

From: [Gordon-Jonckheer, Elizabeth \(CPC\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Lew, Lisa \(BOS\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Sucre, Richard \(CPC\)](#); [Taylor, Michelle \(CPC\)](#)
Subject: 45 Bernard Street Appeal - Planning Department Response
Date: Monday, October 24, 2022 9:00:33 AM
Attachments: [45 Bernard Street Appeal - Response Memo - CatEx .pdf](#)

Hello,

Please find attached the Planning Department response for the appeal of the CEQA Determination of Exemption from Environmental Review for the proposed 45 Bernard Street project.

Please contact me if you have any questions or need additional information.

Thank you,

Elizabeth Gordon Jonckheer, Principal Planner
Northwest Team & Historic Preservation, Current Planning Division
San Francisco Planning
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[San Francisco Property Information Map](#)



CATEGORICAL EXEMPTION APPEAL

45 Bernard Street

Date: October 24, 2022
To: Angela Calvillo, Clerk of the Board of Supervisors
From: Lisa Gibson, Environmental Review Officer – (628) 652-7571
Elizabeth Gordon Jonckheer, Planner- elizabeth.gordon-jonckheer@sfgov.org – (628) 652-7365
RE: Planning Record No. 2020-005176APL
Appeal of Categorical Exemption for 45 Bernard Street
Hearing Date: November 1, 2022
Attachment(s): A – DRA-793 with Project Plans, 45 Bernard Street
Project Sponsor: Taylor Huston
Appellant(s): Brian O’Neill of Zacks, Freedman & Patterson PC, on behalf of the Upper Chinatown
Neighborhood Association

Introduction

This memorandum is a response to the letter of appeal to the Board of Supervisors (Board) regarding the Planning Department’s (Department) issuance of a categorical exemption under the California Environmental Quality Act (CEQA) for the proposed 45 Bernard Street project (Proposed Project).

The Department, pursuant to Article 19 of the CEQA Guidelines, issued a categorical exemption for the Proposed Project on April 13, 2021, finding that the Proposed Project is exempt from CEQA as a Class 1 categorical exemption.

The decision before the Board is whether to uphold the Department’s decision to issue a categorical exemption and deny the appeal, or to overturn the Department’s decision to issue a categorical exemption and return the Proposed Project to the Department staff for additional environmental review.

Site Description and Existing Use

The site is an approximately 1,380 square foot (23-foot in width by 60-foot in length) lateral and down sloping lot and contains an existing 2,994 square foot, three-story, four-residential-unit building, located mid-block along Bernard Street in the Nob Hill neighborhood. The project block is bounded by Bernard Street to the north,

Taylor Street to the east, Pacific Avenue to the south and Jones Street to the west. Bernard Street is a 35-foot-wide east-west street. The existing buildings on this block of Bernard Street consist of three-story, multi-unit residential buildings with flat roofs. The existing neighboring buildings fronting Bernard Street and Pacific Avenue (to the south of the project) vary in depth – some buildings extend further into the rear yard open space than others. The Proposed Project site is within the RH-3 (Residential, House, Three-Family) Zoning District and a 40-X Height and Bulk District.

Project Description

On August 22, 2020, the project sponsor filed Building Permit Application (BPA) No. 2020.0822.2415 proposing construction of a four-story horizontal rear addition to the existing on-site 2,994 square foot, multi-unit residential building at 45 Bernard Street. The proposed four-story addition encompasses the existing basement, first floor, second floor, and third floor of the existing structure. On August 25, 2022, the San Francisco Planning Commission (Commission) conducted a duly noticed public hearing at a regularly scheduled commission meeting on Discretionary Review Application 2020-005176DRP, took the Discretionary Review requested and approved the Proposed Project with modifications (please see further discussion under Background below).

Background

The following is a brief summary of the relevant project background for the appeal of the categorical exemption issued on April 13, 2021, for the 45 Bernard Street Project.

On August 22, 2020, the Project Sponsor, Taylor Huston, filed a building permit application for the Proposed Project with the Department of Building Inspection (DBI).

On August 25, 2020, the Project Sponsor's Project Application was accepted by the Planning Department (Department) and routed to the Current Planning Division's Northeast team leader for assignment and review of the Proposed Project.

On April 13, 2021, the Department completed the Historic Resource Evaluation Response (Part 1) form, a formal evaluation document which determines whether or not a property is a historic resource and issued a categorical exemption determination finding that the Proposed Project was categorically exempt under CEQA Class 1 - Alteration and Addition to an Existing Structure, and that no further environmental review was required.

On July 14, 2021, the Department's plan check comments were initially submitted to the Project Sponsor.

On November 7, 2021, the Project Sponsor filed an Accessory Dwelling Unit (ADU) application. The ADU application was submitted to legalize an Unauthorized Dwelling Unit (UDU). See further discussion below

On January 24, 2022, the Department issued neighborhood notification pursuant to Planning Code Section 311 for the Proposed Project under Building Permit Application No. 2020.0822.2415. Similar to the categorical exemption, the Section 311 notification described the Proposed Project as a four dwelling unit building.

On February 23, 2022, Jennifer Mei of the Upper Chinatown Neighborhood Association filed a request for discretionary review with the Department on the Proposed Project.

On July 15, 2022, the project sponsor submitted modified project plans for the Proposed Project which differed from what was shown in the original 311 neighborhood notification plans set. The revisions were necessary because the Department determined that the rear wall of the adjacent existing building at 51 Bernard Street, used for calculating the proposed project's rear yard setback depth, did not qualify for the purposes of averaging (Planning Code Section 134) resulting in the reduction of the proposed rear addition/rear wall extension by two feet. Later revised project drawings also incorporated the removal of a proposed fire escape at the rear, the addition of exterior decks, and a spiral stair to a roof deck. The roof deck was pulled back from the building edges from the original project proposal shown in the 311 neighborhood notification dated January 24, 2022.

On August 25, 2022, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Discretionary Review Application 2020-005176DRP for the proposed project. Following public comment and deliberation by the commissioners, the Commission took Discretionary Review and approved the project with modifications, which constituted the approval action for the Proposed Project under Section 31.04(h) of the San Francisco Administrative Code. The Proposed Project that was approved presumed that the work associated with the building envelope expansion would first be approved prior to approval of the ADU application. The Commission approved the Proposed Project with modifications indicating that the project proposal complied with the Planning Code and the General Plan but did not conform with the Residential Design Guidelines with respect to articulating the building to minimize impacts to light and air to the adjacent buildings. The Commission recognized the Rent Control Ordinance and its direct impact as it relates to tenant rights, owner move-in evictions, the need to be able to locate previous tenants, first right of refusal at their previous rent rates, and that the current tenant may continue their tenancy for as long as they wish. The Commission further encouraged that the duration of any relocation of the existing tenant due to project construction should be as short as possible and encouraged a green rear yard open space. The Commission instructed Department staff to approve the Project per modified plans reflecting the following conditions:

- 1) Eliminate the roof deck,
- 2) Eliminate the spiral stair from the third floor to the roof,
- 3) Configure the third floor to be identical to the second floor; and,
- 4) Provide the Commission with an update report within six months of permit issuance.¹

On September 26, 2022, Brian O'Neill of Zacks, Freedman & Patterson PC, on behalf of the Upper Chinatown Neighborhood Association (hereinafter Appellant) timely filed an appeal of the April 13, 2021 categorical exemption to the Board.

On October 4, 2022, the Office of the Clerk of the Board scheduled a hearing before the Board to hear the appeal on November 1, 2022.

¹ Discretionary Review Action DRA-793 dated August 25, 2022 (Amended date: October 4, 2022), page 2

CEQA Guidelines

Categorical Exemptions

In accordance with CEQA Section 21084(a), categorical exemptions apply to a list of classes of projects that were determined by the Secretary of the Natural Resources Agency not to have a significant effect on the environment. Projects that fit within the classes of projects defined in CEQA Guidelines sections 15300 to 15333 are exempt from further environmental review under CEQA.

CEQA Guidelines Section 15301:Existing Facilities, or Class 1, consists of the operation, repair, or minor alteration of existing public or private structures and facilities, including additions to an existing structure, provided that the addition will not increase by more than 10,000 square feet if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan, and the area in which the project is located is not environmentally sensitive. (CEQA Guidelines Section 15301(e)).

The Proposed Project would add approximately 548 square feet of space in a horizontal rear addition to the existing 2,994 square foot multi-unit residential building, and therefore fits within the scope of a Class 1 Categorical Exemption. Furthermore, given the Project's limited-under 10,000 square foot extent of proposed development, the Proposed Project's scope falls squarely within the standard Class 1 categorical exemption and within standard Planning Department scopes of work for review by preservation staff.

Under CEQA, evaluation of the potential for proposed projects to impact "historical resources" is a two-step process: the first is to determine whether the property is an "historical resource" as defined in Section 15064.5(a)(3) of CEQA; and, if it is an "historical resource," the second is to evaluate whether the action or project proposed by the sponsor would cause a "substantial adverse change" to the "historical resource." Per CEQA section 21084.1, a historical resource for the purposes of CEQA includes, among other things, a historical resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources, as well as a resource included in a local register of historical resources or determined to be a historic resource by the lead agency.

In determining the significance of environmental effects caused by a project, CEQA Guidelines Section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA Guidelines section 15064(f)(5) offers the following guidance: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts." The Guidelines further state that "substantial evidence" means "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (CEQA Guidelines Section 15384).

Planning Department Responses

The concerns raised in the appeal letter are addressed in the responses below.

Response 1: The Proposed Project description is accurate, stable and finite.

The Department's conclusion that the Proposed Project Description is accurate, stable and finite is supported by substantial evidence.

The Proposed Project approved by the Commission does not differ substantially from the project that was described in the project's categorical exemption determination and the Commission-approved project is exempt from CEQA as a Class 1 categorical exemption. At the time of initial review on July 14, 2021, the Proposed Project included renovation of "four existing units in the building on site". However, the fourth existing (basement) unit, although currently vacant, had previously been used as an Unauthorized Dwelling Unit (UDU) and put the existing and Proposed Project over the permitted density per the applicable zoning for the project site. The Proposed Project was therefore publicly noticed under Section 311 of the Planning Code on January 24, 2022 as a project "to modify the existing building with a rear addition; proposes alterations to the exterior of the existing building; proposes to legalize an existing residential unit."² The notice described "four (4) existing units" on site, and reflected that "four (4) units" would remain. Subsequently on November 7, 2021 the scope of the project related to legalizing the fourth existing dwelling unit as a state-mandated program Accessory Dwelling Unit (ADU) was severed as a separate permit. Permits for ADUs under the state-mandated Accessory Dwelling Unit program are not subject to CEQA review. The ADU permit is still active and is pending resolution of the permit covering the remainder of the project work.³ Because the ADU permit is active, describing the proposed basement work as a "future ADU" (and the Department's description of the project in the categorical exemption of the renovation of a 4-unit building) is accurate.

The July 15, 2022 revised project plans that were approved by the Commission on August 25, 2022, reference a basement floor plan "future ADU" under a separate permit. Furthermore, the Commission approval under Discretionary Review Action DRA-793⁴ adopts findings for the project related to taking discretionary review and the approval of a building permit application proposing construction of a four-story horizontal rear addition at the existing basement, first floor, second floor, and third floor to a three-story over basement, *four-family dwelling* within a RH-3 (Residential, House, Three-Family) District and a 40-X Height and Bulk District" [emphasis added].

Response 2: The Department appropriately evaluated the Project's potential impacts on historical resources, including historic districts, in support of the Project's categorical exemption, in compliance with CEQA, the CEQA Guidelines, Chapter 31 of the San Francisco Administrative Code and applicable National Park Service guidance.

The Department's conclusion that the subject property is not an individually eligible historic resource is supported by substantial evidence.

The Appellant does not dispute the Department's finding that the subject property is not an individually eligible historic resource for inclusion in the California Register.

² Notice of an application for Alteration and Rear Addition 45 Bernard Street – 2020.0822.2415, page 1

³ In order to fully remove a UDU the Project Sponsor would need to go through the Conditional Use Authorization (CUA) process. The Project Sponsor did not wish to remove the UDU/pursue a CUA and so the only way to legalize the UDU was to convert it to an ADU. However, because there had been evictions at the site and the local (city) ADU program does not allow for UDU conversion to ADU if there have been evictions, the proposed ADU had to be a state mandated program ADU. The state ADU is ministerial and therefore permit is pending the resolution of the other permit.

⁴ Discretionary Review Action DRA-793 dated August 25, 2022 (Amended date: October 4, 2002), page 1

The Proposed Project site is located on the south side of Bernard Street between Taylor and Jones Streets in the Nob Hill neighborhood; Pacific Avenue is to the rear of the project block. The subject building was constructed in 1906 as a three-flat, three-story-over-basement, wood frame residential building⁵. The building's front façade consists of painted wood horizontal clapboard siding at the first two stories and the third story has been covered with a stucco finish. The front façade also contains six double hung wood windows with wood trim and ogee lugs, as well as a central recessed stairwell. The roofline exhibits a corbeled cornice. Due to the lot slope, the rear of the property has four levels and is defined by stucco walls and horizontal painted wood clapboard siding. At this rear façade, the windows are aluminum sliders with no trim. There is also a wood exit stair which was added at some point to provide emergency exiting for the apartment units. Several alterations to the existing on-site building have taken place since 1928.

Based on Department records and supplemental information provided, Planning Department staff prepared a Historic Resource Evaluation Response (HRER) form, a formal evaluation document which determines whether or not a property is a historic resource. In the HRER for 45 Bernard Street, Department staff determined that the subject property is not individually eligible for inclusion in the California Register. Department staff determined that the subject property is not individually eligible under any of the four criteria, as it is not associated with any qualifying events or persons. To be eligible under Criterion 1 (Events), the building cannot merely be associated with historic events or trends but must have a specific association to be considered significant. No known historic events occurred at the subject property that would support a finding of individual eligibility under Criterion 1. None of the known occupants or owners appear to be of historic significance to the local, regional or national past to justify a finding of individual eligibility under Criterion 2.). Department staff also determined that the building is not architecturally distinct such that would qualify it for listing in the California Register under Criterion 3. Specifically, based on the permit record, 45 Bernard Street retains moderate integrity (alterations include but are not limited to window modifications to the rear façade and the stucco alteration at the third story of the front façade). Buildings that are eligible under the architecture Criterion must represent distinctive characteristics of its style and period and possess high artistic value. The subject property is a residence reflective of its era on its block but does not rise to the level of artistic expression that would render it eligible for individual eligibility as a historic resource. The subject property was not considered significant under Criterion 4 since this significance criterion typically applies to rare construction types when involving the built environment. The subject property is not an example of a rare construction type.⁶

The Department's conclusion that the subject property is not within a historic district or a potentially eligible historic district is supported by substantial evidence.

The Appellant contends that the Department has not provided sufficient evidence to justify its finding that the subject property is not within a potentially eligible historic district or survey area for Upper Chinatown.

The information provided below substantiates the Department's conclusion that the subject property is not within a historic district, a potentially eligible historic district or survey area for Upper Chinatown.

The area in which the subject property is located is not formally identified at present as a historic district.

⁵ Historic Sanborn Map, Map Page 70

⁶ Part I Historic Resource Evaluation Response (HRER), Record No. 2020-005176PRJ/ENV, 45-49 Bernard Street, pages 2-3, as attached to the CEQA Exemption Determination dated April 13, 2022

The subject property is also outside the boundaries of the National Register-eligible Chinatown Historic District, which has a Period of Significance of 1906-1930.⁷ The Department has identified no evidence that this property would contribute to this district, and Appellant provided none in support of its appeal. In addition, the subject property does not exhibit the key Character-Defining Features of the Chinatown Historic District, such as masonry, elaborate moldings (terra cotta, tile, brick) around entrances, upper floor windows and Chinese architectural motifs (e.g., tile pagoda roofs, bracketing, latticed balconies). Recent evaluations prepared for projects proposed at nearby properties (such as the Historic Resource Evaluation Response for 749 Grant Avenue⁸) do not provide any evidence to support a conclusion that there is a historic district in Upper Chinatown.

The 45 Bernard Street property is also outside of the North Beach survey area, including the expanded survey area of the North Beach Historic Context Statement and survey update that is ongoing, indicating that it does not appear to be associated with that context⁹.

Furthermore, the Department's findings and analysis were based on Department records, including an evaluation process that concurred with a Historic Resource Evaluation Response prepared for an adjacent property at 51 Bernard Street (see Case No. 2013.1452E). Both the evaluations for the subject property and 51 Bernard Street note that the surrounding area development exhibits a broad range of construction dates from 1900 to 1988 and no clear period of development is evident. Staff analysis also notes that many of the surrounding properties have undergone facade alterations that have compromised historic integrity. Further, the staff analysis prepared for 51 Bernard Avenue states that "[t]he area surrounding the subject property does not contain a significant concentration of historically or aesthetically unified buildings."¹⁰

The Appellant references discussion regarding expansion of a survey area, which is taken out of context because the referenced language is specifically in relation to the architectural style/features of the subject building in comparison to Romeo Alley Flats found within North Beach. The Historic Resource Evaluation Response for 45 Bernard Street specifically indicates that the project site is outside the boundary of the Expanded North Beach Survey, and while it shares characteristics of the Romeo Alley Flats within North Beach, it does not exemplify them and there is no justification to expand the *North Beach survey area*.¹¹

Given all the above information, the subject property was correctly determined to not be within a historic district, a potentially eligible historic district or survey area for Upper Chinatown.

⁷ Case No. 2008.0762E, Historic Resource Evaluation Response (HRER) Chinese Hospital - 835 Jackson Street, 845 Jackson Street, 1140 Powell Street, and 827 Pacific Avenue dated February 27, 2012. & the San Francisco Property Information Map (SFPIM) Database. This HRER consolidated Chinatown Historic District boundaries and information found in a 1997 Section 106 project review by the Department of Housing and Urban Development (HUD). In general, the boundaries of the eligible Chinatown Historic district is roughly bounded by Broadway, Columbus Avenue, Kearny Street, Bush Street, and Stockton Street. This HRER increased the boundaries to include 835 Jackson Street and 820 Jackson Street and extended the boundary west along Washington Street to include 940 Washington Street and 950 Washington Street.

⁸ Part I Historic Resource Evaluation Response (HRER), Record No. 2109-00397ENV, 749 Grant Avenue dated January 29, 2021

⁹ The expanded survey area included in the community-initiated North Beach Historic Context Statement (HCS), dated February 11, 2020, remains in draft form. No findings have been made and the draft HCS has yet to be reviewed, finalized, or adopted by the Historic Preservation Commission. Expanded boundaries generally encompass most of North Beach from Jones to Bay to Sansome Streets and reaching as far as Washington Street (please see Map on page 3 of the North Beach Historic HCS,

¹⁰ Preservation Review Team (PTR) Form Record No. 2013.1452E, 51 Bernard Street, dated November 4, 2013, page 2.

¹¹ Part I Historic Resource Evaluation Response (HRER), Record No. 2020-005176PRJ/ENV, 45-49 Bernard Street, pages 3, as attached to the CEQA Exemption Determination dated April 13, 2022

The Department's conclusion that the existing courtyard at 45 Bernard Street property is not a character-defining feature is supported by substantial evidence.

The Appellant contends that the Department omitted an evaluation of the rear yard of the subject property as a traditional Chinese courtyard typology related to culture and social sustainability. Overall, CEQA deals with aspects of environmental review within the public realm and generally speaking does not evaluate privately-owned rear yards and areas that have no public visibility. Moreover, rear yard open space is a typical San Francisco block pattern throughout the City and not tied to any group or specific neighborhood. The Department's Residential Design Guidelines and Planning Code seek to preserve mutual enjoyment of open space in the rear yards – individually and collectively. The Proposed Project is code compliant and maintains the pattern of open space that is required both by design guidelines and Planning code, the latter of which averages the depth of the two adjacent buildings and leaves an area of rear yard similar to other properties on this block.

Furthermore, in staff's review of the above referenced Historic Resource Evaluation Responses (for 45 Bernard Street and 51 Bernard Street), related supplemental information in the Department's records, as well as the draft San Francisco Chinese American Historic Context Statement¹², courtyards and rear yards are not mentioned as character-defining features. One of the purposes of the San Francisco Chinese American Historic Context Statement is to aid in the evaluation and preservation of important historic sites "...associated with San Francisco's Chinese American history throughout the city that are worthy of preservation." The draft document provides examples of such buildings and "contains an evaluative framework for determining which properties may be eligible for inclusion on the National Register of Historic Places (National Register) and California Register of Historical Resources (California Register)". The evaluative framework does not reference a sacred or cultural significance of rear courtyard spaces.¹³

Conclusion

The Department has determined that the Proposed Project is categorically exempt from environmental review under CEQA on the basis that: (1) the Proposed Project meets the definition of one or more of the classes of projects that the Secretary of the Natural Resources Agency has found not to have a significant effect on the environment, and (2) none of the exceptions specified in CEQA Guidelines section 15300.2 prohibiting the use of a categorical exemption are applicable to the Proposed Project. The Appellant has not demonstrated, nor provided evidence supporting a claim, that the Department's historic resource determination and evaluation for the project is not supported by substantial evidence in the record. Nor has the Appellant presented a fair argument based on substantial evidence that the Proposed Project would result in a substantial adverse change to a historic resource.

For the reasons stated above and, in the April 13, 2021, categorical exemption determination, the CEQA determination complies with the requirements of CEQA, and the Proposed Project is appropriately exempt from environmental review pursuant to the cited exemption. The Department therefore respectfully recommends that the Board uphold the CEQA categorical exemption determination and deny the appeal of the CEQA determination.

¹² San Francisco Chinese American Historic Context Statement (Draft 1), June 2021

¹³ San Francisco Chinese American Historic Context Statement (Draft 1), June 2021, page A-2

Attachment A

Discretionary Review Action DRA-793 with Project Plans
August 25, 2022, Amended October 4, 2022



DISCRETIONARY REVIEW ACTION DRA-793

HEARING DATE: AUGUST 25, 2022

AMENDED DATE: OCTOBER 4, 2022

Record No.: **2020-005176DRP**
Project Address: **45 Bernard Street**
Building Permit: **2020.0822.2415**
Zoning: RH-3 (Residential House- Three Family) Zoning District
40-X Height and Bulk District
Block/Lot: 0157 / 030
Project Sponsor: Taylor Huston
59 Grove Hill South
San Anselmo, CA 94960
DR Requestor: Jennifer Mei
Upper Chinatown Neighborhood Association
1144 Pacific Avenue
San Francisco, CA 94133
Staff Contact: David Winslow – (628) 652-7335
David.Winslow@sfgov.org

ADOPTING FINDINGS RELATED TO TAKING DISCRETIONARY REVIEW OF RECORD NO. 2020-005176DRP AND THE APPROVAL OF BUILDING PERMIT APPLICATION NO. 2020.0822.2415 PROPOSING CONSTRUCTION OF A FOUR-STORY HORIZONTAL REAR ADDITION AT THE EXISTING BASEMENT, FIRST FLOOR, SECOND FLOOR, AND THIRD FLOOR TO A THREE-STORY OVER BASEMENT, FOUR-FAMILY DWELLING WITHIN THE A RH-3 (RESIDENTIAL, HOUSE, THREE-FAMILY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

Preamble

On August 22, 2020, Taylor Huston filed for Building Permit Application No. 2020.0822.2415 proposing construction of a four-story horizontal rear addition at the existing basement, first floor, second floor, and third floor to a three-story over basement, four-family dwelling within the RH-3 (Residential, House, Three-Family) District and a 40-X Height and Bulk District.

On February 23, 2022, Jennifer Mei of the Upper Chinatown Neighborhood Association (hereinafter “Discretionary Review (DR) Requestor”) filed an application with the Planning Department (hereinafter “Department”) for Discretionary Review (2020-005176DRP) of Building Permit Application No. 2020.0822.2415.

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

On August 25, 2022, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Discretionary Review Application 2020-005176DRP.

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

Action

The Commission hereby takes Discretionary Review requested in Record No. 2020-005176DRP and approves Building Permit Application 2020.0822.2415 with modifications.

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

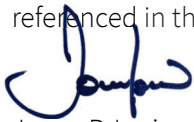
1. There are extraordinary or exceptional circumstances in the case. The proposal complies with the Planning Code and the General Plan, but does not conform with the Residential Design Guidelines with respect to articulating the building to minimize impacts to light and air to the adjacent buildings.
2. The Commission recognizes the Rent Control Ordinance and its direct impact as it relates to tenant rights, owner move-in evictions, the need to be able to locate previous tenants, first right of refusal at their previous rent rates, and that the current tenant may continue their tenancy for as long as they wish. ~~and first right of refusal for evicted tenants.~~
3. The Commission further encourages that the duration of any relocation of the existing tenant will be as short as possible and a green rear yard open space.
4. The Commission determined that modifications to the project were necessary, and encouraged greening the rear yard open space and they instructed staff to approve the Project per plans with the following conditions:
 1. Eliminate the roof deck.
 2. Eliminate the ~~and~~ spiral stair from the third floor to the roof.
 3. Configure the third floor to be identical to the second floor.
 - 2.4. Provide the Commission with an update report within six months of BPA issuance.

APPEAL AND EFFECTIVE DATE OF ACTION: Any aggrieved person may appeal this Building Permit Application to the Board of Appeals only after the Department of Building Inspection (DBI) takes action (issuing or disapproving) the permit. Such appeal must be made within fifteen (15) days of DBI's action on the permit. For further information, please contact the Board of Appeals at (628) 652-1150, 49 South Van Ness Ave, Suite 1475, San Francisco, CA 94103.

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 takes Discretionary Review and approved the building permit as referenced in this action memo on August 25, 2022 and amended on October 4, 2022.



Jonas P. Ionin | Digitally signed by Jonas P. Ionin
Date: 2022.10.04 11:04:02 -0700

Jonas P. Ionin
Commission Secretary

AYES: Ruiz, Imperial, Koppel, Moore

NOES: Diamond

ABSENT: Fung, Tanner

ADOPTED: August 25, 2022

AMENDED: October 4, 2022

BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/REMODEL

45, 47 & 49 BERNARD STREET, SAN FRANCISCO, CA - 94133

CONTACT INFORMATION

OWNER: Tina Huston c:925.337.1755 Lindsey Huston c: 925.337.9532	GENERAL CONTRACTOR: HGCI 112 Spaulding St., Unit - A San Anselmo, CA - 94960 p: 415.597.0980 c: 415.509.0304	ENGINEER: CRES Engineering Andres Stambuk 2420 Sand Creek Rd, Suite C-1252 Brentwood, CA, 94513 c: 925.487.0895
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PROJECT DATA

ADDRESS:	45, 47 & 49 Bernard St., SAN FRANCISCO, CA, 94133
BLOCK/ LOT :	0157 / 030
LOT SIZE :	23' 0" X 60' 0" = ± 1380 SF
ZONING :	RH - 3 (RESIDENTIAL HOUSE - THREE FAMILY)
HEIGHT & BULK DISTRICT :	65-A

PLANNING DISTRICT:	DISTRICT-3 NORTHEAST
SET BACK REQUIREMENTS:	<ul style="list-style-type: none">FRONT SETBACK: (E) SETBACK 0'0" OR AVERAGE OF ADJACENT BUILDINGS = 0'0"REAR SETBACK: AVERAGE OF ADJACENT BUILDING per SF PLANNING CODE SECTION 134 = NO LESS THAN 17'-9", SEE SITE PLAN.SIDE SETBACKS: NOT REQUIRED PER SF PLANNING CODE SECTION 133

EXISTING BUILDING :	<ul style="list-style-type: none">YEAR BUILT: 1906NUMBER OF STORIES: 3 STORIES + BASEMENTBUILDING AREA: 2944 SQFTOCCUPANCY CLASS: R-2USE TYPE: MULTI-UNIT APARTMENTSNO. OF DWELLING UNITS: 3 DUBUILDING HEIGHT: 32'-6"CONSTRUCTION TYPE V-B
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PROPOSED BUILDING SIZE :	<ul style="list-style-type: none">PROPOSED NUMBER OF STORIES: 3 STORIES + BASEMENT (NO CHANGE)PROPOSED BUILDING AREA: 3478 SQFTPROPOSED OCCUPANCY CLASS: R-2 (NO CHANGE)PROPOSED USE TYPE: MULTI-UNIT APARTMENT (NO CHANGE)PROPOSED NO. OF DWELLING UNITS: 3 DUOCCUPANCY LOAD: 1 PER 200 SQFTBUILDING HEIGHT: 32'-6" (NO CHANGE)CONSTRUCTION TYPE V-A
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(E) GARAGE PARKING:	NONE
REQUIRED PARKING:	NONE
FIRE SPRINKLERS:	Yes - Existing in Basement Unit (N) Sprinklers for Grd to 3rd floors
FIRE ALARM:	Yes

APPLICABLE CODES

- 2019 CALIFORNIA BUILDING CODE
- 2019 CALIFORNIA RESIDENTIAL CODE
- 2019 CALIFORNIA ELECTRICAL CODE
- 2019 CALIFORNIA MECHANICAL CODE
- 2019 CALIFORNIA PLUMBING CODE
- 2019 CALIFORNIA ENERGY CODE
- 2019 CALIFORNIA FIRE CODE
- SAN FRANCISCO RESIDENTIAL DESIGN GUIDELINES
- SAN FRANCISCO HOME-SF DESIGN GUIDELINES
- SAN FRANCISCO URBAN DESIGN GUIDELINES
- SAN FRANCISCO CODE OF ORDINANCES

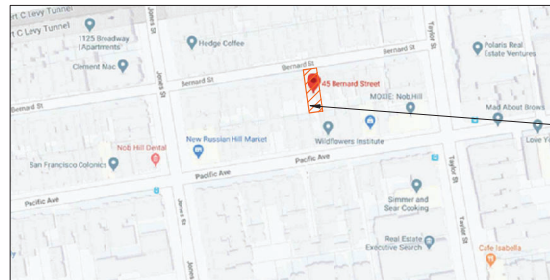
SHEET INDEX

ARCHITECTURAL
A0.0 COVER SHEET
A1.0 SITE PLAN & SETBACKS
A2.0 EXISTING / DEMO FLOOR PLANS - REFERENCE ONLY 1/2
A2.1 EXISTING / DEMO FLOOR PLANS - REFERENCE ONLY 2/2
A3.0 PROPOSED BASEMENT AND GROUND FLOOR PLANS
A3.0a PROPOSED SECOND AND THIRD FLOOR PLANS
A3.1 PROPOSED ROOF DECK FLOOR PLAN AND ROOF PLAN
A4.0 EXISTING VS PROPOSED FRONT ELEVATION
A4.1 EXISTING VS PROPOSED REAR ELEVATION
A4.2 EXISTING VS PROPOSED EAST ELEVATION
A4.3 EXISTING VS PROPOSED WEST ELEVATION
A5.0 EXISTING BUILDING SECTION
A5.1 PROPOSED BUILDING SECTION

SCOPE OF WORK

THIS RESIDENTIAL REMODEL WORK PROPOSES:

- FOUNDATION / SEISMIC UPGRADES WITH CEILING CODE HEIGHT ADJUSTMENTS TO COMPLY TO CURRENT CODE.
- REAR YARD ADDITION WITH MISC UNIT UPGRADES INCLUDING MODIFY/RELOCATE PG&E METERS.
- FUTURE ADU AT BASEMENT UNDER SEPARATE STATE ADU PERMIT



1. LOCATION MAP

SCALE: NTS



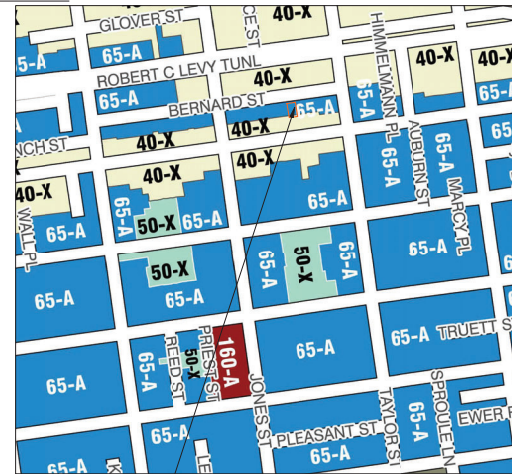
AREA CALCULATIONS

DWELLING UNITS (DU)	(E) AREA SF	(N) ADDITION IN SF	TOTAL UNIT AREA IN SF
UNIT # 1 - (E) GRD FLR	736 SF	102 SF	838 SF
UNIT # 2 - (E) 2ND FLR	736 SF	102 SF	838 SF
UNIT # 3 - (E) 3RD FLR	736 SF	122 SF	858 SF
TOTAL DU FLOOR AREA	2,208 SF	326 SF	2,534 SF
OTHER			
(E) BASEMENT	786 SF	222 SF	1008 SF
GROSS USABLE BLDG TOTALS (E) & (N)	2994 SF	548 SF	3542 SF

- 1 TOTAL (N) ADDITION IS LESS THAN 20% OF TOTAL GROSS FLOOR AREA AS DEFINED UNDER SF PLANNING CODE SECTION 102. NO BIKE ROOM/ RACKS REQUIRED AS PER SF PLANNING CODE SECTION 155.2

DWELLING UNITS	QUALIFIED OPEN SPACE (QOS) TOTAL PER DU
UNIT # 1	101 SF
UNIT # 2	101 SF
UNIT # 3	324 SF
TOTAL QOS	526 SF

EACH DWELLING UNIT HAVE MORE THAN 100 SF QUALIFIED PRIVATE OPEN SPACE



SUBJECT PROPERTY

2. ZONING MAP

SCALE: NTS



NOTE: IF ANY DEMOLITION IS REQUIRED, IT MAY NOT START UNTIL THE CONTRACTOR HAS OBTAINED A PERMIT FROM THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT. THE PERMIT NUMBER (#) NUMBER MUST BE PROVIDED TO THE INSPECTOR AND NOTED ON THE JOBSITE INSPECTION CARD. IF THE BAAQMD HAS DETERMINED THE PROJECT IS EXEMPT, A LETTER FROM THE AGENCY MUST BE PROVIDED, PROOF MUST BE PROVIDED TO THE BUILDING INSPECTOR NO LATER THAN THE FIRST INSPECTION.

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HGCI
DESIGN|CONSTRUCT|WORK|LIVE

BERNARD ST. 3-UNITS APARTMENT
SEISMIC RETROFIT/ REMODEL

APN # 0157030

PERMIT NUMBER:

- BP#2020.0822.2415
- 2020-05176PRJ
- BB#368-912-764
- 2020-0822-2415

PROJECT ADDRESS
45, 47 & 49 BERNARD ST., SAN
FRANCISCO, CA 94133

MANAGED BY: HGCI
B-GENERAL BUILDING CONTRACTOR
LIC.# 720437

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REVISIONS

DATE	REVISION	DESCRIPTION
10/08/2021	2	PLAN REVIEW RESPONSE #1
05/28/2022	3	PLAN SET UPDATE
07/15/2022	4	PLAN SET UPDATE 2

DATE	04/27/2020
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	PR.MD
CHECKED BY	JH

COVER SHEET

SHEET TITLE

A0.0

SHEET NO.

BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/REMODEL

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CHECKED BY	JH

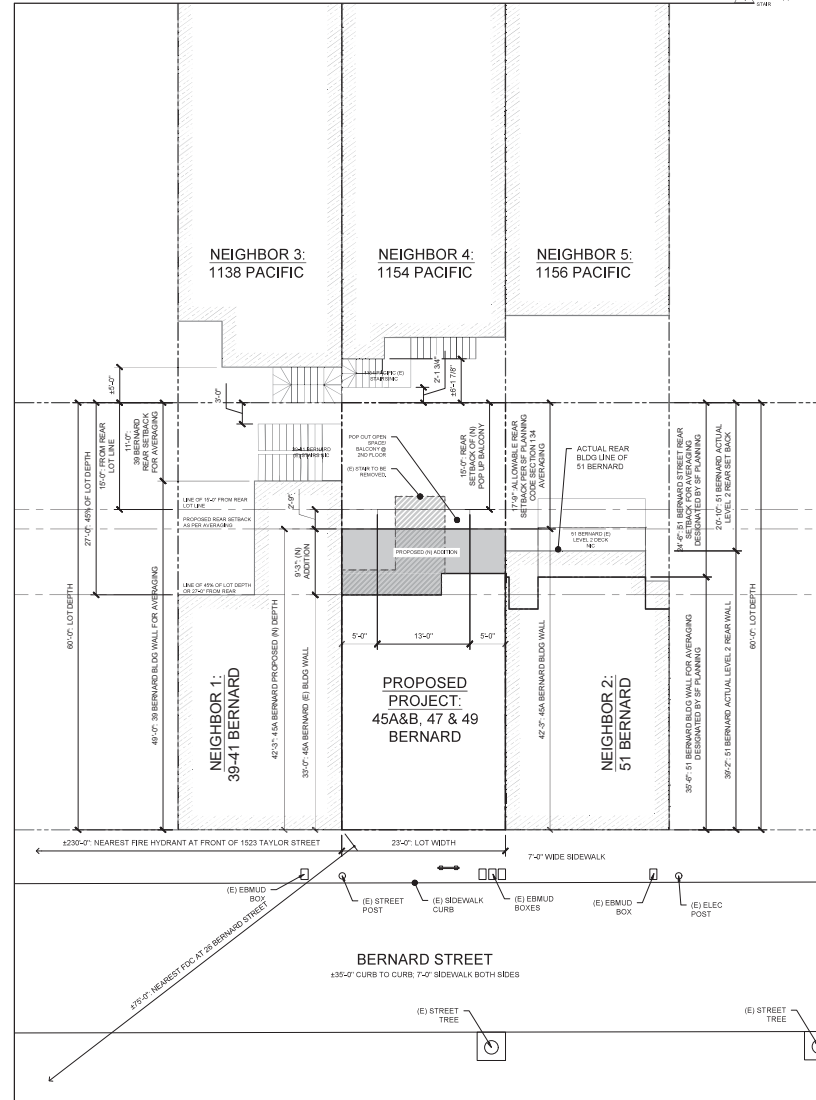
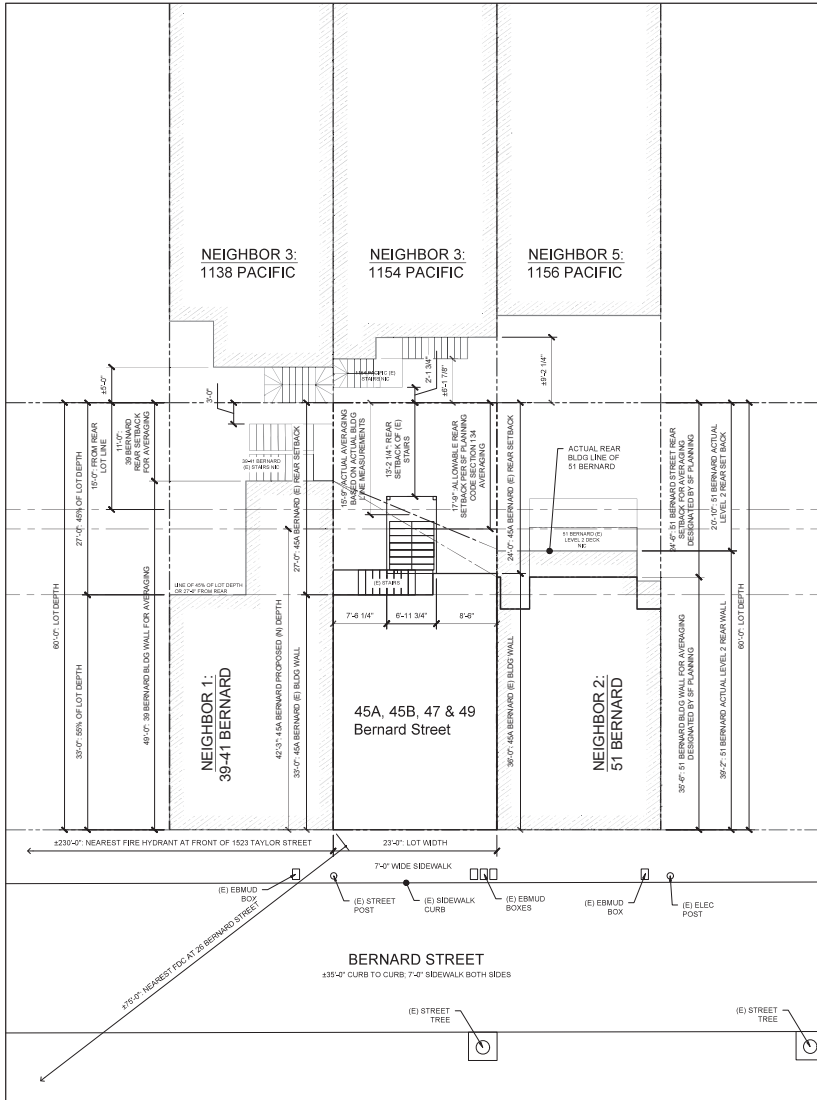
EXISTING AND PROPOSED SITE PLAN

SHEET TITLE

SHEET NO.



A1.0



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BERNARD ST. 3-UNITS APARTMENT
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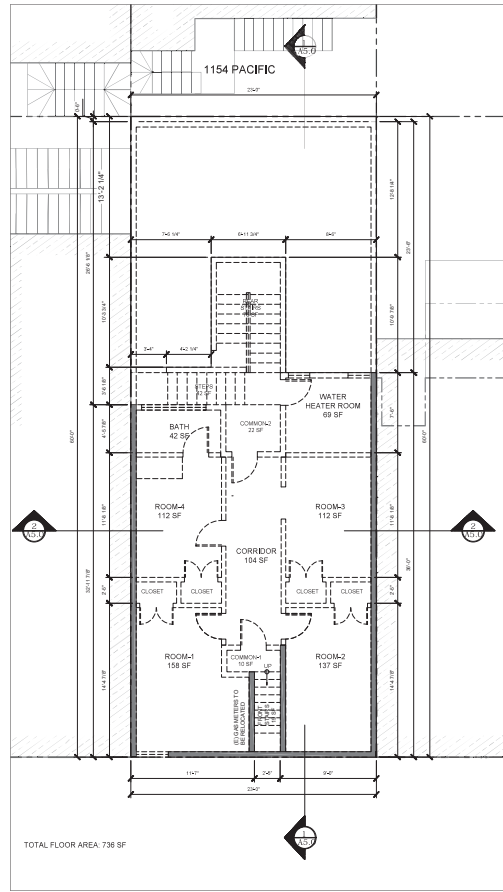
EXISTING/ DEMO FLOOR
PLANS - REFERENCE

1 OF 2

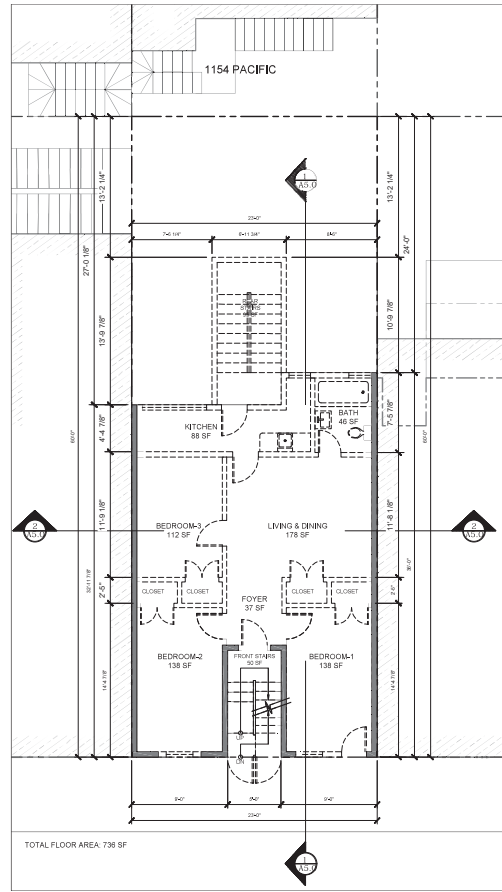
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A2.0

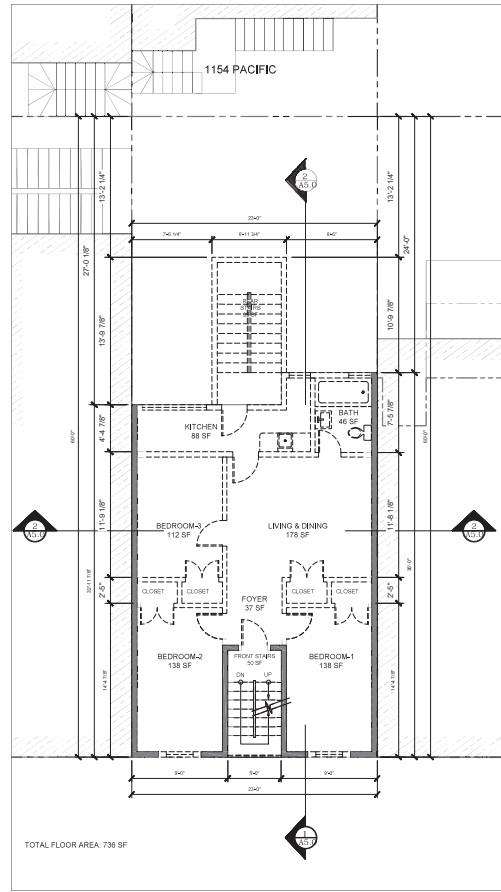
SHEET NO.



1 EXISTING AND DEMO PLAN: BASEMENT FLOOR
SCALE: 3/16" = 1'-0"



2 EXISTING AND DEMO PLAN: GROUND FLOOR
SCALE: 3/16" = 1'-0"



3 EXISTING AND DEMO PLAN: SECOND FLOOR
SCALE: 3/16" = 1'-0"

LEGEND

- (E) WALL TO REMAIN
- (E) WALL TO BE DEMO

TANTAMOUNT TO DEMOLITION CALCULATION

HORIZONTAL ELEMENTS in SQFT						ALL EXTERIOR WALLS					
FLOOR	(E) AREA in SQFT	AREA TO DEMOLISH in SQFT	AREA TO ADD in SQFT	TOTAL AREA in REMAIN SQFT	COMPLIANCE	EXTERIOR WALL	(E) EXTERIOR WALL in LFT	EXTERIOR WALL TO DEMOLISH in LFT	AREA TO ADD in LFT	TOTAL EXTERIOR WALL TO REMAIN in LFT	COMPLIANCE
LEVEL - 01	736 = 100%	0 = 0%	236	736 > 50%	YES	NORTH	23 = 100%	0 = 0%	N.A.	23 > 50%	YES
LEVEL - 02	736 = 100%	0 = 0%	236	736 > 50%		SOUTH	23 = 100%	22 = 95.6%	N.A.	1 < 50%	
LEVEL - 03	736 = 100%	0 = 0%	236	736 > 50%		EAST	33 = 100%	0 = 0%	N.A.	33 > 50%	
ROOF AREA	736 = 100%	0 = 0%	236	736 > 50%		WEST	36 = 100%	0 = 0%	N.A.	36 > 50%	
BASEMENT	736 = 100%	0 = 0%	236	736 > 50%		TOTAL	115 = 100%	22 = 19%	N.A.	93 > 50%	

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**BERNARD ST. 3-UNITS APARTMENT
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APN # 0157030

PERMIT NUMBER:

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- 2020-05176PRJ
- BB#368-912-764
- 2020-0822-2415

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SCALE AS NOTED
PROJECT ID 00000
DRAWN BY PR_MD
CHECKED BY JH

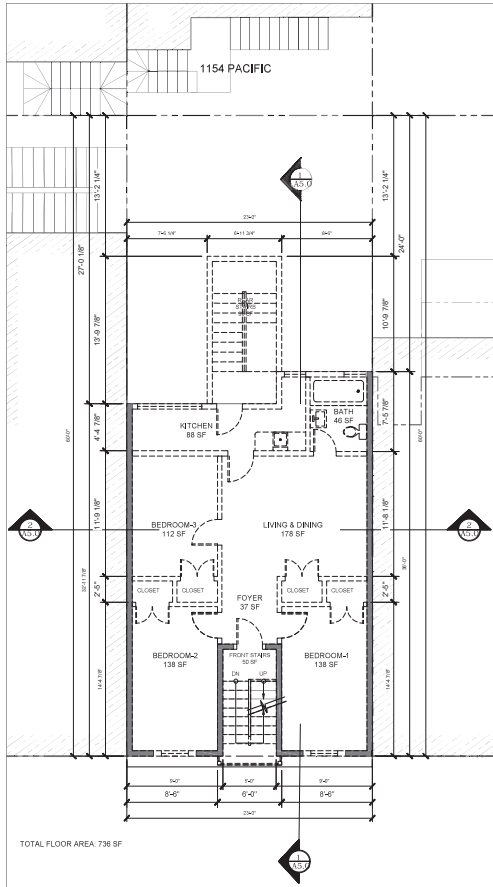
**EXISTING/ DEMO FLOOR
PLANS - REFERENCE**
2 OF 2

SHEET TITLE

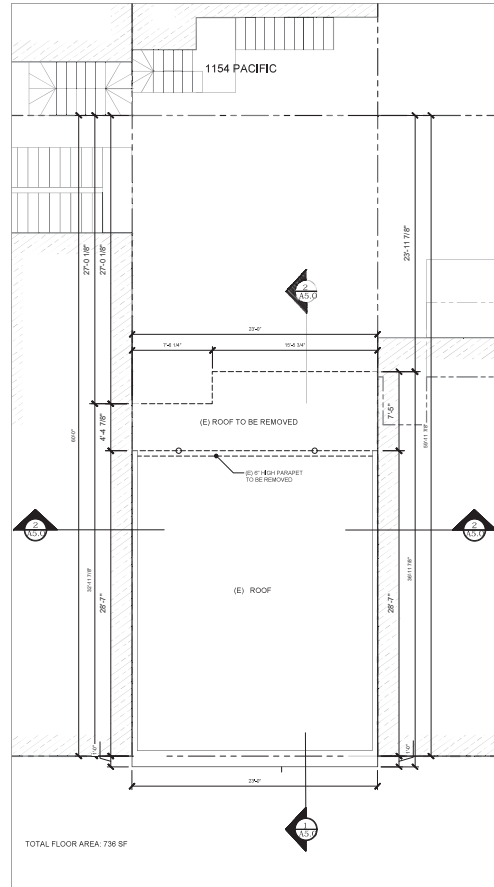
3
A2.1
SHEET NO.



NEW SHEET FOR THIRD
FLOOR DEMO
AND DEMO PLAN



1 EXISTING AND DEMO PLAN: THIRD FLOOR
SCALE: 3/16" = 1'-0"



2 EXISTING AND DEMO PLAN: ROOF PLAN
SCALE: 3/16" = 1'-0"

LEGEND

- (E) WALL TO REMAIN
- (E) WALL TO BE DEMO



(E) WALL/FLOOR/ROOF TO REMAIN



A3.0

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BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/ REMODEL

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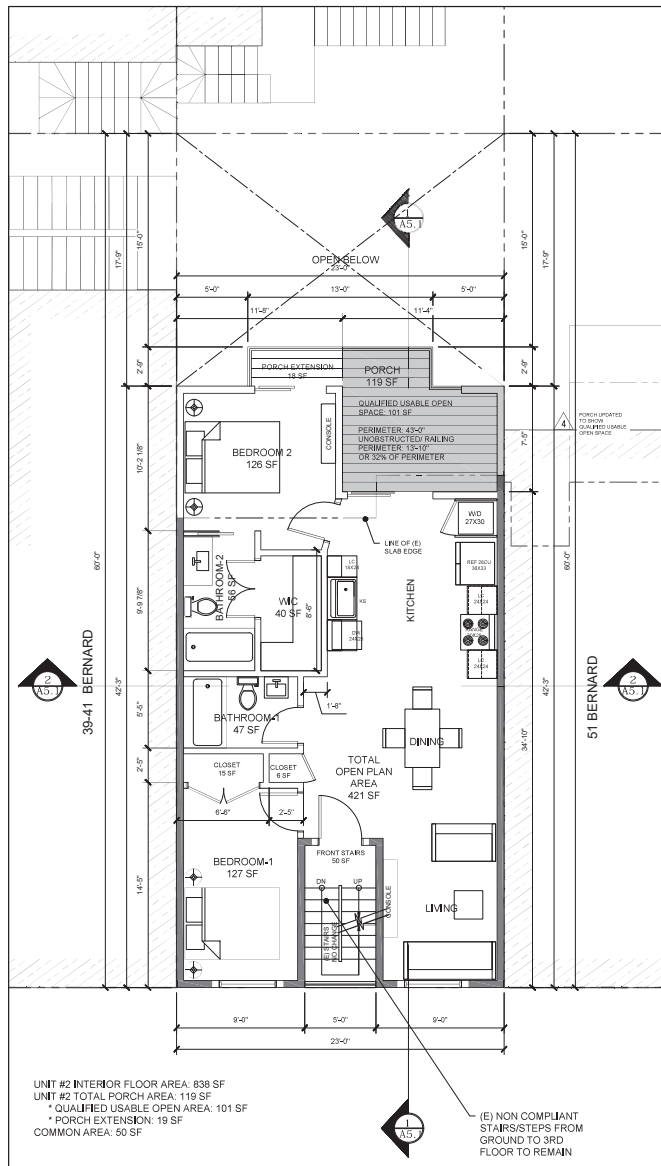
DATE 05.26.2022
SCALE AS NOTED
PROJECT ID 00000
DRAWN BY MOC
CHECKED BY JH

SECOND FLOOR PLAN THIRD FLOOR PLAN

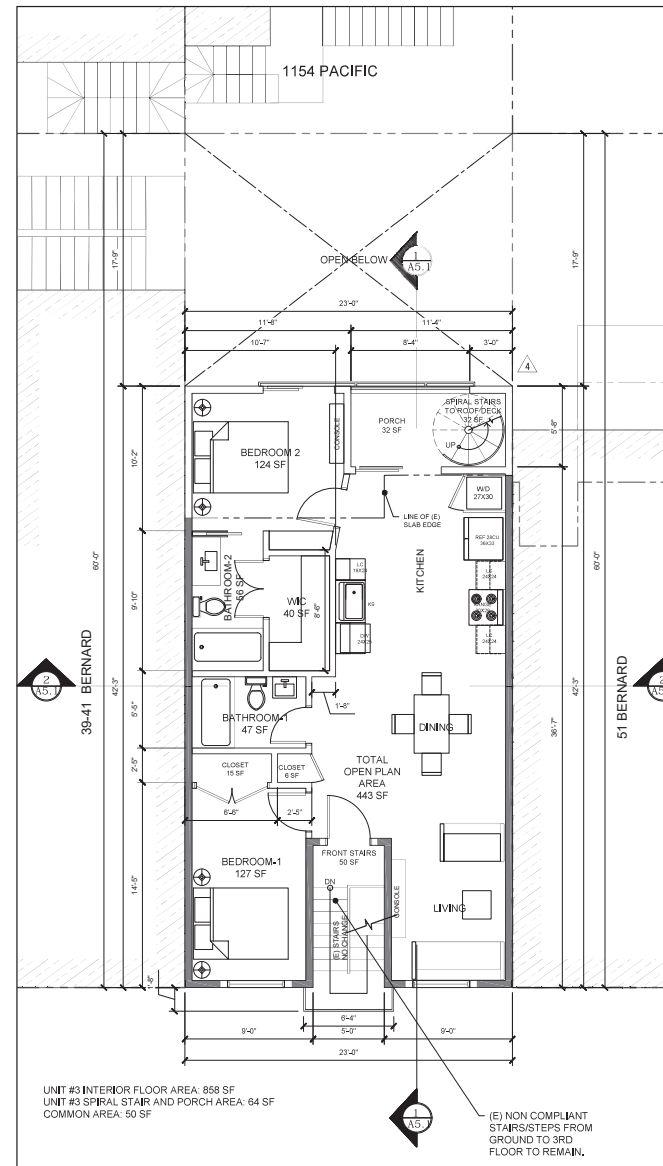
SHEET TITLE

SHEET NO.

A3.0a



1 SECOND FLOOR PLAN
SCALE: 1/8" = 1'-0"

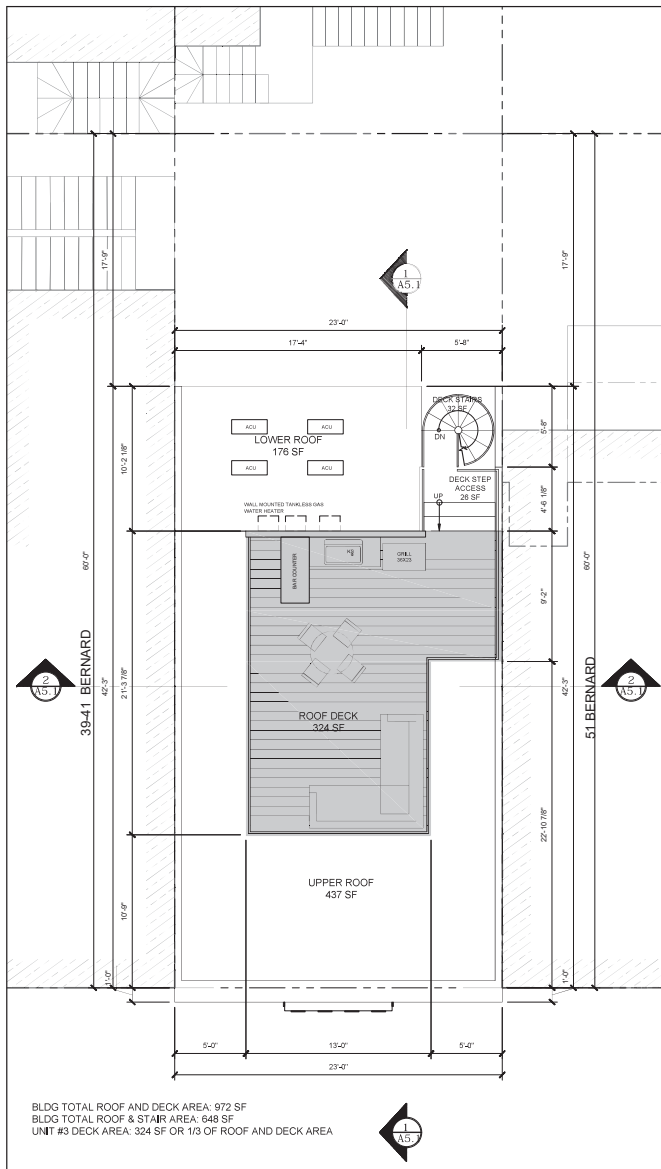


2 THIRD FLOOR PLAN
SCALE: 1/8" = 1'-0"

LEGEND

(E) WALL/FLOOR/ROOF TO REMAIN





1 ROOF DECK FLOOR PLAN
 SCALE: 1/8" = 1'-0"

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**BERNARD ST. 3-UNITS APARTMENT
 SEISMIC RETROFIT/REMODEL**

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DATE: 06/28/2022
 SCALE: AS NOTED
 PROJECT ID: 00000
 DRAWN BY: MDC
 CHECKED BY: JH

**ROOF DECK FLOOR PLAN
 ROOF PLAN**

SHEET TITLE

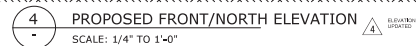


A3.1

SHEET NO.

 PROPOSED ADDITION

 (E) ELEMENTS TO BE REMOVED



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07.15.2022	4	PLAN SET UPDATE 2

DATE	06.26.2022
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MDC
CHECKED BY	JH

FRONT ELEVATION

SHEET TITLE

A4.0

SHEET NO.

BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/REMODEL

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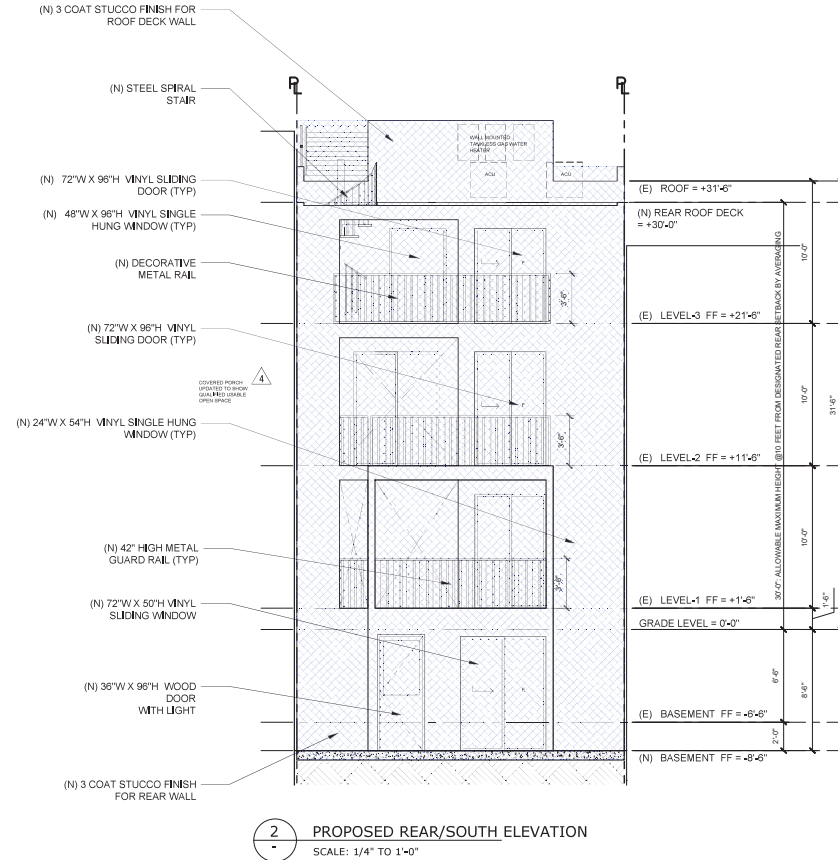
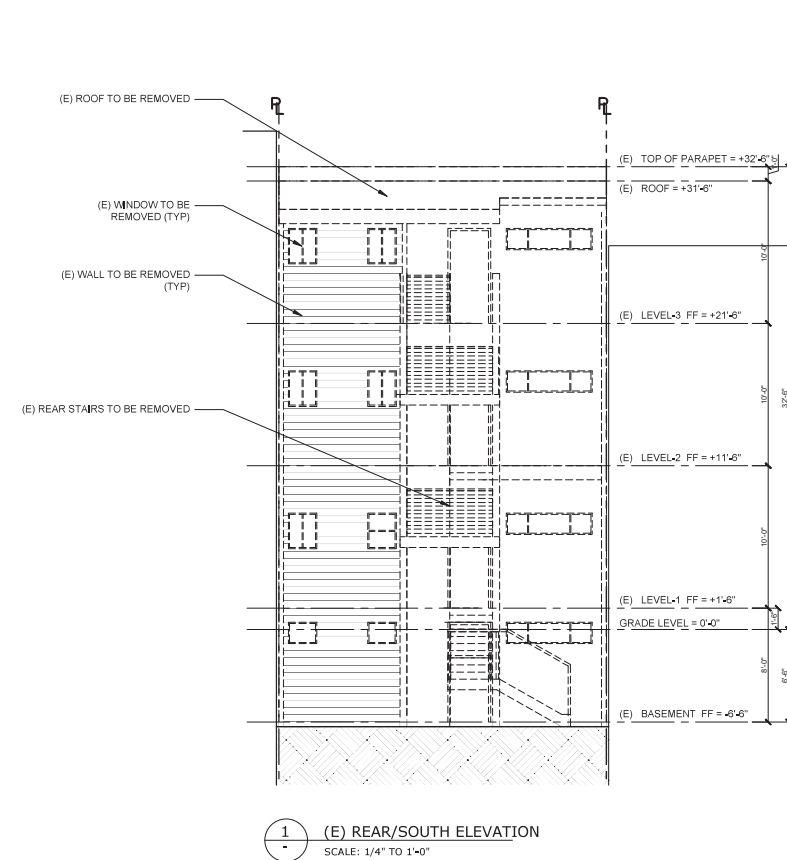
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REAR ELEVATION

SHEET TITLE

SHEET NO.

A4.1



LEGEND

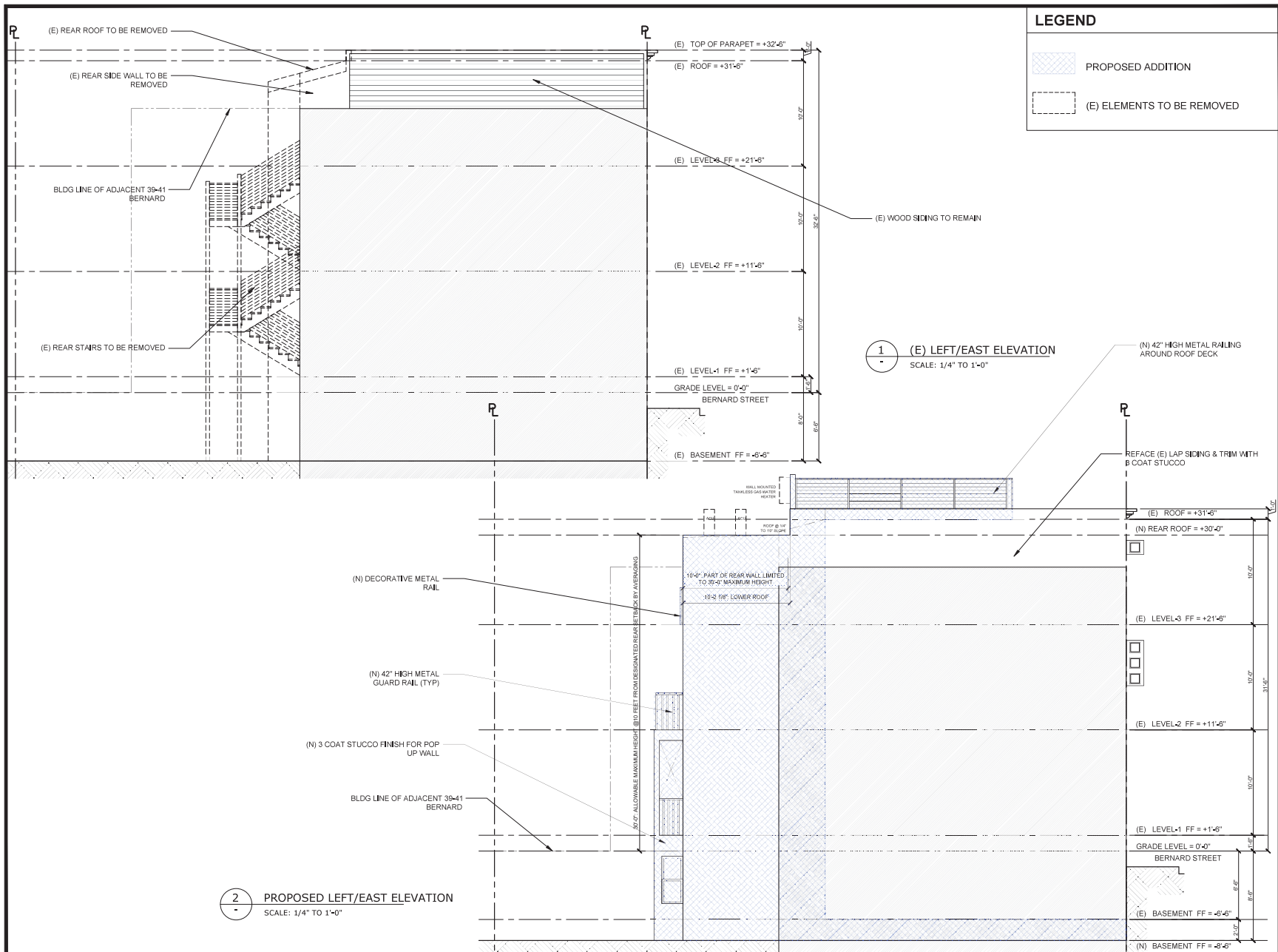
- EXTERIOR WITH CEMENT SIDING
- EXTERIOR FACADE ADDITION
- 3 COAT STUCCO - COLOR 1

TANTAMOUNT TO DEMOLITION CALCULATION

FRONT + REAR FACADE (LFT AT FOUNDATION)					
ELEVATION SIDE	(E) EXT WALL in LFT	(E) EXT WALL TO DEMOLISH in LFT	WALL TO ADD in LFT	(P) EXT TO REMAIN in LFT	COMPLIANCE
NORTH/FRONT ELEVATION	23 = 100%	0 = 0%	N.A.	23 < 50%	YES
SOUTH/REAR ELEVATION	23 = 100%	22 = 95.65%	N.A.	1 > 50%	
TOTAL	46	22	N.A.	24	

VERTICAL ENVELOP ELEMENTS TO REMAIN

ELEVATION SIDE	(E) ENVELOP AREA in SQFT	AREA TO DEMOLISH in SQFT	AREA TO ADD in SQFT	(P) ENVELOP AREA TO REMAIN in SQFT	COMPLIANCE
NORTH/FRONT ELEVATION	806 = 100%	43 = 5.33%	25.6 = 3.18%	788.6 < 50%	YES
SOUTH/REAR ELEVATION	962 = 100%	856 = 89%	N.A.	106 < 50%	
EAST ELEVATION	NO CHANGE	NO CHANGE	N.A.	100%	
WEST ELEVATION	NO CHANGE	NO CHANGE	N.A.	100%	
TOTAL	1768	899	25,600	894.6 > 50%	



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DATE	REVISION	DESCRIPTION
10/08/2021	2	PLAN REVIEW RESPONSE #1
05/28/2022	3	PLAN SET UPDATE

DATE: 05/26/2022
 SCALE: AS NOTED
 PROJECT ID: 00000
 DRAWN BY: MDC
 CHECKED BY: JH

EAST ELEVATION

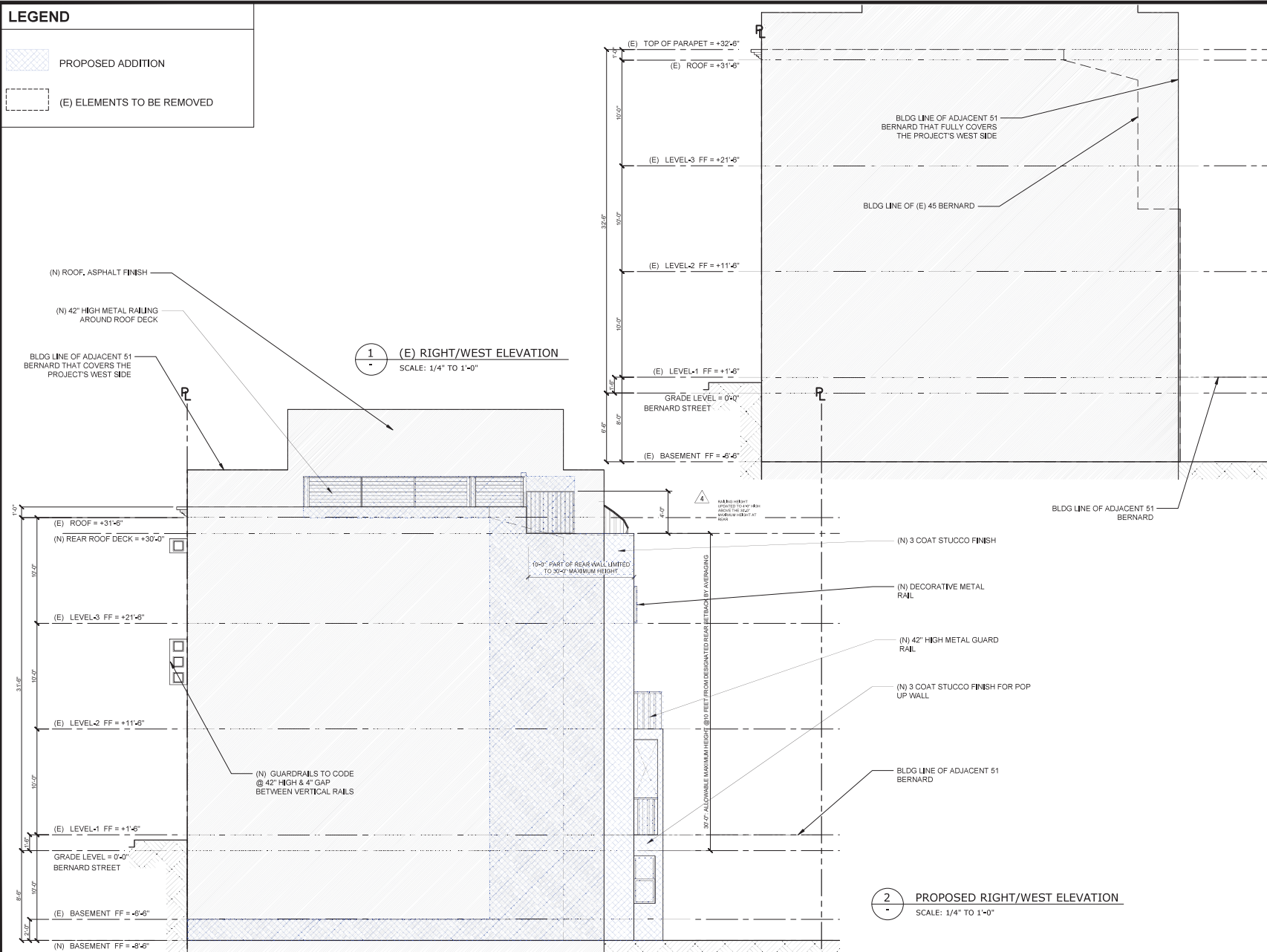
SHEET TITLE

A4.2

SHEET NO.

LEGEND

- PROPOSED ADDITION
- (E) ELEMENTS TO BE REMOVED



112 SPILLIUMS STREET, SUITE A
SAN ANSELMO, CA 94060
TEL: 415.337.2000 / FAX: 415.337.2011

HGCI
DESIGN|CONSTRUCT|WORK|LIVE

BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/ REMODEL

APN # 0157030

PERMIT NUMBER:

- BP#2020.0822.2415
- 2020-05176PRJ
- BB#368-912-764
- 2020-0822-2415

PROJECT ADDRESS

45, 47 & 49 BERNARD ST., SAN
FRANCISCO, CA 94133

MANAGED BY: HGCI

B-GENERAL BUILDING CONTRACTOR
LIC.# 720437

STAMP

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REVISIONS

DATE	REVISION	DESCRIPTION
10/08/2021	2	PLAN REVIEW RESPONSE #1
06/28/2022	3	PLAN SET UPDATE
07/15/2022	4	PLAN SET UPDATE 2

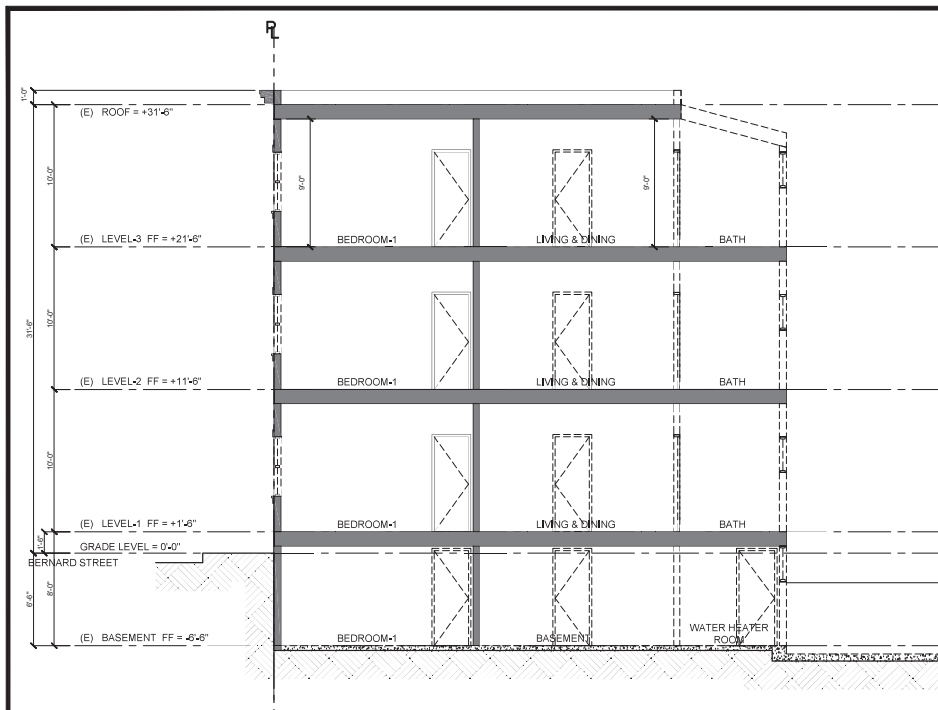
DATE	06/28/2022
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MDC
CHECKED BY	JH

WEST ELEVATION

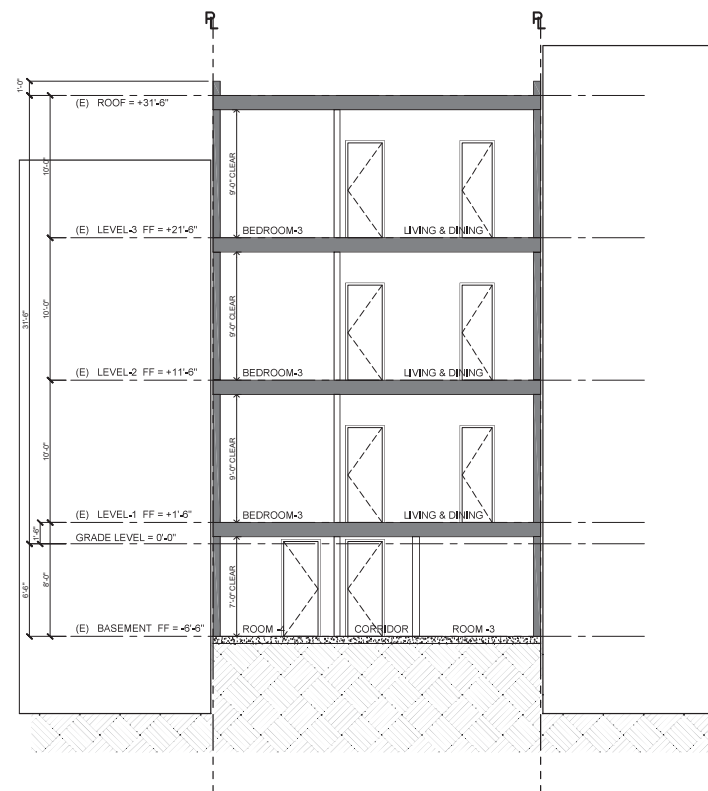
SHEET TITLE

A4.3

SHEET NO.



1 (E) SECTION
SCALE: 1/4" TO 1'-0"



2 (E) TRANSVERSE SECTION
SCALE: 1/4" TO 1'-0"

LEGEND

- PROPOSED ADDITION
- (E) WALL/FLOOR/ROOF TO REMAIN
- (E) WALL/FLOOR/ROOF TO BE REMOVED

112 SPILLIUMS STREET, SUITE A
SAN ANSELMO, CA 94060
TEL: 415.337.0007 FAX: 415.337.0011



BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/ REMODEL

APN # 0157030

PERMIT NUMBER:

- BP#2020.0822.2415
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- BB#368-912-764
- 2020-0822-2415

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FRANCISCO, CA 94133

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REVISIONS

DATE	REVISION	DESCRIPTION
10/08/2021	2	PLAN REVIEW RESPONSE #1
05/28/2022	3	PLAN SET UPDATE

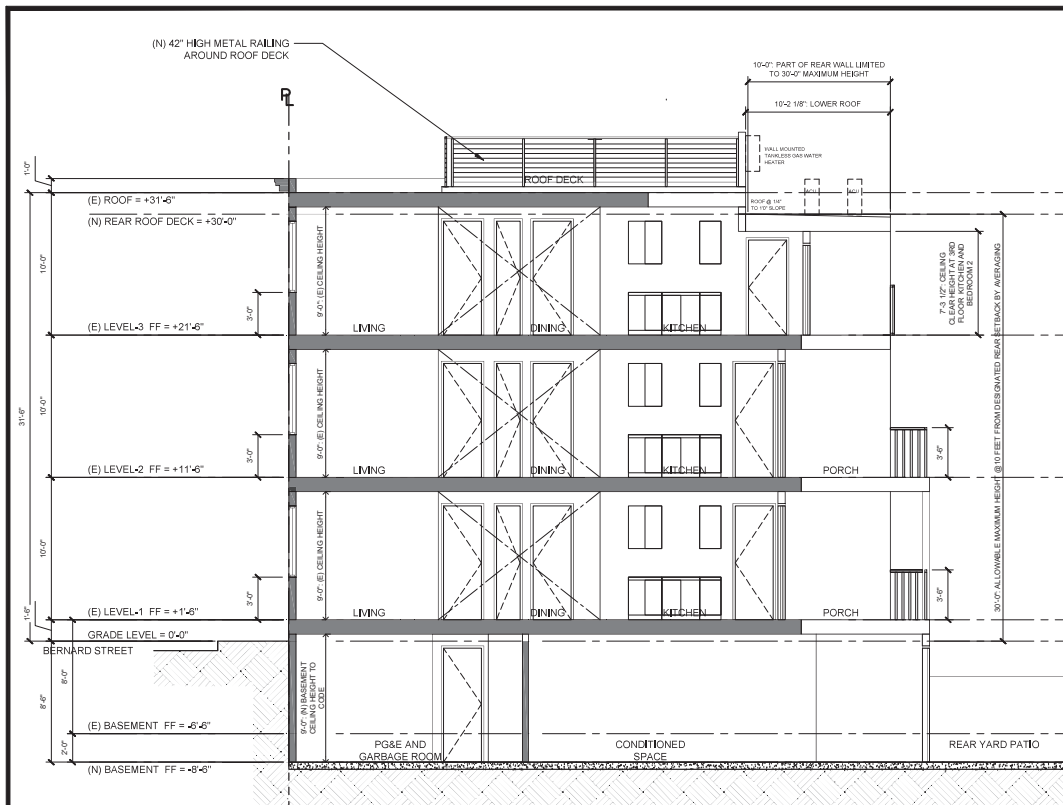
DATE	05/28/2022
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MDC
CHECKED BY	JH

EXISTING BUILDING SECTION

SHEET TITLE

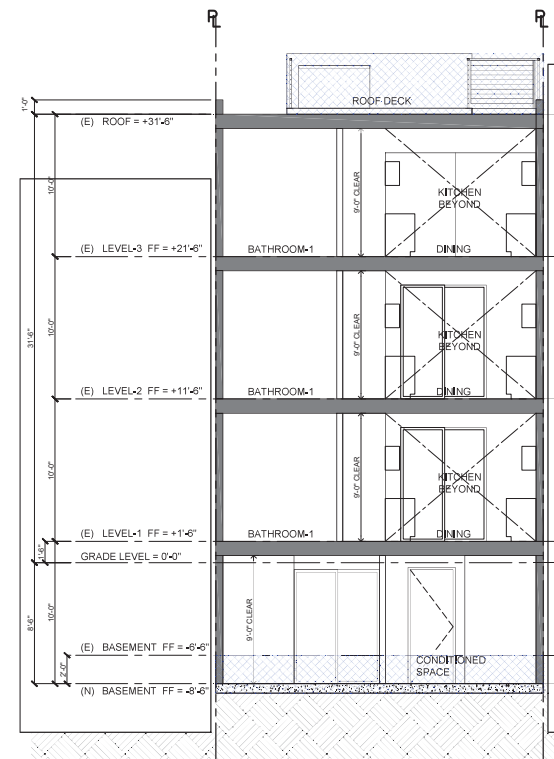
SHEET NO.

A5.0



1 PROPOSED SECTION
SCALE: 1/4" TO 1'-0"

SECTION UPDATED AS
FIRST FLOOR PLAN
CHANGES



2 PROPOSED TRANSVERSE SECTION
SCALE: 1/4" TO 1'-0"

112 BRILLIANCE STREET, SUITE A
SAN ANSELMO, CA 94060
TEL: 415.597.0807 FAX: 415.597.0811



BERNARD ST. 3-UNITS APARTMENT
SEISMIC RETROFIT/ REMODEL

APN # 0157030

PERMIT NUMBER:

- BP#2020.0822.2415
- 2020-05176PRJ
- BB#368-912-764
- 2020-0822-2415

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HARMLESS FOR SAME.

REVISIONS

DATE	REVISION	DESCRIPTION
10/08/2021	2	PLAN REVIEW RESPONSE #1
06/28/2022	3	PLAN SET UPDATE
07/15/2022	4	PLAN SET UPDATE 2

DATE: 06/28/2022
SCALE: AS NOTED
PROJECT ID: 00000
DRAWN BY: MDC
CHECKED BY: JH

PROPOSED
SECTION

SHEET TITLE

SHEET NO.

A5.1