

# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 10/13/2016

**FROM:** Julia Capasso, Associate Planner, via John Swiecki, Community Development Director

**SUBJECT:** **500 Sierra Point Road; Use Permit UP-6-16;** Use Permit to modify the parking regulations to allow two (2) uncovered, on-street parking spaces, where one (1) covered and two (2) uncovered, off-street spaces are required for the existing 860 sq. ft. home and proposed conversion of a 538 sq. ft. accessory building to a secondary dwelling unit; Jerry Kuhel, Kuhel Design, applicant; Seth Bowden, owner; APN 007-431-140.

**REQUEST:** The applicant requests approval of a use permit to allow two uncovered, on-street parking spaces, where one covered and two uncovered spaces are required to serve the existing 860 sq. ft., two-bedroom single-family home and 538 sq. ft., one-bedroom secondary dwelling unit. The secondary dwelling unit is located within an existing accessory building in the property's rear yard. It should be noted that the secondary dwelling unit was established without the benefit of a secondary dwelling unit permit and is currently subject to code enforcement action. The requested Use Permit is required in order for the secondary dwelling unit to be legalized.

The 5,298 sq. ft. property has a slope of 21%. The property is elevated above the street between 5 ft (at the northeast property corner) and 14.5 ft (approaching the northwest property corner), and is accessed by a stairway at the western side lot line. An existing paved area accommodates one compact, on-street parking space in the public right-of-way adjacent to the front lot line.

The applicant proposes grading the rocky hillside adjacent to the property's front lot line and construction of a 4.5 ft- 7 ft retaining wall, wholly within the public right-of-way, to accommodate an additional parallel parking space. The proposed parking area would be 8 ft wide and 40 ft deep, accommodating two parallel parking spaces within the public right-of-way.

**RECOMMENDATION:** Conditionally approve Use Permit UP-6-16, via adoption of Resolution UP-6-16 with Exhibit A containing the conditions and findings of approval.

**ENVIRONMENTAL DETERMINATION:** Conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure is categorically exempt from the provisions of the California Environmental Quality Act per Section 15303(a) of the CEQA Guidelines. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.

**APPLICABLE CODE SECTIONS:** Parking requirements are established in Brisbane Municipal Code (BMC) §17.34.020. BMC §17.34.050.I authorizes the Planning Commission to approve modifications to the parking requirements, subject to special findings within that section in addition to the findings contained in BMC Chapter 17.40, Use Permits.

**ANALYSIS AND FINDINGS:**

In order to grant a Use Permit to modify the parking regulations for this project, the Planning Commission must make the findings contained in BMC §17.40.060, as well as special findings contained in BMC §17.34.050.I, listed below. The application **would meet** these findings.

- The planning commission shall consider and give due regard to the nature and condition of all adjacent uses and structures, and to general and specific plans for the area in question.

The subject property is located in Central Brisbane in the 500 block of Sierra Point Road, at its intersection with San Benito Road. The applicant's proposed parking plan would not change the property's existing single-family use, which is consistent with the underlying R-1 zoning district regulations and General Plan land use designation. The zoning ordinance allows secondary dwelling units on properties at least 5,000 sq. ft. in area in the R-1 and R-BA zoning districts, subject to compliance with maximum unit size and minimum parking requirements.

In this particular case, the existing accessory structure proposed to be converted to a secondary dwelling unit encroaches within the rear (south) and side (west) setbacks. Based on information in the property file, this is an historic encroachment and the structure is considered a nonconforming structure. The City has issued building permits over the past two decades for minor expansion of the structure and to improve its interior for use as an office space, including a kitchenette. As the existing dwelling is already treated, habitable space, conversion to a secondary dwelling unit is permitted under BMC Chapter 17.38, Nonconforming Uses and Structures.

- The planning commission shall determine whether or not the establishment, maintenance or operation of the use applied for will, under the circumstances of the particular case, be detrimental to the health, safety, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city.

The project would meet this finding. As noted above, the proposed secondary dwelling unit complies with the underlying zoning and land use designations. The California Building Code will govern all physical improvements or treatments of the building's exterior to ensure that it complies with fire safety regulations. Staff has recommended a condition of approval that the applicant demonstrate to the satisfaction of the Building Official that the building complies with all applicable building and fire code regulations prior to issuance of the Secondary Dwelling Unit

Permit by the Planning Director. This application was reviewed by the Building Official and North County Fire Authority for review, and no concerns were raised with the proposed secondary dwelling unit.

Additionally, the proposed improvements to the public right-of-way to accommodate the additional on-street compact parking space would be subject to a grading permit in compliance with Title 12 requirements, subject to review and approval by the City Engineer. These improvements include grading of the rocky slope adjacent to the front lot line and construction of a retaining wall ranging from 4.5 ft – 7 ft in height above the street elevation. The Commission should note that the City Engineer retains exclusive purview over the proposed grading and retaining wall construction, as all activity would be located within the public right-of-way. Both the City Engineer and the Building Official will require a soils report and preliminary geotechnical report, among other numerous requirements, prior to issuance of the requisite permits for work within the right-of-way.

- Strict enforcement of the specified regulation is not required by either present or anticipated future traffic volume or traffic circulation on the site.

The project would meet this finding. The proposed additional parking space would improve the availability of parking in the neighborhood, and due to the proposed secondary units small size, can reasonably be expected to accommodate the parking demand of a future tenant. Any future expansion of either the home (such that it exceeds 1800 sq. ft.) or secondary dwelling unit (such that the unit area exceeds 900 sq. ft. or a bedroom is added) would trigger parking compliance.

- The granting of the use permit will not create or intensify a shortage of on-street parking spaces, given, for example, the availability of existing or improved on/off-street parking which may not fully meet the requirements of [BMC Chapter 17.34].

The project would meet this finding. Generally, on-street parking in Central Brisbane is limited, considering the narrow roadway widths and difficulty of providing on-site parking on hillside lots. However, as previously noted, the proposed parking plan would add an additional on-street parking space along the property's frontage, allowing the secondary dwelling unit tenant parking to be located adjacent to the subject property without impacting on-street parking availability for neighboring properties.

The applicant has submitted photos taken in the vicinity of the subject property showing parking conditions at the site and in the neighborhood on a given weekday. These photos show the existing paved parking area adjacent to the subject property proposed for improvement, and illustrate the general lack of on-street parking on the south side of the 500 block of Sierra Point Road which would be improved by the project.

- Full compliance with the parking requirements is not reasonably feasible due to existing structural or site constraints.

The project would meet this finding. The property is elevated between 5 ft- 14.5 ft above the street, which nearly eliminates the potential to accommodate on-site parking without extensive grading and excavation of the hillside. Any hillside excavation would be challenging and costly to the applicant due to the rocky nature of the soil. Based on the these two limiting factors, provision of on-site parking is not reasonably feasible.

Further, only two parallel parking spaces can be accommodated adjacent to the property's approximately 58 ft frontage due to the minimum dimensions required by BMC 17.34.040, which require parallel parking spaces to be at least 8 ft by 20 ft. The applicant's proposed parking plan thus represents the maximum amount of improved on-street parking that may reasonably be provided along the property frontage.

**ATTACHMENTS:**

- Draft Resolution UP-6-16 with recommended Findings and Conditions of Approval
- Aerial site map
- Application review spreadsheet
- Applicant's site photos
- Applicant's plans

Draft  
RESOLUTION UP-6-16

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE  
CONDITIONALLY APPROVING USE PERMIT UP-6-16  
TO MODIFY THE PARKING REGULATIONS  
FOR A SINGLE-FAMILY HOME AND PROPOSED SECONDARY DWELLING UNIT  
AT 500 SIERRA POINT ROAD

WHEREAS, Jerry Kuhel, of Kuhel Design, applied to the City of Brisbane for a Use Permit to modify the parking regulations for a two-bedroom, 860 square-foot single-family dwelling and proposed one-bedroom, 538 square-foot secondary dwelling unit at 500 Sierra Point Road, such application being identified as UP-6-16; and

WHEREAS, on October 13, 2016, the Planning Commission conducted a hearing of the application, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the staff memorandum relating to said application, and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; pursuant to Section 15303(a) of the State CEQA Guidelines; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein, as Exhibit A, in connection with the requested use permit;

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of October 13, 2016 did resolve as follows:

Use Permit UP-6-16 is approved per the findings and conditions of approval attached herein as Exhibit A.

ADOPTED this 13<sup>th</sup> day of October, 2016, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
TuongVan Do  
Chairperson

ATTEST:

\_\_\_\_\_  
JOHN A. SWIECKI, Community Development Director

DRAFT  
**EXHIBIT A**

**Action Taken:** Conditional approval of Use Permit UP-6-16, per the staff memorandum with attachments, via adoption of Resolution UP-6-16.

**Findings:**

**Use Permit UP-6-16**

- Considering the nature and condition of all adjacent uses and structures, the project would maintain the property's existing single-family use consistent with the underlying residential General Plan land use designation. The proposed secondary dwelling unit is permitted under the land use and zoning regulations applicable to the property. There is no specific plan for the area in question.
- Given the conditions of approval, the establishment, maintenance and operation of the proposed secondary unit will not, under the circumstances of the particular case, be detrimental to the health, safety, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use. The proposed secondary dwelling unit and parking area will not be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the city.
- Due to the limited size of the existing single-family home and proposed secondary dwelling unit, and the provision of an additional on-street parking space, strict enforcement of the specified regulation will not be required by present traffic volume or traffic circulation on the site. Any future expansion of either the secondary dwelling unit or single-family home would be subject to compliance with applicable parking regulations.
- The granting of the use permit will not create or intensify a shortage of on-street parking spaces, as it would add an additional on-street parking space along the property's frontage, allowing the secondary dwelling unit tenant parking adjacent to the property without impacting the on-street parking available for neighboring properties.
- Full compliance with the parking requirements is not reasonably feasible due to existing structural or site constraints, including the elevation of the property above the street, engineering challenges posed by the property's rocky soil, and limited property frontage.

DRAFT

**Conditions of Approval:**

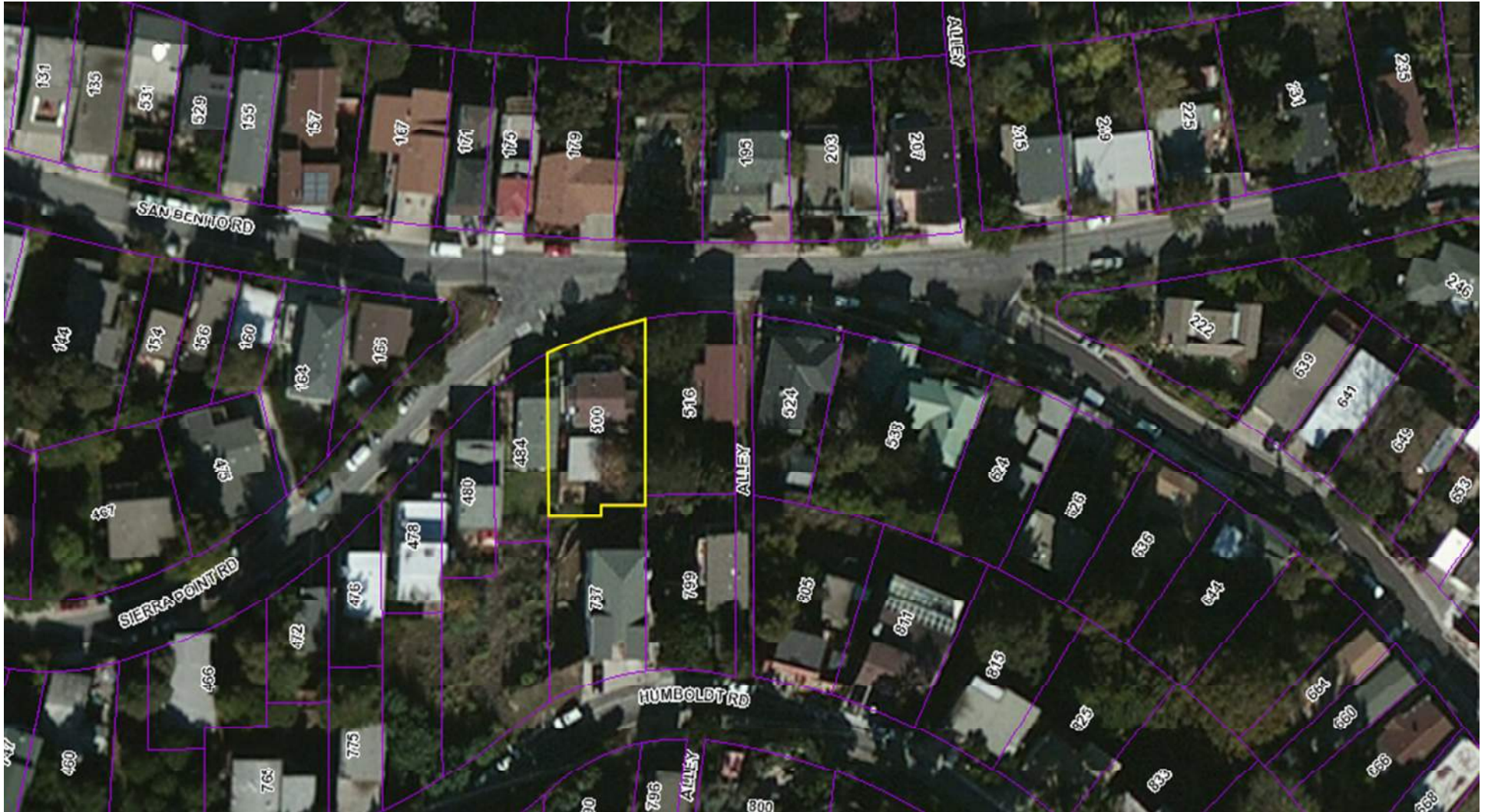
- A. The applicant shall obtain a building permit, encroachment permit, and a grading permit prior to proceeding with the public right-of-way improvements. Plans submitted for the building, encroachment, and grading permits shall substantially conform to plans on file in the City of Brisbane Planning Department to provide a paved parking area of at least 8 ft in depth and 40 ft in width, with the following modifications and additional materials:
  - 1. A storage area for refuse bins shall be identified on the subject property to ensure the improved on-street parking spaces are unobstructed. The location and treatment of this storage area shall be subject to review and approval by the Planning Director.
  - 2. Fire sprinkling of the secondary dwelling unit shall be required.
  - 3. A soils report shall be provided.
  - 4. The City Engineer may require any roadway widening necessary to provide 20 foot clear travel way, measured from edge of existing parking limit lines on the opposite side of the road.
- B. The applicant shall obtain a Secondary Dwelling Unit Permit from the Planning Director.
  - 1. The Secondary Dwelling Unit Permit application shall demonstrate compliance with all applicable California Building Code requirements.
  - 2. The Secondary Dwelling Unit Permit shall not be issued until the above-noted conditions are met, to the satisfaction of the Planning Director.

Other Conditions

- C. Required parking spaces shall not be used or converted for any other use that would impair the basic use as storage for motor vehicles.
- D. Drawings depicting all work completed and proposed shall be provided to the satisfaction of the City. Exposure of covered work may also be required to demonstrate compliance with building code requirements.
- E. The permittees agree to indemnify, defend and hold the City and its officers, officials, boards, commissions, employees and volunteers harmless from and against any claim, action or proceeding brought by any third party to attack, set aside modify or annul the approval, permit or other entitlement given to the applicant, or any of the proceedings, acts, or determinations taken, done or made prior to the granting of such approval, permit, or entitlement.
- F. Minor modifications may be approved by the Planning Director in conformance with all requirements of the Municipal Code.
- G. The Use Permit approval shall expire two years from its effective date (at the end of the appeal period) if a Building Permit has not been issued for the approved project or if the Building Permit, once issued, is allowed to expire prior to final inspection.



**Aerial Map  
500 Sierra Point Road**





## Application Review Spreadsheet

|                             |  |                                 |   |                                    |
|-----------------------------|--|---------------------------------|---|------------------------------------|
| <b>ADDRESS</b>              | 500 Sierra Point Road  |                                 |   |                                    |
| <b>APN</b>                  | 007-431-140  |                                 |   |                                    |
| <b>ZONING DISTRICT</b>      | R-1 Residential  |                                 |   |                                    |
| <b>APPLICATION #</b>        | UP-6-16 Use Permit application to modify the parking requirements to allow conversion of accessory building to SDU |                                 |   |                                    |
| <b>Development Standard</b> | <b>Existing</b>  | <b>Proposed</b>                 | <b>Min/Max</b>  | <b>Status</b>                      |
| <b>Lot Area</b>             | 5,298 SF   | -                               | 5,000 SF  | Per survey                         |
| <b>Lot Slope</b>            | 21%  | -                               | -   | Height limit = 30'                 |
| <b>Lot Coverage</b>         | 26% or 1,398 SF  | n/c                             | 40% or 2119 SF  | Complies with standard.            |
| <b>Setbacks</b>             |  |                                 |   |                                    |
| <b>W Side Lot Line</b>      | Home: 3.6'<br>Accessory structure: 0.8'  | n/c                             | 5'  | Existing nonconforming, per survey |
| <b>E Side Lot Line</b>      | Home: 12.1'<br>Accessory structure: 7.9'   | n/c                             | 5'  | Existing nonconforming, per survey |
| <b>Rear Lot Line</b>        | Home: 39'<br>Accessory structure: 2.3'   | n/c                             | 10'   | Existing nonconforming, per survey |
| <b>Front Lot Line</b>       | Home: 17.9'  | n/c                             | 10'   | Complies with standard.            |
| <b>Floor Area</b>           | 1,398 SF or 0.26 per applicant   | n/c                             | 0.72 or 3,815 SF  | Complies with standard.            |
| <b>Height</b>               | < 30'  | n/c                             | 30'   | Complies with standard.            |
| <b>Parking</b>              | Onsite: none<br>On-street: 1 uncovered, standard   | On-street: 2 uncovered, compact | Home: 2 spaces (1 covered) SDU: 1 space; all off-street | <b>Use Permit required.</b>        |

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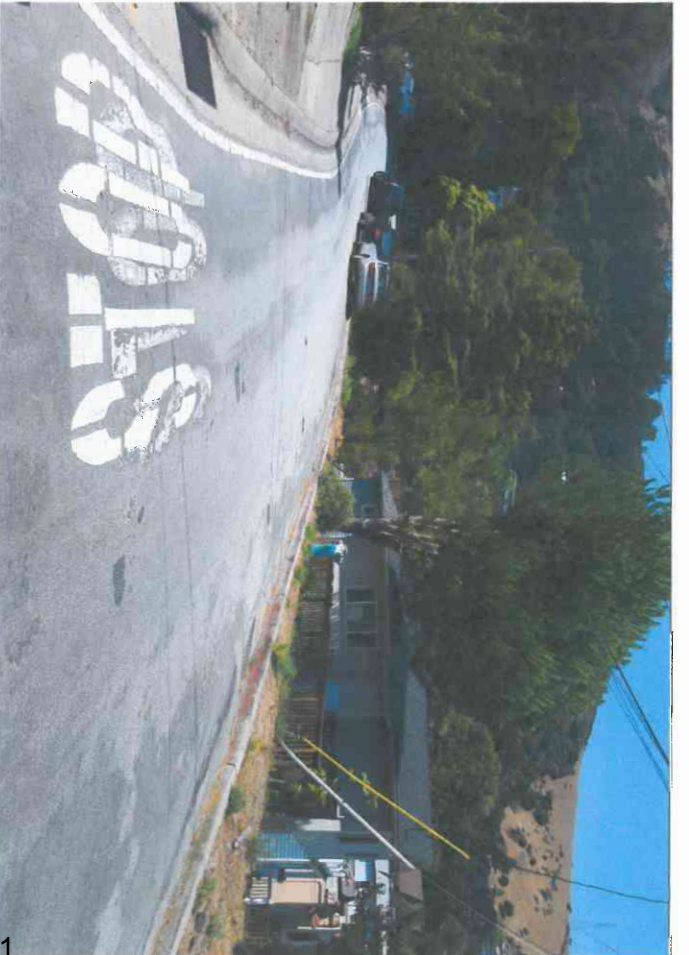
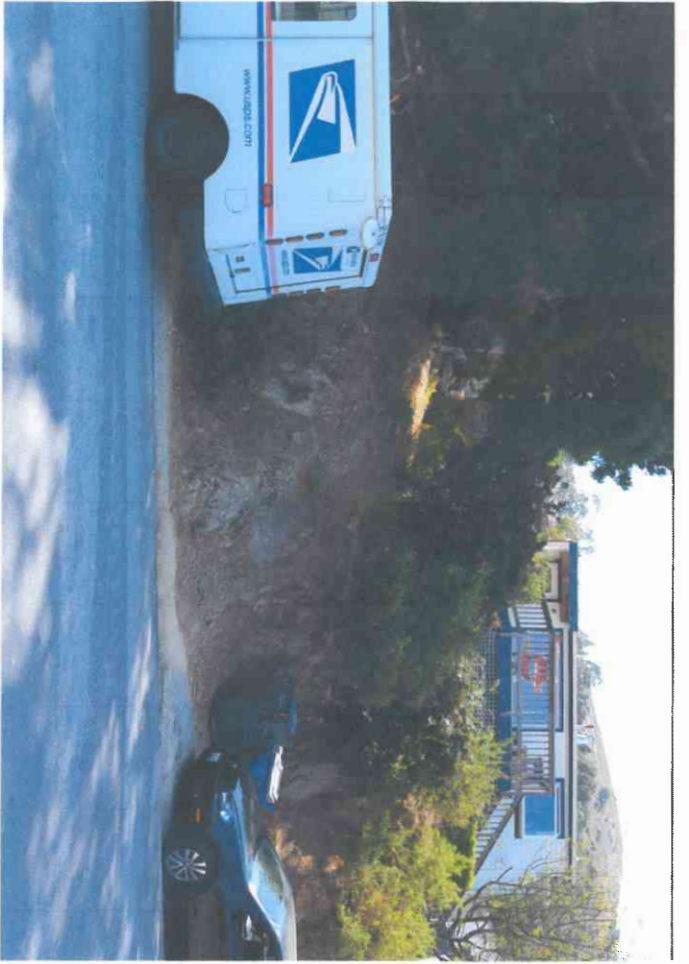
AUG 15 2013

Comm. Dev. Dept. Brisbane



G.1.10





DAY TIME





EVENING

Comm. Dev. Dept. Brisbane

**ABBREVIATIONS**

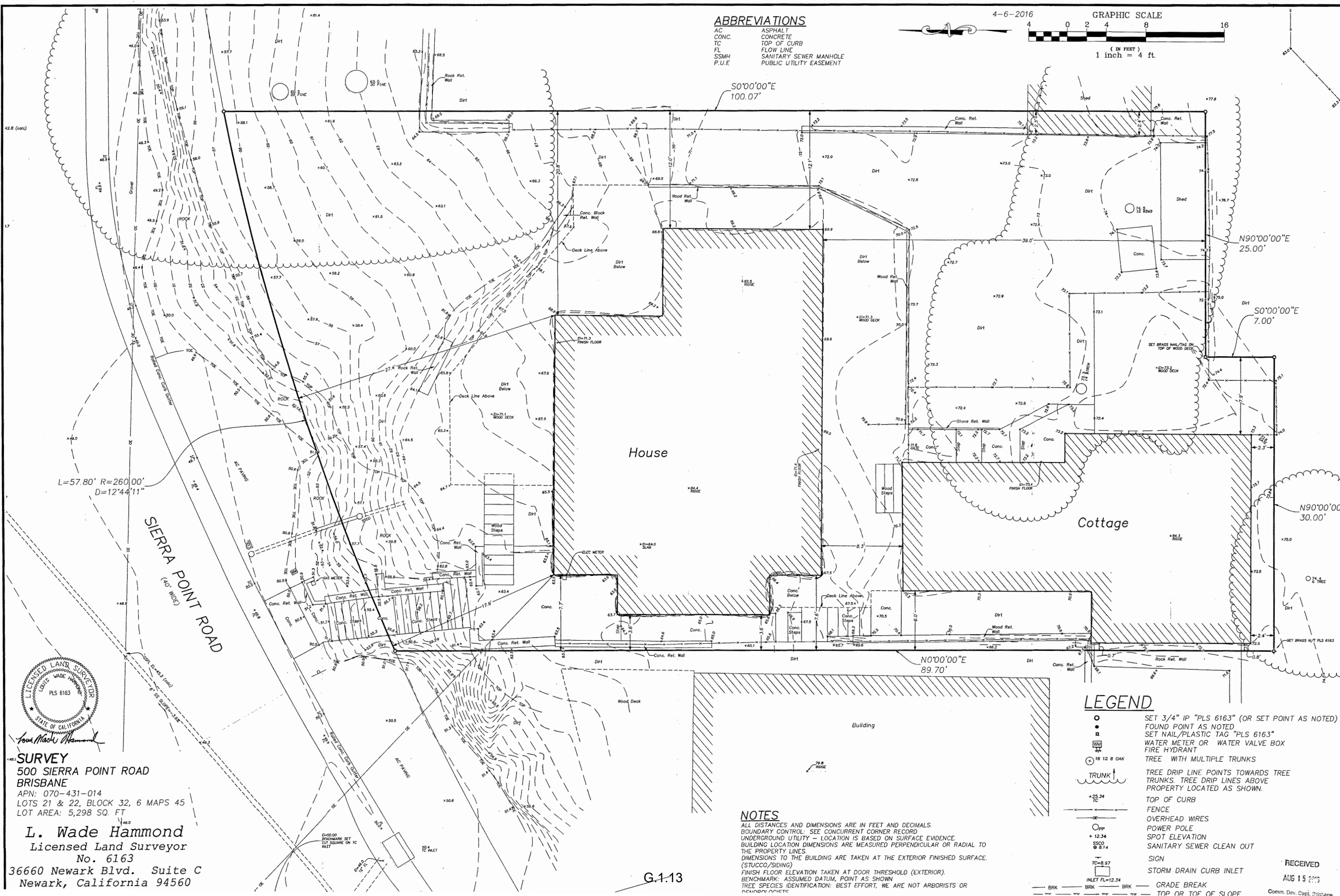
AC ASPHALT  
 CONC. CONCRETE  
 TC TOP OF CURB  
 FL FLOW LINE  
 SSMH SANITARY SEWER MANHOLE  
 P.U.E. PUBLIC UTILITY EASEMENT

4-6-2016

GRAPHIC SCALE



( IN FEET )  
 1 inch = 4 ft.



L=57.80' R=260.00'  
 D=12°44'11"

SIERRA POINT ROAD  
 (40' WIDE)

House

Cottage

Building



**SURVEY**  
 500 SIERRA POINT ROAD  
 BRISBANE  
 APN: 070-431-014  
 LOTS 21 & 22, BLOCK 32, 6 MAPS 45  
 LOT AREA: 5,298 SQ. FT.

**L. Wade Hammond**  
 Licensed Land Surveyor  
 No. 6163  
 36660 Newark Blvd. Suite C  
 Newark, California 94560

**LEGEND**

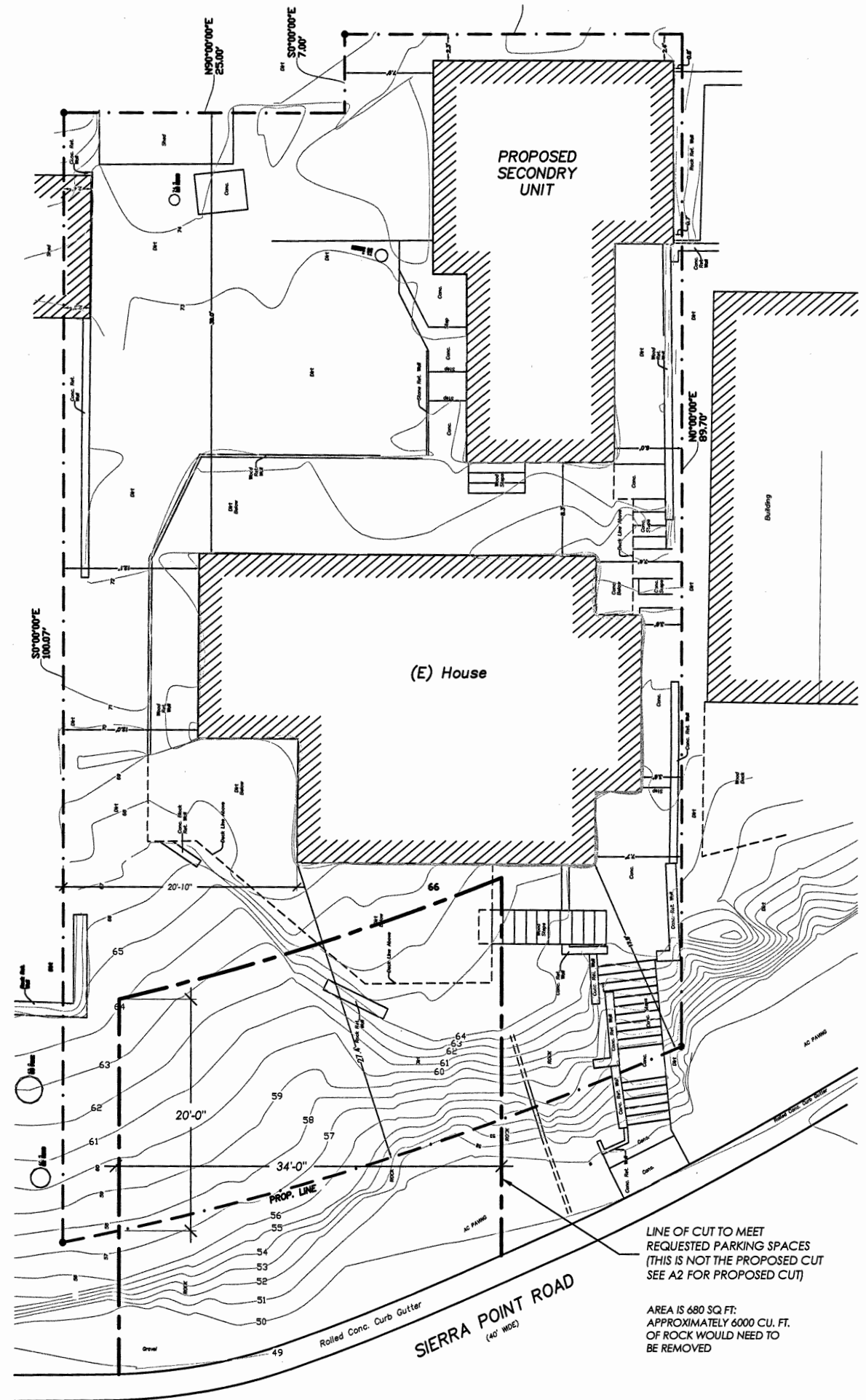
- SET 3/4" IP "PLS 6163" (OR SET POINT AS NOTED)
- FOUND POINT AS NOTED
- SET NAIL/PLASTIC TAG "PLS 6163"
- ⊠ WATER METER OR WATER VALVE BOX
- ⊞ FIRE HYDRANT
- ⊕ 16 12 8 OAK TREE WITH MULTIPLE TRUNKS
- TRUNK ↑ TREE DRIP LINE POINTS TOWARDS TREE TRUNKS. TREE DRIP LINES ABOVE PROPERTY LOCATED AS SHOWN.
- +25.34 TOP OF CURB
- FENCE
- OVERHEAD WIRES
- Power Pole
- +12.34 SPOT ELEVATION
- ⊙ S.S. 8.14 SANITARY SEWER CLEAN OUT
- SIGN
- INLET FL=12.34 STORM DRAIN CURB INLET
- BRK — BRK — BRK — GRADE BREAK
- TOP OR TOP OF SLOPE

**NOTES**

ALL DISTANCES AND DIMENSIONS ARE IN FEET AND DECIMALS.  
 BOUNDARY CONTROL: SEE CONCURRENT CORNER RECORD  
 UNDERGROUND UTILITY - LOCATION IS BASED ON SURFACE EVIDENCE.  
 BUILDING LOCATION DIMENSIONS ARE MEASURED PERPENDICULAR OR RADIAL TO THE PROPERTY LINES.  
 DIMENSIONS TO THE BUILDING ARE TAKEN AT THE EXTERIOR FINISHED SURFACE. (STUCCO/SIDING)  
 FINISH FLOOR ELEVATION TAKEN AT DOOR THRESHOLD (EXTERIOR).  
 BENCHMARK: ASSUMED DATUM, POINT AS SHOWN  
 TREE SPECIES IDENTIFICATION: BEST EFFORT, WE ARE NOT ARBORISTS OR NEARBY OBJECTS

G.1.13

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 AUG 15 2015  
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**PROJECT DATA**

500 SIERRA POINT RD. BRISBANE, CA  
 (E) SINGLE FAMILY WITH SECONDARY DWELLING  
 BOTH ARE 1 STORY WOOD STRUCTURES  
 APN: 007-431-140  
 OCCUPANCY GROUP: DWELLING R-3,  
 CONSTRUCTION TYPE: VB  
 LOT SQUARE FOOTAGE: 5298  
 EXISTING STRUCTURE SQUARE FOOTAGE: 1533 (30 % OF LOT)  
 EXISTING FLOOR AREA SQUARE FOOTAGE: 1398  
 MAIN UNIT: 860 SECONDARY UNIT: 538

**PROJECT DESCRIPTION**

ADD TWO OFF-STREET PARKING PLACES

**DRAWING INDEX**

- A1 SURVEY
- A2 PROPOSED PARKING LAY-OUT
- A3 FLOOR PLANS & WALL SECTIONS

**Kuhel  
Design**

415-508-1750  
 kuhel@design@sbglobal.net

PLOT  
SURVEY

**BOWDEN/HOUSTON RESIDENCE**  
**500 SIERRA POINT ROAD**  
**BRISBANE, CALIFORNIA**  
 APPROVED:

DRAWN: J. KUHEL

DATE: 9-22-16

REVISED:

SCALE: 1/8" = 1'

JOB#

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OF SHTS

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 SEP 22 2016  
 Comm. Dev. Dept. Brisbane





DRAWN: J. KUHEL

DATE: 9-22-16

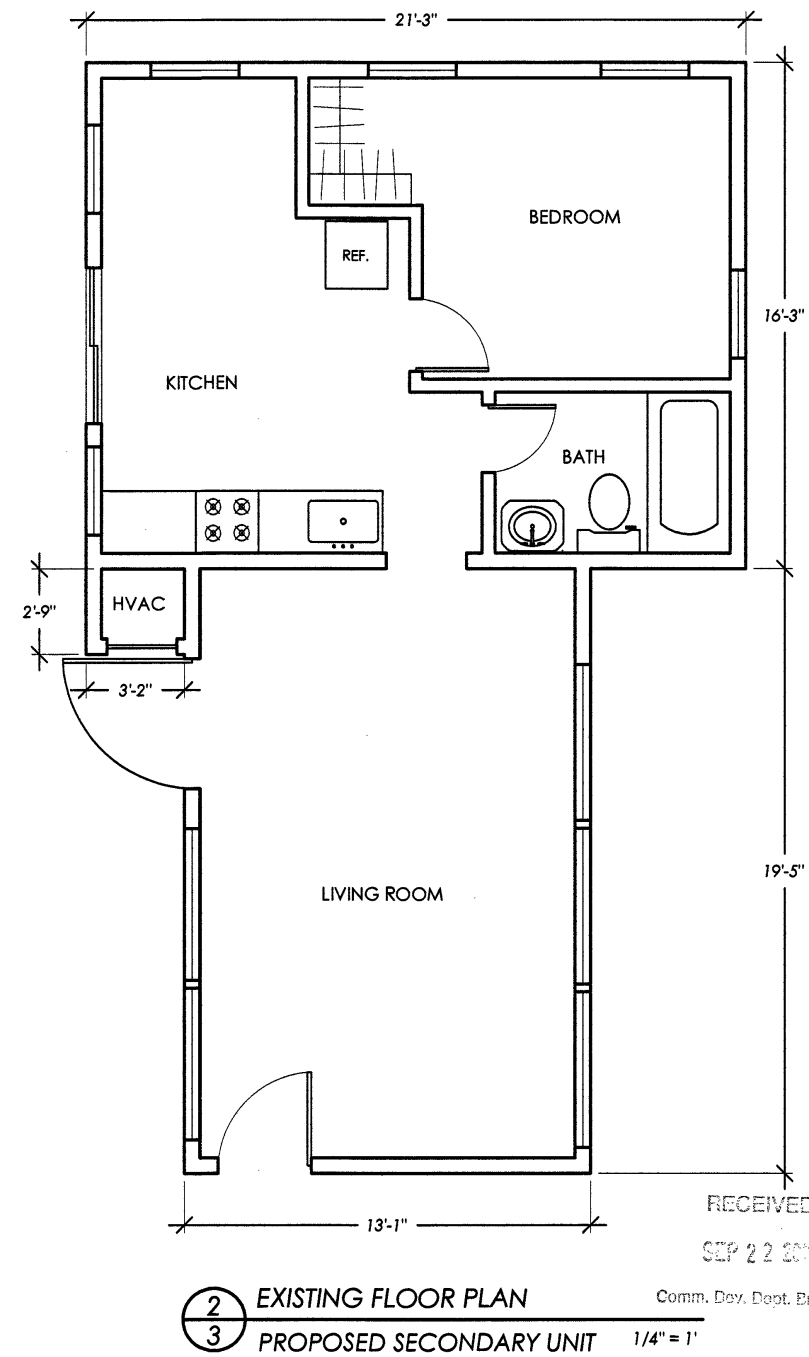
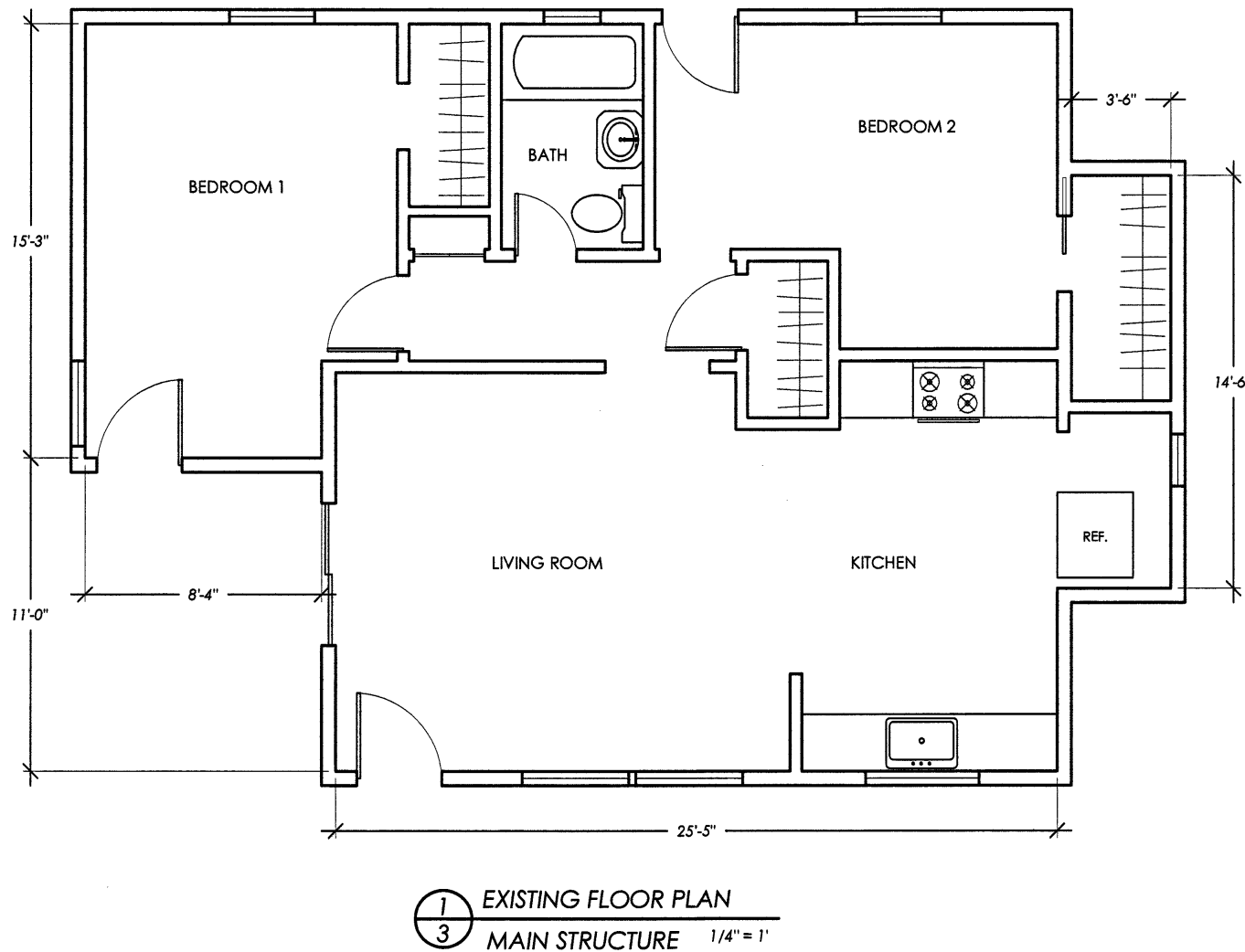
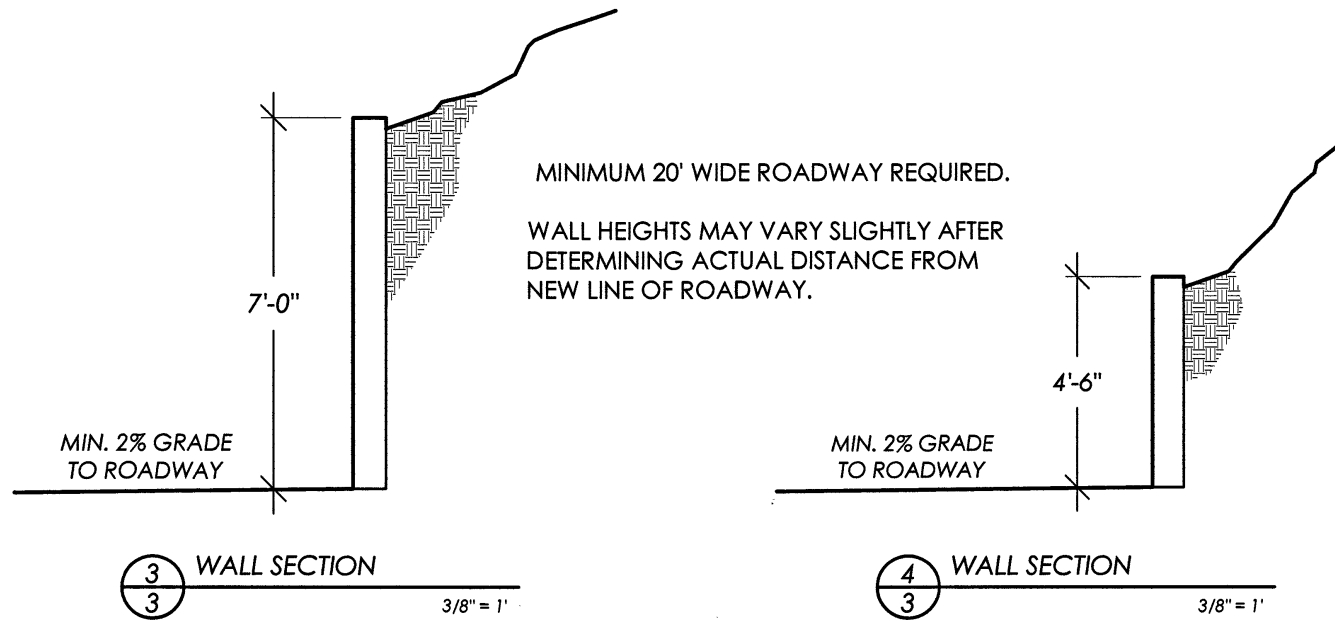
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SCALE: AS NOTED

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