



**CITY COUNCIL MEETING STAFF REPORT**

**DATE OF MEETING:** August 4, 2024

**NAME OF PROJECT:** Application for former Filler Up CUP 2024

**NAME OF APPLICANT:** Allen Thronson

**AGENDA ITEM:** Conditional Use Permit – Mixed-Use

**LOCATION OF ITEM:** 30 N 200 E Midway, Utah and 203 E Main Street, Midway, Utah

**ZONING DESIGNATION:** C-2

**ITEM: 13**

Allen Thronson, the applicant, on behalf of Mickey Carusillo, agent for MC Midway Acquisitions LLC, owner, is requesting a Conditional Use Permit for a mixed-use development that will include commercial and a residence. The property is located at 203 W Main Street in Midway (with the proposed residence located at 30 N 200 E) and is in the C-2 zone. The proposed residence was once a residence but converted to a commercial kitchen. The applicant seeks to renovate the building at 30 N 200 E back into a residential home. The result would be a mixed-use development that will include a business and a residence.

## **BACKGROUND:**

This request for a Conditional Use Permit (CUP) is for a mixed-use project that will include a commercial building (the former Filler Up) and a separate residence (the former commercial kitchen for the former Filler Up). The C-2 zone allows for mixed-use projects which, in turn, allows one residential unit for properties less than one-acre in size. The structure was originally a residence but was converted to a commercial kitchen years ago. The parcel on which the project is proposed is zoned C-2 and is 0.70 acres in size.

Per the application for a conditional use permit, the planned remodel of the former residence calls for two bedrooms, which in turn necessitates a minimum of two (2) parking spaces per Code, to be located to the north of the proposed residence. The applicant will need to submit a site plan for the proposed parking, and any approval of the conditional use application should be conditioned upon parking approval, including number of spaces, location of spaces, and ensuring that traffic is not backing onto 200 East.

This item has been noticed in the local newspaper for two weeks and on the State's website for the Planning Commission meeting. Mailed notices will be sent out to all property owners within 600' before the public hearing by the City Council.

## **ANALYSIS:**

The comments italicized represent Planning Staff's comments pertaining to compliance or lack of compliance with the findings the City Council must make in considering this request. Section 16.26.120 requires specifically the Planning Commission to find that:

1. The proposed use is conditionally permitted within the Land Use Title and would not impair the integrity and character of the intended purpose of the subject zoning district and complies with all the applicable provisions of this Code; *planning staff believes that the proposal will not impair the integrity and character of the C-2 zone. The proposal appears to comply with the requirements specific to retail/office and mixed-use projects as listed in the Municipal Code.*
2. The proposed use is consistent with the General Plan; *the proposed uses do comply with the vision of Main Street described in the General Plan. The General Plan promotes an active and vibrant Main Street and this proposal does promote that vision by containing both commercial and residential.*
3. The approval of the conditional use or special exception permit for the proposed use is in compliance with the requirements of state, federal and Midway City or other local regulations; *the Midway City Code allows mixed-use in the commercial zone, as set forth above; the businesses that will be located in the development are required to have approved business licenses with the City. The*

*businesses will need to apply for licenses, and they will be issued once all the requirements are met. Mixed-use projects require that 20% of the gross floor area of all structures is deed restricted as commercial. A deed restriction must be provided to the City for review and approval. The deed restriction shall be recorded before the Certificate of Occupancy is issued for the dwelling.*

4. There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored; *none have been identified.*
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses with the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City; *none have been identified.*
6. The subject site is physically suitable for the type and density/intensity of the proposed use; *the proposed residence has been used as a residence in the past, and it appears that the location is suitable for this type of use.*
7. There are adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to ensure that the proposed use would not be detrimental to public health and safety; *utilities are already in place to service the proposed uses.*

#### **PLANNING COMMISSION RECOMMENDATION:**

**Motion:** Commissioner Osborn: I make a motion that we recommend approval for a Conditional Use Permit for a mixed-use development that will include commercial and a residence. The property is located at 203 East Main and is in the C-2 zone. Include the staff 2<sup>nd</sup> condition as condition 1 has already been met.

**Seconded:** Commissioner Knight

**Commissioner Garland:** Any discussion on the motion?

**Commissioner Garland:** All in favor.

**Ayes:** Commissioners: Wardle, Osborne, Nokes, Miles, Facer, Knight

**Motion:** Passed

#### **POSSIBLE FINDINGS:**

- The proposed use is a conditional use in the C-2 zone.
- The proposal is consistent with the vision of the General Plan for Main Street.

**ALTERNATIVE ACTIONS:**

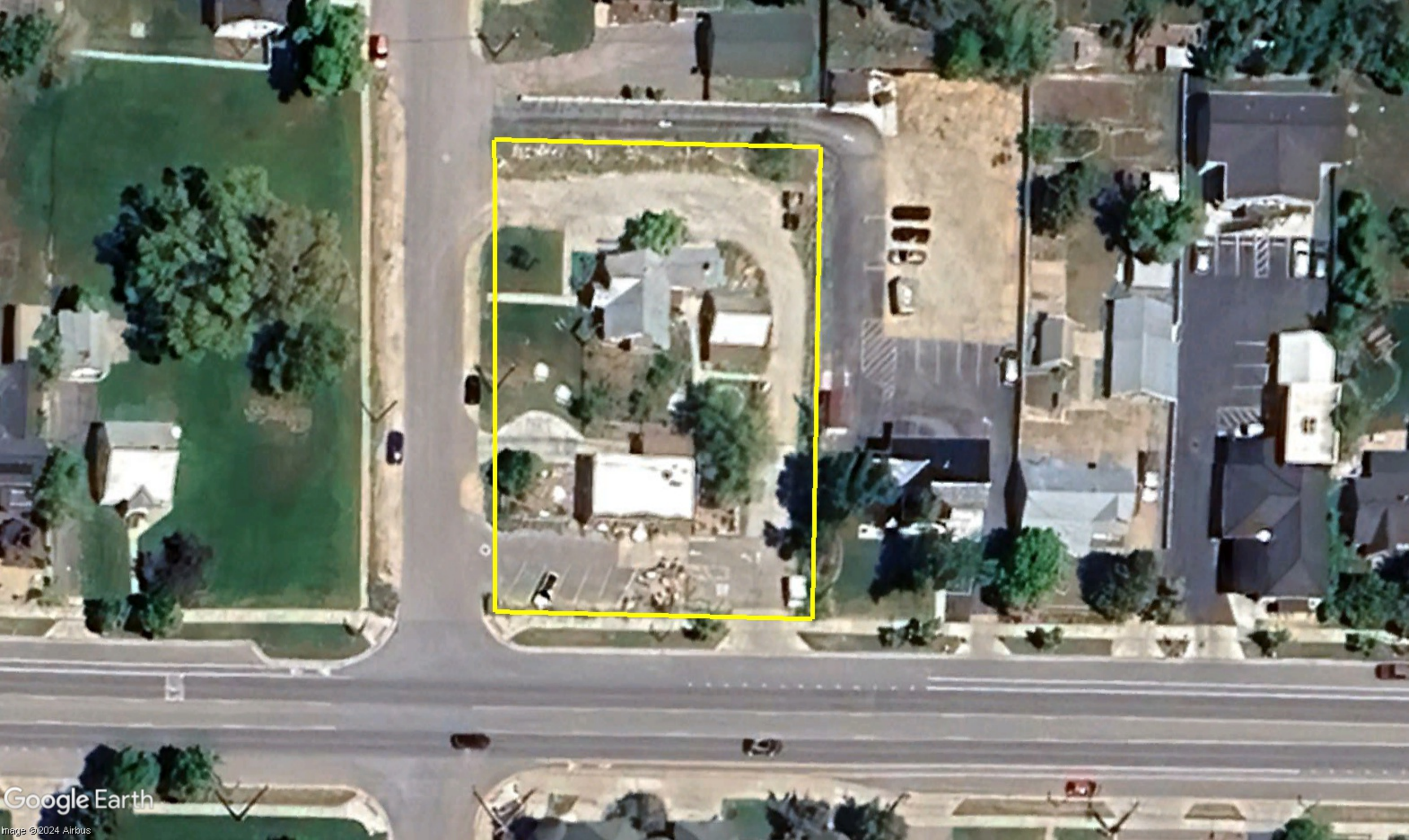
1. Approval (conditional). This action can be taken if the City Council finds that conditions placed on the approval can resolve any outstanding issues.
  - a. Accept staff report
  - b. List accepted findings
  - c. Place condition(s)
  
2. Continuance. This action can be taken if the City Council finds that there are unresolved issues.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for continuance
    - i. Unresolved issues that must be addressed
  - d. Date when the item will be heard again
  
3. Denial. This action can be taken if the City Council finds that the request does not meet the intent of the ordinance.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial

**PROPOSED CONDITIONS:**

1. The applicant needs to submit a site plan and include delineation of required parking for the proposed residence. The application may be continued pending such submission or any approval of the conditional use application should be conditioned upon parking approval, including number of spaces, location of spaces, and ensuring that traffic is not backing onto 200 East.
  
2. A commercial deed restriction must be provided to the City for review and approval. The deed restriction shall be recorded before the Certificate of Occupancy is issued for the dwelling.



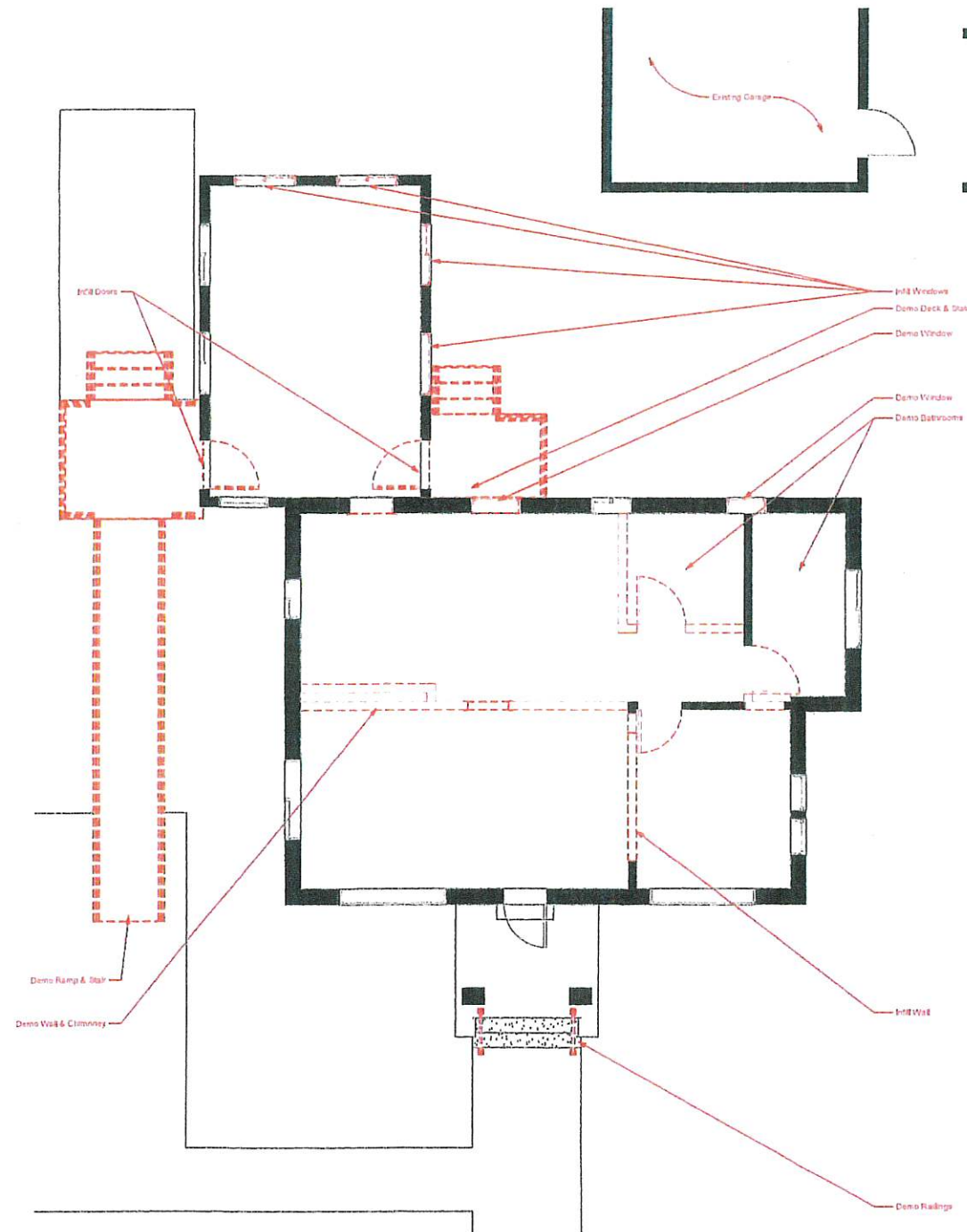




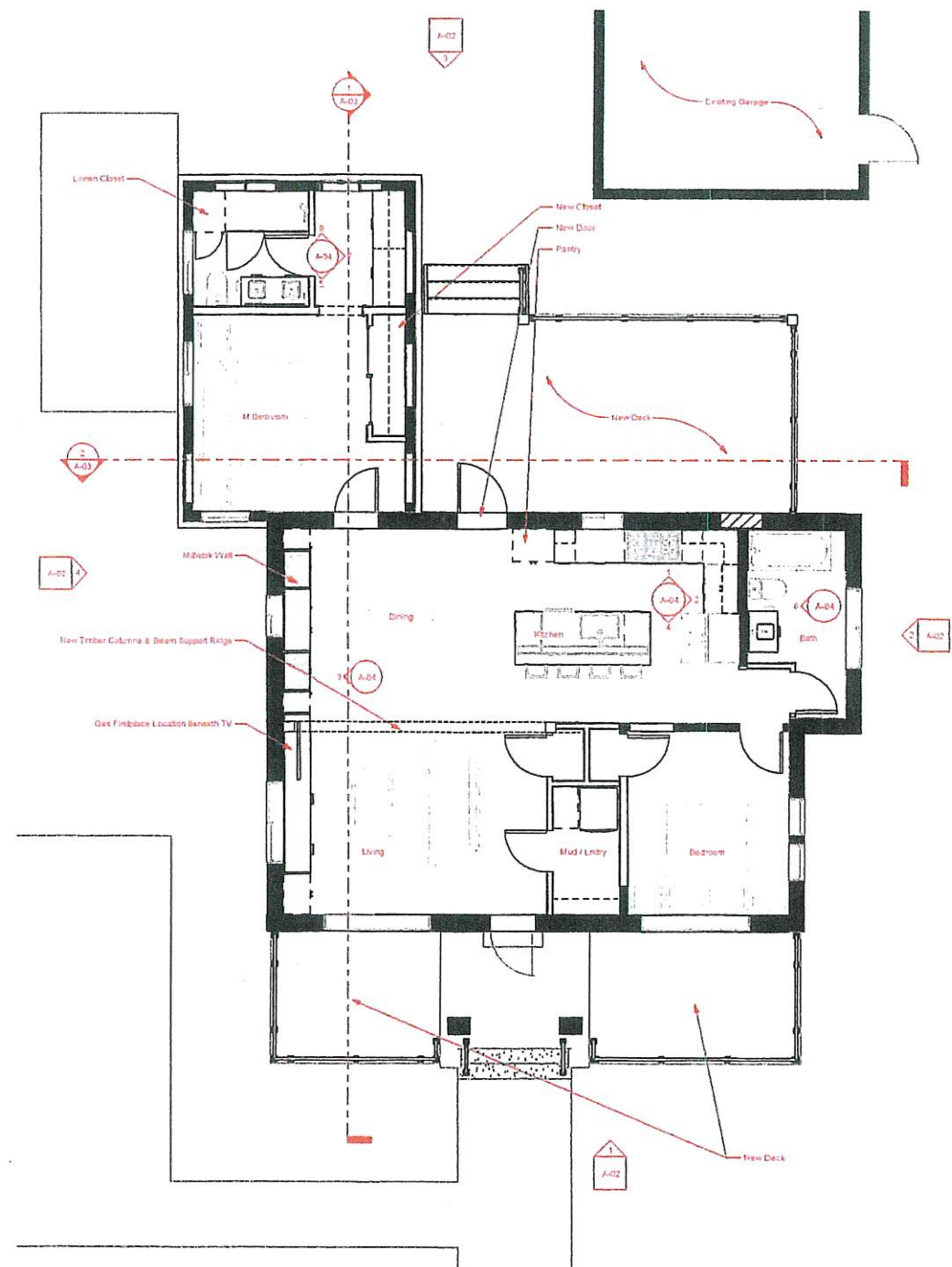
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Level 1 - Existing / Demolition  
SCALE: 1/4" = 1'-0"



Level 1 - Proposed  
SCALE: 1/4" = 1'-0"

**Main Level Plans**

Filler Up Residential Remodel