



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: OCTOBER 28, 2013

ITEM NUMBER: **CC 3**

**SUBJECT: AMENDMENT TO MINOR MODIFICATION MM-13-14 A1 FOR A COVERED PORCH
EXTENSION FOR AN EXISTING SINGLE FAMILY RESIDENCE
429 FLOWER STREET**

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: MEL LEE, SENIOR PLANNER

DATE: OCTOBER 17, 2013

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP (714) 754-5611
mel.lee@costamesaca.gov**

DESCRIPTION

The proposed project involves the following:

Amendment to a previously approved Minor Modification from the front yard setback requirement for a covered porch extension to an existing single family residence (20 feet required; 19 feet originally approved, 16 feet existing).

APPLICANT

South Pointe Equities, LLC requested the original minor modification and the proposed amendment.

RECOMMENDATION

Approve or deny the request by adoption of Planning Commission resolution.

Project Site/Environs

The property is located on the south side of Flower Street, east of Tustin Avenue, is zoned R1 (Single Family Residential), and has a General Plan Land Use Designation of Low Density Residential. The property contains an existing one-story residence and a detached two-car garage.

Background

On March 27, 2013, the applicant obtained a building permit to construct a 498 square foot kitchen and bedroom addition to the existing residence; additionally, a new porch was proposed at the front of the residence. The plans submitted by the applicant indicated a 22-foot building setback from the porch columns to the front property line, in excess of the 20-foot minimum setback required per code; however, after the permits were issued and construction began, a neighbor alerted the inspectors to the fact that the footings for the covered porch were being constructed closer than 22 feet to the property line. As a result, the applicant revised the plans to depict what was believed at the time to be a 19-foot setback, for which a minor modification was approved by staff under MM-13-14.

However, after construction of the project was completed, staff re-measured the setback as actually being 16 feet from property line, rather than the 19 feet represented by the applicant. The applicant explained in the attached letter that the error was due to the incorrect location of the property line as represented on the plans, which was further exacerbated by the re-paving of Flower Street, resulting in the removal of the markers that would normally denote the correct location of the public right-of-way relative to the property lines.

Minor Modification

Costa Mesa Municipal Code Section 13-28 allows a front yard setback deviation up to 20% (16 feet total) to be approved through a minor modification, subject to the following findings:

- *The minor modification will not be materially detrimental to the health, safety, and general welfare of persons residing within the immediate vicinity of the project or to property and improvements within the neighborhood.*
- *The project is compatible and enhances the architecture of the existing development in the vicinity. This includes the site planning, land coverage, landscaping, appearance, scale of structures, open space, and any other applicable features relative to a compatible and attractive development.*

The applicant has indicated that modification to the porch to comply with the originally approved 19-foot setback would result in substantial expense to tear off the roof and remove the cement foundation for the porch, and is requesting that the minor modification be amended to reflect the existing 16-foot setback.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. Approve the amendment, which would allow the covered porch to remain at the 16-foot setback as constructed.
2. Deny the amendment. If the amendment were denied, the applicant would be required to modify the porch to comply with the originally approved 19-foot setback.

CONCLUSION

The applicant is requesting that the amendment to the minor modification be approved, allowing the covered porch to remain as constructed. Resolutions for approval and denial of the request are attached to this report for the consideration of the Planning Commission.



MEL LEE, AICP
Senior Planner



GARY ARMSTRONG, AICP
Economic and Development Services Director

- Attachments:
1. Draft Resolutions
 2. Applicant Letter
 3. Minor Modification
 4. Location Map and Plans

cc: Director of Economic & Development / Deputy CEO
Sr. Deputy City Attorney
Public Services Director
City Engineer
Transportation Services Manager
Fire Protection Analyst
Staff (4)
File (2)

South Pointe Equities, LLC
Attn: Bill Parker, President
29379 Rancho California Road, Suite 107
Temecula, CA 92591

Harold Bailey
423 Flower Street
Costa Mesa, CA 92627

Thomas Doughty
429 Flower Street
Costa Mesa, CA 92627

Zachry Scott Newkirk
433 Flower Street

Costa Mesa, CA 92627

RESOLUTION NO. PC-13-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING MINOR MODIFICATION AMENDMENT MM-13-14 A1 FOR A COVERED PORCH EXTENSION AT 429 FLOWER STREET

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by South Pointe Equities, LLC, for the following:

Amendment to a previously approved Minor Modification from the front yard setback requirement for a covered porch extension to an existing single family residence (20 feet required; 19 feet originally approved, 16 feet existing).

WHEREAS, the Planning Commission considered the request at their meeting on October 28, 2013, with persons having the opportunity to speak and be heard for and against the request;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the Planning Commission hereby **APPROVES** Minor Modification Amendment MM-13-14 A1.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Minor Modification Amendment MM-13-14 A1, and compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the project.

PASSED AND ADOPTED this 28th day of October, 2013.

Jim Fitzpatrick Chair,
Costa Mesa Planning Commission

EXHIBIT A

FINDINGS (APPROVAL)

- A. The project complies with Costa Mesa Municipal Code Section 13-29(e) because:
1. The use is compatible and harmonious with uses on surrounding properties.
 2. Safety and compatibility of the design of the parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 3. The project is consistent with the General Plan.
 4. The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(6) because:
- a. The minor modification will not be materially detrimental to the health, safety, and general welfare of persons residing within the immediate vicinity of the project or to property and improvements within the neighborhood.
 - b. The project is compatible and enhances the architecture of the existing development in the vicinity. This includes the site planning, land coverage, landscaping, appearance, scale of structures, open space, and any other applicable features relative to a compatible and attractive development.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City environmental procedures, and has been found to be exempt from CEQA under Section 15303 for New Construction.
- D. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

RESOLUTION NO. PC-13-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA DENYING MINOR MODIFICATION
AMENDMENT MM-13-14 A1 FOR A COVERED PORCH
EXTENSION AT 429 FLOWER STREET**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by South Pointe Equities, LLC, for the
following:

Amendment to a previously approved Minor Modification from the front yard
setback requirement for a covered porch extension to an existing single family
residence (20 feet required; 19 feet originally approved, 16 feet existing).

WHEREAS, the Planning Commission considered the request at their meeting
on October 28, 2013, with persons having the opportunity to speak and be heard for
and against the request;

BE IT RESOLVED that, based on the evidence in the record and the findings
contained in Exhibit A, the Planning Commission hereby **DENIES** Minor Modification
Amendment MM-13-14 A1.

PASSED AND ADOPTED this 28th day of October, 2013.

Jim Fitzpatrick, Chair
Costa Mesa Planning Commission

EXHIBIT A

FINDINGS (DENIAL)

- A. The project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
 - 1. A compatible and harmonious relationship does not exist between the use and existing buildings, site development, and uses on surrounding properties.
 - 2. The project does not comply with the performance standards as prescribed in the Zoning Code.
 - 3. The project is not consistent with the General Plan or Zoning Code.

- B. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(6) because:
 - a. The minor modification will be materially detrimental to the health, safety, and general welfare of persons residing within the immediate vicinity of the project or to property and improvements within the neighborhood.

 - b. The project is not compatible and does not enhance the architecture of the existing development in the vicinity. This includes the site planning, land coverage, landscaping, appearance, scale of structures, open space, and any other applicable features relative to a compatible and attractive development.

- C. The Costa Mesa Planning Commission has denied Minor Modification Amendment MM-13-14 A1. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a) CEQA does not apply to this project because it has been rejected and will not be carried out.

- D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.



South Pointe Equities LLC

Developing Real Estate Solution

Received
City of Costa Mesa
Development Services Department

SEP 11 2013

September 11, 2013

RE: 429 Flower St.

Mel, Thank you for taking the time to meet and discuss the variance we submitted for the porch on our remodel of this home. As I explain during our meeting the variance was approved and items were considered when the variance was submitted. At the time that the paperwork was filled out and submitted to the city for approval for a variance on the porch set back our footings had been poured and were in the ground. This was noticed by the building inspector to be in the in-correct location and pointed out to the GC on site. The GC had measured wrong in error from the corner of the house for the footing location and the building inspector pointed out in order for the footings to remain in that location a VARIANCE would be required.

The necessary paperwork was completed and submitted to the city requesting that our "Current" footings as poured be approved as a variance. We also submitted the required drawing per city requirements with the narrative with our request for the variance approval. Please understand that at the time when we pulled our measurements to submit the drawing for this variance there was EXTENSIVE work being completed;

- On the city street – Flower Street was being re-paved and had NO markings as they had been removed by the city.
- There was no sidewalk, No original sidewalk had ever been poured in front of 429 Flower. We pulled the permit at the end of this job and poured a finished sidewalk to complete a sidewalk for this street, as it was the ONLY residence on this entire street with no sidewalk.

29379 Rancho California Road, Suite 106, Temecula, CA 92591
Telephone: (951) 676-2773 • Fax: (760) 653-5128 • E-mail: info@southpointeequities.com



South Pointe Equities LLC

Developing Real Estate Solution

Overall the porch was built and completed as the variance was approved. It was constructed with constructed with hand cut rafters running 2' on center all the way across tied into the roof of the home and the foundation poured with 3' of concrete completed on a mono pour with custom railing all the way around. It was be a significant expense to tear off the roof and dig out the entire porch foundation to change the size after this variance was approved as this home as since been sold and the new family and 2 small children has moved into the home.

From my personal opinion-

Mel: I know there are neighbors that are complaining about this porch and have likely measured every inch from curb to gutter. The part that concerns me the most about this is WHERE WERE THESE CONCERNED NEIGHBORS BEFORE I PURCHASED THIS HOME WHEN THE FORMER OWNER LIVED THERE IN THE CONDITIONS THAT HE DID? WERE THEY WRITING LETTERS THEN? TRYING TO HELP THEIR FELLOW NEIGHBOR? More then likely they had nothing to personally gain so they stayed out of it and were not as noisy.

- Mr. Temple lived in the home with no electric, no water, no working sewer, no phone. He lived in the home alone that he had over for over 40 years.

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- When purchasing the home we cleaned over 2' of waste from the bathrooms from no working restrooms.
- The Kitchen was not functional and appliances did not work. No running water in the home.

I guess I just don't understand how a neighbor can be so concerned with a porch and spend so much time measuring things when you have a neighbor who's lived in this community for over 40 years, obviously needs some help. Why not be concerned then?

If there's any additional information I can provide Mel please let me know.

Thank you,

Bill Parker

President

South Pointe Equities, LLC

<http://www.legacy.com/obituaries/orangecounty/obituary.aspx?pid=159516007#fbLoggedOut>

Mr. Robert Temple – Former Owner of 429 Flower St. Costa Mesa CA.

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429 Flower



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429 Flower



429 Flower



APPLICATION FOR MINOR MODIFICATION REQUEST
 (See Title 13, Ch. III, Section 13-28(j) Minor Modifications, of Municipal Code)

Minor Mod # **MM - 13-14**

PROPERTY ADDRESS: 429 Flower st. C.m.
 PROPERTY OWNER: South Pointe Equities LLC Phone (951) 676-2773
 Address 29379 Rancho California rd Email or Fax # 760 653 5128
 City Temecula State CA Zip Code 92591

Property Owner's Signature _____ Date _____

AUTHORIZED AGENT: Rod Haggstrom Phone 714 926-0356
 Address 18543 Yorba Linda Blvd #200 Email or Fax # Rodteehe@hotmail.com
 City Y.L. State _____ Zip Code 92686

Authorized Agent's Signature Rod Haggstrom Date 5-20-13

PROJECT DESCRIPTION: [Provide project description & justification for approval below:]
 ① Constructing a open porch expansion. By the calcs on plans the porch would only have 22" clear from front stucco wall to columns at front door. The footings were poured and signed off by inspector. They are encroaching into front property set back. We would like to get approval to construct porch at location and measurements as poured. See plan for measurements. This is only an open front porch.

PLANNING APPROVAL

City of Costa Mesa Planning Div.
 Subject to Building Division Regs.
 Any Revision must be approved.

CONCEPT PLANS/DRAWINGS ARE ATTACHED: YES NO

OFFICE USE ONLY BELOW

THIS MINOR MODIFICATION REQUEST IS APPROVED / DENIED BASED ON THE FOLLOWING FINDINGS:

- The improvement will not be / will be materially detrimental to the health, safety, and general welfare of person residing or working within the immediate vicinity of the project or to property and improvements within the neighborhood.
- The improvement is / is not compatible or considered as an enhancement to the architecture and design of the existing and anticipated development in the vicinity. This includes the site planning, land coverage, landscaping, appearance, scale of structures, open space and any other applicable features relative to a compatible and attractive development.

Zone: R-1 Approved by: ME Decision Date: 5/24/13

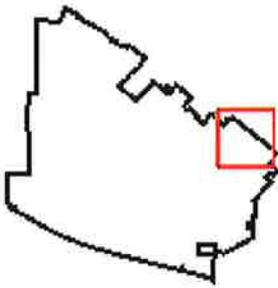
Appeal of this decision shall be filed within 7 days of the decision date noted above by remittance of the appeal fee and according to the procedures set forth in Title 2, Chapter IX, of the Costa Mesa Municipal Code.

(White - Planning; Canary - Building; Pink - Applicant; Goldenrod - Authorized Agent)

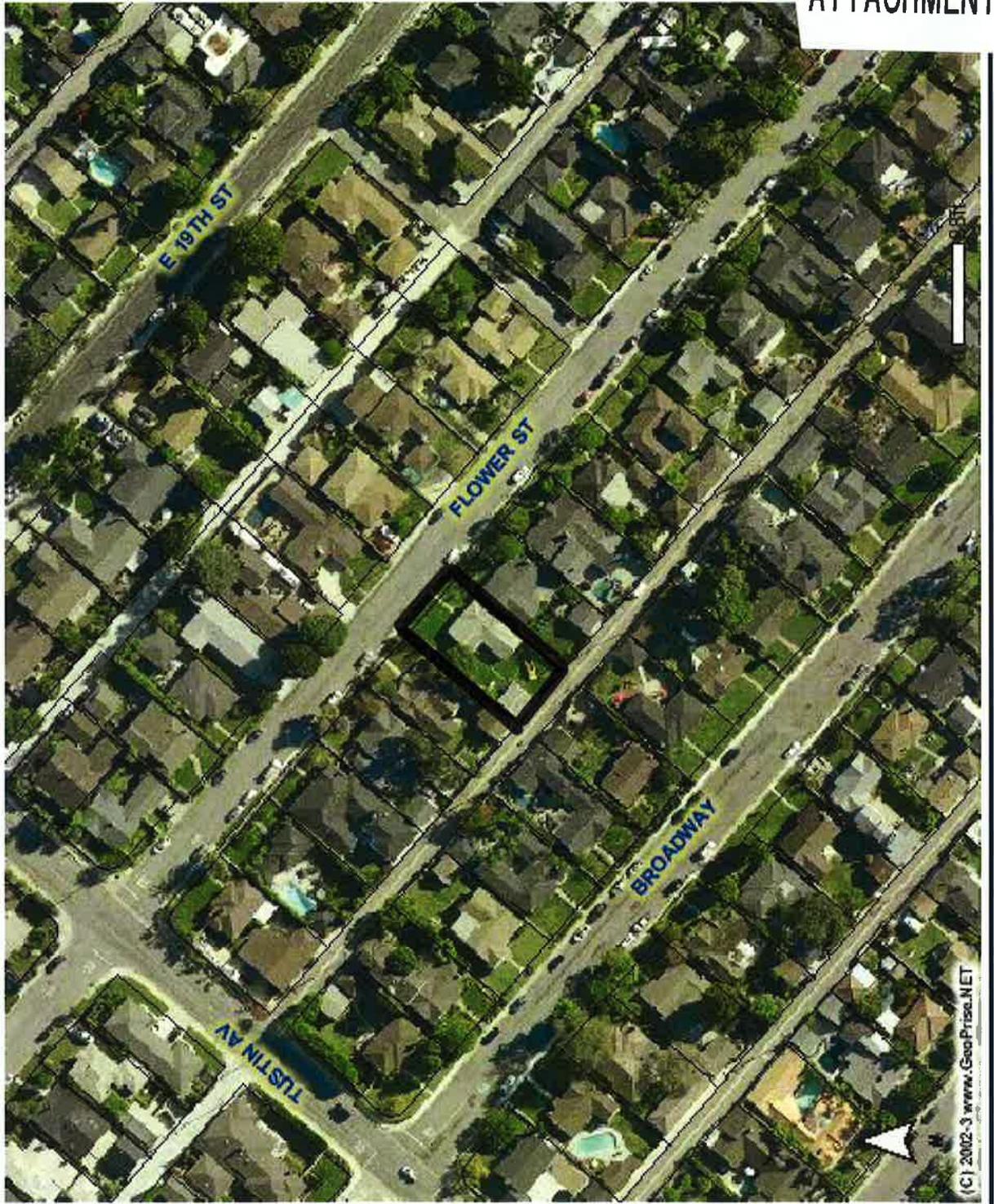
City of Costa Mesa

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Overview Map



Map Display

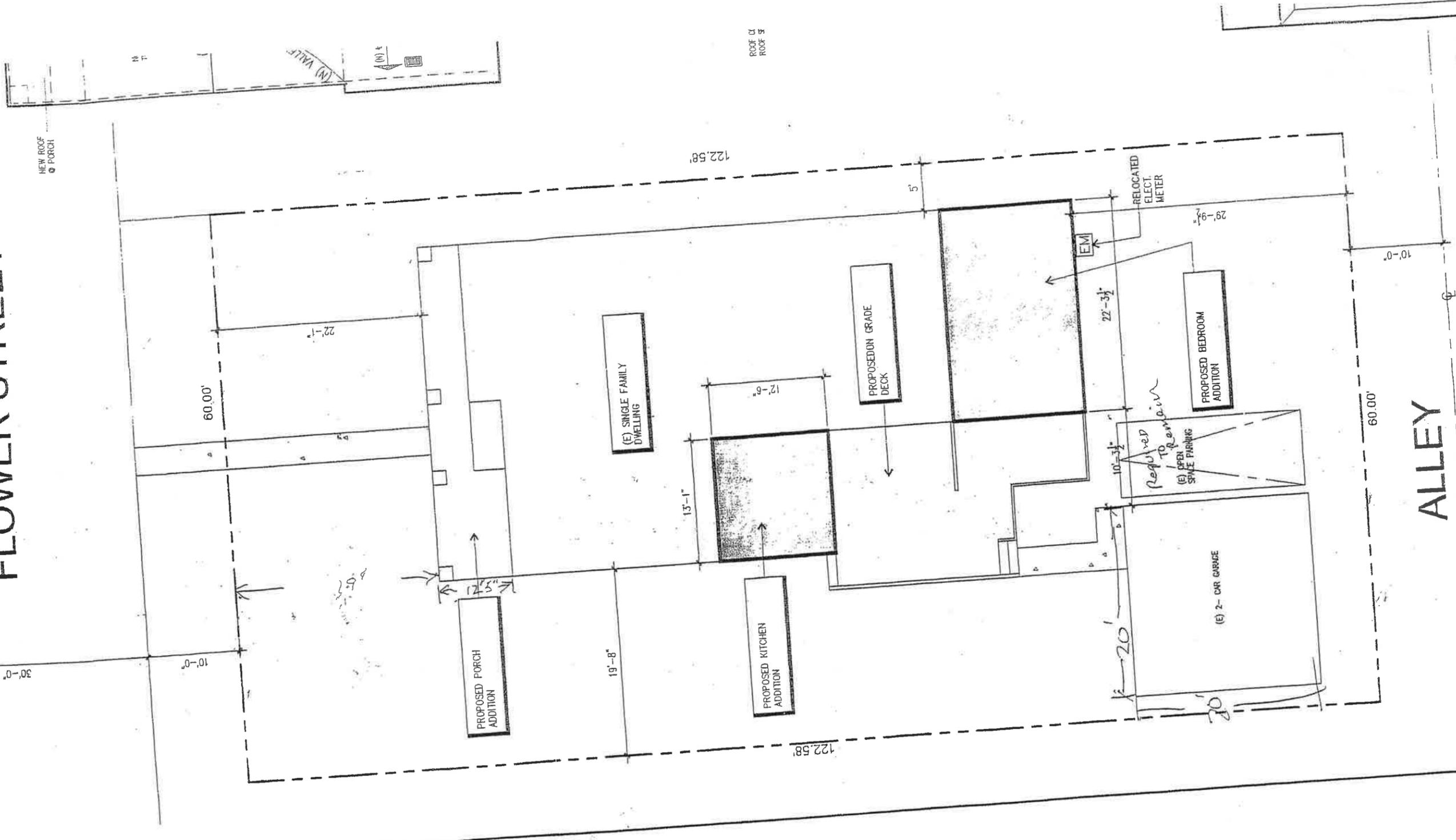


Legend

- Hydrology Channel
- Street Names
- Parcel Lines
- City Boundary
- Water Ways
- Ortho 2010 Level 2
- Ortho 2008 Level 2
- Ortho 2006 Level 2
- Parcels

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FLOWER STREET



SITE PLAN
 1/8" = 1'-0"

ALLEY