

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

DATE: April 17, 2025

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Non-conforming Use Permit, pursuant to Section 8.388.030.3.b(2) of the San Mateo County Zoning Regulations, to legalize 342 sq. ft. of non-conforming additions to an existing 909-sq. ft. non-conforming one-story single-family residence on a substandard 2,479-sq. ft. lot located at 2796 Westmoreland Avenue in the unincorporated North Fair Oaks area of San Mateo County. The additions have reduced setbacks of 2 feet 2 inches along the left interior side property line where 5 feet is required, 8 feet 7 inches along the right street side property line where 10 feet is required, and 5 feet 3 inches along the rear property line where 20 feet is required. Legalizing the additions will allow the single-family residence to exceed the maximum allowed lot coverage by 2 square feet. The Non-conforming Use Permit also includes an exception to waive the requirement for two off-street parking spaces; an existing illegal two car carport will be removed due to its encroachment into the public right-of-way. No tree removal and no grading are proposed.

County File Number: PLN2022-00074 (Vargas)

PROPOSAL

The applicant is seeking a Non-conforming Use Permit to legalize additions (342 sq. ft.) added by a previous owner to an existing 909-sq.-ft. non-conforming single-family residence on a substandard 2,479 sq. ft. lot at 2796 Westmoreland Avenue in North Fair Oaks. The additions consist of a primary bedroom closet addition (93 sq. ft.), and a third bedroom and laundry area addition (249 sq. ft.) and are located at the front and rear, respectively, of the existing residence. Legalizing the additions will allow the single-family residence to exceed the maximum allowed lot coverage by 2 square feet. The parcel is zoned R-3/S-5 (Multiple-family Residential) where 5,000 sq. ft. is the required minimum lot size.

Legalization of the 93 sq. ft. primary bedroom closet and 249 sq. ft. bedroom and laundry area requires a Non-conforming Use Permit due to the proposed substandard setbacks of 2 feet 2 inches along the left interior side property line where 5 feet is required, 8 feet 7 inches along the right street side property line where 10 feet is required, and 5 feet 3 inches along the rear property line where 20 feet is required. The Non-conforming Use

Permit also includes an exception to allow the additions to exceed the maximum allowed lot coverage and waive the requirement for two covered parking spaces onsite. An existing illegal carport and deck that encroach into the public right-of-way, Dumbarton Avenue, will be demolished. The project proposes no grading and no tree removal.

RECOMMENDATION

That the Zoning Hearing Officer approve the Non-conforming Use Permit, County File Number PLN2022-00074, by making the required findings and adopting the conditions of approval listed in Attachment A.

BACKGROUND

Report Prepared By: Olivia Boo, Project Planner, oboo@smcgov.org

Applicant/Owner: Carlos Gomez

Public Notification: Ten-day advanced notification for the hearing was mailed to property owners within 300 feet of the project parcel and a notice for the Zoning Hearing Officer hearing was posted in a newspaper (San Mateo County Times) of general public circulation on April 5, 2025.

Location: 2796 Westmoreland Avenue, North Fair Oaks

APN: 054-273-090

Size: ± 2,479 sq. ft.

Existing Zoning: R-3/S-5 (Multiple-family Residential/5,000 sq. ft. lot minimum)

General Plan Designation: North Fair Oaks Community Plan, Medium High Density Residential (8.8-17.4 de/ac)

Sphere-of-Influence: Redwood City

Existing Land Use: Existing single-family residence

Water Supply: California Water Service - Bear Gulch

Sewage Disposal: Fair Oaks Sewer Maintenance District

Flood Zone: Zone X (Area of Minimal Flood Hazard), FEMA Panel Number 06081C0302E, effective date: October 16, 2012.

Environmental Evaluation: The project is categorically exempt pursuant to California Environmental Quality Act Guidelines Section 15301, Class 1(e), for a residential addition to an existing structure where the addition will not result in an increase of more

than 50 % of the floor area of the structure before the addition, or 2,500 sq. ft., whichever is less.

Setting: The property is located in the unincorporated community of the North Fair Oaks area and is developed with a non-conforming one-story single-family residence. The parcel size is 2,479 sq. ft., and is non-conforming in size, as it does not meet the 5,000 sq. ft. minimum parcel size required in the R-3/S-5 Zoning District. The surrounding parcels include both 5,000 sq. ft. and substandard sized parcels. The area is developed with both one-story and two-story single-family residences.

DISCUSSION

A. KEY ISSUES

1. Conformance with the General Plan/North Fair Oaks Community Plan

The North Fair Oaks Community Plan designates the parcel as Multi-family Residential. The current use of the property as a single-family residence is consistent with this designation and the proposed land use will remain single-family residential. Furthermore, all public services and infrastructure are available to serve the project.

2. Conformance with the Zoning Regulations

a. Development Standards

The project parcel is zoned R-3/S-5. The project complies with the S-5 development standards, with exception of the side yard and rear yard setbacks, lot coverage, and on-site covered parking, which the applicant is seeking the subject Non-conforming Use Permit to address.

	S-5 Development Standard	Existing (based on legal building area)	Addition to be Legalized
Minimum Lot Size	5,000 sq. ft.	2,479 sq. ft.	No change
Minimum Front Setback	20 ft.	28 ft.	No change
Minimum Rear Setback	20 ft.	17 ft., 2 in.	5 ft., 3 in.**

Minimum Side Setbacks	10 ft., right side yard 5 ft., left side yard	8 ft., 7 in. (right side) 2 ft., 5.5 in. (left side)	8 ft., 7 in. (right side) 2 ft., 2 in. (left side)**
Maximum Height	36 feet	11 ft., 9 in.	No Change
Lot Coverage	50%/1,250 sq. ft.	50%/909.9 sq. ft.	50 %/1,252 sq. ft.**

*Non-conforming Use Permit required.

b. Parking Requirements

Section 8.344.020 and 8.344.030 of the County Zoning Regulations (*Parking*) requires two independently accessible covered parking spaces for all single-family dwelling units with two or more bedrooms. Two covered parking spaces are required. The existing illegal carport will be demolished due to its encroachment into the public right-of-way. The applicant is requesting waiver of the requirement for two off-street parking spaces under the subject Non-conforming Use Permit due to the substandard size of the parcel and lack of space onsite to provide parking.

3. Conformance with Non-conforming Use Permit Findings

The following findings, as required by Zoning Ordinance Section 8.388.030.3.b(3), must be made in order to grant approval of the Non-conforming Use Permit.

a. **The proposed development is proportioned to the size of the parcel on which it is being built.**

The project parcel is a legal 2,479 sq. ft. non-conforming parcel where 5,000 sq. ft. is the minimum required parcel size in the R-3/S-5 Zoning District. The requested additions of 342 sq. ft. for the primary bedroom closet, rear bedroom, and laundry area are reasonable to provide usable living space on the substandard-sized lot, while the total lot coverage will only exceed the maximum allowable lot coverage by 2 square feet.

b. **All opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible.**

All contiguous parcels are privately owned and are developed with single-family residences. Some of the parcels on Westmoreland Avenue and Dumbarton Avenue (the nearest cross street), are also substandard in size or meet the minimum required parcel size of 5,000 sq. ft. and therefore do not have excess land to offer for the subject parcel to meet the 5,000 sq. ft. minimum parcel size.

- c. **The proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible.**

The requested exceptions are in as reasonable conformance with the Zoning Regulations currently in effect as is possible while still allowing for a reasonably modest three-bedroom, 1,252 sq. ft. single-family residence on a substandard 2,479 sq. ft. parcel. The proposed project will allow reasonable usable living space on the project parcel while only slightly exceeding the maximum allowed lot coverage by 2 sq. ft. Additionally, the waiver of on-site covered parking does not change past site conditions as no compliant on-site covered parking has existed on the parcel.

- d. **The establishment, maintenance, and/or conducting of the proposed 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 the said neighborhood.**

Surrounding development in the neighborhood consists primarily of older one-and two-story single-family residences. The proposal will continue to utilize the property for single-family residential purpose and will maintain the current design, which is compatible with surrounding single-family residential development. The project has been reviewed and conditionally approved by the Menlo Park Fire District, the San Mateo County Department of Public Works, and the Fair Oaks Sewer Maintenance District. The project is not located in the coastal zone and therefore would not impact coastal resources. Based on the foregoing, staff has determined that this proposal would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood.

- e. **Use permit approval does not constitute a granting of special privileges.**

The requested exceptions to the rear yard and side yard setback requirements to legalize the minor additions, allow the addition to exceed lot coverage, and exception to waive onsite parking do not make the residence out of character with the overall surrounding residential development. Furthermore, the Non-conformities Chapter of the Zoning Regulations provides the same exception process for other substandard parcels in the same/similar situation. Therefore, the proposed Non-conforming Use Permit approval does not constitute the granting of a special privilege that is not available to other properties in similar situations.

B. NORTH FAIR OAKS COMMUNITY COUNCIL

The North Fair Oaks Community Council considered the project at their March 27, 2025, meeting and recommended approval.

C. ENVIRONMENTAL REVIEW

The project is categorically exempt pursuant to California Environmental Quality Act Guidelines Section 15301, Class 1(e), for a residential addition to an existing structure where the addition will not result in an increase of more than 50 % of the floor area of the structure before the addition, or 2,500 sq. ft., whichever is less.

D. REVIEWING AGENCIES

San Mateo County Drainage Section
San Mateo County Department of Public Works
San Mateo County Fair Oaks Sewer Maintenance District
Menlo Park Fire District

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Vicinity Map
- C. Plans
- D. Photos

County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN2022-00074

Hearing Date: April 17, 2025

Prepared By: Olivia Boo, Project Planner

For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That the project is categorically exempt pursuant to California Environmental Quality Act Guidelines Section 15301, Class 1(e), for a residential addition to an existing structure where the addition will not result in an increase of more than 50 % of the floor area of the structure before the addition, or 2,500 sq. ft., whichever is less.

For the Non-conforming Use Permit, Find:

2. That the proposed development is proportioned to the size of the parcel on which it is being built. The request to legalize the additions is reasonable to provide usable living space on the substandard sized parcel while only exceeding the maximum allowed lot coverage by 2 square feet.
3. That all opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible. All parcels contiguous to the project parcel are privately owned, are developed with single-family residences and are either substandard in parcel size or just meeting the minimum required lot size. Therefore, the contiguous parcels do not have excess land to offer for the subject parcel to meet the 5,000 sq. ft. minimum parcel size.
4. That the proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible. The proposed project will allow reasonable usable living space while only exceeding the maximum lot coverage allowance by 2 square feet. The waiver of onsite covered parking does not change past site conditions as no compliant onsite covered parking has existed on the parcel.

5. That the establishment, maintenance, and/or conducting of the proposed 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 the property or improvements in the said neighborhood. The project is not located in the Coastal Zone and therefore would not impact coastal resources. The residence will maintain compatibility with the surrounding residences. All applicable review agencies have provided conditional approval. Based on the foregoing, staff has determined that this proposal would not be detrimental to the public welfare or injurious to the property or improvements.
6. That the use permit approval does not constitute a granting of special privileges. The requested exceptions to the rear yard and side yard setback requirements to legalize the minor additions, exceedance of lot coverage, and exception to waive onsite parking do not make the residence out of character with the surrounding residential development. The proposed development does not constitute the granting of a special privilege not available to other properties in similar situations, as the Zoning Regulations provide the same exception process for other substandard parcels in the same/similar situation.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

1. This approval applies only to the proposal, documents, and plans described in this report and materials approved by the Zoning Hearing Officer on April 17, 2025. The Director of Planning and Building may approve minor revisions or modifications to the project if they are consistent with the intent of and in substantial conformance with this approval.
2. This Non-conforming Use Permit is valid for one year from the date of final approval in which time a valid building permit shall be issued. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable fees 60 days prior to expiration.
3. The applicant shall apply for a building permit and shall adhere to all requirements from the Building Inspection Section, Fair Oaks Sewer Maintenance District, and the Menlo Park Fire District. Additionally, construction shall not commence until a valid building permit is issued.
4. No protected trees are proposed for removal. Any tree removal of trees greater than 12 inches in diameter at breast height is subject to the San Mateo County's Protected Tree Ordinance and may require a separate permit for removal.

5. To reduce the impact of construction activities on neighboring properties, comply with the following:
 - a. All debris shall be contained on-site; a dumpster or trash bin shall be provided on-site during construction to prevent debris from blowing onto adjacent properties. The applicant shall monitor the site to ensure that trash is picked up and appropriately disposed of daily.
 - b. The applicant shall remove all construction equipment from the site upon completion of the use and/or need of each piece of equipment which shall include but not be limited to tractors, back hoes, cement mixers, etc.
 - c. The applicant shall ensure that no construction-related vehicles impede through traffic along the right-of-way on Westmoreland Avenue and Dumbarton Avenue. All construction vehicles shall be parked on-site outside the public right-of-way or in locations which do not impede safe access on Westmoreland Avenue and Dumbarton Avenue. There shall be no storage of construction vehicles in the public right-of-way.
6. A planning final inspection is required prior to the final building inspection of any associated building permit to verify the confirm the addition to be legalized matches the single-family residence in color.
7. Within 60 days of final approval of this permit, the applicant shall file for a demolition permit with the Building Division and an encroachment permit, subject to requirement from the Department of Public Works to remove structures located within the public right-of-way (see Department of Public Works conditions below).
8. Within 60 days of final approval of this permit, the applicant shall file for a building permit, to legalize the additions, with the Building Division.
9. 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 County Ordinance Code Section 4.88.360).

Drainage

10. At the time of building permit submittal, the project will be required to demonstrate compliance with the County's "basic" drainage review requirements, including showing splashblocks at roof gutter downspouts to disperse rainwater to landscaping where feasible and adding swales between the structure and property line where appropriate.

Department of Public Works

11. The applicant shall remove or relocate the existing fence to the property line.
12. The applicant shall remove the carport and deck that encroach into the public right-of-way.

Menlo Park Fire District

13. The project shall comply with the 2022 California Building / Fire Codes and local amendments, including but not limited to the following:
14. Install smoke detectors in each sleeping area and the area outside sleeping areas. Install carbon monoxide detectors outside sleeping areas. Smoke and carbon monoxide detectors shall be hardwired and inter-connected for alarm.
15. The applicant shall provide at least 4-inch-tall with 1/2-inch stroke illuminated address numbers. Address must be illuminated from dusk till dawn via photocell of timer (no switches allowed). No solar illumination allowed. The address shall be visible from the street and contrasting to its background. 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.
16. Approved plans and approval letter must be on site at the time of inspection.
17. Final acceptance of this project is subject to field inspection.
18. Upon completion of work and prior to closing any ceiling, contact Deputy Fire Marshal Bob Blach of the Menlo Park Fire Protection District at 650-688-8430 to schedule a final inspection. 48 HOURS NOTICE IS REQUIRED FOR ALL INSPECTIONS.

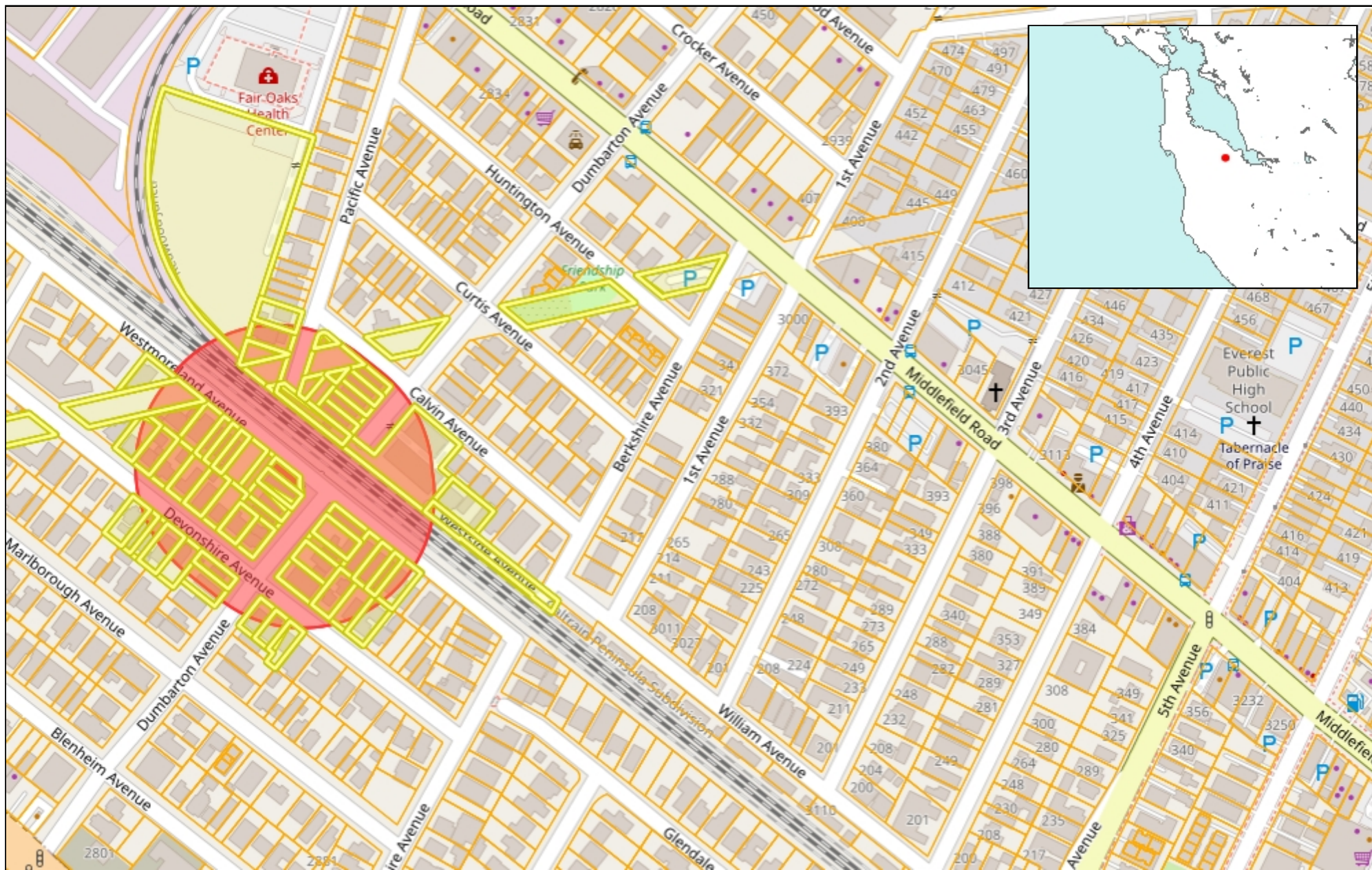
California Water Service-Bear Gulch

19. The project will require a backflow device for the property.



COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT B



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WGS_1984_Web_Mercator_Auxiliary_Sphere
© Latitude Geographics Group Ltd.

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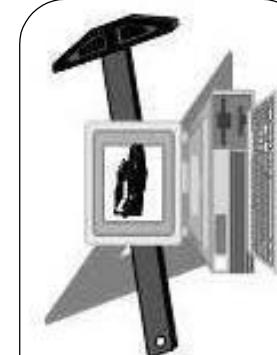
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THIS MAP IS NOT TO BE USED FOR NAVIGATION



COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT C



A.G. FREY & CO.
1911 BELLE AVE.
SAN CARLOS, CA 94070
650-592-0519
COMPUTER AIDED DESIGN
SPECIALISTS

CONTRACTOR:
T.B.D.

PROJECT FOR:
VARGAS RESIDENCE
2746 WESTMORELAND AVE
REDWOOD CITY, CA.

VIEW
FLOOR PLAN

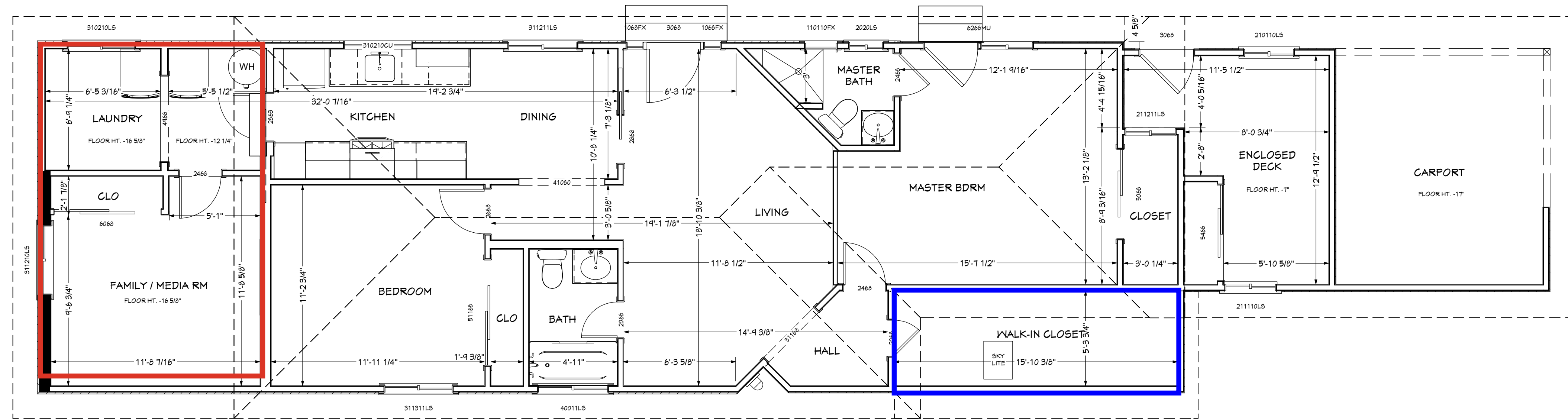
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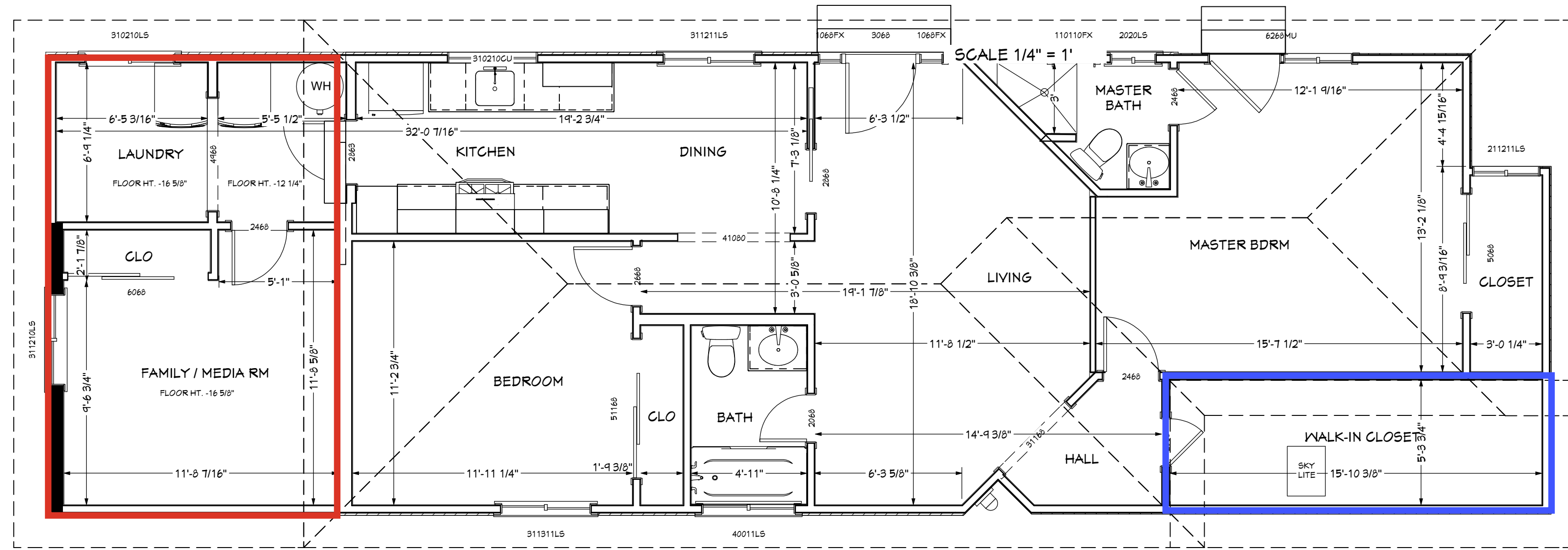
SCALE
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REVISIONS		
#	DATE	COMMENTS
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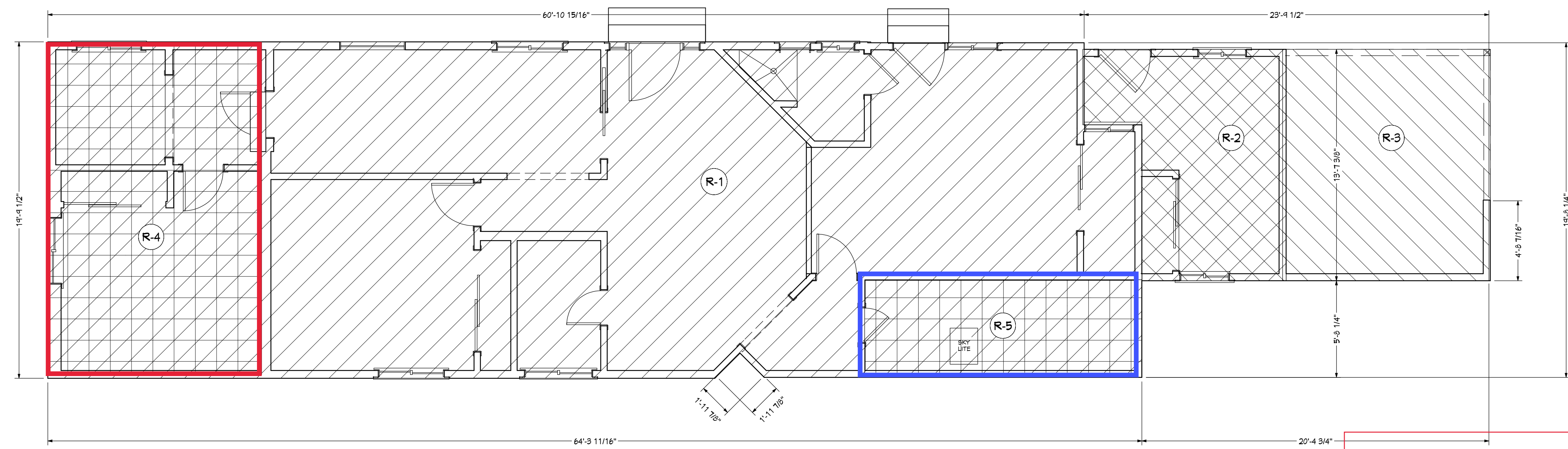
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OF 3



EXISTING FLOOR PLAN



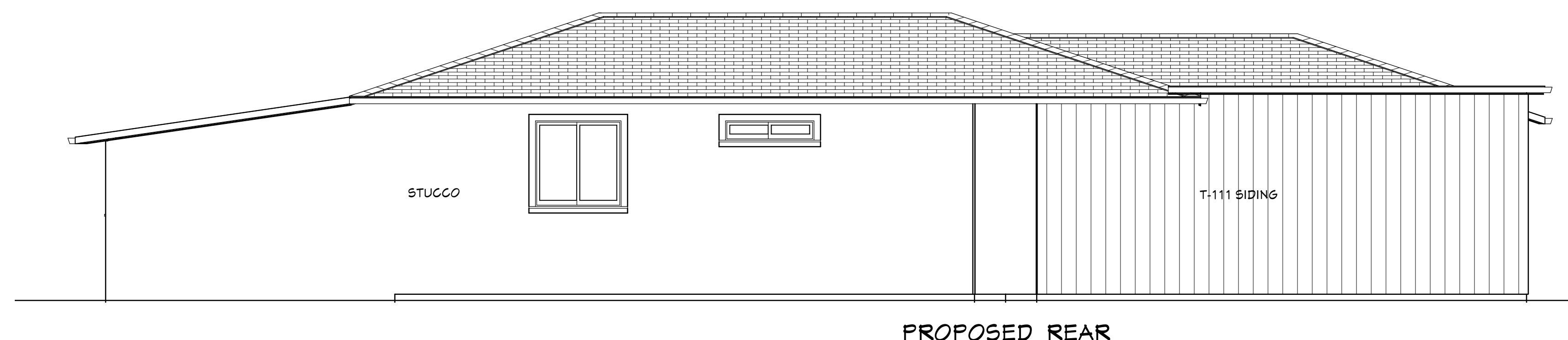
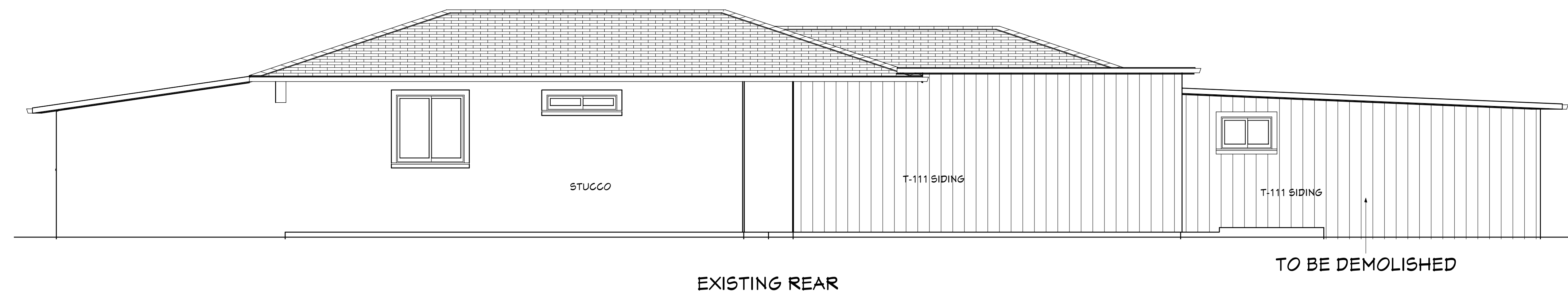
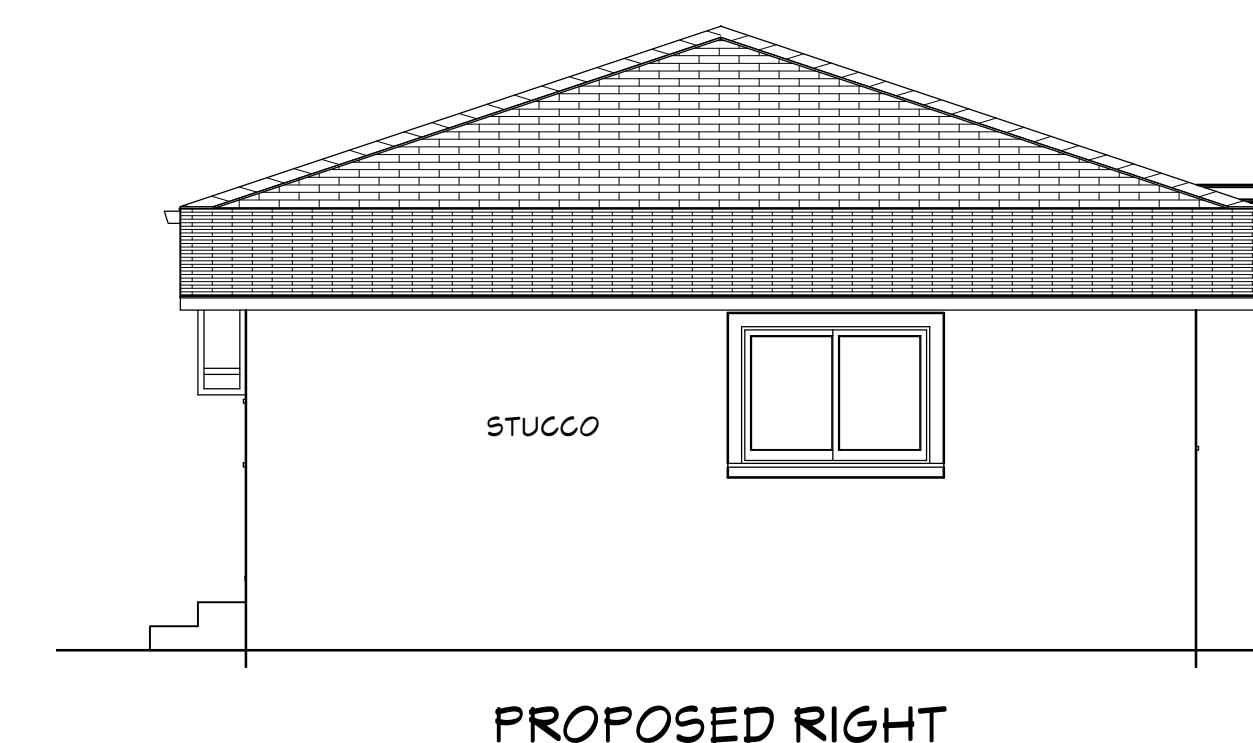
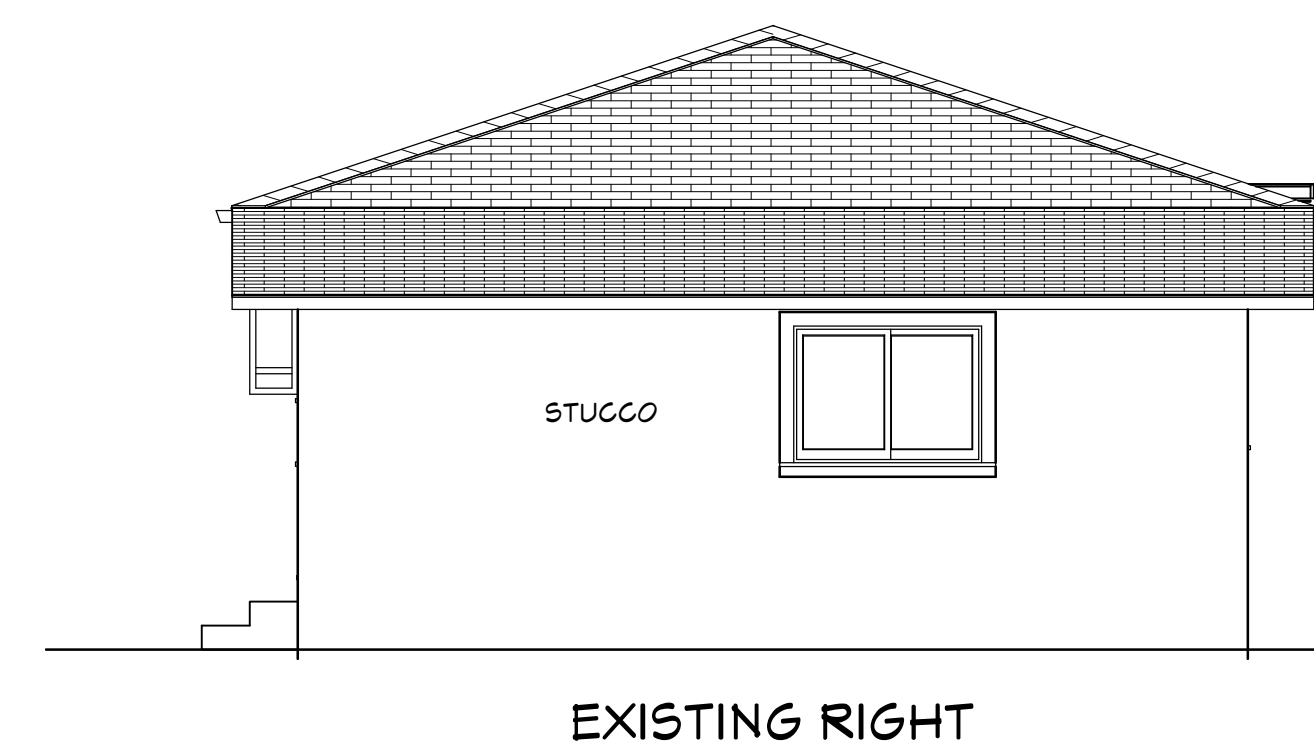
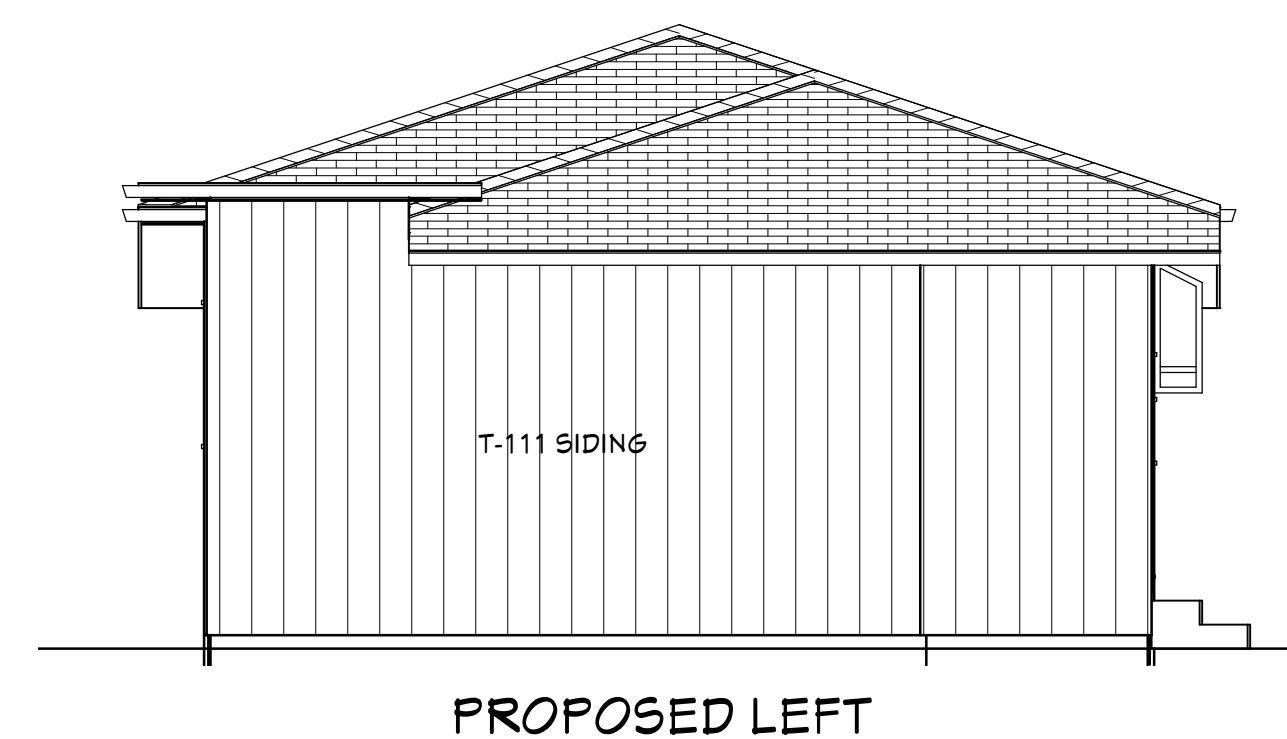
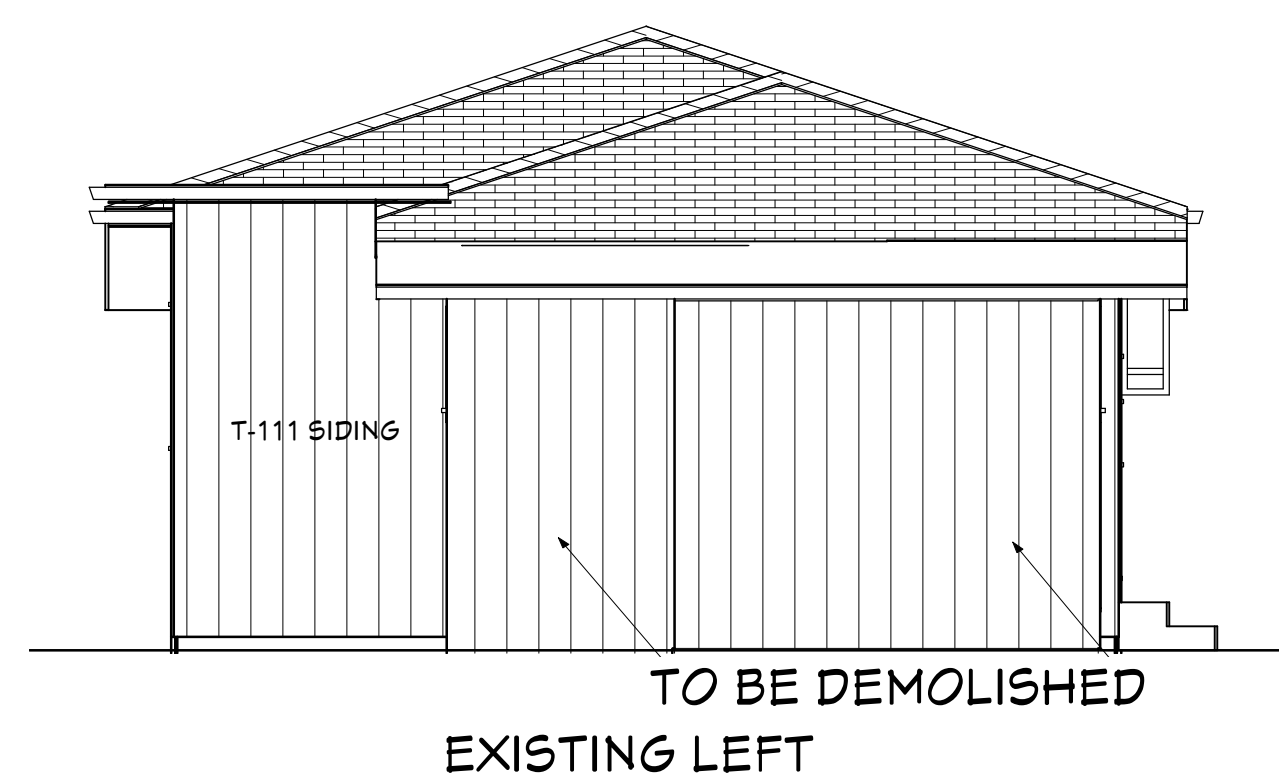
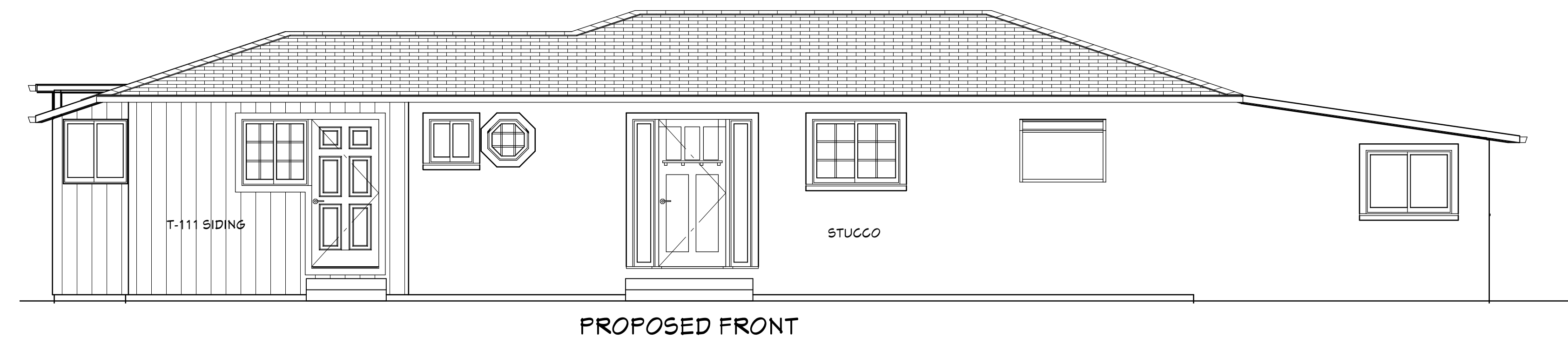
PROPOSED FLOOR PLAN



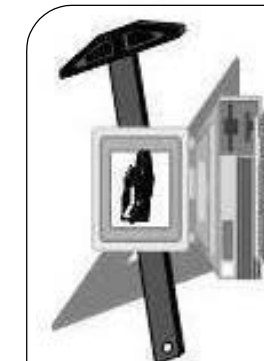
AREA JUSTIFICATION

SCALE 1/4" = 1'

AREA TABLE		
REGION	DESCRIPTION	AREA
R-1	(E) HOUSE LEGAL RES.	909.48 SQ. FT.
R-2	(E) ENCLOSED DECK TO BE DEMOLISHED	130.78 SQ. FT.
R-3	(E) CARPORT TO BE DEMOLISHED	164.67 SQ. FT.
R-4	(E) FAM. RM/LAUNDRY TO BE LEGALIZED	249.02 SQ. FT.
R-5	(E) WALK-IN CLOSET TO BE LEGALIZED	43.33 SQ. FT.



EXTERIOR ELEVATIONS SCALE 1/4" = 1'



A.G. FREY & CO.
1911 BELLE AVE.
SAN CARLOS, CA 94070
650-592-0519
COMPUTER AIDED DESIGN
SPECIALISTS

CONTRACTOR:
T.B.D.

PROJECT FOR:
VARGAS RESIDENCE
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REDWOOD CITY, CA.

VIEW
EXTERIOR ELEVATIONS

DATE
9-14-16

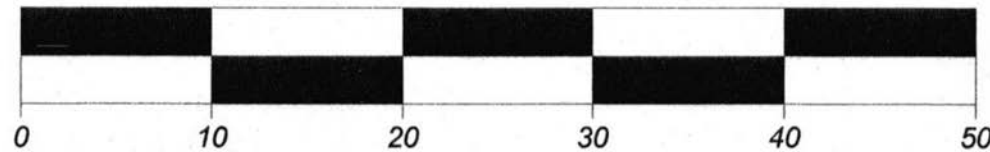
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SCALE
AS NOTED

REVISIONS

#	DATE	COMMENTS
1	1/24/22	

SHEET
A-3
OF 3

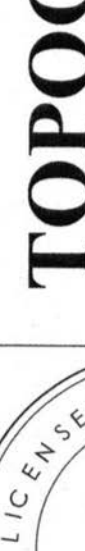


TOPOGRAPHICAL SITE SURVEY

2796 WESTMORLAND AVE. REDWOOD CITY, CALIFORNIA

JLK ASSOCIATES
SURVEYORS / ENGINEERS
 73 CEDAR LANE
 SAN JOSE CA. 95127
 (408) 729-3734

No.	Revision	Date	By	Chd
1		02-25-15		
		Date: 02-25-15		
		Drawn By: JK		



DAVID ALVAREZ SR.
 No. 4050
 Exp. 06-30-16

David Alvarez

SCALE: _____

AS NOTED

SHEET: _____

C - 1

1 OF 1



COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT D



