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September 15, 2016

Los Angeles City Council
200 North Spring Street, Room 350
Los Angeles, California 90012

Re: September 20, 2016 City Council meeting
CF 14-0057-S8, Code Amendment regarding Second Dwelling Units

Dear Honorable Councilmembers,

I write on behalf of Los Angeles Neighbors in Action (LANA) regarding the Council's September 13, 2016 vote to adopt Motion 12B, relating to grandfathering of second dwelling unit applications. That ordinance will be presented for a second reading on September 20, 2016. LANA urges the Council to reject the approach presented in Motion 12B.

This letter explains how *Motion 12B violates the Superior Court's judgment and the resultant injunction* in the LANA litigation, which will lead to further litigation and uncertainty, exposing those second unit builders who rely upon this exemption to future potential challenge. As the express purpose of the grandfathering action is to create certainty for these builders, the Council's adoption of Motion 12B is inadvisable.

Moreover, in spite of Councilmember O'Farrell's assertions that granting builders until September 30 to submit applications would create only a small window of opportunity only for those who are relatively far along in the process, LANA's review of second dwelling unit permits approved by the Department of Building and Safety between 2003 and 2014 reveals that many such permits are simply hand-drawn sketches that could be quickly prepared and submitted, allowing far more people to take advantage of the limited time window created by Motion 12B than has been acknowledged by Council. Councilmembers should be presented with accurate and detailed information about the requirements for a second dwelling unit permit before concluding that very few builders would be able to act quickly to take advantage of the September 30 deadline.

**MOTION 12B VIOLATES THE SUPERIOR COURT'S JUDGMENT AND
INJUNCTION IN LANA v. CITY OF LOS ANGELES**

Motion 12B permits the City to engage in conduct that is expressly forbidden by the Superior Court's injunction in the LANA litigation: reliance upon ZA Memorandum 120 to issue new permits for second dwelling units. The Superior Court concluded that ZA 120 had been unlawfully relied upon by the Department of Building and Safety because it was issued in

reliance on an improper legal advice concerning the validity of the City's existing second unit ordinances, Los Angeles Municipal Code 12.24 W 43 and W 44. In response to the judgment, the City has ceased issuing any permits for second dwelling units, including for applicants who submitted their plans prior to the Court's decision in reliance upon the illegal ZA 120. As a result, the Council's response to the Court's judgment has addressed the plight of these "stranded" builders who had relied upon ZA 120 but were now unable to obtain a building permit.

The Council's proposed Motion 12B addresses the "grandfathering" of these stranded builders. The Motion provides that "Any second dwelling unit constructed or currently under construction pursuant to an issued building permit, or proposed per plans sufficient for a complete plan check accepted by the Department of Building and Safety on or before September 30, 2016, shall be considered lawful to the extent such second dwelling unit is constructed, under construction or proposed in accordance with the June 23, 2003 Internal-Departmental Correspondence issued by the City of Los Angeles Department of City Planning and Department of Building and Safety, or the May 6, 2010, Zoning Administrator Memorandum 120 issued by the Office of Zoning Administration." Motion 12B departed from the prior versions of the "grandfathering" provisions by expanding the class of builders entitled to rely upon the grandfathering provision from those who had already begun construction or who had submitted plans to a new class of builders who have not yet submitted plans, and who have exhibited *no past reliance* upon the invalidated ZA 120. The grandfathering provision in Motion 12B would permit the Department of Building and Safety to issue new permits expressly to projects that satisfy the standards of ZA 120. This practice is directly prohibited by the Superior Court's injunction.

The Superior Court's judgment, entered April 4, 2016, provides expressly that the City is "enjoined and restrained from issuing **any further building permits** for second dwelling units under invalid ZA 120." (Emphasis added.) The Court also issued declaratory relief providing that "the May 2010 Memorandum issued by Chief Zoning Administrator Michael LoGrande ("ZA 120") regarding second dwelling units and the City's ensuring practices in processing and approving second unit permits thereunder are invalid." Motion 12B *requires* the City to issue new building permits for new applications "in accordance with" the unlawful ZA 120. This is a direct violation of the Court's injunction, setting the City up for potentially serious legal consequences.

The City Council should be aware that this ordinance will not end the uncertainty for builders. New permittees could find their building permits challenged by any surrounding neighbors because of the City's improper reliance upon the invalid ZA 120 to issue the permit. As the purpose of grandfathering is to *end* the uncertainty caused by the litigation, the Council should immediately reconsider its course of action, which will only *prolong* it.

MOTION 12B's WINDOW COULD PERMIT MANY OF THE RELATIVELY SIMPLE SECOND UNIT BUILDING PERMITS TO BE FILED

During the September 13, 2016 first reading of the ordinance included in Motion 12B, Councilmember Koretz objected to the creation of a window for the submission of new application, noting that such windows frequently create a rush of applicants seeking the more

lenient standard that will be foreclosed after the window is shut. Councilmember O'Farrell and staff from the Department of Building and Safety asserted that the class of persons who would file applications during the window would likely be "very small," because only those who were poised to submit applications in the past and "ready to go forward now" could take advantage of it. Councilmembers Krekorian, Ryu, and Blumenfield all relied upon this factual premise that the September 30 window would allow only a handful of new builders to submit applications. Councilmember Ryu specifically noted his understanding that a "plan" would be required, more than just a "piece of paper." The City Attorney assured Councilmember Ryu that plans would need to be sufficient for "plan check."

Attached as Exhibit 1 are 10 second unit applications approved by the Department of Building and Safety between 2003 and 2014. These 10 applications demonstrate that the submissions that are sufficient for a "plan check" are not always substantial. These 10 permits include crude, hand-drawn second unit "plans," some made without even the apparent benefit of a ruler, showing only the skeletal outline of the proposed construction, along with the dimensions and setbacks. The first application in Exhibit 1 demonstrates the type of bare bones plan that the City has approved, showing simple dimensions and distances – the plan looks like it could have been drawn up in a matter of hours. Although many other applications include greater detail and more professional design, the attached plot plans show that even the more simply drawn applications have been found to pass muster for the issuance of a second dwelling unit permit. The Council should not approve Motion 12B on the assumption that the preparation of a second dwelling unit plan creates a bar that will discourage those who have not already invested in the process, because as the plans in Exhibit 1 demonstrate, the City issues permits to plan that appear very quickly and crudely developed. The number of builders who may apply for these permits may be much greater than the "handful" suggested by Councilmember O'Farrell.

The original purpose of the grandfathering ordinance was to assist the "stranded" property owners who, prior to the Superior Court's rulings, had undertaken second unit construction or applied for second unit permits, because such owners had relied upon the City's unlawful administration of ZA 120. The City Council acknowledged that surrounding neighborhoods and properties may experience substantial negative impacts from construction of the grandfathered second units that exceed the City's adopted standards, but determined that those impacts are outweighed by the hardship of the "stranded" property owners who had been denied the ability to construct through no fault of their own. Motion 12B proposes to grandfather in an open-ended class of builders who have no reliance interest – anyone who can get an application prepared by September 30 will qualify, regardless of any prior reliance or hardship – and it is the neighboring communities who will pay the price. The Council should limit those who can benefit from grandfathering to those who legitimately face a hardship, that is not of their own making, so as to secure the protections of the City's adopted municipal code standards for as many of the City's residents as possible.

Very truly yours,



Beverly Grossman Palmer

September 15, 2016

Page 4

**cc: Chief Assistant City Attorney David Michaelson
Assistant City Attorney Terry Kaufman Macias
Deputy City Attorney Steven Blau
Director of Department of City Planning Vince Bertoni**

EXHIBIT 1

8063 N Lloyd Ave



Permit #: B13VN01845
Plan Check #: B13VN01845
Event Code:

13010 - 20000 - 00587
Printed: 09/05/13 12:04 PM

Bldg. New GREEN - MANDATORY 1 or 2 Family Dwelling Regular Plan Check Plan Check		City of Los Angeles - Department of Building and Safety		Issued on: 09/05/2013	
APPLICATION FOR BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY				Last Status: Issued	
				Status Date: 09/05/2013	
TRACT	BLOCK	LOTID	ARR	COUNTY MAP REF #	PARCEL ID # (PIN #)
TR 1212		82	9	M B 18-126/127	189B157 138
					ASSESSOR PARCEL #
					2304 - 022 - 020

3. PARCEL INFORMATION		Census Tract - 1220.00		Thomas Brothers Map Grid - 532-02	
Area Planning Commission - North Valley		District Map - 189B157			
LADBS Branch Office - MN		Energy Zone - 9			
Council District - 2		Lot Cut Date - 12/29/1950			
Certified Neighborhood Council - North Hollywood West		Near Source Zone Distance - 3.8			
Community Plan Area - Sun Valley - La Tuna Canyon					

ZONES(S): (T)RS-1

4. DOCUMENTS	
Z1 - Z1-2374 LOS ANGELES STATE ENTER CDBG - SEZ-Los Angeles State Enterprise Zc	
YC - YD-18885 BMO - Yca	
ORD - ORD-175018	
CPC - CPC-19019	

5. CHECKLIST ITEMS	
Special Inspect - Structural Observation	Combine Elec - Wrk. per 91.107.2.1.1.1
Sid. Work Descr - Seismic Gas Shut Off Valve	Combine Plumbg - Wrk. per 91.107.2.1.1.1
Combine HVAC - Wrk. per 91.107.2.1.1.1	

6. PROPERTY OWNER, TENANT, APPLICANT INFORMATION		For Cashier's Use Only		W/O #: 31000587	
Owner(s): MGDESYAN, LYDIA 8065 LLOYD AVE, NORTH HOLLYWOOD CA 91605 --					
Tenant:					
Applicant: (Relationship: Engineer) RAFFI ABKARIAN - 18763 VINTAGE ST, -- (818) 359-0959					

7. EXISTING USE	PROPOSED USE
	(01) Dwelling - Single Family

8. DESCRIPTION OF WORK
NEW DETACHED 2ND DWELLING WITH AN ATTACHED PATIO AND TRELLIS; PER ZA MEMO 120 1199.5 SF ARE SPRINKLERED. THE REQUIRED PARKING FOR THE 2ND DWELLING IS PROVIDED IN THE GARAGE.

9. Bldg on Site & Use:	SFD/DETACHED GARAGE: 1 OF 3: TV-\$ 189,000
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10. APPLICATION PROCESSING INFORMATION	
BLDG. PC By: Vahe Sarkissian	DAS PC By: [Signature]
OK for Cashier: Nargiss Majrooh	Coord. OK:
Signature: [Signature]	Date: 09/05/2013

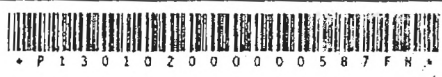
11. PROJECT VALUATION	
Final Fee Period	PC Valuation
Permit Valuation: \$183,000	
Sewer Cap ID:	Total Bond(s) Due:

12. ATTACHMENTS	
Owner-Builder Declaration	
Plot Plan	

For inspection requests, call toll-free (888) LA4BUILD (524-2845). Outside LA County, call (213) 482-0000 or request inspections via www.ladbs.org. To speak to a Call Center agent, call 311 or (866) 4LACITY (452-2489). Outside LA County, call (213) 475-3231.

VN 0010 203015406 9/5/2013 12:04:05 PM	
BUILDING PERMIT-RES	\$1,242.60
ELECTRICAL PERMIT RES	\$323.08
HTG/REF PMT RES	\$161.54
PLUMBING PERMIT RES	\$323.08
BUILDING PLAN CHECK	\$0.00
BUILDING PLAN CHECK	\$0.00
PLAN MAINTENANCE	\$24.85
BT RESIDENTIAL	\$18.30
ONE STOP SURCH	\$41.87
SYSTEMS DEVT FEE	\$125.61
CITY PLANNING SURCH	\$76.05
MISCELLANEOUS	\$10.00
PLANNING GEN PLAN MAINT SURCH	\$63.37
SCHOOL DEV RES	\$4,666.00
DWELLING UNIT	\$200.00
RES DEVT TAX	\$300.00
CA BLDG STD COMMISSION SURCHARGE	\$8.00
BUILDING PLAN CHECK	\$0.00
Sub Total:	\$7,584.35

Permit #: 130102000000587
Receipt #: 0203063004
Building Card #: 2013VN63365



* P 1 3 0 1 0 2 0 0 0 0 0 5 8 7 F H *

20130905 12:04:05 PM

12. STRUCTURE INVENTORY (Note: Numeric measurement data in the format "number / number" implies "change in numeric value / total resulting numeric value") 13010 - 20000 - 00587

(P) Floor Area (ZC): +1436 Sqft / 1436 Sqft
 (P) Height (ZC): +14 Feet / 14 Feet
 (P) Length: +65 Feet / 65 Feet
 (P) Residential Floor Area: +1187 Sqft / 1187 Sqft
 (P) Stories: +1 Stories / 1 Stories
 (P) Width: +28.5 Feet / 28.5 Feet
 (P) Dwelling Unit: +1 Units / 1 Units
 (P) NFPA-13D Fire Sprinklers Thru-out
 (P) Wood (Plywood, OSB, etc.) Shearwall
 (P) RJ Occ. Group: +1721 Sqft / 1721 Sqft

(P) Parking Req'd for Bldg (Auto+Bicycle): +1 Stalls / 1 Sta
 (P) Provided Standard for Bldg: +1 Stalls / 1 Stalls
 (P) Type V-B Construction
 (P) Floor Construction - Concrete Slab on Grade
 (P) Foundation - Continuous Footing
 (P) Wall Construction - Wood Stud

14. APPLICATION COMMENTS:
 ** Approved Seismic Gas Shut-Off Valve may be required. ** ***MAX RFA=8733 sf ACTUAL RFA=1735 + 11993 = 29743 sf

In the event that any box (i.e. 1-16) is filled to capacity, it is possible that additional information has been captured electronically and could not be printed due to space restrictions. Nevertheless the information printed exceeds that required by section 19825 of the Health and Safety Code of the State of California.

15. BUILDING RELOCATED FROM:

15. CONTRACTOR, ARCHITECT & ENGINEER NAME	ADDRESS	CLASS	LICENSE #	PHONE #
(E) ABKARIAN, RAFFI	18763 VINTAGE STREET,		C36027	
(O) OWNER-BUILDER			0	

PERMIT EXPIRATION/REFUNDS: This permit expires two years after the date of the permit issuance. This permit will also expire if no construction work is performed for a continuous period of 180 days (Sec. 98.0602 LAMC). Claims for refund of fees paid must be filed within one year from the date of expiration for permits granted by LADBS (Sec. 22.12 & 22.13 LAMC). The permittee may be entitled to reimbursement of permit fees if the Department fails to conduct an inspection within 65 days of receiving a request for final inspection (HS 17951).

11. OWNER-BUILDER DECLARATION

I hereby affirm under penalty of perjury that I am exempt from the Contractors' State License Law for the following reason (Section 7031.5, Business and Professions Code: Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for such permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractors License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500).)

I, as the owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code). The Contractors License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or herself or through his or her own employees, provided that such improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year from completion, the owner-builder will have the burden of proving that he or she did not build or improve for the purpose of sale.

OR

I, as the owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code). The Contractors License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor(s) licensed pursuant to the Contractors License Law.

14. WORKERS' COMPENSATION COVERAGE

I hereby affirm, under penalty of perjury, one of the following declarations:

I have and will maintain a certificate of consent to self insure for workers' compensation, as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:

Carrier: _____ Policy Number: _____

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

14. ASBESTOS REMOVAL DECLARATION / LEAD HAZARD WARNING

I certify that notification of asbestos removal is either not applicable or has been submitted to the AQHD or EPA as per section 19247.3 of the Health and Safety Code. Information is available at (909) 396-2336 and the notification form at www.aqmd.gov. Lead safe construction practices are required when doing repairs that disturb dust in pre-1978 buildings due to the presence of lead per section 6716 and 6717 of the Labor Code. Information is available at Health Services for LA County at (800) 294-5323 or the State of California at (800) 597-3323 or www.dhs.ca.gov/childrend.

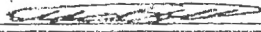
15. FINAL DECLARATION

I certify that I have read this application INCLUDING THE ABOVE DECLARATIONS and state that the above information INCLUDING THE ABOVE DECLARATIONS is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this city to enter upon the above-mentioned property for inspection purposes. I realize that this permit is an application for inspection and that it does not approve or authorize the work specified herein, and it does not authorize or permit any violation or failure to comply with any applicable law. Furthermore, neither the City of Los Angeles nor any board, department officer, or employee thereof, make any warranty, nor shall be responsible for the performance or results of any work described herein, nor the condition of the property nor the soil upon which such work is performed. I further affirm under penalty of perjury, that the proposed work will not destroy or unreasonably interfere with any access or utility easement belonging to others and located on my property, but in the event such work does destroy or unreasonably interfere with such easement, a substitute easement(s) satisfactory to the holder(s) of the easement will be provided (Sec. 91.0106.4.3.4 LAMC).

By signing below, I certify that:

(1) I accept all the declarations above namely the Owner-Builder Declaration, Workers' Compensation Declaration, Asbestos Removal Declaration / Lead Hazard Warning, and Final Declaration, and

(2) This permit is being obtained with the consent of the legal owner of the property.

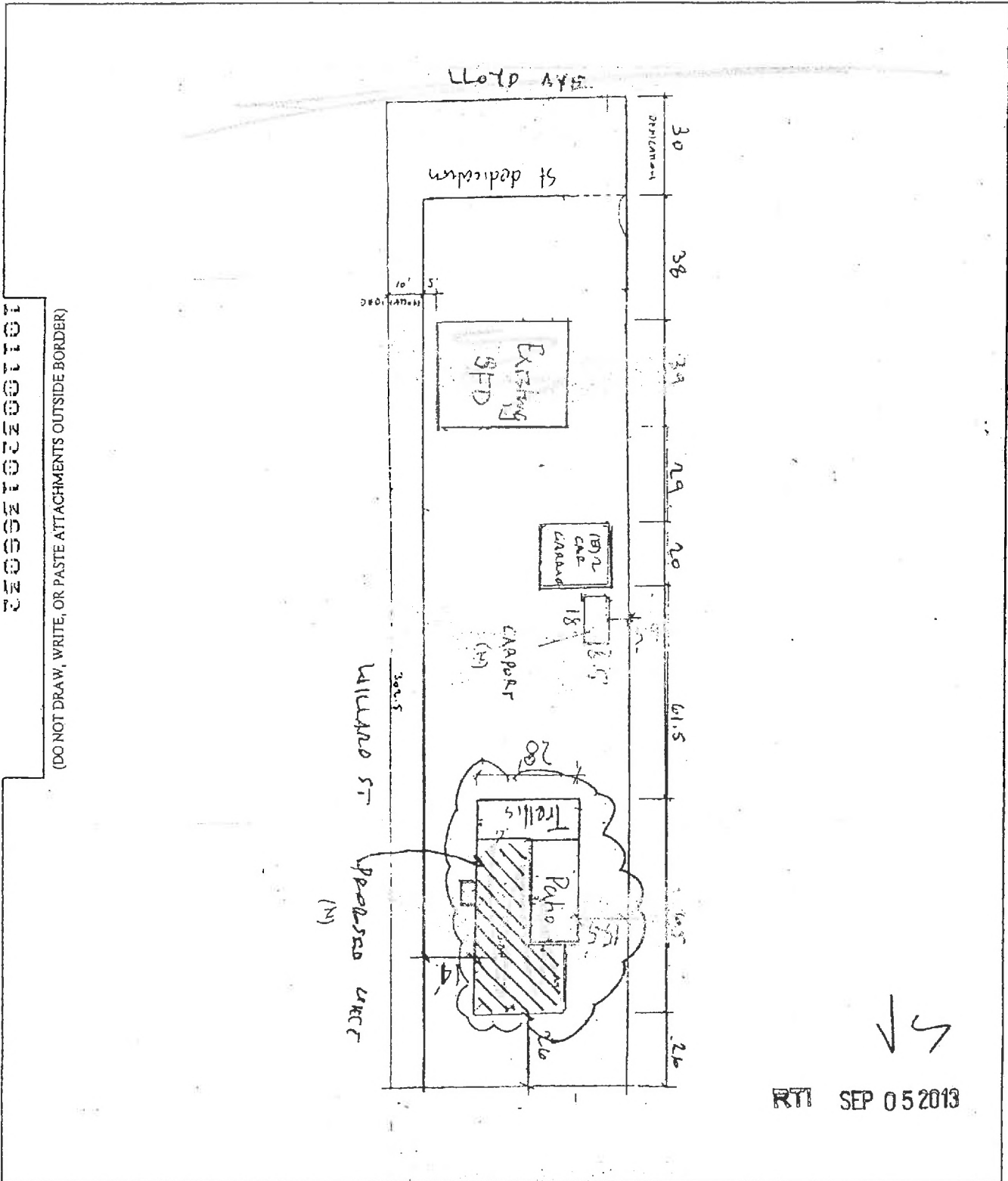
Print Name: LYDIA MGDSEVYAN Sign:  Date: 09/05/2013 Owner Authorized Agent

Bldg-New
1 or 2 Family Dwelling
Plan Check

City of Los Angeles - Department of Building and Safety

Plan Check #: B13VN01845FO
Initiating Office: VAN NUYS
Printed on: 09/05/13 11:04:23

PLOT PLAN ATTACHMENT



Bldg-New
1 or 2 Family Dwelling
Plan Check

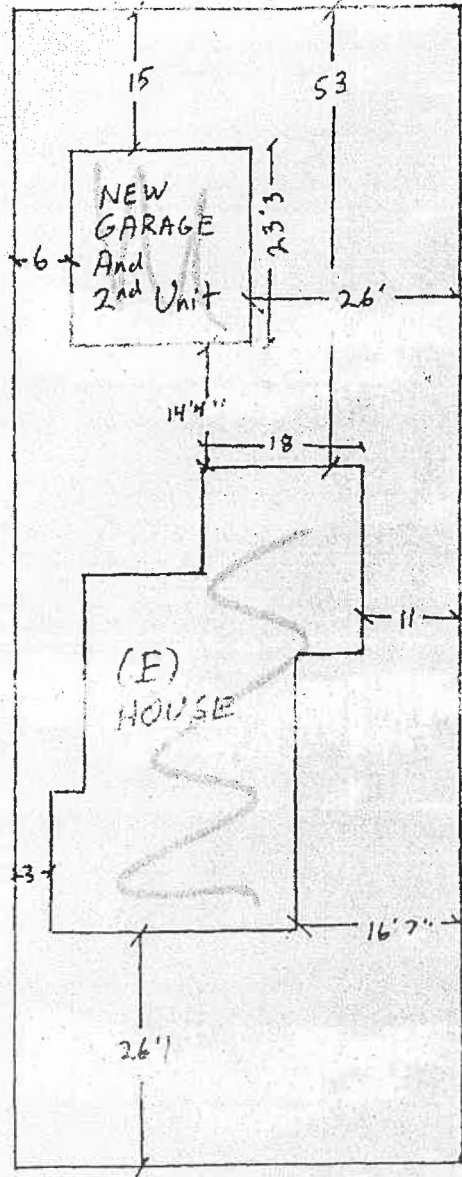
City of Los Angeles - Department of Building and Safety

Plan Check #: B13VN07423FO
Initiating Office: VAN NUYS
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PLOT PLAN ATTACHMENT

PERMIT NO. 13010-20000-01965

(DO NOT DRAW, WRITE, OR PASTE ATTACHMENTS OUTSIDE BORDER)



RTI JUL 31 2013

6707 N Ben Ave

Permit Application #: 04010 - 20000 - 05821

Bldg-New
1 or 2 Family Dwelling
Plan Check Submittal

City of Los Angeles - Department of Building and Safety

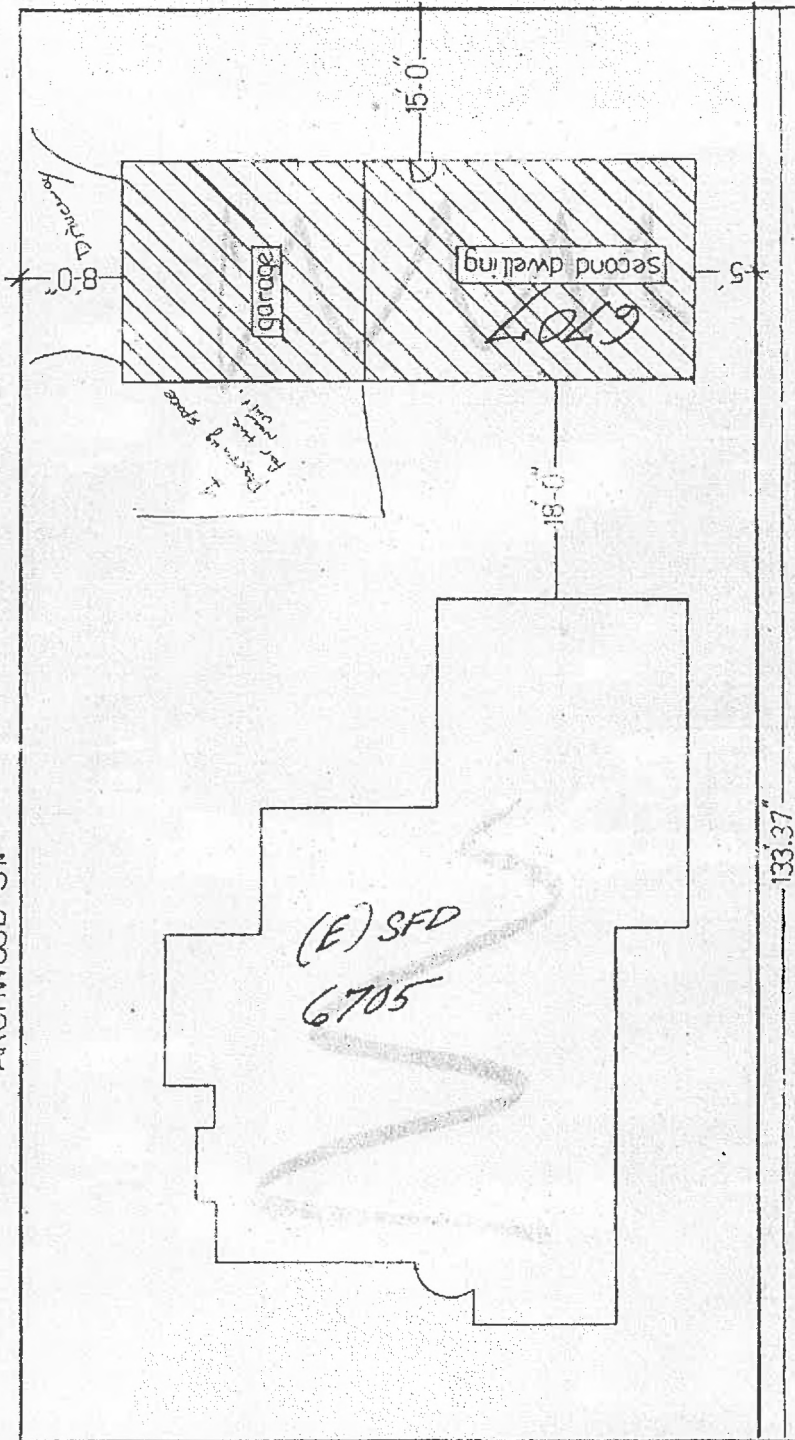
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Initiating Office: VAN NUYS
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PLOT PLAN ATTACHMENT

8822150020110101

(DO NOT DRAW, WRITE, OR PASTE ATTACHMENTS OUTSIDE BORDER)

ARCHWOOD ST.



BEN AVE

5
7043 N Yolanda Ave

Permit Application #: 05010 - 20000 - 01729

Bldg-New
1 or 2 Family Dwelling
Plan Check Submittal

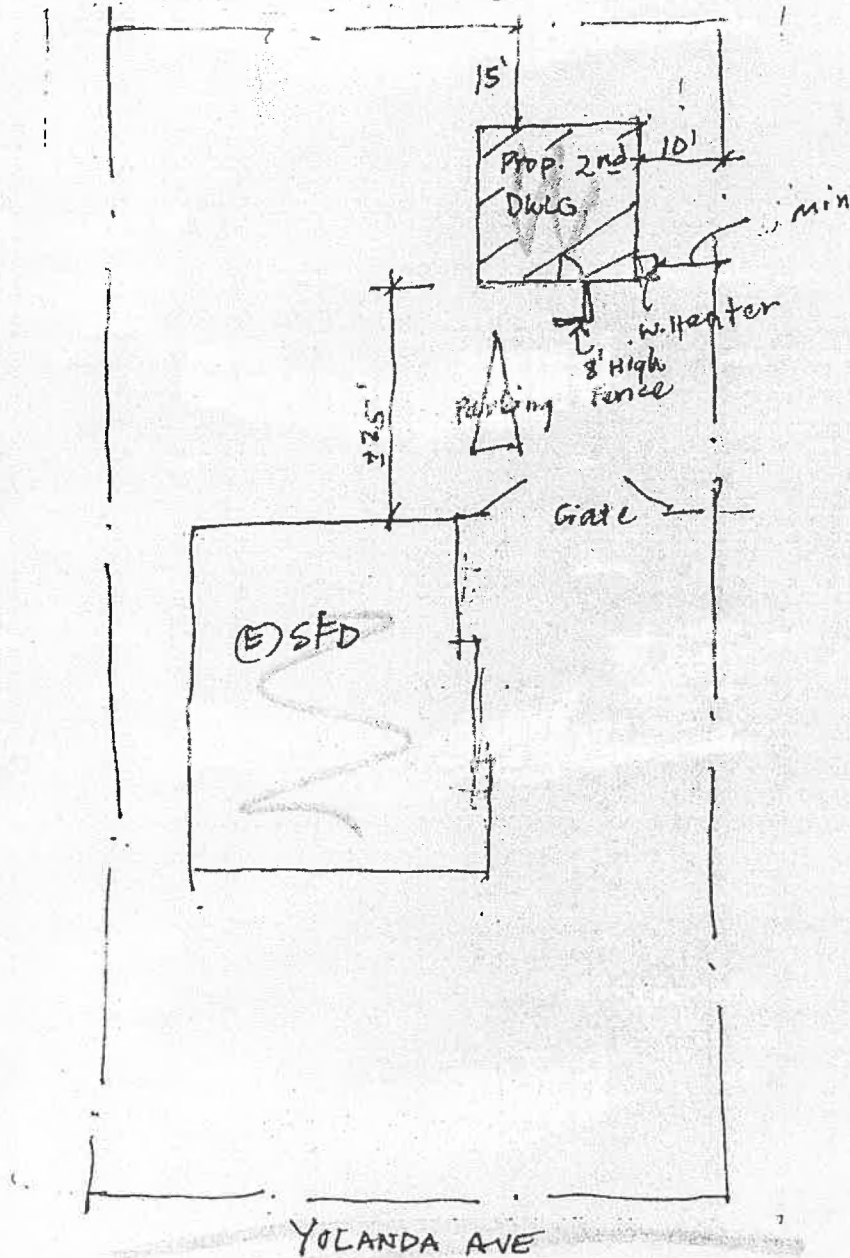
City of Los Angeles - Department of Building and Safety

Plan Check #: APC
Initiating Office: VAN NUYS
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PLOT PLAN ATTACHMENT

1010719200519477

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8846 N Helen Ave

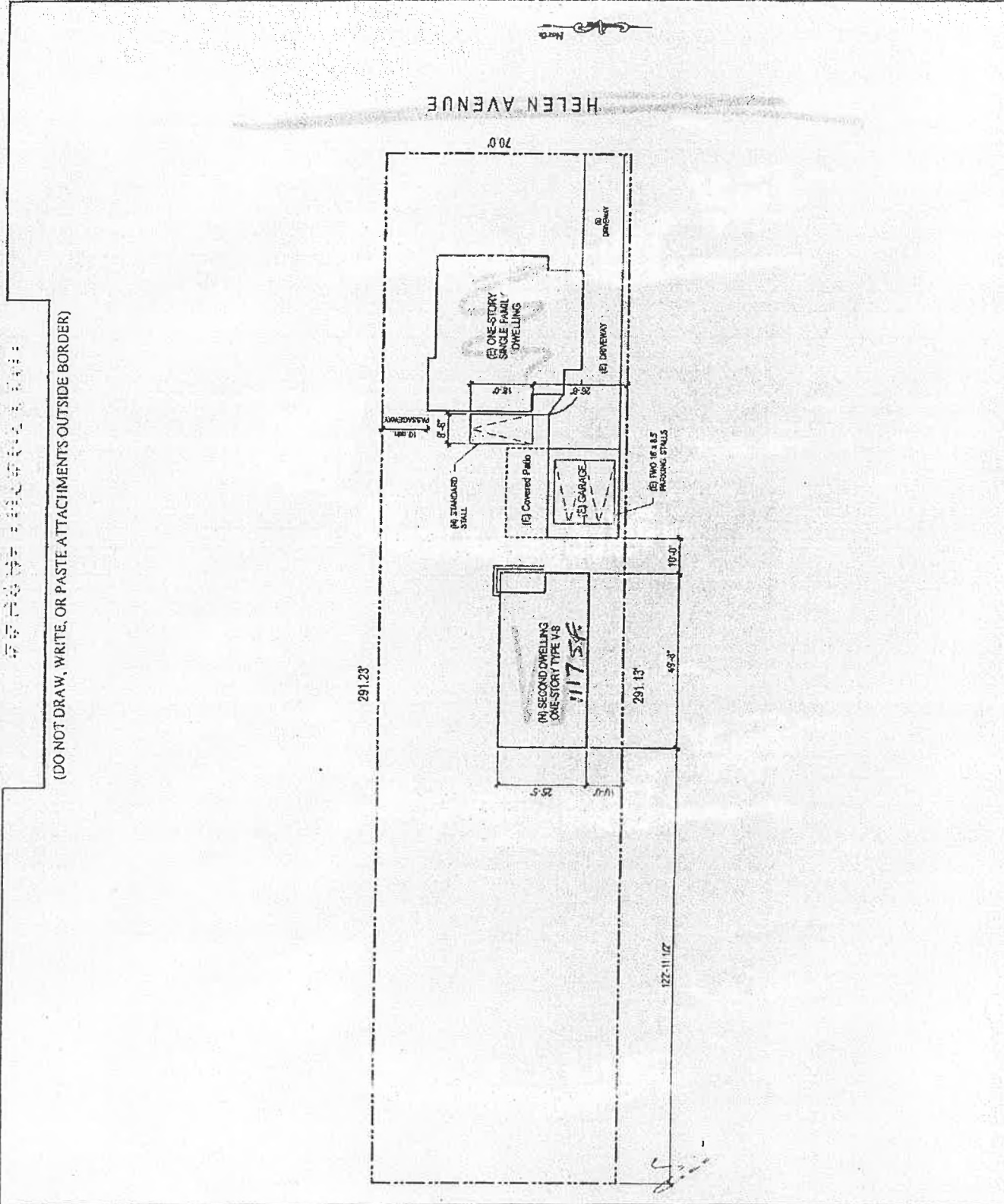
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Bldg-New
1 or 2 Family Dwelling
Plan Check

City of Los Angeles - Department of Building and Safety

Plan Check #: B13VN08041
Initiating Office: VAN NUYS
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PLOT PLAN ATTACHMENT



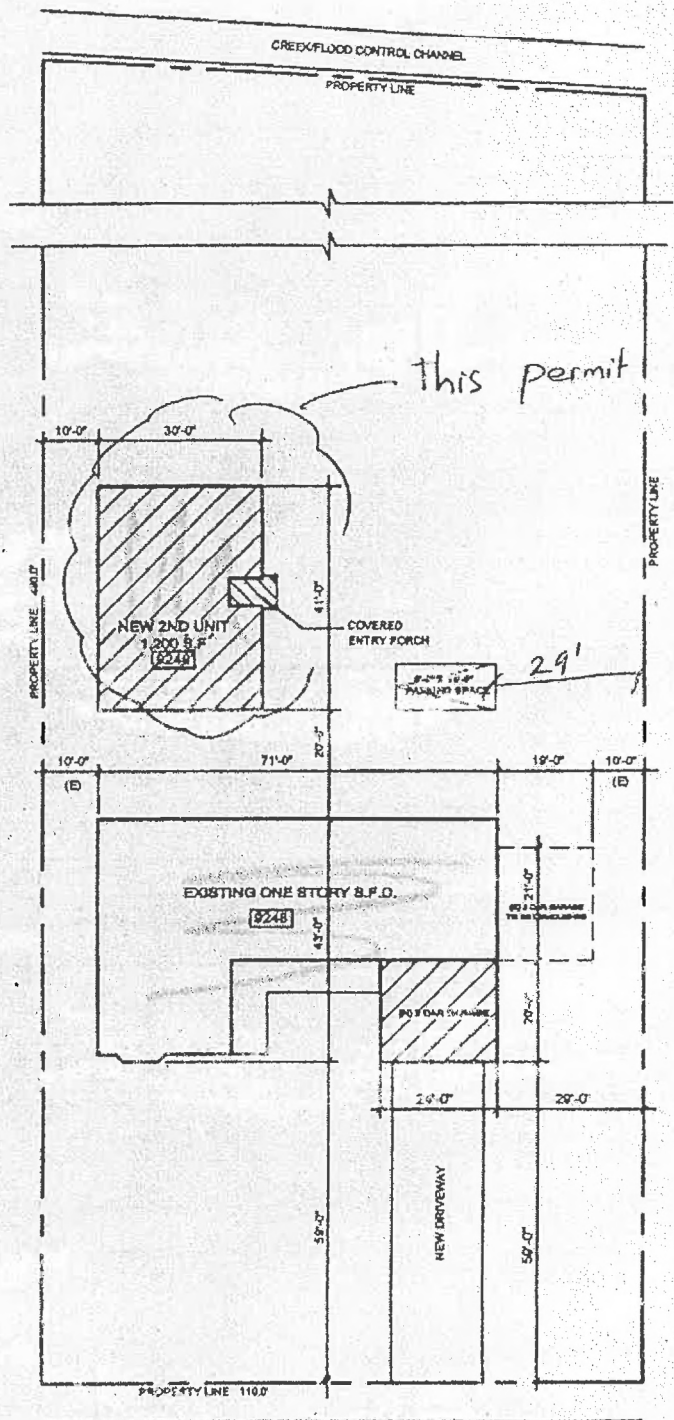
Bldg-New
1 or 2 Family Dwelling
Plan Check

City of Los Angeles - Department of Building and Safety

Plan Check #: B13VN00422
Initiating Office: VAN NUYS
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PLOT PLAN ATTACHMENT

DO NOT DRAW, WRITE, OR PASTE ATTACHMENTS OUTSIDE BORDER



9248 / 9248 VANALDEN AVE.



13172

13172 W Vaughn St

Permit Application #: 14016 - 20000 - 14704

Bldg-Alter/Repair,
1 or 2 Family Dwelling
Plan Check

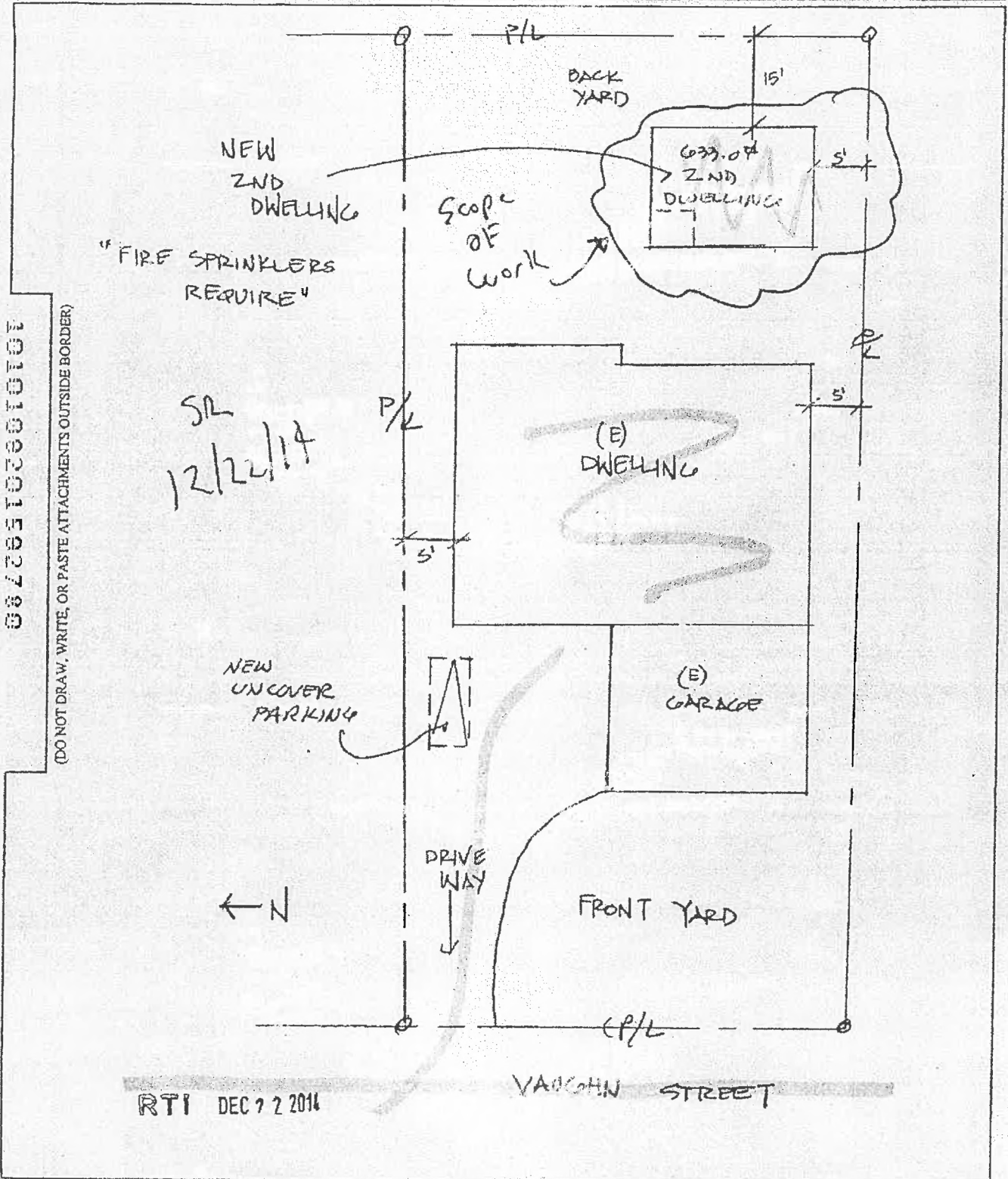
City of Los Angeles - Department of Building and Safety

Plan Check #: B14VN09116

Initiating Office: VAN NUYS

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PLOT PLAN ATTACHMENT



13509 W Judd St

Permit Application #: 08014 - 20000 - 05674

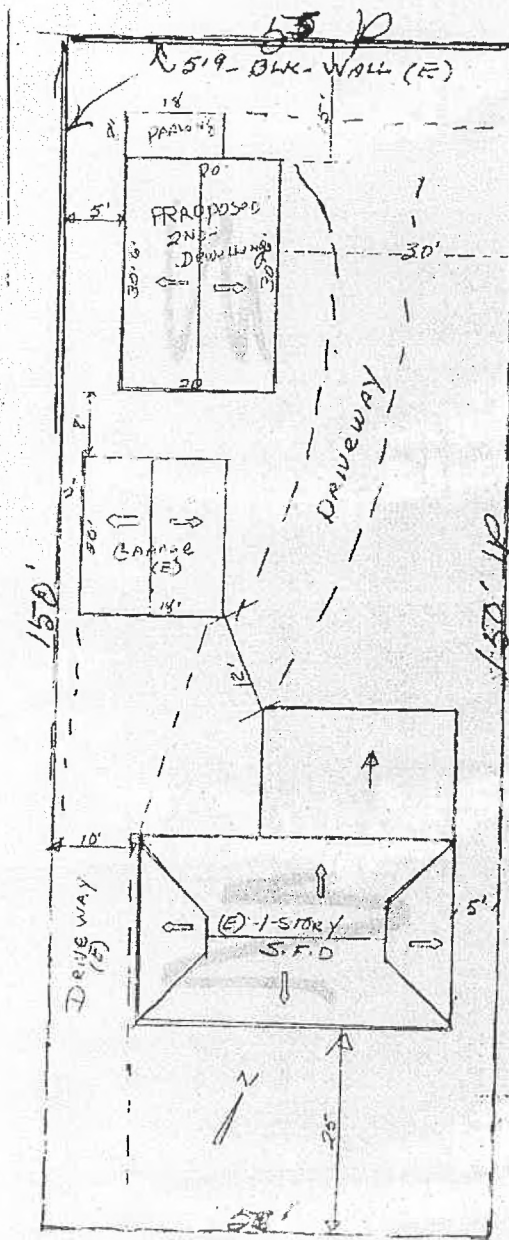
Bldg-Addition
1 or 2 Family Dwelling
Plan Check

City of Los Angeles - Department of Building and Safety

Plan Check #: B08VN13226
Initiating Office: VAN NUYS
Printed on: 01/07/09 10:31:17

PLOT PLAN ATTACHMENT

(DO NOT DRAW, WRITE, OR PASTE ATTACHMENTS OUTSIDE BORDER)



COUNCIL DISTRICT: 7

INSPECTION DISTRICT: R5022

1030223200683955

PLOT PLAN ATTACHMENT

15012 Romar St

Permit Application #: 03010 - 20000 - 02927

Bldg-New
1 or 2 Family Dwelling
Plan Check Submittal

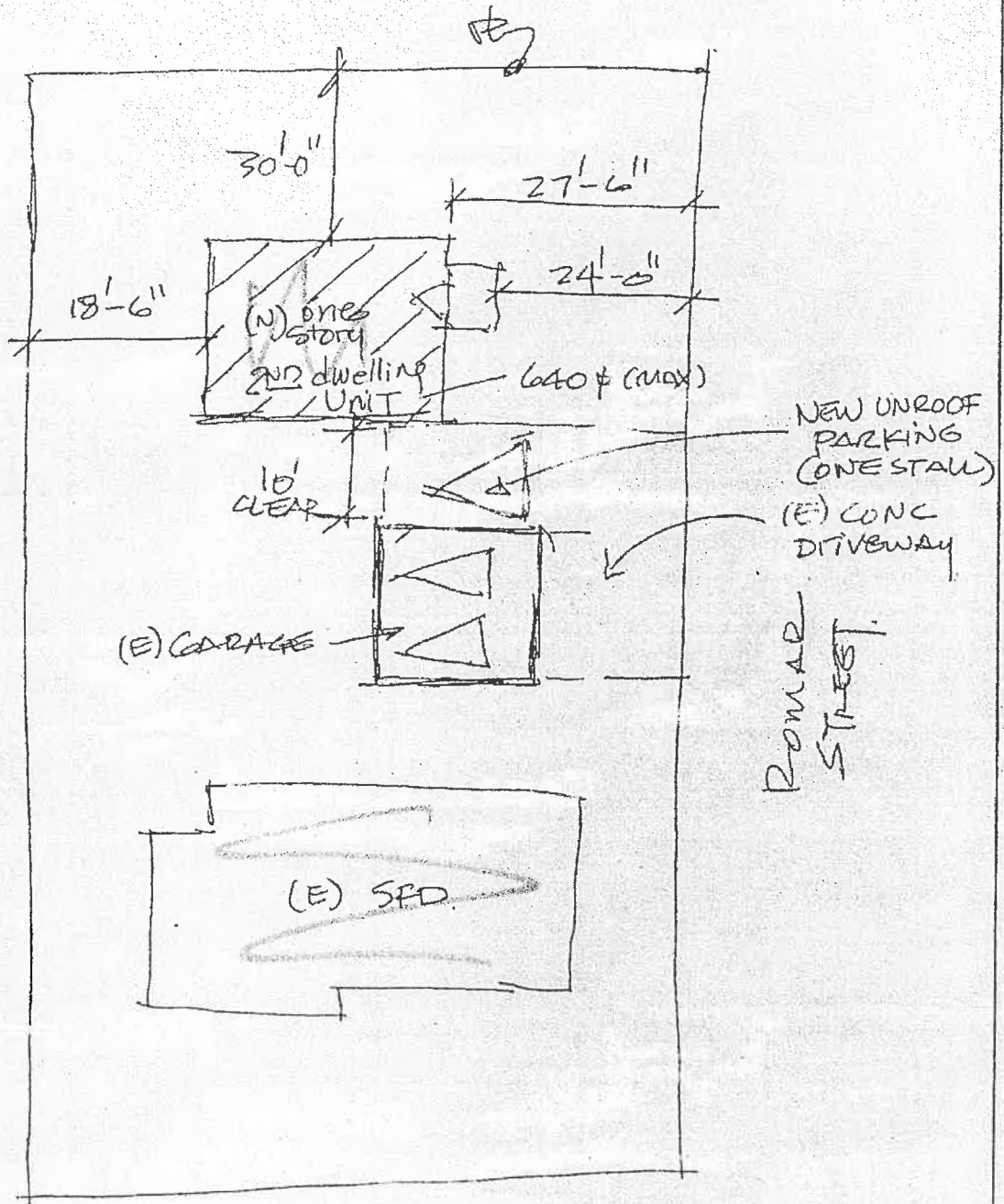
City of Los Angeles - Department of Building and Safety

Plan Check #: APC
Initiating Office: VAN NUYS
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PLOT PLAN ATTACHMENT

101060520044087

(DO NOT DRAW, WRITE, OR PASTE ATTACHMENTS OUTSIDE BORDER)



Lemona.

17216 W Tribune St

Permit Application #: 05010 - 20000 - 01228

Bldg-New
1 or 2 Family Dwelling
Plan Check Submittal

City of Los Angeles - Department of Building and Safety

Plan Check #: APC
Initiating Office: VAN NUYS
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PLOT PLAN ATTACHMENT

101015200516472
(DO NOT DRAW, WRITE, OR PASTE ATTACHMENTS OUTSIDE BORDER)

