

**CITY OF DANA POINT
PLANNING COMMISSION
AGENDA REPORT**

DATE: NOVEMBER 22, 2021

TO: DANA POINT PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT
BRENDA WISNESKI, DIRECTOR
DANNY GIOMETTI, SENIOR PLANNER

SUBJECT: SITE DEVELOPMENT PERMIT SDP21-0025 APPROVING A 1,118
SQUARE FOOT ACCESSORY DWELLING UNIT (ADU) TO BE
CONSTRUCTED ABOVE AN EXISTING DETACHED GARAGE.

RECOMMENDATION: That the Planning Commission adopt the attached Resolution approving Site Development Permit SDP21-0025 (Action Document 1).

APPLICANT: Wayne & Jodie Collins

OWNER: Jodie L. Collins

REQUEST: A request to permit a 1,118 square foot accessory dwelling unit (ADU) to be constructed above an existing detached garage.

LOCATION: 26582 Via California (APN 123-183-41)

NOTICE: Notices of the Public Hearing were mailed to property owners within a 500-foot radius and occupants within a 100-foot radius on November 12, 2021, published within a newspaper of general circulation on November 12, 2021, and posted on November 12, 2021 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 15303 (Class 3 - Construction and Conversion of Small Structures).

ISSUES:

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

BACKGROUND: The subject site is located in Capistrano Beach at the northeast corner of Via California and Via Velez within the Residential Single-Family 12 (RSF-12) Zoning District and is designated as Residential 7-14 DU/AC on the City's Land Use Map. The site is developed with a single-story, single-family residence and detached three-car garage. The site is surrounded by other single-family developments and the 5 Freeway to the south (Supporting Document 2 – Vicinity Map).

The primary home is in plan check review (BLD20-0917) to construct a second story. No discretionary permit is required for the addition. The applicant has submitted a request for a Site Development Permit to construct a two-bedroom, 1,118 square foot ADU above an existing detached garage.

New ADU Regulations

On August 23, 2021, the City Council approved Ordinance No.21-06 (Supporting Document 2), to modify DPZC Section 9.07.210 related to accessory dwelling units and junior accessory dwelling units, to comply with State-mandate set forth in Government Code Section 65852.2.

DPZC Section 9.07.210 currently does not apply to the Coastal Zone. The ADU regulations contained in the City's Local Coastal Program will continue to govern ADU development in the Coastal Zone until a Local Coastal Program Amendment is processed by the City, approved by the Coastal Commission, and adopted by the City along with any suggested modifications from the Coastal Commission. Given the increased demand for ADUs within the City, the Ordinance was adopted to establish clear development standards for its residents, even though it would result in different standards within and outside of the Coastal Zone.

At a high level, the new ADU regulations establishes three categories of ADUs outside the Coastal Zone, each of which have their own development standards:

1. ADUs that are subject to mandatory approval under State Law, with the relevant development standards being provided by State Law.
2. ADUs that do not qualify for mandatory approval but still must be considered ministerially, with the relevant development standards being provided by the

regulations permitted by State Law which are being added to the City's Zoning Code; and

3. ADUs that do not meet the development standards provided in category (1) or (2) and thus are not eligible for ministerial approval, but still may be approved after going through a discretionary process and obtaining a Site Development Permit.

While the development standards vary slightly depending on which of the three categories the ADU falls within, below is a summary of the development standards that generally apply to ADUs outside of the Coastal Zone:

- Maximum Height: 16 feet, one story (but an attached ADU may be constructed on a portion of the second floor of an existing two-story primary dwelling).
- Maximum Number:
 - Single Family Districts: 1 ADU and 1 JADU
 - Multi-Family Districts: 1 attached ADU
- Maximum Size:
 - Attached: 50% of primary dwelling, capped at 850 SF (1 bedroom) /1000 SF (2 bedroom)
 - Detached: 850 SF (1 bedroom) /1000 SF (2 bedroom)
- Maximum Bedrooms: 2
- Side/Rear Yard Setbacks: 4 feet (no projections allowed)
- Front Yard Setback: underlying zoning district
- Building Separation: 10 feet
- Use Restrictions: cannot be separately sold or rented for less than 30 days; owner occupied in 2025; deed restriction required.
- HOA Approval: Required
- Building Code Compliance: Required.
- Location Requirements:
 - Rear ½ of parcel (if detached); rear ½ of dwelling (if attached).
 - SDP required for floodplain overlay district, coastal overlap district, fire ember zone, hillside properties, properties with an existing nonconforming structure or use, or any ADU which could impact sewer/water connections, traffic flow, or public safety.
- Parking: generally 1 parking spot required, subject to many exceptions.
- Roof Decks/Balconies: prohibited without an SDP.

The development standards for JADUs are similar, although not as extensive as those for ADUs largely because under State Law, JADUs must be (1) under 500 square feet; (2) fully enclosed within the primary dwelling (*i.e.*, they cannot be detached); and (3) are not permitted in multi-family zoning districts or dwellings.

Dana Point Zoning Code Section 9.07.210.H allows an ADU to be constructed beyond the ADU development standards with approval of a Site Development Permit. However, in no case shall the ADU:

1. Be constructed less than 4-feet from the side or rear property lines,
2. Exceed the maximum building height of the zoning district,
3. Include living area larger than 1,200 square feet,
4. Include more than two bedrooms,
5. Exceed the number of units stated in Section 9.07.210(F)(4), and/or
6. Be sold, rented, or occupied in a manner prohibited by Section 9.07.210(2)-(3).

DISCUSSION: The project includes the construction of a 1,118 square foot ADU to be located above an existing three car garage and storage area. Approval of a SDP is required to allow the ADU to exceed the maximum height of 16 feet and the maximum square footage of 1,000 square feet.

The second story, ADU includes a kitchen, living area, two bedrooms and two baths, and deck. The height of the structure is 27 feet, 7 inches. The existing lower-level storage area would be enlarged and the tool area converted to an office. A 10-foot building separation would be maintained from the primary single-family home. The three-car garage would also be maintained (Supporting Document 4 – Architectural Plans).

The existing three-car garage and storage room is 15-feet, 9 inches in height and located 10-feet from the side property line and 5 feet, 9 inches from the rear property line, consistent with the development standards for a detached garage. The kitchen and deck of the ADU would cantilever over the garage, setback 7 foot, 8 inch from the property line, which faces Via Velez. The stairs are located at the 5 foot rear yard setback. The main living area and bedrooms are stepped back from the rear property line and the deck is oriented toward the primary residence. The design is consistent with the neighboring second story, single family home and the and orientation of the improvements considers the privacy of both residences.

Site Development Permit (SDP21-0023)

Pursuant to Section 9.07.210(H) of the DPZC “*ADU Development Beyond Minimum Standards*,” in the event an applicant desires to develop an ADU beyond the minimum standards set forth in Section 9.07.210, he/she may apply for a discretionary Site Development Permit. Approval of a Site Development Permit shall be required to allow the proposed ADU be exceed 16-feet in height and 1,000 square feet. The proposed project is within the height limit of the zoning district and does not exceed 1,200 square feet of living area.

Pursuant to Section 9.71.050 “Basis of Approval, Conditional Approval, or Denial of a Site Development Permit” of the DPZC, the Planning Commission shall make the following findings:

1. That the site design is in compliance with the development standards of the Dana Point Zoning Code; and
2. That the site is suitable of the site for the proposed use and development; and

3. That the project is in compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines; and
4. That the site and structural design is appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture; and
5. That the requirements of the California Environmental Quality Act have been satisfied in that the project qualifies as a Class 3 (Section 15303) exemption pursuant to the applicable provisions of the California Environmental Quality Act (CEQA).

Staff finds the proposed ADU consistent with the basis of approval of a SDP as outlined in Section 9.71.050 of the DPZC. Justification for the abovementioned findings can be made and responses supporting approval of the project based on those findings are detailed in the attached draft Planning Commission Resolution.

CORRESPONDENCE:

None.

CONCLUSION:

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 justifications can be made supporting the requested discretionary actions, staff recommends the Planning Commission adopt the attached draft Resolution, approving SDP21-0025 subject to the findings and conditions of approval contained therein.



Brenda Wisneski, Director
Community Development Department

ATTACHMENTS:

Action Documents

1. Draft Planning Commission Resolution No. 21-11-22-XX

Supporting Documents

2. Ordinance No. 21-06 – ADU Regulations
3. Vicinity Map
4. Architectural Plans

ACTION DOCUMENT 1: Draft Planning Commission Resolution No. 21-11-22-XX

RESOLUTION NO. 21-11-22-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT SDP21-0025 TO PERMIT A 1,118 SQUARE FOOT ACCESSORY DWELLING UNIT (ADU) TO BE CONSTRUCTED ABOVE AN EXISTING DETACHED GARAGE AT 26582 VIA CALIFORNIA.

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

WHEREAS, Jodie L. Collins, (the "Owner") is the owner of real property commonly referred to as 26582 Via California (APN 123-183-41) (the "Property"); and

WHEREAS, the Owner and Wayne Collins (the "Applicants") caused to be filed a verified application for a Site Development Permit authorizing a request to permit a 1,118 square foot accessory dwelling unit (ADU) to be constructed above an existing detached garage; and

WHEREAS, the City Council approved Ordinance No.21-06, modifying the Dana Point Zoning Code related to ADU which then required a Site Development Permit for the subject application; 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(s) 15303 (Class 3 – Construction and Conversion of Small Structures) because the project includes the construction of an Accessory Dwelling Unit on a residential lot; and

WHEREAS, the Planning Commission did, on the 22nd day of November, 2021, hold a duly noticed public hearing as prescribed by law to consider said requests; and

WHEREAS, at said public hearing, upon considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Site Development Permit SDP21-0025.

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

- A) The above recitations are true and correct and incorporated herein by this reference.

Findings:

- B) Based on the evidence presented, the Planning Commission adopts the following findings and approves Site Development Permit SDP21-0025, subject to conditions:

1. That the site design is in compliance with the development standards of the Dana Point Zoning Code **in that, the proposed ADU meets the development standards associated with the Residential Single Family (RSF 12) zoning district and Section 9.07.210(H) of the DPZC which allows an ADU to be developed beyond the minimum standards with the review and approval of a SDP by the Planning Commission. Therefore, the ADU may be permitted as designed through the subject SDP and is therefore in compliance with the development standards of the Dana Point Zoning Code.**
2. That the site is suitable for the proposed use and development **in that the parcel is located within a single-family zoning district (RSF 12) which allows for accessory dwelling units in conjunction with a single-family residence. The existing three-car garage is located 5-feet from the rear property line and 10-feet from the side property, as required by the zoning district. The upper level ADU and deck maintain an increased rear yard setback. Therefore, the site is suitable for the proposed use and development.**
3. That the project is in compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines **in that it satisfies the intent of the Land Use Element Goal 1 pertaining to balanced development for the City, which states, "Achieve a desirable mixture of land uses to meet the residential, commercial, industrial, recreational, open space, cultural and public service needs of the City residents."**
4. That the site and structural design is appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture **in that not requiring a particular type of architecture, to achieve a site and structural design that is appropriate for the site, the ADU will use include horizontal wood composite siding, that will match the exterior finishes of the SFD to be remodeled.**
5. That the requirements of the California Environmental Quality Act have been satisfied in that the project qualifies as a Class 3 (Section 15303) exemption pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) **in that pursuant to the California Environmental Quality Act (CEQA), the project is Categorically Exempt from the California Environmental Quality Act (CEQA) per Section 15303 (Class 3 – Construction or Conversion of Small Structures) in**

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that the project consists of the development of an ADU on a
residentially zoned lot .

Conditions:

A. General:

1. Approval of this application permits permit a two-story, detached, 1,200 square foot ADU with a roof deck in conjunction with a SFD. Subsequent changes to the approved scope-of-work shall be in substantial compliance with those plans presented to the Community Development Director, and in compliance with applicable provisions of the City of Dana Point General Plan and Municipal and Zoning Codes.
2. This discretionary permit(s) will become void two (2) years following the effective date of the approval if the privileges authorized are not implemented or utilized or, if construction work is involved, such work is not commenced with such two (2) year time period or; the Director of Community Development or the Planning Commission, as applicable grants an extension of time. Such time extensions shall be requested in writing by the applicant or authorized agent prior to the expiration of the initial two-year approval period, or any subsequently approved time extensions.
3. 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 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 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 of Community Development determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved plot plan, he may approve the amendment without requiring a new public hearing.
4. 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.
5. 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

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concerning the project. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the City's attorney's 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 officers, 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's 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.

6. The applicant and applicant's 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 applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
8. The construction site shall be posted with signage indicating that construction may not commence before 7:00 AM and must cease by 8:00 PM, Monday through Saturday, with no construction activity permitted on Sundays or Federal holidays.
9. The applicant, property owner or successor in interest shall submit a standard Waste Reduction and Recycling 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.
10. The project shall meet all water quality requirements including Low Impact Development (LID) implementation.
11. The applicant 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 is responsible to coordinate any potential conflicts or existing easements.

12. The applicant shall exercise special care during the construction phase of this project to prevent any off-site siltation. The applicant shall provide erosion and sediment control measures at all times. The applicant shall maintain the erosion and sediment control devices until the final approval of all permits.

13. The applicant, property owner 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.

B. Prior to Building Plan Check Submittal:

14. Building(s) shall comply with the most current editions of the Building Code with all local amendments.

15. 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.

16. Building plan check submittal shall include the following construction documents:

- Building Plans with Electrical/Plumbing/Mechanical plans (4 sets)
- Energy Calculations (2 sets)
- Structural Calculations (2 sets)
- Soils/Geology Report (3 sets)

All documents prepared by a registered-design-professional shall be wet-stamped & signed.

17. Fire Department review may be required. Submit plans directly to the Orange County Fire Authority for their review.

18. Minimum roofing classification is Class "A".

19. Fire-rated Construction: Plans should clearly identify and detail the fire-rated construction for any construction due to close proximity to the property line.

20. Separate review, approval, and permits are required for separate structures.

21. Green Building: Plans shall show compliance & indicate method of verification of compliance with all CAL Green requirements. Third party or

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other methods shall demonstrate satisfactory conformance with mandatory measures.

22. Approvals are required from:

- Planning Division
- Public Works & Engineering Services
- Obtain Orange County Fire Authority Approval
- Obtain "Will Serve" letter from Water District.
- Provide an SDG&E service work order for proposed service location

23. All applicable supplemental/development impact fees shall be paid prior to building permit issuance.

24. A separate erosion control plan shall be included in the project plans. The erosion control plan shall address the potential erosion and sediment loss for the proposed hillside development.

25. Prior to commencement of framing, the applicant shall verify, by survey, that each structure will be constructed in compliance with the dimensions shown on plans approved by the City, including finish floor elevations and setbacks to property-lines included as part of this entitlement. The City's standard "Setback Certification" form shall be obtained from the Project Planner and be prepared by a licensed civil engineer/surveyor and shall be delivered to the City of Dana Point Building/Safety and Planning Divisions for review and approval.

26. Prior to release of the roof sheathing inspection, the applicant shall certify by a survey or other appropriate method that the height of the structures and any encroachments above the height limit are in compliance with plans approved by the Planning Commission. The City's standard "Height Certification" form shall be obtained from the Planning Division and prepared by a licensed civil engineer/surveyor and be delivered to the City of Dana Point Building and Planning Divisions for review and approval before release of final roof sheathing is granted.

C. Prior to the issuance of a certificate of occupancy, the applicant shall meet the following:

27. The owner shall record an agreement affecting real property related to the use of "Accessory Dwelling Unit" associated with a "Single Family Dwelling," prepared by the City of Dana Point. The agreement shall provide a description of the accessory dwelling unit and explain that it is allowed as an accessory use within the Residential Single Family (RSF 12) zone and include restrictions stating that (1) the site shall not be converted into multiple family dwelling units and (2), the ADU may not be rented as a short

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term or vacation rental for the life of the project.

28. The ADU shall be approved as designed, with two (2) bedrooms upstairs and one (1) office downstairs. At no point shall the office with the adjoining storage area be converted into a bedroom and adjoining closet.
29. Verification of all conditions of approval is required by all City Departments.
30. Condition requiring installation of all landscaping prior to issuance of C of O
31. The applicant shall contact both the Planning Division and Public Works & Engineering Services to schedule a final inspection prior to final project sign-off by the Building Division. The final inspection shall include a review of, among other things, landscaping, finish architecture/materials, approved through discretionary action, and compliance with any outstanding project conditions of approval.
32. All permanent BMP's, including landscaping, shall be installed, and approved by either the project Landscape Architect or the Civil Engineer of Record.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 22nd day of November 2021, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eric Nelson, Chair
Planning Commission

ATTEST:

Brenda Wisneski, Director
Community Development Department

DRAFT

SUPPORTING DOCUMENT 2: Ordinance No. 21-06 – ADU Regulations

Ordinance No. 21-06

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
DANA POINT, CALIFORNIA, APPROVING ZONE TEXT
AMENDMENT ZTA19-0002(II) TO MODIFY THE ZONING
CODE RELATED TO ACCESSORY DWELLING UNITS
AND JUNIOR ACCESSORY DWELLING UNITS**

WHEREAS, the State of California has declared that a severe housing crisis exists in the State of California with the demand for housing greatly exceeding the supply; and

WHEREAS, Accessory Dwelling Units ("ADUs") and Junior Accessory Dwelling Units ("JADUs") provide potentially affordable housing opportunities in a manner that can be compatible with existing single and multi-family neighborhoods, so long as the ADU is constructed in a manner that complies with certain development standards; and

WHEREAS, on October 9, 2019, Governor Newsom signed into law several bills intended to increase the supply of affordable housing by facilitating the construction of ADUs and JADUs, including AB 68, AB 881, and SB 13 (the "State ADU Laws"); and

WHEREAS, the State ADU Laws amended Government Code section 65852.2 and 65852.22, and became effective on January 1, 2020; and

WHEREAS, since the City's existing ADU ordinance did not comply with the revisions to Government Code Sections 65852.2 and 65852.22, the City's ordinance has been deemed null and void effective the same date (excepting the City's ADU regulations contained in its Local Coastal Program ("LCP") impacting the Coastal Zone which remain unaffected at this time and will remain effective until such time as the City's LCP is duly amended); and

WHEREAS, as amended, Government Code sections 65852.2 and 65852.22 authorizes cities to act by ordinance to provide for the creation and regulation of ADUs and JADUs; and

WHEREAS, the City of Dana Point (the "City") desires to amend its local regulatory scheme relating to the construction of ADUs and JADUs to comply with the revised provisions of Government Code sections 65852.2 and 65852.22; and

WHEREAS, ADUs and JADUs potentially offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character; and

WHEREAS, adopting an ordinance consistent with Government Code Sections 65852.2 and 65852.22 ensures that the character of the city is preserved to the maximum extent possible and that the City's regulation regarding ADUs and JADUs continues to promote the health, safety, and welfare of the community; and

WHEREAS, as permitted by Government Code Section 65852.2(a)(1)(A), the City may "[d]esignate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety."; and

WHEREAS, the City finds that the development of ADUs in areas in the city located in the City's Flood Plain Overlay District, Coastal Overlay District, on steep hillside properties, on parcels with existing nonconforming structures or uses, or within the City's

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Fire Ember Zones without obtaining a Site Development Permit could impact public safety due to the unique development constraints applicable to those properties that have historically been imposed by the City (and in some cases the California Coastal Commission) in order to prevent and/or mitigate concerns related to flood hazards, erosion, drainage, hillside stability, wildfires, and/or development prior to the City's incorporation which is inconsistent with the City's Zoning Code; and

WHEREAS, an amendment to the City's LCP is also underway to assess how best to amend ADU regulations in the Coastal Zone in a manner that complies with both State ADU laws and the Coastal Act. The subject Zoning Code Amendment shall not become effective for projects located in the coastal zone unless and until approval of an LCP amendment by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council of the City of Dana Point.

WHEREAS, three public meeting(s)/hearing(s) were held by the Planning Commission on March 9, April 13, and May 27, 2020, in the Council Chambers located at 33282 Golden Lantern, Dana Point, California. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

WHEREAS, following the public hearing on April 13, 2020, the Planning Commission adopted Resolution No. 20-04-13-08 by a unanimous vote recommending to the City Council that it approve Zoning Code Amendment No. LCPA19-0002/ZTA19-0002. The Planning Commission re-affirmed their recommendation at the public hearing on May 27, 2020.

WHEREAS, public hearing was held on August 9, 2020, in the Council Chambers located at 33282 Golden Lantern, Dana Point. A notice of time, place and purpose of the public hearing was given in accordance with the Dana Point Municipal Code. Evidence, both written and oral, was presented to, and considered by, the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DANA POINT DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The foregoing recitals are true and correct and incorporated herein as if set forth in full.

SECTION 2. Sections 9.09.020 is hereby amended as follows

The terms "second dwelling unit" and "granny flat" shall be eliminated from the alphabetical list of allowable uses.

The term "accessory dwelling unit" and "junior accessory dwelling unit" shall be added to the alphabetical list, with the uses in each zoning district designated as follows:

LAND USES	RSF 2	RSF 3	RSF 4	RSF 7	RSF 8	RSF 12
Accessory Dwelling Unit	P*	P*	P*	P*	P*	P*
Junior Accessory Dwelling Unit	P*	P*	P*	P*	P*	P*

LAND USES	RBR 12	RBRD 18	RD 14	RSF 22
Accessory Dwelling Unit	P*	P*	P*	P*

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Junior Accessory Dwelling Unit	P*	X	X	P*
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LAND USES	RMF 7	RMF 14	RMF 22	RMF 30
Accessory Dwelling Unit	P*	P*	P*	P*
Junior Accessory Dwelling Unit	X	X	X	X

SECTION 3: Appendix A, the Master Land Use Matrix, shall hereby be amended as follows:

The terms "second dwelling unit" and "granny flat" shall be eliminated from the alphabetical list of allowable uses.

The terms "accessory dwelling unit" and "junior accessory dwelling unit" shall be added to the alphabetical list, with the designated use in each zoning district designated as follows:

	RSF 2	RSF 3	RSF 4	RSF 7	RMF 7	RSF 8	RSF 12
Accessory Dwelling Unit	P*	P*	P*	P*	P*	P*	P*
Junior Accessory Dwelling Unit	P*	P*	P*	P*	X	P*	P*

	RBR 12	RMF 12	RSF 14	RD 14	RMF 14	RBRD 18
Accessory Dwelling Unit	P*	P*	P*	P*	P*	P*
Junior Accessory Dwelling Unit	P*	X	P*	X	X	X

	RSF 22	RMF 22	RMF 30	NC	CC/P	CC/V
Accessory Dwelling Unit	P*	P*	P*	X	X	X
Junior Accessory Dwelling Unit	P*	X	X	X	X	X

SECTION 4: Section 9.75.270 is hereby amended as follows:

The terms "second dwelling unit" and "granny flat" shall be eliminated from the alphabetical list of allowable uses.

The term "accessory dwelling unit" shall be added to the alphabetical list of definitions of use, as follows:

"Accessory Dwelling Unit shall mean an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also

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includes the following: (A) An efficiency unit, and (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code."

The term "junior accessory dwelling unit" shall be added to the alphabetical list of definitions as follows:

"Junior accessory dwelling unit shall mean a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure."

SECTION 5: Section 9.07.210 of the Dana Point Zoning Code is hereby repealed and replaced in its entirety as follows:

9.07.210 Accessory Dwelling Units.

A Purpose and Intent. The purpose of this Section is to facilitate the increased production of Accessory Dwelling Units ("ADUs") and provide for reasonable regulations for their development on lots developed or proposed to be developed with residential dwelling(s), in accordance with California Government Code Section 65852.2, or any successor statute. Formerly referred to as "second dwelling units" or "granny flats" in the City of Dana Point Municipal Code, such ADUs can contribute needed housing to the community's housing stock and promote housing opportunities for persons from a range of socioeconomic backgrounds who wish to reside in the city of Dana Point. In addition, the regulations in this ordinance are intended to promote the goals and policies of the City's General Plan, Local Coastal Program, and comply with requirements codified in the State Planning and Zoning Law related to Accessory Dwelling Units in residential areas, including Government Code Sections 65852.2 and 65852.22.

B Definitions.

1. An "attached Accessory Dwelling Unit" shall mean and refer to an accessory dwelling unit, as that term is defined in Government Code 65852.2(j)(1) that is connected via a permanent wall, ceiling, or floor to either a primary dwelling or an accessory structure located on the same lot. Attached Accessory Dwelling Units do not include those ADUs which are attached to a primary structure via patio structure, overhang, or breezeway.
2. A "detached Accessory Dwelling Unit" shall mean and refer to an accessory dwelling unit, as that term is defined in Government Code 65852.2(j)(1) that is not connected via a wall, ceiling, or floor to either a primary dwelling or an accessory structure located on the same lot.
3. The term "multi-family dwelling structure" means a structure with two or more attached dwelling units on a single lot. Multiple detached single-unit dwellings on the same lot shall not be considered "multi-family dwelling structures" for the purposes of this Section, and instead shall be deemed to be single family dwellings. Detached non-residential accessory structures, such as leasing offices, club houses, and other similar structures shall not be considered "multi-family dwelling structures."

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4. The term "living area" shall mean the interior habitable area of the primary dwelling unit, including basements and attics, but not including garages or accessory spaces, consistent with Government Code 65852.2(j)(4).
5. The term "total floor area" shall mean the total floor area of the ADU, inclusive of all habitable areas and non-habitable areas of the structure, including but not limited to stairways, hallways, basements, attics, garages, storage areas, restrooms, and any other accessory spaces, consistent with Dana Point Zoning Code section 9.75.060.

C Applicability.

1. New Accessory Dwelling Units. Any construction, establishment, alteration, enlargement, or modification of an Accessory Dwelling Unit shall comply with the requirements of this Section, the underlying development standards in the zoning district in which the lot is located, as well as any applicable overlay district, and the City's Building and Construction Codes as set forth in Title 8.
2. Legal Nonconforming Accessory Dwelling Units. All Accessory Dwelling Units which were legal at the time of their creation but which do not conform to this Section are deemed legal nonconforming and shall be subject to the provisions of Chapter 9.63 (Nonconforming Uses and Structures).
3. Existing Illegal Accessory Dwelling Units. Subject to Government Code Section 65852.2(e)(2) and (n), the provisions of this section shall in no way validate any existing illegal Accessory Dwelling Unit. An application may be made pursuant to this Section to convert an illegal Accessory Dwelling Unit to a legal conforming Accessory Dwelling Unit, and shall be subject to the same standards and requirements as for a newly proposed Accessory Dwelling Unit.
4. Designation of Existing Primary Dwelling Unit to Accessory Dwelling Unit. An existing residential structure may be designated as an Accessory Dwelling Unit at such time as a new primary dwelling unit is constructed, provided the existing structure conforms to all current development standards of this Section and approval of an Accessory Dwelling Unit Permit is obtained.

D Accessory Dwelling Unit Permit Required. There are three types of ADUs identified in this Section: those subject to mandatory approval, those subject to non-mandatory approval, and ADUs that are subject to discretionary approval via a Site Development Permit. All three types of ADUs require an ADU Permit, as set forth below.

1. Permits. With the exception of legal non-conforming Accessory Dwelling Units described in Section 9.07.210 (B)(2) above, all Accessory Dwelling Units require an Accessory Dwelling Unit Permit. The applicant shall also obtain a building permit as required by the City's Building and Construction Codes set forth in Title 8 and record a deed restriction as provided in Section 9.07.210(F)(3).
2. Application Processing. An application for an Accessory Dwelling Unit Permit shall be made on forms provided by the Department of Community Development and be submitted with any applicable fees. The application form shall specify all information needed in order for the ADU Permit application to be deemed complete. The application fee shall be

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established by resolution of the City Council. An application for an ADU Permit will be deemed complete once all information required by the application form has been submitted to the Community Development Department, including all required fees, and all changes required to building permit plans submitted to the Community Development Department have been made to the satisfaction of the Director. The applicant shall be notified in writing once the Director determines the application is complete.

3. Review.

- a. The Community Development Director or designee will review and approve complete applications for Accessory Dwelling Unit Permits for compliance with the requirements of this section. The Accessory Dwelling Unit Permit application shall be considered ministerially without any discretionary review or a public hearing.
- b. The Community Development Director or designee shall either deny an application within 60 days after it is deemed complete, or approve it within the same time period if the proposed Accessory Dwelling Unit complies with the requirements of this Section, the underlying development standards in the zoning district in which it is located, as well as any applicable overlay district. Prior to issuance of any building permits relating to the Accessory Dwelling Unit, the applicant shall record the deed restriction described in Section 9.07.210(F)(3).
- c. Except as otherwise provided in this chapter and subject to Government Code Section 65852.2(f), the construction of an Accessory Dwelling Unit shall be subject to any applicable fees adopted pursuant to the requirements of Government Code, Title 7, Division 1, Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

4. Permit Revocation.

- a. Subject to Government Code Section 65852.2(n), an Accessory Dwelling Unit Permit may be revoked if the Accessory Dwelling Unit violates one or more requirements of this Section or any other applicable provisions of the Dana Point Municipal Code.
- b. The Building Official or designee shall provide written notice of the decision to revoke the Accessory Dwelling Unit Permit to the property owner by certified mail with return receipt requested.
- c. Within 15 days of the deposit of the notice of the decision to revoke the Accessory Dwelling Unit Permit in the United States mail, the property owner and/or occupant may request a hearing before the Community Development Director. If the City receives a timely request for a hearing in accordance with this subsection, the decision to revoke shall be stayed until the hearing is concluded and the Director has made his or her determination. If the City does not receive a request for a hearing within 15 days, the revocation of the Accessory Dwelling Unit Permit shall be final.
- d. If, after a hearing, the Director of Community Development affirms the revocation of the Accessory Dwelling Unit Permit, the property owner and/or occupant may appeal the Director's decision to the Planning Commission in accordance with Chapter 9.61.110. If the City receives a timely request for a hearing in accordance with Chapter

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9.61.110, the decision to revoke shall be stayed until the hearing is concluded and the Planning Commission has made its determination.

- e. If, after a hearing, the Planning Commission affirms the revocation of the Accessory Dwelling Unit Permit, the property owner and/or occupant may appeal the Planning Commission's decision to the City Council in accordance with Chapter 9.61.110. If not timely appealed the decision of the Planning Commission shall be final. If the City receives a timely request for a hearing in accordance with Chapter 9.61.110, the decision to revoke shall be stayed until the hearing is concluded and the City Council has made its determination. Such decision by the Council shall be final.
- f. If an Accessory Dwelling Unit Permit is revoked, all provisions of law, including specifically those set forth in the Municipal Code, applicable when either a building permit or a Use Permit is revoked shall apply. In addition, the property owner shall, within 60 days, obtain all necessary permits and remove the kitchen facilities from the unit space, and shall not rent the unit except together with the primary residence to a single household.

E Development Standards Applicable to ADUs Subject to Mandatory Approval. Pursuant to Government Code section 65852.2, subdivision (e), ADUs that meet the following development standards shall qualify for mandatory approval of an ADU Permit Application. Only one mandatory ADU shall be permitted per lot.

1. **ADUs Attached to Single Family Dwelling or Accessory Structure (Including a Detached Garage).** An applicant may construct one (1) attached ADU or one (1) attached JADU per lot if the proposed ADU/JADU complies with all of the following development standards:
 - a. The ADU or JADU must be wholly contained within the proposed space of a proposed single family dwelling, or within the existing space of an existing single family dwelling or an existing accessory structure.
 - b. An accessory structure converted into an ADU may be expanded up to 150 square feet for ingress/egress.
 - c. The ADU or JADU must have exterior access separate from the primary dwelling.
 - d. The ADU or JADU must contain side and rear yard setbacks sufficient for fire and safety.
 - e. The JADU must comply with all of the requirements of Government Code section 65852.22.
 - f. The ADU or JADU shall be subject to the sale, rental, and deed restriction requirements contained in Section 9.07.210(F)(2)-(3) and 9.07.215(D)(1)-(2).
 - g. All ADUs and JADUs must meet the requirements of all Uniform Codes, including but not limited to the California Building Code and the California Fire Code, as such codes have been adopted and amended by Title 8 of the City of Dana Point Municipal Code.

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In addition, ADUs and JADUs that are attached to the primary dwelling shall contain a fire wall sufficient for fire retention.

- h. The total floor area of an attached ADU shall be limited to 50% of living area of the primary dwelling.
 - i. The maximum height of an ADU attached to an accessory structure shall be limited to 16 feet. The maximum height for a JADU or ADU attached to a primary dwelling shall be the height of the underlying zoning district.
 - j. All attached ADUs and JADUs shall be approved by the applicant's homeowner's association, if applicable, prior to an application being submitted to the City.
 - k. An attached ADU or JADU shall be subject to the location requirements set forth in Section 9.07.210(F)(1) below.
2. **Detached ADU on Single Family Dwelling Lot.** An applicant shall be allowed to construct one (1) detached ADU per lot if all of the following development standards are satisfied:
- a. All portions of the detached ADU, including amenities such as HVAC equipment, staircases, and patio covers, shall be setback at least four (4) feet from the side and rear yard property lines.
 - b. A detached ADU constructed pursuant to this Section may be constructed in combination with an attached JADU that meets the requirements of Government Code section 65852.22.
 - c. The total floor area of the detached ADU shall not exceed 800 square feet.
 - d. The maximum height of the detached ADU shall not exceed 16 feet.
 - e. The ADU shall be subject to the sale, rental, and deed restriction requirements contained in Section 9.07.210(F)(2)-(3).
 - f. All ADUs must meet the requirements of all Uniform Codes, including but not limited to the California Building Code and the California Fire Code, as such codes have been adopted and amended by Title 8 of the City of Dana Point Municipal Code.
 - g. The detached ADU shall maintain a ten (10) foot separation from the primary dwelling and any accessory structure(s) located on the property.
 - h. All detached ADUs shall be approved by the applicant's homeowner's association, if applicable, prior to an application being submitted to the City.
 - i. An attached ADU or JADU shall be subject to the location requirements set forth in Section 9.07.210(F)(1) below.

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3. **Attached ADUs on Lots Containing Existing Multi-Family Dwelling(s):** An applicant shall be allowed to construct one (1) attached ADU within each multi-family dwelling structure, if it meets all of the following development standards:

- a. The ADU must be contained within portions of existing multi-family dwellings that are not used as livable space, such as storage rooms, boiler rooms, passageways, attics, basements, or garages.
- b. All ADUs must meet the requirements of all Uniform Codes, including but not limited to the California Building Code and the California Fire Code, as such codes have been adopted and amended by Title 8 of the City of Dana Point Municipal Code. In addition, ADUs that are attached to the primary dwelling shall contain a fire wall sufficient for fire retention.
- c. No JADU may be constructed with a multi-family dwelling.
- d. A certificate of occupancy had been issued for the multi-family dwelling on or before January 1, 2020.
- e. Notwithstanding the limitation to one (1) ADU as set forth in this Section E(3), an applicant may be permitted to construct an additional number of ADUs within an existing multi-family dwelling, equivalent to not more than 25% of the existing multi-family dwelling units, upon the application for and issuance of a Site Development Permit pursuant to Section 9.07.210(H).
- f. The ADU shall be subject to the sale, rental, and deed restriction requirements contained in Section 9.07.210(F)(2)-(3).
- g. The total floor area of an ADU shall be limited to 50% of the average living area of existing Multi-Family dwelling units.
- h. All ADUs shall be approved by the applicant's homeowner's association, if applicable, prior to an application being submitted to the City.
- i. The ADU shall be subject to the location requirements set forth in Section 9.07.210(F)(1) below.

4. **Detached ADUs on Existing Multi-Family Dwelling Lots:** No detached ADU shall be constructed upon a lot containing an existing Multi-Family dwelling. Notwithstanding the forgoing, an applicant may construct up to two (2) detached ADUs for each lot containing an existing Multi-Family dwelling, upon the application for and issuance of a Site Development Permit pursuant to Section 9.07.210(H) if all the following development standards are met:

- a. The maximum height of the detached ADU(s) shall not exceed 16 feet.
- b. All portions of the detached ADU, including ADU amenities such as HVAC equipment, staircases, and patio covers, shall be setback at least four (4) feet from the side and rear yard property lines.

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- c. A certificate of occupancy had been issued for the multi-family dwelling on or before January 1, 2020.
- d. No JADU may be constructed with a multi-family dwelling.
- e. The total floor area of the detached ADU shall not exceed 1200 square feet.
- f. The detached ADU shall maintain a ten (10) foot separation from the primary dwelling and any accessory structure(s) located on the property.
- g. All detached ADUs shall be approved by the applicant's homeowner's association, if applicable, prior to an application being submitted to the City.
- h. The ADU shall be subject to the sale, rental, and deed restriction requirements contained in Section 9.07.210(F)(2)-(3).
- i. The ADU shall be subject to the location requirements set forth in Section 9.07.210(F)(1) below.

F Development Standards for ADUs Not Subject to Mandatory Approval. The development standards set forth below shall apply to all non-mandatory ADUs. For any development standard not explicitly identified below, the requirements of the underlying zoning district shall apply, unless superseded by State Law.

- 1. **Zoning and Location Requirements.** Accessory Dwelling Units shall be allowed in all zoning districts in the City that allow single family or multi-family dwelling residential uses, in accordance with the permit and development standards described in this Section, and subject to the exceptions set forth in subsections (a) through (f) below.
 - a. **Flood Plain Overlay District.** Due to the public safety concerns associated with water, erosion, and flood hazards, as well as the proliferation of existing non-conforming structures within the City's Flood Plain Overlay Districts, no attached or detached ADU shall be located in the City's Flood Plain Overlay District without obtaining a Site Development Permit pursuant to Section 9.07.210(H).
 - b. **Coastal Overlay District.** Pursuant to Government Code 65852.2(l), nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resource Code). As such, in accordance with the City's Certified Local Coastal Program, no attached or detached ADU shall be developed within the City's Coastal Overlay District without obtaining a Coastal Development Permit and Conditional Use Permit and otherwise complying with all provisions of the City's Local Coastal Program related to ADUs.
 - c. **Hillside Properties.** Due to public safety concerns with hillside stability, small, narrow steep lots, drainage, and related traffic flow conditions, no attached or detached ADUs shall be constructed on any lot which contains a hillside condition, which shall mean a lot with a topographic slope percentage, as defined in Section 9.75.190 of this Dana Point Zoning Code, either front to rear or side to side, of twenty (20) percent or greater,

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calculated in accordance with Section 9.05.110(a)(4)(A), without obtaining a Site Development Permit pursuant to Section 9.07.210(H).

- d. **Existing Non-Conforming Structure or Use.** No attached or detached ADU shall be constructed on any lot which has an existing development constructed upon it, which is non-conforming with respect to the City's current use or development standards without obtaining a Site Development Permit pursuant to Section 9.07.210(H).
 - e. **Fire Ember Zone.** No attached or detached ADU shall be constructed on any lot located within the City's Fire Ember Zone without obtaining a Site Development Permit pursuant to Section 9.07.210(H).
 - f. In addition to the foregoing, the City shall review each Accessory Dwelling Unit Permit Application for any other issues related to adequacy of water or sewer services, and/or the impact of the proposed ADU on traffic flow, or public safety. In the event that the City identifies a potential issue with respect to adequate water/sewer, traffic flow, or public safety, the City may deny the Application and/or require the applicant to submit a Site Development Permit application pursuant to Section 9.07.210(H).
2. **Sale, Rental, and Occupancy of Units.** The Accessory Dwelling Unit shall not be sold separately from the primary dwelling unit, and shall not be rented for less than thirty (30) days. Beginning January 1, 2025, a natural person with legal or equitable title to the lot must reside in either the primary dwelling unit or the Accessory Dwelling Unit as the person's legal domicile and permanent residence.
 3. **Deed Restriction.** A Deed Restriction prepared by the City shall be recorded on the subject property prior to issuance of the ADU Permit stating that (a) the ADU is subject to the requirements of this Section, (b) the ADU shall not sold separately from the primary dwelling unit, (c) the ADU shall not be rented for less than 30 days, (d) beginning January 1, 2025, a natural person with legal or equitable title to the lot must reside in either the primary dwelling unit or the Accessory Dwelling Unit as the person's legal domicile and permanent residence, and (e) the deed restriction runs with the land and each provision therein may be enforced against future owners of the property.
 4. **Maximum Number of Units Allowed.**
 - a. Single Family Residential Zoning Districts. In single family residential zoning districts where ADUs are permitted, an applicant shall be allowed to construct one (1) detached or attached ADU per lot, subject to the provisions contained in this Section. Pursuant to Government Code 65852.2, in addition to the one (1) attached or detached ADU allowed in this this Section, an applicant may also construct one (1) Junior Accessory Dwelling Unit so long as it complies with the requirements of Section 9.07.215.
 - b. Multi-Family and Mixed-Use Zoning Districts with Existing Multi-Family Dwelling Structures. In multi-family or mixed use zoning districts where ADUs are permitted, an applicant shall be allowed to construct one (1) attached ADU contained within portions of existing multi-family dwellings, that are not used as livable space, such as storage rooms, boiler rooms, passageways, attics, basements, or garages per lot zoned for multi-family or mixed use development, subject to the provisions contained in this Section.

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5. **Required Setbacks.** All attached and detached ADUs shall strictly comply with at least a four (4) foot side setback and at least a four (4) foot rear yard setback. All ADUs must also strictly comply with the front yard setback requirement of the underlying zoning district in which it is located. No portion of an attached or detached ADU, including but not limited to HVAC equipment, staircases, and patio covers, shall project into the required rear, side, or front yard setback. No setback requirement shall be required for a legally existing detached accessory structure, which is converted into an ADU. However, the converted ADU must comply with all of the other requirements of this Section, including the size, height, building separation, parking and permitting requirements set forth herein.
6. **Maximum Height/Stories.**
 - a. All detached ADUs, and all ADUs attached to accessory structures shall be subject to a height limitation of sixteen (16) feet, and shall be limited to one story.
 - b. An ADU that is attached to a primary dwelling may be constructed above the dwelling's attached garage, so long as the existing dwelling contains two stories and complies with all development standards applicable in underlying zoning district in which it is located, including but not limited to height.
7. **Building Separation Requirements.** All ADUs shall comply with the City's building separation requirements as set forth in Chapters 9.09 and 9.13.
8. **ADU Size Requirements.**
 - a. Subject to Section 9.07.210(F)(8)(b) below, if an attached ADU is proposed as part of an existing or proposed primary dwelling, the total floor area of the ADU shall not exceed fifty percent (50%) of the living area of the existing primary residence.
 - b. For all ADUs, the total floor area shall not exceed:
 - i. 850 square feet for an ADU having one bedroom or less; and
 - ii. 1,000 square feet for an ADU having more than one bedroom.
 - c. The minimum square footage for an ADU shall be 150 square feet of total floor area.
 - d. An ADU shall contain no more than two bedrooms.
9. **Additional Requirements.**
 - a. All detached ADUs shall be constructed upon a permanent foundation.
 - b. ADUs shall include sufficient permanent provisions for living, sleeping, eating, cooking, and sanitation, including but not limited to washer dryer hookups and kitchen facilities.
 - c. Subject to Government Code section 65852.2(e)(1)(A), all detached ADUs must have separate utility meters. Consistent with Government Code section 66013, the connection may be subject to a connection fee or capacity charge that is proportionate to the burden of the proposed ADU.

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- d. All ADUs must meet the requirements of all Uniform Codes, including but not limited to the California Building Code and the California Fire Code, as such codes have been adopted and amended by Title 8 of the City of Dana Point Municipal Code. In addition, ADUs that are attached to the primary dwelling shall contain a fire wall sufficient for fire retention.
 - e. All ADUs are required to have separate exterior access from the proposed or existing primary residence.
 - f. Any attached or detached ADU shall be architecturally consistent with the primary residential or multi-family dwelling. In addition, all ADUs shall be designed and sited to: (i) be similar to the primary dwelling with respect to architectural style, roof pitch, color, and materials; (ii) protect public access to and along the shoreline areas; (iii) protect public views to and along the ocean and scenic coastal areas; (iv) protect sensitive coastal resources; and (v) minimize and, where feasible, avoid shoreline hazards.
 - g. Solar panels shall be required for any attached or detached ADU.
 - h. The Accessory Dwelling Unit shall not cause a substantial adverse change on any real property that is listed in the National Register of Historic Places, and/or California Register of Historic Places, and/or the City of Dana Point Historic Architectural Resources Inventory.
 - i. No roof decks or balconies shall be constructed above or upon an ADU.
 - j. Detached ADUs shall only be located in the rear ½ of the parcel. Attached ADUs shall only be located in the rear ½ of the primary dwelling.
 - k. In the event that the property upon which the ADU is proposed is located within a Homeowners Association ("HOA"), the applicant shall submit to the City written evidence of the HOA's approval of the ADU concurrent with their ADU application.
10. **Parking Requirements.** Except as provided in Section 9.07.210(F)(10)(e) below, ADUs shall meet the following parking standards:
- a. At least one (1) off street parking space shall be provided per bedroom or per ADU, whichever is less
 - b. Parking spaces shall comply with Zoning Code Chapter 9.35, except as may be permitted in this Section, and be provided on the same lot as the ADU. A covered space is preferred, but not required.
 - c. The parking space(s) for the ADU shall be in addition to the parking required for the primary residential dwelling unit(s).
 - d. If uncovered, required parking may be located in required setback areas and may be provided through tandem parking. Applicants are encouraged to provide required uncovered parking spaces outside of front and street-side setback areas, if possible.

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If covered, required parking spaces shall comply with the setback and driveway length requirements applicable to the subject property. Notwithstanding the foregoing, the City may not allow tandem parking or parking to be provided within setback areas if it is determined to not be feasible due to specific site, topographical, or fire, life, and safety conditions.

- e. The foregoing parking standards shall not be imposed on an ADU in any of the following circumstances:
 - i. The ADU is located within one-half (1/2) mile walking distance of public transit (including bus stops); or
 - ii. The ADU is located within an architecturally and historically significant district; or
 - iii. The ADU is part of the proposed or existing primary residence or and existing accessory structure;
 - iv. The ADU is located in an areas where on-street parking permits are required but not offered to ADU occupants; or
 - v. The ADU is located within one block of a car share vehicle area.

G Associated Permits. If an application for an ADU triggers the requirement for a discretionary or ministerial permit other than an ADU Permit and/or a building permit (including but not limited to a Site Development Permit, Coastal Development Permit and/or Conditional Use Permit), those associated permits must be applied for and obtained prior to application for an ADU Permit. The process for obtaining the associated permit(s) shall be as set forth in Title 9 of the Dana Point Zoning Code.

H ADU Development Beyond Minimum Standards. In the event an Applicant desires to develop an ADU beyond the development standards set forth in this Section, he/she may apply for a discretionary Site Development Permit in accordance with Dana Point Zoning Code Chapter 9.71, which shall be considered by the Planning Commission and appealed to the City Council in accordance with the procedures set forth in Dana Point Zoning Code section 9.61.110. However, in no case shall an ADU:

1. Be constructed less than 4-feet from the side or rear property lines,
2. Exceed the maximum building height of the zoning district,
3. Include living area larger than 1,200 square feet,
4. Include more than two bedrooms, and/or
5. Exceed the number of units stated in Section 9.07.210(F)(4)
6. Be sold, rented, or occupied in a manner prohibited by Section 9.07.210(2)-(3).

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SECTION 6: Section 9.07.215 of the Dana Point Zoning Code shall be repealed and replaced in its entirety as follows:

9.07.215 Junior Accessory Dwelling Units

A Purpose and Intent. The purpose of this Section is to facilitate the increased production of Junior Accessory Dwelling Units ("JADUs") and provide for reasonable regulations for their development on lots developed or proposed to be developed with residential dwelling(s), in accordance with California Government Code Section 65852.2, or any successor statute. Formerly referred to as "second dwelling units" or "granny flats" in the City of Dana Point Municipal Code, such JADUs can contribute needed housing to the community's housing stock and promote housing opportunities for persons from a range of socioeconomic backgrounds who wish to reside in the city of Dana Point. In addition, the regulations in this ordinance are intended to promote the goals and policies of the City's General Plan, Local Coastal Program, and comply with requirements codified in the State Planning and Zoning Law related to Accessory Dwelling Units in residential areas, including Government Code Sections 65852.2 and 65852.22.

B Applicability.

1. **New Junior Accessory Dwelling Units.** Any construction, establishment, alteration, enlargement, or modification of a Junior Accessory Dwelling Unit shall comply with the requirements of this Section, the underlying development standards in the zoning district, as well as any applicable overlay district in which the lot is located, and the City's Building and Construction Codes as set forth in Title 8.
2. **Legal Nonconforming Junior Accessory Dwelling Units.** All Junior Accessory Dwelling Units which were legal at the time of their creation but which do not conform to this Section are deemed legal nonconforming and shall be subject to the provisions of Chapter 9.63 (Nonconforming Uses and Structures).
3. **Existing Illegal Junior Accessory Dwelling Units.** The provisions of this section shall in no way validate any existing illegal Junior Accessory Dwelling Unit. An application may be made pursuant to this Section to convert an illegal Junior Accessory Dwelling Unit to a legal conforming Junior Accessory Dwelling Unit, and shall be subject to the same standards and requirements as for a newly proposed Accessory Dwelling Unit.

C Junior Accessory Dwelling Unit Permit Required.

1. **Permits.** With the exception of legal non-conforming Junior Accessory Dwelling Units described in Section 9.07.210 (B)(2) above, all Junior Accessory Dwelling Units require a Junior Accessory Dwelling Unit Permit. The applicant shall also obtain a building permit as required by the City's Building and Construction Codes set forth in Title 8 and record a deed restriction as provided in Section 9.07.210.
2. **Application Processing.** An application for a Junior Accessory Dwelling Unit Permit shall be made on forms provided by the Department of Community Development and be submitted with any applicable fees. The application form shall specify all information needed in order for the JADU Permit application to be deemed complete. The application fee shall be established by resolution of the City Council. An application for a JADU Permit will be deemed complete once all information required by the application form has been submitted to the Community Development Department, including all required fees, and all

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changes required to building permit plans submitted to the Community Development Department have been made to the satisfaction of the Director. The applicant shall be notified in writing once the Director determines the application is complete.

3. Review.

- a. The Community Development Director or designee will review and approve complete applications for Junior Accessory Dwelling Unit Permits for compliance with the requirements of this section. The Junior Accessory Dwelling Unit Permit application shall be considered ministerially without any discretionary review or a public hearing.
- b. The Community Development Director or designee shall either deny an application within 60 days after it is deemed complete, or approve it within the same time period if the proposed Junior Accessory Dwelling Unit complies with the requirements of this section and the underlying development standards in the zoning district as well as any applicable overlay district in which the lot is located. Prior to issuance of any building permits relating to the Junior Accessory Dwelling Unit, the applicant shall record the deed restriction described in Section 9.07.215(B)(2).
- c. Except as otherwise provided in this section, the construction of a Junior Accessory Dwelling Unit shall be subject to any applicable fees adopted pursuant to the requirements of Government Code, Title 7, Division 1, Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

4. Permit Revocation.

- a. The Building Official or his or her designee may revoke a Junior Accessory Dwelling Unit Permit if the Junior Accessory Dwelling Unit violates one or more requirements of this chapter.
- b. The Building Official or designee shall provide written notice of the decision to revoke the Junior Accessory Dwelling Unit Permit to the property owner by certified mail with return receipt requested.
- c. Within 15 days of the deposit of the notice of the decision to revoke the Junior Accessory Dwelling Unit Permit in the United States mail, the property owner and/or occupant may request a hearing before the Community Development Director. If the City receives a timely request for a hearing in accordance with this subsection, the decision to revoke shall be stayed until the hearing is concluded and the Director has made his or her determination. If the City does not receive a request for a hearing within 15 days, the revocation of the Junior Accessory Dwelling Unit Permit shall be final.
- d. If, after a hearing, the Director of Community Development affirms the revocation of the Junior Accessory Dwelling Unit Permit, the property owner and/or occupant may appeal the Director's decision to the Planning Commission in accordance with Chapter Section 9.61.110. If the City receives a timely request for a hearing in accordance with Chapter Section 9.61.110, the decision to revoke shall be stayed until the hearing is concluded and the Planning Commission has made its determination.

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- e. If, after a hearing, the Planning Commission affirms the revocation of the Junior Accessory Dwelling Unit Permit, the property owner and/or occupant may appeal the Planning Commission's decision to the City Council in accordance with Chapter Section 9.61.110. If the City receives a timely request for a hearing in accordance with Chapter Section 9.61.110, the decision to revoke shall be stayed until the hearing is concluded and the City Council has made its determination. Such decision by the Council shall be final.
- f. If a Junior Accessory Dwelling Unit Permit is revoked, all provisions of law, including specifically those set forth in the Municipal Code, applicable when either a building permit or a Use Permit is revoked shall apply. In addition, the property owner shall, within 60 days, obtain all necessary permits and remove the JADU improvements from the unit space, and shall not rent the unit except together with the primary residence to a single household.

D Development Standards. The development standards set forth below shall apply to all JADUs. For any development standard not explicitly identified below, the requirements of the underlying zoning district shall apply, unless superseded by State Law.

1. **Sale, Rental and Occupation of Units.** The JADU shall not be sold separately from the primary dwelling unit and shall be rented for less than thirty (30) days. In addition, either the JADU or the primary dwelling in which the JADU is located shall be occupied by the property owner at all times, unless the property is owned by a government agency, land trust, or housing organization.
2. **Deed Restriction.** A Deed Restriction prepared by the City shall be recorded on the subject property prior to issuance of the JADU Permit stating that (a) the JADU is subject to the requirements of this Section, (b) the JADU shall not sold separately from the primary dwelling unit, (c) the JADU shall not be rented for less than 30 days, (d) that either the JADU or the primary dwelling in which the JADU is located shall be occupied by the property owner at all times, and (e) the deed restrictions run with the land and may be enforced against future owners of the property.
3. **Number of Units Allowed.**
 - a. Single Family Residential Zoning Districts. In single family residential zoning districts, an applicant shall be allowed to construct one (1) JADU within the walls of an existing or proposed primary residence. Pursuant to Government Code 65852.2, in addition to the one (1) Junior Accessory Dwelling Unit allowed in this Section, an applicant may also construct one (1) attached or detached ADU allowed so long as it complies with the requirements of Section 9.07.210.
4. **Unit Size and Construction.**
 - a. The JADU shall not exceed 500 square feet.
 - b. The JADU must be contained within the walls of an existing or proposed primary dwelling.

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Page 18

- c. No JADU shall be constructed in any dwelling that is non-conforming with respect to structure or use.
 - d. All JADUs must include an efficiency kitchen, which includes all of the following:
 - i. a cooking facility with appliances;
 - ii. a food preparation counter of reasonable size in relation to the size of the JADU; and
 - iii. storage cabinets that are of reasonable size in relation to the size of the JADU.
 - e. Exterior access must be provided for all JADUs, separate from the main entrance to the primary residence.
 - f. All JADUs must meet the requirements of all Uniform Codes, including but not limited to the California Building Code and the California Fire Code, as such codes have been adopted and amended by Title 8 of the City of Dana Point Municipal Code. In addition, JADUs shall contain a fire wall sufficient for fire retention.
 - g. In the event that the property upon which the JADU is proposed is located within a Homeowners Association ("HOA"), the applicant shall submit to the City written evidence of the HOA's approval of the JADU concurrent with their JADU Permit Application.
5. **Parking.** No additional parking shall be required for a JADU, other than that which is required for the primary residence.
6. **Associated Permits.** If an application for a JADU triggers the requirement for a discretionary or ministerial permit other than a JADU Permit and/or a building permit (including but not limited to a Site Development Permit, Coastal Development Permit and/or Conditional Use Permit), those associated permits must be applied for and approved prior to application for a JADU Permit. The process for obtaining the associated permit(s) shall be as set forth in Title 9 of the Dana Point Zoning Code.

SECTION 7: This project statutorily exempt under the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080.17 and Section 15282(h) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, which exempts adoption of an ordinance regarding second units to implement provisions of Sections 65852.2 and 65852.22 of the Government Code. Additionally, this ordinance is categorically exempt pursuant to Sections 15303 (New Construction or Conversion of Small Structures) and 15305 (Minor Alterations in Land Use/Limitations). Similarly, the ministerial approval of accessory dwelling units and junior accessory dwelling units is not a "project" for CEQA purposes, and environmental review is not required prior to approving individual applications.

SECTION 8: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Ordinance 20-06
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Page 19

SECTION 9: An amendment to the City's Local Coastal Program ("LCP") is also underway. This Ordinance shall not become effective for projects located in the coastal zone until approval of the LCP Amendment by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council of the City of Dana Point.

PASSED, APPROVED, AND ADOPTED this 23rd day of August, 2021



JAMEY M. FEDERICO, MAYOR

ATTEST:



SHAYNA SHARKE, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, SHAYNA SHARKE, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 21-06 was duly introduced at an adjourned regular meeting of the City Council on the 9th day of August, 2021, and was duly adopted and passed at an adjourned regular meeting of the City Council on the 23rd day of August, 2021, by the following vote, to wit:

AYES:	Council Member Mike Frost, Council Member Richard A. Viczorek, Council Member Michael Villar, and Mayor Jamey M. Federico
NOES:	None
ABSTAIN:	None
ABSENT:	Mayor Pro Tem Joseph L. Muller



SHAYNA SHARKE, CITY CLERK

Ordinance 20-06
ZTA19-0002(II) Amendment
Page 20

ORDINANCE NO. 21-06

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

AFFIDAVIT OF POSTING
AND PUBLISHING

SHAYNA SHARKE, being first duly sworn, deposes, and says: That she is the duly appointed and qualified City Clerk of the City of Dana Point;

That in compliance with State Laws of the State of California,
ORDINANCE NO. 21-06, being:

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
DANA POINT, CALIFORNIA, APPROVING ZONE TEXT
AMENDMENT ZTA19-0002(II) TO MODIFY THE ZONING
CODE RELATED TO ACCESSORY DWELLING UNITS
AND JUNIOR ACCESSORY DWELLING UNITS.**

was published in summary in the Dana Point News on the 20th day of August, 2021, and in further compliance with City Resolution No. 91-10-08-01 on the 26th day of August, 2021, was caused to be posted in four (4) public places in the City of Dana Point, to wit:

Dana Point City Hall
Capistrano Beach Post Office
Dana Point Post Office
Dana Point Library

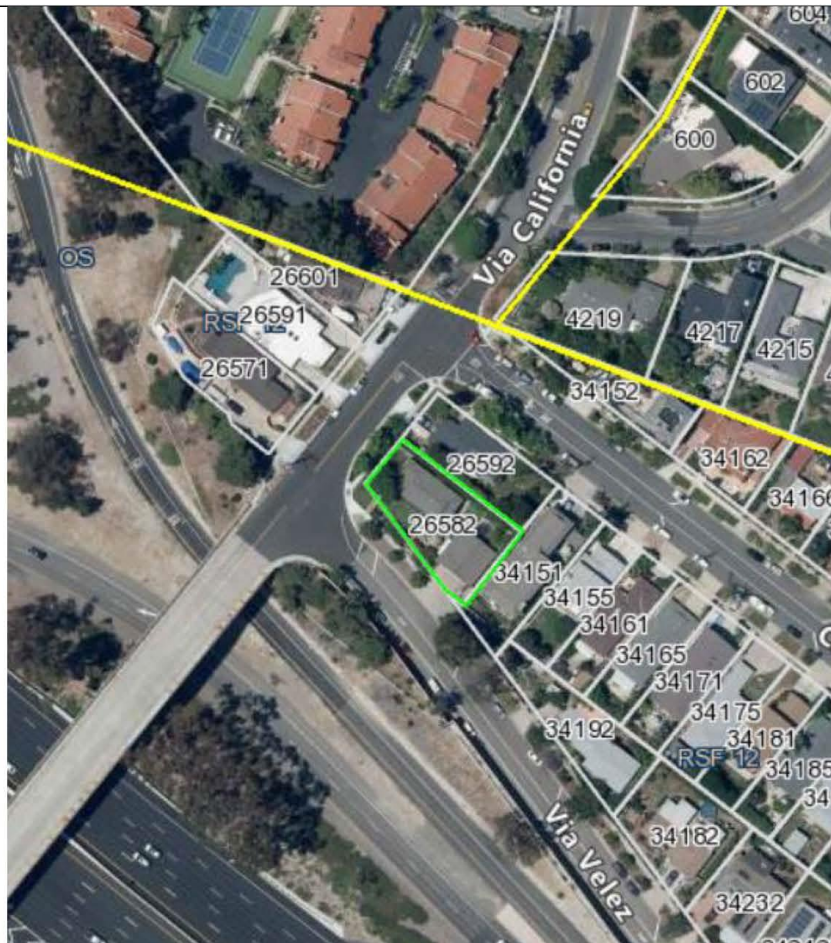

SHAYNA SHARKE, CITY CLERK
Dana Point, California

SUPPORTING DOCUMENT 3: Vicinity Map



City of Dana Point
SDP21-0025
Brenda Wisneski, Director
Community Development Department
33282 Golden Lantern
Dana Point, CA 92629-1805

VICINITY MAP



Project: SDP21-0025
Applicant: Wayne and Jodie Collins
Location: 26582 Via California



SUPPORTING DOCUMENT 4: Architectural Plans

ATTACHMENT

WAYNE & JODIE COLLINS
26582 VIA CALIFORNIA
CAPISTRANO BEACH, CA 92624
(949) 246-2351

**DETACHED GARAGE REMODEL
AND ADU ADDITION AT
26582 VIA CALIFORNIA
CAPISTRANO BEACH, CA 92624**

**ARCHITECT AND STRUCTURAL:
W. WAYNE COLLINS, ARCHITECT
26582 VIA CALIFORNIA
CAPISTRANO BEACH, CA 92624
(949) 246-2351
waynecollinsarchitect@cox.net**

**TOPOGRAPHY:
TOAL ENGINEERING
139 AVENIDA NAVARRO
SAN CLEMENTE, CA 92672
(949) 492-8586
CRios@toalengineering.com**

CITY OF DANA POINT
COMMUNITY DEVELOPMENT
DEPARTMENT

LOT AREA:	8838 S.F.
EXISTING GARAGE/STORAGE	
EXISTING STORAGE:	348 S.F.
EXISTING 3-CAR GARAGE:	808 S.F.
TOTAL EXISTING GARAGE/STORAGE:	1156 S.F.
PROPOSED GARAGE/STORAGE/ADU	
LOWER STORAGE/OFFICE:	527 S.F.
UPPER ADU INCLUDING STAIRS:	1118 S.F.
TOTAL STORAGE/OFFICE/ADU:	1645 S.F.
GARAGE:	748 S.F.
TOTAL GARAGE/STORAGE/OFFICE/ADU:	2393 S.F.
EXTERIOR DECK ABOVE GARAGE:	84 S.F.
COVERAGE:	
PRIMARY RES., COVERED PORCH & CANT. DECK:	2055 S.F.
DETACHED GARAGE/STOR/ADU STRUCTURE:	1381 S.F.
TOTAL FOOTPRINT:	3446 S.F.
SITE COVERAGE BY STRUCTURES:	39.89% (3446/8838)
TOTAL LANDSCAPING:	55.36% (4782/8838)

ALL DRAINAGE SHALL BE MAINTAINED AND IN ACCORDANCE WITH THE 2019 CALIFORNIA BUILDING CODE AND THE CITY OF DANA POINT MUNICIPAL CODE" AND "ANY WORK WITH THE PUBLIC RIGHT OF WAY WILL REQUIRE AN ENCROACHMENT PERMIT PRIOR TO ANY WORK BEING PERFORMED; CONTACT PUBLIC WORKS-ENGINEERING AT 949-248-3554"

CS	COVER SHEET & INDEX (THIS SHEET)
	EXISTING SURVEY AND TOPO
EXSP.1	EXISTING SITE PLAN
EX.1	EXISTING FLOOR PLAN, ROOF PLAN AND EXT. ELEVATIONS
ASP-1	PROPOSED SITE PLAN
A.1	PROPOSED FLOOR PLANS
A.2	PROPOSED ROOF PLAN
A.3	PROPOSED EXTERIOR ELEVATIONS

REVISIONS	CURRENT SET DATE OCTOBER 12, 2021	DATED PRINTED	SET NO.
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INTERSTATE HIGHWAY 5

CAMINO LAS RAMBLAS

CALLE SUYUMBIDO

CAMINO EL MOLINO

VIA CALIFORNIA

VIA HELIX

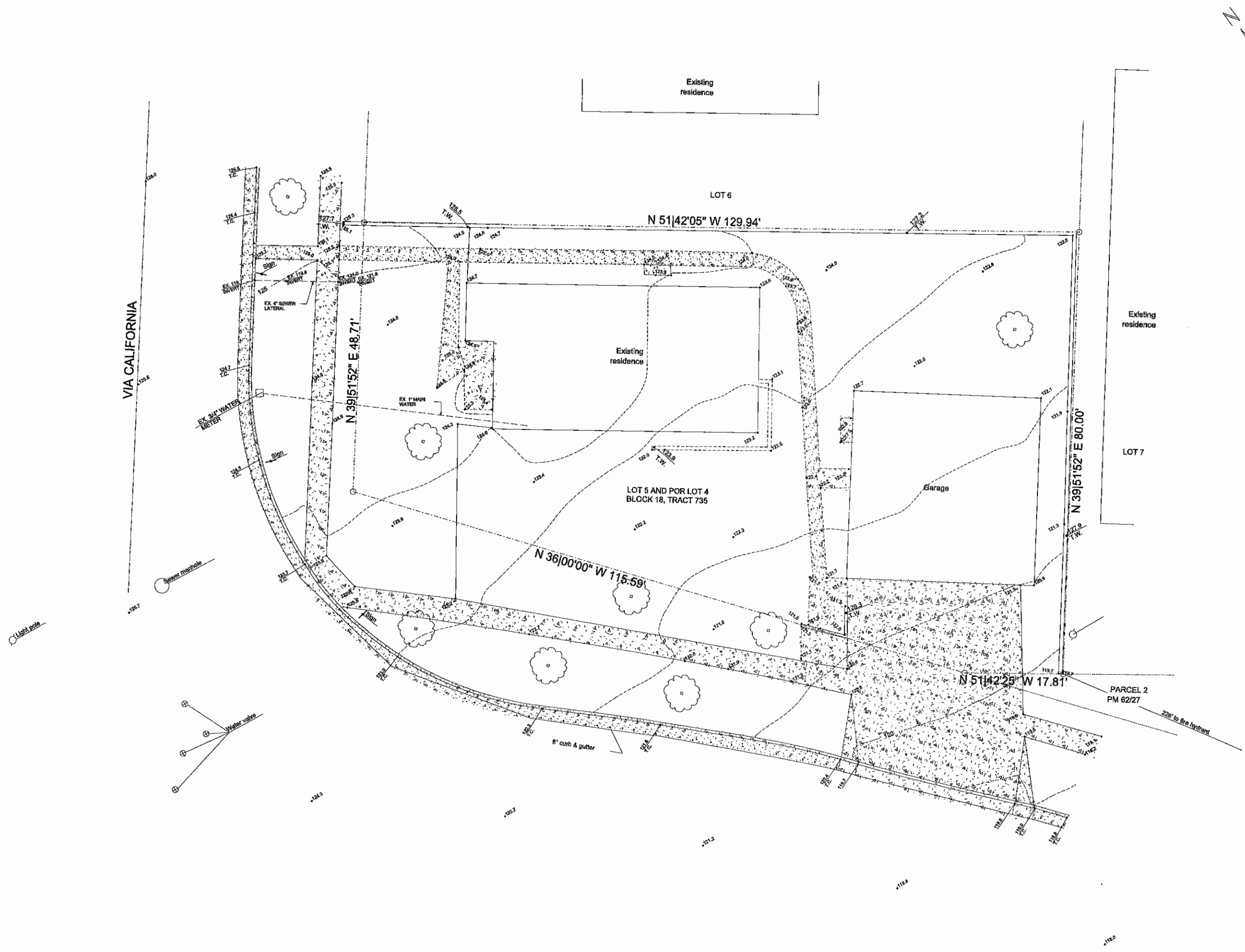
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25424 VIA CALIFORNIA
CARLSBAD BEACH CA 92024

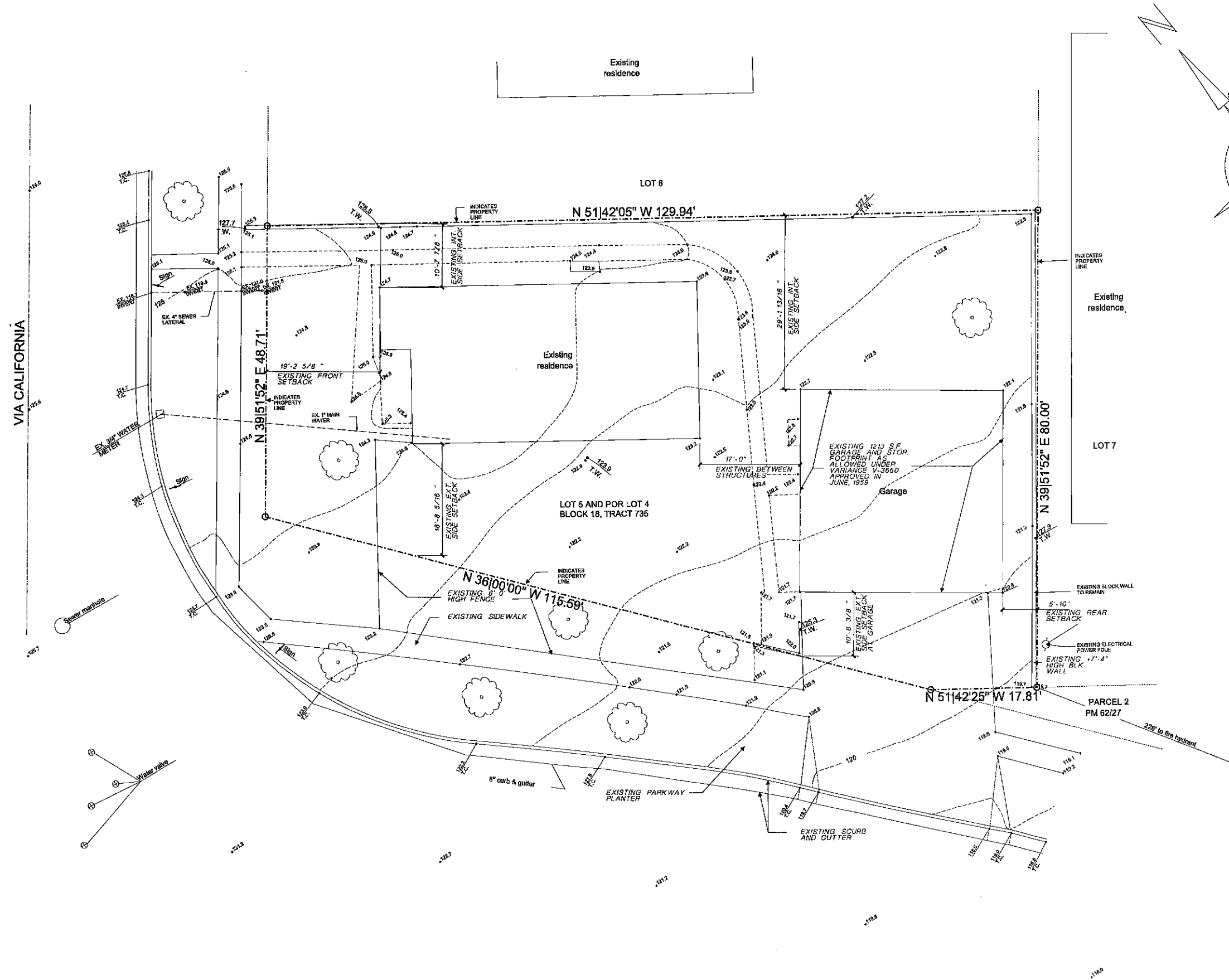
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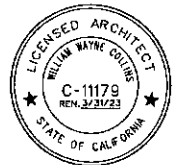
COLLINS RESIDENCE, 26582 VIA CALIFORNIA, CAPISTRANO BEACH, CA. 92624





W WAYNE COLLINS
Architect

26582 Via Calif., Capistrano Beach, CA 92624
(949) 246-2351



RESIDENCE FOR: WAYNE & JODIE COLLINS

26582 VIA CALIF.

CAPISTRANO BEACH,
CALIFORNIA 92624

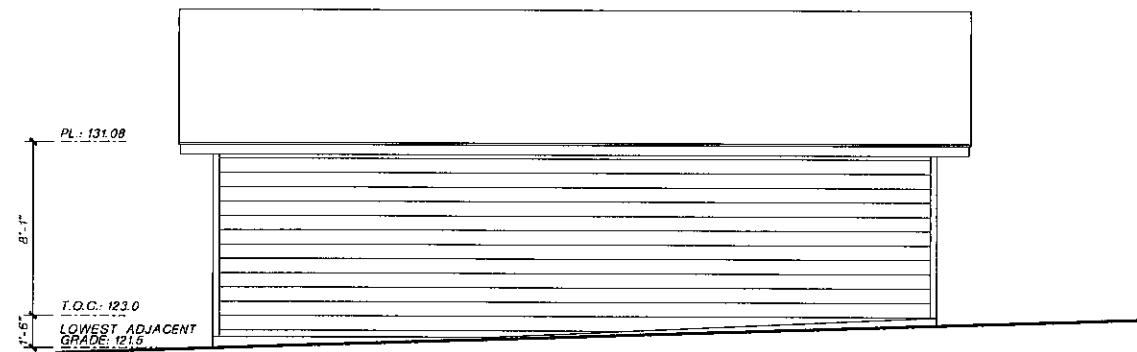
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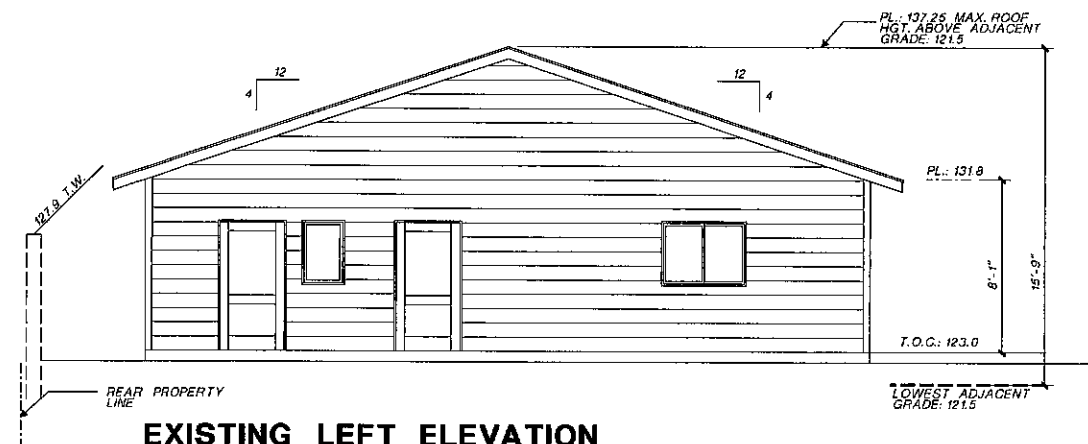
OCTOBER 24, 2021

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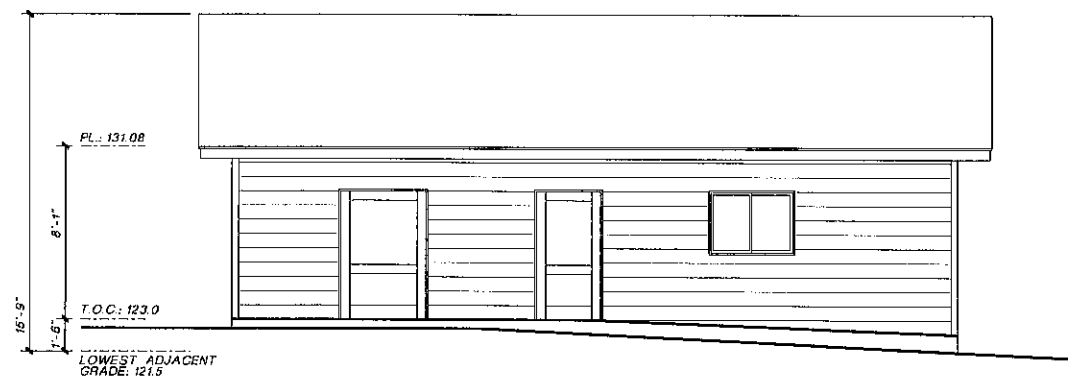
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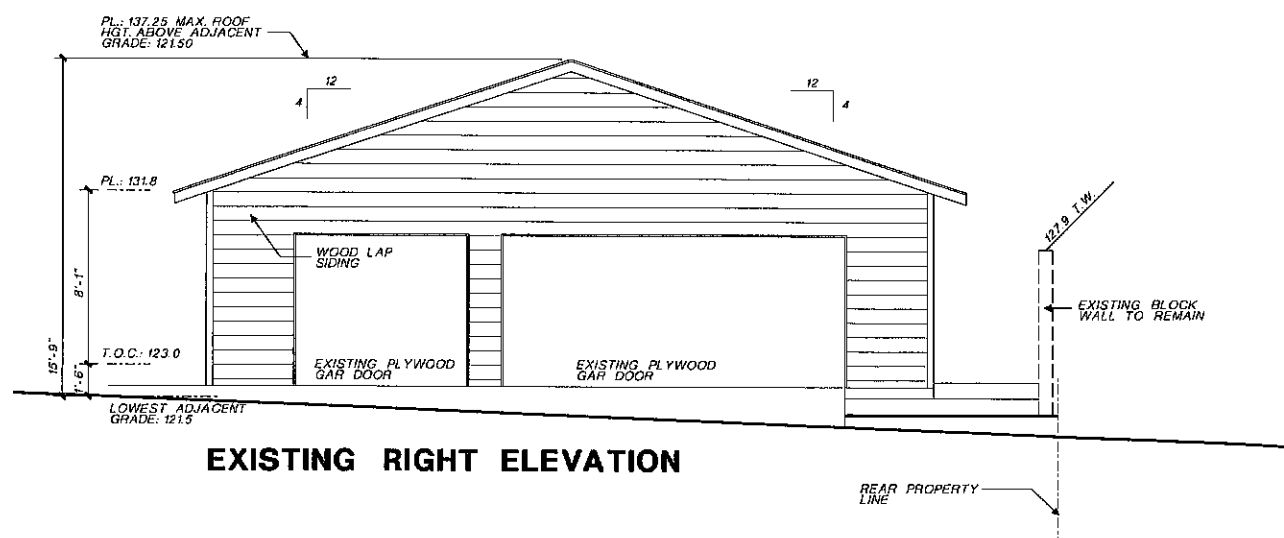
EXISTING REAR ELEVATION



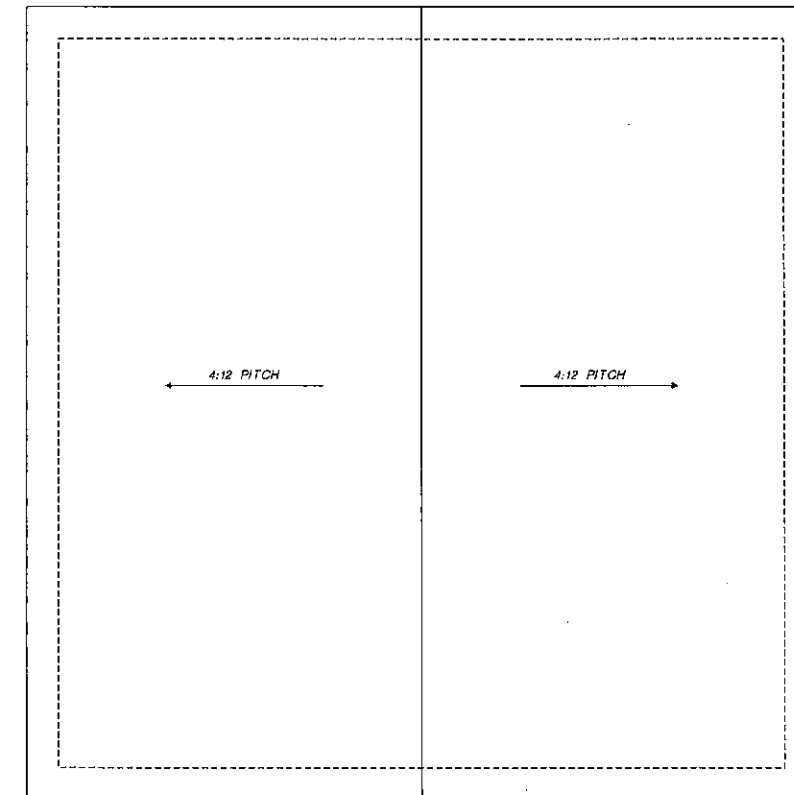
EXISTING LEFT ELEVATION



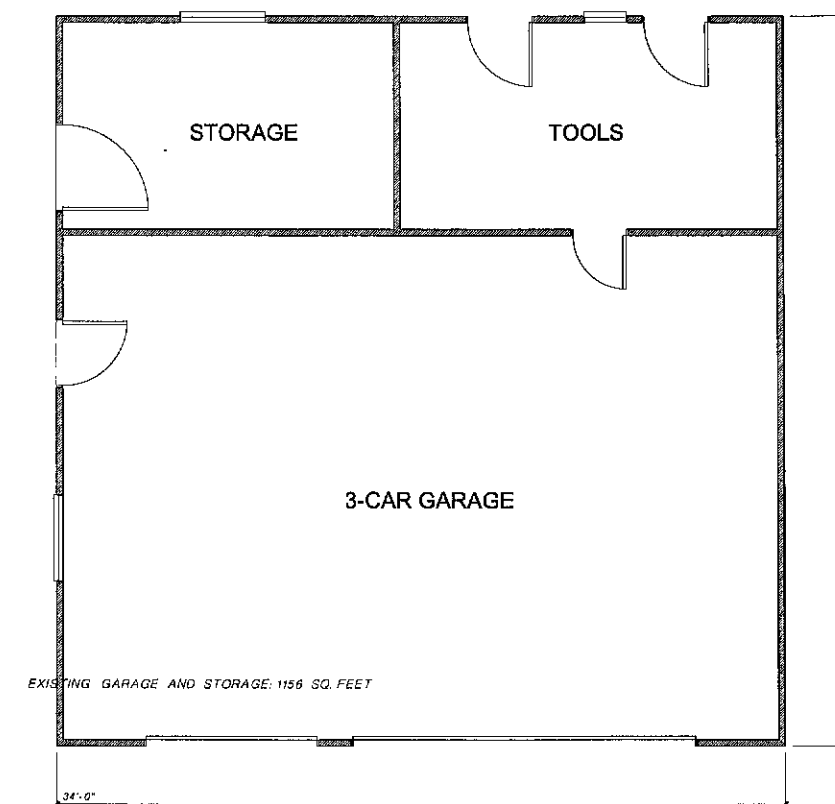
EXISTING FRONT ELEVATION



EXISTING RIGHT ELEVATION



EXISTING GARAGE ROOF PLAN



EXISTING GARAGE FLOOR PLAN

W WAYNE COLLINS
Architecture

26582 Via Calif., Capistrano Beach, CA 92624
(949) 246-2351



RESIDENCE FOR:
WAYNE & JODIE
COLLINS

26582 VIA CALIF.

CAPISTRANO BEACH,
CALIFORNIA 92624

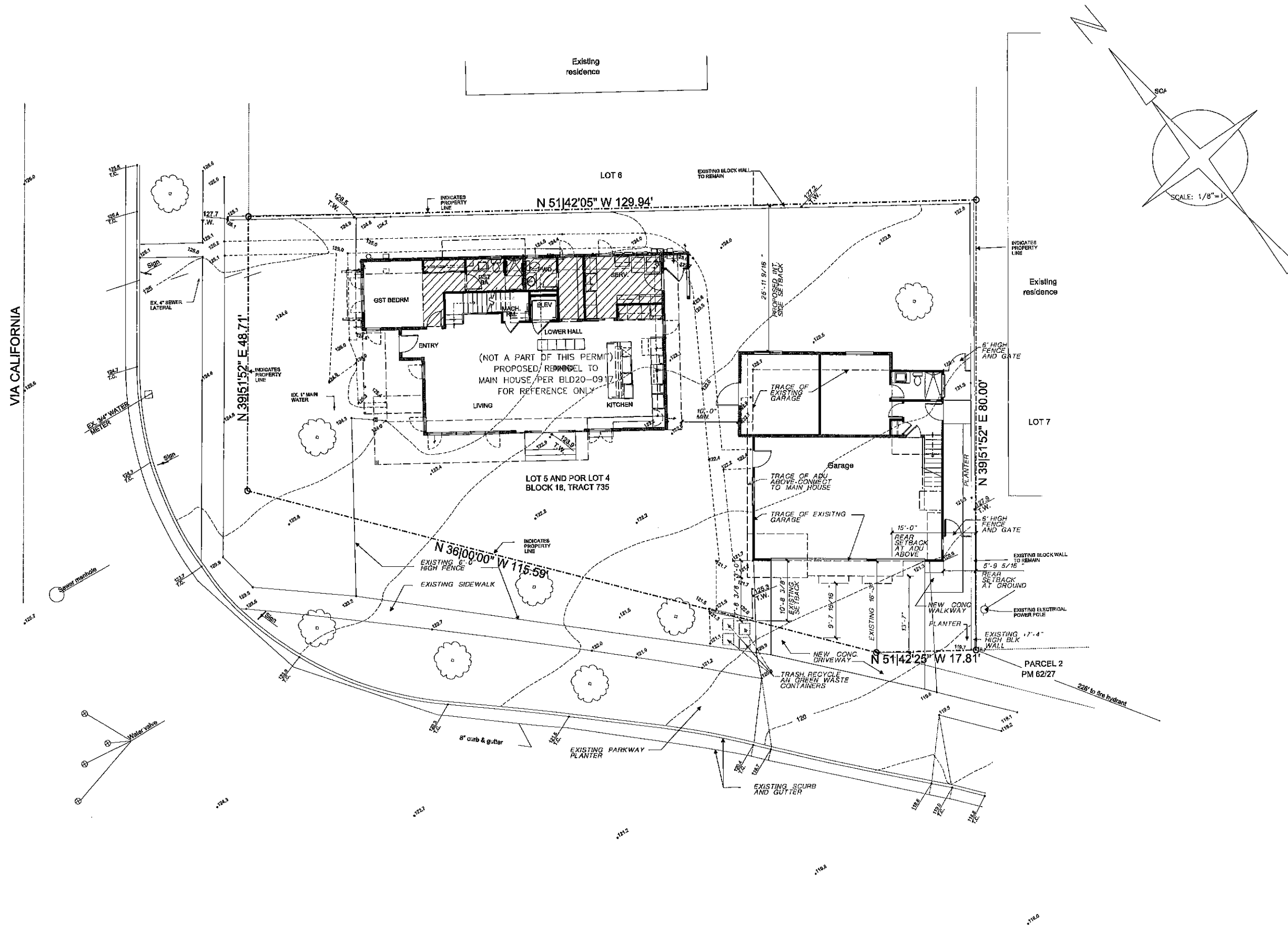
EXISTING PLANS

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

OCTOBER 24, 2021

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EX.1



W WAYNE COLLINS

Architect

26582 Via Calif., Capistrano Beach, CA 92624
(949) 246-2351



RESIDENCE FOR:
WAYNE & JODIE
COLLINS

26582 VIA CALIF.

CAPISTRANO BEACH,
CALIFORNIA 92624

PROPOSED
SITE PLAN

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

OCTOBER 24, 2021

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ASP.1

NOTE:
THERE WILL BE NO GRADING
REQUIRED OR REVISIONS
TO EXISTING GRADES OR
LANDSCAPING

PRELIMINARY not for construction



**RESIDENCE FOR:
WAYNE & JODIE
COLLINS**

25582 VIA CALIF.

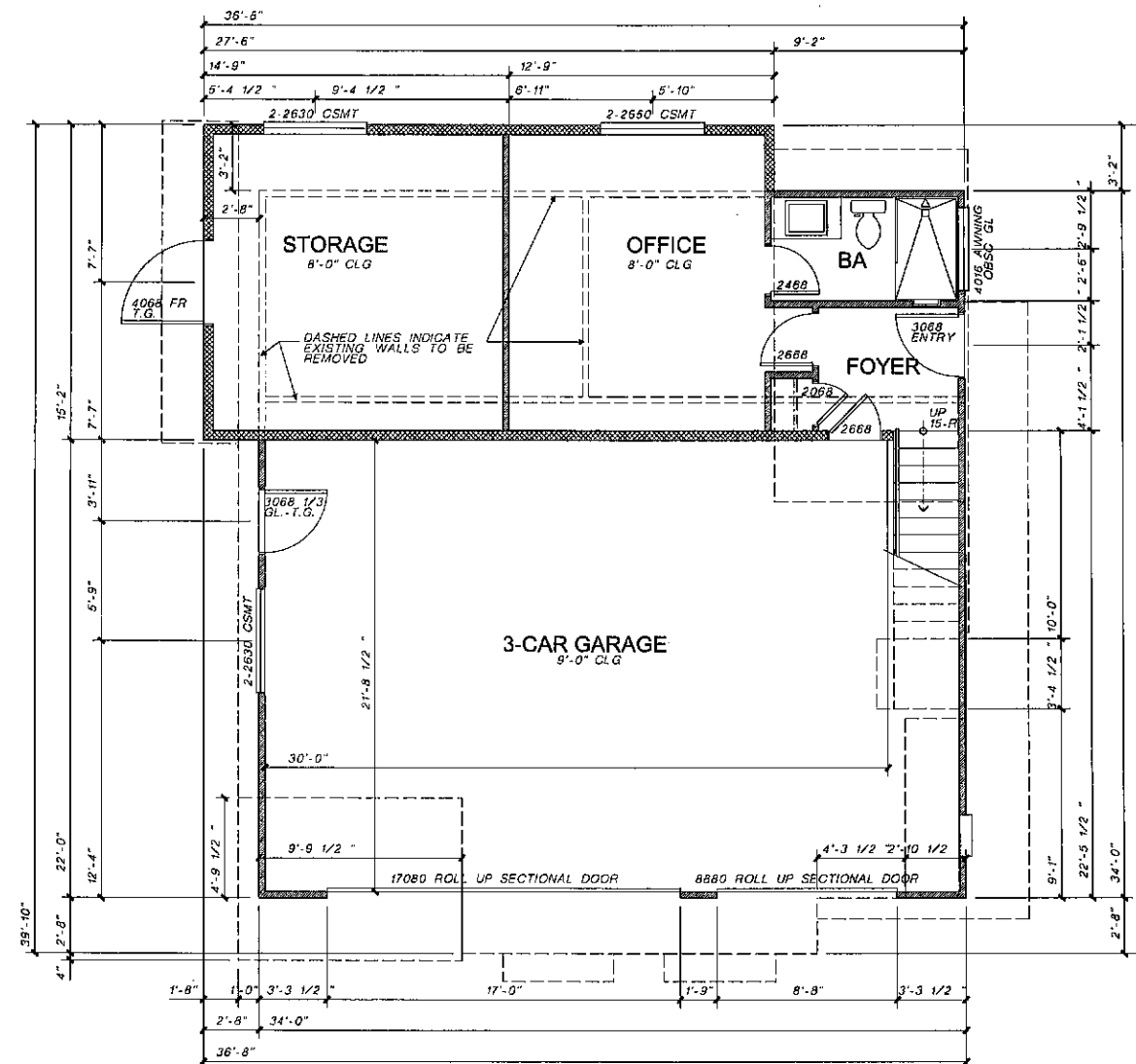
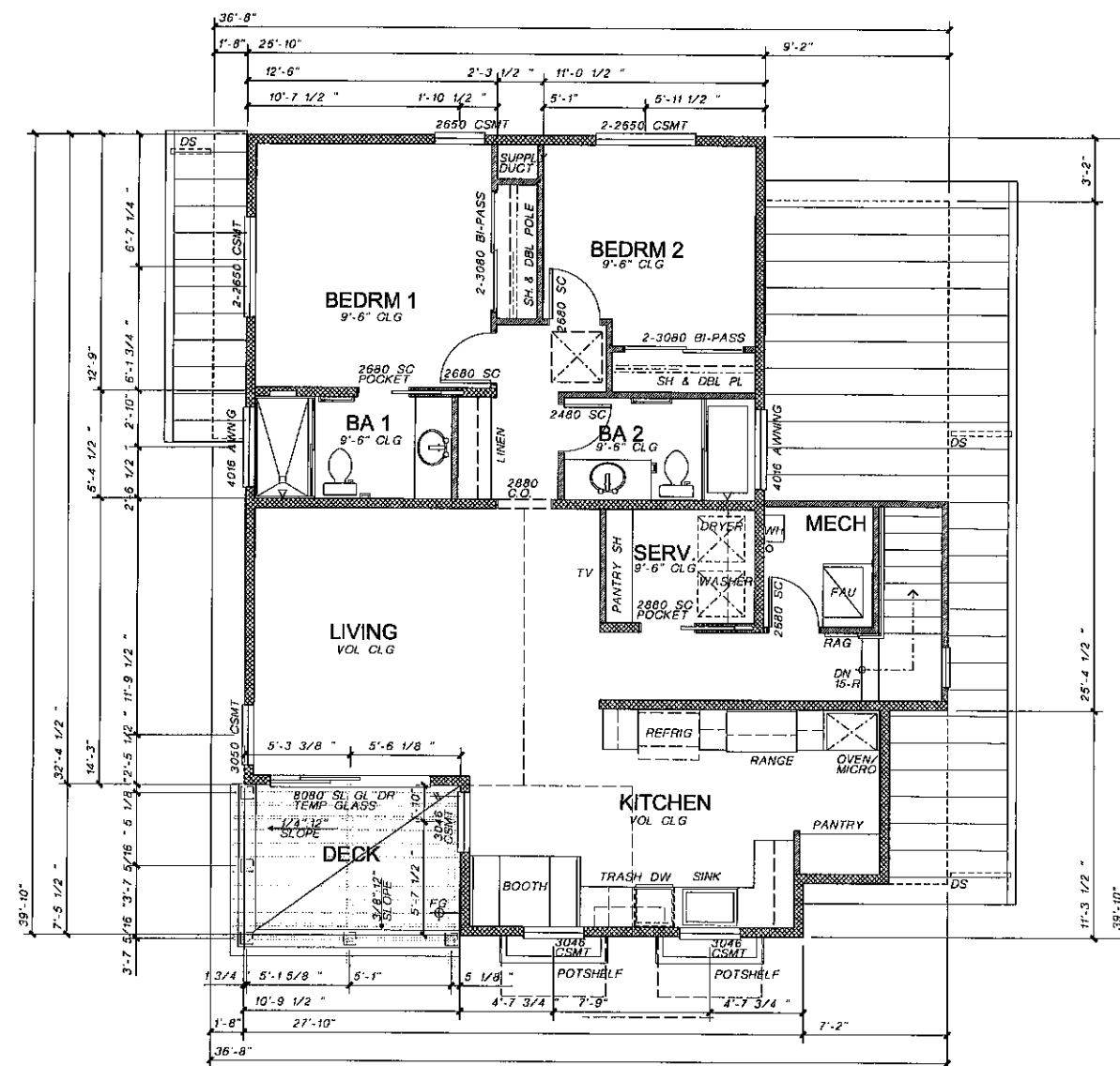
CAPISTRANO BEACH,
CALIFORNIA 92624

**PROPOSED
FLOOR PLANS**

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

OCTOBER 24, 2021

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W WAYNE COLLINS
Architect

26582 Via Calif., Capistrano Beach, CA 92624
(949) 248-2331



**RESIDENCE FOR:
WAYNE & JODIE
COLLINS**

26582 VIA CALIF.

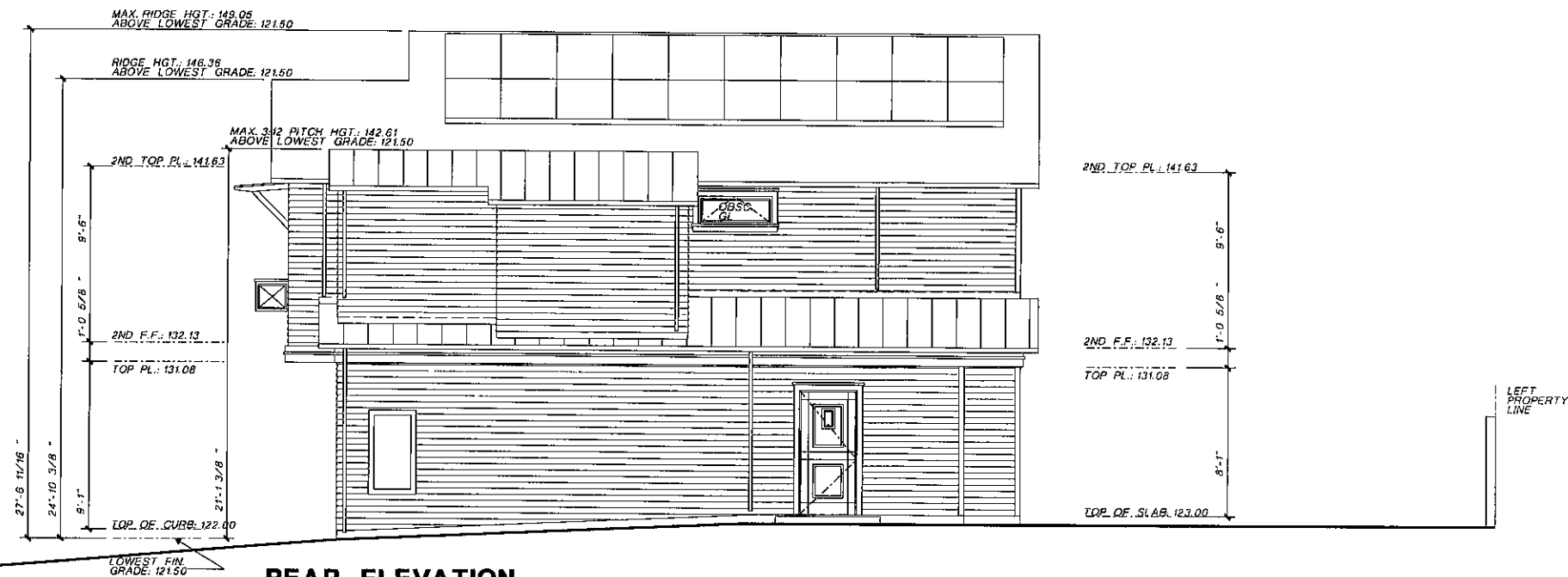
CAPISTRANO BEACH,
CALIFORNIA 92624

**PROPOSED
EXTERIOR
ELEVATIONS**

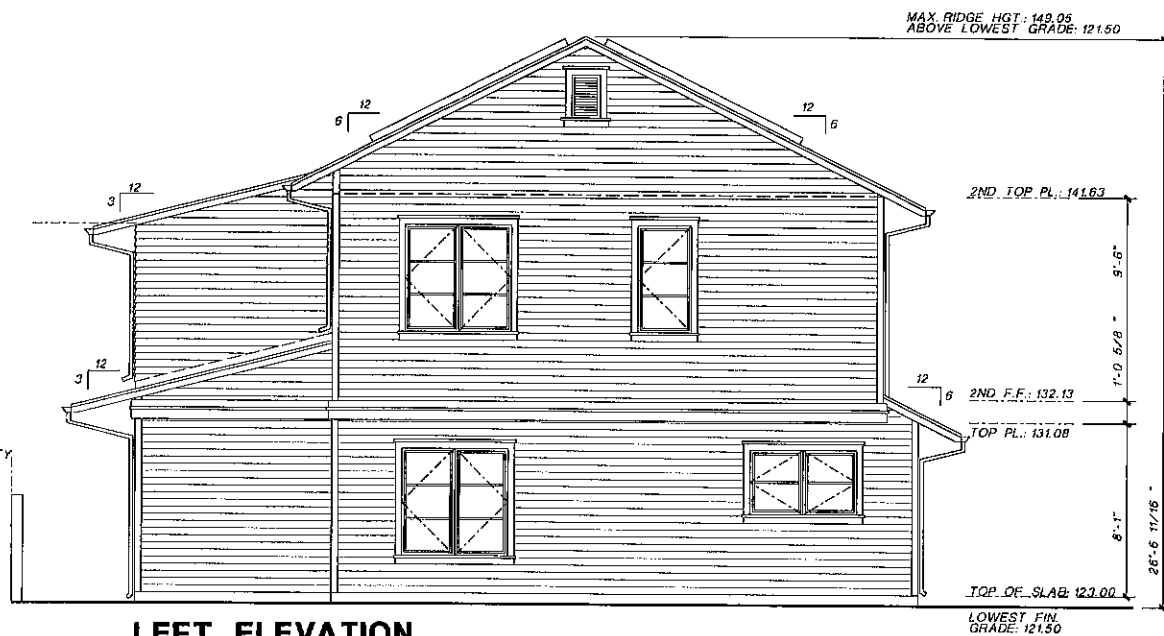
SCALE: 1/4"=1'-0"
OCTOBER 24, 2021

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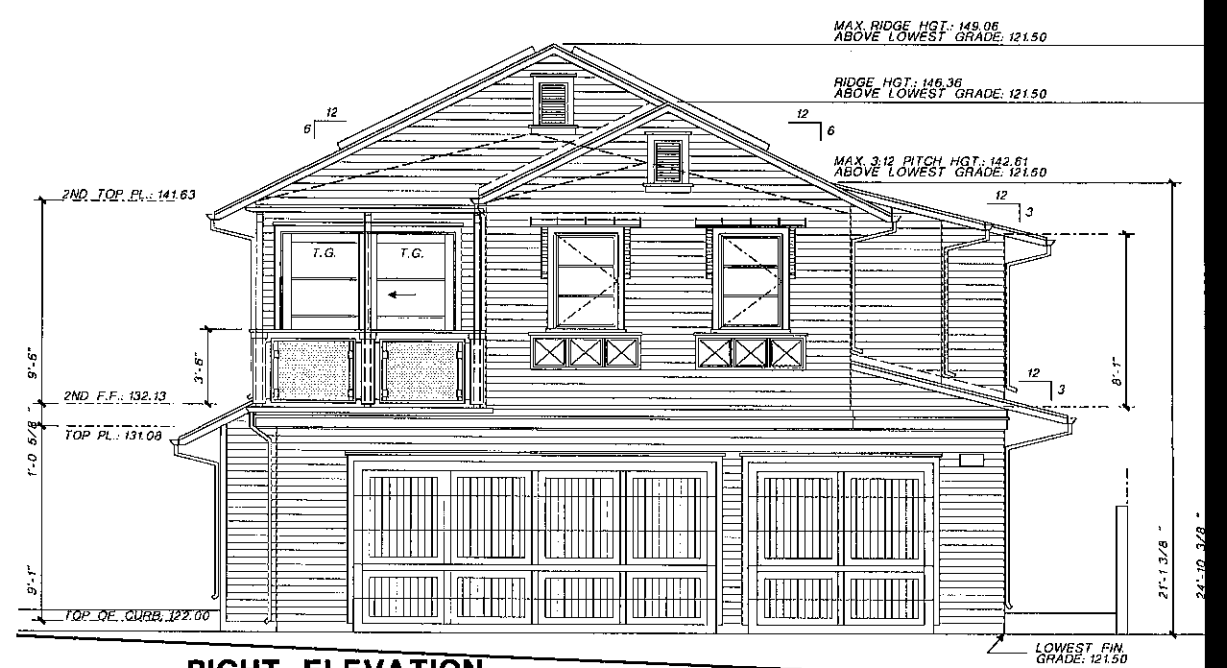
A.3



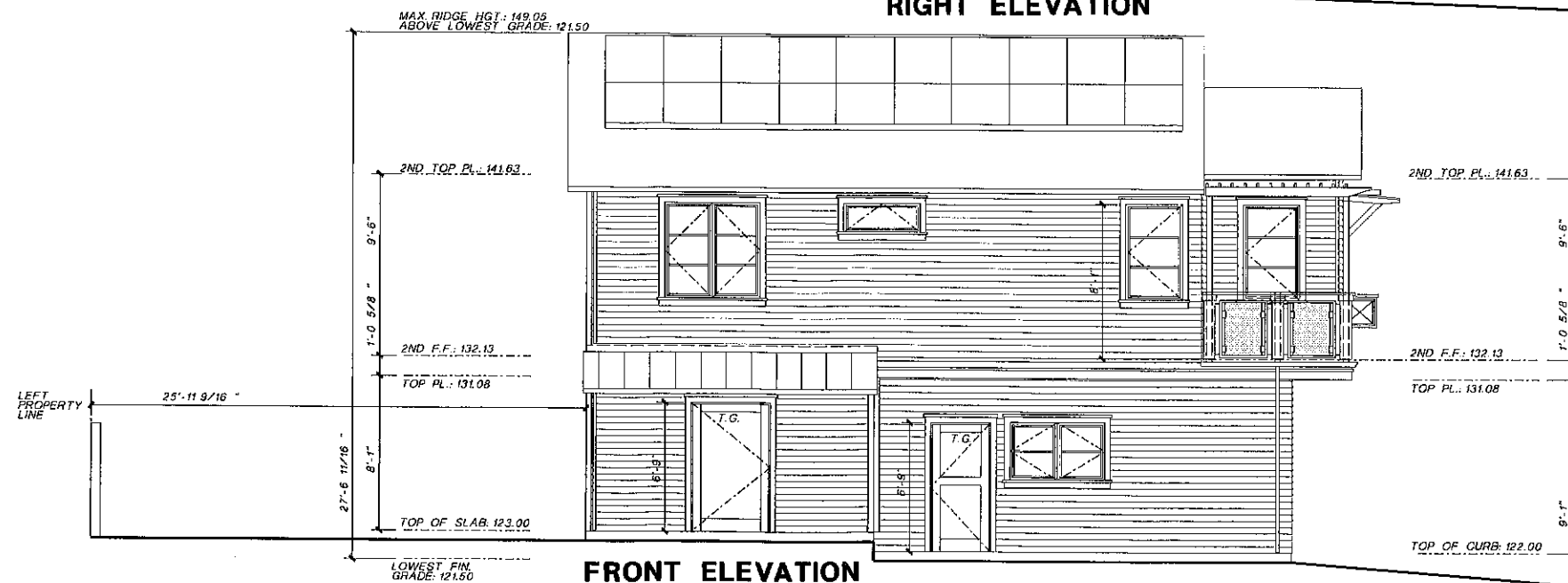
REAR ELEVATION



LEFT ELEVATION



RIGHT ELEVATION



FRONT ELEVATION