



# Agenda

**BOARD OF ADJUSTMENT**  
**Tuesday, June 4, 2019 at 6:00 P.M.**  
**City Council Chambers**  
**City Hall 1<sup>st</sup> Floor - 200 Lincoln Avenue**

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF AGENDA**
- D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSION:**
  - MINUTES: May 7, 2019**
  - FINDINGS/CONCLUSIONS: None**
- E. OLD BUSINESS**

- 1. Case #2019-26. Christus St. Vincent Southside Sign Variance.** Karl Sommer of Sommer Karnes & Associates LLP , Agent, for St. Vincent's Hospital, NM, Owner, requests a variance to Subsections 14-8.10(G)(8)(a) (Exceeds Number of Signs Allowed) and 14-8.10(B)4 (Exceeds the Number of Sign Colors Allowed) for the Christus St. Vincent's, Southside Emergency Room/Urgent Care facility. The property is located at 5600 Herrera Drive and is approximately 3.51 acres. It is zoned C-2 (General Commercial) and is in the Cerrillos Road Highway Corridor Protection District. (Donna Wynant, Case Manager, [djwynant@santafenm.gov](mailto:djwynant@santafenm.gov), 955-6325) (**POSTPONED FROM APRIL 2, 2019 AND MAY 7, 2019) (TO BE POSTPONED TO JULY 2, 2019)**)

**F. NEW BUSINESS**

- 1. Case #2019-42. 2067 5<sup>th</sup> Street Setback Variance.** Conrad and Miranda Ntoko, Owners, requests a variance to Subsections 14-7.2-1 (Minimum 15 foot rear yard setback.) The property is located at 2067 5<sup>th</sup> Street and is approximately 0.37 acres. It is zoned R-5 (Residential, five dwelling units per acre). (Donna Wynant, AICP, Case Manager [djwynant@santafenm.gov](mailto:djwynant@santafenm.gov), 955-6325)

**G. STAFF COMMUNICATIONS**

**H. MATTERS FROM THE BOARD**

**I. ADJOURNMENT**

**NOTES:**

New Mexico law requires the following administrative procedures be followed by zoning boards conducting "quasi-judicial" hearings. In "quasi-judicial" hearing before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and will be subject to cross-examination. Witnesses have the right to have an attorney present at the hearing. The zoning board will, in its discretion, grant or deny requests to postpone hearings. Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6520, five (5) working days prior to meeting date.

**RECEIVED AT THE CITY CLERK'S OFFICE**

**DATE: May 16, 2019**

**TIME: 10:04 AM**

Board of Adjustment Meeting Index  
June 4, 2019

Item		Page
Call to Order	Gary Freidman, Chair of the Board of Adjustment called the meeting to order at 6:07 p.m. held at the City Council Chambers.	1
Roll Call	A quorum was established with roll call.	1
Pledge of Allegiance		1
Approval of Agenda	Ms. Dearing moved to approve the agenda with a second from Mr. Werwath which passed by voice vote	1,2
Approval of Minutes from May 7, 2019 Approval of Findings/Conclusions: None	Ms. Winston moved to approve the minutes of May 7, 2019 with a second from Ms. Dearing which passed by voice vote.	2
Old Business:  Case #2019-26 Christus St. Vincent Sign Variance (To be postponed to July 2, 2019)	  (To be postponed to July 2, 2019)	2
New Business:  Case #2019-42 20167 5 <sup>th</sup> Street Setback Variance	Mr. Werwath moved that in the Case # 2019-42 to approve the setback variance noting in criteria 1 there are special circumstanced where the home is in the floodplain and there are certain areas of the house that exist below the grade that the special circumstances that make it infeasible is that placing a door in this location in the middle of the off grade is not a feasible way of moving the entrance and that the addition achieves the ability to make an entry between the two different floors of the home, for criteria 4 that is the minimum variance that will make it of reasonable use of a new entrance because of the placement of the door between the two floors; with a second from Ms. Dearing which passed by voice vote.	2-6
Staff Communications		6
Matters from the Commission		6
ADJOURNMENT	There being no further business to come before the Board of Adjustment the meeting was adjourned at 7:02 p.m.	6
SIGNATURES		7

**MINUTES OF THE MEETING OF THE  
BOARD OF ADJUSTMENT**

200 Lincoln Ave. Santa Fe, NM

June 4, 2019

6:00 p.m.

**A. CALL TO ORDER & ROLL CALL**

Gary Freidman, Chair of the Board of Adjustment called the meeting to order at 6:07 p.m. held at the City Council Chambers. A quorum was established with roll call.

**PRESENT:**

Gary Friedman, Chair  
Rachel L. Winston, Vice Chair  
Coleen Dearing  
Daniel H. Werwath

**NOT PRESENT/EXCUSED:**

Patricia Hawkins  
Donna Reynolds  
Douglas Maahs

**OTHERS PRESENT:**

Dan Esquibel, City Land Use  
Sally Paez, City Attorney's Office  
Donna Wynant, City Land Use Case Manager  
Linda Vigil, Stenographer

**NOTE: All items in the packet for all agenda items were incorporated herewith by reference. The original packet is on file with the City Land Use Staff. Any additional attachments will be labeled as exhibits.**

**B. PLEDGE OF ALLEGIANCE**

**C. APPROVAL OF AGENDA**

Ms. Winston asked if they will get a new packet for the 2019-26 before the July meeting. Mr. Esquibel stated yes, there will be a new packet for that case.

**MOTION:** Ms. Dearing moved to approve the agenda with a second from Mr. Werwath which passed by voice vote.

**D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSION:**

**MINUTES: May 7, 2019**

**MOTION:** Ms. Winston moved to approve the minutes of May 7, 2019 with a second from Ms. Dearing which passed by voice vote.

**FINDINGS/CONCLUSIONS: None**

**E. OLD BUSINESS**

**1. CASE # 2019-26 Christus St. Vincent Southside Sign Variance  
(POSTPONED TO JULY 2, 2019)**

As discussed this item will be postponed until July 2, 2019, the applicant is still gathering documents.

**F. NEW BUSINESS**

**1. Case # 2019-42 2067 5<sup>th</sup> Street      Setback Variance**

*Staff Report:*

Ms. Wynant passed out some items from the applicant that didn't make it in to be submitted for the packet. The items are easier to read than what is in the packet. (See Exhibit 1)

Ms. Wynant explained this is a setback variance. The property is zoned an R-5. Ms. Wynant presented a rear yard setback for the proposed addition. The addition is an accessory, the roof will connect the garage and the primary residence. The property got hit hard by the flooding last July. The property is at the lowest point of 5th street. The property is impacted by the floodplain.

The applicant proposes to move the main door to a higher elevation. They want to seal where the door was and move it. The home is a two story has a two car garage. The door on the south side was the main entry of the flood.

Ms. Wynant explained a few redesign options have been proposed. The garage will be more accessible. The 100 year floodplain covers a lot of the property. Ms. Wynant clarified a portion of the staff report where staff proposed it will not exceed the floor plan but they have enough land to make the changes.

Ms. Wynant stated the City engineer did his review and states the addition is not in the FEMA floodplain.

The task of the Board is to evaluate the items in the staff report. The findings of the staff is that the property has unusual characteristics. The addition is the reason for the rear yard setback variance.

Ms. Wynant states for criteria 2: it does post significance to the expansion which the floodplain. The attached garage also is in the floodplain.

Ms. Wynant states for criteria 3: approval is met, other homes have attached garages.

Ms. Wynant states for criteria 4: it won't really address the flooding.

Ms. Wynant states for criteria 5: it doesn't apply.

*Applicant:*

Mr. and Mrs. Ntoko (2067 5<sup>th</sup> Street Santa Fe) are the applicants.

Mr. Ntoko reported they are applying principally to address the flooding issue. There are neighbors who told them about the floodplain when they bought the home.

Mr. Ntoko showed a photo of the door where the flood entered the home. The whole ground floor was flooded. They had only bought it a few years before. This neighborhood is great and for their two boys. Financially and emotionally it shook them.

Mr. Ntoko showed photos of the property and the door. The home is a four bedroom, two of them are downstairs. Mr. Ntoko showed the height of the windows. The designer they met with came up with a floorplan suggestion, if they connect the garage to the house then they can place an entry way in a different elevation and stairs into the main building. It would mitigate that problem. The kitchen is located upstairs and two bedrooms. If they do that they can move it downstairs they can drive straight into the garage and walk into the kitchen. Now, they have to haul things up twelve stairs.

Ms. Ntoko added the stairs are very steep. She has had recent surgeries and her leg has been weakened. They will only add 4 stairs rather than 12. The kitchen would be more functioning downstairs.

Mrs. Ntoko explained their sons share the smaller bedroom upstairs. One of the bedrooms downstairs doesn't have a window. If granted, they will solve the flood issue and have the house more usable and functioning.

Mr. Ntoko brought their neighbors who also have concerns with the flooding. They are all in support of the remodel.

Mr. Ntoko states the initial idea wasn't to remodel the house, it was the flood last year that got them thinking they needed to make the changes.

*Questions from the Board:*

Chair Freidman asked if the addition connecting the garage is already built.

Mr. Ntoko stated it is not but the garage is already existing and is a two car garage.

Chair Freidman asked if they had to reduce it, would they still be able to use it?

Mr. Ntoko no it would not accommodate the cars.

Chair Friedman asked if moving the door will help. Ms. Ntoko states it would limit and prevent future flooding.

Ms. Paez asked that the applicants drop off any photos for the file.

*Public Comment:*

- Neil Curran (2026 Calle Perdiz) lives to the north of the property. He purchased his home in 1996 when 5<sup>th</sup> street was a dirt road. He has watched the subdivisions grow.

Mr. Curran states he watched that home being developed. The neighbors tried to along with the previous owner to think of a solution. The recalls seeing them try many times to solve the flooding issue. It's not uncommon to get 3-4feet of water. As of last year, when the arroyo runs it goes back over the driveway and into the property. He suggested sandbags.

Mr. Curran states they are good neighbors. It will help to move the doorway. The water was going into the living space. The drain pipes fills into the arroyo and causes more problems. He has no objections to this variance.

Over the years the arroyo is eroded but when it fills up there's a lot of brush. The City put a drain in the sidewalk on the west side and when it goes into the intersection it goes back in.

- David Blackman (2024 Calle Perdiz) lives right behind the home. He has no concerns at all. They applaud their commitment in making the property work for them.

*Questions:*

Ms. Dearing asked if the solution will help the flooding underground or is it just because the door won't be there.

Mr. Nkoto stats that is correct, the main entry for the water was that door. The proposed addition will be way passed it and up in elevation.

Ms. Nktoko states they can possibly make a garden that will keep the water away as well.

Mr. Werwarth asked staff if the rear dimension standards apply.

Mr. Esquibel explained that in order to keep space separation from neighbors. It is also for fire safety, privacy and separation of structures.

Mr. Werwath asks because the rear is the neighbor's side yard. If that house was built normal it could've been built 5 feet to the neighbor's house.

Ms. Wynant explained the orientation of the house to the street.

Mr. Esquibel stated in the rules, R-1 and R-7 requires more space for light and air. The code established parameters for different types of structures. For a single family dwelling it is 7 feet from the front, 5 from the side and 15 to the rear. An accessory can go as far as 5 feet. In order to do that, you have to have a separation between the home and accessory unit that is 10 feet.

Mr. Werawth asked if there is enough space to maintain 10 feet to the setback. Then criteria 2 and the rest of them are favorable. Mr. Esquibel states there are other design options.

Mr. Werwath asked what the purpose of the 10 feet is. Mr. Werwath states it was fire protection and light and air.

Mr. Werwath states this case is one where he finds the code difficult. These are the parts that don't work for people. They apply these standard created after some of these homes were built. Does connecting a garage impact it? It is a time where he would like to see change. When Chapter 14 is revisited, he would like to add items to the list to consider to be changed.

Mr. Werwath explained situations like this can cause more work for the applicants and require ENN's. Mr. Esquibel explained they didn't have to do an ENN

Chair Freidman recalls when a variance was signed by your neighbor and they didn't have to come before the board. Mr. Esquibel explained that has changed.

Mr. Werwath states they aren't building in the area it is going from an accessory structure to the primary structure.

Mr. Esquibel stated if there was enough room on the neighbor's side yard, and they agree to not build then this would be addressed in a different way.

Mr. Werwath states the City's definition changes from primary and accessory. They need to question all the setback rules.

Chair Freidman stated infeasible doesn't mean impossible. It just means unreasonable but there are special circumstances. Mr. Esquibel asked that those specific findings be in the motion.

Mr. Dearing thinks this is a problematic property and they are trying the best they can with what they have. Over the years this has been an ongoing problem and something has to be done to manage it.

**MOTION:** Mr. Werwath moved that in the Case # 2019-42 to approve the setback variance noting in criteria 1 there are special circumstances where the home is in the floodplain and there are certain areas of the house that exist below the grade that the special circumstances that make it infeasible is that placing a door in this location in the middle of the off grade is not a feasible way of moving the entrance and that the addition achieves the ability to make an entry between the two different floors of the home, for criteria 4 that is the minimum variance that will make it of reasonable use of a new entrance because of the placement of the door between the two floors; with a second from Ms. Dearing which passed by voice vote.

## **G. STAFF COMMUNICATIONS**

None.

## **H. MATTERS FROM THE BOARD**

Chair Freidman explained this is a hard situation. They appreciate the knowledge and the work from staff on it.

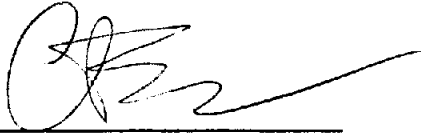
Chair Freidman states this could be a good reason for changes to the code and consider a simple affidavit which allows the neighbor to sign off.

## **I. ADJOURNMENT**

There being no further business to come before the Board of Adjustment the meeting was adjourned at 7:02 p.m.



**SIGNATURES**

A handwritten signature in black ink, appearing to be 'GF', with a long horizontal stroke extending to the right.

**Gary Friedman, Chair**

A handwritten signature in black ink, appearing to be 'L Vigil', with a large loop at the end.

**Linda Vigil, Stenographer**

## **Case #2019-42: 2067 5<sup>th</sup> Street Setback Variance**

### **Applicant Submittal**

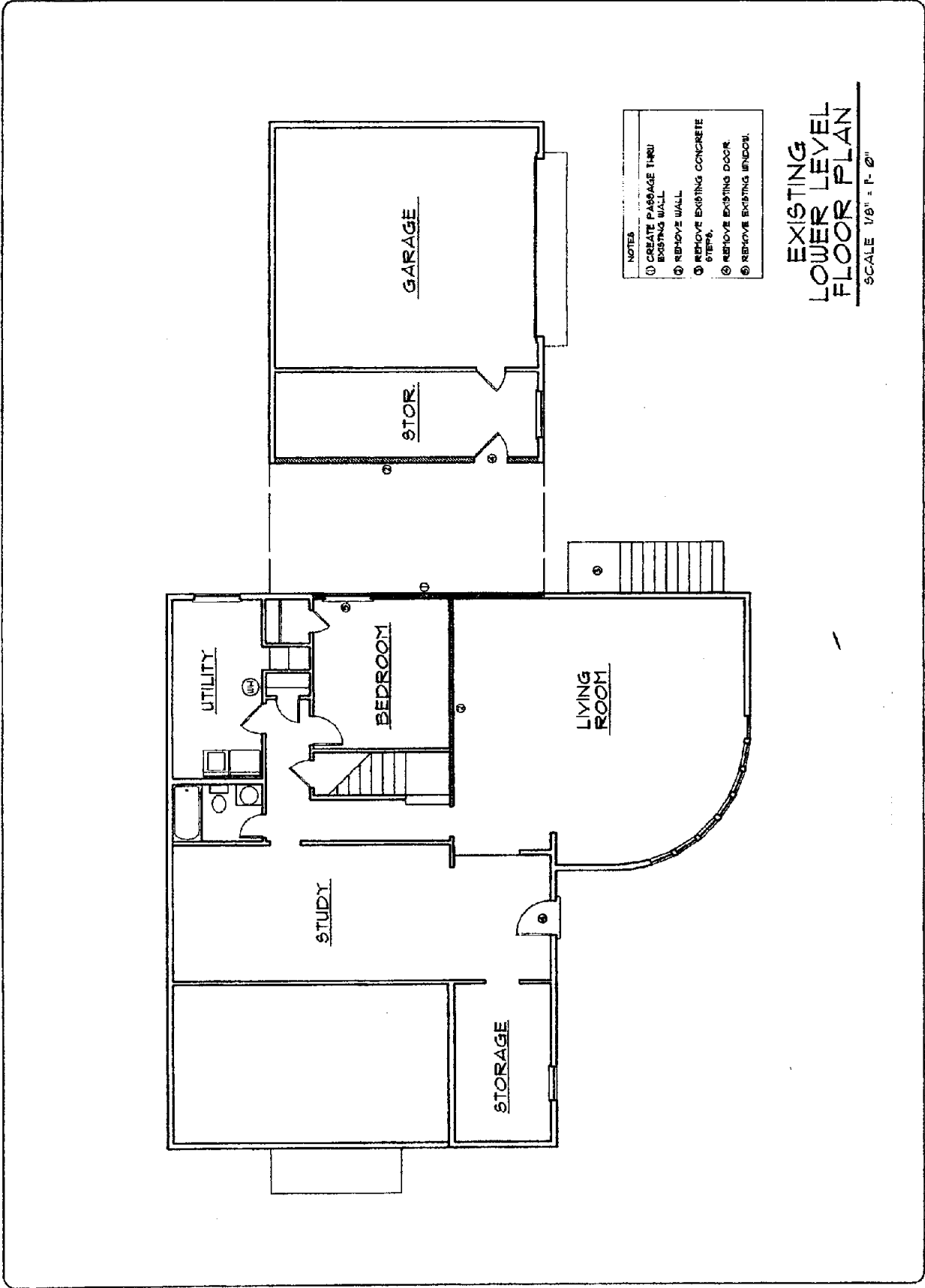
1. Existing Lower Level Floor Plan
2. Proposed Lower Level Floor Plan
3. Existing Upper Level Floor Plan
4. Proposed Upper Level Floor Plan
5. Existing Elevations
6. Proposed Elevations

Exhibit 1

FLOOR PLAN

A REMODEL/ADDITION FOR  
CONRAD NITKO AND MIRANDA AKIMA  
2027 FIFTH STREET, SANTA FE, NEW MEXICO  
© ALL RIGHTS RESERVED

DATE	1/20/24
SCALE	1/8" = 1'-0"
SHEET	3

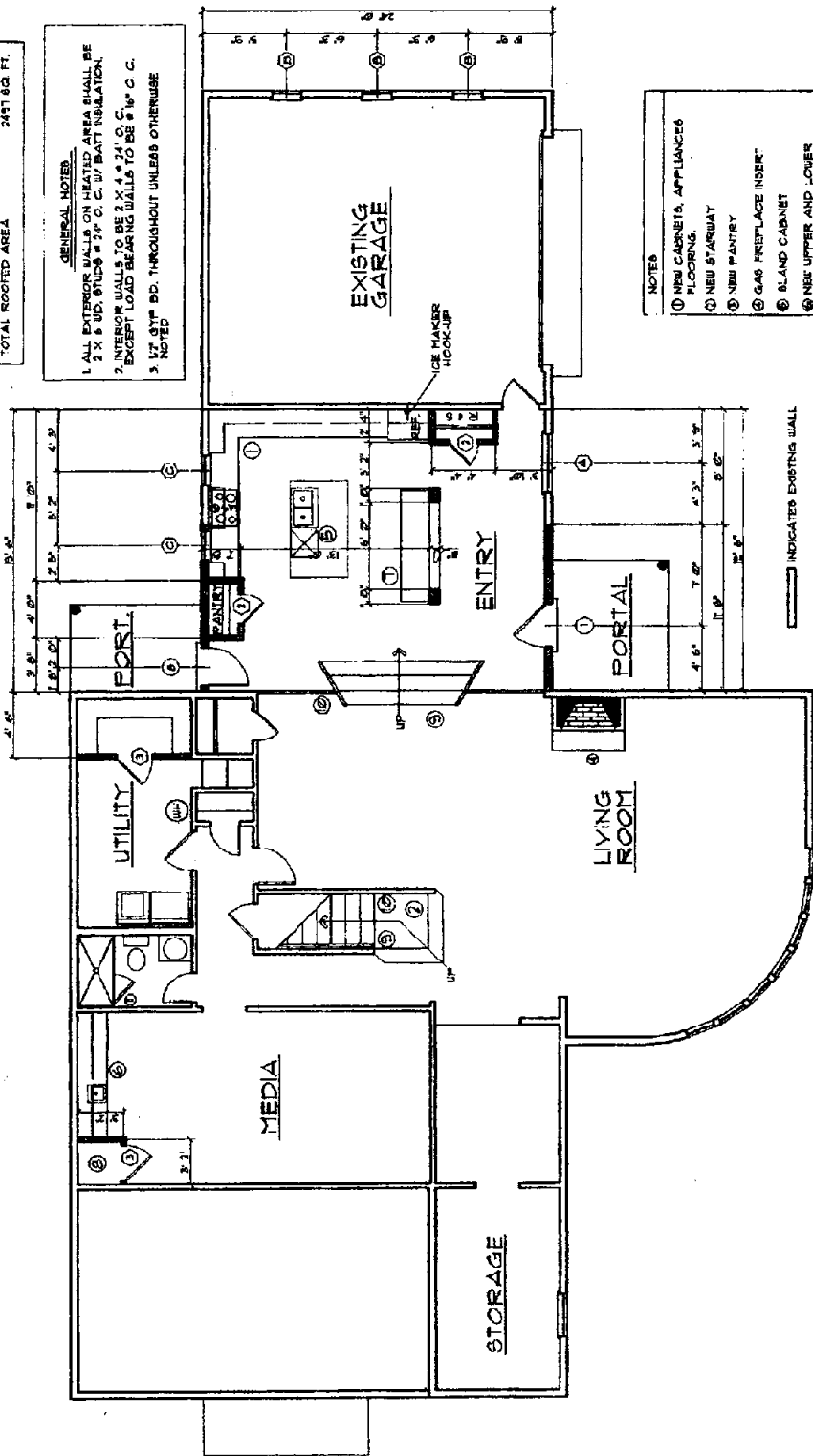


EXISTING  
LOWER LEVEL  
FLOOR PLAN  
SCALE 1/8" = 1'-0"

1

BUILDING AREA	
EXISTING ROOFED AREA	2098 SQ. FT.
PROPOSED HEATED AREA	216 SQ. FT.
PROPOSED PORTAL AREA	106 SQ. FT.
TOTAL PROPOSED ROOFED AREA	420 SQ. FT.
TOTAL ROOFED AREA	2497 SQ. FT.

**GENERAL NOTES:**  
 1. ALL EXTERIOR WALLS ON HEATED AREA SHALL BE 2" X 8" BD. STUDS @ 24" O. C. W/ BATT INSULATION.  
 2. INTERIOR WALLS TO BE 2" X 4" @ 24" O. C. EXCEPT LOAD BEARING WALLS TO BE 8" W. C. C.  
 3. 1/2" GYP BD. THROUGHOUT UNLESS OTHERWISE NOTED



- NOTES**
- ① NEW CABINETS, APPLIANCES FLOORING
  - ② NEW STAIRWAY
  - ③ NEW PANTRY
  - ④ GAS FIREPLACE INSERT
  - ⑤ BLAND CABINET
  - ⑥ NEW UPPER AND LOWER CABINETS W/ BARE SINK
  - ⑦ NEW CABINET W/ COUNTERTOP
  - ⑧ NEW CLOSET
  - ⑨ WOODEN STEPS W/8" RISERS (11x10) W/ 6" TREADS (12x12)
  - ⑩ WOOD SAIL @ 36" HT. "ROOF" TCE OF STEP (11x11)
  - ⑪ NEW SHOWER W/ TILE SURROUND

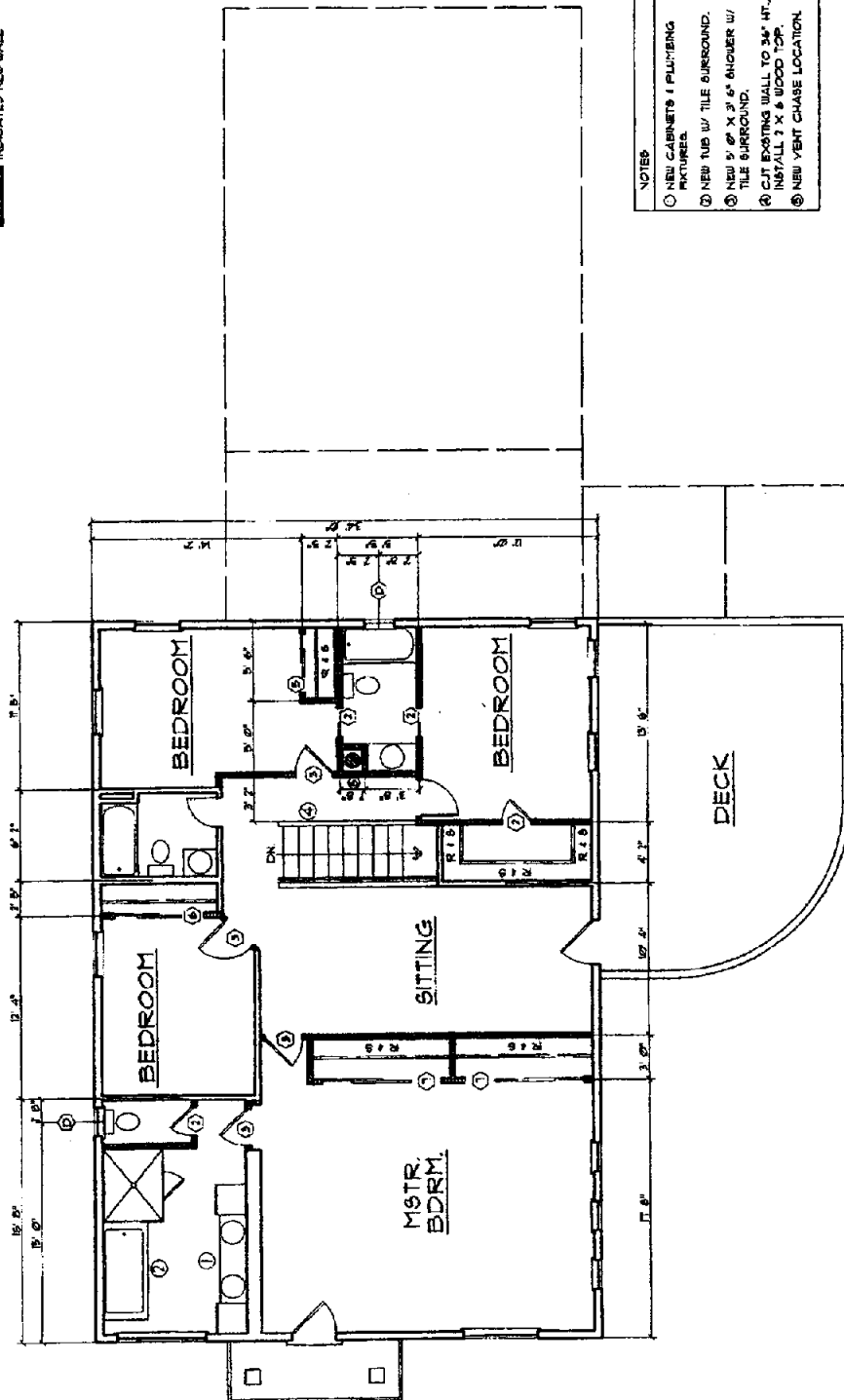
--- INDICATES EXISTING WALL  
 ——— INDICATES NEW WALL

**PROPOSED LOWER LEVEL FLOOR PLAN**

SCALE 1/8" = 1' 0"



— INDICATES EXISTING WALL  
— INDICATES NEW WALL



- NOTES
- ① NEW CABINETS & PLUMBING FIXTURES.
  - ② NEW TUB W/ TILE SURROUND.
  - ③ NEW 5' 0" X 3' 6" SHOWER W/ TILE SURROUND.
  - ④ CUT EXISTING WALL TO 34" HT. INSTALL 1" X 6 WOOD TOP.
  - ⑤ NEW VENT CHASE LOCATION.

PROPOSED  
UPPER LEVEL  
FLOOR PLAN  
SCALE 1/8" = 1'-0"

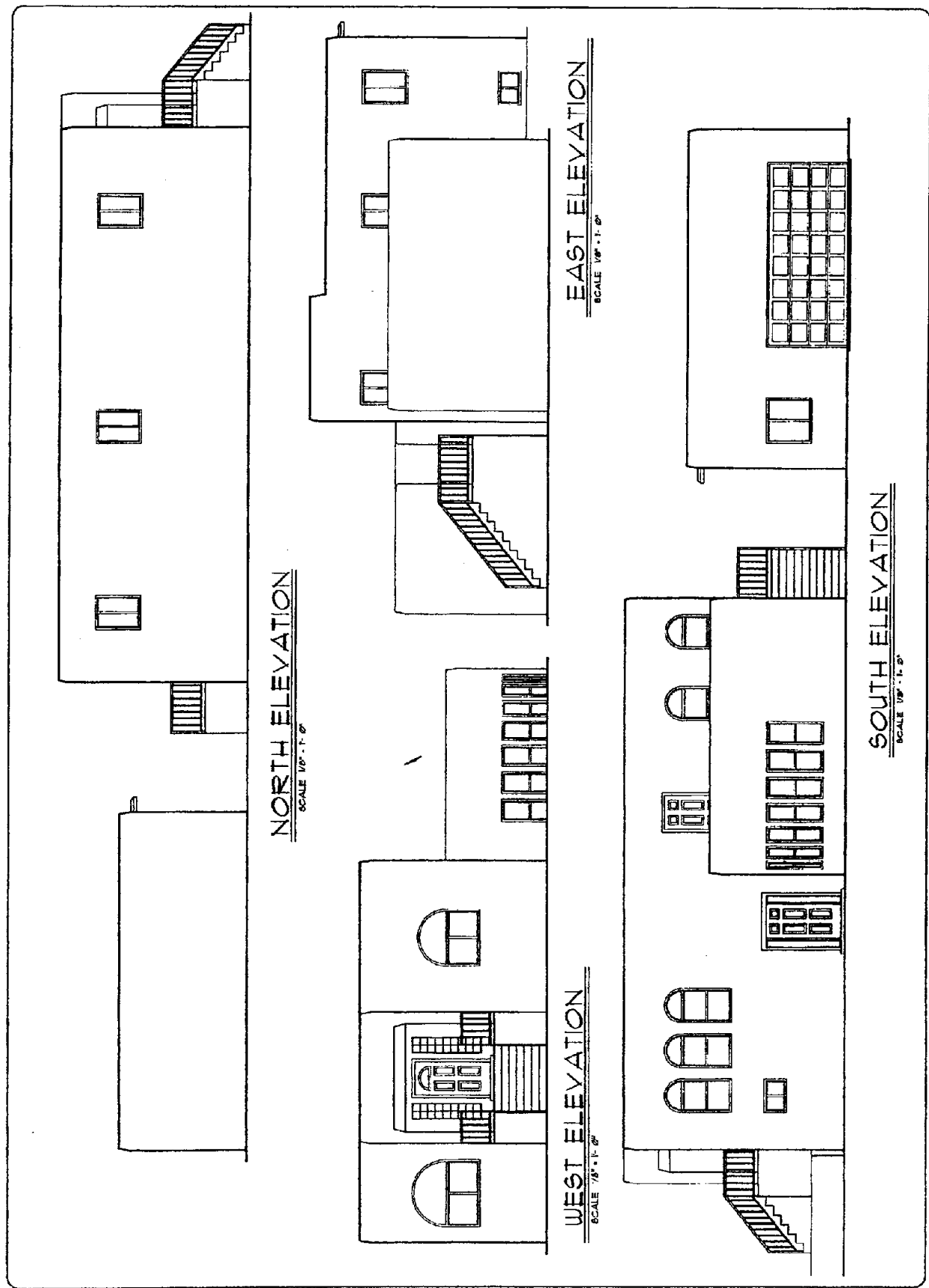
A.

5

DATE	5/1/87
BY	AKUMA
CHECKED	
NO.	5
SHEET	5

A REMODEL/ADDITION FOR  
CONRAD NITO AND MIRANDA AKUMA  
2067 FIFTH STREET, SANTA FE, NEW MEXICO  
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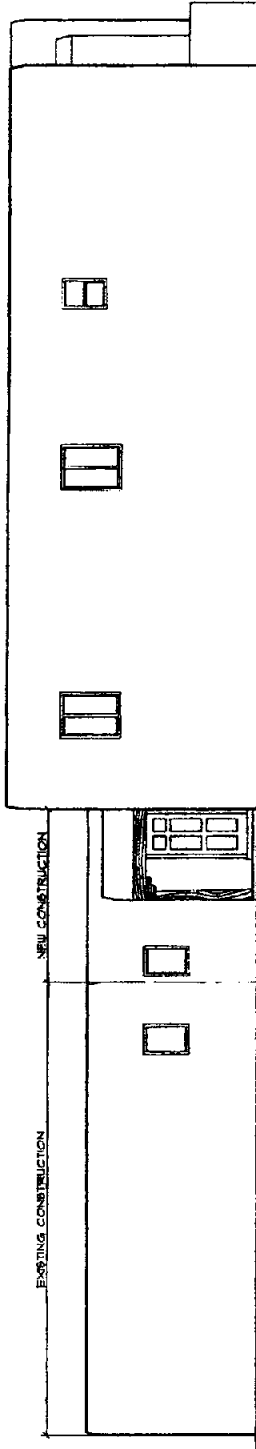
EXISTING  
EXTERIOR ELEVATIONS



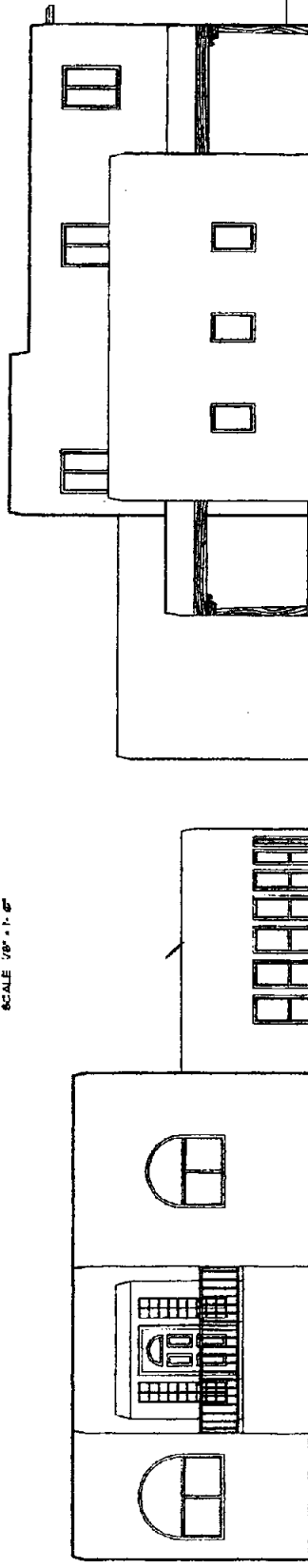
PROPOSED  
EXTERIOR ELEVATIONS

A REMODEL/ADDITION FOR  
CONRAD NITO AND MIRANDA AKUMA  
2067 5TH STREET, SANTA FE, NEW MEXICO  
© 2007 J. J. KENNEDY

5A  
SHEET  
DATE  
BY  
SCALE  
PROJECT

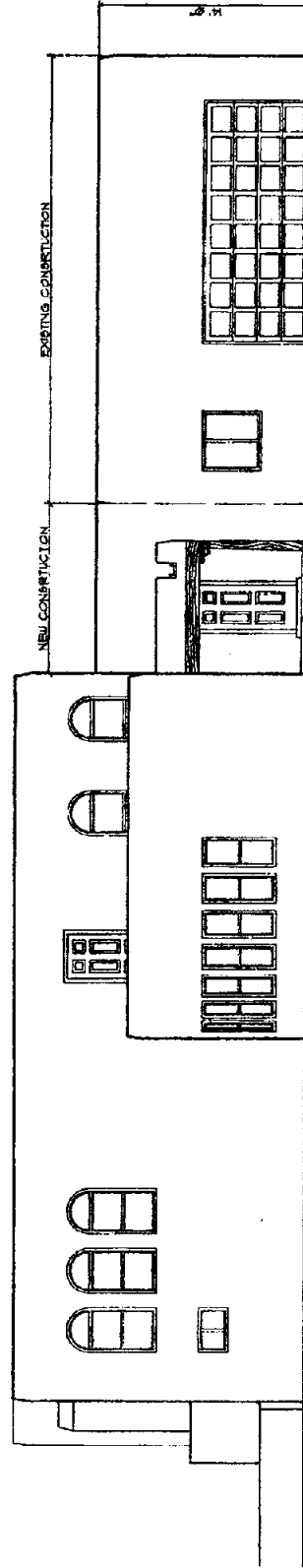


NORTH ELEVATION  
SCALE 1/8" = 1'-0"



EAST ELEVATION  
SCALE 1/8" = 1'-0"

WEST ELEVATION  
SCALE 1/8" = 1'-0"



SOUTH ELEVATION  
SCALE 1/8" = 1'-0"

6