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10 SAN FRANCISCO BOARD OF SUPERVISORS

11 Andrew Zacks and Denise Leadbetter,
12 Appellants,

13 vs.

14 SAN FRANCISCO PLANNING
15 COMMISSION,

16 Respondent.

17 HATEF MOGHIMI,

18 Real Party in Interest.

Appeal of Conditional Use Authorization

APPELLANTS' BRIEF

City Planning Commission Case No. 2017-
004562CUA
Planning Commission Motion No. 20118
Subject Address: 799 Castro Street and 3878-
3880 21st Street
Hearing Date: April 24, 2018, 3:00 p.m.

19 **INTRODUCTION**

20 This appeal concerns Planning Commission Motion No. 20118 (the "Decision"), granting
21 conditional use authorization for the demolition of a rent-controlled residential unit to construct a
22 three-story-over-basement single-family residence at 799 Castro Street / 3878-3880 21st Street (the
23 "Property").

24 Given the condition imposed on the conditional use authorization ("CUA"), it is impossible
25 to determine what form the project will take and how it will affect the surrounding neighborhood
26 character. The Planning Commission has relinquished control over the final design of the proposed
27 project by delegating its authority to the Planning Department. Further, the Planning Commission
28 improperly granted CUA before a variance had been finally approved. Appellants urge the Board of
Supervisors to overturn the CUA and protect the Castro, one of San Francisco's most famous
neighborhood.

1 **STATEMENT OF FACTS**

2 **I. The Property and Its History**

3 The Property is situated on the corner of Castro Street and 21st Street. The Property is an
4 unremarkable lot, of usual size for the neighborhood, but it (unusually) contains two structures on
5 one lot. Currently, there is a single-story mixed-use building on the Castro side of the Property
6 (“799 Castro”) and a duplex on the 21st Street side of the Property (“3878-3880 21st Street”).
7 Declaration of Shoshana Raphael (“Dec. of SR”), Ex. 5. The mixed-use building was a grocery
8 store with shopkeeper’s living quarters for many years, from the time of its construction around
9 1909. Dec. of SR, Ex. 4; Declaration of Thomas Gille, ¶2-4. While the residential portion of the
10 former grocery store is not currently occupied, it is a rent-controlled dwelling unit under the San
11 Francisco Rent Stabilization and Arbitration Ordinance (“Rent Ordinance”).

12 **II. The Project**

13 In order to accommodate construction of such a large luxury house, the Project Sponsor
14 proposes to demolish the existing rent-controlled dwelling unit in 799 Castro and “replace” it with
15 an accessory dwelling unit (“ADU”) in the basement of the neighboring duplex at 3878-3880 21st
16 Street. To accomplish that goal, the Project Sponsor proposes to do the following (the “Project”):

- 17 1. Demolish the residential use at the rear of 799 Castro with
18 conditional use authorization;
- 19 2. Convert the commercial use at 799 Castro to a residential use;
- 20 3. Enlarge the new residential use at 799 Castro from an existing one-
21 story building into a new three-story-over-basement building
22 pursuant to Variance Application No. 2008.0410V;
- 23 4. Add a basement-level ADU at 3878-3880 21st Street under
24 Building Permit Application No. 201704043134.

25 In its most recent form (as of February 22, 2018), the Project will require a rear-yard setback
26 variance in addition to conditional use authorization for the demolition of the existing dwelling unit.
27 Dec. of SR, Ex. 2. The Acting Zoning Administrator issued a Variance Decision granting the
28 variance on April 11, 2018, but the time for appeal has not yet expired. The Project Sponsor has
also applied for two building permits—one to allow the demolition of the existing mixed-use
building and construction of the luxury home, and another to allow the construction of the ADU.

1 Dec. of SR, Exs. 6 and 7.

2 Though the Project will remove a non-conforming commercial use on the Property, it will
3 also increase non-conformity in density. The Property is zoned RH-2, meaning a maximum of two
4 dwellings are permitted on a lot. Dec. of SR, Ex. 5. The Project would increase the density to three
5 dwellings *plus* an ADU.

6 **III. Procedural History**

7 A Planning Commission hearing on the Project’s conditional use authorization (“CUA”) and
8 variance applications was originally noticed for October 12, 2017. The Commission continued the
9 hearing until December 14, 2017 to include a discretionary review application regarding the ADU
10 (“Dec. 14 Hearing”). On December 14, 2017, the Commission rejected the Project as proposed and
11 moved to continue the hearing so that the Project Sponsor could re-design the Project. The Project
12 Sponsor submitted two alternative sets of plans in advance of the February hearing date. On
13 February 22, 2018, the Planning Commission and Zoning Administrator conducted a joint hearing
14 (“Feb. 22 Hearing”) on 2017-004562CUA (application for conditional use authorization), 2017-
15 004562DRP (discretionary review application), and 2008.0410V (variance application) for the
16 Project, resulting in the Decision. Dec. of SR, Ex. 1.

17 **ARGUMENT**

18 **I. The Project Does Not Meet the Criteria for Demolition with Conditional Use
19 Authorization Under Planning Code § 317**

20 As the Decision notes, Planning Code § 317 establishes additional conditional use criteria
21 for the Planning Commission to consider when reviewing applications to demolish or convert
22 Residential Buildings. Decision, page 7. The Decision found that on balance, the Project complies
23 with these criteria. Decision, page 7. The Decision is wrong.

24 Additionally, when certain facets of the Project do not meet the criteria, the Decision states
25 “Criterion not applicable” rather than “Project does not meet criterion,” giving the appearance of
26 greater compliance with criteria than exists. Decision, page 7. The Decision determines that six
27 separate criteria out of eighteen are not applicable. Decision, pages 7-9. In other words, the
28 Decision exempts the Project from certain criteria it cannot meet. This is also wrong.

1 A. The Decision's Findings Erroneously Conclude that the Existing Residential Unit at
2 799 Castro is Not Subject to Rent Control

3 1) *The Existing Residential Dwelling at 799 Castro is Subject to Rent Control*

4 The CUA Decision erroneously finds that the dwelling unit in 799 Castro is not subject to
5 the Rent Ordinance because it is a single-family residence. The Decision states, "The subject
6 property is a commercial office/single-family residence and not subject to rent control." Decision,
7 page 7.

8 The Costa-Hawkins Rental Housing Act ("Costa-Hawkins") is a California state law that
9 exempts certain kinds of residential rental units from rent control ordinances. Exemption of single-
10 family homes under Costa-Hawkins is governed by Civ. Code §1954.50, *et seq*, which provides, in
11 relevant part:

12 Notwithstanding any other provision of law, an owner of residential real
13 property may establish the initial and all subsequent rental rates for a
14 dwelling or a unit about which any of the following is true:

15 (1) It has a certificate of occupancy issued after February 1, 1995.

16 (2) It has already been exempt from the residential rent control ordinance
17 of a public entity on or before February 1, 1995, pursuant to a local
18 exemption for newly constructed units.

19 (3) (A) It is alienable separate from the title to any other dwelling unit or
20 is a subdivided interest in a subdivision, as specified in subdivision (b),
21 (d), or (f) of Section 11004.5 of the Business and Professions Code. Civ.
22 Code § 1954.52(a).

23 799 Castro was constructed circa 1909 as a grocery store with shopkeeper's quarters and did
24 not receive its certificate of occupancy *after* February 1, 1995, nor is the residential unit exempt
25 from the Rent Ordinance as a single-family residence. While 799 Castro contains only one dwelling
26 unit, 3878-3880 21st Street contains two dwelling units and is situated on the same lot. Title to 799
27 Castro is not separately alienable from 3878-3880 21st Street. Thus, Costa-Hawkins does not apply
28 to 799 Castro, and its residential unit is subject to the Rent Ordinance.

The CUA Decision is inconsistent with its use of the term "subject property" to refer to 799
Castro in some instances and the Property in others. The Decision analyzes 799 Castro as a separate
property, leading to the erroneous conclusion that the dwelling unit within 799 Castro is not rent-
controlled. The Property currently contains three dwelling units, all of which are subject to rent

1 control.

2 2) *The Project Seeks to Replace a Rent-Controlled Residential Unit with a*
3 *Luxury Home Not Subject to Rent Control*

4 The Project seeks to demolish the existing rent-controlled residential unit and “replace” it
5 with a basement ADU in order to construct a luxury house. The Project Sponsor has repeatedly
6 asserted that he will demolish the rent-controlled dwelling unit in 799 Castro and “re-establish” it as
7 an ADU in 3878-3880 21st Street. The most current plans for the Project call the addition of the
8 ADU a “residence relocation.” Dec. of SR, Ex. 2. Under the heading “Planning Code Notes,” plans
9 for the ADU submitted to the Planning Commission by the Project Sponsor state, “THE EXISTING
10 BUILDING IS SUBJECT TO RENT CONTROL SO THE NEW UNIT WALL [sic] ALSO BE
11 SUBJECT TO RENT CONTROL.” Dec. of SR, Ex. 3.

12 This “relocation” is not possible, and there is no legal basis for the Project Sponsor’s
13 assertion. The ADU would be rent-controlled because it is an ADU established under Planning
14 Code § 207, not because it “re-establishes” the demolished rent-controlled unit. The ADU may be
15 added to 3878-3880 21st Street whether or not the residential unit at 799 Castro is demolished. To
16 suggest the ADU is a “replacement” or “relocation” of the existing rent-controlled residential unit is
17 a disingenuous attempt to legitimize the Project Sponsor’s efforts to relegate tenants to the
18 basement in order to build luxury housing.

19 The replacement structure at 799 Castro would *not* be rent-controlled. Costa Hawkins would
20 apply to the replacement structure because it would have a certificate of occupancy issued after
21 February 1, 1995 and exempt the replacement structure from rent control.

22 Planning Code § 317 Criterion 5, “whether the Project converts rental housing to other
23 forms of tenure or occupancy,” was erroneously found “not applicable” because the “the existing
24 unit is not rental housing.” Decision, page 7. Criterion 6, “whether the Project removes rental units
25 subject to [the Rent Ordinance] or affordable housing,” was erroneously found not applicable
26 because “the subject property is a commercial office/single-family residence and not subject to rent
27 control.” Decision, page 7. The existing residential unit is currently vacant, but that does not negate
28 its status as a rental housing unit subject to rent control.

1 Planning Code § 317 Criterion 9 asks “whether the Project protects the relative affordability
2 of existing housing,” to which the Decision responds, “By creating new [sic] dwelling-unit where
3 one dwelling used to exist, the relative affordability of existing housing is being preserved.”
4 Decision, page 8. In reality, a rent-controlled unit would be removed from the City’s housing stock
5 and replaced with a lavish single-family home unlikely to be rented, and if rented, certainly not
6 affordable or subject to rent control. This plan is not only unseemly, but also contrary to what the
7 ADU law was designed to accomplish. Adding ADUs does not offset the loss of rent-controlled
8 housing in favor of luxury homes. The ADU law was not intended to provide cover for
9 developments that flaunt the City’s housing policies.

10 B. The Required Findings Under Planning Code § 317 Are Not Met

11 The required findings specified in Planning Code § 303 are not met, including, but not
12 limited to, Criteria 7, 8, 14, 15, 16, and 18, in addition to Criteria 5, 6, and 9 discussed above.

13 The Project does not conserve existing housing and neighborhood character to preserve
14 cultural and economic neighborhood diversity as required by Criteria 7 and 8. Decision, pages 7-8.
15 The Decision concludes that the Project meets this criterion because it will replace a commercial
16 use with a family-sized unit with three bedrooms, maintain the number of dwelling units on site,
17 and add an ADU in 3878-388021st Street. Decision, pages 7-8. Replacing a rent-controlled
18 residential unit with a lavish single-family home will not conserve cultural and economic diversity
19 in the neighborhood despite maintaining the same number of dwelling units. The addition of the
20 ADU does not change the loss of rent-controlled housing or the unaffordability of its replacement.
21 The ADU could be added regardless of the demolition of the residential dwelling unit at 799 Castro.

22 Criterion 11 asks whether the Project locates in-fill housing on appropriate sites in
23 established neighborhoods. Decision, page 8. The Decision responds that “The Project has been
24 designed to be in keeping with the scale and development pattern of the established neighborhood
25 character.” Decision, page 8. The Project has not been designed in keeping with the development
26 pattern of the established neighborhood character in that there are two structures on the Property
27 already and a smaller structure would actually reflect the existing development pattern in terms of
28 open space and lot coverage.

1 In response to Criterion 12, which asks whether the Project increases the number of family-
2 sized dwelling units, the Decision states finds that the Project proposes a family-sized dwelling unit.
3 Decision, page 8. Although the Project does propose a family-sized dwelling, it is not necessary to
4 demolish the existing residential dwelling unit at 799 Castro in order to build a family-sized
5 dwelling at the Property. A family-sized dwelling could be constructed within the existing building
6 envelope by removing the non-conforming commercial use.

7 The Project is *not* of superb architectural and urban design, meeting all relevant design
8 guidelines, to enhance existing neighborhood character, per Criteria 14. Nor can the Planning
9 Commission determine whether the Project will be of “superb architectural and urban design” at
10 this stage. The Decision states that the “overall scale, design and materials of the proposed building
11 are consistent with the block-face and compliment [sic] the neighborhood character.” Decision,
12 page 9. As discussed more fully below, the design of the Project is not complete and the Planning
13 Commission cannot review the final design. It is impossible to determine at this stage whether the
14 Project will complement neighborhood character.

15 While the Decision states that Criteria 15 and 16, whether the Project increases the number
16 of on-site dwelling units and whether the project increases the number of on-site bedrooms, are met,
17 both of these conditions can be met without the Project as proposed. Decision, page 9. The ADU
18 may be added in 3878-3880 21st without demolishing the existing residential unit at 799 Castro and
19 without building beyond the existing building envelope.

20 Criterion 18 applies “[i]f replacing a building not subject to the [Rent Ordinance]. Decision,
21 page 9. The Decision states “Project meets criterion,” although it proposes a replacing a building
22 subject to the Rent Ordinance.

23 This, taken as a whole, the Project does not meet Planning Code § 317’s criteria for
24 conditional use authorization to demolish a dwelling unit.

25 **II. The Project Does Not Meet the Criteria for Conditional Use Authorization Under**
26 **Planning Code § 303**

27 The Decision also notes the criteria established by Planning Code § 303 for the Planning
28 Commission to consider when reviewing applications for CUA. Decision, page 5. The Decision

1 erroneously determines that “[o]n balance, the [P]roject does comply” with the criteria contained in
2 Planning Code § 303. The required findings specified in Planning Code § 303 are not met, including
3 but limited to Findings A, B, and C.

4 In particular, the Project will not provide development that is necessary or desirable, and
5 compatible with, the neighborhood or community.” Decision, page 5. The Decision states, in part,
6 that the Project “will provide a family-sized unit that is designed to be in keeping with the existing
7 development pattern and the neighborhood character.” Decision, page 5. A family-sized unit could
8 be constructed within the existing building envelope and thus a CUA to demolish the existing
9 residential unit is not required in order to build a family-sized unit at 799 Castro.

10 The Project will be detrimental to the convenience and general welfare of persons residing
11 in the vicinity based on the nature of the proposed site, including its size and shape and the
12 proposed size, shape, and arrangement of structures. The Decision states:

13 The proposal is designed to be compatible with the surrounding
14 neighborhood and adjacent buildings. It proposes a single-family structure
15 that is similar to the massing and arrangement of the neighborhood
16 context. Decision, page 6.

17 As discussed more fully below, the final design of the Project cannot be determined because
18 it has yet to be approved by Planning Department staff. At this juncture, it cannot be determined
19 whether the final design will be compatible with the surrounding neighborhood. In addition, the
20 Property is unusually improved with two structures. While the “single-family structure” might have
21 massing similar to other homes in the neighborhood, the presence of the second structure on the
22 same lot creates a different context and renders the proposed structure too big.

23 The Project does not comply with applicable provisions of the Planning Code. The Decision
24 states that the Project “generally complies with relevant requirements and standards of the Planning
25 Code.” Decision, page 6. However, this criterion does not ask whether a project “generally
26 complies” with the Planning Code, but whether it complies. Here, the Project does not comply with
27 the applicable Planning Code provisions because it requires a variance. The Decision acknowledges
28 that the Project requires a variance in a separate passage. Decision, page 3. Without a finally
approved variance, the Project is not code-compliant. As discussed more fully below, CUA should

1 not be granted for a project that is not code-compliant and has not received final variance approval.

2 Thus, the Project does not meet the criteria for CUA under Planning Code § 303.

3 **III. The Planning Commission Wrote a Blank Check for the Project’s Final Design**

4 A. It is Unclear Which Version of the Project the Decision Approves

5 The Planning Commission granted conditional use authorization on the condition that the
6 Project Sponsor “continue to work with Planning Department on the building design.” Decision,
7 page 17. However, because the Project has been through many revisions, the meaning of “the
8 building design” is entirely ambiguous. This is a blank check to be filled in at the payee’s whim.

9 The Decision continues by stating that authorization is granted “in general conformance
10 with plans, dated February 12, 2018, and stamped “EXHIBIT B” included in the docket for Case
11 No. 2017-004562CUA.” Decision, page 15. At least three sets of plans for the Project are contained
12 in the docket. The only set marked “Exhibit B” was issued on April 3, 2014 and attached to the
13 Project Sponsor’s Brief Submittal from November 27, 2017. These plans cannot form the basis of
14 the Project because the Planning Commission rejected that proposal at the Dec. 14 Hearing, and the
15 Project was altered in response to the Commissioners’ instructions before the Feb. 22 Hearing. The
16 plans reflect a four-story over basement replacement structure rather than a three-story over
17 basement as stated in the CUA Decision.

18 Two more sets of plans were issued on February 9, 2018 and submitted for consideration at
19 the Feb. 22 Hearing. Although one of those two is marked “Space Plan: 02-12-18,” it reflects the
20 modern interpretation disfavored by the Commissioners and was not included in the motion as
21 proposed at the Feb. 22 Hearing. Video Record of Feb. 22 Hearing, available at
22 http://sanfrancisco.granicus.com/MediaPlayer.php?view_id=20&clip_id=29866 (“Feb. 22 Video”).
23 Moreover, the Commissioners declined to approve either set of plans as presented.

24 Thus, it is entirely unclear to which plans the Decision refers and which plans form the basis
25 of the Decision’s condition that the Project be redesigned.

26 B. It is Unclear How Much the Existing Design May Be Altered by Planning
27 Department Staff and the Project Sponsor

28 In addition to a lack of clarity as to which set of plans as approved for the Project, from the

1 condition as stated in the Decision, it is also unclear whether and to what degree those plans may be
2 altered. The Planning Commission has delegated its oversight authority to the Planning Department
3 to approve the final design of the Project in violation of Planning Code § 4.105. The Decision
4 states:

5 Final materials, glazing, color, texture, landscaping, and detailing shall be
6 subject to Department staff review and approval. The architectural
7 addenda shall be reviewed and approved by the Planning Department prior
8 to issuance. Decision, page 17.

9 Despite reference to final materials, no one knows what shape the final design will take or
10 how much latitude the Planning Department staff may take in re-designing the Project. Of the two
11 sets of revised plans submitted to the Planning Commission for consideration at the February
12 Hearing, one is modern in style and one is “traditional.” Commissioners Hillis, Richards, Moore,
13 and Melgar all expressed concern over the design in both plans. Feb. 22 Video. The Commissioners
14 expressed a preference for the “traditional” proposal but would not approve it in its submitted form.

15 The condition does not state whether a redesign might include alterations to the existing
16 plans (whichever those may be). The Decision provides for approval of architectural addenda,
17 suggesting that architectural alterations beyond the choice of finishing materials are anticipated. The
18 Project itself has become opaque and ambiguous as a result. While the goals of the Project remain
19 constant, the expression and execution of those goals cannot be predicted at this point, as the
20 Planning Commission has delegated its authority to approve the final design. Currently, no one
21 knows what the Project will look like if completed as approved by the CUA—not the Project
22 Sponsor, not Planning Department staff, and certainly not the Planning Commission. Absent clear
23 re-design parameters, what has the Planning Commission approved and foisted on the neighborhood?
24 The Planning Commission should not have granted conditional use authorization for the demolition
25 of a rent-controlled residential unit without clear plans for what will replace it. It is therefore
26 impossible for Planning Code § 317 Criterion 14

27 C. The Decision Erroneously Determined that the Project is in Keeping with
28 “Neighborhood Character” and is of “Superb Architectural and Urban Design”

The Planning Commission delegated ultimate design control and approval to the Planning

1 Department, yet the Decision simultaneously determined that the design is “compatible with
2 neighborhood character” as part of findings necessary to evaluate the CUA under Planning Code §
3 303 and § 317 as well as the General Plan.

4 The Decision states that “the overall scale, design, and materials of the proposed building
5 are consistent with the block-face and compliment [sic] the neighborhood character” and that “it
6 proposes materials that are compatible with the adjacent buildings and immediate neighborhood
7 character.” Decision, pages 9 and 11. Yet the condition of approval specifically states that “final
8 materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff
9 review and approval.” Decision, page 17. It is therefore impossible to determine whether the design
10 and materials would complement neighborhood character. It is equally impossible to know whether
11 the Project, as approved by Planning Department staff, will match the Decision’s findings. (The
12 Planning Commission, by its own actions, no longer has authority to make or review that
13 determination.)

14 While the Decision states that “the Project is designed to be in keeping with the scale and
15 development pattern of the established neighborhood character,” the Project is not in keeping with
16 established development patterns in the neighborhood. Decision, pages 5 and 8; Letter from Mike
17 Garavaglia, dated April 13, 2018. The Decision asserts that the Project proposes a replacement
18 structure that is “similar to the massing and arrangement of the neighborhood context,” but the
19 Property, unusually, contains two structures. A structure of the same massing on a lot that contained
20 only one structure would certainly be in keeping with the development pattern of the neighborhood.
21 Here, however, the existence of the second structure renders the first over-sized for the
22 neighborhood.

23 Moreover, Planning Code § 317’s Criterion 14 (whether the Project is of superb
24 architectural and urban design, meeting all relevant design guidelines, to enhance existing
25 neighborhood character), among other criteria pertaining to design, cannot be met without clear
26 plans for the Project.

27 This is a historic neighborhood featuring quintessentially San Francisco architecture that
28 creates a sense of place and character. While the Decision states that architectural styles vary in the

1 neighborhood, the buildings are predominantly Queen Anne Victorian style buildings. Decision,
2 page 2; Letter from Mike Garavaglia, dated April 13, 2018. At the Dec. 14 Hearing and again at the
3 Feb. 22 Hearing, the Planning Commissioners recognized the importance of preserving this historic
4 neighborhood's charm. Dec. 14 Video, Feb. 22 Video. Yet, the Decision eliminates the Planning
5 Code's protections of neighborhood character by removing the Planning Commission's authority to
6 approve the final design.

7 Thus, the Decision's findings concerning the Project's impact on the neighborhood cannot
8 actually be determined because the Project's design is not complete and not subject to the Planning
9 Commission's oversight or approval.

10 **IV. The Planning Commission Should Not Have Granted Conditional Use Authorization**
11 **Absent Final Variance Approval**

12 Conditional use authorization may not be granted until and unless any required variances
13 have become final. Conditional Use Authorization ("CUA") under the Planning Code may only be
14 granted if "the use as proposed will comply with the applicable provisions of this Code"
15 Planning Code § 303(c)(3). The Planning Commission is not empowered to approve a CUA that is
16 not code-compliant.

17 The Decision acknowledges that the Project requires a variance. Decision, page 3. Until any
18 required variance has been finally approved, the Commission could not lawfully approve the CUA.
19 In this case, the Acting Zoning Administrator stated at the Feb. 22 Hearing that he intended to
20 approve the variance with the "standard conditions." Feb. 22 Video. However, "[n]o variance shall
21 be granted in whole or in part unless there exist, and the Zoning Administrator specifies in his
22 findings *as part of a written decision*, facts sufficient to establish" Planning Code § 305(c)
23 (Emphasis added). The Planning Commission then issued the Decision *before* the Acting Zoning
24 Administrator issued a written variance decision.

25 Because any decision granting a variance is subject to appellate review by the Board of
26 Appeals, the Acting Zoning Administrator's oral approval at the Feb. 22 hearing does not constitute
27 a final determination on the variance, nor does the issuance of the written variance decision. The
28

1 Planning Commission failed to proceed as required by law in expressing the CUA *before* the
2 required variances had been approved in a written decision and the Board of Appeals' jurisdiction to
3 review the variance had expired. Any contrary conclusion would unlawfully abrogate the Board of
4 Appeals' exclusive authority to hear and decide variance appeals, and the Board of Supervisors'
5 exclusive authority to hear and decide CUA appeals. Planning Code § 308.2; San Francisco Charter
6 Article IV, Section 4.106(c).


7 The Planning Commission has taken action prior to the issuance of the Zoning
8 Administrator's written decision on the Variance. Appellants must now pursue multiple
9 administrative appeals before different decision makers, setting up the potential for inconsistent
10 outcomes, which is not contemplated by the San Francisco Charter and Planning Code. An
11 inconsistent outcome could occur, for example, if the variance is revoked upon appeal *after* the
12 CUA has already been granted.

13 CONCLUSION

14 For the foregoing reasons, the Board of Supervisors should overturn the Project Sponsor's
15 conditional use authorization. The Project seeks to demolish a rent-controlled unit in favor of a non-
16 rent controlled luxury home. Because the Planning Commission has delegated its oversight
17 authority, it is unclear what shape the Project will take and how it will affect the surrounding
18 neighborhood. Further, the Planning Commission improperly granted conditional use authorization
19 before a variance has been finally approved.

20
21 Dated: April 13, 2018

ZACKS, FREEDMAN & PATTERSON, PC

22 

23 By: Shoshana Raphael
24 Attorneys for Appellants,
25 Andrew Zacks and Denise Leadbetter
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8 Attorneys for Appellants,
9 Andrew Zacks and Denise Leadbetter

10 SAN FRANCISCO BOARD OF SUPERVISORS

11 ANDREW ZACKS and DENISE
12 LEADBETTER,

13 Appellants,

14 vs.

15 SAN FRANCISCO PLANNING
16 COMMISSION,

17 Respondent.

18 HATEF MOGHIMI,

19 Real Party in Interest.

Appeal of Conditional Use Authorization

**DECLARATION OF SHOSHANA
RAPHAEL**

City Planning Commission Case No. 2017-
004562CUA

Planning Commission Motion No. 20118

Subject Address: 799 Castro Street and 3878-
3880 21st Street

Hearing Date: April 24, 2018, 3:00 p.m.

20 I, Shoshana Raphael, declare as follows:

21 1. I am an attorney at Zacks, Freedman & Patterson, PC, the firm hired to represent
22 Andrew Zacks (“Appellant”). I make this declaration in support of the above-captioned appeal.
23 Unless otherwise stated, I have personal knowledge of the facts stated herein and, if called as a
24 witness, could and would testify competently thereto.

25 2. Attached hereto as Exhibit 1 is a true and correct copy of Planning Commission
26 Motion No. 20118, Hearing Date February 22, 2018, issued by the San Francisco Planning
27 Department.
28

1 3. Attached hereto as Exhibit 2 is a true and correct copy of plans for the proposed
2 replacement structure at 799 Castro Street from the supporting documents submitted by the Project
3 Sponsor to the Planning Commission for the February 22, 2018 joint Planning Commission and
4 Zoning Administrator hearing on 2017-004562CUA, 2008.0410V, and 2017-004562DRP.

5 4. Attached hereto as Exhibit 3 is a true and correct copy of plans labeled “Unit
6 Addition” submitted to the Planning Commission by the Project Sponsor on November 27, 2017.

7 5. Attached hereto as Exhibit 4 is a true and correct copy of a historical photograph of
8 799 Castro Street taken in the 1930’s.

9 6. Attached hereto as Exhibit 5 is a true and correct copy of a San Francisco Planning
10 Department Property and Zoning Report for 799 Castro Street.

11 7. Attached hereto as Exhibit 6 is a true and correct copy of DBI Tracking Report for
12 Building Permit Application No. 201409196883.

13 8. Attached hereto as Exhibit 7 is a true and correct copy of DBI Tracking Report for
14 Building Permit Application No. 201704043134.

15
16
17
18 Dated: April 13, 2018


Shoshana Raphael

EXHIBIT 1



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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Planning Commission Motion No. 20118 HEARING DATE: FEBRUARY 22, 2018

Case No.: 2017-004562CUA/DRP & 2008.0410V
 Project Address: 799 Castro Street & 3878-3880 21st Street
 Zoning: RH-2 (Residential-House, Two-Family)
 40-X Height and Bulk District
 Block/Lot: 3603/024
 Project Sponsor: Thomas Tunny
 1 Bush Street
 San Francisco, CA 94104
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 317 REQUIRING CONDITIONAL USE AUTHORIZATION FOR THE TANTAMOUNT TO DEMOLITION AND REPLACEMENT OF A RESIDENTIAL UNIT.

PREAMBLE

On April 13, 2017, Thomas Tunny for Hatef Moghimi (Project Sponsor) filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303 and 317 to demolish a residential unit and construct a three-story over basement single-family residence at 799 Castro Street within an RH-2 (Residential, House, Two-Family) District and a 40-X Height and Bulk District. One new accessory dwelling unit is proposed in a detached building on site under a separate permit.

On October 12, 2017, the San Francisco Planning Commission (hereinafter "Commission") and Zoning Administrator conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2017-004562CUA and Variance Application No. 2008.0410V. The items were continued to December 14, 2017 to include Discretionary Review Application No. 2017-004562DRP that was filed for a separate proposal on the same property. On December 14, 2017, the Commission and Zoning Administrator conducted a duly noticed public hearing at a regularly scheduled meeting for the Conditional Use, Discretionary Review and Variance Applications; all items were heard and continued to February 22, 2018. On February 22, 2018, the Commission and Zoning Administrator conducted a duly noticed public hearing at a regularly scheduled meeting for all items.

On February 12, 2018, the Department issued a new California Environmental Quality Act ("CEQA") Categorical Determination to reflect scope of work changes (e.g., demolition, accessory dwelling unit, additional excavation) which supersedes previous determination documents. The Department determined that the Project is exempt from CEQA as Class 1 and Class 3 categorical exemptions.

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. 2017-004562CUA, 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 proposal is for demolition of an existing mixed-use structure (commercial office/single-family) and construction of a three-story over basement single-family residence at 799 Castro Street. The subject property contains three dwelling units – two units in a building at the rear of the property (3878-3880 21st Street) and one unit within an existing limited nonconforming commercial office in a building at the front (799 Castro Street). Under a separate building permit, 2017.04.04.3134, one new accessory dwelling unit is proposed in the rear building.
3. **Site Description and Present Use.** The project is located at the northeast corner of Castro and 21st Streets, Block 3603, Lot 024. The subject property is located within the RH-2 (Residential-House, Two Family) and the 40-X Height and Bulk District. The property is developed with a one-story commercial/residential building at the corner and a two-story building with two units along 21st Street. The 2,650 square foot laterally sloping corner lot has 26'6" of frontage along Castro Street and a depth of 100' along 21st Street.
4. **Surrounding Properties and Neighborhood.** The subject property is located at the southern edge of the Castro/Upper Market neighborhood, bordering Noe Valley and within Supervisor District 8. Parcels within the immediate vicinity consist of residential single-, two- and three-family dwellings of varied design and construction dates. Architectural styles, building heights, building depth and front setbacks vary within the neighborhood.
5. **Public Comment/Community Outreach**
 - The Project Sponsor conducted two Pre-Application Meetings with adjacent property owners on July 1, 2014 and February 21, 2017 as well as additional follow-up meetings to further

discuss design. The Project completed the Section 311, Conditional Use, Discretionary Review and Variance notifications as mentioned above.

- The Department received communication and petitions from neighbors both in support and opposition of the Project.

6. **Planning Code Compliance:** The Commission finds that the Project is generally consistent with the relevant provisions of the Planning Code in the following manner:

- A. **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' height limit. Planning Code Section 261 further restricts height in RH-2 Districts to 30' at the front lot line, then at such setback, height shall increase at an angle of 45° toward the rear lot line until the prescribed 40' height limit is reached.

The Project proposes a building that will be approximately 30'9" tall and will meet the 30' maximum at the front.

- B. **Front Setback Requirement.** Planning Code Section 132 requires, in RH-2 Districts, a front setback that complies to legislated setbacks (if any) or a front back based on the average of adjacent properties (15 foot maximum).

The subject property does not have a legislated setback. Based on the average of adjacent neighbors, a 4'5" front setback is required; the Project provides the minimum required.

- C. **Rear Yard Requirement.** Planning Code Section 134 requires, in RH-2 Districts, a rear yard measuring 45 percent of the total depth; properties with two buildings on a lot are required to provide a minimum rear yard of 25% of the total lot depth or 15' between the two buildings.

The Project proposes a 20' separation (increased from existing 8'6") between the subject building at the front and rear building. The Project requires a variance as the subject building encroaches within the required 25' rear yard.

- D. **Side Yard Requirement.** Planning Code Section 133 does not require side yard setbacks in in RH-2 Districts.

The Project proposes constructing to both side property lines since no side setbacks are required in the RH-2 District. The property does not currently provide side setbacks as the existing buildings are built to both side property lines.

- E. **Residential Design Guidelines.** Per Planning Code Section 311, the construction of new residential buildings and alteration of existing residential buildings in R Districts shall be consistent with the design policies and guidelines of the General Plan and with the "Residential Design Guidelines."

The Residential Design Team determined that the project complies with the Residential Design Guidelines.

- F. **Front Setback Landscaping and Permeability Requirements.** Planning Code Section 132 requires that the required front setback be at least 20% unpaved and devoted to plant material and at least 50% permeable to increase storm water infiltration.

Areas not constructed within the required front setback will provide the minimum required landscaping and permeability.

- G. **Street Frontage Requirement.** Planning Code Section 144 requires that off-street parking entrances be limited to one-third of the ground story width along the front lot line and no less than one-third be devoted to windows, entrances to dwelling units, landscaping and other architectural features that provide visual relief and interest for the street frontage.

The Project complies with the street frontage requirement as it exceeds the visual relief minimum.

- H. **Street Frontage, Parking and Loading Access Restrictions.** Off-street parking shall meet the standards set forth in Planning Code Section 155 with respect to location, ingress/egress, arrangement, dimensions, etc.

Proposed off-street parking for one vehicle will be located wholly within the property, comply with access, arrangement and street frontage dimensional standards.

- I. **Usable Open Space.** Planning Code Section 135 requires, in RH-2 Districts, usable open space that is accessible by each dwelling (125 square feet per unit if private, ~166 square feet if shared).

The Project provides the minimum private usable open space required for the subject building. However, the nonconforming open space condition for the existing two units would remain.

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

The Project proposes one off-street parking space for the subject building. However, the nonconforming parking condition for the existing two units would remain.

- K. **Residential Demolition – Section 317:** Pursuant to Planning Code Section 317, Conditional Use Authorization is required for applications proposing to remove a residential unit. 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 the Section 317, the additional criteria specified under Section 317 have been incorporated as findings a part of this Motion. See Item 8. "Additional Findings pursuant to Section 317" below.

- L. **Residential Density, Dwelling Units.** Per Planning Code Section 209.1, up to two units per lot are principally permitted in RH-2 Districts and up to one unit per 1,500 Sq. Ft. of lot area is allowed with Conditional Use Authorization.

The property is nonconforming with respect to density as it presently contains three units. The Project proposes tantamount to demolition of the existing single-family/commercial structure and construction of a replacement dwelling unit on the 2,650 square foot parcel. The project will maintain the quantity of dwelling units on site and will introduce an Accessory Dwelling Unit in the existing two-unit building on the property (3878-3880 21st Street) under a separate building permit.

- M. **Child Care Requirements for Residential Projects.** Planning Code Section 414A requires that any residential development project that results in additional space in an existing residential unit of more than 800 gross square feet shall comply with the imposition of the Residential Child Care Impact Fee requirement.

The Project proposes adding more than 800 gross square feet to the subject building. Therefore, the Project is subject to the Residential Child Care Impact Fee and must comply with the requirements outlined in Planning Code Section 414A.

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 proposal will remove a noncomplying commercial office use from and replace it with residential use within the residential context. It will provide a family-sized unit that is designed to be in keeping with the existing development pattern and the neighborhood character.

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 proposal is designed to be compatible with the surrounding neighborhood and adjacent buildings. It proposes a single-family structure that is similar to the massing and arrangement of the neighborhood context.

- 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;

Planning Code requires one off-street parking space per dwelling unit. One vehicle and one bicycle space are proposed where currently no spaces provided on site for the existing buildings.

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

The proposal is residential and will not yield 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;

The proposed project is residential, will be landscaped accordingly and will provide one off-street parking space.

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 generally complies with relevant requirements and standards of the Planning Code 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 applicable RH-2 District.

The property is nonconforming with respect to density as it presently contains three units. The project will maintain the existing quantity of dwelling units on site and will introduce an Accessory Dwelling Unit in the existing two-unit building on the property (3878-3880 21st Street) under a separate building permit.

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 property is free of a history of serious, continuing Code violations;

Project meets criterion.

A review of the databases for the Department of Building Inspection and the Planning Department did not show any enforcement cases or notices of violation.

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

Project meets criterion.

The structure appears to be in decent condition.

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

Criterion not applicable.

The Planning Department reviewed the Historic Resource Evaluation submitted and concluded that the subject property is not eligible for listing in the California Register of Historical Resources (CRHR) individually or as a contributor to a historic district. Therefore, the existing structure is not a historic resource under CEQA.

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

Criterion not applicable.

Not applicable. The Planning Department determined that the existing structure is not a historic resource. Therefore, the removal of the structure would not result in a significant adverse impact on historic resources under CEQA.

- v. Whether the Project converts rental housing to other forms of tenure or occupancy;

Criterion not applicable.

The existing unit is not rental housing.

- vi. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance or affordable housing;

Criterion not applicable.

The subject property is a commercial office/single-family residence and not subject to rent control.

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

Project meets criterion.

Although the Project proposes demolition of the commercial office/dwelling unit, it will be replaced with a family-sized unit with 3 bedrooms. The Project will maintain the quantity of dwelling units on site and will introduce an Accessory Dwelling Unit in the existing two-unit building on the property (3878-3880 21st Street) under a separate building permit.

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

Project meets criterion.

The replacement building will conserve neighborhood character with appropriate scale, design, and materials, and improve cultural and economic diversity by appropriately increasing the number of bedrooms for a family-sized unit. There will be a net gain of one unit at the project site through the introduction of an Accessory Dwelling Unit under a separate building permit.

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

Project meets criterion.

The Project will maintain the existing quantity of dwelling units on site and will introduce an Accessory Dwelling Unit in the existing two-unit building on the property (3878-3880 21st Street) under a separate building permit. By creating new dwelling-unit where one dwelling used to exist, the relative affordability of existing housing is being preserved.

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

Criterion not applicable.

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

- xi. 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.

- xii. Whether the Project increases the number of family-sized units on -site;

Project meets criterion.

The Project proposes a three-bedroom, family-sized residence and an accessory dwelling unit under a separate building permit in the adjacent building on the lot.

- xiii. Whether the Project creates new supportive housing;

Criterion not applicable.

The Project does not create supportive housing.

- xiv. Whether the Project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;

Project meets criterion.

The overall scale, design, and materials of the proposed building are consistent with the block-face and compliment the neighborhood character.

- xv. Whether the Project increases the number of on-site Dwelling Units;

Project meets criterion.

The Project will maintain the existing quantity of dwelling units on site and will introduce an accessory dwelling unit in the existing two-unit building on the property (3878-3880 21st Street) under a separate building permit.

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

Project meets criterion.

The Project proposes a three-bedroom, family-sized residence and an Accessory Dwelling Unit (studio) under a separate building permit in the adjacent building on the lot.

- xvii. Whether or not the replacement project would maximize density on the subject lot; and

Project meets criterion.

The property is nonconforming with respect to density as it presently contains three units. The project proposes tantamount to demolition of the existing single-family/commercial structure and construction of a replacement dwelling unit on the 2,650 square foot parcel. The Project will maintain the existing quantity of dwelling units on site and will introduce an Accessory Dwelling Unit in the existing two-unit building on the property (3878-3880 21st Street) under a separate building permit.

- xviii. If replacing a building not subject to the Residential Rent Stabilization and Arbitration Ordinance, whether the new project replaces all of the existing units with new Dwelling Units of a similar size and with the same number of bedrooms.

Project meets criterion.

The Project proposes replacing the existing commercial/residential structure with a new, family-sized dwelling unit of a larger size.

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

HOUSING ELEMENT

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.

The Project proposes a three-bedroom, family-sized residence and an Accessory Dwelling Unit under a separate building permit in the adjacent building on the lot.

OBJECTIVE 11:

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

The overall scale, design, and materials of the proposed building are consistent with the block-face and compliment the neighborhood character.

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

The property is nonconforming with respect to density as it presently contains three units. The project will maintain the existing quantity of dwelling units on site and will introduce an Accessory Dwelling Unit in the existing two-unit building on the property (3878-3880 21st Street) under a separate building permit.

Policy 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.5

Ensure densities in established residential areas promote compatibility with prevailing neighborhood character.

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 construction that respects existing building heights and topography in the neighborhood.

Policy 1.3:

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

The proposed replacement building reflects the existing mixed architectural character and development pattern of the neighborhood. The overall scale, design, and materials of the proposed building are consistent with the block-face and compliment the neighborhood character.

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 replacement building has been designed to be compatible with the neighborhood's mixed massing, width and height. It proposes exterior materials that are compatible with the adjacent buildings and 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.

While the existing commercial/residential structure is proposed to be demolished, the replacement building would provide a family-sized dwelling unit in a neighborhood made up of one-, two-and three+ units of mixed architectural character.

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

The replacement building would provide a family-sized dwelling unit in a neighborhood made up of one-, two-and three+ units of mixed architectural character.

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

While the project does not propose affordable housing, it will provide a family-size dwelling unit and an Accessory Dwelling Unit on site, adding to the City supply of housing.

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

The Project would not have a significant adverse effect on automobile traffic congestion or create parking problems in the neighborhood. The project would enhance neighborhood parking by providing one off-street parking space and one bicycle parking space, where none currently exist on the lot.

- 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 will remove a nonconforming commercial office/residential building and replace it with residential use which is in keeping with the residential neighborhood context.

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

The Project will conform to the requirements of the San Francisco Building Code.

- 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.

The Project will have no negative impact on existing parks and open spaces. The height of the proposed structure is compatible with the established neighborhood development.

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

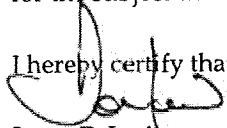
That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2016-004562CUA** 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. 20118. 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.

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on February 22, 2018.


Jonas P. Ionin
Commission Secretary

AYES: Richards, Moore, Koppel, Melgar

NAYS: Hillis

ABSENT: Fong

RECUSED: None

ADOPTED: February 22, 2018

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow tantamount to demolition of an existing single-family residence and construction of two replacement dwelling units located at 437 Hoffman Avenue, Block 6503, Lot 024 pursuant to Planning Code Sections 303 and 317 within the RH-2 District and a 40-X Height and Bulk District; in general conformance with plans, dated February 12, 2018, and stamped "EXHIBIT B" included in the docket for Case No. 2017-004562CUA and subject to conditions of approval reviewed and approved by the Commission on February 22, 2018 under Motion No 20118. 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 February 22, 2018 under Motion No. 20118.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 20118 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

6. **Final Design.** 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. **Landscaping.** Pursuant to Planning Code Section 132, the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that 50% of the front setback areas shall be surfaced in permeable materials and further, that 20% of the front setback areas shall be landscaped with approved plant species. The size and specie of plant materials and the nature of the permeable surface shall be as approved by the Department of Public Works.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PARKING AND TRAFFIC

9. **Parking Requirement.** Pursuant to Planning Code Section 151, the Project shall provide one independently accessible off-street parking space.

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

PROVISIONS

10. **Child Care Fee - Residential.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING

11. **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*

12. **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

13. **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>*
14. **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>*
15. **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*

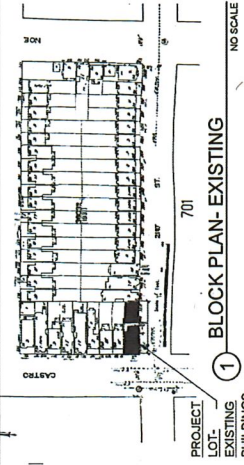
EXHIBIT 2

REVISED PLANS - TRADITIONAL DESIGN

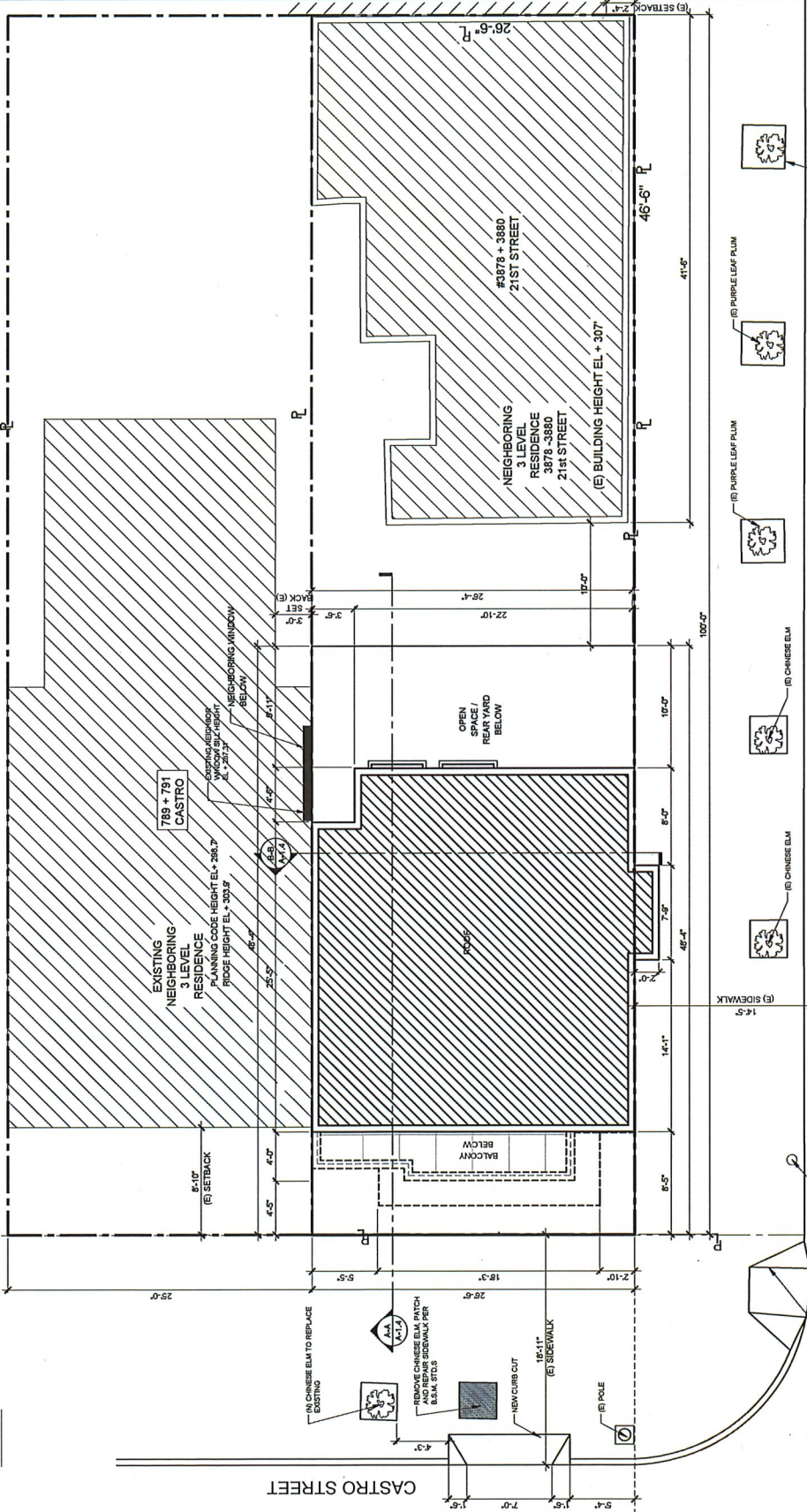
PROJECT DATA:
 REMODELED RESIDENCE AT 799 CASTRO STREET
 CODE : 2013 SFBC
 CONSTRUCTION TYPE : V B
 SPRINKLING: PER 903.3.1
 OCCUPANCY GROUP : R-3
 FLOORS: 4 LEVELS - THREE STORIES OVER A BASEMENT
 FULL LOT AREA: 2,862 SQ. FT.
 BLOCK/LOT : 3603/024
 ZONING : RH-2, RESIDENTIAL - TWO FAMILY
 HEIGHT/ BULK DISTRICT : 40-X
 FRONT SETBACK : AVERAGE COMPLIES
 REAR SETBACK : PROPOSED VARIANCE FROM 25'
 SEPARATION BETWEEN BUILDINGS.

AREA SUMMARIES
EXISTING BUILDING 2,650 SQ. FT. PER TRUE NORTH SURVEY DATED NOV. 13, 2007
 • EXISTING BUILDING
 • PROPOSED BUILDING
 • FLOOR AREA: 3,009 SQ. FT.
 • GARAGE: 383 SQ. FT.
 • BALCONY, PATIO AREAS: 212 SQ. FT.
SCOPE OF WORK:
 • ALTERATION OF EXISTING COMMERCIAL BUILDING
 • CONVERSION OF OCCUPANCY TO R-3
 • (E) RESIDENCE RELOCATION UNDER SEPERATE PERMIT SUBMIT ALL

SHEET INDEX:
 A-0 VICINITY MAP, SITE/ROOF PLAN & PROJECT DATA
 A-1.0 EXISTING SITE PLAN
 A-1.1 PROPOSED BASEMENT + FIRST FLOOR PLANS
 A-1.2 PROPOSED SECOND + THIRD FLOOR PLANS
 A-1.3 ROOF PLAN
 A-1.4 PROPOSED SECTIONS
 A-2.0 PROPOSED WEST AND EAST ELEVATIONS
 A-2.1 PROPOSED SOUTH ELEVATION
 A-2.2 PROPOSED NORTH ELEVATION
 A-2.4 EXISTING SOUTH ELEVATION
 A-2.5 EXISTING NORTH ELEVATION



PROJECT LOT-EXISTING BUILDINGS



PROPOSED SITE PLAN
 DRAWING NUMBER: A-0 ALT
 SHEET TITLE: PROPOSED SITE PLAN
 DRAWING DATE: 02-08-19
 DRAWING SCALE: AS SHOWN

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 799 CASTRO
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2	REVISIONS	
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10	REVISIONS	



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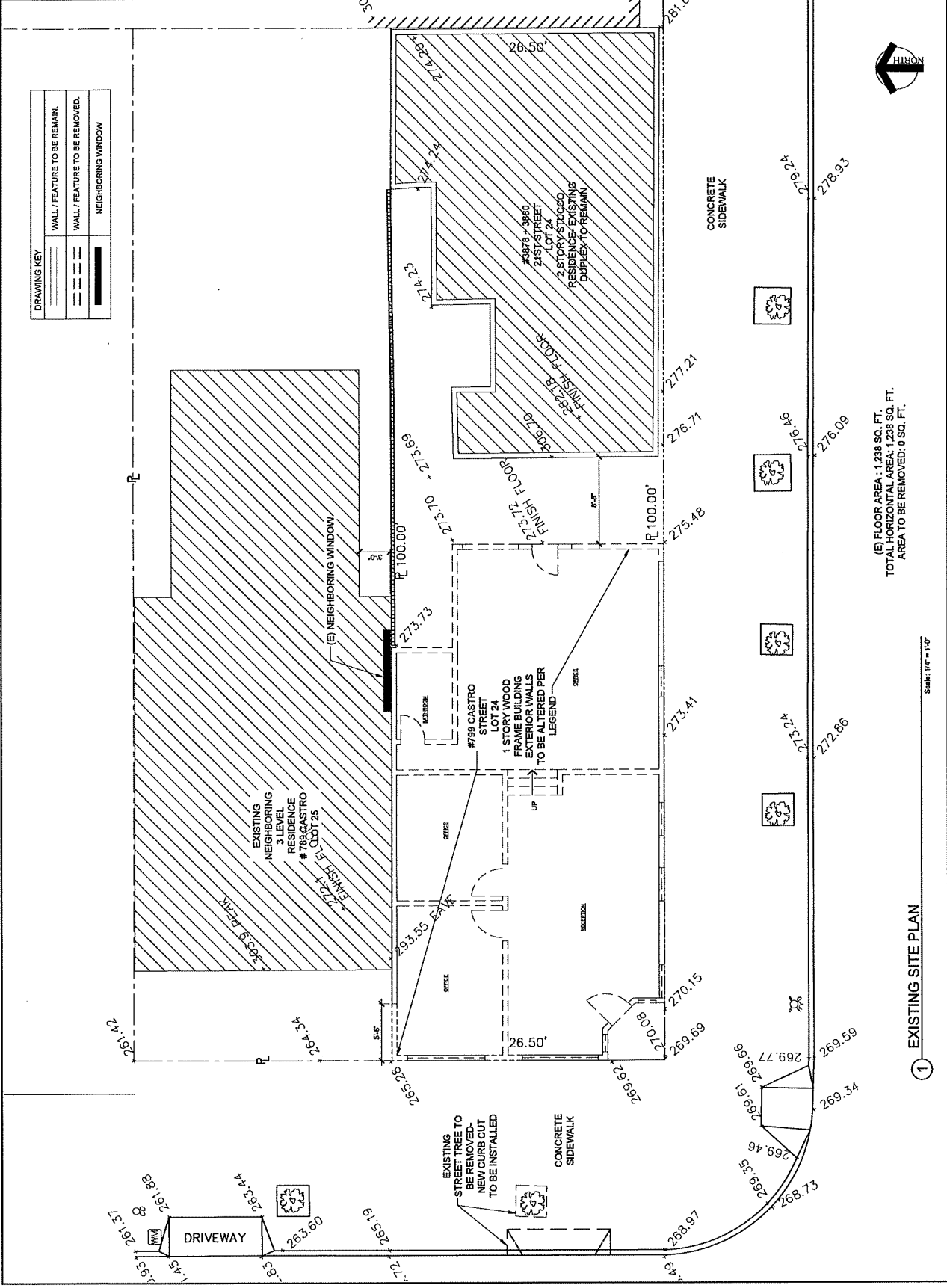
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 799 CASTRO
 SAN FRANCISCO, CA 94114

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EXISTING SITE PLAN
 DRAWING NUMBER: A-1.0 ALT

DRAWING KEY

---	WALL / FEATURE TO BE REMAIN.
- - -	WALL / FEATURE TO BE REMOVED.
---	NEIGHBORING WINDOW



(E) FLOOR AREA: 1,238 SQ. FT.
 TOTAL HORIZONTAL AREA: 1,238 SQ. FT.
 AREA TO BE REMOVED: 0 SQ. FT.

1 EXISTING SITE PLAN
 Scale: 1/8" = 1'-0"



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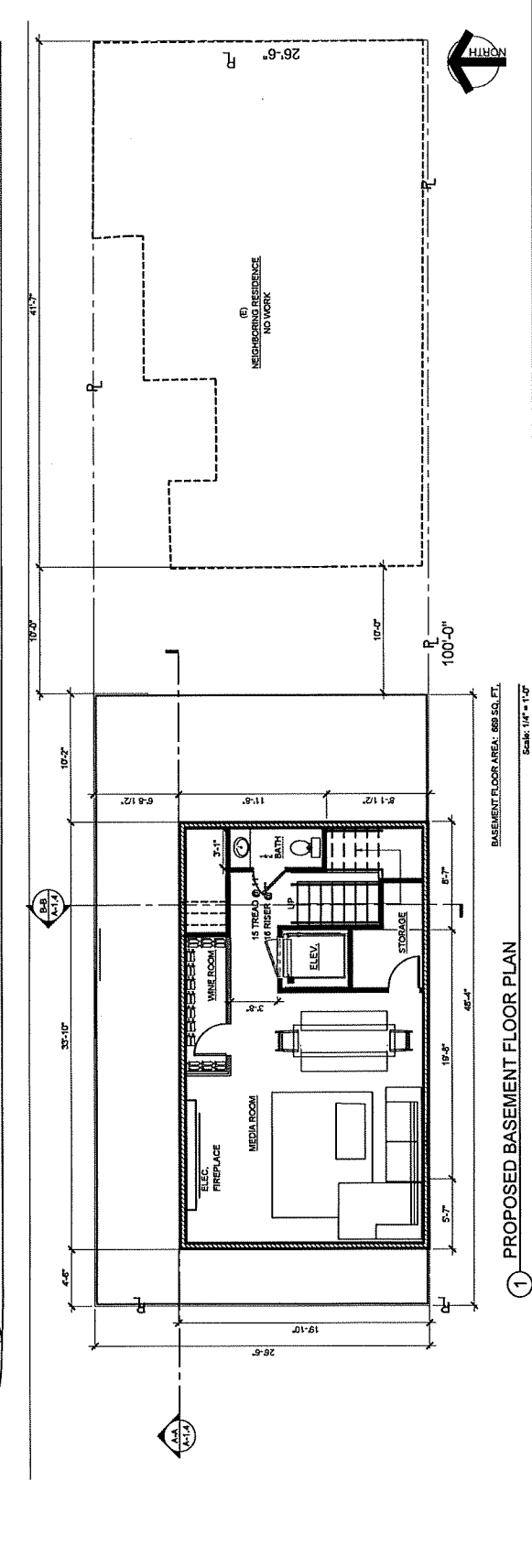
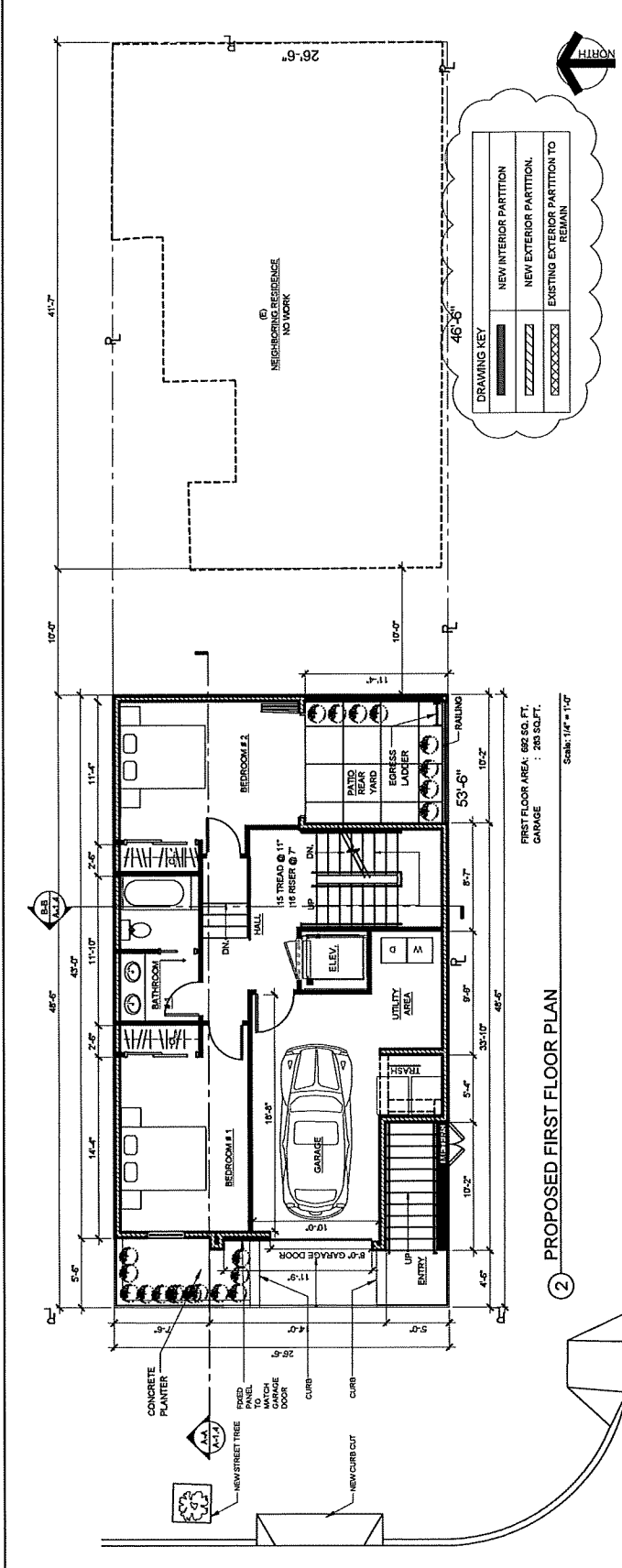


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NEW RESIDENCE
 799 CASTRO
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20	ISSUED FOR PERMIT	11/11/2014

DRAWING TITLE: PROPOSED BASEMENT & FIRST FLOOR PLANS
 DRAWING NUMBER: A-1.1 ALT





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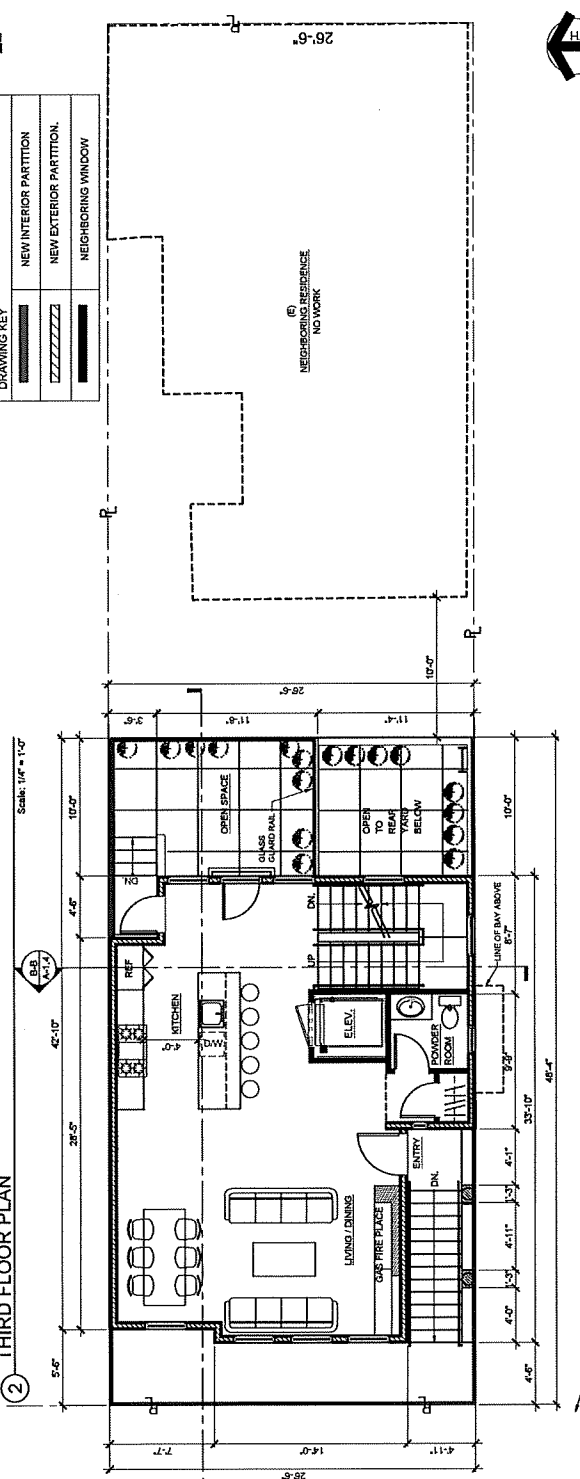
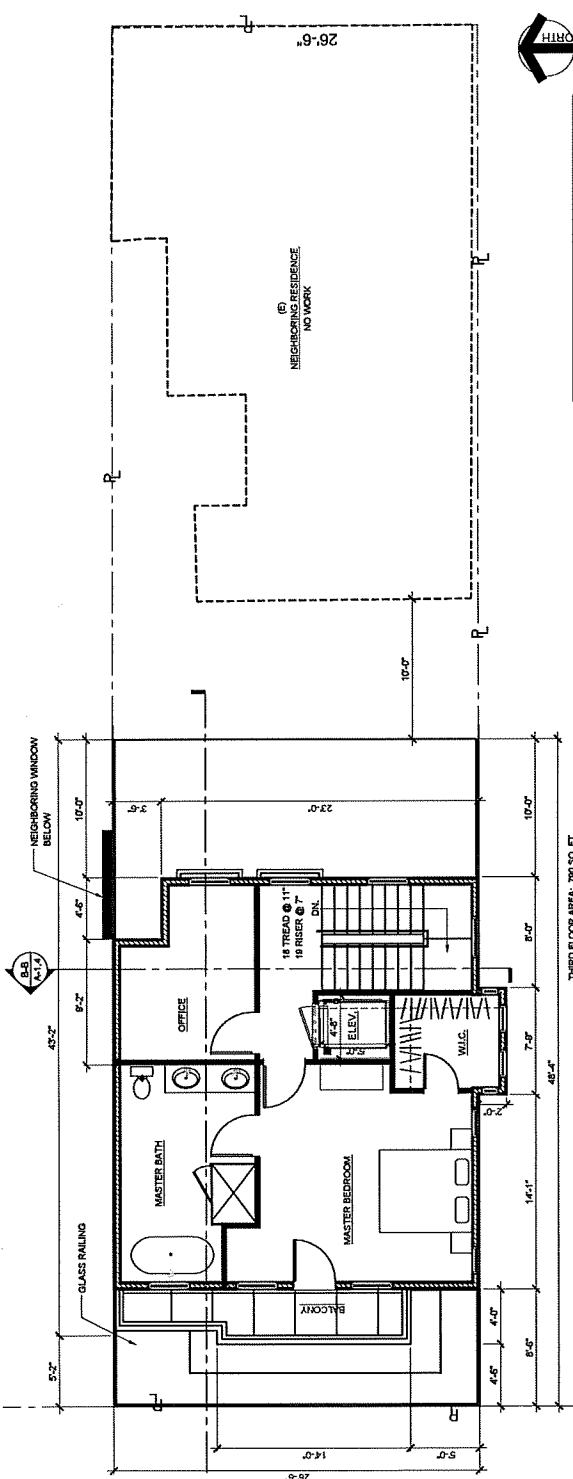


ARCHITECTURAL PROJECT NO.

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 799 CASTRO
 SAN FRANCISCO, CA 94114

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PROJECT TITLE:
NEW RESIDENCE
 SHEET NO.:
SECOND & THIRD FLOOR PLANS
 DRAWING NUMBER:
A-1.2 ALT



DRAWING KEY

—	NEW INTERIOR PARTITION
	NEW EXTERIOR PARTITION
—	NEIGHBORING WINDOW





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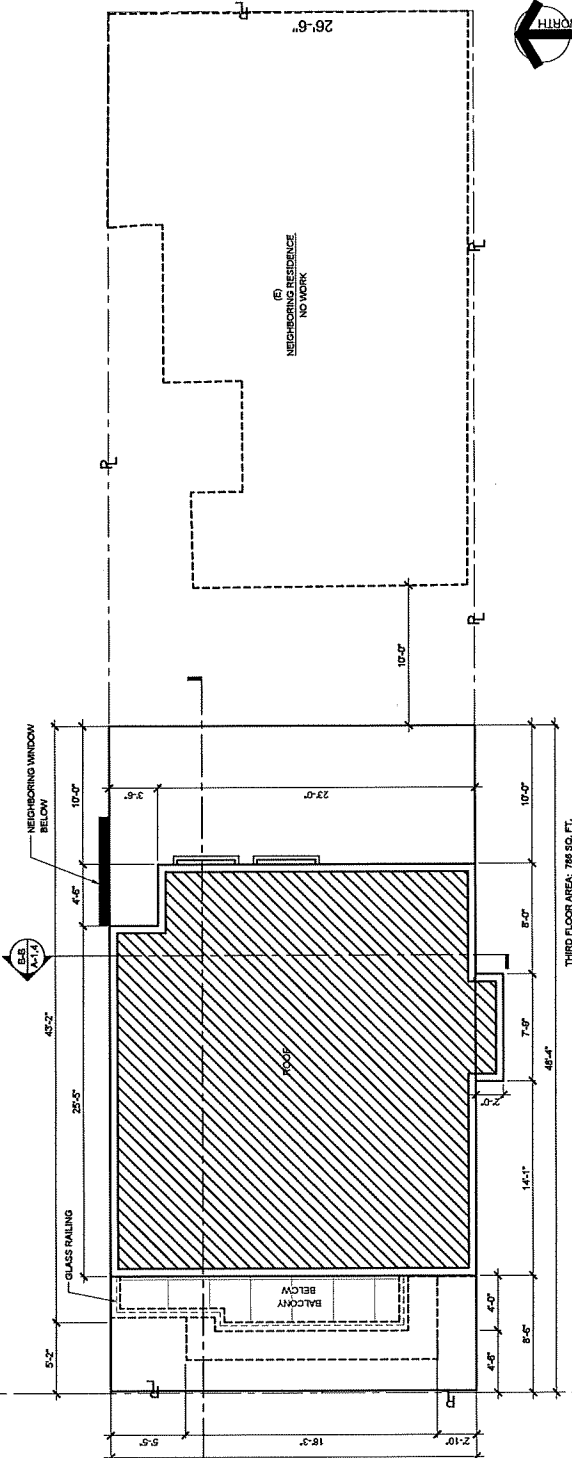


PROFESSIONAL PROJECT NO.

NEW RESIDENCE
799 CASTRO
SAN FRANCISCO, CA 94114

NO.	DESCRIPTION	DATE

ISSUE DATE:	10/29/19
ISSUE NAME:	01-108
DRAWING TITLE:	ROOF PLAN
DRAWING NUMBER:	A-1.3 ALT



THIRD FLOOR AREA: 799 SQ. FT.

1 ROOF PLAN

Scale: 1/8" = 1'-0"



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ARCHITECTURAL PROJECT NO.:

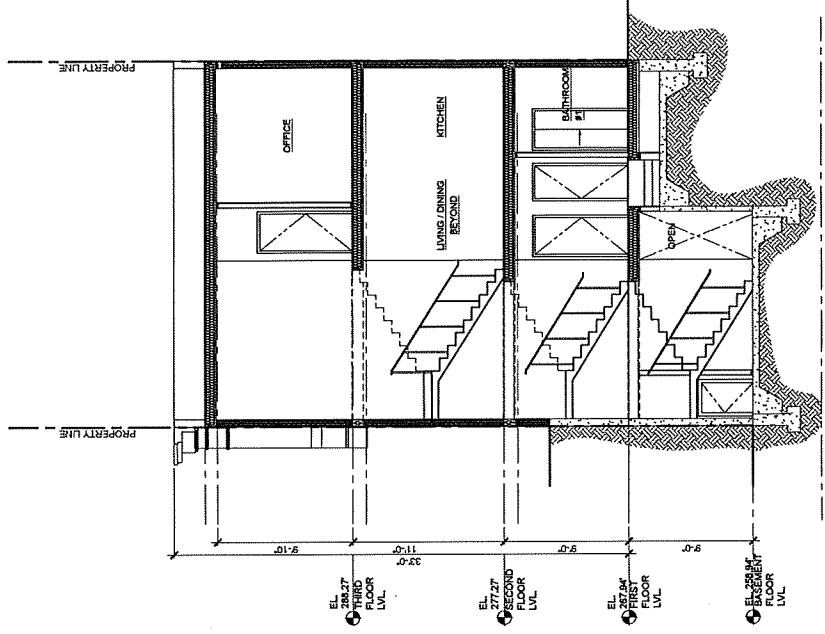
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799 CASTRO
SAN FRANCISCO, CA 94114

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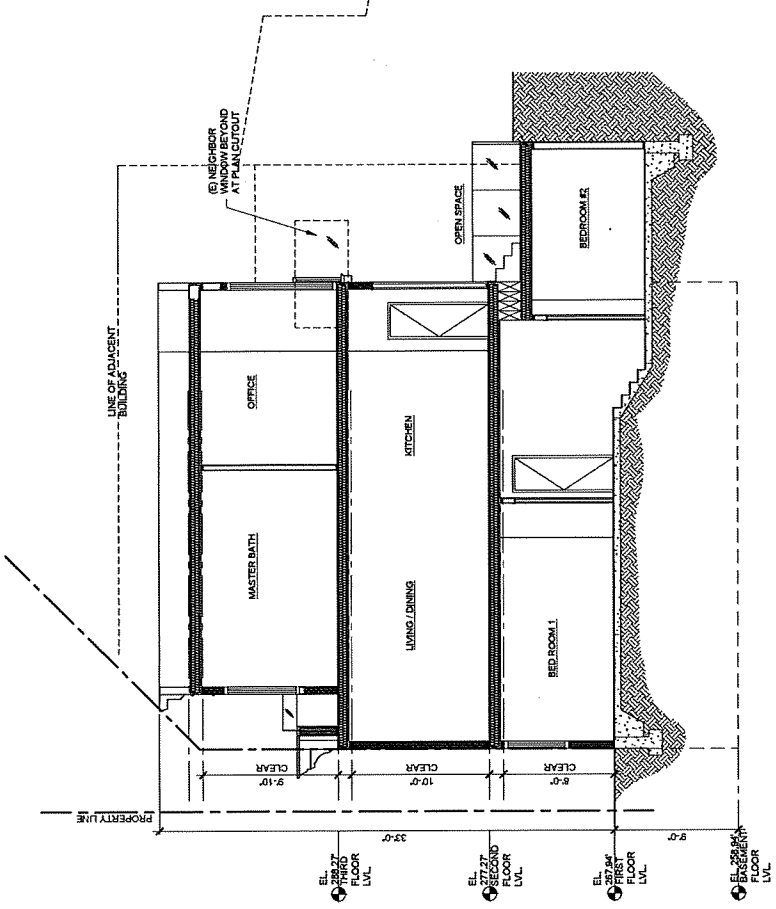
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DRAWING TITLE:
SECTION NUMBER:
SECTION:

A-1.4 ALT

GENERAL AND MANORIAL EXEMPT PER SFPC SECTION 260 (a) (1) (B)



SECTION B-B
Scale: 1/4" = 1'-0"



SECTION A-A
Scale: 1/4" = 1'-0"



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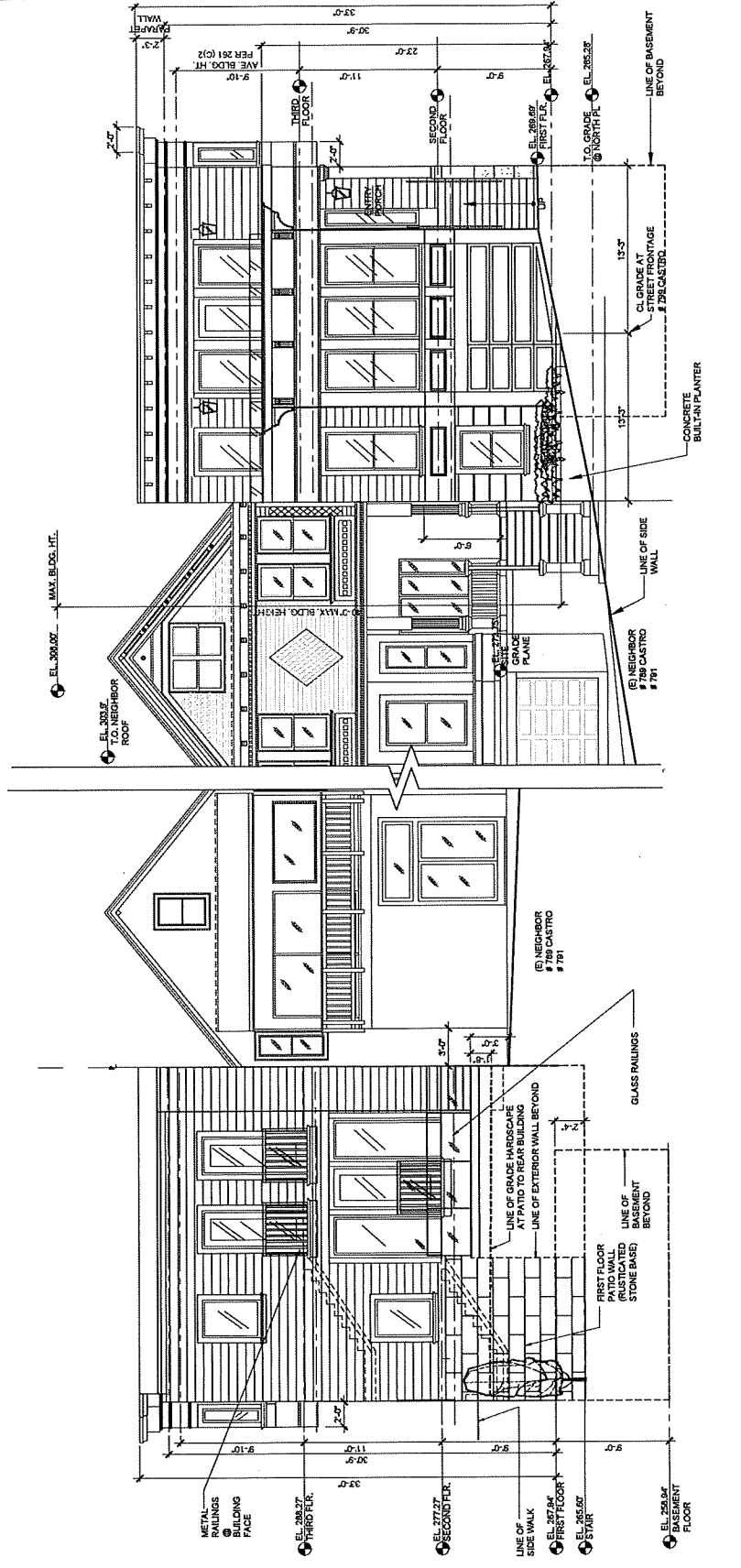
ARCHITECTURAL PROJECT NO.

NEW RESIDENCE
 799 CASTRO
 SAN FRANCISCO, CA 94114

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3	FINAL PERMITS	12/15/11
4	CONSTRUCTION	01/15/12
5	FINAL AS-BUILT	02/15/12
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98	REVISIONS	
99	REVISIONS	
100	REVISIONS	

PROJECT NO.
 SHEET NO. 10-114
 WEST AND EAST
 ELEVATIONS
 DRAWING NUMBER

A-2.0 ALT



1 WEST FRONT ELEVATION - CASTRO STREET
 Scale: 1/8" = 1'-0"

2 EAST REAR ELEVATION
 Scale: 1/8" = 1'-0"

EXISTING GRADE PLANE ANALYSIS

- WEST FRONTAGE AVERAGE GRADE = 287.5'
- SOUTH FRONTAGE AVERAGE GRADE = 287.7'
- NORTH FRONTAGE AVERAGE GRADE = 287.7'
- NORTH PROPERTY LINE AVERAGE GRADE = 288.7'
- AVERAGE GRADE PLANE FOR PROPERTY IS = 272.75'
- PROPOSED GRADE PLANE ABOVE IS LESS THAN SIX FEET ABOVE GRADE PLANE.

GRADING ANALYSIS

- BASEMENT (002 SQ.FT. X 9 FT.) = 1818 C.Y.
- FIRST FLOOR (145 SQ.FT. X 4.5) = 652.5 C.Y.
- SECOND FLOOR = 0 C.Y.
- THIRD FLOOR = 0 C.Y.
- TOTAL C.Y. TO BE REMOVED: 122.25



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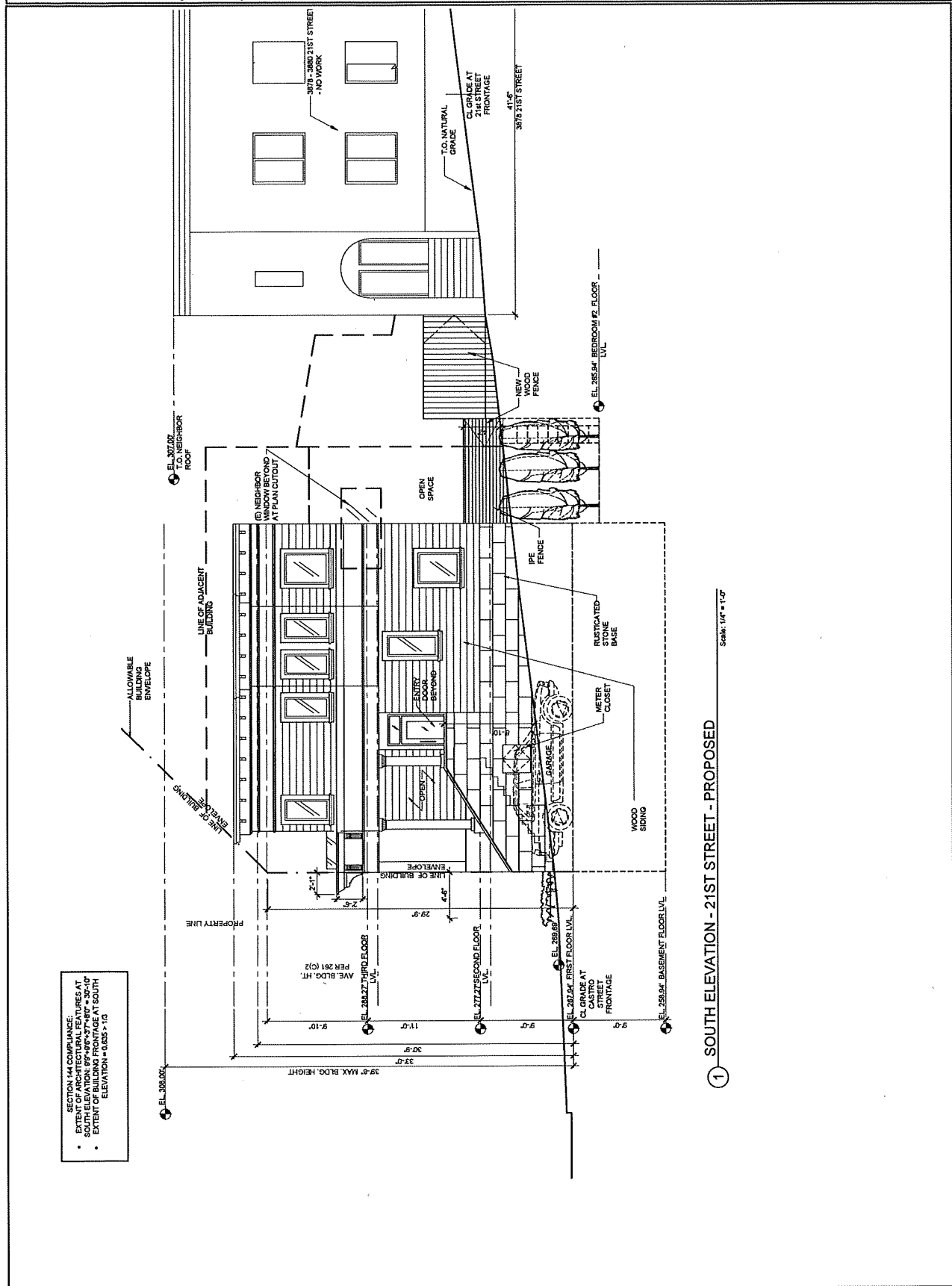


ARCHITECTURAL PROJECT NO.:

NEW RESIDENCE
 799 CASTRO
 SAN FRANCISCO, CA 94114

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITS	08/14/14
2	ISSUED FOR PERMITS	08/14/14
3	ISSUED FOR PERMITS	08/14/14
4	ISSUED FOR PERMITS	08/14/14
5	ISSUED FOR PERMITS	08/14/14
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19	ISSUED FOR PERMITS	08/14/14
20	ISSUED FOR PERMITS	08/14/14

PROJECT TITLE:
PROPOSED SOUTH ELEVATION
 DRAWING NUMBER:
A-2.1 ALT





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PROFESSIONAL PROJECT NO.

NEW RESIDENCE
799 CASTRO
SAN FRANCISCO, CA 94114

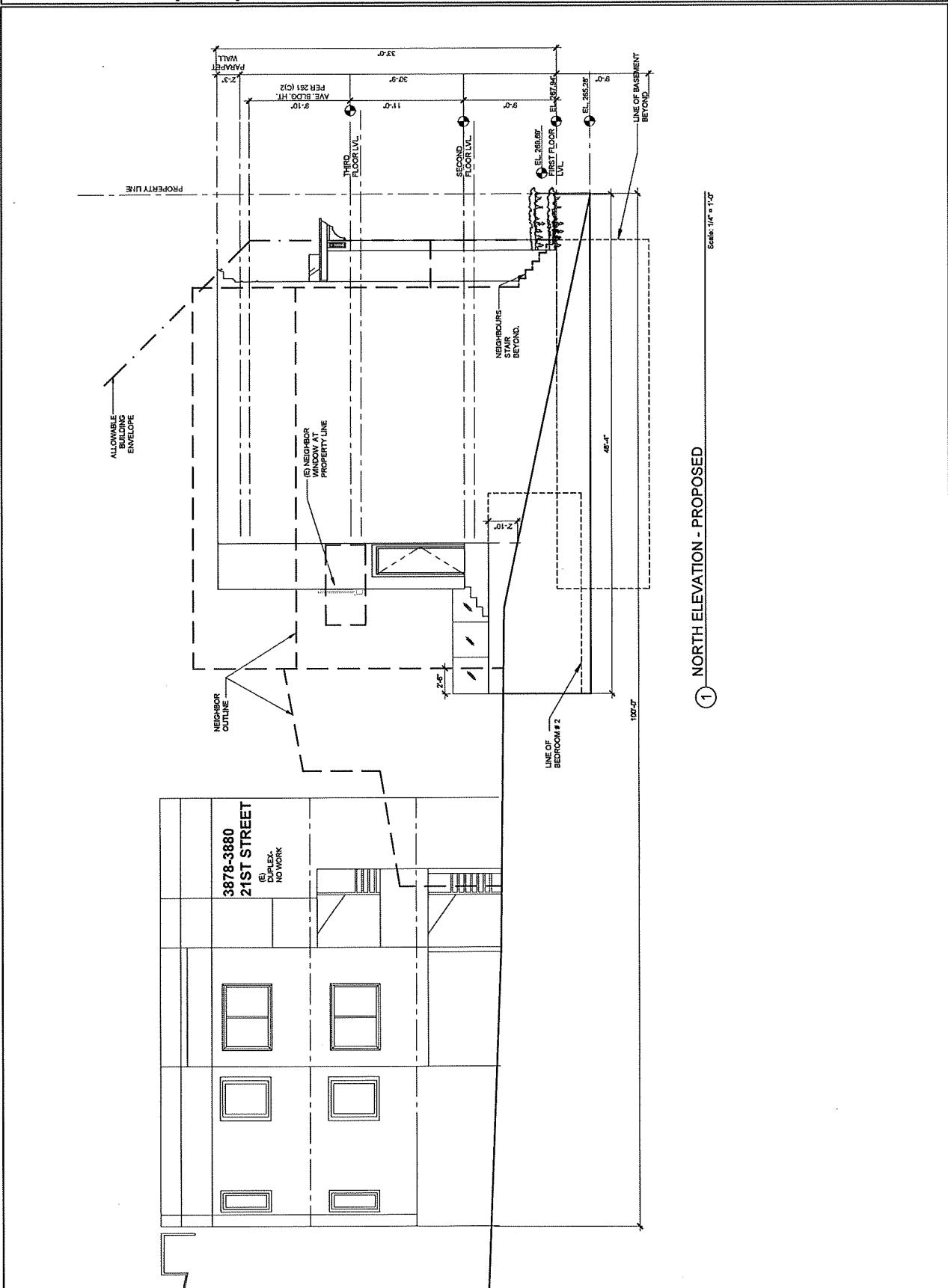
REVISIONS	
NO.	DESCRIPTION

DATE	
DESIGN	
PERMISSIONS/DEVELOPMENT	
CONTRACT ADMINISTRATION	
PRELIMINARY	
PERMITS	
CONSTRUCTION	
FINAL	

PROJECT NUMBER: 2747-18
DRAWING NUMBER: A-2.2

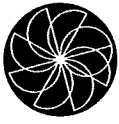
DRAWING TITLE:
PROPOSED NORTH ELEVATION

A-2.2 ALT



① NORTH ELEVATION - PROPOSED

Scale: 1/4" = 1'-0"



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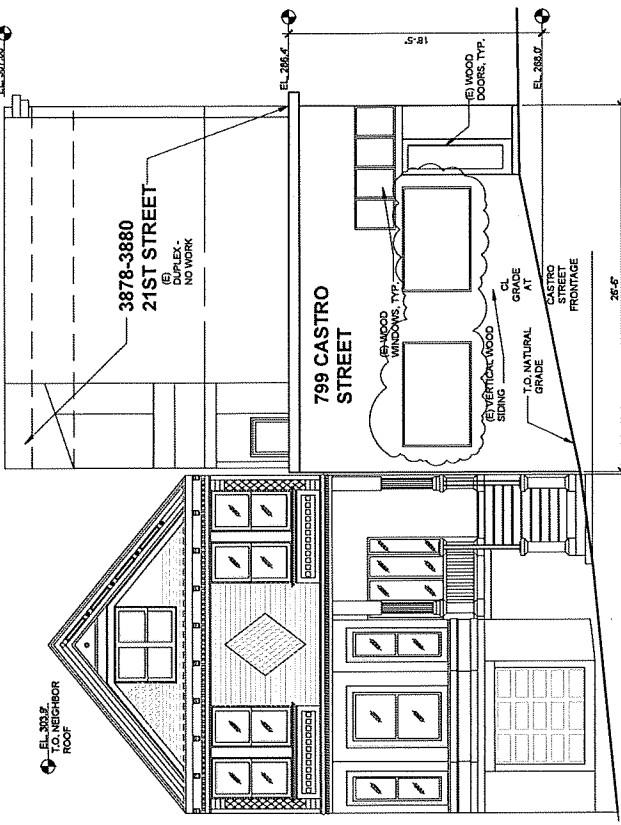
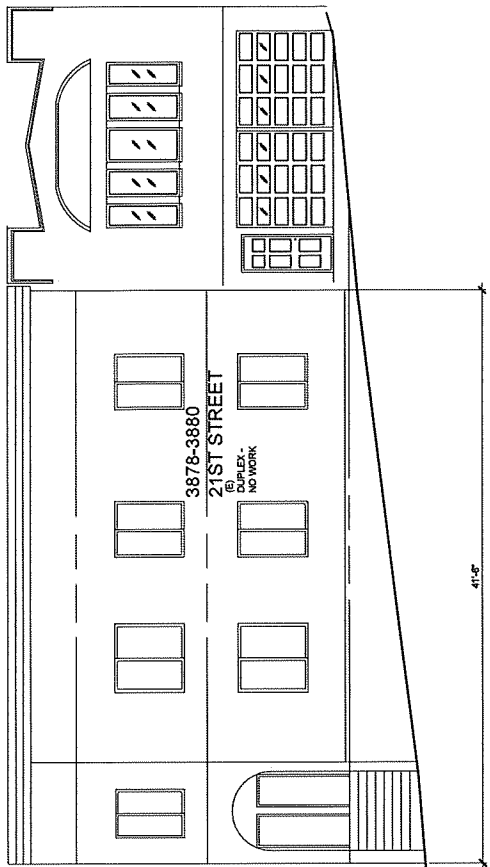


ARCHITECTURAL PROFESSIONAL

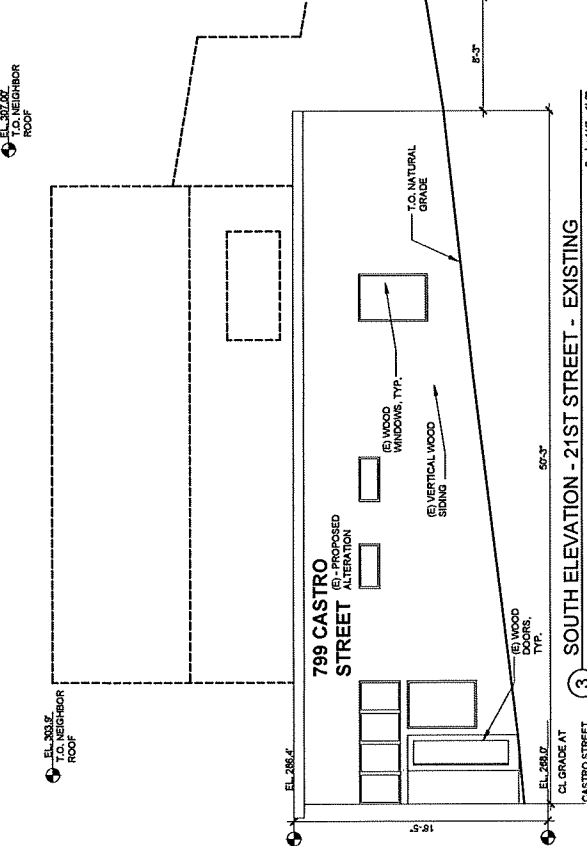
NEW RESIDENCE
 799 CASTRO
 SAN FRANCISCO, CA 94114

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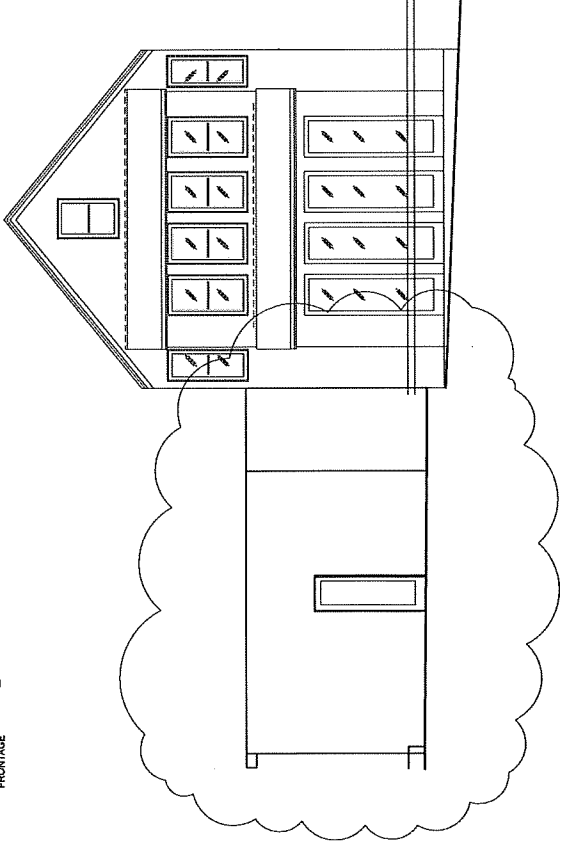
DATE PLOTTED: 10/15/14
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 DRAWING NUMBER: A-2.3 ALT



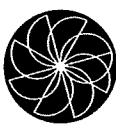
① WEST ELEVATION - CASTRO STREET - EXISTING
 Scale: 1/4" = 1'-0"



③ SOUTH ELEVATION - 21ST STREET - EXISTING
 Scale: 1/4" = 1'-0"



② EAST ELEVATION - 799 CASTRO STREET - EXISTING
 Scale: 1/4" = 1'-0"



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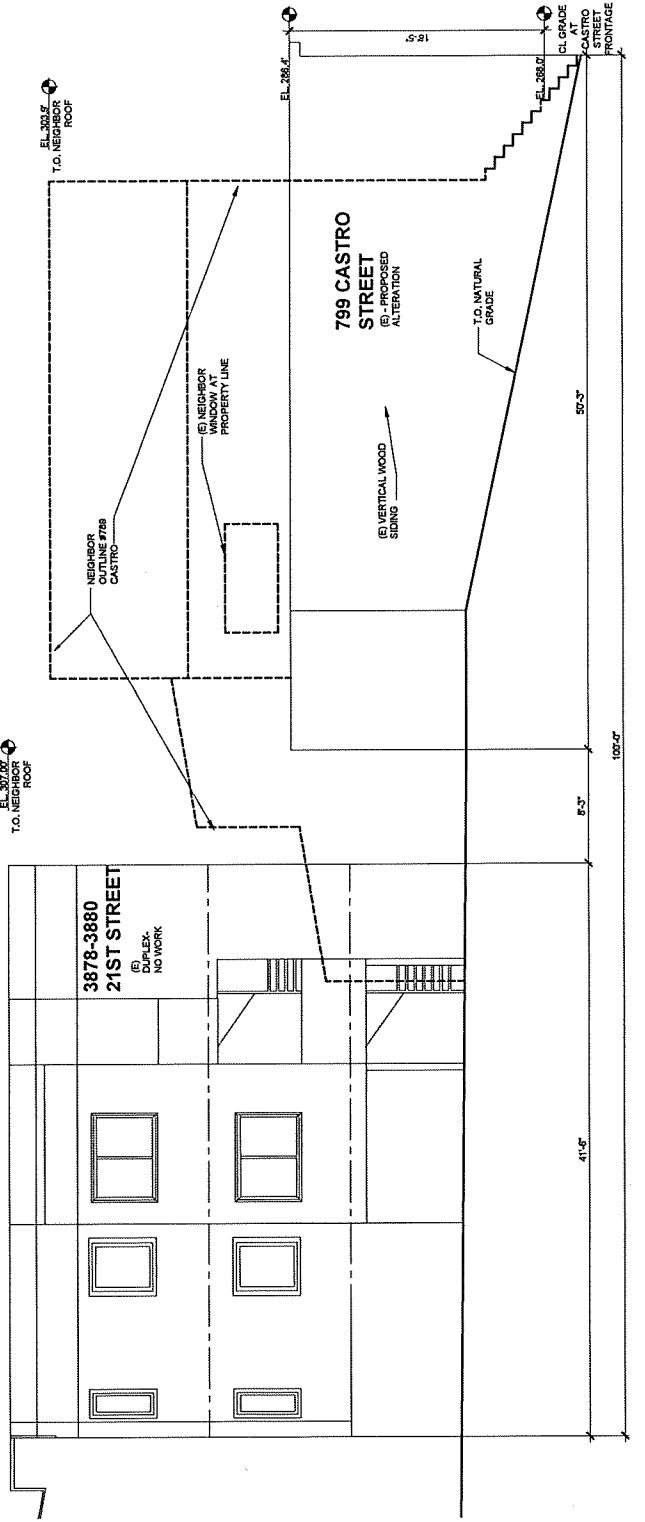
PROFESSIONAL PROJECT NO.:

NEW RESIDENCE
799 CASTRO
SAN FRANCISCO, CA 94114

DATE: 11/15/11
PROJECT: NEW RESIDENCE
SHEET: 11/15/11

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	11/15/11
2	ISSUED FOR PERMIT	11/15/11
3	ISSUED FOR PERMIT	11/15/11
4	ISSUED FOR PERMIT	11/15/11
5	ISSUED FOR PERMIT	11/15/11
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7	ISSUED FOR PERMIT	11/15/11
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9	ISSUED FOR PERMIT	11/15/11
10	ISSUED FOR PERMIT	11/15/11

OWNER TITLE: EXISTING NORTH ELEVATION
DRAWING NUMBER: A-2.4 ALT



① NORTH ELEVATION - EXISTING

Scale: 3/16" = 1'-0"

EXHIBIT 3

ABBREVIATIONS

Table with 2 columns: Abbreviation (e.g., A, A1, A2) and Description (e.g., AND, ANGLE, APPLICABLE CODES). Includes terms like MECH., MEMB., MFR., MANHOLE, etc.

Table with 2 columns: Abbreviation (e.g., W, WEST, W.C., WATER) and Description. Includes terms like VESTIBULE, WEST, WATER, CLOSET, etc.

UNIT ADDITION

3878 / 3880 21st. STREET, SAN FRANCISCO, CA 94114



VICINITY MAP

TECTA Associates ARCHITECTURE INTERIORS PLANNING. 2747 19TH STREET, SAN FRANCISCO, CA 94110. Tel: 415-362-5044. www.TECTA.com



PROFESSIONAL PROJECT NO. 0227

UNIT RELOCATION. 3878 / 3880 21st STREET, SAN FRANCISCO, CA 94114.

Revision table with columns for NO., DATE, and REVISION. Shows a single revision for 'DATE'.

SHEET NUMBER: A-0. PROJECT NUMBER: 15451. DRAWING TITLE: UNIT RELOCATION.

SHEET INDEX

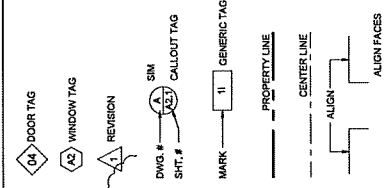
- A-00 TITLE DESCRIPTION, NOTES.
A-01 APPLICABLE CODES.
A-02 CODE REVIEW.
A-03 EXISTING FLOOR PLANS.
A-04 EXISTING ELEVATIONS.
A-05 EXISTING ELEVATIONS.
A-06 PROPOSED AND EXISTING ELEVATIONS.
A-07 ENLARGED PLAN AND SECTION OF PROPOSED UNIT.

PROJECT INFORMATION

PROJECT DESCRIPTION: THE EXISTING BUILDING IS A 2-STOREY RESIDENTIAL BUILDING R2 OCCUPANCY. THE SCOPE OF THE WORK IS TO ADD A NEW ACCESSORY DETACHED UNIT TO THE BASEMENT LEVEL. PERFORMANCE R2-16.

- BUILDING USE / OCCUPANCY GROUP: PROPOSED R-2 OCCUPANCY.
PROJECT ADDRESS: 3878 / 2480 21st ST.
PARCEL AREA: 2620 SF. LOT.
BUILDING AREA: 844.5 SF.
NUMBER OF UNITS (EXISTING): 2.
NUMBER OF UNITS (PROPOSED): 3.

SYMBOLS



CODES

- APPLICABLE CODES: 2013 CALIFORNIA MECHANICAL CODE, 2013 CALIFORNIA ELECTRICAL CODE, 2013 CALIFORNIA ENERGY CODE, 2013 CALIFORNIA FIRE AND LIFE SAFETY CODE, 2013 CALIFORNIA GREEN BUILDING CODE.
CHAPTER 3 GENERAL BUILDING HEIGHT & AREA.
CHAPTER 8 TYPES OF CONSTRUCTION.

GENERAL NOTES

- 1. ALL WORK SHALL BE PERFORMED BY LICENSED & INSURED CONTRACTOR.
2. ALL OHS REGULATIONS SHALL BE FOLLOWED BY THE GENERAL CONTRACTOR & EACH SUB CONTRACTOR.
3. ALL OHS REGULATIONS SHALL BE FOLLOWED BY THE GENERAL CONTRACTOR & EACH SUB CONTRACTOR.

PROJECT DIRECTORY

ARCHITECTS: TECTA ASSOCIATES. 2747 19TH STREET, SAN FRANCISCO, CA 94110. Tel: 415-362-5044.
GENERAL CONTRACTOR: JAMES & POSE, LLP. 1415 35th STREET, SAN FRANCISCO, CA 94114. Tel: 415-667-6000.

Table with 2 columns: Abbreviation (e.g., A, A1, A2) and Description (e.g., AND, ANGLE, APPLICABLE CODES). Includes terms like MECH., MEMB., MFR., MANHOLE, etc.

Table with 2 columns: Abbreviation (e.g., W, WEST, W.C., WATER) and Description. Includes terms like VESTIBULE, WEST, WATER, CLOSET, etc.

SHEET INDEX

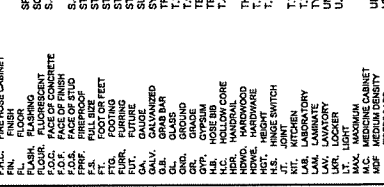
- A-00 TITLE DESCRIPTION, NOTES.
A-01 APPLICABLE CODES.
A-02 CODE REVIEW.
A-03 EXISTING FLOOR PLANS.
A-04 EXISTING ELEVATIONS.
A-05 EXISTING ELEVATIONS.
A-06 PROPOSED AND EXISTING ELEVATIONS.
A-07 ENLARGED PLAN AND SECTION OF PROPOSED UNIT.

PROJECT INFORMATION

PROJECT DESCRIPTION: THE EXISTING BUILDING IS A 2-STOREY RESIDENTIAL BUILDING R2 OCCUPANCY. THE SCOPE OF THE WORK IS TO ADD A NEW ACCESSORY DETACHED UNIT TO THE BASEMENT LEVEL. PERFORMANCE R2-16.

- BUILDING USE / OCCUPANCY GROUP: PROPOSED R-2 OCCUPANCY.
PROJECT ADDRESS: 3878 / 2480 21st ST.
PARCEL AREA: 2620 SF. LOT.
BUILDING AREA: 844.5 SF.
NUMBER OF UNITS (EXISTING): 2.
NUMBER OF UNITS (PROPOSED): 3.

SYMBOLS



PROJECT DIRECTORY

ARCHITECTS: TECTA ASSOCIATES. 2747 19TH STREET, SAN FRANCISCO, CA 94110. Tel: 415-362-5044.
GENERAL CONTRACTOR: JAMES & POSE, LLP. 1415 35th STREET, SAN FRANCISCO, CA 94114. Tel: 415-667-6000.



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ARCHITECTURAL PROJECT NO. 12321

UNIT RELOCATION
 3878 / 3880 21st STREET
 SAN FRANCISCO, CA 94114

DATE: 08/21/12
 SHEET NO.: A-0.1

NO.	REVISIONS	DATE

PROJECT NAME: 3878 / 3880 21st STREET
 SHEET TITLE: SITE PLAN

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

SHEET INDEX:

- A-0 VICINITY MAP, SITE / ROOF PLAN & PROJECT DATA
- A-1.0 EXISTING BASEMENT PLAN & 1st FLOOR PLAN
- A-1.1 PROPOSED BASEMENT + FIRST FLOOR PLANS
- A-1.2 REFLECTED CEILING PLAN
- A-2.0 PROPOSED SOUTH ELEVATION
- A-2.1 PROPOSED WEST ELEVATION

AREA SUMMARIES:

- EXISTING BUILDING 1ST + 2ND FL. COMBINED 1,766 SQ. FT. PER TRUE NORTH SURVEY DATED NOV. 13, 2007
- PROPOSED BUILDING FLOOR AREA: 354 SQ. FT.
- PATIO AREAS: 335 SQ. FT.

PROJECT DATA:

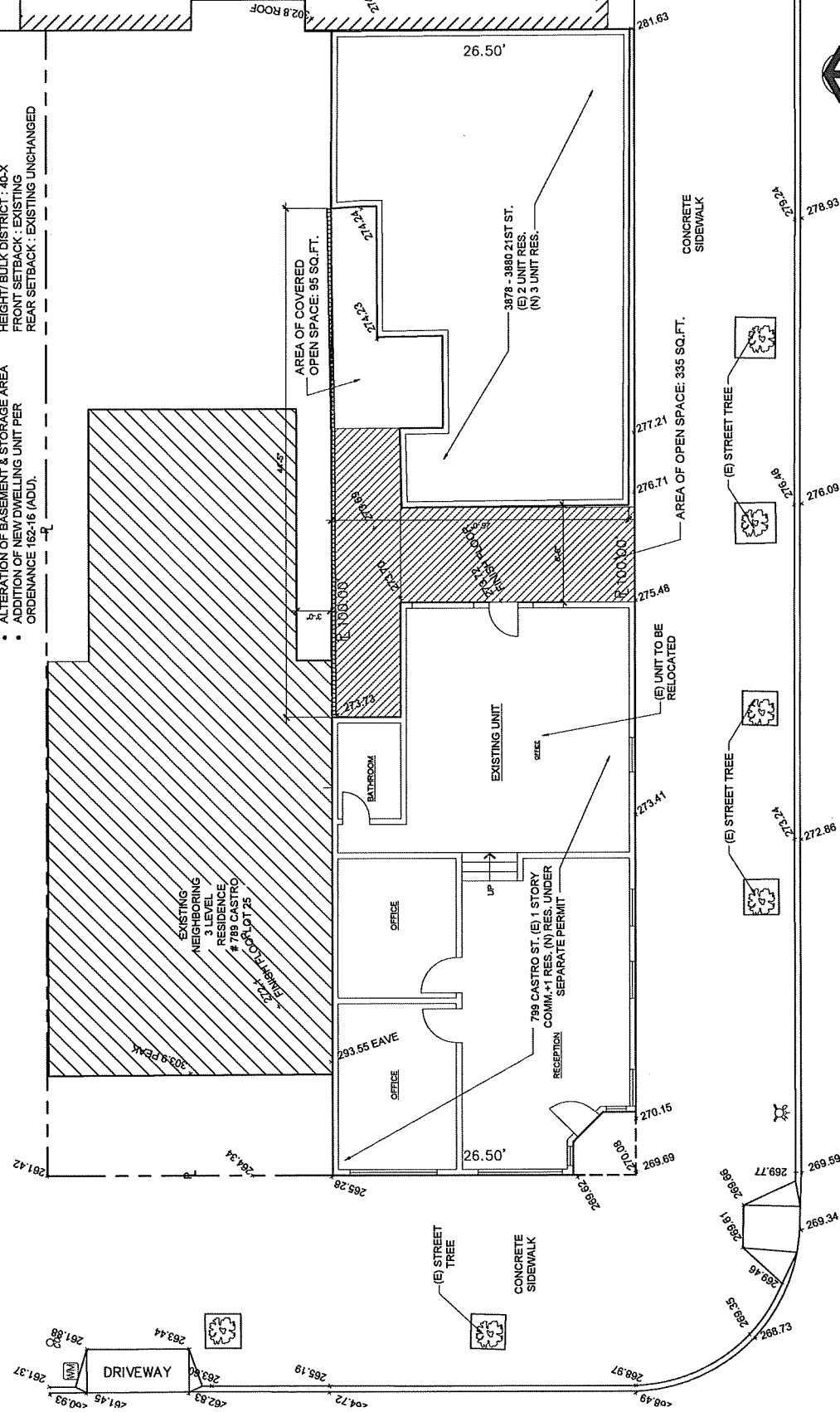
NEW UNIT AT 3880a 21st STREET
 CODE: 2013 SFBBC
 CONSTRUCTION TYPE: V/B
 SPRINKLERING: PER 903.3.1
 OCCUPANCY GROUP: R-3
 FLOORS: 3 LEVEL - WITH BASEMENT
 FULL LOT AREA: 2,650 SQ. FT.
 BLOCK/LOT: 3603/024
 ZONING: RH-2, RESIDENTIAL - TWO FAMILY
 HEIGHT/BULK DISTRICT: 40-X
 FRONT SETBACK: EXISTING
 REAR SETBACK: EXISTING UNCHANGED

SCOPE OF WORK:

- ALTERATION OF BASEMENT & STORAGE AREA
- ADDITION OF NEW DWELLING UNIT PER ORDENANCE 162-16 (ADU).

NEIGHBORING:

- EXISTING NEIGHBORING 3 LEVEL RESIDENCE, 799 CASTRO ST. (E) UNIT 11
- EXISTING 2-2.1-1 EMERALD TOWER PLANT



1 EXISTING SITE PLAN

Scale: 1/4" = 1'-0"

BUILDING CODE NOTES

2013 CALIFORNIA BUILDING CODE
 THESE NOTES ARE PROVIDED FOR REFERENCE ONLY REFER TO THE COMPLETE BUILDING CODE OR
 CODE REQUIREMENTS AND ELECTIONS OF COMPLIANCE

CHAPTER 3 - USE AND OCCUPANCY CLASSIFICATION
 3104 - THE EXISTING 2-UNIT BUILDING WOULD BE CONSIDERED AN R2 OCCUPANCY
 3104 - ADDING THE ONE ADDITIONAL UNIT WILL NOT CHANGE THE OCCUPANCY

CHAPTER 5 - GENERAL BUILDING HEIGHTS AND AREAS
 NO CHANGE TO OVERALL GROSS AREA

CHAPTER 9 - FIRE PROTECTION SYSTEMS
 903.2.2. COMPLY WITH THE REQUIREMENTS OR AUTOMATIC SPRINKLER PROTECTION IN GROUPS
 OCCUPANCIES

CHAPTER 10 - MEANS OF EGRESS
 1008) PROVIDE EGRESS ILLUMINATION ALONG THE MEANS OF EGRESS (OUT SIDE THE DWELLING UNIT)
 1001.2 SINGLE EXITS, THERE ARE LESS THAN 5 UNITS AT THE BASEMENT LEVEL IN COMPLIANCE WITH
 TABLE 1002.2.1 (1). THE EXIT ACCESS TRAVEL DISTANCE IS BE LESS THAN 125' FROM THE FURTHEST
 POINT INSIDE THE DWELLING UNITS

1009 RESCUE OPENINGS TO BE PROVIDED VIA RESCUE WINDOWS AT ALL BEDROOMS AND VIA RESCUE WINDOWS
 ON A DOOR TO THE EXTERIOR AT STUDIO UNITS.
 CHAPTER 12 - INTERIOR ENVIRONMENT
 SEE UNIT PLAN SHEET

CHAPTER 11 DOES NOT APPLIED TO THIS PROJECT.

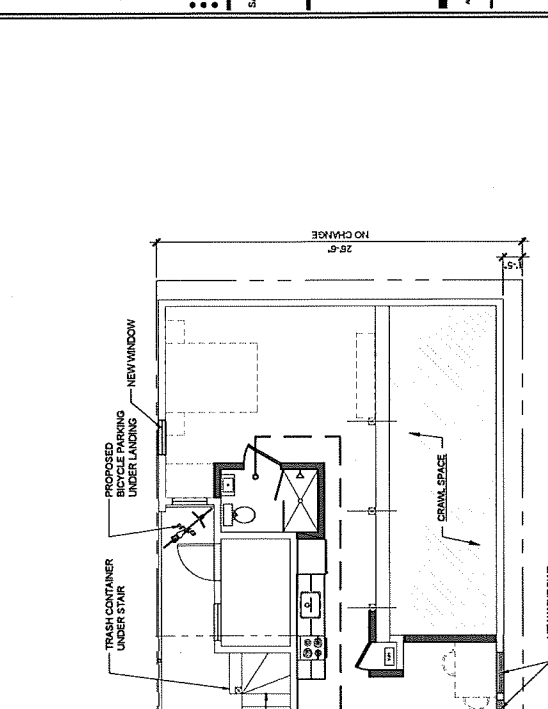
PLANNING CODE NOTES

CURRENT ZONING DESIGNATION MC-3 - NEIGHBORHOOD RESIDENTIAL
 REAR YARD REQUIREMENT, REQUIRED AT RESIDENTIAL LEVELS ONLY
 THE EXISTING BUILDING HAS 335 SQ.FT. REAR YARD SPACE BETWEEN ADJACENT BUILDING ON THE SAME LOT.
 USABLE OPEN SPACE REQUIREMENT
 THE EXISTING BUILDING HAS 335 SQ.FT. USABLE OPEN SPACE (MAVER REQUIRED) AND 50 SQ.FT. COVERED OPEN SPACE.
 EXPOSURE REQUIREMENT: DWELLING UNITS MUST HAVE AT LEAST ONE ROOM THAT FACES ON TO A
 PUBLIC STREET OR PUBLIC OPEN AREA THAT IS NO LESS THAN 29' X 29' THE ZONING
 REAR YARD SPACE IS 50 SQ.FT. ONE BIKE PARKING SPACE IS REQUIRED PER ADU
 ONE BIKE PARKING SPACE IS REQUIRED PER ADU
 ACCESSORY DWELLING UNIT LEGISLATION
 ONE ADDITIONAL UNITS IS BEING PROPOSED FOR ORDINANCE 210210 CITYWIDE ADU PROGRAM

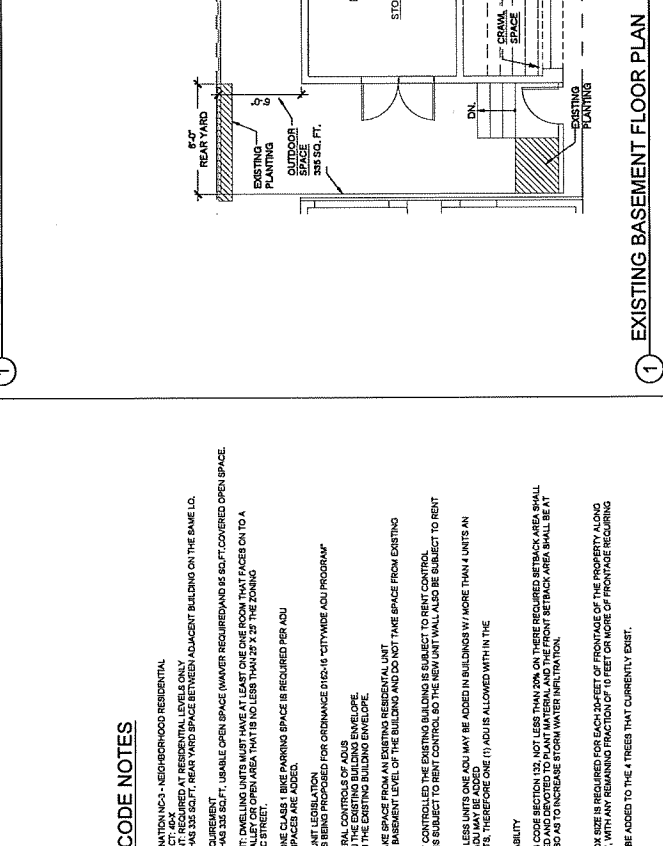
COMPLIANCE WITH GENERAL CONTROLS OF ADUS
 1. ADUS MUST BE WITH IN THE EXISTING BUILDING ENVELOPE.
 THE NEW UNIT IS WITH IN THE EXISTING BUILDING ENVELOPE.
 2. NEW ADUS CANNOT TAKE SPACE FROM AN EXISTING RESIDENTIAL UNIT
 3. ADUS MUST BE NOT CONTROLLED THE EXISTING BUILDING IS SUBJECT TO RENT CONTROL
 THE EXISTING BUILDING IS SUBJECT TO RENT CONTROL SO THE NEW UNIT WALL ALSO BE SUBJECT TO RENT
 CONTROL

4. IN BUILDINGS W/ 4 OR LESS UNITS ONE ADU MAY BE ADDED IN BUILDINGS W/ MORE THAN 4 UNITS AN
 ADU MAY BE ADDED IN BUILDINGS W/ MORE THAN 4 UNITS AN
 THE BUILDING HAS 2 UNITS. THEREFORE ONE (1) ADU IS ALLOWED WITH IN THE
 EXISTING ENVELOPE
 LANDSCAPING & PERMEABILITY
 PLANNING TO PLANNING CODE SECTION 132. NOT LESS THAN 20% ON THESE REQUIRED SETBACK AREA SHALL
 BE AND REMAIN UNPAVED AND DEDICATED TO PLANT MATERIAL AND THE FRONT SETBACK AREA SHALL BE AT
 LEAST 50% PERMEABLE SO AS TO INCREASE STORM WATER INFILTRATION.

STREET TREE
 ONE TREE OF 24 INCH BOX SIZE IS REQUIRED FOR EACH 20-24 FEET OF FRONTAGE OF THE PROPERTY ALONG
 EACH STREET OR ALLEY, WITH ANY REMAINING FRACTION OF 10 FEET OR MORE OF FRONTAGE REQUIRING
 ONE STREET TREE WILL BE ADDED TO THE 4 TREES THAT CURRENTLY EXIST.



1 PROPOSED BASEMENT FLOOR PLAN Scale: 1/4" = 1'-0"



1 EXISTING BASEMENT FLOOR PLAN Scale: 1/4" = 1'-0"



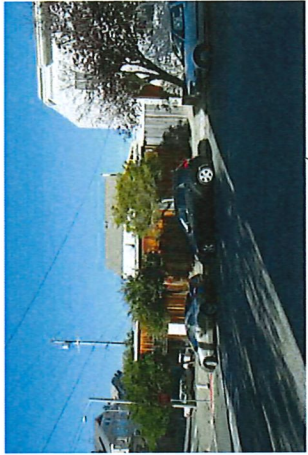
1. WEST ELEVATION



2. INTERSECTION LOOKING EAST



3. 21 ST. SOUTH ELEVATION



4. 21 ST. ENTRY GATE



ARCHITECTURAL PROJECT NO. 0022

UNIT RELOCATION
 3878 / 3880 21st. STREET
 SAN FRANCISCO, CA 94114

REVISIONS

NO.	DESCRIPTION	DATE

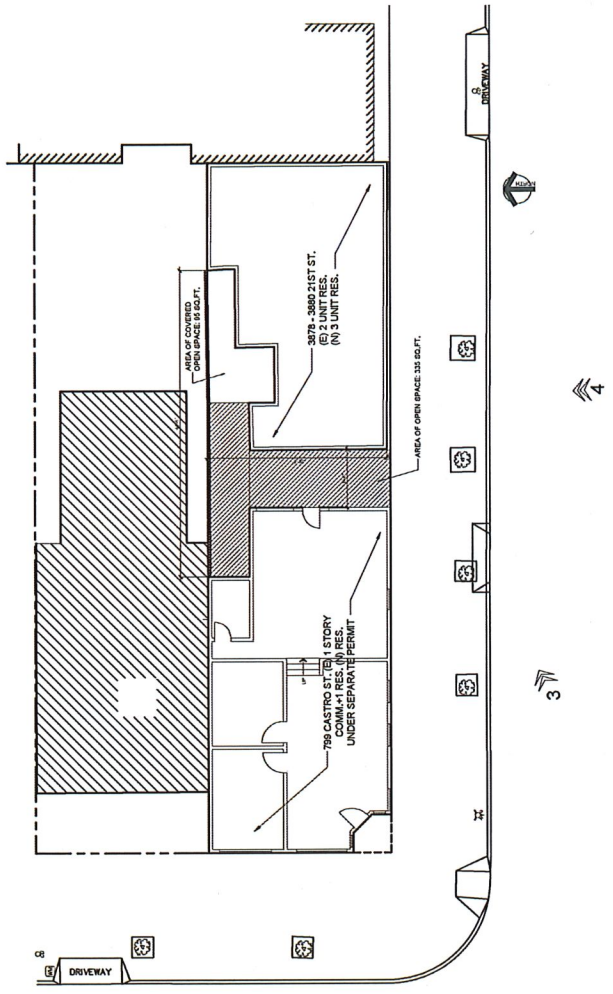
REGISTRATION RECORD - 8/2017

DATE: 8/2017

DRAWING TITLE: UNIT RELOCATION

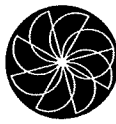
SITE PHOTOS + KEY

DRAWING NUMBER: A-0.5



1 EXISTING SITE PLAN

Scale: 1/4" = 1'-0"



TECTA
 associates
 ARCHITECTURE
 INTERIORS
 PLANNING

2747 10TH STREET
 SAN FRANCISCO, CA 94110
 Tel. 415-362-5067
 Fax. 415-362-5044
 WWW.TECTA.COM



ARCHITECTURAL PROJECT NO. 0222

UNIT RELOCATION
 3878 / 3880 21st. STREET
 SAN FRANCISCO, CA 94114

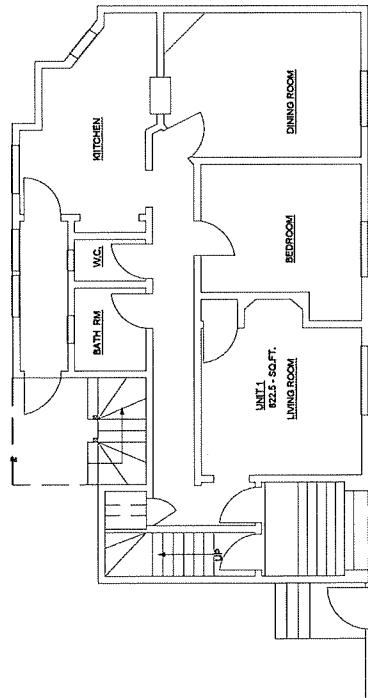
NO.	REVISION	DATE

NO.	REVISION	DATE

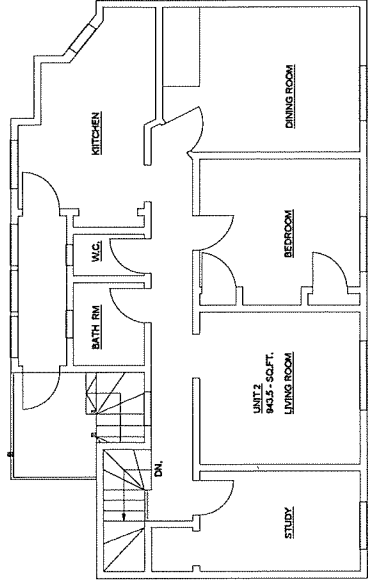
PREPARED BY: MCKENZIE KEEL 09/25/17
 DRAWING NO.: 021317

DRAWING TITLE: EXISTING FLOOR PLANS

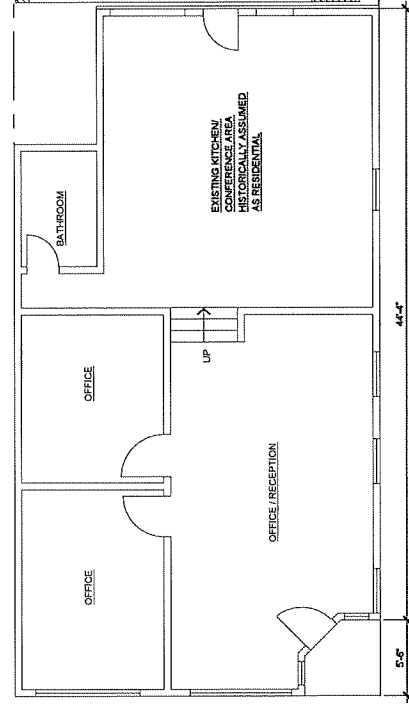
DRAWING NUMBER: A-1.0



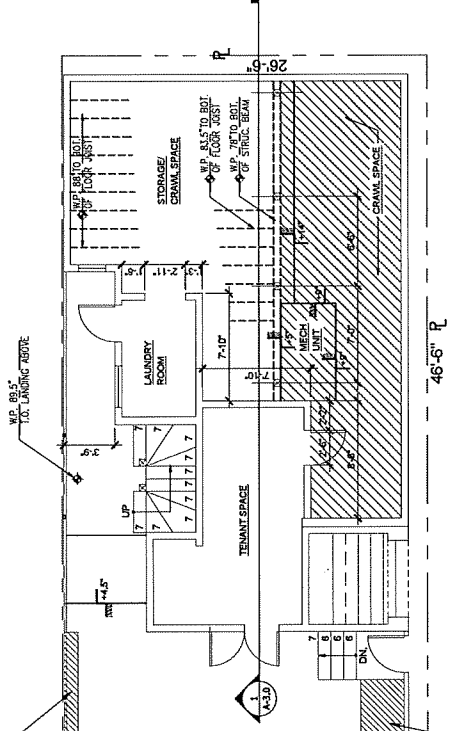
2 EXISTING FIRST FLOOR PLAN - 21st STREET Scale: 1/4" = 1'-0"



3 EXISTING SECOND FLOOR PLAN - 21st STREET Scale: 1/4" = 1'-0"



1 EXISTING BASEMENT FLOOR PLAN Scale: 1/4" = 1'-0"



EXISTING RESIDENTIAL BUILDING BASEMENT
 3878 21st. STREET, SAN FRANCISCO, CA. Scale: 1/4" = 1'-0"

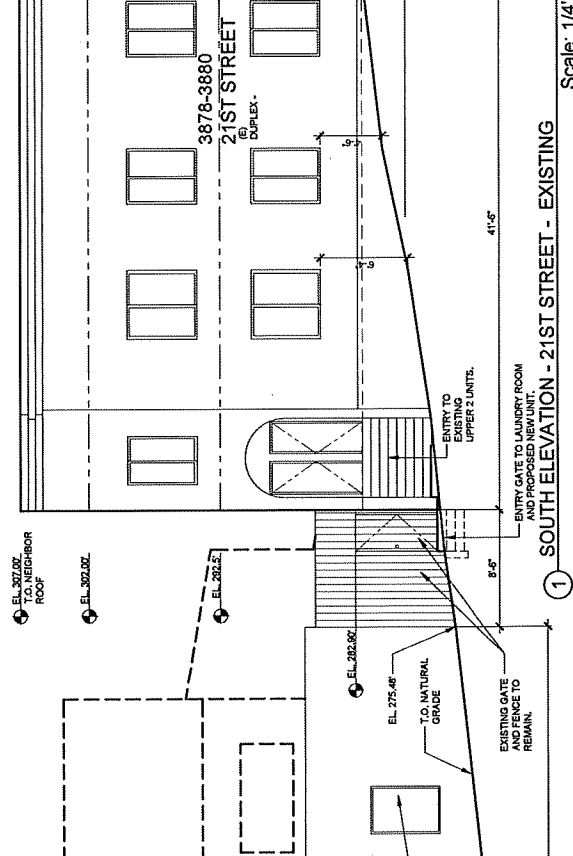
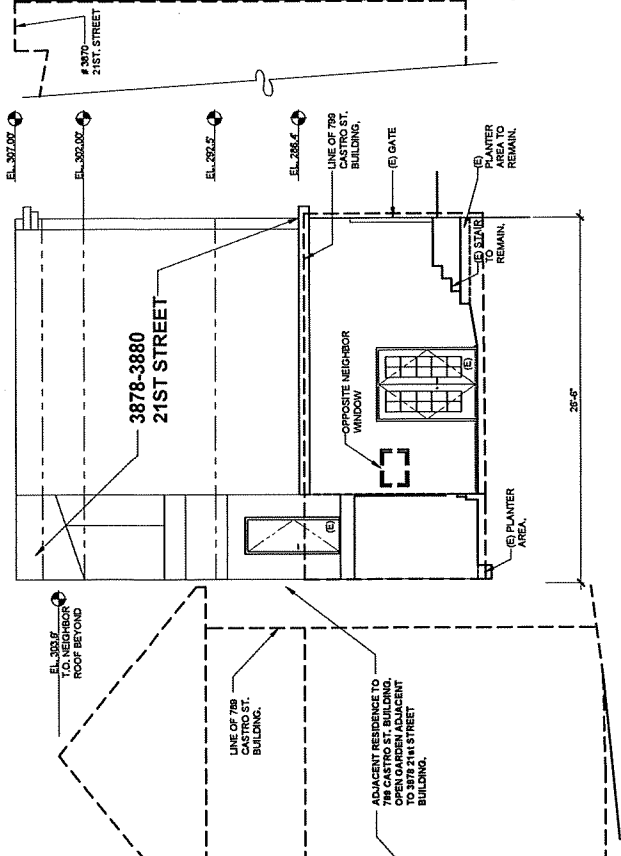
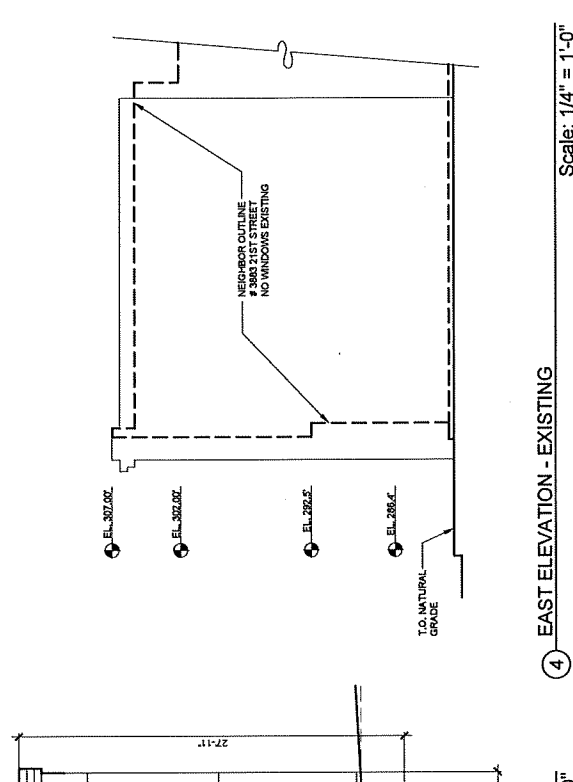
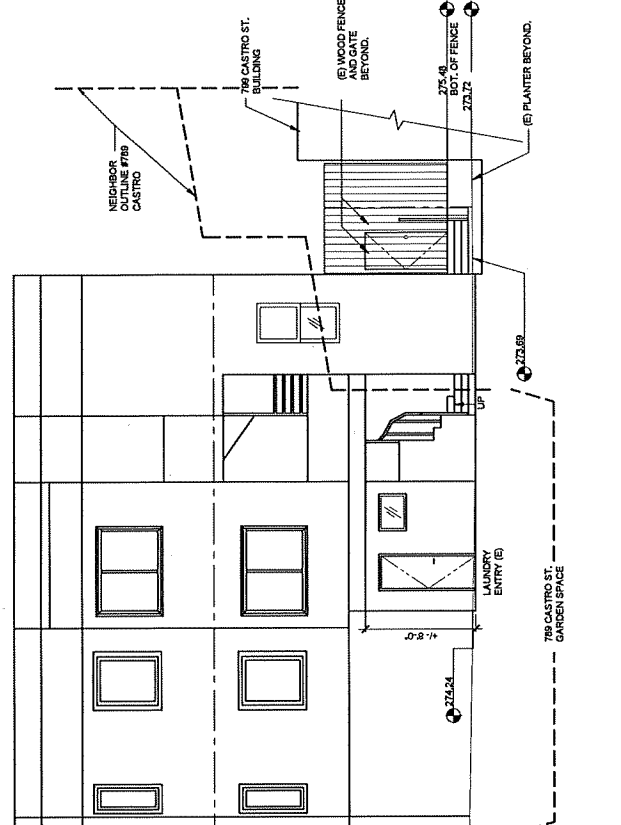




UNIT RELOCATION
3878 / 3880 21st. STREET
SAN FRANCISCO, CA 94114

DATE	DESCRIPTION
11/20/17	ISSUED FOR PERMITS
11/20/17	ISSUED FOR PERMITS
11/20/17	ISSUED FOR PERMITS
11/20/17	ISSUED FOR PERMITS

OWNER TITLE: EXISTING ELEVATIONS
DRAWING NUMBER: A-1.1





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2747 18TH STREET
 SAN FRANCISCO, CA 94110
 TEL: 415-392-2044
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ARCHITECTURAL PROJECT NO. 1002

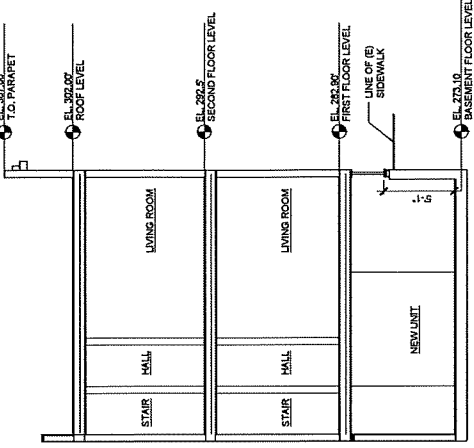
UNIT RELOCATION
 3878 / 3880 21st. STREET
 SAN FRANCISCO, CA 94114

NO.	REVISIONS	DATE

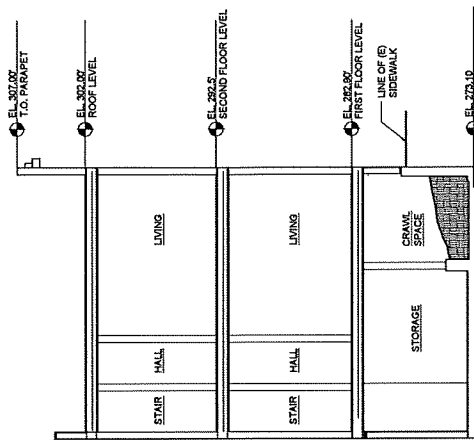
DRAWING TITLE
 PROJECT NO. 1002-17

PROPOSED AND
 EXISTING SECTIONS
 DRAWING NUMBER

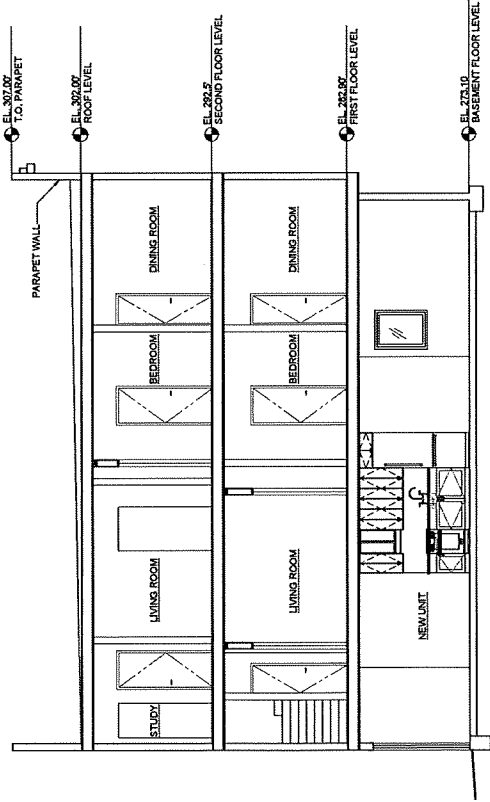
A-3.0



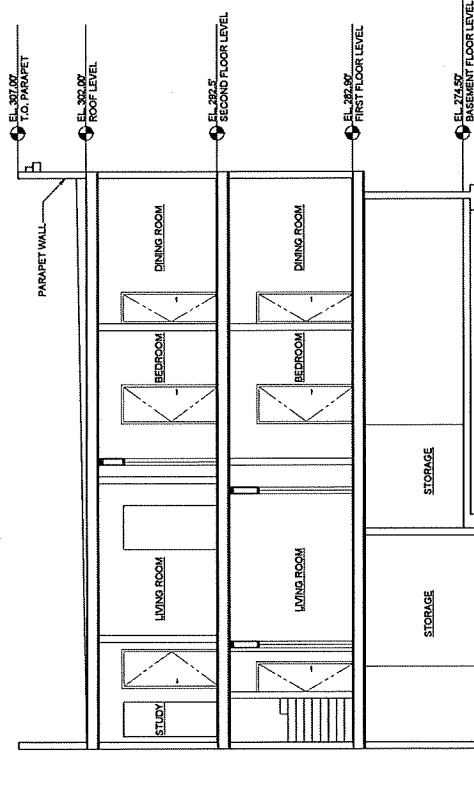
④ PROPOSED BUILDING SECTION - WEST Scale: 1/4" = 1'-0"



② EXISTING BUILDING SECTION - WEST Scale: 1/4" = 1'-0"



② PROPOSED BUILDING SECTION - SOUTH Scale: 1/4" = 1'-0"

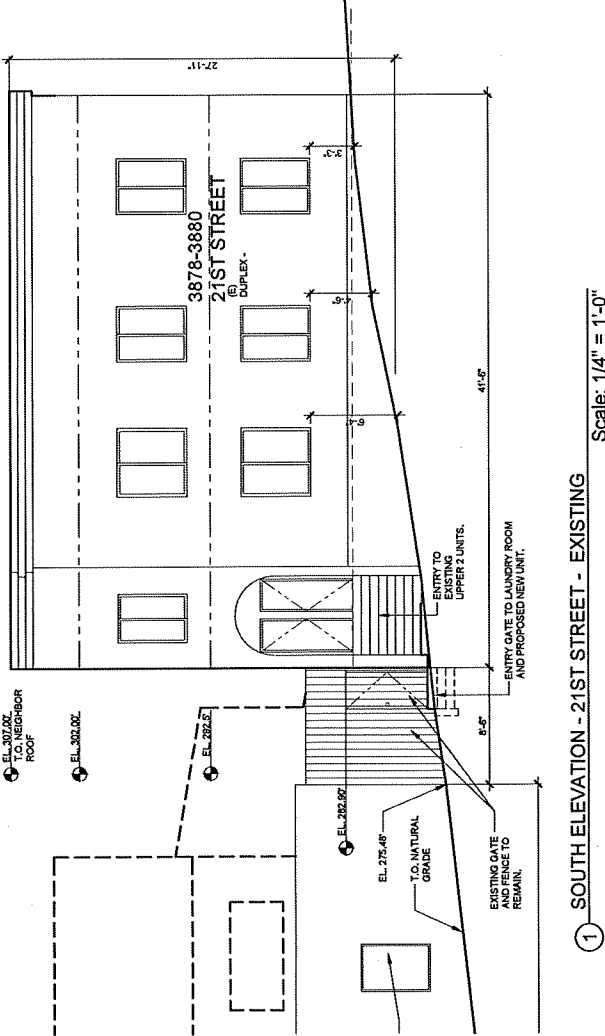
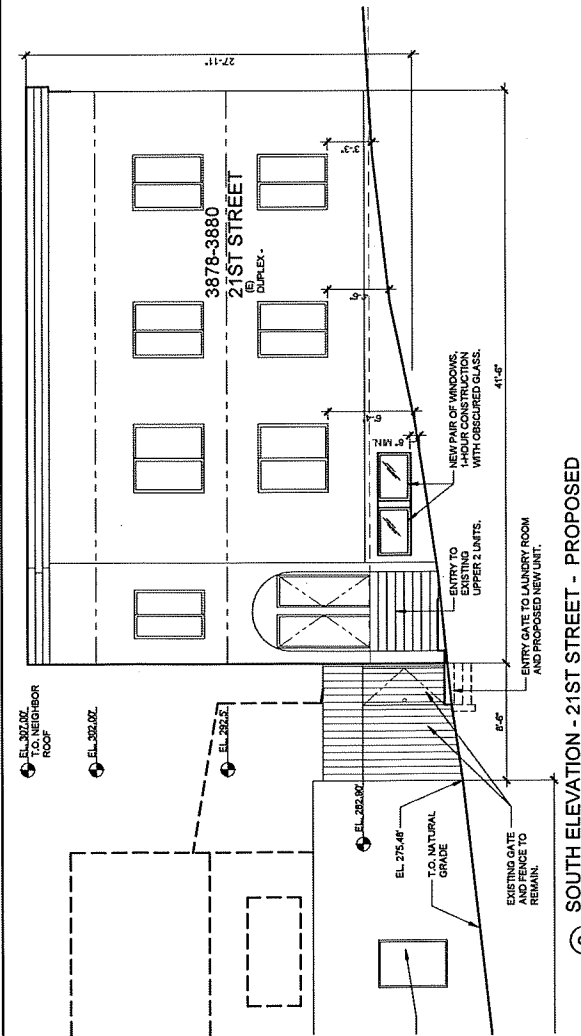
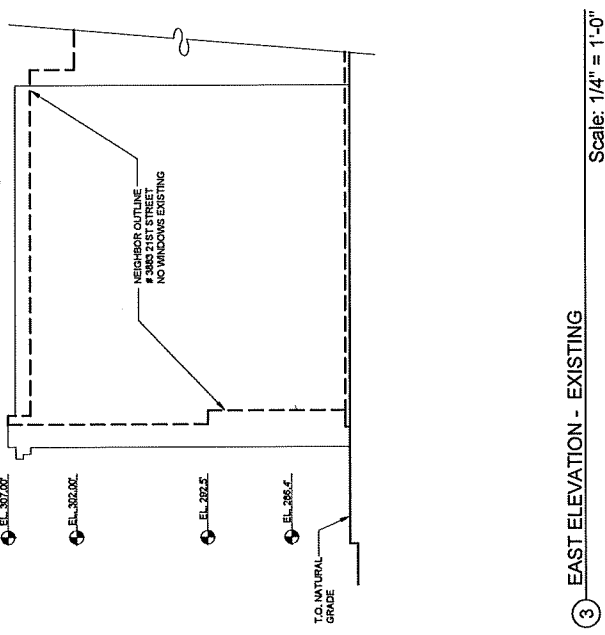
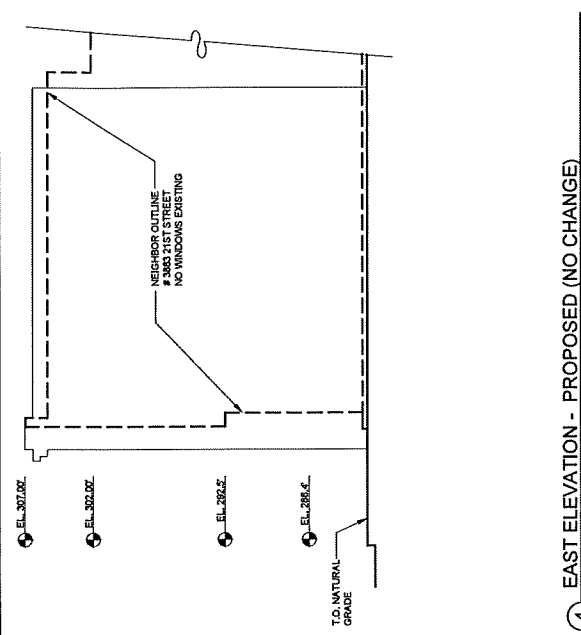


① EXISTING SECTION - 21ST STREET Scale: 1/4" = 1'-0"



NO.	DATE	DESCRIPTION

DRAWING TITLE
PROPOSED AND EXISTING ELEVATIONS
 DRAWING NUMBER
A-4.0





ARCHITECTURAL PROFESSIONAL SEAL NO. 11448

UNIT RELOCATION

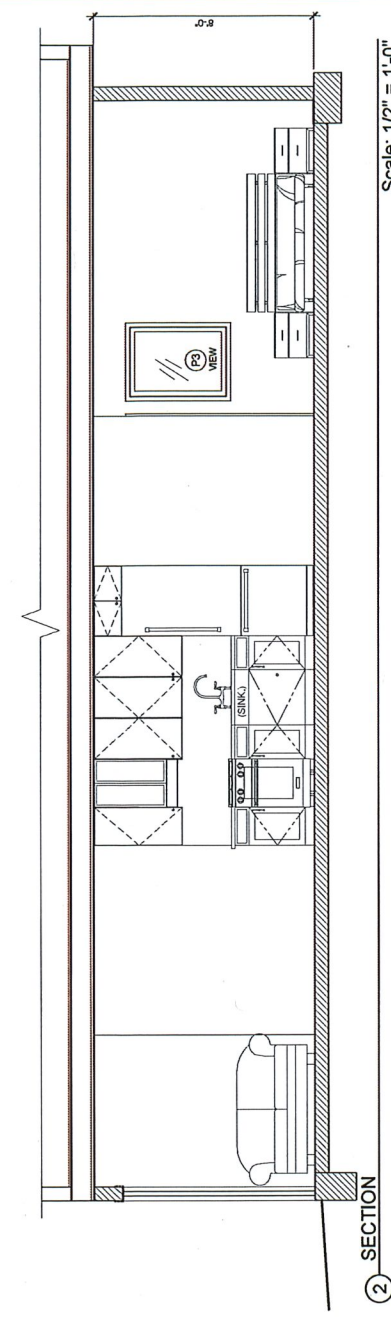
3878 / 3880 21st. STREET
 SAN FRANCISCO, CA 94114

NO.	REVISIONS	DATE

PROJECT: 3878/3880 21ST STREET, SAN FRANCISCO, CA
 DRAWING TITLE: ENLARGED PLAN AND SECTION OF UNIT
 DRAWING NUMBER: A-7.0



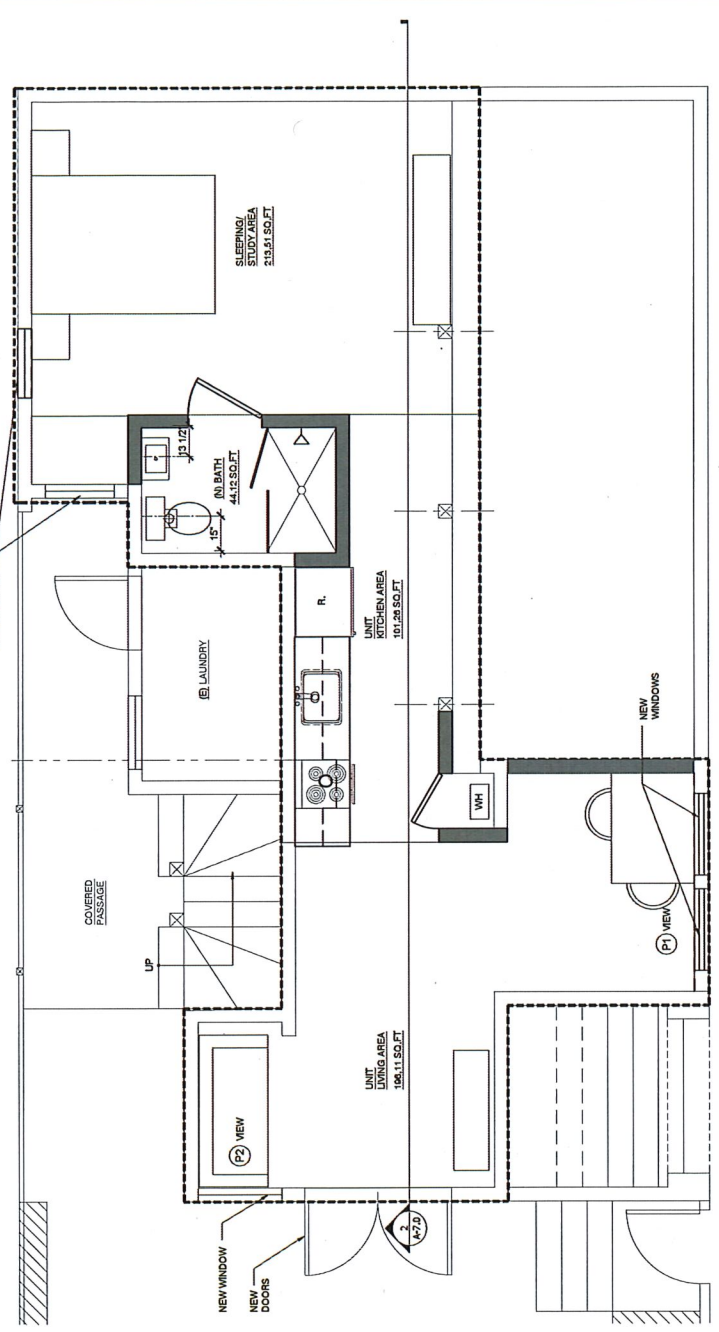
(P3) VIEW



(2) SECTION
 Scale: 1/2" = 1'-0"



(P2) VIEW



(1) PROPOSED PLAN
 Scale: 1/2" = 1'-0"



(P1) VIEW

EXHIBIT 4

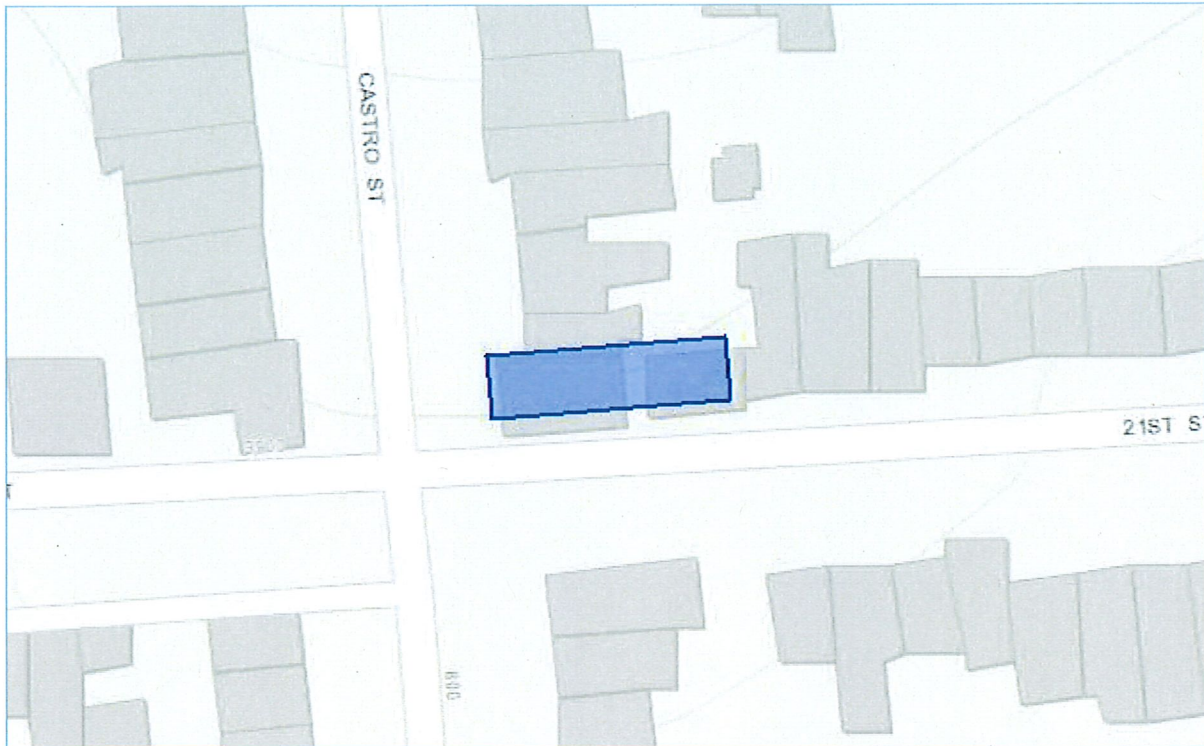


EXHIBIT 5



SAN FRANCISCO PLANNING DEPARTMENT

Report for: 799 CASTRO STREET



Property Report: 799 CASTRO STREET

General information related to properties at this location.

PARCELS (Block/Lot):

3603/024

PARCEL HISTORY:

None

ADDRESSES:

3878 21ST ST, SAN FRANCISCO, CA 94114
3880 21ST ST, SAN FRANCISCO, CA 94114
799 CASTRO ST, SAN FRANCISCO, CA 94114

NEIGHBORHOOD:

Castro/Upper Market

CURRENT PLANNING TEAM:

[SW Team](#)

PLANNING DISTRICT:

District 7: Central

SUPERVISOR DISTRICT:

[District 8 \(Jeff Sheehy\)](#)

CENSUS TRACTS:

2010 Census Tract [020600](#)

TRANSPORTATION ANALYSIS ZONE:

Transportation Analysis 181
Zone:

RECOMMENDED PLANTS:

Would you like to grow plants that create habitat and save water? Check out the plants that we would recommend for this property at [SF Plant Finder](#).

CITY PROPERTIES:

None

SCHOOLS:

None within 600ft

PORT FACILITIES:

None

ASSESSOR'S REPORT:

[View Secured Property Tax Rolls](#)

Address:	3878-3880 21ST ST
Parcel:	3603024
Assessed Values:	
Land:	\$1,090,906.00
Structure:	\$467,526.00
Fixtures:	-
Personal Property:	-
Last Sale:	6/1/2007
Last Sale Price:	\$1,350,000.00
Year Built:	1909
Building Area:	3,315 sq ft
Parcel Area:	2,650 sq ft
Parcel Shape:	
Parcel Frontage:	-
Parcel Depth:	-
Construction Type:	-
Use Type:	Apartment & Commercial Store
Units:	3
Stories:	2
Rooms:	12
Bedrooms:	4
Bathrooms:	3
Basement:	-

Zoning Report: 799 CASTRO STREET

Planning Department Zoning and other regulations.

ZONING DISTRICTS:

RH-2 - [RESIDENTIAL- HOUSE, TWO FAMILY](#)

HEIGHT & BULK DISTRICTS:

[40-X](#)

SPECIAL USE DISTRICTS:

None

PROXIMITY TO NEIGHBORHOOD-COMMERCIAL DISTRICTS AND RESTRICTED USE DISTRICTS:

Within 1/4 mile of [CASTRO STREET NEIGHBORHOOD COMMERCIAL](#)

SPECIAL SIGN DISTRICTS:

None

LEGISLATIVE SETBACKS:

None

COASTAL ZONE:

Not in the Coastal Zone

PORT:

Not under Port Jurisdiction

LIMITED AND NONCONFORMING USES:

LCU Block: 3603 Lot: 024

NEIGHBORHOOD-SPECIFIC IMPACT FEE AREAS:

In addition to those impact fees that apply throughout the City, the following neighborhood-specific impact fees apply to this particular property:

None

An overview of Development Impact Fees can be found on the [Impact Fees](#) website.

REDEVELOPMENT AREAS:

None

MAYOR'S INVEST IN NEIGHBORHOODS INITIATIVE AREA:

None

OTHER INFORMATION:

<i>Control:</i>	<i>Slope of 20% or greater</i>
Description:	CEQA Impact: an Environmental Evaluation Application may be required for some types of development.
Added:	3/19/2013

<i>Control:</i>	<i>Flood Notification</i>
Description:	This lot is in a block that has the potential to flood during storms. See the accompanying notice. Applicant to contact Cliff Wong at 554-8339.
Added:	2/25/2008

PLANNING AREAS:

None

PUBLIC REALM AND STREETScape PLANS:

None

DESIGN GUIDELINES:

Area Specific Design Guidelines

[Urban Design Guidelines](#)

The Urban Design Guidelines are an implementation document for Urban Design Policy in the General Plan. Sites in National Register, California Register, Article 10 and Article 11 Historic Districts are exempt. They apply in Residential districts only for projects with non-residential uses or residential projects with twenty-five units or more or with a frontage longer than 150'.

[Residential Design Guidelines](#)

The Residential Design Guidelines articulate expectations regarding the character of the built environment and are intended to promote design that will protect neighborhood character, enhancing the attractiveness and quality of life in the city. These guidelines are integral to the Department's design review process for residential districts.

Citywide Design Guidelines

[Architectural Design Guide for Exterior Treatments of Unreinforced Masonry Buildings during Seismic Retrofit](#)

This design guide should provide guidance on how to maintain the historical character of a building when conducting seismic retrofit. General information only. Use of this information for specific applications should be determined in each instance by the user and only upon the professional advice of competent experts.

[Better Streets Plan](#)

The Better Streets Plan contains guidelines that focus on pedestrian comfort, safety, and the usability of streets as public spaces. They contain pedestrian-oriented guidelines for curb lines, crosswalks, and other street design features to enable generous, usable public spaces.

[Commission Guide for Formula Retail](#)

The purpose of this document is to evaluate the appropriateness of each individual formula retail establishment's use, design, and necessity to help preserve the character of the City's neighborhoods. Aligns with Planning Code Sections 303.1, 703.3, 803.6(c), Article 6, Article 11

[Design Guide Standards for Bird-Safe Buildings](#)

These guidelines should be applied to new construction and alterations that require treatment options to meet the Bird-Safe Building Standards.

[Guide to the San Francisco Green Landscaping Ordinance](#)

The guide describes the Green Landscaping Ordinance and helps San Francisco residents and property owners understand the benefits, requirements, and ways to comply with the ordinance. Planning Code; Public Works Code

[Guidelines for Adding Garages and Curb Cuts](#)

These guidelines explain the criteria in which new garages and curb cuts are reviewed when installing to an existing or an historic building.

[Guidelines for Ground Floor Residential Design](#)

The Ground Floor Residential Design Guidelines (Draft) promote buildings that enhance the pedestrian experience and the livability of dwelling by encouraging the ground floor to contribute to active, safe, and comfortable streets. Draft Document

[Standards for Storefront Transparency](#)

These standards promote a transparent storefront that welcomes customers inside with products and services on display, discourage crime with more "eyes on the street," reduced energy consumption with use of natural light, and enhances the curb appeal and value

of the store and the entire neighborhood.
Planning Code Requirements for Commercial Buildings

[Standards for Window Replacement](#)

With such a variety of different window shapes, muntin profiles, methods of operation and configurations, windows can alter the appearance of a building or overall neighborhood character. These standards are meant to inform the applicant on these details and provide design standards that allow new or replacement windows to be approved.

COMMUNITY BENEFIT DISTRICT:

None

NOTICE OF SPECIAL RESTRICTIONS:

None

ZONING LETTERS OF DETERMINATION:

Planning App. No.: 2017-014202ZAD
Planner: [Nancy Tran](#) Tel: 415-575-9174
Record Type: Zoning Administrator Determination Letter (ZAD)
Opened: 11/6/2017
Name: 799 Castro Street - ZAD Request
Description: Request for Letter of Determination
Status: Closed - Issued 2/6/2018
Further Information: [View](#) [Related Documents](#)

The Disclaimer: The City and County of San Francisco (CCSF) does not guarantee the accuracy, adequacy, completeness or usefulness of any information. CCSF provides this information on an 'as is' basis without warranty of any kind, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of the information.

EXHIBIT 6

Permit Details Report

Report Date: 4/9/2018 12:28:33 PM

Application Number: 201409196883
 Form Number: 3
 Address(es): 3603 / 024 / 0 799 CASTRO ST
 Description: ALTERATION OF EXISTING COMMERCIAL BUILDING - CONVERSION OF OCCUPANCY TO R-3. TO REPLACE 2012-08-30-8694S. CHANGE OF USE , NEW ROOF DECK, ADD RESIDENTIAL KITCHEN, BATHS, BEDROOMS.
 Cost: \$500,000.00
 Occupancy Code: R-3
 Building Use: 27 - 1 FAMILY DWELLING

Disposition / Stage:

Action Date	Stage	Comments
9/19/2014	TRIAGE	
9/19/2014	FILING	
9/19/2014	FILED	

Contact Details:

Contractor Details:

Addenda Details:

Description: SITE

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Phone	Hold Description
1	CPB	9/25/14	9/25/14			9/25/14	SECONDEZ GRACE	415-558-6070	
2	CP-DR	1/25/16	1/25/16			1/25/16	CHANG TINA	415-558-6377	DR application taken in on 1/25/2016. Application was deemed complete at the counter by Edgar Oropeza.
3	CP-ZOC	9/25/14					WANG THOMAS	415-558-6377	
4	BLDG							415-558-6133	
5	DPW-BSM							415-558-6060	
6	SFPUC							415-575-6941	
7	PPC						GIBSON PETER	415-558-6133	9/25/14: to DCP. PG
8	CPB							415-558-6070	

Appointments:

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots
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Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
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Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
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For information, or to schedule an inspection, call 558-6570 between 8:30 am and 3:00 pm.

[Station Code Descriptions and Phone Numbers](#)

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

EXHIBIT 7

Permit Details Report**Report Date:** 4/9/2018 12:30:43 PM

Application Number: 201704043134

Form Number: 3

Address(es): 3603 / 024 / 0 3878 21ST ST
3603 / 024 / 0 3880 21ST ST

Description: ADDITION OF ONE NEW DWELLING UNIT AT BASEMENT LEVEL PER ORDINANCE 162-16

Cost: \$25,000.00

Occupancy Code: R-2

Building Use: 24 - APARTMENTS

Disposition / Stage:

Action Date	Stage	Comments
4/4/2017	TRIAGE	
4/4/2017	FILING	
4/4/2017	FILED	

Contact Details:**Contractor Details:****Addenda Details:****Description:**

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Phone	Hold Description
1	CPB	4/25/17	4/25/17			4/25/17	SHEK KATHY	415-558-6070	
2	CP-ZOC	4/25/17					TRAN NANCY	415-558-6377	
3	CP-DR	10/4/17					TRAN NANCY	415-558-6377	
4	BLDG							415-558-6133	
5	SFFD							415-558-6177	
6	DPW-BSM							415-558-6060	
7	SFPUC							415-575-6941	
8	DFCU								
9	PPC							415-558-6133	
10	CPB							415-558-6070	

Appointments:

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots
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Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
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Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
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For information, or to schedule an inspection, call 558-6570 between 8:30 am and 3:00 pm.

Station Code Descriptions and Phone Numbers

[Online Permit and Complaint Tracking home page.](#)**Technical Support for Online Services**

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

ZACKS, FREEDMAN & PATTERSON, PC
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

1 RYAN J. PATTERSON (SBN 277971)
2 ZACKS, FREEDMAN & PATTERSON, PC
235 Montgomery Street, Suite 400
3 San Francisco, CA 94104
Tel: (415) 956-8100
4 Fax: (415) 288-9755

5 Attorneys for Andrew Zacks and Denise Leadbetter

BOARD OF APPEALS

SEP 29 2016

APPEAL # 16-137

6
7 **DECLARATION OF THOMAS GILLE**

8
9 I, Thomas Gille, declare as follows:

10 1. Unless otherwise stated, I have personal knowledge of the facts stated herein
11 and, if called as a witness, could and would testify competently thereto.

12 2. I lived at 3812 21st Street, San Francisco, CA from about 1950 until
13 approximately 1971. I am familiar with the nearby property located at 799 Castro Street, San
14 Francisco, CA (block 3603, lot 24).

15 3. From approximately 1957-1967, Morgan and Bridie Sweeney owned and
16 operated Sweeney's Grocery at 799 Castro Street. As a boy, I worked in Sweeney's Grocery.

17 4. The Sweeney family, including their daughter Kathleen, lived in the residence at
18 799 Castro Street, at the back of Sweeney's Grocery, until they purchased a home and shortly
19 thereafter sold the store. I was friends with the family and ate meals with them at the 799 Castro
20 Street residence many times.

21 5. The residence at 799 Castro Street included a full kitchen (with stove, sink, and
22 refrigerator) and a full bathroom (with bath tub, shower, sink, and toilet).

23 6. The photographs attached hereto as Exhibit A accurately show the kitchen and
24 bathroom used by the Sweeney family at their residence at 799 Castro Street. (The cabinets
25 shown on the pictures are newer and not original with the Sweeney ownership. As I recall, the
26 cabinets in the kitchen were white metal.) I am informed and believe that these photos were
27 taken at 799 Castro Street on or about January 2016.
28

ZACKS, FREEDMAN & PATTERSON, PC
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

1 7. The residence at 799 Castro Street was used by the Sweeney family as a separate
2 and distinct living or sleeping space independent from any other residential units on the same
3 property. It had independent access (You could gain access from the stairs at the back of the
4 store or there was a door on 21st Street.) that did not require entering another residential unit on
5 the property, and there was no open, visual connection to another residential unit on the
6 property.

7 8. I am informed and believe that two other residential units were located at 3878
8 21st Street and 3880 21st Street, San Francisco, CA.

9
10 I declare, under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct.

12
13 Dated: September 27, 2016

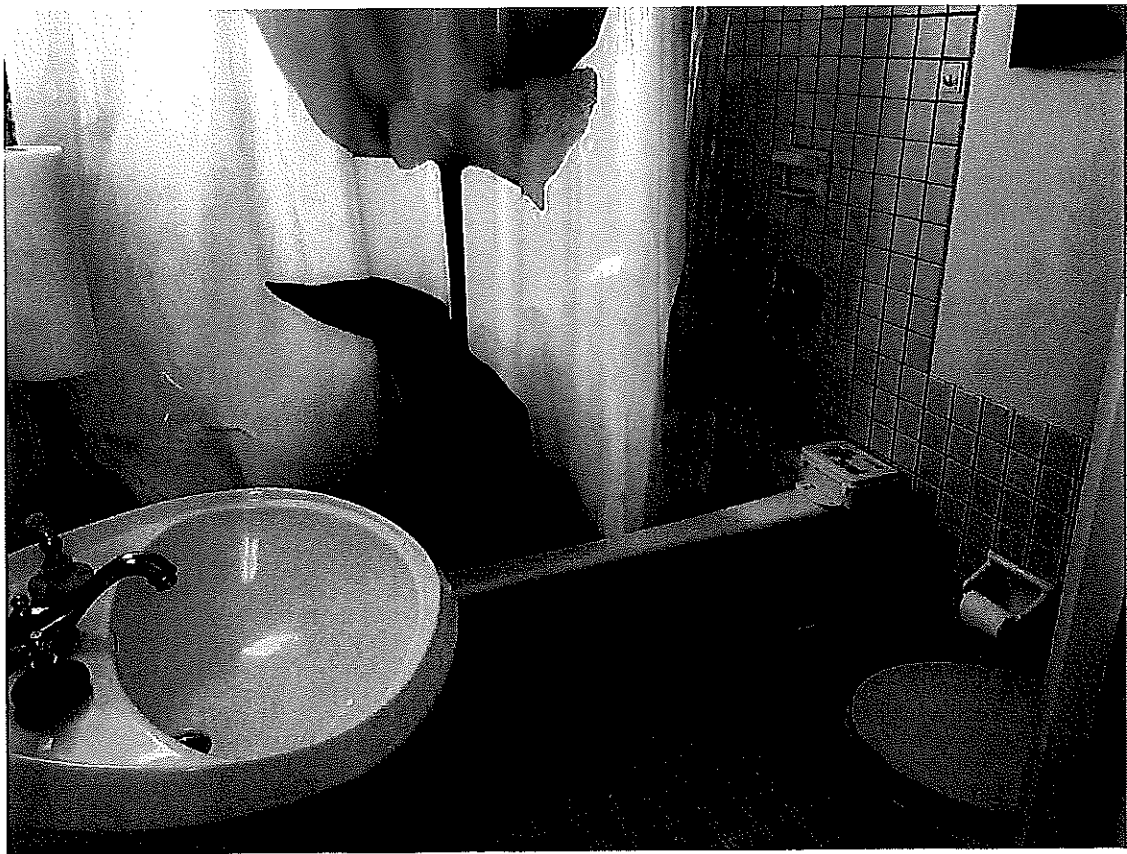


Thomas Gille

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EXHIBIT A





April 2018

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: PROPOSED OVER-SIZED CONSTRUCTION PROJECT
799 Castro Street / 3878-3880 21st Street
Hearing Date: April 24, 2018; 3 pm, City Hall Room 400

Dear President Breed and Supervisors:

I am a neighbor of the proposed project at 799 Castro Street. Real estate developers have received initial approval from the Planning Commission for a large new building at 799 Castro Street (also known as 3878-3880 21st Street) that will negatively affect our historic neighborhood and our property values.

799 Castro Street is unusual because it already has two buildings on a single lot: a duplex and a one-story building that historically has been a corner store and a dwelling. These developers want to demolish the one-story building, including the existing rent-controlled housing unit, to build an oversized, luxury single-family home. Once completed, the property will have four units in two buildings – in a zoning district that only allows two units per lot.

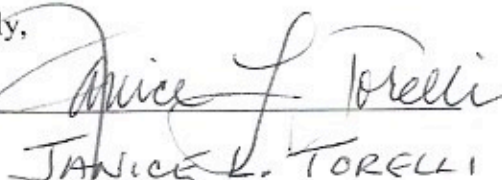
The developers say they are converting the existing commercial use to residential use, which should limit the size of the new building under the Planning Code. In reality they are demolishing the entire mixed-use structure to build an oversized new house. The new house will be large enough that the developers require a variance from the Planning Code.

The Planning Commission recently voted to approve the project on the condition that the Planning Staff re-design the building. This means no one knows what the project will ultimately look like. The Commission has written a blank check for a massive new building that doesn't comport with the law.

We oppose the project's conditional use authorization because it would demolish a rent-controlled unit and enlarge the existing building beyond what the law and common sense allow. Moreover, the conditional use authorization is procedurally defective because it was issued prior to the variance decision. Given the lack of clarity at the Planning Commission, there should be a public hearing to allow our input on the final design. I respectfully urge the Board to overturn this conditional use authorization.

Sincerely,

Name:


JANICE L. TORELLI

Address:

560 HILL ST.
S.F. 94114

April 2018

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: PROPOSED OVER-SIZED CONSTRUCTION PROJECT
799 Castro Street / 3878-3880 21st Street
Hearing Date: April 24, 2018; 3 pm, City Hall Room 400

Dear President Breed and Supervisors:

I am a neighbor of the proposed project at 799 Castro Street. Real estate developers have received initial approval from the Planning Commission for a large new building at 799 Castro Street (also known as 3878-3880 21st Street) that will negatively affect our historic neighborhood and our property values.

799 Castro Street is unusual because it already has two buildings on a single lot: a duplex and a one-story building that historically has been a corner store and a dwelling. These developers want to demolish the one-story building, including the existing rent-controlled housing unit, to build an oversized, luxury single-family home. Once completed, the property will have four units in two buildings – in a zoning district that only allows two units per lot.

The developers say they are converting the existing commercial use to residential use, which should limit the size of the new building under the Planning Code. In reality they are demolishing the entire mixed-use structure to build an oversized new house. The new house will be large enough that the developers require a variance from the Planning Code.

The Planning Commission recently voted to approve the project on the condition that the Planning Staff re-design the building. This means no one knows what the project will ultimately look like. The Commission has written a blank check for a massive new building that doesn't comport with the law.

We oppose the project's conditional use authorization because it would demolish a rent-controlled unit and enlarge the existing building beyond what the law and common sense allow. Moreover, the conditional use authorization is procedurally defective because it was issued prior to the variance decision. Given the lack of clarity at the Planning Commission, there should be a public hearing to allow our input on the final design. I respectfully urge the Board to overturn this conditional use authorization.

Sincerely,



Name:

A. SCHWARTZ

Address:

748 CASTRO ST. 94114
ACROSS THE STREET

April 2018

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: PROPOSED OVER-SIZED CONSTRUCTION PROJECT
799 Castro Street / 3878-3880 21st Street
Hearing Date: April 24, 2018; 3 pm, City Hall Room 400

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Name:

FLAVIA GONCALVES

Address:

3866 21ST STREET

April 2018

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
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Sincerely,

Name: DT Hanks

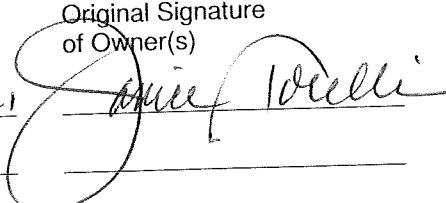
Address: 3936 - 21st St

Douglas T. HANKS

City Planning Commission
 Case No. 2017-004562CUA

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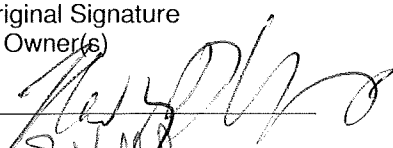
If ownership has changed and assessment roll has not been amended, we attach proof of ownership change. If signing for a firm or corporation, proof of authorization to sign on behalf of the organization is attached.

	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	<u>560 HILL ST.</u>	<u>3622/066</u>	<u>JANICE TORELLI</u>	
2.	_____	_____	_____	_____
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4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
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1.	<u>563 LIBERTY</u>	<u>3603-037</u>	<u>Hadley Northrop</u>	
2.	<u>563 LIBERTY ST</u>	<u>3603-037</u>	<u>SWAN VALLEY</u>	<u>S. Valley</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
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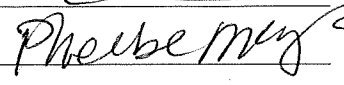
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	<u>567 LIBERTY ST</u>	<u>3603-036</u>	<u>CHAPIN KOCH</u>	<u>Chapin Koch</u>
2.	<u>567 LIBERTY ST</u>	<u>3603-036</u>	<u>PATRICIA STONE</u>	<u>Patricia M. Stone</u>
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1.	<u>571 LEBANON ST</u>	<u>3603/101</u>	<u>Conan McHurd</u>	
2.	<u>571 LEBANON ST</u>	<u>3603/101</u>	<u>Phoebe McHurd</u>	
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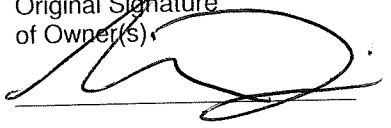
3-13-2018

	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	576 Hill St	3622-068	TAMARA MERRY	Tamara Merry
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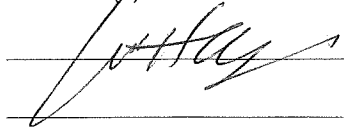
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1.	<u>728 Castro</u>	<u>2752-036</u>	<u>MAKAI FISHER</u>	
2.	_____	_____	_____	_____
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1.	<u>442 Castro St.</u>	_____	<u>Yuko Hayashi</u>	
2.	_____	_____	_____	_____
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1.	748 CASTRO ST.	2752/0018	A. SCHWARTZ	
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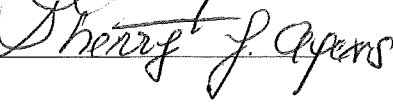
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1.	<u>781-783 Castro</u>	<u>3403/028</u>	<u>Catherine Taylor</u>	<u></u>
2.	_____	_____	_____	_____
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City Planning Commission
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1.	800 CASTRO	2770-001	ALVARO CAZUZA	
2.	800 CASTRO	2770-001	SHERRY AYERS	
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	801 Castro St	3622 095	Peter Seubert	<i>Peter Seubert</i>
2.	801 Castro St	3622 095	Kimberly Higgins	<i>Kimberly Higgins</i>
3.	803 Castro St	3627 095	Jeremy Zhijun Zeng	<i>JZ Zeng</i> (E.O.)
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	812 Castro	2770-035	Dianne Fong-Torres	Dianne Fong-Torres
2.	812 Castro	2770-035	Ben Fong-Torres	
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1.	<u>817 CASTRO ST.</u>	<u>BLOCK 3622 LOT 076</u>	<u>DAN AND TONIA SCALES</u>	
2.	_____	_____	_____	_____
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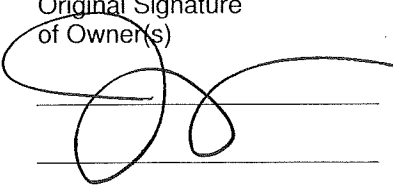
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1.	<u>824-24 Castro St</u>	<u>2770/006</u>	<u>NICHELE DENOMIE</u>	<u>Nichele Denomie</u>
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City Planning Commission
Case No. 2017-004562CUA

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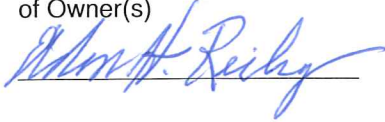
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	827 CASTRO	2622 113	Joanne Otani	
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1.	<u>834 CASTRO</u>	<u>BLK 2770 L738</u>	<u>ELDWYN REILEY TRUST</u>	
2.	_____	_____	_____	_____
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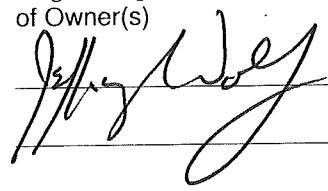
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	846 Castro St	Block 2770 Lot 009A	Jagayonack Potato Farm Julia Ireland member	Julia Ireland member
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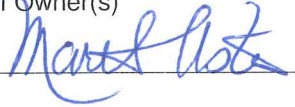
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	<u>857 CASTRO ST.</u>	<u>3622-113</u>	<u>Jeffrey Wolf</u>	
2.	_____	_____	_____	_____
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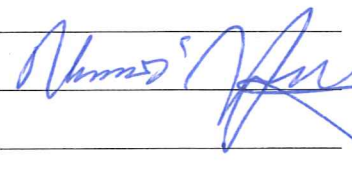
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	3847-21 ST ST		ASTEN FAMILY TRUST	
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1.	<u>3856 21st ST.</u>	<u>3603-019</u>	<u>THE MURPHY FAMILY</u> <u>VARIABLE TRUST</u>	
2.	_____	_____	_____	_____
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1.	<u>3865 21st St.</u>	<u>3622/107</u>	<u>Curtis Brantom / John Heggir</u>	<u>Curtis T. Brantom</u>
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1.	3866 26 th St	3603-117	FLAVIA GONCALVES	
2.	3866 21 st St	3603-117	STEPHANIE STONER	
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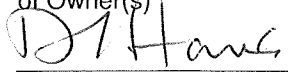
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	<u>3900-3924 21st St.</u>	<u>2752 020</u>	<u>Koreen Byrne</u>	
2.	<u>3900-3924 21st St.</u>	<u>2752 020</u>	<u>Dominic Byrne</u>	<u>D. Byrne</u>
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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	3936-	2752-022	DOUGLAS T.	
2.	21st St		HANKS	
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582 MARKET ST. SUITE 1800
SAN FRANCISCO, CA 94104

T: 415.391.9633
F: 415.391.9647

www.garavaglia.com

13 April 2018

RE: Appeal of Conditional Use Authorization - Planning Commission Motion No. 20118

Dear President Breed and Supervisors,

My following comments are provided in support of the appeal for the development project at 799 Castro Street. They respond to some of the conditional use criteria of the S.F. Planning Code - sections 303 and 317.

1. Whether there is space for a family-sized unit in the existing building

The existing building is approximately 1,275 s.f. Two typical 1-bedroom units of 600 s.f. each or a nicely sized 2-bedroom affordable unit could be fit into this area, which already contains one dwelling unit and a commercial space. The interior space is fairly open and has unencumbered exterior walls on three sides (allowing lots of windows for light and air) so the full conversion of the building to residential is quite easy.

2. Whether the proposed building is similar to the massing and arrangement of the neighborhood context

The building is being placed next to a row of gable-roofed Queen Anne Victorian cottages. The proposed development uses a flat roofed structure with vestiges of Victorian detailing. As the gable-roofed row house is the strong pattern of the neighborhood, the project should also follow that pattern. Some of this pattern is broken by contemporary buildings and should not be considered a beneficial aspect to the pervasive pattern. Another important aspect of the arrangement of the surrounding buildings - this project is significantly denser than other properties. The floor area ratio (FAR) of this property is 2.01 (w/o parking) versus the 0.79 FAR for the neighborhood.

3. Whether the building will conserve neighborhood character with appropriate scale, design, and materials

The proposed design does not play off the typical massing of its neighbors. The proposed materials are similar as is the vestige of the Victorian detailing, although the quality and character of that detailing isn't communicated in the project documents.

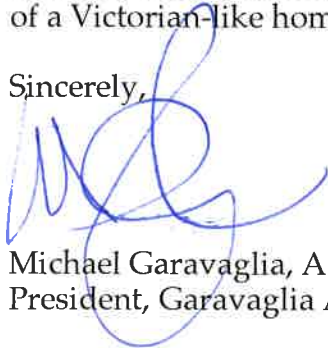
4. Whether the Project has been designed in keeping with the scale and development pattern of the established neighborhood character

The project is not in keeping with the scale and development pattern of the established neighborhood's character. Major aspects - flat roof versus gable-roofed structure and much denser lot coverage / FAR. The requested variances are an imposition on the area as there is poor conformance with rear yard and open space requirements setting a bad precedent. The unit density for the project (4 units versus 2 units) is also way out of the average range- a 100% increase over the RH-2 zoning. The addition of the ADU is a ruse to replace an affordable unit with a large house, placing the new smaller unit in the basement of the apartment building.

5. Whether the Project is of superb architectural and urban design, meeting all relevant design guideline, to enhance existing neighborhood character

The project is not superb architecture or urban design. It is poorly integrated with the massing of its neighbors, it is extremely dense compared to the average property, and the architectural detailing is average and not clearly defined. There was an opportunity for a superb design that would be both compatible and differentiated from the evident historical style, but this project misses that chance. A design that would excel and could be very contemporary in scale, massing, fenestration, and materials was not attempted. The original design attempted a contemporary style but was similar to the other large-box structures being implemented across the City and have become the design de jour. After that failed with the neighbors (both residents and buildings), a simplified version of a Victorian-like home was attempted. Both designs are predictable - not superb.

Sincerely,



Michael Garavaglia, A.I.A., LEED AP BD+C, C14833
President, Garavaglia Architecture, Inc.

582 Market Street, Suite 1800
San Francisco, CA 94104

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