### CITY OF DANA POINT PLANNING COMMISSION AGENDA REPORT

**DATE: JANUARY 28, 2019** 

TO: DANA POINT PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

MATT SCHNEIDER, DIRECTOR OF COMMUNITY DEVELOPMENT

**BELINDA DEINES, SENIOR PLANNER** 

SUBJECT: SITE DEVELOPMENT PERMIT SDP18-0034 TO CONSTRUCT A 432

SQUARE-FOOT ADDITION TO AN EXISTING, NONCONFORMING 1,021 SQUARE-FOOT DUPLEX AND ATTACHED TWO-CAR GARAGE WITHIN THE RESIDENTIAL MULTIPLE FAMILY 14 (RMF 14) DISTRICT

**LOCATED AT 34072 EL ENCANTO DRIVE** 

**RECOMMENDATION**: That the Planning Commission adopt the attached resolution

approving Site Development Permit SDP18-0034.

**APPLICANT:** Stephanie and Robert Mister, Property Owners

**REPRESENTATIVE**: Gregg Abel, Designer

**REQUEST**: Approval of a Site Development Permit to construct a 432

square-foot addition to an existing, nonconforming 1,021 square-foot duplex and attached two-car garage located within the Residential Multiple Family 14 (RMF 14) District.

**LOCATION**: 34072 El Encanto Drive (APN 682-272-10)

**NOTICE**: Notices of the Public Hearing were mailed to property owners

within a 500-foot radius and occupants within a 100-foot radius on January 18, 2019, published within a newspaper of general circulation on January 18, 2019, and posted on January 18, 2019 at Dana Point City Hall, the Dana Point and Capistrano Beach Branch Post Offices, as well as the Dana

Point Library.

**ENVIRONMENTAL**: Pursuant to the California Environmental Quality Act (CEQA),

the project is found to be Categorically Exempt per Section 15301(e)(1) (Class 1 – Existing Structures) in that the project involves an addition less than 50 percent of the existing floor

area.

### **ISSUES**:

- Project consistency with the Dana Point General Plan and Dana Point Zoning Code (DPZC);
- Project compatibility with and enhancement of the site and surrounding neighborhood; and
- Project satisfaction of all findings required pursuant to the DPZC for approval of a Site Development Permit (SDP).

**BACKGROUND**: The subject site is a 4,510 square-foot lot located within the "Residential Multiple Family 14" (RMF 14) District and identified in the City's General Plan with a land use designation of "Residential 7-14 DU/AC." Currently, the site is improved with a two-story duplex and an attached two-car garage, which are proposed to remain. County of Orange building permit records indicate that the duplex was built in 1975. The existing duplex use is identified as a permitted use in the RMF 14 Zoning District.

Unit A is located on the first floor and is approximately 571 square feet, which consists of a bedroom, kitchen, and bathroom. The existing 445 square-foot, two-car garage is internally connected to Unit A. Unit B is approximately 1,134 square feet and has an entry area and stairs on the first floor, with three bedrooms, two bathrooms, kitchen, and living area on the second floor.

<u>DISCUSSION</u>: The applicant proposes to construct a 432 square-foot lower level addition to Unit A, which would add a bedroom, bathroom, and living area for a total unit area of 1,003 square feet. No additions or improvements are proposed to Unit B. A Site Development Permit is required to construct an addition greater than 10 percent of gross floor area to a nonconforming structure, pursuant to DPMC Section 9.63.030(a). The existing structure is nonconforming due to side setbacks, interior garage depth clearance, and covered parking.

Development standards for this property are set forth in the City's Zoning Code Chapter 9.09 (Residential Development Standards) specifically for the RMF 14 zone. Table 1 summarizes applicable RMF 14 zoning designation development standards and the project's conformance with those requirements:

Table 1: Compliance with RMF 14 Development Standards

Development Standard	Requirement	Existing	Proposed Addition	Compliant with Standard
Front Setback	20 feet minimum	25'	25'	Yes
Side Setbacks	5 feet minimum	4'-3"; 4'-6"	5'; 5'	Yes

Rear Setback (alley)	10 feet minimum	36'	20'	Yes
Height	24 feet maximum	19.5'	19.5'	Yes
	Less than 3:12 roof pitch	0.5:12	3:12	
Lot Coverage	60% maximum	27%	40%	Yes
Landscape	25% minimum	56%	62%	Yes
Coverage				
Open Space	200 SF/DU	200 SF/DU	201 SF – Unit A	Yes
			256 SF – Unit B	
	30% AC		33%	
Parking	4 car garage; or	2 car garage	2 car garage	No
Required	3 car garage with 1	3 uncovered	3 uncovered	
	uncovered tandem space	spaces	spaces	

The existing structure encroaches 9" on the left and 6" on the right into both required 5' side setbacks. The proposed lower level addition will be offset from the existing structure and built 5' from the property line, in compliance with the required side setbacks. The existing two-car garage is built with a garage depth that is 2" short of the 20' requirement for interior garage depth clearance.

Pursuant to DPMC Section 9.35.080(E)(4), a duplex on a lot less than 50' wide requires a four-car garage, or a three-car garage with one uncovered tandem stall, subject to a minor Conditional Use Permit. The existing onsite parking is nonconforming with a two-car garage accessed from El Encanto Drive, and three uncovered parking spaces with access from the 16' wide alley in the rear. Though parking stalls located within the front setback may not be counted toward required parking, the 25' long driveway that provides access to the two-car garage can also accommodate two additional vehicles for a total of seven parking stalls onsite. Staff recommends that the Planning Commission adopt a Condition of Approval requiring that a deed restriction be recorded on the property that the three uncovered parking stalls in the rear of the property shall be assigned to Unit B and shall be maintained as uncovered parking stalls unless the property is developed to meet current parking standards.

The proposed addition will be designed to match the architectural features of the existing structure. The addition and covered patio are designed with a 3:12 pitched roof, not to exceed 13' in height above grade. Exterior improvements include a new covered patio that serves as private open space for Unit A, common area that features new lawn, BBQ, outdoor shower, walkways, and new fencing. New striping and wheel stops are proposed for the three existing, uncovered parking spaces off the alley. As designed, the proposed improvements comply with all applicable development standards, including setbacks, number of parking spaces provided, lot coverage, landscape area, and height limits. No deviations are requested.

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### Site Development Permit SDP18-0034

Pursuant to DPMC Section 9.63.030(a), nonconforming structures which are conforming as to use may be expanded provided that the proposed expansion meets the current requirements of the Zoning Code and positively contributes to the neighborhood. An expansion of more than 10 percent of the existing gross floor area may be forwarded by the Director of Community Development for review by the Planning Commission for approval of a Site Development Permit (SDP).

Section 9.71.050 of the DPZC stipulates a minimum of four findings for approval of a SDP, requiring:

- 1. Compliance of the site design with development standards of this Code.
- 2. Suitability of the site for the proposed use and development.
- 3. Compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines.
- 4. Site and structural design which are appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture.

The recommended findings for approval of the SDP are outlined in the draft Resolution No. 19-01-28-XX, attached to this report as Action Document 1.

**CORRESPONDENCE**: To date, no correspondence has been received.

<u>CONCLUSION</u>: Staff finds that the proposed project is consistent with the policies and provisions of the City of Dana Point General Plan and Dana Point Zoning Code. As the project has been found to comply with all standards of development, staff recommends the Planning Commission adopt the attached draft Resolution, approving Site Development Permit 18-0034 subject to the findings and conditions of approval contained therein.

Belinda Deines, Senior Planner

Matt Schneider, Director ommunity Development Department PLANNING COMMISSION AGENDA REPORT SDP18-0034 JANUARY 28, 2019 PAGE 5

## **ATTACHMENTS**:

### **Action Documents**

1. Draft Planning Commission Resolution No. 19-01-28-xx

## **Supporting Documents**

- 2. Vicinity Map
- 3. Site Photos
- 4. Architectural Plans

### **Action Document 1**

Draft Planning Commission Resolution No. 19-01-28-xx

#### **RESOLUTION NO. 19-01-28-XX**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT SDP18-0034 TO CONSTRUCT A 432 SQUARE-FOOT ADDITION TO AN EXISTING, NONCONFORMING 1,021 SQUARE-FOOT DUPLEX AND ATTACHED TWO-CAR GARAGE WITHIN THE RESIDENTIAL MULTIPLE FAMILY 14 (RMF 14) DISTRICT AT 34072 EL ENCANTO DRIVE

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, Gregg Abel, Designer, (the "Representative") has filed an application on behalf of Stephanie and Robert Mister, ("Applicant"), the owners of real property commonly referred to as 34072 El Encanto Drive, Units A and B (APN 682-272-10) (the "Property"); and

WHEREAS, the Representative filed a verified application for a Site Development Permit to allow an addition to an existing, nonconforming duplex at the Property; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is Categorically Exempt per Section 15301(e)(1) (Class 1 – Existing Structures) in that the application proposes an addition less than 50 percent of the existing floor area; and

WHEREAS, the Planning Commission did, on the 28<sup>th</sup> day of January, 2019, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Site Development Permit SDP18-0034.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Dana Point as follows:

- A. That the above recitations are true and correct and incorporated herein by this reference.
- B. Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves SDP18-0034 subject to the following conditions of approval:

#### Findings:

Site Development Permit SDP18-0034

- 1 That the site design is in compliance with the standards of the Dana Point Zoning Code in that the project has been reviewed by Planning and Building/Safety Divisions as well as the Public Works/Engineering Department and found to conform to all standards of development. The existing structure built in 1975 is legal, nonconforming due to side setbacks, interior garage depth clearance, and covered parking. The DPZC allows additions to legal, nonconforming structures if the proposed addition complies with current regulations. The project, as conditioned, under this SDP, is consistent with the DPZC in that additions would be located in accordance with all setback standards of the RMF 14 Zoning District, and the duplex and proposed project will meet all other development standards contained therein, and the nonconforming conditions will remain unchanged.
- 2. That the site is suitable for the proposed use and development in that the subject site is developed with an existing duplex use, and the proposed 432 square-foot living area addition to one of the units is suitable for the site. The additions do not encroach into any required setback or height limitation, nor does it further exacerbate the existing, nonconforming conditions of the structure. The proposed addition is in compliance with the required landscape, open space, lot coverage, and building setbacks of the RMF 14 Zoning District. A deed restriction for the uncovered parking, and setback/height certifications will be required as a Conditions of Approval.
- That the project complies with all elements of the General Plan as well as applicable provisions of the City's Urban Design Guidelines in that the proposed addition has been designed to complement existing residential development in the vicinity in both form and mass, and coupled with additional site landscaping, which constitutes an overall enhancement of the subject property. The proposed project furthers Goal 5 of the Urban Design Element of the General Plan to "achieve design excellence in site planning, architecture, landscape architecture and signage development and modifications to existing development." by including exterior finish materials consistent with and matching the existing structures. The proposed additions and finish materials are consistent with and maintain the context of the surrounding neighborhood in accordance with general design guidelines articulated in the City's Urban Design Guidelines, by maintaining the pattern of uncovered parking spaces along the alley and found on nearby properties. The project will not impact any of the adjacent

properties in the area because the new additions comply with the setback and height requirements of the RMF 14 development standards.

4. That the site and structural design are appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture, in that the proposed addition conforms to the standards of the property's RMF 14 Zoning District and is consistent with existing surrounding development in terms of size, mass, and scale.

#### Conditions:

#### **General:**

- 1. Approval of this application permits construction of a 432 square-foot living area addition to an existing, nonconforming duplex at 34072 El Encanto Drive in accordance with the plans on file with the Community Development Department. Subsequent submittals for this project shall be in substantial compliance with the plans presented to the Planning Commission, and in compliance with the applicable provisions of the Dana Point General Plan, Local Coastal Program Implementation Plan and Zoning Code.
- This resolution shall be copied in its entirety, placed directly onto a separate plan sheet behind the cover sheet of any plans submitted to the City of Dana Point Building/Safety Division for plan check.
- Approval of this application is valid for a period of 24 months (two years) from the noted date of determination. If the development approved by this action is not established, or a building permit for the project is not issued within such period of time, the approval shall expire and shall thereafter be null and void.
- The application is approved as a plan for the location and design of the uses, structures, features, and materials shown on the approved plans. Any demolition beyond that described in the approved plans or any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location of, or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director determines that the proposed change complies with the provisions, spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved site plan, he/she may approve the amendment without requiring a new public hearing.
- 5. Failure to abide by and faithfully comply with any and all conditions attached

to the granting of this permit shall constitute grounds for revocation of said permit.

6. The Applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding.

The Applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions, or proceedings against the City, its offers, employees, or agents arising out of or resulting from the negligence of the Applicant or the Applicant's agents, employees, or contractors. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding. The Applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation.

The Applicant, and their successors-in-interest, shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.

- 7. The project shall meet all water quality requirements including Low Impact Development (LID) implementation.
- 8. The Applicant, or Applicant's agent(s), shall be responsible for coordination with water district, sewer district, SDG&E, AT&T California and Cox Communication Services for the provision of water, sewer, electric, cable television and telephone and services. The Applicant, or Applicant's agent(s), shall be responsible for coordinating any potential conflicts or existing easements.
- 9. The Applicant shall exercise special care during the construction phase of this project. The applicant shall provide erosion and sediment control. The erosion control measures shall be constructed prior to the start of any other grading operations. The applicant shall maintain the erosion and sediment control devices until the final approval for all permits.
- The Applicant, Applicant's agent(s), or successor-in-interest, shall prepare a Waste Management Plan to the City's C&D official per the Dana Point

Municipal Code. A deposit will be required upon approval of the Waste Management Plan to ensure compliance. The standard Waste Reduction and Recycling Plan shall be reviewed and approved and deposit posted prior to issuance of any permits.

- 11. Prior to the commencement of any work within the public right-of-way, the applicant shall apply and be approved for an encroachment permit.
  - 12. The property owner shall execute and record a deed restriction to include the following restrictions, which cannot be removed or changed without prior City amendment to this Site Development Permit. The deed restriction shall be recorded, free of prior liens, to bind the property owner(s) and any successors-in-interest or otherwise recorded to the satisfaction of the City Attorney and Community Development Department.
    - a. The property owner(s) agree on behalf of themselves and all other successors and assigns that the three (3), 9'x18' uncovered parking stalls located in the rear of the property shall be maintained as uncovered parking unless the property is developed to meet current parking standards as stipulated in the Dana Point Zoning Code.
    - b. The property owner(s) agrees on behalf of themselves and all other successors and assigns that the existing two-car garage shall be assigned to Unit A and the three uncovered parking spaces shall be assigned to Unit B.

### Prior to Issuance of a Building Permit:

- 13. Building plan check submittal shall include two (2) sets of the following construction documents: building plans (4 sets), energy calculations, structural calculations, soils/geology report, and drainage plan.
- 14. All documents prepared by a professional shall be wet-stamped and signed.
- 15. The Applicant, or Applicant's agent(s), shall cause the preparation and submittal of three (3) separate sets of building plans directly to the Orange County Fire Authority for review and approval. A fire sprinkler system or waiver is required from the Fire Chief.
- 16. The applicant shall submit an Address Assignment application for the existing duplex, as needed, in compliance with all City of Dana Point standards for review and approval.
- The applicant shall submit a foundation plan in compliance with all City of Dana Point standards for improvements without a soils report, review and approval.

- 18. The applicant shall submit a drainage plan in compliance with all City of Dana Point standards for review and approval. The drainage plan shall show all drainage from proposed improvements being directed to an approved outlet.
- 19. A separate building permit will be required for any proposed walls or all other structures referenced on the submitted plan. The Building Department should be consulted for all permitting and submittal requirements.
- 20. Prior to commencement of framing, the Applicant, or Applicant's Agent(s), shall submit a foundation certification, by survey, that the structure will be constructed in compliance with the dimensions shown on plans approved by the Planning Commission, including finish floor elevations and setbacks to property lines included as part of SDP18-0034. The City's standard "Setback Certification" form shall be obtained from the Project Planner at time of building permit issuance, completed by a licensed civil engineer/surveyor and be delivered to the Building/Safety and Planning Divisions for review and approval.
- 21. Prior to release of the roof sheathing inspection, the applicant shall certify by a survey or other appropriate method that the height of the structure is in compliance with plans approved by the Planning Commission and the structure heights included as part of SDP18-0034. The City's standard "Height Certification" form shall be obtained from the Project Planner at time of building permit issuance, completed by a licensed surveyor and be delivered to the Building/Safety and Planning Divisions for review and approval before release of final roof sheathing is granted.

### **Prior to Final Approval of All Permits:**

- 22. Public Works final approval will be required for all permits.
- All structural best management practices (BMPs) shall be constructed and installed in conformance with approved plans and specifications.
- 24. The Applicant, or Applicant's agent(s), shall cause the scheduling of a final onsite inspection with the Community Development Department that shall include a review of landscaping, finish architecture/materials and compliance with any outstanding project conditions of approval. All landscaping of the subject property shall be installed (per plan) prior to final inspection by the Planning Division.

Commission	SED, APPROVED, AND ADOPTED at a regular meeting of the Planning of the City of Dana Point, California, held on this 28 <sup>th</sup> day of January, 2019 ing vote, to wit:
	AYES:
	NOES:
	ABSENT:
	ABSTAIN:
	Danni Murphy, Chairperson Planning Commission
ATTEST:	
	der, Director
Community	Development Department

### Supporting Document 2 Vicinity Map

### VICINITY MAP: 34072 EL ENCANTO DRIVE



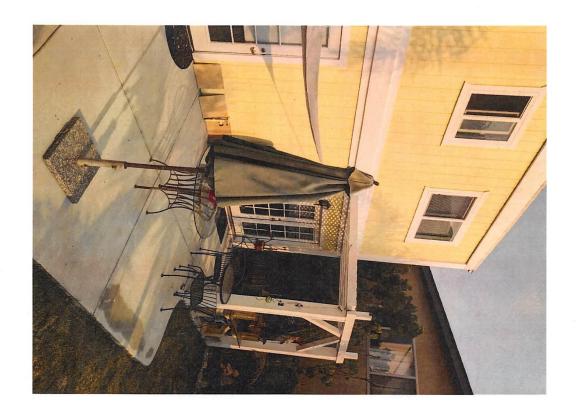
## Supporting Document 3 Site Photos











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## Supporting Document 4 Architectural Plans

ATTACHMENT

**AVENUE** 

**ENCANTO** 

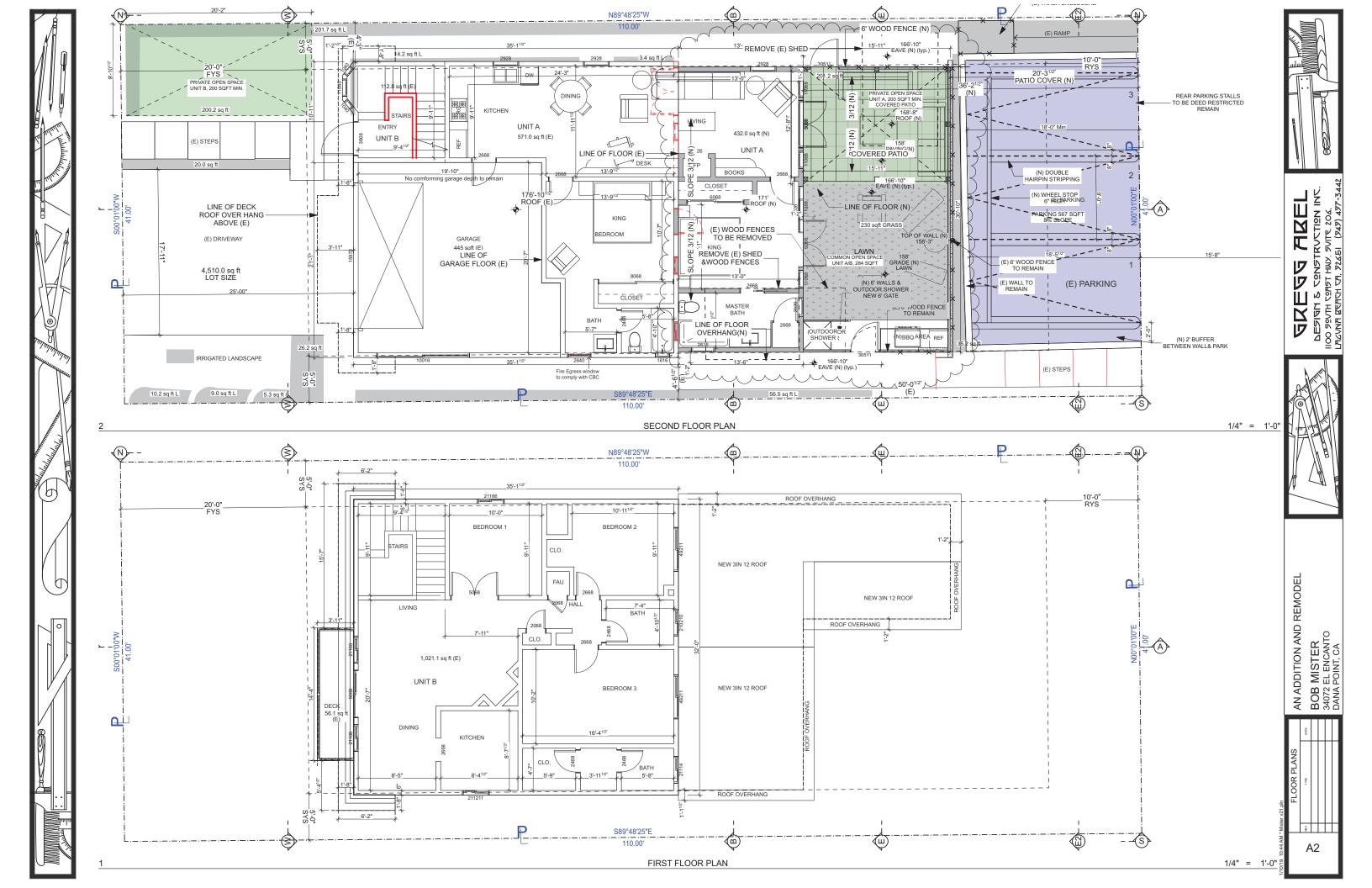
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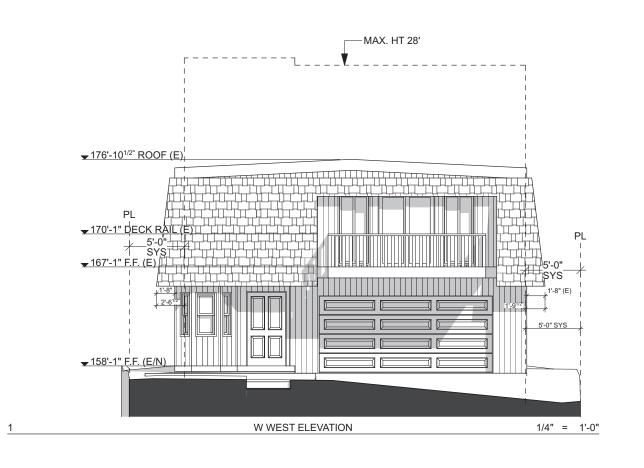
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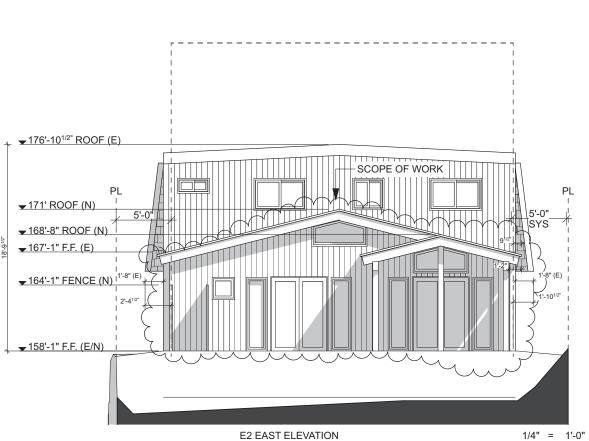
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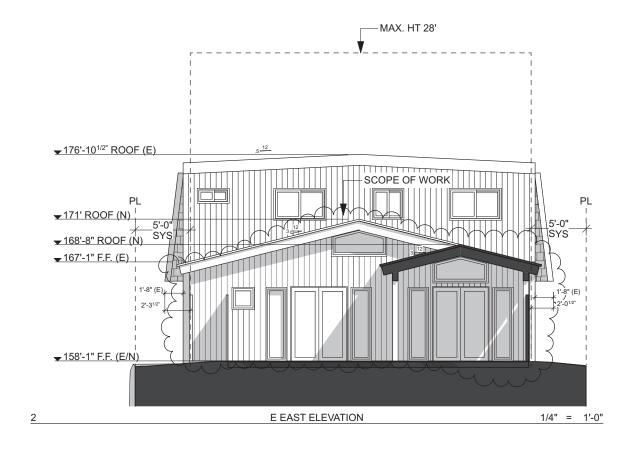
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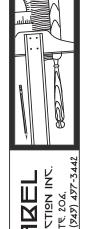
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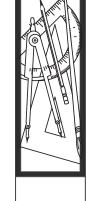






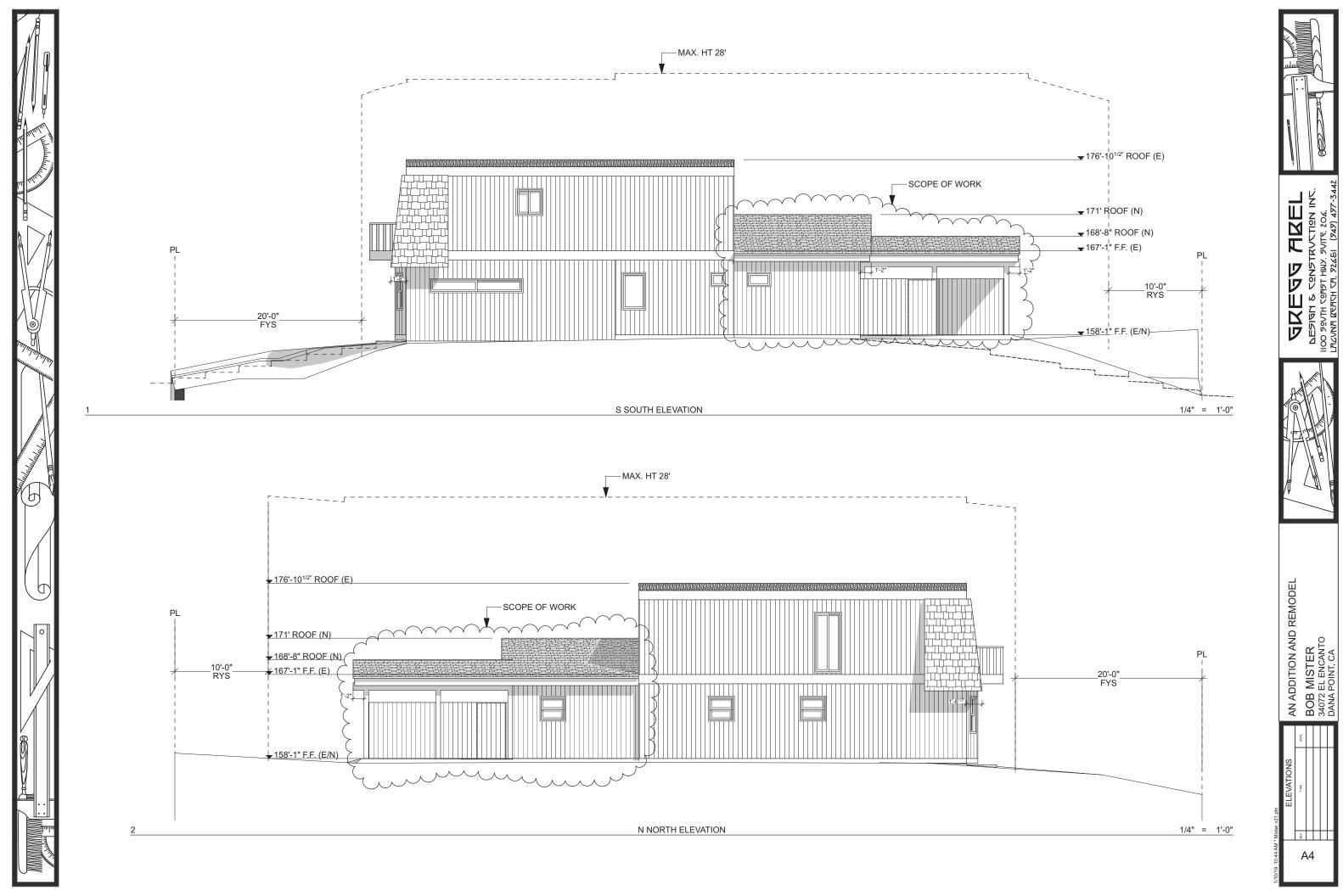


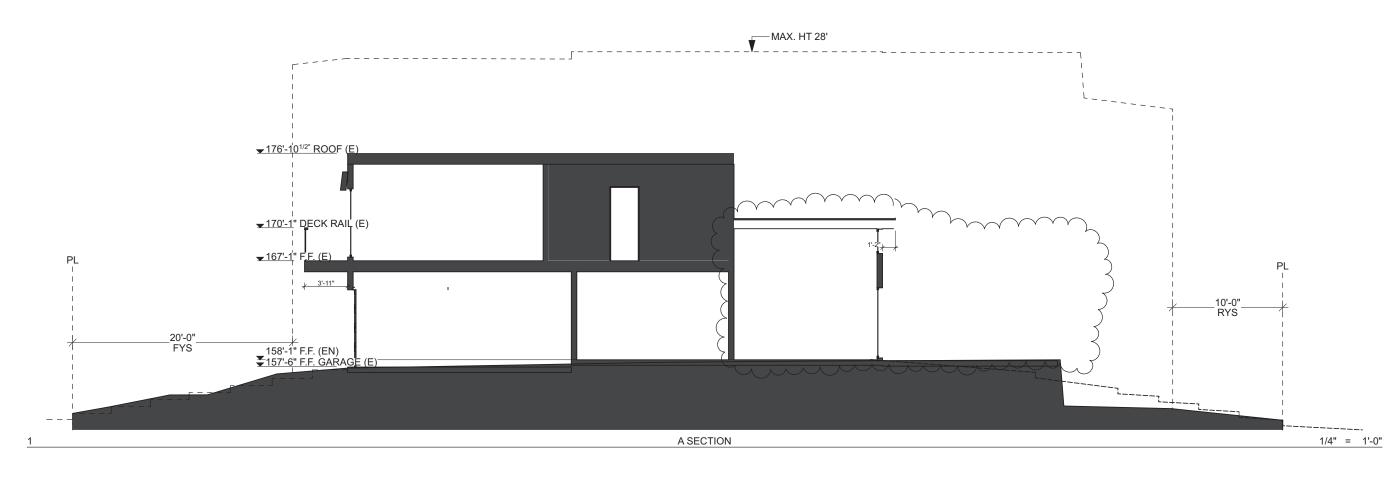


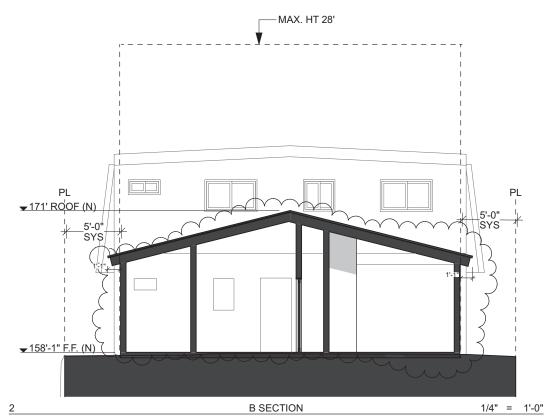














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