Before the Zoning Administrator in and for the County of Monterey, State of California

In the matter of the application of:

SHAMAN (PLN180108)

RESOLUTION NO. 18-066

Resolution by the Monterey County Zoning Administrator:

- Finding the project is small structures in a residential zone and therefore qualifies as a Class 3 Categorical Exemption pursuant to section 15303 of the California Environmental Quality Act Guidelines and that none of the exceptions under Section 15300.2 apply; and
- 2) Approving:
 - a. An after-the-fact Use Permit for an Accessory Dwelling that does not comply with height regulations for the Rural Density Residential Zoning District;
 - b. An after-the-fact Design Approval for an approximately 1080 square foot garage, an approximately 415 square foot carport, a approximately 1055 square foot accessory dwelling unit, and an approximately 700 square foot workout room:
 - c. An after-the-fact Design Approval for a 250 linear foot wrought iron fence, and;
 - d. An after-the-fact Design Approval for an approximately 155 square foot shed.

[PLN180108, Shaman, 209 Pine Canyon Road, Salinas, Toro Area Plan (APN: 416-449-014-000)]

The Shaman application (PLN180108) came on for public hearing before the Monterey County Zoning Administrator on December 6, 2018. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:

FINDINGS AND EVIDENCE

1. **FINDING: CONSISTENCY** – The Project, as conditioned, is consistent with the

applicable plans and policies which designate this area as appropriate

for development.

EVIDENCE: a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- The 2010 Monterey County General Plan;
- Toro Area Plan:

- Monterey County Zoning Ordinance (Title 21);
- Monterey County Subdivision Ordinance (Title 19);

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located at 209 Pine Canyon Rd (Assessor's Parcel Number 416-449-014-000), Toro Area Plan. The parcel has two different zoning designations: Rural Density Residential/5.1 acres per unit Design Control (RDR/5.1-D) and Light Industrial-Visually Sensitive (Mineral Extraction) (LI-VS). The proposed development is in the RDR/5.1-D zoning designation which allows accessory structures and accessory dwelling units meeting the standards of 21.64.030. The proposed project will meet the standards of Section 21.64.030 under subsection F if the Use Permit is granted. Therefore, the project is an allowed land use for this site.
- c) Section 21.64.030 states that the maximum floor area of an Accessory Dwelling Unit is 1,200 square feet. As constructed, the living area totals 1,764 feet, including an attached 707 square foot exercise room. The project proposes to permanently separate a 707 square foot exercise room from the living area of the accessory dwelling unit, which will leave the total floor area of the accessory dwelling unit at 1,057 square feet.
- Section 21.64.030D(6) states that an accessory dwelling unit shall be d) treated as a habitable accessory structure in regard to height and setbacks and shall conform to all of the development standards of the zoning district that governs the lot. For the RDR zoning category, the maximum allowed height of a habitable accessory structure is 15 feet. The accessory dwelling is located above a detached garage, and the height of the structure is 23 feet, 5 inches, which exceeds the maximum allowed. Section 21.64.030(F) states that any accessory dwelling unit which does not comply with height or setback regulations for the district in which it is proposed shall require a Use Permit and that the Use Permit shall only be allowed if the Appropriate Authority finds that the deviation from the height and/or setback requirements better achieves the policies of the General Plan and regulations of this title. The subject parcel includes resources including steep slopes, potential environmentally sensitive habitat (umbrella larkspur), and visually sensitive areas. The Accessory Dwelling Unit's location above the garage prevents disturbance of these resources that may occur were the Accessory Dwelling Unit located on a different portion of the site. Avoiding impacts to these resources better achieves multiple Open Space polices from the General Plan, including: Policy OS-3.5, which prohibits development on slopes in excess of 25 percent unless there is no feasible alternative, Policy OS-5.4, which states "Development shall avoid, minimize, and mitigate impacts to listed species and critical habitat to the extent feasible", and Open Space Policy OS-5.5, which states "Landowners and developers shall be encouraged to preserve the integrity of existing terrain and native vegetation in visually sensitive areas such as hillsides, ridges, and watersheds".

- e) The project planner conducted a site inspection on April 13, 2018 to verify that the project on the subject parcel conforms to the plans listed above.
- f) The structure containing the detached garage, and accessory dwelling unit, and workout room is located in the rear of the property and meets all setback requirements for accessory structures in the RDR zoning category. The required distance between the main structure and the accessory structure is 10 feet. The accessory structure is located 66 feet from the main house. The required rear and side setbacks are 6 feet. The side setback is 25 feet and the rear setback is 104 feet.
- g) The 156 square foot shed located behind the accessory structure meets all setback requirements. The required distance between accessory structures is 6 feet. The shed is located 30 feet from the accessory structure. The shed also exceeds the 6 foot side and rear setback requirements. The side and rear setbacks are 60 feet and 74 feet, respectively.
- h) The black wrought iron fence and gate does not meet the 50 foot front and 6 foot side setback requirements for the Rural Density Residential Zoning category. Monterey County Land Use Ordinance Title 21 exempts fences under six feet in height from the definition of a structure, so fences would not normally be subject to setback requirements. This particular fence varies in height from 6 feet at the top of the posts to 6 feet, 9 inches at the top of the arches. Since the structurally supportive elements of the fence are only 6 feet tall and the fence is visually permeable, the fence does not have visual or safety impacts and can be considered exempt from setback requirements in this particular case and a variance is not required.
- i) The project is consistent with General Plan policies for the protection of Environmentally Sensitive Habitat. Open Space Policy OS-5.4 states that "Development shall avoid, minimize, and mitigate impacts to listed species and critical habitat to the extent feasible". County Geographic Information Systems data indicates that umbrella larkspur, a sensitive plant species, has the potential to occur on the undeveloped portions of this property. Locating the structure on the developed, flat portion of the building site and locating the Accessory Dwelling Unit on top of the detached garage prevents disruption of potentially sensitive habitat areas on other portions of the site.
- j) The project is consistent with Open Space Policy OS-5.5, which states "Landowners and developers shall be encouraged to preserve the integrity of existing terrain and native vegetation in visually sensitive areas such as hillsides, ridges, and watersheds". Much of the property consists of steep slopes, and the southern half of the property is within a Visually Sensitive (VS) zoning overlay. The structure is located outside of the VS overlay area and avoids development on slopes.
- k) The project was referred to the Toro Land Use Advisory Committee (LUAC) for review. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors, this application did warrant referral to the LUAC because it involves a Design Approval subject to review by the Zoning Administrator.

1) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN180108.

2. **FINDING: SITE SUITABILITY** – The site is physically suitable for the use proposed.

> The project has been reviewed for site suitability by the following a) departments and agencies: RMA- Planning, Monterey County Regional Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

- Staff did not identify any potential impacts to Biological Resources, Archaeological Resources, Soil/Slope Stability,
- Staff conducted a site inspection on April 13, 2018 to verify that the site is suitable for this use.
- The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN180108.
- **HEALTH AND SAFETY -** The establishment, maintenance, or **FINDING:** operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general

welfare of the County.

- The project was reviewed by RMA Planning, Monterey County **EVIDENCE:** Regional Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - Necessary public facilities are available. California Water Service currently supplies, and will continue to supply, water to the accessory dwelling. An existing septic system will provide wastewater services. The Environmental Health Bureau reviewed a performance evaluation completed by Tom's Septic Construction. The system was found to be in acceptable condition and future drainfield replacement area was able to be shown on the plans with a conservative application rate.
 - Staff conducted a site inspection on April 13, 2018 to verify that the site is suitable for this use.
 - The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning for the proposed development found in Project File PLN180108.
- 4. **FINDING: NO VIOLATIONS** - The subject property is not in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance.

EVIDENCE:

Violations exist on the property. The approval of this permit will correct the violations and bring the property into compliance.

EVIDENCE:

- A) Staff reviewed Monterey County RMA Planning and Building Services Department records and is aware of any violations existing on subject property.
- b) Staff conducted a site inspection on April 13, 2018 and researched County records to assess if violations on the subject property.
- The proposed project corrects an existing violation regarding unpermitted construction of a detached garage and accessory dwelling unit (10CE00437). When implemented, the project will bring the subject property into compliance with all rules and regulations pertaining to the property and will remove the existing violations. Approval of the project will provide an After-the-Fact Use Permit and Design Approval for the accessory structure exceeding the allowed height limit in the RDR zoning designation, a Design Approval for the detached shed, and a Design Approval for the fence. Implementation of the project will remove the internal connection of the workout room from the Accessory Dwelling Unit, which will reduce the size of the Accessory Dwelling Unit to be below the allowed maximum square footage.
- d) Zoning violation abatement costs, if any, have been paid.
- e) The application, plans and supporting materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development are found in Project File PLN180108.

5. **FINDING:**

CEQA (Exempt): - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

EVIDENCE:

- a) California Environmental Quality Act (CEQA) Guidelines Section 15303 categorically exempts a second dwelling unit in a residential zone (a) and accessory structures including garages (e).
- b) The project is an accessory dwelling unit in a residential zone and a detached garage and shed, therefore the project meets the criteria for the exemption.
- c) No adverse environmental effects were identified during staff review of the development application during a site visit on April 18, 2018.
- d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not involve a designated historical resource, a hazardous waste site, development located near or within view of a scenic highway, unusual circumstances that would result in a significant effect or development that would result in a cumulative significant impact.
- e) Staff conducted a site inspection on April 18, 2018 to verify that the site is suitable for this use.
- f) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN180108.

6. **FINDING: APPEALABILITY -** The decision on this project may be appealed to the Planning Commission

EVIDENCE: a) Section 21.84.040 of the Monterey County Zoning Ordinance states that the proposed project is appealable to the Planning Commission.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Zoning Administrator does hereby:

- Finding the project is small structures in a residential zone and therefore qualifies as a Class 3 Categorical Exemption pursuant to section 15303 of the California Environmental Quality Act Guidelines and that none of the exceptions under Section 15300.2 apply, and;
- 2. Approve:
 - a. An After-the-Fact Use Permit for an Accessory Dwelling that does not comply with height regulations for the Rural Density Residential Zoning District;
 - b. An After-the-Fact Design Approval for an approximately 1080 square foot garage, an approximately 415 square foot carport, a approximately 1055 square foot accessory dwelling unit, and an approximately 700 square foot bathroom;
 - c. An After-the-Fact Design Approval for a wrought iron fence, and;
 - d. An After-the-Fact Design Approval for a an approximately 155 square foot shed

In general conformance with the attached sketch and subject to the attached conditions, all being attached hereto and incorporated herein by reference

PASSED AND ADOPTED this 6th day of December, 2018

Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON DATE

DEC 0 7 2018

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE [DATE] DEC 17 2018

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or

until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from Monterey County RMA-Planning and RMA-Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Form Rev. 5-14-2014

Monterey County RMA Planning

Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN180108

1. PD001 - SPECIFIC USES ONLY

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure: This Use Permit and Design Approval (PLN180108) allows an approximately 1080 square foot garage, an approximately 415 square foot carport, an approximately 1055 square foot accessory dwelling unit, an approximately 700 square foot workout room, a wrought iron fence, and a 155 square foot shed. The property is located at 209 Pine Canyon Rd. (Assessor's Parcel Number 416-449-014-000), Toro Area Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of RMA - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: RMA-Planning

Condition/Mitigation Monitoring Measure:

The applicant shall record a Permit Approval Notice. This notice shall state:

"A Use Permit and Design Approval (Resolution Number 18-066) was approved by the Zoning Administrator for Assessor's Parcel Number 416-449-014-000 on December 6, 2018. The permit was granted subject to 6 conditions of approval which run with the land. A copy of the permit is on file with Monterey County RMA - Planning."

Proof of recordation of this notice shall be furnished to the Director of RMA - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (RMA - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning.

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3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

Responsible Department:

RMA-Planning

Condition/Mitigation Monitoring Measure:

during course of construction, cultural, archaeological, historical paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County RMA - Planning and a archaeologist (i.e., an archaeologist registered with the Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery.

(RMA - Planning)

Compliance or Monitoring Action to be Performed:

The Owner/Applicant shall adhere to this condition on an on-going basis.

Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County RMA - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

4. PD014(A) - LIGHTING - EXTERIOR LIGHTING PLAN

Responsible Department:

RMA-Planning

Condition/Mitigation Monitoring Measure:

All exterior lighting shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting source shall be shielded and recessed into the fixture. The applicant shall submit one (1) copy of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the Director of RMA - Planning, prior to the issuance of building permits. (RMA - Planning)

Compliance or Monitoring Action to be Performed:

Prior to the issuance of building permits, the Owner/Applicant shall submit three copies of the lighting plans to RMA - Planning for review and approval. Approved lighting plans shall be incorporated into final building plans.

Prior to final/occupancy, the Owner/Applicant/Contractor shall submit written and photographic evidence demonstrating that the lighting has been installed according to the approved plan.

On an on-going basis, the Owner/Applicant shall ensure that the lighting is installed and maintained in accordance with the approved plan.

PLN180108

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5. PW0045 - COUNTYWIDE TRAFFIC FEE

Responsible Department: RMA-Public Works

Condition/Mitigation Prior to issuance of building permits, the Owner/Applicant shall pay the Countywide Monitoring Measure: Traffic Fee or the ad hoc fee pursuant to General Plan Policy C-1.8. The fee amount

shall be determined based on the parameters in the current fee schedule.

Compliance or

Prior to issuance of Building Permits, the Owner/Applicant shall pay Monterey County Monitoring RMA Building Services the traffic mitigation fee. The Owner/Applicant shall submit Action to be Performed:

proof of payment to the Development Services.

6. PD006(A) - CONDITION COMPLIANCE FEE

Responsible Department: RMA-Planning

Condition/Mitigation The Owner/Applicant shall pay the Condition Compliance fee, as set forth in the fee **Monitoring Measure:**

schedule adopted by the Board of Supervisors, for the staff time required to satisfy conditions of approval. The fee in effect at the time of payment shall be paid prior to

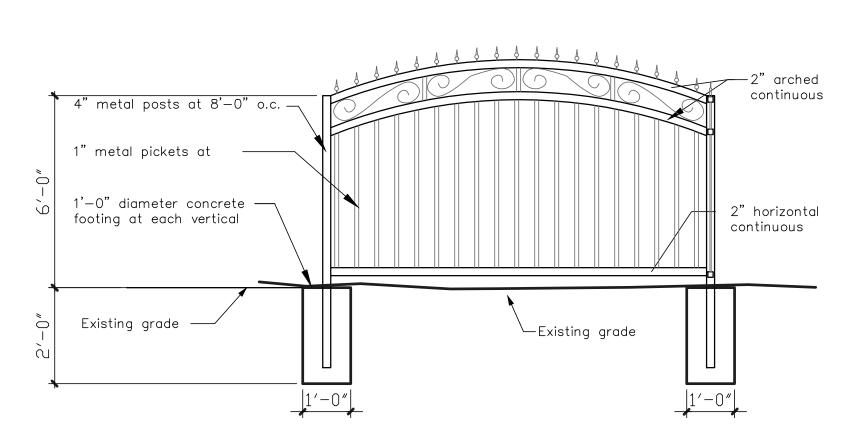
clearing any conditions of approval.

Compliance or Prior to clearance of conditions, the Owner/Applicant shall pay the Condition Monitoring

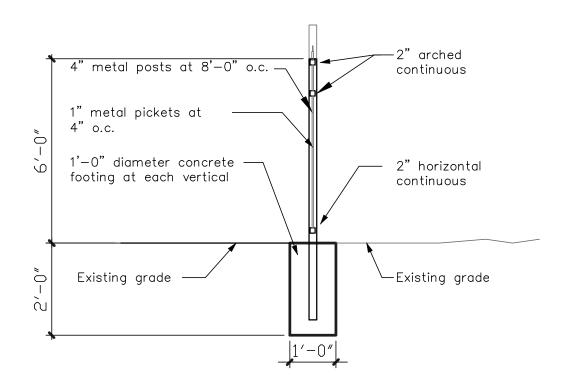
Compliance fee, as set forth in the fee schedule adopted by the Board of Supervisors. Action to be Performed:

PLN180108

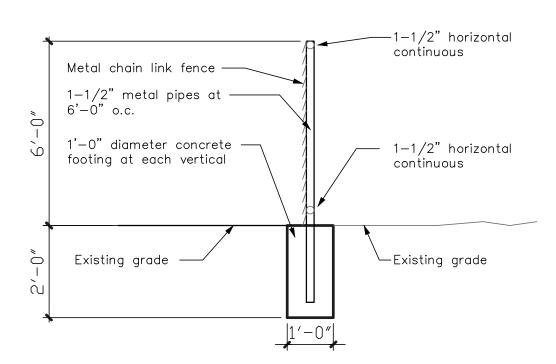
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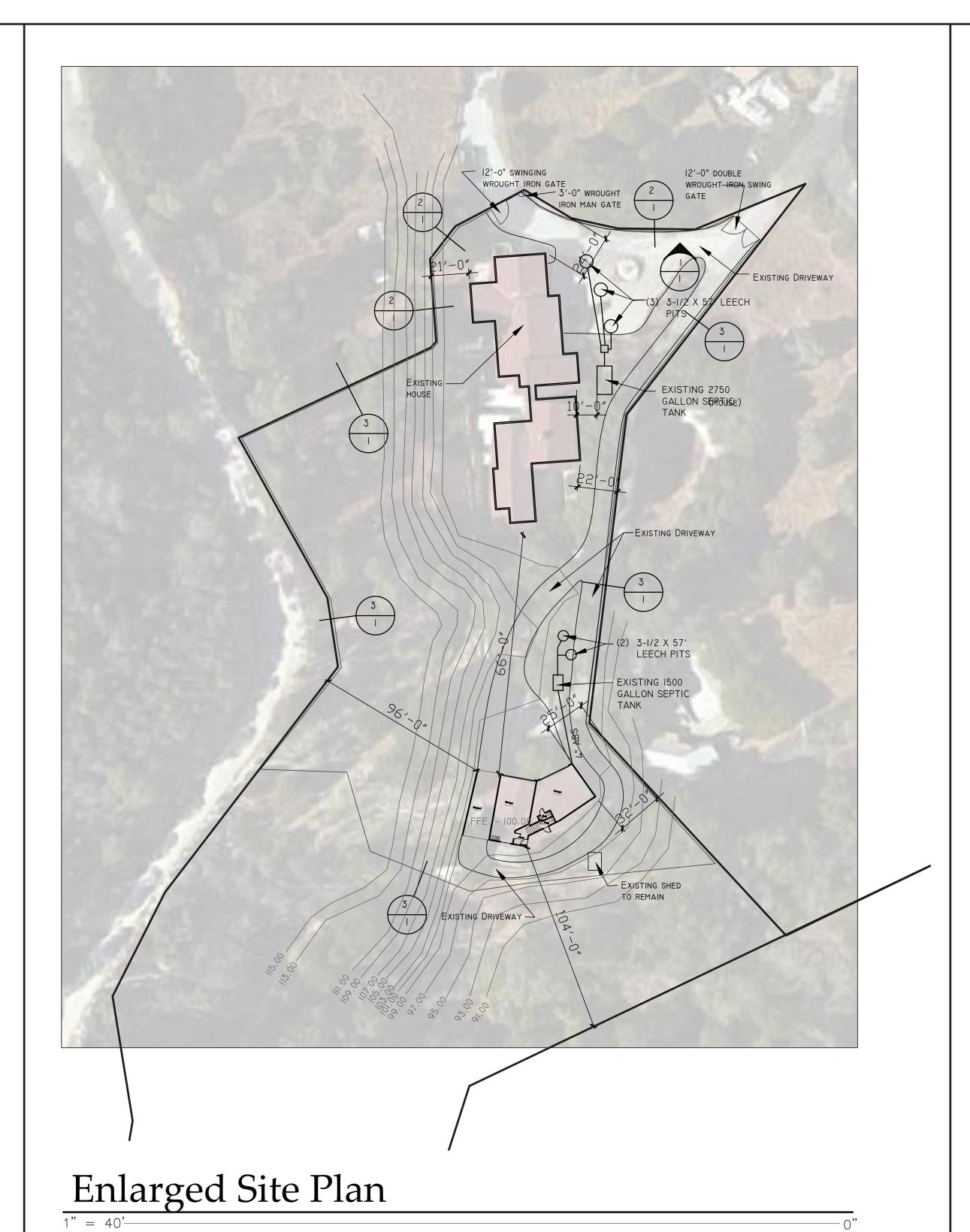


1 Elev. Wrought Iron Fence



2 Existing Wrought Iron Fence





- AREA OF ENLARGED SITE PLAN

Plot Plan

PERTINENT DATA

Nick Shaman

CAL AM

PG&E

NO

5-B

PRIVATE SEPTIC

GENERAL NOTES

--ALL CONSTRUCTION UNLESS OTHERWISE INDICATED SHALL CONFORM TO 2016 EDITION OF THE CRC, CMC, CPC, CEC, CGB, FEDERAL ADA, AND LOCAL CODES AND ORDINANCES. IN THE EVENT OF CONFLICT BETWEEN CODES AND THESE DRAWINGS, THE MORE

STRINGENT SHALL GOVERN. --DO NOT SCALE THESE DRAWINGS. USE THE WRITTEN DIMENSIONS AND VERIFY ALL DIMENSIONS

--THESE DRAWINGS ARE THE PROPERTY OF THE ARCHITECT AND ARE NOT TO BE USED IN PART OR IN WHOLE FOR ANY WORK OTHER THAN THE LOCATION SHOWN HEREIN.

--THE ARCHITECT SHALL NOT HAVE CONTROL OR CHARGE OF AND SHALL NOT BE RESPONSIBLE FOR CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES, OR PROCEDURES OR FOR ANY SAFETY PRECAUTIONS OR PROGRAMS IN CONNECTION WITH THE WORK.

--VERIFY ALL UTILITY DATA AND LOCATIONS PRIOR TO ANY WORK. ONSITE UTILITIES SHALL BE COORDINATED WITH THE APPROPRIATE AGENCY OR UTILITY COMPANY.

--THE CONTRACTOR SHALL SCHEDULE AND COORDINATE ALL INSPECTIONS AND AT THE END OF THE WORK PROVIDE THE OWNER WITH ALL THE ORIGINAL SIGNED DOCUMENTS FROM THE INSPECTING ENTITY.

SCOPE OF WORK

garage and carport

Correct Red Tag Violation Unpermitted accessory dwelling unit and excercise room over 3 car

Design matches house in style, materials and color.

Unpermitted fence and gate violation to be corrected.

DUE TO THE SLOPE OF THE LAND AND THE SHAPE OF THE PROPERTY IN THIS AREA, IT WAS NECESSARY TO BUILD THE LIVING UNIT ABOVE THE CARPORT AND GARAGE. SUBSEQUENTLY THIS BUILDING EXCEEDS THE 16'-0" HEIGHT LIMIT.

Vision Quest Ranch Q

VICINITY MAP

209 Pine Canyon Road

CLIENT NAME: ARCHITECT:

19020 Karen Drive Salinas, CA 93907 LOT SIZE: 5.25 Acres (228,690 SF)

WATER SOURCE: SEWER: **ELECTRICITY**: SPRINKLERED:

PROPERTY ADDRESS:

APN: **ZONING:** CODES:

CONSTRUCTION TYPE:

ORDINANCES. RESIDENTIAL **USE GROUP:**

ACCESSORY DWELLING UNIT: 1057 SF EXCERCISE ROOM: 707 SF James "Jim" Vocelka TOTAL: 1764 SF **GARAGE**: 1082 SF MAIN HOUSE: 7202 SF LOT COVERAGE: 8966/228,690 = 3.9%

PARKING: 4 SPACES

209 PINE CANYON ROAD SALINAS, CA. 416-449-014

RDR/5.1-D 2016 CRC AND ALL APPLICABLE LOCAL

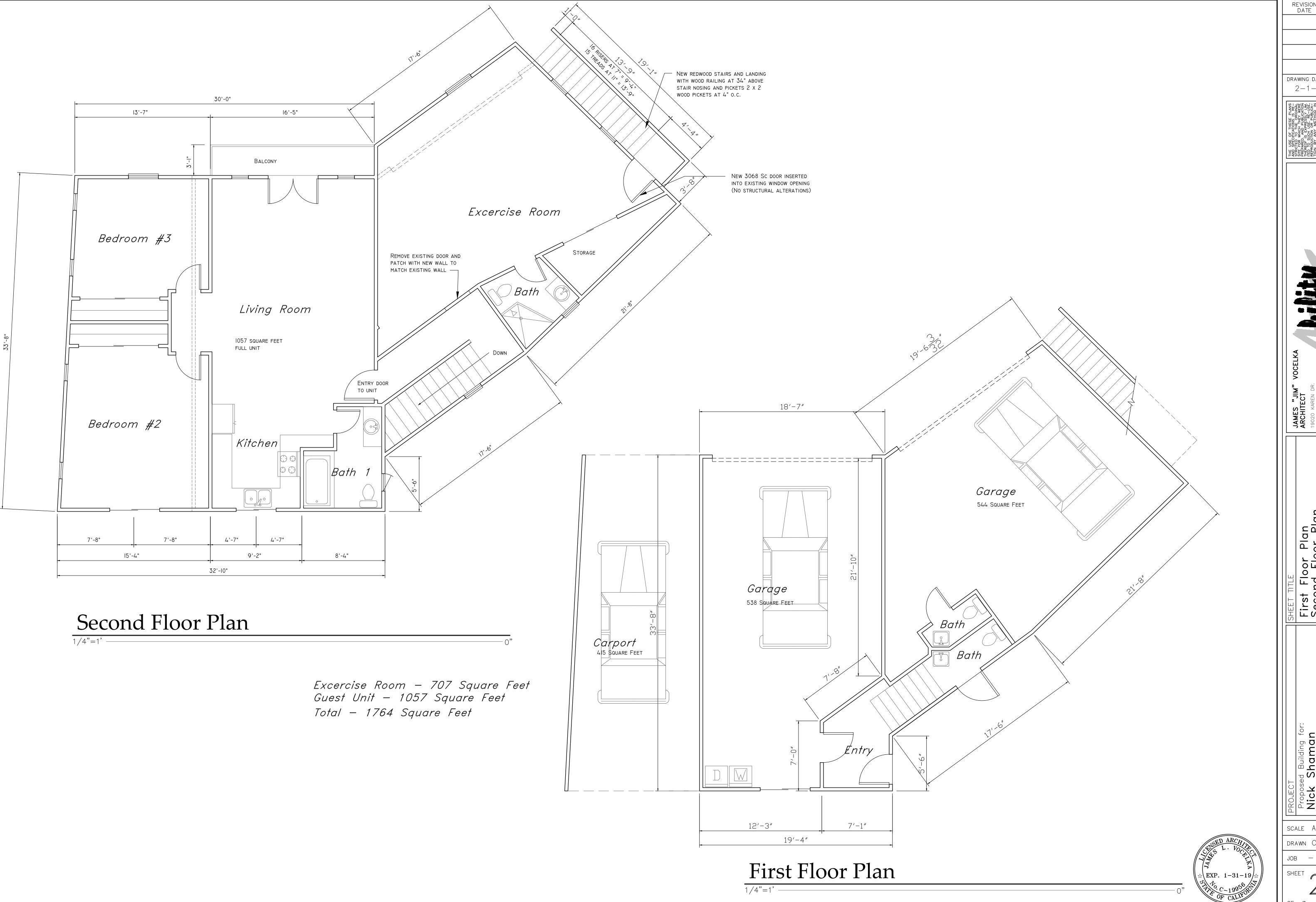
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REVISION DATE

DRAWING DATE: 2-1-18

SCALE AS NOTED drawn CADD

JOB — SHEETS OF 3



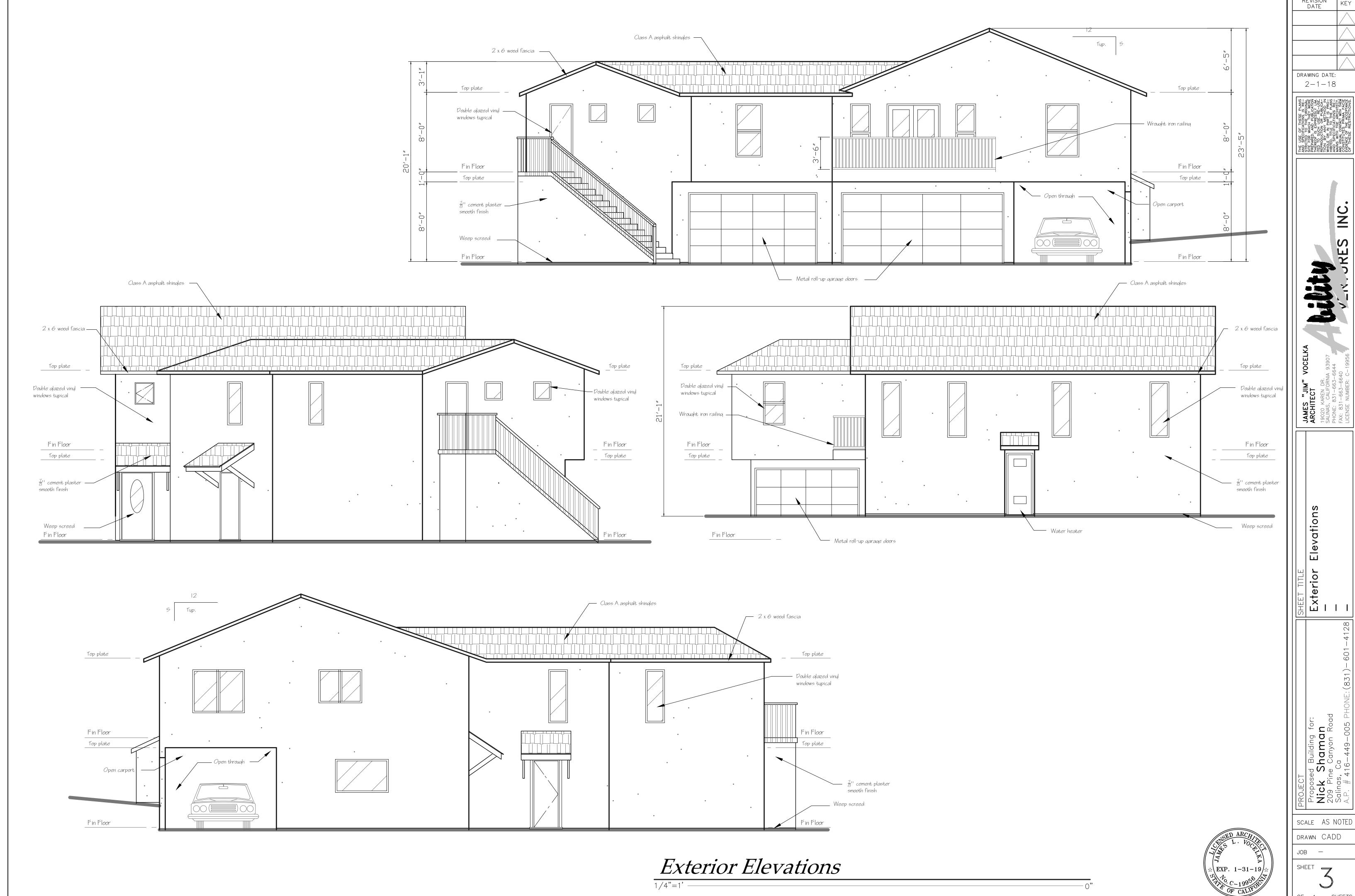
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First Floor Plan Second Floor Plan

SCALE AS NOTED

DRAWN CADD

OF 3 SHEETS



REVISION DATE







