



Conditional Zoning District – New Homes at North Main

Section 36-84 Conditional Zoning District

Sec. 36-84. - Conditional zoning district.

- (a) Intent. The CZD-conditional zoning districts provide for those situations where a particular use, properly planned, may be appropriate for a particular site, but where the general district has insufficient standards to mitigate the site-specific impact on surrounding area.
- (b) Use permitted. The uses which may be considered for a conditional zoning district shall be established on an individual basis, at the request of the property owner, according to the procedures of section 36-83(d). Zoning of a conditional zoning district is not intended for the securing of early or speculative reclassification of property. It is expected that, in most cases, a general district will appropriately regulate site-specific impact of permitted use and structures on surrounding areas.
- (c) Definition of conditional zoning district. For purpose of this section, a "conditional zoning district" shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. If the property use is ever proposed to be changed from the original approved plan, then the new proposed use and plan must be resubmitted for approved by the town council.
- (d) Petition of request. Property may be rezoned to a conditional zoning district only in response to and consistent with a petition of the owners, or agents of the owners of all of the property to be included in the district and shall be accompanied by an official petition, a statement analyzing the reasonableness of the proposed rezoning request by the petitioner, the established fee, and documentation as required by the following:
 - (1) A petition for a conditional zoning district must include a site plan and supporting information that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property;
 - (2) A boundary survey and vicinity map showing the property's total acreage, current zoning classification(s) general location in relation to major streets, date and north arrow;
 - (3) Existing topography on the site and within 300 feet of the boundary of the site, and the general nature of the proposed topography at four-foot contours;
 - (4) All existing easements, reservations, rights-of-way, and any other valid restrictions on the use of the land;
 - (5) The number and general location of all proposed structures;
 - (6) The proposed use of all land and structures, including the number of residential units or the total square footage of any nonresidential development;
 - (7) All yards, buffers, screening, and landscaping required by the town code;
 - (8) All existing and proposed points of access to public streets and the locations of proposed new streets;
 - (9) Delineation of areas within the floodplain;
 - (10) Proposed number and location of the signs;
 - (11) Proposed phasing, if any, and the approximate completion time for the project;
 - (12) The location of existing and proposed storm drainage patterns and facilities intended to serve the development;
 - (13) Traffic, parking, and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets, existing and proposed;
 - (14) A list of adjoining properties including county tax parcel numbers and the name and address of each owner, provided in digital form;

- (15) The location of significant trees on the petitioned property;
 - (16) The scale of buildings relative to adjoining properties, including sight lines;
 - (17) Information on the height of all proposed structures;
 - (18) Exterior features of all of the proposed development;
 - (19) Any supporting text shall constitute part of the petition.
- (e) Time limits. A time limit of 240 calendar days for securing applicable permits in order to construct the project and 365 calendar days thereafter for completion of the project; provided, however, the town council may approve up to an additional 365 calendar days for completion of the project, for good cause shown. In the event that the project involves more than three acres and/or more than 15,000 thousand square feet, the time period for securing applicable permits for the project shall be 365 calendar days and the time period for completion of the project shall be 730 calendar days thereafter; provided, however, the town council may approve up to an additional 180 calendar days for completion of the project, for good cause shown. Conditional zoning district projects that have approved detailed plans and have secured applicable permits for start of construction as of May 1, 2009, but on which there has not been a start of construction, will have an additional 12 months to be added to the construction time limits in this subsection from the date of approval of the detailed plans for the completion of the project.
- (f) Minor modifications. Minor modifications to a project shall be submitted to the zoning administrator for review. No building permit for the proposed development or any part thereof shall be issued until the zoning administrator has determined that the pertinent detailed plans are in accordance with the application and general plans as approved by the town council.
- (g) Future variance request. Property zoned CZD will not be able to apply for a variance on the approved project.
- (h) Maintaining the zoning district. CZD is a change in the zoning district and therefore is maintained after the sale of the property. If the property owner wishes to change the approved CZD plan, the property owner must reapply with the town council for a zoning change.
- (i) Guarantee of conditions. At the discretion of the town council, the council may require the property owner to guarantee the performance or completion of conditions included in the approved conditional zoning plan. Such guarantee may be in the form of:
- (1) A surety performance bond made by a surety bonding company licensed and authorized to do business in the state;
 - (2) A bond of the developer with an assignment to the town of a certificate of deposit as security for the bond;
 - (3) A bond of the developer secured by an official bank check drawn in favor of the town and deposited with the town clerk;
 - (4) Cash or an irrevocable letter of credit; or
 - (5) A bank escrow account whereby the developer deposits cash, a note, a bond or some other instrument readily convertible into cash for a specific face value, with a federally insured financial institution in an account payable to the town. The amount of the guarantee shall be determined by the town council.
- (j) District approval. If a petition for a conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district. Each conditional zoning district will be given a special number, distinguishing such district from another zoning district.
- (k) Planning and zoning review. All conditional zoning shall require that the request be submitted to the town planning and zoning board to determine if approvals of such plans are made in consideration of

identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents. A statement analyzing the reasonableness of the proposed rezoning shall be prepared by the town planning and zoning board for each petition for a rezoning to a conditional zoning district and submitted to the town council for final action on the request.

- (l) Public involvement. Before a public hearing may be held by the town council on a petition for a conditional zoning the petitioner must file in the office of the town clerk a written report of a at least one community meeting held by the petitioner. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this subsection shall be considered by the town council but shall not be subject to judicial review.

Notice of such a public hearing shall be given to all the property owners within 200 feet of the property boundaries and in accordance with the provisions of G.S. 160A-364.

- (m) Judicial review. Conditional zoning district decisions under this section are a legislative process and not subject to judicial review.

In the event of noncompliance by a property owner or any subsequent resale or lease of a property for use other than that stipulated in the original CZD approval, the property owner would be in violation of the town zoning ordinance.

- (n) Approval procedures. Except as specifically modified by this section, the procedures to be followed by the town council in reviewing, granting, or denying any petition for conditional zoning shall be the same as those established for general use district zoning petitions under G.S. ch. 160A, art. 19.

The town council may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the town council holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing and no valid protest petition under G.S. 160A-386 was filed. If a valid protest petition under G.S. 160A-386 has been filed against a zoning petition which would otherwise have been scheduled for a public hearing during the period beginning on the first day of October prior to a municipal general election, but prior to the new town council taking office.

- (o) Property in R-1 use district. Due to the distinct nature of the R-1 use district, the only lots in the R-1 district that are eligible for rezoning to a conditional use district are lots contiguous to and have the development's only access to Weaver Blvd., Main St. and Merrimon Ave.

(Ord. of 8-20-2007; Ord. of 11-17-2008, § 1; Ord. of 4-20-2009, § 3)



Conditional Zoning District – New Homes at North Main

Statement of Reasonableness and Recommendation

Dottie Sherrill
Mayor

The Town of
Weaverville
NORTH CAROLINA

Doug Dearth
Council Member

Patrick Fitzsimmons
Council Member

Doug Jackson
Council Member

Andrew Nagle
Council Member

John Penley
Council Member

July 8, 2016

Mayor Dottie Sherrill and
Town Council

**Re: Mountain Housing Opportunities, Inc. – New Homes at North Main
Conditional Zoning District Application dated May 16, 2016
Statement of Reasonableness and Recommendation**

Dear Mayor and Council –

On June 7, 2016 and July 5, 2016, pursuant to Section 36-84 of the Town's Code of Ordinances, the Planning and Zoning Board reviewed the application for a Conditional Zoning District that was submitted by Mountain Housing Opportunities on May 16, 2016, for a project that is to be known as New Homes on North Main. This project is an affordable housing project consisting of 46 single-family dwellings on a parcel of land on Critter Trail which is just off of North Main Street. At these meetings the Planning and Zoning Board reviewed the project for compliance with all of the items enumerated in Section 36-84(d).

The Planning and Zoning Board also analyzed the projects reasonableness in light of the Town's comprehensive land use plan and other land use policies and found that the New Homes on North Main project is reasonable in light of the Town's land use regulations including specifically the Town's Comprehensive Land Use Plan and the stated goals and objections in that Plan including those provisions which encourage a variety of housing opportunities including affordable housing projects, local consistency in street planning and design, and development in the Town's downtown area.

After careful review of this application and the revised plans dated June 22, 2016, the Planning and Zoning Board recommends the approval of Mountain Housing Opportunities application for a Conditional Zoning District for the project known as New Homes on North Main subject to the following:

1. A condition that the right-of-way of all streets in the project be increased to a 40-foot width with curb and gutters and that the streets be constructed to NC minimum construction standards for subdivision roads or Weaverville's street standards, whichever is more stringent.
2. That the on-street parking in the project be consistent with the Town's ordinances governing parking in similar developments if those regulations/standards will preserve safety within the project as determined by the Police Department, Fire Marshal and Public Works Department.
3. It is noted that this project only has one access point and the Planning and Zoning Board recommends that Town Council inquire as to the status of the Building Code Amendment based on the Town's amendment to the Town's Fire Prevention and Protection Code which deleted the two-point access standard. If the Building Code Amendment has not been passed by the

30 South Main Street • Weaverville, NC 28787 (PO Box 338)

(828) 645-7116 • Fax (828) 645-4776

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Building Code Council, then the project will not be in compliance with the State Building Code which requires two points of access for development's with more than 30 single-family dwelling units.

4. The Planning and Zoning Board would also like to express its concern about only one point of access for this project due to limited accessibility during emergencies which could affect the safety of the residents within the development.
5. It is also noted that the community meeting required by Sec. 36-84(l) had not occurred before the Planning and Zoning Board reviewed and discussed the project. The Town Attorney advised the Planning and Zoning Board that such community meeting must be planned, noticed and held by the developer before the Town Council holds a public hearing on the application and that such community meeting was not required to be held prior to any discussion or decision of the Planning and Zoning Board on the matter.

Please let me know if you need anything further from us on this matter.

Sincerely,

A handwritten signature in black ink that reads "Doug Theroux". The signature is written in a cursive, flowing style.

Doug Theroux
Planning and Zoning Board Chairman

cc: James Eller, Town Planner
Selena Coffey, Town Manager
Jennifer Jackson, Town Attorney
Joe Quinlan, Mountain Housing Opportunities



Conditional Zoning District – New Homes at North Main

Application & Supporting Documents

CONDITIONAL ZONING DISTRICT APPLICATION

Planning and Zoning Department
30 South Main Street, P.O. Box 338, Weaverville, NC 28787
(828) 484-7013--- fax (828) 645-4776 --- tgupton@weavervillenc.org
\$350.00 Application Fee

The Town of
Weaverville
NORTH CAROLINA

Conditional Zoning Districts address situations in which a particular use, properly planned, may be appropriate for a specific site but, the existing zoning district of the site has insufficient standards to mitigate the site-specific impact on the surrounding area.

Uses which may be considered for a Conditional Zoning District shall be established on a case-by-case basis at the request of the property owner. Conditional Zoning Districts are not intended for securing early or speculative reclassification of a property.

A Conditional Zoning District shall be defined as a zoning district in which the development and use of the property included in the district are subject to predetermined ordinance standards, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. If the use of an approved Conditional Zoning District ever changes, a new proposed use and plan must be submitted for review by the Town Council.

***In the R-1 district, the only lots eligible for rezoning to a conditional use are lots which are contiguous to and are only accessed via Weaver Boulevard, Main Street, or Merrimon Avenue.**

A fee of \$350.00 shall be paid to the Town of Weaverville for each Conditional Zoning District or rezoning request. During review of the request, all additional costs incurred by the Town above the initial fee of \$350.00 shall be the responsibility of the applicant.

OWNER/APPLICANT NAME: Mountain Housing
Opportunities, Inc. - Joe Quinlan

APPLICATION DATE: May 16, 2016

BRIEFLY DESCRIBE THE PROJECT: The project consist of 46 single family unit lots with 3 streets, open spaces and 2 BMPs. Public sewer and public water service will be provided to each lot.

PHONE NUMBER: (828) 254-4030

PROPERTY ADDRESS: Critter Trail
Weaverville, NC 28787

PIN: 9743-32-6097

DEED BOOK/PAGE: 5365/0472

LOT AREA (acres): 7.65 acres

ZONING DISTRICT: C-2

CONDITIONAL ZONING DISTRICT APPLICATION

Planning and Zoning Department
30 South Main Street, P.O. Box 338, Weaverville, NC 28787
(828) 484-7013--- fax (828) 645-4776 --- tgupton@weavervillenc.org
\$350.00 Application Fee

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NORTH CAROLINA

A petition for a Conditional Zoning District must include a site plan and supporting information that specifies the intended uses for property. A complete site plan will include the following:

<input checked="" type="checkbox"/>	Title block containing:
<input checked="" type="checkbox"/>	Name of owner & applicant
<input checked="" type="checkbox"/>	Property address
<input checked="" type="checkbox"/>	Buncombe County PIN
<input checked="" type="checkbox"/>	Date or dates survey was conducted or plan prepared
<input checked="" type="checkbox"/>	Scale of the drawing in feet per inch
<input checked="" type="checkbox"/>	Deed book and page reference of the deed
<input checked="" type="checkbox"/>	Zoning designation of property
<input checked="" type="checkbox"/>	Sketch vicinity map depicting the relationship between the proposed subdivision and the surrounding area
<input checked="" type="checkbox"/>	North Arrow and orientation
<input checked="" type="checkbox"/>	Lot area in acres and square feet
<input checked="" type="checkbox"/>	Existing topography of the site and within 300 feet of the site boundary in four (4) foot contours
<input checked="" type="checkbox"/>	Delineation of areas within the floodplain.
<input checked="" type="checkbox"/>	Names of owners of adjoining properties, Buncombe County PIN, and zoning designation
<input checked="" type="checkbox"/>	Minimum building setback lines applicable to the lot, including drainage or utility easements
<input checked="" type="checkbox"/>	Proposed number and location of signs
<input checked="" type="checkbox"/>	Exact dimensions, location, height, and exterior features of proposed buildings and structures
<input checked="" type="checkbox"/>	Scale of all buildings relative to adjoining properties, including sight lines
<input checked="" type="checkbox"/>	Utility easements
<input checked="" type="checkbox"/>	Existing and proposed sanitary sewer system layout and a letter of commitment
<input checked="" type="checkbox"/>	Existing and proposed water distribution system layout and a letter of commitment
<input checked="" type="checkbox"/>	Existing and proposed stormwater system layout. Include copy of application for Buncombe County stormwater permit
<input checked="" type="checkbox"/>	Plans for individual water supply and sewerage/septic disposal system, if any
<input checked="" type="checkbox"/>	A statement as to whether or not natural gas, telephone, electric, and cable lines are to be installed, and whether they will be above or below ground
<input checked="" type="checkbox"/>	Exact dimension and location of all traffic, parking, and circulation plans showing the proposed location and arrangement of parking spaces.
<input checked="" type="checkbox"/>	Existing and proposed roads, driveways, ingress/egress, easements, and rights-of-way both private and public. Include NCDOT driveway permit, if required.
<input checked="" type="checkbox"/>	Existing and proposed encroachments into setbacks, rights-of-way, and/or easements, if any
<input checked="" type="checkbox"/>	Location of significant trees on the property
<input checked="" type="checkbox"/>	Proposed phasing, if any, and expected completion date of the project.

Upon reviewing the application, site plan, and supporting documents, the Planning and Zoning Board will issue statement of reasonableness of the proposed Conditional Zoning District.

Before a public hearing may be held by the Town Council, the petitioner must file in the Office of the Town Clerk, a written report of at least one community meeting held by the petitioner. The report shall include a list of those persons and organization notified of the meeting detailing the method and date of contact' the date, time, and location of the meeting; a roster of persons in attendance, a summary of issues discussed, and a description of any changes to the petition as a result of the meeting. In the event the petitioner has not held at least one meeting, the petitioner shall file a report documenting efforts that were made and the reasons such a meeting was not held.

CONDITIONAL ZONING DISTRICT APPLICATION

Planning and Zoning Department

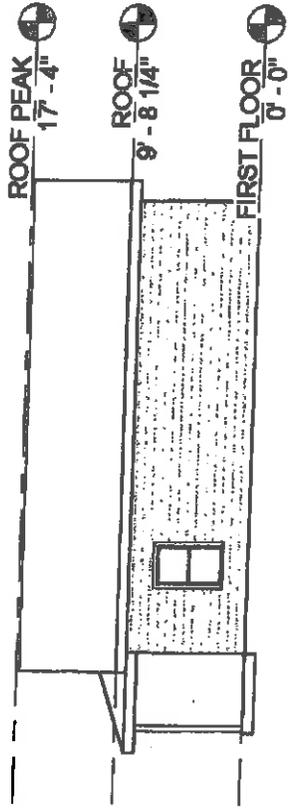
30 South Main Street, P.O. Box 338, Weaverville, NC 28787

(828) 484-7013--- fax (828) 645-4776 --- tgupton@weavervillenc.org

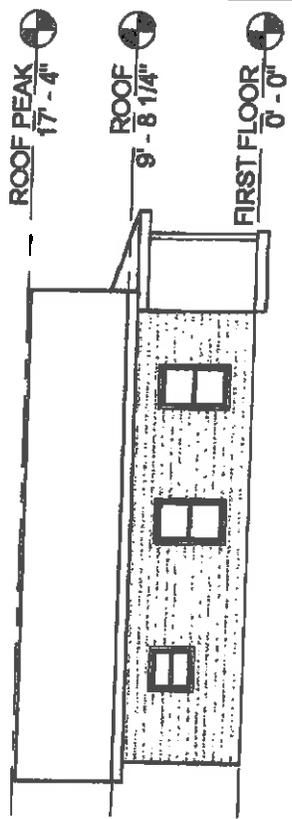
\$350.00 Application Fee

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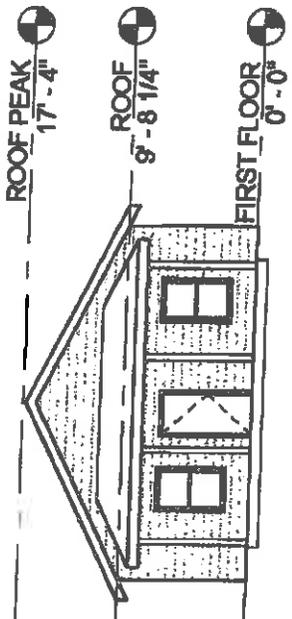
At the discretion of the Town Council, it may be required of the property owner to guarantee performance or completion of conditions included in the Conditional Zoning Plan. Such guarantee may take the form of: (1) a surety performance bond made by a company licensed and authorized in North Carolina, (2) a bond of a developer with an assignment to the Town of a certificate of deposit, (3) a bond of developer secured by an official bank check drawn in favor of the Town and deposited with the Town Clerk, (4) cash or an irrevocable letter of credit, (5) a bank escrow account whereby the developer deposits cash, a note, or a bond with a federally insured financial institution into an account payable to the Town. The amount of the guarantee shall be determined by Town Council.



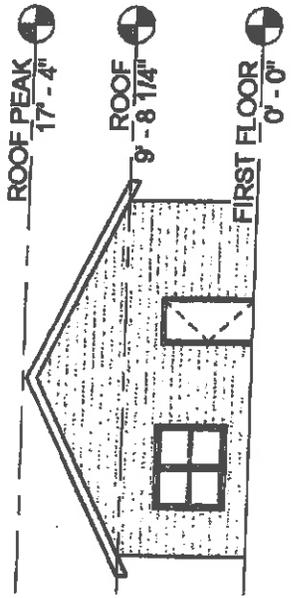
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③ SIDE ELEVATION 2
3/32" = 1'-0"



② FRONT ELEVATION
3/32" = 1'-0"



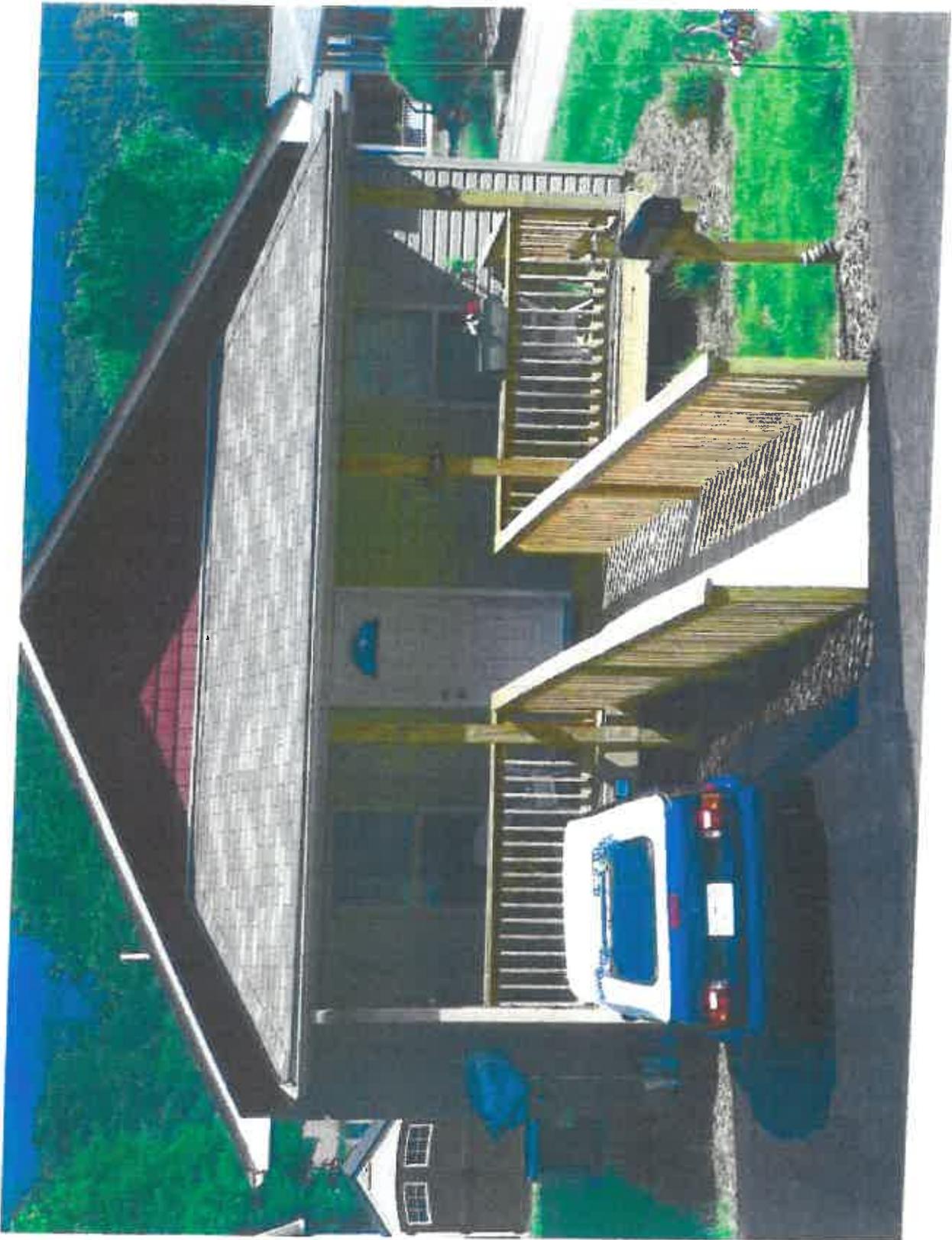
④ REAR ELEVATION
3/32" = 1'-0"

2 BEDROOM HOUSE



ELEVATIONS

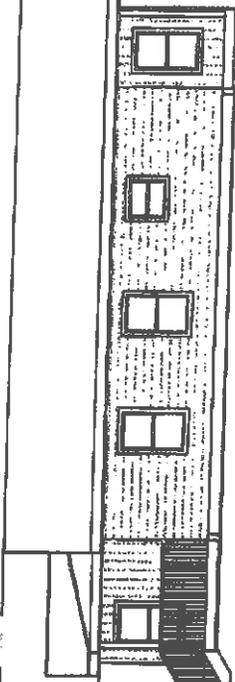
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Date	
Drawn by	MHO
Scale	3/32" = 1'-0"



ROOF PEAK
15' - 8"

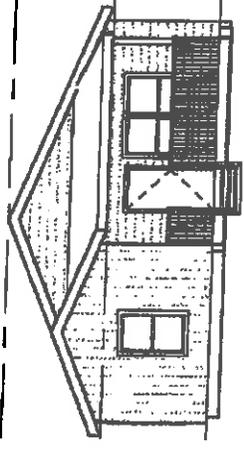
ROOF PLATE
8' - 1 1/2"

FLOOR
0' - 0"



1 SIDE ELEVATION 1
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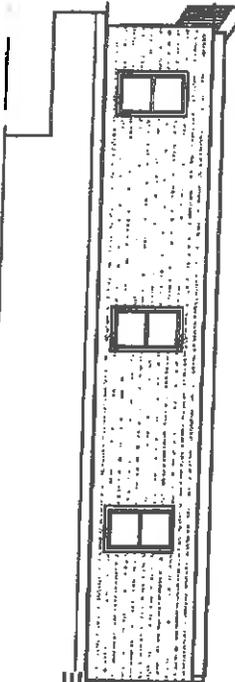
2 FRONT ELEVATION
3/32" = 1'-0"



ROOF PEAK
15' - 8"

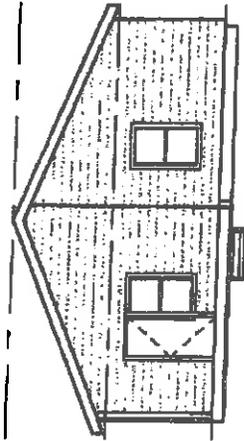
ROOF PLATE
8' - 1 1/2"

FLOOR
0' - 0"



3 SIDE ELEVATION 2
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4 REAR ELEVATION
3/32" = 1'-0"

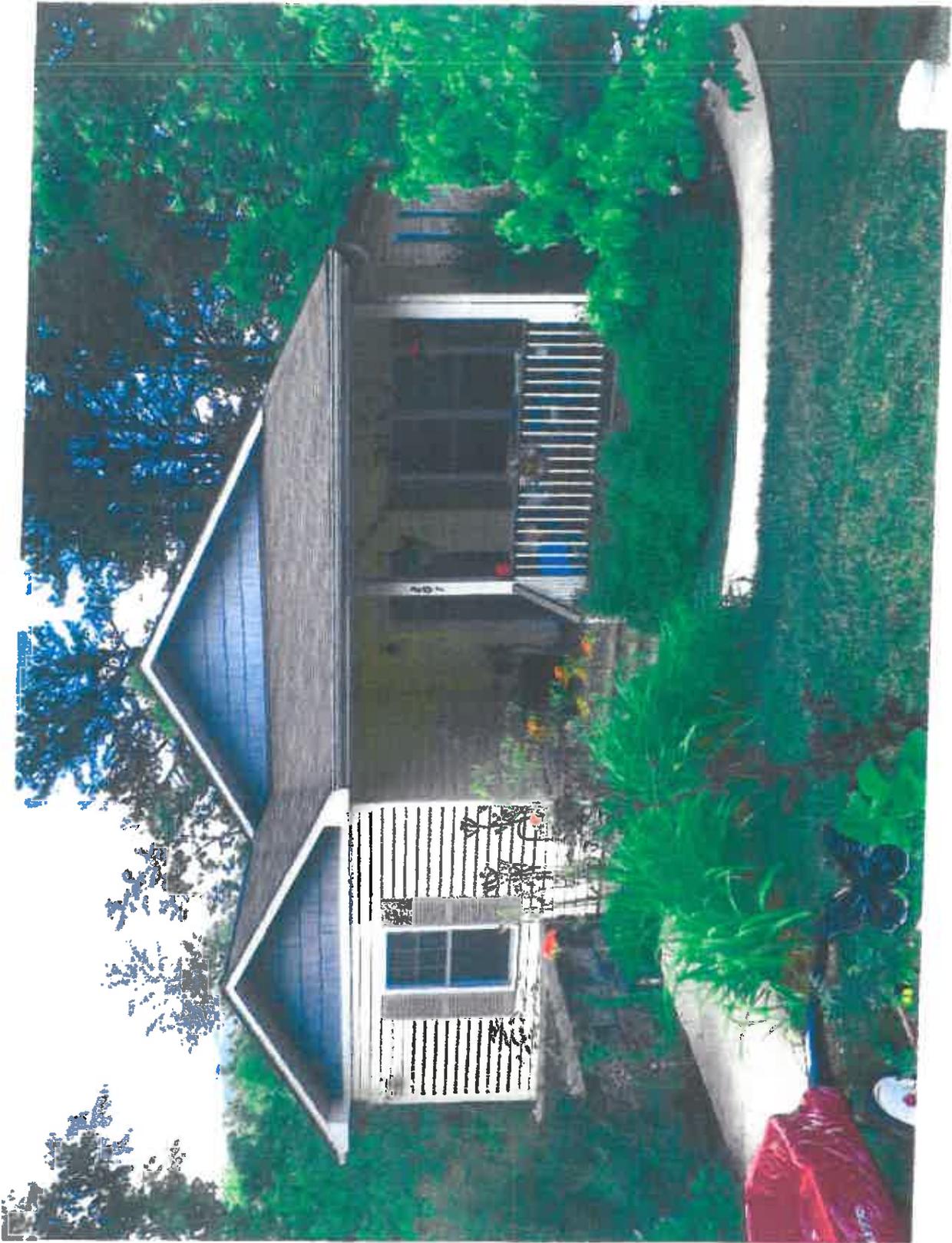


3 BEDROOM 'A' HOUSE

ELEVATIONS

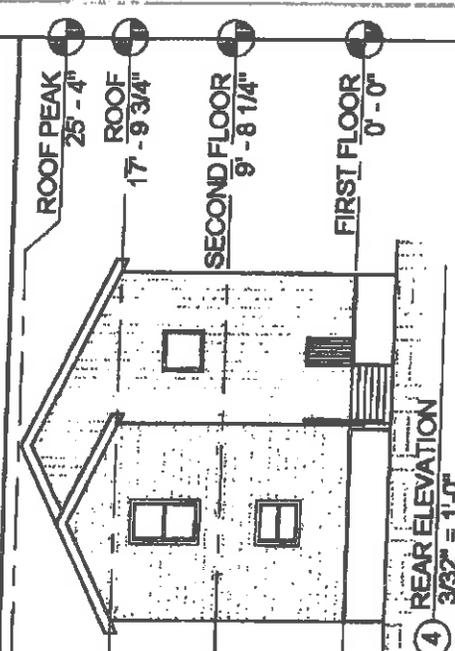
Project number -
Date -
Drawn by MHO

3A 3
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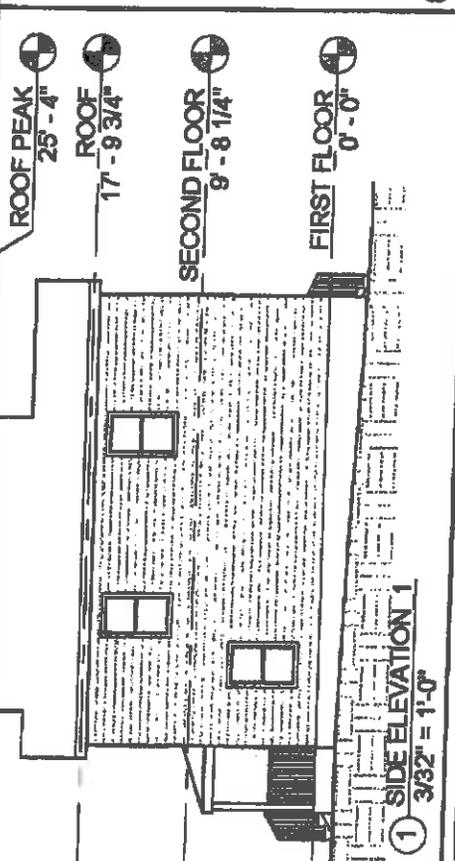




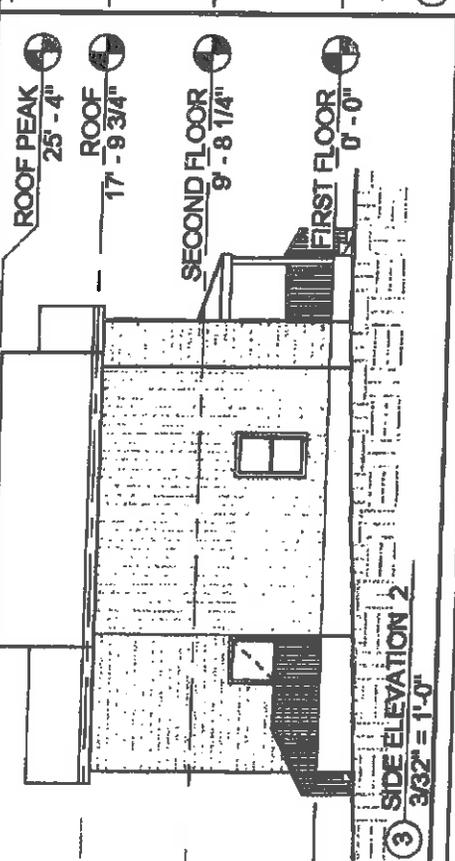
② FRONT ELEVATION
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④ REAR ELEVATION
3/32" = 1'-0"



① SIDE ELEVATION 1
3/32" = 1'-0"



③ SIDE ELEVATION 2
3/32" = 1'-0"

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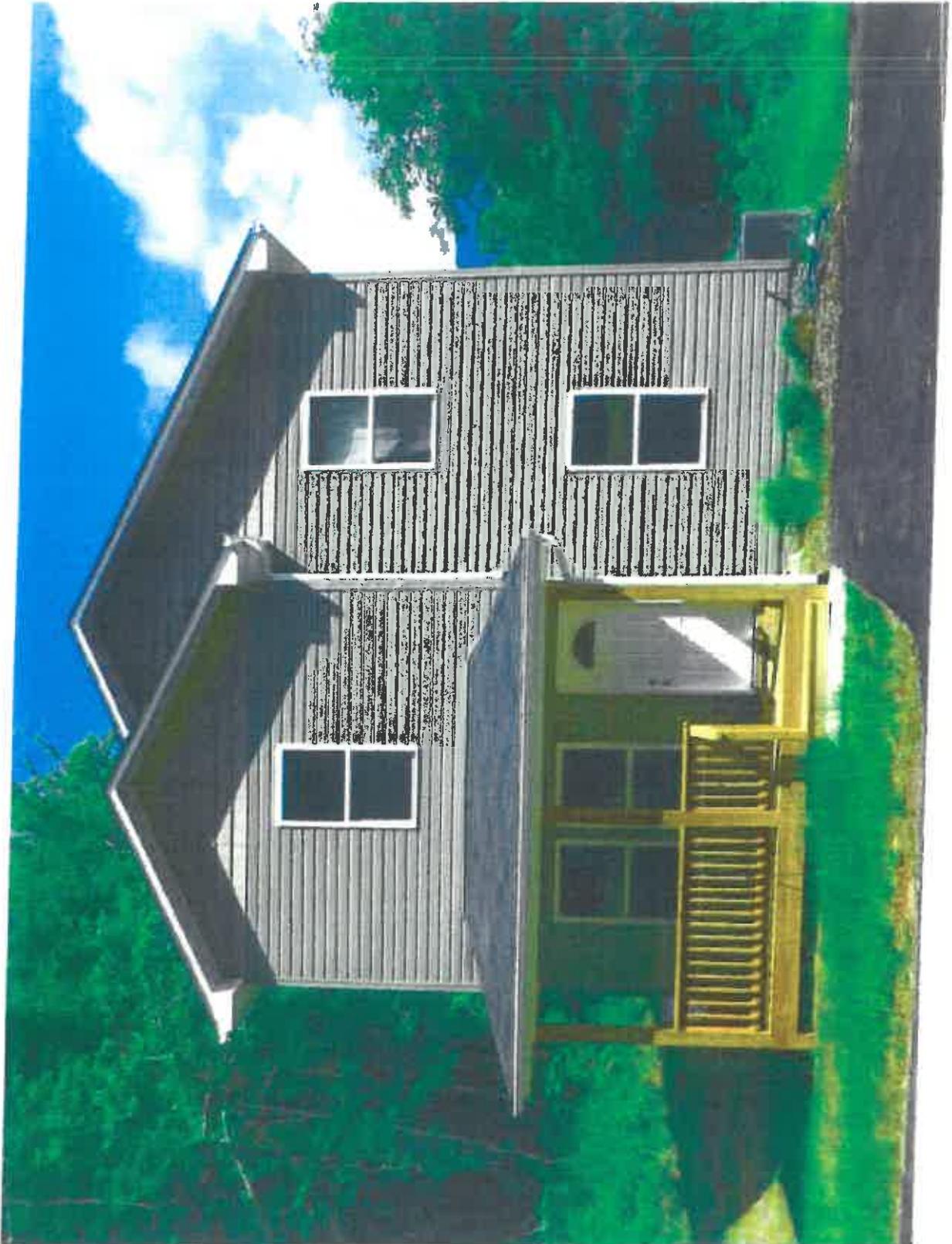
ELEVATIONS

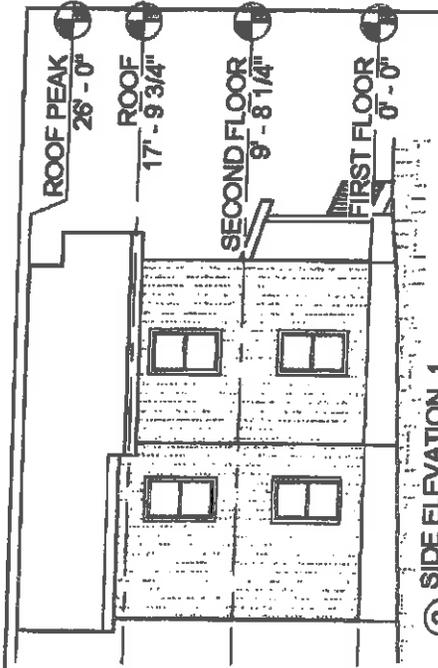
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Date .
Drawn by MHO

3B 4
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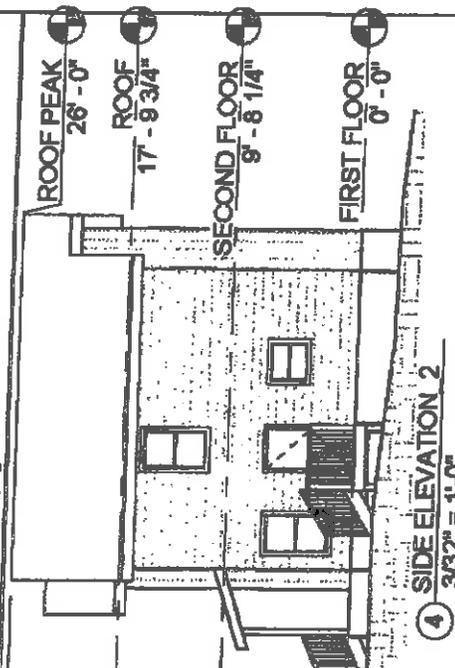
3 BEDROOM 'B'
HOUSE



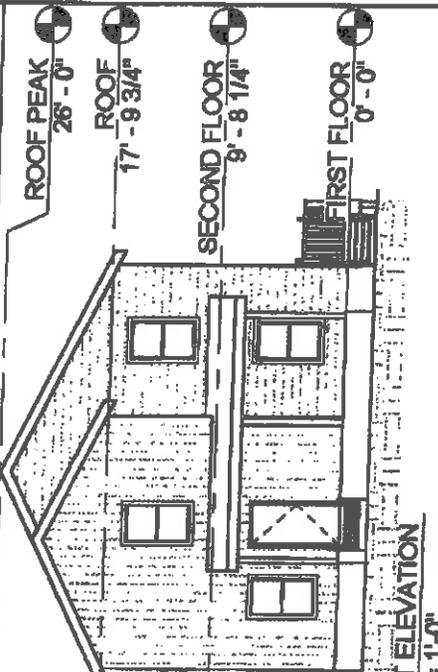




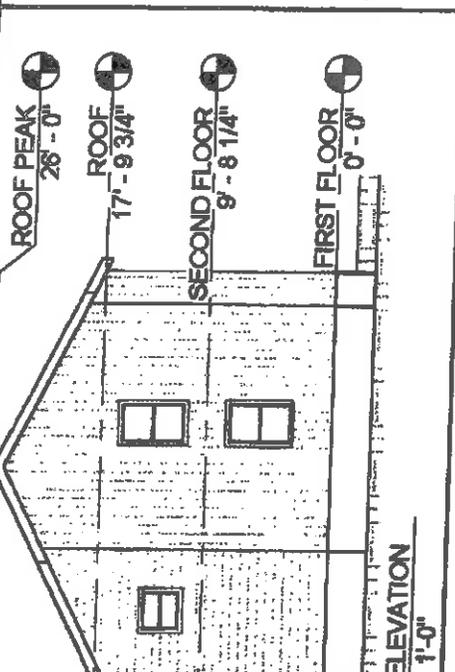
② SIDE ELEVATION 1
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④ SIDE ELEVATION 2
3/32" = 1'-0"



① FRONT ELEVATION
3/32" = 1'-0"



③ REAR ELEVATION
3/32" = 1'-0"

ELEVATIONS

Project number
Date
Drawn by MHO

44

Scale 3/32" = 1'-0"

4 BEDROOM HOUSE





Weaverville properties adjoining MHO's N. Main St. site





Projected Schedule for New Homes at North Main

Date: June 21, 2016

Town of Weaverville CZD submittal	May 19 th 2016
Town of Weaverville CZD meeting	June 7 th 2016
Town of Weaverville CZD resubmittal	June 21 st 2016
Town of Weaverville CZD meeting	July 5 th 2016
Town of Weaverville Approval	August 2016
Subdivision Permitting Approval	February 2017
Ground Breaking	February 2017
12 months Infrastructure Construction	February 2018
36 months Home Construction	February 2021

The above schedule is an estimate of the approval process and construction process to complete the New Homes at North Main project.

Subdivision Rules & Restrictions

1. Mountain Housing Opportunities, Inc. (MHO) has formed _____
[Note: subdivision name to be determined.] Homeowners' Association ("Association"). Each of the owners of Lots 1 through 46 of _____ Subdivision ("Owner" or "Owners") will automatically become members of said Association upon the purchase of a Lot. Each Owner shall be subject to the rules and regulations of said Association and shall pay all dues and fees duly assessed by the Association. The Association shall have all of the powers set forth in NCGS Section 47F-3-102. This Declaration shall be binding upon all buyers and Owners of the Lots, their heirs, successors and assigns.
2. MHO will convey the Stormwater Management Areas shown on said Plat to the Association and said Stormwater Management Area will be maintained by the Association.
3. The Association shall also be responsible for the maintenance of all storm drainage piping, components and systems, including the stormwater management area, (collectively, "Stormwater System") located within _____ Subdivision. The Association and all Owners shall be jointly and severally liable for the maintenance, inspection, repair and replacement of said Stormwater System.
4. Each lot shall be used for residential purposes only and shall contain no more than one dwelling unit. Each dwelling unit shall have a minimum of 800 square feet of heated living space and shall be stick-built on a permanent foundation.
5. Each Owner of a Lot shall comply with the ordinances of the Town of Weaverville.