

**CITY OF NEWPORT BEACH  
PLANNING DEPARTMENT ACTION REPORT**

**TO:** CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

**FROM:** David Lepo, Planning Director

**SUBJECT:** Report of actions taken by the Zoning Administrator, Planning Director and/or Planning Department staff for the week ending May 28, 2010

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**ACTIONS TAKEN BY THE ZONING ADMINISTRATOR**

**Item 1:** Modification Permit No. MD2010-007 (PA2010-043)  
20442 Santa Ana Avenue

This item was approved.

Council District 4

On behalf of David Lepo, Planning Director:



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Patrick J. Alford, Planning Manager

**APPEAL PERIOD:** Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

*Email* City Council  
Planning Commission  
David Lepo, Planning Director  
Sharon Wood, Assistant City Manager  
David Keely, Public Works Senior Civil Engineer  
Code Enforcement Division



## **ZONING ADMINISTRATOR ACTION LETTER**

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

**Application:** Modification Permit No. MD2010-007 (PA2010-043)

**Applicant:** Brion Jeannette Architecture for Dunn Voyer, property owner

**Site Address:** 20442 Santa Ana Avenue

**Legal Description:** Portion of Lot 6 of Tract 456

On **May 13, 2010**, the Zoning Administrator conducted a noticed public hearing on Modification Permit No. MD2010-007. The applicant requested a 15-foot reduction of a required 25-foot rear yard setback for a proposed 2-story, 2-unit, residential building. The property is located in the RMD(1000) (Medium Density Residential) District. The hearing was conducted in the City Council Chambers, 3300 Newport Boulevard, Newport Beach, California.

On **May 28, 2010**, the Zoning Administrator approved Modification Permit No. MD2010-007 to allow a **10-foot** reduction of the 25-foot rear yard setback. The modified approval is based on the following findings, facts and conditions of approval.

### **FINDINGS**

1. The Land Use Element of the General Plan designates the site RM (Multiple-Unit Residential) with a maximum density of 43 dwelling units per acre. The proposed construction of a 2-unit building and the reconstruction of the existing residential unit thereby providing a total of 3 dwelling units on a 7,003 sq. ft. lot is consistent with the RM land use designation and the resulting density is below the maximum allowable density. The property is zoned RMD(1000), which provides for medium density residential development up to approximately 43 dwelling units per gross acre, including single-family (attached and detached), two-family, and multi-family residential uses. The development of the 7,003 sq. ft. lot with 3-units is consistent with the RMD(1000) district.

In conducting the historical research related to General Plan and Zoning Code compliance, it was discovered that at the time of annexation of the lot in 2008, the County of Orange zoned the property R-4 (Suburban Multifamily Residential). This County zoning district required a minimum of 3,000 square feet of land area per residential unit (Sec. 7-9-79). When the City established zoning for the annexation in 2004, the RMD (Medium Density Residential) zone was created and applied to the



subject property and surrounding lots. The zoning for the area was not effective until the area was annexed on January 1, 2008. The specific purpose of the RMD zoning district is to provide for medium density residential development up to approximately 22 dwelling units per gross acre, including single-family (attached and detached), two-family, and multi-family (Section 20.10.010). The RMD zone requires a minimum of 3,000 square feet of land area per unit (Section 20.10.030) except that the adopted districting map that applies the RMD zoning district to the lot has a density symbol of "1,000." This symbol establishes a minimum of 1,000 square feet of land area per residential unit and pursuant to Section 20.00.055, the density symbol on adopted districting supersedes the density limits contained within Sections 20.10.010 and 20.10.030.

2. The granting of the application is necessary due to the practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.
  - a. The depth and size of the lot (140 feet and 7,003 sq. ft. respectively) when combined with the front and rear yard setbacks (20 and 25 feet respectively) significantly limit available area for construction.
  - b. The site is designated for multi-family residential use and the strict application of setback standards along with parking requirements and height limits effectively restricts the ability of the property owner to develop multi-family residential uses consistent with the General Plan.
  - c. The existence and cost of an existing 2-unit structure built within the 25-foot rear yard setback without the benefit of building permits and the location of the existing spa are not practical difficulties justifying relief from setback standards. The property owner does not have the right to retain the illegal 2-unit building and the spa can be relocated at limited expense even though it is an "in-ground" spa.
3. The requested encroachment of 15 feet within the required 25-foot rear yard setback is not compatible with existing development in the neighborhood. Principal structures in the general area, which are in the same zoning classification and subject to the same rear yard setback requirement, adhere to the minimum setback standard. The presence of accessory structures within the rear yard setback of other properties in the vicinity is not compelling since accessory structures were allowed to encroach based upon the County of Orange Zoning Code that was in effect up until the recent annexation of the area. The only exception in the vicinity where principal structures encroach within the 25-foot rear yard setback is the Savanna Lane PUD located to the south of the project site. This 5-unit detached PUD provides a 15-foot rear yard setback to the northerly property line and the unit closest to the project site has a 5-foot side yard setback. Three of the PUD units are roughly located 8 feet from the westerly lot line and these side yards are used as rear yards by the occupants of the units due to the orientation of the units within the PUD.



An encroachment of 10 feet within the required 25-foot rear yard setback is compatible with existing development in the neighborhood when taking into account structure setbacks on lots within the general vicinity and the fact that the closest abutting residential building, 20452 Savanna Lane, has two-stories, is located 5 feet from the intervening property line, and is built on a grade that is approximately 3 feet higher than the grade of the project site. Although this two-story, single-unit residential building has only one frosted window in the elevation that faces the project site, reducing the rear yard setback on the subject property by 15 feet would not be compatible with the surrounding residential development.

4. Approval of the Modification Permit as requested with a 15-foot encroachment could adversely affect use and enjoyment indoor and outdoor living spaces of abutting residences due to the reduction of light, air and privacy. The proposed reduced rear yard setback would also only provide a 10-foot outdoor living space for future occupants of the proposed project. The overall height and proximity of 20452 Savanna Lane reduces sunlight to the rear yard area of the project site and a larger setback than proposed (or no setback encroachment at all) is the only way to avoid this condition that would be detrimental to future residents of the project site.
5. Approval of the Modification Permit with only a 10-foot encroachment will not adversely affect or be detrimental to the use and enjoyment of abutting properties since there would be 20 feet between the proposed 2-unit building and 20452 Savanna Lane. This separation should provide sufficient separation for light, air and privacy of future residents of the project site and abutting properties.
6. Approval of the applicant's requested 60% reduction of setback area may be used by other property owners as a precedent to support similar future requests.
7. Approval of this Modification Permit allowing a 10-foot encroachment within the required 25-foot rear yard setback allows some relief from standards that may assist in the elimination of an existing Zoning and Building Code violation without significantly affecting the use and enjoyment of abutting properties.
8. The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15303 (New Construction or Conversion of Small Structures). Construction of up to six dwelling units in an urbanized area on a site that is not environmentally sensitive is exempt and the project and project site meets these criteria.

### **CONDITIONS**

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. The development shall be revised to provide a minimum 15-foot rear yard setback. Projections from the proposed 2 unit building (roof overhangs, brackets, cornices and eaves) may encroach no more than 24 inches within this setback



area and they must be at least 8 feet from the finished grade below. Architectural features (e. g. moldings and similar items) may encroach no more than 6 inches within this setback area.

3. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
4. This approval was based on the particular facts of this individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
5. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
6. A building permit shall be obtained prior to commencement of the alteration of existing structures or the construction of new structures.
7. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
8. If any of the existing public improvements surrounding the site are damaged by private work associated with this project, the applicant or owner shall be responsible for the repair (including any required permits, if any) of said public improvements to the satisfaction of the Public Works inspector.
9. All work performed within the public right-of-way shall be reviewed and approved by the County of Orange's Public Works Department. The City of Newport Beach's Public Works Department shall review any application for widening the driveway apron unless it defers such review to the County of Orange's Public Works Department because the work to be performed is within the County's public right-of-way.
10. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

11. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Voyer Modification Permit including, but not limited to, the approval of Modification Permit No. MD2010-007(PA2010-043); and/or the City's related California Environmental Quality Act determinations. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

#### **APPEAL PERIOD**

The applicant or any interested party may appeal the decision of the Zoning Administrator, to the Planning Commission by a written request to the Planning Director within 14 days following the date of the action (**June 10, 2010**). A \$3,070.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

By:   
James W. Campbell, Zoning Administrator

Attachments:      ZA 1.      Vicinity Maps  
                         ZA 2.      Photos  
                         ZA 3.      Project Plans



## VICINITY MAP



Modification Permit No. MD2010-007  
PA2010-043

**20442 Santa Ana Avenue**

**ZA-1**





PA2010-043 for MD2010-007  
20442 Santa Ana Avenue  
Brion Jeannette Architecture

2A-2







APPROVED BY:

*Jul Campbell*

- ☐ Planning Director  
☐ Planning Commission  
☒ Zoning Administrator  
☐ City Council

☐ As Submitted  
☒ As Modified

Refer to: ☐ Resolution ☒ Approval Letter

# of Pgs Approved: 9 Date: 5/28/2010

*2A-3*

*Minimum 25-foot Setback required per Section 20.10.030*

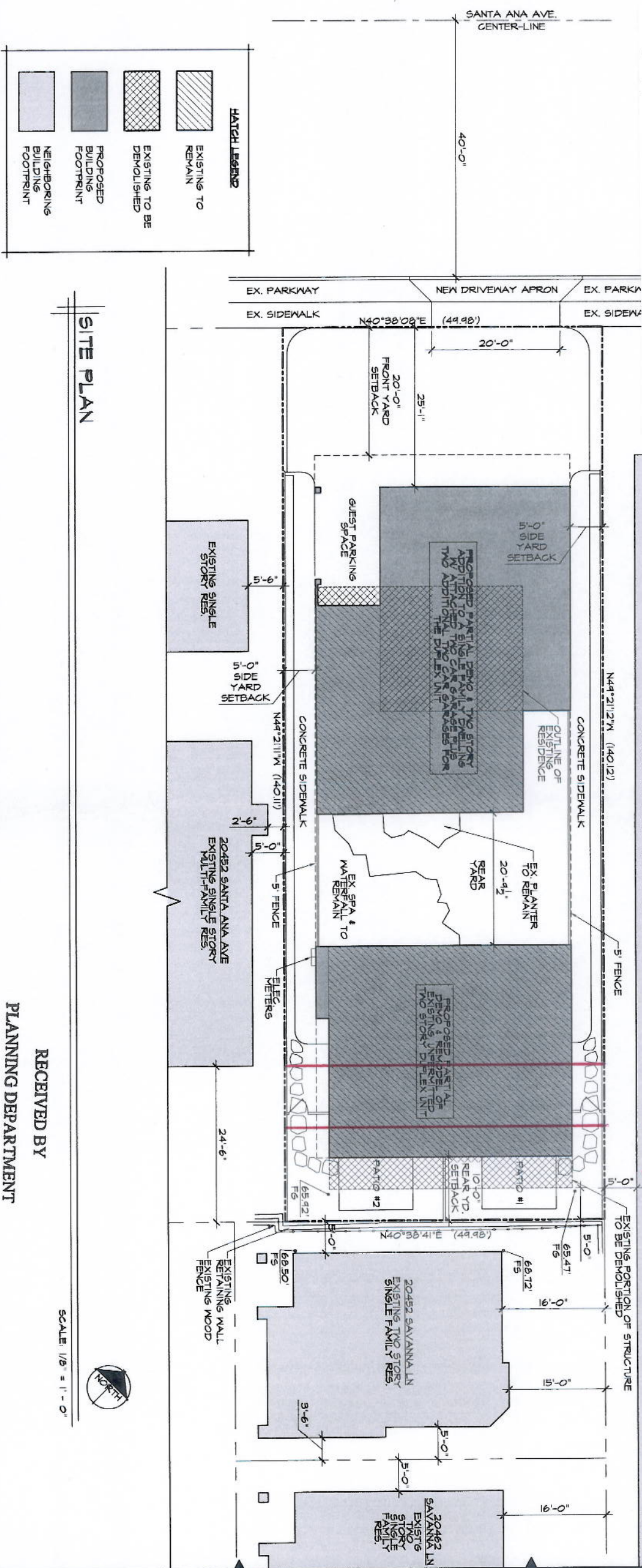
20442 SANTA ANA AVE  
EXISTING TWO STORY MULTI-FAMILY RES.

*25'-0"*  
*15'-0"*

EXISTING PORTION OF STRUCTURE  
TO BE DEMOLISHED

VOYER RESIDENCE  
20442 SANTA ANA  
NEWPORT BEACH, CA

PA2010-043 for MD2010-007  
20442 Santa Ana Avenue  
Brion Jeannette Architecture



LEGAL OWNER

DUNN & LISA VOYER  
1080 SANTA CRUZ CIRCLE  
COSTA MESA, CA 92626  
CONTACT: BRION JEANNETTE ARCHITECTURE  
(949) 645-5954

LEGAL DESCRIPTION

PROJECT ID: TRACT 456, PORTION OF LOT 6  
A.P. #: 484-241-04  
AREA: SANTA ANA HEIGHTS  
CITY: NEWPORT BEACH  
COUNTY: ORANGE

SCOPE OF WORK

DEMOLISH A PORTION OF AN EXISTING ONE  
STORY SINGLE FAMILY DWELLING &  
CONSTRUCT A NEW, 2-5 STORY ADDITION TO  
THE SINGLE FAMILY DWELLING W/ THREE  
2-CAR (TANDEM) GARAGES ATTACHED.  
ADDITIONAL, PARTIALLY DEMO &  
REMODEL AN EXISTING DETACHED 2-STORY  
DUPLEX.

DO NOT SCALE DRAWINGS

CONSULTANTS

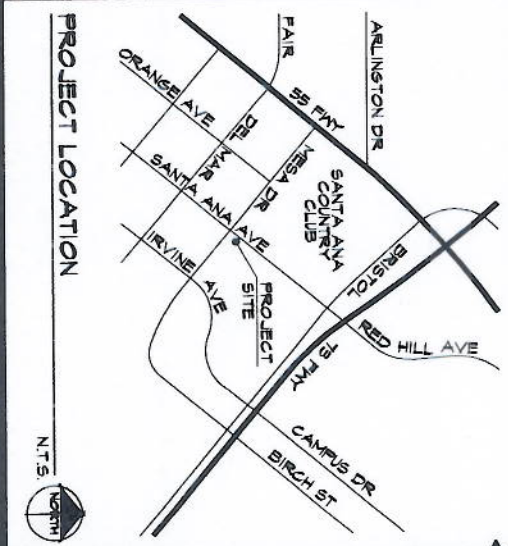
DESIGN DATA

CITY: NEWPORT BEACH  
ZONE: RMD  
CODE: 2007 CBC  
USE: SPD  
CONSTRUCTION TYPE: VB  
OCCUPANCY: R-3U  
FRONT: 20'-0"  
REAR: 25'-0"  
SIDE: 5'-0"  
MAXIMUM HEIGHT: 28'-0"/32'-0" FROM NG  
LOT SIZE: 10,008 S.F.  
(RMD ZONE DOES NOT HAVE A MAXIMUM FLOOR AREA LIMIT, MAXIMUM COVERAGE, OR OPEN SPACE REQUIREMENT)

SHEET INDEX

A-1.0 TITLE SHEET & SITE PLAN  
A-1.1 NEIGHBORHOOD PLAN  
A-1.2 AS-BUILT FIRST FLOOR PLAN  
A-1.3 AS-BUILT SECOND FLOOR PLAN  
A-2 FIRST FLOOR PLAN  
A-3 SECOND FLOOR PLAN  
A-4 EXTERIOR ELEVATIONS  
A-5 EXTERIOR ELEVATIONS  
A-6 ROOF PLAN

VICINITY MAP



SITE PLAN

RECEIVED BY

PLANNING DEPARTMENT

SCALE: 1/8" = 1'-0"

SITE PLAN

Brion Jeannette Architecture

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A-1.0

Date:	
Revision:	
Revision:	
Revision:	
Revision:	
Job No:	04-030



SITE PLAN

SANTA ANA AVE

MESA DR

SAVANNA LN

20402 SANTA ANA AVE

20432 SANTA ANA AVE

20442 SANTA ANA AVE

20452 SAVANNA LN

20462 SAVANNA LN

20452 SANTA ANA AVE

20462 SANTA ANA AVE

1501 MESA DR

1501 MESA DR

20491 SAVANNA LN

20481 SAVANNA LN

20471 SAVANNA LN

SCALE: 1" = 20'



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Job No:	04-030

NEIGHBORHOOD PLAN

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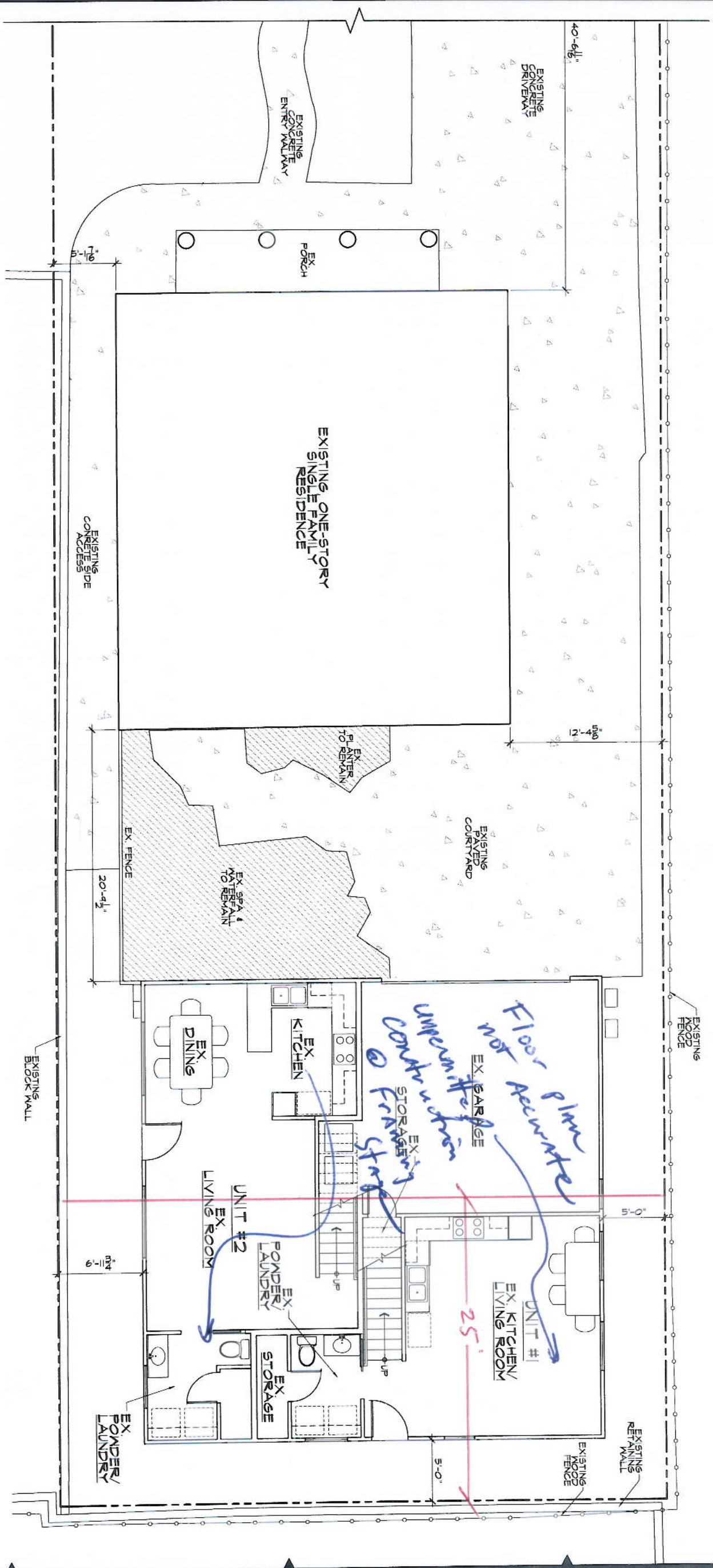
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AS-BUILT FIRST FLOOR PLAN

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



AS-BUILT FIRST FLOOR PLAN

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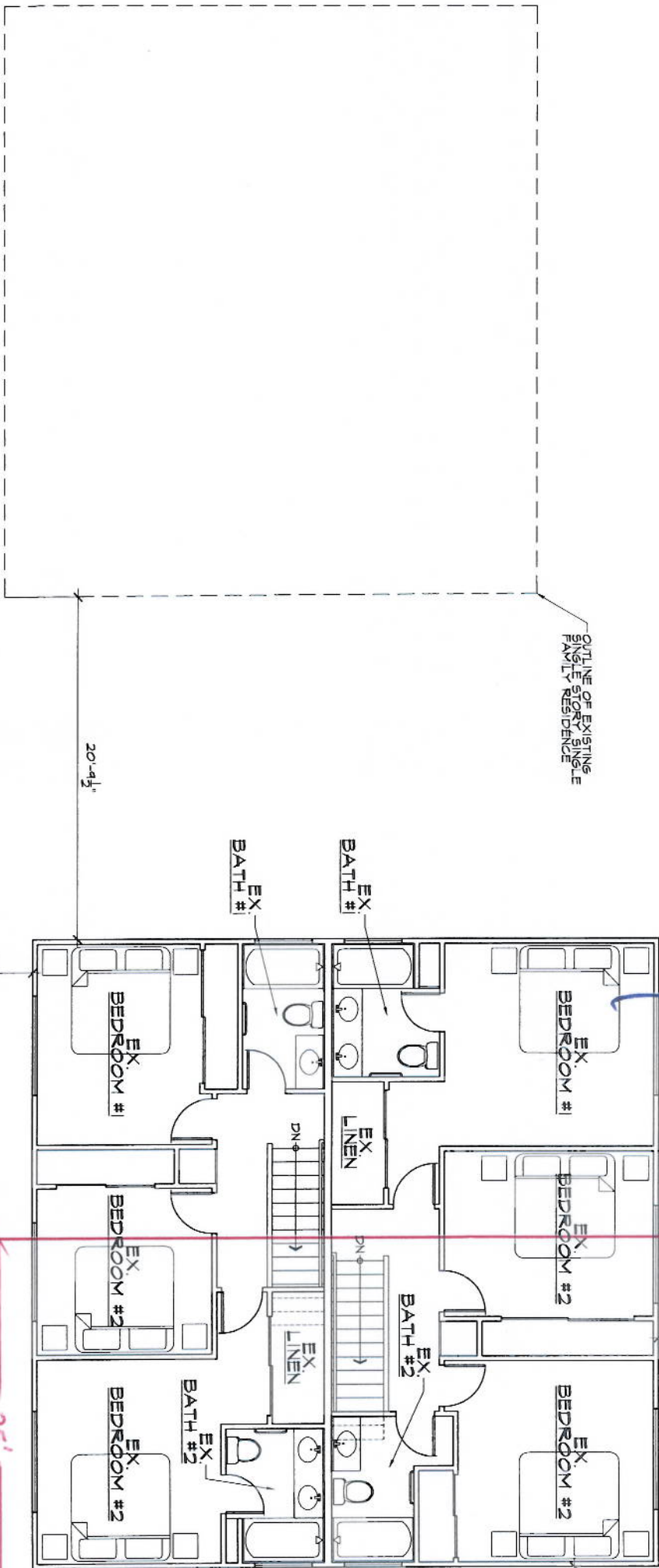


A-1.2



AS-BUILT SECOND FLOOR PLAN

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



*Plan of the floor  
Accommodates  
not a permit  
from the  
city of Newport  
Beach*



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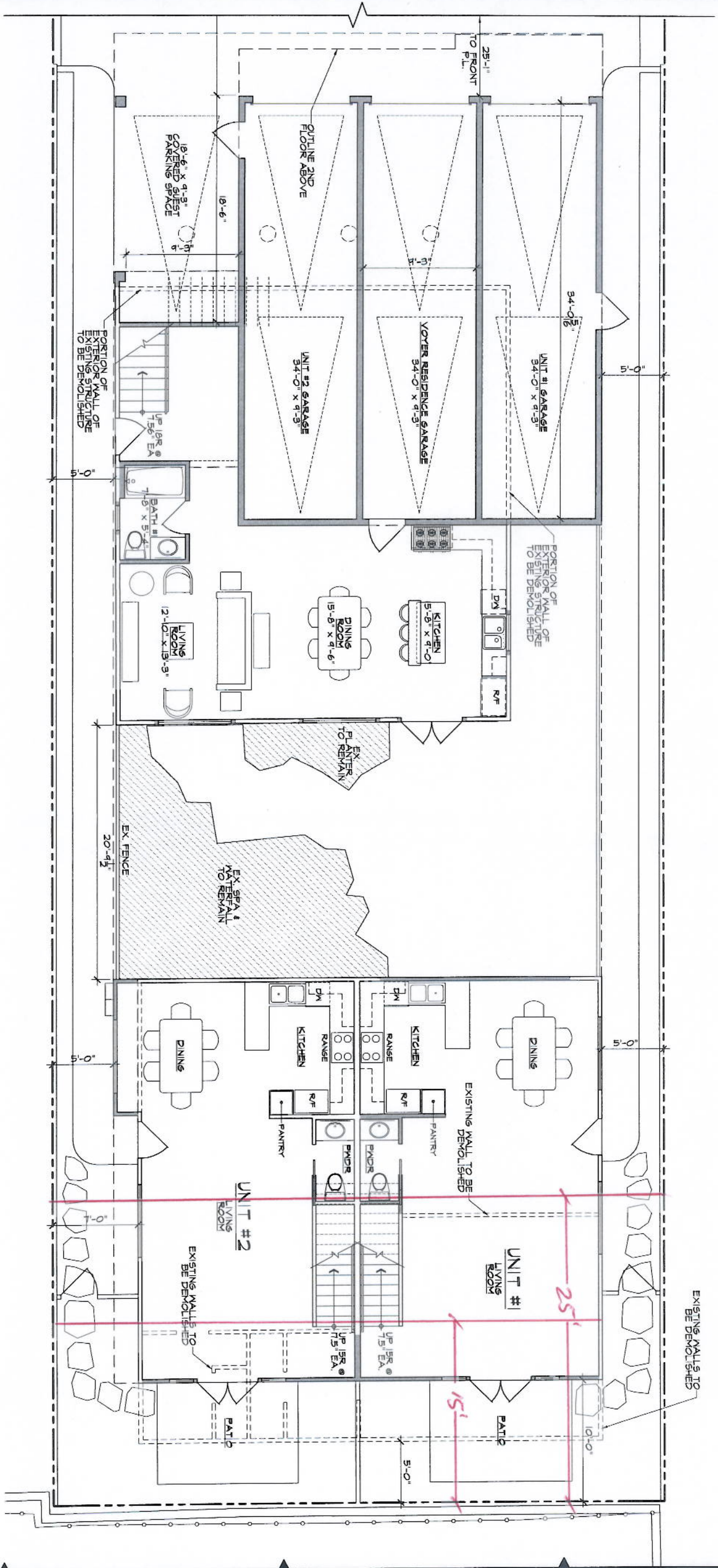
AS-BUILT SECOND FLOOR PLAN

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NEWPORT BEACH, CA



FIRST FLOOR PLAN



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



WALL LEGEND	
	NEW WALL
	EXISTING WALL TO REMAIN
	EXISTING WALL TO BE DEMOLISHED

FIRST FLOOR PLAN

Brion Jeannette Architecture

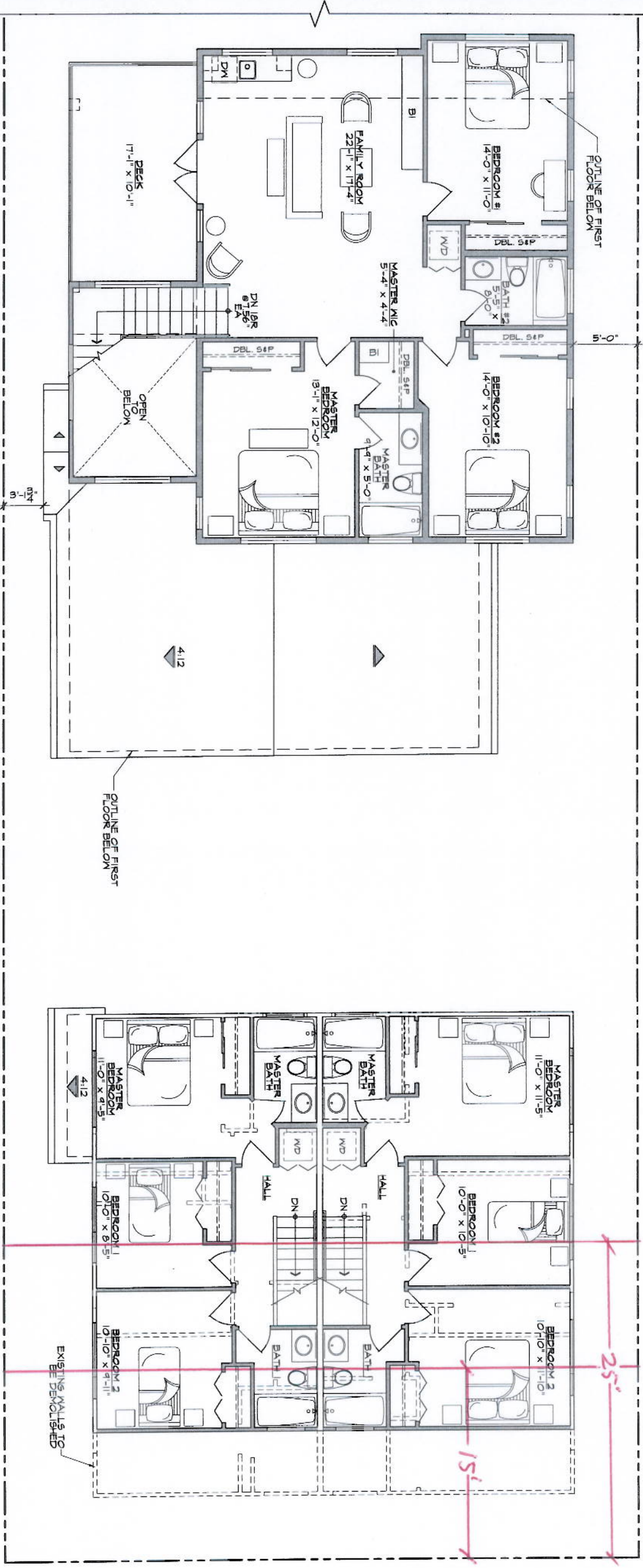
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SECOND FLOOR PLAN

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



WALL LEGEND	
	NEW WALL
	EXISTING WALL TO REMAIN
	EXISTING WALL TO BE DEMOLISHED

SECOND FLOOR PLAN

Brion Jeannette Architecture

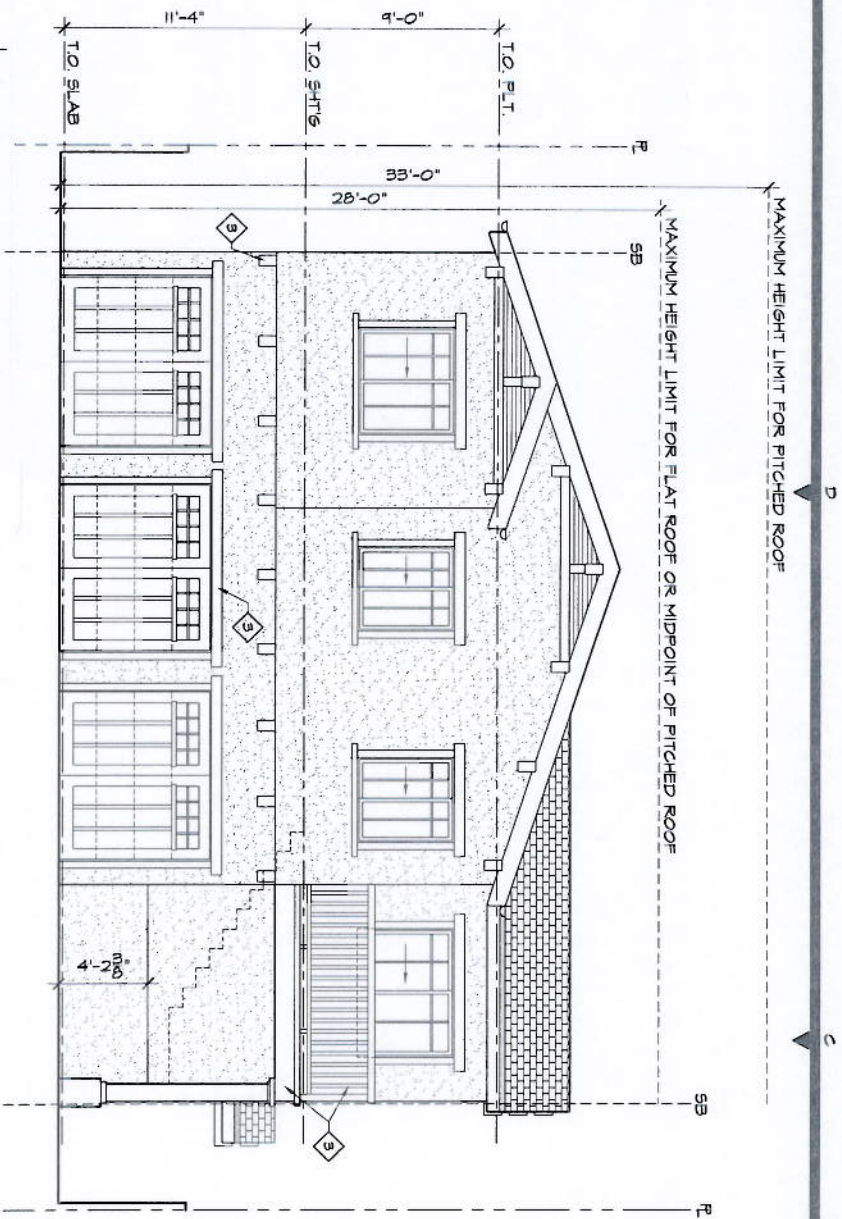
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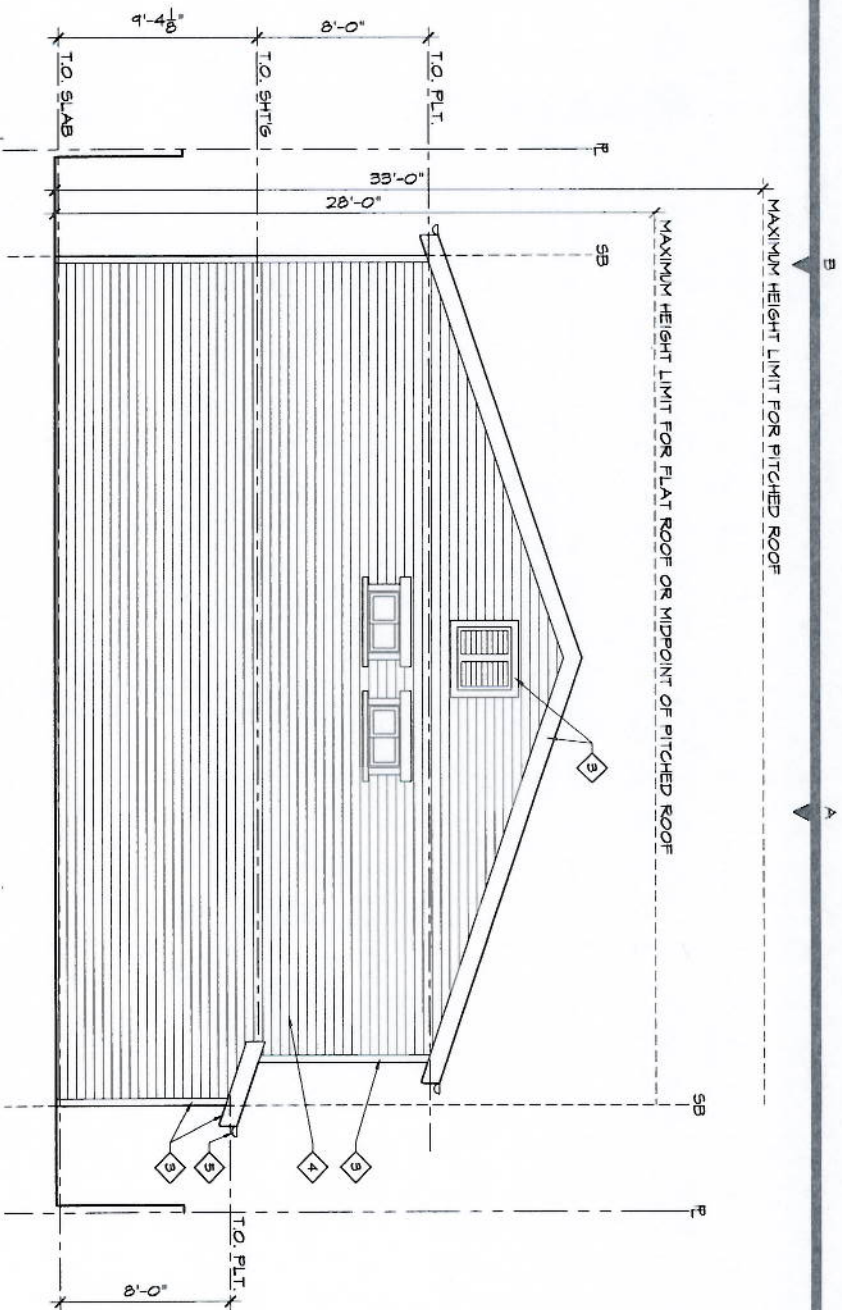


### WEST ELEVATION

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

- 1 SIDING:  
EXTERIOR SIDING AT DUPLEX STRUCTURE TO BE HARDIE PLANK (HZ10)  
LAP SIDING WITH A SMOOTH FINISH. COLOR TO BE \_\_\_\_\_
- 2 GUTTERS & DOWNSPOUTS:  
GUTTERS & DOWNSPOUTS ARE TO BE 26-GA. GALVANIZED IRON  
METALIZED & PAINTED TO MATCH DOOR & WINDOW FRAMES.

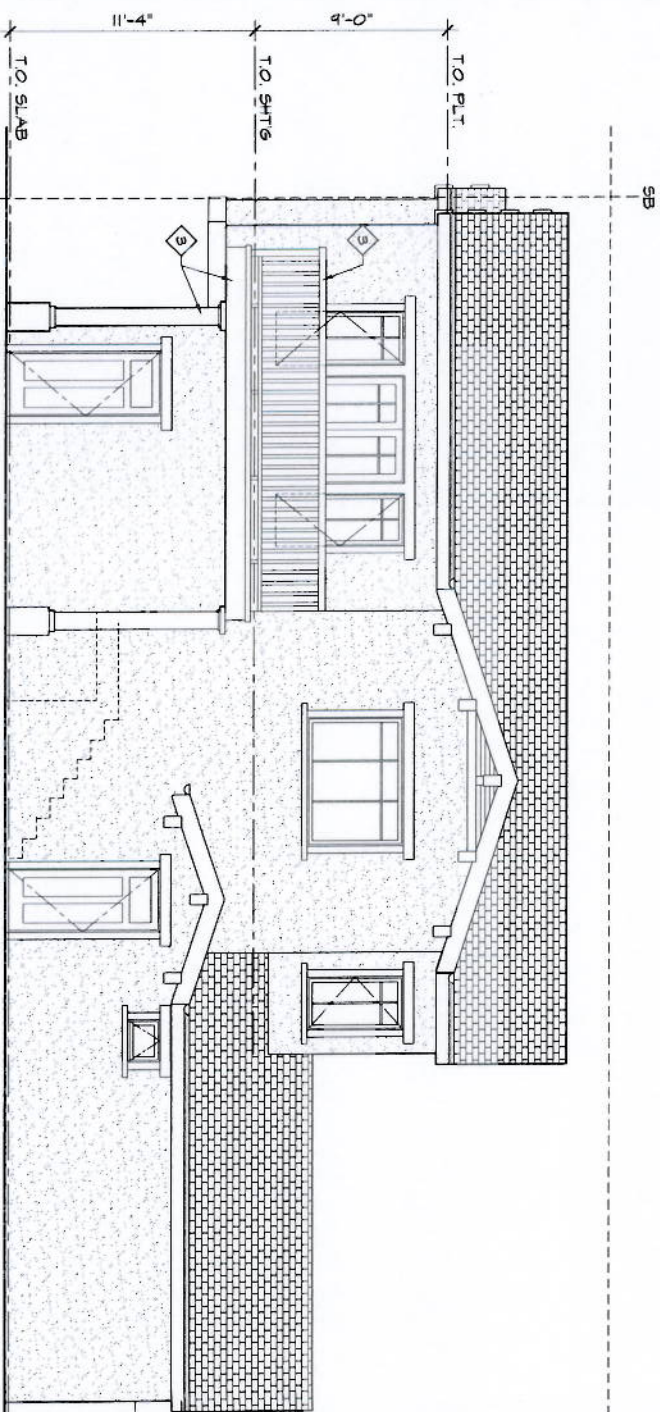
- 3 ROOFING:  
ROOF TO BE ROYAL SOVEREIGN 3-TAB ASPHALT SHINGLE BY GAF  
(OR ARCHITECT APPROVED EQUAL). COLOR TO BE ASH BROWN
- 4 WOOD TRIM:  
WOOD TRIM TO BE PRIMED & PAINTED \_\_\_\_\_ COLOR TO BE \_\_\_\_\_



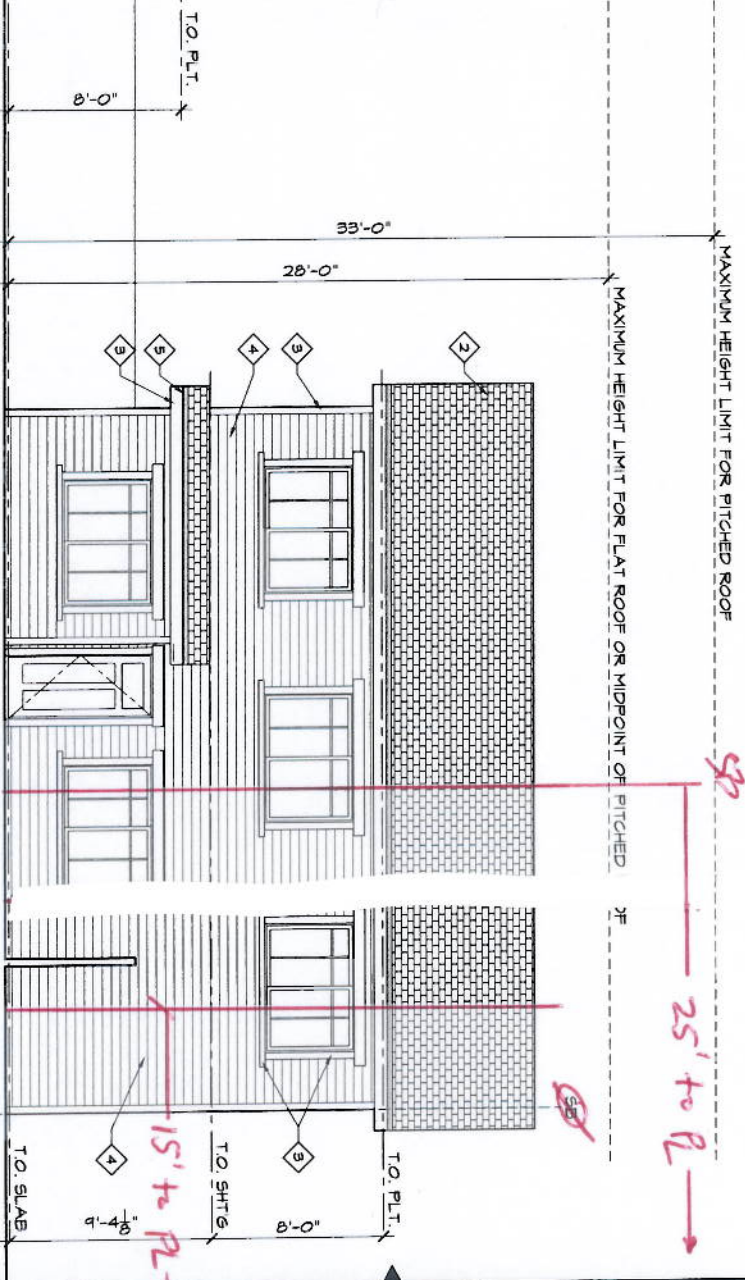
### WEST ELEVATION - INNER COURTYARD

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

- 1 EXTERIOR FINISH SPECIFICATIONS:  
EXTERIOR PLASTER, 1/2" LAYER GRADE D PAPER AT BUILDING FIELD  
TO RECEIVE A SEMI-SMOOTH TEXTURE. FINAL COLOR COAT TO BE  
OMEGA AKROFLEX OR OMEGAFLUX. COLOR TO MATCH  
COLOR TO BE APPROVED BY ARCHITECT PRIOR TO FULL APPLICATION.



### SOUTH ELEVATION



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

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EXTERIOR  
ELEVATIONS

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A-4

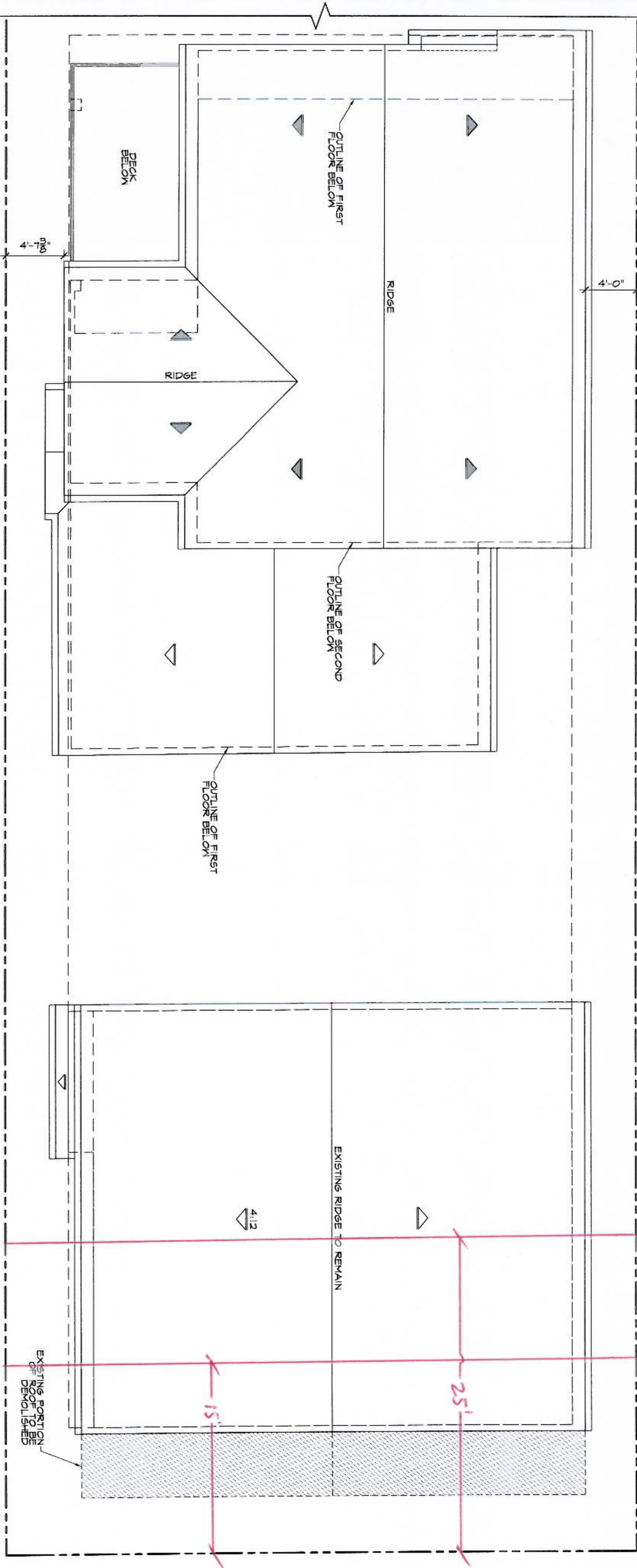






ROOF PLAN

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



ROOF PLAN

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