" bay laurel, and one (1) 12" palm tree). A Non-Conforming Use Permit is required to allow the first floor existing encroachment into the daylight plane to continue, and for the corners of the proposed second story to encroach into the day light plane. Setbacks as applied to ADUs when part of a detached structure are in compliance within the regulations.

RECOMMENDATION

Approve the Non-Conforming Use Permit, County File No. PLN 2017-00531, by adopting the findings and conditions of approval cited in Attachment A.

BACKGROUND

Report Prepared By: Maya D. Briones, Project Planner

Owner: Jonathan and Katherine Dyer

Applicant: Fred Strathdee

Location: 580 6th Avenue, Menlo Park, CA 94025-1843

APN: 060-066-240

Parcel Size: 8,115 sq. ft.

Existing Zoning: R-1/S-73 (North Fair Oaks)

General Plan Designation: Low Density Residential

Existing Land Use: Single-Family Residence

Water Supply: California Water District- Bear Gulch

Sewage Disposal: Fair Oaks Sewer District

Flood Zone: The project site is located in Flood Zone X as defined by FEMA (Community Panel Number 069081C0282E, dated October 16, 2012), which is an area with minimal potential for flooding.

Environmental Evaluation: The project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15301, Class 1, for a minor alteration of an existing private structure (in this case a single-family home) where the project involves negligible expansion of use.

Setting: The project site is off of 6th Avenue, just South West of the Hetch Hetchy right-of-way. The house was built in 1938 and has remained a single-family residence. The current home has six rooms total, with one bedroom and one bathroom. It is surrounded by single-family homes, with the exception of the northern side, which is open space.

DISCUSSION

A. KEY ISSUES

1. State Law on Accessory Dwelling Units

California Second Unit Memorandum-S.B. 1069 (Chapter 720, Statutes of 2016)

In 2016, the California legislature found and declared that, among other things, allowing ADUs in single-family and multi-family zones provides additional rental housing and is an essential component in addressing housing needs in California.

State Legislation prohibits discretionary review of second units that otherwise comply with all zoning requirements. The current proposal complies with all County and State regulations for ADUs.

2. Compliance with the General Plan

The proposed project complies with all applicable General Plan Policies, specifically:

Urban Land Use Policies

- a. Policy 8.2 d (*Land Use Objectives for Urban Communities*) of the General Plan (GP) seeks to provide a mix and an amount of residential land uses which will provide a substantial amount of housing opportunities in unincorporated areas. The proposal to construct an additional floor, remodel the first floor, expand the existing garage and develop an ADU meets this objective.
- b. Policy 4.36 (*Urban Area Design Concept*) seeks to maintain and improve the visual character of development in urban areas and ensure that new development is designed and constructed to contribute to the orderly and harmonious development of a neighborhood. The project site is located within the unincorporated urban residential community of North Fair Oaks, and the design of this house is consistent with the neighborhood character of this community.
- c. Policy 8.15 (*Land Use Compatibility*) seeks to protect and enhance the character of existing single-family areas. The General Plan designates the subject property as Medium to Low Density Residential. The remodeled home plus the new ADU are consistent with the General Plan designation and neighborhood character.
- d. Policy 8.39 (*Height, Bulk, and Setbacks*) regulates height, bulk, and setback requirements in zoning districts in order to ensure that the size and scale of development is compatible with the parcel, to provide sufficient light and air in and around a structure, and to ensure public health and safety. The proposed expansion of the single-family residence complies with the height criteria but does not comply with the setback criteria of the S-73 Zoning District. The left side lot line is at an angle to the residence so that only a small portion of the remodeled structure encroaches in the 5' setback.

3. Compliance with the S-73 Zoning Regulations

SECTION 6300.4.20. BUILDING HEIGHT. The maximum building height shall be 28 feet, not to exceed two (2) habitable stories. Chimneys, pipes, mechanical equipment, antennae, and other common facilities may extend beyond the respective maximum height to a maximum of 36 feet as required for safety or efficient operation. The proposed project is to add an additional story that makes the residence 26 feet high, meeting this requirement.

SECTION 6300.4.21. DAYLIGHT PLANES. The daylight planes shall be established by measuring along the side setback lines a vertical distance of 16 feet from the existing grade and then inward at an angle of 45 degrees until a maximum height of 28 feet is reached. Certain architectural features shall be allowed to extend into all yard setback areas according to the provisions of Zoning Regulations Section 6406. Architectural features, such as dormers or gables, shall be allowed to extend into the daylight plane of the side setbacks provided that: (1) they measure perpendicularly to the daylight plane no more than 20 feet in continuous or cumulative length on each side, and (2) they measure no more than 24 feet in height from the existing grade. The two corners of the left side of the first floor encroach onto the daylight plane at most by 4.8 feet.

SECTION 6802 SECOND DWELLING UNITS. Second dwelling units (ADUs) are permitted uses and do not require a planning permit if compliant with the Zoning Regulations, per section 6802 of the San Mateo County Zoning regulations.

S-73 Development Standards			
	Required Residence/Garage	Existing House Residence/Garage	Proposed Residence/Garage
Lot Size	5,000 sq. ft.	8,115 sq. ft.	No Change
Minimum Front Yard Setback	20 ft./60 ft.	31 ft./94 ft.	No Change/60 ft.
Minimum Rear Yard Setback	20 ft./3 ft.	40 ft./3 ft.	No Change/3 ft.
Minimum Side Yard Setbacks			No Change/
Left Side	5 ft./3 ft.	1 ft./62 ft.	20 ft.
Right Side	5 ft./3 ft.	14 ft./3.9 ft.	9 ft.
Maximum Floor Area	3,409 sq. feet (42%)	1,173 sq. ft.	3,370 sq. ft. (40%)
Maximum Lot Coverage	50% (4,057 sq. ft.)	21 % (1,537 sq. ft.)	27.5% (2,238 sq. ft.)
Maximum Building Height	28 ft.	14.5 ft./15 ft.	25.5 ft.

Second Dwelling Unit Development Standards		
	Zoning Requirements	Proposed Second Unit
Minimum Front Yard Setback	N/A	N/A
Minimum Side Yard Setbacks		
Left Side	5 ft.	5 ft.
Right Side	5 ft.	5 ft.
Minimum Rear Yard Setback	10 ft.	10ft.
Minimum Building Height	28 ft.	21.5 ft.
Maximum Ration of Second Unit to Primary Residence	750 sq. ft. 35%	440 sq. ft. 20 %

4. Conformance with Non-Conforming Use Permit

The proposed project is as nearly in conformance with the development standards and zoning regulations as it possibly could with this shape lot. The existing home has a 9 inch substandard left side, which requires legalization. The proposed second story would encroach on the left side daylight plane, making the structure non-conforming. The proposed project would also have not adverse impacts to public welfare, as the encroachment of the daylight plane is located on the left side, where no other residence exists. The expansion of the garage, and addition of the ADU, are in the back of the property, and remain within the required setbacks. Furthermore, Section 6135 5a and 5b of the Zoning Regulations allows the major remodel and upgrade of a non-conforming structure where each non-conformity violates the required zoning standard by less than 50%. Alternatively, Section 6137 (*Exceptions*) allows an applicant to request a non-conforming use permit to enlarge an existing non-conforming structure when the enlargement does not conform to the zoning regulations, as is the case with the proposed project. The following findings, as required by Sections 6133.3.b(2) and 6137 must be made for the Non-Conforming Use Permit:

- a. **That the establishment, maintenance and /or conducting of the use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in said neighborhood.**

Staff has determined that the proposed additions and remodel does not adversely impact the public welfare or cause detriment to property or improvements in the neighborhood. Furthermore, the project site is not located within the Coastal Zone and therefore does not generate a significant adverse impact to coastal resources. The request to legalize the additions and associated setbacks and parking is minor

and is reasonable to provide usable living space for the project parcel that is restricted in space due to the Hetch Hetchy right-of-way. The reduced side yard setbacks are not expected to impact the privacy of neighboring residences, as the parcel is in compliance with setbacks that are adjacent to other developed parcels. The front and back setbacks are in compliance and pose no threat to the health of the community or obstruct access to any other parcel.

B. ENVIRONMENTAL REVIEW

The project is categorically exempt under the provisions of Class 1, Section 15301 (Existing Facilities), of the California Environmental Quality Act Guidelines. This section allows for the operation of and minor alteration to existing private structures, involving negligible expansion of use beyond that existing at the time of the lead agency’s determinations.

C. REVIEWING AGENCIES

	Review	Conditions	Applicable/Met
Building Inspection Section	Yes	Yes	<ol style="list-style-type: none"> 1. The proposed project requires a building permit. 2. Remove all references to the City of Menlo Park from the plan set. 3. Fire sprinklers are required for the main building and the detached garage/guest building. 4. Walls and projections beyond the exterior walls, closer than 5 feet to a property line require materials of 1-hour construction. 5. EV charging infrastructure shall be provided in the garage.
Department of Public Works	Yes	No	N/A
Geotechnical Section	Yes	No	To be addressed at the Building Permit stage
Cal-Fire	Yes	No	To be addressed at the Building Permit stage

ATTACHMENTS

- A. Findings and Conditions of Approval
- B. Project Plans (Site Plan, Floor Plan, Elevations)

MDB:pac - MDBDD0096_WPU.DOCX

County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2017-00531

Hearing Date: March 21, 2019

Prepared By: Maya D. Briones
Project Planner

For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That the project is categorically exempt under provisions of Class 1, Section 15301 (Existing Facilities), of the California Environmental Quality Act Guidelines, which exempts minor alterations to existing private structures, where expansion of use is negligible.

For the Non-Conforming Use Permit, Find:

2. That the establishment, maintenance and/or conduction of the use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in said neighborhood, as the site is not located within the Coastal Zone and the increase in floor area ratio is minor and generates negligible impacts on adjacent parcels and the surrounding neighborhood. The remodeled first floor, as well as additional dwelling unit over the garage, allow for more usable space and bedrooms for the homeowner's three children.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

1. This approval applies only to the proposal, documents, and plans described in this report and submitted and approved by the Zoning Hearing Officer on March 21, 2019.
2. Minor modifications to the project may be approved by the Community Development Director if they are consistent with the intent of, and in substantial conformance with, this approval.

3. This Non-Conforming Use Permit is valid for one (1) year from the date of final approval, in which time a valid building permit shall be issued and a completed inspection (to the satisfaction of the Building Inspector) shall have occurred within 180 days of its issuance. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable fees sixty (60) days prior to expiration.
4. A planning final inspection is required prior to the final building inspection of any associated building permit to verify the final size, location, color, and material of the decks to be reconfigured and legalized.
5. Per the building review the project:
 - a. Requires a building permit.
 - b. At the time of building permit application, please remove all references to the City of Menlo Park from the plan set.
 - c. Fire sprinklers are required for the main building and the detached garage/guest building.
 - d. Walls and projections beyond the exterior walls, closer than 5' to a property line require materials of one hour construction.
 - e. EV charging infrastructure shall be provided in the garage.
6. The applicant shall include an erosion and sediment control plan to comply with the County's Erosion Control Guidelines on the plans submitted for the building permit. This plan shall identify the type and location of erosion control measures to be installed upon the commencement of construction in order to maintain the stability of the site and prevent erosion and sedimentation off-site.
7. Per the review by the Department of Public Works, the project shall:
 - a. Ensure drainage must be complied with at the building stage.

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ATTACHMENT A

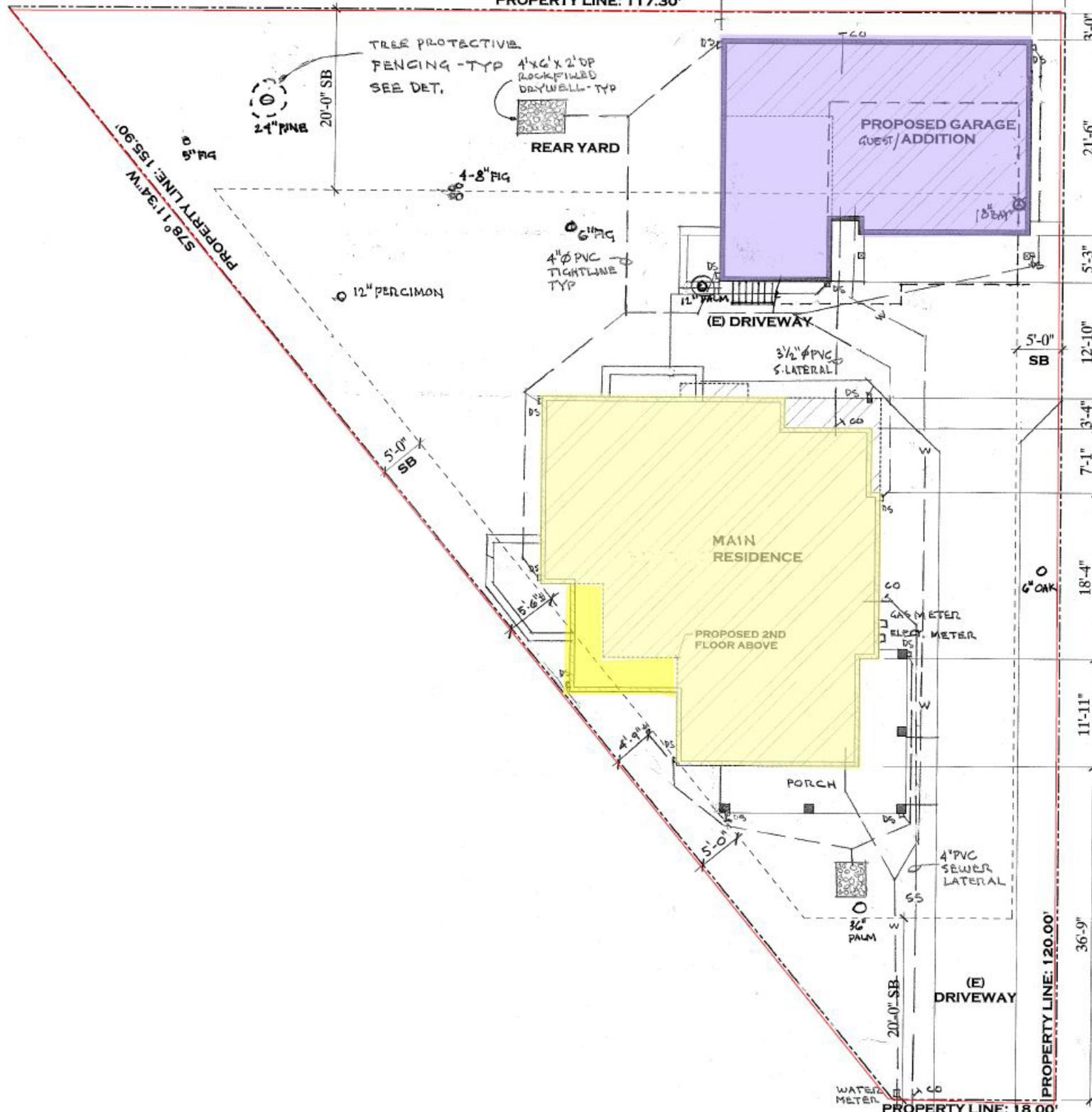




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ATTACHMENT B

PROPERTY LINE: 117.30'



TREE PROTECTIVE FENCING - TYP SEE DET.

4'x6'x2'0P ROCK-FILLED DRYWALL-TYP

REAR YARD

PROPOSED GARAGE, GUEST/ADDITION

(E) DRIVEWAY

MAIN RESIDENCE

PROPOSED 2ND FLOOR ABOVE

PORCH

(E) DRIVEWAY

PROPERTY LINE: 155.90'

578° 11.34' W

PROPERTY LINE: 120.00'

PROPERTY LINE: 18.00'

3'-0"
21'-6"
5'-3"
12'-10"
5'-0" SB
3'-4"
7'-1"
18'-4"
11'-11"
36'-9"
6" OAK

24" PINE

20'-0" SB

4'-8" PG

12" PERCIMON

4" PVC TIGHTLINE TYP

3 1/2" PVC S. LATERAL

5'-0" SB

GAS METER
ELEC. METER

4" PVC SEWER LATERAL

36" PALM

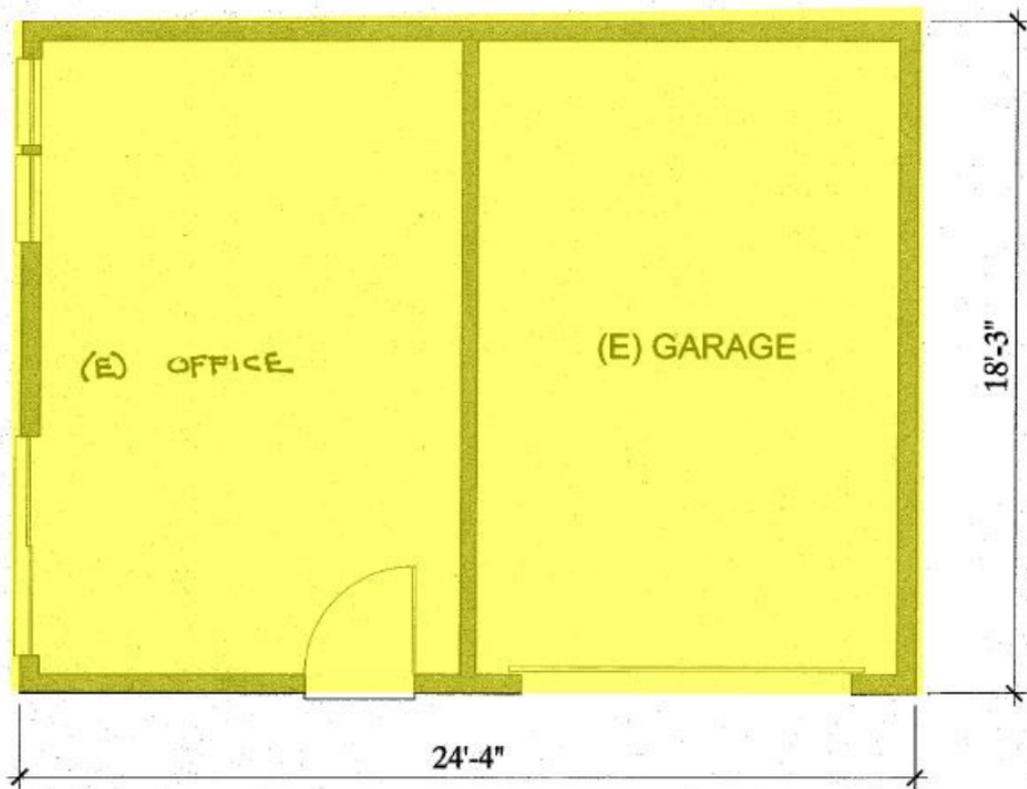
20'-0" SB

WATER METER



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ATTACHMENT C

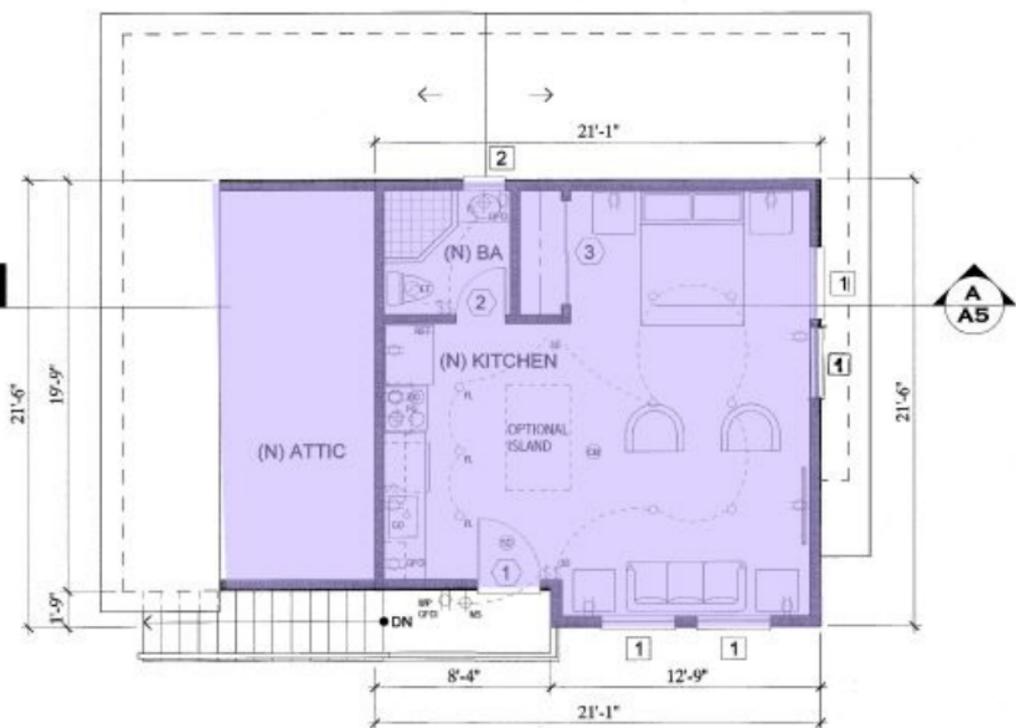


EXISTING GARAGE FLOOR PLAN



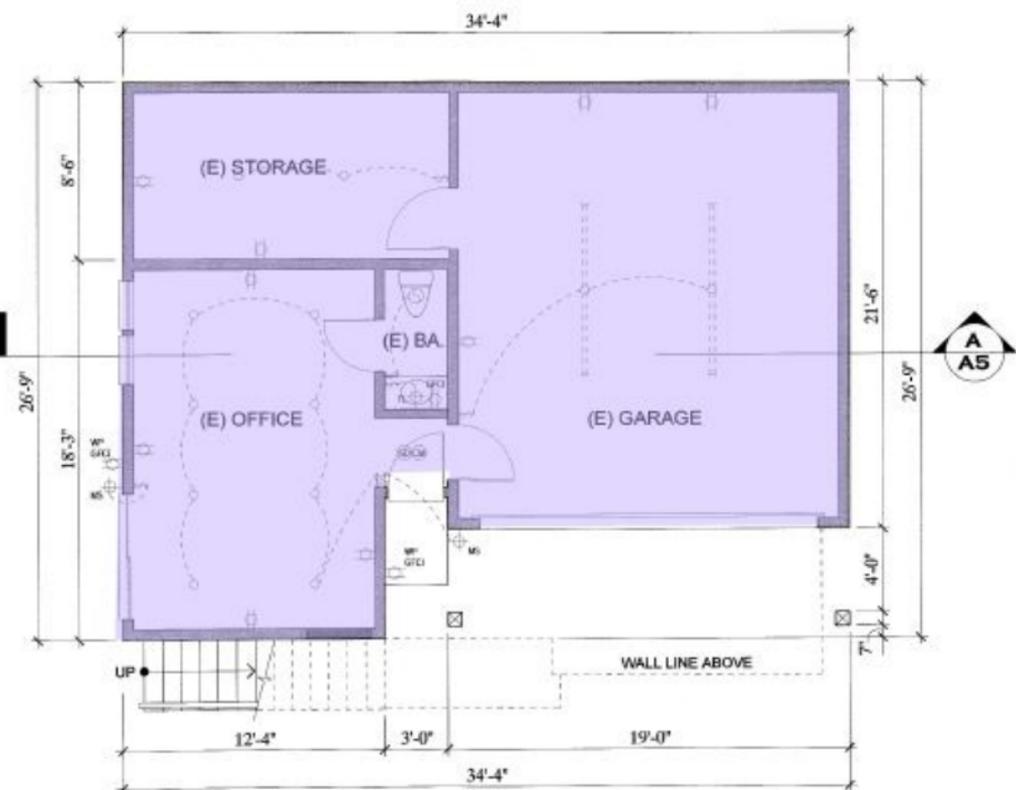
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ATTACHMENT D



PROPOSED GARAGE 2ND FLOOR PLAN

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



PROPOSED GARAGE 1ST FLOOR PLAN



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ATTACHMENT E

