



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

APPEAL OF CONDITIONAL USE AUTHORIZATION 395 26th Avenue

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DATE: October 31, 2014

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: John Rahaim, Planning Director – Planning Department (415) 558-6411
Christine Lamorena, Case Planner – Planning Department (415) 575-9085

RE: File No. 141046, Planning Case No. 2013.0205C - Appeal of the approval of Conditional Use Authorization for 395 26th Avenue

HEARING DATE: November 4, 2014

ATTACHMENTS:

- A. Planning Commission Staff Report (Executive Summary, Exhibits, & Final Motion)
- B. Rear Yard Modification and Variance Decision Letter (October 24, 2014)
- C. Project Sponsor Drawings

PROJECT SPONSOR: Gabriel Ng, 1360 9th Avenue, Suite 210, San Francisco, CA 94122

APPELLANT: Stephen Williams, 1934 Divisadero Street, San Francisco, CA 94115

INTRODUCTION:

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (“Board”) regarding the Planning Commission’s (“Commission”) approval of the application for Conditional Use Authorization under Planning Code Sections 303 (Conditional Use Authorization) and 317 (Loss of Dwelling Units through Demolition, Merger, and Conversion), to demolish two residential units at 395 26th Avenue within the Outer Clement Street NCD (Neighborhood Commercial District) and 40-X Height and Bulk District (“the Project”).

This response addresses the appeal (“Appeal Letter”) to the Board filed on October 6, 2014 by Stephen Williams, representing neighbors in opposition to the project. The Appeal Letter referenced the proposed project in Case No. 2013.0205C.

The decision before the Board is whether to uphold or overturn the Planning Commission’s approval of Conditional Use Authorization to demolish two residential units at 395 26th Avenue.

SITE DESCRIPTION & PRESENT USE:

The project site is located on the northwest corner of Clement Street and 26th Avenue, Assessor’s Block 1407, Lot 017. The project site measures 37 feet wide by 118 feet deep with an area of 4,366 square feet.

The existing two-story building currently contains two vacant dwelling units and ground floor commercial space constructed in 1945. A rear portion of the lot is used as surface parking for the two dwelling units.

SURROUNDING PROPERTIES AND NEIGHBORHOOD:

The project site is a corner lot with commercial and residential entrances on 26th Avenue. The adjacent property along 26th Avenue at 377 26th Avenue contains a two-story over garage, four-unit building. The adjacent property along Clement Street at 2510-2512 Clement Street contains two structures. The front structure contains a two-story, mixed-use building with two dwelling units and ground floor commercial space. The rear structure is a one-story, single-family dwelling. Along the subject block on Clement Street and 26th Avenue, all of the buildings are three to four stories in height. Across Clement Street, the building heights are all three stories.

PROJECT DESCRIPTION:

The proposed project would include the demolition of an existing two-story building, subdivision of the existing lot into two lots (Lots A and B), and the construction of two new buildings with a total of six (6) dwelling units, six (6) off-street parking spaces within two (2) at-grade parking garages, and approximately 851 square feet (sq ft) of retail space in Lot A only. The proposed mixed-use building (Lot A) would be approximately 7,533 gross square feet (gsf) and 45-feet tall. The proposed residential building (Lot B), would be approximately 5,414 gsf and 40-feet tall. The project site is located on the block bounded by California Street to the north, Clement Street to the south, 26th Avenue to the east, and 27th Avenue to the west, in the Outer Richmond neighborhood.

The proposed mixed-use building on Lot A would consist of ground floor retail space with two (2) Class 2 bicycle spaces, three (3) dwelling units (flats), four (4) off-street vehicle parking spaces, and three (3) Class I bicycle parking spaces, in an at-grade parking garage, and a roof deck for common open space. The proposed residential building on Lot B would consist of three (3) dwelling units (townhouse and two flats), two (2) vehicle parking spaces, with three (3) Class I bicycle parking spaces, in an at-grade garage, and a roof deck for private open space. The six (6) proposed dwelling units range in size from 1,071 sf to 1,601 sf and each contain three (3) bedrooms.

Access to the ground-floor retail space and residential lobby on Lot A would be through entrances located on Clement Street. Main access to the residential building on Lot B would be from a ground floor lobby on 26th Avenue. Vehicular access to the at-grade parking garages for both buildings would be located on 26th Avenue.

BACKGROUND:

2013 – Conditional Use Authorization, Rear Yard Modification and Variance Applications Filed

On February 16, 2013, the project sponsor conducted a mandatory Pre-Application Meeting with adjacent neighbors and neighborhood organizations to present the project and receive initial feedback.

On February 26, 2013, the project sponsor submitted a Conditional Use Authorization application and Variance application.

On March 13, 2013, the Environmental Planning division of the Planning Department (“Department”) found the project to be categorically exempt from environmental review per Class 3 of the California Environmental Quality Act (Case No. 2013.0205E).

2014 – Conditional Use Authorization and Variance hearings

On January 3, 2014, the Department prepared a shadow fan in accordance with Planning Code Section 295 and determined that the project would not cast shadow onto Recreation and Park properties (Case No. 2013.0205K).

At the January 16, 2014 hearings, the Planning Commission and Zoning Administrator continued the project cases to February 20, 2014 at the request of Supervisor Eric Mar and neighboring opposition to allow for the Project Sponsor and neighboring opposition to meet and discuss the project. The project was then continued from February 20, 2014 to April 4, 2014 and finally from April 4, 2014 to September 4, 2014 at the Project Sponsor’s request.

On January 29, 2014, a meeting between the Project Sponsor and Stephen Williams, representing the immediately adjacent neighbors in opposition to the project, occurred at Supervisor Mar’s office. At the meeting, the Project Sponsor further discussed and clarified the project while the opposition proposed alternatives to the original submittal. No changes to the project were made as a result of this meeting.

On February 6, 2014, a meeting organized by those in opposition to the project was held at the Guang Ci Clinic at 2408 Clement Street. At the meeting, the Project Sponsor presented the project and discussed concerns.

On March 24, 2014, the Project Sponsor submitted an application for lot subdivision (Case No. 2013.0205S).

On May 27, 2014, the Project Sponsor submitted revisions to the Conditional Use and Variance applications and associated building permit applications. The following modifications were made:

1. All proposed bay windows facing the rear yard were eliminated;
2. Each of the units in the Lot B Building will have private usable open space;
3. One of the proposed stair penthouses in the Lot B Building was removed as a result of dedicating the roof deck as private open space;
4. In lieu of a “community room” on the ground floor of the Lot B Building, that space is now connected to the second floor unit with the rear yard as its private usable open space;
5. One additional street tree is proposed for 26th Avenue, for a total of seven (7) street trees for the project.

On August 26, 2014, the Environmental Planning division of the Department found the project to be categorically exempt from environmental review per Class 32 of the California Environmental Quality Act (Case No. 2013.0205E) and the Class 3 exemption was rescinded.

At the September 4, 2014 Commission hearing, the Commission approved Conditional Use Authorization pursuant to Planning Code Sections 303 and 317 to demolish the existing mixed-use building containing two dwelling units and construct two new four-story, three dwelling unit buildings with amendments to eliminate a proposed rear bump-out on Lot B and reduce the parking on Lot B from three spaces to two spaces.

On October 24, 2014, the Zoning Administrator issued the Rear Yard Modification and Variance Decision Letter granting a rear yard modification pursuant to Planning Code Section 134(e) and a street frontage variance pursuant to Planning Code Section 145.1 (Case No. 2013.0205V).

CONDITIONAL USE AUTHORIZATION REQUIREMENTS:

Planning Code Section 303 establishes criteria for the Commission to consider when reviewing all applications for Conditional Use approval. To approve the project, the Commission must find that these criteria have been met:

1. That the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community; and
2. That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:
 - a. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;
 - b. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;
 - c. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
 - d. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and
3. That such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the Master Plan.

In addition, Planning Code Section 317 establishes criteria for the Commission to consider when reviewing applications to demolish or convert residential buildings. These criteria apply to all applications to demolish or convert residential buildings. Unlike the Section 303 findings above which must be met, the Section 317 criteria must only be considered by the Commission. It is within the Commission's discretion to decide how to weigh these criteria for each project.

1. Whether the Project Sponsor has demonstrated that the residential structure is unsound, where soundness is an economic measure of the feasibility of upgrading a residence that is deficient with respect to habitability and Housing Code requirements, due to its original construction. The soundness factor for a structure shall be the ratio of a construction upgrade to the replacement cost, expressed as a percent. A building is unsound if its soundness factor exceeds 50-percent. A residential building that is unsound may be approved for demolition.
2. Whether the property is free of a history of serious, continuing Code violations;
3. Whether the housing has been maintained in a decent, safe, and sanitary condition;
4. Whether the property is an "historical resource" under CEQA;
5. Whether the removal of the resource will have a substantial adverse impact under CEQA;
6. Whether the project converts rental housing to other forms of tenure or occupancy;
7. Whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance or affordable housing;
8. Whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;
9. Whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;
10. Whether the project protects the relative affordability of existing housing;

11. Whether the project increases the number of permanently affordable units as governed by Section 415;
12. Whether the project locates in-fill housing on appropriate sites in established neighborhoods;
13. Whether the project increases the number of family-sized units on-site;
14. Whether the project creates new supportive housing;
15. Whether the project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;
16. Whether the project increases the number of on-site dwelling units;
17. Whether the project increases the number of on-site bedrooms.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES:

The concerns raised in the Appeal Letter are cited in a summary below and are followed by the Department's response:

ISSUE #1: The Project is for demolition of two sound, affordable rent-controlled units.

RESPONSE #1a: The Project would demolish two dwelling units (3 bedrooms total) to be replaced with six dwelling units (18 bedrooms total), a net increase of four dwelling units. Although the two existing dwelling units are subject to the Rent Stabilization and Arbitration Ordinance due to the age of the building, constructed before June 13, 1979, the units are currently vacant and not rented. Furthermore, if the two units were to be rented, the Rent Ordinance does not regulate the initial rent for new tenancies. Therefore, each unit could be rented at market rate (CA Civil Code Section 1954.53). While the units could become affordable overtime, the units are currently vacant and would be rented at market rate if placed on the market.

The Appellant claims that the Commission's approval was in error and contrary to all controlling public policy. Motion No. 19229, Findings 7, 8, 9 and 10 indicate that the project is, on balance, consistent with Conditional Use findings per Planning Code Section 303, Dwelling Unit Removal findings per Planning Code Section 317, Objectives and Policies of the General Plan findings, and the Priority Planning policies per Planning Code Section 101.1. Findings of consistency require a balancing of policies and a determination of overall consistency. In preparing proposed findings for the Commission's consideration, the Department identified those criteria, objectives, and policies that were most applicable to the Project, as is its practice, and the Commission, in approving the motion, agreed with the Department and embraced the findings as their own.

Discussion between Commissioners at the hearing regarding Mayor's Executive Directive 13-01¹ acknowledged the challenge between encouraging housing production versus retaining existing housing. Commissioners noted that although the project would remove two vacant units, the project would result in the addition of six larger, well-designed units and a net gain of four units. In addition to the quantity of units, the project also provides "family-sized" units, which is also prioritized in the General Plan. The Commission ultimately voted (+4 -3) to approve the project.

RESPONSE #1b: Contrary to the Appellant's statement, the Commission's approval is not "contrary to all controlling public policy." The General Plan policies both encourage the retention of existing housing as

¹ The Mayor released this executive directive, known as the Housing Production & Preservation of Rental stock, on December 18, 2013. This directive both sought to prioritize the building of new housing as well as to retain the existing housing stock.

well as the production of new housing. It is a rare project that is consistent with the General Plan in its entirety. Therefore, the question remains is the project, on balance, consistent with the Plan. In this case, the answer is yes. In addition to Finding 9 of Motion No. 19229, the project would be consistent with the following General Plan policies in the Housing Element:

- **OBJECTIVE 1: IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.**
 - **POLICY 1.10:** Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.
- **OBJECTIVE 2: RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.**
 - **POLICY 2.1:** Discourage the demolition of sound existing housing, *unless the demolition results in a net increase in affordable housing.* (Emphasis added)
- **OBJECTIVE 4: FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.**
 - **POLICY 4.1:** Develop new housing, and encourage the remodeling of existing housing, *for families with children.* (Emphasis added)
- **OBJECTIVE 12: BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.**
 - **POLICY 12.1:** Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.
 - **POLICY 12.2:** Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units.
 - **POLICY 12.3:** Ensure new housing is sustainably supported by the City's public infrastructure systems.

ISSUE #2: The Project does not meet the mandatory criterion for a demolition.

RESPONSE #2: Contrary to the Appellant's submittal, the project meets 13 of the 17 criteria per Planning Code Section 317. The criteria are as follows:

- i. Whether the Project Sponsor has demonstrated that the residential structure is unsound...

Project does not meet criterion. The Project Sponsor has not submitted a soundness report, as he does not contend that the building is unsound.

- ii. Whether the property is free of a history of serious, continuing code violations;

Project meets criterion. A review of the Department of Building Inspection and the Planning Department databases showed no enforcement cases or notices of violation for the subject property.

- iii. Whether the housing has been maintained in a decent, safe, and sanitary condition;

Project meets criterion. The structure appears to be in decent condition, although the existing dwelling units' sizes, design and construction deficiencies are evident.

- iv. Whether the property is an "historic resource" under CEQA;

Project meets criterion. Although the existing structure is more than 50 years old, a review of the supplemental information resulted in a determination that the structure is not a historical resource.

- v. Whether the removal of the resource will have a substantial adverse impact under CEQA;

Project meets criterion. Not applicable. The structure is not a historical resource.

- vi. Whether the project converts rental housing to other forms of tenure or occupancy;

Project meets criterion. The Project would remove two vacant units from the City's housing stock. There are no restrictions on whether the four new units will be rental or ownership.

- vii. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;

Project does not meet criterion. The two units were owner occupied before the current property owner purchased the building in January 2013. Although both units remain vacant under the current property owner, the units would be subject to the Rent Stabilization and Arbitration Ordinance due to the age of the building (constructed before June 13, 1979).

- viii. Whether the Project conserves existing housing to preserve cultural and economic neighborhood diversity;

Project meets criterion. Although the Project proposes demolition of a two-bedroom unit and a one-bedroom unit, the number of units would be increased at the project site. The replacement structure primarily fronting on Clement Street is proposed as a three-unit building and the replacement structure fronting on 26th Avenue is proposed as another three-unit building.

- ix. Whether the Project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

Project meets criterion. The replacement buildings conserve neighborhood character with appropriate scale, design, and materials, and improve cultural and economic diversity by appropriately increasing the number of bedrooms, which provide family-sized housing. The project would conserve the existing number of dwelling units, while providing a net gain of four units to the City's housing stock.

- x. Whether the Project protects the relative affordability of existing housing;

Project does not meet criterion. The project does not protect the relative affordability of existing housing, as the project proposes demolition of the existing dwelling units.

- xi. Whether the Project increases the number of permanently affordable units as governed by Section 415;

Project meets criterion. The project is not subject to the provisions of Planning Code Section 415, as the project proposes less than ten units.

- xii. Whether the Project locates in-fill housing on appropriate sites in established neighborhoods;

Project meets criterion. The project has been designed to be in keeping with the scale and development pattern of the established neighborhood character.

- xiii. Whether the Project creates quality, new family housing;

Project meets criterion. The project proposes six opportunities for family-sized housing. Three-bedroom units are proposed.

- xiv. Whether the Project creates new supportive housing;

Project does not meet criterion. The project does not create supportive housing.

- xv. Whether the Project promotes construction of well-designed housing to enhance existing neighborhood character;

Project meets criterion. The overall scale, design, and materials of the proposed buildings are consistent with the block faces and compliment the neighborhood character with a contemporary design.

- xvi. Whether the Project increases the number of on-site dwelling units;

Project meets criterion. The project would increase the number of on-site units with a net gain of four units.

- xvii. Whether the Project increases the number of on-site bedrooms.

Project meets criterion. The project proposes 18 bedrooms. The existing building contains three bedrooms.

ISSUE #3: UDAT (Urban Design Advisory Team) requested a Project with a 25% rear yard – the developer proposes 10%; the developer refused to comply with Department directives for a project without variances; the requested variances hurt the neighbors and are not justified from an “exceptional and extraordinary” hardship.

RESPONSE #3: In raising this issue, the Appellant challenges the Zoning Administrator (“ZA”) determination on a variance for the proposed project. As the Board is aware, the ZA’s decision to grant a Rear Yard Modification and Street Frontage Variance is appealable to the Board of Appeals per Planning Code Section 308.2. Thus, the following response is provided for informational purposes for the Board and public.

The Appellant claims that the Project proposes a 10% rear yard where a 25% rear yard is required. This is incorrect. Overall, the Project requires 25% rear yard, but in no case less than 15 feet at all levels for each proposed lot. On proposed Lot A, the Project partially meets the rear yard requirement by providing a 15-foot rear yard depth at all levels except for the ground level. On proposed Lot B, the Project partially meets the rear yard requirement by providing an approximately 13-foot rear yard at all levels where a 15-foot rear yard depth at all levels is required. In addition, the Project proposes a comparable amount of usable open space per Planning Code Section 135 on a proposed deck and roof decks.

Planning Code Section 134(e)(1) allows for modification of the rear yard requirement for properties in NC Zoning Districts if three criterion are met. In the Decision Letter, the ZA identified those criteria, determined that all three requirements were met, and granted the modification.

Furthermore, the Appellant mistakenly confuses the findings required to grant a modification versus those findings required to grant a variance. The three criteria required to grant a modification do not include findings demonstrating an “exceptional and extraordinary” hardship.

ISSUE #4: The Project requests a parking variance for a transit corridor and fails to even build to the prescribed density for the new project.

RESPONSE #4a: As previously noted, the ZA’s decision to grant a Rear Yard Modification and Street Frontage Variance is appealable to the Board of Appeals per Planning Code Section 308.2. Thus, the following response is provided for informational purposes for the Board and the public.

The Appellant claims that a parking variance is being sought. This is incorrect. As explained in the ZA’s Decision Letter, the Project includes the granting of a Street Frontage Variance per Planning Code Section 145.1 for not setting back the required parking 25 feet from the street frontage on 26th Avenue.

It should also be noted that the proposal includes the minimum number of required off-street parking spaces and does not propose to “over-park”. Planning Code Section 151 requires a minimum of one off-street parking space per dwelling unit and one off-street parking space per 500 square feet of occupied floor area for commercial spaces, where the occupied floor area exceeds 5,000 square feet. The Project originally proposed seven off-street parking spaces (six required spaces for the six dwelling units and one space for the commercial unit, though not required). The Project was revised to reduce the parking to six off-street spaces for the residential dwelling units as directed by the Commission at the September 4, 2014 hearing. In spite of this reduction, the project continues to meet the minimum parking requirement.

RESPONSE #4b: Neither the Planning Code nor the General Plan prescribe minimum density. While some other jurisdictions may require a minimum density in transit-rich areas, San Francisco does not. Instead, San Francisco establishes maximum density for this area but does not require that the project achieve maximum density. Furthermore, the Housing Element of the General Plan includes Policy 4.1 (see Response #1b), which encourages that housing be developed for families with children, acknowledging that the need for family housing is growing as larger, extended families increase and as more and more households desire to stay in the City as they have children.

With respect to the Appellant’s concern regarding density, the Appellant is correct in that up to four dwelling units are permitted as-of-right on each proposed lot. However, it is not uncommon for a project to propose less than the prescribed density given the multitude of other Planning Code requirements a Project Sponsor must consider when developing a project and given the fact that the Project proposes family-sized units, each with three-bedrooms, a trade-off supported by Policy 4.1. Lastly, although the Project proposes less than the maximum density with six proposed dwelling units where eight are

permitted, the Project would bring the property into closer conformity with the maximum residential density allowed in the Outer Clement NCD.

CONCLUSION:

For the reasons stated above, the Department recommends that the Board uphold the Commission's decision in approving the Conditional Use authorization for the demolition of the two-story, mixed-use building, construction of the two new four-story, three-unit buildings, and deny the Appellant's request for appeal.



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use / Residential Demolition

HEARING DATE: SEPTEMBER 4, 2014

Date: August 28, 2014
Case No.: **2013.0205CEKSV**
Project Address: **395 26th AVENUE**
Zoning: Outer Clement Street Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 1407/017
Project Sponsor: Gabriel Ng
Gabriel Ng & Architects, Inc.
1360 9th Avenue, Suite 210
San Francisco, CA 94122
Staff Contact: Christine Lamorena – (415) 575-9085
christine.lamorena@sfgov.org
Recommendation: Approval with Conditions

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BACKGROUND

At the January 16, 2014 hearing, the Planning Commission continued the project to February 20, 2014 at the request of Supervisor Eric Mar and neighboring opposition to allow for the Project Sponsor and neighboring opposition to meet and discuss the project. The project was then continued from February 20, 2014 to April 4, 2014 and most recently from April 4, 2014 to September 4, 2014 at the Project Sponsor's request.

PROJECT DESCRIPTION

The proposed project would include the demolition of an existing two-story building, subdivision of the existing lot into two lots (Lots A and B), and the construction of two new buildings with a total of six (6) dwelling units, seven (7) off-street parking spaces within two (2) at-grade parking garages, and approximately 851 square feet (sq ft) of retail space in Lot A only. The proposed mixed-use building (Lot A) would be approximately 7,533 gross square feet (gsf) and 45-feet tall. The proposed residential building (Lot B), would be approximately 5,667 gsf and 40-feet tall.

The proposed mixed-use building on Lot A would consist of ground floor retail space with two (2) Class 2 bicycle spaces, three (3) three-bedroom units, four (4) off-street vehicle parking spaces, and three (3) Class I bicycle parking spaces, in an at-grade parking garage, and a roof deck for common open space. The proposed residential building on Lot B would consist of three (3) dwelling units (townhouse and two flats), three (3) vehicle parking spaces, with three (3) Class I bicycle parking spaces, in an at-grade garage, and a roof deck for private open space.

Access to the ground-floor retail space and residential lobby on Lot A would be through entrances located on Clement Street. Main access to the residential building on Lot B would be from a ground floor lobby on 26th Avenue. Vehicular access to the at-grade parking garages for both buildings would be located on 26th Avenue.

Pursuant to Planning Code 317 (c), “where an application for a permit that would result in the loss of one or more Residential Units is required to obtain Conditional Use Authorization by other sections of this Code, the application for a replacement building or alteration permit shall also be subject to Conditional Use requirements.” This report includes findings for Conditional Use Authorization in addition to Demolition Criteria established in Planning Code Section 317.

DEMOLITION APPLICATION		NEW BUILDING APPLICATION	
Demolition Case Number	2013.0205C	New Building Case Number	2013.0205C
Recommendation	Approve w/ Conditions	Recommendation	Approve w/ Conditions
Demolition Application Number	2013.03.05.1498	New Buildings Application Numbers	2013.03.05.1501 2013.03.05.1508
Number Of Existing Units	2	Number Of New Units	6
Existing Parking	3 (surface lot at rear)	New Parking	7 (at-grade garages)
Number Of Existing Bedrooms	3	Number Of New Bedrooms	18
Existing Building Area	±1,955 Sq. Ft.	New Building Area	±7,533 Sq. Ft. (Lot A) ±5,667 Sq. Ft. (Lot B)

SITE DESCRIPTION AND PRESENT USE

The project site is located on the northwest corner of Clement Street and 26th Avenue, Assessor’s Block 1407, Lot 017. The project site is within the Outer Clement Street Neighborhood Commercial Zoning District (NCD) and a 40-X Height and Bulk District. The existing two-story building currently contains two dwelling units and ground floor commercial space. A rear portion of the lot is used as surface parking for the two dwelling units. The project site measures 37 feet wide by 118 feet deep with an area of 4,366 square feet.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is a corner lot with commercial and residential entrances on 26th Avenue. The adjacent property along 26th Avenue at 377 26th Avenue contains a two-story over garage, four-unit building. The adjacent property along Clement Street at 2510-2512 Clement Street contains two structures. The front structure contains a two-story, mixed-use building with two dwelling units and ground floor commercial space. The rear structure is a one-story, single-family dwelling. Along the subject block on Clement Street and 26th Avenue, all of the buildings are three to four stories in height. Across Clement Street, the building heights are all three stories.

REPLACEMENT STRUCTURES

New construction of a four-story, three-unit building with approximately 851 square feet of ground floor commercial space, and a four-car garage is proposed at the corner of Clement Street and 26th Avenue (Lot A). The three upper floors of the building would each contain three-bedroom units. Residential and commercial entries would be on Clement Street while the garage entry would be on 26th Avenue. The proposed garage would utilize stackers for the four spaces.

New construction of a four-story, three-unit building with a three-car garage is proposed on 26th Avenue (Lot B). The three upper floors of the building would each contain three-bedroom units. All entrances into the building would be on 26th Avenue.

ENVIRONMENTAL REVIEW

On August 26, 2014, the Environmental Planning division of the Planning Department found the project to be categorically exempt from environmental review per Class 32 per the California Environmental Quality Act (CEQA).

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	20 days	December 27, 2013	December 27, 2013	20 days
Mailed Notice	20 days	December 27, 2013	December 27, 2013	20 days
Ad Notice	20 days	December 27, 2013	December 27, 2013	20 days

The proposal requires a public notice per Planning Code Section 312 and the related variance request, which was conducted in conjunction with the Conditional Use Authorization process.

PUBLIC COMMENT

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)	0	3	0
Other neighbors on the block or directly across the street	6	6	0
Neighborhood groups	0	0	0

To date, the Department has received the following public comment:

- o 112 letters and petitions in support of the project
- o An online petition (www.change.org) with 171 persons opposed to the project
- o Petitions with 137 signatures of persons opposed to the project
- o One email and five phone calls opposed to the project
- o Two phone calls and two emails with no position, but requesting additional information.

Those opposed to the project have the following concerns: loss of view, loss of light, loss of on-street parking, and the project being too large and out of scale in the existing neighborhood.

ISSUES AND OTHER CONSIDERATIONS

- On January 3, 2014, per Case No. 2013.0205K, the Department prepared a shadow fan in accordance with Planning Code Section 295 and determined that the project would not cast shadow onto Recreation and Park properties.
- The Project Sponsor is seeking a rear yard modification pursuant to Planning Code Section 134(e) and a street frontage variance pursuant to Planning Code Section 145.1. The Zoning Administrator will hold a Variance hearing (Case No. 2012.0205V) for the project concurrent with the Conditional Use hearing.
- The following events have taken place since the January 16, 2014 hearing:
 - *Draft Motion Amended.* The Draft Motion contains criteria for the Planning Commission to consider when reviewing applications to demolish residential buildings pursuant to Planning Code Section 317. Criteria #7, which describes whether the project removes rental units subject to the Rent Stabilization and Arbitration Ordinance has been amended to acknowledge that although both units remain vacant under the current property owner (purchased in January 2013), the units would be subject to the Rent Stabilization and Arbitration Ordinance due to the age of the building, constructed before June 13, 1979 (see attached Draft Motion).
 - *Meeting with Supervisor Mar.* On January 29, 2014, a meeting between the Project Sponsor and Stephen Williams, representing the immediately adjacent neighbors in opposition to the project, occurred at Supervisor Mar's office. At the meeting, the Project Sponsor further discussed and clarified the project while the opposition proposed alternatives to the original submittal. No changes to the project were made as a result of this meeting.
 - *Neighborhood Meeting.* On February 6, 2014, a meeting organized by those in opposition to the project was held at the Guang Ci Clinic at 2408 Clement Street. At the meeting, the Project Sponsor presented the project and discussed concerns.
 - *Subdivision Application Submitted.* On March 24, 2014, the Project Sponsor submitted an application for lot subdivision (Case No. 2013.0205S).
 - *Plan Revisions Submitted.* On May 27, 2014, the Project Sponsor submitted revisions to the Conditional Use and Variance applications and associated building permit applications. The following modifications were made:
 1. All the bay windows facing the rear yard were removed;
 2. Each of the units in the Lot B Building will have private usable open space;
 3. One of the stair penthouses in the Lot B Building was removed as a result of dedicating the roof deck as private open space;
 4. In lieu of a "community room" on the ground floor of the Lot B Building, that space is now connected to the second floor unit with the rear yard as its private usable open space;
 5. One additional street tree is proposed for 26th Avenue, for a total of seven (7) street trees for the project.

- *Categorical Exemption, Class 32 Issued.* On August 27, 2014, the Planning Department issued a Certificate of Class 32 categorical exemption (State CEQA Guidelines Section 15332), which supersedes the Class 3 categorical exemption originally issued for the project.

URBAN DESIGN ADVISORY TEAM REVIEW

The requests for demolition and new construction were reviewed by the Department's Urban Design Advisory Team (UDAT). UDAT's comments include:

- For both buildings
 - Provide Code-complying rear yards at grade.
 - Program the ground floor with active uses and set back parking at least 25 feet.
 - Minimize parking ingress/egress.
 - Locate bike parking to be as close as possible to the lobby or garage entrance.
 - Refine window and bay proportions.
- For the Clement Street building:
 - Differentiate the base of the building from the body of the building.
- For the 26th Avenue building:
 - Better express the residential entrance and transition along 26th Avenue.
 - Further differentiate the uppermost floor to achieve a more harmonious transition by removing the eyebrow cornice.
 - Wrap the front façade materials to the northern wide wall.
 - Increase the height of the bulkhead below the windows on the ground floor.
 - Revising the fenestration to a more residential scale.

The Project Sponsor made the above changes to the proposal per UDAT comments and UDAT supports the project, with the exception of the rear yard and parking setback comments subject to the variance request.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use Authorization as the project proposes to demolish two dwelling units pursuant to Planning Code Sections 303 and 317.

BASIS FOR RECOMMENDATION

The Department recommends that the demolition of the existing building containing two dwelling units and the construction of two new four-story, three-unit buildings be approved. The project is consistent with the Objectives and Policies of the General Plan and complies with the Planning Code (except for the rear yard and street frontage requirements). The project meets the criteria set forth in Planning Code Section 101.1 and 317 of the Planning Code in that:

- The project will result in a net gain of 15 bedrooms.
- The project will create six family-sized dwelling units, each with three bedrooms.

- Given the scale of the project, there would be no significant impact on the existing capacity of the local street system or MUNI.
- The replacement buildings would be consistent with the size and density of the immediate neighborhood. The project is therefore an appropriate in-fill development.
- Although the existing structure proposed for demolition is more than 50 years old, the Historic Resource Evaluation resulted in a determination that the existing building is not a historic resource or landmark.

In addition, the Department believes this project is necessary and/or desirable under Planning Code Section 303 for the following reasons:

- The project replaces existing units with more functional, family-sized housing.
- The project appropriately in-fills the site with development that is compatible with the neighborhood character of Clement Street and 26th Avenue.
- The project would bring the unit density into closer conformity with the Outer Clement NCD.
- The project area is well served by transit and the project proposes the required number of parking spaces; therefore the project should not affect traffic or MUNI.
- The project meets all applicable requirements of the Planning Code (except for the rear yard and street frontage requirements).

RECOMMENDATION: Approval with Conditions
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Attachments:

- Parcel Map
- Sanborn Map
- Zoning Map
- Aerial Photographs
- Site Photograph
- Conditional Use Application
- Dwelling Unit Removal Application
- Environmental Evaluation / Historic Resources Information
- Public Comment Emails
- Project Sponsor Submittal:

- Cover Letter from Alice Barkley, dated August 25, 2014
- Exhibit 1
- Letter from Mary Tom, dated August 25, 2014
- Support Letter & Petitions

Opposition Submittal:

- Cover Letter from Stephen Williams, dated August 26, 2014
- Exhibits 1-10

- Renderings
- Revised Drawings

Attachment Checklist

- | | |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input checked="" type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input type="checkbox"/> Context Photos | 3-D Renderings (new construction or significant addition) |
| <input checked="" type="checkbox"/> Site Photos | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> RF Report |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Community Meeting Notice |
| | <input checked="" type="checkbox"/> Environmental Determination |

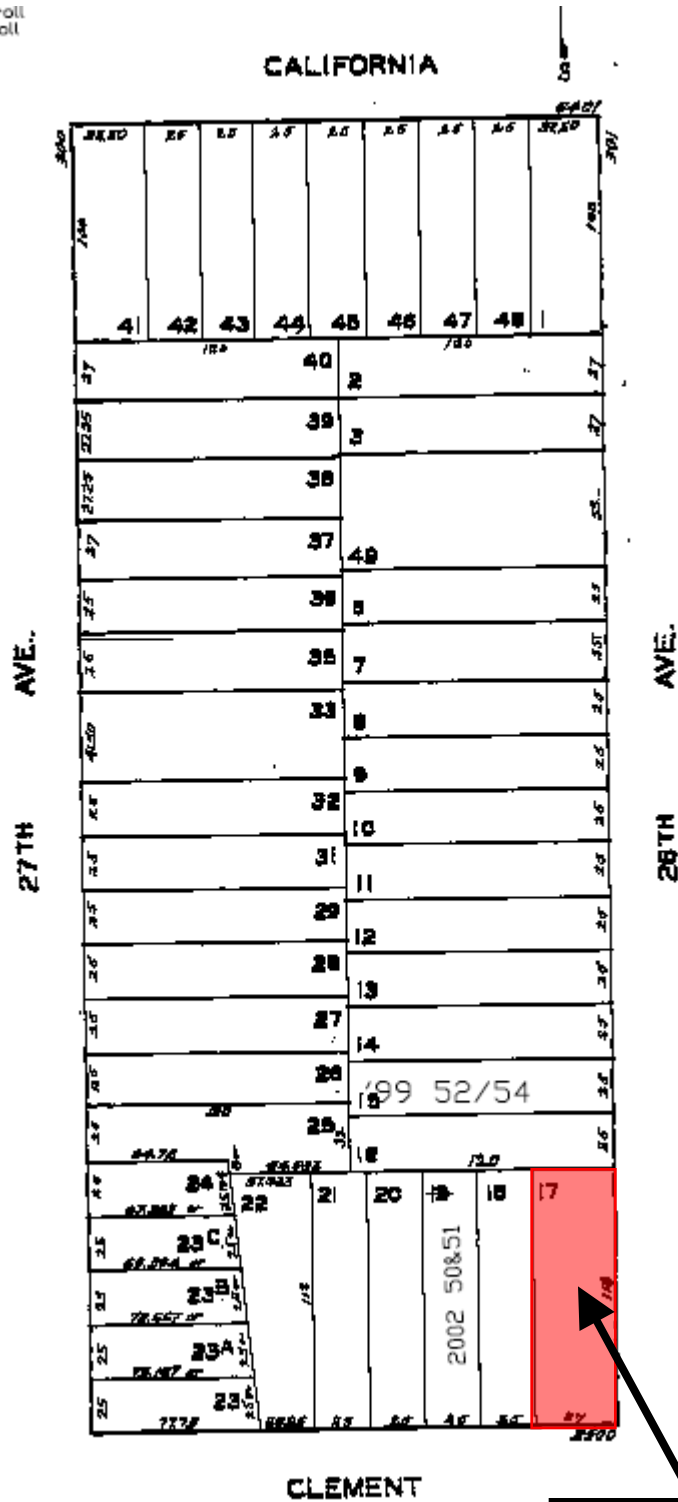
Exhibits above marked with an "X" are included in this packet

CL _____
Planner's Initials

CL: G:\DOCUMENTS\2013\CU\2013.0205\395 26th Ave - Executive Summary 082814.doc

Parcel Map

399 roll
102 roll

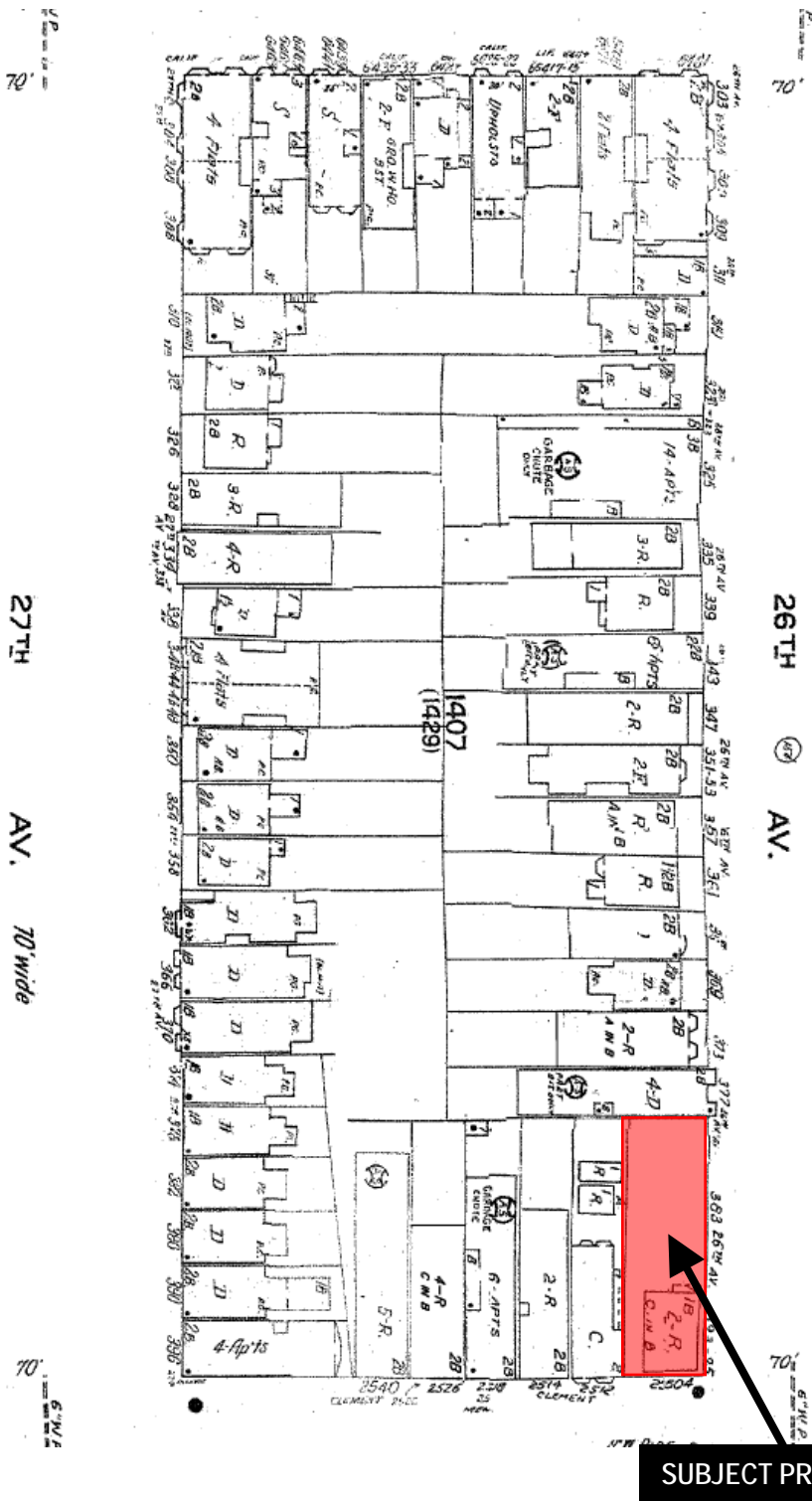


SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2013.0205CEKSV
395 26th Avenue
Block 1407 Lot 017

Sanborn Map*

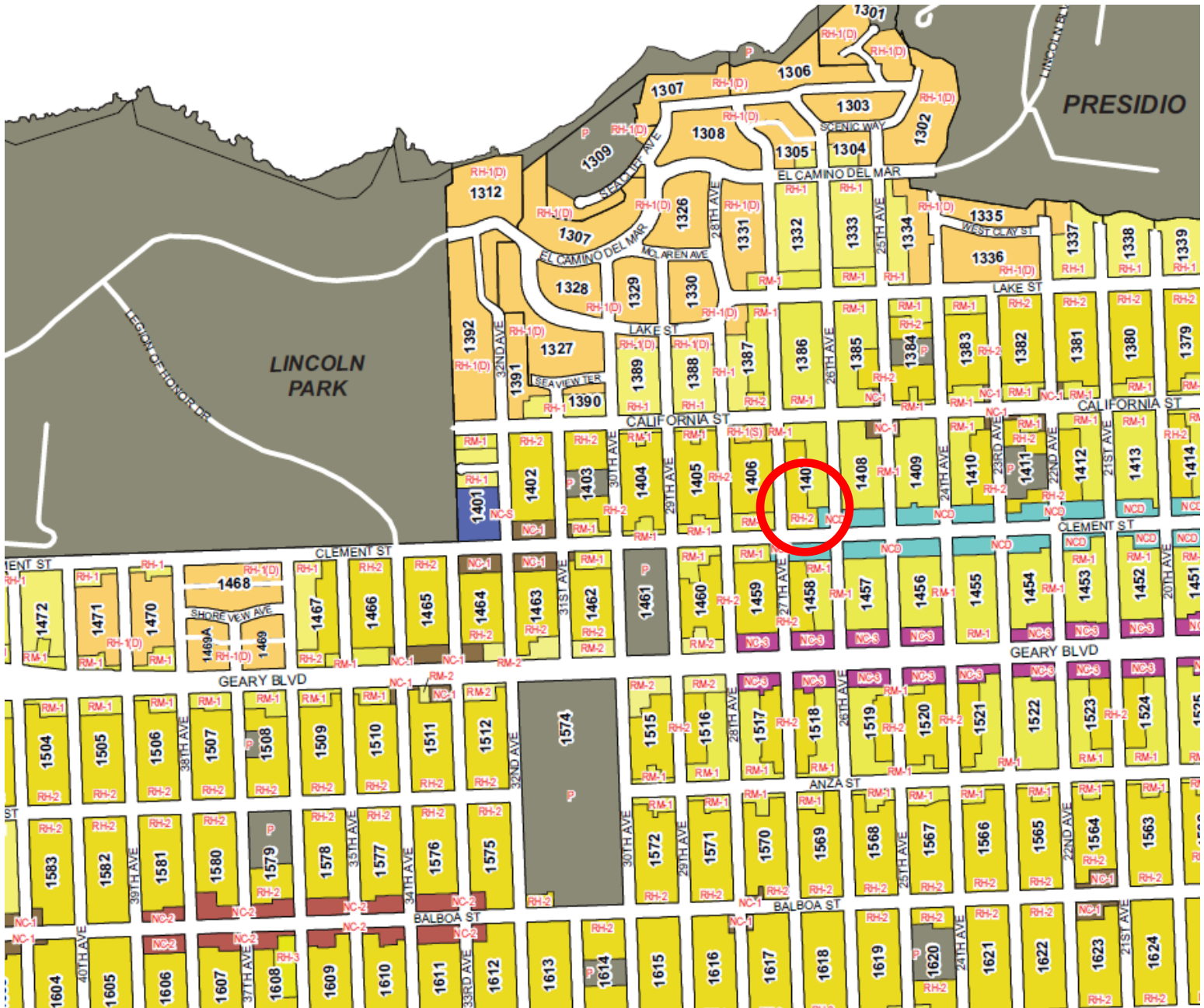


*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Conditional Use Hearing
 Case Number 2013.0205CEKSV
 395 26th Avenue
 Block 1407 Lot 017

Zoning Map



Conditional Use Hearing
Case Number 2013.0205CEKSV
395 26th Avenue
Block 1407 Lot 017

Aerial Photo – looking north



SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2013.0205CEKS
395 26th Avenue
Block 1407 Lot 017

Aerial Photo – looking west



SUBJECT PROPERTY

Conditional Use Hearing
Case Number 2013.0205CEKSV
395 26th Avenue
Block 1407 Lot 017

Site Photo



SUBJECT PROPERTY

Conditional Use Hearing
Case Number 2013.0205CEKSV
395 26th Avenue
Block 1407 Lot 017



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other |

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Planning Commission Motion No. 19229

HEARING DATE: SEPTEMBER 4, 2014

Date: August 28, 2014
Case No.: **2013.0205CEKSV**
Project Address: **395 26th AVENUE**
Zoning: Outer Clement Street Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 1407/017
Project Sponsor: Gabriel Ng
Gabriel Ng & Architects, Inc.
1360 9th Avenue, Suite 210
San Francisco, CA 94122
Staff Contact: Christine Lamorena – (415) 575-9085
christine.lamorena@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 317 REQUIRING CONDITIONAL USE AUTHORIZATION FOR THE REMOVAL OF TWO OR MORE RESIDENTIAL UNITS.

PREAMBLE

On February 26, 2013, Gabriel Ng of Gabriel Ng & Architects, Inc. (Project Sponsor) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 303 and 317 to demolish two residential units at 395 26th Avenue within the Outer Clement Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District.

On January 16, 2014, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0205C. The Commission continued the item from January 16, 2014 to February 20, 2014, and then to April 4, 2014 and lastly to September 4, 2014.

On September 4, 2014, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0205C.

On August 26, 2014 the Project was determined by the Department to be categorically exempt from environmental review under Case No. 2013.0205E. The Commission has reviewed and concurs with said determination.

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.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.0205C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The proposed project would include the demolition of an existing two-story building, subdivision of the existing lot into two lots (Lots A and B), and the construction of two new buildings with a total of six (6) dwelling units, seven (7) off-street parking spaces within two (2) at-grade parking garages, and approximately 851 square feet (sq ft) of retail space in Lot A only. The proposed mixed-use building (Lot A) would be approximately 7,533 gross square feet (gsf) and 45-feet tall. The proposed residential building (Lot B), would be approximately 5,667 gsf and 40-feet tall. The project site is located on the block bounded by California Street to the north, Clement Street to the south, 26th Avenue to the east, and 27th Avenue to the west, in the Outer Richmond neighborhood.

The proposed mixed-use building on Lot A would consist of ground floor retail space with two (2) Class 2 bicycle spaces, three (3) three-bedroom units, four (4) off-street vehicle parking spaces, and three (3) Class I bicycle parking spaces, in an at-grade parking garage, and a roof deck for common open space. The proposed residential building on Lot B would consist of three (3) dwelling units (townhouse and two flats), three (3) vehicle parking spaces, with three (3) Class I bicycle parking spaces, in an at-grade garage, and a roof deck for private open space.

Access to the ground-floor retail space and residential lobby on Lot A would be through entrances located on Clement Street. Main access to the residential building on Lot B would be from a ground floor lobby on 26th Avenue. Vehicular access to the at-grade parking garages for both buildings would be located on 26th Avenue.

3. **Site Description and Present Use.** The project site is located on the northwest corner of Clement Street and 26th Avenue, Assessor's Block 1407, Lot 017. The project site is within the Outer Clement Street Neighborhood Commercial Zoning District (NCD) and a 40-X Height and Bulk District. The existing two-story building currently contains two dwelling units and ground floor

commercial space. A rear portion of the lot is used as surface parking for the two dwelling units. The project site measures 37 feet wide by 118 feet deep with an area of 4,366 square feet.

4. **Surrounding Properties and Neighborhood.** The project site is a corner lot with commercial and residential entrances on 26th Avenue. The adjacent property along 26th Avenue at 377 26th Avenue contains a two-story over garage, four-unit building. The adjacent property along Clement Street at 2510-2512 Clement Street contains two structures. The front structure contains a two-story, mixed-use building with two dwelling units and ground floor commercial space. The rear structure is a one-story, single-family dwelling. Along the subject block on Clement Street and 26th Avenue, all of the buildings are three to four stories in height. Across Clement Street, the building heights are all three stories.
5. **Public Comment.** The Department has received the following public comment:
 - a. 112 letters and petitions in support of the project
 - b. An online petition (www.change.org) with 171 persons opposed to the project
 - c. Petitions with 137 signatures of persons opposed to the project
 - d. One email and five phone calls opposed to the project
 - e. Two phone calls with no position, but requesting additional information.

Those opposed to the project have the following concerns: loss of view, loss of light, loss of on-street parking, and the project being too large and out of scale in the existing neighborhood.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Residential Demolition.** Pursuant to Planning Code Section 317, Conditional Use Authorization is required for applications proposing to remove two or more residential units in the Outer Clement Street NCD. This Code Section establishes a checklist of criteria that delineate the relevant General Plan Policies and Objectives.

As the project requires Conditional Use Authorization per the requirements of Section 317, the additional criteria specified under Section 317 have been incorporated as findings in this Motion. See Item 7, "Additional Findings pursuant to Section 317" below.

- B. **Lot Size.** Planning Code Section 121 requires a lot size of 1,750 square feet for lots within 125 feet of an intersection.

After the proposed lot subdivision, the Clement Street lot with primary frontage on Clement Street would measure 2,200 square feet and the 26th Avenue lot with frontage on 26th Avenue would measure 2,146 square feet.

- C. **Residential Density.** Planning Code Section 717.91 permits a density ratio of one dwelling unit for each 600 square feet of lot area.

Up to four dwelling units are permitted on each of the subdivided lots. The proposed unit count of three dwelling units each complies with the prescribed density.

- D. **Rear Yard Requirement.** Planning Code Section 134 requires a rear yard measuring 25 percent of the total depth at grade level and at each succeeding level or story of the building in the Outer Clement Street NCD.

After the proposed lot subdivision, the Clement Street lot with primary frontage on Clement Street would measure 60 feet deep and the 26th Avenue lot with frontage on 26th Avenue would measure 37 feet deep. The required rear yard for the Clement Street lot is 15 feet; however, the project proposes full lot coverage on the ground floor with a roof deck above. The required rear yard for the 26th Avenue lot is also 15 feet; however, the project proposes a partial rear yard on the ground floor at a depth of 13 feet with a portion of the garage and a roof deck extending into required rear yard. Therefore, the Project Sponsor is seeking a rear yard modification for the project.

- E. **Open Space.** Planning Code Section 135 requires 100 square feet of common usable open space or 80 square feet of private usable open space per dwelling unit.

For the Clement Street building, the project proposes 340 square feet of common open space on the proposed roof deck where 212.8 square feet are required and 519 square feet of private open space on a rear deck where 80 square feet are required. For the 26th Avenue building, the project proposes 1,044 square feet of private open space in a rear yard, rear deck, and roof deck where 240 square feet are required.

- F. **Street Frontage in Neighborhood Commercial Districts.** Planning Code Section 145.1 requires the following:

1. **Above-Grade Parking Setback.** Off-street parking at street grade on a development lot must be set back at least 25 feet from the front of the development on the ground floor.

The project proposes parking at the property line along 26th Avenue, not set back 25 feet. The Project Sponsor is requesting a variance from this section of the Planning Code.

2. **Parking and Loading Entrances.** No more than one-third of the width or 20 feet, whichever is less, of any given street frontage of a new structure parallel to and facing a street shall be devoted to parking and loading ingress or egress.

The proposed parking entrance for the Clement Street building is 16 feet wide and the proposed parking entrance for the 26th Avenue building is 12 feet wide. Two curb cuts along 26th Avenue, each 10 feet wide, are proposed.

3. **Active Uses Required.** With the exception of space allowed for parking and loading access, building egress, and access to mechanical systems, space for active uses shall be

provided within the first 25 feet of building depth on the ground floor from any façade facing a street at least 30 feet in width.

Active ground floor uses (commercial use at the Clement Street building and residential use at the 26th Avenue building) are proposed within the first 25 feet of the building depth on the ground floor of each building.

4. **Ground Floor Ceiling Height.** Ground floor non-residential uses in NC Districts shall have a minimum floor-to-floor height of ten feet in a 40-foot height district.

The proposed ground floor ceiling heights for both buildings would be a minimum of ten feet tall.

5. **Street-Facing Ground-Level Spaces.** The floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to those spaces.

The proposed active uses and residential lobbies are designed along the property lines of the subject lot.

6. **Transparency and Fenestration.** Frontages with active uses that are not residential must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area.

The proposed commercial use in the Clement Street building contains approximately 911 square feet of exterior ground floor wall area. Approximately 550 square feet of wall area would be dedicated to glazing, which is equivalent to approximately 60 percent transparency.

7. **Gates, Railings, and Grillwork.** Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind floor windows, shall be at least 75 percent open to perpendicular view.

No gates, railing, or grillwork are proposed.

- G. **Parking.** Planning Code Section 151 requires one parking space for each dwelling unit.

The project proposes seven parking spaces for the six replacement dwelling units.

- H. **Bicycle Parking.** Planning Code Section 155 requires one Class 1 Bicycle Parking space for every dwelling unit and a minimum of two Class 2 spaces for the commercial use.

The project proposes six Class 1 bicycle parking spaces that satisfy the bicycle parking requirements. The two Class 2 spaces are provided with a bike rack on Clement Street.

- I. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed Project is located in a 40-X Height and Bulk District, with a 40-foot height limit. Planning Code Section 263.20 allows for a special height exemption of five feet for active ground floor uses.

The project proposes two replacement buildings. The Clement Street building is proposed at 45 feet tall, utilizing the five-foot height exemption for an active ground floor use as a commercial space. The 26th Avenue building is proposed to be 40 feet tall.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The use and size of the proposed project is compatible with the immediate neighborhood. While the project proposes demolition of two units, the proposed density of six units distributed into two, three-unit buildings is more desirable in terms of compatibility with the surrounding housing density and the Outer Clement Street NCD. The replacement buildings are also designed to be consistent with the existing development pattern and the neighborhood character. Both new buildings are four-story buildings; however, the building fronting on 26th Avenue proposes a design and massing that respects the predominant pattern of three-story residential facades along both sides of 26th Avenue.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The project is designed to be compatible with the surrounding neighborhood and specifically with the adjacent buildings. The proposed size, shape and arrangement of the project are in keeping with the development pattern of the block. The 26th Avenue building is set back at the rear and side to respect a single-family noncomplying structure in the adjacent lot at 2510-2512 Clement Street and property line windows in the adjacent lot at 377 26th Avenue.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The Planning Code requires six parking spaces for the replacement buildings. Seven spaces are proposed, where currently there are three surface lot spaces provided for the existing building.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed project is primarily residential in nature with approximately 867 square feet of commercial space, which is an increase in floor area from the existing 464 square feet. The proposed residential density and commercial intensity are not anticipated to produce noxious or offensive emissions.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

Although designed in a contemporary aesthetic, the façade treatment and materials of the replacement buildings have been appropriately selected to be harmonious with the existing surrounding neighborhood.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The project complies with all relevant requirements and standards of the Planning Code except for rear yard and street frontage and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the Outer Clement Street NCD.

The proposed project is consistent with the stated purpose of the Outer Clement NCD. The NCD allows for up to one dwelling unit per 600 square feet of lot area. With proposed lot areas of 2,200 square feet and 2,146 square feet after the lot subdivision, six dwelling units would be permitted. The project proposes six dwelling units.

- 8. **Additional Findings pursuant to Section 317** establishes criteria for the Planning Commission to consider when reviewing applications to demolish or convert Residential Buildings. On balance, the Project does comply with said criteria in that:

- i. Whether the Project Sponsor has demonstrated that the residential structure is unsound, where *soundness* is an economic measure of the feasibility of upgrading a residence that is deficient with respect to habitability and Housing Code requirements, due to its original construction. The *soundness factor* for a structure shall be the ratio of a construction upgrade to the replacement cost, expressed as a percent. A building is unsound if its soundness factor exceeds 50-percent. A residential building that is unsound may be approved for demolition.

Project does not meet criterion.

The Project Sponsor has not submitted a soundness report, as he does not contend that the building is unsound.

- ii. Whether the property is free of a history of serious, continuing code violations;

Project meets criterion.

A review of the Department of Building Inspection and the Planning Department databases showed no enforcement cases or notices of violation for the subject property.

- iii. Whether the housing has been maintained in a decent, safe, and sanitary condition;

Project meets criterion.

The structure appears to be in decent condition, although the existing dwelling units' sizes, design and construction deficiencies are evident.

- iv. Whether the property is an "historic resource" under CEQA;

Project meets criterion.

Although the existing structures are more than 50 years old, a review of the supplemental information resulted in a determination that the structure is not a historical resource.

- v. Whether the removal of the resource will have a substantial adverse impact under CEQA;

Project meets criterion.

Not applicable. The structure is not a historical resource.

- vi. Whether the project converts rental housing to other forms of tenure or occupancy;

Project meets criterion.

The Project would remove two vacant units from the City's housing stock. There are no restrictions on whether the four new units will be rental or ownership.

- vii. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance;

Project does not meet criterion.

The two units were owner occupied before the current property owner purchased the building in January 2013. Although both units remain vacant under the current property owner, the units would be subject to the Rent Stabilization and Arbitration Ordinance due to the age of the building (constructed before June 13, 1979).

- viii. Whether the Project conserves existing housing to preserve cultural and economic neighborhood diversity;

Project meets criterion.

Although the Project proposes demolition of a two-bedroom unit and a one-bedroom unit, the number of units would be increased at the project site. The replacement structure primarily fronting on Clement Street is proposed as a three-unit building and the replacement structure fronting on 26th Avenue is proposed as another three-unit building.

- ix. Whether the Project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

Project meets criterion.

The replacement buildings conserve neighborhood character with appropriate scale, design, and materials, and improve cultural and economic diversity by appropriately increasing the number of bedrooms, which provide family-sized housing. The project would conserve the existing number of dwelling units, while providing a net gain of four units to the City's housing stock.

- x. Whether the Project protects the relative affordability of existing housing;

Project does not meet criterion.

The project does not protect the relative affordability of existing housing, as the project proposes demolition of the existing dwelling units.

- xi. Whether the Project increases the number of permanently affordable units as governed by Section 415;

Project meets criterion.

The project is not subject to the provisions of Planning Code Section 415, as the project proposes less than ten units.

- xii. Whether the Project locates in-fill housing on appropriate sites in established neighborhoods;

Project meets criterion.

The project has been designed to be in keeping with the scale and development pattern of the established neighborhood character.

- xiii. Whether the Project creates quality, new family housing;

Project meets criterion.

The project proposes six opportunities for family-sized housing. Three-bedroom units are proposed.

- xiv. Whether the Project creates new supportive housing;

Project does not meet criterion.

The project does not create supportive housing.

- xv. Whether the Project promotes construction of well-designed housing to enhance existing neighborhood character;

Project meets criterion.

The overall scale, design, and materials of the proposed buildings are consistent with the block faces and compliment the neighborhood character with a contemporary design.

- xvi. Whether the Project increases the number of on-site dwelling units;

Project meets criterion.

The project would increase the number of on-site units with a net gain of four units.

- xvii. Whether the Project increases the number of on-site bedrooms.

Project meets criterion.

The project proposes 18 bedrooms. The existing building contains three bedrooms.

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 2:

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.1:

Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.

The project proposes demolition of two dwelling units with the construction of six dwelling units.

URBAN DESIGN

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.2:

Recognize, protect and reinforce the existing street pattern, especially as it is related to topography.

The project proposes demolition of the existing building. Similar to other existing structures on the block face, both proposed buildings contain garages at the ground floor that are to be constructed to the front lot line with residential uses above.

Policy 1.3:

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

The four-story replacement building at the corner of Clement Street and 26th Avenue is consistent with the pattern of three- and four-story buildings found along the block face. The four-story replacement building fronting 26th Avenue reinforces the existing pattern of three-story buildings found on both sides of the street, as the proposed fourth floor is designed to create the appearance of a three-story structure at the front façade and along the block face.

OBJECTIVE 2:

**CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE,
CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.**

Policy 2.6:

Respect the character of older development nearby in the design of new buildings.

The massing of the replacement buildings' main front façades have been designed to be compatible with the prevailing street wall height, particularly the height and proportions of the adjacent buildings. Although interpreted in a contemporary architectural style, the proposed building proportions and exterior materials have been selected to be compatible with the adjacent buildings and the immediate neighborhood character.

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

Existing neighborhood-serving retail uses would be enhanced as the project proposes to expand the ground floor commercial use on Clement Street from 464 square feet to 897 square feet. The additional bedrooms in the replacement buildings would house more individuals to patronize the existing neighborhood-serving retail uses.

B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

While the existing housing is proposed to be demolished, the new replacement buildings conserve the number of dwelling units in the existing buildings while providing a net gain of four units.

- C. That the City's supply of affordable housing be preserved and enhanced,

While the affordability of the existing units is not preserved since they are proposed to be demolished, the units are not considered "affordable housing" per Planning Code Section 415 and/or the Mayor's Office of Housing. The proposal to construct six family-sized units at the project site enhances the "affordability" of the units more than if a fewer number of dwelling units were proposed.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The project would not have a significant adverse affect on automobile traffic congestion or create parking problems in the neighborhood. The project would enhance neighborhood parking by providing seven off-street parking spaces, where three spaces currently exist.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The project is a mixed-use project in the Outer Clement Street NCD; therefore the project would not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses would not be affected by the project.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The replacement structures would be built in compliance with San Francisco's current Building Code Standards and would meet all earthquake safety requirements.

- G. That landmarks and historic buildings be preserved.

Landmark or historic buildings do not occupy the project site.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

A shadow study was prepared and the project's shadow does not reach any parks or open space under the jurisdiction of the Department of Recreation and Parks. The project will have no negative effect on existing parks and open spaces.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.0205C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17820. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on September 4, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Antonini, Fong, Hillis, Johnson

NAYS: Moore, Richards, Wu

ABSENT: None

RECUSED: None

ADOPTED: September 4, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow the demolition of two residential units located at 395 26th Avenue pursuant to Planning Code Section(s) 303 and 317 within the Outer Clement Street Neighborhood Commercial District and a 40-X Height and Bulk District; in general conformance with plans, dated October 24, 2013, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0305C and subject to conditions of approval reviewed and approved by the Commission on September 4, 2014 under Motion No 19229. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on January 16, 2014 under Motion No 19229.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19229 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN – COMPLIANCE AT PLAN STAGE

6. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
7. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
8. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
9. **Street Trees.** Pursuant to Planning Code Section 138.1 (formerly 143), the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 428 may be modified or waived by the Zoning Administrator to the extent necessary.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
10. **Subdivision.** The Project Sponsor shall submit a lot subdivision application proposing to subdivide the lot into two lots prior to Planning approval of the building permit application.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PARKING AND TRAFFIC

11. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than eight bicycle parking spaces (six Class 1 spaces for the residential portion of the Project and two Class 2 spaces for the commercial portion of the Project).
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
12. **Parking Requirement.** Pursuant to Planning Code Section 151, the Project shall provide six off-street parking spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
13. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

14. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
15. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

16. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when

being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>

17. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

18. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org



SAN FRANCISCO PLANNING DEPARTMENT

Rear Yard Modification & Variance Decision

Date: October 24, 2014
Case No.: **2013.0205CEKSV**
Project Address: **395 26th AVENUE**
Zoning: Outer Clement Street Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 1407/017
Project Sponsor: Gabriel Ng
Gabriel Ng & Architects, Inc.
1360 9th Avenue, Suite 210
San Francisco, CA 94122
Staff Contact: Christine Lamorena – (415) 575-9085
christine.lamorena@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 REAR YARD MODIFICATION & STREET FRONTAGE VARIANCE SOUGHT:

The proposal is to 1) demolish an existing two-story mixed-use building containing two dwelling units with ground floor commercial space, 2) subdivide the lot into two lots, 3) construct a 45-foot tall, four-story mixed-use building fronting on Clement Street, containing three dwelling units, four residential parking spaces with ground floor commercial space, and 4) construct a 40-foot tall, four-story building fronting on 26th Avenue, containing three dwelling units and two residential parking spaces.

Per Section 134 of the Planning Code the subject property is required to maintain a rear yard of approximately 15 feet at all levels. The proposed buildings do not provide the required rear yard depth on the ground floor.

Per Section 145.1 of the Planning Code the subject property is required to set back parking 25 feet from any street frontage. The proposed parking is not set back 25 feet from the 26th Avenue frontage.

PROCEDURAL BACKGROUND:

1. The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 32 categorical exemption. The Certificate of Determination was issued on August 26, 2014.
2. The Zoning Administrator held a public hearing on the requests for **Rear Yard Modification and Variance Application No. 2013.0205V** on **September 4, 2014**.
3. Neighborhood Notification required by Planning Code Section 311 for Building Permit Application Nos. 2013.03.05.1498, 2013.03.05.1501, and 2013.03.05.1508 were mailed on December 26, 2013 and expired on January 16, 2014 in conjunction with the Conditional Use Authorization hearing notice (Case No. 2013.0205C).

DECISION:

GRANTED, in general conformity with the plans on file with this application, shown as EXHIBIT A, to 1) demolish an existing two-story mixed-use building containing two dwelling units with ground floor commercial space, 2) subdivide the lot into two lots, 3) construct a 45-foot tall, four-story mixed-use building fronting on Clement Street, containing three dwelling units, four residential parking spaces with ground floor commercial space, and 4) construct a 40-foot tall, four-story building fronting on 26th Avenue, containing three dwelling units and two residential parking spaces, 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 Modification and 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 Modification and Variance Case Number.

FINDINGS:

REAR YARD MODIFICATION

Planning Code Section 134(e) states that in order to grant a rear yard modification, and in accordance with Section 307(g), the Zoning Administrator must determine that the facts of the case are sufficient to establish each of the following criteria:

CRITERION 1.

Residential uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development.

Requirement Met.

- A. The proposed project would provide six new dwelling units and would require a rear yard of approximately 555 square feet for proposed Lot A and 870 square feet for proposed Lot B, equal to 25 percent of the lot area for the respective lots, at all levels. Per Planning Code Section 135,

the project is required to provide 100 square feet of common usable open space for each dwelling unit, 80 square feet of private usable open space, or a combination of the two. On proposed Lot A, the proposed deck would provide 519 square feet of private open space for the second floor unit and the proposed roof deck would provide 340 square feet of common open space for the third and fourth floor units. On proposed Lot B, the proposed rear yard would provide approximately 754 square feet of common open space and the proposed roof deck would provide an additional 316 square feet of common open space for all units. The proposed size and configuration of the decks and rear yard are considered more useable than the otherwise required rear yard for both lots and would exceed the required amount of usable open space for the proposal.

CRITERION 2.

The proposed new or expanding structure will not significantly impede the access of light and air to and views from adjacent properties.

Requirement Met.

- A. The proposed project is located on a corner lot with massing organized in such a way that does not create significant adverse effects on the adjacent properties. On proposed Lot B, the proposal includes a rear yard depth of approximately 13 feet to allow for access of light and air to an existing noncomplying one-story residential building in the adjacent property's rear yard. Additionally, providing the code-required rear yards would not alter the overall 4-story height of the buildings, and therefore would have little impact on the amount of light, air, and views of adjacent properties.

CRITERION 3.

The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yard of adjacent properties.

Requirement Met.

- A. The subject property is a corner lot, and the adjacent buildings to the north and west separate it from the existing interior block open space. As such, any rear yard provided on the subject property will be stand-alone, and would not contribute to the interior block open space. Therefore, the proposed project would not adversely affect the interior block area.

VARIANCE

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 is a corner lot with approximately 37 feet of frontage on Clement Street and approximately 118 feet of frontage on 26th Avenue. The proposal would provide off-street parking access to at-grade garages with two 10-foot curb cuts on 26th Avenue while maintaining a pedestrian realm along Clement Street. Additionally, the amount of on-street parking spaces would remain the same.

The existing property has a depth of only 37 feet measured from 26th Avenue. Providing the required 25-foot off-street parking setback of off 26th Avenue would leave only 12 feet of building area to provide off-street parking, which is inadequate. Additionally, due to the narrow nature of the property, locating the required off-street parking deeper into the lot would conflict with the rear yard requirements of Planning Code Section 134. Providing no parking for the project would require a parking modification pursuant to Planning Code 161(j) or a parking variance.

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. Based on the subject property's size and shape, strict enforcement Planning Code Section 145.1 would result other noncomplying features for the project, such as a less conforming rear yard, or a significant deficiency in required off-street parking. It could also result in the addition of a curb cut along Clement Street for proposed Lot A, which would limit the amount of active space and non-residential space that could be provided along the Neighborhood Commercial District corridor.

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.

- B. The Outer Clement Street NCD requires a minimum of one off-street parking space per residential dwelling unit. The project meets this provision and employs space-efficient parking techniques so that the ground floor can also accommodate residential lobbies and commercial space (proposed Lot A) or additional residential space (proposed Lot B). The variance is necessary to ensure that the subject property can provide the parking required by the Planning Code in a space efficient manner, which is a substantial property right possessed by other properties in the Outer Clement Street NCD.

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. Due to the use of car stackers, granting the variance would result in only one curb cut on 26th Avenue for each of the two proposed properties, which is standard in this and many other parts of the City. This also allows the two proposed buildings to still provide active uses on the ground floors to help ensure a more positive interaction at the street level. As such, granting the variance would not be materially detrimental to the public welfare or materially injurious to the neighboring properties.

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. The existing commercial space on the ground floor is small, does not have a traditional storefront system, and generally provides very little transparency to the street. The proposed replacement commercial space will enhance the corner and represent a much more active use.
 - 2. The proposed project will be in keeping with the existing housing and neighborhood character.
 - 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.

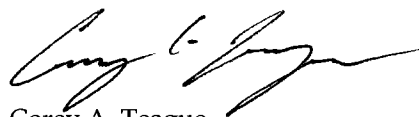
The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of 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

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.

CL: G:\DOCUMENTS\2013\Vs\2013.0205\395 26th Ave - Variance Decision Letter.doc
Copy to I:\Decision Documents\Variance Decision Letters\2013\2013.0205V - 395 26th Ave - Decision Letter

SHEET INDEX

- A-0.0 RENDERING FROM CLEMENT STREET & 26TH AVENUE
- A-0.1 RENDERING FROM 26TH AVE LOOKING SOUTH
- A-0.2 RENDERING FROM CLEMENT STREET LOOKING NORTH
- A-0.3 CONTEXT PHOTOS
- A-1.0 SITE PLAN / PROJECT INFORMATION
- A-1.1 EXISTING / DEMO FLOOR PLANS & ELEVATIONS
- A-2.0 2500-02-06-08 CLEMENT ST (LOT A) - FLOOR PLANS
- A-2.1 381-83-97 26TH AVENUE (LOT B) - FLOOR PLANS
- A-3.0 ELEVATIONS WITH FINISH MATERIALS
- A-3.1 ELEVATIONS
- A-3.2 SIDE ELEVATIONS
- A-3.3 SECTIONS



VICINITY MAP

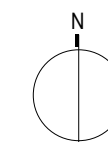


GABRIEL NG + ARCHITECTS INC.
 1360 9TH AVENUE, SUITE 210
 SAN FRANCISCO CA 94122
 415-682-8060 eFax 510-281-1359

**TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
 2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE**
 BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

RENDERING FROM CLEMENT STREET & 26TH AVENUE

SCALE: N.T.S.



9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-0.0

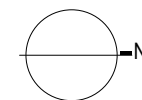


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TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE
 BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

RENDERING FROM 26TH AVE LOOKING SOUTH

SCALE: N.T.S.



9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-0.1



GABRIEL NG + ARCHITECTS INC.
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TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE
 BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

RENDERING FROM CLEMENT STREET LOOKING NORTH

SCALE:

9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-0.2

SUBJECT SITE



1 SUBJECT AND ADJACENT BUILDINGS ON CLEMENT STREET



2 BUILDINGS ACROSS THE STREET ON CLEMENT STREET

SUBJECT SITE



3 SUBJECT AND ADJACENT BUILDINGS ON 26TH AVENUE



4 BUILDINGS ACROSS THE STREET ON 26TH AVENUE



GABRIEL NG + ARCHITECTS INC.
1360 9TH AVENUE, SUITE 210
SAN FRANCISCO CA 94122
415-682-8060 eFax 510-281-1359

TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE
BLOCK 1407, LOT 017
SAN FRANCISCO, CA 94121

CONTEXT PHOTOS

SCALE:

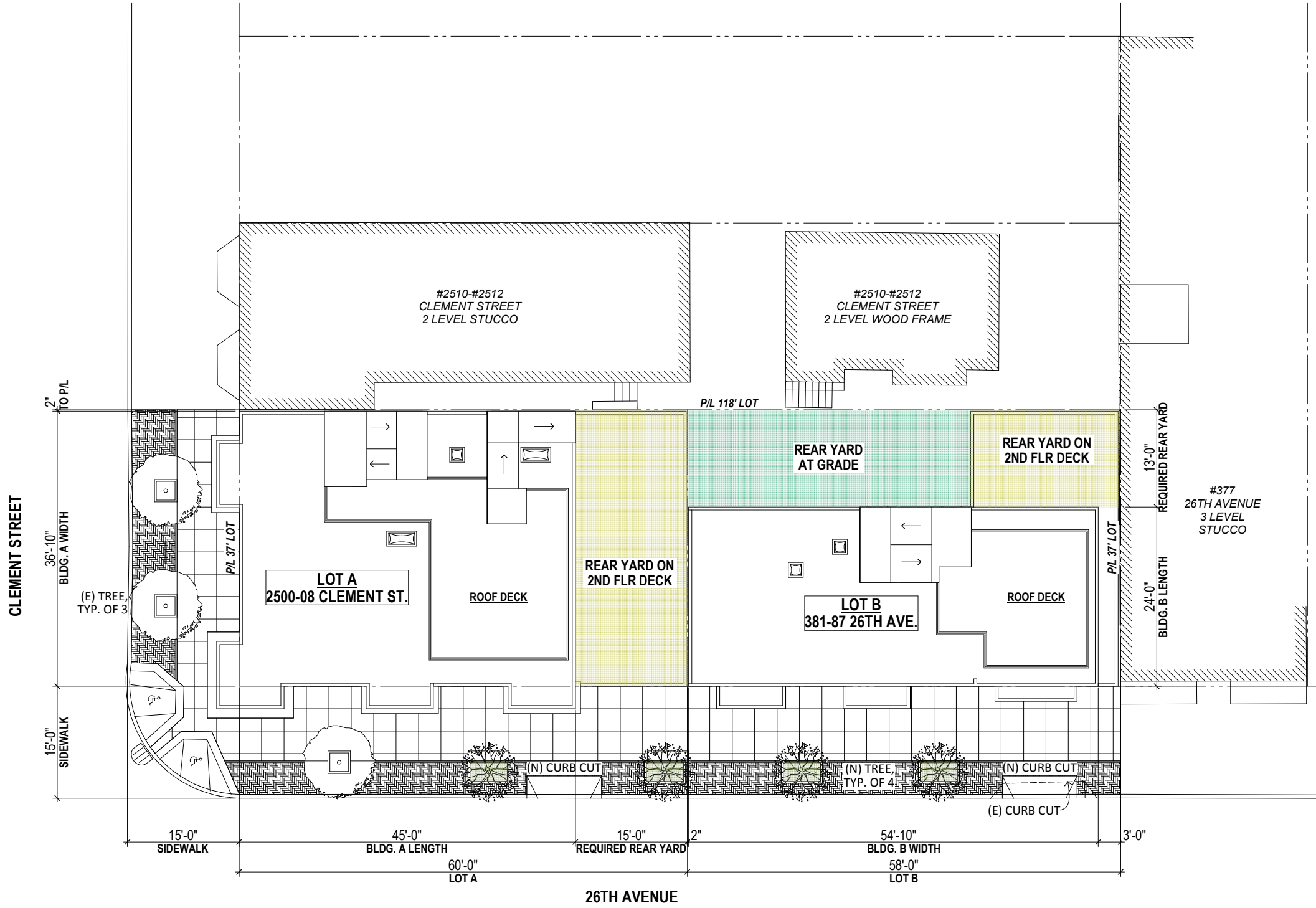
9/16/13 YIP
10/24/13 YIP
2/28/14 YIP
3/12/14 YIP
5/23/14 - ADD STC REQ'MT. MML

A-0.3

PROPERTY INFORMATION	
	EXISTING
ADDRESS	395 26TH AVE.
BLOCK / LOT	1407 / 017
LOT SIZE	118' x 37'
LOT AREA	4,366 S.F.
# OF RESIDENTIAL UNITS	2
# OF OFFICE SPACES	1

PROJECT PROPOSAL INFORMATION		
	LOT A	LOT B
ADDRESS	2500-02-06-08 CLEMENT ST.	381-83-87 26TH AVE.
LOT SIZE BY SUBDIVISION	60' x 37'	58' x 37'
LOT AREA	2,220 S.F.	2,146 S.F.
# OF RESIDENTIAL UNITS	3	3
# OF RETAIL SPACES	1	0
BUILDING HEIGHT	45'	40'

ZONING INFORMATION		CODE SECTION
ZONING	OUTER CLEMENT ST. NCD	§717
HEIGHT LIMIT	40-X, ADDITIONAL 5' FOR PARCELS WITH ACTIVE USES	§263.20(b)(2)(B)
RESIDENTIAL DENSITY	1 UNIT PER 600 S.F.	§207.4
VARIANCE REQUESTED	REQUIRED REAR YARD AT GROUND & 2ND - 4TH LEVELS	§134(a) & (e)
	PARKING WITHIN 25' OF STREET FRONTAGE	§145.1(c)(1)(C)
CONDITIONAL USE REQUESTED	DWELLING UNIT REMOVAL ON 2ND FLOOR	§717.39
SHADOW STUDY	BUILDINGS EXCEEDING 40' IN HEIGHT	§295

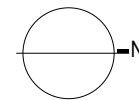


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**TWO NEW MIXED-USE BUILDINGS BY SUBDIVISION
 2500-02-06-08 CLEMENT STREET & 381-83-87 26TH AVENUE**
 BLOCK 1407, LOT 017
 SAN FRANCISCO, CA 94121

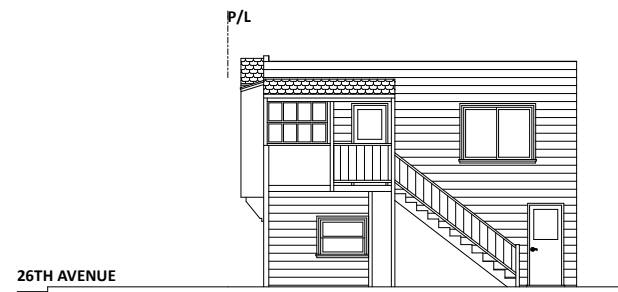
SITE PLAN / PROJECT INFORMATION

SCALE: 1/16" = 1'-0"

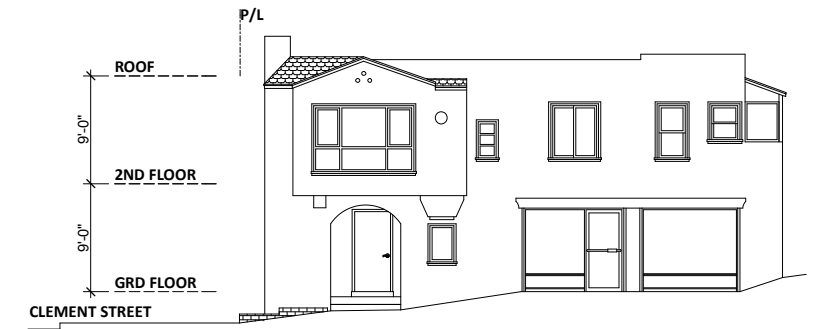


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10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

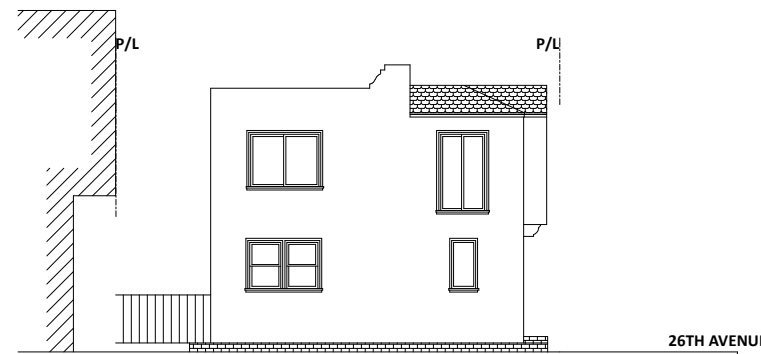
A-1.0



(E) NORTH ELEVATION



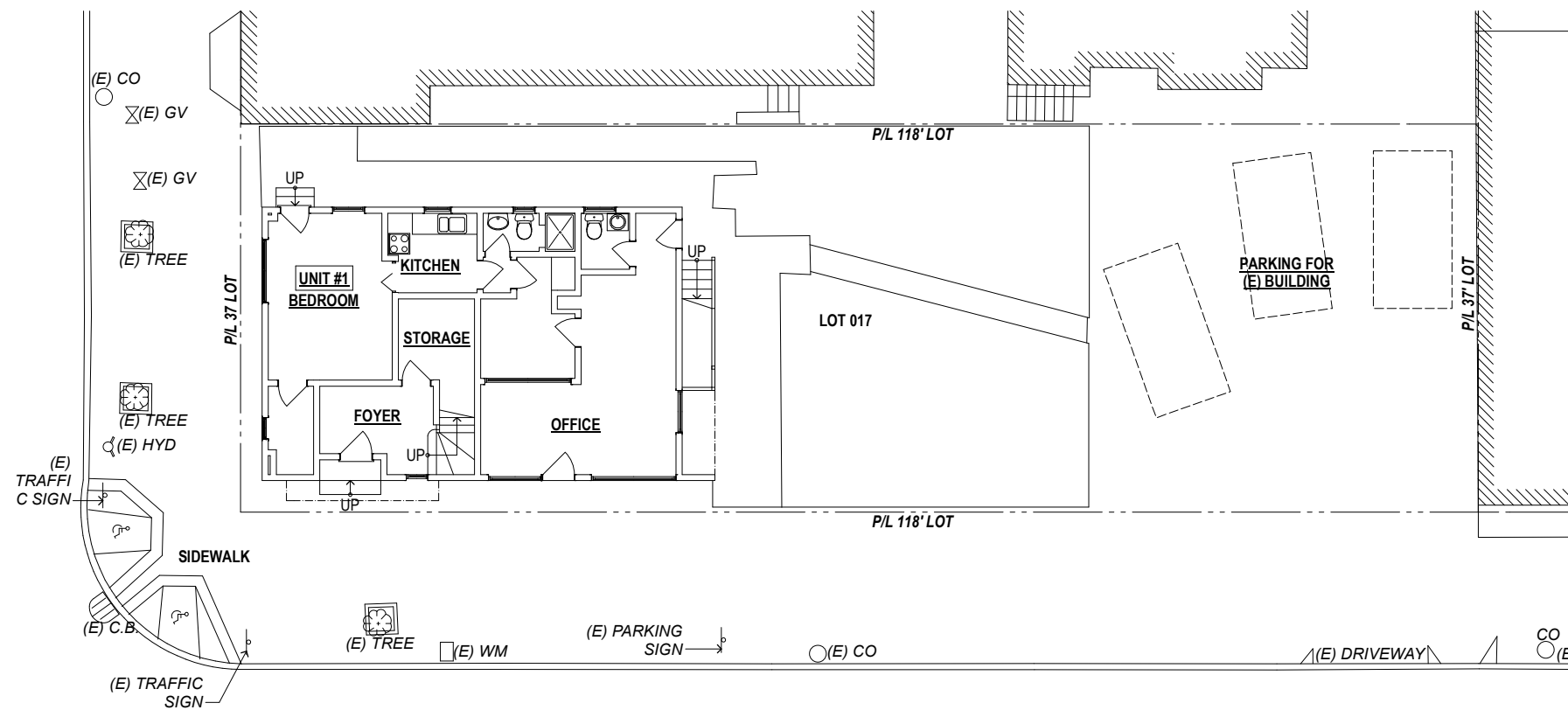
(E) EAST ELEVATION



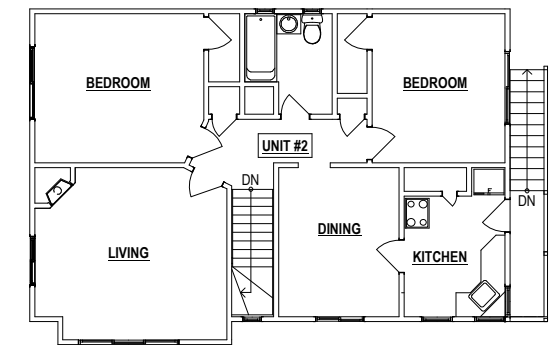
(E) SOUTH ELEVATION



(E) WEST ELEVATION



EXISTING GROUND FLOOR PLAN



EXISTING SECOND FLOOR PLAN

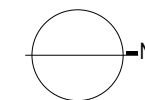


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EXISTING / DEMO FLOOR PLANS & ELEVATIONS

SCALE: 1/16" = 1'-0"



9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

A-1.1

2500-02-06-08 Clement St. Lot A
Area Calculation (in square feet):

	2500 (Retail)	2502	2506	2508	Common Area	Garage	Total
4th Floor				1,601	182		1,783
3rd Floor			1,601		182		1,783
2nd Floor		1,601			182		1,783
Ground Floor	851				645	688	2,184
Total	851	1,601	1,601	1,601	1,191	688	7,533

Total Living Area for all Units = **4,803 S.F.**
 Total Retail = **851 S.F.**
 Total Common & Garage Area = **1,879 S.F.**
 Total Gross Area = **7,533 S.F.**

Open space calculation (in square feet) per §135(d):

	Required	Proposed
Common	212.8 (80x1.33x2)	340
Private	80 (2nd floor)	519
	292.8 total	859 total

Off-street Parking Requirement per §151:

	Required	Proposed
Car	3 total	4 total
	(1 per each residential unit)	(3 Res & 1 Retail)

Bicycle Parking Requirement per §155.5:

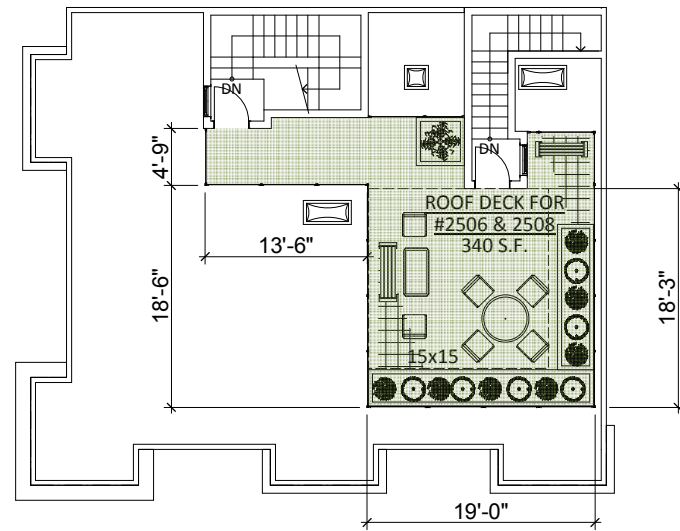
	Required	Proposed
Class 1	3 total	3 total
	(1 per each residential unit)	
Class 2	2 per each commercial	2 total

Ground Floor Glazing Area Calculation

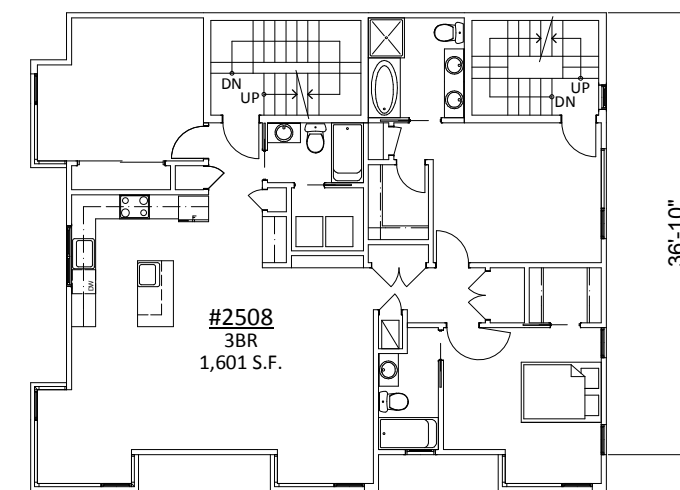
Wall area calculation	Wall width (ft.)	Ceiling ht. (ft.)	Wall area (s.f.)
Clement St. frontage	36.83	13.5	497.21
26th Ave. frontage	30.67	13.5	414.05
Total wall area			911.25

Glazing area calculation	Glazing area (s.f.)
Clement St. frontage	302.00
26th Ave. frontage	248.00
Total glazing area	550.00

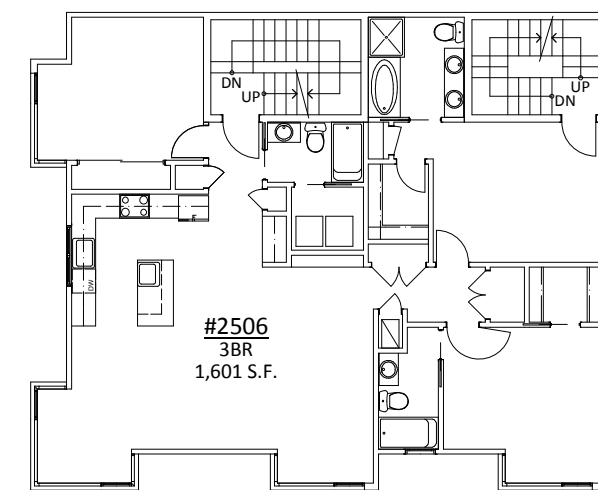
Glazing = $\frac{550.00}{911.25} \times 100 = 60.4\%$
 Wall =



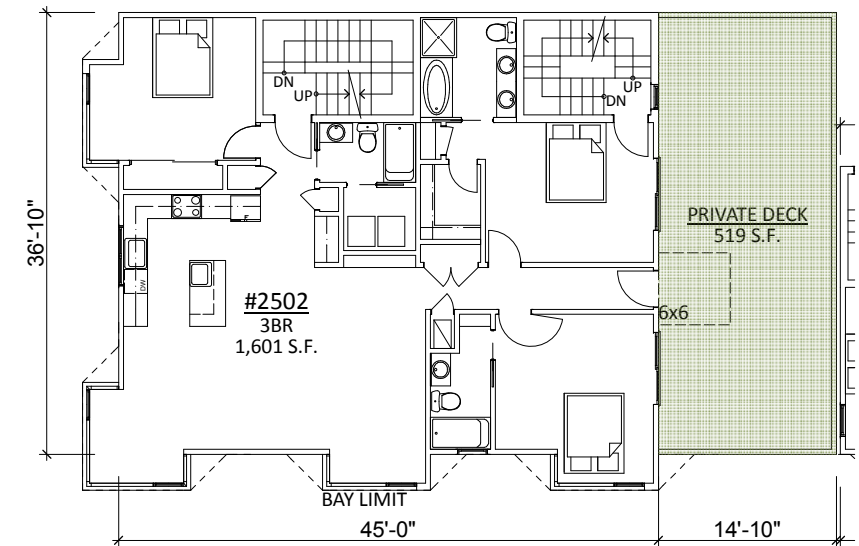
ROOF PLAN



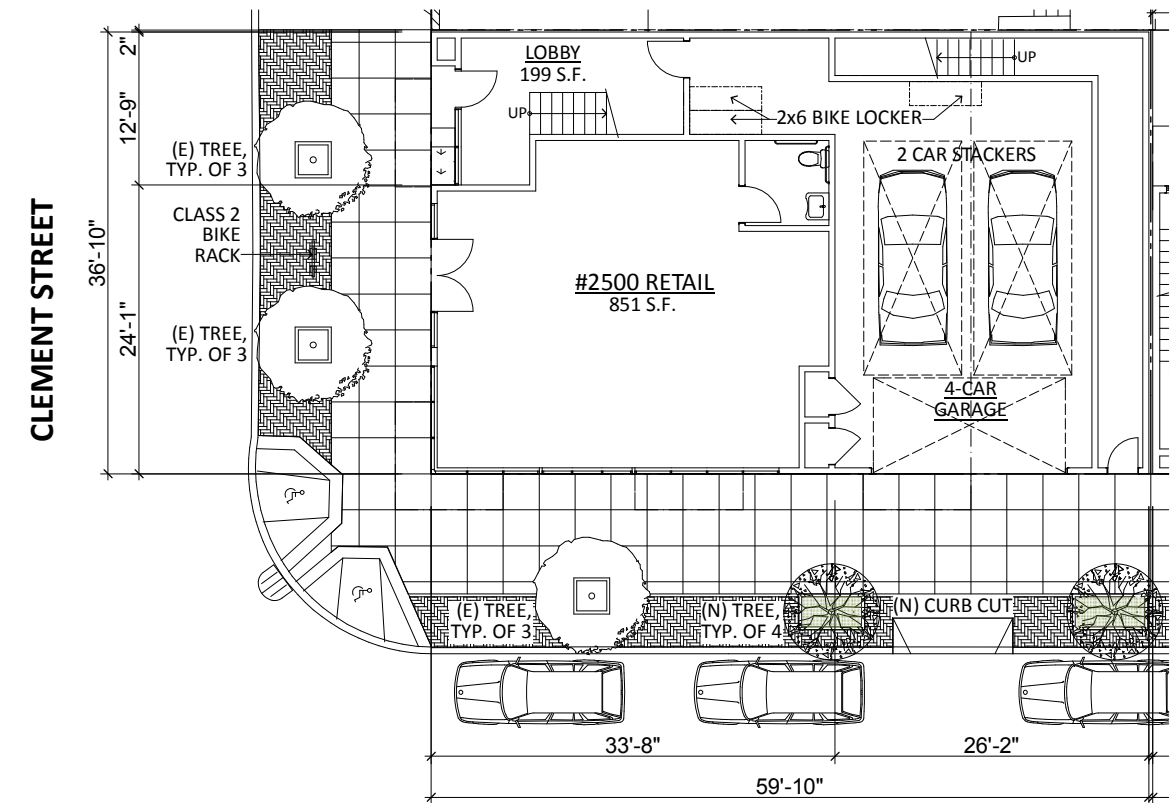
FOURTH FLOOR PLAN



THIRD FLOOR PLAN



SECOND FLOOR PLAN



GROUND FLOOR PLAN

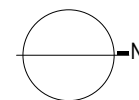


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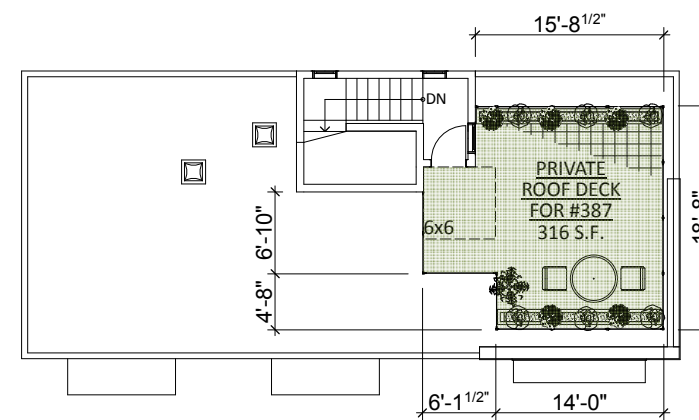
2500-02-06-08 CLEMENT ST (LOT A) - FLOOR PLANS

SCALE: 1/16" = 1'-0"

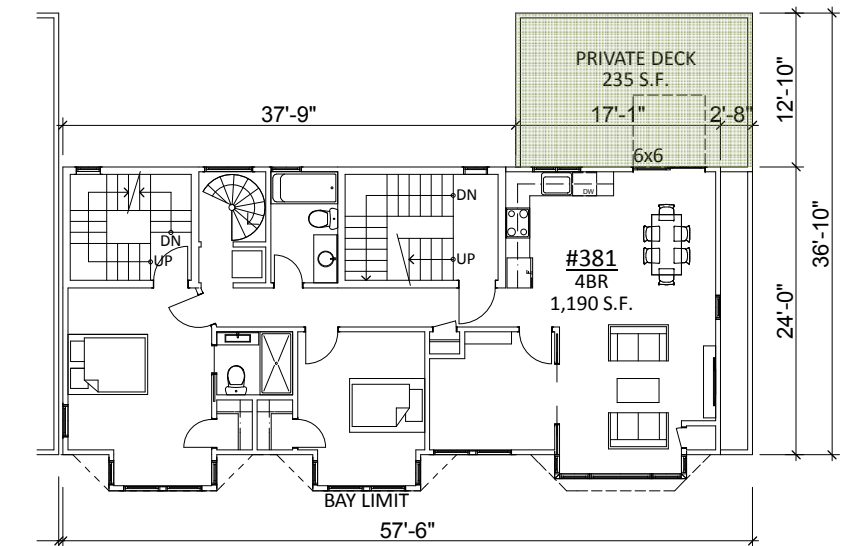


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 10/24/13 YIP
 2/28/14 YIP
 3/12/14 YIP
 5/23/14 - ADD STC REQ'MT. MML

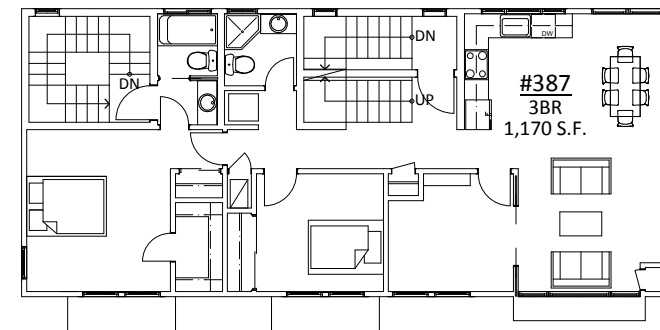
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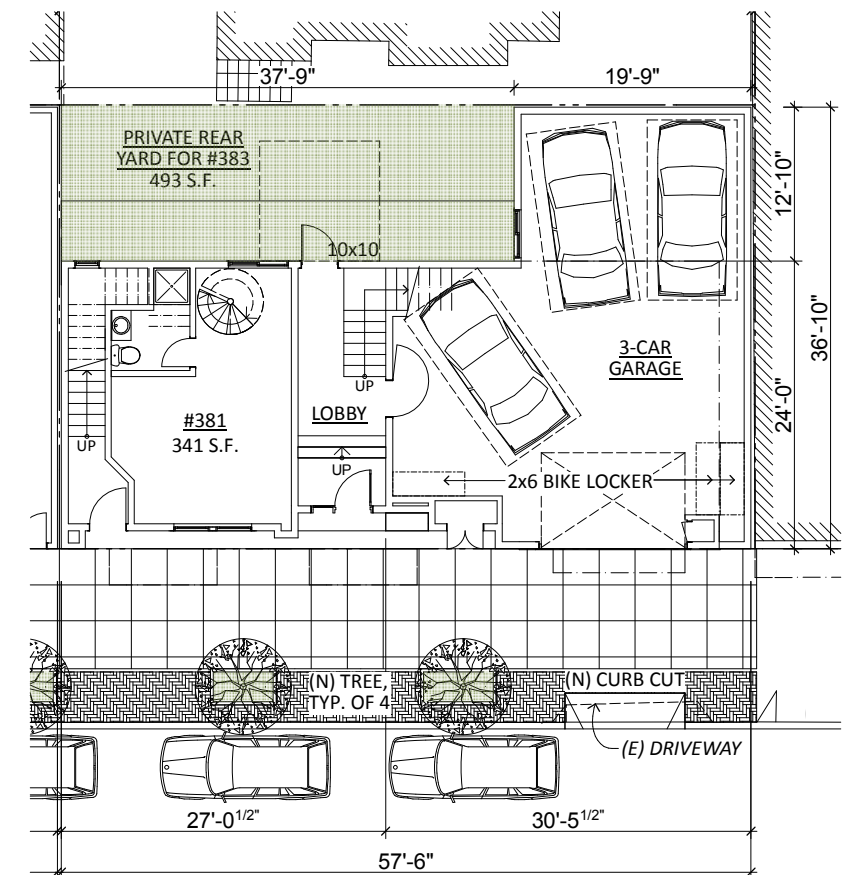
ROOF PLAN



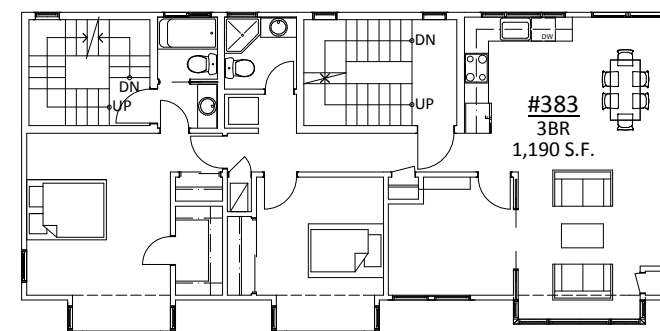
SECOND FLOOR PLAN



FOURTH FLOOR PLAN



26TH AVENUE
GROUND FLOOR PLAN



THIRD FLOOR PLAN

381-83-87 26th Ave. Lot B
Area Calculation (in square feet):

	381	383	387	Common Area	Garage	Total
4th Floor			1,170	146		1,316
3rd Floor		1,190		202		1,392
2nd Floor	1,190			202		1,392
Ground Floor	341			354	872	1,567
Total	1,531	1,190	1,170	904	872	5,667

Total Living Area for all Units = 3,891 S.F.
Total Common & Garage Area = 1,776 S.F.
Total Gross Area = 5,667 S.F.

Open space calculation (in square feet) per §135(d):

	Required	Proposed
Private	240	1044 total
	(80/unit x 3)	

Off-street Parking Requirement per §151:

	Required	Proposed
Car	3 total	3 total
	(1 per each residential unit)	

Bicycle Parking Requirement per §155.5:

	Required	Proposed
Class 1	3 total	3 total
	(1 per each residential unit)	



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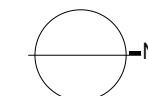
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381-83-97 26TH AVENUE (LOT B) - FLOOR PLANS

SCALE: 1/16" = 1'-0"



9/16/13 YIP
10/24/13 YIP
2/28/14 YIP
3/12/14 YIP
5/23/14 - ADD STC REQ'MT. MML

A-2.1



CLEMENT ST.

WD. CORNICE

WOOD SIDING

3-COAT EXT. STUCCO

POWDER-COATED MET. CANOPY

SLATE TILE

ALUM. STOREFRONT SYSTEM



26TH AVE.

STAIR PENTHOUSE

GLASS GUARDRAIL

WOOD SIDING

WOOD SIDING

3-COAT EXT. STUCCO

SLATE TILE FRAME



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ELEVATIONS WITH FINISH MATERIALS

SCALE: N.T.S.

9/16/13

10/24/13

2/28/14

3/12/14

5/23/14 - ADD STC REQ'MT.

YIP

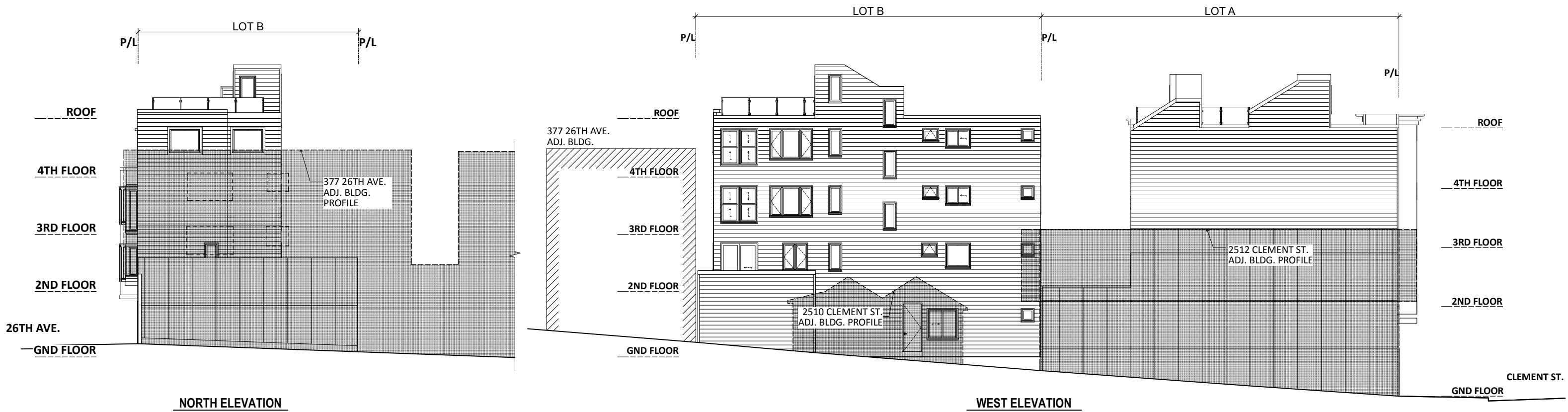
YIP

YIP

YIP

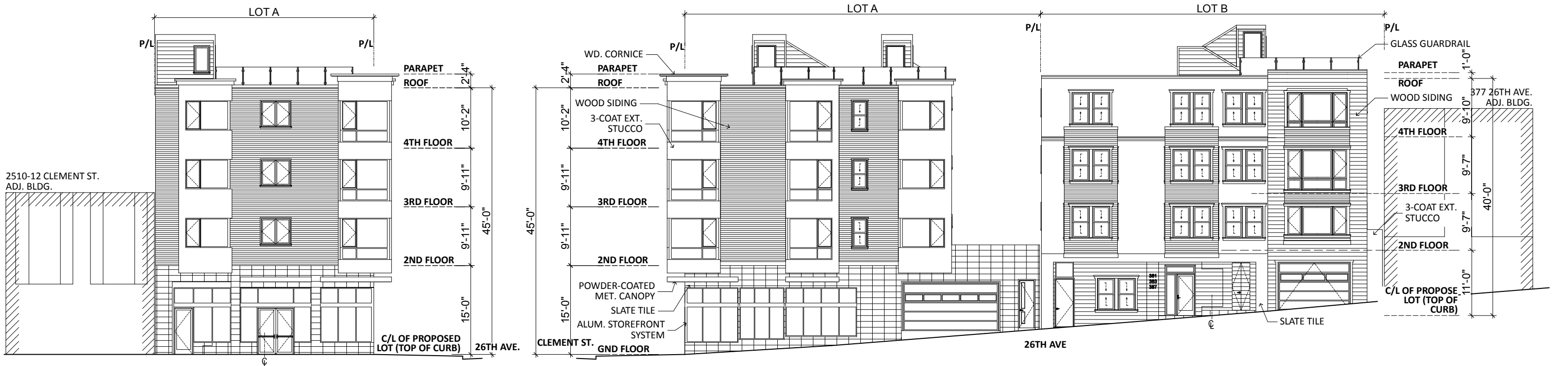
MML

A-3.0



NORTH ELEVATION

WEST ELEVATION



SOUTH ELEVATION

EAST ELEVATION

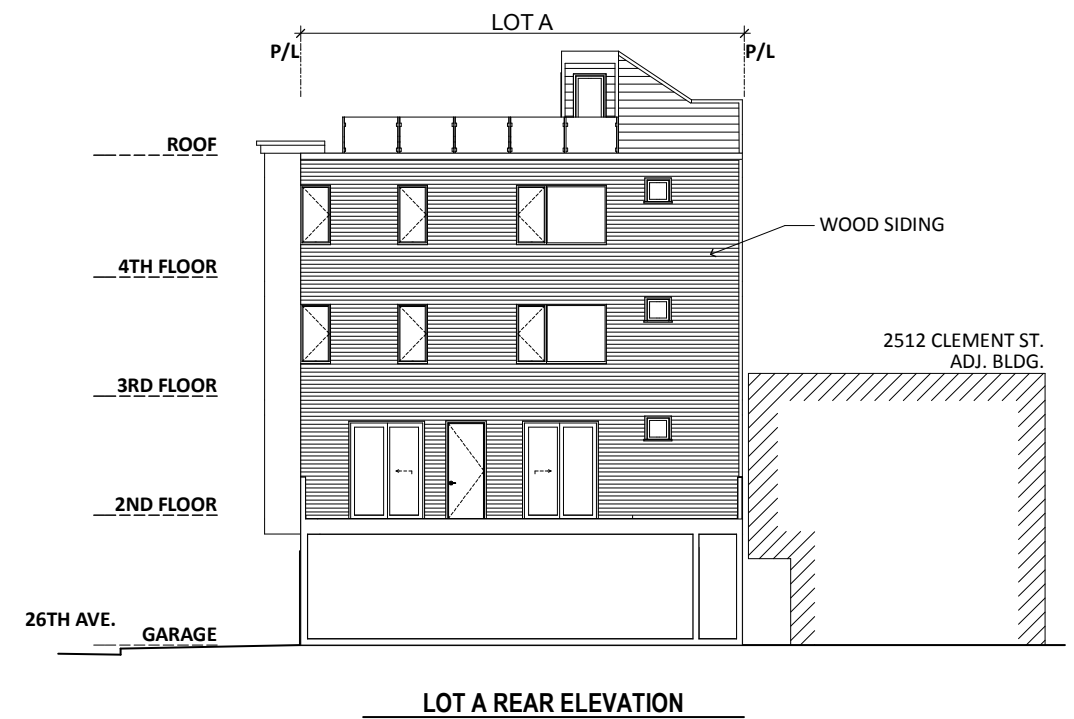
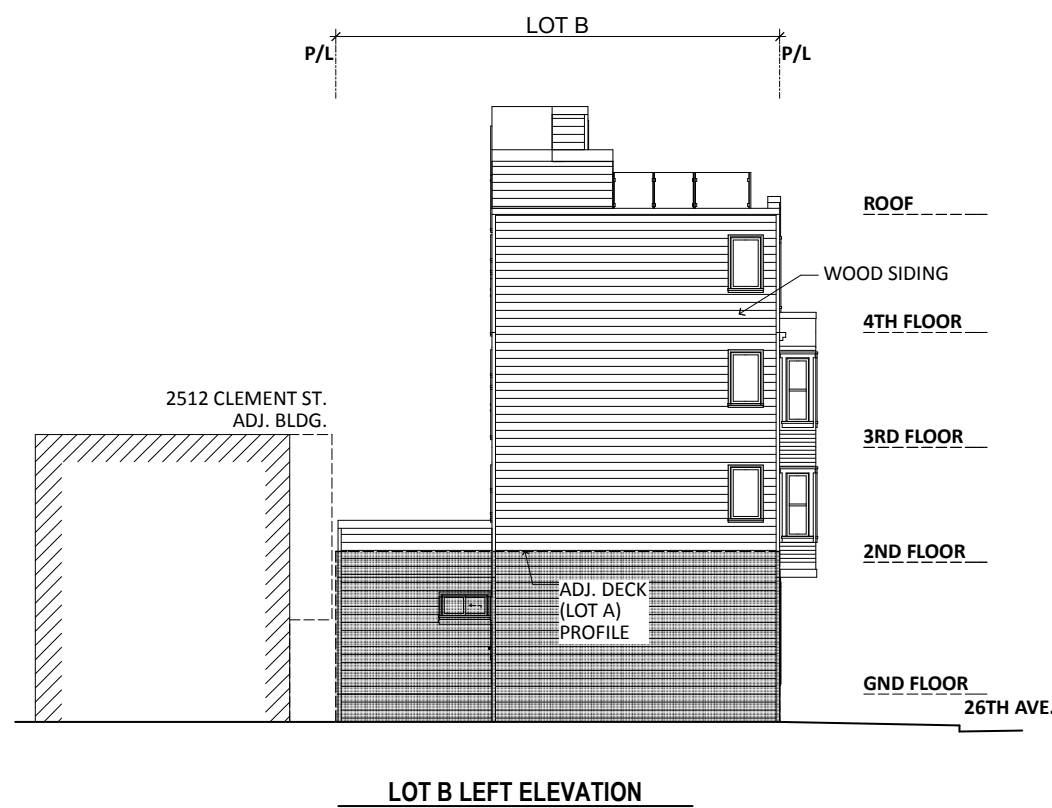
ALL WINDOWS WITHIN LIVING AREA TO HAVE MINIMUM SOUND RATING OF STC 28, EXCEPT FOR REAR FACING WINDOWS OF BUILDING B, AND SUPPLEMENTAL MECHANICAL VENTILATION FOR EACH UNIT, PER NOISE EVALUATION REPORT BY WALSH, NORRIS & ASSOCIATES, INC. DATED 5/20/14

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ELEVATIONS
 SCALE: 1/16" = 1'-0"

9/16/13 YIP
 10/24/13 YIP
 2/28/14 YIP
 3/12/14 YIP
 5/23/14 - ADD STC REQ'MT. MML



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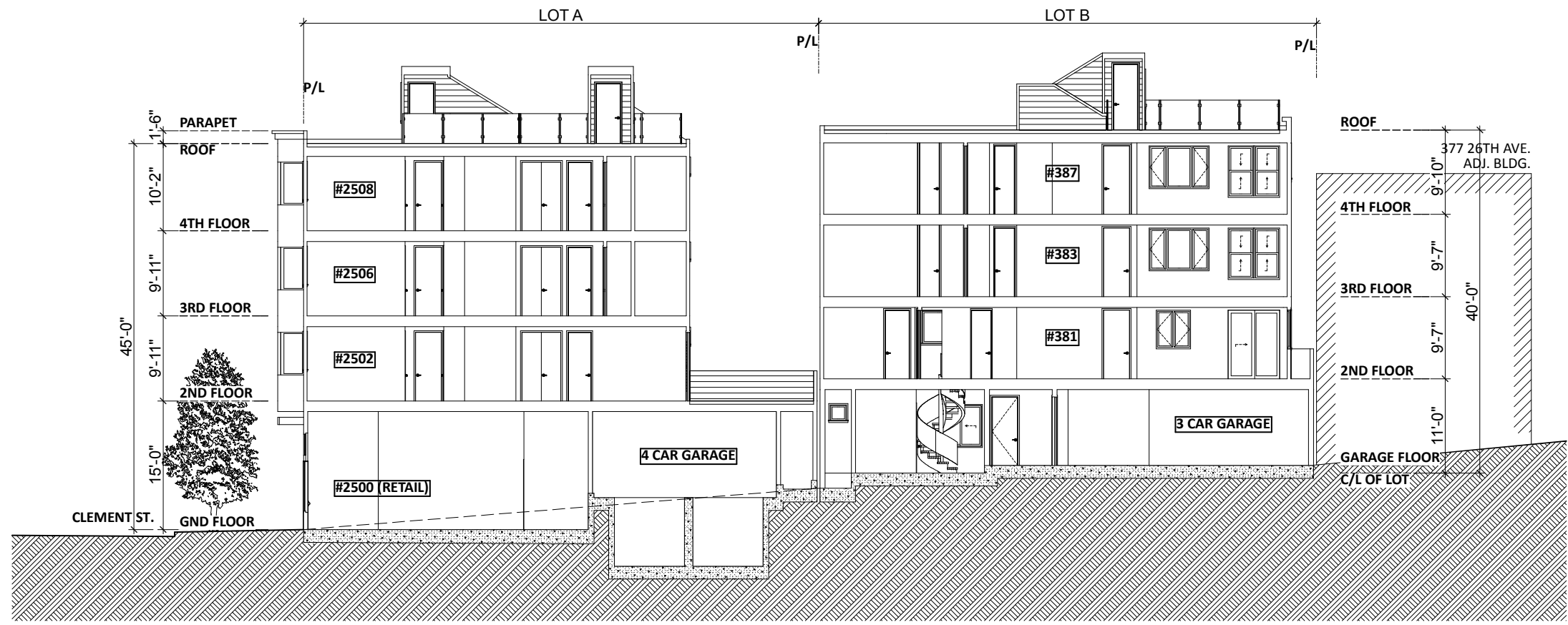
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SIDE ELEVATIONS

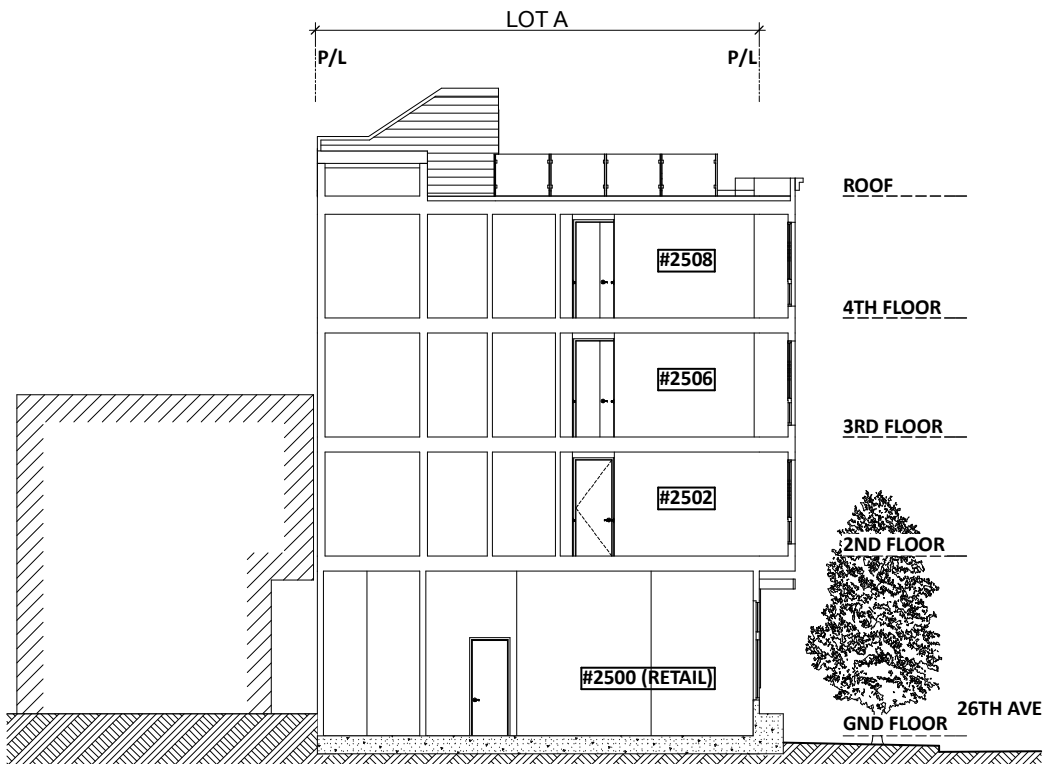
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10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML

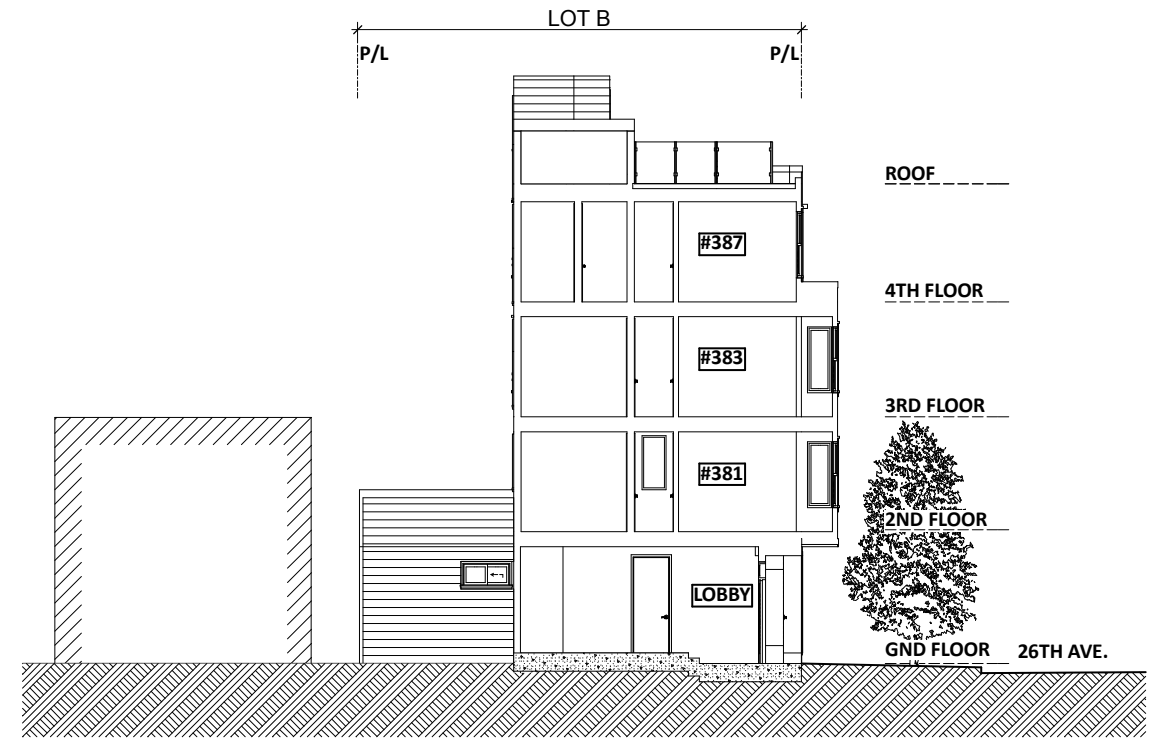
A-3.2



LONGITUDINAL SECTION



BUILDING A - CROSS SECTION



BUILDING B CROSS SECTION



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SECTIONS

SCALE: 1/16" = 1'-0"

9/16/13	YIP
10/24/13	YIP
2/28/14	YIP
3/12/14	YIP
5/23/14 - ADD STC REQ'MT.	MML