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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Planning Commission
 Brian Risley, Chair

FROM: Ryan Howser, Planner I
 Daniel Torres, PE Engineer II
 Craig Dossey, Executive Director

RE: Project File #: AL-19-035
 Project Name: McDermott Accessory Living Quarters
 Parcel No.: 52080-00-030

OWNER:	REPRESENTATIVE:
Craig McDermott 12930 Herring Rd Colorado Springs, CO, 80908	Craig McDermott 12930 Herring Rd Colorado Springs, CO, 80908

Commissioner District: 1

Planning Commission Hearing Date:	9/17/2020
Board of County Commissioners Hearing Date	10/13/2020

EXECUTIVE SUMMARY

A request by Craig McDermott for approval of a special use to allow for a “Detached Accessory Living Quarters for Permanent Occupancy” of 1,773 square feet where 1,500 square feet is the maximum size allowed without Board of County Commissioners approval. The 29.32 acre property is zoned RR-5 (Residential Rural) and is located on the west side of Herring Road, approximately one-quarter (1/4) of a mile north of Shoup Road and within Section 8, Township 12 South, Range 65 West of the 6th P.M. The property is located within the boundaries of the Black Forest Preservation Plan (1987).



A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by Craig McDermott for approval of a special use to allow for a detached accessory living quarters for permanent occupancy of 1,773 square feet where 1,500 square feet is the maximum size allowed without Board of County Commissioners approval.

Waiver(s)/Deviation(s): There are no waivers being requested in association with the special use request.

Authorization to Sign: There are no documents associated with this application that require signing.

B. PLANNING COMMISSION SUMMARY

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

C. APPROVAL CRITERIA

Pursuant to Section 5.3.2(C) of the Land Development Code, the Planning Commission and Board of County Commissioners may consider the following criteria in approving a special use:

- The special use is generally consistent with the applicable Master Plan;
- The special use will generally be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;
- The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;
- The special use will not create unmitigated traffic congestion or traffic hazards on the surrounding area, and has adequate, legal access;
- The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;
- The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or

- The special use conforms or will conform to all other applicable County rules, regulations or ordinances.

D. LOCATION

North:	RR-5 (Residential Rural)	Residential
South:	RR-5 (Residential Rural)	Residential
East:	RR-5 (Residential Rural)	Residential
West:	RR-5 (Residential Rural)	Residential

E. BACKGROUND

The 29-acre subject property was zoned A-4 (Agricultural) on September 21, 1965, when zoning was first initiated for this area of unincorporated El Paso County (Resolution No. 434870). Due to changes in the nomenclature of the Code, the A-4 zoning district was renamed as the RR-5 (Residential Rural) zoning district. The 29.32-acre property is unplatted and was created by deed on December 6, 1968, which was prior to El Paso County adopting subdivision regulations on July 17, 1972. The existing single-family residence was constructed in 2014. A detached garage was constructed in 2014. The accessory living quarters is not proposed to be located in either of the existing structures on the property, but instead within an additional structure not yet constructed.

Section 5.2.1(K) of the Code states “when the lot or parcel is 2.5 acres or greater, the accessory structure may be up to two (2) times the size of the building footprint of the principal use.” The principal structure is 2,077 square feet, which would allow for an accessory structure up to 4,154 square feet, due to the size of the property exceeding 2.5 acres. On June 3, 2020, the applicant received administrative relief approval for an accessory structure exceeding this size, allowing for a building size of up to 4,983 square feet.

Section 5.2.28(D) of the Code states: “The Board of County Commissioners may modify the maximum size allowance [of the accessory living quarters] by up to 20 percent as part of a special use approval.” This provision allows for the area utilized for an accessory living quarters to be approved by the Board of County Commissioners in excess of 1,500 square feet, up to a maximum of 1,800 square feet.

The accessory living quarters is proposed to occupy 1,773 square feet of the 4,983 square foot accessory structure, with the rest of the structure proposed to be used as a garage and other storage space. Board of County Commissioners approval is

required for the area used for the accessory living quarters to exceed 1,500 square feet.

F. ANALYSIS

1. Land Development Code Analysis

Section 1.15 of the Code defines an accessory living quarters as follows:

“Lodging, which may include a kitchen, that is accessory to the principal dwelling which may be occupied only by occasional, non-paying guests of the family residing in the principal dwelling. Accessory living quarters are not considered dwelling units. The term does not include farm/ranch residence, caretakers’ quarters, or an additional dwelling.”

Section 5.2.28(D) of the Code sets forth the following criteria regarding the maximum size of an accessory living quarters:

“The accessory living quarters shall be no larger than the total square footage of the primary residence, up to a maximum of 1500 square feet of finished habitable floor area, as measured to the outside of the walls. The Board of County Commissioners may modify the maximum size allowance by up to 20 percent as part of a special use approval.”

The proposed size of the accessory living quarters on this property is 1,773 square feet and the maximum size allowance the Board of County Commissioners may approve is up to 1,800 square feet (1,500 square feet plus a 20 percent increase).

The special use application meets the special use criteria identified in Section 5.3.2(C) of the Code. The applicant’s stated purpose for the accessory living quarters on this property is to house immediate family members on a full-time basis until the use is no longer necessary, which is the reason for requesting that the detached accessory living quarters be approved as a special use. With the exception of the above referenced 1,500 square feet maximum size requirement, the application meets all of the “Special Provisions for a Detached Accessory Living Quarters for Permanent Occupancy” criteria identified in Section 5.2.28 of the Code.

2. Zoning Compliance

The subject parcel is zoned RR-5 (Rural Residential). The RR-5 zoning district is intended to accommodate low-density, rural, single family residential development. The density and dimensional standards for the RR-5 zoning district are as follows:

- Minimum lot size – 5 acres
- Minimum lot width – 200 feet
- Setbacks – front 25 feet, sides 25 feet, and rear 25 feet
- Maximum lot coverage – 25 percent
- Maximum building height – 30 feet

The applicant is requesting approval of an accessory living quarters which, if approved, is proposed to conform to these standards. If approved, the building footprint total (lot coverage) for all of the structures on the property would comprise approximately 0.6% of the total lot area. The proposed accessory structure is proposed to be 16 feet in height, with a maximum height of 25 feet. The applicant is not proposing any setback encroachments or dimensional variances.

3. Policy Plan Analysis

The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues and provides a framework to tie together the more detailed sub-area elements of the County Master Plan. Relevant policies are as follows:

Policy 6.1.3 – Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use and access.

Policy 6.1.11 – Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses.

Policy 6.1.14 – Support development which complements the unique environmental conditions and established land use character of each sub-area of the County.

Policy 6.4.1 – Protect and sustain established viable rural residential areas where possible.

Goal 13.1 – Encourage an adequate supply of housing types to meet the needs of county residents.

Policy 13.1.3 – Recognize the need for housing alternatives that provide for the county’s special populations. Special populations may include low income, elderly, and physically and mentally impaired.

The subject property is zoned RR-5 (Residential Rural) and is surrounded by other RR-5 zoned properties on all sides. Parcels adjacent to the subject property range in size. Parcels to the north are 4.77 acres and 14.53 acres. To the east are three parcels, with one comprising 2 acres, one comprising 2.5 acres, and one comprising 5 acres. To the south is a 9.77-acre parcel and to the west is a 21.67-acre parcel. The area is primarily rural residential in nature and the proposed accessory living quarters could help preserve the larger-lot rural residential nature of the area as opposed to the alternative of subdividing the property. This property is larger than all of the surrounding properties and will retain a lower density even with the proposed accessory living quarters than the surrounding properties which are much smaller. Additionally, the accessory living quarters cannot function as an independent dwelling unit and cannot be rented out after the use is discontinued, which will ultimately result in the parcel retaining the low density of one unit on a 29-acre parcel.

The accessory living quarters regulations serve to meet the needs of County residents and are intended to provide options for the County’s special populations by creating a low-impact alternative to allow property owners to provide housing for family members. In this particular case, the applicant is proposing to utilize the accessory living quarters to house elderly parents. Staff recommends that the proposed special use is in general conformance with the EI Paso County Policy Plan.

4. Small Area Plan Analysis

The property is located within the Timbered Area of the Black Forest Preservation Plan (1987). Chapter III, Section 1 of the Plan identifies this area as “limited to low density residential or open space.” Relevant goals and policies are as follows:

Policy 1.1 – Retain the Black Forest Planning Area as primarily a rural-residential community with limited supporting commercial and industrial development.

Policy 1.6 – Allow “low impact uses” as defined in this Chapter in areas designated for rural residential uses wither through the Special use review process or as part of carefully defined planned unit developments. Variances for low impact uses should be used sparingly and in all cases approvals should not result in a deviation from the predominantly rural-residential character of these areas.

Goal 3.A – Promote a residential environment which perpetuates the rural-residential character of the Black Forest Planning Area.

The proposed special use seeks to preserve the rural residential nature of one unit per five acres in the Black Forest Timbered Area by retaining a large lot (29 acres) and requesting an accessory living quarters as a special use, rather than subdividing to increase density with another independent dwelling unit. Additionally, the accessory living quarters do not function as an independent residence and cannot be rented out after the use is discontinued, which will ultimately result in the parcel retaining the low density of one unit on a 29-acre parcel.

Accessory living quarters is a low impact use as it does not substantially increase traffic, contribute to noise, or produce visual clutter. Additionally, the applicant is proposing to locate the accessory living quarters within the same structure as the detached garage and storage space in order to minimize visual clutter of additional structures on the property.

5. Water Master Plan Analysis

The El Paso County Water Master Plan (2018) has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

Goal 1.1 – Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.

Policy 1.1.1 – Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency and conservation.

Goal 1.2 – Integrate water and land use planning.

The accessory living quarters do not function as an independent residence and cannot be rented out after the use is discontinued, which will ultimately result in the parcel retaining the low density of one unit on a 29-acre parcel and will not result in a significant increase in water demand. The use standards for accessory living quarters prohibit it from being retroactively converted into a permanent single-family detached dwelling, which effectively limits the long-term effects on the identified water supply.

The property is located within Planning Region 2 but is not located in an area of estimated development. Region 2 is identified as potentially having issues regarding long term sustainable draw from the Denver Basin aquifers. By utilizing the low impact use of the accessory living quarters, the proposed use will not have a substantial impact on the long term viability of the aquifer. The property is currently served by well and septic and the additional draw from the aquifer is not anticipated to be substantial and will not be permanent. The existing well permit (Permit #84196-F) is limited to in-house uses in two residences (0.3 acre-feet per residence and 0.6 acre-feet per year total) and as such will accommodate the proposed accessory living quarters.

6. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

The Master Plan for Mineral Extraction (1996) does not identify any potential deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

The El Paso County Parks Master Plan (2013) does not show any parks or trails within the vicinity of the project.

Please see the Transportation Section below for information regarding conformance with the 2016 Major Transportation Corridor Plan (MTCP).

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified in the review of this project.

2. Wildlife

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

3. Floodplain

The property is not located within a defined floodplain as determined from the FEMA Flood Insurance Rate Map panel number 08041C0320G, dated December 7, 2018.

4. Drainage and Erosion

The property is located within the Kettle Creek (FOMO3000) drainage basin. Drainage and bridge fees are not assessed with special use requests. No public drainage improvements will be required as there are no anticipated drainage or erosion impacts identified with this request.

5. Transportation

The property is accessed via Herring Road, which is an existing public roadway. A traffic impact study was not required as the proposed special use is not expected to generate 100 daily vehicle trips more than the property would be expected to generate currently. The proposed special use will have a minimal impact to the County's transportation network. There are no improvements identified in the 2016 Major Transportation Corridor Plan (MTCP) in the immediate vicinity of the site.

H. SERVICES

1. Water

Water is provided by an existing permitted onsite well, allowing pumping of up to 0.6 acre-feet per year to service up to two residences.

2. Sanitation

Wastewater service for the existing residence is provided by an onsite wastewater treatment system (OWTS). The accessory living quarters will require permitting and construction of a new OWTS. Such permitting shall be coordinated with El Paso County Public Health.

3. Emergency Services

The property is within the Black Forest Fire Protection District. The Fire District was sent a referral and did not provide a response.

4. Utilities

Mountain View Electric Association (MVEA) currently provides electric service to the property. MVEA was sent a referral and have no outstanding comments. Black Hills Energy currently provides gas service to the property and has no outstanding comments. Meters and billing for these services will be interconnected and separate billing address or meter service will not be provided to the accessory living quarters.

5. Metropolitan Districts

The property is not located within the service area of a metropolitan district.

6. Parks/Trails

Land dedication and fees in lieu of park land dedication are not required for a special use application.

7. Schools

Land dedication and fees in lieu of school land dedication are not required for a special use application.

I. APPLICABLE RESOLUTIONS

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Disapproval Page 40

J. STATUS OF MAJOR ISSUES

There are no major outstanding issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.2 of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations:

CONDITIONS

1. Approval is limited to the accessory living quarters, as discussed and depicted in the applicant’s letter of intent and site plan drawings.
2. Prior to building permit authorization, the accessory living quarters affidavit stating that the accessory living quarters shall not be rented or leased must be completed, notarized, and submitted to the El Paso County Planning and Community Development Department for recordation.

3. Prior to building permit authorization, the applicant shall apply for and receive approval of a residential site plan.

NOTATIONS

1. Special use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or special use conditions/standards are being violated, preceded by notice and public hearing.
3. If the special use is discontinued or abandoned for two (2) years or longer, the special use shall be deemed abandoned and of no further force and effect.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified eleven (11) adjoining property owners on August 27, 2020, for the Planning Commission meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Site Plan
Floor Plan

El Paso County Parcel Information

File Name: AL-19-035

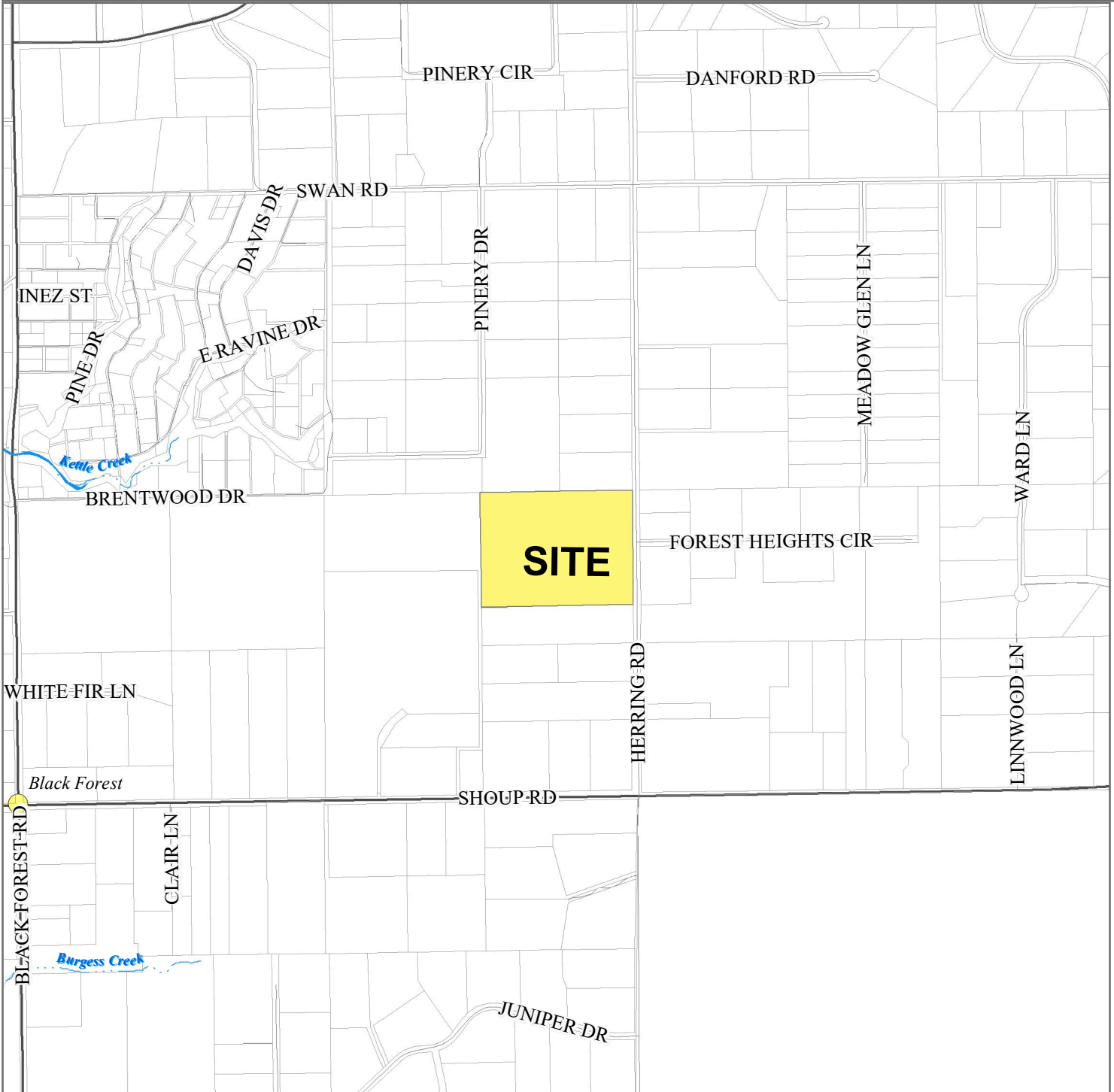
PARCEL	NAME
5208000030	MCDERMOTT CRAIG A

Zone Map No. --

Date: August 26, 2020

ADDRESS	CITY	STATE
12930 HERRING RD	COLORADO SPRINGS	CO

ZIP	ZIPLUS
80908	3489



Please report any parcel discrepancies to:
 El Paso County Assessor
 1675 W. Garden of the Gods Rd.
 Colorado Springs, CO 80907
 (719) 520-6600



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Craig McDermott
12830 Herring Rd
Colorado Springs, CO 80908
craigmcderm@hotmail.com

August 3, 2020

Planning & Community Development Dept.
El Paso County
2880 International Circle
Colorado Springs, CO 80910

Dear El Paso County PCD:

This letter of intent is to accompany a request for an Administrative Special Use – Extended Family Dwelling. It is the desire of the applicant to construct an accessory living quarters for permanent occupancy by an immediate family member. As required, the following information applies to and demonstrates qualification for this request:

- 1.) Applicant is the owner of the property associated with this request.
- 2.) The property is a 29.32-acre lot in Black Forest that is zoned RR5 and is applicant's primary residence.
- 3.) The expected residents are the owner's child by blood (daughter) along with her husband, their toddler son, and another child expected to be born in December, 2020.
- 4.) Hardship justifications:
 - a. The applicant has elderly parents with health issues demanding ever increasing amounts of care from the applicants. The applicants anticipate that moving their immediate family back to the area from out of state would increase the number of family members able to share the burden of care for the elderly parents.
 - b. The owners anticipate that immediate family members occupying the extended family dwelling will also be able to assist in the continued effort to perform post Black Forest fire property cleanup. This property was 100% burned and the insurance proceeds were grossly inadequate to address the required cleanup effort. Although the "Black Forest Together" assistance organization has been engaged, the lead work manager indicated that they are "just not equipped to handle such large properties". Therefor the property owner is burdened with significant and on-going cleanup effort.
- 5.) Existing and proposed structures:
 - a. A single-family dwelling and a detached garage currently exist on the lot. Both buildings are 2014 rebuilds after the Black Forest Fire in 2013.
 - b. The existing driveway would serve both the current and proposed dwellings without the need for a second point of access to the street.
 - c. An EDARP administratively approved and PPRBD permitted 4,984 square foot accessory building will house the residential living space referenced in this proposal.
 - d. The building site is a "hilltop" location and the original drainage patterns are not altered by the building. No surrounding properties are adversely affected by the new structure.
 - e. The LDC allows extended family residences up to 1,500 square feet. The LDC also includes a provision allowing the Planning Authority to approve up to an additional 20% increase in the living area square footage (1,800 sq. ft.) to be approved if required conditions are met. The proposed living area portion of the building is 1,773 square feet, therefore this proposal for an Extended Family Dwelling includes a request for approval of 273 square feet of living area

above the 1,500 square foot limit but within the provision of an allowable 20% addition to that limit if approved.

All LDC requirements that must be met to allow the 20% size exception are met by the plan including the stipulation that the additional size have negligible impact on the surrounding neighborhood. Since the proposed living area resides *within the confines of the larger accessory building*, the additional living area is not able to be seen from the outside and is therefore inconsequential to the neighborhood.

- 6.) The extended family dwelling will share an electrical service with the existing primary residence. Mtn. View Electric engineering has indicated that an upgrade to the onsite transformer and addition of a service disconnect is expected to provide sufficient capacity to meet the additional load requirements of an accessory living quarters.
- 7.) Other material considerations:
 - a. All provisions and criteria described in LDC 5.3.2(C) Special Use Criteria are met by this plan.
 - b. The property is located in an unincorporated area with no covenants.
 - c. Traffic and public services in the area will be minimally impacted to the point of being unnoticeable.
 - d. Sufficient water rights to accommodate an accessory living quarters has already been secured from the State of Colorado.
 - e. An accessory living quarters addition to the applicant's property is not known to violate any local, state, or federal laws in any way.
 - f. An accessory living quarters addition to the applicant's property poses no current or future threat to the health, safety, or welfare of residents of El Paso County, Colorado.
 - g. The proposed accessory building
 - h. The special use of an accessory living quarters to the applicant's property is within the allowed uses and conforms with all County rules, regulations, and ordinances that apply to extended family dwellings.
- 8.) Black Forest Preservation Plan
 - a. The lot lies within section 1 "Timbered Area" of the BFPP.
 - b. The proposed project retains the rural residential nature of the community. The addition of an extended family dwelling within an accessory building is consistent and harmonious with the general nature of the area. There are many existing accessory and agricultural buildings throughout the community.
 - c. The proposed project is a low impact Special Use as specified in the BFPP.
 - d. There are two adjacent properties that are in the process of being subdivided and developed into a total of thirteen net new residential lots of 5 acres per lot. The surrounding properties are mostly of the 5 acre to 10 acre size and rural residential in nature. The addition of this extended family dwelling on a 29.32 acre lot results in a ratio of nearly 15 acres per residence which still far exceeds the norm for the neighborhood and complies with the BFPP low density recommendation of 5 acre per residence.

The proposed project is expected to commence upon successful petitioning for a special use permit and a duly executed building permit.

Respectfully,

Craig A. McDermott

Craig A. McDermott

6/15/2008	ST

Craig & Sally McDermott
 12930 Herring Road, Colo. Spgs., CO 80908
 craigmcderm@hotmail.com
 phone 719-337-4201
Living Quarters
 N 990 FT OF NE45E4 EX E 30 FT SEC 2012-65
 El Paso County, CO

Robert J Maixner
 Architect
 54 Circlewood Drive, Hilton Head Island, SC, 29926
 (719) 660-6183 maxarctec@aol.com

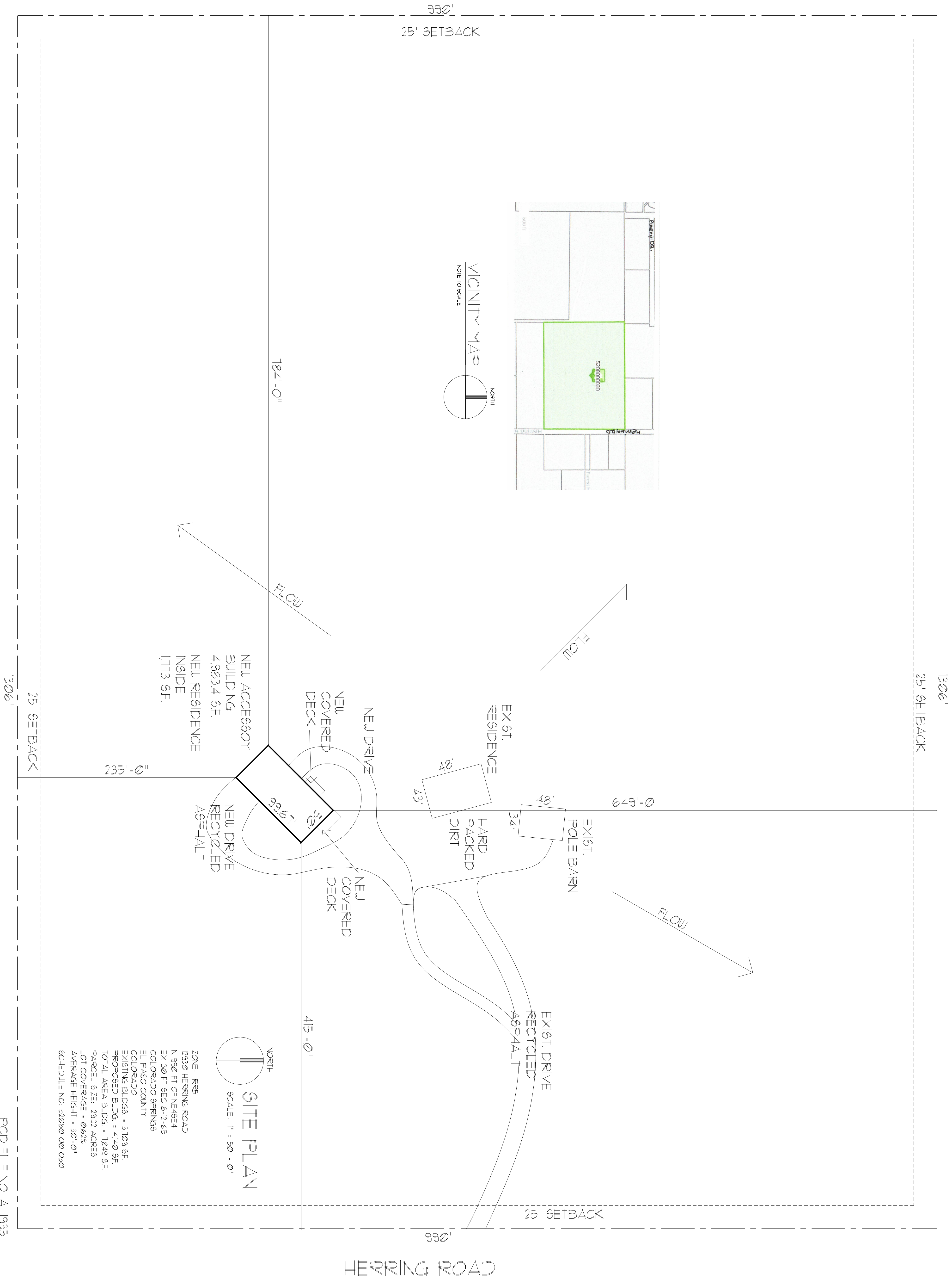


SQUARE FOOTAGE
 Living Quarters 1113 SF
 Covered Deck 348 SF
 Garage Area 3109 SF

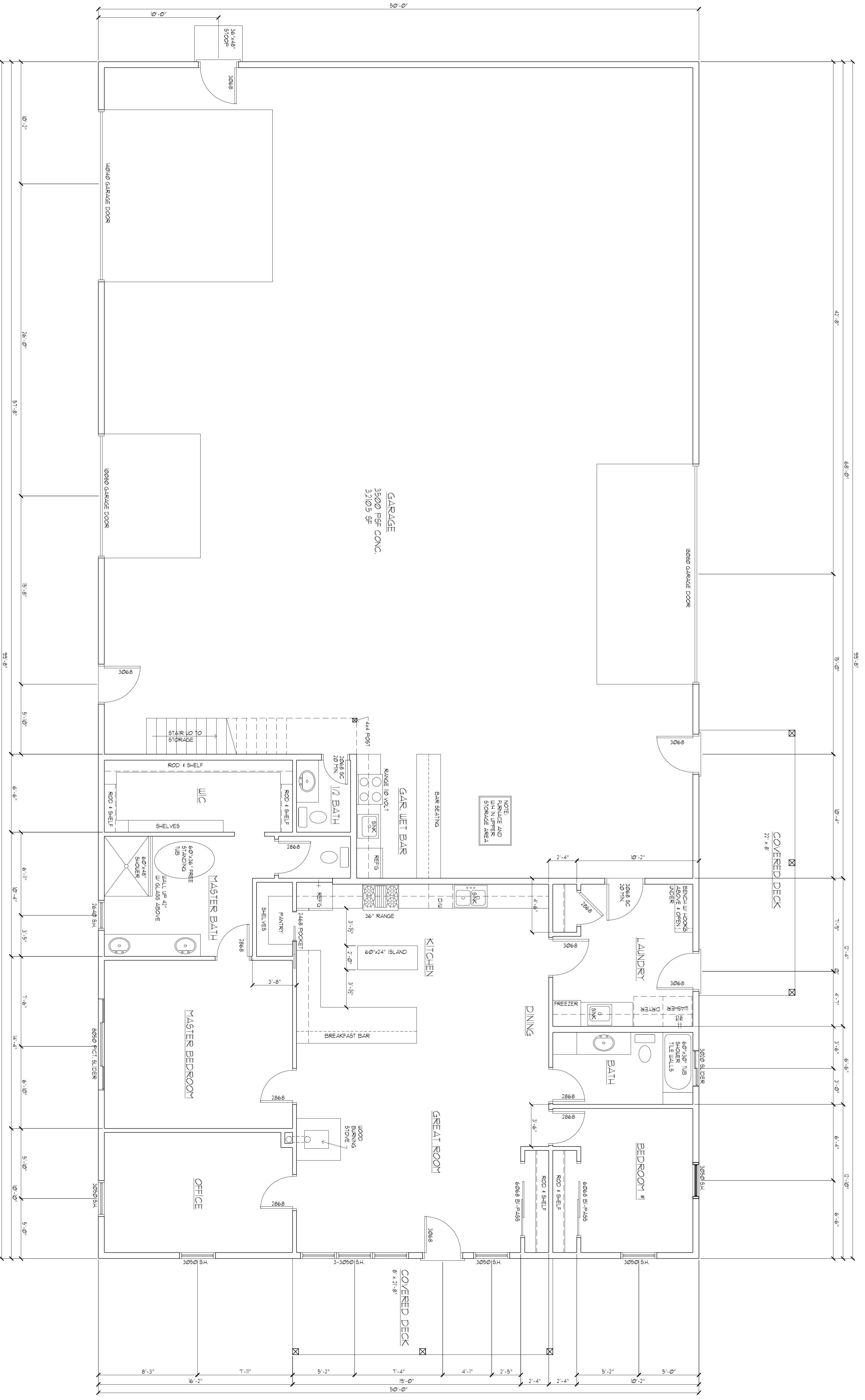
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 3D Site Plan
 A1 Floor Plan
 42 Elevations
 20 Elevation Section

INDEX
 DRAWN
 RJM
 CHECKED
 RJM
 DATE
 01 / 25 / 2010
 JOB NO.
 19-172
 SHEET NO.

SD



P&C FILE NO. AL1935



FLOOR PLAN
 SCALE: 1/4" = 1'-0"
 LIVING SPACE 1173 SQ. FT.

DESIGN	RM
DATE	01 / 25 / 2010
SCALE	1/4" = 1'-0"
SHEET NO.	19-172

INDEX	3D Site Plan
	All Floor Plans
	2D Elevations
	2D Sections

SQUARE FOOTAGE	1173 sq. ft.
LIVING QUARTERS	1173 sq. ft.
COVERED DECK	348 sq. ft.
GARAGE AREA	3500 sq. ft.

Robert J Maixner
 Architect
 54 Circlewood Drive, Hilton Head Island, SC, 29926
 (719) 660-6183 maxarctec@aol.com

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 Living Quarters
 N 990 FT OF NE45E4 EX E 30 FT SEC 2012-65
 El Paso County, CO

REV	DATE	BY