

Planning and Development Department  
Land Use Planning

# U S E P E R M I T

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CITY OF BERKELEY ZONING ORDINANCE  
Berkeley Municipal Code Title 23

**USE PERMIT # UP2014-0047**

Property Address: **3049 ACTON STREET**

Permittee Name: **JACEK ROSICKI**  
**Muse, Inc.**

Use and/or Construction Permitted:  
for demolition and reconstruction of more than 50% (“technical demolition”) of a single family dwelling.

- Use Permit for demolition of a single family dwelling per Berkeley Municipal Code Sections 23C.08.010 and 23C.08.020; and
- Use Permit to construct a single family dwelling per Berkeley Municipal Code Section 23D.32.030.

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the Zoning Adjustments Board and is in effect on October 2, 2014.

# ATTACHMENT 1

## FINDINGS AND CONDITIONS

SEPTEMBER 11, 2014

### 3049 Acton Street

**Use Permit #UP2014-0047 for the demolition and reconstruction of more than 50% (“technical demolition”) of a single family dwelling.**

#### CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

#### GENERAL NON-DETRIMENT FINDING

2. Pursuant to Berkeley Municipal Code Section 23B.32.040, the Zoning Adjustments Board finds that the proposed project, under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City, for the following reasons:
  - A. The proposed project conforms to the applicable General Plan policies because the use, size, configuration and density of development on the site will not change, and are currently consistent with the General Plan;
  - B. The project, as conditioned, conforms to the applicable provisions of the Berkeley Municipal Code for density, height, setbacks, lot coverage, and usable open space; and
  - C. The proposed renovated building is similar to those around it in use and scale.

#### OTHER REQUIRED FINDINGS

3. Pursuant to Berkeley Municipal Code Section 23C.08.010, the Zoning Adjustments Board finds that the demolition of the dwelling unit will not be materially detrimental to the housing needs and public interest of the affected neighborhood and the City because the demolition is part of an approved renovation of, and addition to the

existing dwelling unit and will not result in the loss of a residential unit. In addition, the use, size, configuration and density of development on the site will not change, and the proposed renovated building will be similar to those around it in use and scale.

4. Pursuant to Berkeley Municipal Code Section 23C.08.020, the Zoning Adjustments Board finds that:
  - A. The demolition will remove a structure that is hazardous, unusable or is infeasible to repair as the existing walls and roof are hazardous and unusable due to termite and water damage; and
  - B. The demolition is necessary to permit construction approved pursuant to the Zoning Ordinance and the demolition is part of an approved renovation of, an addition to the existing dwelling unit and will not result in the loss of a residential unit.

#### STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

##### **1. Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the first sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. The second sheet may also be used if the first sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

##### **2. Applicant Responsible for Compliance with Conditions**

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

##### **3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)**

- A. This Permit authorizes only those uses and activities actually proposed in the application and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

##### **4. Modification of Permits (Section 23B.56.020)**

No change in the use or structure for which this Permit is approved is permitted unless the Permit is modified by the Zoning Adjustments Board, in conformance with Section 23B.56.020.A.

Changes in the plans for the construction of a building or structure may be modified prior to the completion of construction, in accordance with Section 23B.56.020.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project. The Zoning Officer may also approve a maximum two-foot variation to Board approved plans, provided that such variation does not increase a structure's height, reduce the minimum distance to any property line, and/or conflict with any special objective sought by the Board. In the case of modifications to Use Permits for construction of, or additions or changes to, single-family homes which required Board review, the Zoning Officer shall follow Board policy adopted March 13, 1997, as follows:

- A. Upon applications for modifications to a home where a Use Permit has been granted, Staff shall review the Use Permit to determine if any explicit conditions were placed on the Use Permit that would be affected by the proposed modification.
- B. If, prior to acting on a Building Permit, Staff becomes aware of controversy over an earlier application, Staff may choose to conduct a more detailed review of the record to determine if conditions were implied by the Board or offered by the applicant (but not included in the Use Permit conditions) that would be affected by the proposed modification (this does not imply that Staff will review the whole Use Permit record for all applications).
- C. If there are explicit conditions (#A) or implied conditions (#B) affected by the proposed modification, the project shall be brought back to the Board as a Use Permit Modification.
- D. If there are no explicit conditions that would be affected by the proposed modification, and if Staff is not otherwise aware of implied conditions, and the project would otherwise meet the requirements of the Zoning Ordinance, Staff will approve the Building Permit without Board or public review.

**5. Plans and Representations Become Conditions (Section 23B.56.030)**

Except as expressly specified herein, the site plan, floor plans, building elevations and any additional information or representations submitted by the applicant during the Staff review and public hearing process leading to the approval of this Permit, whether oral or written, which indicated the proposed structure or manner of operation are deemed conditions of approval.

**6. Subject to all City and Other Regulations (Section 23B.56.040)**

The approved use and/or construction are subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies.

**7. Exercised Permit for Use Survives Vacancy of Property** (Section 23B.56.080)

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8 below.

**8. Exercise and Lapse of Permits** (Section 23B.56.100)

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has (1) applied for a building permit or (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

**9.** The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

ADDITIONAL CONDITIONS OF APPROVAL

Pursuant to BMC Section 23B.32.040.D, the Zoning Adjustments Board attaches the following conditions to this Permit:

**Prior to Issuance of Any Building Permit**

- 10.** Prior to issuance of a building permit, the applicant shall submit revised plans showing a separation of greater than (3) feet between the main building and the detached garage.
- 11.** Prior to issuance of a building permit, the applicant shall provide the project planner with the name and telephone number of the individual empowered to manage construction noise from the project. The individual's name, telephone number, and responsibility for noise management shall be posted at the project site for the duration of construction in a location easily visible to the public. The individual shall record all noise complaints received and actions taken in response, and submit this record to the project planner upon request.

□ Noise Management Individual \_\_\_\_\_  
Name Phone #

12. The applicant and all persons associated with the project are hereby notified that a Transportation Management Permit (TMP) would be required under any of the following circumstances:

- Alterations, closures, or blockages to sidewalks or pedestrian paths
- Alterations, closures, or blockages to vehicle travel lanes (including bicycle lanes)
- Storage of building materials, dumpsters, debris anywhere in the public ROW
- Provision of exclusive contractor parking on-street
- Significant truck activity.

Contact the Permit Service Center (PSC) at 2120 Milvia Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Public Works Traffic Engineering (981-6400) reviews all submitted TMP requests.

The TMP may include designation of a specific truck haul route. Meter heads (if in the construction area) shall be removed only by City staff. Contact the site inspector 72 hours in advance of required removal so arrangements can be made.

**During Construction:**

13. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season (between October 15 and April 15), the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
14. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
15. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
16. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.

17. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
18. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
19. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
20. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
21. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

**Prior to Final Inspection or Issuance of Occupancy Permit:**

22. The project shall conform to the plans and statements in the Use Permit.
23. All landscape, site and architectural improvements shall be completed per the attached approved drawings stamped dated August 28, 2014.

**At All Times:**

24. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
25. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

AUG 28 2014

# REMODEL AND ADDITION SE PLANNING FOR THE RESIDENCE LOCATED AT 3049 ACTON STREET BERKELEY, CALIFORNIA 94702

Engineer  
STEVEN ARNOLD  
CIVIL ENGINEERING, INC.  
492 PRINCE STREET  
OAKLAND, CALIFORNIA 94612  
T: 415.786.9822  
email: smoldengheer@comcast.net



Project Title

REMODEL AND ADDITION  
FOR THE RESIDENCE LOCATED AT  
3049 ACTON STREET  
BERKELEY, CALIFORNIA 94702

Client

MUSE, INC.  
49 ROSEWOOD DRIVE  
ATHERTON, CA 94027

No.	Description	Date
Use Permit		07/16/14
Revisions		08/20/14

Project No. 78-13  
Drawn By AEA/BC  
Reviewed By AEA  
Scale AS SHOWN  
Date August 20, 2014  
Sheet Title

COVER SHEET/  
SITE PLAN/INDEX

Sheet #

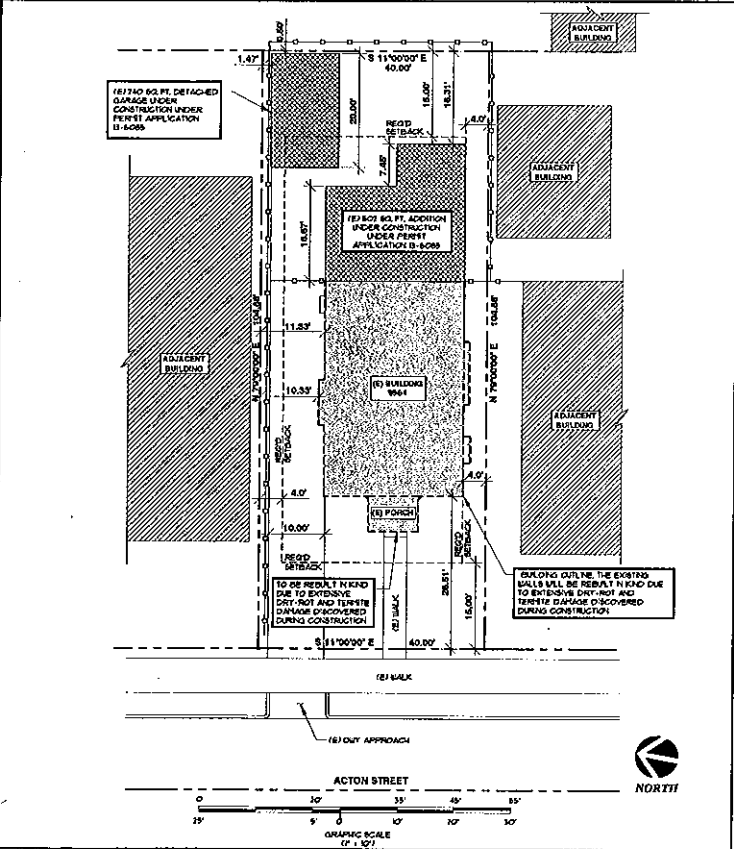
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AREA MAP

VICINITY MAP

PROJECT TITLE



PLOT PLAN

NOT A BOUNDARY SURVEY

SCALE: 1/4" = 10'

PROJECT INFORMATION

**APPLICABLE CODES**

- 2010 CALIFORNIA RESIDENTIAL CODE (2008 IBC)
- 2010 CALIFORNIA ELECTRIC CODE (2008 NEC)
- 2010 CALIFORNIA ENERGY CODE
- 2010 CALIFORNIA MECHANICAL CODE (2009 UPC)
- 2010 CALIFORNIA PLUMBING CODE (2009 UPC)
- 2010 CALIFORNIA FIRE CODE (2009 IFC)

**SITE INFORMATION**

- ASSESSORS PARCEL NUMBER 53-1616-77
- LOT AREA 4394
- ZONING R-2A
- TYPE OF CONSTRUCTION 1B
- FIRESPRINKLERS NO

**PROJECT INFORMATION**

- (E) LIVING AREA 9564
- (N) LIVING AREA 5024
- (E) COVERED PORCH 554
- (N) ADDITIONAL LIVING AREA 5024
- (N) TOTAL LIVING AREA 14584
- (N) DETACHED GARAGE 2401
- (E) BUILDING HEIGHT 13'-5"
- (N) BUILDING HEIGHT 13'-5"
- (N) DETACHED GARAGE HEIGHT 9'-8"

**NEIGHBORHOOD SIGNATURES**

I HAVE REVIEWED THE PLANS FOR THE 5024 ADDITION AND DAMAGE REPAIR AT 3049 ACTON STREET

NAME (PRINTED)	SIGNATURE	ADDRESS	ENTER	OWNER	DATE	HAVE NO OBJECTIONS	HAVE OBJECTIONS (PLEASE STATE BRIEFLY)	HAVE NO COMMENT

**DRAWINGS INDEX**

- A10 COVER SHEET/SITE PLAN/INDEX
- A21 PROPOSED FLOOR/ROOF/DEMO PLAN
- A32 PROPOSED ELEVATIONS

**OWNER**

MUSE, INC.  
JACEK ROSICKI  
49 ROSEWOOD DRIVE  
ATHERTON, CALIFORNIA 94021  
PHONE: (650) 708-0109

**STRUCTURAL ENGINEERING/  
ARCHITECTURAL DRAFTING**

ANDREW E. ARNOLD, P.E.  
STEVEN ARNOLD CIVIL ENGINEERING, INC.  
492 PRINCE STREET  
OAKLAND, CALIFORNIA 94612  
OFFICE: (415) 786-9822  
EMAIL: smoldengheer@comcast.net

**TITLE 24**

FRI ENERGY CONSULTANTS, LLC  
NICK BISHARD, P.E.  
11 N. HARRISON AVENUE, SUITE 110 CAMPBELL, CALIFORNIA 95008

**SCOPE OF WORK**

ITEM	PROGRESS
THE EXISTING BUILDING FOOTPRINT WILL BE EXTENDED TOWARD THE REAR OF THE PROPERTY AS SHOWN	COMPLETED
THE INTERIOR SPACE WILL BE RECONFIGURED TO ACCOMMODATE THE NEW ADDITION AND FLOOR PLAN	COMPLETED
THE ENTIRE EXISTING FOUNDATION WILL BE REMOVED AND REPLACED DUE TO THE EXISTING CONDITIONS	COMPLETED
A NEW 240 SQUARE FOOT DETACHED GARAGE WILL BE ADDED AT THE NORTH EAST CORNER OF THE LOT	COMPLETED
THE EXISTING EXTERIOR WALLS AND ROOF ARE BADLY DAMAGED DUE TO THE SIGNIFICANT EXTENT OF DRY ROT AND TERMITES DAMAGE FOUND AND WILL BE RECONSTRUCTED IN KIND.	PARTIAL/ PROPOSED
THE (E) PORCH STRUCTURE WILL BE REPLACED IN KIND DUE TO EXTENSIVE DRY ROT AND TERMITES DAMAGE.	PROPOSED

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

*Carol Johnson*

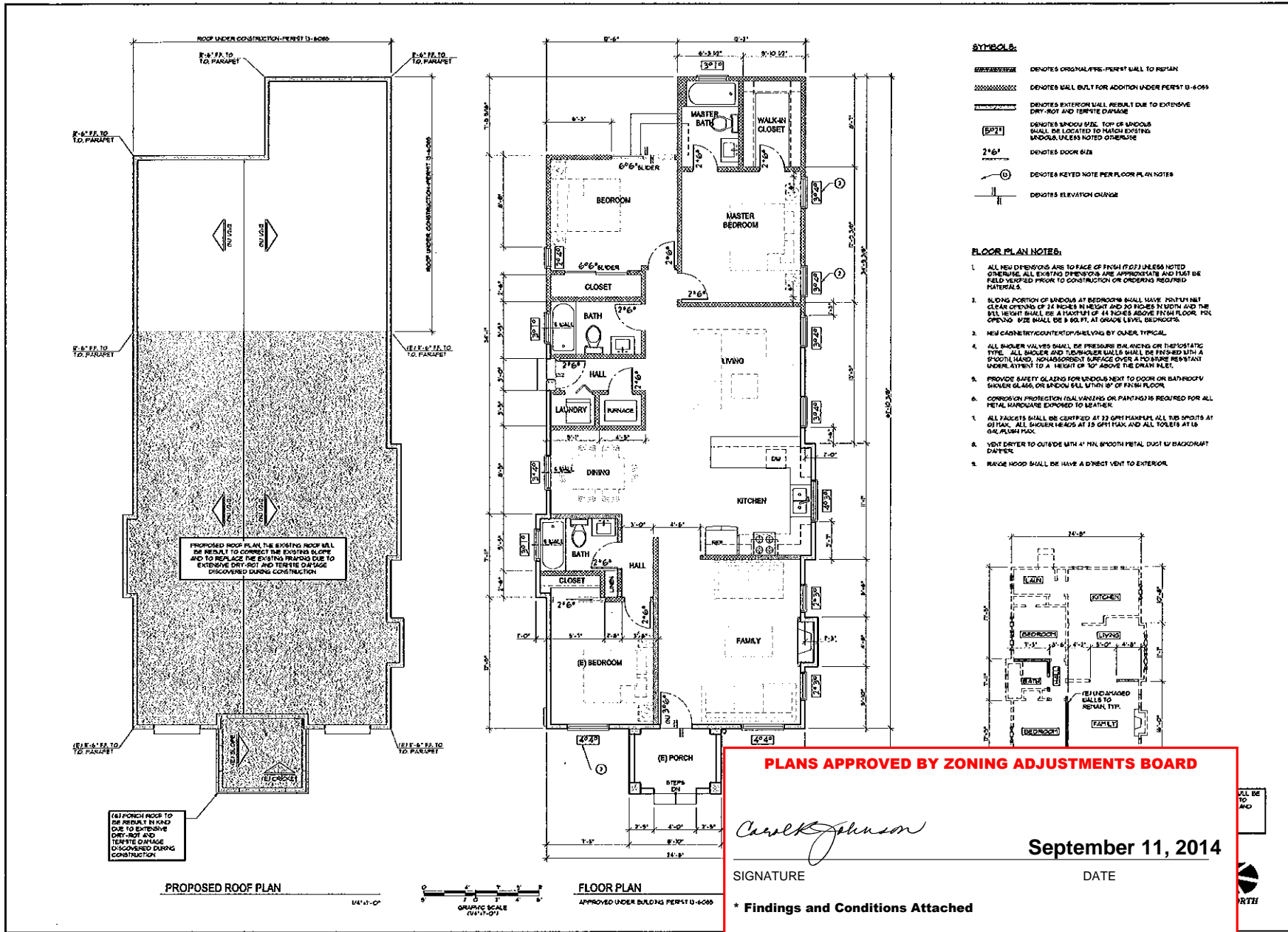
SIGNATURE

September 11, 2014

DATE

\* Findings and Conditions Attached

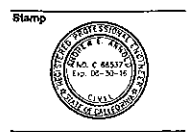




- SYMBOLS:**
- DENOTES ORIGINAL PER PERIST D-4098
  - DENOTES WALL BUILT FOR ADDITION UNDER PERIST D-4098
  - DENOTES EXTERIOR WALL REMOVAL DUE TO EXTENSIVE DRY-ROT AND TERMITTE DAMAGE
  - DENOTES WINDOW SIZE TOP OF WINDOW SHALL BE LOCATED TO MATCH EXISTING WINDOWS, UNLESS NOTED OTHERWISE
  - DENOTES DOOR SIZE
  - DENOTES KEYED NOTE PER FLOOR PLAN NOTES
  - DENOTES ELEVATION CHANGE

- FLOOR PLAN NOTES:**
1. ALL NEW DIMENSIONS ARE TO FACE OF FINISH (TYP) UNLESS NOTED OTHERWISE. ALL EXISTING DIMENSIONS ARE APPROXIMATE AND MUST BE FIELD VERIFIED PRIOR TO CONSTRUCTION OR ORDERING REQUIRED MATERIALS.
  2. BUILDING PORTION OF WINDOW AT BEDROOM SHALL HAVE 18" X 18" NET CLEAR OPENING OF 34 INCHES IN HEIGHT AND 20 INCHES IN WIDTH AND THE SILL HEIGHT SHALL BE A MINIMUM OF 44 INCHES ABOVE FIN FLOOR. MAX OPENING SIZE SHALL BE 8' 0" FT. AT GRADE LEVEL BEDROOMS.
  3. NEW CABINETS/COUNTERTOPS/SHELVING BY OWNER TYPICAL.
  4. ALL SHOWER VALVES SHALL BE PRESSURE BALANCING OR THERMOSTATIC TYPE. ALL SHOWER AND TUB/SHOWER WALLS SHALL BE FINISHED WITH A SMOOTH, HARD, NONABSORBENT SURFACE OVER A WATER RESISTANT UNDERLAYMENT TO A HEIGHT OF 10" ABOVE THE DRAIN RILET.
  5. PROVIDE SAFETY GLAZING FOR WINDOWS NEXT TO DOOR OR BATHROOM SHOWER GLASS, OR WINDOW WALL WITHIN 18" OF FINISH FLOOR.
  6. CORROSION PROTECTION (GALVANIZING OR PAINTING) IS REQUIRED FOR ALL METAL HANDRAILS EXPOSED TO WEATHER.
  7. ALL PACKETS SHALL BE CERTIFIED AT 32 GPH MINIMUM. ALL RISER SPACERS AT 18" O.C. ALL SHOWER HEADS AT 15 GPH MAX AND ALL TOILETS AT 15 GPH MAX.
  8. VENT EXTERIOR TO OUTSIDE WITH 4" MIN. SMOOTH METAL DUCT W/ BACKDRAFT DAMPER.
  9. RANGE HOOD SHALL BE HAVE A DIRECT VENT TO EXTERIOR.

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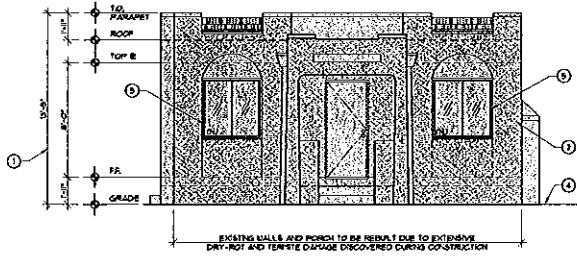
Issues and Revisions		
No.	Description	Date
	Use Permit	07/15/14
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Project No. 78-13  
Drawn By AEA/SC  
Reviewed By AEA  
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PROPOSED FLOOR/  
ROOF PLAN

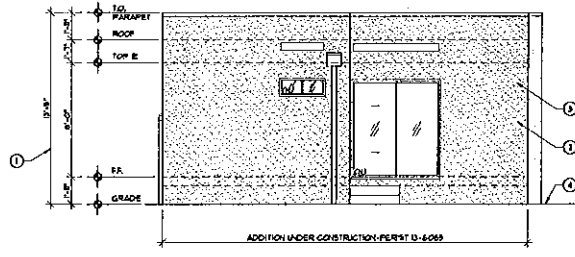
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A2.1



PROPOSED FRONT ELEVATION

1/4"=1'-0"



PROPOSED REAR ELEVATION

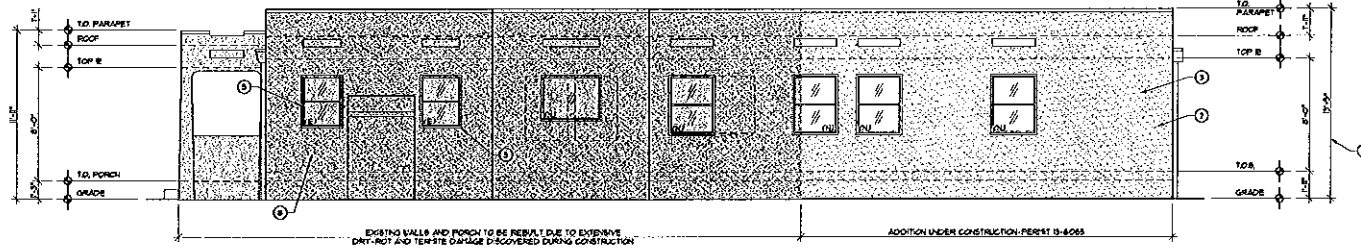
1/4"=1'-0"

**ELEVATION NOTES:**

1. ALL DIMENSIONS SHOWN ARE APPROXIMATE AND SHOULD BE FIELD VERIFIED PRIOR TO BUILDING.

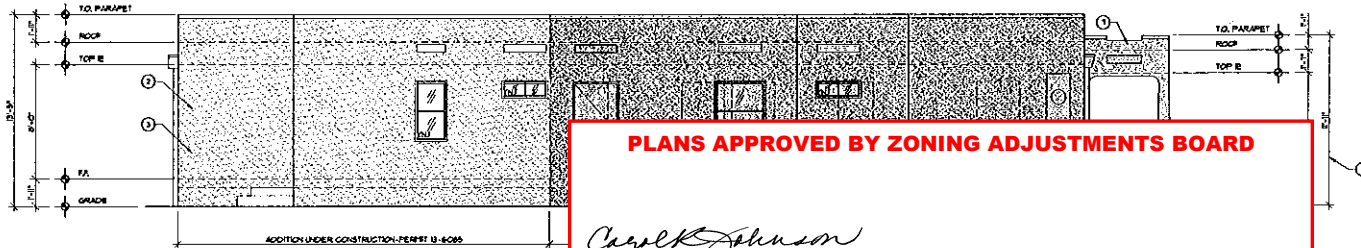
**KEYED NOTES:**

1. ALL DIMENSIONS SHOWN ARE APPROXIMATE AND SHOULD BE FIELD VERIFIED PRIOR TO BUILDING.
2. (N) STUCCO
3. SHADED AREAS DENOTE NEW CONSTRUCTION SEE ALSO STRUCTURAL DRAWINGS.
4. EXISTING GRADE
5. REPLACE SLOPE IN EXISTING OPENING.
6. REPAIR EXISTING OPENING.
7. (S) PORCH TO BE REBUILT IN KIND DUE TO EXTENSIVE DRY ROT DAMAGE.
8. THE EXISTING EXTERIOR WALLS AND ROOF ARE BADLY DAMAGED DUE TO THE SIGNIFICANT EXTENT OF DRY ROT FOUND DURING CONSTRUCTION AND ARE TO BE RECONSTRUCTED.



PROPOSED RIGHT ELEVATION

1/4"=1'-0"



**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

*Carol Johnson*

September 11, 2014

SIGNATURE

DATE

\* Findings and Conditions Attached



Engineer  
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Scale AS SHOWN  
Date August 20, 2014  
Sheet Title

PROPOSED  
ELEVATIONS

Sheet #

A3.2