



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

APPEAL OF CONDITIONAL USE AUTHORIZATION 948 – 950 LOMBARD STREET AND 841 CHESTNUT STREET

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DATE: November 22, 2017
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: John Rahaim, Planning Director – Planning Department (415) 558-6411
Alexandra Kirby, Enforcement Planner – Planning Department (415) 575-9133
RE: File No. 171062, Planning Case No. 2017-002430CUA - Appeal of the approval of Conditional Use Authorization for 948 – 950 Lombard Street

HEARING DATE: December 5, 2017

ATTACHMENTS:

- I. Materials Related to Project Under Appeal
 - A. Planning Commission Staff Report for Case No. 2017-002430CUA (Executive Summary, Exhibits, and Project Sponsor Submittal for August 31, 2017 hearing.)
 - B. Approved Plans (Lot Line Adjustment; Case No. 2017-002430CUA)
 - C. Final Motion No. 19987 (Lot Line Adjustment; Case No. 2017-002430CUA)
 - D. Appeal letter filed by Kathleen Courtney for Russian Hill Community Association on October 2, 2017
- II. Materials Related to Previous Project
 - E. Approved Plans (Previously Approved Demolition Permit; Permit No. 2017.01.26.8001)
 - F. Zoning Administrator Memo for Demolition, dated June 8, 2017; Case No. 2017-002430PRJ
 - G. Complaint for Injunctive Relief filed by City Attorney, dated June 7, 2017
 - H. Stipulated Injunction filed by City Attorney, dated June 13, 2017
 - I. Planning Department Historical Report Response Memo, dated June 19, 2017
 - J. Prior Environmental Determinations (Case Nos. 2002.929E, 2009.0801E)
 - K. Planning Department Notice of Enforcement, dated November 30, 2016

PROPERTY OWNER: Eight Forty One LLC
One Post Street, Suite 2210
San Francisco, CA 94104

PROJECT CONTACT: Tuija Catalano, Reuben, Junius & Rose, LLP
One Bush Street, Suite 600, San Francisco, CA 94104

APPELLANT: Kathleen Courtney, on behalf of Russian Hill Community Association
1158 Green Street, San Francisco, CA 94109

INTRODUCTION:

This memorandum and the attached documents are in response to the letter of appeal to the Board of Supervisors (“Board”) regarding the Planning Commission’s (“Commission”) approval of the application for Conditional Use Authorization under Planning Code Sections 207, 209.1, and 303 (Conditional Use Authorization) to permit a Lot Merger via a Lot Line Adjustment that would allow two Dwelling Units on a single lot within the RH-1 (Residential – House, One Family) Zoning District and 40-X Height and Bulk District for the parcels located at 948/950 Lombard Street and 841 Chestnut Street (“the Project”).

This response provides clarifications regarding the proposed Project and addresses the appeal (“Appeal Letter”) to the Board filed on September 29, 2017 by Kathleen Courtney, on behalf of Russian Hill Community Association, in opposition to the Project. The Appeal Letter referenced the proposed Project in Case No. 2017-002430CUA.

The decision before the Board is whether to uphold or overturn the Planning Commission’s approval of Conditional Use Authorization to permit a Lot Line Adjustment that would allow two dwelling units on a single parcel within the RH-1 (Residential – House, One Family) Zoning District.

SITE DESCRIPTION & PRESENT USE:

The Project Site is comprised of two adjoining lots on the block bounded by Lombard Street to the South, Chestnut Street to the north, Jones Street to the east, and Leavenworth to the west in the Russian Hill neighborhood, Assessors Block 0067, Lots 010 and 017, respectively (District 2). The Project Site is located within the RH-1 Zoning District and 40-X Height and Bulk District. 950 Lombard Street (Lot 10) is a 9,480-sf lot containing a one-story, 616-sf cottage with one Dwelling Unit constructed circa 1906. Lot 10 contains approximately 69 feet of frontage along Lombard Street with a depth of 137.5 feet. 841 Chestnut Street (Lot 17) is a 6,255-sf lot containing a two-story, 3,430-sf single-family dwelling. The building was originally constructed circa 1908 by master architect Willis Polk, and was demolished by the Property Owner without required Planning Department review in April 2016. This demolition resulted in enforcement action by Planning Department staff under Case no. 2016-008722ENF. Lot 17 contains approximately 46 feet of frontage along Chestnut Street with a lot depth of 137.5 feet. Both lots are developed on steeply sloped topography, making ingress and egress to both lots challenging, especially for the 841 Chestnut Street (Lot 17) site.

The two parcels were historically a single lot, as shown in the 1913 through 1950 Sanborn maps and noted in prior historical analyses. The date of the lot subdivision is unknown, despite research by Planning Department staff and the Property Owner at the Assessor’s Office.

SURROUNDING PROPERTIES AND NEIGHBORHOOD:

The Project Site is located within the Russian Hill neighborhood, located one block east of the “crooked portion” of Lombard Street, a popular tourist destination. The neighborhood consists of primarily residential uses, ranging from one- to two-stories in height within the small patch of the RH-1 Zoning District, and three- to five-stories in height within the adjacent higher density zoning districts (e.g. RH-2, RH-3, and RM-2). The San Francisco Art Institute is located to the immediate north on Chestnut Street.

PROJECT DESCRIPTION:

The proposed Project would merge Lots 10 and 17 of Assessor’s Block 0067 through a Lot Line Adjustment, creating a single, 15,735 square foot lot. Lot 10 (948-950 Lombard Street) is developed with one small cottage, while Lot 17 (841 Chestnut Street) is developed with a 3-bedroom, single family home.

[Please refer to the Background section below for more information on the building's enforcement history.] Within the RH-1 Zoning District, up to one Dwelling Unit per 3,000 square feet of lot area is permitted with benefit of Conditional Use Authorization. Each of the existing subject lots contains one Dwelling Unit, and the Project would create a single parcel containing two Dwelling Units. All building permits for both interior and exterior improvements at both properties were previously approved to comply with Department of Building Inspection (DBI) Notices of Violation and Planning Department Enforcement Case Nos. 2016-008722ENF (Lot 10) and 2016-014995ENF (Lot 17).

BACKGROUND:

The below information is provided to clarify the complex history of these properties.

Enforcement Background regarding 841 Chestnut Street

The original proposed Project for 950 Lombard Street and 841 Chestnut Street was filed on May 23, 2002 under Case No. 2002.0929E and Building Permit Application No. 2002.05.23.7379. The proposal involved the relocation of the rear dwelling unit ("cottage") at 950 Lombard Street; excavation and construction of a new garage and elevator shaft into the hillside on the Chestnut Street frontage; and removal of a non-historic addition and minor alterations on the south elevation of the main house. Environmental analysis (Case No. 2002.0929E) found the subject building to be of historic significance as an early work of Willis Polk, as referenced in *Here Today*, and the proposed scope of work to be in conformance with the *Secretary of the Interior's Standards*. Under this application the property was effectively treated as a single parcel by both the Planning Department and DBI.

The Project at 841 Chestnut Street was later revised under Case No. 2009.0801E, proposing to construct the same sub-grade garage and elevator shaft on the Chestnut Street frontage; replace the brick foundation; remove the existing non-historic addition to the south; and construct a new rear horizontal addition. Under this review, the historic cottage at 950 Lombard Street was proposed to remain in place and the historic Willis Polk-designed residence at 841 Chestnut Street was to remain largely intact, except for the removal of a non-historic addition at the rear (south) of the building. This work was permitted under Building Permit Application No. 2002.05.23.7379, which was approved by the Planning Department on March 9, 2011, and issued by DBI on October 11, 2011. Building Permit Application No. 2011.11.04.8277 was filed and approved on November 4, 2011, to correct the record and validate the approved permit at both properties under their legal block and lot numbers due to the fact that one permit had been approved for two legal parcels.

In September 2012, the properties changed ownership to Troon Pacific (D.B.A. Eight Forty One, LLC). On February 12, 2014, the project scope at 841 Chestnut Street was revised under Building Permit Application No. 2014.02.05.7897 to "retain the north, east, and west facades"; complete an extensive interior renovation; relocate the below-grade garage and entrance; and expand the proposed basement from 1,114 square feet to 3,495 square feet. For this proposal, a Categorical CEQA Exemption was issued, as the proposal did not appear to remove any character-defining features of the property and was found to be consistent with the *Secretary of the Interior's Standards*. Building Permit Application no. 2014.02.05.7897 was approved by Planning Department staff on September 25, 2014; however, a structural addendum was submitted to DBI on December 12, 2014. That addendum contained a footnote reading "All framing to be new u.o.n [Unless otherwise noted]." This plan set addenda was not routed to Planning for review.

On March 25, 2015, the Property Owner filed for a Lot Line Adjustment to merge lots 10 and 17. Planning Department Staff approved the merger of the subject lots in error on April 22, 2015 based upon incomplete information contained within the Report of Residential Building Record (“3-R Report”), which noted the legal Authorized Use of 841 Chestnut as “unknown”. The Property Owner subsequently obtained several Building Permit Applications for work on the Project site depicting one lot; however, the Property Owner had not yet received Tentative Map Approval of their request to merge the lots. Work completed under these permits includes the excavation of a three-car garage to provide parking for both residences, excavation of a sub-grade space with interior access via 841 Chestnut Street, and a garden trellis structure. While this work is within the buildable area of the single merged lot; it would be considered to be within the required rear yard of each lot if treated as separate parcels. During subsequent enforcement review in mid-2016, the Department determined that a Conditional Use Authorization was required for the proposed merger and the merger application was returned to the Planning Department for review by the Department of Public Works. A Conditional Use Authorization application for the merger was submitted on February 28, 2017.

On April 21, 2016, a complaint was filed on the property with DBI regarding work beyond scope of permit (Complaint no. 201612474). DBI investigated the matter and discovered that the structure had been demolished. On June 9, 2016, DBI issued a Notice of Violation against the Property Owner for exceeding the permitted scope of demolition at the site. That same day, the Property Owner filed Building Permit Application No. 2016.06.09.9584 to legalize the demolition *after the fact*. The permit contained an engineer’s notice and no plans; the scope of work read: “remove additional dryrotted [sic.] & compromised framing necessary to execute approved plans. No changes to approved design proposed.” On June 15, 2016, the Property Owner submitted Building Permit Application No. 2016.06.15.9992 with one sheet of plans illustrating the full removal of all historic material including floorplates and framing due to undocumented dry rot and structural instability. While the permit application stated, “No changes to approved design,” the plans stated (in small font in the corner of the document) that all of the exterior walls were being removed. The plans were approved by DBI without being routed to the Planning Department for review or approval.

On July 6, 2016, a complaint was filed with the Planning Department (Case No. 2016-008722ENF)¹ citing: “illegal business sign on private property; demolition without DCP approval; alteration of historical building or structure without DCP approval; expansion of non-conforming use.” Following extensive review of the Project history and 21 related permits and entitlements, and consultation with the Project’s counsel, Planning Department Staff conducted a site visit on November 8, 2016, where it was determined that the building was composed of all new framing and sheathing. On November 22, 2016, Building Permit Application Nos. 2016.06.09.9584 and 2016.06.15.9992 were suspended by DBI at the request of the Zoning Administrator. On November 30, 2016, the Planning Department also issued a Notice of Enforcement letter to the Property Owner for the demolition of a historic resource.

¹ This was the second Complaint filed with Planning. The first, filed on December 18, 2015, was a public referral alleging: “Expansion of historic resource dwellings without notification of neighbors and inconsistent with plans.” This complaint was investigated and found to be without merit. No complaints were referred to Planning by DBI at the time the demolition was underway.

On December 30, 2016, a revised set of plans was provided via email to the Department clarifying the completed scope of demolition. A formal Building Permit Application (Building Permit Application No. 2017.01.26.8001) was filed on January 26, 2017. On February 9, 2017, DBI issued a Notice of Violation (No. 201761801) ordering the owner to stop *all* work at the Property.

At this time, given the extensive amount of demolition to a historic resource, Planning Department Staff determined that the Project was not a case that could be properly abated through the standard enforcement processes outlined in the Planning Code. It was also determined that the egregious action by the Property Owner resulting in the loss of an identified historic resource could not be assessed under typical CEQA processes as the demolition of the historic resource had been completed, further complicating possible avenues of abatement. Due to the impossibility of abating (i.e., curing) these violations, and the seriousness of the violations, the Planning Department referred this case to the City Attorney's Office for enforcement.

Between February and May 2017, the City Attorney's Office, Planning Department, and DBI engaged in further investigation to determine how the destruction of a historic resource came to pass. The investigation included extensive review of City records as well as conferences with the Property Owner and the Property Owner's contractor. The investigation revealed that the Property Owner had demolished the property without a permit, and then obtained a permit after receiving a notice of violation for the demolition. Given the seriousness of these violations, the Planning Department determined that a significant penalty should be imposed for the destruction of this important historic resource and that the Planning Department would provide oversight for all remaining work at the Property. After intensive negotiations, which included input from owners of neighboring properties, the parties eventually reached a settlement in late May 2017. Under the settlement, the Property Owner agreed to pay a penalty of \$400,000 and be subject to a Superior Court Injunction requiring that the Property Owner abide by all permit requirements and the Planning Department's review of all future permits.² *This civil penalty is the largest levied on a single-family property in the Planning Department's history.*

On May 24, 2017, the suspended permits were released in conjunction with the receipt of an approvable corrective permit reviewed by Department Preservation Staff. On June 8, 2017, the following occurred: 1) the Zoning Administrator issued an Action Memo legalizing demolition of the single-family dwelling at 841 Chestnut Street after finding the property was demonstrably unaffordable and eligible for administrative review pursuant to Planning Code Section 317(d)(3); and 2) the associated permit (Building Permit Application No. 2017.01.26.8001) was approved by Planning Department Staff. The approved scope of work was to reconstruct a building envelope identical to the historic structure with similar finishes. As noted in the Historic Resource memo issued by the Planning Department [attached], the Project's explicit lack of compliance with the *Secretary of the Interior's Standards* has rendered the newly constructed building at 841 Chestnut Street non-historic, as it is now an ersatz replica of the finely crafted 1908 design. Staff unambiguously explained in the report that, in contrast to the argument provided by a preservation consultant acquired by the Property Owner, the Project in no way met the intent of the *Standards for Reconstruction or Rehabilitation* due to the irreparable damage and wholesale removal of all character-defining features in conjunction with a complete lack of typical documentation or mitigation measures, and therefore the main house at 841 Chestnut Street is no longer eligible for listing

² The settlement terms did not involve the lot merger.

as a historic resource; however, the report also found that the cottage on the property does appear to qualify as a historic resource as a unique post-earthquake cottage. By upholding the Commission's decision to allow the lot merger, this historic status will remain with the entire property and thereby protect the cottage and what remains of the integrity of the site.

On June 8, 2016, the Department issued a Class 1 Categorical Exemption for the Project (California Environmental Quality Act (CEQA) Guidelines Section 15301). The approval of the demolition after the fact was not subject to CEQA review, as the work was completed prior to evaluation. The Project under appeal is exempt from the California Environmental Quality Act (CEQA) as a Class 5 categorical exemption (minor alterations in land use limitations (CEQA Guidelines, Section 15305)), issued on June 8, 2017.

On August 31, 2017, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2017-002430CUA. **With a vote of (Fong, Hillis, Koppel and Melgar in support; Moore and Richards against; Johnson absent) the Commission adopted findings and approved the Conditional Use Authorization under Planning Code Section(s) 207, 209.1, and 303 to allow two dwelling units on a single lot within the RH-1 (Residential, House, One-Family) Zoning District and a 40-X Height and Bulk District. (Planning Commission Motion No. 19987).**

CONDITIONAL USE AUTHORIZATION REQUIREMENTS:

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

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

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES:

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

ISSUE #1: The appellant claims that the lot merger should have been considered in conjunction with the violation history of the properties, namely the demolition of the 1908 Willis Polk residence at 841 Chestnut Street, and that permitting the lot merger is tantamount to "setting the price of a the demolition of the Willis Polk home – a significant San Francisco historic resource – at \$400,000 [by which] the San Francisco Planning Department has set a dangerous and destructive precedent."

RESPONSE #1: In approving Planning Commission Motion No. 19987, the Commission granted Conditional Use Authorization to the Lot Line Adjustment, per Planning Code Sections 207, 209.1, and 303. The Commission reviewed substantial information, including a thorough discussion of the enforcement history and actions taken by Planning Department Staff and found the lot merger to be "necessary and desirable".

The Commission concluded that the Project was "necessary and desirable for, and compatible with, the neighborhood or the community," across a number of criteria as outlined in Planning Code Section 303. Under the Conditional Use Authorization for this Project, the Commission was required to find that the proposed lot merger was necessary or desirable and compatible with the surrounding neighborhood and community, considering the proposed size and intensity; health, safety, and convenience factors; the nature of the proposed site; accessibility, traffic, and adequacy of off-street parking and loading; and any relevant design guidelines, Area Plans, or Elements of the General Plan.

Furthermore, as noted above, the lot merger helps protect and preserve the historical cottage and helps salvage what remains of the historical integrity of the site.

Denying the Conditional Use request to merge the two lots despite the fact that the merger meets applicable Conditional Use criteria would be punitive and immaterial to the enforcement history surrounding the lost historic resource.

Contrary to appellant's contention, the civil penalty amount of \$400,000 does not represent the price for destroying a San Francisco historic resource. The civil penalty amount was based on several factors, none of which were assumed to compensate for the priceless value of this historic resource. The penalty figure of \$400,000 exceeds all of the usual metrics that might normally apply, including the cost of a full Environmental Impact Report of the Project (\$52,197) based on the total assessed value of all work at both sites; a percentage of the assessed value of the property; a civil penalty equal to nine times the standard planning fees for the assessed cost of the Project (the standard rate of violation fines for DBI, totaling \$231,300); a fine of \$250/day of the active violation (\$91,250 per year) in accordance with Section 176.1(e) of the Planning Code; and a fine of up to \$2,500 for each violation of the Unfair Competition Law at the Property. As stated previously, the civil penalty of \$400,000 is the largest penalty levied on a single-family property in the Planning Department's history. Additionally, it should be noted that the enforcement actions on this Project resulted in a six-month delay of all work at the Project site, compounding the financial impacts on the developer. This civil penalty does not justify the illegal demolition of a resource, but rather penalizes the Property Owner for a violation that was found to be incurable due to the fact that it is impossible to replace the unique historic resource that has been destroyed. The Settlement agreement clearly states that:

"Because the home in question had previously been designated as a historic resource, permits for renovation went through a lengthy and extensive review process. The permits were ultimately issued on the condition that Defendant retain the majority of the home's exteriors. In the spring of 2016, however, Defendant removed all of the home's exteriors resulting in a de facto demolition.

Defendant's illegal removal of the home's exteriors violates San Francisco's Planning Code and constitutes an unlawful and unfair business practice in violation of the Unfair Competition Law, as codified in California Business and Professions Code Sections 17200-17210 ("UCL"). Defendant's illegal removal has also permanently destroyed a historic resource."

Typically, review of the completed scope of work (demolition of a historic resource) would have entailed considerably more extensive environmental review under CEQA; however, CEQA explicitly evaluates projects based on the existing conditions at the time of environmental review as a baseline. Due to the fact that the resource had been demolished prior to a revised environmental evaluation, staff was unable to require this additional layer of review. As stated in the Historical Report Response Memo dated June 19, 2017 [attached]:

"...Given that the completed project does not comply with a majority of the Secretary of the Interior's Standards for Rehabilitation, it is assumed that an adverse impact has occurred and the property no longer conveys its historic significance. Had the Department been given the opportunity to adequately review the cumulative and substantial changes to the overall project scope, including alterations to the residence and excavation, prior to the commencement and near completion of the project, it is likely that a full Environmental Impact Report would have been required.

Due to the loss of the historic residence, it should be noted that the completed residence shall not be considered to be historically significant nor is it a successful interpretation of the demolished Willis Polk Residence. However, the cottage on the property, which was constructed immediately after the 1906 earthquake, remains intact and appears to be eligible for listing as the remaining significant feature of the historic property. Therefore the property at 950 Lombard/841 Chestnut Street shall remain listed as historically significant for future Planning review."

CONCLUSION:

For the reasons stated above, the Department recommends that the Board uphold the Planning Commission's decision in approving the Conditional Use authorization to permit a Lot Merger for the parcels located at 948 – 950 Lombard Street and 841 Chestnut Street, within the RH-1 (Residential-House, One Family) Zoning District and 40-X Height and Bulk District. By doing so, the Board would retain the historic layout of the two lots, which were originally owned by the same family as a single parcel from 1884 through 1977, and retain the "Category A" classification on the entire property due to the identification of the cottage structure at 950 Lombard Street as eligible for listing on the California Register of Historical Resources. The Board would thereby protect the cottage structure and limit further future expansion or development of the Project site. While the Planning Department strongly agrees with the appellant that this egregious violation was a disturbing loss for the City, supporting the Planning Commission's decision will ensure that the historic property will not be further impacted by future developers or owners. The enforcement action taken by Planning Department Staff and the City

Attorney's Office in this case have set a firm precedent to dissuade developers from circumventing the Planning process in the future.

If the Planning Commission's decision is overturned, the Property Owner would be required to seek further entitlements from the Planning Department. Due to the City's erroneous approval of the lot merger in 2015, permits were issued based on the assumption that the property was a single parcel, including the excavation of a 3-car garage to provide parking for both residences, excavation of a sub-grade space that crosses the property line with interior access via 841 Chestnut Street, and a garden trellis structure. All three of these approved and completed structures would be subject to Rear Yard Variances, and would require removal or infill if denied. Further, any such discretionary actions would be appealable by the public and the Property Owner, further delaying the Project that has been under various levels of review since 2002, and under construction since 2012. Similarly, it should also be noted that if the Planning Commission's decision is upheld and the merger is granted, the Property Owner (or any future property owner) would be required to seek and justify a Rear Yard Variance if they sought to later subdivide the merged parcel into multiple lots. This would be in addition to the required subdivision application from the Department of Public Works.

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Attachment I: Materials Related to Project Under Appeal



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: AUGUST 31, 2017

Date: August 14, 2017
Case No.: **2017-002430CUA**
Project Addresses: **948-950 Lombard Street &
841 Chestnut Street**
Zoning: RH-1 (Residential, House: One-Family) District
40-X Height and Bulk District
Block/Lot: 0116/010 and 017
Project Sponsor: Tuija Catalano
One Bush Street, Suite 600
Reuben, Junius & Rose, LLP
San Francisco, CA 94104
Staff Contact: Nicholas Foster – (415) 575-9167
nicholas.foster@sfgov.org
Recommendation: **Approval with Conditions**

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The proposed Project would merge Lots 10 and 17 of Assessor's Block 0067 through a Lot Line Adjustment, creating a single, 15, 735 square foot lot. Lot 10 (948-950 Lombard Street) is developed with one small cottage, while Lot 17 (841 Chestnut Street) is developed with a 3-bedroom, single family home. Within the RH-1 Zoning District, up to one Dwelling Unit per 3,000 square feet of lot area is permitted with benefit of Conditional Use Authorization. Each of the existing lots contains one Dwelling Unit, and the Project would create a single parcel containing two Dwelling Units. All building permits for both interior and exterior improvements at both properties were previously approved to comply with Department of Building Inspection (DBI) Notice of Violations and Planning Department Enforcement Cases Nos. 2016-008722ENF (Lot 10) and 2016-014995ENF (Lot 17).

SITE DESCRIPTION AND PRESENT USE

The Project Site is comprised of two adjoining lots on the block bounded by Lombard Street to the South, Chestnut Street to the north, Jones Street to the east, and Leavenworth to the west. The Project Site is located within the RH-1 Zoning District and 40-X Height and Bulk District. 950 Lombard Street (Lot 10) is 9,480-sf lot containing a 1-story, 616-sf cottage with one Dwelling Unit. Lot 10 contains approximately 69 feet of frontage along Lombard Street. 841 Chestnut Street (Lot 17) is a 6,255-sf lot containing a 2-story, 3,430-sf single-family dwelling. Lot 17 contains approximately 46 feet of frontage along Chestnut Street. The two parcels were historically one lot. Both lots are developed on steeply topography, making ingress and egress to both lots challenging, especially for the 841 Chestnut Street (Lot 17) site.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The Project Site is located within the Russian Hill neighborhood, located one block east of the “crooked portion” of Lombard Street, a popular tourist destination. The neighborhood consists of primarily residential uses, ranging from one- to two-stories in height within the small patch of the RH-1 Zoning District, and three- to five-stories in height within the adjacent higher density zoning districts (e.g. RH-2, RH-3, and RM-2).

PROJECT HISTORY

The original proposed project under Case No. 2002.0929E involved the relocation of the rear dwelling (“cottage”) unit at 950 Lombard Street; excavation and construction of a new garage into the hillside on the Chestnut Street frontage; and removal of the non-historic addition and minor alterations on the south elevation of the house. Under this permit the property was effectively treated as a single parcel.

The project at 841 Chestnut Street was later revised under Case No. 2009.0801, proposing to construct the same sub-grade garage and elevator shaft on the Chestnut Street frontage; replace the brick foundation; remove the existing non-historic addition to the south; and construct a new rear horizontal addition. Under this review, the historic cottage was proposed to remain in place. This work was permitted under Building Permit Application No. 2002.05.23.7379, which, was approved by the Planning Department on March 9, 2011, and issued by the Department of Building Inspection on October 11, 2011. Building Permit Application No. 2011.11.04.8277 was filed and approved on November 4, 2011, to correct the record and validate the approved permit at both legal properties.

Three building permits were filed between June 2013 and August 2015 to allow the excavation and construction of a driveway at the east side of 950 Lombard Street (Building Permit Application No. 2013.06.25.0415) with a three-car underground garage (Building Permit Application No. 2014.07.10.0957) and a below grade sports court (Building Permit Application No. 2015.08.14.4356) at 841 Chestnut Street.

On February 12, 2014, the project scope at 841 Chestnut Street was revised under Building Permit Application No. 2014.02.05.7897 to “retain the north, east, and west facades”; complete an extensive interior renovation; relocate the below-grade garage and entrance; and expand the proposed basement from 1,114 square feet to 3,495 square feet.

On March 25, 2015, the Project Sponsor filed for a Lot Line Adjustment of lots 10 and 17. Planning Department Staff approved the merger of the subject lots (Lots 10 and 17) on April 22, 2015 based upon incomplete information contained within the Department of Building Inspection (DBI) Report of Residential Building Record (“3-R Report”). A Conditional Use Authorization application for the merger was submitted on February 28, 2017.

On April 21, 2016, a complaint was filed on the property regarding work beyond scope of permit. On May 19, 2016, DBI issued a Notice of Violation in response to the concern regarding exceeding the permitted scope of demolition at the site. On June 9, 2016, Building Permit Application No. 2016.06.09.9584 was issued with an engineer’s notice and no plans; the scope of work reads: “remove additional dryrotted (sic.) & compromised framing necessary to execute approved plans. No changes to approved design proposed.” On June 15, 2016, Building Permit Application No. 2016.06.15.9992 was submitted with one sheet of plans illustrating the full removal of all historic material including floor

plates and framing. The plans were approved by DBI without Planning Department review or approval. All plans stated, erroneously, “No changes to approved design.” At the time all plans were submitted, the property had been effectively demolished; all permits were filed to correct the record.

On July 6, 2016, a complaint was filed with the Planning Department (Case No. 2016-008722ENF) citing the possible demolition of a historic resource without Planning Department approval. Planning Department Staff conducted a site visit on November 8, 2016, where it was determined that the building was composed of all new framing and sheathing. On December 30, 2016, a revised set of plans were provided via email to the Department clarifying the completed scope of demolition. A formal set of the subject Building Permit Application (Building Permit Application No. 2017.01.26.8001) was filed on January 26, 2017.

On June 7, 2017, the Project Sponsor and the City Attorney’s Office, on behalf of the Planning Department, filed a settlement agreement to abate the violation for the unpermitted demolition of the historic resource at 841 Chestnut Street. Per the filed documents, the City settled for a civil penalty of \$400,000 with a stipulated injunction requiring that all future permits be reviewed by the Planning Department and that the Project Sponsor shall not exceed the scope of any approved permit at either property. On June 8, 2017, the Zoning Administrator issued an Action Memo legalizing the demolition of the single family dwelling at 841 Chestnut Street, as the property was demonstrably unaffordable per Section 317(d)(3) of the Planning Code, and the associated permit (Building Permit Application No. 2017.01.26.8001) was approved by Planning Staff on June 8, 2017.

ENVIRONMENTAL REVIEW

The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 5 categorical exemption (minor alterations in land use limitations (CEQA Guidelines, Section 15305)).

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	August 11, 2017	August 8, 2017	23 days
Posted Notice	20 days	August 11, 2017	August 11, 2017	20 days
Mailed Notice	20 days	August 11, 2017	August 11, 2017	20 days

PUBLIC COMMENT

To date, the Department has received no public comment on the proposed Project.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use Authorization to allow a Second Dwelling Unit on a single lot within the RH-1 Zoning District, pursuant to Planning Code Section 207, 209.1, and 303.

BASIS FOR RECOMMENDATION

- The Project would allow for the merger of the two adjacent lots into a single lot, returning the Project Site to its historic function (as a single lot with two residential structures).
- The Project would formalize access to both existing residential structures under a single lot, maintaining residential density, scale, and character consistent with that of the neighborhood.
- The Project would support the rehabilitation of the 841 Chestnut Street (Lot 17) property, thereby restoring one Dwelling Unit, which, has been vacant for nearly two decades.
- The Project has been found to be necessary and or desirable and compatible with the surrounding neighborhood.
- The Project meets all applicable requirements of the Planning Code.

RECOMMENDATION: Approval with Conditions

Attachments:

Attachment Checklist

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

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

NF
Planner's Initials



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Draft Motion

HEARING DATE: AUGUST 31, 2017

Date: August 14, 2017
Case No.: **2017-002430CUA**
Project Addresses: **948-950 Lombard Street &
841 Chestnut Street**
Zoning: RH-1 (Residential, House: One-Family) District
40-X Height and Bulk District
Block/Lot: 0116/010 and 017
Project Sponsor: Tuija Catalano
One Bush Street, Suite 600
Reuben, Junius & Rose, LLP
San Francisco, CA 94104
Staff Contact: Nicholas Foster – (415) 575-9167
nicholas.foster@sfgov.org
Recommendation: **Approval with Conditions**

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 207, 209.1, AND 303 OF THE PLANNING CODE TO ALLOW TWO DWELLING UNITS ON A SINGLE LOT WITHIN THE RH-1 (RESIDENTIAL, HOUSE ONE-FAMILY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On February 28, 2017, Tuija Catalano of Reuben, Junius & Rose, LLP, on behalf of Eight Forty One, LLC ("Project Sponsor"), submitted an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 207, 209.1, and 303 to allow two Dwelling Units on a single lot within the RH-1 Zoning District and 40-X Height and Bulk District.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 5 categorical exemption (minor alterations in land use limitations (CEQA Guidelines, Section 15305)).

On August 31, 2017 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2017-002430CUA.

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2017-002430CUA, subject to the conditions contained in “EXHIBIT A” of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site is comprised of two adjoining lots on the block bounded by Lombard Street to the South, Chestnut Street to the north, Jones Street to the east, and Leavenworth to the west. The Project Site is located within the RH-1 Zoning District and 40-X Height and Bulk District. 950 Lombard Street (Lot 10) is 9,480-sf lot containing a 1-story, 616-sf cottage with one Dwelling Unit. Lot 10 contains approximately 69 feet of frontage along Lombard Street. 841 Chestnut Street (Lot 17) is a 6,255-sf lot containing a 2-story, 3,430-sf single-family dwelling. Lot 17 contains approximately 46 feet of frontage along Chestnut Street. The two parcels were historically one lot. Both lots are developed on steeply topography, making ingress and egress to both lots challenging, especially for the 841 Chestnut Street (Lot 17) site.
3. **Surrounding Properties and Neighborhood.** The Project Site is located within the Russian Hill neighborhood, located one block east of the “crooked portion” of Lombard Street, a popular tourist destination. The neighborhood consists of primarily residential uses, ranging from one- to two-stories in height within the small patch of the RH-1 Zoning District, and three- to five-stories in height within the adjacent higher density zoning districts (e.g. RH-2, RH-3, and RM-2).
4. **Project Description.** The proposed Project would merge Lots 10 and 17 of Assessor’s Block 0067 through a Lot Line Adjustment, creating a single, 15, 735 square foot lot. Lot 10 (948-950 Lombard Street) is developed with one small cottage, while Lot 17 (841 Chestnut Street) is developed with a 3-bedroom, single family home. Within the RH-1 Zoning District, up to one Dwelling Unit per 3,000 square feet of lot area is permitted with benefit of Conditional Use Authorization. Each of the existing lots contains one Dwelling Unit, and the Project would create a single parcel containing two Dwelling Units. All building permits for both interior and exterior improvements at both properties were previously approved to comply with Department of Building Inspection (DBI) Notice of Violations and Planning Department Enforcement Cases Nos. 2016-008722ENF (Lot 10) and 2016-014995ENF (Lot 17).
5. **Project History.** The original proposed project under Case No. 2002.0929E involved the relocation of the rear dwelling (“cottage”) unit at 950 Lombard Street; excavation and construction of a new garage into the hillside on the Chestnut Street frontage; and removal of the

non-historic addition and minor alterations on the south elevation of the house. Under this permit the property was effectively treated as a single parcel.

The project at 841 Chestnut Street was later revised under Case No. 2009.0801, proposing to construct the same sub-grade garage and elevator shaft on the Chestnut Street frontage; replace the brick foundation; remove the existing non-historic addition to the south; and construct a new rear horizontal addition. Under this review, the historic cottage was proposed to remain in place. This work was permitted under Building Permit Application No. 2002.05.23.7379, which, was approved by the Planning Department on March 9, 2011, and issued by the Department of Building Inspection on October 11, 2011. Building Permit Application No. 2011.11.04.8277 was filed and approved on November 4, 2011, to correct the record and validate the approved permit at both legal properties.

Three building permits were filed between June 2013 and August 2015 to allow the excavation and construction of a driveway at the east side of 950 Lombard Street (Building Permit Application No. 2013.06.25.0415) with a three-car underground garage (Building Permit Application No. 2014.07.10.0957) and a below grade sports court (Building Permit Application No. 2015.08.14.4356) at 841 Chestnut Street.

On February 12, 2014, the project scope at 841 Chestnut Street was revised under Building Permit Application No. 2014.02.05.7897 to “retain the north, east, and west facades”; complete an extensive interior renovation; relocate the below-grade garage and entrance; and expand the proposed basement from 1,114 square feet to 3,495 square feet.

On March 25, 2015, the Project Sponsor filed for a Lot Line Adjustment of lots 10 and 17. Planning Department Staff approved the merger of the subject lots (Lots 10 and 17) on April 22, 2015 based upon incomplete information contained within the Department of Building Inspection (DBI) Report of Residential Building Record (“3-R Report”). A Conditional Use Authorization application for the merger was submitted on February 28, 2017.

On April 21, 2016, a complaint was filed on the property regarding work beyond scope of permit. On May 19, 2016, DBI issued a Notice of Violation in response to the concern regarding exceeding the permitted scope of demolition at the site. On June 9, 2016, Building Permit Application No. 2016.06.09.9584 was issued with an engineer’s notice and no plans; the scope of work reads: “remove additional dryrotted (sic.) & compromised framing necessary to execute approved plans. No changes to approved design proposed.” On June 15, 2016, Building Permit Application No. 2016.06.15.9992 was submitted with one sheet of plans illustrating the full removal of all historic material including floor plates and framing. The plans were approved by DBI without Planning Department review or approval. All plans stated, erroneously, “No changes to approved design.” At the time all plans were submitted, the property had been effectively demolished; all permits were filed to correct the record.

On July 6, 2016, a complaint was filed with the Planning Department (Case No. 2016-008722ENF) citing the possible demolition of a historic resource without Planning Department approval. Planning Department Staff conducted a site visit on November 8, 2016, where it was determined that the building was composed of all new framing and sheathing. On December 30, 2016, a revised set of plans were provided via email to the Department clarifying the completed scope of

demolition. A formal set of the subject Building Permit Application (Building Permit Application No. 2017.01.26.8001) was filed on January 26, 2017.

On June 7, 2017, the Project Sponsor and the City Attorney's Office, on behalf of the Planning Department, filed a settlement agreement to abate the violation for the unpermitted demolition of the historic resource at 841 Chestnut Street. Per the filed documents, the City settled for a civil penalty of \$400,000 with a stipulated injunction requiring that all future permits be reviewed by the Planning Department and that the Project Sponsor shall not exceed the scope of any approved permit at either property. On June 8, 2017, the Zoning Administrator issued an Action Memo legalizing the demolition of the single family dwelling at 841 Chestnut Street, as the property was demonstrably unaffordable per Section 317(d)(3) of the Planning Code, and the associated permit (Building Permit Application No. 2017.01.26.8001) was approved by Planning Staff on June 8, 2017.

6. **Public Comment.** To date, the Department has received no public comment on the proposed Project.
7. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Use (Sections 102, 209.1).** The Project Site is located within the RH-1 (Residential, House: One-Family) Zoning District wherein Residential Use is a principally permitted use.

The Project involves a lot merger, which, would result in two, existing Dwelling Units on a single lot. Residential uses are principally permitted within the RH-1 Zoning District, and the Project would maintain residential density, scale, and character consistent with that of the neighborhood. Therefore, the Project is in compliance with Code Section 209.1

- B. **Residential Density (Sections 207, 209.1).** The Project Site is located within the North Beach Neighborhood Commercial (NCD) Zoning District wherein Medical Service Use is a principally permitted use.

Within the RH-1 Zoning District, residential density is limited to one Dwelling Unit per lot. With Conditional Use Authorization, residential density in the RH-1 Zoning District may be increased to one Dwelling Unit per 3,000 square feet of lot area, with no more than three units per lot. The Project involves a lot merger of Lots 10 and 17 within Accessor's Block 0116. The combined lot area of Lots 10 and 17 is 15,735 sf, which, would allow for up to three Dwelling Units with benefit of Conditional Use Authorization. With benefit of a lot merger (Lot Line Adjustment), the two, existing Dwelling Units would be contained on a single lot. Therefore, the Project is in compliance with Code Section 207 and 209.1.

- C. **Parking (Section 151, 151.1).** Planning Code does not require off-street parking for projects located within the North Beach Neighborhood Commercial (NCD) Zoning District.

The Project Site does not contain any existing off-street parking, due to the steep topographical conditions impacting the Property. The Project would add a Code-complaint curb cut along the

Lombard Street frontage, and three (3) off-street parking spaces would be created on the newly-created, single lot. Code Section 151 requires off-street parking at a ratio of 1 space per 1 Dwelling Unit. Pursuant to Code Section 151.1, 1 off-street accessory parking is permitted of for two Dwelling Units. The Project proposes three off-street parking spaces where three are permitted by Code. Therefore, the Project is in compliance with Code Sections 151 and 151.1.

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

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

The Project involves a lot merger of two lots, creating a single 15,375 sf lot containing two, existing Dwelling Units. The Project will allow the Property Owners to formalize property access for the two Dwelling Units. Due to the steep topographical conditions present at the Project Site, the 841 Chestnut Street property (Lot 17) has no direct pedestrian or vehicular access from its Chestnut Street frontage and has, instead, historically utilized a portion of the adjacent property (Lot 10) to provide ingress and egress from Lombard Street.

Providing two Dwelling Units on the single, merged lot is both necessary and desirable because it retains the two, existing residential structures, thereby maintaining residential density consistent with the historical use of the Properties and character of the neighborhood. Each of the lots (Lots 10 and 17) contain a single Dwelling Unit, and the rehabilitation of both structures would contribute to the City's housing stock. Other lots on the same block face range in size from 888 sf to 10,310 sf, with each lot typically containing a single Dwelling Unit. Permitting two Dwelling Units to remain on the larger, merged lot would be consistent with the existing density, development scale, and character of the neighborhood.

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

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

The Project would merge two lots into a single lot and would restore residential uses at the Project Site in a manner consistent with the residential density, scale, and character of the neighborhood.

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

The Project would merge two lots into a single lot with direct pedestrian and vehicular access from Lombard Street, eliminating the undesirable condition of Lot 17 (841 Chestnut Street) depending upon Lot 10 (948-950 Lombard Street) for primary ingress/egress. A single, shared driveway

would reduce the number of curbcuts to one where two would otherwise be permitted by Code. The reduction of curb cuts is a more pedestrian friendly alternative for those residing in the area.

The Project will provide off-street parking for the two Dwelling Units up to the amount allowed by Code. The Project restores residential uses at the Project Site in a manner that would not significantly alter accessibility and traffic patterns for persons and vehicles to the area.

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

The Project restores residential uses at the Project Site at the same scale as existing conditions and is therefore not anticipated to produce noxious or offensive emissions related to noise, glare, dust and odor.

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

The Project consists of the merger of the Properties into a single lot. The currently pending alteration of the existing buildings and the Project Site incorporates landscaping, screening, provision of open space, parking areas, and lighting as required by the Code and appropriate for the neighborhood.

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

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Zoning District.

The proposed Project is consistent with the stated purpose of the RH-1 (Residential, House: Single-Family) Zoning District, which, allows for residential density up to 3 Dwelling Units per lot with benefit of Conditional Use Authorization.

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

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1:

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1:

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

The Project would include the full rehabilitation of two, existing Dwelling Units located on separate lots. The Project would merge the lots into a single lot, with no impact on the existing Dwelling Units.

OBJECTIVE 2:

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

Policy 2.4:

Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

The Project proposes the merger of two adjacent lots, while maintaining the two, existing residential structures. The existing residential structures are consistent with the existing residential character and density of the Russian Hill neighborhood.

OBJECTIVE 4:

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.1:

Develop new housing, and encourage the remodeling of existing housing, for families with children.

The Project would include the full rehabilitation of two, existing Dwelling Units located on separate lots.

OBJECTIVE 11:

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

Policy 11.1:

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

The Project would include the full rehabilitation of two, existing Dwelling Units located on separate lots. The existing residential structures are consistent with the existing residential character and density of the Russian Hill neighborhood.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

Recognize and protect major views in the city, with particular attention to those of open space and water.

Policy 1.2:

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

The Project would include the full rehabilitation of two, existing Dwelling Units located on separate lots. The Project would preserve views and useable open space at the Project Site.

OBJECTIVE 4:

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.14:

Remove and obscure distracting and cluttering elements.

Policy 4.15:

Protect the livability and character of residential properties from the intrusion of incompatible new buildings.

The Project would include the full rehabilitation of two, existing Dwelling Units located on separate lots. The Project would add off-street parking that is screened and out of view from the public right-of-way, thereby eliminating distracting elements from the Project Site.

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

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

No neighborhood-serving retail use would be displaced by the Project.

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

The Project would maintain two dwelling units on merged Properties which have traditionally contained a total of two Dwelling Units. This would retain existing housing and preserve the neighborhood's residential character.

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

The Project does not propose the elimination of any Dwelling Units. While previous building permit activity on the 841 Chestnut Street property (Lot 17) effectively demolished the existing residential structure, the Project proposes the full rehabilitation of both residential structures on Lots 10 and 17, with benefit of permit, thereby preserving and enhancing the two, existing Dwelling Units.

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

The proposed Project will include three off-street parking spaces, thereby helping to reduce demand for on-street parking by current and future residents. Therefore, the Project will not significantly increase the amount of automobile traffic, overburden neighborhood parking, or impede MUNI transit service.

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

The Project will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities.

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

The proposed Project calls for interior and exterior tenant improvements with no change to the envelopes of the two, existing residential structures. This proposal will not impact the Property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The existing residential structure located at 841 Chestnut Street (Lot 17) was deemed historically significant under Criterion 3 (Architecture). The effective demolition of a historically significant structure, and its subsequent reconstruction, was not submitted to the Planning Department for CEQA review per standard procedure. Due to the loss of the historic residence, it should be noted that the completed residence shall not be considered to be historically significant nor is it a successful interpretation of the demolished Willis Polk Residence (Lot 17). However, the cottage on the 948-950 Lombard Street property (Lot 10), which was constructed immediately after the 1906 earthquake, remains intact and appears to be eligible for listing as the remaining significant feature of the historic property. Therefore, upon complete of the Lot Line Adjustment, the single lot shall remain listed as historically significant for future Planning review.

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

The project will have no negative impact on existing parks and open spaces.

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2017-002430CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated January 23, 2017, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. XXXXX. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on August 31, 2017.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: August 31, 2017

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a second Dwelling Unit on a single lot within a RH-1 Zoning District located at 948-950 Lombard Street, Lot 010 in Assessor's Block 0116, pursuant to Planning Code Sections 207, 209.1, and 303, within the RH-1 Zoning District and a 40-X Height and Bulk District; in general conformance with plans, dated January 23, 2017, and stamped "EXHIBIT B" included in the docket for Case No. 2017-002430CUA and subject to conditions of approval reviewed and approved by the Commission on August 31, 2017 under Motion No. XXXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on August 31, 2017 under Motion No. XXXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

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

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

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

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

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

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

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

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

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

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

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

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

DESIGN – COMPLIANCE AT PLAN STAGE

6. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

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

7. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

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

8. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

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

9. **Noise.** Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.

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

10. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.

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

PARKING AND TRAFFIC

11. **Bicycle Parking.** Pursuant to Planning Code Sections 155, 155.1, and 155.2, the Project shall provide no fewer than 2 bicycle parking spaces (2 Class 1 spaces for the residential portion of the Project).

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

12. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than **three (3)** off-street parking spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
13. **Parking Requirement.** Pursuant to Planning Code Section 151, the Project shall provide at least **two (2)** independently accessible off-street parking spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
14. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

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

OPERATION

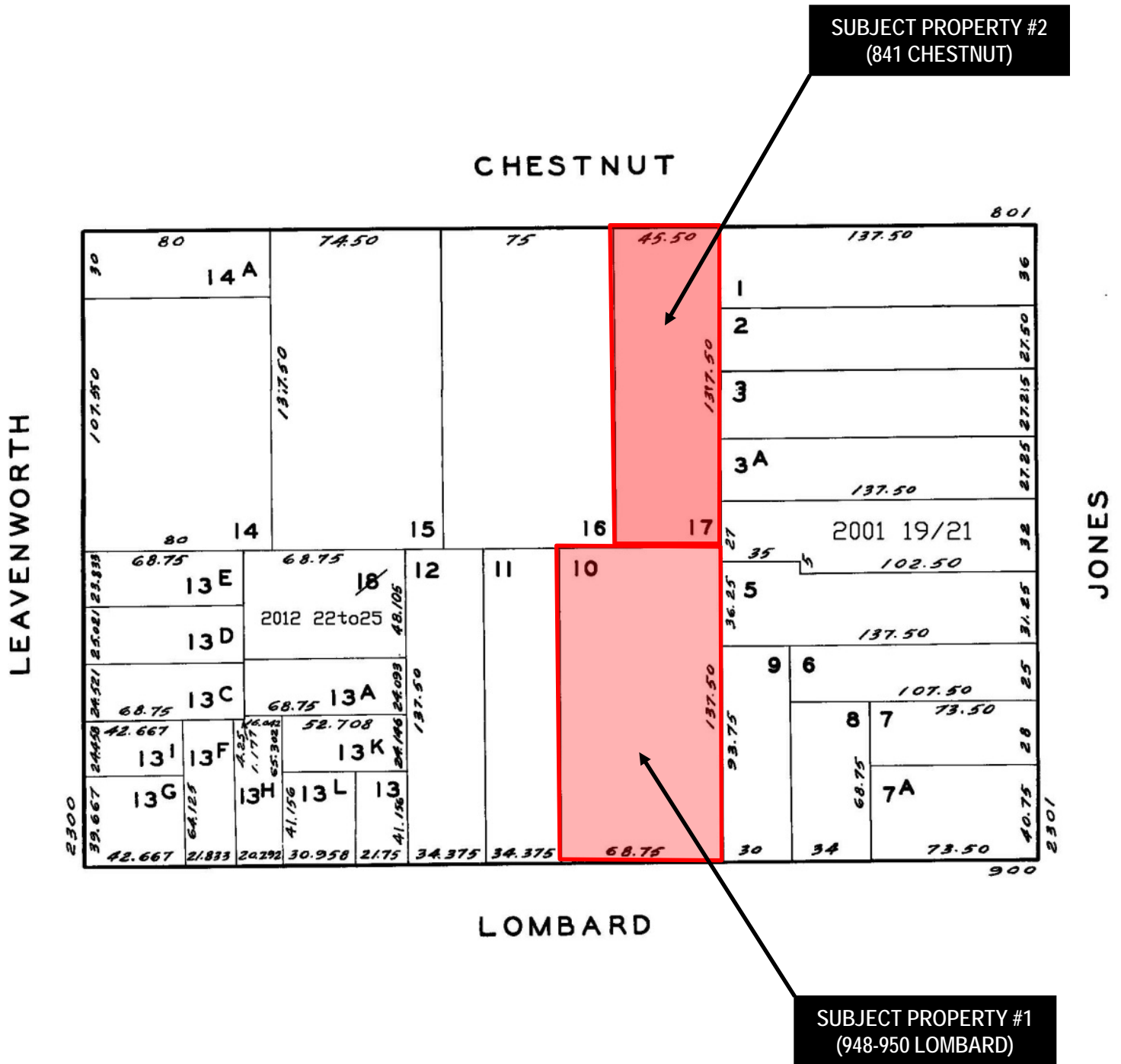
17. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

18. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>
19. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.
*For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org
For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org
For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-0123, www.sf-police.org*
20. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.
For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
21. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
22. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Exhibits

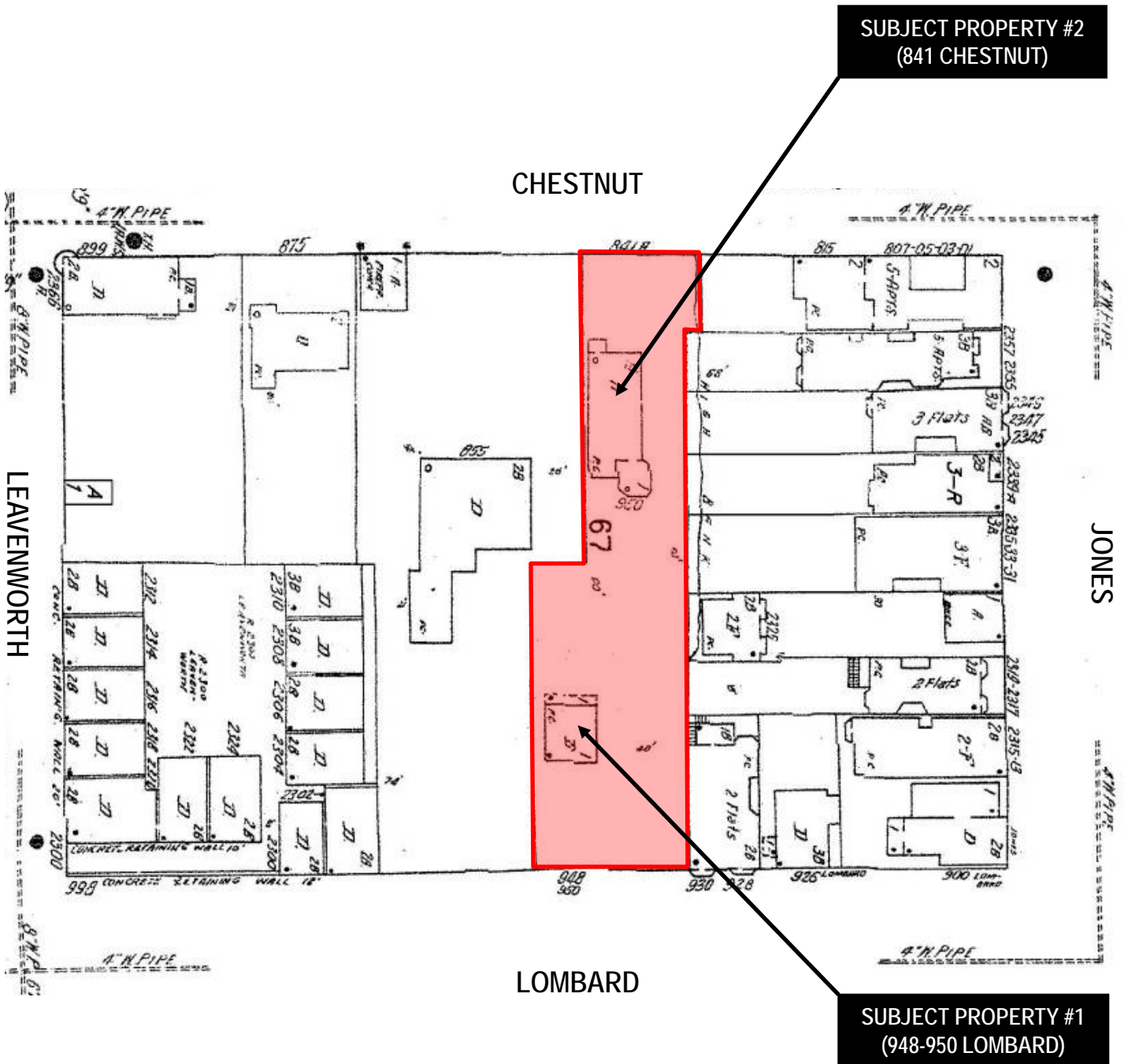
- **Block Book Map**
- **Sanborn Map**
- **Aerial Photograph**
- **Zoning Map**
- **Site Photos**

Parcel Map



Conditional Use Authorization
Case Number 2017-002430CUA
948-950 Lombard Street

Sanborn Map*



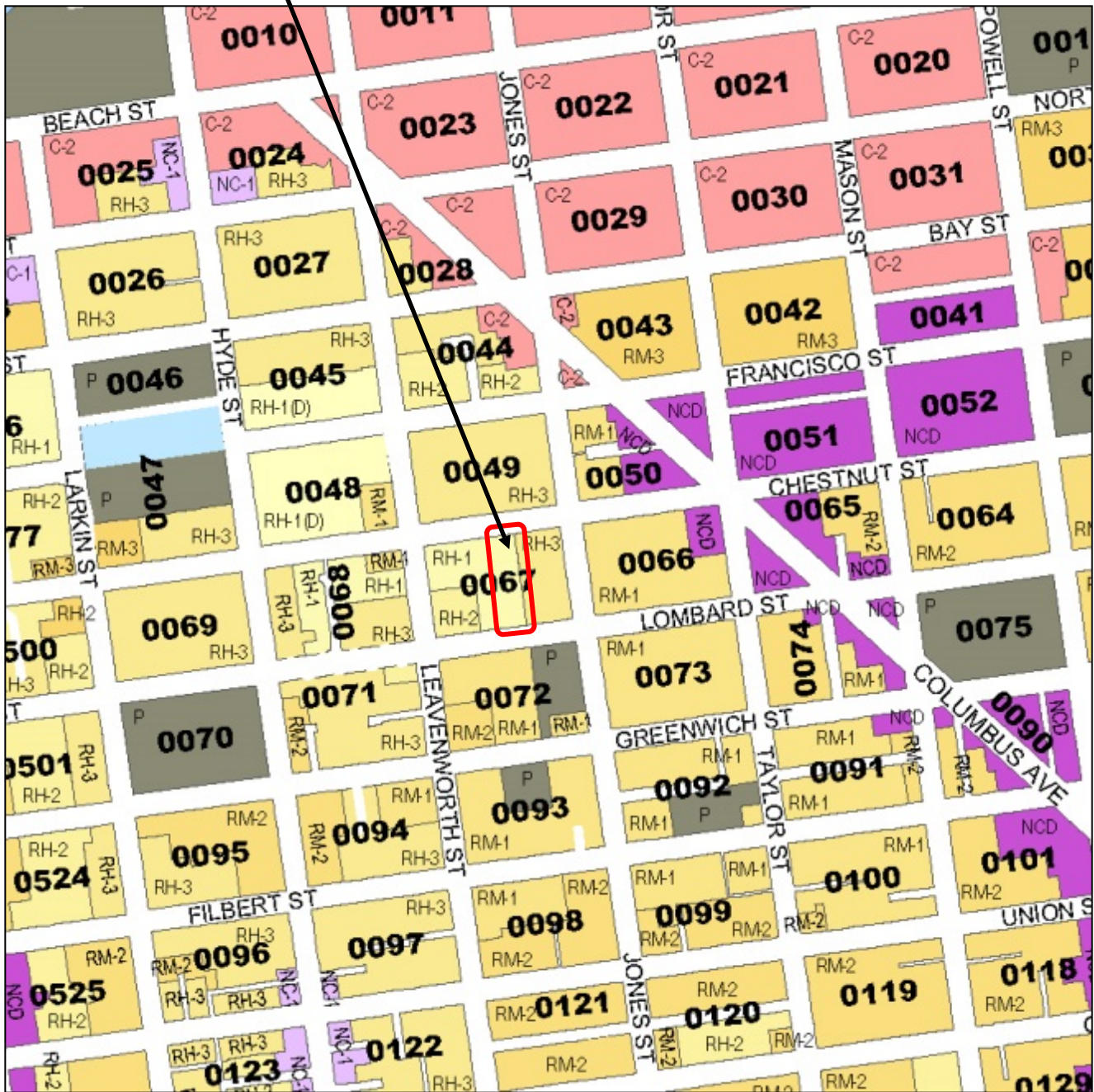
*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Conditional Use Authorization
Case Number 2017-002430CUA
948-950 Lombard Street

Zoning Map

SUBJECT PROPERTIES



Conditional Use Authorization
Case Number 2017-002430CUA
948-950 Lombard Street

Site Photo

SUBJECT PROPERTY #1
(948-950 LOMBARD)



Street View of 948-950 Lombard Street
(from Lombard Street)

Conditional Use Authorization
Case Number 2017-002430CUA
948-950 Lombard Street

Site Photo

SUBJECT PROPERTY #2
(841 CHESTNUT)



These stairs access the adjacent property (801-815 Chestnut Street) and not the subject property.

Street View of 841 Chestnut Street
(from Chestnut Street)

Aerial Photo

948-950 LOMBARD STREET
(EXISTING RESIDENTIAL STRUCTURE)

841 CHESTNUT STREET
(EXISTING RESIDENTIAL STRUCTURE)



Aerial view of subject properties.

Conditional Use Authorization
Case Number 2017-002430CUA
948-950 Lombard Street

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SAN FRANCISCO PLANNING DEPARTMENT

CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
Case No.	Permit No.	Plans Dated	
<input type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRER if over 45 years old)	<input type="checkbox"/> New Construction	<input type="checkbox"/> Project Modification (GO TO STEP 7)
Project description for Planning Department approval.			

STEP 1: EXEMPTION CLASS TO BE COMPLETED BY PROJECT PLANNER

Note: If neither class applies, an <i>Environmental Evaluation Application</i> is required.	
	Class 1 – Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
	Class 3 – New Construction/ Conversion of Small Structures. Up to three (3) new single-family residences or six (6) dwelling units in one building; commercial/office structures; utility extensions.; ; change of use under 10,000 sq. ft. if principally permitted or with a CU. Change of use under 10,000 sq. ft. if principally permitted or with a CU.
	Class ___

STEP 2: CEQA IMPACTS TO BE COMPLETED BY PROJECT PLANNER

If any box is checked below, an <i>Environmental Evaluation Application</i> is required.	
<input type="checkbox"/>	Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks)? <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Article 38 program and the project would not have the potential to emit substantial pollutant concentrations. (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollutant Exposure Zone)</i>
<input type="checkbox"/>	Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? If yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the</i>

	<i> Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).</i>
<input type="checkbox"/>	Transportation: Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
<input type="checkbox"/>	Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? <i>(refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)</i>
<input type="checkbox"/>	Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? <i>(refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)</i>
<input type="checkbox"/>	Slope = or > 20%: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? <i>(refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)</i> If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? <i>(refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)</i> If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? <i>(refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)</i> If box is checked, a geotechnical report will likely be required.
<u>If no boxes are checked above, GO TO STEP 3. If one or more boxes are checked above, an Environmental Evaluation Application is required, unless reviewed by an Environmental Planner.</u>	
<input type="checkbox"/>	Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.
Comments and Planner Signature (optional):	

STEP 3: PROPERTY STATUS – HISTORIC RESOURCE TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: <i>(refer to Parcel Information Map)</i>	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

**STEP 4: PROPOSED WORK CHECKLIST
TO BE COMPLETED BY PROJECT PLANNER**

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

**STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PRESERVATION PLANNER**

Check all that apply to the project.	
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not “in-kind” but are consistent with existing historic character.
<input type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .
<input type="checkbox"/>	8. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):

<input type="checkbox"/>	<p>9. Other work that would not materially impair a historic district (specify or add comments):</p> <p>(Requires approval by Senior Preservation Planner/Preservation Coordinator) _____</p>
<input type="checkbox"/>	<p>10. Reclassification of property status. (Requires approval by Senior Preservation Planner/Preservation Coordinator)</p> <p style="padding-left: 40px;"> <input type="checkbox"/> Reclassify to Category A <input type="checkbox"/> Reclassify to Category C </p> <p style="padding-left: 40px;">a. Per HRER dated: _____ (attach HRER)</p> <p style="padding-left: 40px;">b. Other (specify): _____</p>
<p>Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.</p>	
<input type="checkbox"/>	<p>Further environmental review required. Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. GO TO STEP 6.</p>
<input type="checkbox"/>	<p>Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.</p>
<p>Comments (optional):</p> 	
<p>Preservation Planner Signature:</p> 	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER**

<input type="checkbox"/>	<p>Further environmental review required. Proposed project does not meet scopes of work in either (check all that apply):</p> <p style="padding-left: 40px;"> <input type="checkbox"/> Step 2 – CEQA Impacts <input type="checkbox"/> Step 5 – Advanced Historical Review </p> <p>STOP! Must file an <i>Environmental Evaluation Application</i>.</p>			
<input type="checkbox"/>	<p>No further environmental review is required. The project is categorically exempt under CEQA.</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Planner Name:</p> <p>Project Approval Action:</p> <p>If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Signature:</p> </td> </tr> </table> <p>Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.</p> <p>In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action.</p>		<p>Planner Name:</p> <p>Project Approval Action:</p> <p>If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</p>	<p>Signature:</p>
<p>Planner Name:</p> <p>Project Approval Action:</p> <p>If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</p>	<p>Signature:</p> 			

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APPLICATION FOR Conditional Use Authorization

1. Owner/Applicant Information

PROPERTY OWNER'S NAME:	
Eight Forty One LLC	
PROPERTY OWNER'S ADDRESS:	TELEPHONE:
One Post Street, Suite 2210 San Francisco, CA 94104	(415) 504-8100
	EMAIL:

APPLICANT'S NAME:	
Same as Above <input checked="" type="checkbox"/>	
APPLICANT'S ADDRESS:	TELEPHONE:
	()
	EMAIL:

CONTACT FOR PROJECT INFORMATION:	
Tuija Catalano	
Same as Above <input type="checkbox"/>	
ADDRESS:	TELEPHONE:
Reuben, Junius & Rose, LLP One Bush Street, Suite 600 San Francisco, CA 94104	(415) 567-9000
	EMAIL:
	tcatalano@reubenlaw.com

COMMUNITY LIAISON FOR PROJECT (PLEASE REPORT CHANGES TO THE ZONING ADMINISTRATOR):	
Same as Above <input checked="" type="checkbox"/>	
ADDRESS:	TELEPHONE:
	()
	EMAIL:

2. Location and Classification

STREET ADDRESS OF PROJECT:		ZIP CODE:
948 Lombard Street / 841 Chestnut Street		94133
CROSS STREETS:		
Jones & Leavenworth Streets		

ASSESSORS BLOCK/LOT:	LOT DIMENSIONS:	LOT AREA (SQ FT):	ZONING DISTRICT:	HEIGHT/BULK DISTRICT:
0067 / 10 & 17	17 - 45.5 X 137.5	17 - 6,255	RH-1	40-X
	10 - 68.75 X 137.5	10 - 9,480.64		

Note: The requested Lot Line Adjustment was previously approved by Planning Department on April 22, 2015. See prior Planning Department approval in the attached Exhibit B.

3. Project Description

(Please check all that apply) <input type="checkbox"/> Change of Use <input type="checkbox"/> Change of Hours <input type="checkbox"/> New Construction <input type="checkbox"/> Alterations <input type="checkbox"/> Demolition <input checked="" type="checkbox"/> Other Please clarify: Lot Line Adjustment		ADDITIONS TO BUILDING: <input type="checkbox"/> Rear <input type="checkbox"/> Front <input type="checkbox"/> Height <input type="checkbox"/> Side Yard	PRESENT OR PREVIOUS USE: Residential - 2 separate lots containing a total of 2 dwelling units
			PROPOSED USE: Residential - 1 lot containing a total of 2 dwelling units
		BUILDING APPLICATION PERMIT NO.: 201701268001	DATE FILED: 1/26/2017

4. Project Summary Table

If you are not sure of the eventual size of the project, provide the maximum estimates.

	EXISTING USES:	EXISTING USES TO BE RETAINED:	NET NEW CONSTRUCTION AND/OR ADDITION:	PROJECT TOTALS:
PROJECT FEATURES				
Dwelling Units	2	2	0	2
Hotel Rooms	0	0	0	0
Parking Spaces	0	0	0	0
Loading Spaces	0	0	0	0
Number of Buildings	2	2	0	2
Height of Building(s)	N/A	N/A	N/A	N/A
Number of Stories	Lot 10: 1 Lot 17: 2			Lot 10: 1 Lot 17: 2
Bicycle Spaces	0	0	0	0
GROSS SQUARE FOOTAGE (GSF)				
Residential	Lot 10: 616 Lot 17: 3,430		N/A	N/A
Retail	0			0
Office	0			0
Industrial/PDR <i>Production, Distribution, & Repair</i>	0			0
Parking	0			0
Other (Specify Use)	0			0
TOTAL GSF	4,046			N/A

Please describe any additional project features that are not included in this table:
 (Attach a separate sheet if more space is needed)

The Project would merge Lots 10 and 17, each of which contain a single dwelling unit, into one parcel containing two dwelling units in the RH-1 District.

Please see Exhibit A, attached.

5. Action(s) Requested (Include Planning Code Section which authorizes action)

Conditional Use Authorization to allow two dwelling units on a single RH-1 zoned parcel pursuant to Planning Code Sections 209.1, 207, and 303.

Conditional Use Findings

Pursuant to Planning Code Section 303(c), before approving a conditional use authorization, the Planning Commission needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding.

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

Please see Exhibit A, attached.

Priority General Plan Policies Findings

Proposition M was adopted by the voters on November 4, 1986. It requires that the City shall find that proposed projects and demolitions are consistent with eight priority policies set forth in Section 101.1 of the City Planning Code. These eight policies are listed below. Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

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

Please see Exhibit A, attached.

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

Please see Exhibit A, attached.

3. That the City's supply of affordable housing be preserved and enhanced;

Please see Exhibit A, attached.

4. That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;

Please see Exhibit A, attached.

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

Please see Exhibit A, attached.

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

Please see Exhibit A, attached.

7. That landmarks and historic buildings be preserved; and

Please see Exhibit A, attached.

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

Please see Exhibit A, attached.

Estimated Construction Costs

TYPE OF APPLICATION: Conditional Use	
OCCUPANCY CLASSIFICATION: R-3	
BUILDING TYPE: 27 - 1 Family Dwelling	
TOTAL GROSS SQUARE FEET OF CONSTRUCTION: N/A	BY PROPOSED USES: Residential
ESTIMATED CONSTRUCTION COST: N/A	
ESTIMATE PREPARED BY: Reuben, Junius & Rose - Authorized Agents	
FEE ESTABLISHED: \$2,206	

Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

Signature:

Tulja J. Catalano Date: 2-28-2017

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

Tulja J. Catalano/Reuben, Junius & Rose, LLP

Owner ☒ Authorized Agent ☐ (circle one)

Application Submittal Checklist

Applications listed below submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and **signed by the applicant or authorized agent and a department staff person.**

APPLICATION MATERIALS	CHECKLIST
Application, with all blanks completed	<input checked="" type="checkbox"/>
300-foot radius map, if applicable	<input type="checkbox"/>
Address labels (original), if applicable	<input type="checkbox"/>
Address labels (copy of the above), if applicable	<input type="checkbox"/>
Site Plan	<input checked="" type="checkbox"/>
Floor Plan	<input checked="" type="checkbox"/>
Elevations	<input checked="" type="checkbox"/>
Section 303 Requirements	<input checked="" type="checkbox"/>
Prop. M Findings	<input checked="" type="checkbox"/>
Historic photographs (if possible), and current photographs	<input checked="" type="checkbox"/>
Check payable to Planning Dept.	<input checked="" type="checkbox"/>
Original Application signed by owner or agent	<input checked="" type="checkbox"/>
Letter of authorization for agent	<input checked="" type="checkbox"/>
Other: Section Plan, Detail drawings (ie. windows, door entries, trim), Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new elements (ie. windows, doors)	<input type="checkbox"/>

NOTES:

- ☐ Required Material. Write "N/A" if you believe the item is not applicable, (e.g. letter of authorization is not required if application is signed by property owner.)
- ☒ Typically would not apply. Nevertheless, in a specific case, staff may require the item.
- ☐ Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

After your case is assigned to a planner, you will be contacted and asked to provide an electronic version of this application including associated photos and drawings.

Some applications will require additional materials not listed above. The above checklist does not include material needed for Planning review of a building permit. The "Application Packet" for Building Permit Applications lists those materials.

No application will be accepted by the Department unless the appropriate column on this form is completed. Receipt of this checklist, the accompanying application, and required materials by the Department serves to open a Planning file for the proposed project. After the file is established it will be assigned to a planner. At that time, the planner assigned will review the application to determine whether it is complete or whether additional information is required in order for the Department to make a decision on the proposal.

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

ATTACHMENT A

CONDITIONAL USE APPLICATION

PROJECT DESCRIPTION AND CONDITIONAL USE FINDINGS

**948-950 Lombard / 841 Chestnut
Block 0067/Lots 010 and 017**

A. PROJECT DESCRIPTION:

948-950 Lombard Street (Assessor's Block 0067, Lot 010) and 841 Chestnut Street (Assessor's Block 0067, Lot 017) (collectively, the "**Properties**") are adjoining lots extending between Chestnut and Lombard Streets on the block bounded by Chestnut, Jones, Lombard and Leavenworth Streets in the Russian Hill neighborhood. The location of these Properties is illustrated below:



950 Lombard Street is 9,480-sf lot containing a 1-story, 616-sf cottage with one dwelling unit. 841 Chestnut Street is a 6,255-sf lot containing a 2-story, 3,430-sf single-family dwelling. The combined site has been vacant for more than two (2) decades, and is subject to pending, extensive renovations, approved by Planning, that will result in the return of the buildings into use and residential occupancy.

Due to the steep, hilly topography, 841 Chestnut Street has no direct vehicular or pedestrian access along its street frontage on Chestnut Street, and has historically utilized a portion of the 950 Lombard Street site for ingress and egress. Thus, for all practical purposes these Properties have traditionally functioned as a single parcel. The Properties are also improved with below-grade areas, approved by Planning, that cross current property boundaries. In fact, this lot line adjustment was also previously approved by Planning Department once (see Exhibit B, for Planning Department approval, dated April 22, 2015).

**CU APPLICATION
ATTACHMENT A**

The Properties are zoned RH-1 (Residential House – One Family), and within a 40-X height and bulk district. The RH-1 District allows development of up to one dwelling unit per lot, or up to one unit per 3,000 sf of lot area with Conditional Use Authorization.

The project proposes to merge the Properties into a single lot, resulting in two dwelling units located on a single 15,735-sf parcel (“**Project**”). The Project requires Conditional Use Authorization pursuant to Planning Code Sections 209.1, 207, and 303 to allow two dwelling units on a single lot in the RH-1 District.

B. CONDITIONAL USE FINDINGS:

Pursuant to Planning Code Section 303(c), before approving a conditional use authorization, the Planning Commission needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding.

Under Planning Code Section 303(c), the City Planning Commission shall approve the application and authorize a conditional use if the facts presented are such to establish the following:

1. Desirability and Compatibility of Project

Planning Code section 303(c)(1) requires that facts be established which demonstrate the following:

That the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.

The Project will result in two dwelling units on a 15,375-sf lot. This is necessary and desirable because it will maintain two units on the site while formalizing property access rights. Due to the steep, hilly topography of this area, 841 Chestnut Street has no direct pedestrian or vehicular access from its frontage on Chestnut Street, and instead has historically utilized a portion of the 950 Lombard Street property to provide ingress and egress from Lombard Street. In the early 2000’s, the prior owner of the Properties had proposed construction of a tunnel along the Chestnut Street façade that would have provided direct access to the 841 Chestnut property, however, such extensive excavation was deemed to be neither desirable nor technically very feasible.

Providing two dwelling units on the single merged lot is both necessary and desirable because it will maintain the status quo and promote a residential density consistent with the historical use of the Properties and character of the neighborhood. The Properties each currently contain a single dwelling unit, contributing to the City’s housing stock. It would be undesirable to lose one of these units (and thus available housing) as a result of the merger. Further, once merged, the Properties will create a single 15,735-sf lot. Other lots on the same

**CU APPLICATION
ATTACHMENT A**

block face range in size from 888 sf to 10,310 sf, with each typically containing a single dwelling unit. Allowing two units to remain on the larger merged lot would be consistent with the existing density, development scale, and character of the neighborhood, and well in compliance with the Section 209.1 controls allowing up to one unit per 3,000 sf of lot area (i.e. up to 5 units on the combined site).

The two parcels are currently, and have historically been, owned by the same owner.

2. Effect of Project on Health, Safety, Convenience or General Welfare

Planning Code section 303(c)(2) requires that facts be established which demonstrate the following:

That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:

- (a) **The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of the structure.**

Due to the steep, hilly topography of this area, 841 Chestnut Street has no direct pedestrian or vehicular access from Chestnut Street, and instead has historically utilized a portion of the 950 Lombard Street property to provide ingress and egress from Lombard Street. The Project will merge the two properties into a single lot with direct access from Lombard Street to both units eliminating the undesirable condition of having one legal lot dependent upon another for its sole access. In this case, the “primary” unit has always been the 841 Chestnut building, which has been reliant on access on the other lot containing a much smaller, “secondary” cottage unit. As the Project will maintain the status quo of property access for these parcels, it will not result in any detriment to the public health, safety, convenience, or welfare.

- (b) **The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading and of proposed alternatives to off-street parking, including provisions of car-share parking spaces, as defined in Section 166 of this Code.**

The Project will maintain off street parking for the existing dwelling units and does not propose to expand residential use in a manner that would significantly alter accessibility and traffic patterns for persons and vehicles to the area.

- (c) **The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor.**

**CU APPLICATION
ATTACHMENT A**

The Project consists of the merger of the Properties, each containing one dwelling unit, into a single lot containing two dwelling units in a neighborhood characterized by similar residential use. It is not expected to generate any noxious or offensive emissions, noise, glare, dust or odors.

- (d) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs.**

The Projects consists of the merger of the Properties into a single larger parcel. The currently pending alteration of the existing buildings and the site incorporates landscaping, screening, provision of open space, parking areas, and lighting as required by the Planning Code and appropriate for the neighborhood.

3. Compliance with the General Plan.

Planning Code Section 303(c)(3) requires that facts be established that demonstrate that such use or feature as proposed will comply with the applicable provisions of this code and will not adversely affect the General Plan.

The Project will affirmatively promote, is consistent with, and will not adversely affect the General Plan, including specifically the Housing and Urban Design Elements of the General Plan:

Housing Element

Objective 1 Identify and make available for development adequate sites to meet the City's Housing Needs, especially permanently affordable housing.

Policy 1.1 Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

The Project will allow two existing dwelling units of varied size to remain on a single 15,735-sf lot. These units will contribute to the City's housing stock while maintaining a residential density which is appropriate for the neighborhood.

Objective 2 Retain existing housing units, and promote safety and maintenance standards, without jeopardizing affordability.

The Project would promote this policy by allowing retention of two existing dwelling units on the merged Properties.

Objective 4 Foster a housing stock that meets the needs of all residents across lifecycles.

The Project will promote this policy by maintaining two dwelling units of varied sizes on the merged parcel.

Urban Design Element

Objective 1 **Emphasis of the characteristic pattern which gives to the City and its neighborhoods and image, a sense of purpose, and a means of orientation.**

The Project proposes to allow for use of the merged Properties that is consistent with the existing residential character and density of the Russian Hill neighborhood, as well as the actual and historic use of the site as a single parcel despite the fact that the site is made of two parcels.

Objective 4 **Improvement of the neighborhood environment to increase personal safety, comfort, pride and opportunity.**

The Project will merge two lots, allowing for the continued sole access to both dwelling units from a single access point along Lombard Street. This will increase pedestrian safety and comfort by minimizing vehicular access along Chestnut Street in this steep, hilly area.

C. PLANNING CODE SECTION 101.1(b) FINDINGS

Planning Code Section 101.1 establishes the following eight priority planning policies and requires review of permits for consistency with said policies. On balance, the Project is consistent with each of these policies as follows:

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

No neighborhood-serving retail use would be displaced by the Project.

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

The Project would maintain two dwelling units on merged Properties which have traditionally contained a total of two dwelling units. This would retain existing housing and preserve the neighborhood's residential character.

- 3. That the City's supply of affordable housing be preserved and enhanced.**

No affordable housing exists or would be removed for this Project.

**CU APPLICATION
ATTACHMENT A**

- 4. That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking.**

Due to the nature of the Project, there are no anticipated adverse effects upon MUNI service or on neighborhood parking.

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

The Project does not propose office use and will not displace any existing permanent industrial or service sector uses.

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

The Project will merge two existing lots into a single parcel. It will have no impact on earthquake preparedness.

- 7. That landmarks and historic buildings be preserved.**

The Project will merge two existing lots into a single parcel containing two dwelling units. The lot line adjustment will have no direct impact on existing historic buildings.

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

The Project will have no negative impact on existing parks and open spaces.

EXHIBIT B



City and County of San Francisco
San Francisco Public Works - Bureau of Street-Use and Mapping
1155 Market Street, 3rd Floor - San Francisco, CA 94103
sfpublicworks.org - tel 415-554-5810 - fax 415-554-6161



Date: February 23, 2015

Department of City Planning
1650 Mission Street, Suite 400
San Francisco, CA 94103

X18

Project ID: 8557			
Project Type: Lot Line Adjustment			
Address#	StreetName	Block	Lot
948 - 950	LOMBARD ST	0067	010
841	CHESTNUT ST	0067	017

Attention: Scott F. Sanchez

Pursuant to Section 66412 (d) of the Subdivision Map Act (SMA), the enclosed application for Lot Line Adjustment has been submitted to the Director of Public Works (the Advisory Agency under the SMA and the San Francisco Subdivision Code) for review and approval.

Please review this application and the proposed lots for compliance with applicable Building Code issues, and reply to this office within 30 days from the date of receipt of this letter.

Thank you for your prompt attention to this matter

Sincerely,


Bruce R. Storrs, P.L.S.
City and County Surveyor

X

This Lot Line Adjustment has been reviewed and does comply with all applicable provisions of the Planning Code and General Plan and is therefore approved.

_____ This Lot Line Adjustment has been reviewed and is approved subject to the following:

_____ This Lot Line Adjustment has been reviewed and is not approved based on:

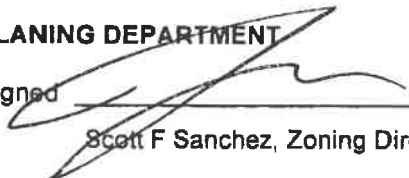
Date

4/22/15

Encl.

PLANING DEPARTMENT

Signed



NICHOLAS FOSTER FOR

Scott F Sanchez, Zoning Director

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REUBEN, JUNIUS & ROSE, LLP

August 21, 2017

President Rich Hillis
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

**Re: 950 Lombard and 841 Chestnut Streets (0067/010 and 017)
Lot Merger, and Placement of Two Units on One Lot
Planning Department Case No. 2017-002430CUA
Hearing Date: August 31, 2017
Our File No.: 5641.07**

Dear President Hillis and Commissioners,

Our office represents Eight Forty One, LLC, the owner of 950 Lombard and 841 Chestnut Streets. On behalf of the owner, we respectfully ask the Commission to approve the conditional use authorization that would allow the two existing lots to be merged.

A. Key Reasons and Justification for CU/Lot Merger

The proposed lot merger satisfies the conditional use criteria and is appropriate and desirable at this location for a number of reasons, including the following:

- Approval is desirable by supporting historical (and current) utilization of the site - as a single site;
- Approval is desirable by supporting historical (and current) ownership of the site - by the same owner;
- Approval is compatible with the neighborhood by having no impact on residential density, number of dwelling units or any of the existing or approved improvements at the site – the existing two units will remain as is, in their current locations; and
- Approval is necessary and desirable to formalize access to the 841 Chestnut parcel, which due to topographical reasons does not have direct vehicular access from Chestnut, and which historically (and currently) has always been accessed from Lombard Street via the other 950 Lombard parcel.

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin | John Kevlin
Tuija I. Catalano | Jay F. Drake | Matthew D. Visick | Lindsay M. Petrone | Sheryl Reuben¹
Thomas Tunny | David Silverman | Melinda A. Sarjapur | Mark H. Loper | Jody Knight
Chloe V. Angelis | Corie A. Edwards | Coryn E. Millslagle | Jared Eigerman^{2,3} | John McInerney III²

1. Also admitted in New York 2. Of Counsel 3. Also admitted in Massachusetts

San Francisco Office
One Bush Street, Suite 600, San Francisco, CA 94104
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office
827 Broadway, Suite 205, Oakland, CA 94607
tel: 510-257-5589

www.reubenlaw.com

B. Background and Project Description

948-950 Lombard Street (Assessor's Block 0067, Lot 010) and 841 Chestnut Street (Assessor's Block 0067, Lot 017) (collectively, the **"Properties"**) are adjoining lots extending between Chestnut and Lombard Streets on the block bounded by Chestnut, Jones, Lombard and Leavenworth Streets in the Russian Hill neighborhood, as illustrated below:



950 Lombard Street is 9,480-sf lot containing a 1-story, 616-sf cottage with one dwelling unit. 841 Chestnut Street is a 6,255-sf lot containing a 2-story, 3,430-sf single-family dwelling. The combined site has been vacant for more than two (2) decades, and is currently in the middle of construction for extensive renovations, approved by Planning, that will result in the buildings being returned into use and residential occupancy.

C. Compliance with Conditional Use Findings

Approval of the Project is consistent with Planning Code Sections 303(c) and 209.1. Section 209.1 allows RH-1 zoned parcels to have one (1) dwelling unit per lot, or up to one (1) unit per 3,000 sf of lot area with a conditional use authorization. The combined lot area will be approx. 15,735 sf so that the placement (i.e. continuing existence) of the two existing units on the merged lot is well in compliance with the applicable dwelling unit density. Moreover, the proposed lot merger satisfies Section 303 criteria by being necessary or desirable for, and compatible with the neighborhood, as follows:

San Francisco Office
One Bush Street, Suite 600, San Francisco, CA 94104
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office
827 Broadway, Suite 205, Oakland, CA 94607
tel: 510-257-5589

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REUBEN, JUNIUS & ROSE, LLP

1. Desirability and Compatibility of Project. Pursuant to Planning Code section 303(c)(1) the lot merger proposal must demonstrate “*That the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.*”

The Project will result in two (existing) dwelling units on a 15,375-sf lot. This is necessary and desirable because it will maintain two units on the site while formalizing property access rights. Due to the steep, hilly topography of this area, the primary building at 841 Chestnut Street does not have direct vehicular access from its frontage on Chestnut Street, and instead has historically utilized a portion of the 950 Lombard Street property to provide ingress and egress from Lombard Street. In the early 2000’s, the prior owner of the Properties had proposed construction of an extensive tunnel along the Chestnut Street façade that would have provided direct access to the 841 Chestnut property (from Chestnut Street), however, such extensive excavation was deemed to be neither desirable nor technically very feasible.

Providing two dwelling units on the single (merged) lot is both necessary and desirable because it will maintain the status quo and promote a residential density consistent with the historical use of the Properties and character of the neighborhood. The Properties each currently contain a single dwelling unit, contributing to the City’s housing stock. It would be undesirable to lose one of these units (and thus available housing) as a result of the merger. Further, once merged, the Properties will create a single 15,735-sf lot. Other lots on the same block face range in size from 888 sf to 10,310 sf, with each typically containing a single dwelling unit. Allowing two units to remain on the larger merged lot would be consistent with the existing density, development scale, and character of the neighborhood, and well in compliance with the Section 209.1 controls allowing up to one unit per 3,000 sf of lot area (i.e. up to 5 units on the combined site).

2. Effect of Project on Health, Safety, Convenience or General Welfare. Under Section 303(c)(2) the proposal must also demonstrate “*That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:*”

- (a) *The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of the structure.*

Due to the steep, hilly topography of this area, 841 Chestnut Street has no direct vehicular access from Chestnut Street, and instead has historically utilized a portion of the 950 Lombard Street property to provide ingress and egress from Lombard Street. The Project will

San Francisco Office
One Bush Street, Suite 600, San Francisco, CA 94104
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office
827 Broadway, Suite 205, Oakland, CA 94607
tel: 510-257-5589

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merge the two properties into a single lot with direct access from Lombard Street to both units eliminating the undesirable condition of having one legal lot dependent upon another for its sole access. In this case, the “primary” unit has always been the 841 Chestnut building, which has been reliant on access on the other lot containing a much smaller, “secondary” cottage unit. As the Project will maintain the status quo of property access for these parcels, it will not result in any detriment to the public health, safety, convenience, or welfare.

- (b) *The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading and of proposed alternatives to off-street parking, including provisions of car-share parking spaces, as defined in Section 166 of this Code.*

The pending renovation of the site and buildings will maintain off street parking for the existing dwelling units and does not propose to expand residential use in a manner that would significantly alter accessibility and traffic patterns for persons and vehicles to the area.

- (c) *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor.*

The Project consists of the merger of the Properties, each containing one dwelling unit, into a single lot containing two dwelling units in a neighborhood characterized by similar residential use. It is not expected to generate any noxious or offensive emissions, noise, glare, dust or odors.

- (d) *Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs.*

The Projects consists of the merger of the Properties into a single larger parcel. The currently pending alteration of the existing buildings and the site incorporates landscaping, screening, provision of open space, parking areas, and lighting as required by the Planning Code and appropriate for the neighborhood. The lot merger is consistent with approved site improvements, and a disapproval of the merger would result in an undesirable layout.

3. Compliance with the General Plan.

Planning Code Section 303(c)(3) requires that facts be established that demonstrate that such use or feature as proposed will comply with the applicable provisions of this code and will not adversely affect the General Plan.

San Francisco Office
One Bush Street, Suite 600, San Francisco, CA 94104
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office
827 Broadway, Suite 205, Oakland, CA 94607
tel: 510-257-5589

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The Project will affirmatively promote, is consistent with, and will not adversely affect the General Plan, including specifically the Housing and Urban Design Elements of the General Plan:

Housing Element

Objective 1 Identify and make available for development adequate sites to meet the City's Housing Needs, especially permanently affordable housing.

Policy 1.1 Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

The Project will allow two existing dwelling units of varied size to remain on a single 15,735-sf lot. These units will (continue to) contribute to the City's housing stock while maintaining a residential density and existing improvements which are appropriate for the neighborhood.

Objective 2 Retain existing housing units, and promote safety and maintenance standards, without jeopardizing affordability.

The Project would promote this policy by allowing retention of two existing dwelling units on the merged Properties.

Objective 4 Foster a housing stock that meets the needs of all residents across lifecycles.

The Project will promote this policy by maintaining two dwelling units of varied sizes on the merged parcel.

Urban Design Element

Objective 1 Emphasis of the characteristic pattern which gives to the City and its neighborhoods and image, a sense of purpose, and a means of orientation.

The Project proposes to allow for use of the merged Properties that is consistent with the existing residential character and density of the Russian Hill neighborhood, as well as the actual and historic use of the site as a single parcel despite the fact that the site is made of two parcels.

Objective 4 Improvement of the neighborhood environment to increase personal safety, comfort, pride and opportunity.

San Francisco Office
One Bush Street, Suite 600, San Francisco, CA 94104
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office
827 Broadway, Suite 205, Oakland, CA 94607
tel: 510-257-5589

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The Project will merge two lots, allowing for the existing access to both dwelling units from a single access point along Lombard Street. This will increase pedestrian safety and comfort by minimizing vehicular access along Chestnut Street in this steep, hilly area.

D. Prior History

The existing buildings at the site have been vacant since approx. 1992. The current owner purchased the site in 2012 with the intent of renovating the buildings so that they could be returned back to residential occupancy. The site has a lengthy and complicated permit history, in part by prior owner. Neither the prior permitting history nor the pending renovations are before the Planning Commission on August 31st. All of the pending work is being completed pursuant to plans and permits that have already been approved by Planning Department (and/or DBI), in part, pursuant to a Settlement Agreement between the City and the Owner, whereby the parties fully settled any and all disputes without any admission, allocation or inference of fault, guilt or wrongdoing by either party.

E. Conclusion

Overall, the proposed lot merger is more of a technical amendment that will result in the parcel configuration to be more in line with actual physical conditions, which have consistently and historically consisted of two units on a site that has always been utilized as a single site under same ownership. For the reasons set forth herein, we urge the Commission to approve the Conditional Use Authorization allowing the merger of the two existing lots.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP



Tuija I. Catalano

San Francisco Office
One Bush Street, Suite 600, San Francisco, CA 94104
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office
827 Broadway, Suite 205, Oakland, CA 94607
tel: 510-257-5589

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REUBEN, JUNIUS & ROSE, LLP

President Hillis
Planning Commission
August 21, 2017
Page 7

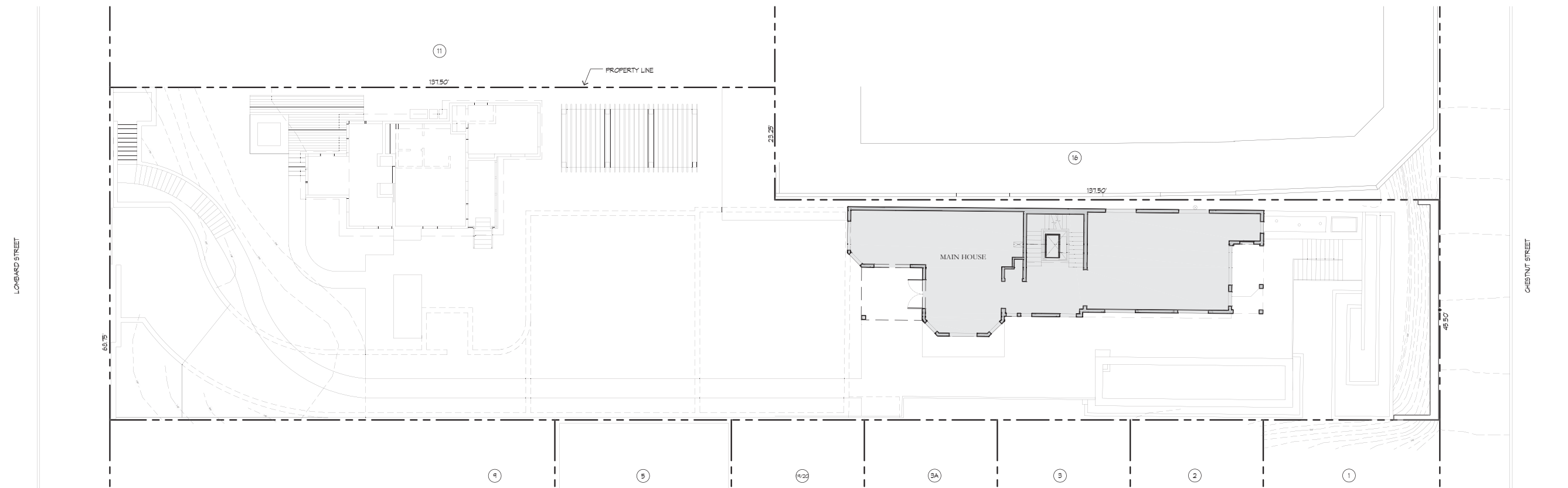
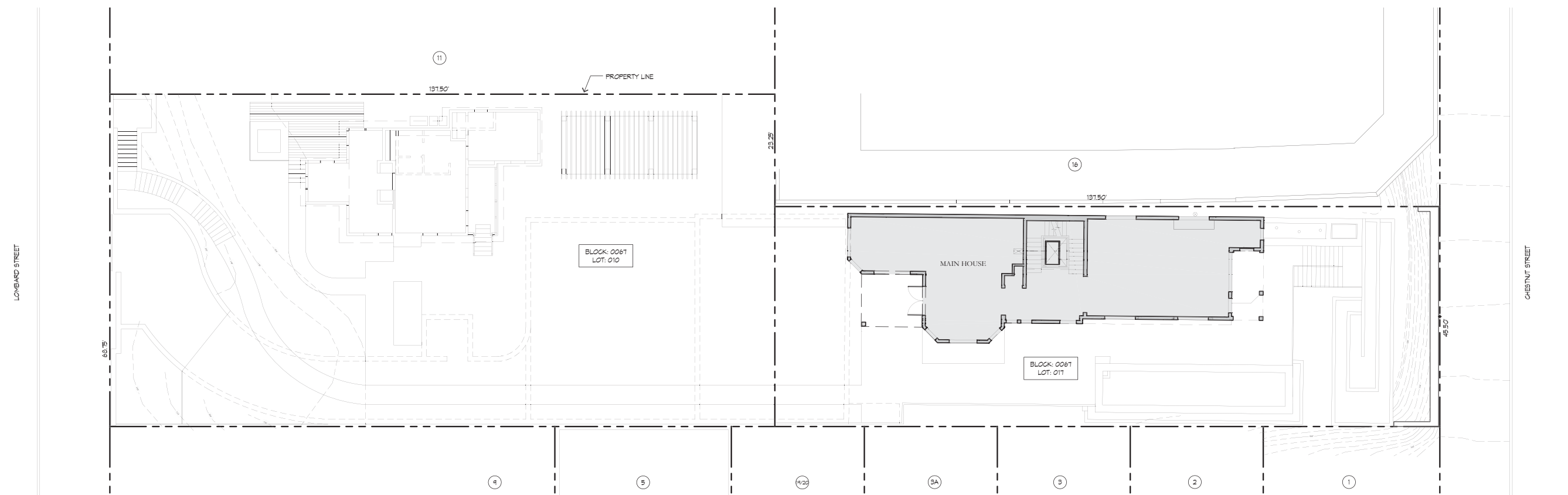
cc: Vice President Dennis Richards
Commissioner Rodney Fong
Commissioner Christine Johnson
Commissioner Joel Koppel
Commissioner Myrna Melgar
Commissioner Katherin Moore
John Rahaim – Planning Director
Scott Sanchez – Zoning Administrator
Jonas Ionin – Commission Secretary
Nicholas Foster – Project Planner

San Francisco Office
One Bush Street, Suite 600, San Francisco, CA 94104
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office
827 Broadway, Suite 205, Oakland, CA 94607
tel: 510-257-5589

www.reubenlaw.com

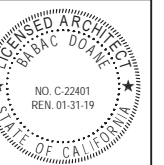
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KL

Ken Linsteadt
ARCHITECTS

412 Van Ness Avenue
San Francisco, CA 94109
415.351.1018
415.351.1019



drawings and copies thereof are instruments of service and as such remain the property of the Architect. They are to be used only with respect to this project. With the exception of one complete set for each party to the contract, all copies are to be returned or suitably accounted for to the Architect upon completion of the bidding and upon completion of the project.

841 CHESTNUT STREET
CANTON, MASSACHUSETTS 01906

COLLEGE OF EDUCATION

LOCK-LOT: 0067-017

DRAWN BY: S.M.B.
DATE: ISSUE:
8.31.17 LOT MERGER

EXISTING AND PROPOSED SITE PLANS

A1.00



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 19987

HEARING DATE: AUGUST 31, 2017

Case No.: **2017-002430CUA**
Project Addresses: **948-950 Lombard Street &
841 Chestnut Street**
Zoning: **RH-1 (Residential, House: One-Family) District
40-X Height and Bulk District**
Block/Lot: **0067/010 and 017**
Project Sponsor: **Tuija Catalano
One Bush Street, Suite 600
Reuben, Junius & Rose, LLP
San Francisco, CA 94104**
Staff Contact: **Nicholas Foster – (415) 575-9167
nicholas.foster@sfgov.org**

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 207, 209.1, AND 303 OF THE PLANNING CODE TO ALLOW TWO DWELLING UNITS ON A SINGLE LOT WITHIN THE RH-1 (RESIDENTIAL, HOUSE ONE-FAMILY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On February 28, 2017, Tuija Catalano of Reuben, Junius & Rose, LLP, on behalf of Eight Forty One, LLC ("Project Sponsor"), submitted an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 207, 209.1, and 303 to allow two Dwelling Units on a single lot within the RH-1 Zoning District and 40-X Height and Bulk District.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 5 categorical exemption (minor alterations in land use limitations (CEQA Guidelines, Section 15305)).

On August 31, 2017 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2017-002430CUA.

The Commission voted (+2/-4) on a motion of intent to disapprove the Project; that motion failed.

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2017-002430CUA, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site is comprised of two adjoining lots on the block bounded by Lombard Street to the South, Chestnut Street to the north, Jones Street to the east, and Leavenworth to the west. The Project Site is located within the RH-1 Zoning District and 40-X Height and Bulk District. 950 Lombard Street (Lot 10) is 9,480-sf lot containing a 1-story, 616-sf cottage with one Dwelling Unit. Lot 10 contains approximately 69 feet of frontage along Lombard Street. 841 Chestnut Street (Lot 17) is a 6,255-sf lot containing a 2-story, 3,430-sf single-family dwelling. Lot 17 contains approximately 46 feet of frontage along Chestnut Street. The two parcels were historically one lot. Both lots are developed on steeply topography, making ingress and egress to both lots challenging, especially for the 841 Chestnut Street (Lot 17) site.
3. **Surrounding Properties and Neighborhood.** The Project Site is located within the Russian Hill neighborhood, located one block east of the "crooked portion" of Lombard Street, a popular tourist destination. The neighborhood consists of primarily residential uses, ranging from one- to two-stories in height within the small patch of the RH-1 Zoning District, and three- to five-stories in height within the adjacent higher density zoning districts (e.g. RH-2, RH-3, and RM-2).
4. **Project Description.** The proposed Project would merge Lots 10 and 17 of Assessor's Block 0067 through a Lot Line Adjustment, creating a single, 15, 735 square foot lot. Lot 10 (948-950 Lombard Street) is developed with one small cottage, while Lot 17 (841 Chestnut Street) is developed with a 3-bedroom, single family home. Within the RH-1 Zoning District, up to one Dwelling Unit per 3,000 square feet of lot area is permitted with benefit of Conditional Use Authorization. Each of the existing lots contains one Dwelling Unit, and the Project would create a single parcel containing two Dwelling Units. All building permits for both interior and exterior improvements at both properties were previously approved to comply with Department of Building Inspection (DBI) Notice of Violations and Planning Department Enforcement Cases Nos. 2016-008722ENF (Lot 10) and 2016-014995ENF (Lot 17).
5. **Project History.** The original proposed project under Case No. 2002.0929E involved the relocation of the rear dwelling ("cottage") unit at 950 Lombard Street; excavation and construction of a new garage into the hillside on the Chestnut Street frontage; and removal of the

non-historic addition and minor alterations on the south elevation of the house. Under this permit the property was effectively treated as a single parcel.

The project at 841 Chestnut Street was later revised under Case No. 2009.0801, proposing to construct the same sub-grade garage and elevator shaft on the Chestnut Street frontage; replace the brick foundation; remove the existing non-historic addition to the south; and construct a new rear horizontal addition. Under this review, the historic cottage was proposed to remain in place. This work was permitted under Building Permit Application No. 2002.05.23.7379, which, was approved by the Planning Department on March 9, 2011, and issued by the Department of Building Inspection on October 11, 2011. Building Permit Application No. 2011.11.04.8277 was filed and approved on November 4, 2011, to correct the record and validate the approved permit at both legal properties.

Three building permits were filed between June 2013 and August 2015 to allow the excavation and construction of a driveway at the east side of 950 Lombard Street (Building Permit Application No. 2013.06.25.0415) with a three-car underground garage (Building Permit Application No. 2014.07.10.0957) and a below grade sports court (Building Permit Application No. 2015.08.14.4356) at 841 Chestnut Street.

On February 12, 2014, the project scope at 841 Chestnut Street was revised under Building Permit Application No. 2014.02.05.7897 to "retain the north, east, and west facades"; complete an extensive interior renovation; relocate the below-grade garage and entrance; and expand the proposed basement from 1,114 square feet to 3,495 square feet.

On March 25, 2015, the Project Sponsor filed for a Lot Line Adjustment of lots 10 and 17. Planning Department Staff approved the merger of the subject lots (Lots 10 and 17) on April 22, 2015 based upon incomplete information contained within the Department of Building Inspection (DBI) Report of Residential Building Record ("3-R Report"). A Conditional Use Authorization application for the merger was submitted on February 28, 2017.

On April 21, 2016, a complaint was filed on the property regarding work beyond scope of permit. On May 19, 2016, DBI issued a Notice of Violation in response to the concern regarding exceeding the permitted scope of demolition at the site. On June 9, 2016, Building Permit Application No. 2016.06.09.9584 was issued with an engineer's notice and no plans; the scope of work reads: "remove additional dryrotted (sic.) & compromised framing necessary to execute approved plans. No changes to approved design proposed." On June 15, 2016, Building Permit Application No. 2016.06.15.9992 was submitted with one sheet of plans illustrating the full removal of all historic material including floor plates and framing. The plans were approved by DBI without Planning Department review or approval. All plans stated, erroneously, "No changes to approved design." At the time all plans were submitted, the property had been effectively demolished; all permits were filed to correct the record.

On July 6, 2016, a complaint was filed with the Planning Department (Case No. 2016-008722ENF) citing the possible demolition of a historic resource without Planning Department approval. Planning Department Staff conducted a site visit on November 8, 2016, where it was determined that the building was composed of all new framing and sheathing. On December 30, 2016, a revised set of plans were provided via email to the Department clarifying the completed scope of

demolition. A formal set of the subject Building Permit Application (Building Permit Application No. 2017.01.26.8001) was filed on January 26, 2017.

On June 7, 2017, the Project Sponsor and the City Attorney's Office, on behalf of the Planning Department, filed a settlement agreement to abate the violation for the unpermitted demolition of the historic resource at 841 Chestnut Street. Per the filed documents, the City settled for a civil penalty of \$400,000 with a stipulated injunction requiring that all future permits be reviewed by the Planning Department and that the Project Sponsor shall not exceed the scope of any approved permit at either property. On June 8, 2017, the Zoning Administrator issued an Action Memo legalizing the demolition of the single family dwelling at 841 Chestnut Street, as the property was demonstrably unaffordable per Section 317(d)(3) of the Planning Code, and the associated permit (Building Permit Application No. 2017.01.26.8001) was approved by Planning Staff on June 8, 2017.

6. **Public Comment.** To date, the Department has received no public comment on the proposed Project.
7. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

A. **Use (Sections 102, 209.1).** The Project Site is located within the RH-1 (Residential, House: One-Family) Zoning District wherein Residential Use is a principally permitted use.
The Project involves a lot merger, which, would result in two, existing Dwelling Units on a single lot. Residential uses are principally permitted within the RH-1 Zoning District, and the Project would maintain residential density, scale, and character consistent with that of the neighborhood. Therefore, the Project is in compliance with Code Section 209.1

B. **Residential Density (Sections 207, 209.1).** The Project Site is located within the North Beach Neighborhood Commercial (NCD) Zoning District wherein Medical Service Use is a principally permitted use.
Within the RH 1 Zoning District, residential density is limited to one Dwelling Unit per lot. With Conditional Use Authorization, residential density in the RH-1 Zoning District may be increased to one Dwelling Unit per 3,000 square feet of lot area, with no more than three units per lot. The Project involves a lot merger of Lots 10 and 17 within Accessor's Block 0067. The combined lot area of Lots 10 and 17 is 15,735 sf, which, would allow for up to three Dwelling Units with benefit of Conditional Use Authorization. With benefit of a lot merger (Lot Line Adjustment), the two, existing Dwelling Units would be contained on a single lot. Therefore, the Project is in compliance with Code Section 207 and 209.1.

C. **Parking (Section 151, 151.1).** Planning Code does not require off-street parking for projects located within the North Beach Neighborhood Commercial (NCD) Zoning District.
The Project Site does not contain any existing off-street parking, due to the steep topographical conditions impacting the Property. The Project would add a Code-complaint curb cut along the

Lombard Street frontage, and three (3) off-street parking spaces would be created on the newly-created, single lot. Code Section 151 requires off-street parking at a ratio of 1 space per 1 Dwelling Unit. Pursuant to Code Section 151.1, 1 off-street accessory parking is permitted for two Dwelling Units. The Project proposes three off-street parking spaces where three are permitted by Code. Therefore, the Project is in compliance with Code Sections 151 and 151.1.

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

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

The Project involves a lot merger of two lots, creating a single 15,375 sf lot containing two, existing Dwelling Units. The Project will allow the Property Owners to formalize property access for the two Dwelling Units. Due to the steep topographical conditions present at the Project Site, the 841 Chestnut Street property (Lot 17) has no direct pedestrian or vehicular access from its Chestnut Street frontage and has, instead, historically utilized a portion of the adjacent property (Lot 10) to provide ingress and egress from Lombard Street.

Providing two Dwelling Units on the single, merged lot is both necessary and desirable because it retains the two, existing residential structures, thereby maintaining residential density consistent with the historical use of the Properties and character of the neighborhood. Each of the lots (Lots 10 and 17) contain a single Dwelling Unit, and the rehabilitation of both structures would contribute to the City's housing stock. Other lots on the same block face range in size from 888 sf to 10,310 sf, with each lot typically containing a single Dwelling Unit. Permitting two Dwelling Units to remain on the larger, merged lot would be consistent with the existing density, development scale, and character of the neighborhood.

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

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

The Project would merge two lots into a single lot and would restore residential uses at the Project Site in a manner consistent with the residential density, scale, and character of the neighborhood.

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

The Project would merge two lots into a single lot with direct pedestrian and vehicular access from Lombard Street, eliminating the undesirable condition of Lot 17 (841 Chestnut Street) depending upon Lot 10 (948-950 Lombard Street) for primary ingress/egress. A single, shared driveway

would reduce the number of curbcuts to one where two would otherwise be permitted by Code. The reduction of curb cuts is a more pedestrian friendly alternative for those residing in the area.

The Project will provide off-street parking for the two Dwelling Units up to the amount allowed by Code. The Project restores residential uses at the Project Site in a manner that would not significantly alter accessibility and traffic patterns for persons and vehicles to the area.

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

The Project restores residential uses at the Project Site at the same scale as existing conditions and is therefore not anticipated to produce noxious or offensive emissions related to noise, glare, dust and odor.

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

The Project consists of the merger of the Properties into a single lot. The currently pending alteration of the existing buildings and the Project Site incorporates landscaping, screening, provision of open space, parking areas, and lighting as required by the Code and appropriate for the neighborhood.

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

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Zoning District.

The proposed Project is consistent with the stated purpose of the RH-1 (Residential, House: Single-Family) Zoning District, which, allows for residential density up to 3 Dwelling Units per lot with benefit of Conditional Use Authorization.

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

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1:

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1:

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

The Project would include the full rehabilitation of two, existing Dwelling Units located on separate lots. The Project would merge the lots into a single lot, with no impact on the existing Dwelling Units.

OBJECTIVE 2:

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

Policy 2.4:

Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

The Project proposes the merger of two adjacent lots, while maintaining the two, existing residential structures. The existing residential structures are consistent with the existing residential character and density of the Russian Hill neighborhood.

OBJECTIVE 4:

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.1:

Develop new housing, and encourage the remodeling of existing housing, for families with children.

The Project would include the full rehabilitation of two, existing Dwelling Units located on separate lots.

OBJECTIVE 11:

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

Policy 11.1:

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

The Project would include the full rehabilitation of two, existing Dwelling Units located on separate lots. The existing residential structures are consistent with the existing residential character and density of the Russian Hill neighborhood.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

Recognize and protect major views in the city, with particular attention to those of open space and water.

Policy 1.2:

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

The Project would include the full rehabilitation of two, existing Dwelling Units located on separate lots. The Project would preserve views and useable open space at the Project Site.

OBJECTIVE 4:

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.14:

Remove and obscure distracting and cluttering elements.

Policy 4.15:

Protect the livability and character of residential properties from the intrusion of incompatible new buildings.

The Project would include the full rehabilitation of two, existing Dwelling Units located on separate lots. The Project would add off-street parking that is screened and out of view from the public right-of-way, thereby eliminating distracting elements from the Project Site.

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

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

No neighborhood-serving retail use would be displaced by the Project.

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

The Project would maintain two dwelling units on merged Properties which have traditionally contained a total of two Dwelling Units. This would retain existing housing and preserve the neighborhood's residential character.

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

The Project does not propose the elimination of any Dwelling Units. While previous building permit activity on the 841 Chestnut Street property (Lot 17) effectively demolished the existing residential structure, the Project proposes the full rehabilitation of both residential structures on Lots 10 and 17, with benefit of permit, thereby preserving and enhancing the two, existing Dwelling Units.

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

The proposed Project will include three off-street parking spaces, thereby helping to reduce demand for on-street parking by current and future residents. Therefore, the Project will not significantly increase the amount of automobile traffic, overburden neighborhood parking, or impede MUNI transit service.

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

The Project will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities.

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

The proposed Project calls for interior and exterior tenant improvements with no change to the envelopes of the two, existing residential structures. This proposal will not impact the Property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The existing residential structure located at 841 Chestnut Street (Lot 17) was deemed historically significant under Criterion 3 (Architecture). The effective demolition of a historically significant structure, and its subsequent reconstruction, was not submitted to the Planning Department for CEQA review per standard procedure. Due to the loss of the historic residence, it should be noted that the completed residence shall not be considered to be historically significant nor is it a successful interpretation of the demolished Willis Polk Residence (Lot 17). However, the cottage on the 948-950 Lombard Street property (Lot 10), which was constructed immediately after the 1906 earthquake, remains intact and appears to be eligible for listing as the remaining significant feature of the historic property. Therefore, upon complete of the Lot Line Adjustment, the single lot shall remain listed as historically significant for future Planning review.

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

The project will have no negative impact on existing parks and open spaces.

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

DECISION

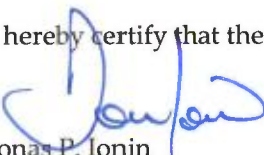
That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2017-002430CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated January 23, 2017, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 19987. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on August 31, 2017.


Jonas P. Ionin
Commission Secretary

AYES: Fong, Hillis, Koppel, Melgar

NAYS: Moore, Richards

ABSENT: Johnson

ADOPTED: August 31, 2017

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a second Dwelling Unit on a single lot within a RH-1 Zoning District located at 948-950 Lombard Street, Lot 010 in Assessor's Block 0067, pursuant to Planning Code Sections 207, 209.1, and 303, within the RH-1 Zoning District and a 40-X Height and Bulk District; in general conformance with plans, dated January 23, 2017, and stamped "EXHIBIT B" included in the docket for Case No. 2017-002430CUA and subject to conditions of approval reviewed and approved by the Commission on August 31, 2017 under Motion No. 19987. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on August 31, 2017 under Motion No. 19987.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19987 shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting PERFORMANCE

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

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

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

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

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

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

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

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

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

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

DESIGN – COMPLIANCE AT PLAN STAGE

6. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

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

7. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

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

8. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

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

9. **Noise.** Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.

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

10. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.

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

PARKING AND TRAFFIC

11. **Bicycle Parking.** Pursuant to Planning Code Sections 155, 155.1, and 155.2, the Project shall provide no fewer than 2 bicycle parking spaces (2 Class 1 spaces for the residential portion of the Project).

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

12. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than **three (3)** off-street parking spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
13. **Parking Requirement.** Pursuant to Planning Code Section 151, the Project shall provide at least **two (2)** independently accessible off-street parking spaces.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
14. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

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

OPERATION

17. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

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

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

19. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org

For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-0123, www.sf-police.org

20. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.

For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

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

22. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

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

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**NOTICE TO BOARD OF SUPERVISORS OF APPEAL
FROM ACTION OF THE CITY PLANNING COMMISSION**

V:\Clerk's Office\Appeals Information\Condition Use Appeal Process5
August 2011

Statement of Appeal:

a) Set forth the part(s) of the decision the appeal is taken from:

b) Set forth the reasons in support of your appeal:

See attached

Person to Whom
Notices Shall Be Mailed

Kathleen Courtney
Chair, Housing & Zoning Committee
Russian Hill Community Association

Name

1158 Green Street San Francisco CA 94109

Address

510-928-8243

Telephone Number

Name and Address of Person Filing Appeal:

Kathleen Courtney
Chair, Housing & Zoning Committee
for Russian Hill Community Association

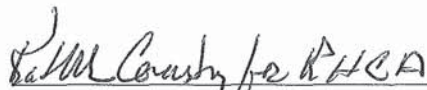
Name

1158 Green Street San Francisco CA 94109

Address

510-928-8243

Telephone Number



Signature of Appellant or
Authorized Agent

Pursuant to Planning Code Section 308.1(b), the undersigned members of the Board of Supervisors believe that there is sufficient public interest and concern to warrant an appeal of the Planning Commission on Case No. 2017-002430CUA, a conditional use authorization regarding (address) 948-950 Lombard Street & 841 Chestnut Street, District 2. The undersigned members respectfully request the Clerk of the Board to calendar this item at the soonest possible date.

SIGNATURE

DATE

Alan Shi
Sanam W. Fur
Kelly Roush
Wm. Lee

10/2/17
10/2/17
10/2/17
10/2/17
10-2-17

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2017 OCT -2 PM 3:46
BY RL

(Attach copy of Planning Commission's Decision)

Russian Hill Community Association
STATEMENT OF APPEAL

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 OCT -2 PM 3:47

Date: September 29, 2017

BY BA

To: Board President London Breed and
Members of the Board of Supervisors
c/o Ms. Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: Appeal of Conditional Use Authorization
841 Chestnut St. and 948-950 Lombard St.
Planning Commission Motion No. 19987 (Case No. 2017-002430CUA)

Pursuant to the provisions of Section 308.1 of the Planning Code, the Russian Hill Community Association (RHCA) ("Appellant") appeals the Conditional Use Authorization (CUA) approved by the Planning Commission at its meeting of August 31, 2017, for a lot merger for above project. RHCA is appealing the CUA because, by legalizing work done without a permit and, in particular, setting the price of the demolition of the Willis Polk home -- a significant San Francisco historic resource -- at \$400,000, the San Francisco Planning Department has set a dangerous and destructive precedent.

When approving the CUA, the Commission should have looked at the whole of the project, not just the lot merger. In this case the Commission failed to consider the permitting history of this project, which involved violations of the Planning and Building Codes and a massive failure of the planning process that resulted in the unpermitted demolition of the historic residence at 841 Chestnut St. (AKA 948 Lombard Street).

This shingle style structure was one of San Francisco's most historic residential structures and represented a rare example of the work of Willis Polk, an internationally renowned architect. As set forth in the Planning Department's Historical Report Response Memo dated June 19, 2017 on page 1 (**Attached**), the Department staff had determined that this building was "*historically significant under Criterion 3 (Architecture) as a notable work by a master architect, Willis Polk, while he served as head of the San Francisco office of D.H. Burnham & Co. The property was exemplary of the First Bay Tradition architectural style, and one of two known examples of Polk's 'rustic city house' designs in San Francisco, also demonstrated at 1013 Vallejo, where the architect resided in the late 19th century.*"

Then, based on the project sponsor's 2009 architectural plans, the Department determined that the project as proposed was exempt from environmental review finding that it would not cause a substantial adverse change in the significance of this historical resource and would not alter the original distinguishing qualities of the residence including its form, materials, fenestration and stylistic elements.

The Project History outlined in the Executive Summary dated August 14, 2017

[Attached] and summarized below, shows that without Planning Department review the Department of Building Inspection (DBI) approved numerous permits for demolition and removal of historic material. This lack of coordination between DBI and the Planning Department allowed a developer to flout the system for financial gain.

When it was clear that a complete demolition of the historic building had already occurred in violation of the approved plans and scope of work, the City Attorney, on behalf of the Planning Department, agreed to abate the project sponsor's violations for the unpermitted demolition of this historic resource pursuant to a Settlement Agreement dated June 7, 2017, by which the City settled for a civil penalty of \$400,000 with a stipulated injunction requiring that all further permits be reviewed by the Planning Department and that the project sponsor shall not exceed the scope of any approved permits.¹ And a day later, the Zoning Administrator issued an "Action Memo" legalizing the demolition of the historic building at 841 Chestnut Street finding that the property was demonstrably unaffordable per Section 317 of the Planning Code.

As stated in the attached June 19, 2017 Planning Department Memo on page 7: *"Had the Department been given the opportunity to adequately review the cumulative and substantial changes to the overall project scope, including alterations to the residence and excavation, prior to the commencement and near completion of the project, it is likely that a full Environmental Impact Report would have been required."*

This case sets a dangerous precedent that demolition of our City's historic resources is for sale and that violations of the Planning and Building Codes can be "legalized" by a developer in return for the payment of money.

Project History

The following sets forth a brief summary of the project's permitting history as outlined in the attached Planning Department Executive Summary that was submitted to the Planning Commission in connection with the subject Conditional Use. Although it identifies 12 separate applications/permits, more are listed on DBI's database. In addition to the litany of errors, omissions, oversights and lack of coordination between DBI and Planning illustrated by the project history, it is significant to note that plans were filed and approved by DBI without Planning Department review for demolition work that had already occurred.

- The original project was filed under Case No. 2002.0929E. Following Planning Department review and determination that the building was historic, the project was revised under Case No. 2009.0801 keeping the historic building in place and retaining its historic features. This scope was determined to be exempt from environmental review.

¹ This settlement raises several questions that should be addressed: Why don't all permits, especially those for historic resources, have to be reviewed by the Planning Department before they are issued? What is the \$400,000 civil penalty going to be used for?

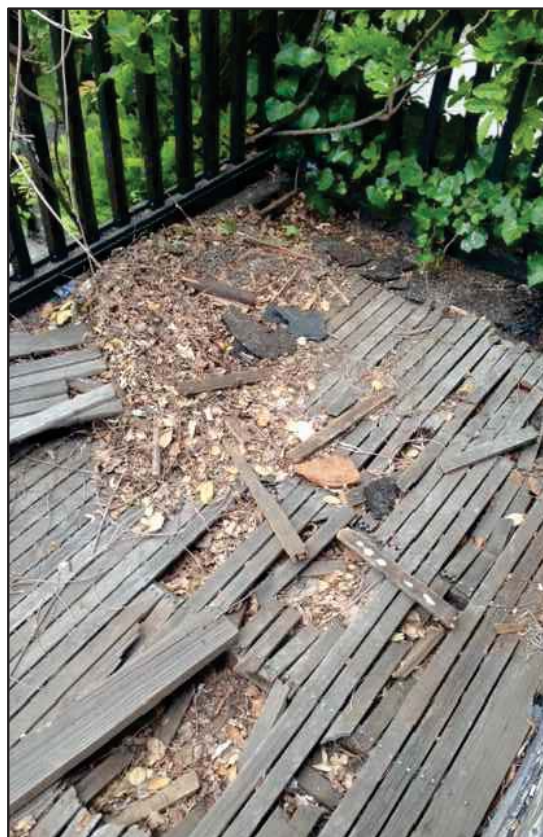
- This work was permitted under Building Permit Application (BPA) 2002.05.23.7379, which was approved by the Planning Department on March 9, 2011, and issued by the Department of Building Inspection on October 11, 2011.
- On February 12, 2014, the project scope was revised under BPA 2014.02.05.7897 to “retain the north, east, and west facades;” complete an extensive interior renovation; relocate the below-grade garage and entrance; and expand the proposed basement. The structural permit issued by DBI for this proposal was inconsistent with the approved plans and the site permit, noting that all framing would be new.
- On May 15, 2015, the Planning Department approved the merger of the subject lots (Lots 10 and 17) in error based upon incomplete information in DBI’s Report of Residential Building Record (3-R Report).
- On April 22, 2015, DBI issued a Notice of Violation (NOV) citing that the extensive excavation would require a shoring permit. In response, a permit application was submitted to DBI to address the shoring plans and BPA 2015.07.23.2229 was issued without Planning Department review to show removal of all interior walls as “a clarification of extent of demolition” from the previously approved plans.
- Three additional complaints were filed with DBI in October 2015 regarding rockslides, compromised excavation work, life safety and trespassing.
- On April 21, 2016, an additional complaint was filed with DBI on the property regarding work beyond the scope of permit and on May 19, 2016, DBI issued a NOV in response to the concerns.
- On June 9, 2016, DBI released the NOV and issued BPA 2016.06.09.9584 with an engineer’s notice and no plans; the scope of work on the permit reads: “remove additional dryrotted (sic.) & compromised framing necessary to execute approved plans. No changes to approved design proposed.”
- On June 15, 2016, BPA 2016.06.15.9992 was submitted with one sheet of plans illustrating the full removal of all historic material. The plans were approved by DBI without Planning Department review or approval.
- At the time all plans were submitted to DBI, the property had been effectively demolished. All permits were filed to correct the record.
- On July 6, 2016, a complaint was filed with the Planning Department citing the possible demolition of a historic resource without Planning Department approval. The Planning Department conducted a site visit on November 8, 2016, four months after the complaint was filed, where it was determined that the building was composed of all new framing and sheathing.

- On December 30, 2016, a revised set of plans was provided via email to the Planning Department clarifying the completed scope of demolition that had already occurred. A building permit application for the demolition was filed with DBI on January 26, 2017. At that time it was determined that the project sponsor had exceeded the scope of work approved by Planning at the site, as well as the approved scope of work reviewed under the CEQA.

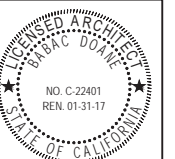
We respectfully ask the Board of Supervisors to review this case and disapprove the CUA approving the merger of the two lots. By legalizing work done without a permit and setting a price tag for the demolition of significant San Francisco historic resources, the Planning Department has set a dangerous and destructive precedent.

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Attachment II: Materials Related to Previous Project



KL
Ken Linsteadt
ARCHITECTS
415-351-1018
415-351-1019
462 Pine Street
San Francisco, CA 94109



All drawings and copies thereof are instruments of service and as such remain the property of the Architect. They are to be used only with respect to this project. With the exception of one complete set for each party to the contract, all copies are to be returned or suitably accounted for to the Architect upon completion of the bidding and upon completion of the project.

DRAWN BY:

DATE:	ISSUE:
12.22.16	PERMIT

SOUNDNESS REPORT

A0.10

CENTRAL PERMIT BUREAU
1600 Mission Street
San Francisco, California 94103

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION
(415)558-6088

Recept No: 1947438
Application/Permit No: 201606159992

PERMIT IS GRANTED TO

☐ DIRECT
☒ ALTER BUILDING
☐ ERECT SIGN
☐ ERECT SIGN

☐ DEMOLISH BUILDING
☐ GRADE

☐ LOWER CURB
☐ OCCUPY STREET SPACE

☐ EXCAVATE STREET OR SIDEWALK
☐ POST NOTICE

☐ HOUSE NUMBER CERTIFICATE
☐ REPAIR OR CONSTRUCT SIDEWALK

DATE OF ISSUE 15-JUN-16
FILING FEE RECEIPT #

* ADDITIONAL INFORMATION REGARDING SPECIFIC PERMITS IS OBTAIN ON THE BACK OF THIS FORM.

SUPPLEMENTAL FEE PAGE

☐ FINAL PLAN CHECK
☐ EXPORTER FEE
☐ PENALTY

☐ STRUCTURAL LTR
☐ DCP FEE
☐

EIGHT FORTY ONE LLC (415)692-6501

OWNER OF JOB: STREET ADDRESS:

841 CHESTNUT ST 0067017

METER AND RECORDS

3 5 B 8-3

LARGE REWORKS

BUILDING USE 1 FAMILY DWELLING ESTIMATED COST \$ 1.00

DEVELOPER'S FEE: \$ FT. SIDEWALK: \$ FT. CURB SECT. TO BE LOWENED:

FURNISH METERS WITH FEE: FURNISH WATER DATES:

WORKING MUST COMPLY ON BUILDING WITHIN TIME PERIOD, UNLESS EXTENSION AUTHORIZED PRIOR TO EXPIRATION. IF UNDER ENFORCEMENT ORDINANCE, SPECIAL TIME PERIODS SPECIFIED IN NOTICE OF VIOLATION OR PERMIT OR OTHER WILL APPLY.

TIME FOR COMPLETION OF WORK UNDER THIS BUILDING PERMIT EXPIRES 360 Days AFTER DATE OF ISSUANCE. IF UNDER ENFORCEMENT ORDINANCE, SPECIAL TIME PERIODS WHERE SPECIFIED WILL APPLY.

EXPIRE STREET SINCE PERMIT EXPIRES ON COMPLETION OF WORK WHEN REVIEWED BY DIRECTOR OF PUBLIC WORKS, SEE BACK OF FORM FOR OTHER TIME LIMITS.

SURCHARGE 0.00
BIA SURCHARGE 75.00

SUBTOTAL OF FEES WITH APPLICABLE SURCHARGES \$234.93

FEE NUMBER 2034 UNION ST
SF CA 94123
CITY

PERMIT 1947438
APPROVAL
DATE
PROJECT DELTA


STROTT MOTION 0.50
TOTAL OTHER FEES 0.50
TOTAL \$ 235.43

SEPARATE PERMITS MUST BE OBTAINED FOR ELECTRICAL, PLUMBING OR OTHER RELATED WORK
(202.10/Rev. 1/2005)

City and County of San Francisco

DEPARTMENT OF BUILDING INSPECTION

JOB CARD



OFFICE HOURS: THE BUILDING INSPECTION IS OPEN DAILY, MONDAY THRU FRIDAY,
FROM 8:00 a.m. TO 5:00 p.m. DISTRICT BUILDING INSPECTORS KEEP OFFICE HOURS DAILY,
MONDAY THRU FRIDAY, FROM 8:00 a.m. TO 3:30 a.m. AND FROM 3:00 p.m. TO 4:50 p.m.

REQUESTS FOR INSPECTIONS ARE TAKEN 24 HOURS A DAY/DAYS A WEEK
BY CALLING (415) 575-6955

APPLICATION NO. 201606159992 ISSUED 6/15/16

JOB ADDRESS: 2411 Chestnut St. BLOCK: _____ LOT: _____

NATURE OF WORK: _____

WORK PERMITTED UNDER AUTHORITY OF JUN 10 2016 PERMIT NUMBER MUST BE COMPLETED
PRIOR TO EXPIRATION DATE OF _____

EXTENSION OF TIME TO COMPLETE WORK UNDER THIS BUILDING PERMIT NUMBER MAY BE GRANTED UPON
WRITTEN REQUEST PRIOR TO THE DATES NOTED ABOVE.

JUN 10 2017

For information on the Permit Process, Building Plans Review, Access Issues, etc., please see page 4 of this
JOB CARD for useful and appropriate telephone numbers.

*** ELECTRICAL & PLUMBING WORK MUST HAVE PERMITS SEPARATE FROM A BUILDING PERMIT ***

KEEP THIS CARD POSTED IN A CONSPICUOUS PLACE ON THE JOB SITE AT ALL TIMES.
PLANS AND PERMIT DOCUMENTS SHALL BE ON THE JOB SITE
AT ALL TIMES WHEN WORK IS IN PROGRESS.
AFTER COMPLETION OF WORK, RETAIN THIS CARD FOR YOUR RECORDS.

All drawings and copies thereof are instruments of service and as such remain the property of the Architect. They are to be used only with respect to this project. With the exception of one complete set for each party to the contract, all copies are to be returned or suitably accounted for to the Architect upon completion of the bidding and upon completion of the project.

[illegible]

SOUNDNESS REPORT

A0.11

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

P:\841 Chestnut\00-Drawings\00-00-Drawing Record Set\1\XXXXX CH Combo Permit Set\A1.00 CH - SITE PLAN.dwg Dec 22, 2016-17:19

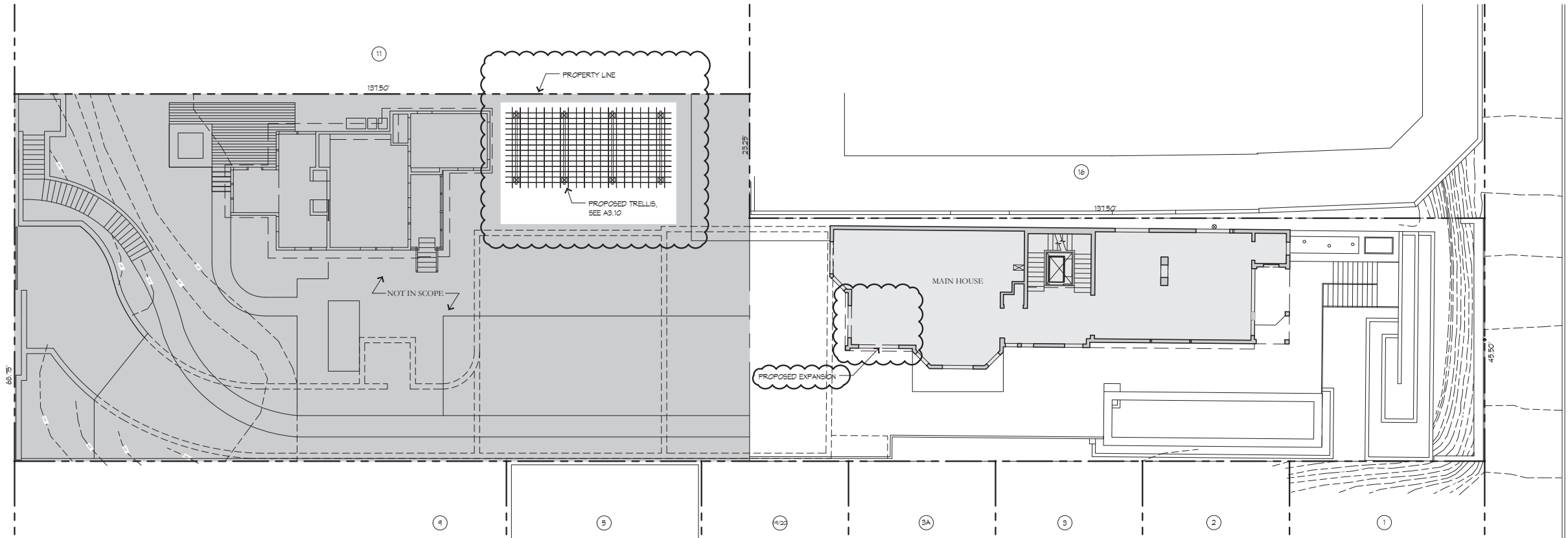
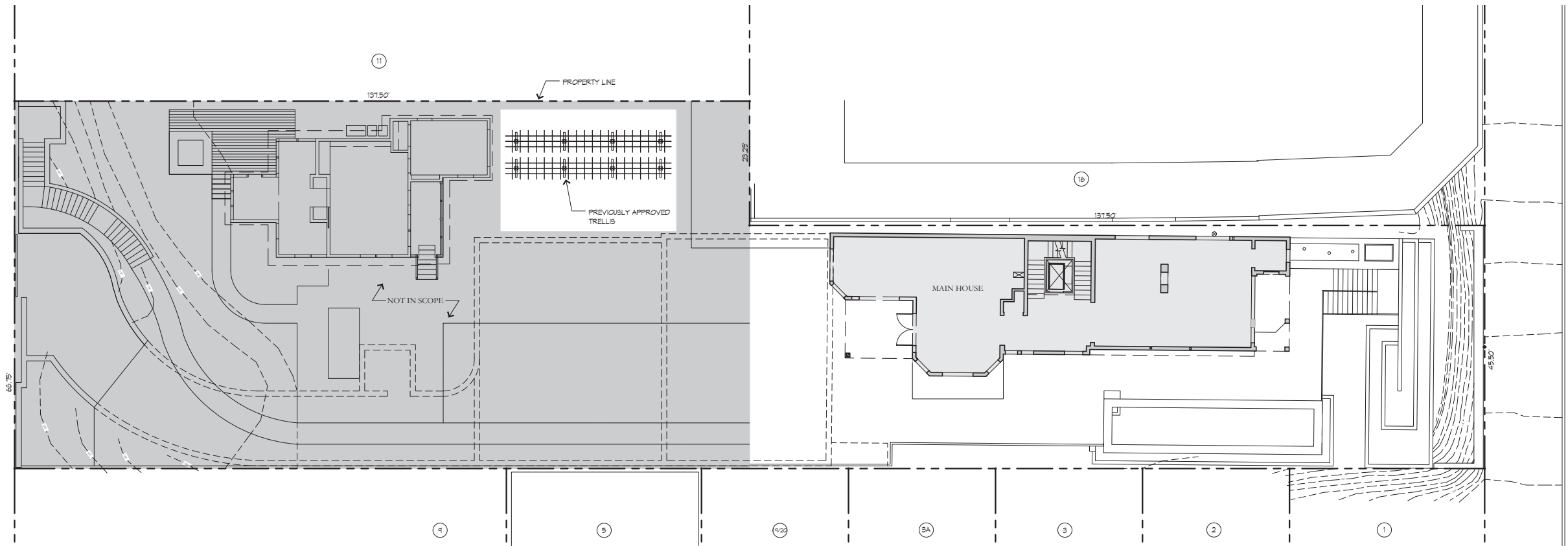
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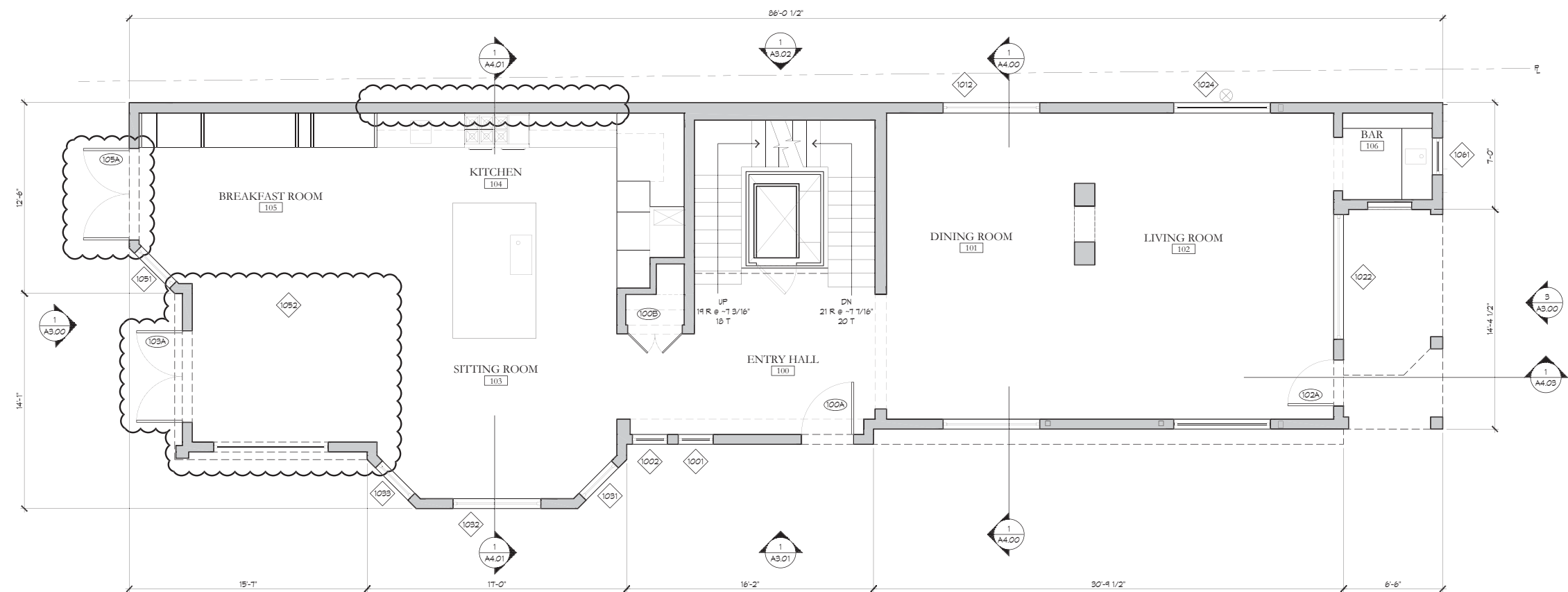
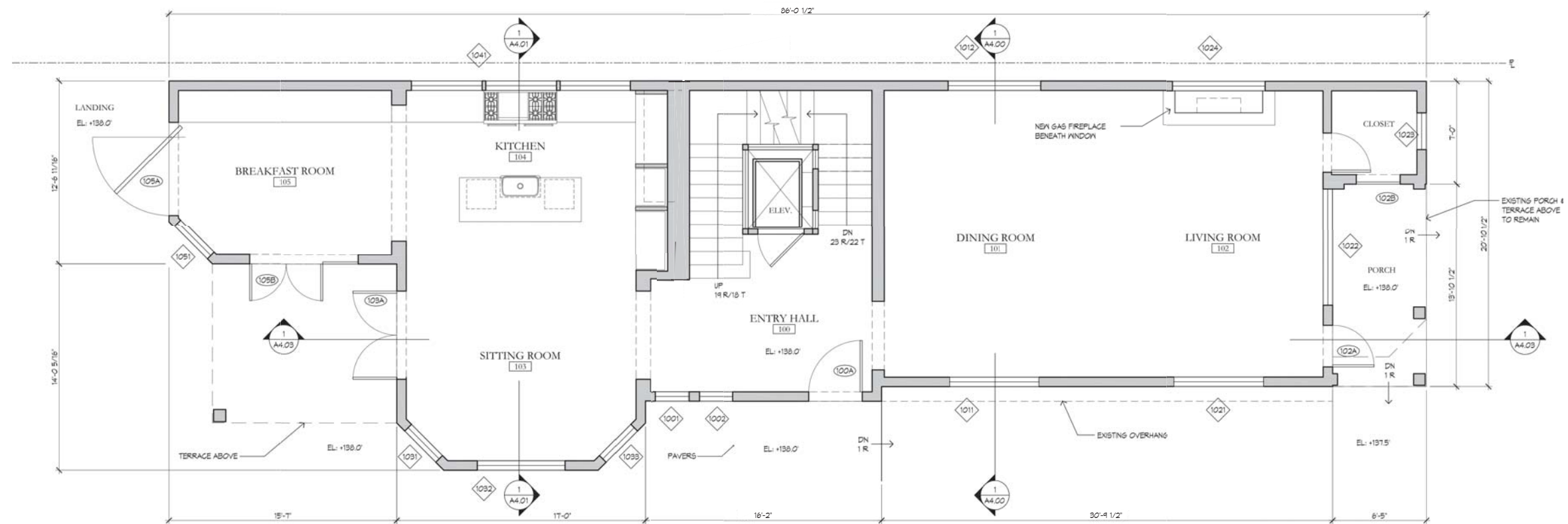
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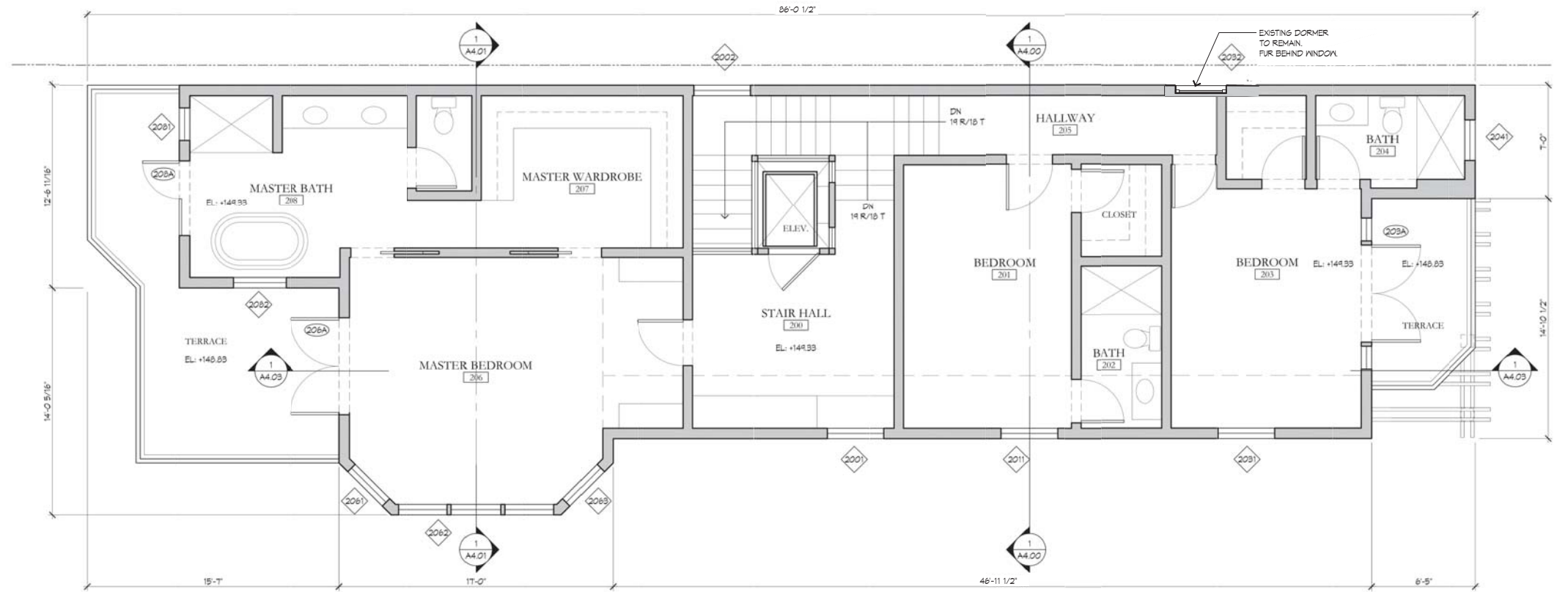


1 SITE PLAN: PROPOSED

SCALE: 3/32"=1'-0"

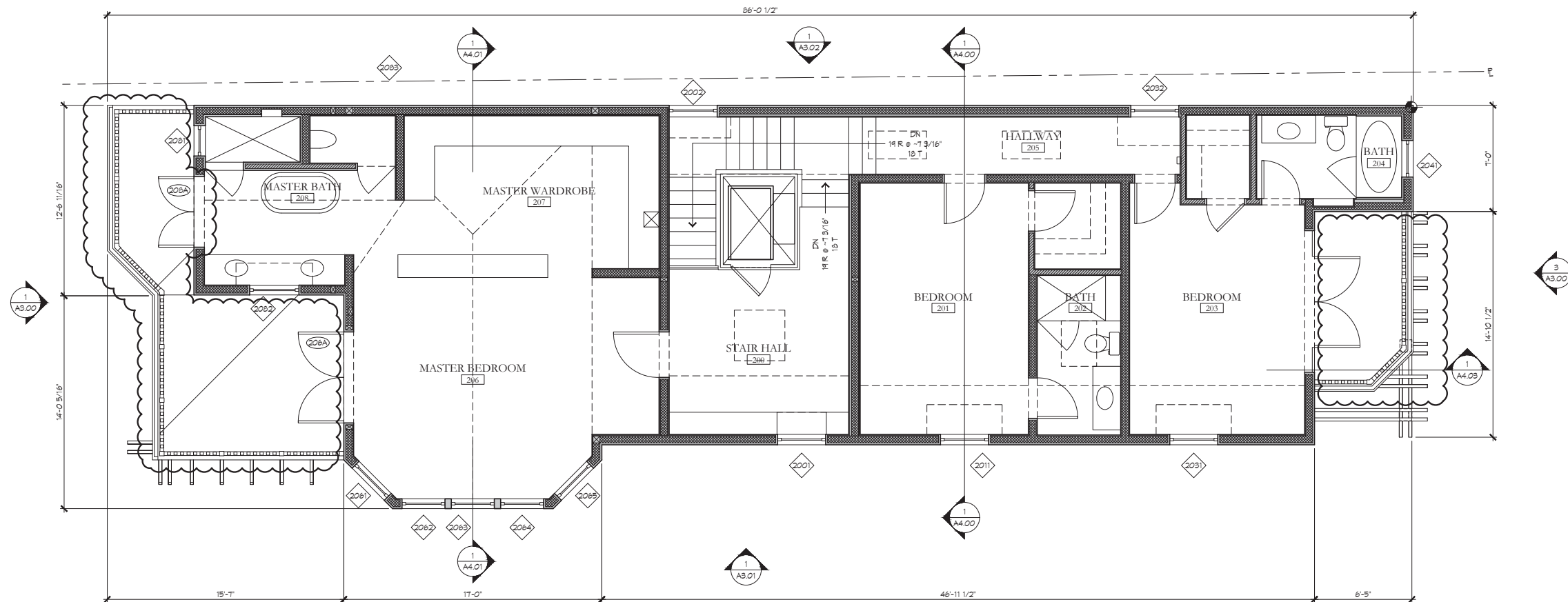






2 UPPER LEVEL FLOOR PLAN: PREVIOUSLY APPROVED

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



1 UPPER LEVEL FLOOR PLAN: PROPOSED

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

KL

Ken Linsteadt
ARCHITECTS

t 415-351-1018
f 415-351-1019
1462 Pine Street
San Francisco, CA 94109



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UPPER LEVEL FLOOR PLAN

DRAWN BY:

DATE:

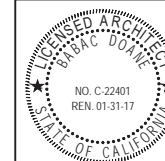
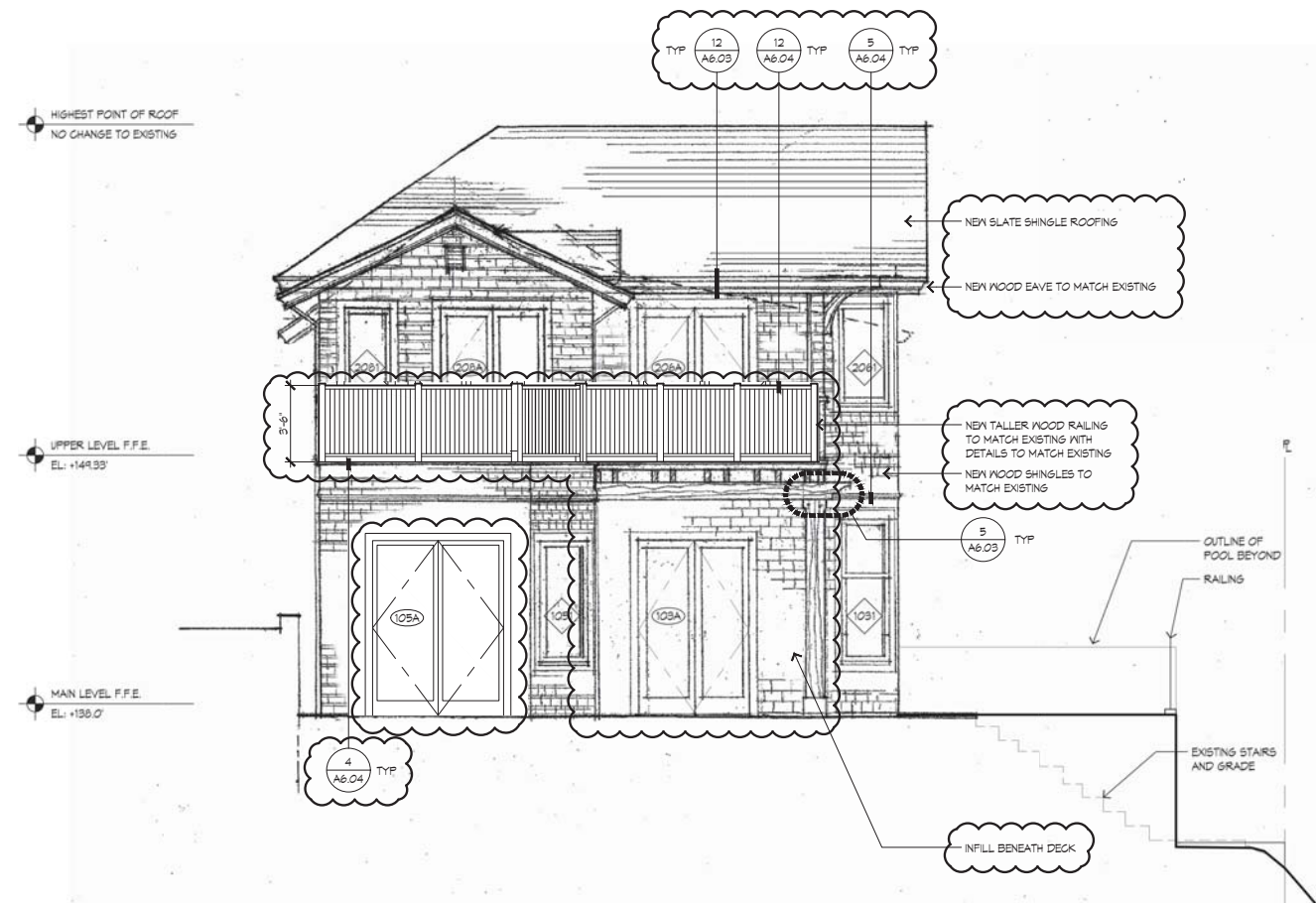
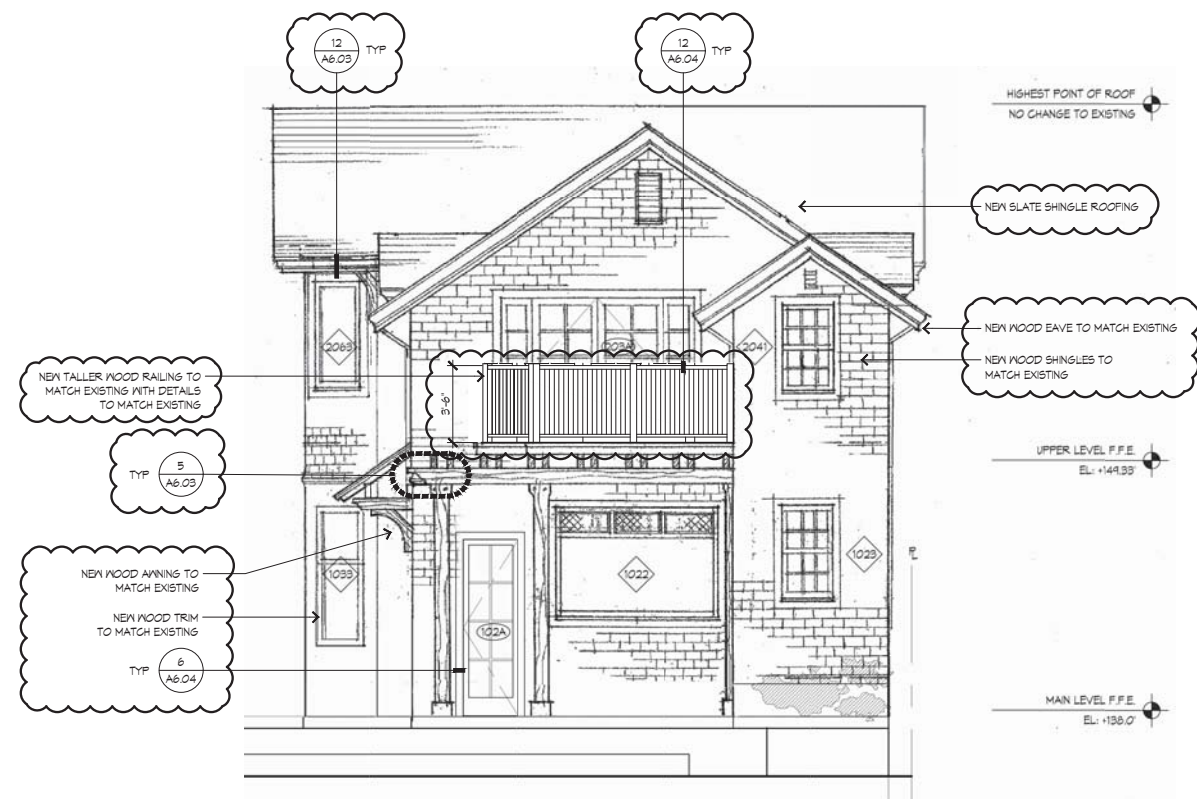
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ISSUE:

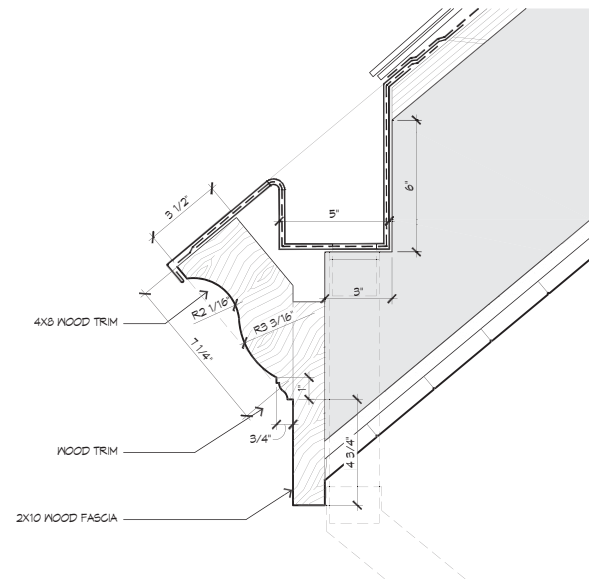
PERMIT

UPPER
LEVEL
FLOOR
PLAN

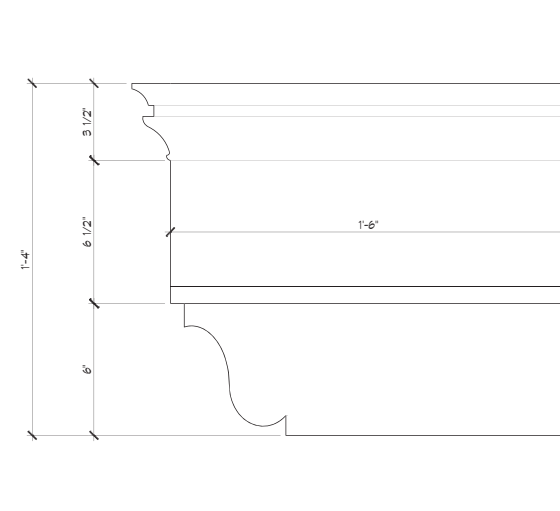
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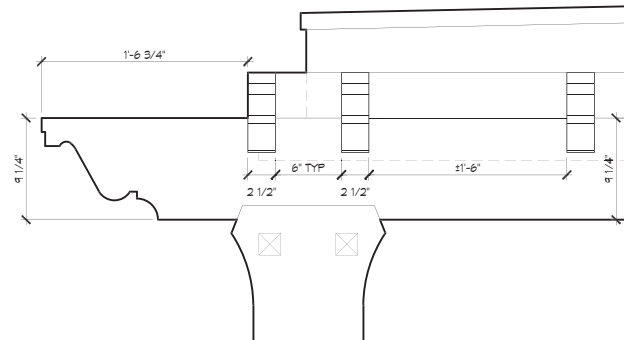
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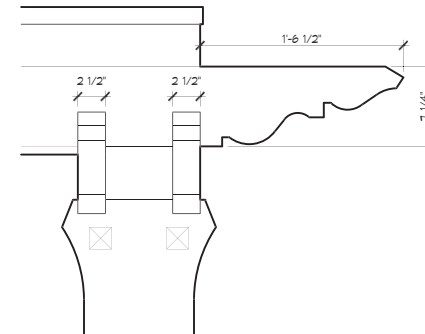
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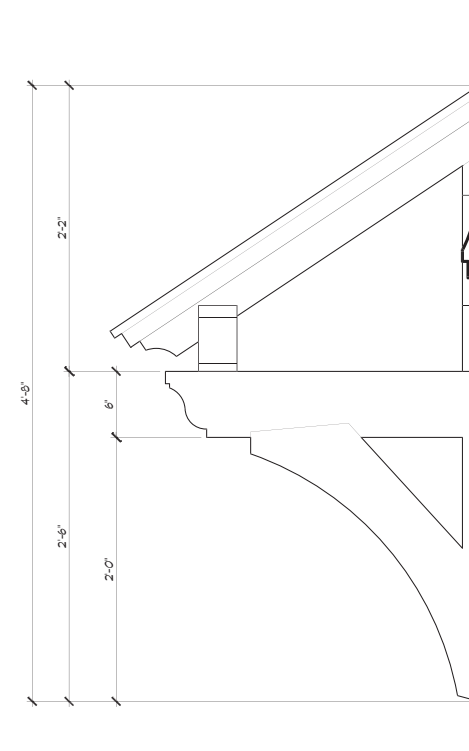
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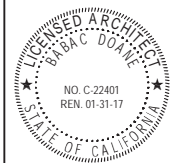
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SCALE: 1 1/2" = 1'-0"



SCALE: 1 1/2" = 1'-0"

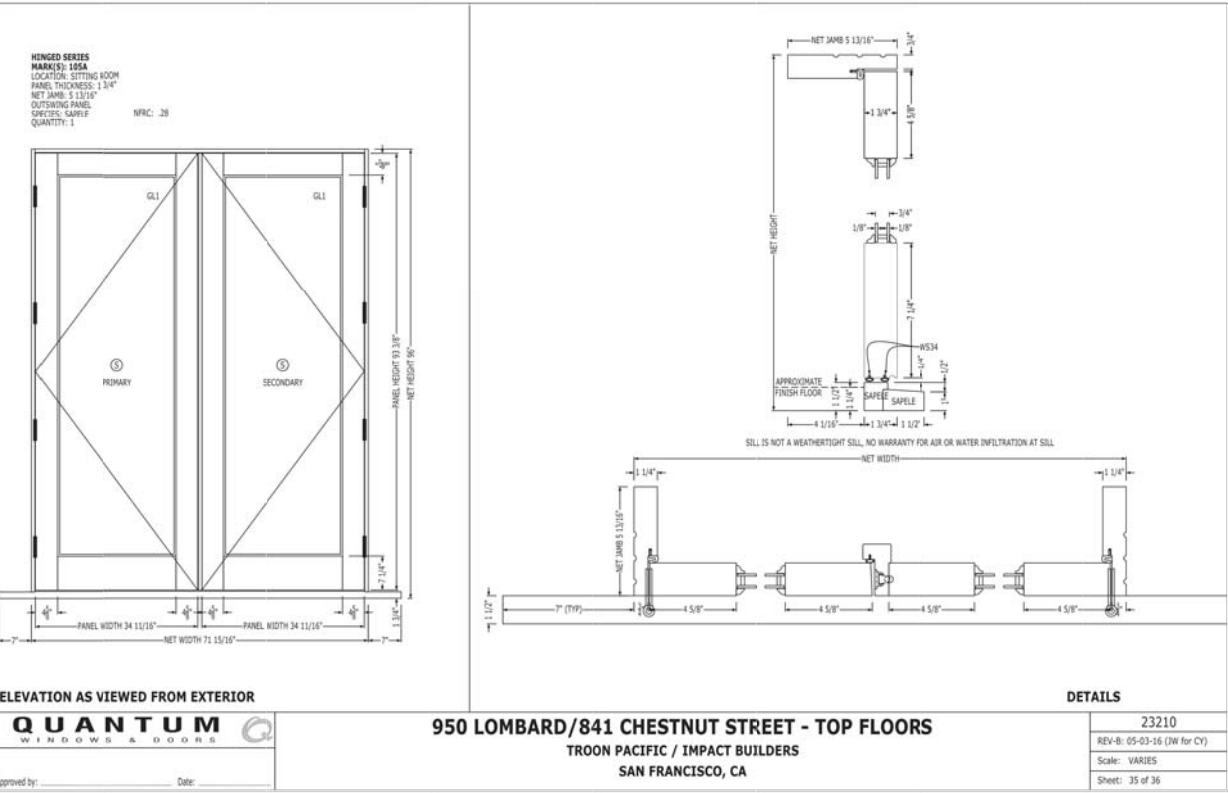


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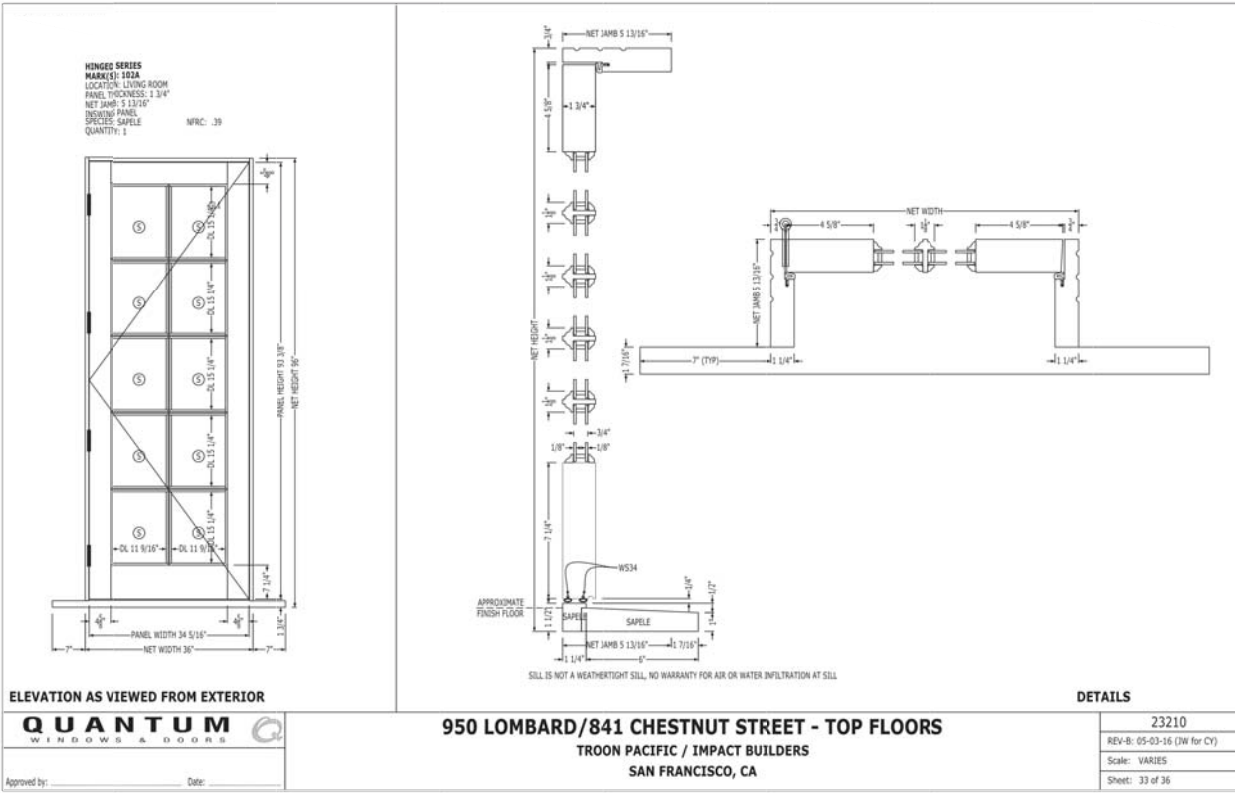
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EXTERIOR DETAILS

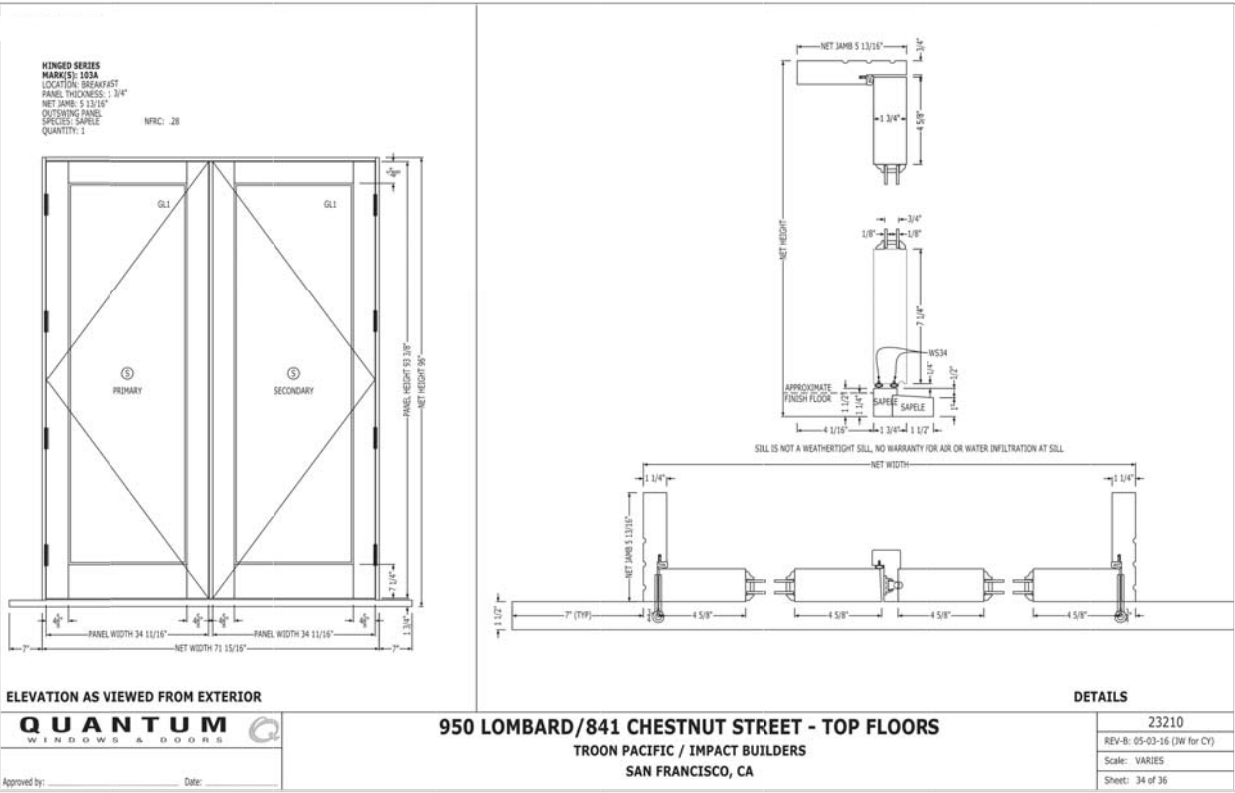
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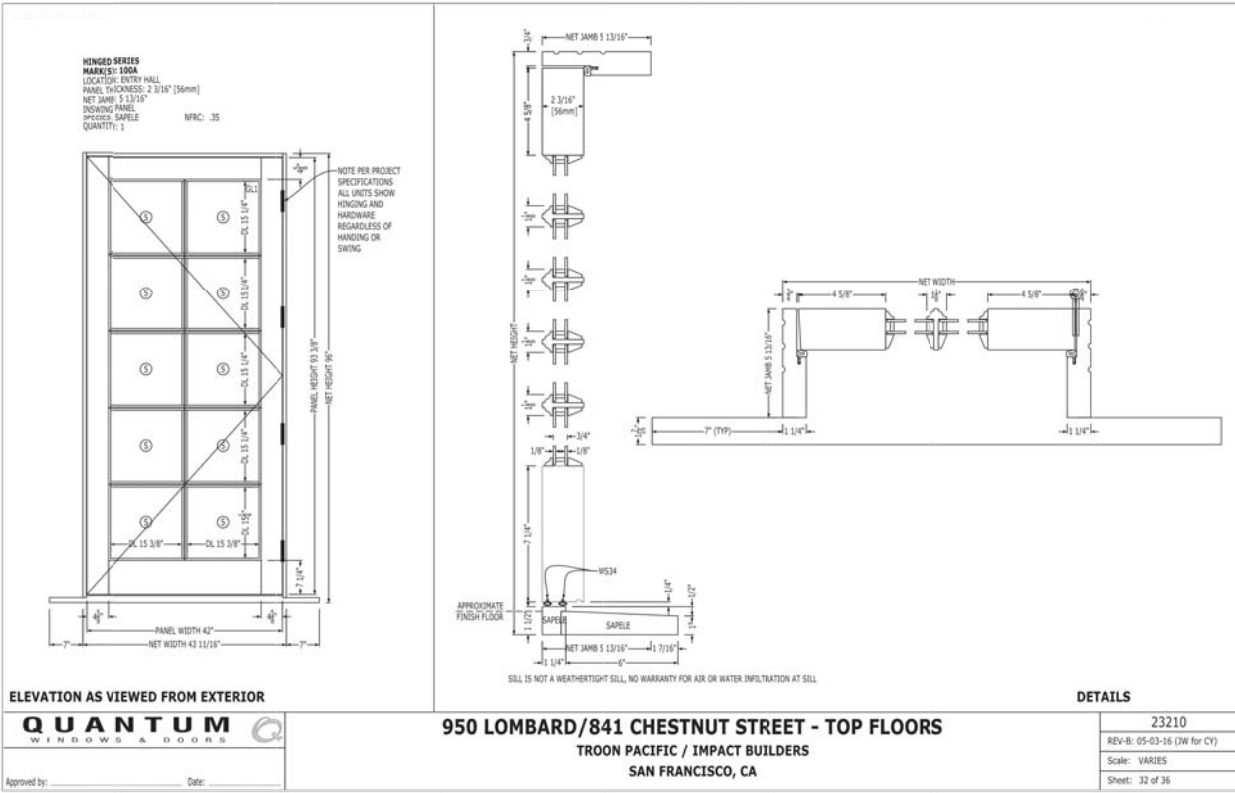
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ELEVATION & DETAILS



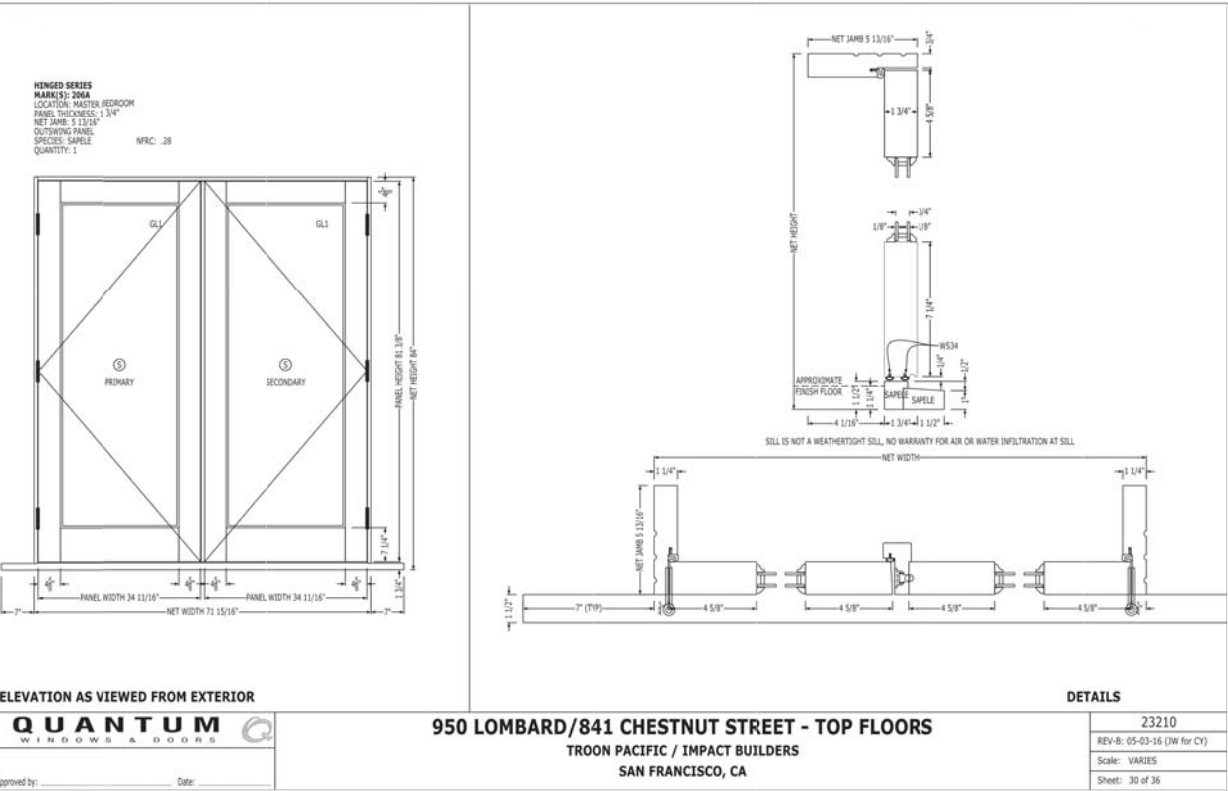
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3 EXTERIOR DOOR 103A
ELEVATION & DETAILS



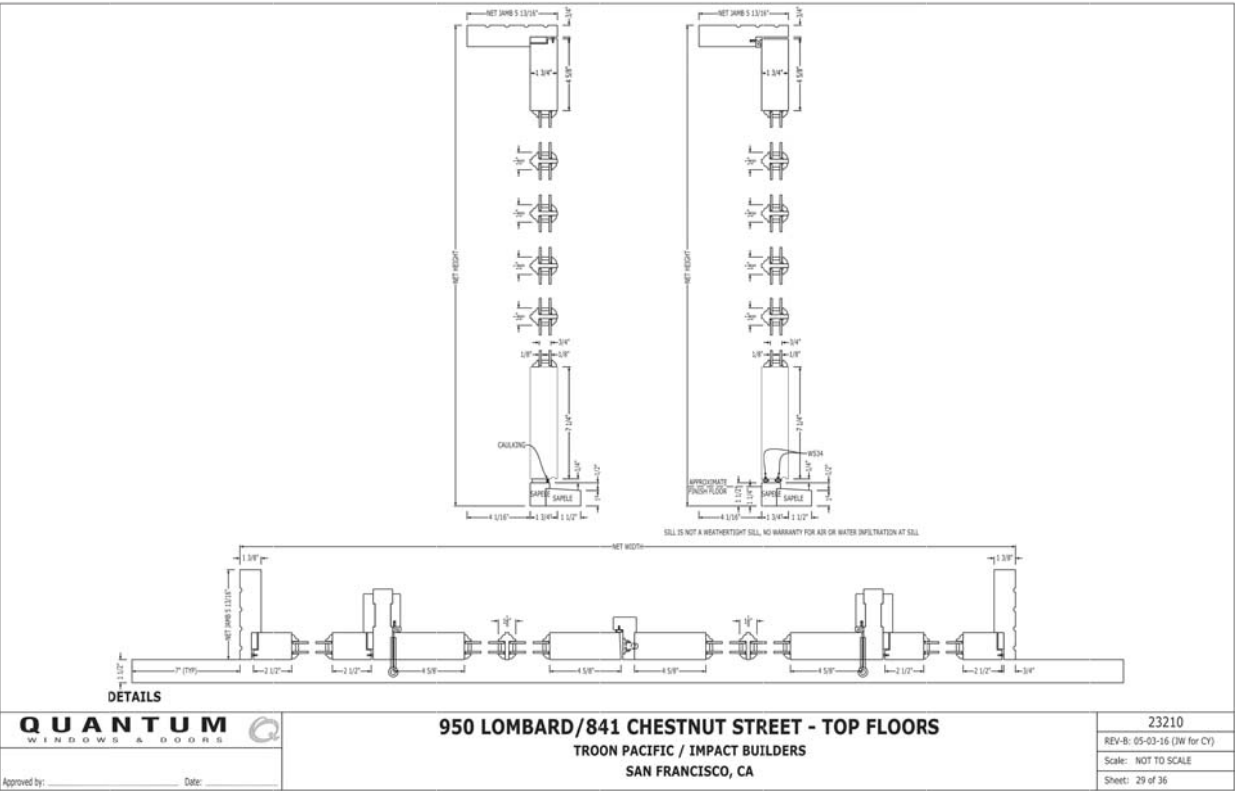
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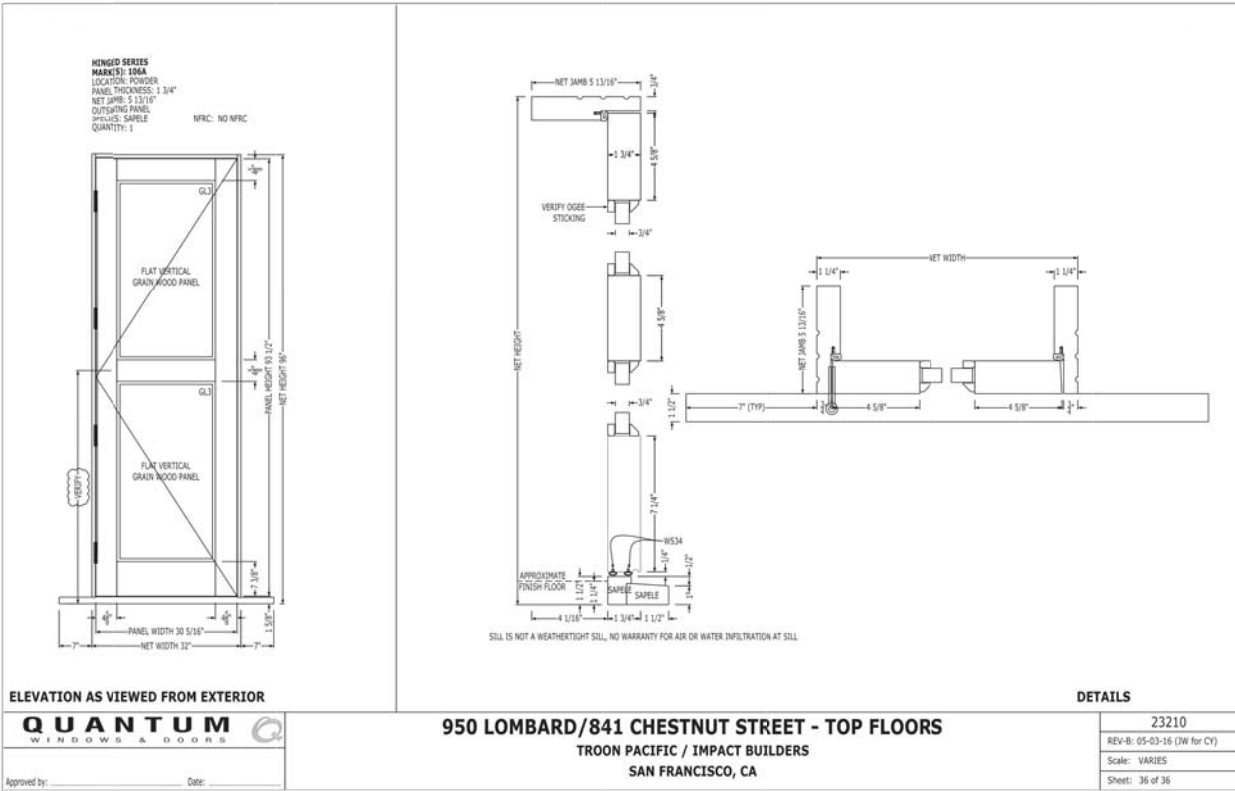
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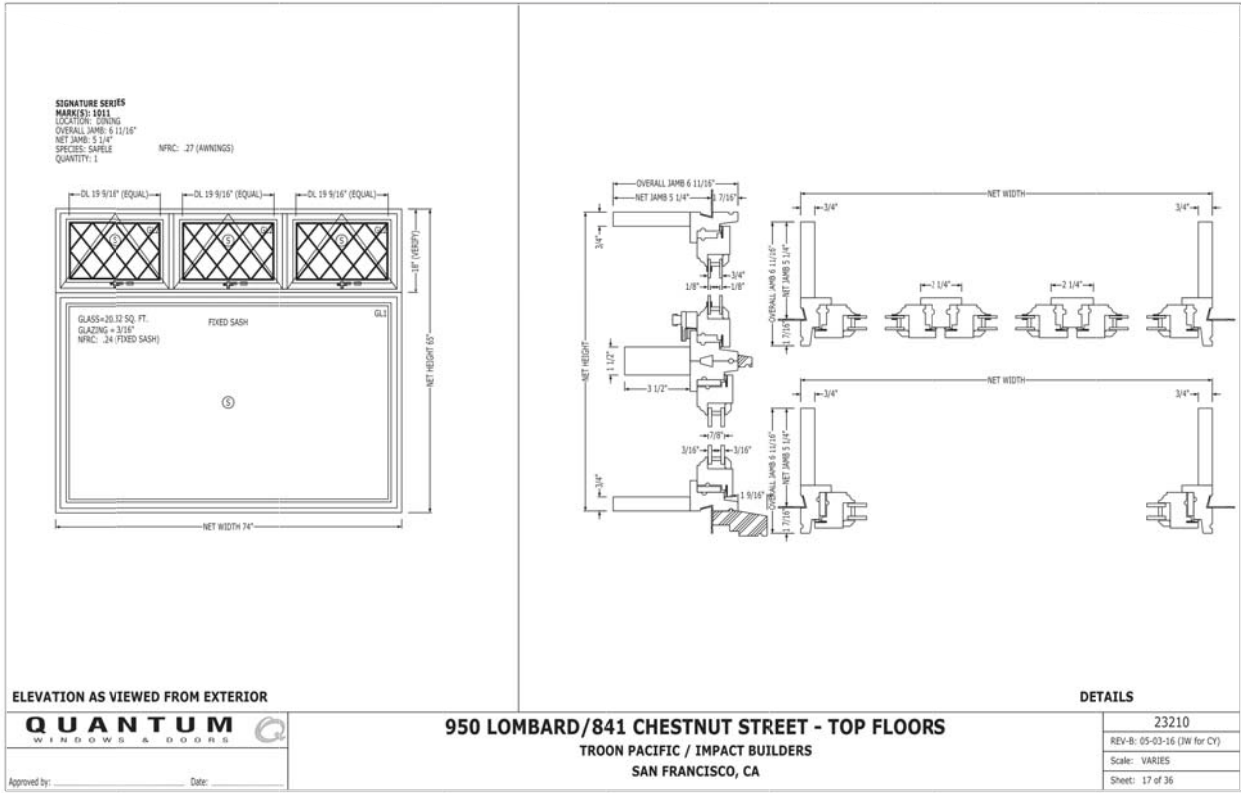


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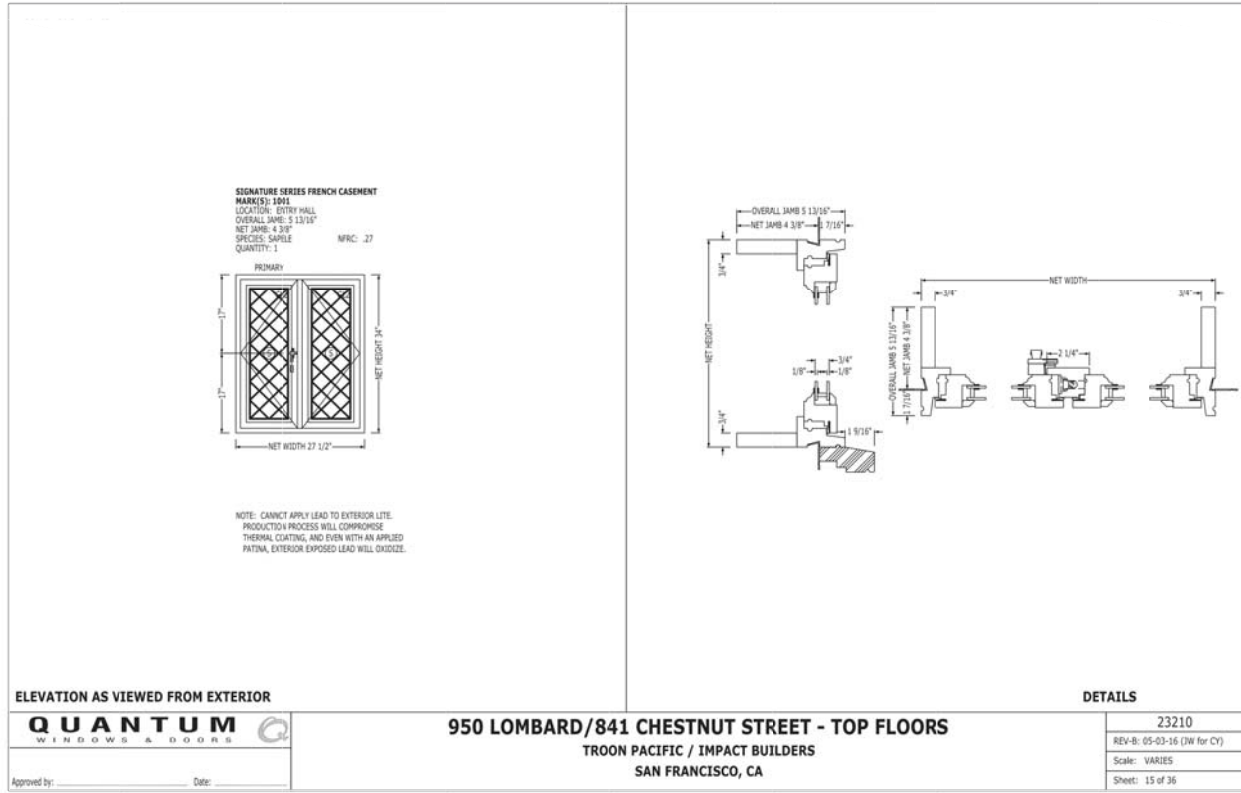


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ELEVATION & DETAILS

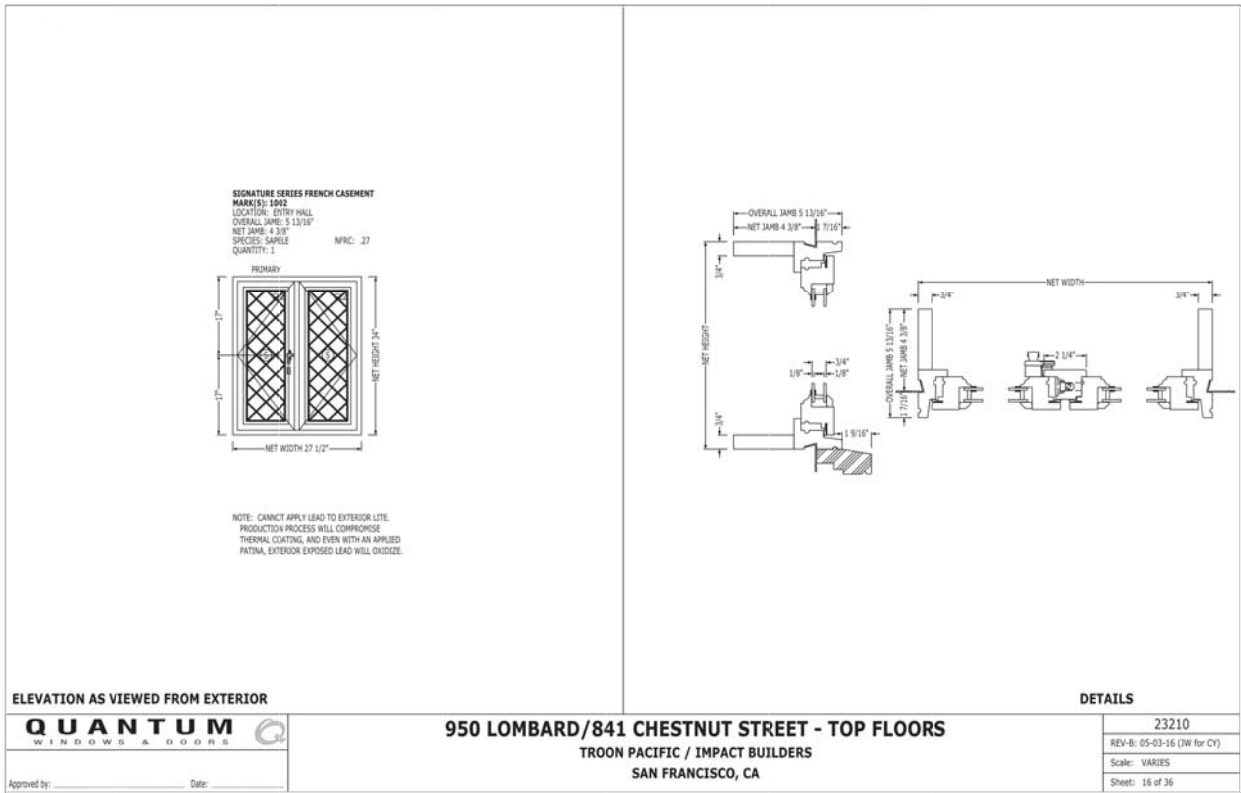
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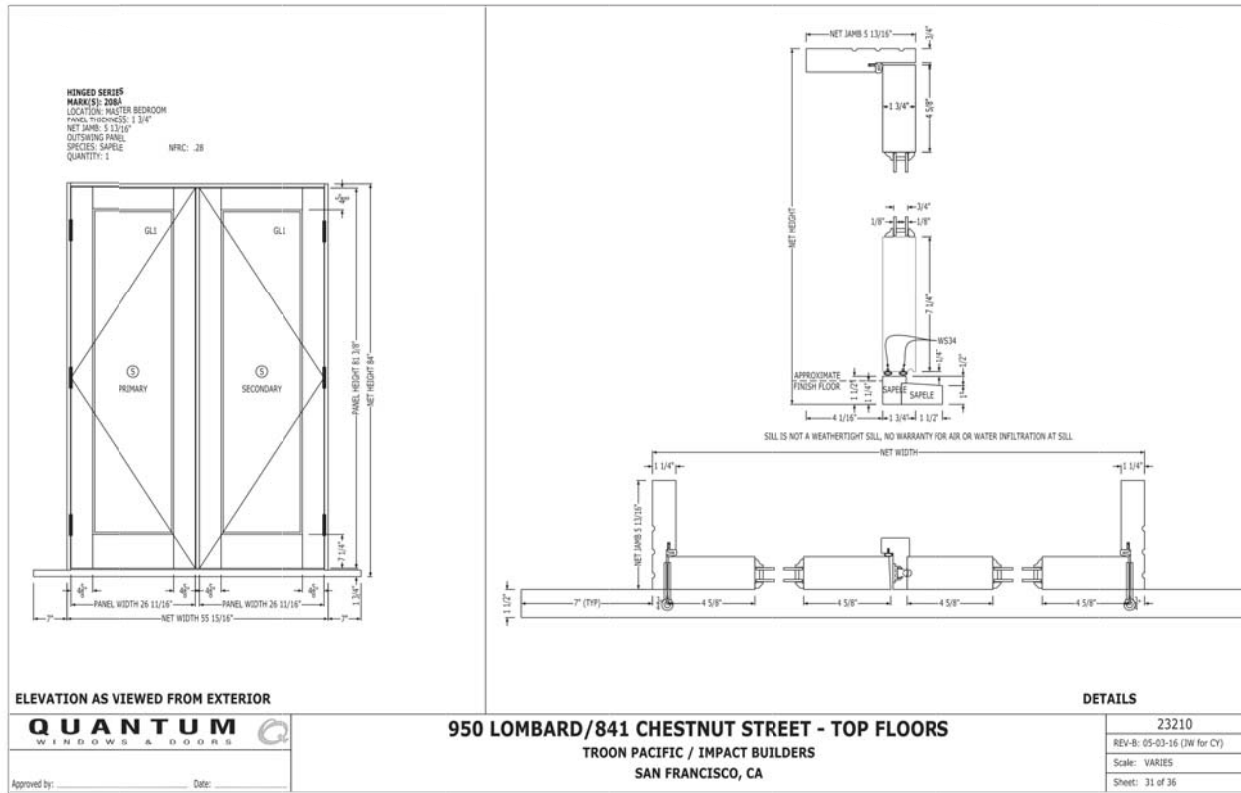
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ELEVATION & DETAILS



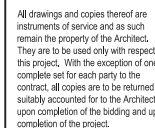
2 WINDOW 1001
ELEVATION & DETAILS



3 WINDOW 1002
ELEVATION & DETAILS



1 EXTERIOR DOOR 208A
ELEVATION & DETAILS

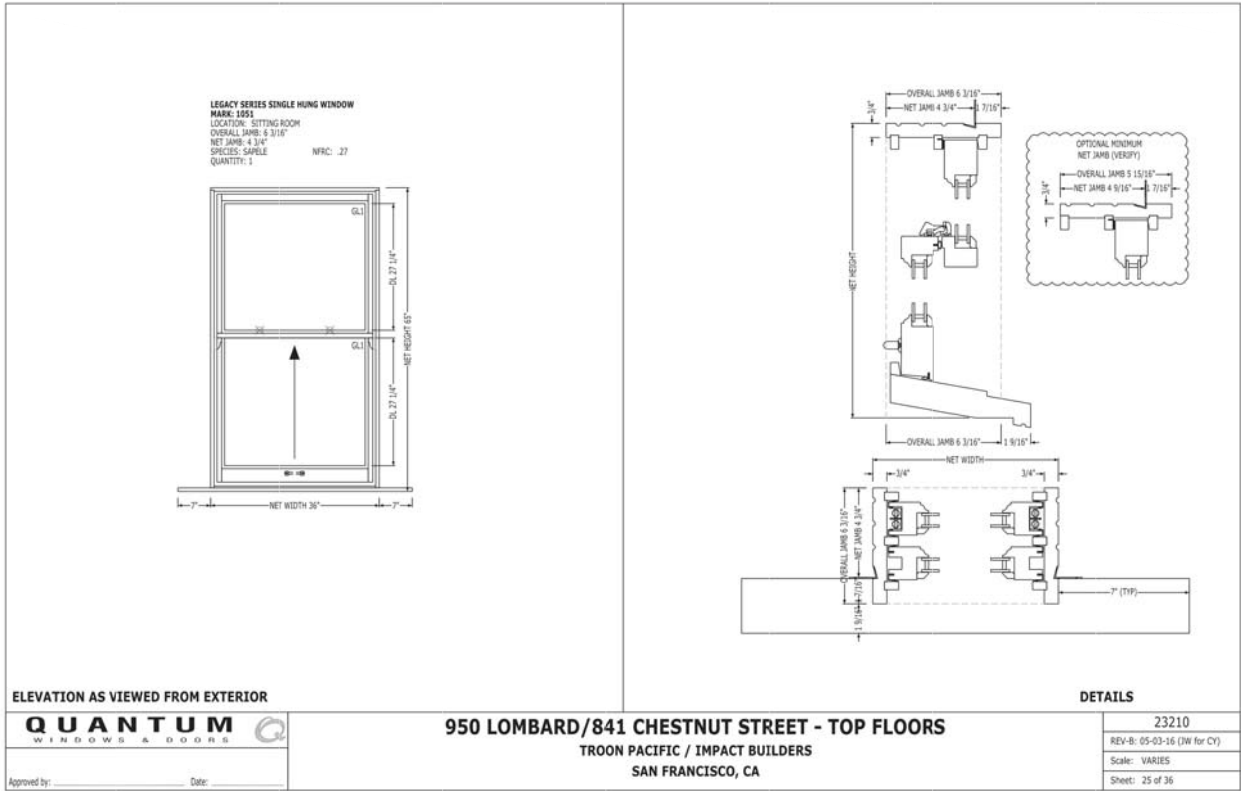


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DATE:	ISSUE:
12.22.16	PERMIT

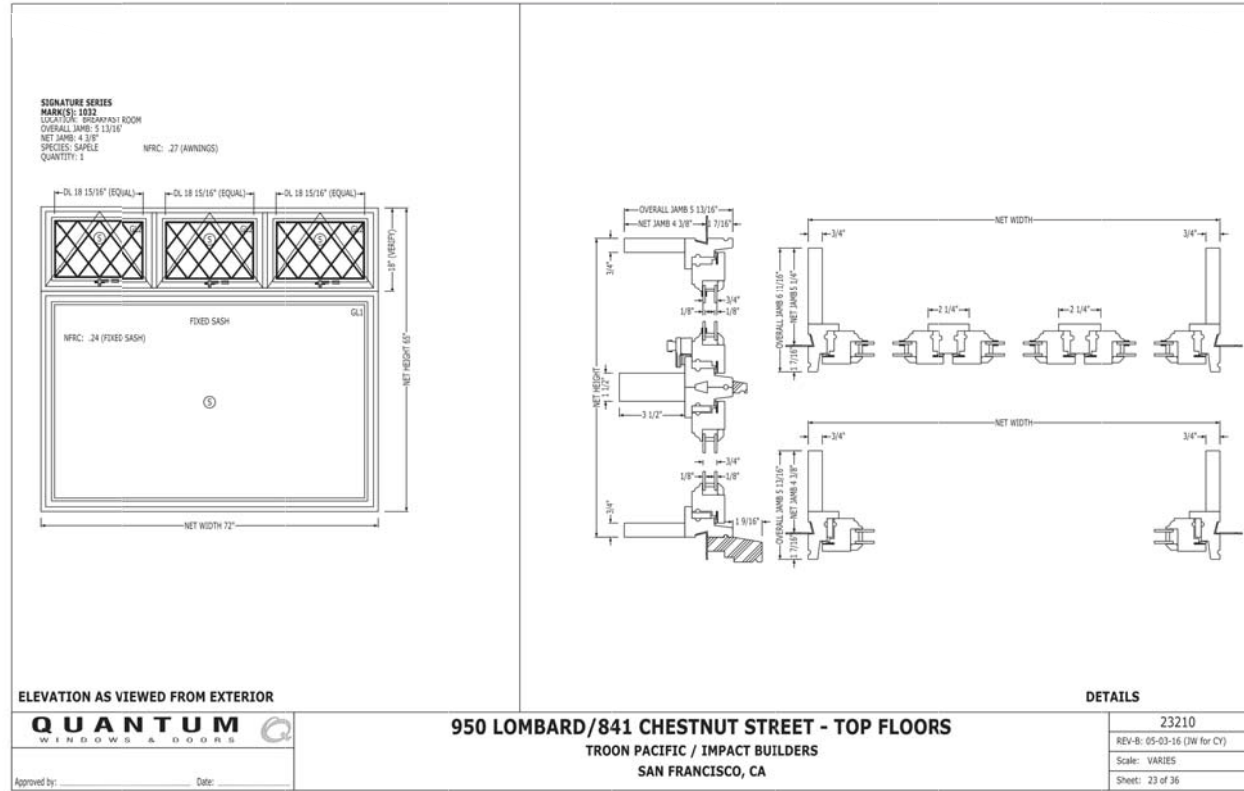
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A6.13

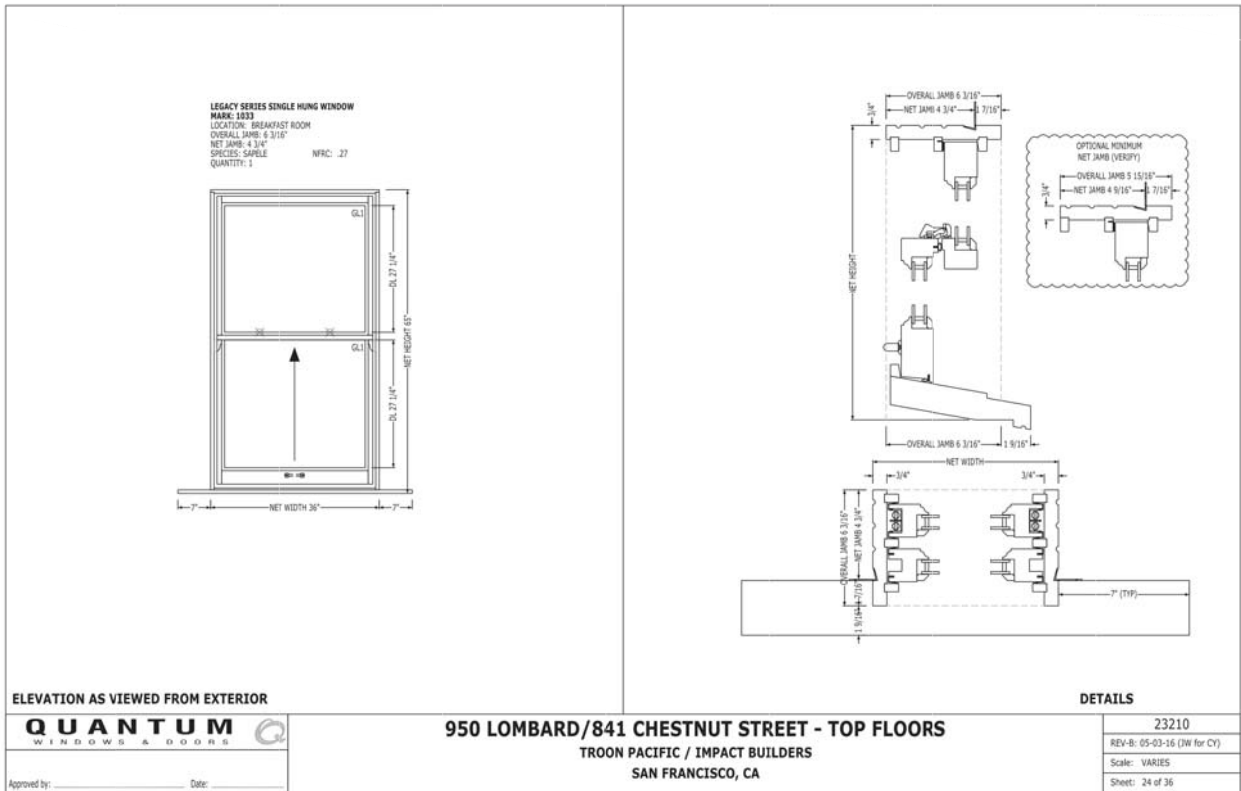
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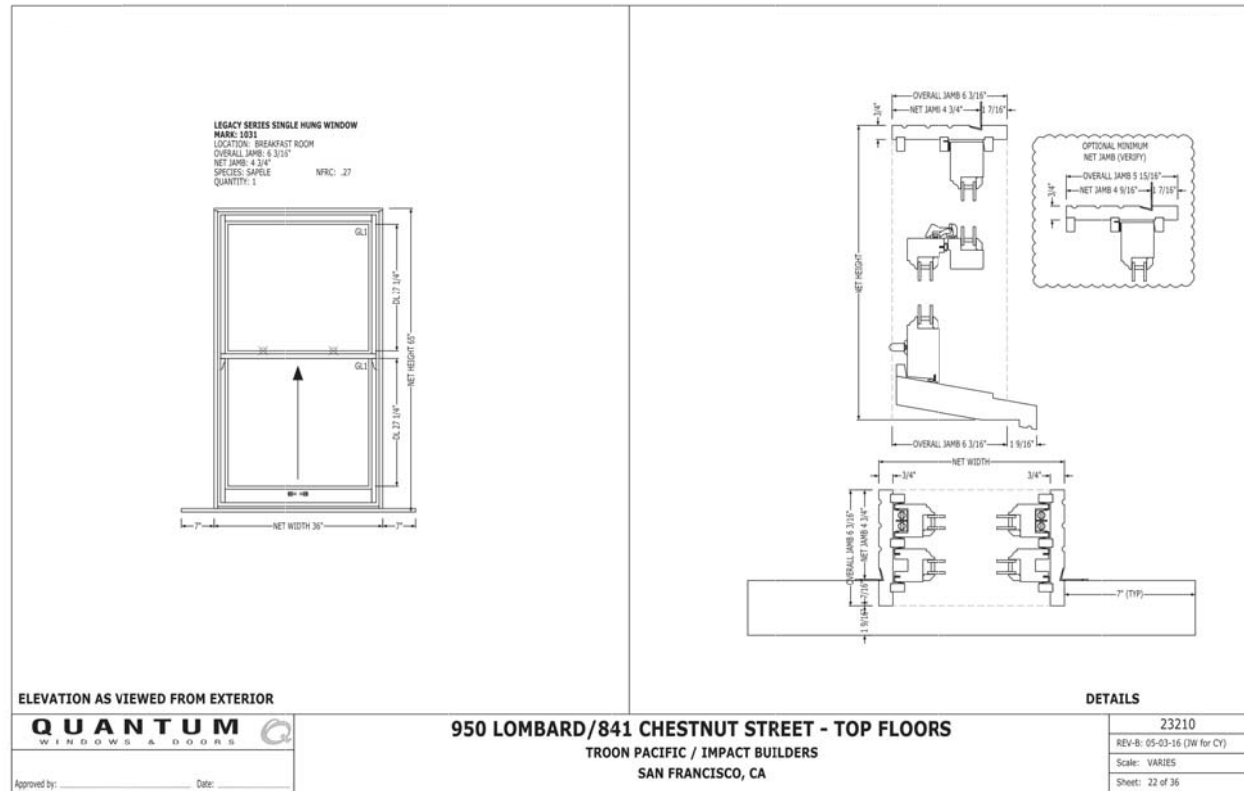
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ELEVATION & DETAILS



2 WINDOW 1032
ELEVATION & DETAILS



3 WINDOW 1033
ELEVATION & DETAILS



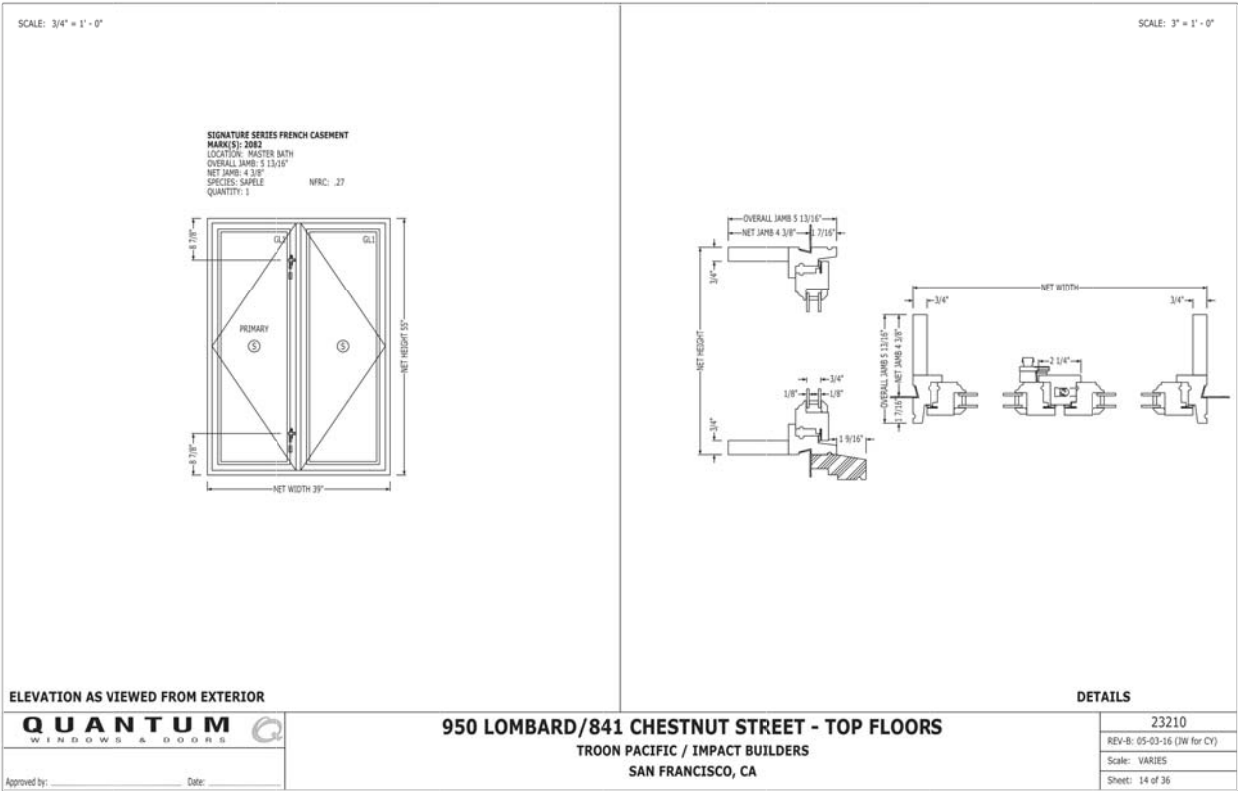
1 WINDOW 1031
ELEVATION & DETAILS

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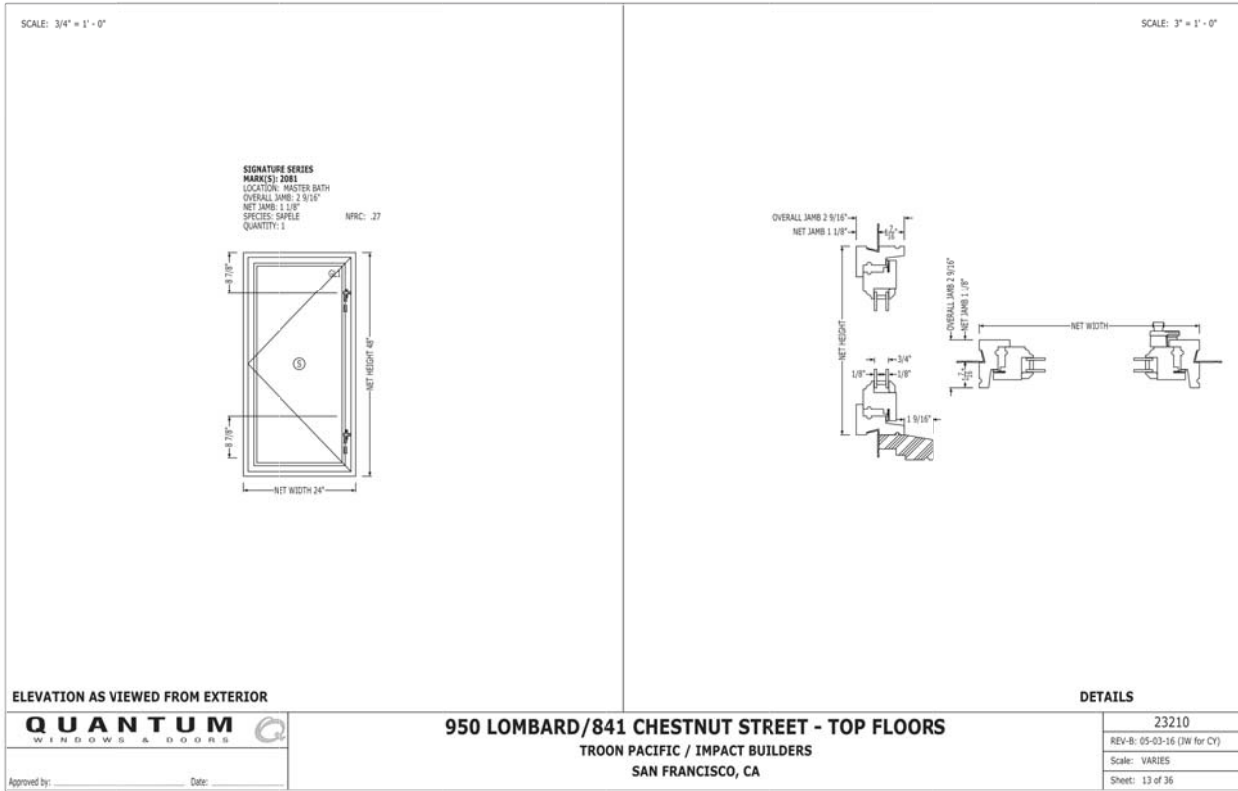
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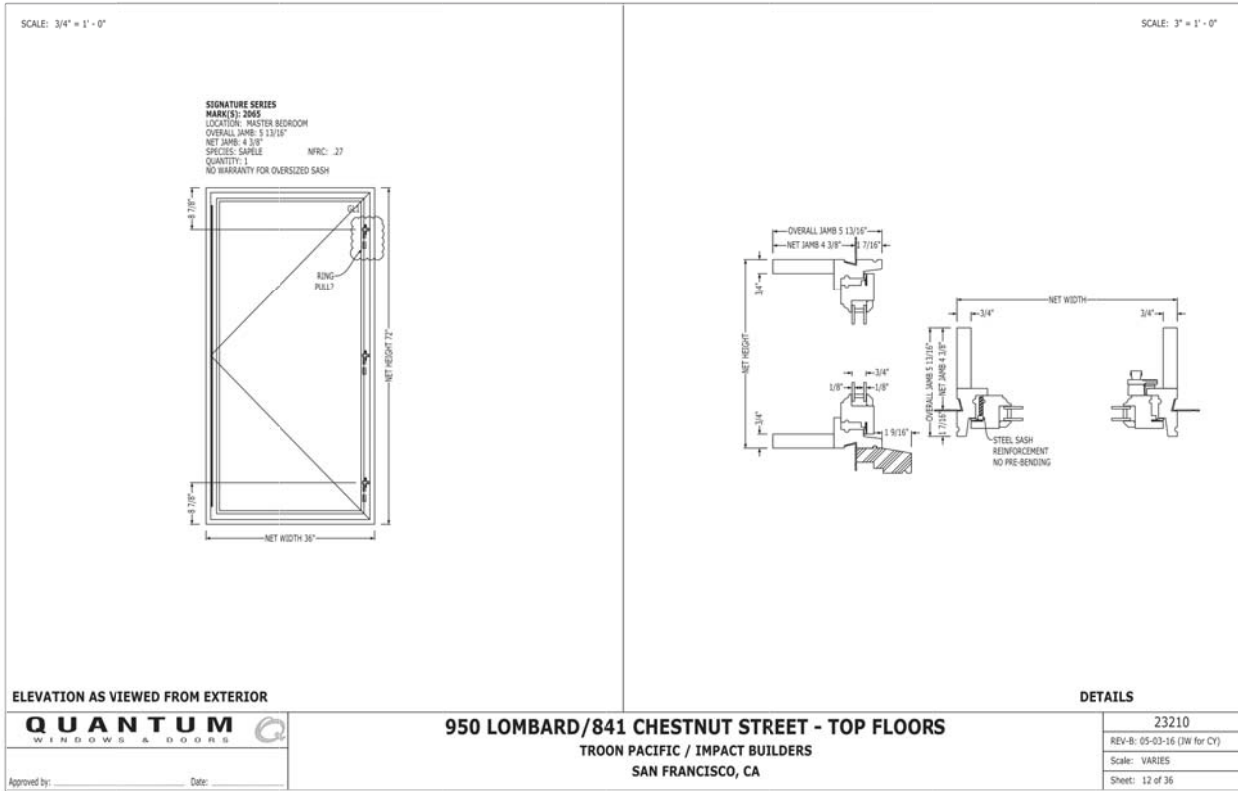
P:\041 Chestnut\00-Drawings\00-90-Drawing Record Sets\XXXXXX CH Combo Permit Set\06.10 CH (PERMIT) - WINDOW AND DOOR DETAILS.dwg Dec 22, 2016-17:20



3 WINDOW 2082
ELEVATION & DETAILS



2 WINDOW 2081
ELEVATION & DETAILS



1 WINDOW 2065
ELEVATION & DETAILS

WINDOW SCHEDULE						
	NO.	HISTORICALLY SIGNIFICANT	PREVIOUSLY APPROVED	PROPOSED	SIZE (W x H)	ROOM
UPPER LEVEL	2001	X	E	R	3'-2" x 3'-9 1/2"	STAIR HALL
	2002	X	E	R	3'-2" x 3'-9 1/2"	STAIR HALL
	2011	X	E	R	3'-2" x 3'-9 1/2"	BEDROOM
	2031	X	E	R	3'-2" x 3'-9 1/2"	BEDROOM
	2032	X	E	R	3'-3" x 3'-9 1/2"	BEDROOM
	2041	X	E	R	2'-5" x 3'-4"	BATH
	2061		N		3'-0" x 4'-10"	MASTER BEDROOM
	2062		N	-	9'-8" x 4'-10"	MASTER BEDROOM
	2063		N	-	3'-0" x 4'-10"	MASTER BEDROOM
	2081		N	-	2'-0" x 4'-0"	MASTER BATH
	2082		E	-	3'-3" x 3'-10"	MASTER BATH
MAIN LEVEL	1001	X	E	R	2'-3 1/2" x 3'-2"	ENTRY HALL
	1002	X	E	R	2'-3 1/2" x 3'-2"	ENTRY HALL
	1011	X	E	R	6'-2" x 5'-5"	DINING
	1012	X	E	R	6'-4" x 1'-6"	DINING
	1021	X	E	R	6'-2" x 5'-5"	LIVING ROOM
	1022	X	E	R	8'-0" x 5'-5"	LIVING ROOM
	1023	X	E	R	2'-6" x 4'-0"	LIVING ROOM
	1024	X	E	R	6'-4" x 1'-6"	LIVING ROOM
	1031		N		2'-8" x 6'-5"	SITTING ROOM
	1032		N	-	5'-9" x 6'-5"	SITTING ROOM
	1033		N	-	2'-8" x 6'-5"	SITTING ROOM
	1041			N	15'-0" x 2'-8"	KITCHEN
	1051		N	-	3'-3" x 5'-6"	BREAKFAST
LOWER LEVEL	0011			N	4'-4 3/4" x 11'-6"	FAMILY ROOM
	0012			N	12'-2 1/4" x 11'-6"	FAMILY ROOM
	0013			N	6'-7 3/4" x 11'-6"	FAMILY ROOM
	0014			N	13'-11 1/2" x 10'-6"	FAMILY ROOM
	0015			N	13'-11 1/2" x 10'-6"	FAMILY ROOM
	0041			N	12'-6" x 5'-0"	GUEST BEDROOM
	0051			N	6'-0" x 5'-0"	BATH
	0061			N	13'-4" x 9'-6"	GUEST BEDROOM
	0071			N	7'-2" x 5'-0"	BATH
DOOR SCHEDULE						
	NO.	HISTORICALLY SIGNIFICANT	PREVIOUSLY APPROVED	PROPOSED	SIZE (W x H)	ROOM
UPPER LEVEL	203A		E	-	9'-4" x 7'-0"	BEDROOM
	206A		N	-	6'-0" x 7'-0"	MASTER BEDROOM
	208A		N	-	4'-8" x 7'-0"	MASTER BATH
MAIN LEVEL	100A		E	-	3'-8" x 8'-0"	ENTRY HALL
	102A			N	2'-6" x 8'-0"	LIVING ROOM
	102B	X	E	R	3'-0" x 8'-0"	LIVING ROOM
	103A		N		6'-0" x 8'-0"	SITTING ROOM
	105A		N	-	7'-3" x 8'-0"	BREAKFAST
	105B		N	-	7'-5" x 8'-0"	BREAKFAST
L.L.	001A			N	8'-5" x 11'-6"	FAMILY ROOM
	002A			N	2'-10" x 8'-0"	BAR
E = EXISTING						
N = NEW						
(A) = NO CHANGE						
R = RE-FABRICATED TO MATCH EXISTING						
SEE A6.10-A6.18 FOR DETAILS FOR EXTERIOR DOORS AND WINDOWS						

KL

Ken Linsteadt

ARCHITECTS

t 415-351-1018

f 415-351-1019

1462 Pine Street

San Francisco, CA 94109

LICENSED ARCHITECT
BACB DOONE
NO. C-22401
REN. 01-31-17
STATE OF CALIFORNIA

All drawings and copies thereof are instruments of service and as such remain the property of the Architect. They are to be used only with respect to this project. With the exception of one complete set for each party to the contract, all copies are to be returned or suitably accounted for to the Architect upon completion of the bidding and upon completion of the project.

UNRECORDED

DRAWN BY:	
DATE:	ISSUE:
12.22.16	PERMIT
_____	_____
_____	_____
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WINDOW
AND
DOOR
SCHEDULE

A8.00



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Zoning Administrator Action Memo Administrative Review of Dwelling Unit Demolition

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: June 8, 2017
Address: **841 Chestnut Street**
Case No.: **2017-001787PRJ**
Building Permit: **2017.01.26.8001**
Zoning: RH-1 (Residential-House, One Family)
40-X Height and Bulk District
Block/Lot: 067/017
Project Sponsor: Thompson Suskind, LP
2034 Union Street
San Francisco, CA 94123
Staff Contact: Alexandra Kirby – (415) 575-9133
alexandra.kirby@sfgov.org

PROJECT DESCRIPTION

The project is to demolish the existing two-story, single-family building and construct a two-story, single-family building in the same above-grade footprint within an RH-1 (Residential, House, One-Family) Zoning District and 40-X Height and Bulk District.

The proposed *de facto* demolition of a single-family dwelling is subject to Planning Code Section 317, which allows the Planning Department to administratively approve dwelling unit demolitions that are demonstrably not affordable or financially inaccessible within RH-1 zoning districts. Applications for which the residence proposed for demolition has a value greater than at least 80% of the combined land and structure values of single-family homes in San Francisco as determined by a credible appraisal, made within six months of the application to merge, are not subject to a Mandatory Discretionary Review hearing.

ACTION

Upon review of the Applicant's appraisal for 841 Chestnut Street, which was purchased for \$4.5M in 2010 and appraised at \$30.2M post-completion, on November 16, 2016, by Andrew Wells Associates, the Zoning Administrator **AUTHORIZED ADMINISTRATIVE APPROVAL** of Building Permit Application No. 2017.01.26.8001 proposing the *de facto* demolition of a single-family residence, resulting in a one-unit building.

FINDINGS

The Zoning Administrator took the action described above because the proposed merger would not result in the loss of any dwelling-units that are valued at or under 80% of the combined land and structure values of single-family homes in San Francisco. The residence proposed for demolition qualifies as financially inaccessible housing. Because a major intent of Planning Code Section 317 is to preserve existing sound housing stock and thus conserve its affordability, the Code exempts the most expensive (least affordable) single-family homes from the hearing requirements pertaining to this Code Section.

The Zoning Administrator took the action described above because the proposed demolition meets the criteria outlined in Planning Code Section 317(d) as follows:

1. No permit to demolish a Residential Building in any zoning district shall be issued until a building permit for the replacement structure is finally approved, unless the building is determined to pose a serious and imminent hazard as defined in the Building Code.

The project applicant submitted Building Permit Application 2014.02.05.7897 for the alteration of the subject building in February of 2014. Work in field exceeded the permitted scope of removal to the historic residence in 2016, effectively demolishing the property per the definitions in Section 317. Permit no. 2017.01.26.8001 addresses the completed scope of removal, which was determined to exceed the de facto demolition calculations outlined in Section 317(b)(2) of the Planning Code, and proposes to reconstruct the subject building in the same envelope as the original structure.

2. If Conditional Use authorization is required for approval of the permit to Demolish a Residential Building by other sections of this Code, the Commission shall consider the replacement structure as part of its decision on the Conditional Use application. If Conditional Use authorization is required for the replacement structure by other sections of this Code, the Commission shall consider the demolition as part of its decision on the Conditional Use application.

Conditional Use is not required by any other part of the Planning Code for this proposal. No further entitlements are required by Code.

3. Single-Family Residential Buildings on sites in RH-1 Districts that are demonstrably not affordable or financially accessible, that is, housing that has a value greater than at least 80% of the combined land and structure values of single-family homes in San Francisco as determined by a credible appraisal, made within six months of the application to demolish, are not subject to a Mandatory Discretionary Review hearing.

The existing single-family building is located in a RH-1 zoning district and was appraised on November 16, 2016 at a value of \$30.2 million. The property is therefore determined to be "not affordable or financially accessible housing" under the Planning Code and thereby not subject to a Discretionary Review hearing.

4. Residential Buildings of two units or fewer that are found to be unsound housing are exempt from Mandatory Discretionary Review hearings and may be approved administratively. "Soundness" is an economic measure of the feasibility of upgrading a residence that is deficient with respect to habitability and Housing Code requirements, due to its original construction. The "soundness factor" for a structure shall be the ratio of a construction upgrade cost to the replacement cost expressed as a percent. A building is unsound if its soundness factor exceeds 50%.

The subject building is a single-family house and eligible to be exempted from a Mandatory Discretionary Review hearing under this provision of the Planning Code; however, a soundness report was not provided prior to the demolition of the subject building per standard procedure.

You can appeal the Zoning Administrator's action to the Board of Appeals by appealing the issuance of the above-referenced Building Permit Application. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

cc: Zoning Administrator Files
Eight Forty One LLC, One Post Street, Suite 2210, San Francisco, Ca, 94104
Tuija Catalano, One Bush Street, Suite 600, San Francisco, Ca, 94104
Ed Sweeny, Acting Deputy Director, Department of Building Inspection
Patrick O'Riordan, Department of Building Inspection
Mark Luellen, Planning Department

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ENDORSED
FILED
San Francisco County Superior Court

JUN 07 2017

CLERK OF THE COURT
NEYL WEBB
BY: Deputy Clerk

DENNIS J. HERRERA, State Bar #139669
City Attorney
PETER J. KEITH, State Bar #206482
Chief Attorney
Neighborhood and Resident Safety Division
JENNIFER E. CHOI, State Bar #184058
Deputy City Attorney
1390 Market Street, Sixth Floor
San Francisco, California 94102-5408
Telephone: (415) 554-3887
Facsimile: (415) 437-4644
E-Mail: jennifer.choi@sfgov.org

Attorneys for Plaintiffs
CITY AND COUNTY OF SAN FRANCISCO and
PEOPLE OF THE STATE OF CALIFORNIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

CITY AND COUNTY OF SAN
FRANCISCO, a Municipal Corporation, and
the PEOPLE OF THE STATE OF
CALIFORNIA, by and through Dennis J.
Herrera, City Attorney for the City and County
of San Francisco,

Plaintiffs,

vs.

EIGHT FORTY ONE LLC, DOE 1 through
DOE 50,

Defendants.

Case No.

CGC-17-559412

COMPLAINT FOR INJUNCTIVE AND OTHER
RELIEF

Type of Case: (42) Other Complaint

The CITY AND COUNTY OF SAN FRANCISCO and PEOPLE OF THE STATE OF
CALIFORNIA, by and through San Francisco City Attorney DENNIS J. HERRERA file their
Complaint against Defendant EIGHT FORTY ONE LLC, and DOE ONE through DOE FIFTY.
Plaintiffs hereby allege as set forth below:

INTRODUCTION

1. This action arises out of Defendant's unlawful and unfair business practices in the ownership and maintenance of a historic single family home. Defendant is a real-estate holding company. Defendant purchased the home in 2012 to renovate it and then sell it for profit.

2. Because the home in question had previously been designated as a historic resource, permits for renovation went through a lengthy and extensive review process. The permits were ultimately issued on the condition that Defendant retain the majority of the home's exteriors. In the spring of 2016, however, Defendant removed all of the home's exteriors resulting in a de facto demolition.

3. Defendant's illegal removal of the home's exteriors violates San Francisco's Planning Code and constitutes an unlawful and unfair business practice in violation of the Unfair Competition Law, as codified in California Business and Professions Code Sections 17200-17210 ("UCL"). Defendant's illegal removal has also permanently destroyed a historic resource.

PARTIES

4. Plaintiff CITY AND COUNTY OF SAN FRANCISCO is a consolidated charter city and county under the laws of the State of California. The City brings this action under San Francisco Planning Code section 176, and California Civil Code section 3494.

5. Plaintiff PEOPLE OF THE STATE OF CALIFORNIA, by and through Dennis J. Herrera, City Attorney of the City and County of San Francisco, brings this action pursuant to California Business and Professions Code sections 17200 and 17204, California Civil Code section 3494, and California Code of Civil Procedure section 731.

6. Defendant EIGHT FORTY ONE LLC ("DEFENDANT") is a limited liability, real-estate investment company and the owner of property located at 841 Chestnut Street, San Francisco, California and at 950 Lombard Street, San Francisco, California.

7. Defendants DOE ONE through DOE FIFTY are sued herein under fictitious names. Plaintiffs do not at this time know the true names or capacities of said defendants, but pray that the same may be alleged herein when ascertained.

8. At all times herein mentioned, each DEFENDANT was an agent, servant, employee, partner, franchisee and joint venturer of each other DEFENDANT and at all times was acting within the course and scope of said agency, service, employment, partnership, franchise and joint venture. Actions taken, or omissions made, by DEFENDANT's employees, members or agents in the course of their employment, membership or agency for DEFENDANT are considered to be actions or omissions of DEFENDANT for the purposes of this Complaint.

GENERAL ALLEGATIONS

9. Historical resources represent “the contributions and collective human experiences of a diversified population” and “provide continuity with our past and enhance our quality of life.”¹ The City and County of San Francisco is committed to the preservation of significant and cultural properties in San Francisco.

10. The property in question is a single family home located at 841 Chestnut Street, in San Francisco, California (“PROPERTY”) and more particularly described in Exhibit A, which is attached hereto and incorporated as part of this Complaint.

11. Built in 1908, the PROPERTY is one of the few single family homes designed by pre-eminent San Francisco architect Willis Polk. Polk is renowned for designing numerous San Francisco landmarks such as the Flood Mansion, the Merchants Exchange Building, Kezar Stadium, and the Hallidie Building. Based on its provenance, the PROPERTY is eligible for listing on the California Register of Historic Places, and any work done on the exterior of the PROPERTY is subject to review under the California Environmental Quality Act ("CEQA"). CEQA provides the legal framework by which historical resources are identified and given consideration should a party desire to alter or remove the resource.

12. In October 2011, the prior owners of the PROPERTY obtained a permit to renovate the PROPERTY. Because of the PROPERTY's historic nature, the prior owners agreed to retain the PROPERTY's exteriors, including the windows.

¹ California Office of Historic Preservation.

1 13. In 2012, DEFENDANT purchased the property for \$4.5 million dollars. In 2014,
2 DEFENDANT obtained a revision to the 2011 permit to renovate the PROPERTY. The 2014 permit
3 still contained a specific provision that the facades on the northeast and west exteriors, including the
4 windows, would be preserved.

5 14. Sometime between April 2016 and June 2016, DEFENDANT removed all of the
6 PROPERTY's exterior walls and windows, resulting in a de facto demolition.

7 15. The San Francisco Department of Building Inspection ("DBI") discovered the
8 demolition of the exterior in June 2016 and issued a Notice of Violation ("NOV") for work exceeding
9 the scope of the permit on June 9, 2016. In the NOV, DBI noted that, "demolition has been done that
10 was not authorized by previous permits." A true and correct copy of the June 9, 2016 NOV is attached
11 as Exhibit B and incorporated as part of this Complaint.

12 16. On June 9, 2016, and then again on June 15, 2016, DEFENDANT applied for a permit
13 from DBI to remove dry rot and compromised framing from the exterior of the PROPERTY, in effect
14 seeking to acquire a permit for unauthorized destruction of the exterior that DEFENDANT had already
15 accomplished. Buried in tiny lettering in the drawing attached to the permit application was language
16 contemplating the replacement of the exterior. The permit application should have been referred to the
17 San Francisco Planning Department ("PLANNING DEPARTMENT") for review. It was not, and
18 DBI issued the permit for the already-completed destruction of the exterior, in error.

19 17. In July 2016, the PLANNING DEPARTMENT discovered the unauthorized
20 destruction of the exterior when it received a complaint from the public about the demolition of the
21 PROPERTY. In response, the PLANNING DEPARTMENT contacted DEFENDANT concerning the
22 illegal demolition. Between July 2016 and November 2016, the PLANNING DEPARTMENT
23 communicated with DEFENDANT and its counsel related to the illegal demolition. On November 22,
24 2016, the PLANNING DEPARTMENT sent a letter to DBI requesting that the June 2016 permits be
25 suspended. Both DEFENDANT and their counsel also received this letter. A true and correct copy of
26 the November 22, 2016 letter is attached as Exhibit C and incorporated as part of this Complaint.

1 18. On November 30, 2016, the PLANNING DEPARTMENT issued a "Notice of
2 Enforcement" against DEFENDANT. In the Notice, the PLANNING DEPARTMENT required
3 DEFENDANT to submit a revised permit, demolition calculations, and a historic resource report.

4 19. Despite the suspension request, DEFENDANT continued rebuilding the demolished
5 exteriors of the PROPERTY. On February 9, 2017, DBI issued a NOV against DEFENDANT for
6 continuing construction at the PROPERTY despite the PLANNING DEPARTMENT's suspension
7 request. In the NOV, DBI ordered all work to be stopped until reinstated by the PLANNING
8 DEPARTMENT. A true and correct copy of the February 9, 2017 NOV is attached as Exhibit D and
9 incorporated as part of this Complaint.

10 20. Had DEFENDANT attempted to legally remove the exteriors of the PROPERTY,
11 DEFENDANT would have been required to file a permit, pay for an Environmental Impact Report,
12 and undergo rigorous review by the PLANNING DEPARTMENT *prior* to any actual demolition. By
13 illegally destroying the PROPERTY, DEFENDANT avoided additional fees and costs, as well as
14 delays associated with permit review.

15 **FIRST CAUSE OF ACTION**
16 **FOR VIOLATIONS OF THE SAN FRANCISCO PLANNING CODE BROUGHT BY**
17 **PLAINTIFF CITY AND COUNTY OF SAN FRANCISCO AGAINST DEFENDANT**
18 **(SAN FRANCISCO PLANNING CODE SECTIONS 174, 176)**

19 21. Plaintiff City and County of San Francisco (the "CITY") hereby incorporates by
20 reference paragraphs 1 through 20 above, as though fully set forth herein.

21 22. The permit to renovate the PROPERTY was conditioned on, *inter alia*, the exterior
22 walls and windows remaining intact.

23 23. Planning Code section 174 mandates that every "condition, stipulation, special
24 restriction and other limitation imposed by administrative actions pursuant to this Code . . . shall be
25 complied with in the development and use of land and structures." Failure to comply with any such
26 condition "shall constitute a violation of the provisions of this Code."

27 24. By demolishing the PROPERTY's exterior walls and windows, DEFENDANT failed to
28 comply with the conditional uses and restrictions imposed on the PROPERTY under the 2014 permit.

1 25. Pursuant to San Francisco Planning Code section 176, DEFENDANT is subject to civil
2 penalties of not less than \$200 for each day such violations were and are committed, or permitted to
3 continue, and reasonable attorney's fees and costs, including expert witness fees, incurred by the CITY
4 in enforcing the Planning Code against DEFENDANT through this Action. DEFENDANT is also
5 subject to injunctive relief.

6 **SECOND CAUSE OF ACTION**

7 **FOR UNLAWFUL, UNFAIR AND FRAUDULENT BUSINESS PRACTICES BROUGHT BY**
8 **PLAINTIFF PEOPLE OF THE STATE OF CALIFORNIA AGAINST DEFENDANT**
9 **(CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTIONS 17200-17210)**

10 26. Plaintiff People of the State of California (the "PEOPLE") hereby incorporates by
11 reference paragraphs 1 through 25 as though fully set forth herein.

12 27. The PEOPLE bring this cause of action in the public interest in the name of the People
13 of the State of California, pursuant to Business and Professions Code Sections 17200, 17204 and
14 17206 in order to protect the public from the unlawful, unfair and fraudulent business practices
15 committed by DEFENDANT within the City and County of San Francisco, State of California.

16 28. The violations of law described herein have been, and are being, carried out within the
17 City and County of San Francisco. DEFENDANT is in violation of the laws and public policies of the
18 City and County of San Francisco and are inimical to the rights and interest of the general public.

19 29. DEFENDANT is now engaging in and, for a considerable period of time and at all
20 times pertinent to the allegations of this Complaint, has engaged in unlawful business practices
21 prohibited by the UCL by operating in violation of the following laws:

- 22 • San Francisco Building Code Section 106.1.1 by conducting work without permit at the
23 PROPERTY;
- 24 • San Francisco Building Code Section 106.4.7 by conducting work exceeding the scope
25 of an already-issued permit at the PROPERTY;
- 26 • San Francisco Planning Code Section 174 by failing to abide by conditions,
27 stipulations, special restrictions and other limitations placed on the PROPERTY.

28 30. DEFENDANT is now engaging in and, for a considerable period of time and at all
times pertinent to the allegations of this Complaint have engaged in, unfair business practices

1 prohibited by the UCL. Specifically, by demolishing the PROPERTY without permit and the
2 PLANNING DEPARTMENT's oversight, DEFENDANT avoided the costs, fees and delays
3 associated with this process which they would not have avoided if they had complied with the law.

4 31. As a direct and proximate result of the foregoing acts and practices, DEFENDANT has
5 obtained an unfair advantage over similarly-situated individuals who have not engaged in such
6 practices.

7 32. The PEOPLE have no adequate remedy at law in that damages are insufficient to
8 protect the public from the harm caused by the conditions described in this Complaint.

9 33. Unless injunctive relief is granted to enjoin the unfair and unlawful business practices
10 of DEFENDANT, the People will suffer irreparable injury and damage. Accordingly, the PEOPLE
11 seek to enjoin DEFENDANT from further expanding the footprint of the buildings already located on
12 the PROPERTY, enjoin DEFENDANT from exceeding the scope of permits already issued to
13 DEFENDANT, require that all construction at the PROPERTY going forward be done with permits,
14 and require DEFENDANT to obtain approval from the PLANNING DEPARTMENT before obtaining
15 any additional permits or modifying, amending, altering or changing any aspect of an already-issued
16 permit.

17 34. By engaging in unfair and unlawful business practices described herein, DEFENDANT
18 is subject to civil penalties in the amount of up to \$2,500.00 per violation, pursuant to California
19 Business and Professions Code Section 17206.

20 **THIRD CAUSE OF ACTION**
21 **FOR PUBLIC NUISANCE BROUGHT BY PLAINTIFF CITY AND COUNTY OF SAN**
22 **FRANCISCO AGAINST DEFENDANT**

23 35. The CITY incorporates by reference paragraphs 1 through 34, above, as though fully
24 set forth herein.

25 36. The CITY brings this cause of action under California Civil Code section 3494,
26 California Code of Civil Procedure section 731, and Planning Code section 176.
27
28

37. As described above, DEFENDANT is now, and for a considerable period of time has been, using or maintaining the PROPERTY in violation of the San Francisco Building and Planning Codes, by illegally demolishing the exteriors of this historic resource.

38. Pursuant to San Francisco Building Code section 102, any building, structure, PROPERTY, or part thereof, that is dangerous to human life, safety, or health of the occupants or the occupants of adjacent properties or the public by reason of inadequate egress, unsafe structure, inadequate maintenance, use in violation of law or ordinance, or alteration, construction or maintenance in violation of law or ordinance are unsafe and as such constitute a *per se* public nuisance.

39. Pursuant to San Francisco Planning Code section 176, any use, structure, lot, feature, or condition in violation of the Planning Code is unlawful and a per se public nuisance.

40. At all times alleged herein, DEFENDANT knew or should have known that the demolition of the PROPERTY was, and is, illegal and constitutes a public nuisance. Despite this knowledge, Defendants have continuously maintained the Property in violation of the Planning Code.

41. Unless said nuisance is abated, the citizens of the City and County of San Francisco will suffer irreparable injury.

42. Accordingly, the CITY seeks to enjoin DEFENDANT from further expanding the footprint of the buildings already located on the PROPERTY, enjoin DEFENDANT from exceeding the scope of permits already issued to DEFENDANT, require that all construction at the PROPERTY going forward be done with permits, and require DEFENDANT to obtain approval from the PLANNING DEPARTMENT before obtaining any additional permits or modifying, amending, altering or changing any aspect of an already-issued permit.

PRA YER

WHEREFORE, PLAINTIFFS pray that:

Declaratory Relief

1. DEFENDANT be declared to have engaged in unfair and unlawful business acts and practices in violation of California Business and Professions Code Sections 17200-17210;

2. DEFENDANT be declared to have violated San Francisco Planning Code section 174;

1 3. The PROPERTY be declared a public nuisance to be permanently abated in accordance
2 with Planning Code section 176, and Civil Code section 3479.

3 **Injunctive Relief**

4 4. DEFENDANT be enjoined and restrained from continuing to own and maintain the
5 PROPERTY in violation of the law;

6 5. DEFENDANT be enjoined from committing unlawful and unfair business practices in
7 the use and maintenance of the PROPERTY;

8 6. DEFENDANT be enjoined from spending, transferring, encumbering, or removing
9 from California any money received for the unfair and unlawful acts alleged in the Complaint;

10 7. DEFENDANT be enjoined from further expanding the footprint of the buildings
11 already located on the PROPERTY;

12 8. DEFENDANT be enjoined from exceeding the scope of permits already issued to
13 DEFENDANT;

14 9. DEFENDANT be required to obtain approval from the PLANNING DEPARTMENT
15 before obtaining any additional permits or modifying, amending, altering or changing any aspect of an
16 already-issued permit.

17 10. DEFENDANT be ordered to restore to any person in interest any money or property,
18 real or personal, which may have been acquired by means of unfair competition, including the City
19 and County of San Francisco, pursuant to California Business and Professions Code Section 17203
20 and *People v. Beaumont Investment, Ltd., et al.* (2003) 111 Cal.App.4th 102, 134-136;

21 **Penalties**

22 11. Pursuant to Business and Professions Code Section 17206, DEFENDANT be ordered
23 to pay a civil penalty of up to \$2,500.00 for each act of unfair and unlawful competition in violation of
24 Business and Professions Code Sections 17200-17210;

25 12. Pursuant to Planning Code section 176(c)(2) and 176(f), DEFENDANT be ordered to
26 pay daily penalties of at least \$200 for violations of Planning Code section 174;

27 ///

28 ///

1 **Fees and Costs**

2 13. PLAINTIFFS be awarded reasonable attorney's fees and costs, including expert witness
3 fees, incurred in bringing this Action, pursuant to San Francisco Planning Code section 176;

4 14. PLAINTIFFS be awarded their costs incurred herein pursuant to Code of Civil
5 Procedure Section 1032 and San Francisco Planning Code section 176; and

6 15. Other and further relief as this Court should find just and proper.

7 Dated: June 8, 2017

8 DENNIS J. HERRERA
9 City Attorney
10 PETER J. KEITH
11 Chief Attorney
12 JENNIFER E. CHOI
13 Deputy City Attorney

14 By: 
15 JENNIFER E. CHOI

16 Attorneys for Plaintiffs
17 CITY AND COUNTY OF SAN FRANCISCO and
18 PEOPLE OF THE STATE OF CALIFORNIA
19
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INDEX TO EXHIBITS

Exhibit **Description**

- A Property Description for Parcel One: 950 Lombard Street, San Francisco, California, and Parcel Two: 841 Chestnut Street, San Francisco, California
- B June 9, 2016, NOV – Complaint No. 201612474
- C November 22, 2016, Planning Department Suspension Request re: Building Application No.: 201606159992, 201606099584
- D February 9, 2017, NOV – Complaint No. 201761801

EXHIBIT A

PARCEL ONE: 950 Lombard Street, San Francisco, California 94133

Commencing at a point on the Northerly line of Lombard Street, distant one hundred and thirty-seven and one-half ($137 \frac{1}{2}$) feet Westerly from the intersection of said line of Lombard Street with the Westerly line of Jones Street, thence running Westerly along said line of Lombard Street, sixty-eight (68) feet and nine (9) inches, thence at right angles Northerly one hundred and thirty-seven and one-half ($137 \frac{1}{2}$) feet, thence at right angles Easterly sixty-eight (68) feet nine (9) inches, thence at right angles Southerly one hundred and thirty-seven and one-half ($137 \frac{1}{2}$) feet to the point of commencement.

Assessor's Lot 010, Block 0067

PARCEL TWO: 841 Chestnut Street, San Francisco, California 94133

Commencing at a point on the Southerly line of Chestnut Street one hundred and thirty-seven and one-half ($137 \frac{1}{2}$) feet from the intersection of said line of Chestnut Street with the Westerly line of Jones Street, thence running Westerly along said line of Chestnut Street forty-five (45) feet and six (6) inches, thence at right angles Southerly one hundred and thirty-seven and one-half ($137 \frac{1}{2}$) feet, thence at right angles Easterly forty-five (45) feet and six (6) inches, thence at right angles Northerly one hundred and thirty-seven and one-half ($137 \frac{1}{2}$) feet to the point of commencement.

Assessor's Lot 017, Block 0067

EXHIBIT B



NOTICE OF VIOLATION
of the San Francisco Municipal Codes Regarding Unsafe,
Substandard or Noncomplying Structure or Land or Occupancy

DEPARTMENT OF BUILDING INSPECTION

NOTICE: 1

NUMBER: 201612474

City and County of San Francisco

DATE: 09-JUN-16

1660 Mission St. San Francisco, CA 94103

ADDRESS: 841 CHESTNUT ST 0

OCCUPANCY/USE: R-3 (RESIDENTIAL- 1 & 2 UNIT DWELLINGS, TOWNHOUSES) BLOCK: 0067 LOT: 017

☐ If checked, this information is based upon site-observation only. Further research may indicate that legal use is different. If so, a revised Notice of Violation will be issued.

OWNER/AGENT: EIGHT FORTY ONE LLC

PHONE #: --

MAILING EIGHT FORTY ONE LLC

**ADDRESS 1 POST ST #2210
SAN FRANCISCO CA**

94104

PERSON CONTACTED @ SITE: EIGHT FORTY ONE LLC

PHONE #: --

VIOLATION DESCRIPTION:

CODE/SECTION#

<input type="checkbox"/> WORK WITHOUT PERMIT	106.1.1
<input checked="" type="checkbox"/> ADDITIONAL WORK-PERMIT REQUIRED	106.4.7
<input type="checkbox"/> EXPIRED OR <input type="checkbox"/> CANCELLED PERMIT PA#:	106.4.4
<input type="checkbox"/> UNSAFE BUILDING <input type="checkbox"/> SEE ATTACHMENTS	102.1

Following a complaint being received by the Department of Building Inspection and a subsequent site inspection, it has been discovered that demolition has been done that was not authorized on previous permits.

Monthly monitoring fee.

Code/Section #: SFBC 106A.4.7

CORRECTIVE ACTION:

☒ **STOP ALL WORK SFBC 104.2.4**

415-575-6935

☒ **FILE BUILDING PERMIT WITHIN 30 DAYS**

☒ **(WITH PLANS)** A copy of This Notice Must Accompany the Permit Application

☒ **OBTAIN PERMIT WITHIN 60 DAYS AND COMPLETE ALL WORK WITHIN 180 DAYS, INCLUDING FINAL INSPECTION AND OFF.**

☐ **CORRECT VIOLATIONS WITHIN DAYS.**

☐ **NO PERMIT REQUIRED**

☐ **YOU FAILED TO COMPLY WITH THE NOTICE(S) DATED , THEREFORE THIS DEPT. HAS INITIATED ABATEMENT PROCEEDINGS.**

- **FAILURE TO COMPLY WITH THIS NOTICE WILL CAUSE ABATEMENT PROCEEDINGS TO BEGIN.
SEE ATTACHMENT FOR ADDITIONAL WARNINGS.**

Stop all work. Obtain a building permit. The permit shall show all the area of the building that were demolished.

INVESTIGATION FEE OR OTHER FEE WILL APPLY

☐ 9x FEE (WORK W/O PERMIT AFTER 9/1/60) ☒ 2x FEE (WORK EXCEEDING SCOPE OF PERMIT)

☐ **OTHER:**

☐ **REINSPECTION FEE \$**

☐ **NO PENALTY
(WORK W/O PERMIT PRIOR TO 9/1/60)**

APPROX. DATE OF WORK W/O PERMIT 16-MAY-16 VALUE OF WORK PERFORMED W/O PERMITS \$40000

BY ORDER OF THE DIRECTOR, DEPARTMENT OF BUILDING INSPECTION

CONTACT INSPECTOR: Sean M Birmingham

PHONE # 415-575-6935

DIVISION: BID

DISTRICT : 15

By:(Inspectors's Signature) _____

EXHIBIT C



SAN FRANCISCO PLANNING DEPARTMENT

Suspension Request

November 22, 2016

Tom Hui, CBO, SE
Director
Department of Building Inspection
1660 Mission Street
San Francisco, CA 94103

Building Application No.: 201606159992
201606099584
Property Address: 841 Chestnut Street (also known as 950 Lombard)
Block and Lot 0067/017
Zoning District: RH-1/40-X
Staff Contact: Alexandra Kirby – (415) 575-9133
alexandra.kirby@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Dear Mr. Hui,

This letter is to request that the Department of Building Inspection (DBI) suspend **Building Permit Application Numbers 201606159992 and 201606099584** for the property at 841 Chestnut Street.

The Planning Department reviewed and approved Building Permit Numbers 201402057897 and 200205237379. Building Permit Numbers 201606159992 and 201606099584 were subsequently submitted as revisions to Building Permit Numbers 201402057897 and 200205237379. However, those revision permits were not reviewed or approved by the Planning Department, and were issued on June 9th and 15th, 2016.

The scope of work of the subject permits includes: "Reconstruction of all exterior walls and framing due to extensive damage[.]" on a property that was determined to be of historic significance. Such removal is subject to Planning Department review and in conflict with the CEQA review of the originally proposed project. Therefore, the Planning Department requests suspension of **Building Permit Application Numbers 201606159992 and 201606099584** to allow the Permit Holder to submit a revised Building Permit Application for the work at the subject property to undergo the required review of the Planning Department.

APPEAL: Any aggrieved person may appeal this letter to the Board of Appeals within fifteen (15) days after the date of the issuance of this letter. For further information, please contact the Board of Appeals in person at 1650 Mission Street, Room 304, or call 575-6880.

Tom Hui, Acting Director DBI
Suspension Request
841 Chestnut Street (also known as 950 Lombard)
November 22, 2016

Sincerely,

Corey A. Teague
Acting Zoning Administrator

CC: Eight Forty One LLC, One Post Street, Suite 2210, San Francisco, Ca, 94104
Tuija Catalano, One Bush Street, Suite 600, San Francisco, Ca, 94104
Daniel Lowrey, Acting Deputy Director, Department of Building Inspection
Mark Luellen, Planning Department

EXHIBIT D



NOTICE OF VIOLATION

of the San Francisco Municipal Codes Regarding Unsafe,
Substandard or Noncomplying Structure or Land or Occupancy

DEPARTMENT OF BUILDING INSPECTION

City and County of San Francisco

1660 Mission St. San Francisco, CA 94103

NOTICE: 1

NUMBER: 201761801

DATE: 09-FEB-17

ADDRESS: 841 CHESTNUT ST

OCCUPANCY/USE: 0

BLOCK: 0067 LOT: 017

☐ If checked, this information is based upon site-observation only. Further research may indicate that legal use is different. If so, a revised Notice of Violation will be issued.

OWNER/AGENT: EIGHT FORTY ONE LLC

PHONE #: --

MAILING EIGHT FORTY ONE LLC

ADDRESS 1 POST ST #2210
SAN FRANCISCO CA

94104

PERSON CONTACTED @ SITE:

PHONE #: --

VIOLATION DESCRIPTION:

CODE/SECTION#

☒ WORK WITHOUT PERMIT

106.1.1

☐ ADDITIONAL WORK-PERMIT REQUIRED

106.4.7

☐ EXPIRED OR ☐ CANCELLED PERMIT PA#:

106.4.4

☐ UNSAFE BUILDING ☐ SEE ATTACHMENTS

102.1

As per the letter you received from the Planning Department to stop work on 841 Chestnut under suspended permits, work continued including plumbing, electrical, radiant heating, and window. All work must stop under all permit associated with 841 Chestnut until Planning Department reinstated.

Code/Section: 103A

CORRECTIVE ACTION:

☒ STOP ALL WORK SFBC 104.2.4

415-575-6935

☐ FILE BUILDING PERMIT WITHIN DAYS

☐ (WITH PLANS) A copy of This Notice Must Accompany the Permit Application

☐ OBTAIN PERMIT WITHIN DAYS AND COMPLETE ALL WORK WITHIN DAYS, INCLUDING FINAL INSPECTION AND SIGNOFF.

☐ CORRECT VIOLATIONS WITHIN DAYS.

☐ NO PERMIT REQUIRED

☐ YOU FAILED TO COMPLY WITH THE NOTICE(S) DATED , THEREFORE THIS DEPT. HAS INITIATED ABATEMENT PROCEEDINGS.

● FAILURE TO COMPLY WITH THIS NOTICE WILL CAUSE ABATEMENT PROCEEDINGS TO BEGIN.

SEE ATTACHMENT FOR ADDITIONAL WARNINGS.

Stop all work at 841 Chestnut under all permits, until Planning Departments approval to start work.

INVESTIGATION FEE OR OTHER FEE WILL APPLY

☐ 9x FEE (WORK W/O PERMIT AFTER 9/1/60)

☒ .2x FEE (WORK EXCEEDING SCOPE OF PERMIT)

☐ OTHER:

☐ REINSPECTION FEE \$

☐ NO PENALTY

(WORK W/O PERMIT PRIOR TO 9/1/60)

APPROX. DATE OF WORK W/O PERMIT

VALUE OF WORK PERFORMED W/O PERMITS \$50000

BY ORDER OF THE DIRECTOR, DEPARTMENT OF BUILDING INSPECTION

CONTACT INSPECTOR: Sean M Birmingham

PHONE # 415-575-6935

DIVISION: BID

DISTRICT: 15

By: (Inspector's Signature) _____

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DENNIS J. HERRERA, State Bar #139669
 City Attorney
 PETER J. KEITH, State Bar #206482
 Chief Attorney
 Neighborhood and Resident Safety Division
 JENNIFER E. CHOI, State Bar #184058
 Deputy City Attorney
 1390 Market Street, Sixth Floor
 San Francisco, California 94102-5408
 Telephone: (415) 554-3887
 Facsimile: (415) 437-4644
 E-Mail: jennifer.choi@sfgov.org

ENDORSED
 FILED
 Superior Court of California
 County of San Francisco

JUN 13 2017

CLERK OF THE COURT

BY: JOSE RIOS MERIDA
 Deputy Clerk

Attorneys for Plaintiffs
 CITY AND COUNTY OF SAN FRANCISCO and
 PEOPLE OF THE STATE OF CALIFORNIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

CITY AND COUNTY OF SAN
 FRANCISCO, a Municipal Corporation, and
 the PEOPLE OF THE STATE OF
 CALIFORNIA, by and through Dennis J.
 Herrera, City Attorney for the City and County
 of San Francisco,

Plaintiffs,

vs.

EIGHT FORTY ONE LLC, DOE 1 through
 DOE 50,

Defendants.

Case No. CGC - 17-559412

STIPULATED INJUNCTION BETWEEN
 PLAINTIFFS CITY AND COUNTY OF SAN
 FRANCISCO AND THE PEOPLE OF THE
 STATE OF CALIFORNIA AND DEFENDANT
 EIGHT FORTY ONE LLC

This Stipulated Injunction ("Injunction" or "Order") is the result of a negotiated compromise between the Parties and was presented before the above-captioned Court, the Honorable RICHARD ULMER presiding. Plaintiffs City and County of San Francisco, a municipal corporation, and the People of the State of California ("Plaintiffs" or the "City"), were represented by their attorney, Dennis J. Herrera, City Attorney, appearing through Deputy City Attorney Jennifer E. Choi. Defendant Eight Forty One LLC ("Defendant") was represented by Tuija Catalano of Reuben, Junius & Rose, LLP.

1 PLAINTIFFS and DEFENDANT (collectively, "Parties") consent to entry of this
2 INJUNCTION as an Order by this Court without a noticed motion, hearing or trial.

3 DEFENDANT having stipulated to the provisions set forth herein, the Court having reviewed
4 the provisions, the PARTIES having agreed to the issuance of this ORDER, and good cause appearing
5 therefor,

6 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

7 **I. JURISDICTION AND AUTHORITY**

8 This Court has jurisdiction over the subject matter of this lawsuit as set forth in the Complaint
9 filed in this Action and over the PARTIES to this ORDER. The Court issues this ORDER pursuant to
10 its authority under Business and Professions Code Section 17203 and San Francisco Planning Code
11 Section 176(b)(2). The Court expressly retains jurisdiction to modify this ORDER as the ends of
12 justice may require. The Court may hear and decide issues regarding the scope and effect of the
13 injunctive provisions, herein. Any party to this ORDER may apply to the Court at any time, after
14 making a reasonable effort to meet and confer with the other parties, for further orders and directions
15 as may be necessary or appropriate for the construction, application, modification or carrying out of
16 the injunctive provisions, herein.

17 Upon a properly noticed motion to all parties, the Court can modify any of the injunctive
18 provisions hereof and take such further action as may be necessary or appropriate to carry into effect
19 the injunctive provisions hereof, and for the punishment of violations of same, if any.

20 PLAINTIFFS assert they have authority under both the San Francisco Planning Code and the
21 California Business and Professions Code to maintain this action for the protection of the People of the
22 State of California and the citizens of the City and County of San Francisco concerning the conduct
23 alleged in the Complaint.

24 The PARTIES agree that this INJUNCTION does not allocate any liability or fault on either
25 PARTY, and that the PARTIES' execution of this INJUNCTION constitutes merely a compromise to
26 settle the differences between the PARTIES, not an admission of any fault, liability, or wrongdoing by
27 either of the PARTIES. The COURT does not find or adjudicate any liability between the PARTIES
28 and no liability, fault or wrongdoing shall be inferred due to the execution of this STIPULATION.

1 **II. APPLICATION**

2 The provisions of this INJUNCTION are applicable to DEFENDANT, and any of
3 DEFENDANT's partners, members, agents, servants, employees, trustees, representatives, successors,
4 assigns, lessees, and other persons acting in concert or participating with DEFENDANT, in their
5 management and/or ownership of the properties located at 841 Chestnut Street, San Francisco,
6 California 94133, and 950 Lombard Street, San Francisco, California 94133 (jointly referred to as the
7 "Property"), as described in the Complaint in this Action. The terms successors and assigns do not
8 include those individuals or entities unrelated by blood, marriage or business affiliation to
9 DEFENDANT or BONA FIDE THIRD PARTY PURCHASERS as that term is defined below. The
10 provisions of this INJUNCTION shall also apply to any new corporation, limited liability company,
11 partnership, or other business entity created by DEFENDANT for the management and/or ownership
12 of the PROPERTY.

13 In the event that the PROPERTY is sold or otherwise disposed of by DEFENDANT to a
14 BONA FIDE THIRD PARTY PURCHASER, this INJUNCTION shall not apply to the new owners
15 and/or new management of the PROPERTY and DEFENDANT's obligations under part IV
16 (Injunctive Provisions) below shall cease. This Injunction shall not be interpreted as a covenant
17 running with the land situated at the PROPERTY, and shall not be enforceable against a subsequent
18 landowner who is a BONA FIDE THIRD PARTY PURCHASER. A BONA FIDE THIRD PARTY
19 PURCHASER is any entity or individual who is not: (a) DEFENDANT, (b) any company, partnership,
20 corporation, limited liability company, trust or other entity in which DEFENDANT and/or
21 DEFENDANT's members have any interest, or (c) any person related at any time by blood, marriage,
22 or adoption to DEFENDANT's members.

23 **III. EFFECTIVE DATE AND TERM OF INJUNCTION**

24 This INJUNCTION shall take effect immediately upon entry by the Court ("Effective Date").
25 The terms of this INJUNCTION shall expire sixty (60) months after the EFFECTIVE DATE, unless
26 extended or shortened by mutual written agreement of the PARTIES or by further order of the Court.

27 **IV. INJUNCTIVE PROVISIONS**

1 IT IS ORDERED that DEFENDANT is hereby enjoined and restrained from engaging in,
2 committing, or performing, directly or indirectly, any and all of the following acts at the PROPERTY:

3 1. Expanding the footprint of the buildings already located on the PROPERTY or allowed
4 to be constructed on the PROPERTY pursuant to permit(s) issued by the Department of Building
5 Inspection before the EFFECTIVE DATE;

6 2. Exceeding the scope of any permits already issued by the Department of Building
7 Inspection or issued after this ORDER;

8 IT IS FURTHER ORDERED that DEFENDANT shall,

9 3. Contact and obtain approval from the San Francisco Planning Department via its
10 designated representative when applying for any new permits with the Department of Building
11 Inspection related to the PROPERTY, except for plumbing permits, electrical permits, mechanical
12 permits that result in no exterior change to the building, or permits from the Bureau of Urban Forestry
13 or Bureau of Street Use and Mapping that do not otherwise require Planning Department review;

14 4. Contact and obtain approval from the San Francisco Planning Department when
15 modifying, amending, altering, or changing any aspect of an already-issued permit, or any permit
16 issued after this ORDER, related to the PROPERTY; and

17 5. Obey all laws, including, but not limited to, the San Francisco Building Code, the San
18 Francisco Planning Code, and the California Environmental Quality Act, in the ownership and
19 maintenance of the PROPERTY.

20
21 **V. ENFORCEMENT OF THE INJUNCTIVE PROVISIONS**

22 1. A violation of any of the provisions of this INJUNCTION constitutes contempt of
23 Court. Upon proper notice to all PARTIES, the terms of this INJUNCTION may be enforced through
24 a contempt proceeding, a motion to enforce, or any other proceeding recognized by the Court for
25 enforcement of an injunction. In the event that the Court determines after hearing that DEFENDANT
26 violated any of the terms of this ORDER, DEFENDANT shall be liable for civil penalties of no more
27 than \$6,000 for each violation of this INJUNCTION, pursuant to Business and Professions Code
28 Section 17207.

1 2. Should either of the PARTIES be found to have violated any portion of this
2 INJUNCTION by the Court, the prevailing party shall recover all attorney's fees and costs incurred in
3 enforcing this INJUNCTION.

4 3. Any fines, penalties, or other monetary relief specified in this INJUNCTION shall be in
5 addition to any other relief or sanctions that the Court may order as a matter of law or equity.

6 4. The Court expressly reserves jurisdiction to take such further action as may be necessary
7 or appropriate to carry into effect the provisions of this INJUNCTION.

8 **VI. MONETARY SETTLEMENT PAYMENT**

9 DEFENDANT has agreed to pay a monetary settlement to settle this Action. PARTIES agree
10 that the payment of a monetary settlement does not indicate and should not be interpreted or construed
11 as any admission or imposition of fault or wrongdoing by the DEFENDANT. Failure to timely or
12 fully pay the monetary settlement shall be deemed a violation of this INJUNCTION.

13 **VII. NO WAIVER OF RIGHTS TO ENFORCE**

14 The failure of either of the PARTIES to enforce any provision of this INJUNCTION shall in
15 no way be deemed a waiver of such provision or in any way affect the validity of this INJUNCTION.
16 The failure of either of the PARTIES to enforce any such provision shall not preclude such PARTY
17 from later enforcing the same or any other provision of this INJUNCTION. No oral advice, guidance,
18 suggestion, or comments by either PARTY'S employees or officials regarding matters covered by this
19 INJUNCTION shall be construed to relieve the other PARTY of its obligations.

20 **VIII. NOTICE TO SUBSEQUENT INTEREST HOLDERS**

21 Should DEFENDANT sell, transfer, assign, or otherwise dispose of the PROPERTY,
22 DEFENDANT shall:

23 1. Notify the City Attorney's Office of the proposed sale, transfer, assignment, or other
24 disposition at least fifteen (15) days prior to the disposition;


25 2. Identify under oath any relationship, or lack thereof, between DEFENDANT and the
26 purchaser, transferee or assignee via transmittal of a declaration signed under penalty of perjury;
27
28

3. Prior to (or from the escrow associated with) the proposed sale, transfer, assignment, or other disposition, pay all remaining amounts of the monetary settlement stemming from this Action still owed to PLAINTIFFS.

IT IS SO STIPULATED.

DATED: June 8, 2017

DENNIS J. HERRERA
City Attorney
PETER J. KEITH
Chief Attorney
JENNIFER E. CHOI
Deputy City Attorneys


Attorneys for Plaintiffs
CITY AND COUNTY OF SAN
FRANCISCO and PEOPLE OF THE
STATE OF CALIFORNIA

DATED: June 8, 2017



PEOPLE OF THE STATE OF CALIFORNIA

DATED: June 6, 2017


EIGHT FORTY ONE LLC

Approved as to Form:

DATED: June 7, 2017


TUIJA CATALANO
Attorney for Defendant
EIGHT FORTY ONE LCC

IT IS SO ORDERED:

Dated: 6/13/17

/s/ RICHARD ULMER
JUDGE OF THE SUPERIOR COURT

HON. RICHARD ULMER

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SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Historical Report Response Memo

Preservation Planner: Alexandra Kirby
(415) 575-9133
alexandra.kirby@sfgov.org

Project Address: 841 Chestnut Street (950 Lombard Street)

Block/Lot: 0067/010 (017)

Case No.: 2017-001787PRJ

Related Cases: 2009.0801E, 2002.0929E

Date of Review: June 19, 2017

PROJECT EVALUATION, POST DEMOLITION

Per Drawings Dated: May 22, 2017

Project Description:

The current proposal is to address all completed work that has proceeded without the benefit of Planning Department-approved plans or entitlements. The project shall address the demolition of a historically significant single-family dwelling designed by Willis Polk and constructed circa 1908, and its reconstruction, which was not submitted to the Planning Department for CEQA review per standard procedure. This report shall serve to memorialize the project history and the completed scope of work prior to the current Building Permit Application (2017.01.26.8001). This includes wholesale reconstruction of the historic structure within its original footprint in all new materials.

Project History:

The original proposed project under Case No. 2002.0929E involved the relocation of the rear dwelling ("cottage") unit at 950 Lombard Street; excavation and construction of a new garage into the hillside on the Chestnut Street frontage; removal of the non-original addition and minor alterations on the south elevation of the house; and other alterations such as window replacement and a new terrace and railings. Under this review it was determined by Department staff that the subject building at 841 Chestnut was historically significant under Criterion 3 (Architecture) as a notable work by a master architect, Willis Polk, while he served as head of the San Francisco Office of D.H. Burnham & Co. The property was exemplary of the First Bay Tradition architectural style, and one of two known examples of Polk's "rustic city house" designs in San Francisco, also demonstrated at 1013 Vallejo, where the architect resided in the late 19th century.

The project at 841 Chestnut Street was later revised under Case No. 2009.0801E, proposing to construct the same sub-grade garage and elevator shaft on the Chestnut Street frontage; replace the brick foundation; remove the existing non-historic addition to the south; construct a new rear horizontal

addition; infill a non-historic exterior door and a non-historic window opening; and create a new exterior door opening on the east elevation. Under this review the historic cottage was proposed to remain in place. This work was permitted under Building Permit Application Number 2002.05.23.7379, which was approved by the Planning Department on March 9, 2011, and issued by the Department of Building Inspection on October 11, 2011.

On February 12, 2014, the project scope was revised under Building Permit Application (“BPA”) Number 2014.02.05.7897 to “retain the north, east, and west facades”; complete an extensive interior renovation; relocate the below-grade garage and entrance; and expand the proposed basement from 1,114 square feet to 3,495 square feet. This project was determined to be exempt from further CEQA review as a revision to the prior evaluations. The structural permit for this proposal was inconsistent with the site permit, noting that all framing would be new.

On May 13, 2015, the Department of Building Inspection (“DBI”) issued a Notice of Violation (201547651), citing that the extensive excavation would require a shoring permit, as noted in BPA 2014.02.05.7897. BPA 2015.05.26.7119 was submitted to address the shoring plans and BPA 2015.07.23.2229 was issued without Planning Department review to show removal of all interior walls as “a clarification of extent of demolition” from the previously approved plans. Three additional complaints were filed with DBI in October of 2015 regarding rockslides, compromised excavation work, life safety and trespassing.

On May 12, 2016, a new permit was filed to install new skylights in the historic roof under BPA 2016.05.05.6707. This scope was determined to be exempt from CEQA review.

On April 21, 2016, an additional complaint was filed on the property regarding work beyond scope of permit. On May 19, 2016, DBI issued a Notice of Violation in response to the concern regarding exceeding the permitted scope of demolition at the site. June 9, 2016, BPA 2016.06.09.9584 was issued with an engineer’s notice and no plans; the scope of work reads: “remove additional dryrotted (sic.) & compromised framing necessary to execute approved plans. No changes to approved design proposed.” On June 15, 2016, revision permit number 2016.06.15.9992 was submitted with one sheet of plans illustrating the full removal of all historic material including floor plates and framing. The plans were approved by DBI without Planning review or approval. All plans stated, erroneously, “No changes to approved design.” At the time all plans were submitted, the property had been effectively demolished, all permits were filed to correct the record.

On July 6, 2016, a complaint was filed with the Planning Department (case no. 2016-008722ENF) citing the possible demolition of a historic resource without Planning Department approval. Staff conducted a site visit on November 8, 2016, where it was determined that the building was composed of all new framing and sheathing. On December 30, 2017, a revised set of plans were provided via email to the Department clarifying the completed scope of demolition. A formal set of the subject Building Permit Application (2017.01.26.8001) was filed on January 26, 2017. At this time it was determined that the sponsor had exceeded the scope of work approved by Planning at the site as well as the approved scope of work reviewed under CEQA. Further, two additional CEQA Categorical Exemptions were filed on the additional permits at the site. The potential cumulative impacts for the project have never been assessed.

BUILDING AND PROPERTY DESCRIPTION

The entire project site at 841 Chestnut Street and 950 Lombard (Assessor's Block 0067, Lots 010 and 017) is approximately 9,480 square feet and located about mid-block on the block bounded by Lombard, Jones, Chestnut, and Leavenworth Streets in the Russian Hill neighborhood. The two parcels were historically one lot under one ownership. The project site is zoned RH-1 (Residential, House, One-Family) and is within a 40-X height and bulk district. The project site contains two residences: (1) 950 Lombard Street - a small one-story cottage on Lot 10 of Assessor's Block 0067 facing Lombard Street, constructed in 1907 and (2) 841 Chestnut Street - a larger two-story, single-family dwelling on Lot 17 facing Chestnut Street.

PRE-EXISTING HISTORIC RATING / SURVEY

Constructed in 1908, the subject building at 841 Chestnut Street is within an RH-1 (Single-Family, Residential) Zoning District. The subject building is listed in *Here Today* (page 279), a cultural resource survey and subsequent book of historic resources in San Francisco. *Here Today* identified this building as "an interesting shingle residence" designed by Willis Polk in 1908, while he headed up the San Francisco office of D.H. Burnham & Co. The primary residence at 841 Chestnut Street was evaluated as individually eligible for listing on the California Register of Historic Places under Criterion 3 (Architecture) by Planning Department Preservation staff under Case no. 2002.0929E and 2009.0801E, with a Period of Significance of 1908. The subject building is defined by the Planning Department as a "Category A" building, a known historic resource, for the purposes of CEQA review.

The cottage at 950 Lombard has never been formally evaluated for significance, nor was the landscaped setting in which the properties were set. According to the Historical Report provided by Carey & Company on April 25, 2017, the cottage was constructed in 1907 for owner Joanna Wright, widow of Selden S. Wright, after the original residence at 841 Lombard Street burned down in the 1906 fire. No permit history exists, and therefore the architect is not known; however, the reconstruction of 841 Chestnut Street by Willis Polk presumes that he may have been responsible for the design, which related to the aesthetic of the residence. A river rock chimney was added circa 1926, and a rear sauna area was added circa 1978. The 1926 chimney appears to have gained significance in its own right as a character-defining feature of the property.

Integrity is the ability of a property to convey its significance. To be a resource for the purposes of CEQA, a property must not only be shown to be significant under the California Register criteria, but it also must have integrity. To retain historic integrity a property will always possess several, and usually most, of the aspects. The subject property has retained integrity from the period of significance noted above:

Location:	<input checked="" type="checkbox"/> Retains	<input type="checkbox"/> Lacks
Association:	<input type="checkbox"/> Retains	<input checked="" type="checkbox"/> Lacks
Design:	<input type="checkbox"/> Retains	<input checked="" type="checkbox"/> Lacks
Workmanship:	<input type="checkbox"/> Retains	<input checked="" type="checkbox"/> Lacks

Setting:	<input type="checkbox"/> Retains	<input checked="" type="checkbox"/> Lacks
Feeling:	<input type="checkbox"/> Retains	<input checked="" type="checkbox"/> Lacks
Materials:	<input type="checkbox"/> Retains	<input checked="" type="checkbox"/> Lacks

The residence at 841 Chestnut Street no longer retains any integrity due to the demolition of the property. The property has lost the following aspects of integrity:

- **Design:** Design is the composition of elements that constitute the form, plan, space, structure, and style of a property. Although the final design of the reconstructed residence will strive to match the historic design of the property, the interiors will be entirely contemporary, the structure has radically changed due to the extensive excavation and modern code requirements for new construction and the style will read as a modern replica of the original Polk design.
- **Setting:** Setting is the physical environment of a historic property that illustrates the character of the place. Historically this property was set in a bucolic hillside that overlooked the San Francisco Bay with mature trees and an elevated garden area. In 1978 a pool was added in the middle of the lot, although it was later filled in, creating the terraced garden on the west half of the property. At the time of the most recent sale (2012), the mid-lot area was landscaped and features a greenhouse set to the west property line. All of the mid-lot area has been extensively excavated under the subject project, all mature trees and shrubs have been removed, and new non-native mature olive trees have been installed. Willis Polk designed residences in the “First Bay Tradition,” characterized by their shingled exteriors and suburban settings. The new setting will clearly read as contemporary.
- **Materials:** Materials are the physical elements combined in a particular pattern or configuration to form the aid during a period in the past. All historic materials have been removed without adequate documentation or intent to retain. One notable loss is the removal of all of the original leaded windows.
- **Workmanship:** Workmanship is the physical evidence of the crafts of a particular culture or people during any given period of history. Willis Polk was known to be as much of an artist as an architect, and his buildings typically feature a high degree of workmanship by local craftsmen. This was demonstrated in the wood timber detailing such as the cornice and brackets on 841 Chestnut Street. It is unknown if the lost elements may have provided any evidence of the technologies and craft of the time of construction.
- **Feeling:** Feeling is the quality that a historic property has in evoking the aesthetic or historic sense of a past period of time. While the reconstructed residence will match the historic house in exterior design, all new materials and finishes will read as contemporary
- **Association:** the historic building was designed by Master architect Willis Polk and constructed in 1908. The proposed project would be a reconstruction of the residence effectively designed by Ken Lindsteadt Architects. No Historic American Building Survey (HABS) documentation was completed prior to the extensive excavation, below grade addition or demolition took place, so there is no high-quality record of the subject building other than early existing plans from the proposal, which do not appear to meet HABS standards. Due to the loss of all aspects noted above, this property no longer retains its integrity of association.

The property at 841 Chestnut Street does retain the integrity of location, as it is located at the same site. The cottage structure at 950 Lombard retains integrity of location, design and materials to some degree, feeling, and therefore association. The Period of Significance for the cottage (950 Lombard Street) is 1907 – 1926, its approximate date of construction to the completion of the chimney.

The character-defining features of 950 Lombard cottage include:

- One-story height;
- Rectangular massing;
- Shingle siding;
- Raised open porch;
- Hipped roof;
- Wood-framed double-hung and multi-lite windows;
- The chimney at the west façade was constructed circa 1926 and has gained significance in its own right as an age-eligible and character-defining feature.

The proposed project can no longer be evaluated for CEQA compliance, as the excavation and demolition of the historic resource have been completed. The below analysis reviews the partially completed project for compliance with the *Secretary of the Interior's Standards for Rehabilitation*, under which the project was previously reviewed in 2002 and 2009.

A report was submitted on March 23, 2017, by Carey & Company evaluating the property for compliance with the *Secretary of the Interior's Standards for Reconstruction*. The Department finds that this is not an appropriate application of the *Standards*, as the National Park Service states that Reconstruction may be considered as a treatment when “a contemporary depiction is required to understand and interpret a property's historic value; when no other property with the same associative value has survived; and when sufficient historical documentation exists to ensure an accurate reproduction.” Reconstruction is predominantly applied as a standard for structures and properties that no longer exist at the commencement of a project, and should not be applied as a justification for the demolition of a resource unless clear evidence is provided to demonstrate that rehabilitation is not feasible. At that stage comprehensive documentation is typically required, including HABS photographs and scaled archival drawings as well as an in-depth preservation plan for any salvageable details and an interpretation plan to verify that the new structure is not misinterpreted as historic in the future. Applying the *Reconstruction Standards* negates the importance of the CEQA procedure and the *Standards*, which always prioritize preservation and restoration of original historic materials over reconstruction.

The Department finds that the project is not consistent with five of seven applicable aspects of the *Secretary of the Interior Standards for Rehabilitation (Standards)* and that it has caused a substantial adverse change in the resource such that the significance of the building would be materially impaired. The following is an analysis of the project per the applicable Standards. The Department's analysis was guided by a letter submitted by Carey & Company on March 23, 2017.

Standard 1.

A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

While the historic residential use of the property is to be retained, the project significantly and adversely affected the significance of the property by removing and/or demolishing the distinctive materials and features such as siding, windows, brackets, and other finishes, as well as the spatial

relationships by completely altering the landscape in which the property was historically set due to extensive excavation, the addition of a below-grade carport and removal of the greenhouse. Therefore the project does not meet Standard 1.

Standard 2.

The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

All distinctive materials and features have been removed and distinctive spatial relationships were significantly altered. The final structure will match the historic design in massing and finish, although all materials will be new. Therefore the project does not meet Standard 2.

Standard 3.

Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

All exterior features are based on photographic documentation and/or retained historic features; therefore no conjectural elements are proposed.

Standard 5.

Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

All distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property and features have been removed. Therefore the project does not meet Standard 5.

Standard 6

Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

No evidence of significant deterioration was ever provided by the project sponsor for review by the Planning Department. All proposed features will match the original historic features in design, texture and color to the greatest extent possible. Due to the complete removal of all historic materials, all replacement materials will be based on documentary and physical evidence. Therefore the project does not meet Standard 6.

Standard 9.

New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

The completed project effectively destroyed all historic materials, features, and spatial relationships that characterized the property without standard Environmental Planning review. The newly constructed residence will clearly read as new construction in structural design and finishes, as the historic detailing is not possible to produce in modern materials. The proposed project will roughly match the historic residence in material, features, size, scale and proportion, and massing; however, all integrity was lost in the unpermitted demolition of the property. Therefore the project does not meet Standard 9.

Standard 10.

New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Due to the wholesale demolition of the residence prior to review, the new construction significantly impaired the integrity of the property and its environment. Therefore the project does not meet Standard 10.

The Department is unable, per CEQA, to determine whether the proposal would cause an adverse effect on the subject property or adjacent historical properties. However, given that the completed project does not comply with a majority of the *Secretary of the Interior's Standards for Rehabilitation*, it is assumed that an adverse impact has occurred and the property no longer conveys its historic significance. Had the Department been given the opportunity to adequately review the cumulative and substantial changes to the overall project scope, including alterations to the residence and excavation, prior to the commencement and near completion of the project, it is likely that a full Environmental Impact Report would have been required.

Due to the loss of the historic residence, it should be noted that the completed residence shall not be considered to be historically significant nor is it a successful interpretation of the demolished Willis Polk Residence. However, the cottage on the property, which was constructed immediately after the 1906 earthquake, remains intact and appears to be eligible for listing as the remaining significant feature of the historic property. Therefore the property at 950 Lombard/841 Chestnut Street shall remain listed as historically significant for future Planning review.

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PLANNING DEPARTMENT

City and County of San Francisco 1660 Mission Street, Suite 500 San Francisco, CA 94103-2414

(415) 558-6378

PLANNING COMMISSION
FAX: 558-6409

ADMINISTRATION
FAX: 558-6426

CURRENT PLANNING/ZONING
FAX: 558-6409

LONG RANGE PLANNING
FAX: 558-6426

CERTIFICATE OF DETERMINATION OF EXEMPTION/EXCLUSION FROM ENVIRONMENTAL REVIEW

Project Title: 2002.0929E

Location: 948 and 950 Lombard Street (AKA 841 Chestnut Street)

City and County: San Francisco

Description of Nature and Purpose of Project: The proposed project would involve the relocation of the rear dwelling unit at 948-950 Lombard Street approximately 11 feet north and 10 feet east of the original location, excavation and construction of a new garage into the hillside on the Chestnut Street frontage, removal of the non-original addition on the south elevation of the house and alterations to that elevation, and other minor alterations such as window replacement and a new terrace and railings. The existing building at 950 Lombard Street, the rear dwelling, is historically rated in *Here Today*. The project site at 948-950 Lombard Street (Assessor's Block 0067, Lots 010 and 017) is approximately 9,480 square feet and located about mid-block on the block bounded by Lombard, Jones, Chestnut, and Leavenworth Streets in the Russian Hill neighborhood. The project site is zoned RH-1 (Residential, House, One-Family) and is within a 40-X height and bulk district.

Name of Person, Board, Commission or Department Proposing to Carry Out Project: John C. Walker,
phone: (415) 431-7380

EXEMPT STATUS:

X Categorical Exemption [State CEQA Guidelines Sections 15301, 15303, and 15331]

REMARKS: See reverse side.

Contact Person: Art Aguilar

Telephone: (415) 558-5973

Date of Determination:

May 7, 2003

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

Paul Maltzer
Environmental Review Officer

cc: John C. Walker, project sponsor
Mark Luellen, NE quadrant
Penelope Clark, Russian Hill Neighbors
Sue Hestor, Attorney at Law
Historic Distribution list
O. Chavez/Bulletin Board
L. Fernandez/M.D.F.
Exemption/Exclusion File

2002.0929E

REMARKS (continued from previous page):

948-950 Lombard Street is an approximately 9,480 square foot site comprising two lots, which originally were a single lot, with frontage on Lombard and Chestnut Streets in the Russian Hill neighborhood. The project site contains two residences: (1) 948 Lombard Street - a small one-story cottage on Lot 10 of Assessor's Block 0067 facing Lombard Street, and (2) 950 Lombard Street (AKA 841 Chestnut Street) a larger two-story, single-family dwelling on Lot 17 facing Chestnut Street.

The proposed project involves relocating the existing single-family dwelling at 950 Lombard Street approximately 11 feet north and 10 feet east, a new curb cut, and excavating and constructing a new garage into the hillside on the Chestnut Street frontage. Furthermore, the proposed project would involve the following alterations to the existing building at 950 Lombard Street:

North Elevation

- Existing 1st story porch and egress would be altered with new steps to be accessed from the north
- Large wooden casement window would be removed and replaced with French doors
- New two-car garage at Chestnut Street with entrance gallery and planters
- New terrace and railing visible from the street

South Elevation

- The existing non-original second floor addition would be removed and this elevation would be completely altered by remodeling the existing interior kitchen, bedrooms, bathrooms, and other rooms such as exercise and dressing rooms.

East Elevation

- New terrace on the roof of the new stucco surfaced basement with lower terrace level that would be constructed
- New wooden railings along the entire eastern edge of the terrace

West Elevation

- Existing windows removed on 1st and 2nd story and new ones added on both floors

Overall, the proposed project would increase the square footage of the single-family home at 950 Lombard Street from 3,398 sq. ft. to 6,693 sq. ft., an increase of approximately 3,295 sq. ft.

The existing building at 950 Lombard Street is listed in *Here Today* (#279), a cultural resource survey and subsequent book of historic resources in San Francisco. *Here Today* identified this building as "an interesting shingle residence" designed by Willis Polk in 1908, while he headed up the San Francisco office of D.H. Burnham & Co. In evaluating whether the proposed project would be exempt from environmental review under CEQA, the Planning Department determined that the buildings located on the project site and the site itself (Lots 10 and 17 of Assessor's Block 0067) are historical resources as defined by CEQA. The Planning Department then assessed whether the proposed project would result in a substantial adverse change to the historical resources. In a memorandum dated March 26, 2003, Planning Department staff reviewed the proposed project and determined that it would be consistent with the Secretary of the Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* below and that the project would not have a significant adverse affect on the

historic resource.¹ This determination was based on the fact that the proposed alterations are designed in such a way that the character-defining features of 950 Lombard Street would not be obscured, damaged, or destroyed. Its shingled exterior and Bay Area Tradition stylistic devices characterize the house. The proposed alteration would preserve the significant historic materials and features of the residence by constructing the new addition so that its size and scale are in relation to the historic. The proposed addition would be placed primarily to the rear (south) and west sides of the buildings so that the new work would not result in a radical change to the form and character of the historic building. Furthermore, it would found that moving the existing building as proposed would not significantly affect the existing building's or the project site's historical resources.

Specifically, the proposed project is consistent with the following *Secretary of the Interior's Standards*:

- Standard No. 2 – the addition would not significantly alter the original distinguishing qualities of the residences including its form, materials, fenestration, and stylistic elements.
- Standard No. 3 – the proposed project is clearly distinguishable from the original building and through varied massing, roof patterns and siding materials would leave a clear indication of what the property originally looked like.
- Standard No. 9 – the proposed project is compatible in size, scale, and character of the property. The addition/alteration has been designed in a manner that provides differentiation in the material, scale, and detailing so the new work does not appear to be part of the historic building.
- Standard No. 10 – the proposed project would result in minimum damage to the historic building fabric. The addition is designed in such a way that it could be removed without impairing the building's integrity of environment.

CEQA Guidelines Section 15301(e)(2), or Class 1(e)(2), provides for an exemption from environmental review for the addition to an existing structure provided that the addition would not result in an increase of more than 10,000 square feet and (A) the proposed project is in an area where all public services and facilities are available to allow for the maximum development permissible in the *General Plan* and (B) the area in which the project is located is not environmentally sensitive. As described above, the proposed project would involve the alteration and addition to the existing single-family home at 950 Lombard Street (AKA 841 Chestnut Street). The addition would not exceed 10,000 square feet. The proposed project would comply with zoning requirements, is located where public services and facilities are available, and is not in an environmentally sensitive area. Therefore, the proposed project is exempt from environmental review under Class 1(e)(2).

CEQA State Guidelines Section 15303(e), or Class 3(e), provides an exemption from environmental review for the construction of an accessory structure including garages, carports, patios, and fences. The proposed project would result in the construction of an attached garage, which would be exempt under Class 3(e). The staff memorandum cited above concluded that, in addition to the alterations at 950 Lombard Street being consistent with the *Secretary of the Interior's Standards*, the new construction of the accessory garage would also not have an adverse impact on the historic resource.

CEQA Guidelines Section 15331, or Class 31, provides for an exemption from environmental review for projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and*

¹ Memorandum from Mark Luellen, Preservation Technical Specialist, to Nannie Turrell, Major Environmental Analysis. March 26, 2003.

Reconstructing Historic Buildings. Because the proposed project would be consistent with the *Secretary of the Interior's Standards*, as outlined above, and would not result in a significant effect on a historical resource, it may be found to be exempt from environmental review under Class 31.

A Geotechnical Investigation Report² was prepared for the proposed work, specifically the proposed excavation for the new garage. The geotechnical investigation report found the site suitable for development providing that the recommendations included in the report were incorporated into the design and construction of the proposed development. The project sponsor has agreed to follow the recommendations of the geotechnical investigation report in constructing the proposed project.

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. Although the structure on the project site is an historical resource under CEQA, the proposed project would not have a significant effect on that resource. There are no other unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant environmental effect. The project would be exempt under each of the above-cited classifications.

For all the above reasons, the proposed project is appropriately exempt from environmental review.

² Kleinfelder, Inc., *Geotechnical Investigation, Proposed Residential Alteration, San Francisco, California*. February 27, 2001.

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SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: November 13, 2009
TO: 841 Chestnut Street Exemption Distribution List
FROM: Nannie R. Turrell, Senior Environmental Planner
RE: 841 Chestnut Street, Case No. 2009.0801E - Certificate of Determination, Exemption From Environmental Review

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The attached Exemption From Environmental Review for 841 Chestnut Street, dated November 6, 2009, replaces the Exemption for 841 Chestnut Street that you received dated October 23, 2009. The previous exemption contained an error by stating: "Following this extensive design review process, a site permit was approved by DBI on December 18, 2009." DBI determined in 2008, not 2009 that the proposed tunnel and garage met safety and feasibility standards for construction.



SAN FRANCISCO PLANNING DEPARTMENT

Certificate of Determination Exemption from Environmental Review

Case No.: 2009.0801E
Project Title: 841 Chestnut Street (AKA 948-950 Lombard Street)
Zoning: RH-1 (Residential, House, One-Family) District
40-X Height and Bulk District
Block/Lot: 0067/010 and 017
Lot Size: 15,735.64 square feet
Project Sponsor: Christopher Fiore, Architect, Walker & Moody
(415) 885-0800
Staff Contact: Nannie Turrell – (415) 575-9047
nannie.turrell@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION:

The proposed project would include construction of a 1,540-square-foot (sq.-ft.) garage and elevator shaft; addition of a 1,114-sq.-ft. basement; replacement of an existing brick foundation; removal of an existing non-historic addition and construction of a new rear addition that would be 8-square feet larger than the existing rear addition; infill of a non-historic exterior door and a non-historic window opening; and creation of a new exterior door opening on the east elevation. The total square footage of the structure after construction would be 5,975.50 sq. ft., which includes the residence, basement, garage and elevator shaft. The proposed square footage of the residence and basement only would be 4,432.25 sq. ft. (Continued on page 2.)

EXEMPT STATUS:

Categorical Exemption, Class 1 (State CEQA Guidelines Section 15301)

REMARKS:

See next page.

DETERMINATION:

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

Bill Wycko
Environmental Review Officer

Date

cc: Christopher Fiore, Project Sponsor
Tim Frye, Preservation Planner
Supervisor Chiu, District 3

Virna Byrd, M.D.F.
Ella Mae Lew, North Beach Neighbors
Historic Preservation Distribution List

PROJECT DESCRIPTION (continued): The existing 3,317-square foot building is listed in *Here Today* on page 279, under the address 950 Lombard Street. The project site is approximately 15,735.64 square feet (sq. ft.) and located mid-block on the block bounded by Lombard, Jones, Chestnut, and Leavenworth Streets in the Russian Hill neighborhood. The project site is zoned RH-1 (Residential, House, One-Family) and is within a 40-X Height and Bulk District.

The project site is comprised of two lots, with frontage on Lombard and Chestnut Streets. The site contains two residences: 1) a small one-story cottage on Lot 10, 948 Lombard Street; and a larger two-story, single-family residence designed by Willis Polk, on Lot 17, 841 Chestnut Street (AKA 950 Lombard Street). The proposed project would take place entirely on Lot 17, and would include a new curb cut, and excavation into the hillside on the Chestnut Street frontage to construct a new 1,540-square foot, two-car garage and elevator and stair shaft to provide pedestrian and vehicular access from Chestnut Street. Current access to the site is via a footpath from Lombard Street through Lot 10. The project would also include the addition of a new basement and foundation to replace the existing brick foundation; removal of the non-historic addition on the south side of the building, and addition of a new rear horizontal addition; infill of a non-historic exterior door and window opening, a creation of a new exterior door opening on the east elevation.

Project Background

On August 27, 2002 the Planning Department (Department) received an application for environmental review for the property at 841 Chestnut Street (AKA 950 Lombard Street). The project as proposed at that time included relocation of the building on Lot 17 approximately 11 feet north and 10 feet east of the original location, excavation and construction of a new garage into the hillside on the Chestnut Street frontage and installation of an elevator shaft to the building, removal of the non-original addition on the south elevation and alterations to that portion of the building, and other alterations including window replacement and a new terrace and railings. The Planning Department issued an Exemption from Environmental Review for the previously proposed project on May 7, 2003. Subsequent to the issuance of the 2003 exemption, seven "DR"s or discretionary reviews were filed with the Department by neighbors concerned about construction of the proposed garage tunnel and whether this construction would compromise adjacent properties. The Department rescinded the exemption and suspended review of the application of the proposed project, pending resolution of the geotechnical and structural concerns.¹

The proposed garage and tunnel design was sent to the Department of Building Inspection (DBI) for review. It was determined that the project should be reviewed by a Structural Advisory Committee to assist with expert review of the proposed design. Pursuant to San Francisco Building Code Section 105.6, a three -member SAC was formed. Two SAC public review meetings were held in September and November of 2006. During the November 2006 Meeting, the SAC considered that the major technical concerns and comments from attending neighbors and SAC had been addressed by the applicant team to an extent that outstanding items could be addressed by the applicant team to the SAC without additional review meetings. By October 22, 2008 design and supporting documents submitted to DBI with the SAC

¹ Letter from Paul Maltzer, Environmental Review Officer, to Amy Lee, Department of Building Inspection. December 1, 2005.

report dated September 18, 2008 demonstrated that the applicant team had satisfactorily addressed the feasibility and safety that were raised when the SAC was formed.² The project sponsor then reapplied to the Planning Department for review and approval of a modified project design that did not include relocation of the building or alteration of its historic features. The 2009 modified design is the subject of this Exemption from Environmental Review.

REMARKS (continued):

The subject building is listed in *Here Today* (#279), a cultural resource survey and subsequent book of historic resources in San Francisco. The reference in *Here Today* identified the building as “an interesting shingle residence” designed in 1908 by Willis Polk, while he headed up the San Francisco office of D.H. Burnham & Co. The subject building is defined by the Planning Department as a “Category A” building, i.e. an historical resource, for the purposes of CEQA. In evaluating whether the project would be exempt from environmental review under CEQA, Planning Department staff determined that the subject building is individually eligible for the California Register under the architecture criterion.³

Planning Department staff then assessed whether the proposed project would cause a substantial adverse change in the significance of an historical resource. Preservation staff determined that the proposed project as described in the August 19, 2009 Environmental Evaluation Application and as shown in the architectural plans dated September 22, 2009 meets the Secretary of the Interior’s Standards for Rehabilitation.⁴ The character-defining features of the building include all exterior elevations (including rooflines) associated with the historic 1908 design. The Standards most applicable to proposed project include the following:

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

The addition would not alter the original distinguishing qualities of the residences including its form, materials, fenestration, and stylistic elements.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

The proposed project is clearly distinguishable from the original building and through varied massing, roof patterns and siding materials would leave a clear indication of what the property originally looked like.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be

² Letter to Bill Wycko, Environmental Review Officer, San Francisco Planning Department, from Hanson W. Tom, S.E., Principal Engineer, Structural Safety, Department of Building Inspection. December 19, 2008.

³ Historic Resource Evaluation Response from Tim Frye, Preservation Technical Specialist, to Brett Bollinger, Major Environmental Analysis. Date 2009.

⁴ Ibid.

differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

The proposed project is compatible in size, scale, and character of the property. The addition is located at the rear of the building and will remove existing non-historic addition. The addition/alteration has been designed in a manner that provides differentiation in the material, scale, and detailing so the new work does not appear to be part of the historic building.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

The proposed project would result in minimum damage to the historic building fabric. The addition is designed in such a way that it could be removed without impairing the building's integrity or its environment.

The garage tunnel and structure would alter the setting when viewed from the public right-of-way; however, this alteration would not impact any of the character-defining features associated with the resource.

CEQA Guidelines Section 15301(e)(2), or Class 1(e)(2), provides for an exemption from environmental review for the addition to an existing structure provided that the addition would not result in an increase of more than 10,000 square feet and (A) the proposed project is in an area where all public services and facilities are available to allow for the maximum development permissible in the General Plan and (B) the area in which the project is located is not environmentally sensitive. As described above, the proposed project would involve the alteration and addition to the single-family home at 841 Chestnut Street (AKA 950 Lombard Street). The addition would not exceed 10,000 sq. ft. The proposed project would comply with zoning requirements, is located in an area where public services and facilities are available, and is not in an environmentally sensitive area. Therefore, the proposed project is exempt from environmental review under Class 1(e)(2).

CEQA Guidelines Section 15303(e) or Class 3(e) provides for an exemption from environmental review for the construction of an accessory structure including garages. The proposed project would involve construction of a garage, which would be exempt under Class 3(e).

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. As stated in this exemption from environmental review, the proposed alterations and addition, and construction of the garage would not have an adverse impact on the historic resource or the environment. There are no other unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant effect. The proposed project would have no significant 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.



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Historic Resource Evaluation Response

MEA Planner: Brett Bollinger
Project Address: 841 Chestnut Street
Block/Lot: 0067/017
Case No.: 2009.0801E
Date of Review: October 20, 2009
Planning Dept. Reviewer: Tim Frye
(415) 575-6822 | tim.frye@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROPOSED PROJECT

☐

Demolition

☒

Alteration

PROJECT DESCRIPTION

The proposed project is to construct a garage and elevator shaft; replace the brick foundation; remove the existing non-historic addition; construct a new rear horizontal addition; infill a non-historic exterior door and a non-historic window opening; and create a new exterior door opening on the east elevation.

PRE-EXISTING HISTORIC RATING / SURVEY

Constructed in 1908, the subject property is within an RH-1 (Single-Family, Residential) Zoning District. The subject building is listed in Here Today (page 279), a cultural resource survey and subsequent book of historic resources in San Francisco. Here Today identified this building as "an interesting shingle residence" designed by Wills Polk in 1908, while he headed up the San Francisco office of D.H. Burnham & Co. The subject building is defined by the Planning Department as a "Category A" building, a known historic resource, for the purposes of this CEQA review.

HISTORIC DISTRICT / NEIGHBORHOOD CONTEXT

The project site is located on Chestnut Street between Jones and Leavenworth Streets and a block from crooked portion of Lombard Street. The larger area is known for its collection of historic residential, institutional, and commercial buildings largely represented by urban forms of the Colonial Revival, Edwardian, Art Deco and Moderne period architectural styles. The ornamentation is just as varied, consisting for the most part of smooth plaster, horizontal siding, shaped parapets or heavily detailed cornices.

- 1. California Register Criteria of Significance:** Note, a building may be an historical resource if it meets any of the California Register criteria listed below. If more information is needed to make such a determination please specify what information is needed. *(This determination for California Register Eligibility is made based on existing data and research provided to the Planning Department by the above named preparer / consultant and other parties. Key pages of report and a photograph of the subject building are attached.)*

Event: or ☐ Yes ☐ No ☐ Unable to determine
Persons: or ☐ Yes ☐ No ☐ Unable to determine
Architecture: or ☒ Yes ☐ No ☐ Unable to determine
Information Potential: ☐ Further investigation recommended.
District or Context: ☐ Yes, may contribute to a potential district or significant context

If Yes; Period of significance: 1908

Notes: **Criterion C/3: Architecture**

Based on the supplied information, including historic information, the Department has determined that the subject building is eligible individually under the architecture criterion. The subject building is the work of Willis Polk while as head of the San Francisco office of D.H. Burnham & Co.; a credible firm whose oeuvre contains a number of handsome buildings identified as historic resources.

-
2. **Integrity** is the ability of a property to convey its significance. To be a resource for the purposes of CEQA, a property must not only be shown to be significant under the California Register criteria, but it also must have integrity. To retain historic integrity a property will always possess several, and usually most, of the aspects. The subject property has retained or lacks integrity from the period of significance noted above:

Location:	<input checked="" type="checkbox"/> Retains	<input type="checkbox"/> Lacks	Setting:	<input checked="" type="checkbox"/> Retains	<input type="checkbox"/> Lacks
Association:	<input checked="" type="checkbox"/> Retains	<input type="checkbox"/> Lacks	Feeling:	<input checked="" type="checkbox"/> Retains	<input type="checkbox"/> Lacks
Design:	<input checked="" type="checkbox"/> Retains	<input type="checkbox"/> Lacks	Materials:	<input checked="" type="checkbox"/> Retains	<input type="checkbox"/> Lacks
Workmanship:	<input checked="" type="checkbox"/> Retains	<input type="checkbox"/> Lacks			

Notes: Based on the supplied information, the subject building appears to retain a high level of historic integrity and has only experienced minor alterations over the course of its life, except for a rear addition that has removed historic fabric along the south elevation.

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3. **Determination Whether the property is an "historical resource" for purposes of CEQA**

☐ No Resource Present (*Go to 6. below*) ☒ Historical Resource Present
(*Continue to 4.*)

-
4. If the property appears to be an historical resource, whether the proposed project is consistent with the Secretary of Interior's Standards or if any proposed modifications would materially impair the resource (i.e. alter in an adverse manner those physical characteristics which justify the property's inclusion in any registry to which it belongs).

☒ The project appears to meet the Secretary of the Interior's Standards. (*Go to 6. below*)
Optional: ☒ See attached explanation of how the project meets standards.

- ☐ The project is NOT consistent with the Secretary of the Interior's Standards; however the project will not cause a substantial adverse change in the significance of the resource such that the significance of the resource would be materially impaired. *(Continue to 5. if the project is an alteration)*
- ☐ The project is NOT consistent with the Secretary of the Interior's Standards and is a significant impact as proposed. *(Continue to 5. if the project is an alteration)*
-

5. Character-defining features of the building to be retained or respected in order to be consistent with the Standards and/or avoid a significant adverse effect by the project, presently or cumulatively. Please recommend conditions of approval that may be desirable to avoid or reduce any adverse effects.

The character-defining features of the building include all exterior elevations, including rooflines, associated with the historic 1908 design. The proposed project as outlined within the architectural plans date September 22, 2009 meets the Secretary of the Interior's Standards for Rehabilitation, specifically,

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

The addition would not significantly alter the original distinguishing qualities of the residences including its form, materials, fenestration, and stylistic elements All existing historic windows are to be retained and repaired; a new door will be introduced on the east elevation that is compatible in style, materials, and finish. Non-historic window and door shall be removed and the openings shall be repaired to match the surrounding materials, details and finish.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

The proposed project is clearly distinguishable from the original building and through varied massing, roof patterns and siding materials would leave a clear distinction between the new addition and the existing historic resource.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

The proposed project is compatible in size, scale, and character of the property. The addition is located at the rear of the building and will remove an existing non-historic addition. The addition/alteration has been designed in a manner that provides differentiation in the material, scale, and detailing so the new work does not appear to be part of the historic building.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

The proposed project would result in minimum damage to the historic building fabric. The addition is designed in such a way that it could be removed without impairing the building's integrity of environment.

The garage tunnel and structure will alter the setting when viewed from the public right-of-way; however, this alteration will not impact any of the character-defining features associated with the resource.

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6. Whether the proposed project may have an adverse effect on off-site historical resources, such as adjacent historic properties.

☐ Yes ☒ No ☐ Unable to determine

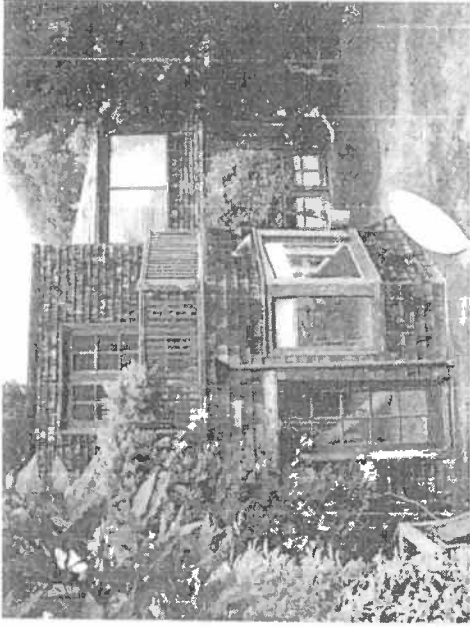
Notes: There are no potential impacts to any off-site adjacent historic resources. The project is confirmed to the subject building and the property.

PRESERVATION COORDINATOR REVIEW

Signature: *Tina Tam*
Tina Tam, Preservation Coordinator

Date: 10-20-09

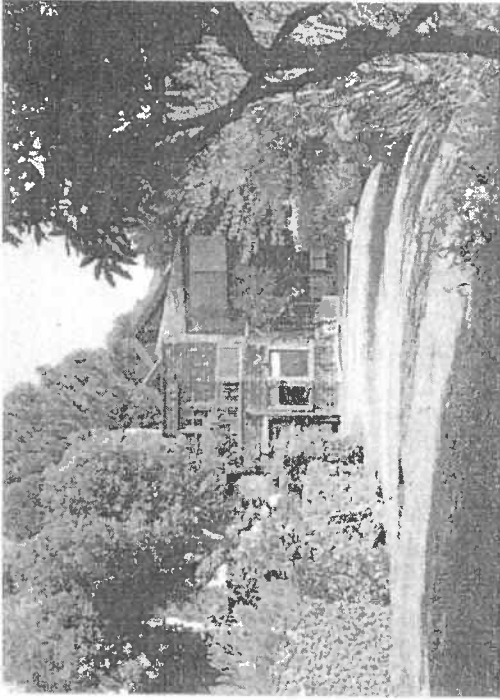
cc: Linda Avery, Recording Secretary, Historic Preservation Commission
Virnaliza Byrd / Historic Resource Impact Review File



SOUTH ELEVATION - LATER ADDITION



WEST ELEVATION - VIEW FROM SOUTH



SOUTH ELEVATION - VIEW FROM GARDEN



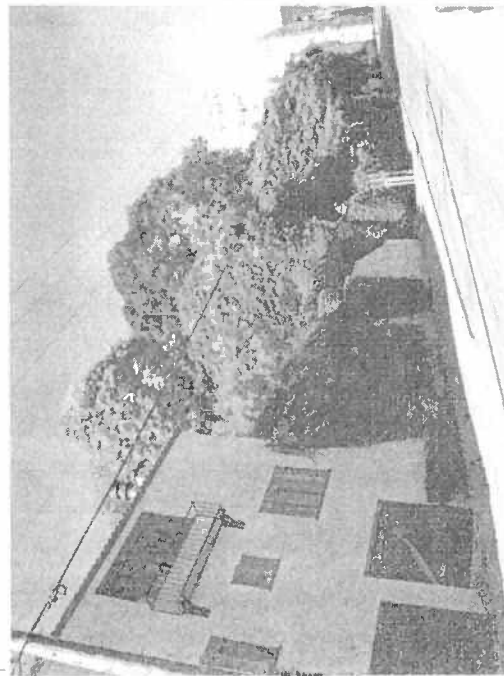
WEST ELEVATION - VIEW FROM NORTH



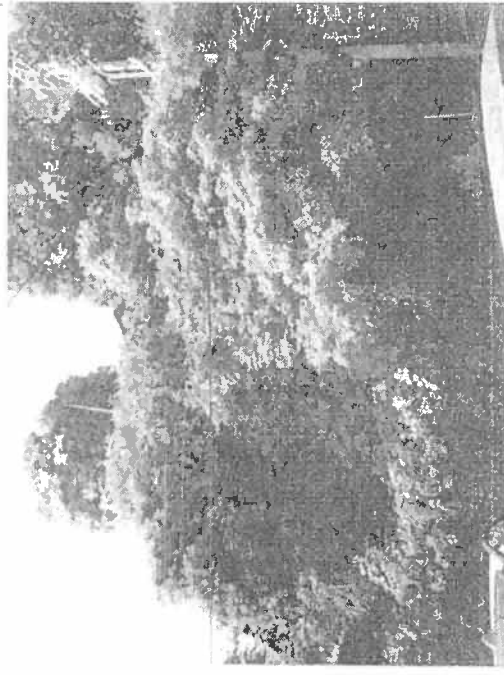
ACCESS FROM LOMBARD ST. - THROUGH LOT 10 (990)



NORTH ELEVATION



CHESTNUT STREET FRONTAGE - NORTH ELEVATION



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SAN FRANCISCO PLANNING DEPARTMENT

NOTICE OF ENFORCEMENT

November 30, 2016

Property Owner

Eight Forty One LLC
One Post St, Ste 2210
San Francisco, CA 94104

Site Address: 950 Lombard St
Assessor's Block/Lot: 0067/ 010
Zoning District: RH-1, Residential- House, One Family
Complaint Number: 2016-008722ENF
Code Violation: **174: Work beyond Scope of permit**
Administrative Penalty: Up to \$250 Each Day of Violation
Response Due: Within 15 days from the date of this Notice
Staff Contact: Alexandra Kirby, (415) 575-9133, alexandra.kirby@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The Planning Department has received a complaint that a Planning Code violation exists on the above referenced property that needs to be resolved. As the owner and/or leaseholder of the subject property, you are a responsible party. The purpose of this notice is to inform you about the Planning Code Enforcement process so you can take appropriate action to bring your property into compliance with the Planning Code. Details of the violation are discussed below:

DESCRIPTION OF VIOLATION

The violation pertains to the reconstruction of the historic Willis Polk-designed residence at 841 Chestnut Street on the subject property (Assessor's Block 0067, Lot 017) without the benefit of required review by Planning Staff or revised CEQA review of the increased scope of removal and excavation.

On July 21, 2016, Planning Staff informed the project sponsor, Gregory Malin and Sarah Mansoori, via email that a complaint had been filed on subject property pertaining to the alteration of a historic property without Planning review. On November 2, 2016, Planning Staff was informed by Tuija Catalano of Reuben, Junius and Rose, that the scope of work likely exceeded that which was reviewed and noticed by the Department. On November 14, 2016, Planning Staff conducted a site visit and verified that the historic residence had been fully demolished and reconstructed and would therefore constitute as a *de facto* demolition. Said demolition was not reviewed or approved by Planning Staff and is in conflict with the CEQA findings for the original project.

Pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation under the Planning Code shall be complied with in the development and use of land and structures. Failure to comply with any of Planning Code provisions constitutes a violation of Planning Code and is subject to enforcement process under Code Section 176.

HOW TO CORRECT THE VIOLATION

The subject property was issued CEQA clearance (Case No. 2009.0801E) via a Categorical Exemption and subsequent related Building Permit Applications (2002.05.23.7379, 2014.02.05.7897) to remodel the building at 841 Chestnut Street, add a rear (south) addition and excavate a new basement and below-grade garage. The Historic Resource Evaluation Response explicitly notes that “The addition would not significantly alter the original distinguishing qualities of the residence including its form, materials, fenestration and stylistic elements. All existing historic windows are to be retained and repaired.” All work reviewed and approved by Planning Staff involved the restoration of the historic residence and retention of historic materials including all exterior walls.

In June of 2016, Building Permit Application number 2016.06.15.9992 was submitted as a revision permit to BPA no. 2014.02.05.7379 for “Reconstruction of all exterior walls and framing due to extensive damage[.]” This permit was not routed to Planning staff for demolition review under Section 317 Planning Code or Historic Preservation review for compliance with the existing CEQA Categorical Exemption. On November 22, the Planning Department issued a suspension request to DBI to suspend all work at the primary residence (841 Chestnut Street) on the property while the following steps are sought to abate the violation:

1. **Building Permit.** Submit a building permit application as a revision to permit no. 2014.02.05.7897 that illustrates:
 - a. The original conditions of the property prior to the 2002 permit application including plans, elevations and a lateral section;
 - b. The current existing conditions of the subject building; and
 - c. The final proposed project, including the newly proposed infill below the rear deck and noting the removal of the hidden door system at the east façade.
2. The above noted plans shall include **Demolition Calculations** pursuant to Planning Code Section 317(b)(2) and Article 10.02 with diagrams to illustrate the scope of removal.
 - a. If the scope of demolition was necessary due to irreparable conditions, a thorough soundness report shall be required to consider application of Planning Code Section 317(b)(9). The report shall include photographs with a plan key illustrating all points of severe damage, a structural engineer report, any documentation provided by DBI requiring removal for life safety reasons, and/or termite and dry rot reports. Without such documentation the Department is unable to adequately assess the necessity of removal.
3. **Historic Resource Report** provided by a qualified historic preservation consultant from the below list for 841 Chestnut and 950 Lombard. In light of the loss of the historic property, a

report on the full history of the entire property shall be required as mitigation to the loss of the historic structure. The report shall include all available historic photographs, plans, permit and occupant history and any additional relevant history of both 841 Chestnut Street and the cottage at 950 Lombard Street.

A list of qualified Preservation consultants can be found on our website at:

[http://sfmea.sfplanning.org/Historic%20Pools%20Effective%2003042015%20-%20Contact%20Updates%2005182015%20CURRENT%20\(9.2.15\).pdf](http://sfmea.sfplanning.org/Historic%20Pools%20Effective%2003042015%20-%20Contact%20Updates%2005182015%20CURRENT%20(9.2.15).pdf)

4. Planning Staff will be requiring a permit outlining a bracing and support program to stabilize and retain the chimney at the 950 Lombard Street cottage. You may withdraw or revise the existing permit no. 201610200765 and submit a revised plan set illustrating how the chimney will be stabilized and the cracks repaired. The historic chimney does not appear to be in irreparable condition.

Please contact the Department of Building Inspection (DBI), 1660 Mission Street, San Francisco, CA 94103, telephone: (415) 558-6088, website: www.sfgov.org/dbi, regarding the Building Permit Application process. Please visit the Planning Information Counter located at the first floor of 1660 Mission Street or website: www.sf-planning.org for any questions regarding the planning process.

TIMELINE TO RESPOND

The responsible party has **fifteen (15) days from the date of this notice** to contact the staff planner noted at the top of this notice and submit evidence to demonstrate that the corrective actions have been taken to bring the subject property into compliance with the Planning Code. A site visit may also be required to verify the authorized use at the above property. The corrective actions shall be taken as early as possible. Any unreasonable delays in abatement of the violation may result in further enforcement action by the Planning Department.

PENALTIES AND APPEAL RIGHTS

Failure to respond to this notice by abating the violation or demonstrating compliance with the Planning Code **within fifteen (15) days from the date of this notice** will result in issuance of a **Notice of Violation** by the Zoning Administrator. Administrative penalties of up to **\$250 per day** will also be assessed to the responsible party for each day the violation continues thereafter. The Notice of Violation provides appeal processes noted below.

- 1) Request for Zoning Administrator Hearing. The Zoning Administrator's decision is appealable to the Board of Appeals.
- 2) Appeal of the Notice of Violation to the Board of Appeals. The Board of Appeals may not reduce the amount of penalty below \$100 per day for each day the violation exists, excluding the period of time the matter has been pending either before the Zoning Administrator or before the Board of Appeals.

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting Planning Code violations and violations of Planning Commission and Planning Department's Conditions of Approval. Accordingly, the responsible party may be subject to an amount of \$1,308 plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of violation. This fee is separate from the administrative penalties as noted above and is not appealable.

OTHER APPLICATIONS UNDER CONSIDERATION

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any new applications that you may wish to pursue in the future. Therefore, any applications not related to abatement of the violation on the subject properties will be placed on hold until the violation is corrected. We want to assist you in ensuring that the subject property is in full compliance with the Planning Code. You may contact the enforcement planner as noted above for any questions.

cc: Eight Forty One LLC, One Post Street, Suite 2210, San Francisco, Ca, 94104
Tuija Catalano, One Bush Street, Suite 600, San Francisco, Ca, 94104
Daniel Lowrey, Acting Deputy Director, Department of Building Inspection
Patrick O'Riordan, Department of Building Inspection
Mark Luellen, Planning Department
Tim Frye, Planning Department
Eiliesh Tuffy, Planning Department