

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

DATE: April 4, 2019

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Non-Conforming Use Permit, pursuant to Sections 6135.4 and 6137 of the San Mateo County Zoning Regulations, to legalize a residential addition and allow a one-car garage, where two covered parking spaces are required, for a non-conforming single-family dwelling located at 607 Midway Avenue in the unincorporated Broadmoor area of San Mateo County.

County File Number: PLN 2016-00165 (Choi/Vinh)

PROPOSAL

The applicant is seeking to legalize a two bedroom addition to the existing one-story 1,799 sq. ft. non-conforming single-family dwelling. The project also includes legalization of an attached 669 sq. ft. second unit which will be compliant with the County's Second Unit Ordinance (non-discretionary) once the proposed interior remodel has occurred, and therefore is not subject to the non-conforming use permit.

The dwelling originally consisted of two bedrooms and a one-car garage. The unpermitted addition expanded the original footprint to add two bedrooms, a bathroom, and a utility room to the primary dwelling and an attached three-bedroom second unit. The primary dwelling has non-conforming front and left side yard setbacks: a 15-foot front yard setback (where 20 feet is required) and a 4.6-foot left side yard setback (where 5 feet is required). The second unit is currently 1,098 sq. ft., which exceeds the maximum second unit floor area. The applicant is proposing to remodel the interior to shift 429 sq. ft. from the second unit to the primary dwelling, which would bring the second unit into conformity with the County's Second Unit Ordinance.

A use permit is required pursuant to Section 6135.4 and 6137 of the Zoning Regulations to allow for the expansion and encroachment of a non-conforming structure into the side yard setback.

RECOMMENDATION

That the Zoning Hearing Officer approve the Non-Conforming Use Permit, County File Number PLN 2016-00165, by making the required findings and adopting the Conditions of Approval in Attachment A.

BACKGROUND

Report Prepared By: Kelsey Lang, Project Planner, 650/599-1549

Applicant: Derek Vinh

Owner: Ip Choi Lin

Location: 607 Midway Avenue, Broadmoor

APN: 006-124-070

Size: 6,311 sq. ft.

Existing Zoning: R-1/S-7 (Single-Family Residential/Minimum 5,000 sq. ft. parcel)

General Plan Designation: Medium Density Residential Urban (6.1-8.7 dwelling units/acre)

Sphere-of-Influence: Daly City

Existing Land Use: Single-family residence with attached second unit

Water Supply: California Water Service Company – South San Francisco

Sewage Disposal: North San Mateo County Sanitation District

Flood Zone: FEMA flood Zone X (area of minimal flood hazard). FEMA flood panel 06081C0028F; effective August 2, 2017.

Environmental Evaluation: Categorically exempt pursuant to Section 15301 (*Existing Facilities*) of the California Environmental Quality Act (CEQA), relating to additions to existing structures provided that the addition will not result in an increase of more than 10,000 sq. ft. if the project is located in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area is not environmentally sensitive. The project site is not located in a sensitive habitat area and public services are available to serve the development.

Setting: The project site is relatively flat, located near the intersection of Nimitz Drive and Midway Avenue. The property is situated within a mature single-family residential area and surrounded by single-family dwellings built in the 1940s and 1950s.

Chronology:

| Date | Action |
|----------------|--|
| April 5, 2016 | - Complaint received and Violation Case opened (VIO 2016-00108) regarding secondary unit and parking issues. |
| April 21, 2016 | - Planning application submitted proposing to legalize secondary dwelling unit. (County File Number PLN 2016-00165). |
| April 6, 2017 | - Application deemed complete. |
| December 2018 | - Review and revise plans through discussion with the applicant to ensure that the dimensions on the plans matched the survey, and that the garage would function as a useable garage. |
| April 4, 2019 | - Zoning Hearing Officer hearing. |

DISCUSSION

A. KEY ISSUES

1. Compliance with the General Plan

Policy 4.36 (*Urban Area Design Concept*) seeks to maintain 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 the locality.

The subject property is located within the urban residential community of unincorporated Broadmoor. The exterior of the addition is constructed of materials and colors that match the existing residence. The project is conditioned to continue to use matching colors and materials that blend with the existing structure. The one-story dwelling is consistent with other properties found within the neighborhood.

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 Density Residential Urban. The existing

dwelling complies with this designation, and the legalization of the addition and second unit does not change the use of the property as a single-family residence.

Policy 8.35 (*Zoning Regulations*) ensures that the development is consistent with the zoning district regulations. This development is consistent with the principles of the R-1/S-7 (Single-family Residential/Minimum 5,000 sq. ft. parcel) zone. See the staff discussion below for details of zoning conformity.

Policy 8.36 (*Uses*) ensures that the uses of the zoning district are consistent with the overall land use designation. The single-family and second unit residential uses are consistent with the Medium Density Residential Urban land use designation.

Policy 8.39 (*Height, Bulk, and Setbacks*) regulates height, bulk, and setback requirements in zoning districts in order to: (1) ensure that the size and scale of development is compatible with the parcel size, (2) provide sufficient light and air in and around the structure, and (3) ensure public health and safety. The size and scale of this development is compatible with the parcel size, and is consistent with the development of the neighboring parcels. While the development encroaches into the right side yard (as discussed below), the building maintains sufficient light and air circulation to ensure public health and safety.

Policy 8.40 (*Parking Requirements*) regulates on-site parking requirements in order to: (1) accommodate the parking needs of the development, (2) provide convenient and safe access, (3) prevent congestion of public streets, and (4) establish orderly development patterns. The development contains one covered parking space, and two uncovered parking spaces. The applicant is seeking an off-street parking exception to waive the required two covered parking spaces, given the difficulty of providing such with the orientation of the existing development on the parcel. See staff's discussion below for on-site parking compliance.

2. Compliance with the Zoning Regulations

a. Development Standards R-1/S-7 Zoning District

The project parcel is zoned R-1/S-7. The single-family dwelling with attached second unit complies with the use regulations of this zone. The applicant requests a non-conforming use permit to legalize an addition to the main residence which will encroach into the left side yard setback. The project (as proposed) complies with all other R-1/S-7 Zoning Regulations, including the adopted second unit regulations.

| | Development Standard | Existing (As-Built) | Proposed |
|---|--------------------------|--------------------------|--------------------------|
| Minimum Parcel Size | 5,000 sq. ft. | 6,311 sq. ft. | 6,311 sq. ft. |
| Maximum Lot Coverage | 50% (3,155.5 sq. ft.) | 49.6% (3,129 sq. ft.) | 49.6% (3,129 sq. ft.) |
| Minimum Front Setback | 20 feet | 15 feet | 15 feet |
| Minimum Rear Setback | 20 feet | 38.4 feet | 38.4 feet |
| Minimum Right Side Setback | 5 feet | 5.3 feet | 5.3 feet |
| Minimum Left Side Setback | 5 feet | 4.6 feet | 4.6 feet |
| Maximum Height | 36 feet | 16 feet | 16 feet |
| Maximum second unit size ¹ | 750 sq. ft. | 1,098 sq. ft. | 669 sq. ft. |
| ¹ Application for the legalization of the second dwelling unit was deemed complete in April 2017. The 2017 County's Second Dwelling Unit Ordinance was adopted by the Board of Supervisors on January 10, 2017. Under the 2017 Ordinance, second dwelling units are considered ministerial provided the Development Standards for Second Units are conforming. | | | |

The project complies with the maximum height, maximum lot coverage, and setback requirements of the S-7 development standards with exception to the front yard setback (unaffected by this project) and right side yard setback which will be remedied by approval of the non-conforming use permit.

b. Parking Regulations

The property has one covered parking space where two spaces are required for the main unit as required by Section 6199 (*Parking Requirements*). Two uncovered parking spaces are provided in the driveway of the front yard. Due to the configuration of the house, a compliant two-car garage cannot be built without either reconstructing the existing house or greatly encroaching into front and side setbacks.

Pursuant to Chapter 22.5 (*Second Units*) second units with two or fewer bedrooms are required to provide one uncovered parking space in addition to that already required by the primary dwelling. One uncovered parking space that exceeds the primary dwelling requirement already exists on the parcel.

The three existing parking spaces provide the required parking for the proposed four-bedroom primary dwelling and second unit.

3. Compliance with Non-Conforming Use Permit Regulations

Section 6137 (*Exceptions*) and Section 6503 (*Procedure*) of the Zoning Regulations allows the granting of a non-conforming use permit to allow

enlargement of a non-conforming structure provided the following finding is made:

That the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

The enlargement of the existing residence to accommodate the non-permitted work is compliant with the R-1/S-7 Zoning District with the exception of the minimum setback requirements, which this use permit will remedy. Approximately 17 sq. ft. of the addition encroaches into the right side yard setback, which is a small encroachment and, as an existing condition, has not been detrimental to the public welfare in the neighborhood. The addition will be required to comply with the San Mateo County Building Inspection Section regulations, and the County Building Inspection Section, County Public Works Section, and Colma Fire Protection District have given conditional approval of the project.

The reduction in required covered parking spaces from two covered spaces to the existing one covered space will not be detrimental to improvements in the neighborhood. In addition to the existing one-car garage with the original house, there are also two existing uncovered parking spaces in the driveway. Together these three parking spaces provide the required number of parking spaces for the primary dwelling and attached second unit.

As conditioned, the project will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

B. ENVIRONMENTAL REVIEW

The project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 (*Existing Facilities*) of the California Environmental Quality Act (CEQA), relating to additions to existing structures provided that the addition will not result in an increase of more than 10,000 sq. ft. if the project is located in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area is not environmentally sensitive. The project site is not located in a sensitive habitat area and public services are available to serve the development.

C. REVIEWING AGENCIES

Environmental Health Services
Building Inspection Section
Colma Fire Protection District
Department of Public Works

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Vicinity Map
- C. Site Plan
- D. Floor Plan
- E. Elevations
- F. Site Photos

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2016-00165

Hearing Date: April 4, 2019

Prepared By: Kelsey Lang
Project Planner

For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

Regarding the Environmental Review, Find:

1. That the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15301 (*Existing Facilities*), relating to additions to existing structures provided that the addition will not result in an increase of more than 10,000 sq. ft. if the project is located in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area is not environmentally sensitive. The project site is not located in a sensitive habitat area and public services are available to serve the development.

Regarding the Non-Conforming Use Permit, Find:

2. That the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood. The three on-site parking spaces provide sufficient parking for the primary dwelling and attached second unit, and the addition will comply with the San Mateo County Building Inspection Section regulations ensuring the public safety and welfare. The continuation of the existing use and the legalization of the unpermitted work will not be detrimental to the public welfare or improvements in the neighborhood.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

1. This approval applies only to the proposal, documents, and plans described in this report and submitted to and approved by the Zoning Hearing Officer on April 4, 2019. 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.

2. This 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. 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.
3. The site plan submitted with the building permit shall show setbacks that match the setbacks on the survey.
4. Prior to the building permit final inspection, the applicant shall submit photos verifying the colors and materials of the addition match the residence.
5. No tree cutting is allowed by this permit. Removal of any tree over 12 inches in diameter shall require a separate Tree Removal Permit.
6. Noise sources associated with demolition, construction, repair, remodeling, or grading of any real property shall be limited to the hours from 7:00 a.m. to 6:00 p.m., weekdays and 9:00 a.m. to 5:00 p.m., Saturdays. Said activities are prohibited on Sundays, Thanksgiving, and Christmas (San Mateo Ordinance Code Section 4.88.360).

Building Inspection Section

7. This project requires a building permit and shall be designed and constructed according to the 2016 Building Standards Code.

Civil/Drainage Section

8. Prior to the issuance of the building permit or planning permit, the applicant shall have prepared, by a registered civil engineer, a drainage analysis of the proposed project and submit it to the Department of Public Works for review and approval. The drainage analysis shall consist of a written narrative and a plan. The flow of the stormwater onto, over, and off of the property shall be detailed on the plan and shall include adjacent lands as appropriate to clearly depict the pattern of flow. The analysis shall detail the measures necessary to certify adequate drainage. Post-development flows and velocities shall not exceed those that existed in the pre-developed state. Recommended measures shall be designed and included in the improvement plans and submitted to the Building Inspection Section for review and approval.

Colma Fire Protection District

8. The project shall comply with Building Codes as determined by the Chief Building Official.

Department of Public Works

9. No proposed construction work within the County right-of-way shall begin until County requirements for the issuance of an encroachment permit, including review of the plans, have been met and an encroachment permit issued. Applicant shall contact a Department of Public Works Inspector 48 hours prior to commencing work in the right-of-way.
10. Prior to the issuance of the building permit, the applicant will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed building per Ordinance No. 3277.

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ATTACHMENT B



San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: Choi/Vinh

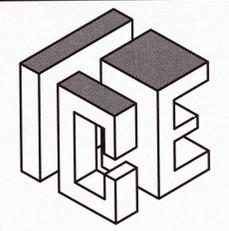
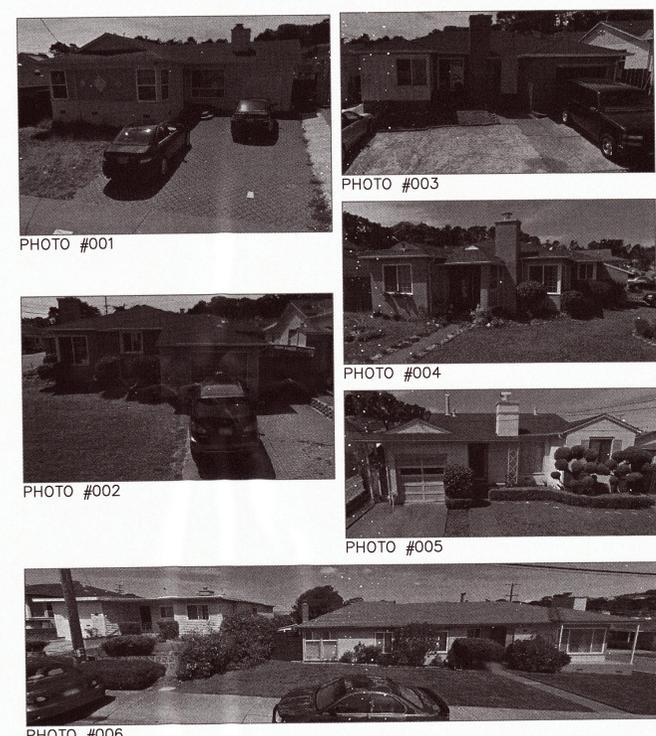
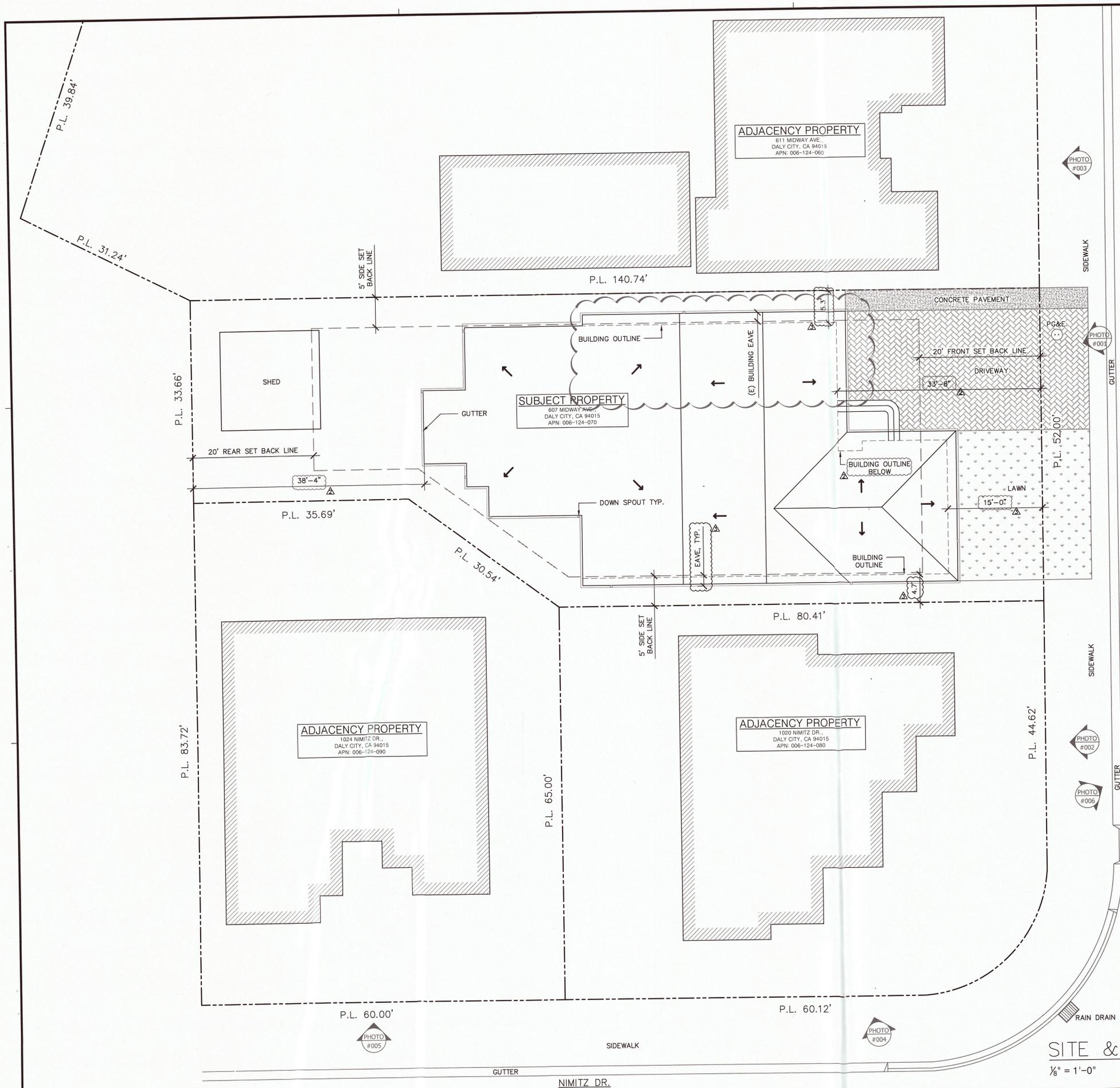
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File Numbers: PLN2016-00165



County of San Mateo - Planning and Building Department

ATTACHMENT C



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 info@icedesigninc.com

APPLICANT:
 CHOL SAN MAN
 607 MIDWAY AVE.
 DALY CITY, CA 94015
 650.741.6968

SHEET TITLE:

SITE PLAN, ROOF PLAN & PHOTOGRAPHS

PROJECT ADDRESS:
 607 MIDWAY AVE.
 COLMA, CA 94015
 APN: 006.124.070



PREPARER: MIKE CHU
 650.741.6968

| NOTES | BY |
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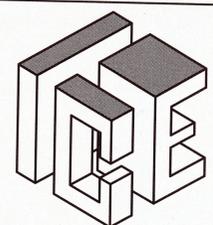
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SITE & ROOF PLAN
 1/8" = 1'-0"



County of San Mateo - Planning and Building Department

ATTACHMENT D



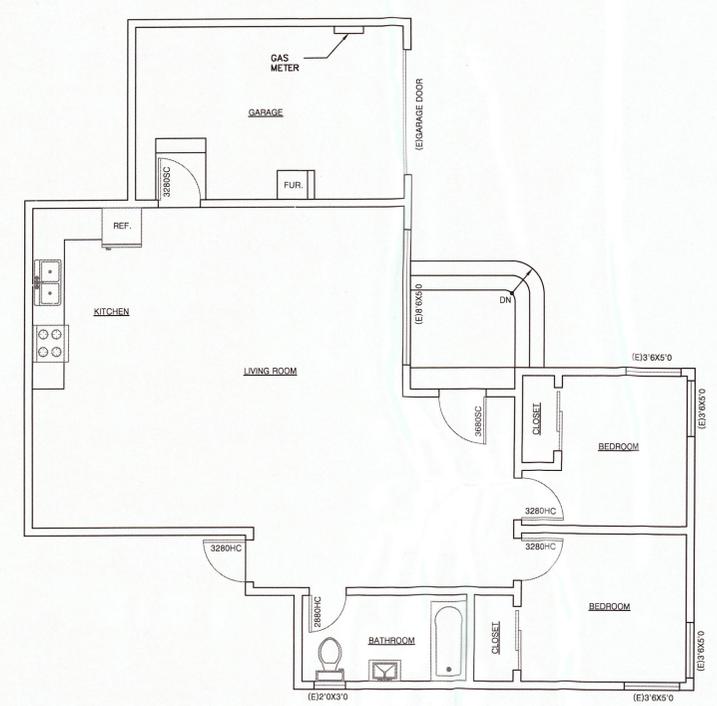
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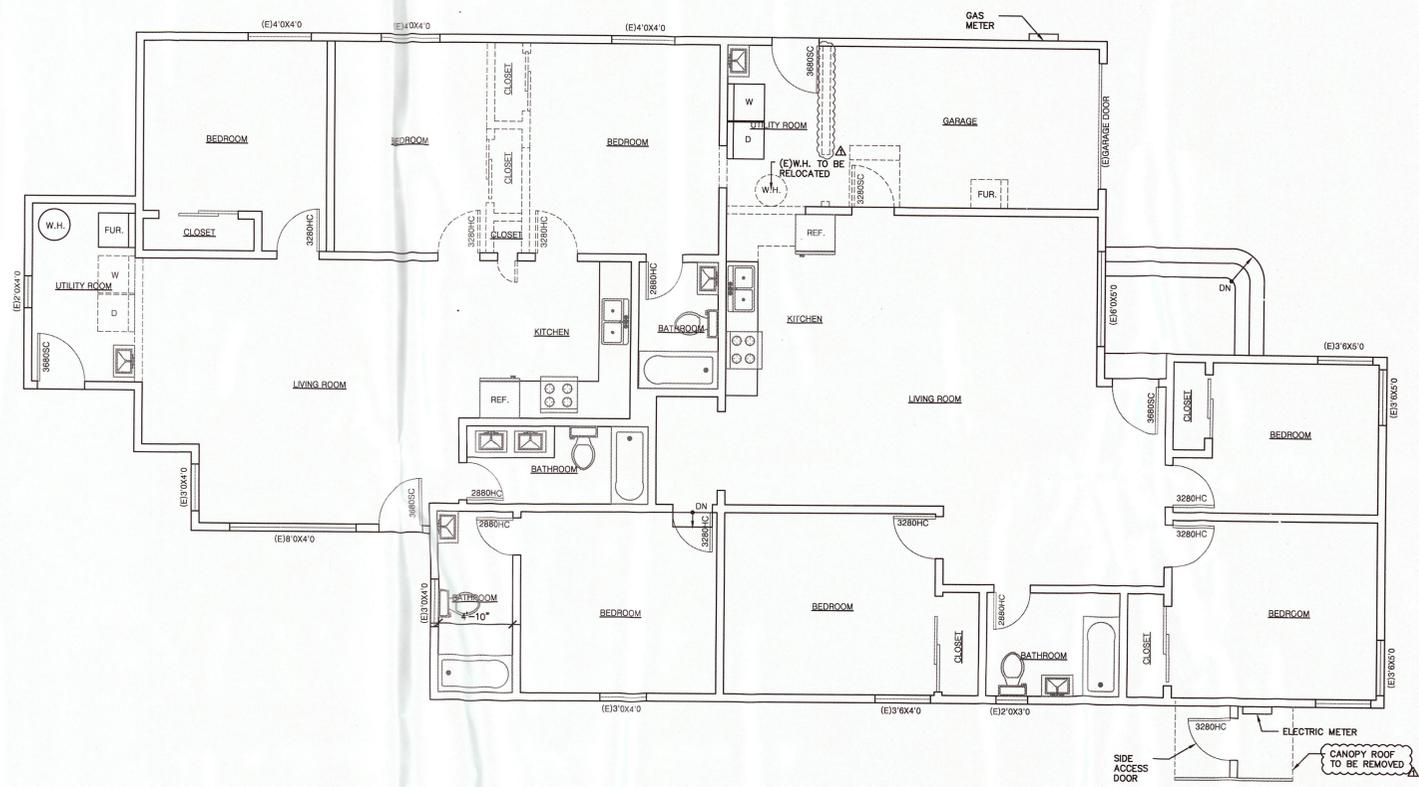
SHEET TITLE:

FLOOR PLANS

PROJECT ADDRESS:
 607 MIDWAY AVE.
 COLMA, CA 94015
 APN: 006.124.070



EXISTING FLOOR PLAN
 3/16" = 1'-0"
 607 MIDWAY AVE., DALY CITY



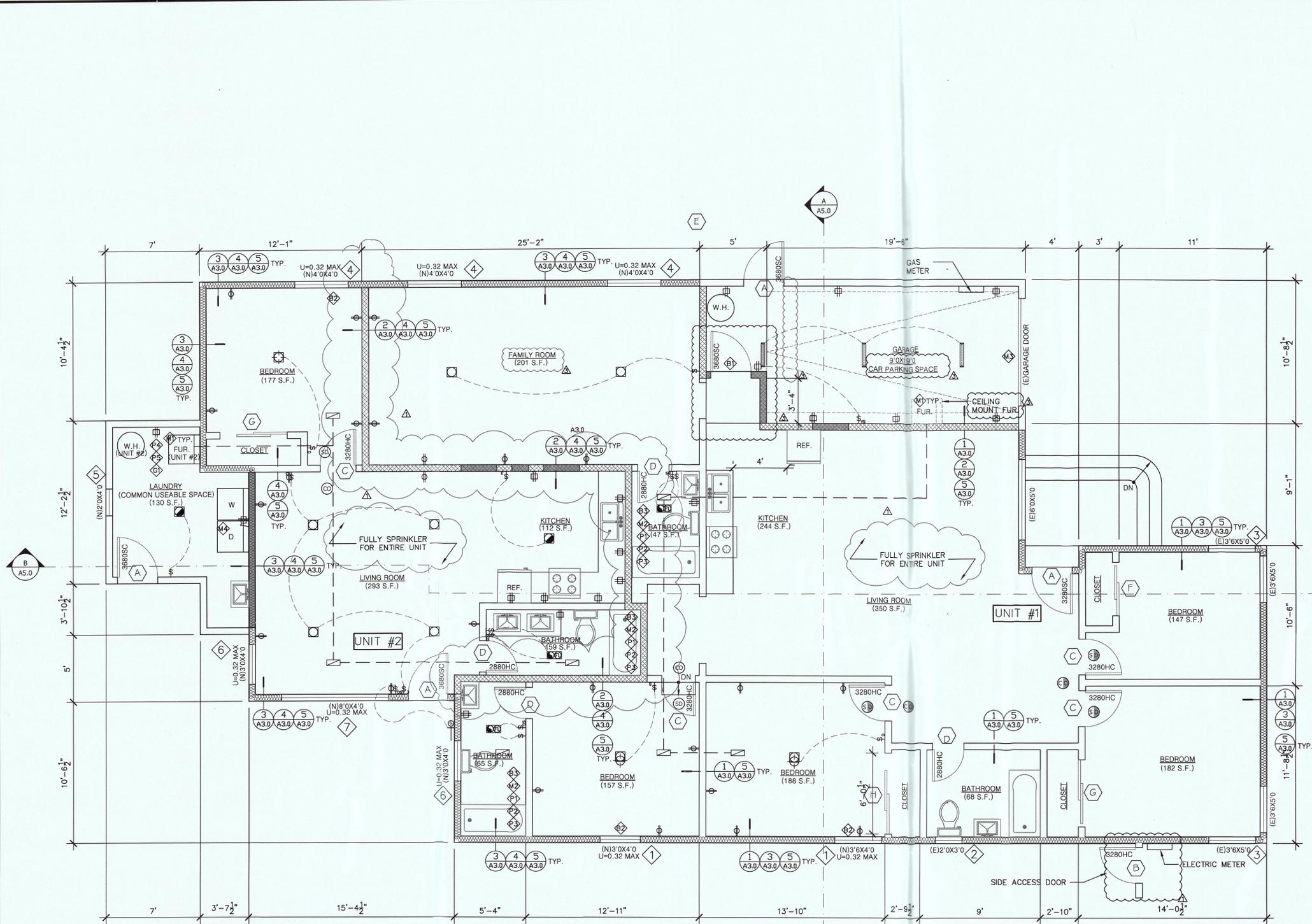
AS-BUILT FLOOR PLAN
 3/16" = 1'-0"
 607 MIDWAY AVE., DALY CITY

PREPARER: MIKE CHU
 650.741.6968

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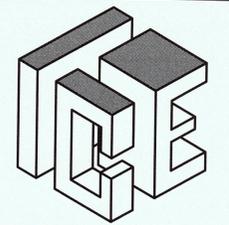
PROPOSED FLOOR PLAN
1/4" = 1'-0"
607 MIDWAY AVE., DALY CITY

WORK & KEY NOTES

- BUILDING**
- ◇ PROVIDE LISTED 1 3/4" 20-MINUTE FIRE RESISTIVE DOOR AND FRAME ASSEMBLY WITH A SELF-CLOSING, SELF-LATCHING DEVICE. ONE HALF OF THE COMMON WALL BETWEEN THE GARAGE SHALL BE OPEN AND UNOBSTRUCTED (CBC 715.4 & TABLE 715.4)
 - ◇ BEDROOM WINDOW SHALL HAVE A MIN. CLEAR OPENABLE WIDTH DIM. OF 20" AND MIN. CLEAR OPENABLE HEIGHT DIM. OF 24" AND EMERGENCY ESCAPE AND RESCUE OPENING OF WINDOW NO MORE THAN 44" ABOVE THE FINISHED FLOOR.
 - ◇ THE SHOWER AND TUB/SHOWER WALLS TO BE SMOOTH, HARD, NON-ABSORBENT SURFACE (E.G., CERAMIC TILE) OVER A MOISTURE RESISTANT UNDERLAYMENT (E.G., CEMENT BOARD, FIBER CEMENT OR GLASS MAT OVER A MOISTURE BARRIER AND WITH CORROSION-RESISTANT FASTENERS. NO GYPSUM PRODUCTS. EXCEPTION: INSTALLATION OF MOLDED ONE-PIECE ENCLOSURES MAY BE INSTALLED OVER MOISTURE RESISTANT GYPSUM BOARD
 - ◇ PROVIDE 5/8" TYPE-X GYPSUM BOARD UNDER THE INTERIOR STAIRWAY.
 - ◇ PROVIDE 5/8" TYPE-X GYPSUM BOARD AND R-19 INSULATION ON GARAGE CEILING
- MECHANICAL**
- ◇ PROVIDE MIN. 26 GA. GALV. SHEET METAL HEATING SUPPLY DUCTS AT GARAGE. BOTTOM OF HEATING DUCT OR FURRING SHALL NOT BE LOWER THAN 7'-0"
 - ◇ BATHROOM VENTILATION FAN WITH MINIMUM 50 CFM AND MAXIMUM 1 SCONE SOUND RATING. BATH FANS SHALL BE SWITCHED SEPARATELY FROM ANY LIGHTING SYSTEM. THE VENT SHALL BE 3 FEET AWAY FROM THE PROPERTY LINE AND 3 FEET AWAY FROM ANY OPENING INTO THE BUILDING.
 - ◇ PROVIDE 200 SQ. IN. VENTILATION ON (E) GARAGE DOOR
 - ◇ PROVIDE CLOTHES DRYER MOISTURE EXHAUST DUCT (MIN. 4"Ø) TO THE OUTSIDE AND EQUIP WITH BACK-DRAFT DAMPER EXHAUST DUCT LENGTH IS LIMITED TO 14FT. WITH 2 ELBOWS. 3' AWAY FROM PROP. LINE & OPENINGS
- PLUMBING**
- ◇ PROVIDE A 30" SIDE TO SIDE CLR. AND A MIN. 24" IN FRONT OF THE TOILET. NEW TOILET MUST BE WATER CONSERVING 1.28 GAL.
 - ◇ CONTROL VALVES AND SHOWER STALL HEADS SHALL BE LOCATED ON SIDEWALL OF SHOWER COMPARTMENTS.
 - ◇ NO PLASTIC PLUMBING PIPE ALLOWED FOR DOMESTIC WATER SUPPLY AND SANITARY WASTE SYSTEM.
 - ◇ PROVIDE 3/4" x 24 GAUGE STEEL SEISMIC STRAP TO WATER HEATER WITH 18" HEIGHT PLATFORM. AND SHALL BE WRAPPED W/ R-12 INSULATION, UNLESS EFFICIENCY RATED AT 58% OR BETTER
 - ◇ PROVIDE COMBUSTION AIR OPENINGS FROM OUTSIDE FOR WATER HEATER & FURNACE. TERMINATE FLUES 4 FEET FROM PROPERTY LINE AND 2'-0" ABOVE ANY PORTION OF A BUILDING WITHIN 10'-0"
- ENERGY**
- ◇ PROVIDE 1" INSULATION ON FIRST 5 FOOT LENGTH OF HOT AND COLD WATER PIPES FROM THE STORAGE TANK

LEGENDS:

- ⊕ ARC-FAULT INTERRUPTER DUPLEX OUTLET (TAMPER RESISTANT)
- ⊕ GROUND FAULT INTERRUPTED DUPLEX OUTLET (TAMPER RESISTANT)
- ⊕ GROUND FAULT INTERRUPTED DUPLEX OUTLET - WEATHER PROOF (TAMPER RESISTANT) w/ ALL WEATHER-USE COVER
- ⊕ EXHAUST FAN - 50 CFM MIN - VENTED TO OUTSIDE
- ⊕ EXHAUST FAN - 50 CFM MIN - VENTED TO OUTSIDE VAPOR PROOF LENSE & GFI AT SHOWERS
- ⊕ EXHAUST FAN LIGHT COMBO - VENT TO OUTSIDE AIR
- ⊕ WALL MOUNTED FLUORESCENT LIGHT FIXTURE
- ⊕ SURFACE MOUNTED FLUORESCENT CEILING LIGHT FIXTURE
- ⊕ SURFACE MOUNTED INCANDESCENT CEILING LIGHT FIXTURE
- ⊕ SUSPENDED INCANDESCENT LIGHT FIXTURE
- ⊕ RECESSED INCANDESCENT LIGHT FIXTURE
- ⊕ RECESSED FLUORESCENT LIGHT FIXTURE
- ⊕ RECESSED HIGH EFFICACY LIGHT FIXTURE (LED OR EQ.)
- ⊕ UNDER CABINET FLUORESCENT LIGHT FIXTURE
- ⊕ 1'x4' SURFACE MOUNTED FLUORESCENT LIGHT
- ⊕ LED STRIP LIGHT
- ⊕ PHOTO-MOTION CONTROLLED LIGHT FIXTURE
- ⊕ SINGLE SWITCH
- ⊕ 3-WAY SWITCH
- ⊕ DIMMER SWITCH WITH DIMMER CONTROL
- ⊕ OCCUPANCY SENSOR SWITCH (AUTO "ON" - AUTO "OFF")
- ⊕ VACANCY SENSOR SWITCH (MANUAL "ON" - AUTO "OFF")
- ⊕ GAS SUPPLY VALVE
- ⊕ BATTERY OPERATED SMOKE DETECTOR
- ⊕ SMOKE DETECTOR, AC
- ⊕ BATTERY OPERATED CARBON MONOXIDE ALARM
- ⊕ CARBON MONOXIDE ALARM, AC
- ⊕ HEAT REGISTER



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SHEET TITLE:

FLOOR PLAN & NOTES

PROJECT ADDRESS:
607 MIDWAY AVE.
COLMA, CA 94015
APN: 006.124.070



PREPARER: MIKE CHU
650.741.6968

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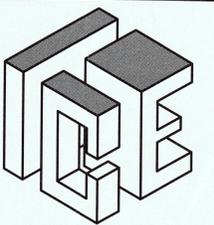
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County of San Mateo - Planning and Building Department

ATTACHMENT E



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SHEET TITLE:

FLOOR PLAN & NOTES

PROJECT ADDRESS:
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 APN: 006.124.070

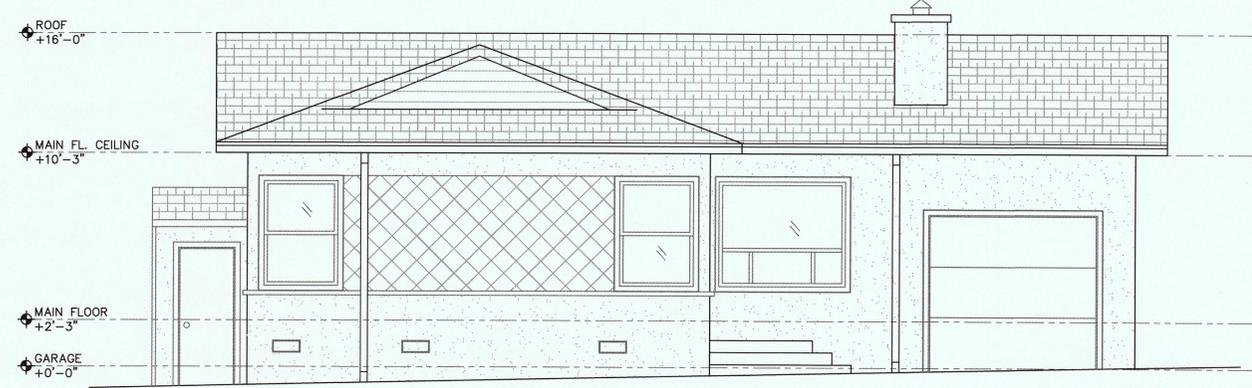


PREPARER: MIKE CHU
 650.741.6968

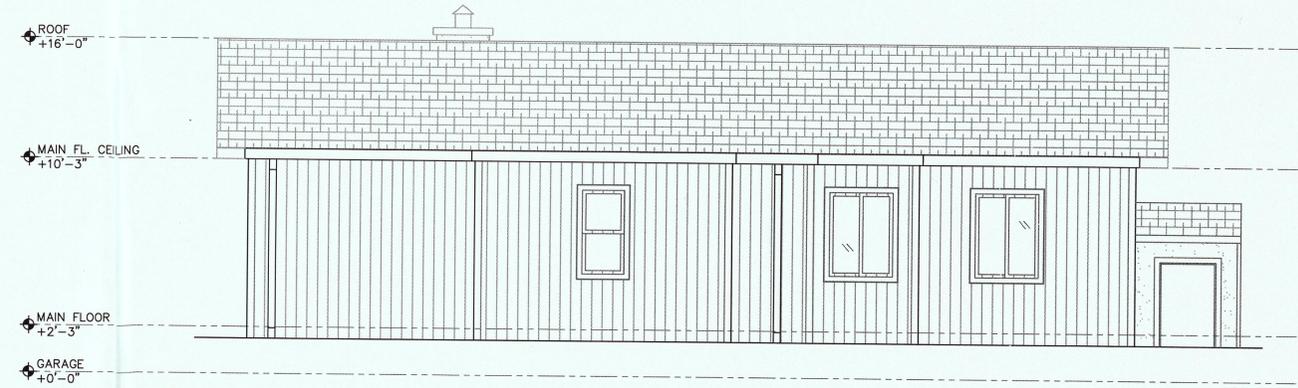
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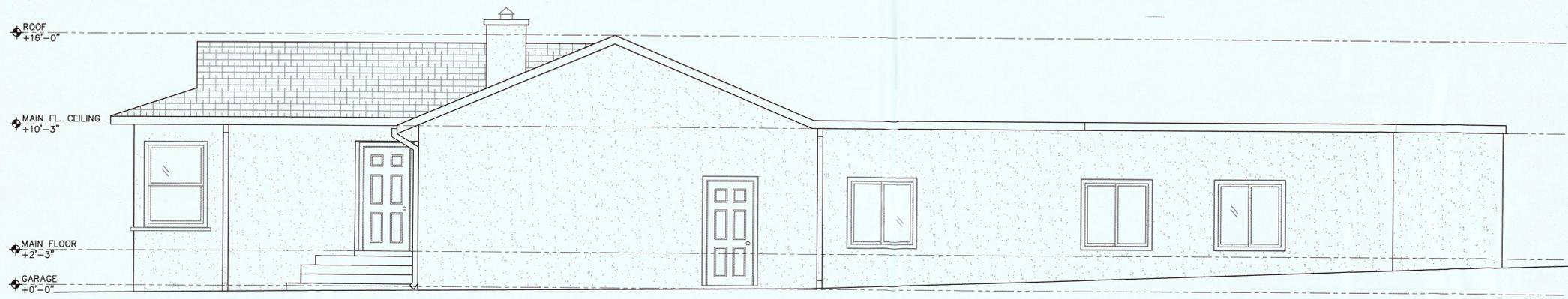
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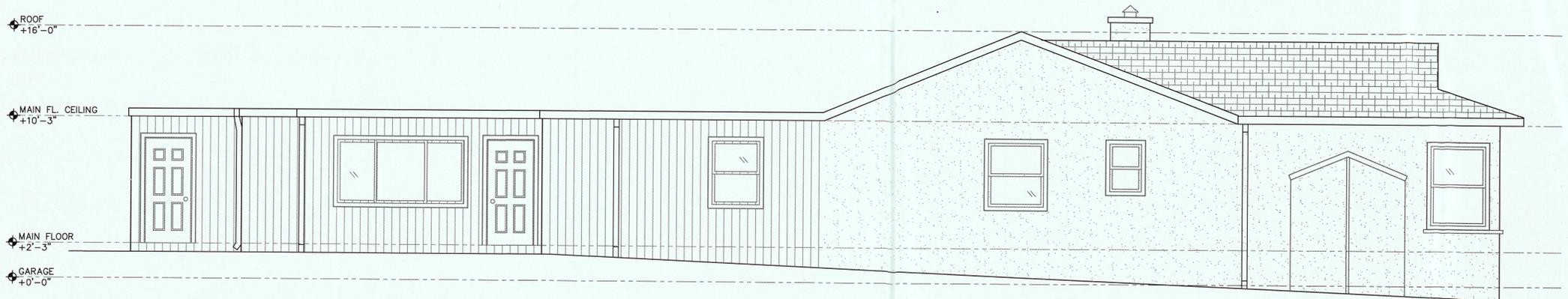
FRONT ELEVATION
 1/4" = 1'-0" 607 MIDWAY AVE., DALY CITY (A)



REAR ELEVATION
 1/4" = 1'-0" 607 MIDWAY AVE., DALY CITY (B)



RIGHT SIDE ELEVATION
 1/4" = 1'-0" 607 MIDWAY AVE., DALY CITY (B)



LEFT SIDE ELEVATION
 1/4" = 1'-0" 607 MIDWAY AVE., DALY CITY (D)



County of San Mateo - Planning and Building Department

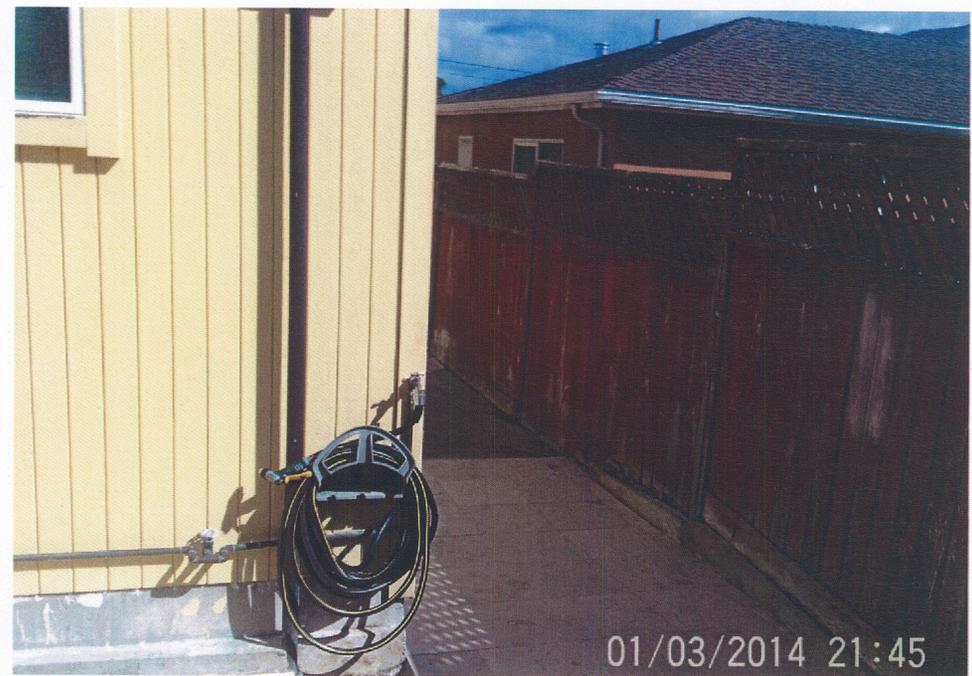
ATTACHMENT F

Attachment F: Front of Dwelling (Facing South)

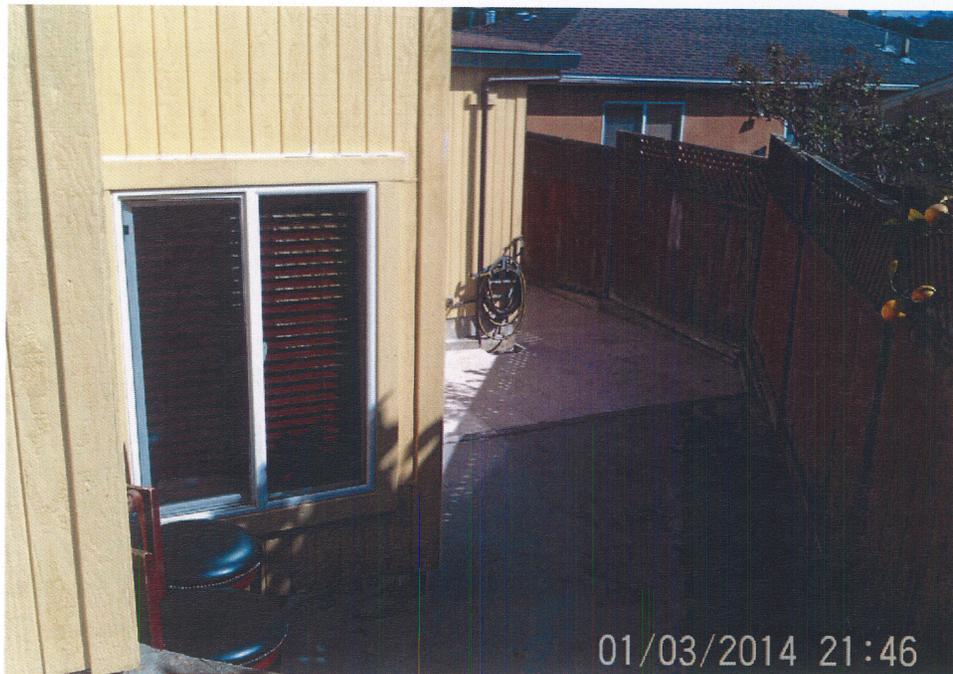
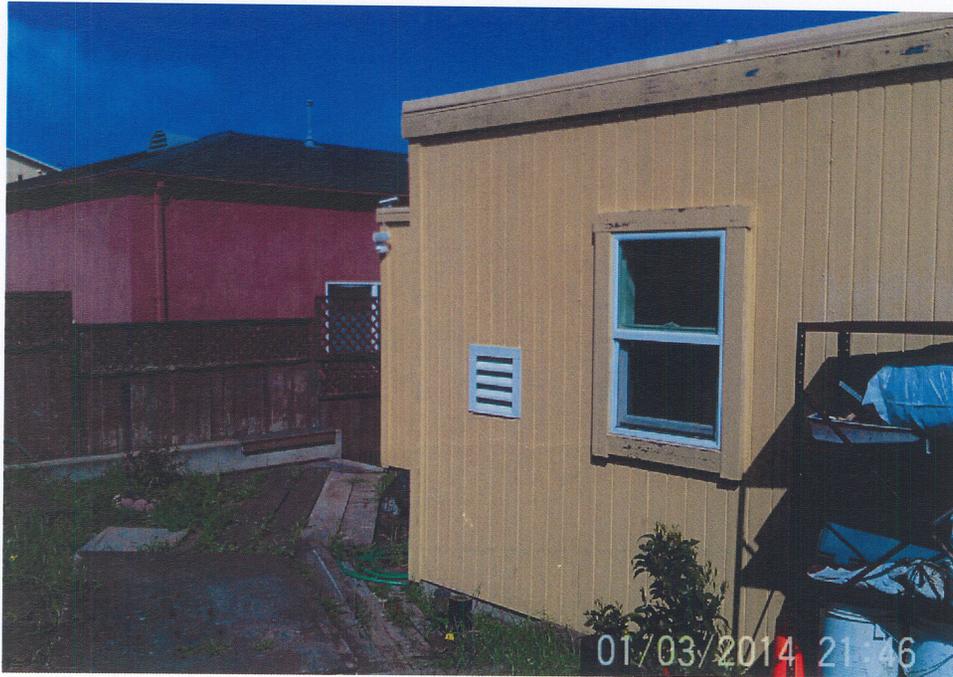


607 Midway

Attachment F: East Side of Dwelling (Facing West and North)



Attachment F: Rear of Dwelling (Facing North-East)



Attachment F: Rear of Dwelling (Facing North-West)

