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Planning and Development Department
Land Use Planning Division

A D M I N I S T R A T I V E U S E P E R M I T

2801 Ashby Avenue

Administrative Use Permit #ZP2016-0164

Project Description: To convert an existing, 400-square-foot, 12-foot 2-inches in average height accessory structure that is located less than 4 feet from the side and rear property lines to an accessory dwelling unit (ADU) and enlarge this structure by 133-square-feet, culminating in an ADU 533 square feet in size at the rear of an existing single-family dwelling.

- Section 23D.10.050 to permit an accessory dwelling unit within four feet of the side and rear property lines.

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

Following the expiration of the mandatory appeal period set forth in Section 23B.28.040 of the Berkeley Municipal Code, with no timely appeal being filed, the Administrative Use Permit described herein has been duly granted by the Zoning Officer on March 8, 2017.

Attest: Carol Johnson
Carol Johnson, Land Use Planning Manger

March 8, 2017
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

FEBRUARY 14, 2017

2801 ASHBY AVENUE

Administrative Use Permit #ZP2016-0164

To convert an existing, 400-square-foot, 12-feet 2-inches in average height accessory structure that is located less than 4 feet from the side and rear property lines to an accessory dwelling unit (ADU) and enlarge this structure by 133-square-feet, culminating in an ADU 533 square feet in size at the rear of an existing single-family dwelling.

PERMIT REQUIRED

- Administrative Use Permit under Section 23D.10.050 to allow an accessory dwelling unit within four feet of the rear and side property lines.

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 15303 of the CEQA Guidelines (“New Construction or Conversions of Small Structures”). 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 would not affect any historical resource.

FINDINGS FOR APPROVAL

2. As required by Section 23B.28.050.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the 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 because:
 - All structures on the subject lot will meet the requirements prescribed under Section 23D.16.070 (R-1 Single Family District Provisions). The conversion of the existing detached accessory structure into an accessory dwelling unit (ADU) and addition will result in an increase of lot coverage from 37% to 39%, where a maximum of 40% is allowed. Approximately 1,750 square-feet of Usable Open Space will be provided where 800 square-feet is required to support the existing and the proposed dwelling. The existing setbacks will remain unchanged while the addition will provide a 5-foot 9-inch rear yard setback where 4 feet is required and an 18-foot 5-inch street-side setback where 10 feet is required. The relocated driveway and required main dwelling parking space meets the off-street parking requirements prescribed under Section 23D.12. Due to these reasons, the project will allow for adequate air circulation.

- All openings will be located on the south and west elevations which is oriented toward the rear yard of the subject property and the public right of way (Ashby Avenue), therefore the ADU will not impact neighbor's privacy.
- 3.** Pursuant to Berkeley Municipal Code Section 23D.10.050, the Zoning Officer finds that an accessory dwelling unit that does not conform to the required setbacks is permissible because the project will not be detrimental as described above.
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STANDARD CONDITIONS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. *Additional sheets* may also be used if the *second* 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 issued is permitted unless the Permit is modified by the Zoning Officer, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

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

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

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. Indemnification Agreement

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 attorney’s fees that may result.

ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

Pursuant to BMC 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

10. Project Liaison. The applicant shall provide the project planner with the name and telephone number of the individual empowered to manage complaints generated from the project. The individual’s name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis.

Project Liaison

_____ Name

_____ Phone #

Prior to Issuance of Any Building Permit:

11. Accessory Dwelling Unit: All owners of record of the subject property shall sign and record with the Alameda County Clerk-Recorder a “Notice of Limitation on Use of Property” (available from Land Use Planning Division) and provide a recorded copy thereof to the project planner. This Notice of Limitation shall stipulate the limitations on the accessory dwelling unit per BMC §23D.10.040.A, that either the primary Dwelling Unit or the Accessory Dwelling Unit be occupied by the owner of the subject property. Non-occupancy of an owner for periods of up to three years is allowed before the property will be found to be in non-compliance with this requirement. This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.

12. The applicant shall file an “Address Assignment Request Application” with the Permit Service Center (2120 Milvia Street) for any address change or new address associated

with this Use Permit. The new address(es) shall be assigned prior to issuance of a building permit.

During Construction:

13. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

- Alterations, closures, or blockages to sidewalks or pedestrian paths or 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; or
- Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, 3rd floor, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

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). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

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 in thickness 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 establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
22. 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 Issuance of Occupancy Permit or Final Inspection:

23. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
24. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **August 31, 2016**.

At All Times (Operation):

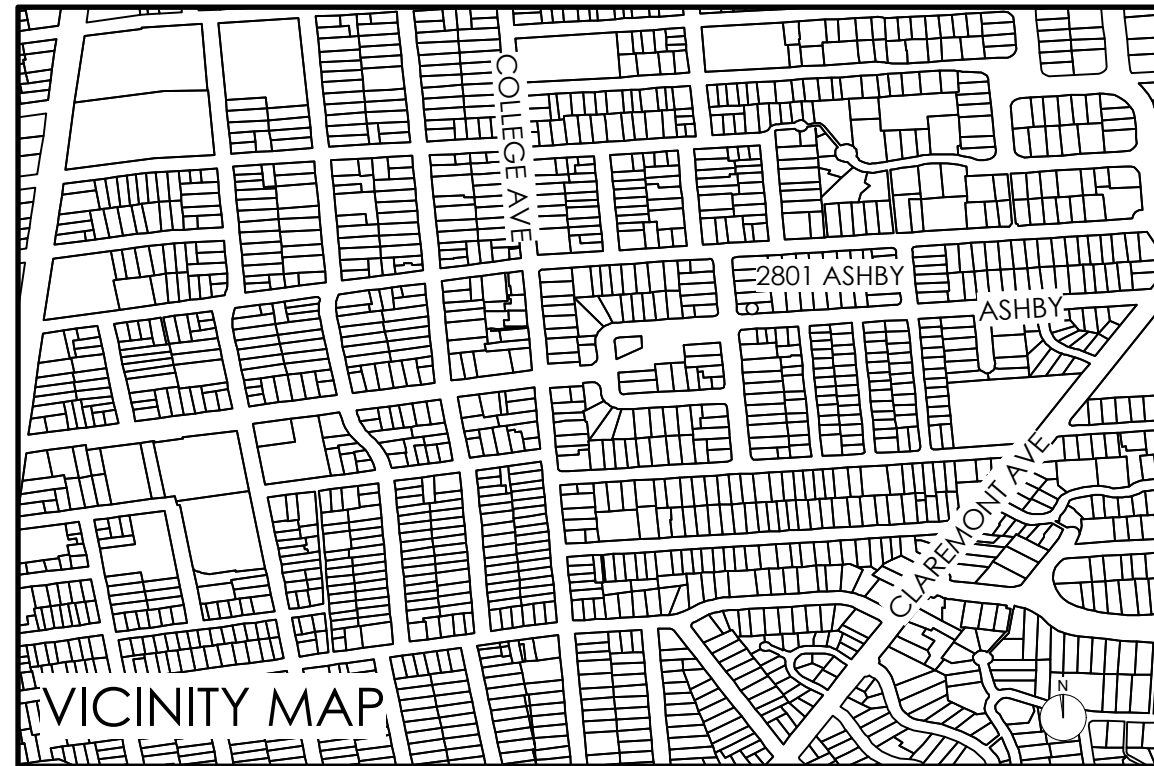
25. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.



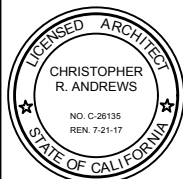
Prepared by: Charles Enchill
For City of Berkeley Zoning Officer

MACDERMOTT RESIDENCE ACCESSORY DWELLING UNIT

I HAVE REVIEWED THE PLANS FOR THE EXISTING 400 SQ FT GARAGE TO BE CONVERTED INTO AN ACCESSORY DWELLING UNIT WITH THE EXISTING HEIGHT TO REMAIN AND A 133 SQ FT ADDITION NOT TO EXCEED THE MAX ALLOWABLE HEIGHT, AND TWO NEW 8'0"X18' OFF-STREET TANDEM PARKING SPACES TO THE PROPERTY 2801 ASHBY AVE, BERKELEY CA.



NEIGHBOR	SIGNATURE	ADDRESS	RENTER OR OWNER	DATE	HAVE OBJECTIONS (STATE BRIEFLY)	HAVE NO COMMENT	HAVE NO OBJECTIONS
E. M. EMERSON	<i>[Signature]</i>	2815 ASHBY AVE	OWNER	8/21/16		X	X
HENRY ANDERSON	<i>[Signature]</i>	2918 PIEDMONT AVE.	OWNER	8/21/16		X	X
Audrey Shoji	<i>[Signature]</i>	2806 Ashby Ave.	OWNER	8/21/16		X	X
Joe Polacco	<i>[Signature]</i>	2929 Piedmont Ave	OWNER	8/21/16		X	X
Susie Fuzldkh.	<i>[Signature]</i>	2932 Piedmont Ave	OWNER	8/21/16		X	X
Tamara White	<i>[Signature]</i>	2914 Piedmont Ave	OWNER	8/21/16		X	X
DARYL REED	<i>[Signature]</i>	2915 Piedmont	OWNER	8/24/2016		X	X



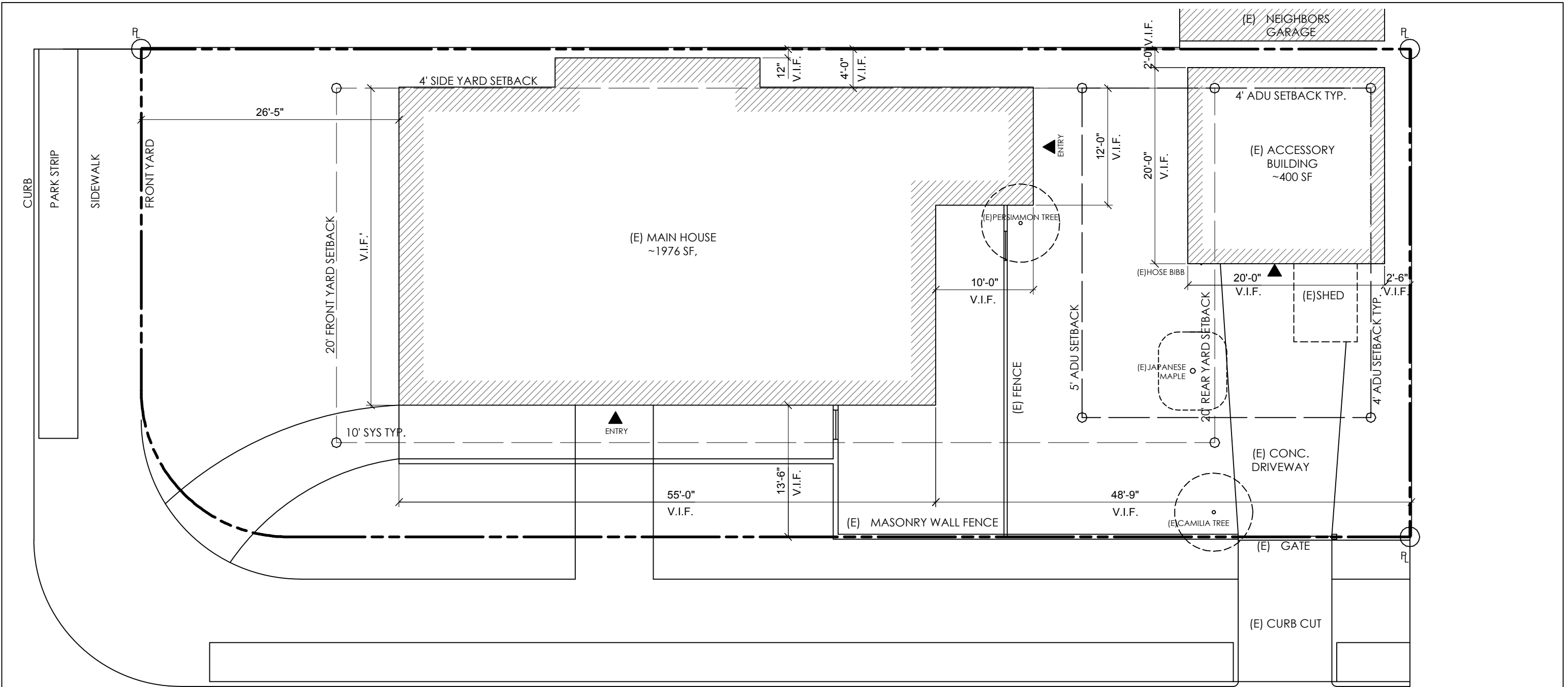
PLANS APPROVED by
Charles Pettit
 February 14, 2017
 SIGNATURE
 *AUP Findings and Conditions Attached

MACDERMOTT
RESIDENCE

2801 ASHBY, BERKELEY, CA
APN: 52-1566-14

andrews+chang
5427 telegraph avenue K
oakland ca 94609
tel: 415.944.9431
Date: 8-26-16





1 (E) SITE PLAN
1/10" = 1'-0"

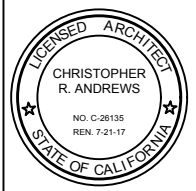
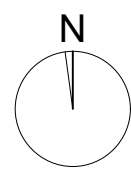
PROJECT INFORMATION:
 SCOPE: RENOVATION OF EXISTING GARAGE/WORKSHOP TO AN ADU.
 OWNER: BRUCE AND DANA MACDERMOTT
 APN: 52-1566-14
 LOT AREA: 6452 SF
 EXIST. ACCESSORY BUILDING: ~400 SF
 (P) ADU: 533 SF
 ADU MAX: 750 SF
 BUILDING USE TYPE: ADU
 CONSTRUCTION TYPE: V-B
 NUMBER OF DWELLING UNITS: 1 (MAIN HOUSE)
 NUMBER OF PARKING SPACES: 1/2 (EXISTING/PROPOSED)
 BUILDING HEIGHT: ~13'-7"
 NUMBER OF STORIES: 1
 Zoning Area R1

2801 ASHBY AVE.

SHEET INDEX

- A0.0 COVER SHEET
- A2.0 PROPOSED GROUND FLOOR PLAN
- A2.1 PROPOSED MAIN FLOOR PLAN
- A3.0 (E) AND (N) SOUTH ELEVATIONS
- A3.1 (E) AND (N) ELEVATIONS, WINDOW SCHEDULE

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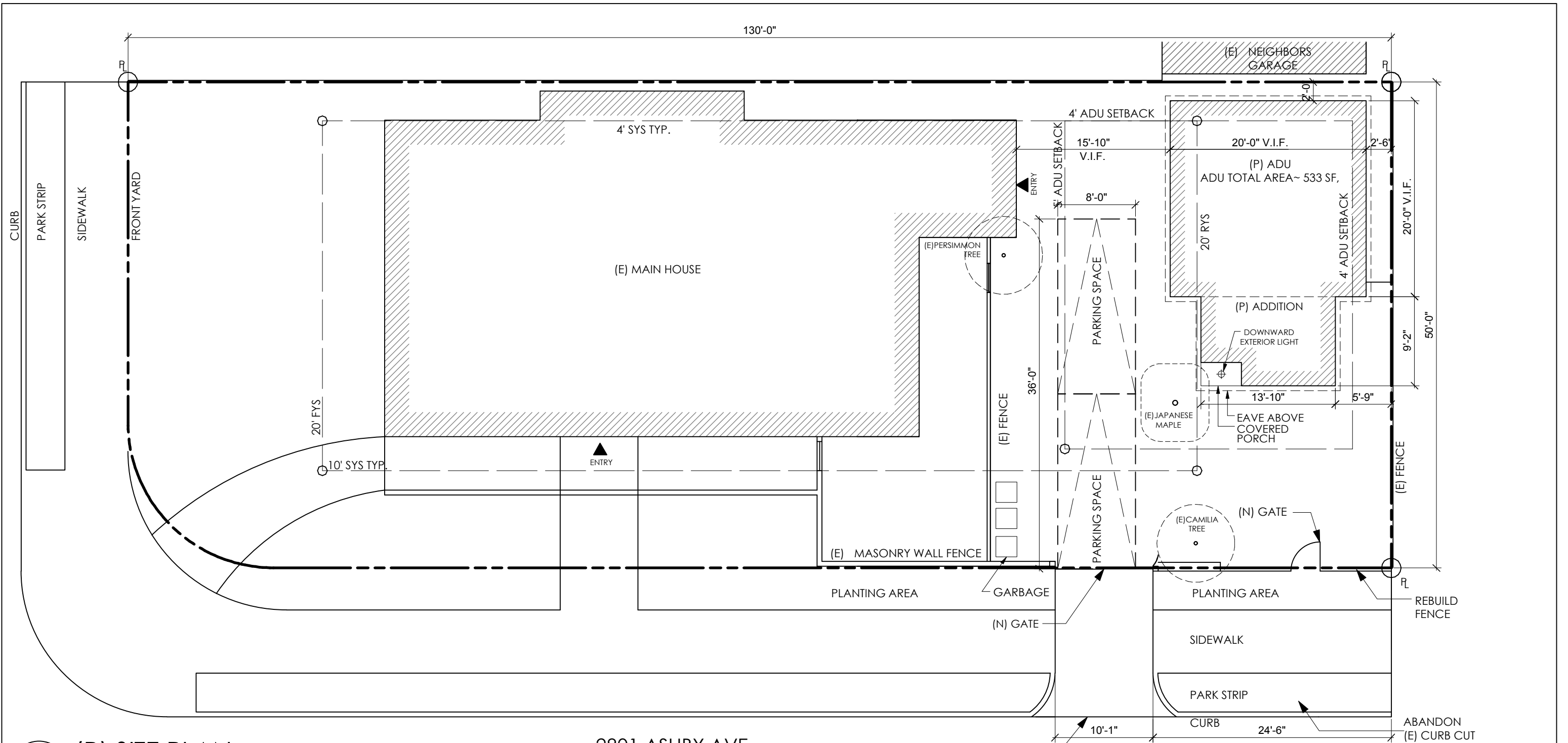


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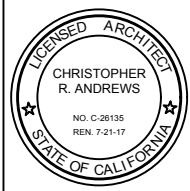


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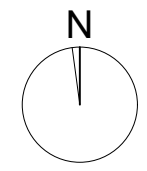


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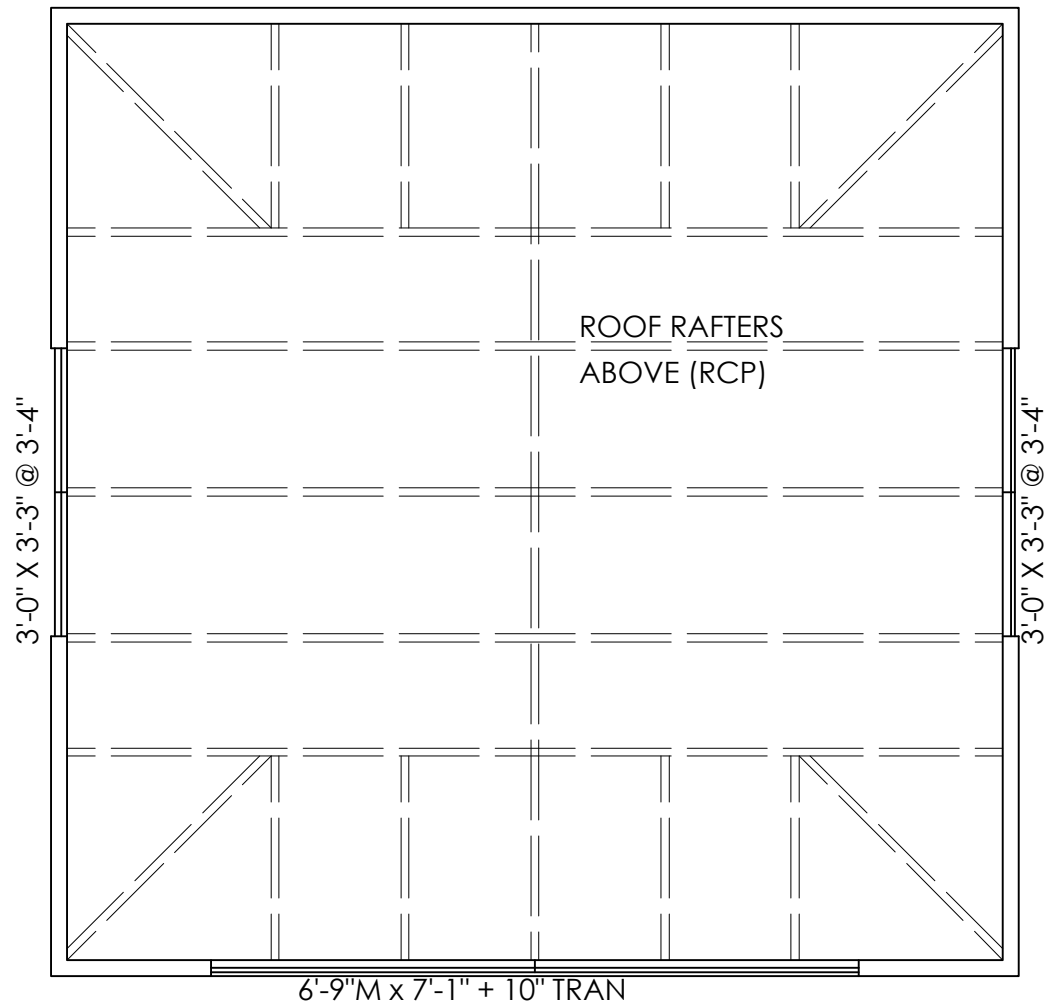
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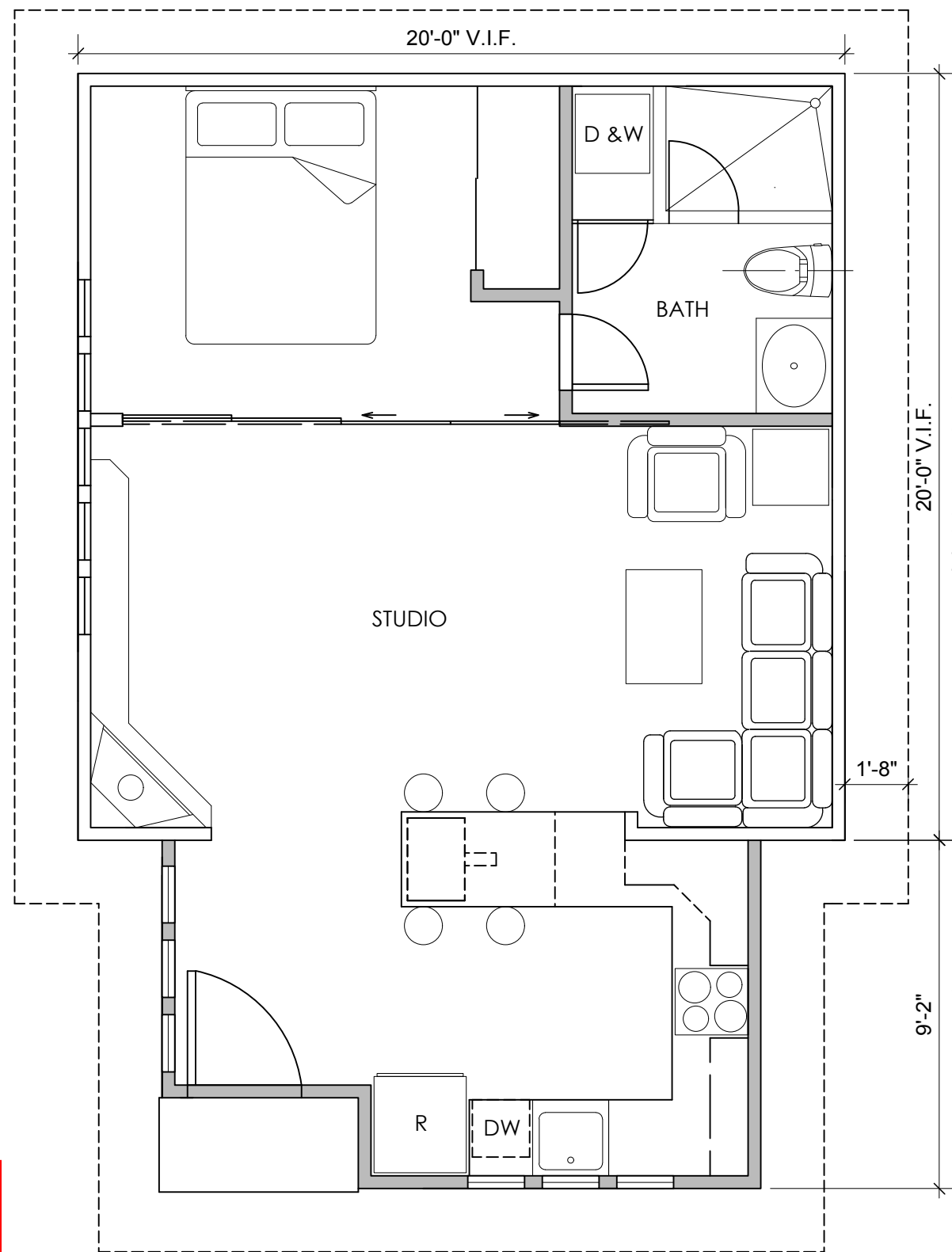
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1 (E) PLAN
1/4"=1'-0"



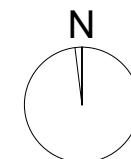
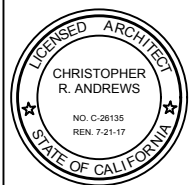
1 (P) PLAN
1/4"=1'-0"

■ (N) WALL
□ (P) WALL

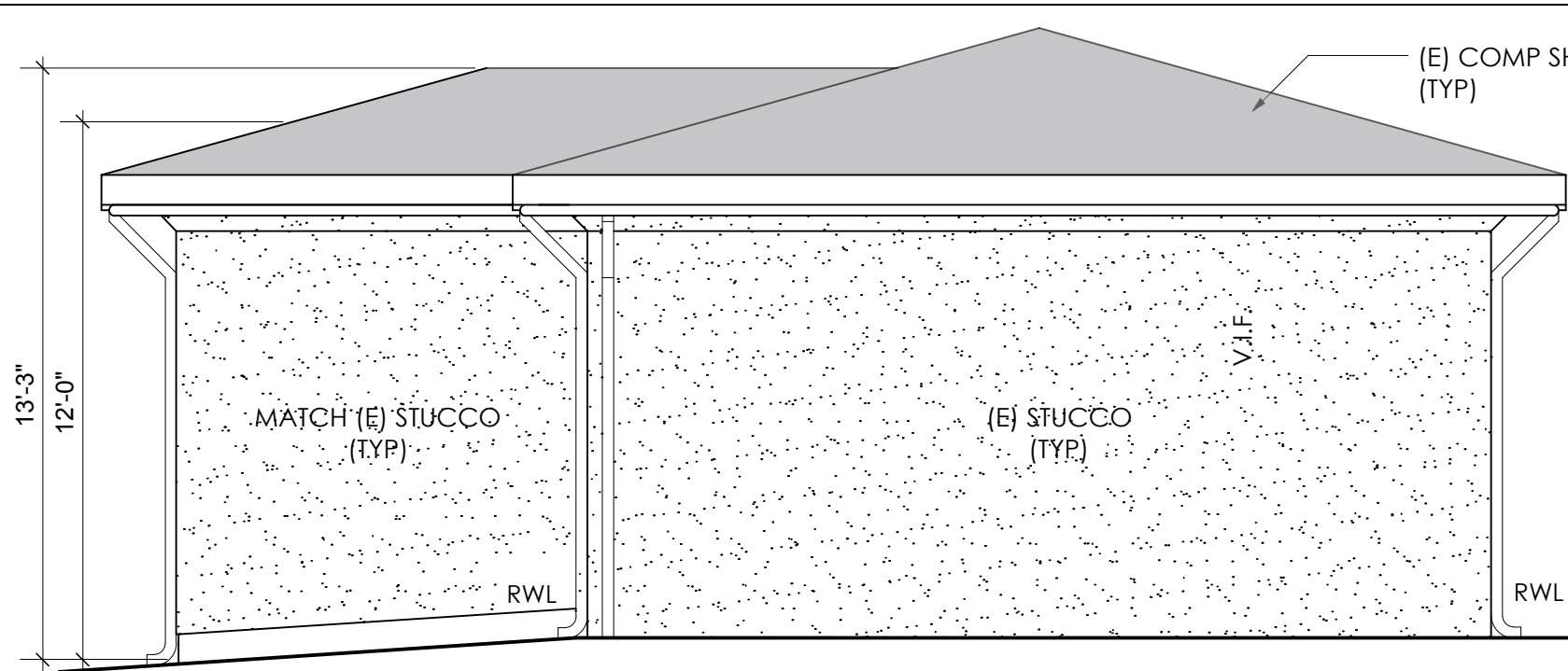
(E) CONSTRUCTION

ADDITION

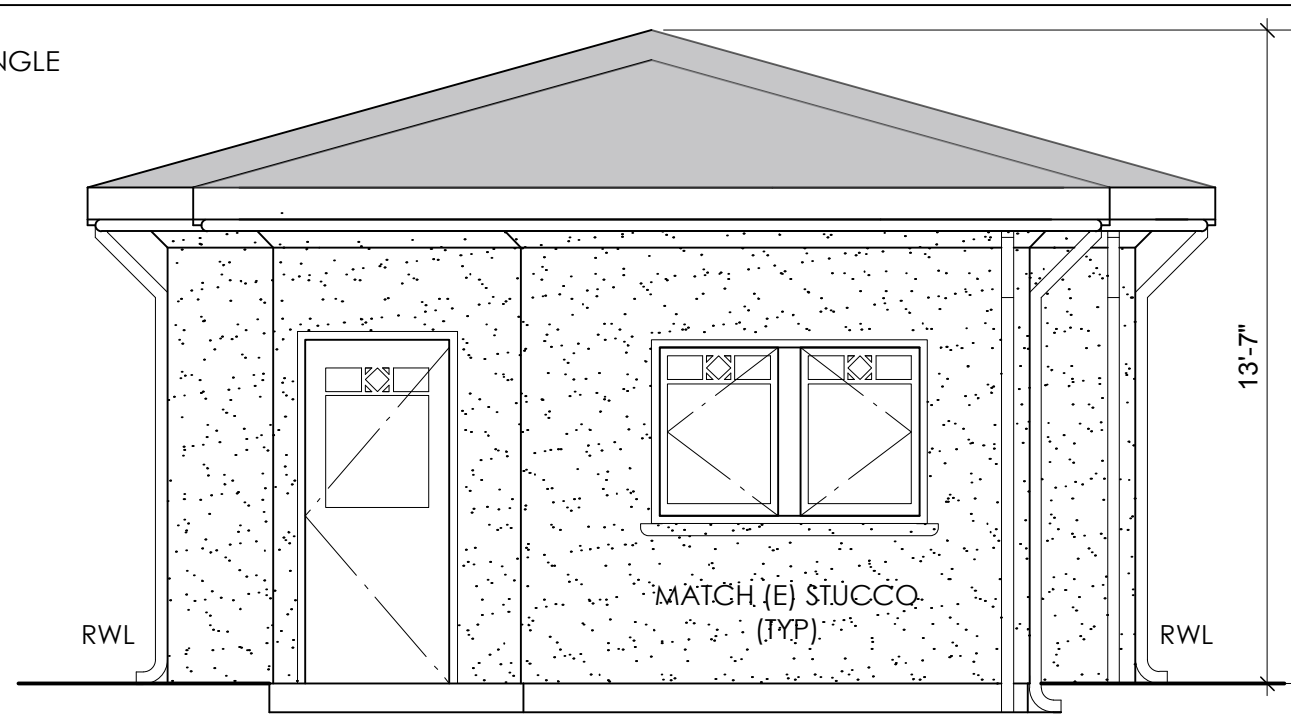
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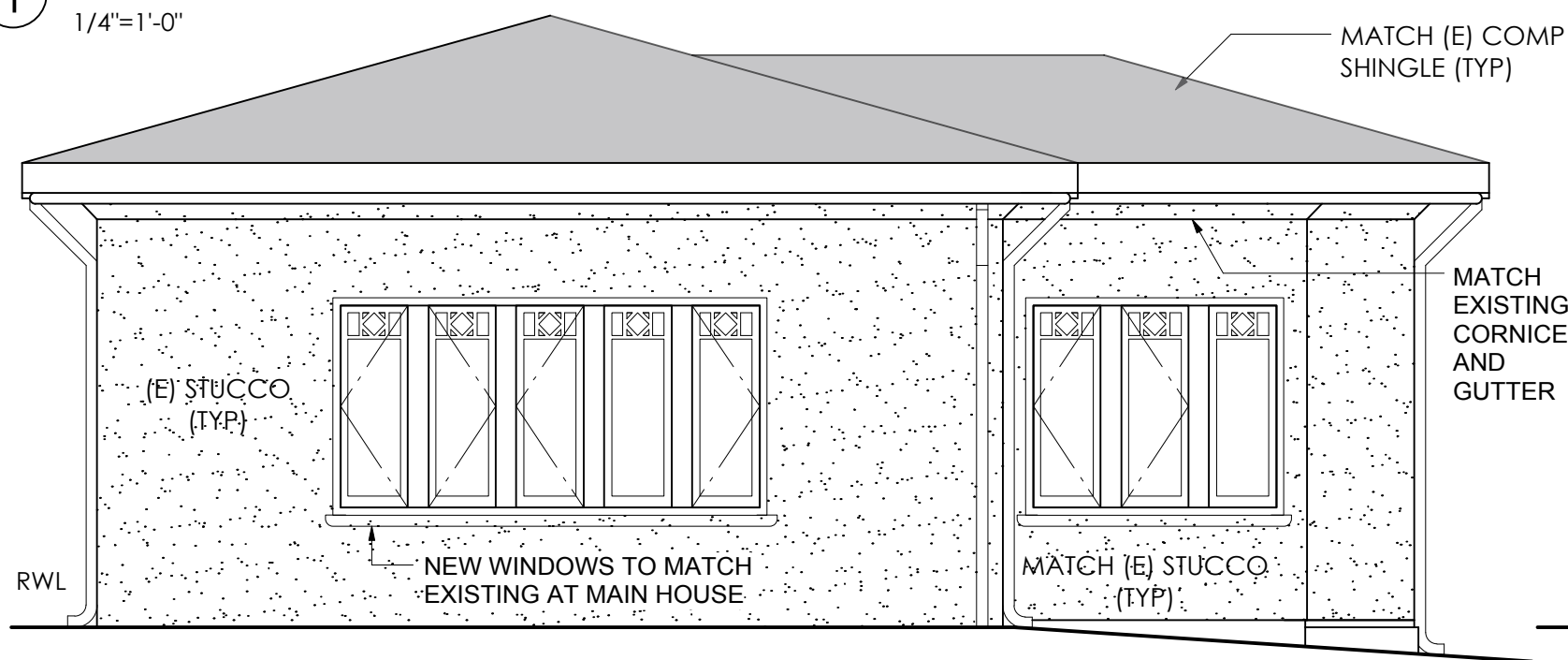
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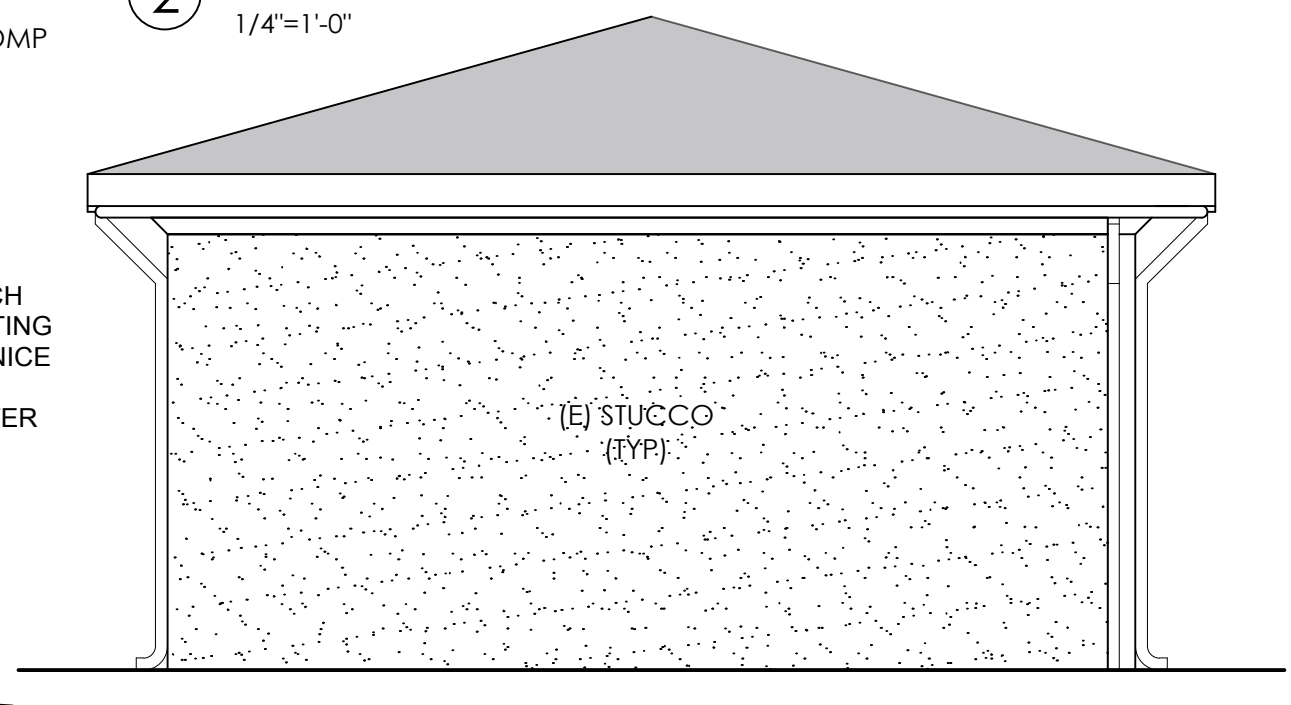
1 (P) EAST ELEVATION
1/4"=1'-0"



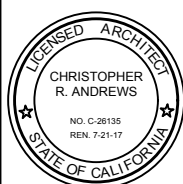
2 (P) SOUTH ELEVATION
1/4"=1'-0"



3 (P) WEST ELEVATION
1/4"=1'-0"



4 (P) NORTH ELEVATION
1/4"=1'-0"



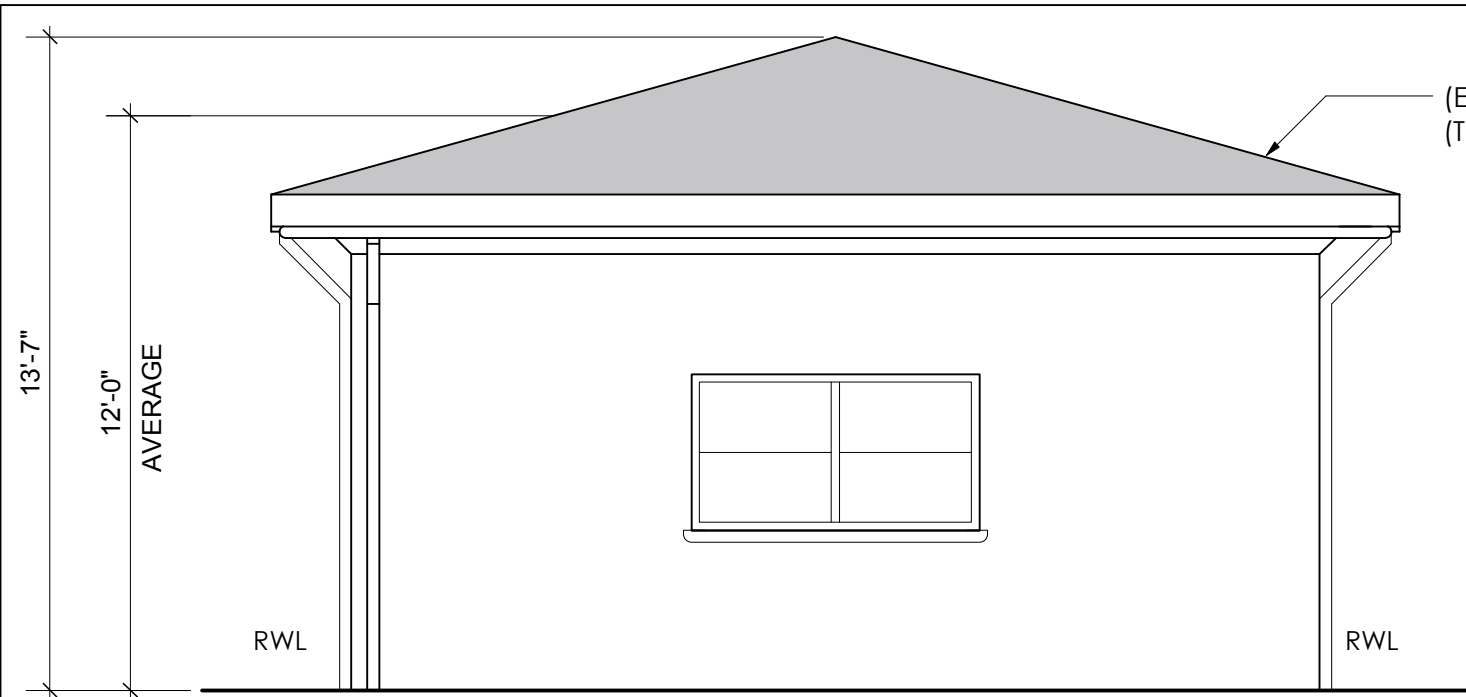
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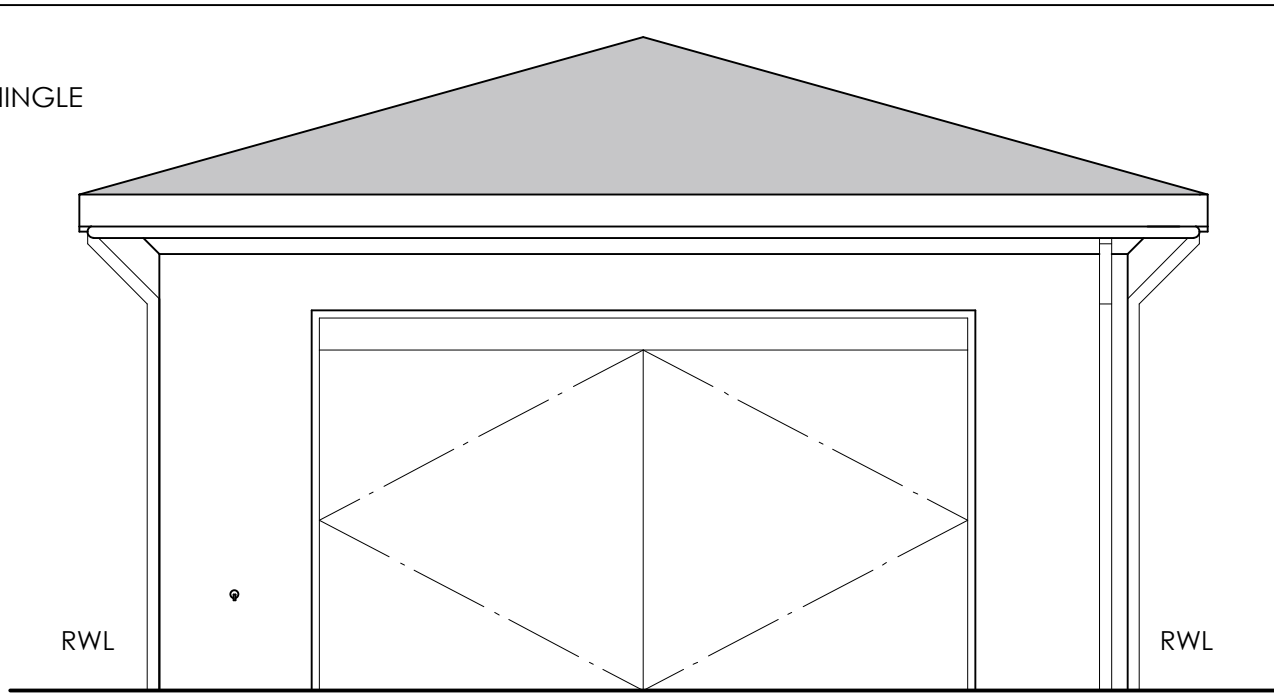
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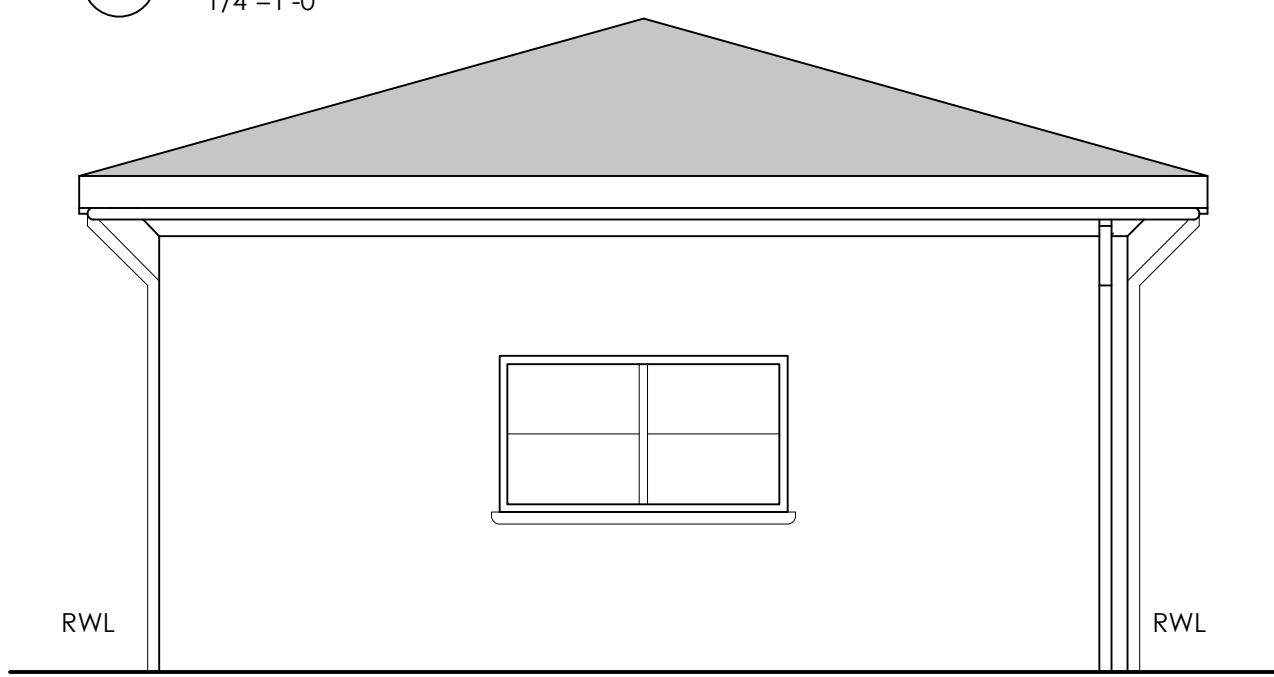




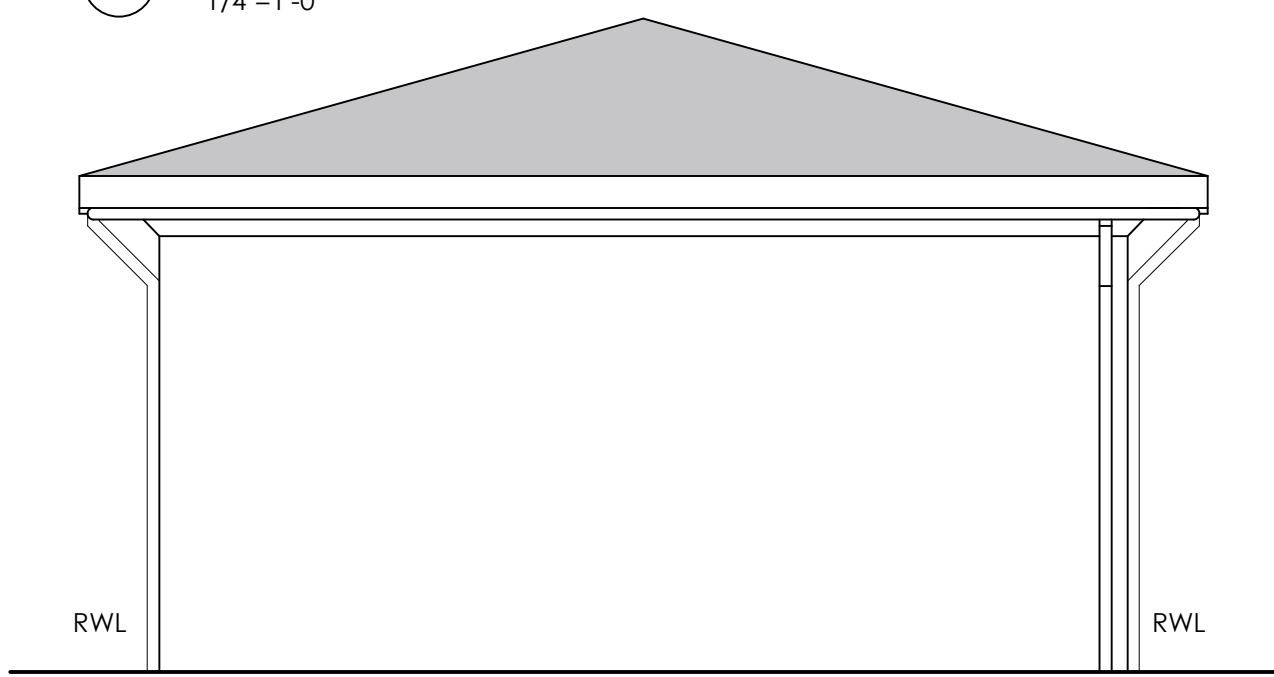
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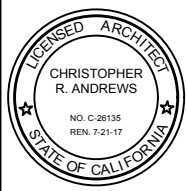
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