ZACKS, FREEDMAN & PATTERSON

A Professional Corporation

BOARD OF SUPERVISORS SAN FRANCISCO

2016 JUN -3 PH 3: 49

San Francisco, California 94104 Telephone (415) 956-8100 Facsimile (415) 288-9755 www.zfplaw.com

235 Montgomery Street, Suite 400

June 3, 2016

### VIA HAND DELIVERY

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

Re: Appeal of CEQA Categorical Exemption Determination Planning Case No. 2013.1383E

Building Permit Application Nos. 2013.12.16.4318 & 2013.12.16.4322

3516-3526 Folsom Street ("Project Site")

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

This office represents neighbors of the proposed project at 3516-3526 Folsom Street (BPA Nos. 2013.12.16.4318 & 2013.12.16.4322, the "Project"). The appellants—Bernal Heights South Slope Organization, Bernal Safe & Livable, Neighbors Against the Upper Folsom Street Extension, Marcus Ryu, and Ann Lockett—oppose the above-captioned Project, *inter alia*, on the grounds that the Project's categorical exemption ("CatEx") determination violates the California Environmental Quality Act ("CEQA").

Pursuant to San Francisco Administrative Code Section 31.16, Appellants hereby appeal the March 26, 2014 CatEx determination. A true and correct copy of the determination is attached hereto as **Exhibit A**. True and correct copies of the proposed Project plans are attached hereto as **Exhibit B**. A copy of this letter of appeal will be concurrently submitted to the Environmental Review Officer.

This appeal is supported by a large number of community organizations and hundreds of neighbors. True and correct copies of letters of support for this appeal, and in opposition to the Project, are attached as **Exhibit C**—including the Sierra Club and the Bernal Heights Democratic Club.

The Project received a CatEx under CEQA Guidelines Section 15303(a), a "Class 3 exemption" for "construction of up to three single-family residences." However, Class 3 exemptions "are qualified by consideration of where the project is to be located—a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant." Cal. Code Regs. tit. 14, § 15300.2(a). Moreover, "[a]ll exemptions

Hon. London Breed June 3, 2016 Page 2

for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant." Cal. Code Regs. tit. 14, § 15300.2(b). Lastly, "[a] categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." Cal. Code Regs. tit. 14, § 15300.2(c).

This Project is not merely the construction of two single-family homes. The Project Site is unusual and highly sensitive to environmental impacts—located over one of San Francisco's three primary natural gas transmission lines, inaccessible to emergency response vehicles, adjacent to the Bernal Heights Community Garden, including a proposal for the steepest street with driveways in the City, and with utilities to be installed for *six* houses.

The Project implicates a number of adverse environmental impacts beyond what would usually be expected from the construction of two single-family homes, including but not limited to:

- The Project ultimately consists of six new single-family residences. It includes two proposed houses with a new street adjoining four additional undeveloped lots. Property owners of the other undeveloped lots have publicly stated their intent to build houses on these properties once the Project is approved, and the Project proposes to install utilities to the six vacant lots for that purpose.
- The proposed Project is in a hazardous area, including one of the City's three primary gas transmission lines. This rare locale is unlike other sites where the City's gas transmission pipelines run. In 1989, the Department of Public Works replied to an inquiry by stating, "It was too dangerous to ever develop." It is the only High-Consequence Risk Area in San Francisco where a vintage, 26-inch PG&E gas transmission pipeline is unprotected by asphalt—shallowly buried under soil at an undetermined depth—for 125 feet as it runs up a steeply pitched hillside before it reenters the protection of an asphalt street-cover on Bernal Heights Boulevard. The cumulative effects of six new houses, a new nonconforming street, and repeated earth moving equipment next to, over, and near the aging pipeline on a radically steep slope pose a significant threat to public safety.
- According to UC Berkeley pipeline safety expert Professor Robert Bea, the list of concerns regarding this particular section of PG&E Gas Transmission Pipeline 109 is "identical" to the causes leading to the San Bruno explosion.
- PG&E's troubling pattern of lost records, credibility, and misinformation poses a significant concern given the unique location of this section of PG&E Gas Transmission Pipeline 109. PG&E has failed to produce records of original welds and past maintenance—all precipitating reasons behind the catastrophic San Bruno blast. Although PG&E maintains there has been regular surveillance of this undeveloped area

Hon. London Breed June 3, 2016 Page 3

for hazardous encroachments, a large pine tree grows directly over the pipeline—violating PG&E's own pipeline-safety guidelines.

- PG&E's maintenance efforts do not ensure against accidental rupture due to earth movement during construction, a common cause of pipeline explosions. The transmission pipeline has a reduced pressure load due to concerns about its age and integrity. PG&E has failed to produce records of original welds and past maintenance, which would determine if the pipeline could better withstand earth-movement construction activity and heavy-duty equipment in close proximity and moving directly over it.
- The Project's sidewalk and landscape plans violate PG&E's Safety Guidelines by proposing to plant trees directly over the pipeline. According to a study commissioned by PG&E, 90 percent of all trees growing within five feet of pipelines cause damage to a pipeline's protective covering, underscoring the Planning Department's disregard for the Project's safety impacts.
- The Project's proposed steep street poses a significant public safety threat because it cannot be graded down to allow for emergency vehicle access, due to the pipeline's location. The pitch of the street will likely be greater than 37 percent due to clearance requirements between transmission pipelines and utilities, making it among the steepest urban streets in the world. It is substandard in width, yet it includes no turnaround.
- The Project Site's proposed steep street presents a significant threat to drivers and residents. It is too pitched and too narrow for cars to turn around. Vehicles will have to back down into a blind residential intersection. It is located on a major cross-City thoroughfare, Folsom Street. Drivers often drive up this part of Folsom Street in the mistaken belief it will take them directly downtown.
- The two existing homes' driveways and parking (located below the Project Site) will be functionally eliminated, as the new street extension will cut through them at an incompatible slope and elevation. Likewise, the proposed new houses lack functional parking due to the proposed street's nonconformities. The Project's steep street plans contain dangerous break-over angles and nonfunctional access to the existing and proposed garages. The result will be a substantial impact on community parking and traffic. Additionally, senior residents who rely on their homes' existing off-street parking will lose their mobility.
- The proposed street will not be an "accepted" street by the City but rather will require maintenance by the existing fronting homeowners—who do not want the street or the related liability. Liability issues and future responsibility for maintenance are unclear in cases of accidents caused by the steepness of the street and sidewalk.

- The Projects have no on-street parking; the cumulative effects of eight houses in a row with no on-street parking and no functional off-street parking will be seriously detrimental to the traffic and parking in this area of congested narrow streets. Delivery trucks, construction vehicles, and visitors will be forced to park at the base of the street—blocking both the intersection of Chapman and Folsom Streets and access to Upper Banks, Nevada, Prentiss, and Chapman Streets. This is the only viable vehicular entry to the houses in this area. The other, via Prentiss Street, is so steep that fire trucks, construction vehicles, and delivery trucks often get stuck using it.
- Bernal Heights Park's limited public parking—and the Community Garden's parking, adjacent to the Project along Bernal Heights Boulevard—will be significantly impacted by construction and delivery parking, as well as residents' and visitors' parking.
- The Project will cast significant shadow on the Bernal Heights Community Garden and will block light to adjacent properties.
- The Project's lack of on-street parking will significantly impact the "wheel-chair friendly" status of Bernal Heights Park. This particular area on Bernal Heights Boulevard will become permanent parking for the Project's residents, visitors, delivery trucks, and additional cars. There is already limited available flat parking space for the wheel-chair-enabled to park.
- The Project's lack of planning for garbage, recycling, and compost pickup will create a significant public health impact. Although not provided for in the Project, pickup will likely be located far below on the sidewalk at the bottom of the proposed new street—in front of current residents' homes on Folsom and Chapman.
- Drainage, including run-off from the Community Garden at the top of the Project area, will be significantly impacted by the introduction of the proposed street.
- The Project would create a wall blocking significant public vistas from Bernal Heights Boulevard.
- The Project does not comply with existing law or design guidelines, including but not limited to the East Slope Design Guidelines governing articulation, massing, privacy, and setbacks. For this reason, the East Slope Design Review Board filed a request for Discretionary Review of the Project with the Planning Commission. In total, the Project was subject to 19 requests for Discretionary Review.
- If allowed to proceed without the legally required environmental review, the Project will forever alter the unique, rural and special character of this particular piece of

Hon. London Breed June 3, 2016 Page 5

undeveloped land. The effect will be to ruin, negate and destroy the neighborhood's distinctive natural beauty, in violation of applicable law.

The Project is not rightly subject to a CatEx under Guidelines Section 15303(a) because the Project will likely have significant unmitigated environmental impacts that have not been analyzed by the City. While the CatEx states that "there are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant effect," the CatEx solely evaluated geotechnical impacts. It contained no review whatsoever of the other significant adverse impacts and is therefore fatally defective.

Appellants reserve the right to submit additional written and oral comments, bases, and evidence in support of this appeal to the City up to and including the final hearing on this appeal and any and all subsequent permitting proceedings or approvals for the Project. Appellants request that this letter and exhibits be placed in and incorporated into the administrative record for Case No. 2013.1383E.

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

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC

Ryan J. Patterson

Attorneys for Marcus Ryu

cc: Environmental Review Officer

San Francisco Planning Department 1650 Mission Street, Suite 400

San Francisco, CA 94103

Sarah.B.Jones@sfgov.org

Encl.

To Whom It May Concern:

We hereby authorize Zacks, Freedman & Patterson, PC to file an appeal on our behalf of the CEQA Categorical Exemption Determination for Building Permit Application Nos. 2013.12.16.4318 & 2013.12.16.4322 (3516-3526 Folsom Street, San Francisco; Case No. 2013.1383E).

Signed,

Bernal Heights South Slope Organization

By: Kathy Angus

## To Wheen II May Consern

We betchy authorize Zacka, Freedrian & Patterwst, PC to like an appeal on ora behalf of the CLQA Categorical Exemption Determination for Building Permit Application Nos. 2017;12:16:4318 & 2017;12:16:4322 (2516-3526 Foliam Street, San Francisco; Case Nos. 2017;12:83E).

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Emres Estate + Lindle

June 1, 2016

To Whom It May Concern:

We hereby authorize Zacks, Freedman & Patterson, PC to file an appeal on our behalf of the CEQA Categorical Exemption Determination for Building Permit Application Nos. 2013.12.16.4318 & 2013.12.16.4322 (3516-3526 Folsom Street, San Francisco, Case No. 2013.1383E).

Signed,

Neighbors Against The Upper Folsom Street Extension

### To Whom It May Concern:

I hereby authorize Zacks, Freedman & Patterson, PC to file an appeal on my behalf of the CEQA Categorical Exemption Determination for Building Permit Application Nos. 2013.12.16.4318 & 2013.12.16.4322 (3516-3526 Folsom Street, San Francisco; Case No. 2013.1383E).

Signed,

Marcus Ryų

55 Gates Street

San Francisco, CA

To When It May Consern:

We hereby authorize Zacks, Freedman & Patterson, PC to file an appeal on our Schalf of the CEQA Categorical Exemption Determination for Building Permit Application Nov. 2013;12:16:4318 & 2013;12:16:4322:13536-3526 Foliom Street, San Emprison: Case No. 2013;1383E1

Synal

NAME

## Exhibit A



# SAN FRANCISCO PLANNING DEPARTMENT

## Certificate of Determination Exemption from Environmental Review

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

Recention:

Case No.:

2013.1383E

Project Title:

3516 and 3526 Folsom Street

Zoning:

RH-1 (Residential - House, One Family) Use District

40-X Height and Bulk District

Block/Lot:

5626/013 and 5626/014

Lot Size:

1,750 square feet (each lot)

Project Sponsor:

Fabian Lannoye, Bluorange Designs, (415)533-0415

Staff Contact:

Heidi Kline – (415) 575-9043, Heidi.Kline@sfgov.org

Fax:

415.558.6409

415.558.6378

Planning Information: 415.558.6377

### PROJECT DESCRIPTION:

The proposed project would allow the construction of two 3,000-square-foot single-family residences on two vacant lots. Each residence would be two stories over a basement and measure 27 feet in height from the lowest to highest portion of the structure. The project is located within the Bernal Heights neighborhood, on the west side of Folsom Street at its terminus west of Chapman Street.

### **EXEMPT STATUS:**

Categorical Exemption, Class 3 (California Environmental Quality Act (CEQA) Guidelines Section 15303(a)

### **REMARKS:**

See next page.

### **DETERMINATION:**

I do hereby certify that the above determination has been made pursuant to State and local requirements.

Sarah Iones

**Environmental Review Officer** 

Fabian Lannoye, Project Sponsor

Ben Fu, Current Planning

Supervisor David Campos, District 9

March 26, 2014

### **Project Approvals**

- Zoning Administrator approval of a variance from tandem parking requirements in the Bernal SUD district in Section 242 of the San Francisco Planning Code.
- Building Permit from the San Francisco Department of Building Inspection.

Approval Action: The proposed project is subject to notification under Section 311 of the Planning Code. If discretionary review before the Planning Commission is requested, the discretionary review hearing is the Approval Action for the project. If no discretionary review is requested, the issuance of a building permit by DBI is the Approval Action. The Approval Action date establishes the start of the 30-day appeal period for this CEQA exemption determination pursuant to Section 31.04(h) of the San Francisco Administrative Code.

### **REMARKS:**

Geotechnical. The dimensions of each lot are 25 feet wide by 70 feet deep. Both lots have an approximately 32 percent slope from the north to south side of the lot. Each residence would be constructed on a flat building pad with concrete retaining walls used in the front and rear yard areas to provide access to the garage and create usable outdoor living areas. The buildings would be constructed using a spread footing and/or mat foundation, requiring excavation several feet in depth.

A geotechnical report was prepared for each of the two proposed residences (3516 and 3526 Folsom Street) and includes information gathered from a site reconnaissance by the geotechnical engineer and two soil borings, one on each lot. Both borings encountered 3 to 4 feet of stiff clay and sandy soil over chert bedrock. No groundwater was encountered, though based on the hillside location and soil and bedrock morphology it is possible that groundwater seepage from offsite irrigation could be encountered during excavation on the project site.

The geotechnical reports include the same evaluation and recommendations given the adjacency of the two lots and similar geotechnical/geological site conditions. The project site was evaluated for potential liquefaction, landslides, surface rupture, lateral spreading, and densification and was found to have a low risk. The geotechnical reports indicate the project site is not within an identified landslide or liquefaction zone as mapped by the California Divisions of Mines and Geology.<sup>2</sup> The project site is in an area that would be exposed to strong earthquake shaking. However, the 2013 San Francisco Building Code (Building Code) requires the Site Classification and Values of Site Coefficients be used in the design of

<sup>&</sup>lt;sup>1</sup> H. Allen Gruen, Report Geotechnical Investigation Planned Residence at 3516 Folsom Street, and Report Geotechnical Investigation Planned Residence at 3526 Folsom Street, August 3, 2013. Copies of these documents are available for public review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, as part of Case File No. 2013.1383E.

<sup>&</sup>lt;sup>2</sup> California Department of Conservation, Seismic Hazard Zones, City and County of San Francisco, November 17, 2000. Available online at

http://gmw.consrv.ca.gov/shmp/download/quad/SAN\_FRANCISCO\_NORTH/maps/ozn\_sf.pdf. Accessed December 18, 2013.

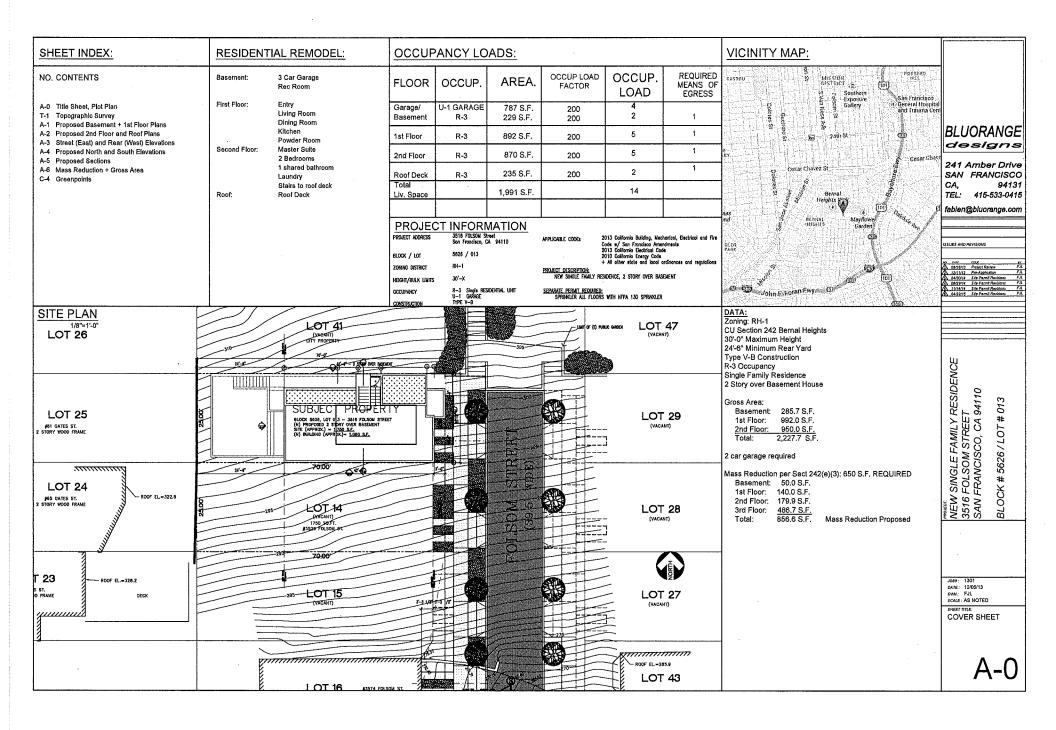
new structures to minimize earthquake damage. The geotechnical reports include seismic design parameters for use in the project design by the structural engineer, in compliance with the Building Code, during the Department of Building Inspection (DBI) building permit plancheck process.

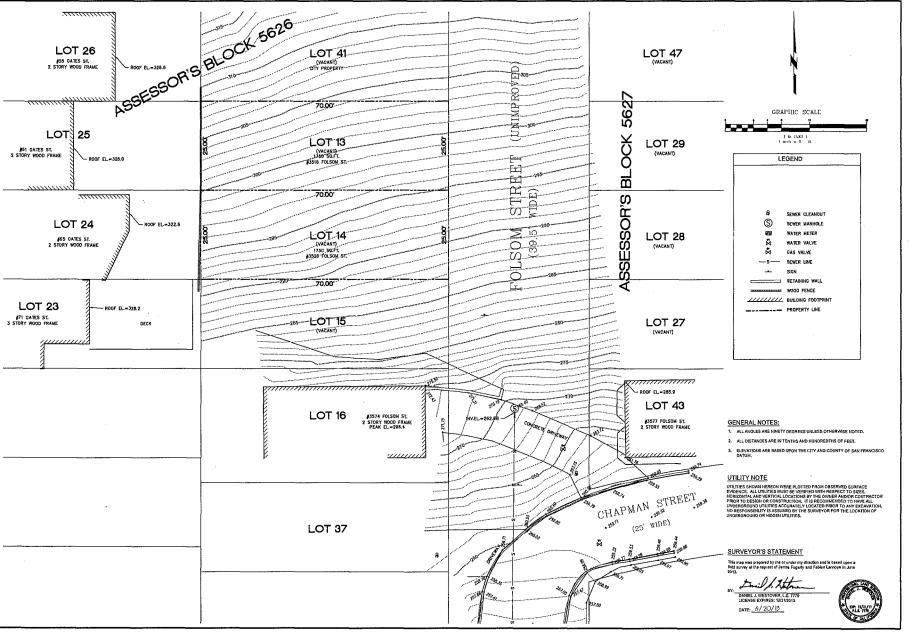
Both geotechnical reports conclude that the proposed improvements could be safely supported using a spread footing and/or mat building foundation, provided adherence to the site preparation and foundation design recommendations included in the reports. The project sponsor has agreed to adhere to the recommendations and incorporate the foundation design parameters into the plans submitted for the building permit plancheck process, subject to final review by DBI. Thus, the proposed project would have no significant geotechnical impacts.

**Exemption Class.** Under CEQA State Guidelines Section 15303(a), or Class 3(a), construction of up to three single-family residences is exempt from environmental review. The proposed project includes the proposed construction of two 3,000-square-foot single-family residences. In addition, the project site is not located in a particularly sensitive or hazardous area. Therefore, the proposed project would be exempt from environmental review under Class 3(a).

Summary. CEQA State Guidelines Section 15300.2 states that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. There are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant effect. The proposed project would not have significant geotechnical or other environmental effects. The project would be exempt under the above-cited classification. For the above reasons, the proposed project is appropriately exempt from environmental review.

## Exhibit B



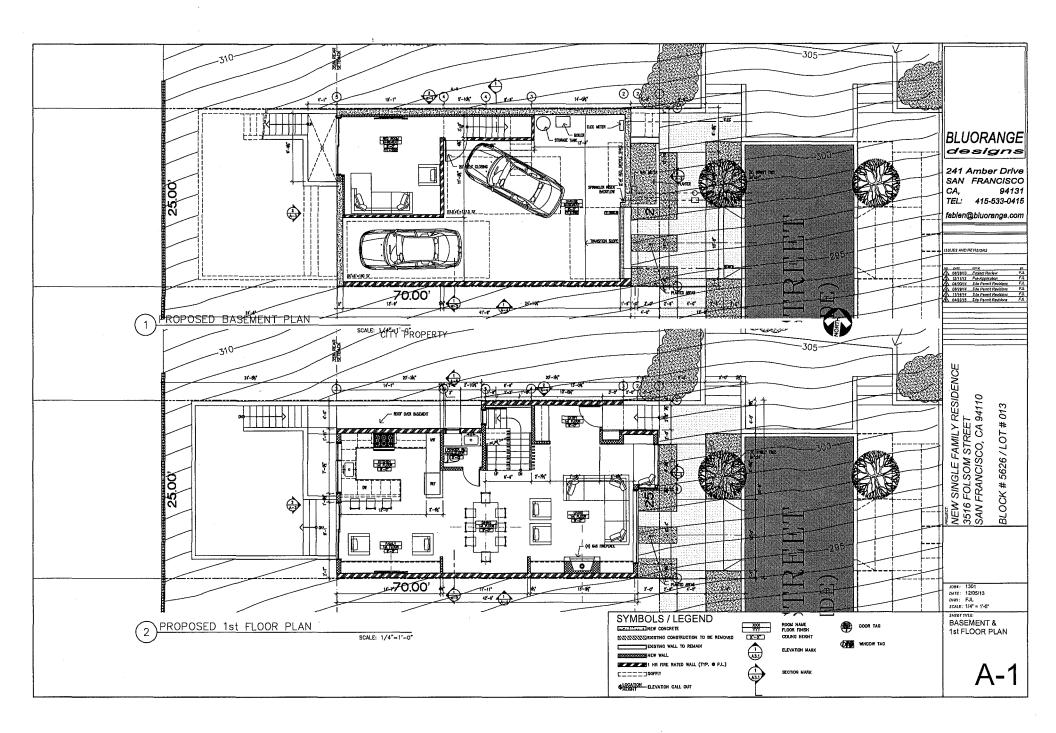


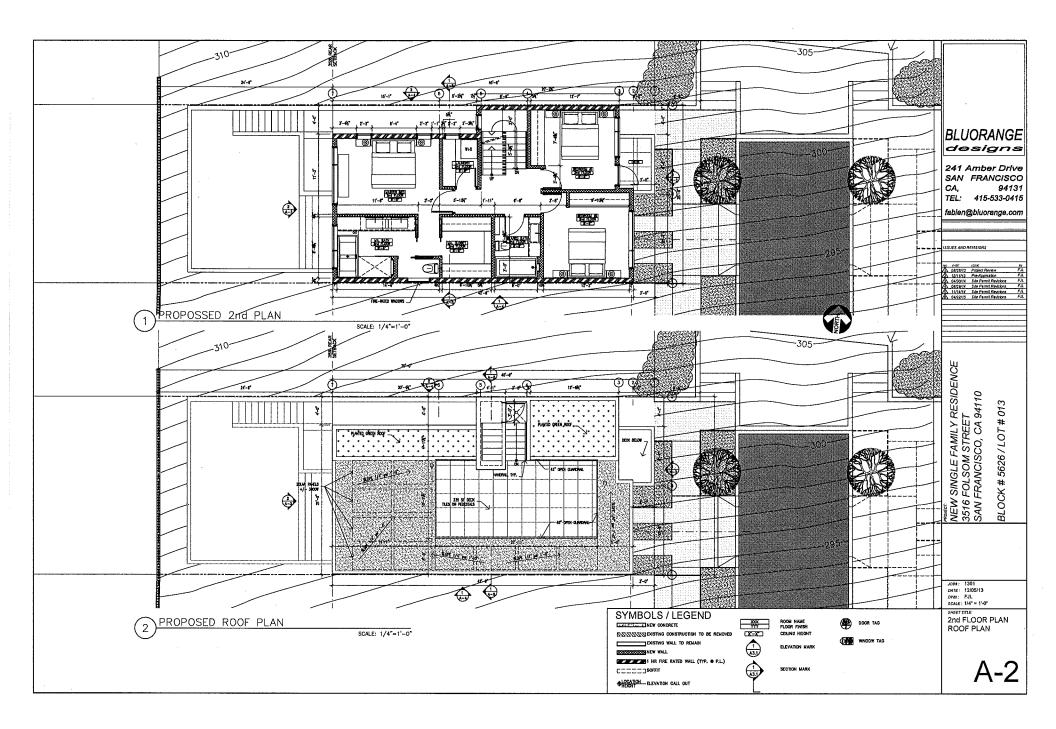
336 CLAREMONT BLVD. STE 2 SAN FRANCISCO, CA 94127 [415] 248.55400 WWW.WESEDVETHUNGJING.COM

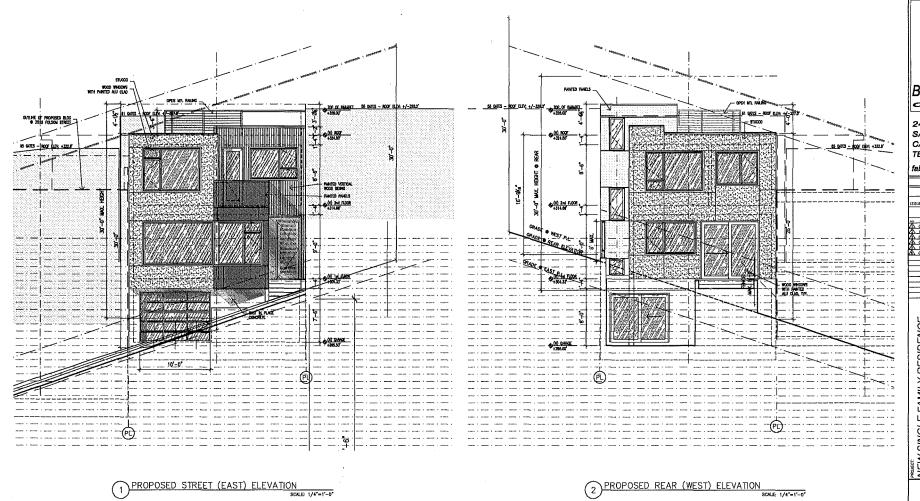
WESTOVER SURVEYING

SITE SURVEY
STIG and 3256 FOLSOM STREET
LOTS 13 AND 14 OF ASSESSOR'S BLOCK 5235
SAN FRANCISCO, CALIFORNIA

~SHEET-







BLUORANGE designs

241 Amber Drive SAN FRANCISCO 94131 TEL: 415-533-0415

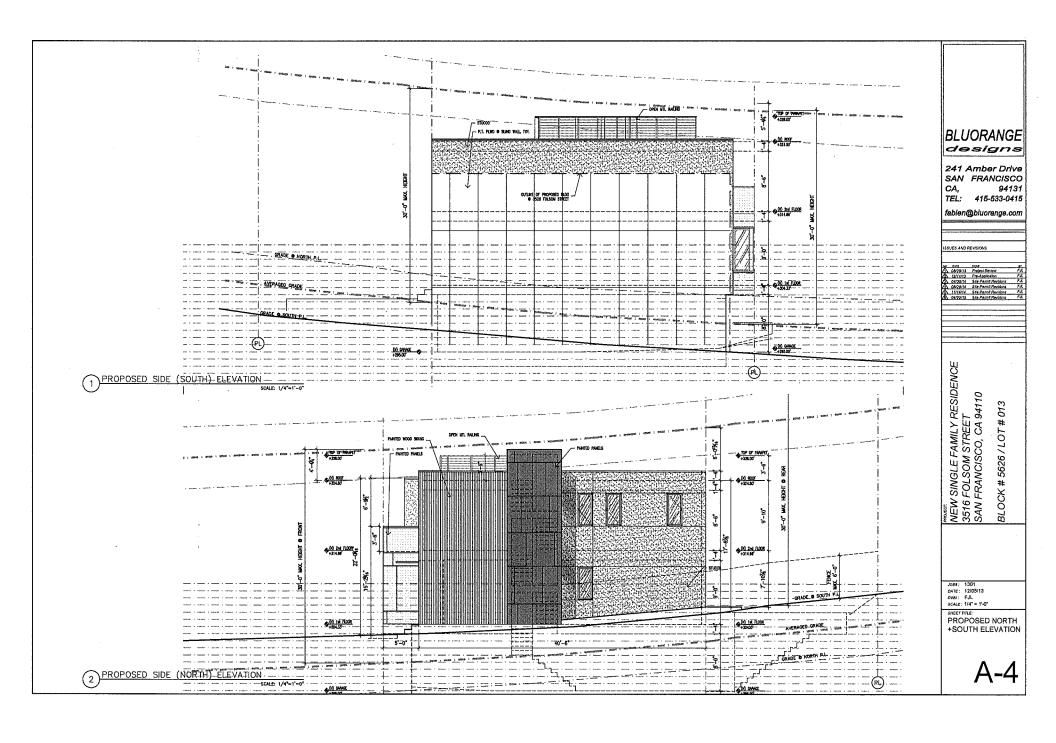
fablen@bluorange.com

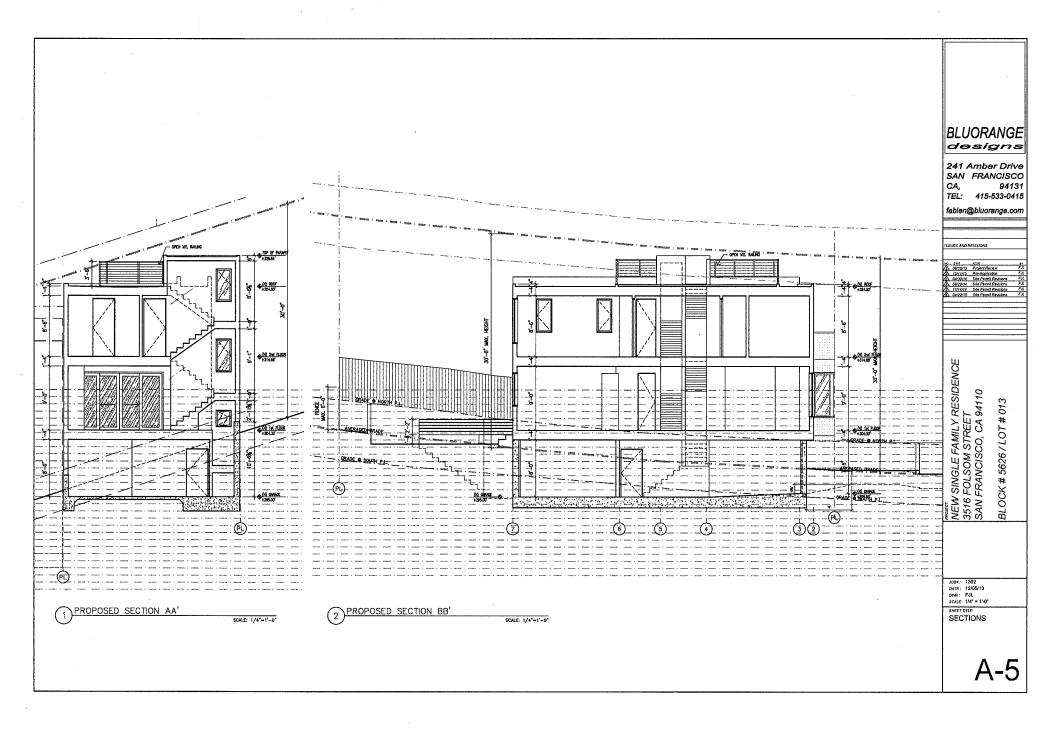
SSUES AND REVISIONS

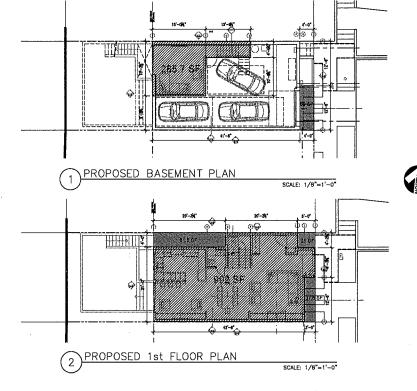
NEW SINGLE FAMILY RESIDENCE 3516 FOLSOM STREET SAN FRANCISCO, CA 94110 BLOCK # 5626 / LOT # 013

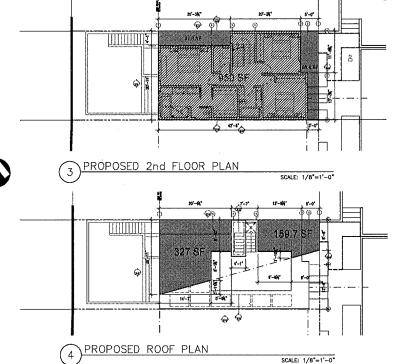
JOB#: 1301 DATE: 12/05/13 DHN: FJL SCALE: 1/4" = 1'-0"

SHEET TITLE: EAST & WEST ELEVATIONS











#### GROSS AREA:

Basement: 285,7 S.F. 1st Floor: 992 S.F. 2nd Floor: 950 S.F. 2,227.7 S.F. Total:

2 car garage required



#### MASS REDUCTION:

Mass Reduction per Sect 242(e)(3): 650 S.F. REQUIRED

Basement: 50.0 S.F.

1st Floor: 140.0 S.F. (B1.5 + 37.5 + 21) 2nd Floor: 179.9 S.F.

(98.4 + 81.5)3rd Floor: 486.7 S.F. (327 + 159.7)

Total:

856.6 S.F. Mass Reduction Proposed BLUORANGE designs

241 Amber Drive SAN FRANCISCO 94131 TEL: 415-533-0415

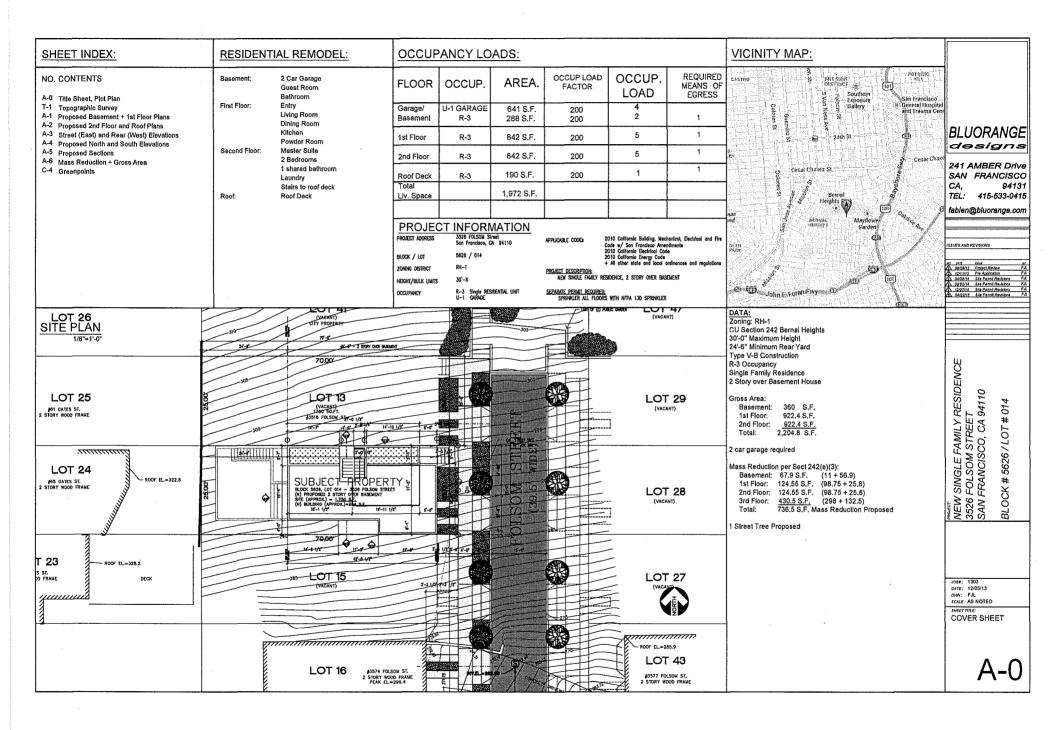
fablen@bluorange.com

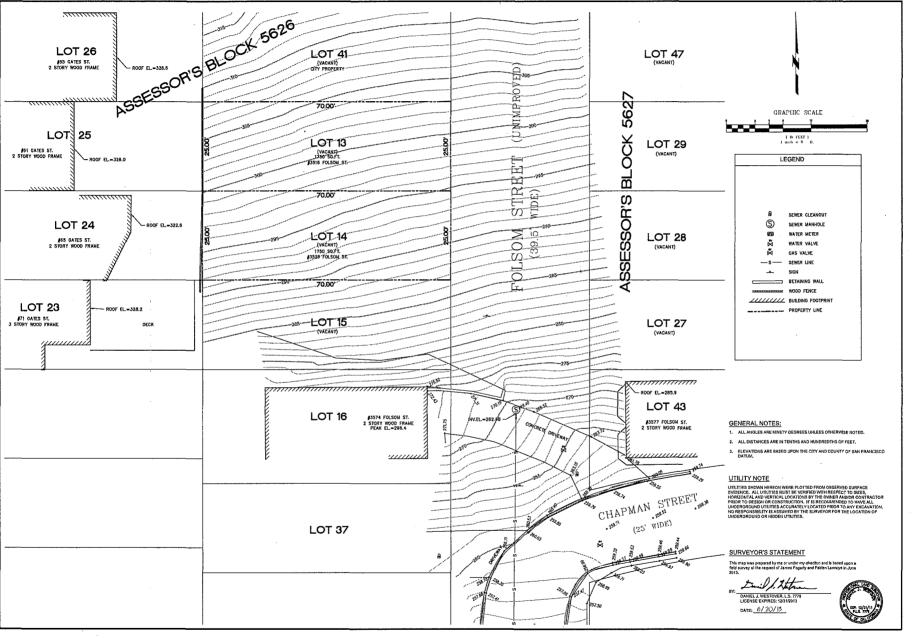
ISSUES AND REVISIONS

NECT SINGLE FAMILY RESIDENCE 3516 FOLSOM STREET SAN FRANCISCO, CA 94110 BLOCK # 5626 / LOT # 013

JOB#: 1301 DATE: 04/17/15 DWN: FJL SCALE: 1/8" = 1'-0"

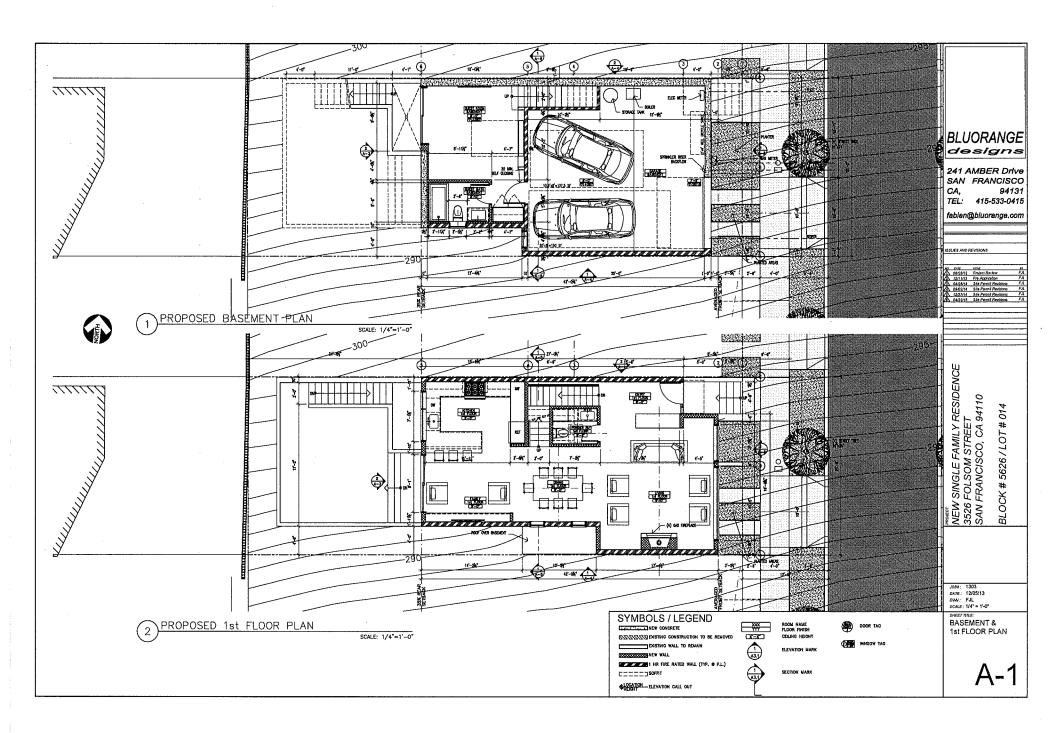
BASEMENT SF MASS REDUCTION

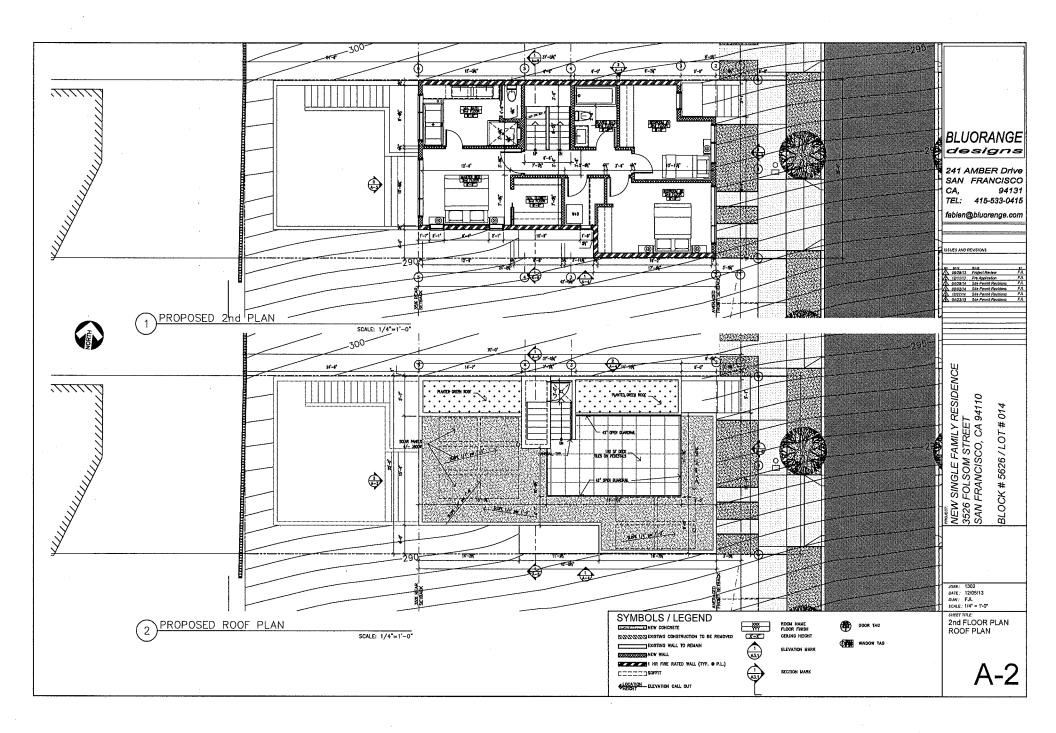


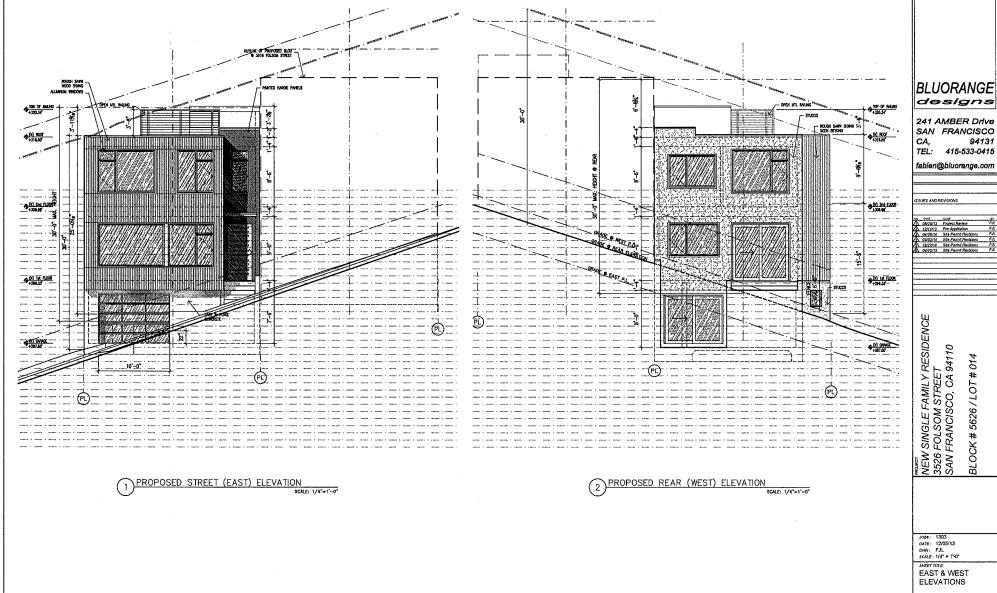


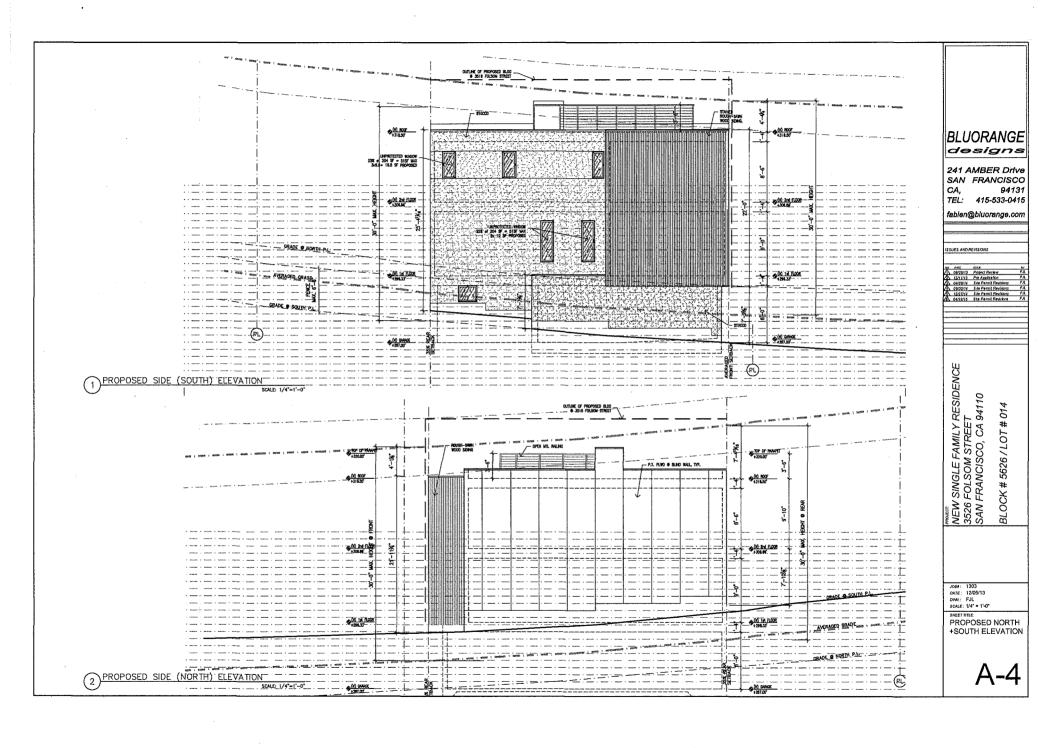
336 CLAREMONT BLVD. STE Z SAN FRANCISCO, CA 94127 |415|| 242-5400 www.westomestureying.com

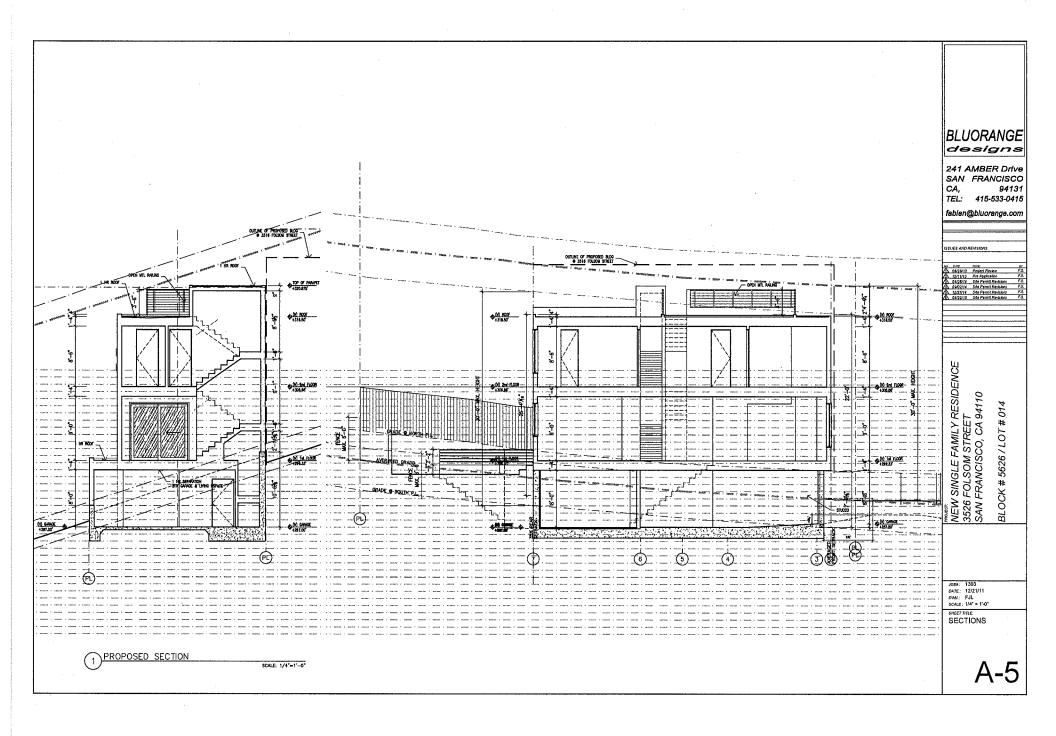
WESTOVER SURVEYING

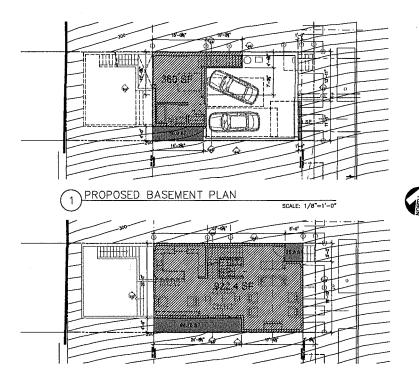


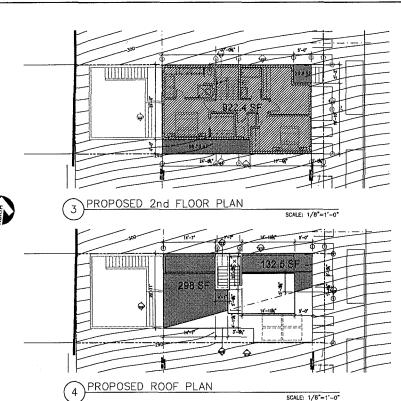














PROPOSED 1st FLOOR PLAN

### **GROSS AREA:**

Basement: 360,0 S.F. 1st Floor: 922.4 S.F. 2nd Floor: 922.4 S.F. Total: 2,204.8 S.F.

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

2 car garage required



#### MASS REDUCTION:

Mass Reduction per Sect 242(e)(3): 650 S.F. REQUIRED

Basement 67.9 S.F. (11 + 56.9) 1st Floor: 124,55 S.F. (98.75 + 25.8)2nd Floor: 124,55 S.F. (98.75 + 25.8)430.5 S.F. 747.5 S.F. (298 + 132.5)3rd Floor:

Mass Reduction Proposed

BLUORANGE designs

241 AMBER Drive SAN FRANCISCO CA. 94131 TEL: 415-533-0415

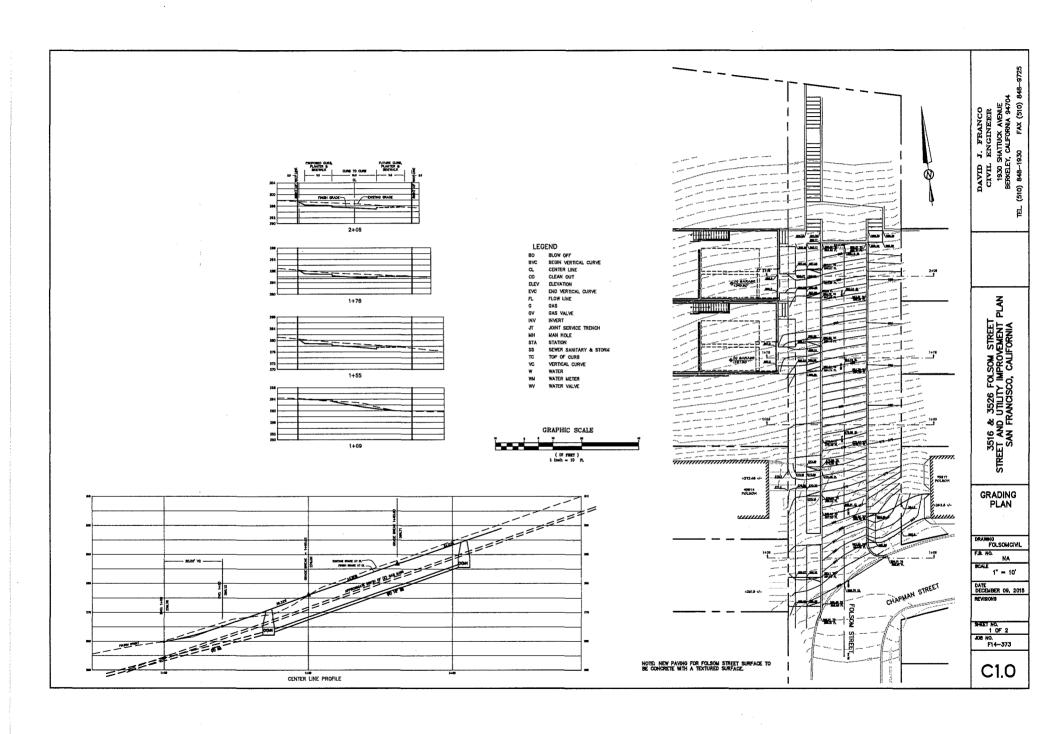
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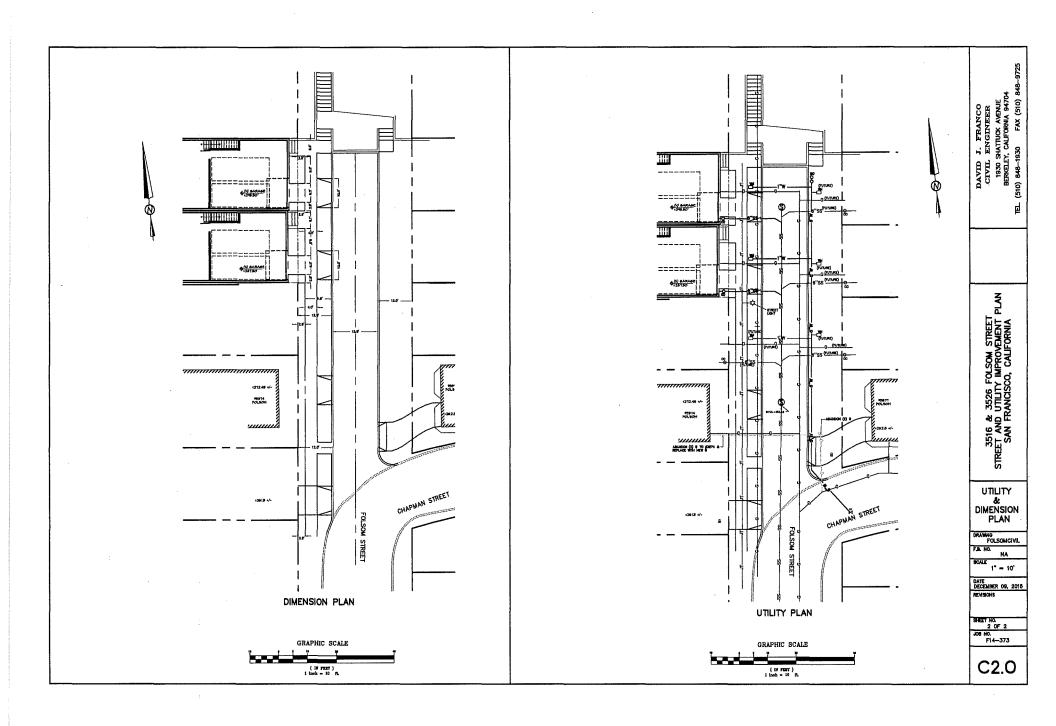
ISSUES AND REVISIONS

meer NEW SINGLE FAMILY RESIDENCE 3526 FOLSOM STREET SAN FRANCISCO, CA 94110 BLOCK # 5626 / LOT # 014

JOB#: 1301 DATE: 04/17/15 DMN: FJL SCALE: 1/8" = 1'-0"

BASEMENT SF MASS REDUCTION





## Exhibit C



### San Francisco Bay Chapter Serving Alameda, Contra Costa, Marin and San Francisco counties

### SAN FRANCISCO GROUP -

Please reply to 1474 Sacramento St., #305 San Francisco, CA 94109-4002

March 31, 2016

To Whom it May Concern:

### SUPPORTING UPPER FOLSOM STREET CEQA APPEAL

The Sierra Club San Francisco Group supports the withdrawal or appeal of the categorical exemption for the Bernal Heights Upper Folsom Street Right-of-Way Housing Development (Planning Dept. Case No. 2013.1383E, hereinafter the "Project") and supports the preparation of an Environmental Impact Report for the Project.

The San Francisco Group speaks for the Sierra Club on city issues, on behalf of its 6,000 members and are one of the four chapters in the 4-county Bay Chapter's 30,000 members including Marin, Alameda, Contra Costa and San Francisco Counties. Our members, as well as the general public, will be directly affected by the Project's adverse environmental impacts on parkland, open space, and the Bernal Heights neighborhood.

The Upper Folsom Street Project received a Class 3 categorical exemption under CEQA Guidelines Section 15303(a). Pursuant to CEQA Guidelines Section 15300.2(c), however, a "categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." This proposed Project involves a number of unusual circumstances that will result in significant adverse environmental impacts.

\*The exemption was granted to this proposed Project based on the fact that "the project site is not located in a particularly sensitive or hazardous area." Yet the proposed access to the Project will be built over a 26-inch 30-year-old gas transmission pipeline on a City right-of-way with an approximately 35 percent grade slope – including significant excavation. The Project site is adjacent to Bernal Heights Park and Bernal Heights Community Garden, in a densely populated area. City departments have stated they do not take responsibility for the safety of the pipeline, which is one of only three major gas lines in San Francisco. Despite federal recommendations, no informed assessment has taken place to assure local residents of the safety of this Project. This circumstance poses a risk of catastrophic environmental impacts, yet no environmental review has been completed.

## BERNAL HEIGHTS DEMOCRATIC CLUB

Chartered since 1988 to give the residents of Bernal Heights an effective voice in government

April 20, 2016

To:

**SF PLANNING COMMISSION** 

RODNEY FONG, COMMISSION PRESIDENT

planning@rodneyfong.com

DENNIS RICHARDS, COMMISSION VICE-PRESIDENT

dennis.richards@sfgov.org

MICHAEL ANTONINI, COMMISSIONER

wordweaver21@aol.com

RICH HILLIS, COMMISSIONER

richhillissf@yahoo.com

JOHN RAHAIM, DIRECTOR OF PLANNING

John.Rahaim@sfgov.org

JONAS P. IONIN, COMMISSION SECRETARY

Commissions.Secretary@sfgov.org

DAVID CAMPOS, DISTRICT 9 SUPERVISOR

David.Campos@sfgov.org

FROM: Bernal Heights Democratic Club

bernalheightsdemclub@gmail.com

The Bernal Heights Democratic Club supports the opposition to the Upper Folsom Street Development in Bernal Heights, based on significant public safety concerns. There is clear danger from the major aging PG&E gas transmission pipeline; extreme steepness and narrow width of the proposed street; and unresolvable limited access to emergency vehicles.

It is our understanding that the two proposed lots now seeking permits will be followed by four more immediately adjacent. These types of construction will do nothing to address San Francisco's housing crisis, and are unsafe and inappropriate developments on these lots.

We appreciate your consideration of our input in this matter.

CHRISTINE D. JOHNSON, COMMISSIONER christine.d.johnson@sfgov.org

KATHRIN MOORE mooreurban@aol.com

CINDY WU, COMMISSIONER cwu.planning@gmail.com

BernalHeightsDC@aol.com follow or message BHDC on Facebook: https://www.facebook.com/bernalheightsdemocraticclub FPPC #923351

We the undersigned Bernal Heights neighbors are opposed to the building of two (2) houses at 3526 and 3516 Folsom Street. We support the request for Discretionary Review by Neighbors Against The Upper Folsom Street Extension.

| Name                     | Address                                    |  |  |
|--------------------------|--|--|--|
| Hope Many Jeremy Harmann | 74 Banks Stret<br>Son Francisco, CA 94110  |  |  |
|                          | 74 Banks Street<br>San Francisco, CA 94110 |  |  |
| Thomas Kin               | 3598 Folsom St<br>Sm-Francisco, CA 94110   |  |  |
| Vrcti My                 | 3545 Folson St<br>Son Foneisco, CA 94110   |  |  |
| Cortney Hoecherl         | 3590 Folsom St<br>Son Francisco, Col 94/10 |  |  |
| Deborah Garson           | 117 Banks St. SF94110                      |  |  |
| tan Williams             | 131 Mullen                                 |  |  |
| Leslie Simon             | 117 Brewster                               |  |  |
| Donald Schaan            | 117 Brewster                               |  |  |
| Caya Schaan              | 642 Peralta Auc #1, SF 94110               |  |  |

642 Peralta Auc

We the undersigned Bernal Heights neighbors are opposed to the building of two (2) houses at 3526 and 3516 Folsom Street. We support the request for Discretionary Review by Neighbors Against The Upper Folsom Street Extension.

| Address                              |
|--------------------------------------|
| Address 3619 FOLSOM ST 5AN FRANCISCO |
| 3625 FOLSOM ST<br>SE CA 9410         |
| 515 Powhattan Ave.                   |
| 405 Chapman St, SF CA                |
| 405 Chapman St, SFCa                 |
| 390 CHAPMAN ST                       |
| SAN FRANCISCO, CA 94110              |
| 40 PRENTISS ST.<br>SOAL FRAN. 94110  |
| 77 NEVADA ST                         |
| SF, CA 94110                         |
| 42 Nevado St<br>SF. (194110          |
| 42 Nevada St.<br>SF CA 94110         |
| 42 Nevada St.<br>SF CA 94110         |
|                                      |

We the undersigned Bernal Heights neighbors are opposed to the building of two (2) houses at 3526 and 3516 Folsom Street. We support the request for Discretionary Review by Neighbors Against The Upper Folsom Street Extension.

| Name              | Address                      |
|-------------------|------------------------------|
| Ray A. Casto      | 67 PRENTISS JT               |
| RAY A. CASTRO     | SAN FRANCISCO 94110          |
| TIKE BOWERS       | SI PRENTISS ST. Some         |
| TRISTEZZ KELENN   | SANFRANCISE OF 94/10 ADDRESS |
| MICHAELINE BUNTNY | 64 Prents Street             |
| Juy GREER         | SAN FRANCISIO 94110          |
| ARTURO SCHWARTL   | 14 WEVADA ST                 |
| SERL              | SE 94110                     |
| 120               | 74 Nevada Street             |
| Henry SEDAR       | SF 94110                     |
| 0 ( /             | 80 RUSENKRAN                 |
| may Consolv       | SF 94110                     |
| Frul RoMella      | 73 Nevada St<br>94110        |
|                   | 77/10                        |
| Kelly Carrow      | = 98 Nevinda<br>SF, (A 94110 |
|                   | 3                            |
| Saute PM-         | ee Prunis                    |
| Clarel, et i      | 96 Prentiss ST               |
| Chaslin Chi       | S= (A 94110                  |
| MA-1.             | 390 CHAPMAN ST 9410          |
| CHARLOTE          |                              |
| WILLIAMS          | ·                            |
| 1                 |                              |



We the undersigned Bernal Heights neighbors are opposed to the building of two (2) houses at 3526 and 3516 Folsom Street. We support the request for Discretionary Review by Neighbors Against The Upper Folsom Street Extension.

| Name                                 | Address                   |
|--------------------------------------|---------------------------|
| Dennis Hayes-<br>Barnal Heights Comm | unity                     |
| Garden Coordinator                   | 41 Stoneman St SF 94110   |
| Nicola Griffin                       | 101 Prentiss St 94110     |
| Theresa Marke                        | 56 Nebraska St, SF 94/10  |
| Ken Garrett                          | 56 Nebraska St. SF 94110  |
| Nancy Slepicka                       | 608 Peralta Au SF 94110   |
| Arash Bakaki                         | 13 Carver St. SanFrancia  |
| Lellew Reller                        | 90 Gater St SF94110       |
| Kim Kacerc                           | 3601 Fulson St ST 94110   |
| Banbana Underber                     | ng 76 Rosentvanz SF 94110 |
|                                      |                           |
|                                      |                           |

We the undersigned Bernal Heights neighbors are opposed to the building of two (2) houses at 3526 and 3516 Folsom Street. We support the request for Discretionary Review by Neighbors Against The Upper Folsom Street Extension.

Name

Address

| Gail Newman    | 3574 Folsom St S.F. 94110 |
|----------------|---------------------------|
|                | 3577 Falsom St. SF 94110  |
|                | 3580 FOLSONST. 94110      |
|                | 35,80 Folson 5, 94110     |
| Cristina Mdero | 3607 Folson 54. 94110     |
| Jan Holliday   | 3653-F61 50MSE 94110      |
| MILEY HOLMAN   | 3615 FOLSOM ST 94110      |
| Sheilsterm     | li ()                     |
|                | SBLS Fason                |



San Francisco Bay Chapter Serving Alameda, Contra Costa, Marin and San Francisco counties

The U.S. Department of Transportation's Office of Pipeline Safety states that most gas transmission pipeline accidents occur on rights-of-way by private contractors – exactly the situation being proposed. A new, privately built access road over a major transmission pipeline – with the potential for multiple future adjacent private excavations on a steep slope – is unusual in San Francisco, if not unique. The proposed Project exposes a dense urban population to an unacceptable risk of environmental catastrophe, with no environmental review.

\*San Francisco highly promotes its "transit first" philosophy in order to reduce the number of cars in the city. Yet this Project includes a variance for multi-car garages and sets a precedent for large-scale houses in a neighborhood with traditionally smaller-scale housing and single car garages. Traffic impacts are likely.

\*CEQA Guidelines Section 15303 (2) can exempt construction of up to three single-family residences. Guidelines Section 15300.2(b), however, prohibits the use of a categorical exemption where "the cumulative impact of successive projects of the same type in the same place, over time is significant." In this case, there are six undeveloped lots in the proposed Project area; the current Project includes two 2,500 - 3,000 square foot homes. If this Project is approved, it will set a precedent for the other four lots for further development in the near future.

\*The proposed Project will have a number of additional impacts, including massing, loss of sunlight, and destruction of open space. The Project site is a potential historic resource, located within 300 feet of a possible urban bird refuge, within a steep slope district, and requires unusually extensive excavation. Moreover, as the categorical exemption determination notes, the Project site "is in an area that would be exposed to strong earthquake shaking." It notes that the Project's geotechnical reports recommend "seismic design parameters" to be used "during the Department of Building Inspection (DBI) building permit plancheck process." It is inappropriate to suggest the use of mitigation measures in a categorical exemption, especially where those mitigation measures constitute undefined subsequent changes to the Project – precluding an "accurate, stable and finite project description." County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185, 193.

For these reasons, we request that the City withdraw the categorical exemption for Case No. 2013.1383E and complete an EIR for the proposed Project. Should the City fail to complete an EIR, the Sierra Club San Francisco Bay Chapter supports the appeal of the Project's flawed environmental determinations and opposes the issuance of Project permits, including BPA Nos. 201312164322 and 201312164318.

Sincerely,



San Francisco Bay Chapter

Becky Evons

Serving Alameda, Contra Costa, Marin and San Francisco counties

Becky Evans

Vice-Chair, San Francisco Group

## Additional Supporters of the Bernal Safe and Livable Discretionary Review Application

(authorizing emails attached)

Paul Hessinger 212 Gates Street

Elaine Elinson 100 Winfield Street

Nancy Slepicka 608 Peralta Aveevue

Giuliana Milanese 137 Anderson Street

Connie Ewald 76 Gates St.

Peter Ewald 76 Gates St.

Rosanne Liggett 125 Gates Street

Malcolm Gaines 85 Gates St

We the undersigned Bernal Heights neighbors support the Application for Discretionary Review by **Bernal Safe and Livable**, an organization concerned about proposed development of a street and houses on steep open space over a major gas transmission pipeline in our residential area.

| NAME<br>Laven Miller<br>Fris Biller<br>Jame Pinolic<br>Tom Schuzz | · ADDRESS. 147 Nevada St. 150 B. St. 81 GATES ST. | SIGNATURE<br>Service C<br>Vivial<br>Tonsolt |
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We, the undersigned Bernal Heights neighbors, support the Application for Discretionary Review by **Bernal Safe and Livable**—residents concerned about proposed development of a street and houses on a dangerously steep undeveloped hill over a major gas transmission pipeline in our residential area.

| NAME<br>MATT TWYNAN<br>Nyole Twyman  | ADDRESS. 672 MOUSTRIES 672 MWIME ST  |   | SIGNATU<br>Mally   |  |
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We the undersigned Bernal Heights neighbors support the Application for Discretionary Review by **Bernal Safe and Livable**, an organization concerned about proposed development of a street and houses on steep open space over a major gas transmission pipeline in our residential area.

| _NA^   |  | ADDRESS.   | SIGNATURE                               |
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We the undersigned Bernal Heights neighbors support the Application for Discretionary Review by **Bernal Safe and Livable**, an organization concerned about proposed development of a street and houses on steep open space over a major gas transmission pipeline in our residential area.

| NAME        | · ADDRESS.                       | SIGNATURE |
|-------------|----------------------------------|-----------|
| SAM ORR     | 61 GNtes St.                     | SAN OU    |
| CHIR LOTE   |                                  |           |
| Lisa Bishop | 135 Park St., St                 |           |
| Joh Hoge    | 133 PALL ST ST<br>139 PALL ST ST | Any Conty |
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We the undersigned Bernal Heights neighbors support the Application for Discretionary Review by **Bernal Safe and Livable**, an organization concerned about proposed development of a street and houses on steep open space over a major gas transmission pipeline in our residential area.

| NAME .   | ADDRESS          | SIGNATURE   |
|--|------------------|---|
| Giuliana Hilangse  | 137 Anderson     |   |
| ROSERT WEIGHT  | 140 MULLEN AUG   | 94110   |
| Laurel HUCIZ   | 302 Winfield St. | 94110_ 4004 J. Marie                                  |
| TONGALMOHER_   | 329/11/45/11/1   | THE loss HOLLOOKS                                     |
| JUSE L MULITZ  | 3026/07/40 5     | 94116 2000  |
| LONDA WEINER   | 72 Cuy3331.      | 94111 A In March                                      |
| Judish Kaitz   | 192 Bocana St    | 1440 WELL OF  |
| Michael Lesser   | 246 Ryply        | 9411) /b.   |
| Piane Pos  | 246 RUGA         | 24110 Hall Jakel 1                                    |
| CYRESHA TORREST STRONG   | CO BARCE SC      | 74110 // W  |
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We the undersigned Bernal Heights neighbors support the Application for Discretionary Review by BERNAL SAFE AND LIVABLE, an organization concerned about proposed development of a road and houses on steep open space over a major gas transmission pipeline in our residential area.

NAME

**ADDRESS** 

SIGNATURE

| Linda ramei              | 65 GATE ST. 94110 5   | S. Ramay   |
|--------------------------|-----------------------|--|
| RAFFI BASHLIAN           | 60 GATES ST. 94110    | Mindulan -   |
| PAMELA LOPINTO           | 75 GATES ST 94110 .   | Jamles files   |
| Kells, Parling           | Bed General Strands , |  |
|                          | and Notes St. 1990    | Mary Children  |
| STEVE PICCUS             | 3580 FULSOMSE 9-1110  | \\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\   |
| MIDIRI DEUBA             | 3530 FULSON ST 94110  | Millian ( Kalon)   |
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| Beth Modernoon           | 112 647657 4440       |  |
| Kathran Brader           | 90 Gates St 79/10     | 145.44.  |
| ALICIA PHÁLEN            | 106 Octo 51 94110     | ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( )  |
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We, the undersigned Bernal Heights neighbors, support the Application for Discretionary Review by **Bernal Safe and Livable**—residents concerned about proposed development of a street and houses on a dangerously steep undeveloped hill over a major gas transmission pipeline in our residential area.

| NAME.                     | ADDRESS              | SIGNATURE  |
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From:

Samir Halteh <shalteh@gmail.com>

Sent:

Tuesday, March 29, 2016 7:05 PM

To: Cc: Ryan Patterson Lupe Hernandez

Subject:

Folsom Street Extension

Flag for follow up Completed

Hi Ryan - please find my statement below. Hope this helps! -S

#### To Whom It May Concern:

My name is Samir Halteh and I have been a resident of the 300 block of Bradford Street, currently the steepest street in San Francisco) since September 2011.

In my relatively short period of time living on the block I've been witness to two separate car accidents as a result of the steep grade of the street. That does not even include others that other residents of the street have witnessed (including a few over-turned vehicles).

The first accident happened when a gentleman employed to repair a garage door on the block got stuck on the steeper portion of the street. He was unable to turn around because the street was too narrow and because of the high center of gravity of his vehicle. When he tried to get down in reverse, he ended up losing control of the vehicle and it crashed into two separate parked cars which then ricocheted it into two separate homes.

The second accident occurred when a taxi mistakenly navigated up the street. While attempting a three-point-turn, he drove up a curb which caused the vehicle to be lifted off the ground, suspended between the steepest part of the street with the part above it. He was unable to move since the car appeared to be in a position where it would flip over. We ended up having to call SFPD which later brought in SFFD as well as a tow truck to help get the car to safety.

On top of these incidents, there are countless people who navigate up the street looking for parking and end up getting stuck. I have watched countless times as they destroy our landscaping and privacy walls trying to get down.

Every call to a repairman or a delivery comes with a sense of dread (and good amount of forewarning) due to the grade of the street.

Replicating a street that is too narrow, steep, and without access from both sides is irresponsible, in my opinion. It strikes me as remarkably shortsighted to build homes with garage parking and street access in a location that so obviously cannot facilitate it safely. If the homes are to be built, I believe that the only solution is to give them access via staircase like those on Joy street.

Best, Samir Halteh 354 Bradford Street San Francisco, CA 94110 From:

Aaron W. <adwplanner@gmail.com>

Sent:

Monday, April 25, 2016 5:49 PM

To:

Ryan Patterson

Subject:

Fwd: Upper Folsom Street Proposal - Folsom at Powhattan street

Here you go Ryan.

Sent from my portable telephone

Begin forwarded message:

From: "A-RON D.W." <a href="mailto:adwplanner@gmail.com">adwplanner@gmail.com</a>>

Date: March 30, 2016 at 4:48:36 PM PDT

To: richard.sucre@sfgov.org

Subject: Upper Folsom Street Proposal - Folsom at Powhattan street

Dear Mr. Sucre:

I am writing to express my concerns as a Bernal resident over the proposed street addition at upper Folsom street near Powhattan.

I reside on Bradford Street, the steepest hill in San Francisco. I believe the Folsom street addition will be of a similar slope. We have had issues with emergency vehicles not being able to navigate the hill. We have had cars where the emergency brake has snapped resulting in damage. We regularly have vehicles blocking passage in one direction or another. My father recently lost control of his balance and fell, breaking his leg. We have had people with belongings in shopping carts that have lost control of the carts, causing damage to vehicles.

I urge your committee to consider the potential hazards of inserting such a narrow and steep hill into the existing fabric of this location of Bernal.

Thank you.



#### **APPLICATION PACKET FOR**

# Board of Supervisors Appeal Fee Waiver

Planning Department 1650 Mission Street Suite 400 San Francisco, CA 94103-9425

T: 415.558.6378 F: 415.558.6409 Pursuant to Planning Code Section 350 and 352(n), the Planning Director shall consider and make determinations regarding applications for the authorization of a Board of Supervisors Appeal Fee Waiver. The first pages consist of instructions which should be read carefully before the application form is completed.

Planning Department staff are available to advise you in the preparation of this application. Call (415) 558-6377 for further information.

## WHAT IS AN APPLICATION FOR A BOARD OF SUPERVISORS APPEAL FEE WAIVER?

Section 350 of the San Francisco Planning Code establishes an exemption from paying the full fees when the Requestor's income is not enough to pay for the fee without affecting their abilities to pay for the necessities of life, provided that the person seeking the exemption demonstrates to the Planning Director or his/her designee that they are substantially affected by the proposed project.

Section 352(n) of the San Francisco Planning Code establishes a waiver from the Board of Supervisor Appeal fees if the appeal is filed by a neighborhood organization that has been in existence for 24 months prior to the filing date of the request, is on the Planning Department's neighborhood organization notification list and can demonstrate to the Planning Director or his/her designee that the organization is substantially affected by the proposed project.

## WHEN IS AN APPLICATION FOR A BOARD OF SUPERVISORS APPEAL FEE WAIVER APPROPRIATE?

An Application to Request a Board of Supervisors Appeal Fee Waiver is appropriate when the Board of Supervisors appeal fee affects the requestor's ability to pay for the necessities of life, in the case of an individual, or when a neighborhood organization in existence 24 months prior to the filing date of the request and on the Planning Department's notification list can demonstrate that the organization is substantially affected by the proposed project.

#### HOW DOES THE PROCESS WORK?

An individual seeking an exemption should not file this application, but must contact Ms. Yvonne Ko at the San Francisco Planning Department at (415) 558-6386.

A neighborhood organization seeking a Board of Supervisors Appeal Fee Waiver must complete the attached application, along with necessary supporting materials, and submit it to the Planning Information Center (PIC) at 1660 Mission Street.

## WHO MAY APPLY FOR A BOARD OF SUPERVISORS APPEAL FEE WAIVER?

Any individual or neighborhood group who will file for a Board of Supervisors Appeal and who believes that they qualify for a waiver of the fee may file this application. An individual seeking an exemption should not file this application, but must contact Ms. Yvonne Ko at the San Francisco Planning Department at (415) 558-6386.

#### **APPLICATION FOR**

## **Board of Supervisors Appeal Fee Waiver**

1. Applicant and Project Information

| APPLICANT NAME:                            |  |  |  |  |  |  |
|--|--|--|--|--|--|--|
| c/o Kathy Angus                            |  |  |  |  |  |  |
| APPLICANT ADDRESS:                         |  | TELEPHONE:   |  |  |  |  |
| aan I s                                    |  | (415 ) 640-4568  |  |  |  |  |
| 99 Banks Street<br>San Francisco, CA 94110 |  | EMAIL  |  |  |  |  |
| Sall Flancisco, CA 94110                   | kathyangus@  |  | gmail.com  |  |  |  |
|  | The control of the co |  |  |  |  |  |
| NEIGHBORHOOD ORGANIZATION NAME:            |  |  |  |  |  |  |
| Bernal Heights South Slope Organization    |  |  |  |  |  |  |
| NEIGHBORHOOD ORGANIZATION ADDRESS:         |  | TELEPHONE  |  |  |  |  |
| c/o Kathy Angus<br>99 Banks Street         |  | (415 ) 640-4568  |  |  |  |  |
|  |  | EMAIL:   |  |  |  |  |
| San Francisco, CA 94110                    |  | kathyangus@gmail.com   |  |  |  |  |
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| PLANNING CASE NO.:                         | BUILDING PERMIT APPLICATION NO.: DATE OF DECISION (IF ANY)   |  |  |  |  |  |
| 2013.1383E                                 | 2013.12.16.4318 & 2013.12.16.4322 3/26/14, 5/5/16  |  |  |  |  |  |

#### 2. Required Criteria for Granting Waiver

(All must be satisfied; please attach supporting materials)

- The appellant is a member of the stated neighborhood organization and is authorized to file the appeal on behalf of the organization. Authorization may take the form of a letter signed by the President or other officer of the organization.
- The appellant is appealing on behalf of an organization that is registered with the Planning Department and that appears on the Department's current list of neighborhood organizations.
- The appellant is appealing on behalf of an organization that has been in existence at least 24 months prior to the submittal of the fee waiver request. Existence may be established by evidence including that relating to the organization's activities at that time such as meeting minutes, resolutions, publications and rosters.
- The appellant is appealing on behalf of a neighborhood organization that is affected by the project and that is the subject of the appeal.

| For Department Use Only Application received by Planning   | Department:       |       |  |
|--|-------------------|-------|--|
| Ву:  |                   | Date: |  |
| Submission Checklist:  |                   |       |  |
| ☐ APPELLANT AUTHORIZATION ☐ CURRENT ORGANIZATION RI ☐ MINIMUM ORGANIZATION AC ☐ PROJECT IMPACT ON ORGANIZATION | EGISTRATION<br>GE |       |  |
| ☐ WAIVER APPROVED  | ☐ WAIVER DENIED   |       |  |



FOR WORE INFORMATION: Call or visit the San Francisco Planning Department

Central Reception 1650 Mission Street, Suite 400 San Francisco CA 94103-2479

TEL: 415.558.6378 FAX: 415.558.6409

WEB: http://www.sfplanning.org

Planning Information Center (PIC) 1660 Mission Street, First Floor

San Francisco CA 94103-2479

TEL: 415,558.6377

Planning staff are available by phone and at the PIC counter. No appointment is necessary.

#### ZACKS & FREEDMAN A PROFESSIONAL CORPORATION

OPERATING ACCOUNT

235 MONTGOMERY STREET, 4TH FLOOR SAN FRANCISCO, CA 94104 FIRST REPUBLIC BANK
PRIVATE BANKING-SAN FRANCISCO
SAN FRANCISCO, CA 94111

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San Francisco Planning Department 1650 Mission Street Suite 400

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