City of Brisbane
Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 10/13/2016

FROM: Julia Capasso, Associate Planner, via John Swiecki, Community Development Director

SUBJECT: **179 San Benito Road; Use Permit UP-7-16;** Use Permit to modify the parking regulations to allow two (2) compact-sized, off-street parking spaces within the existing driveway and one (1) standard-size, on-street parking space adjacent to the front property line, where two (2) covered, off-street parking spaces and two (2) on or off-street parking spaces are required. This modification would allow for the legalization of the conversion of an attached, one-car garage into living area; Steve Miller, applicant; Steve and Bernarda Miller, owner; APN 007-381-110.

REQUEST: The applicant requests approval of a use permit to allow two compact, uncovered, off-street parking spaces, and one standard on-street parking space to serve an existing 2,110 sq. ft. single-family home. Current parking regulations require two covered off-street parking spaces and two on or off-street parking spaces for a home of this size. The requirement for a Use Permit was triggered by a building permit application for substantive renovations of the existing single-family home, including creation of a new master bedroom suite on the main floor. During the building permit review process, it was determined that the home's existing one-car garage (approximately 264 sq. ft. in area) had been converted into living space without the benefit of a building permit, prior to the current owner's purchase of the property. A Use Permit is required to legalize the nonconforming parking as a result of the garage conversion. The building permit application is currently on hold pending Planning Commission action on the Use Permit.

The approximately 5,000 sq. ft. property is served by a 20 ft x 28 ft driveway that partially encroaches into the San Benito Road right-of-way. The driveway can accommodate two compact-sized parking spaces wholly on-site. However, as noted on the applicant's plans, the depth of the driveway is adequate to accommodate two standard-sized parking spaces, though they would encroach partially within the public right-of-way. Approximately 30 ft of the property's frontage is available for on-street parking, sufficient to accommodate one standard-size car.

RECOMMENDATION: Conditionally approve Use Permit UP-7-16, via adoption of Resolution UP-7-16 with Exhibit A containing the conditions and findings of approval.

ENVIRONMENTAL DETERMINATION: Minor interior alterations of existing structures is categorically exempt from the provisions of the California Environmental Quality Act per

Section 15301(a) of the CEQA Guidelines. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.

APPLICABLE CODE SECTIONS: Parking requirements are established in Brisbane Municipal Code (BMC) §17.34.020. BMC §17.34.050.I authorizes the Planning Commission to approve modifications to the parking requirements, subject to special findings within that section in addition to the findings contained in BMC Chapter 17.40, Use Permits.

ANALYSIS AND FINDINGS:

In order to grant a Use Permit to modify the parking regulations for this project, the Planning Commission must make the findings contained in BMC §17.40.060, as well as special findings contained in BMC §17.34.050.I, listed below. The application **would meet** these findings.

- The planning commission shall consider and give due regard to the nature and condition of all adjacent uses and structures, and to general and specific plans for the area in question.

The subject property is located in Central Brisbane in the 100 block of San Benito Road, at its intersection with Sierra Point Road. The property is bordered to the west and south by properties developed with single-family homes (175 San Benito Road and 433 and 431 Alvarado Street, respectively), and by a vacant lot to the east. The existing single-family use of the property would not be altered, and is consistent with the underlying R-1 zoning district regulations and General Plan residential land use designation. There is no specific plan for this area.

- The planning commission shall determine whether or not the establishment, maintenance or operation of the use applied for will, under the circumstances of the particular case, be detrimental to the health, safety, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city.

The project would meet this finding. While the applicant's pending building permit application proposes construction of a new master bedroom and bathroom within the existing dining and living area on the upper floor, increasing the number of bedrooms from two to three, no expansion of the building footprint or floor area is proposed. The property is conforming in regards to the maximum floor area and lot coverage requirements of the R-1 Residential zoning district. The applicant has received support of this application from the owner of the adjacent properties at 195 San Benito Road and the adjacent vacant lot (see attached).

Should the requested use permit be approved, the building permit application would be subject to review and approval by the Building Department, Fire Department, and other responsible Departments to ensure the work complies with all applicable health and safety codes.

- Strict enforcement of the specified regulation is not required by either present or anticipated future traffic volume or traffic circulation on the site.

The project would meet this finding. The on-site parking spaces are located within an existing uncovered driveway, requiring minimal enforcement on the City's behalf to ensure that the parking spaces are not converted into living area or otherwise made inaccessible to vehicles. Additionally, any future expansion of the home would trigger new review of the property's compliance with parking requirements.

- The granting of the use permit will not create or intensify a shortage of on-street parking spaces, given, for example, the availability of existing or improved on/off-street parking which may not fully meet the requirements of [BMC Chapter 17.34].

The project would meet this finding. The existing single-family use would be retained, and the proposed three parking spaces can reasonably be expected to meet the parking demand of a three-bedroom home. Additionally, while the 30 ft curb along the property's frontage is 10 ft shy of the minimum 40 ft width to accommodate two parallel parking spaces, two compact or subcompact cars could realistically be accommodated, though not fully compliant with the City's minimum dimensions.

The applicant has submitted photos taken in the vicinity of the subject property showing parking conditions at the site and in the neighborhood on an unspecified weekday.

- Full compliance with the parking requirements is not reasonably feasible due to existing structural or site constraints.

The project would meet this finding. While technically it would be feasible to convert the area back to a one-car garage, the resulting parking arrangement would still be nonconforming as the parking code requires two covered parking spaces, not one. A carport over the driveway would provide only one covered, compact space due to the minimum 5 ft side yard setback requirement, and would eliminate the second uncovered space, exacerbating the property's nonconformity in regards to the number of on-site parking spaces and impacting street parking.

ATTACHMENTS:

Draft Resolution UP-7-16 with recommended Findings and Conditions of Approval
Aerial site map
Applicant's written statements and site photos
Applicant's plans with annotations by staff

Draft
RESOLUTION UP-7-16

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
CONDITIONALLY APPROVING USE PERMIT UP-7-16
TO MODIFY THE PARKING REGULATIONS
TO ALLOW INTERIOR RENOVATIONS TO A SINGLE-FAMILY HOME
AT 179 SAN BENITO ROAD

WHEREAS, Steve Miller applied to the City of Brisbane for a Use Permit to modify the parking regulations for a two-bedroom, 2,110 sq. ft. single-family dwelling at 179 San Benito Road to recognize conversion of an existing one-car garage into living area and allow interior renovations to the home, including construction of a new master bedroom, such application being identified as UP-7-16; and

WHEREAS, on October 13, 2016, the Planning Commission conducted a hearing of the application, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the staff memorandum relating to said application, and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; pursuant to Section 15301(a) of the State CEQA Guidelines; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein, as Exhibit A, in connection with the requested use permit;

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of October 13, 2016 did resolve as follows:

> Use Permit UP-7-16 is approved per the findings and conditions of approval attached herein as Exhibit A.

ADOPTED this 13th day of October, 2016, by the following vote:

AYES:
NOES:
ABSENT:

_____
TuongVan Do
Chairperson

ATTEST:

_____
JOHN A. SWIECKI, Community Development Director

DRAFT
EXHIBIT A

Action Taken: Conditional approval of Use Permit UP-7-16, per the staff memorandum with attachments, via adoption of Resolution UP-7-16.

Findings:

Use Permit UP-7-16

- Considering the nature and condition of all adjacent uses and structures, the project would maintain the property's existing single-family use consistent with the underlying residential General Plan land use designation. There is no specific plan for the area in question.

- Given the conditions of approval, the establishment, maintenance and operation of this existing single-family home will not, under the circumstances of the particular case, be detrimental to the health, safety, comfort and general welfare of the persons residing or working in the neighborhood, nor will it be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the city. Any interior renovations permitted subsequent to granting of this Use Permit will be subject to a Building Permit.

- Considering that no expansion of the existing single-family home's floor area or footprint is proposed, and the provision of uncovered, off-street parking spaces within the existing driveway, strict enforcement of the specified regulation will not be required by present traffic volume or traffic circulation on the site. Any future expansion of the home would be subject to compliance with applicable parking regulations.

- The granting of the use permit will not create or intensify a shortage of on-street parking spaces, as no intensification of the existing single-family home use is proposed and the proposed three uncovered parking spaces are adequate to serve a three-bedroom home.

- Full compliance with the parking requirements is not reasonably feasible due to the existing nonconformity of on-site parking prior to the garage conversion, and the limited area for new covered parking within the front yard given minimum setback requirements for a carport.

Conditions of Approval:

A. The applicant shall obtain a building permit for the proposed interior renovations. Plans submitted for the building permits shall substantially conform to plans on file in the City of Brisbane Planning Department.

B. Drawings depicting all work completed and proposed shall be provided to the satisfaction of the City. Exposure of covered work may also be required to demonstrate compliance with building code requirements.

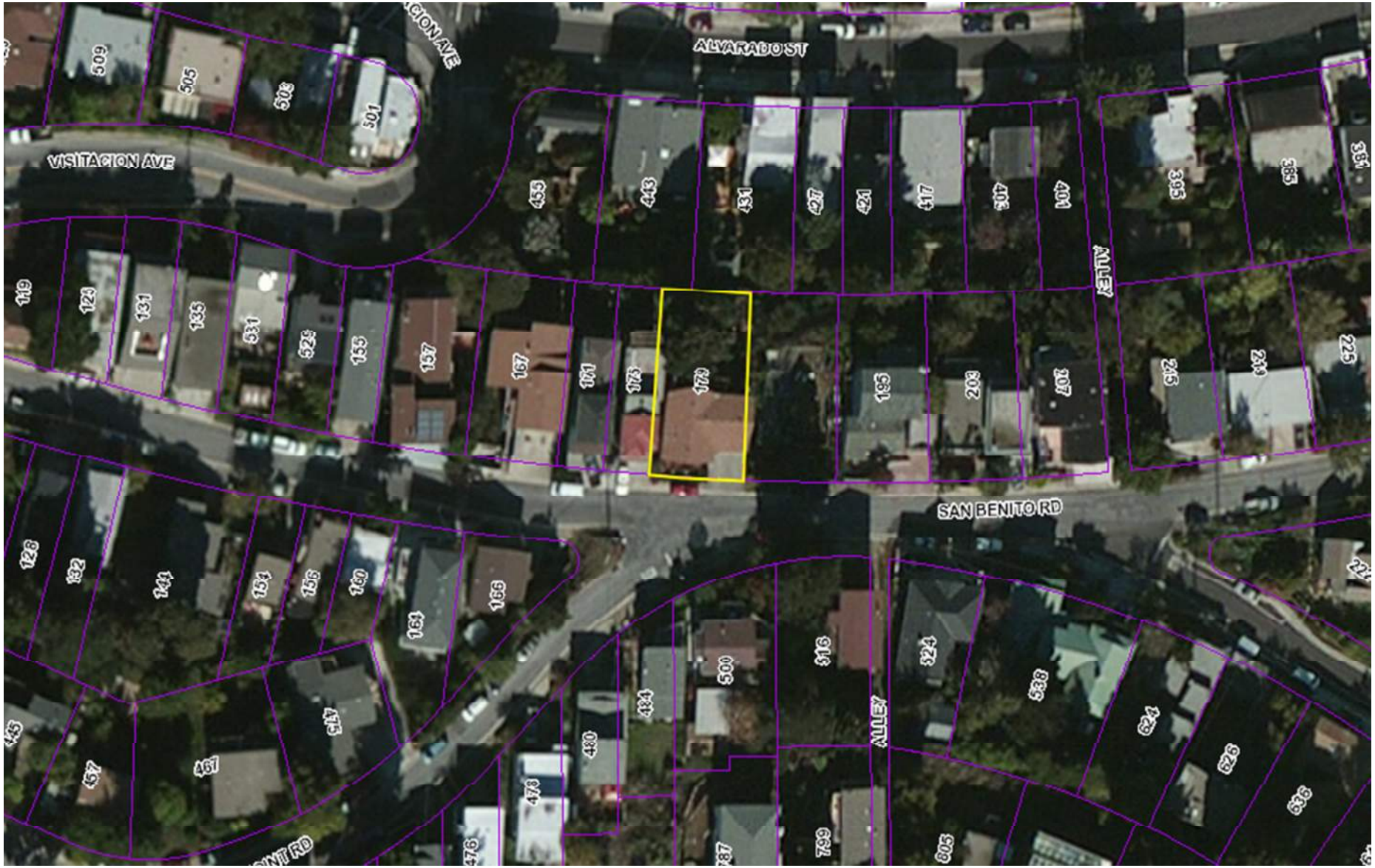
C. Required parking spaces shall not be used or converted for any other use that would impair the basic use as storage for motor vehicles.

D. The permittees agree to indemnify, defend and hold the City and its officers, officials, boards, commissions, employees and volunteers harmless from and against any claim, action or proceeding brought by any third party to attack, set aside modify or annul the approval, permit or other entitlement given to the applicant, or any of the proceedings, acts, or determinations taken, done or made prior to the granting of such approval, permit, or entitlement.

E. Minor modifications may be approved by the Planning Director in conformance with all requirements of the Municipal Code.

F. The Use Permit approval shall expire two years from its effective date (at the end of the appeal period) if a Building Permit has not been issued for the approved project or if the Building Permit, once issued, is allowed to expire prior to final inspection.

Aerial Map
179 San Benito Road



From: Steve Miller [redacted]
Sent: Tuesday, October 04, 2016 3:34 PM
To: Capasso, Julia
Subject: Fw: 179 San Benito Rd / Use Permit

Hi Julia,

I am forwarding to you the reply from Mike Carrasco. Mike and his brother own the adjacent empty lot and the next house at 195 San Benito. Mike has no objection to the Use Permit.

I am also expecting to receive an approval letter from Michael Abney, the adjacent neighbor at 175 San Benito, as well as Randy Romriell who lives on the street. Both of them have given me verbal approval. But I know you need to have the package prepared by tomorrow...I will send their letters as soon as I get them.

Thanks,

Steve

On Sunday, September 25, 2016 7:55 AM, "Carrasco, Mike" <[redacted]> wrote:

Steve,

I didn't know anything about the garage configuration. I won't object.

From: Steve Miller [[redacted]
Sent: Saturday, September 24, 2016 3:37 PM
To: Carrasco, Mike <[redacted]>
Subject: 179 San Benito Rd / Use Permit

Hi Mike, the reason for this e-mail is concerning my house at 179 San Benito. As you know, the garage was converted in the past into living space, but unfortunately, it was done without permits. This is a situation that I am trying to resolve with the city. To do this, I am required to apply for a Use Permit with the Planning Commission. If this is approved, this will allow me to keep the garage in its current configuration.

The real issue is parking space. According to the city ordinances, the house only has the space for 3 parking spaces...regardless if the garage is converted or not. So, I am asking the city to allow the garage to remain as it is.

If you could just reply to this e-mail to let me know that you do not object to this plan, I would be very grateful.

Thanks,

Steve Miller
408-219-9041

PROJECT DESCRIPTION

The new owners of a single family home at 179 San Benito Rd are applying for a Use Permit for a garage conversion (and a permit for two bathroom remodels).

The house was originally built with a single car garage and a driveway that can accommodate one full-size car (or two if the garage is not used for parking). In subsequent years, the previous owner converted the garage to a nicely finished living space with hardwood floors and recessed lighting. The current owners would like to keep this living space, especially since the garage conversion was very nicely done and has no detrimental impact on parking in the neighborhood. Consider the following:

a. There is no parking configuration in which this property will be fully compliant with current municipal codes. The maximum number of full-size vehicles will be 3 (non-compliant to 17.34.020). Further, the garage door is exactly in the middle of the driveway… the maximum number of parking spaces will still be 3 to be compliant with 17.34.040(F), tandem parking.
b. This home has the benefit of a very large driveway, (20 ft wide x 28' long…plus 30' of curb). The driveway can accommodate 2 full-size vehicles with an extra 10' to the curb. It will never be necessary to encroach onto the street and obstruct traffic.
c. The property is located at the junction of San Benito Rd and Sierra Pt Rd. The street is wide and unobstructed by parked cars (unlike other parts of this road). In fact, the street is 28 ft wide at the east side of the property and 65 ft wide at the west side.
d. If the Use Permit is denied and the garage returned to it's original condition, the most likely use of this area will be for storage since it is small. In this case, two cars will be in the driveway and another in the street…which is exactly the parking configuration I am proposing with this Use Permit application.
e. The garage conversion is being used for a common living area. It has not been converted to a "garage apartment" for rental purposes…which would likely introduce additional vehicles onto the street.

SUPPORTING STATEMENTS

Why should the parking regulations be modified, given the existing and expected amount of traffic on the site and given existing and expected traffic patterns on the site?

The property at 179 San Benito can only accommodate a maximum of 3 vehicles in any parking configuration…even if the Use Permit is denied and the garage returned to its original condition for vehicle parking.

The owners are suggesting to maintain the garage conversion for several reasons: 1) it adds value to both the house and the neighborhood, 2) there is no detrimental impact to the parking demands, and 3) the neighbors are very supportive of the improvements and have no concern that the parking will be negatively impacted.

Incidentally, if the garage is converted back, this will add about 6 cu yds of construction debris to the landfill.

How will the requested modification of the parking regulations not affect on-street parking, in terms of the number and location of existing spaces or increased demand for on-street parking?

The requested modification will not affect on-street parking. The house has 30 ft of curb which is ample space for only one vehicle.

How will the requested modification of the parking regulations not adversely impact neighboring properties and the public in general?

If the Use Permit is approved, there will be no adverse impact to neighboring properties. In fact, I have spoken with all the neighbors and they are all very excited to see the property improvements and at no time have they expressed concern about parking. However, the Use Permit is vitally important to the overall appeal of this house and preserving the very nice improvements of the previous owner…which adds value to the neighborhood.

What existing structural or site constraints make it infeasible for this property to fully comply with the parking requirements?

Although the driveway is 20ft wide, the garage is positioned exactly in the middle. If a car was in the garage, only one car could be in the driveway to comply with 17.34.040(F), tandem parking. The only way for this property to be compliant to 17.34.020 (minimum requirements) is to be non-compliant to 17.34.040(F).

The owners are suggesting to maintain the existing condition of the house for the mutual benefit of all properties in the neighborhood…with no detrimental impact to parking.

PHOTOGRAPHS

Photo 1: 179 San Benito Rd.



Photo 2: Westerly view and neighbor at 175 San Benito Rd.



Photo 3: Southern view, the junction of San Benito and Sierra Pt Rd.



Photo 4: San Benito Rd to the east.

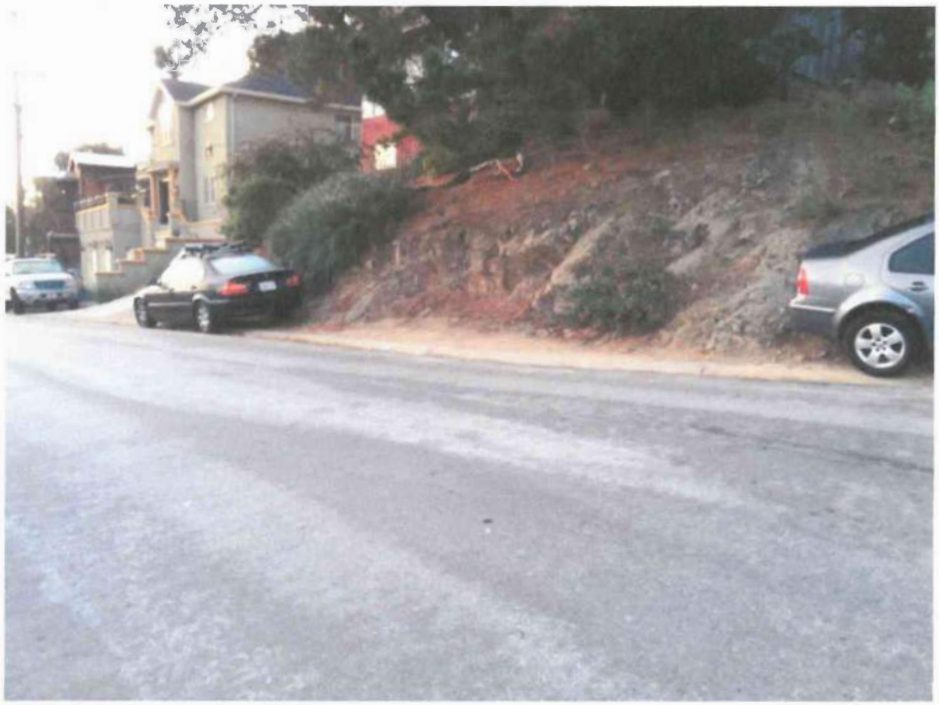
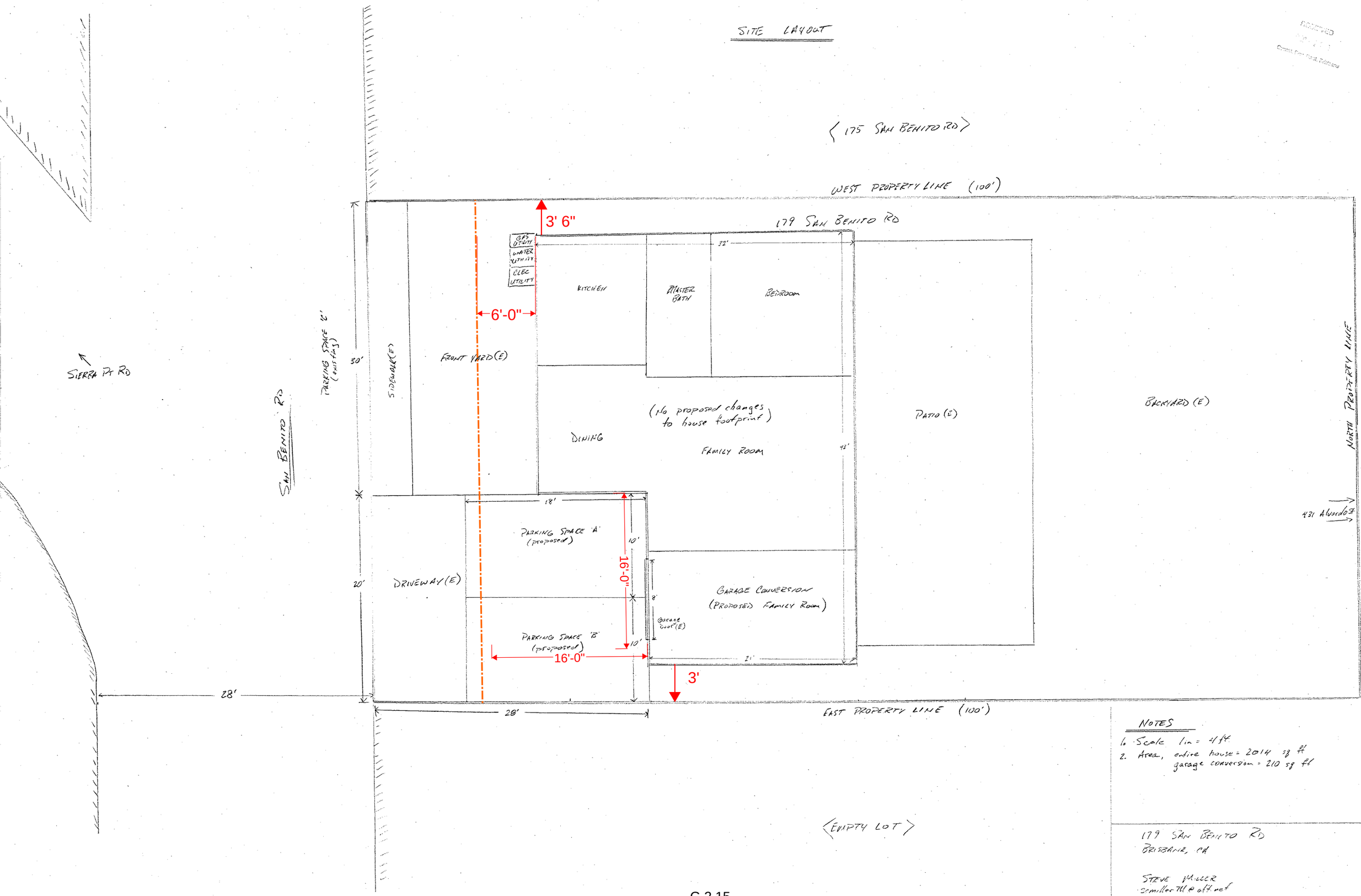


Photo 5: Easterly neighbor…vacant lot.



SITE LAYOUT



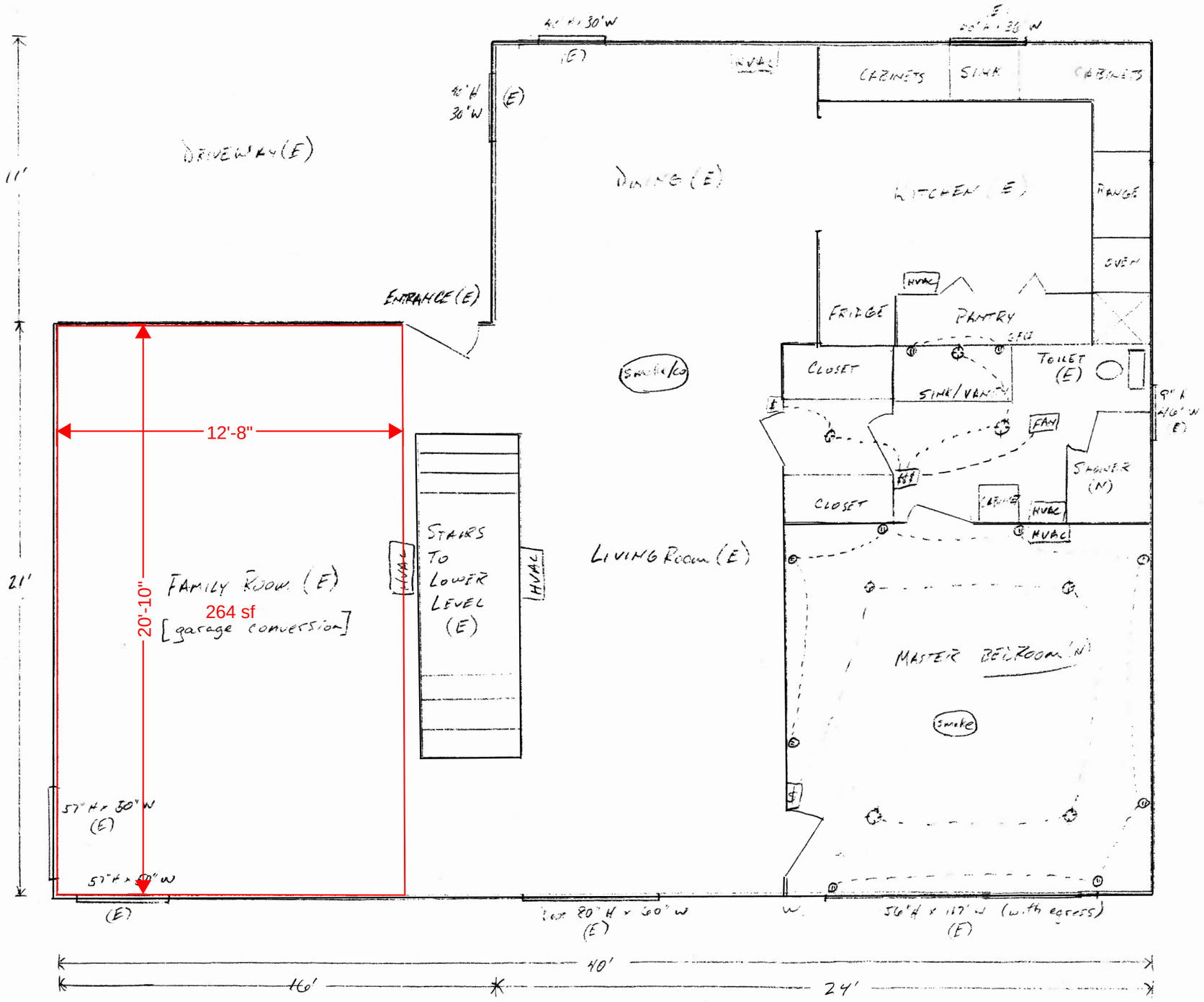
NOTES

1. Scale 1 in = 4 ft
2. Area, entire house = 2014 sq ft
   garage conversion = 210 sq ft

179 San Benito Rd
Brisbane, CA

Steve Miller
Smiller711@att.net
408-219-9041

FLOOR PLAN
UPPER LEVEL



MASTER BEDROOM/BATHROOM REMODEL NOTES

1. Electrical
   a. (N) Dedicated 20A circuit, GFCI
   b. (N) Light fixtures, LED
   c. (N) Exhaust fan, 50 CFM
   d. (N) Motion sensor switch, auto-off
2. Plumbing
   a. (E) Toilet, 1.28 gpf
   b. (N) Faucet, 1.2 gpm
   c. (N) Shower, 2.0 gpm with tempered glass
3. Misc
   a. Master window is 56in H x 117in W with egress.
   b. Bedroom wall is non-bearing and framed with 2x4 studs, 16 in centers. Headers are 4x6 with jack and king studs.
   c. Family room (E) / garage conversion. Hardwood floor is installed over the concrete garage with #30 felt paper (based on visual inspection). The concrete floor is above the lower level bedroom and does not contact soil, drainage, or any type of moisture.

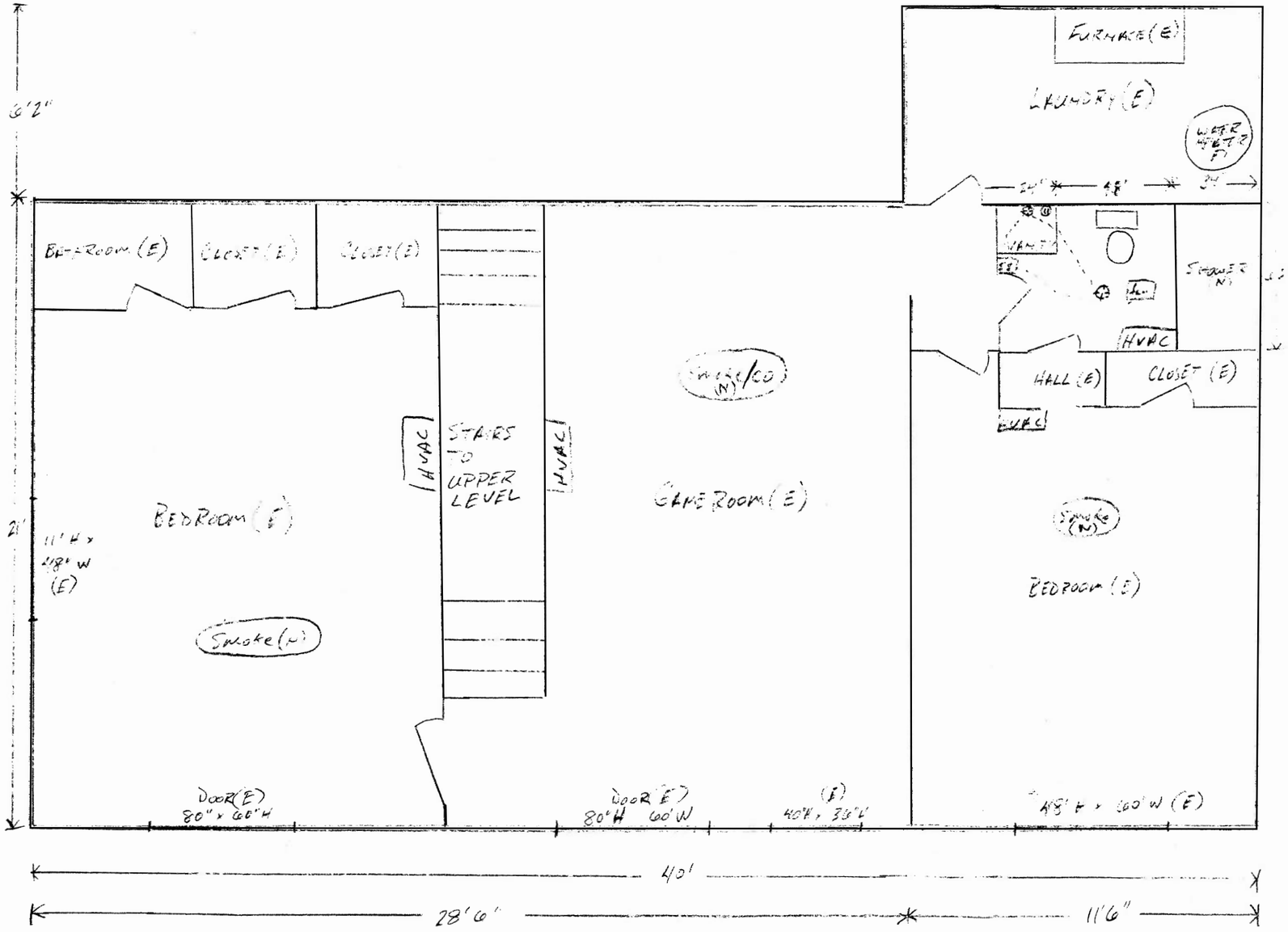
GENERAL REMODEL NOTES

1. Scale, 1 in = 4 ft.
2. Area
   a. Entire house, 2014 sq ft
   b. Upper level, 1104 sq ft
   c. Bathroom, 88.8 sq ft
   d. Bedroom, 196 sq ft
3. All new outlets are tamper resistant
4. All new lights are AFCI protected.
5. Where ceilings are removed, smoke and CO detectors are hard wired.
6. One window in each bedroom will meet egress.
7. Showers will be configured so the bather does not have to step into shower spray to adjust temperature.
8. Address numbers are 4+ inches and visible from the public right or way.
9. All work will be done in accordance with 2013 California Building Codes and all applicable City of Brisbane ordinances.

179 San Benito Rd
Brisbane, CA

Steve Miller
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Comm. Dev. Dept. Brisbane



FLOOR PLAN
LOWER LEVEL

BATHROOM REMODEL NOTES

1. Electrical
   a. (N) Dedicated 20A bathroom circuit, GFCI
   b. (N) Light fixtures, LED
   c. (N) Exhaust fan, 50 CFM
   d. (N) Motion sensor switch, auto-off
2. Plumbing
   a. (E) Toilet, 1.28 gpf
   b. (N) Faucet, 1.2 gpm
   c. (N) Shower, 2.0 gpm with tempered glass

GENERAL REMODEL NOTES

1. Scale, 1 in = 4 ft.
2. Area
   a. Entire house, 2014 sq ft
   b. Lower level, 910 sq ft
   c. Bathroom, 34 sq ft
3. All new outlets are tamper resistant
4. All new lights are AFCI protected.
5. Where ceilings are removed, smoke and CO detectors are hard wired.
6. One window in each bedroom will meet egress.
7. Showers will be configured so the bather does not have to step into shower spray to adjust temperature.
8. Address numbers are 4+ inches and visible from the public right or way.
9. All work will be done in accordance with 2013 California Building Codes and all applicable City of Brisbane ordinances.

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Brisbane, CA

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