

File No. 141244

Committee Item No. _____
Board Item No. 18

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee _____

Date _____

Board of Supervisors Meeting

Date January 13, 2015

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget Analyst Report
- Legislative Analyst Report
- Introduction Form (for hearings)
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

- Appeal Letter - 11/24/2014
- Project Sponsor Letter - 01/08/2015
- Planning Department Memo 01/13/2015
- Appellant Supplemental Documents - 12/05/2014
- Communications
- Clerical Documents - Hearing Notice

Completed by: Joy Lamug
Completed by: _____

Date January 9, 2015
Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

ZACKS & FREEDMAN

A PROFESSIONAL CORPORATION

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2014 NOV 24 PM 2:45

235 Montgomery Street, Suite 400
San Francisco, California 94104
Telephone (415) 956-8100
Facsimile (415) 288-9755
www.zulpc.com

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.



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

BLOCK/LOT(S)

312 Green St.

1114 / 016

CASE NO.

PERMIT NO.

PLANS DATED

2012.0635E

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

SKC

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 consistent with existing historic character.
- _____ 4. **Facade/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: _____

not* 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

[Signature]

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.

Planner's Signature

Tina Tam

Print Name

Date

1/15/2013

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
---	---

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		Historic District/Context		
Property is individually eligible for inclusion in a California Register under one or more of the following Criteria:		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 1 - Event:	<input type="radio"/> Yes <input checked="" type="radio"/> No	
Criterion 2 - Persons:	<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 3 - Architecture:	<input type="radio"/> Yes <input checked="" type="radio"/> No	
Criterion 4 - Info. Potential:	<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"/>	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	

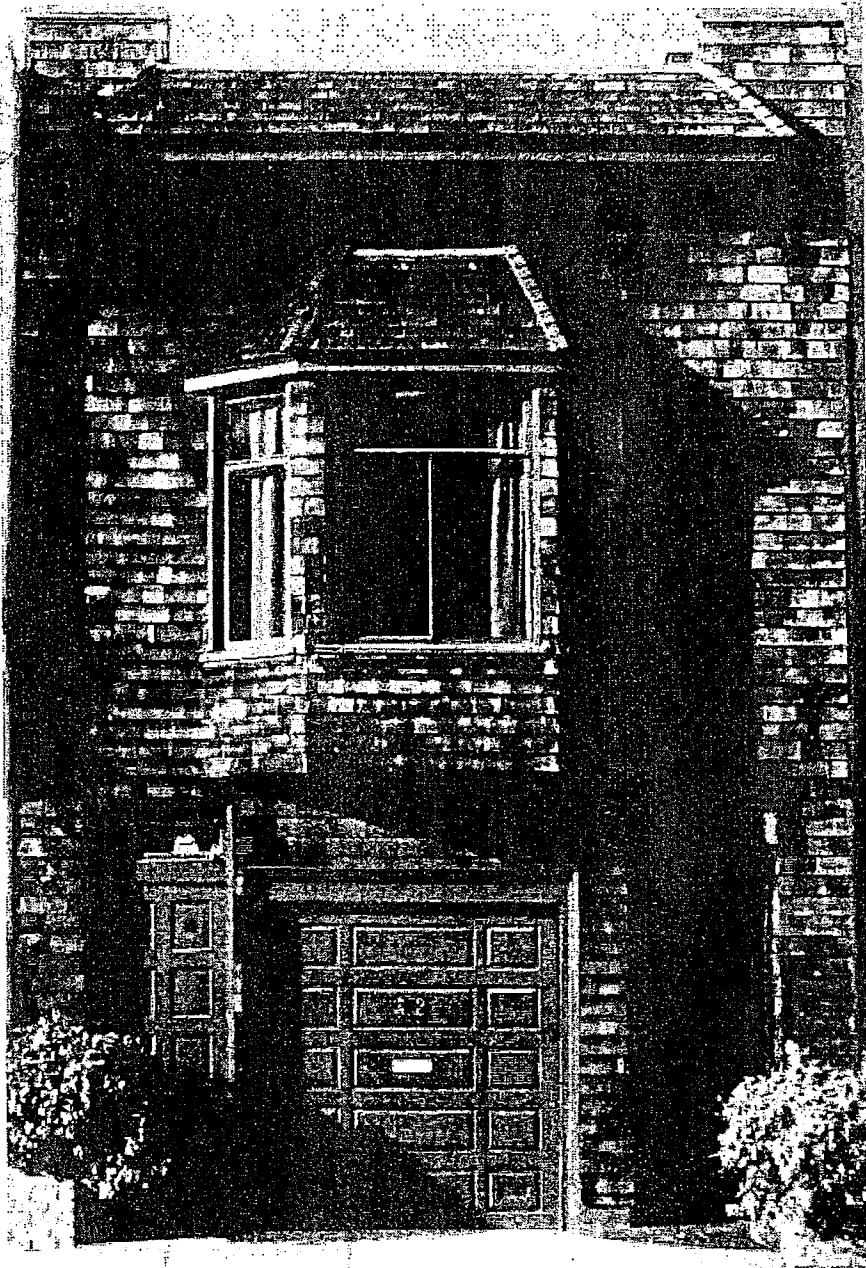
* If No is selected for Historic Resource per CEQA, a signature from Senior Preservation Planner or Preservation Coordinator is required.

PRESERVATION TEAM COMMENTS:

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.

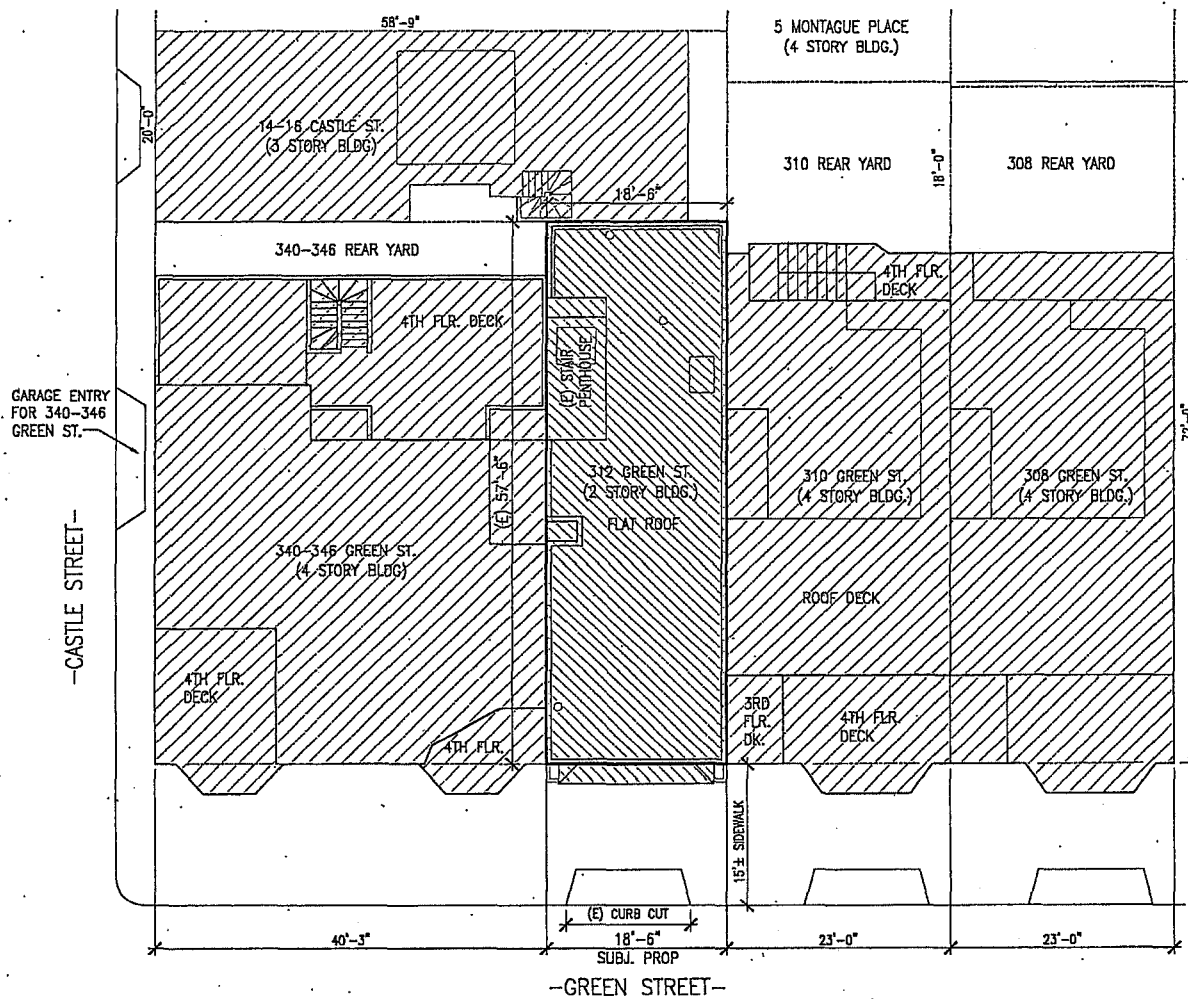
Signature of a Senior Preservation Planner/ Preservation Coordinator	Date
<i>YMAZ</i>	1-15-2013

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

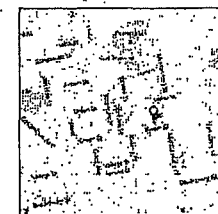
PROJECT INFO:

BLKCK/LDT: 114/18
 ZONING: RM-1
 HEIGHT: 40'-X
 TYPE OF CONSTRUCTION: TYPE V
 STORIES: 4
 OCCUPANCY: R-3
 NOT HISTORIC DISTRICT OR RESOURCE
 BLDG. AREA: 1958 + ADD'L 1030 = 2988 S.F.

PROPOSED SCOPE:

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

LOCATION MAP



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

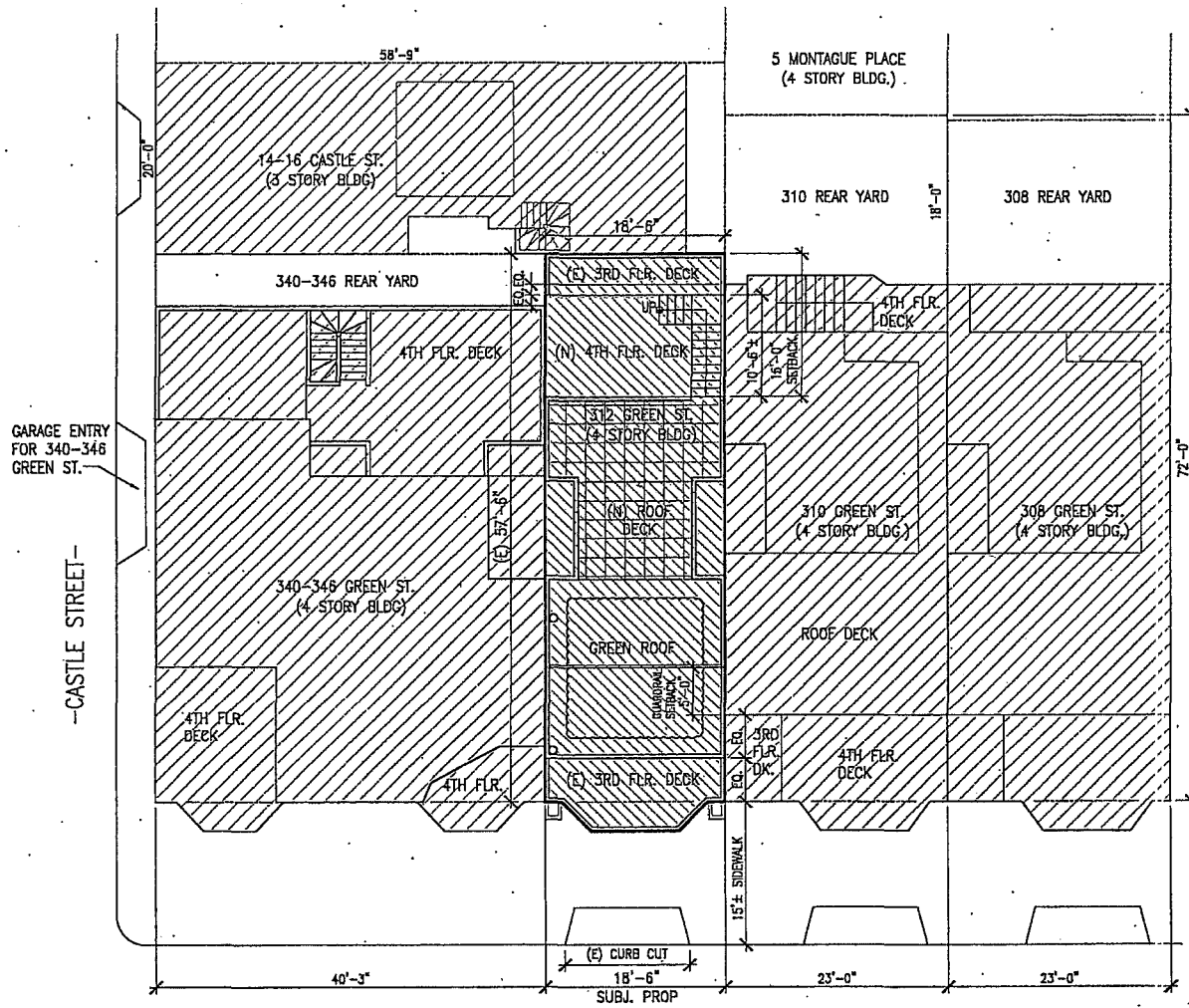
1649

JOB NO. 1101
 YEAR 2008
 DATE 11/11/08
 DRAWN BY [signature]

SITE PERMIT SUBM. (311 NOTIFICATION)

SHEET TITLE:
 EXISTING SITE PLAN

SHEET NO.
A0.1



① PROPOSED SITE PLAN



KANTIER
 822 GREENWICH ST.
 S.F., CA 94133
 Ryan@KantierArchitecture.com
 415.921.5458

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

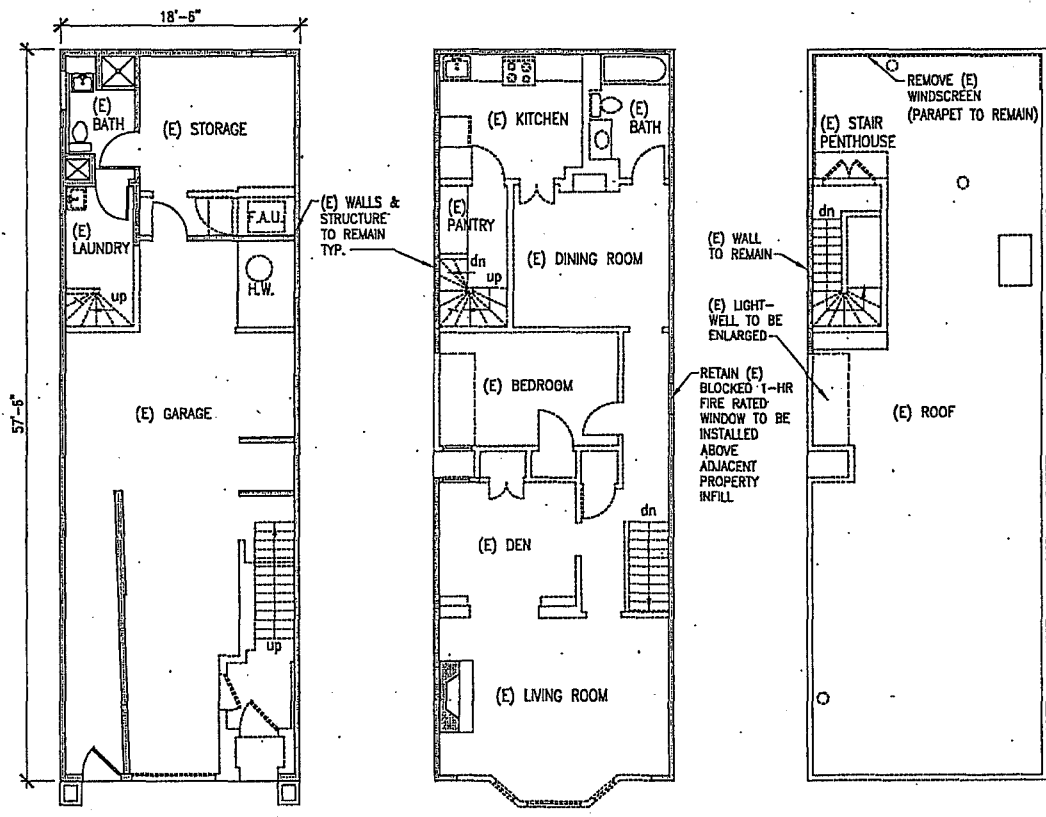
1650


204 No.	1301
DATE	8-2-11
BY	
REVISION	

SITE PERMIT SUBM.
 (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@kanterarch.com
 415.921.5456

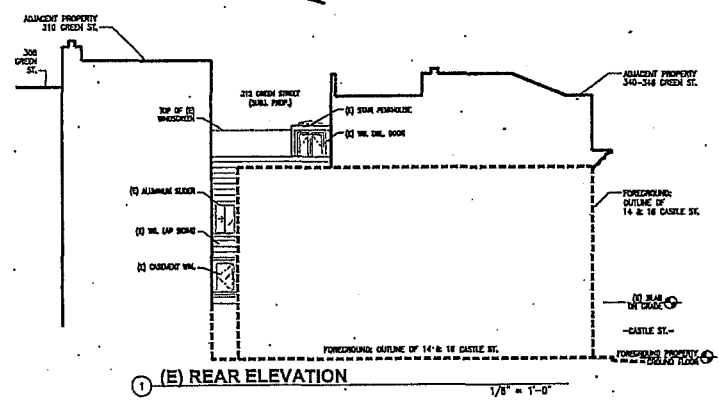
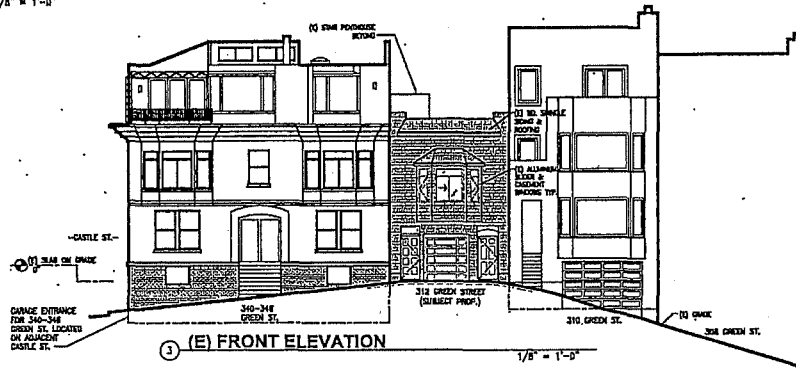
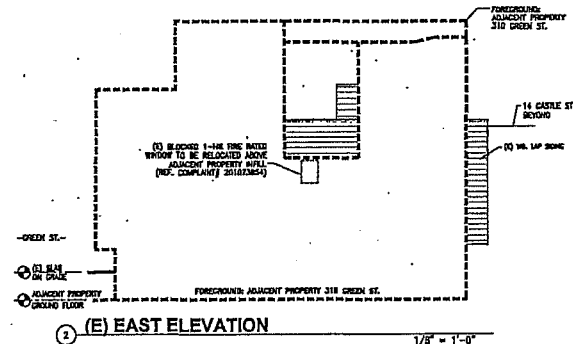
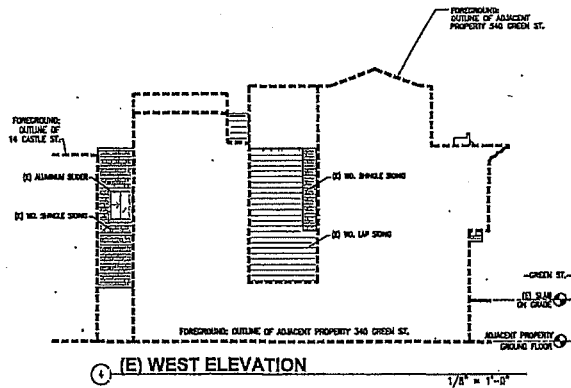
RESIDENTIAL REMODEL:
312 GREEN ST.
 SAN FRANCISCO, CA 94133

DATE	3/24/11
BY	P-E
CHECKED	P-E
APPROVED	P-E

SITE PERMIT SUBM.
(311 NOTIFICATION)

SHEET TITLE
EXISTING FLOOR PLANS

SHEET NO.
A2.0



KAMLER & ASSOCIATES
822 GREENWICH ST.
S.F., CA 94133
Bruce@kamlerandassociates.com
415.921.5458

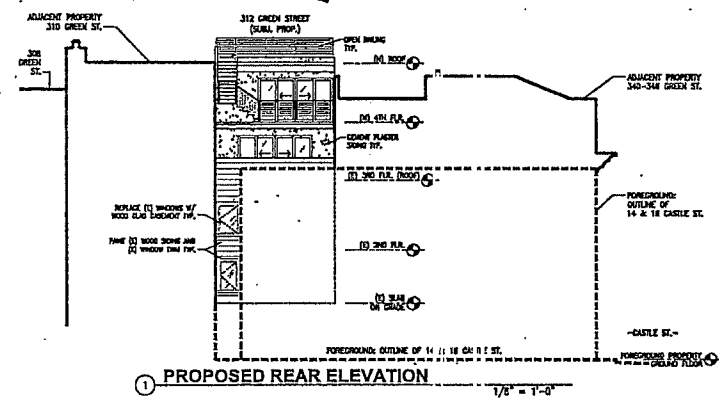
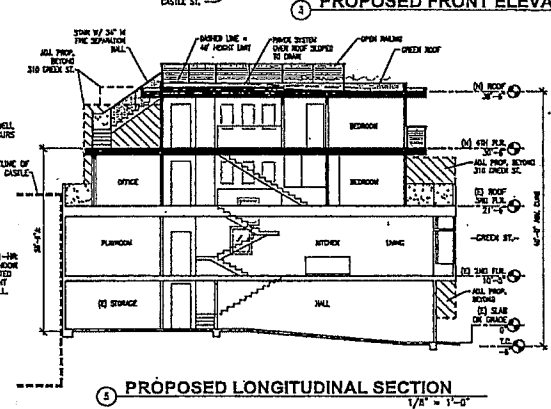
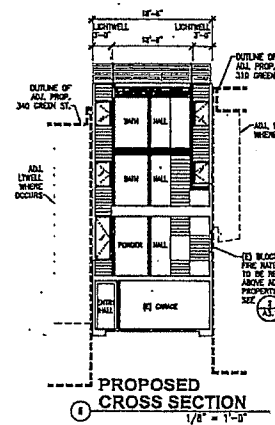
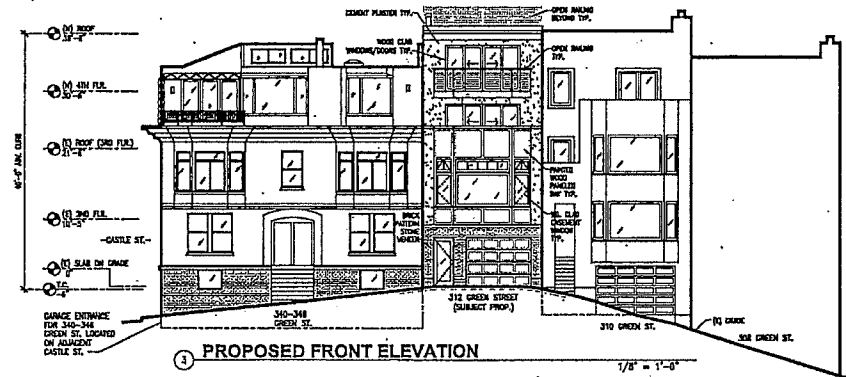
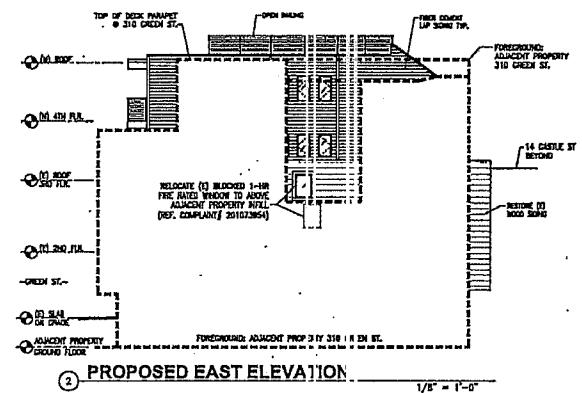
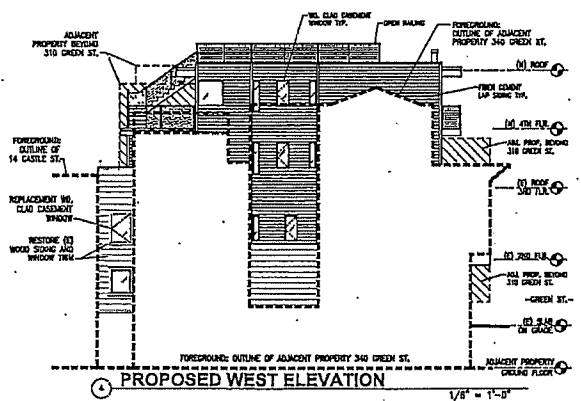
RESIDENTIAL REMODEL:
312 GREEN ST.
SAN FRANCISCO, CA 94133


JOB NO. 1311
SHEET NUMBER 1 OF 1
DATE 11/11

SITE PERMIT SUBM.
(311 NOTIFICATION)

SHEET TITLE:
EXISTING ELEVATIONS

SHEET NO.
A3.0





KANTNER ARCHITECTS
822 GREENWICH ST.
S.F., CA 94133
Brow@KantnerArchitects.com
415.821.5458

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

308 W. GREEN ST. 1281
CHECKED DATE 6-7-17

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

SHEET NO.
A3.1

1654



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.A. 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

9
10 **SAN FRANCISCO BOARD OF SUPERVISORS**

11 Planning Case No. 2012.0635E

12 **DECLARATION OF PATRICK
13 BUSCOVICH IN SUPPORT OF CEQA
14 APPEAL**

15 I, Patrick Buscovich, declare as follows:

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

20 2. This is an appeal of the Planning Department's determination that the
21 proposed project at 312 Green Street (Case No. 2012.0635E) is categorically exempt
22 from the California Environmental Quality Act (CEQA) under CEQA Guidelines §
23 15301(e). The project sponsor proposes to enlarge a modest, 1906 reconstruction-era
24 house at the crest of Green Street on Telegraph Hill by adding two additional stories and
25 a roof deck, making it a four-story structure and more than doubling its habitable square
26 footage. The project required a variance because the new third floor and a fourth-floor
27 exterior staircase will encroach into the required rear yard.

28 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

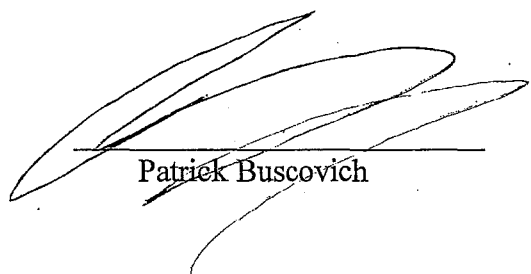
ZACKS & FRE. MAN, P.C.
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

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

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

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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

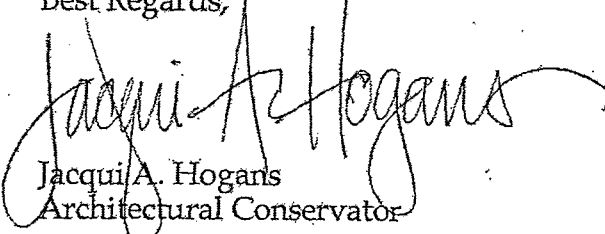
Dear Ms. Tang,

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.

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.

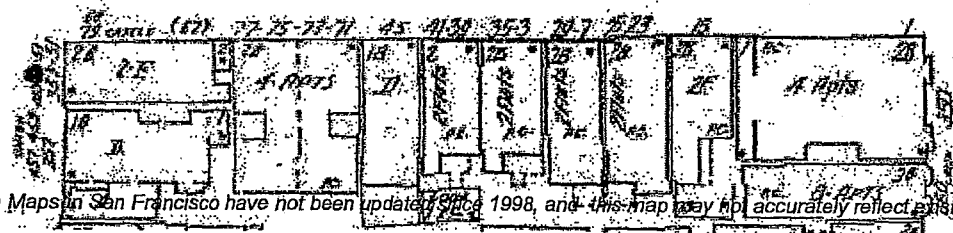
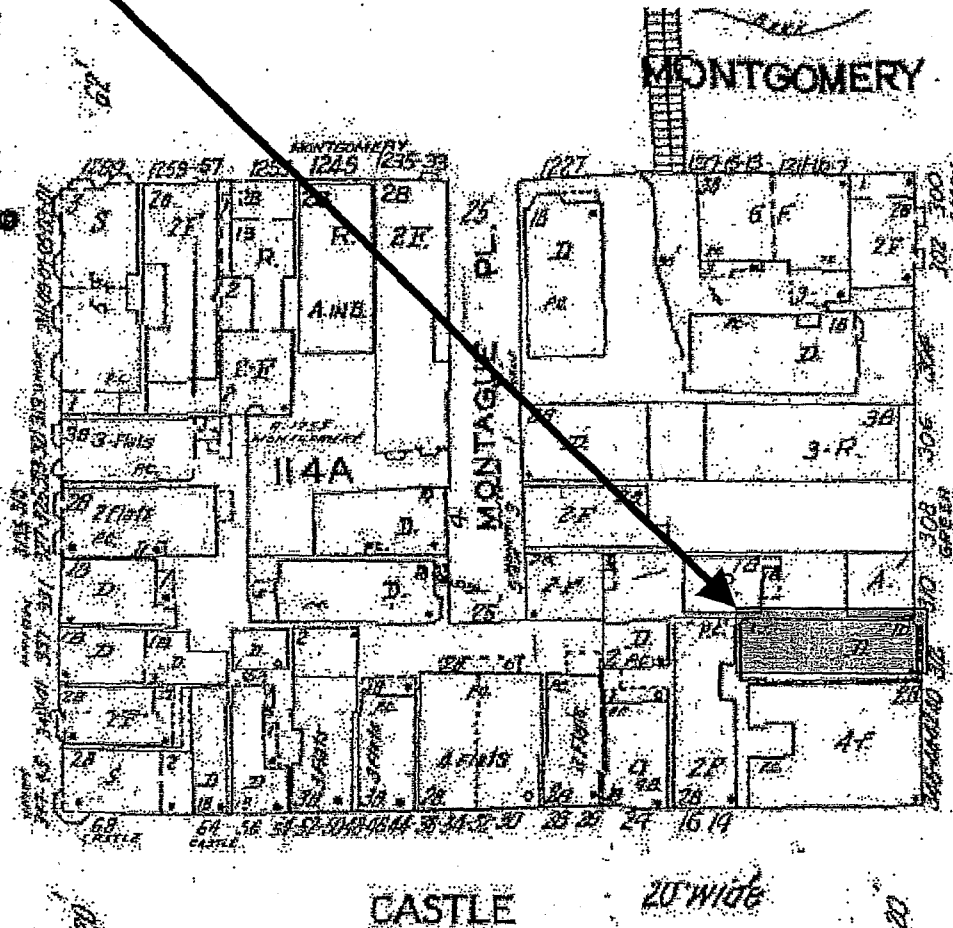
encl:

file:

EXHIBIT E

Sanborn Map*

SUBJECT PROPERTY



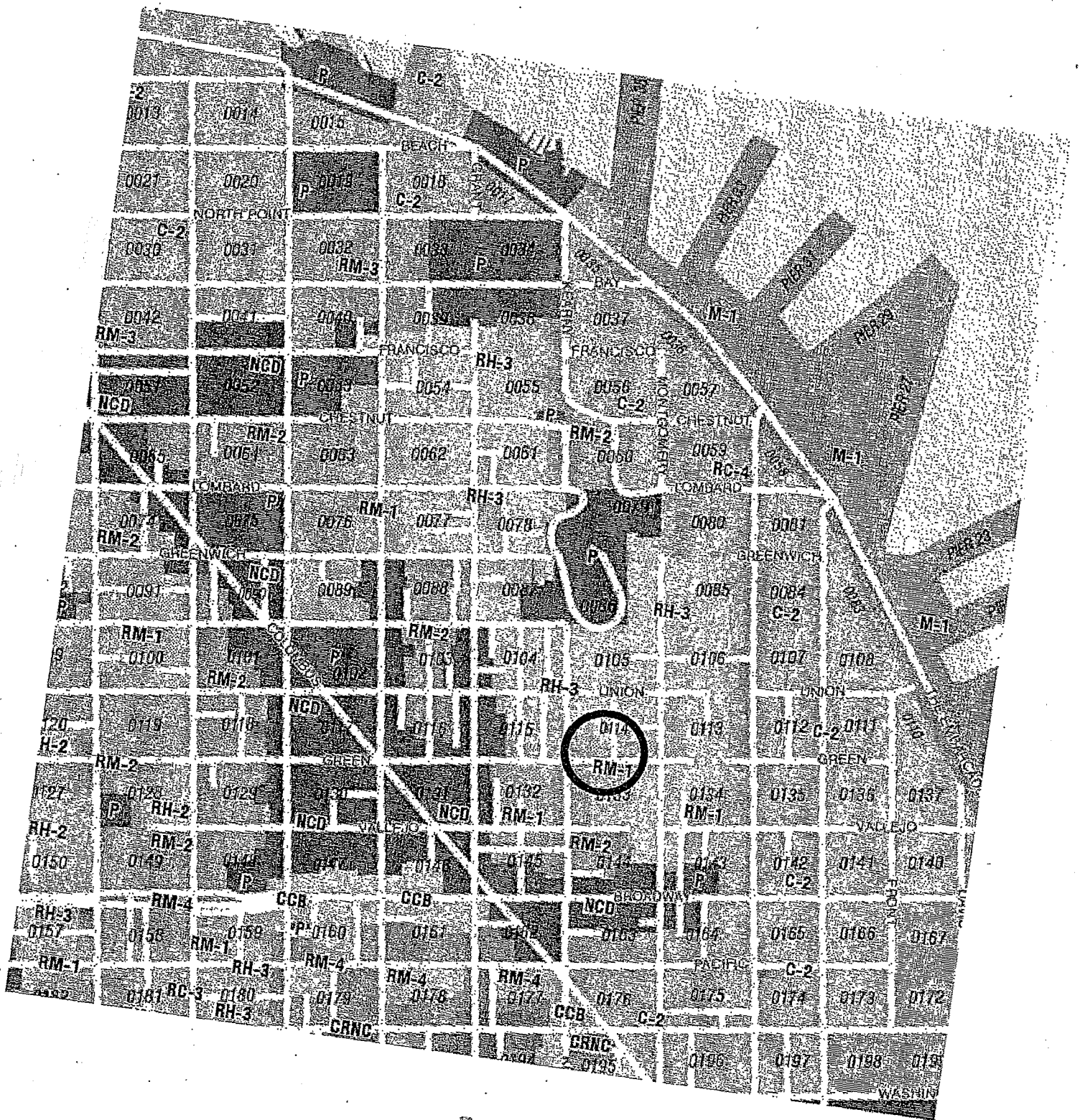
*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Aerial Photo



Zoning Map

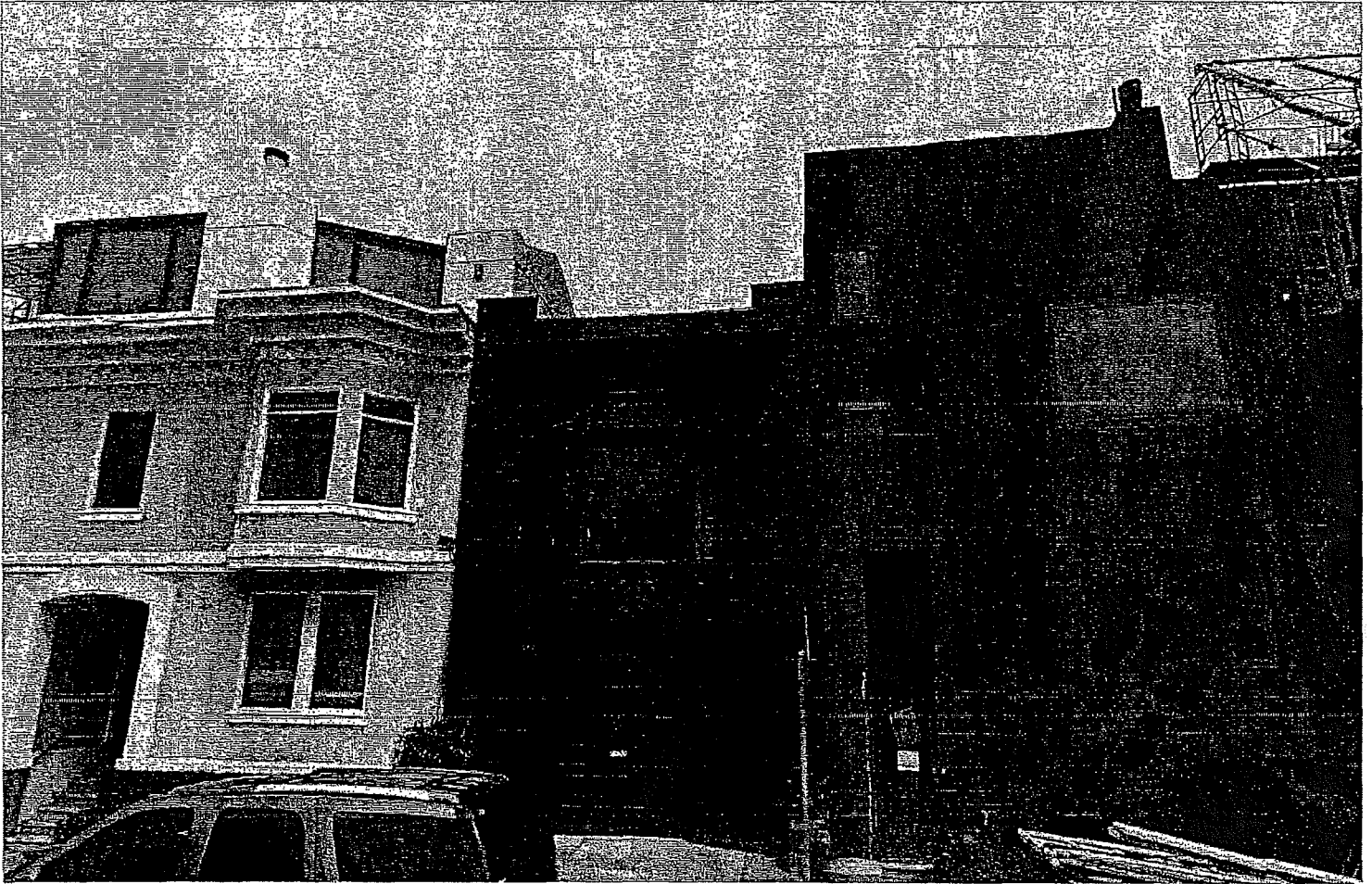


FRANCISCO
ANNING DEPARTMENT



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

CASE NUMBER:
For Staff Use only

15.16520

APPLICATION FOR Discretionary Review

1. Owner/Applicant Information

DR APPLICANT'S NAME:
Jack Oswald and Arneke 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:

Building Permit Application No. 2013. 11.. 13. 1794

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

13.16520

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 cite 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.

13.1652D

- 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

13.165201

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

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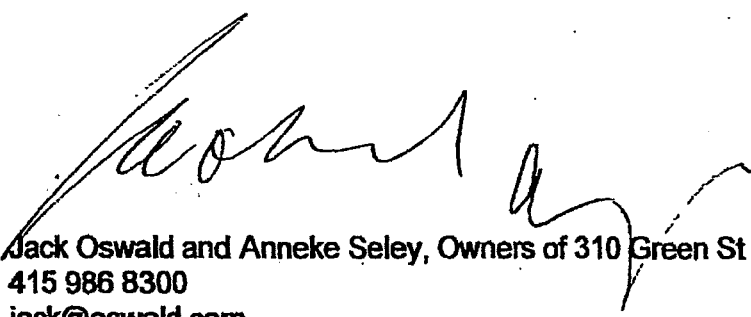
air to our back yard, which we use regularly, as well as other neighbors to the East and also the neighbor to the West.

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

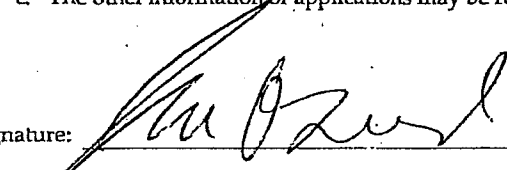
13.16520

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

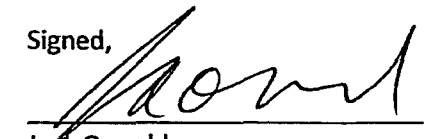
Jack Oswald and Anneke Seley
310 Green St
San Francisco, CA 94133
415 986 8300

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 & FR. MAN, 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

PAY TO THE ORDER OF San Francisco Planning Department

\$ **547.00

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

DOLLARS

San Francisco Planning Department

MEMO Appeal

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SARGUARD ECU
M

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE - RED IMAGE DISAPPEARS WITH HEAT.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
NOV 24 PM 2:17
BY [Signature]

(BOS)

From: Bruno [brunokanter@gmail.com]
Sent: Thursday, January 08, 2015 10:28 AM
To: BOS Legislation (BOS)
Cc: Carroll, John (BOS)
Subject: RE: Appeal of Categorical Exemption from Environmental Review for 312 Green Street - Supplemental Documentation from Planning
Attachments: 312 Green_Response to CEQA CatEx_Appeal.pdf
Categories: 141244

**RECEIVED AFTER THE ELEVEN-DAY
DEADLINE, BY NOON, PURSUANT TO ADMIN.
CODE, SECTION 31.16(b)(5)**

(Note: Pursuant to California Government Code, Section 86509(b)(2), information received at, or prior to, the public hearing will be included as part of the official file.)

Hi John,

Attached you'll find our response to the 312 Green CEQA CatEx Appeal filed by Zacks & Feedman. Please confirm receipt and if there is anything else you need from me.

Thank you,
Bruno Kanter

From: BOS Legislation (BOS) [mailto:bos.legislation@sfgov.org]

Sent: Monday, January 05, 2015 4:12 PM

To: 'mprofant@zulpc.com'; 'brunokanter@gmail.com'; Givner, Jon (CAT); Stacy, Kate (CAT); Byrne, Marlina (CAT); Sanchez, Scott (CPC); Jones, Sarah (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Tam, Tina (CPC); Conner, Kate (CPC); Wise, Viktoriya (CPC); Ionin, Jonas (CPC); BOS-Supervisors; BOS-Legislative Aides; Jain, Devyani (CPC); Goldstein, Cynthia (PAB); Pacheco, Victor (PAB); ryanp@zulpc.com; Caltagirone, Shelley (CPC)

; Calvillo, Angela (BOS); Caldeira, Rick (BOS); Carroll, John (BOS); BOS Legislation (BOS); Lamug, Joy

Subject: Appeal of Categorical Exemption from Environmental Review for 312 Green Street - Supplemental Documentation from Planning

Good afternoon,

Please find linked below supplemental documentation received by the Office of the Clerk of the Board from the Planning Department, concerning the Categorical Exemption appeal for 312 Green Street.

[Planning Memo - 1/5/2015](#)

You are invited to review the entire matter on our [Legislative Research Center](#) by following the link below.

[Board of Supervisors File No. 141244](#)

The appeal hearing for this matter has been continued to a 3:00 p.m. special order before the Board on January 13, 2015.

Thank you,

John Carroll

Legislative Clerk

Board of Supervisors

San Francisco City Hall, Room 244

San Francisco, CA 94102

(415)554-4445 - Direct | (415)554-5184 - General | (415)554-5163 - Fax

john.carroll@sfgov.org | board.of.supervisors@sfgov.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking [here](#).

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

Bruno and Suzanne Kanter
312 Green Street
San Francisco, Ca. 94133
brunokanter@gmail.com

January 8, 2015

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

**Re: 312 Green Street
Owner Response of Appeal of CEQA Categorical Exemption Determination
Planning Case No. 2012.0635E and 2013.1652DV
Permit Application No. 2013.11.13.1794**

Dear President Tang and Honorable Members of the Board of Supervisors,

This is a response to the appeal of the CEQA Categorical Exemption Determination submitted by Ryan Patterson, attorney from Zacks & Freedman, on behalf of Jack Oswald and Anneke Seley, owners of the adjacent property at 310 Green Street.

I am a licensed LEED accredited architect in the State of California with over 25 years of professional experience and numerous successfully completed projects in the Bay Area and beyond, including historic preservation projects.

My family and I have lived in North Beach as renters for decades. We purchased our first home, 312 Green Street (the subject property), in September 2011 to renovate as a private residence for use by my family and my aging parents. Our five month old daughter Simone is a San Francisco native. She, her grandparents and my wife and I very much look forward to continuing to live in the neighborhood we love so much as our family grows.

We are confident that you will find the approach to designing the project and the reviews undertaken by multiple professionals and government agencies to be thorough and complete. We have not seen new information to substantiate an appeal of the CEQA Categorical Exemption granted by the City Planning Department two (2) years ago. Other qualified government bodies have also come to the same conclusion.

After multiple meetings with the Appellant (see Exhibit 1 for a Timeline), we are very disappointed at the lack of good faith efforts by them to come to the table to talk reasonably and consider our needs in conjunction with their own. **Only after repeated government support of our project has the Appellant offered 'mediation' as yet another ploy to delay our project. Simply put, we have already gone through a reasonable and lengthy mediation process with the Planning Department.** Despite the lack of any semblance of cooperation on the Appellants' part over the past eighteen months, we have made an exhaustive effort to meet with

other neighbors and the department staff to modify the design, meet the goals of the Residential Design Guidelines and be good neighbors.

This is a simple and straightforward renovation of a distressed property in much need of repair and improvement to make it safe, sound and sustainable (seeking LEED certification) for the neighborhood's benefit as well as our own. **All code and zoning requirements for the property have been met or exceeded.**

The project enjoys the support of the department's Preservation Team, the Residential Design Team and the Zoning Administrator. By unanimous decision, the Planning Commission recently affirmed the Categorical Exemption, did not take Discretionary Review, and approved the building permit. Our project also enjoys overwhelming community support as exhibited by the 40 letters in the department's Discretionary Review Analysis (see Exhibit 5 for list of names or for the complete document and support letters at the following link.)

<http://commissions.sfplanning.org/cpcpackets/2013.1652DV.pdf>

This appeal is a part of numerous diversionary actions that the Appellant has taken to stall this project. In addition to this appeal, we are to present to the Board of Appeals on February 11, 2015. Below is a list of government reviews and dates completed -- and their conclusions. (For a comprehensive Timeline see Exhibit 1.)

January 15, 2013:	Planning Dept. Preservation Team issues CEQA Categorical Exemption for 312 Green St.
May 7, 2014:	Planning Department's Residential Design Team (RDT) Review supports project
September 11, 2014:	RDT Review of the Discretionary Review Application; continue support of project due to non-Code or Guideline issues
October 23, 2014	Discretionary Review Hearing - unanimous decision by Commission to NOT take DR.
November 20, 2014	Zoning Administrator grants Rear Yard Variance

During this unusually lengthy process, we have made numerous design concessions to address the Appellant's concerns as well as those of our other neighbors (please see attached drawings in Exhibit 2.) Through our design efforts and multiple meetings beginning in May of 2013, it has become clear that, **in spite of all our concessions, the Appellant has contested every proposal that either contains the same number of floors as their own four story property or has minor impacts on views from their roof deck.** Our proposed floor area is only 75% of Appellant's property and our building height is significantly shorter than the Appellant's were the two properties on equal ground. It is only by nature of being the house at the crest of the hill that the proposed building height approaches the top elevation of the Appellant's property.

With no interest in the 'preservation' of our property until now, we are finding that Appellant continues to use an otherwise legitimate review process to delay and impede the progress of this simple project. The Appellant has consistently distorted the portrayal of facts throughout the department design review process, the request for Discretionary Review and the latest appeal of the Categorical Exemption and the appeal of the granted Variance. They have exacerbated the situation by reporting us for code violations inherited from the previous owners.

Well-regarded San Francisco preservation architect, Mr. Arnie Lerner, has offered to comment (in his attached letter) on the Appellant's attorney's assertions and the memorandum from Garavaglia Architects. Mr. Lerner addresses in detail the claims made by the Appellant's consultants regarding the CEQA Categorical Exemption for our home. His summary conclusions are as follows:

- The property is NOT located in the historic district and if it were, a small two story building would not be unique in the district's broader urban context.
- San Francisco's own urban policies support the completion of urban façade and integration of the street block.
- The proposed design will match the character, massing and scale of the block face and especially the adjacent four story buildings, including the Appellant's.
- The subject property has lost its integrity and is an isolated example of an ordinary small structure located in an area that is not environmentally sensitive.

In addition to Arnie Lerner's review, note that we have taken extensive actions to collaborate with our neighbors and develop a sensible plan that addresses the needs of the block as well as our needs:

- We have worked closely with neighbors and the Planning Department's Residential Design Team to submit a design that is sensitive to the neighborhood context and meets the intention of the Planning Code and Residential Design Guidelines. The submitted design enhances the property, increases health, safety, welfare and sustainability of the area, and maintains the same scale and pattern of the neighborhood and block. We have proposed a structure more modest in height, square footage, and massing than that of the Appellant's (see Exhibit 2).
- We have made every effort to maintain natural light and privacy between our and all adjoining properties. Despite being the smallest lot on the block it appears that we are the *only* property to have provided *two opposite* lightwells.
- We will be an owner-occupied multigenerational residence, in contrast to the neglected, unoccupied property owned by the Appellant which has been in a state of incomplete, stagnant construction for many years (see complaints Exhibit 8).

You may have noticed many non-CatEx-related issues have been submitted with the appeal. They have already been reviewed and determined to be non-issues by experienced department planners, the department's Residential Design Team, the Zoning Administrator, and the Planning Commission. We have summarized our previous responses to these claims in the attached table. For a more detailed description, please see the department's Discretionary Review Analysis (Exhibit 5).

In conclusion, we are long-term residents of the area who are seeking to improve the neighborhood through direct and personal investment in a distressed property. In its current state, parts of the building including the roof and façade are dilapidated and in desperate need of repair. We are interested in the careful stewardship of historic resources (which 312 Green Street is not) that characterize this beautiful city of ours. We are also equal stakeholders in the

forward-looking sustainable city San Francisco strives to become. Our home is designed to fit the context of the block while incorporating green building principals such as densification, passive solar heating, natural daylighting and efficient water management. This multigenerational home is also designed to be fully accessible to accommodate my elderly parents who will be living with us.

We are seeking a timely resolution to the review of the Appellant's claim that there are exceptional or extraordinary circumstances that relate to the project. **Our own experts as well as San Francisco's governing bodies have found that there are no exceptional or extraordinary circumstances related to the Categorical Exemption of this project.** We are confident that you will come to the same conclusion.

We hope that the Appellant will come to see that we have proposed a very reasonable building which conforms with all codes and guidelines while taking into account their needs and the benefit of the community at large.

Sincerely,

Bruno and Suzanne Kanter



LERNER + ASSOCIATES
ARCHITECTS

January 07, 2015

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: 312 Green Street
Letter in OPPOSITION to Appeal of CEQA Categorical Exemption Determination
Planning Case No. 2012.0635E
Building Permit Application No. 2013 .11.13 .1794

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

I have been asked by the project sponsors, Bruno and Suzanne Kanter, to review and comment on the CEQA Categorical Exemption Determination and historic preservation issues raised by the appellant's attorney and by a memorandum from Garavaglia Architects.

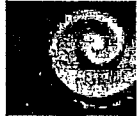
I have reviewed in detail the proposed project and the Garavaglia Architects letter and it is my professional opinion that there is no basis for supporting the appeal of the Categorical Exemption granted by the City Planning Department.

My qualifications to render such an opinion are:

- I have been a practicing preservation architect in San Francisco for the past 31 years;
- I am a former staff architect for San Francisco Heritage;
- my experience and education exceed the Secretary of the Interior's Professional Qualifications Standards for Historic Architects;
- I serve as the Historic Preservation representative on the Department of Building Inspection's Code Advisory Committee; and
- I am a recipient of numerous awards for preservation design from the Governor of California, the California Preservation Foundation, and the Art Deco Society of California.

The preservation issues raised by the appellant are contained in a memorandum dated November 21st, 2014, from Jacqui A. Hogans, Architectural Conservator for Garavaglia Architects. In the memorandum, Ms. Hogans expresses her concerns regarding the proposed project and its impact on the surrounding area's historic character.

The following are Ms. Hogans' point-by-point concerns, my responses to them, and my comments on why the project should remain exempt:



Issue 1: “The existing massing of 312 Green Street is in line with the historic urban context of the Telegraph Hill area.”

Response 1: This is not an accurate description of the Telegraph Hill Landmark District and its “urban context.” The Planning Department’s summary of the district is as follows:

“This eclectic hillside historic district features the largest concentration of pre-1870s buildings in San Francisco. The residential district features small-scale dwellings accessible only via narrow pedestrian-only lanes and staircases, as well as larger, iconic Modern buildings such as Richard Neutra’s Kahn House and the Streamline Moderne Malloch Apartment Building.”

312 Green Street is not pre-1870, not a small-scale dwelling accessible only via narrow pedestrian-only lanes or an iconic Modern building. This is among the reasons it is not part of the historic district or its “urban context.”

Issue 2: “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.”

Response 2: This is a mischaracterization of the actual context. The 2 story (brown shingled) building does anything but fit in with the surrounding buildings as shown by the following block face photograph. The actual surrounding buildings are 4 stories in height. (The appellant’s building is the black 4 story building next to the subject property.)



Subject Bldg.
312 Green St.

Appellant’s Bldg.
310 Green St.



Issue 3: “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.”

Response 3: In reviewing Appendix G to Article 10 - Telegraph Hill Historic District, the district and urban context is defined as “a unique expression of the pattern of development which took place on the east slope of Telegraph Hill from 1850 to 1939.” The district and its urban context are characterized much more broadly than simply small buildings built after the earthquake thereby making a **single two story building not unique in this broader context.** Note also the Appellant's comment cites that 312 Green Street is **not within the Telegraph Hill Historic District – which is accurate and further diminishes this argument.** In looking at the adjacent district, it is also inaccurate to say “The subject property is one of the last remaining structures, in terms of size and shape, from the post-1906 to 1915 reconstruction period.” As noted previously, the district contains an eclectic mix of large and small scale buildings and this is not one of the last ones.

Issue 4: “If the proposed alteration is to take place, which includes the addition of two floors, then the block's original character will be obliterated.”

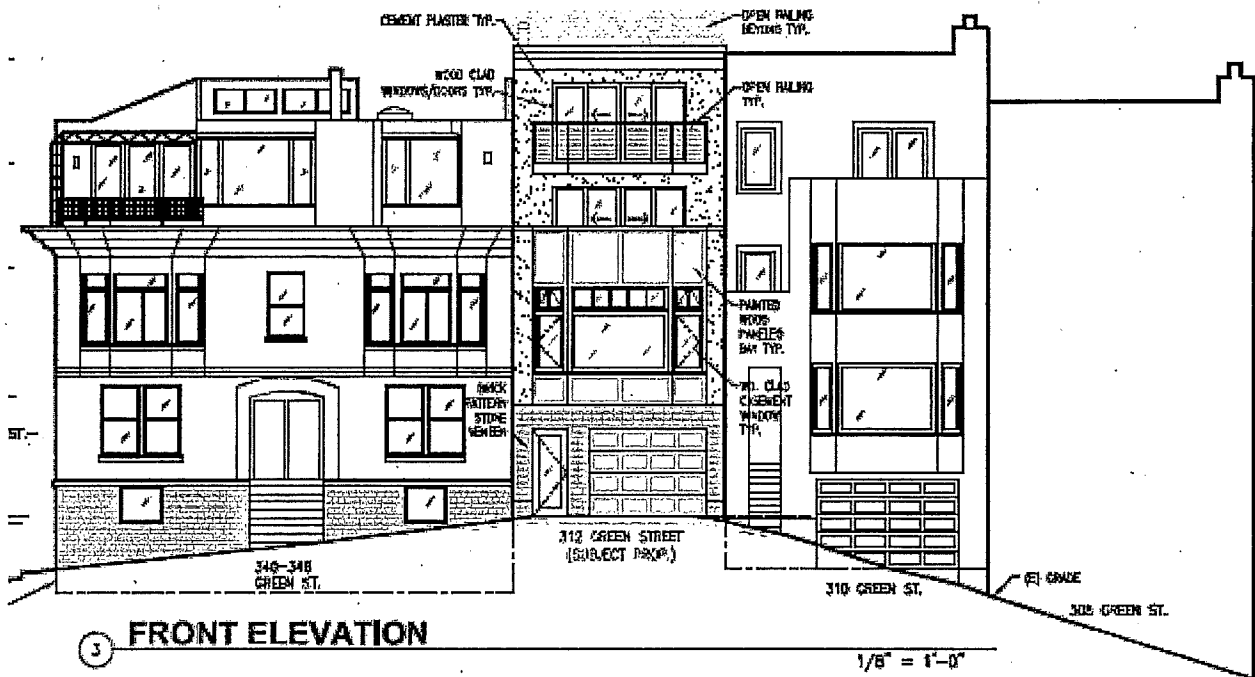
Response 4: The actual block, as shown on the previous page and below (across the street), is not characterized by small buildings as claimed and the character of the existing block will not be “obliterated.” In fact, it will be enhanced as the new design will match the character, massing and scale of the block face and especially the appellant's building.





Issue 5: "It will tower over the building at 340-346 Green Street, further changing the small-scale character of the area."

Response 5: The character of the area is not small scale as claimed. In addition, the proposed addition will not, by any stretch of the imagination, tower over the appellant as claimed. In fact, the appellant's building will remain taller than the proposed subject building relative to the street topography as shown in the elevation drawing below:



Issue 6: In addition, the appellant's claim that:

"The Project is not rightly subject to a CalEx 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. "[Where 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 circumstances" exception. Communities for a Better Env' v. California Res. Agency, 103 Cal. App. 4th 98,129 (2002), as modified (Nov. 2 1, 2002)."

Response 6: As shown in Responses 1-5, the building has lost its integrity, is an isolated example of an ordinary small structure located in an area that is not environmentally sensitive, there are no "unusual" circumstances, and the proposed structure, from a residential design standard of a unifying block face concept, is appropriate for its context. The City and County of San Francisco adopted regulations that specifically define what is and what is not a significant effect on the environment when they adopted the following:



[Revised and Adopted by the San Francisco Planning Commission
Resolution No. 14952, August 17, 2000]

CATEGORICAL EXEMPTIONS FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The California Environmental Quality Act (CEQA) and the Guidelines for implementation of CEQA adopted by the Secretary of the California Resources Agency require that local agencies adopt a list of categorical exemptions from CEQA. Such list must show those specific activities at the local level that fall within each of the classes of exemptions set forth in Article 19 of the CEQA Guidelines, and must be consistent with both the letter and the intent expressed in such classes.

In the list that follows, the classes set forth in CEQA Guidelines Sections 15301 - 15332 are shown in bold italics, with further elaboration or explanation for applying these exemptions in San Francisco shown in normal upper- and lower-case type. The Secretary of the California Resources Agency has determined that the projects in these classes do not have significant effect on the environment, and therefore are categorically exempt from CEQA. The following exceptions, however, are noted in the State Guidelines.

First, Classes 3, 4, 5, 6, 11, and 32 are qualified by consideration of where the project is to be located. A project that would ordinarily be insignificant in its impact on the environment may, in a particularly sensitive or hazardous area, be significant.

None of the exceptions listed above applies. The City has already determined that this block is NOT a particularly sensitive or hazardous area and falls outside of any historic district. Below is the applicable categorical exemption:

CLASS 1: EXISTING FACILITIES

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of existing facilities itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.

- (e) Additions to existing structures provided that the addition will not result in an increase of more than:**
- (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or**
 - (2) 10,000 square feet if:**
 - (A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and**
 - (B) The area in which the project is located is not environmentally sensitive.**

Where public services are already available for the maximum development allowable and where the area is not historically significant, or subject to landslide hazard, the 10,000-square-foot addition will normally apply in San Francisco. In an area where services are not available for maximum permitted development, the 50 percent or 2,500-square-foot limitation will apply.

The proposed alteration falls under Class 1(e)2 above, which normally applies in San Francisco and is not in an area that impacts public services and facilities or is environmentally sensitive. [o1]



To further underscore the importance of integrity of massing and design appropriate to its surroundings, I include a section of the San Francisco Urban Design policy below. As noted in the submittals, the proposed project will enhance the integrity of the block's massing by aligning the design and scale with adjacent and surrounding properties. The design emphasized meeting urban design policy 1.3 which as described will enhance the overall experience of the block and neighborhood:

From: http://www.sf-planning.org/ftp/General_Plan/IS_Urban_Design.htm#URB_CPN_1_3

Policy 1.3

"Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

Buildings, which collectively contribute to the characteristic pattern of the city, are the greatest variable because they are most easily altered by man. Therefore, the relationships of building forms to one another and to other elements of the city pattern should be moderated so that the effects will be complementary and harmonious.

The general pattern of buildings should emphasize the topographic form of the city and the importance of centers of activity. It should also help to define street areas and other public open spaces. Individual buildings and other structures should stand out prominently in the city pattern only in exceptional circumstances, where they signify the presence of important community facilities and occupy visual focal points that benefit from buildings and structures of such design."

This policy is a leading criteria for projects in the San Francisco urban setting and the proposed project meets this more important standard.

Lastly, the Appellant uses the term "minor alteration" out of context in an attempt to draw attention away from how this term is actually applied and the Board should not be fooled by this diversionary tactic. There is no basis for this comment.

The building qualifies for the exception noted above and the City Planning department has correctly determined the alterations (however you want to classify them) are exempt from further CEQA considerations.

In summary, I find the appellant's assertions to be **inaccurate and not representative of the existing neighborhood context or the proposed design.**

- The subject 2 story building does not currently fit in with the surrounding buildings (as most buildings surrounding the property are already 4 stories high).
- The district and its urban context are characterized much more broadly than simply small buildings built after the earthquake. The urban pattern was comprised of buildings spanning from 1850 to 1939, thereby making a single 2 story building not unique in this broader context.



LERNER + ASSOCIATES
ARCHITECTS

Project: 312 Green Street Appeal
To: President Katy Tang
SUBJECT: Historical Review

DATE: 01/07/15
Page 7 of 7

- Lastly, the new design will enhance the block as it will match the character, massing and scale of the block face and especially the appellant's building.

I also urge you to not be swayed by the appellant's attorney's threats of further legal action against this young family with a newborn child. On behalf of the project sponsor, I respectfully request the Board of Supervisors to uphold the CatEx determination, allow the Kanter's to enjoy their property rights (just as the appellant enjoys theirs and will continue to do after this project is built), to expand for their family's needs, and to not require further environmental review pursuant to CEQA.

Sincerely,

Digitally signed by Arnie Lerner
DN: cn=Arnie Lerner, o=Lerner + Associates
Architects, ou, email=arnie@lernerarch.com, c=US
Date: 2015.01.07 16:31:11 -08'00'

Arnie Lerner, AIA, CASp

RESPONSES TO 'APPEAL OF CEQA CATEGORICAL EXEMPTION DETERMINATION' FOR 312 GREEN STREET

NO.	APPELLANT'S CLAIM	WHERE FOUND	HOME OWNER RESPONSE	REFERENCE	EXHIBIT
1	"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."	Zacks & Freedman, CEQA Exemption Appeal Letter, Nov. 24, 2014, p.1	Claim is not accurate. Our proposed project will only add 1/2 existing floor area to the structure; the result is less square footage than other buildings in the area (less than 75% of the Appellant's floor area).	Dept. supported drawing sht A1.0 (Rev. 3, 5-22-14)	
			San Francisco's Planning Department concluded that, "project is exempt/excluded from environmental review pursuant to CEQA Guideline Sect. 15301(e)..., addition will not result in an increase of more than 10,000 square feet."	Discretionary Review Analysis Conclusion Oct. 16, 2014	5
2	"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 facade 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."	Zacks & Freedman, CEQA Exemption Appeal Letter, Nov. 24, 2014, p.1	The structure is not significant. This claim infers importance of the small structure. Two (2) years ago the Planning Department Preservation Team determined the house to NOT be "an individual resource or as a contributing resource to a district." Further, "distinctive period details and original form have been removed or altered" and "does not retain integrity from this period and is not an important example of reconstruction architecture."	CEQA Categorical Exemption Determination, Jan. 15, 2013	
			The proposed home is NOT part of the Telegraph Hill Landmark District which is on the east side of the hill. Even if it were, the district and its urban context are characterized much more broadly than simply small buildings built after the earthquake thereby making a single two story building not unique in the broader context.	Preservation Architect, Arnie Lerner	
			The RDT determined that the "proposed overall scale, design, and fenestration pattern is consistent with neighborhood character. There are many other full four-story buildings in the neighborhood, and the proposed 3rd and 4th stories are appropriately set back five feet from the existing front building wall and serves as a transition between the setbacks of the neighboring four-story buildings." "The project is comparable to the others in the immediate context in terms of square footage and lot size."	Discretionary Review Analysis Oct. 16, 2014 Block Map of Bldg. Stories	5 3

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RESPONSES TO 'APPEAL OF CEQA CATEGORICAL EXEMPTION DETERMINATION' FOR 312 GREEN STREET

NO.	APPELLANT'S CLAIM	WHERE FOUND	HOME OWNER RESPONSE	REFERENCE	EXHIBIT
3	"The Project is not rightly subject to a CalEx 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 circumstances" exception. Communities for a Better Env't v. California Res. Agency, 103 Cal. App. 4th 98,129 (2002), as modified (Nov. 2 1, 2002)."	Zacks & Freedman CEQA Exemption Appeal Letter, Nov. 24, 2014, p.2	Government and professional reviews have found no unusual circumstances which warrant environmental review. Our proposed home is NOT part of the Telegraph Hill Landmark District which is on the east side of the hill. The area around our house is an eclectic mix of large and small scale buildings. The existing house is not a historically significant defining element of the neighborhood. The proposed design has been determined to be consistent with the neighborhood character. In the appeals case cited by the Appellant, the defendant -- the California Resources Agency argues that, "these statements cannot be read so broadly as to defeat the very idea underlying CEQA section 21084 of classes or categories of projects that generally do not have a significant effect on the environment." The judgement was affirmed in favor of the California Resources Agency.		

ADDITIONAL ITEMS ALREADY DETERMINED TO BE "NON-ISSUES" BY PLANNING DEPARTMENT & PLANNING COMMISSION

NO.	APPELLANT'S CLAIM	WHERE FOUND	HOME OWNER RESPONSE	REFERENCE	EXHIBIT
4	"Project does not comply with the Residential Design Guidelines, as detailed in the enclosed materials."	Zacks & Freedman CEQA Exemption Appeal Letter, Nov. 24, 2014, p.2	This is incorrect. The proposal complies with the Planning Code, the General Plan and conforms to the Residential Design guidelines. " Reasons that the Planning Commission did overrule the D.R. are that, "There are no extraordinary or exceptional circumstances in the case and the project as reviewed fully met the requirements per the Planning Department,	Discretionary Review Action DRA-0387	4
5	"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)."	Zacks & Freedman CEQA Exemption Appeal Letter, Nov. 24, 2014, p.2	This is completely untrue. The existing structure looks inconsistent and odd with the scale of its surroundings. The proposed design with allow the property to conform to block massing. As determined by the Residential Design Team (RDT): "the proposed overall scale (4 stories)...is consistent with neighborhood character. There are many other full four-story buildings in the neighborhood , and the proposed 3rd and 4th stories are appropriately set back...and serves as a transition between the setbacks of the neighboring four-story buildings"	Discretionary Review Analysis Oct. 16, 2014	5

ADDITIONAL ITEMS ALREADY DETERMINED TO BE "NON-ISSUES" BY PLANNING DEPARTMENT & PLANNING COMMISSION

NO.	APPELLANT'S CLAIM	WHERE FOUND	HOME OWNER RESPONSE	REFERENCE	EXHIBIT
6	"The proposed structure will create a wall, blocking wind flow and substantially impacting air circulation." "It will also reduce the amount of natural light entering Appellant's dining room, bedroom, and bathroom."	Zacks & Freedman CEQA Exemption Appeal Letter, Nov. 24, 2014, p.2	Concerns of light and air have been addressed by the significant reduction of the proposed building mass and concession to add a second lightwell. In spite of being the narrowest lot on the block, our home as proposed would be the only one to have two lightwells. The senior planners of the RDT state, "The proposed light well meets Residential Design Guidelines in terms of size and alignment." and the proposed project, "will have a negligible change to light and air for the neighboring rear yards."	See Residential Design Team (RDT) review 9/11/14	6
			The Appellant illegally infilled the light well that connects his property with the proposed project and boarded over our only east facing window. If light was such a big concern, they should have considered blocking light more carefully before taking these unfortunate actions. These actions are not consistent with Appellant's claimed concerns.	See DBI complaint No. 201073954	8
7	"The proposed structure will cast a shadow in the mid- to late afternoon on Appellant's decks, solar panels, and rear yard."	Zacks & Freedman CEQA Exemption Appeal Letter, Nov. 24, 2014, p.2	Be aware that all of the Appellant's solar expert's illustrations are portrayed with the lowest sun angle- in the late afternoon/evening casting shadows that are at their longest. These are not accurate representations of the rest of the day - when the solar panels enjoy full unobstructed access to the sun.	See Appellant's exhibit ...	
			Furthermore, the Appellant's solar expert's illustrations lack references. Without references (e.g. source of data, year and time of depiction, second opinion on accuracy, etc), it is unclear if these illustrations model or represent the situation accurately at all.	See Appellant's exhibit ...	
			Appellant's own expert admits to only a 6% net solar array yearly average overshadowing, occurring at sunset hours - which at those hours have been shown to contribute an insignificant amount of energy to the system. As we are proposing a green LEED certified building, we would like to see the Appellant's building contribute to sustainability as well. We have taken great care to maintain solar access to the neighbor's photovoltaics.	See Appellant's exhibit ...	

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ADDITIONAL ITEMS ALREADY DETERMINED TO BE "NON-ISSUES" BY PLANNING DEPARTMENT & PLANNING COMMISSION

NO.	APPELLANT'S CLAIM	WHERE FOUND	HOME OWNER RESPONSE	REFERENCE	EXHIBIT
			<p>Lastly, there is no policy which protects a right to solar access and to restrict development on a property as a result in the Planning Code. Rightly so, if the law protected a solar system owner from shading by structures subsequently built by neighbors, then installing a solar system would constitute a pretty clear "taking" of the neighbors' land use opportunities.</p>	See San Francisco Planning Code	
			<p>The RDT determined that, "The proposed rear extension matches the building depth of the neighboring buildings and will have a negligible effect on neighboring rear yards' access to light and air."</p>	Discretionary Review Analysis Oct. 16, 2014	5
8	<p>"The proposed roof deck will tower over Appellant's deck and a sufficient setback between the two decks has not been provided, impacting privacy."</p>	<p>Zacks & Freedman CEQA Exemption Appeal Letter, Nov. 24, 2014, p.2</p>	<p>This claim has already been addressed by the concession design. Parapets and a stair penthouse providing privacy between roof tops in the initial design were removed from the project in response to the Appellant's concern for rooftop views over our property. Also, the expectation of having, or requiring, full privacy on one's rooftop deck in a dense urban setting such as San Francisco, is unrealistic. A proposed "green" roof would act as a buffer between decks.</p>	Residential Design Guidelines	
9	<p>"The Project's floor area-to-lot size ratio is substantially larger than that of other properties in the surrounding neighborhood."</p>	<p>Zacks & Freedman CEQA Exemption Appeal Letter, Nov. 24, 2014, p.2</p>	<p>While this may be true, the calculation does not apply to this project. If it did, it would be virtually impossible to achieve uniformity in block massing throughout the city, a critical urban design policy, as most properties are unique in size. Section 124 of the Planning Code states, "... Floor area ratio limits shall not apply to dwellings or other residential uses." Our proposed total floor area will be substantially less than the other buildings in the area and less than 75% of the Appellant's own floor area. Densification is a tenet of green building principals. Our proposed design meets the needs of housing our multigenerational family.</p>	<p>San Francisco Urban Design Policy 1.3, Sect. 124 of Planning Code, RDT review 9/11/14</p>	6

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ADDITIONAL ITEMS ALREADY DETERMINED TO BE "NON-ISSUES" BY PLANNING DEPARTMENT & PLANNING COMMISSION						
NO.	APPELLANT'S CLAIM	WHERE FOUND	HOME OWNER RESPONSE	REFERENCE	EXHIBIT	
10	"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."	Zacks & Freedman CEQA Exemption Appeal Letter, Nov. 24, 2014, p.2	The exact impact to views are unsubstantiated. Per the Residential Design Guidelines, "Views from this private building and deck are not protected." This is in fact the one true concern of the Appellant as stated by him in our outreach meetings. We have already made numerous concessions in order to minimize the impact of his view over our property and both the department's Residential Design Team and the Planning Commission have found that the design has already substantially responded to this concern.	Residential Design Guidelines p. 18		
11	"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."	Zacks & Freedman CEQA Exemption Appeal Letter, Nov. 24, 2014, p.2	The proposed remodel of the existing building in no way constitutes a demolition pursuant to Zoning Controls. Per green building principals we intend to Reduce, Reuse, and Recycle as much of the house as possible. It is in our best interest to maintain as much of the existing structure as possible. After decades of deferred maintenance we are making a considerable investment to renovate and enhance the physical condition and safety of this house.	Zoning Controls on the Removal of Dwelling Units		
12	"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 ponding."	Zacks & Freedman CEQA Exemption Appeal Letter, Nov. 24, 2014, p.2	As required for City approvals, our home will be engineered and retrofitted to meet the latest seismic standards and vetted by the Department of Building Inspection as was the Appellant's building before us. Zero lot-line conditions exist up and down the entire block face, and the majority of San Francisco's denser neighborhoods could be cited with this concern.			
13	"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."	Zacks & Freedman CEQA Exemption Appeal Letter, Nov. 24, 2014, p.2	Seismic retrofit is not only encouraged by the City, but it has become mandatory through the Soft Story Program. With a major earthquake expected at any time, the seismic upgrade of the house not only protects our safety and investment, but also that of the neighbors and the community at large. Proper drainage and run-off mitigation would be implemented as in any improvement project. Further this project will actually reduce run-off through green strategies of rainwater harvesting and green roof storm water retention.	Ordinance No.54-10, AB-094		

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PROJECT SPONSER EXHIBIT INDEX

- 1. 312 Green Street Design Timeline and Summary of Activities**
- 2. Approved Subject Building Drawings – showing concessions**
- 3. Block Map - showing building stories**
- 4. Discretionary Review Action DRA-0387**
- 5. Discretionary Review Analysis Oct. 16, 2014**
- 6. Planning Department Residential Design Team (RDT) review 9/11/14**
- 7. Variance Decision**
- 8. History of Complaints By and Against Appellant**

EXHIBIT-1.

312 Green Street Design Timeline and Summary of Activities

312 Green Street Design Timeline and Summary of Activities

of years since Categorical Exemption = 2

of design meetings with Appellant = 3

of Government reviews completed & approved = 5

2004: Records show Appellant, Jack Oswald and Anneke Seley, buy adjacent property, 310 Green St.

November 13, 2007: Oswalds file for remodel permit (construction incomplete to this day)

October 8, 2010: Previous Owner of subject property, Marshall Hydorn, writes to Planning and Building Departments regarding illegal infill of light well by Jack Oswald of 310 Green.

October 20, 2010: Complaint about 310 Green blocking window made by Marshall Hydorn

September, 2011: Bruno and Suzanne Kanter buy 312 Green Street (subject property)

October, 2011: Kanters allow scaffolding for 310 Green construction on roof of the subject property for months

August 27, 2012: Complaint of abandoned property at 310 Green by anonymous neighbor

January 15, 2013: **Planning Dept. Preservation Team issues CEQA Categorical Exemption for 312 Green**

February 14, 2013: Complaint of abandoned property & unfinished constr'n at 310 Green by anonymous neighbor

February 20, 2013: Complaint of abandoned property at 310 Green by anonymous neighbor

May, 2013: **Kanters begin outreach to all adjacent neighbors**

June 11, 2013: **Kanters meet with Oswalds to review design**

July 12, 2013: **Kanters meet with Oswalds on their roof and offer concessions**

August 13, 2013: **Kanters email drawings of proposed concessions to Oswalds**

October 7, 2013: **Pre-application Meeting at 312 Green. Jack Oswald continues unreasonable position despite concessions offered by Kanters and makes threatening remarks.**

November 13, 2013: Kanters file for Bldg. Permit & Variance after many concessions to address neighbors' concerns

January 3, 2014: Jack Oswald files complaint on subject property regarding pre-existing roof deck

May 7, 2014: **Planning Department's Residential Design Team (RDT) Review supports project**

June 20, 2014: Section 311 Notification Drawings issued to public

July 21, 2014: Jack Oswald files Discretionary Review (DR) Application

September 11, 2014: **RDT Review of DR App; continue support of project due to non-Code or Guideline issues**

October 10, 2014: Jack Oswald makes untimely offer of mediation after DR Application review by RDT is issued

October 23, 2014: **Discretionary Review Hearing - Unanimous decision by Commission to NOT take DR.**

November 20, 2014: **Zoning Administrator grants Rear Yard Variance**

November 24, 2014: Attorney for Oswald files appeal of CEQA Categorical Exemption Determination and appeal of Variance granted by the Zoning Administrator

December 16, 2014: Board of Supervisors – CEQA Categorical Exemption hearing continued to 13th

January 13, 2015: Board of Supervisors – CEQA Categorical Exemption hearing

February 11, 2015: Board of Appeals - Variance hearing

EXHIBIT-2.

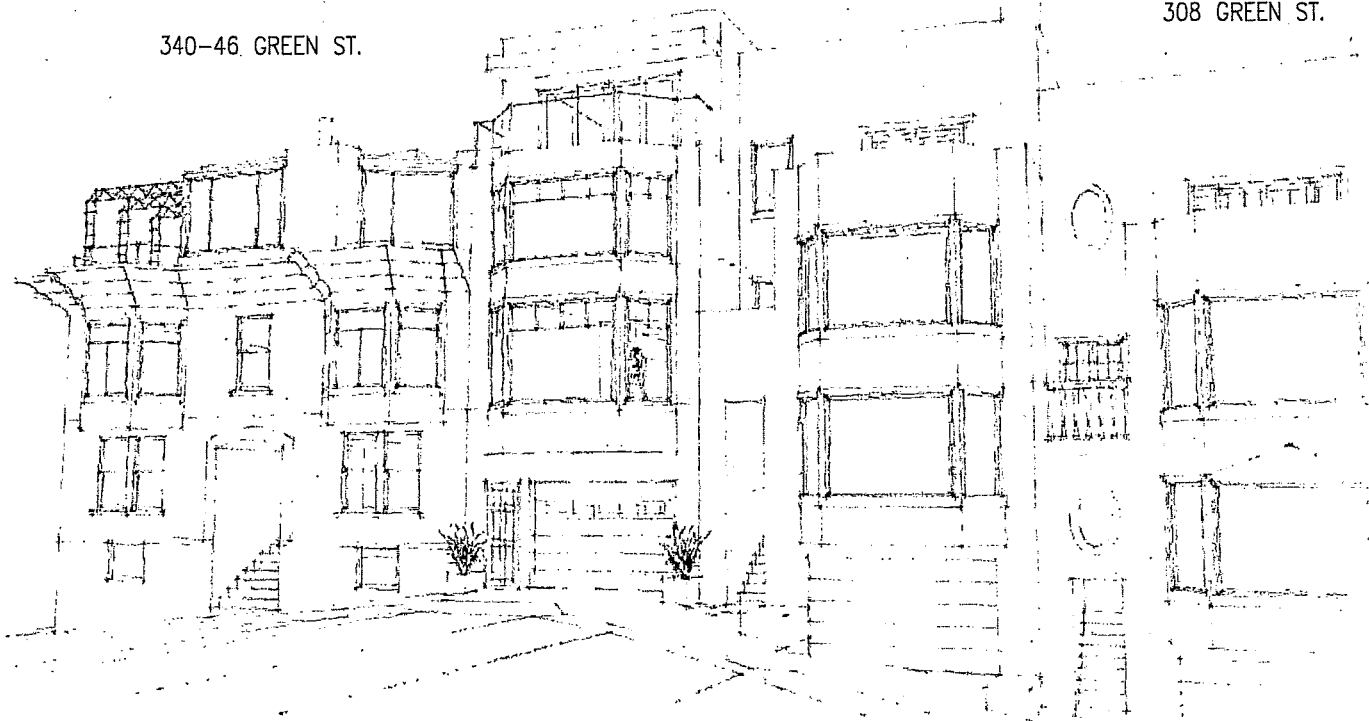
Approved Subject Building Drawings – showing concessions

SUBJ. PROP

D.R. REQUESTER

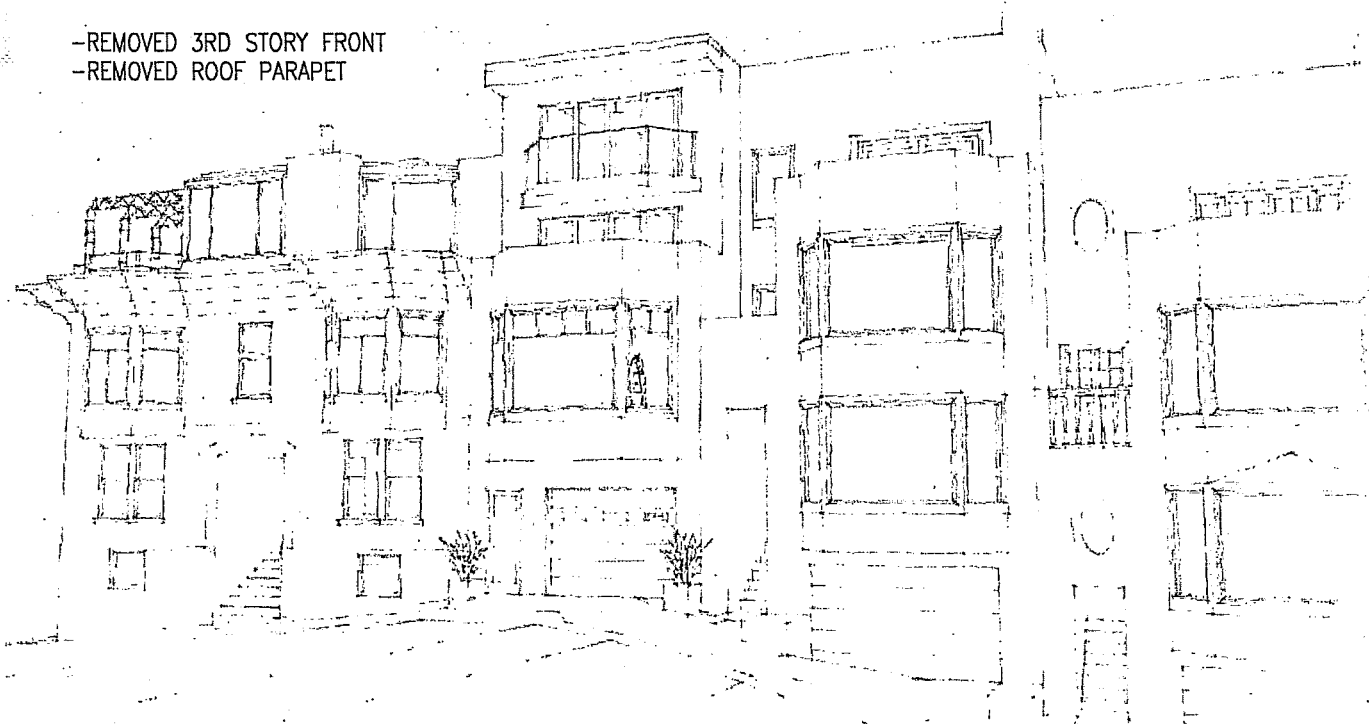
308 GREEN ST.

340-46. GREEN ST.

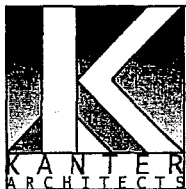


1 FRONT VIEW - ORIGINAL DESIGN

-REMOVED 3RD STORY FRONT
 -REMOVED ROOF PARAPET



2 FRONT VIEW - WITH CONCESSIONS
 APPROVED BY DEPT. RESIDENTIAL DESIGN TEAM & THE PLANNING COMMISSION



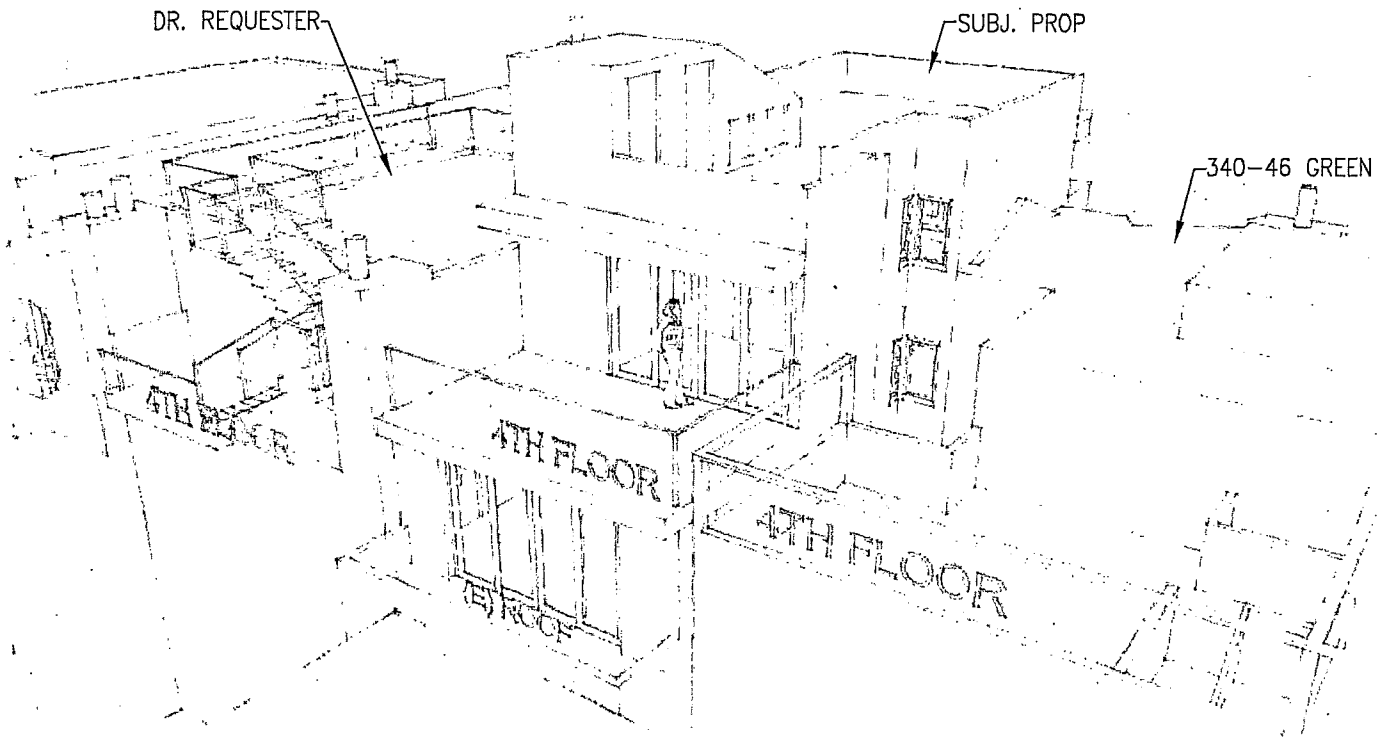
KANTER ARCHITECTS
 822 GREENWICH ST.
 S. F., CA 94133
 Bruno@KanterArchitects.com
 415.921.5456

RESIDENTIAL REMODEL:

312 Green Street
 San Francisco, CA 94133

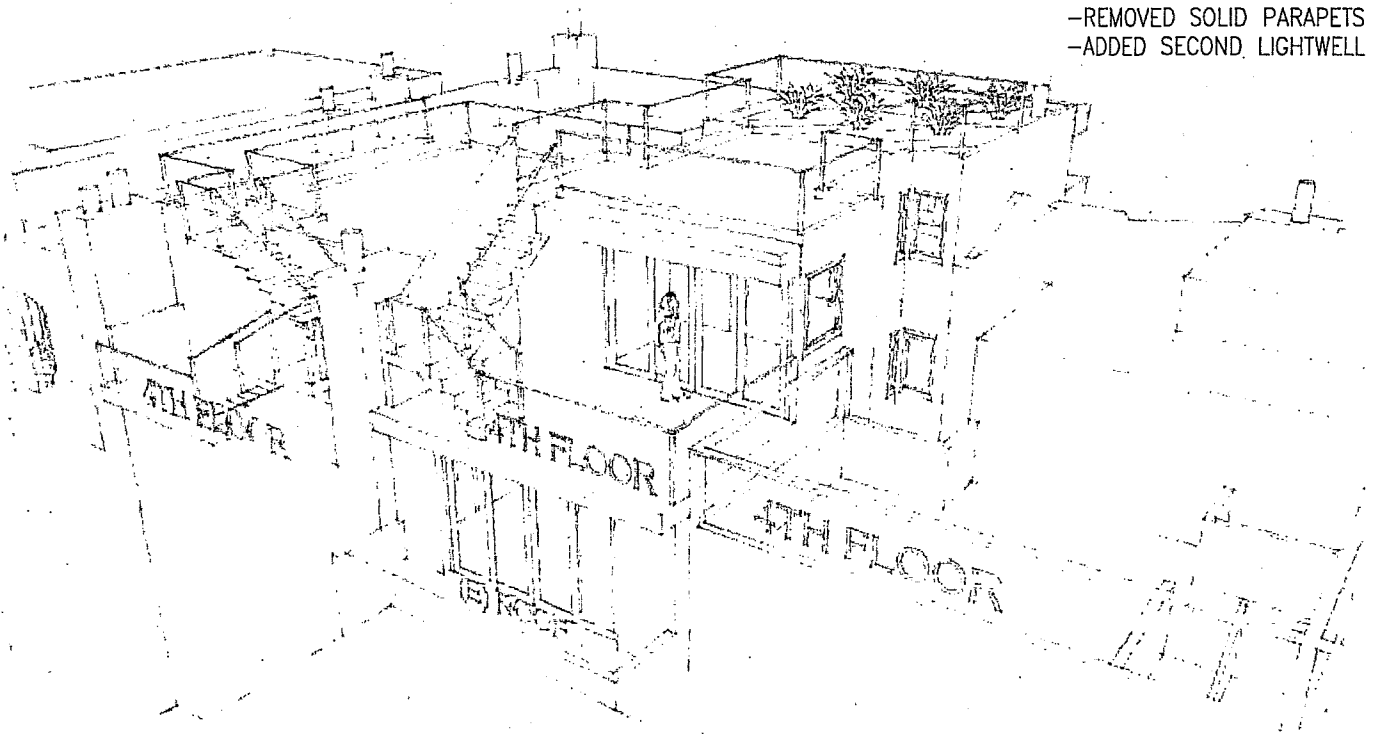
JOB NO. -
 DRAWN - BK
 CHECKED -
 DATE 10-7-14

SK-1



1 REAR VIEW - ORIGINAL DESIGN

- REMOVED STAIR PENTHOUSE
- RELOCATED STAIR TO REAR
- REMOVED SOLID PARAPETS
- ADDED SECOND LIGHTWELL



2 REAR VIEW - WITH CONCESSIONS

APPROVED BY DEPT. RESIDENTIAL DESIGN TEAM & THE PLANNING COMMISSION



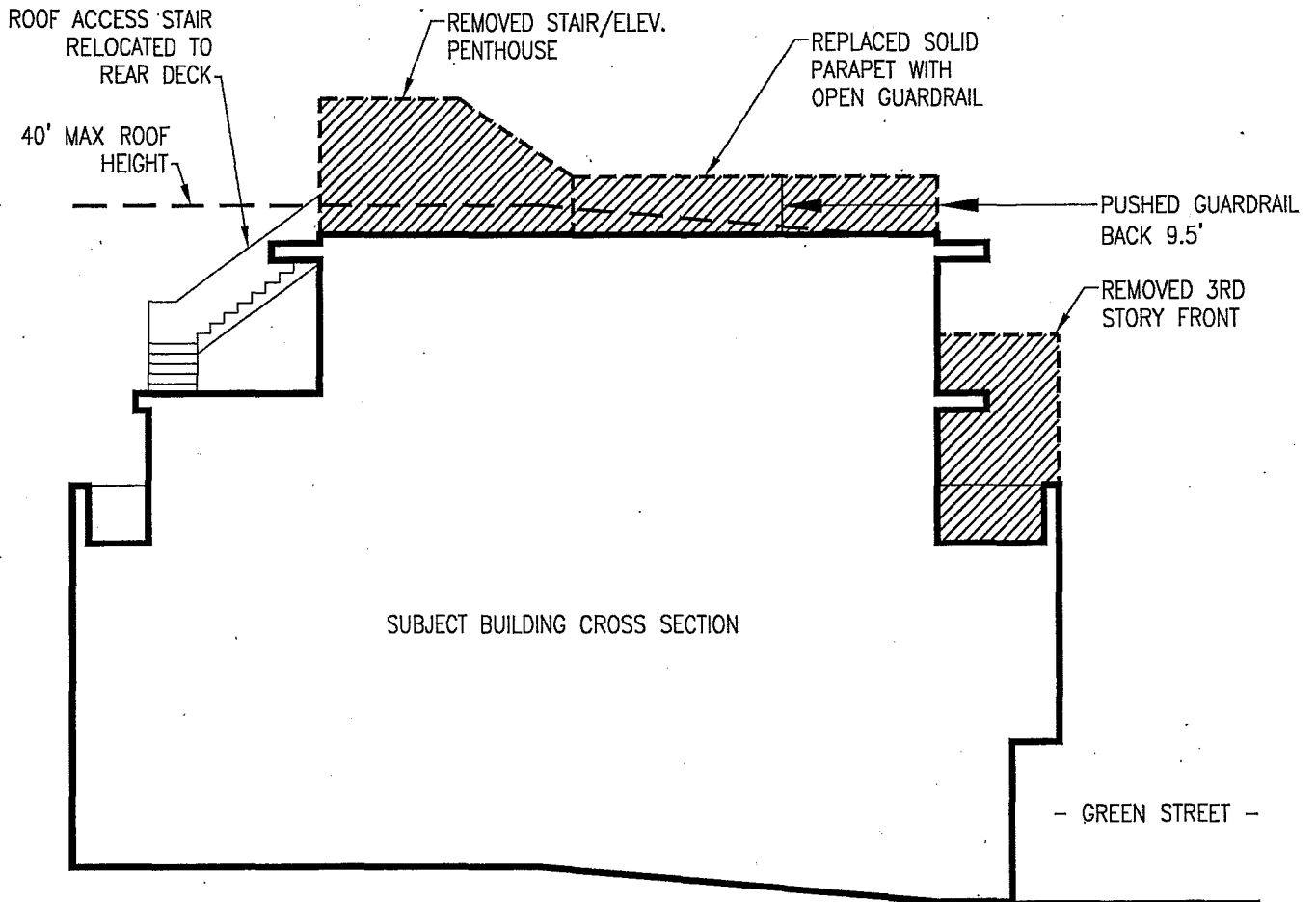
KANTER ARCHITECTS
 822 GREENWICH ST.
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 Bruno@KanterArchitects.com
 415.921.5456

RESIDENTIAL REMODEL:

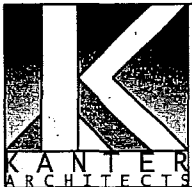
312 Green Street
 San Francisco, CA 94133

JOB NO. -
 DRAWN -
 CHECKED BK
 DATE 10-7-14

SK-2



1 CONCESSIONS MADE TO ADDRESS VIEW CONCERNS



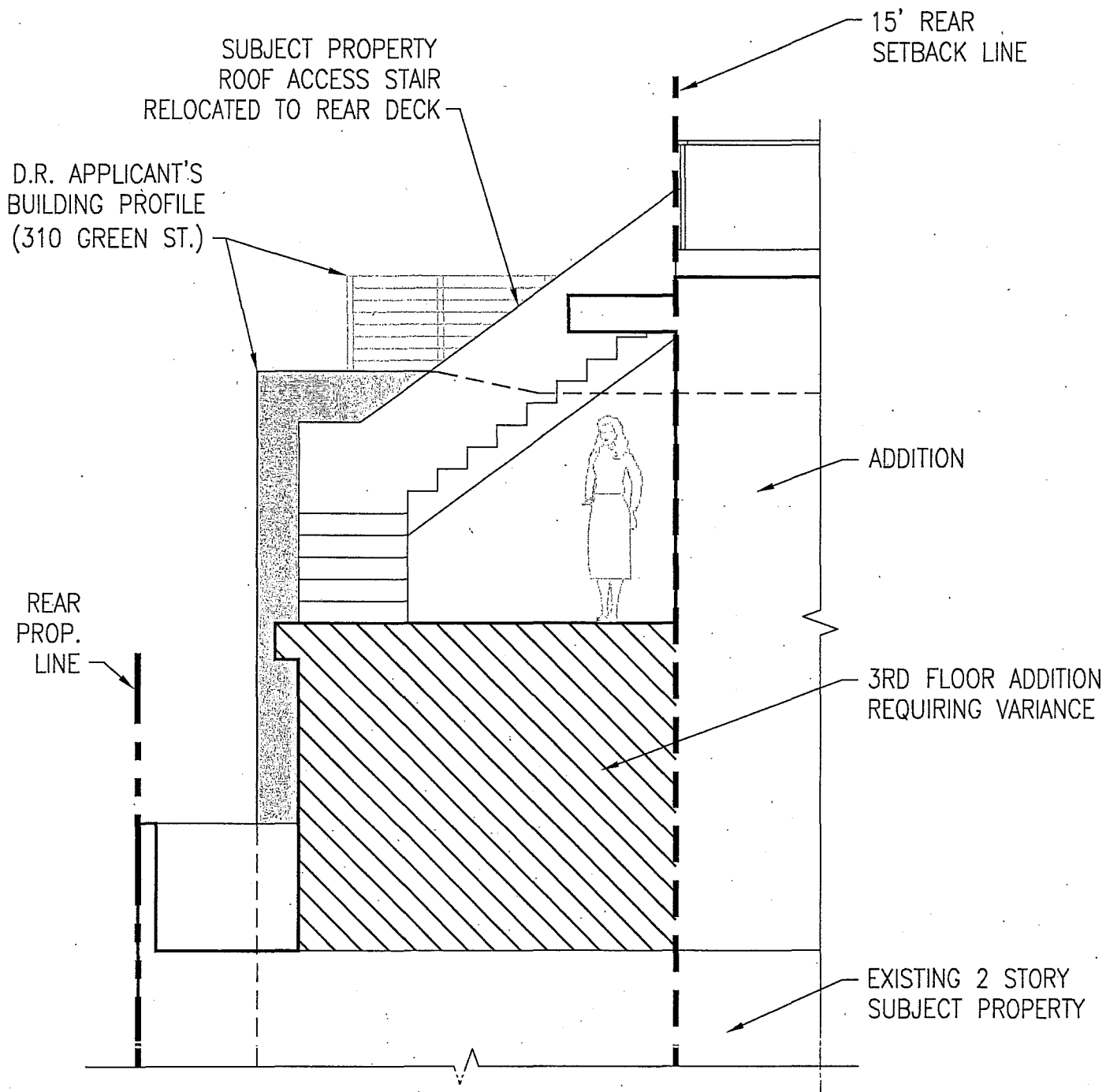
KANTER ARCHITECTS
822 GREENWICH ST.
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Bruno@KanterArchitects.com
415.921.5456

RESIDENTIAL REMODEL:

312 Green Street
San Francisco, CA 94133


JOB NO. -
DRAWN -
CHECKED BK
DATE 10-7-14

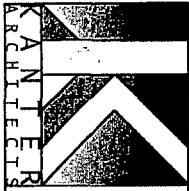
SK-3



SUBJECT BUILDING CROSS SECTION

1 BUILDING PROFILE COMPARISON AT VARIANCE

	KANTER ARCHITECTS 822 GREENWICH ST. S.F., CA 94133 Bruno@KanterArchitects.com 415.921.5456	RESIDENTIAL REMODEL: 312 Green Street San Francisco, CA 94133	JOB NO. _____ DRAWN _____ CHECKED BK _____ DATE 10-7-14	SK-4
	1706			

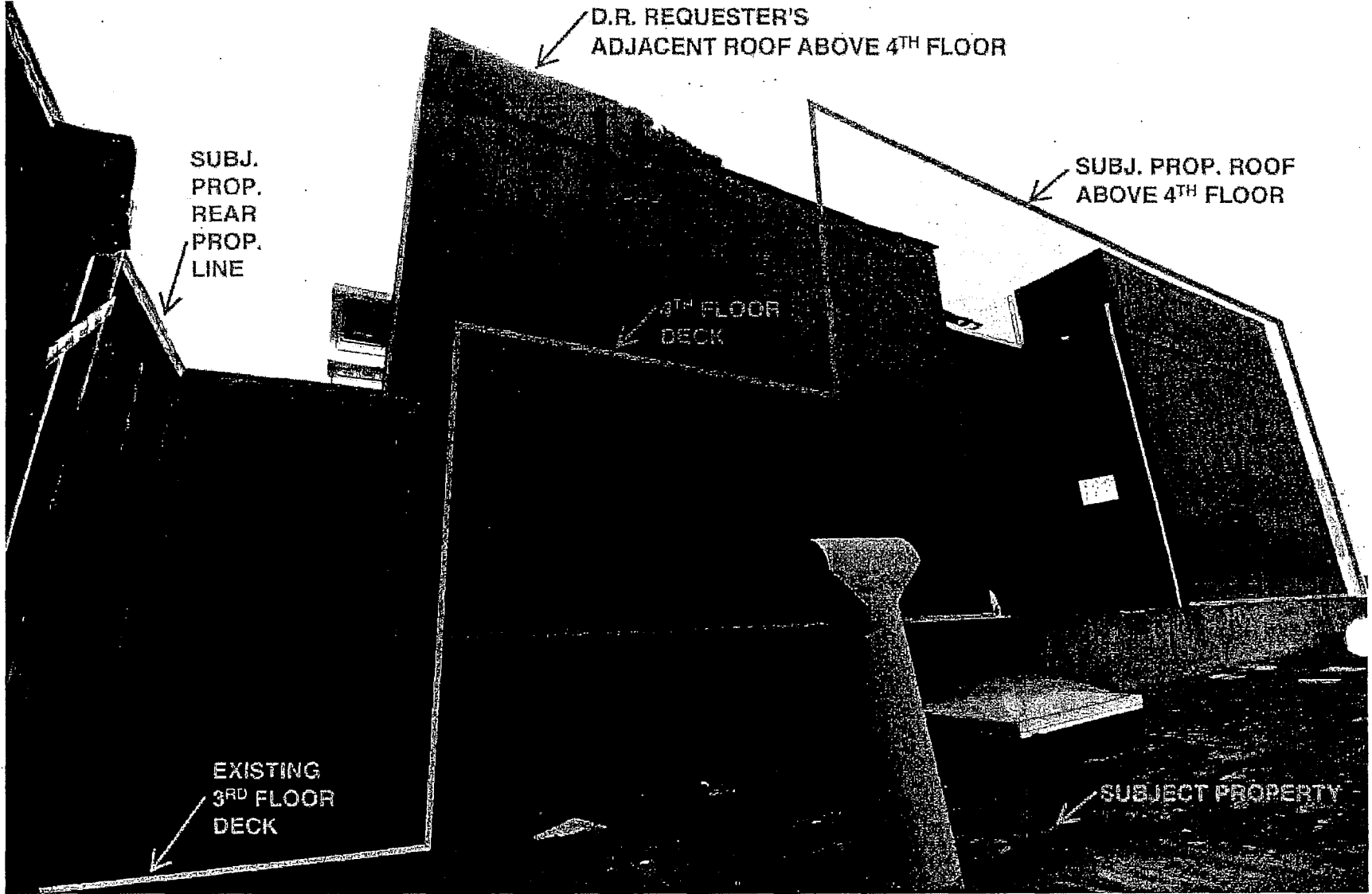


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Bruno@kanterarchitects.com
415.921.5456

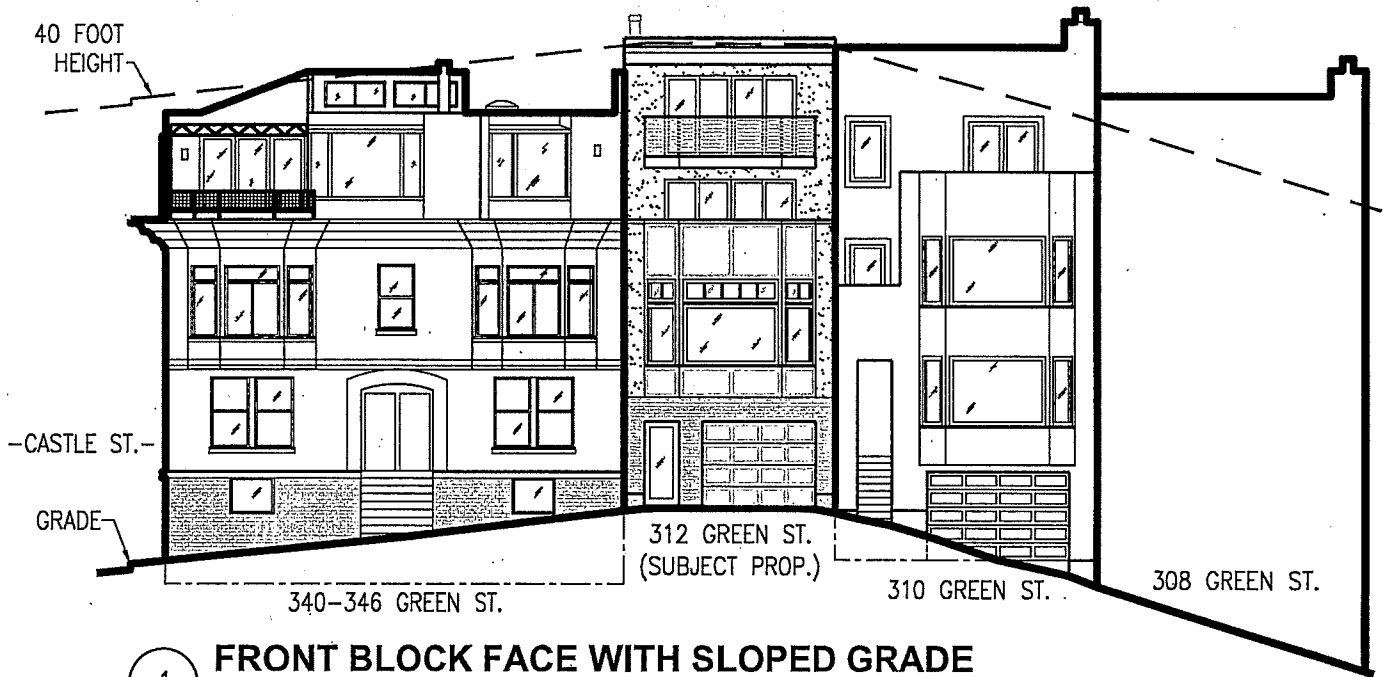
RESIDENTIAL, REMODEL:
312 Green Street
San Francisco, CA 94133
1707

JOB NO.
DRAWN
CHECKED
DATE
10-7-14

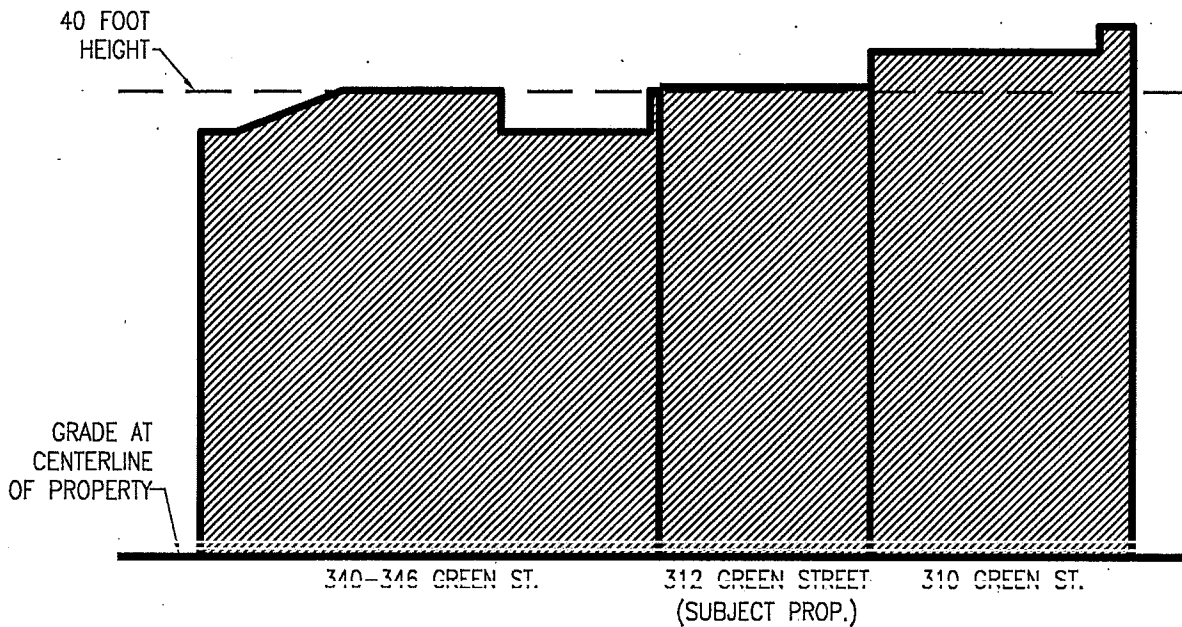
SK-5



1 PROFILE OF PROPOSED FLOORS RELATIVE TO ADJACENT D.R. REQUESTER



1 FRONT BLOCK FACE WITH SLOPED GRADE



2 FRONT BLOCK FACE DIRECT HEIGHT/MASS COMPARISON



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 415.921.5456

RESIDENTIAL REMODEL:

312 Green Street
 San Francisco, CA 94133

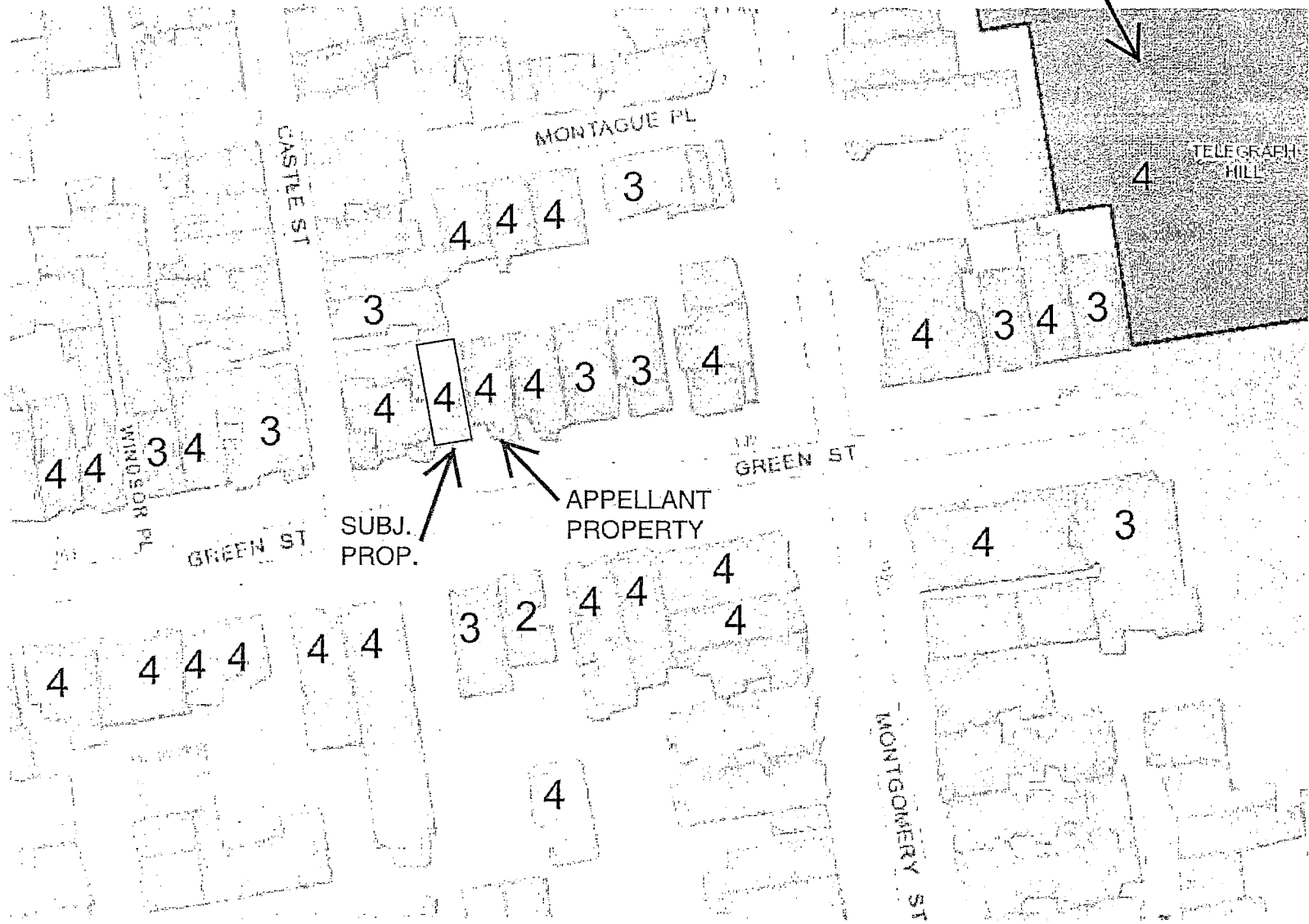
JOB NO. -
 DRAWN -
 CHECKED BK
 DATE 10-7-14

SK-6

EXHIBIT-3.

Block Map - showing building stories

1710



TELEGRAPH HILL HISTORIC DISTRICT (RED SHADED AREA)

BLOCK MAP SHOWING BUILDING STORIES

EXHIBIT-4.

Discretionary Review Action DRA-0387



SAN FRANCISCO PLANNING DEPARTMENT

Discretionary Review Action DRA-0387

HEARING DATE: OCTOBER 23, 2014

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: November 20, 2014
Case No.: 2013.1652DV
Project Address: 312 GREEN STREET
Permit Application: 2013.11.13.1794
Zoning: RM-1 (Residential Mixed, Low Density) District
 Telegraph Hill North Beach Residential Special Use District
 40-X Height and Bulk District
Block/Lot: 0114/016
Project Sponsor: Bruno and Suzanne Kanter
 312 Green Street
 San Francisco, CA 94133
Staff Contact: Kate Conner - (415) 575-6914
 kale.conner@sfgov.org

COPY

ADOPTING FINDINGS RELATED TO NOT TAKING DISCRETIONARY REVIEW OF CASE NO. 2013.1652DV AND THE APPROVAL OF BUILDING PERMIT 2013.11.13.1794 PROPOSING CONSTRUCTION OF 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 AND EXTERIOR STAIRS FROM THE THIRD STORY TO THE FOURTH STORY ALSO ENCROACH INTO THE REQUIRED REAR YARD, AND BOTH ARE SUBJECT TO APPROVAL OF A REAR YARD VARIANCE. THE SUBJECT PROPERTY IS LOCATED WITHIN THE RM-1 (RESIDENTIAL MIXED, LOW DENSITY) DISTRICT, THE TELEGRAPH HILL NORTH BEACH RESIDENTIAL SPECIAL USE DISTRICT, AND THE 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On November 13, 2013, Bruno and Suzanne Kanter filed for Building Permit Application No. 2013.11.13.1794 and Variance 2013.1652V proposing construction of a third floor and fourth floor addition to a two-story single-family residence. The subject property is located within the RM-1 (Residential Mixed, Low Density) District, the Telegraph Hill North Beach Residential Special Use District, and the 40-X Height and Bulk District.

On July 21, 2014, Jack Oswald (hereinafter "Discretionary Review (DR) Requestor") filed an application with the Planning Department (hereinafter "Department") for Discretionary Review (2013.1652D) of Building Permit Application No. 2013.11.13.1794.

The Variance was originally scheduled for the July 23, 2014 Variance hearing; however, the Discretionary Review was filed on July 21, 2014. The Variance was then continued for one month to August 27, 2014 and at that hearing was continued to the October 23, 2014 Planning Commission hearing.

Memo

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

On October 23, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Discretionary Review Application 2013.1652DV.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

ACTION

The Commission hereby does not take Discretionary Review requested in Application No. 2013.1652DV and approves the Building Permit Application 2013.11.13.1794

BASIS FOR RECOMMENDATION

The reasons that the Commission took the action described above include:

1. There are no extraordinary or exceptional circumstances in the case. The proposal complies with the Planning Code, the General Plan, and conforms to the Residential Design Guidelines.
2. The Commission determined that no modifications to the project were necessary and they instructed staff to approve the project per plans marked Exhibit A on file with the Planning Department.

APPEAL AND EFFECTIVE DATE OF ACTION: Any aggrieved person may appeal this Building Permit Application to the Board of Appeals within fifteen (15) days after the date the permit is issued. For further information, please contact the Board of Appeals at (415) 575-6881, 1650 Mission Street # 304, San Francisco, CA, 94103-2481.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission did not take Discretionary Review and approved the building permit as reference in this action memo on September 8, 2011.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Wu, Fong, Antonini, Hillis, Johnson, Richards

NAYS: None

ABSENT: Commissioner Moore

ADOPTED: October 23, 2014

EXHIBIT-5.

Discretionary Review Analysis Oct. 16, 2014



SAN FRANCISCO PLANNING DEPARTMENT

Discretionary Review Abbreviated Analysis HEARING DATE: OCTOBER 23, 2014

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: October 16, 2014
Case No.: 2013.1652DV
Project Address: 312 GREEN STREET
Permit Application: 2013.11.13.1794
Zoning: RM-1 (Residential Mixed, Low Density) District
Telegraph Hill North Beach Residential Special Use District
40-X Height and Bulk District
Block/Lot: 0114/016
Project Sponsor: Bruno and Suzanne Kanter
312 Green Street
San Francisco, CA 94133
Staff Contact: Kate Conner – (415) 575-6914
kate.conner@sfgov.org
Recommendation: Do not take DR and approve as proposed

PROJECT DESCRIPTION

The project 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 rear yard Variance pursuant to Section 134 of the Planning Code. The Variance is for the third story encroachment into the required rear yard and the stairs exterior stairs leading to the fourth story. The Variance will also be considered at this hearing by the Zoning Administrator. It was originally scheduled for the July 23, 2014 Variance hearing; however, the Discretionary Review was filed on July 21, 2014. The Variance was then continued for one month to the August 27, 2014 and at that hearing was continued to this Planning Commission hearing.

SITE DESCRIPTION AND PRESENT USE

The project is located on the north side of Green Street, between Castle and Montgomery Streets, Block 0114, Lot 016. The subject property is located within the RM-1 (Residential Mixed, Low Density) District, the Telegraph Hill North Beach Residential Special Use District, and the 40-X Height and Bulk District. The subject property is 18.5 feet wide and 57.5 feet deep and is located at the crest of a hill, laterally sloping down in both directions. The property is developed with a single-family two-story dwelling which has full lot coverage.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The immediate area surrounding the project site is residential in use and residentially zoned. Properties directly across Green Street are zoned RM-1 and are developed with two-family and single-family

residences in addition to the occasional larger apartment building and three-unit building. The zoning changes to a RM-2 (Residential Mixed, Moderate Density) District at the southeast corner of Green and Kearny Streets. On the same side of Green Street as the subject property, the zoning changes to RH-3 past Montgomery Street and the properties are primarily developed with single-family and two-family units. Denser buildings are located at the corners of Castle and Montgomery Streets. The DR Requestor's home is a single family residence located at 310 Green Street. The North Beach Neighborhood Commercial District is located two blocks to west and the C-2 (Community Business) District is located two blocks to the east of the subject property. The subject property is located within the Telegraph Hill North Beach Residential Special Use District.

BUILDING PERMIT NOTIFICATION

TYPE	REQUIRED PERIOD	NOTIFICATION DATES	DR FILE DATE	DR HEARING DATE	FILING TO HEARING TIME
311 Notice	30 days	June 20, 2014 - July 20, 2014	July 21, 2014	October 23, 2014	94 days

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	10 days	October 13, 2014	October 13, 2014	10 days
Mailed Notice	10 days	October 13, 2014	October 13, 2014	10 days

PUBLIC COMMENT

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)	1	1	
Other neighbors on the block or directly across the street	3	1	
Neighborhood groups	1		

In addition to the three letters of support submitted by individuals living on the same block, 36 additional letters of support were submitted from neighbors in the area and other individuals.

The neighborhood concerns, aside from those of the DR Requestor, included concerns regarding the effect of the proposed addition on private views, the adverse effects caused by proposed construction and the scale of the proposal. Those in support of the project found the design to be contextual and appropriately scaled. Many found the project sponsor to be very collaborative and willing to work with the neighborhood. Others stated their appreciation of the project sponsors intent to construct a sustainable and green addition.

DR REQUESTOR

Jack Oswald, 310 Green Street, San Francisco, CA 94133. The DR Requestor's home is the adjacent home to the east of the subject property.

DR REQUESTOR'S CONCERNS AND PROPOSED ALTERNATIVES

See attached *Discretionary Review Application*, dated July 18, 2014.

PROJECT SPONSOR'S RESPONSE TO DR APPLICATION

See attached *Response to Discretionary Review*, dated September 8, 2014.

ENVIRONMENTAL REVIEW

The Department has determined that the proposed project is exempt/excluded from environmental review, pursuant to CEQA Guideline Section 15301 (Class One - Minor Alteration of Existing Facility, (e) Additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet).

RESIDENTIAL DESIGN TEAM (RDT) REVIEW

The RDT determined that the proposed overall scale, design, and fenestration pattern is consistent with neighborhood character. There are many other full four-story buildings in the neighborhood, and the proposed 3rd and 4th stories are appropriately set back five feet from the existing front building wall and serves as a transition between the setbacks of the neighboring four-story buildings. The proposed rear extension matches the building depth of the neighboring buildings and will have a negligible effect neighboring rear yards' access to light and air. The project is comparable to the others in the immediate context in terms of square footage and lot size. The proposed light well meets Residential Design Guidelines in terms of size and alignment. The proposed parapet is designed as an architectural feature that is contextual. There are no exceptional or extraordinary circumstances that relate to the project.

Under the Commission's pending DR Reform Legislation, this project would not be referred to the Commission as this project does not contain or create any exceptional or extraordinary circumstances.

RECOMMENDATION: Do not take DR and approve project as proposed

Attachments:

Block Book Map

Sanborn Map

Zoning Map

Aerial Photographs

Context Photographs

Section 311 Notice

Cover Letter from DR Requestor dated October 14, 2014

DR Application

Response to DR Application dated September 8, 2014

Public Comment

- Jack Oswald and Anneke Seley February 6, 2014

- James S. Kirk dated March 11, 2014
- Bruno Kanter in response to Mr. Oswald and Mr. Kirk dated March 18, 2014

Project Sponsor Introduction of Letters of Support- Bruno and Suzanne Kanter dated October 15, 2014

- North Beach Neighbors Letter of Support
- Ronald P. Soper, Soper Design Architects dated September 29, 2014
- Helmut and Marie-Theres Kanter dated September 24, 2014
- Miriam Phillips and Charles Eley dated April 1, 2014
- Teresa Johnson and Daria Janese dated July 11, 2014
- Lauren Gray Williams dated July 9, 2014
- Sharone Mendes Nassi dated September 22, 2014
- Natalie Lee dated September 30, 2014
- Jodi Rae Daprano dated October 7, 2014
- Peter A. Zepponi dated October 15, 2014
- Greg Hamming dated October 13, 2014
- Jan Maupin dated October 2, 2014
- Mike Di Benedetti dated September 22, 2014
- Darla Bernard dated September 4, 2014
- Danny Leone
- Steve Batiloro dated September 23, 2014
- Lisa Dungan dated September 4, 2014
- Heather Pollard dated September 15, 2014
- Rebecca Calame dated September 16, 2014
- Ashlyn Perri dated September 24, 2014
- Steve Batiloro dated September 23, 2014 – a duplicate was mistakenly added by the sponsor
- Rafael and Sarah Morales dated September 30, 2014
- Angelo Ferrari dated September 14, 2014
- Wayland Lew dated September 24, 2014
- Matthew Fambrini dated October 6, 2014
- Marissa Viray dated October 2, 2014
- David and Jackie D'Amato dated September 16, 2014
- Sam Hiona dated October 11, 2014
- Grant and Denise Chenier dated October 10, 2014
- Mary An Sullivan dated October 12, 2014
- Ian Cooley dated October 9, 2014
- Jose and Anabela Arau dated October 12, 2014
- Heida Biddle dated October 14, 2014
- Brant E. Blower dated September 29, 2014
- Brigitte Kanter dated October 11, 2014
- Suon Cheng dated September 28, 2014
- Tina and Albert Chou dated October 6, 2014
- Matt McKee dated October 1, 2014
- Heather Johnson and Bryce Sears dated October 12, 2014
- Claudia Tang dated September 25, 2014
- Mary Ann Sullivan dated October 12, 2014 – a duplicate was mistakenly added by the sponsor

Reduced Plans

TO BROWSE THE COMMUNITY SUPPORT LETTERS FOR
THIS PROJECT THAT ARE LISTED ABOVE AND COMPLETE
D.R. RESPONSE PLEASE SEE THE FOLLOWING LINK:

<http://commissions.sfplanning.org/cpcpackets/2013.1652DV.pdf>

EXHIBIT-6.

Planning Department Residential Design Team (RDT) review 9/11/14



SAN FRANCISCO PLANNING DEPARTMENT

RESIDENTIAL DESIGN TEAM REVIEW

DATE: September 11, 2014 RDT MEETING DATE: September 11, 2014

PROJECT INFORMATION:

Planner: Kate Conner
 Address: 312 Green Street
 Cross Streets: Montgomery Street
 Block/Lot: 0114/016
 Zoning/Height Districts: RM-1 / 40-X Telegraph Hill, North Beach Residential SUD
 BPA/Case No. 2013.1652DV 2013.11.13.1794
 Project Status Initial Review Post NOPDR DR Filed
 Amount of Time Req. 5 min (consent) 15 minutes
 30 minutes (required for new const.)

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Description:

The proposal includes a third and fourth floor addition. The third story addition encroaches 10'-6" into the 15'-0" required setback. There are stairs from the third story to the fourth (in response to neighbor concerns regarding a penthouse that were voiced during the pre-application), which also encroach into the rear yard.

Project Concerns (If DR is filed, list each concern.):

Neighborhood character not being preserved, building does not respect the mid-block open space, proposal does not maintain light to adjacent properties, excessive and out of scale with neighborhood, east side lightwell is insufficient- should exactly match, parapet should be eliminated, privacy impacted, projection in rear yard will dominate DR requestor's garden.

DR requestor would like to see project limited to three stories, no variance, and full matching lightwell.

RDT has reviewed this project twice and was supportive of the current design.

RDT Comments:

- Abbreviated DR
- Proposed overall scale, design, and fenestration pattern is consistent with neighborhood character. There are many other full 4-story buildings in the neighborhood.
- Proposed 3rd and 4th story is appropriately setback (approximately 5 feet) from the existing front building wall and serves as a transition between the setbacks of the neighboring 4th story massing.

- Proposed rear extension matches the building depth of the neighboring buildings and will have a negligible change to light and air for the neighboring rear yards.
- Proposed development is comparable to the others in the immediate context in terms of square footage and lot size.
- Proposed light well meets RDGs in terms of size and alignment.
- Proposed parapet is designed as an architectural feature that relates well with the neighbors and helps create no unusual light and air impacts to neighboring buildings.

EXHIBIT-7.

Variance Decision



SAN FRANCISCO PLANNING DEPARTMENT

Variance Decision

Date: November 20, 2014
Case No.: 2013.1652V
Project Address: 312 GREEN STREET
Zoning: RM-1 [Residential Mixed, Low Density] District
40-X Height and Bulk District
Block/Lots: 0114/016
Applicant: Bruno and Suzanne Kanter
312 Green Street
San Francisco, CA 94133
Staff Contact: Kate Conner – (415) 575-6914
kate.conner@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DESCRIPTION OF VARIANCES – REAR YARD VARIANCE SOUGHT:

The proposal is to construct a third floor and fourth floor addition to a two-story, single-family building. The third story addition encroaches 10 feet 6 inches into the 15-foot 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 building is currently noncomplying and occupies the full lot.

Section 134 of the Planning Code requires a 15-foot rear yard. The third-story addition encroaches 10 feet 6 inches into the 15-foot required rear yard. Exterior stairs from the third story to the fourth story are included in the proposal and also encroach into the required rear yard.

PROCEDURAL BACKGROUND:

1. The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.
2. The Zoning Administrator held a public hearing on Variance Application No. 2013.1652V on July 23, 2014; however, a Discretionary Review was filed on July 21, 2014. The variance was then continued for one month to August 27, 2014 and at that hearing was continued to the October 23, 2014 Planning Commission hearing. Both the Discretionary Review and the variance were heard at that Planning Commission hearing.

DECISION:

GRANTED, in general conformity with the plans on file with this application, shown as EXHIBIT A, to construct a third floor and fourth floor addition to a two-story, single-family building, subject to the following conditions:

1. Any future physical expansion, even in the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character and scale. If the Zoning Administrator determines that there would be a significant or

extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.

2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
5. This Variance Decision and the recorded Notice of Special Restrictions shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the Project. This Index Sheet of the construction plans shall reference the Variance Case Number.

FINDINGS:

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

Requirement Met.

- A. The subject property has an average lot depth of 57.5 feet and a lot width of 18.5 feet, resulting in a total lot area of approximately 1,062 square feet. As such, the subject property is the smallest lot on the subject block. The existing building, which was constructed prior to rear yard controls circa 1907, is nonconforming due to its full lot coverage. The diminutive dimensions of the subject property constrict its Code-complying development potential.
- B. The subject property's location is such that the required rear yard would not contribute to the mid-block open space. As stated in the Residential Design Guidelines, rear yards collectively contribute to the mid-block open space that is visible to most residents of the block. This visual open space can be a significant community amenity. The subject property's proximity to the intersection and substandard lot size result in a property that cannot contribute to or detract from the mid-block open space.

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

Requirement Met.

- A. The diminutive dimensions of the subject property detailed in Finding 1(A) above results in an atypically small Code-complying buildable area. This buildable area is further reduced by the need for the project to match two adjacent lightwells per the Residential Design Guidelines, while the vast majority of buildings in the area only match one or none. When combined, the narrowness of the lot and the matching lightwells at the proposed third and fourth floors create a practical difficulty for developing the property in a literal Code-conforming manner.
- B. The existing rear and middle portions of the first and second stories of the subject dwelling are limited in use due to poor access to light and air. The proposed addition will receive adequate light and will provide better habitable space.

FINDING 3.

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

Requirement Met.

- A. Granting this variance will allow the construction of a third and fourth story addition to the existing building that will receive light at the front and rear of the property. The subject building is located between two four-story structures, and the majority of existing buildings on the subject block are either three or four stories. The proposed construction contextually relates to the neighboring buildings in terms of massing. The construction of a contextual addition that complies with the Residential Design Guidelines is a substantial property right possessed by other properties in the same class of district.
- B. The project is comparable to the others in the immediate context in terms of square footage and height. It also creates more useable open space on the third and fourth floor roofs. The provision of useable open space in rear yards or roof decks is a substantial property right of the subject property, possessed by other property in the same class of district.
- C. The proposed rear extension matches the building depth of the neighboring buildings and will have a negligible effect on neighboring rear yards' access to light and air. The proposed third and fourth stories are appropriately set back five feet from the existing front building wall and serves as a transition between the setbacks of the neighboring four-story buildings.

FINDING 4.

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Requirement Met.

- A. Granting the variance will improve the livability of the subject property and will not be materially detrimental to the public welfare or materially injurious to the neighboring properties. The proposed addition is in scale with the two adjacent four story buildings, as well as other buildings on the subject block. Additionally, the proposed rear extension matches the

- building depth of the neighboring buildings and will have a negligible effect on neighboring rear yards' access to light and air.
- B. The Planning Department received three letters of support submitted by individuals living on the same block and 36 additional letters of support were submitted from neighbors in the area and other individuals.
- C. The Planning Department received a Discretionary Review application, four letters in opposition to the project from neighbors on the same block (including one from the Telegraph Hill Dwellers), and 11 additional letters in opposition from residents in the neighborhood. However, the Planning Commission did not take Discretionary Review and recommended approval of the building permit application. Concerns ranged from the effect of the proposed addition on private views, the adverse effects caused by proposed construction, and the scale of the proposal. The Residential Design Team determined that the proposed overall scale, design, and fenestration pattern is consistent with neighborhood character.

FINDING 5.

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

Requirement Met.

- A. This development is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project meets all relevant policies, including conserving neighborhood character, and maintaining housing stock.
1. Existing neighborhood retail uses will not be adversely affected by the proposed project.
 2. The proposed project will be in keeping with the existing housing and neighborhood character. The proposal will preserve the existing single-family dwelling unit on the property.
 3. The proposed project will have no effect on the City's supply of affordable housing.
 4. The proposed project does not adversely affect neighborhood parking or public transit.
 5. The project will have no effect on the City's industrial and service sectors.
 6. The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
 7. The project will have no effect on the City's landmarks or historic buildings.
 8. The project would not affect any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

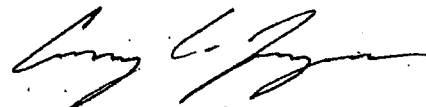
The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

APPEAL: Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 1650 Mission Street, 3rd Floor (Room 304) or call 575-6880.

Very truly yours,



Corey A. Teague
Acting Zoning Administrator

Variance Decision
November 20, 2014

CASE NO. 2013.1652V
312 Green Street

THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.

Copy to I:\Decision Documents\Variance Decision Letters\2014\2014.1652V - 312 Green Street -
Granted

EXHIBIT-8.

History of Complaints By and Against Appellant.

**LETTER FROM PREVIOUS OWNER OF SUBJECT PROPERTY IN
REGARDS TO ILLEGAL INFILL OF APPELLANT'S LIGHTWELL**

October 8, 2010

San Francisco Planning Department and Department of Building Inspection
1650 Mission Street
San Francisco, CA 94103

RE: Illegal Improvements at 310 Green Street, San Francisco, CA

To Whom It May Concern:

On Monday, August 23, 2010, I visited our family property located at 312 Green Street in San Francisco, CA. The property is currently vacant and my elderly father is preparing to improve the property and offer it for rental.

During my visit, I noticed that my neighbor, Mr. Jack Oswald has substantial construction being done to his property at 310 Green Street (APN #0114-15). The construction includes an expansion of his dining or other area into the light well between our buildings. We were never notified of this construction commencing and we did not approve or agree to Mr. Oswald covering our one window that looks into said light well. Mr. Oswald's active permits are # 201002247046 and 201009301936 which involve infill of an existing lightwell.

I immediately had our representative check the city files and Mr. Oswald's construction permit application to be certain that all was done properly. In fact, the plans submitted to the city do not show our existing legal window or make any mention of it as is required by Zoning Administrator Bulletin No. 4 when a lightwell is being infilled. Our window was installed per Permit # 200107183981 in November 2001. It was not subject to the current requirements of Administrative Bulletin (AB-009) which was enacted in September 2002. The permitted plans to infill the existing lightwell at 310 Green Street were approved based on incorrect and potentially fraudulent misrepresentation by the property owner and/or his architect.

I have offered to resolve the issue peacefully with Mr. Oswald, but he has not responded in a timely manner. As a result, I am requesting that the City of San Francisco put an immediate stop to the construction at Mr. Oswald's property at 310 Green Street and our property returned to its original condition until an acceptable resolution can be reached.

I will be travelling out of the country until October 18, 2010. In the meantime please contact my Agent, Marissa Brandon, Architect (415) 608-2410, marissa_brandon@yahoo.com to confirm the permit work at 310 Green Street has been suspended.

Sincerely,

Marshall Hydorn
312 Green Street
San Francisco, CA 94133
(415) 559-8230

**APPELLANT'S INFILL OF LIGHTWELL WITHOUT DUE PROCESS
(NO DISCLOSURE OF ADJACENT WINDOW AND NO NOTIFICATION TO ADJACENT OWNERS
WERE PROVIDED BY APPELLANT AS REQUIRED BY PLANNING CODE SECTION 311)**

Permits, Complaints and Boiler PTO Inquiry

COMPLAINT DATA SHEET

Complaint Number: 201073954
Owner/Agent: OWNER DATA SUPPRESSED
Date Filed: 10/20/2010
Owner's Phone: --
Location: 310 GREEN ST
Contact Name: --
Block: 0114
Contact Phone: --
Lot: 015
Complainant: COMPLAINANT DATA SUPPRESSED
Site:
Rating:
Occupancy Code:
Received By: Czarina Moreno
Division: BID
Complainant's Phone:
Complaint Source: LETTER
Assigned to Division: BID
Description: Property line window legally installed under PA #200107183981 at 312 Green Street has been boarded up and covered from the 310 Green Street side (Ref. PA #201002247046 - Marissa Brandon, Architect (415)608-2410)

Instructions:

INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
BID	DONNELLY	6253	15	

REFERRAL INFORMATION

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
10/20/10	CASE OPENED	BID	Donnelly	CASE RECEIVED	
10/25/10	OTHER BLDG/HOUSING VIOLATION	BID	Donnelly	CASE UPDATE	Site visit, no BID violations. All work per approved plan and permit appoication. Advised owner's representative to contact the planning dept. for lack of disclosure about property line window/lightwell issue. reschedule for further review and investigation.
11/22/10	OTHER BLDG/HOUSING VIOLATION	BID	Donnelly	CASE ABATED	Abated by Ed donnelly

COMPLAINT ACTION BY DIVISION

NOV (HIS):

NOV (BID):

Inspector Contact Information

Online Permit and Complaint Tracking home page.

Technical Support for Online Services

If you need help or have a question about this service, please visit our FAQ area.

**COMPLAINT MADE ON SUBJECT PROPERTY (PRE-EXISTING CONDITIONS)
BY APPELLANT AFTER PRE-APPLICATION MEETING.**

Permits, Complaints and Boiler PTO Inquiry

COMPLAINT DATA SHEET

Complaint Number: 201445961

Owner/Agent: OWNER DATA SUPPRESSED **Date Filed:** 01/03/2014

Owner's Phone: -- **Location:** 312 GREEN ST

Contact Name: -- **Block:** 0114

Contact Phone: -- **Lot:** 016

Complainant: COMPLAINANT DATA SUPPRESSED **Site:**

Rating:

Occupancy Code:

Received By: JingJing Lu

Complainant's Phone: **Division:** BID

Complaint Source: TELEPHONE

Assigned to Division: BID

Description: Unpermitted construction including adding skylight and deck. Please contact Jack to get access to the building

Instructions:

INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
BID	POWER	6270	15	

REFERRAL INFORMATION

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
01/03/14	CASE OPENED	BID	Power	CASE RECEIVED	
01/06/14	OTHER BLDG/HOUSING VIOLATION	BID	Power	NO ENTRY	left note
01/13/14	OTHER BLDG/HOUSING VIOLATION	BID	Power	NO ENTRY	left note
01/14/14	OTHER BLDG/HOUSING VIOLATION	BID	Power	CASE UPDATE	copy of inspection request mailed by jj
02/20/14	OTHER BLDG/HOUSING VIOLATION	BID	Power	CASE CLOSED	roof deck removed.

COMPLAINT ACTION BY DIVISION

NOV (HIS):

NOV (BID):

Inspector Contact Information

Online Permit and Complaint Tracking home page.

Technical Support for Online Services

If you need help or have a question about this service, please visit our FAQ area.

**LIST OF COMPLAINTS MADE ON APPELLANT'S PROPERTY, 310 GREEN STREET
(NONE MADE BY PERMIT APPLICANT)**

Permits, Complaints and Boiler PTO Inquiry

You selected:

Address: **310 GREEN ST** Block/Lot: **0114 / 015**

Please select among the following links, the type of permit for which to view address information:

Electrical Permits Plumbing Permits Building Permits Complaints

(Complaints matching the selected address.)

Complaint #	Expired	Date Filed	Active	Div	Block	Lot	Street #	Street Name
201388065		02/20/2013	N	CES	0114	015	310	GREEN ST
201388070		02/20/2013	N	CES	0114	015	310	GREEN ST
201388071		02/20/2013	N	CES	0114	015	310	GREEN ST
201388064		02/20/2013	Y	CES	0114	015	310	GREEN ST
201387642		02/14/2013	N	HIS	0114	015	310	GREEN ST
201260481		08/27/2012	Y	BID	0114	015	310	GREEN ST
201073954		10/20/2010	N	BID	0114	015	310	GREEN ST
200114850		03/01/2001	N	BID	0114	015	310	GREEN ST

[Online Permit and Complaint Tracking home page.](#)

Technical Support for Online Services

If you need help or have a question about this service, please visit our FAQ area.

Permits, Complaints and Boiler PTO Inquiry

COMPLAINT DATA SHEET

Complaint Number: 201387642
Owner/Agent: OWNER DATA SUPPRESSED
Date Filed: 02/14/2013
Owner's Phone: --
Location: 310 GREEN ST
Contact Name: --
Block: 0114
Contact Phone: --
Lot: 015
Complainant: COMPLAINANT DATA SUPPRESSED
Site:
Rating:
Occupancy Code: R-3
Received By: Bernedette Perez
Division: HIS
Complainant's Phone:
Complaint Source: 311 INTERNET REFERRAL
Assigned to Division: HIS
Description: this property has been abandoned and in a stage of unfinished construction.
Instructions: 311 SR# 2009658 received by HIS 2/12/2013 refer to CES

INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
HIS	DERVARTANIAN	6261	3	

REFERRAL INFORMATION

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
02/14/13	CASE OPENED	HIS	DerVartanian	CASE CLOSED	Refer to CES

COMPLAINT ACTION BY DIVISION

NOV (HIS):

NOV (BID):

Inspector Contact Information

[Online Permit and Complaint Tracking home page.](#)

Technical Support for Online Services

If you need help or have a question about this service, please visit our FAQ area.

Permits, Complaints and Boiler PTO Inquiry

COMPLAINT DATA SHEET

Complaint Number: 201388064
Owner/Agent: OWNER DATA SUPPRESSED
Owner's Phone: --
Contact Name: --
Contact Phone: --
Complainant: COMPLAINANT DATA SUPPRESSED
Complainant's Phone: --
Complaint Source: TELEPHONE
Assigned to Division: CES
Description: Abandoned Building

Date Filed: 02/20/2013
Location: 310 GREEN ST
Block: 0114
Lot: 015
Site: --
Rating: --
Occupancy Code: --
Received By: Catherine Byrd
Division: CES

Instructions:

INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
CES	MATHER	6217		

REFERRAL INFORMATION

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
02/20/13	CASE OPENED	CES	Mather	CASE RECEIVED	
02/21/13	ABANDONED BUILDING	CES	Mather	FIRST NOV SENT	
02/22/13	ABANDONED BUILDING	CES	Mather	FIRST NOV SENT	posted
02/25/13	ABANDONED BUILDING	CES	Mather	PERMIT RESEARCH	+

COMPLAINT ACTION BY DIVISION

NOV (HIS):

NOV (BID):

Inspector Contact Information

[Online Permit and Complaint Tracking home page.](#)

Technical Support for Online Services

If you need help or have a question about this service, please visit our FAQ area.

Permits, Complaints and Boiler PTO Inquiry

COMPLAINT DATA SHEET

Complaint Number: 201388071
Owner/Agent: OWNER DATA SUPPRESSED
Owner's Phone: --
Contact Name: --
Contact Phone: --
Complainant: COMPLAINANT DATA SUPPRESSED
Complainant's Phone: --
Complaint Source: TELEPHONE
Assigned to Division: CES
Description: Vacant Building

Date Filed: 02/20/2013
Location: 310 GREEN ST
Block: 0114
Lot: 015
Site: --
Rating: --
Occupancy Code: --
Received By: Catherine Byrd
Division: CES

Instructions:

INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
CES	MATHER	6217		

REFERRAL INFORMATION

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
02/20/13	CASE OPENED	CES	Mather	CASE RECEIVED	
02/21/13	ABANDONED BUILDING	CES	Mather	CASE ABATED	duplciate file Case # 201388070. is active.

COMPLAINT ACTION BY DIVISION

NOV (HIS):

NOV (BID):

Inspector Contact Information

Online Permit and Complaint Tracking home page.

Technical Support for Online Services

If you need help or have a question about this service, please visit our FAO area.

(BOS)

From: BOS Legislation (BOS)
Sent: Monday, January 05, 2015 4:12 PM
To: 'mprofant@zulpc.com'; 'brunokanter@gmail.com'; Givner, Jon (CAT); Stacy, Kate (CAT); Byrne, Marlena (CAT); Sanchez, Scott (CPC); Jones, Sarah (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Tam, Tina (CPC); Conner, Kate (CPC); Wise, Viktoriya (CPC); Ionin, Jonas (CPC); BOS-Supervisors; BOS-Legislative Aides; Jain, Devyani (CPC); Goldstein, Cynthia (PAB); Pacheco, Victor (PAB); ryanp@zulpc.com; Caltagirone, Shelley (CPC)
Cc: Calvillo, Angela (BOS); Caldeira, Rick (BOS); Carroll, John (BOS); BOS Legislation (BOS); Lamug, Joy
Subject: Appeal of Categorical Exemption from Environmental Review for 312 Green Street - Supplemental Documentation from Planning

Categories: 141244

Good afternoon,

Please find linked below supplemental documentation received by the Office of the Clerk of the Board from the Planning Department, concerning the Categorical Exemption appeal for 312 Green Street.

[Planning Memo - 1/5/2015](#)

You are invited to review the entire matter on our [Legislative Research Center](#) by following the link below.

[Board of Supervisors File No. 141244](#)

The appeal hearing for this matter has been continued to a 3:00 p.m. special order before the Board on January 13, 2015.

Thank you,

John Carroll
Legislative Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445 - Direct | (415)554-5184 - General | (415)554-5163 - Fax
john.carroll@sfgov.org | board.of.supervisors@sfgov.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking [here](#).

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: January 5, 2015
TO: Angela Calvillo, Clerk of the Board
FROM: Sarah Jones, Environmental Review Officer, Planning Department
RE: Appeal of the Categorical Exemption for 312 Green Street, Assessor's Block 0114, Lot 016
 Planning Department Case No. 2012.0635E

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
 Information:
415.558.6377

HEARING DATE: January 13, 2015

Attached is the Planning Department's memorandum to the Board of Supervisors regarding the appeal of the categorical exemption for 312 Green Street. We have also mailed copies of the memorandum to the project sponsor and appellant.

If you have any questions regarding this matter, please contact Shelley Caltagirone at 415-558-6625 or shelley.caltagirone@sfgov.org.

Thank you.

**RECEIVED AFTER THE ELEVEN-DAY
 DEADLINE, BY NOON, PURSUANT TO ADMIN.
 CODE, SECTION 31.16(b)(5)**
 (Note: Pursuant to California Government Code, Section
 65009(b)(2), information received at, or prior to, the public
 hearing will be included as part of the official file.)

RECEIVED
 BOARD OF SUPERVISORS
 SAN FRANCISCO
 2015 JAN -5 PM 12:05
 AK



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Categorical Exemption Appeal 312 Green Street

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DATE: January 6, 2015
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Sarah B. Jones, Environmental Review Officer – (415) 558-9048
 Shelley Caltagirone – (415) 558-6625
RE: Planning Case No. 2012.0635E
 Appeal of Categorical Exemption for 312 Green Street
HEARING DATE: January 13, 2015
ATTACHMENTS: Attachment A – November 24, 2014 Appeal Letter from Attorney Ryan Petterson, Zacks & Freedman, P.C., representing Jack Oswald and Anneke Seley (Exhibit A of Letter of Appeal is the January 15, 2013 Exemption from Environmental Review and January 10, 2013 Preservation Team Review Form)

PROJECT SPONSOR: Bruno and Suzanne Kanter, (415) 921-5456
APPELLANT: Ryan Petterson, Zacks & Freedman, P.C., representing Jack Oswald and Anneke Seley, (415) 956-8110

INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (the "Board") regarding the Planning Department's (the "Department") issuance of a Categorical Exemption under the California Environmental Quality Act ("CEQA Determination") for the proposed 312 Green Street project (the "Project").

The Department, pursuant to Title 14 of the CEQA Guidelines, issued a Categorical Exemption under Case No. 2012.0635E for the Project on January 15, 2013 finding that the proposed Project is exempt from the California Environmental Quality Act (CEQA) as a Class 1 categorical exemption. The Department issued a second Categorical Exemption under Case No. 2013.1652DV for the modified Project on October 16, 2014 with the issuance of the Discretionary Review – Abbreviated Analysis Report finding that the modified Project is still exempt from the California Environmental Quality Act (CEQA) as a Class 1 categorical exemption.

The decision before the Board is whether to uphold the Department's decision to issue categorical exemptions and deny the appeal, or to overturn the Department's decision to issue categorical exemptions and return the project to the Department staff for additional environmental review.

SITE DESCRIPTION & EXISTING USE

The project is located on the north side of Green Street, between Castle and Montgomery Streets, Block 0114, Lot 016. The subject property is located within the RM-1 (Residential Mixed, Low Density) District, the Telegraph Hill North Beach Residential Special Use District, and the 40-X Height and Bulk District. The subject property is 18.5 feet wide and 57.5 feet deep and is located at the crest of a hill, laterally sloping down in both directions. The property is developed with a single-family two-story dwelling which has full lot coverage.

PROJECT DESCRIPTION

The Categorical Exemption for the Project issued on January 15, 2013 approved widening the garage door; installing new siding and trim at first floor facade; and, remodeling the entry stairs to comply with current building code. The Categorical Exemption for the modified Project issued on October 16, 2014 approved constructing 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 were exterior stairs from the third story to the fourth story which also encroach into the required rear yard.

BACKGROUND

On January 15, 2013, the Department determined that the Project was categorically exempt under CEQA Class 1 – Existing Facilities, and no further environmental review was required.

On October 16, 2014, the Department affirmed in the Discretionary Review – Abbreviated Analysis Report that the modified Project was categorically exempt under CEQA Class 1 – Existing Facilities, and no further environmental review was required.

On November 24, 2014, an appeal of the Categorical Exemption Determination was filed by Zacks & Freedman, P.C.

CEQA GUIDELINES

Categorical Exemptions

Section 21084 of the California Public Resources Code requires that the CEQA Guidelines identify a list of classes of projects that have been determined not to have a significant effect on the environment and are exempt from further environmental review.

In response to that mandate, the State Secretary of Resources found that certain classes of projects, which are listed in CEQA Guidelines Sections 15301 through 15333, do not have a significant impact on the environment, and therefore are categorically exempt from the requirement for the preparation of further environmental review.

The CEQA State Guidelines Section 15301(e)(2), or Class 1, provides an exemption from environmental review for additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet,

whichever is less. The Class 1 Categorical Exemption also allows for demolition and removal of individual small structures including up to three single-family residences. Therefore, the proposed work would be exempt under Class 1.

In determining the significance of environmental effects caused by a project, CEQA State Guidelines Section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA State Guidelines 15604(f)(5) offers the following guidance: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts."

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The concerns raised in the November 24, 2014 Appeal Letter are cited below and are followed by the Department's responses.

Issue 1: The Appellant contends that "the subject property is one of the last remaining structures, in terms of size and shape, from the post-1906 to 1915 reconstruction period...that maintains its original size and shape."

Response 1: The Planning Department reviewed the property to determine if it would be eligible for listing on the California Register, thereby qualifying as a historic resource per CEQA regulations. It is not eligible as either an individual historic resource or as a contributor to an eligible historic 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 it 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.

The memorandum prepared by Garavaglia Architecture and addressed to the Board, dated November 21, 2014, concurs that the integrity of the property is historically and materially compromised. The memorandum does not find that the property or the immediate area qualify as historic resources under CEQA. Neither does the memorandum find that the project would cause a significant adverse impact to historic resources.

Issue 2: The Appellant contends that the Project's additional height and bulk will disrupt the existing massing patterns on the block and should be set further back from the front to differentiate the new vertical addition from the original structure. The Appellant raises multiple other design issues, including the Project's effect on air circulation, privacy, natural light, neighborhood lot coverage ratios, and private views.

Response 2: As the property is not a historic resource and is not immediately adjacent to historic resources, no impact to historic resource could be caused by the Project design. The design was subject to the Residential Design Guidelines (RDGs) and Planning Code restrictions, neither of which are subjects pertinent to this appeal of the Categorical Exemption determination. As background, the following evaluation of the project per the RDGs from the Discretionary Review report has been provided.

The RDT [Residential Design Team] determined that the proposed overall scale, design, and fenestration pattern is consistent with neighborhood character. There are many other full four-story buildings in the neighborhood, and the proposed 3rd and 4th stories are appropriately set back five feet from the existing front building wall and serves as a transition between the setbacks of the neighboring four-story buildings. The proposed rear extension matches the building depth of the neighboring buildings and will have a negligible effect neighboring rear yards' access to light and air. The project is comparable to the others in the immediate context in terms of square footage and lot size. The proposed light well meets Residential Design Guidelines in terms of size and alignment. The proposed parapet is designed as an architectural feature that is contextual. There are no exceptional or extraordinary circumstances that relate to the project.

The Department and the Planning Commission have reviewed the Project and found that the design complies with the City's guidelines.

Issue 3: The Appellant contends that the Project "likely constitutes a de facto demolition of the existing building."

Response 3: The Department reviewed the Project for compliance with Planning Code Section 317 regulating removal of dwelling units and found that the Project would not be considered a de facto demolition per the Planning Code.

Issue 4: The Appellant contends that the seismic separation between buildings will be inadequate and that the soil stability of the site will be compromised.

Response 4: The Appellant has not provided substantial evidence to support a reasonable possibility that the project could result in significant geotechnical impacts.

Compliance with the Building Code and Slope Protection Act would ensure that the proposed project would be constructed in a manner that would not significantly affect slope stability or otherwise affect the project site or neighboring properties. The Appellant has not provided any evidence that the Building Code and Slope Protection Act are insufficient to address geotechnical concerns.

DBI may require additional site specific reports, analysis, and monitoring in compliance with the Building Code and the Slope Protection Act to ensure the structural integrity of the site and slope stability. Thus, the existing regulatory program and requirements are sufficient to ensure that the proposed project would not result in a significant impact related to slope stability and would not affect nearby properties.

CONCLUSION

No substantial evidence supporting a fair argument that a significant environmental effect may occur as a result of the project has been presented that would warrant preparation of further environmental review. The Department has found that the proposed project is consistent with the cited exemption. The Appellants have not provided any substantial evidence or expert opinion to refute the conclusions of the Department.

For the reasons stated above and in the two CEQA Categorical Exemption Determinations, the CEQA Determination complies with the requirements of CEQA and the Project is appropriately exempt from environmental review pursuant to the cited exemption. The Department therefore recommends that the Board uphold the CEQA Categorical Exemption Determination and deny the appeal of the CEQA Determination.

ATTACHMENT A

November 24, 2014 Appeal Letter from Attorney Ryan Petterson, Zacks & Freedman, P.C., representing Jack Oswald and Anneke Seley (Exhibit A of Letter of Appeal is the January 15, 2013 Exemption from Environmental Review and January 10, 2013 Preservation Team Review Form)

ZACKS & FREEDMAN

A PROFESSIONAL CORPORATION

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

NOV 24 PM 2:45

235 Montgomery Street, Suite 400
San Francisco, California 94104
Telephone (415) 956-8100
Facsimile (415) 288-9755
www.zulpc.com

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.

Ryan J. Patterson by MP

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

BLOCK/LDT(S)

312 Green St.

1114 / 016

CASE NO.

PERMIT NO.

PLANS DATED

2012.0635E

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 5** 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.**

Determination for CEQA Categorical Exemption

- 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: P.T.R 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 WJF

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
---------------------------------	------------	-------------------------	------------

PROJECT INFORMATION:		
Planner:	Address:	
Shelley Caltagirone	312 Green Street	
Block/Lot:	Cross Streets:	
1114/016	Castle & Montgomery Streets	
CEQA Category:	Art. 10/11:	BPA/Case No.:
B	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		Historic District/Context		
Property is individually eligible for inclusion in a California Register under one or more of the following Criteria:		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 1 - Event:	<input type="radio"/> Yes <input checked="" type="radio"/> No	
Criterion 2 - Persons:	<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 3 - Architecture:	<input type="radio"/> Yes <input checked="" type="radio"/> No	
Criterion 4 - Info. Potential:	<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"/>	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	

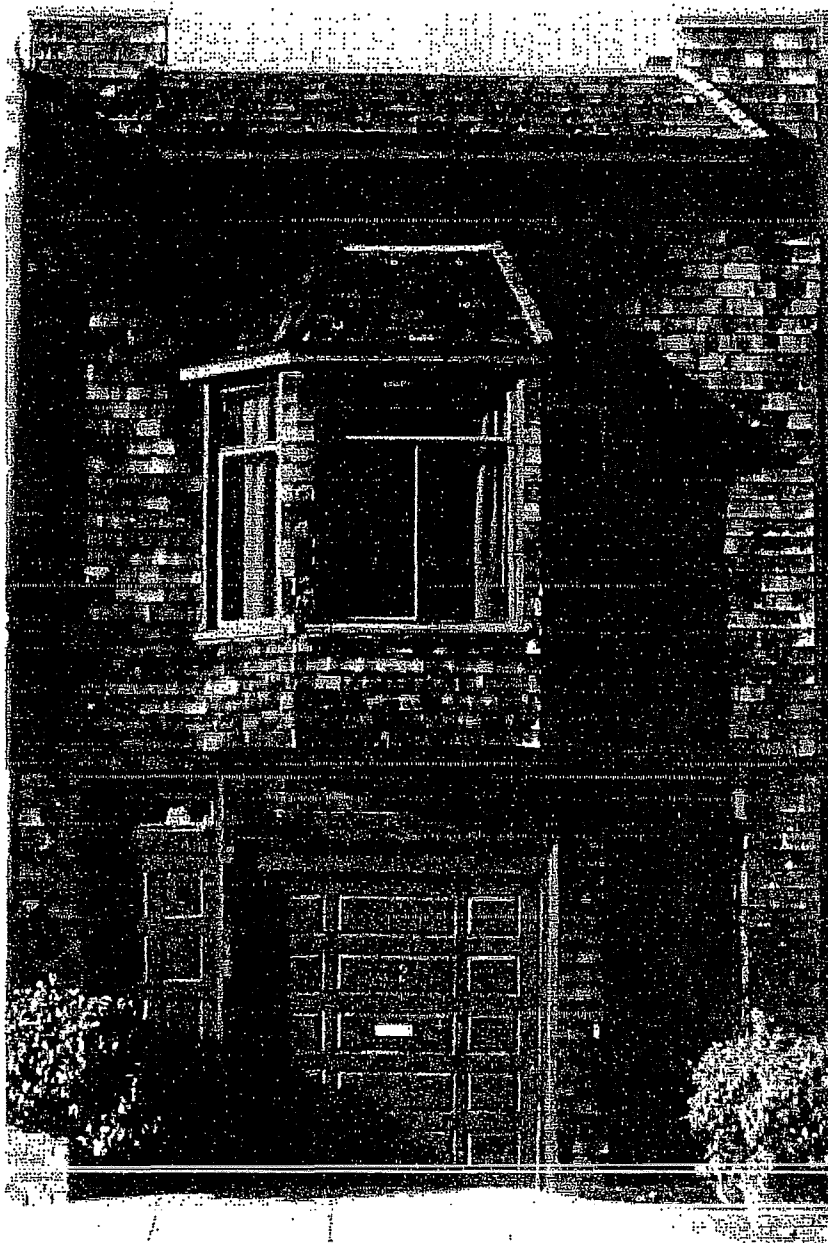
* If No is selected for Historic Resource per CEQA, a signature from Senior Preservation Planner or Preservation Coordinator is required.

PRESERVATION TEAM COMMENTS

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.

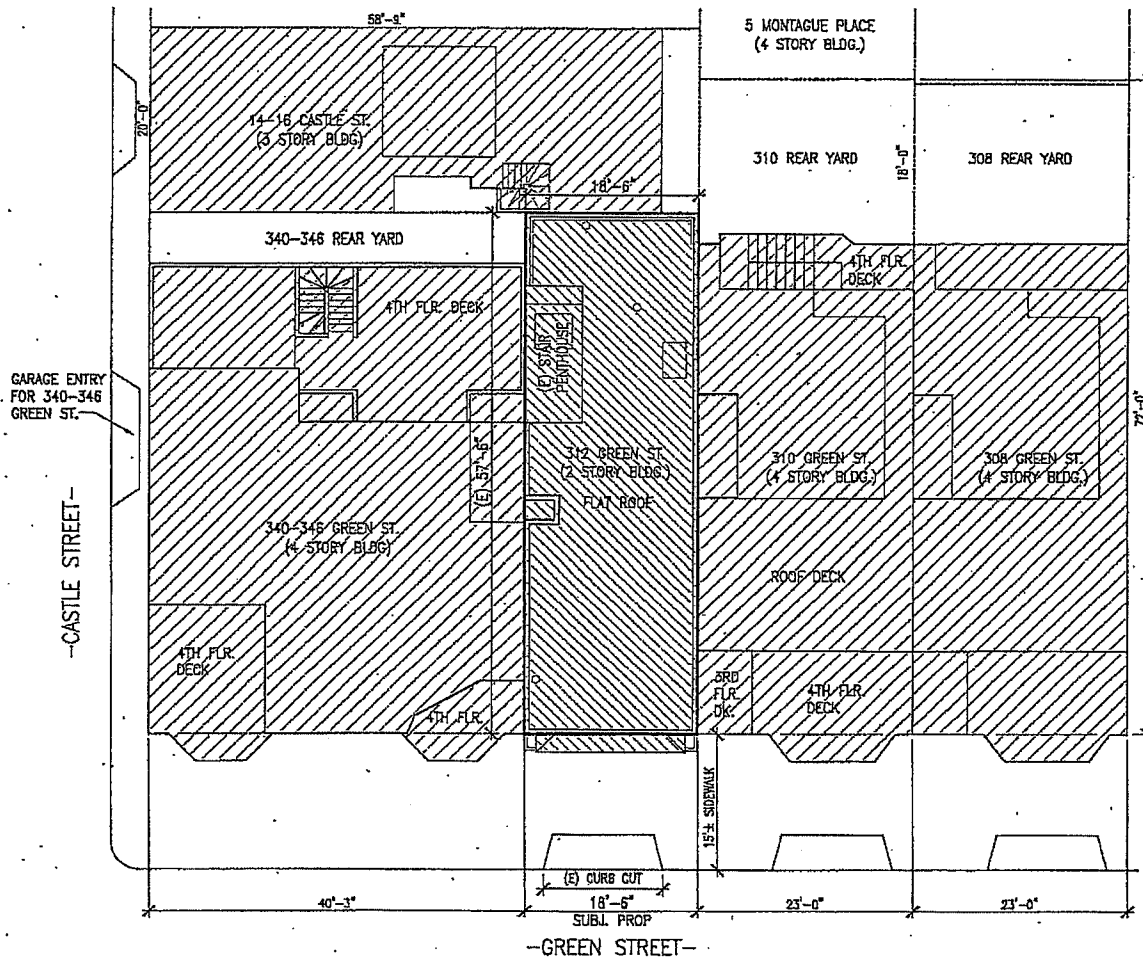
Signature of a Senior Preservation Planner/Preservation Coordinator	Date
<i>YMAZ</i>	1-15-2013

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



Subject Building, 312 Green Street.

EXHIBIT B



① EXISTING SITE PLAN

DRAWING INDEX:

- ALL1 EXISTING SITE PLAN
- ALL2 PROPOSED SITE PLAN
- ALL3 EXISTING FLOOR PLANS
- ALL4 PROPOSED FLOOR PLANS
- ALL5 EXISTING ELEVATIONS
- ALL6 PROPOSED ELEVATIONS

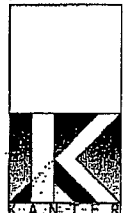
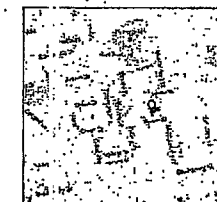
PROJECT INFO:

BLOCK 1015 114/118
 ZONING: RM-1
 BEACH: 40-X
 TYPE I CONSTRUCTION TYPE V
 STORES: 4
 OCCUPATION R-3
 NOT IN TURK DISTRICT OF RESERVATION
 BLDG. 1124-1928 + ADJ. 1039 = 2828 S.F.

PROPOSED SCOPE:

- GRAB #3 & 2ND FLOOR REMODEL
- 3RD & 4TH FLOOR ADDITION
- SDO #1 UPGRADE
- SDO #2 LEED GREEN BLDG. CERT.
- ACCESSIBLE BARRIER FREE MOVE

LOCATION MAP



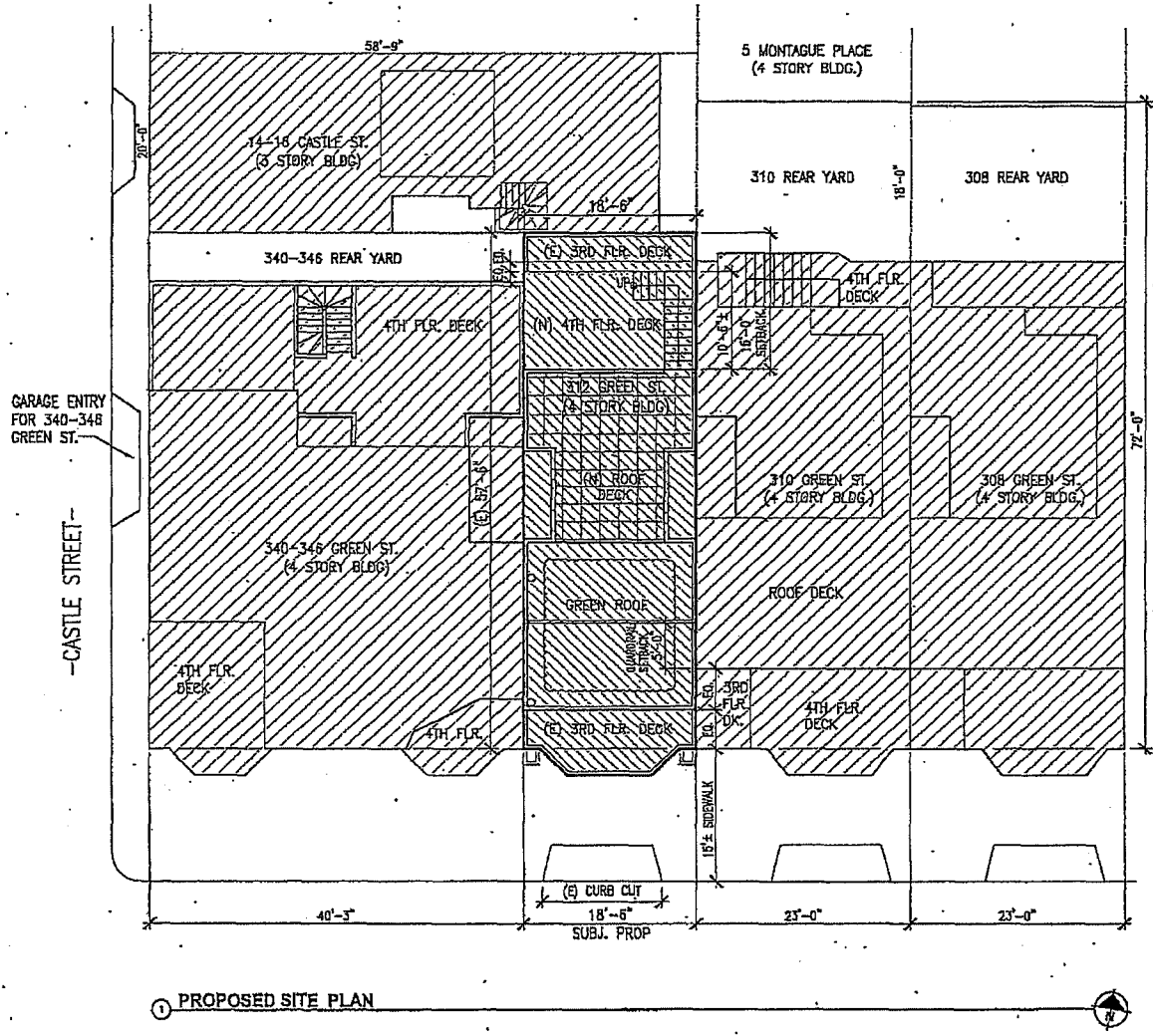
K SAN FRANCISCO
 822 GREENWICH ST.
 S.F., CA 94133
 Email: KSan@aol.com
 415.321.5458

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

DATE: 05/11/11
 DRAWN BY: JH
 CHECKED BY: JH
 PROJECT NO.: 11-11-11

SITE PERMIT SUM.
 (311 NOTIFICATION)
 DRAW TITLE:
 EXISTING SITE PLAN

SHEET NO.
A0.1



① PROPOSED SITE PLAN

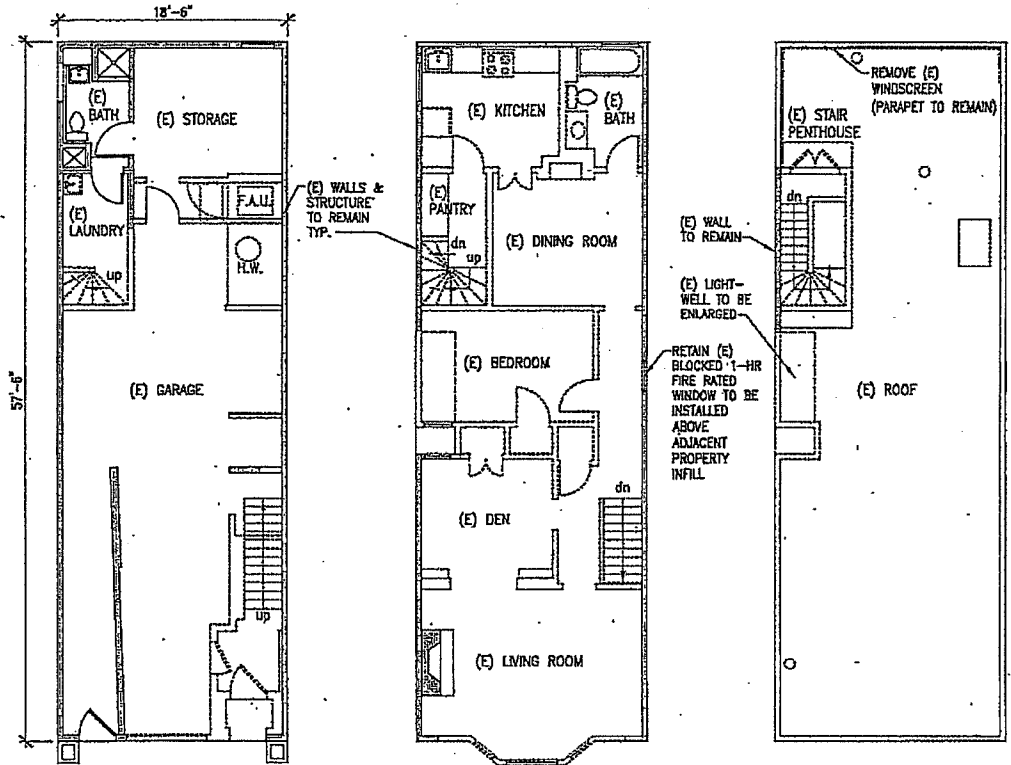


RESIDENTIAL REMODEL:
312 GREEN ST.
SAN FRANCISCO, CA 94133

SHEET NO. 1 OF 1
DATE 12/1/11
SCALE 1/8" = 1'-0"
DRAWN BY J. H. [illegible]
CHECKED BY [illegible]
DATE 12/1/11
PROJECT NO. 11-0001
PROPOSED SITE PLAN

MEET NO.
A1.0

GRAPHIC KEY:
 EXISTING WALL
 ELEMENT REMOVED





KALLES
 822 GREENWICH ST.
 S.F., CA 94133
 415.221.5455



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

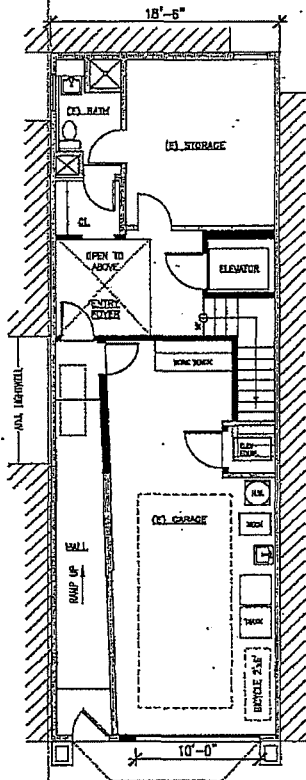
DATE	BY
SCALE	BY
SITE	BY
REVISIONS	BY

DATE PERMIT SUBM.
 (111 NOTIFICATION)

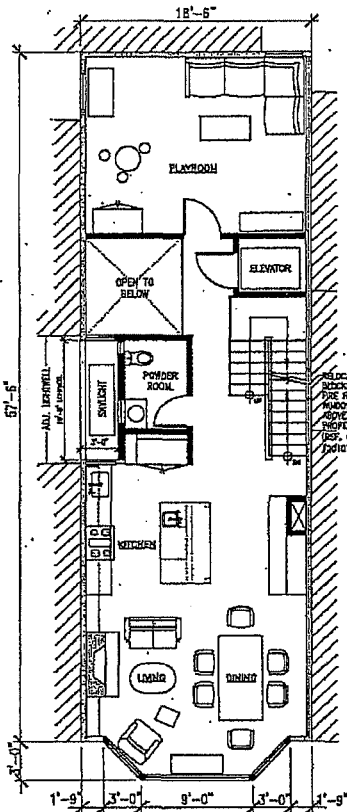
DATE TITLE:
 EXISTING FLOOR PLANS

SHEET NO.
A2.0

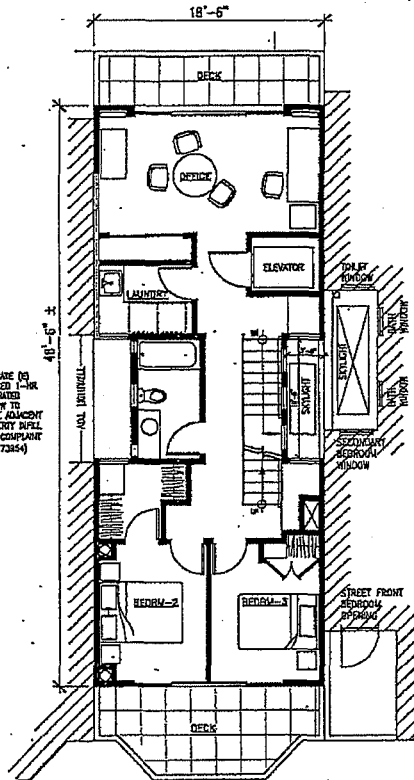
GRAPHIC KEY:
 EXISTING WALL 
 NEW WALL 



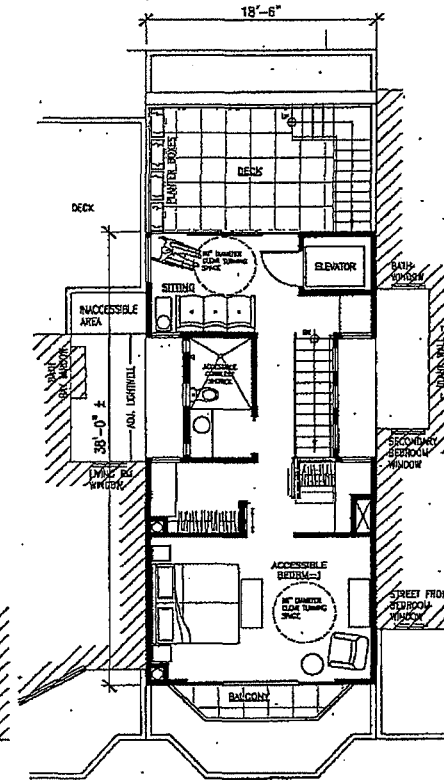
1 **PROPOSED GROUND-FLOOR PLAN**
 1/4" = 1'-0"




2 **PROPOSED 2nd-FLOOR PLAN**
 1/4" = 1'-0"



3 **PROPOSED 3rd-FLOOR PLAN**
 1/4" = 1'-0"



4 **PROPOSED 4th-FLOOR PLAN**
 1/4" = 1'-0"



822 GREENWICH ST.
 S.F., CA 94133
 8700@karchitect.com
 415.921.6458

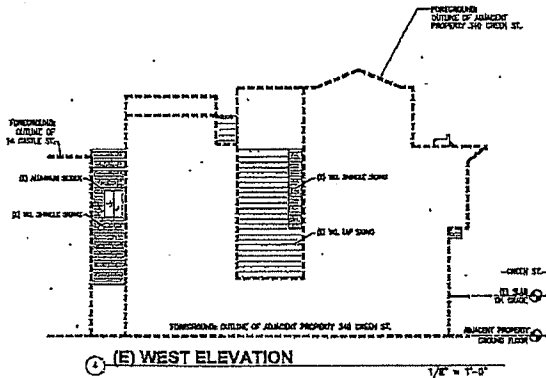
RESIDENTIAL REMODEL:
312 GREEN ST.
 SAN FRANCISCO, CA 94133

SITE NO. 183
 DATE 11/15/18
 DRAWN BY 1/2/18

SITE PERMIT SUBM.
 (CALL NOTIFICATIONS)

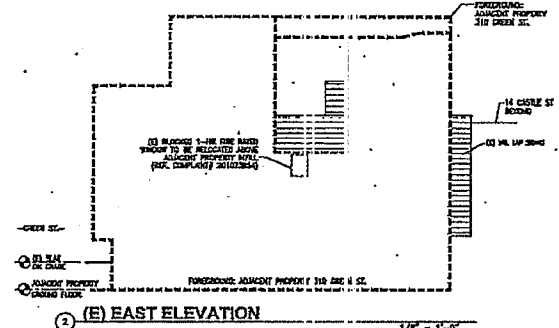
PROJECT: PROPOSED FLOOR PLANS

SHEET NO. **A2.1**



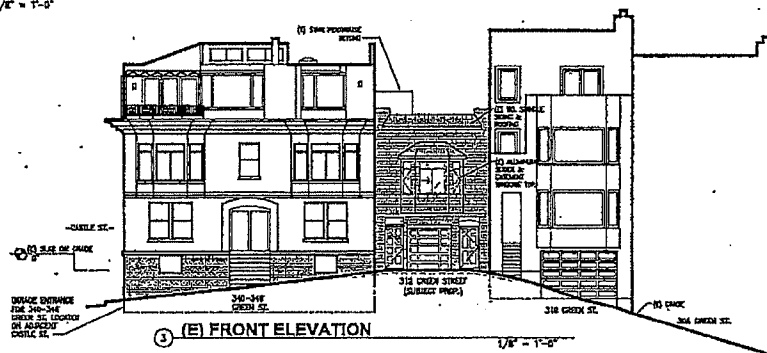
1 (E) WEST ELEVATION

1/8" = 1'-0"



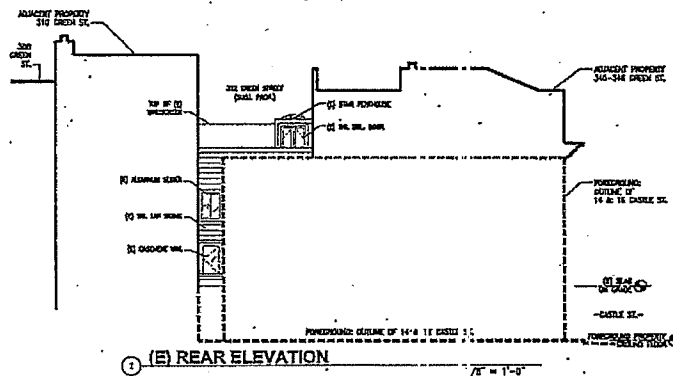
2 (E) EAST ELEVATION

1/8" = 1'-0"



3 (E) FRONT ELEVATION

1/8" = 1'-0"



4 (E) REAR ELEVATION

1/8" = 1'-0"



822 GREENWICH ST.
S.F., CA 94133
8000@kandkarch.com
415.921.5488

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

206 SH. SCALE DATE: 8-4-04
OWNER: (REDACTED)

SITE PERMIT SUBM. (311 NOTIFICATION)
LAYOUT PLAN
EXISTING ELEVATIONS

SHEET NO.
A3.0



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.A. 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

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

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

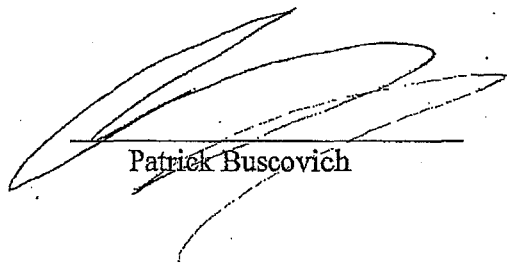
ZACKS & FREEDMAN, P.C.
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

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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

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

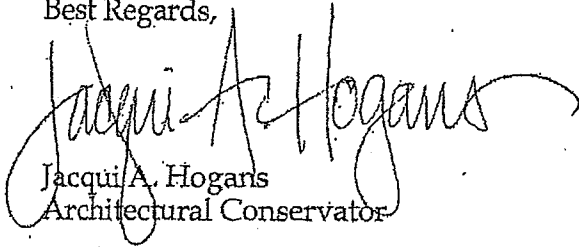
Dear Ms. Tang,

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.

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

Best Regards,



Jacquie A. Hogans
Architectural Conservator

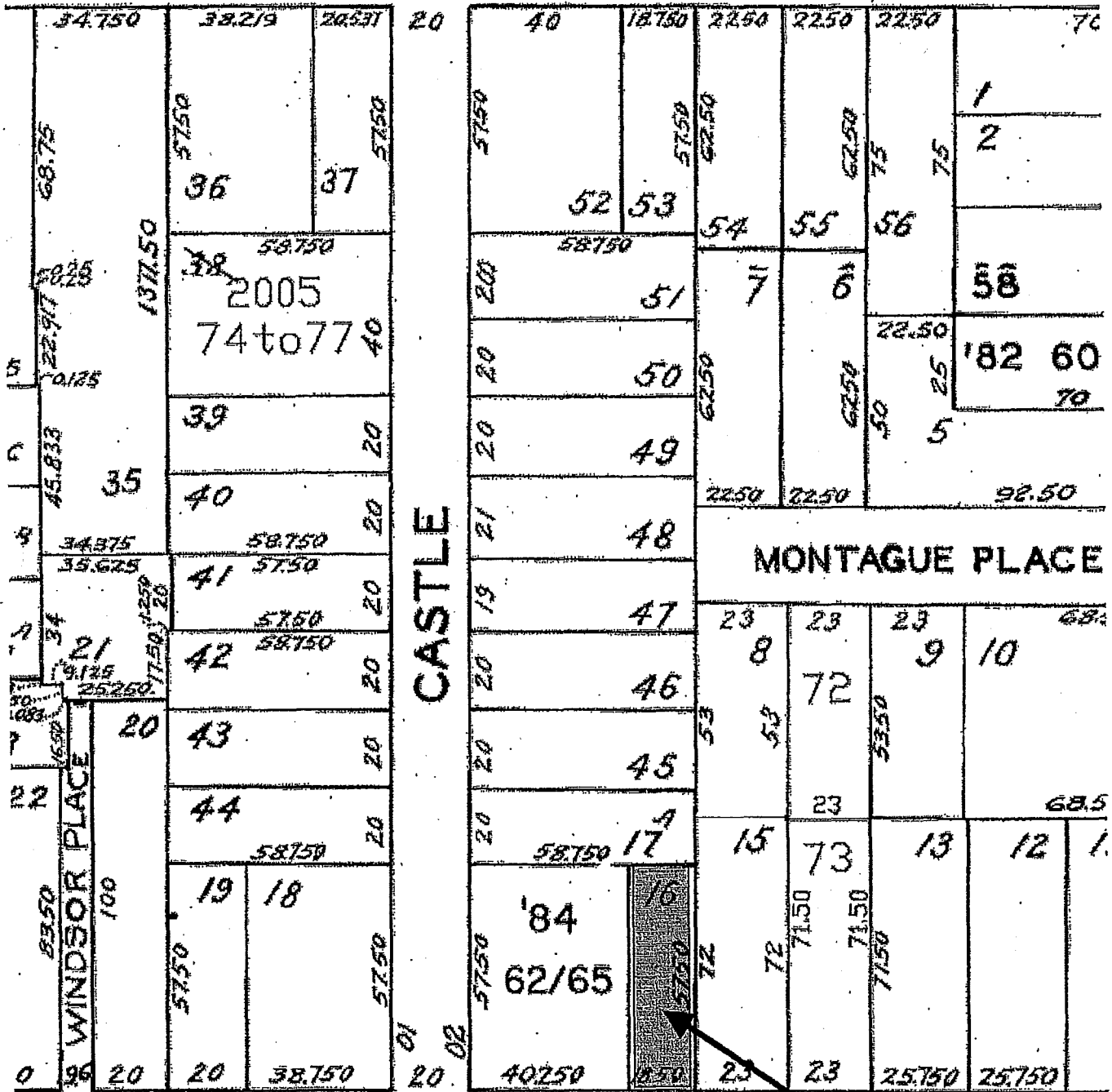
cc: Ryan Patterson, Zacks & Freedman, P.C.

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EXHIBIT E

Parcel Map



SUBJECT PROPERTY

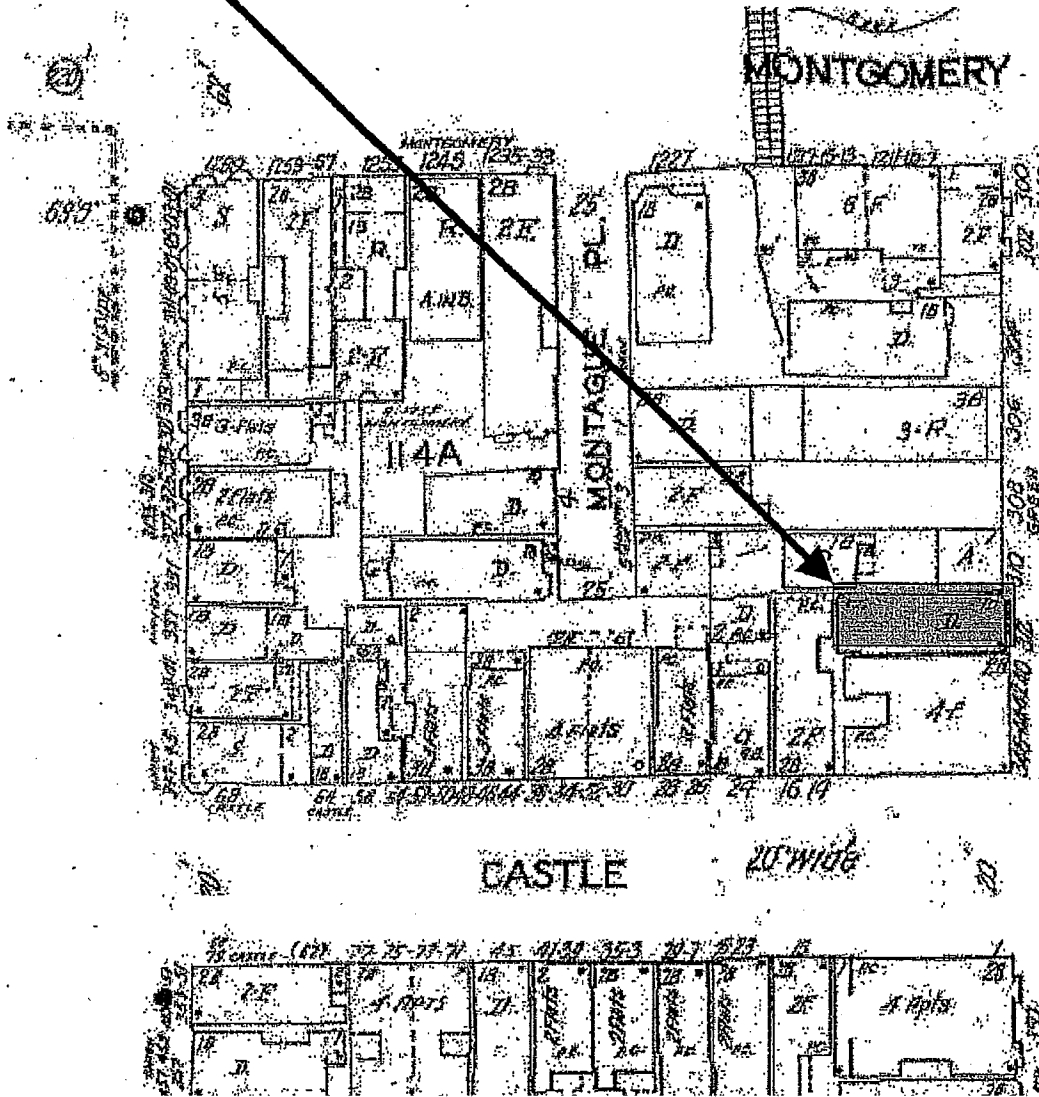
GREEN



Discretionary Review Hearing
 Case Number 2013.1652DV
 312 Green Street

Sanborn Map*

SUBJECT PROPERTY



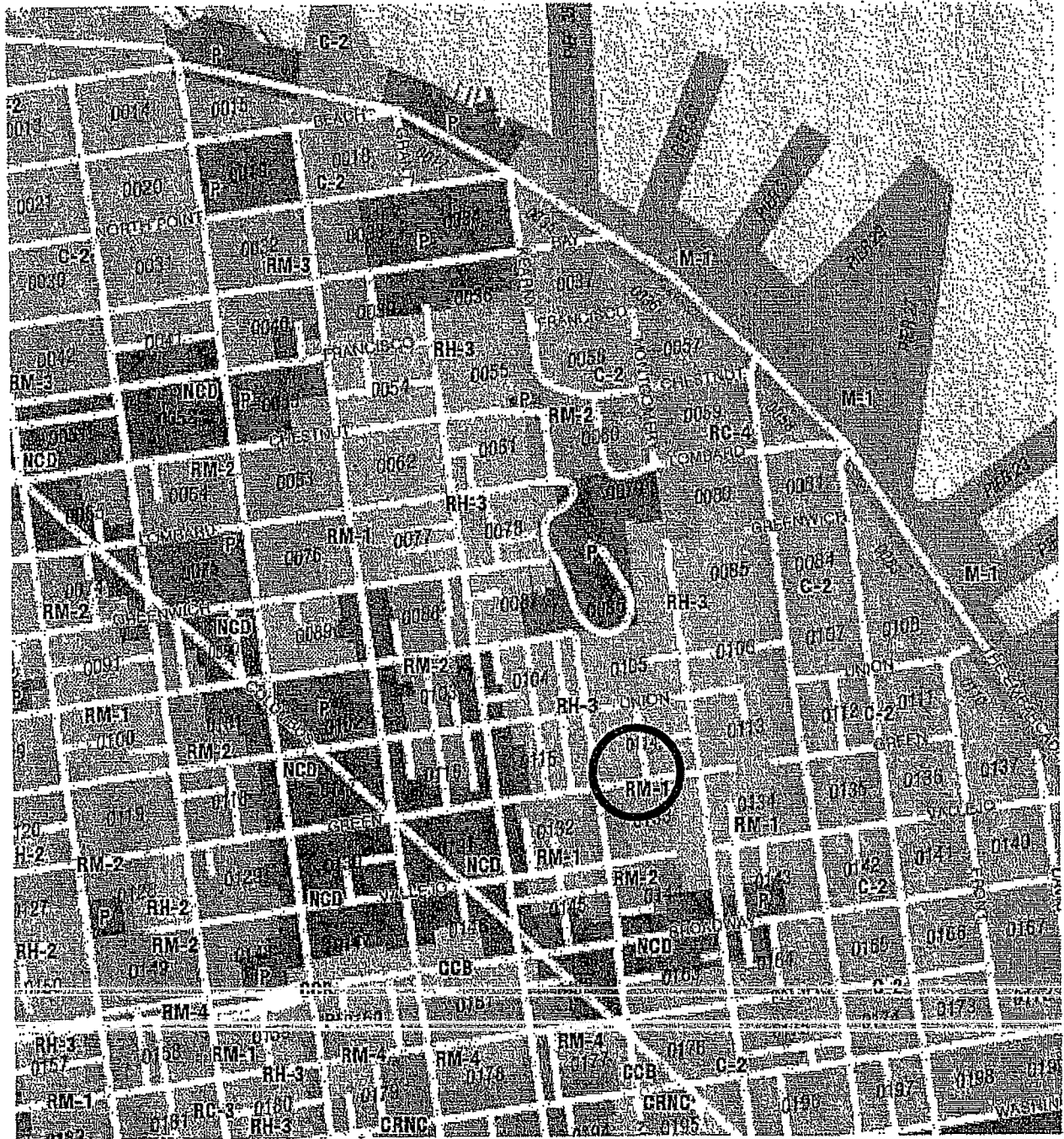
*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Aerial Photo



Zoning Map

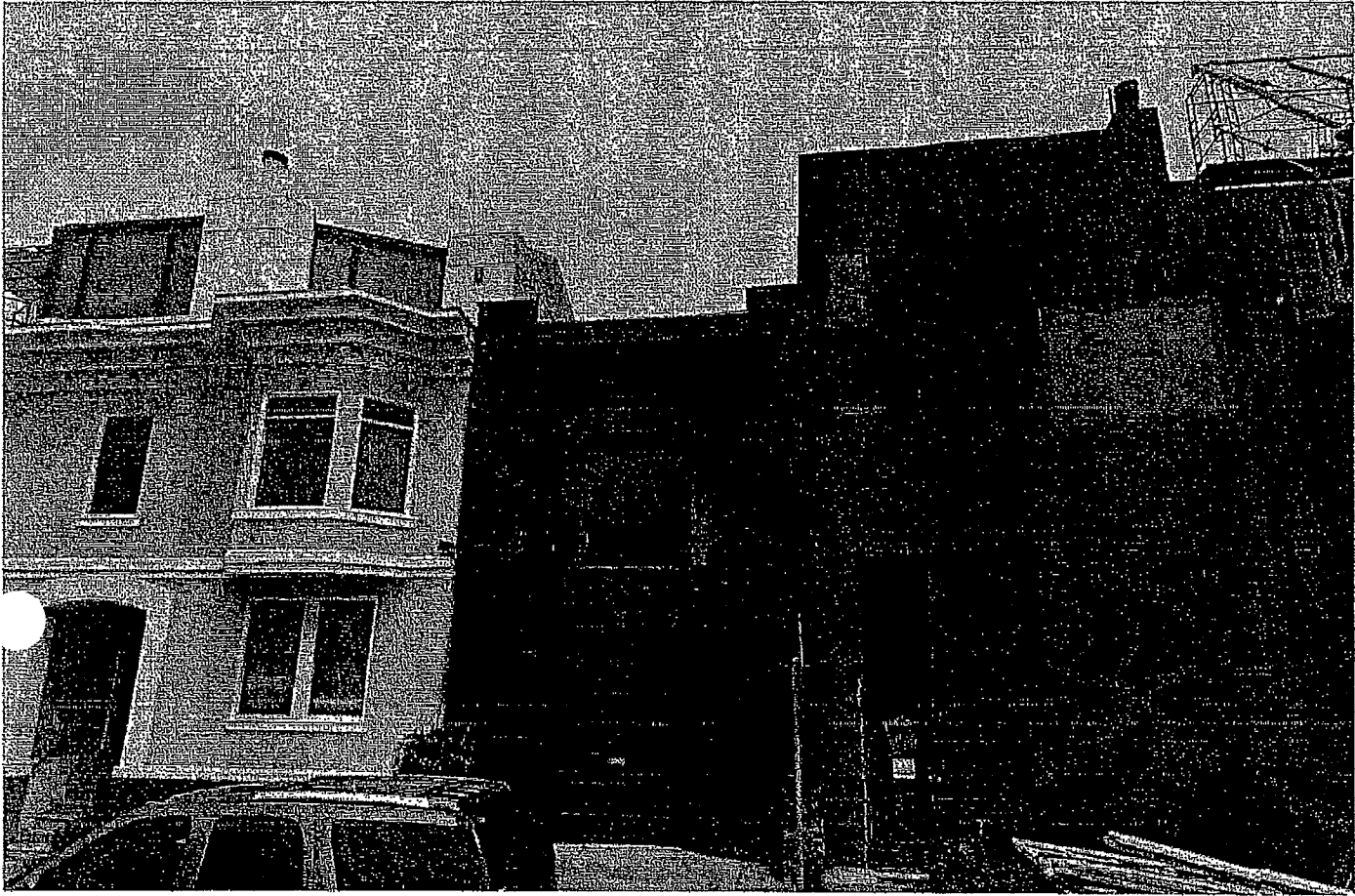


Discretionary Review Hearing
Case Number 2013.1652DV
312 Green Street



SAN FRANCISCO
PLANNING DEPARTMENT

Site Photo



Discretionary Review Hearing
Case Number 2013.1652DV
312 Green Street



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
CASE NUMBER: 15.16520
For Staff Use only

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

ASSESSOR'S BLOCK/LOT	LOT DIMENSIONS:	LOT AREA (SQ FT):	ZONING DISTRICT:	HEIGHT/BULK DISTRICT:
114 / 016	57.5 x 18.5	1064	RM 1	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:

Building Permit Application No. **2013.11.13.1794** Date Filed:

13.16520

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

13.16520

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.

13.16520

- 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

13.1.520

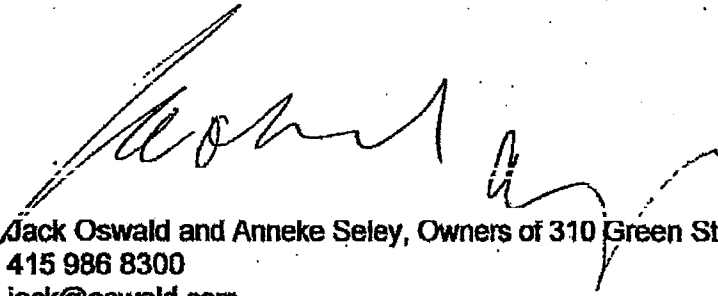
air to our back yard, which we use regularly, as well as other neighbors to the East and also the neighbor to the West.

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

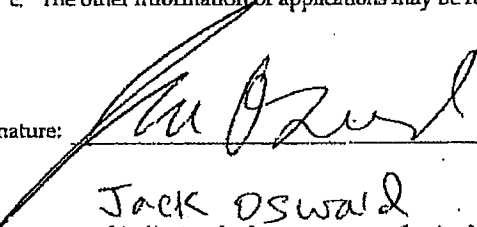
13.13520

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

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

Jack Oswald

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

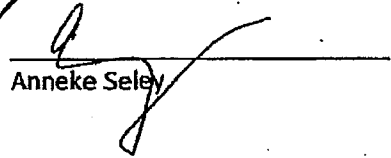
To Whom It May Concern:

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

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:

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

(BY MAIL) By placing a true copy thereof enclosed in a sealed envelope. I placed each such sealed envelope, with postage thereon fully prepaid for first-class mail, for collection and mailing at San Francisco, California, following ordinary business practices.

(BY ELECTRONIC MAIL) I caused the said document to be transmitted by electronic mail to the addresses 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

SUPPLEMENTAL DOCUMENTS FOR CEQA APPEAL

312 GREEN STREET, SAN FRANCISCO

Solar Shade Study (Pages 1-11)

Shade Study Consultant Biography (Page 12)

Shade Study Consultant Qualifications (Pages 13-15)

Solar Rights Act (Pages 16-53)

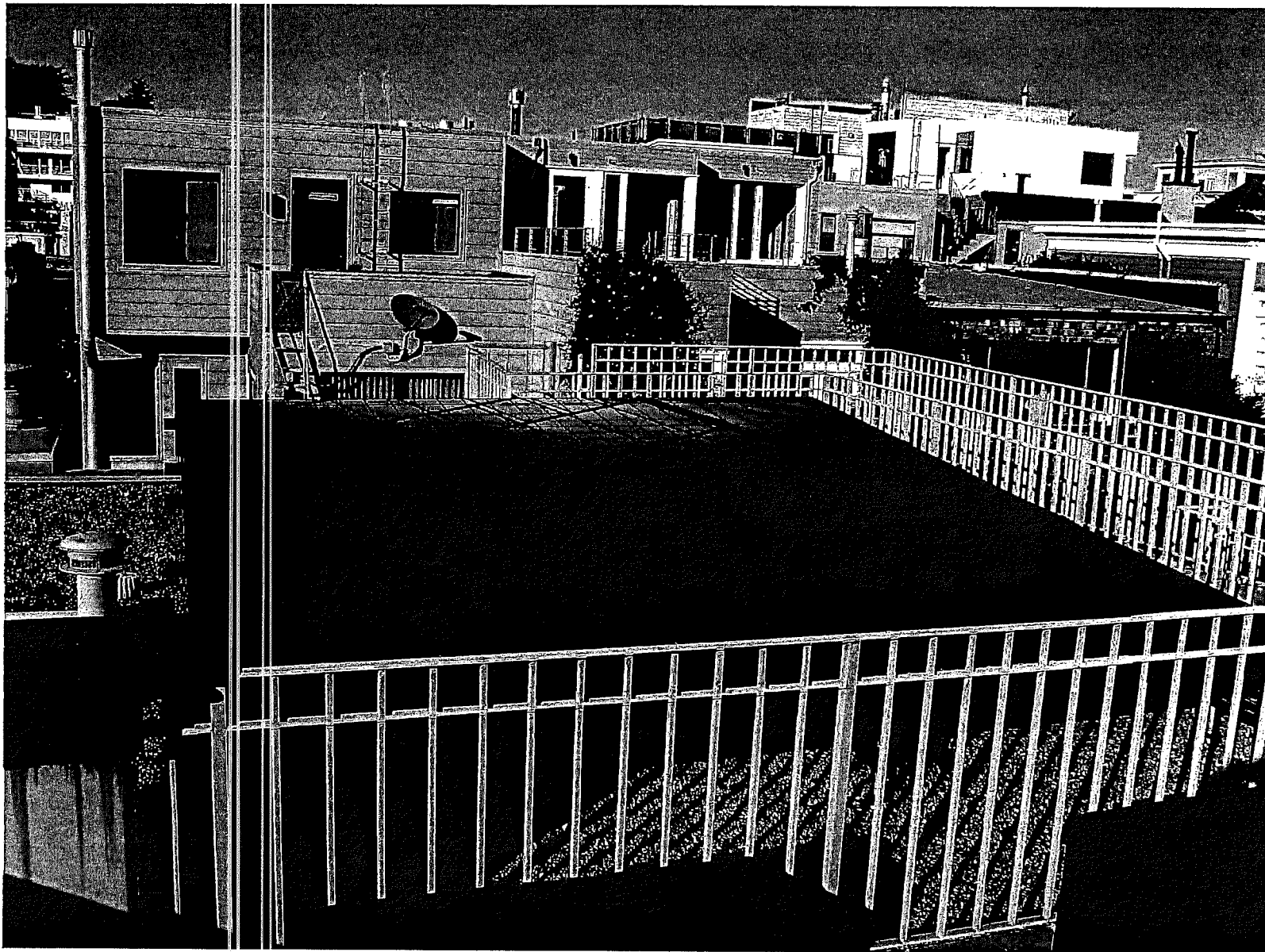
CA Shining Cities (Pages 54-116)

Neighborhood Density Ratios (Pages 117-118)

RECEIVED
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K

PHOTOVOLTAIC ARRAY SHADING STUDY

310 GREEN STREET
AUGUST 2014

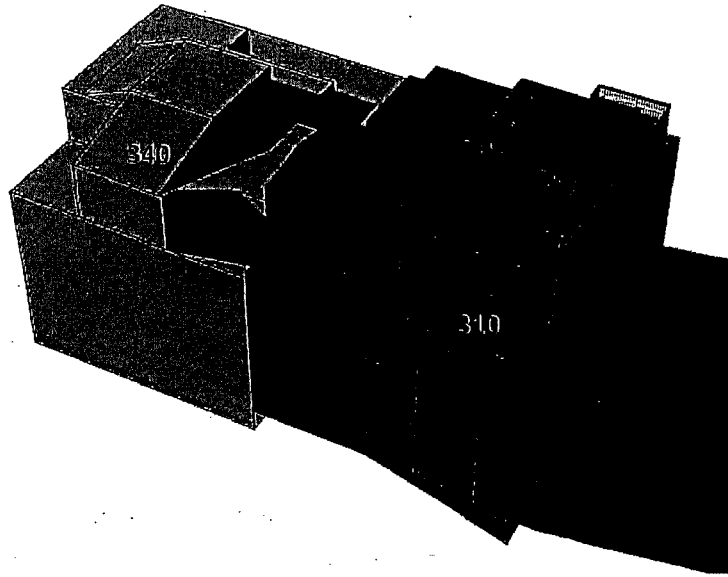


1790

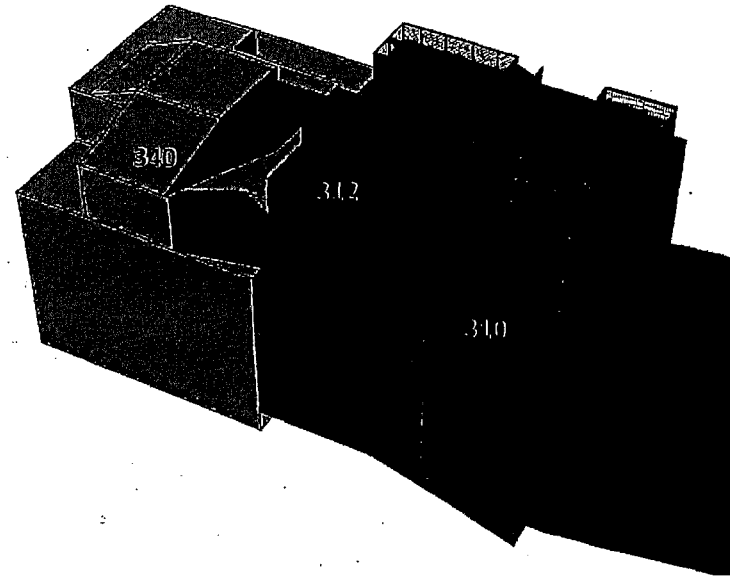
3D MODELING OF THE EXISTING AND PROPOSED CONDITIONS

The existing as well as proposed conditions were model in the building performance analysis software Ecotect. The model was created based on the architectural drawings submitted by the sponsor of the proposed project at 312 Green Street, as part of the 311 notice.

The existing solar array located on the roof top of the property at 310 Green Street was also modeled.



EXISTING CONDITIONS



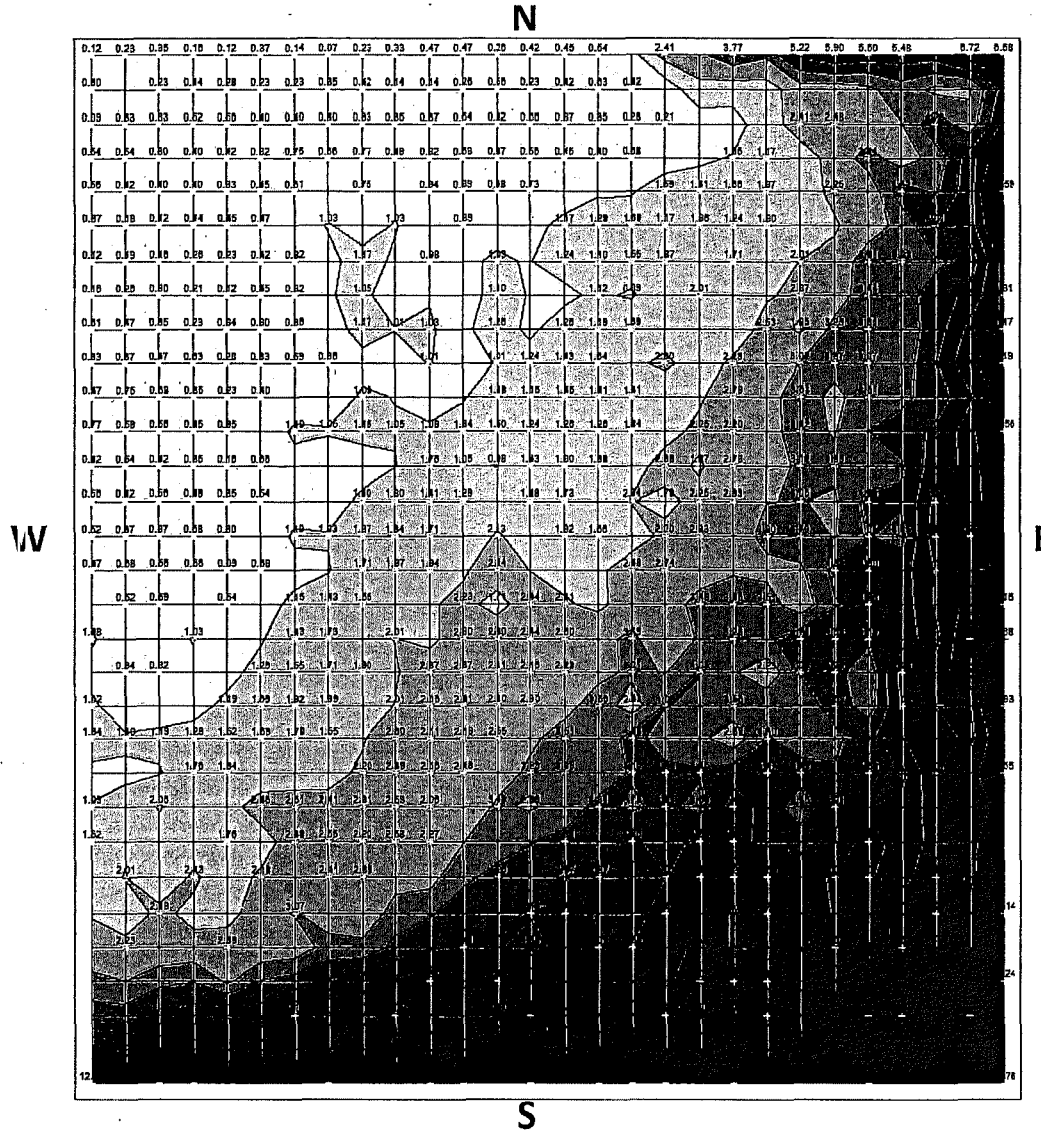
PROPOSED CONDITIONS

A shading analysis was done for various times of the year (June 21st, September 21st and December 21st) to assess the degree of new shading over the existing photovoltaic array at 310 Green Street.

EXISTING CONDITIONS SOLAR ARRAY YEARLY AVERAGE OVERSHADOWING = 3.29%

Avg Shading Percentage
 Original Value
 Contour Range: 0.0 - 10.0 %
 In Steps of: 1.0 %
 EXCEEDED

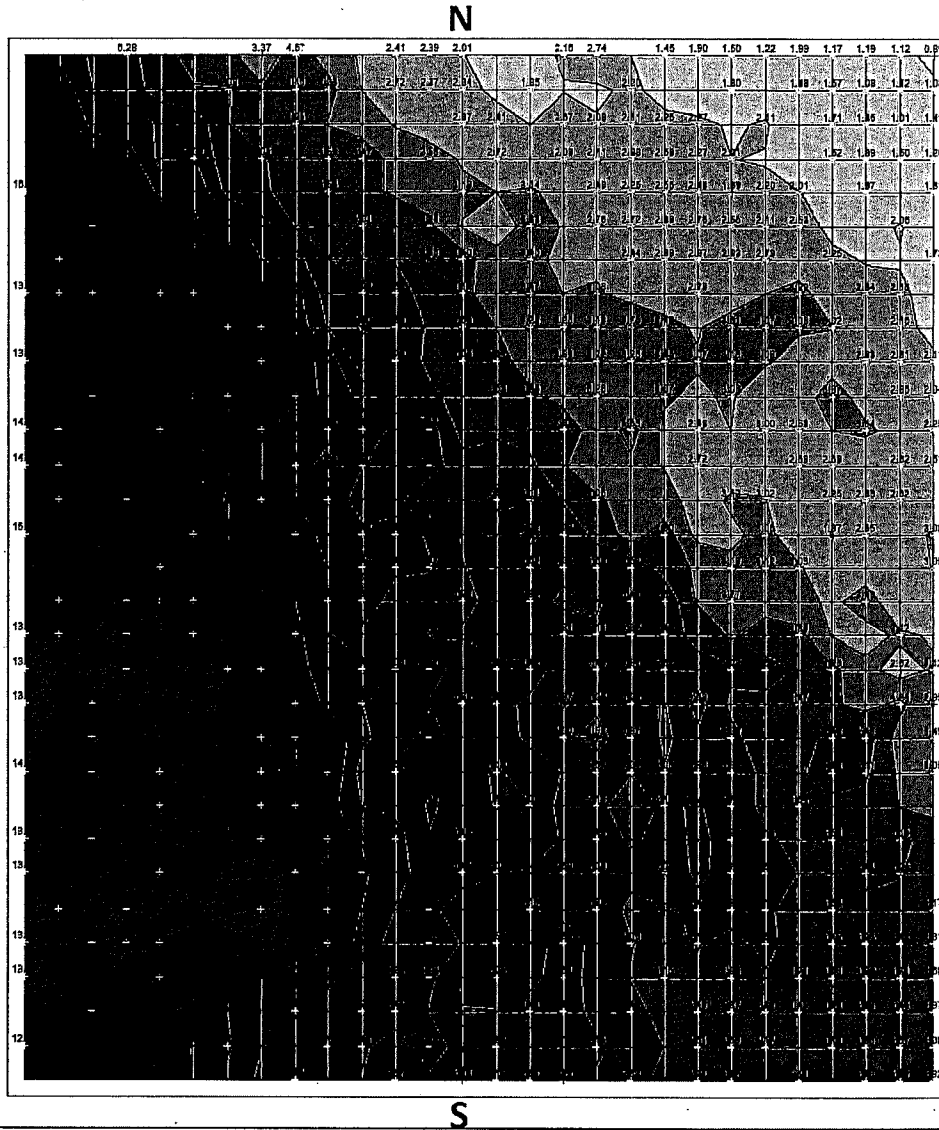
1792



Average Value: 3.29 %
 Visible Nodes: 868

EXISTING / PROPOSED DIFFERENCE SOLAR ARRAY YEARLY AVERAGE OVERSHADOWING = +6.19%

Avg Shading Percentage
Difference
Contour Range: 0.0 - 10.0 %
In Steps of: 1.0 %
DECRECTS



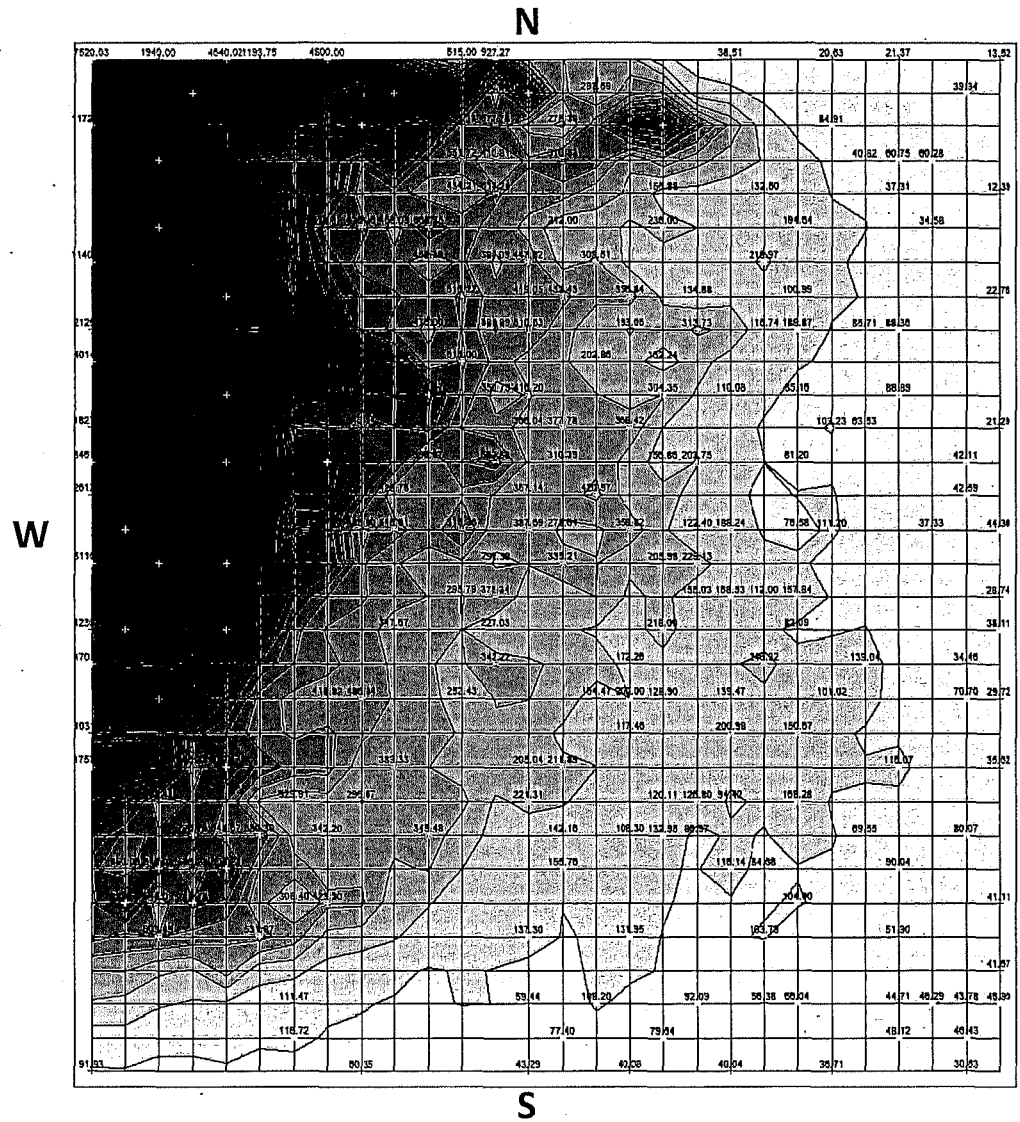
Average Value: 6.19 %
Visible Nodes: 668

1794

% DIFFERENCE INCREASE SOLAR ARRAY YEARLY AVERAGE OVERSHADOWING = +694.42%

Avg Shading Percentage

% Difference
 Contour Range: 0 - 2000 %
 In Steps of: 100 %
 © ECOTECT

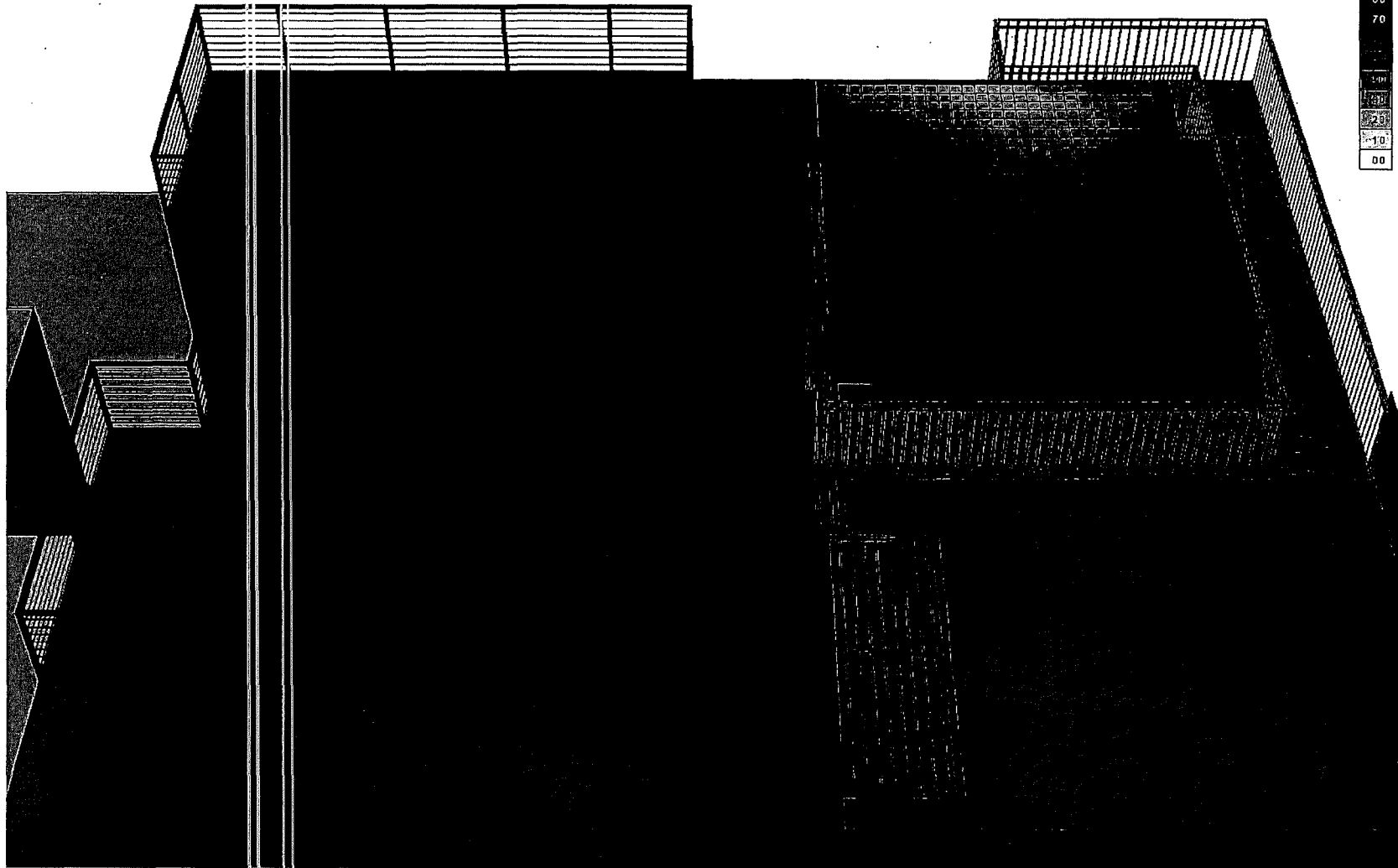


1795

Average Value: 694.42 %
 Visible Nodes: 868

PROPOSED CONDITIONS | JUNE 21ST 4:00 PM

Avg Shading Percentage
Modified Value
Value Range: 0.0 - 10.0 %
(c) ECOTECT v5

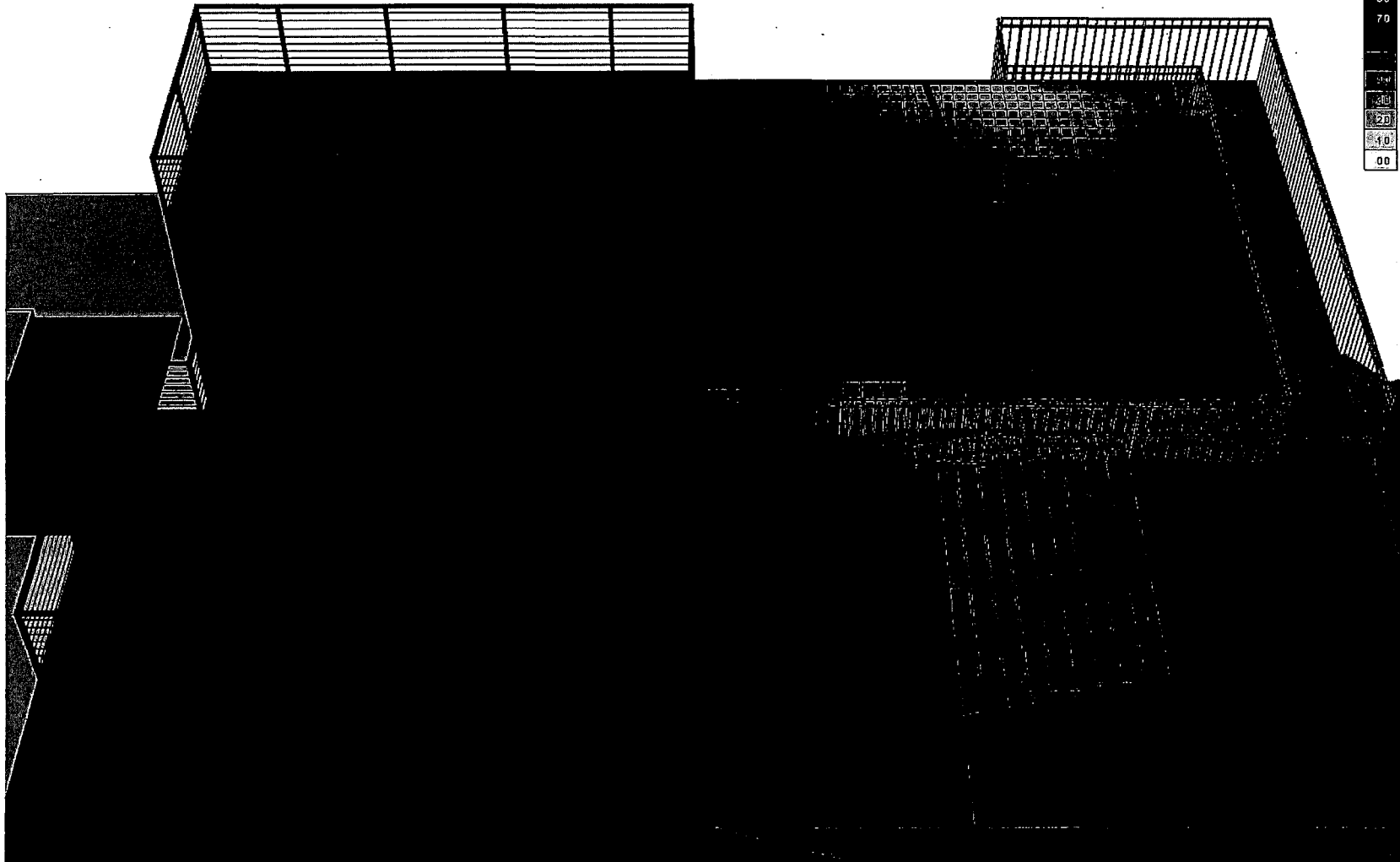
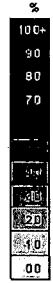


1796

PROPOSED CONDITIONS | SEPTEMBER 21ST 4:00 PM

Avg Shading Percentage

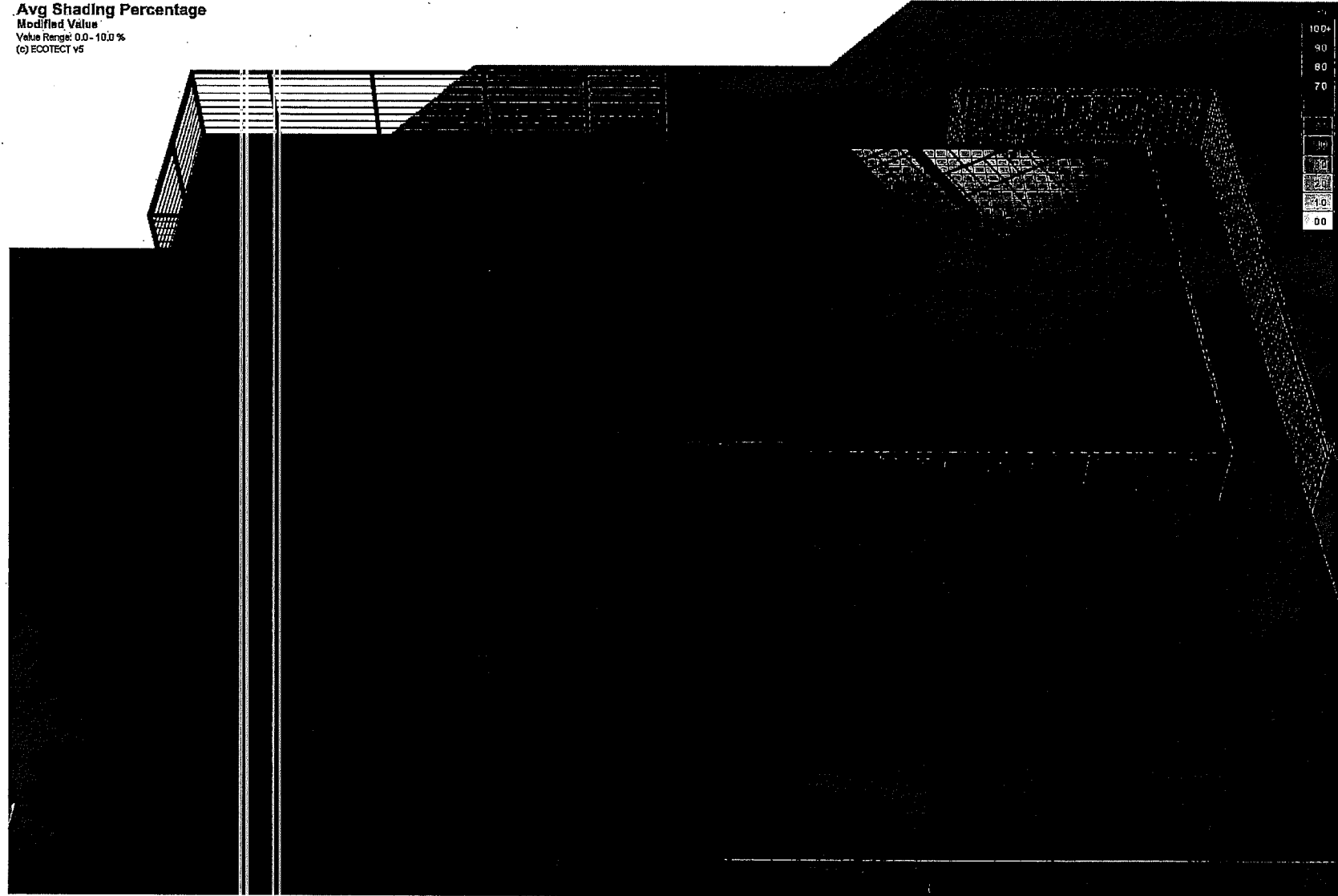
Modified Value
Value Range: 0.0 - 10.0 %
(c) ECOTECT V5



1797

PROPOSED CONDITIONS | DECEMBER 21ST 4:00 PM

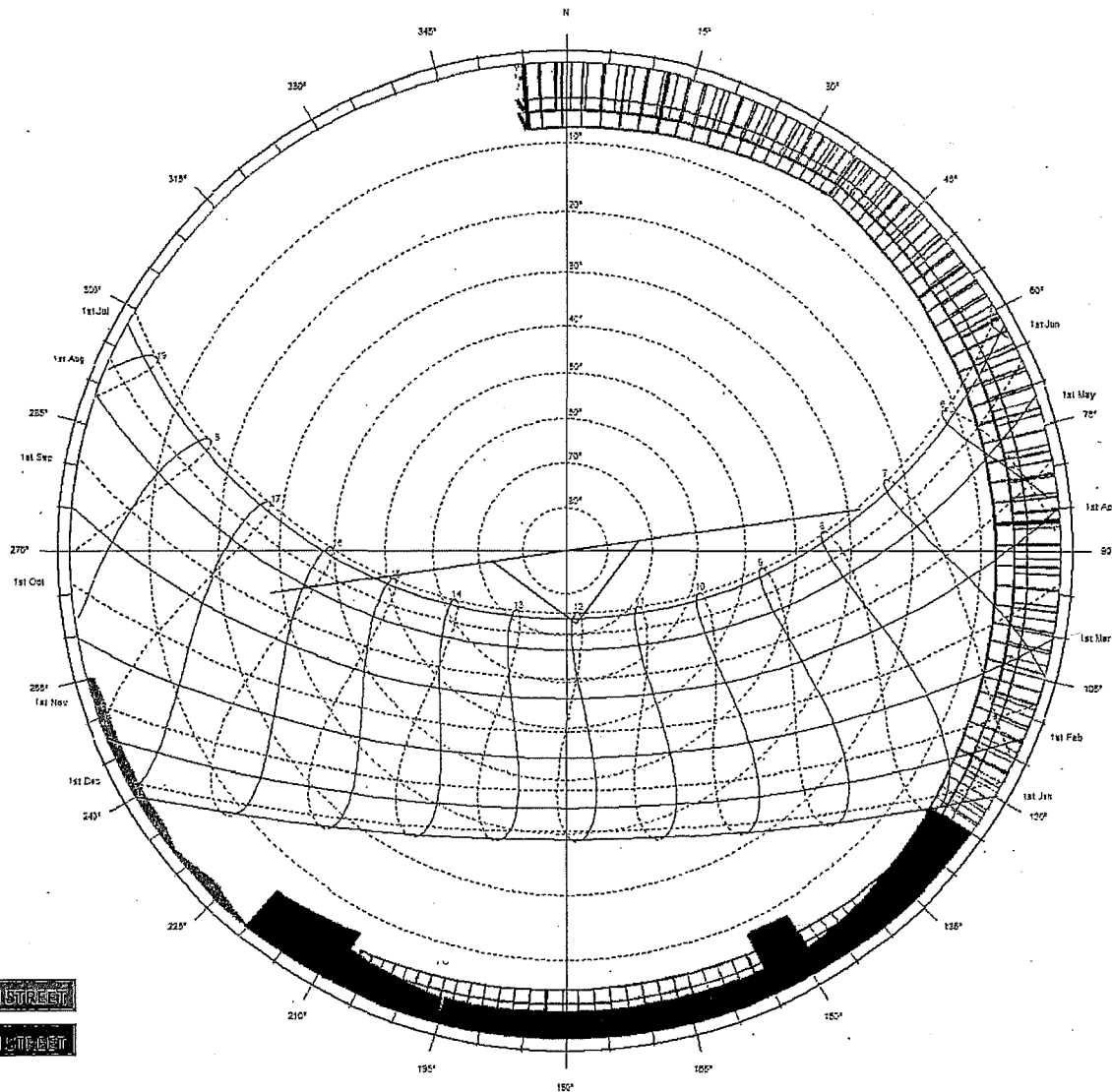
Avg Shading Percentage
Modified Value
Value Range: 0.0 - 10.0 %
(c) ECOTECT v5



1798

STEREOGRAPHIC SUNPATH DIAGRAM - EXISTING CONDITIONS

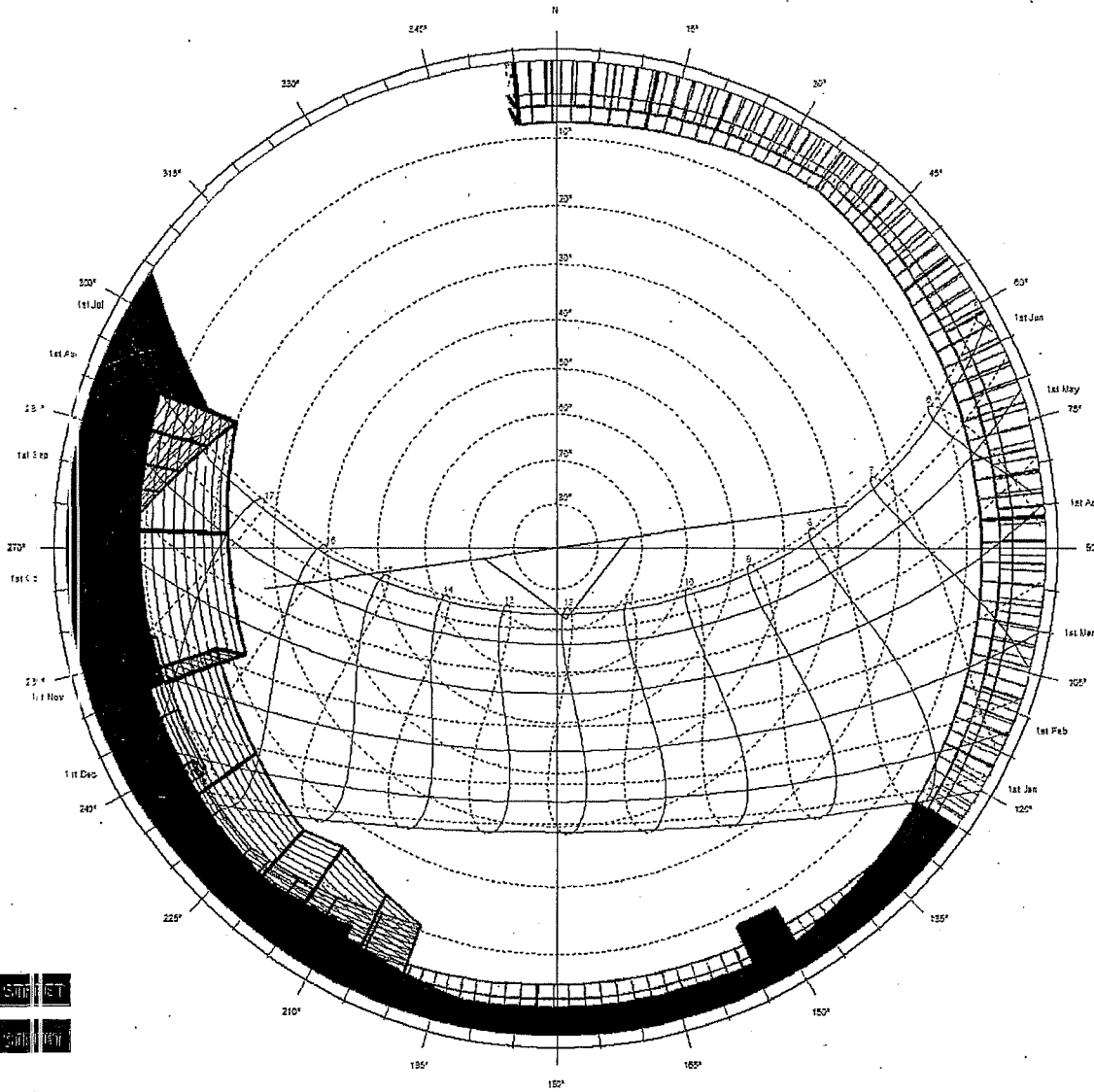
Stereographic Diagram
Location: 37.8', -122.4'
Obj (37 Orientation: 172.0', 85.0'



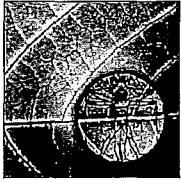
1799

STEREOGRAPHIC SUNPATH DIAGRAM - PROPOSED CONDITIONS

Stereographic Diagram
Location: 37.6°, -122.4°
Obj 137 Orientation: 172.0°, 85.0°



1800

**S Y M P H Y S I S**

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**OLIVIER A. PENNETIER**

As founder of **SYMPHYSIS**, Olivier Pennetier has been consulting for architects around the San Francisco Bay Area since 2003, providing bioclimatic design solutions, site and climate analyses as well as recommendations on daylighting, solar stress mitigations, and passive design strategies.

He has also been conducting training workshops throughout North America for the building performance analysis software Ecotect™ since 2006, while being an active forum user on the SQU1 Research support website from 2002 to 2008.

Prior to his designer and project manager position at DNM Architect in San Francisco, Olivier worked for Van der Ryn Architects in Sausalito, CA. Olivier holds a B.S. in Environmental Science from Humboldt State University and a Master in Architecture from the University of Hawaii. He has been a LEED accredited professional since 2003.

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December 2014

EXPERIENCE

Bioclimatic Design Consultant [2003 – present]

SYMPHYSIS – Los Angeles, CA

www.symphysis.net

Designer / Project Manager [2006 – present]

DNM Architect – San Francisco, CA

Design Collaborator [2003 – 2005]

Van der Ryn Architects – Sausalito, CA

Environmental Control Laboratory Manager [2001 – 2003]

SoA University of Hawaii – Honolulu, HI

TEACHING

Ecotect Analysis Training Workshops [2006 – present]

Train architectural & engineering firms, universities and software resellers on the use of Autodesk Ecotect Analysis. Consult with Autodesk support technicians.

Ecotect Support Forum Contributor [2004 – 2007]

Square One Research

Helped and supported Square One Research software users.

RESEARCH

Portable Classrooms Comfort Study [2002 - 2003]

University of Hawaii & AIA COTE – Honolulu, HI.

Assessed human comfort in portable classrooms at local high schools.

Developed design guidelines for heat-mitigating strategies.

Rooftops Solar Collection Potential [2002]

University of Hawaii & Hawaii Electric Company (HECO)

Assessed solar insolation on building rooftops on the island of Oahu for the local utility company.

Low-Energy Home Assessment [2001 - 2002]

AIA COTE Honolulu chapter.

Analysis of environmental data and assessment of human comfort for Hawaiian home low-energy prototype.

CERTIFICATION

LEED Accredited Professional [2003]

Leadership in Energy and Environmental Design 2.0 accreditation.

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EDUCATION

University of Hawaii at Manoa [1999 – 2002]
Master of Architecture.

California State University Humboldt [1996 - 1998]
B.S. Environmental Science; environmental technology emphasis.

SPEAKER

USGBC Cascadia Chapter, Seattle, WA. [May 2009]
Panel speaker: "IDP, BIM & Green Tools"

Ecological Design Conference, Berkeley, CA. [July 2002]
Presented research paper titled "Phytonomic Design"

FEATURED WORK

"Prefab Prototypes"
Mark and Peter Anderson, 2007, pp 170-171

PUBLICATION

"Assessment of Solar Energy Potential on Existing Buildings"
Electric Power Research Institute, Palo Alto, CA. 2004.

AWARDS

Silver Spark Award [2008]
AIA Educational Facility Design Award [2009]
AIA Honolulu Design Award [2009]
Modular Classroom designed by Anderson Anderson Architecture
Collaborated on the energy savings and occupant comfort features.

REFERENCES

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James Stavoy [415] 553 8696
Principal James Stavoy Architect
Mark & Peter Anderson [415] 243 9500
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David Arkin [501] 528 9830
Principal, ArkinTilt Architects – Albany, CA.
Sim Van der Ryn [415] 669 7005
Principal, Ecological Design Collaborative – Inverness, CA.
Steve Meder [808] 371 7032
Professor, SoA University of Hawaii – Honolulu, HI.
Victor Olgyay [303] 245 1003
Principal, Rocky Mountain Institute – Snowmass, CO.

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September 2012

PROFICIENCY

ArchicAD 16 Graphisoft
Advanced knowledge [7 years]

Atlantis Render Abvent
Advanced knowledge [7 years]

Ecotect Analysis Suite 2011 Autodesk Inc.
Expert knowledge of features + scripting [+10 years]

Radiance Desktop 2.0 LBNL
Interfaced via Ecotect; some DOS commands knowledge [+7 years]

DAYSIM DIVA
Interfaced via Ecotect; basic knowledge [4 years]

eQuest Energy Design Resource
Basic knowledge [< 1 year]

Green Building Studio Autodesk Inc.
Knowledge of features + assumptions [3 years]

EnergyPro Energysoft
Knowledge of basic features [4 years]

EcoDesigner Graphisoft
Knowledge of features + assumptions [2 years]

Revit 2011 Autodesk Inc.
Basic knowledge [2 year]

ArcView GIS 3.2
Basic knowledge [2 years]

Photoshop 7.0 Adobe
Basic knowledge [14 years]

MS Excel 2007 Microsoft
Advanced knowledge [16 years]

California's Solar Rights Act
A Review of the Statutes and Relevant Cases

Scott Anders
Kevin Grigsby
Carolyn Adi Kuduk
Taylor Day
Allegra Frost

Updated December 2012
Originally Published January 2007



Disclaimer: The materials included in this paper are intended for informational purposes only, and should not be considered a substitute for legal advice in any particular case.

About EPIC

The Energy Policy Initiatives Center (EPIC) is a nonprofit academic and research center of the USD School of Law that studies energy policy issues affecting the San Diego region and California. EPIC integrates research and analysis, law school study, and public education, and serves as a source of legal and policy expertise and information in the development of sustainable solutions that meet our future energy needs.

For more information, please visit the EPIC website at www.sandiego.edu/epic.

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1. INTRODUCTION

California has been a leader in promoting solar energy since 1976, when it began to provide financial incentives for investment in solar energy technologies.¹ One legacy of California's early interest in solar energy is a series of laws designed to protect a consumer's right to install and operate solar energy technology on a home or business, including access to sunlight, or solar access. Although California's solar energy laws have been around for nearly thirty years, we now examine this groundbreaking legislation for two reasons. First, consumers and businesses often misunderstand the provisions and application of these laws. Second, given the significant financial incentives available for solar technologies in California and the availability of property-assessed clean energy ("PACE") financing programs,² it is likely that the number of operating solar energy systems will increase dramatically. As a result, it is reasonable to expect that the number of solar access questions in California will also increase.

This paper examines the sections of California law known collectively as the Solar Rights Act (hereinafter "the Act"), and reviews lawsuits brought under the Act.³ Through the Act, which was enacted in 1978, the legislature sought to balance the needs of individual solar energy system owners with other property owners by developing solar access rights.⁴ The Act limits the ability of covenants, conditions, and restrictions, (hereinafter "CC&Rs") typically enforced by homeowner associations (hereinafter "HOAs"), and local governments to restrict solar installations. These are perhaps the most well known and frequently contested provisions of the Act.⁵ However, the Act also creates the legal right to a solar easement and requires local governments to preserve passive cooling and heating opportunities to the extent feasible in new development projects. The extent to which the Act protects solar energy system owners from restrictions by HOAs and local governments is frequently misunderstood and the subject of many disputes. Therefore, this paper is intended to provide solar energy users, HOAs, and local governments more information about the content and application of California's primary solar access law.

1.1. Organization of the Paper

The paper is organized into the following sections:

- Section 2 provides a brief overview of the Act's key provisions.
- Section 3 discusses the ability of CC&Rs, such as those enforced by HOAs, to restrict solar energy installations.

¹ A solar energy tax credit was created in 1976 and codified in California Revenue and Taxation Code Section 23601

² PACE programs allow local government entities to offer sustainable energy project loans to eligible property owners. Through the creation of financing districts, property owners can finance renewable onsite generation installations and energy efficiency improvements through a voluntary assessment on their property tax bills.

³ The Solar Rights Act comprises the following California codes of law: California Civil Code Sections 714 and 714.1, California Civil Code Section 801, California Civil Code Section 801.5, California Government Code Section 65850.5, California Health and Safety Code Section 17959.1, California Government Code Section 66475.3, and California Government Code Section 66473.1.

⁴ See 1978 Cal. Stat. ch. 1154.

⁵ While not all common interest developments associations are called HOAs, for simplicity we use HOA throughout this paper to denote all associations.

Solar Rights Act

- Section 4 discusses how provisions of the Act limit the ability of local governments to restrict solar energy installations.
- Section 5 provides information about the definition and use of solar easements, which are provided for in the Act.
- In Section 6, we examine solar easements in new developments, as required and permitted by the Act.
- Section 7 summarizes and concludes this paper.
- The Appendix, comprising Sections 8 and 9, includes other resources discussing the Act and the full text of the statutory codes comprising the Act.

2. OVERVIEW OF THE ACT

The Act creates a legal framework for solar access. It includes limited protections to allow consumers access to sunlight and to limit the ability of HOAs and local governments from preventing the installation of solar energy systems.

The Act was adopted in 1978 and went into effect on January 1, 1979.⁶ Its enactment contributed to California's strong policy commitment to solar energy. According to the original legislation, "[t]he purpose of the act is to promote and encourage the widespread use of solar energy systems and to protect and facilitate adequate access to the sunlight which is necessary to operate solar energy systems."⁷ The enacting bill further states that:

The use of solar energy systems will reduce the state's dependence on nonrenewable fossil fuels, supplement existing energy sources, and decrease the air and water pollution which results from the use of conventional energy sources. It is, therefore, the policy of the state to encourage the use of solar energy systems.⁸

This policy rationale is as relevant today as it was in 1978 and continues to drive California's solar energy policy initiatives.

2.1. Components of the Act

For the purposes of this paper, we focus on the following six key provisions of the Act in California law today:

1. Limits on CC&Rs to Restrict Solar Installations – The Act prohibits CC&Rs, like those enforced by HOAs, which would unreasonably restrict the use or installation of solar energy systems. (California Civil Code Sections 714 and 714.1).
2. Solar Easements – The Act establishes the legal right to a solar easement, which protects access to sunlight across adjacent properties. (California Civil Code Section 801). It also describes the minimum requirements needed to create a solar easement. (California Civil Code Section 801.5).
3. Definition of a Solar Energy System – The Act defines which solar energy systems are covered by its provisions. (California Civil Code Section 801.5).
4. Limits to Local Government Restrictions on Solar Installations – The Act discourages local governments from adopting an ordinance that would unreasonably restrict the use of solar energy systems. (California Government Code Section 65850.5). It also requires local governments to use a non-discretionary permitting process for solar energy systems. (California Government Code Section 65850.5 and California Health and Safety Code Section 17959.1). Additionally, provisions of the Act require local governments seeking state-sponsored incentives for solar energy systems to demonstrate compliance with certain provisions of the Act. (California Civil Code Section 714).

⁶ 1978 Cal. Stat. ch. 1154.

⁷ *Id.* at Sec. 2(c).

⁸ *Id.* at Sec. 2(b).

Solar Rights Act

5. Passive Solar Opportunities in Subdivisions – The Act requires certain subdivisions to provide for future passive and natural heating and cooling opportunities to the extent feasible. (California Government Code Section 66473.1).
6. Allowance for Requiring Solar Easements – The Act allows cities and counties to require by ordinance the dedication of solar easements in certain subdivision developments as a condition of tentative map approval. (California Government Code Section 66475.3).

3. LIMITS ON CC&RS TO RESTRICT SOLAR INSTALLATIONS

In California, common interest developments such as condominiums and planned communities typically have associations to manage their affairs and enforce their rules. These associations, often called HOAs, are widespread and an increasingly important part of homeownership in California.⁹ HOAs have rules and regulations, expressed in part through CC&Rs that govern many aspects of homeownership within the common interest development, including the installation of solar energy systems. To ensure that CC&Rs do not place unreasonable restrictions on the use of solar energy, California enacted Civil Code Section 714 in 1978 as part of the Act.¹⁰ Section 714 limits the ability of HOAs to restrict solar energy system installations through unreasonable CC&Rs and prohibits undue discrimination in processes used to consider and approve solar energy installations.

3.1. What are CC&Rs?

CC&Rs are the governing documents that dictate how an HOA operates and what rules the owners, their tenants, and guests must obey. CC&Rs include three distinct legal mechanisms: (1) covenants; (2) conditions; and (3) restrictions. Covenants, also called “restrictive covenants,” are enforceable promises that assign either a benefit or a burden to a property.¹¹ Covenants are usually part of the property title or deed and therefore apply to subsequent property owners. Conditions relate to the circumstances that may end an ownership interest (e.g., right of first refusal, dissolution of the subdivision).¹² Restrictions refer to legal restrictions placed on the ownership or use of the property, such as easements or liens.¹³ In common interest developments, restrictive covenants typically dictate the manner in which solar energy systems can be installed.¹⁴

3.2. Does the Act Prohibit All CC&Rs From Restricting Solar Installations?

The Act contains many provisions and broadly addresses solar access issues, but it is perhaps best known for prohibiting CC&Rs that unreasonably restrict solar energy system installations. California Civil Code Section 714(a), in pertinent part, provides that “[a]ny covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, real property . . . that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable.”¹⁵ Because Section 714 does not define the precise meaning and application of “effectively

⁹ Julia L. Johnston & Kimberly Johnston-Dodds, *California Research Bureau, Common Interest Developments: Housing at Risk?* 1 (2002), available at <http://www.library.ca.gov/crb/02/12/02-012.pdf>.

¹⁰ See 1978 Cal. Stat. ch. 1154.

¹¹ *Black's Law Dictionary* 419 (9th ed. 2009).

¹² See *id.*

¹³ *Id.* at 421.

¹⁴ Thomas Starrs et al., *Bringing Solar Energy to the Planned Community: A Handbook on Rooftop Solar Systems and Private Land Use Restrictions* 13, http://www.sdenergy.org/uploads/Final_CC&R_Handbook_1-01.pdf.

¹⁵ While Section 714(a) does not explicitly state that this prohibition applies to leases, a cautious reading of the Act suggests that this prohibition covers residential, commercial, and industrial leases.

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prohibits or restricts,” courts have adopted a practical, flexible standard that permits the many variations of restrictions and effects to be considered on a case-by-case basis.¹⁶

Although the intent of Section 714(a) is to prohibit CC&Rs from placing restrictions on solar energy system installation, other subsections of 714 and 714.1 allow CC&Rs to impose certain reasonable restrictions on solar installations.¹⁷ The following provides information to determine whether a restriction is considered reasonable under the Act.

3.2.1. Cost and Performance Criteria for Reasonable Restrictions

The Act permits CC&Rs to impose requirements that do not “significantly” increase the cost of the system or decrease its efficiency or performance.¹⁸ Sections 714(d)(1)(A) and 714(d)(1)(B) provide criteria to define when a restriction has “significantly” altered system price or performance for both solar water heating and photovoltaic systems. Restrictions cannot increase the cost of solar water heating systems by more than twenty percent or decrease the system’s efficiency by more than twenty percent.¹⁹ Restrictions on photovoltaic systems cannot increase the system cost by more than \$2,000 or decrease system efficiency by more than twenty percent.²⁰ Restrictions on either type of system need only increase cost or decrease efficiency to be found unreasonable under the Act.²¹

With limited case law in this area, it is unclear whether these criteria could also be applied to restrictions imposed by local governments (e.g., restrictions or requirements imposed during the permitting process). We discuss local governments’ ability to restrict solar energy systems in Section 4 of this paper.

3.2.2. Alternative Comparable System

Section 714(b) also permits reasonable restrictions that allow a prospective solar energy system owner to install “an alternative system of comparable cost, efficiency, and energy conservation benefits.” Although Section 714(b) does not explain what makes an alternative system “comparable,” a California Court of Appeal found that an HOA could prohibit installation of passive solar water heaters, which can extend above the roof surface, but allow comparable active solar water heaters, which can have a lower profile on the roof and are similar in cost and performance.²²

3.2.3. Other Restrictions Permitted Under the Act

Section 714.1 permits CC&Rs to impose certain restrictions on solar energy system installations despite the cost, efficiency, and comparable system criteria provided for in Section 714. Separate from the reasonable

¹⁶ See *Palos Verdes Homes Ass’n v. Rodman*, 182 Cal. App. 3d 324, 328 (1986).

¹⁷ See Cal. Civ. Code §§ 714(b), 714(d)(1)(A), and 714(d)(1)(B).

¹⁸ § 714(b).

¹⁹ § 714(d)(1)(A).

²⁰ § 714(d)(1)(B).

²¹ See § 714(d)(1)(A)-(B).

²² See *Palos Verdes Ass’n v. Rodman*, 182 Cal. App. 3d 324, 328 (1986).

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restrictions permissible under Section 714, Section 714.1 allows CC&Rs to impose the following reasonable restrictions:

- Restrictions on Common Area Installations – Section 714.1(a) permits CC&Rs to “impose reasonable provisions” that restrict solar energy installations in common areas. Common areas are defined in Section 1351(b) as “the entire common interest development except the separate interests therein.” That is, a common area is the area of the development not owned separately by individuals. For example, in a condominium or planned development, all the property other than units, homes, parcels, and lots owned by individuals would be considered common areas. These typically include community centers, walkways, or common hallways.
- Prior Approval – Section 714.1(b) requires “the owner of a separate interest, as defined in Section 1351, to obtain the approval of the association for the installation of a solar energy system in a separate interest owned by another.” Section 1351(a) defines an “association” as “a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.” This definition generally refers to HOAs. In the context of Section 714.1(b), a common interest development is a: (1) community apartment project; (2) condominium project; (3) planned development; or (4) a stock cooperative.²³ In general, a property owner in a common interest development seeking to install a solar energy system should contact their HOA to determine installation policies and guidelines.
- Maintenance and Repair – Section 714.1(c) allows HOAs to create requirements relating to the maintenance, repair, or replacement of roofs or other building components affected by solar energy installations.
- Indemnification or Reimbursement – Section 714.1(d) allows associations to require solar energy system installers to reimburse the association for loss or damage caused by installation, maintenance, or use of the solar energy system.

3.3. Definition of a Solar Energy System

The Act defines what types of solar energy systems qualify for its legal protections. For the purposes of the Act, Section 801.5(a) defines a “solar energy system” as any solar collector or other solar energy device or any structural design feature of a building whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.²⁴ It is important to note that Section 801.5(a)’s statutory definition of “solar energy system” does not explicitly state whether it includes only small-scale consumer systems or whether it also encompasses large-scale industrial solar systems.²⁵

²³ Each of these common interest development types is defined in California Civil Code Section 1351(c).

²⁴ The Act’s definition of a solar energy system differs from the statutory definition of a “solar collector” promulgated in California’s Solar Shade Control Act under California Public Resources Code Section 25981.

²⁵ However, an examination of the legislative history behind a recent amendment to the Act arguably suggests that Section 801.5(a)’s definition of a solar energy system is intended to apply only to consumer distributed generation systems. In a 2000 bill which revised Section 801.5(a)’s definition of “solar energy system,” the Legislature declared that “low polluting disturbed generation resources, installed on customer sites, can reduce customer costs of energy . . . and provide customers with improved reliability in the event of an electricity outage.” 2000 Cal. Stat. ch. 537, sec. 801.5, § 1(b). Furthermore, the same bill defined “distributed generation” as “any onsite generation, interconnected and operating in parallel with the electricity grid, that is used *solely* to meet onsite electric load.” *Id.* at sec. 25620.10, § 4(i)(3)

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Based on this statutory definition, the following common solar energy systems would likely be considered “solar energy systems” under the Act:

- Photovoltaics (solar electric).
- Solar water heating for use within a building.
- Solar water heating for space heating.
- Solar pool heating.

3.3.1. Additional Criteria to Supplement the Definition of a Solar Energy System

Section 714(c)(1) provides additional criteria that supplements the definition of a solar energy system. These criteria likely would have to be met in addition to the standard definition provided in Section 801.5 in order to be considered an eligible solar energy system under Section 714.

- Health and Safety Requirements – Section 714(c)(1) provides that a solar energy system must meet applicable health and safety standards and requirements imposed by state and local permitting authorities.
- Solar Water Heating Certification – Section 714(c)(2) requires a solar energy system used to heat water to be certified by the Solar Rating Certification Corporation (hereinafter “SRCC”), a nonprofit third party organization, or other nationally recognized certification agencies.²⁶ This section specifies that the entire solar energy system and installation process must receive certification, rather than simply certifying each of its component parts.
- Solar Electric Standards – Section 714(c)(3) requires a solar energy system used to produce electricity, such as photovoltaics, to meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the California Public Utilities Commission regarding safety and reliability.

3.4. Fair Approval Process for Solar Energy Systems

The Act additionally seeks to ensure that processes used to consider and approve solar energy system installations are fair to the applicant. Section 714(e)(1) provides that:

Whenever approval is required for the installation or use of a solar energy system, the application for approval shall be processed and approved by the appropriate approving entity in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed.

This subsection uses broad language that arguably could apply to the approval processes of an HOA or a local government. Given the context of subsections in Section 714 and existing case law, this language on fair approval processes most likely applies to HOAs. It is unclear whether it also applies to approval processes of

(emphasis added). Therefore, this legislative history presents one plausible interpretation suggesting that only small-scale consumer systems intended to meet onsite electric load qualify as solar energy systems under the Act.

²⁶ SRCC is a nonprofit third party supported by the United States Department of Energy. SRCC can be found online at www.solar-rating.org.

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local governments because California Government Code Section 65850.5 specifically addresses city and county permitting of solar energy systems. We discuss this topic in more detail in Section 4.

3.5. Violation of California Civil Code Section 714

California Civil Code Section 714(f) describes the penalties for violation of this section of the Act. It states that “[a]ny entity, other than a public entity, that willfully violates this section shall be liable to the applicant or other party for actual damages occasioned thereby, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).” In addition, Section 714(g) provides that reasonable attorney’s fee will be awarded to the prevailing party in a case brought to enforce compliance with Section 714.

3.6. Relevant Cases

Published case law relating to the Act is limited. This is particularly true for published cases relating to HOAs imposing unreasonable restrictions on solar energy systems installations. Lack of awareness on the part of homeowners and HOAs about the Act’s provisions and potentially high litigation costs could account for the limited case law.²⁷

This section provides a summary of the following cases involving HOAs and individual solar energy system owners.

- Tesoro Del Valle Master Homeowners Ass’n. v. Griffin, 133 Cal. Rptr. 3d 167 (2011).
- Palos Verdes Home Ass’n v. Rodman, 182 Cal. App. 3d 324 (1986).
- Fox Creek Cmty. Ass’n v. Carson, 1 CA-CV 11-0676, 2012 WL 2793206 (Ariz. Ct. App. July 10, 2012).
- Garden Lakes Community Ass’n v. Madigan, 204 Ariz. 238 (Ct. App. 2003).

3.6.1. Tesoro Del Valle Master Homeowners Ass’n. v. Griffin

Tesoro Del Valle Master Homeowners Association v. Griffin addressed the issues of whether the CC&Rs imposed a reasonable restriction on solar energy systems and whether an HOA can deny permission to build a solar energy system without identifying an alternative location that is “reasonable” under the Solar Rights Act.²⁸

Griffin, a resident of the Tesoro housing development, applied to install a photovoltaic rack system on the slope outside his home’s perimeter wall and on the roof of the home.²⁹ The Tesoro CC&Rs generally allowed construction of solar energy systems; however, Tesoro Board approval was required for all solar installations and improvements on sloped areas could not damage the existing slope ratio, drainage, or cause erosion.³⁰

²⁷ Valerie J. Faden, *Net Metering of Renewable Energy: How Traditional Electricity Suppliers Fight to Keep You in the Dark*, 10 *Widener J. Pub. L.* 109, 131 (2000).

²⁸ *Tesoro Del Valle Master Homeowners Assn. v. Griffin*, 133 Cal. Rptr. 3d 167 (2011). See *id.* at 174-75, 184.

²⁹ *Id.* at 171; Brief of Appellant at 1, *Tesoro Del Valle Master Homeowners Assn.*, 133 Cal. Rptr. 3d 167 (2011) (No. B222531), 2010 WL 6380566 at *1.

³⁰ *Id.* at 170-71.

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The Tesoro Board denied Griffin's application to construct the hillside photovoltaic system due to safety and aesthetic concerns, but Griffin proceeded to construct the photovoltaic system without approval.³¹ The Board filed suit to have the hillside photovoltaic system removed and the jury found the Tesoro CC&R restrictions "reasonable" under section 714(b).³²

On appeal, the court held that whether Tesoro's CC&Rs constitute a "reasonable" restriction is a question of fact for the jury.³³ The court found substantial evidence supporting the jury's finding based on expert testimony showing that a comparable alternative system could be installed within Griffin's yard for a lower cost and with only a 14 percent reduction in output.³⁴ Finally, the court stated that the Tesoro Board was not responsible for identifying an alternative site for building the photovoltaic system upon denial of Griffin's application to build on the hillside.³⁵ Therefore, the court ordered Griffin to remove the hillside solar energy system.³⁶

3.6.2. Palos Verdes Home Ass'n v. Rodman

Palos Verdes Home Ass'n v. Rodman provides guidance on what constitutes a reasonable restriction on solar energy system installations.³⁷ The issue in this case was whether the HOA's actions violated Section 714's reasonable restriction standard.³⁸

Rodman, a resident of the Palos Verdes Home Association, sought to install a passive solar water heating system on the roof of his home.³⁹ The Palos Verdes Home Association's CC&Rs required a homeowner to receive prior approval from the HOA for any improvements made outside of a home.⁴⁰ The CC&Rs also contained guidelines for installing a solar energy system.⁴¹ The CC&Rs generally allowed for the installation of active systems, but prohibited Rodman's proposed passive system.⁴² The prohibition of Rodman's proposed system was based primarily on aesthetics.⁴³ If Rodman's passive system was designed to comply with the HOA's CC&Rs, the additional modifications would have added between \$1,400 and \$1,800 to the cost of installation.⁴⁴

³¹ *Id.* at 172, 179.

³² *Id.* at 178.

³³ *Id.* at 176.

³⁴ *Id.* at 178.

³⁵ *Id.* at 178-79, 184.

³⁶ *Id.* at 185.

³⁷ 182 Cal. App. 3d 324, 328-29 (1986).

³⁸ *Id.* at 328.

³⁹ *Id.* at 326.

⁴⁰ *Id.*

⁴¹ *Id.* at 327, note 2.

⁴² *Id.* at 328.

⁴³ *Id.*

⁴⁴ *Id.*

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Rodman ignored the CC&Rs and had the system installed by a private company.⁴⁵ The HOA notified Rodman that his system was not in compliance with their guidelines and filed a complaint against Rodman.⁴⁶ The trial court ruled in favor of the HOA, requiring Rodman to remove his system.⁴⁷ Rodman appealed, arguing that the HOA's CC&Rs violated Section 714.⁴⁸ Rodman argued that the HOA's solar installation guidelines effectively restricted his passive solar energy system installation by significantly increasing the system's cost and decreasing its efficiency.⁴⁹

The appellate court ultimately affirmed the trial court's decision, ruling that an installer of a solar energy system cannot ignore HOA guidelines when those guidelines would only minimally increase installation costs.⁵⁰ The court relied on expert testimony presented by the HOA.⁵¹ This testimony, given by a mechanical engineer, concluded that the active systems allowed by the HOA were comparable in cost and performance to the prohibited passive systems.⁵² The court reasoned that even though there would have been a significant increase in cost to install the passive system under HOA guidelines, Rodman could have installed an active system with no increase in cost.⁵³ As a result, the court concluded that the HOA's CC&Rs were reasonable and did not violate Section 714.⁵⁴

3.6.3. Fox Creek Cmty. Ass'n v. Carson

Fox Creek Community Association v. Carson, an unreported Arizona case, addressed the issue of what constitutes a reasonable restriction on solar installations.⁵⁵ Like *Garden Lakes Community Association*, discussed above, California courts are not required to abide by the holding of *Fox Creek* because the decision was made in Arizona. This case discusses Arizona's solar rights law and is included as reference only.

Carson owned a home in Fox Creek Estates, which had CC&Rs requiring homeowners to acquire the Association's approval before building a solar energy system.⁵⁶ The CC&Rs required solar devices be screened or concealed to the extent the Association reasonably deems appropriate.⁵⁷

Carson submitted an application to install a solar tracking device outside the wall surrounding his home and proposed screening the device with Rosewood Sisso trees.⁵⁸ Carson began construction of the solar tracking

⁴⁵ *Id.* at 326.

⁴⁶ *Id.* at 326–27.

⁴⁷ *Id.* at 327.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.* at 328.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.* at 328–29.

⁵⁵ *Fox Creek Cmty. Ass'n v. Carson*, 1 CA-CV 11-0676, 2012 WL 2793206, ¶ 8 (Ariz. Ct. App. July 10, 2012).

⁵⁶ *Id.* at ¶ 2.

⁵⁷ *Id.*

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device before receiving the Association's approval.⁵⁹ The Association denied Carson's application, but agreed the solar installation would be approved if a six-foot block wall was constructed around the device or it was moved inside the fenced backyard.⁶⁰

Carson did not construct the wall or move the solar tracker and the Association filed suit.⁶¹ Carson submitted evidence that construction of the wall would cost between \$12,800 and \$15,200.⁶² Despite the cost, the court held that the Association's restrictions did not prohibit installation of Carson's solar device because it could have been installed in the fenced yard for a lower cost and with only a marginally lower level of energy output.⁶³ Alternatively, a block wall could be built to screen the device.⁶⁴ Therefore, the court held that Carson's solar tracking device must either be moved to the backyard or screened with a brick wall.⁶⁵

3.6.4. Garden Lakes Community Ass'n v. Madigan

Garden Lakes Community Ass'n v. Madigan, an Arizona case, also seeks to define what can be considered a reasonable restriction on solar installations.⁶⁶ In this case, the court ruled that the increased cost required to comply with the HOA's CC&Rs was one factor that effectively prohibited the installation of solar energy systems.⁶⁷ Because this decision was made in an Arizona court, California courts are not required to abide by its holding. In addition, the decision deals with Arizona's solar rights law, which uses different language than California law. We include it here only as a reference.

The Garden Lakes Community Association sued the Madigan family and the Speak family for installing solar panels that were not approved by the HOA and did not meet the HOA's installation requirements.⁶⁸ Under the HOA's CC&Rs, panels cannot be visible to the public and must be screened.⁶⁹ In this instance, both the Madigans and the Speaks installed solar panels on their roof without a screen.⁷⁰ In order to comply with the CC&Rs, the Speaks would have had to either construct a patio cover and place the solar panels on top of the patio roof or build a screening wall around the existing roof panels.⁷¹ The HOA's construction expert testified that the cost of building a patio cover for the Speaks would have been nearly \$5,000; not including

⁵⁸ *Id.* at ¶ 4-5.

⁵⁹ *Id.* at ¶ 4-6.

⁶⁰ *Id.* at ¶ 5-6.

⁶¹ *Id.* at ¶ 5.

⁶² *Id.* at ¶ 17.

⁶³ *Id.* at ¶ 15-16.

⁶⁴ *Id.*

⁶⁵ *Id.* at ¶ 7.

⁶⁶ 204 Ariz. 238 (Ct. App. 2003).

⁶⁷ *Id.* at 243.

⁶⁸ *Id.* at 240.

⁶⁹ *Id.* at 239.

⁷⁰ *Id.*

⁷¹ *Id.* at 242.

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the additional cost incurred installing the solar panels on the patio roof.⁷² Both the trial court and appellate court ruled in favor of the homeowners.⁷³ Relying on Arizona's solar rights law, the appellate court found that the HOA's CC&Rs "effectively prohibited" the installation and use of the solar panels.⁷⁴ Concluding that "cost is a factor to be considered" in determining whether a CC&R effectively prohibits solar energy systems, the court held that, among other factors, the additional costs necessary to comply with the HOA's CC&Rs were enough to effectively dissuade homeowners from installing solar energy systems.⁷⁵

⁷² *Id.* at 243.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

4. LOCAL GOVERNMENT'S ABILITY TO RESTRICT SOLAR INSTALLATIONS

In this section, we discuss how California Government Code Section 65850.5 and California Civil Code Section 714(h) limit the ability of local governments to restrict solar energy systems by requiring the use of a non-discretionary permitting process and by requiring local governments to certify compliance with Section 714 prior to receiving state-sponsored solar energy incentives.⁷⁶

4.1. Non-Discretionary Permitting of Solar Energy Systems

California Government Code Section 65850.5 establishes permitting standards and requires local governments to use a non-discretionary permitting process, rather than a discretionary permitting process, to review solar energy system applications. However, as discussed in Section 4.1.5, the Act is ambiguous as to which type of solar energy system falls under the Act's non-discretionary permitting process. This portion of the Act includes the following provisions.

4.1.1. Solar as a Statewide Affair

Section 65850.5(a), in part, provides that “[t]he implementation of consistent statewide standards to achieve the timely and cost-effective installation of solar energy systems is not a municipal affair . . . but is instead a matter of statewide concern.” This statement provides a basis to establish a statewide standard for permitting and discourage local governments from enacting varying and subjective permitting standards.⁷⁷

4.1.2. Legislative Intent Language

Section 65850.5(a) expresses California's intent to promote and encourage solar energy systems. It also promulgates the legislature's intent to prohibit local governments from implementing burdensome permitting requirements and encourages public agencies to remove any barriers to solar energy installations.⁷⁸ While codified, this legislative intent language does not *expressly* prohibit any actions by local governments. Rather, it only discourages certain actions, and therefore, it is unclear how such language would be enforced by the courts. Section 65850.5 includes the following policy statements:

- Discourage Local Governments from Placing Barriers on Solar installations – Section 65850.5(a), in pertinent part, states that it is the intent of the legislature to prohibit local governments from adopting “ordinances that create unreasonable barriers to the installation of solar energy systems, including but not limited to, design review for aesthetic purposes.” This subsection seeks to prevent a local jurisdiction from restricting a solar installation based solely on discretionary factors such as aesthetics, but stops short

⁷⁶ Two bills added provisions to the Act that expand its reach to local governments: AB 1407, which was enacted in 2003 and codified at 2003 Cal. Stat. ch. 290, and SB 2473, which was enacted in 2004 and codified at 2004 Cal. Stat. ch. 789.

⁷⁷ This statement might also have been included to require charter cities to comply with the provisions of this section of law. See *Energy; Incentives for the Use of Solar Energy*, 10 Pac L.J. 478, 481 (1979).

⁷⁸ Cal. Gov't Code § 65850.5(a).

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of expressly prohibiting such restrictions. Because the language is expressed as legislative intent, it is unclear how a court might enforce this section of law.⁷⁹

- California Policy to Promote Solar Energy – Section 65850.5(a) provides that it is the policy of the state of California to “promote and encourage the use of solar energy systems and to limit obstacles to their use.”
- Encourage Local Governments to Remove Barriers to Solar Energy – Section 65850.5(a) promulgates that it is the intent of the legislature that “local agencies comply not only with the language of this section, but also the legislative intent to encourage the installation of solar energy system by removing obstacles to, and minimizing costs of, permitting for such systems.”

4.1.3. Permitting Standards

Section 65850.5(b) and the remaining subsections of Section 65850.5 establish permitting standards for solar energy systems based on health and safety concerns and equipment certification and performance standards. The Act requires cities and counties to “administratively” approve applications to install solar energy systems by issuing a building permit or other non-discretionary permit.⁸⁰ Based on this section of law, local governments cannot implement or use a discretionary permitting process to review solar energy applications. Instead, they must use a non-discretionary ministerial or administrative process that is based on the following criteria:

- Health and Safety – Local review of solar energy applications must be limited to “those standards and regulations necessary to ensure that the solar energy system will not have a specific, adverse impact upon the public health or safety.”⁸¹ The law defines a “specific adverse impact” as “a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.”⁸² To determine if an adverse impact exists, permitting officials must limit their review to local, state, and federal laws.⁸³
- Solar Water Heater Certification – Section 65850.5(f)(2) provides that a solar water heating system must be certified by the SRCC or other nationally recognized certification agency. Certification must apply to the entire solar energy system and installation process.⁸⁴
- Photovoltaics Compliance with Applicable Codes – As promulgated in Section 65850.5(f)(3), a photovoltaics or solar electric system must “meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and

⁷⁹ One interpretation is that this language does prevent cities and counties from enforcing ordinances that effectively prohibit or unreasonably restrict the use of solar energy systems other than for preservation or protection of public health and safety. This interpretation also presumes the statutory definition of unreasonable restrictions in California Civil Code Section 714 that applies to CC&Rs would also apply here to restrictions imposed by local governments. *See Energy; Incentives for the Use of Solar Energy*, 10 Pac L.J. at 481.

⁸⁰ Cal. Gov’t Code § 65850.5(b).

⁸¹ *Id.*

⁸² § 65850.5(g)(3).

⁸³ § 65850.5(b).

⁸⁴ § 65850.5(f)(2).

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accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.”

4.1.4. Adverse Impact on Health or Safety

If a city or county finds that installing a solar energy system would result in an adverse impact on public health or safety, it can require a use permit.⁸⁵ However, according to Section 65850.5(c), the municipality cannot deny an application for the use permit unless it “makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.” The Act defines “a feasible method to satisfactorily mitigate or avoid the specific, adverse impact” as including, but not limited to, “any cost-effective method, condition, or mitigation imposed by a city or county on another similarly situated application in a prior successful application for a permit.”⁸⁶ The law also provides that a city or county shall use its best efforts to ensure that the selected method, condition, or mitigation also meets the cost and efficiency criteria of California Civil Code Section 714(d)(1)(A) and (B).⁸⁷ If the city or county places conditions on the application in order prevent the adverse impact on health and safety, those conditions must be at the lowest possible cost to the applicant.⁸⁸

If the city or county denies the applicant an administrative (or ministerial) permit and/or a use permit, California Government Code Section 65850.5(d) authorizes the applicant to appeal the decision to the city or county planning commission.

4.1.5. Definition of a Solar Energy System

The term “solar energy system,” as used in Section 65850.5, has the same meaning set forth in California Civil Code Section 801.5.⁸⁹ As discussed in Section 3.3 of this paper, Section 801.5’s definition of “solar energy system” is silent as to whether it applies only to small-scale consumer systems or whether it also includes large-scale systems.⁹⁰ California Government Code Section 65850.5 also includes the same language

⁸⁵ § 65850.5(b).

⁸⁶ § 65850.5(g)(1).

⁸⁷ Id.

⁸⁸ § 65850.5(e).

⁸⁹ § 65850.5(g)(2).

⁹⁰ California Civil Code Section 801.5(a), in pertinent part, states:

As used in this section, “solar energy system” means either of the following:

(1) Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.

(2) Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

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contained in California Civil Code Section 714(c)(1) regarding health and safety codes and certifications for solar water heating and photovoltaics systems that supplements the standard definition. Therefore, proposed systems not meeting the Act's definition of a "solar energy system" are not protected by the Act's permitting process.

4.2. Local Government Compliance With Section 714

Section 714(h) prohibits a public entity from receiving state-sponsored grant funding or loans for solar energy programs if it fails to certify its compliance with the requirements of Section 714. The language in this subsection is somewhat ambiguous regarding which parts of Section 714 a public entity would have to comply with to be eligible for state-sponsored incentives. Only one other subsection, Section 714(f), specifically mentions local governments, and that subsection exempts public entities from paying damages.

A possible interpretation of this requirement is that public entities would have to comply with Section 714 by not imposing restrictions that significantly affect the cost and efficiency of a solar energy system (e.g., restrictions imposed through the permitting process). It is also possible that public agencies are considered "approving entities" and would also have to comply with the provisions in Section 714(e), which requires that a solar energy application be processed in the same manner used with similar applications and that the approving entity not willfully avoid or delay approval of the application. Section 714(h)(2) additionally prohibits local public entities from exempting residents in its jurisdiction from the requirements of Section 714. Therefore, a local government might also comply by demonstrating that it has not exempted any residents from the requirements of Section 714. In the absence of case law interpreting this specific subsection of the Act, it remains unclear which provisions of Section 714 a public entity would have to comply with to be eligible for state-sponsored solar energy incentives.

4.3. Relevant Cases

4.3.1. *Larsen v. Town of Corte Madera*

In the *Larsen v. Town of Corte Madera* line of cases, homeowner Larsen sought to use the provisions of California Government Code Section 65850.5 and California Health and Safety Code Section 17959.1 to overturn the Town of Corte Madera's denial of his petition to build a second story addition to his house, which he alleged would include a solar energy system.⁹¹ Larsen repeatedly sought approval for his roof renovation through the Town's design review process, and the various applications had either been denied by the defendant Town or withdrawn by Larsen.⁹²

This case was originally heard in 1996 in the U.S. District Court for the Northern District of California and was later reviewed on appeal by the Ninth Circuit Court of Appeals. Another case involving the same parties was argued before the U.S. District Court nine years later in 2005. In each case, Larsen attempted to use California laws intended to protect solar energy system owners from "unreasonable restrictions" to challenge local ordinances. Each case is summarized below.

⁹¹ See *Larsen v. Town of Corte Madera (Larsen I)*, 1996 U.S. Dist. LEXIS 3936 (N.D. Cal. Mar. 26, 1996); *Larsen v. Town of Corte Madera (Larsen II)*, 1996 U.S. App. LEXIS 33570 (9th Cir. Dec. 20, 1996); *Larsen v. Town of Corte Madera (Larsen III)*, 2005 U.S. Dist. LEXIS 30846 (N.D. Cal. Nov. 8, 2005).

⁹² *Larsen III*, 2005 U.S. Dist. LEXIS at *1.

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Larsen v. Town of Corte Madera (Larsen I), 1996 U.S. Dist. LEXIS 3936 (N.D. Cal. Mar. 26, 1996).

Larsen I is the original case brought by Larsen. In this action, Larsen was contesting the Town's land use decision rejecting Larsen's proposed construction.⁹³ In addition to Larsen's equal protection claim, at issue before the court was whether then-existing California Government Code Section 65850.5 and California Health and Safety Code Section 17959.1 required the Town to allow Larsen to make the requested modifications to his home to accommodate his planned solar energy system.⁹⁴ Prior to its amendment as of January 1, 2005, both California's Health and Safety Code and Government Code provisions were promulgated to prohibit local legislative bodies from enacting certain ordinances which would interfere with the installation of solar systems.⁹⁵ Specifically, the court was asked to determine whether these then-existing sections of law applied to "specific land use decisions made by a local government in its non-legislative capacities."⁹⁶

Ruling in favor of the Town, the court held that both code sections were inapplicable to this case.⁹⁷ This was due, in large part, to the statutory language of the then-existing code sections. For instance, the court found that California Government Code Section 65850.5 was inapplicable here because that section "only applies to ordinances passed by local government legislative bodies." Because Larsen was contesting the specific land use decision of the Town in its non-legislative capacity, the court concluded that there was "no local ordinance at issue in this matter."⁹⁸ Therefore, the court rejected Larsen's argument and ruled in favor of the Town. In an unpublished decision, the Ninth Circuit Court of Appeals affirmed *Larsen I*.⁹⁹

Larsen v. Town of Corte Madera (Larsen III), 2005 U.S. Dist. LEXIS 30846 (N.D. Cal. Nov. 8, 2005).

In this case, Larsen contested a Town resolution which increased the Town's design review fee from \$45 to \$785, plus \$100 per hour for time and costs.¹⁰⁰ Larsen wished to raise the roof of his home an additional two feet so that he could install new solar panels, but objected to the Town's heightened design review fee.¹⁰¹ In his complaint, Larsen alleged that the increase in the town's design review fee violated and was preempted by then-existing California Health and Safety Code Section 17959.1 and California Government Code Sections 65860 and 65850.5.¹⁰²

The court ruled that Larsen's challenge to the Town's resolution failed on the merits for primarily two reasons.¹⁰³ First, the local resolution to raise the document review fee from \$45 to \$785 did not violate then-

⁹³ *Larsen I*, 2005 U.S. Dist. LEXIS at *1-3.

⁹⁴ *Id.* at *6.

⁹⁵ See Cal. Gov't Code § 65850.5 (1979); Cal. Health & Safety Code § 17959.1 (1979).

⁹⁶ *Larsen I*, 2005 U.S. Dist. LEXIS at *7.

⁹⁷ *Id.* at *6.

⁹⁸ *Id.* at *7-8.

⁹⁹ *Larsen II*, 1996 U.S. App. LEXIS at *2.

¹⁰⁰ *Larsen III*, 2005 U.S. Dist. LEXIS 30846, at *3 (N.D. Cal. Nov. 8, 2005).

¹⁰¹ *Id.* at *1.

¹⁰² *Id.* at *3.

¹⁰³ *Id.* at *14-17.

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existing Section 65860.5 because the resolution “simply increased the Town’s design review fees” and did “not have the effect of prohibiting or of unreasonably restricting the use of solar energy systems.”¹⁰⁴ Second, Larsen was not entitled to the legal protections offered by the Act because his building failed to meet the definition of a solar energy system, as defined in California Civil Code Section 801.5.¹⁰⁵ The court explained “that a roof, which is the focus of the design review process, is not part of a ‘solar energy system.’”¹⁰⁶ Because the “primary purpose” of a roof is to cover a house, as opposed to the “collection, storage, and distribution of solar energy,” Larsen’s roof was not protected by the Act.¹⁰⁷

¹⁰⁴ *Id.* at *15 (internal quotations omitted).

¹⁰⁵ *Id.* at *16.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at *17.

5. SOLAR EASEMENTS

An important factor when considering solar energy systems is current and future access to unobstructed sunlight. Shade from vegetation growth, increased building heights as a result of remodeling, and construction of new buildings on adjacent parcels can affect the amount of sunlight reaching a solar energy system in the future. California's Solar Shade Control Act provides limited protection to solar energy system owners from shading caused by trees and shrubs on adjacent properties.¹⁰⁸ No similar law exists to prevent new or modified structures on an adjacent property from shading an existing solar energy system. However, Sections 801 and 801.5 of the California Civil Code provide for solar easements, which allow a solar energy system owner access to sunlight across an adjacent parcel.

5.1. What is an Easement?

An easement is a right that allows the holder to make some use of land that is not theirs or prohibits the owner of another property from using their land in some way that infringes on the rights of another property owner.¹⁰⁹ There are two basic types of easements. An affirmative easement is a non-possessory right to use land in the possession of another.¹¹⁰ A negative easement restricts a property owner from using their property in some manner.¹¹¹ A solar easement is generally considered a negative easement because it prevents a property owner from using their property in a manner that would prevent sunlight from reaching a solar energy system located on an adjacent property.

5.2. What is a Solar Easement?

Because a landowner's property rights extend to the airspace directly above their land, a landowner may grant access to the sunlight that transverses their land to a solar energy system owner on an adjacent parcel. This is generally referred to as a solar easement.¹¹² In 1978, as part of the Act, California added the right to receive sunlight to its list of statutorily recognized easements.¹¹³ Section 801.5 defines a "solar easement" as the "right of receiving sunlight across real property of another for any solar energy system." A solar easement must therefore be created for the sole purpose of accessing sunlight to create thermal or electric energy using a solar energy system, as defined by Section 801.5. A person merely seeking to access sunlight could not seek protections under Sections 801 and 801.5.

5.3. Requirements to Establish a Solar Easement

Section 801.5 does not explicitly state that a solar easement must be created in writing, but one California court, in an unpublished portion of its opinion, held that a solar easement must be written to be

¹⁰⁸ Cal. Pub. Res. Code §§ 25980–25986.

¹⁰⁹ *Black's Law Dictionary* 585–86 (9th ed. 2009).

¹¹⁰ *Id.* at 586.

¹¹¹ *Id.* at 587.

¹¹² See Melvin M. Eisenstadt & Albert E. Utton, *Solar Rights and Their Effect on Solar Heating and Cooling*, 16 Nat. Resources J. 363, 376 (1976).

¹¹³ 1978 Cal. Stat. ch. 1154; see also Cal. Civ. Code § 801.

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enforceable.¹¹⁴ Section 801.5(b) specifies that “any instrument creating a solar easement” must, at a minimum, include all of the following:

- Description of the dimensions of the easement expressed in measurable terms;
- Restrictions that would impair or obstruct the passage of sunlight through the easement; and
- The terms or conditions, if any, under which the easement may be revised or terminated.

5.4. Limitations of Solar Easements

Solar easements, in theory, can ensure access to unobstructed sunlight for a solar energy system. However, obtaining a solar easement can be difficult. Because a neighboring landowner must grant the easement to a solar energy system owner through a bilateral negotiation, the neighboring landowner may refuse to negotiate or grant a solar easement. Further, easements can be burdensome and costly for individual homeowners to negotiate. Legal costs could exceed the cost savings of the system if neighbors are not willing to grant the easement for free.¹¹⁵

Depending on the density of houses in a neighborhood, a prospective solar energy system owner might have to negotiate with several neighbors to ensure access to sunlight.¹¹⁶ This is often the case in cities or when multiple houses on a slope block access to sunlight. A greater number of parties negotiating typically increases cost and reduces the chance an easement will be created.¹¹⁷ And, in certain cases, a solar easement is just not possible. Typically, more established neighborhoods were built with no consideration for the need of solar access. Even if parties are willing to negotiate for a solar easement, the design of the neighborhood may make it impossible to place solar collectors in an efficient manner.¹¹⁸

5.5. California Government Code Section 66475.3

While easements can be difficult to negotiate on an individual basis, particularly in existing neighborhoods, California Government Code Section 66475.3 provides local governments the ability to require solar easements under certain circumstances in subdivision developments. Under Section 66475.3, legislative bodies of a city or county can require certain subdivisions, by ordinance, to create solar easements to ensure that each parcel has the right to receive sunlight across adjacent parcels or units in the subdivision. Such requirements can only be applied to subdivisions for which a tentative map is necessary.¹¹⁹ If a local jurisdiction chooses to adopt such an ordinance, it must specify the following pursuant to Section 66475.3:

- Standards for determining the exact dimensions and locations of easements.

¹¹⁴ See *Zipperer v. County of Santa Clara*, 2005 Cal. App. Unpub. LEXIS 8982, at *13 (Cal. Ct. App. Sep. 30, 2005).

¹¹⁵ Adrian J. Bradbrook, *Future Direction in Solar Access Protection*, 19 *Envtl. L.* 167, 181 (1988).

¹¹⁶ *Id.* at 180.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ California Government Code Section 66426 specifies those subdivisions requiring a tentative and final map.

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- Restrictions on vegetation, buildings, and other objects that would obstruct the passage of sunlight through the easement.
- Terms or conditions, if any, for terminating or revising the easement.
- When establishing the easements, consideration shall be given to feasibility, contour, configuration of the parcel to be divided, and cost.
- An easement cannot reduce allowable densities or the percentage of a lot that can occupy buildings or structures under applicable planning or zoning requirements in force at the time the tentative map was filed.
- The ordinance is not applicable to condominium projects that consist of the subdivision of airspace in an existing building where no new structures are added.

5.6. Relevant Case: *Zipperer v. County of Santa Clara*

In the unpublished portion of its opinion, the *Zipperer v. County of Santa Clara* court specifically discusses the need for written documentation of a solar easement and holds that all solar easements must be written.¹²⁰

The Zipperers built a home with solar heating and cooling systems in the mid-1980s.¹²¹ In 1991, the County of Santa Clara purchased an adjacent property containing a small grove of trees.¹²² The trees on this parcel grew significantly after the County acquired the land and began to shade the Zipperer home, limiting their system's performance.¹²³ In 1997, the Zipperers requested that the County trim or remove the offending shading trees.¹²⁴ The County did not respond to the Zipperer's request, and instead passed an ordinance exempting itself from California's Solar Shade Control Act.¹²⁵

In 2004, the Zipperers brought suit against the County under several causes of action, including breach of contract stemming from an implicit right to a solar easement.¹²⁶ The Zipperers alleged that the County had implicitly entered into a contract to provide a solar easement by allowing them to construct a solar home according to County requirements.¹²⁷ The Zipperers also contended that the County violated this solar easement by allowing the trees on the neighboring lot to grow to a height that shaded their solar energy system.¹²⁸

¹²⁰ 2005 Cal. App. Unpub. LEXIS 8982, at *12–*13 (Cal. Ct. App. Sep. 30, 2005); *see also* *Zipperer v. County of Santa Clara*, 133 Cal. App. 4th 1013 (2005) (the published opinion).

¹²¹ *Zipperer*, 2005 Cal. App. Unpub. LEXIS at *2.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.* at *25 note 4.

¹²⁶ *Id.* at *4.

¹²⁷ *Id.* at *9.

¹²⁸ *Id.*

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The *Zipperer* court ruled, in the unpublished portion of its opinion, that an express, written instrument is required to create a solar easement in California.¹²⁹ The court explained that “the governing provision is section 801.5, which specifically requires a writing in order to create a solar easement.”¹³⁰ And, despite the fact that the Zipperers argued that other provisions provided exemptions to this written requirement, the court ruled that “section 801.5 plainly is the more specific provision, since it sets forth with particularity the requirements for creation of a solar easement.”¹³¹ Therefore, because the Zipperers did not have an express, written instrument, the court held that no solar easement existed.¹³²

¹²⁹ *Id.* at *13.

¹³⁰ *Id.* at *14.

¹³¹ *Id.* at *15.

¹³² *Id.* at *12.

6. PRESERVING PASSIVE SOLAR OPPORTUNITIES IN SUBDIVISION DEVELOPMENTS

The Act also aims to preserve the use of passive solar design opportunities in subdivision developments. This intention is codified in California Government Code Section 66473.1 and California Civil Code Section 66475.3.

6.1. California Government Code Section 66473.1

For subdivisions that require a tentative map, California Government Code Section 66473.1(a) requires that such subdivision designs must “provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.”¹³³

Section 66473.1(b) provides the following examples of natural or passive heating and cooling opportunities:

- Heating – Design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure.
- Cooling – Design of lot size and configuration to permit orientation of a structure to take advantage of shade or prevailing breezes.

Section 66473.1 provides additional guidance on passive heating or cooling opportunities. When considering such opportunities, developers and permitting agencies should take into account the local climate, contour, and configuration of the parcel to be divided, as well as other design and improvement requirements.¹³⁴ Such consideration should not reduce “allowable densities or the percentage of a lot that may be occupied by a building or structure under applicable planning and zoning in effect at the time the tentative map is filed.”¹³⁵

Section 66473.1(d) exempts certain condominiums from this requirement. Specifically, “condominium projects which consist of the subdivision of airspace in an existing building when no new structures are added” are exempt from the requirements of this section.¹³⁶

¹³³ California Government Code Section 66426 specifies those subdivisions requiring a tentative and final map.

¹³⁴ § 66473.1(c).

¹³⁵ Id.

¹³⁶ § 66473.1(d).

7. CONCLUSION

The Act establishes rights for homeowners and businesses to access sunlight for the purpose of creating thermal or electric energy. It defines how an HOA and a local government can limit solar energy system installations; permits a property owner to seek a solar easement to ensure access to sunlight across adjacent properties; and allows governments to preserve passive solar heating and cooling opportunities by requiring developers to create easements in certain subdivisions.

We revisit this landmark law because its provisions are, by and large, not well understood by the general public. Additionally, California's solar market is expected to grow significantly in the coming decade as a result of expanded financial incentives for solar energy systems. As more homes and businesses install solar energy systems and local governments pursue renewable energy solutions, understanding and clarifying the provisions of the Act will only become more relevant and important.

This paper provides information and analysis on the Act to help parties understand the provisions of the law and to understand how the law affects them. Our research should help solar collector owners determine if they are eligible for protections under the Act, HOAs determine if they are liable for an allegation brought under the Act, and cities and counties understand their role in promoting solar energy systems and enforcing solar access provisions under the Act.

8. APPENDIX

8.1. Other Resources

For more information about the Act, the following articles and books are a useful resource:

- Adrian J. Bradbrook, *Future Direction in Solar Access Protection*, 19 *Envtl. L.* 167 (1988). A law review article generally discussing solar access laws.
- Kenneth H. Burke & Bruce N. Lemons, *Simplified Solar Easements*, 2 *Solar L. Rep.* 320 (1980–1981). A law review article that discusses solar easement laws.
- Melvin M. Eisenstadt & Albert E. Utton, *Solar Rights and Their Effect on Solar Heating and Cooling*, 16 *Nat. Resources J.* 363 (1976). An article that examines the legal history and theories behind solar easements and right to light.
- *Energy; Incentives for the Use of Solar Energy*, 10 *Pac. L.J.* 478 (1979). A review of the Solar Rights Act and Solar Shade Control Act legislation. It also discusses possible legal problems and enforcement of solar easements.
- Eugene J. Riordan & Robert L. Hiller, *Describing the Solar Space in a Solar Easement*, 2 *Solar L. Rep.* 299 (1980–1981). A law review article that discusses the technicalities to be agreed upon when forming a solar easement.
- Thomas Starrs et al., *Bringing Solar Energy to the Planned Community: A Handbook on Rooftop Solar Systems and Private Land Use Restrictions*, http://www.sdenergy.org/uploads/Final_CC&R_Handbook_1-01.pdf.
- Robert L. Thayer, *Solar Access, "It's The Law!": A Manual on California's Solar Access Laws for Planners, Designers, Developers, and Community Officials* 9–13, (1981). A handbook that details solar laws and their practical applicability in subdivision development.

9. FULL TEXT OF STATUTES

The Solar Rights Act comprises the following California sections of law: California Civil Code Sections 714 and 714.1, California Civil Code Section 801, California Civil Code Section 801.5, California Government Code Section 65850.5, California Health and Safety Code Section 17959.1, California Government Code Section 66475.3, and California Government Code Section 66473.1. These sections of law are reprinted here in their entirety.¹³⁷

9.1. California Civil Code Section 714

(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, real property, and any provision of a governing document, as defined in subdivision (j) of Section 1351, that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on solar energy systems. However, it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles thereto. Accordingly, reasonable restrictions on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.

(c) (1) A solar energy system shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities.

(2) A solar energy system for heating water shall be certified by the Solar Rating Certification Corporation (SRCC) or other nationally recognized certification agencies. SRCC is a nonprofit third party supported by the United States Department of Energy. The certification shall be for the entire solar energy system and installation.

(3) A solar energy system for producing electricity shall also meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(d) For the purposes of this section:

(1) (A) For solar domestic water heating systems or solar swimming pool heating systems that comply with state and federal law, "significantly" means an amount exceeding 20 percent of the cost of the system or decreasing the efficiency of the solar energy system by an amount exceeding 20 percent, as originally specified and proposed.

(B) For photovoltaic systems that comply with state and federal law, "significantly" means an amount not to exceed two thousand dollars (\$2,000) over the system cost as originally specified and

¹³⁷ All current California laws can be found at <http://www.leginfo.ca.gov>.

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proposed, or a decrease in system efficiency of an amount exceeding 20 percent as originally specified and proposed.

(2) "Solar energy system" has the same meaning as defined in paragraphs (1) and (2) of subdivision (a) of Section 801.5.

(e) (1) Whenever approval is required for the installation or use of a solar energy system, the application for approval shall be processed and approved by the appropriate approving entity in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed.

(2) For an approving entity that is a homeowners' association, as defined in subdivision (a) of Section 1351, and that is not a public entity, both of the following shall apply:

(A) The approval or denial of an application shall be in writing.

(B) If an application is not denied in writing within 60 days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request for additional information.

(f) Any entity, other than a public entity, that willfully violates this section shall be liable to the applicant or other party for actual damages occasioned thereby, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).

(g) In any action to enforce compliance with this section, the prevailing party shall be awarded reasonable attorney's fees.

(h) (1) A public entity that fails to comply with this section may not receive funds from a state-sponsored grant or loan program for solar energy. A public entity shall certify its compliance with the requirements of this section when applying for funds from a state-sponsored grant or loan program.

(2) A local public entity may not exempt residents in its jurisdiction from the requirements of this section.

9.2. California Civil Code Section 714.1

Notwithstanding Section 714, any association, as defined in Section 1351, may impose reasonable provisions which:

(a) Restrict the installation of solar energy systems installed in common areas, as defined in Section 1351, to those systems approved by the association.

(b) Require the owner of a separate interest, as defined in Section 1351, to obtain the approval of the association for the installation of a solar energy system in a separate interest owned by another.

(c) Provide for the maintenance, repair, or replacement of roofs or other building components.

(d) Require installers of solar energy systems to indemnify or reimburse the association or its members for loss or damage caused by the installation, maintenance, or use of the solar energy system.

9.3. California Civil Code Section 801

The following land burdens, or servitudes upon land, may be attached to other land as incidents or appurtenances, and are then called easements:

1. The right of pasture;
2. The right of fishing;
3. The right of taking game;
4. The right-of-way;
5. The right of taking water, wood, minerals, and other things;
6. The right of transacting business upon land;
7. The right of conducting lawful sports upon land;
8. The right of receiving air, light, or heat from or over, or discharging the same upon or over land;
9. The right of receiving water from or discharging the same upon land;
10. The right of flooding land;
11. The right of having water flow without diminution or disturbance of any kind;
12. The right of using a wall as a party wall;
13. The right of receiving more than natural support from adjacent land or things affixed thereto;
14. The right of having the whole of a division fence maintained by a coterminous owner;
15. The right of having public conveyances stopped, or of stopping the same on land;
16. The right of a seat in church;
17. The right of burial;
18. The right of receiving sunlight upon or over land as specified in Section 801.5.

9.4. California Civil Code Section 801.5

(a) The right of receiving sunlight as specified in subdivision 18 of Section 801 shall be referred to as a solar easement. "Solar easement" means the right of receiving sunlight across real property of another for any solar energy system.

As used in this section, "solar energy system" means either of the following:

- (1) Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.

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(2) Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

(b) Any instrument creating a solar easement shall include, at a minimum, all of the following:

(1) A description of the dimensions of the easement expressed in measurable terms, such as vertical or horizontal angles measured in degrees, or the hours of the day on specified dates during which direct sunlight to a specified surface of a solar collector, device, or structural design feature may not be obstructed, or a combination of these descriptions.

(2) The restrictions placed upon vegetation, structures, and other objects that would impair or obstruct the passage of sunlight through the easement.

(3) The terms or conditions, if any, under which the easement may be revised or terminated.

9.5. California Government Code Section 65850.5

(a) The implementation of consistent statewide standards to achieve the timely and cost-effective installation of solar energy systems is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution, but is instead a matter of statewide concern. It is the intent of the Legislature that local agencies not adopt ordinances that create unreasonable barriers to the installation of solar energy systems, including, but not limited to, design review for aesthetic purposes, and not unreasonably restrict the ability of homeowners and agricultural and business concerns to install solar energy systems. It is the policy of the state to promote and encourage the use of solar energy systems and to limit obstacles to their use. It is the intent of the Legislature that local agencies comply not only with the language of this section, but also the legislative intent to encourage the installation of solar energy systems by removing obstacles to, and minimizing costs of, permitting for such systems.

(b) A city or county shall administratively approve applications to install solar energy systems through the issuance of a building permit or similar nondiscretionary permit. Review of the application to install a solar energy system shall be limited to the building official's review of whether it meets all health and safety requirements of local, state, and federal law. The requirements of local law shall be limited to those standards and regulations necessary to ensure that the solar energy system will not have a specific, adverse impact upon the public health or safety. However, if the building official of the city or county has a good faith belief that the solar energy system could have a specific, adverse impact upon the public health and safety, the city or county may require the applicant to apply for a use permit.

(c) A city or county may not deny an application for a use permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The findings shall include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.

(d) The decision of the building official pursuant to subdivisions (b) and (c) may be appealed to the planning commission of the city or county.

(e) Any conditions imposed on an application to install a solar energy system shall be designed to mitigate the specific, adverse impact upon the public health and safety at the lowest cost possible.

(f) (1) A solar energy system shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities.

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(2) A solar energy system for heating water shall be certified by the Solar Rating Certification Corporation (SRCC) or other nationally recognized certification agency. SRCC is a nonprofit third party supported by the United States Department of Energy. The certification shall be for the entire solar energy system and installation.

(3) A solar energy system for producing electricity shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(g) The following definitions apply to this section:

(1) "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by a city or county on another similarly situated application in a prior successful application for a permit. A city or county shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code.

(2) "Solar energy system" has the same meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code.

(3) A "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

9.6. California Health & Safety Code Section 17959.1

(a) A city or county shall administratively approve applications to install solar energy systems through the issuance of a building permit or similar nondiscretionary permit. However, if the building official of the city or county has a good faith belief that the solar energy system could have a specific, adverse impact upon the public health and safety, the city or county may require the applicant to apply for a use permit.

(b) A city or county may not deny an application for a use permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This finding shall include the basis for the rejection of potential feasible alternatives of preventing the adverse impact.

(c) Any conditions imposed on an application to install a solar energy system must be designed to mitigate the specific, adverse impact upon the public health and safety at the lowest cost possible.

(d) (1) A solar energy system shall meet applicable health and safety standards and requirements imposed by state and local permitting authorities.

(2) A solar energy system for heating water shall be certified by the Solar Rating Certification Corporation (SRCC) or other nationally recognized certification agency. SRCC is a nonprofit third party supported by the United States Department of Energy. The certification shall be for the entire solar energy system and installation.

(3) A solar energy system for producing electricity shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers,

Solar Rights Act

and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

(e) The following definitions apply to this section:

(1) "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost effective method, condition, or mitigation imposed by a city or county on another similarly situated application in a prior successful application for a permit. A city or county shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code.

(2) "Solar energy system" has the meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code.

(3) A "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

9.7. California Government Code Section 66475.3

For divisions of land for which a tentative map is required pursuant to Section 66426, the legislative body of a city or county may by ordinance require, as a condition of the approval of a tentative map, the dedication of easements for the purpose of assuring that each parcel or unit in the subdivision for which approval is sought shall have the right to receive sunlight across adjacent parcels or units in the subdivision for which approval is sought for any solar energy system, provided that such ordinance contains all of the following:

- (1) Specifies the standards for determining the exact dimensions and locations of such easements.
- (2) Specifies any restrictions on vegetation, buildings and other objects which would obstruct the passage of sunlight through the easement.
- (3) Specifies the terms or conditions, if any, under which an easement may be revised or terminated.
- (4) Specifies that in establishing such easements consideration shall be given to feasibility, contour, configuration of the parcel to be divided, and cost, and that such easements shall not result in reducing allowable densities or the percentage of a lot which may be occupied by a building or a structure under applicable planning and zoning in force at the time such tentative map is filed.
- (5) Specifies that the ordinance is not applicable to condominium projects which consist of the subdivision of airspace in an existing building where no new structures are added.

For the purposes of this section, "solar energy systems" shall be defined as set forth in Section 801.5 of the Civil Code.

For purposes of this section, "feasibility" shall have the same meaning as set forth in Section 66473.1 for the term "feasible".

9.8. California Government Code Section 66473.1

(a) The design of a subdivision for which a tentative map is required pursuant to Section 66426 shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

Solar Rights Act

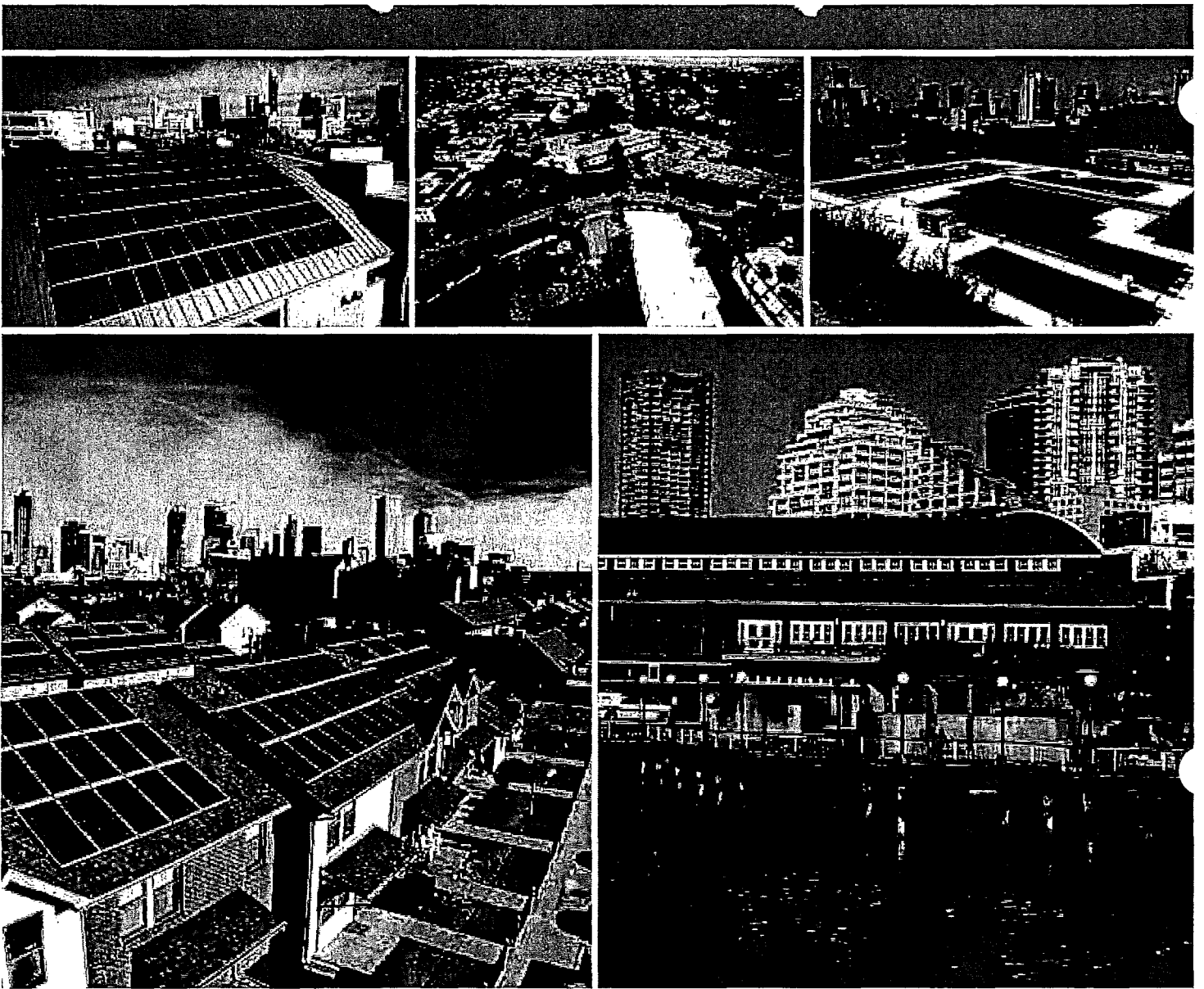
(b) (1) Examples of passive or natural heating opportunities in subdivision design, include design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure.

(2) Examples of passive or natural cooling opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure to take advantage of shade or prevailing breezes.

(c) In providing for future passive or natural heating or cooling opportunities in the design of a subdivision, consideration shall be given to local climate, to contour, to configuration of the parcel to be divided, and to other design and improvement requirements, and that provision shall not result in reducing allowable densities or the percentage of a lot that may be occupied by a building or structure under applicable planning and zoning in effect at the time the tentative map is filed.

(d) The requirements of this section do not apply to condominium projects which consist of the subdivision of airspace in an existing building when no new structures are added.

(e) For the purposes of this section, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.



Shining Cities

**At the Forefront of America's
Solar Energy Revolution**



Shining Cities

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Solar Energy Revolution**



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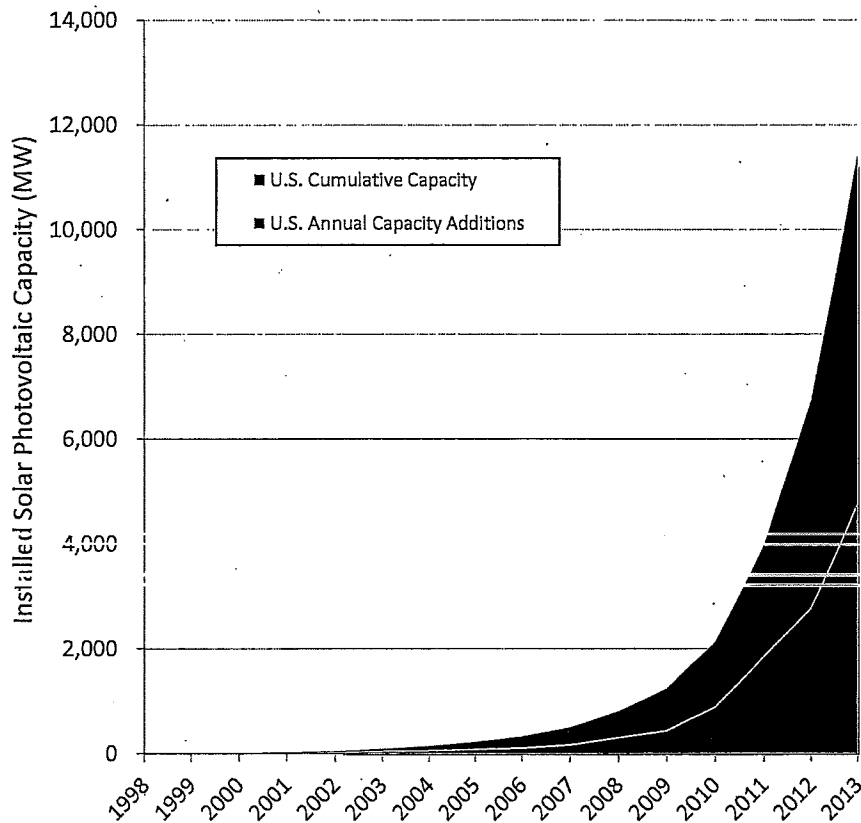
Executive Summary

Solar power is on the rise across the country. The United States has more than 200 times as much solar photovoltaic (PV) capacity installed today as it did in 2002. With solar module prices coming down, increasing national awareness of solar energy, and a growing legion of solar businesses large and small, solar power is emerging as a mainstream energy solution with widespread benefits for our health, our economy and the environment.

America's major cities are helping to lead this clean energy revolution. Forward-thinking local governments and large cities in leading states are benefiting from smart policies that encourage investment in solar PV installations and the growth of local jobs.

This report provides a first-of-its-kind comparative look at the growth of solar power in major American cities. **Just 20 cities, representing just 0.1 percent of the land area of the United States, account for**

Figure ES-1. Annual and Cumulative Installed Photovoltaic (PV) Capacity through 2013, United States



7 percent of solar PV capacity in the United States.

These top 20 cities contain more solar power today than was installed in the entire U.S. just six years ago.

Solar energy brings important benefits to cities.

- **Solar energy avoids pollution**—Pollution-free energy from the sun displaces fossil fuel-powered energy sources, reducing a major source of pollution that contributes to urban smog and global warming. Outdoor air pollutants endanger the health of city residents, and many urban centers are vulnerable to the global warming-induced threats of sea-level rise, increasingly frequent and severe extreme weather events, and the public

health impacts of heat waves. Rooftop solar energy also increases city resilience to extreme weather events, which are only due to get worse with increased global warming. For example, solar energy can power cities when drought strikes without diverting precious water resources and help prevent blackouts by reducing strain on the grid. As the electric system evolves, solar panels will be able to provide backup power during power outages caused by storms or other disasters.

- **Solar energy protects consumers**—Cities often depend on electricity transmitted from power plants hundreds of miles away to meet

Table ES-1. Top 20 Solar Cities by Total Installed Solar PV Capacity, End of 2013*

Principal City	State	Cumulative Solar PV Capacity (MW)	Cumulative Solar PV Capacity Rank
Los Angeles	CA	132	1
San Diego	CA	107	2
Phoenix	AZ	96	3
San Jose	CA	94	4
Honolulu	HI	91	5
San Antonio	TX	84	6
Indianapolis	IN	56	7
New York	NY	33	8
San Francisco	CA	26	9
Denver	CO	25	10
New Orleans	LA	22	11
Sacramento	CA	16	12
Jacksonville	FL	16	13
Albuquerque	NM	16	14
Portland	OR	15	15
Austin	TX	13	16
Las Vegas	NV	13	17
Newark	NJ	13	18
Raleigh	NC	12	19
Boston	MA	12	20

* This includes all solar PV capacity (rooftop and utility-scale solar installations) within the city limits of each city. See methodology for an explanation of how these rankings were calculated. See Appendix B for city-specific sources of data.

local demand. Using local solar energy reduces the need for electricity transmission and the need for costly and inefficient “peaking” power plants. Solar energy also typically supplies electricity on hot, sunny days when grids are under the most strain and electricity is most expensive. In addition, since there are no fuel costs associated with solar energy, it can reduce the vulnerability of city economies to price increases for fossil fuels.

- **Solar energy helps the economy**—Solar power creates local jobs in solar installations and manufacturing. Solar industry employment grew 10 times faster than the national average growth in employment in 2013 and employed 142,000 Americans as of November 2013.

The top 20 cities have a total installed solar PV capacity of over 890 MW and are located in almost every region of the U.S.

On a per-capita basis, Honolulu is the leading solar city, followed by San Jose, and Wilmington, Delaware.

America’s leading solar cities are increasing their use of solar energy in a variety of ways. Some cities are focusing on distributed solar PV on homes and small businesses, others are building utility-scale solar power plants, while still others are developing solar energy at the neighborhood scale or through community projects. What makes these top cities solar leaders?

- **Commitment from local governments.** Cities can lead and catalyze local markets by installing solar power on city buildings and setting ambitious but achievable targets for solar energy. Leading solar cities, including Denver and Portland, are driving solar growth starting with their public buildings.

Figure ES-2. Map of 57 Principal Cities Ranked by Cumulative Installed Solar PV Capacity, End of 2013

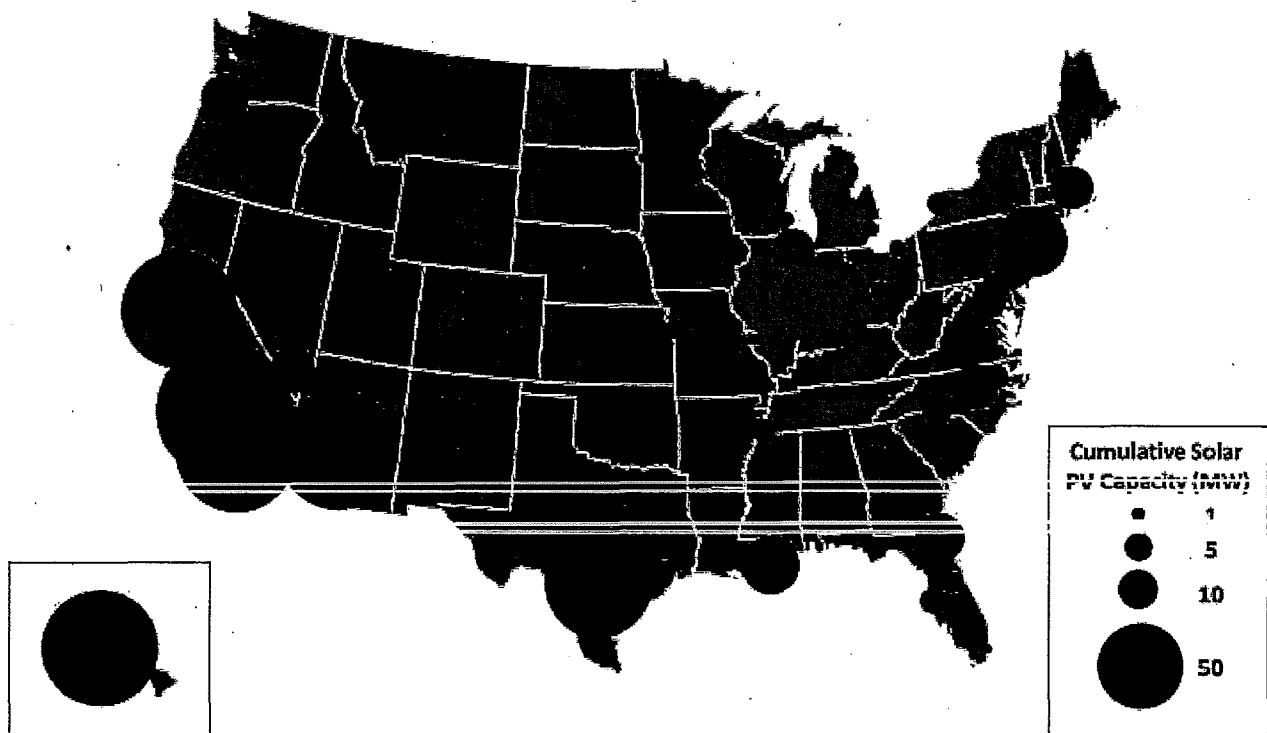


Table ES-2. The “Solar Stars” (Cities with More Than 50 Watts of Installed Solar PV Capacity per Person, End of 2013)

Principal City	State	Cumulative Solar PV Capacity (MW)	Solar PV Capacity per Capita (Watts/Person)	Solar PV Capacity per Capita Rank
Honolulu	HI	91	265	1
San Jose	CA	94	97	2
Wilmington	DE	7	96	3
San Diego	CA	107	81	4
Indianapolis	IN	56	68	5
Phoenix	AZ	96	65	6
San Antonio	TX	84	62	7
New Orleans	LA	22	60	8

- **Support from city policies and programs.** Cities can create policies that promote solar power in their communities. Cities can encourage local lending for solar projects, provide predictable and accessible tax incentives that make solar energy more affordable and welcoming to businesses, and adopt solar-friendly permitting policies and building codes. New York City, for example, has a property tax credit for residents who install solar panels. Cities can also run “Solarize” programs that use collective purchasing and educational campaigns to help neighbors “go solar” together, as Portland, Oregon did, or create programs to facilitate solar project financing like Property Assessed Clean Energy (PACE) financing.
- **Partnership with local utilities.** Municipal utilities in several cities have driven the growth of solar power by setting renewable energy goals and offering attractive financial incentives for solar projects. Austin Energy, the municipal utility serving Austin, has set a goal of installing 200 MW of solar power by 2020 and offers an array of solar financing options and monetary incentives to its customers. Seattle City Light allows its customers to invest in community solar projects that are not located on their properties but whose output

is still credited on their utility bill. Other cities have effectively partnered with investor-owned utilities to incentivize solar power. New York City partnered with Con Edison, its local investor-owned utility, to connect solar power to the city grid for the first time and create designated “Solar Empowerment Zones” where solar power could deliver the most benefits.

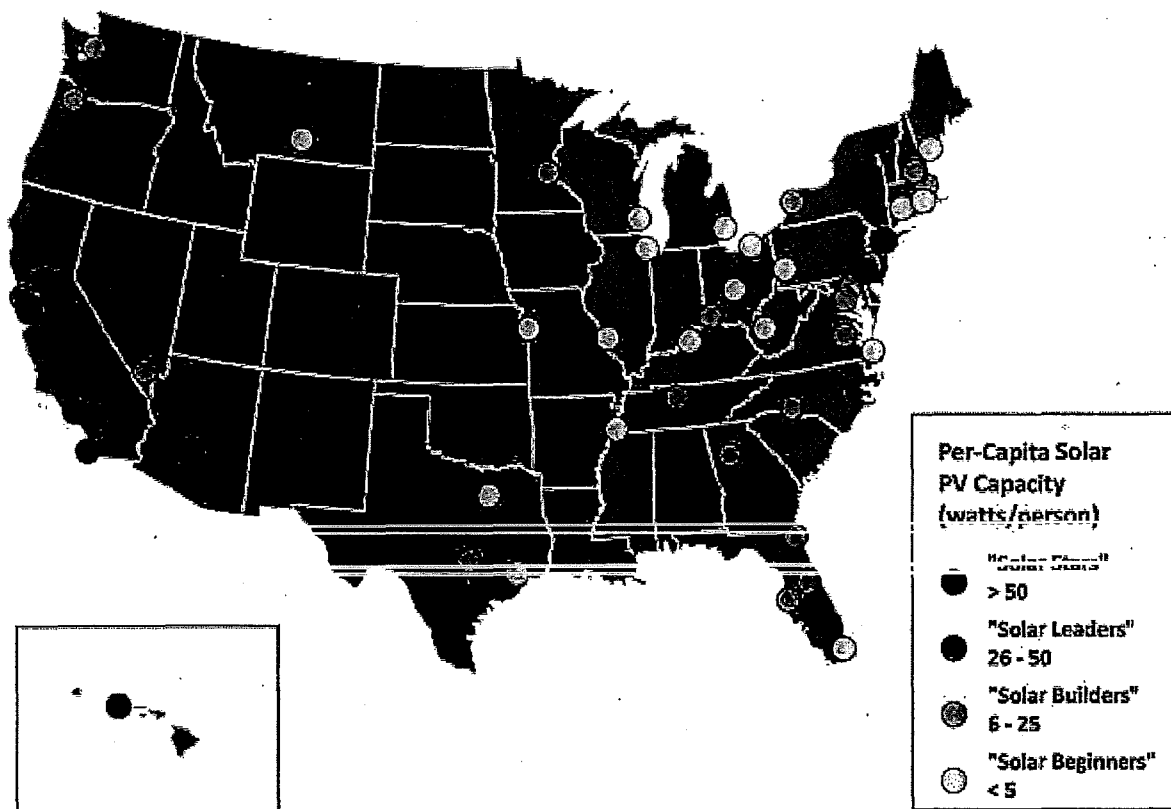
- **Strong state-level policies.** New Jersey, Delaware and Massachusetts have among the strongest standards in the country, boosting the solar capacity of cities such as Newark, New Jersey, Wilmington, Delaware and Boston, Massachusetts. Hawaii, California, Arizona and New York also benefit from strong state policies that make them home to some of the most prominent solar cities. Net metering policies that allow solar producers to receive the full benefits of their solar power production are important for a robust solar market; states should also allow for virtual-net metering that facilitates shared solar projects.
- **Support from federal programs.** Federal renewable energy tax credits and funding from federal programs like the Solar America Cities program, the Energy Efficiency and Conservation Block

Grant program and the U.S. Department of Energy's Sunshot Initiative provide support for local solar power growth and valuable technical assistance to local governments.

America's leading cities have made significant progress but have just begun to tap solar energy's immense potential. **Strong public policies at every level of government can help America continue to harness clean solar energy and overcome legislative and regulatory barriers to distributed generation.** To achieve America's full solar potential:

- **Local governments** should follow the lead of America's top solar cities by adopting programs that promote the rapid expansion of solar power and by demanding that state and federal officials and investor-owned utilities facilitate that expansion.
- **State governments** should set ambitious goals for solar energy and adopt policies to meet them. State governments should also use their role as the primary regulators of electric utilities to encourage utility investments in solar energy and implement rate structures that maximize the benefits of solar energy to consumers. States can streamline permitting, inspections and net metering rules to reduce the non-equipment costs of getting solar power on rooftops. States should require that upcoming investments in the electric grid are designed to ensure that clean, distributed energy such as solar power plays a larger role.
- **The federal government** should continue to provide long-term support for solar power through tax credits and other incentives. The federal government should continue to support

Figure ES-3. Map of 57 Principal Cities Ranked by Installed Solar PV Capacity per Person, End of 2013

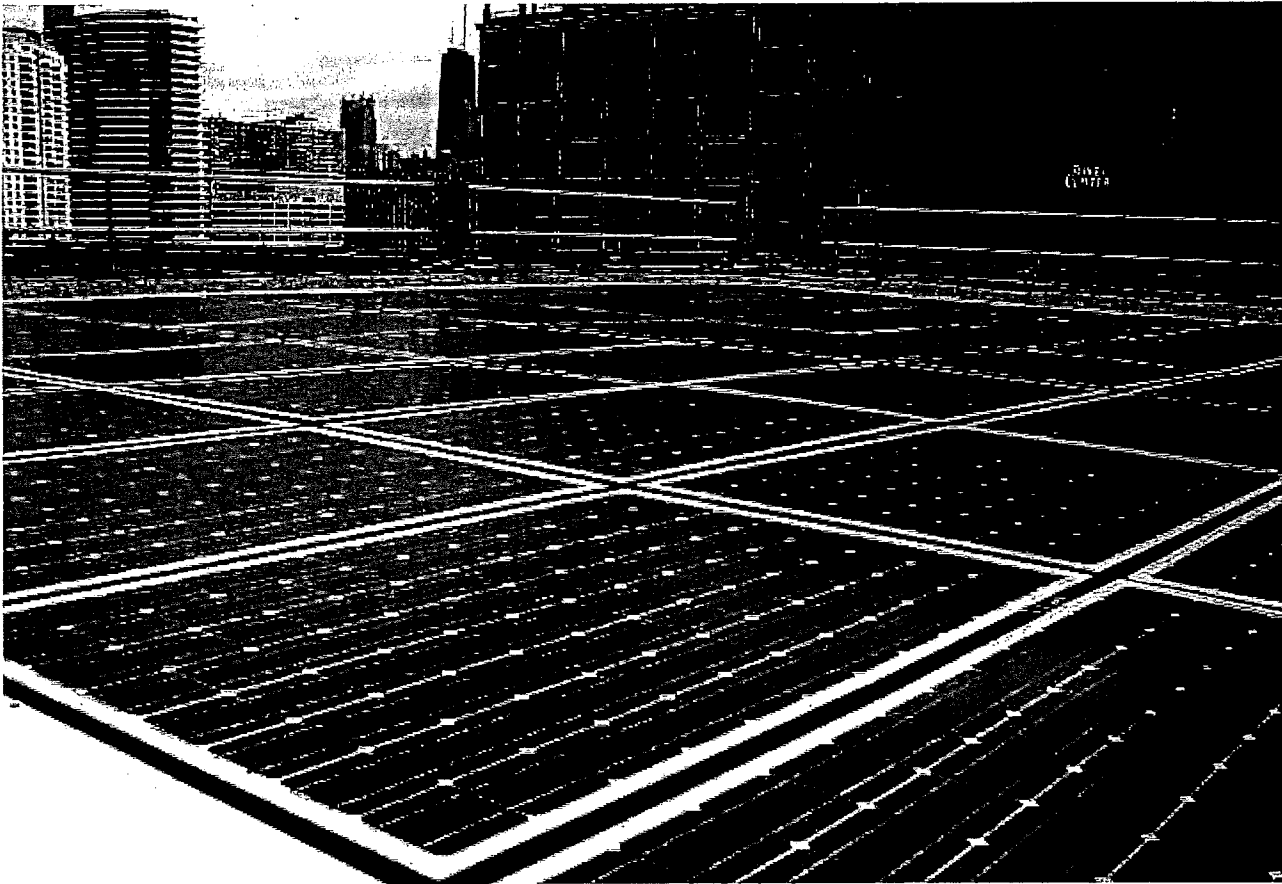


research, development and deployment efforts designed to reduce the cost of solar energy and related storage and smart grid technologies; this will enable more solar energy to be reliably incorporated into the electric grid. The federal government should continue to offer programs like the Solar America Cities program, the Energy Efficiency Conservation Block Grant program and

the U.S. Department of Energy's Sunshot Initiative, which provide support and technical assistance while fostering innovations that drive solar development at the state and local levels.

- **All levels of government** should lead by example by installing solar energy technologies on government buildings.

Photo: Social Security Administration via NREL Image Gallery



Just 20 cities, representing just 0.1 percent of the land area of the United States, account for 7 percent of solar PV capacity in the United States.

Introduction

Portland, Oregon is not known for its sunshine. Portland's reputation for rainy weather is only partially deserved—summers are often sunny, compensating for the frequently cloudy winters. Nonetheless, the city with the reputation for gray skies has emerged as one of the nation's bright spots for solar energy—largely due to the creative efforts of local residents and city officials.

Portland's path to solar leadership began in 2007 when the city was selected for the federal government's "Solar America Cities" program. This program provided the city with funding and support for its efforts to develop local solar power.¹ Two years later, when a neighborhood in Portland wanted to install solar panels, they partnered with the non-profit Energy Trust of Oregon to hold workshops, select a contractor and purchase the panels collectively, cutting costs for themselves and their solar installer.²

The successful collective purchasing model was quickly replicated citywide. Portland's Bureau of Planning and Sustainability worked with Portland's Neighborhood Coalition network, the Energy Trust of Oregon and Solar Oregon to establish the "Solarize Portland" program.³ Between 2009 and 2011, six Solarize Portland campaigns empowered neighborhood associations to work with residents. These campaigns helped residents learn about solar incentives and provided them access to solar panels, supplied by contractors that obtained a large volume of business at low marketing costs.⁴

As a result of these campaigns, Portland added 1.7 megawatts (MW) of solar power on 560 homes in the city between 2009 and 2011.⁵ The "solarize" model has since been adopted by other cities, such as Boston and Seattle.⁶

However, the city of Portland didn't stop with collective purchasing. City officials are working to streamline the solar permitting process by launch-

Overall, city action strengthened by state policy has allowed Portland to jump from less than 1 MW of installed solar PV capacity in 2007 to more than 15 MW of solar PV capacity at the end of 2013.

ing online permitting in 2016 and have launched “Solar Forward,” a crowd-sourcing initiative that asks community members to donate money to fund solar projects on community facilities.⁷ Portland’s efforts have been supported by state-level policies, including a renewable energy standard with specific requirements for solar energy, tax credits for residential and some commercial solar energy installations, and a pilot feed-in tariff program.

Overall, city action strengthened by state policy has allowed Portland to jump from less than 1 MW of installed solar PV capacity in 2007 to more than 15 MW of solar PV capacity at the end of 2013.⁸ This puts Portland in the top 15 of the 57 major cities we surveyed in this report.

Portland is not the only U.S. city to use creative and strong public policies to vault into solar leadership. Other cities in every region of the United States have experienced dramatic progress in recent years in expanding solar energy.

In July 2013, we released *Lighting the Way*, which identified the nation’s top states for solar energy and linked their success to the adoption of smart public policies that have fueled the growth of solar energy. In this report, we provide the first national-scale comparison of solar photovoltaic (PV) installations in some of America’s largest cities.

The lesson of cities like Portland is clear: cities that take effective action to lower the barriers to solar energy development for their residents and businesses can make a dramatic leap toward a cleaner energy economy.

That pathway is open to any city that wishes to pursue it. For the sake of the environment, public health and the health of local economies, the time has come for all states and local governments to follow the example of the nation’s leading “solar cities” by finding new and creative ways to encourage their residents, businesses and local utilities to “go solar.”

Solar Energy Is Good for the Environment, Consumers and the Economy in America's Cities

Solar energy makes sense for America—especially American cities. Each new solar panel helps to clean our air, fight global warming, boost the economy, and create jobs. American cities have vast potential for solar power, with millions of empty rooftops, parking lots and brownfields ideal for solar energy development.

Solar Power Prevents Smog and Global Warming Pollution

America's cities bear the brunt of much of the environmental damage caused by our reliance on fossil fuels. According to the American Lung Association, more than 131 million people live in counties with dangerous levels of ozone. In these areas, many of them urban, simply breathing the air puts residents at increased risk for asthma and cardiovascular issues.⁹ The Institute of Physics estimates that human-caused outdoor air pollution causes more than 2 million deaths worldwide each year.¹⁰

Similarly, many American cities face significant threats from global warming:

- Coastal cities will experience the impacts of **rising sea levels**. Five feet of sea level rise, which could happen in the next century if global warming pollution continues unabated, could flood almost 90 percent of New Orleans, 95 percent of Miami Beach, Florida, and 11 percent of Wilmington, Delaware.¹¹

- Global warming is expected to increase the severity of **extreme weather events** that threaten cities. More than 76 million Americans live in counties affected by weather-related disasters in 2012. There were at least 11 disasters in 2012 that each inflicted more than \$1 billion in damage, including Hurricane Sandy, which caused estimated damages of at least \$50 billion.¹²
- More **severe heat waves and fire seasons** will affect America's cities. More than 1.2 million homes in the western United States, representing \$189 billion in property value, are at risk for wildfire damage, with Los Angeles containing the most properties at risk.¹³

Fossil fuel power plants are significant contributors to both of these threats. Power plants emit dangerous air pollutants including nitrogen oxides, which contribute to the formation of ozone "smog"; sulfur dioxide, which contributes to the formation of small particles in the air that can trigger respiratory diseases such as bronchitis and emphysema; and mercury, a potent neurotoxicant.¹⁴ Producing more electricity with clean solar power instead of fossil-fueled power plants is an important step toward reducing emissions of these air pollutants.

Power plants are also America's largest source of carbon dioxide, the leading global warming pollutant. If the 50 dirtiest U.S. power plants were an independent nation, they would be the seventh-largest emit-

ter of carbon dioxide pollution in the world.¹⁵ (See Figure 1.) In 2011, U.S. power plants were responsible for one-third of the nation's greenhouse gas emissions, which include carbon dioxide emissions.¹⁶

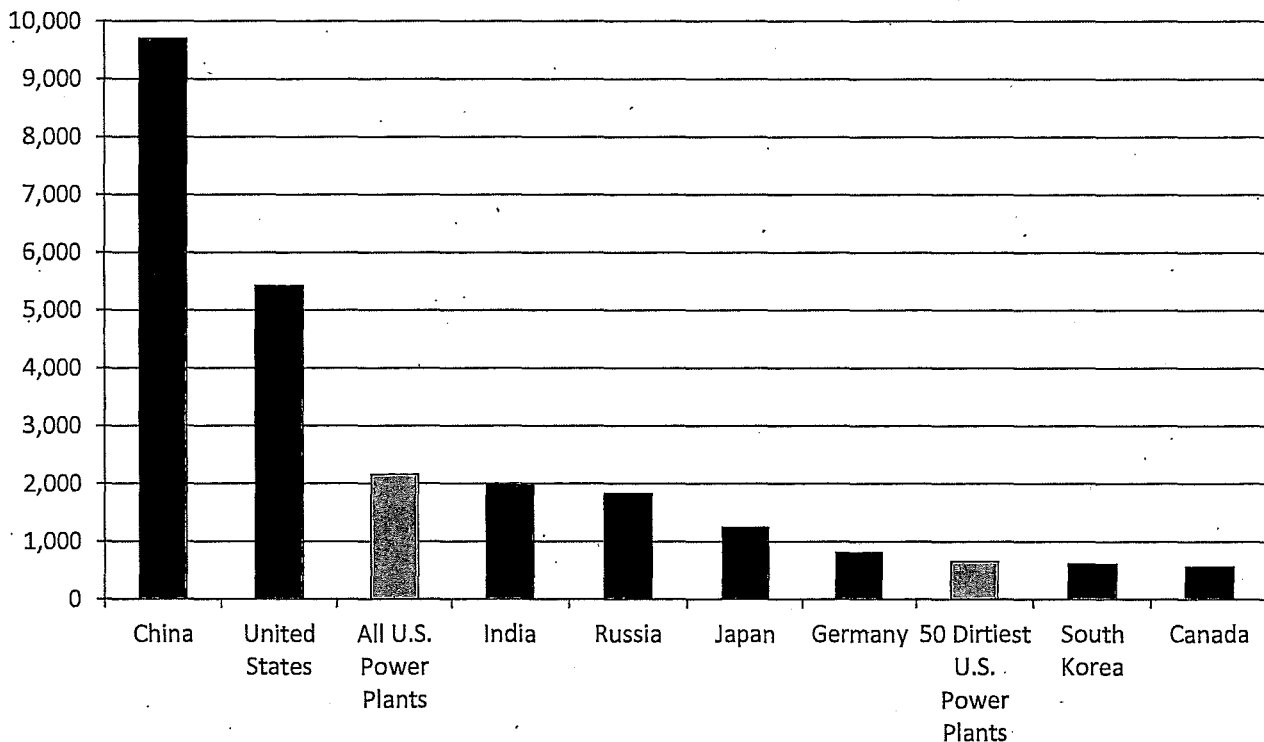
Solar power generation produces no global warming pollution. Even when emissions from manufacturing, transportation and installation of solar panels are included, solar power produces 96 percent less global warming pollution than coal-fired power plants over their entire life-cycle, and 91 percent less global warming pollution than natural gas-fired power plants.¹⁸

By reducing the need for electricity from fossil fuel-fired power plants, solar power reduces the threat posed by global warming and helps to clean the nation's air.

Solar Energy Increases City Resiliency

Rooftop solar energy also increases city resiliency to severe storms and heat waves, which global warming will worsen. If transmission lines are disrupted from a severe storm or heat wave, solar energy attached to batteries or generators can help avoid black outs.¹⁹ During Hurricane Sandy, solar power systems with attached batteries or generators continued to produce energy while the electric grid was offline, providing hard-hit communities with heat and light during the storm.²⁰ Solar power also helps prevent blackouts by reducing strain on the grid, and as the electric system evolves, solar panels will be able to provide backup power during power outages caused by storms or other disasters.

Figure 1. Carbon Dioxide Pollution Emitted by the 50 Dirtiest Power Plants Compared to Other Countries, 2011 (MMT CO₂)¹⁷



Drought also creates difficult conditions for cities dependent on fossil fuels or nuclear power. During the Midwest drought of 2012, many fossil-fuel power plants that require cooling water to operate were forced to limit or suspend electricity production.²¹ Texas had to divert water away from farmers and ranchers in order to keep lights on at the height of the drought of 2011.²² Unlike fossil fuel and nuclear power plants that consume vast amounts of water for cooling, solar PV installations consume virtually no water in everyday operation, reducing the strain on water supplies in arid regions of the country and those experiencing drought.²³ This can be a significant benefit in times of drought. The California drought caused a drop in hydroelectricity generation at the beginning of 2014, but the state's solar energy helped to compensate and guard against electricity outages across the state.²⁴ Climate change will only exacerbate these types of issues and fossil fuel plants could face real limitations as a result.

Solar Energy Is Good for City Residents and the Local Economy

Cities that encourage investments in solar energy offer their residents many important economic and other benefits.

Homeowners and businesses who install solar panels can offset major portions—in some cases all—of their electric bills and see double-digit returns on their investment. Because energy from the sun is free (after the initial investment is made), consumers who invest in solar panels are insulated from the volatile prices of fossil fuel markets. Solar energy can also be a near-term economic winner for consumers and businesses—especially in states where electricity prices are high, owners of solar panels are allowed to recoup the full benefits of the electricity they produce, and there are other strong, pro-solar policies in place.

The benefits of solar energy extend far beyond the home or commercial building where solar panels are installed—solar energy benefits all consumers by

reducing many of the costs of operating the electricity system. Among the benefits of distributed solar electricity to the grid are:

- **Reduced need for expensive “peaking” power**—Solar panels usually produce the most electricity on sunny days when demand for power is at its highest. These are the times when utilities must generate or purchase power from expensive, often inefficient “peaking” power plants that may operate only a few hours each year. Expanding solar power can reduce the cost of providing power during these peak periods.²⁵
- **Reduced need for investment in transmission capacity**—Similarly, generating more electricity closer to the locations where it is used reduces the need to construct or upgrade expensive transmission capacity.
- **Reduced energy losses**—Many cities depend on electricity transmitted from hundreds of miles away to meet local needs. Roughly 5 to 7 percent of the electricity transmitted over long distance transmission lines is lost.²⁶ Distributed solar energy avoids these losses by generating electricity at or near the location where it is used.

Solar Energy Creates Jobs

Solar energy also helps the economy by boosting employment. More than 142,000 Americans worked in the solar energy industry as of November 2013, a 20 percent increase from the previous year, and these numbers are expected to grow.²⁷ In 2013, the number of solar jobs grew 10 times faster than the national average growth in employment.²⁸ Most of these jobs are in the installation and maintenance of solar panels, while about 20 percent of all solar workers are in manufacturing.²⁹ Because most solar energy is located onsite, jobs installing and maintaining solar projects are created in the communities where solar panels are sited and cannot be outsourced.

Solar Power Is on the Rise

The amount of solar power in the United States is rising rapidly—reducing America’s dependence on dirty sources of energy. America’s solar revolution is occurring most dramatically in cities where strong clean energy policies are leading to the rapid adoption of solar energy by homeowners, businesses and electric utilities.

The Promise of Solar Energy Is Increasingly Within Reach

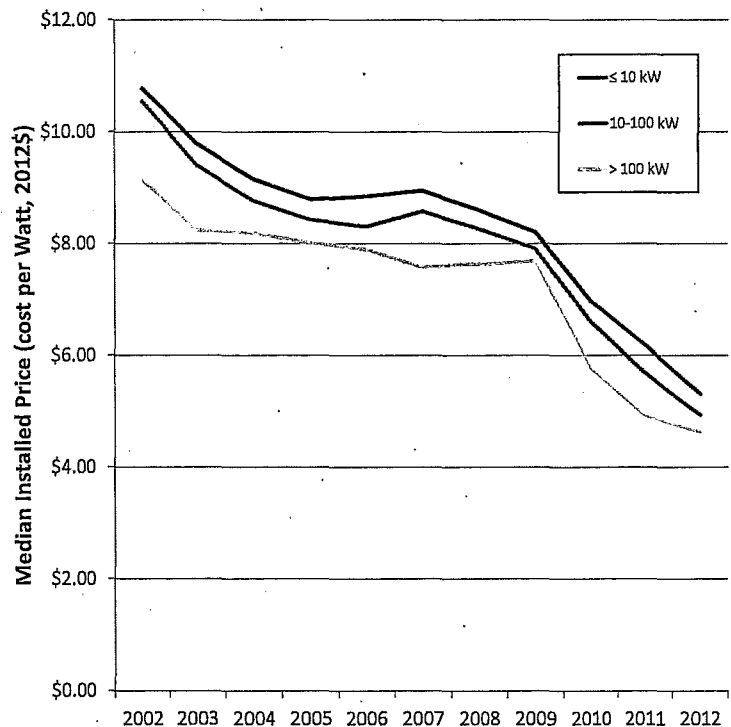
Solar energy is evolving quickly into a mainstream energy source. That evolution has been made possible by a series of innovations that have taken place throughout the solar energy industry and economies of scale that have driven down the cost of solar equipment.

Decades of research have resulted in solar cells that are more efficient than ever at converting sunlight into energy—enabling today’s solar energy systems to generate more electricity using the same amount of surface area as those of a decade ago.³⁰ Researchers continue to discover new ways to make solar panels more efficient at converting sunlight to electricity, which will make solar panels even more powerful tools for electricity generation.³¹

Innovations in manufacturing, the creation of new financing and business models, and improvements in other areas have also helped solar energy become more accessible and less costly over time. An analysis by the National Renewable Energy Laboratory (NREL) shows that large-scale solar manufacturing operations can produce solar equipment at a lower cost, creating opportunities to develop further economies of scale and achieve greater cost reductions.³²

As a result of these innovations and growing economies of scale, the cost of solar energy has plummeted in recent years and continues to fall. The average cost of solar PV panels less than 10 kilowatts (kW) in size fell by 14 percent between 2011 and 2012, and the cost of solar panels of all sizes continues to drop.³³ (See Figure 2.) In Hawaii, solar energy has already achieved “grid parity”—that is, solar electricity is cheaper than electricity from the grid, even without government incentives.³⁴

Figure 2. The Median Installed Price of Residential and Commercial Solar Photovoltaic Systems Continues to Fall³⁵



Evidence from elsewhere in the world suggests that solar energy prices still have room to fall further. The cost per watt of an installed solar energy system in Germany is roughly half that of the United States due to a variety of factors, including larger average system size, but primarily due to lower “soft costs”—costs such as those associated with attracting customers, installing the systems, completing paperwork, and paying taxes and permitting fees. Installations in Germany had quicker project development timelines and lower overhead.³⁶ Another recent analysis found that the same set of non-panel related solar project installation costs were nearly four times higher in the U.S. than in Germany, adding an additional 90 cents/watt to the cost of solar installations.³⁷

While there are still opportunities to reduce the cost of solar panels, the greatest immediate savings can be achieved by reducing these soft costs.³⁸ Soft costs in the U.S. have remained relatively consistent—even

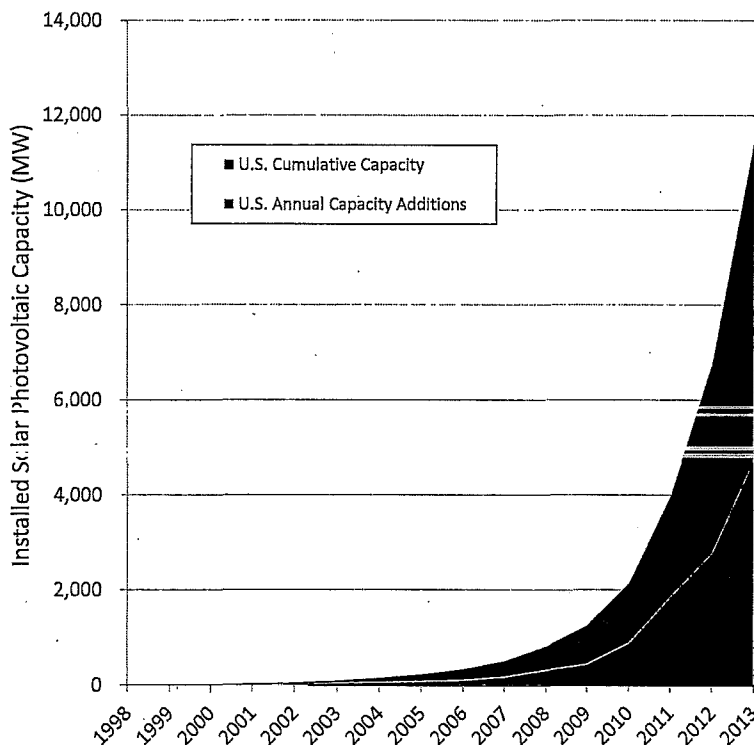
while panel prices have dropped 60 percent between 2011 and 2013—and can make up to 64 percent of the total cost of an installed solar energy system as of 2013.³⁹ The U.S. Department of Energy’s (DOE) SunShot Initiative, which seeks to lower the cost of installing a solar project to \$1 a watt by 2020, is working with the solar industry and other stakeholders in a comprehensive effort to reduce soft costs. If successful, and the DOE recently announced they are 60 percent of the way toward their goal for cost-competitiveness of utility-scale solar projects, solar energy will be even more cost competitive in the years to come.⁴⁰

America’s Solar Energy Capacity Tripled in Two Years

The year 2013 was a historic year for solar power. The United States passed the 10 gigawatt (GW) mark for solar electric capacity mid-year and installed 4.75 GW of solar PV in 2013 alone, which is the most solar power the United States has ever installed in a single year.⁴¹ (See Figure 3.) The solar power installed in the U.S. in 2013 was worth \$13.7 billion and was the second-largest source of new generating capacity in the U.S. that year.⁴² The amount of solar PV capacity in the United States tripled between 2011 and 2013 and increased over 200-fold from 12 years ago to the more than 12,000 MW installed by the end of 2013.⁴³

A notable portion of America’s solar growth is happening in America’s cities. Leadership from municipal utilities, solar-friendly city policies and statewide renewable electricity standards are allowing residents, businesses and solar developers to shift urban electricity sources to clean solar power. While still accounting for a relatively small percentage of America’s energy needs, the recent phenomenal growth rate of solar power indicates that, with smart public policies, solar energy can continue to emerge as an important source of electricity in America’s cities.

Figure 3. Annual and Cumulative Installed Photovoltaic (PV) Capacity through 2013, United States⁴⁴



America's Top Solar Cities Are Leading the Way

America's cities have made a major contribution to the solar boom. With hundreds of thousands of rooftops that can host solar energy systems, cities have a unique opportunity to be leaders in America's clean energy revolution.

In this report, we review solar photovoltaic (PV) installations in 57 American cities. Each of these cities is within a state that had a substantial amount of installed solar energy capacity (more than 1.5 MW) at the end of 2012.⁴⁵ Cities in those states were selected for inclusion in this report if they were:

- The principal city of one of the 50 largest metropolitan areas in the United States, or
- For states with a significant amount of solar capacity but without a city in the 50 largest metropolitan areas nationwide, the state's largest city.⁴⁶

This report represents, to the authors' knowledge, the first national-scale comparison of its kind of solar PV installations in major American cities. There is no uniform national data source that tracks solar energy by municipality, so the data for this report come from a wide variety of sources—municipal and investor-owned utilities, city and state government agencies, operators of regional electric grids, non-profit organizations, and the National Renewable Energy Laboratory's "Open PV" database. (See Methodology.) The use of multiple data sources leads to the possibility of variation among cities in how solar capacity is quantified and in the comprehensiveness of the data. While we endeavored to correct for many of these inconsistencies, readers should be aware that some discrepancies may remain and should interpret the data accordingly.

America's Leading Solar Cities Span the Country

As of the end of 2013, the 57 cities considered in this report had installed 1 gigawatt (GW) of solar PV capacity—more solar PV capacity than existed in the entire United States at the end of 2008.⁴⁷ The solar PV capacity installed within these 57 major cities generates more electricity than is consumed in more than 100,000 average U.S. homes in a year.⁴⁸

America's top 20 solar cities—led by Los Angeles, San Diego, Phoenix, San Jose and Honolulu—take up 0.1 percent of the land area of the United States, but account for 7 percent of solar power capacity in the United States.⁴⁹

Figure 4. America's Top 20 Solar Cities as a Percent of U.S. Land Area and U.S. Solar PV Capacity

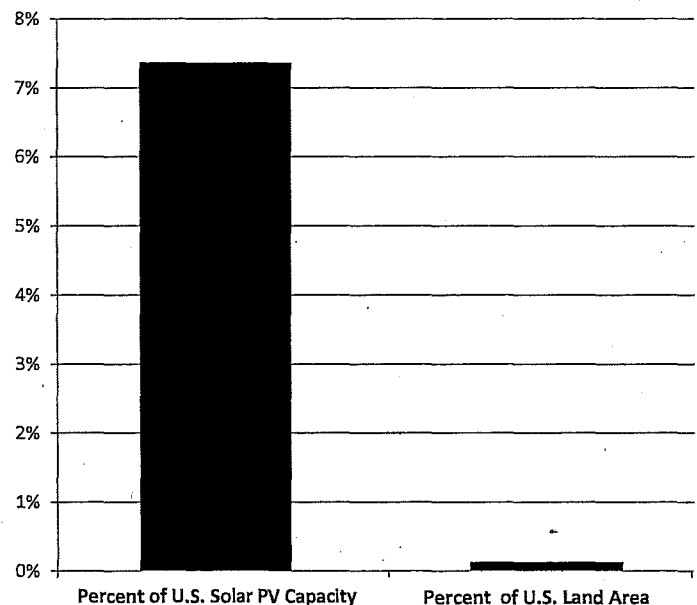


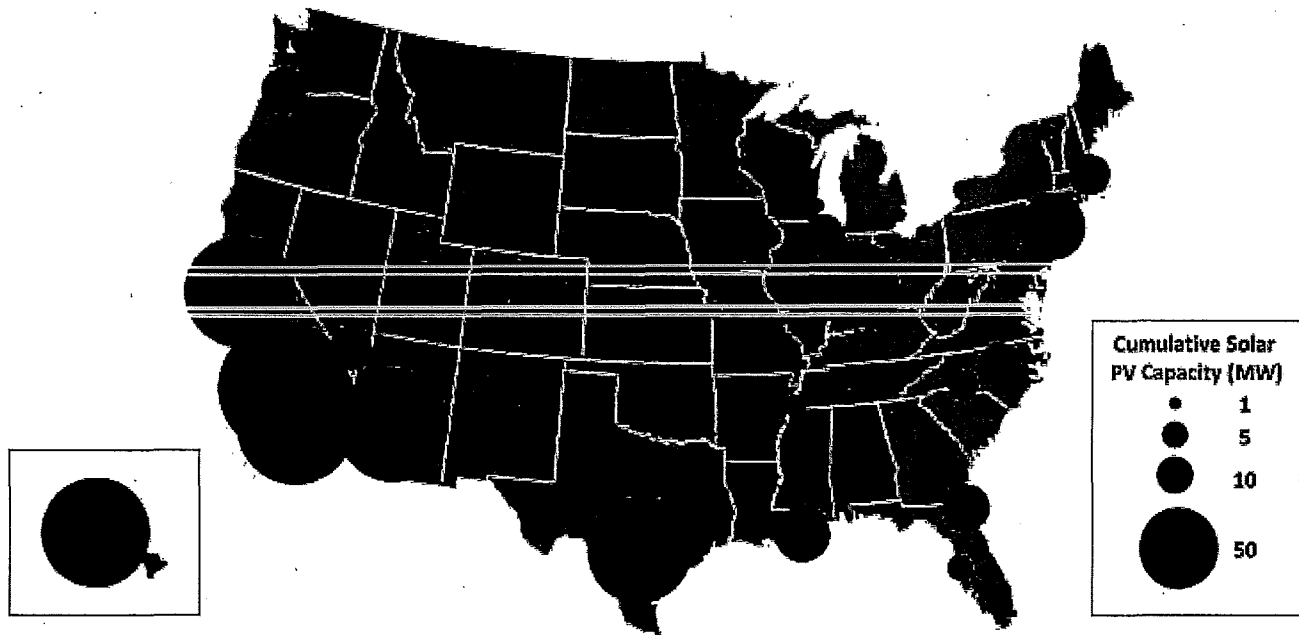
Table 1. Top 20 Solar Cities by Cumulative Installed Solar PV Capacity, End of 2013

These top 20 cities have a total installed PV capacity of over 890 MW, containing more solar power today than was installed in the entire U.S. just six years ago.⁵⁰

These leading cities are located in almost every region of the U.S. (See Table 1 and Figure 5.)

Principal City	State	Cumulative Solar PV Capacity (MW)	Cumulative Solar PV Capacity Rank
Los Angeles	CA	132	1
San Diego	CA	107	2
Phoenix	AZ	96	3
San Jose	CA	94	4
Honolulu ⁵¹	HI	91	5
San Antonio	TX	84	6
Indianapolis	IN	56	7
New York	NY	33	8
San Francisco	CA	26	9
Denver	CO	25	10
New Orleans	LA	22	11
Sacramento	CA	16	12
Jacksonville	FL	16	13
Albuquerque	NM	16	14
Portland	OR	15	15
Austin ⁵²	TX	13	16
Las Vegas	NV	13	17
Newark	NJ	13	18
Raleigh	NC	12	19
Boston	MA	12	20

Figure 5. Map of 57 Principal Cities Ranked by Cumulative Installed Solar PV Capacity, End of 2013



On a per-capita basis, Honolulu is the leading solar city, followed by San Jose and Wilmington, Delaware. (See Figure 6 and Table 2.)

By comparing solar capacity per-capita, one can group the cities into several categories.

Figure 6. Map of 57 Principal Cities Ranked by Installed Solar PV Capacity per Person, End of 2013

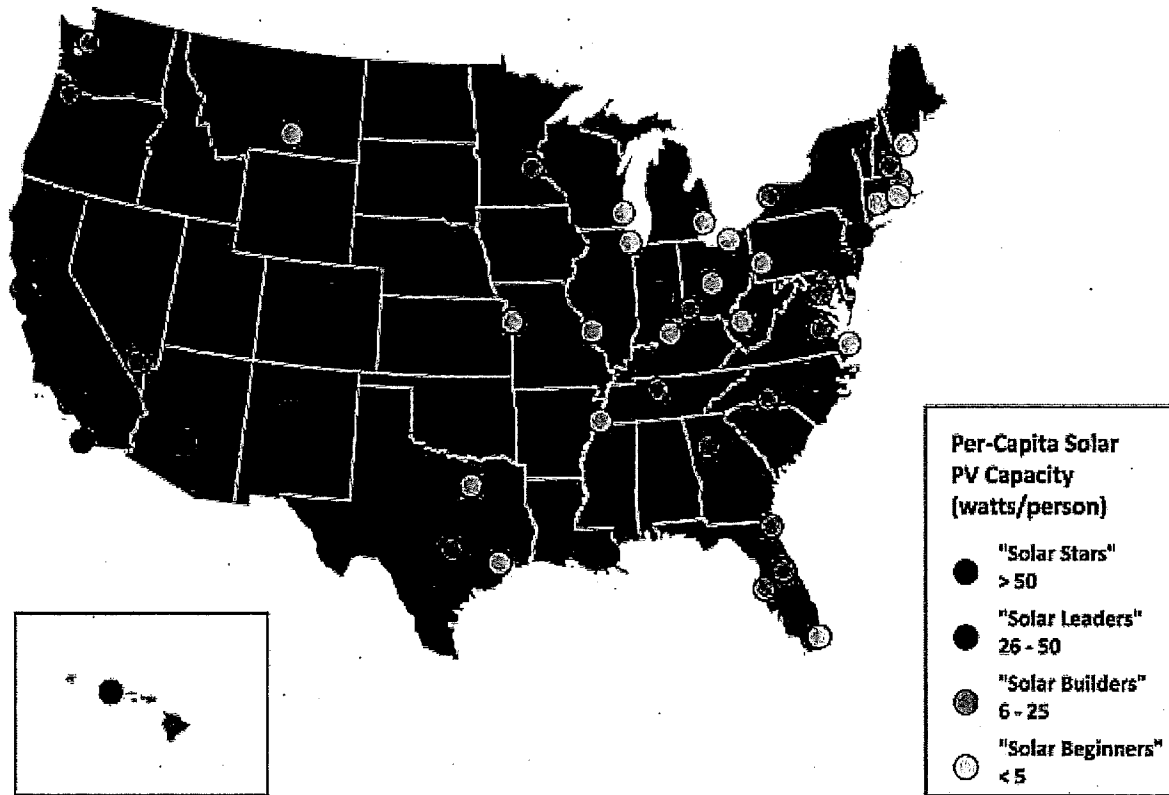


Table 2. The "Solar Stars" (Cities with More Than 50 Watts of Installed Solar PV Capacity per Person, End of 2013)

Stars

Solar Stars are cities with more than 50 watts of installed solar PV capacity per person. They are cities that have experienced dramatic growth in solar energy in recent years and are setting the pace nationally for solar energy development.

Principal City	State	Cumulative Solar PV Capacity (MW)	Solar PV Capacity per Capita (Watts/Person)	Solar PV Capacity per Capita Rank
Honolulu	HI	91	265	1
San Jose	CA	94	97	2
Wilmington	DE	7	96	3
San Diego	CA	107	81	4
Indianapolis	IN	56	68	5
Phoenix	AZ	96	65	6
San Antonio	TX	84	62	7
New Orleans	LA	22	60	8

Leaders

Solar Leaders are cities that have more than 25 and less than 50 watts per person. These cities include several of those (such as Los Angeles, San Francisco and Denver) that lead the nation for total solar capacity.

Table 3. The “Solar Leaders” (Cities with Between 25 and 50 Watts of Installed Solar PV Capacity per Person, End of 2013)

Principal City	State	Cumulative Solar PV Capacity (MW)	Solar PV Capacity per Capita (Watts/Person)	Solar PV Capacity per Capita Rank
Newark	NJ	13	46	9
Denver	CO	25	40	10
Burlington	VT	2	37	11
Sacramento	CA	16	35	12
Los Angeles	CA	132	34	13
San Francisco	CA	26	31	14
Raleigh	NC	12	30	15
Albuquerque	NM	16	28	16
Salt Lake City	UT	5	27	17
Riverside	CA	8	26	18

Builders

The Solar Builders are those with at least 5 and no more than 25 watts of solar PV capacity per person. This diverse group of cities includes cities that have a history of solar energy leadership as well as cities that have only recently experienced significant solar energy development.

Table 4. The “Solar Builders” (Cities with Between 5 and 25 Watts of Installed Solar PV Capacity per Person, End of 2013)

Principal City	State	Cumulative Solar PV Capacity (MW)	Solar PV Capacity per Capita (Watts/Person)	Solar PV Capacity per Capita Rank
Portland	OR	15	24.8	19
Las Vegas	NV	13	22	20
Jacksonville	FL	16	19	21
Boston	MA	12	19	22
Austin	TX	13	16	23
Cincinnati	OH	4	14	24
Washington	DC	8	13	25
Tampa	FL	4	12	26
Buffalo	NY	3	12	27
Manchester	NH	1	9	28
Orlando	FL	2	9	29
Charlotte	NC	6	8	30
Baltimore	MD	5	8	31
Seattle	WA	4	7	32
Richmond	VA	1	6	33
Atlanta	GA	3	6	34
Philadelphia	PA	9	6	35
Nashville	TN	4	6	36
Minneapolis	MN	2	5	37

Beginners

The Solar Beginners include cities with less than 5 watts of installed solar PV capacity per person. Many of these cities are just beginning to experience significant development of solar energy, while a few have experienced little solar energy development at all. New York, with its

preponderance of high-rise buildings and more people than many states, has a lower per-capita ranking, but ranks seventh in the nation for total solar capacity and has experienced substantial growth in solar energy in recent years.

Table 5. The “Solar Beginners” (Cities with Less Than 5 Watts of Installed Solar PV Capacity per Person, End of 2013)

Principal City	State	Cumulative Solar PV Capacity (MW)	Solar PV Capacity per Capita (Watts/Person)	Solar PV Capacity per Capita Rank
Memphis	TN	3	4.6	38
Providence	RI	1	4	39
Chicago	IL	11	4	40
New York	NY	33	4	41
Kansas City	MO	2	4	42
Cleveland	OH	1	4	43
Portland	ME	< 1	3	44
Hartford	CT	< 1	3	45
Charleston	WV	< 1	3	46
Pittsburgh	PA	1	2	47
Milwaukee	WI	1	2	48
Columbus	OH	2	2	49
Billings	MT	< 1	2	50
Detroit	MI	1	2	51
Houston	TX	4	2	52
St. Louis	MO	< 1	1	53
Dallas	TX	1	1	54
Miami	FL	< 1	1	55
Louisville	KY	1	1	56
Virginia Beach	VA	< 1	1	57

Little Cities That Could: Lancaster, Sebastopol, Gainesville and New Bedford Drive Solar Power with Strong Policies

We focus on 57 major cities in this report, but smaller cities have taken noteworthy steps to promote the growth of solar power.

Lancaster and Sebastopol, California

Two California cities—Lancaster and Sebastopol—have adopted requirements that all newly built and renovated homes and commercial buildings incorporate solar energy.⁵³ These cities were the first in the country to enact such a requirement, and these forward-looking policies were driven by determined local officials. The Sebastopol City Council unanimously voted to pass the policy, which requires 2 watts of solar power per square foot for new buildings, or enough solar power to offset 75 percent of the building's annual electricity usage.⁵⁴

Lancaster City Council passed a similar law requiring every new housing development to install an average of 1 kilowatt (kW) of solar power per home.⁵⁵ According to Lancaster Mayor Rex Parris, 26 percent of the city's electrical needs were met with solar power as of January 2014.⁵⁶ This includes 7.5 MW of solar power installed on 25 schools and 8 MW of solar power installed at Lancaster High School and Antelope Valley College.⁵⁷ Lancaster's program to buy solar power back from schools will save these schools \$43 million in energy bills over the next 25 years.⁵⁸ Lancaster is creating a model for other cities to follow according to Mayor Parris, who said, as quoted by *The Planning Report*: "The goal is to create a template for other cities. Ultimately the world is going to wake up and realize that climate change threatens the very existence of the species. Once people wake up to that fact, they'll want a template set—so this is what you do to do your part. Each city can do this to lower their carbon footprint."⁵⁹

Gainesville, Florida

Officials in Gainesville, Florida, have implemented several effective policies making solar energy more accessible to its citizens. The most prominent program contributing to Gainesville's solar success was the city's feed-in tariff (FIT) for solar photovoltaic systems, which was offered until the end of 2013.⁶⁰

The city was first in the nation to introduce per-kilowatt hour incentive payments for solar power. The city's municipal utility, Gainesville Regional Utilities (GRU), provided predetermined rate payments to owners of qualified residential and commercial photovoltaic (PV) systems based on the amount of electricity they generated. In March 2014, GRU's total solar capacity reached 18 MW from its FIT program and 2 MW from net metering, for a total of 20 MW of installed solar capacity in GRU's service area.⁶¹ While Gainesville accounts for only 0.7 percent of Florida's population, the service area of the Gainesville utility (which includes some outlying areas around Gainesville) accounted for 9 percent of the state's total installed solar energy capacity at the end of 2013.⁶² Gainesville is no longer offering the FIT in 2014 but will continue to offer net metering to its customers; this means Gainesville solar producers can no longer receive above-retail rate FIT payments for solar power production but will receive credit for the electricity they deliver to the electric grid through net metering.⁶³

Continued on page 23

Continued from page 22

New Bedford, Massachusetts

New Bedford is a powerful example of smart solar policies at work. The city has faced high levels of poverty and low average incomes, but, despite these challenges, the city has adopted aggressive local policies to promote renewable energy and energy efficiency and reduce its electricity spending. Scott Durkee, director of the New Bedford Energy Office, said that the city's ability to spur solar energy despite economic troubles shows that any city can "go solar."⁶⁴

New Bedford created its Energy Office in 2010 and set a goal of installing 10 MW of solar power in the city within five years. The city is currently on track to hit that goal more than a year early.⁶⁵ Currently, 5.2 MW of solar power are installed within the city, with 7 MW set to come online in areas in and around the city by the summer of 2014.⁶⁶ New Bedford also offers a "Clean Energy Results" program to promote solar farms on unusable "brownfields," or environmentally contaminated land, thereby creating a sustainable energy source from an otherwise unusable area.⁶⁷ New Bedford has contracted with Con Edison Solutions and Blue Wave Capital to construct a solar farm on a brownfield site adjacent to a middle school and high school, which is helping teachers at these schools develop clean energy curricula and connect students to jobs in the solar industry. New Bedford's public buildings with solar installations include three schools, a public gym and their Department of Public Infrastructure Building.⁶⁸ The city of New Bedford signed a power purchase agreement with Con Edison Solutions, the firm that will own the solar projects, to purchase all the solar power generated by these installations.⁶⁹

The Massachusetts State Energy Office recognized New Bedford with a "Leading by Example Award" in 2013, as a city that has "established and implemented policies and programs resulting in significant and demonstrable energy and environmental benefits."⁷⁰

Smart Policies Have Fueled Growth in America's Top Solar Cities

Those cities that have opened the door for solar energy with the adoption of strong, smart public policies are building the nation's most successful solar markets, not necessarily the cities that receive the most sunlight. Cities where homeowners are paid a fair price for the energy they supply to the grid, where installing solar panels is easy and hassle-free, where there are attractive options for solar financing, and where there has been a strong commitment to support solar energy development, are seeing explosive growth in solar power.

Top solar cities have followed a variety of paths in developing solar energy. In some cases, city governments have played an important role in jump-starting local solar growth by setting goals for installed solar capacity, implementing solar-friendly laws, and welcoming solar businesses. Cities with municipal utilities have had an even more direct influence on solar power adoption by establishing ambitious requirements for solar energy and implementing effective financial incentives. Some cities have taken steps to increase the use of solar energy on public facilities, while, in other cities, strong state policies are driving local solar power growth.

Cities can most effectively promote solar power when city, state and utility policies work together. This section will describe policies and practices that have encouraged solar power growth in leading solar cities.

City Policies Set an Example and Encourage Solar Growth

Local governments have a special role in fostering the growth of solar energy. City governments can promote solar power by streamlining the permitting and installation process, offering financial manage-

ment options, and installing solar power on city property. By establishing pro-solar policies, cities can create local installation and manufacturing economies of scale that drive solar development.

City Governments Lead by Example

Many government buildings—from schools to libraries to government offices—are excellent candidates for solar energy. Installing solar power on city buildings can model environmentally responsible behavior and demonstrate city leadership with the adoption of technologies that benefit residents.

Leading solar cities, including Denver and Portland, are driving solar power growth starting with their public buildings. Denver has installed 9.4 MW of solar power on city and county buildings, and the city has partnered with the Denver Public Schools to install solar power on 28 school buildings.⁷¹ To encourage community participation and support for city solar power, Portland has also launched "Solar Forward," an initiative that asks community members to chip in to fund city solar projects.⁷²

Cities Streamline Solar Permitting and Protect Residents' "Solar Rights"

Helping reduce the "soft costs" of installing solar PV is a crucial step in making a community hospitable to solar power. Some of the most significant expenses and hurdles faced by potential solar power installers are fees for permitting, inspection and interconnection.⁷³ Local governments can play an important role in preparing the way for solar energy through the adoption of smart permitting and zoning rules that eliminate unnecessary obstacles to solar development. Local building codes can also help spark the widespread adoption of solar energy, either by requiring new homes and businesses to be

“solar-ready” or by requiring the use of small-scale renewable energy in new or renovated buildings.

Leading solar cities have taken significant steps to streamline the permitting and installation process for solar power.

- Chicago’s “Green Permit Program” allows solar PV projects to receive permits in less than 30 days.⁷⁴ The cities of Portland and San Francisco have also streamlined the permitting process by reducing wait times for solar PV applications and creating online permitting tools.⁷⁵
- San Jose and Philadelphia have reduced permitting fees and streamlined the application process for solar PV installations. In San Jose, the solar permit application is only one page long, and, in Philadelphia, solar permitting fees are reduced to include only the cost of labor, not labor and equipment costs.⁷⁶

In addition to adopting solar-friendly zoning ordinances and streamlining permitting requirements for solar PV systems, local governments can also adopt “solar rights policies,” which protect access to solar power by overriding local ordinances or homeowners’ association policies that bar residents from installing solar power equipment on their properties. Cities including Austin have passed laws to allow solar installations to exceed height restrictions stated in the city zoning code.⁷⁷ Solar rights policies have also been passed at the state level to stop homeowners’ associations from interfering with the installation of solar panels; states that have passed such policies include Hawaii, New Jersey, Virginia and Texas.⁷⁸

As highlighted in the introduction, collective purchasing programs can also drive solar power in cities. “Solarize” programs streamline the process of purchasing solar power and can bring down the cost for solar installers and consumers installing

solar panels. Portland, Oregon was the first to offer this program, and city and state programs—like Solarize Boston, Solarize Massachusetts and Solarize Connecticut—have followed suit.⁷⁹

Financing Options Make Solar Power Viable

Often, the biggest hurdle standing in the way of solar energy adoption is not the total cost, but rather the up-front cost of solar power, the amount due at the time of installation. For many homeowners and small businesses, the prospect of buying 20 years’ worth of electricity up-front is daunting—particularly if there is a chance that one might move during that time. Creative financing options at the local level can help home and business owners manage the expenses associated with installing solar power.⁸⁸

Local governments can partner with local lending institutions to provide solar financing options that help community members manage the up-front cost of solar power. City governments can facilitate this process by educating the public on solar PV financing options and offering Solarize programs that connect community members directly with lending programs.⁸⁹ In Milwaukee, the city “Milwaukee Shines” program partnered with Summit Credit Union to offer low-interest loans of up to \$20,000 for eligible solar PV installations. Austin has partnered with Velocity Credit Union to provide a solar loan program that can lend customers up to \$20,000.⁹⁰

Cities can also offer tax breaks for solar power. New York City offers a property tax credit for homeowners who install solar panels and exempts residential solar panels from sales tax.⁹¹ Ohio cities Cleveland and Cincinnati offer property tax abatements for buildings that are certified as “green,” including many that incorporate solar energy.⁹²

Commercial PACE Programs Help Communities Finance Solar Power

Property Assessed Clean Energy (PACE) financing is a tool that cities can use to make solar power affordable. PACE programs can be established and run directly by a local government, or sponsored locally and administered by an outside third-party organization. PACE financing allows property owners to borrow money from a specially created fund for clean energy projects. The loan is paid off on property tax bills over a number of years, thus, future repayment of the loan is assured, even if the property changes hands.⁹³

Communities are beginning to make commercial PACE programs a reality. Connecticut has launched a statewide commercial PACE program, managed by the Clean Energy Finance and Investment Authority and endorsed by the Connecticut Bankers Association.⁹⁴ This program has given commercial property owners loans to install onsite renewable energy or undergo energy efficiency upgrades, and enabled them to pay back these loans over a number of years on their property taxes.⁹⁵ South Florida communities have also taken steps to create a financing district for commercial PACE. Cities including Miami and Coral Gables have joined the "Green Corridor District," where a PACE program backed by Lockheed Martin, Barclays Capital and Ygrene Energy Fund is slated to fund \$550 million in energy retrofits, which can include solar installations.⁹⁶

Residential PACE programs have the same potential to unlock investments in solar energy and energy efficiency improvements. Unlike commercial PACE programs, however, residential PACE programs are largely on hold due to opposition from the Federal Housing Finance Agency and the mortgage lenders Fannie Mae and Freddie Mac.⁹⁷

Cities Can Partner with Utilities to Drive Solar Development

City governments with control over their electric utilities are able to implement policies that directly encourage solar power growth, and, with a large percentage of utility customers, cities can use their negotiating power to influence the investor-owned utilities that serve them. Cities with municipal utilities, including Los Angeles, Austin, San Antonio and Jacksonville (along with New Orleans, which has regulatory authority over its investor-owned utility) have taken strong action to promote local solar power. New York City has also effectively partnered with Con Edison, an investor-owned utility, to promote local solar power.

Los Angeles Establishes a Feed-In Tariff

Municipal utilities may set up a feed-in tariff (FIT), which gives energy producers a fixed and long-term contract for the solar electricity produced. These are also known as CLEAN (Clean Local Energy Available Now) contracts, and their effectiveness depends on a number of factors including how quickly customers can get a return on their investment in solar power.

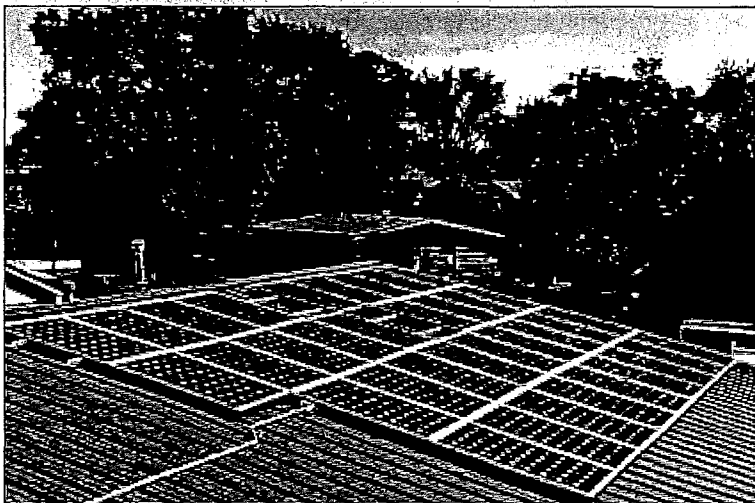
The Los Angeles Department of Water and Power launched the nation's largest FIT program in July 2013, which will bring 100 MW of solar power online.⁹⁸ This program will help the Los Angeles Department of Water and Power meet its state-mandated requirement of generating 33 percent of its energy

America's Leading Solar Cities Are Bringing the Benefits of Solar Power to Residents

Solar power offers an array of environmental, public health and economic benefits for cities—benefits that some of the nation's leading solar cities are working to realize.

Since Hurricane Katrina, New Orleans has been a symbol of the disastrous impacts of extreme weather events. As a "Solar Star" city, New Orleans is doing its part to help mitigate the adverse impacts of global warming by generating more electricity with solar power and less with fossil-fueled energy sources. The solar PV capacity installed in New Orleans at the end of 2013 can produce more energy than 2,500 average homes consume in a year, and this is clearly just a start in a city of 370,000 people.⁸⁰

Credit: Gulf South Solar



A rooftop solar installation generates clean energy in New Orleans.

In cities vulnerable to drought or prone to water shortages, solar power is also a water-saver. In drought-stricken Texas, for example, San Antonio and Austin are avoiding millions of gallons of water waste by transitioning to solar power.⁸¹ In California, where more than 90 percent of the state was experiencing severe to exceptional drought conditions as of February 2014, solar PV capacity in California cities will be an important energy solution in a state that cannot needlessly waste water on electricity generation.⁸²

Solar power can also save city governments money. In Neptune Beach, Florida, right outside the city of Jacksonville, energy bills for city hall have been dropping rapidly thanks to the 140 solar panels that have been installed on top of the city building. Harnessing solar energy has reduced electricity costs for the Neptune Beach city hall by \$7,300 in 2013, as compared to 2012.⁸³ Like Neptune Beach, Jacksonville encourages sustainable city buildings; it established a "Sustainable Building Program" in 2009 that required all new city buildings to meet green building certification standards, which can include solar panel installations on buildings.⁸⁴

Cities and states that install a significant amount of solar power are attracting solar jobs. Los Angeles's "100 MW Feed-in Tariff" program is expected to create more than 2,000 local jobs within the city.⁸⁵ As California leads the country in solar capacity, it is also home to the largest number of solar jobs in the country, with more than 47,000 statewide jobs in solar installation and solar manufacturing.⁸⁶ A study of Colorado's solar industry also revealed statewide economic benefits. Since 2007, the Colorado solar industry has created the equivalent of 10,790 full-time jobs, and solar employees have amassed over \$500 million in earnings.⁸⁷

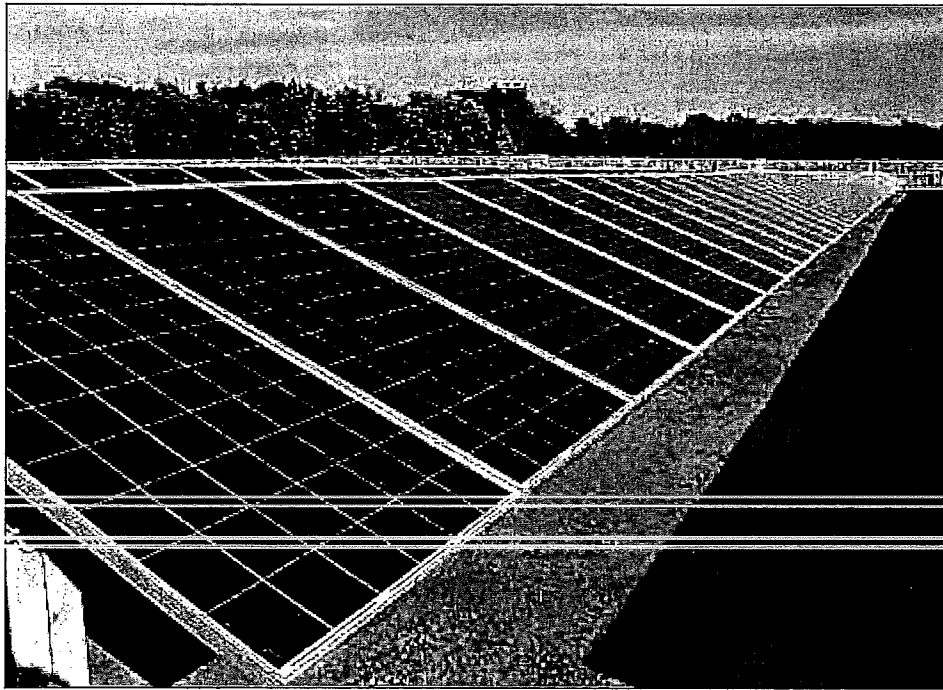
Indianapolis Goes Solar: Indianapolis Power & Light Creates a Feed-In Tariff Program

In 2012, Indiana had only a little over 4 MW of solar capacity installed in the entire state—one 600th the amount installed in California and only about 2 percent as much as was installed in Massachusetts.¹⁰² But Indianapolis Power & Light's feed-in tariff program changed the picture for solar energy in Indianapolis.

In 2010, Indianapolis Power and Light (IP&L) took the first step toward diversifying its energy sources, which largely consisted of coal at the time, by instituting a voluntary feed-in tariff program.¹⁰³ This program pays solar power producers fixed, above-market rates for solar power generated. Once this program was running, Indianapolis became an attractive place for solar developers to generate power. In 2013, a 12 MW solar installation came online at the Indianapolis airport and three utility-scale installations—over 25 MW in capacity—came online, with the power sold to IP&L.¹⁰⁴ Over 59 MW of additional solar PV is in development in Indianapolis as of the beginning of 2014—which will bring the city's solar PV capacity to 98 MW.¹⁰⁵

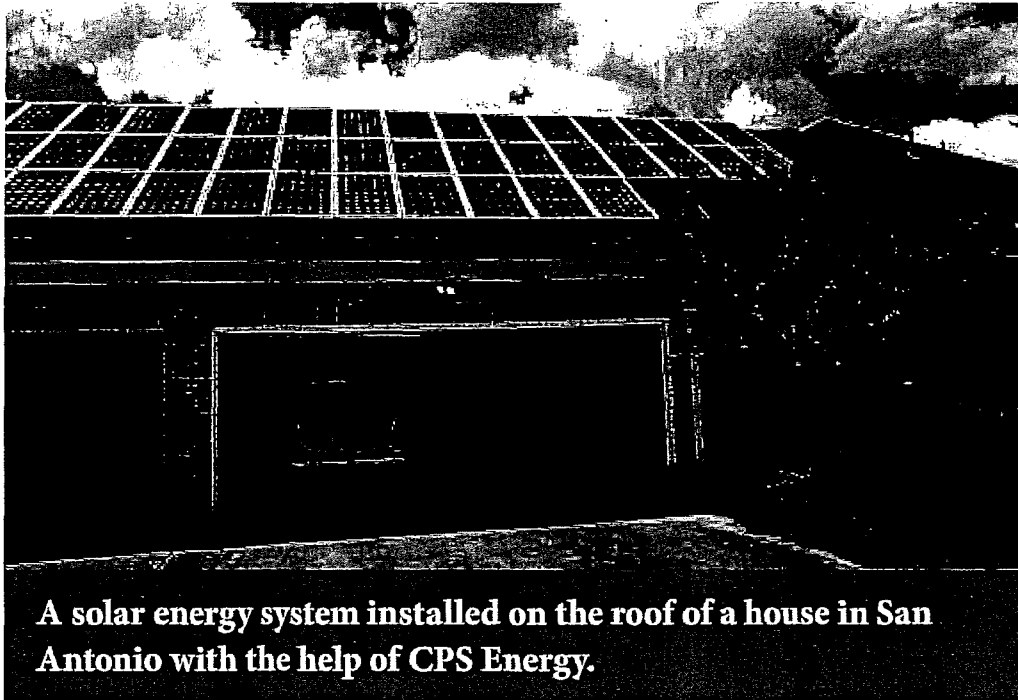
IP&L's FIT was discontinued in March 2013, which may mean slower solar power growth going forward.¹⁰⁶ IP&L continues to offer net metering and a small-scale solar PV incentive program that provides rebates for qualifying residential solar installations.¹⁰⁷ For Indianapolis, solar energy has meant reduced reliance on polluting coal-fired power plants, valuable new investments in the city, and jobs created through construction of these large scale solar projects.¹⁰⁸

Photo: Dominion



The "Indy I" Solar Array depicted is one of three utility-scale solar projects owned by Dominion Energy Resources—these projects represent a combined 28.6 MW of solar power in Indianapolis.

Photo: Solar San Antonio



A solar energy system installed on the roof of a house in San Antonio with the help of CPS Energy.

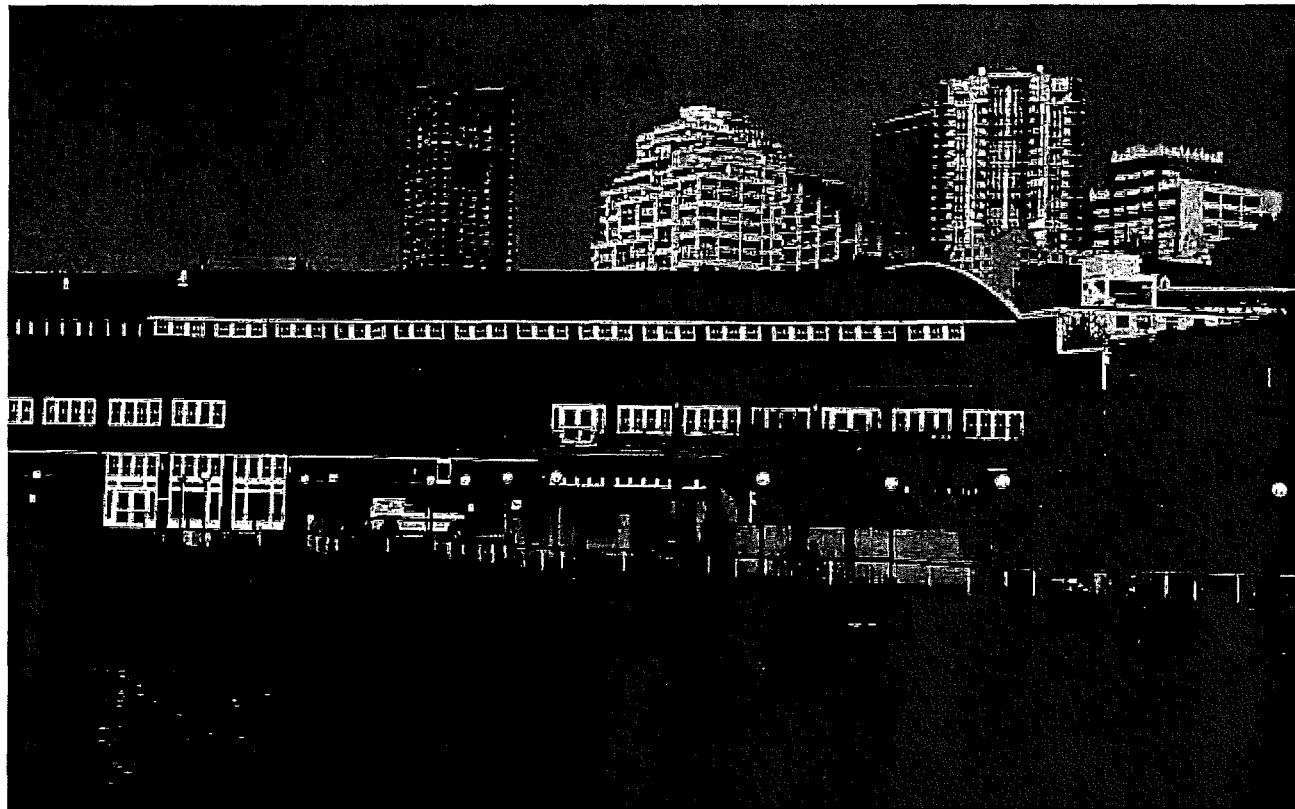
with renewable sources by 2020.⁹⁹ It is projected to create more than 2,000 jobs and generate \$300 million of investment in Los Angeles.¹⁰⁰ A University of California Los Angeles report from February 2014 shows that the first 100-MW component of the FIT is on target to meet its capacity and solar jobs goals.¹⁰¹

San Antonio and Austin Set Solar Goals and Offer Incentive Programs

In Texas, the cities of San Antonio and Austin have led solar development through their respective municipal utilities, Austin Energy and CPS Energy. Both utilities have set high goals for solar power adoption. CPS Energy has adopted a goal of using renewable energy to meet 20 percent of its electricity demand by 2020, with at least 100 MW of energy derived from non-wind renewable sources.¹⁰⁹ The city of Austin enacted a renewable electricity standard in 2011 that requires its municipal utility, Austin Energy, to get 35 percent of its energy from renewable sources by 2020, including 200 MW from solar power.¹¹⁰

With these goals to drive them, CPS Energy and Austin Energy have offered an array of solar financing options and incentives from which residents can choose. To help residential customers overcome the up-front costs of installing solar power, Austin Energy offers a solar rebate program that pays qualifying customers \$1,250 per kilowatt of solar PV capacity installed and has partnered with Velocity Credit Union to provide a solar loan program that can lend customers up to \$20,000.¹¹¹ CPS Energy also offers a solar PV rebate program, with tiered incentives for residential, school and commercial installations and extra funding for those customers that use local solar installers.¹¹² Austin Energy also offers a performance-based incentive for commercial and multi-family installations; this is a payment from the utility to the commercial or multi-family customer per kilowatt-hour of solar power produced for up to 10 years.¹¹³

Austin Energy is offering a "value-of-solar" tariff in place of net metering, and CPS Energy is considering the same transition. Austin Energy's value of solar tariff sets a fixed rate each year at which the



A community solar project atop the Seattle City Aquarium.

utility will credit customers for the solar power they generate—this rate is based on energy savings and environmental benefits that are meant to quantify the value of solar power to the electricity grid and compensate solar producers accordingly.¹¹⁴ While the tariff does provide compensation to owners of solar energy systems, it lacks the long-term predictability of net metering and is unlikely to capture the environmental benefits of solar power.¹¹⁵

At the end of 2012, solar power in the city limits of San Antonio and Austin accounted for over 44 percent of all utility-supported solar power in Texas.¹¹⁶

Seattle City Light Supports Community Solar Gardens

Community solar programs make solar power a viable option for every resident in a utility's service

territory. These programs work when utilities allow their customers to fund ideally-situated community solar projects that are not necessarily connected to every customer; customers funding the project then receive credit for the output of the solar project on their utility bills.¹¹⁷ Community solar, which may offer ratepayers lower upfront costs, economies of scale and more optimally sited facilities, are an attractive alternative for homeowners or renters who cannot site solar on their residences.

Seattle City Light allows their customers to invest in community solar projects that are not located on their properties but whose output is still credited on their utility bill. The utility's community solar program recently funded an installation on the Seattle Aquarium.¹¹⁸

Jacksonville Electric Authority Supports a 15 MW Solar PV Facility

Jacksonville Electric Authority (JEA), the municipal electric utility serving Jacksonville, Florida, has taken action to get more power from clean energy sources. JEA signed an agreement in 2010 to buy all solar power from a 15 MW solar power facility in Jacksonville for 30 years, thereby avoiding 22,430 tons of global warming pollution each year and bringing online enough energy to power 1,400 homes annually.¹¹⁹ At the time, this was the largest solar PV facility in northern Florida, and it created 70-75 direct jobs for Floridians.¹²⁰ This large solar project is an impor-

tant start toward cleaning up Jacksonville's energy sources; by encouraging more onsite solar on city buildings, JEA can bring more benefits to the city's citizens and businesses. JEA also offers net metering to its customers, which helps to incentivize rooftop solar power development in the city.¹²¹

New York City and Con Edison Create Solar Power in the Big Apple

In New York City, partnership with Con Edison, the investor-owned utility serving the city, was a key driver of the pro-solar policies that helped solar power take off in the city. In 2007, New York City was designated a "Solar America City" by the U.S. Depart-

New Orleans Goes Solar: State and Local Policies Work Together to Rebuild a Clean Energy Community

New Orleans is a national leader in installed solar power thanks to strong city regulations.

New Orleans had no solar power capacity in 2007, and less than 1 MW was installed by the end of 2010.¹²² Today, however, the city is ranked eleventh on our list of cities for total installed solar PV capacity and has the eighth most installed solar PV capacity per person of the 57 major cities we analyzed. New Orleans is emerging as one of the nation's leading solar cities thanks in large part to the actions of local officials in regulating the city's electric utility, Entergy New Orleans.

With the help of a Solar America Cities grant, city government action brought solar power to New Orleans. The utility serving New Orleans, Entergy New Orleans, is an investor-owned utility regulated by the city of New Orleans.¹²³ The city of New Orleans worked with Entergy to streamline the application process for solar panels, reducing the application length from 50 pages to two pages. In 2007, the city also required Entergy to offer net metering to its customers, standards that would ensure small renewable energy generators receive full, fair credit for the excess energy they deliver back to the utility grid.¹²⁴ After Hurricane Katrina devastated the city, government funds also helped rebuild some communities, like the St. Thomas Housing Project, in a sustainable manner; the solar arrays on the rooftops of this revitalized area save residents about \$50 per month on utility bills.¹²⁵

State policies also combined with these city initiatives to help make New Orleans an attractive place for solar power. In 2007, Louisiana passed legislation creating statewide solar tax incentives. Two years later, legislation passed that allowed third parties to own residential renewable energy credits and allowed for the creation of renewable energy financing districts.¹²⁶ Louisiana has no renewable energy standard, however, making New Orleans' actions at the city level particularly important to drive local solar development.

The city of New Orleans now has almost three times as much solar power as was present in Mississippi, Alabama, South Carolina and Arkansas combined at the end of 2012.¹²⁷

ment of Energy (DOE), helping to kick off a collaboration between the City University of New York, Con Edison, the New York City Department of Builders, the New York State Energy Research and Development Authority (NYSERDA) and the DOE's Solar America Cities program.¹²⁸ This collaboration proved fruitful— from 1 MW of installed solar PV capacity in 2007, New York City met its Solar America Cities goal of 8.1 MW in mid-2012, three years ahead of schedule.¹²⁹

Effective partnership with Con Edison was a significant contributor to this success. Con Edison introduced a new net metering policy in 2009 that allowed more solar installations to connect to the grid and receive credit for the excess energy they fed back into it.¹³⁰ In 2010, Con Edison also worked with NYSERDA and city agencies to launch the “100 Days of Solar” initiative to streamline the process of issuing a solar permit, interconnecting customers to the grid, and issuing them a rebate.¹³¹ That year, Con Edison also developed “solar empowerment zones” through its partnership with the city and other stakeholders; these are geographic regions in the city identified to be ideal for solar power production, in which solar projects are eligible for additional solar incentives.¹³² The collaboration between Con Edison and NYC solar stakeholders has helped bring New York City into the top 10 cities for cumulative installed solar PV.

Strong State Policies Enable the Creation of Solar Cities

State-level policies to promote solar energy have been critical to building successful solar energy markets in several of America's cities. States can set statewide solar energy requirements and establish standardized incentive programs to help residents finance solar projects. As the nation's primary regulators of electric utilities, state governments have a critical role to play in ensuring that interconnection rules and net metering policies are clear and fair and that utilities are considering renewable energy technologies such as solar power in their own resource investment decisions.

In addition, as solar power comes to supply an increasing share of the nation's energy supply, state governments will need to be at the forefront of designing policies that transition the nation from a power grid reliant on large, centralized power plants to a “smart” grid where electricity is produced at thousands of locations and shared across an increasingly nimble and sophisticated infrastructure. The development of policies that allow for the integration of high percentages of solar energy in the electric grid will present the next challenge to the growth of solar energy.

Statewide Renewable Energy Standards with a Meaningful Solar Carve-Out

Setting specific, statewide requirements for the adoption of solar power can create an attractive environment for solar investments in a given state, including in its major cities.

New Jersey and Delaware

New Jersey and Delaware have among the strongest solar-specific renewable electricity standards (RES) in the country.¹³³ New Jersey's standard aims to have solar energy provide 4.1 percent of the state's electricity use by 2028, and Delaware's standard is ramping up to get 3.5 percent of its utilities' electricity supply from solar PV by 2026.¹³⁴ These strong policies have made these states—and the cities of Newark, New Jersey and Wilmington, Delaware—national solar leaders. Wilmington ranked third out of the 57 cities we surveyed for per-capita solar PV capacity with 96 watts installed per person, and Newark ranks among the “Solar Leaders.” Wilmington boasts more solar power capacity than Houston, Texas, which is 55 times its size.¹³⁵

Massachusetts

In Massachusetts, a strong renewable energy standard is paired with state government policies to make solar power an attractive investment. These policies have helped to bolster Boston's city-level programs.

Massachusetts requires that investor-owned utilities and retail electric suppliers generate 21.1 percent of their power from renewable energy sources by 2020, including 1,600 MW of solar power.¹³⁶ Utilities demonstrate compliance with the solar power requirement by purchasing solar renewable energy credits (SRECs). These SRECs are accumulated by owners of solar panels for every megawatt-hour (MWh) of power those panels produce. To ensure that those investments retain their value, the state has established an auction mechanism with a floor price.¹³⁷

Massachusetts also offers solar rebates to residents and businesses through its “Commonwealth Solar II” program. This is a rebate program that provides money back to approved residential, commercial and industrial solar projects.¹³⁸ In addition to these incentives, qualifying solar power installations can be exempt from sales and property taxes for 20 years in Massachusetts, and Massachusetts offers net metering and interconnection policies that make it easier for small generators to connect to the grid.¹³⁹

These policies combine to support solar power development in Boston—putting it in the top 20 cities for total installed solar PV capacity and ranking it 22nd of the 57 cities reviewed in this report for per-capita solar PV capacity.

Net Metering and Interconnection Standards

Most small solar generators do not use all of the electricity that their solar panels generate. In order to make solar power an affordable option, small clean energy producers must be able to get credit for the excess power that they return to the utility grid. Net metering allows utility customers who install solar panels to be treated fairly for the excess electricity they provide to the grid, only charging them for their net electricity usage. The best net metering policies allow customers to get credit for excess electricity they send back to the grid at the same retail rate at which they purchased electricity from their utility. The most solar-friendly states have established requirements for net metering that apply to all utilities; this ensures that solar power producers are not charged unfair fees when benefiting from the energy they produce.

Weakening Net Metering Regulations Could Jeopardize Solar Power Growth in Cities

The growth of solar power is empowering residents and businesses to look beyond the dirty energy alternatives of the past. Yet some utilities, as more and more of their customers generate their own electricity, have begun to see solar energy as a threat to their business model. As a result, some utilities have begun to attack net metering policies designed to help solar power generators recoup the cost of their solar installations.

Arizona, for example, was recently the site of such a battle between Arizona Public Service Company (APS) (one of the utilities that serve Phoenix) and Arizona solar power net metering customers. APS campaigned to charge solar power generators a large fee. Following an outpouring of opposition from the public to APS’s proposal, the Arizona Corporation Commission approved a small fee, and otherwise net metering remained unchanged.¹⁴⁰ Net metering has helped Phoenix rank third on our list for cumulative solar PV capacity and sixth for watts of solar power installed per person.

Net metering is an essential policy for encouraging distributed solar power on residential rooftops. It is an important protection for solar producers who are using a beneficial technology to reduce their electricity bills; solar producers should receive the full benefits of power production and utilities should not be able to penalize customers for generating clean energy. Utility attacks on strong net metering policies will only unfairly prevent viable homes and otherwise eager residents from taking part in the solar revolution.

It is also important for states to have clear interconnection standards that do not impose additional expenses on people wishing to install solar power. Interconnection standards clarify how and under what conditions utilities must connect solar panels to the grid while preserving the reliability and safety of the electricity system. Good interconnection policies reduce the time and hassle required for individuals and companies to connect solar energy systems to the grid. California, Massachusetts, New Mexico, Oregon, Utah and Virginia have received an "A" grade for their net metering and interconnection policies from the Vote Solar Initiative and Interstate Renewable Energy Council's joint "Freeing the Grid" assessment, meaning these states have regulations in place that make it easier and more economical for customers to connect their rooftop solar panels to the grid.¹⁴¹

"Virtual net metering" is another important state policy to encourage solar power in apartments and multi-tenant housing facilities. Once states approve this policy, electricity customers in apartment build-

ings or multi-tenant homes can share the benefits of a rooftop solar installation, even if their meters are not directly connected to the solar project. Credits from solar power produced at one location can offset energy bills at another location. Currently, virtual net metering is available in eleven states, including Minnesota and D.C., which passed virtual net metering policies in 2013.¹⁴²

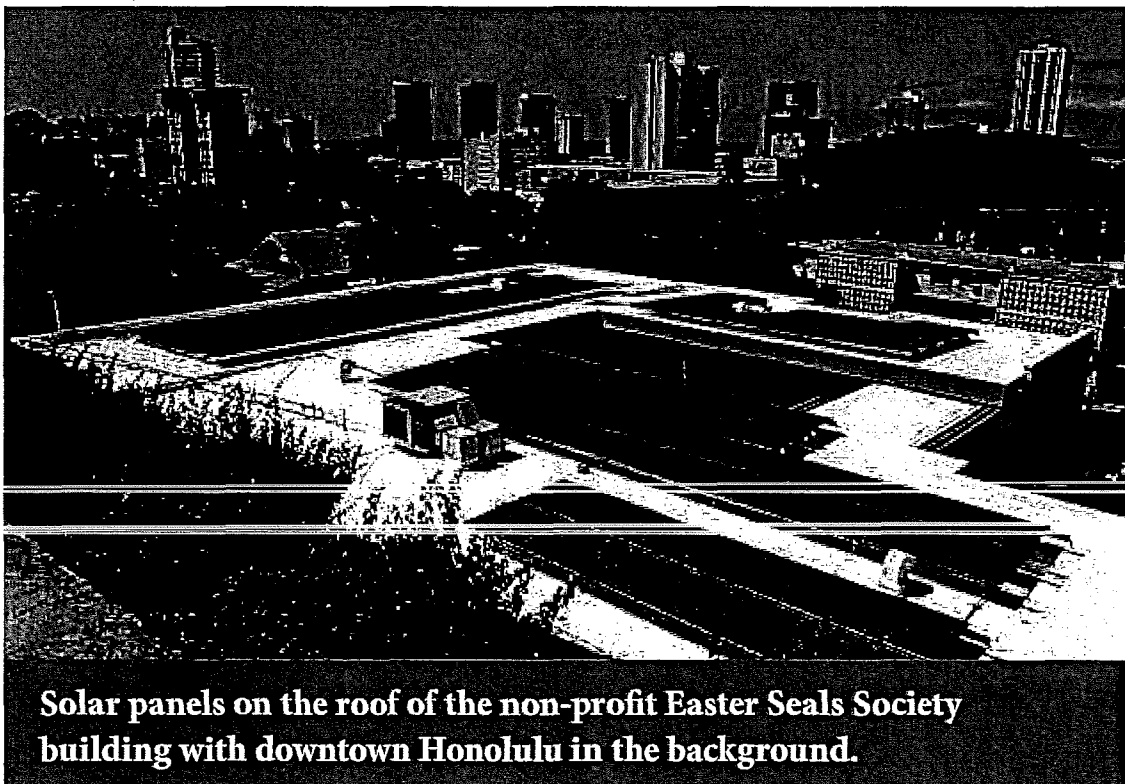
Statewide Solar Energy Rebate Programs

Like cities, states can offer incentive programs that reduce the upfront cost of solar PV installations. Hawaii, California, New York and Massachusetts offer successful statewide programs that have helped residents take advantage of solar power. While rebates were essential for incentivizing new solar markets in years past, now they are expanding to make solar power accessible to low income communities and other underserved sectors.

Hawaii

Hawaii has the highest rates of solar PV grid penetration in the country, likely due to high electricity prices on the

Photo: Hawaiian Electric Company



Solar panels on the roof of the non-profit Easter Seals Society building with downtown Honolulu in the background.

islands, the falling costs of solar equipment and the state's strong renewable energy goals.¹⁴³ Hawaii has one of the strongest renewable energy standards in the country, with a requirement of meeting 40 percent of its energy needs with renewables by 2030. In 2008, it formed the "Hawaii Clean Energy Initiative"—a partnership between the State of Hawaii and the U.S. Department of Energy—to help meet this goal.¹⁴⁴

Hawaii has taken other steps to bring more renewable energy to the state. In 2013, the Hawaii Legislature adopted a measure that enables "on-bill financing" for solar energy and other forms of clean energy technology.¹⁴⁵ On-bill financing allows customers to pay for solar projects over time on their utility bills. Hawaii also offers a statewide feed-in tariff that credits small solar power producers with 21.8 cents per kilowatt-hour of energy generated, with slightly lower rates available for solar PV projects more than 20 kW but less than 5 MW.¹⁴⁶ Hawaii continues to grapple with the challenge of transitioning the small islands' electric grids to accommodate more rooftop solar generation, but Hawaiian solar power is only growing in popularity.¹⁴⁷ The state and its electric utilities should continue to be innovators and leaders in making this transition to a smarter, cleaner electric grid, as the rest of the country can learn from its example.

California

Five of the six California cities included in this report are among the top 15 cities nationally for installed total solar PV capacity—and this dominance is due in large part to California's statewide solar incentive program. In 2006, the California Legislature created the Million Solar Roofs Initiative, now part of the "Go Solar California" campaign, to direct the investment of \$3.3 billion in small-scale solar electric power systems. The initiative is on track to reach its 2016 goal of increasing the state's solar generation capacity by 3,000 MW, which will help cut the cost of solar power in half and create a mainstream market for solar power.¹⁴⁸

The Million Solar Roofs Initiative is composed of three main parts:

1. *The California Solar Initiative*, managed by the state Public Utilities Commission, which seeks to expand the number of solar energy systems installed on existing homes in investor-owned utility territories.
2. *Programs led by publicly-owned utilities*, such as the Sacramento Municipal Utility District or the Los Angeles Department of Water and Power.
3. *The New Solar Homes Partnership*, managed by the California Energy Commission, which seeks to expand the number of solar energy systems installed on new homes in investor-owned utility territories.

California's efforts are working. With 132 MW of solar power, the city of Los Angeles now has more solar power capacity than 39 states had installed at the end of 2012.¹⁴⁹ Its solar power has grown rapidly—Los Angeles had almost three times as much solar PV capacity at the end of 2013 as it had at the end of 2011.¹⁵⁰

San Diego is hot on Los Angeles' trail with the second highest total solar PV capacity. San Jose ranks second for per-capita solar PV capacity and fourth for cumulative solar PV capacity.

New York

Solar power has also exploded in New York, following the implementation of the "NY-SUN Initiative." This initiative was launched in 2012 and provides cash incentives for residential and commercial customers looking to install solar panels. The program has \$800 million to spend on these incentives and on research that will bring down the cost of solar power.¹⁵¹ In his State of the State address in January 2014, Governor Andrew Cuomo pledged another \$1 billion to this program in order to support clean energy development in New York.¹⁵² There are 299 MW of solar power under development in New York State as of January 2014, more than the state had installed in the 10 years prior to the launch of the NY-Sun Initiative.¹⁵³ This strong state solar policy has helped place New York City squarely in the top 20 cities for total installed solar PV capacity.

Policy Recommendations

American cities are increasingly leaders in the nation's move toward adoption of clean, affordable solar energy. But there is much remaining that cities can do to take advantage of their solar energy potential.

As solar power continues to grow and thrive, cities should develop good policies to manage distributed generation and work with local utilities to prepare the electric grid to handle more solar power. Cities that begin to incorporate solar power into the grid now will protect residents' health, build more resilient communities and create stronger local economies. In coming years, solar-ready cities will also be ideally situated to benefit from innovative new solar technologies. Adopting strong solar policies at the local, state and federal levels will continue to promote solar energy in leading cities and encourage solar development in those lagging behind, allowing cities to take full advantage of the benefits of clean solar power.

Taking Advantage of America's Solar Energy Potential

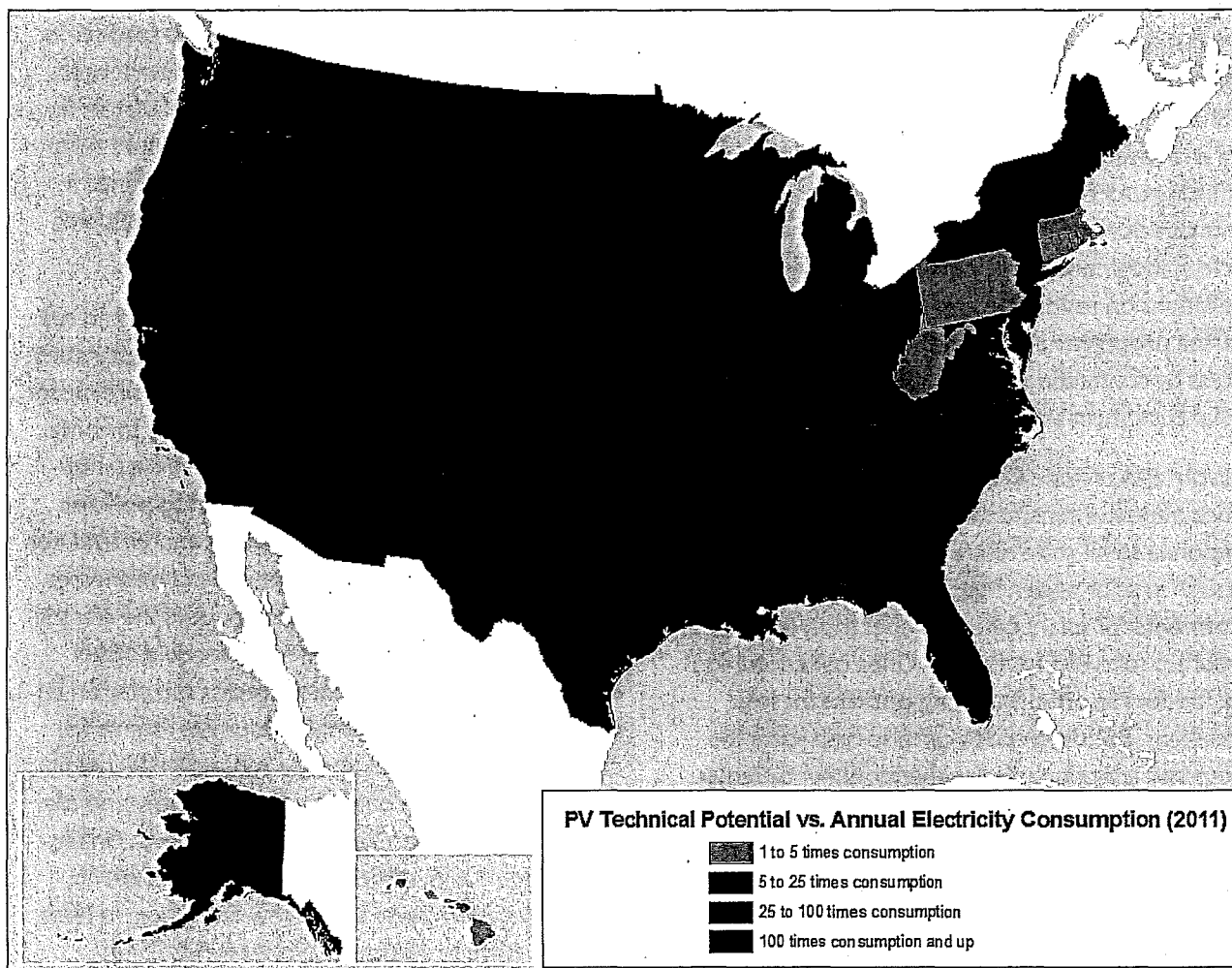
America has enough solar energy potential to power the nation several times over. Every one of the 50 states has the technical potential—through both utility-scale and rooftop solar energy systems—to generate more electricity from the sun than it uses

in the average year. In 19 states, the technical potential for electricity generation from solar PV exceeds annual electricity consumption by a factor of 100 or more.¹⁵⁴ (See Figure 7.)

An analysis by researchers with the National Renewable Energy Laboratory estimated that rooftop photovoltaic (PV) systems could generate more than 20 percent of the electricity used in the United States each year.¹⁵⁶ Harnessing available rooftop potential is especially important for America's cities, where millions of empty rooftops could be used to generate clean energy. Cities in every region of the United States have enough solar energy potential to power a large share of the economy. The city of Orlando, for example, has 163 million square feet of rooftop space available to support solar power—taking full advantage of that potential would produce enough solar energy to supply 52 percent of the city's electricity demand.¹⁵⁷

The path to a clean energy future powered increasingly by solar energy is open to every city and state. By adopting strong policies to remove barriers to solar energy and providing individuals and businesses with incentives and financing tools, cities across the country can take part in America's clean energy revolution. State and federal government actions can also support cities in their efforts to "go solar."

Figure 7. Solar PV Technical Potential versus Annual Electricity Consumption by State¹⁵⁵



Recommendations for Local Government

Cities should take the lead in installing solar power. Local governments should set an example by putting **solar panels on public property**.

Local governments should ensure that every homeowner and business with access to sunlight can exercise the option of generating electricity

from the sun. **Solar access ordinances**—which protect homeowners' right to generate electricity from the sunlight that hits their property, regardless of the actions of neighbors or homeowners' associations—are essential protections.

Local governments can also eliminate red tape and help residents to go solar by **reforming their permitting processes**—reducing fees, making permitting rules clear and readily available, speeding up

permitting, and making inspections convenient for property owners.¹⁵⁸ The Vote Solar Initiative has laid out a series of best practices that local governments can follow in ensuring that their permitting process is solar-friendly, and the U.S. Department of Energy's SunShot Solar Outreach Partnership provides online tools and case studies to help cities streamline their permitting processes for solar power.¹⁵⁹ Local governments can also ensure that their zoning regulations are clear and unambiguous in allowing solar energy installations on residential and commercial rooftops. **Solarize programs** can facilitate the solar installation process by connecting solar installers with a number of solar customers at once.

Cities can also provide **financial or zoning incentives** to encourage the construction of green buildings that incorporate small-scale renewable energy technologies such as solar power. **Property tax credits or abatements** for solar power can effectively incentivize rooftop solar PV installations. Cities can encourage **local lenders to offer financing options** for solar installations. **Building codes** can also help spark the widespread adoption of solar energy, either by requiring new homes and businesses to be "solar-ready" or by requiring the use of small-scale renewable energy in new or renovated buildings. Cities in states where **property assessed clean energy (PACE)** financing is an option for commercial establishments can allow for property tax bills to be used for the collection of payments toward a solar energy system.

Cities with municipal utilities have even greater potential to encourage solar energy. The establishment of **local renewable electricity standards, strong net metering and interconnection policies, local incentive and rebate programs**, and other pro-solar policies can help fuel the rapid spread of solar energy in the territories of municipal utilities. Regulations allowing for **community solar gardens** also create a significant boost in the local solar market by allowing residents who live in shaded homes or who cannot afford their own rooftop solar projects to invest in community solar projects whose output is credited on their utility bill.

Recommendations for State Government

State governments should set **ambitious targets** for the growth of solar energy, and revisit these targets on a regular basis. For many states, a goal of getting 10 percent of their energy from the sun would set an ambitious standard and make a major difference in reducing the state's dependence on fossil fuels well into the future.

To help achieve those goals, local officials should support states' adoptions of **renewable electricity standards with solar carve outs** that require a significant and growing share of that state's electricity to come from the sun. States should also adopt strong state-wide **interconnection and net metering policies**, along with **community solar** policies and **virtual net metering**, to ensure that individuals and businesses are able to sell their excess power back to the electric grid and receive a fair price when they do. **CLEAN contracts** and **value-of-solar credits** can play an important role in ensuring that consumers receive fair compensation for solar energy, so long as the credits fully account for the benefits of solar energy and are sufficient to spur participation in the market. Finally, states should allow **third-party sales** of power to customers; third-party sales allow customers to lease rooftop space to a solar developer for a solar PV installation and then purchase the power from that third-party solar developer. This allows customers who do not wish to own solar panels to participate in the solar market and benefit from doing so with lower electricity bills.¹⁶⁰ States should also take action now to begin planning for the integration of high percentages of solar energy in the electric grid.

Recommendations for Federal Government

The federal government is also responsible for developing the nation's solar energy potential. Strong and thoughtful federal policies lay an important foundation on which state and local policy initiatives are built. Among the key policy approaches that the federal government should take are the following:

- Continue policies that work**—The federal government has often taken an “on-again/off-again” approach to its support of renewable energy. With federal tax credits for residential solar installations now scheduled to expire and federal tax incentives for business solar installations ramping down from 30 percent to 10 percent at the end of 2016, the federal government should extend these tax credits and ensure that they are sufficiently long-term to provide investor confidence to encourage the development of solar energy markets.¹⁶¹ The federal government should also continue to offer funding to cities for solar development, as it has been effective in the past: according to a survey from the U.S. Conference of Mayors, funding from the Energy Efficiency and Conservation Block Grant (EECBG) program was effectively used to promote city-level solar projects, with 31 percent of cities using EECBG funding for solar power projects on public buildings. Cities also used funding to advance clean energy financing strategies including PACE and on-bill financing.¹⁶² The U.S. Department of Energy’s Solar America Cities program was another effective federal initiative which allowed the federal government to directly incentivize solar power in cities. In 2007 and 2008, the U.S. Department of Energy designated 25 cities as “Solar America Cities,” providing \$200,000 of financial assistance and \$250,000 in technical assistance to remove barriers to the proliferation of solar power in these cities.¹⁶³ Many of the “Solar America Cities” in this program are also the top ranked cities in this report.¹⁶⁴ The federal government should continue to offer funding and support for local solar development through programs like Solar America Cities.
- Continue to set high standards and goals for solar energy**—The U.S. Department of Energy’s SunShot Initiative has served as a rallying point for federal efforts to bring the cost of solar energy to competitiveness with electricity from fossil fuel systems, and the federal government

should continue to support it. The SunShot Initiative recognizes that while traditional research and development efforts for solar energy remain important, a new set of challenges is emerging around the question of how to bring solar energy to large-scale adoption. This initiative builds on lessons learned from the Solar America Cities program; by continuing to investigate how to best integrate solar energy into the grid, how to deliver solar energy more efficiently and cost-effectively, and how to lower market barriers to solar energy, the SunShot Initiative and other efforts play a key supporting role in the nation’s drive to embrace the promise of solar energy.

- Lead by example**—In December 2013, President Obama signed an executive order directing federal agencies to obtain 20 percent of their annual electricity use from renewable sources by 2020.¹⁶⁵ Solar energy will likely be a major contributor to reaching that goal. The U.S. military has been particularly aggressive in developing its renewable energy capacity, committing to getting one-quarter of its energy from renewable sources by 2025. The military has already installed more than 130 megawatts of solar energy capacity and has plans to install more than a gigawatt of solar energy by 2017.¹⁶⁶ Federal agencies should continue to invest in solar energy. In addition, agencies such as the Department of Housing and Urban Development and Department of Education should work to encourage the expanded use of solar energy in schools and in subsidized housing.

Methodology

This report represents, to the authors' knowledge, the first national-scale comparison of its kind of solar photovoltaic installations in major American cities. There is no uniform national data source that tracks solar energy by municipality and there are only a handful of states that compile this information in a comparable format. As a result, the data for this report come from a wide variety of sources—municipal and investor-owned utilities, city and state government agencies, operators of regional electric grids, non-profit organizations, and the National Renewable Energy Laboratory's "Open PV" database. The data on solar energy installations included in this report come from data sources of various levels of comprehensiveness, with various levels of geographic precision, and that often use different methods of quantifying solar photovoltaic capacity (e.g. alternating current (AC) versus direct current (DC) capacity).

We have worked to obtain data that are as comprehensive as possible, to resolve discrepancies in various methods of estimating solar PV capacity, to limit the solar facilities included to only those within the city limits of the municipalities studied, and, where precise geographic information could not be obtained, to use reasonable methods to estimate the proportion of a given area's solar energy capacity that exists within a particular city. The data are sufficiently accurate to provide an overall picture of a city's adoption of solar power and to enable comparisons with its peers. Readers should note,

however, that the data-related challenges described here could have minor impacts on individual cities' rankings. We look forward to building on and further developing our methodology and data sources in future reports and encourage other researchers to do the same. The full list of sources of data for each city is provided in Appendix B along with the details of any data manipulations made.

Selecting the 57 Major Cities

We selected the cities for this report from the 38 states (including the District of Columbia) shown to have installed more than a negligible amount of solar energy (1.5 MW) by the end of 2012, per L. Sherwood, Interstate Renewable Energy Council, *U.S. Solar Market Trends 2012*, July 2013. Cities were selected from within those states that were:

- The principal city of one of the 50 largest metropolitan areas in the United States, or
- For states with a significant amount of solar capacity but without a city in the 50 largest metropolitan areas nationwide, the state's largest city.

We did not include a city from South Carolina.

Collecting Data on Installed Solar PV Capacity

This report compares the capacity of all solar PV installations within the city limits of the chosen 57 cities as of the end of 2013. See Appendix B for a detailed account of the sources of data for each city.

Using the “Open PV” Dataset

In cases where we could not obtain a reliable estimate of solar installations for a particular city, we used the solar capacity estimate reported in Open PV, an open online database of solar energy installations operated by the National Renewable Energy Laboratory (NREL) and funded by the U.S. Department of Energy’s Sunshot Initiative. The data in Open PV comes from a variety of sources. Much of it comes in aggregate form from state-level PV incentive programs or utilities. NREL then screens these data for obvious errors before uploading it. A much smaller portion of their data comes from public contributors (installers and other individuals) who create an account on the website and upload information for an installation. These are not initially screened in the same way as other data, but there is a function allowing users to “flag” installations that look suspicious. NREL also has a scheduled automated screen for duplicates that flags potential duplicate installations, which they then follow up on.

NREL performs a thorough update of the Open PV data once a year in which NREL and the Lawrence Berkeley National Laboratory (LBNL) jointly solicit updated information from their data contributors. At the time we conducted our data search, NREL and LBNL had not yet done this update for 2013, meaning the city numbers from Open PV are likely conservative and missing solar PV capacity. Data in the “Open PV” dataset are reported in DC watts.

To calculate city totals from the “Open PV” dataset, we downloaded the full dataset from the website and used the latitude and longitude coordinates associated with each installation to map them in ArcMap. We then “joined” these installations with a layer of Census designated places provided by ESRI to calculate the total solar PV capacity for each city. The vast majority of the data received by Open PV do not have an address, only a zip code. As a result, the totals for some cities may include some PV systems that are

outside a city’s boundaries but still within the boundaries of a zip code that includes part of a city.

We also used Open PV data when these solar PV capacity totals captured more solar power than other available sources of data. We used the Open PV solar capacity estimate for the following cities: Boston, MA; Dallas, TX; Las Vegas, NV; and Washington, D.C.

NREL’s Open PV Website: National Renewable Energy Laboratory, *The Open PV Project*, downloaded from <https://openpv.nrel.gov/>, 6 March 2014.

Converting from AC watts to DC watts

Jurisdictions and agencies often use different methods of quantifying solar photovoltaic capacity (e.g. alternating current (AC) and direct current (DC)). Solar PV panels produce energy in DC, which is then converted to AC in order to enter the electric grid. Solar capacity reported in AC watts accounts for the loss of energy that occurs when DC is converted to AC.¹⁶⁷

We attempted to convert all data to DC watts for the sake of accurate comparison. When we could not determine whether the data were reported in AC watts or DC watts, we made the conservative estimate that the data were in DC watts.

To convert the numbers to DC MW, we used NREL’s PV watts default derate factor of 0.77. See NREL’s website for a detailed explanation of this conversion factor: <http://rredc.nrel.gov/solar/calculators/pvWatts/system.html>.

The data for the following cities were reported in AC watts and were converted to DC watts: Burlington, VT; Charlotte, NC; Houston, TX; Indianapolis, IN; Los Angeles, CA; Louisville, KY; Manchester, NH; New Orleans, LA; New York City, NY; Raleigh, NC; Sacramento, CA; San Diego, CA; San Jose, CA; and Virginia Beach, VA.

Appendix A: Solar Energy in Major American Cities

Table A-1: Installed Cumulative and Per-Capita Solar PV Capacity by City, End of 2013

Principal City	State	Cumulative Solar PV Capacity (MW)	Cumulative Solar PV Capacity Rank	Solar PV Capacity per Capita (Watts/Person)	Solar PV Capacity per Capita Rank
Albuquerque	NM	16	14	28	16
Atlanta	GA	3	36	6	34
Austin	TX	13	16	16	23
Baltimore	MD	5	28	8	31
Billings	MT	< 1	56	2	50
Boston	MA	12	20	19	22
Buffalo	NY	3	34	12	27
Burlington	VT	2	41	37	11
Charleston	WV	< 1	57	3	46
Charlotte	NC	6	26	8	30
Chicago	IL	11	21	4	40
Cincinnati	OH	4	31	14	24
Cleveland	OH	1	42	4	43
Columbus	OH	2	40	2	49
Dallas	TX	1	44	1	54
Denver	CO	25	10	40	10
Detroit	MI	1	43	2	51
Hartford	CT	< 1	52	3	45
Honolulu	HI	91	5	265	1
Houston	TX	4	32	2	52
Indianapolis	IN	56	7	68	5
Jacksonville	FL	16	13	19	21
Kansas City	MO	2	39	4	42
Las Vegas	NV	13	17	22	20
Los Angeles	CA	132	1	34	13
Louisville	KY	1	50	1	56
Manchester	NH	1	47	9	28
Memphis	TN	3	35	5	38
Miami	FL	< 1	53	1	55

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Principal City	State	Cumulative Solar PV Capacity (MW)	Cumulative Solar PV Capacity Rank	Solar PV Capacity per Capita (Watts/Person)	Solar PV Capacity per Capita Rank
Milwaukee	WI	1	46	2	48
Minneapolis	MN	2	38	5	37
Nashville	TN	4	33	6	36
New Orleans	LA	22	11	60	8
New York	NY	33	8	4	41
Newark	NJ	13	18	46	9
Orlando	FL	2	37	9	29
Philadelphia	PA	9	22	6	35
Phoenix	AZ	96	3	65	6
Pittsburgh	PA	1	49	2	47
Portland	OR	15	15	25	19
Portland	ME	< 1	55	3	44
Providence	RI	1	48	4	39
Raleigh	NC	12	19	30	15
Richmond	VA	1	45	6	33
Riverside	CA	8	24	26	18
Sacramento	CA	16	12	35	12
Salt Lake City	UT	5	27	27	17
San Antonio	TX	84	6	62	7
San Diego	CA	107	2	81	4
San Francisco	CA	26	9	31	14
San Jose	CA	94	4	97	2
Seattle	WA	4	29	7	32
St. Louis	MO	< 1	51	1	53
Tampa	FL	4	30	12	26
Virginia Beach	VA	< 1	54	1	57
Washington	DC	8	23	13	25
Wilmington	DE	7	25	96	3

Appendix B: City-By-City Data Sources

In the descriptions below, we detail the sources of our solar PV capacity totals for each city. We note when the data were reported in AC watts and converted to DC watts. Unless otherwise mentioned, the data were either reported in DC watts, or we made the conservative assumption that the data were in DC watts.

Where we or our data source used zip codes or postal addresses to determine what amount of solar capacity fell within the city limits, the result may be a small overestimation or underestimation of the total solar capacity within the city limits. Estimates based on zip codes or postal addresses may contain a small number of installations that are not within the city limits or miss some installations that are within the city limits.

Albuquerque, New Mexico—16 MW

This number is based on the U.S. Energy Information Administration's report on utility-scale solar PV in Albuquerque as of 2012, plus an estimate of distributed solar PV capacity based on the total amount of customer distributed solar PV capacity in the Public Service Company of New Mexico's (PNM's) service territory (which covers the city of Albuquerque) as of 31 December 2013.¹⁶⁸

According to PNM, their customers had installed 31 MW of solar PV as of 31 December 2013. PNM was unable to provide an Albuquerque-specific solar capacity total.¹⁶⁹ We scaled this number based on the number of households in Albuquerque in relation to the total number of PNM customers.¹⁷⁰

Solar PV Capacity in Albuquerque Estimate (MW)

= Total Known Solar PV Capacity in Albuquerque + (Total Distributed Solar PV Capacity in PNM Service Territory)*(Households in Albuquerque/Number of PNM Customers in Service Territory)

Solar PV Capacity in Albuquerque Estimate (MW)

= 2 MW + ((31 MW)*(222,584/507,000))

Atlanta, Georgia—3 MW

Southface (<http://www.southface.org/>) provided us with a list of solar PV installations in DeKalb and Fulton counties through 31 December 2013, with latitude and longitude information for each installation. Southface maintains a map of "Georgia Energy Data" at www.georgiaenergydata.org/solarmap, which is believed to be the most comprehensive source of data on solar energy installations in the state of Georgia. These data are believed to be largely in DC watts, but some sources of data relied on by Southface did not specify whether capacity was in DC or AC watts.¹⁷¹

The information provided by Southface allowed us to map the solar PV installations using ArcMap, and isolate the capacity within the city limits of Atlanta.

Austin, Texas—13 MW

Austin Energy provided us with a list of customer-rebated solar PV installations and utility-scale solar PV projects with zip codes as of 31 December 2013. They also reported that there is "at least another 700 kW-DC of privately owned non-rebated solar in the city."¹⁷² Within the customer-rebated systems, there

were municipal installations that were not listed by zip code, but Austin Energy identified these as almost certainly falling within Austin city limits.

We used ArcMap to determine which zip code points were centered within the city limits of Austin, and counted only installations within those zip codes. The total amount of solar PV in Austin was calculated by adding the customer generation within zip codes centered in Austin (as determined using ArcMap) to the utility-scale projects in Austin to the 0.7 MW of non-rebated solar PV in the city.

Austin Energy, the municipal utility serving Austin, Texas, also generates solar power at a 30-MW solar facility that exists partially in Austin's "extraterritorial jurisdiction" (ETJ). Austin's ETJ includes unincorporated land within 5 miles of Austin's city limits, per [AustinTexas.gov](http://www.austintexas.gov), Planning and Development Review Department, *Extraterritorial Jurisdiction: What Is It?*, downloaded from <http://www.austintexas.gov/faq/extraterritorial-jurisdiction-etj-what-it/>, 5 March 2014. Because this solar farm lies outside what are technically the city limits of Austin, we did not include it in Austin's solar total.

Baltimore, Maryland—5 MW

Data on solar PV installed in the city of Baltimore was taken from the SREC registry PJM-GATS.¹⁷³ These data only include solar PV installations that are registered in the system before 31 December 2013, but the 4.7 MW included in the GATS report downloaded on 6 March 2014 is larger than the 3.45 MW of solar PV reported in Open PV, and so the larger and more comprehensive estimate was used here.

Billings, Montana—0.2 MW

Northwestern Energy, the utility serving Billings, provided the known amount of solar PV capacity installed in Billings as of 31 December 2012 (0.191 MW), and an estimate of the solar PV capacity installed in Billings during 2013 (0.016 MW).

Boston, Massachusetts—12 MW

The solar PV capacity installed in Boston is taken from NREL's Open PV database. See the Methodology for a description of the data from Open PV.

Data for Boston were also calculated using data from the Massachusetts Executive Office of Energy and Environmental Affairs (EOEEA) in its worksheet, "RPS Solar Carve-Out Qualified Renewable Generation Units," last updated 20 December 2013, downloaded from <http://www.mass.gov/eea/energy-utilities-clean-tech/renewable-energy/solar/rps-solar-carve-out/current-status-of-the-rps-solar-carve-out-program.html>. This worksheet tracks solar energy projects that receive SREC credit through the state's RES solar carve-out. Because the amount of solar capacity reported to the Massachusetts EOEEA data set was lower than reported in Open PV, the larger and more comprehensive estimate was used here.

Buffalo, New York—3 MW

Data on solar PV capacity in the city limits of Buffalo as of 31 December 2013 was provided by the New York State Energy Research and Development Authority (NYSERDA). This includes only solar PV installations that were funded through NYSEDA, which manages New York's solar PV financial incentive program.

Burlington, Vermont—2 MW

Data were obtained from the Vermont Energy Atlas (<http://www.vtenergyatlas.com>) a project of the Vermont Sustainable Jobs Fund, the Vermont Center for Geographic Information, Fountains Spatial and Overit Media. Data for the map are provided by the Vermont Clean Energy Development Fund, the Vermont Public Service Board and other sources. Installations were sorted by town name, and we totaled the installations labeled with "Burlington." The data were last updated 16 December 2013. A review of

several of the installations found them to be reported in AC watts, so we assumed the total was in AC watts and converted it to DC watts (see Methodology).

Charleston, West Virginia—0.2 MW

The Appalachian Power Company provided an aggregate sum of solar PV capacity within Charleston zip codes.¹⁷⁴ These data were provided through 8 January 2014, so solar PV capacity installed in the first eight days of 2014 may be included.

Charlotte, North Carolina—6 MW

Solar PV capacity within Charlotte was determined by identifying solar PV projects in North Carolina from the North Carolina Utilities Commission (NCUC) worksheet, "New Renewable Energy Facility Registrations Accepted by the North Carolina Utilities Commission, 2008-2013," last updated 31 December 2013. The NCUC docket for each registered solar PV installation was then reviewed, using the NCUC's electronic docket, to determine whether the location of the system was within the city of Charlotte. The NCUC docket for several of the projects referred to their capacity in terms of AC watts, and it was assumed that this held true for the other projects as well. We converted these capacity figures to DC watts (see Methodology).

Chicago, Illinois—11 MW

Commonwealth Edison, the power company serving Chicago, provided us with data on solar PV capacity within the city limits of Chicago.¹⁷⁵ The data includes all installations within the city limits of Chicago through 31 December 2013. Two installations with a combined capacity of 0.8 MW were excluded because the capacity was reported as "a combination of wind and solar PV," and we could not isolate the solar PV capacity. These data were reported in DC watts.

Cincinnati, Ohio—4 MW

The Public Utilities Commission of Ohio provided us with a list of certified renewable energy installations, with address information, updated as of 31 Decem-

ber 2013.¹⁷⁶ We isolated the solar PV capacity of installations within the city limits of Cincinnati by mapping the installation addresses in ArcMap, joining them to the "USA Census Populated Places" layer, and choosing the Cincinnati total. It is important to note that these are "certified" installations; some may have completed the certification process but are not yet online, making this possibly an overestimate of installed solar PV capacity as of 31 December 2013.

Cleveland, Ohio—1 MW

See "Cincinnati, Ohio."

Columbus, Ohio—2 MW

See "Cincinnati, Ohio."

Dallas, Texas—1 MW

The solar PV capacity installed in Dallas is taken from NREL's Open PV database. See the Methodology for a description of the data from Open PV.

Data for Dallas were also provided by Clean Energy Associates (CEA), a clean energy consulting company that ran Dallas-electric utility Oncor's solar PV incentive program through 2012. This solar PV capacity total for Dallas provided by CEA only reflects solar PV installations with the city label "Dallas" through 31 December 2012.¹⁷⁷ The authors requested data for 2013 from Oncor, which now manages its own solar PV incentive program in Dallas, but the company declined to provide Dallas-specific data.¹⁷⁸ That solar PV capacity total is therefore missing a year of solar PV, and a small number of installations listed as "Dallas" may actually fall outside the Dallas city limits. Because the Open PV total was larger than the 1.24 MW reported by Clean Energy Associates, we used the more comprehensive Open PV total.

Denver, Colorado—25 MW

This solar PV capacity total for Denver is an estimate provided by Xcel Energy, the utility that serves the city of Denver. Aside from this estimate, Xcel declined to provide more detailed data on solar PV capacity in Denver as of the end of 2013.¹⁷⁹

Detroit, Michigan—1 MW

DTE Energy Company provided us with the solar PV capacity within the city limits of Detroit as of 29 January 2014.¹⁸⁰

Hartford, Connecticut—0.4 MW

This total is the sum of the solar PV capacities of solar facilities listed as approved under Connecticut's Renewable Portfolio Standard, based on a worksheet obtained from the Connecticut Public Utilities Regulatory Authority (PURA) labeled "RPS," obtained from <http://www.ct.gov/pura/lib/pura/rps/rps.xls>, and last updated on 13 November 2013.

Honolulu, Hawaii—91 MW

We estimated the amount of solar PV capacity in urban Honolulu from county-level data released by Hawaiian Electric, the company serving the county of Honolulu (which is coterminous with the island of Oahu).¹⁸¹ Within the island of Oahu, the census designated place "urban Honolulu" is the place most comparable with other U.S. cities.¹⁸² Data that would allow for more precise identification of PV facilities within urban Honolulu were requested from Hawaiian Electric Company, the city of Honolulu permitting department, and the Hawaii State Energy Office, but none of these sources could provide data more geographically specific than the county level.

We used the total capacity of solar PV installations within Honolulu County to estimate what percent of this capacity would fall in urban Honolulu.¹⁸³

Solar PV Capacity in urban Honolulu Estimate (MW) = Total Solar PV Capacity in Honolulu County*(Urban Honolulu Households/Honolulu County Households)

Solar PV Capacity in Honolulu Estimate (MW) = 221 MW *(127,652/308,490)

Houston, Texas—4 MW

Centerpoint Energy, the electric utility serving the city of Houston, provided us with solar PV capacity installed in its service area broken down by city.¹⁸⁴ These city breakdowns were compiled using addresses, not city limits, so a small number of installations included in the Houston total may fall outside of the city limits. The data were up to date through 31 December 2013. These data were reported in AC watts, and were converted to DC watts (see Methodology).

Indianapolis, Indiana—56 MW

Indianapolis Power & Light, the investor-owned utility serving Indianapolis, provided us with an aggregate total of solar PV capacity installed within the city limits.¹⁸⁵ The data were up to date through 31 December 2013. These data were reported in AC watts, and were converted to DC watts (see Methodology).

Jacksonville, Florida—16 MW

Jacksonville Electric Authority (JEA), the municipal utility serving the city, provided us with 1) JEA net metering subscriptions with zip codes, and 2) JEA's identified systems within Jacksonville, which included the 15 MW Jacksonville Solar facility where JEA receives energy through a power purchase agreement.¹⁸⁶ Data were complete through 31 December 2013.

Using ArcMap, we identified zip codes that are centered in the city limits of Jacksonville, and summed the capacity of solar PV installations in those zip codes to estimate the solar capacity in Jacksonville. The total amount of solar PV in Jacksonville was calculated by adding the customer generation within Jacksonville zip codes to the other projects JEA identified as being within Jacksonville.

Kansas City, Missouri—2 MW

This solar PV capacity total is based on data that Kansas City Power & Light (KCP&L) reported to the U.S. Energy Information Administration on net metered solar PV installed in its service territory as of September 2013.¹⁸⁷

The solar PV capacity in Kansas City was estimated based on the total net metered solar PV capacity in KCP&L's service territory using the ratio of households in Kansas City to customers in KCP&L's service territory.¹⁸⁸ KCP&L declined to provide more detailed data on solar capacity within Kansas City.¹⁸⁹

Solar PV Capacity in Kansas City Estimate (MW) =
(Total Non-Located Solar PV Capacity in KCP&L Service Territory)*(Households in Kansas City/Number of KCP&L Customers in Service Territory)

Solar PV Capacity in Kansas City Estimate (MW) =
(4.81 MW)*(192,048/511,100)

Las Vegas, Nevada—13 MW

The solar PV capacity installed in Las Vegas is taken from NREL's Open PV database. See the Methodology for a description of the data from Open PV.

Nevada Energy provided us with data on solar PV installations, broken down by zip code, as of 2 January 2014.¹⁹⁰ Using ArcMap, we identified zip codes that are centered in the city limits of Las Vegas, and summed the capacity of solar PV installations in those zip codes to estimate the solar PV capacity in Las Vegas. Using this method and the data from NV Energy, the solar PV capacity in Las Vegas was found to be 12.7 MW. Because this total was smaller than that reported in Open PV, we used the more comprehensive Open PV total.

Los Angeles, California—132 MW

The Los Angeles Department of Water and Power provided us with the solar PV capacity total within the city of Los Angeles.¹⁹¹ This includes solar PV installed through the Solar Incentive Program, Los Angeles' Feed-in Tariff Program, and their community solar program, through 31 December 2013. These data were reported in AC watts, and were converted to DC watts (see Methodology).

Louisville, Kentucky—1 MW

Louisville Gas & Electric provided us with an aggregate total of installed solar PV capacity within the city limits of Louisville, through 31 December 2013.¹⁹² These data were reported in AC watts, and were converted to DC watts (see Methodology).

Manchester, New Hampshire—1 MW

Public Service of New Hampshire, the electric utility company serving the city of Manchester, provided us with an aggregate total of installed solar PV capacity within the city limits of Manchester, through 31 December 2013.¹⁹³ These data were reported in AC watts, and were converted to DC watts (see Methodology).

Memphis, Tennessee—3 MW

The Tennessee Valley Authority renewables program provided us with an aggregate total for solar PV capacity within the city limits of Memphis as of 31 December 2013.¹⁹⁴

Miami, Florida—0.4 MW

Florida Power & Light provided us with solar PV installed in their service area, broken down by zip code, as of 31 December 2013.¹⁹⁵ We used ArcMap to isolate those zip codes that are centered within the city limits of Miami and counted only solar PV installations in those Miami zip codes in the solar PV capacity total for the city.

Milwaukee, Wisconsin—1 MW

As reported on the website of the city of Milwaukee, the city has "more than 1.25 MW of solar energy being produced in Milwaukee."¹⁹⁶ Our use of 1.25 MW is therefore an underestimate, but we were unable to determine how much over 1.25 MW of solar power the city had installed.¹⁹⁷

Minneapolis, Minnesota—2 MW

The city of Minneapolis provided us with an aggregate solar PV capacity total as of the end of 2012.¹⁹⁸ This total

was aggregated by Xcel, the electric utility serving Minneapolis, which declined to provide us data from 2013.¹⁹⁹ Solar PV installations in 2013 are, therefore, not included in this estimate.

Nashville, Tennessee—4 MW

See "Memphis, Tennessee."

New Orleans, Louisiana—22 MW

Entergy New Orleans, the electric utility serving New Orleans, provided us with this solar PV capacity total, as of 31 December 2013.²⁰⁰ These data were reported in AC watts, and were converted to DC watts (see Methodology).

New York, New York—33 MW

Data on solar PV capacity in the city limits of New York as of 31 December 2013 were provided by Con Edison, the utility serving New York City.²⁰¹ These data were reported in AC watts, and were converted to DC watts (see Methodology).

Newark, New Jersey—13 MW

The solar PV installations supported by New Jersey's Clean Energy Program (NJCEP) are made available online in "NJCEP Solar Installations Report" with city and zip code information.²⁰² When we collected the data, information was available through 31 December 2013. We found the Newark solar PV total by filtering "city name" for Newark.

Orlando, Florida—2 MW

Orlando Utilities Commission, the municipal utility serving the city of Orlando, provided us with a spreadsheet of solar installations in OUC's service territory, with address information and updated as of 31 December 2013.²⁰³ We filtered this list for "solar PV" projects only, and filtered out any "discontinued" or "pending" projects. We then mapped the qualifying projects in ArcMap and found the capacity of those installations within the city limits of Orlando, as was delimited by the "US Census Populated Places" layer.

Philadelphia, Pennsylvania—9 MW

This solar PV capacity total was found using the SREC-tracker PJM-GATS dataset.²⁰⁴ We downloaded this list and summed the solar PV capacity within "Philadelphia County" registered before 31 December 2013.

Phoenix, Arizona—96 MW

These data were obtained from the Arizona "Go Solar" website, managed by the Arizona Corporation Commission with information provided by regulated electric utilities.²⁰⁵ Spreadsheets of solar PV installations are downloadable by utility by zip code on this website. The electric utilities Arizona Public Service (APS) and the Salt River Project (SRP) serve the city of Phoenix. We downloaded their spreadsheets of installations, and selected those installations that were assigned the status of "installed," were listed as "PV," were installed before 31 December 2013, and fell into zip codes centered in the Phoenix city limits. We used ArcMap to identify zip codes that are centered in the city limits of Phoenix, and we used only installations in those zip codes to determine the solar PV capacity in Phoenix.

Pittsburgh, Pennsylvania—1 MW

We received data on the solar PV capacity within the city limits of Pittsburgh from the Office of the Mayor.²⁰⁶ These data were collected by PennFuture from the Pennsylvania Public Utilities Commission. The data are current to the middle of December 2013.

Portland, Maine—0.2 MW

The solar PV capacity installed in Portland was provided by Central Maine Power.²⁰⁷ These data are up to date through December 2013.

Portland, Oregon—15 MW

The Portland Bureau of Planning and Sustainability provided us with a solar PV capacity total for the city of Portland (based on Portland zip codes), as of 31 December 2013.²⁰⁸ The solar PV installations included in this total were part of the two mutually-exclusive

Oregon solar incentive programs, Energy Trust of Oregon and the Oregon Volumetric Incentive Rate pilot program. This number was reported in DC watts.

Providence, Rhode Island—1 MW

The Rhode Island Office of Energy Resources provided us with a spreadsheet of solar installations by city, taken from National Grid's net metering spreadsheet, as of 31 December 2013.²⁰⁹ We included only those installations within "Providence."

Raleigh, North Carolina—12 MW

See "Charlotte, North Carolina."

Richmond, Virginia—1 MW

The city of Richmond obtained a list of net metered solar PV installations from the Virginia Department of Mines, Minerals and Energy as of 21 January 2014.²¹⁰ We used installations listed with the "city name" of Richmond.

Riverside, California—8 MW

The installed solar PV capacity total for Riverside was taken from a solar map maintained by the Riverside Power District: <http://www.greenriverside.com/Green-Map-9>. This map is updated daily, and the total we used was recorded on 9 January 2014; therefore, some solar PV capacity in this total may have been installed in the first nine days of 2014.

Sacramento, California—16 MW

The Sacramento Municipal Utility District (SMUD) provided us with spreadsheets of individual solar PV installations within the SMUD service area, including address information.²¹¹ These installations included residential and commercial installations that had been incentivized by SMUD and solar PV installed through the Solar Smart new homes program. These installations were mapped in ArcMap using the addresses provided, and joined with the city limits of Sacramento to determine the solar PV capacity within

the city limits. The data were provided in AC watts, and were converted to DC watts (see Methodology).

Salt Lake City, Utah—5 MW

The Rocky Mountain Power Company, the electric utility serving Salt Lake City, provided us with solar PV capacity installed as of 31 December 2013 within Salt Lake City.²¹²

San Antonio, Texas—84 MW

Solar San Antonio, a non-profit organization in San Antonio, provided us with data on solar installations by zip code as of 31 December 2013.²¹³ These data are from CPS Energy, the municipal utility serving the city of San Antonio. We used ArcMap to identify zip codes that are centered in the city limits of San Antonio, and we used only installations in those zip codes to determine the solar PV capacity in San Antonio.

San Diego, California—107 MW

San Diego Gas and Electric provided us with this total, which includes net metered installations and non-net metered solar projects within the city limits of San Diego, through 31 December 2013.²¹⁴ These data were reported in AC watts, and were converted to DC watts (see Methodology).

San Francisco, California—26 MW

The City and County of San Francisco provided us with the installed solar PV capacity within the city limits of San Francisco, which includes "everything connected to the grid" in San Francisco. They could only provide data through August 2013.²¹⁵

San Jose, California—94 MW

This solar PV capacity total for San Jose was provided by Pacific Gas & Electric within the city limits of San Jose as of 5 January 2014.²¹⁶ These data were reported in AC watts, and were converted to DC watts (see Methodology).

Seattle, Washington—4 MW

Seattle City Light (SCL), Seattle's municipal utility, and Seattle's Department of Planning and Development estimate that there are 6 MW of solar PV capacity installed within SCL's service territory as of the end of 2013, which is larger than the city of Seattle. Seattle City Light and Seattle's Department of Planning and Development did not have a more specific number available.²¹⁷ We scaled this number based on the number of homes in Seattle and the number of total customers in Seattle City Light's service territory.²¹⁸

Solar PV Capacity in Seattle Estimate (MW) =
(Total Non-Located Solar PV Capacity in Seattle City Light's Service Territory)*(Households in Seattle/
Number of Seattle City Light Customers in Service Territory)

Solar PV Capacity in Seattle Estimate (MW) = 6
MW * (285,476/403,000)

St. Louis, Missouri—0.4 MW

The Missouri Department of Economic Development maintains a list of "Certified Solar Renewable Generation Facilities," which includes information on customer solar generation in Ameren Missouri's service territory (Ameren is the utility serving St. Louis Missouri).²¹⁹ As of 17 April 2013, Ameren had 3.66 MW of solar PV installed within its service territory. We scaled that figure to St. Louis using the number of households in St. Louis as compared to the total number of customers in Ameren Missouri's service territory.²²⁰

Solar PV Capacity in St. Louis Estimate (MW) =
(Total Non-Located Solar PV Capacity in St. Louis City Light's Service Territory)*(Households in St. Louis/
Number of Ameren Customers in Service Territory)

Solar PV Capacity in St. Louis Estimate (MW) =
3.66 MW*(139,840/1,200,000)

Tampa, Florida—4 MW

Tampa Electric provided a spreadsheet of installed solar PV capacity, with city name and zip code information.²²¹ We used ArcMap to determine which zip codes are centered within the city limits of Tampa and used only the reported solar capacity within those zip codes to estimate the capacity within the city limits.

Virginia Beach, Virginia—0.3 MW

Dominion Virginia Power provided us with data on solar PV installed in the city limits of Virginia Beach as of 31 December 2013.²²² These data were reported in AC watts, and were converted to DC watts (see Methodology).

Washington, D.C.—8 MW

The solar PV capacity installed in Washington, D.C. is taken from NREL's Open PV database. See the Methodology for a description of the data from Open PV.

PJM GATS also tracks solar PV installed in Washington D.C., but its total was less complete than the solar PV capacity reported in Open PV.

Wilmington, Delaware—7 MW

The Delaware Public Service Commission maintains a downloadable spreadsheet of certified renewable energy facilities.²²³ We used this spreadsheet to find the solar PV capacity in Wilmington, based on postal address, as of 31 December 2013.

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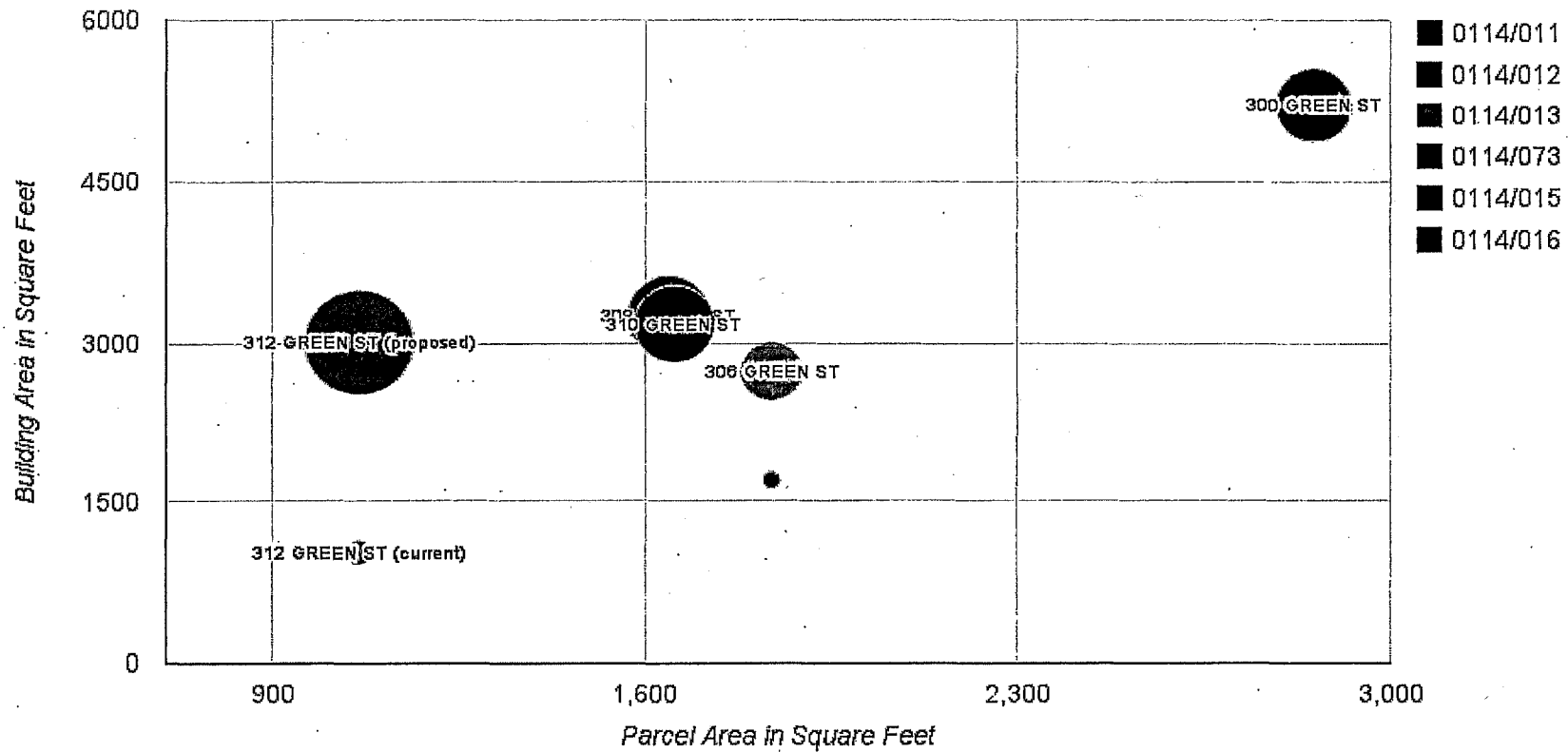
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Address	Parcels (block/lot)	Building Area (ft ²)	Parcel Area (ft ²)	Density Ratio (Building : Parcel)
300 GREEN ST	0114/011	5,208	2,857	1.82
304 and 304A Green	0114/012	1,688	1,838	0.92
306 GREEN ST	0114/013	2,724	1,838	1.48
308 GREEN ST	0114/073	3,253	1,644.50	1.98
310 GREEN ST	0114/015	3,180	1,655	1.92
312 GREEN ST (current)	0114/016	1,017	1,062	0.96
312 GREEN ST (proposed)	0114/016	3,006	1,062	2.83

Parcel and Building Area

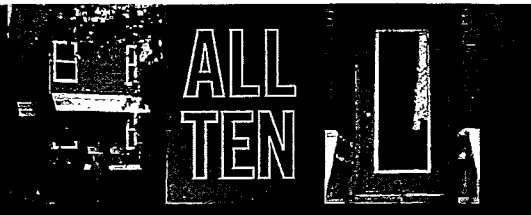


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Address	Parcels (block/lot)	Building Area (ft ²)	Parcel Area (ft ²)	Density Ratio (Building : Parcel)	
Source: http://propertymap.sfplanning.org/?dept=planning					

Source: <http://propertymap.sfplanning.org/?dept=planning>

Prepared by appellant Jack Oswald

COMPARISON
BUILDINGS

F10 House

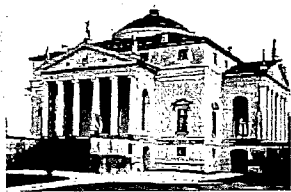
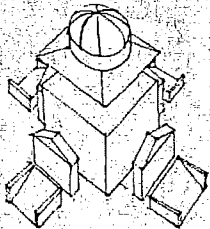
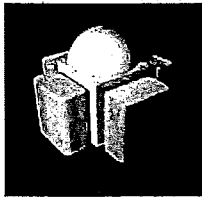
all 10 comparison
buildings

Your Home

Building Forms and Massing

THE BIG
QUESTIONS

- 1 What are the big forms that make up buildings?
- 2 How do you read an elevation?
- 3 How do you draw an elevation?

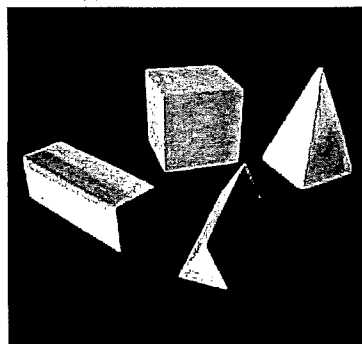


Villa Rotonda

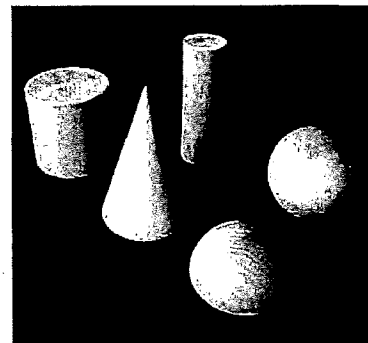
In math classes over the years, you've learned about **geometric solids**: rectangular prisms, cubes (a type of rectangular prism), triangular prisms, pyramids, spheres, cones, and cylinders. All buildings are made from a combination of these **forms**. When we stand back and look at a building's exterior, our eyes may be drawn to the smaller details—such as doors, windows, colors, or materials—but the overall forms that make up the building are an architect's first consideration.

When architects start to design buildings, they begin by thinking in terms of **three-dimensional forms**. They may select one form and add another to it; they may subtract a part of a form. They may rearrange the forms by pushing or pulling the proportions. The method in which smaller three-dimensional forms are combined to create an overall building form is called **massing**.

Of course a building isn't actually made from a solid geometric form. Rather, a building encloses a **volume** of space. Floor levels, furniture, fixtures, and people fill up the interior of a building's form.



Geometric solids – left to right: rectangular prism, cube, triangular prism, and pyramid



Left to right: cylinder, cone, cylinder, hemisphere, and sphere



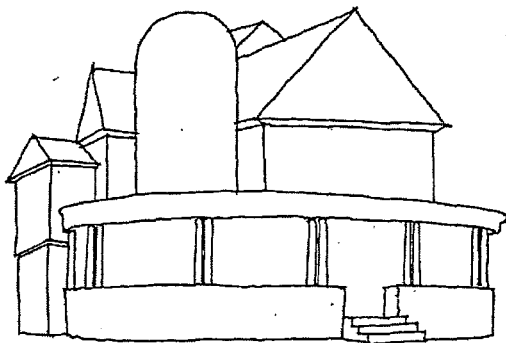
Older suburban home, circa 1890



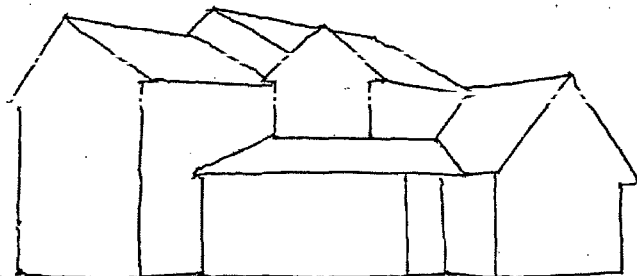
Newer suburban home, circa 1990

Two buildings may first appear to be very different because of the arrangement of windows or doors, and two buildings constructed in different centuries may not seem to

share any characteristics. However, when all the details are taken off and the pure geometric forms are seen clearly, two apparently unrelated structures might be strikingly similar.



Massing sketch of older suburban home



Massing sketch of newer suburban home

CHAPTER VOCABULARY

geometric solids a geometric figure that has three dimensions; examples include: rectangular prisms, cubes (a type of rectangular prism), triangular prisms, pyramids, spheres, cones, and cylinders

form another word for the 3-dimensional geometric solid shapes within the building

three-dimensional describing something with three dimensions: length, width, and height

massing (noun) the arrangement of forms of a building

massing (verb) the method in which smaller 3-dimensional building forms are combined to create an overall form

volume the size (or the amount of space) of a 3-dimensional form, measured in cubic units (length \times width \times height)

orthographic projection (also called *orthogonal projection*) a general term referring to a method of drawing where a 3-dimensional object is "flattened" and projected, or shown, on a piece of paper

two-dimensional describing something with only two dimensions: length and height

elevation drawing a scaled drawing of one side of a building, where the building is "flattened" when shown in two dimensions on paper; as a result, only the surfaces of the building (a 3-dimensional object) that are perpendicular to the viewer can be seen in the drawing; elevation can also describe the appearance of the side of a building

CONTINUED ON NEXT PAGE

perspective drawing / perspective view a drawing of a 3-dimensional object that attempts to show the object as your eye or a camera would see it

vanishing point the imaginary point at the back of the drawing where all the lines seem to converge

ground plane line (also called grade line) the heavy line that indicates the ground; on an elevation drawing anything below the ground plane line (underground) typically is shown in dashed lines

grade / below grade the ground on the construction site where the building's foundation meets the earth; "below grade" refers to the parts of the building that are located below the ground

west elevation the side of the building that faces west: when you look directly at the west elevation, your back is to the west and you are facing east

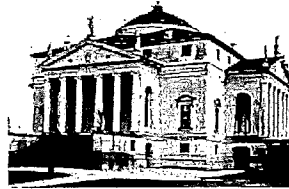
east elevation the side of the building that faces east: when you look directly at the east elevation, your back is to the east and you are facing west

north elevation the side of the building that faces north: when you look directly at the north elevation, your back is to the north and you are facing south

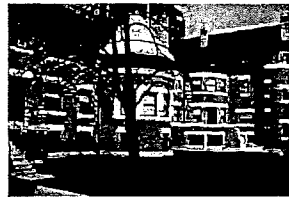
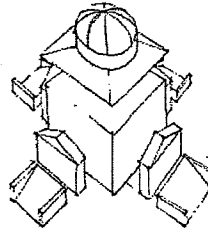
south elevation the side of the building that faces south: when you look directly at the south elevation, your back is to the south and you are facing north

elevation tag a small round symbol on an exterior elevation or section drawing that has been divided into four quadrants, with 2 opposing quadrants shaded in; the elevation tag indicates its distance in feet and inches from another reference point (often the first floor)

CONTINUED ON PAGE 248



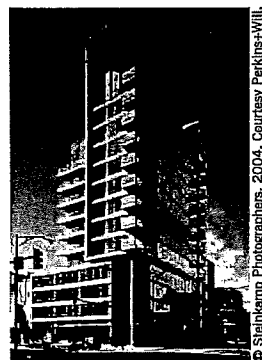
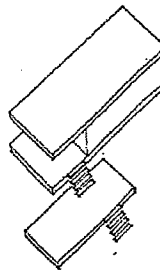
Villa Rotunda and isometric massing sketch



Glessner House and isometric massing sketch



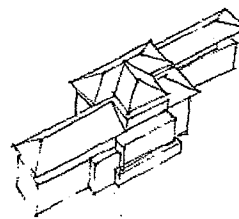
Farnsworth House and isometric massing sketch



The Contemporaine and isometric massing sketch



Robie House and isometric massing sketch



COMPARISONS building forms and massing

BUILDING NAME	MAJOR FORMS	OVERALL MASSING
F10 House 2000	rectangular prisms	a tall rectangular prism next to a shorter rectangular prism
Glessner House 1885	rectangular prisms, triangular prisms, cones, cylinders	three long rectangular prisms joined in a U-shape and topped with pyramidal roofs; smaller cylinders topped with cone roofs are attached to the side of the building
Robie House 1906	rectangular prisms, rectangular pyramids	two long rectangular prisms stacked on top of one another and each topped by a pyramidal roof
a Chicago bungalow 1920s	rectangular prism, rectangular pyramid	a long rectangular prism topped by a pyramidal roof
Farnsworth House 1946	rectangular prism	one long rectangular prism
The Contemporaine 2004	rectangular prisms	a rectangular prism at the base with several taller thinner rectangular prisms stacked on top
Villa Rotunda 1556	cube, half sphere, triangular prisms	a rectangular prism (cube) topped by a shallow half sphere; four triangular prisms make up the four entrance porches
Fallingwater 1935	rectangular prisms	rectangular prisms stacked on top of one another at 90° angles
Unité d'Habitation 1947	rectangular prism	one very large rectangular prism
Magney House 1982	rectangular prism, quarter sphere	one long rectangular prism topped by a quarter sphere
Legorreta House 1997	rectangular prisms	two rectangular prisms stacked on top of each other

interior elevation drawings

elevation drawings of the inside walls of a space; interior elevation drawings often are drawn for kitchens and bathrooms and indicate where fixtures or other built-in objects such as cabinets are mounted

exterior elevation drawings

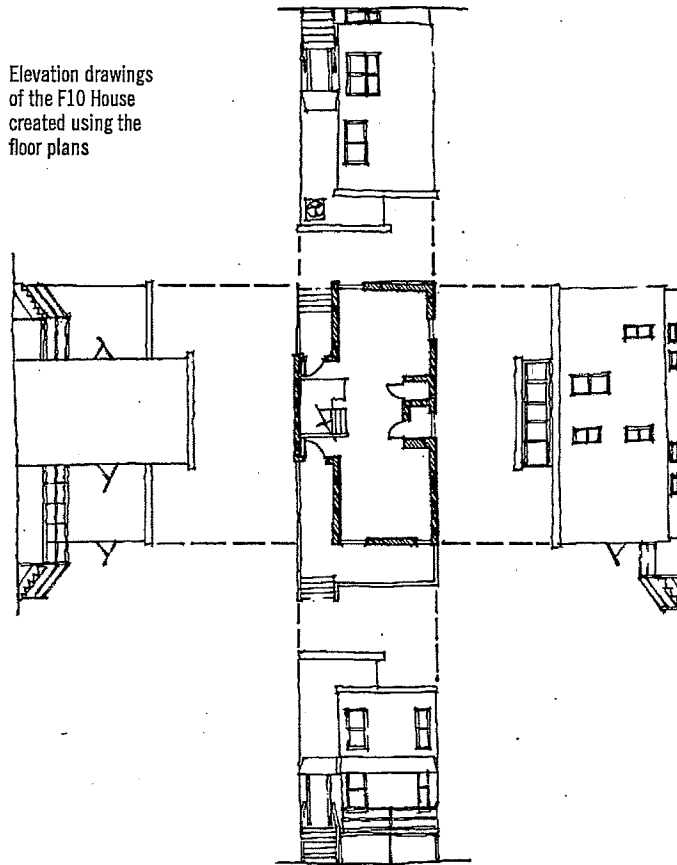
elevation drawings of the outside of a building

isometric drawing (a type of orthographic projection) a drawing of a 3-dimensional object that shows three sides of the object; because parallel lines stay parallel and do not converge toward each other, an isometric drawing does not look quite as "real" as a perspective drawing does; an isometric drawing is most useful when it is used to help explain a detail of a building

Although buildings are three-dimensional forms, architects use a method of drawing called **orthographic projection**, which shows the building "flattened" on a **two-dimensional** piece of paper. An **elevation drawing** uses orthographic projection and shows

just one side of a building from a horizontal point of view. Elevation drawings are created using the floor plans. Each of the four sides of the F10 House floor plan becomes one elevation drawing. Each element of the floor plan's exterior walls is seen in the elevations.

Elevation drawings of the F10 House created using the floor plans



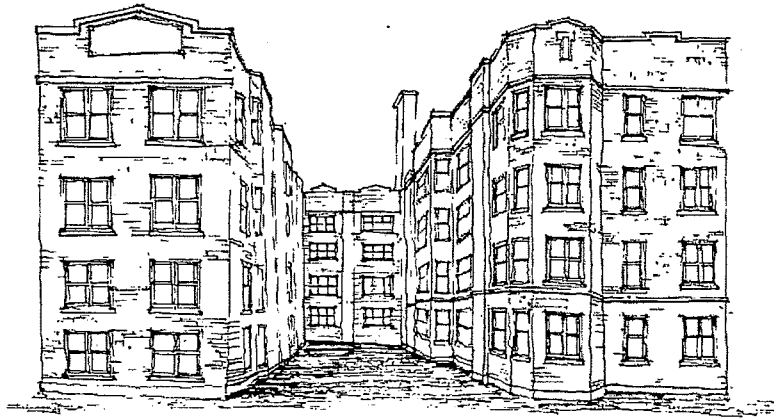
on your
way home
TODAY

Count how many different geometric solids you can find in the homes you pass. You may want to blur your vision a bit to notice the overall massing of a structure. Don't worry about the details: just look at how forms are arranged. Are they interlocked with each other? Or are they next to each other?

Perspective drawings are very different from elevation drawings. A perspective view imitates the view your eye and a camera sees. To your natural eye, objects farther away appear smaller, while objects closer to your eye appear larger. Perspective views include at least one **vanishing point**.



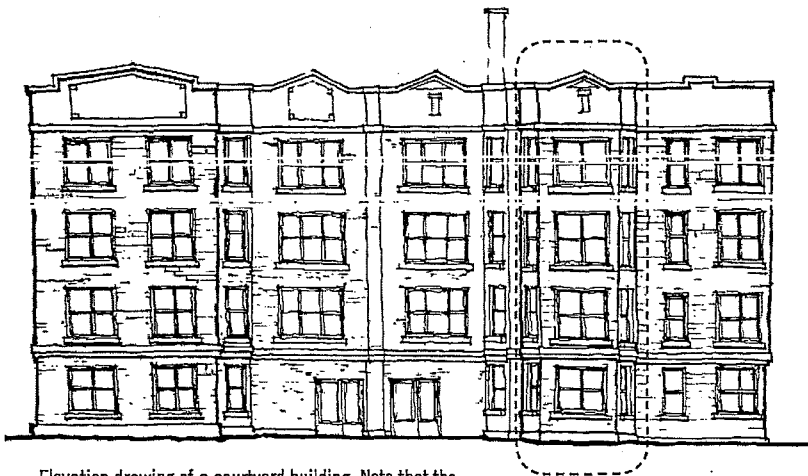
Courtyard building



Perspective sketch of a courtyard building

Surfaces in an elevation drawing that are not exactly perpendicular to our eye will appear to be foreshortened. Notice the bay windows on the

courtyard apartment building below. The two angled side windows appear narrower than the front part of the bay window that is perpendicular to us.



Elevation drawing of a courtyard building. Note that the angled side windows of the bay windows appear narrower because they are not perpendicular to us.

DID YOU know?

Young Frank played with blocks, too



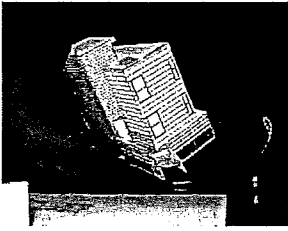
As a young child growing up in Wisconsin, Frank Lloyd Wright's mother, Anna, taught him at home. One year she presented him with a gift known as Froebel blocks, a set of children's educational toys developed by German educator Friedrich Froebel (pronounced *FRUR-bul*). The set included small wooden blocks and paper shapes for designing and constructing. Near the end of his life, Wright credited these blocks as having a very important influence on the design of his buildings.

"...for several years I sat at the little kindergarten table-top.... In the third dimension, the smooth maple blocks became the cube, the sphere and the tetrahedron; all mine to 'play' with.... all these forms were combined by the child into imaginative pattern. Design was recreation!" —Frank Lloyd Wright

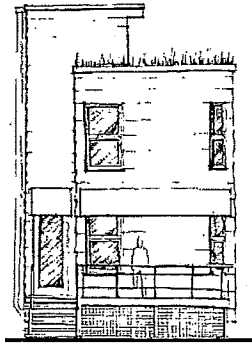
A Testament, Frank Lloyd Wright, New York: Horizon Press, 1957. NA737.W7A33

in class

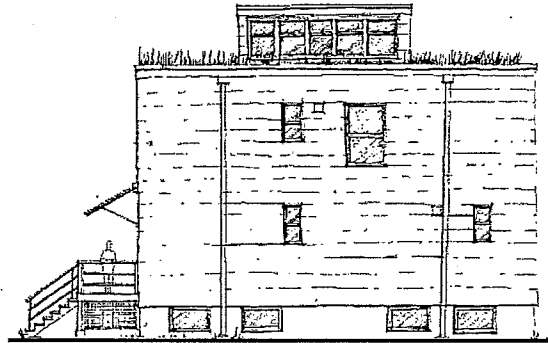
Mini F10 House model



You can practice sketching the elevations of the F10 House after assembling a fold-up model. You'll need scissors, tape, and a little patience to cut out and put together this small F10 House at $\frac{1}{8}'' = 1'-0''$ scale. After you've put the model together, place it on a table and view the house from eye level to get a view similar to a true elevation drawing. Your teacher has the instructions and templates for this in-class activity.



F10 House – west elevation



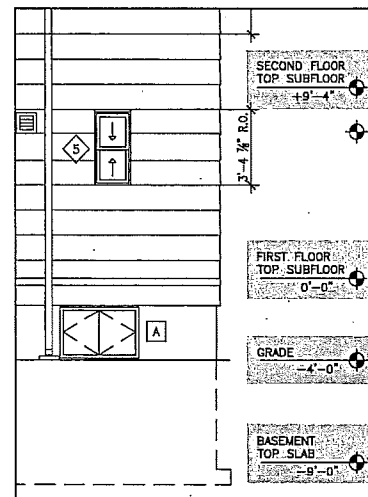
F10 House – south elevation

Although a perspective drawing may look more realistic, an elevation drawing is more accurate because all parts of the building are drawn to scale. Various parts of the building don't appear smaller just because they are farther away. Elevation drawings are extremely useful to a contractor, for example, who needs to know the exact size and proportions of a building.

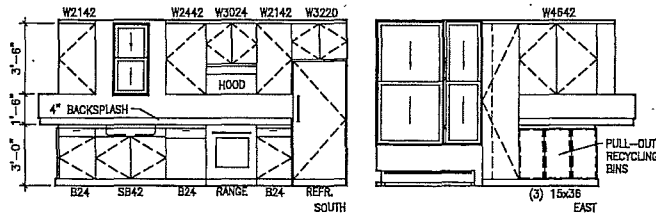
One of the most easily recognizable differences between an elevation drawing and a perspective drawing is the heavy black **ground plane line** (or **grade line**) that is seen on an elevation drawing. The line shows the ground (or **grade**) where the building meets the earth. Any parts of the building located below grade are shown in dashed lines.

Elevation drawings are labeled according to compass directions. For example: the **west elevation** of the F10 House (A.06) is the side of the building's exterior that faces west, although a person standing and looking at the west elevation will actually be looking toward the east.

The dimensions on an elevation drawing tell the contractor only about vertical dimensions. (A contractor learns the horizontal distances between walls from the floor plan.) Vertical dimensions are listed along the edge of the building by an **elevation tag**. These symbols explain only the distance from floor to floor or from floor to ceiling, based on the height of that point above or below the first floor. Some drawings may reference heights from grade or another fixed point on the site.



Elevation tags indicate distances between floors, based on the height of that point above or below the first floor



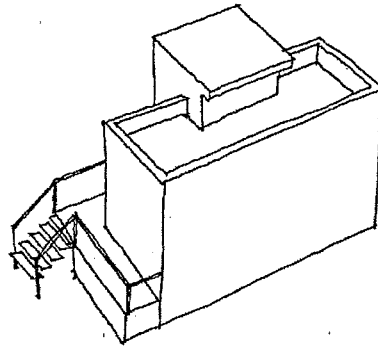
F10 House –
interior elevations

1
A12
KITCHEN/DINING
1/4"=1'-0"

Architects also create **interior elevation drawings** (for example, A.12) for contractors to use in finishing the interior of a room. They show the interior view of each wall and are commonly drawn for kitchens and bathrooms. A variety of construction workers responsible for installing cabinets, towel bars, mirrors, or light fixtures on a wall surface of a home will consult the interior elevation drawings.

As with all architectural drawings, lineweights are very important in elevation drawings. Varying lineweights help to distinguish different planes on the elevation. For example, heavier lines on an **exterior elevation drawing** indicate objects that are closer to the viewer. They are used around the profile of the building to help distinguish the overall form. In interior elevations, heavier lines are used to show the edges of an object that has been cut through. Thinner lines show objects that are farther from the viewer.

Sometimes, architects also use **isometric drawings** which show three dimensions (length, width, and height) of an object. A simple isometric drawing of the F10 House allows us to see three sides of the building. Parallel lines stay parallel to each other and do not converge in a vanishing point. As a result, an isometric drawing does not look as realistic as a perspective drawing, but it allows the viewer to see the top and two sides of the building.



F10 House – isometric sketch

CHAPTER RESOURCES

Architectural Graphics, 3rd ed., Francis D.K. Ching. New York: Van Nostrand Reinhold, 1996. NA2700.C46

Precedents in Architecture, Roger H. Clark, illustr. Michael Pause. New York: Van Nostrand Reinhold, 1985. NA2750.C55

Sketch, Plan, Build: World Class Architects Show How It's Done, Alejandro Bahamon. New York: Harper Design, 2005. NA2700.B25

TALK about it

- When you look at the exterior form of the F10 House, what major geometric forms can you identify?
- What major geometric forms can you identify in your own home? In your school?

BOS 10, Leg Dep
COB, Leg Clerks
CPAGE

O'Brien Young
1354 Kearny Street
San Francisco, CA 94133
415/398-7455

December 6, 2014

Subject: File No. 141244

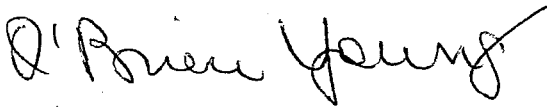
Dear Board of Supervisors:

I am writing to protest the scale and scope of the proposed real estate development at 312 Green Street. I have no idea why this project should be granted "categorical exemption from environmental review," and it certainly should not receive a significant variance from the building code.

The proposed development on the site is totally inappropriate to the neighborhood. A reasonable proposal would be for the addition of one story only. The unique character and charm of Telegraph Hill can be preserved only by the city's refusing to enable homeowners to massively enlarge their historic and modestly sized houses.

Thank you for your consideration.

Sincerely,



(Ms.) O'Brien Young, Telegraph Hill homeowner for 27 years

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2014 DEC - 9 PM 3:26

Lamug, Joy

From: BOS Legislation (BOS)
Sent: Thursday, December 04, 2014 11:43 AM
To: 'mprofant@zulpc.com'; 'brunokanter@gmail.com'; Givner, Jon (CAT); Stacy, Kate (CAT); Byrne, Marlana (CAT); Sanchez, Scott (CPC); Jones, Sarah (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Tam, Tina (CPC); Conner, Kate (CPC); Wise, Viktoriya (CPC); Ionin, Jonas (CPC); BOS-Supervisors; BOS-Legislative Aides; Jain, Devyani (CPC); Goldstein, Cynthia (PAB); Pacheco, Victor (PAB)
Cc: Calvillo, Angela (BOS); Caldeira, Rick (BOS); Carroll, John (BOS); BOS Legislation (BOS)
Subject: FW: 312 Green St. Continuance request

Good morning,

Please see below email from the Project Sponsor Bruno Kanter, received today in relation to the December 16, 2014, Hearing on the Appeal of the 312 Green Street Categorical Exemption.

Thank you,

Joy Lamug

Legislative Clerk

Board of Supervisors

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244

San Francisco, CA 94102

Direct: (415) 554-7712 | Fax: (415) 554-5163

Email: joy.lamug@sfgov.org

Web: www.sfbos.org

Please complete a Board of Supervisors Customer Service Satisfaction form by clicking [here](#).

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

From: Caldeira, Rick (BOS)

Sent: Thursday, December 04, 2014 10:28 AM

To: Bruno

Cc: Tam, Tina (CPC); Quizon, Dyanna (BOS); Tang, Katy (BOS); BOS Legislation (BOS)

Subject: RE: 312 Green St. Continuance request

Thank you Mr. Kanter,

Your request has been received and we will be distributing this to all parties shortly. As discussed, the continuance will be acted upon by the Board of Supervisors at the 12/16/14 Board meeting.

Rick Caldeira, MMC

Legislative Deputy Director

Board of Supervisors

Dr. Carlton B. Goodlett Place, City Hall, Room 244

San Francisco, CA 94102

Phone: (415) 554-7711 | Fax: (415) 554-5163

rick.caldeira@sfgov.org | www.sfbos.org

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

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From: Bruno [<mailto:brunokanter@gmail.com>]

Sent: Thursday, December 04, 2014 9:24 AM

To: Caldeira, Rick (BOS)

Cc: Tam, Tina (CPC); Quizon, Dyanna (BOS); Tang, Katy (BOS)

Subject: 312 Green St: Continuance request

Hi Rick,

My wife and I received the notice of appeal this week for the CEQA Categorical Exemption Determination of our home at 312 Green Street (in District 3). Although we strongly desire a timely resolution of this matter, the very short notice for the December 16th hearing date conflicts with our schedule. I would like to request that the matter be continued to the next available hearing on January 13th. Please let us know as soon as possible.

Thank you,

Bruno Kanter
415-921-5456

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

December 1, 2014

Ryan J. Patterson, Esq.
On behalf of Jack Oswald and Anneke Seley
Zacks and Freedman, P.C.
235 Montgomery Street, Suite 400
San Francisco, CA 94104

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

Dear Mr. Patterson:

The Office of the Clerk of the Board is in receipt of a memo dated December 1, 2014, (copy attached), from the Planning Department regarding the timely filing of your appeal of the determination of exemption from environmental review for 312 Green Street.

The Planning Department has determined that the appeal was filed in a timely manner.

The appeal filing period closed on Monday, November 24, 2014. Pursuant to Administrative Code, Section 31.16, a hearing date has been scheduled for **Tuesday, December 16, 2014, at 3:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102.

Please provide to the Clerk's Office by:


11 days prior to the hearing: names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and
any documentation which you may want available to the Board members prior to the hearing.

For the above, the Clerk's office requests one electronic file (sent to bos.legislation@sfgov.org) and one hard copy of the documentation for distribution.

NOTE: If electronic versions of the documentation are not available, please submit 18 hard copies of the materials to the Clerk's Office for distribution. If you are unable to make the deadlines prescribed above, it is your responsibility to ensure that all parties receive copies of the materials.

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.

Very truly yours,


Angela Calvillo
Clerk of the Board

- c: Bruno and Suzanne Kanter, Project Sponsor
- Jon Givner, Deputy City Attorney
- Kate Stacy, Deputy City Attorney
- Marilyn Byrne, Deputy City Attorney
- John Rahaim, Planning Director
- Scott Sanchez, Zoning Administrator, Planning Department
- Aaron Starr, Planning Department
- AnMarie Rodgers, Planning Department
- Tina Tam, Planning Department
- Shelley Caltagirone, Planning Department
- Jonas Ionin, Planning Commission Secretary



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: December 1, 2014
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Sarah B. Jones, Environmental Review Officer
RE: Appeal timeliness determination – 312 Green Street, Planning Department Case No. 2012.0635E

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

An appeal of the categorical exemption for the proposed project at 312 Green Street (Planning Department Case No. 2012.0635E) was filed with the Office of the Clerk of the Board on November 24, 2014 by Ryan J. Patterson, Zacks & Freedman, P.C. on behalf of the Jack Oswald and Anneke Seley.

Timeline: The Categorical Exemption was issued on January 15, 2013. The exemption identified the Approval Action for the project as approval of the Discretionary Review by the Planning Commission, in accordance with Chapter 31 of the San Francisco Administrative Code, which occurred on October 23, 2014 (Date of the Approval Action).

Timeliness Determination: Section 31.16(a) and (e) of the San Francisco Administrative Code states that any person or entity may appeal an exemption determination to the Board of Supervisors during the time period beginning with the date of the exemption determination and ending 30 days after the Date of the Approval Action.

The appeal of the exemption determination was filed on November 24, 2014, which is the last business day within 30 days after the Date of the Approval Action and is within the time frame specified above. Therefore the appeal is considered timely.

Section 31.16(b)(4) of the San Francisco Administrative Code states that the Clerk of the Board shall schedule the appeal hearing no less than 21 days and no more than 45 days following expiration of the specified time period for filing of the appeal.

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
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 Oswalt 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

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No 554-5184
Fax No. 554-5163
TTD/TTY No. 5545227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

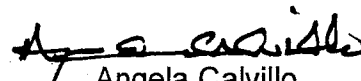
Date: Tuesday, December 16, 2014

Time: 3:00 p.m.

Location: City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102

Subject: **File No. 141244.** Hearing of persons interested in or objecting to the determination of categorical exemption from environmental review under the California Environmental Quality Act issued by the Planning Department on January 15, 2013, and approved during the Discretionary Review Hearing of the Planning Commission on October 23, 2014, for the proposed project at 312 Green Street. (District 3) (Appellant: Ryan J. Patterson, on behalf of Jack Oswald and Anneke Seley) (Filed November 24, 2014).

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in this matter, and shall be brought to the attention of the members of the Board. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, December 12, 2014.


Angela Calvillo
Clerk of the Board

DATED: December 2, 2014
MAILED/POSTED: December 2, 2014

Lamug, Joy

From: Caldeira, Rick (BOS)
Sent: Tuesday, December 02, 2014 1:10 PM
To: BOS Legislation (BOS)
Subject: FW: Quick Action Requested: 312 Green Street
Attachments: Copy of 312 GREEN STREET MAILING LIST.xlsx

From: Conner, Kate (CPC)
Sent: Tuesday, December 02, 2014 12:55 PM
To: Caldeira, Rick (BOS); Rodgers, AnMarie (CPC); Jones, Sarah (CPC); Wise, Viktoriya (CPC); Navarrete, Joy (CPC); Tam, Tina (CPC); Caltagirone, Shelley (CPC)
Cc: Starr, Aaron (CPC)
Subject: RE: Quick Action Requested: 312 Green Street

Hi everyone,

The mailing list is attached.

Thanks

Kate
Kate Conner
Housing Implementation Specialist, LEED AP

Planning Department, City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103
Direct: 415-575-6914 **Fax:** 415-558-6409
Email: kate.conner@sfgov.org
Web: www.sfplanning.org



Planning Information Center (PIC): 415-558-6377 or pic@sfgov.org
Property Information Map (PIM): <http://propertymap.sfplanning.org>

From: Caldeira, Rick (BOS)
Sent: Monday, December 01, 2014 3:48 PM
To: Rodgers, AnMarie (CPC); Jones, Sarah (CPC); Wise, Viktoriya (CPC); Navarrete, Joy (CPC); Tam, Tina (CPC); Conner, Kate (CPC); Caltagirone, Shelley (CPC)
Cc: Starr, Aaron (CPC)
Subject: RE: Quick Action Requested: 312 Green Street

Also, as we discussed briefly AnMarie, I would suggest someone place a call to Supervisor Tang to inquire about taking the lead on a possible continuance to 1/13/15 with the current vacancy of a D3 Supervisor.

From: Rodgers, AnMarie (CPC)
Sent: Monday, December 01, 2014 3:30 PM
To: Jones, Sarah (CPC); Wise, Viktoriya (CPC); Navarrete, Joy (CPC); Tam, Tina (CPC); Conner, Kate (CPC); Caltagirone, Shelley (CPC)

Cc: Caldeira, Rick (BOS); Starr, Aaron (CPC)
Subject: Quick Action Requested: 312 Green Street

Dear Planners,

I'm not totally sure who will be staffing this CEQA appeal. My guess would be Tina will be the lead, with support from either Shelley or Kate. Pls confirm staffing.

Rick Caldeira called moments ago. The Clerk will need to place this item on the Board's Dec. 16 calendar and this means that notices will need to be mailed tomorrow. I understand that Kate is working on the notice list which we anticipate to include 50+ addresses.

Rick, can you tell us when do you need the notice list in order to complete the mailing on time?

AnMarie Rodgers
Senior Policy Advisor

Planning Department | City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103
Direct: 415.558.6395 | Fax: 415.558.6409
Email: anmarie@sfgov.org
Web: <http://www.sf-planning.org/Legislative.Affairs>
Property Info Map: <http://propertymap.sfplanning.org/>



0001	004	BRUNO KANTER	822 GREENWICH ST
0134	024	1142 MONTGOMERY ST LLC	600 MONTGOMERY ST #14TH
0113	045	1216-1220 MONTGOMERY ASSOCS LP	1 LOMBARD ST #201
0133	044	335 GREEN ST APTS LLC	PO BOX 7537
113	43	335 GREEN STREET APARTMENTS	347 GREEN ST
0133	039	355 GREEN	3549 LANGTRY RD
0113	042	9496 TRS	737 BUENA VISTA AV W
0114	049	ALICIA SHEPPECK	48 CASTLE ST
0114	072	ANDRUS HUGHES TRS	3 MONTAGUE PL
0133	032	ANGELINA CRAUS TRS	2014 EL CAJON CT
0114	022	ANGELO FERRARI	9 WINDSOR PL
0113	016A	ANNE STRANCZEK TRS	52 STAGHOUND PSGE
0113	021	ANTON OENNING TRS	293 UNION ST
0133	038	ARTHUR BAUM TRS	855 EL CAMINO DEL MAR
		ASHLYN E. PERRI	367 HANOVER ST
0114	053	BARBARA LINDEMANN TRS	337 UNION ST
0114	061	BATRA SHASHI & VICTOI BONNIFAY	1245 MONTGOMERY ST
0114	043	BENNEY LAU	23 CASTLE ST
0114	037	BETH NEWMAN	150 MANCHESTER ST
0133	033	BLUEPORT LLC	12 RENO PL
0114	055	BRADLEY & LINDA ATTAWAY	325 UNION ST
0133	027	BRADLEY DRIAN ETAL	PO BOX 1548
		BRANT E. BLOWER	1342 MARTIN LUTER KING JR WAY
0133	012	BRIAN KILNER	414 VALLEJO ST
		BRIGITTE KANTER	2701 VAN NESS AVE
0113	020	BROCK-REILLY TRS	1256 MONTGOMERY ST
0133	052	BROWN TRS	466 VALLEJO ST
0114	016	BRUNO KANTER	312 GREEN ST
0114	035	CASSIDY TRS	1451 MONTGOMERY ST #8
0114	068	CATLY TRS	1201 FULTON ST
0114	022	CHIN IRVING RENOLDS & WILLARD MAF	370 GREEN ST
0114	028A	CHOW TRS	1330 KEARNY ST
0134	021	CHOW TRS	1140 MONTGOMERY ST #E
0105	015	CHRISTINA KUO	312 UNION ST
0114	070	CHRISTINE PUCCIO TRS	382 GREEN ST #5
0133	022	CHRISTOPHE BACH ETAL	470 VALLEJO ST
0113	016	CHU TRS	286 GREEN ST
		CLAUDIA TANG	2227 TAYLOR ST #6
0114	021	CONDIT-HIRSCH TRS	104 LAVERNE AV
		CONNIE & DICK PISCIOTTA	301 BALTIMORE WAY
0133	028	CRUZ DELA TRS	2317 CORONET BL
0114	025	CYNTHIA CHIN	2332 SHANNON DR
		DANNY LEONE	1000 MONTGOMERY ROOM 306
		DARLA BERNARD	12608 PREGO COURT
		DAVID & JACKIE D'AMATO	9814A GREENWICH ST
0114	066	DAVID FERRIS	382 GREEN ST #1
0114	046	DAVID LUM TRS	26 CASTLE ST

0105	017	DAVID RUIZ DELVIZO ETAL	328 UNION ST
0113	026	DEBBY BLANK	37 CALHOUN TER
0113	017B	DEIRDRE ENGLISH TRS	1236 MONTGOMERY ST
0133	066	DONALD YATES	422 VALLEJO ST
0133	067	DONALD YATES	422A VALLEJO ST
0114	001	DONG VENTURES LLC	1612 MISSION ST
0113	053	DOROTHEA PREUS TRS DR. MARY ANN SUILLVAN	1250 MONTGOMERY ST 356 WINDING WAY
0114	031	EAGER LEONG TRS	1360 KEARNY ST
0114	063	ELEY & PHILLI	342 GREEN ST
0114	065	ELEY & PHILLI	346 GREEN ST
0114	010	ELIZABETH MYERS TRS	1227 MONTGOMERY ST
0114	027	ERIC GUERING TRS	1320 KEARNY ST
0114	054	FONG TRS	1668 TOYON CT
0114	012	GARY OW GC HEMMING/GCH GEORGE FOX	2402 LARKIN ST 151 PFEIFFER ST 1246 MONTGOMERY ST
0114	028B	GERMANO TRS GRANT & DENISE CHENIER	1334 KEARNY ST 1632 TAYLOR ST
0113	044	GREGORY MARTIN TRS	PO BOX 330279
0133	040A	GUIDO & THERESA COSTELLA HEATHER JOHNSON & BRYCE SEARS HEATHER POLLARD HEIDA BIDDLE	PO BOX 176 3000 RICHMOND BLVD APT. 17 58 EDITH ST 530 7TH AVE
0114	028	HELEN YEE TRS HELMUT & MARIE THERES KANTER	1322 KEARNY ST 601 VAN NESS AVE
0133	055	HENRY CAVIGLI TRS IAN COOLEY	PO BOX 823 566 LOMBARD ST
0113	014	INEZ BINI	273 GREEN ST #12
0114	058	IV INVSTMTS LLC	4040 CIVIC CENTER DR #350
0114	056	J V SMITH JAN MAUPIN	319 UNION ST 500 GREENWICH ST
0114	005	JEAN LIPPI TRS	1233 MONTGOMERY ST
0114	047	JEFFREY KLEIN	32 CASTLE ST
0133	054	JENNIFER HUGHES	468 VALLEJO ST
0114	041	JERROLD PETRUZZELLI JODI REA DAPRANO	10 HASTINGS TER 927 GREENWICH ST
0133	002	JOHN & JAMES LEE	2225 16TH AV
0133	037	JOHNSON & JANESE TRS	365 GREEN ST
0133	069	JON CABIBI TRS	5 LOCKE LN
0114	050	JONATHAN DREYER TRS	511 PINEO AV
0114	064	JONATHAN WEST	344 GREEN ST
0105	018	JONATHAN WONG JOSE & ANABELA ARAU	1 BURNETT AV N #2 1227 NEILSON ST
0105	014	JUDY SITZ	1301 MONTGOMERY ST
0133	036	KATHRYN HILLMAN	377 GREEN ST
0114	052	KELLY DEGNAN	341 UNION ST

114	16	Kenter Family Trust	312 Green St
0114	039	KING-GOODMAN TRS	45 CASTLE ST
0114	073	KIRK TRS	308 GREEN ST
0113	054	KRISTIAN LUNDRGREN-KOSZEGHY	1248 MONTGOMERY ST
0133	045	KRUEGER TRS	1212 KEARNY ST
0134	026	KUEN LEE TRS	2104 BROADWAY ST
0114	008	LATOUR TRS	5 MONTAGUE PL
0114	036	LAURA JUNG LAI TRS	357 UNION ST
0133	063	LAUREN WILLIAMS	315 GREEN ST
0133	020	LEE DO LLC	139 MITCHELL AV #110
0114	006	LEONARD LIPPI TRS	1223 MONTGOMERY ST
0133	016	LEONARDO BRANCO	1154 FILBERT ST
0133	025B	LEW TRS	1240 KEARNY ST
0114	045	LIN LEW PO	24 CASTLE ST
		LISA DUNGAN	802 LOMBARD ST
0114	032	LORRAINE LOOMIS TRS	349 AVILA ST
0114	071	LYNN & STEVE GUESS	47415 ARROYO SECO RD
0114	067	M & D PROBST	680A LOMBARD ST
0114	048	MADelyn CHATTON	34 CASTLE ST
		MARISSA VIRAY	814 GREENWICH ST
0114	013	MARK & CATHERINE CORMIER	306 GREEN ST
0133	001	MASSETANI TRS	315 OXFORD ST
		MATT MCKEE	2163 MASON ST
		MATTHEW FAMBRINI	2160 LEAVENWORTH ST
0133	051	MCCANN-BROWN TRS	466 VALLEJO ST
0114	009	MICHAEL BENNETT	1 MONTAGUE PL
0114	023	MICHAEL DIBENEDETTI	376 GREEN ST
0105	016	MICHAEL LAMPEN TRS	310 UNION ST
0134	025	MONTGOMERY ST PTNRS LLC	2470 VAN NESS AV #310
0114	026	MYRON MU TRS	1312 KEARNY ST
0133	017	NANCY CHRISTIAN TRS	47 WINDSOR LN
0133	053	NANCY PAYNE LEWIS TRS	466A VALLEJO ST
		North Beach Neighbors	PO BOX 330115
0133	009	NOYES & TOLARO	432 VALLEJO ST #A
0114	030	OBRIEN YOUNG TRS	1354 KEARNY ST
0114	005	OCCUPANT	1235 MONTGOMERY ST
0114	005	OCCUPANT	1235A MONTGOMERY ST
0114	005	OCCUPANT	1235B MONTGOMERY ST
0114	006	OCCUPANT	4 MONTAGUE PL
0114	007	OCCUPANT	6 MONTAGUE PL
0114	007	OCCUPANT	6A MONTAGUE PL
0114	008	OCCUPANT	5A MONTAGUE PL
0114	011	OCCUPANT	300 GREEN ST #1
0114	011	OCCUPANT	300 GREEN ST #2
0114	011	OCCUPANT	1207 MONTGOMERY ST #1
0114	011	OCCUPANT	1207 MONTGOMERY ST #2
0114	011	OCCUPANT	1207 MONTGOMERY ST #3

0114	011	OCCUPANT	1207 MONTGOMERY ST #4
0114	011	OCCUPANT	1207 MONTGOMERY ST #5
0114	011	OCCUPANT	1207 MONTGOMERY ST #6
0114	012	OCCUPANT	304 GREEN ST
0114	012	OCCUPANT	304A GREEN ST
0114	013	OCCUPANT	306A GREEN ST
0114	017A	OCCUPANT	16 CASTLE ST
0114	018	OCCUPANT	350 GREEN ST #1
0114	018	OCCUPANT	350 GREEN ST #2
0114	018	OCCUPANT	350 GREEN ST #3
0114	019	OCCUPANT	360 GREEN ST #1
0114	019	OCCUPANT	360 GREEN ST #2
0114	019	OCCUPANT	360 GREEN ST #3
0114	019	OCCUPANT	360 GREEN ST #5
0114	019	OCCUPANT	360 GREEN ST #6
0114	019	OCCUPANT	360 GREEN ST #7
0114	019	OCCUPANT	360 GREEN ST #8
0114	020	OCCUPANT	2 WINDSOR PL
0114	020	OCCUPANT	4 WINDSOR PL
0114	020	OCCUPANT	6 WINDSOR PL
0114	020	OCCUPANT	8 WINDSOR PL
0114	020	OCCUPANT	10 WINDSOR PL
0114	020	OCCUPANT	12 WINDSOR PL
0114	020	OCCUPANT	14 WINDSOR PL
0114	021	OCCUPANT	24 WINDSOR PL
0114	021	OCCUPANT	26 WINDSOR PL
0114	021	OCCUPANT	28 WINDSOR PL
0114	022	OCCUPANT	372 GREEN ST
0114	022	OCCUPANT	372A GREEN ST
0114	022	OCCUPANT	1 WINDSOR PL
0114	022	OCCUPANT	3 WINDSOR PL
0114	022	OCCUPANT	5 WINDSOR PL
0114	028	OCCUPANT	1324 KEARNY ST
0114	028	OCCUPANT	1326 KEARNY ST
0114	035	OCCUPANT	367 UNION ST
0114	035	OCCUPANT	369 UNION ST
0114	035	OCCUPANT	371 UNION ST
0114	035	OCCUPANT	373 UNION ST
0114	041	OCCUPANT	33 CASTLE ST
0114	041	OCCUPANT	35 CASTLE ST
0114	042	OCCUPANT	27 CASTLE ST
0114	043	OCCUPANT	25 CASTLE ST
0114	044	OCCUPANT	15A CASTLE ST
0114	044	OCCUPANT	15B CASTLE ST
0114	044	OCCUPANT	15C CASTLE ST
0114	044	OCCUPANT	17 CASTLE ST
0114	045	OCCUPANT	24A CASTLE ST

0114	046	OCCUPANT	28 CASTLE ST
0114	047	OCCUPANT	30 CASTLE ST
0114	048	OCCUPANT	36 CASTLE ST
0114	049	OCCUPANT	44 CASTLE ST
0114	049	OCCUPANT	46 CASTLE ST
0114	050	OCCUPANT	50 CASTLE ST
0114	050	OCCUPANT	52 CASTLE ST
0114	050	OCCUPANT	54 CASTLE ST
0114	056	OCCUPANT	321 UNION ST
0114	056	OCCUPANT	323 UNION ST
0114	058	OCCUPANT	1255 MONTGOMERY ST #1
0114	058	OCCUPANT	1255 MONTGOMERY ST #2
0114	058	OCCUPANT	1255 MONTGOMERY ST #3
0114	058	OCCUPANT	1255 MONTGOMERY ST #4
0114	062	OCCUPANT	340 GREEN ST
0114	074	OCCUPANT	71 CASTLE ST
0114	075	OCCUPANT	73 CASTLE ST
0114	077	OCCUPANT	77 CASTLE ST
0133	001	OCCUPANT	301 GREEN ST
0133	001	OCCUPANT	303 GREEN ST
0133	001	OCCUPANT	305 GREEN ST
0133	001	OCCUPANT	307 GREEN ST
0133	036	OCCUPANT	369 GREEN ST
0133	036	OCCUPANT	369A GREEN ST
0133	036	OCCUPANT	371 GREEN ST
0133	036	OCCUPANT	373 GREEN ST
0133	036	OCCUPANT	375 GREEN ST
0133	036	OCCUPANT	377 GREEN ST
0133	036	OCCUPANT	379 GREEN ST
0133	038	OCCUPANT	359 GREEN ST #1
0133	038	OCCUPANT	359 GREEN ST #2
0133	038	OCCUPANT	359 GREEN ST #3
0133	038	OCCUPANT	359 GREEN ST #4
0133	038	OCCUPANT	359 GREEN ST #5
0133	038	OCCUPANT	359 GREEN ST #6
0133	038	OCCUPANT	359 GREEN ST #7
0133	038	OCCUPANT	359 GREEN ST #8
0133	038	OCCUPANT	359 GREEN ST #9
0133	038	OCCUPANT	359A GREEN ST
0133	038	OCCUPANT	359B GREEN ST
0133	038	OCCUPANT	359C GREEN ST
0133	039	OCCUPANT	355 GREEN ST #1
0133	039	OCCUPANT	355 GREEN ST #2
0133	039	OCCUPANT	355 GREEN ST #3
0133	040	OCCUPANT	327 GREEN ST
0133	040	OCCUPANT	329 GREEN ST
0133	040A	OCCUPANT	325 GREEN ST #1

0133	040A	OCCUPANT	325 GREEN ST #2
0133	040A	OCCUPANT	325 GREEN ST #3
0133	040A	OCCUPANT	325 GREEN ST #4
0133	040A	OCCUPANT	325 GREEN ST #5
0133	040A	OCCUPANT	325 GREEN ST #6
0133	043	OCCUPANT	345 GREEN ST #1
0133	043	OCCUPANT	345 GREEN ST #2
0133	043	OCCUPANT	345 GREEN ST #3
0133	043	OCCUPANT	345 GREEN ST #4
0133	043	OCCUPANT	345 GREEN ST #5
0133	043	OCCUPANT	345 GREEN ST #6
0133	043	OCCUPANT	345 GREEN ST
0133	044	OCCUPANT	335 GREEN ST
0133	064	OCCUPANT	317 GREEN ST
114	15	OSWALD-SELEY / OSWALD JACK	310 GREEN ST
0114	015	OSWALD-SELEY TRS	2165 TOYON DR
0133	026	PAUL GOLDMAN ETAL	1250 KEARNY ST
0133	006	PAUL KOSTUCHENKO	3129 ALLERTON LAKE DR
		PETER A. ZEPPONI, AIA	211 BELLA VISTA WAY
0114	040	PETER DRAKE TRS	41 CASTLE ST
0133	025D	PETER WILSON TRS	1224 KEARNY ST
0114	034	PEZET ST LLC	2330 ROSE ST
0133	010	POY TOM TRS	1109 MONTGOMERY ST
0133	046	PRATAP PENUMALLI	1220 KEARNY ST
0114	042	QUAN TONG & PUI FUN FUNG TRS	29 CASTLE ST
		RAFAEL & SARAH MORALES	1162 MONTGOMERY ST
		REBECCA CALAME	567 UNION ST
0133	034	RENO PLACE LLC	PO BOX 330220
0114	017A	RICHARD & CONNIE PISCIOTTA	14 CASTLE ST
0133	025A	RICHARD GROSSMAN	1230 KEARNY ST
		RICHARD LANGFORD	424 PRESETON COURT
0133	040	RICHARD ZITRIN TRS	333 GREEN ST
0114	051	ROCCO ROBERT MATTEI	56 CASTLE ST
0113	015	SACHA LOUISNJ ETAL	1424 LA PLAYA ST
		SAM HIONA	2154 TAYLOR ST #5
0114	018	SARAH MORZENTI	350 GREEN ST #4
0133	014	SCOTT STEINER	430 VALLEJO ST
0134	027	SF 267 GREEN ST LLC	500 WASHINGTON ST #488
		SHARONE MENDES NESSI	1418 GRANT AVE
0134	020	SHIRLEY LIM TRS	1354 15TH AV
0114	074	SMITH TRS	75 CASTLE ST
0114	028C	SS 1340 KEARNY LLC	1520 LARKIN ST
		STEVEN BATILORO	347 GREEN ST #4
0133	068	STEVEN GAYLE	426 VALLEJO ST
0133	019	SULLIVAN TRS	2627 PONCE AV
		SUON CHENG	44 PLEASANT ST
		Telegraph Hill Dwellers	PO BOX 330159

0133	015	THOMAS PAYNE TINA & ALBERT CHOU	859 VALLEJO ST #6 934 GREENWICH ST
0133	007	TOY LIM	1123 MONTGOMERY ST
0133	006A	TRINITY MOTRONI TRS	1800 ATRIUM PKWY #434
0105	019	TRINITY SF	1145 MARKET ST #1200
0114	011	VELMA GUGLIELMONE TRS	1731 32ND AV
0114	060	VICTORIE BONNI PAY	1243 MONTGOMERY ST
0133	018	VINCE GRELL TRS WAYLAND LEW	450A VALLEJO ST 859 LOMBARD ST
0114	033	WEE CHAN YEN & YUEN YICK TRS	810 40TH AV
0133	064	WILLIAMS TRS	233 32ND AV
0133	029	YOUNG TRS	244 9TH AV
0113	019	YUDOWITZ & GRAHAM	359 GREEN ST
0114	029	YVONNE DERE TOM TRS	1352 KEARNY ST

SAN FRANCISCO	CA	94133
SAN FRANCISCO	CA	94111-2702
SAN FRANCISCO	CA	94111-1128
MENLO PARK	CA	94026-7537
SAN FRANCISCO	CA	94133-4103
SAINT HELENA	CA	94574-9674
SAN FRANCISCO	CA	94117-4107
SAN FRANCISCO	CA	94133-3518
SAN FRANCISCO	CA	94133-3507
VISALIA	CA	93277-5566
SAN FRANCISCO	CA	94133-4118
CORTE MADERA	CA	94925-1825
SAN FRANCISCO	CA	94133-3513
SAN FRANCISCO	CA	94121-1017
SAN FRANCISCO	CA	94112
SAN FRANCISCO	CA	94133-3515
SAN FRANCISCO	CA	94133-3522
SAN FRANCISCO	CA	94133-3517
SAN FRANCISCO	CA	94110-5217
SAN FRANCISCO	CA	94133-4165
SAN FRANCISCO	CA	94133-3515
TAHOE CITY	CA	96145-1548
BERKELEY	CA	94709
SAN FRANCISCO	CA	94133-4113
SAN FRANCISCO	CA	94109
SAN FRANCISCO	CA	94133-3541
SAN FRANCISCO	CA	94133-4113
SAN FRANCISCO	CA	94133-4104
SAN FRANCISCO	CA	94133-3220
SAN FRANCISCO	CA	94117-1507
SAN FRANCISCO	CA	94133-4118
SAN FRANCISCO	CA	94133-3449
SAN FRANCISCO	CA	94133-4160
SAN FRANCISCO	CA	94133-3516
SAN FRANCISCO	CA	94133-4100
SAN FRANCISCO	CA	94133-4113
SAN FRANCISCO	CA	94133-4150
SAN FRANCISCO	CA	94133
MILL VALLEY	CA	94941-3463
SAN FRANCISCO	CA	94112
BELMONT	CA	94002-1622
S SAN FRANCISCO	CA	94080-5369
SAN FRANCISCO	CA	94109
SAN DIEGO	CA	92130
SAN FRANCISCO	CA	94133
SAN FRANCISCO	CA	94133-4143
SAN FRANCISCO	CA	94133-3518

SAN FRANCISCO	CA	94133-3516
SAN FRANCISCO	CA	94133-3505
SAN FRANCISCO	CA	94133-3510
SAN FRANCISCO	CA	94133-4113
SAN FRANCISCO	CA	94133-7242
SANTA CRUZ	CA	95060-4743
SAN FRANCISCO	CA	94133-3510
SAN FRANCISCO	CA	94112
SAN FRANCISCO	CA	94133-3442
SAN FRANCISCO	CA	94133-4104
SAN FRANCISCO	CA	94133-4104
SAN FRANCISCO	CA	94133-3509
SAN FRANCISCO	CA	94133-3449
SAN MATEO	CA	94403-3956
SAN FRANCISCO	CA	94109-1726
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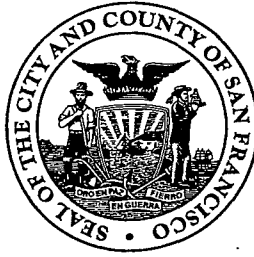
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BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

December 3, 2014

FILE NO. 141244

Received from the Board of Supervisors-Clerk's Office a check in the amount of Five Hundred Forty Seven Dollars (\$547) , representing filing fee paid by Ryan Patterson of Zacks & Freedman for Appeal of Categorical Exemption Determination for 312 Green Street.

Planning Department

By:

Theresa Moneme

Print Name

[Signature] 12/3/14

Signature and Date

1990

**ZACKS & FREDMAN
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

11-8166/3210

11/20/2014

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IDER OF San Francisco Planning Department

\$ **547.00

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

DOLLARS

San Francisco Planning Department



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Appeal

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ST. [Signature]

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

[] Clerk of the Board

Subject:

[] Public Hearing - Appeal of Exemption from Environmental Review - 312 Green Street

The text is listed below or attached:

[] Hearing of persons interested in or objecting to the determination of categorical exemption from environmental review under the California Environmental Quality Act issued by the Planning Department on January 15, 2013, for the proposed project at 312 Green Street. (District 3) (Appellant: Ryan J. Patterson, on behalf of Jack Oswald and Anneke Seley (Filed November 24, 2014).

Signature of Sponsoring Supervisor: []

For Clerk's Use Only:

