

MEETING NOTICE FOR THE CITY OF HUBBARD

TUESDAY

MAY 17, 2022

PLANNING COMMISSION: HOLUM, STIERLE, KARTAL, KULIKOV

This meeting will be held **via Zoom**. Planning Commission and Staff will meet via Zoom. Members of the public may attend/view the meeting via telephone, electronic device, and YouTube. **Should you wish to speak during the public hearing portion of the meeting, you may sign up by completing the form on the City's webpage at: <https://www.cityofhubbard.org/bc/webform/sign-if-you-want-speak-meeting>, or calling City Hall 48 hours prior to the meeting.** Written comments may be provided in advance of the meeting by sending an email to vnogle@cityofhubbard.org or mailing your written comments to the address provided below. If you desire to participate in the public hearing and are unable to provide written comments in of the meeting, and at least 48 hours in advance of the public hearing, please contact the Director of Administration/City Recorder, Hubbard City Hall, 3720 2nd St., Hubbard OR 97032 (Phone No. 503-981-9633) prior to the scheduled meeting time.

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*****ACCESSABILITY NOTICE*****

Please contact the Director of Administration/City Recorder, Hubbard City Hall, 3720 2nd St., Hubbard OR 97032 (Phone No. 503-981-9633) prior to the scheduled meeting time if you need assistance accessing this electronic meeting. TCC users please call Oregon Telecommunications Relay Service at 1-800-735-2900.

Agendas are posted at the Hubbard Post Office, City Hall, and the City website at www.cityofhubbard.org. You may schedule Agenda items by contacting the Director of Administration/City Recorder Vickie Nogle at 503-981-9633. (TTY / Voice 1-800-735-2900)

SEE ATTACHED AGENDA

Posted 5/12/2022

4:00 p.m.

Vickie L. Nogle, MMC

Director of Administration/City Recorder

HUBBARD PLANNING COMMISSION MEETING AGENDA
CITY HALL: (503)981-9633, 3720 2nd Street

MAY 17, 2022 – 6:30 PM
LOCATION: Online utilizing Zoom.
HUBBARD CITY HALL (3720 2ND STREET)

**(MEMBERS OF THE PUBLIC MAY CALL OR LOG IN WITH AN ELECTRONIC
DEVICE -Refer to Cover Sheet for details)**

MEETING Notice: Members of the public may attend/view via telephone, electronic device, and YouTube. **Should you wish to speak during the public hearing portion of the meeting, you may sign up by completing the form on the City's webpage at: <https://www.cityofhubbard.org/bc/webform/sign-if-you-want-speak-meeting>, or calling City Hall 48 hours prior to the meeting.** Written comments may be provided in advance of the meeting by sending an email to vnogle@cityofhubbard.org or mailing your written comments to the address provided below. If you desire to participate in the public hearing and are unable to provide written comments in of the meeting, and at least 48 hours in advance of the public hearing, please contact the Director of Administration/City Recorder, Hubbard City Hall, 3720 2nd St., Hubbard OR 97032 (Phone No. 503-981-9633) prior to the scheduled meeting time.

- 1) CALL TO ORDER.**
 - a) Flag Salute.
- 2) APPROVAL OF THE MARCH 15, 2022, PLANNING COMMISSION MEETING MINUTES.**
- 3) PUBLIC HEARING.**
 - a) Major Variance #VAR 2022-01 / 3635 5th Street (Matt Kennedy) request to the location standards for detached accessory structure.
- 4) ADJOURNMENT.** (Next regular scheduled Planning Commission meeting June 21, 2022, at 6:30 p.m.)

**CITY OF HUBBARD
PLANNING COMMISSION MINUTES
MARCH 15, 2022**

CALL TO ORDER. The Hubbard Planning Commission meeting was called to order at 6:32 p.m. by Planning Commission Chair Scott Stierle via Zoom.

Planning Commission Present: Planning Commissioner Glenn Holum, Planning Commission Chair Scott Stierle, Planning Commissioner Fil Kartal, Planning Commissioner Nik Kulikov (joined meeting at 6:44)

Staff Present: Director of Administration/City Recorder Vickie Nogle, City Planner Holly Byram, MWVCOG, Public Works Superintendent Michael Krebs, Administrative Assistant/Court Clerk Julie Hedden.

Guests: Manny Rodriguez

FLAG SALUTE. Planning Commission Vice Chairman Scott Stierle led the group in the flag salute.

APPROVAL OF THE FEBRUARY 15, 2022, PLANNING COMMISSION MEETING MINUTES. MSA/Planning Commissioner Glenn Holum / Planning Commissioner Fil Kartal moved to approve the minutes of the February 15, 2022, meeting. Planning Commission Chairman Scott Stierle, Planning Commissioner Glenn Holum, Planning Commissioner Fil Kartal, were in favor. Motion passed unanimously.

CONTINUED PUBLIC HEARING.

- a) **Site Development Review #DR 2021-03 / 2755 Pacific Highway 99E, (Architect Michael Wellman for Westside Drywall / Moshen Salem, Abiqua Investments LLC) for the development of a new 6210 SF warehouse.**

Planning Commission Chairman Scott Stierle opened the continued Public Hearing at 6:35 p.m.

Planning Commission Chairman Scott Stierle read the legislative hearing statement.

City Planner Holly Byram, MWVCOG, read the criteria standard script.

Planning Commission Chairman Scott Stierle asked for any declarations of ex parte contact, bias, or conflict of interest. There were none.

City Planner Holly Byram, MWVCOG, summarized the staff report and said this is a continuation of the Public Hearing from January 18, 2022.

City Planner Holly Byram, MWVCOG, said the Hubbard Planning Commission convened a duly-noticed public hearing for Site Development Review file #DR 2021-03 for Westside Drywall on

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Tuesday, January 18, 2022. Following the staff report and public testimony, there was discussion regarding the paving of a gravel parking lot. The Planning Commission voted 3-1 to continue the public hearing in order to allow the applicant additional time to research their options for paving the parking lot. She stated following the January public hearing the applicant submitted two items, a revised site plan showing the gravel parking lot that will be paved as well as a pedestrian connection to 99E, and storm water calculations from 2001, with redline notes from project Engineer Michael Wellman confirming there is sufficient storm water capacity in the existing detention facility.

City Planner Holly Byram, MWVCOG, said the items submitted by the applicant demonstrate the related recommended conditions of approval are feasible, and the applicant is willing to meet them. Staff has made no changes to the original recommendations of approval and recommends the Planning Commission take any additional testimony from the interested parties and that they make a motion to approve the Site Development Review file, adopt the original recommend finding and conditions of approval contained in the Staff Report dated January 12, 2022.

Applicant Manny Rodriguez, 15700 SW Division, Beaverton, OR 97007, said they decided to pave the parking lot in question and will meet all the recommended conditions of approval that are being asked for.

Planning Commission Chairman Scott Stierle asked if there was anyone to speak who would like to speak in support of the application or opposition of the application, and if there was anyone who would like to speak neither for nor against the application. There were no opponents. He went on to ask if the Planning Commission would like the applicant to address any of the testimony. There were none.

Planning Commission Chairman Scott Stierle said before he closed or continued the public hearing if there are any additional questions from the Planning Commissioners or staff or anyone. He went on to say as a reminder that once he closed the hearing only Commissioners or staff may speak. There were none.

Planning Commission Chairman closed the Public Hearing at 6:47 p.m. and will entertain discussion on the application and/or a motion.

MSA/Planning Commissioner Fil Kartal/Planning Commissioner Glenn Holum made a motion to approve Site Development Review file #DR 2021-03, and adopt the recommended findings and conditions of approval contained in the original Staff Report dated January 12, 2022. Planning Commission Chairman Scott Stierle, Planning Commissioner Fil Kartal, Planning Commissioner Nik Kulikov, Planning Commissioner Glenn Holum were in favor. Motion carried unanimously.

City Planner Holly Byram, MWVCOG, said she will send the applicant a notice of decision that contains all of the conditions of approval, and there will be a 12-day appeal period that follows that notice of decision.

DISCUSSION REGARDING PLANNING COMMISSION MEETINGS.

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It was discussed whether to continue meeting in Zoom, or go back to in person meetings. Director of Administration/City Recorder Vickie Nogle said even if we go back to in person meetings, State law requires that meetings must also allowed be accessed electronically which at this point would be utilizing Zoom and/or Phone.

Planning Commissioner Fil Kartal said he likes the Zoom meetings because information can be shared on screen by City Planner Holly Byram.

Consensus of the Planning Commission is to continue meetings via Zoom until it is decided otherwise.

ADJOURNMENT. (The next scheduled Planning Commission Meeting will be April 19, 2022 at 6:30 p.m.) MSA/Planning Commissioner Glenn Holum /Planning Commissioner Fil Kartal moved to adjourn. Planning Commission Chairman Scott Stierle, Planning Commissioner Glenn Holum, Planning Commissioner Fil Kartal, Planning Commissioner Nik Kulikov were in favor. Motion passed unanimously. Meeting was adjourned at 6:53 p.m.

Scott Stierle
Planning Commission Chairman

ATTEST:

Vickie L. Nogle, MMC
Director of Administration/City Recorder
Recording

Julie Hedden
Administrative Assistant/Court Clerk
Transcribing

Hubbard Planning Commission - Public Hearing Script

May 17, 2022

CHAIR: Good evening, my name is _____. I am the Chair of the Hubbard Planning Commission, and I will be presiding over this hearing. This is the time and place set for the public hearing in the matter of:

Major Variance, file # VAR 2022-01, Request for a variance to the location standards for a detached accessory structure in the R1 zone, to replace an existing non-conforming garage.

The hearing is now open. It is _____ PM. Oregon land use law requires several items to be read into the record at the beginning of every public hearing. The City Planner will review this material; your patience is appreciated as she goes through these statements.

City Planner (Holly Byram): The applicable substantive criteria upon which this case will be decided are found in the Hubbard Development Code Hubbard Development Code (HDC) Section 2.101 R1 – Low Density Residential District, Section 3.104 Variances, and Section 3.110 Nonconforming Uses & Structures.

All testimony and evidence received during this public hearing must be directed toward these approval criteria, or to such other rule, law, regulation, or policy which you believe to apply to this case. An issue which may be the basis for an appeal to the City Council or the Land Use Board of Appeals shall be raised not later than the close of the record at or following the *final* evidentiary hearing on this case. Such issues shall be raised with and accompanied by statements or evidence sufficient to afford this body, and the parties to this hearing, an adequate opportunity to respond to each issue.

This public hearing will proceed with the staff report and any other comments from governmental agencies that are in attendance; followed by the applicant and all of those who are in support of the application. All of those opposed to the application will then be allowed to speak, followed by those with general comments who are neither for nor against the application. Finally, the applicant will be entitled to a rebuttal period.

Please state your name, physical address, and mailing address clearly for the record before your comments. Please try to avoid repetition if someone else has already expressed the same thoughts. It is perfectly alright to state that you agree with the statements of that previous speaker. Please be assured that everyone will have an opportunity to speak.

If you have documents, maps, or letters that you wish to have considered by this body, they must formally be placed in the record of this proceeding. To do that, either before or after you speak; please submit the material to Vickie Nogle who will make sure your evidence is properly taken care of.

Prior to the conclusion of the first hearing on a land use application, any participant may request an opportunity to present additional evidence or testimony regarding the application. If such a request is made, it will be up to this body to determine if the hearing will be continued to a time and date certain, or if the record will be kept open for the submission of additional evidence.

CHAIR: With that out of the way, I need to ask the audience and fellow Commissioners a few questions:

1. Does any member of the audience have any objections to the notice that was published?
2. Does any member of the audience wish to challenge the jurisdiction of the Planning Commission to hear this matter?
3. Does any member of the Planning Commission wish to declare a potential or actual conflict of interest or bias?
4. Does any member of the Planning Commission wish to report any site visits or ex-parte contacts?
5. Does any member of the audience wish to challenge the impartiality or ex-parte disclosures of any member of the Planning Commission?

CHAIR: City Planner Holly Byram please give the staff report.

City Planner (Holly Byram): Staff Report

CHAIR: Are there any questions of staff from the Planning Commission before we continue and accept public testimony?

CHAIR: I will now accept public testimony regarding this case.

- Would the applicant or their representative like to speak?
- Is there anyone who would like to speak in support of the application?
- Is there anyone who would like to speak in opposition the application?
- Is there anyone who would like to speak neither for nor against the application (neutral)?
- Would the Planning Commission like the applicant to address any of the testimony?

CHAIR:

Before I close or continue the public hearing, are there any additional questions from the Planning Commissioners or staff or anyone? As a reminder, once I close the hearing only Commissioners or staff may speak.

Public testimony is now over. I will close the public hearing at _____ PM. I will now entertain discussion on the application and/or a motion.

**CITY OF HUBBARD PLANNING COMMISSION
STAFF REPORT**

REPORT: May 12, 2022

HEARING: May 17, 2022

FILE No.: Major Variance, file #VAR 2022-01

APPLICANT: Owner Matt Kennedy

LOCATION: 3635 5th Street, Tax lot # 041W33AA10900
Also referenced as: Parcel 1 of PP 18-049

ZONE: R1 – Low Density Residential

REQUEST: Applicant requests Planning Commission approval of a Major Variance to the location standards for a detached accessory structure in the R1 zone. Subject property contains existing non-conforming garage in poor condition. Applicant desires to remove and replace the existing garage, maintaining the same or similar historic setbacks with a new garage located forward of the front building line of the main house, rather than in the side or rear yard.

CRITERIA: Hubbard Development Code (HDC):
Section 2.101 R1 – Low Density Residential District
Section 3.110 Nonconforming Uses & Structures
Section 3.104 Variances

EXHIBITS A: Combined department & agency comments
B: Application submitted by applicant

I. PROCEDURE & AUTHORITY

A Major Variance is a Type II Action. A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow some discretion. Public notice and a public hearing are provided. An appeal of a Type II decision is to the City Council. Required public notice for a Type II action is a minimum 20-day notice to property owners within 100 feet of the subject property, consistent with HDC 3.202.02.

II. BACKGROUND

A. PROPERTY HISTORY: Marion County Assessor records report that the main house on this property was constructed in 1895. The main house has a larger front setback from 5th Street than most other surrounding residential development. There are two accessory structures; a garage in the back accessed off of ‘D’ Street, and a garage in the front accessed off of 5th Street. The front garage structure was constructed in 1963. It is located forward of the front building line of the main house, which is no longer permitted by the R1 Zone dimensional standards.

B. VICINITY MAP:



C. EXISTING CONDITIONS (Image provided by the applicant):



A. REPLACEMENT GARAGE SITE PLAN (as provided by the applicant):



IV. REVIEW STANDARDS/CRITERIA

The purpose of this section is to assist the Planning Commission in their analysis of the applicable decision criteria for the applicant's request. The following standards and criteria are found in the Hubbard Development Code (HDC).

2.100 ZONING DISTRICTS

2.101 LOW DENSITY RESIDENTIAL DISTRICT (R-1)

2.101.02 Permitted Uses

- A. Single-family dwelling unit,*
- C. Accessory structure or use*

FINDINGS: The subject property is zoned R1 – Low Density Residential. It is developed with an existing single-family house and three existing accessory structures; two garages and one shed. Accessory structures are permitted as an ancillary use to a primary single-family dwelling in this zone, subject to the dimensional standards and development standards of the R1 zone, detailed below. There does not appear to be a limit to the number of accessory structures permitted beyond the limitations of total lot coverage. The proposed garage is a permitted use.

2.101.04 R1 Dimensional Standards

B. Minimum Yard Setbacks

2. All detached accessory structures shall maintain the following minimum side and rear yard setbacks:

- a. Rear Yard 5 feet*
- b. Side Yard (interior) 5 feet, Side Yard (adjacent to a street) 15 feet*

C. Maximum Structure Height

2. Accessory Structure 20 feet, except that no accessory structure shall exceed the height of the principal structure

FINDINGS: The proposed garage meets the 5-foot minimum rear and side yard setbacks required of accessory structures in the R1 zone. The new garage is proposed to be set back 28 feet from the front property line, which is more than the 20-foot front setback for garages. Structure location in relation to the primary structure is discussed below.

If the applicant plans to convert the accessory structure to an accessory dwelling unit (ADU) in the future, that land use is not reviewed with this application, but staff notes that a minimum side setback of 7.5 feet is required for 1 ½ and 2 story structures. This is included as a recommended condition of approval.

Pursuant to HDC 1.200 Definitions, structure height is defined as “*The vertical distance from the "grade" to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof.*” Using this averaging method, the applicant states that the proposed garage height would be 18.08’ which is less than the 20-foot height limit. These dimensional standards are met.

2.101.05 Development Standards

E. Detached accessory structures shall not exceed 1,400 square feet in size, or the area covered by the main building, whichever is less...

FINDINGS: This size standard is not clearly written, so staff consulted with the team of City Planners at the Mid-Willamette Valley Council of Governments (MWVCOG). There was general agreement that this language was intended to ensure that an accessory would never exceed the size of the main structure in height, overall size (total floor area), or footprint. The language above in 2.101.05(E) includes two different limits; which should be treated as apples and oranges. The first standard limits the total accessory building size to 1,400 SF. The HDC 1.200 Definitions define structure size gross floor area as “*Floor Area: The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but not including...*” The proposed garage is 1,120 SF 1st story and 808 SF 2nd floor, for a total of 1,928 SF total. The 1,400 SF size limit is exceeded. Staff has included a condition of approval that the total building size shall be reduced to meet this standard.

The second standard limits the footprint of an accessory structure to the primary building’s footprint. The applicant’s site plan shows the primary structure footprint as 1,676 SF (total structure size is 2,945 SF according to Marion County Assessor). The proposed garage meets this footprint standard, as proposed.

Staff finds the proposed accessory structure either meets, or can meet through compliance with the recommended conditions of approval, the dimensional standards of the R1 zone.

E. (continued)... *Detached accessory structures may be located within the rear or side yard area, and shall comply with maximum lot coverage standards.*

FINDINGS: HDC 1.200 Definitions state the following about how front, side, and rear yards are delineated:

Yard: The area defined by setbacks (i.e. between the setback line of the building foundation and the respective property line).

Yard, Front: A yard extending across the full width of the lot, between the front portion of a main building and the front lot line. The depth of front yard is the minimum horizontal distance between the front lot line and the nearest point of the foundation of the main building.

Yard, Rear: A yard extending across the full width of the lot between the most rear portion of a main building and the rear lot line; but for determining the depth of the required rear yard, it shall be measured horizontally from the nearest point of the rear lot line; or, if the rear lot line adjoins an alley, then from the centerline of the alley, toward the nearest part of the foundation of the main building.

Yard, Side: A yard, between the main building and side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the foundation of the main building.

The applicant states that the existing house has a front setback of just under 41 feet. The new replacement garage is proposed to maintain the existing setback of 28 feet (unless this front setback is required to be increased). Because the new garage is proposed forward of the front portion of the main building, it is considered to be in the “front yard.” This location standard requiring accessory structures to be located in either the side or rear yard is not met, and is the reason for this Major Variance application. Variances are measured as a percentage difference from the standard. In this case, the calculation would be $41 \text{ ft} - 28 \text{ ft} = 13 \text{ ft} / 41 \text{ ft} = 32\%$ variance. The threshold between a minor and major variance is 20%. This request is therefore a major variance. The Major Variance application decision criteria is included below, as well as the criteria for non-conforming uses and structures. The location of the replacement garage can only be approved if this Major Variance is approved.

3.104 VARIANCES

3. 104.03 Criteria and Procedure – Major Variance

The Planning Commission may allow a variance from a requirement or standard of this Ordinance after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence substantiating all the following and affirmatively answering the questions:

A. Does compliance with the applicable requirement or standard of the Ordinance create a hardship due to one or more of the following conditions?

- 1. The physical characteristics of the land, improvements, or uses are not typical of conditions in the zoning district and such physical characteristics do not result from the negligent or knowing violation of this Ordinance by the applicant.*
- 2. If the standard or requirement is applied, the applicant is not granted the preservation or enjoyment of a substantial property right possessed by other property owners in the same vicinity or district.*
- 3. Compliance with the requirement or standard would eliminate a significant natural feature of the property.*

APPLICANT RESPONSE: The historic homes was built on a very large lot, and the setback to the house is not typical compared to current standards. Complying [with] the setbacks to façade of home would create a massive driveway that would use up an excessive amount of the lot. Moving the replacement garage behind the home façade would wipe out the view and garden area outside of the kitchen window glass wall. The conditions and circumstances were created over 100 years ago.

FINDINGS: Staff agrees with the applicant that the unique conditions and circumstances on the site were created more than 100 years ago. A denial of this application would not, however, deny the applicant the enjoyment of a substantial property right possessed by other property owners in the same district due to the fact that there is an existing garage in the rear of the house. At least one of the conditions in 3.104.03(A) is met, which is the requirement.

B. Strict adherence to the requirement or standard [is] unnecessary because the proposed variance will reasonably satisfy both the following objectives?

1. Granting the variance will not create significant adverse affects to the appearance, function or safety of the use or uses on the subject property, and

2. Granting the variance will not impose limitations on other properties in the area, including uses, which would be allowed on vacant or undeveloped properties.

APPLICANT RESPONSE: The variance allows for a substantial upgrade to the current garage that would be architecturally similar to the house. The new garage has no impact on surrounding properties.

FINDINGS: Staff expects that replacing the garage would be a relative upgrade to the appearance, function, and safety of the property frontage in place of the existing garage, which is likely more than 100 years old and in poor condition. Granting the variance to allow the new garage to be located in the front yard rather than the side yard (behind the front building line of the primary dwelling) should not cause adverse effects to the subject property, due to the fact that the old garage is an existing non-conforming structure at the same setback. The criteria for non-conforming structures is also included below for consideration.

Regarding impacts to other properties, the applicant's site plan shows a 5-foot side setback, which meets the required minimum setback for accessory structures in the R1 zone. The replacement garage would be larger in overall size, height, and footprint than the existing structure. There is a single-family dwelling located near to the property line on the abutting property. It is not clear what the setback of that neighboring house is. The applicant is advised that if a future conversion to an accessory dwelling unit (ADU) is planned or possible, the new garage should be constructed with a 7.5-foot side setback, consistent with the ADU standards for 1 ½ and 2-story ADU structures.

Neighboring property owners within 100 feet of the subject property have received a notice of the Major Variance public hearing. They have an opportunity to comment verbally or in writing on this variance application. No comments have been received to date.

Staff does not expect the variance to limit development opportunities on other properties in the area.

C. Approval of this application allows the property to be used only for purposes authorized by the zoning district?

FINDINGS: As previously discussed, an accessory structure is a permitted use in the R1 zone.

D. If approved, is the application still in compliance with the policies?

FINDINGS: All other applicable policies are discussed in this staff report.

3.110 NONCONFORMING USE AND DEVELOPMENT

3.110.01 Purpose and Scope

Within the zoning districts established by this Ordinance and amendments thereto, uses, structures, and lots exist which were lawful before the date of adoption or amendment of this Ordinance but which would be prohibited or restricted under the terms of this Ordinance. The general purpose of this Section is to encourage the conversion of such nonconforming uses, structures, and lots to conforming uses, structures, and/or lots. However, this Section allows

nonconforming uses, structures, and/or lots to be continued, altered, restored or replaced subject to satisfaction of the review criteria specified in Subsection 3.110.03...

3.110.03 Review Criteria

A. The Planning Commission shall authorize alteration, restoration or replacement of a nonconforming use, structure, or lot in accordance with the Type II review procedures when any of the following circumstances apply:

- 1. the alteration is necessary to comply with any lawful requirements for alteration of said use, structure or lot; or*
- 2. restoration or replacement is made necessary because of a fire, other casualty, or natural disaster.*

FINDINGS: Neither of the above criteria in 3.110.03(A) 1 or 2 apply to this application. The Planning Commission should therefore look to the criteria in subsection (B) below.

B. In any other circumstance, the alteration, restoration or replacement of a nonconforming use or structure may be authorized by the Planning Commission, provided that the applicant demonstrates that the proposal satisfies the following criteria:

- 1. the alteration would result in a reduction in nonconformity of the use,*

FINDINGS: The applicant states that they will increase the existing setback from 28 feet to 28 feet 4 inches to reduce the non-conformity of the location.

- 2. the alteration would have no greater adverse impact on the neighborhood,*

FINDINGS: The existing front garage is 360 SF in size. The proposed replacement structure is shown as a footprint of 1,120 SF 1st story, with a 808 SF 2nd floor, for a total size of 1,928 SF. Previously in this staff report, staff identified that the proposed structure exceeds the 1,400 SF size limit and has included a recommended condition of approval that the overall structure be reduced to meet the accessory structure size standard. The overall non-conforming structure size is therefore proposed to be increased from 360 SF to 1,400 SF. This represents an increase in the potential impact, however the applicant is willing to increase the setback slightly. As previously discussed, replacing the old structure in poor condition could provide an improvement to the appearance, function, and safety of the existing non-conforming structure. This criteria can be supported through the applicant's compliance with the recommended conditions of approval regarding structure size.

- 3. the use or occupancy of the structure has not been discontinued for a period of one (1) year, and*

FINDINGS: The existing garage has been maintained in use as an accessory structure. This criteria is met.

- 4. the nonconforming use and any subsequent use of the property and structure involved conforms to the requirements of this Ordinance and any other applicable laws, ordinances, and regulations.*

FINDINGS: This application deals with a non-conforming structure, rather than a nonconforming use. The proposed use of an accessory structure is an outright permitted use in the R1 zone. The proposed structure is subject to Marion County Building Department review of all required permitting, including but not limited to structural, electrical, plumbing, etc. Additionally, construction of the new garage will require a paved driveway constructed to City standards, and Public Works approval to work in the 5th Street right-of-way.

Staff has also included a recommended condition of approval related to the potential for the applicant to convert the new accessory structure to an accessory dwelling unit (ADU). The HDC has specific adopted standards for the construction of ADUs in City Limits. An ADU is also an outright permitted use, subject to those adopted standards found in HDC

V. CONCLUSIONS & RECOMMENDATION

Based upon the findings contained in this report, Staff concludes that the application (File VAR 2022-01) can be found to comply with the applicable criteria, subject to compliance with the recommended conditions of approval listed below.

VI. RECOMMENDED CONDITIONS OF APPROVAL

Staff recommends APPROVAL of the requested Major Variance, subject to the following conditions of approval:

A. **COMPLIANCE:** Pursuant to HDC 3.110.05, compliance with conditions imposed in granting a permit for alteration, restoration or replacement of a nonconforming use, structure, or lot and adherence to the approved plot plan shall be required. Any departure from these conditions of approval and approved plans constitutes a violation of this Ordinance. The City Recorder may revoke any permit issued hereunder for failure to comply with any prescribed condition of approval, or for any other violation of this Ordinance.

B. **CODES:** It is the responsibility of the applicant to obtain copies of and be familiar with all applicable codes and standards.

C. **COST OF IMPROVEMENTS:** Applicant shall be responsible for all costs of improvements associated with the proposed development.

D. **BUILDING PERMITS:** Structural permits are required. Permits are issued and inspected by Marion County Building Department in partnership with the City of Hubbard.

E. **UTILITIES:** All utilities to new garage structure shall be installed in compliance with the City of Hubbard Public Works Construction Design Standards. Work within the 5th Street public right-of-way requires Public Works approval prior to construction.

F. **BUILDING SIZE:** Prior to building permit approval, the applicant shall reduce the overall accessory structure size to meet the size limits for accessory structures in the R1 zone; to be less than 1,400 SF gross floor area, and a footprint smaller than the footprint of the primary structure.

G. SIDE SETBACK: Prior to building permit approval, applicant shall demonstrate compliance with the minimum 5-foot side setback for an accessory structure from property line. If the applicant plans to convert to ADU in the future, minimum 7.5-foot side setback is strongly recommended prior to building permits.

H. FRONT SETBACK: Prior to building permit approval, applicant shall demonstrate an increased front setback beyond the existing condition, moving the garage from approximately 28 feet to 28 feet 4 inches.

I. DRIVEWAY: All parking, driving, and maneuvering areas shall be paved. Prior to final occupancy, the driveway to the new garage shall be paved with sidewalk curb drops approved by the City of Hubbard Public Works prior to construction.

J. CLEAR VISION AREA: Applicant shall at all times maintain the clear vision area adjacent to the driveway to the new garage, consistent with the standards in HDC 2.209.07 Vision Clearance.

K. FUTURE ADU CONVERSION: If the new accessory structure is proposed to be converted to an accessory dwelling unit (ADU) in the future, applicant shall apply for structural permit review for a change of occupancy and demonstrate compliance with HDC 2.307 Accessory Dwelling Unit Standards prior to occupancy of future ADU.

L. SECURITY: Hubbard Police Department general recommendations for site security and emergency response: 4-inch address numbers, adequate perimeter lighting, and monitored security system. Lighting shall be directed entirely onto the subject property, shall not cast a glare or reflection onto moving vehicles on public rights-of-way.

M. EXPIRATION OF APPROVAL: Variance approval shall be effective for a period of two (2) years from the date of approval. If the variance request has not been implemented within the two (2) year period, the approval shall expire. Variance approval shall be voided immediately if the use established on site does not substantially conform to the approval granted by the Planning Commission. The Planning Commission may, upon written request by the applicant and payment of the required fee, grant one (1) additional extension for a period not to exceed one (1) year pursuant to the criteria and procedures in HDC 3.104.05.

VII. PLANNING COMMISSION OPTIONS

- | | |
|----|--|
| A. | Motion to <u>APPROVE</u> Major Variance file #VAR 2022-01, and adopt the recommended findings and conditions of approval contained in the Staff Report dated May 12, 2022, as presented. |
|----|--|
- B. Motion to APPROVE Major Variance file #VAR 2022-01, and adopt the recommended findings and conditions of approval contained in the Staff Report dated May 12, 2022, as REVISED by the Planning Commission (stating those revisions).
- C. DENY Major Variance file #VAR 2022-01 with amended findings that the application does not meet the applicable approval criteria.
- D. CONTINUE the public hearing, to a date and time certain, if additional information is needed to determine whether applicable standards and criteria are sufficiently addressed.

EXHIBIT A:

COMBINED CITY DEPARTMENT AND AGENCY COMMENTS

1. City of Hubbard Public Works Director, Mike Krebs:

Both water and sewer can be accessed from 5th St. I don't see a problem providing services to this location, if it is approved by the Planning Commission.

2. City of Hubbard City Engineer, Matt Wadlington, PE Principal, Civil West Engineering Services Inc.:

From my perspective I don't have any concerns about this variance.

3. City of Hubbard Police Department, Chief of Police David Rash:

I have no issues. Suggest lighting and the 4" numbers to be visible if they are putting numbers on the building.

EXHIBIT B:
APPLICATION MATERIALS SUBMITTED BY APPLICANT

MAJOR VARIANCE APPLICATION

CITY OF HUBBARD

3720 2nd Street (P.O. Box 380)

Hubbard, OR 97032

Phone: (503) 981-9633; Fax: (503) 981-8743

<http://www.cityofhubbard.org>

To Be Filled Out by Staff:

FILE: _____

DATE: _____

FEE: _____

RECEIPT NO: _____

APPLICANT: Matt Kennedy

PHONE: 503-314-7086 EMAIL ADDRESS: homes@mattkennedy.com

ADDRESS: 3635 5th St. Hubbard OR 97032

OWNER(S): Matt Kennedy

(If different from above)

PHONE: _____ EMAIL ADDRESS: _____

ADDRESS: _____

REQUEST: To rebuild non conforming garage with expanded footprint, using existing setbacks.

PROPERTY DESCRIPTION:

ADDRESS: 3635 5th St Hubbard

MAP PAGE AND TAX LOT NUMBERS: 4-1W-33-NE-NE P.P. 2018-049, PARCEL 1 ZONE: R1

CURRENT USE/STRUCTURES: SFR SQUARE FOOTAGE OF SITE: 26,136

FINDINGS:

Hubbard Development Code Section 3.104.03 specifies that the following approval criteria that must be addressed before granting a major variance. Applicants are responsible for providing information demonstrating the following: (if necessary, please use additional page(s) for your response):

A. Compliance with the applicable requirement or standard of the Ordinance would create a hardship due to one or more of the following conditions:

1. The physical characteristics of the land, improvements or uses on the subject property are not typical of conditions in the zoning district.

The historic home was built on a very large lot, and the setback to the house is not typical compared to current standards.

DATE: 9/19/08

2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district.

Complying to the setbacks to facade of home would create a massive

driveway that would use up an excessive amount of the lot.

3. Compliance with the requirement or standard (without a variance) would eliminate a significant natural feature of the property.

Moving the replacment garage behind the home facade would wipe out the view

and garden area outside of the kitchen window glass wall.

4. The special conditions and circumstances on which the application is based do not result from the negligent or knowing violation of this Ordinance by the applicant.

The conditions and circumstances were created over 100 years ago.

B. Strict adherence to the requirement or standard is unnecessary because the proposed variance will reasonably satisfy both of the following objectives:

1. Granting the variance will not create significant adverse affects to the appearance, function or safety of the use or uses on the subject property; and

The vairiance allows for a substantial upgrade to the current garage that would

be architecturally similar to the house.

2. Granting the variance will not impose limitations on other properties in the area, including uses which would be allowed on vacant or underdeveloped properties.

The new garage has no impact on surrounding properties.

C. Approval of this application will allow the property to be used only for purposes authorized by the zoning district.

The new garage is consistent with use allowed in the zone.

D. Approval of the application does not conflict with policies and objectives of the Comprehensive Plan.

The detached garage is consistent with the zone, and does not have any conflict.

ATTACHMENTS:

Please submit one paper copy and one (1) electronic copy (PDF format preferred of the following application materials:

1. A legible **site plan** drawn to scale on 8 ½ x 11 or 11 x 17 inch paper, or eight (8) full size copies (typically 18 x 24 inches or larger) that shows the following information:

- ☒ existing and proposed structures,
- ☐ driveways and vehicular circulation,
- ☐ parking,
- ☐ landscaping, and
- ☐ significant natural features.

I HEREBY CERTIFY THAT ALL STATEMENTS CONTAINED HEREIN, ALONG WITH THE EVIDENCE SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT; AND THAT THE REQUEST DOES NOT VIOLATE ANY DEED RESTRICTIONS THAT MAY BE ATTACHED OR IMPOSED UPON THE SUBJECT PROPERTY. (NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.)

4/19/2022

Matt Kennedy

Date

Applicant
same as applicant

Date

Owner(s)

Date

Owner(s)

DATE: 9/19/08

MAJOR VARIANCE INFORMATION SHEET

A variance is a grant of relief from certain zoning requirements when a strict application of the requirements for lot width, lot depth, lot area, building height setback, access or other dimensional requirements in any zoning classification would cause an undue or unnecessary hardship.

☒ VARIANCE REGULATION

Variances are regulated by the City of Hubbard's Development Code. Section 3.104 of the Development Code contains the variance procedures. The Planning Commission has the authority to approve or deny major variances where strict application of the ordinance would result in an extreme hardship. However, no variance can be granted to allow a use of property not permitted in a zone.

☒ APPLICATION PROCESSING

Once an application is submitted, along with all pertinent filing information, City staff will review it for completeness. If additional material is necessary, you will be contacted. Once the application is determined to be complete, staff will prepare a report for Planning Commission review. The staff report is available seven days prior to the Planning Commission meeting. You will have the opportunity to testify on behalf of your application at the Planning Commission meeting. The Planning Commission decision can be appealed to the City Council.

☒ CONDITIONS ON VARIANCES

The Planning Commission may impose such limitations, conditions and safeguards as it may deem appropriate so that the intent of the ordinance will be observed, public safety secured and substantial justice be done. The Planning Commission may limit the time or duration of a variance. If the variance is granted, the applicant will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval by the Planning Commission. A violation of any such condition or limitation shall constitute a violation of the zoning ordinance.

☒ EFFECTIVE DATE OF APPROVAL

The variance shall be effective 12 days after the date of the notice of the decision.

☒ ADDITIONAL INFORMATION

For additional information on variances, call Hubbard City Hall at (503) 981-9633.

EXHIBIT A

LAND USE FEE SCHEDULE ACKNOWLEDGMENT

as of 2/11/2020 (attachment to Resolution No. 686-2020)

Resolution No. 685-2020 requires land use applications to reimburse the City for the actual costs associated with their applications. The City requires a deposit for land use application as required in section 3.206.03 in the Hubbard Development Code. Staff collects the deposit at the time of application.

Costs and time are paid out of the deposit. If it appears the costs exceed the initial deposit, the Director of Administration/City Recorder may require an additional deposit for costs that may be incurred to complete the project. At the end of the project a final bill will be prepared, and the City will either request additional funds or issue a refund check.

The following are examples of the most common types of charges and amounts per hour that will be incurred for land use projects in the City. These rates are provided for example purposes only, and you will be charged the actual costs incurred by the City as required by Resolution 685-2020. These example rates will therefore be reviewed annually and updated as necessary. You may request a copy of the most recent example rates at any time by contacting the Director of Administration/City Recorder.

City Planner **\$85.00**

(The City Planner prepares staff reports, final actions, and makes presentations at Planning Commission and Council meetings.)

City Engineer **\$165.00**

(The City Engineer may be requested to investigate or review plans submitted by the applicant, and may make presentations at required meetings)

Director of Admin/Recorder **\$90.00**

Admin Assistant **\$45.00**

(The Planning Secretary prepares applicants files, prepares comments for other departments, prepares public hearing notices, posts and mails notices, answers applicants questions and attends all meetings)

Public Works Director/Superintendent **\$84.00**

Public Works Admin Manager **\$68.00**

Utility Worker II **\$58.00**

Utility Worker I **\$37.00**

Admin Assistant **\$20.00**

(The Public Works personnel reviews applications and comments regarding water, sewer, streets, backflow devices, and storm drain issues)

Police Chief **\$83.00**

(The Police Chief reviews plans and looks into safety concerns such as lighting and addressing issues)

City Attorney **\$235.00**

(Review of documents, negotiation of conflicts, litigation and enforcement issues)

Office Copies	(Black & White 8 ½ X 11)	.25 per page
	Color	.35 per page
	(Black & White 11X 17)	.50 per page
	Color	.70 per page

Long Distance Phone Calls **\$3.00 per call**

Fax **\$2.00 per fax + .50 per page**

I have read this information and understand that the land use fee is a deposit and the application may cost more or less.


Applicants Signature

4/19/2022

Date

3.110.03 Review Criteria

B. In any other circumstance, the alteration, restoration or replacement of a nonconforming use or structure may be authorized by the Planning Commission, provided that the applicant demonstrates that the proposal satisfies the following criteria:

1. the alteration would result in a reduction in nonconformity of the use,

Yes. Applicant is willing to increase the setback to 28' 4" to meet this criteria

2. the alteration would have no greater adverse impact on the neighborhood,

The proposed replacement is a significant improvement to the site and neighborhood

3. the use or occupancy of the structure has not been discontinued for a period of one (1) year, and

The subject building to be replaced is in use at the time of application.

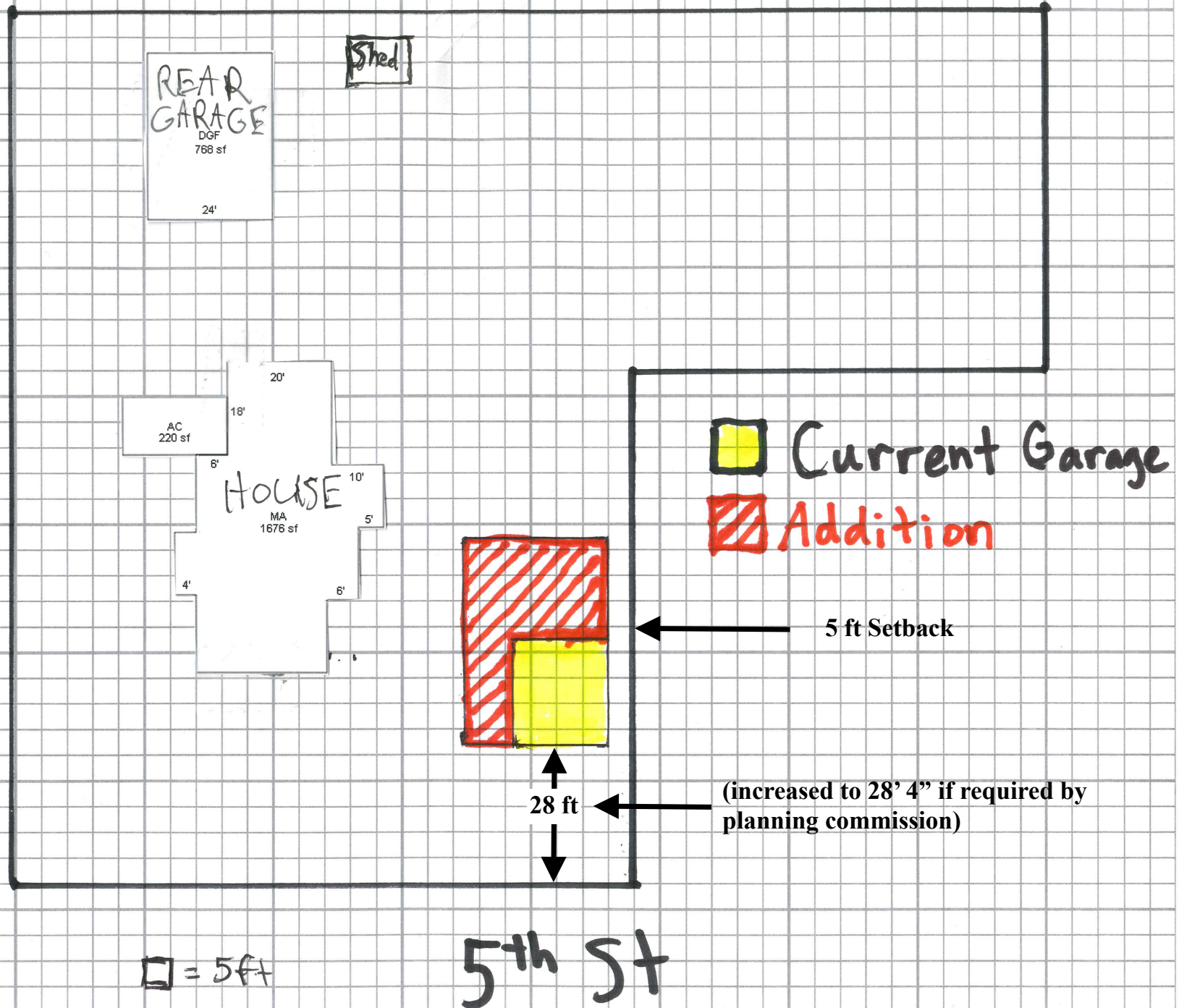
4. the nonconforming use and any subsequent use of the property and structure involved conforms to the requirements of this Ordinance and any other applicable laws, ordinances, and regulations.

The replacement structure complies, and is subject to permit review.

Site Plan for 3635 5th St

www.free-printable-paper.com

5th St





FRONT ELEVATION
SCALE 1/4" = 1'0"



REAR ELEVATION
SCALE 1/4" = 1'0"



LEFT ELEVATION
SCALE 1/4" = 1'0"



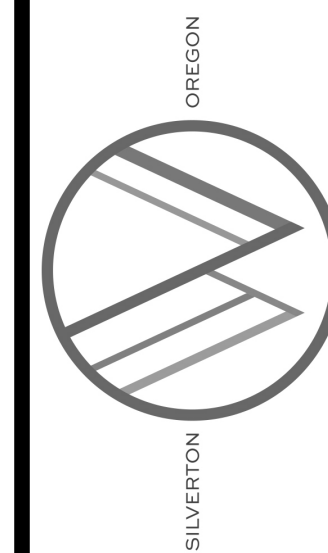
RIGHT ELEVATION
SCALE 1/4" = 1'0"

CONSULTANT(S):

DAN GREEN ENGINEERING, INC.
SALEM, OREGON (503) 391 - 2309

JOB REFERENCE #220307

WHERE A BUILDING OF OTHERWISE CONVENTIONAL CONSTRUCTION CONTAINS STRUCTURAL ELEMENTS EXCEEDING THE LIMITS OF SECTION R301 OR OTHERWISE NOT CONFORMING TO THIS CODE, THESE ELEMENTS SHALL BE DESIGNED IN ACCORDANCE WITH ACCEPTED ENGINEERING PRACTICE. THE EXTENT OF SUCH DESIGN NEED ONLY DEMONSTRATE COMPLIANCE OF NON-CONVENTIONAL ELEMENTS WITH OTHER APPLICABLE PROVISIONS AND SHALL BE COMPATIBLE WITH THE PERFORMANCE OF THE CONVENTIONAL FRAMED SYSTEM. ENGINEERED DESIGN IN ACCORDANCE WITH THE BUILDING CODE IS PERMITTED FOR BUILDINGS AND STRUCTURES, AND PARTS THEREOF, INCLUDED IN THE SCOPE OF THIS CODE.



WAVRA DESIGN CO.
DRAFTING & DESIGN

KENNEDY ACC. STRUCTURE

MATT KENNEDY GARAGE
HOMES@MATTKENNEDY.COM

3635 5TH STREET
HUBBARD, OREGON

111 S. FIRST STREET
SILVERTON, OR
WAYRADESIGNCO@GMAIL.COM
WAYRADESIGNCO.COM
PH. 503-932-4134

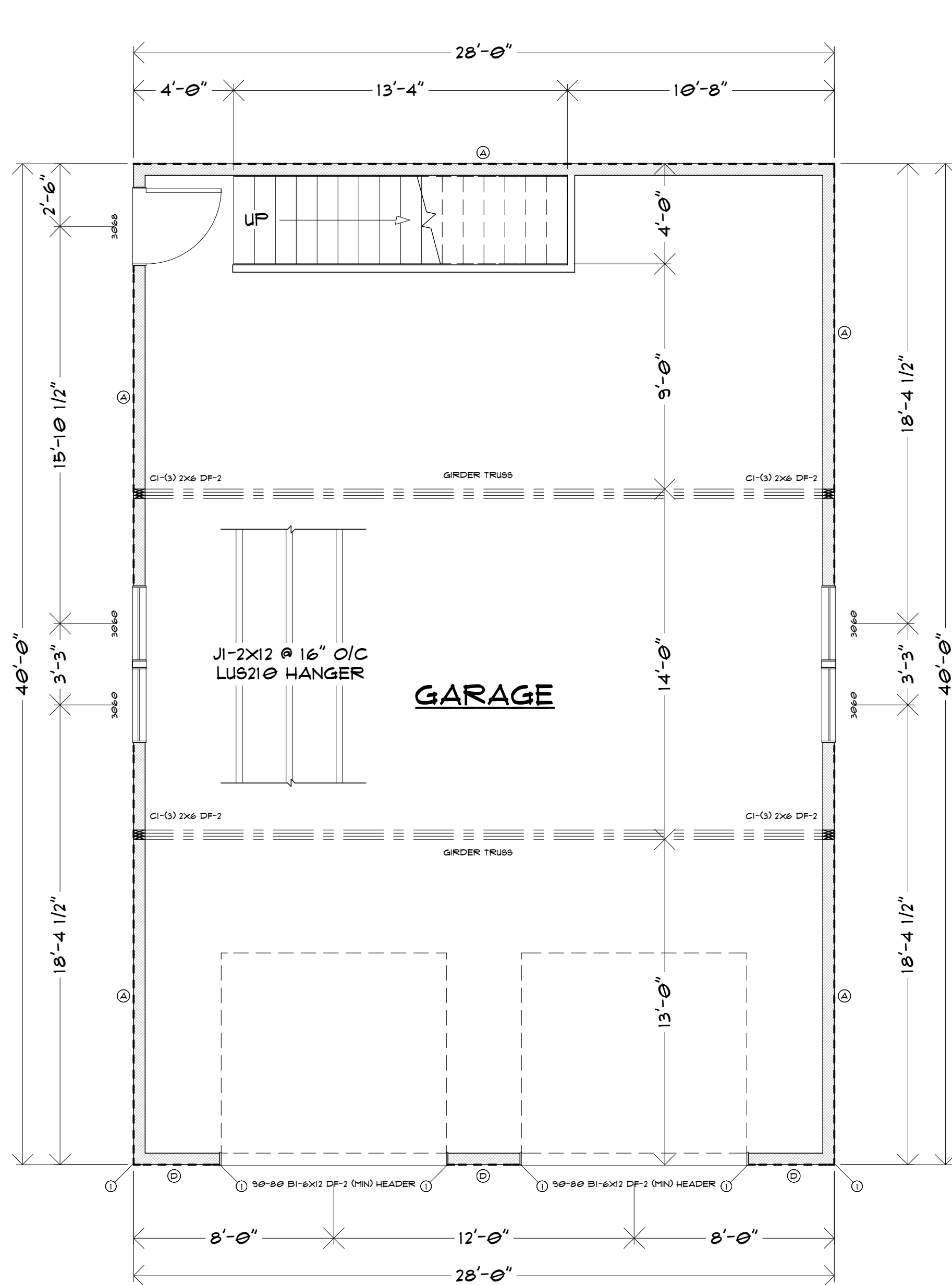
THESE PLANS HAVE BEEN LICENSED TO THE CUSTOMER FOR USE IN CONSTRUCTION OF ONE BUILDING ONLY AND ARE SUBJECT TO THE CONDITIONS OF LICENSE ACCEPTED BY THE CUSTOMER. ANY USE OF THESE PLANS IS AVAILABLE UPON REQUEST. USE OF ANY PART OF THE PLANS BY ANY PARTY OTHER THAN THE CUSTOMER EXCEPT ON LOAN BY THE CUSTOMER TO THIRD PARTIES NECESSARY TO ASSIST THE CUSTOMER AND UNDER THE PLANS SUCH AS CONTRACTORS AND SUBCONTRACTORS ITS STRICTLY PROHIBITED. THE PLANS MAY NOT BE REUSED OR COPIED IN WHOLE OR IN PART WITHOUT WRITTEN PERMISSION FROM WAVRA DESIGN CO. LLC. WAVRA DESIGN CO. RETAINS COPYRIGHT RIGHTS TO AND OWNERSHIP OF THESE PLANS. WAVRA DESIGN CO. PREPARES ITS PLANS CAREFULLY FOR USE BY ITS CUSTOMERS. HOWEVER, ADAPTATION OF THE PLANS TO MEET SPECIFIC STATE AND LOCAL BUILDING CODES, REGULATIONS AND SPECIFIC SITE CONDITIONS IS THE RESPONSIBILITY OF THE CONTRACTOR/USER. IN ADDITION WAVRA DESIGN CO. WILL NOT BE RESPONSIBLE FOR ANY DAMAGES RELATING TO THE ACCURACY AND OVERALL INTEGRITY OF THE PLANS IN EXCESS OF THE LICENSE FEE PAID FOR THEIR USE. THE CONTRACTOR THEREFORE MUST CAREFULLY INSPECT ALL DIMENSIONS AND DETAILS IN THE PLANS FOR ERRORS AND/OR OMISSIONS. UNAUTHORIZED USE OR COPYING OF THESE PLANS FOR THE DESIGN THEY DEPICT INFRINGES RIGHTS UNDER THE COPYRIGHT ACT.

MAR. 2022

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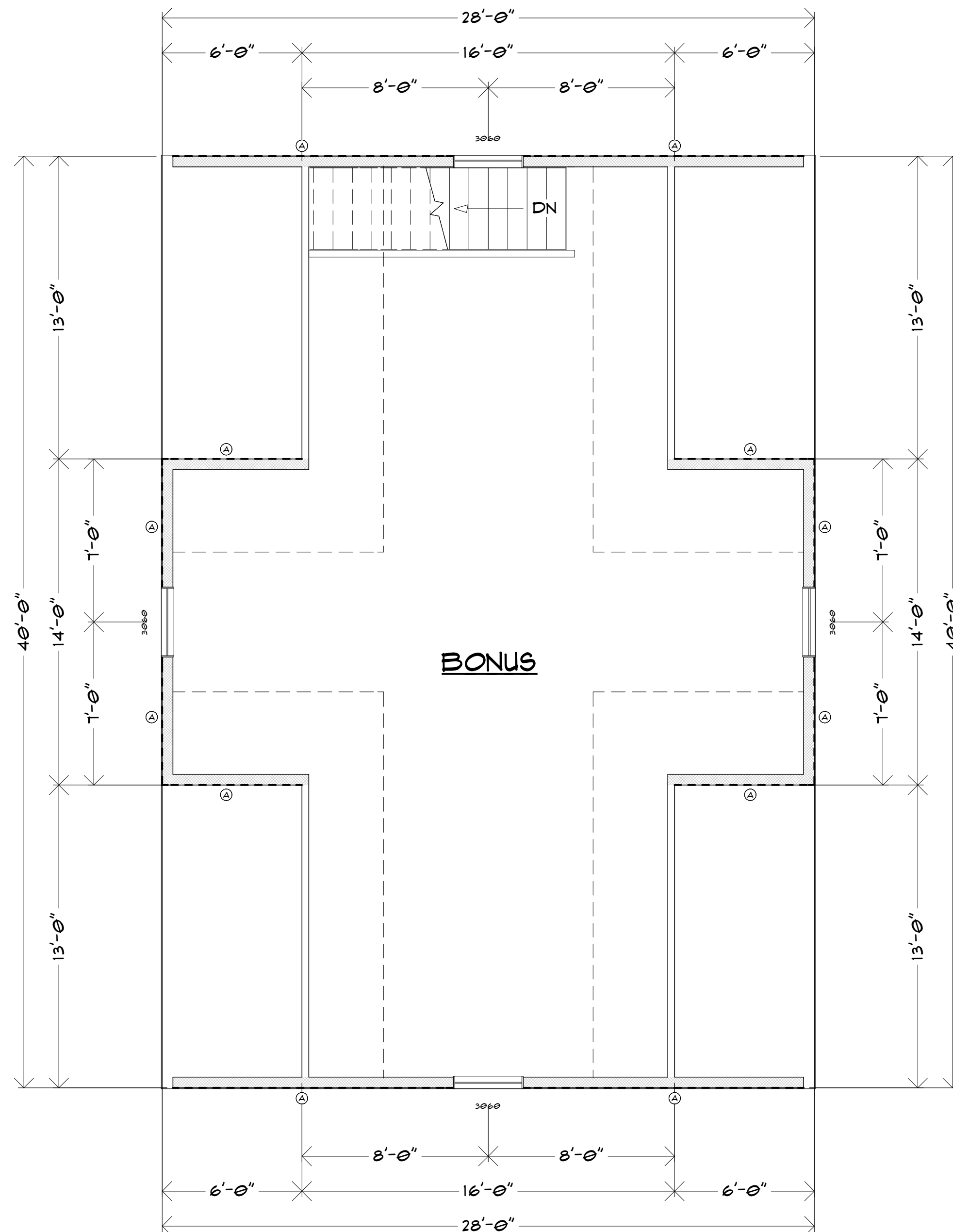
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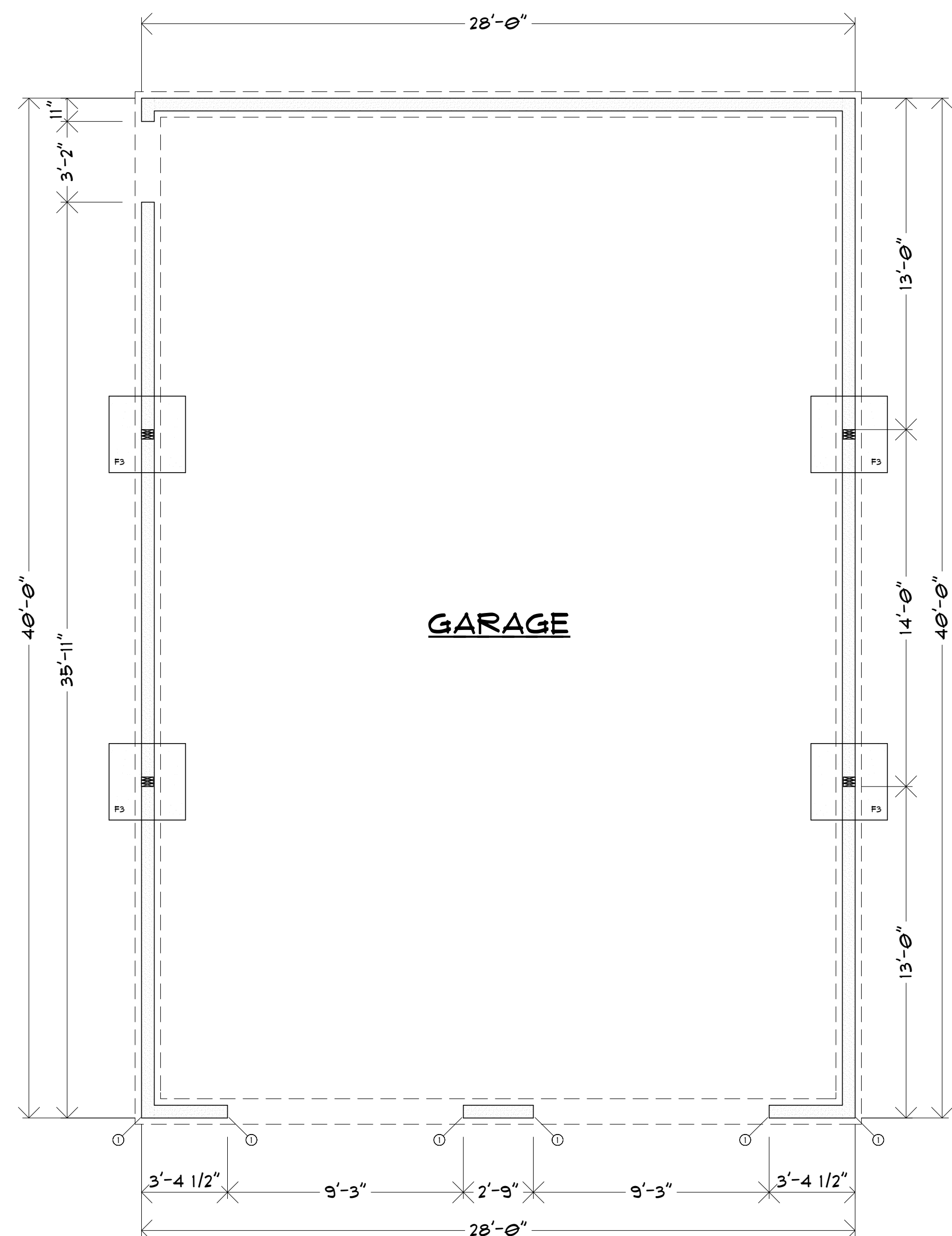
MAIN FLOOR PLAN

SCALE 1/4" = 1'-0"



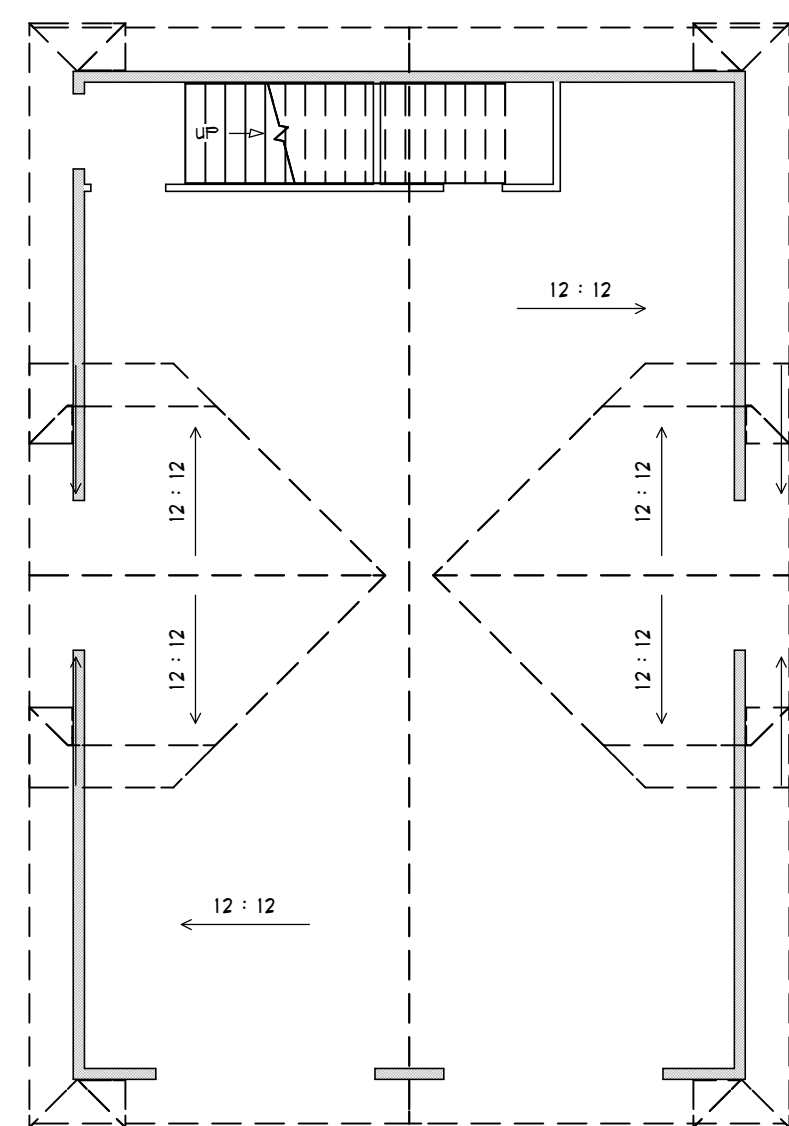
MAIN FLOOR PLAN

SCALE 1/4" = 1'-0"



FOUNDATION PLAN

SCALE 1/4" = 1'-0"



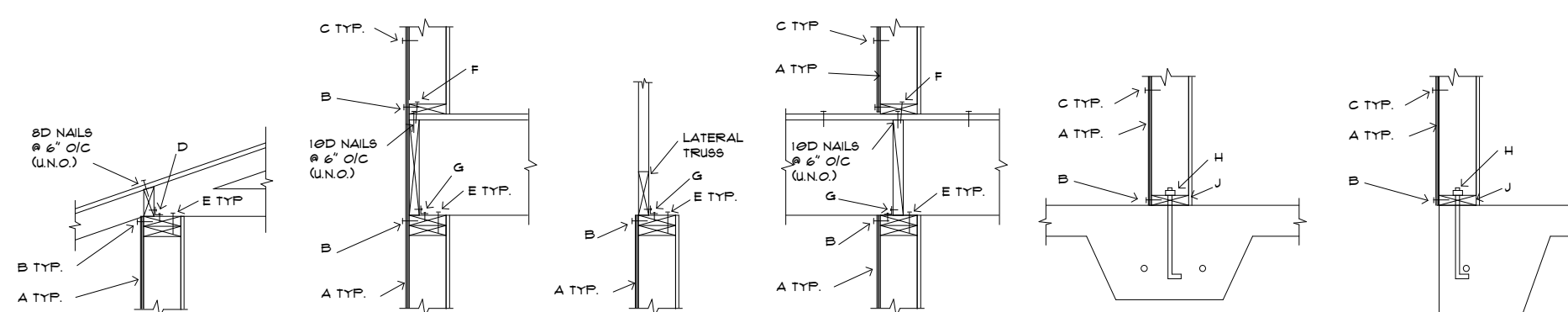
ROOF PLAN

SCALE 1/8" = 1'-0"

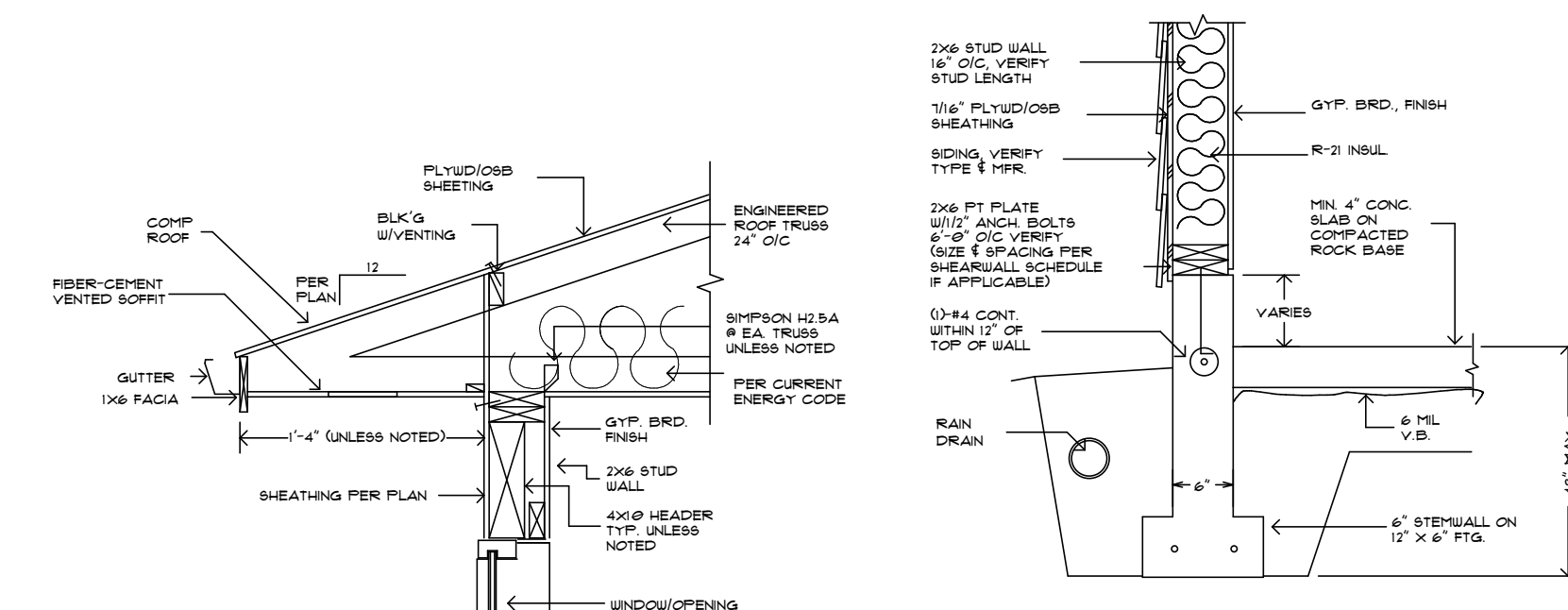
SHEARWALL SCHEDULE									
WALL TYPE	SHEATHING	PANEL EDGE NAILING	FIELD NAILING	REMARKS	D	E	F	G	H
A	1/2" CDX PLYWOOD	8D NAILS # 8" O/C	8D NAILS # 12" O/C		BOOR BLOCK TO DBL TOP PLATE	DBL TOP PLATE	BTH PLATE TO RHM JOST	RHM JOST TO DBL TOP PLATE	ALL PLATE CONNECTION (2x4 X 10" ANCHOR BOLTS)
B	1/2" CDX PLYWOOD	8D NAILS # 8" O/C	8D NAILS # 12" O/C		8D NAILS # 8" O/C	8D NAILS # 8" O/C	8D NAILS # 8" O/C	8D NAILS # 8" O/C	8D NAILS # 8" O/C
C	1/2" CDX PLYWOOD	8D NAILS # 8" O/C	8D NAILS # 12" O/C		8D NAILS # 8" O/C	8D NAILS # 8" O/C	8D NAILS # 8" O/C	8D NAILS # 8" O/C	8D NAILS # 8" O/C
D	1/2" CDX PLYWOOD	8D NAILS # 8" O/C	8D NAILS # 12" O/C		8D NAILS # 8" O/C	8D NAILS # 8" O/C	8D NAILS # 8" O/C	8D NAILS # 8" O/C	8D NAILS # 8" O/C

FOOTNOTES:

- NOT ALL WALL TYPES SHOWN MAYBE USED ON THIS PROJECT.
- BLOCK ALL PANEL EDGES UNLESS NOTED OTHERWISE.
- ONLY 8" SHEATHING LOCATIONS.
- 3/8" OR 1/2" (2x4 OR 2x6) GRADES MAYBE USED IF APPLIED DIRECTLY TO FRAMING AND STUDS ARE SPACED A MAX 16" O/C OR PLYWOOD IS APPLIED WITH FACE GRAIN ACROSS STUDS.
- NOT USED.
- USE EITHER 1/2" OR 3/4" DIAMETER ANCHOR BOLTS, (2) ANCHOR BOLTS MIN PER PLATE.
- WHERE PANELS ARE APPLIED ON BOTH SIDES OF A WALL AND NAIL SPACING IS LESS THAN 16" ON CENTER ON EITHER SIDE PANEL JOINTS SHALL BE OFFSET TO FALL ON DIFFERENT FRAMING MEMBERS OR FRAMING SHALL BE 1/4" THICKER AND NAILS ON EACH SIDE SHALL BE STAGGERED.
- A 1/2" OR 3/4" DIA. HLT KULK BOLT 3 OR 6G MAY BE SUBSTITUTED EMBED BOLT 2-1/4" INTO CONCRETE.
- SHEATHING ON SHEARWALLS SHALL NOT BE INTERRUPTED BY ANY WALL NOTING INTO CONCRETE.
- IF PLYWOOD NOT FULL HEIGHT TO DOUBLE TOP PLATE.
- STEEL PLATE SHIMMERS, 1/4" THICK X 3" X 3" ROD BETWEEN HILL PLATE & ANCHOR BOLT NUT.
- USE COMMON NAILS.
- USE BOX NAILS.

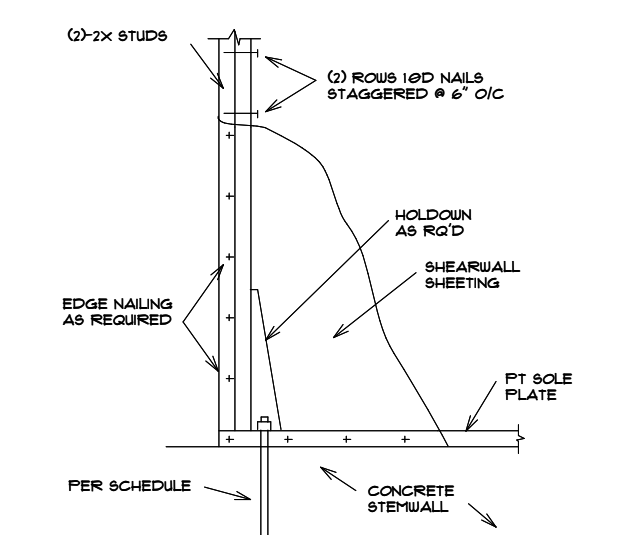


SHEARWALL CONNECTIONS

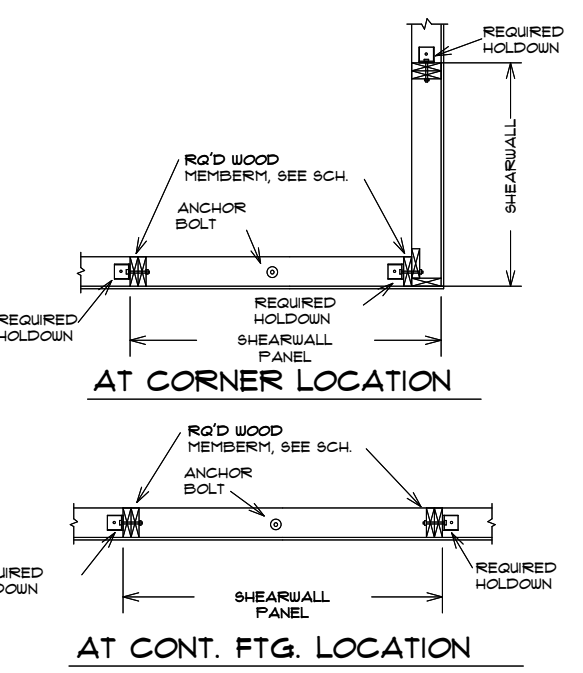


EAVE DETAIL (TYPICAL)

FND. DETAIL (GARAGE)



BUILT-UP COLUMN DETAIL



TYP. HOLDOWN PLACEMENT

KENNEDY ACC. STRUCTURE

MATT KENNEDY GARAGE
HOMES@MATTKENNEDY.COM

3635 5TH STREET
HUBBARD, OREGON

111 S. FIRST STREET
SILVERTON, OR
WAVRADESIGNCO@GMAIL.COM
WAVRADESIGNCO.COM
PH. 503-932-4134

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