

BOARD of SUPERVISORS



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San Francisco 94102-4689
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TDD/TTY No. 544-5227

November 24, 2014

To: John Rahaim
Planning Director

From:  Angela Calvillo
Clerk of the Board of Supervisors

Subject: Appeal of California Environmental Quality Act (CEQA) Categorical Exemption Determination from Environmental Review - 312 Green Street

An appeal of CEQA Categorical Exemption Determination for 312 Green Street was filed with the Office of the Clerk of the Board on November 24, 2014, by Ryan J. Patterson, on behalf of Jack Oswald and Anneke Seley.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department's Office to determine if the appeal has been filed in a timely manner. The Planning Department's determination should be made within three (3) working days of receipt of this request.

If you have any questions, please feel free to contact Legislative Deputy, Rick Caldeira at (415) 554-7711, or Legislative Clerks, Joy Lamug at (415) 554-7712, or John Carroll at (415) 554-4445.

c: Angela Calvillo, Clerk of the Board
Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Scott Sanchez, Zoning Administrator, Planning Department
Sarah Jones, Environmental Review Officer, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Tina Tam, Planning Department
Kate Conner, Planning Department
Jonas Ionin, Planning Department

ZACKS & FREEDMAN

A PROFESSIONAL CORPORATION

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BOARD OF SUPERVISORS
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2014 NOV 24 PM 2:45

235 Montgomery Street, Suite 400
San Francisco, California 94104
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November 24, 2014

VIA HAND DELIVERY

Interim President Katy Tang
c/o Angela Calvillo, Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102

Re: Appeal of CEQA Categorical Exemption Determination
Planning Case No. 2012.0635E
Building Permit Application No. 2013.11.13.1794
312 Green Street

Dear Interim President Tang and Honorable Members of the Board of Supervisors:

This office represents appellants Jack Oswald and Anneke Seley, the adjacent neighbors to the east of the proposed project at 312 Green Street (BPA No. 2013.11.13.1794, the "Project"). The Appellants oppose the above-captioned Project, *inter alia*, on the grounds that the Project's categorical exemption ("CatEx") determination violates the California Environmental Quality Act ("CEQA").

Pursuant to San Francisco Administrative Code Section 31.16, Appellants hereby appeal the January 15, 2013 CatEx determination. A true and correct copy of the determination is attached hereto as **Exhibit A**. A true and correct copy of the proposed Project plans is attached hereto as **Exhibit B**. A copy of this letter of appeal will be concurrently submitted to the Environmental Review Officer.

The Project received a CatEx under CEQA Guidelines Section 15301(e), for a minor alteration of an existing structure. However, the proposed Project is anything but minor. It will approximately double the height and triple the living-space square-footage of the circa 1907 home, creating a flat wall of structures at the crest of Green Street on Telegraph Hill.

The Project implicates a number of adverse environmental impacts beyond what would usually be expected from minor alterations, including but not limited to:

- The subject property is one of the last remaining structures, in terms of size and shape, from the post-1906 to 1915 reconstruction period. While the fabric and façade of this building have been altered, it is one of the few remaining structures from this period in the area that maintains its original size and shape. Since the subject property is at the

crest of a hill, the Project's additional height and bulk will disrupt the existing massing patterns on the block. At a minimum, the addition should be set further back from the front to differentiate the new vertical addition from the original structure (contextual massing).

- The Project does not comply with the Residential Design Guidelines, as detailed in the enclosed materials.
- The proposed structure will create a wall, blocking wind flow and substantially impacting air circulation.
- The proposed structure will cast a shadow in the mid- to late afternoon on Appellant's decks, solar panels, and rear yard. It will also reduce the amount of natural light entering Appellant's dining room, bedroom, and bathroom.
- The proposed roof deck will tower over Appellant's deck and a sufficient setback between the two decks has not been provided, impacting privacy.
- The Project's floor area-to-lot size ratio is substantially larger than that of other properties in the surrounding neighborhood.
- The effect of the structure will be to limit views of the city to the west from Appellant's property and will obstruct views from surrounding properties as well.
- The Project likely constitutes a de facto demolition of the existing building, not a remodel or minor alteration. There will be almost nothing left of the original structure if the Project is built as proposed.
- The Project does not provide the minimum seismic separation between the proposed additions and the adjacent structures. As a result, during an earthquake the new third and fourth floors may pose a danger to the adjacent structures due to earthquake pounding.
- The proposed Project will require foundation work that could undermine and destabilize adjacent soil and foundations of the adjacent buildings. Excavation for the Project likewise implicates significant runoff and drainage concerns given the Project's location at the crest of a hill.

The Project is not rightly subject to a CatEx under Guidelines Section 15301(e) because the Project will likely have significant unmitigated environmental impacts that have not been analyzed by the City and that are unusual for minor alteration projects. "[W]here there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances," usage of categorical exemptions is not permissible. CEQA Guidelines § 15300.2(c). Effects on aesthetics and cultural resources can qualify for the "unusual

Interim President Katy Tang
November 24, 2014
Page 3

circumstances” exception. Communities for a Better Env't v. California Res. Agency, 103 Cal. App. 4th 98, 129 (2002), as modified (Nov. 21, 2002).

Appellants reserve the right to submit additional written and oral comments, bases, and evidence in support of this appeal to the City up to and including the final hearing on this appeal and any and all subsequent permitting proceedings or approvals for the Project. Appellants request that this letter and exhibits be placed in and incorporated into the administrative record for Case No. 2012.0635E.

Appellants respectfully request that the Board of Supervisors revoke the CatEx determination and require further environmental review pursuant to CEQA. If the CatEx determination is upheld, Appellants are prepared to file suit to enforce their and the public's rights.

Very truly yours,

ZACKS & FREEDMAN, P.C.

Handwritten signature of Ryan J. Patterson in black ink, written in a cursive style.

Ryan J. Patterson
Attorneys for Jack Oswald and Anneke Seley

cc: Sarah Jones, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103
Sarah.B.Jones@sfgov.org

Encl.

Exhibit A



SAN FRANCISCO
PLANNING
DEPARTMENT

CEQA Categorical Exemption Determination

Property Information/Project Description

PROJECT ADDRESS

312 Green St.

BLOCK/LOT(S)

1114/016

CASE NO.

2012.0635E

PERMIT NO.

PLANS DATED

5/1/12

Addition/ Alteration (detailed below)

Demolition (requires HRER if over 50 years old)

New Construction

STEP 1 EXEMPTION CLASS

Class 1: Existing Facilities

Interior and exterior alterations; additions under 10,000 sq.ft.; change of use if principally permitted or with a CU.

Class 3: New Construction

Up to three (3) single family residences; six (6) dwelling units in one building; commercial/office structures under 10,000 sq.ft.; accessory structures; utility extensions.

NOTE:

If neither class applies, an *Environmental Evaluation Application* is required.

STEP 2 CEQA IMPACTS (To be completed by Project Planner)

If ANY box is initialed below an *Environmental Evaluation Application* is required.

Transportation: Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?

Air Quality: Would the project add new sensitive receptors (specifically, schools, colleges, universities, day care facilities, hospitals, residential dwellings [subject to Article 38 of the Health Code], and senior-care facilities)?

Hazardous Materials: Would the project involve 1) change of use (including tenant improvements) and/or 2) soil disturbance; on a site with a former gas station, auto repair, dry cleaners, or heavy manufacturing use, or on a site with underground storage tanks?
Phase I Environmental Site Assessment required for CEQA clearance (E.P. initials required)

Soil Disturbance/Modification: Would the project result in the soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in non-archeological sensitive areas?

Refer to: EP ArcMap > CEQA CatEx Determination Layers > Archeological Sensitive Areas

Noise: Does the project include new noise-sensitive receptors (schools, colleges, universities, day care facilities, hospitals, residential dwellings, and senior-care facilities) fronting roadways located in the noise mitigation area?

Refer to: EP ArcMap > CEQA CatEx Determination Layers > Noise Mitigation Area

Subdivision/Lot-Line Adjustment: Does the project site involve a subdivision or lot-line adjustment on a lot with a slope of 20% or more?

Refer to: EP ArcMap > CEQA CatEx Determination Layers > Topography

NOTE:

Project Planner must initial box below before proceeding to Step 3.

Project Can Proceed With Categorical Exemption Review.

The project does not trigger any of the CEQA Impacts and can proceed with categorical exemption review.

GO TO STEP 3

ste

STEP 3 PROPERTY STATUS - HISTORICAL RESOURCE

Property is one of the following: (Refer to: San Francisco Property Information Map)

Category A: Known Historical Resource **GO TO STEP 5**

Category B: Potential Historical Resource (over 50 years of age) **GO TO STEP 4**

Category C: Not a Historical Resource or Not Age Eligible (under 50 years of age) **GO TO STEP 6** See Case No. 2012.0635E

STEP 4 PROPOSED WORK CHECKLIST (To be completed by Project Planner)

If condition applies, please initial.

- _____ 1. **Change of Use and New Construction** (tenant improvements not included).
- _____ 2. **Interior alterations/interior tenant improvements.** Note: Publicly-accessible spaces (i.e. lobby, auditorium, or sanctuary) require preservation planner review.
- _____ 3. **Regular maintenance and repair** to correct or repair deterioration, decay, or damage to the building.
- _____ 4. **Window replacement** that meets the Department's *Window Replacement Standards* (does not include storefront window alterations).
- _____ 5. **Garage work**, specifically, a new opening that meets the *Guidelines for Adding Garages and Curb Cuts*, and/or replacement of garage door in an existing opening.
- _____ 6. **Deck, terrace construction, or fences** that are not visible from any immediately adjacent public right-of-way.
- _____ 7. **Mechanical equipment installation** not visible from any immediately adjacent public right-of-way.
- _____ 8. **Dormer installation** that meets the requirements for exemption from public notification under *Zoning Administrator Bulletin: Dormer Windows*.
- _____ 9. **Additions** that are not visible from any immediately adjacent public right-of-way for 150' in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.

NOTE:
Project Planner must check box below before proceeding.

Project is not listed:

GO TO STEP 5

Project does not conform to the scopes of work:

GO TO STEP 5

Project involves 4 or more work descriptions:

GO TO STEP 5

Project involves less than 4 work descriptions:

GO TO STEP 6

STEP 5 CEQA IMPACTS - ADVANCED HISTORICAL REVIEW (To be completed by Preservation Planner)

If condition applies, please initial.

- _____ 1. Project involves a **Known Historical Resource (CEQA Category A)** as determined by Step 3 and conforms entirely to Scope of Work Descriptions listed in Step 4. (Please initial scopes of work in STEP 4 that apply)
- _____ 2. **Interior alterations to publicly-accessible spaces.**

3. **Window replacement** of original/historic windows that are not "in-kind" but are is consistent with existing historic character.

4. **Façade/storefront alterations** that do not remove, alter, or obscure character-defining features.

5. **Raising the building** in a manner that does not remove, alter, or obscure character-defining features.

6. **Restoration** based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.

7. **Addition(s)**, including mechanical equipment that are minimally visible from a public right of way and meets the *Secretary of the Interior's Standards for Rehabilitation*.

8. **Other work consistent** with the *Secretary of the Interior Standards for the Treatment of Historic Properties*

Specify:

9. **Reclassification of property status** to Category C

Resource

a. Per Environmental ~~Evaluation~~ Evaluation, dated:

* Attach Historic Resource Evaluation Report

b. Other, please specify: *PTR Form, dated*

1/10/2013 (attached)

* Requires initial by Senior Preservation Planner / Preservation Coordinator

NOTE:
If ANY box is initialed in STEP 5, Preservation Planner MUST review & initial below.

Further Environmental Review Required.

Based on the information provided, the project requires an *Environmental Evaluation Application* to be submitted.

GO TO STEP 6

Preservation Planner Initials

Project Can Proceed With Categorical Exemption Review.

The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review.

GO TO STEP 6

Preservation Planner Initials

STEP 6 CATEGORICAL EXEMPTION DETERMINATION (To be completed by Project Planner)

Further Environmental Review Required.
Proposed Project does not meet scopes of work in either:

(check all that apply)

- Step 2 (CEQA Impacts) or
- Step 5 (Advanced Historical Review)

STOP!

Must file *Environmental Evaluation Application*.

No Further Environmental Review Required. Project is categorically exempt under CEQA.

Tina Tam
Planner's Signature

Tina Tam
Print Name

1/15/2013
Date

Once signed and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.



SAN FRANCISCO PLANNING DEPARTMENT

PRESERVATION TEAM REVIEW FORM

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Preservation Team Meeting Date: 05/29/2012	Date of Form Completion 01/10/2013
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PROJECT INFORMATION:		
Planner: Shelley Caltagirone	Address: 312 Green Street	
Block/Lot: 1114/016	Cross Streets: Castle & Montgomery Streets	
CEQA Category: B	Art. 10/11: No	BPA/Case No.: 2012.0635E

PURPOSE OF REVIEW:			PROJECT DESCRIPTION:	
<input checked="" type="radio"/> CEQA	<input type="radio"/> Article 10/11	<input type="radio"/> Preliminary/PIC	<input checked="" type="radio"/> Alteration	<input type="radio"/> Demo/New Construction

DATE OF PLANS UNDER REVIEW: 05/01/2012

PROJECT ISSUES:	
<input checked="" type="checkbox"/>	Is the subject Property an eligible historic resource?
<input type="checkbox"/>	If so, are the proposed changes a significant impact?
Additional Notes: Reviewed by team to determine if the property is eligible as a historic resource.	

PRESERVATION TEAM REVIEW:				
Historic Resource per CEQA		<input type="radio"/> Yes	<input checked="" type="radio"/> No*	<input type="radio"/> N/A
Individual Property is individually eligible for inclusion in a California Register under one or more of the following Criteria: Criterion 1 - Event: <input type="radio"/> Yes <input checked="" type="radio"/> No Criterion 2 - Persons: <input type="radio"/> Yes <input checked="" type="radio"/> No Criterion 3 - Architecture: <input type="radio"/> Yes <input checked="" type="radio"/> No Criterion 4 - Info. Potential: <input type="radio"/> Yes <input checked="" type="radio"/> No Period of Significance: <input type="text"/>		Historic District/Context Property is eligible for inclusion in a California Register Historic District/Context under one or more of the following Criteria: Criterion 1 - Event: <input type="radio"/> Yes <input checked="" type="radio"/> No Criterion 2 - Persons: <input type="radio"/> Yes <input checked="" type="radio"/> No Criterion 3 - Architecture: <input type="radio"/> Yes <input checked="" type="radio"/> No Criterion 4 - Info. Potential: <input type="radio"/> Yes <input checked="" type="radio"/> No Period of Significance: <input type="text"/> <input type="radio"/> Contributor <input type="radio"/> Non-Contributor		

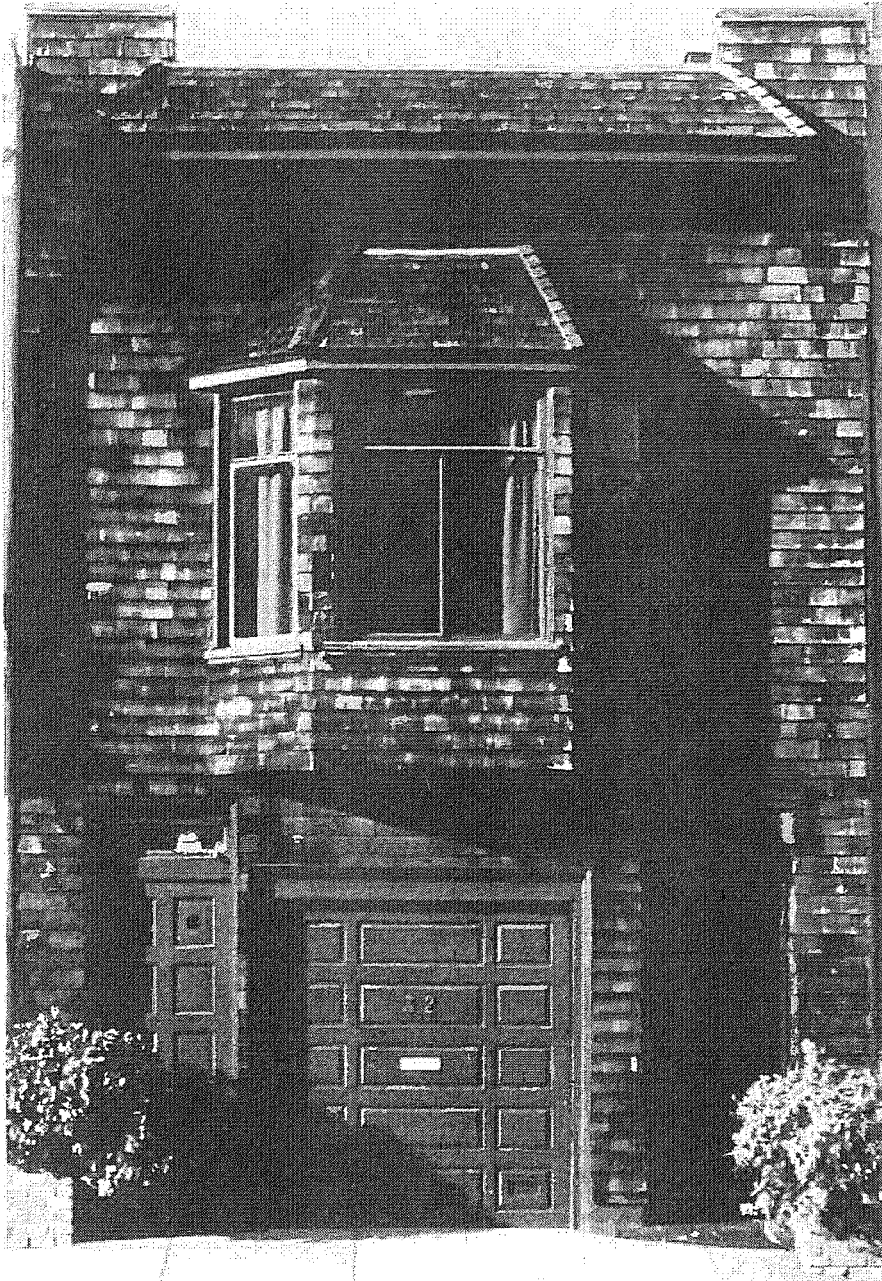
Complies with the Secretary's Standards/Art 10/Art 11:	<input type="radio"/> Yes	<input type="radio"/> No	<input checked="" type="radio"/> N/A
CEQA Material Impairment:	<input type="radio"/> Yes	<input type="radio"/> No	
Needs More Information:	<input type="radio"/> Yes	<input type="radio"/> No	
Requires Design Revisions:	<input type="radio"/> Yes	<input type="radio"/> No	
Defer to Residential Design Team:	<input type="radio"/> Yes	<input type="radio"/> No	

* If No is selected for Historic Resource per CEQA, a signature from Senior Preservation Planner or Preservation Coordinator is required.

PRESERVATION TEAM COMMENTS:	
<p>The two-story, wood-frame, vernacular single-family building does not appear to be eligible for listing on the California Register either as an individual resource or as a contributing resource to a district. The building was constructed in 1907 by an unknown builder/architect. The building was then substantially altered in 1934 when the front angled bay was added and the original wood siding was replaced with stucco. In 2001, the stucco was replaced with the current cedar shingles. The original windows have also been replaced with aluminum-framed sliding sashes. While the original footprint of the building remains, the distinctive period details and original form have been removed or altered. For these reasons, the building does not appear to be eligible for its design under Criterion 3. The building does date to the reconstruction period following the 1906 Earthquake and Fire; however, the building does not retain integrity from this period and is not an important example of reconstruction architecture. Furthermore, research did not reveal any associations with events or persons related to the history of San Francisco or the nation. Therefore, the building does not appear to be eligible under Criteria 1 or 2 either. The property does not appear eligible for information potential under Criterion 4.</p>	

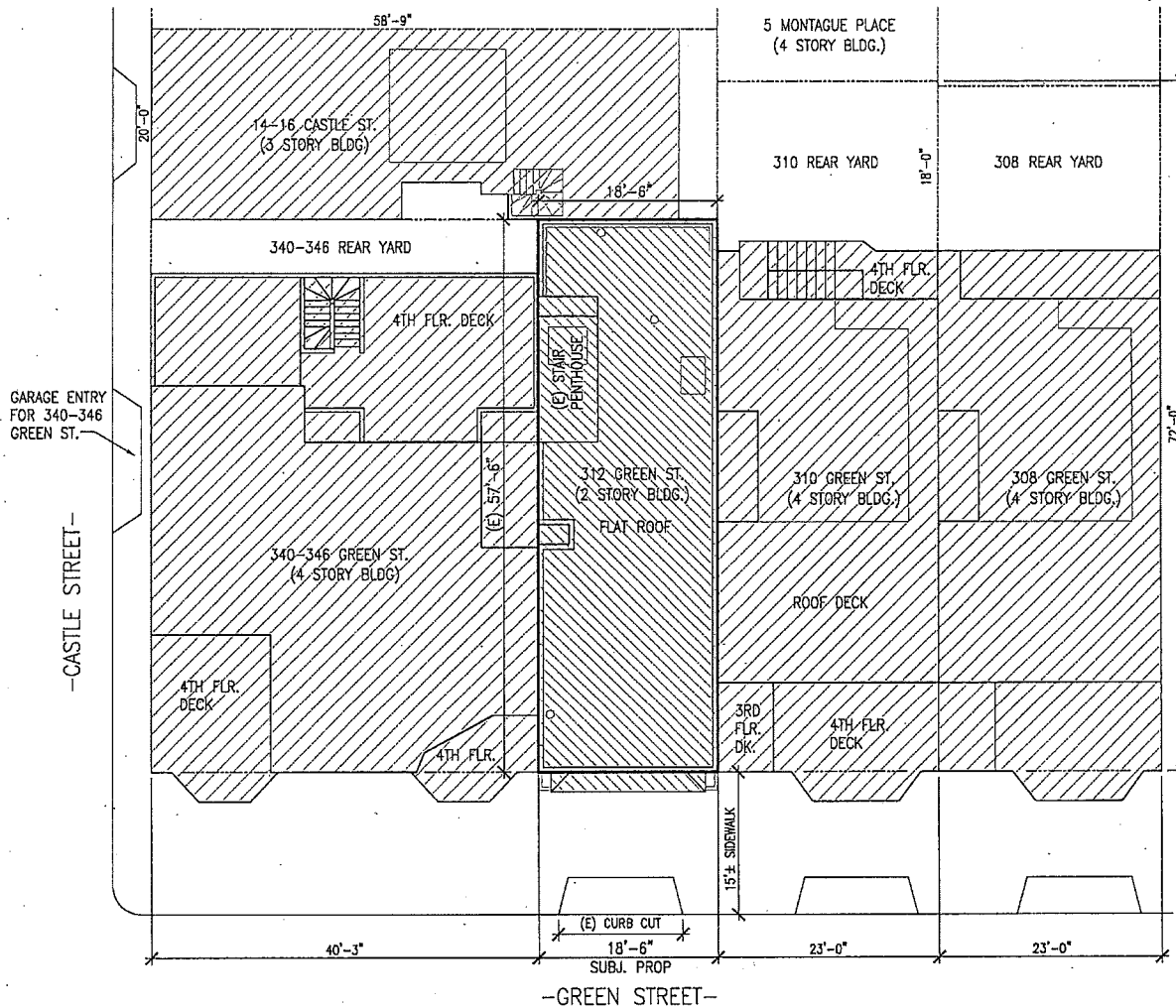
Signature of a Senior Preservation Planner/ Preservation Coordinator:	Date:
<i>JMA Jr</i>	1-15-2013

EXHIBIT D:
Current photographs of the subject property and adjacent buildings.



Subject Building, 312 Green Street.

Exhibit B



1 EXISTING SITE PLAN

DRAWING INDEX:

- A0.1 EXISTING SITE PLAN
- A1.0 PROPOSED SITE PLAN
- A2.0 EXISTING FLOOR PLANS
- A2.1 PROPOSED FLOOR PLANS
- A3.0 EXISTING ELEVATIONS
- A3.1 PROPOSED ELEVATIONS

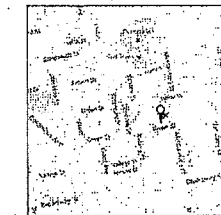
PROJECT INFO:

BLOCK/LOT: 114/16
 ZONING: RM-1
 HEIGHT: 40'-X
 TYPE OF CONSTRUCTION: TYPE V
 STORES: 4
 OCCUPANCY: R-3
 NOT HISTORIC DISTRICT OR RESOURCE
 BLDG. AREA: 1968 + ADD'L 1030 = 2998 SF.

PROPOSED SCOPE:

- GROUND & 2ND FLOOR REMODEL
- 3RD & 4TH FLOOR ADDITION
- SEISMIC UPGRADE
- SEEDING LEED GREEN BLDG. CERT.
- ACCESSIBLE BARRIER FREE HOME

LOCATION MAP



KANTER ARCHITECTS
 822 GREENWICH ST.
 S.F., CA 94133
 Bruno@KanterArchitects.com
 415.921.5456

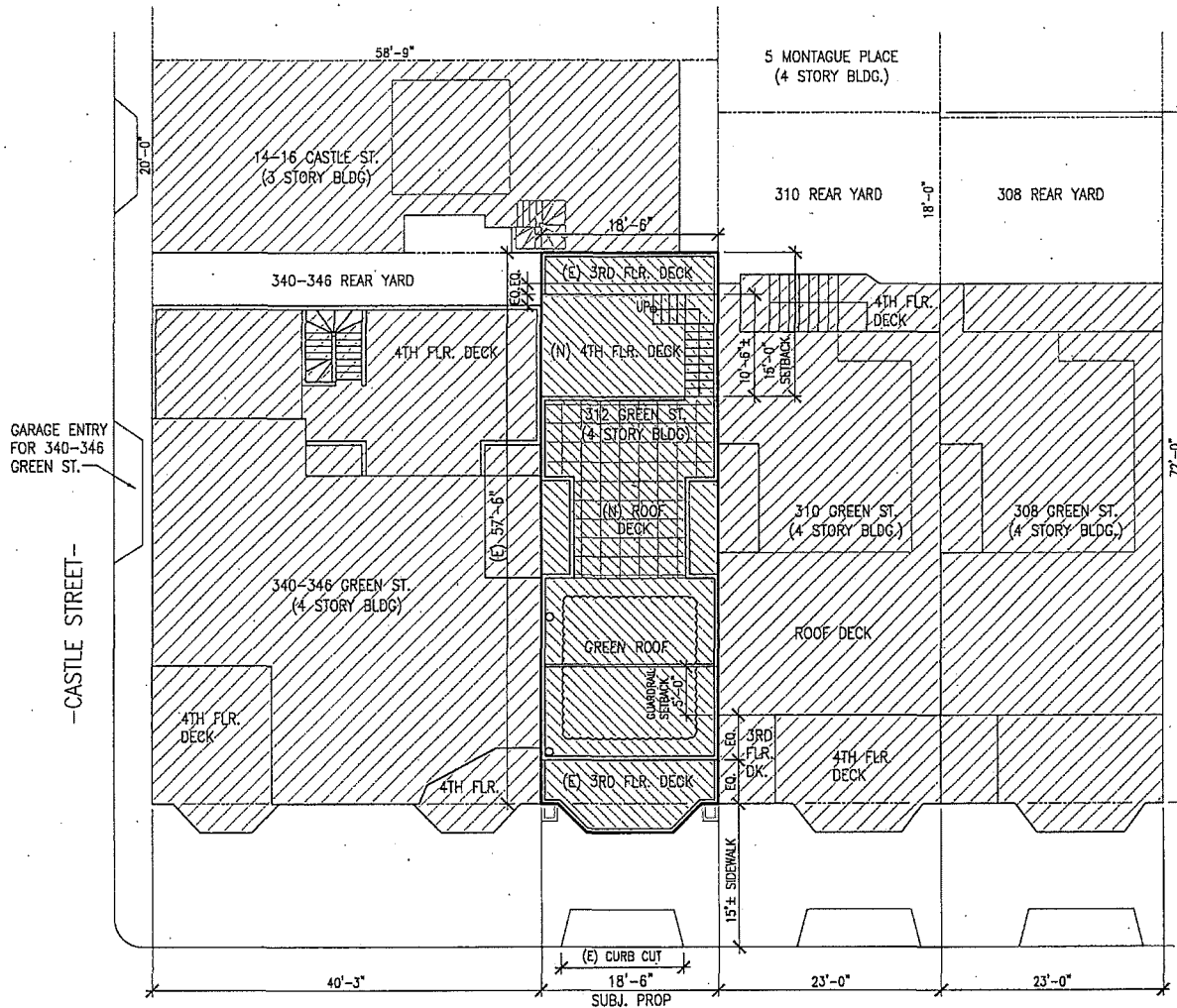
RESIDENTIAL REMODEL:
312 GREEN ST.
 SAN FRANCISCO, CA 94133

THE N.Y. 1201
 DRAWN 02/14
 DATE 0-8-14
 REVISIONS


SITE PERMIT SUBM.
 (311 NOTIFICATION)

SHEET TITLE:
 EXISTING SITE PLAN

SHEET NO.
A0.1



1 PROPOSED SITE PLAN



KANTNER
ARCHITECTS
822 GREENWICH ST.
S.F., CA 94133
Bruno@KantnerArchitects.com
415.321.5456



RESIDENTIAL REMODEL:
312 GREEN ST.
SAN FRANCISCO, CA 94133

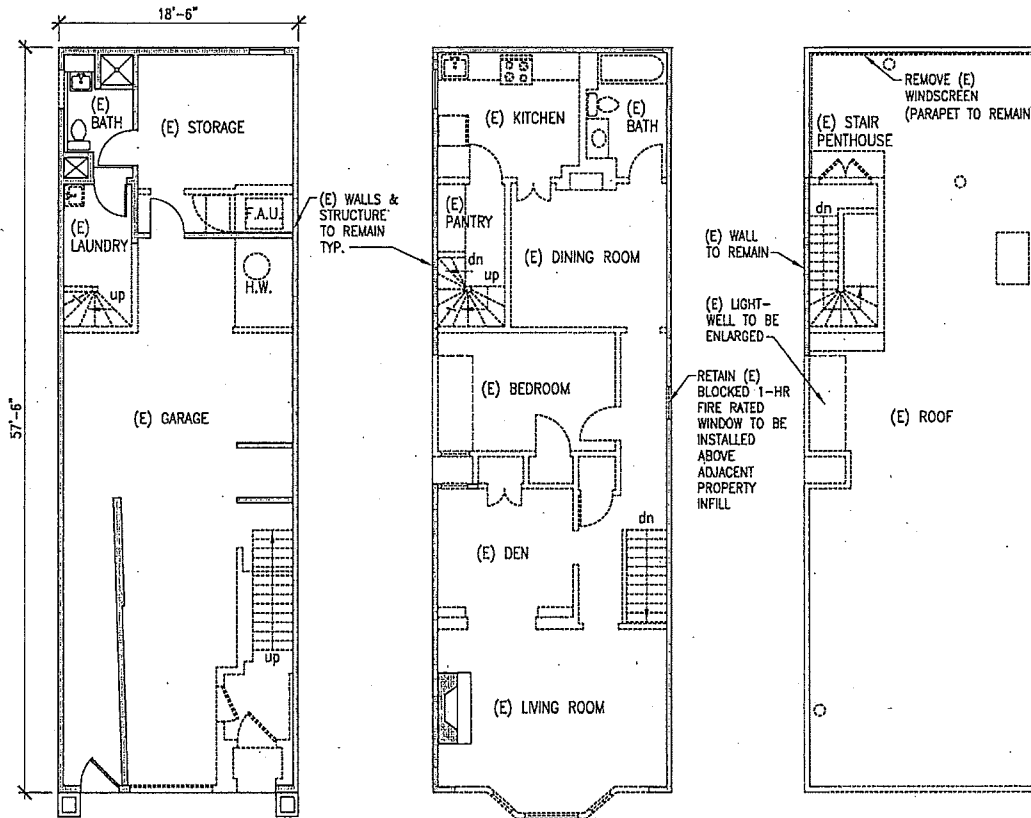
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CHECKED	BT
DATE	6-6-14
REVISIONS	


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(311 NOTIFICATION)

SHEET TITLE:
PROPOSED SITE PLAN

SHEET NO.
A1.0

GRAPHIC KEY:
 EXISTING WALL 
 ELEMENT REMOVED 





822 GREENWICH ST.
 S.F., CA 94133
 Bruno@kantersarchitects.com
 415.921.5455

RESIDENTIAL REMODEL:
312 GREEN ST.
 SAN FRANCISCO, CA 94133

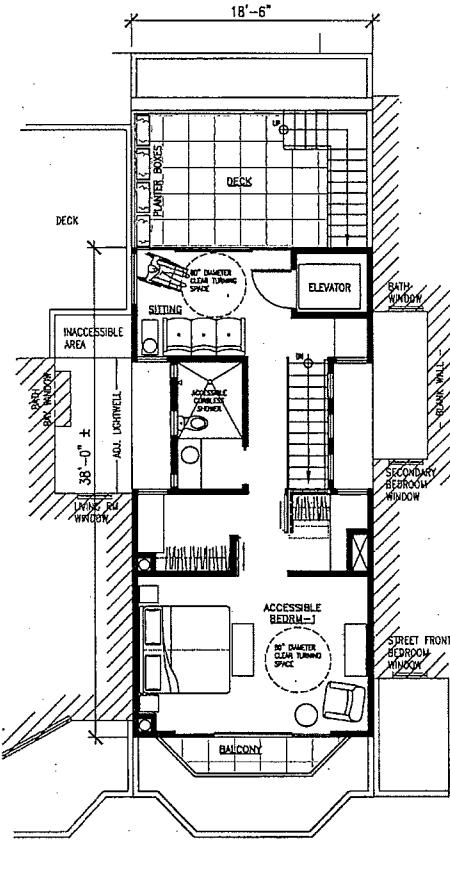
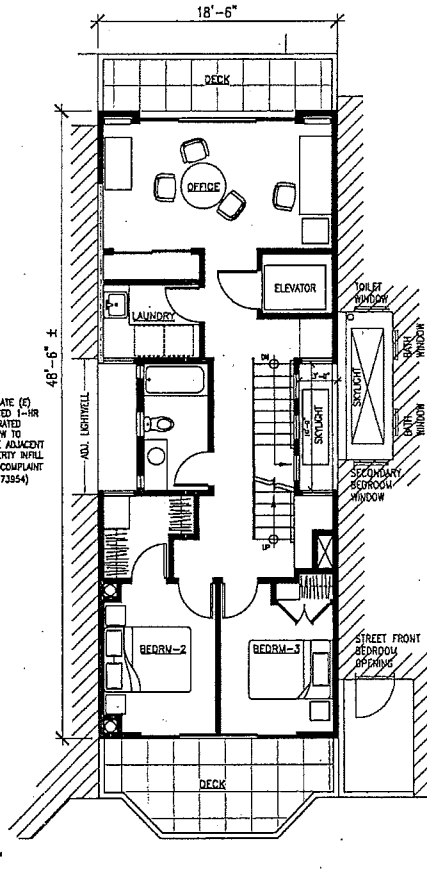
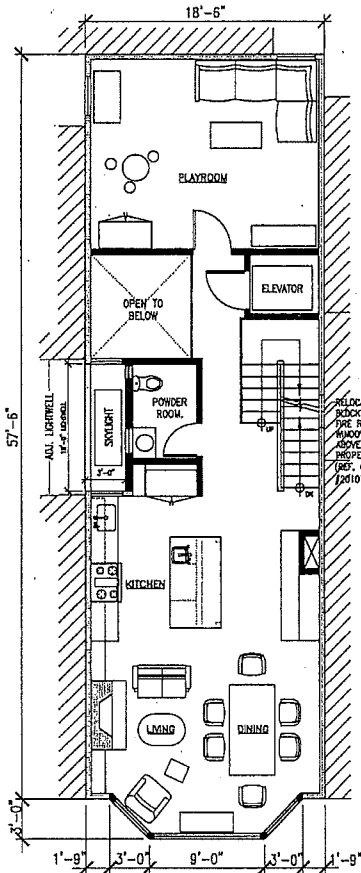
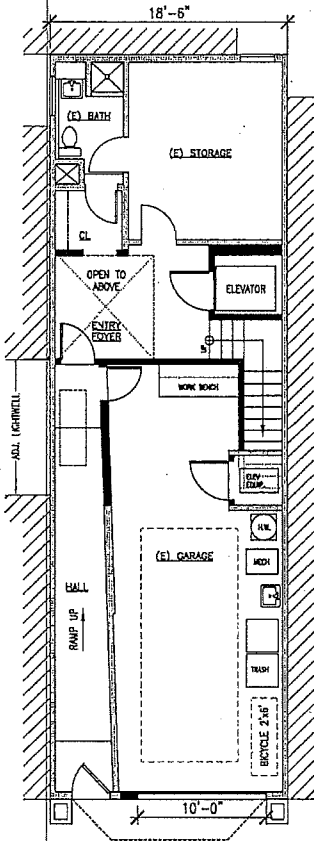
308 NO. DRAWN	3201
CHECKED	PC
DATE	6-9-24
REVISIONS	


SITE PERMIT SUBM.
 (311 NOTIFICATION)

SHEET TITLE:
 EXISTING FLOOR PLANS

SHEET NO.
A2.0

GRAPHIC KEY:
 EXISTING WALL
 NEW WALL





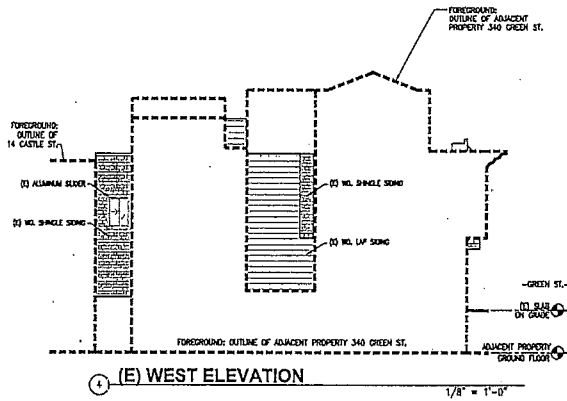
KANTLER
 ARCHITECTS
 822 GREENWICH ST.
 S.F., CA 94133
 Bruno@KantlerArchitects.com
 415.921.5456

RESIDENTIAL REMODEL:
312 GREEN ST.
 SAN FRANCISCO, CA 94133

JOB NO.	2203
DRAWN	C-6-14
CHECKED	DATE
DATE	REVISED

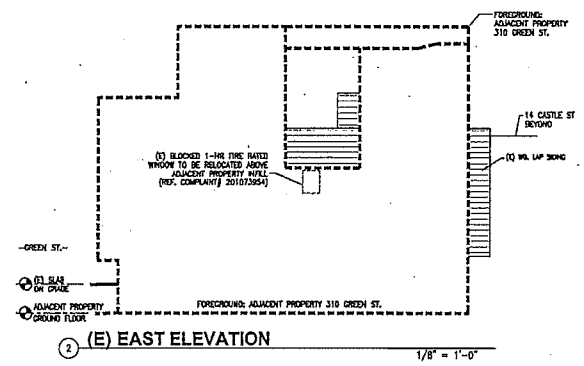
SITE PERMIT SUBM.
 (311 NOTIFICATION)
 SHEET TITLE:
 PROPOSED
 FLOOR PLANS

SHEET NO.
A2.1



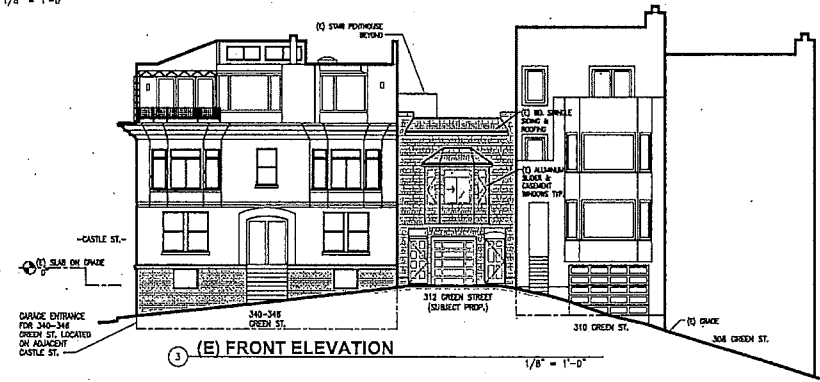
1 (E) WEST ELEVATION

1/8" = 1'-0"



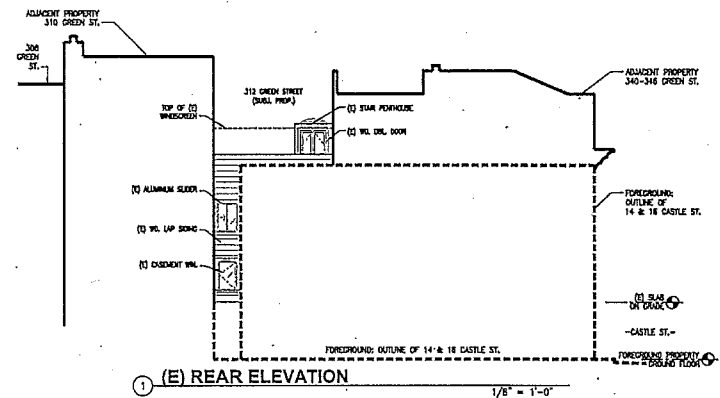
2 (E) EAST ELEVATION

1/8" = 1'-0"




3 (E) FRONT ELEVATION

1/8" = 1'-0"



4 (E) REAR ELEVATION

1/8" = 1'-0"



KANTER ARCHITECT
 822 GREENWICH ST.
 S.F., CA 94133
 Bruno@KanterArchitects.com
 415.921.5458

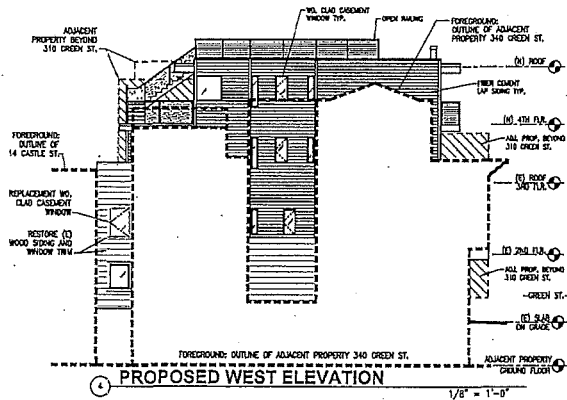
RESIDENTIAL REMODEL:
312 GREEN ST.
 SAN FRANCISCO, CA 94133

JOB NO.	1221
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CHECKED	ST.
DATE	6-6-24
ADDRESS	

SITE PERMIT SUBM.
 (311 NOTIFICATION)

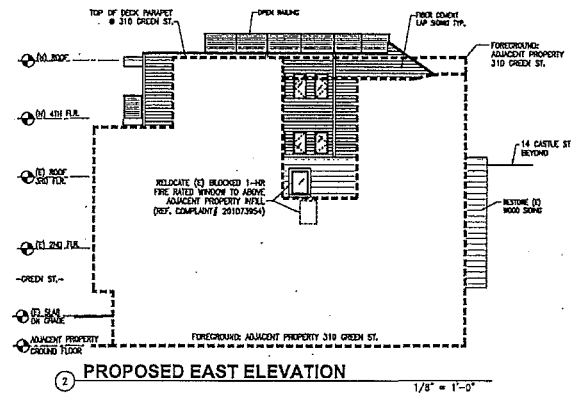
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 EXISTING ELEVATIONS

SHEET NO.
A3.0



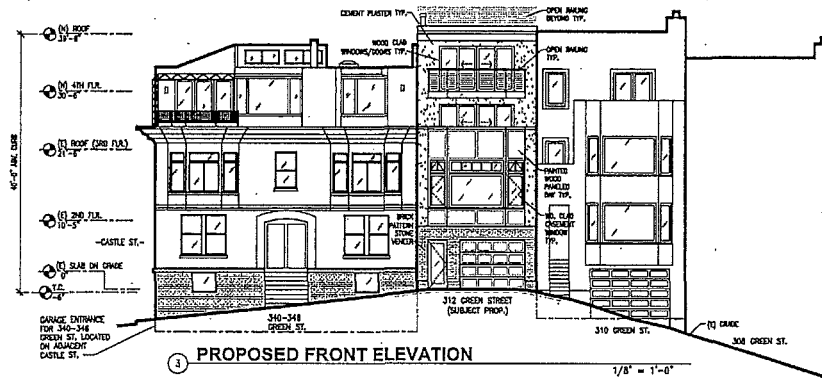
1 PROPOSED WEST ELEVATION

1/8" = 1'-0"



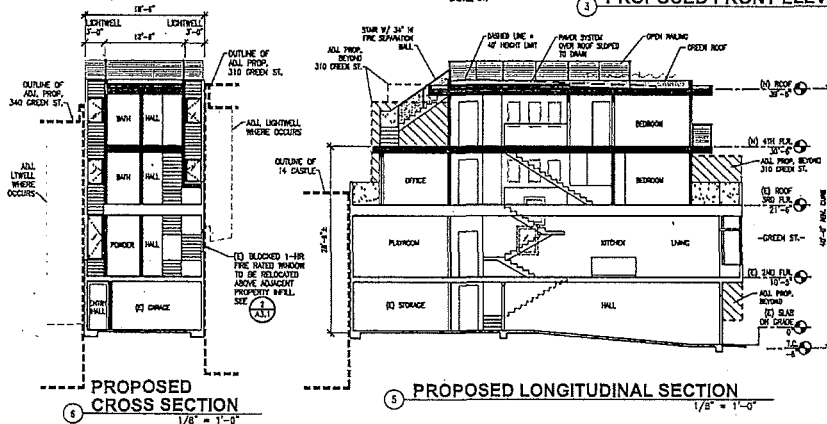
2 PROPOSED EAST ELEVATION

1/8" = 1'-0"



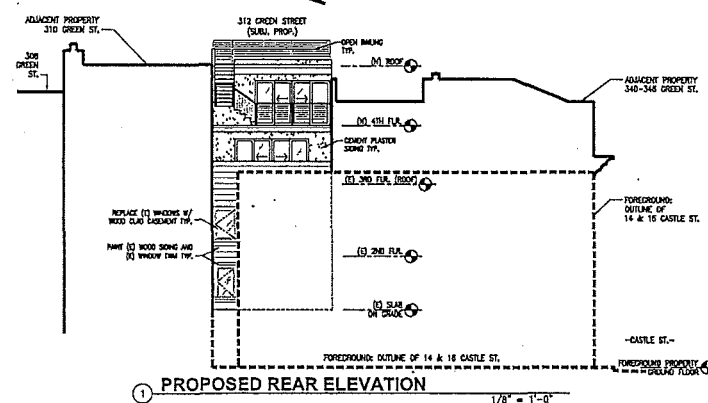
3 PROPOSED FRONT ELEVATION

1/8" = 1'-0"



5 PROPOSED LONGITUDINAL SECTION

1/8" = 1'-0"



1 PROPOSED REAR ELEVATION

1/8" = 1'-0"



RESIDENTIAL REMODEL:
312 GREEN ST.
 SAN FRANCISCO, CA 94133

SUB. NO. 1301
 DRAWN BY: [redacted]
 DATE: 6-6-14
 DESIGNED BY: [redacted]

SITE PERMIT SUBM.
 (311 NOTIFICATION)
 SHEET TITLE:
 PROPOSED ELEVATIONS
 & SECTIONS

SHEET NO.

A3.1



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Disclaimer for Review of Plans

The San Francisco Planning Code requires that the plans of certain proposed projects be provided to members of the public prior to the City's approval action on the project. Accordingly, any images of plans featured on this website are provided for the primary purpose of facilitating public input prior to the City's action. The City and County of San Francisco does not own the copyright to these images. Please be aware that the unauthorized reproduction, distribution, or alteration of these images may result in a violation of Federal Copyright Law (17 U.S.C. Sections 101 et seq.) and that any party who seeks to reproduce or alter these images does so at his or her own risk.

Additionally, plans provided on this website are limited to site plans, elevations and/or section details (floor plans and structural details may not be included). These are DRAFT PLANS being provided for public review PRIOR to the City's approval action on the project. Final plans may differ from those that are currently available for review.

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Memo

Exhibit C

1 ANDREW M. ZACKS (SBN 147794)
2 RYAN J. PATTERSON (SBN 277971)
3 ZACKS & FREEDMAN, P.C.
4 235 Montgomery Street, Suite 400
5 San Francisco, CA 94104
6 (415) 956-8100

7 Attorneys for Appellants
8 Jack Oswald and Anneke Seley

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11 **SAN FRANCISCO BOARD OF SUPERVISORS**

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Planning Case No. 2012.0635E

**DECLARATION OF PATRICK
BUSCOVICH IN SUPPORT OF CEQA
APPEAL**

I, Patrick Buscovich, declare as follows:

1. I am a licensed civil and structural engineer, practicing for 35 years in San Francisco, California. I make this declaration in support of the above-captioned appeal. Unless otherwise stated, I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently thereto.

2. This is an appeal of the Planning Department's determination that the proposed project at 312 Green Street (Case No. 2012.0635E) is categorically exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines § 15301(e). The project sponsor proposes to enlarge a modest, 1906 reconstruction-era house at the crest of Green Street on Telegraph Hill by adding two additional stories and a roof deck, making it a four-story structure and more than doubling its habitable square footage. The project required a variance because the new third floor and a fourth-floor exterior staircase will encroach into the required rear yard.

3. I have been retained to evaluate whether the proposed project may result in significant adverse environmental impacts. I have conducted a site visit to the project area and have reviewed plans submitted in connection with the proposed project. While

1 my evaluation is continuing, I have identified the following potential significant
2 environmental impacts:

3 4. The subject property is one of the last remaining structures, in terms of
4 size and shape, from the post-1906 to 1915 reconstruction period. While the fabric and
5 façade of this building have been altered, it is one of the few remaining structures from
6 this period in the area that maintains its original size and shape. Since the subject
7 property is at the crest of a hill, the project's additional height and bulk will disrupt the
8 existing massing patterns on the block. At a minimum, the addition should be set further
9 back from the front to differentiate the new vertical addition from the original structure
10 (contextual massing).

11 5. The proposed structure will create a wall, blocking wind flow and
12 substantially impacting air circulation.

13 6. The proposed structure will cast a shadow in the mid- to late afternoon on
14 Appellant's decks, solar panels, and rear yard. It will also reduce the amount of natural
15 light entering Appellant's dining room, bedroom, and bathroom.

16 7. The proposed roof deck will tower over Appellant's deck and a sufficient
17 setback between the two decks has not been provided, impacting privacy.

18 8. The effect of the structure will be to limit views of the city to the west
19 from Appellant's property and will obstruct views from surrounding properties as well.

20 9. The project likely constitutes a de facto demolition of the existing
21 building, not a remodel or minor alteration. There will be almost nothing left of the
22 original structure if the project is built as proposed.

23 10. The project does not provide the minimum seismic separation between the
24 proposed additions and the adjacent structures. As a result, during an earthquake the new
25 third and fourth floors may pose a danger to the adjacent structures due to earthquake
26 pounding.

27 11. The proposed project will require foundation work that could undermine
28 and destabilize adjacent soil and foundations of the adjacent buildings. Excavation for the

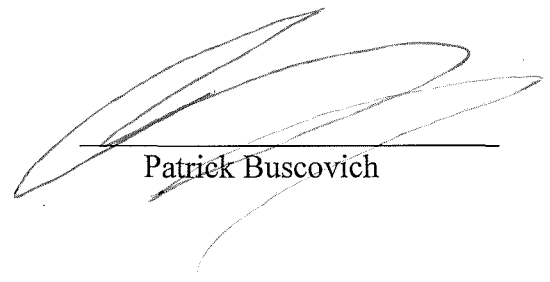
ZACKS & FREEDMAN, P.C.
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

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project likewise implicates significant runoff and drainage concerns given the project's location at the crest of a hill.

12. I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: November 21, 2014



Patrick Buscovich

ORIGINAL

Exhibit D



582 MARKET ST. SUITE 1800
SAN FRANCISCO, CA 94104

T: 415.391.9633
F: 415.391.9647

www.garavaglia.com

MEMORANDUM

Date: November 21, 2014

To: Interim President Katy Tang
c/o Angela Calvillo, Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102

From: Jacqui A. Hogans, Architectural Conservator

Project: 312 Green Street

Re: CEQA Appeal

Via: e-mail

Dear Ms. Tang,

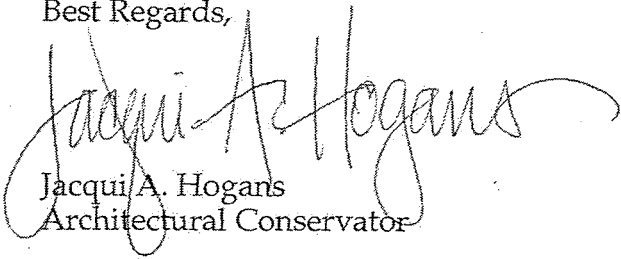
This memorandum is in regards to the CEQA appeal for the above-captioned property. Our concerns regarding the proposed project, and its impact on the surrounding area's historic character, is described below:

The existing massing of 312 Green Street is in line with the historic urban context of the Telegraph Hill area. Even though much of the building's historic and material integrity has been compromised, the massing--its two-story design fits in with the surrounding buildings--is appropriate for the area. While not within the Telegraph Hill Historic District, 312 Green Street is typical of the scale of the residences constructed in the area after the 1906 earthquake and fires. The area consisted primarily of small-scale residential buildings of various architectural styles. If the proposed alteration is to take place, which includes the addition of two floors, then the block's original character will be obliterated. It will tower over the building at 340-346 Green Street, further changing the small-scale character of the area.

Innovating Tradition

As always, please let us know if you have any questions or concerns.

Best Regards,



Jacquie A. Hogans
Architectural Conservator

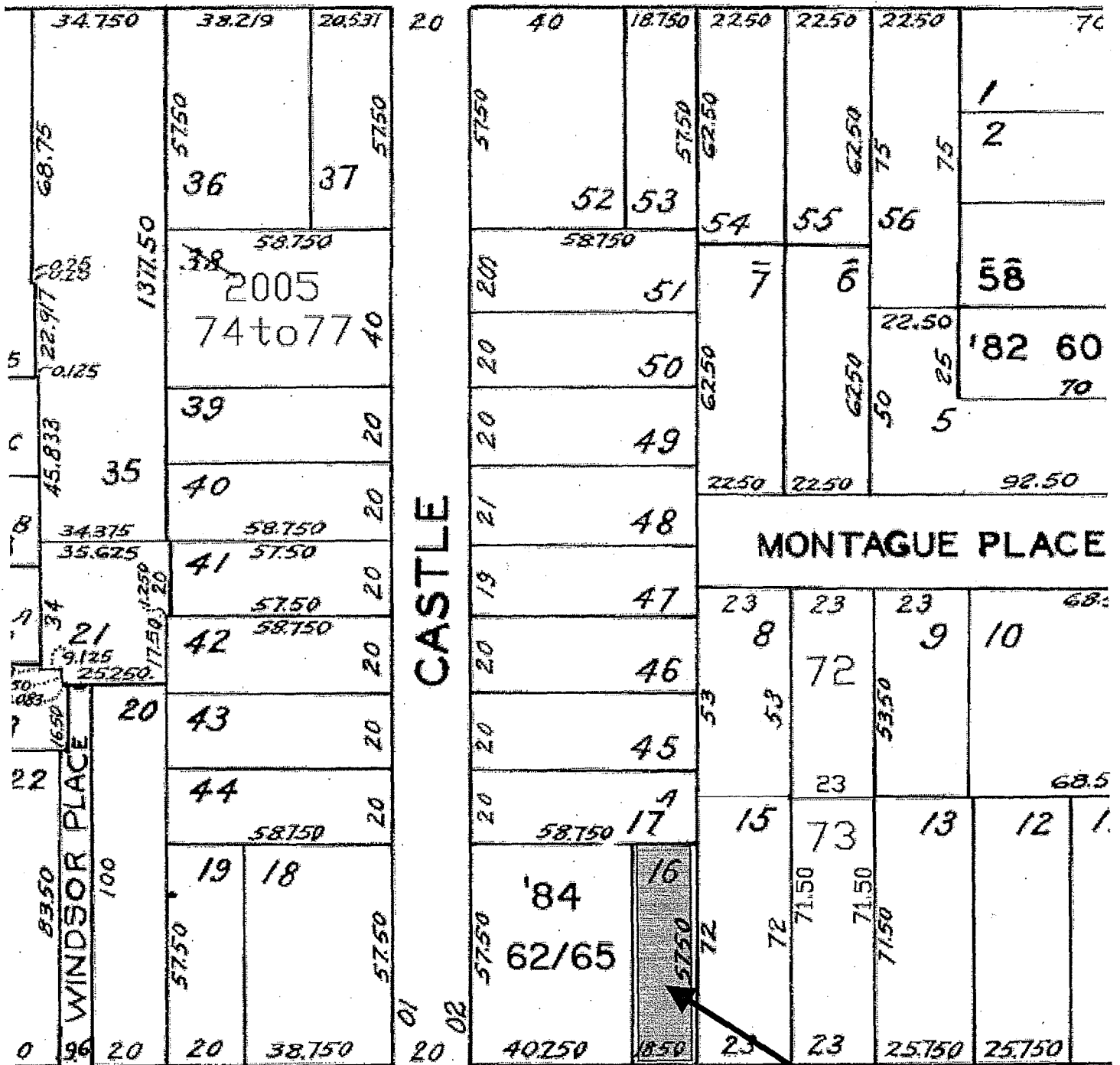
cc: Ryan Patterson, Zacks & Freedman, P.C.

encl:

file:

Exhibit E

Parcel Map



SUBJECT PROPERTY

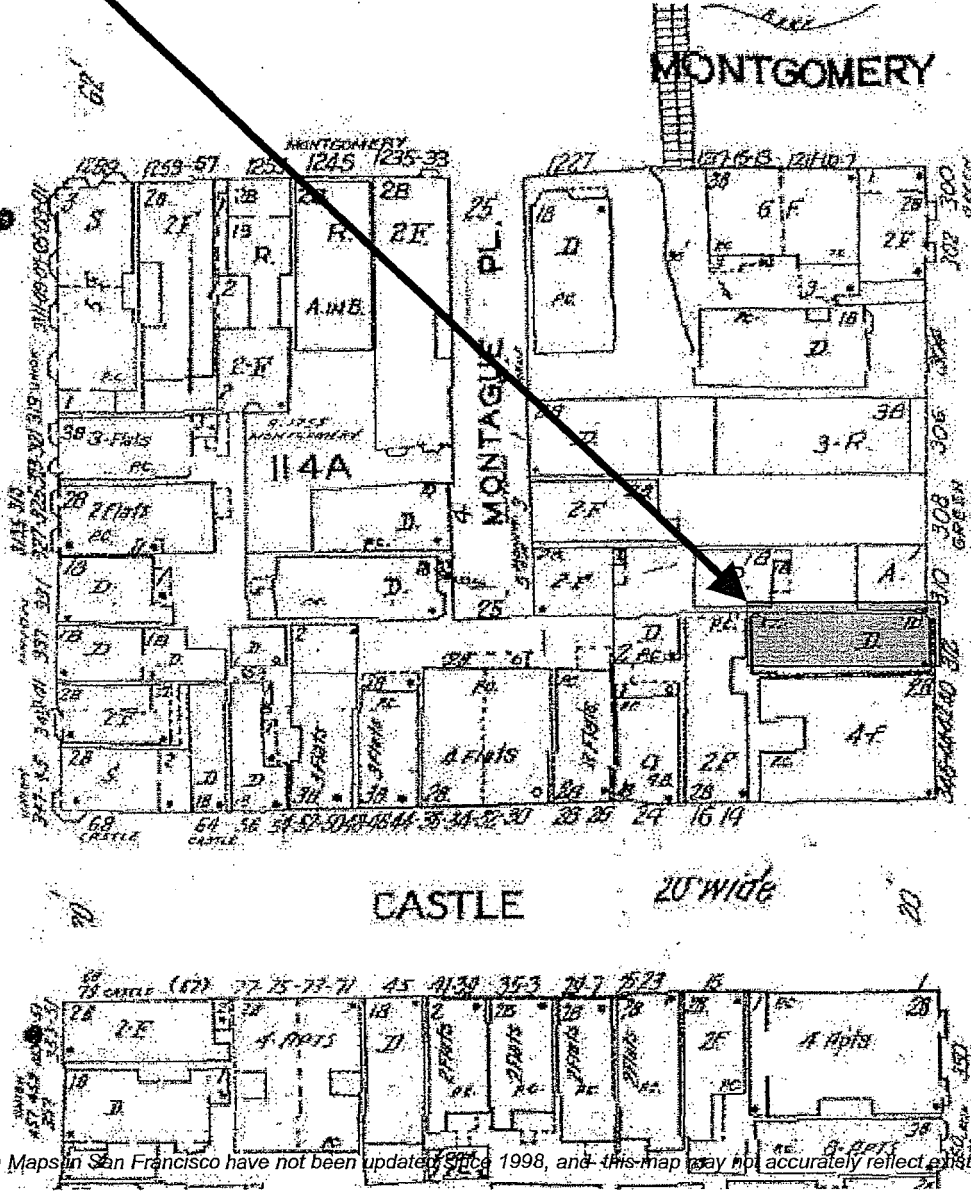
GREEN



Discretionary Review Hearing
 Case Number 2013.1652DV
 312 Green Street

Sanborn Map*

SUBJECT PROPERTY



*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.

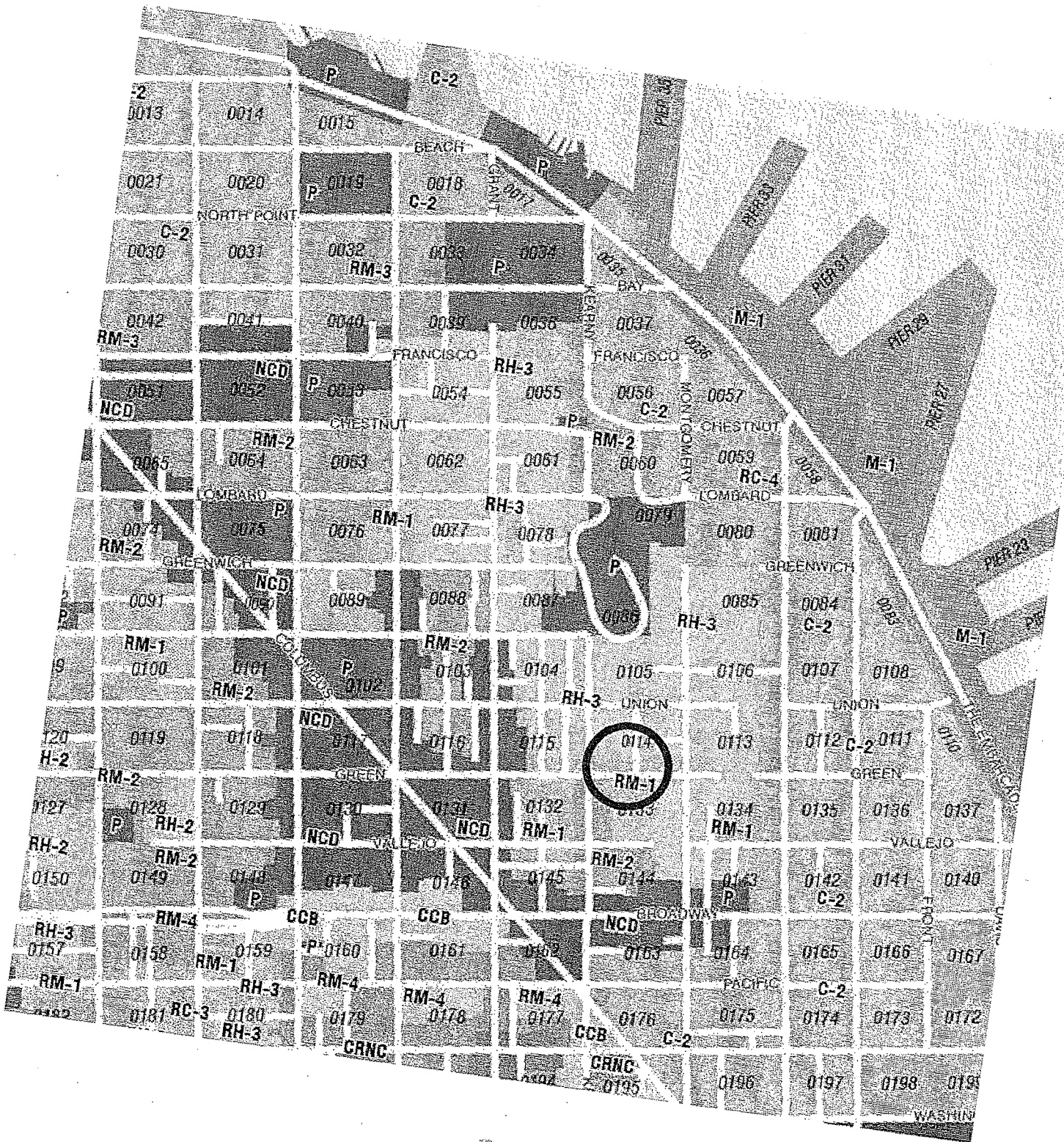


Discretionary Review Hearing
 Case Number 2013.1652DV
 312 Green Street

Aerial Photo



Zoning Map



SAN FRANCISCO
PLANNING DEPARTMENT



Discretionary Review Hearing
Case Number 2013.1652DV
312 Green Street

Site Photo





SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission Street Suite 400 San Francisco, CA 94103

NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311/312)

On November 13, 2013 the Applicant named below filed Building Permit Application No. 2013.11.13.1794 with the City and County of San Francisco.

PROPERTY INFORMATION		APPLICANT INFORMATION	
Project Address:	312 Green Street	Applicant:	Bruno and Suzanne Kanter
Cross Street(s):	Castle and Montgomery Streets	Address:	312 Green Street
Block/Lot No.:	0114/016	City, State:	San Francisco, CA 94133
Zoning District(s):	RM-1 / 40-X Telegraph Hill, North Beach Residential SUD	Telephone:	(415) 921-5456

You are receiving this notice as a property owner or resident within 150 feet of the proposed project. You are not required to take any action. For more information about the proposed project, or to express concerns about the project, please contact the Applicant listed above or the Planner named below as soon as possible. If you believe that there are exceptional or extraordinary circumstances associated with the project, you may request the Planning Commission to use its discretionary powers to review this application at a public hearing. Applications requesting a Discretionary Review hearing must be filed during the 30-day review period, prior to the close of business on the Expiration Date shown below, or the next business day if that date is on a week-end or a legal holiday. If no Requests for Discretionary Review are filed, this project will be approved by the Planning Department after the Expiration Date.

Members of the public are not required to provide personal identifying information when they communicate with the Commission or the Department. All written or oral communications, including submitted personal contact information, may be made available to the public for inspection and copying upon request and may appear on the Department's website or in other public documents.

PROJECT SCOPE		
<input type="checkbox"/> Demolition	<input type="checkbox"/> New Construction	<input checked="" type="checkbox"/> Alteration
<input type="checkbox"/> Change of Use	<input checked="" type="checkbox"/> Façade Alteration(s)	<input type="checkbox"/> Front Addition
<input checked="" type="checkbox"/> Rear Addition	<input type="checkbox"/> Side Addition	<input checked="" type="checkbox"/> Vertical Addition
PROJECT FEATURES	EXISTING	PROPOSED
Building Use	Residential	No Change
Front Setback	None	No Change
Side Setbacks	None	No Change
Building Depth	57'-6"	No Change
Rear Yard	0 feet	No Change
Building Height	21'-6"	40'-0"
Number of Stories	2	4
Number of Dwelling Units	1	No Change
Number of Parking Spaces	1	No Change
PROJECT DESCRIPTION		
<p>The proposal is to construct a third floor and fourth floor addition to a two-story single family residence. The third story addition encroaches 10'-6" into the 15'-0" required rear yard. Included in the proposal are exterior stairs from the third story to the fourth story which also encroach into the required rear yard. The subject dwelling is currently noncomplying and occupies the full lot. This proposal requires a variance application for construction within the required rear yard. Variance 2013.1652V will be noticed separately.</p> <p>The issuance of the building permit by the Department of Building Inspection or the Planning Commission project approval at a discretionary review hearing would constitute as the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.</p>		

For more information, please contact Planning Department staff:

Planner: Kate Conner

Telephone: (415) 575-6914

E-mail: kate.conner@sfgov.org

Notice Date:

Expiration Date:

中文詢問請電: (415) 575-9010

Para información en Español llamar al: (415) 575-9010

APPLICATION FOR Discretionary Review

1. Owner/Applicant Information

DR APPLICANT'S NAME:

Jack Oswald and Anneke Seley

DR APPLICANT'S ADDRESS:

310 Green Street

ZIP CODE:

94133

TELEPHONE:

(415) 272-6200

PROPERTY OWNER WHO IS DOING THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETIONARY REVIEW NAME:

Kantor Architects

ADDRESS:

822 Greenwich St.

ZIP CODE:

94133

TELEPHONE:

(415) 921-5456

CONTACT FOR DR APPLICATION:

Same as Above

ADDRESS:

ZIP CODE:

TELEPHONE:

()

E-MAIL ADDRESS:

2. Location and Classification

STREET ADDRESS OF PROJECT:

312 Green St.

ZIP CODE:

94133

CROSS STREETS:

Montgomery

ASSESSORS BLOCK/LOT:

114 / 016

LOT DIMENSIONS:

57.5 x 18.5

LOT AREA (SQ FT):

1064

ZONING DISTRICT:

RM 1

HEIGHT/BULK DISTRICT:

40 X

3. Project Description

Please check all that apply

Change of Use Change of Hours New Construction Alterations Demolition Other

Additions to Building: Rear Front Height Side Yard

Single-family dwelling

Present or Previous Use:

Not clear

Proposed Use:

2013. 11.. 13. 1794

Building Permit Application No.

Date Filed:

13.15520

4. Actions Prior to a Discretionary Review Request

Prior Action	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you participate in outside mediation on this case?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

5. Changes Made to the Project as a Result of Mediation

If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes there were made to the proposed project.

Few modifications were introduced with only slight impact on our property. The latest proposal added an insufficient light well not corresponding properly to ours; the rooftop stair and elevator penthouse has been modified

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1. What are the reasons for the requesting Discretionary Review? The project meets the minimum standards of the Planning Code. What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project? How does the project conflict with the City's General Plan or the Planning Codes Priority Policies or the Residential Design Guidelines? Please be specific and site specific sections of the Residential Design Guidelines.

A. We are adjacent neighbors to the East of 312 Green Street and we believe the proposed new dwelling plans on file as building permit application number 2013.11.13.1794 do not meet the **General Plan Priority Policy** (Planning Code Section 10 1. 1 (b)(8)) to conserve and to protect existing housing and neighborhood character. To implement this policy, and address the significant problems in design with projects such as this the Planning Commission adopted specific residential guidelines restricting such inappropriate speculative development in our community:

B. The **Residential Design Guidelines** (RDG) focus on six core **Design Principles** (RDG p. 5), the first of which is "Ensure that the building's scale is compatible with the surrounding buildings," the second of which is "ensure that the building respects the mid-block open space," the third of which is "maintain light to adjacent properties by providing adequate setbacks." The new building proposed for 312 Green Street does not meet these three criteria (half of the total goals) and therefore is subject to Discretionary Review by the San Francisco Planning Commission.

C. The proposed plans fail to follow the **Building Scale Principles** (RDG p.5 and 7). As the subject project is on the smallest lot on the subject block proposed building is entirely out of proportion. The mass of the proposed building is excessive for the neighborhood context and the subject parcel.

D. The **Residential Design Guidelines** (p.7) state that "though each building will have its own unique features, proposed projects must be responsive to the overall neighborhood context. A sudden change in the building pattern can be visually disruptive." The plans provided by the project sponsor as part of the 311 mailing clearly illustrate the conflicts between this proposal and the goals of the San Francisco Planning Department. The proposed building is dramatically out of scale for this site. The project sponsor seeks to put a very large house on a tiny lot and burdens the adjacent properties with significant negative impacts.

E. The East side lightwell proposed for this project is insufficient to meet the **RDG** (p 16 - 17) for preservation of critical natural light sources. The size and location of the light well proposed does not comply with the long-standing Planning Commission practice requiring *matching* light wells to preserve the quality of habitable spaces on adjacent properties.

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- F. ***The Residential Design Guidelines*** (p. 16) calls for the elimination of parapets through the use of fire rated roofing materials to reduce loss of natural light to adjacent properties.
- G. The privacy of surrounding homes will be significantly impacted and the project sponsor has failed to implement measures specified in ***RDG*** (p17)

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:

A. The neighborhood would be adversely affected by the change in character associated with the inappropriate scale of the proposed structure.

B. As the neighbors directly adjacent to the East of proposed building, we would be directly affected. Replacing the current structure with four stories without rear yard setback compliance will limit the incoming natural light for my home.

D. The affect of the new building on our privacy and the enjoyment of our home cannot be overstated. The projection into the rear yard will both dominate our garden and create a direct view corridor into our windows.

E. Although the Planning Code does not protect private views from impacts of code compliant development, this project requests variances from the code which will significantly affect views from our home. Granting of such a variance would be materially injurious to surrounding properties

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question 1?

- A. Limit the new structure to three floors of occupancy.
- B. Require a full and matching light well to be provided along the eastern property line.
- C. No variance from the rear yard setback requirements

13.165207

Jack Oswald and Anneke Seley
310 Green Street
San Francisco, CA 94133

February 6, 2014

Kate Conner
Planning Department
City of San Francisco
1650 Mission St Suite 400
San Francisco, CA 94103

I am writing to you today concerning 312 Green Street to learn about the status of the permit application and to express significant concerns about the proposed plans that we have seen. What has been presented to us is a proposal for a substantial re-model and expansion that we believe is not in keeping with the neighborhood context, would impact light, air and privacy for several neighbors, and does not respect the historical nature of the original building. My wife and I have communicated with our neighbor on several occasions in an effort to better understand their intent and share our concerns. Though our concerns - as well as those of other neighbors - have been expressed, it appears that the proposed project does not take them into account. It is our opinion that the owners of 312 Green Street have consistently pushed to maximize their addition with little regard or acknowledgment of the valid and reasonable concerns communicated to them regarding neighborhood scale, light, air, and privacy. Below is a list of concerns that may not be complete. Every one of these concerns has been expressed on more than one occasion to the owners of 312 Green St and each one has been ignored, or not responded to in any way.

Specifically, we are concerned by the following things based on what we know so far:

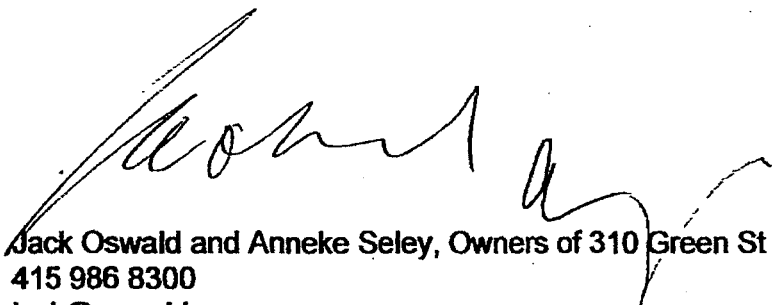
- 1. Height and Massing and Historical Significance.** The overall height and massing is not fitting with the neighborhood and existing streetscape. Given that the structure was built in 1907, it is a potential historic resource and should be treated as such. In addition, we would have expected that a significant setback (approximately 15 feet) from the street would be necessary for any new floors to be added as clearly stated in the Planning code and indicated in the Residential Design Guidelines. Also, we would expect the design, size and massing of any new additions would be minimally visible to someone on the sidewalk across the street to the South, per common Planning Department practices. None of these have been taken into account in the proposed design.
- 2. No Rear Setback.** There are no rear setbacks for the lot. As it is, the building fills the entire lot and the proposed new structure would fill the same envelope. In so doing, the proposed new floors would block significant light and

13.1520

air to our back yard, which we use regularly, as well as other neighbors to the East and also the neighbor to the West.

3. **Privacy.** The new overall proposed height with a large roof deck would remove all privacy that we have for the following areas:
 - a. Roof Deck, which we use regularly (The proposed new roof deck would tower over ours and there would remain no privacy)
 - b. Master Bathroom and Master Bedroom
 - c. Guest Bath and Guest Bedroom (Whether from the proposed roof deck or any of the windows on the new proposed floors, it would be possible to peer directly into our bedrooms and bathrooms)
4. **Light and Air Intrusion / Lightwell setback.** The proposal has the new upper structure built to the property line on both the East and West sides. Doing so would block all light and air to our lightwell which is critical to the beneficial use and enjoyment of every floor in the home, especially the lower floors. This would be an equally important issue for the neighbor to the West of 312 Green St as well. We would expect no less than a 5ft setback from the existing lightwells on either side, yet none was proposed. It is our understanding from the Residential Design Guidelines that light wells should mirror each other.
5. **Solar panel blockage.** At the proposed new height, the solar panels that we had installed on the northern portion of our roof would be blocked a significant amount of the time and especially in the afternoon when they would be most beneficial to us as well as the community at large.

As noted above, we would have hoped that the owners of 312 Green St would discuss and legitimately attempt to address these concerns prior to submitting their permit application. We hope that you will encourage them to do so and we hope that we can all come to a mutually acceptable compromise.



Jack Oswald and Anneke Seley, Owners of 310 Green St
415 986 8300
jack@oswald.com

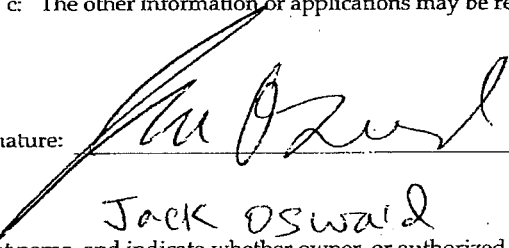
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Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

Signature: _____



Date: _____

7-18-14

Jack Oswald

Print name, and indicate whether owner, or authorized agent:

Owner / Authorized Agent (circle one)

Exhibit F

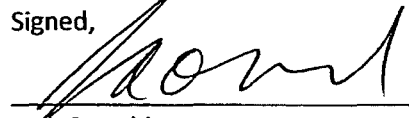
Jack Oswald and Anneke Seley
310 Green St
San Francisco, CA 94133
415 986 8300

November 20, 2014

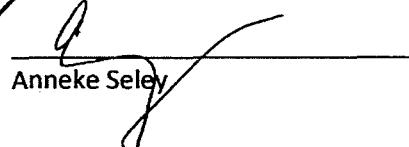
To Whom It May Concern:

We hereby authorize Zacks & Freedman, P.C., including but not limited to Ryan J. Patterson, Esq., to file an appeal on our behalf of the CEQA Categorical Exemption Determination in Case No. 2012.0635E / 312 Green Street.

Signed,



Jack Oswald



Anneke Seley

ZACKS & FREDMAN, P.C.
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

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PROOF OF SERVICE
Planning Case No.: 2012.11.13.1794

I, Michael Profant, declare that:

I am employed in the County of San Francisco, State of California. I am over the age of 18, and am not a party to this action. My business address is 235 Montgomery Street, Suite 400, San Francisco, California 94104.

On November 24, 2014, I served:

LTR APPEAL OF CEQA CATEGORICAL EXEMPTION DETERMINATION
Planning Case No. 2012.0635E
Building Permit Application No. 2013.11.13.1794
312 Green Street, San Francisco, CA 94133

in said cause addressed as follows:

Interim President Katy Tang
c/o Angela Calvillo, Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102

/XX/ (BY PERSONAL SERVICE) By placing a true copy thereof enclosed in a sealed envelope. I caused each such envelope to be delivered by hand to the addressee(s) noted above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 24, 2014 at San Francisco, California.

Michael Profant

ZACKS & FREEDMAN
A PROFESSIONAL CORPORATION
TRUST ACCOUNT
235 MONTGOMERY STREET, 4TH FLOOR
SAN FRANCISCO, CA 94104



FIRST REPUBLIC BANK

PRIVATE BANKING SAN FRANCISCO
SAN FRANCISCO, CA 94111

1990

11-8166/3210

11/20/2014

Y TO THE ORDER OF San Francisco Planning Department

\$ **547.00

Five Hundred Forty-Seven and 00/100*****

DOLLARS

San Francisco Planning Department

EMO Appeal

ST. REGUIMO SECUR
SAFEGUARD SECUR
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