


- E.2 Hearing to consider P-17-11, a planned unit development, and U-17-12, a conditional use permit, for a two-day night market special event to be held on July 7 and 8, 2017, in the NewPark Mall parking lot (APN: 901-0111-025). NewPark Mall is bounded, generally, to the north by Mowry Avenue, to the west by Cedar Boulevard, to the south by Balentine Drive, and to the east by Interstate 880 (Nimitz Freeway) – from Assistant Planner Bowab.  (RESOLUTION)**

Background/Discussion – Ms. Ria Abellera has submitted an application to hold their second annual outdoor special event called “The Bay Area Night Market” in the NewPark Mall parking lot on July 7, 2017 (Friday) and July 8, 2017 (Saturday). The previous event was held last year at the Newark Pavilion. NewPark Mall is zoned CR (Regional Commercial) and approval of a planned unit development and a conditional use permit is required.

The Bay Area Night Market is an open air market hosting local food vendors and small businesses. The market celebrates the vibrant and diverse communities of the Bay Area through selling cultural foods, arts and crafts, and goods. There will be live music, karaoke, and arcade games. This event will not be selling alcoholic beverages. The Bay Area Night Market is proposed to be held from 4:00 p.m. to 11:00 p.m. each day.

The event will take place in the NewPark Mall parking lot area west of the Burlington store. The event is expected to host approximately 12,000 – 15,000 attendees over the two-day period. The proposed event area will be fenced off to assist in controlling access to the event. In the past, staff has closely monitored these types of events specifically relating to concerns regarding noise, clean-up after the event, and security. The applicant has agreed to limit amplified sound away from any residential areas. The event will be cleaned up within 24 hours after the final performance on July 8th and there will be security officers present at the event to the satisfaction of the Police Department.

Staff believes this will be a beneficial event for the City and recommends approval of the two-day event to be held on July 7th & 8th, 2017, subject to the conditions of approval listed in the attached resolution.

Environmental Review

This project is categorically exempt from the California Environmental Quality Act (CEQA) per section 15304, Class 4(e), minor temporary use of land having negligible or no permanent effects on the environment.

Action – It is recommended that the Planning Commission, by resolution, with Exhibit A, approve P-17-11, a planned unit development, and U-17-12, a conditional use permit to allow for a two-day night market special event to be held on July 7 and 8, 2017, in the NewPark Mall parking lot (APN: 901-0111-025).

Attachments

- 1. Site Plan**

RESOLUTION NO.

RESOLUTION APPROVING P-17-11, A PLANNED UNIT DEVELOPMENT, AND U-17-12, A CONDITIONAL USE PERMIT, TO ALLOW FOR A TWO-DAY NIGHT MARKET SPECIAL EVENT TO BE HELD ON JULY 7 AND 8, 2017, IN THE NEWPARK MALL PARKING LOT (APN: 901-0111-025)

WHEREAS, Ms. Ria Abellera has filed with the Planning Commission of the City of Newark application for P-17-11, a planned unit development, and U-17-12, a conditional use permit, to hold The Bay Area Night Market (consisting of activities such as arts, crafts, food and commercial vendors, live music, karaoke, and arcade games) in the NewPark Mall parking lot on July 7 and 8, 2017; and

PURSUANT to the Municipal Code Section 17.72.060, a public hearing notice was published in The Tri City Voice on May 30, 2017 and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on June 13, 2017 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, pursuant to Chapter 17.40 (Planned Unit Developments), Section 17.40.050 (Permit Procedure) and Chapter 17.72 (Use Permits), Section 17.72.070 (Action by Planning Commission), the Planning Commission hereby makes the following findings:

1. That the proposed location of the planned unit development is in accord with the objectives of the zoning title and the purposes of the district in which the site is located;
2. That the proposed location of the planned unit development and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;
3. That the standards of population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between the structures, usable open space, off-street parking and off-street loading facilities and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of the zoning title;
4. That the standards of population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between the structures, usable open space, off-street parking and off-street loading facilities will be such that the development will not generate more traffic than the streets in the vicinity can carry without congestion and will not overload utilities;
5. That the combination of different dwelling types and/or the variety of land uses in the

development will complement each other and will harmonize with existing and proposed land uses in the vicinity;

6. That the proposed location of the conditional use is in accord with the purposes of the zoning title and the purposes of the district in which the site is located;
7. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;
8. That the proposed conditional use will comply with each of the applicable provisions of Chapter 17.72 (Use Permits).

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby approves this application and recommends the City Council approve this application as shown on Exhibit A, subject to compliance with the following conditions:

Planning Division

- a. This approval shall be for the Bay Area Night Market special event on July 7 and 8, 2017 between the hours of 4 p.m. and 11 p.m., with a reasonable amount of time for set-up prior to opening and for clean-up after closing, as determined by the Community Development Director.
- b. The volume levels of all sound equipment and speakers associated with this project shall not exceed levels determined to be acceptable by the Community Development Director.
- c. All lighting shall be directed on-site so as not to create glare off-site.
- d. Parking lot cleaning with sweeping or vacuum equipment shall not be permitted between 11:00 p.m. and 7:00 a.m.
- e. Garbage and recycling pick-up shall be coordinated with Republic Services, Inc. of Alameda County so that a sufficient number of dumpsters are available on-site and picked-up to ensure no refuse, garbage or recycling is stored outdoors except within the approved trash and recycling dumpsters. Prior to the event openings, the applicant shall submit written evidence of Republic Services, Inc.'s approval.
- f. The site and its improvements shall be maintained in a neat and presentable condition, to the satisfaction of the Community Development Director. This shall include, but not be limited to, repainting surfaces damaged by graffiti and site clean-up. Graffiti removal/repainting and site clean-up shall occur on a continuing, as needed basis. Any vehicle or portable building brought on the site shall remain graffiti free.
- g. The event staff shall direct patrons to park their vehicles in the NewPark Mall parking lot.

- h. The event staff shall submit evidence of approval from the County Health Department for the proposed food and beverage sales. There shall be no alcoholic beverage sales.
- i. Construction equipment, including compressors, generators and mobile equipment shall be fitted with heavy-duty mufflers designed to reduce noise impacts.
- j. Within 24 hours of the final performance on July 8, 2017, all structures and improvements brought to the subject site associated with this event shall be removed and the NewPark Mall parking lot returned to its original, pre-event condition, to the satisfaction of the Community Development Director. The NewPark Mall will be responsible for the clean-up after the event.

Engineering Division

- k. The event staff shall implement all applicable Best Management Practices (BMPs) from the California Best Management Practice Handbook for Construction Activities to prevent the pollution or contamination of stormwater runoff from the event area. Additional BMPs may be required by the City Engineer, as necessary, to minimize the pollution of stormwater runoff from the event area.
- l. The event coordinator shall ensure proper traffic circulation within the angled parking area to the east of the proposed event. Vehicles within the parking lot must be able to park and exit normally in the correct direction of traffic and not against the normal direction of traffic.

Fire Department

- m. Provide crowd managers for 1,000 people per CFC403.12.3. Certifications shall be provided to ACFD Newark Fire Prevention Office no later than July 3, 2017.
- n. Temporary air-supported and air-inflated membrane structure shall comply with CFC3103.10.3 and CFC3103.10.4.
- o. No park vehicles allowed within 20' of tents.
- p. For the Karaoke and Arcade tents, provide fire extinguisher(s), emergency lights and no smoking signs.
- q. Provide emergency lights for the night market. Electrical wiring shall be concealed or bridged to avoid tripping hazard. The proposed string lights on poles (emergency lights) shall have backup power.

Police Department

- r. The event area will be fenced, reducing the potential for issues with violence, drugs, and alcohol.

- s. All security officers must be wearing an easily identifiable uniform, be licensed and bonded. If armed security is used, the security company must comply with NPD requirements for armed security, prior to the event.
- t. Loud Speakers must face the Mall and direct sound away from residential areas. If noise complaints are received, the sound volume must be reduced to prevent additional complaints.
- u. A dedicated first aid station, with at least two Emergency Medical Technicians, should be on site.
- v. There shall be four security officers assigned to the event and must not be part of the staffing of NewPark Mall. They shall be additional staffing.

General

- w. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission and City Council review and, if so decided, said changes shall be submitted for the Commission's and Council's review and decision. The applicant shall pay the prevailing fee for each additional separate submittal of project exhibits requiring Planning Commission and/or City Council review and approval.
- x. If any condition of this planned unit development and conditional use permit be declared invalid or unenforceable by a court of competent jurisdiction, this planned unit development and conditional use permit shall terminate and be of no force and effect, at the election of the City Council on motion.
- y. This planned unit development and conditional use permit shall be given a hearing before the City Council for the Council's review and approval.
- z. The applicant hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.
- aa. In the event that any person should bring an action to attack, set aside, void or annul the City's approval of this project, the developer shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with counsel selected by the developer (which shall be the same counsel used by developer) and reasonably approved

by the City. Developer's obligation to defend, indemnify and hold harmless the City and/or its agents, officers and employees shall be subject to the City's compliance with Government Code Section 66474.9.

- bb. The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. The applicant is hereby further notified that the 90-day approval period in which the applicant may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

The Commission makes the findings prescribed in Newark Municipal Code Sections 17.40.050 and Section 17.72.070, and directs a Notice of Decision be mailed to the applicant and filed with the City Clerk who shall present said Notice to the City Council pursuant to Newark Municipal Code Section 17.72.080.

This Resolution was introduced at the Planning Commission's June 13, 2017 meeting by _____, seconded by _____, and passed as follows:

AYES:

NOES:

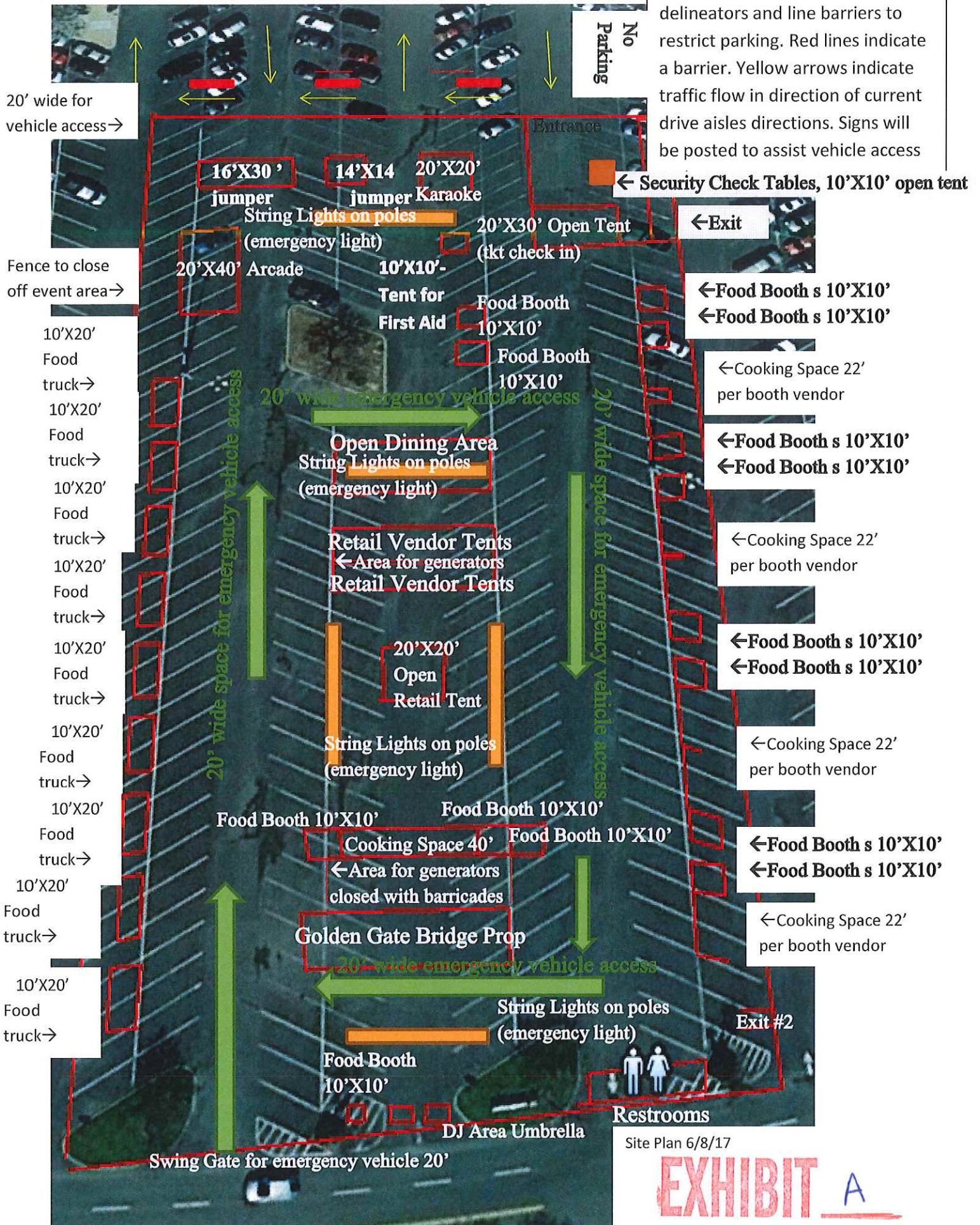
ABSENT:

TERRENCE GRINDALL, Secretary

BERNIE NILLO, Chairperson

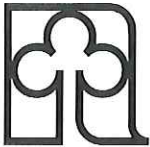
Site Map The Bay Area Night Market

Traffic Circulation Plan: North side lot will be closed off with delineators and line barriers to restrict parking. Red lines indicate a barrier. Yellow arrows indicate traffic flow in direction of current drive aisles directions. Signs will be posted to assist vehicle access



Site Plan 6/8/17

EXHIBIT A



F.1 Appeal of Community Development Director's approval of SFDR2017-006, a single-family design review, for an addition to the rear of the first and second floor of a property located at 36831 Papaya Street – from Associate Planner Mangalam. *sm* (MOTION)

Background/Discussion – Michael and Jennifer Huff, property owner of 36831 Papaya Street, filed application for single-family design review, for an addition to the rear of the first and second floor of a property located at 36831 Papaya Street. Subsequent to City staff's approval, the adjoining property owners at 36913, 36923 and 36927 Papaya Street appealed staff's decision.

The subject site is on the west side of Papaya Street, approximately 225 feet south of Peachtree Avenue and is zoned R-2500 (Medium Density Residential). The applicant proposes the following: (1) a 200+/- square foot, first floor addition (living room) to the rear of the house; (2) relocate the existing fireplace to the rear of the house; and (3) a 200+/- square foot, second floor addition on top of the first floor addition.

The Community Development Director determined that project met the provisions in the approved Planned Unit Development (P-88-83) and Conditional Use Permit (U-88-82); and compliance with current zoning requirements in the Newark Municipal code including setbacks, height, coverage etc. The Planned Unit Development includes 46 single-family lots plus one lot devoted to mini-park which is adjacent to the subject property. The average lot size in this PUD is 3,960 square feet, excluding the mini park. PUD provides for 7 feet side yards, 20 feet garage front setbacks and varying rear yards. As per Newark Municipal code, the minimum required rear yard is 10 feet and architectural features such as chimneys may extend into rear yard not more than three feet.

The applicant proposes to add 200+/- square foot on the first floor to relocate living room to the rear of the house and enlarge the kitchen area. On the second floor, addition of 200+/- square foot will result in creation of the third bedroom and existing 'open to below' space will be converted into a loft.

As per 17.16.206 - Single-family residential design review of Newark Municipal Code, all new single-family residences, second-story additions and exterior modifications to existing single-family residences shall be reviewed and acted upon by the Community Development Director. Because of the second story addition to the rear of the house, Single-Family Design review is required. As part of the review process, notice of staff's approval was mailed to the neighboring property owners within 100-foot radius of the subject site, which began an appeal period. The property owners at 36913, 36923 and 36927 Papaya Street appealed staff's approval. The neighbors in their appeals presented the following issues, in summary: (1) Privacy; (2) blocking

of views and loss of air/light; (3) devaluation of their property value; (4) creation of a new model type in the neighborhood; (5) impacts during construction; and (6) Architectural Control Committee (ACC) and Home Owners Association (HOA) approval irregularities.

Staff respectfully disagrees that these are sufficient grounds to deny the proposed project based on the reasons identified in this staff report.

Privacy issue and blocking of views, loss of air/light - As discussed earlier, the project is part of a PUD. All the houses in this PUD are two stories and setbacks are already set. The proposed additions do not encroach upon required rear yard set in the approved PUD and also complies with minimum 10 feet required rear yard for R-2500 medium density residential district as per 17.16.110 - Rear yard of Newark Municipal Code. At present, there are existing windows on the second story to the rear of the house.

Devaluation of neighbor's property value- Staff is not aware of any factors that will contribute to a negative impact on property values.

Creation of a new home type in the neighborhood – It must be noted that additions to the house is to the rear of the property and does not change the front elevation of the house. Thus, creation of a new home type does not apply.

Impacts during construction- The City does regulate construction hours and ensure that the construction is not detrimental to public health and safety.

Architectural Control Committee (ACC) and Home Owners Association (HOA) approval irregularities - The issues regarding procedural irregularities related to approval by ACC and HOA is a private matter and are not within the City's purview. However, staff requested a copy of HOA approval which was provided by the applicant. The approval letter dated May 2, 2017 is attached with this staff report.

Environmental Review – The proposed additions to the single family home, are categorically exempt from the California Environmental Quality Act per Section 15301, class 1 (e), additions to existing structures.

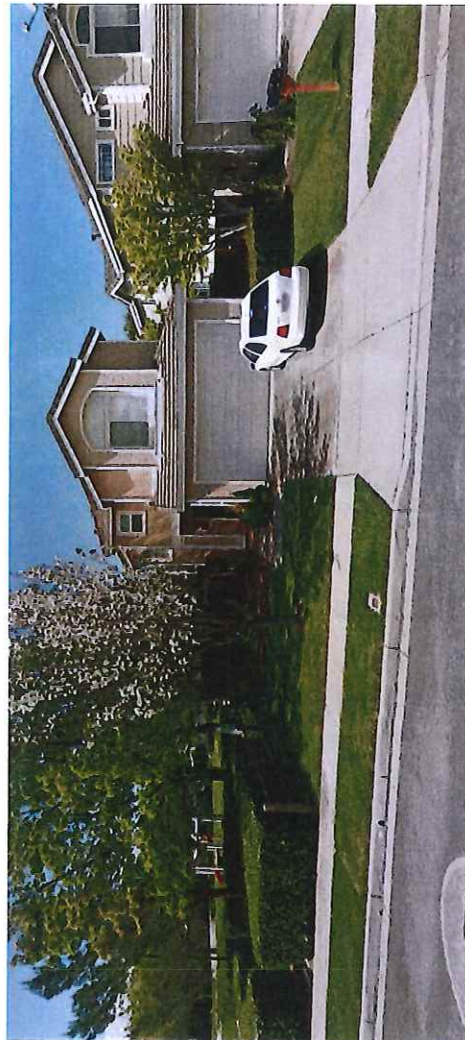
Action – It is recommended that the Planning Commission, by motion, uphold the decision of Community Development Director's approval of SFDR 2017-006, a Single Family Design Review with Exhibit A, pages 1 through 11, for additions to the ground and second floor to the single family house at 36831 Papaya Street.

Attachments

1. Drawings dated April 22, 2017
2. Joint appeal letters, one from Kapil Bajaj and Raji Bhatia; and one from Walter and Yessim Rommel dated May 22, 2017
3. Appeal Letter from Arun Bhatnagar dated May 22, 2017
4. Pacific Landing HOA approval letter dated May 2, 2017
5. Location map

REMODEL SINGLE FAMILY RESIDENCE

PACIFIC LANDING PLANNED UNIT DEVELOPMENT
36831 PAPAYA STREET NEWARK, CALIFORNIA 94560
SITE PERMIT DOCUMENTS



View From Street - As-Build (Volumetric)



View From Street - Remodel (Volumetric)

DRAWN BY
Michael Huff
36831 Papaya St.
Newark, CA 94560
Tel: 818.523.9978
Email: mbhuff05@hotmail.com

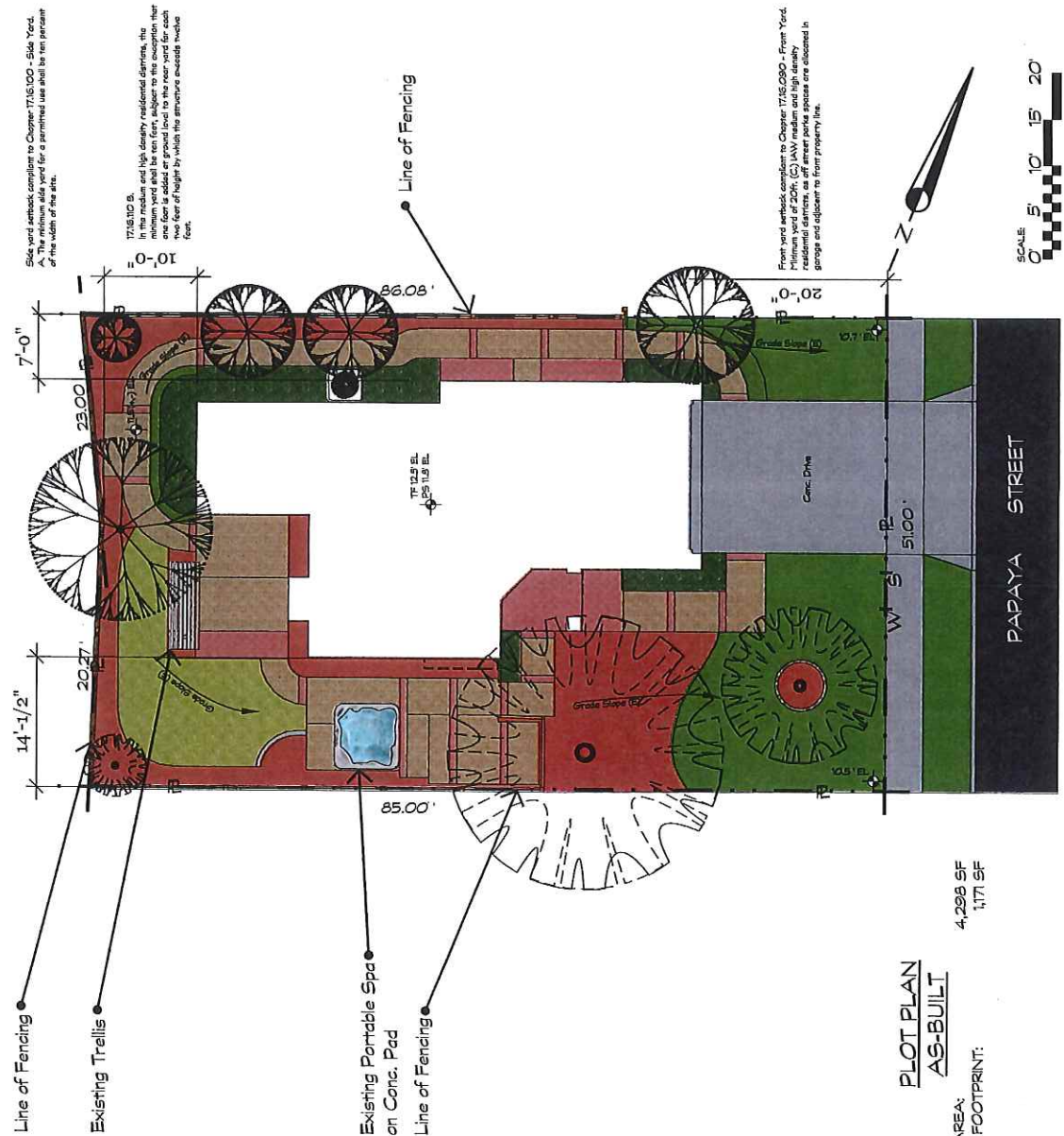
PROJECT
Papaya St. Addition &
Remodel
PLAN No. 170415-01

PROJECT LOCATION
36831 Papaya St.
Newark, CA 94560
Tel: 818.523.9978
Email: mbhuff05@hotmail.com

ISSUE
04.22.2017

DESCRIPTION
COVER SHEET

CS
EXHIBIT
Apt 1



Side yard setback, compliant to Chapter 1716.000 - Side Yard. The minimum side yard setback for a permitted use shall be ten percent of the width of the site.

1716.010 B. In the medium and high density residential districts, the minimum yard shall be ten feet, subject to this exception that one foot is added on ground level to the rear yard for each foot of height in which the structure exceeds twelve feet.

Front yard setback, compliant to Chapter 1716.000 - Front Yard. The minimum front yard setback for a permitted use shall be ten percent of the width of the site. Off-street parking spaces are allocated in garage and adjacent to front property line.



PARCEL AREA: 4,298 SF
BUILDING FOOTPRINT: 1,171 SF

PLOT PLAN
AS-BUILT

DRAWN BY
Michael Huff
36831 Papaya St.
Newark, CA 94560
Tel: 818.523.9978
Email: mbhuff05@hotmail.com

PROJECT
Papaya St. Addition & Remodel
PLAN No. 170415-01

PROJECT LOCATION
36831 Papaya St.
Newark, CA 94560
Tel: 818.523.9978
Email: mbhuff05@hotmail.com
ISSUE
04.22.2017

DESCRIPTION
PLOT PLAN - AS-BUILT

A0.7

EXHIBIT A02



The minimum side yard for a permitted use shall be ten percent of the width of the lot.

17.15, 11.0 B.
In the medium and high density residential districts, the minimum yard setback from the front, rear and side lot lines shall be ten feet, subject to the exception provided for each two feet of height by which the structure exceeds twelve feet.

Boundary of work
17.15.030 I2.
A detached accessory structure may be located closer to the front, rear and side lot lines than the minimum setback required for the main structure if:
a. The structure shall not exceed six feet six inches in height.
b. The structure shall be limited to a grass floor area of one hundred square feet.
c. Fire-resistant materials shall be installed and permitted in accordance with the provisions of the city's building codes.

Existing Portable Spa on Conc. Pad

Line of Fencing

Front yard setback, consistent to Chapter 17.15.030 - Front Yard Setback, shall be ten feet, subject to the exception provided in residential districts, as off street parking spaces are allowed in garage and adjacent to front property line.

PLOT PLAN
REMODEL

PARCEL AREA: 4,298 SF
EXISTING FOOTPRINT: 1,171 SF
PROPOSED ADDITION: 195 SF
FOOTPRINT TOTAL: 1,366 SF

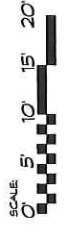


EXHIBIT A-3

DRAWN BY
Michael Huff
36831 Papaya St.
Newark, CA 94560
Tel: 818.523.9978
Email: mhuff05@hotmail.com

PROJECT
Papaya St. Addition & Remodel
PLAN No. 170415-01

PROJECT LOCATION
36831 Papaya St.
Newark, CA 94560
Tel: 818.523.9978
Email: mhuff05@hotmail.com

ISSUE
04.22.2017
DESCRIPTION
PLOT PLAN - REMODEL

A0.8

DRAWN BY
Michael Huff
36631 Papaya St.
Newark, CA 94560
Tel: 518.523.9978
Email: mhuff05@hotmail.com

PROJECT
Papaya St. Addition & Remodel
PLAN No. 170415-01

PROJECT LOCATION
36631 Papaya St.
Newark, CA 94560
Tel: 518.523.9978
Email: mhuff05@hotmail.com
ISSUE
04.22.2017

DESCRIPTION
1ST FLR PLAN - AS-BUILT

A1.0

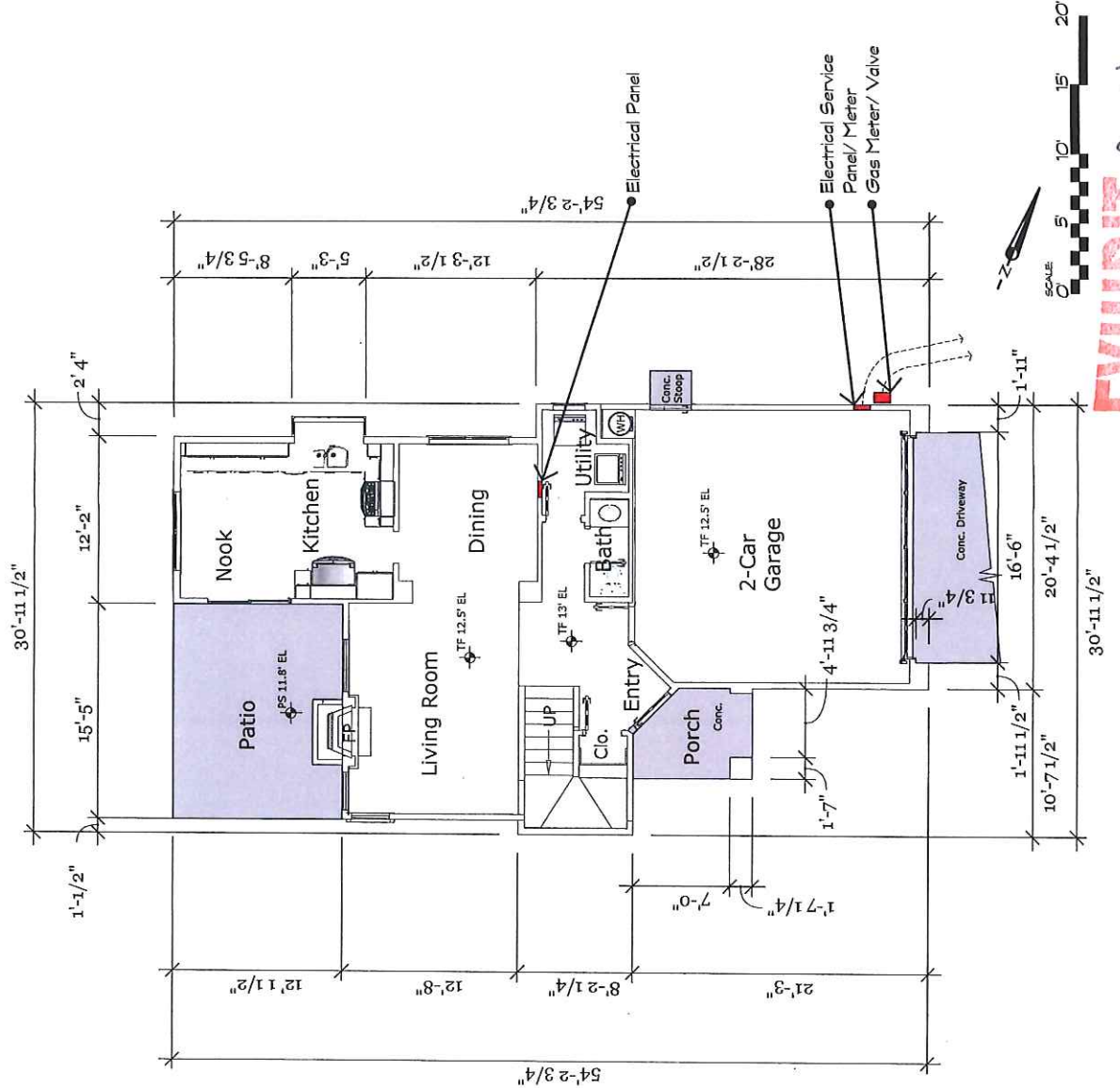


EXHIBIT
Apt H

DRAWN BY
 Michael Huff
 36831 Papaya St.
 Newark, CA 94560
 Tel: 518.523.9978
 Email: mbhuff05@hotmail.com

PROJECT
 Papaya St. Addition &
 Remodel
 PLAN No. 170415-01

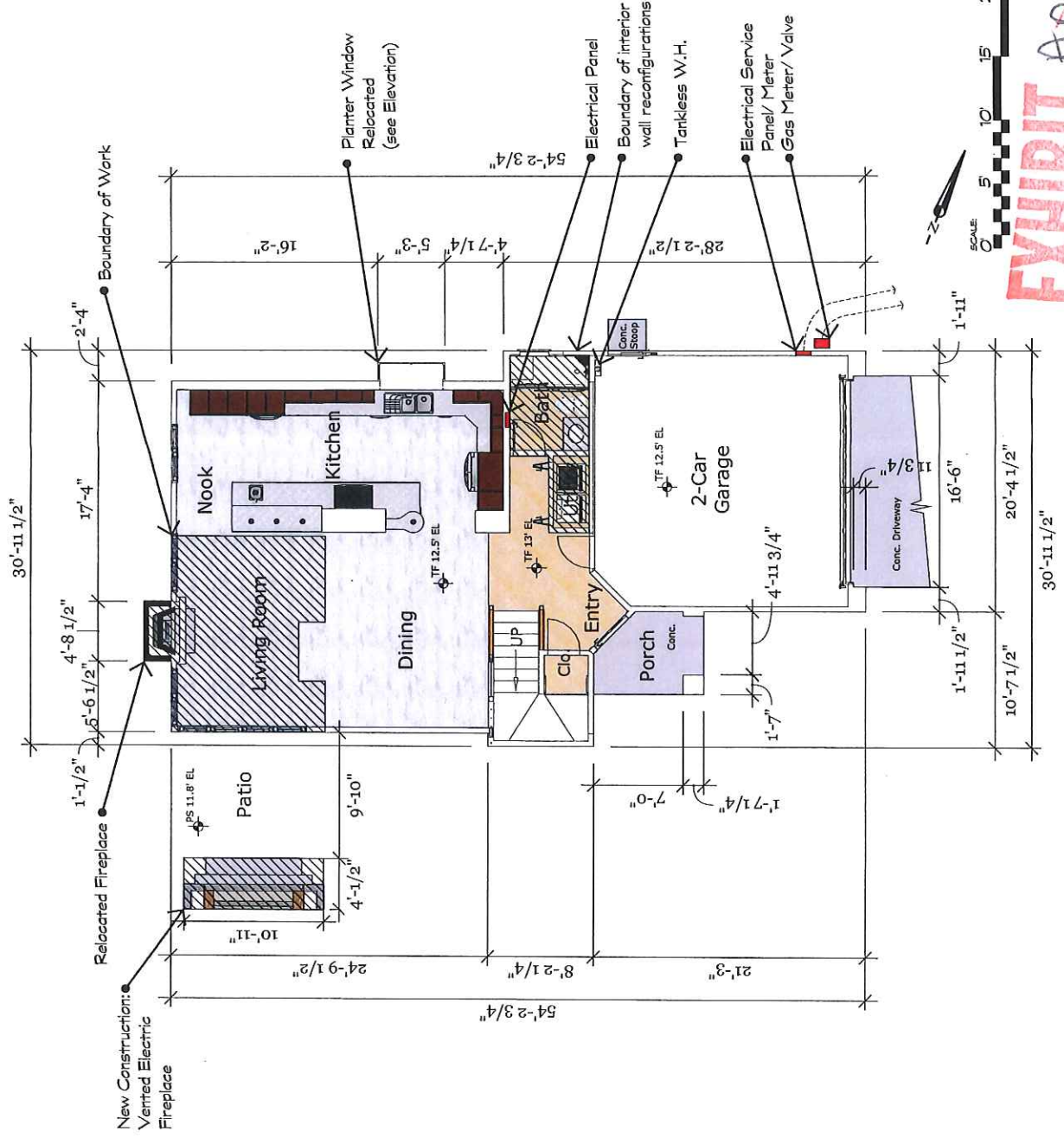
PROJECT LOCATION
 36831 Papaya St.
 Newark, CA 94560
 Tel: 518.523.9978
 Email: mbhuff05@hotmail.com

ISSUE
 04.22.2017

DESCRIPTION
 1ST FLR PLAN -
 REMODEL

A1.1

EXHIBIT App 5



DRAWN BY
 Michael Huff
 36831 Papaya St.
 Newark, CA 94560
 Tel: 818.523.9976
 Email: mbhuff05@hotmail.com

PROJECT
 Papaya St. Addition &
 Remodel
 PLAN No. 170415-01

PROJECT LOCATION
 36831 Papaya St.
 Newark, CA 94560
 Tel: 818.523.9976
 Email: mbhuff05@hotmail.com
 ISSUE
 04.22.2017

DESCRIPTION
 2ND FLR PLAN -
 REMODEL

A1.3

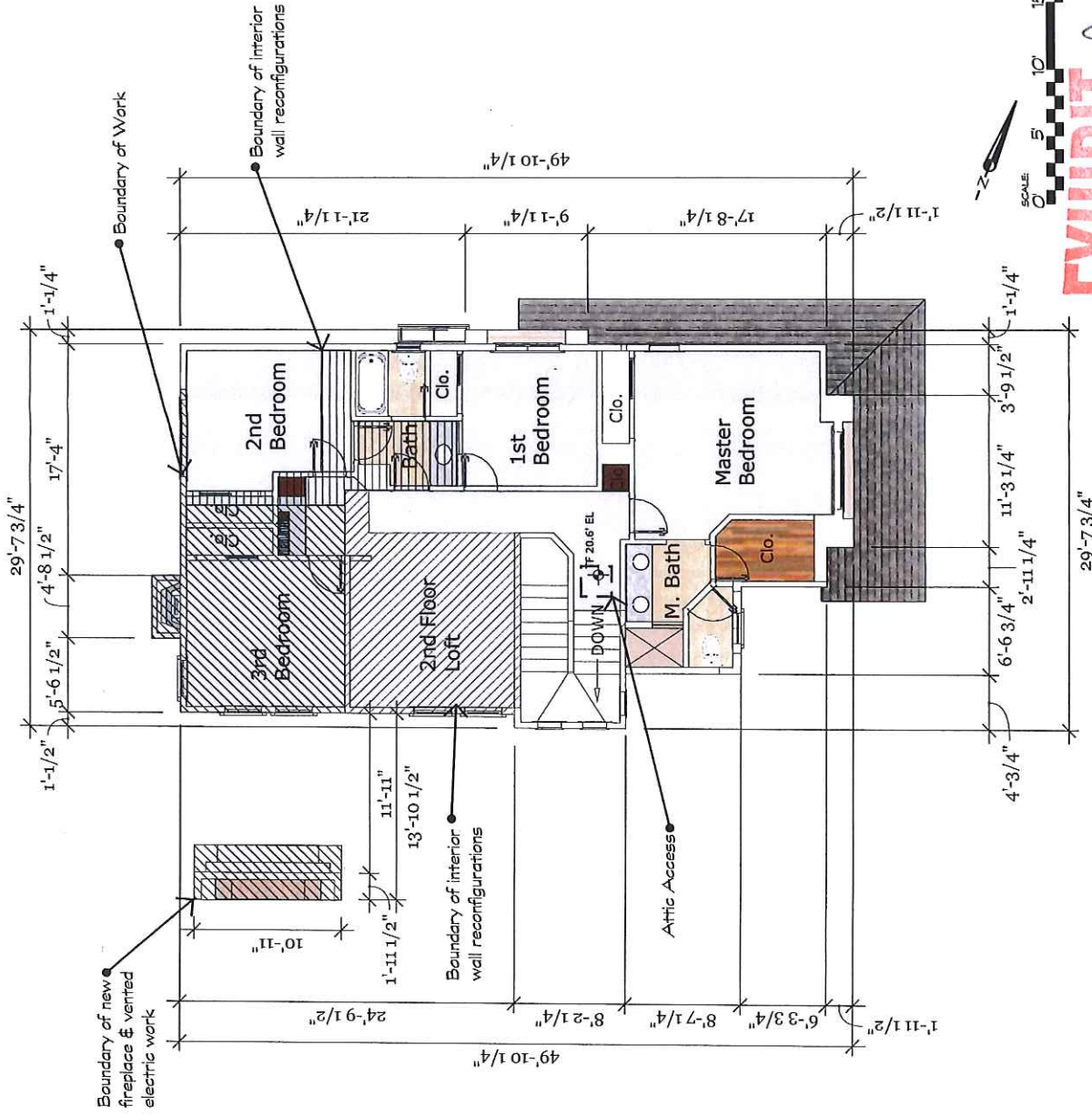


EXHIBIT A

DRAWN BY
 Michael Huff
 36831 Papaya St.
 Newark, CA 94560
 Tel: 818.523.9975
 Email: mhuff05@hotmail.com

PROJECT
Papaya St. Addition & Remodel
 PLAN No. 170415-01

PROJECT LOCATION
 36831 Papaya St.
 Newark, CA 94560
 Tel: 818.523.9975
 Email: mhuff05@hotmail.com

ISSUE
 04.22.2017
 DESCRIPTION
 2ND FLR PLAN - AS-BUILT

A1.2

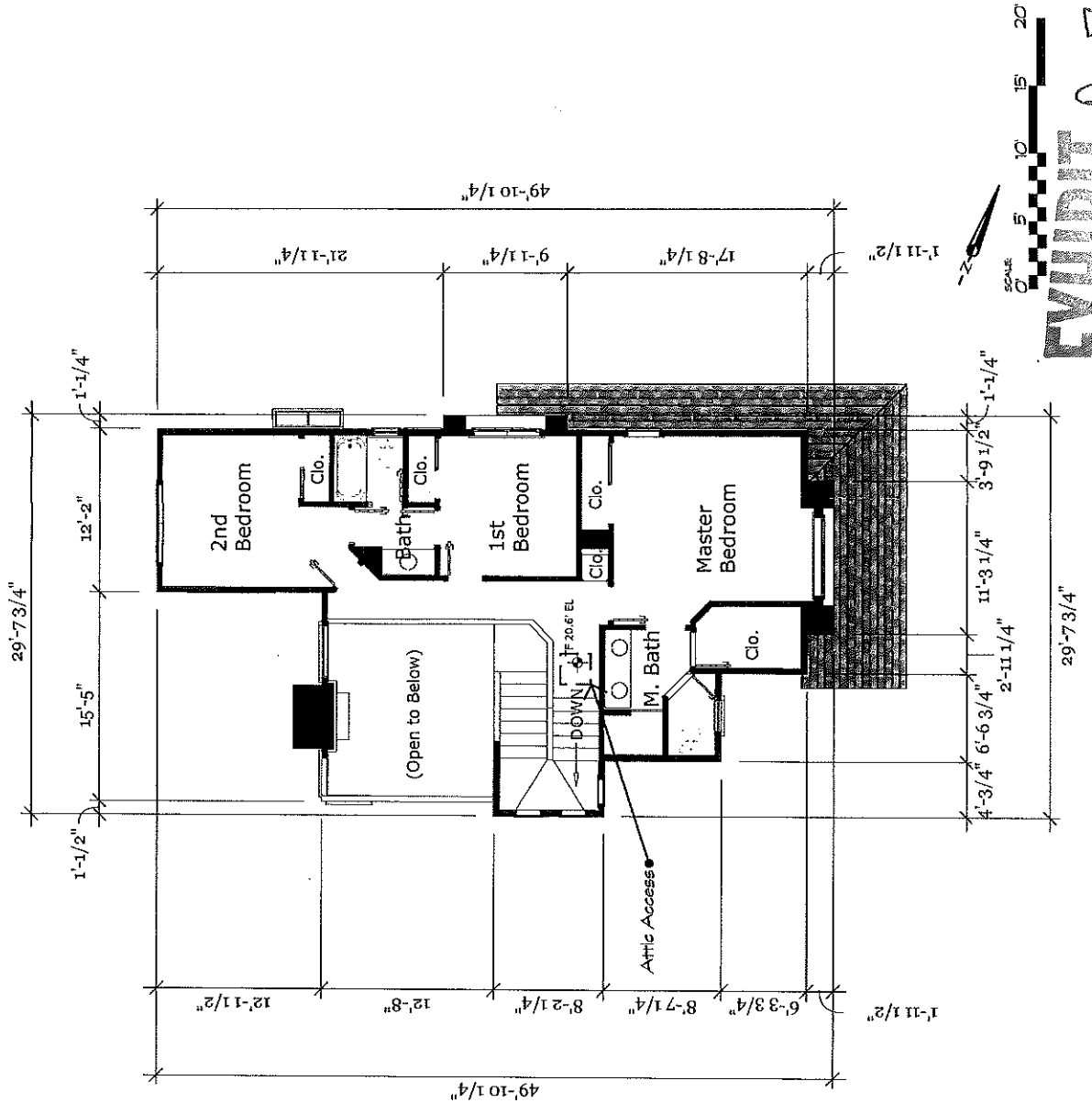


EXHIBIT Aq7

DRAWN BY
 Michael Huff
 36631 Papaya St.
 Newark, CA 94560
 Tel: 818.523.9978
 Email: mhuff05@hotmail.com

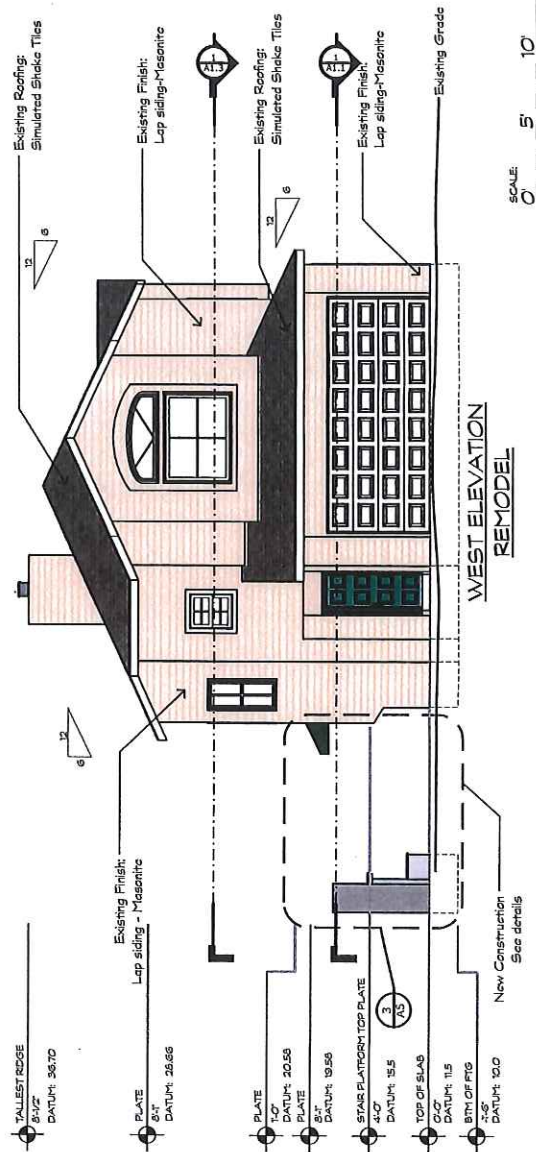
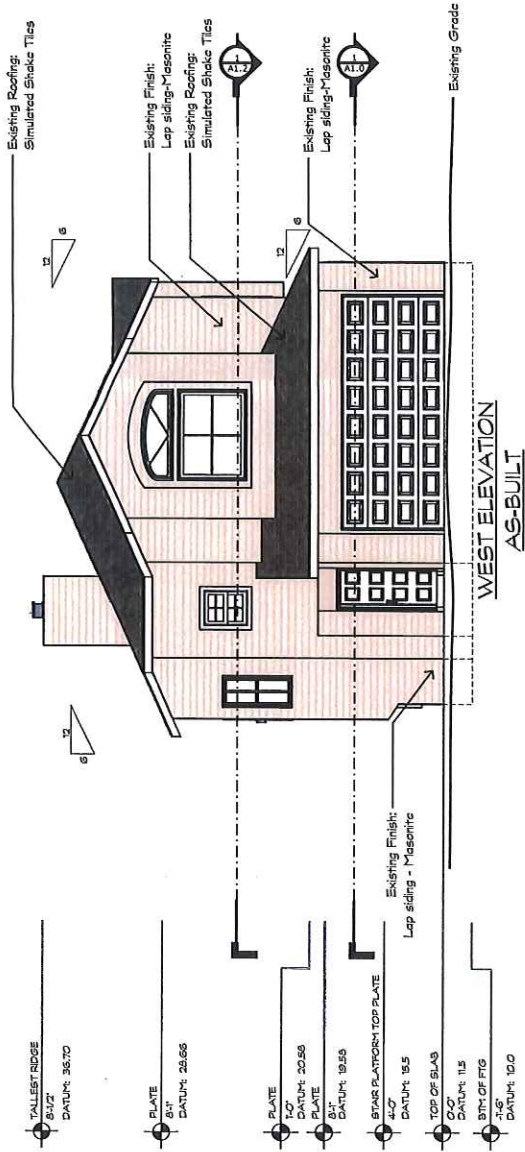
PROJECT
Papaya St. Addition & Remodel
 PLAN No. 170415-01

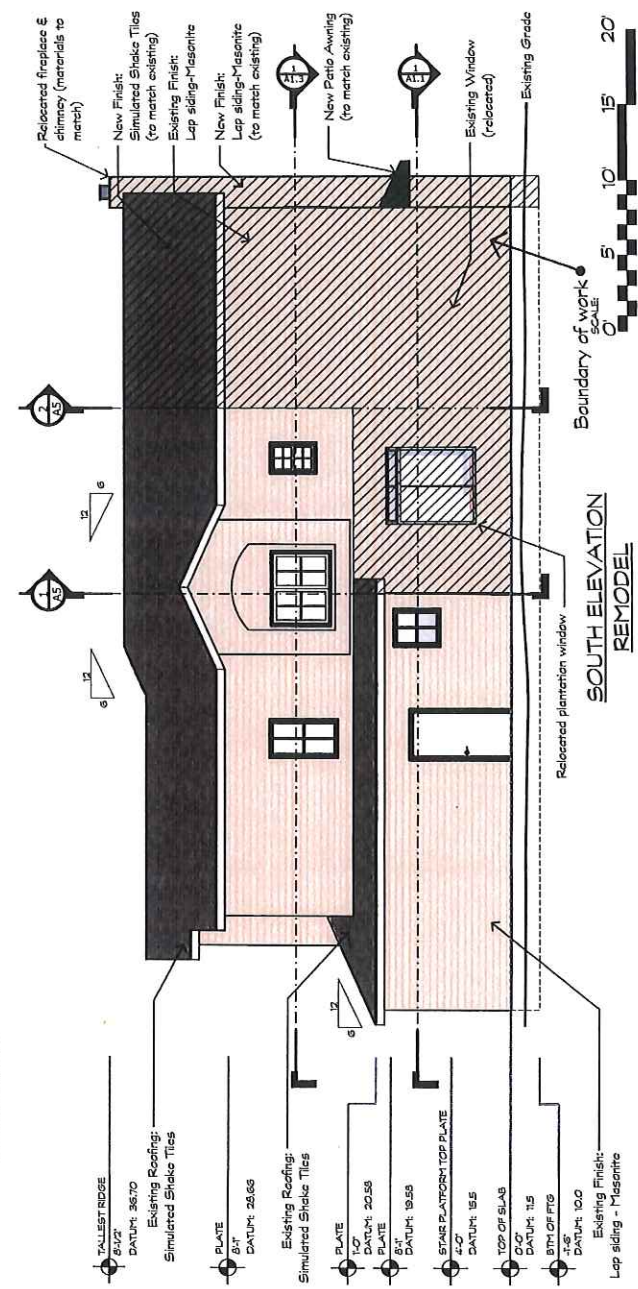
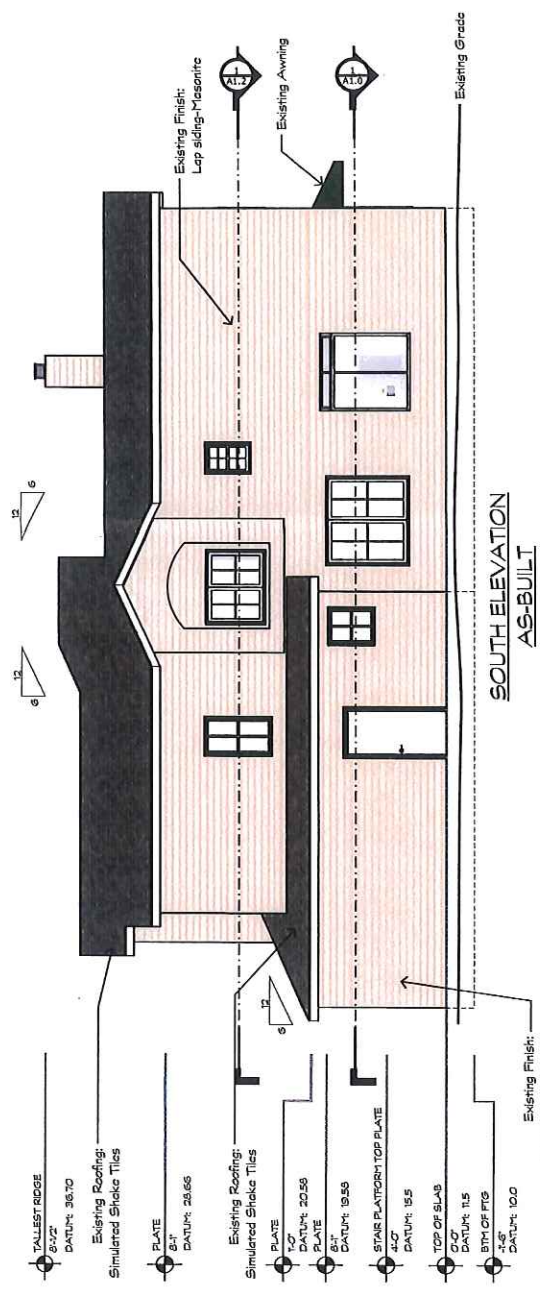
PROJECT LOCATION
 36631 Papaya St.
 Newark, CA 94560
 Tel: 818.523.9978
 Email: mhuff05@hotmail.com

ISSUE
 04.22.2017

DESCRIPTION
WEST EXTERIOR ELEVATIONS

A2.0 EXHIBIT Ap8





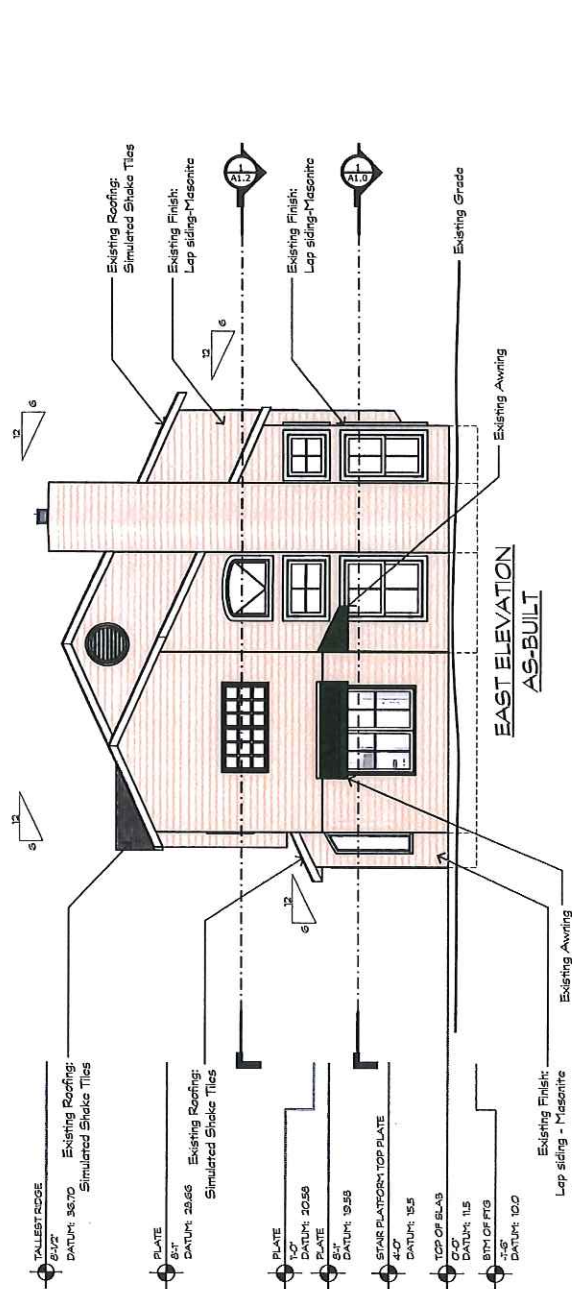
DRAWN BY
 Michael Huff
 36831 Papaya St.
 Newark, CA 94560
 Tel: 818.523.9978
 Email: mhuff05@hotmail.com

Papaya St. Addition & Remodel
 PROJECT
 PLAN No. 170415-01

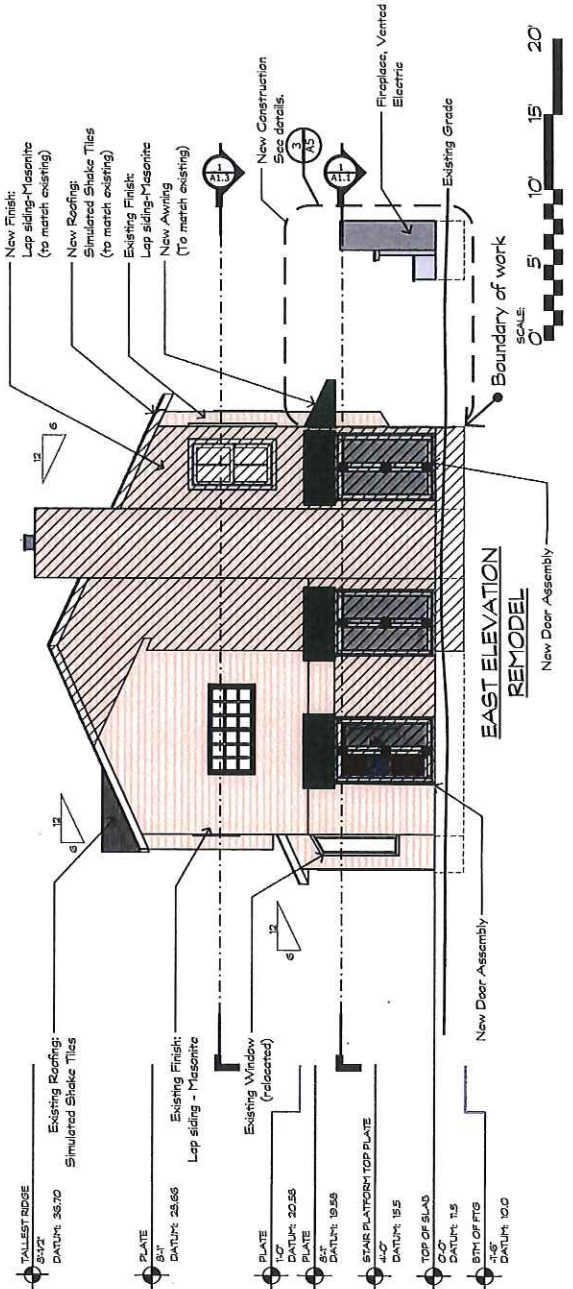
PROJECT LOCATION
 36831 Papaya St.
 Newark, CA 94560
 Tel: 818.523.9978
 Email: mhuff05@hotmail.com

ISSUE
 04.22.2017
 DESCRIPTION
SOUTH EXTERIOR ELEVATIONS

A2.1
EXHIBIT A p 9



**EAST ELEVATION
AS-BUILT**



**EAST ELEVATION
REMODEL**

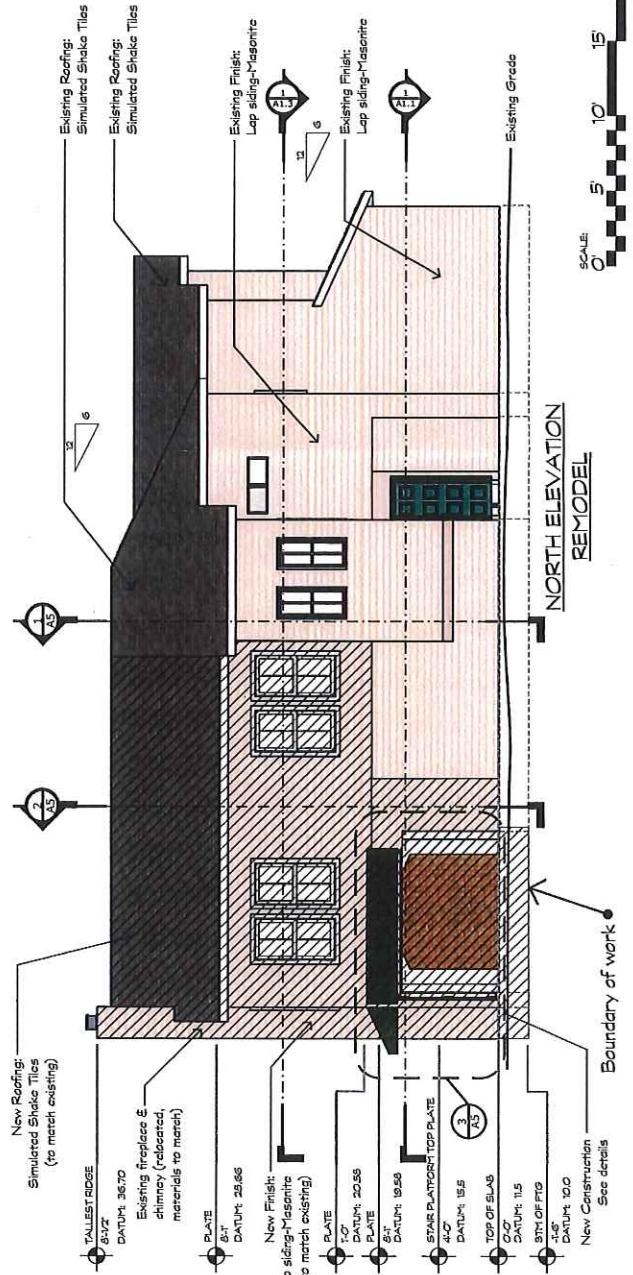
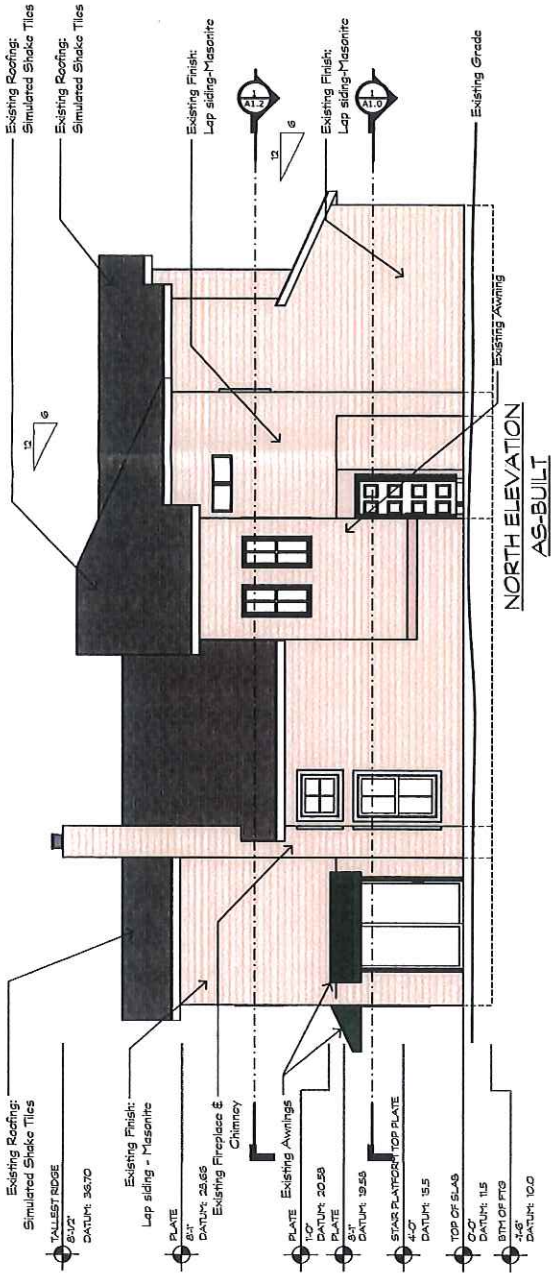


DRAWN BY
Michael Huff
36831 Papaya St.
Newark, CA 94560
Tel: 818.523.9978
Email: mhuff05@hotmail.com

PROJECT
Papaya St. Addition & Remodel
PLAN No. 170415-01

PROJECT LOCATION
36831 Papaya St.
Newark, CA 94560
Tel: 818.523.9978
Email: mhuff05@hotmail.com
ISSUE
04.22.2017

DESCRIPTION
**EAST EXTERIOR
ELEVATIONS**



DRAWN BY
 Michael Huff
 36631 Papaya St.
 Newark, CA 94560
 Tel: 818.523.9978
 Email: mhuff05@hotmail.com

PROJECT
Papaya St. Addition & Remodel
 PLAN No. 170415-01

PROJECT LOCATION
 36631 Papaya St.
 Newark, CA 94560
 Tel: 818.523.9978
 Email: mhuff05@hotmail.com
 ISSUE
 04.22.2017

DESCRIPTION
NORTH EXTERIOR ELEVATIONS

A2.3
EXHIBIT
 April



May 22, 2017

The Director
Community Development Department
City of Newark
3701 Newark Boulevard
Newark, CA 94560-3796

Attn: Planning Division

SUBJECT: APPEAL TO PROPOSED ADDITION to A SINGLE FAMILY DWELLING
AT 36831 PAPAYA STREET, NEWARK –CITY FILE NO. SFDR2017-006

This is a joint appeal letter(s) to the above mentioned project by two households

1. Kapil Bajaj and Raji Bhatia, 36913 Papaya Street, Newark CA 94560
2. Walter & Yesim Rommel, 36923 Papaya Street, Newark CA 94560

Enclosed are both letters and a check for \$100 to city of Newark.

Thank you for your consideration.

Kapil Bajaj and Rajinder Bhatia
36913 Papaya Street
Newark, CA 94560

May 22, 2017

The Director
Community Development Department
City of Newark
37101 Newark Boulevard
Newark, CA 94560-3796

Attn: Planning Division

SUBJECT: APPEAL TO PROPOSED ADDITION TO A SINGLE FAMILY DWELLING
AT 36831 PAPAYA STREET, NEWARK – CITY FILE NO. SFDR2017-006

Dear Sir/Madam:

We are resident at Pacific Landing, 36913 Papaya Street, Newark CA 94560, since August 2010. This is an appeal of the Community Development Director's decision of proposed addition to a single family dwelling at 36831 Papaya Street (City File No. SFDR2017-006).

We are the most impacted neighbors by the proposed construction at 36831 Papaya Street. We share a common boundary in the back. Our major concerns due to this are our backyard privacy, view, use and value. Our detailed reasons for the appeal to this proposed construction are:

- Privacy Related Issues:
 1. The new window on the proposed upper floor looks directly in our hot-tub area. This will force us to cover the hot tub area for privacy and cost that we don't want to incur.
- View Related Issues:
 1. The proposed extension structure will be tall and block about 30% of view. Our backyard is already neighbor-locked and the patio only open on the east-side. Any additional structures in that direction will essentially ruin enjoyment of our patio and backyard. As we understand, in the past, the courts have made determination that the "view" was the original view when the houses were built. The courts even decided that a neighbor who was building a second story on his house unreasonably obstructed the view. In such cases, court ordered to remove second story.
 2. The new structure is going to be too close and blocking, becoming similar to the new high density neighborhoods coming up where you can look into other's bedrooms. The existing openness is the most attractive feature of this community.

- Value Related Issues:
 1. In *Zabrucky v. McAdams* (2005), as part of its analysis, the court found that to significantly obstruct any owner's view would depreciate the economic worth of their property as well as dramatically reduce their enjoyment of their home. Since much of the value of properties depended on their views, the court broadly interpreted the CC&Rs to prohibit second stories.
 2. The project increases value of our neighbor's property value at cost of our property unless we also make a similar extension. Our backyard is the most valuable feature of our property for us. Any changes limiting its use, view and privacy will affect value of our property.
 3. The impact of the proposed construction for us is so great that we will be forced to sell our property and/or move out. We believe disclosing proposed construction to future buyers is likely to adversely affect number of bidders and thereby reduce our property value. Even we wouldn't have purchased the property if the proposed construction was done before we bought it.
 4. If the current proposed construction goes through and the property is sold in near future, we'll still be stuck with imposing structure that is too close and looking into our backyard. The impact on us will be permanent.

- Creating a new model in the neighborhood:
 1. New model due to single roof design and chimney location is at variance with rest of the neighborhood. This will create a precedence for new constructions in the community with new and different models coming up which will result in the community losing its nice look and attractiveness. There is also the danger that it will set a precedent in the community for homeowners to start creating other models.
 2. ACC approval letter dated May 2, 2017, clearly states that the decision is based on remodel design submitted on March 4th 2017. This design as sent to us and community neighbors had a two level roof which is consistent with the current design of other houses. However, the final plans submitted and approved by the city are a single level roof, a new model very different from any of the existing designs.
 3. Chimney location - all houses in the community currently have the chimney in center or on the side. None of houses have it right in the back close to the boundary in the back. The tall chimney in the back is not only an eyesore but also a potential fire hazard close to the common boundary.

- Other impacts related to actual construction in this area for us as nearest neighbors are
 1. Dust and noise during the construction phase.
 2. Potential long term structural damage due to vibrations from the construction equipment.
 3. Our backyard and patio will be not useable during the constructions period. We have lots of friends and family visits scheduled for this summer.
 4. If will also affect use of common area of community park by all the residents.

- Architectural Control Committee (ACC) and HOA approval irregularities:
 1. There are the procedural issues related to this project approval by ACC which raise concerns about the HOA's compliance with the procedures set forth in the CC&Rs, By-Laws.
 2. There has been complete lack of transparency at HOA and ACC level with respect to this project. There were no community meetings to discuss this project and even after repeated requests to HOA/ACC regarding our concerns, no effort was made by HOA/ACC to involve us or any other community members in making a decision regarding this project. We were not informed of the decision or provided with the minutes of meeting regarding the proposed extension by ACC/HOA even after repeated requests. We had to request the ACC approval letter from the city.
 3. This lack of communication by HOA in our community is quite recent as a new HOA board took over on March 24, 2017. Mr. Michael Huff, the resident of 36831 Papaya Street, proposing the extension to his house, became President of the HOA shortly after submission of this project. Ms. Jennifer Huff became a member of the ACC soon after. While we understand both of the Huffs have recused themselves from consideration of the issue, there is still a clear appearance of a conflict of interest.
 4. We visited the City Hall and were suggested that we discuss our concerns with our neighbor. Accordingly, we held a meeting on April 15, 2017 in our backyard with our neighbor along with HOA members for over an hour to demonstrate the impact of changes to all the HOA members and even offered a compromise solution to construct only lower floor extension only. However, there was no follow-up meeting with ACC and HOA. There seems to be a clear conflict of interest and we have not received fair representation at HOA level. The HOA has completely ignored the intent and spirit of the CC&Rs and HOA by-laws. ACC approval letter received by the city at this point is in dispute and we are trying to resolve it at community level. If city issues a permit, a resolution at HOA/ACC level will be meaningless.

We earnestly request the city to take our concerns/appeals into consideration and not issue permit for this major construction/extension at 36831 Papaya Street, Newark, CA.

Yours Sincerely,



Kapil Bajaj and Raji Bhatia
36913 Papaya Street, Newark CA 94560
Home: (510) 896 8954

Walter & Yesim Rommel
36923 Papaya Street
Newark, CA 94560

May 22, 2017

The Director
Community Development Department
City of Newark
3701 Newark Boulevard
Newark, CA 94560-3796

Attn: Planning Division

**SUBJECT: APPEAL TO PROPOSED ADDITION to A SINGLE FAMILY DWELLING
AT 36831 PAPAYA STREET, NEWARK –CITY FILE NO. SFDR2017-006**

Dear Sir/Madam

We are a resident at Pacific landing, 36932 Papaya Street since 2004. We are appealing the Community Development Director's decision of proposed addition to a single family dwelling at 36831 Papaya Street (City File No. SFDR2017-006).

Presently our community consists of 46 homes and we have 3 different model homes, we have lived here since 2004. The proposed addition would change our community's consistent and cohesive look. This essentially would create a new model home. **The Chimney location does not match any existing home in our community and roof design by adding a loft also does not match any existing home in our community.** This will create precedence for new constructions in the community with new and different models being fit into small lots sizes negatively impacting other home owners. This would also take away from the openness between existing homes which sets our community apart from the new construction in the area that is presently being built.

There are also concerns with regards to ACC approval of the extension project. As a previous Board of Director of Pacific landing HOA for 9 years, we had ensured that two groups, HOA and ACC, were independent and transparent with different homeowners for each position on the BOD and architectural committee. We have always kept 5-6 different homeowners active in the HOA and AC (one house one vote principle).

The new board initially had two households with members in both HOA and ACC. Eventually one of the ACC member resigned. However, Mr. Michael Huff and Ms. Jennifer Huff both continue to hold position in HOA and ACC even though there are many other resident volunteers available for ACC.

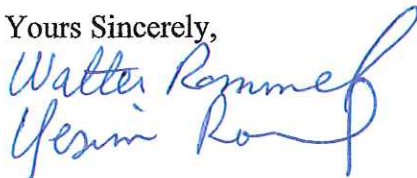
With two members in ACC and Ms. Jennifer Huff's recusal from voting on the extension project for her house, it has left only one member of the ACC, Ms. Soriano, to make a decision on the project. As a result, two of the board members, Mr. Dignin and Mr. Behl, have undertaken to act both as the ACC and HOA Board in acting upon this project. Not once was I contacted by Ms. Soriano with regards to this project for my input or concerns prior to the vote. Also, there was never a formal open board meeting held in regards to this construction project prior to the vote. A minimum posting of four to 30 days was not given. We are aware that sometimes, because of the difficulty of finding volunteers (which was clearly not the case in this situation), it is not uncommon that boards take over the duties of the ACC. When that happens, architectural business becomes board business which, in turn, requires minutes. Which in turn requires formal notification. Also, under these conditions, minutes of the board/architectural meeting must be kept. In such a special case, with HOA members acting as ACC, they should have released the minutes of the meeting regarding decision on the extension, which is not the case here. Minutes must also be permanently available for inspection.

In view of the above lack of communication and meeting minutes' access, it is difficult to know if the ACC approval for this extension project is for the first plans (submitted on March 4th) with two level roof or the new plans with the single roof. Did the ACC even notice the discrepancy of the chimney location? How does ACC justify the new model in the community with single roof, as this will be clearly visible from the street and common area?

We understand that city doesn't interfere in HOA and ACC functioning. In this case, the ACC approval for a project which creates a new model which will be clearly visible from the street makes it necessary to also consider HOA and ACC issues for this project.

We earnestly request the city to take our concerns/appeals into consideration and not issue permit for this major construction/extension at 36831 Papaya Street, Newark, CA.

Yours Sincerely,



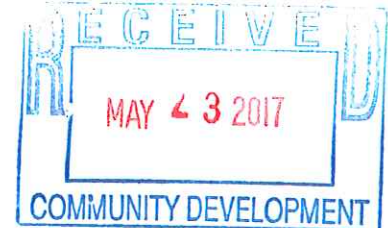
Walter Rommel

Yesim Rommel
Walter & Yesim Rommel
36923 Papaya Street
Newark, CA 94560

Arun Bhatnagar
36927 Papaya St.
Newark, CA- 94560

May 22, 2017

The Director
Community Development Department
City of Newark
3701 Newark Boulevard
Newark, CA 94560-3796



Attn: Planning Division

**SUBJECT: APPEAL TO PROPOSED ADDITION TO A SINGLE FAMILY DWELLING
AT 36831 PAPAYA STREET, NEWARK – CITY FILE NO. SFDR2017-006**

Dear Sir/Madam

We are a resident at Pacific landing, 36927 Papaya Street since 2004. We are appealing the Community Development Director's decision of proposed addition to a single family dwelling at 36831 Papaya Street (City File No. SFDR2017-006).

We live on the backside of subject property who is in the process of planning to add an extension up to roof top to his backside of his home. I am writing to **object to above extension** & ask you (City of Newark) to refuse this planning application from Michael & Jennifer Huff.

Here are our comments and objections relating to this planning application:

- It will overlook our property; this will lead to a **loss of privacy** and will certainly impact on the peaceful enjoyment of our home and backyard. The elevation would present an overbearing and intrusive element to those neighbors at the rear of property.
- Overshadowing, **blocking the view** and **loss of light/air** will take place due to this backside obstructive extension.
- The extension up to such a height will be visually overbearing which is inappropriate for this part of neighboring homes. Such a large constructed extension would be totally out of keeping with the neighboring homes. **Exterior symmetry of extension will adversely affect to all homes in community. Specifically, the chimney which is currently not even visible from back of our house and yard, will be blatantly visible, will be closer and will ruin the limited view completely.**

- **Due to aforementioned reasons the value of my property will be adversely affected.**
- Traffic is continuous on street and congested road; this additional concentration of construction of traffic and roadside parking of construction company vehicles/workers will **cause traffic problems and create a safety hazard** to all motorists & especially to children & elderly people walking & playing next to Children Park which is adjoining to subject property.
- The construction company utility vehicles and worker's vehicle will **reduce the amount of legitimate** car parking on the street which is unacceptable. Insufficient parking space will adversely affect the surrounding properties through roadside parking on this narrow curvy lane. During the construction stage **the possible noise, dust and disturbances will also be a great concern.**

In my personal experience when I was constructing a shed in my backyard, we were asked by the then HOA to reduce the height of the shed as it was becoming the eyesore for the neighbors. The city at that time had no objection related to the height of the shed. We had multiple meetings in this regard with neighbors. However, being a good neighbor and in the larger interest of the community, I agreed with the ACC & HOA recommendations at that time to reduce the height of the shed to just the fence height.

In contrast, in the current situation none of the ACC/Board members have even asked, called or emailed us on the house extension which is directly behind my house. This is probably because the new President of the Board, Mr. Huff, is the one extending his house leading to a clear conflict of interest.

In view of above we ask you to refuse this extension planning application of Michael & Jennifer Huff (Property owner 36861 Papaya St.). Should you require any information do not hesitate to contact me at above mentioned address.

I am submitting this letter of appeal along with a check of \$100 to the city of Newark.

Sincerely,



Arun Bhatnagar
35927 Papaya St.
Newark, CA- 94560



PACIFIC LANDING HOA
BOARD OF DIRECTORS



May 2, 2017

Michael & Jennifer Huff
36831 Papaya Street
Newark, CA 94560

RE: 36831 Papaya Street Remodel

Dear Michael and Jennifer Huff,

We are in receipt of your proposed remodel designs for the aforementioned project. The following is based on your submission of the Pacific Landing Architectural Control Committee application, remodel design, and supporting documents on March 4th 2017.

Per the Architectural Procedures and Guidelines and the Declaration of Covenants, Conditions, and Restrictions of the of the Pacific Landing Common Interest Development– Article 8, Section 3 & 5 on page 27, the plans, as submitted are **APPROVED**.

Per the Declaration of Covenants, Conditions, and Restrictions of the of the Pacific Landing Common Interest Development – Article 8, Section 6 on page 27, the Architectural Control Committee is issuing an **APPROVAL NOTIFICATION** – a notice that informs you that your plans have been approved as submitted.

As part of the approval for the requested construction project, the Architectural Control Committee asks that the following conditions are met, as discussed in prior correspondence:

- In order to help maintain the tranquility of the neighborhood, outdoor construction and demolition shall occur during the work week (Mon.-Fri.), between 8am-6pm, and not on national holidays.
- Reasonable effort is made to remove debris and garbage in an orderly timely manner.
- Changes and/or updates to the proposed project are brought forth in writing to the Architectural Control Committee in a timely manner, so that said changes/updates may be properly reviewed.

If you should have any questions or concerns regarding the decision made by the Architectural Control Committee pertaining to the architectural proposal for your property, please don't hesitate to contact the Pacific Landing HOA Board of Directors.

Sincerely,

 5/2/17
Kevin Dignin, Vice President, kevdigger@yahoo.com

 5/2/17
Rohit Behl, Treasurer, rohit.behl@gmail.com

 5/2/17
Vivian Soriano, ACC Chairman, mayfools@yahoo.com



Legend

----- PUD boundary

----- Subject property- 36831 Papaya St

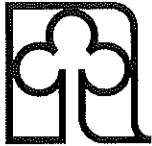
Appellants

① 36913 Papaya St

② 36927 Papaya St

③ 36923 Papaya St

SFDR2017-006: Location map



F.2 Review and consideration of recommending City Council approval of the Citywide Parks Master Plan – from Assistant City Manager Grindall. TG (MOTION)

Background/Discussion: Since May of 2016 City staff and RHAA Landscape Architecture and Planning Inc. have been conducting a comprehensive Planning program to: 1) identify the recreation needs of all segments of the Newark community; 2) assess the “gaps” not being presently met by existing park facilities; 3) develop conceptual plans for each of Newark’s parks; and 4) identify priority projects in consultation with the community.

There have been four well attended community meetings as this plan was developed. Public input was critical to the development of this plan.

The City of Newark operates and maintains 131 acres of City parks and several recreational facilities. Of this total, 121 acres are owned by the City and 10 acres are leased from the Newark Unified School District. There are 13 parks in the City, including eight neighborhood parks, three community parks, the Shirley Sisk Grove and the MacGregor Play Fields. The City also owns and operates the Silliman Activity and Family Aquatic Center, the Clark W. Redeker Newark Senior Center, and the Newark Community Center.

There are 3-acre and 5-acre parks proposed in the Dumbarton Transit Oriented Development, a 3-acre joint use park planned in the Sanctuary Development (Area 3) and a 2-acre park envisioned in Sanctuary West (Area 4). There are also 110 acres designated for a golf course or other recreational use at the southern end of Mowry Avenue. In addition to City owned parks, there are privately owned mini parks in some neighborhoods.

Although the City has Master Plans for individual parks, there has never been a comprehensive Citywide plan for park facilities. The master planning process has identified improvements that would require more that \$40 Million dollars to implement. This far exceeds our financial capacity, therefore priority projects were identified and will be recommended for shorter term implementation. The highest priority improvements identified in the Master Plan are:

- All-weather turf fields at Sportsfield Park.
- A Skate Park at Sportsfield Park.
- Dog Parks at Birch Grove Park, Community Park, and the future Bayshores Park.

The proposed Master Plan with detailed plans, analysis and cost projections is attached. Staff recommends that the Planning Commission approve the Citywide Parks Master Plan and recommend that the City Council also approve the Citywide Master Plan.

Attachment

Action - It is recommended that the Planning Commission by motion, approve the Citywide Parks Master Plan and recommend that the City Council approve the Citywide Parks Master Plan.