



COMMUNITY DEVELOPMENT
PLANNING DIVISION
301 W. CHESTNUT
planning@rogersar.gov
(479) 621-1186

MEETING DATE
MAY 14 2020

TO: BOARD OF ADJUSTMENT

RE: **STAFF SUMMARY REPORT**
VARIANCE – FILOMENA MARTINEZ

STAFF: ASHON ROBINSON, PLANNER I

REQUEST DETAILS

ADDRESS/LOCATION:	102 Sarah Lane
SUBDIVISION:	0.27± acres
CURRENT ZONING:	R-DP (Residential Duplex & Patio Home)
CURRENT USE:	Residential
APPLICANT/REPRESENTATIVE:	Filomena Martinez/Bill Oliver
PROPERTY OWNER:	Filomena Martinez
NATURE OF REQUEST:	Approval of Variance
AUTHORITY:	Sec. 14-724, Rogers Code of Ordinances

SUMMARY

This request is to allow a reduction from the minimum lot size requirements for duplexes in R-DP. In addition, staff believes it was the applicant's intent to request a reduction in the lot depth requirements for R-DP, from 100' to 90'; a formal request was not submitted with their application. See STAFF REVIEW for additional findings.

Community Development recommends approval of this request.

STAFF REVIEW

1. BOARD OF ADJUSTMENT DUTIES PER SEC. 14-724(e)(1):

- a) Hear appeals from the decision of the Department of Community Development in respect to the enforcement and application of the zoning ordinance and the sign permitting provisions contained in Chapter 44, and may affirm or reverse, in whole or in part, said decision of the Department of Community Development; and
- b) Hear requests for variance from the literal provisions of the zoning ordinance in instances where strict enforcement of the zoning ordinance would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning ordinance.

2. SUBJECT REQUEST:

- a) The applicant requests a variance to allow a reduction in the minimum lot size for duplexes at 1801 West Wood Street. The lot is currently 11,761 square feet, which is 239 square short of the 12,000 square foot requirement.
- b) While reviewing this request, staff also identified that the lot does not meet the minimum lot depth requirement for residencies in the R-DP zoning district; the lot is 90 feet deep, ten feet short of the 100 foot requirement. However, staff believes it is the applicant's intent to request this variance, to bring the lot into complete legally compliant standing for duplex construction. A formal request was not submitted with their application, but if this is the case, the applicant should state their request at the time of the meeting.

3. GENERAL FINDINGS:

- a) Staff has not identified any circumstances unique to the individual property where strict enforcement of the zoning ordinance would cause undue hardship.
- b) However, staff does acknowledge that application of zoning standards to lots platted before the existence of those zoning standards can create hardships.

4. ZONING:

a) R-DP (Residential Duplex & Patio Homes):

The purpose and intent of the R-DP zoning district is "This district is intended to provide areas for the development of one- or two-family residential structures. The district may be located in developed areas or undeveloped areas of the City where an environment compatible with moderate density residential development can also be established. This zoning district replaces the former R-2, RMF 6A and 6B zoning districts." (Sec. 14-699(a)).

5. PUBLIC INPUT RECEIVED:

Staff has not received any comments from the public regarding this request.

6. RECOMMENDATIONS:

- a) Approve request.

DIRECTOR'S COMMENTS

1. Agree with recommendations.



JOHN C. MCCURDY, Director
Community Development

SUGGESTED MOTIONS

1. IF APPROVING AS PRESENTED:
Move to approve the request as presented.
2. IF APPROVING SUBJECT TO OTHER ACTIONS:
Move to approve the request subject to [conditions or contingencies].
3. IF DENYING:
Move to deny the request as presented.
4. IF TABLING:
Move to table the request as presented [indefinite or date certain].

TABS

1. Vicinity map (aerial)
2. Variance application with required supplements

MARTINEZ AERIAL MAP:





DEPT. OF COMMUNITY DEVELOPMENT
PLANNING DIVISION
301 W. CHESTNUT
PHONE: (479) 621-1186
FAX: (479) 986-6896

OFFICE USE ONLY

Permit Fee: \$100.00 (\$100)
Zoning: R-DP
App Number: _____
CityView Application: PL20200309
Date: 4/28/2020

VARIANCE APPLICATION

APPLICANT: Bill Oliver of Southwest Homes
ADDRESS: 4264 N. Thompson Road Springdale AR 72764 SUITE #: _____
GENERAL LOCATION OF PROPERTY: 1801 West Wood Road Rogers, AR 72756
PHONE #: 479-756-2626 EMAIL: bill.oliver@yourSWH.com
PROPERTY OWNER: Filomena Martinez PHONE #: 479-856-3287

NATURE OF APPEAL:

- ☐ Appeal from decision of enforcement officer
☒ Variance from zoning ordinance

EXPLAIN REQUEST: We are asking for a variance on the lot minimum requirement outlined in Sec 14-701 for Duplexes. This lot is .27 Acres so it's 11,761 SQ Ft.

Applicant Signature

Bill Oliver

Date

4/17/2020

Attachment Checklist:

- ☒ Letter explaining hardship or reason for request
☒ Legal description of property
☒ Relevant supporting documents
☒ Survey or sign proofs as needed

PLANNING STAFF PROVIDES:

DATE FILED: _____ PUBLIC HEARING DATE: _____

BOARD OF ADJUSTMENT DECISION: _____

SECRETARY, BOARD OF ADJUSTMENT

DATE

Dear Board of Adjustment,

Mrs. Martinez purchased the property located at 1801 West Wood Street back in 2005. Since that time it has been her primary residence and recently used as a rental property to help supplement her income. She has relationships with many of the neighbors still living there. Late last year the property was lost due to fire. There has been a lengthy process in settling with the insurance company. She has decided that she would again like to make this property her primary residence, but also needs the rental income. We are looking into the possibility of building her a duplex to achieve both objectives. During the process of removing the debris one of the City employees helped point out the guidelines for duplex homes. We understand that there is a minimum square footage of the lot of 12,000 SQ FT. Mrs. Martinez property is .27 acres or 11,761 SQ FT. So we are asking for a variance to the minimum square footage policy listed in Sec 14-701 for a duplex.

Here are the reasons we feel that it would be a benefit to both her and the community at large.

- #1 It will allow Mrs. Martinez the ability to live in the neighborhood she knows and loves.
- #2 It will allow her the income to help with retirement.
- #3 Rogers has a critical shortage of 3 bedroom 2 bath rentals that are reasonably priced.
- #4 The appraised value of the duplex is estimated to be over \$275,000 much higher than that of a Single family home.
- #5 It will increase the amount of tax revenue from the property.
- #6 It has a perfect corner lot location so it lends itself to the duplex design.

Thanks for your consideration.

Regards,

Bill Oliver



2/100,
was 0705764-960 Martinez

Brenda DeShields-Circuit Clerk
Benton County, AR
Book/Pg: 2007/36354
Term/Cashier: CASH3/NPETERS
09/05/2007 11:26:07AM
Tran: 12599
Total Fees: \$20.00
Book 2007 Page 36354
Recorded in the Above
DEED Book & Page
09/05/2007

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That Janice E. Capps, Trustee of the Janice E. Capps Revocable Trust, dated July 14, 1984, hereinafter called Grantor, for good and valuable consideration, paid by ~~Filomena~~ Martinez, a single person, hereinafter called Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto ~~Filomena~~ Martinez, a single person, and unto her heirs and assigns forever, the following lands lying in Benton County, Arkansas: *Filomena

Lot 4, Block 1, Dixieland Village, First Addition, Rogers, Benton County, Arkansas, as shown on Plat Record "K" at Page 45.

Subject to covenants, easements and rights of way, if any.

Filomena Martinez is one and the same as Filomena Martinez.

TO HAVE AND TO HOLD the same unto the said Grantees, and unto Grantees' heirs and assigns forever, with all tenements, appurtenances and hereditaments thereunto belonging.

AND Grantor hereby covenants with said Grantees that Grantor is lawfully seized of said lands, that the same is unencumbered, and that Grantor will forever warrant and defend the title to said lands against all lawful claims whatsoever.

WITNESS my hand and seal as such Grantor this 30th day of July, 2007.

JANICE E. CAPPS REVOCABLE TRUST,
DATED July 14, 1984

Janice E. Capps, Trustee
Janice E. Capps, Trustee

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed on this instrument.

Waco Title Co.
Grantor or Grantee's Agent

Address: _____



ARKANSAS
DOCUMENTARY

\$38.50

213126

ACKNOWLEDGEMENT

STATE OF ARKANSAS)

COUNTY OF Washington)SS:

Book 2007 Page 36355

Recorded in the Above

DEED Book & Page

09/05/2007

Benton County, AR

I certify this instrument was filed on

09/05/2007 11:26:14AM

and recorded in DEED Book

2007 at pages 0036354 - 0036355

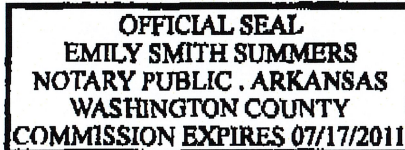
Brenda DeShields-Circuit Clerk

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, and appeared in person the within named **Janice E. Capps** to me personally known, who stated that she was the **Trustee of the Janice E. Capps Revocable Trust, dated July 14, 1984**, a trust, and stated that she was duly authorized in such capacity to execute the foregoing Warranty Deed by Trustee for and in the name and behalf of said Trust, and further stated and acknowledged that she had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 30th day of August, 2007.

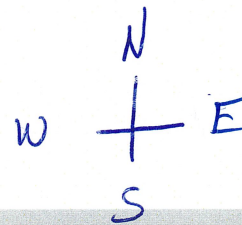
My Commission Expires:

Emily Smith Summers
Notary Public



Prepared by: Angela G. Henry, P.A., 6731 Frog Bayou Drive, Rudy, AR 72952

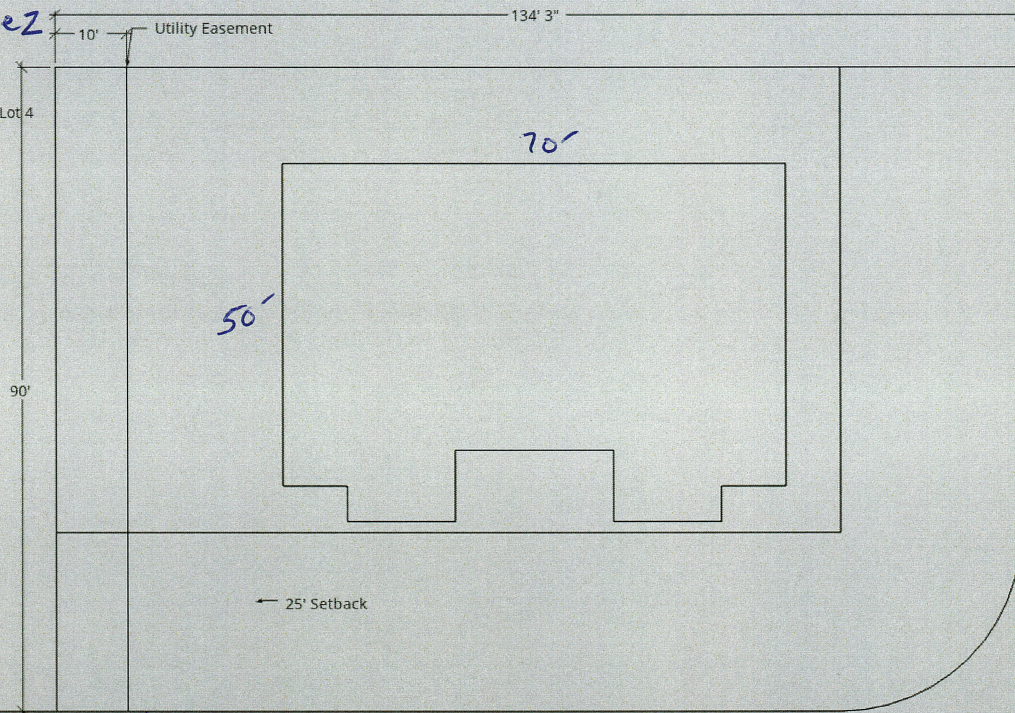
Site Survey



Owner
Filomena Martinez

1801 West Wood Street Rogers, AR 72756
Dixieland Subdivision First Addition Block 1 Lot 4

.27 Acre



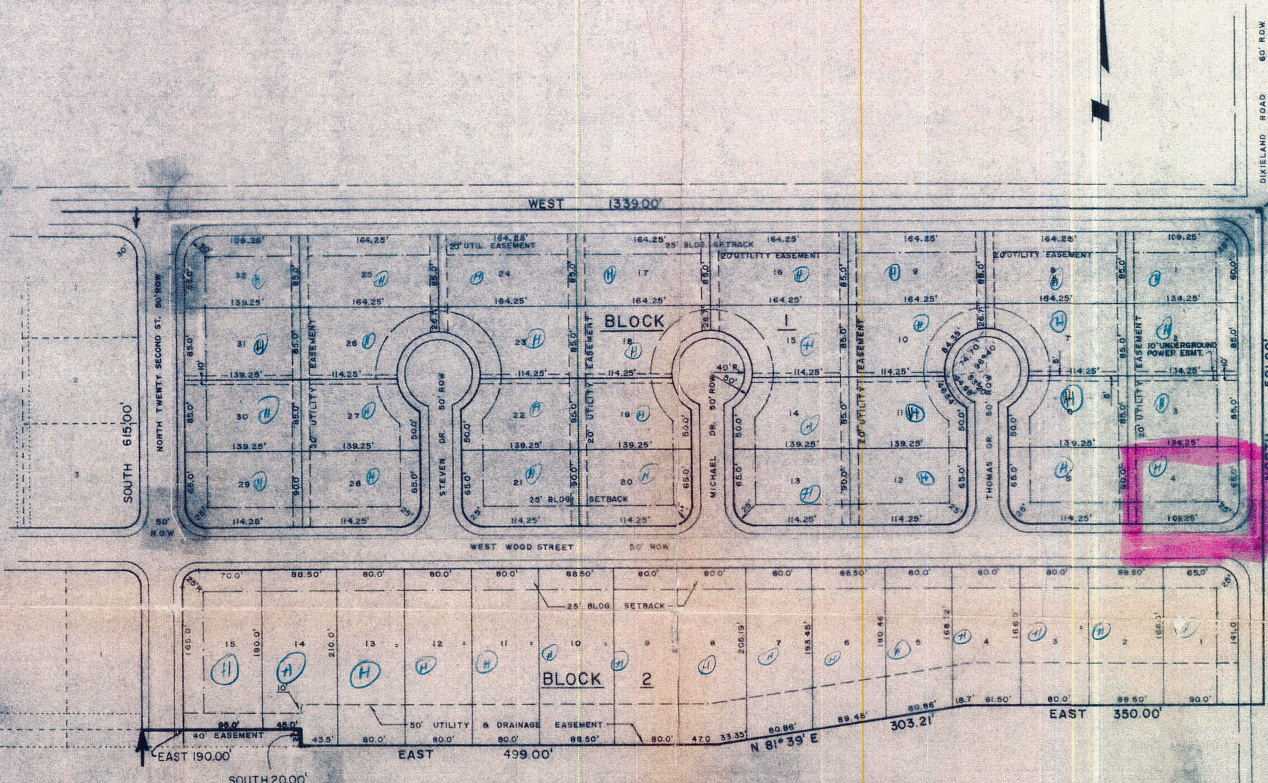
Dixieland Road

West Wood Street

K-45

LEGAL DESCRIPTION

Beginning at the Northeast corner of the fractional North half of the Northwest 1/4 Section 11, T-19-N, R-36-W, proceed West 1339.00 feet; thence South 615.00 feet; thence East 190.00 feet; thence South 200.00 feet; thence East 499.00 feet; thence North 613.91 feet; thence East 301.21 feet; thence East 350.00 feet; thence North 511.00 feet to the point of beginning and containing 19.354 Acres, more or less, all in Benton County, Arkansas, and subject to road easements along the East and North boundaries thereof.



NE COR., PBL. N 1/2, NW 1/4,
SEC. 11, T-19-N, R-36-W
P.O.B.

CERTIFICATE OF CITY COUNCIL APPROVAL

This plat approved and accepted by the City Council of the City of Rogers, Arkansas.

Ed M. Batts, Mayor
Date 12-9-70
Laura Wierick Cline, City Clerk
Date 12-9-70

CERTIFICATE OF OWNERSHIP & DEDICATION

We hereby certify that we are the owners of the property shown and described hereon and that we do hereby dedicate all streets and easements as shown on this plat to public use.

Thomas C. Comley, President
Comley Finer Homes, Inc.
Highway 71 South, Springdale, Arkansas
Date 11-4-70
James W. Comley, Secretary
Comley Finer Homes, Inc.
Highway 71 South, Springdale, Arkansas
Date 11-4-70

Subscribed and sworn to before me this 4th day of Nov. 1970
Notary Public

My commission expires 2-1-74

CERTIFICATE OF ENGINEER

I hereby certify that this subdivision conforms to all ordinances and regulations of the City of Rogers, Arkansas.

Roy R. Rosin
Sullivan-Rosin & Associates
Date 10-28-70

CERTIFICATE OF PLANNING COMMISSION APPROVAL

This plat approved by the Planning Commission of the City of Rogers, Arkansas.

Paul Milbur, Chairman
Rogers Planning Commission
Date 12-8-70
Laura Wierick Cline, Secretary
Rogers Planning Commission
Date 12-8-70



FILED FOR RECORD
At 3:15 O'clock P. M.

DEC 10 1970
JOSEPHINE R. HEYLAND
Clerk and Recorder
BENTON COUNTY, ARK.

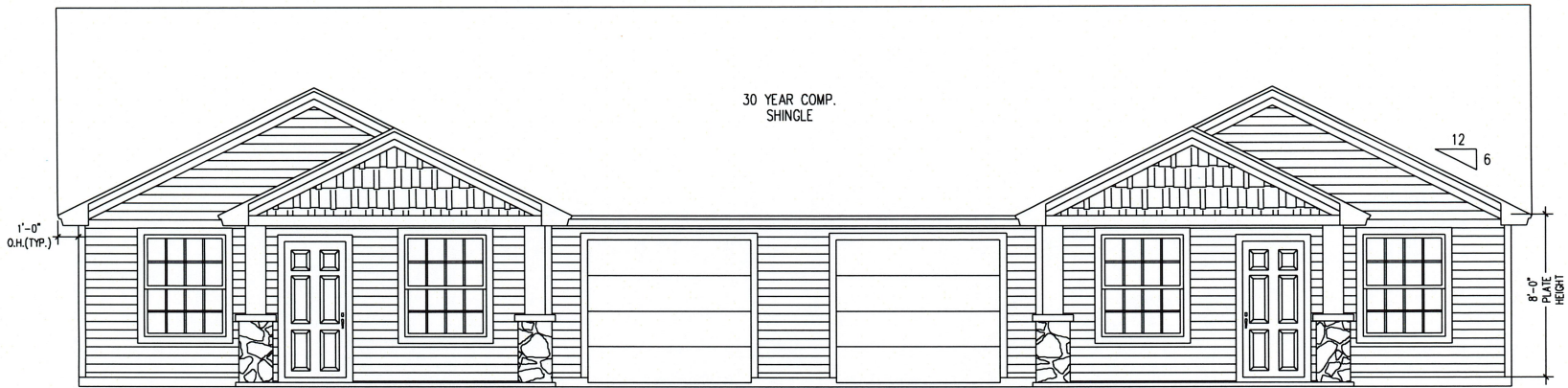
ROY R. ROSIN & ASSOCIATES, INC.
CONSULTING ENGINEERS SPRINGDALE, ARKANSAS

DIXIELAND VILLAGE SUBDIVISION - Rogers

FIRST ADDITION

Rendering of Proposed Duplex





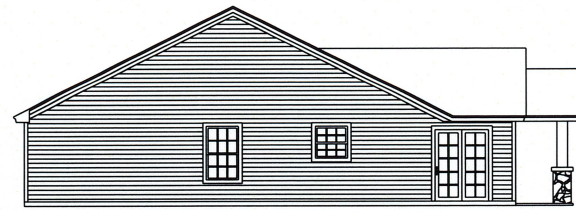
FRONT ELEVATION
SCALE - 1'-0" = 1/4"



REAR ELEVATION
SCALE - 1'-0" = 1/4"



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



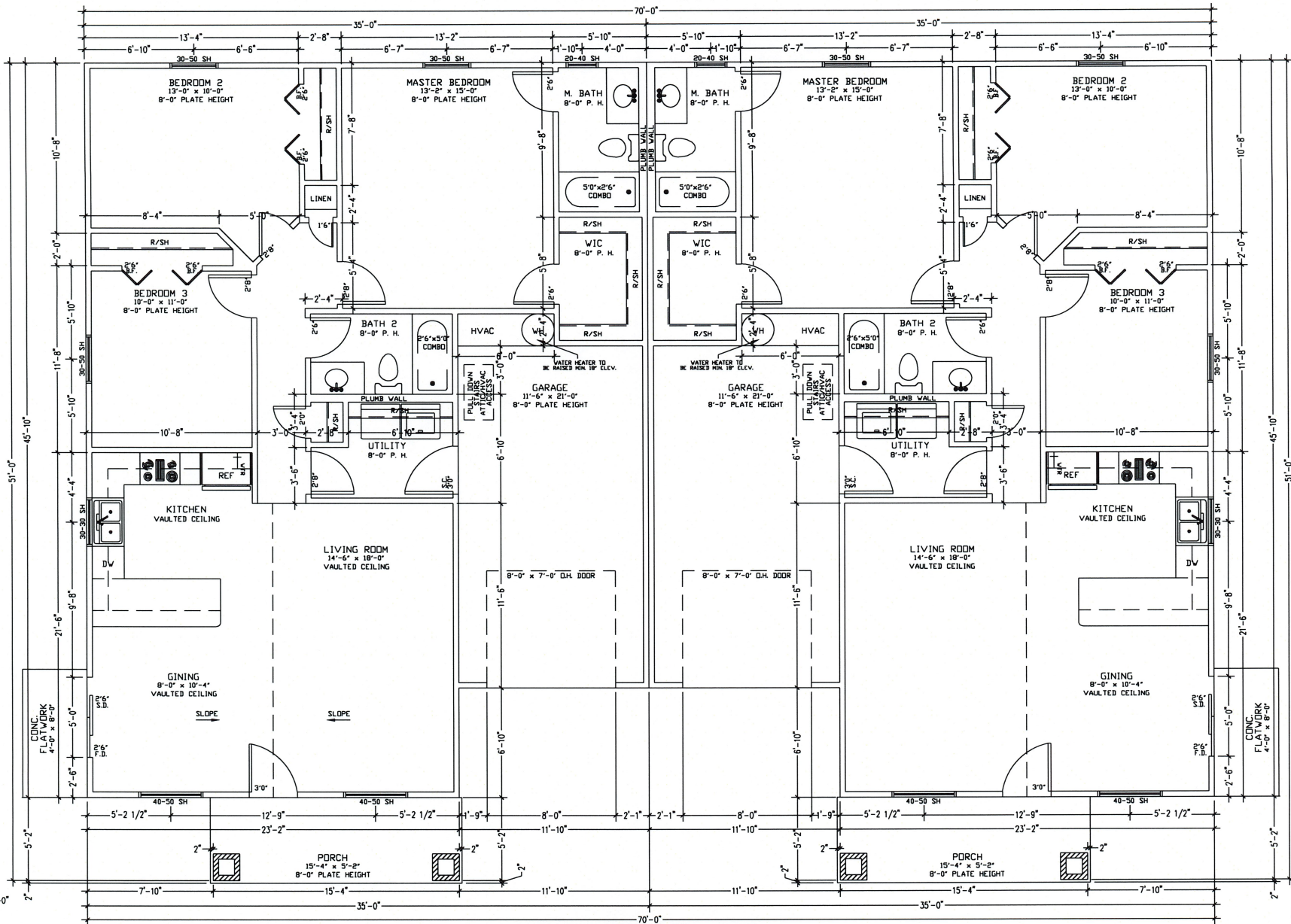
LEFT ELEVATION
SCALE - 1'-0" = 1/8"

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The plans furnished were prepared upon your request, by a drafter, who is not qualified as a professional architect or engineer, and these plans are for INFORMATION USE ONLY. CADD Plus expressly disclaims any liability whatsoever for errors of any kind which may be found on any plan. Use of such plans shall be at the sole risk of the user(s).

"Custom Home"
By: Southwest Homes
Martinez Residence

DATE: 04-17-2020
Complete Set
DR BY: CHAD
NOTES:





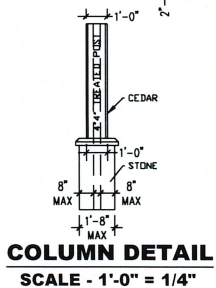
FLOOR PLAN

SCALE - 1'-0" = 1/4"

UNIT 1
 Main Floor - 1,259 SQ. FT.
 Garage - 264 SQ. FT.
 Porches - 79 SQ. FT.
 TOTAL - 1,602 SQ. FT.

UNIT 2
 Main Floor - 1,259 SQ. FT.
 Garage - 264 SQ. FT.
 Porches - 79 SQ. FT.
 TOTAL - 1,602 SQ. FT.

NOTES:
 BUILDER ASSUMES RESPONSIBILITY TO ADHERE TO ALL LOCAL CODES
 ALL WINDOWS 1" BENEATH PLATE HEIGHT UNLESS OTHERWISE NOTED
 HVAC AND HOT WATER HEATER TO BE LOCATED IN ATTIC UNLESS OTHERWISE NOTED
 SITE PLAN WAS CREATED WITHOUT ENGINEERING SURVEY
 PLANS ARE SOLE PROPERTY OF CADD PLUS. ANY COPIES OR REPRODUCTION AT DISCRETION OF CADD PLUS



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"Custom Home"
 By: Southwest Homes
 Martinez Residence

DATE: 04-17-2020
 Complete Set
 DR BY: CHAD
 NOTES:



PAGE
A-1