

File No. 210858

Committee Item No. _____

Board Item No. 21

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: September 7, 2021

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER

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|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Appeal Letter - 7/21/21 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Planning Commission Motion No. 20935 - 6/24/21 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Appellant Supplemental Info - 8/30/21 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Planning Department Response - 8/30/21 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Project Sponsor Holland & Knight Response - 8/25/21 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Project Sponsor Storzer & Associates Response - 8/25/21 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Continuance Confirmation - 7/28/21 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Public Hearing Notice - 8/27/21 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Clerical Documents |
| <input type="checkbox"/> | | |

Prepared by: Lisa Lew

Date: September 3, 2021

Prepared by: _____

Date: _____

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

Notice is hereby given of an appeal to the Board of Supervisors from the following action of the City Planning Commission.

The property is located at 450-474 O'Farrell Street, 532 Jones Street, San Francisco, CA.

June 24, 2021

Date of City Planning Commission Action
(Attach a Copy of Planning Commission's Decision)

July 21, 2021

Appeal Filing Date

BY _____

AK

2021 JUL 21 PM 4:24

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

_____ The Planning Commission disapproved in whole or in part an application for reclassification of property, Case No. _____.

_____ The Planning Commission disapproved in whole or in part an application for establishment, abolition or modification of a set-back line, Case No. _____.

X _____ The Planning Commission approved in whole or in part an application for conditional use authorization, Case No. 2013.1535CUA-02.

_____ The Planning Commission disapproved in whole or in part an application for conditional use authorization, Case No. _____.

Statement of Appeal:

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

Please see the statement attached to this appeal as Exhibit 1.

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

Please see the statement attached to this appeal as Exhibit 1

Person to Whom
Notices Shall Be Mailed

1. Tenderloin Housing Clinic, c/o Pratibha Tekkey
2. Pacific Bay Inn, Inc.
c/o Newmeyer & Dillion, LLP
attn: Michael Shonafelt / Gregory Tross

Name

1. Tenderloin Housing Clinic
c/o Pratibha Tekkey
126 Hyde Street
San Francisco , CA 94102


Address

2. Pacific Bay Inn, Inc.
c/o Newmeyer & Dillion, LLP
Attn: Michael Shonafelt / Gregory Tross
895 Dove Street, 5th Floor
Newport Beach, CA 92660

Address

1. Pratibha Tekkey: (415) 775-7110, Ext. 1701
2. Michael Shonafelt: (949) 854-7000
3. Gregory Tross: (949) 854-7000

Telephone Number

1. 

By: Pratibha Tekkey
On Behalf of Tenderloin Housing Clinic

Name and Address of Person Filing Appeal:

1. Tenderloin Housing Clinic
2. Pacific Bay Inn, Inc.

Name

1. Tenderloin Housing Clinic
c/o Pratibha Tekkey
126 Hyde Street
San Francisco , CA 94102


Address

2. Pacific Bay Inn, Inc.
c/o Kiyomi Sparks
712 Bancroft Rd., #122
Walnut Creek, CA 94598

Address

1. Pratibha Tekkey: (415) 775-7110, Ext. 1701
2. Michael Shonafelt: (949) 854-7000
3. Gregory Tross: (949) 854-7000

Telephone Number

2. 

By: Michael Shonafelt
On Behalf of Pacific Bay Inn, Inc.

Signature of Appellant or
Authorized Agent

July 21st, 2021

To the SF Planning Department:




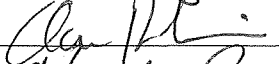


Re: Fee waive – 450 – 474 O’Farrell St., 532 Jones St.

As the Executive Director of the Tenderloin Housing Clinic, I, Randy Shaw, authorize Pratibha Tekkey, the appellant, to file the Board of Supervisors appeal of the Planning Commission ruling re 450-474 O’Farrell, 532 Jones.



Randy Shaw, Director
Tenderloin Housing Clinic

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. 2013.1535CUA-02, a conditional use authorization regarding (address) 450-474 O'Farrell Street / 532 Jones Street, San Francisco, CA, District 6. The undersigned members respectfully request the Clerk of the Board to calendar this item at the soonest possible date.


SIGNATURE	DATE
	7/20/21
	7/20/21
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	7-20-21
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	7-20-21

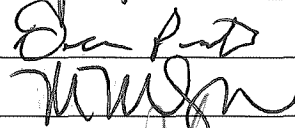
(Attach copy of Planning Commission's Decision)

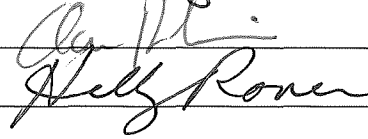
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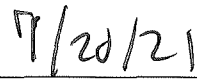
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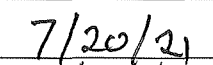


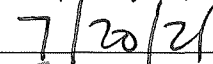
Dan Pardo


Wilson


Kelly Rorer




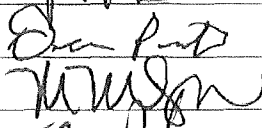



7/20/21


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7-20-21

(Attach copy of Planning Commission's Decision)

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	7/20/21
	7/20/21
	7-20-21
	7-20-21
	7-20-21

(Attach copy of Planning Commission's Decision)

SAN FRANCISCO PLANNING COMMISSION



Thursday, June 24, 2021
1:00 p.m.
Regular Meeting

COMMISSIONERS PRESENT: Tanner, Diamond, Fung, Imperial, Moore, Koppel
COMMISSIONERS ABSENT: Chan

THE MEETING WAS CALLED TO ORDER BY PRESIDENT KOPPEL AT 1:01 PM

STAFF IN ATTENDANCE: Carly Grob, Jenny Delumo, Chelsea Fordham, Sharon Young, Corey Teague – Zoning Administrator, Rich Hillis – Planning Director, Jonas P. Ionin – Commission Secretary

SPEAKER KEY:

- + indicates a speaker in support of an item;
- indicates a speaker in opposition to an item; and
- = indicates a neutral speaker or a speaker who did not indicate support or opposition.

A. CONSIDERATION OF ITEMS PROPOSED FOR CONTINUANCE

The Commission will consider a request for continuance to a later date. The Commission may choose to continue the item to the date proposed below, to continue the item to another date, or to hear the item on this calendar.

1. 2021-000726CUA (L. HOAGLAND: (628) 652-7320)
559 CLAY STREET – south side between Montgomery and Leidesdorff Streets; Lot 031 in Assessor's Block 0228 (District 3) – Request for **Conditional Use Authorization**, pursuant to Planning Code Sections 210.2 and 303 to convert 2,669 square feet of basement storage space into additional office space for the existing tenant. The project is located within an

existing 4-story over basement office building, in a C-3-O (Downtown Office) Zoning District and 75-X Height and Bulk District. The project site is also located within the Japantown Planning Area. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).

Preliminary Recommendation: Approve with Conditions

(Proposed for Continuance to July 8, 2021)

SPEAKERS: None
 ACTION: Continued to July 8, 2021
 AYES: Tanner, Diamond, Imperial, Moore, Koppel
 ABSENT: Chan, Fung

2. 2018-002508DRP-04 (D. WINSLOW: (628) 652-7335)
4250 26TH STREET – north side between Diamond and Castro Streets; Lot 019 in Assessor's Block 6555 (District 8) – Request for **Discretionary Review** of Building Permit Application nos. 2018.0214.1219 and 2018.0214.1218 for the demolition of an existing two-story, single-family residence and new construction of a four-story, single-family residence with an Accessory Dwelling Unit at the ground floor pursuant to Planning Code Section 207(c)(6). The demolition of the existing building at the subject property was administratively approved pursuant to Planning Code Section 317(c)(6) within a RH-1 (Residential House, One-Family) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).

Preliminary Recommendation: Do Not Take Discretionary Review and Approve

(Proposed for Continuance to July 15, 2021)

SPEAKERS: None
 ACTION: Continued to July 15, 2021
 AYES: Tanner, Diamond, Imperial, Moore, Koppel
 ABSENT: Chan, Fung

3. 2019-017481SHD (N. FOSTER: (628) 652-7330)
530 SANSOME STREET – east side between Washington and Merchant Streets; Lots 013, 014, and 017 in Assessor's Block 0206 (District 3) – **Discussion and possible Joint Action by the Planning Commission and the Recreation and Park Commission to raise the absolute cumulative limit for Maritime Plaza and set an absolute cumulative limit for Sue Bierman Park, pursuant to the jointly-approved Planning Code Section 295 Implementation Memo adopted in 1989, in order to accommodate new shadow cast by the proposed project at 530 Sansome Street.** The proposed project ("Project") includes the demolition of three existing buildings, including San Francisco Fire Department (SFFD) Station 13 and two vacant commercial buildings and the construction of a new mixed-use building reaching a roof height up to 218 feet tall (236' inclusive of rooftop screening/mechanical equipment). The Project proposes two distinct development programs that could be implemented, one that would construct various commercial uses further described below ("Commercial Variant") and one that would construct residential uses further described below ("Residential Variant"). Both the Commercial Variant and Residential Variant would include construction of a state-of-the-art, four-story Fire Station 13 (approximately 21,000 square feet of gross floor area with minor variations in square footage between the Commercial Variant and Residential Variant), as well as a below-grade, non-accessory private parking garage for the

SFFD containing 18 spaces (approximately 7,800 square feet of gross floor area with minor variations in square footage between the Commercial Variant and Residential Variant). The Commercial Variant would include a total of approximately 249,000 square feet of gross floor area, including the Fire Department uses, as well as various commercial uses contained in a 19-story tower, including approximately 141,000 square feet of hotel uses (200 rooms), approximately 37,100 square feet of office uses, approximately 32,000 square feet of gym uses and approximately 7,900 square feet of restaurant uses. The Commercial Variant proposes 22 Class 1 and 26 Class 2 bicycle parking spaces, three (3) off-street loading spaces, as well as 30 parking spaces and one (1) car-share below-grade parking spaces for the non-Fire Department uses. The Residential Variant would include a total of approximately 283,000 square feet of gross floor area, including the Fire Department uses, as well as approximately 247,000 square feet of residential uses (256 dwelling units) in a 21-story tower. The additional two building stories in the Residential Variant are the result of slightly smaller floor-to-floor ceiling heights for the residential floors. The Residential Variant proposes 143 Class 1 and 21 Class 2 bicycle parking spaces, three (3) off-street loading spaces, as well as 64 parking spaces and two (2) car-share below-grade parking spaces for the residential uses. The Residential Variant would contain a mix 191 studio and one-bedroom units, 38 two-bedroom units, and 27 three-bedroom units. For both the Commercial Variant and Residential Variant, SFFD proposes changes to the lane configuration and traffic light facilities on Washington Street, such that SFFD engines would be able to safely make westbound and eastbound turns out to Washington Street to enhance SFFD's ability to promptly respond to emergency calls. The Project Site is located within a C-3-O (Downtown Office) Zoning District, Downtown Plan Area, and 200-S Height and Bulk District.

Preliminary Recommendation: Raise Cumulative Shadow Limit
(Proposed for Continuance to July 15, 2021)

SPEAKERS: None
 ACTION: Continued to July 29, 2021
 AYES: Tanner, Diamond, Imperial, Moore, Koppel
 ABSENT: Chan, Fung

- 4a. 2019-017481SHD (N. FOSTER: (628) 652-7330)
530 SANSOME STREET – east side between Washington and Merchant Streets; Lots 013, 014, and 017 in Assessor's Block 0206 (District 3) – Request for **Adoption of Shadow Findings** pursuant to Section 295 that the net new shadow cast by the proposed project at 530 Sansome Street will not have a significant adverse impact on the use of Maritime Plaza or Sue Bierman Park, two (2) properties under the jurisdiction of the Recreation and Park Department. The proposed project ("Project") includes the demolition of three existing buildings, including San Francisco Fire Department (SFFD) Station 13 and two vacant commercial buildings and the construction of a new mixed-use building reaching a roof height up to 218 feet tall (236' inclusive of rooftop screening/mechanical equipment). The Project proposes two distinct development programs that could be implemented, one that would construct various commercial uses further described below ("Commercial Variant") and one that would construct residential uses further described below ("Residential Variant"). Both the Commercial Variant and Residential Variant would include construction of a state-of-the-art, four-story Fire Station 13 (approximately 21,000 square feet of gross floor area with minor variations in square footage between the Commercial Variant and Residential Variant), as well as a below-grade, non-accessory private parking garage for the

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Preliminary Recommendation: Adopt Findings
(Proposed for Continuance to July 15, 2021)

SPEAKERS: None
 ACTION: Continued to July 29, 2021
 AYES: Tanner, Diamond, Imperial, Moore, Koppel
 ABSENT: Chan, Fung

- 4b. 2019-017481DNX (N. FOSTER: (628) 652-7330)
530 SANSOME STREET – east side between Washington and Merchant Streets; Lots 013, 014, and 017 in Assessor's Block 0206 (District 3) – Request for **Downtown Project Authorization** pursuant to Planning Code Section 309 to allow a project greater than 50,000 square feet of floor area within a C-3 Zoning District with requested exceptions for: Rear Yard (Section 134); Dwelling Unit Exposure (140); Reduction of Ground-Level Wind Current (Section 148); Off-street Freight Loading (Section 151.1); Height Limits within the S Bulk District (Section 263.9); and Bulk Controls (Section 270). The proposed project ("Project") includes the demolition of three existing buildings, including San Francisco Fire Department (SFFD) Station 13 and two vacant commercial buildings and the construction of a new mixed-use building reaching a roof height up to 218 feet tall (236' inclusive of rooftop screening/mechanical equipment). The Project proposes two distinct development programs that could be implemented, one that would construct various commercial uses further described below ("Commercial Variant") and one that would construct residential uses further described below ("Residential Variant"). Both the Commercial Variant and Residential Variant would include construction of a state-of-the-art, four-story Fire Station 13 (approximately 21,000 square feet of gross floor area with minor variations in square

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Preliminary Recommendation: Approve with Conditions
(Proposed for Continuance to July 15, 2021)

SPEAKERS: Same as item 4a.
 ACTION: Continued to July 29, 2021
 AYES: Tanner, Diamond, Imperial, Moore, Koppel
 ABSENT: Chan, Fung

- 4c. 2019-017481CUA (N. FOSTER: (628) 652-7330)
530 SANSOME STREET – east side between Washington and Merchant Streets; Lots 013, 014, and 017 in Assessor's Block 0206 (District 3) – Request for **Conditional Use Authorization** to permit a hotel use and private parking garage (Sections 303(g) and 303(t)). The proposed project ("Project") includes the demolition of three existing buildings, including San Francisco Fire Department (SFFD) Station 13 and two vacant commercial buildings and the construction of a new mixed-use building reaching a roof height up to 218 feet tall (236' inclusive of rooftop screening/mechanical equipment). The Project proposes two distinct development programs that could be implemented, one that would construct various commercial uses further described below ("Commercial Variant") and one that would construct residential uses further described below ("Residential Variant"). Both the Commercial Variant and Residential Variant would include construction of a state-of-the-art, four-story Fire Station 13 (approximately 21,000 square feet of gross floor area with minor variations in square footage between the Commercial Variant and Residential

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Preliminary Recommendation: Approve with Conditions
(Proposed for Continuance to July 15, 2021)

SPEAKERS: Same as item 4a.
 ACTION: Continued to July 29, 2021
 AYES: Tanner, Diamond, Imperial, Moore, Koppel
 ABSENT: Chan, Fung

- 4d. 2019-017481OFA (N. FOSTER: (628) 652-7330)
530 SANSOME STREET – east side between Washington and Merchant Streets; Lots 013, 014, and 017 in Assessor's Block 0206 (District 3) – Request for **Office Development Allocation** under the 2020-2021 Annual Office Development Limitation Program (Sections 320 through 325) authorizing up to 40,000 gross square feet of general office use. The proposed project ("Project") includes the demolition of three existing buildings, including San Francisco Fire Department (SFFD) Station 13 and two vacant commercial buildings and the construction of a new mixed-use building reaching a roof height up to 218 feet tall (236' inclusive of rooftop screening/mechanical equipment). The Project proposes two distinct development programs that could be implemented, one that would construct various commercial uses further described below ("Commercial Variant") and one that would construct residential uses further described below ("Residential Variant"). Both the Commercial Variant and Residential Variant would include construction of a state-of-the-art, four-story Fire Station 13 (approximately 21,000 square feet of gross floor area with minor variations in square footage between the Commercial Variant and Residential Variant), as well as a below-grade, non-accessory private parking garage for the SFFD containing 18 spaces (approximately

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Preliminary Recommendation: Approve with Conditions
(Proposed for Continuance to July 15, 2021)

SPEAKERS: Same as item 4a.
 ACTION: Continued to July 29, 2021
 AYES: Tanner, Diamond, Imperial, Moore, Koppel
 ABSENT: Chan, Fung

- 4e. 2019-017481VAR (N. FOSTER: (628) 652-7330)
530 SANSOME STREET – east side between Washington and Merchant Streets; Lots 013, 014, and 017 in Assessor's Block 0206 (District 3) – Request for **Variance** pursuant to Section 305, as reviewed by the Zoning Administrator, from the following development standards of the Planning Code: width of openings for off-street parking and loading (Section 155(s)(4)(A)); and active use, ground floor ceiling height, and transparency requirements for street frontages in commercial districts (Sections 145.1(c)(3), (4) and (6)). The proposed project ("Project") includes the demolition of three existing buildings, including San Francisco Fire Department (SFFD) Station 13 and two vacant commercial buildings and the construction of a new mixed-use building reaching a roof height up to 218 feet tall (236' inclusive of rooftop screening/mechanical equipment). The Project proposes two distinct development programs that could be implemented, one that would construct various commercial uses further described below ("Commercial Variant") and one that would construct residential uses further described below ("Residential Variant"). Both the Commercial Variant and Residential Variant would include construction of a state-of-the-art, four-story Fire Station 13 (approximately 21,000 square feet of gross floor area with minor variations in square footage between the Commercial Variant and Residential Variant), as well as a below-grade, non-accessory private parking garage for the SFFD containing 18 spaces (approximately 7,800 square feet of gross floor area with minor variations in square footage between the Commercial Variant and Residential Variant). The Commercial Variant would include a total of approximately 249,000 square feet of gross floor area, including the Fire Department uses, as well as various commercial uses contained in a 19-story tower, including approximately 141,000 square feet of hotel uses (200 rooms), approximately 37,100 square feet of office uses, approximately 32,000 square feet of gym uses and approximately 7,900 square feet of restaurant uses. The Commercial Variant proposes 22 Class 1 and 26 Class 2 bicycle parking spaces, three (3) off-street loading spaces, as well as 30 parking spaces and

one (1) car-share below-grade parking spaces for the non-Fire Department uses. The Residential Variant would include a total of approximately 283,000 square feet of gross floor area, including the Fire Department uses, as well as approximately 247,000 square feet of residential uses (256 dwelling units) in a 21-story tower. The additional two building stories in the Residential Variant are the result of slightly smaller floor-to-floor ceiling heights for the residential floors. The Residential Variant proposes 143 Class 1 and 21 Class 2 bicycle parking spaces, three (3) off-street loading spaces, as well as 64 parking spaces and two (2) car-share below-grade parking spaces for the residential uses. The Residential Variant would contain a mix 191 studio and one-bedroom units, 38 two-bedroom units, and 27 three-bedroom units. For both the Commercial Variant and Residential Variant, SFFD proposes changes to the lane configuration and traffic light facilities on Washington Street, such that SFFD engines would be able to safely make westbound and eastbound turns out to Washington Street to enhance SFFD's ability to promptly respond to emergency calls. The Project Site is located within a C-3-O (Downtown Office) Zoning District, Downtown Plan Area, and 200-S Height and Bulk District.

(Proposed for Continuance to July 15, 2021)

SPEAKERS: Same as item 4a.

ACTION: ZA Continued to July 29, 2021

5. 2016-013012CUA (C. MAY: (628) 652-7359)
478-484 HAIGHT STREET – north side between Fillmore and Webster Streets; Lot 019 in Assessor's Block 0849 (District 6) – Request for **Conditional Use Authorization**, pursuant to Planning Code Sections 121.2, 303, 317 and 743 to permit the demolition of the existing two-story building containing one dwelling unit above ground floor retail space, and the construction of a new four-story building containing nine principally-permitted dwelling units and nine accessory dwelling units above two floors of child care (Community Institutional) uses totaling approximately 9,942 square feet within the Lower Haight Street NCD (Neighborhood Commercial District) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).

Preliminary Recommendation: Approve with Conditions

(Proposed for Continuance to September 2, 2021)

SPEAKERS: None

ACTION: Continued to September 2, 2021

AYES: Tanner, Diamond, Imperial, Moore, Koppel

ABSENT: Chan, Fung

8. 2021-004810CRV – COMMISSION RULES AND REGULATIONS – The San Francisco Planning Commission will consider adopting amendments to their Rules & Regulations, in accordance with San Francisco Charter, Article IV, Section 4.104.

SPEAKERS: Sue Hestor – Supports continuance

Katherine Howard – Supports continuance

ACTION: Continued to July 15, 2021

AYES: Tanner, Diamond, Imperial, Moore, Koppel

ABSENT: Chan, Fung

13. 2017-014833ENV (J. DELUMO: (628) 652-7568)
469 STEVENSON STREET PROJECT – Certification of the **Final Environmental Impact Report** (EIR) – The project site is located on the block bounded by Stevenson Street to the north, Jessie Street to the south, 6th Street to the west, and 5th Street to the east (Assessor's block/lot 3704/045). The proposed project would demolish the existing parking lot and construct a new 27-story mixed-use building approximately 274 feet tall (with an additional 10 feet for rooftop mechanical equipment) with three below-grade parking levels providing approximately 166 parking spaces, one freight loading space, and two service vehicle loading spaces. The approximately 535,000-gross-square-foot building would consist of approximately 495 dwelling units, 4,000 square feet of commercial retail use on the ground floor, and 25,000 square feet of private and common open space. The proposed project would also provide approximately 200 class 1 bicycle spaces, 27 class 2 bicycle parking spaces, and passenger loading zones on Stevenson Street and Jessie Street. The proposed project would use the Individually Requested State Density Bonus Program and provide affordable housing units onsite. The Project Site is located within a C-3-G (Downtown General Commercial) Zoning District, Downtown Plan Area, and 160-F Height and Bulk District.
- Note: The public hearing on the draft EIR is closed. The public comment period for the draft EIR ended on May 11, 2020. Public comment will be received when the item is called during the hearing. However, comments submitted may not be included in the Final EIR.**
- Preliminary Recommendation: Certify*
 (Continued from Regular hearing on June 10, 2021)

SPEAKERS: Angelica Cabande – Support continuance
 Michael Nulty – Support continuance
 Speaker – Support continuance
 Cynthia Gomez – Support continuance

ACTION: Continued to July 22, 2021

AYES: Tanner, Diamond, Fung, Imperial, Moore, Koppel

ABSENT: Chan

- 14a. 2017-014833ENV (N. FOSTER: (628) 652-7330)
469 STEVENSON STREET – south side between 5th and 6th Streets; Lot 045 in Assessor's Block 3704 (District 6) – Request for **Adoption of Findings** and a Statement of Overriding Considerations pursuant to the California Environmental Quality Act (CEQA). The proposed project ("Project") includes construction of a 27-story residential building reaching a height of 274-feet tall (284-feet including rooftop mechanical equipment) with a total Gross Floor Area of approximately 427,000 square feet devoted to residential uses, with approximately 4,000 gross square feet of ground-floor retail. The Project includes a total of 495 dwelling units, with a mix of 192 studio units, 149 one-bedroom units, 96 two-bedroom units, 50 three-bedroom units, and eight five-bedroom units totaling, with 73 dwelling units provided as on-site affordable dwelling units. The Project would provide 166 off-street vehicle parking spaces, up to 12 car-share spaces, 200 Class 1 and 27 Class 2 bicycle parking spaces, and three freight loading spaces within a below-grade garage. The Project is utilizing the Individually Requested State Density Bonus Program to achieve a 42.5% density bonus thereby maximizing residential density on the Site pursuant to California Government Code Sections 65915-95918, as revised under Assembly Bill No. 2345 (AB 2345). The Project Site is located within a C-3-G (Downtown General Commercial) Zoning District, Downtown Plan Area, and 160-F Height and Bulk District.

Preliminary Recommendation: Adopt Findings

(Continued from Regular hearing on June 10, 2021)

SPEAKERS: Same as item 13.
ACTION: Continued to July 22, 2021
AYES: Tanner, Diamond, Imperial, Moore, Koppel
ABSENT: Chan, Fung

- 14b. 2017-014833DNX (N. FOSTER: (628) 652-7330)
469 STEVENSON STREET – south side between 5th and 6th Streets; Lot 045 in Assessor's Block 3704 (District 6) – Request for **Downtown Project Authorization** to permit a project greater than 50,000 square feet of floor area within a C-3 Zoning District (Sections 210.2 and 309). The proposed project ("Project") is utilizing the Individually Requested State Density Bonus Program pursuant to California Government Code Sections 65915-95918, as revised under Assembly Bill No. 2345 (AB 2345) to achieve a 42.5% density bonus. The Project requests six (6) waivers from: Maximum Floor Area Ratio (Section 123); Rear Yard (Section 134); Common Useable Open Space (Section 135); Dwelling Unit Exposure (Section 140); Ground-Level Wind Current (Section 148); Bulk (Section 270); and one (1) incentive from Height (Section 250). The Project includes construction of a 27-story residential building reaching a height of 274-feet tall (284-feet including rooftop mechanical equipment) with a total Gross Floor Area of approximately 427,000 square feet devoted to residential uses, with approximately 4,000 gross square feet of ground-floor retail. The Project includes a total of 495 dwelling units, with a mix of 192 studio units, 149 one-bedroom units, 96 two-bedroom units, 50 three-bedroom units, and eight five-bedroom units totaling, with 73 dwelling units provided as on-site affordable dwelling units. The Project would provide 166 off-street vehicle parking spaces, up to 12 car-share spaces, 200 Class 1 and 27 Class 2 bicycle parking spaces, and three freight loading spaces within a below-grade garage. The Project Site is located within a C-3-G (Downtown General Commercial) Zoning District, Downtown Plan Area, and 160-F Height and Bulk District.

Preliminary Recommendation: Approve with Conditions

(Continued from Regular hearing on June 10, 2021)

SPEAKERS: Same as item 13.
ACTION: Continued to July 22, 2021
AYES: Tanner, Diamond, Imperial, Moore, Koppel
ABSENT: Chan, Fung

- 14c. 2017-014833CUA (N. FOSTER: (628) 652-7330)
469 STEVENSON STREET – south side between 5th and 6th Streets; Lot 045 in Assessor's Block 3704 (District 6) – Request for **Conditional Use Authorization** to permit additional square footage above that permitted by the base floor area ratio limits for the construction of on-site, affordable dwelling units (Sections 124(f) and 303). The proposed project ("Project") includes construction of a 27-story residential building reaching a height of 274-feet tall (284-feet including rooftop mechanical equipment) with a total Gross Floor Area of approximately 427,000 square feet devoted to residential uses, with approximately 4,000 gross square feet of ground-floor retail. The Project includes a total of 495 dwelling units, with a mix of 192 studio units, 149 one-bedroom units, 96 two-bedroom units, 50 three-bedroom units, and 8 five-bedroom units totaling, with 73 dwelling units provided as on-site affordable dwelling units. The Project would provide 166 off-street vehicle parking

spaces, up to 12 car-share spaces, 200 Class 1 and 27 Class 2 bicycle parking spaces, and 3 freight loading spaces within a below-grade garage. The Project is utilizing the Individually Requested State Density Bonus Program to achieve a 42.5% density bonus thereby maximizing residential density on the Site pursuant to California Government Code Sections 65915-95918, as revised under Assembly Bill No. 2345 (AB 2345). The Project Site is located within a C-3-G (Downtown General Commercial) Zoning District, Downtown Plan Area, and 160-F Height and Bulk District.

Preliminary Recommendation: Approve with Conditions
(Continued from Regular hearing on June 10, 2021)

SPEAKERS: Same as item 13.
ACTION: Continued to July 22, 2021
AYES: Tanner, Diamond, Imperial, Moore, Koppel
ABSENT: Chan, Fung

B. COMMISSION MATTERS

6. Consideration of Adoption:

- Draft Minutes for June 10, 2021 – Closed Session
- Draft Minutes for June 10, 2021 – Regular

SPEAKERS: Georgia Schuttish – Director Hills referred to working with DBI on Tantamount to Demolition. What is “working with” exactly? Ms. Wong and Ms. Berger wrote an extremely good presentation which Ms. Watty sent to me. Should be on Department website. January 2020: Director Rahaim replying to a direct question from President Koppel about the Demo Calcs said “Ms. Watty was working on it”. Presentation updates corrections to Clarifications in the 2020 CID on how to do the “math” for Demolition Calculations. Also more expansive than 2015/2016 Training Manuals put together for Staff after determination in late 2015 that based on sample, 40% to 50% of Alteration projects should have been reviewed as Demolitions, stated in approved Minutes on January 7, 2016 by former Commissioner Richards. New document good resource. When Demo Calcs are adjusted. becoming more stringent, in order to preserve housing, allowing for reasonable Alterations, which is: Reason for Section 317.

ACTION: Adopted
AYES: Tanner, Diamond, Fung, Imperial, Moore, Koppel
ABSENT: Chan

7. Commission Comments/Questions

None.

C. DEPARTMENT MATTERS

9. Director’s Announcements

Rich Hillis, Planning Director:

Good afternoon, Commissioners. A couple of items. One, I know I have mentioned this previously but again I wanted to recognize and thank the many Planning staff who served over the last 15 months as Disaster Service Workers. You may know that the Covid Command Center is starting to transition and phase out at Moscone. We have about 8 staff who are still out on DSW but expecting most to return in the next week or so. But in total, extraordinarily we had 53 staff members who served at some point over the last 15 months as Disaster Service Workers and in various capacities from helping getting schools re-opened to facilitating safe sleeping sites to vaccination education and outreach in vulnerable communities. So, tremendously important roles. Many, have described, the work as challenging but some of the most rewarding they have done over the course of their careers. And I hope helped in all of our efforts in kind of getting San Francisco back on track and a leader in the pandemic response. So again, I wanted to just thank our staff who have served because it was a huge number of them.

Also, I wanted to report we had the third meeting of the Equity Advisory Council last week. I wasn't able to attend because I was out. We will continue to post summaries on our website. This one will be up today if it isn't already. The discussion was focused on again developing priorities for the council's work with housing recovery, our equity plan, our budget and priorities and our communications and outreach strategies as the primary topics for the council to consider. There was a good discussion. Director Shaw joined from MOHCD about the Housing Element. The next meeting will be in July about our Equity Plan. And again, we will continue to post summaries of those meetings on our website.

Also, I wanted to mention two state bills that could affect San Francisco in our work that are moving through the legislative process, SB 9 and SB 10. Again, it is unclear what will happen to these bills as they move through the process but this is starting to get to final legislation as we move through the summer. SB 9 would make approval of 2-unit projects in single family districts ministerial under certain conditions. Those being if there are no demo or alteration of the affordable unit, if they don't demo more than 25% of an existing structure and if they are not located in a historic district. SB 9 also allows for subdivision of existing lots in RH-1 districts under certain conditions as well. And then SB 10 would allow cities to up-zone any parcel to allow for up to 10 units without environmental review. So, the bill itself wouldn't rezone any parcel and cities would require legislative action to make zoning changes. But in cases where they are allowing up to 10 units, they would not have to undertake environmental review for the legislation. So, I just wanted to give you those quick summaries. That is my report unless there are questions.

Commissioner Moore:

Thank you, Director Hillis for thanking our Disaster Service Workers. Special thanks to them. It is very difficult to balance a career and have a side job that is extremely challenging. It made being vaccinated at Moscone at least significantly easier because it was a large group of positively minded supportive staff. Again, thank you to everybody.

I have a question regarding the City's request for all City employees to be vaccinated. I assume, assume is the word, that Commissioners will be all returning to City Hall would fall under the same requirement. I would like, if you can, verify that for all of us. I think it is a great rule from the City. I personally believe that we all need to be vaccinated. And hope that we will find a way to see each other all again in person at City Hall in the very near future.

As to the last item you mentioned, SB 9 and SB 10. I have been reading including, Representative Chu's strong comments against SB 9 that just came out a few days ago. Very interested to hear you update us as it goes along. There was strong comments already in papers. People discussing the topic and how it applies particularly to San Francisco. Again, San Francisco has to have a different response and should have a different response to all of these State legislative piece regarding housing. Thank you for bringing it up and I look forward for you keeping us abreast on how it develops as it goes forward. Thank you.

Rich Hillis, Planning Director:

Thank you, Commissioner Moore. We will certainly keep you updated because I imagine things will change as they move through the process. And that is my understanding too, Commissioners would fall under the rules that employees fall under. We just got that guidance yesterday so we will confirm that and let you know.

Commissioner Moore:

You are talking about vaccination right now.

Rich Hillis, Planning Director:

Yes.

Commissioner Moore:

Thank you.

Commissioner Imperial:

Thank you. Director Hillis, regarding SB 9 and SB 10. If you could please send the Commissioners an overview of the State legislations. That would be beneficial for me to understand it better. Thank you.

Rich Hillis, Planning Director:

Okay, I will.

10. Review of Past Events at the Board of Supervisors, Board of Appeals and Historic Preservation Commission

None.

D. GENERAL PUBLIC COMMENT

SPEAKERS: Georgia Schuttish – The email sent June 18th is of two Elizabeth Street projects. The photos show: Before, During and After. These projects were approved as Alterations. The existing houses were livable, not dilapidated, not shabby. No published Demo Calcs for one project; other one had the Demo Calcs revised during the work. These projects show why the Demo Calcs thresholds should be adjusted per Section 317 (b) (2) (D). The sales history of each shows why too. The rampant speculative market when both homes hit the market back in 2015 is illustrated by increase in sales price from asking price and further illustrated when completed projects returned to market in 2021. Please look at this sales history closely. On June 21st

email sent with sales history of 4250 26th. And 1647 Sanchez which is unoccupied one year after sale. (\$9.1M) Compare this sales history with two projects on Elizabeth Street sales history.

Tes Welborn – General public comment, document review time

Linda Chapman – EIR, wind impact

David Elliott Lewis – Wind impact, market rate group housing

Ozzie Rohm – Changes proposed in Rules and Regs, DR time

Becky – CUA application timeline

Michael Nulty – Executive summaries, letters of support/concern

Bobbie Lopez – 469 Stevenson support continuance

Ken Fisher – DR process

Dennis Richards – SB 9 and SB 10

Jonas P. Ionin – Response to questions and comments

E. REGULAR CALENDAR

The Commission Hearing Procedures provide for presentations by staff; followed by the project sponsor team; followed by public comment for and against the proposal. Please be advised that the project sponsor team includes: the sponsor(s) or their designee, lawyers, architects, engineers, expeditors, and/or other advisors.

11. 2013.1535CUA-02 (C. GROB: (628) 652-7532)
450-474 O'FARRELL STREET AND 532 JONES STREET – on the block bounded by Geary Street to the north, O'Farrell Street to the south, Taylor Street to the east, and Jones Street to the west (Assessor's block/lot 0317/007, 0317/009, and 0317/011) (District 6) – Request to amend **Conditions of Approval** of Planning Commission Motion No. 20281, adopted September 13, 2018. A revised project scope still includes demolition of the three buildings, construction of a 13-story mixed-use building with similar massing, ground floor commercial and a new church, but now proposes up to 316 group housing rooms instead of up to 176 residential units and no longer proposes residential off-street parking. At minimum, Conditions of Approval Nos. 24, 25, 26, 32, pursuant to Planning Code Sections 303, 304, 415, 166, and 155, are to be amended to reflect the project revision and status, for a project located in a RC-4 (Residential- Commercial, High Density) Zoning District, North of Market Residential Special Use District and 80-130-T Height and Bulk District. This project has undergone environmental review pursuant to the California Environmental Quality Act and Chapter 31 of the San Francisco Administrative Code. The Planning Commission certified the Final Environmental Impact Report (EIR) for the project on September 13, 2018 (Motion No. 20279). On June 17, 2021, the Planning Department published the second addendum to Final EIR for the Project.

Preliminary Recommendation: Approve Amendments

(Continued from Regular hearing on June 10, 2021)

Note: On April 15, 2021, after hearing and closing public comment, continued to June 10, 2021 by a vote of +7 -0. On June 10, 2021, without hearing, continued to June 24, 2021 by a vote of +6 -0 (Chan absent).

SPEAKERS: = Carly Grob – Staff report
 + Ela Strong – Project sponsor
 + Richard Hannum – Project sponsor
 - Michael – Request continuance

- + Martha – Support
- Speaker – Community engagement
- Del Seagraves – Dense neighborhood
- David Elliot Lewis – Not properly designed
- + Susan – Additional housing
- + Corey Smith – Petitions
- Kathy Vaughn – Does not meet the needs of neighborhood
- Curtis Bradford – Oppose, not ready for approval
- Anastasia Yovanopoulos – Affordable units
- Speaker – Community engagement
- Carlene – Does not meet the needs of the community
- + Joanne – Support
- Lance – Oppose
- Jason – Wrong for the Tenderloin
- Felicia Smith – Family housing not group housing
- + Patricia Kephart – Need a new church
- + Chris – Impress with the project
- + John Mitchell – Support
- Belinda – Oppose
- Freddy – Change space and safety needs
- Michael Nulty – No community partners
- = Greg – Time to comment
- Speaker – Oppose
- + Mike Chen – Support
- + Cheryl – Support
- + Cristina – Support
- John McCormick – Oppose, no community engagement
- Speaker – Oppose, need family dwellings
- + David Cincotta – Response to questions
- = Jenny Delumo – Response to questions
- = Chelsea Fordham – Response to questions
- + Teresa Ichsan, Project Access – Response to questions
- Speaker – Oppose
- = Corey Teague – Response to questions

ACTION:

Approved with Conditions as amended to include:

1. Increase the number of larger group housing units, wherever feasible;
2. Provide balconies to maximum projection on all sides except O'Farrell Street;
3. Continue working with Staff to increase the number of bicycle parking spaces, up to 200;
4. Convert the ground-floor retail space to group housing units; and
5. Work with Staff to analyze the feasibility of converting the basement to additional group housing units.

AYES: Tanner, Diamond, Fung, Koppel

NAYS: Imperial, Moore

ABSENT: Chan

MOTION: 20935

12. [2020-001973CUA](#)

(S. YOUNG: (628) 652-7349)

1737 POST STREET, SUITE 367 – south side between Buchanan and Webster Streets; Lots 009 in Assessor's Block 0700 (District 5) – Request for **Conditional Use Authorization** pursuant to Planning Code Sections 249.32, 303, 303.1, and 721 to establish a Formula Retail Limited Restaurant Use (d.b.a. Yi Fang Taiwan Fruit Tea) in an approximately 565 square foot vacant ground floor commercial space which was occupied by another non-formula retail limited restaurant use (d.b.a. MoYo's Yogurt). The Project will involve interior tenant improvements to the ground floor commercial space, which is located within the interior of Japan Center West (Kintetsu) Mall. The project site is located within the Japantown NCD (Neighborhood Commercial District), Japantown Special Use District, and 50-X Height and Bulk District. The project site is also located within the Japantown Planning Area. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).

Preliminary Recommendation: Approve with Conditions

SPEAKERS: = Sharon Young – Staff report
 + Thomas Jia Liang – Project sponsor
 + Roy Lam – Project sponsor
 - Gwyneth – Request for continuance

ACTION: Approved with Conditions as amended to include:
 1. Sponsor to meet/work with the Japantown Taskforce; and
 2. Update memo.

AYES: Tanner, Diamond, Fung, Imperial, Koppel

NAYS: Moore

ABSENT: Chan

MOTION: 20936

ADJOURNMENT 4:26 PM
ADOPTED JULY 8, 2021



San Francisco
Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

PLANNING COMMISSION MOTION NO. 20935

Style Definition: Heading 2: Centered, Space Before: 0 pt

HEARING DATE: JUNE 24, 2021

Record No.: 2013.1535CUA-02
Project Address: 450-474 O'Farrell Street/532 Jones Street
Zoning: RC-4 - Residential- Commercial, High Density Zoning District
80-T-130-T Height and Bulk District
North of Market Residential Special Use District
Block/Lot: 0317/007, 009, 011
Project Sponsor: Forge Development Partners LLC
155 Montgomery Street, Suite 300
San Francisco, CA 94104
Fifth Church of Christ, Scientist San Francisco
San Francisco, CA 94102
Property Owner: Fifth Church of Christ, Scientist San Francisco
San Francisco, CA 94102
Staff Contact: Carly Grob - (628) 652-7532
carly.grob@sfgov.org

ADOPTING FINDINGS TO APPROVE AN AMENDED CONDITIONAL USE AUTHORIZATION THAT WOULD MODIFY CONDITION OF APPROVAL NOS. 24, 25, 26, AND 32 OF PLANNING COMMISSION MOTION NO. 20281 TO REFLECT COMPLIANCE OF THE AMENDED PROJECT WITH SECTIONS 166, 155, 155.1, AND 155.2, AND OF 415 OF THE PLANNING CODE, RESPECTIVELY.

PREAMBLE

On January 24, 2020, Alexander Zucker of Forge Development Partners, LLC, (hereinafter "Project Sponsor") filed Application No. 2013.1535CUA-02 (hereinafter "Application") with the Planning Department (hereinafter "Department") for an amended Planned Unit Development/ Conditional Use Authorization to amend Conditions of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281 (hereinafter "Project") at 450-474 O'Farrell Street and 532 Jones Street, Block 0317 Lots 007, 009, and 011 (hereinafter "Project Site").

This project has undergone environmental review pursuant to the California Environmental Quality Act and Chapter 31 of the San Francisco Administrative Code. The Planning Commission certified the Final Environmental Impact Report (EIR) for the project on September 13, 2018 (Motion No. 20279). On December 21, 2020, the Planning Department published an addendum to Final EIR for the Project. The Planning Department concluded that no further environmental review is required for this revised Project for the reasons set forth in the Addendum. This Commission concurs with that conclusion. On September 13, 2018, the Commission adopted Motion No. 20280

adopting CEQA findings for the original Project, including a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program (MMRP) for the Project. Those findings and adoption of the MMRP set forth in Motion No. 20280 are incorporated by reference in this Motion as though fully set forth herein.

On January 7, 2021, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Planned Unit Development/Conditional Use Authorization Application No. 2013.1535CUA-02. At the January 7, 2021 Commission hearing, the item was continued to January 21, 2021. At the January 21, 2021 Commission hearing, the item was continued to February 4, 2021. At the February 4, 2021 Commission hearing, the item was continued to April 1, 2021. At the April 1, 2021 Commission hearing, the item was continued to April 15, 2021. At the April 15, 2021 hearing, the item was continued to June 10, 2021. At the June 10, 2021 hearing, the item was continued to June 24, 2021. On September 13, 2018, the Commission approved the original Project in Planning Commission Motion Nos. 20279, 20280 and 20281.

The Planning Department Commission Secretary is the Custodian of Records; the File for Record No. 2013.1535CUA-02 is located at 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

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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 amended Conditional Use Authorization as requested in Application No. 2013.1535CUA-02, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. **The above recitals are accurate and constitute findings of this Commission.**
2. **Project Description.** The current proposal is to amend Condition of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281 to modify the Project's compliance with Sections 166, 155, 155.1, and 155.2, and of 415 of the Planning Code, respectively.

The previously approved Project includes demolition of three buildings: 450 O'Farrell Street (currently occupied by the Fifth Church of Christ, Scientist); 474 O'Farrell Street (one-story, vacant retail building); and 532 Jones Street (one-story restaurant use, with five existing residential units). The original proposal is to merge these three lots, and construct a new mixed-use building rising to 130-foot-tall (13-story), with up to 176 dwelling units, restaurant and/or retail space on the ground floors, and a replacement church (proposed religious institution) incorporated into the ground and two upper levels, below grade parking and mechanical spaces, private and common open space, and 116 Class 1 and 9 Class 2 bicycle parking spaces. The project would construct a total of approximately 218,155 square feet ("sf") of development, including 182,668 sf of residential space, 3,827 sf of restaurant/retail space, 9,555 sf for religious institutional use, 8,398 sf of residential open space (288 sf of private open space and 8,110 sf of common

open space), and 21,105 sf of below-grade parking (up to 46 spaces). The project also proposes merger of three Lots 007, 009, and 011 in Assessor's Block 0317.

A revised project scope ("amended Project") still includes demolition of the three buildings, construction of up to a 13-story mixed use building with similar massing and basement, ground floor commercial and a new church, and residential open space, but now proposes up to 316 group housing rooms (with a maximum of 632 beds) instead of up to 176 residential units and no longer proposes residential off-street parking. The number of bicycle parking spaces has been modified to: 136 Class 1 and 15 Class 2. The revised project would now construct a total of approximately 207,448 square feet ("sf") of development, including 172,323 sf of residential space, 6,023 sf of restaurant/retail space, 9,924 sf for religious institutional use, and approximately 5,056 sf of residential open space. The project also proposes merger of three Lots 007, 009, and 011 in Assessor's Block 0317.

3. **Site Description and Present Use.** The project site is currently occupied by the three-story, 26,904-square-foot Fifth Church of Christ, Scientist, including a 1,400-square-foot parking lot with four parking spaces at 450 O'Farrell Street; a one-story, 4,415-square-foot vacant retail building at 474 O'Farrell Street; and a one-story, 1,012-square-foot restaurant and residential building with five units at 532 Jones Street.

4. **Surrounding Properties and Neighborhood.** The Project Site is located within the RC-4 zoning district, a District defined by its compact, walkable, transit-oriented, and mixed-use nature, within the Downtown/Civic Center neighborhood. The immediate context is primarily residential with neighborhood-serving commercial uses. The immediate vicinity includes buildings ranging from five to 12 stories, and within a two-block radius up to 16-stories (including at the end of the subject site block). Within ¼-mile radius east of the site is the dense commercial retail area surrounding Union Square and the western boundary of the Financial District, and within ¼-mile south of the site is the City's major ceremonial and transit corridor Market Street. The project site is located within the boundaries of the Uptown Tenderloin Historic District which is listed in the National Register. Other zoning districts in the vicinity of the project site include C-3-G (Downtown General), C-3-R (Downtown Retail), and P (Public), which exhibit a range of height and bulk districts: 80-T, 80-A, 80-130-F, and 225-S.

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5. **Public Outreach and Comments.** To date (as of June 16, 2021), the Department has received 51 form letters in support, 3 other letters of support, including from YIMBY Law and Project Access. SF Housing Action Coalition submitted support and a petition in support signed by 42. The support for the Project is focused on the development of new housing, below market rate options, community-serving retail and new home for the Fifth Church of Christ, Scientist. YIMBY Law has submitted a second letter on June 10 which describes their opinion of the applicability of the Housing Accountability Act to the modified project.

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The Department has received 5 letters in opposition to the Project, including from Tenderloin Housing Clinic (THC), Tenderloin Neighborhood Development Corporation (TNDC), Tenant Associations Coalition of San Francisco neighborhood groups, Tenderloin Tenants, and one phone call in opposition. Most recently, THC, TNDC, and the Central City SRO Collaborative provided a joint letter which reiterated their opposition to the project, stating that the Project Sponsor was not adequately engaging with the community, and that the current proposal of a group housing project does not meet community needs for family housing. This letter also included previous communications from both THC and TNDC, citing

the needs for family housing instead of group housing, lack of community engagement, and that the Project Sponsor is misrepresenting their ability to finance the previous project and the goal to serve "essential workers." Previous correspondence in opposition cites similar concerns that the Project is centered on the shift to group housing, concerns about the community engagement process, and a neighbor's perception that the church has not been a good neighbor. One letter was received regarding the adequacy of the Addendum prepared for the project, which was resubmitted in advance of the June 24 hearing. Central City Democrats, 86 Dwellers and Alliance for Better District 6 all submitted letters noting multiple concerns about the project and requesting a redesign.

6. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section F of Planning Commission Motion No. 20281, except as amended below:

- A. **Transportation Demand Management (TDM) Plan.** Pursuant to Planning Code Section 169 and the TDM Program Standards, the Project shall finalize a TDM Plan prior Planning Department approval of the first Building Permit or Site Permit. As currently proposed, the Project must achieve a target of 12 points.

The Project submitted a completed Environmental Evaluation Application prior to September 4, 2016. Therefore, the Project must only achieve 50% of the point target established in the TDM Program Standards, resulting in a required target of 12 points. As currently proposed, the Project will achieve its required 12 points through the following TDM measures:

- Parking Supply
- Bicycle Parking
- Bicycle Repair Station
- Multimodal Wayfinding Signage
- Real Time Transportation Displays
- On-Site Affordable Housing

- B. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements apply to projects that consist of 10 or more units. The applicable percentage is dependent on the number of units in the project, the zoning of the property, and the date of the accepted Project Application. A Project Application was accepted on November 21, 2014, project approval was granted on September 13, 2018, and a site permit was issued on May 13, 2020; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the On-site Affordable Housing Alternative is to provide 13.5% of the proposed group housing rooms/ dwelling units as affordable.

The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6 and has submitted an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. For the Project Sponsor to be eligible for the On-Site Affordable

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Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be rental units and will remain as rental units for the life of the project. The Project Sponsor submitted such Affidavit on August 21, 2020. The applicable percentage is dependent on the total number of units in the project, the zoning of the property, and the date of the accepted Project Application. A Project Application was accepted on November 24, 2014, project approval was granted on September 13, 2018, and a site permit issued May 13, 2020; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the On-site Affordable Housing Alternative is to provide 13.5% of the total proposed dwelling units as affordable to low-income households, as defined by the Planning Code and Procedures Manual. 43 units/rooms of the total 316 units/rooms and 5 replacement units/rooms, for a total of 48 provided will be affordable units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable.

7. **Conditional Use Findings.** Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the Project is consistent and does comply with said criteria as originally described in Section G of Planning Commission Motion No. 20281, except as amended below:

- 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 Downtown/ Civic Center neighborhood contains a mix of residential, commercial, and institutional uses, including religious facilities. This mixed-use building will be compatible with that neighborhood mix of uses. The project will provide rental housing, ground floor retail space, and a new Christian Science church and Reading Room (institutional use) to replace the existing church site (deemed obsolete and oversized), a vacant commercial building adjacent to the church, and a one-story restaurant building containing five existing residential units that will be replaced on-site. Specifically, this mixed-use project includes 316 newly constructed group housing rooms (with 48 on-site affordable rooms including the five replacement units), supporting a need in the City, a new church facility, and retail space.

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- 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:

- (1) Nature of proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures;

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The project's proposed building massing is consistent with the character and design of the neighborhood, and will not impede any development of surrounding properties. The project would be a contemporary, but compatible, design that references the character-defining features of the surrounding district and is compatible with size and scale, composition,

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materials, and architectural details. The massing is compatible in terms of lot occupancy, solid-to-void ratio, and vertical articulation. The elements include the new church structure, and two different architectural styles for floors seven and above. The expression of the upper levels is compatible with the overall design and district but read as secondary elevations. Finally, a vertical notch is proposed at the corner of O'Farrell Street and Shannon Alley, further reducing the building's massing impact. The building's design is well-articulated horizontally and vertically to reduce the apparent massing.

Pursuant to Condition of Approval Nos. 12a and 13 in Motion No. 20281, the Project design was modified to remove the existing colonnaded façade at 450 O'Farrell Street from the project, and the revised design was presented to the Planning Commission at an informational hearing on October 3, 2019.

- (2) 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;

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The Project site is located accessible by public transit, with multiple public transit alternatives* (MUNI Bus lines 2-Clement, 3-Jackson, 27-Bryant, 31-Balboa, 38-Geary, 38R-Geary Rapid, and 45-Union/Stockton; Powell Street and Civic Center BART/MUNI) within close walking distance. Additionally, the Project site is directly adjacent to O'Farrell and Jones Streets, both major thoroughfares which provide ready access to those driving.

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Parking is available either along surrounding neighborhood streets or within the proposed* minimal off-street parking for the institutional use. The vehicular entrance is located on Shannon Street, which will be less detrimental to the existing traffic pattern than would be a garage entrance on O'Farrell Street, which has a dedicated transit lane and one vehicular travel lane. The residential entrance, including entrance to the on-site bicycle parking, is located of O'Farrell Street. Pedestrian entrances to the retail and church uses are on O'Farrell and additional retail use from Jones Streets, further activating those major streets. Given the small amount of retail space (less than 10,000 square feet) and limited loading needs as discussed in the project EIR, the project will seek an exception to off-street loading requirements by providing an on-street solution. The development will not be detrimental to the convenience of persons residing or working in the vicinity.

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- C. That the use as proposed would provide development that is in conformity with the purpose of the* applicable Neighborhood Commercial District.

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The project site is located within the RC-4 zoning district and subarea No. 1 of the North of Market* Residential Special Use District. This SUD has a stated purpose which includes protect and enhance important housing resources in an area near downtown, conserve, and upgrade existing low and moderate income housing stock, preserve buildings of architectural and historic importance, and preserve the existing scale of development, maintain sunlight in public spaces, encourage new infill housing at a compatible density, limit the development of tourist hotels and other commercial uses that could adversely impact the residential nature of the area, and limit the number of commercial establishments which are not intended primarily for customers who are residents of the area.

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Considered as a whole, although the project demolishes historic resources, the Project would add housing and commercial goods and services to add to and to support the residential-commercial District, in addition to a new church facility, into one mixed-use building. The Project site is well-served by transit and existing commercial services, with amenities accessible by foot, bike, or transit. The Project includes 316 group housing rooms with 632 beds, and provision of on-site affordable units. On balance, the Project conforms with multiple goals and policies of the General Plan.

8. **Planned Unit Development.** Section 304 establishes criteria and limitations for the authorization of Planned Unit Development (PUD)'s over and above those applicable to Conditional Uses in general and contained in Section 303 and elsewhere in the Code. In cases of projects on sites ½-acre or greater that exhibit outstanding overall design and are complementary to the design and values of the surrounding area. The Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section H of Planning Commission Motion No. 20281, except as amended below:

A. Specifically, the project seeks these modifications:

- (1) *A modification of the rear yard requirements per Section 134(j) of the Planning Code is still* required, as a modification through the PUD process, to allow for open space in a configuration other than a rear yard.*
- (2) *An exception to dwelling unit requirements is not required for the amended Project, as it complies with Section 140 of the Planning Code.*
- (3) *An exception to the off-street loading requirements per Section 152 of the Planning Code is still required, which requires one residential loading space for the project.*
- (4) *An exception to permitted obstructions is not required for the amended Project, as the amended Project complies with Section 136(c) of the Planning Code.*

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B. On balance, the Project complies with said criteria of Section 304(d) in that it:

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- (1) Provides off-street parking adequate for the occupancy proposed;

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Off-street parking is not required in the RC-4 zoning district. The project provides off-street parking for the religious institution, with up to 6 dedicated for that use. Balanced with multiple transit lines within ¼-mile, options for walking, and over 85 bicycle parking spaces, both on-site and on the sidewalks, this limited off-street parking is adequate and appropriate for the proposed uses, for this downtown location.*

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- (2) Be limited in dwelling unit density to less than the density that would be allowed by Article 2* of this Code for a district permitting a greater density, so that the Planned Unit Development will not be substantially equivalent to a reclassification of property;

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Pursuant to Section 209.3 of the Planning Code, the RC-4 residential high-density zoning district, permits a group housing density up to one bedroom per every 70 square feet of lot

area. On this 22,106 square foot site, 316 bedrooms are permitted with up to 632 beds. Accordingly, no increase in density is being sought.

9. **Additional Findings to Section 303(c) for Conditional Use Authorization request.** Each Planning Code Section may establish criteria for the Planning Commission to consider when reviewing applications for Conditional Use Authorization. The Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:

- A. **Additional Findings pursuant to Section 317** establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications to demolish or convert Residential Buildings. On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:

- (1) whether the project removes rental units subject to the Residential Rent Stabilization and Arbitration Ordinance or affordable housing;

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The existing five units are not deed-restricted, tax-credit funded affordable housing. Although Planning Staff does not have the authority to make a determination on the rent control status of a property, it is to be assumed that the units to be demolished are subject to the Residential Rent Stabilization and Arbitration Ordinance due to building construction date circa 1950. Only two of the five units are occupied, and the project sponsor will be working with the Mayor's Office of Housing and Community Development (MOHCD) and other parties to ensure a relocation plan. The project includes five additional on-site affordable units in excess of its inclusionary housing requirement (13.5%, or 43 units) as new, on-site replacement units. The project proposes a total of 48 on-site affordable units pursuant to Section 415 of the Planning Code.

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- (2) whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;

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Although the existing housing will not be conserved, the mixed-use project, which merges three lots, will replace the five existing units – only two of which are currently occupied – with 316 newly constructed group housing rooms. The five replacement rooms and 311 group housing rooms in the project meet the stated purpose of the North of Market Residential Special Use District and the City's priority policies to encouraging dense infill housing in close proximity to transit. By providing a varied bedroom mix and on-site affordable units (41 inclusionary units/rooms and 5 replacement inclusionary units/rooms), the surrounding neighborhood's cultural and economic diversity will be enhanced.

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- (3) whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

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The project conserves neighborhood character with a mixed-use project including 316 newly constructed group housing rooms, including 48 units/rooms as on-site affordable, a church, retail space, all while including features that are consistent with the character defining features

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of the Uptown Tenderloin National Register Historic District. Architectural elements from existing structures will be incorporated into the new building design to maintain its connection to the neighborhood's history. The new building design is compatible with the prevailing development pattern and neighborhood character on the project and surrounding blocks. The group housing rooms – primary one bed but a small number with two beds per room – is balanced with compliant residential open space at various levels and communal amenity space throughout the residential portion. The minimal amount of ground floor retail supports the new and existing residential uses, and, overall, the project seeks to enhance the neighborhood's economic and cultural diversity. Pursuant to Condition of Approval Nos. 12a and 13 in Motion No. 20281, the Project design was modified to remove the existing colonnaded façade at 450 O'Farrell Street from the project, and the revised design was presented to the Planning Commission at an informational hearing on October 3, 2019.

- (4) whether the project protects the relative affordability of existing housing;

None of the five units in the existing building are deed-restricted affordable housing, however, are presumed to be subject to the Rent Stabilization and Arbitration Ordinance. The Project as a whole is required to comply with San Francisco's inclusionary housing program under Section 415 of the Planning Code. In addition, the five units to be demolished will be replaced as on-site inclusionary. As a result, 15.2% of the group housing rooms provided on-site will be affordable (41 required inclusionary units/rooms and 5 replacement inclusionary units/rooms).

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- (5) whether the project increases the number of permanently affordable units as governed by Section 415;

By demolishing the five existing units, and replacing them with a project that will comply with Section 415 of the Planning Code, the number of affordable units will increase. The Project's required inclusionary is 13.5% or 41 affordable units/rooms and the replacement five affordable units/rooms, will produce a project with 46 on-site affordable units/rooms, thereby increasing the supply of newly constructed affordable units within a market-rate project.

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- (6) whether the project increases the number of family-sized units on-site;

The five existing units are all studios, and therefore are not family-sized. The project currently proposes 316 group housing rooms with up to 632 beds. The project includes approximately 28 group housing rooms which exceed 500 square feet are intended for occupancy of two or more individuals.

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- (7) whether the project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;

The project is of superb architectural and urban design quality and enhances existing neighborhood character. The EIR for the project has determined the new building compatible with the Uptown Tenderloin National Register Historic District. The project will be a contemporary, but compatible, design that references the character-defining features of the surrounding district, in terms of size and scale, composition, and materials. The massing is compatible in terms of lot occupancy, solid-to-void ratio, and vertical articulation. Material

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selection includes pre-cast concrete, with varying finishes, with deep recesses for glazing at the primary elevations fronting the street, and non-reflective metal panel systems with vertical oriented glazing and spandrel panel at the elevations setback from the street and secondary elevations. Further, the design minimizes the building's mass with alternating setbacks, which seeks to minimize the appearance of bulk and minimize impacts to adjacent neighbors' light and air, consistently applied design guidelines.

Pursuant to Condition of Approval Nos. 12a and 13 in Motion No. 20281, the Project design was modified to remove the existing colonnaded façade at 450 O'Farrell Street from the project, and the revised design was presented to the Planning Commission at an informational hearing on October 3, 2019.

- (8) whether the project increases the number of on-site Dwelling Units;

The existing 532 Jones Street building contains five presumed studio dwelling units. The project proposes 316 group housing rooms which is an increase of on-site residential units/ rooms.

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- (9) whether the project increases the number of on-site bedrooms;

The existing 532 Jones Street building contains five studio units, i.e. no bedrooms. The project currently proposes to increase the number beds to a maximum of 632 beds in 316 bedrooms.

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- (10) whether or not the replacement project would maximize density on the subject lot;

The project provides 316 group housing rooms (with up to 632 beds) by proposing to merge three lots - the 532 Jones Street, 474 O'Farrell Street, and 450 O'Farrell Street lots - and developing one building. Density permitted for group housing in the RC-4 zoning district would allow 316 group rooms on this site. By merging three lots and building vertically to the permitted height limit for the site, the project is able to provide full use of the density available on the subject lot, as well as the adjacent two lots. Notably, the project sculpts the massing adjacent to the existing neighbors to preserve light and air.

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- B. Additional Findings pursuant to Section 253(b)(1) establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications for a building exceeding a height of 40 feet in a RM or RC District where the street frontage is more than 50 feet. In reviewing any such proposal for a building or structure exceeding 40 feet in height in a RH District, 50 feet in height in a RM or RC District, or 40 feet in a RM or RC District where the street frontage of the building is more than 50 feet, the Planning Commission shall consider the expressed purposes of this Code, of the RH, RM, or RC Districts, and of the height and bulk districts, set forth in Sections 101, 209.1, 209.2, 209.3, and 251 hereof, as well as the criteria stated in Section 303(c) of this Code and the objectives, policies, and principles of the General Plan, and may permit a height of such building or structure up to but not exceeding the height limit prescribed by the height and bulk district in which the property is located. On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:

The height of the building varies from 55 feet to 130 feet, exceeding the 40 feet in height on a site with more than 50 feet of street frontage in an RC district, but in compliance with the 80-T-130-T height and bulk district applicable to this project site. As discussed at length in the Section 303(c) findings and further in the General Plan Compliance section, the project is on balance compatible with the criteria, objectives, and policies and principles of the RC-4 district, North of Market Residential Special Use District subarea No. 1, and the General Plan. Specifically, RC-4 districts call for a mixture of high-density dwellings with supporting commercial uses and open space. The project provides that 316 group housing rooms, with retail and religious institution uses on the lower levels.

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- C. **Additional Findings pursuant to Section 249.5(c)(1) for Section 263.7** establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications for a building exceeding a height of 80 feet in the North of Market Residential Special Use District. In the 80-120-T and 80-130-T Height and Bulk Districts located within the North of Market Residential Special Use District (NOMRSUD), heights higher than 80 feet would be appropriate in order to effect a transition from the higher downtown heights to the generally lower heights of the existing buildings in the NOMRSUD core area and the Civic Center area and to make more feasible the construction of new housing, provided that development of the site is also consistent with the general purposes of the NOMRSUD as set forth in Section 249.5(b). In making determinations on applications for Conditional Use authorizations required for uses located within the North of Market Residential Special Use District, the Planning Commission shall consider the purposes as set forth in Subsection 249.5(b) as delineated below. On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:

- (1) protect and enhance important housing resources in an area near downtown;
The project increases housing resources in the downtown area with proposed 316 group housing rooms.
- (2) conserve and upgrade existing low and moderate income housing stock;
The project replaces the existing five residential units with newly constructed replacement units/rooms. As such, the project provides a total of 48 on-site inclusionary affordable units/rooms.

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- D. **Additional Findings pursuant to Section 271(c)** establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications for a building's bulk limits to be exceeded. Exceptions to the Section 270 bulk limits are permitted through Section 271. On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:

- a. The appearance of bulk in the building, structure or development shall be reduced* by means of at least one and preferably a combination of the following factors, so as to produce the impression of an aggregate of parts rather than a single building mass:
- Major variations in the planes of wall surfaces, in either depth or direction, that significantly alter the mass;
 - Significant differences in the heights of various portions of the building, structure or development that divide the mass into distinct elements;

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- iii. Differences in materials, colors or scales of the facades that produce separate major elements;
 - iv. Compensation for those portions of the building, structure or development that may exceed the bulk limits by corresponding reduction of other portions below the maximum bulk permitted; and
 - v. In cases where two or more buildings, structures or towers are contained within a single development, a wide separation between such buildings, structures, or towers.
- b. In every case the building, structure, or development shall be made compatible with the character and development of the surrounding area by means of all of the following factors:
- i. A silhouette harmonious with natural land-forms and building patterns, including the patterns produced by height limits;
 - ii. Either maintenance of an overall height similar to that of surrounding development or a sensitive transition, where appropriate, to development of a dissimilar character;
 - iii. Use of materials, colors, and scales either similar to or harmonizing with those of nearby development; and
 - iv. Preservation or enhancement of the pedestrian environment by maintenance of pleasant scale and visual interest.

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The project's O'Farrell Street elevation is articulated to break the massing down into several distinct sections. The 13-story massing would be setback from the street/retained façade. Vertical recesses are introduced at ground level between the church and other massing, and above ground level to break up massing and increase articulation.

The proposed O'Farrell Street elevation references the tripartite composition characteristic of the district. Specifically, the existing 450 O'Farrell Street façade and the proposed church façade will be the base, the apartments will be the middle, and the parapet will define the top. The proposed base at the new church and at the Jones Street elevation will be further articulated as a two-part vertical composition with a high ground floor, similar to the bases of the adjacent and surrounding district contributors.

The articulation of the proposed façade along O'Farrell Street will divide the façade in vertical subzones and will reflect the verticality of the nearby buildings by breaking up the form. The projecting precast concrete sections (rendered in white) with punched rectangular windows accentuate the elongated form of the building. On the western half of the elevation, the orientation of the rectangular windows strengthens verticality while adding rhythm to the façade, through application of an alternate materials palette: non-reflective metal, spandrel panel and glazing system. The secondary façades, including the western setback and the Shannon Street elevation, will be relatively flat, broken by lines and projecting balconies on Shannon Street.

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Continuous street walls are typical of the district. The 8-story building component to the west, which will be clad in a textured pre-clad concrete and will house the new church, will

extend to the property line. In addition, the Jones Street elevation will also extend to the property line, creating a continuous street wall. This urban design move preserves and enhances the pedestrian environment since the required use of transparency at these elevations provides an openness for pedestrians and users.

The building's design is well-articulated in order to reduce the apparent massing and includes retention of a unique urban design feature as a device to orient the community. The site is within the Uptown Tenderloin National Register Historic District, and the new building has been determined compatible with the District and the character of the surrounding neighborhood, specifically the scale and size, composition, materials, and architectural details.

Pursuant to Condition of Approval Nos. 12a and 13 in Motion No. 20281, the Project design was modified to remove the existing colonnaded façade at 450 O'Farrell Street from the project, and the revised design was presented to the Planning Commission at an informational hearing on October 3, 2019. The amended Project does not exceed the original approval of bulk exceedance.

10. General Plan Compliance. The Project is, on balance, consistent with the following Objectives and Policies of the General Plan as originally described in Section J of Planning Commission Motion No. 20281. The amended Project is consistent with the following Objectives and Policies of the General Plan, except as amended below:

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HOUSING ELEMENT

Objectives and Policies

OBJECTIVE J

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.

Policy 1.2

Focus housing growth and infrastructure necessary to support growth according to community plans. Complete planning underway in key opportunity areas such as Treasure Island, Candlestick Park, and Hunter's Point Shipyard.

Policy 1.10

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

OBJECTIVE 3

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

Policy 2.1

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

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.

Policy 4.4

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Policy 4.5

Ensure that new permanently affordable housing is located in all of the City's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

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.

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

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

Policy 11.4

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

Policy 11.6

Foster a sense of community through architectural design, using features that promote community interaction.

Policy 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

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OBJECTIVE 12

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

Policy 12.2

Consider the proximity of quality of life elements such as open space, child care, and neighborhood services, when developing new housing units.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1

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

Policy 1.3

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

Policy 1.7

Recognize the natural boundaries of districts, and promote connections between districts.

OBJECTIVE 2

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

Policy 2.6

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

OBJECTIVE 3

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

Policy 3.1

Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 3.5

Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.4

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

The Project is a high-density residential development at an infill site, providing 316 group housing rooms in a mixed-use area. The Project includes 43 net new on-site affordable housing units/rooms for rent, plus five replacement units, which assist in meeting the City's affordable housing goals. The Project is also in close proximity to ample public transportation.

The Project generally promotes the purpose of the North of Market Residential Special Use District through infill housing at compatible density. The project introduces 311 net new group housing rooms with on-site affordable units near downtown, provides five new replacement units/ rooms on-site, proposes less than 10,000 square feet of ground floor commercial which can support existing and new residents, and does not shade public open spaces. Although the proposal does not preserve historic architectural resources, the new building scale, materials, and architectural features are compatible with the surrounding neighborhood character and buildings. The Project will activate O'Farrell Street with the re-located church site and retail use, Shannon Street with the residential lobby, and Jones Street with additional retail use. Further, street improvements such as street trees and bicycle parking will further enhance the public realm, consistent with the better street plan policies in the General Plan.

The proposed new construction would produce high-quality architectural design that is compatible with the surrounding neighborhood and with the Uptown Tenderloin National Register Historic District, in which the

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site is located. The new building will reflect the characteristic pattern which gives to the City and its neighborhood an image, sense of purpose, and a means of orientation; and, moderating major new development to complement the City pattern, by providing a new, mixed-use development consistent with neighboring 6- to 19-story development in close proximity to the site. The Project would provide a new religious facility that will enable an existing church, which in its current location has been located at this site for more than 90 years, to continue to be located within the community and provide updated, code compliant, and expanded religious instructional and outreach facilities, while salvaging and reusing certain features of the building's interior elements.

Although the project does not provide family housing, the substantial number of new rooms provides housing opportunity. The project, on balance, promotes the policies and objectives of the General Plan by locating housing at a mixed-use infill development site, with neighborhood-serving commercial, and at a density to support it, where households can easily rely on public transportation, walking, and bicycling for a majority of daily trips.

11. Planning Code Section 101.1(b) establishes eight priority-planning policies and requires review of permits for consistency with said policies. The Project is, on balance, consistent with the priority policies as originally described in Section 3 of Planning Commission Motion No. 20281. The amended Project is consistent with the following policies and as amended below:

- 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.

The project site does not possess any neighborhood-serving retail uses. The Project provides 316 group housing units, which will enhance the nearby retail uses by providing new residents, who may patron and/or own these businesses.

- 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 introduces 311 net new group housing rooms with on-site affordable units near downtown, provides five new replacement group housing rooms/ units as on-site affordable units, proposes less than 4,000 square feet of ground floor commercial which can support existing and new residents, and does not shade public open spaces. Although the proposal does not preserve historic architectural resources, the new building's scale, materials, and architectural features are compatible with the surrounding neighborhood character and buildings. The Project will activate O'Farrell Street with the re-located church site and retail use, Shannon Street with the residential lobby, and Jones Street with additional retail use. The new building will reflect the characteristic pattern which gives to the City and its neighborhood an image, sense of purpose, and a means of orientation; and, moderating major new development to complement the City pattern, by providing a new, mixed-use development consistent with neighboring 6- to 19-story development in close proximity to the site.

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

The project proposes to replace the five existing residential units, none of which are deed-restricted affordable units but are presumed to be subject to the Rent Stabilization and Arbitration Ordinance, with 316 total group housing rooms, 48 of which are designated on-site affordable housing. As a result, the project creates an increase in the City's supply of affordable housing.

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

The Project Site is served by nearby public transportation options. The Project site is very accessible by public transit, with multiple public transit alternatives (MUNI Bus lines 2-Clement, 3-Jackson, 27-Bryant, 31-Balboa, 38-Geary, 38R-Geary Rapid, and 45-Union/Stockton; Powell Street and Civic Center BART/MUNI) within close walking distance. Additionally, the Project site is directly adjacent to O'Farrell and Jones Streets, both major thoroughfares which provide ready access to those driving.

Parking is available either along surrounding neighborhood streets. The proposed garage has up to 6 parking spaces, all dedicated to churchgoers, in addition to 73 Class 1 and 12 Class 2 bicycle spaces. Given the accessibility of the project site, and the limited retail uses proposed, the project will not create community traffic that impedes MUNI service or overburdens the streets.

- 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 does not include commercial office development.

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

The Project will be designed and will be constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

Part of the project includes demolition of a building (450 O'Farrell Street) determined individually eligible for the California Register of Historic Resources. In certifying the Project's Environmental Impact Report (EIR), the Planning Commission adopted a Statement of Overriding Considerations, Motion No. 20280, finding that the impacts of demolition of the individual historic architectural resource are outweighed by the benefits of the Project. The proposed new construction would produce high-quality architectural design that is compatible with the Uptown Tenderloin National Register Historic District, in which the site is located.

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

Although the Project does cast shadow on the adjacent public park, the adjacent public park (Parque Ninos Unidos) is still afforded access to sunlight, which should not dramatically affect the use and enjoyment of this park. Since the Project is not more than 40-ft tall, additional study of the shadow impacts was not required per Planning Code Section 295.

- 12. First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Administrative Code Section 83.11), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

The Project Sponsor submitted a First Source Hiring Affidavit and prior to issuance of a building permit will execute a First Source Hiring Memorandum of Understanding and a First Source Hiring Agreement with the City's First Source Hiring Administration.

- 13.** 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.
- 14.** The Commission hereby finds that approval of the amended Planned Unit Development/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 an amended Planned Unit Development/Conditional Use Authorization Application No. 2013.1535CUA-02** subject to the original conditions authorized through Planning Commission Motion No. 20281 as "Exhibit A" of that motion, with exception Condition Nos. 24, 25, 26, and 32 of Motion No. 20281, which is amended as described and attached to this Motion hereto as "EXHIBIT A", in general conformance with plans on file, dated December 7, 2020, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

This project has undergone environmental review pursuant to the California Environmental Quality Act and Chapter 31 of the San Francisco Administrative Code. The Planning Commission certified the Final Environmental Impact Report (EIR) for the project on September 13, 2018 (Motion No. 20279). On December 21, 2020, the Planning Department published an addendum to Final EIR for the Project. The Planning Department concluded that no further environmental review is required for this revised Project for the reasons set forth in the Addendum. This Commission concurs with that conclusion. On September 13, 2018, the Commission adopted Motion No. 20280 adopting CEQA findings for the original Project, including a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program (MMRP) for the Project. Those findings and adoption of the MMRP set forth in Motion No. 20280 are incorporated by reference in this Motion as though fully set forth herein.

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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. 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.

Motion No. 20935
June 24, 2021

RECORD NO. 2013.1535CUA-02
450-474 O'Farrell Street/ 532 Jones Street

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on June 24, 2021.

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Jonas P. Ionin
Commission Secretary

AYES: Tanner, Diamond, Fung, Koppel

NAYS: Imperial, Moore

ABSENT: Chan

ADOPTED: June 24, 2021

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EXHIBIT A

Authorization

This authorization is for amended conditional use authorization to modify Condition of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281 to allow: a mixed-use building, with group housing residential use, institutional use, and ground floor commercial for the Project located at 450-474 O'Farrell and 532 Jones Street, Block 0317, Lots 007, 009, and 011 within the **RC-4 Zoning** District and a **80-T-130-T** Height and Bulk District; in general conformance with plans, dated **May 25, 2021**, and stamped "EXHIBIT B" included in the docket for Record No. **2013.1535CUA-02** and subject to conditions of approval reviewed and approved by the Commission on **June 24, 2021** under Motion No. **20935**. 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 **June 24, 2021** under Motion No. **20935**.

Printing of Conditions of Approval on Plans

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **20935** 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

1. **Parking for Affordable Units.** The amended Project no longer includes off-street residential parking, therefore, this Condition of Approval no longer applies.

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For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

2. **Car Share.** Pursuant to Planning Code Section 166, zero car share spaces shall be made available. The amended Project includes fewer than 24 parking spaces for the non-residential use and no longer includes parking for the residential use, therefore, this Condition of Approval does not apply.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

3. **Bicycle Parking** Pursuant to Planning Code Sections 155, 155.1, and 155.2, the Project shall provide no fewer than 151 bicycle parking spaces (136 Class 1 spaces for the residential and religious uses portion of the Project and 15 Class 2 spaces for the residential, religious, and commercial uses portion of the Project). SFMTA has final authority on the type, placement, and number of Class 2 bicycle racks within the public ROW. Prior to issuance of first architectural addenda, the project sponsor shall contact the SFMTA Bike Parking Program at bikeparking@sfmta.com to coordinate the installation of on-street bicycle racks and ensure that the proposed bicycle racks meet the SFMTA's bicycle parking guidelines. Depending on local site conditions and anticipated demand, SFMTA may request the project sponsor pay an in-lieu fee for Class II bike racks required by the Planning Code.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

4. **Inclusionary Affordable Housing Program.** The following Inclusionary Affordable Housing Requirements are those in effect at the time of Planning Commission action. In the event that the requirements change, the Project Sponsor shall comply with the requirements in place at the time of issuance of first construction document.

- a. **Number of Required Units.** Pursuant to Planning Code Section 415.3, the Project is required to* provide 13.5% of the proposed dwelling units as affordable to qualifying households. The Project contains 316 units/rooms, of which 5 are replacement units/ rooms; therefore, 48 affordable units/rooms are currently required (43 units/ rooms to satisfy the 13.5% on site requirement and 5 replacement units/ rooms). The Project Sponsor will fulfill this requirement by providing the 46 affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD").

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For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

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- b. **Unit Mix.** The Project contains 316 group housing rooms; therefore, the required affordable unit mix is 43 group housing rooms. In addition, five replacement group housing rooms/ units are required. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOHCD.

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- c. **Income Levels for Affordable Units.** Pursuant to Planning Code Section 415.3, the Project is required to provide 13.5% of the proposed dwelling units as affordable to qualifying households at a rental rate of 55% of Area Median Income. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD").

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- d. **Minimum Unit Sizes.** Affordable units are not required to be the same size as the market rate units and may be 90% of the average size of the specified unit type. For buildings over 120 feet in height, as measured under the requirements set forth in the Planning Code, the average size of the unit type may be calculated for the lower 2/3 of the building as measured by the number of floors.

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- e. **Replacement of Existing Affordable Units.** The principal project has resulted in demolition, conversion, or removal of affordable housing units that are subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate-, low- or very-low-income, or housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power and determined to be affordable housing. Pursuant to Planning Code Section 415.6(a)(9), the project sponsor shall replace the five (5) units that were removed with units of a comparable number of bedrooms and rents. The project shall replace five (5) units (5 group housing rooms/units) priced at 55% AMI.

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- f. **Notice of Special Restrictions.** The affordable units shall be designated on a reduced set of plans* recorded as a Notice of Special Restrictions on the property prior to architectural addenda. The designation shall comply with the designation standards published by the Planning Department and updated periodically.

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- g. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than thirteen and a half percent (13.5%) plus the five replacement units, or the applicable percentage as discussed above, of the each phase's total number of dwelling units as on-site affordable units.

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- h. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must* remain affordable to qualifying households for the life of the project.

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- i. **Reduction of On-Site Units after Project Approval.** Pursuant to Planning Code Section 415.5(g)(3),* any changes by the project sponsor which result in the reduction of the number of on-site affordable units shall require public notice for hearing and approval from the Planning Commission.

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- j. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing* Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOHCD at 1 South Van Ness Avenue or on the Planning Department or MOHCD websites, including on the internet at: <http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>. As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

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*For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600,**

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www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- i. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) be constructed, completed, ready for occupancy, and marketed no later than the market rate units, and (2) be evenly distributed throughout the building; and (3) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model, or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
 - ii. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, such as defined in the Planning Code and Procedures Manual. The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
 - iii. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least six months prior to the beginning of marketing for any unit in the building.
 - iv. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
 - v. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.
 - vi. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law, including penalties and interest, if applicable.
5. **Group Housing Cooking Facilities.** Pursuant to ZA Interpretation of 209.2(a), effective October 2005, are allowed to have limited kitchen facilities with the following specifications: a small counter space, a small under-counter refrigerator, a small sink, a microwave, and a small two-ring burner. Such limited kitchen facility

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shall not include any other type of oven, as that would constitute a full kitchen.

6. Increase the number of larger group housing units, wherever feasible.
7. Provide balconies to maximum projection on all sides except O'Farrell Street.
8. Continue working with Staff to increase the number of bicycle parking spaces, up to 200.
9. Convert the ground-floor retail space to group housing units.
10. Work with Staff to analyze the feasibility of converting the basement to additional group housing units.

Exhibit 1

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

Appellants appeal the entirety of Motion 20935 (“Motion”), adopted by the City and County of San Francisco (collectively, “City”) Planning Commission on June 24, 2021. Among the parts of the decision at the center of this Appeal are the findings set forth in sections 7, 8 and 9 of the Motion. (See Draft Motion 20935, Sections 7, 8 and 9A.)

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

This appeal references and incorporates Pacific Bay Inn’s (“PBI”) letters to the City Planning Commission subsequent to the City’s publishing of the first addendum to the Final Environmental Impact Report (State Clearinghouse No. 2017022067) (“FEIR”) (“First Addendum”) on January 7, 2021, and April 14, 2021, and after the filing of the second addendum to the FEIR on June 23, 2021 (“Second Addendum”), which are attached hereto. Please also find a letter to the City Planning Commission that was submitted by the community stakeholders expressing concerns regarding the Project. This appeal also specifically incorporates comments made by Appellants, Tenderloin Housing Clinic and PBI, and other commenters during the Planning Commission’s various public hearings on the Revised Project including January 7, 2021, April 15, 2021, and June 24, 2021. Also attached to this appeal letter is the most recent version of Planning Commission Motion No. 20935 and the June 24, 2021 Planning Commission public hearing minutes, whereby the Planning Commission approved the Project.

The Appeal is based on the following reasons, among others:

(1) Lack of Due Consideration, Disclosure or Analysis of the Health, Safety and Welfare of the Tenderloin Community and the Adjacent Pacific Bay Inn.

The Project did not adequately disclose significant construction and operational impacts to the community. For example, the Project site sits on a zero lot line to adjacent properties, including 500-520 Jones Street, which features the 114 year-old Pacific Bay Inn Hotel (“Hotel”) owned by PBI. PBI, through a joint program with the City and DISH (Delivering Innovation in Supportive Housing), uses the Hotel to provide permanent single-occupancy rooms to a diverse and marginalized San Francisco homeless population with serious health issues.

The Project EIR and its various addendums do not factor in the potentially severe structural impacts to the community, including the Hotel and its marginalized residents. Nor do they adequately analyze or disclose the health and well-being impacts of 18 months of heavy construction on an already very sensitive population housed by the Hotel. The Project environmental documents did not disclose the potential structural impacts to the 1907 building, and the resultant impacts to its residents, let alone adequately analyze and disclose over a year of dust, noise, air quality, vibration, construction traffic, and other construction impacts to the highly sensitive receptors who call the Hotel their home.

As noted, the Hotel sits on a zero lot line with the Project on its eastern boundary. In January 2021, Forge alerted PBI that the Hotel’s footings and structure may encroach on the Project. Neither Forge nor City staff provided any follow-up information related to this issue, despite the Hotel’s repeated requests. As a result, PBI was compelled to engage three separate engineering firms to perform a preliminary study of the Project’s potential impacts to the Hotel. In those preliminary studies, it was determined that excavation work, foundation construction, dewatering and shoring for the Forge development likely will cause significant impacts to the Hotel, which

encroaches onto the Project site. (See attached June 23 Letter, Exhibit A.) The Hotel structure itself encroaches beyond its east property line onto the Project site. Further, the Hotel's structure has an inverse T-shaped footing, which extends at least another six inches onto the Project site below grade at least as deep as the Hotel's basement. (*Id.*, p. 3.) As noted in PBI's studies, the Hotel is 114 years old. It is constructed of unreinforced masonry, which is particularly susceptible to excavation and other construction activities immediately adjacent to its eastern lot line. (*Ibid.*) Further investigation of the Project's proposed construction, foundation work and excavation impacts is needed to ensure the proper mitigation, provide adequate disclosures to the Hotel residents and other neighbors and to ensure the health, safety and welfare of the Hotel residents and the community at large. (*Ibid.*)

The current environmental analysis and mitigation measures do not disclose or sufficiently address the potentially grave potential impacts this excavation may have on the Hotel and its occupants. (See June 23 Letter, pp. 3-4.) The mitigation measures proposed do not provide definable standards for Forge Development to mitigate the Project's potential damages to the Hotel or the surrounding Community. Mitigation measure CR-3B merely notes, in a tossed-off manner, that the contractor must use "all feasible means to avoid damage to the adjacent contributing resources including 500-520 Jones Street." (See, FEIR, p. S-6.) "Feasible means" are not defined nor disclosed, and the City provides no additional standards to show what these mitigation measures would entail or how their success would be evaluated. That is unlawfully deferred mitigation. Environmental review under the California Environmental Quality Act cannot defer mitigation to a later analysis or process and on that basis render a conclusion of "no significant impact." (See *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 915-916 [98 Cal.Rptr.3d 137].) As one court put it: "Impermissible deferral of mitigation measures occurs when an EIR puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described in the EIR." (*Ibid.*) Impacts to the Hotel's sensitive receptors are ignored. In addition to proper studies and disclosures, adequate conditions of approval should have been added to the CUP.

Moreover, the Project does not properly "sculpt" the buildings' massing adjacent to the northern property and it completely obliterates all light and air flow to resident windows covering the eastern side of the Hotel. The Project lacks mitigation measures to protect the health, safety and welfare of the residents of adjacent properties. Forge, the new project sponsor, failed to address health and safety concerns of residents residing in the vicinity of the Project and ignored new information that has arisen from the significant changes made to the Project since the initial approval in 2018. Forge failed to meet with adjacent neighbors to ensure minimal impact to surrounding buildings. These impacts, as well as construction impacts, were not adequately reviewed in the FEIR, First Addendum, or Second Addendum.

(2) The Project Is Not Compatible with the Tenderloin Community.

The Tenderloin Community deems the revised Project to be out-of-place and undesirable as the neighborhood is already saturated with market rate group housing. There is a great need for family housing as the Tenderloin experiences issues of overcrowding and a shortage of larger sized dwelling units. There continue to be serious concerns about developing a 316-unit group housing project set to accommodate 632 people in one of the densest neighborhoods in the City. The community was supportive of the initial project approved in 2018 that had a mix of larger units for families. The drastic change from the original project and the number of residents set to

accommodate the recent approval increases the population by at least 100 percent at the Project site. Considering the significant change of use and the lack of proper environmental analysis for the significantly revised project, we ask that this be reviewed by the Board of Supervisors.

(3) Lack of Community Outreach and Dialogue.

Forge, the new project sponsor, failed to engage neighbors and community stakeholders concerning the design, format and impacts of the Project. The community seems to have been left without a voice in this process. The concerns of the already marginalized residents of the Hotel have been ignored. Dropping an enormous 316-unit group home development in the middle of the already dense Tenderloin neighborhood will only contribute to inorganic, incoherent and unsustainable growth in an area already challenged by crowding. Community members have voiced their disapproval for the use of group housing for the Project site and wish to retain the original project approvals' family housing.

The Appellants reserve the right to supplement these comments up until the close of the final public hearings on the appeal.



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January 7, 2021

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VIA E-MAIL AND U.S. MAIL

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Re: 2013.1535CUA-02: 450-474 O'Farrell Street/532 Jones Street.

Dear Mr. Koppel and Members of the Planning Commission,

This office represents Pacific Bay Inn, Inc. ("Pacific Bay"), owner of the Pacific Bay Inn Hotel, located at 500-520 Jones Street, San Francisco. This letter presents comments regarding Forge Development Partners' proposed development at 450-474 O'Farrell Street/532 Jones Street ("Project Site"), case No. 2013.1535EIA ("Revised Project").

1. The Proposed Project.

The Revised Project follows on an original project submitted by Fifth Church of Christ Scientist ("Church"), and 450 O'Farrell Partners, LLC, which included (among other details) a 13-story mixed-use building with 176 residential dwelling units, 6,200 square feet for restaurant and retail use and 13,595 square feet for a religious institution ("Original Project"). (Final Environmental Impact Report (State Clearinghouse No. 2017022067) ("FEIR") at p. 2-5.) The Original Project featured dwelling units that would consist of 22 studios, 95 one-bedroom units, 55 two-bedroom units, and four three-bedroom units. (*Ibid.*)

The Planning Commission certified the Previous Project's FEIR on September 13, 2018. (Addendum at p. 1.) The FEIR evaluated the potential environmental impacts to historic architectural and land use resources. (*Id.* at 10.) All other resource topics were analyzed as part of the initial study in which the Planning Department concluded that the Original Project would not result in significant impacts, with or without mitigation. (*Ibid.*; see also, FEIR, Initial Study at p. 33.) The Revised Project proceeds on an addendum to the FEIR, pursuant to CEQA Guidelines section 15164, published on December 21, 2020 ("Addendum") in lieu of a subsequent or supplemental

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environmental impact report pursuant to Public Resources Code 21166 and CEQA Guideline sections 15162 and 15163.

According to the Revised Project's description as presented in the Addendum, the Proposed Project consists of demolition of buildings on the Project Site and the construction of a 13-story building with a basement. The structure would contain 302 group housing units (316 beds), 165,972 square feet of residential space, 4,900 square feet of open space, 7,959 square feet of residential/retail space, and 10,181 square feet for religious institution with a total built area of 199,384 square feet. (Addendum at pp. 3-4.) The Revised Project would also reduce the number of off-street parking from 41 to six spaces, which will only be designated for use by the Church. The building envelope would remain the same with decreased subsurface excavation and changes to the building's design. (*Id.* at p. 5.)

2. **Legal Standard.**

The basic purposes of CEQA are fourfold:

- (a) To inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities;
- (b) To identify ways that environmental damage can be avoided or significantly reduced;
- (c) To prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible; and
- (d) To disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.

(Cal. Code Regs., tit. 14 ("CEQA Guidelines"), § 15002.) At its heart, therefore, CEQA is a public disclosure statute.

Where a lead agency certifies an initial EIR, subsequent environmental review is required on the proposed project where:

- (a) Substantial changes are proposed in the project that will require major revisions to the EIR;
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken that will require major revisions to the EIR; or
- (c) New information, which was not known and could not have been known when the EIR was certified, comes available.

(Public Resources Code § 21166; *Friends of the College of San Mateo Gardens* (2016) 1 Cal.5th 937, 956; see also *Martis Camp Community Association v. County of Placer* ("Martis Camp") (2020) 53 Cal.App.5th 569, 604;.) If the changes to the project do not

differ significantly from those described in the prior EIR, a subsequent EIR is not required. (*Martis Camp, supra*, 53 Cal.App.5th at 607.) Further environmental review is required, however, when new information or project revisions reveal that the proposed project

- (a) Will have either one or more significant effects not discussed in the previous EIR;
- (b) Significant effects previously examined will be more severe than shown in the previous EIR;
- (c) The mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure; **or**
- (d) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects.

(14 Cal. Code Regs., § 15162.) The lead agency must determine whether the previous project's environmental documents retain relevance despite changes to the project or its surrounding circumstances. (*Martis Camp, supra*, 53 Cal.App.5th at 608 citing *San Mateo Gardens, supra*, 1 Cal.5th at p. 944.)

A lead agency may prepare a supplemental EIR in lieu of a subsequent EIR where the revised project's conditions would require preparation of a subsequent EIR but only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation. (CEQA Guidelines, § 15163; see also *Sierra Club v. City of Orange* (2008) 153 Cal.App.4th 523, 542-543.)

3. The Revised Project Features and Circumstances Warrant Further Disclosure and Analysis.

(a) New Information Relating to Revised Project's Construction Impacts.

The Addendum concludes that use of construction equipment for the Revised Project would be substantially similar to the previous project. (Addendum at p. 6.) Based on that assertion, the Addendum concludes that the Project would have the same environmental impacts as the Original Project.

Construction is projected to occur over the course of approximately 18 months from groundbreaking. (See FEIR, Initial Study, p. 71; Addendum at p. 5.) The Addendum does not analyze potential significant construction impacts on sensitive receptors within the Revised Project's vicinity, especially Pacific Bay Inn, over that 18-month time period. The Pacific Bay Inn is leased directly by the City and County of San Francisco to provide housing to the homeless population of San Francisco. Impacts to such sensitive receptors -- and other residents in the project vicinity -- are heightened by stay-at-home orders in response to the 2020 COVID-19 pandemic. Not only the homeless residents of Pacific Bay Inn, but other residents, including the vast majority of

the San Francisco office labor force, now work from their homes instead of in-office settings. As a consequence, they are now continually susceptible to vibrations, noise, and other impacts arising from construction at the Project Site throughout the day as they remain at home. The Addendum omits an analysis based on this important new circumstance and merely assumes that construction impacts will be the same as the Original Project. Notably, the move to an at-home workforce appears to represent a larger social trend that will continue beyond the current global pandemic. Recently, the Metropolitan Transportation Commission approved a long-term vision for the Bay Area which included a push for large company employers to have at least sixty percent of their employees work from home on any given day in order to curb greenhouse gas emissions and reduce traffic congestion by 2035.¹ The sea change in how residential and office uses will be employed post COVID-19 represents a significant new change in circumstances which the Revised Project will be built which requires additional environmental analysis via a subsequent EIR. (Pub. Res. Code, § 21166, subd. (c).)

While the FEIR concludes that noise and vibration levels meet San Francisco noise ordinances levels for sensitive receptors (which are 65 feet from the Project Site), mere compliance with a noise ordinance is no assurance against significant environmental impacts. (FEIR, Initial Study, at pp. 71-72.) An agency cannot merely invoke compliance with a zoning code or general plan noise standard as a means to shirk its duty to conduct a meaningful analysis of potentially significant noise impacts. As one court observed, “conformity with a general plan does not insulate a project from EIR review where it can be fairly argued that the project will generate significant environmental effects.” (*Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 732 [187 Cal.Rptr.3d 96]; see also, *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1338 [73 Cal.Rptr.3d 202] [General Plan noise standard], quoting *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881–882 [274 Cal.Rptr. 720] [same]; *Berkeley Keep Jets Over the Bay Com. v. Board of Port Cmrs.* (2001) 91 Cal.App.4th 1344, 1381 [111 Cal.Rptr.2d 598] [“the fact that residential uses are considered compatible with a noise level of 65 decibels for purposes of land use planning is not determinative in setting a threshold of significance under CEQA”].)

Further, the Planning Department did not analyze Pacific Bay Inn as a sensitive receptor. Pacific Bay Inn, located directly adjacent to the Project Site, has 75 Single Room Occupancy units, providing living arrangements to many San Franciscan residents. Obviously, these residents will be subject to continuous noise and vibration at more significant levels than those sensitive receptors at O’Farrell Towers and the nearby senior facility analyzed as part of the FEIR and Addendum. Those impacts will continue for over a year as the project is built out. For example, the Addendum claims that the vibrations would be noticeable within the immediate vicinity of the use of heavy equipment for the Revised Project yet claims such vibrations would not be noticeable at the nearest receptors, i.e. O’Farrell Towers. (Addendum at p. 24.) Clearly, the

¹ The Plan Bay Area 2050 Final Blueprint can be found at <https://www.planbayarea.org/>.

Addendum has overlooked impacts to sensitive receptors adjacent to the Project Site. Demolition of existing hardscape and buildings may be presumed to require the use of such equipment as jackhammers, backhoes, tractors and other heavy equipment. Demolition equipment generates high levels of noise and ground-borne vibrations. Pacific Bay Inn residents will be subject to noise levels well in excess of those presented in the FEIR and above the maximum levels in San Francisco's noise ordinance.

The Revised Project's environmental effects on the Pacific Bay Inn's must be reviewed and analyzed to determine whether the Revised Project causes any significant environmental impacts to Pacific Bay Inn, located at 520 Jones Street. Without it, the Revised Project's environmental review remains deficient.

(b) Changing the Use from Residential to Group Home Constitutes a New Project Requiring Further Environmental Review.

The Revised Project changes the main use from multi-family residential units to group housing. (Addendum at p. 1.) Despite both projects containing 13 floors and the same existing footprint, the uses are substantially different. Group Homes are defined as residential uses without individual cooking facilities, by prearrangement for a week or more at a time, in a space not defined as a dwelling unit. (See San Francisco Planning Code Section 102.) The Group Home use category gives rise to substantially different environmental impacts on the surrounding community. For example, multi-family dwelling units contain dedicated kitchens. Group homes by contrast lack such facilities, and therefore require entirely different arrangements for dining and preparing meals, including -- presumably -- large scale deliveries of food, kitchen staff and other logistical considerations borne of the change of use to Group Home.

The Planning Department should prepare a subsequent EIR to evaluate the change in project use. The change to the Group Home use category, coupled with the doubling in commercial square footage require additional environmental analyses not contemplated in the FEIR. (See *San Mateo Gardens, supra*, 1 Cal.5th at 944 ["the central purpose of CEQA is to ensure that agencies and the public are adequately informed of the environmental effects of proposed agency action."].)

(c) The Addendum Does not Properly Analyze the Significant Impacts the Increased Commercial Space Will have on the Surrounding Community.

The expansion of commercial uses will result in an increase in the number of employees by twelve from the Previous Project. (Addendum at p. 13.) Yet, the Revised Project proposes reduction in the number of parking stalls at the site from 41 to six for religious use only and reduces bike stalls by 53. (*Id.* at p. 4.) Notwithstanding the lack of off-street parking for new residents at the Revised Project site, the reduced parking demands with an increased number of employees certainly triggers further review on the significance of such changes on the traffic and congestion impacts. On-street parking within the Project Site's immediately vicinity will be impacted.

The Addendum relies upon analysis via a 2020 update to the 2017 Traffic Impact Study from LCW Consulting ("TIS"). LCW contemplates that the number of travel hours would be reduced for the Revised Project from the Previous Project. (Addendum at p. 18.) While the numbers appear superior, LCW's analysis as to why these numbers are reduced is lacking. (Addendum, TIS at p. 5-6.) The TIS provides little to no reasoning as to this reduction, merely finding that such reduced hours are determined. (*Ibid.*) Relying on the TIS, the Addendum does not mention how or why the change of use from multi-family residential to group housing contemplates a reduction in trip counts, only conclusively finding that such reductions will occur.

Further questions arise regarding the Revised Project's ingress and egress routes. The TIS contemplates that traffic from ride share and taxis would be from O'Farrell while "conservatively" assigning all other vehicle trips to the driveway off Shannon Street. There is no reasoning provided to why and how these assignments were made.

The FEIR fails to adequately assess the Revised Project's traffic impacts to O'Farrell Street through the Addendum. Further environmental analysis is required to properly analyze the cumulative impacts the Revised Project will have given its reduced parking, increased commercial use, revised ingress and egress routes, and newly approved projects within the Project Site's vicinity. (See Addendum at pp. 22-23.)

(d) **New Geotechnical Information Specific to San Francisco Has Emerged since the Certification the EIR prompting Further Environmental Review.**

It is a matter of record that the recently constructed Millennium Tower project located in the Embarcadero is sinking. This phenomenon occurred in 2018, after the FEIR was scoped and submitted for public comment. While initial geology and soils reviews suggested the foundation would be adequate for the building, several geotechnical experts found that the tower's foundation was not recommended for downtown's geologic topography.² Recently, in 2019, San Francisco's Department of Building Inspection Engineering Design and Review approved retrofits to Millennium Tower, realizing that these changes were necessary to meet the standards set forth in 403.9 of the San Francisco Existing Building Code.³

The Revised Project's location is approximately 0.5 miles from Millennium Tower. The original FEIR's geology and soils review does not factor in whether the soils topography is similar to that of Millennium Tower or whether the same effects are possible at the Project Site. (FEIR, Initial Study, at pp. 113-119.) Such new information

² Information related to the Millennium Tower's sinking can be found through the following sites: < <https://www.cbsnews.com/news/millennium-tower-san-francisco-leaning-tower-of-lawsuits-60-minutes/>>; < <https://www.spargrp.com/millennium-tower-geotechnical-engineering-importance/> > Most Recently accessed on January 6, 2021.)

³ Information related to this Approval can be found through the following article: < <https://www.constructiondive.com/news/engineers-approve-100m-retrofit-for-san-franciscos-sinking-millennium-t/561992/> > (Most Recently accessed on January 6, 2021.)

prompts the Planning Department to adequately analyze the soils and determine whether they are similarly situated to Millennium Towner and whether factors and changed design prompt further geotechnical mitigation or foundational support. (See Pub. Res. Code § 21166, subd. (c); 14 CCR § 15162, sub. (a)(3).) For example, such information could require foundation built using pile-driving techniques which would exacerbate the noise and vibrations to nearby receptors. This new information must be reviewed with public comment which a subsequent EIR affords, not after the Revised Project has been approved. This is especially the case given the Revised Project now contemplates reduced excavation at the site due to reduced parking. (Addendum at p.31.)

4. Conclusion.

For the above reasons, the Addendum presents an inadequate analysis of the Revised Project's environmental impacts and therefore fails its purpose as a meaningful public disclosure document. New information related to San Francisco's geology and soil topography, impacts of COVID-19 on work and living patterns, effects to nearby sensitive receptors and other such issues require a deeper look than the Addendum affords. The Revised Project's changes in use, increased commercial space and reduced parking may require significant environmental changes to the FEIR, thereby requiring a subsequent or supplemental EIR to ensure proper public disclosure and informed decision-making.

Pacific Bay Inn reserves its right to supplement these comments up until the close of the final public hearings on the Project.

Very truly yours,



Michael W. Shonafelt

MWS



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April 14, 2021

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VIA E-MAIL AND U.S. MAIL

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Re: 2013.1535CUA-02: 450-474 O'Farrell Street/532 Jones Street

Dear Mr. Koppel and Members of the Planning Commission:

This office continues to represent Pacific Bay Inn, Inc. ("Pacific Bay Inn"), owner of the Pacific Bay Inn Hotel ("Hotel"), located at 500-520 Jones Street, San Francisco ("Property"). This letter presents further comments regarding Forge Development Partners' ("Forge Development") proposed development at 450-474 O'Farrell Street/532 Jones Street ("Project Site"), case No. 2013.1535EIA ("Revised Project"). This letter supplements Pacific Bay Inn's January 7, 2021, letter to the Planning Commission, which is attached hereto and incorporated by reference.

Since our January 7, 2021 letter, new information of significant importance has come to light concerning further undisclosed impacts from the Revised Project. Specifically, it has come to our attention that structural footings of the hotel structure on the Property may extend onto the Project Site and that excavation work for the Project therefore could significantly impact the structural integrity of the Hotel structure, resulting not only in damage to a historic structure, but also critical health, safety and welfare implications. ***This new information was disclosed to Pacific Bay Inn by Forge Development after Pacific Bay Inn's submittal of its January 7, 2021 letter.***

Neither the December 21, 2020 CEQA addendum for the Revised Project ("Addendum") nor the original environmental impact report (State Clearinghouse No. 2017022067) ("EIR") reviewed or properly disclosed the potential impacts of excavation and construction on the Hotel foundation due to sub-surface encroachments onto the Project Site. (See, Addendum, generally; see also, EIR, pp. 1-6, "The

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proposed project does not include any work at 520 Jones, which is the location of Pacific Bay Inn.”)

The Hotel structure was constructed in or around 1908, after the 1906 San Francisco earthquake and fire devastated the City. It is older than the adjacent properties, which presumably resulted in constructive or actual notice to subsequent developers of any foundational encroachment. As for the Revised Project, its footprint will be within **ten inches** of 520 Jones Street existing above ground footprint. (See Addendum, Appendix, p. 14/42.) Given the “zero-lot line” proximity of construction, damage to sub-surface foundation elements are not only reasonably foreseeable, but likely. Any damage to 520 Jones Street’s foundation may prove significantly detrimental to the structural integrity of this historical building and a hazard to its inhabitants. Further environmental review is necessary to determine:

- (1) The extent and nature of the foundational encroachments;
- (2) Whether Project construction as currently envisioned will significantly impact the Hotel foundation; and
- (3) Whether and how the construction impacts can be mitigated to a less-than-significant level. (See, Public Resources Code, § 21167.)

The EIR’s mitigation measures to reduce impacts on historical cultural resources within Uptown Tenderloin National Register Historic District currently do not include efforts to minimize damage to the resources’ foundations. (See, EIR, S-5, 6.) There has been no research, analysis or disclosure of potential structural impacts to the Hotel. While the mitigation measure CR-3b requires Forge Development to use “all feasible means to avoid damage to the adjacent contributing resources,” these “feasible means” are not readily defined and the scope of the risks is not disclosed. More specifically, there are no mitigation measures or conditions in place that address the manifest risks of excavation impacts to adjacent historical resources’ foundations.

Impact CR-3a likewise does not provide sufficient protection to adjacent structures. Impact CR-3a requires Forge Development to create a Vibration Monitoring and Management Plan that addresses vibration or differential settlement caused by vibration during the project’s construction activities. While the mitigation measure states that adjacent “buildings shall be protected to prevent further damage and remediated to pre-construction conditions per the consent of the building owner,” this measure appears only to relate to vibration impacts.

CEQA section 21083, subdivision (b)(3) requires a finding of a “significant effect on the environment” (§ 21083, subd.(b)) whenever the “environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.” (*Id.*, § 21083(b)(3), italics added.) The Legislature made clear -- in declarations accompanying CEQA’s enactment -- that public health and safety are of great importance in the statutory scheme. (*Id.*, §§ 21000, subds. (b), (c), (d), (g), 21001, subds. (b), (d) [emphasizing the need to provide for the public’s welfare, health, safety, enjoyment, and living environment].)

Given the importance of this new information, and its potential to impact not just a historical building but the safety of its inhabitants, Pacific Bay Inn hereby requests that the April 15, 2021 meeting be further continued so that additional analysis can be completed, mitigation options can be explored, and critical new information can be properly disclosed to the public.

If you have any questions concerning this letter, please do not hesitate to call me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'M Shonafelt', with a stylized flourish at the end.

Michael W. Shonafelt

MWS:gdt

cc: Marcelle.Boudreaux@sfgov.org



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June 23, 2021

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VIA E-MAIL

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Re: 2013.1535CUA-02 – 450-474 O'Farrell Street / 532 Jones Street

Dear Mr. Koppel and Members of the Planning Commission:

This office continues to represent Pacific Bay Inn, Inc. ("Pacific Bay Inn"), owner of the Pacific Bay Inn Hotel ("Hotel"), located at 500-520 Jones Street, San Francisco ("Property"). This letter presents further comments regarding Forge Development Partners' ("Forge Development") proposed development at 450-474 O'Farrell Street/532 Jones Street ("Project Site"), Case No. 2013.1535EIA ("Revised Project"), in the City and County of San Francisco ("City"). The Revised Project is before the Planning Commission for approval at its June 24, 2021 public hearing. This letter supplements Pacific Bay Inn's January 7, 2021, and April 14, 2021, letters to the San Francisco Planning Commission, which are attached hereto and incorporated by reference.

The Hotel building is over 110 years old. It is operated by DISH, a non-profit group, which partners with the City to provide permanent homes for the City's racially diverse homeless population suffering from serious health issues. (See <https://dishsf.org/our-history/>.) The Hotel residents consist of the City's most marginalized citizens.

Forge Development Partners first informed Pacific Bay Inn that the Hotel's structural footings may extend onto the Project Site. This information was disclosed to Pacific Bay Inn by Forge Development well after the City initially published the December 21, 2020, CEQA addendum for the Revised Project ("First Addendum"). At the April 15, 2021, Planning Commission hearing, the commissioners tasked City staff

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to investigate the potential impacts that the Revised Project would have on the Hotel and other adjacent properties which are part of the Uptown Tenderloin Historic District. Unfortunately, no serious analysis was undertaken.

The City recently published and released another CEQA addendum on June 17, 2021, ("Second Addendum"), to the final environmental impact report (State Clearinghouse No. 2017022067) ("FEIR"). The report prepared by the City and the Project Applicant on the Revised Project's impacts on the Property provide little to no analysis beyond what the FEIR and the First Addendum had already prepared. (See Second Addendum, Attachment F.) Nor has Forge Development provided any information concerning the nature of the encroachment it discovered, despite repeated requests by Pacific Bay Inn. Pacific Bay Inn therefore has been left to its own resources to determine the true nature and extent of the encroachment, its potential impacts on the historic Hotel and its potential health, safety and welfare impacts on the Hotel's inhabitants. (See <https://dishsf.org/>.)

To make up for the startling gaps in the Revised Project's CEQA review, Pacific Bay Inn was forced to hire its own experts to perform initial preliminary analysis of the Hotel's footings and the potential impacts caused by the construction of the Revised Project. The City must continue the Revised Project's June 24, 2021, Planning Commission hearing to allow such further analysis of this new information and include that information in a subsequent or supplemental EIR that is subject to proper public review and comment. (Pub. Res. Code, § 21166; 15 Cal. Code Regs., § 15163; *Friends of the College of San Mateo Gardens* (2016) 1 Cal.5th 937, 956; see also *Martis Camp Community Association v. County of Placer* ("Martis Camp") (2020) 53 Cal.App.5th 569, 604.)

1. Recent Analysis Reveals that the Revised Project May Have Grave Impacts to the Property's Hotel Structure and Its Inhabitants.

Pacific Bay Inn hired Engineered Research Group, Inc. ("ERG") to perform this analysis. ERG assembled a team of structural engineers and surveyors to assist in this analysis, including ZFA Engineering, Inc. ("ZFA") and Bear Flag Engineering ("BFE"). A copy of ERG's initial findings is attached hereto as **Exhibit A**.

ERG's analysis of the Hotel and the Revised Project reveal the following potential impacts to the Hotel from the Revised Project's excavation and construction:

- The Hotel structure encroaches approximately 1.5 inches horizontally beyond the Eastern side of the 40-foot wide parcel, thereby extending into the Project Site at grade. (Exhibit A, p. 2.)
- The Hotel has inverse T-shaped footings which extend at least another six inches across the Project Site's property line below grade at depths at least as deep as the Hotel's basement. (*Id.*, p. 3.)

- The Revised Project's construction and extensive excavation presents other issues including structural impacts to the Hotel basement exterior walls, columns, supporting foundations, and utility lines. (*Ibid.*)
- The nature of the Hotel's 110-year-old construction with unreinforced clay brick masonry (URM) bearing walls makes it particularly susceptible to damage from vibration, settlement, and nearby excavation. (*Ibid.*)

Finally, ERG notes that further investigation of the Project's proposed construction and excavation is needed to ensure the adequacy of the mitigation measures featured in the Second Addendum and FEIR. (Exhibit A, p. 3.) This new information presents significant environmental impacts not only to a historic resource, but to the health safety and welfare of its sensitive inhabitants, none of which were contemplated in the Second Addendum and FEIR. . (14 Cal. Code Regs., § 15162.)

2. **The Proposed Mitigation Measures Do Not Provide Sufficient Protection for the Environmental Impacts on the Project.**

The Second Addendum acknowledges that less excavation of total cubic yards will be performed but the excavation will be performed at a 25-percent greater depth than the previous Project. (Second Addendum, p. 33.) Indeed, even portions built "at-grade," including the church sanctuary, may need deep foundation support. (*Ibid.*) There is a "zero lot line" between the Hotel's eastern wall and the Revised Project. These foundations and excavation will be performed ***immediately adjacent to the eastern portion of the Hotel.*** Current environmental analysis and mitigation measures do not sufficiently address the potential impacts this excavation and construction may have on the Hotel and its occupants.

As previously discussed, the Hotel includes environmentally sensitive receptors. Pacific Bay Inn currently is leased directly by the Department of Public Health and serves San Francisco's homeless population. The Hotel offers 75 single room occupancy units for San Francisco's disabled homeless population. (See January 7 Letter, p. 3.)¹ Based on ERG's analysis, the Revised Project's construction will likely cause substantial impacts to the Hotel's footings, utilities, and structure, without proper mitigation. These impacts could result in the displacement of these residents, most of whom have anywhere else to go. (Exhibit A, p. 3.)

The supplemental geotechnical letter found that "it was not known if buildings adjacent to the project site have basements." (Second Addendum, pp. 33, Attachment F.) Surely, any analysis of the potential impacts to adjacent structures, especially structures contributing to a historic resource such as Uptown Tenderloin National Register Historic District, must include analysis of the adjacent buildings' structural integrity *prior to approval and certification of an environmental analysis on the Revised*

¹ (See also, <<https://dishsf.org/homes/the-pacific-bay-inn/>>.)

Project. Too much ambiguity exists around the project's mitigation measures to the potential environmental impacts to the Hotel in the Second Addendum and FEIR for the Planning Commission to certify the CEQA analysis and adopt the Project. (*Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467, 520 citing *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93 ["deferred mitigation violated CEQA if it lacks performance standards to ensure the mitigation goal will be achieved"].)

The mitigation measures proposed by the FEIR and the Second Addendum do not provide definable standards for Forge Development to mitigate the potential damages. Indeed, mitigation measure CR-3b, simply notes that the construction contractor must use "all feasible means to avoid damage to the adjacent contributing resources including 500-520 Jones Street." (See, FEIR, p. S-6.) Feasible means are not readily defined, and the City provides no standards to show what these mitigation measures would entail, just that they are to be provided to the Planning Department along with the Demolition and Site Permit Applications. (*Ibid.*)

The Second Addendum does not provide further analysis as to how the Revised Project will mitigate the impacts, especially given that the excavation will be deeper and adjacent to an old and delicate building. Forge Development's geotechnical engineer provides little to no analysis on how to mitigate the construction impacts to the adjacent historical resources. The letter acknowledges that "surveys should be completed" and that "shoring and underpinning designs should be completed before and after construction." (Second Addendum, Attachment F, p. 2.) Such assertions qualify as unlawful deferred mitigation. (*Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467, 520 citing *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93 ["deferred mitigation violated CEQA if it lacks performance standards to ensure the mitigation goal will be achieved"].) Langan also acknowledges that it will observe the geotechnical aspects of construction "as appropriate." (*Ibid.*) Further, this new information places into question the FEIR's mitigation measure CR-3a related to Vibration Monitoring and Management Plan. (FEIR, p. S-5.) The new information found by ERG should be utilized to analyze whether the 0.2 inch per second standard in the vibration management plan is sufficient. (See, Exhibit A, p. 3.) This new information provided by ERG displays that more serious and defined mitigation measures are required to ensure the Revised Project's environmental impacts to historical resources are properly disclosed and mitigated. At a minimum, a subsequent EIR is necessary to accomplish this analysis and ensure proper public review.

3. Conclusion.

For the above reasons, the Second Addendum still presents a manifestly inadequate analysis of the Revised Project's environmental impacts and therefore fails its purpose as a meaningful public disclosure document. New information, first

presented by Forge Development to Pacific Bay Inn and now by ERG, reveals that environmental impacts have not been adequately assessed in the FEIR or this Second Addendum. Pacific Bay Inn therefore requests that the Planning Commission continue the June 24, 2021 hearing to a future date to allow the Revised Project to be analyzed through a subsequent or supplemental EIR.

Very truly yours,

A handwritten signature in black ink, appearing to read 'M Shonafelt', with a long horizontal flourish extending to the right.

Michael W. Shonafelt

CC: Jenny Delumo, CPC, jenny.delumo@sfgov.org
Chelsea Fordham, CPC, chelsea.fordham@sfgov.org
Gregory Tross, greg.tross@ndlf.com

ENGINEERED RESEARCH GROUP, INC.

June 23, 2021

Michael W. Shonafelt, Esq.
michael.shonafelt@ndlf.com
Newmeyer & Dillion LLP
895 Dove Street, 5th Floor
Newport Beach, CA 92660

Via Electronic Mail only

**RE: Existing Building at 500-520 Jones Street, San Francisco, CA
Areas of Concern from the Proposed Adjacent Construction (at 450 O'Farrell Street)
ERG Project 21020**

Per your request, *Engineered Research Group, Inc. (ERG)* has assembled a consulting team to identify and summarize areas of concerns and/or potential risks to the existing building at the above-referenced address. The potential risks identified to date relate solely to the proposed adjacent construction at 450 O'Farrell Street, San Francisco. Our investigations continue.

Risk Assessment Team:

The following is a brief overview of the team identifying areas of concerns and/or potential risks to this project:

- **Engineered Research Group, Inc. (ERG).** A Forensic Engineering / Construction Consulting firm based in Walnut Creek, California (www.ERGGroup.org) specializing in condition assessment of existing buildings, field and laboratory testing of building materials and performance of building systems. ERG's Principal Engineer, Andy Fennell, PE, GC has over 25 years of experience, teaches a structural timber design course at UC Berkeley, published Peer-reviewed research on the Berkeley deck collapse and is currently providing forensic consulting services on the San Francisco Transbay girder fracture claim.
- **ZFA Engineering, Inc. (ZFA).** A Bay-Area based Structural Engineering firm (www.ZFA.com) specializing in a wide range of structural design including hospital and school design, retrofit of historic buildings and design of new multi-residential projects. ZFA's Executive Engineer, Mark Moore, SE has over 25 years of experience and participated in the development of ASCE 41, the national standard for the Seismic Evaluation and Retrofit of Existing Buildings, and is heavily involved in the US Resiliency Council (USRC) and was part of developing its national rating system for building performance in the areas of life safety, repair cost, and resumption of operations resulting from an earthquake.
- **Bear Flag Engineering, Inc. (BFE).** A Civil Engineering / Land Surveying firm (www.BearFlagEngineering.com) based in Sonoma, California. BFE specializes in Civil Engineering, Land Surveying and Forensic Engineering. BFE's Principal Engineer, Clark Stoner, PE, LS has over 25 years of engineering experience with a vast array of project sites ranging from dams, to land-slides to existing buildings.

Materials Reviewed (to date)

- Conditional Use and Variance Application: 450 O'Farrell Street, San Francisco, CA, dated 12/7/2020. No Revision number. Prepared by *Forge Development Partners* and *Gensler Architects* (42-page PDF document).
- Monument Map 13. September 1974. City and County of San Francisco. Index No. 50. Order No. 18459M (1 page). Attached.

ENGINEERED RESEARCH GROUP, INC.

- Survey Map. 50 Vara Block 224. #29, pp35. 04/13/1909. 1 page. Attached.
- No original building construction documents for the existing subject property building were available for review. A records-request is currently pending with SF-DBI.
- Geotechnical Letter, dated 05/19/2021 by *Langan Engineering and Environmental Services, Inc.* prepared by Maria Flessas, GE.
- Data developed by *ZFA, Inc.* (ZFA) and *Bear Flag Engineering, Inc.* (BFE).

Site Visits: (to date)

- BFE visited the site on June 07th, 18th, and 21st, 2021 to gather land surveying data.
- ZFA visited the site on June 21st, 2021 to perform a structural observation.
- ERG visited the site on June 21st, 2021 to perform Ground Penetrating Radar (GPR) scanning on the Eastern concrete basement walls.

Area of Concern – Encroachments beyond the Eastern Parcel Boundary:

Attached to this package is a 2 page summary letter, dated 06/23/2021 from *Bear Flag Engineering, Inc.* (BFE). The letter summarizes BFE's current findings.

BFE surveyed the location of the existing building for horizontal location on the 40'-wide lot (see attached survey maps obtained from the City and County of San Francisco, 2 pages). BFE also surveyed the building exterior walls to determine degree of verticality. BFE is currently preparing a formal record of the survey (pending).

As described in the BFE summary letter, the existing building **encroaches $\cong 1\frac{1}{2}"$ - $2\frac{1}{2}"$** horizontally beyond the Eastern side of the 40'-wide parcel. The encroachment beyond the Eastern boundary documented by BFE was relatively uniform along the length of the building (above and below grade).

Also attached to this package is a 5 page summary letter, dated 06/23/2021 from *ZFA, Inc.* (ZFA). The letter summarizes ZFA's current findings.

The ZFA summary letter opines that the basement wall footings encroach further beyond the outer face of the basement wall(s). ZFA opines that the basement perimeter wall footings are likely to be inverted T concrete footings (non-ductile) that **project/encroach at least 6" further** beyond the outer face of the basement perimeter walls.

Included in this package are annotated images by ERG. The images contain examples of additional encroachments on the Eastern side of the existing building. These include sewer waste and vent lines and any damp-proofing/water-proofing on the exterior below-grade faces of the Eastern basement walls. In one location along the eastern boundary, the sewer waste lines appears to be encapsulated partially in the adjacent/neighbor building's foundation (see ERG annotated images). Further investigation required.

Area of Concern – Structural Engineering Performance of the Building:

Attached to this package is a 5 page summary letter, dated 06/23/2021 from ZFA, Inc. (ZFA). ZFA identified structural engineering components of the existing subject building that are at risk from the proposed adjacent construction activities. The letter summarizes ZFA's current findings and conceptual recommendations.

The ZFA summary letter describes the subject building as consisting of unreinforced clay brick masonry (URM) bearing walls and other non-ductile concrete elements below grade. It is well documented that URM structures have little to no tolerance for ground movement, impacts, or vibrations. The proposed adjacent construction could generate a multitude of damaging forces on the existing building. Structural damage, which could occur anywhere within the building, could be immediately apparent or could develop over time following completion of the adjacent construction.

ZFA listed the following components and described the structural engineering concerns/risks associated with each:

- Basement Exterior Walls.
- Foundation for Basement Exterior Walls.
- Basement Level Interior Columns and Supporting Foundations.
- Basement Level non-bearing partition walls (hollow-clay tile walls).
- Above-Grade Framing (super-structure).
- Exterior walls of URM.

Included in this package are annotated images by ERG. The images contain examples of the components identified by ZFA. Exemplars of the GPR surveys are included. ZFA also included conceptual recommendations to address the above risks. The recommendations call for detailed pre-design studies to be performed. To date, neither ERG nor ZFA are unaware of any such studies being available.

Area of Concern – Other:

The following are additional items of concern. See attached annotated images for exemplars:

- Existing windows on Eastern wall. Potential loss of ventilation/view from adjacent construction.
- Existing signage space on Eastern wall. Potential loss of commercial value from sign rental.
- Mechanical, electrical and plumbing lines on Eastern wall. Impact from excavation. Loss of access to maintain. Other risks may exist.
- Damaged sidewalks on West and South elevations. The basement level extends under the sidewalks. The sidewalk support framing is heavily water-damaged and may pose hazards if over-loaded. Other trip hazards exist.
- Main Basement Electrical Panel. The building's main electrical panel is on the North wall of the basement. Movement, vibrations or damage to the basement damp-proofing/water-proofing could damage the panel.
- Other utility connections (water, gas, telephone, etc..) into the building (basement level). All existing utility connections appear fragile and subject to construction related displacement described by ZFA.

ENGINEERED RESEARCH GROUP, INC.

Summary of Findings: (to date)

1. BFE found that the existing structure of the Pacific Bay Inn is $\cong 40'-1\frac{1}{2}"$ to $40'-2\frac{1}{2}"$ wide along O'Farrell Street, but the property is only 40' wide. The building is therefore $\cong 1\frac{1}{2}"$ to $2\frac{1}{2}"$ across the Easterly deed line, where the proposed project will be built.
2. The basement wall on the East side, where this structure is already $1\frac{1}{2}"$ to $2\frac{1}{2}"$ across the property line, is thought to have an inverted T-shaped concrete footing (see ZFA letter) which likely protrudes at least another 6" into the neighboring property.
3. The proposed work on the adjacent property, whether it is excavation, drilling of piers, de-watering, etc. could have serious impacts on the subject building (structural, habitability).
4. The building is an URM. The nature of the construction makes it particularly susceptible to damage. Extensive mitigation measures will be required. The Langan letter dated 05/19/2021 conceptually describes potential mitigations but currently provides little to no substantive detail on how the risks will be addressed. Given the substantial risks to the structure from geotechnical movements, these risks deserve detailed study and pre-planning.
5. Additional items require further investigation. These include the sewer lines on the East side; the below-grade damp-proofing/water-proofing on the East side; interior and exterior structural walls have not yet been fully investigated.
6. Proceeding without detailed investigation of these areas of concern (identified to date) could put the structure, as well as its occupants, at substantial risk.

Please call me if you have any questions. I can be contacted on my mobile phone M.925.323.8970.

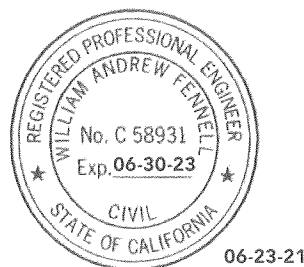
Yours sincerely,

/s/ W. Andrew Fennell

W. Andrew Fennell, PE (Civil - CA, NV, HI), CPEng, GC.

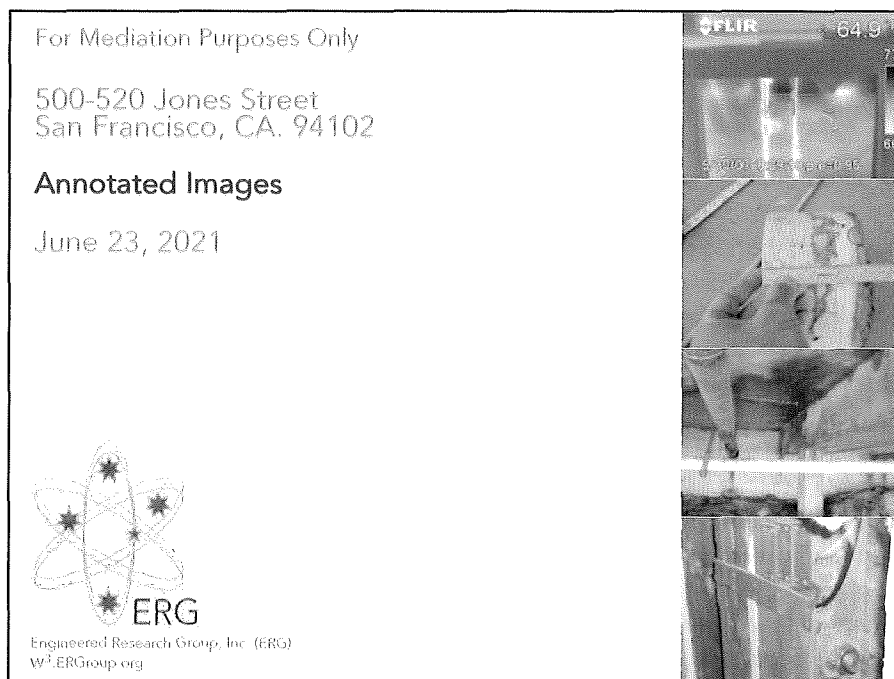
Engineered Research Group, Inc. (ERG)

Principal Engineer / Construction Consultant



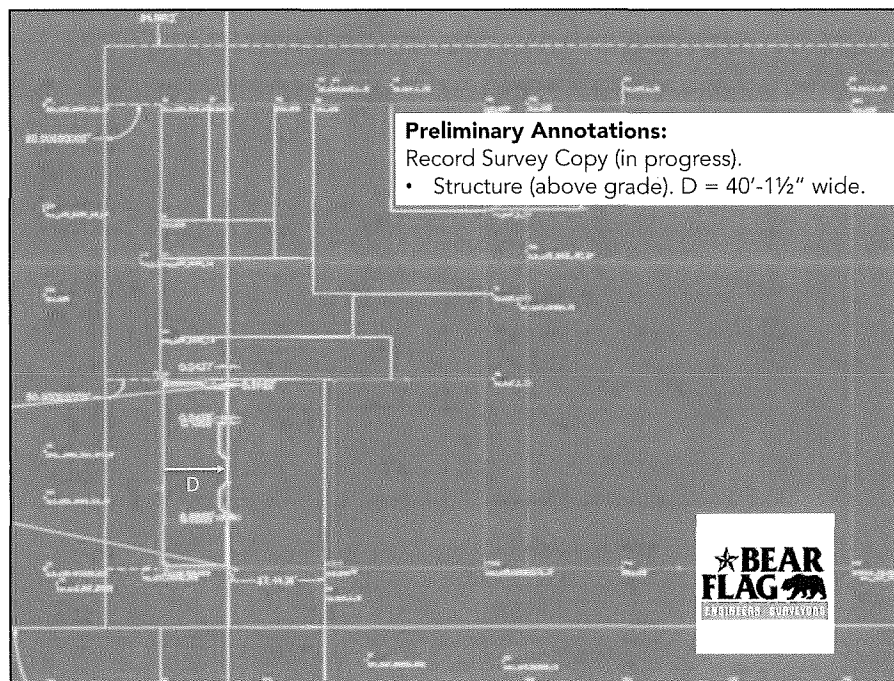
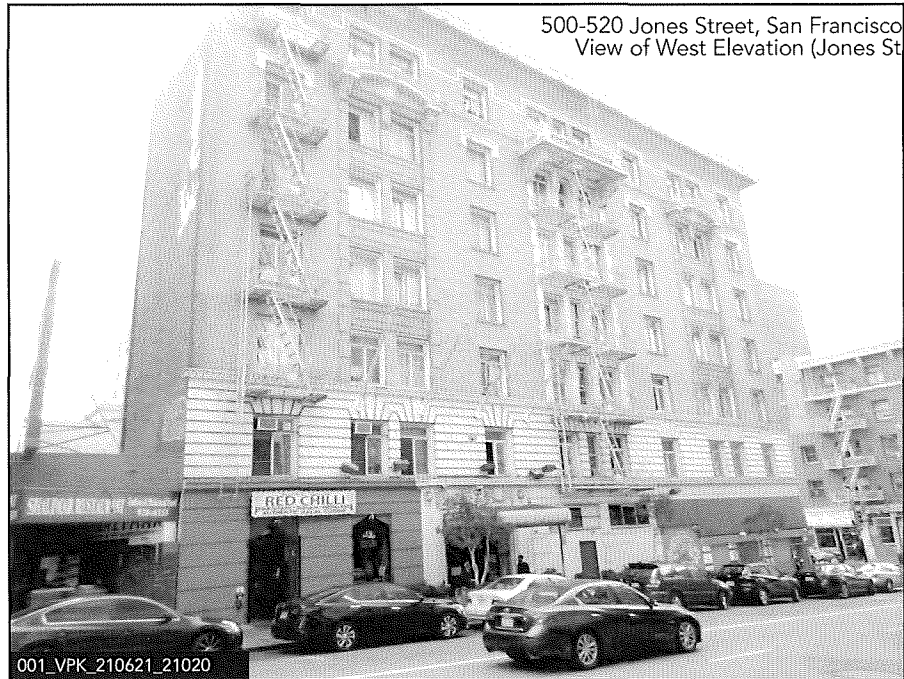
Attached: ERG Annotated Images (17 pages)
 ZFA Letter dated 06/23/2021 (05 pages)
 BFE Letter dated 06/23/2021 (02 pages) + attachments
 Survey Maps. Various dates (02 pages)

500-520 Jones Street San Francisco, CA. 94102



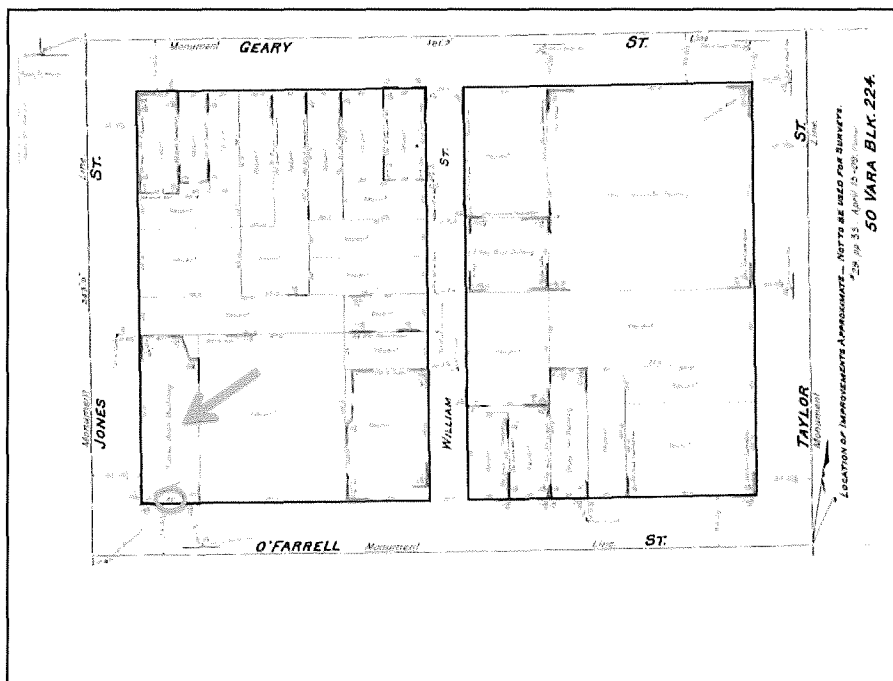
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500-520 Jones Street San Francisco, CA. 94102



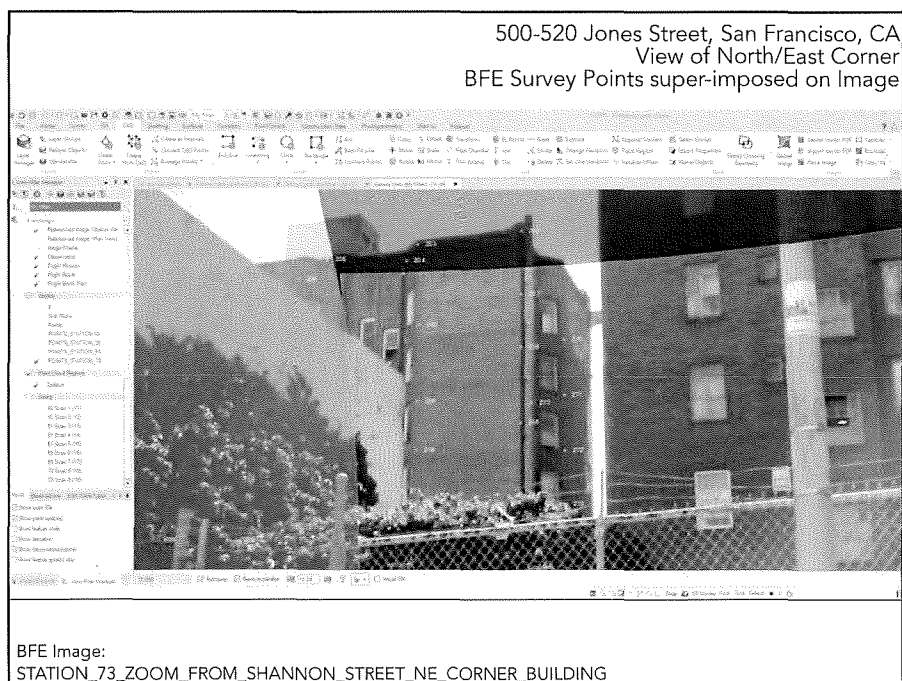
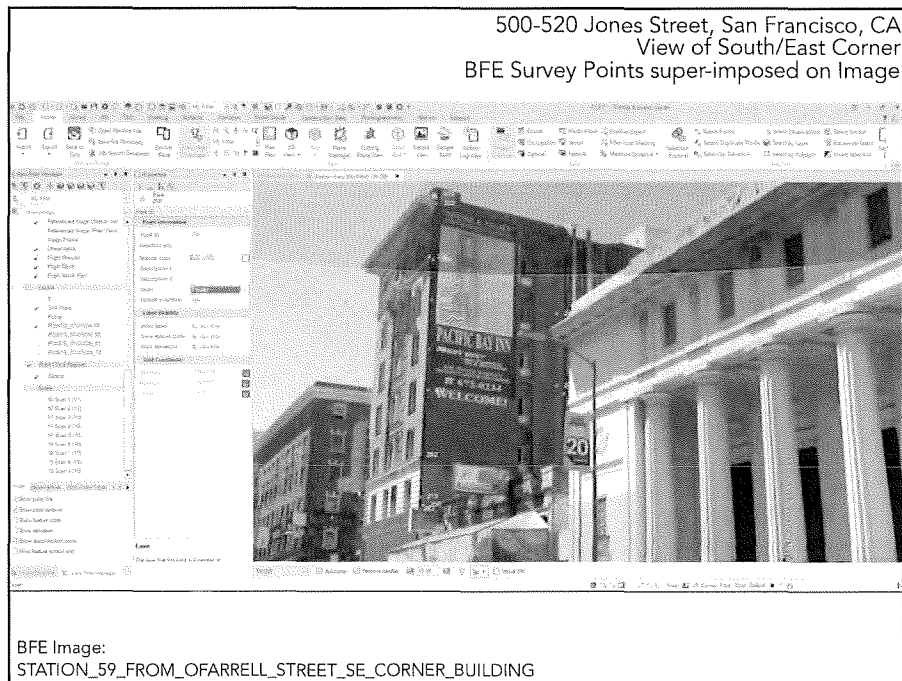
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500-520 Jones Street San Francisco, CA. 94102



Preliminary / Analysis Continues

500-520 Jones Street San Francisco, CA. 94102



Preliminary / Analysis Continues

500-520 Jones Street
San Francisco, CA. 94102

6/23/21

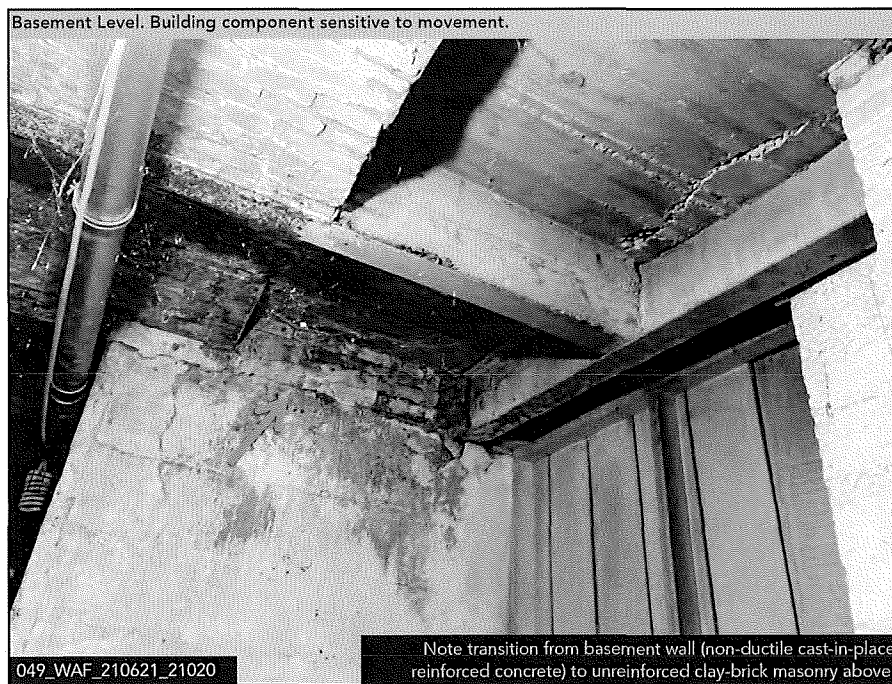


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EXHIBIT A 5

500-520 Jones Street
San Francisco, CA. 94102

6/23/21

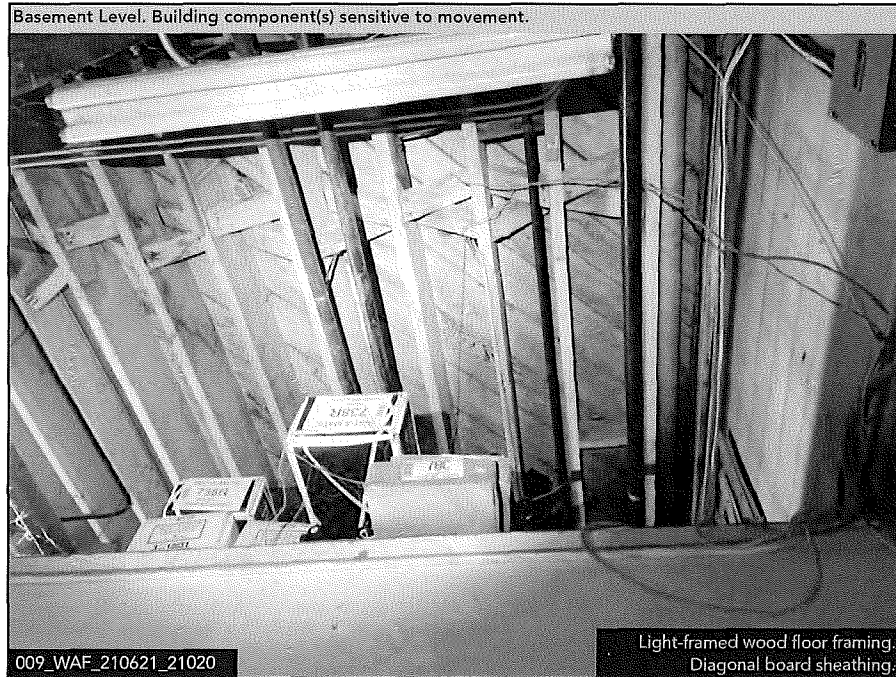


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EXHIBIT A₆

500-520 Jones Street
San Francisco, CA. 94102

6/23/21

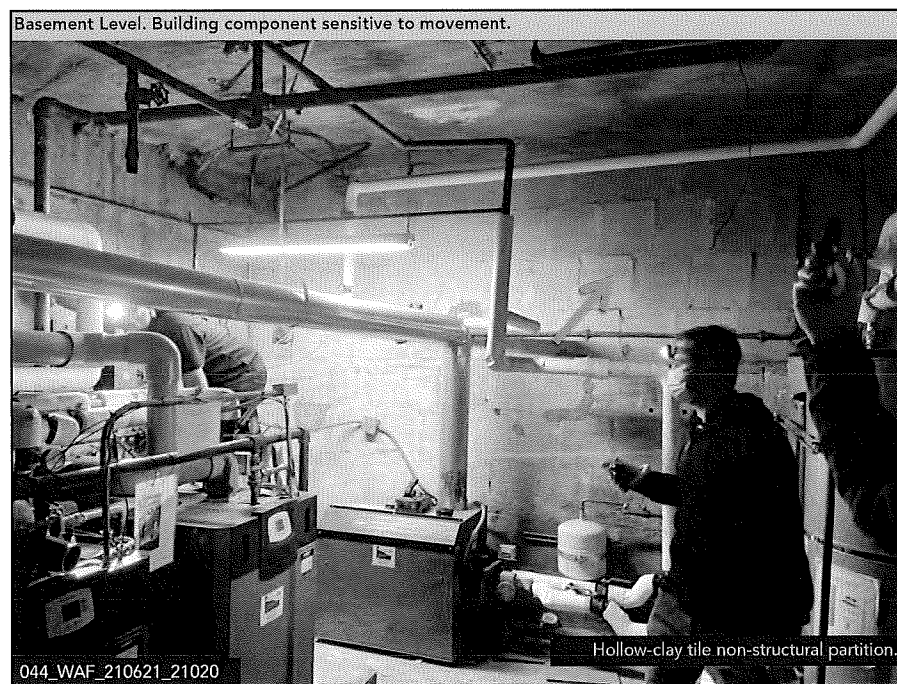
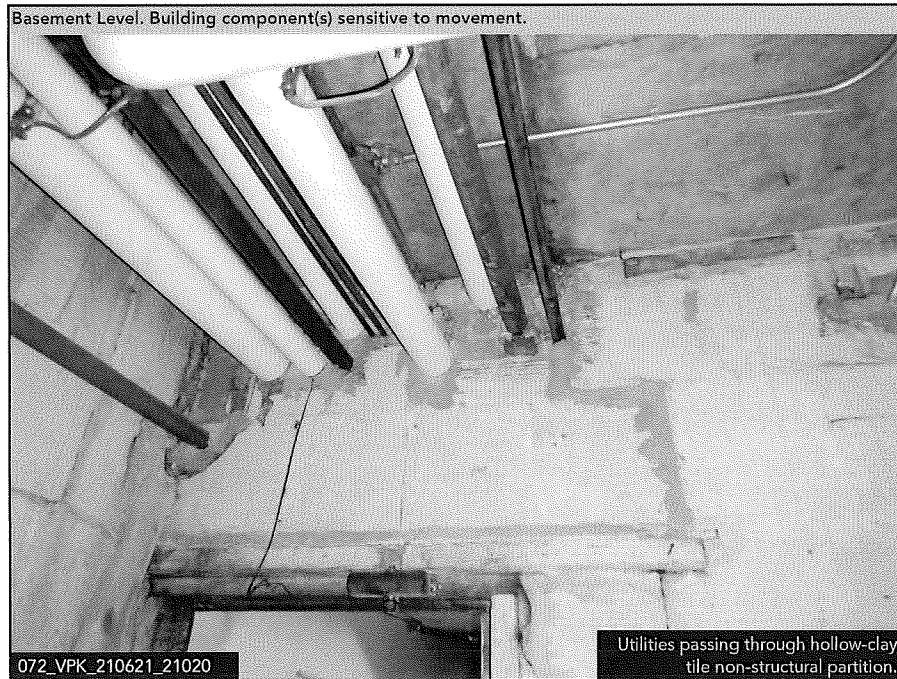


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EXHIBIT A₇

500-520 Jones Street
San Francisco, CA. 94102

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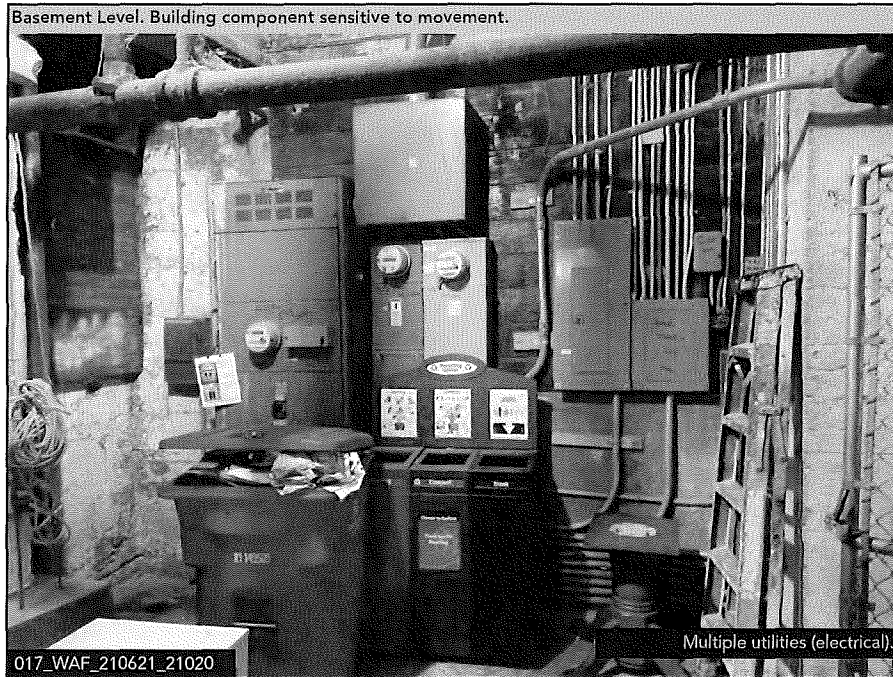


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EXHIBIT A 8

500-520 Jones Street
San Francisco, CA. 94102

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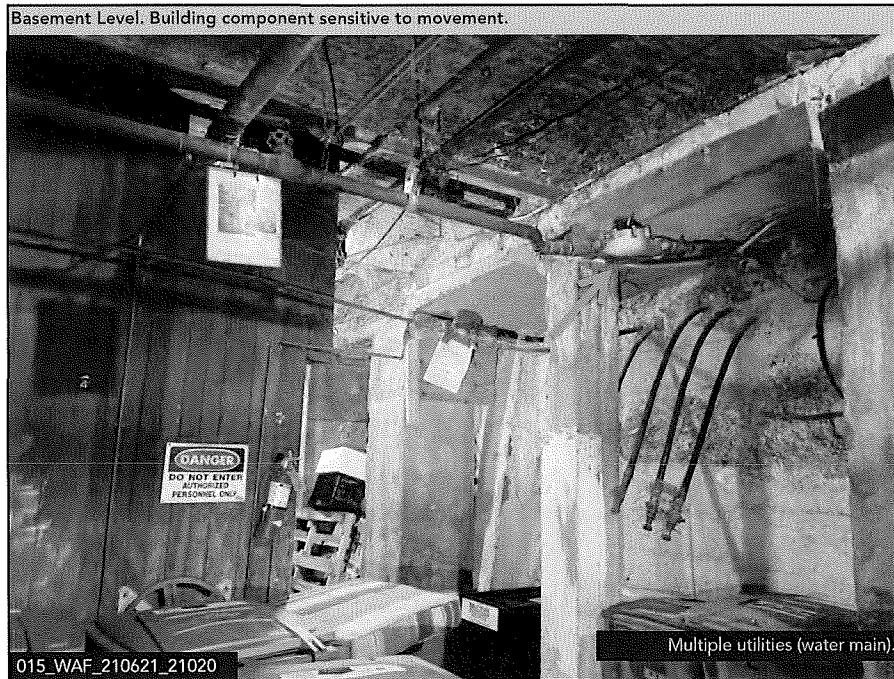


Preliminary / Analysis Continues

EXHIBIT A 9

500-520 Jones Street
San Francisco, CA. 94102

6/23/21



Preliminary / Analysis Continues

EXHIBIT A₁₀

500-520 Jones Street
San Francisco, CA. 94102

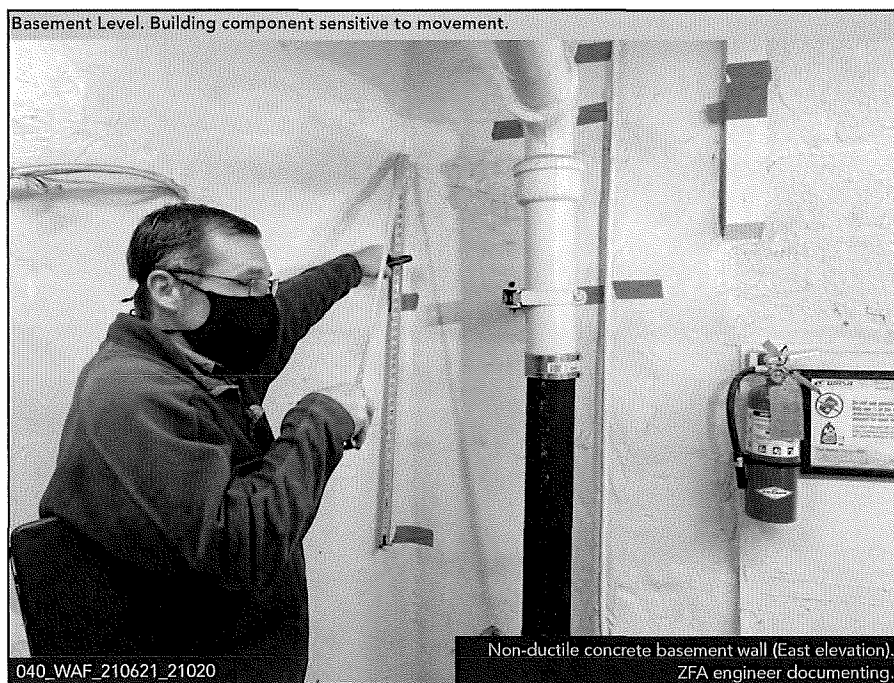
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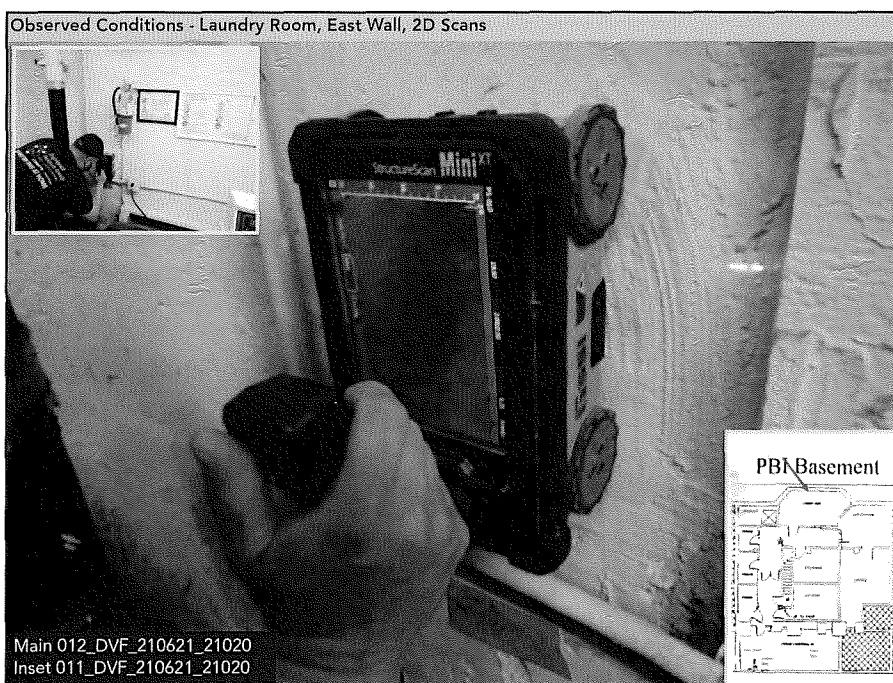
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500-520 Jones Street San Francisco, CA. 94102



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500-520 Jones Street
San Francisco, CA. 94102



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San Francisco, CA. 94102

6/23/21



Preliminary / Analysis Continues

EXHIBIT A₁₄

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San Francisco, CA. 94102

6/23/21



Preliminary / Analysis Continues

EXHIBIT A₅

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San Francisco, CA. 94102

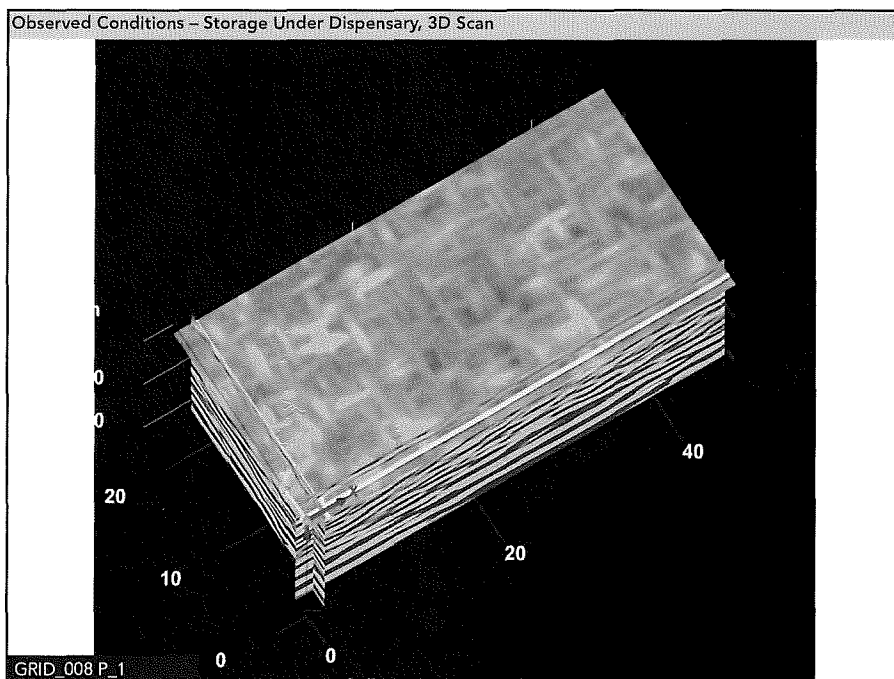
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EXHIBIT A₁₆

500-520 Jones Street San Francisco, CA. 94102



For Mediation Purposes Only

500-520 Jones Street
San Francisco, CA. 94102

Annotated Images

June 23, 2021

Engineered Research Group, Inc. (ERG)
WP. ERGroup.org

Preliminary / Analysis Continues

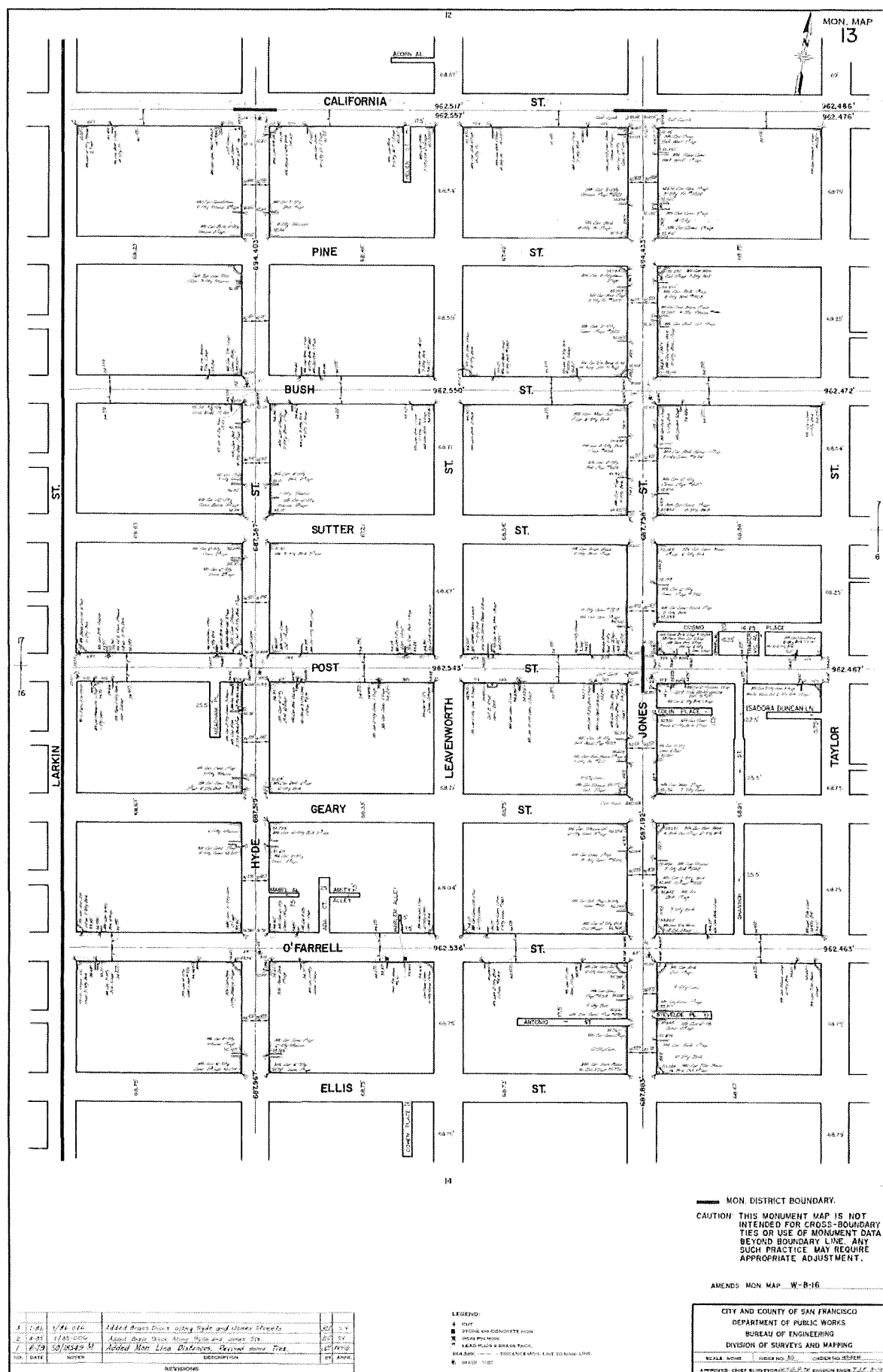


EXHIBIT A

ZFA STRUCTURAL ENGINEERS

san francisco
silicon valley
sacramento
santa rosa
napa

W. Andrew Fennell, CE, GC, CPEng.
andy@ERGroup.org
Engineered Research Group, Inc. (ERG)
144 Mayhew Way, Walnut Creek, CA 94597

Via Electronic Mail Only

June 23, 2021

**RE: Existing Building at 500-520 Jones Street, San Francisco
Areas of Structural Engineering Concern related to the
Proposed Adjacent Construction at 450 O'Farrell Street, San Francisco**

Andy,

The following summarizes our structural engineering concerns pertaining to the subject building at 500-520 Jones Street, San Francisco. Our concerns are based on current understanding of the proposed adjacent construction work (at 450 O'Farrell Street). In light of the potential for substantial risk for structural and nonstructural damage identified to date and discussed further below, we have included conceptual recommendations on potential mitigation measures.

ZFA's engineer Steven Patton, SE performed a field visit on 06/21/2021. Our visit consisted of visual observations of the building exterior and the basement areas. On site, we discussed the project with engineers from *Engineered Research Group, Inc.* (ERG, Andy Fennell, PE) and *Bear Flag Engineering* (BFE, Clark Stoner, PE, LS).

Materials Reviewed (to date)

- Conditional Use and Variance Application: *450 O'Farrell Street, San Francisco, CA*, dated 12/7/2020. No Revision number. Prepared by *Forge Development Partners* and *Gensler Architects* (42-page PDF document)
- No original building construction documents for the existing subject property building were available for review. A records-request is currently pending with SF-DBI.
- Geotechnical Letter, dated 05/19/2021 by Langan Engineering and Environmental Services, Inc. prepared by Maria Flessas, GE.
- Data developed by *Engineered Research Group, Inc.* and *Bear Flag Engineering, Inc.* (BFE).

Structural Areas of Concern (to date):

The subject property is constructed (circa 1908) of non-ductile concrete basement walls, unreinforced clay brick masonry (URM) bearing walls and other non-ductile concrete elements below grade. It is well documented that structures of this nature (URM's) can be easily damaged by even small ground movement, impacts, or vibrations that may result from the planned construction. This damage, which could occur anywhere within the building, could be immediately apparent but could also manifest itself at a later date.

We have conceptually identified structural engineering components of the existing subject building that we believe could be at risk from the proposed adjacent construction activities. These components are not listed in any particular order of impact or relative concern:

1. **Basement Exterior Walls.** The subject building has one below-grade basement level. The perimeter exterior walls are constructed of cast-in-place reinforced concrete. Due to the vintage of construction, the reinforcing levels would likely be characterized as "non-ductile". See ERG's report for additional information gained from Ground Penetrating Radar (GPR) scans of the Eastern basement wall.

Structural Concern: *given its vintage, this critical building component could easily be structurally damaged by relatively small increments of either ground movement, impacts, and/or vibrations generated during adjacent construction activities. The effects of long-term settlements also need to be carefully studied.*

2. **Foundation for Basement Exterior Walls.** No plans, test pits and/or test data were available for ZFA's review to date. Based on ZFA's experience with structures of this vintage, the foundation may consist of either inverted T-shaped non-ductile concrete spread footings or timber piles. Any inverted T footings would likely extend, on the order of, at least 6 inches beyond the exterior face of basement walls. As noted in the *Langan* Letter, the below-grade soils are thought to be sands with increasing densities at depth.

Structural Concern: *similar to 1. above.*

3. **Basement Level Interior Columns and Supporting Foundations.** The observed columns in the basement level are likely to be founded on isolated non-ductile concrete spread footings. It is equally likely that the isolated column footings are not inter-connected with concrete grade beams.

Structural Concern: *these critical building components, and their connections, could easily be structurally damaged by relatively small increments of either differential ground movement, impacts, and/or vibrations generated during adjacent construction activities. The effects of long-term settlements also need to be carefully studied.*

4. **Basement Level non-bearing partition walls (hollow-clay tile walls).** We also observed within the basement, a series of non-structural partition walls constructed on hollow-clay tile.

Structural Concern: *similar to 1. above. In addition, failure of these partition walls pose potential risk. It is unknown at this time if these partition walls serve any fire-resistive function.*

5. **Above-Grade Framing (super-structure).** Floor framing observable from the basement level consists of light-frame wood joists with diagonal lumber sheathed diaphragms. Floor support beams, and select columns, were constructed of steel with riveted joint connections. Cast-in-place concrete columns were also observed.

Structural Concern: similar to 1. above. In addition, the interconnection of these critical building components could easily be structurally damaged by ground movement, impacts, and/or vibrations generated during adjacent construction activities. The effects of long-term settlements also need to be carefully studied.

6. **Exterior walls of URM.** The exterior walls are constructed of unreinforced clay-brick masonry. No plans and/or test data were available for ZFA's review to date.

Structural Concern: similar to 1. above. In addition, the brittle nature of Unreinforced Masonry Structures URMs is well documented and poses a serious potential life-safety hazard if not properly mitigated.

Recommendations (Conceptual) for Mitigating Structural Engineering Concern (to date):

A. Study the (E) building, foundation, and site: structural, geotechnical.

- Engineered Temporary Shoring and Underpinning documents should be prepared by the developer and shared with subject property owner for review.
- No geotechnical report for the property was available for review. The results of a Geotechnical investigation for the proposed development should be shared with adjacent property owners that documents:
 - If there are any subsurface conditions, such as any sandy fill layers below the groundwater table that could liquefy during a major earthquake, as well as a summary of the range of any estimated liquefaction induced settlements.
 - Identify any ground failure potential, such as lurch cracking and/or the development of sand boils that could occur at the site during a major earthquake. The ground-surface settlement could be larger than estimated in areas where sand boils and associated ground failure occur.
 - Summary of the nature of the underlying supporting soil of the proposed development along with summary of assumed earthquake induced settlements below the foundations.
- Recommendations for methods to be used to protect, shore or underpin existing adjacent structures:
 - Any underpinning and shoring should be designed to resist the vertical and horizontal existing occupied building loads.
 - During excavation, the shoring system of the proposed development could be expected to deform laterally, which could cause surrounding sites, sidewalks and streets to settle. Surveys should be sent to the design team and adjacent property owners or their representatives in a timely manner so that results can be evaluated, and appropriate changes made to the construction.
- Any need for shoring or underpinning to install elements of new foundations for the proposed adjacent development may create a stronger and stiffer foundation locally. Additionally, the increased surcharge on adjacent foundations of the new development may alter the loading on the existing

subject properties foundations. This is likely to occur on the existing exterior wall on only two sides of the building, which creates potential risk of structural and non-structural damage from differential settlement, which should be calculated by a geotechnical engineer.

- Use of shoring, underpinning and adjacent construction impacts may also change the seismic load distribution throughout the subject building and reduce the building's resistance to earthquake loads.

B. Constructability review to avoid activities generating:

- Movements (vertical and horizontal): The developers of the adjacent property should be responsible for developing and implementing a monitoring program for the subject property. This should include survey control and identify specific control points for monitoring on the project's shoring drawings. Prior to execution of the monitoring plan or commencement of any and all work, the proposed monitoring plan should be made available for review by the subject property owner for review and comment. We suggest that a limit of movement be determined as structurally significant, and a lower increment be determined as noteworthy enough to trigger notification to all stakeholders. The frequency of results of a monitoring program should be provided and the threshold for structurally significant movement should be limited.
- Vibrations due to construction activities could cause additional settlement of loose soil under adjacent improvements. Therefore, vibrations and settlements would also need to be monitored, but no mention of this is given in documents currently made available for review.
- It is unknown if dewatering for the site is required. Any de-watering activities during construction of the adjacent proposed development could also result in vertical settlement of the supporting subgrade below the subject property which could exacerbate the effects noted above.
- Due to the nature of any underpinning or shoring system proposed, the system proposed may be substantially stronger and stiffer than the adjacent supporting soil: proposed underpinning solutions could result in permanently **stiffening** the foundation of the existing structure but only at locations where underpinning is to be installed. As a result, elements of the structure supported by underpinning may be less likely to settle than adjacent and connected portions of the existing structure, potentially resulting in substantial differential settlements. This would be detrimental to the building structure, particularly due to the brittle construction materials used.

- C. **Pre-condition survey of (E) building, foundation, and site.** The developers of the adjacent property should retain the services of a licensed surveyor (independent of the surveyor required for monitoring the shoring and excavation system) who specializes in pre-construction and post-construction forensic surveys. This surveyor would establish baseline measurements of the subject property as well as complete a follow-up assessment. The conditions of existing buildings within 50 feet of the site should be photographed and surveyed prior to the start of construction and monitored periodically during construction. A thorough crack survey of the adjacent buildings should be performed by a surveyor prior to the start of construction and immediately after its completion.
- D. **Monitoring Plan with trigger criteria.** The developers of the adjacent property should be responsible identifying and monitoring specific control points on the project's shoring drawings and these should be made available for review by all adjacent property owners. Displacement

limits deemed structurally significant should be developed, prop, as noteworthy enough to trigger notification to all stakeholders.

- Construction activities associated with deep excavations typically result in some lateral deformations of the shoring walls surrounding the site. Because any new shoring walls will likely be installed directly adjacent to the subject property, this is likely to result in vertical settlement of the supporting subgrade below the subject property, particularly at locations where underpinning has not stiffened the vertical support of the existing foundations. These settlements may or may not be present immediately, but can cause damage to the subject building. The subject building is expected to be particularly sensitive to vertical movement due to its non-ductile concrete/masonry construction. We state this so that the risk is understood and seek transparency of survey information.
- We recommend a plan be put in place to not only monitor for movement of the subject building and supporting soil, but that a mitigation plan be put in place to remediate any detrimental settlement (i.e. provide injection grout, jacking, etc....) that exceeds a maximum "trigger" level. This "trigger level" should be based on the deformation capacity of the subject building; this is the point at which any further deformations would likely negatively impact the building's capacity to resist horizontal and vertical loads. Based on the original construction of the subject property and its brittle nature with respect to settlement, we would expect that some sort of remediation work would be necessary where total or differential vertical settlements in excess of a small trigger displacement on the order of magnitude of 3/16" occurs.
- We recommend that not only the tops of any proposed shoring be used for monitoring lateral movement but that corner points at top and bottom of the subject building also be monitored as construction continues and that subsequent surveys be performed periodically to ensure any detrimental horizontal or vertical movement has not occurred.

E. A Post-condition survey of (E) building, foundation and site should also be performed upon completion of adjacent development.

F. Avoid structural "pounding" with adequate seismic gap.

Based on our review of the provided documents we believe the proposed work may involve permanent changes in load path for the subject property.

We therefore recommend that the above concerns be addressed prior to an agreement to the proposed work. The proponents should consider the above as they develop a responsive solution that does not compromise the as-is condition of your building. Should you have questions, please contact the undersigned.

Regards,



Steven Patton, SE 5773
ZFA STRUCTURAL ENGINEERS
Senior Associate



June 23, 2021

Engineered Research Group, Inc.
c/o: Mr. Andy Fennell, PE
144 Mayhew Way
Walnut Creek, CA 94597

**Re: 520 Jones Street --
San Francisco, CA
Assessor's Lot 010A; Block 0317**

Parcel Dimensions

Dear Mr. Fennell:

Per current vesting deed the property at 520 Jones Street, the Subject Parcel, is rectangular and measures 40 feet along O'Farrell Street and 112.5 feet along Jones Street.¹ The Subject Parcel occupies the southwest corner of 50 Vara Block No. 224,² which is more particularly bounded by present day Shannon Street to the east, Geary Street to the north, Jones Street to the west and O'Farrell Street to the south.³

In June 2021, my office conducted a field survey of the Subject Parcel and the building occupying it.⁴ The survey revealed that the building ranges from 40 feet wide to about 40.2 feet wide. Furthermore, the survey revealed that the easterly building wall above grade extends beyond the easterly deed line by about 0.1 feet to 0.2 feet, or 1.5 to 2.5 inches.⁵ Along the Subject Parcel's northerly boundary, the building above grade was found to be located more or less on the deed line.

Detailed plat of survey illustrating findings is forthcoming.

¹ See Document No. 2015-K061238-00.

² Ibid.

³ See Assessor Block Map No. 0317.

⁴ The building on 520 Jones Street shows as existent "7 Story Brick Building" on the 1909 Historic Block Diagram No. 0317a, available at the City and County of San Francisco Department of Public Works.

⁵ Evidence recovered during survey to support public street and deed line locations included chiseled notches on sides of buildings per City and County of San Francisco Monument Map No. 13, available at City and County of San Francisco Department of Public Works, and record and non-record chiseled "L" cuts in old granite curbs per above referenced Historic Block Diagram No. 0317a.

Should you have any questions, or require further discussions, please do not hesitate to contact me.

Very Truly Yours,



Clark E. Stoner, PE, PLS
RCE No. 64674
PLS No. 8750



Attachments:

Doc# 2015-K061238-00
Assessor Map Block 0317
Historic Block Diagram No. 0317a
Monument Map No. 13

RECORDING REQUESTED BY:

Old Republic Title Company

Order No.: 0224035612-AN

APN: Lot 010A, Block 0317

When Recorded Mail Document and Tax Statements to:

Pacific Bay Inn, Inc.
825 Van Ness Avenue, #301
San Francisco, CA 94109

20159K06123800003

San Francisco Assessor-Recorder

Carmen Chu, Assessor-Recorder

DOC 2015-K061238-00

Acct 5002-Old Republic Title Company

Friday, MAY 15, 2015 11:02:22

Ttl Pd \$24.00 Nbr-0005150232

okc/RE/1-3

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

Corporation Grant Deed

The undersigned grantor(s) declare(s):

Documentary Transfer Tax is \$0.00 correct vesting for refinance

() computed on full value of property conveyed, or

() computed on full value less of liens and encumbrances remaining at time of sale.

() Unincorporated area: (X) City of San Francisco

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
Pacific Bay Inn, Inc., a California corporation who acquired title as Pacific Bay Inn, a California corporation

hereby GRANT(S) to

Pacific Bay Inn, Inc., a California corporation

that property in City of San Francisco, San Francisco County, State of California, described as:

* * * See "Exhibit A" attached hereto and made a part hereof. * * * commonly known as 520 Jones Street, San Francisco

Date: May 08, 2015

In Witness Whereof, said corporation has caused its corporate name and seal to be affixed hereto and this instrument to be executed by its duly authorized officers.

Pacific Bay Inn, Inc., a California Corporation

By:

Adam Sparks, Secretary

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Francisco

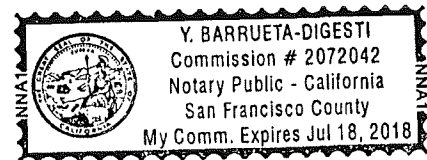
On 5/13/15 before me, Y Barrueta-Digesti a Notary Public, personally appeared Adam Sparks, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Y Barrueta-Digesti
Name: Y Barrueta-Digesti
(Typed or Printed)

(Seal)



ORDER NO. : 0224035612-AN

EXHIBIT A

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

BEGINNING at the point of intersection of the northerly line of O'Farrell Street with the easterly line of Jones Street; and running thence easterly along said line of O'Farrell Street 40 feet; thence at a right angle northerly 112 feet, 6 inches; thence at a right angle westerly 40 feet to the easterly line of Jones Street; and thence at a right angle southerly along said line of Jones Street 112 feet, 6 inches to the point of beginning.

BEING part of 50 Vara Block No. 224.

Assessor's Lot 010A; Block 0317

© COPYRIGHT SAN FRANCISCO
CITY & COUNTY ASSESSOR 1995

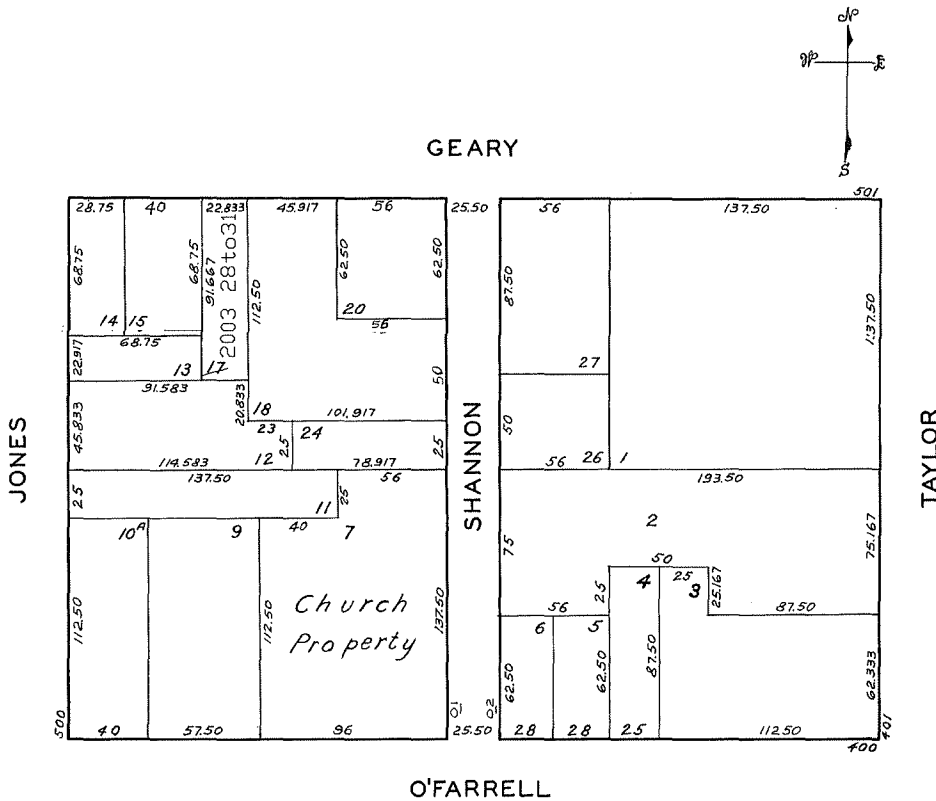
50 VARA BLK. 224

REVISED '62

Revised 2003

lot 17 into lots 28 to 31 for 2003 roll

8 10 16 13-22-23 21
7 9 15 18 20
43 43 43 43



577 GEARY ST. A CONDOMINIUM		
LOT	UNIT	% COMM. AREA
28	1	25
29	2	28
30	3	36
31	4	11

ASSESSED 106,425
BLK. TOTAL 106,425 SQ. FT.



June 16, 2021

Joel Koppel
President
Planning Commission

Dear President Koppel,

I write to express Tenderloin Neighborhood Development Corporation's (TNDC), Tenderloin Housing Clinic's (THC), and CCSRO Collaborative's continued **opposition to the proposed project at 450 O'Farrell St.**

In Exhibit A and B, you will find our January 2021 opposition letter, that clearly laid out community concerns. Since then, we have continued to closely monitor this project through the support of the assigned planner so we could keep stakeholders informed. This led to the organizing of several residents and providers who tuned in to the most recent hearing on April 15, 2021, and provided public testimony so commissioners had the opportunity to hear directly from community voices.

In that hearing, several community stakeholders expressed their concerns around the increased market rate group housing proposals in the neighborhood, the need for family housing, and the lack of meaningful community engagement from the project sponsor. Many stated their disapproval of the project in its current form (Version 3) yet were willing to work alongside the project sponsor to consider recommendations and secure community support. But following that hearing, neither TNDC nor other stakeholders have heard from the project sponsor since, leading us to reiterate our opposition absent changes to the project.

1. The Project Sponsor continues to treat community engagement as an afterthought.

Centering race and equity means prioritizing the voices of our low-income Black, Indigenous, People of Color (BIPOC) communities. Yet the developer's unwillingness to connect with the Tenderloin community following the Planning Commission hearing reinforces a trend where developers are not engaging in meaningful discussions around market rate proposals. If we are truly invested in a vision of inclusive planning that represents and engages the communities we serve, then we must set a standard that all developers, especially market rate developers in low income BIPOC communities, sit down with stakeholders from beginning to end.

2. The design of the project continues to be problematic.

In 2018, community supported the original proposal (Version 1) because of its meaningful community engagement process and diverse unit mix. In this most recent version (Version 3B), we continue to have concerns about developing a 316-unit group housing project set to accommodate 632 people in the densest neighborhood in San Francisco. We are not opposed to market rate group housing but in the context of the



Tenderloin Neighborhood Development Corporation
415.776.2151 | tndc.org | 201 Eddy Street | San Francisco, CA 94102

O:\Community Issues\Land Use & Development\450 O'Farrell\450 O'Farrell June 2021 Position



neighborhood, where most of our housing stock is Single Room Occupancy, and open space is scarce, we see long-term, negative impacts of a project of this design and capacity. The project sponsor presently has two market rate group housing projects in the Tenderloin underway. We also know that just last month, another project sponsor got their 111-market rate group housing project approved on Turk St. with the help of the State Density Bonus law. Community continues to express the need for balance and diversity in our neighborhoods future housing stock.

3. Neighborhood residents continue to express the desire for family housing.

The project sponsor has stated that all units over 600 sf are set to accommodate families, yet those units make up less than 9% (28 units) of the total project. On several occasions, we expressed the desire to see more units to accommodate families that were at least 1000 sf. Yet in Version 3B, most of the units range from 320 sf to 390 sf, comprising of 61% (193 units) of the total project. Given the breakdown of this project, the community feels that the bulk of these units will attract a more transient tenant population. It is a long-standing goal to have residents in the community have a vested interest in the health and growth in the neighborhood. Simply put, transient tenants generally lack that involvement. We want to see at least 35 of these units at 1000 sf.

Again, While TNDC does not purport to speak for the community, this input weighs heavily on us. **We urge the Planning Commissioners to consider this community feedback and reject this project absent modifications.** Should the developer wish to revise their plans or sell to someone who will build something that meets a community need, and respects community process, TNDC would happily show our support. Thank you for your consideration.

If you have any questions, please do not hesitate to reach out to dfalk@tndc.org or randy@thclinic.org.

Sincerely,

Donald S. Falk
Tenderloin Neighborhood Development Corporation

Randy Shaw
Tenderloin Housing Clinic

Cc: Members of the San Francisco Planning Commission
Rich Hillis, Director of Planning, City and County of San Francisco
Marcelle Boudreaux, San Francisco Planning Department
Matt Haney, Supervisor, District 6, City and County of San Francisco
Gabriella Ruiz, Policy and Planning Manager, TNDC
Colleen Rivecca, Director of Community Organizing, Policy and Planning, TNDC
Pratibha Tekkey, Director of Community Organizing, CCSRO Collaborative



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EXHIBIT A

January 19, 2021

Joel Koppel
President
Planning Commission

Dear President Koppel,

I write to express Tenderloin Neighborhood Development Corporation's (TNDC) opposition to the proposed project at 450 O'Farrell St.

For nearly 40 years, TNDC has been preserving and building affordable housing in the Tenderloin and other neighborhoods, serving low-income and working-class communities. In addition to operating affordable housing and providing social services in these neighborhoods, we work with community stakeholders to understand their concerns in order to raise public awareness on issues that impact their quality of life. TNDC is loath to oppose adding to the supply of housing, recognizing market-rate housing development as one way to address San Francisco's housing crisis, despite the displacement impact that new construction can have on people with low-incomes. In assessing proposed developments, we assess whether the project meets a standard of equitable development, so that people with low incomes share in some of the benefits and are protected from some of the harms of market rate development. The project at 450 O'Farrell fails to meet that standard.

- 1. The Project Sponsor failed to engage the community, seeking to secure approval from the Planning Commission without interacting with people in the neighborhood.**

We did not hear from the Project Sponsor, Forge, about the changes to this project until December 9, 2020, less than a month before the initially scheduled planning hearing. They believed that because the building envelope had not changed, obviating the need for a new environmental impact report, interacting with community stakeholders was unnecessary, even though the nature of the project had fundamentally changed. Community engagement was treated as an afterthought.

- 2. The design of the project is problematic in terms of the number and size of units combined with the expectation of number of occupants; it will be overcrowded.**

The 308 units in the proposed project will range from 318 sf to 639 sf, designed, according to Forge, for 'essential workers' and families.' They have shown us plans illustrating, for example, two twin beds and a third bed in the "family" units. We



Tenderloin Neighborhood Development Corporation
415.776.2151 | tndc.org | 201 Eddy Street | San Francisco, CA 94102

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are concerned that the plans, as proposed represent new units that would replicate the overcrowding many existing low-income families experience in small units across the Tenderloin, and potentially the associated social, psychological, and development impacts on children who live in these conditions.¹ As housing developers ourselves, we fully understand the challenge of balancing affordability with livability, however we feel this project goes too far. Nearly 97% of the proposed units offer living space between 318 and 477 sf, which we feel is insufficient for healthy family living. Moreover, we feel that such a building design fails to align with the San Francisco Planning Department's "Housing for Families with Children"² policy paper, which outlines elements of quality family housing.

3. Many neighborhoods residents expressed to us their opposition to the project.

Many community members who know firsthand what it is like to live in similarly tiny SRO units expressed their opposition to this project due to:

- Lack of community engagement and perceived disrespect to the Tenderloin community;
- The need for units with full kitchens and bathrooms for families;
- The lack of affordability, i.e. despite the assertion that the units are "affordable by design," Tenderloin residents will not be able to afford to live there;
- The development fails to meet current standards for inclusionary housing; and
- Concerns about overcrowding.

While TNDC does not purport to speak for the community, this input weighs heavily on us. We urge the planning commissioners to consider this community feedback and reject this project. Should the developer wish to revise their plans or sell to someone who will build something that meets a community need, and respects community process, TNDC would happily show our support. Thank you for your consideration. If you have any questions, please do not hesitate to reach out to me at dfalk@tndc.org.

Sincerely,

Donald S. Falk
Chief Executive Officer

Cc: Members of the San Francisco Planning Commission
Rich Hillis, Director of Planning, City and County of San Francisco
Marcelle Boudreaux, San Francisco Planning Department
Matt Haney, Supervisor, District 6, City and County of San Francisco
Gabriella Ruiz, Policy and Planning Manager, TNDC
Colleen Rivecca, Director of Community Organizing, Policy and Planning, TNDC

¹ Reynolds, Liam. Full House? How Overcrowded Housing Affects Families. 2005.

https://englandshelter.org.uk/_data/assets/pdf_file/0004/39532/Full_house_overcrowding_effects.pdf

² Housing for Families with Children. 2017.

https://default.sfpplanning.org/publications_reports/Family_Friendly_Briefing_01-17-17_FINAL.pdf



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EXHIBIT B

Dear Director Hillis and Planning Commissioners,

I want to update you on some additional reasons the Tenderloin Housing Clinic is taking the unprecedented step of strongly opposing a proposed housing development in the Tenderloin.

Financing vs. Developer Preference

Since my previous correspondence my organization has finalized negotiations with the developer of 550 O'Farrell, less than a block away. We have always supported the project and have now resolved all outstanding issues. 550 O'Farrell offers exactly the type of market-rate project the Tenderloin needs to house families with children. It will have 111 units: 35 one-bedrooms, 62 two-bedrooms, and 14 three-bedrooms. Unit sizes start at 500 square feet and go beyond 1000 square feet.

I raise this to challenge the 450 developer's argument that in this economic climate only micro-units can get financing---obviously 550's developers see it otherwise. I think the sharp contrast in unit mix between the nearly adjacent projects pulls the curtain back on what is really going on here: The radical change in the proposed unit mix at 440 is not caused by financing issues; rather, micro-units are the only type of housing this developer wants to build.

Just think. Richard Hannum buys two sites around Turk and Leavenworth and gets both approved for hundreds of micro-units. He now seeks to replace a project with most units ranging from 712-1075 square feet with virtually the same type of housing he is currently constructing.

This is no coincidence. The developer builds only one type of housing. And now he wants this Commission to approve a unit mix that makes no sense for the neighborhood.

False Promises Re "Essential Workers"

We've also learned more facts that undermine the developer's claimed targeting of "essential workers"---such as police officers and nurses---to live at 450 O'Farrell. This is pure nonsense. The project's largest units, 550 sq. ft., will have three beds. This sounds like a student dorm, not housing for essential workers earning 110% of AMI. Police officers we talked to were incredulous at the idea that officers would choose to live in such housing. Nurses, police officers and similar workers at those income levels will not choose to live in small units in the Tenderloin. The project's many 350 sq. ft. units, which only have two burners, also do not fit the incomes of the "essential workers" the project claims to target.

The Tenderloin has no shortage of housing for students. Hastings is building a 14-story housing project across the street from my office at Golden Gate and Hyde. We have



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Tenderloin Housing Clinic



strongly supported this project. We also did not oppose Forge's two micro-unit projects under construction in the Tenderloin, both of which will also likely house students. But a successful neighborhood must have housing for families with children as well. From 1907 to the 1970's the Tenderloin had few children. This changed with the arrival of Southeast Asian refugees in the 1970's and 1980's. Rising rents in the Mission during the late 1990's caused a huge Latino family influx into the Tenderloin. Many Arab-American families live here as well.

Almost no housing sites (those not already slated for development) in the Tenderloin remain. We cannot allow a project we counted upon to provide desperately needed family housing to become another site for single adults. SROs surround the project site; nobody claims there is a shortage of single-adult housing in the area.

In 1985, with the strong support of Planning Director Dean Macris, the Planning Commission bucked the tide of highrise development and rezoned the Tenderloin so that it remained a residential neighborhood. The Commission's action saved the Tenderloin as an affordable working-class neighborhood.

We call upon you again to do what is best for the Tenderloin. And that requires rejecting this project. The developer should revise its plans or sell to someone who will build something at least close to the original unit mix. That's what the community counted upon in backing the original project and what the Tenderloin still needs. Thank you for your consideration.

Sincerely,

Randy Shaw, Executive Director, Tenderloin Housing Clinic



Tenderloin Neighborhood Development Corporation
415.776.2151 | tndc.org | 201 Eddy Street | San Francisco, CA 94102

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THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

TENDERLOIN HOUSING CLINIC, INC.
 ADMINISTRATIVE ACCOUNT
 126 HYDE STREET
 SAN FRANCISCO, CA 94102

EAST WEST BANK
 SAN FRANCISCO, CA 94102

16-7038/3220

87038

7/21/2021

PAY TO THE ORDER OF San Francisco Planning Department

Six Hundred Sixty-Five and 00/100*****

San Francisco Planning Department

\$ **665.00

DOLLARS

TWO SIGNATURES REQUIRED FOR AMOUNTS OVER \$750.00

[Signature]

MP

MEMO Appeal - Planning fee

RUB RED IMAGE
 FADER WITH HEAT

AUTHORIZED SIGNATURE

WZ04275-10-20

Details on back
Security Features Included

TENDERLOIN HOUSING CLINIC, INC. • ADMINISTRATIVE ACCOUNT • 126 HYDE STREET • SAN FRANCISCO, CA 94102

San Francisco Planning Department

Planning fee - Appeal: 450 - 474 O'Farrell Project

87038

7/21/2021

665.00

UCB Administrative A Appeal - Planning fee

665.00



San Francisco Planning

BOARD OF SUPERVISORS APPEAL FEE WAIVER FOR NEIGHBORHOOD ORGANIZATIONS

APPLICATION

Appellant's Information

Name: PRATIBHA TEKKEY

Address: 126 Hyde Street,
San Francisco, 94102 CA

Email Address: Pratikha@thelinc.org
Telephone: 415-775-7110 Ext 1703

Neighborhood Group Organization Information

Name of Organization: TENDERLOIN HOUSING CLINIC

Address: 126 Hyde Street,
San Francisco, 94102, CA

Email Address:
Telephone: 415-775-7110 Ext 1703

Property Information

Project Address: 450-474 O'FARRELL STREET, 532 Jones Street.

Project Application (PRJ) Record No: 2013.1535 CUA -02 Building Permit No:

Date of Decision (if any): June 24th 2021

Required Criteria for Granting Waiver

All must be satisfied; please attach supporting materials.

REQUIRED CRITERIA	YES	NO
The appellant is a member of the stated neighborhood organization and is authorized to file the appeal on behalf of the organization. Authorization may take the form of a letter signed by the President or other officer of the organization.	✓	
The appellant is appealing on behalf of an organization that is registered with the Planning Department and that appears on the Department's current list of neighborhood organizations.	✓	
The appellant is appealing on behalf of an organization that has been in existence at least 24 months prior to the submittal of the fee waiver request. Existence may be established by evidence including that relating to the organization's activities at that time such as meeting minutes, resolutions, publications and rosters.	✓	
The appellant is appealing on behalf of a neighborhood organization that is affected by the project and that is the subject of the appeal.	✓	

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

Submission Checklist:

- ☐ APPELLANT AUTHORIZATION ☐ CURRENT ORGANIZATION REGISTRATION ☐ MINIMUM ORGANIZATION AGE
☐ PROJECT IMPACT ON ORGANIZATION
☐ WAIVER APPROVED ☐ WAIVER DENIED



PLANNING COMMISSION MOTION NO. 20935

HEARING DATE: JUNE 24, 2021

Record No.: 2013.1535CUA-02
Project Address: 450-474 O'Farrell Street/532 Jones Street
Zoning: RC-4 - Residential- Commercial, High Density Zoning District
80-T-130-T Height and Bulk District
North of Market Residential Special Use District
Block/Lot: 0317/007, 009, 011
Project Sponsor: Forge Development Partners LLC
155 Montgomery Street, Suite 300
San Francisco, CA 94104
Fifth Church of Christ, Scientist San Francisco
San Francisco, CA 94102
Property Owner: Fifth Church of Christ, Scientist San Francisco
San Francisco, CA 94102
Staff Contact: Carly Grob – (628) 652-7532
carly.grob@sfgov.org

ADOPTING FINDINGS TO APPROVE AN AMENDED CONDITIONAL USE AUTHORIZATION THAT WOULD MODIFY CONDITION OF APPROVAL NOS. 24, 25, 26, AND 32 OF PLANNING COMMISSION MOTION NO. 20281 TO REFLECT COMPLIANCE OF THE AMENDED PROJECT WITH SECTIONS 166, 155, 155.1, AND 155.2, AND OF 415 OF THE PLANNING CODE, RESPECTIVELY.

PREAMBLE

On January 24, 2020, Alexander Zucker of Forge Development Partners, LLC, (hereinafter "Project Sponsor") filed Application No. 2013.1535CUA-02 (hereinafter "Application") with the Planning Department (hereinafter "Department") for an amended Planned Unit Development/ Conditional Use Authorization to amend Conditions of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281 (hereinafter "Project") at 450-474 O'Farrell Street and 532 Jones Street, Block 0317 Lots 007, 009, and 011 (hereinafter "Project Site").

This project has undergone environmental review pursuant to the California Environmental Quality Act and Chapter 31 of the San Francisco Administrative Code. The Planning Commission certified the Final Environmental Impact Report (EIR) for the project on September 13, 2018 (Motion No. 20279). On December 21, 2020, the Planning Department published an addendum to Final EIR for the Project. The Planning Department concluded that no further environmental review is required for this revised Project for the reasons set forth in the Addendum. This Commission concurs with that conclusion. On September 13, 2018, the Commission adopted Motion No. 20280

adopting CEQA findings for the original Project, including a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program (MMRP) for the Project. Those findings and adoption of the MMRP set forth in Motion No. 20280 are incorporated by reference in this Motion as though fully set forth herein.

On January 7, 2021, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Planned Unit Development/Conditional Use Authorization Application No. 2013.1535CUA-02. At the January 7, 2021 Commission hearing, the item was continued to January 21, 2021. At the January 21, 2021 Commission hearing, the item was continued to February 4, 2021. At the February 4, 2021 Commission hearing, the item was continued to April 1, 2021. At the April 1, 2021 Commission hearing, the item was continued to April 15, 2021. At the April 15, 2021 hearing, the item was continued to June 10, 2021. At the June 10, 2021 hearing, the item was continued to June 24, 2021. On September 13, 2018, the Commission approved the original Project in Planning Commission Motion Nos. 20279, 20280 and 20281.

The Planning Department Commission Secretary is the Custodian of Records; the File for Record No. 2013.1535CUA-02 is located at 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

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 amended Conditional Use Authorization as requested in Application No. 2013.1535CUA-02, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

- 1. The above recitals are accurate and constitute findings of this Commission.**
- 2. Project Description.** The current proposal is to amend Condition of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281 to modify the Project's compliance with Sections 166, 155, 155.1, and 155.2, and of 415 of the Planning Code, respectively.

The previously approved Project includes demolition of three buildings: 450 O'Farrell Street (currently occupied by the Fifth Church of Christ, Scientist); 474 O'Farrell Street (one-story, vacant retail building); and 532 Jones Street (one-story restaurant use, with five existing residential units). The original proposal is to merge these three lots, and construct a new mixed-use building rising to 130-foot-tall (13-story), with up to 176 dwelling units, restaurant and/or retail space on the ground floors, and a replacement church (proposed religious institution) incorporated into the ground and two upper levels, below grade parking and mechanical spaces, private and common open space, and 116 Class 1 and 9 Class 2 bicycle parking spaces. The project would construct a total of approximately 218,155 square feet ("sf") of development, including 182,668 sf of residential space, 3,827 sf of restaurant/retail space, 9,555 sf for religious institutional use, 8,398 sf of residential open space (288 sf of private open space and 8,110 sf of common

open space), and 21,105 sf of below-grade parking (up to 46 spaces). The project also proposes merger of three Lots 007, 009, and 011 in Assessor's Block 0317.

A revised project scope ("amended Project") still includes demolition of the three buildings, construction of up to a 13-story mixed use building with similar massing and basement, ground floor commercial and a new church, and residential open space, but now proposes up to 316 group housing rooms (with a maximum of 632 beds) instead of up to 176 residential units and no longer proposes residential off-street parking. The number of bicycle parking spaces has been modified to: 136 Class 1 and 15 Class 2. The revised project would now construct a total of approximately 207,448 square feet ("sf") of development, including 172,323 sf of residential space, 6,023 sf of restaurant/retail space, 9,924 sf for religious institutional use, and approximately 5,056 sf of residential open space. The project also proposes merger of three Lots 007, 009, and 011 in Assessor's Block 0317.

- 3. Site Description and Present Use.** The project site is currently occupied by the three-story, 26,904-square-foot Fifth Church of Christ, Scientist, including a 1,400-square-foot parking lot with four parking spaces at 450 O'Farrell Street; a one-story, 4,415-square-foot vacant retail building at 474 O'Farrell Street; and a one-story, 1,012-square-foot restaurant and residential building with five units at 532 Jones Street.
- 4. Surrounding Properties and Neighborhood.** The Project Site is located within the RC-4 zoning district, a District defined by its compact, walkable, transit-oriented, and mixed-use nature, within the Downtown/ Civic Center neighborhood. The immediate context is primarily residential with neighborhood-serving commercial uses. The immediate vicinity includes buildings ranging from five to 12 stories, and within a two-block radius up to 16-stories (including at the end of the subject site block). Within ¼-mile radius east of the site is the dense commercial retail area surrounding Union Square and the western boundary of the Financial District, and within ¼-mile south of the site is the City's major ceremonial and transit corridor Market Street. The project site is located within the boundaries of the Uptown Tenderloin Historic District which is listed in the National Register. Other zoning districts in the vicinity of the project site include C-3-G (Downtown General), C-3-R (Downtown Retail), and P (Public), which exhibit a range of height and bulk districts: 80-T, 80-A, 80-130-F, and 225-S.
- 5. Public Outreach and Comments.** To date (as of June 16, 2021), the Department has received 51 form letters in support, 3 other letters of support, including from YIMBY Law and Project Access. SF Housing Action Coalition submitted support and a petition in support signed by 42. The support for the Project is focused on the development of new housing, below market rate options, community-serving retail and new home for the Fifth Church of Christ, Scientist. YIMBY Law has submitted a second letter on June 10 which describes their opinion of the applicability of the Housing Accountability Act to the modified project.

The Department has received 5 letters in opposition to the Project, including from Tenderloin Housing Clinic (THC), Tenderloin Neighborhood Development Corporation (TNDC), Tenant Associations Coalition of San Francisco neighborhood groups, Tenderloin Tenants, and one phone call in opposition. Most recently, THC, TNDC, and the Central City SRO Collaborative provided a joint letter which reiterated their opposition to the project, stating that the Project Sponsor was not adequately engaging with the community, and that the current proposal of a group housing project does not meet community needs for family housing. This letter also included previous communications from both THC and TNDC, citing

the needs for family housing instead of group housing, lack of community engagement, and that the Project Sponsor is misrepresenting their ability to finance the previous project and the goal to serve "essential workers." Previous correspondence in opposition cites similar concerns that the Project is centered on the shift to group housing, concerns about the community engagement process, and a neighbor's perception that the church has not been a good neighbor. One letter was received regarding the adequacy of the Addendum prepared for the project, which was resubmitted in advance of the June 24 hearing. Central City Democrats, 86 Dwellers and Alliance for Better District 6 all submitted letters noting multiple concerns about the project and requesting a redesign.

6. Planning Code Compliance. The Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section F of Planning Commission Motion No. 20281, except as amended below:

A. Transportation Demand Management (TDM) Plan. Pursuant to Planning Code Section 169 and the TDM Program Standards, the Project shall finalize a TDM Plan prior Planning Department approval of the first Building Permit or Site Permit. As currently proposed, the Project must achieve a target of 12 points.

The Project submitted a completed Environmental Evaluation Application prior to September 4, 2016. Therefore, the Project must only achieve 50% of the point target established in the TDM Program Standards, resulting in a required target of 12 points. As currently proposed, the Project will achieve its required 12 points through the following TDM measures:

- Parking Supply
- Bicycle Parking
- Bicycle Repair Station
- Multimodal Wayfinding Signage
- Real Time Transportation Displays
- On-Site Affordable Housing

B. Inclusionary Affordable Housing Program. Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements apply to projects that consist of 10 or more units. The applicable percentage is dependent on the number of units in the project, the zoning of the property, and the date of the accepted Project Application. A Project Application was accepted on November 21, 2014, project approval was granted on September 13, 2018, and a site permit was issued on May 13, 2020; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the On-site Affordable Housing Alternative is to provide 13.5% of the proposed group housing rooms/ dwelling units as affordable.

The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6 and has submitted an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. For the Project Sponsor to be eligible for the On-Site Affordable

Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be rental units and will remain as rental units for the life of the project. The Project Sponsor submitted such Affidavit on August 21, 2020. The applicable percentage is dependent on the total number of units in the project, the zoning of the property, and the date of the accepted Project Application. A Project Application was accepted on November 24, 2014, project approval was granted on September 13, 2018, and a site permit issued May 13, 2020; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the On-site Affordable Housing Alternative is to provide 13.5% of the total proposed dwelling units as affordable to low-income households, as defined by the Planning Code and Procedures Manual. 43 units/rooms of the total 316 units/rooms and 5 replacement units/rooms, for a total of 48 provided will be affordable units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable.

- 7. Conditional Use Findings.** Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the Project is consistent and does comply with said criteria as originally described in Section G of Planning Commission Motion No. 20281, except as amended below:

- 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 Downtown/Civic Center neighborhood contains a mix of residential, commercial, and institutional uses, including religious facilities. This mixed-use building will be compatible with that neighborhood mix of uses. The project will provide rental housing, ground floor retail space, and a new Christian Science church and Reading Room (institutional use) to replace the existing church site (deemed obsolete and oversized), a vacant commercial building adjacent to the church, and a one-story restaurant building containing five existing residential units that will be replaced on-site. Specifically, this mixed-use project includes 316 newly constructed group housing rooms (with 48 on-site affordable rooms including the five replacement units), supporting a need in the City, a new church facility, and retail space.

- 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:

- (1) Nature of proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures;

The project's proposed building massing is consistent with the character and design of the neighborhood, and will not impede any development of surrounding properties. The project would be a contemporary, but compatible, design that references the character-defining features of the surrounding district and is compatible with size and scale, composition,

materials, and architectural details. The massing is compatible in terms of lot occupancy, solid-to-void ratio, and vertical articulation. The elements include the new church structure, and two different architectural styles for floors seven and above. The expression of the upper levels is compatible with the overall design and district but read as secondary elevations. Finally, a vertical notch is proposed at the corner of O'Farrell Street and Shannon Alley, further reducing the building's massing impact. The building's design is well-articulated horizontally and vertically to reduce the apparent massing.

Pursuant to Condition of Approval Nos. 12a and 13 in Motion No. 20281, the Project design was modified to remove the existing colonnaded façade at 450 O'Farrell Street from the project, and the revised design was presented to the Planning Commission at an informational hearing on October 3, 2019.

- (2) 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 site is located accessible by public transit, with multiple public transit alternatives (MUNI Bus lines 2-Clement, 3-Jackson, 27-Bryant, 31-Balboa, 38-Geary, 38R-Geary Rapid, and 45-Union/Stockton; Powell Street and Civic Center BART/MUNI) within close walking distance. Additionally, the Project site is directly adjacent to O'Farrell and Jones Streets, both major thoroughfares which provide ready access to those driving.

Parking is available either along surrounding neighborhood streets or within the proposed minimal off-street parking for the institutional use. The vehicular entrance is located on Shannon Street, which will be less detrimental to the existing traffic pattern than would be a garage entrance on O'Farrell Street, which has a dedicated transit lane and one vehicular travel lane. The residential entrance, including entrance to the on-site bicycle parking, is located off O'Farrell Street. Pedestrian entrances to the retail and church uses are on O'Farrell and additional retail use from Jones Streets, further activating those major streets. Given the small amount of retail space (less than 10,000 square feet) and limited loading needs as discussed in the project EIR, the project will seek an exception to off-street loading requirements by providing an on-street solution. The development will not be detrimental to the convenience of persons residing or working in the vicinity.

- C. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The project site is located within the RC-4 zoning district and subarea No. 1 of the North of Market Residential Special Use District. This SUD has a stated purpose which includes protect and enhance important housing resources in an area near downtown, conserve, and upgrade existing low and moderate income housing stock, preserve buildings of architectural and historic importance, and preserve the existing scale of development, maintain sunlight in public spaces, encourage new infill housing at a compatible density, limit the development of tourist hotels and other commercial uses that could adversely impact the residential nature of the area, and limit the number of commercial establishments which are not intended primarily for customers who are residents of the area.

Considered as a whole, although the project demolishes historic resources, the Project would add housing and commercial goods and services to add to and to support the residential-commercial District, in addition to a new church facility, into one mixed-use building. The Project site is well-served by transit and existing commercial services, with amenities accessible by foot, bike, or transit. The Project includes 316 group housing rooms with 632 beds, and provision of on-site affordable units. On balance, the Project conforms with multiple goals and policies of the General Plan.

8. Planned Unit Development. Section 304 establishes criteria and limitations for the authorization of Planned Unit Development (PUD)'s over and above those applicable to Conditional Uses in general and contained in Section 303 and elsewhere in the Code. In cases of projects on sites ½-acre or greater that exhibit outstanding overall design and are complementary to the design and values of the surrounding area. The Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section H of Planning Commission Motion No. 20281, except as amended below:

A. Specifically, the project seeks these modifications:

- (1) *A modification of the rear yard requirements per Section 134(j) of the Planning Code is still required, as a modification through the PUD process, to allow for open space in a configuration other than a rear yard.*
- (2) *An exception to dwelling unit requirements is not required for the amended Project, as it complies with Section 140 of the Planning Code.*
- (3) *An exception to the off-street loading requirements per Section 152 of the Planning Code is still required, which requires one residential loading space for the project.*
- (4) *An exception to permitted obstructions is not required for the amended Project, as the amended Project complies with Section 136(c) of the Planning Code.*

B. On balance, the Project complies with said criteria of Section 304(d) in that it:

- (1) Provides off-street parking adequate for the occupancy proposed;

Off-street parking is not required in the RC-4 zoning district. The project provides off-street parking for the religious institution, with up to 6 dedicated for that use. Balanced with multiple transit lines within ¼-mile, options for walking, and over 85 bicycle parking spaces, both on-site and on the sidewalks, this limited off-street parking is adequate and appropriate for the proposed uses, for this downtown location.

- (2) Be limited in dwelling unit density to less than the density that would be allowed by Article 2 of this Code for a district permitting a greater density, so that the Planned Unit Development will not be substantially equivalent to a reclassification of property;

Pursuant to Section 209.3 of the Planning Code, the RC-4 residential high-density zoning district, permits a group housing density up to one bedroom per every 70 square feet of lot

area. On this 22,106 square foot site, 316 bedrooms are permitted with up to 632 beds. Accordingly, no increase in density is being sought.

9. **Additional Findings to Section 303(c) for Conditional Use Authorization request.** Each Planning Code Section may establish criteria for the Planning Commission to consider when reviewing applications for Conditional Use Authorization. The Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:

- A. **Additional Findings pursuant to Section 317** establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications to demolish or convert Residential Buildings. On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:

- (1) whether the project removes rental units subject to the Residential Rent Stabilization and Arbitration Ordinance or affordable housing;

The existing five units are not deed-restricted, tax-credit funded affordable housing. Although Planning Staff does not have the authority to make a determination on the rent control status of a property, it is to be assumed that the units to be demolished are subject to the Residential Rent Stabilization and Arbitration Ordinance due to building construction date circa 1950. Only two of the five units are occupied, and the project sponsor will be working with the Mayor's Office of Housing and Community Development (MOHCD) and other parties to ensure a relocation plan. The project includes five additional on-site affordable units in excess of its inclusionary housing requirement (13.5%, or 43 units) as new, on-site replacement units. The project proposes a total of 48 on-site affordable units pursuant to Section 415 of the Planning Code.

- (2) whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;

Although the existing housing will not be conserved, the mixed-use project, which merges three lots, will replace the five existing units – only two of which are currently occupied – with 316 newly constructed group housing rooms. The five replacement rooms and 311 group housing rooms in the project meet the stated purpose of the North of Market Residential Special Use District and the City's priority policies to encouraging dense infill housing in close proximity to transit. By providing a varied bedroom mix and on-site affordable units (41 inclusionary units/rooms and 5 replacement inclusionary units/rooms), the surrounding neighborhood's cultural and economic diversity will be enhanced.

- (3) whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

The project conserves neighborhood character with a mixed-use project including 316 newly constructed group housing rooms, including 48 units/rooms as on-site affordable, a church, retail space, all while including features that are consistent with the character defining features

of the Uptown Tenderloin National Register Historic District. Architectural elements from existing structures will be incorporated into the new building design to maintain its connection to the neighborhood's history. The new building design is compatible with the prevailing development pattern and neighborhood character on the project and surrounding blocks. The group housing rooms – primary one bed but a small number with two beds per room – is balanced with compliant residential open space at various levels and communal amenity space throughout the residential portion. The minimal amount of ground floor retail supports the new and existing residential uses, and, overall, the project seeks to enhance the neighborhood's economic and cultural diversity. Pursuant to Condition of Approval Nos. 12a and 13 in Motion No. 20281, the Project design was modified to remove the existing colonnaded façade at 450 O'Farrell Street from the project, and the revised design was presented to the Planning Commission at an informational hearing on October 3, 2019.

- (4) whether the project protects the relative affordability of existing housing;

None of the five units in the existing building are deed-restricted affordable housing, however, are presumed to be subject to the Rent Stabilization and Arbitration Ordinance. The Project as a whole is required to comply with San Francisco's inclusionary housing program under Section 415 of the Planning Code. In addition, the five units to be demolished will be replaced as on-site inclusionary. As a result, 15.2% of the group housing rooms provided on-site will be affordable (41 required inclusionary units/rooms and 5 replacement inclusionary units/rooms).

- (5) whether the project increases the number of permanently affordable units as governed by Section 415;

By demolishing the five existing units, and replacing them with a project that will comply with Section 415 of the Planning Code, the number of affordable units will increase. The Project's required inclusionary is 13.5% or 41 affordable units/rooms and the replacement five affordable units/rooms, will produce a project with 46 on-site affordable units/rooms, thereby increasing the supply of newly constructed affordable units within a market-rate project.

- (6) whether the project increases the number of family-sized units on-site;

The five existing units are all studios, and therefore are not family-sized. The project currently proposes 316 group housing rooms with up to 632 beds. The project includes approximately 28 group housing rooms which exceed 500 square feet are intended for occupancy of two or more individuals.

- (7) whether the project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;

The project is of superb architectural and urban design quality and enhances existing neighborhood character. The EIR for the project has determined the new building compatible with the Uptown Tenderloin National Register Historic District. The project will be a contemporary, but compatible, design that references the character-defining features of the surrounding district, in terms of size and scale, composition, and materials. The massing is compatible in terms of lot occupancy, solid-to-void ratio, and vertical articulation. Material

selection includes pre-cast concrete, with varying finishes, with deep recesses for glazing at the primary elevations fronting the street, and non-reflective metal panel systems with vertical oriented glazing and spandrel panel at the elevations setback from the street and secondary elevations. Further, the design minimizes the building's mass with alternating setbacks, which seeks to minimize the appearance of bulk and minimize impacts to adjacent neighbors' light and air, consistently applied design guidelines.

Pursuant to Condition of Approval Nos. 12a and 13 in Motion No. 20281, the Project design was modified to remove the existing colonnaded façade at 450 O'Farrell Street from the project, and the revised design was presented to the Planning Commission at an informational hearing on October 3, 2019.

- (8) whether the project increases the number of on-site Dwelling Units;

The existing 532 Jones Street building contains five presumed studio dwelling units. The project proposes 316 group housing rooms which is an increase of on-site residential units/ rooms.

- (9) whether the project increases the number of on-site bedrooms;

The existing 532 Jones Street building contains five studio units, i.e. no bedrooms. The project currently proposes to increase the number beds to a maximum of 632 beds in 316 bedrooms.

- (10) whether or not the replacement project would maximize density on the subject lot;

The project provides 316 group housing rooms (with up to 632 beds) by proposing to merge three lots - the 532 Jones Street, 474 O'Farrell Street, and 450 O'Farrell Street lots - and developing one building. Density permitted for group housing in the RC-4 zoning district would allow 316 group rooms on this site. By merging three lots and building vertically to the permitted height limit for the site, the project is able to provide full use of the density available on the subject lot, as well as the adjacent two lots. Notably, the project sculpts the massing adjacent to the existing neighbors to preserve light and air.

- B. **Additional Findings pursuant to Section 253(b)(1)** establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications for a building exceeding a height of 40 feet in a RM or RC District where the street frontage is more than 50 feet. In reviewing any such proposal for a building or structure exceeding 40 feet in height in a RH District, 50 feet in height in a RM or RC District, or 40 feet in a RM or RC District where the street frontage of the building is more than 50 feet, the Planning Commission shall consider the expressed purposes of this Code, of the RH, RM, or RC Districts, and of the height and bulk districts, set forth in Sections 101, 209.1, 209.2, 209.3, and 251 hereof, as well as the criteria stated in Section 303(c) of this Code and the objectives, policies, and principles of the General Plan, and may permit a height of such building or structure up to but not exceeding the height limit prescribed by the height and bulk district in which the property is located. On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:

The height of the building varies from 55 feet to 130 feet, exceeding the 40 feet in height on a site with more than 50 feet of street frontage in an RC district, but in compliance with the 80-T-130-T height and bulk district applicable to this project site. As discussed at length in the Section 303(c) findings and further in the General Plan Compliance section, the project is on balance compatible with the criteria, objectives, and policies and principles of the RC-4 district, North of Market Residential Special Use District subarea No. 1, and the General Plan. Specifically, RC-4 districts call for a mixture of high-density dwellings with supporting commercial uses and open space. The project provides that 316 group housing rooms, with retail and religious institution uses on the lower levels.

- C. **Additional Findings pursuant to Section 249.5(c)(1) for Section 263.7** establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications for a building exceeding a height of 80 feet in the North of Market Residential Special Use District. In the 80-120-T and 80-130-T Height and Bulk Districts located within the North of Market Residential Special Use District (NOMRSUD), heights higher than 80 feet would be appropriate in order to effect a transition from the higher downtown heights to the generally lower heights of the existing buildings in the NOMRSUD core area and the Civic Center area and to make more feasible the construction of new housing, provided that development of the site is also consistent with the general purposes of the NOMRSUD as set forth in Section 249.5(b). In making determinations on applications for Conditional Use authorizations required for uses located within the North of Market Residential Special Use District, the Planning Commission shall consider the purposes as set forth in Subsection 249.5(b) as delineated below. On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:
- (1) protect and enhance important housing resources in an area near downtown;
The project increases housing resources in the downtown area with proposed 316 group housing rooms.
 - (2) conserve and upgrade existing low and moderate income housing stock;
The project replaces the existing five residential units with newly constructed replacement units/rooms. As such, the project provides a total of 48 on-site inclusionary affordable units/rooms.
- D. **Additional Findings pursuant to Section 271(c)** establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications for a building's bulk limits to be exceeded. Exceptions to the Section 270 bulk limits are permitted through Section 271. On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:
- a. The appearance of bulk in the building, structure or development shall be reduced by means of at least one and preferably a combination of the following factors, so as to produce the impression of an aggregate of parts rather than a single building mass:
 - i. Major variations in the planes of wall surfaces, in either depth or direction, that significantly alter the mass;
 - ii. Significant differences in the heights of various portions of the building, structure or development that divide the mass into distinct elements;

- iii. Differences in materials, colors or scales of the facades that produce separate major elements;
 - iv. Compensation for those portions of the building, structure or development that may exceed the bulk limits by corresponding reduction of other portions below the maximum bulk permitted; and
 - v. In cases where two or more buildings, structures or towers are contained within a single development, a wide separation between such buildings, structures, or towers.
- b. In every case the building, structure, or development shall be made compatible with the character and development of the surrounding area by means of all of the following factors:
- i. A silhouette harmonious with natural land-forms and building patterns, including the patterns produced by height limits;
 - ii. Either maintenance of an overall height similar to that of surrounding development or a sensitive transition, where appropriate, to development of a dissimilar character;
 - iii. Use of materials, colors, and scales either similar to or harmonizing with those of nearby development; and
 - iv. Preservation or enhancement of the pedestrian environment by maintenance of pleasant scale and visual interest.

The project's O'Farrell Street elevation is articulated to break the massing down into several distinct sections. The 13-story massing would be setback from the street/retained façade. Vertical recesses are introduced at ground level between the church and other massing, and above ground level to break up massing and increase articulation.

The proposed O'Farrell Street elevation references the tripartite composition characteristic of the district. Specifically, the existing 450 O'Farrell Street façade and the proposed church façade will be the base, the apartments will be the middle, and the parapet will define the top. The proposed base at the new church and at the Jones Street elevation will be further articulated as a two-part vertical composition with a high ground floor, similar to the bases of the adjacent and surrounding district contributors.

The articulation of the proposed façade along O'Farrell Street will divide the façade in vertical subzones and will reflect the verticality of the nearby buildings by breaking up the form. The projecting precast concrete sections (rendered in white) with punched rectangular windows accentuate the elongated form of the building. On the western half of the elevation, the orientation of the rectangular windows strengthens verticality while adding rhythm to the façade, through application of an alternate materials palette: non-reflective metal, spandrel panel and glazing system. The secondary façades, including the western setback and the Shannon Street elevation, will be relatively flat, broken by lines and projecting balconies on Shannon Street.

Continuous street walls are typical of the district. The 8-story building component to the west, which will be clad in a textured pre-clad concrete and will house the new church, will

extend to the property line. In addition, the Jones Street elevation will also extend to the property line, creating a continuous street wall. This urban design move preserves and enhances the pedestrian environment since the required use of transparency at these elevations provides an openness for pedestrians and users.

The building's design is well-articulated in order to reduce the apparent massing and includes retention of a unique urban design feature as a device to orient the community. The site is within the Uptown Tenderloin National Register Historic District, and the new building has been determined compatible with the District and the character of the surrounding neighborhood, specifically the scale and size, composition, materials, and architectural details.

Pursuant to Condition of Approval Nos. 12a and 13 in Motion No. 20281, the Project design was modified to remove the existing colonnaded façade at 450 O'Farrell Street from the project, and the revised design was presented to the Planning Commission at an informational hearing on October 3, 2019. The amended Project does not exceed the original approval of bulk exceedance.

- 10. General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan as originally described in Section J of Planning Commission Motion No. 20281. The amended Project is consistent with the following Objectives and Policies of the General Plan, except as amended below:

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.

Policy 1.2

Focus housing growth and infrastructure necessary to support growth according to community plans. Complete planning underway in key opportunity areas such as Treasure Island, Candlestick Park, and Hunter's Point Shipyard.

Policy 1.10

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

OBJECTIVE 2

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

Policy 2.1

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

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.

Policy 4.4

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Policy 4.5

Ensure that new permanently affordable housing is located in all of the City's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

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.

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

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

Policy 11.4

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

Policy 11.6

Foster a sense of community through architectural design, using features that promote community interaction.

Policy 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

OBJECTIVE 12

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

Policy 12.2

Consider the proximity of quality of life elements such as open space, child care, and neighborhood services, when developing new housing units.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1

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

Policy 1.3

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

Policy 1.7

Recognize the natural boundaries of districts, and promote connections between districts.

OBJECTIVE 2

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

Policy 2.6

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

OBJECTIVE 3

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

Policy 3.1

Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 3.5

Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.4

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

The Project is a high-density residential development at an infill site, providing 316 group housing rooms in a mixed-use area. The Project includes 43 net new on-site affordable housing units/rooms for rent, plus five replacement units, which assist in meeting the City's affordable housing goals. The Project is also in close proximity to ample public transportation.

The Project generally promotes the purpose of the North of Market Residential Special Use District through infill housing at compatible density. The project introduces 311 net new group housing rooms with on-site affordable units near downtown, provides five new replacement units/ rooms on-site, proposes less than 10,000 square feet of ground floor commercial which can support existing and new residents, and does not shade public open spaces. Although the proposal does not preserve historic architectural resources, the new building scale, materials, and architectural features are compatible with the surrounding neighborhood character and buildings. The Project will activate O'Farrell Street with the re-located church site and retail use, Shannon Street with the residential lobby, and Jones Street with additional retail use. Further, street improvements such as street trees and bicycle parking will further enhance the public realm, consistent with the better street plan policies in the General Plan.

The proposed new construction would produce high-quality architectural design that is compatible with the surrounding neighborhood and with the Uptown Tenderloin National Register Historic District, in which the

site is located. The new building will reflect the characteristic pattern which gives to the City and its neighborhood an image, sense of purpose, and a means of orientation; and, moderating major new development to complement the City pattern, by providing a new, mixed-use development consistent with neighboring 6- to 19-story development in close proximity to the site. The Project would provide a new religious facility that will enable an existing church, which in its current location has been located at this site for more than 90 years, to continue to be located within the community and provide updated, code compliant, and expanded religious instructional and outreach facilities, while salvaging and reusing certain features of the building's interior elements.

Although the project does not provide family housing, the substantial number of new rooms provides housing opportunity. The project, on balance, promotes the policies and objectives of the General Plan by locating housing at a mixed-use infill development site, with neighborhood-serving commercial, and at a density to support it, where households can easily rely on public transportation, walking, and bicycling for a majority of daily trips.

11. Planning Code Section 101.1(b) establishes eight priority-planning policies and requires review of permits for consistency with said policies. The Project is, on balance, consistent with the priority policies as originally described in Section 3 of Planning Commission Motion No. 20281. The amended Project is consistent with the following policies and as amended below:

- 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.

The project site does not possess any neighborhood-serving retail uses. The Project provides 316 group housing units, which will enhance the nearby retail uses by providing new residents, who may patron and/or own these businesses.

- 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 introduces 311 net new group housing rooms with on-site affordable units near downtown, provides five new replacement group housing rooms/ units as on-site affordable units, proposes less than 4,000 square feet of ground floor commercial which can support existing and new residents, and does not shade public open spaces. Although the proposal does not preserve historic architectural resources, the new building's scale, materials, and architectural features are compatible with the surrounding neighborhood character and buildings. The Project will activate O'Farrell Street with the re-located church site and retail use, Shannon Street with the residential lobby, and Jones Street with additional retail use. The new building will reflect the characteristic pattern which gives to the City and its neighborhood an image, sense of purpose, and a means of orientation; and, moderating major new development to complement the City pattern, by providing a new, mixed-use development consistent with neighboring 6- to 19-story development in close proximity to the site.

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

The project proposes to replace the five existing residential units, none of which are deed-restricted affordable units but are presumed to be subject to the Rent Stabilization and Arbitration Ordinance, with 316 total group housing rooms, 48 of which are designated on-site affordable housing. As a result, the project creates an increase in the City's supply of affordable housing.

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

The Project Site is served by nearby public transportation options. The Project site is very accessible by public transit, with multiple public transit alternatives (MUNI Bus lines 2-Clement, 3-Jackson, 27-Bryant, 31-Balboa, 38-Geary, 38R-Geary Rapid, and 45-Union/Stockton; Powell Street and Civic Center BART/MUNI) within close walking distance. Additionally, the Project site is directly adjacent to O'Farrell and Jones Streets, both major thoroughfares which provide ready access to those driving.

Parking is available either along surrounding neighborhood streets. The proposed garage has up to 6 parking spaces, all dedicated to churchgoers, in addition to 73 Class 1 and 12 Class 2 bicycle spaces. Given the accessibility of the project site, and the limited retail uses proposed, the project will not create community traffic that impedes MUNI service or overburdens the streets.

- 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 does not include commercial office development.

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

The Project will be designed and will be constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

Part of the project includes demolition of a building (450 O'Farrell Street) determined individually eligible for the California Register of Historic Resources. In certifying the Project's Environmental Impact Report (EIR), the Planning Commission adopted a Statement of Overriding Considerations, Motion No. 20280, finding that the impacts of demolition of the individual historic architectural resource are outweighed by the benefits of the Project. The proposed new construction would produce high-quality architectural design that is compatible with the Uptown Tenderloin National Register Historic District, in which the site is located.

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

Although the Project does cast shadow on the adjacent public park, the adjacent public park (Parque Ninos Unidos) is still afforded access to sunlight, which should not dramatically affect the use and enjoyment of this park. Since the Project is not more than 40-ft tall, additional study of the shadow impacts was not required per Planning Code Section 295.

- 12. First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Administrative Code Section 83.11), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

The Project Sponsor submitted a First Source Hiring Affidavit and prior to issuance of a building permit will execute a First Source Hiring Memorandum of Understanding and a First Source Hiring Agreement with the City's First Source Hiring Administration.

- 13.** 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.
- 14.** The Commission hereby finds that approval of the amended Planned Unit Development/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 an amended Planned Unit Development/Conditional Use Authorization Application No. 2013.1535CUA-02** subject to the original conditions authorized through Planning Commission Motion No. 20281 as "Exhibit A" of that motion, with exception Condition Nos. 24, 25, 26, and 32 of Motion No. 20281, which is amended as described and attached to this Motion hereto as "EXHIBIT A", in general conformance with plans on file, dated December 7, 2020, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

This project has undergone environmental review pursuant to the California Environmental Quality Act and Chapter 31 of the San Francisco Administrative Code. The Planning Commission certified the Final Environmental Impact Report (EIR) for the project on September 13, 2018 (Motion No. 20279). On December 21, 2020, the Planning Department published an addendum to Final EIR for the Project. The Planning Department concluded that no further environmental review is required for this revised Project for the reasons set forth in the Addendum. This Commission concurs with that conclusion. On September 13, 2018, the Commission adopted Motion No. 20280 adopting CEQA findings for the original Project, including a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program (MMRP) for the Project. Those findings and adoption of the MMRP set forth in Motion No. 20280 are incorporated by reference in this Motion as though fully set forth herein.

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. 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 June 24, 2021.



Jonas P. Ionin
Commission Secretary

AYES: Tanner, Diamond, Fung, Koppel

NAYS: Imperial, Moore

ABSENT: Chan

ADOPTED: June 24, 2021

EXHIBIT A

Authorization

This authorization is for amended conditional use authorization to modify Condition of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281 to allow: a mixed-use building, with group housing residential use, institutional use, and ground floor commercial for the Project located at 450-474 O'Farrell and 532 Jones Street, Block 0317, Lots 007, 009, and 011 within the **RC-4 Zoning** District and a **80-T-130-T** Height and Bulk District; in general conformance with plans, dated **May 25, 2021**, and stamped "EXHIBIT B" included in the docket for Record No. **2013.1535CUA-02** and subject to conditions of approval reviewed and approved by the Commission on **June 24, 2021** under Motion No. **20935**. 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 **June 24, 2021** under Motion No. **20935**.

Printing of Conditions of Approval on Plans

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **20935** 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

1. **Parking for Affordable Units.** The amended Project no longer includes off-street residential parking, therefore, this Condition of Approval no longer applies.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

2. **Car Share.** Pursuant to Planning Code Section 166, zero car share spaces shall be made available. The amended Project includes fewer than 24 parking spaces for the non-residential use and no longer includes parking for the residential use, therefore, this Condition of Approval does not apply.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

3. **Bicycle Parking** Pursuant to Planning Code Sections 155, 155.1, and 155.2, the Project shall provide no fewer than **151** bicycle parking spaces (**136** Class 1 spaces for the residential and religious uses portion of the Project and **15** Class 2 spaces for the residential, religious, and commercial uses portion of the Project). SFMTA has final authority on the type, placement, and number of Class 2 bicycle racks within the public ROW. Prior to issuance of first architectural addenda, the project sponsor shall contact the SFMTA Bike Parking Program at bikeparking@sfmta.com to coordinate the installation of on-street bicycle racks and ensure that the proposed bicycle racks meet the SFMTA's bicycle parking guidelines. Depending on local site conditions and anticipated demand, SFMTA may request the project sponsor pay an in-lieu fee for Class II bike racks required by the Planning Code.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

4. **Inclusionary Affordable Housing Program.** The following Inclusionary Affordable Housing Requirements are those in effect at the time of Planning Commission action. In the event that the requirements change, the Project Sponsor shall comply with the requirements in place at the time of issuance of first construction document.

- a. **Number of Required Units.** Pursuant to Planning Code Section 415.3, the Project is required to provide 13.5% of the proposed dwelling units as affordable to qualifying households. The Project contains 316 units/rooms, of which 5 are replacement units/ rooms; therefore, 48 affordable units/rooms are currently required (43 units/ rooms to satisfy the 13.5% on site requirement and 5 replacement units/ rooms). The Project Sponsor will fulfill this requirement by providing the 46 affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD").

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- b. **Unit Mix.** The Project contains 316 group housing rooms; therefore, the required affordable unit mix is 43 group housing rooms. In addition, five replacement group housing rooms/ units are required. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOHCD.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- c. **Income Levels for Affordable Units.** Pursuant to Planning Code Section 415.3, the Project is required to provide 13.5% of the proposed dwelling units as affordable to qualifying households at a rental rate of 55% of Area Median Income. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD").

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- d. **Minimum Unit Sizes.** Affordable units are not required to be the same size as the market rate units and may be 90% of the average size of the specified unit type. For buildings over 120 feet in height, as measured under the requirements set forth in the Planning Code, the average size of the unit type may be calculated for the lower 2/3 of the building as measured by the number of floors.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- e. **Replacement of Existing Affordable Units.** The principal project has resulted in demolition, conversion, or removal of affordable housing units that are subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate-, low- or very-low-income, or housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power and determined to be affordable housing. Pursuant to Planning Code Section 415.6(a)(9), the project sponsor shall replace the five (5) units that were removed with units of a comparable number of bedrooms and rents. The project shall replace five (5) units (5 group housing rooms/units) priced at 55% AMI.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- f. **Notice of Special Restrictions.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to architectural addenda. The designation shall comply with the designation standards published by the Planning Department and updated periodically.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- g. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than thirteen and a half percent (13.5%) plus the five replacement units, or the applicable percentage as discussed above, of the each phase's total number of dwelling units as on-site affordable units.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- h. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- i. **Reduction of On-Site Units after Project Approval.** Pursuant to Planning Code Section 415.5(g)(3), any changes by the project sponsor which result in the reduction of the number of on-site affordable units shall require public notice for hearing and approval from the Planning Commission.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- j. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOHCD at 1 South Van Ness Avenue or on the Planning Department or MOHCD websites, including on the internet at: <http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>. As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600,

www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- i. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) be constructed, completed, ready for occupancy, and marketed no later than the market rate units, and (2) be evenly distributed throughout the building; and (3) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model, or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
 - ii. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, such as defined in the Planning Code and Procedures Manual. The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
 - iii. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least six months prior to the beginning of marketing for any unit in the building.
 - iv. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
 - v. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.
 - vi. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law, including penalties and interest, if applicable.
5. **Group Housing Cooking Facilities.** Pursuant to ZA Interpretation of 209.2(a), effective October 2005, are allowed to have limited kitchen facilities with the following specifications: a small counter space, a small under-counter refrigerator, a small sink, a microwave, and a small two-ring burner. Such limited kitchen facility

shall not include any other type of oven, as that would constitute a full kitchen.

6. Increase the number of larger group housing units, wherever feasible.
7. Provide balconies to maximum projection on all sides except O'Farrell Street.
8. Continue working with Staff to increase the number of bicycle parking spaces, up to 200.
9. Convert the ground-floor retail space to group housing units.
10. Work with Staff to analyze the feasibility of converting the basement to additional group housing units.

450 O'FARRELL STREET

CONDITIONAL USE AND VARIANCE APPLICATION

Version 3B

May 25th, 2021

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Zoning Information Overview:

Site: 450 O'Farrell Street, San Francisco CA 94102
Parcel: Block 0317 / Parcels 007, 009, 011

Zoning: RC-4 (Residential-Commercial, High Density)
Special Use Districts: North of Market Residential 1
Fringe Financial Services RUD
Within 1/4 mile of an Existing Fringe Financial Service

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Site Information

Parcel Map
Existing Survey
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Existing Context

Proposed Design Revisions

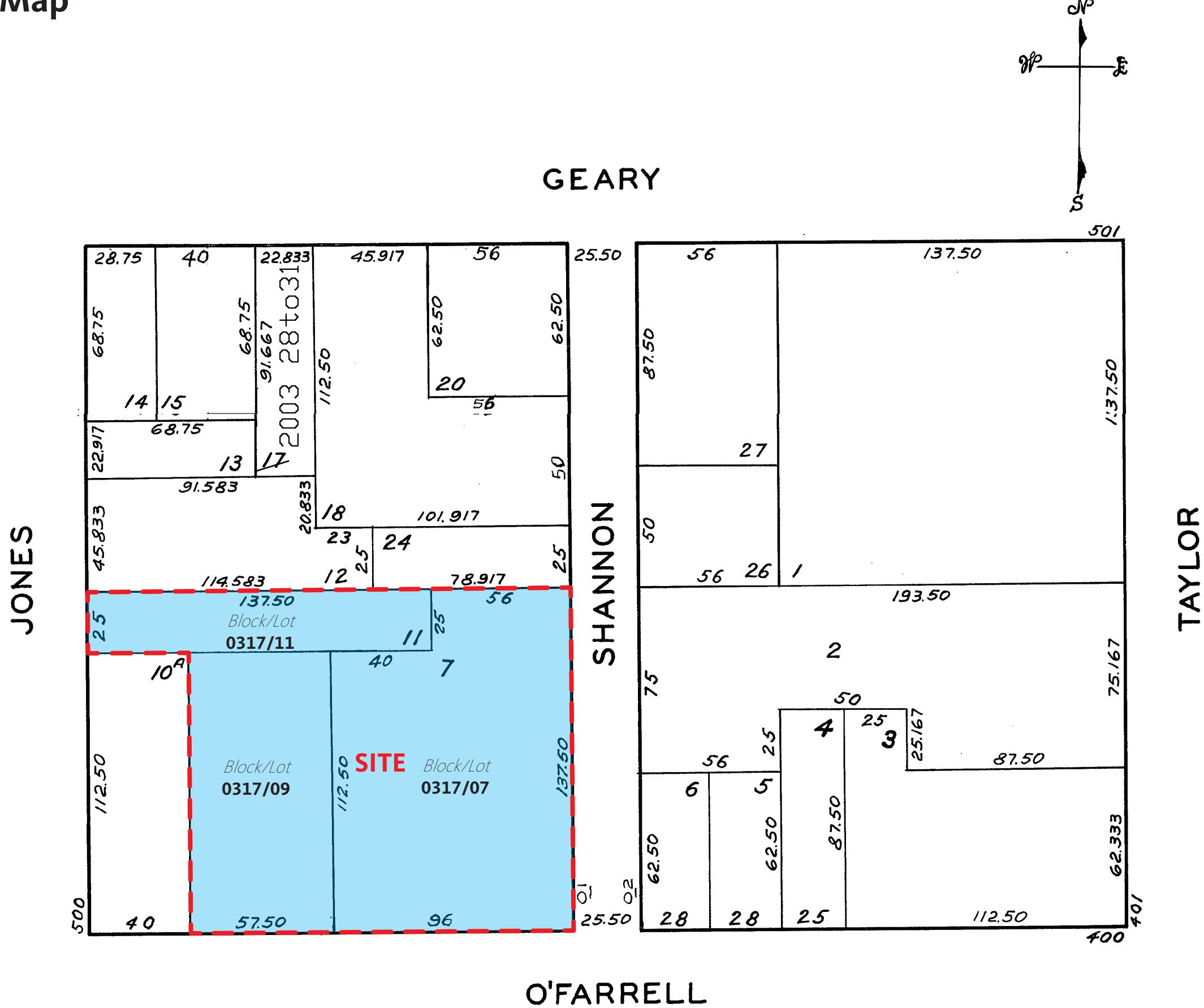
Zoning
Site Plan Existing
Site Plan Proposed
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Plan - Level 5-9
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Plan - Large Unit Plan
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Section - North / South
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Diagram - Bulk Reduction
Elevation - Jones Street
Diagram - Excavation Diagram

Previously Approved

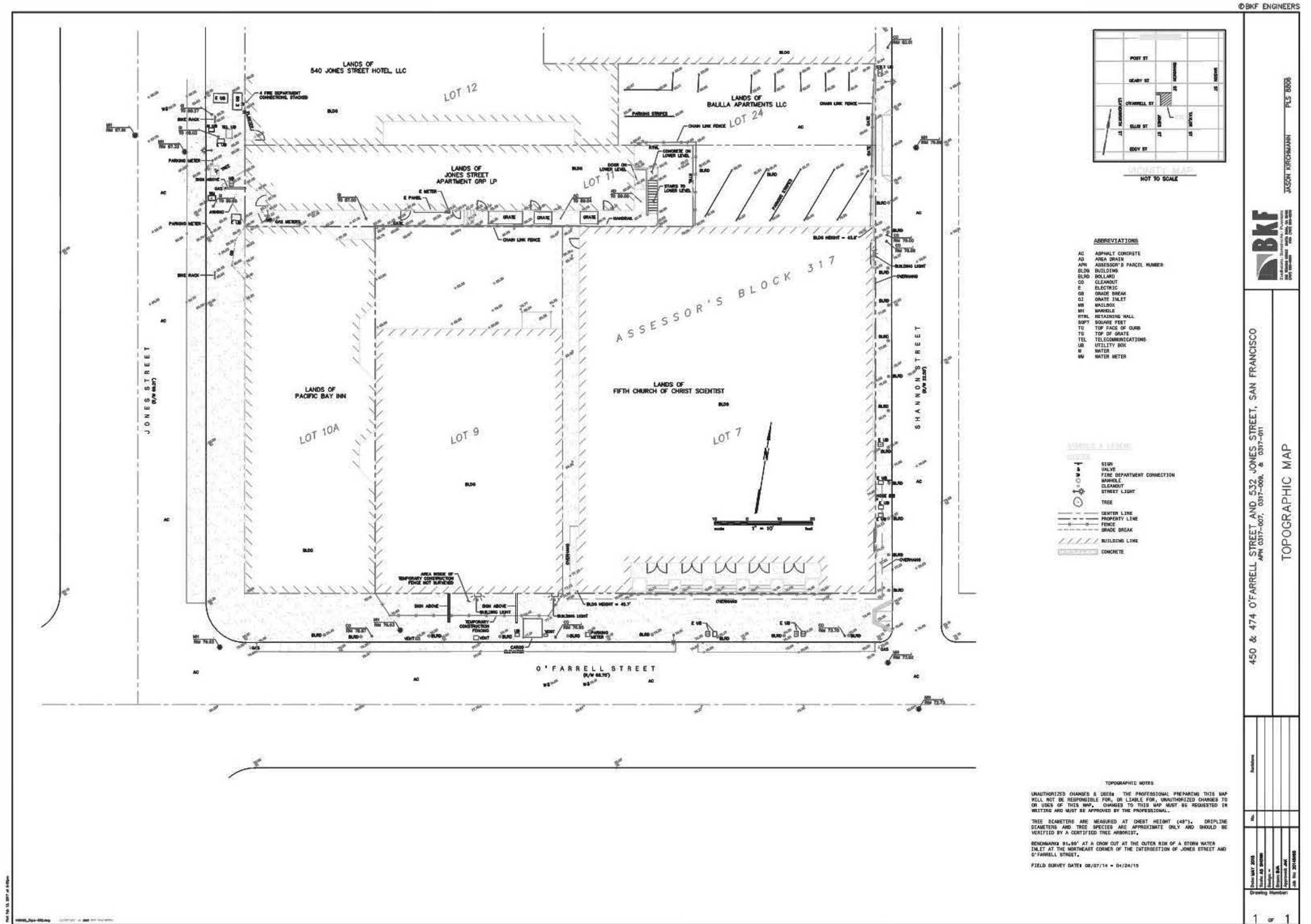
Elevation - O'Farrell St.
Elevation - Jones St.
Elevation - Shannon St.
Rendering - O'Farrell St.
Building Materials



Site - Parcel Map



Site - Existing Survey



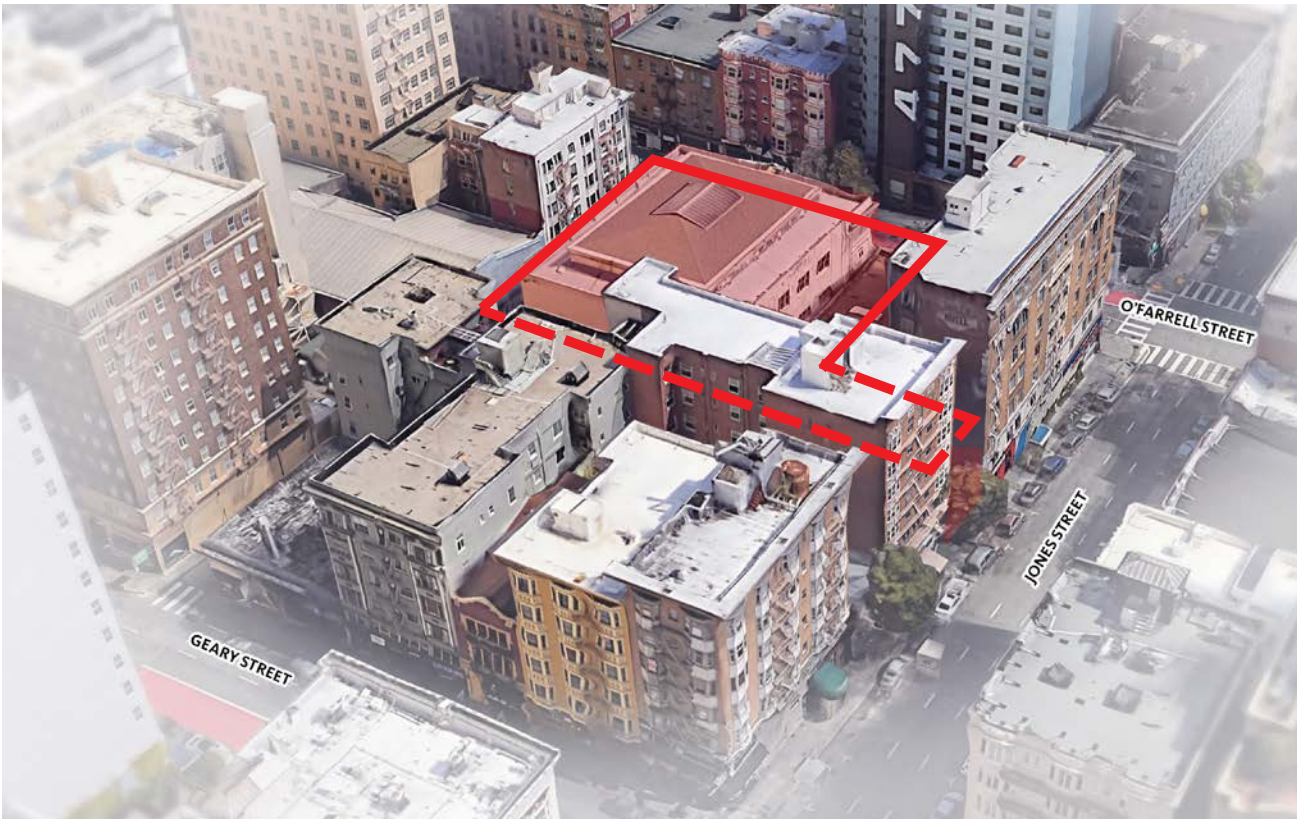
Site - Aerial Images



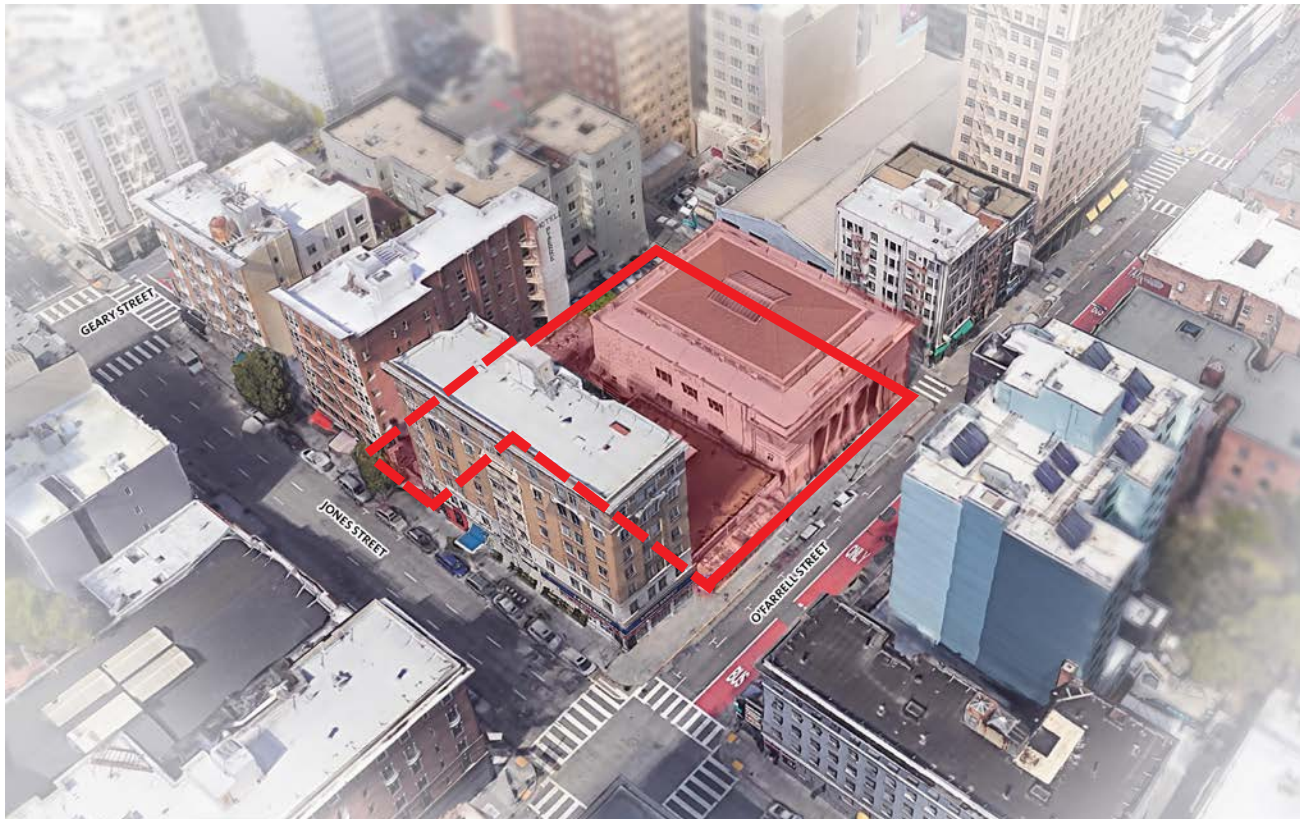
Looking North West



Looking South West



Looking South East



Looking North East

Site - Existing Context



North West At O'Farrell St



North West At Shannon St



North East At Jones St & O'Farrell St



South East At Jones St & O'Farrell St

Proposed Design Revisions

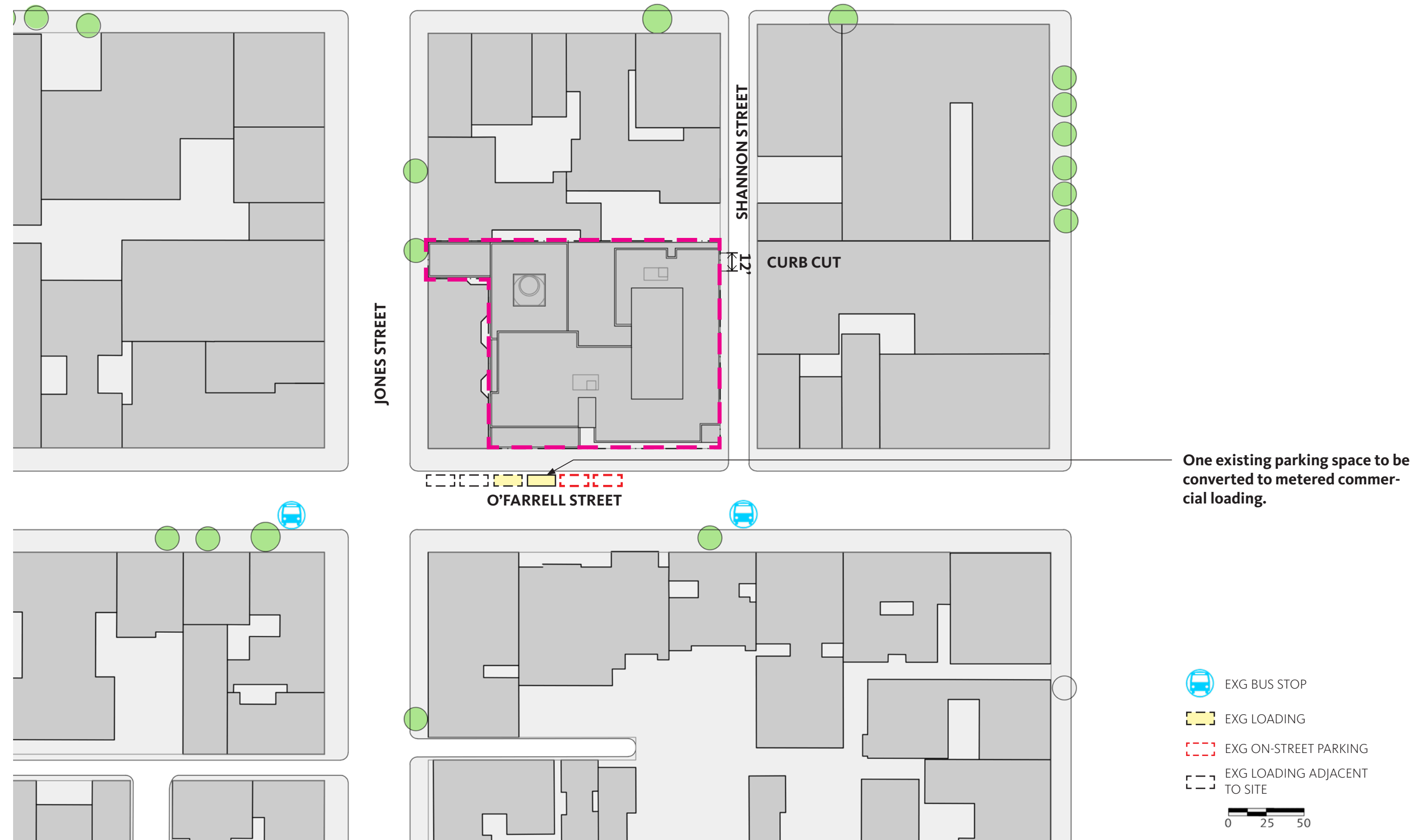
Project Data - Zoning

	Site / Zoning	Approved	Proposed Revisions
Site	450 O'Farrell Street, San Francisco CA 94102	-	-
Parcel	Block 0317 / Parcels 007, 009, 011	-	-
Zoning	RC-4 (Residential-Commercial, High Density)	-	-
Special Use Districts:	North of Market Residential 1 Fringe Financial Services RUD Within 1/4 mile of an Existing Fringe Financial Service	-	-
Rear Yard	25% Lot Depth, no less than 15', at the level of the lowest dwelling unit. Sec. 134	A modification of the rear yard per Sec. 134(g), through the PUD process, to allow for open space in a configuration other than a rear yard. The building is approved with full lot coverage at the ground level, however the upper levels are sculpted in an L-shaped configuration with a light well to match the neighbor to the West.	The rearyard is proposed to remain similar to the previously entitled rearyard, with the exception that additional rearyard is created at the inner most portion of the L-shape; please see plan.
Dwelling Unit Exposure	Dwelling Units and Group Housing shall have a room of 120 SF with a window onto a space meeting the requirements of Sec. 140. Further pursuant to Sec 140(b), for group housing projects, either each bedroom or at least one interior common area that meets the 120 square-foot minimum superficial floor area requirement with a window facing onto a street	An exception to dwelling unit exposure requirements per Sec. 140 for 21 of the 176 units. This equates to 11.9% of the units requiring an exception.	The proposed project includes an interior common room on level 2 which complies with the requirements of section 140 of the planning code.
Off-Street Loading	1 Loading Off-Street Space per 100,000 SF of Occupied SF. Sec. 152	An exception to the off-street loading requirements per Sec. 152 which require one residential loading space. Instead the project proposes to convert one of the three existing general on-street metered parking spaces on O'Farrell Street adjacent to the project to a metered commercial loading space & to convert the two existing vehicle passenger loading / unloading zoning adjacent to the project site be revised from only during church service to all day passenger loading / unloading.	No revisions proposed.
Permitted Obstructions	Sec. 136	An exception to permitted obstructions, project balconies project over Shannon St. 4 inches beyond what is permitted.	Balconies extending 1'-0" over the property line at Shannon are proposed. According to Sec 136(c) this 1foot projection is permitted
Height & Bulk	80-T - 130-T; Per Table 270 a max. Length of 110' & a max. diagonal of 125' apply above the predominate street-wall or 80', whichever is less. Sec. 253, 249.5/263.7	The height and bulk we approved as shown in the original CU application.	No revisions proposed.
Open Space	Per Dwelling Unit: 36 SF if Private, 48 SF if Common Per Bedroom in Group Housing: 1/3 the dwelling unit requirement (16 SF per Bedroom)	Meets 100% of the Open Space requirement, per SF Planning. 176 Total Units; 4 with Private, 172 req. Common. 172 Units * 48 SF per Unit = 8,256 SF required Common Open Space	Meets 100% of the Open Space requirement, per SF Planning. This reduces the area from 8,256 SF to 5,072 SF. 316 Bedrooms * 16 SF per = 5,056 SF required, 5,060 SF Open Space Proposed.
Parking	None Required. Permitted 0.5 spaces per unit & max. permitted with CU 0.75 spaces per unit	Residential Parking Spaces. 49 Spaces.	0 Residential Parking Spaces, 6 Dedicated Church Parking Spaces.
Bike Parking	Residential Grouphousing requires (1) Class 1 space per 4 beds (first 100 beds) & (1) Class 1 space per 5 beds (above 100). (2) Class 2 spaces per 100 beds. Religious Use requiried (5) Class 1 spaces for capacity less than 500. (1) Class 2 spaces per 500 seats. Retail requires (1) Class 1 space per 7,500 sf of retail, (2) Class 2 spaces per 2,500 sf of retail.	-	Bike Parking: Group Housing: Class 1 = (131) spaces, Class 2 = (12) spaces Religious Use: Class 1 = (5) spaces, Class 2 = (1) space Retail: Class 1 = (0) spaces, Class 2 = (2) spaces <u>Totals: Class 1 = (136) spaces, Class 2 = (15) spaces</u> Additional Measures: - Bicycle Repair Station - Multimodal Way Finding Signage - Real Time Transportation Displays

Site Plan - Existing



Site Plan - **Proposed**



Proposed Project - Area Chart

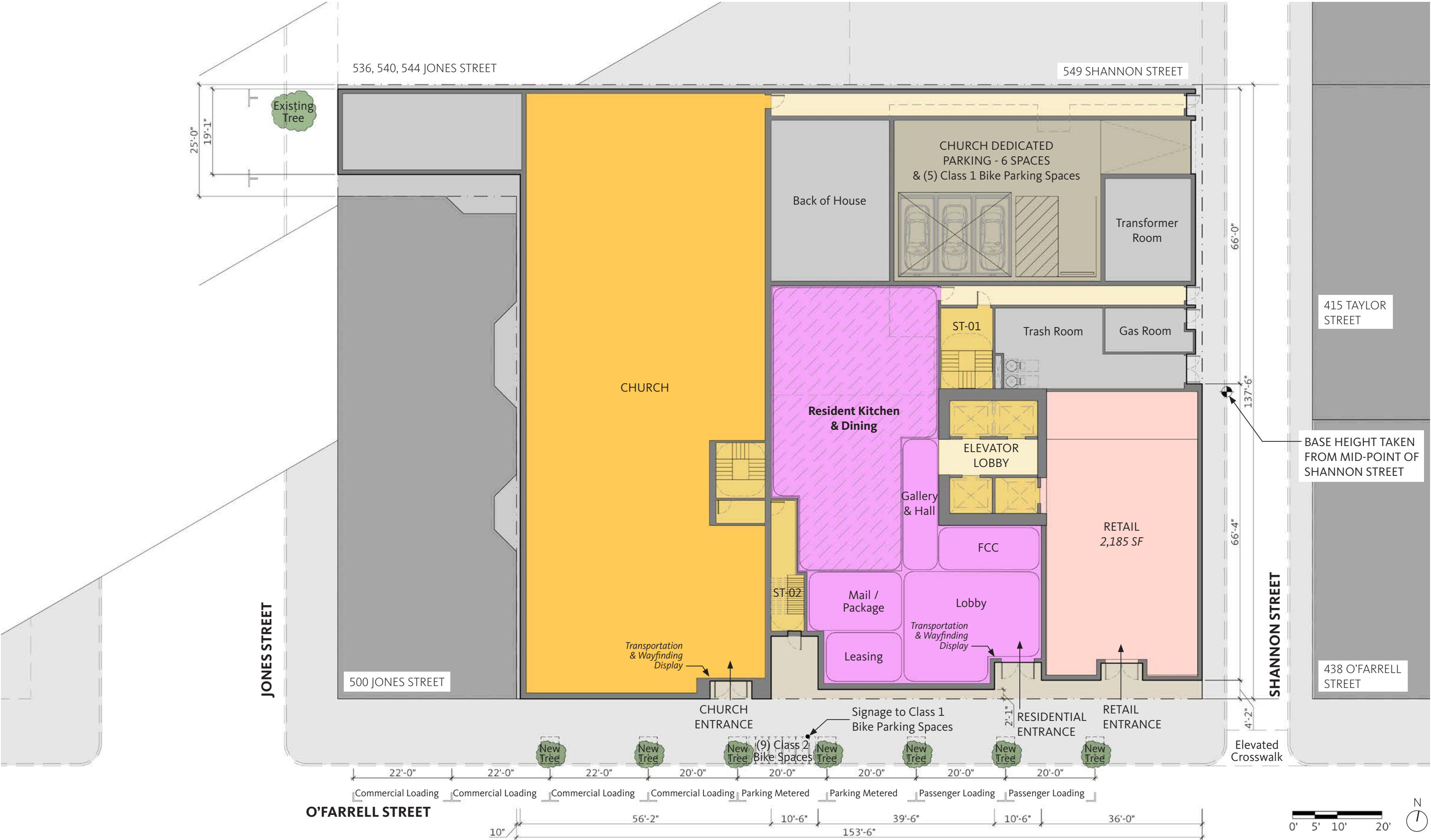
Levels		Project Areas (SF)								Unit Count (Group Occupancy Unit, GOU)				Open Space (SF)			Parking (Spaces)			
		Net Residential	Amenities	Common	Residential Subtotal	Retail @ O'Farrell St.	Church	Retail @ Jones St.	Parking & Mechanical	Total Built Area	GOU Small	GUO Medium	GUO Large	Totals	Private	Common	Total	Spaces	ADA	Total
Level	Roof								1,802	1,802						3,220	3,220			
Level	13	11,265		2,714	13,979					13,942	2	22	2	26			-			
Level	12	10,796	633	2,707	14,136					13,942	2	22	2	26			-			
Level	11	11,265		2,703	13,968					13,942	2	23	2	27			-			
Level	10	11,265		2,703	13,968					13,942	2	23	2	27			-			
Level	9	11,308		2,732	14,740					14,740	2	25	1	28			-			
Level	8	11,308	633	2,732	14,107					14,740	2	25	1	28			-			
Level	7	11,942		2,732	14,740					14,740	2	25	1	28			-			
Level	6	11,942		2,732	14,740					14,740	2	25	1	28			-			
Level	5	11,308		2,732	14,107					14,740	2	25	1	28			-			
Level	4	12,073	633	2,995	15,702					15,702	4	25	1	30		1,840	1,840			
Level	3	8,912		2,951	11,863		2,989			14,411	2	17	2	21			-			
Level	2	7,820	338	3,011	11,169			670		11,802	1	17	1	19			-			
Level	1		3,745	1,360	5,105	2,115	6,935		6,850	21,007							-	5	1	6
Level	B1					3,238			10,018	13,256							-			
Totals		131,205	5,982	34,802	172,323	5,353	9,924	670	18,670	207,448	25 7.9%	274 86.7%	17 5.4%	316	- 0 Units	5,060 316 Units	5,060	5	1	6

Open Space Requirements	The Open space requirement for Dwelling Units is 36 SF if Private & 48 SF if Common. For group housing the minimum amount of usable open space provided for use by each bedroom shall be one-third the amount required for a dwelling unit as specified; 16 SF Common per unit.	316 Units X 16 SF/Unit = 5,056 SF	Sec. 135 SF Planning Code
Parking Requirements	None Required; Permitted, 1 Space per DU, Max. w/ CU, 3 Spaces per 4 DU. NOTE: Parking it for Church Use only - Not for public use.	None Required	Sec. 155 SF Planning Code
Inclusionary Affordable Housing Program	The project will provide BMR units at a count of 13.5% of the total units plus 5 replacement units; 48 Rooms are to be provided. <i>Base requirement: 316 unit * 13.5% = 43 Rooms (42.66, rounded up).</i> <i>Replacement Rent controlled units =5 Rooms</i> <i>Total Rooms: 43 Units + 5 Units = 48 Units</i>	48 Units	Per Approval on October 3rd, 2019

Plan - Basement Level



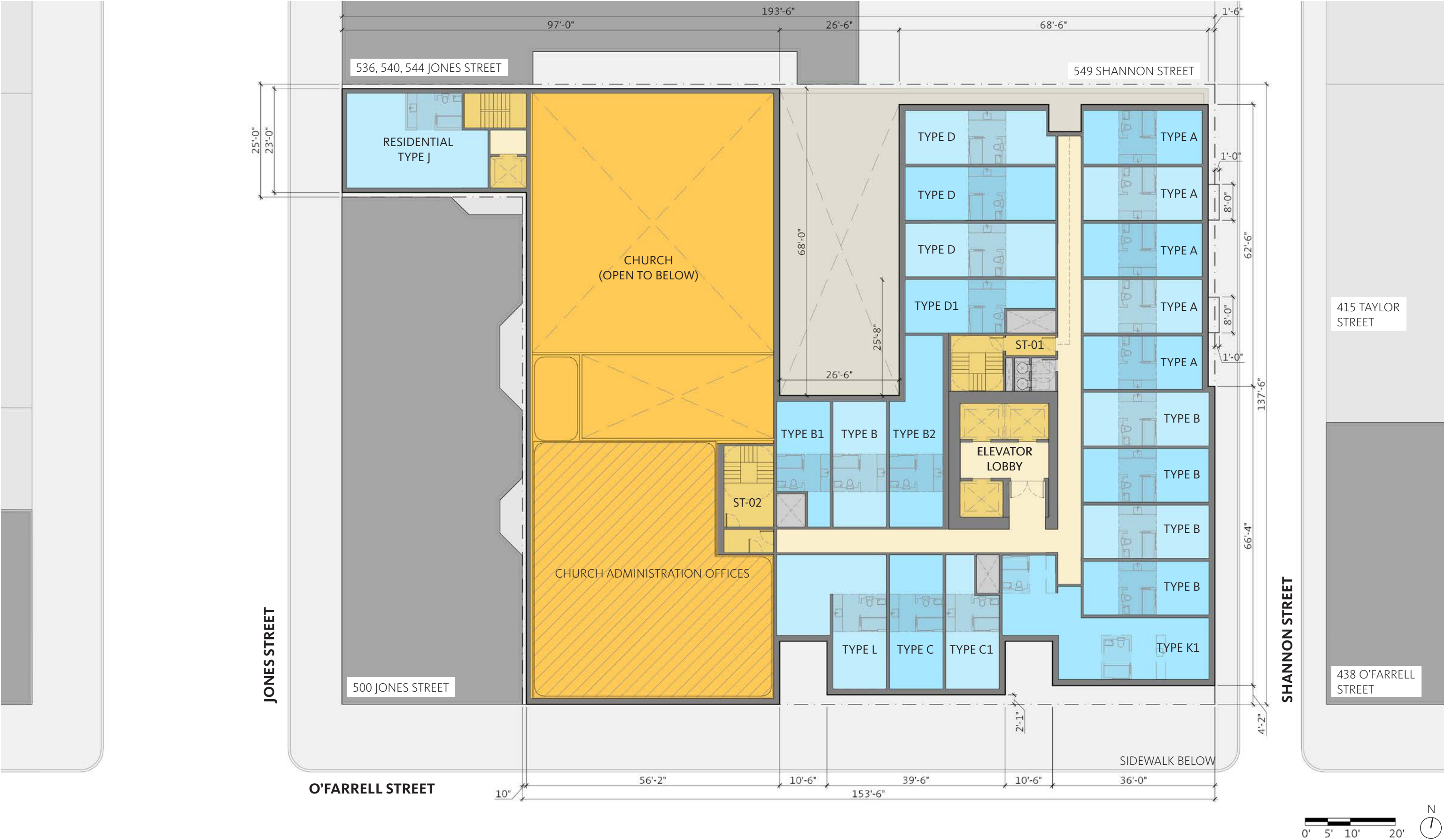
Plan - Ground Floor Level



Plan - Level 2



Plan - Level 3



Plan - Level 4



Plan - Level 5 & 9



Plan - Level 6 & 7



Plan - Level 8



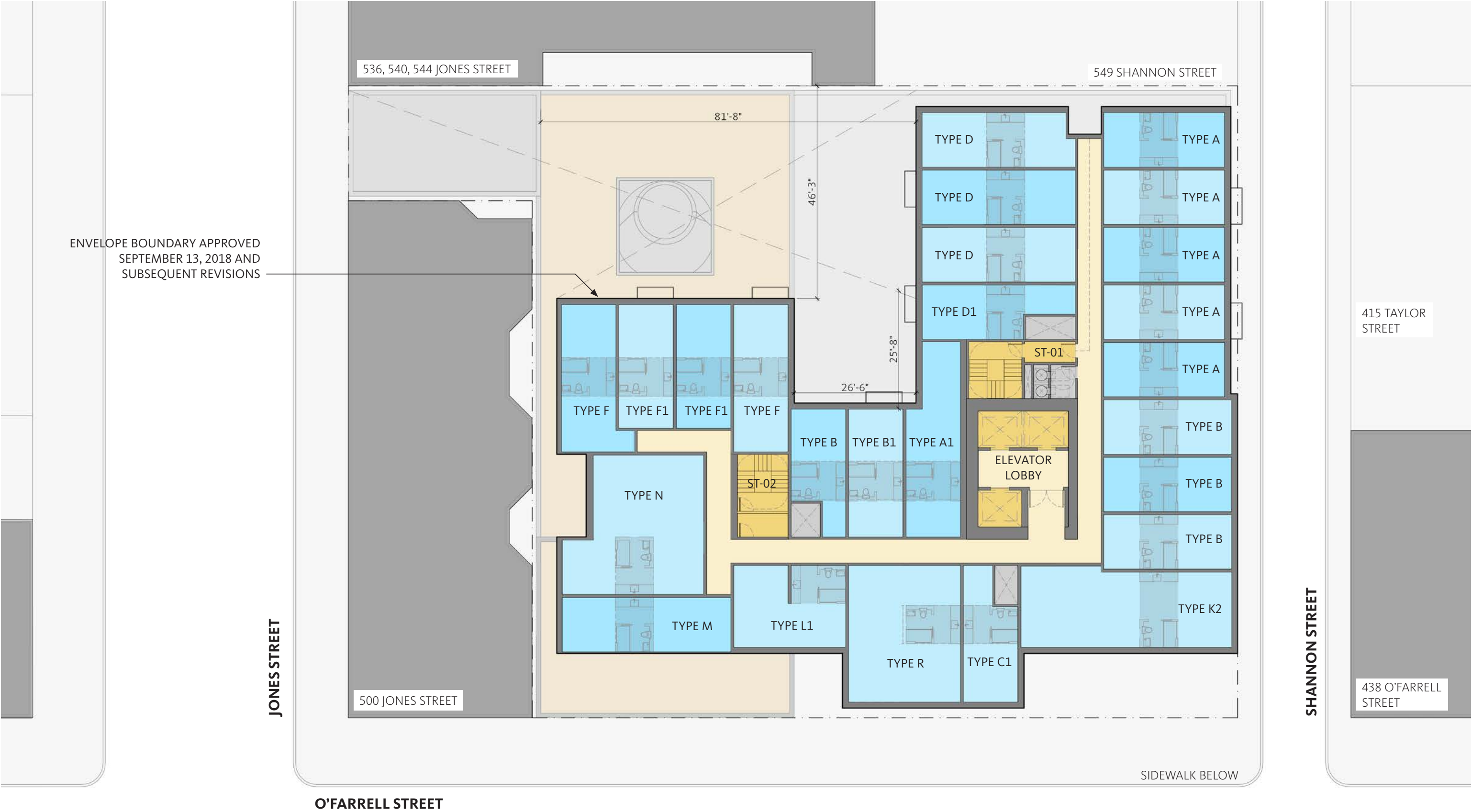
Plan - Level 10 & 11



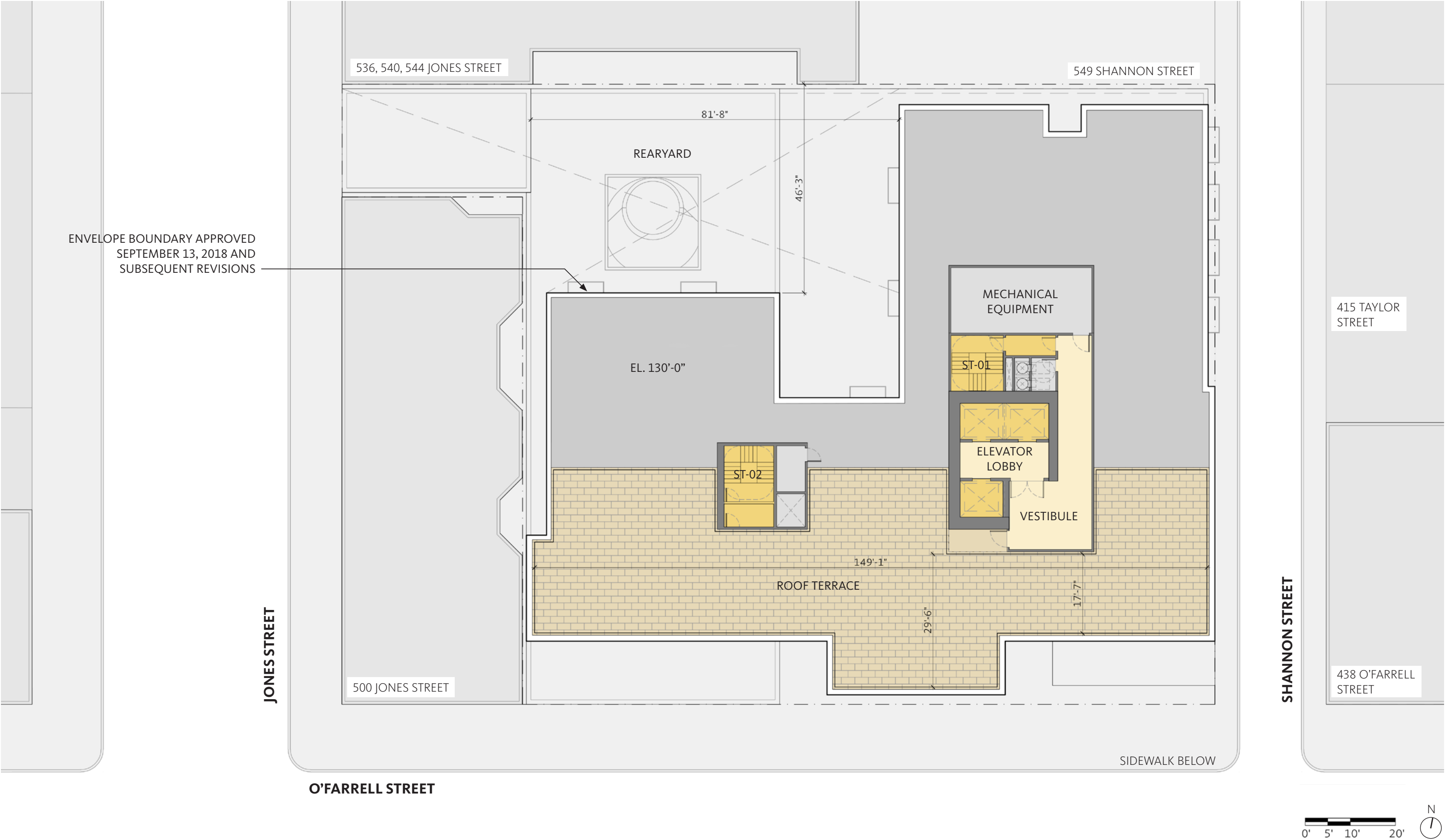
Plan - Level 12



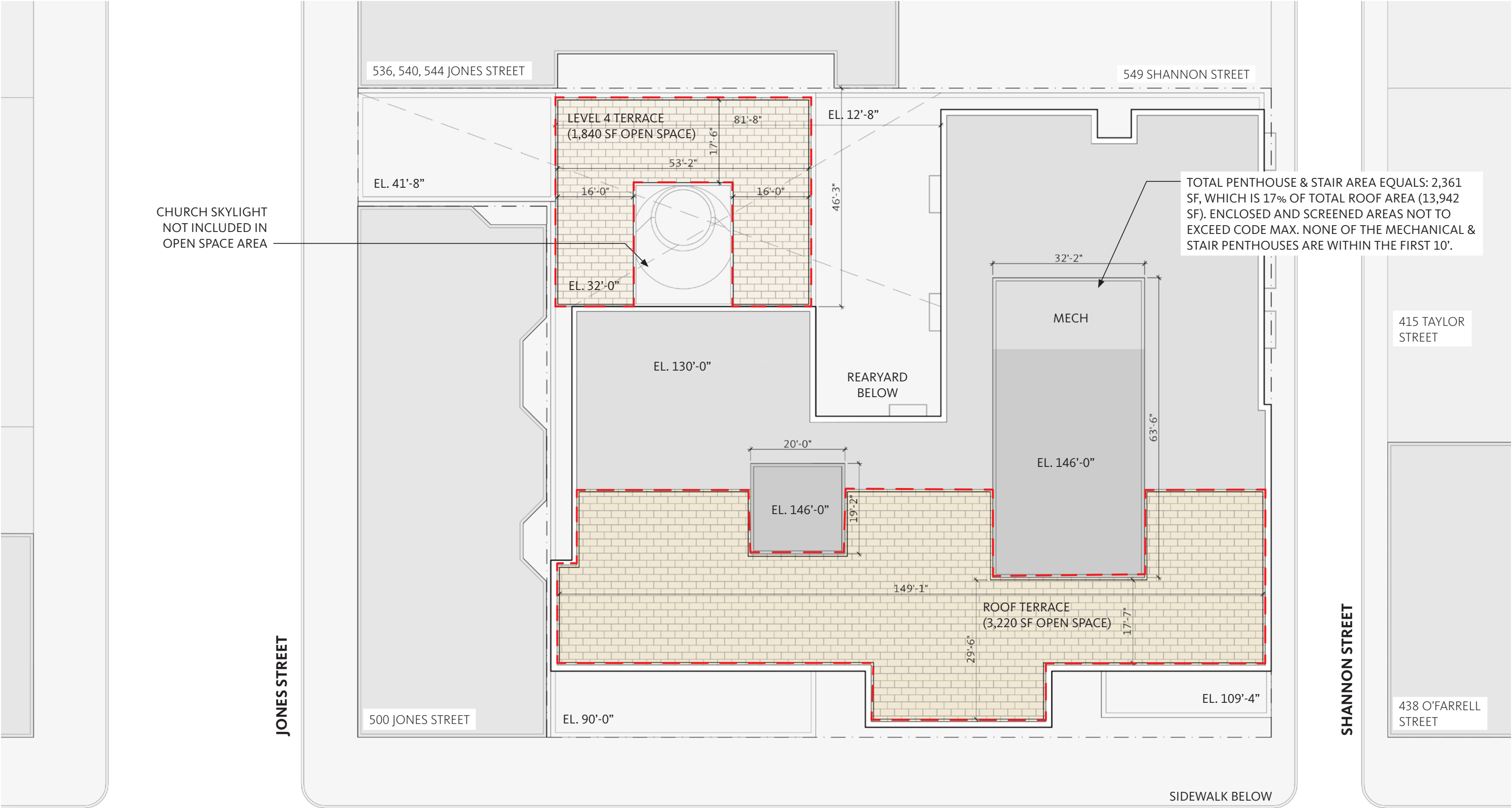
Plan - Level 13



Plan - Roof Level



Plan - Upper Roof Level & Open Space Diagrams



Unit Mix - Per Planner Request

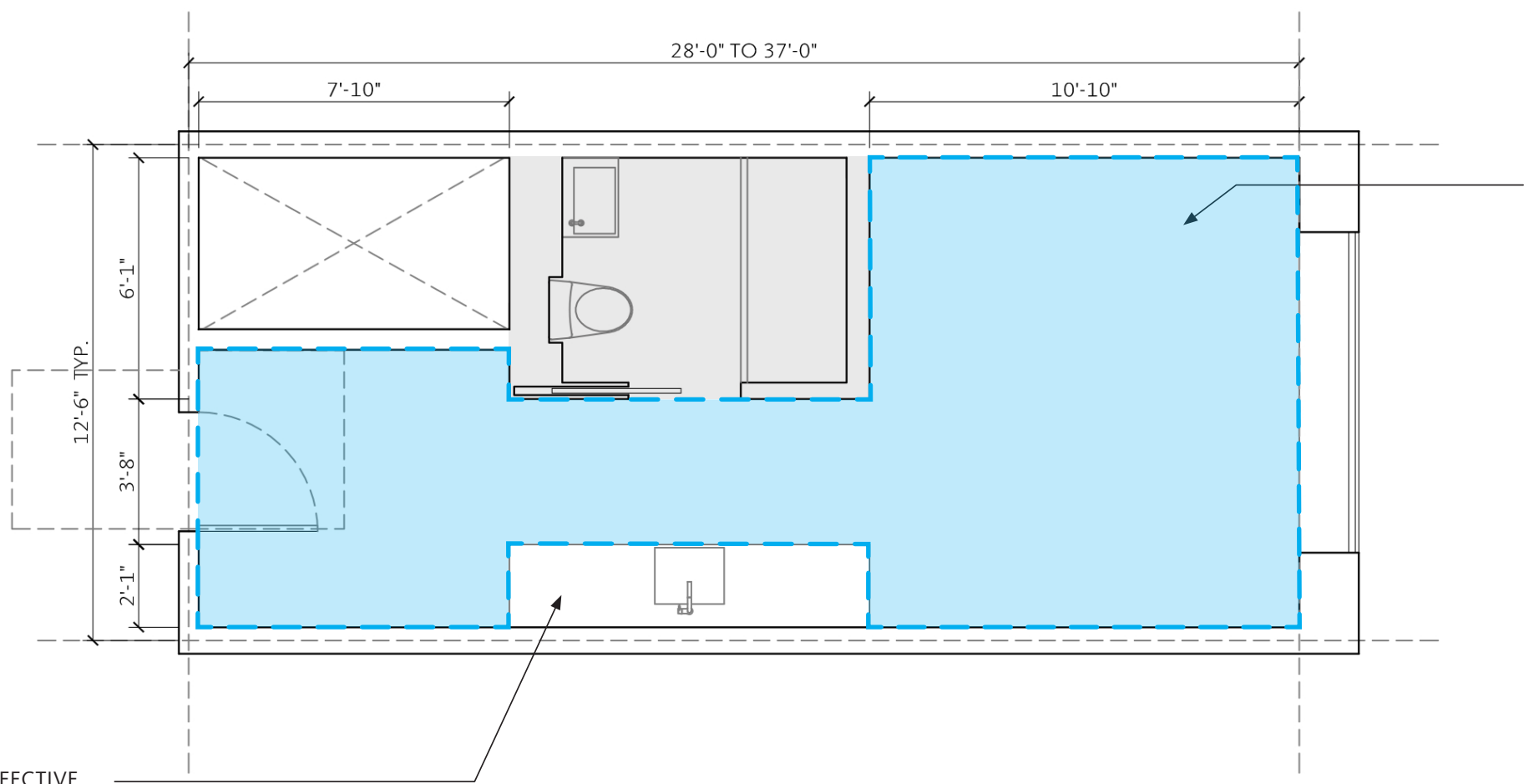
Levels	Unit Count by Type																						Totals
Unit Type	A	B	B1	B2	C	C1	D	D1	E	E2	F	F1	J	K1	K2	L	L1	M	N	P	Q	R	Combined
Level Roof																							
Level 13	5	4	1	1		1	3	1			2	2			1		1	1	1			1	25
Level 12	5	4	1	1	2	1	3	1			2	2			1		1	1		1			26
Level 11	5	5	1	1	2	1	3	1			2	2		1			1	1	1				27
Level 10	5	5	1	1	2	1	3	1			2	2		1			1	1	1				27
Level 9	5	5	1	1	2	1	3	1	2	1	2	2		1		1							28
Level 8	5	5	1	1	2	1	3	1	2	1	2	2		1		1							28
Level 7	5	5	1	1	2	1	3	1	2	1	2	2		1		1					1		29
Level 6	5	5	1	1	2	1	3	1	2	1	2	2		1		1					1		29
Level 5	5	5	1	1	2	1	3	1	2	1	2	2		1		1							28
Level 4	5	5	1	1	2	1	3	1	2	1	2	2	1	1		1							29
Level 3	5	5	1	1	1	1	3	1					1	1		1							21
Level 2	5	5	1	1	1		3	1						1		1							19
Level 1																							
Level B1																							
Totals	60 19.0%	58 18.4%	12 3.8%	12 3.8%	20 6.3%	11 3.5%	36 11.4%	12 3.8%	12 3.8%	6 1.9%	20 6.3%	20 6.3%	2 0.6%	10 3.2%	2 0.6%	8 2.5%	4 1.3%	4 1.3%	3 0.9%	1 0.3%	2 0.6%	1 0.3%	316

Beds / Unit Type (2 Bed per GOU, per SF Planning Code)	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	
Total Beds, per SF Planning Code	120	116	24	24	40	22	72	24	24	12	40	40	4	20	4	16	8	8	6	2	4	2	632

Unit Total Area (SF) 345 365 320 500 390 340 430 370 425 480 420 351 700 785 815 650 485 485 860 400 630 775

Enlarged Plan - Unit B1

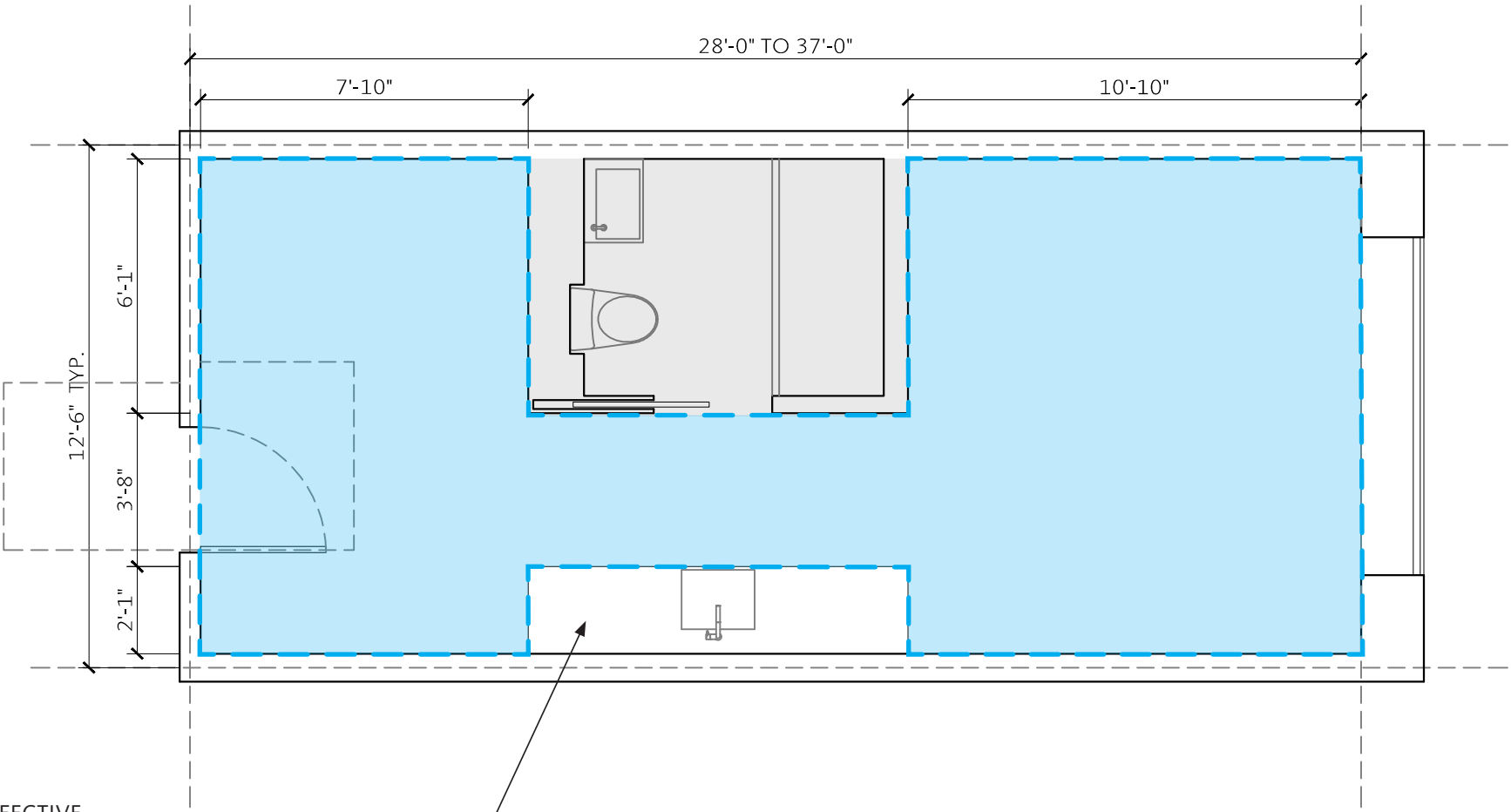
Small Group Occupancy Unit
Unit C1 & D1 Similar



PURSUANT TO ZA INTERPRETATION OF 209.2(A), EFFECTIVE OCTOBER 2005, GROUP HOUSING UNITS ARE ALLOWED TO HAVE LIMITED KITCHEN FACILITIES WITH THE FOLLOWING SPECIFICATIONS: A SMALL COUNTER SPACE, A SMALL UNDER-COUNTER REFRIGERATOR, A SMALL SINK, A MICROWAVE, AND A SMALL TWO-RING BURNER. COOKING FACILITY SHALL NOT INCLUDE ANY OTHER TYPE OF OVEN.

Enlarged Plan - Unit A

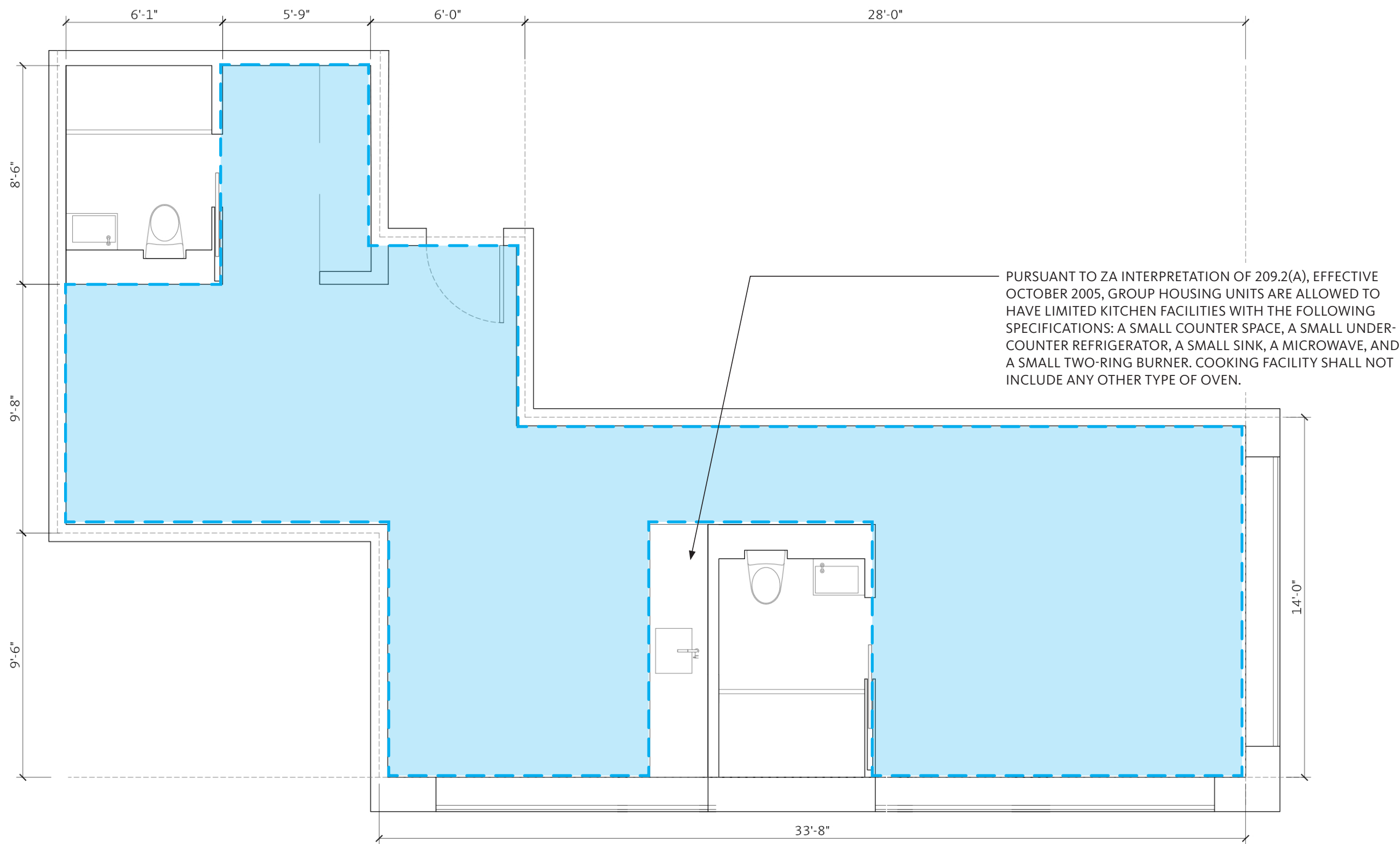
Medium Group Occupancy Unit
Unit B, C, D, E, F, F1 Similar



PURSUANT TO ZA INTERPRETATION OF 209.2(A), EFFECTIVE OCTOBER 2005, GROUP HOUSING UNITS ARE ALLOWED TO HAVE LIMITED KITCHEN FACILITIES WITH THE FOLLOWING SPECIFICATIONS: A SMALL COUNTER SPACE, A SMALL UNDER-COUNTER REFRIGERATOR, A SMALL SINK, A MICROWAVE, AND A SMALL TWO-RING BURNER. COOKING FACILITY SHALL NOT INCLUDE ANY OTHER TYPE OF OVEN.

Enlarged Plan - Unit K1

Large Group Occupancy Unit



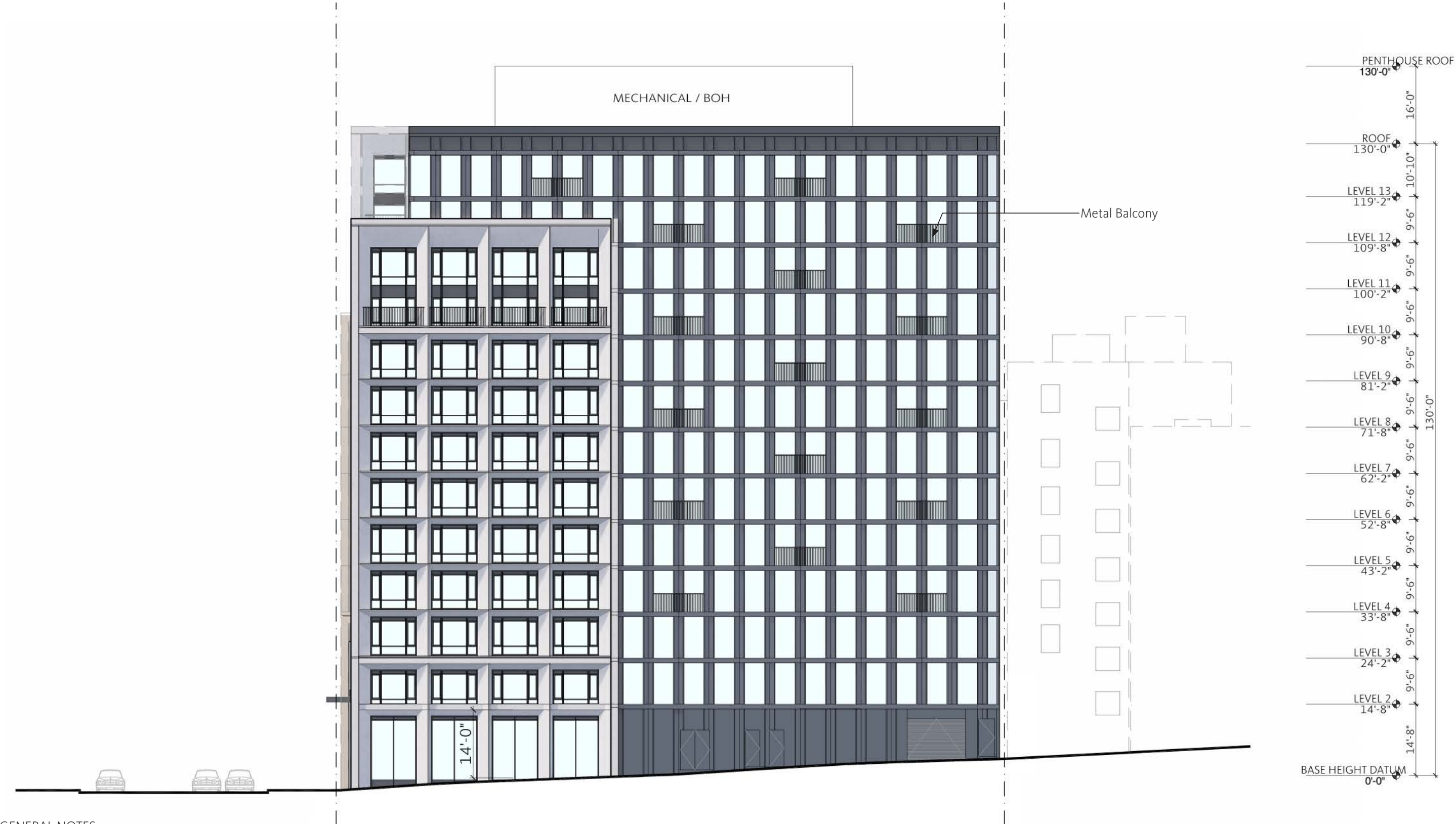
Elevation - O'Farrell Street



GENERAL NOTES:

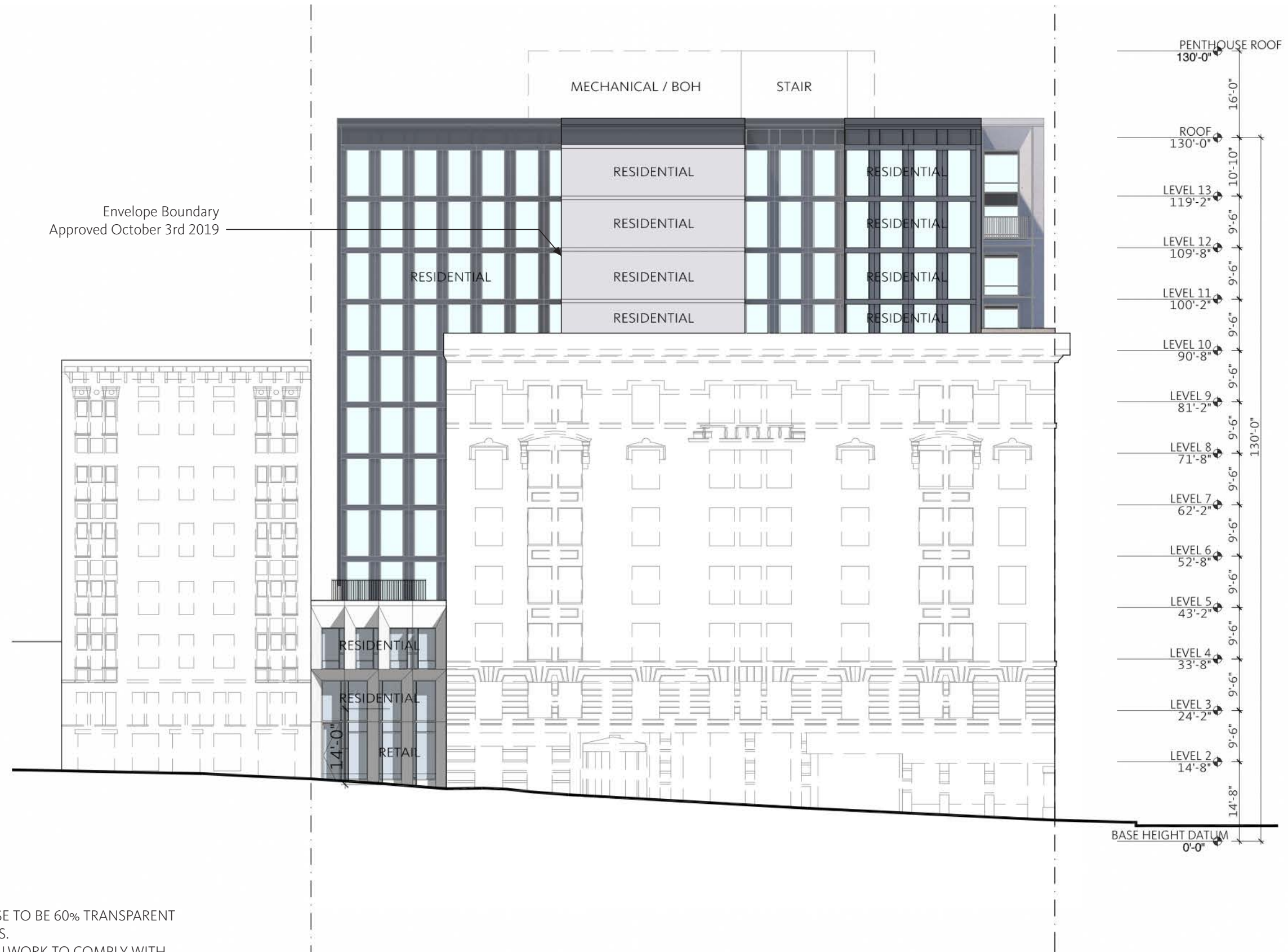
- GROUND FLOOR ACTIVE USE TO BE 60% TRANSPARENT WINDOWS AND DOORWAYS.
- GATES, RAILINGS AND GRILLWORK TO COMPLY WITH CODE REQUIREMENTS FOR 75% OPEN TO PERPENDICULAR VIEW

Elevation - Shannon Street



- GENERAL NOTES:
- GROUND FLOOR ACTIVE USE TO BE 60% TRANSPARENT WINDOWS AND DOORWAYS.
 - GATES, RAILINGS AND GRILLWORK TO COMPLY WITH CODE REQUIREMENTS FOR 75% OPEN TO PERPENDICULAR VIEW

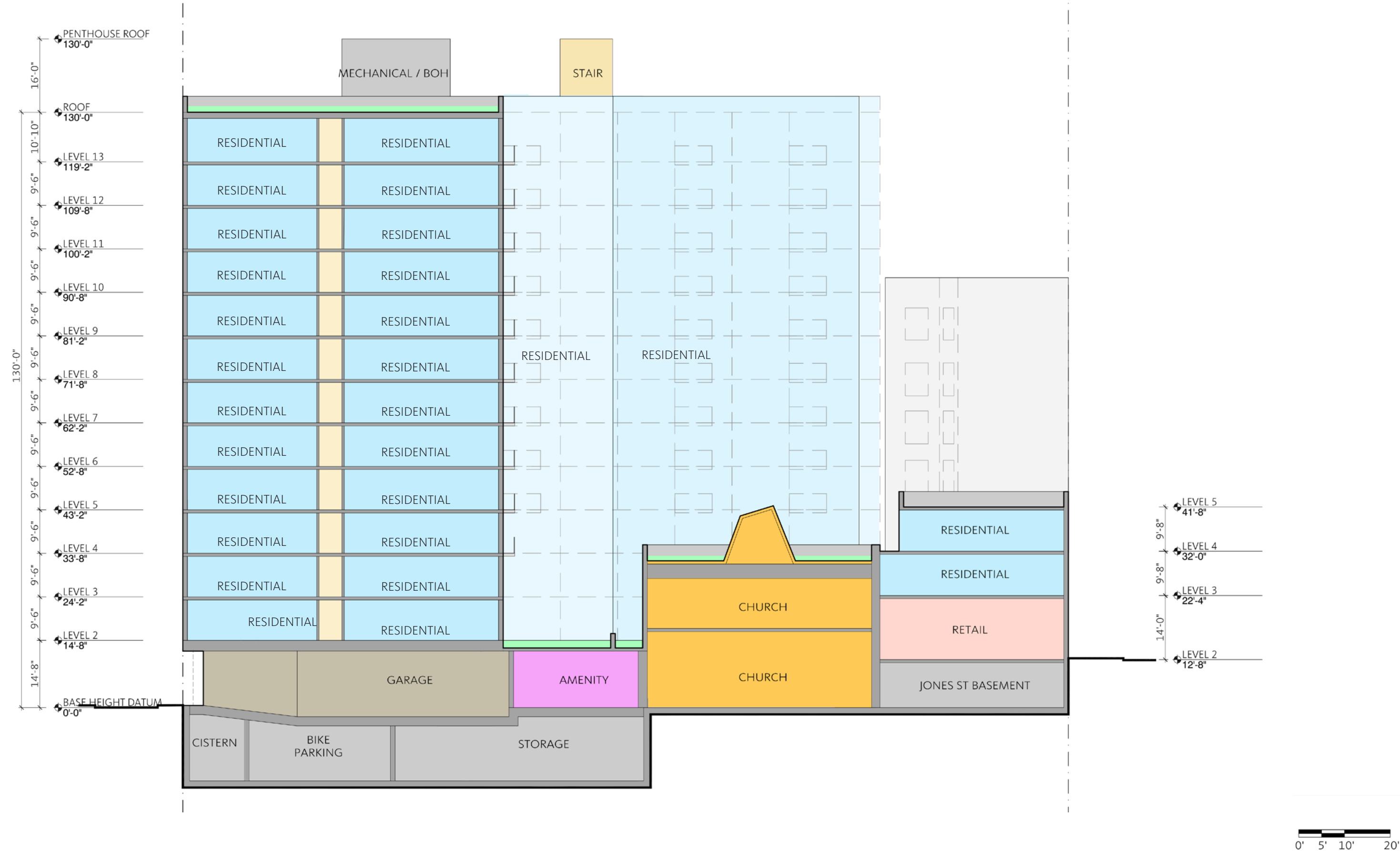
Elevation - Jones Street



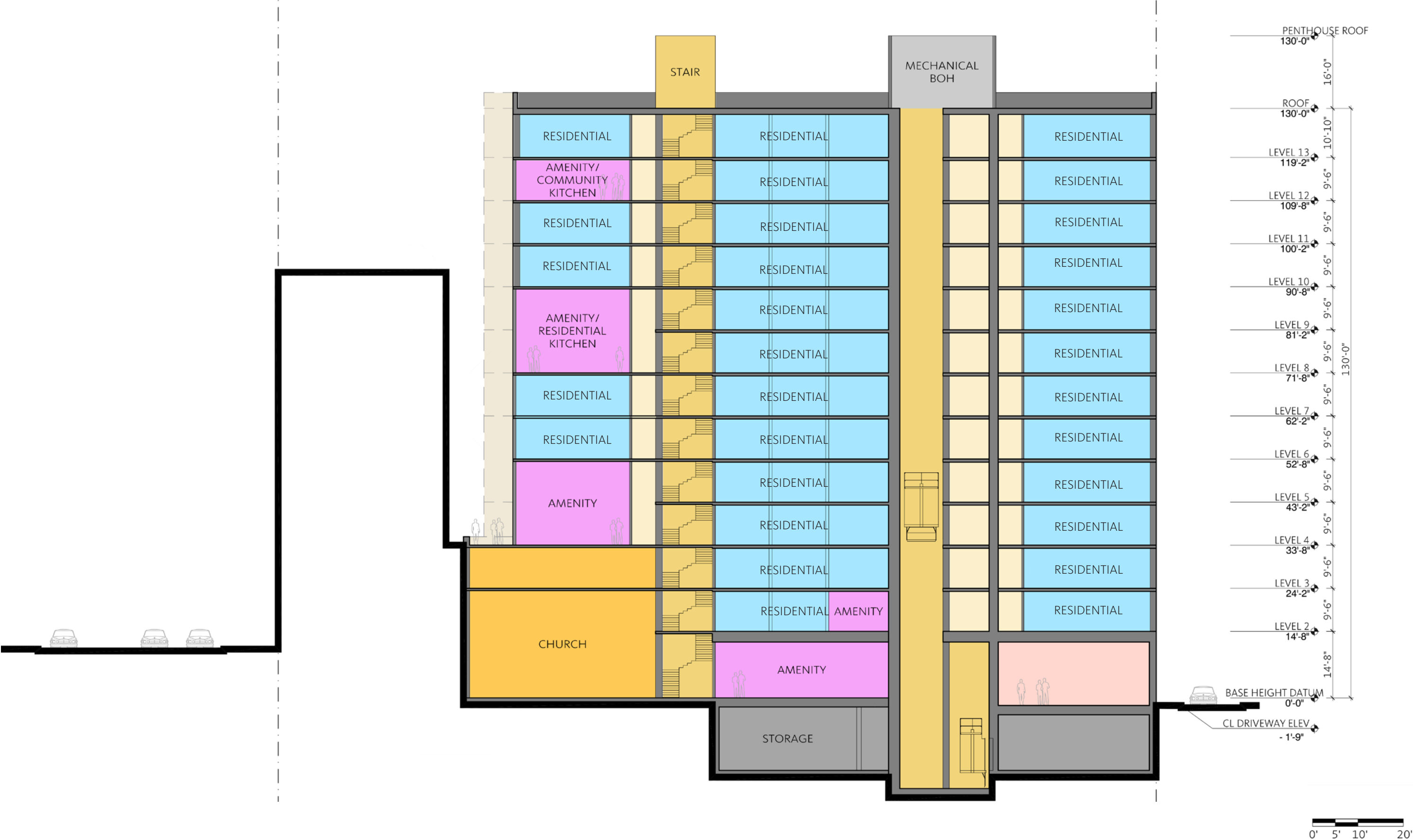
GENERAL NOTES:

- GROUND FLOOR ACTIVE USE TO BE 60% TRANSPARENT WINDOWS AND DOORWAYS.
- GATES, RAILINGS AND GRILLWORK TO COMPLY WITH CODE REQUIREMENTS FOR 75% OPEN TO PERPENDICULAR VIEW

Section - **East / West** - Through Jones St. Retail



Section - East / West - Amenity Space



Section - **North / South** - Through Lobby W/ Church Beyond

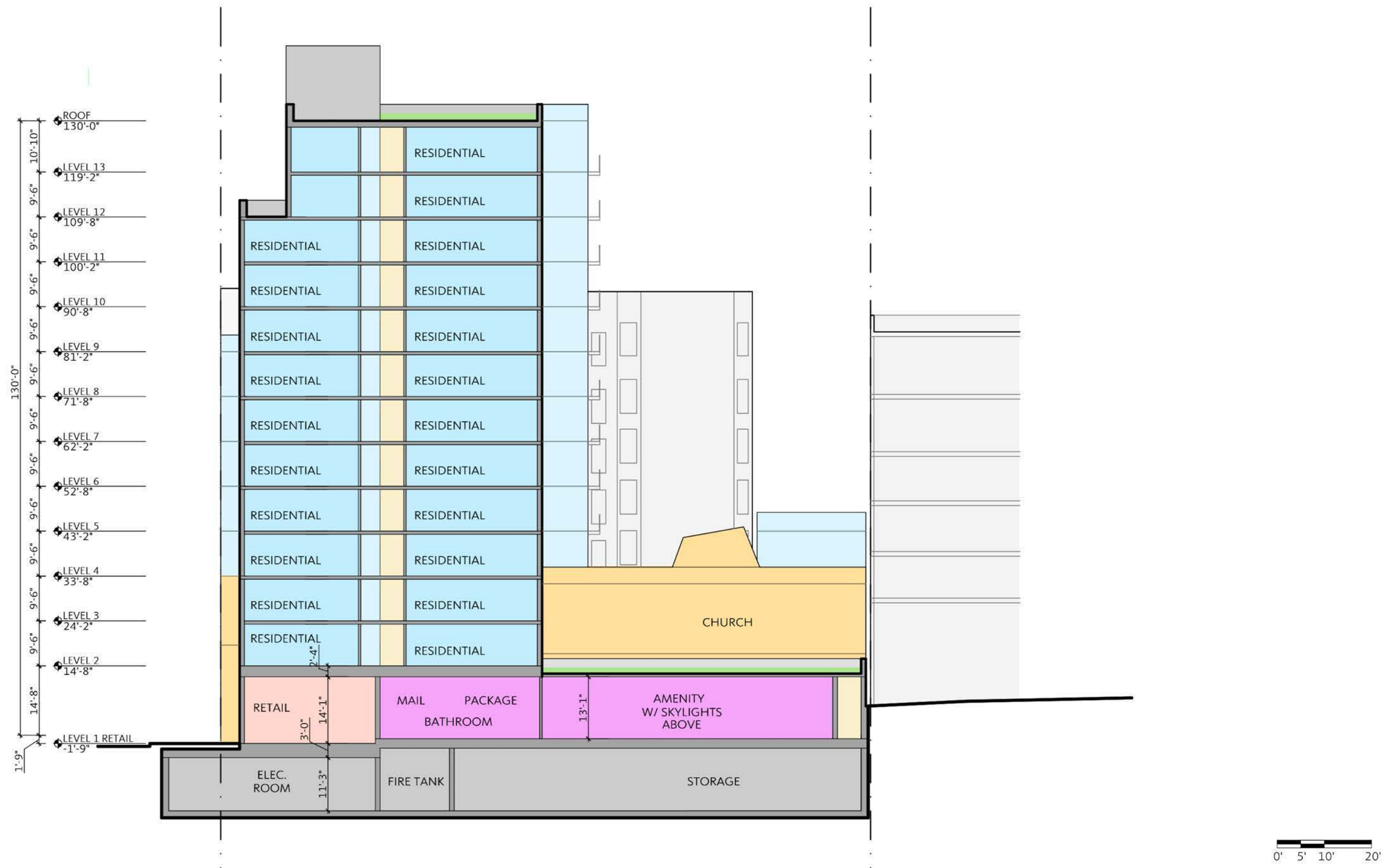
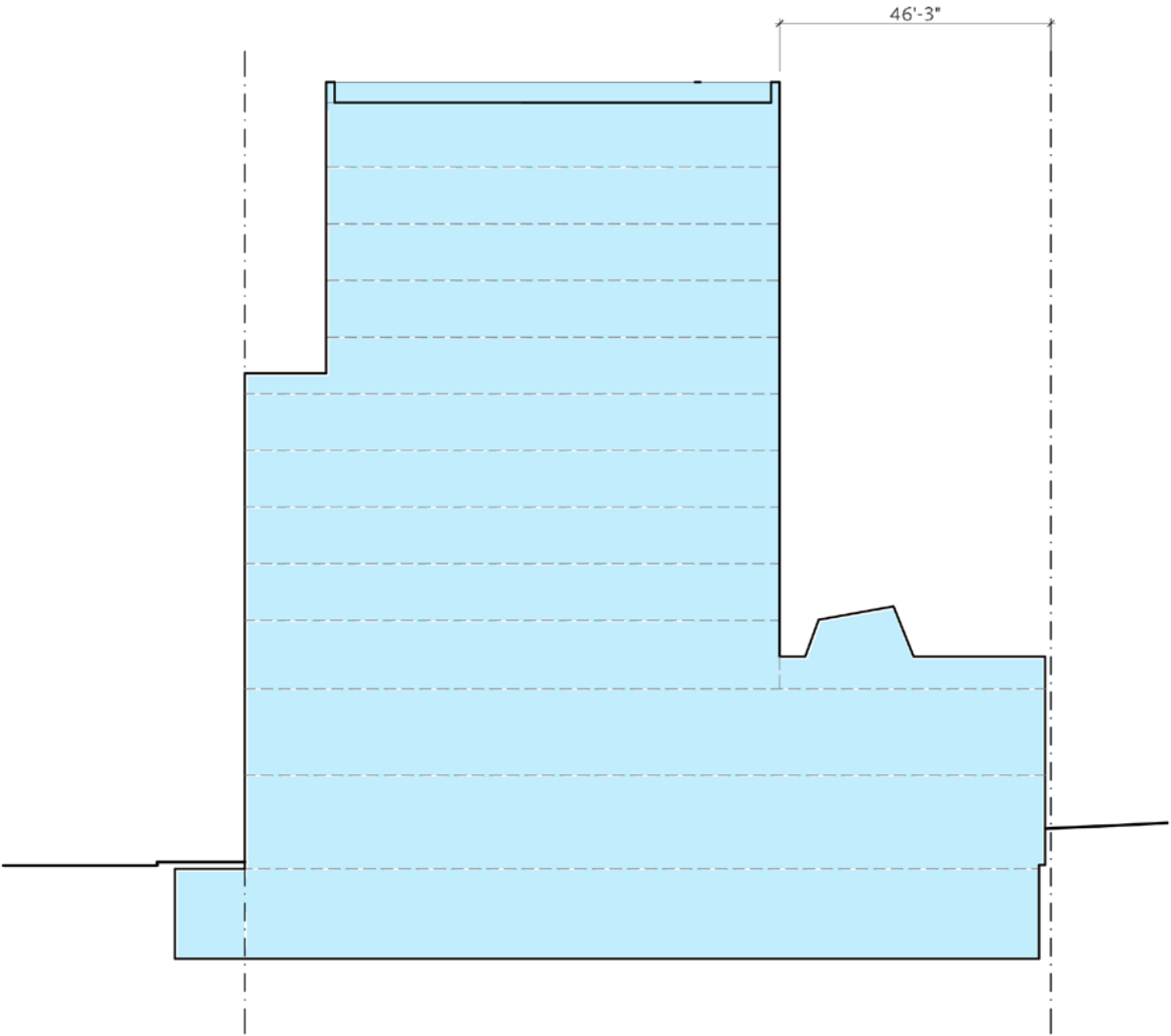
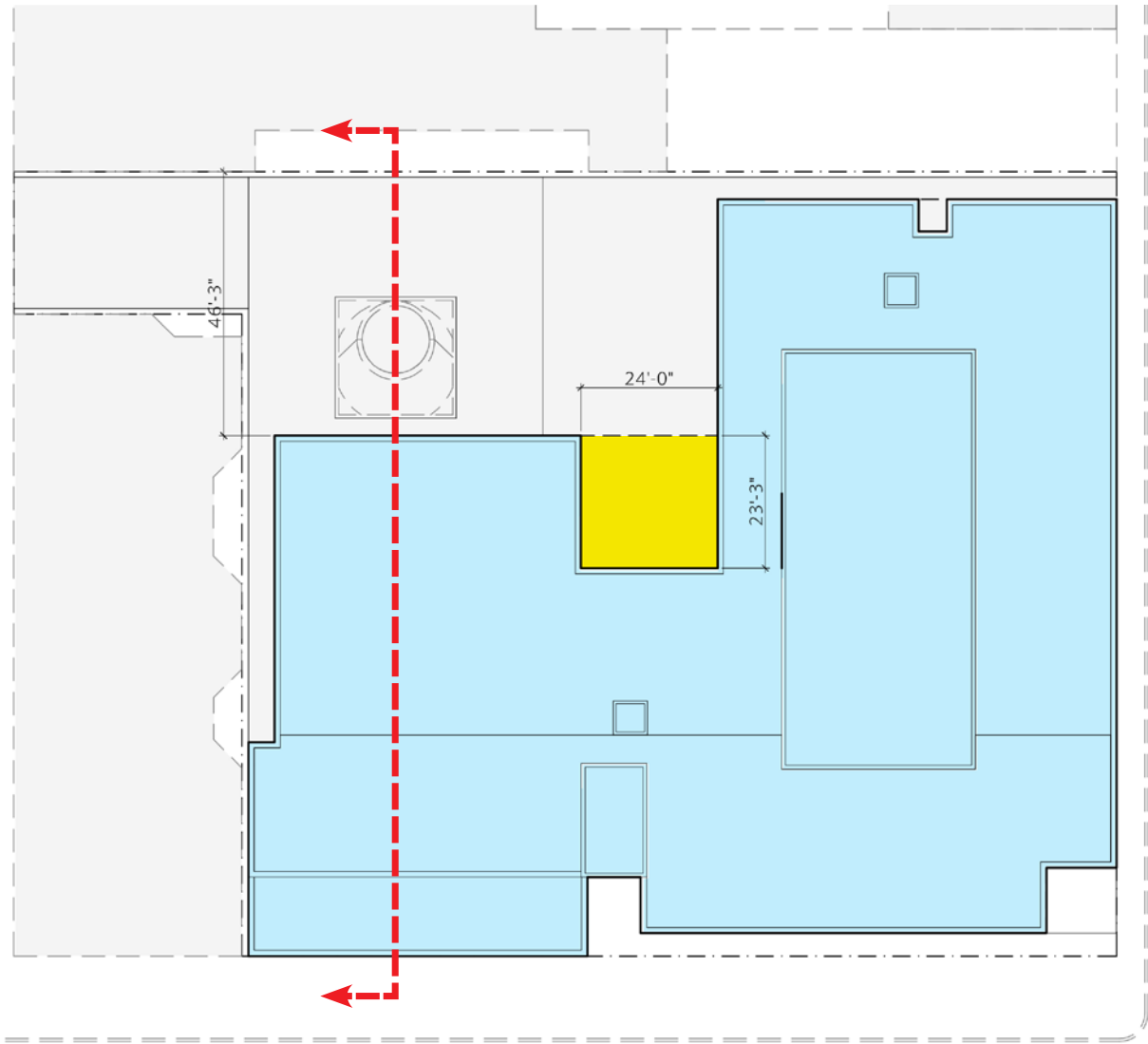


Diagram - Bulk Reduction



Proposed

Existing

0'8'16'32'

N

Diagram - Excavation Diagram

* Assuming a 16' deep existing and proposed basement

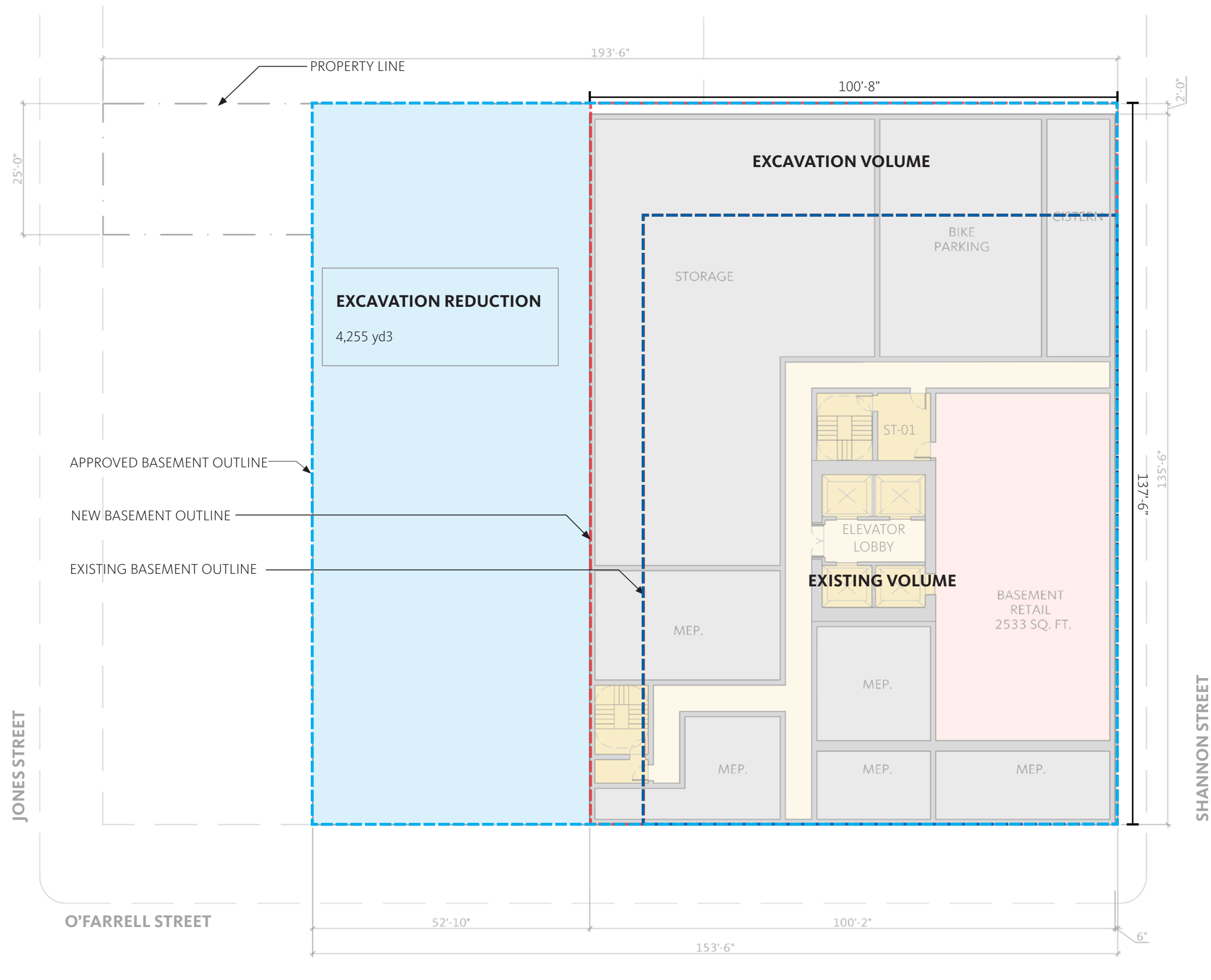
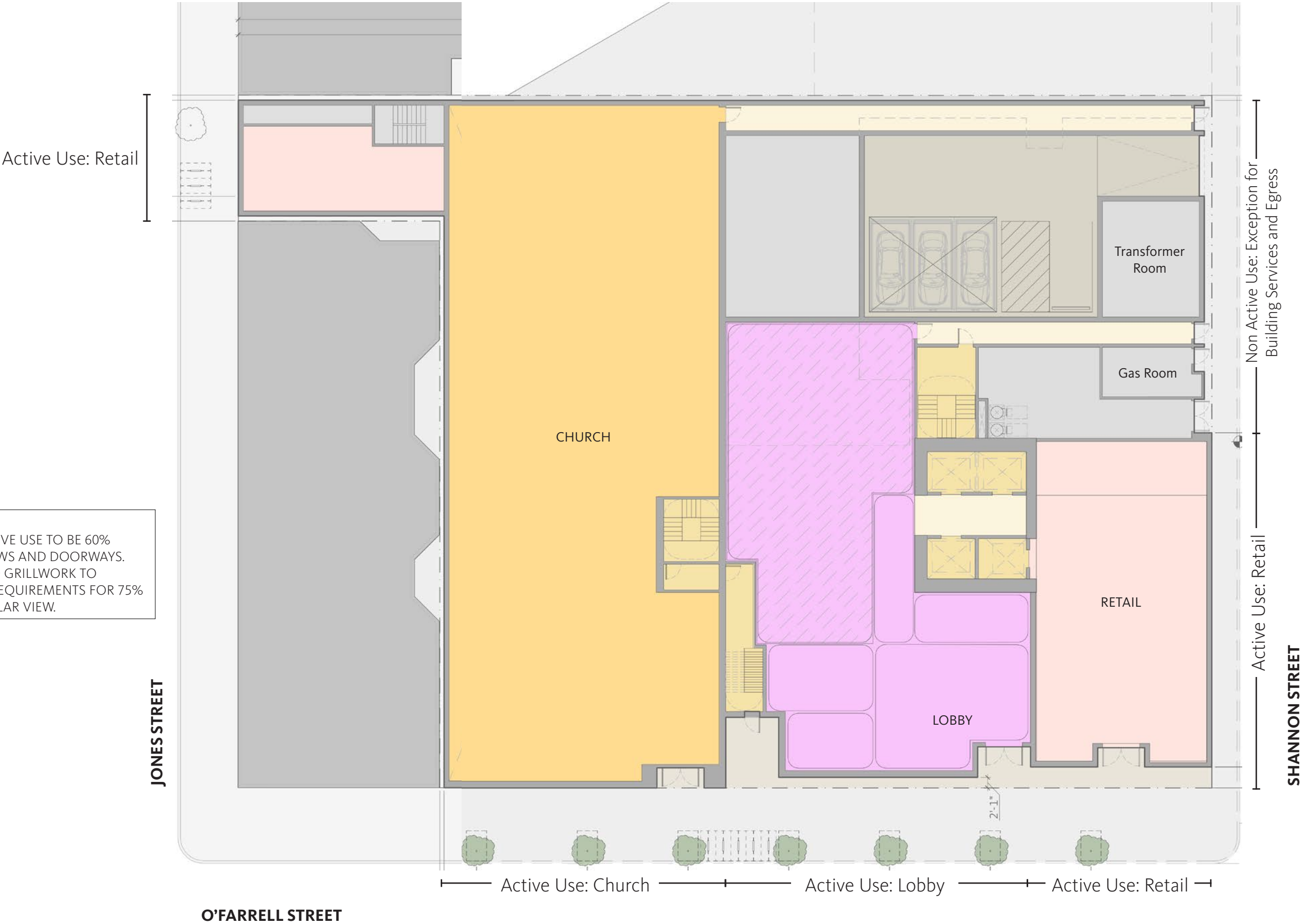


Diagram - Active Use

GENERAL NOTES:
- GROUND FLOOR ACTIVE USE TO BE 60% TRANSPARENT WINDOWS AND DOORWAYS.
- GATES, RAILINGS AND GRILLWORK TO COMPLY WITH CODE REQUIREMENTS FOR 75% OPEN TO PERPENDICULAR VIEW.



3D Rendering - O'Farrell St.



3D Rendering - O'Farrell St.



Building Materials



Material Palette

- Precast Concrete**
 - White
 - Simulated Stone
- Glazed Window Wall**
 - Clear
 - Spandrel
- Metal Panel**
 - Charcoal Grey
- Cement Plaster**
 - Charcoal Grey

Currently Approved

Elevation - O'Farrell St.



Elevation - Jones St.



Elevation - Shannon St.



3D Rendering - O'Farrell St.



Building Materials



Material Palette

- Precast Concrete**
 - White
 - Simulated Stone
- Glazed Window Wall**
 - Clear
 - Spandrel
- Metal Panel**
 - Charcoal Grey
- Cement Plaster**
 - Charcoal Grey

From: [BOS Legislation, \(BOS\)](#)
To: [pratibha@thclinic.org](#); [Michael.Shonafelt@ndlf.com](#); [greg.tross@ndlf.com](#); [richard@forgedevelopmentpartners.com](#); [alexander@forgedevelopmentpartners.com](#); [davidc@dpclawoffices.com](#); [Ela@ElaStrong.com](#); [pick@storzerlaw.com](#); [Letitia.Moore@hklaw.com](#)
Cc: [PEARSON, ANNE \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Varat, Adam \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Teague, Corey \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Grob, Carly \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Subject: APPELLANT SUPPLEMENTAL INFO AND PLANNING DEPARTMENT RESPONSE: Conditional Use Authorization - Proposed 450-474 O'Farrell Street and 532 Jones Street Project - Appeal Hearing September 7, 2021
Date: Tuesday, August 31, 2021 9:27:23 AM
Attachments: [image001.png](#)

Greetings,

The Office of the Clerk of the Board received the following responses from Michael Shonafelt of Newmeyer & Dillion LLP, on behalf of the Pacific Bay Inn and the Planning Department regarding the Conditional use Authorization of the proposed 450-474 O'Farrell Street and 532 Jones Street project.

[Appellant Supplemental Info - August 30, 2021](#)
[Planning Department Response - August 30, 2021](#)

I invite you to review the entire matters on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 210858](#)

Best regards,

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a "virtual" meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services.



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

From: [Linda K. Kwon](#)
To: [Board of Supervisors, \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Cc: [Michael W. Shonafelt](#); [Gregory D. Tross](#); [Ruby Williams](#)
Subject: 2013.1535CUA-02 – 450-474 O'Farrell / 532 Jones Street
Date: Monday, August 30, 2021 3:57:34 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[Letter to SF Board of Supervisors.PDF](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Board of Supervisors:

On behalf of Mr. Shonafelt, please find attached correspondence regarding the above-referenced matter. A hard copy will follow by U.S. Mail.

Best regards,



Linda K. Kwon
Legal Administrative Assistant
[949.271.7389](tel:949.271.7389) | Linda.Kwon@ndlf.com

Newmeyer & Dillion LLP
895 Dove Street, 5th Floor
Newport Beach, CA 92660
newmeyerdillion.com





Newmeyer & Dillion LLP
895 Dove Street
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Newport Beach, CA 92660
949 854 7000

August 30, 2021

Michael W. Shonafelt
Michael.Shonafelt@ndlf.com

VIA E-MAIL AND U.S. MAIL

President Shamann Walton and Members
City and County of San Francisco
Board of Supervisors
c/o Angela Calvillo, Clerk of the Board
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
Board.of.Supervisors@sfgov.org
bos.legislation@sfgov.org

Re: 2013.1535CUA-02 – 450-474 O'Farrell / 532 Jones Street.

Dear President Walton and Members of the Board of Supervisors:

This office continues to represent Pacific Bay Inn, Inc. ("PBI"), owner of the Pacific Bay Inn Hotel ("Hotel"), located at 500-520 Jones Street, in the City and County of San Francisco ("City").

This letter presents additional comments to the Board of Supervisors ("Board") regarding PBI's and Tenderloin Housing Clinic's (collectively, "Appellants") appeal of the Planning Commission's approval of Forge Development Partners' proposed development at 450-474 O'Farrell Street/532 Jones Street ("Revised Project"), Case No. 2013.1535EIA. At its June 24, 2021 hearing, the Planning Commission adopted Motion No. 20935 to approve the Revised Project ("Motion 20935").

This letter presents additional legal support for PBI's grounds for the pending appeal ("Appeal"). PBI requests that the Board reverse the Planning Commission's decision to adopt Motion 20935 and require any project built on the Project Site to undergo additional environmental analysis and disclosure based on the additional revelations concerning the Revised Project's impacts to the Hotel and to the health, safety and welfare of the Hotel's residents.

1. Project History.

The Project site was originally slated for a proposed 13-story (130 feet tall) mixed-use building with 176 dwelling units, restaurant and retail space on the ground floors and a new church to replace the historic Fifth Church of Christ, Scientist at 450 O'Farrell ("Original Project"). (Planning Commission Motion No. 20281 ("Motion 20281"), September 13, 2018, at 4.) The authorization allowed a mixed-use residential,

4840.101 / 9494203.1

commercial and institutional use building pursuant to Planning Code sections 303, 304, 317, 253, 249.5, and 271 within the RC-4 District and North of Market Residential Special Use District and an 80-T-130-T Height and Bulk District. (Motion 20281, Exhibit A-1.)

The Revised Project hews to the Original Project's envelope, but revises the Original Project to include 302 group housing units, requiring less open space per unit and increasing the retail/restaurant space and religious institutional spaces. (Second Addendum, p. 5.) The Revised Project modified the structural foundation for the Project, removing a portion of the basement but shoring that portion of the structure with deep foundation pylons instead. (*Id.*, Appendix H, p. 2.)

The Hotel was built over 110 years ago in 1908 after the 1906 San Francisco earthquake and fire devastated the City. It lies on a portion of the Revised Project's western boundary at a zero lot line. The Hotel currently is operated by DISH (Delivering Innovation in Supportive Housing), a non-profit group, which partners with the City to provide permanent homes for the City's racially diverse homeless population suffering from serious health issues. (See <https://dishsf.org/our-history/>.) The Hotel offers 75 single-room occupancy units for San Francisco's disabled homeless population. (See January 7 Letter, p. 3.) The Hotel therefore includes environmentally sensitive receptors who will be heavily impacted by the estimated 18 months of construction for the Revised Project and potential ongoing structural impacts to the Hotel, with resultant lingering uncertainties about the ongoing safety of the Hotel.

PBI presented multiple letters to the Planning Commission reiterating these concerns and presented new information that the City did not take into account when assessing the environmental impacts of the Original Project and Revised Project. It did so with its own resources, in an effort to augment a persistently deficient administrative record. This appeal letter references and incorporates PBI's letters to the City Planning Commission subsequent to the City's publishing of the First Addendum to the Final Environmental Impact Report (State Clearinghouse No. 2017022067) ("EIR") on January 7, 2021, and April 14, 2021, and after the filing of the Second Addendum to the FEIR on June 23, 2021 ("Second Addendum") (collectively, "Addendums"). This appeal letter also specifically includes comments made by the Appellants and other commenters during the Planning Commission's various public hearings on the Revised Project including on January 7, 2021, April 15, 2021, and June 24, 2021. Among other things, those letters presented findings of three engineering firms that demonstrated sub-grade foundation encroachments onto the Forge site. Those reports present a preponderance of evidence that potentially severe impacts could arise from shoring, dewatering and foundation work required for the Revised Project at or close to the zero lot line of the Hotel's east-facing wall.

2. The Housing Accountability Act Does Not Prevent the Board from Denying the Revised Project and Does Not Exempt This Project from CEQA’s “Substantive Mandate” to Mitigate Significant Impacts to Health, Safety & Welfare.

In 2019, the State Legislature enacted the Housing Crisis Act of 2019 (SB 330) (“HCA”). The HCA revised and/or amended certain portions of the Housing Accountability Act (Gov. Code, § 65589.5) (“HAA”), including provisions regarding the denial of housing projects. The HCA and HAA are meant to provide a balance between the growing need for housing and local government interest in safeguarding the health, safety, and welfare of its constituents. The HAA requires a “thorough analysis of the economic, social, and environmental effects” of actions to deny qualifying housing projects. (*Id.*, subd. (b).)

Despite claims from Forge and the Fifth Church of Christ, Scientist (“Church”), the City can deny a housing development project in compliance with the HAA if it determines that the project would result in a “specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density” (Gov. Code, § subd. (j).) Government Code section 65589.5, subdivision (j) provides that:

[w]hen a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, **but the local agency proposes to disapprove the project** or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

- (A) The housing development project would have a **specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density.** As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, **based on objective, identified written public health or safety standards, policies, or conditions** as they existed on the date the application was deemed complete.
- (B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to

paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(Gov. Code, § 65589.5, subd. (j), emphasis added.) Assuming *arguendo*, that the Project is consistent with the City/County General Plan, Zoning Code, and design review standards, PBI has demonstrated that the Project would give rise to a significant adverse impact on the general public safety and welfare at the Hotel and in the Project Site. Importantly, the HAA **does not** restrict the City's authority to impose appropriate mitigation for the impacts of a housing development project under the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) ("CEQA"). (Gov. Code, § 65589.5, sub. (e).) Indeed, the HAA specifically declares that, while housing development is critical, such projects must still be approved in a manner that does not result in significant detrimental impacts.. (*Id.*, subd. (b).) Nothing in the HCA or HAA exempts a project from the "substantive mandate" of CEQA that public agencies **not approval projects if there are feasible alternatives or mitigation measures that can substantially lessen the impact**. (*Mountain Lion Foundation v. Fish & Game Commission* (1997) 16 Cal.4th 105, 134 [65 Cal.Rptr.2d 580]; Pub. Resources Code, § 21002.)

3. The Revised Project as Approved Will Result in a Specific Adverse Impact on the Hotel and Its Residents Based on Objective, Identified Written Public Health or Safety Standards and Policies.

According to the proponents of the Revised Project, the application was deemed complete as of February 28, 2020. (Project Applicant Letter dated June 21, 2021, p. 2.) Assuming this as true, the Revised Project must comply with those standards in place at the time the Revised Project application was deemed complete. The Revised Project fails to meet the objective and quantifiable standards in place at that time.

The City's obligation to ensure the health, safety and welfare of its inhabitants is the keystone of its police powers. (*Brecht v. Abrahamson* (1993) 507 U.S. 619, 635 [113 S.Ct. 1710, 123 L.Ed.2d 353].) That standard is not only "objective," it is the beating heart of every planning, zoning and building enactment that issues forth from the City's legislative powers. It underscores such enactments as San Francisco Building Code section 102A, which establishes that:

all buildings, structure, property, or parts thereof, regulated by this code that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, safety, or health of the occupants or the occupants of adjacent properties or the public by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, or by reason of occupancy or use in violation of law or ordinance, or

were erected, moved, altered, constructed or maintained in violation of law or ordinance are, for the purpose of this chapter, unsafe.

(San Francisco Building Code, § 102.A.) Likewise, the San Francisco Building Code section 3307 requires adjoining public and private property to be protected from damage during construction or demolition work. (*Id.*, § 3307.) Protections are to be provided for footings, foundations, party walls, chimneys, skylights and roofs. (*Ibid.*) Provisions shall be made to control water runoff and erosions during construction activities. (*Ibid.*) These provisions align with multiple, binding provisions of the California Building Code, which are intended to ensure that construction work, including foundation excavation, dewatering and shoring, **do not impact adjacent structures**. (Cal. Bldg. Code, § 1804; see ch. 18, generally.)

While Forge may be heard to contend that the above standards are part-and-parcel of the eventual Department of Building Inspection's ("DBI") building permit process, such assurances ring hollow. It is not clear that the structural impacts identified by PBI will be addressed at all because they have not been **analyzed, disclosed or acknowledged now, in the planning approval phase**.

Critically, DBI is a non-discretionary department of the City; it does not have planning and zoning authority and cannot impose any conditions or mitigation measures on the Revised Project. The peril of not examining or disclosing impacts at the planning stage -- **before** approval of the layout, design and project conditions -- is manifest. Indeed, CEQA exists to "inform the public and its responsible officials of the environmental consequences of their decisions **before** they are made" and before the impacts become a **fait accompli**. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564 [276 Cal.Rptr. 410], emphasis in original.) CEQA mandates such disclosures "as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment." (CEQA Guidelines, § 15004, sub.d. (b).)

CEQA Guidelines section 15126.2, subdivision (a) requires disclosure of "health and safety problems caused by the physical changes" that a proposed project will precipitate. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1219 [22 Cal.Rptr.3d 203].) Accordingly, the CEQA document must identify and analyze the adverse health impacts likely to result from the project. (*Id.*, at p. 1220; *Berkeley Keep Jets Over the Bay Com. v. Board of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1367–1371 [111 Cal.Rptr.2d 598].) The Revised Project relies upon a prior environmental impact report for an older project (State Clearinghouse No. 2017022067) ("EIR" as defined above). The EIR and the Addendums are substantially deficient in their mandated disclosure of the impacts to the Hotel and its inhabitants. **In fact, PBI was compelled to perform its own analyses, which are now part of the administrative record before the Board.** The information provided by PBI under its own resources should have been the duty of Forge and the City. PBI

expended significant resources to do the work that CEQA mandates on the City. The information PBI disclosed to the public was the catalyst for this Appeal. It is manifest that the EIR and its short-shrift Addendums either overlooked or gave only passing attention to the impacts PBI disclosed. Health, safety and welfare are at the core of the Board's police powers. (*Brecht v. Abrahamson* (1993) 507 U.S. 619, 635 [113 S.Ct. 1710, 123 L.Ed.2d 353]; *Whalen v. Roe* (1977) 429 U.S. 589, 603, n. 30 [97 S.Ct. 869, 51 L.Ed.2d 64].) The lack of protections afforded by the mitigation measures ultimately will violate multiple objective, identified, written standards, including, but not limited to, Building Code section 3307, and could force the Hotel in the status of an unsafe nuisance in violation of San Francisco Municipal Code 102A.

The EIR's mitigation measures to reduce impacts on historical cultural resources within Uptown Tenderloin National Register Historic District currently do not include written, identified, and viable efforts to minimize potential perils to the Hotel's foundations and its residents. (See, EIR, S-5, 6.) There has been no research, analysis or disclosure of potential structural impacts to the Hotel. While the mitigation measure CR-3b requires Forge Development to use "all feasible means to avoid damage to the adjacent contributing resources," those "feasible means" are not readily defined and the scope of the risks is not disclosed. More specifically, there are no mitigation measures or conditions in place that address the manifest risks of excavation impacts to adjacent historical resources' foundations. This constitutes unlawful "deferred" mitigation, which undermines the public disclosure requirements of CEQA and occludes from public view what those measures will ultimately and whether they will even be implemented. As one court observed:

[I]t is improper to defer the formulation of mitigation measures until after project approval; instead, the determination of whether a project will have significant environmental impacts, and the formulation of measures to mitigate those impacts, must occur before the project is approved.

(*California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 621 [91 Cal.Rptr.3d 571], citing *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296 [248 Cal.Rptr. 352] and *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359 [43 Cal.Rptr.2d 170].)

The deficiencies in the current analyses are myriad. For instance, the Federal Transportation Authority, upon which the City relies, asserts that vibration thresholds for construction on fragile buildings is set at 0.12 peak particle velocity ("PPV").¹ The equipment proposed to be used has a PPV of 0.089 PPV at 25 feet, but it was not assessed at areas closer to the adjacent structures. (See, FEIR, p. 4-37.) The City

¹ (See Federal Transit Administration. 2018. Transit Noise and Vibration Impact Assessment. GTA-VA-90-1003-06. Office of Planning and Environment. Available: https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf; see also, FEIR, p. 4-37.)

even acknowledged that the threshold could be exceeded within 50 feet of the Project site. (*Ibid.*) Further, the EIR assumed that the Revised Project would not require “pile driving.” (*Ibid.*) Forge’s own structural engineers nevertheless have stated the at-grade portion of the proposed structure (which appears to be closest to the Hotel) “may need deep foundational support from the medium to dense to very dense sand anticipated below a depth of about 20 feet from existing street grades.” (Second Addendum, Appendix H, p. 2.) This foundation will therefore be directly adjacent to, and below, the Hotel’s existing basement area.

The mitigation measures set forth in Impact CR-3a likewise do not provide sufficient protection to the Hotel. Impact CR-3a requires Forge to create a Vibration Monitoring and Management Plan that addresses vibration or differential settlement caused by vibration during the Revised Project’s construction activities. While the mitigation measure states that adjacent “buildings shall be protected to prevent further damage and remediated to pre-construction conditions per the consent of the building owner,” this measure appears only to relate to vibration impacts and not impacts to the residents residing at the Hotel. Further, it does not place viable limitations on those vibration levels. As already noted, a 0.2 PPV velocity is not adequate threshold for fragile buildings composed of unreinforced masonry. As PBI’s recent expert report confirms, the Hotel is fragile. The City’s limits therefore are not adequate to protect fragile buildings and the residents therein. Even with the mitigation proposed, it is likely the Revised Project will cause significant damage to the Hotel, rendering it uninhabitable.

Additionally, the Planning Department did not analyze the Hotel or its residents as a sensitive receptor. That critical omission precluded informed review by the Planning Commission. Obviously, the Hotel residents will be subject to continuous noise and vibration at more significant levels than those sensitive receptors at O’Farrell Towers and the nearby senior facility analyzed as part of the EIR and Addendums. Those impacts will continue for over a year (estimated to be 18 months) as the Revised Project is built out. The Addendums claim that the vibrations would be noticeable within the immediate vicinity of the use of heavy equipment for the Revised Project yet claims such vibrations would not be noticeable at the nearest receptors, i.e., O’Farrell Towers. (Addendum, p. 24.) Clearly, the Addendums have overlooked impacts to sensitive receptors adjacent to the Revised Project site. The Original Project and the Revised Project, as currently proposed, do not provide adequate levels of protection for the Hotel and its residents and are fatally short on information concerning potentially severe impacts.

The Revised Project, with its deep foundation work on a zero lot line with the Hotel, has the high likelihood of causing damage that was not disclosed or analyzed from an environmental perspective, nor were appropriate mitigation measures or alternatives properly studied. Without proper environmental review of the significant impacts the Original Project and Revised Project pose on the Hotel and its residents, there is a likelihood impacts and harm to health, safety and welfare will occur. Without

proper analysis of the significant impacts the Revised Project will have on the Hotel, the Project must be denied.

4. Denial of the Revised Project Does Not Run Afoul of the Religious Land Use and Institutionalized Persons Act, Free Exercise Clause, or Fair Housing Act.

The Project Applicant, Fifth Church of Christ, Scientists, (“Church”) cannot legitimately invoke the protections of the First Amendment’s Free Exercise Clause and Religious Land Use and Institutionalized Persons Act (“RLUIPA”) as a means to push through a residential housing and mixed-use project even if a religious institution is combined with that proposed project. The RLUIPA and First Amendment do not extend so far. Further, the protections afforded by those statutes do not protect against the denial of a project which has the potential to harm another sacred individual right: life.

The RLUIPA provides that a government land-use regulation that imposes a substantial burden on the religious exercise of a religious assembly or institution is unlawful unless the government demonstrates that imposition of the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling interest. (42 U.S.C. § 2000cc(a)(1).) Under the RLUIPA, the Church bears the burden to prove that a land use regulation, denial, or conditional use permit imposes a substantial burden on its religious exercise. (*International Church of Foursquare Gospel v. City of San Leandro* (2011) 673 F.3d 1059, 1066.) “Substantial burden” must place more than inconvenience on religious exercise and must be oppressive to a significantly great extent. (*Id.*, citing *San Hose Christian College* (2004) 360 F.3d 1024, 1034.) The Church’s attempt to cloak a commercial, mixed-use development with the constitutional protections of freedom of worship stretches those protections beyond their logical (let alone meaningful) context and borders on the cynical. The Revised Project is not a religious project, but a commercial development project advanced by a for-profit development corporation. It would qualify as a slippery slope for any court to claim that denial of a project like this were void merely because a portion of that project also included a religious institution element. The RLUIPA does not extend that far; nor is it meant to.

Further, the Church claims that the Project Site’s location is a main factor in why any denial would place a substantial burden on the Church, stating that the area around the Church is dangerous and prevents them from conducting their religious services. (See Fifth Church Letter dated August 25, 2021, p. 7.) Importantly, the Church and Forge’s current proposal is to demolish the existing Fifth Church of Christ, Scientist building, a well-known historical landmark in the downtown Tenderloin District and instead install a thirteen-story high-rise residential structure in its place. Notably, the Church is not moving from the Project Site, but simply moving further down O’Farrell Street. The Church provides no evidence for its claims that “this block needs animation, foot traffic, and density. Any effort to limit density on the block would directly harm the Church and impose a substantial burden on its religious exercise, as the church would not be feasible with the allowed density.” (Fifth Church Letter dated August 25, 2021,

p. 6.) Nor does the Church provide evidence that it cannot fulfill its religious mission in the current church building. Finally, the Church provides no evidence for its claims that denying the Revised Project places a substantial burden on its religious activities merely because it cannot utilize a reading room.

In any event, the Appellants do not argue whether or not the Church's religious activities should remain at the Project Site or that the Church cannot properly implement other uses at the Project Site in conjunction with those activities. The Appellants simply ask that any proposed project actually factor in and account for the great risk the Revised Project, as proposed, places on the health, safety and welfare of its neighbors as well as meet the use, fit, and character of the surrounding community.

Finally, the Church's suggestion that the issues presented by the Appellants are not properly before the Board are spurious, at best. It is manifest on the record that Forge and the Church have presented modifications to the Original Project that have triggered CEQA. If that were not the case, there would be no presentation of a CEQA addendum document (the "Addendums," as defined above). (CEQA Guidelines, § 15164, subd. (a).) The involvement of CEQA, even with an EIR addendum (which PBI asserts in the incorrect form of CEQA review), establishes that the Planning Commission -- and now the Board -- exercise plenary discretionary authority over a "project" as defined by CEQA. (Pub. Resources Code, § 21065.) CEQA defines a "project" as an activity that: (1) is a discretionary action by a governmental agency and (2) will either have a direct or reasonably foreseeable indirect impact on the environment. (Pub. Res. Code, § 21065.) Such discretion reopens the entire project to review and scrutiny. (*Ibid.*)

5. Conclusion.

For the foregoing reasons, the Project should be denied and Motion 20935 reversed, or alternatively, any approval of the Revised Project should be accompanied by new and robust mitigation measure to address the issues raised herein, including, but not limited to, appropriate building setbacks. The Revised Project's construction, as proposed, has a strong likelihood to detrimentally affect and permanently damage these adjacent historical resources, specifically the Hotel, with attendant safety hazards to its vulnerable inhabitants. Such damage would cause the Hotel to be in violation of City Building Code section 102A and Building Code section 3307 and CEQA among other standards, codes and statutes.

Very truly yours,



Michael W. Shonafelt



Conditional Use Authorization Appeal

450 O'Farrell Street

DATE: August 30, 2021
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Rich Hillis, Planning Director – Planning Department (628) 652-7600
Carly Grob, Case Planner – Planning Department (628) 652-7532
RE: Board File No. 210858, Planning Case No. 2013.1535CUA-02
Appeal of Conditional Use Authorization for 450-474 O'Farrell Street, 532 Jones Street
HEARING DATE: September 7, 2021
PROJECT SPONSOR: Forge Development Partners LLC, 155 Montgomery Street, Suite 300, San Francisco, CA 94104
APPELLANTS: Tenderloin Housing Clinic (THC) c/o Pratibha Tekky, 126 Hyde Street, San Francisco, CA 94102
Pacific Bay Inn, Inc. c/o Newmeyer & Dillion, LLP, attn. Michael Shonafelt/Gregory Tross, 895 Dove Street, Fifth Floor, Newport Beach, CA 92660

INTRODUCTION

This memorandum and the attached documents are a response to the letters of appeal to the Board of Supervisors ("Board") regarding the Planning Commission's ("Commission") approval of the application to amend the conditions of approval from Commission Motion No. 20281 under Planning Department Case Number 2013.1535CUA-02 pursuant to Planning Code Sections:

- 209.3 (establishment of an institutional use),
- 253(b)(1) (Height exceeding 40 feet in an RC District),
- 263.7 (Height exceeding 80 feet in the North of Market Residential Special Use District),
- 271 (Bulk),
- 303 (Conditional Use Authorization),
- 304 (Planned Unit Development), and
- 317 (Loss of Residential and Unauthorized Units Through Demolition, Merger, and Conversion)

This memorandum addresses the appeal to the Board, filed on July 21, 2021, by the Pacific Bay Inn ("PBI") and the Tenderloin Housing Clinic.

The decision before the Board is whether to uphold, overturn, or amend the Planning Commission's approval of an application for Conditional Use Authorization to allow the proposed Project at the subject property.

PROJECT DESCRIPTION

The Project amended Condition of Approval Nos. 24, 25, 26 and 32 of Planning Commission Motion No. 20281 to modify the Project's compliance with Sections 166, 155, 155.1, and 155.2, and of 415 of the Planning Code, respectively. Amendments were required to reflect changes in the project scope, namely, the proposed change in residential program from dwelling units to group housing rooms.

On September 13, 2018, the Planning Commission approved a Planned Unit Development and Conditional Use Authorization (Motion No. 20281), which authorized the Original Project. The Original Project included the demolition of the existing buildings on Lots 007, 009, and 011 in Assessor's Block 0317; the merger of those lots; and the construction of a new 130-foot-tall building. The new building would have up to 176 dwelling units (30 studios, 54 one-bedroom, 68 two-bedroom and 24 three-bedroom units), restaurant and/or retail space on the ground floors, a replacement church facility for the Fifth Church of Christ, Scientist incorporated into the ground and two upper levels, below grade parking and mechanical spaces, private and common open space, and 116 Class 1 and 9 Class 2 bicycle parking spaces.

The Revised Project approved by the Planning Commission on June 24, 2021 (Motion No. 20935) includes up to 316 group housing rooms with a maximum of 632 beds instead of 176 dwelling units. Residential off-street parking has been removed, six off-street parking spaces remain to serve the church, and 136 Class 1 and 15 Class 2 bicycle parking spaces will be provided. The Project still requires the demolition of the three buildings, the merger of the three lots, and the construction of a 13-story mixed use building with a similar massing and basement, and religious institutional space for the replacement church facility.

The Original Project would construct a total of approximately 218,155 square feet ("sf") of development, including 182,668 sf of residential space, 3,827 sf of restaurant/retail space, 9,555 sf for religious institution use, 8,398 sf of residential open space (288 sf of private open space and 8,110 sf of common open space), and 21,105 sf of below-grade parking (up to 46 spaces). The Revised Project would construct a total of approximately 207,448 square feet ("sf") of development, including 172,323 sf of residential space, 6,023 sf of restaurant/retail space, 9,924 sf for religious institution use, and approximately 5,056 sf of residential open space.

In approving the Revised Project, the Commission included conditions that instructed the project sponsor to provide more, large group housing bedrooms (those exceeding 500 square feet) by removing proposed ground floor retail space and replace it with group housing rooms, and by explore group housing rooms at the basement level. The Commission also added a condition to increase the bicycle parking up to 200 Class 1 bicycle parking spaces from the required 136 Class 1 spaces, and to maximize the balconies on all the street frontages except O'Farrell.

SITE DESCRIPTION & PRESENT USE

The project site is currently occupied by the three-story, 26,904-square-foot Fifth Church of Christ, Scientist, including a 1,400-square-foot parking lot with four parking spaces at 450 O'Farrell Street; a one-story, 4,415-square-foot vacant retail building at 474 O'Farrell Street; and a one-story, 1,012-square-foot restaurant and residential building with five units at 532 Jones Street.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The Project Site is located within the RC-4 zoning district, a District defined by its compact, walkable, transit-oriented, and mixed-use nature, within the Downtown/ Civic Center neighborhood. The immediate context is primarily residential with neighborhood-serving commercial uses. The immediate vicinity includes buildings ranging from five to 12 stories, and within a two-block radius up to 16-stories (including at the end of the subject site block). Within ¼-mile radius east of the site is the dense commercial retail area surrounding Union Square and the western boundary of the Financial District, and within ¼-mile south of the site is the City's major ceremonial and transit corridor Market Street. The project site is located within the boundaries of the Uptown Tenderloin Historic District which is listed in the National Register. Other zoning districts in the vicinity of the project site include C-3-G (Downtown General), C-3-R (Downtown Retail), and P (Public), which exhibit a range of height and bulk districts: 80-T, 80-A, 80-130-F, and 225-S.

BACKGROUND

On September 13, 2018, the Planning Commission approved Motion No. 20281 with conditions, authorizing a Planned Unit Development and Conditional Use Authorization to construct the Original Project. The Planning Commission also adopted Motions No. 20279 and 20280, certifying the Environmental Impact Report, adopting CEQA findings, including a statement of overriding considerations, and adopted a mitigation monitoring and reporting program (MMRP) for the Original Project.

On January 24, 2020, the Project Sponsor filed Application No. 2013.1535CUA-02 for the Revised Project.

On May 13, 2020, Site Permit Application No. 201810294361 was issued by the Department of Building Inspection for the Original Project.

On January 7, 2021, the Commission continued application no. 2013.1535CUA-02 to February 4, 2021. At the February 4 Commission hearing, the item was continued to April 1, 2021. At the April 1 Commission hearing, the item was continued to April 15, 2021. At the April 15 hearing, the item was continued to June 10, 2021. At the June 10 hearing, the item was continued to June 24, 2021.

On June 24, 2021, the Commission voted 4-2 with one absent to approve Motion No. 20935 with conditions. The Commission imposed the following conditions at the hearing in addition to the amended conditions and standard conditions:

1. Increase the number of larger group housing units, wherever feasible.
2. Provide balconies to maximum projection on all sides except O'Farrell Street.
3. Continue working with Staff to increase the number of bicycle parking spaces, up to 200.
4. Convert the ground-floor retail space to group housing units.
5. Work with Staff to analyze the feasibility of converting the basement to additional group housing units.

On July 21, 2021, the Pacific Bay Inn and Tenderloin Housing Clinic submitted an appeal of the Conditional Use Authorization to the Board.

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 General Plan.
4. That such use or feature as proposed will provide development that is in conformity with the stated purpose of the applicable Use District.

Planned Unit Development. Section 304 establishes criteria and limitations for the authorization of Planned Unit Development (PUD)'s over and above those applicable to Conditional Uses in general and contained in Section 303 and elsewhere in the Code. In cases of projects on sites ½-acre or greater that exhibit outstanding overall design and are complementary to the design and values of the surrounding area.

1. Affirmatively promote applicable objectives and policies of the General Plan;
2. Provide off-street parking appropriate to the occupancy proposed and not exceeding principally-permitted maximum amounts;
3. Provide open space usable by the occupants and, where appropriate, by the general public, at least equal to the open spaces required by this Code;
4. Be limited in dwelling unit density to less than the density that would be allowed by Article 2 of this Code for a district permitting a greater density, so that the Planned Unit Development will not be substantially equivalent to a reclassification of property;
5. In R Districts, include Commercial Uses only to the extent that such uses are necessary to serve residents of the immediate vicinity, subject to the limitations for NC-1 Districts under this Code, and in RTO Districts include Commercial Uses only according to the provisions of Section 231 of this Code;

6. Under no circumstances be excepted from any height limit established by Article 2.5 of this Code, unless such exception is explicitly authorized by the terms of this Code. In the absence of such an explicit authorization, exceptions from the provisions of this Code with respect to height shall be confined to minor deviations from the provisions for measurement of height in Sections 260 and 261 of this Code, and no such deviation shall depart from the purposes or intent of those sections;
7. Provide street trees as per the requirements of Section 138.1 of the Code.
8. Provide landscaping and permeable surfaces in any required setbacks in accordance with Section 132 (g) and (h).

Additional Findings pursuant to Section 253(b)(1) establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications for a building exceeding a height of 40 feet in a RM or RC District where the street frontage is more than 50 feet. In reviewing any such proposal for a building or structure exceeding 40 feet in a RM or RC District where the street frontage of the building is more than 50 feet the Planning Commission shall consider the expressed purposes of the Planning Code, of the RH, RM, or RC Districts, the height and bulk districts, the criteria stated in Section 303(c), and the policies of the General Plan. In reviewing a proposal for a building exceeding 50 feet in RM and RC districts, the Planning Commission may require that the permitted bulk and required setbacks of a building be arranged to maintain appropriate scale on and maximize sunlight to narrow streets (rights-of-way 40 feet in width or narrower) and alleys.

Additional Findings pursuant to Section 249.5(c)(1) for Section 263.7 establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications for a building exceeding a height of 80 feet in the North of Market Residential Special Use District. In the 80-120-T and 80-130-T Height and Bulk Districts located within the North of Market Residential Special Use District (NOMRSUD), heights higher than 80 feet would be appropriate in order to effect a transition from the higher downtown heights to the generally lower heights of the existing buildings in the NOMRSUD core area and the Civic Center area and to make more feasible the construction of new housing, provided that development of the site is also consistent with the general purposes of the NOMRSUD as set forth in Section 249.5(b). In making determinations on applications for Conditional Use authorizations required for uses located within the North of Market Residential Special Use District, the Planning Commission shall consider the purposes as set forth in Subsection 249.5(b).

The purpose set forth in Subsection 249.5(b) is to protect and enhance important housing resources in an area near downtown, conserve and upgrade existing low and moderate income housing stock, preserve buildings of architectural and historic importance and preserve the existing scale of development, maintain sunlight in public spaces, encourage new infill housing at a compatible density, limit the development of tourist hotels and other commercial uses that could adversely impact the residential nature of the area, and limit the number of commercial establishments which are not intended primarily for customers who are residents of the area.

Additional Findings pursuant to Section 271(c) establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications for a building's bulk limits to be exceeded. Exceptions to the Section 270 bulk limits are permitted through Section 271.

Additional Findings pursuant to Section 317 establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications to demolish or convert Residential Buildings:

1. whether the property is free of a history of serious, continuing Code violations;
2. whether the housing has been maintained in a decent, safe, and sanitary condition;
3. whether the property is an "historical resource" under CEQA;
4. whether the removal of the resource will have a substantial adverse impact under CEQA;
5. whether the project converts rental housing to other forms of tenure or occupancy;
6. whether the project removes rental units subject to the Residential Rent Stabilization and Arbitration Ordinance or affordable housing;
7. whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;
8. whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;
9. whether the project protects the relative affordability of existing housing;
10. whether the project increases the number of permanently affordable units as governed by Section 415;
11. whether the project locates in-fill housing on appropriate sites in established neighborhoods;
12. whether the project increases the number of family-sized units on-site;
13. whether the project creates new supportive housing;
14. whether the project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;
15. whether the project increases the number of on-site Dwelling Units;
16. whether the project increases the number of on-site bedrooms;
17. whether or not the replacement project would maximize density on the subject lot; and
18. if replacing a building not subject to the Residential Rent Stabilization and Arbitration Ordinance, whether the new project replaces all of the existing units with new Dwelling Units of a similar size and with the same number of bedrooms.

On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended by Motion No. 20935

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

ISSUE 1: Lack of due consideration, disclosure or analysis of the health, safety and welfare of the Tenderloin community and the adjacent Pacific Bay Inn.

RESPONSE 1: The Planning Department evaluated all the health, safety and welfare impacts in the Second Addendum to the Environmental Impact Report.

The points raised by the Appellant in Issue 1 are related to the adequacy of the Second Addendum to the Environmental Impact Report ("the Addendum") and are not related to the Conditional Use Authorization to modify the approved project. The Appellant discusses potential structural impacts, dust, noise, air

quality, vibration, and construction traffic, all of which have been analyzed and disclosed in the Addendum. Planning Department Staff responded to similar concerns raised by PBI in a Memo to the Planning Commission dated January 27, 2021. The Appellant also states that the mitigation measures for the project do not create definable standards to mitigate potential impacts to the Pacific Bay Inn Hotel; a challenge to the mitigation measures for the project would require an appeal to the Environmental Impact Report, not the Conditional Use Authorization. Two appeals to EIR were filed for the Original Project, both on October 15, 2018; the first appeal was filed on behalf of 540 Jones Street Hotel and the second was filed on behalf of San Francisco Heritage. An appeal to the Conditional Use Authorization was also filed for the Original Project. All three appeals were withdrawn by their respective appellants on November 12, 2018.

Issue 1 also references potential light and air impacts to the residents of the Pacific Bay Inn Hotel due to the lack of architectural sculpting. The project did not extend beyond the building envelope approved in the previous version, so changing the program from dwelling units to group housing would not create any new impacts to the adjacent residents that were not considered in the first approval. The previous version of the project included a three-foot setback at the fourth story and above, which extended along the west side of the Pacific Bay Inn Hotel, beginning at the first of two adjacent lightwells. The approved project increased this setback from three feet to 11 feet for a depth of approximately 18 feet adjacent to the front lightwell at the Pacific Bay Inn Hotel. The project also includes upper-level setbacks at the 10th story, which extend the three-foot setback to the lot line along O'Farrell and set the building back from the street.

ISSUE 2: The project is not compatible with the Tenderloin community, which is already oversaturated with market-rate group housing.

RESPONSE 2: The concentration of group housing was considered by the Planning Commission, who determined the project to be necessary and desirable for the City.

The Project is in the Residential-Commercial, High Density (RC-4) Zoning District, which permits a high density of one group housing room for every 70 square feet of lot area. Unit Mix requirements set forth in Planning Code Section 207.7 do not apply to projects where 100% of the residential uses are group housing. The Planning Commission considered the concentration of group housing uses in the neighborhood, but decided that on balance, the project was necessary and desirable for the neighborhood, in part because the project would increase the City's stock of both affordable and market-rate housing. Several Commissioners expressed interest in a further analysis of market-rate group housing overall, but specifically stated the concentration of group housing uses would need to be addressed more holistically at a policy level.

ISSUE 3: Lack of community outreach and dialogue.

RESPONSE 3: The Project Sponsor has completed the required neighborhood notification and has modified the project in response to feedback from the community.

The Project Sponsor completed neighborhood notification in accordance with all applicable Department Requirements. The required notice for the Planning Commission hearing on January 7, 2021, was distributed on December 18, 2020. The Sponsor has also provided a schedule of community outreach events that occurred leading up to the Planning Commission hearings for the project. The project was revised in

response to community feedback by increasing the number of larger group housing rooms and by increasing the amount of common area. As the appellant's letter states, many members of the Community are opposed to the group housing aspect of the project and would prefer the first version of the project which included 176 dwelling units; however, the primary scope of the project was to modify the original approval to allow 316 group housing rooms instead of 176 dwelling units. The Project Sponsor could not accommodate requests from the community without fundamentally changing the scope of the project.

SUMMARY RESPONSE

The Appellant's concerns fall into two distinct categories: adequacy of environmental review and the community's preference for dwelling units over group housing. Regarding the environmental review, all the potential impacts raised by the Appellant have been analyzed and disclosed in the Second Addendum to the EIR. Department staff have addressed these issues in the Addendum and in various correspondence with PBI. Regarding the group housing typology, the Project includes group housing rooms at the density which is principally permitted by the Planning Code. While the Project Sponsor has modified the project in response to the community, the scope of the proposal is to provide group housing rooms, not dwelling units.

CONCLUSION

For the reasons stated in this document, in the attached Resolution, and in the Planning Department case file, the Planning Department recommends that the Board uphold the Planning Commission's decision in approving the Conditional Use authorization for the Project.



MEMO TO THE PLANNING COMMISSION

HEARING DATE: JUNE 24, 2021

**Continued from the January 7, 2021, January 21, 2021,
February 4, 2021, April 1, 2021, and April 15, 2021 Hearings**

June 16, 2021

Record No.: 2013.1535CUA-02
Project Address: 450-474 O'Farrell Street/532 Jones Street
Zoning: RC-4 - Residential- Commercial, High Density Zoning District
80-T-130-T Height and Bulk District
North of Market Residential Special Use District
Block/Lot: 0317/007, 009, 011
Project Sponsor: Forge Development Partners LLC
155 Montgomery Street, Suite 300
San Francisco, CA 94104
Fifth Church of Christ, Scientist San Francisco
San Francisco, CA 94102
Property Owner: Fifth Church of Christ, Scientist San Francisco
San Francisco, CA 94102
Staff Contact: Carly Grob – (628) 652-7532
carly.grob@sfgov.org

Recommendation: Approve Amendments

Background

The project was originally scheduled and noticed for the January 7, 2021 Planning Commission hearing. At the January 7, 2021 hearing, the item was continued to the January 21, 2021 Planning Commission hearing at the request of the sponsor, to allow additional time for community engagement. At the January 21, 2021 Planning Commission hearing, the item was continued to the February 4, 2021 Planning Commission hearing at the request of the sponsor, to allow additional time for community engagement. At the February 4, 2021 Planning Commission hearing, the item was continued to the April 1, 2021 Planning Commission hearing at the request of the Department and sponsor, to allow additional time for clarification on project modifications and continued community engagement. At the April 1, 2021 Planning Commission hearing, the item was continued to the April 15, 2021 Planning Commission hearing at the request of the Department and sponsor, to allow additional time

for clarification on project modifications and continued community engagement. At the April 15, 2021 Planning Commission hearing, the Commission provided feedback on the most recent version of the project ("version 3"), and continued the item to June 10, 2021 to allow time for the Department to finalize review of the revisions to the project and to complete CEQA review. At the June 10, 2021 Commission hearing, the item was continued to June 24, 2021 to provide additional time for the Department to complete CEQA review.

Current Proposal

- On September 13, 2018, the Commission approved a project on the site which included a 13-story mixed-use building with up to 176 dwelling units, commercial space on the ground floors, a replacement church (proposed religious institution) incorporated into the ground and two upper levels, with below grade parking spaces. The current proposal is to modify this approval and construct 316 group housing rooms with a maximum of 632 group housing beds instead of the approved 176 units. The project would retain the replacement church (religious institution) and ground floor commercial uses and would eliminate the residential parking. The project does not propose to expand the approved building envelope.
- In response to community concerns about the reduction of family-sized housing units, the project sponsor has revised the project to incorporate larger group housing rooms which could accommodate up to four beds. A draft of these revisions was presented to the Commission on April 15, 2021. The Commission provided feedback intended to enhance the livability of the proposed group housing, including but not limited to increasing the amount of bicycle parking and storage for tenants, maximizing private and common cooking facilities, and improving the distribution of amenities throughout the building. The Commission also commented on various policy considerations and zoning regulations related to group housing. The revisions presented at the April 15 hearing required minor revisions to address outstanding Planning Code compliance comments and the Department had not published a revised addendum to the EIR, so the project was continued to June 24, 2021.
- Since the hearing on April 15, 2021, the Project Sponsor has further refined the interior layout of the building. Amenity spaces have been located at the ground, second, fourth, eighth and twelfth floors. These spaces are near a stairwell, so they are more easily accessible to tenants on different floors. The amenities on the fourth and eighth floors are double-height rooms, which are intended to provide a more open, spacious area for tenants. Community kitchens are provided at the first, eighth and twelfth floors. In addition, 28 group housing rooms in the project exceed 500 square feet and may be suitable for larger households.
- Group Housing rooms are allowed to have limited kitchen facilities with the following specifications: a small counter space, a small under-counter refrigerator, a small sink, a microwave, and a small two-ring burner. The cooking facility shall not include any other type of oven. A condition has been added to the Draft Motion describing this restriction.

Public Outreach and Comments

To date (as of June 16, 2021), the Department has received 51 form letters in support, 3 other letters of support, including from Yimby Law and Project Access. SF Housing Action Coalition submitted support and a petition in

support signed by 42. The support for the Project is focused on the development of new housing, below market rate options, community-serving retail and new home for the Fifth Church of Christ, Scientist. YIMBY Law has submitted a second letter on June 10 which describes their opinion of the applicability of the Housing Accountability Act to the modified project.

The Department has received 5 letters in opposition to the Project, including from Tenderloin Housing Clinic (THC), Tenderloin Neighborhood Development Corporation (TNDC), Tenant Associations Coalition of San Francisco neighborhood groups, Tenderloin Tenants, and one phone call in opposition. Most recently, THC, TNDC, and the Central City SRO Collaborative provided a joint letter which reiterated their opposition to the project, stating that the Project Sponsor was not adequately engaging with the community, and that the current proposal of a group housing project does not meet community needs for family housing. This letter also included previous communications from both THC and TNDC, citing the needs for family housing instead of group housing, lack of community engagement, and that the Project Sponsor is misrepresenting their ability to finance the previous project and the goal to serve “essential workers.” Previous correspondence in opposition cites similar concerns that the Project is centered on the shift to group housing, concerns about the community engagement process, and a neighbor’s perception that the church has not been a good neighbor. One letter was received regarding the adequacy of the Addendum prepared for the project, which was resubmitted in advance of the June 24 hearing. Central City Democrats, 86 Dwellers and Alliance for Better District 6 all submitted letters noting multiple concerns about the project and requesting a redesign.

Required Commission Action

In order for the Project to proceed, the Commission must approve an amendments to Planned Unit Development/ Conditional Use Authorization Condition of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281, to reflect compliance of the amended Project with Sections 166, 155, 155.1, and 155.2, and of 415 of the Planning Code, respectively. The Commission must also approved the additional condition of approval related to Group Housing cooking facilities. An approval by the Commission will reflect compliance standards for the change to group housing use and removal of residential off-street parking.

Basis for Recommendation

The Department finds that the proposed changes to the Conditions of Approval does not affect the Project’s consistency with the Objectives and Policies of the General Plan, and the Project is, on balance, consistent with the Objectives and Policies of the General Plan. The Department also finds the project to be necessary, desirable, and compatible with the surrounding neighborhood, and not to be detrimental to persons or adjacent properties in the vicinity.

Recommendation: Approve Amendments to Conditions of Approval

Attachments:

Revised Draft Motion, dated June 24, 2021
Exhibit B – Revised Plans, dated May 25, 2021

Memo in Response to Letter on the Addendum
Second Addendum to the Environmental Impact Report
Motion No. 20280 (Statement of Overriding Considerations)
Mitigation and Monitoring Report Program (MMRP)
Motion No. 20281
Previously Approved Plans



PLANNING COMMISSION MOTION NO. 20935

HEARING DATE: JUNE 24, 2021

Record No.: 2013.1535CUA-02
Project Address: 450-474 O'Farrell Street/532 Jones Street
Zoning: RC-4 - Residential- Commercial, High Density Zoning District
80-T-130-T Height and Bulk District
North of Market Residential Special Use District
Block/Lot: 0317/007, 009, 011
Project Sponsor: Forge Development Partners LLC
155 Montgomery Street, Suite 300
San Francisco, CA 94104
Fifth Church of Christ, Scientist San Francisco
San Francisco, CA 94102
Property Owner: Fifth Church of Christ, Scientist San Francisco
San Francisco, CA 94102
Staff Contact: Carly Grob – (628) 652-7532
carly.grob@sfgov.org

ADOPTING FINDINGS TO APPROVE AN AMENDED CONDITIONAL USE AUTHORIZATION THAT WOULD MODIFY CONDITION OF APPROVAL NOS. 24, 25, 26, AND 32 OF PLANNING COMMISSION MOTION NO. 20281 TO REFLECT COMPLIANCE OF THE AMENDED PROJECT WITH SECTIONS 166, 155, 155.1, AND 155.2, AND OF 415 OF THE PLANNING CODE, RESPECTIVELY.

PREAMBLE

On January 24, 2020, Alexander Zucker of Forge Development Partners, LLC, (hereinafter "Project Sponsor") filed Application No. 2013.1535CUA-02 (hereinafter "Application") with the Planning Department (hereinafter "Department") for an amended Planned Unit Development/ Conditional Use Authorization to amend Conditions of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281 (hereinafter "Project") at 450-474 O'Farrell Street and 532 Jones Street, Block 0317 Lots 007, 009, and 011 (hereinafter "Project Site").

This project has undergone environmental review pursuant to the California Environmental Quality Act and Chapter 31 of the San Francisco Administrative Code. The Planning Commission certified the Final Environmental Impact Report (EIR) for the project on September 13, 2018 (Motion No. 20279). On December 21, 2020, the Planning Department published an addendum to Final EIR for the Project. The Planning Department concluded that no further environmental review is required for this revised Project for the reasons set forth in the Addendum. This Commission concurs with that conclusion. On September 13, 2018, the Commission adopted Motion No. 20280

adopting CEQA findings for the original Project, including a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program (MMRP) for the Project. Those findings and adoption of the MMRP set forth in Motion No. 20280 are incorporated by reference in this Motion as though fully set forth herein.

On January 7, 2021, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Planned Unit Development/Conditional Use Authorization Application No. 2013.1535CUA-02. At the January 7, 2021 Commission hearing, the item was continued to January 21, 2021. At the January 21, 2021 Commission hearing, the item was continued to February 4, 2021. At the February 4, 2021 Commission hearing, the item was continued to April 1, 2021. At the April 1, 2021 Commission hearing, the item was continued to April 15, 2021. At the April 15, 2021 hearing, the item was continued to June 10, 2021. At the June 10, 2021 hearing, the item was continued to June 24, 2021. On September 13, 2018, the Commission approved the original Project in Planning Commission Motion Nos. 20279, 20280 and 20281.

The Planning Department Commission Secretary is the Custodian of Records; the File for Record No. 2013.1535CUA-02 is located at 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

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 amended Conditional Use Authorization as requested in Application No. 2013.1535CUA-02, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

- 1. The above recitals are accurate and constitute findings of this Commission.**
- 2. Project Description.** The current proposal is to amend Condition of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281 to modify the Project's compliance with Sections 166, 155, 155.1, and 155.2, and of 415 of the Planning Code, respectively.

The previously approved Project includes demolition of three buildings: 450 O'Farrell Street (currently occupied by the Fifth Church of Christ, Scientist); 474 O'Farrell Street (one-story, vacant retail building); and 532 Jones Street (one-story restaurant use, with five existing residential units). The original proposal is to merge these three lots, and construct a new mixed-use building rising to 130-foot-tall (13-story), with up to 176 dwelling units, restaurant and/or retail space on the ground floors, and a replacement church (proposed religious institution) incorporated into the ground and two upper levels, below grade parking and mechanical spaces, private and common open space, and 116 Class 1 and 9 Class 2 bicycle parking spaces. The project would construct a total of approximately 218,155 square feet ("sf") of development, including 182,668 sf of residential space, 3,827 sf of restaurant/retail space, 9,555 sf for religious institutional use, 8,398 sf of residential open space (288 sf of private open space and 8,110 sf of common

open space), and 21,105 sf of below-grade parking (up to 46 spaces). The project also proposes merger of three Lots 007, 009, and 011 in Assessor's Block 0317.

A revised project scope ("amended Project") still includes demolition of the three buildings, construction of up to a 13-story mixed use building with similar massing and basement, ground floor commercial and a new church, and residential open space, but now proposes up to 316 group housing rooms (with a maximum of 632 beds) instead of up to 176 residential units and no longer proposes residential off-street parking. The number of bicycle parking spaces has been modified to: 136 Class 1 and 15 Class 2. The revised project would now construct a total of approximately 207,448 square feet ("sf") of development, including 172,323 sf of residential space, 6,023 sf of restaurant/retail space, 9,924 sf for religious institutional use, and approximately 5,056 sf of residential open space. The project also proposes merger of three Lots 007, 009, and 011 in Assessor's Block 0317.

3. **Site Description and Present Use.** The project site is currently occupied by the three-story, 26,904-square-foot Fifth Church of Christ, Scientist, including a 1,400-square-foot parking lot with four parking spaces at 450 O'Farrell Street; a one-story, 4,415-square-foot vacant retail building at 474 O'Farrell Street; and a one-story, 1,012-square-foot restaurant and residential building with five units at 532 Jones Street.
4. **Surrounding Properties and Neighborhood.** The Project Site is located within the RC-4 zoning district, a District defined by its compact, walkable, transit-oriented, and mixed-use nature, within the Downtown/ Civic Center neighborhood. The immediate context is primarily residential with neighborhood-serving commercial uses. The immediate vicinity includes buildings ranging from five to 12 stories, and within a two-block radius up to 16-stories (including at the end of the subject site block). Within ¼-mile radius east of the site is the dense commercial retail area surrounding Union Square and the western boundary of the Financial District, and within ¼-mile south of the site is the City's major ceremonial and transit corridor Market Street. The project site is located within the boundaries of the Uptown Tenderloin Historic District which is listed in the National Register. Other zoning districts in the vicinity of the project site include C-3-G (Downtown General), C-3-R (Downtown Retail), and P (Public), which exhibit a range of height and bulk districts: 80-T, 80-A, 80-130-F, and 225-S.
5. **Public Outreach and Comments.** To date (as of June 16, 2021), the Department has received 51 form letters in support, 3 other letters of support, including from YIMBY Law and Project Access. SF Housing Action Coalition submitted support and a petition in support signed by 42. The support for the Project is focused on the development of new housing, below market rate options, community-serving retail and new home for the Fifth Church of Christ, Scientist. YIMBY Law has submitted a second letter on June 10 which describes their opinion of the applicability of the Housing Accountability Act to the modified project.

The Department has received 5 letters in opposition to the Project, including from Tenderloin Housing Clinic (THC), Tenderloin Neighborhood Development Corporation (TNDC), Tenant Associations Coalition of San Francisco neighborhood groups, Tenderloin Tenants, and one phone call in opposition. Most recently, THC, TNDC, and the Central City SRO Collaborative provided a joint letter which reiterated their opposition to the project, stating that the Project Sponsor was not adequately engaging with the community, and that the current proposal of a group housing project does not meet community needs for family housing. This letter also included previous communications from both THC and TNDC, citing

the needs for family housing instead of group housing, lack of community engagement, and that the Project Sponsor is misrepresenting their ability to finance the previous project and the goal to serve "essential workers." Previous correspondence in opposition cites similar concerns that the Project is centered on the shift to group housing, concerns about the community engagement process, and a neighbor's perception that the church has not been a good neighbor. One letter was received regarding the adequacy of the Addendum prepared for the project, which was resubmitted in advance of the June 24 hearing. Central City Democrats, 86 Dwellers and Alliance for Better District 6 all submitted letters noting multiple concerns about the project and requesting a redesign.

6. Planning Code Compliance. The Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section F of Planning Commission Motion No. 20281, except as amended below:

A. Transportation Demand Management (TDM) Plan. Pursuant to Planning Code Section 169 and the TDM Program Standards, the Project shall finalize a TDM Plan prior Planning Department approval of the first Building Permit or Site Permit. As currently proposed, the Project must achieve a target of 12 points.

The Project submitted a completed Environmental Evaluation Application prior to September 4, 2016. Therefore, the Project must only achieve 50% of the point target established in the TDM Program Standards, resulting in a required target of 12 points. As currently proposed, the Project will achieve its required 12 points through the following TDM measures:

- Parking Supply
- Bicycle Parking
- Bicycle Repair Station
- Multimodal Wayfinding Signage
- Real Time Transportation Displays
- On-Site Affordable Housing

B. Inclusionary Affordable Housing Program. Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements apply to projects that consist of 10 or more units. The applicable percentage is dependent on the number of units in the project, the zoning of the property, and the date of the accepted Project Application. A Project Application was accepted on November 21, 2014, project approval was granted on September 13, 2018, and a site permit was issued on May 13, 2020; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the On-site Affordable Housing Alternative is to provide 13.5% of the proposed group housing rooms/ dwelling units as affordable.

The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6 and has submitted an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. For the Project Sponsor to be eligible for the On-Site Affordable

Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be rental units and will remain as rental units for the life of the project. The Project Sponsor submitted such Affidavit on August 21, 2020. The applicable percentage is dependent on the total number of units in the project, the zoning of the property, and the date of the accepted Project Application. A Project Application was accepted on November 24, 2014, project approval was granted on September 13, 2018, and a site permit issued May 13, 2020; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the On-site Affordable Housing Alternative is to provide 13.5% of the total proposed dwelling units as affordable to low-income households, as defined by the Planning Code and Procedures Manual. 43 units/rooms of the total 316 units/rooms and 5 replacement units/rooms, for a total of 48 provided will be affordable units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable.

- 7. Conditional Use Findings.** Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the Project is consistent and does comply with said criteria as originally described in Section G of Planning Commission Motion No. 20281, except as amended below:

- 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 Downtown/Civic Center neighborhood contains a mix of residential, commercial, and institutional uses, including religious facilities. This mixed-use building will be compatible with that neighborhood mix of uses. The project will provide rental housing, ground floor retail space, and a new Christian Science church and Reading Room (institutional use) to replace the existing church site (deemed obsolete and oversized), a vacant commercial building adjacent to the church, and a one-story restaurant building containing five existing residential units that will be replaced on-site. Specifically, this mixed-use project includes 316 newly constructed group housing rooms (with 48 on-site affordable rooms including the five replacement units), supporting a need in the City, a new church facility, and retail space.

- 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:

- (1) Nature of proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures;

The project's proposed building massing is consistent with the character and design of the neighborhood, and will not impede any development of surrounding properties. The project would be a contemporary, but compatible, design that references the character-defining features of the surrounding district and is compatible with size and scale, composition,

materials, and architectural details. The massing is compatible in terms of lot occupancy, solid-to-void ratio, and vertical articulation. The elements include the new church structure, and two different architectural styles for floors seven and above. The expression of the upper levels is compatible with the overall design and district but read as secondary elevations. Finally, a vertical notch is proposed at the corner of O'Farrell Street and Shannon Alley, further reducing the building's massing impact. The building's design is well-articulated horizontally and vertically to reduce the apparent massing.

Pursuant to Condition of Approval Nos. 12a and 13 in Motion No. 20281, the Project design was modified to remove the existing colonnaded façade at 450 O'Farrell Street from the project, and the revised design was presented to the Planning Commission at an informational hearing on October 3, 2019.

- (2) 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 site is located accessible by public transit, with multiple public transit alternatives (MUNI Bus lines 2-Clement, 3-Jackson, 27-Bryant, 31-Balboa, 38-Geary, 38R-Geary Rapid, and 45-Union/Stockton; Powell Street and Civic Center BART/MUNI) within close walking distance. Additionally, the Project site is directly adjacent to O'Farrell and Jones Streets, both major thoroughfares which provide ready access to those driving.

Parking is available either along surrounding neighborhood streets or within the proposed minimal off-street parking for the institutional use. The vehicular entrance is located on Shannon Street, which will be less detrimental to the existing traffic pattern than would be a garage entrance on O'Farrell Street, which has a dedicated transit lane and one vehicular travel lane. The residential entrance, including entrance to the on-site bicycle parking, is located off O'Farrell Street. Pedestrian entrances to the retail and church uses are on O'Farrell and additional retail use from Jones Streets, further activating those major streets. Given the small amount of retail space (less than 10,000 square feet) and limited loading needs as discussed in the project EIR, the project will seek an exception to off-street loading requirements by providing an on-street solution. The development will not be detrimental to the convenience of persons residing or working in the vicinity.

- C. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The project site is located within the RC-4 zoning district and subarea No. 1 of the North of Market Residential Special Use District. This SUD has a stated purpose which includes protect and enhance important housing resources in an area near downtown, conserve, and upgrade existing low and moderate income housing stock, preserve buildings of architectural and historic importance, and preserve the existing scale of development, maintain sunlight in public spaces, encourage new infill housing at a compatible density, limit the development of tourist hotels and other commercial uses that could adversely impact the residential nature of the area, and limit the number of commercial establishments which are not intended primarily for customers who are residents of the area.

Considered as a whole, although the project demolishes historic resources, the Project would add housing and commercial goods and services to add to and to support the residential-commercial District, in addition to a new church facility, into one mixed-use building. The Project site is well-served by transit and existing commercial services, with amenities accessible by foot, bike, or transit. The Project includes 316 group housing rooms with 632 beds, and provision of on-site affordable units. On balance, the Project conforms with multiple goals and policies of the General Plan.

8. Planned Unit Development. Section 304 establishes criteria and limitations for the authorization of Planned Unit Development (PUD)'s over and above those applicable to Conditional Uses in general and contained in Section 303 and elsewhere in the Code. In cases of projects on sites ½-acre or greater that exhibit outstanding overall design and are complementary to the design and values of the surrounding area. The Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section H of Planning Commission Motion No. 20281, except as amended below:

A. Specifically, the project seeks these modifications:

- (1) *A modification of the rear yard requirements per Section 134(j) of the Planning Code is still required, as a modification through the PUD process, to allow for open space in a configuration other than a rear yard.*
- (2) *An exception to dwelling unit requirements is not required for the amended Project, as it complies with Section 140 of the Planning Code.*
- (3) *An exception to the off-street loading requirements per Section 152 of the Planning Code is still required, which requires one residential loading space for the project.*
- (4) *An exception to permitted obstructions is not required for the amended Project, as the amended Project complies with Section 136(c) of the Planning Code.*

B. On balance, the Project complies with said criteria of Section 304(d) in that it:

- (1) Provides off-street parking adequate for the occupancy proposed;

Off-street parking is not required in the RC-4 zoning district. The project provides off-street parking for the religious institution, with up to 6 dedicated for that use. Balanced with multiple transit lines within ¼-mile, options for walking, and over 85 bicycle parking spaces, both on-site and on the sidewalks, this limited off-street parking is adequate and appropriate for the proposed uses, for this downtown location.

- (2) Be limited in dwelling unit density to less than the density that would be allowed by Article 2 of this Code for a district permitting a greater density, so that the Planned Unit Development will not be substantially equivalent to a reclassification of property;

Pursuant to Section 209.3 of the Planning Code, the RC-4 residential high-density zoning district, permits a group housing density up to one bedroom per every 70 square feet of lot

area. On this 22,106 square foot site, 316 bedrooms are permitted with up to 632 beds. Accordingly, no increase in density is being sought.

9. **Additional Findings to Section 303(c) for Conditional Use Authorization request.** Each Planning Code Section may establish criteria for the Planning Commission to consider when reviewing applications for Conditional Use Authorization. The Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:

- A. **Additional Findings pursuant to Section 317** establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications to demolish or convert Residential Buildings. On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:

- (1) whether the project removes rental units subject to the Residential Rent Stabilization and Arbitration Ordinance or affordable housing;

The existing five units are not deed-restricted, tax-credit funded affordable housing. Although Planning Staff does not have the authority to make a determination on the rent control status of a property, it is to be assumed that the units to be demolished are subject to the Residential Rent Stabilization and Arbitration Ordinance due to building construction date circa 1950. Only two of the five units are occupied, and the project sponsor will be working with the Mayor's Office of Housing and Community Development (MOHCD) and other parties to ensure a relocation plan. The project includes five additional on-site affordable units in excess of its inclusionary housing requirement (13.5%, or 43 units) as new, on-site replacement units. The project proposes a total of 48 on-site affordable units pursuant to Section 415 of the Planning Code.

- (2) whether the project conserves existing housing to preserve cultural and economic neighborhood diversity;

Although the existing housing will not be conserved, the mixed-use project, which merges three lots, will replace the five existing units – only two of which are currently occupied – with 316 newly constructed group housing rooms. The five replacement rooms and 311 group housing rooms in the project meet the stated purpose of the North of Market Residential Special Use District and the City's priority policies to encouraging dense infill housing in close proximity to transit. By providing a varied bedroom mix and on-site affordable units (41 inclusionary units/rooms and 5 replacement inclusionary units/rooms), the surrounding neighborhood's cultural and economic diversity will be enhanced.

- (3) whether the project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

The project conserves neighborhood character with a mixed-use project including 316 newly constructed group housing rooms, including 48 units/rooms as on-site affordable, a church, retail space, all while including features that are consistent with the character defining features

of the Uptown Tenderloin National Register Historic District. Architectural elements from existing structures will be incorporated into the new building design to maintain its connection to the neighborhood's history. The new building design is compatible with the prevailing development pattern and neighborhood character on the project and surrounding blocks. The group housing rooms – primary one bed but a small number with two beds per room – is balanced with compliant residential open space at various levels and communal amenity space throughout the residential portion. The minimal amount of ground floor retail supports the new and existing residential uses, and, overall, the project seeks to enhance the neighborhood's economic and cultural diversity. Pursuant to Condition of Approval Nos. 12a and 13 in Motion No. 20281, the Project design was modified to remove the existing colonnaded façade at 450 O'Farrell Street from the project, and the revised design was presented to the Planning Commission at an informational hearing on October 3, 2019.

- (4) whether the project protects the relative affordability of existing housing;

None of the five units in the existing building are deed-restricted affordable housing, however, are presumed to be subject to the Rent Stabilization and Arbitration Ordinance. The Project as a whole is required to comply with San Francisco's inclusionary housing program under Section 415 of the Planning Code. In addition, the five units to be demolished will be replaced as on-site inclusionary. As a result, 15.2% of the group housing rooms provided on-site will be affordable (41 required inclusionary units/rooms and 5 replacement inclusionary units/rooms).

- (5) whether the project increases the number of permanently affordable units as governed by Section 415;

By demolishing the five existing units, and replacing them with a project that will comply with Section 415 of the Planning Code, the number of affordable units will increase. The Project's required inclusionary is 13.5% or 41 affordable units/rooms and the replacement five affordable units/rooms, will produce a project with 46 on-site affordable units/rooms, thereby increasing the supply of newly constructed affordable units within a market-rate project.

- (6) whether the project increases the number of family-sized units on-site;

The five existing units are all studios, and therefore are not family-sized. The project currently proposes 316 group housing rooms with up to 632 beds. The project includes approximately 28 group housing rooms which exceed 500 square feet are intended for occupancy of two or more individuals.

- (7) whether the project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;

The project is of superb architectural and urban design quality and enhances existing neighborhood character. The EIR for the project has determined the new building compatible with the Uptown Tenderloin National Register Historic District. The project will be a contemporary, but compatible, design that references the character-defining features of the surrounding district, in terms of size and scale, composition, and materials. The massing is compatible in terms of lot occupancy, solid-to-void ratio, and vertical articulation. Material

selection includes pre-cast concrete, with varying finishes, with deep recesses for glazing at the primary elevations fronting the street, and non-reflective metal panel systems with vertical oriented glazing and spandrel panel at the elevations setback from the street and secondary elevations. Further, the design minimizes the building's mass with alternating setbacks, which seeks to minimize the appearance of bulk and minimize impacts to adjacent neighbors' light and air, consistently applied design guidelines.

Pursuant to Condition of Approval Nos. 12a and 13 in Motion No. 20281, the Project design was modified to remove the existing colonnaded façade at 450 O'Farrell Street from the project, and the revised design was presented to the Planning Commission at an informational hearing on October 3, 2019.

- (8) whether the project increases the number of on-site Dwelling Units;

The existing 532 Jones Street building contains five presumed studio dwelling units. The project proposes 316 group housing rooms which is an increase of on-site residential units/ rooms.

- (9) whether the project increases the number of on-site bedrooms;

The existing 532 Jones Street building contains five studio units, i.e. no bedrooms. The project currently proposes to increase the number beds to a maximum of 632 beds in 316 bedrooms.

- (10) whether or not the replacement project would maximize density on the subject lot;

The project provides 316 group housing rooms (with up to 632 beds) by proposing to merge three lots - the 532 Jones Street, 474 O'Farrell Street, and 450 O'Farrell Street lots - and developing one building. Density permitted for group housing in the RC-4 zoning district would allow 316 group rooms on this site. By merging three lots and building vertically to the permitted height limit for the site, the project is able to provide full use of the density available on the subject lot, as well as the adjacent two lots. Notably, the project sculpts the massing adjacent to the existing neighbors to preserve light and air.

- B. **Additional Findings pursuant to Section 253(b)(1)** establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications for a building exceeding a height of 40 feet in a RM or RC District where the street frontage is more than 50 feet. In reviewing any such proposal for a building or structure exceeding 40 feet in height in a RH District, 50 feet in height in a RM or RC District, or 40 feet in a RM or RC District where the street frontage of the building is more than 50 feet, the Planning Commission shall consider the expressed purposes of this Code, of the RH, RM, or RC Districts, and of the height and bulk districts, set forth in Sections 101, 209.1, 209.2, 209.3, and 251 hereof, as well as the criteria stated in Section 303(c) of this Code and the objectives, policies, and principles of the General Plan, and may permit a height of such building or structure up to but not exceeding the height limit prescribed by the height and bulk district in which the property is located. On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:

The height of the building varies from 55 feet to 130 feet, exceeding the 40 feet in height on a site with more than 50 feet of street frontage in an RC district, but in compliance with the 80-T-130-T height and bulk district applicable to this project site. As discussed at length in the Section 303(c) findings and further in the General Plan Compliance section, the project is on balance compatible with the criteria, objectives, and policies and principles of the RC-4 district, North of Market Residential Special Use District subarea No. 1, and the General Plan. Specifically, RC-4 districts call for a mixture of high-density dwellings with supporting commercial uses and open space. The project provides that 316 group housing rooms, with retail and religious institution uses on the lower levels.

- C. **Additional Findings pursuant to Section 249.5(c)(1) for Section 263.7** establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications for a building exceeding a height of 80 feet in the North of Market Residential Special Use District. In the 80-120-T and 80-130-T Height and Bulk Districts located within the North of Market Residential Special Use District (NOMRSUD), heights higher than 80 feet would be appropriate in order to effect a transition from the higher downtown heights to the generally lower heights of the existing buildings in the NOMRSUD core area and the Civic Center area and to make more feasible the construction of new housing, provided that development of the site is also consistent with the general purposes of the NOMRSUD as set forth in Section 249.5(b). In making determinations on applications for Conditional Use authorizations required for uses located within the North of Market Residential Special Use District, the Planning Commission shall consider the purposes as set forth in Subsection 249.5(b) as delineated below. On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:
- (1) protect and enhance important housing resources in an area near downtown;
The project increases housing resources in the downtown area with proposed 316 group housing rooms.
 - (2) conserve and upgrade existing low and moderate income housing stock;
The project replaces the existing five residential units with newly constructed replacement units/rooms. As such, the project provides a total of 48 on-site inclusionary affordable units/rooms.
- D. **Additional Findings pursuant to Section 271(c)** establishes criteria for the Planning Commission to consider in addition to Section 303(c) when reviewing applications for a building's bulk limits to be exceeded. Exceptions to the Section 270 bulk limits are permitted through Section 271. On balance, the Commission finds that the Project is consistent with the relevant provisions of the Planning Code as originally described in Section I of Planning Commission Motion No. 20281, except as amended below:
- a. The appearance of bulk in the building, structure or development shall be reduced by means of at least one and preferably a combination of the following factors, so as to produce the impression of an aggregate of parts rather than a single building mass:
 - i. Major variations in the planes of wall surfaces, in either depth or direction, that significantly alter the mass;
 - ii. Significant differences in the heights of various portions of the building, structure or development that divide the mass into distinct elements;

- iii. Differences in materials, colors or scales of the facades that produce separate major elements;
 - iv. Compensation for those portions of the building, structure or development that may exceed the bulk limits by corresponding reduction of other portions below the maximum bulk permitted; and
 - v. In cases where two or more buildings, structures or towers are contained within a single development, a wide separation between such buildings, structures, or towers.
- b. In every case the building, structure, or development shall be made compatible with the character and development of the surrounding area by means of all of the following factors:
- i. A silhouette harmonious with natural land-forms and building patterns, including the patterns produced by height limits;
 - ii. Either maintenance of an overall height similar to that of surrounding development or a sensitive transition, where appropriate, to development of a dissimilar character;
 - iii. Use of materials, colors, and scales either similar to or harmonizing with those of nearby development; and
 - iv. Preservation or enhancement of the pedestrian environment by maintenance of pleasant scale and visual interest.

The project's O'Farrell Street elevation is articulated to break the massing down into several distinct sections. The 13-story massing would be setback from the street/retained façade. Vertical recesses are introduced at ground level between the church and other massing, and above ground level to break up massing and increase articulation.

The proposed O'Farrell Street elevation references the tripartite composition characteristic of the district. Specifically, the existing 450 O'Farrell Street façade and the proposed church façade will be the base, the apartments will be the middle, and the parapet will define the top. The proposed base at the new church and at the Jones Street elevation will be further articulated as a two-part vertical composition with a high ground floor, similar to the bases of the adjacent and surrounding district contributors.

The articulation of the proposed façade along O'Farrell Street will divide the façade in vertical subzones and will reflect the verticality of the nearby buildings by breaking up the form. The projecting precast concrete sections (rendered in white) with punched rectangular windows accentuate the elongated form of the building. On the western half of the elevation, the orientation of the rectangular windows strengthens verticality while adding rhythm to the façade, through application of an alternate materials palette: non-reflective metal, spandrel panel and glazing system. The secondary façades, including the western setback and the Shannon Street elevation, will be relatively flat, broken by lines and projecting balconies on Shannon Street.

Continuous street walls are typical of the district. The 8-story building component to the west, which will be clad in a textured pre-clad concrete and will house the new church, will

extend to the property line. In addition, the Jones Street elevation will also extend to the property line, creating a continuous street wall. This urban design move preserves and enhances the pedestrian environment since the required use of transparency at these elevations provides an openness for pedestrians and users.

The building's design is well-articulated in order to reduce the apparent massing and includes retention of a unique urban design feature as a device to orient the community. The site is within the Uptown Tenderloin National Register Historic District, and the new building has been determined compatible with the District and the character of the surrounding neighborhood, specifically the scale and size, composition, materials, and architectural details.

Pursuant to Condition of Approval Nos. 12a and 13 in Motion No. 20281, the Project design was modified to remove the existing colonnaded façade at 450 O'Farrell Street from the project, and the revised design was presented to the Planning Commission at an informational hearing on October 3, 2019. The amended Project does not exceed the original approval of bulk exceedance.

- 10. General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan as originally described in Section J of Planning Commission Motion No. 20281. The amended Project is consistent with the following Objectives and Policies of the General Plan, except as amended below:

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.

Policy 1.2

Focus housing growth and infrastructure necessary to support growth according to community plans. Complete planning underway in key opportunity areas such as Treasure Island, Candlestick Park, and Hunter's Point Shipyard.

Policy 1.10

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

OBJECTIVE 2

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

Policy 2.1

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

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.

Policy 4.4

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Policy 4.5

Ensure that new permanently affordable housing is located in all of the City's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

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.

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

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

Policy 11.4

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

Policy 11.6

Foster a sense of community through architectural design, using features that promote community interaction.

Policy 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

OBJECTIVE 12

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

Policy 12.2

Consider the proximity of quality of life elements such as open space, child care, and neighborhood services, when developing new housing units.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1

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

Policy 1.3

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

Policy 1.7

Recognize the natural boundaries of districts, and promote connections between districts.

OBJECTIVE 2

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

Policy 2.6

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

OBJECTIVE 3

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

Policy 3.1

Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 3.5

Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.4

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

The Project is a high-density residential development at an infill site, providing 316 group housing rooms in a mixed-use area. The Project includes 43 net new on-site affordable housing units/rooms for rent, plus five replacement units, which assist in meeting the City's affordable housing goals. The Project is also in close proximity to ample public transportation.

The Project generally promotes the purpose of the North of Market Residential Special Use District through infill housing at compatible density. The project introduces 311 net new group housing rooms with on-site affordable units near downtown, provides five new replacement units/ rooms on-site, proposes less than 10,000 square feet of ground floor commercial which can support existing and new residents, and does not shade public open spaces. Although the proposal does not preserve historic architectural resources, the new building scale, materials, and architectural features are compatible with the surrounding neighborhood character and buildings. The Project will activate O'Farrell Street with the re-located church site and retail use, Shannon Street with the residential lobby, and Jones Street with additional retail use. Further, street improvements such as street trees and bicycle parking will further enhance the public realm, consistent with the better street plan policies in the General Plan.

The proposed new construction would produce high-quality architectural design that is compatible with the surrounding neighborhood and with the Uptown Tenderloin National Register Historic District, in which the

site is located. The new building will reflect the characteristic pattern which gives to the City and its neighborhood an image, sense of purpose, and a means of orientation; and, moderating major new development to complement the City pattern, by providing a new, mixed-use development consistent with neighboring 6- to 19-story development in close proximity to the site. The Project would provide a new religious facility that will enable an existing church, which in its current location has been located at this site for more than 90 years, to continue to be located within the community and provide updated, code compliant, and expanded religious instructional and outreach facilities, while salvaging and reusing certain features of the building's interior elements.

Although the project does not provide family housing, the substantial number of new rooms provides housing opportunity. The project, on balance, promotes the policies and objectives of the General Plan by locating housing at a mixed-use infill development site, with neighborhood-serving commercial, and at a density to support it, where households can easily rely on public transportation, walking, and bicycling for a majority of daily trips.

11. Planning Code Section 101.1(b) establishes eight priority-planning policies and requires review of permits for consistency with said policies. The Project is, on balance, consistent with the priority policies as originally described in Section 3 of Planning Commission Motion No. 20281. The amended Project is consistent with the following policies and as amended below:

- 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.

The project site does not possess any neighborhood-serving retail uses. The Project provides 316 group housing units, which will enhance the nearby retail uses by providing new residents, who may patron and/or own these businesses.

- 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 introduces 311 net new group housing rooms with on-site affordable units near downtown, provides five new replacement group housing rooms/ units as on-site affordable units, proposes less than 4,000 square feet of ground floor commercial which can support existing and new residents, and does not shade public open spaces. Although the proposal does not preserve historic architectural resources, the new building's scale, materials, and architectural features are compatible with the surrounding neighborhood character and buildings. The Project will activate O'Farrell Street with the re-located church site and retail use, Shannon Street with the residential lobby, and Jones Street with additional retail use. The new building will reflect the characteristic pattern which gives to the City and its neighborhood an image, sense of purpose, and a means of orientation; and, moderating major new development to complement the City pattern, by providing a new, mixed-use development consistent with neighboring 6- to 19-story development in close proximity to the site.

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

The project proposes to replace the five existing residential units, none of which are deed-restricted affordable units but are presumed to be subject to the Rent Stabilization and Arbitration Ordinance, with 316 total group housing rooms, 48 of which are designated on-site affordable housing. As a result, the project creates an increase in the City's supply of affordable housing.

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

The Project Site is served by nearby public transportation options. The Project site is very accessible by public transit, with multiple public transit alternatives (MUNI Bus lines 2-Clement, 3-Jackson, 27-Bryant, 31-Balboa, 38-Geary, 38R-Geary Rapid, and 45-Union/Stockton; Powell Street and Civic Center BART/MUNI) within close walking distance. Additionally, the Project site is directly adjacent to O'Farrell and Jones Streets, both major thoroughfares which provide ready access to those driving.

Parking is available either along surrounding neighborhood streets. The proposed garage has up to 6 parking spaces, all dedicated to churchgoers, in addition to 73 Class 1 and 12 Class 2 bicycle spaces. Given the accessibility of the project site, and the limited retail uses proposed, the project will not create community traffic that impedes MUNI service or overburdens the streets.

- 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 does not include commercial office development.

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

The Project will be designed and will be constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

Part of the project includes demolition of a building (450 O'Farrell Street) determined individually eligible for the California Register of Historic Resources. In certifying the Project's Environmental Impact Report (EIR), the Planning Commission adopted a Statement of Overriding Considerations, Motion No. 20280, finding that the impacts of demolition of the individual historic architectural resource are outweighed by the benefits of the Project. The proposed new construction would produce high-quality architectural design that is compatible with the Uptown Tenderloin National Register Historic District, in which the site is located.

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

Although the Project does cast shadow on the adjacent public park, the adjacent public park (Parque Ninos Unidos) is still afforded access to sunlight, which should not dramatically affect the use and enjoyment of this park. Since the Project is not more than 40-ft tall, additional study of the shadow impacts was not required per Planning Code Section 295.

- 12. First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Administrative Code Section 83.11), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

The Project Sponsor submitted a First Source Hiring Affidavit and prior to issuance of a building permit will execute a First Source Hiring Memorandum of Understanding and a First Source Hiring Agreement with the City's First Source Hiring Administration.

- 13.** 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.
- 14.** The Commission hereby finds that approval of the amended Planned Unit Development/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 an amended Planned Unit Development/Conditional Use Authorization Application No. 2013.1535CUA-02** subject to the original conditions authorized through Planning Commission Motion No. 20281 as "Exhibit A" of that motion, with exception Condition Nos. 24, 25, 26, and 32 of Motion No. 20281, which is amended as described and attached to this Motion hereto as "EXHIBIT A", in general conformance with plans on file, dated December 7, 2020, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

This project has undergone environmental review pursuant to the California Environmental Quality Act and Chapter 31 of the San Francisco Administrative Code. The Planning Commission certified the Final Environmental Impact Report (EIR) for the project on September 13, 2018 (Motion No. 20279). On December 21, 2020, the Planning Department published an addendum to Final EIR for the Project. The Planning Department concluded that no further environmental review is required for this revised Project for the reasons set forth in the Addendum. This Commission concurs with that conclusion. On September 13, 2018, the Commission adopted Motion No. 20280 adopting CEQA findings for the original Project, including a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program (MMRP) for the Project. Those findings and adoption of the MMRP set forth in Motion No. 20280 are incorporated by reference in this Motion as though fully set forth herein.

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. 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 June 24, 2021.



Jonas P Ionin Digitally signed by Jonas P Ionin
Date: 2021.07.26 10:01:54 -07'00'

Jonas P. Ionin
Commission Secretary

AYES: Tanner, Diamond, Fung, Koppel

NAYS: Imperial, Moore

ABSENT: Chan

ADOPTED: June 24, 2021

EXHIBIT A

Authorization

This authorization is for amended conditional use authorization to modify Condition of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281 to allow: a mixed-use building, with group housing residential use, institutional use, and ground floor commercial for the Project located at 450-474 O'Farrell and 532 Jones Street, Block 0317, Lots 007, 009, and 011 within the **RC-4 Zoning** District and a **80-T-130-T** Height and Bulk District; in general conformance with plans, dated **May 25, 2021**, and stamped "EXHIBIT B" included in the docket for Record No. **2013.1535CUA-02** and subject to conditions of approval reviewed and approved by the Commission on **June 24, 2021** under Motion No. **20935**. 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 **June 24, 2021** under Motion No. **20935**.

Printing of Conditions of Approval on Plans

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **20935** 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

1. **Parking for Affordable Units.** The amended Project no longer includes off-street residential parking, therefore, this Condition of Approval no longer applies.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

2. **Car Share.** Pursuant to Planning Code Section 166, zero car share spaces shall be made available. The amended Project includes fewer than 24 parking spaces for the non-residential use and no longer includes parking for the residential use, therefore, this Condition of Approval does not apply.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

3. **Bicycle Parking** Pursuant to Planning Code Sections 155, 155.1, and 155.2, the Project shall provide no fewer than **151** bicycle parking spaces (**136** Class 1 spaces for the residential and religious uses portion of the Project and **15** Class 2 spaces for the residential, religious, and commercial uses portion of the Project). SFMTA has final authority on the type, placement, and number of Class 2 bicycle racks within the public ROW. Prior to issuance of first architectural addenda, the project sponsor shall contact the SFMTA Bike Parking Program at bikeparking@sfmta.com to coordinate the installation of on-street bicycle racks and ensure that the proposed bicycle racks meet the SFMTA's bicycle parking guidelines. Depending on local site conditions and anticipated demand, SFMTA may request the project sponsor pay an in-lieu fee for Class II bike racks required by the Planning Code.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

4. **Inclusionary Affordable Housing Program.** The following Inclusionary Affordable Housing Requirements are those in effect at the time of Planning Commission action. In the event that the requirements change, the Project Sponsor shall comply with the requirements in place at the time of issuance of first construction document.

- a. **Number of Required Units.** Pursuant to Planning Code Section 415.3, the Project is required to provide 13.5% of the proposed dwelling units as affordable to qualifying households. The Project contains 316 units/rooms, of which 5 are replacement units/ rooms; therefore, 48 affordable units/rooms are currently required (43 units/ rooms to satisfy the 13.5% on site requirement and 5 replacement units/ rooms). The Project Sponsor will fulfill this requirement by providing the 46 affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD").

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- b. **Unit Mix.** The Project contains 316 group housing rooms; therefore, the required affordable unit mix is 43 group housing rooms. In addition, five replacement group housing rooms/ units are required. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOHCD.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- c. **Income Levels for Affordable Units.** Pursuant to Planning Code Section 415.3, the Project is required to provide 13.5% of the proposed dwelling units as affordable to qualifying households at a rental rate of 55% of Area Median Income. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD").

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- d. **Minimum Unit Sizes.** Affordable units are not required to be the same size as the market rate units and may be 90% of the average size of the specified unit type. For buildings over 120 feet in height, as measured under the requirements set forth in the Planning Code, the average size of the unit type may be calculated for the lower 2/3 of the building as measured by the number of floors.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- e. **Replacement of Existing Affordable Units.** The principal project has resulted in demolition, conversion, or removal of affordable housing units that are subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate-, low- or very-low-income, or housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power and determined to be affordable housing. Pursuant to Planning Code Section 415.6(a)(9), the project sponsor shall replace the five (5) units that were removed with units of a comparable number of bedrooms and rents. The project shall replace five (5) units (5 group housing rooms/units) priced at 55% AMI.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- f. **Notice of Special Restrictions.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to architectural addenda. The designation shall comply with the designation standards published by the Planning Department and updated periodically.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- g. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than thirteen and a half percent (13.5%) plus the five replacement units, or the applicable percentage as discussed above, of the each phase's total number of dwelling units as on-site affordable units.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- h. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- i. **Reduction of On-Site Units after Project Approval.** Pursuant to Planning Code Section 415.5(g)(3), any changes by the project sponsor which result in the reduction of the number of on-site affordable units shall require public notice for hearing and approval from the Planning Commission.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- j. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOHCD at 1 South Van Ness Avenue or on the Planning Department or MOHCD websites, including on the internet at: <http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>. As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600,

www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- i. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) be constructed, completed, ready for occupancy, and marketed no later than the market rate units, and (2) be evenly distributed throughout the building; and (3) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model, or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
 - ii. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, such as defined in the Planning Code and Procedures Manual. The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
 - iii. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least six months prior to the beginning of marketing for any unit in the building.
 - iv. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
 - v. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.
 - vi. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law, including penalties and interest, if applicable.
5. **Group Housing Cooking Facilities.** Pursuant to ZA Interpretation of 209.2(a), effective October 2005, are allowed to have limited kitchen facilities with the following specifications: a small counter space, a small under-counter refrigerator, a small sink, a microwave, and a small two-ring burner. Such limited kitchen facility

shall not include any other type of oven, as that would constitute a full kitchen.

6. Increase the number of larger group housing units, wherever feasible.
7. Provide balconies to maximum projection on all sides except O'Farrell Street.
8. Continue working with Staff to increase the number of bicycle parking spaces, up to 200.
9. Convert the ground-floor retail space to group housing units.
10. Work with Staff to analyze the feasibility of converting the basement to additional group housing units.

450 O'FARRELL STREET

CONDITIONAL USE AND VARIANCE APPLICATION

Version 3B

May 25th, 2021

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Zoning Information Overview:

Site: 450 O'Farrell Street, San Francisco CA 94102
Parcel: Block 0317 / Parcels 007, 009, 011

Zoning: RC-4 (Residential-Commercial, High Density)
Special Use Districts: North of Market Residential 1
Fringe Financial Services RUD
Within 1/4 mile of an Existing Fringe Financial Service

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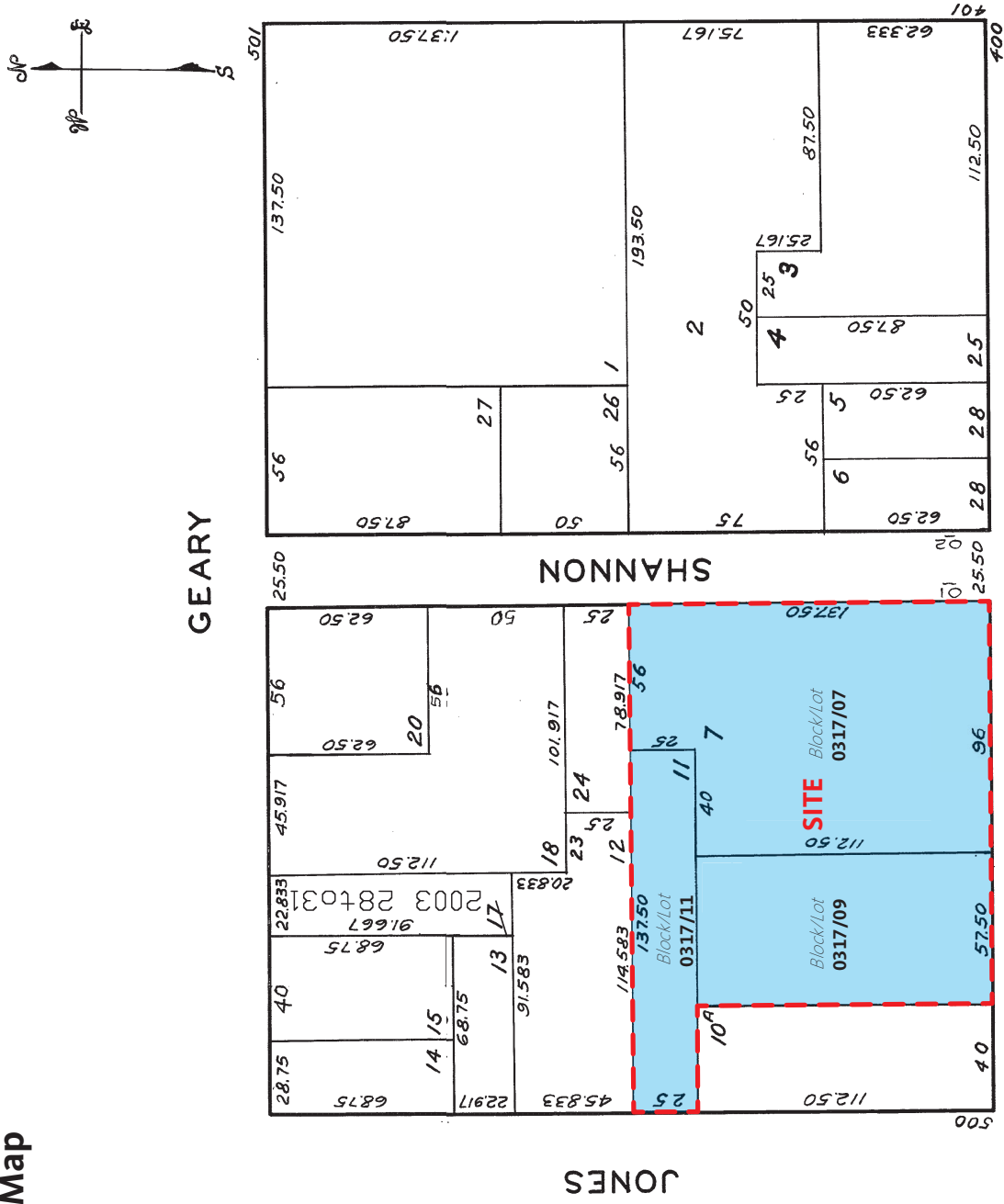
Previously Approved

Elevation - O'Farrell St.
Elevation - Jones St.
Elevation - Shannon St.
Rendering - O'Farrell St.
Building Materials



Site Information

Site - Parcel Map



DBKF ENGINEERS

TOPOGRAPHIC NOTES

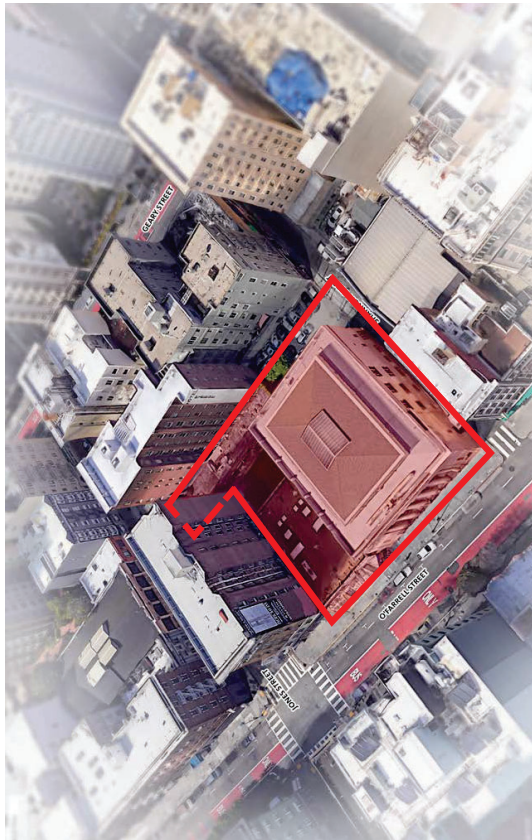
UNAUTHORIZED CHANGES TO THE PROFESSIONAL PREPARATION THIS MAP WILL NOT BE RESPONSIBLE FOR. IN LIEU OF UNAUTHORIZED CHANGES TO THIS MAP, ANY CHANGES TO THE MAP MUST BE REQUESTED IN WRITING AND MUST BE APPROVED BY THE PROFESSIONAL PREPARATION.

THIS CANTONMENT WAS MEASURED AT GREAT HEIGHT (457'). BEHIND THE CANTONMENT AND THIS SPECIES ARE APPROXIMATE ONLY AND SHOULD BE VERIFIED BY A CERTIFIED TREE ARBORIST.

MEASUREMENT 91-009 AT A SNOW OUT AT THE OUTER EDGE OF A STORM WATER INLET AT THE NORTHEAST CORNER OF JOSEPH STREET AND O'NEILL STREET.

FIELD SURVEY DATES 06/27/14 - 04/24/15

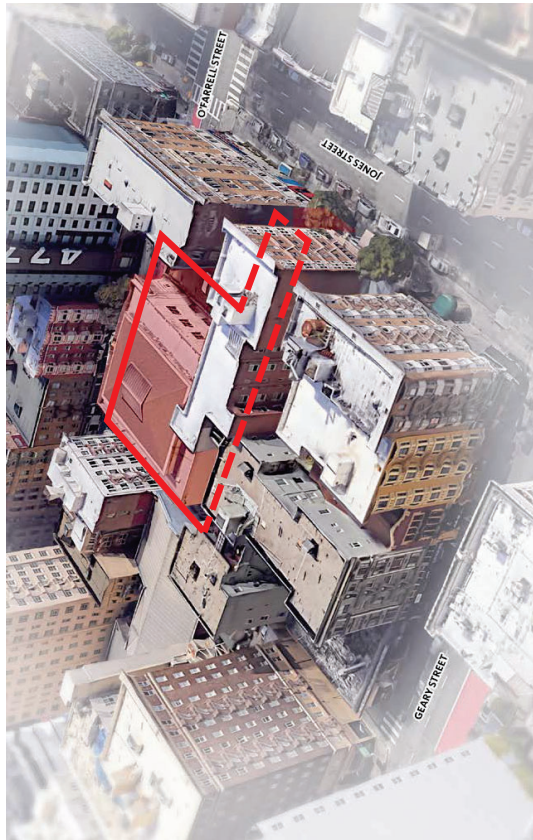
Site - Aerial Images



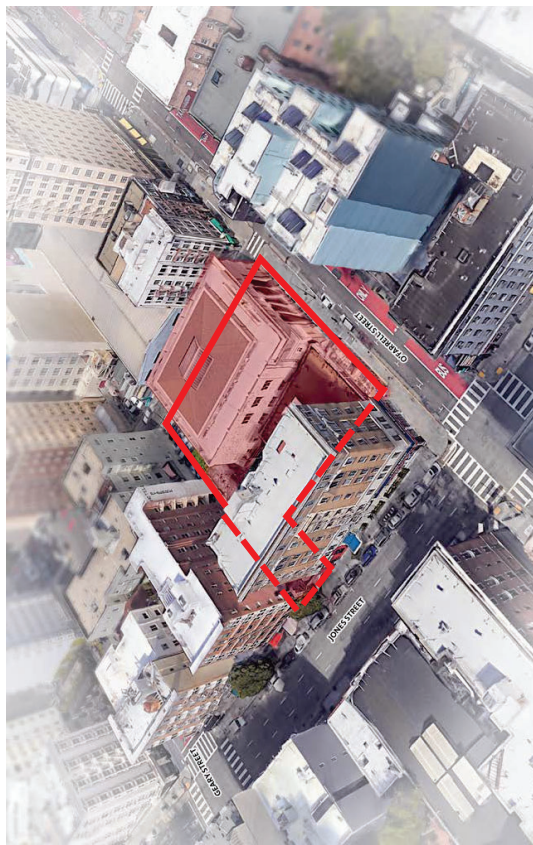
Looking North West



Looking South West



Looking South East



Looking North East

Site - Existing Context



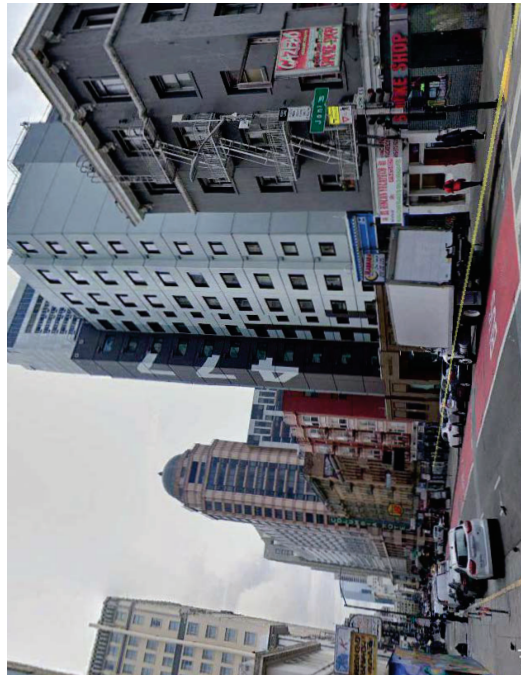
North West At O'Farrell St



North West At Shannon St



North East At Jones St & O'Farrell St



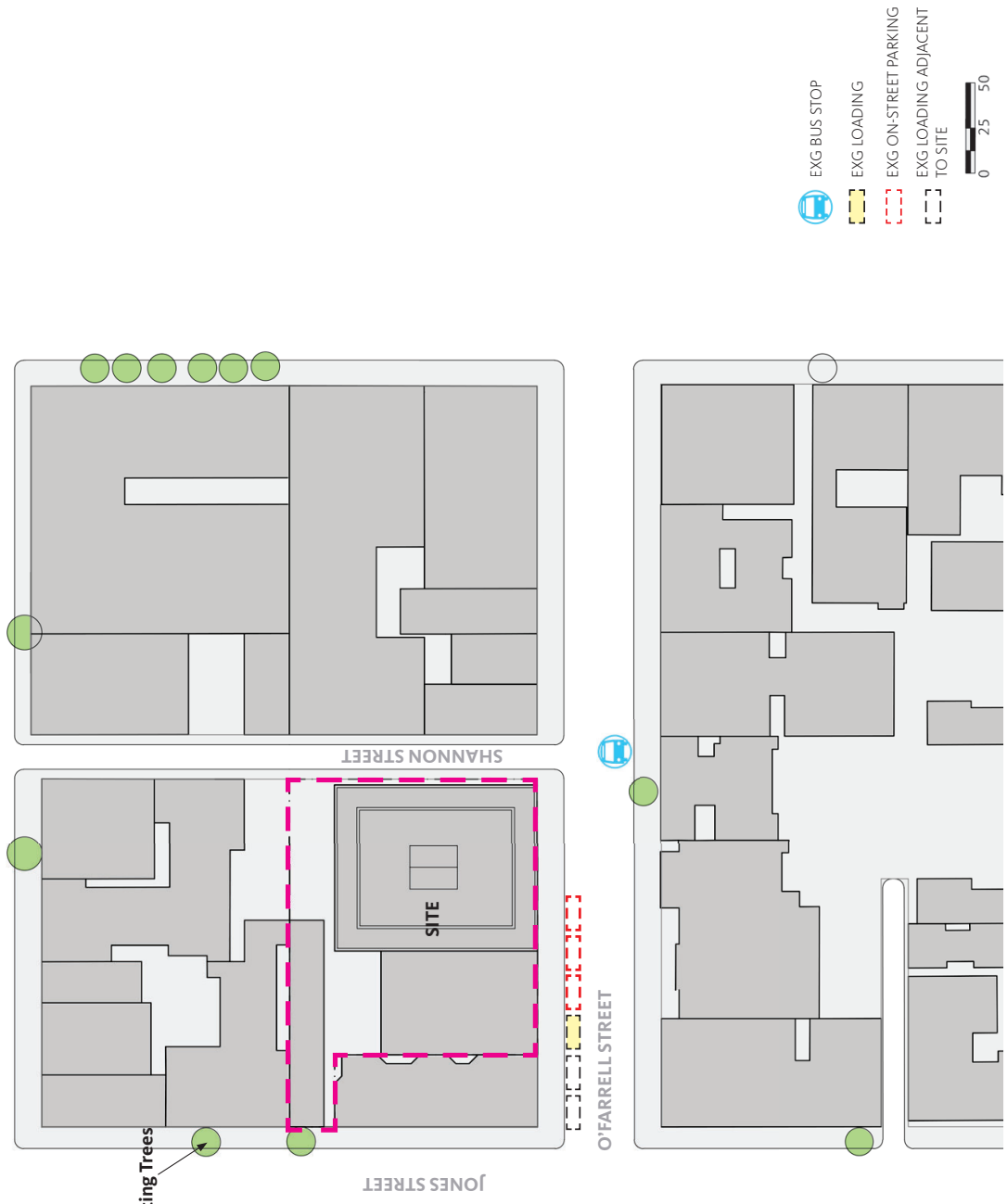
South East At Jones St & O'Farrell St

Proposed Design Revisions

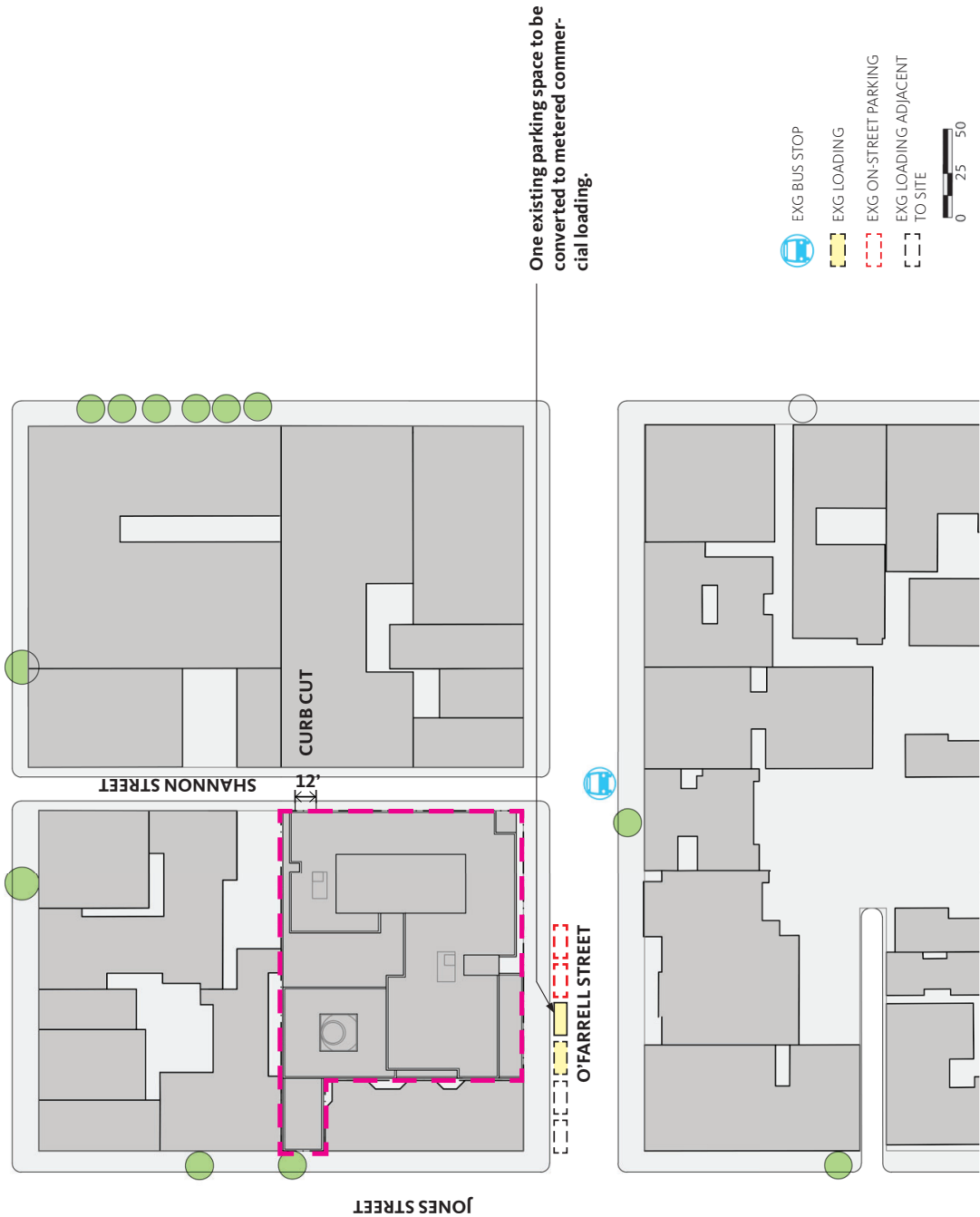
Project Data - Zoning

	Site / Zoning	Approved	Proposed Revisions
Site	450 O'Farrell Street, San Francisco CA 94102	-	-
Parcel	Block 0317 / Parcels 007, 009, 011	-	-
Zoning	RC-4 (Residential-Commercial, High Density)	-	-
Special Use Districts:	North of Market Residential 1 Fringe Financial Services RUD Within 1/4 mile of an Existing Fringe Financial Service	-	-
Rear Yard	25% Lot Depth, no less than 15', at the level of the lowest dwelling unit. Sec. 134	A modification of the rear yard per Sec. 134(g), through the PUD process, to allow for open space in a configuration other than a rear yard. The building is approved with full lot coverage at the ground level, however the upper levels are sculpted in an L-shaped configuration with a light well to match the neighbor to the West.	The rearyard is proposed to remain similar to the previously entitled rearyard, with the exception that additional rearyard is created at the inner most portion of the L-shape; please see plan.
Dwelling Unit Exposure	Dwelling Units and Group Housing shall have a room of 120 SF with a window onto a space meeting the requirements of Sec. 140. Further pursuant to Sec 140(b), for group housing projects, either each bedroom or at least one interior common area that meets the 120 square-foot minimum superficial floor area requirement with a window facing onto a street	An exception to dwelling unit exposure requirements per Sec. 140 for 21 of the 176 units. This equates to 11.9% of the units requiring an exception.	The proposed project includes an interior common room on level 2 which complies with the requirements of section 140 of the planning code.
Off-Street Loading	1 Loading Off-Street Space per 100,000 SF of Occupied SF. Sec. 152	An exception to the off-street loading requirements per Sec. 152 which require one existing general on-street metered parking spaces on O'Farrell Street adjacent to the project to a metered commercial loading space & to convert the two existing vehicle passenger loading / unloading zoning adjacent to the project site be revised from only during church service to all day passenger loading / unloading.	No revisions proposed.
Permitted Obstructions	Sec. 136	An exception to permitted obstructions, project balconies project over Shannon St. 4 inches beyond what is permitted.	Balconies extending 1'-0" over the property line at Shannon are proposed. According to Sec 136(c) this 1foot projection is permitted
Height & Bulk	80'-T - 130'-T; Per Table 270 a max. Length of 110' & a max. diagonal of 125' apply above the predominate street-wall or 80', whichever is less. Sec. 253. 249.5/263.7	The height and bulk we approved as shown in the original CU application.	No revisions proposed.
Open Space	Per Dwelling Unit: 36 SF if Private, 48 SF if Common Per Bedroom in Group Housing: 1/3 the dwelling unit requirement (16 SF per Bedroom)	Meets 100% of the Open Space requirement, per SF Planning. 176 Total Units; 4 with Private, 172 req. Common. 172 Units * 48 SF per Unit = 8,256 SF required Common Open Space	Meets 100% of the Open Space requirement, per SF Planning. This reduces the area from 8,256 SF to 5,072 SF. 316 Bedrooms * 16 SF per = 5,056 SF required, 5,060 SF Open Space Proposed.
Parking	None Required. Permitted 0.5 spaces per unit & max. permitted with CU 0.75 spaces per unit	Residential Parking Spaces. 49 Spaces.	0 Residential Parking Spaces, 6 Dedicated Church Parking Spaces.
Bike Parking	Residential Grouphousing requires (1) Class 1 space per 4 beds (first 100 beds) & (1) Class 1 space per 5 beds (above 100). (2) Class 2 spaces per 100 beds. Religious Use required (5) Class 1 spaces for capacity less than 500. (1) Class 2 spaces per 500 seats. Retail requires (1) Class 1 space per 7,500 sf of retail, (2) Class 2 spaces per 2,500 sf of retail.	-	Bike Parking: Group Housing: Class 1 = (131) spaces, Class 2 = (12) spaces Religious Use: Class 1 = (5) spaces, Class 2 = (1) space Retail: Class 1 = (0) spaces, Class 2 = (2) spaces <u>Totals: Class 1 = (136) spaces, Class 2 = (15) spaces</u> Additional Measures: - Bicycle Repair Station - Multimodal Way Finding Signage - Real Time Transportation Displays

Site Plan - Existing



Site Plan - Proposed



Proposed Project - Area Chart

Levels		Project Areas (SF)					Unit Count (Group Occupancy Unit, GOU)					Open Space (SF)			Parking (Spaces)					
		Net Residential	Amenities	Common	Residential Subtotal	Retail @ O'Farrell St.	Church	Retail @ Jones St.	Parking & Mechanical	Total Built Area	GOU Small	GUO Medium	GUO Large	Totals	Private	Common	Total	Spaces	ADA	Total
Level	Roof								1,802	1,802							3,220			
Level	13	11,265		2,714	13,979					13,942	2	22	2	26			-			
Level	12	10,796	633	2,707	14,136					13,942	2	22	2	26			-			
Level	11	11,265		2,703	13,968					13,942	2	23	2	27			-			
Level	10	11,265		2,703	13,968					13,942	2	23	2	27			-			
Level	9	11,308		2,732	14,740					14,740	2	25	1	28			-			
Level	8	11,308	633	2,732	14,107					14,740	2	25	1	28			-			
Level	7	11,942		2,732	14,740					14,740	2	25	1	28			-			
Level	6	11,942		2,732	14,740					14,740	2	25	1	28			-			
Level	5	11,308		2,732	14,107					14,740	2	25	1	28			-			
Level	4	12,073	633	2,995	15,702					15,702	4	25	1	30		1,840	1,840			
Level	3	8,912		2,951	11,863		2,989			14,411	2	17	2	21			-			
Level	2	7,820	338	3,011	11,169			670		11,802	1	17	1	19			-			
Level	1		3,745	1,360	5,105	2,115	6,935		6,850	21,007							-	5	1	6
Level	B1					3,238			10,018	13,256							-			
Totals		131,205	5,982	34,802	172,323	5,353	9,924	670	18,670	207,448	25 7.9%	274 86.7%	17 5.4%	316	- 0 Units	5,060 316	5,060	5	1	6

Open Space Requirements	The Open space requirement for Dwelling Units is 36 SF if Private & 48 SF if Common. For group housing the minimum amount of usable open space provided for use by each bedroom shall be one-third the amount required for a dwelling unit as specified; 16 SF Common per unit.	316 Units X 16 SF/Unit = 5,056 SF	Sec. 135 SF Planning Code
Parking Requirements	None Required; Permitted, 1 Space per DU, Max. w/ CU, 3 Spaces per 4 DU. NOTE: Parking it for Church Use only - Not for public use.	None Required	Sec. 155 SF Planning Code
Inclusionary Affordable Housing Program	The project will provide BMR units at a count of 13.5% of the total units plus 5 replacement units; 48 Rooms are to be provided. Base requirement: 316 unit * 13.5% = 43 Rooms (42.66, rounded up). Replacement Rent controlled units =5 Rooms Total Rooms: 43 Units + 5 Units = 48 Units	48 Units	Per Approval on October 3rd, 2019

Plan - Basement Level



Site Plan Details:

- Streets:** JONES STREET, O'FARRELL STREET, SHANNON STREET, 549 SHANNON STREET, 536, 540, 544 JONES STREET, 500 JONES STREET, 415 TAYLOR STREET, 438 O'FARRELL STREET.
- Building Footprint:**
 - CHURCH:** Large yellow area on the left.
 - Resident Kitchen & Dining:** Purple area in the center.
 - RETAIL 2,185 SF:** Pink area on the right.
 - Other Rooms:** Back of House, Transformer Room, Gas Room, Trash Room, ELEVATOR LOBBY, FCC, Lobby, Mail / Package, Leasing, Gallery & Hall, Transportation & Wayfinding Display.
- Parking & Landscaping:**
 - CHURCH DEDICATED PARKING - 6 SPACES & (5) Class 1 Bike Parking Spaces.
 - ST-01, ST-02 (Staircases).
 - Signage to Class 1 Bike Parking Spaces.
 - Signage to Class 2 (9) Class 2 Bike Spaces.
 - Existing Tree, New Tree.
- Entrances & Access:**
 - CHURCH ENTRANCE.
 - RESIDENTIAL ENTRANCE.
 - RETAIL ENTRANCE.
- Dimensions & Notes:**
 - Overall dimensions: 25'-0" x 19'-1" (left side), 22'-0" x 22'-0" (bottom).
 - Notes: BASE HEIGHT TAKEN FROM MID-POINT OF SHANNON STREET.

[illegible]

Plan - Level 3



ENVELOPE BOUNDARY APPROVED SEPTEMBER 13, 2018 AND SUBSEQUENT REVISIONS

500 JONES STREET

536, 540, 544 JONES STREET

REAR YARD

RESIDENTIAL TYPE J

AMENITY (OPEN ABOVE)

ST-01

ELEVATOR LOBBY

ST-02

TYPE A

TYPE B

TYPE C

TYPE D

TYPE E

TYPE F

TYPE F1

TYPE B1

TYPE B2

TYPE C1

TYPE D1

TYPE K1

TYPE L

SHANNON STREET

415 TAYLOR STREET

438 O'FARRELL STREET

549 SHANNON STREET

10'-0"

56'-2"

10'-6"

153'-6"

39'-6"

10'-6"

36'-0"

4'-2"

66'-4"

137'-6"

62'-6"

8'-0"

3'-0"

1'-0"

8'-0"

1'-6"

193'-6"

26'-6"

55'-2"

41'-10"

25'-0"

23'-0"

81'-8"

46'-3"

26'-6"

25'-8"

2'-1"

SIDEWALK BELOW

Plan - Level 5 & 9



536, 540, 544 JONES STREET

549 SHANNON STREET

415 TAYLOR STREET

438 O'FARRELL STREET

JONES STREET

O'FARRELL STREET

ENVELOPE BOUNDARY APPROVED SEPTEMBER 13, 2018 AND SUBSEQUENT REVISIONS

TYPE A

TYPE B

TYPE C

TYPE D

TYPE E

TYPE F

TYPE L

TYPE Q

TYPE K1

ST-01

ST-02

ELEVATOR LOBBY

193'-6"

68'-6"

81'-8"

41'-9 3/4"

25'-0"

23'-0"

81'-8"

46'-3"

81'-8"

25'-8"

26'-6"

137'-6"

66'-4"

4'-2"

10'-6"

39'-6"

153'-6"

10'-6"

56'-2"

10'-0"

36'-0"

SIDEWALK BELOW

ENVELOPE BOUNDARY APPROVED SEPTEMBER 13, 2018 AND SUBSEQUENT REVISIONS

536, 540, 544 JONES STREET

549 SHANNON STREET

415 TAYLOR STREET

438 O'FARRELL STREET

JONES STREET

O'FARRELL STREET

500 JONES STREET

41'-9 3/4"

193'-6"

81'-8"

68'-6"

1'-6"

25'-0"

23'-0"

81'-8"

46'-3"

81'-8"

25'-8"

26'-6"

137'-6"

66'-4"

4'-2"

36'-0"

10'-6"

39'-6"

153'-6"

10'-6"

56'-2"

10'

ST-01

ELEVATOR LOBBY

ST-02

AMENITY / COMMUNITY KITCHEN

TYPE A

TYPE B

TYPE C

TYPE D

TYPE E

TYPE F

TYPE K1

TYPE L

TYPE B1

TYPE B2

TYPE C1

TYPE D1

TYPE E1

TYPE E2

TYPE F1

TYPE F2

TYPE F3

TYPE F4

TYPE F5

TYPE F6

TYPE F7

TYPE F8

TYPE F9

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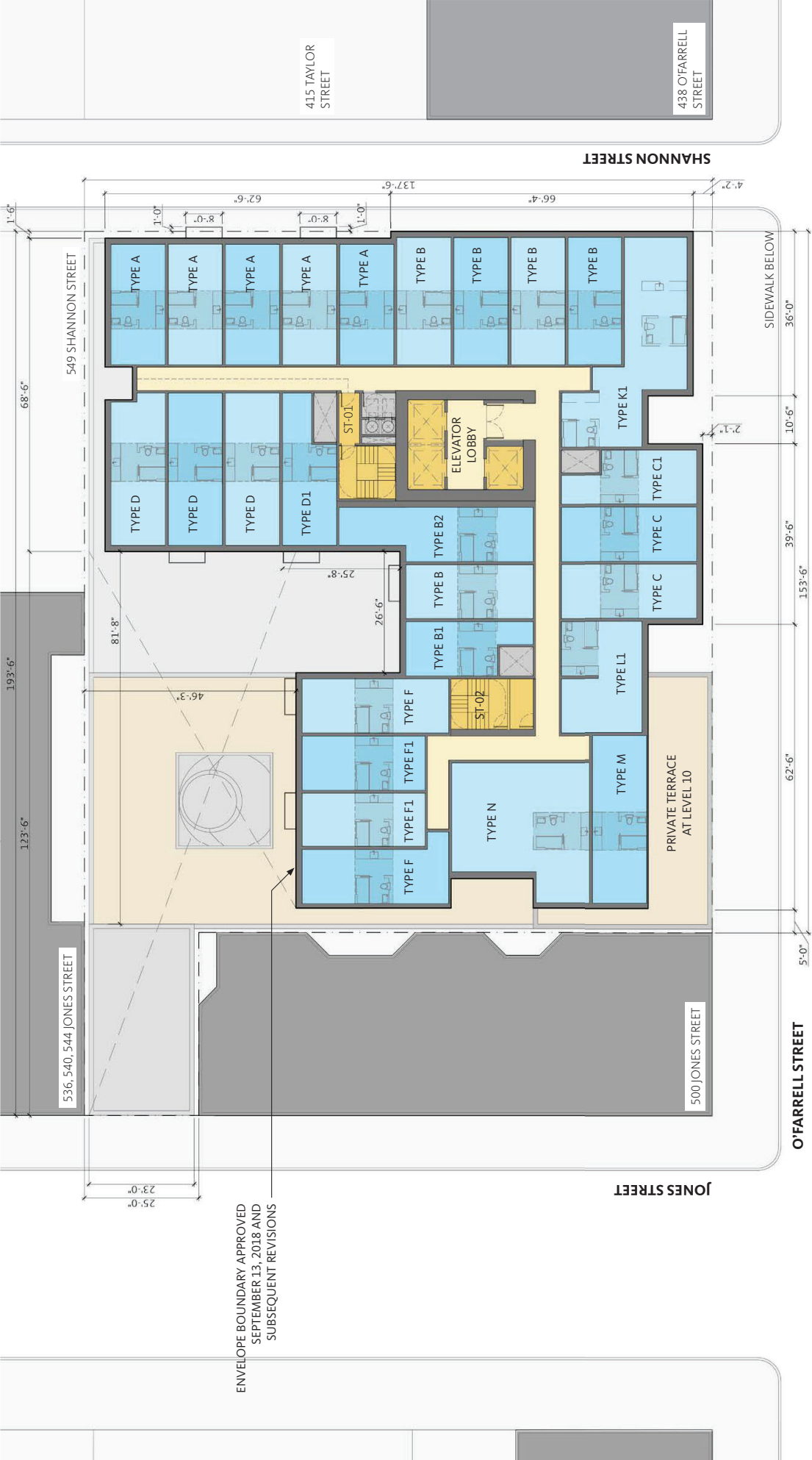
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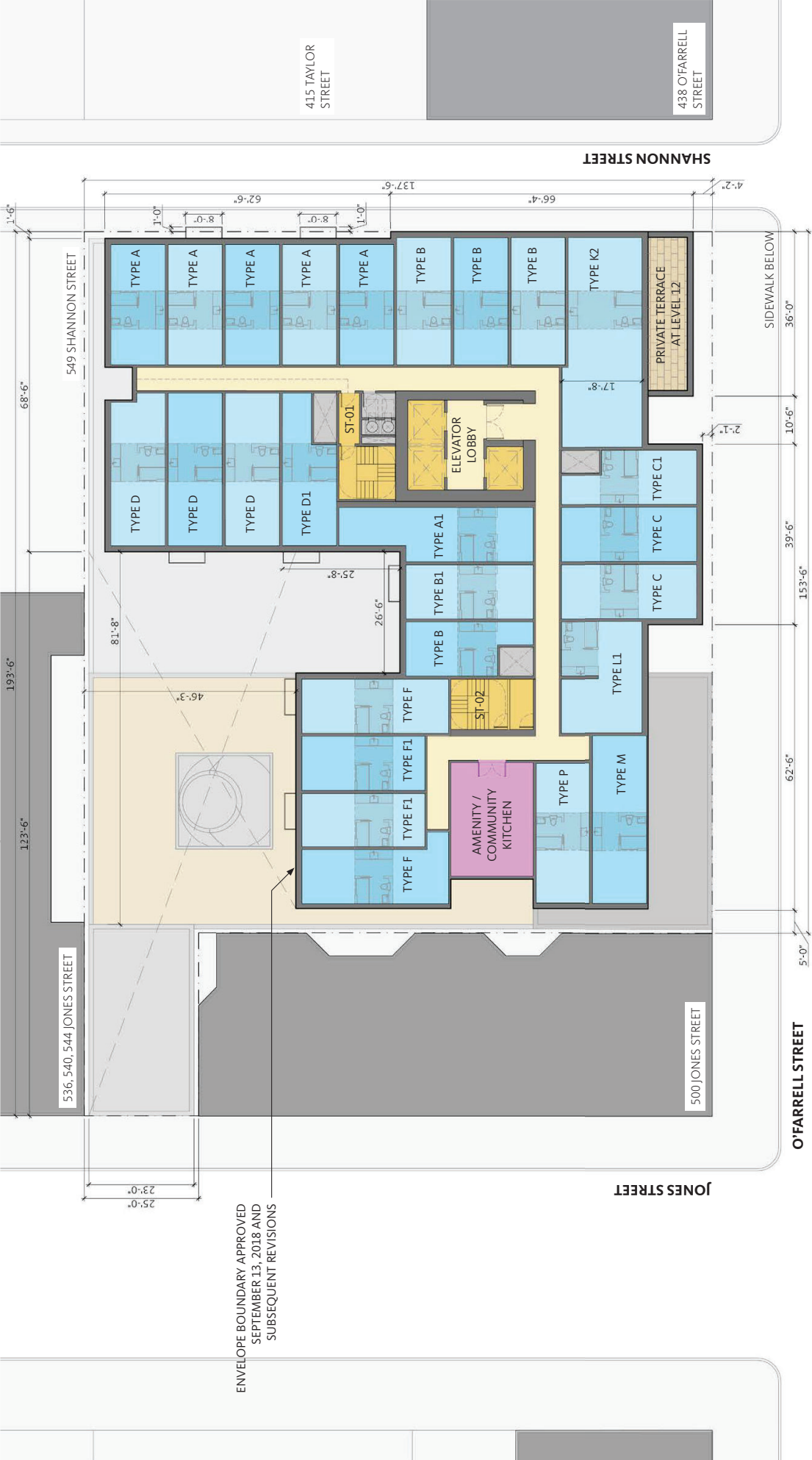
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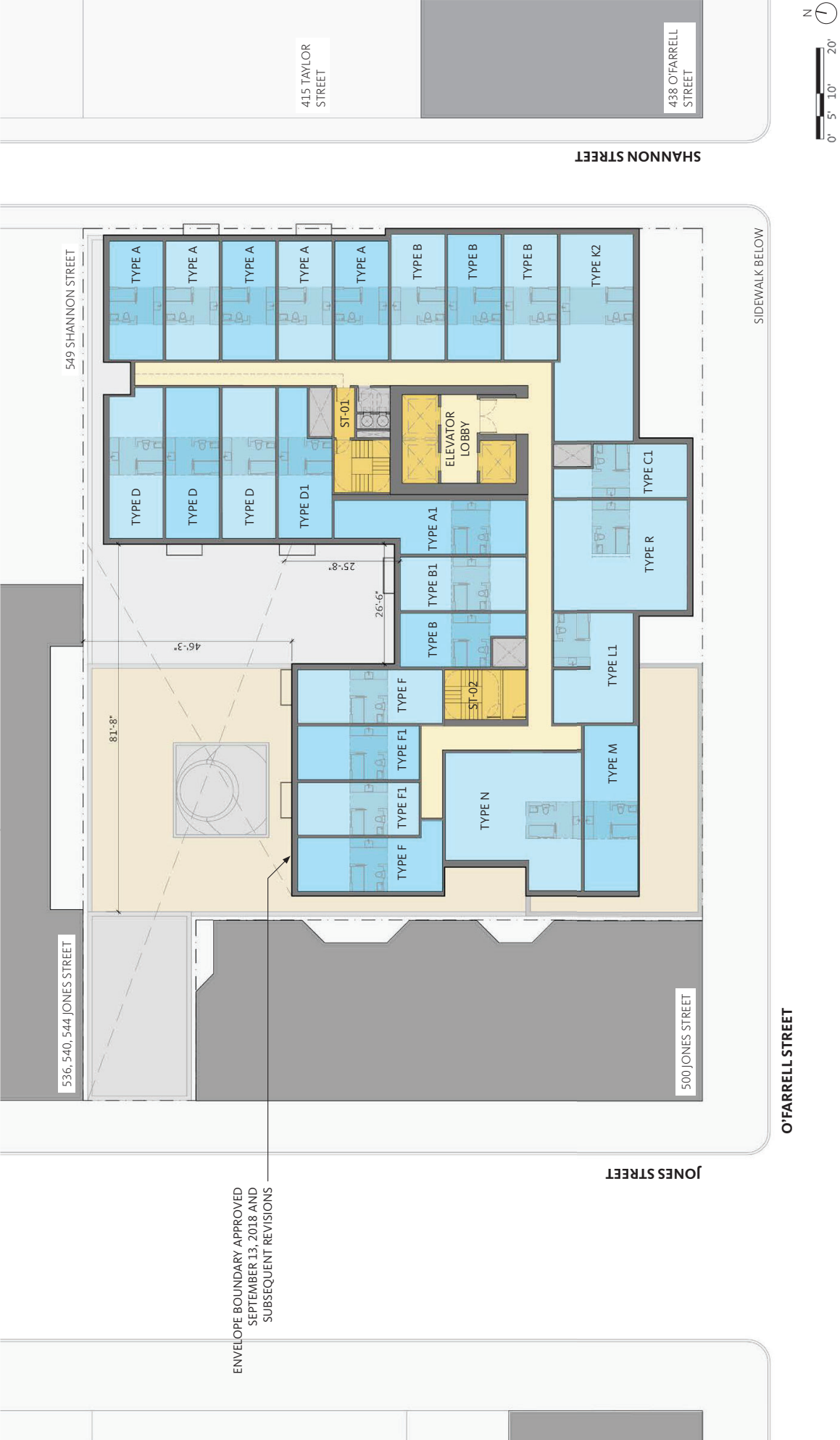
Plan - Level 10 & 11



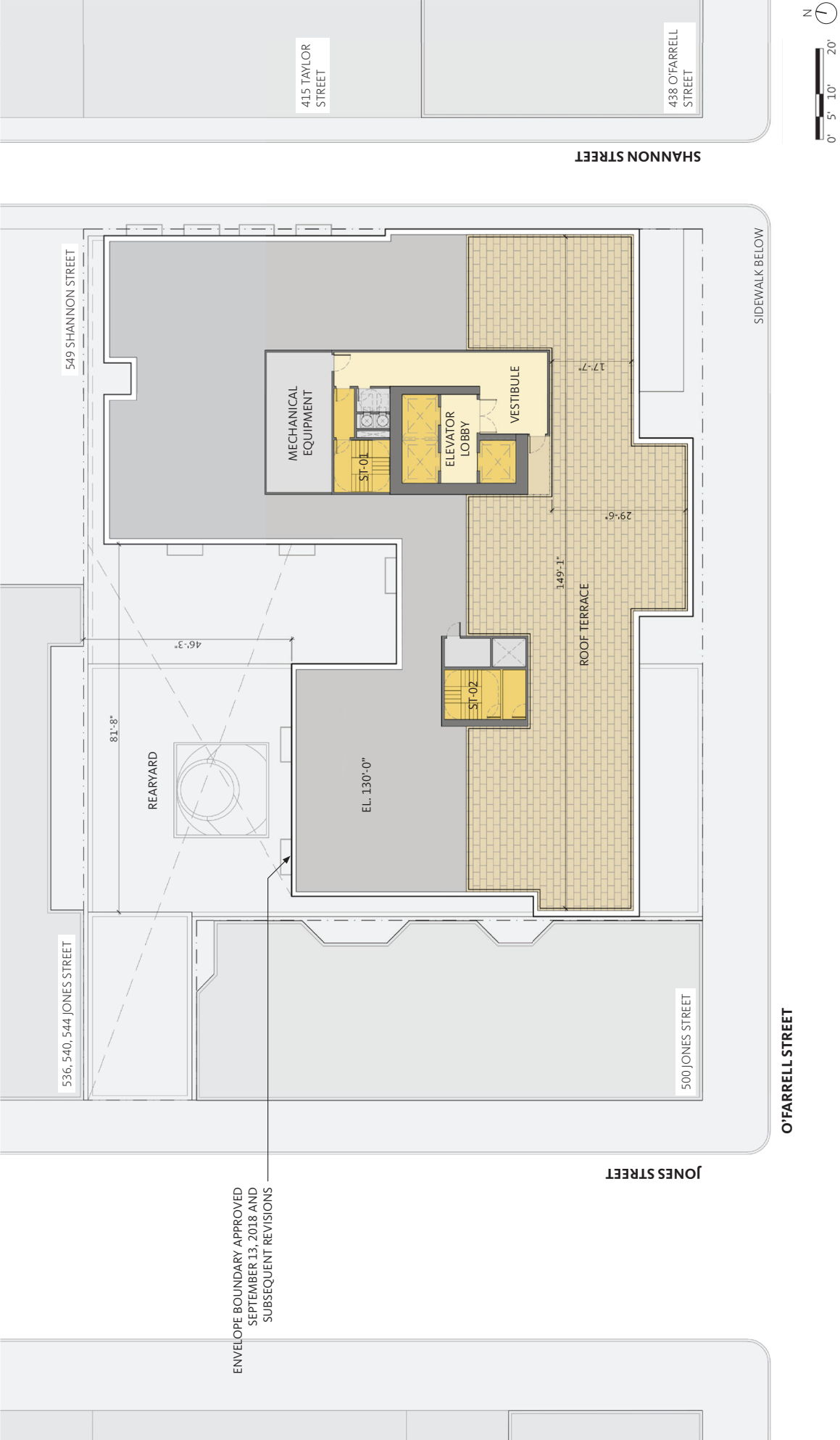
Plan - Level 12



Plan - Level 13



Plan - Roof Level



[illegible]

Unit Mix - Per Planner Request

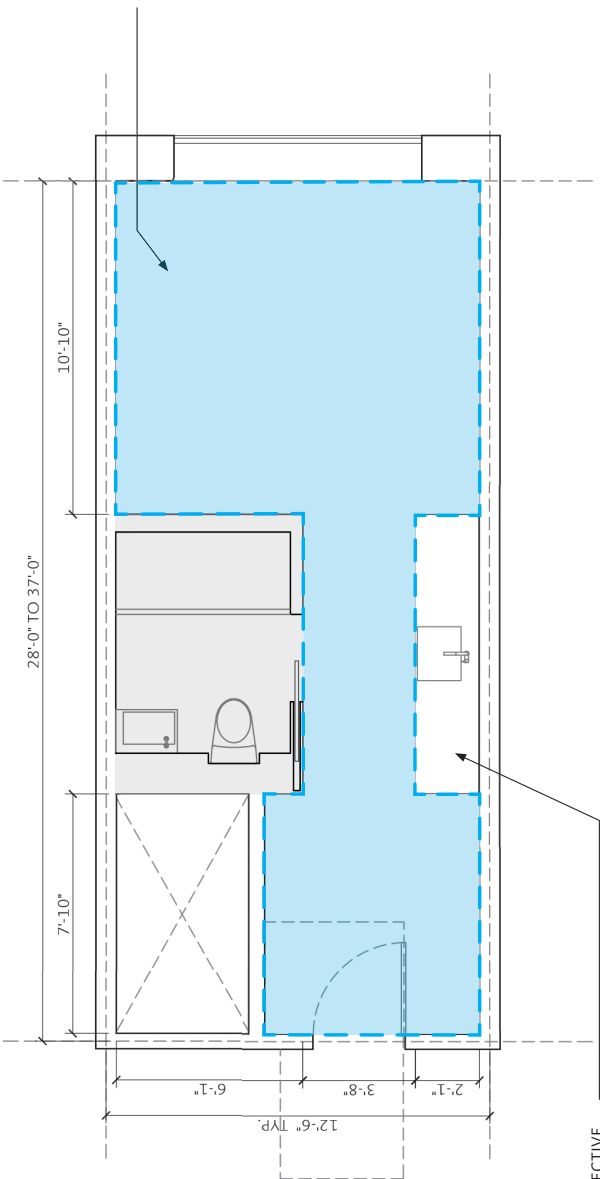
Levels		Unit Count by Type																				Totals		
Unit Type		A	B	B1	B2	C	C1	D	D1	E	E2	F	F1	J	K1	K2	L	L1	M	N	P	Q	R	Combined
Level	Roof																							
Level	13	5	4	1	1		1	3	1			2	2			1		1	1	1			1	25
Level	12	5	4	1	1	2	1	3	1			2	2			1		1	1		1			26
Level	11	5	5	1	1	2	1	3	1			2	2		1			1	1	1				27
Level	10	5	5	1	1	2	1	3	1			2	2		1			1	1	1				27
Level	9	5	5	1	1	2	1	3	1	2	1	2	2		1		1							28
Level	8	5	5	1	1	2	1	3	1	2	1	2	2		1		1							28
Level	7	5	5	1	1	2	1	3	1	2	1	2	2		1		1					1		29
Level	6	5	5	1	1	2	1	3	1	2	1	2	2		1		1					1		29
Level	5	5	5	1	1	2	1	3	1	2	1	2	2		1		1							28
Level	4	5	5	1	1	2	1	3	1	2	1	2	2	1	1		1							29
Level	3	5	5	1	1	1	1	3	1					1	1		1							21
Level	2	5	5	1	1	1	1	3	1						1		1							19
Level	1																							
Level	B1																							
Totals		60	58	12	12	20	11	36	12	12	6	20	20	2	10	2	8	4	4	3	1	2	1	316
		19.0%	18.4%	3.8%	3.8%	6.3%	3.5%	11.4%	3.8%	3.8%	1.9%	6.3%	6.3%	0.6%	3.2%	0.6%	2.5%	1.3%	1.3%	0.9%	0.3%	0.6%	0.3%	

Beds / Unit Type (2 Bed per GOU, per SF Planning Code)	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	
Total Beds, per SF Planning Code	120	116	24	24	40	40	22	72	24	24	12	40	40	4	20	4	16	8	8	6	2	4	2	632

Unit Total Area (SF) 345 365 320 500 390 340 430 370 425 480 420 351 700 785 815 650 485 485 860 400 630 775

Enlarged Plan - Unit B1

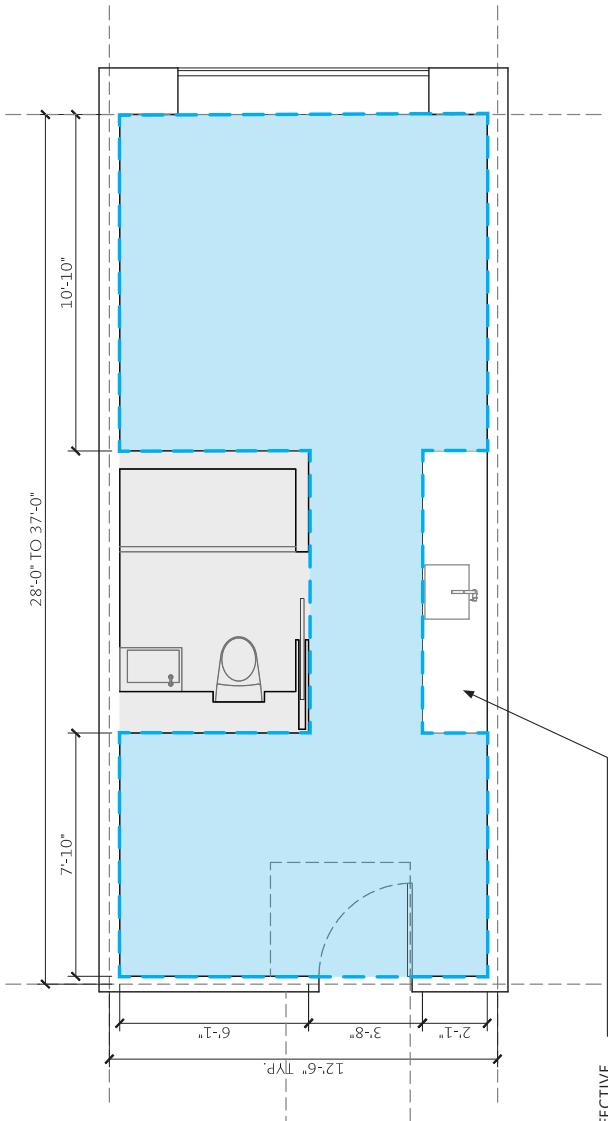
Small Group Occupancy Unit
Unit C1 & D1 Similar



PURSUANT TO ZA INTERPRETATION OF 209.2(A), EFFECTIVE OCTOBER 2005, GROUP HOUSING UNITS ARE ALLOWED TO HAVE LIMITED KITCHEN FACILITIES WITH THE FOLLOWING SPECIFICATIONS: A SMALL COUNTER SPACE, A SMALL UNDER-COUNTER REFRIGERATOR, A SMALL SINK, A MICROWAVE, AND A SMALL TWO-RING BURNER. COOKING FACILITY SHALL NOT INCLUDE ANY OTHER TYPE OF OVEN.

Enlarged Plan - Unit A

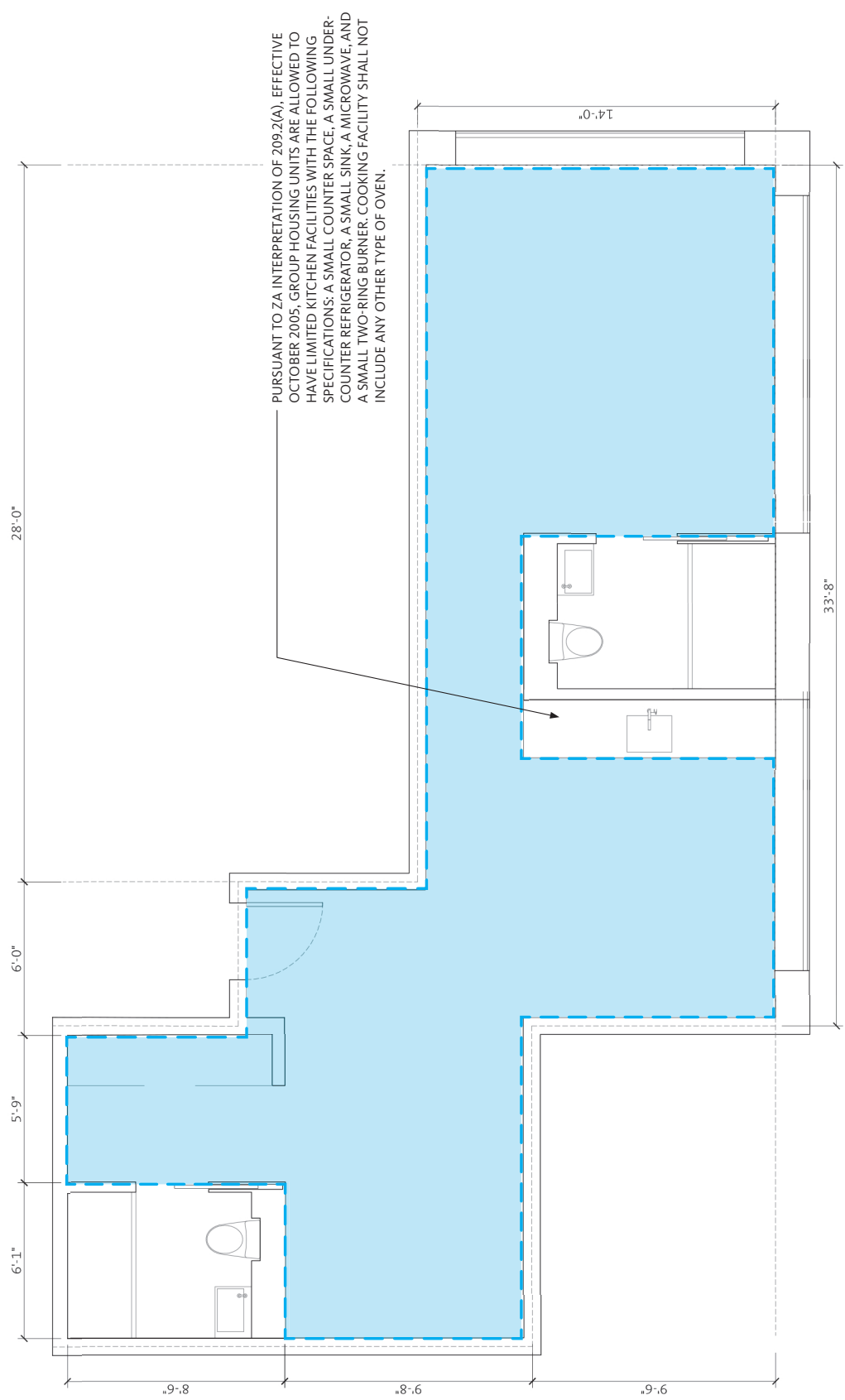
Medium Group Occupancy Unit
Unit B, C, D, E, F, F1 Similar



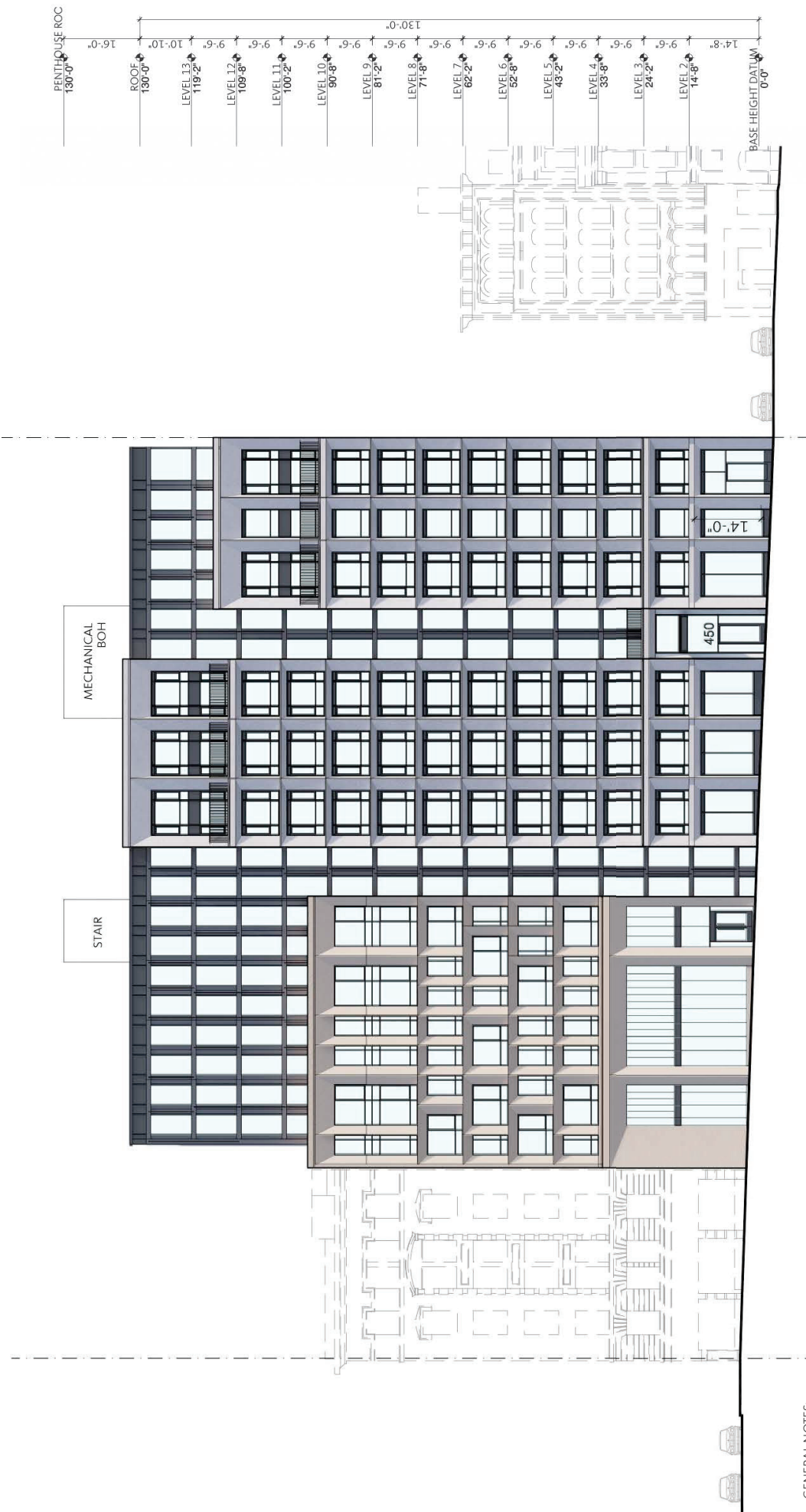
PURSUANT TO ZA INTERPRETATION OF 209.2(A), EFFECTIVE OCTOBER 2005, GROUP HOUSING UNITS ARE ALLOWED TO HAVE LIMITED KITCHEN FACILITIES WITH THE FOLLOWING SPECIFICATIONS: A SMALL COUNTER SPACE, A SMALL UNDER-COUNTER REFRIGERATOR, A SMALL SINK, A MICROWAVE, AND A SMALL TWO-RING BURNER. COOKING FACILITY SHALL NOT INCLUDE ANY OTHER TYPE OF OVEN.



Enlarged Plan - Unit K1 Large Group Occupancy Unit

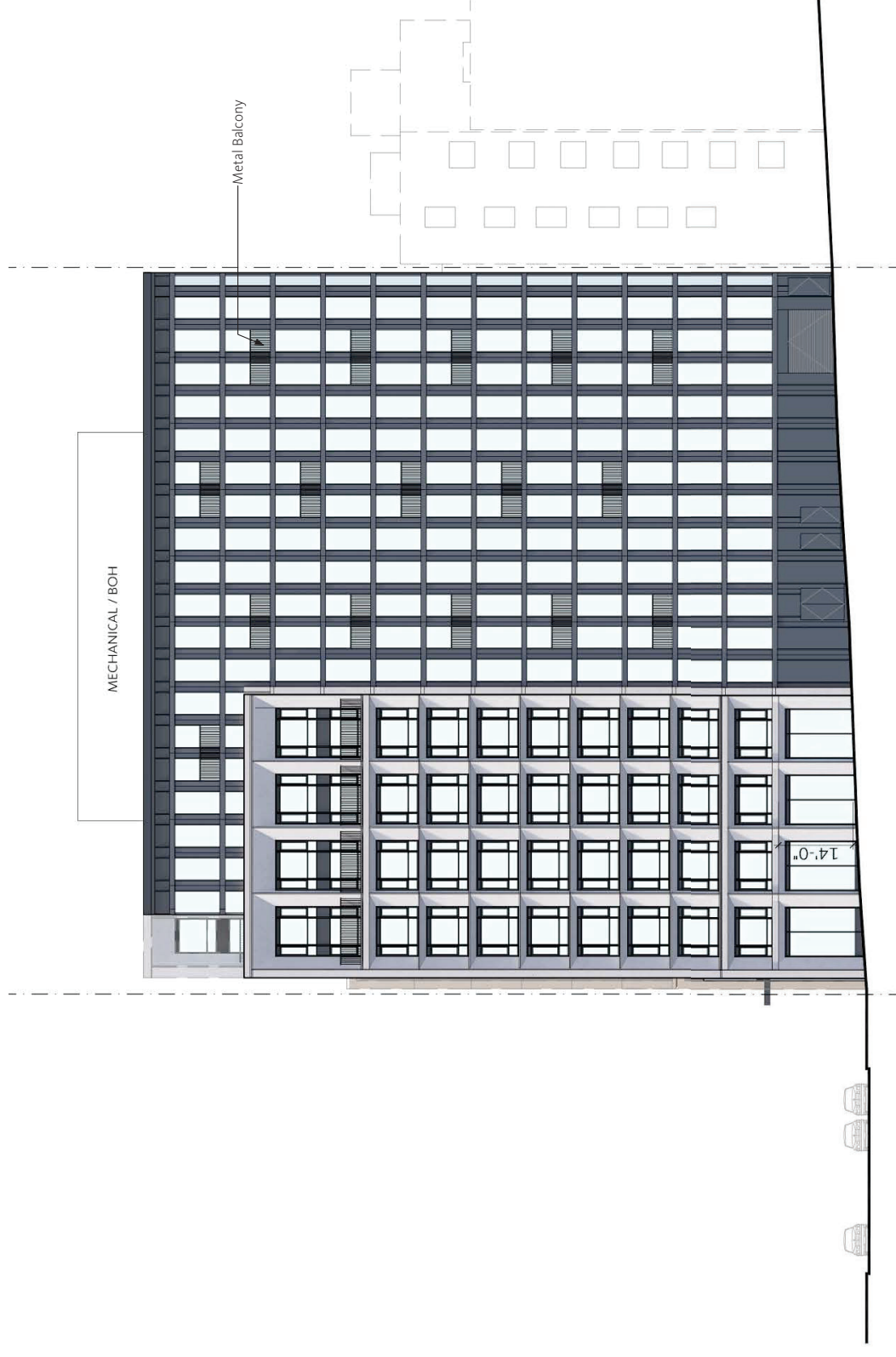


Elevation - O'Farrell Street



- GENERAL NOTES:
- GROUND FLOOR ACTIVE USE TO BE 60% TRANSPARENT WINDOWS AND DOORWAYS.
 - GATES, RAILINGS AND GRILLWORK TO COMPLY WITH CODE REQUIREMENTS FOR 75% OPEN TO PERPENDICULAR VIEW

Elevation - Shannon Street



- GENERAL NOTES:
- GROUND FLOOR ACTIVE USE TO BE 60% TRANSPARENT WINDOWS AND DOORWAYS.
 - GATES, RAILINGS AND GRILLWORK TO COMPLY WITH CODE REQUIREMENTS FOR 75% OPEN TO PERPENDICULAR VIEW

PENTHOUSE ROOF 130'-0"

MECHANICAL / BOH

STAIR

RESIDENTIAL

RETAIL

BASE HEIGHT DATUM 0'-0"

LEVEL 13 119'-2"

LEVEL 12 109'-8"

LEVEL 11 100'-2"

LEVEL 10 90'-8"

LEVEL 9 81'-2"

LEVEL 8 71'-8"

LEVEL 7 62'-2"

LEVEL 6 52'-8"

LEVEL 5 43'-2"

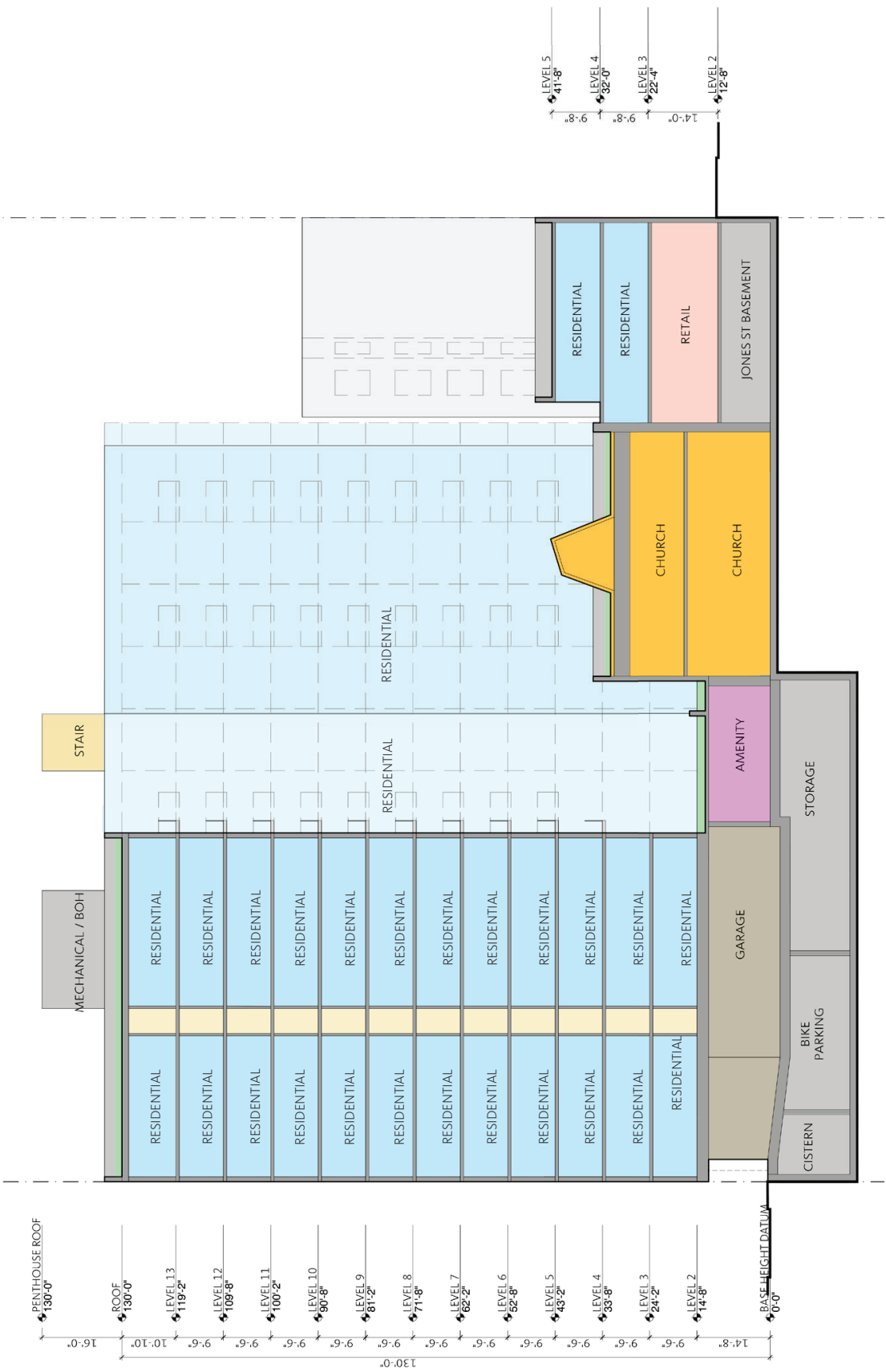
LEVEL 4 33'-8"

LEVEL 3 24'-2"

LEVEL 2 14'-8"

Envelope Boundary
Approved October 3rd 2019

Section - East / West - Through Jones St. Retail



Architectural floor plan of a 13-story residential building. The plan shows a central corridor with stairs and a mechanical room. Units are labeled "RESIDENTIAL" and "AMENITY/COMMUNITY KITCHEN". A large "CHURCH" area is at the bottom. The right side features a "STORAGE" area and an "AMENITY" space. The top of the plan shows a "PENTHOUSE ROOF" and a "BASE HEIGHT DATUM". A scale bar indicates 0' to 10'.

Section - North / South - Through Lobby W/ Church Beyond

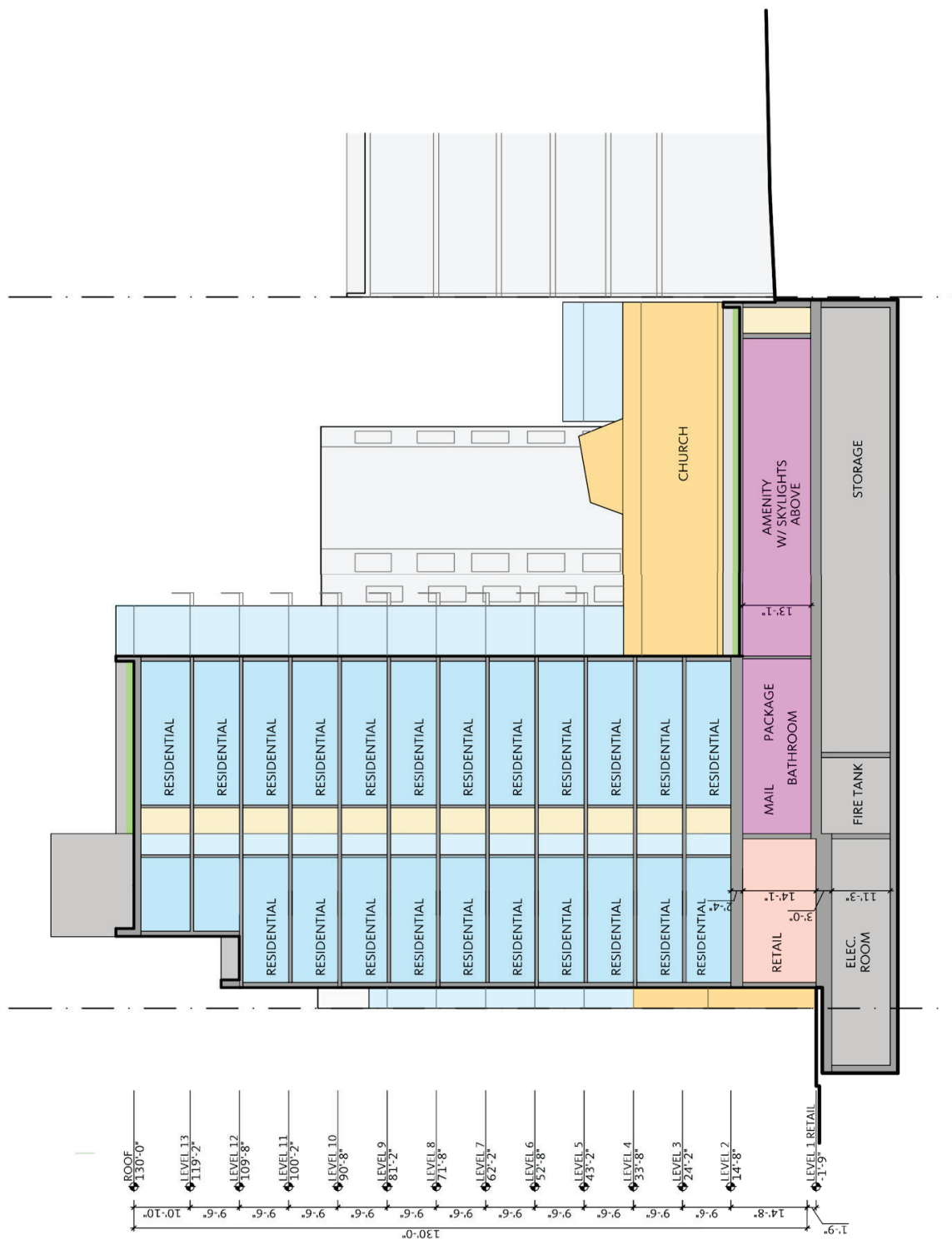


Diagram - Bulk Reduction

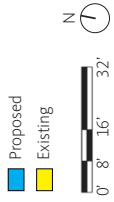
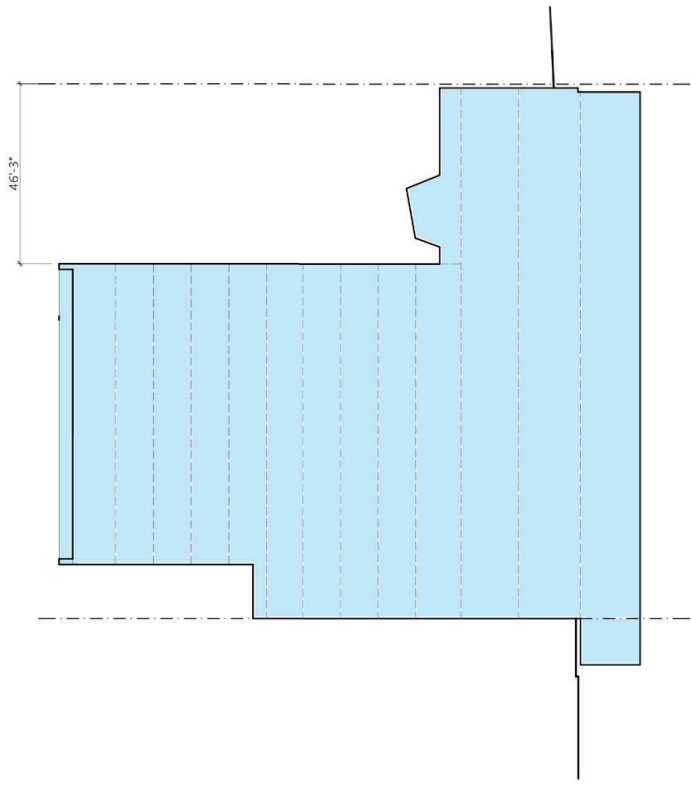


Diagram - Active Use



GENERAL NOTES:
- GROUND FLOOR ACTIVE USE TO BE 60%
- TRANSPARENT WINDOWS AND DOORWAYS.
- GATES, RAILINGS AND GRILLWORK TO COMPLY WITH CODE REQUIREMENTS FOR 75% OPEN TO PERPENDICULAR VIEW.

Facade Design

3D Rendering - O'Farrell St.



3D Rendering - O'Farrell St.



Building Materials

Precast Concrete White	Precast Concrete Simulated Stone
Glazed Window Wall Spandrel	Glazed Window Wall Clear
Metal Panel Charcoal Grey	Cement Plaster Charcoal Grey

Material Palette

- Precast Concrete**
 - White
 - Simulated Stone
- Glazed Window Wall**
 - Clear
 - Spandrel
- Metal Panel**
 - Charcoal Grey
- Cement Plaster**
 - Charcoal Grey

Currently Approved

[illegible]

Elevation - Jones St.



Elevation - Shannon St.



3D Rendering - O'Farrell St.



Building Materials

Precast Concrete
White

Precast Concrete
Simulated Stone

Precast Concrete
- White
- Simulated Stone

Glazed Window Wall
- Clear
- Spandrel

Metal Panel
- Charcoal Grey

Cement Plaster
- Charcoal Grey

Glazed Window Wall
Spandrel

Glazed Window Wall
Clear

Metal Panel
Charcoal Grey

Cement Plaster
Charcoal Grey

450 O'FARRELL STREET

CONDITIONAL USE AND VARIANCE APPLICATION

Version 3B

May 25th, 2021

TABLE OF CONTENTS

Zoning Information Overview:

Site:	450 O'Farrell Street, San Francisco CA 94102
Parcel:	Block 0317 / Parcels 007, 009, 011
Zoning:	RC-4 (Residential-Commercial, High Density)
Special Use Districts:	North of Market Residential 1 Fringe Financial Services RUD Within 1/4 mile of an Existing Fringe Financial Service

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Site Information

- Parcel Map
- Existing Survey
- Aerial Images
- Existing Context

Proposed Design Revisions

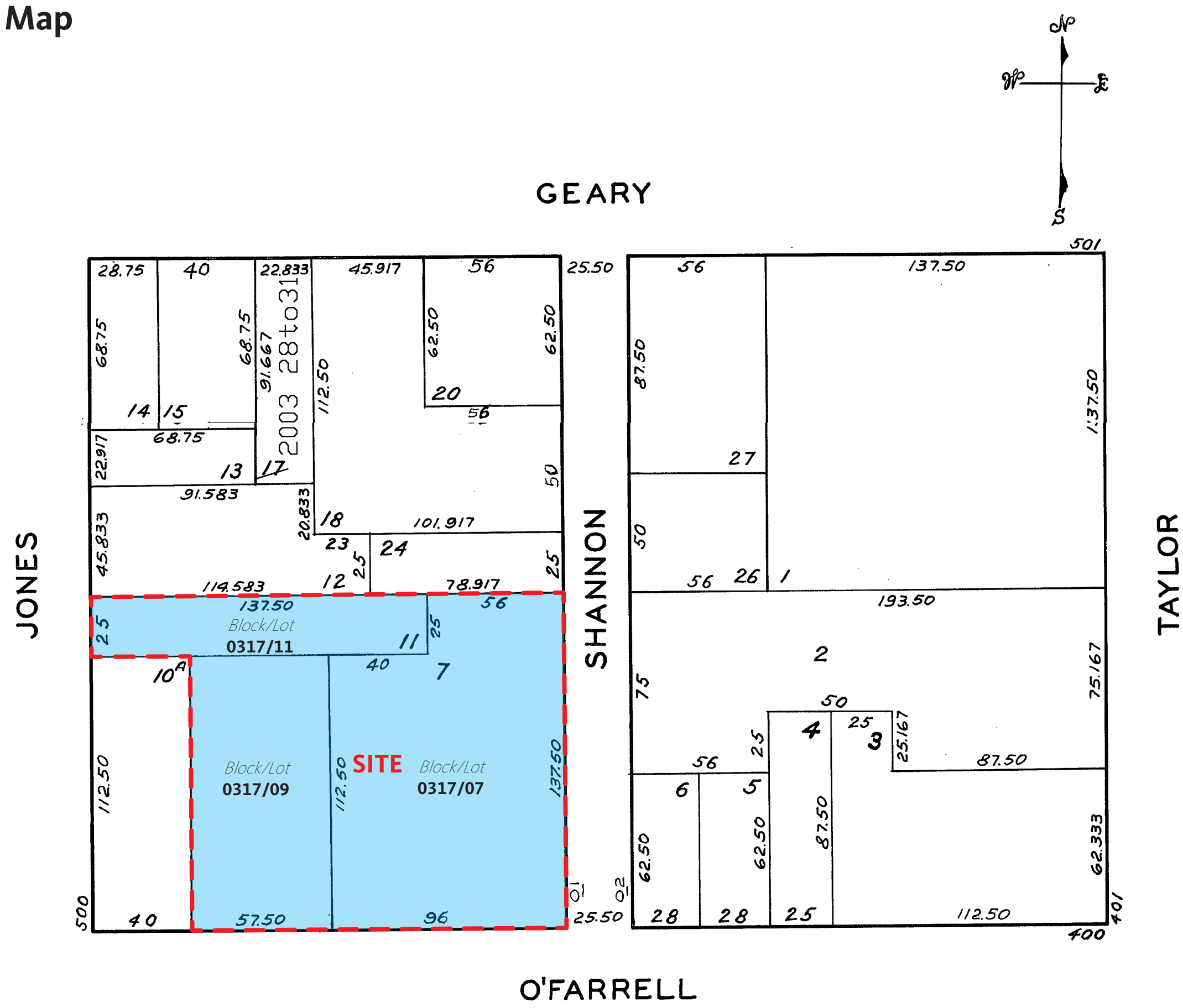
- Zoning
- Site Plan Existing
- Site Plan Proposed
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- Plan - Basement Level
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- Plan - Large Unit Plan
- Section - East / West
- Section - North / South
- Diagram - Open Space
- Diagram - Bulk Reduction
- Elevation - Jones Street
- Diagram - Excavation Diagram

Previously Approved

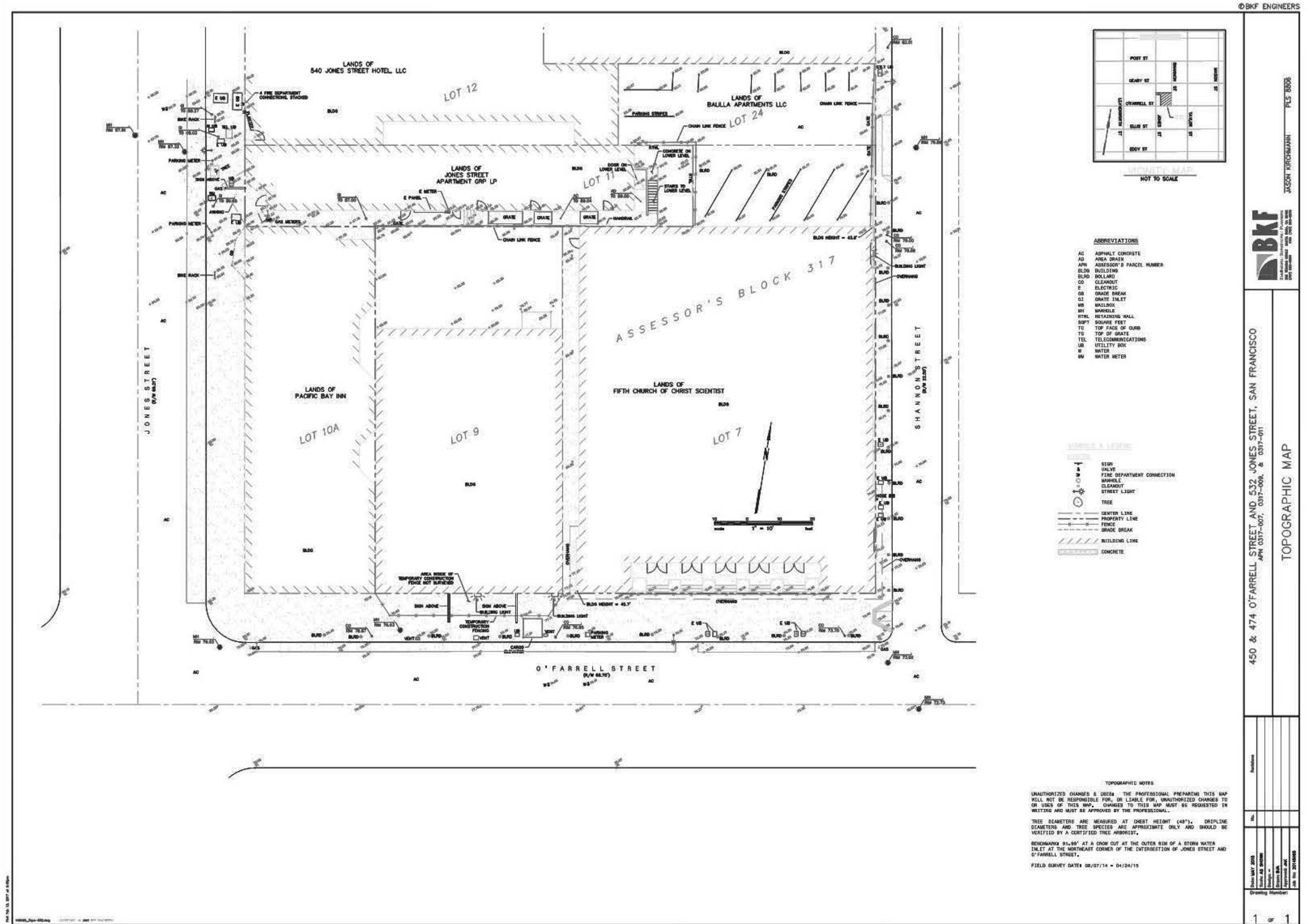
- Elevation - O'Farrell St.
- Elevation - Jones St.
- Elevation - Shannon St.
- Rendering - O'Farrell St.
- Building Materials



Site - Parcel Map



Site - Existing Survey



Site - Aerial Images



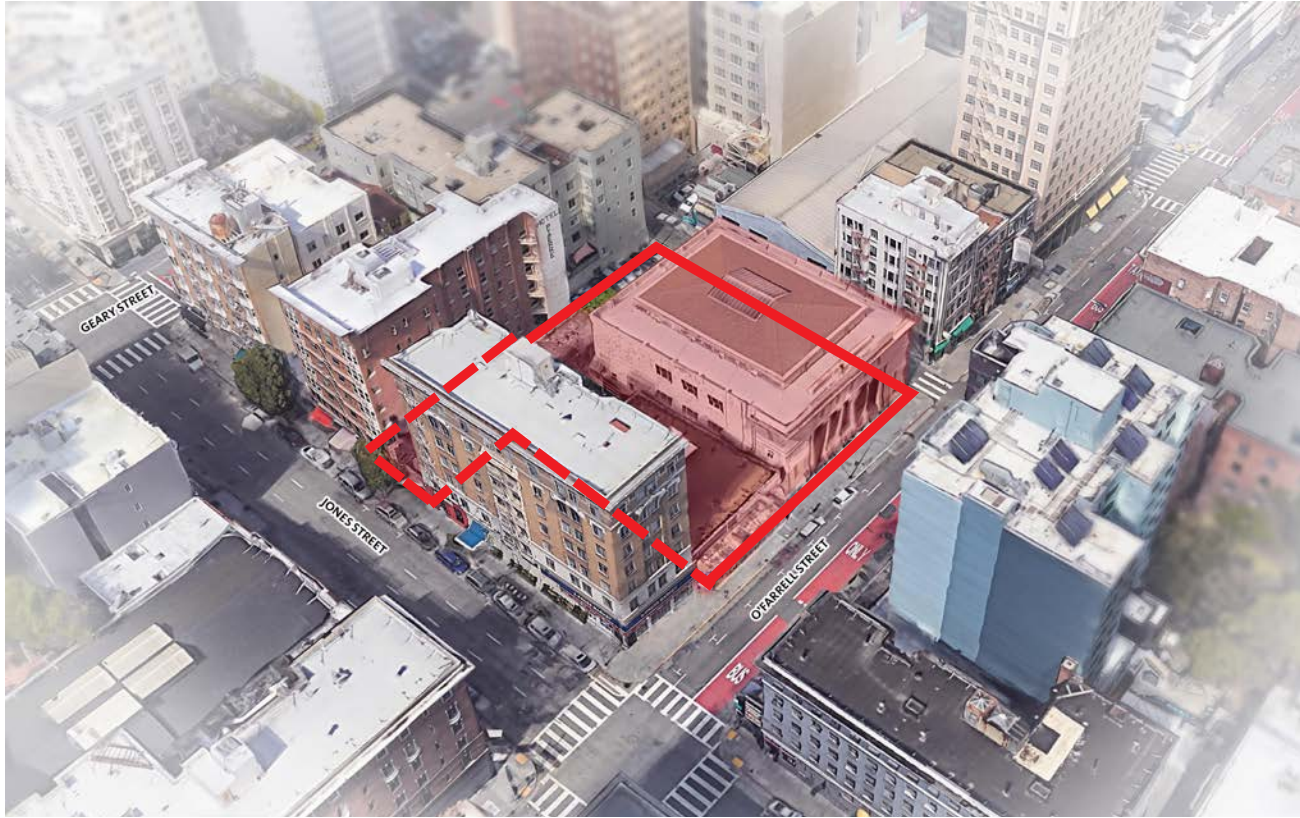
Looking North West



Looking South West



Looking South East



Looking North East

Site - Existing Context



North West At O'Farrell St



North West At Shannon St



North East At Jones St & O'Farrell St



South East At Jones St & O'Farrell St

Proposed Design Revisions

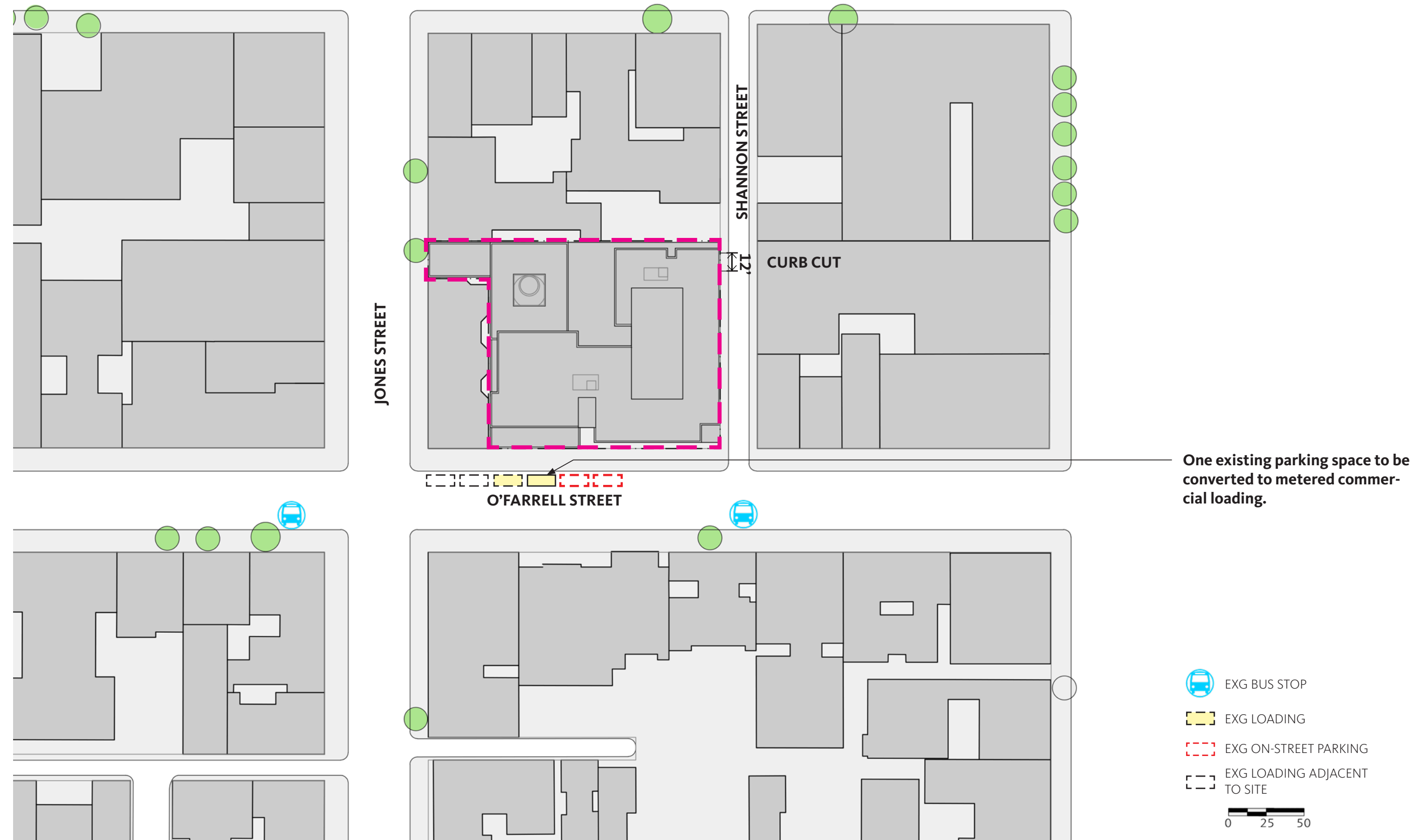
Project Data - Zoning

	Site / Zoning	Approved	Proposed Revisions
Site	450 O'Farrell Street, San Francisco CA 94102	-	-
Parcel	Block 0317 / Parcels 007, 009, 011	-	-
Zoning	RC-4 (Residential-Commercial, High Density)	-	-
Special Use Districts:	North of Market Residential 1 Fringe Financial Services RUD Within 1/4 mile of an Existing Fringe Financial Service	-	-
Rear Yard	25% Lot Depth, no less than 15', at the level of the lowest dwelling unit. Sec. 134	A modification of the rear yard per Sec. 134(g), through the PUD process, to allow for open space in a configuration other than a rear yard. The building is approved with full lot coverage at the ground level, however the upper levels are sculpted in an L-shaped configuration with a light well to match the neighbor to the West.	The rearyard is proposed to remain similar to the previously entitled rearyard, with the exception that additional rearyard is created at the inner most portion of the L-shape; please see plan.
Dwelling Unit Exposure	Dwelling Units and Group Housing shall have a room of 120 SF with a window onto a space meeting the requirements of Sec. 140. Further pursuant to Sec 140(b), for group housing projects, either each bedroom or at least one interior common area that meets the 120 square-foot minimum superficial floor area requirement with a window facing onto a street	An exception to dwelling unit exposure requirements per Sec. 140 for 21 of the 176 units. This equates to 11.9% of the units requiring an exception.	The proposed project includes an interior common room on level 2 which complies with the requirements of section 140 of the planning code.
Off-Street Loading	1 Loading Off-Street Space per 100,000 SF of Occupied SF. Sec. 152	An exception to the off-street loading requirements per Sec. 152 which require one residential loading space. Instead the project proposes to convert one of the three existing general on-street metered parking spaces on O'Farrell Street adjacent to the project to a metered commercial loading space & to convert the two existing vehicle passenger loading / unloading zoning adjacent to the project site be revised from only during church service to all day passenger loading / unloading.	No revisions proposed.
Permitted Obstructions	Sec. 136	An exception to permitted obstructions, project balconies project over Shannon St. 4 inches beyond what is permitted.	Balconies extending 1'-0" over the property line at Shannon are proposed. According to Sec 136(c) this 1foot projection is permitted
Height & Bulk	80-T - 130-T; Per Table 270 a max. Length of 110' & a max. diagonal of 125' apply above the predominate street-wall or 80', whichever is less. Sec. 253, 249.5/263.7	The height and bulk we approved as shown in the original CU application.	No revisions proposed.
Open Space	Per Dwelling Unit: 36 SF if Private, 48 SF if Common Per Bedroom in Group Housing: 1/3 the dwelling unit requirement (16 SF per Bedroom)	Meets 100% of the Open Space requirement, per SF Planning. 176 Total Units; 4 with Private, 172 req. Common. 172 Units * 48 SF per Unit = 8,256 SF required Common Open Space	Meets 100% of the Open Space requirement, per SF Planning. This reduces the area from 8,256 SF to 5,072 SF. 316 Bedrooms * 16 SF per = 5,056 SF required, 5,060 SF Open Space Proposed.
Parking	None Required. Permitted 0.5 spaces per unit & max. permitted with CU 0.75 spaces per unit	Residential Parking Spaces. 49 Spaces.	0 Residential Parking Spaces, 6 Dedicated Church Parking Spaces.
Bike Parking	Residential Grouphousing requires (1) Class 1 space per 4 beds (first 100 beds) & (1) Class 1 space per 5 beds (above 100). (2) Class 2 spaces per 100 beds. Religious Use requiried (5) Class 1 spaces for capacity less than 500. (1) Class 2 spaces per 500 seats. Retail requires (1) Class 1 space per 7,500 sf of retail, (2) Class 2 spaces per 2,500 sf of retail.	-	Bike Parking: Group Housing: Class 1 = (131) spaces, Class 2 = (12) spaces Religious Use: Class 1 = (5) spaces, Class 2 = (1) space Retail: Class 1 = (0) spaces, Class 2 = (2) spaces <u>Totals: Class 1 = (136) spaces, Class 2 = (15) spaces</u> Additional Measures: - Bicycle Repair Station - Multimodal Way Finding Signage - Real Time Transportation Displays

Site Plan - Existing



Site Plan - Proposed



Proposed Project - Area Chart

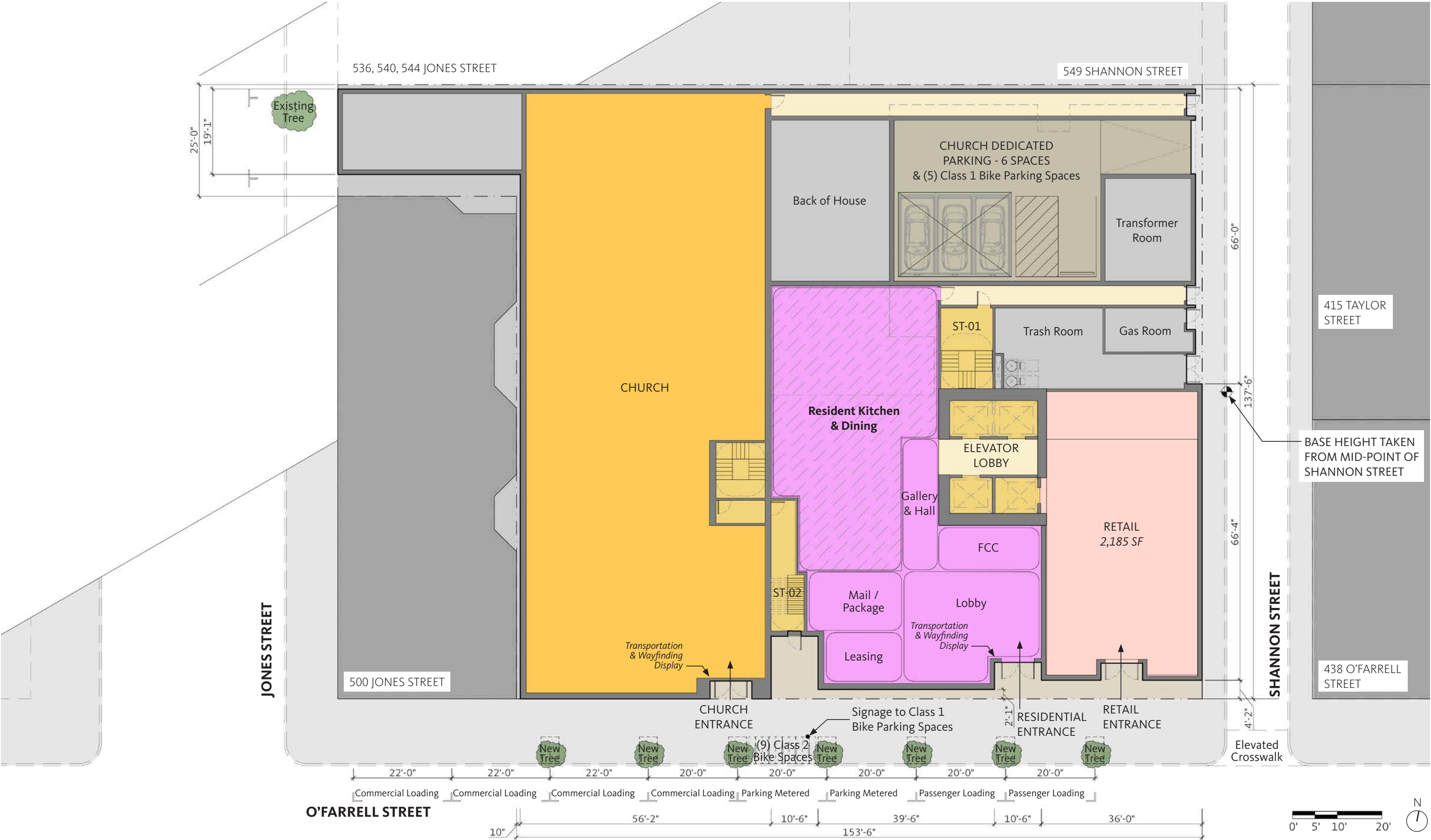
Levels		Project Areas (SF)								Unit Count (Group Occupancy Unit, GOU)				Open Space (SF)			Parking (Spaces)			
		Net Residential	Amenities	Common	Residential Subtotal	Retail @ O'Farrell St.	Church	Retail @ Jones St.	Parking & Mechanical	Total Built Area	GOU Small	GUO Medium	GUO Large	Totals	Private	Common	Total	Spaces	ADA	Total
Level	Roof								1,802	1,802						3,220	3,220			
Level	13	11,265		2,714	13,979					13,942	2	22	2	26			-			
Level	12	10,796	633	2,707	14,136					13,942	2	22	2	26			-			
Level	11	11,265		2,703	13,968					13,942	2	23	2	27			-			
Level	10	11,265		2,703	13,968					13,942	2	23	2	27			-			
Level	9	11,308		2,732	14,740					14,740	2	25	1	28			-			
Level	8	11,308	633	2,732	14,107					14,740	2	25	1	28			-			
Level	7	11,942		2,732	14,740					14,740	2	25	1	28			-			
Level	6	11,942		2,732	14,740					14,740	2	25	1	28			-			
Level	5	11,308		2,732	14,107					14,740	2	25	1	28			-			
Level	4	12,073	633	2,995	15,702					15,702	4	25	1	30		1,840	1,840			
Level	3	8,912		2,951	11,863		2,989			14,411	2	17	2	21			-			
Level	2	7,820	338	3,011	11,169			670		11,802	1	17	1	19			-			
Level	1		3,745	1,360	5,105	2,115	6,935		6,850	21,007							-	5	1	6
Level	B1					3,238			10,018	13,256							-			
Totals		131,205	5,982	34,802	172,323	5,353	9,924	670	18,670	207,448	25 7.9%	274 86.7%	17 5.4%	316	- 0 Units	5,060 316 Units	5,060	5	1	6

Open Space Requirements	The Open space requirement for Dwelling Units is 36 SF if Private & 48 SF if Common. For group housing the minimum amount of usable open space provided for use by each bedroom shall be one-third the amount required for a dwelling unit as specified; 16 SF Common per unit.	316 Units X 16 SF/Unit = 5,056 SF	Sec. 135 SF Planning Code
Parking Requirements	None Required; Permitted, 1 Space per DU, Max. w/ CU, 3 Spaces per 4 DU. NOTE: Parking it for Church Use only - Not for public use.	None Required	Sec. 155 SF Planning Code
Inclusionary Affordable Housing Program	The project will provide BMR units at a count of 13.5% of the total units plus 5 replacement units; 48 Rooms are to be provided. <i>Base requirement: 316 unit * 13.5% = 43 Rooms (42.66, rounded up).</i> <i>Replacement Rent controlled units =5 Rooms</i> <i>Total Rooms: 43 Units + 5 Units = 48 Units</i>	48 Units	Per Approval on October 3rd, 2019

Plan - Basement Level



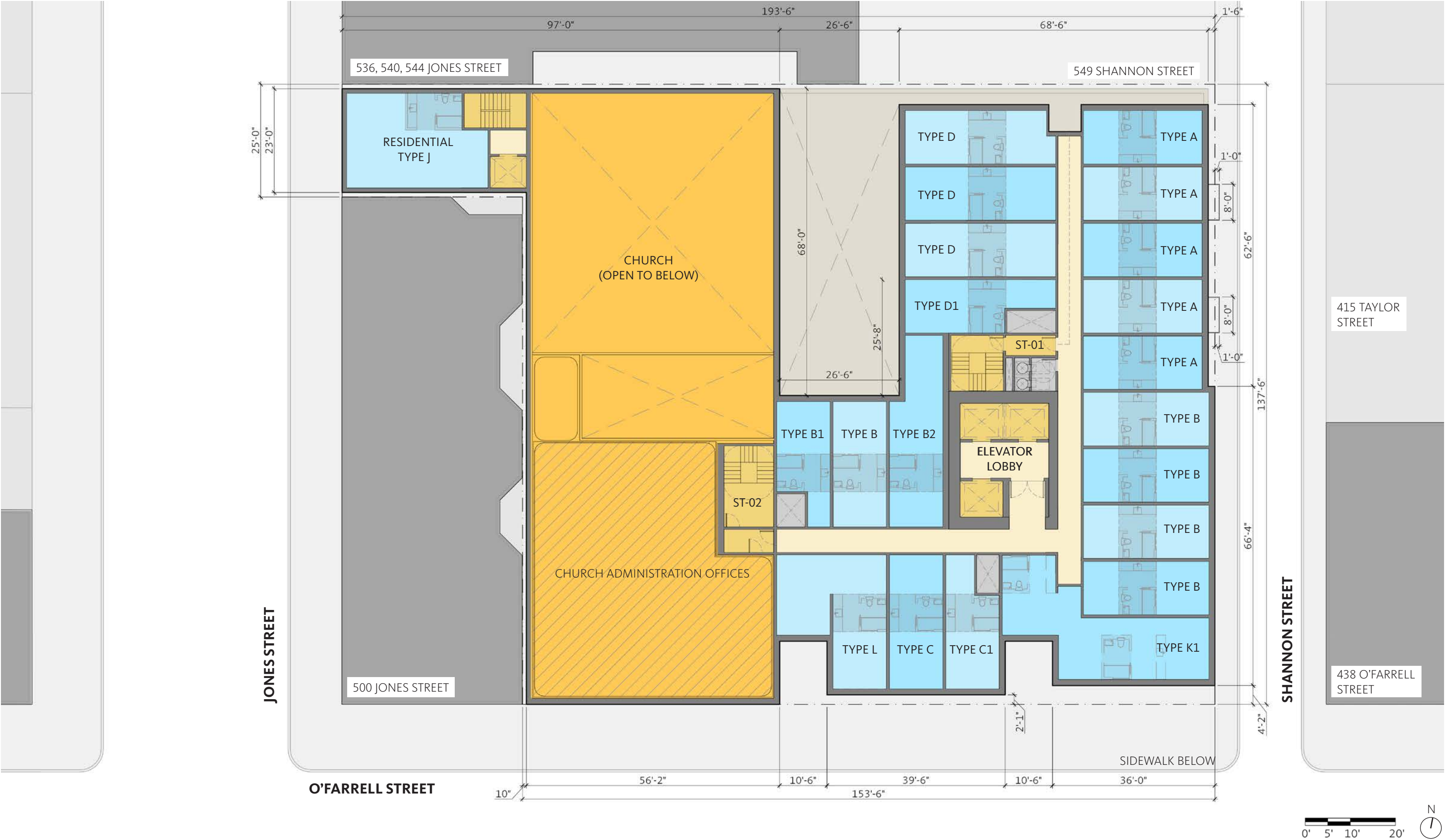
Plan - Ground Floor Level



Plan - Level 2



Plan - Level 3



Plan - Level 4



[illegible]

Plan - Level 6 & 7



Plan - Level 8



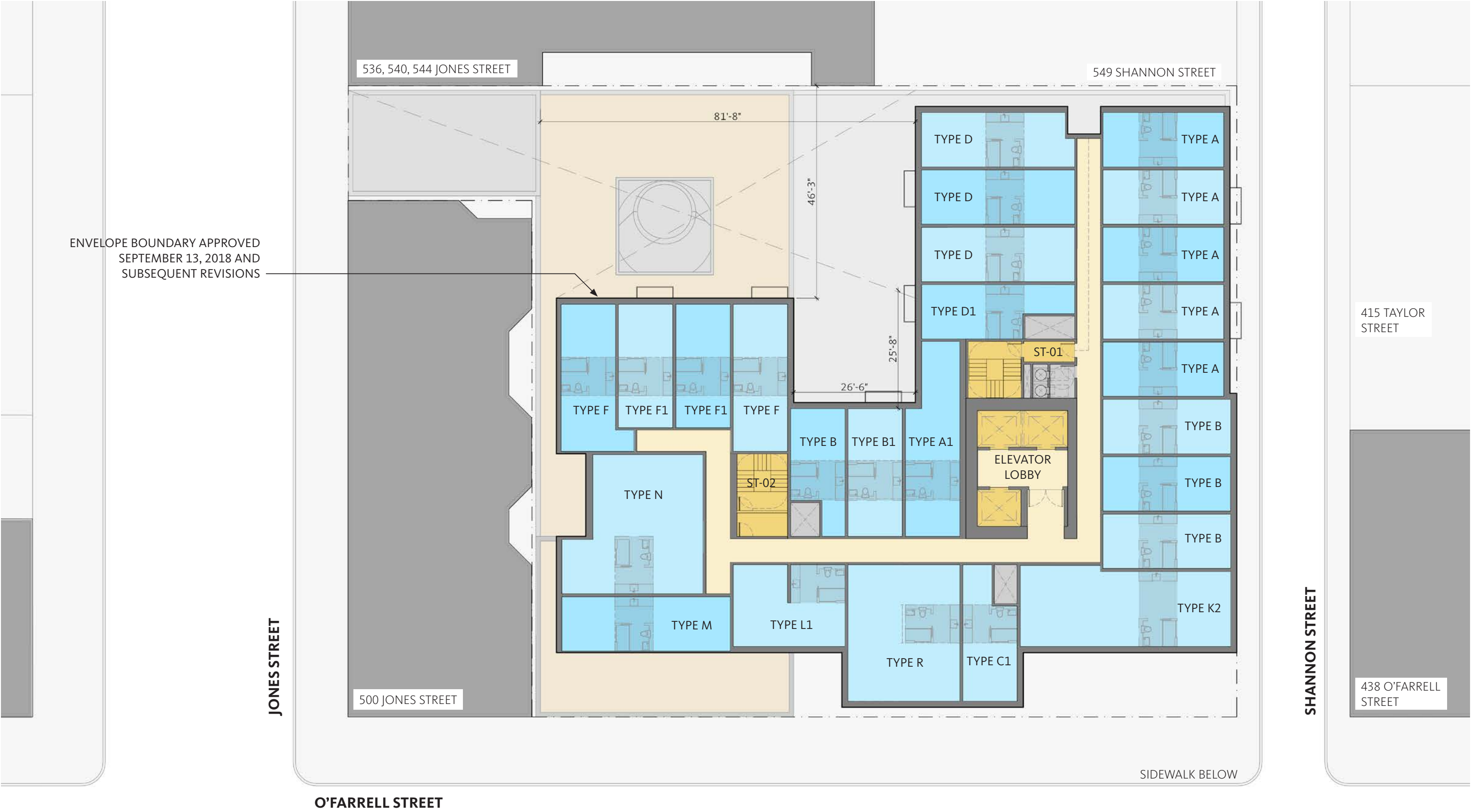
Plan - Level 10 & 11



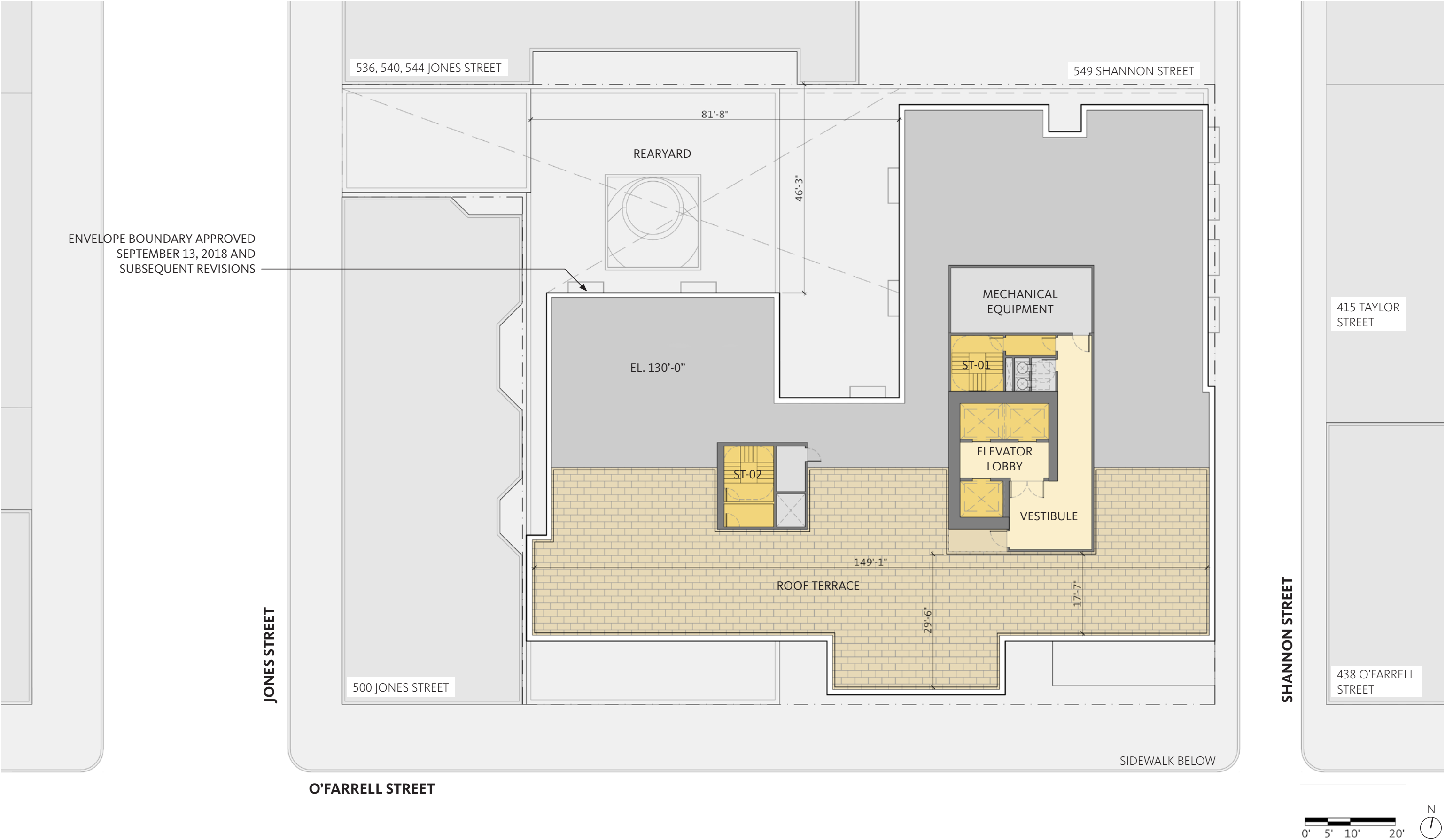
Plan - Level 12



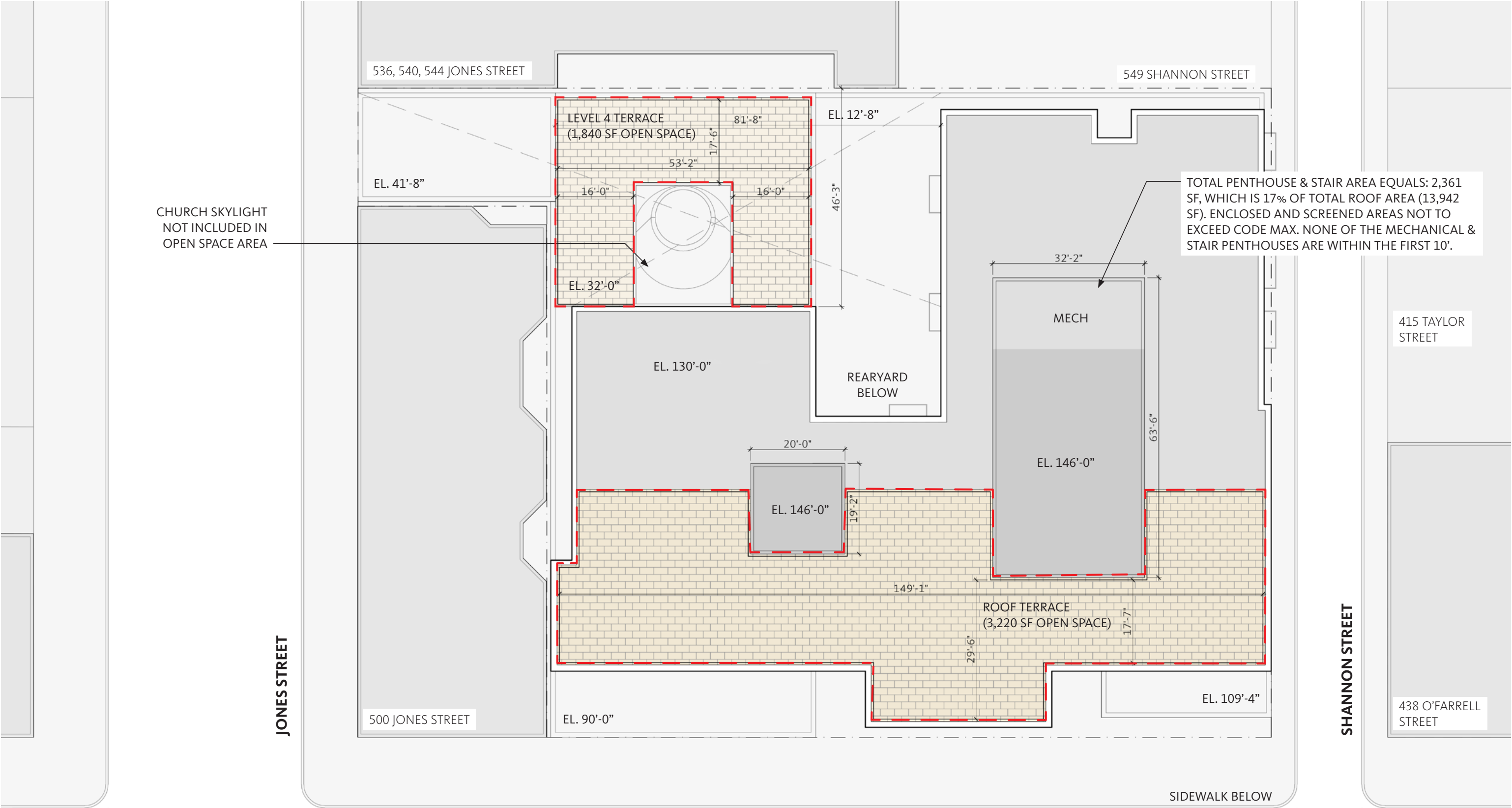
Plan - Level 13



Plan - Roof Level



Plan - Upper Roof Level & Open Space Diagrams



Unit Mix - Per Planner Request

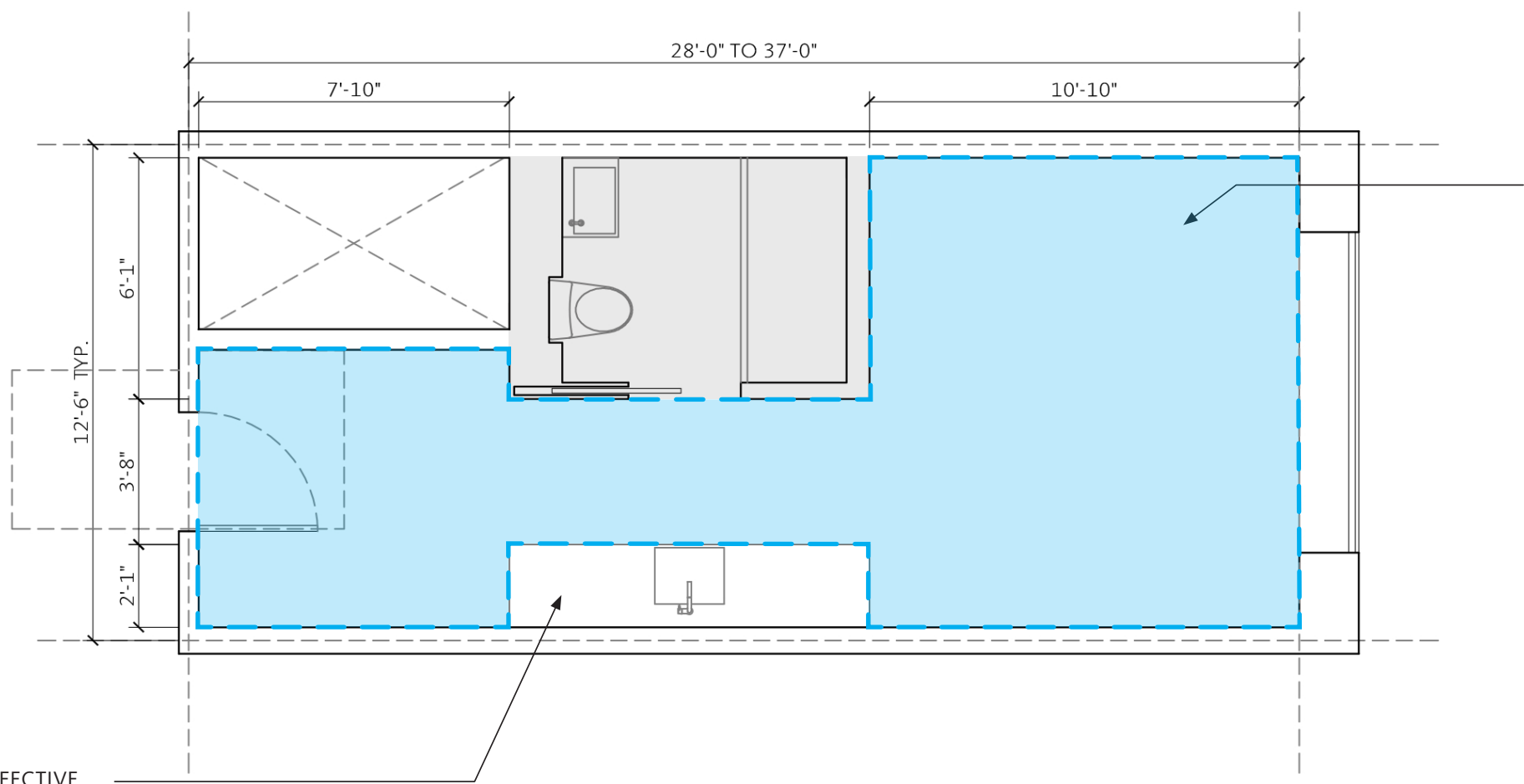
Levels	Unit Count by Type																						Totals
Unit Type	A	B	B1	B2	C	C1	D	D1	E	E2	F	F1	J	K1	K2	L	L1	M	N	P	Q	R	Combined
Level Roof																							
Level 13	5	4	1	1		1	3	1			2	2			1		1	1	1			1	25
Level 12	5	4	1	1	2	1	3	1			2	2			1		1	1		1			26
Level 11	5	5	1	1	2	1	3	1			2	2		1			1	1	1				27
Level 10	5	5	1	1	2	1	3	1			2	2		1			1	1	1				27
Level 9	5	5	1	1	2	1	3	1	2	1	2	2		1		1							28
Level 8	5	5	1	1	2	1	3	1	2	1	2	2		1		1							28
Level 7	5	5	1	1	2	1	3	1	2	1	2	2		1		1					1		29
Level 6	5	5	1	1	2	1	3	1	2	1	2	2		1		1					1		29
Level 5	5	5	1	1	2	1	3	1	2	1	2	2		1		1							28
Level 4	5	5	1	1	2	1	3	1	2	1	2	2	1	1		1							29
Level 3	5	5	1	1	1	1	3	1					1	1		1							21
Level 2	5	5	1	1	1		3	1						1		1							19
Level 1																							
Level B1																							
Totals	60 19.0%	58 18.4%	12 3.8%	12 3.8%	20 6.3%	11 3.5%	36 11.4%	12 3.8%	12 3.8%	6 1.9%	20 6.3%	20 6.3%	2 0.6%	10 3.2%	2 0.6%	8 2.5%	4 1.3%	4 1.3%	3 0.9%	1 0.3%	2 0.6%	1 0.3%	316

Beds / Unit Type (2 Bed per GOU, per SF Planning Code)	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	
Total Beds, per SF Planning Code	120	116	24	24	40	22	72	24	24	12	40	40	4	20	4	16	8	8	6	2	4	2	632

Unit Total Area (SF) 345 365 320 500 390 340 430 370 425 480 420 351 700 785 815 650 485 485 860 400 630 775

Enlarged Plan - Unit B1

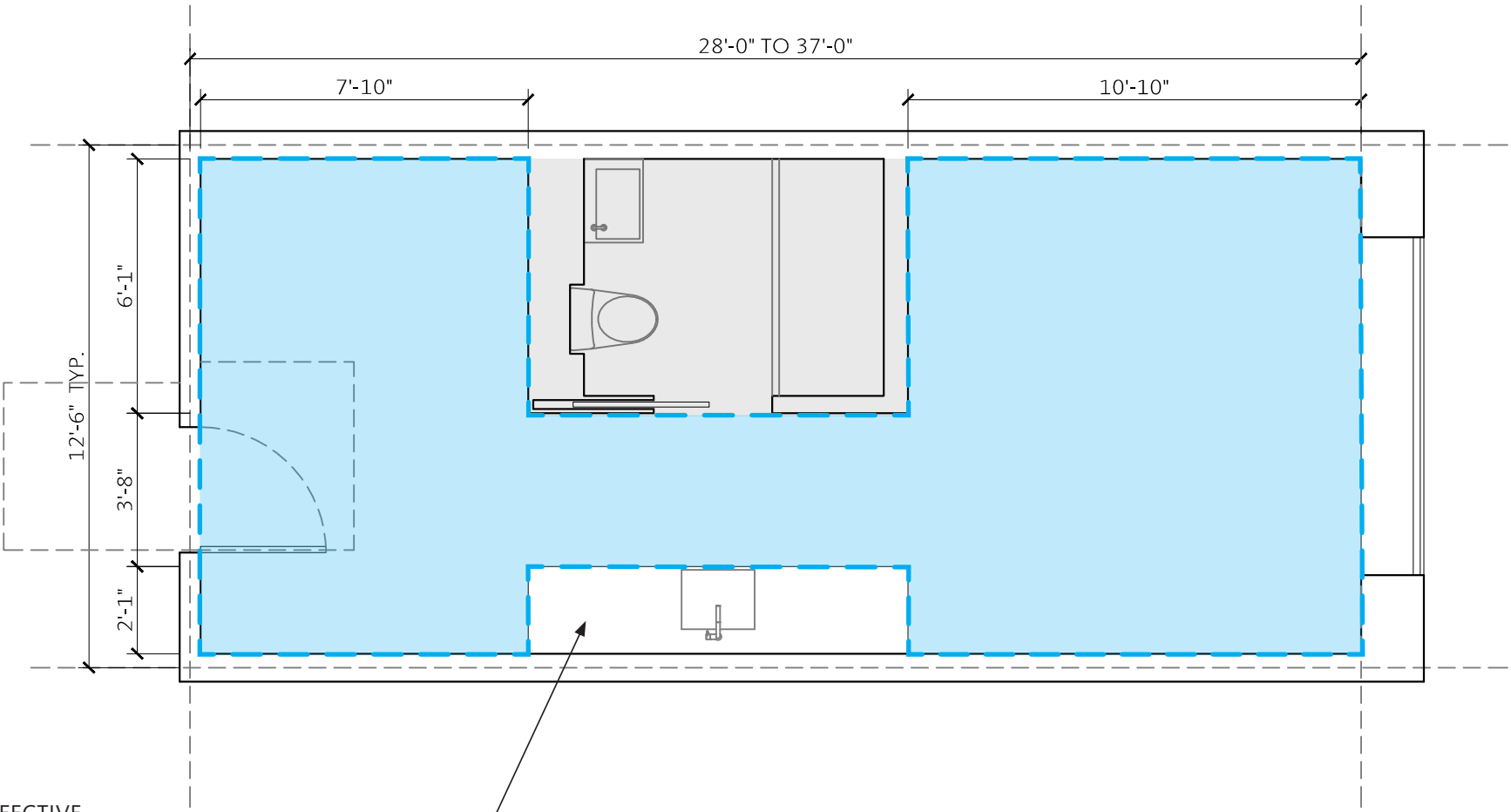
Small Group Occupancy Unit
Unit C1 & D1 Similar



PURSUANT TO ZA INTERPRETATION OF 209.2(A), EFFECTIVE OCTOBER 2005, GROUP HOUSING UNITS ARE ALLOWED TO HAVE LIMITED KITCHEN FACILITIES WITH THE FOLLOWING SPECIFICATIONS: A SMALL COUNTER SPACE, A SMALL UNDER-COUNTER REFRIGERATOR, A SMALL SINK, A MICROWAVE, AND A SMALL TWO-RING BURNER. COOKING FACILITY SHALL NOT INCLUDE ANY OTHER TYPE OF OVEN.

Enlarged Plan - Unit A

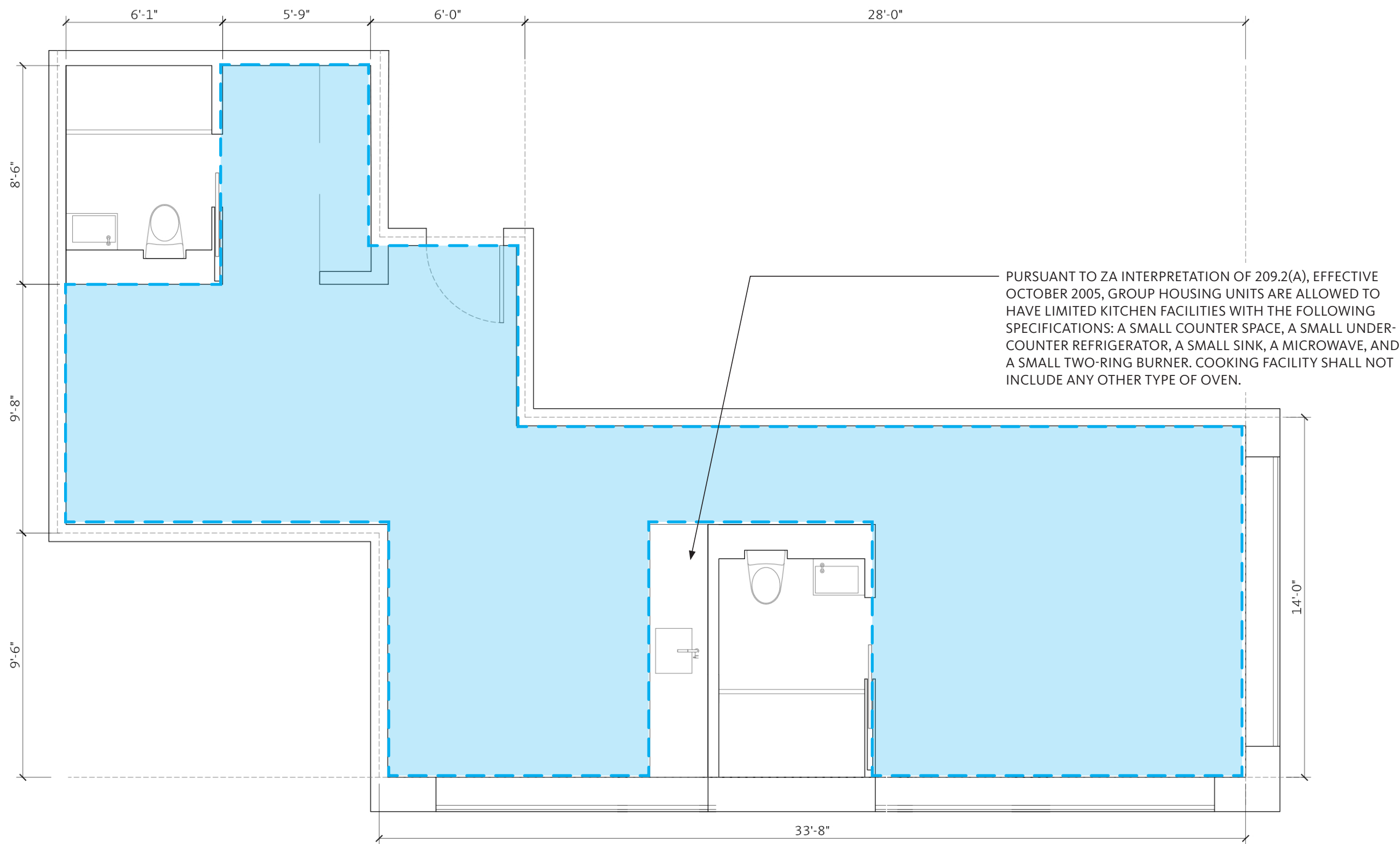
Medium Group Occupancy Unit
Unit B, C, D, E, F, F1 Similar



PURSUANT TO ZA INTERPRETATION OF 209.2(A), EFFECTIVE OCTOBER 2005, GROUP HOUSING UNITS ARE ALLOWED TO HAVE LIMITED KITCHEN FACILITIES WITH THE FOLLOWING SPECIFICATIONS: A SMALL COUNTER SPACE, A SMALL UNDER-COUNTER REFRIGERATOR, A SMALL SINK, A MICROWAVE, AND A SMALL TWO-RING BURNER. COOKING FACILITY SHALL NOT INCLUDE ANY OTHER TYPE OF OVEN.

Enlarged Plan - Unit K1

Large Group Occupancy Unit

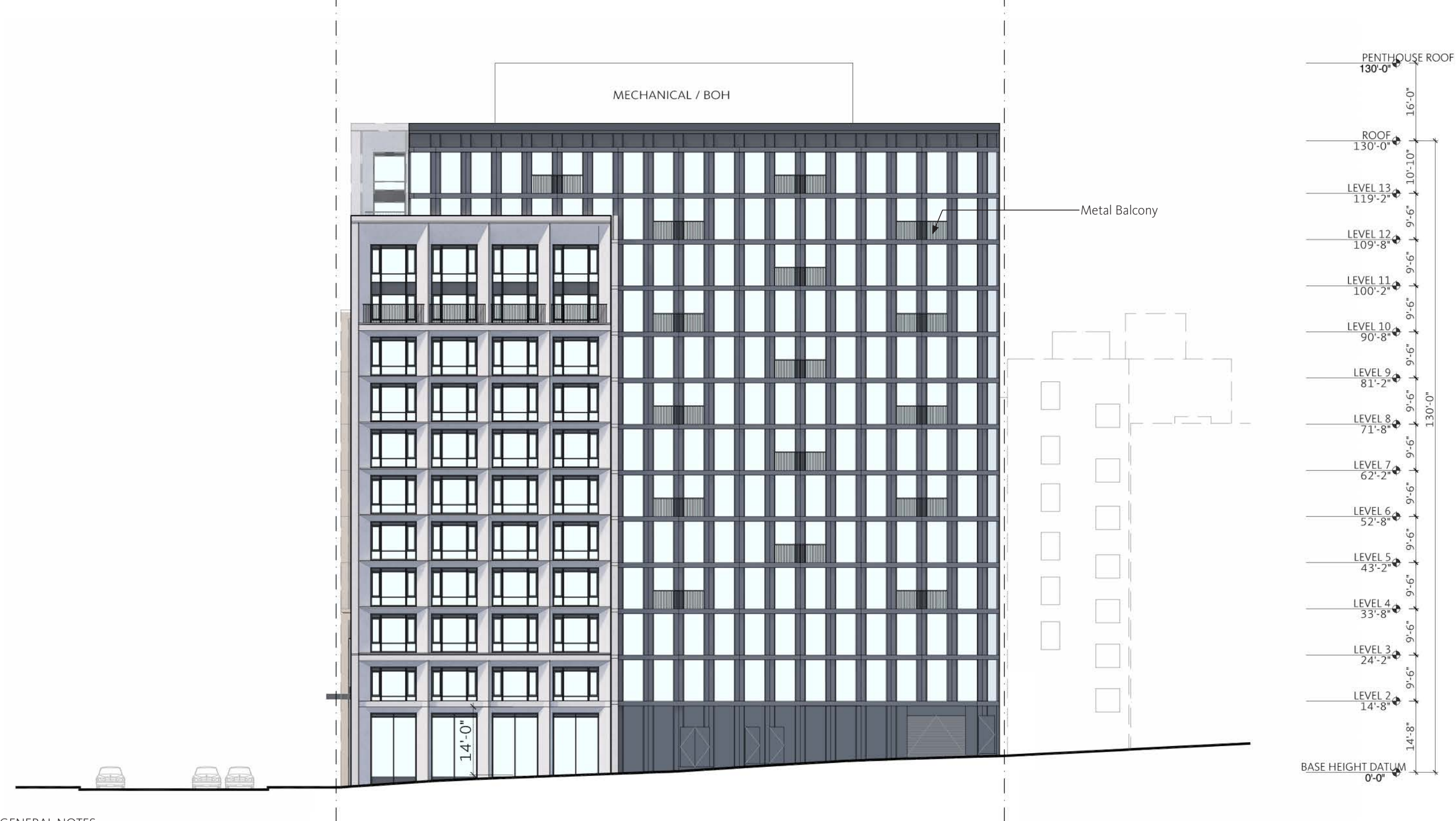


Elevation - O'Farrell Street



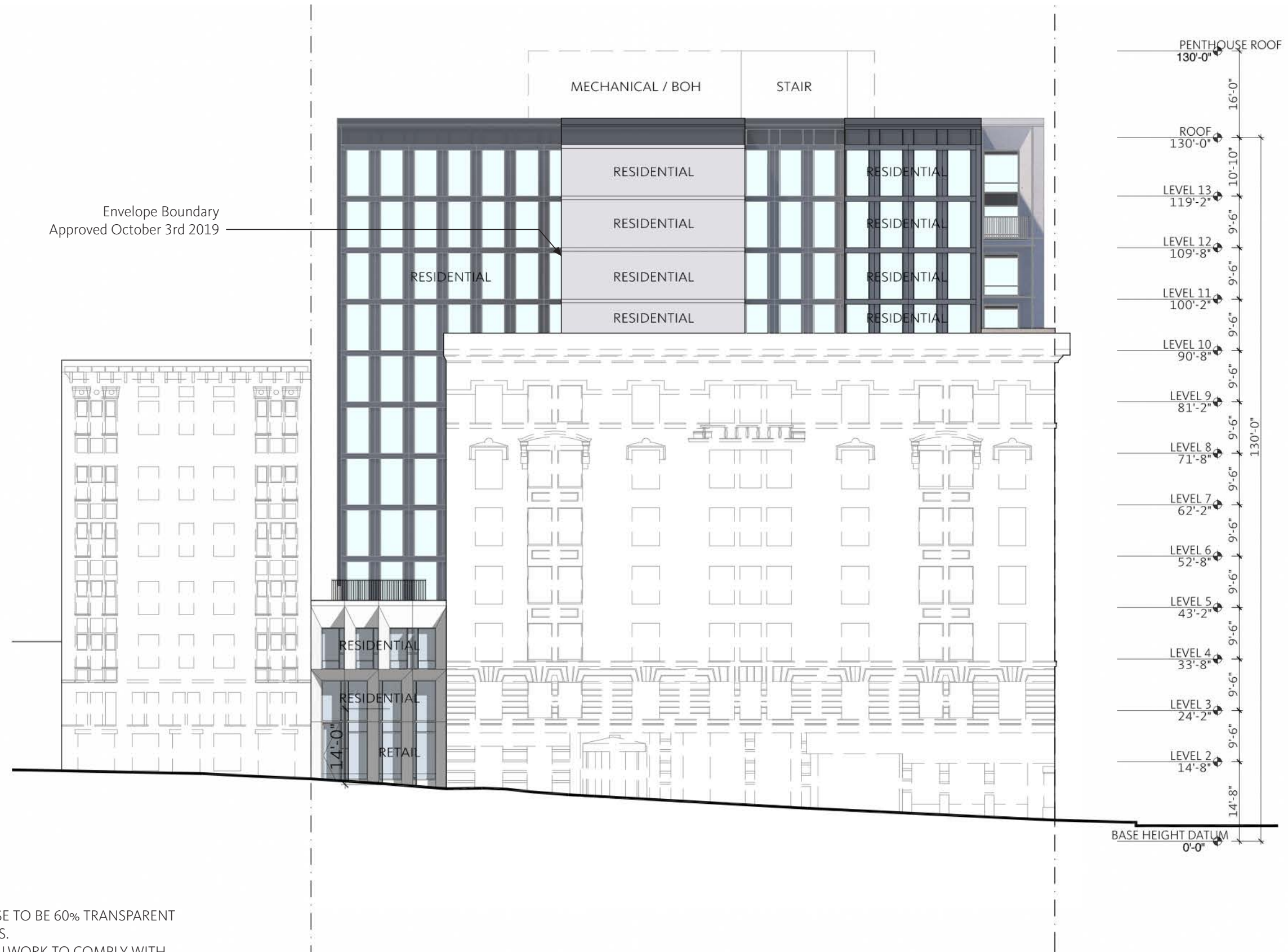
- GENERAL NOTES:
- GROUND FLOOR ACTIVE USE TO BE 60% TRANSPARENT WINDOWS AND DOORWAYS.
 - GATES, RAILINGS AND GRILLWORK TO COMPLY WITH CODE REQUIREMENTS FOR 75% OPEN TO PERPENDICULAR VIEW

Elevation - Shannon Street



- GENERAL NOTES:
- GROUND FLOOR ACTIVE USE TO BE 60% TRANSPARENT WINDOWS AND DOORWAYS.
 - GATES, RAILINGS AND GRILLWORK TO COMPLY WITH CODE REQUIREMENTS FOR 75% OPEN TO PERPENDICULAR VIEW

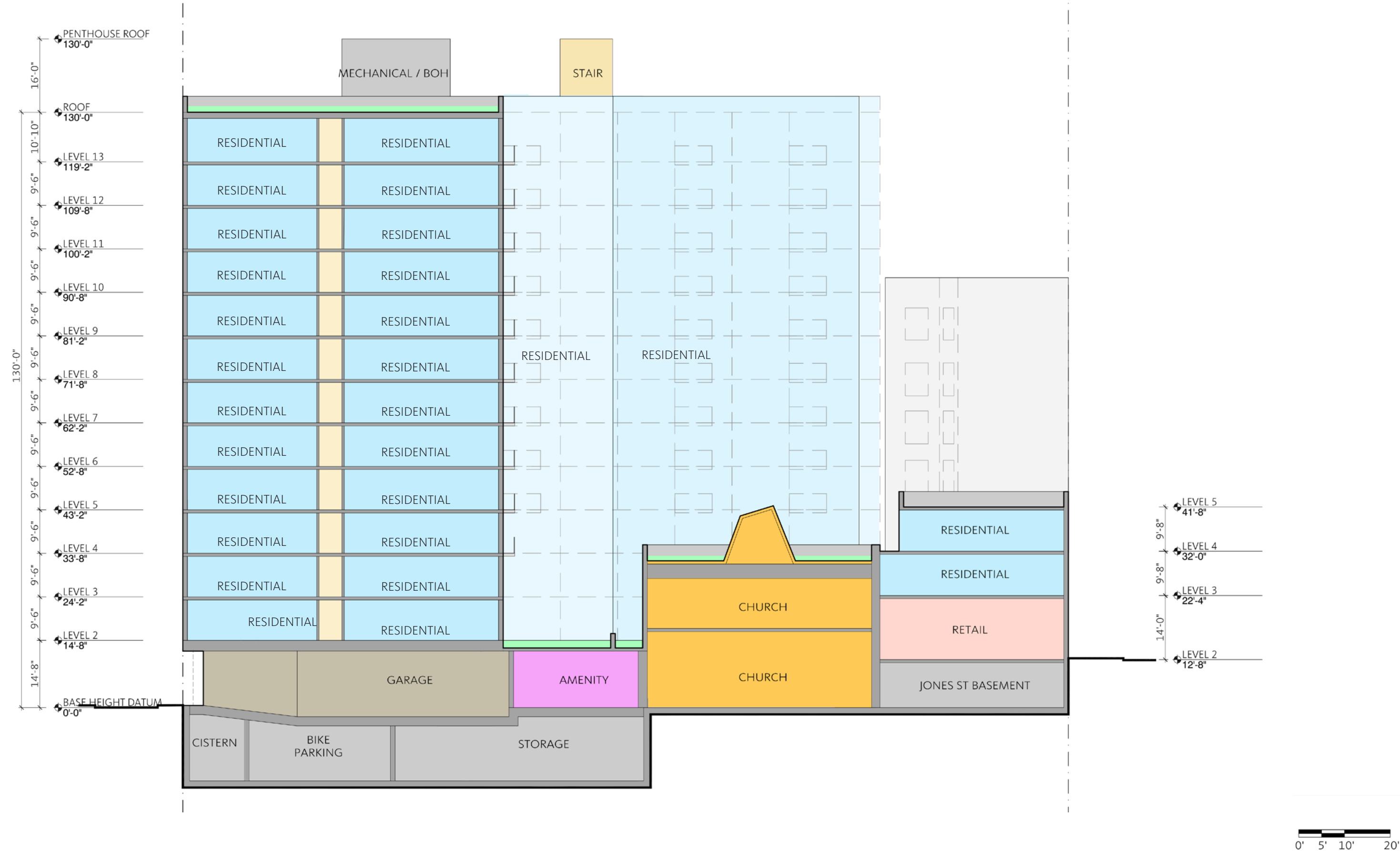
Elevation - Jones Street



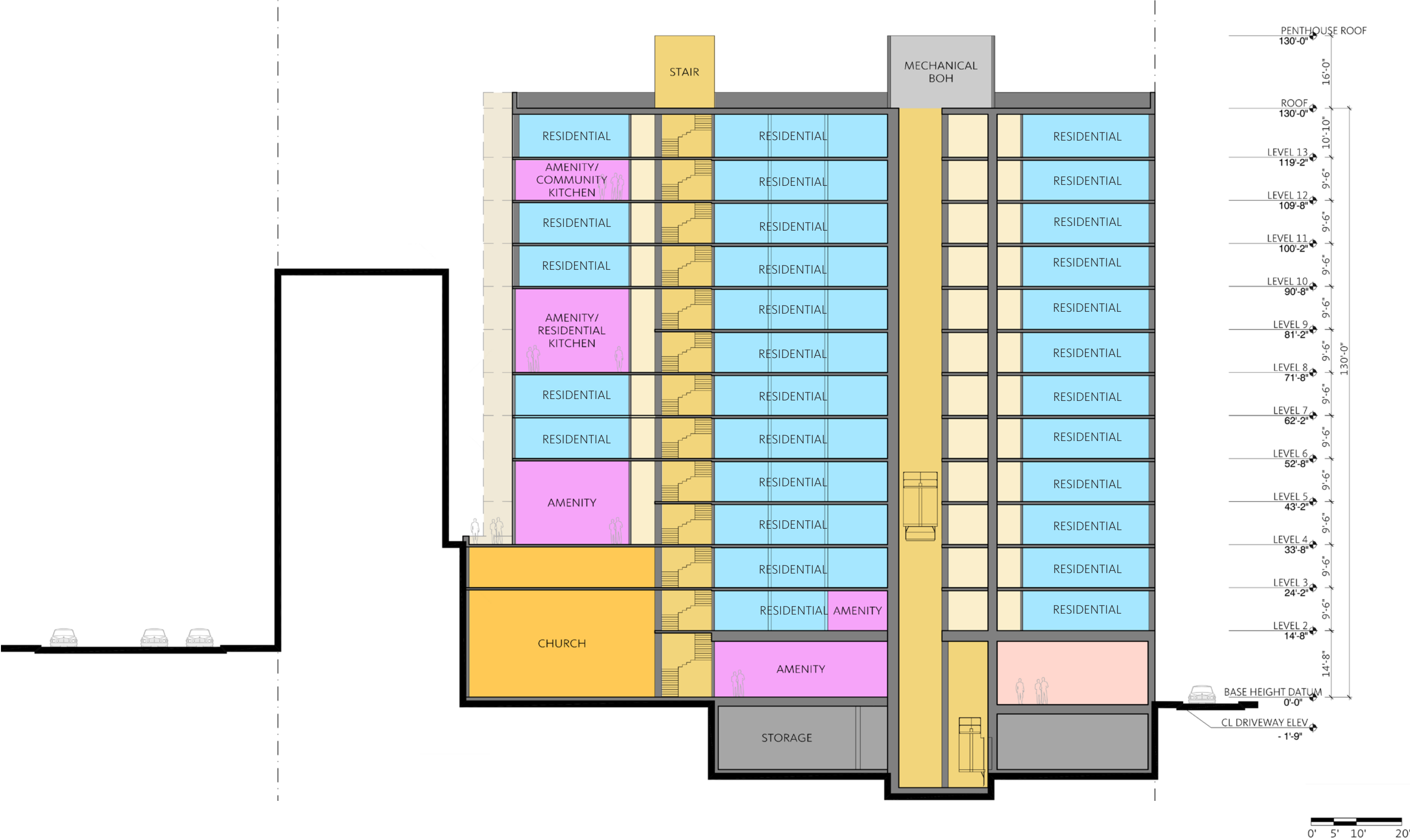
GENERAL NOTES:

- GROUND FLOOR ACTIVE USE TO BE 60% TRANSPARENT WINDOWS AND DOORWAYS.
- GATES, RAILINGS AND GRILLWORK TO COMPLY WITH CODE REQUIREMENTS FOR 75% OPEN TO PERPENDICULAR VIEW

Section - **East / West** - Through Jones St. Retail



Section - East / West - Amenity Space



Section - **North / South** - Through Lobby W/ Church Beyond

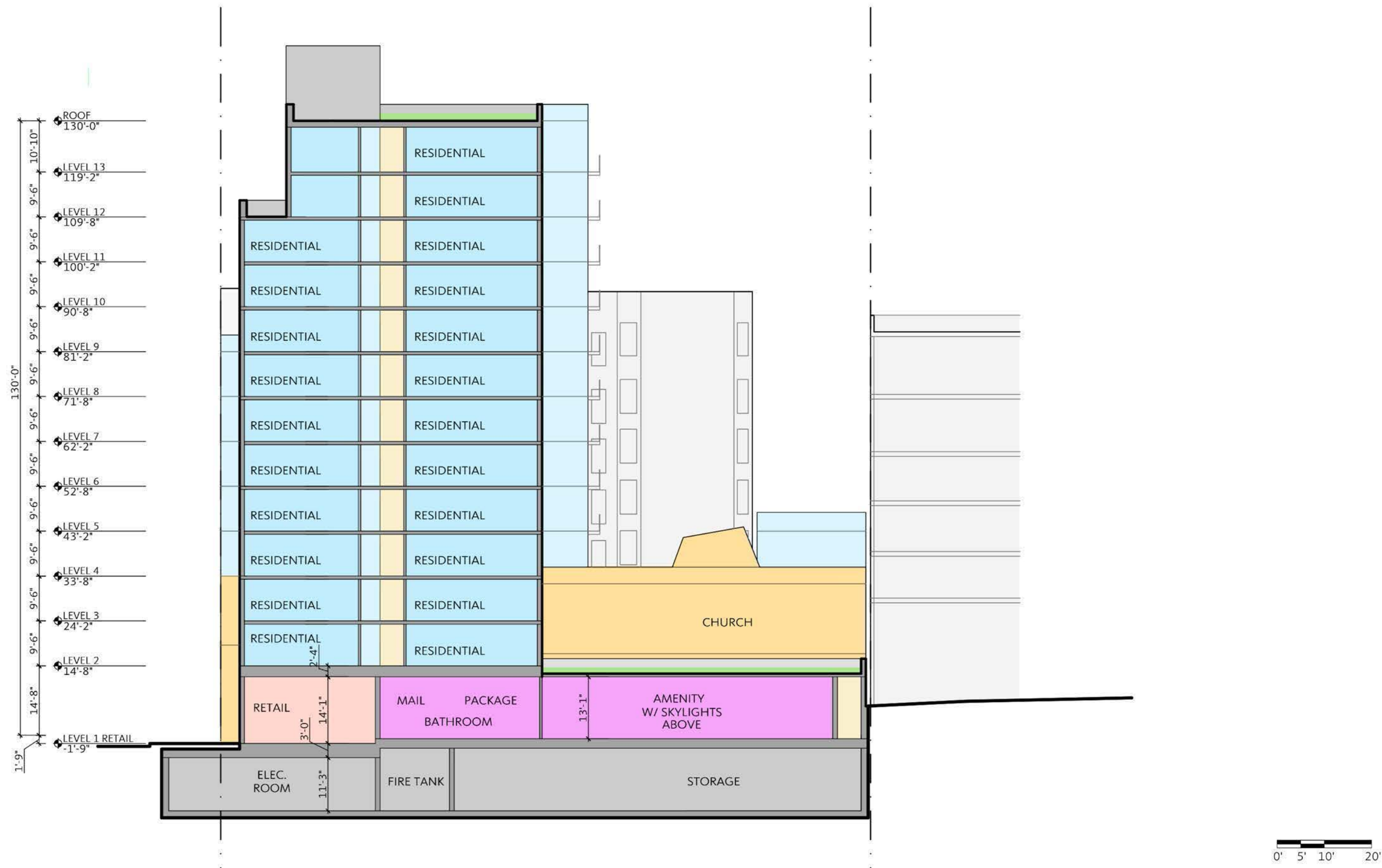
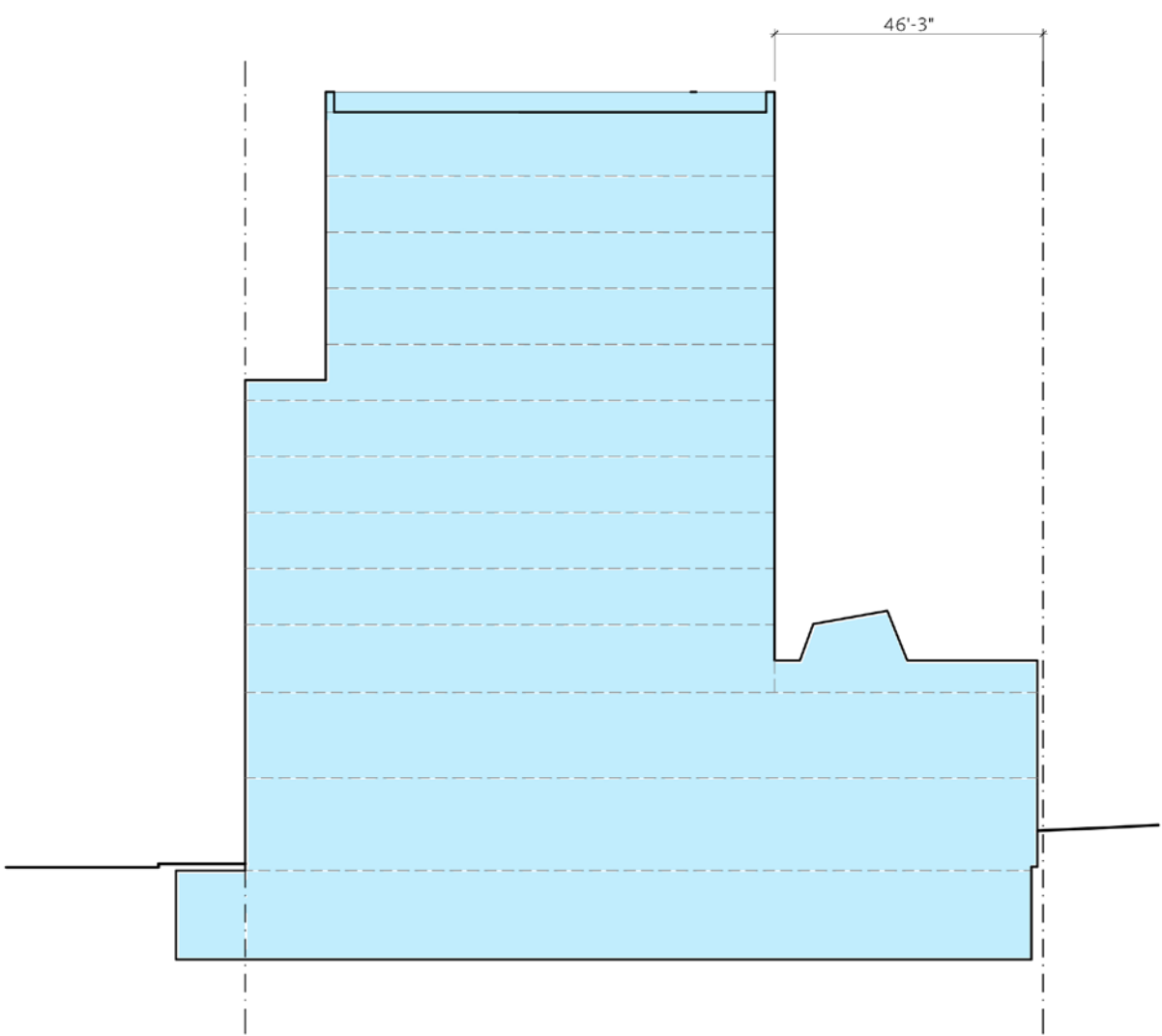
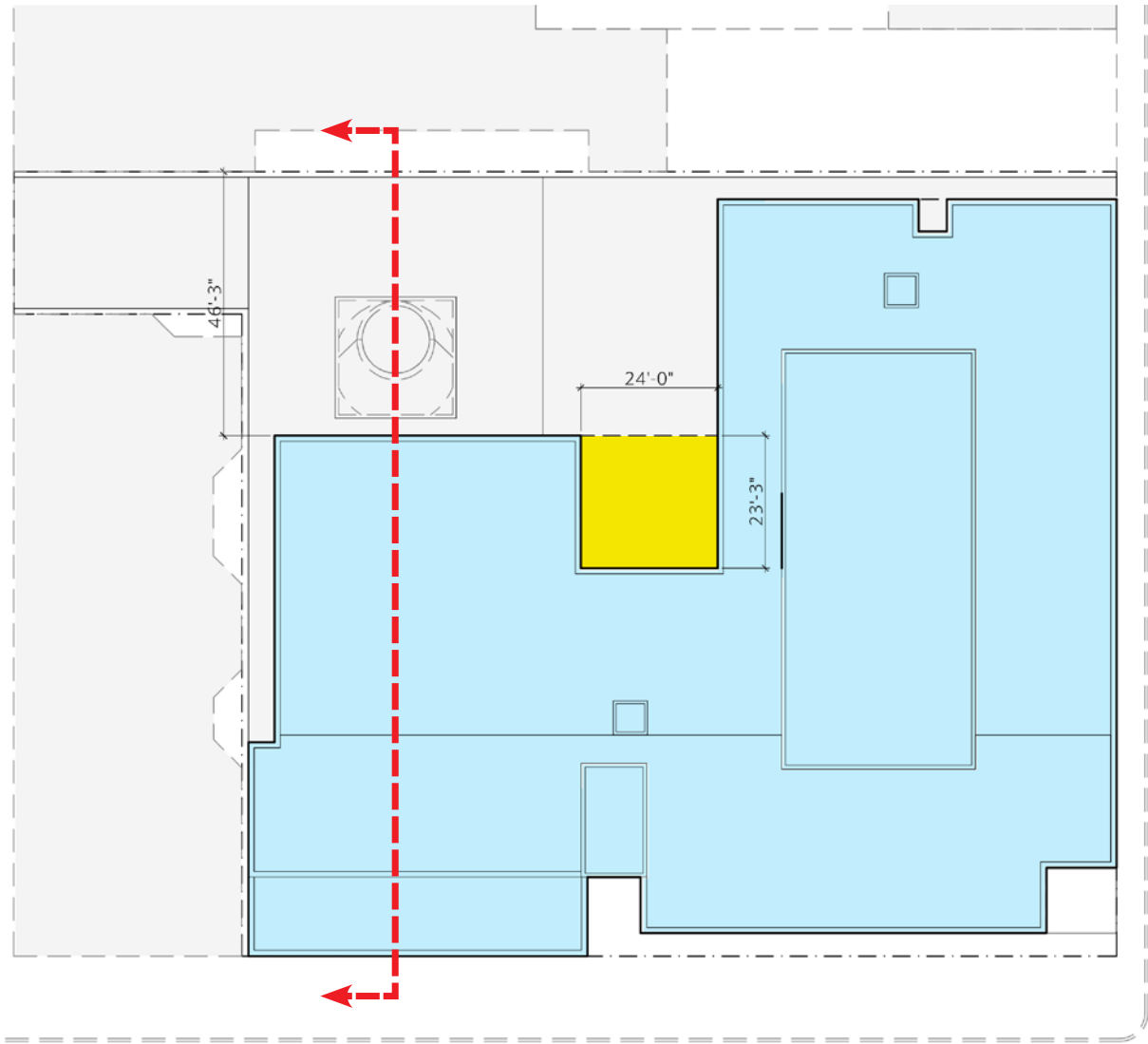


Diagram - Bulk Reduction



Proposed

Existing

0'8'16'32'

N

Diagram - Excavation Diagram

* Assuming a 16' deep existing and proposed basement

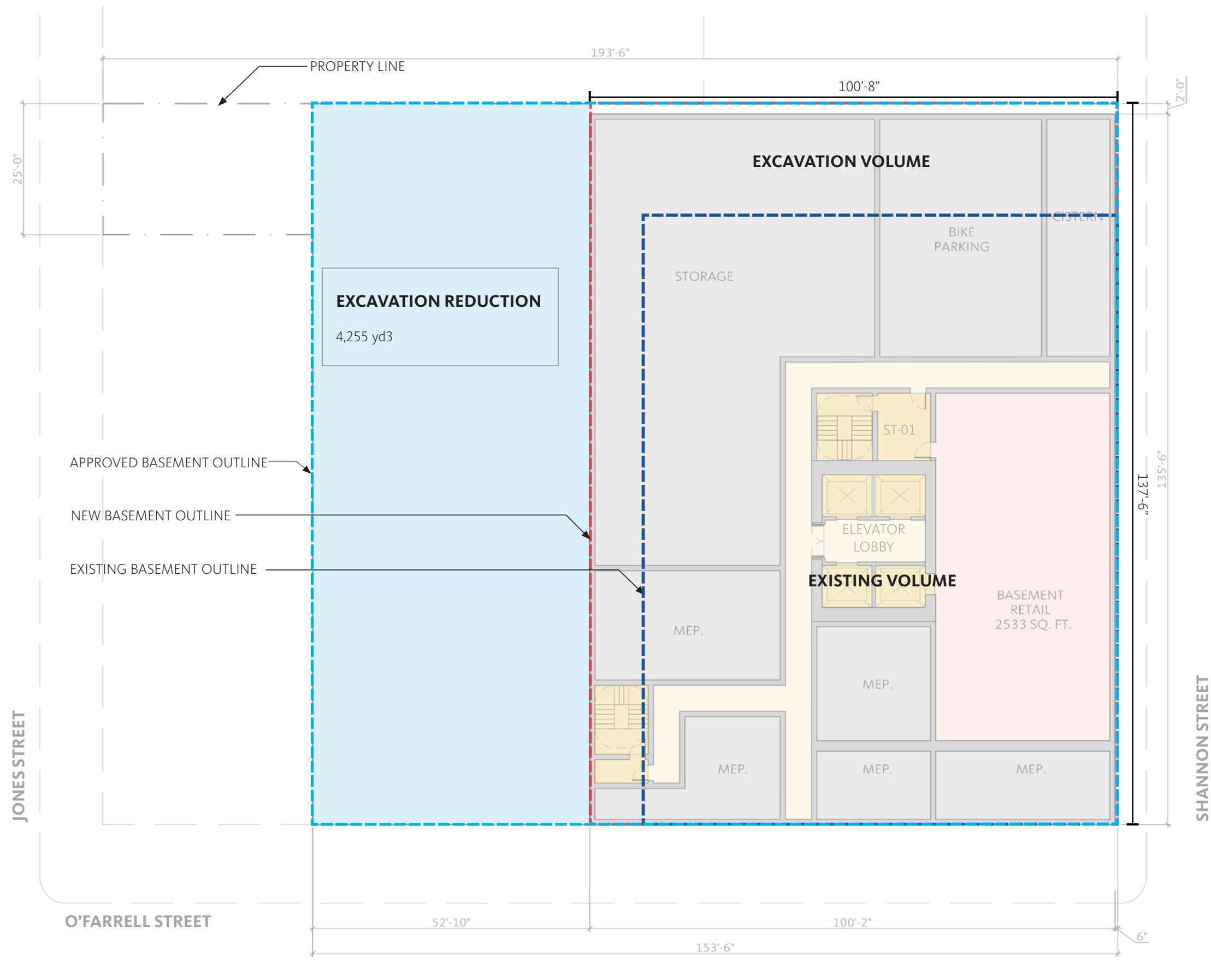


Diagram - Active Use

GENERAL NOTES:
- GROUND FLOOR ACTIVE USE TO BE 60% TRANSPARENT WINDOWS AND DOORWAYS.
- GATES, RAILINGS AND GRILLWORK TO COMPLY WITH CODE REQUIREMENTS FOR 75% OPEN TO PERPENDICULAR VIEW.

Active Use: Retail

JONES STREET

O'FARRELL STREET

Active Use: Church Active Use: Lobby Active Use: Retail

CHURCH

LOBBY

RETAIL

Transformer Room

Gas Room

Non Active Use: Exception for Building Services and Egress

Active Use: Retail

SHANNON STREET

3D Rendering - O'Farrell St.



3D Rendering - O'Farrell St.



Building Materials

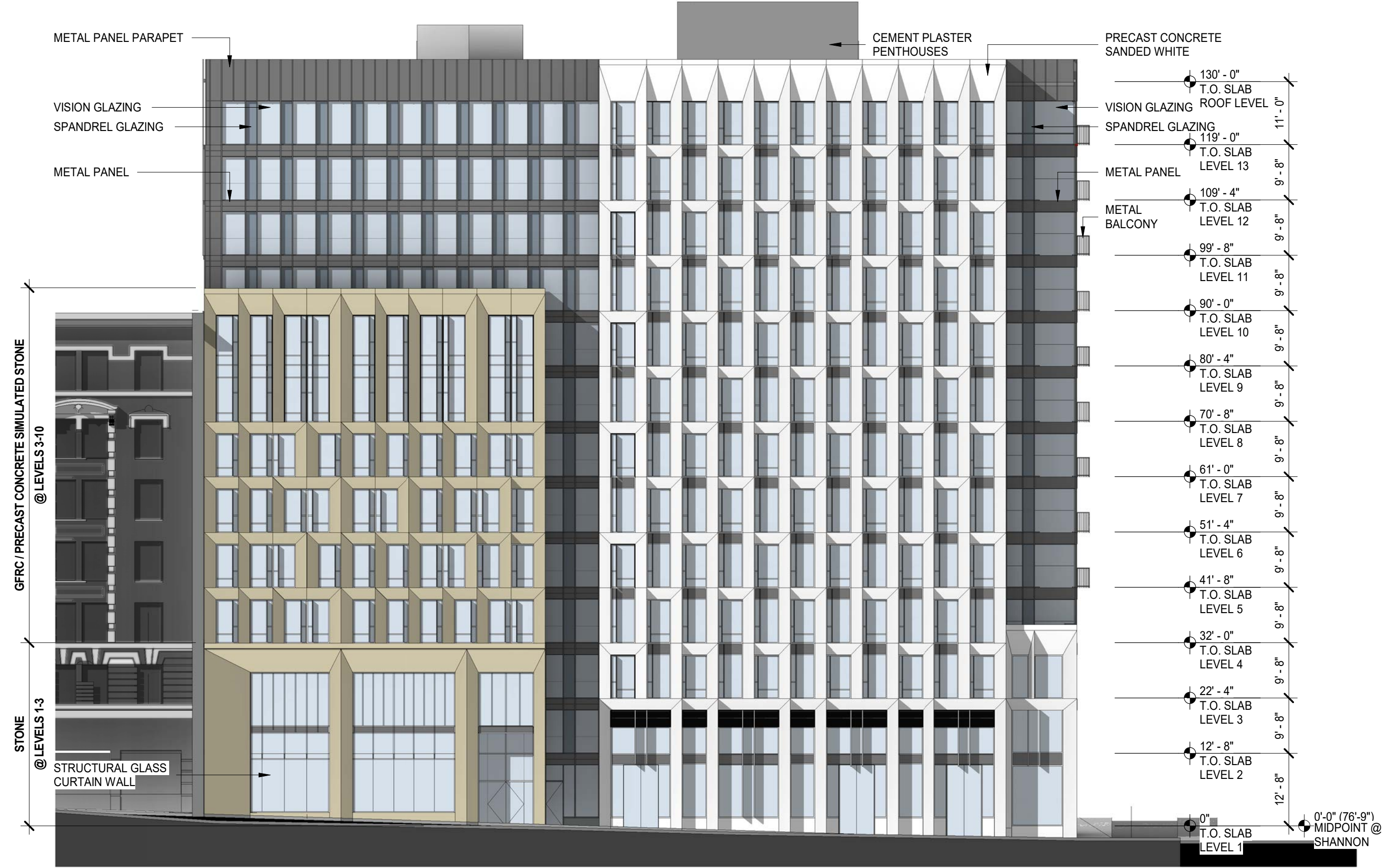


Material Palette

- Precast Concrete**
 - White
 - Simulated Stone
- Glazed Window Wall**
 - Clear
 - Spandrel
- Metal Panel**
 - Charcoal Grey
- Cement Plaster**
 - Charcoal Grey

Currently Approved

Elevation - O'Farrell St.



Elevation - Jones St.



Elevation - Shannon St.



3D Rendering - O'Farrell St.



Building Materials



Material Palette

- Precast Concrete**
 - White
 - Simulated Stone
- Glazed Window Wall**
 - Clear
 - Spandrel
- Metal Panel**
 - Charcoal Grey
- Cement Plaster**
 - Charcoal Grey

From: [BOS Legislation. \(BOS\)](#)
To: [pratibha@thclinic.org](#); [Michael.Shonafelt@ndlf.com](#); [greg.tross@ndlf.com](#); [richard@forgedevelopmentpartners.com](#); [alexander@forgedevelopmentpartners.com](#); [davidc@dpclawoffices.com](#); [Ela@ElaStrong.com](#); [pick@storzerlaw.com](#); [Letitia.Moore@hklaw.com](#)
Cc: [PEARSON, ANNE \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Varat, Adam \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Teague, Corey \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Grob, Carly \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS Legislation. \(BOS\)](#)
Subject: PROJECT SPONSOR RESPONSE: Conditional Use Authorization - Proposed 450-474 O'Farrell Street and 532 Jones Street Project - Appeal Hearing September 7, 2021
Date: Thursday, August 26, 2021 10:30:28 AM
Attachments: [image001.png](#)

Greetings,

The Office of the Clerk of the Board received the following response from Letitia Moore of Holland & Knight LLP, on behalf of the project sponsors, Fifth Church of Christ, Scientist regarding the Conditional use Authorization of the proposed 450-474 O'Farrell Street and 532 Jones Street project.

[Project Sponsor Response \(Holland & Knight\) – August 25, 2021](#)

I invite you to review the entire matters on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 210858](#)

Best regards,

Jocelyn Wong

San Francisco Board of Supervisors

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

T: 415.554.7702 | F: 415.554.5163

jocelyn.wong@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

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public documents that members of the public may inspect or copy.

From: Letitia.Moore@hklaw.com
To: [Cityattorney; STACY, KATE \(CAT\); Hillis, Rich \(CPC\); BOS Legislation. \(BOS\)](#)
Cc: davidc@dpclawoffices.com; Chelsea.Maclean@hklaw.com
Subject: Fifth Church of Christ, Scientist - 450-474 O'Farrell Street/532 Jones Street Project
Date: Wednesday, August 25, 2021 7:27:32 PM
Attachments: [Fifth Church of Christ Letter to Board - Final 25Aug2021.pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Please find attached submittal regarding:

**File No. 210858 – Appeal of Conditional Use Authorization
450-474 O'Farrell Street and 532 Jones Street**

Letitia D. Moore | Holland & Knight

She/Her/Hers

Senior Counsel

Holland & Knight LLP

50 California Street, Suite 2800 | San Francisco, CA 94111

Phone 415.743.6948 | Fax 415.743.6910

letitia.moore@hklaw.com | www.hklaw.com

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Chelsea Maclean
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Letitia Moore
415-743-6948
Letitia.Moore@hklaw.com

August 25, 2021

Via email: bos.legislation@sfgov.org

San Francisco Board of Supervisors

Angela Calvillo
Clerk of the Board
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

**Re: California Housing Law Protections Relating to the 450-474 O'Farrell
Street/532 Jones Street Project Application**

Dear Board of Supervisors,

Holland & Knight LLP¹ has been retained to represent Fifth Church of Christ, Scientist (the "Applicant") to ensure its rights under the California housing laws for the project proposed at 450-474 O'Farrell Street/532 Jones Street. The project includes "316 group housing units (632 beds), 172,323 square feet of residential use, including amenities and common areas, 4,900 square feet of open space, 6,023 square feet of restaurant/retail space, and 9,924 square feet for religious institution use (i.e., replacement of the existing church)" (the "Project"). (Addendum 2 to Environmental Impact Report ("Addendum 2"), June 23, 2021, at 3.) The Project's case number is 2013.1535EIA-02.

As outlined in our letter to the Planning Commission ("Commission") dated June 21, 2021 ("June 21, 2021 Letter"), the Project is subject to protections from several of California's housing laws, including the Permit Streamlining Act, Housing Accountability Act and SB 330 (the "Housing Crisis Act of 2019", all of which the Legislature has enacted to ensure the timely construction of housing to combat California's housing crisis.

¹ The Applicant is also represented by David Cincotta as well as Storzer & Associates, P.C. in connection with the Religious Land Use Act and Institutionalized Persons Act.

Summary of June 21, 2021 Letter. The following summarizes the main points in the June 21, 2021 Letter:

- The entitlements and exceptions currently sought were already approved for the previously approved project. The only land use related modification from the original approval requested for the revised Project is for a change to group housing with 316 group housing rooms. The Project is consistent with the standards for group housing in the RC-4 zoning district and all other applicable standards.
- The application was deemed complete on February 28, 2020 under the Permit Streamlining Act, based on our understanding that the Planning Department issued Plan Check Letter No. 1 more than 30 days after the Applicant's submittal, exceeding the 30 day window for completeness review of the Project. The City did not identify any project inconsistencies with objective standards as of April 28, 2020 and so the Project was deemed consistent with objective standards on that date under the Housing Accountability Act.
- As stated in the YIMBY Law Letter, "the Conditional Use Authorization currently being considered certainly falls well within the bounds of the General Plan. Even expanding our view to the project's previous approvals, including specific items within the Planned Unit Development, nothing proposed or adopted is sufficiently outside the scope of the city's general plan to warrant the assessment that the project is not protected by the Housing Accountability Act." As such, the Project does not involve any legislative amendments and, therefore, the Housing Accountability Act applies to the Project (limiting the ability to deny or reduce the Project density) as does the SB 330, including the five hearing maximum.
- The environmental review has been unnecessarily delayed. There is no substantial change to the revised Project that warranted preparation of a second Addendum and no new environmental impacts. The proposed modifications currently include and have always included approximately 300 group housing rooms, acknowledged by the City to represent for planning purposes approximately 600 beds.

The complete June 21, 2021 Letter is included as Attachment 1.

We applaud the Planning Commission for its approval of the Project at the June 24, 2021 hearing. After multiple hearings over the last several months, extensive outreach by the Church and the development team, the Commission incorporated several requested design improvements from the community and the Commission to improve the earlier Conditional Use Approval and refine the permitted group housing.

Summary of Responses to Appeal Letter

After receipt of the July 21, 2021 appeal letter filed by the Tenderloin Housing Clinic and Pacific Bay Inn, Inc. ("July 21, 2021 Appeal Letter") we wish to address certain additional points, as summarized below.

- The Appeal Letter challenges previous actions that were not part of the June 24, 2021 action by the Planning Commission. Specifically, the appeal is based on objections to alleged construction impacts and the authorization for group housing at this site. Nothing however in the action of the Planning Commission affects the previously approved site plan and associated construction impacts, and group housing is a permitted use in this zoning district, requiring no Planning Commission approval
- The Housing Accountability Act and five hearing maximum under SB 330 five hearing maximum still apply in the context of an appeal.
- The potential impacts raised in the Appeal Letter were adequately reviewed in the Environmental Impact Report (“EIR”) and, where appropriate, addressed with specific mitigation measures. Any challenge to the EIR or the associated mitigation measures had to have been filed within 30 days of the December 2018 Notice of Determination.
- Procedural issues regarding hearing date underscore the delayed processing that has characterized processing of this Project.

The following provides additional detail.

I. Background

Our June 21, 2021 Letter to Planning Commission ([Attachment 1](#)), included an in depth summary in Section I of the relevant background regarding (A) Project processing, (B) application completeness, (C) environmental review, and (D) hearing history. Rather than repeat again, here we reference pages 3-7 in [Attachment 1](#) for relevant background.

II. The Appeal Does Not Address the June 24, 2021 Planning Commission Action

The appeal is based on items that were not at issue in the recent action of the Planning Commission. Despite multiple community meetings and public hearings prior to the original Conditional Use Approval and the opportunity to appeal the original approval, the current appeal is focused on construction impacts associated with actions evaluated and approved in the prior approval, and zoning decisions decided in decision unrelated to this Project. The July 21, 2021 Appeal Letter states that the appeal is based on the following reasons:

- (1) Lack of Due Consideration, Disclosure or Analysis of the Health, Safety and Welfare of the Tenderloin Community and the Adjacent Pacific Bay Inn. The Project did not adequately disclose significant construction and operational impacts to the community.
- (2) The Project Is Not Compatible with the Tenderloin Community. The Tenderloin Community deems the revised Project to be out-of-place and undesirable as the neighborhood is already saturated with market rate group housing.

(3) Lack of Community Outreach and Dialogue. Forge, the new project sponsor, failed to engage neighbors and community stakeholders concerning the design, format and impacts of the Project.

As summarized in our June 21, 2021 Letter the original approvals included the following:

The original version for the project proposed a 13-story (130 foot tall) mixed-use building, “with up to 176 dwelling units, restaurant and/or retail space on the ground floors, and a replacement church . . . , below grade parking and mechanical spaces, private and common open space and 116 Class 1 and 9 Class 2 bicycle parking spaces.” (Planning Commission Motion No. 20281 (“Motion No. 20281”), September 13, 2018, at 4.) On September 13, 2018, the Commission moved to authorize “the Conditional Use Authorization as requested in Application No. 2013.1535ENVCUA” subject to conditions. (Motion No. 20281, at 3, 25.) The authorization allowed a “mixed-use residential and institutional use building . . . pursuant to Planning Code Section(s) 303, 304, 317, 253, 249.5, and 271 within the RC-4 District and North of Market Residential Special Use District and a 80-T-130-T Height and Bulk District.” (Motion No. 20281, at Exhibit A-1.) In reviewing the project’s application for Conditional Use Authorization, the Commission found that the mixed-use project, including rental housing and a new church facility, was compatible with neighborhood uses, would “not be detrimental to the health, safety, convenience or general welfare of persons residing in the vicinity,” “generally complies with the applicable sections of the Code, with certain exceptions” and “conforms with multiple goals and policies of the General Plan.” (*Id.* at 6-8.)

Accordingly, claims about construction activities and potential impacts from the approved site plan and relate to the original approvals and extensive environmental review.

The action before the Planning Commission was limited to proposed modification of conditions in the Conditional Use Approval. The substance of the Planning Commission action concerned modification of four (4) conditions from the original approval and addition of a condition of approval addressing the standards for group housing cooking facilities. The conditions that were modified concerned Parking for Affordable Units (#24), Car Share (#25), Bicycle Parking (#26), and the Inclusionary Affordable Housing Program (#32). The Planning Commission eliminated the Car Share and Parking for Affordable Unit conditions because they were no longer applicable, increased the number for Bicycle Parking, and clarified the application of the Inclusionary Affordable Housing Program. In accordance with Planning Code Section 303(e), the public hearing and notice procedures of Section 306 were appropriately followed for processing the modifications.

None of the reasons stated as the basis for the appeal concern the items modified by the Planning Commission action. ***The appeal is based on objections to alleged construction impacts and the authorization for group housing at this site. Nothing however in the action of the Planning Commission affects the previously approved site plan and associated construction impacts, and group housing is a permitted use in this zoning district, requiring no Planning Commission approval.*** Given the reasons stated for the appeal, the real target of the appeal is the prior site plan approval and earlier Planning Code amendments that designated group housing as a permitted use. The time for appealing those decisions has passed. The only appropriate

decision on this unsupported appeal of the modification of the Conditional Use approval is to deny the appeal.

III. Housing Protections Apply in the Context of an Appeal

Section II of the June 21, 2021 Letter, specifically pages 7-11, identified the applicable protections under the California housing laws. In short, the application was deemed complete on February 28, 2020 under the Permit Streamlining Act, based on our understanding that the Planning Department issued Plan Check Letter No. 1 more than 30 days after the Applicant's submittal, exceeding the 30-day window for completeness review of the Project. The City did not identify any project inconsistencies with objective standards as of April 28, 2020 and so the Project was deemed consistent with objective standards on that date under the Housing Accountability Act. As stated in the YIMBY Law Letter, "the Conditional Use Authorization currently being considered certainly falls well within the bounds of the General Plan. Even expanding our view to the project's previous approvals, including specific items within the Planned Unit Development, nothing proposed or adopted is sufficiently outside the scope of the city's general plan to warrant the assessment that the project is not protected by the Housing Accountability Act." ***As such, the Project does not involve any legislative amendments and, therefore, the Housing Accountability Act applies to the Project as does the five hearing limit under SB 330.***

Both laws apply equally in the context of an appeal. The Housing Accountability Act limits an agency's discretion to deny or reduce the density of a project. (Govt. Code 65589.5). There is no exception where an appeal has been filed so it follows that an agency's obligations under the Housing Accountability Act remain when an appeal has been filed.

Similarly, the five hearing maximum under SB 330 remains steadfast as there is no exception for an appeal. As this is a new and cutting edge area of the law, we recognize it has not yet been addressed by the courts. That said, language in Government Code Section 65905.5(a) is resolute in stating that a city and county "shall not conduct more than five hearings....in connection with the approval of that housing development project" and that the "city and county shall consider and either approve or disapprove the application at any of the five hearings allowed under this section consistent with the applicable timelines under the Permit Streamlining Act." Moreover, the definition of a hearing in Government Code Section 65905.5(b)(2) includes "any public hearing, workshop, or similar meeting conducted by the city or county with respect to the housing development project." The only exemption from the definition of a hearing is where there is a legislative approval or a timely appeal of the "approval or disapproval of a *legislative approval*." The proposed Project entitlements include only quasi-judicial approvals and no legislative approvals. Accordingly, an appeal hearing is not exempt from the five hearing maximum. We noted in our June 21, 2021 Letter that eight hearings have been held (or six if not counting the hearings purportedly continued by the Applicant). As such, the five hearing maximum has already been exceeded.

A plain reading of the five hearing maximum could be read and interpreted by the courts to require an agency to deny an appeal without holding a new hearing. While we do not necessarily

recommend such an action, we feel it important to recognize that, given the severity of the housing crisis and legislative and judicial trends, it is quite possible that courts will find that appeal hearings beyond five hearings are improper. With that legal background in mind, we continue to urge an outcome that is consistent with the significant legal trends on housing projects.

IV. The Appeal Raises Issues Evaluated in the EIR and Untimely CEQA challenges

The potential impacts raised in the Appeal Letter were adequately reviewed in the Environmental Impact Report (“EIR”) and, where appropriate, addressed with specific mitigation measures. This Appeal identifies no new or different environmental impacts that those evaluated in the EIR. In particular, the potential environmental impacts detailed by the Pacific Bay Inn in the Appeal were all adequately reviewed in the EIR. Those potential impacts were addressed and specific mitigation measures responding to the potential impacts to adjacent buildings, including vibration monitoring and a management plan, were incorporated into the final EIR approved on November 13, 2018. The Church and its Project Sponsor partner have agreed to implement those mitigation measures. These mitigation measures have been consistently incorporated in all Addenda describing the group housing proposal, including documents prepared for and approved by the Commission on June 21.

The Pacific Bay Inn did not challenge or appeal the EIR evaluation or the mitigation measures incorporated into the Final EIR. The Notice of Determination (“NOD”) for the project approval was published on December 18, 2018 and any challenge under the California Environmental Quality Act (“CEQA”) to the EIR and those mitigation measures had to have been filed within 30 days of the NOD. More significantly, it should be noted that, in addition to arranging to implement the mitigation measures, under the current proposal withdraws the development’s foundation significantly further away from the Pacific Bay Inn. Consequently, the current proposal incorporating group housing has less potential for impacting the Pacific Bay Inn.

Furthermore, as stated by Planning Department staff at the Planning Commission Hearing on June 21, 2021, the custom and practice of resolving any structural design issues for foundational issues of adjacent buildings is through mitigation measures, review and conditions by the Department of Building Inspection, and written agreement between the property owners (based on consultation with engineers). The first draft of such an agreement for this process has already been delivered to the representatives of the Pacific Bay Inn.

All of the potential impacts raised in the appeal were evaluated and addressed in the EIR that was certified in 2018. No appeal and no CEQA challenge was filed to the prior approval or the EIR from 2018. Finally, the City ultimately prepared two Addendums to the EIR and concluded that not further environmental review was required for the current proposal. The Addendum made the following finding:

The revised project would not result in new or different environmental impacts, substantially increase the severity of the previously identified environmental impacts or require new mitigation measures. In addition, no new information has emerged that would materially change the analyses or conclusions set forth in

the initial study and EIR. Therefore, the revised project would not change the analyses or conclusions in the initial study and EIR for the previous project.

Second Addendum to Environmental Impact Report, p. 11.

V. Procedural issues regarding Appeal Hearing date underscore delayed processing

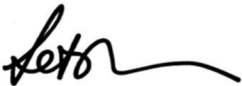
The Applicant continues to suffer delays in processing for this Project and as a result significant costs. The City Planning Code clearly requires that the Board of Supervisors or Clerk of the Board set a hearing on an appeal for a date not more than 30 or 40 days after the filing of the appeal. (Planning Code 308.1(c)) The Board must decide the appeal within 30 or 40 days of that hearing, unless the full membership of the Board is not available. (*Id.*) In that instance, the Board may continue the hearing for decision on the appeal to a date when the full Board is available, but not more than 90 days after the hearing on the appeal. (*Id.*) ***Despite the mandate in the Planning Code to set the hearing on the appeal to a date not more than 30 or 40 days after the filing of the appeal, the City has proposed to delay the hearing on appeal for more than 70 days.*** In response to the July 21st filing of appeal, Supervisor Matt Haney's Chief of Staff requested that the parties agree to delay the hearing on appeal until October 12, 2021. This request ignores the Planning Code requirements and continues the pattern of delay that already places the City in conflict with state law. This request also reflects the continuing disregard for the impact of delay on Applicant, even while relying on Applicant's continued cooperation and accommodation.

Applicant appreciates that the Board does not meet in August and that both Rosh Hashanah and the labor day holiday fall during the first week in September. Under these circumstances the Board must therefore make some appropriate arrangements. Nevertheless, in light of the limited scope of the Planning Commission action and the numerous delays in processing these modifications to the Conditional Use approval, proposing to set the hearing on the appeal to October represents another unreasonable delay.

This Appeal can and should be resolved without further unnecessary delay. As noted in prior correspondence, the Church has experienced significant damages as a result of the continuing delays.

Sincerely yours,

HOLLAND & KNIGHT, LLP



Letitia Moore

CC: David Murray, Fifth Church of Christ, Scientist (david.murray08@gmail.com)
Ela Strong, Fifth Church of Christ, Scientist (ela@elastrong.com)
David Cincotta, Law Office of David Cincotta (davide@dpclawoffices.com)

Robin Pick, Storzer Law (pick@storzerlaw.com)
Roman Storzer, Storzer Law (storzer@storzerlaw.com)

Attachment 1 – June 21, 2021 Letter to Planning Commission

Attachment 1
June 21, 2021 Letter to Planning Commission

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Re: **California Housing Law Protections Relating to the 450-474 O'Farrell
Street/532 Jones Street Project Application**

Dear All:

Holland & Knight LLP¹ has been retained to represent Fifth Church of Christ, Scientist (the "Applicant") to ensure its rights under the California housing laws for the project proposed at 450-474 O'Farrell Street/532 Jones Street. The project includes "316 group housing units (632 beds), 172,323 square feet of residential use, including amenities and common areas, 4,900 square feet of open space, 6,023 square feet of restaurant/retail space, and 9,924 square feet for religious institution use (i.e., replacement of the existing church)" (the "Project"). (Addendum 2 to Environmental Impact Report ("Addendum 2"), June 23, 2021, at 3.) The Project's case number is 2013.1535EIA-02.

After the Planning Commission ("Commission") approved an earlier version of the project more than two and half years ago, the Commission has failed to take the actions required by law to process the Project's entitlements. This failure is a violation of California's housing laws, including the Permit Streamlining Act, Housing Accountability Act and SB 330, all of which the

¹ The Applicant is also represented by David Cincotta as well as Storzer & Associates, P.C. in connection with the Religious Land Use Act and Institutionalized Persons Act.

Legislature has enacted to ensure the timely construction of housing to combat California's housing crisis. The following summarizes the main points in this letter:

- The entitlements and exceptions currently sought were already approved for the previously approved project. The only land use related modification from the original approval requested for the revised Project is for a change to group housing with 316 group housing rooms. The Project is consistent with the standards for group housing in the RC-4 zoning district and all other applicable standards.
- The environmental review has been unnecessarily delayed. There is no substantial change to the revised Project that warranted preparation of a second Addendum and no new environmental impacts. The proposed modifications currently include and have always included approximately 300 group housing rooms, acknowledged by the City to represent for planning purposes approximately 600 beds.
- The Planning Department issued Plan Check Letter No. 1 more than 30 days after the Applicant's submittal. This timing exceeds the statutorily mandated 30 calendar day window for completeness review of the Project. As such, the application was deemed complete on February 28, 2020 under the Permit Streamlining Act.
- The City did not identify any project inconsistencies with objective standards as of April 28, 2020 and so the Project was deemed consistent with objective standards on that date under the Housing Accountability Act.
- As stated in the YIMBY Law Letter, "the Conditional Use Authorization currently being considered certainly falls well within the bounds of the General Plan. Even expanding our view to the project's previous approvals, including specific items within the Planned Unit Development, nothing proposed or adopted is sufficiently outside the scope of the city's general plan to warrant the assessment that the project is not protected by the Housing Accountability Act."
- Just as with the Housing Accountability Act, it is not appropriate to exclude applicability of the five hearing limit under SB 330 to those projects that request exceptions that do not rise to the level of general plan or zoning code amendments. As such, the five hearing limit applies.
- The hearing history shows, remarkably, that the hearings on the Project have been continued seven times. At the next hearing, which will be the eighth hearing (or the sixth if not counting the hearing purportedly continued at the request of the Applicant), the Commission must approve the Project. Under the limitations imposed by the Housing Accountability Act, the City has no basis for disapproving the Project. In the event the City does not promptly take action to consider and approve the Project, our clients will

exercise their rights under these laws. It is noted that the Church has experienced significant damages as a result of processing delays.

The following provides additional detail.

I. Background

The following provides relevant background regarding (A) Project processing, (B) application completeness, (C) environmental review, and (D) hearing history.

A. Project processing

1. Original approvals

The original version for the project proposed a 13-story (130 foot tall) mixed-use building, “with up to 176 dwelling units, restaurant and/or retail space on the ground floors, and a replacement church . . . , below grade parking and mechanical spaces, private and common open space and 116 Class 1 and 9 Class 2 bicycle parking spaces.” (Planning Commission Motion No. 20281 (“Motion No. 20281”), September 13, 2018, at 4.) On September 13, 2018, the Commission moved to authorize “the Conditional Use Authorization as requested in Application No. 2013.1535ENVCUA” subject to conditions. (Motion No. 20281, at 3, 25.) The authorization allowed a “mixed-use residential and institutional use building . . . pursuant to Planning Code Section(s) 303, 304, 317, 253, 249.5, and 271 within the RC-4 District and North of Market Residential Special Use District and a 80-T-130-T Height and Bulk District.” (Motion No. 20281, at Exhibit A-1.) In reviewing the project’s application for Conditional Use Authorization, the Commission found that the mixed-use project, including rental housing and a new church facility, was compatible with neighborhood uses, would “not be detrimental to the health, safety, convenience or general welfare of persons residing in the vicinity,” “generally complies with the applicable sections of the Code, with certain exceptions” and “conforms with multiple goals and policies of the General Plan.” (*Id.* at 6-8.)

Furthermore, the Commission found that the project complies with the required criteria for a Conditional Use Authorization under Planning Code sections:

- 317 - demolition of or conversion of Residential Buildings
- 253(b)(1) - buildings with a street frontage height greater than 50 feet
- 249.5/263.7 - buildings that exceed a height of 80 feet in the North of Market Residential Special Use District
- 271(c) - buildings that exceed bulk limits. (*Id.* at 11-19.)

Additionally, as part of the Project’s Planned Use Development authorizations, the Commission also approved modifications to the “rear yard requirements per Section 134(g) of the Planning Code,” and “[a]n exception to the off-street loading requirements per Section 152 of the Planning Code, which requires one residential loading space for the project.” (*Id.* at 9.) Finally, the

Commission found that the project “affirmatively promotes applicable objectives and policies of the General Plan.” *Id.* It should be noted that Applicant paid fees for the earlier version of the project and a site permit was issued, but it was not ultimately financeable.

2. Project modifications comply with objective standards

The Applicant now proposes “316 group housing units (632 beds), 172,323 square feet of residential use, including amenities and common areas, 4,900 square feet of open space, 6,023 square feet of restaurant/retail space, and 9,924 square feet for religious institution use (i.e., replacement of the existing church).” (Addendum 2, at 3.) Specifically, the Applicant seeks to “amend Conditions of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281 adopted on September 13, 2018.” (Staff Report for April 15, 2021 Planning Commission (“April Staff Report”), Executive Summary Conditional Use, at 1.) These Conditions of Approval address vehicle, car share and bicycle parking (Nos. 24, 25 and 26) and inclusionary housing (No. 32) requirements. The Project’s amendments “would be constructed within the envelope described for the [approved] project, with a similar mix of uses, decreased subsurface excavation and minor changes in building design All other aspects of the revised project would remain the same as those of the previous project.” (Addendum 2, at 5.)

Implementation of the Project requires a conditional use authorization for a planned unit development to modify the requirements of San Francisco Planning Code sections 134(j) (for rear-yard modifications in a RC-4 District) and 152 (for on-street loading). The Planning Commission granted these approvals on September 13, 2018. The revised Project does not seek any modification to these prior approvals.

Implementation of the Project also requires “authorization from the planning commission under San Francisco Planning Code section 317(g)(5) for demolition of existing residential units; section 253(b) for new construction over 40 feet in height and a street frontage greater than 50 feet; section 263.7 for an exception to the 80-foot base height limit in North of Market Residential Special Use District No. 1; section 271 for exceptions to section 270, governing the bulk of the building; and section 303 for the new religious institution (church) use.” (Addendum 2, at 9.) These authorizations were similarly approved by the Commission on September 13, 2018. The modifications requested for the revised Project do not involve any of these authorizations. (See April Staff Report, Draft Motion, at 7.)

The only land use related modification from the original approval requested for the revised Project is for a change to group housing with 316 group housing rooms. The revised Project also reduces the number of off-street parking previously approved. As detailed in the Staff Report for the April 15, 2021 Planning Commission, off-street parking is not required in the RC-4 zoning district. (April Staff Report, at 7.) Given that there is no required off-street parking, the revised Project is not at odds with the standard for off-street parking. The revised Project is also consistent with the standards for group housing in the RC-4 zoning district. The Staff Report for the April 15, 2021 Planning Commission states that “[p]ursuant to Section 209.3 of

the Planning Code, the RC-4 residential high-density zoning district, permits a group housing density up to one bedroom per every 70 square feet of lot area. On this 22,106 square foot site, 316 bedrooms are permitted,” (April Staff Report, at 7.) The revised Project is therefore consistent with the applicable objective standard for the RC-4 zoning district.

Notably, all relevant modifications proposed by the revised Project are consistent with applicable objective standards. Additionally, the modifications to Conditions of Approval 24, 25, 26 and 32 all comply with the applicable standards. No off-street parking or car share parking are required for the Project, therefore COA Nos. 24 and 25 do not apply. The revised Project complies with both the bicycle parking spaces and inclusionary affordable housing requirements applicable to the revised Project.

B. Application completeness

Correspondence between the City staff and Applicant demonstrates that the Project application is complete. The following is a chronology of the City’s correspondence with the Applicant regarding the Project:

- January 24, 2020 - Application filed with City for amended PUD/CUA
- January 28, 2020 - Planning Department accepts Revised CUA Application
- April 9, 2020 - Plan Check Letter No. 1
- June 12, 2020 - Revisions submitted by Applicant
- July 10, 2020 - Plan Check Letter No. 2
- August 13, 2020 - Response submitted to City

The significance of this chronology is discussed further below. Notably, the April 9, 2020 Plan Check Letter No. 1 exceeds the 30 day time period to respond to an application submittal under the Permit Streamlining Act.

C. Environmental review

An Environmental Impact Report (“EIR”) was certified for the original Project in 2018. On December 21, 2020, the City published an Addendum to the EIR for the proposed Project modifications. As such, the environmental review was completed six months ago, with the conclusion that the Project will not result in new significant environmental impacts and that no further environmental review is required. Although there were no substantial changes to the proposed revised Project, the City prepared a second Addendum in June 2021.

Similar to the findings in the Addendum, in the second Addendum, the City’s analysis of the proposed modifications to the approved Project affirms that “[s]ince certification of the EIR, no substantial changes are proposed for the project and no changes have occurred in the circumstances under which the 450–474 O’Farrell Street/532 Jones Street Project would be implemented.” (Addendum 2, at 9; see also Addendum, at 9.) Furthermore, “[n]o new

information has emerged that would materially change the analyses or conclusions set forth in the initial study or EIR for the previous project.” (*Id.*) Significantly, as demonstrated throughout the City’s extensive and lengthy environmental review of the Project, the Project modifications do not require further environmental review and do not result in new significant impacts. The following is a summary of the City’s environmental review of the Project and its findings:

- December 21, 2020 – Addendum to EIR published by Planning Department
- January 7 and 21, 2021 – Planning Department determines that no further environmental review is required – see Planning Commission Agenda
- June 23, 2021, Addendum 2 to EIR prepared by Planning Department

No substantial project modifications were proposed for the revised Project after the first Addendum was published. The City considers a group housing room as equivalent to one room or two beds. For purposes of this Project, the City used the number of rooms for calculating density, open space, and inclusionary requirements. (See Plan Check Letter, April 9, 2020, Comment No. 3, at 2.) The core modification proposed by the revised Project continues to be the change to group housing comprised of approximately 300+ group housing rooms (or approximately 600+ beds).

Addendum – Proposed Modification To The Project	Addendum 2 – Proposed Modification To The Project
The proposed revised project would result in demolition of the buildings on the project site and the construction of a 13-story building with a basement. The structure would contain 302 group housing units (316 beds), 165,972 square feet of residential space, 4,900 square feet of open space, 7,959 square feet of restaurant/retail space, and 10,181 square feet for religious institution use (i.e., replacement of the existing church). The total built area would be approximately 199,384 square feet. (Addendum, at 3)	The revised project would result in demolition of the buildings on the project site and the construction of a 13-story building with a basement. The structure would contain 316 group housing units (632 beds), 172,323 square feet of residential use, including amenities and common areas, 4,900 square feet of open space, 6,023 square feet of restaurant/retail space, and 9,924 square feet for religious institution use (i.e., replacement of the existing church). The total built area would be approximately 207,448 square feet. (Addendum 2, at 3)

There is no substantial change to the revised Project that warranted preparation of a second Addendum and payment of an additional Addendum fee to the Planning Department. The proposed modifications currently include and have always included approximately 300 group housing rooms, acknowledged by the City to represent for planning purposes approximately 600 beds.

D. Hearing history

Yet in spite of the application completeness, conclusion of the environmental review and the City’s own findings that the proposed modifications to the approved project do not require further environmental review, the Commission has failed to move forward procedurally and issue the requisite Project entitlements. The following is a timeline of the Commission’s remarkable pattern of hearings continuances:

- January 7, 2021 – CONTINUED to January 21, 2021
- January 21, 2021 – CONTINUED to February 4, 2021
- February 4, 2021 – CONTINUED to March 11, 2021
- March 11, 2021 – CONTINUED to April 1, 2021
- April 1, 2021 – CONTINUED to April 15, 2021
- April 15, 2021 – CONTINUED to June 10, 2021
- June 10, 2021 – CONTINUED to June 24, 2021

For more than six months, the Commission has repeatedly voted for continuances. Neither the staff or Commission have given legitimate reasons to delay the Project hearings in this manner. We note that the Staff Report from January 21st states that opposition “is centered on the shift to group housing, and concerns about the community engagement process.” (Executive Summary Conditional Use, January 21, 2021 at 2.) The Staff Report from February 4th goes further and states that a neighbors has a perception “that the church has not been a good neighbor.” (Staff Report for February 4, 2021 Planning Commission, at 2.) The Applicant has in fact engaged in an extensive outreach process and none of the factors cited in the staff reports amounts to an objective standard; rather, the concerns amount to subjective “NIMBY” hurdles posed by special interest groups.

II. Housing Law Protections

Based on the remarkable history above, it is clear that there have been violations of the spirit, intent and plain application of the California housing laws, as described below.

As we know, California faces “a housing supply and affordability crisis of historic proportions,” evidenced by the fact that the median home price in San Francisco was \$1.6 million at the time that the Legislature passed the Housing Crisis Act of 2019. (Gov. Code § 65589.5(a)(2)(A); Housing Crisis Act of 2019, Section 2(a)(2).) “The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives.” (Gov. Code § 65589.5(a)(2)(A).) To combat the crisis, the Legislature has plainly stated that it is the policy of the state that California’s housing laws be afforded “the fullest possible weight to the interest of, and the approval and provision of, housing.” (Gov. Code § 65589.5(a)(2)(L).) Furthermore, it is the policy of the state “that a local government not reject or make infeasible housing development projects” that contribute to the housing supply “without a thorough analysis of the economic, social, and environmental effects of the action.” (Gov. Code § 65589.5(b).)

A. Application Completeness

Under the Permit Streamlining Act, as amended by SB 330, a local agency’s authority to review the “completeness” of an application for a development permit is strictly limited to confirming

whether the applicant has provided the material contained on the agency's official submittal requirements checklist, as that checklist existed at the time of application submittal. (Gov. Code § 65943(a); *see also* Gov. Code §§ 65940, 65941.) Upon submittal of the materials on an agency's checklist, the agency has 30 days in which to notify the applicant in writing as to whether the application is complete. (Gov. Code § 65943(a).) If the applicant is required to amend or supplement the application materials, an agency has 30 days from receipt of those materials to notify the applicant in writing of the agency's completeness determination. (Gov. Code § 65943(b).) "If the written determination is not made within that 30-day period, the application together with the submitted materials *shall be deemed complete*." (*Id.*) (emphasis added.)

The Planning Department ("Department") accepted the Applicant's Project application on January 28, 2020. The Department then issued Plan Check Letter No. 1 on April 9, 2020. This timing exceeds the statutorily mandated 30 calendar day window for completeness review of the Project. As such, the application was deemed complete on February 28, 2020.²

B. Consistency with Objective Standards

The Housing Accountability Act ("HAA") requires a local agency to provide written documentation if a housing development project is inconsistent with objective standards: "(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units; or (ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units." (Gov. Code § 65589.5(j)(2)(A).) If the local agency fails to provide the required documentation, the housing project *shall be deemed consistent with applicable standards*. (Gov. Code § 65589.5(j)(2)(B))) (emphasis added.)

As stated, the Project is a mixed-use residential project with at least two-thirds residential uses; and as such, it is a qualifying housing development project under the HAA that is subject to review for consistency with the City's objective standards. (Gov. Code § 65589.5(g); Gov. Code § 65589.5(h)(1)(B).) Once the application is complete, the HAA limits review of project consistency to the City's objective standards. Accordingly, assuming application completeness occurred in February 2020, the City did not identify any project inconsistencies as of April 28, 2020 and the Project was deemed consistent with objective standards on that date.

However, the City's Staff Reports from January 21st and February 4th state that "opposition to the Project is centered on the shift to group housing, and concerns about the community engagement process." Moreover, the reports express that response to the Applicant's community

² Even if there was City correspondence prior to April 9, 2020, application completeness occurred on August 13, 2020 at the latest as the last Applicant submittal (see chronology in Section 1(b) above).

outreach “has focused on community benefits, size and functionality of units, unit mix, and amenities” (Executive Summary Conditional Use, January 21, 2021, at 2), and that a neighbor has a perception that “the church has not been a good neighbor.” (Staff Report for February 4, 2021 Planning Commission, at 3.) To the extent that this subjective community feedback is being incorporated into Project revisions or determinations of inconsistency, it is a violation of the HAA because the feedback does not qualify as an objective standard upon which the Project may be reviewed.

C. Housing Accountability Act Applicability

The current development application is for modification of four Conditions of Approval to authorize development of group housing. As set forth in the Addendum, the proposed revised Project does not represent a significant change to the approved Project. Additionally, the modifications requested are each consistent with the applicable objective standards.

Under the San Francisco Planning Code, authorization of a change in any condition imposed by a Conditional Use Authorization is subject to the same procedures as a new Conditional Use Authorization. (San Francisco Planning Code § 303(e).) The proposed revised Project continues to be consistent with all other previously approved development authorizations for the Site, each of which is still valid and continue in effect. (*Id.*)

Additionally, the procedural requirement for a Conditional Use Authorization does not make a housing project not consistent with applicable objective standards. We note that YIMBY Law already submitted a letter on May 25, 2021 regarding Housing Accountability Act applicability. (Letter from Sonja Trauss, YIMBY Law (Executive Director) to Planning Commissioners) (hereinafter “YIMBY Law Letter”, included as Attachment 1.) It accurately describes the following:

The crux of the issue is whether the project approval would require any action abrogating or overriding the general plan designation and standards for the site. The Conditional Use Authorization currently being considered certainly falls well within the bounds of the General Plan. Even expanding our view to the project’s previous approvals, including specific items within the Planned Unit Development, nothing proposed or adopted is sufficiently outside the scope of the city’s general plan to warrant the assessment that the project is not protected by the Housing Accountability Act. As the project is subject to protection under the HAA, the commission is limited both in the actions it may take on the project and the number of hearings the project may be subjected to.

The YIMBY Law Letter then quotes applicable law under the Housing Accountability Act identifying the Commission’s limited discretion in reviewing the Project. This law has been affirmed by the courts. The Housing Accountability Act “imposes a substantial limitation on the government’s discretion to deny a permit.” (*N. Pacifica, LLC v. City of Pacifica* (N.D. Cal. 2002) 234 F. Supp. 2d 1053, 1059, *aff’d sub nom. N. Pacifica LLC v. City of Pacifica* (9th Cir. 2008) 526

F.3d 478 (internal quotation omitted).) Further, a city may not reject the project based on any subjective or discretionary criteria, such as “suitability.” (*Honchariw v. Cty. of Stanislaus* (2011) 200 Cal. App. 4th 1066, 1076, 1079.)

D. SB 330

Additionally, we reiterate the points in the YIMBY Law letter that the Commission is limited both in the actions it may take on the project as well as the number of hearings that may be held under SB 330.

Specifically, the Housing Crisis Act of 2019, SB 330, limits the number of public hearings applicable to a project that “complies with the applicable objective general plan and zoning standards in effect at the time an application is deemed complete.” (Gov. Code § 65905.5(a).) If a project complies with applicable general plan and zoning standards, a City may only conduct five public hearings. (*Id.*) If the city continues a hearing subject to this section to another date, the continued hearing shall count as one of the five hearings allowed under this section. (*Id.*) Significantly, the law requires a City to “consider and either approve or disapprove the application at any of the five hearings allowed.” (*Id.*) Therefore, given that the City has held seven public hearings for the Project just this year, without approving or disapproving the Project, the City has exceeded the 5 hearing maximum. (Gov. Code § 65905.5.)

We note that the City’s guidance on implementation of SB 330 provides that “housing development projects that comply with applicable zoning standards and that are not seeking any exceptions, rezoning, or other legislative actions, can be subject to a maximum of five public hearings to consider project approval by the city.” (Planning Director Bulletin No. 7, Housing Crisis Act of 2019 Project Review and Zoning Actions, at 3.)

Just as with the Housing Accountability Act, it is not appropriate to exclude applicability of the five hearing limit to those projects that request exceptions that do not rise to the level of general plan or zoning code amendments. As noted above and in the YIMBY Law Letter, exceptions do not rise to the level of a legislative amendment, as with a General Plan or Zoning amendment. Zoning codes routinely include mechanisms for exceptions and conditional authorizations. Compliance with such mechanisms built into the zoning code retains consistency with applicable zoning code standards. There is ample evidence that other cities adhere to the state law protections and apply the housing laws for projects with non-legislative, quasi-judicial entitlements.

Not adhering the housing laws would be counter to the intent of the housing laws to streamline processing for needed housing. The stated intent of the Legislature in enacting SB 330 is to “[s]uspend certain restrictions on the development of new housing during [this] period of statewide [housing] emergency” and “expedite the permitting of housing in regions suffering the worst housing shortages and highest rates of displacement.” (SB 330, Housing Crisis Act of 2019, Sec. 2(c).)

We also note that the City's guidance on implementation of SB 330 provides that "[i]ndependent requests from Project Sponsors for a continuance do not count toward the five-hearing limit." (Planning Director Bulletin No. 7, Housing Crisis Act of 2019 Project Review and Zoning Actions, at 4.) In reviewing the Commission hearing minutes, we note that two hearing continuances were purportedly requested by the project sponsor. The Applicant wishes to convey that the continuances were requested *at the Planning Department's recommendation* and not fairly considered to be at the Applicant's request. Moreover, the Applicant did not formally waive its rights to the five hearing maximum under SB 330. Moreover, even without counting the two hearings purportedly requested by the Applicant, there have still been five hearings.

At the next hearing, which will be the eighth hearing (or the sixth if not counting the hearing purportedly continued at the request of the Applicant), the Commission must approve the Project. Under the limitations imposed by the HAA, the City has no basis for disapproving the Project. In the event the City does not promptly take action to consider and approve the Project, our clients will exercise their rights under these laws.³ It is noted that the Church has experienced significant damages as a result of processing delays.

Sincerely yours,

HOLLAND & KNIGHT LLP



Chelsea Maclean

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³ We note that our firm has successfully represented applicants in the enforcement of housing laws. (*MWest Propco XXIII LLC v. City of Morgan Hill and Morgan Hill City Council*, Santa Clara County Superior Court, Case No. 18CV333676 (City did not comply with the Housing Accountability Act); *40 Main Street Offices, LLC v. City of Los Altos*, Santa Clara County Superior Court, Case No. 19CV349845 (city's denial of housing development violated the HAA because the City failed to identify objective standards with which the project did not comply); *Ruegg & Ellsworth v. City of Berkeley* (2021) 63 Cal.App.5th 277, reh'g denied (May 19, 2021), review filed (June 1, 2021) (City did not provide adequate findings when denying the SB 35 application).) As noted previously, we also note that the Applicant is represented by Storzer & Associates, P.C. on its RLUPA claims.

ATTACHMENT 1
YIMBY Law Letter



YIMBY LAW

YIMBY Law

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5/25/2021

San Francisco Planning Commission
49 South Van Ness, Ste 1400
San Francisco, CA 94103

commissions.secretary@sfgov.org
Via Email

Re: 450 O'Farrell Street

Dear San Francisco Planning Commission,

This letter is intended to outline some of the legal issues surrounding the project at 450 O'Farrell and to explain why the Housing Accountability Act does apply to this project, despite planning staff objections.

The crux of the issue is whether the project approval would require any action abrogating or overriding the general plan designation and standards for the site. The Conditional Use Authorization currently being considered certainly falls well within the bounds of the General Plan. Even expanding our view to the project's previous approvals, including specific items within the Planned Unit Development, nothing proposed or adopted is sufficiently outside the scope of the city's general plan to warrant the assessment that the project is not protected by the Housing Accountability Act. As the project is subject to protection under the HAA, the commission is limited both in the actions it may take on the project and the number of hearings the project may be subjected to.

Conditional Use Authorization and the Housing Accountability Act

It is a common misconception that any additional approvals for a project besides a simple site permit automatically renders the Housing Accountability Act void. This is not the case. The Housing Accountability Act applies so long as the residential development complies with the objective general plan standards in place at the time of application submission.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

...

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(California Government Code § 65589.5)

Though a conditional use permit requires additional authorization, it does not push the project beyond the bounds of the general plan. By its very nature, a conditional use is one that is permitted by the general plan provided certain prerequisites are met. The extra level of scrutiny does not mean that the project is no longer general plan compliant.

In this case the project is seeking a conditional use authorization to change its previous plan to group housing. Group housing is an allowed use under the site's general plan designation despite requiring some extra processing, namely a conditional use authorization. Despite the extra layer of approval the project remains general plan compliant.

Planned Unit Development and the Housing Accountability Act

 *YIMBY Law, 1260 Mission St, San Francisco, CA 94103*

Planning staff maintain that the conditional use authorization is not the problem when it comes to the project's status under the HAA. Rather their contention is that exceptions required as part of the PUD were what rendered the project HAA exempt. The specific parts of the PUD referenced include exceptions from height, dwelling unit exposure, rear yard, and permitted obstructions standards. These were all included in the CUA for the project.

Like everything else in the CUA, as passed previously and as proposed, we do not believe that these provisions bring the project out of compliance with the General Plan. The project may require exceptions from specific zoning standards but these are all allowed under the PUD and CUA process without any significant zoning amendments or general plan amendments.

If the project were asking for exceptions that exceed the scope of those allowed as part of the PUD and CUA process then this issue would be different. The project does not propose anything of the sort however, and therefore should be considered covered by the HAA.

Conclusion

Moving forward, this project should be treated as any other project would be under the HAA. This means that the Planning Commission's discretion is limited in this case. The project does not pose a threat to public health and safety and complies with nearly objective general plan standards. The project was approved previously with very similar characteristics and so it is clear that Commission and planning staff mostly agree with us on this point.

The Planning Commission should stop delaying this project and approve the modifications to the Conditional Use Authorization to allow the project to move forward. Plans for development at this site have been stifled for a variety of reasons for over 40 years and it's time to allow a project to proceed.

Sincerely,



Sonja Trauss
Executive Director
YIMBY Law

YIMBY Law, 1260 Mission St, San Francisco, CA 94103

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Cc: [PEARSON, ANNE \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#);
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Subject: Appeal of PROJECT SPONSOR RESPONSE: Conditional Use Authorization - Proposed 450-474 O'Farrell Street and 532 Jones Street Project - Appeal Hearing September 7, 2021
Date: Wednesday, August 25, 2021 3:03:39 PM
Attachments: [image001.png](#)

Greetings,

The Office of the Clerk of the Board received the following response from Robin N. Pick, Esq. of Storzer & Associates, on behalf of the project sponsors, Fifth Church of Christ, Scientist regarding the Conditional use Authorization of the proposed 450-474 O'Farrell Street and 532 Jones Street project.

[Project Sponsor Response and Exhibits – August 25, 2021](#)

I invite you to review the entire matters on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 210858](#)

Best regards,

Jocelyn Wong

San Francisco Board of Supervisors

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(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services



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public documents that members of the public may inspect or copy.

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August 25, 2021

VIA EMAIL

Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

Re: *450-474 O'Farrell Street/532 Jones Street Application*

Dear Members of the Board of Supervisors:

Storzer & Associates, P.C. has been retained by Fifth Church of Christ, Scientist ("Church") to protect its federal civil rights in connection with the Church's proposed development project ("Project") on 450-474 O'Farrell Street and the related appeal ("Appeal") pending before the Board of Supervisors ("Board"). We are writing to inform you that if the Board grants this appeal, the Board and City of San Francisco ("City") would be violating the Church's federal civil rights as protected by the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. §§ 2000cc, *et seq.* and the Free Exercise Clause of the United States Constitution, 42 U.S.C. § 1983, and potentially running afoul of the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*

Currently, the Church does not have a building that can adequately accommodate its religious exercise and has been seeking to construct a new house of worship since 2013. This Project—which includes a new church building and Christian Science Reading Room that will meet the religious needs of the Church, in addition to 316 group housing units—has faced extreme and unreasonable delays in the land use approval process by the City, which have severely impeded the Church's religious exercise as described below. We urge the Board to reject this Appeal and uphold the Planning Commission's conditional use approval. Failure to do so would potentially expose the City to years of litigation and substantial damages and attorneys' fees.

I. The Substantial Burdens Provision of the Religious Land Use and Institutionalized Persons Act

RLUIPA's Substantial Burdens provision explicitly prohibits municipalities from imposing a substantial burden on the religious exercise of a religious assembly or institution unless that imposition is the least restrictive means of furthering a compelling governmental interest.¹ 42 U.S.C. § 2000cc(a). To protect religious liberty, RLUIPA is "construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of RLUIPA and the Constitution." *Id.* § 2000cc-3(g) (emphasis added). As explained in further detail below, granting this Appeal would impose a substantial burden on the religious exercise of the Church, and no compelling governmental interest exists for doing so. Even if a compelling governmental interest did exist, granting the appeal would not be the least restrictive means of achieving such interest.

A. The Burden on Plaintiff's Religious Exercise

In the Ninth Circuit, a government imposes a substantial burden on religious exercise when it "imposes a significantly great restriction or onus upon [religious] exercise." *Int'l Church of Foursquare Gospel v. City of San Leandro*, 673 F.3d 1059, 1067 (9th Cir. 2011) (internal citations and quotations omitted) (emphasis added). District courts in the Ninth Circuit have recognized that "having 'a place of worship . . . is at the very core of the free exercise of religion . . . [and that] [c]hurches . . . cannot function without a physical space adequate to their needs and consistent with their theological requirements.'" *Id.* at 1069 (quoting *Vietnamese Buddhism Study Temple in Am. v. City of Garden Grove*, 460 F. Supp. 2d 1165, 1171 (C.D. Cal. 2006)). The Ninth Circuit has repeatedly found a substantial burden on religious exercise in cases where a local government blocked a church from building a house of worship that would meet its religious needs—the exact situation the Church faces with this pending Appeal. *See Int'l Church of Foursquare Gospel*, 673 F.3d at 1067 (finding that the district court erred in finding no substantial burden under RLUIPA when the City blocked church from building a house of worship that would meet its religious needs); *Guru Nanak Sikh Soc. of Yuba City v. Cty. of Sutter*, 456 F.3d 978, 992 (9th Cir. 2006) (holding that the denial of a conditional use permit to build a house of worship substantially burdened organization's religious exercise); *see also Cottonwood Christian Ctr. v. Cypress Redevelopment Agency*, 218 F. Supp. 2d 1203, 1227 (C.D. Cal. 2002) (finding that plaintiff established a substantial burden where the City was prevented from building a church that would meet its religious needs). The Ninth Circuit's standard for a Substantial Burdens claim under RLUIPA is clearly met here, as described below.

1. The Church Is Unable to Fulfill its Religious Mission in Its Current Facilities.

As detailed in the Church's June 21, 2021 Letter, the Church's present building in the Tenderloin district of San Francisco cannot accommodate the Church's needs and prevents it from

¹ RLUIPA's substantial burden provision applies where "the substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses" or where the substantial burden affects, or removal of that substantial burden would affect, interstate commerce. *Id.* § 2000cc(a)(2)(B), (C). Denial of a land use application such as a conditional use permit is the epitome of an "individualized assessment," triggering the application of the substantial burden provision. *See, e.g., Guru Nanak Sikh Soc. of Yuba City v. Cty. of Sutter*, 456 F.3d 978, 987 (9th Cir. 2006).

engaging in religious activity in accordance with its religious mission. *See generally Int'l Church of Foursquare Gospel*, 673 F.3d at 1067-70.² The Church's religious mission requires it to provide a welcoming, healing refuge to individuals seeking solace, which is impossible to do in the current structure. The Church's dark, oversized concrete building on a blighted street-front and alleyway that regularly attracts drug use and violence in front of the church entrances, preventing the Church from offering a peaceful, welcoming environment and limiting access of church members to the building. Tent encampments lining the front and side entrances of the building also block access to the Church for members. Access to the Bible verse sign in front of the Church is also regularly blocked, preventing the Church from changing the sign, which is a part of the Church's religious exercise. Garbage, human excrement and urine, used hypodermic needles, and graffiti must be cleaned up by the Church daily, sometimes several times a day.³ Some members are afraid to go to Church. The Church contacts City agencies such as police non-emergency, 311/the Homeless Outreach Team, and 911(in cases of individuals in distress), on a regular basis to request services for individuals in need outside of the Church, and is frequently ignored. The Church has also placed numerous 911 calls when faced with violence or threats of violence, and in significant instances has received no response. *See Letter to Captain Chris Canning*, Exhibit A. The Church was forced to install chain-link fencing across the street façade and access doors to prevent use of the front steps as a shooting gallery, encampment site, urinal, etc., further restricting access to the church building. This resulted in a significant reduction in membership.

The Project would replace the current structure with a new church building, the design of which will be welcoming, light-filled, and human-scaled to reflect the Church's spiritual mission of creating an atmosphere of light, warmth and healing. The 316 new housing units and retail space included in the proposed development would activate the block, providing much needed animation and a flow of people in the area, eliminating conditions which foster open drug use and violence, remove barriers to access for the Church's members, and allow for an atmosphere of healing, which is central to the Church's mission.

2. *The Absence of a Christian Science Reading Room.*

Of great religious significance to the Church, the current structure cannot accommodate a Christian Science Reading Room, which is mandated by the Church's Bylaws and is an essential component of the Church's religious exercise.⁴ The Church cannot fulfill its religious mission

² As another Court of Appeals wrote, RLUIPA's Substantial Burdens provision is violated when "use of the property would serve an unmet religious need, the restriction on religious use is absolute rather than conditional, and the organization must acquire a different property as a result." *Jesus Christ Is the Answer Ministries, Inc. v. Baltimore Cty.*, Maryland, 915 F.3d 256, 261 (4th Cir. 2019) ("*JCIAM*"), *as amended* (Feb. 25, 2019); *see also Thai Meditation Ass'n of Alabama, Inc. v. City of Mobile, Alabama*, 980 F.3d 821, 831-832 (11th Cir. 2020) (considering, *inter alia*, "whether the plaintiffs have demonstrated a genuine need for [a] new. . . space—for instance, . . . to facilitate additional services or programming").

³ The Church's own caretaker has been assaulted while cleaning the area in front of the church on multiple occasions. Recently, he has been threatened with a knife, gun, metal pipe, and pit bull (on separate occasions), and has been subjected to racial slurs. A church member's car was recently attacked while she was in it. Individuals regularly splice the power cord in front of the church, and this recently caused a fire in front of the church.

⁴ A Reading Room, which is open to the public daily throughout the week, is a neighborhood sanctuary where any individual can find hope, comfort, and healing. For a Christian Science church, a Reading Room provides spiritual food to the community and offers healing and restoration.

without a Reading Room. The proposed church building will have a Christian Science Reading Room, which will serve as a daily active presence in the neighborhood and allow the Church to fulfill this critical component of its religious mission.

3. *The Church's Mission to Provide Healing to the Community.*

Another critical aspect of the Church's religious mission is to provide healing to the community in which it is located through meaningful service, as the Church considers its central mission to be healing in the broadest sense. One way that the Church seeks to serve the local community is by providing desperately needed housing in the Tenderloin that low-income and working families can afford. The construction of 316 units of affordable and workforce housing, which would enable working-class families and individuals to live in the city where they work, will further the Church's religious mission of serving the local community and helping the Tenderloin realize its potential of being a safe, stable neighborhood where families can thrive. *See Harbor Missionary Church Corp. v. City of San Buenaventura*, 642 F. App'x 726, 729 (9th Cir. 2016) (finding a substantial burden where "the City's denial of the conditional use permit prevents the Church from conducting its homeless ministry, an integral part of its religion.").

The church's inability to provide a welcoming, healing refuge in accordance with its religious mission due to the conditions described above, the barriers to access to the Church for members, the absence of a Christian Science Reading Room, and the Church's inability to provide housing to the local community in accordance with its mission, each taken separately, would impose a substantial burden on the Church's religious exercise. Taken together, there is no question that these factors "impose[] a significantly great restriction or onus upon [religious] exercise" of the Church in violation of RLUIPA. *Int'l Church of Foursquare Gospel*, 673 F.3d at 1067.

B. Additional Factors Courts Consider in Determining "Substantial Burden."

1. *Arbitrariness in Decision-making.*

Another factor courts consider in evaluating a substantial burden claim under RLUIPA is "whether the City's decision-making process concerning the plaintiffs' applications reflects any arbitrariness of the sort that might evince animus or otherwise suggests that the plaintiffs have been, are being, or will be (to use a technical term of art) jerked around." *Thai Meditation Ass'n*, 980 F.3d at 831-832. "Where the arbitrary, capricious, or unlawful nature of a defendant's challenged action suggests that a religious institution received less than even-handed treatment, the application of RLUIPA's substantial burden provision usefully 'backstops the explicit prohibition of religious discrimination in the later section of the Act.'" *Westchester Day Sch. v. Vill. of Mamaroneck*, 504 F.3d 338, 351-52 (2d Cir. 2007) ("*WDS*") (quoting *Saints Constantine and Helen Greek Orthodox Church v. City of New Berlin*, 396 F.3d 895, 900 (7th Cir. 2005)) (finding that "the arbitrary and unlawful nature of the ZBA denial of [the plaintiff's] application supports [the plaintiff's] claim that it has sustained a substantial burden."). Each issue detailed below would evidence "arbitrariness" on the part of the Board if the Appeal were to be granted.

As outlined in the August 25, 2021 letter from Holland & Knight LLP ("H&K Letter"), this Appeal does not challenge any of the items voted upon by the Planning Commission on June

24, 2021, but instead inappropriately targets earlier approvals for which the time to appeal has expired. As stated in the H&K Letter:

The action before the Planning Commission was limited to proposed modification of conditions in the Conditional Use Approval. The substance of the Planning Commission action concerned modification of four (4) conditions from the original approval and addition of a condition of approval addressing the standards for group housing cooking facilities. The conditions that were modified concerned Parking for Affordable Units (#24), Car Share (#25), Bicycle Parking (#26), and the Inclusionary Affordable Housing Program (#32). . . .

None of the reasons stated as the basis for the appeal concern the items modified by the Planning Commission action. ***The appeal is based on objections to alleged construction impacts and the authorization for group housing at this site. Nothing however in the action of the Planning Commission affects the previously approved site plan and associated construction impacts, and group housing is a permitted use in this zoning district, requiring no Planning Commission approval.*** Given the reasons stated for the appeal, the real target of the appeal is the prior site plan approval and earlier Planning Code amendments that designated group housing as a permitted use. The time for appealing those decisions has passed. The only appropriate decision on this unsupported appeal of the modification of the Conditional Use approval is to deny the appeal.

See Exhibit B (emphasis added).

2. Appellants' Meritless Arguments.

Accepting Appellants' arguments—which fail to address the items actually decided by the Planning Commission—would also demonstrate arbitrariness in decision-making, as each of these three arguments is wholly without merit, as described below. An appeal granted on the basis of any of these arguments would, again, reflect arbitrariness of the sort that would support a RLUIPA substantial burden claim.

i. Construction Impacts Argument

Appellants' argument that the environmental analysis does not sufficiently address potential structural and construction impacts on the adjacent property is not an appropriate basis for this appeal. As stated above, this issue was not before the Planning Commission for the Conditional Use Approval, and the time to appeal the environmental analysis has expired. Moreover, there is no requirement that these impacts be addressed at this stage of the process. Structural and construction impacts to adjacent neighbors must and will be addressed and resolved before a building permit is issued. It is common practice for a project sponsor and adjacent landowner to enter into an agreement that addresses potential impacts on the neighboring property. In this case, the Project Sponsor (Forge Development Partners) has engaged in discussions with the Pacific Bay Inn Hotel for this purpose, and will continue to do so. This Appeal cannot lawfully be granted on this basis.

ii. Compatibility with the Neighborhood Argument

Appellants' argument that the revised Project will be "out-of-place" and "undesirable," and that "there is a great need for family housing" mischaracterizes both the Project and the community need. While clearly subjective, "undesirable" is simply not an accurate descriptor for a project that has received significant community support.⁵

Implicit in Appellants' argument that this Project does not provide "family housing" is a concept of family that does not reflect the reality of family demographics in the Tenderloin. A concept of family that assumes a two-parent household simply fails to account for the large percentage of single-parent families that desperately need housing in the City. The American Community Survey 5-Year Estimates for 2015-2019 compiled by the Bureau of Labor Statistics places the Tenderloin's average household size at 1.63. All of the group housing units in the Project can accommodate such families who, without the income of a second parent, in large measure would not be able to afford a larger unit in San Francisco. Additionally, the plans for this Project contain amenities that would be desirable for families with children such as after-school and educational programming. Blocking this project would actually have the opposite result of what Appellants argue, making housing unavailable to the many families, especially those with one income, who seek to live in the City where they work.⁶

Further, Appellants' argument that there are "serious concerns about developing [this Project] in one of the densest neighborhoods in the City" ignores the reality of the block on which the Project will be situated and, again, disregards the plight of the Church to build a suitable house of worship. As detailed above, the block on which this Project will be constructed is blighted, and, as a result, is a site for illegal and unsafe conditions, which regularly block the entrance of the church and pedestrian use of the sidewalk which, consequently, limit access to the Church of its members. This block needs animation, foot traffic, and density. Any effort to limit density on the block would directly harm the Church and impose a substantial burden on its religious exercise, as the new church building would not be feasible with the allowed density.

Appellants' argument about compatibility with the Tenderloin community is wholly without merit.

iii. Community Outreach Argument

Appellants' "lack of community outreach and dialogue" argument has no basis in law or fact. First, community outreach is not part of the standard for Conditional Use Approval under Section 303(c) of the San Francisco Planning Code. Second, the Project Sponsor engaged in extensive outreach efforts, as documented in Exhibit C. Between November of 2020 and late July of 2021, the Project team held 48 stakeholder meetings, three canvassing events, and four community-wide meetings, as well as placing over 300 calls and emails to stakeholders. The Project received 74 letters of support and 124 signatures in support of the project.

In response to the input from the community and Planning Commission, the Project Sponsor also made significant revisions to the Project plans, including:

⁵ The Project received 74 letters and 124 signatures in support of the Project.

⁶ The Fair Housing Act makes it unlawful to make housing unavailable on the basis of familial status. 42 U.S.C. § 3604(a).

- Increasing larger-unit count;
- Adding two additional community kitchens and large dinner party spaces for residents to satisfy stated concerns;
- Adding improvements to amenity spaces and greenspace courtyards;
- Adding balconies;
- Increasing bicycle storage beyond code requirements;
- Assessing the feasibility of converting ground level retail space into group housing units.

Appellants' argument about a lack of community outreach is entirely without merit.

3. *Housing Accountability Act.*

As detailed in the H&K letter, the Housing Accountability Act and the five-hearing limit under SB330 apply to this Project, and apply to this Appeal. Eight hearings have already been held, exceeding the five-hearing maximum. As stated in the H&K letter, "given the severity of the housing crisis and legislative and judicial trends, it is quite possible that courts will find that appeal hearings beyond five hearings are improper." Exhibit B. Granting this appeal after what would be a ninth hearing on Project would, again, suggest "unlawful" conduct by the City and Board in violation of RLUIPA's substantial burden provision. *WDS*, 504 F.3d at 351-52.

4. *Other Projects Receiving Differential Treatment.*

The fact that other group housing projects in the Tenderloin have been approved without the significant obstacles and delays faced by the church underscores that the Church has "received less than even-handed treatment." *WDS*, 504 F.3d at 351-52.

A group housing project on 468 Turk Street was under consideration by the Planning Commission at the same time as this Project and was approved after only one continuance, and without onerous conditions such as the ones placed on the Church.⁷ Moreover, the Turk Street project contains units that are an average of 220 square feet, which are far smaller than the units in the Church's Project. Also notable is the fact that the Turk Street project did not include a church.

Other group housing projects approved in the Tenderloin include 361 Turk Street and 145 Leavenworth Street, which did not include churches.

In light of these group housing approvals, the Board cannot grant this Appeal without the appearance of "less than even-handed treatment" of the Church. *WDS*, 504 F.3d at 351-52.

5. *Delay, Uncertainty and Expense.*

⁷ As a condition of approval, the Church was required to increase the number of larger group housing units where feasible, after already doing so on two occasions; provide balconies to maximum projection on all sides except O'Farrell Street; continue working with Staff to increase the number of bicycle parking spaces, up to 200; analyze the feasibility of converting the ground-floor retail space to group housing units; and analyze the feasibility of converting the basement to additional group housing units.

An additional factor that supports the finding of a substantial burden under RLUIPA is the imposition by a municipality of significant “delay, uncertainty, and expense.” *Guru Nanak*, 456 F.3d at 991 (quoting *Sts. Constantine & Helen Greek Orthodox Church, Inc. v. City of New Berlin*, 396 F.3d 895, 901 (7th Cir. 2005)); *see also Int’l Church of Foursquare Gospel*, 673 F.3d at 1068; *Grace Church of N. Cty. v. City of San Diego*, 555 F. Supp. 2d 1126, 1137-39 (S.D. Cal. 2008) (finding that plaintiff had established substantial burden from uncertainty and expense resulting from municipality’s zoning regulations); *WDS*, 504 F.3d at 349 (noting that a denial of a religious institution’s zoning application which results in substantial “delay, uncertainty, and expense” can be a substantial burden). Even before this appeal was filed, the Church experienced extreme “delay[s], uncertainty and expense” in the processing of its land use application by the City.

The Church first filed its Preliminary Project Assessment (“PPA”) in 2013. Due to substantial delays, the Church did not receive conditional use authorization and certification of its Environmental Impact Report (“EIR”) until November 13, 2018. After additional delays, the Church received a site permit on May 13, 2020. The significant delays by the City caused the initial developer to withdraw from the Project, substantially harming the Church. In 2020, the new developer, Forge Development Partners, submitted an amendment to the original project replacing the 176 approved dwelling units with 316 group housing units. The revisions to the Project are all within the envelope of the previously approved version of the Project; the modifications impact none of the prior approvals; and the project already received a site permit. The only change requiring approval before the Planning Commission was the change from dwelling units to group housing, and group housing is a permitted use in the RC-4 zoning district. The hearing scheduled for January 7, 2021 to approve the revised Project was continued eight times, in violation of the five hearing maximum under the Housing Crisis Act (HCA) of 2019 (Gov. Code § 65905.5(a)), and finally approved on June 24, 2021, seven years after the Church filed its PPA.

Additionally, delays related to this Appeal further highlight the pattern of delays by the City. As articulated in the H&K Letter:

The Applicant continues to suffer delays in processing for this Project and as a result significant costs. The City Planning Code clearly requires that the Board of Supervisors or Clerk of the Board set a hearing on an appeal for a date not more than 30 or 40 days after the filing of the appeal. (Planning Code 308.1(c)) The Board must decide the appeal within 30 or 40 days of that hearing, unless the full membership of the Board is not available. (Id.) ***Despite the mandate in the Planning Code to set the hearing on the appeal to a date not more than 30 or 40 days after the filing of the appeal, the City has proposed to delay the hearing on appeal for more than 70 days.*** In response to the July 21st filing of appeal, Supervisor Matt Haney’s Chief of Staff requested that the parties agree to delay the hearing on appeal until October 12, 2021. This request ignores the Planning Code requirements and continues the pattern of delay that already places the City in conflict with state law. This request also reflects the continuing disregard for the impact of delay on Applicant, even while relying on Applicant’s continued cooperation and accommodation.

. . . . [I]n light of the limited scope of the Planning Commission action and the numerous delays in processing these modifications to the Conditional Use

approval, proposing to set the hearing on the appeal to October represents another unreasonable delay.

Exhibit B.

The continued delays compound the harm to the Church and jeopardize the feasibility of the Project, further supporting a substantial burden on the Church.

C. Absence of Any Compelling Governmental Interest

Under RLUIPA, a government action imposing a substantial burden on religious exercise is invalid unless such actions are the least restrictive means of furthering a compelling governmental interest. 42 U.S.C. § 2000cc(a). It is the government's burden to prove that it has a compelling interest and is pursuing it through the least restrictive means possible. *See Guru Nanak*, 456 F.3d at 993 (“the County ‘shall bear the burden of persuasion’ 42 U.S.C. § 2000cc-2(b), to prove narrowly tailored, compelling interests”). In establishing this standard for RLUIPA, “Congress borrowed its language from First Amendment cases applying perhaps the strictest form of judicial scrutiny.” *Yellowbear v. Lambert*, 741 F.3d 48, 59 (10th Cir. 2014) (Gorsuch, J.). *See also City of Boerne v. Flores*, 521 U.S. 507, 534 (1997) (compelling interest standard is the “most demanding test known to constitutional law”). In the context of this Appeal, there are simply no governmental interests at stake that could meet this demanding standard.

Based on the foregoing, if the Board were to grant this Appeal, they would be imposing a substantial burden on the Church and such imposition would not be the least restrictive means of achieving a compelling governmental interest, in violation of RLUIPA.

II. Free Exercise Clause of the United States Constitution

Like the substantial burden provision of RLUIPA, the First Amendment's Free Exercise Clause also requires strict scrutiny judicial review of burdens on religious exercise. *See Cottonwood Christian Ctr. v. Cypress Redevelopment Agency*, 218 F. Supp. 2d 1203, 1222 (C.D. Cal. 2002) (RLUIPA “merely codifies numerous precedents holding that systems of individualized assessments, as opposed to generally applicable laws, are subject to strict scrutiny”); *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993). Recently, the United States Supreme Court ruled that government regulation affecting religious exercise—regardless of whether a burden is “substantial” or not—is automatically subject to strict scrutiny review if such regulation is not both “neutral” and generally applicable.” *Roman Cath. Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67 (Nov. 25, 2020) (“Because the challenged restrictions are not ‘neutral’ and of ‘general applicability,’ they must satisfy ‘strict scrutiny,’ and this means that they must be ‘narrowly tailored’ to serve a ‘compelling’ state interest.” (citation omitted)). Discretionary permitting in the land use context constitutes such “individualized assessments,” which involves a “case-by-case evaluation of the proposed activity.” *Midrash Sephardi, Inc. v. Town of Surfside*, 366 F.3d 1214, 1225 (11th Cir. 2004); *see also Guru Nanak*, 456 F.3d at 987 (finding an individualized assessment where the County Board of Supervisors reviews the Planning Commission's conditional use decisions). Because the discretionary, individualized assessment of this Appeal is not a “generally applicable” law, it is subject to strict scrutiny review.

For the same reasons that granting this Appeal would violate the substantial burden provision of RLUIPA, granting this Appeal would also violate the Free Exercise Clause.

III. Fair Housing Act.

Granting this Appeal would make the proposed 316 group housing units unavailable in San Francisco, potentially in violation of the Fair Housing Act (“FHA”). Section 3604(a) of the Fair Housing Act (“FHA”) makes it unlawful to “make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, or national origin.” 42 U.S.C. § 3604(a). The Supreme Court has held that the FHA applies to disparate-impact claims. *Texas Dep’t of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 539 (2015).

Given the long history and dire consequences of continuing housing discrimination and segregation, Congress did not stop at prohibiting disparate treatment alone. . . . [A]s the Supreme Court recently reaffirmed, the FHA also encompasses a second distinct claim of discrimination, disparate impact, that forbids actions by private or governmental bodies that create a discriminatory effect upon a protected class or perpetuate housing segregation without any concomitant legitimate reason. *Id.* at 2522. . . .

Today, the policy to provide fair housing nationwide announced in the FHA remains as important as ever. 42 U.S.C. § 3601.

Ave. 6E Invs., LLC v. City of Yuma, Ariz., 818 F.3d 493, 502-03 (9th Cir. 2016). For a disparate impact claim under the FHA, a plaintiff need only establish “that the defendant’s actions had a discriminatory effect.” *Gamble v. City of Escondido*, 104 F.3d 300, 306 (9th Cir. 1997) (quoting *Pfaff v. U.S. Dep’t of Hous. & Urb. Dev.*, 88 F.3d 739, 745 (9th Cir. 1996)). “Demonstration of discriminatory intent is not required under disparate impact theory.” *Id.*

Since group housing units, by design, are more affordable than dwelling units in the City, individuals in group housing units are likely to have lower incomes than those who rent elsewhere in San Francisco. It is widely acknowledged that a disproportionately high number of people with lower incomes are people of color, and as a result, blocking this Project will likely have a demonstrable disproportionate impact on people of color. A statistical analysis of the 48 Below Market Rate (“BMR”) units in the Project illustrates this point. Dr. Allan Parnell conducted an analysis of income data, comparing the percentages of African American, White and Latino households with incomes eligible for renting the 48 BMR units in the Project. *See Exhibit D.* According to this analysis, “[t]he disparity ratio shows that the percentage of African American households in the income eligibility range is 2.6 times greater than white households at this income level. 15.8% of Latino households have incomes in the eligibility range, a percentage 1.9 times greater than white households in the eligibility range.”

Additionally, it is significant to note that the initial project proposed for this property was for 176 units of luxury housing, which was approved in 2018. The 2018 approval was appealed based on historic preservation grounds only, and the appeal was denied by the Board. If this appeal were to be granted, it certainly would not escape notice that a luxury housing project on this property was approved, but a group housing project on the same property was thwarted.

Conclusion

Granting this appeal would violate the substantial burden provision of RLUIPA and the Free Exercise Clause of First Amendment of the Constitution, and would likely run afoul of the Fair Housing Act. If the City and Board were not previously aware of these legal requirements, they are now placed on notice that their actions are subject to them. If the Appeal were granted, it is this Firm's opinion that it is unlikely that the City and Board would succeed in defending a suit against them raising these issues.

Yours truly,
/s/ Robin N. Pick
Robin N. Pick, Esq.

cc: San Francisco Board of Supervisors
Mayor London Breed
San Francisco City Attorney
Abigail Rivamonte Mesa, Chief of Staff to Supervisor Matt Haney

EXHIBIT A

FIFTH CHURCH OF CHRIST, SCIENTIST SAN FRANCISCO

April 19, 2021

Captain Chris Canning
SFPD Tenderloin Station
301 Eddy Street
San Francisco, CA 94102

Dear Captain Canning,

We are writing to you about the dire situation at 450 O'Farrell Street and adjacent Shannon Alley, where our church is located, and the consistent lack of law enforcement response when it is requested and desperately needed. Additionally, people on this block are not receiving critical City services that are provided by the City in other parts of San Francisco. The conditions are dangerous to the people on this block, impede our religious exercise as a church and prevent us from fulfilling our religious mission.

As you may know, we arrived at church this morning to discover that one of the encampments against our church building had caught fire. The SFFD had to put it out, and debris had been blown all over our church steps, portico, columns, church doors and building. Attached is a picture of the fire source site itself (after extensive cleaning, scrubbing and scraping).

As you also may know, vandals have been tapping into the lamppost in front of the church. Extension cords are snaked all around the sidewalk to encampments against the church which is a significant fire hazard. The City did not respond to calls from the church community for over a week. Instead, members of the church had to call PG&E, who repaired the lamppost. DPW then had to pick up the electrical debris and metal scraps. Today, we discovered that vandals had again tapped into the lamppost, and have also attempted to tap into the electric line to church property. Pictures are attached.

Last week alone, members of our church community called 911, 311, the police non-emergency number, and the HOT team over 14 times for situations which were dangerous, and which prevented the church from freely exercise its faith. There was no response from law enforcement except for two overdoses. The police did not respond to reports of violence or threats of violence, did not direct individuals in desperate circumstances to City services, did not respond to encampments in violation of the City/UC Hastings settlement agreement, did not respond to garbage and used needles dumped on the church, did not respond to graffiti sprayed on the church, and did not respond to reports of drug dealing.

The consequences to the church are severe:

- Members of our church, especially older female members, are afraid to go to church where they have to walk through illegal activity, threats of violence and open drug dealing just to enter the building. The lack of law enforcement presence and response makes our members feel even less safe. This is a blatant imposition on our right to freely exercise our faith. A little while ago, a religious activity had to be postponed due to threats around the building.
- Power line splicing and extension cords, pictured in attached photos, create serious tripping and fire hazards. The source power line for the lamppost is under the sidewalk in the church basement, steps from our church archives which contains volumes of dry paper. If the splice should spark, the entire church could burn down.
- The blocking of our church doors, handicap ramp and emergency exits is dangerous and illegal, and restricts our free exercise of our faith.
- The blocking of access to changing our Bible citation sign also impairs our religious exercise.
- Members of our church community, and in particular, our dear caretaker, regularly face threats of violence (e.g. "I'll smack you with this board when you have your back turned."). An individual tried to stab our caretaker with a large knife and another threatened to shoot him with a gun that was in his backpack, and yet our caretaker has had no police protection or support. The police did not help after the knife attack, and actually lost the police report. There appears to be no charging of attackers, no prevention against violence or protection against credible threats.
- Extensive garbage, trash, and debris, used needles, urine and feces, and graffiti must be cleaned up by the church each day, sometimes several times a day (including the TLCBD clean team). Our neighbors at the Gateway Inn came out yesterday to thank us for really trying to keep the area clean.
- We have documented days where the problems in the area are ONLY at the church site. We start to wonder if this intentional by the City.
- The church's civil rights are being violated.

The consequences to the neighborhood are significant. There is a substantial threat to personal safety and security. People at the site are being hurt. For example, a call to 911 last week reported a man savagely beating a woman in front of the church. The police did not respond. People at the site are also being denied resources and services that the City provides to people in other areas of the City. On Saturday, a man told us that he camps in front of the church to get the attention of the HOT team, City ambassadors, or the Crisis Response Team – but that the City never comes by.

Clearly, the solution to the issues at our church site must include law enforcement and it must also include access by those in need to City resources.

We respectfully insist on a meeting soon with you and your correct counterpart from the Department of Homelessness and Supportive Services, perhaps Jeff Kositsky.

The current situation is unsustainable and untenable. We must move forward together, and very soon, before more are hurt.

We look forward to hearing from you.

Sincerely,



Ela Strong
Executive Board President

ela@elastrong.com
510-579-4179 (cell)

Attachments - photos

Attachment to letter to Captain Chris Canning, SFPD, Tenderloin Station, dated April 19, 2021, from Fifth Church of Christ, Scientist at 450 O'Farrell Street, San Francisco:



note power cords from lamppost



site of fire source AFTER cleaning



new lamppost splicing - after PG&E repair



new attempted splicing today of electric wires at church mural



example of trash and used needles dumped on church

EXHIBIT B

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August 25, 2021

Via email: bos.legislation@sfgov.org

San Francisco Board of Supervisors

Angela Calvillo
Clerk of the Board
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Re: **California Housing Law Protections Relating to the 450-474 O'Farrell Street/532 Jones Street Project Application**

Dear Board of Supervisors,

Holland & Knight LLP¹ has been retained to represent Fifth Church of Christ, Scientist (the "Applicant") to ensure its rights under the California housing laws for the project proposed at 450-474 O'Farrell Street/532 Jones Street. The project includes "316 group housing units (632 beds), 172,323 square feet of residential use, including amenities and common areas, 4,900 square feet of open space, 6,023 square feet of restaurant/retail space, and 9,924 square feet for religious institution use (i.e., replacement of the existing church)" (the "Project"). (Addendum 2 to Environmental Impact Report ("Addendum 2"), June 23, 2021, at 3.) The Project's case number is 2013.1535EIA-02.

As outlined in our letter to the Planning Commission ("Commission") dated June 21, 2021 ("June 21, 2021 Letter"), the Project is subject to protections from several of California's housing laws, including the Permit Streamlining Act, Housing Accountability Act and SB 330 (the "Housing Crisis Act of 2019", all of which the Legislature has enacted to ensure the timely construction of housing to combat California's housing crisis.

¹ The Applicant is also represented by David Cincotta as well as Storzer & Associates, P.C. in connection with the Religious Land Use Act and Institutionalized Persons Act.

Summary of June 21, 2021 Letter. The following summarizes the main points in the June 21, 2021 Letter:

- The entitlements and exceptions currently sought were already approved for the previously approved project. The only land use related modification from the original approval requested for the revised Project is for a change to group housing with 316 group housing rooms. The Project is consistent with the standards for group housing in the RC-4 zoning district and all other applicable standards.
- The application was deemed complete on February 28, 2020 under the Permit Streamlining Act, based on our understanding that the Planning Department issued Plan Check Letter No. 1 more than 30 days after the Applicant's submittal, exceeding the 30 day window for completeness review of the Project. The City did not identify any project inconsistencies with objective standards as of April 28, 2020 and so the Project was deemed consistent with objective standards on that date under the Housing Accountability Act.
- As stated in the YIMBY Law Letter, "the Conditional Use Authorization currently being considered certainly falls well within the bounds of the General Plan. Even expanding our view to the project's previous approvals, including specific items within the Planned Unit Development, nothing proposed or adopted is sufficiently outside the scope of the city's general plan to warrant the assessment that the project is not protected by the Housing Accountability Act." As such, the Project does not involve any legislative amendments and, therefore, the Housing Accountability Act applies to the Project (limiting the ability to deny or reduce the Project density) as does the SB 330, including the five hearing maximum.
- The environmental review has been unnecessarily delayed. There is no substantial change to the revised Project that warranted preparation of a second Addendum and no new environmental impacts. The proposed modifications currently include and have always included approximately 300 group housing rooms, acknowledged by the City to represent for planning purposes approximately 600 beds.

The complete June 21, 2021 Letter is included as Attachment 1.

We applaud the Planning Commission for its approval of the Project at the June 24, 2021 hearing. After multiple hearings over the last several months, extensive outreach by the Church and the development team, the Commission incorporated several requested design improvements from the community and the Commission to improve the earlier Conditional Use Approval and refine the permitted group housing.

Summary of Responses to Appeal Letter

After receipt of the July 21, 2021 appeal letter filed by the Tenderloin Housing Clinic and Pacific Bay Inn, Inc. ("July 21, 2021 Appeal Letter") we wish to address certain additional points, as summarized below.

- The Appeal Letter challenges previous actions that were not part of the June 24, 2021 action by the Planning Commission. Specifically, the appeal is based on objections to alleged construction impacts and the authorization for group housing at this site. Nothing however in the action of the Planning Commission affects the previously approved site plan and associated construction impacts, and group housing is a permitted use in this zoning district, requiring no Planning Commission approval
- The Housing Accountability Act and five hearing maximum under SB 330 five hearing maximum still apply in the context of an appeal.
- The potential impacts raised in the Appeal Letter were adequately reviewed in the Environmental Impact Report (“EIR”) and, where appropriate, addressed with specific mitigation measures. Any challenge to the EIR or the associated mitigation measures had to have been filed within 30 days of the December 2018 Notice of Determination.
- Procedural issues regarding hearing date underscore the delayed processing that has characterized processing of this Project.

The following provides additional detail.

I. Background

Our June 21, 2021 Letter to Planning Commission ([Attachment 1](#)), included an in depth summary in Section I of the relevant background regarding (A) Project processing, (B) application completeness, (C) environmental review, and (D) hearing history. Rather than repeat again, here we reference pages 3-7 in [Attachment 1](#) for relevant background.

II. The Appeal Does Not Address the June 24, 2021 Planning Commission Action

The appeal is based on items that were not at issue in the recent action of the Planning Commission. Despite multiple community meetings and public hearings prior to the original Conditional Use Approval and the opportunity to appeal the original approval, the current appeal is focused on construction impacts associated with actions evaluated and approved in the prior approval, and zoning decisions decided in decision unrelated to this Project. The July 21, 2021 Appeal Letter states that the appeal is based on the following reasons:

- (1) Lack of Due Consideration, Disclosure or Analysis of the Health, Safety and Welfare of the Tenderloin Community and the Adjacent Pacific Bay Inn. The Project did not adequately disclose significant construction and operational impacts to the community.
- (2) The Project Is Not Compatible with the Tenderloin Community. The Tenderloin Community deems the revised Project to be out-of-place and undesirable as the neighborhood is already saturated with market rate group housing.

(3) Lack of Community Outreach and Dialogue. Forge, the new project sponsor, failed to engage neighbors and community stakeholders concerning the design, format and impacts of the Project.

As summarized in our June 21, 2021 Letter the original approvals included the following:

The original version for the project proposed a 13-story (130 foot tall) mixed-use building, “with up to 176 dwelling units, restaurant and/or retail space on the ground floors, and a replacement church . . . , below grade parking and mechanical spaces, private and common open space and 116 Class 1 and 9 Class 2 bicycle parking spaces.” (Planning Commission Motion No. 20281 (“Motion No. 20281”), September 13, 2018, at 4.) On September 13, 2018, the Commission moved to authorize “the Conditional Use Authorization as requested in Application No. 2013.1535ENVCUA” subject to conditions. (Motion No. 20281, at 3, 25.) The authorization allowed a “mixed-use residential and institutional use building . . . pursuant to Planning Code Section(s) 303, 304, 317, 253, 249.5, and 271 within the RC-4 District and North of Market Residential Special Use District and a 80-T-130-T Height and Bulk District.” (Motion No. 20281, at Exhibit A-1.) In reviewing the project’s application for Conditional Use Authorization, the Commission found that the mixed-use project, including rental housing and a new church facility, was compatible with neighborhood uses, would “not be detrimental to the health, safety, convenience or general welfare of persons residing in the vicinity,” “generally complies with the applicable sections of the Code, with certain exceptions” and “conforms with multiple goals and policies of the General Plan.” (*Id.* at 6-8.)

Accordingly, claims about construction activities and potential impacts from the approved site plan and relate to the original approvals and extensive environmental review.

The action before the Planning Commission was limited to proposed modification of conditions in the Conditional Use Approval. The substance of the Planning Commission action concerned modification of four (4) conditions from the original approval and addition of a condition of approval addressing the standards for group housing cooking facilities. The conditions that were modified concerned Parking for Affordable Units (#24), Car Share (#25), Bicycle Parking (#26), and the Inclusionary Affordable Housing Program (#32). The Planning Commission eliminated the Car Share and Parking for Affordable Unit conditions because they were no longer applicable, increased the number for Bicycle Parking, and clarified the application of the Inclusionary Affordable Housing Program. In accordance with Planning Code Section 303(e), the public hearing and notice procedures of Section 306 were appropriately followed for processing the modifications.

None of the reasons stated as the basis for the appeal concern the items modified by the Planning Commission action. ***The appeal is based on objections to alleged construction impacts and the authorization for group housing at this site. Nothing however in the action of the Planning Commission affects the previously approved site plan and associated construction impacts, and group housing is a permitted use in this zoning district, requiring no Planning Commission approval.*** Given the reasons stated for the appeal, the real target of the appeal is the prior site plan approval and earlier Planning Code amendments that designated group housing as a permitted use. The time for appealing those decisions has passed. The only appropriate

decision on this unsupported appeal of the modification of the Conditional Use approval is to deny the appeal.

III. Housing Protections Apply in the Context of an Appeal

Section II of the June 21, 2021 Letter, specifically pages 7-11, identified the applicable protections under the California housing laws. In short, the application was deemed complete on February 28, 2020 under the Permit Streamlining Act, based on our understanding that the Planning Department issued Plan Check Letter No. 1 more than 30 days after the Applicant's submittal, exceeding the 30-day window for completeness review of the Project. The City did not identify any project inconsistencies with objective standards as of April 28, 2020 and so the Project was deemed consistent with objective standards on that date under the Housing Accountability Act. As stated in the YIMBY Law Letter, "the Conditional Use Authorization currently being considered certainly falls well within the bounds of the General Plan. Even expanding our view to the project's previous approvals, including specific items within the Planned Unit Development, nothing proposed or adopted is sufficiently outside the scope of the city's general plan to warrant the assessment that the project is not protected by the Housing Accountability Act." ***As such, the Project does not involve any legislative amendments and, therefore, the Housing Accountability Act applies to the Project as does the five hearing limit under SB 330.***

Both laws apply equally in the context of an appeal. The Housing Accountability Act limits an agency's discretion to deny or reduce the density of a project. (Govt. Code 65589.5). There is no exception where an appeal has been filed so it follows that an agency's obligations under the Housing Accountability Act remain when an appeal has been filed.

Similarly, the five hearing maximum under SB 330 remains steadfast as there is no exception for an appeal. As this is a new and cutting edge area of the law, we recognize it has not yet been addressed by the courts. That said, language in Government Code Section 65905.5(a) is resolute in stating that a city and county "shall not conduct more than five hearings...in connection with the approval of that housing development project" and that the "city and county shall consider and either approve or disapprove the application at any of the five hearings allowed under this section consistent with the applicable timelines under the Permit Streamlining Act." Moreover, the definition of a hearing in Government Code Section 65905.5(b)(2) includes "any public hearing, workshop, or similar meeting conducted by the city or county with respect to the housing development project." The only exemption from the definition of a hearing is where there is a legislative approval or a timely appeal of the "approval or disapproval of a *legislative approval*." The proposed Project entitlements include only quasi-judicial approvals and no legislative approvals. Accordingly, an appeal hearing is not exempt from the five hearing maximum. We noted in our June 21, 2021 Letter that eight hearings have been held (or six if not counting the hearings purportedly continued by the Applicant). As such, the five hearing maximum has already been exceeded.

A plain reading of the five hearing maximum could be read and interpreted by the courts to require an agency to deny an appeal without holding a new hearing. While we do not necessarily

recommend such an action, we feel it important to recognize that, given the severity of the housing crisis and legislative and judicial trends, it is quite possible that courts will find that appeal hearings beyond five hearings are improper. With that legal background in mind, we continue to urge an outcome that is consistent with the significant legal trends on housing projects.

IV. The Appeal Raises Issues Evaluated in the EIR and Untimely CEQA challenges

The potential impacts raised in the Appeal Letter were adequately reviewed in the Environmental Impact Report (“EIR”) and, where appropriate, addressed with specific mitigation measures. This Appeal identifies no new or different environmental impacts than those evaluated in the EIR. In particular, the potential environmental impacts detailed by the Pacific Bay Inn in the Appeal were all adequately reviewed in the EIR. Those potential impacts were addressed and specific mitigation measures responding to the potential impacts to adjacent buildings, including vibration monitoring and a management plan, were incorporated into the final EIR approved on November 13, 2018. The Church and its Project Sponsor partner have agreed to implement those mitigation measures. These mitigation measures have been consistently incorporated in all Addenda describing the group housing proposal, including documents prepared for and approved by the Commission on June 21.

The Pacific Bay Inn did not challenge or appeal the EIR evaluation or the mitigation measures incorporated into the Final EIR. The Notice of Determination (“NOD”) for the project approval was published on December 18, 2018 and any challenge under the California Environmental Quality Act (“CEQA”) to the EIR and those mitigation measures had to have been filed within 30 days of the NOD. More significantly, it should be noted that, in addition to arranging to implement the mitigation measures, under the current proposal withdraws the development’s foundation significantly further away from the Pacific Bay Inn. Consequently, the current proposal incorporating group housing has less potential for impacting the Pacific Bay Inn.

Furthermore, as stated by Planning Department staff at the Planning Commission Hearing on June 21, 2021, the custom and practice of resolving any structural design issues for foundational issues of adjacent buildings is through mitigation measures, review and conditions by the Department of Building Inspection, and written agreement between the property owners (based on consultation with engineers). The first draft of such an agreement for this process has already been delivered to the representatives of the Pacific Bay Inn.

All of the potential impacts raised in the appeal were evaluated and addressed in the EIR that was certified in 2018. No appeal and no CEQA challenge was filed to the prior approval or the EIR from 2018. Finally, the City ultimately prepared two Addendums to the EIR and concluded that no further environmental review was required for the current proposal. The Addendum made the following finding:

The revised project would not result in new or different environmental impacts, substantially increase the severity of the previously identified environmental impacts or require new mitigation measures. In addition, no new information has emerged that would materially change the analyses or conclusions set forth in

the initial study and EIR. Therefore, the revised project would not change the analyses or conclusions in the initial study and EIR for the previous project.

Second Addendum to Environmental Impact Report, p. 11.

V. Procedural issues regarding Appeal Hearing date underscore delayed processing

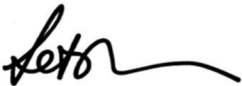
The Applicant continues to suffer delays in processing for this Project and as a result significant costs. The City Planning Code clearly requires that the Board of Supervisors or Clerk of the Board set a hearing on an appeal for a date not more than 30 or 40 days after the filing of the appeal. (Planning Code 308.1(c)) The Board must decide the appeal within 30 or 40 days of that hearing, unless the full membership of the Board is not available. (*Id.*) In that instance, the Board may continue the hearing for decision on the appeal to a date when the full Board is available, but not more than 90 days after the hearing on the appeal. (*Id.*) ***Despite the mandate in the Planning Code to set the hearing on the appeal to a date not more than 30 or 40 days after the filing of the appeal, the City has proposed to delay the hearing on appeal for more than 70 days.*** In response to the July 21st filing of appeal, Supervisor Matt Haney's Chief of Staff requested that the parties agree to delay the hearing on appeal until October 12, 2021. This request ignores the Planning Code requirements and continues the pattern of delay that already places the City in conflict with state law. This request also reflects the continuing disregard for the impact of delay on Applicant, even while relying on Applicant's continued cooperation and accommodation.

Applicant appreciates that the Board does not meet in August and that both Rosh Hashanah and the labor day holiday fall during the first week in September. Under these circumstances the Board must therefore make some appropriate arrangements. Nevertheless, in light of the limited scope of the Planning Commission action and the numerous delays in processing these modifications to the Conditional Use approval, proposing to set the hearing on the appeal to October represents another unreasonable delay.

This Appeal can and should be resolved without further unnecessary delay. As noted in prior correspondence, the Church has experienced significant damages as a result of the continuing delays.

Sincerely yours,

HOLLAND & KNIGHT, LLP



Letitia Moore

CC: David Murray, Fifth Church of Christ, Scientist (david.murray08@gmail.com)
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Attachment 1 – June 21, 2021 Letter to Planning Commission

Attachment 1
June 21, 2021 Letter to Planning Commission

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June 21, 2021

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Re: **California Housing Law Protections Relating to the 450-474 O'Farrell
Street/532 Jones Street Project Application**

Dear All:

Holland & Knight LLP¹ has been retained to represent Fifth Church of Christ, Scientist (the "Applicant") to ensure its rights under the California housing laws for the project proposed at 450-474 O'Farrell Street/532 Jones Street. The project includes "316 group housing units (632 beds), 172,323 square feet of residential use, including amenities and common areas, 4,900 square feet of open space, 6,023 square feet of restaurant/retail space, and 9,924 square feet for religious institution use (i.e., replacement of the existing church)" (the "Project"). (Addendum 2 to Environmental Impact Report ("Addendum 2"), June 23, 2021, at 3.) The Project's case number is 2013.1535EIA-02.

After the Planning Commission ("Commission") approved an earlier version of the project more than two and half years ago, the Commission has failed to take the actions required by law to process the Project's entitlements. This failure is a violation of California's housing laws, including the Permit Streamlining Act, Housing Accountability Act and SB 330, all of which the

¹ The Applicant is also represented by David Cincotta as well as Storzer & Associates, P.C. in connection with the Religious Land Use Act and Institutionalized Persons Act.

Legislature has enacted to ensure the timely construction of housing to combat California's housing crisis. The following summarizes the main points in this letter:

- The entitlements and exceptions currently sought were already approved for the previously approved project. The only land use related modification from the original approval requested for the revised Project is for a change to group housing with 316 group housing rooms. The Project is consistent with the standards for group housing in the RC-4 zoning district and all other applicable standards.
- The environmental review has been unnecessarily delayed. There is no substantial change to the revised Project that warranted preparation of a second Addendum and no new environmental impacts. The proposed modifications currently include and have always included approximately 300 group housing rooms, acknowledged by the City to represent for planning purposes approximately 600 beds.
- The Planning Department issued Plan Check Letter No. 1 more than 30 days after the Applicant's submittal. This timing exceeds the statutorily mandated 30 calendar day window for completeness review of the Project. As such, the application was deemed complete on February 28, 2020 under the Permit Streamlining Act.
- The City did not identify any project inconsistencies with objective standards as of April 28, 2020 and so the Project was deemed consistent with objective standards on that date under the Housing Accountability Act.
- As stated in the YIMBY Law Letter, "the Conditional Use Authorization currently being considered certainly falls well within the bounds of the General Plan. Even expanding our view to the project's previous approvals, including specific items within the Planned Unit Development, nothing proposed or adopted is sufficiently outside the scope of the city's general plan to warrant the assessment that the project is not protected by the Housing Accountability Act."
- Just as with the Housing Accountability Act, it is not appropriate to exclude applicability of the five hearing limit under SB 330 to those projects that request exceptions that do not rise to the level of general plan or zoning code amendments. As such, the five hearing limit applies.
- The hearing history shows, remarkably, that the hearings on the Project have been continued seven times. At the next hearing, which will be the eighth hearing (or the sixth if not counting the hearing purportedly continued at the request of the Applicant), the Commission must approve the Project. Under the limitations imposed by the Housing Accountability Act, the City has no basis for disapproving the Project. In the event the City does not promptly take action to consider and approve the Project, our clients will

exercise their rights under these laws. It is noted that the Church has experienced significant damages as a result of processing delays.

The following provides additional detail.

I. Background

The following provides relevant background regarding (A) Project processing, (B) application completeness, (C) environmental review, and (D) hearing history.

A. Project processing

1. Original approvals

The original version for the project proposed a 13-story (130 foot tall) mixed-use building, “with up to 176 dwelling units, restaurant and/or retail space on the ground floors, and a replacement church . . . , below grade parking and mechanical spaces, private and common open space and 116 Class 1 and 9 Class 2 bicycle parking spaces.” (Planning Commission Motion No. 20281 (“Motion No. 20281”), September 13, 2018, at 4.) On September 13, 2018, the Commission moved to authorize “the Conditional Use Authorization as requested in Application No. 2013.1535ENVCUA” subject to conditions. (Motion No. 20281, at 3, 25.) The authorization allowed a “mixed-use residential and institutional use building . . . pursuant to Planning Code Section(s) 303, 304, 317, 253, 249.5, and 271 within the RC-4 District and North of Market Residential Special Use District and a 80-T-130-T Height and Bulk District.” (Motion No. 20281, at Exhibit A-1.) In reviewing the project’s application for Conditional Use Authorization, the Commission found that the mixed-use project, including rental housing and a new church facility, was compatible with neighborhood uses, would “not be detrimental to the health, safety, convenience or general welfare of persons residing in the vicinity,” “generally complies with the applicable sections of the Code, with certain exceptions” and “conforms with multiple goals and policies of the General Plan.” (*Id.* at 6-8.)

Furthermore, the Commission found that the project complies with the required criteria for a Conditional Use Authorization under Planning Code sections:

- 317 - demolition of or conversion of Residential Buildings
- 253(b)(1) - buildings with a street frontage height greater than 50 feet
- 249.5/263.7 - buildings that exceed a height of 80 feet in the North of Market Residential Special Use District
- 271(c) - buildings that exceed bulk limits. (*Id.* at 11-19.)

Additionally, as part of the Project’s Planned Use Development authorizations, the Commission also approved modifications to the “rear yard requirements per Section 134(g) of the Planning Code,” and “[a]n exception to the off-street loading requirements per Section 152 of the Planning Code, which requires one residential loading space for the project.” (*Id.* at 9.) Finally, the

Commission found that the project “affirmatively promotes applicable objectives and policies of the General Plan.” *Id.* It should be noted that Applicant paid fees for the earlier version of the project and a site permit was issued, but it was not ultimately financeable.

2. Project modifications comply with objective standards

The Applicant now proposes “316 group housing units (632 beds), 172,323 square feet of residential use, including amenities and common areas, 4,900 square feet of open space, 6,023 square feet of restaurant/retail space, and 9,924 square feet for religious institution use (i.e., replacement of the existing church).” (Addendum 2, at 3.) Specifically, the Applicant seeks to “amend Conditions of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281 adopted on September 13, 2018.” (Staff Report for April 15, 2021 Planning Commission (“April Staff Report”), Executive Summary Conditional Use, at 1.) These Conditions of Approval address vehicle, car share and bicycle parking (Nos. 24, 25 and 26) and inclusionary housing (No. 32) requirements. The Project’s amendments “would be constructed within the envelope described for the [approved] project, with a similar mix of uses, decreased subsurface excavation and minor changes in building design All other aspects of the revised project would remain the same as those of the previous project.” (Addendum 2, at 5.)

Implementation of the Project requires a conditional use authorization for a planned unit development to modify the requirements of San Francisco Planning Code sections 134(j) (for rear-yard modifications in a RC-4 District) and 152 (for on-street loading). The Planning Commission granted these approvals on September 13, 2018. The revised Project does not seek any modification to these prior approvals.

Implementation of the Project also requires “authorization from the planning commission under San Francisco Planning Code section 317(g)(5) for demolition of existing residential units; section 253(b) for new construction over 40 feet in height and a street frontage greater than 50 feet; section 263.7 for an exception to the 80-foot base height limit in North of Market Residential Special Use District No. 1; section 271 for exceptions to section 270, governing the bulk of the building; and section 303 for the new religious institution (church) use.” (Addendum 2, at 9.) These authorizations were similarly approved by the Commission on September 13, 2018. The modifications requested for the revised Project do not involve any of these authorizations. (See April Staff Report, Draft Motion, at 7.)

The only land use related modification from the original approval requested for the revised Project is for a change to group housing with 316 group housing rooms. The revised Project also reduces the number of off-street parking previously approved. As detailed in the Staff Report for the April 15, 2021 Planning Commission, off-street parking is not required in the RC-4 zoning district. (April Staff Report, at 7.) Given that there is no required off-street parking, the revised Project is not at odds with the standard for off-street parking. The revised Project is also consistent with the standards for group housing in the RC-4 zoning district. The Staff Report for the April 15, 2021 Planning Commission states that “[p]ursuant to Section 209.3 of

the Planning Code, the RC-4 residential high-density zoning district, permits a group housing density up to one bedroom per every 70 square feet of lot area. On this 22,106 square foot site, 316 bedrooms are permitted,” (April Staff Report, at 7.) The revised Project is therefore consistent with the applicable objective standard for the RC-4 zoning district.

Notably, all relevant modifications proposed by the revised Project are consistent with applicable objective standards. Additionally, the modifications to Conditions of Approval 24, 25, 26 and 32 all comply with the applicable standards. No off-street parking or car share parking are required for the Project, therefore COA Nos. 24 and 25 do not apply. The revised Project complies with both the bicycle parking spaces and inclusionary affordable housing requirements applicable to the revised Project.

B. Application completeness

Correspondence between the City staff and Applicant demonstrates that the Project application is complete. The following is a chronology of the City’s correspondence with the Applicant regarding the Project:

- January 24, 2020 - Application filed with City for amended PUD/CUA
- January 28, 2020 - Planning Department accepts Revised CUA Application
- April 9, 2020 - Plan Check Letter No. 1
- June 12, 2020 - Revisions submitted by Applicant
- July 10, 2020 - Plan Check Letter No. 2
- August 13, 2020 - Response submitted to City

The significance of this chronology is discussed further below. Notably, the April 9, 2020 Plan Check Letter No. 1 exceeds the 30 day time period to respond to an application submittal under the Permit Streamlining Act.

C. Environmental review

An Environmental Impact Report (“EIR”) was certified for the original Project in 2018. On December 21, 2020, the City published an Addendum to the EIR for the proposed Project modifications. As such, the environmental review was completed six months ago, with the conclusion that the Project will not result in new significant environmental impacts and that no further environmental review is required. Although there were no substantial changes to the proposed revised Project, the City prepared a second Addendum in June 2021.

Similar to the findings in the Addendum, in the second Addendum, the City’s analysis of the proposed modifications to the approved Project affirms that “[s]ince certification of the EIR, no substantial changes are proposed for the project and no changes have occurred in the circumstances under which the 450–474 O’Farrell Street/532 Jones Street Project would be implemented.” (Addendum 2, at 9; see also Addendum, at 9.) Furthermore, “[n]o new

information has emerged that would materially change the analyses or conclusions set forth in the initial study or EIR for the previous project.” (*Id.*) Significantly, as demonstrated throughout the City’s extensive and lengthy environmental review of the Project, the Project modifications do not require further environmental review and do not result in new significant impacts. The following is a summary of the City’s environmental review of the Project and its findings:

- December 21, 2020 – Addendum to EIR published by Planning Department
- January 7 and 21, 2021 – Planning Department determines that no further environmental review is required – see Planning Commission Agenda
- June 23, 2021, Addendum 2 to EIR prepared by Planning Department

No substantial project modifications were proposed for the revised Project after the first Addendum was published. The City considers a group housing room as equivalent to one room or two beds. For purposes of this Project, the City used the number of rooms for calculating density, open space, and inclusionary requirements. (See Plan Check Letter, April 9, 2020, Comment No. 3, at 2.) The core modification proposed by the revised Project continues to be the change to group housing comprised of approximately 300+ group housing rooms (or approximately 600+ beds).

Addendum – Proposed Modification To The Project	Addendum 2 – Proposed Modification To The Project
The proposed revised project would result in demolition of the buildings on the project site and the construction of a 13-story building with a basement. The structure would contain 302 group housing units (316 beds), 165,972 square feet of residential space, 4,900 square feet of open space, 7,959 square feet of restaurant/retail space, and 10,181 square feet for religious institution use (i.e., replacement of the existing church). The total built area would be approximately 199,384 square feet. (Addendum, at 3)	The revised project would result in demolition of the buildings on the project site and the construction of a 13-story building with a basement. The structure would contain 316 group housing units (632 beds), 172,323 square feet of residential use, including amenities and common areas, 4,900 square feet of open space, 6,023 square feet of restaurant/retail space, and 9,924 square feet for religious institution use (i.e., replacement of the existing church). The total built area would be approximately 207,448 square feet. (Addendum 2, at 3)

There is no substantial change to the revised Project that warranted preparation of a second Addendum and payment of an additional Addendum fee to the Planning Department. The proposed modifications currently include and have always included approximately 300 group housing rooms, acknowledged by the City to represent for planning purposes approximately 600 beds.

D. Hearing history

Yet in spite of the application completeness, conclusion of the environmental review and the City’s own findings that the proposed modifications to the approved project do not require further environmental review, the Commission has failed to move forward procedurally and issue the requisite Project entitlements. The following is a timeline of the Commission’s remarkable pattern of hearings continuances:

- January 7, 2021 – CONTINUED to January 21, 2021
- January 21, 2021 – CONTINUED to February 4, 2021
- February 4, 2021 – CONTINUED to March 11, 2021
- March 11, 2021 – CONTINUED to April 1, 2021
- April 1, 2021 – CONTINUED to April 15, 2021
- April 15, 2021 – CONTINUED to June 10, 2021
- June 10, 2021 – CONTINUED to June 24, 2021

For more than six months, the Commission has repeatedly voted for continuances. Neither the staff or Commission have given legitimate reasons to delay the Project hearings in this manner. We note that the Staff Report from January 21st states that opposition “is centered on the shift to group housing, and concerns about the community engagement process.” (Executive Summary Conditional Use, January 21, 2021 at 2.) The Staff Report from February 4th goes further and states that a neighbors has a perception “that the church has not been a good neighbor.” (Staff Report for February 4, 2021 Planning Commission, at 2.) The Applicant has in fact engaged in an extensive outreach process and none of the factors cited in the staff reports amounts to an objective standard; rather, the concerns amount to subjective “NIMBY” hurdles posed by special interest groups.

II. Housing Law Protections

Based on the remarkable history above, it is clear that there have been violations of the spirit, intent and plain application of the California housing laws, as described below.

As we know, California faces “a housing supply and affordability crisis of historic proportions,” evidenced by the fact that the median home price in San Francisco was \$1.6 million at the time that the Legislature passed the Housing Crisis Act of 2019. (Gov. Code § 65589.5(a)(2)(A); Housing Crisis Act of 2019, Section 2(a)(2).) “The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives.” (Gov. Code § 65589.5(a)(2)(A).) To combat the crisis, the Legislature has plainly stated that it is the policy of the state that California’s housing laws be afforded “the fullest possible weight to the interest of, and the approval and provision of, housing.” (Gov. Code § 65589.5(a)(2)(L).) Furthermore, it is the policy of the state “that a local government not reject or make infeasible housing development projects” that contribute to the housing supply “without a thorough analysis of the economic, social, and environmental effects of the action.” (Gov. Code § 65589.5(b).)

A. Application Completeness

Under the Permit Streamlining Act, as amended by SB 330, a local agency’s authority to review the “completeness” of an application for a development permit is strictly limited to confirming

whether the applicant has provided the material contained on the agency's official submittal requirements checklist, as that checklist existed at the time of application submittal. (Gov. Code § 65943(a); *see also* Gov. Code §§ 65940, 65941.) Upon submittal of the materials on an agency's checklist, the agency has 30 days in which to notify the applicant in writing as to whether the application is complete. (Gov. Code § 65943(a).) If the applicant is required to amend or supplement the application materials, an agency has 30 days from receipt of those materials to notify the applicant in writing of the agency's completeness determination. (Gov. Code § 65943(b).) "If the written determination is not made within that 30-day period, the application together with the submitted materials *shall be deemed complete*." (*Id.*) (emphasis added.)

The Planning Department ("Department") accepted the Applicant's Project application on January 28, 2020. The Department then issued Plan Check Letter No. 1 on April 9, 2020. This timing exceeds the statutorily mandated 30 calendar day window for completeness review of the Project. As such, the application was deemed complete on February 28, 2020.²

B. Consistency with Objective Standards

The Housing Accountability Act ("HAA") requires a local agency to provide written documentation if a housing development project is inconsistent with objective standards: "(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units; or (ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units." (Gov. Code § 65589.5(j)(2)(A).) If the local agency fails to provide the required documentation, the housing project *shall be deemed consistent with applicable standards*. (Gov. Code § 65589.5(j)(2)(B))) (emphasis added.)

As stated, the Project is a mixed-use residential project with at least two-thirds residential uses; and as such, it is a qualifying housing development project under the HAA that is subject to review for consistency with the City's objective standards. (Gov. Code § 65589.5(g); Gov. Code § 65589.5(h)(1)(B).) Once the application is complete, the HAA limits review of project consistency to the City's objective standards. Accordingly, assuming application completeness occurred in February 2020, the City did not identify any project inconsistencies as of April 28, 2020 and the Project was deemed consistent with objective standards on that date.

However, the City's Staff Reports from January 21st and February 4th state that "opposition to the Project is centered on the shift to group housing, and concerns about the community engagement process." Moreover, the reports express that response to the Applicant's community

² Even if there was City correspondence prior to April 9, 2020, application completeness occurred on August 13, 2020 at the latest as the last Applicant submittal (see chronology in Section 1(b) above).

outreach “has focused on community benefits, size and functionality of units, unit mix, and amenities” (Executive Summary Conditional Use, January 21, 2021, at 2), and that a neighbor has a perception that “the church has not been a good neighbor.” (Staff Report for February 4, 2021 Planning Commission, at 3.) To the extent that this subjective community feedback is being incorporated into Project revisions or determinations of inconsistency, it is a violation of the HAA because the feedback does not qualify as an objective standard upon which the Project may be reviewed.

C. Housing Accountability Act Applicability

The current development application is for modification of four Conditions of Approval to authorize development of group housing. As set forth in the Addendum, the proposed revised Project does not represent a significant change to the approved Project. Additionally, the modifications requested are each consistent with the applicable objective standards.

Under the San Francisco Planning Code, authorization of a change in any condition imposed by a Conditional Use Authorization is subject to the same procedures as a new Conditional Use Authorization. (San Francisco Planning Code § 303(e).) The proposed revised Project continues to be consistent with all other previously approved development authorizations for the Site, each of which is still valid and continue in effect. (*Id.*)

Additionally, the procedural requirement for a Conditional Use Authorization does not make a housing project not consistent with applicable objective standards. We note that YIMBY Law already submitted a letter on May 25, 2021 regarding Housing Accountability Act applicability. (Letter from Sonja Trauss, YIMBY Law (Executive Director) to Planning Commissioners) (hereinafter “YIMBY Law Letter”, included as Attachment 1.) It accurately describes the following:

The crux of the issue is whether the project approval would require any action abrogating or overriding the general plan designation and standards for the site. The Conditional Use Authorization currently being considered certainly falls well within the bounds of the General Plan. Even expanding our view to the project’s previous approvals, including specific items within the Planned Unit Development, nothing proposed or adopted is sufficiently outside the scope of the city’s general plan to warrant the assessment that the project is not protected by the Housing Accountability Act. As the project is subject to protection under the HAA, the commission is limited both in the actions it may take on the project and the number of hearings the project may be subjected to.

The YIMBY Law Letter then quotes applicable law under the Housing Accountability Act identifying the Commission’s limited discretion in reviewing the Project. This law has been affirmed by the courts. The Housing Accountability Act “imposes a substantial limitation on the government’s discretion to deny a permit.” (*N. Pacifica, LLC v. City of Pacifica* (N.D. Cal. 2002) 234 F. Supp. 2d 1053, 1059, *aff’d sub nom. N. Pacifica LLC v. City of Pacifica* (9th Cir. 2008) 526

F.3d 478 (internal quotation omitted).) Further, a city may not reject the project based on any subjective or discretionary criteria, such as “suitability.” (*Honchariw v. Cty. of Stanislaus* (2011) 200 Cal. App. 4th 1066, 1076, 1079.)

D. SB 330

Additionally, we reiterate the points in the YIMBY Law letter that the Commission is limited both in the actions it may take on the project as well as the number of hearings that may be held under SB 330.

Specifically, the Housing Crisis Act of 2019, SB 330, limits the number of public hearings applicable to a project that “complies with the applicable objective general plan and zoning standards in effect at the time an application is deemed complete.” (Gov. Code § 65905.5(a).) If a project complies with applicable general plan and zoning standards, a City may only conduct five public hearings. (*Id.*) If the city continues a hearing subject to this section to another date, the continued hearing shall count as one of the five hearings allowed under this section. (*Id.*) Significantly, the law requires a City to “consider and either approve or disapprove the application at any of the five hearings allowed.” (*Id.*) Therefore, given that the City has held seven public hearings for the Project just this year, without approving or disapproving the Project, the City has exceeded the 5 hearing maximum. (Gov. Code § 65905.5.)

We note that the City’s guidance on implementation of SB 330 provides that “housing development projects that comply with applicable zoning standards and that are not seeking any exceptions, rezoning, or other legislative actions, can be subject to a maximum of five public hearings to consider project approval by the city.” (Planning Director Bulletin No. 7, Housing Crisis Act of 2019 Project Review and Zoning Actions, at 3.)

Just as with the Housing Accountability Act, it is not appropriate to exclude applicability of the five hearing limit to those projects that request exceptions that do not rise to the level of general plan or zoning code amendments. As noted above and in the YIMBY Law Letter, exceptions do not rise to the level of a legislative amendment, as with a General Plan or Zoning amendment. Zoning codes routinely include mechanisms for exceptions and conditional authorizations. Compliance with such mechanisms built into the zoning code retains consistency with applicable zoning code standards. There is ample evidence that other cities adhere to the state law protections and apply the housing laws for projects with non-legislative, quasi-judicial entitlements.

Not adhering the housing laws would be counter to the intent of the housing laws to streamline processing for needed housing. The stated intent of the Legislature in enacting SB 330 is to “[s]uspend certain restrictions on the development of new housing during [this] period of statewide [housing] emergency” and “expedite the permitting of housing in regions suffering the worst housing shortages and highest rates of displacement.” (SB 330, Housing Crisis Act of 2019, Sec. 2(c).)

We also note that the City's guidance on implementation of SB 330 provides that "[i]ndependent requests from Project Sponsors for a continuance do not count toward the five-hearing limit." (Planning Director Bulletin No. 7, Housing Crisis Act of 2019 Project Review and Zoning Actions, at 4.) In reviewing the Commission hearing minutes, we note that two hearing continuances were purportedly requested by the project sponsor. The Applicant wishes to convey that the continuances were requested *at the Planning Department's recommendation* and not fairly considered to be at the Applicant's request. Moreover, the Applicant did not formally waive its rights to the five hearing maximum under SB 330. Moreover, even without counting the two hearings purportedly requested by the Applicant, there have still been five hearings.

At the next hearing, which will be the eighth hearing (or the sixth if not counting the hearing purportedly continued at the request of the Applicant), the Commission must approve the Project. Under the limitations imposed by the HAA, the City has no basis for disapproving the Project. In the event the City does not promptly take action to consider and approve the Project, our clients will exercise their rights under these laws.³ It is noted that the Church has experienced significant damages as a result of processing delays.

Sincerely yours,

HOLLAND & KNIGHT LLP



Chelsea Maclean

CC: Planning Commissioners (commissions.secretary@sfgov.org)
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³ We note that our firm has successfully represented applicants in the enforcement of housing laws. (*MWest Propco XXIII LLC v. City of Morgan Hill and Morgan Hill City Council*, Santa Clara County Superior Court, Case No. 18CV333676 (City did not comply with the Housing Accountability Act); *40 Main Street Offices, LLC v. City of Los Altos*, Santa Clara County Superior Court, Case No. 19CV349845 (city's denial of housing development violated the HAA because the City failed to identify objective standards with which the project did not comply); *Ruegg & Ellsworth v. City of Berkeley* (2021) 63 Cal.App.5th 277, reh'g denied (May 19, 2021), review filed (June 1, 2021) (City did not provide adequate findings when denying the SB 35 application).) As noted previously, we also note that the Applicant is represented by Storzer & Associates, P.C. on its RLUPA claims.

ATTACHMENT 1
YIMBY Law Letter



YIMBY LAW

YIMBY Law

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San Francisco, CA 94103
hello@yimbylaw.org

5/25/2021

San Francisco Planning Commission
49 South Van Ness, Ste 1400
San Francisco, CA 94103

commissions.secretary@sfgov.org
Via Email

Re: 450 O'Farrell Street

Dear San Francisco Planning Commission,

This letter is intended to outline some of the legal issues surrounding the project at 450 O'Farrell and to explain why the Housing Accountability Act does apply to this project, despite planning staff objections.

The crux of the issue is whether the project approval would require any action abrogating or overriding the general plan designation and standards for the site. The Conditional Use Authorization currently being considered certainly falls well within the bounds of the General Plan. Even expanding our view to the project's previous approvals, including specific items within the Planned Unit Development, nothing proposed or adopted is sufficiently outside the scope of the city's general plan to warrant the assessment that the project is not protected by the Housing Accountability Act. As the project is subject to protection under the HAA, the commission is limited both in the actions it may take on the project and the number of hearings the project may be subjected to.

Conditional Use Authorization and the Housing Accountability Act

It is a common misconception that any additional approvals for a project besides a simple site permit automatically renders the Housing Accountability Act void. This is not the case. The Housing Accountability Act applies so long as the residential development complies with the objective general plan standards in place at the time of application submission.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

...

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(California Government Code § 65589.5)

Though a conditional use permit requires additional authorization, it does not push the project beyond the bounds of the general plan. By its very nature, a conditional use is one that is permitted by the general plan provided certain prerequisites are met. The extra level of scrutiny does not mean that the project is no longer general plan compliant.

In this case the project is seeking a conditional use authorization to change its previous plan to group housing. Group housing is an allowed use under the site's general plan designation despite requiring some extra processing, namely a conditional use authorization. Despite the extra layer of approval the project remains general plan compliant.

Planned Unit Development and the Housing Accountability Act

 YIMBY Law, 1260 Mission St, San Francisco, CA 94103

Planning staff maintain that the conditional use authorization is not the problem when it comes to the project's status under the HAA. Rather their contention is that exceptions required as part of the PUD were what rendered the project HAA exempt. The specific parts of the PUD referenced include exceptions from height, dwelling unit exposure, rear yard, and permitted obstructions standards. These were all included in the CUA for the project.

Like everything else in the CUA, as passed previously and as proposed, we do not believe that these provisions bring the project out of compliance with the General Plan. The project may require exceptions from specific zoning standards but these are all allowed under the PUD and CUA process without any significant zoning amendments or general plan amendments.

If the project were asking for exceptions that exceed the scope of those allowed as part of the PUD and CUA process then this issue would be different. The project does not propose anything of the sort however, and therefore should be considered covered by the HAA.

Conclusion

Moving forward, this project should be treated as any other project would be under the HAA. This means that the Planning Commission's discretion is limited in this case. The project does not pose a threat to public health and safety and complies with nearly objective general plan standards. The project was approved previously with very similar characteristics and so it is clear that Commission and planning staff mostly agree with us on this point.

The Planning Commission should stop delaying this project and approve the modifications to the Conditional Use Authorization to allow the project to move forward. Plans for development at this site have been stifled for a variety of reasons for over 40 years and it's time to allow a project to proceed.

Sincerely,



Sonja Trauss
Executive Director
YIMBY Law

YIMBY Law, 1260 Mission St, San Francisco, CA 94103

EXHIBIT C

450 O'Farrell Street, San Francisco Mixed-Use Church Development Progress Outreach Report

**Prepared for:
Fifth Church of Christ, Scientist
Forge Development Partners and**

June 2021

Prepared by:



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APPENDICES

Appendix A	Contact List
Appendix B	Contact Log
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450 O'Farrell Redesign Essential Workforce Housing Project Outreach Summary

Between November 2020 to June 22, 2021, the project team conducted community outreach for the re-envisioned 450 O'Farrell project with the purpose of sharing changes made to the project, soliciting feedback, and responding to questions and concerns. Outreach included virtual meetings with stakeholders representing business, residential and social services; providing information electronically via Forge's website, a Facebook page, and YouTube channel; hosting a series of community meetings via Zoom; and door-to-door canvassing. Below is a summary of the project team's efforts:

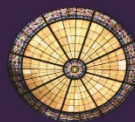
- 42 virtual stakeholder meetings
- 3 canvassing events
- 4 community meetings
- 74 letters of support received
- 124 signatures received in support of the project



Outreach to Golden Blaze at the corner of Jones and O'Farrell streets



Virtual meeting with Tenderloin People's Congress and additional member groups



FIFTH CHURCH OF CHRIST, SCIENTIST
SAN FRANCISCO

1.0 INTRODUCTION

In 2018, the original 450 O'Farrell luxury housing project was approved by the San Francisco Planning Commission. Since then, Fifth Church of Christ, Scientist has partnered with Forge Development Partners to redesign the project to better meet the needs of the local community. The redesigned project better fits the area by replacing all luxury housing with essential housing for teachers, firefighters, police, and other essential workers; increasing the number of units from 176 to 316; and increasing affordable units from 28 to 45.

The report summarizes outreach conducted by The Fifth Church of Christ Scientist, Forge Development Partners and Craig Communications (the project team) in support of the 450 O'Farrell Street redesigned Essential Housing project.

2.0 COMMUNICATION MATERIALS

Contact List

A list of key contacts was prepared to notify stakeholders about the redesigned project, solicit feedback and share project updates. The key contact list includes important individuals from the City and County of San Francisco, representatives of local social, housing, faith-based, and business organizations, adjacent property owners and tenants, attendees of project community meetings, and other individuals that have requested to receive information on the project. At a minimum, we review this list weekly to ensure they are current. The contact list is located in Appendix A.

Calls and Emails

To date, there have been over 300 calls and emails placed to reach stakeholders and offer project meetings and/or briefings and respond to requests for more information. A project contact log is provided in Appendix B.

Communications Materials

Project communications materials were prepared to provide up-to-date information on the project and include a project fact sheet, three community meeting flyers, and a community meeting presentation. Copies are included in Appendix C.

Electronic Information

The project team used Forge's website (<https://www.forgedevelopmentpartners.com/tl-450>), a project specific Facebook page (<https://www.facebook.com/450OFarrellProject/>), and a YouTube channel (<https://tinyurl.com/450-OFarrell>) to provide a ready source of up to date information. Electronic sites are updated on a weekly basis.

Project Meetings and Briefings

Provided below is a summary of project meetings and briefings. Of note, meetings were offered, accepted, and declined by a variety of key Tenderloin businesses and organizations. A project contact list documenting these interactions is provided in Section 3.

3.0 OUTREACH SUMMARY

Between November 2020 to June 22, 2021, the project team conducted community outreach for the re-envisioned 450 O'Farrell project with the purpose of sharing changes made to the project, soliciting feedback, and responding to questions and concerns. Outreach included virtual meetings with stakeholders representing business, residential and social services; providing information electronically via Forge's website, a Facebook page, and YouTube channel; hosting a series of virtual community meetings via Zoom; and door-to-door canvassing.

4.0 CITY AND COUNTY

This project team worked with the County and City of San Francisco to receive input and keep them updated on community interactions and salient issues. A summary of these interactions is presented below. The project team remains in regular contact with the City and County.

San Francisco Police Commission, Tenderloin Station – 12/15/20

Met with Police Commission, Tenderloin station Captain Carl Fabbri, to discuss project, area and street safety, and how the project would increase eyes on the street.

San Francisco Planning Commission – 12/22/20, 01/04/21, 01/19/21, 01/20/21, 01/25/21 and 04/02/21

The Forge project team met with the following Planning Commissioners to provide project updates and gather feedback:

- December 22, 2020 - Commissioner Theresa Imperial
- January 4, 2021 - Commissioner Joel Koppel
- January 19, 2021 - Commissioner Rachael Tanner
- January 20, 2021 - Commissioner Deland Chan
- April 2, 2021 - Commissioner Rachael Tanner

Board of Supervisors, District 6 – 03/10/21

Met with Supervisor Matt Haney and Chief of staff Abigail Rivamonte Mesa to provide updates on current project status, gather feedback, answer questions, and share research and white papers to provide accurate project details.

5.0 LOCAL BUSINESSES, COMMUNITY ORGANIZATIONS AND RESIDENTS

The project team has conducted outreach to local businesses, community organizations and residents to provide information on the redesigned project.

Community Members – 01/19/21 and 4/6/21

The project team met with the following community members to provide project updates, answer questions, and listen to feedback:

- January 19, 2021 – Eric Rodenbeck, community activist and organizer
- January 19, 2021 – Nikki Gunn, who neighbors the Site
- April 6, 2021 – Cliff Waldeck, who serves on the Bay Area Council Project Endorsement Committee and expressed “450 O’Farrell is beautiful in its simplicity and efficiency.”

5.1 AREA CANVASSING

Project team members conducted area canvassing on March 3 and April 2, 2021 and provided a copy of the project fact sheet, invited individuals to community meetings or to call the project team with questions at a convenient time, and added interested individuals to the key contact list. Overall, local businesses, community organizations and residents expressed varying levels of interest in the project, and many were supportive. The following provides a summary of canvassing efforts.

March 3, 2021

Cyril Magnin St.: 28, 101, 138, 115, 155

Eddy St.: 83, 141, 144, 160, 216, 230, 265, 289, 308, 380, 399

- 128: Superette Grocery owner appreciated the information and will share it with staff and customers. She will also post the flyer in her window.
- 166: Southeast Asian Development Center (formerly VYDC - Vietnamese Youth Development Center) Housing Specialist, Uyen appreciated the information and will share it with her clients and staff. She asked if there would be Vietnamese translation of the community meeting. We followed-up confirming that there would be translation.
- 186: The Dalda’s Community Market owner appreciated the information and will share it with staff and customers. He is excited about the project and will attend the community meeting.
- 265: Staff at both Fix Auto and Auto Dynamik, Inc. appreciated the information and will post it in their offices.
- 235: The Drake Hotel manager appreciated the information and will share it with staff and residents. We attached the flyer to their bulletin board, per his request.
- 339: Owner of Battambang Market appreciated the information and will post it in her window.

Ellis St.: 127, 160, 174, 201, 237, 357, 373, 387, 406, 415, 425, 433, 441, 468, 473, 666

- 251: Imperial Liquor owner declined flyer; he is aware of the project.

- 330: GLIDE Memorial Church worker was excited about the project and will share the flyer with management.
- 472: The Central City SRO Collaborative manager, Kelly Ecker, appreciated the information and will share it with staff and residents.
- 465: Ellis Hotel Manager appreciated the information and will share it with staff and residences.
- 456: La Voz Latina worker Christine appreciated the information and asked if there would be Spanish translation of the community meeting. We followed-up confirming that there would be translation.

Geary Blvd.: 351, 400, 401, 420, 422, 440, 442, 480, 486, 490, 500, 516, 516, 524, 531, 575, 580, 595, 599, 601, 603, 604, 606, 608, 610, 631, 669, 679, 683, 687, 689

- 580: Staypineapple Hotel clerk appreciated the proposal for more affordable housing. She supports the project and will likely attend the meeting.
- 531: Marsha Quintara, at Addy's Salon appreciated the information. She was happy to hear about the addition of more affordable housing and will attend the meeting to get more information.
- 450 and 466: Residences were inaccessible except to residents.
- Owner of Masesoba, a new restaurant opening in the area, declined a fact sheet.

Hallidie Plaza: 1

Jones St.: 402, 420, 431, 439, 511, 520, 522, 533, 540, 545, 545, 555, 556

Leavenworth St.: 316, 317, 536, 540

- 335: Hotel Western manager appreciated the information, will share it with staff and residents, and post it in their front window.

Mason St.: 111, 125, 147, 140, 149, 222, 349, 401, 420

O'Farrell St.: 170, 200, 240, 243, 260, 272, 320, 330, 336, 364, 405, 415, 419, 428, 436, 439, 441, 449, 491, 499, 501, 517, 540, 545, 550, 561, 570, 593, 596, 599

- 411: Orange Village Hostel front desk worker appreciated the information and will share it with management and the residents.
- 438: Gateway Inn owner, Shay, is very excited about the project and will likely attend the meeting. He will share the flyer with residents and staff.
- 445: Hotel Winton manager, Monique, appreciated the information and will share it with residents and staff.
- 453: Paradise Coffee and Donuts owner, Mohammed, appreciated the information.
- 480: Golden Blaze worker, Robert, appreciated the information.
- 430: Residences were inaccessible.

Post St.: 501, 589, 599, 611, 629, 643, 701, 711, 731, 761

Powell St.: 1, 33, 35, 45, 49, 80, 111, 135, 151, 161, 167, 207, 247

- 1: Flyers provided to AT&T and Bank of America; Bank of America staff will post in their breakroom.

Taylor St.: 256, 385, 401, 405, 518, 520, 555

- 222: Manager of Eddy and Taylor Family Apartments will post the flyers in their common spaces and appreciated the good news that more affordable housing is potentially coming to the area.

April 2, 2021

Cyril Magnin St.: 101, 115, 138, 155

Eddy St.: 83, 128, 123, 160, 186, 289, 308, 310, 330, 339, 398, 399

- 128: Owner of Superette Grocery owner appreciated the information and will share it with staff and customers.
- 144: Sharon, property manager of the Empress Hotel, appreciated the information and will share it with staff and guests.
- 186: The Dalda's Community Market owner appreciated the information and will share it with staff and customers. He is excited about the project.
- 310: Officer at the SF Tenderloin Police Station took several flyers to put in the attached community center.
- 339: Owner of Battambang Market appreciated the information and will post it in his window. He was excited to hear about the update of more below-market-rate units.
- 399: Owner of Empire Market asked for several flyers to leave for his customers.

Ellis St.: 127, 140, 174, 222, 299, 398, 400, 406, 415, 425, 433, 434, 468, 472

- 127: Manager of Abris Hotel said he would share the information with staff.
- 330: GLIDE Memorial Church worker Chaprese was excited about the project and will share the flyers with management.
- 401: Employee at Starlight Market posted the flyer and thanked us for the information.
- 433: Employee of Artmar Hotel declined the flyer, but a nearby resident said they would take one.

Geary Blvd.: 295, 301, 351, 400, 401, 418, 420, 440, 500, 516, 524, 580, 550, 571, 599, 603, 604, 610, 639, 650, 683, 687, 689, 696

- 351: Employee of Handlery Union Square Hotel said he would post the flyer in the employee break room.

- 580: Staypineapple Hotel clerk appreciated the proposal for more affordable housing and said she wants to continue to receive updates. She supports the project and will likely attend the meeting.
- 604: Owner of Salami Halal Meat is already on the 450 O'Farrell mailing list and will likely attend the meeting.
- 639: Manager of Geary Court Apartments said she will send an email to residents informing them of the meeting.
- 650: Owner of the Alcazar Theatre, which also contains housing, said he will distribute the flyer to tenants.
- 683: Employee of Bandit Coffee Shop asked for several flyers to give customers.
- 689: Owner of Star Market declined flyer, but said she supported the project.

Jones St.: 500, 511, 515, 525, 540, 601

- 540: Manager of the Pierre Hotel said she was familiar with the project, but "in general does not trust developers." She said she will not attend but will inform tenants.

Leavenworth St.: 445, 317

Mason St.: 56, 111, 140, 149, 222, 300, 301, 325, 349, 399, 401, 420

- 56: Bristol Hotel manager will share the information with tenants.
- 140: FOUND Hotel front desk worker appreciated the information and will share it with management and the residents.
- 222: Hotel Nikko front desk worker said he has been following updates around 450 O'Farrell and supports the project.

O'Farrell St.: 77, 123, 165, 170, 180, 184, 300, 320, 333, 336, 340, 364, 388, 405, 411, 438, 441, 445, 453, 480, 481-485, 491, 499, 501, 517, 550, 593, 596, 599, 600

- 165: Employee of Episcopal Community Services will distribute information to staff and customers.
- 411: Orange Village Hostel front desk worker is excited about the project and stated it would help improve the entire community.
- 438: Gateway Inn owner, Shaidia, is very excited about the project and will likely attend the Zoom meeting. She will share the flyer with residents and staff.
- 481-485: The owner of the O'Farrell Towers and adjoining Senior Center, Alexandra, is very excited about the project. However, she is worried about construction noise and the placement of portable toilets outside of her business. She or her husband will likely join the meeting.
- 517: When telling an employee of TL Café and Laundromat about the meeting, a customer asked for more information and a flyer. He will likely attend the meeting.
- 596: Owner of Mi Reyna Market will distribute information to staff and customers.

Post St: 470, 488, 498, 501, 589, 599, 600, 611, 643, 675, 700, 708, 720, 728, 750, 766,

- 589: Manager of Post Hotel appreciated the update and will share the information with staff.

Powell St.: 207, 211, 236, 245, 246, 295, 335

- 211: Ugg employee will post flyer in window.
- 335: Westin front desk worker will share information with staff.

Taylor St.: 222, 256, 258, 299, 333, 375, 401, 405,

- 222: The apartment manager at 222 Taylor Street was very interested in the project and asked several questions about the proposed affordable units. He will likely join the meeting.
- 333: Manager of Glide Community Housing will post the flyers in their common spaces and appreciated the good news that more affordable housing is potentially coming to the area.



Outreach to Golden Blaze at the corner of Jones and O'Farrell streets

6.0 PROPERTY OWNERS AND HOTELS

The project team met with property and hotel owners below. The project contact log, included in Appendix B, provides more detail on individual interactions with these individuals and organizations' staff.

San Francisco Hotel Council – 12/14/20 and 01/05/21

Met with SF Hotel Council members on December 14, 2020 to provide updates on current project status and answer questions/listen to feedback. On January 5, 2021, met with SF Hotel Council representatives Kevin Carroll, Executive Director and Kelly Powers, Director. They are very supportive of the project noting that the price point for rentals would allow many of their hospitality workers to live in the city instead of commuting in from the suburbs.

Hilton Hotel – 12/15/20

Met with Hilton Hotel staff to provide updates on current project status and answer questions/listen to feedback.

Pacific Bay Inn – 12/18/20

Met with Pacific Bay Inn members to provide updates on current project status and answer questions/listen to feedback.

The Crosby Hotel – 01/10/21

Met with Charles “Chuck” Custer, owner of The Crosby Hotel. He expressed his support of the project and was emailed a fact sheet to hand out to Crosby tenants.

Tenderloin Merchants and Property Owners Association – 02/03/21

Met with Tenderloin Merchants and Property Association. Questions were asked about number of units, tenant base, ground floor retail uses, parking, and timeline. They expressed support for the project.

7.0 COMMUNITY ORGANIZATIONS

The project team has met with the following community organizations. Meetings were offered, accepted, and declined by various Tenderloin organizations. Detailed meeting information is referenced in the contact log in Appendix B.

San Francisco Housing Action Coalition (SFHAC) – 12/2/20

Met with SFHAC members to present project and to go through formal review process. SFHAC has endorsed the project citing the need for affordable, transit friendly housing options in downtown San Francisco.

Central City SRO Collaborative (CCSROC) / Tenderloin Housing Clinic (THC) – 12/16/20

Met with Pratibha Tekkey to discuss the project. Provided an overview of the project and Pratibha stated she was concerned that the development was not “family-friendly” and would increase area congestion. Pratibha also noted that community outreach should have been conducted over the past two years and that beginning in December 2020 with a planning commission hearing in January 2021 was too late (Note: in response to this Forge requested a delay in the hearing date).

Delivering Innovative and Supporting Housing (DISH) – 12/18/20

Met with DISH Jason Pellegrini to provide an update on the project and answer questions. Jason continues to support the project. He wanted confirmation that previous agreements to preserve light in the hallways will be honored. Project fact sheet was sent to Jason via email with an agreement it would be shared with Pacific Bay Inn tenants.

Tenderloin Community Benefit District (TCBD) – 12/21/20, 03/05/21 and 3/23/21

Met with Simon Bertrang, TCBD Executive Director and Fernando Pujals, TCBD Director of Communications on December 21, 2020. They had questions about the layout of the units, access to the building, shared amenity spaces and number of affordable units. They expressed strong support for the project noting that the Fifth Church of Christ Scientist has been in the area for nearly a century and that the land is underutilized. Fact sheet provided via email to share with their members. On March 5, 2021, met with Simon Bertrang, TCBD Executive Director to provide updates on current project status and answer questions/listen to feedback. On March 23, 2021, met and provided updates on current project status, answered questions, and listened to feedback.

Tenderloin People's Congress – 12/28/20

Met with various representatives of groups that comprise the Tenderloin People's Congress. In attendance were: Code Tenderloin, Tenderloin Neighborhood Development Corporation, Larkin Street Youth, Alliance for a Better D-6, Veteran's Alley, Glide Memorial, Tenderloin Community Benefit District. Multiple questions were asked about the size and layout of units, percentage of affordable, amenities in apartments, furniture in apartments, parking, shared spaces, definition of an essential worker, entrances to/from building, allotment of BMR units, social service provider for the building and scoped services, status of entitlement, and the community benefit package associated with the project. The community benefit listing was sent after the meeting.



Virtual meeting with Tenderloin People's Congress and member groups

Central City SRO Collaborative (CCSROC) / Tenderloin Housing Clinic (THC) – 01/12/21 and 03/23/21

Met with the Land Use Development Board for the CCSROC. Various questions were asked about the size of the units, location of bathrooms, size and function of shared amenity spaces, and parking. On March 23, 2021, met and provided updates on current project status, answered questions, and listened to feedback.

Code Tenderloin – 01/22/21

Met with Del Seymour. He noted that the project takes an underutilized piece of land and provides much needed housing, and he is very supportive of the project and the Church remaining in the Tenderloin neighborhood.

Faithful Fools Ministry – 02/23/21

Met with Sam Dennison, Carmen Barsody, and Leah Laxamana to provide an overview of the project. Questions were asked about the size of the units, number of units to support families, amenity space, interface with the larger community, community benefit packages, past outreach, plans for future outreach. It was noted that while they are not opposed to the project, they cannot endorse the project because they stand in solidarity with community partners.

Project Access – 05/24/21

Met with Teresa Ichsan from Project Access and provided updates on current project status, answered questions/listened to feedback, and requested project slides to be added to the updated 450 O'Farrell project presentation.

Veteran's Alley – 06/22/21

Met with Amos Gregory from Veteran's Alley to provide updates on current project status and answer questions/listen to feedback.

8.0 CHURCHES

The project team has conducted outreach to churches located within the project area and throughout District Six. Additionally, we have established a key relationship with the San Francisco Interfaith Council, which is strongly supportive of the project. Provided below is a list of organizations/churches we have met with and provided project information. The team continues to provide updated information as the project progresses.

Glide Memorial – 01/15/21

Met with Miguel Bustos and Erick Arguello. They asked questions about the size of units, shared spaces, price points for rent, area median income, affordable units. They noted that they are generally supportive of the project but cannot provide a letter of support without approval of their Board.

San Francisco Interfaith Council – 02/26/21

Met with councilmembers to provide updates on current project status and answer questions/listen to feedback.

9.0 COMMUNITY MEETINGS

A series of community meetings were hosted in March and April 2021. Interpretation services were provided in Vietnamese and Spanish. The meetings were designed to provide information to interested stakeholders, answer questions, and accept input. A high-level summary of each meeting is included below with more detailed notes included in Appendix D.

Community Meeting No. 1 – Monday, March 8, 2021

Held a community meeting to inform interested individuals about the project, correct misinformation, answer questions, and accept feedback. Eight community members attended the meeting, and a recording of the meeting was uploaded to the 450 O'Farrell Facebook page and YouTube.

Community Meeting No. 2 – Saturday, March 20, 2021

Hosted second community meeting to inform interested individuals about the project, correct misinformation, answer questions, and accept feedback. Interpretation services were provided in

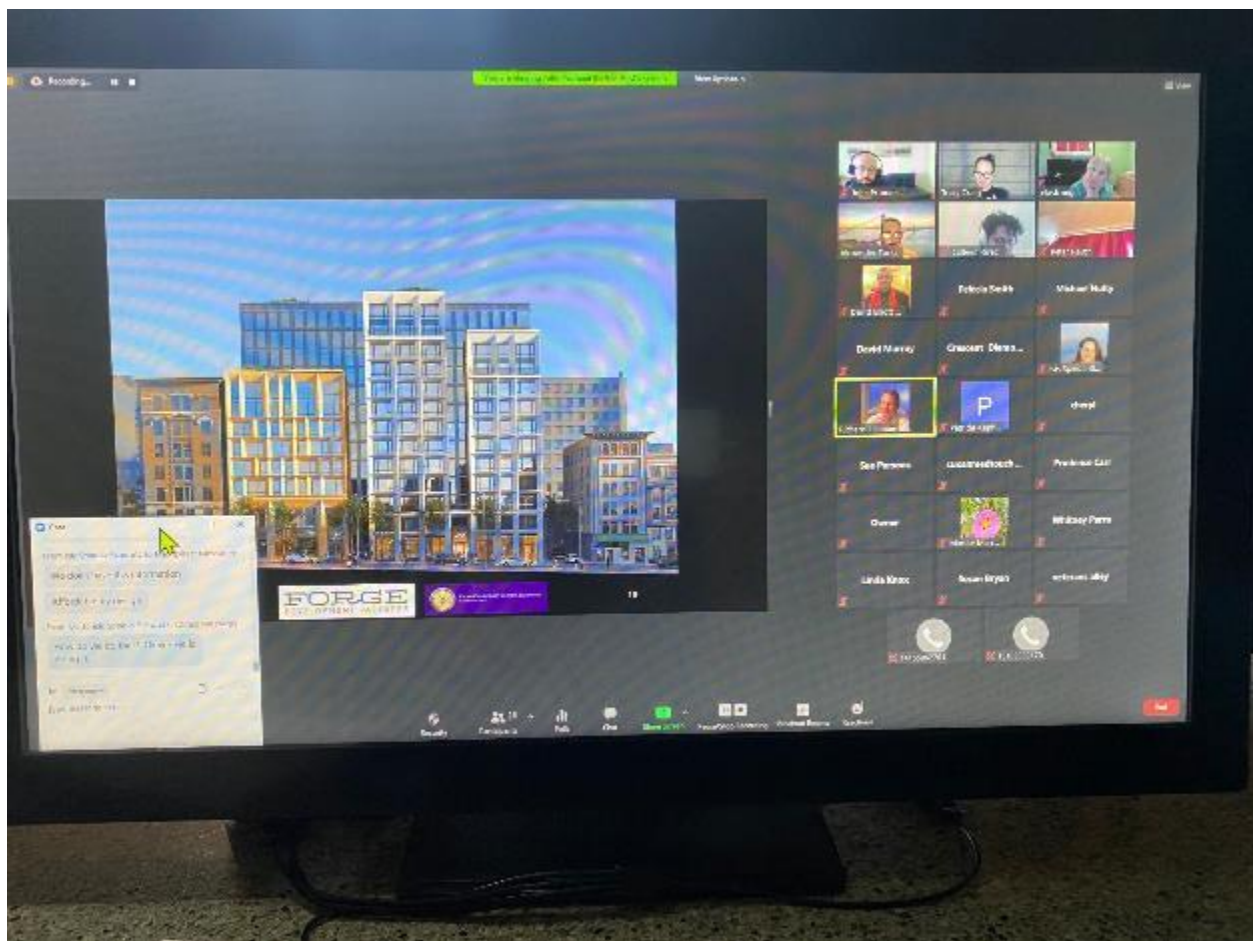
Vietnamese and Spanish. Seven community members attended the meeting, and a recording of the meeting was uploaded to the 450 O'Farrell Facebook page and YouTube.

Community Meeting No. 3 – Tuesday, April 6, 2021

Hosted a third community meeting to inform interested individuals about the project, correct misinformation, answer questions, and accept feedback. Twelve community members attended the meeting, and a recording of the meeting was uploaded to the 450 O'Farrell Facebook page and YouTube.

Community Meeting No. 4 – Tuesday, June 22, 2021

Hosted a fourth community meeting to inform interested individuals about the project, correct misinformation, answer questions, and accept feedback. 25 community members attended the meeting.



10.0 PROJECT SUPPORT LETTERS

To date, 74 letters of support and 124 signatures have been obtained from community organizations or via an online petition (<https://oneclickpolitics.global.ssl.fastly.net/promo/2fm>). Support letters are provided in Appendix E.

450 O'Farrell Project: Letters of Support List			
Contact Name	Organization and Info	Title or Function	Outcome
Business Support			
1. Ali Baalouach	Salama Halal Meat 604 Geary St. San Francisco, CA 94102 salama_halal@yahoo.com	Manager	Signed LOS
2. Mohamed Patel	Salama Halal Meat 604 Geary St. San Francisco, CA 94102 salama_halal@yahoo.com	Owner	Signed LOS
3. Atique Rehman	Naan N Curry Restaurant 642 Irving St. San Francisco, CA 94122		Signed LOS
4. Eric Rodenbeck	Stamen Design 2017 Mission St., Suite 300 San Francisco, CA 94110 erode@stamen.com	CEO & Creative Director	Signed LOS
5. Charles Custer	Gordon Rees Scully Mansukhani, LLP Crosby Hotel 1728 Ocean Ave. #149 San Francisco, CA 94112		Signed LOS
6. Susana Razo	Contigo Communications 109 Knollview Way San Francisco, CA 94131	Principal	Signed LOS
7. Cliff Waldeck	Cliff's Happy Healthy Office	Sales Partner	Signed LOS
Church Support			
8. Reverend Arturo Albano	Cathedral of Saint Mary 1111 Gough St. San Francisco, CA 94109	Father	Signed LOS
9. Martha Arbouex	821 Laguna Street, 4 San Francisco, CA 94102		Signed LOS
10. Rita Semel	San Francisco Interfaith Council 2190 Washington St. #907 San Francisco, CA 94109	Co-founder and former Chair	Signed LOS

11. Michael Pappas, M.Div	San Francisco Interfaith Council P.O. Box 29055 130 Fisher Loop San Francisco , CA 94129	Executive Director	Signed LOS
12. Pastor Elizabeth Ekdale	St. Mark's Lutheran Church 1031 Franklin Street San Francisco, CA 94109 ekdale@stmarks-sf.org	Pastor	Signed LOS
13. First Church of Christ Scientist	1700 Franklin Street San Francisco, CA 94109 firstchurchofcs@sbcglobal.net		Signed LOS
14. Theresa Cho	25 Lake St. San Francisco, CA 94118	Pastor	Signed LOS
15. Dan Barnard	First Unitarian Universalist Church and Center 1187 Franklin St. San Francisco, CA 94109 dbarnard@uusf.org		Signed LOS
Organizations			
16. Deleano (Del) Seymour	Code Tenderloin 1960 Howard St. San Francisco, CA 94103 tlwalkingtours@gmail.com	Founder	Signed LOS
17. John Paul (JP) Soto	LSS of Northern California 191 Golden Gate Ave. San Francisco, CA 94102 jpsoto@lssnorcal.org	Deputy Director	Signed LOS
18. Kristin Byrne	Project Access 2100 W. Oranewood Avenue Ste. 230 Orange CA 92868 kristinb@project-access.org 949-253-6200 ext. 303	CEO/President	Signed LOS
19. Rhiannon Bailard	UC Hastings Law bailardrhiannon@uchastings.edu	Chief Operating Officer	Signed LOS
20. Sonja Trauss	YIMBY Law 1260 Mission St San Francisco, CA 94103 hello@yimbylaw.org	Executive Director	Signed LOS
Individual Support			
21. Rachel McClintick	2568 Nordell Avenue Castro Valley, CA 94546	Christian Science Nurse	Signed LOS
22. Pam Spitler	445 Wawona Street San Francisco, CA 94116		Signed LOS

23. Linda Knox	1 Arbor St. San Francisco, CA 94131		Signed LOS
24. Larry Sullender	1745, Franklin St Apt 203 San Francisco, CA 94109		Signed LOS
25. Robert Sokol	631 OFarrell Street, #714 San Francisco, CA 94109		Signed LOS
26. Christine Cordaro	73 Florentine St. San Francisco, CA 94112		Signed LOS
27. Victoria Corcel	1295 E Main Avenue Morgan Hill, CA 95037		Signed LOS
28. Prudence Carr	445, Wawona St, Apt., 326 San Francisco, CA 94116		Signed LOS
29. Erin Plum	1553 Foxfire Lane Bedford, VA 24523		Signed LOS
30. Paul Sedan	695 Wawona Street San Francisco, CA 94116		Signed LOS
31. Wylie Greig	1969 Barbara Drive Palo Alto, CA 94303		Signed LOS
32. Justin Barker	631 OFarrell Street San Francisco, CA 94109		Signed LOS
33. Susan Touchstone	1808 Pacific Avenue, Apt. 704 San Francisco, CA 94109		Signed LOS
34. Eric Garrett	680 Mission St. San Francisco, CA 94105		Signed LOS
35. Laura Timmons	88 Rheem Blvd. Orinda, CA 94563		Signed LOS
36. Charles Brigham	531 Main Street, Apt. 1411 New York, NY 10044		Signed LOS
37. KathrynL Wood	631 OFarrell St., 416 San Francisco, CA 94109		Signed LOS
38. Kathryn Shockency	2031 Victoria Drive Fullerton, CA 92831		Signed LOS
39. Luther Patenge	635 Ellis Street, Apt 401 San Francisco, CA 94109		Signed LOS
40. Ann Elise Emerson	24509 Portola Avenue Carmel, CA 93923		Signed LOS
41. Kristin Messer	1478 32nd Avenue San Francisco, CA 94122		Signed LOS
42. Floyd Martinez	515 OFarrell Street, #72 San Francisco, CA 94102		Signed LOS
43. Peter Fletcher	112 Centre Court Alameda, CA 94502		Signed LOS
44. Thomas Vavrina-Flores	631 Ofarrell St. San Francisco, CA 94109		Signed LOS

45. Antje Dollny	99 Robinhood Dr. San Francisco, CA 94127		Signed LOS
46. Nancy Sedan	695 Wawona St. San Francisco, CA 94116		Signed LOS
47. Jorge Perez	195 Lunado Way San Francisco, CA 94127		Signed LOS
48. Mary Ann Cahill	445 Wawona Street, #305 San Francisco, CA 94116		Signed LOS
49. Donna Fletcher	112 Centre Court Alameda, CA		Signed LOS
50. Richard Kaplan	62A Divisadero St. San Francisco, CA 94117		Signed LOS
51. Cheryl Kerzman	6016 Tamarac Avenue Edina, MN 55436		Signed LOS
52. Laura Ramirez-Gonzalez	1151 Harbor Bay Parkway, Suite 139 Alameda, CA 94502		Signed LOS
53. Nancy Anderson	3255 Sacramento St. San Francisco, CA 94115		Signed LOS
54. Mary Forte	3261 Blandon Rd. Oakland, CA 94605		Signed LOS
55. Allison Kephart	1162 Barcelona Dr. Pacifica, CA 94044		Signed LOS
56. Mary Clarke	3999 Auburn Dr. Minnetonka, MN 55305		Signed LOS
57. Susan Parsons	8300 SW Shenandoah Way Tualatin, OR 97062		Signed LOS
58. Patricia Kephart	1162 Barcelona Dr Pacifica, CA 94044		Signed LOS
59. Gretchen Barley	2373 California St. San Francisco, CA 94115		Signed LOS
60. Sergio Gonzalez	201 Rome St. San Francisco, CA 94112		Signed LOS
61. Carol Chamberlin	22 Sandpiper Pl. Alameda, CA 94502		Signed LOS
62. Luis Pine	1322 47th Ave. San Francisco, CA 94122		Signed LOS
63. Christie Naranjo	1306 Ridgeview Terrace Fullerton, CA 92831		Signed LOS

64. Joanna Katz	4024 Loma Vista Ave. Oakland, CA 94619		Signed LOS
65. Kristy Holch	855 El Camino Real 13a, Suite 13a-350 Palo Alto, CA 94301		Signed LOS
66. Julia Eunice King	3835 Granite Way Wellington, NV 89444		Signed LOS
67. Nicholas Warwick	1188 Union St., Apt. 1 San Francisco, CA 94109		Signed LOS
68. Christopher Ketcham	1604A Grove St. San Francisco, CA 94117		Signed LOS
69. Sherry Ketcham	1604A Grove St. San Francisco, CA 94117		Signed LOS
70. Raymond Barbour	PO Box 590311 San Francisco, CA 94159		Signed LOS
71. Julie Hansen	1395 Golden Gate Ave., 507 San Francisco, CA 94115		Signed LOS
72. Dana Laird	354 West Kinnear Place Seattle, WA 98119		Signed LOS
73. Carl Vanos	1604A Grove St. San Francisco, CA 94117		Signed LOS
74. Edwin Laird	354 West Kinnear Place Seattle, WA 98119		Signed LOS
75. Lynda Howard	lyndahoward@icloud.com		Signed LOS
76. Kristin Brigham	531 Main Street #1411 New York, NY 10044		Signed LOS
77. Steve Pepple	1541 Sacramento Street, Apt 4 San Francisco, CA 94109		Signed LOS
78. Sally Richardson	1464 Wessyngton Road NE Atlanta, GA 30306		Signed LOS
79. William Bruegmann	2255 Contra Costa Blvd. #305 Pleasant Hill, CA 94523		Signed LOS
80. Marthe Murray	2909 Adams Street Alameda, CA 94501		Signed LOS
San Francisco Housing Action Coalition Support			

81. Corey Smith	San Francisco Housing Action 95 Brady St. San Francisco, CA 94103 corey@sfhac.org	Deputy Director	Signed LOS
82. Brittany O'Donnell			Signed LOS
83. David Ivan			Signed LOS
84. Amelie Crowe			Signed LOS
85. Shoshana Raphael			Signed LOS
86. Townsend Walker			Signed LOS
87. Aaron Beitch			Signed LOS
88. Roan Kattouw			Signed LOS
89. Jorge Silva			Signed LOS
90. Andrew Morcos			Signed LOS
91. Judy Hao			Signed LOS
92. Patrick Gaarder			Signed LOS
93. Krista Raines			Signed LOS
94. Kristen Berman			Signed LOS
95. Scott Ward			Signed LOS
96. Temperance DuKayne			Signed LOS
97. Andrew Haven			Signed LOS
98. DJ Capobianco			Signed LOS
99. Jiwoo Song			Signed LOS
100. Nishant Kheterpal			Signed LOS
101. Christina Salehi			Signed LOS
102. Pamela Dubier			Signed LOS
103. Kasey Wooten			Signed LOS
104. Andrew Seigner			Signed LOS
105. Brian Stone			Signed LOS
106. Lizzie Siegle			Signed LOS
107. Laimonas Turauskas			Signed LOS

108.	Matthew Stachler			Signed LOS
109.	Anthony Fox			Signed LOS
110.	Brett Byron			Signed LOS
111.	Claire Shoun			Signed LOS
112.	Mike Skalnik			Signed LOS
113.	Spencer Sherwin			Signed LOS
114.	Yekaterina Oliner			Signed LOS
115.	Drew Oliner			Signed LOS
116.	Joey Isaacson			Signed LOS
117.	Christopher Makarsky			Signed LOS
118.	Robyn Leslie			Signed LOS
119.	Zachary Everett			Signed LOS
120.	Neoshi Chhadva			Signed LOS
121.	Alexander Best			Signed LOS
122.	David Broockman			Signed LOS
123.	My Tran			Signed LOS
124.	Philip Levin			Signed LOS

11.0 EMAIL UPDATES

A database of interested parties is maintained and up-to-date project information is provided on an ongoing basis.

12.0 SOCIAL MEDIA COVERAGE

The project team created a Facebook page and YouTube channel to share project updates and community meeting recordings. From June 10 through June 22, the project team posted four Facebook ads announcing the June 22nd virtual community meeting for the 450 O'Farrell project. The ads received a total of 337 link clicks and 10,316 impressions, making our average engagement rate about 3.25%. This is higher than the average engagement rate of Facebook ads which generally hovers around 1-2%. As a result, the project team saw an increase in the number of attendees at our June 22nd community meeting with 25 people in attendance, which is the highest number of attendees out of the community meetings held on the project this year.

13.0 MEDIA COVERAGE

There have been three articles in the San Francisco Business Times on the proposed project. Copies of the new coverage are provided in Appendix F.

EXHIBIT D

450 O'Farrell Project Analysis
August 12, 2021
Allan Parnell, Ph.D.

If the appeal of the Conditional Use Permit for the 450 O'Farrell Project is granted, it will disproportionately and significantly reduce access to affordable housing in San Francisco for African American and Latino households relative to White households.¹ This conclusion is based comparisons the proportions of African American, Latino, and White households with incomes between \$23,088 and \$51,300, the income range that qualifies for Below Market Rate (BMR) Group Quarters rates in San Francisco. The 450 O'Farrell Project will have 48 affordable units that will be rented to households with incomes in this range.

Data

Income data for this analysis are from the 2019 American Community Survey (ACS) specific to San Francisco. 2019 is the most recent income data available. The ACS is the primary Census Bureau Survey used to collect economic, social, and housing data. I use tables of household income for African Americans (Table 19001B), Non-Latino Whites (Table 19001H), and Latinos (Table 19001I). I accessed the data at <https://data.census.gov/cedsci/>.

Information on the income range for eligibility in the BMR Group Quarters housing are from the *Inclusionary Affordable Housing Program Monitoring and Procedures Manual*, Mayor's Office of Housing and Community Development, City and County of San Francisco, from the *2021 Maximum Monthly Rent by Unit Type for MOHCD Inclusionary Housing BMR Program*, San Francisco Mayor's Office of Housing and Community Development, and from the

¹ Throughout this report, White refers to Non-Latino White.

2021 Maximum Incomes by Household Size, San Francisco Mayor's Office of Housing and Community Development.

Methodology

The basic methodology is to compare the percentages of African American, White, and Latino households with incomes eligible for renting at the 450 O'Farrell Project.

The BMR rental rates and incomes are derived from the three Office of Housing and Community Development documents referred to above. First, I use the 55% AMI Studio category from the *2021 Maximum Monthly Rent by Unit Type for MOHCD Inclusionary Housing BMR Program*, a rent of \$1,283. Second, I take 75% of that rent based on the new legislation that was enacted for Group Occupancy Units.² This gives a monthly rent of \$962. Based on the City's policies, the minimum qualifying income for this unit is twice \$962 or \$1,924, an annual income of \$23,088. Third, I use the maximum qualifying income for this type of unit, which is 55% of the Area Median Income (AMI) as the City calculates it, or \$51,300.³ Thus the income range to be eligible for the proposed units is between \$23,088 and \$51,300.

The ACS income tables give the number of households in income categories (e.g., \$20,000 to \$24,999). The minimum and maximum income limits fall within one of the ACS household income categories. To allocate households within the income eligibility range, I calculate the point at which the income limit falls and then divide the number of households. For the minimum income limit of \$23,088, I take the proportion that \$3,088 is of the \$5,000 interval

² "For certain BMR Units that are considered "Single Room Occupancy" and Group Housing units, however, the rent is based on 75% the rent of a studio unit." *Inclusionary Affordable Housing Program Monitoring and Procedures Manual*, Mayor's Office of Housing and Community Development, City and County of San Francisco, page 46.

³ *2021 Maximum Incomes by Household Size*, San Francisco Mayor's Office of Housing and Community Development

$3,850/5,000=.6176$. I then subtract that from 1 to get the proportion with incomes between \$23,088 and \$29,999 and multiply that by the number of households in the \$25,000-\$29,999 income category. Assuming an even distribution of household incomes across the category, this procedure gives an estimate of households with incomes between \$23,088 and \$29,999. Following a similar process, I determine the proportion and number of households with incomes between \$50,000 and \$51,300. I can now calculate the number of households with incomes between \$23,088 and \$51,300 by adding the calculated number in these ranges with the numbers in the other income categories (\$30,000-\$34,999, \$35,000-\$39,999, \$40,000-\$44,999, and \$45,000-\$49,999).

Once I calculate the number of households in the income range, I calculate the percentages of African American, White, and Latino households that are income eligible.

Results

Table 1 shows the results of the comparison. 21.9% of African American households have incomes in the eligibility range, compared with 8.2% of White households. To determine statistical significance of the racial disparities, I use the Z test for two proportions, the standard statistical test to address this type of comparison. The Z score of 60.7 shows that these differences are statistically significant at the $p < .0001$ level. That is, the differences could be the result of a random process rather than being real differences less than one in ten thousand times. The disparity ratio shows that the percentage of African American households in the income eligibility range is 2.6 times greater than white households at this income level. 15.8% of Latino households have incomes in the eligibility range, a percentage 1.9 times greater than white

households in the eligibility range. The difference between Latino households and white households at this income level are statistically significant ($Z=47.6$).

Conclusion

If the appeal of the Conditional Use Permit for the 450 O'Farrell Project is granted, it will disproportionately and significantly reduce access to affordable housing for African American and Latino households relative to White households. The 450 O'Farrell Project will have 48 affordable units that will be rented to households with incomes between \$23,088 and \$51,300. There are significantly higher percentages of African American and Latino households in San Francisco than white households with incomes in the range that make them eligible for housing at the 450 O'Farrell Project. The substantive scale of the differences is shown in the disparity ratios. All of the differences are statistically significantly at $p < .0001$.

Table 1: Comparison of Households with Incomes Between \$23,088 and \$51,300, San Francisco

	African American	White	Latino
Total Households	20,544	174,249	42,704
Income Eligible	4,387	14,208	6,760
Percentage	21.4%	8.2%	15.8%
Disparity Ratio	2.6		1.9
Z	60.7*		47.6*

* Statistically significant at $p < .0001$. White is Non-Latino White. Income data are from the 2019 American Community Survey accessed at <https://data.census.gov/cedsci/>.

CURRICULUM VITAE

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Education

Ph.D. University of North Carolina at Chapel Hill, 1987 (Sociology).
M.A. University of North Carolina at Chapel Hill, 1982 (Sociology).
A.B. University of North Carolina at Chapel Hill, 1976, (Geography) with Honors.

Professional Experience

President, McMillan and Moss Research, Inc. 1998-current.

Vice-President and Research Director, Cedar Grove Institute for Sustainable Communities, 2001-current.

Senior Fellow, Frank Hawkins Center of Private Enterprise, University of North Carolina at Chapel Hill, 2014-present.

Adjunct Instructor, University of North Carolina Law School, January 2005-2007.

Research Associate, Carolina Population Center, University of North Carolina at Chapel Hill, 1998-2004.

Assistant Professor, Department of Sociology, and Senior Fellow, Center for Demographic Studies, Duke University. 1990-1998.

Visiting Scholar, Carolina Population Center, University of North Carolina at Chapel Hill, 1989-1990.

Research Associate, Committee on Population, National Academy of Sciences. Washington, DC. 1988-1989.

Visiting Research Associate, East-West Population Institute, East-West Center and Visiting Assistant Professor of Sociology, University of Hawaii, Honolulu, Hawaii. 1987.

Publications

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“Demographic Trends in the South” NAACP LDF, Airlie, VA., October 12, 2012.

“Disparate Impact Theory, Housing and Civil Rights,” National Legal Aid and Defenders Litigation Directors Meeting, Austin, TX, July, 2012.

“Disruptive Demographics: Implications for K-12 Education.” Summer Leadership Conference, Western Region Education Services, Alliance, Asheville, NC, June 2012.

“Disruptive Demographics and the American South, James H. Johnson, Jr. and Allan M. Parnell, University of North Carolina. FEDEX Global Education Center, Future of the South, April, 2012.

“Evidence in Support of Disparate Impact Claims,” National Legal Aid and Defenders, Washington, D.C., December, 2011.

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“Uses of Census Data in Housing Litigation.” National Legal Aid and Defenders, Chicago, July, 2010.

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“Kennedy v. Zanesville: Legal and Expert Issues in a Landmark Civil Rights Case.” Reed Colfax and Allan M. Parnell, University of North Carolina School of Law. April 13, 2009.

“Exposing Invisible Fences: GIS Analysis in Civil Rights Litigation.” Department of Sociology, University of Illinois-Champaign-Urbana, March 13, 2009.

“Kennedy v. Zanesville: Successful Application of GIS Analysis in Civil Rights Litigation.” Presented at Housing Justice Network Annual Meeting. Washington, D.C. December 14, 2008.

“Local Political Geography and Institutionalized Racial Inequality.” Department of Sociology, University of Oklahoma. October 31, 2008.

“(Un)Safe at Home: The Health Consequences of Sub-standard Farm Labor Housing” Don Villarejo, Marc Schenker, Ann Moss Joyner, Allan M. Parnell. Commissioned by California

Rural Legal Assistance and The California Endowment, Presentation at The Rural Justice Forum, Los Angeles, October 27, 2008.

“Demographic Trends in North Carolina: Diversity and Aging.” Wake Partnership for Education, Raleigh, N.C., October 13, 2009.

“People on the Move: Implications for Health Care.” ACS Healthcare Solutions Trendsetters Conference, Amelia Island, FL., September 26, 2008.

“Mapping Inequality” California Rural Legal Assistance Plenary Presentation, Monterrey, CA. May 5, 2009.

“Spatial Inequality.” Northwest Justice Project, Seattle, April 28, 2008.

“Mapping the Changing Racial Ecology of a Small American City: Methodological Lessons from Landscape Ecology” Allan M. Parnell, Ben Marsh, and Daniel Lichter. Presented at the Annual Meetings of the Association of American Geographers, Boston, 2008.

“Local Political Geography and Institutionalized Racial Inequality” Center for Social and Demographic Analysis, University at Albany, SUNY March 14, 2008.

“Local Political Geography and Institutionalized Racial Inequality” University of North Carolina Center for Urban and Regional Studies, Chapel Hill, N.C. November 2, 2007.

“Local Political Geography and Racial Residential Segregation” Southern Demographic Association Annual Meeting, Birmingham, AL., October 13, 2007.

“Applications of GIS: Municipal Underbounding,” 2006 Hispanic Bar Association Meeting, San Francisco, September 1, 2006.

“GIS Application in Civil Rights,” National Legal Aid and Defenders Litigation Directors Conference, Snow Bird, Utah, June 2, 2006.

“Assessing the Effectiveness of Section 5 Pre-clearance of Annexations in North Carolina” Allan M. Parnell, Ben Marsh and Anita S. Earls. Presented at Voting Rights Research Initiative Conference, Warren Institute, University of California Law School, Washington, DC. February 12, 2006.

“Racial Residential Segregation in Small North Carolina Towns,” Carolina Population Center, University of North Carolina at Chapel Hill, November 17, 2005

“Gerrymandering Racial Residential Segregation” Center for Urban and Regional Analysis, Ohio State University, May 13, 2005.

“The Persistence of Political Segregation: Racial Underbounding in North Carolina.” Allan M. Parnell, Ann Moss Joyner, Ben Marsh and Carolyn J. Christman, Presented at Invisible Fences Conference, University Of North Carolina Law School, Chapel Hill, November 12, 2004.

"Medicare and Longevity in International Perspective" William H. Dow and Allan M. Parnell, Max Plank Institute for Demographic Studies, Rostock, Germany. October 1, 2003.

"Addressing Racial Disparities in Local Government Actions," Presentation to the University of North Carolina School of Law Center for Civil Rights Annual Board Meeting, April 8, 2003.

"Annexation and Racial Exclusion," Ann Moss Joyner and Allan Parnell. University of North Carolina Institute of Government, December 9, 2003.

"Racial Exclusion: The Case of Mebane, North Carolina," Board Meeting of the UNC Law School Center of Civil Rights, April 18, 2003.

"The North Carolina State Abortion Law as a Natural Experiment," Allan Parnell and S. Philip Morgan. Presented at the Annual Meeting of the Population Association of America, New York. 1999.

"Changes in Abortion Funding and Pregnancy Outcomes," Allan M. Parnell, Philip Cook, Michael Moore and Deanna Pagnini. Presented at the 1996 Annual Meeting of the Population Association of America, New Orleans, La.

"The Functional and Health Status of Older Australian Couples," Allan M. Parnell, Max A. Woodbury and Gary R. Andrews. Presented at the 1995 Annual Meeting of the Gerontological Society of America, Los Angeles, Ca. and the Annual Meeting of the Southern Demographic Association, Richmond, Va.

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"Application of Individual-Level Multistate Models with Union Histories," Seminar in the Department of Demography, Australia National University, July 22, 1995.

"Multistate Union Models in the United States and Canada," with Carol J. Patterson. Presented at the 1993 Annual Meeting of the Population Association of America, San Francisco, Ca.

"Applications of Grade of Membership Models in Family Demography," Carolina Population Center Seminar, January 12, 1995.

"Family Patterns of Health and Functional Ability," Allan M. Parnell George C. Myers and Carol J. Patterson. Presented at the AHEAD Early Results Workshop, ISR, Ann Arbor, MI. Oct 11, 1994.

"Third World Population Growth and U.S. Security." Allan M. Parnell and Robert Gardner. Presented at the Navy and Marine Intelligence Training Center, Virginia Beach, VA., August 22, 1994.

"Conservative Religion and Family Formation," with John Wilson, Allan M. Parnell and Deanna Pagnini. Presented at the Annual Meeting of the Southern Sociological Society, Raleigh, N.C. 1994.

"Multistate Models of Union Histories in Canada," Allan M. Parnell, Carol J. Patterson. Presented at the Annual Meeting of the Southern Sociological Society, Raleigh, N.C. 1994.

"Methods of Family Demography," Presented at the Russian Academy of Mathematics and Economics, St. Petersburg, Russia, January 7, 1994.

"Informal Support Among the Elderly in Australia," Allan M. Parnell, Deanna Pagnini and Gary Andrews. Presented at the Annual Meeting of the Gerontological Society of America, New Orleans, LA. 1993.

"Union Stability in Canada," Allan M. Parnell, V.S. Thomas and G. O'Neill. Presented at the Annual Meeting of the Population Association of America, Cincinnati, Ohio. 1993.

"Nonmarital Cohabitation in Canada," Allan M. Parnell, G. O'Neill and V.S. Thomas. Presented at the Annual Meeting of the Southern Demographic Association, Charleston, S.C. 1992.

"Cohort Succession Prospects: A Cross-National View," George C. Myers and Allan M. Parnell. Presented at the 1992 Intercongress Meeting of the Committee on Aging of the International Sociological Association. Stockholm. 1992.

"Women's Work and Breastfeeding in Ghana: An Analysis of the Ghana Demographic and Health Survey." Kofi D. Benefo and Allan M. Parnell. Presented at the Demographic and Health Survey World Conference, August 5, 1991, Washington, DC. 1988.

"Health Consequences of Family Planning Programs," Presented at the Fellows Seminar, Population Reference Bureau, June 18, 1989.

"Family Planning and the Health of Women and Children in the Developing World," Presented at Bucknell University, April 6, 1989.

"Remarriage in Tangshan: Social Response to a Natural Disaster," Dai Kejing, Chen Xiangming and Allan M. Parnell. Annual meeting of the Southern Sociological Society, Nashville. 1988.

"How Important is Marriage, Anyhow?" Ronald R. Rindfuss and Allan M. Parnell. Annual meeting of the Population Association of America, San Francisco, California. 1986.

"Delayed Childbearing Among Malaysian Chinese: A Deviation Within the Chinese Fertility Pattern," Allan M. Parnell and Roger Nemeth. Paper presented at the annual meeting of the Canadian Population Society, Ottawa, Ontario. 1982.

From: [Kristin Brigham](#)
To: [Board of Supervisors, \(BOS\)](#); [David Murray](#); alexander@forgeddevelopmentpartners.com; [Jessica Jones](#); [Haney, Matt \(BOS\)](#)
Cc: [Kristin Brigham](#); [Patricia Kephart](#); [Ela Strong](#)
Subject: 450 O'Farrell Church and Essential Housing Project.
Date: Thursday, August 26, 2021 10:20:52 AM
Attachments: [SF supervisors aug26 2021.docx](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

The attached MS Word document is in support of the
450 O'Farrell Church and Essential Housing Project.

Please call me immediately if you cannot open this **.docx** word document.

KRISTIN BRIGHAM
415-770-2979

August 26,2021

Board.of.Supervisors@sfgov.org
David.murray08@gmail.com
alexander@forgedevelopmentpartners.com
jessica@craig-communications.com
Matt.Haney@sfgov.org

Dear Board of Supervisors and Planning Commission,

I am writing to support and urge you to adhere to the decision approving the building project located on O'Farrell Street sponsored by Fifth Church of Christ Scientist, "**450 O'Farrell Church and Essential Housing Project**". I served for many years as the Vice President of the Executive Board at Fifth Church where I was responsible to review the proposals, plans, contracts, designs, financing and other documents for this project. This was during 20 years as a member. I attended public meetings held by the Planning Commission and on-line recent hearing.

As the project has already been approved and this approval has now been contested I am giving you my informed and experienced input. There has been ample, if not excessive, opportunity for the community to modify, agree with, provide recommendations, study, approve, refute etc. the various solutions and modifications and compromises made by the church to the plans over approximately 30 years. The Tenderloin has languished in degradation, danger, drug dealing etc. It is desperate for solutions. We must move on now to innovative solutions.

Affordable housing and need for relief from the conditions in the Tenderloin is clear. The approved plan (which incorporates neighborhood recommendations) will benefit seniors and San Francisco minimum/lower wage households and, so importantly, parents who can take advantage of the new grade school and cultural resources of our beautiful city. Many of these families have both parents working in the City. These workers are spending precious time commuting long distances often on multiple public transports. The cost of BART, MUNI, Ferry and East Bay buses devour from 10% to 20% of a day's pay. One-way BART Dublin to Civic Center is \$7.10 per adult, \$3.30 per child over 5 or, two-way, \$20.80 - for five days about a weeks cost for food. What time is left over for help with homework? Family time? Rest? Recreation?

An important consideration is that many of the different cultures of workers have lifestyles with strong social traditions of family and community and who use and welcome communal kitchens, venues and gathering rooms to celebrate and get together. This will provide needed company and enrichment opportunities for senior people who are alone. We see so many large groups having a great time cooking and playing in parks all the time.

The sizes of the apartments are enough to feed and care for individuals and families in privacy and safety. San Francisco should be at the forefront of housing innovation. I have seen every objection over the years. Frankly this transformative project should be welcomed and embraced. Not everyone will ever be satisfied and it is time to act. PLEASE maintain the approval. It is time. It is needed. It will help so many.

Respectfully and with the best of will,

Kristin Brigham 531 Main Street #1144, New York, NY 10044 415-770-2979
krisbrigham@gmail.com

From: [Antje Dollny](#)
To: [Board of Supervisors, \(BOS\)](#)
Cc: [david Murray](#); [Alex Zucker](#); [Jessica Jones](#)
Subject: Support for 450 O'Farrell Essential Housing Project
Date: Thursday, August 26, 2021 10:17:26 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

To: The Clerk of the Board of Supervisors

cc: David Murray
Alexander Zucker
Jessica Jones

Subject: Support for 450 O'Farrell Essential Housing Project

Dear Honorable Board of Supervisors,

Please support the Fifth Church of Christ, Scientist and the 450 O'Farrell Essential Housing Project in San Francisco and vote NO on the appeal.

When I participated in my first Membership Meeting at Fifth Church of Christ, Scientist, about 35 years ago, and the issue of a new church building was discussed, great joy as well as urgency for this project was unanimously expressed by all members. The concept of support for our neighborhood by providing additional housing for families as well as for single working individuals was immediately accepted and approved. Today the housing needs in the Tenderloin are even greater than they were 35 years ago. I urge you again to support this project and bring this vitally important progress to our neighborhood and our much beloved City.

I understand that the project, which was recently approved by the Planning Commission, has been appealed. However, I feel that this project is vitally important and must be allowed to move forward, to benefit the people of the Tenderloin and of San Francisco.

I enthusiastically support this project and thank you in advance for your support and your commitment to providing much needed housing in San Francisco's neighborhoods.

Sincerely,

Antje Dollny

99 Robinhood Drive

San Francisco, CA 94127

antje.dollny@gmail.com

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Angela Calvillo,

Dear Honorable Board of Supervisors,

I am writing this letter to urge your support of the 450 O'Farrell Church and Essential Housing Project.

I understand the project, which was recently approved by the Planning Commission, has been appealed.

This is a vitally important project which must be allowed to move forward for the benefit of the residents of the Tenderloin in particular and San Francisco in general.

There is an urgent need for housing in the City and this project includes BMR housing for our most economically vulnerable populations.

The project has much support within the Tenderloin community itself and I would suspect that the recent appeal does not come from within the community.

I urge you to consider the needs of community over the desires of special interests.

Respectfully, I urge you to allow the Planning Commission's approval of this important project to stand.

Honorable Supervisors, please permit this urgently needed, innovative, and well-designed Essential Housing and Church project to move forward.

Sincerely,
Nancy Stiner
445 Wawona St. #309
San Francisco, CA 94116
ndsnpal@gmail.com
510 865-6919

Sincerely,
Nancy Stiner
ndsnpal@gmail.com
445 Wawona St #309 San Francisco, CA 94116 Constituent

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From: [Joanna Katz](#)
To: [Board of Supervisors, \(BOS\)](#)
Cc: [david.murray08@gmail.com](#); [alexander@forgedevelopmentpartners.com](#); [jessica@craig-communications.com](#)
Subject: Please allow the 450 O'Farrell Essential Housing Project to proceed
Date: Sunday, August 22, 2021 5:04:41 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Honorable Board of Supervisors,

Please support the 450 O'Farrell Church and Essential Housing Project. Though an appeal has been filed, the Planning Commission had all the essential information and the right idea when they approved the project in June. This project will bring vital, valuable shelter and services to the Tenderloin neighborhood and should definitely proceed.

I have attended church services and classes at the current edifice and I know how thoroughly and conscientiously this project has been researched and designed over many years. There is an essential teaching in Christian Science that "...whatever blesses one, blesses all..."([Science and Health with Key to the Scriptures](#), p. 206:15). The members of Fifth Church, San Francisco have taken this teaching to heart and devoted themselves to demonstrating that in renovating their old edifice, they can provide spiritual and humanitarian aid to their neighbors. This construction will be a remarkable blessing to the Tenderloin and **with no use of tax dollars**.

It is abundantly clear that San Francisco needs more housing. The 450 O'Farrell Project provides 316 Essential Housing unit apartments and 48 below market rate apartments for the most economically vulnerable populations. The amazing design is the result of a longtime collaborative effort. The church members and Forge Development partners canvassed the neighborhood multiple times, held 4 open community-wide meetings, and 42 other stakeholder meetings in the process of creating the inclusive, intelligent plan that was approved in June. Through community outreach and Planning Commission input, the project has even been redesigned significantly in the past year to include 28 larger family units, increased greenspace including planters for residents' rooftop gardens, bicycle parking, some balconies, improved community kitchens and common dining spaces. Quality of life for the residents and environmental impacts have been carefully considered as the design includes extensive solar panels and cutting edge water recapture systems for reduced utility costs to the users. There will also be the highest quality internet connectivity, air filtration and sound proofing installed with the structure.

I enthusiastically support this project, so I was present at the June 24th meeting. I was glad to hear that the San Francisco Interfaith Council is strongly in support of this project as a model that many other faith communities may be able to follow. I am sure the Board of Supervisors is aware that there are 800 properties operated by religious institutions in San Francisco, many of which would like to find ways to work with developers to revitalize their houses of worship while also ameliorating the housing situation in San Francisco. 450 O'Farrell is a shining example of how this is possible. This is a monumental charitable undertaking bringing

dignity, health, and security to many of the city's residents. The impact will be felt not only in the Tenderloin, but potentially many other neighborhoods in the city where congregations have property to spare and share.

Respectfully, I urge you to permit this much-needed, innovative, and well-designed Essential Housing and Church project to move forward!

Sincerely,

Joanna Katz

4024 Loma Vista Avenue, Oakland, CA 94619

joannakatz4@gmail.com

510-225-8059

From: [Susan Parsons](#)
To: [Board of Supervisors, \(BOS\)](#)
Cc: [David.murray08@gmail.com](#); [alexander@forgeddevelopmentpartners.com](#); [jessica@craig-communications.com](#); [Patty](#)
Subject: Support 450 O'Farrell Church and Essential Housing Project - vote NO on appeal
Date: Saturday, August 28, 2021 5:33:40 PM

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Dear Board of Supervisors,

I've visited San Francisco and the church at 450 O'Farrell many times over the past 25 years and urge you to **support the 450 O'Farrell Church and Essential Housing Project and vote NO on the appeal.**

We all join in the desire to see progress in the living conditions in the Tenderloin. How heartening it is to see the 450 O'Farrell project that helps meet that goal! I attended (via Zoom) two of the four informational meetings with Q&A held for the public. The presentations were thorough and responses to questions from the public were made with professionalism and respect.

One development project cannot solve all housing needs. The well-designed 450 O'Farrell Project addresses the need for work-force housing for over 600 people. And it provides housing where currently there is none.

I find it highly commendable that a group of citizens—the church community—at their own initiative are doing what they can with their property to contribute to the solution of the housing and safety problems of their neighborhood, while continuing their ministry. Here's to more of that community spirit in your loved City!

Please support this project and vote NO on the appeal.

Susan Parsons
Tualatin, Oregon
sue.parsons@comcast.net

From: [Christopher Ketcham](#)
To: [Board of Supervisors \(BOG\)](#)
Subject: My Support for the 450 O'Farrell Church and Essential Housing Project
Date: Friday, August 27, 2021 12:52:40 PM

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Re: My Support for the 450 O'Farrell Church and Essential Housing Project

Dear Angela Calvillo,

Dear Honorable Board of Supervisors,

As a resident and business owner in the city of San Francisco, I strongly encourage you to push this project forward. Not only will this project provide lower income housing it will help rejuvenate a part of the city that is greatly needing investment. If you look around the area where I live, NOPA, you will find that it is nearly impossible to find affordable housing. Let this team of experts help the city through our housing crisis and encourage more like minded people to keep projects like this one on track!

There's another angle to this project that directly impacts my business. The 5th Church of Christ, Scientist has been a client of our firm for over 50 years. As they move into the next phase of their life as a church, our firm and our employees look to benefit from this project. As the last remaining pipe organ builder in the city of San Francisco, Swain & Kates will turn parts of the existing instrument into a glorious new instrument for the congregation. This project will provide manufacturing jobs in the city of San Francisco, by the residents of San Francisco, for the residents of San Francisco and surrounding areas. As a result, it will provide tax revenue to the city of San Francisco.

I encourage you to think about all the positive aspects this project brings to the city and specifically to the Tenderloin. Rejuvenation, beauty, faith, music, affordable housing, and jobs. Thank you for considering this project. It's a high priority for our firm and we hope it's a high priority for the Board.

Sincerely,
Christopher Ketcham
stratocruiser377@yahoo.com
1604A Grove Street San Francisco, CA 94117 Constituent

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From: [V Corcel](#)
To: [Board of Supervisors, \(BOS\)](#)
Subject: 450 O'Farrell
Date: Friday, August 27, 2021 12:41:50 PM

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Dear Members of the San Francisco Board of Supervisors:

I am writing to you in support of the 450 O'Farrell Church and Essential Housing project. When I first heard of the project some years (yes, years!) ago, I was both moved and excited by the project. I was moved by the selfless and creative solution to church AND the need for affordable mid-income housing. I was also excited for a fresh new model for cutting edge housing for the 21st Century.

As populations grow, and space for humankind shrinks, we need and want spaces with multiple use areas that conserve space and yet are functional. The apartments proposed do all of this in an environmentally, healthy, and functional way.

This little church has been a model of perseverance and faithfulness. Love has been their guiding light. I am not a member of this church, but have visited on occasion. I have found its members loving and of good character. They are an asset to the community in which they reside. But, they are small.

Ladies and gentlemen, I trust that you are in the position you are, because you care about the city of San Francisco and its people, and to perhaps stand up for those who can't be as loud as the vocal special interest groups. This project has a legal and moral right to continue, and I encourage you to look into your hearts and support what is good and right, and stop these seemingly endless cycles of delays and postponements---not only for the 450 O'Farrell project, but for future projects to come.

Thank you for your service to the City of San Francisco.
With heartfelt gratitude,

Vicki Corcel

From: [Cary Bohl](#)
To: [Board of Supervisors, \(BOS\)](#)
Cc: [David Murray](#); alexander@forgedevloppmentpartners.com; jessica@craig-communications.com
Subject: 450 O'Farrell Church and Essential Housing Project
Date: Friday, August 27, 2021 9:30:06 AM

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Dear Members of the Board of Supervisors of the City and County of San Francisco,

I am writing in support of the 450 O'Farrell Church and Essential Housing Project. I was saddened by the news that this project, which was approved by the Planning Commission, has now been appealed.

I have friends and family in San Francisco and love this special city. I am well aware of the tragic lack of affordable housing in and around the area and the sad reality of so many people living homeless or in fear of not being able to pay rent. Essential housing is in a dire state of deficiency in many parts of this country, but particularly in San Francisco, and this creative project represents an important and exciting step in beginning to meet this need. How exciting to have such an attractive and state-of-the-art plan ready and willing to locate itself in the Tenderloin! I respectfully encourage you to support this important project and allow the Planning Commission's approval to stand so that the 450 O'Farrell Church and Essential Housing Project may move forward.

Sincerely,
Cary M Bohl
Murrysville, PA

From: [John Prousal](#)
To: [Board of Supervisors, \(BOS\)](#)
Subject: My Support for the 450 O'Farrell Essential Housing Project
Date: Friday, August 27, 2021 8:25:17 AM

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Re: My Support for the 450 O'Farrell Essential Housing Project

Dear Angela Calvillo,

Sincerely,
John Promani
john@craig-communications.com
70 Washington Street, Suite 425 Oakland, CA 94607 Constituent

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From: [John Promani](#)
To: [Board of Supervisors - BOD](#)
Subject: My Support for the 450 O'Farrell Church and Essential Housing Project
Date: Friday, August 27, 2021 8:24:23 AM

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Re: My Support for the 450 O'Farrell Church and Essential Housing Project

Dear Angela Calvillo,

Sincerely,
John Promani
john@craig-communications.com
70 Washington Street, Suite 425 Oakland, CA 94607 Constituent

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From: [Paul Sedan](#)
To: [Board of Supervisors, BOS](#)
Subject: My Support for the 450 O'Farrell Church and Essential Housing Project
Date: Friday, August 27, 2021 8:24:19 AM

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Re: My Support for the 450 O'Farrell Church and Essential Housing Project

Dear Angela Calvillo,

Dear Honorable Board of Supervisors,

It is essential that the 450 O'Farrell Church and Essential Housing Project go forward. As you know our city needs more affordable housing which this project will provide.

Sincerely, Paul Sedan

Sincerely,
Paul Sedan
psedan@gmail.com
695 Wawona Street San Francisco, CA 94116 Constituent

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From: [Charles Brigham](#)
To: [Board of Supervisors, \(BOS\)](#)
Subject: My Support for the 450 O'Farrell Church and Essential Housing Project
Date: Friday, August 27, 2021 8:24:18 AM

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Re: My Support for the 450 O'Farrell Church and Essential Housing Project

Dear Angela Calvillo,

Dear Honorable Board of Supervisors,

This project will provide a much needed improvement to the neighborhood which has been neglected for decades. As a young male growing up in the area it has really needed a project that could bring positive resources to a depressed environment and allow a newness and change that is desperately needed. The status quo is not an option.

Sincerely,
Charles Brigham
brighcharles@gmail.com
191 robinhood dr San Francisco, CA 94127 Constituent

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From: [Floyd Martinez](#)
To: [Board of Supervisors, \(BOS\)](#)
Subject: My Support for the 450 O'Farrell Church and Essential Housing Project
Date: Friday, August 27, 2021 8:24:10 AM

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Re: My Support for the 450 O'Farrell Church and Essential Housing Project

Dear Angela Calvillo,

Dear Honorable Board of Supervisors,

Essential Housing is a priority and much needed in The Tenderloin and for other folk who can't afford housing in San Francisco.

The blight of The Tenderloin needs to change. It's time for this neighborhood to be seen as respectable and a nice place to live.

I wish I could move into the new housing when it's complete.

Sincerely,
Floyd Martinez
remixx@pacbell.net
515 O'Farrell St #72 San Francisco, CA 94102 Constituent

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From: [Kristen Berman](#)
To: [Board of Supervisors, \(BOS\)](#)
Subject: My Support for the 450 O'Farrell Church and Essential Housing Project
Date: Friday, August 27, 2021 8:24:09 AM

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Re: My Support for the 450 O'Farrell Church and Essential Housing Project

Dear Angela Calvillo,

Dear Honorable Board of Supervisors,

For the last decade, I've worked in financial health helping California's low to moderate income citizens to build financial wellbeing. And it saddens me, as a San Francisco resident, to see that this project is being delayed. Housing is the number one expense for people, and we need to be offering affordable housing, and the number one way to do that is to offer housing. I, as a San Francisco resident, this project is incredible and that it offers units that have kitchens and bathrooms, and high quality safe housing for some of San Francisco's most vulnerable working families. I would be so saddened if this wouldn't go through and lose faith in our systems to help working families through this.

Sincerely,
Kristen Berman
kristen@irrationalabs.com
191 Haight St. San Francisco, CA 94102 Constituent

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From: [John Promani](#)
To: [Board of Supervisors, \(BOS\)](#)
Subject: My Support for the 450 O'Farrell Essential Housing Project
Date: Friday, August 27, 2021 8:24:08 AM

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Re: My Support for the 450 O'Farrell Essential Housing Project

Dear Angela Calvillo,

Sincerely,
John Promani
john@craig-communications.com
70 Washington Street, Suite 425 Oakland, CA 94607 Constituent

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From: [Sutton Murray](#)
To: [Board of Supervisors, \(BOS\)](#)
Subject: My Support for the 450 O'Farrell Essential Housing Project
Date: Friday, August 27, 2021 8:24:07 AM

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Re: My Support for the 450 O'Farrell Essential Housing Project

Dear Angela Calvillo,

Sincerely,
Sutton Murray
sutton.murray@gmail.com
759 14th Street San Francisco, CA 94114 Constituent

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From: [John Promani](#)
To: [Board of Supervisors, \(BOS\)](#)
Subject: My Support for the 450 O'Farrell Essential Housing Project
Date: Friday, August 27, 2021 8:24:03 AM

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Re: My Support for the 450 O'Farrell Essential Housing Project

Dear Angela Calvillo,

Sincerely,

John Promani

john@craig-communications.com

70 Washington Street, Suite 425 Oakland, CA 94607 Constituent

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From: [Mary Forte](#)
To: [Board of Supervisors, \(BOS\)](#)
Subject: Please allow the 450 O'Farrell Essential Housing Project
Date: Friday, August 27, 2021 8:11:45 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Honorable Board of Supervisors,

I am writing this letter to urge your support of the 450 O'Farrell Church and Essential Housing Project.

I understand the project, which was recently approved by the Planning Commission, has been appealed.

This project is vitally important and must be allowed to move forward, to benefit the people of the Tenderloin and San Francisco. This project excellently meets the needs of the Tenderloin community and San Francisco.

I enthusiastically support this project for the following reasons:

- San Francisco has an immediate need for housing. The 450 O'Farrell Church and Essential Housing Project allows San Francisco's Essential Working households to live in San Francisco. The project includes BMR housing for our most economically vulnerable populations.
- The Christian Science church is a global community of healers and our reason for church edifices is that in them people may worship.

Respectfully, I urge you to allow the Planning Commission's approval of this important project to stand.

Honorable Supervisors, I urge you to permit this urgently-needed, innovative, and well-designed Essential Housing and Church project to move forward!

Sincerely,

Mary Forte
3261 Blandon Road
Oakland, CA 94605
maryfforte@gmail.com

This is the day the Lord hath made, be glad, give thanks, rejoice!

From: [Susan Touchstone](#)
To: [Board of Supervisors, \(BOS\)](#)
Cc: [David Murray](#); alexander@forgedevelopmentpartners.com; jessica@craig-communications.com
Subject: Please allow the 450 O'Farrell Essential Project to be built
Date: Friday, August 27, 2021 7:00:02 AM

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Dear Honorable Board of Supervisors,

I urge you to support the 450 O'Farrell Church and Essential Housing Project and vote NO on the appeal.

Protecting the religious rights of your fellow San Franciscans and helping to solve San Francisco's housing crisis with 316 housing units for our low and middle income essential workers means voting No on this appeal. The project is vitally important and must be allowed to move forward to benefit all of San Francisco, but especially the people of the Tenderloin and the broader faith community. Please allow the Essential Housing and Church project to go forward.

What attracted me to Fifth Church of Christ, Scientist six years ago was not only its loving and healing atmosphere, but its desire to make a difference in the community that it has been a part of for almost 100 years. The compassion and embrace of the Tenderloin drew me to its open doors and to ultimate membership. A new and accessible Church sanctuary and Reading Room are necessary to continue its healing mission for the next 100 years - the mission that attracted me to this Tenderloin church location.

The 316 housing units to be built on underutilized church property are state of the art and urgently needed for our essential workers. Very few apartment buildings that I am aware of in SF offer the amenities that 450 O'Farrell does - from the roof-top garden to the environmental sustainability benefits to the creative and flexible design of each unit and, especially important, the sense of community that it engenders through in-house programs and permeates into the neighborhood. The phrase "dignity to the block" is often spoken when envisioning the completion of the project. And residents and businesses of the Tenderloin are longing for this sense of dignity.

Thank you in advance for your support of this project and your commitment to bettering the lives of the Tenderloin and thereby all of San Francisco, and to vote NO on the appeal.

Sincerely,

Susan R Touchstone
Fifth Church member
susanreedtouchstone@gmail.com
1808 Pacific Ave Apt 704
San Francisco, CA 94109

--

From: [Admin](#)
To: [Board of Supervisors, \(BOS\)](#)
Cc: [David Murray](#)
Subject: Dear Honorable Board of Supervisors:
Date: Sunday, August 22, 2021 2:54:55 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Honorable Board of Supervisors:

I have been a resident of the San Francisco community for over four years.

I am writing in support of the Church and residential housing project at 450 O'Farrell St.

I endorse the project for many reasons.

One of the main reasons is that it will provide housing for 314 working families who might otherwise be unable to afford living in San Francisco, where they work. Not only that, but the project can provide a community, which is so needed in The Tenderloin district. In addition, the project can offer a safe place and activities for the children of these families, not the least are after-school care and activities. I was a single working parent, and I know how important it is for families to feel their children are safe so they can work in the community for the community, unconcerned about the welfare of their children.

Furthermore, the project will not use any tax dollars.

The Church building itself will provide a quiet place for rest and study in its Reading Room, lending a spiritual and peaceful environment. A Sunday School for ALL the children is also part of the church building.

The units are designed to be environmentally friendly to the residents as well as the surrounding communities. Each unit is complete with a bathroom as well as a food prep area. They are designed to use well the space allotted. Additionally, they are designed for good air quality, water conservation, energy sustainability, and quality internet access; they are quiet, refined.

The project has worked amiably and effectively to make the changes recommended by the Planning Commission and other groups. They have been endorsed by other faith groups as well as a group in The Tenderloin

They have held many outreach meetings, to inform and invite input from the community. They have been good neighbors and will continue to do so, spiritually too, enhancing life in the neighborhood for themselves and others.

San Francisco has the reputation for daring to be different, of being innovative, and caring - and being able to carry it off. Surely, San Francisco can pull together now like the Three Musketeers declaring "one for all and all for one" and endorse this project.

I know this project was created for the right reasons, not only for the church, but also in the spirit of collaboration with the Planning Commission and for the benefit of all the community..

I know in my heart this project will bless this neighborhood as well as this wonderful, beautiful city and county community of San Francisco.

Thank you for your consideration of this declaration of support for the project at 450 O'Farrell Street.

Sincerely,

Mary Ann Cahill
445 Wawona St. #305
San Francisco, California 94116
(415) 342-4936
maryann-maryann@att.net

From: [Carl Vanos](#)
To: [Board of Supervisors \(BOB\)](#)
Subject: My Support for the 450 O'Farrell Church and Essential Housing Project
Date: Monday, August 30, 2021 2:13:24 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Re: My Support for the 450 O'Farrell Church and Essential Housing Project

Dear Angela Calvillo,

Dear Honorable Board of Supervisors,

I have resided in San Francisco since 1973. I support the proposed housing and 450 O'Farrell Church project. San Francisco is in dire need of additional housing, especially in this area of the City. I urge you to approve this project.

Sincerely,
Carl N. Vanos

Sincerely,
Carl Vanos
cnv@sbcglobal.net
1604A Grove St. San Francisco, CA 94117 Constituent

Prepared by OneClickPolitics (tm) at <https://avanan.url-protection.com/v1/url?o=www.oneclickpolitics.com&g=MDAwOGQ5ZGU1YmMyMGNiMg==&h=ZmNNTVlODFMDMjZjU5ZTFjZTBjZDk5ZmZlZGZlNGNiODhNGVmYTdmNTcwMmQwMTIhNgZlZmYmEiNTM1NA==&p=YXAuOnNmZHQyOmFZYW5hbjpwQjA2YWVhYjM0YWZlZjVhZTA4NGU2Ni45M2Q1MzNkY2IiOnYx>
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From: [del seymour](#)
To: [Board of Supervisors, \(BOS\)](#)
Cc: [David Murray](#); [Alexander Zucker](#); [Jessica Jones](#)
Subject: Support for 450 O'Farrell Essential Housing Project
Date: Monday, August 30, 2021 1:38:47 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Honorable Board of Supervisors,

I am writing this letter to urge your support of the Fifth Church of Christ, Scientist and Forge Development Partners 450 O'Farrell Essential Housing Project in San Francisco.

I understand the project, which was recently approved by the Planning Commission, has been appealed. However, I feel that this project is vitally important and must be allowed to move forward, to benefit the people of the Tenderloin and San Francisco.

San Francisco has an urgent need for housing. The 450 O'Farrell Church and Essential Housing Project allows the city's essential working households to live in San Francisco. The project includes BMR housing for our most economically vulnerable populations.

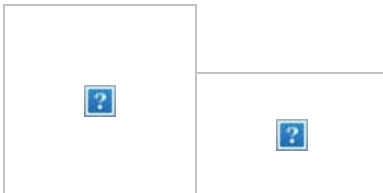
The project meets the needs of the Tenderloin community and San Francisco by building housing. Housing access and affordability is integral to the community health of the Tenderloin residents, people, workers, companies, and tourists. The dense neighborhoods need more available housing for everyone. I enthusiastically support this project.

Honorable Supervisors, I urge you to permit this urgently-needed, innovative, and well-designed Essential Housing and Church project to move forward!

Thank you in advance for your support of this project and your commitment to providing much needed housing in San Francisco's neighborhoods.

Sincerely,
Del Seymour
55 Taylor St. San Francisco, CA 94110
tlwalkingtours@gmail.com
415-574-1641

Del Seymour
Founder / Board Member



[CODE TENDERLOIN](#)
San Francisco, CA
m: 415-574-1641

Tenderloin Walking Tours Founder

City of SF Local Homeless Coordinating, Board Co-Chair

St. Francis TL HIP, Board Member

Swords To Plowshares, Director

Better Market Street Project Committee, Board Member

From: [Sally Richardson](#)
To: [Board of Supervisors, \(BOS\)](#)
Subject: Approval of 450 O'Farrell Essential Housing Project
Date: Monday, August 30, 2021 1:27:32 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

To: The Clerk of the Board of Supervisors

Dear Honorable Board Members,
Members of Fifth Church of Christ, Scientist San Francisco have lovingly labored for decades to benefit and bless the Tenderloin by supplying affordable housing, now for essential workers (both families and singles). What was once necessary has become urgent. The need for fair and economical housing for this workforce has greatly increased and will continue to expand rapidly in the future. The 450 O'Farrell Project is precisely tailored to help meet this fast-growing demand by using under-utilized church land to provide safe, efficient housing for these hard workers. Recently approved by the Planning Commission, the Project has now been appealed. Please allow the 450 O'Farrell Project to proceed.
PLEASE BE A HERO!
BE REMEMBERED AS A STATESMAN!
PLEASE DO WHAT'S RIGHT!
VOTE NO ON THIS APPEAL!
Most sincerely,
Sally Richardson

From: [William Bruegmann](#)
To: [Board of Supervisors, 2020](#)
Subject: My Support for the 450 O'Farrell Church and Essential Housing Project
Date: Monday, August 30, 2021 12:02:39 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Re: My Support for the 450 O'Farrell Church and Essential Housing Project

Dear Angela Calvillo,

Dear Honorable Board of Supervisors,

San Francisco desperately needs more housing. If you turn down a perfectly reasonable and responsible project like this one, it just makes the city more unaffordable and it undermines the long term viability of San Francisco. Please understand that this kind of project is exactly the kind of creative repurposing within a neighborhood that the city needs in order to remain vibrant and thrive.

Sincerely,
William Bruegmann
bill@bblaw.com
3396 La Caminita Lafayette, CA 94549 Constituent

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From: [Eric Garrett](#)
To: [Board of Supervisors \(BOB\)](#)
Subject: My Support for the 450 O'Farrell Church and Essential Housing Project
Date: Monday, August 30, 2021 11:39:56 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Re: My Support for the 450 O'Farrell Church and Essential Housing Project

Dear Angela Calvillo,

Dear Honorable Board of Supervisors,

I remain in support of 450 O'Farrell project. This will utilize the space, benefit the location with housing and a spiritual retreat Sincerely, Eric Garrett

Sincerely,
Eric Garrett
ericgarrett2shine@gmail.com
680 Mission San Francisco, CA 94105 Constituent

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From: [Christie Naranjo](#)
To: [Board of Supervisors - Board](#)
Subject: My Support for the 450 O'Farrell Church and Essential Housing Project
Date: Monday, August 30, 2021 11:39:28 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Re: My Support for the 450 O'Farrell Church and Essential Housing Project

Dear Angela Calvillo,

Dear Honorable Board of Supervisors,

As an occasional attendee of the 5th Church of Christ, Scientist, and a supporter of reasonable and affordable housing in the Tenderloin of San Francisco, I wholeheartedly support this project. Decades of love, dedication, prayer, and careful, selfless thought have gone into this project. This church seeks to share their property with the community in a meaningful way, where more essential workers, firefighters, teachers, nurses could actually afford to live in the city and not face the stress and wear of a daily work commute to this fine city. Please allow this project to move forward.

Best,

Christie Naranjo

Sincerely,
Christie Naranjo
christie.naranjo@gmail.com
1306 RIDGEVIEW TER Fullerton, CA 92831 Constituent

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[o=www.oneclickpolitics.com&g=ZaaMY2U5Z7EYy2VzTU4NQ=4kh=N6FJOWE3MWFnjig3YgFINGRIZDM2NZLZWfYmQ4MjM3ZDhMjM2ZDlmMTZLNhMhYWFlOWFmYjNkYWNSODg2MA=---&p=-YXAoOnNmZHQoOmF2YW5kbGpOjE5MDc3MjZmMzRlMWUwYTBJNGQwZTU0ZmUzMjg5NDVlOjYx](https://www.oneclickpolitics.com&g=ZaaMY2U5Z7EYy2VzTU4NQ=4kh=N6FJOWE3MWFnjig3YgFINGRIZDM2NZLZWfYmQ4MjM3ZDhMjM2ZDlmMTZLNhMhYWFlOWFmYjNkYWNSODg2MA=---&p=-YXAoOnNmZHQoOmF2YW5kbGpOjE5MDc3MjZmMzRlMWUwYTBJNGQwZTU0ZmUzMjg5NDVlOjYx).
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Dear Angela Calvillo,

I am very much in support that this project move forward! It address the many needs of this long overlooked neighborhood, hungering for this kind of attention especially the low income housing! The impetus from the very beginnings of this project was one of love, blessings for all and a brighter hope for the future to all sharing that part of our City. The generosity of support by the church and developer to bring needed change and healing should NOT BE STOPPED. I know another project very similar to this that is beginning to happen in the Menlo Park community with housing, community and church being the 3-legged stool to support such a change as this one. Hopefully this San Francisco Project will set the model for other communities to follow uplifting and refacing communities to be a blessing for all and a show of brighter times to come. It is certainly needed in these times! Please each of YOU prayerfully consider the positive growth and effect that this project is intending to bring! Why would YOU not want support this project?

I enthusiastically support IT!

Sincerely,
Robin A. Allen

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From: [Richard Kaplan](#)
To: [Board of Supervisors - BOS](#)
Subject: My Support for the 450 O'Farrell Church and Essential Housing Project
Date: Monday, August 30, 2021 1:02:44 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Re: My Support for the 450 O'Farrell Church and Essential Housing Project

Dear Angela Calvillo,

Now, more than ever, the city of St. Francis, besides in dire need of affordable housing, can greatly use the nurturement the Church can also provide. Please help bring this project to fruition asap.
Yours truly, Richard Kaplan

Sincerely,
Richard Kaplan
aarhmatey@yahoo.com
62a divisadero st. S.f., CA 94117 Constituent

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From: [RivamonteMesa, Abigail \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Calvillo, Angela \(BOS\)](#); [Gee, Natalie \(BOS\)](#)
Cc: [michael.shonafelt@ndlf.com](#); [David Murray](#); [Ela Strong](#); [Richard Hannum](#); [davidc@dpclawoffices.com](#); [kiyomi.mh.sparks@gmail.com](#); [wesconnors@gmail.com](#); [Pratibha Tekkey](#)
Subject: Request for 9/14/21 for: File Nos. 210858-210861 450-474 O'Farrell Street and 532 Jones Street
Date: Wednesday, July 28, 2021 4:48:54 PM

Hello Madam Clerk,

I have been in touch with the appellants and the project sponsors (who are all included in this email thread) for File Nos. 210858-210861 450-474 O'Farrell Street and 532 Jones Street.

They are all amenable to continue their item to 9/14 /21, since their original date of 9/7 is during Rosh Hashanah.

Project sponsors and appellants please reply all to this email confirming that 9/14/21 is your agreed upon date.

Thank you,
Abigail

From: [Pratibha Tekkey](#)
To: [RivamonteMesa, Abigail \(BOS\)](#); [BOS Legislation, \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Calvillo, Angela \(BOS\)](#); [Gee, Natalie \(BOS\)](#)
Cc: [michael.shonafelt@ndlf.com](#); [David Murray](#); [Ela Strong](#); [Richard Hannum](#); [davidc@dpclawoffices.com](#); [kiyomi.mh.sparks@gmail.com](#); [wesconnors@gmail.com](#)
Subject: RE: Request for 9/14/21 for: File Nos. 210858-210861 450-474 O'Farrell Street and 532 Jones Street
Date: Thursday, July 29, 2021 9:54:54 AM

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Hello Madam Clerk , We the appellants are agreeable to having the hearing on Sept 14th .

Thanks

Pratibha

From: RivamonteMesa, Abigail (BOS) [mailto:abigail.rivamontemesa@sfgov.org]
Sent: Wednesday, July 28, 2021 4:49 PM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Gee, Natalie (BOS) <natalie.gee@sfgov.org>
Cc: michael.shonafelt@ndlf.com; David Murray <david.murray08@gmail.com>; Ela Strong <ela@elastrong.com>; Richard Hannum <richard@forgedevelopmentpartners.com>; davidc@dpclawoffices.com; kiyomi.mh.sparks@gmail.com; wesconnors@gmail.com; Pratibha Tekkey <pratibha@thclinic.org>
Subject: Request for 9/14/21 for: File Nos. 210858-210861 450-474 O'Farrell Street and 532 Jones Street

Hello Madam Clerk,

I have been in touch with the appellants and the project sponsors (who are all included in this email thread) for File Nos. 210858-210861 450-474 O'Farrell Street and 532 Jones Street.

They are all amenable to continue their item to 9/14 /21, since their original date of 9/7 is during Rosh Hashanah.

Project sponsors and appellants please reply all to this email confirming that 9/14/21 is your agreed upon date.

Thank you,

Abigail

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and delete or shred all copies.

From: [Ela Strong](#)
To: [RivamonteMesa, Abigail \(BOS\)](#)
Cc: [BOS Legislation, \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Calvillo, Angela \(BOS\)](#); [Gee, Natalie \(BOS\)](#); [michael.shonafelt@ndlf.com](#); [David Murray](#); [Richard Hannum](#); [David Cincotta](#); [kiyomi.mh.sparks@gmail.com](#); [wesconnors@gmail.com](#); [Pratibha Tekkey](#)
Subject: Re: Request for 9/14/21 for: File Nos. 210858-210861 450-474 O'Farrell Street and 532 Jones Street
Date: Thursday, July 29, 2021 12:52:08 PM

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Dear Madam Clerk,

With respect for our fellow communities of faith, we agree to the continuance from September 7, 2021 to September 14, 2021, though we are incurring financial damages due to the delays, including the delay beyond the Board of Supervisors' mandated 30-day appeal hearing period limit.

Best Regards,

Ms. Ela Strong
President, Executive Board
Fifth Church of Christ, Scientist
450 O'Farrell St.
San Francisco

On Jul 28, 2021, at 4:48 PM, Rivamon

teMesa, Abigail (BOS) <abigail.rivamontemesa@sfgov.org> wrote:

Hello Madam Clerk,

I have been in touch with the appellants and the project sponsors (who are all included in this email thread) for File Nos. 210858-210861 450-474 O'Farrell Street and 532 Jones Street.

They are all amenable to continue their item to 9/14 /21, since their original date of 9/7 is during Rosh Hashanah.

Project sponsors and appellants please reply all to this email confirming that 9/14/21 is your agreed upon date.

Thank you,
Abigail

From: [BOS Legislation, \(BOS\)](#)
To: [pratibha@thclinic.org](#); [Michael.Shonafelt@ndlf.com](#); [greg.tross@ndlf.com](#); [richard@forgedevelopmentpartners.com](#); [alexander@forgedevelopmentpartners.com](#); [davidc@dpclawoffices.com](#); [Ela@ElaStrong.com](#); [pick@storzerlaw.com](#); [Letitia.Moore@hklaw.com](#)
Cc: [PEARSON, ANNE \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Varat, Adam \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Teague, Corey \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Grob, Carly \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Subject: Hearing Notice - Appeal of Conditional Use Authorization - Proposed 450-474 O'Farrell Street and 532 Jones Street Project - Appeal Hearing - September 7, 2021
Date: Friday, August 27, 2021 2:15:58 PM
Attachments: [image001.png](#)

Greetings,

The Office of the Clerk of the Board has scheduled a remote hearing for Special Order before the Board of Supervisors on **September 7, 2021, at 3:00 p.m.**, to hear an appeal of a Conditional Use Authorization, for the proposed 450-474 O'Farrell Street and 532 Jones Street project.

Please find the following link to the hearing notice for the matter:

[Public Hearing Notice - August 27, 2021](#)

The President may entertain a motion to continue this Hearing to the Board of Supervisors meeting of September 14, 2021. Public Comment will be taken on the continuance only.

I invite you to review the entire matters on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 210858](#)

Best regards,

Jocelyn Wong

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T: 415.554.7702 | F: 415.554.5163
jocelyn.wong@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a "virtual" meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or

hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO Sent via Email and/or U.S. Postal Service

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a remote public hearing to consider the following appeal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

NOTE:	The President may entertain a motion to continue this Hearing to the Board of Supervisors meeting of Tuesday, September 14, 2021. Public Comment will be taken on the continuance only.
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Date: Tuesday, September 7, 2021

Time: 3:00 p.m.

Location: REMOTE MEETING VIA VIDEOCONFERENCE

Watch: www.sfgovtv.org

Watch: SF Cable Channel 26, 78 or 99 (*depending on your provider*) once the meeting starts, the telephone number and Meeting ID will be displayed on the screen.

Public Comment Call-In: <https://sfbos.org/remote-meeting-call>

Subject: **File No. 210858.** Hearing of persons interested in or objecting to the approval of a Conditional Use Authorization pursuant to Sections 303, 304, 415, 166, and 155 of the Planning Code, for a proposed project at 450-474 O'Farrell Street and 532 Jones Street, Assessor's Parcel Block No. 0317, Lot Nos. 007, 009, and 011, identified in Planning Case No. 2013.1535CUA-02, issued by the Planning Commission by Motion No. 20935, dated June 24, 2021, to amend the Conditions of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281, adopted on September 13, 2018, for a revised project scope to include demolition of three buildings, construction of a 13-story mixed-use building with similar massing, ground floor commercial and a new church, and up to 316 group housing rooms instead of 176 residential units located in a RC-4 (Residential-Commercial, High Density) Zoning District, North of Market Residential Special Use District and 80-130-T Height and Bulk District. (District 6) (Appellants: Pratibha Tekkey, on behalf of the Tenderloin Housing Clinic, and Michael Shonafelt and Gregory Tross of Newmeyer & Dillion LLP, on behalf of the Pacific Bay Inn, Inc.) (Filed July 21, 2021)

On March 17, 2020, the Board of Supervisors (Board) authorized their Board and Committee meetings to convene remotely and allow remote public comment via teleconference. Effective June 29, 2021, the Board and staff began to reconvene for in-person Board proceedings. Committee meetings will continue to convene remotely until further notice. Visit the SFGovTV website at (www.sfgovtv.org) to stream the live meetings, or to watch meetings on demand.

PUBLIC COMMENT CALL-IN

WATCH: SF Cable Channel 26, 78 or 99 (*depending on your provider*) once the meeting starts, the telephone number and Meeting ID will be displayed on the screen; or

VISIT: <https://sfbos.org/remote-meeting-call>

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments prior to the time the hearing begins. These comments will be made as part of the official public record in this matter and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102 or sent via email (board.of.supervisors@sfgov.org). Information relating to this matter is available in the Office of the Clerk of the Board or the Board of Supervisors' Legislative Research Center (<https://sfbos.org/legislative-research-center-lrc>). Agenda information relating to this matter will be available for public review on Friday, September 3, 2021.

For any questions about this hearing, please contact one of the Legislative Clerks:

Lisa Lew (lisa.lew@sfgov.org) ~ (415) 554-7718)

Jocelyn Wong (jocelyn.wong@sfgov.org) ~ (415) 554-7702)

Please Note: *The Department is open for business, but employees are working from home. Please allow 48 hours for us to return your call or email.*



Angela Calvillo
Clerk of the Board of Supervisors
City and County of San Francisco

jw:ll:ams

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

PROOF OF MAILING

Legislative File No. 210858

Description of Items: Hearing - Appeal of Conditional Use Authorization Approval - 450-474 O'Farrell Street and 532 Jones Street - 729 Notices Mailed.


I, Richard Lagente, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: August 27, 2021

Time: 3:59 pm

USPS Location: Repro Pick-up Box in Building Management's Office (Rm 8)

Mailbox/Mailslot Pick-Up Times (if applicable): N/A

Signature: 

Instructions: Upon completion, original must be filed in the above referenced file.

From: [BOS Legislation, \(BOS\)](#)
To: [Ko, Yvonne \(CPC\)](#); [Yeung, Tony \(CPC\)](#)
Cc: [BOS-Operations](#); [BOS Legislation, \(BOS\)](#)
Subject: APPEAL FILING FEE PICKUP: Appeal of Conditional Use Authorization - Proposed 450-474 O'Farrell Street and 532 Jones Street Project - Appeal Hearing September 7, 2021
Date: Friday, July 23, 2021 10:56:16 AM
Attachments: [image001.png](#)
[Fee Waiver Application.pdf](#)
[Appeal Check Pickup.doc](#)

Hi Yvonne and Tony,

The check for the appeal filing fee for the Conditional Use Authorization appeal of the proposed 450-474 O'Farrell Street/532 Jones Street project, is ready to be picked up at the Clerk's Office, Monday through Friday from 8:00 a.m. to 5:00 p.m. A fee waiver was filed with this project as attached.

Ops,

Check No. 87038 should be in your possession currently. Please have Planning sign the attached pick up form and scan it to leg clerks when completed.

Thank you.

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a "virtual" meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services.



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Friday, July 23, 2021 10:30 AM
To: 'pratibha@thclinic.org' <pratibha@thclinic.org>; 'Michael.Shonafelt@ndlf.com' <Michael.Shonafelt@ndlf.com>; 'greg.tross@ndlf.com' <greg.tross@ndlf.com>
Cc: PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; STACY, KATE (CAT) <Kate.Stacy@sfcityatty.org>; JENSEN, KRISTEN (CAT) <Kristen.Jensen@sfcityatty.org>; Gibson, Lisa

(CPC) <lisa.gibson@sfgov.org>; Jain, Devyani (CPC) <devyani.jain@sfgov.org>; Varat, Adam (CPC) <adam.varat@sfgov.org>; Navarrete, Joy (CPC) <joy.navarrete@sfgov.org>; Lynch, Laura (CPC) <laura.lynch@sfgov.org>; Teague, Corey (CPC) <corey.teague@sfgov.org>; Sanchez, Scott (CPC) <scott.sanchez@sfgov.org>; Sider, Dan (CPC) <dan.sider@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>; Grob, Carly (CPC) <carly.grob@sfgov.org>; Rosenberg, Julie (BOA) <julie.rosenberg@sfgov.org>; Longaway, Alec (BOA) <alec.longaway@sfgov.org>; BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Subject: Appeal of Conditional Use Authorization - Proposed 450-474 O'Farrell Street and 532 Jones Street Project - Appeal Hearing September 7, 2021

Greetings,

The Office of the Clerk of the Board has scheduled for a hearing, Special Order before the Board of Supervisors on **September 7, 2021**, at 3:00 p.m. Please find linked below an appeal letter regarding the proposed 450-474 O'Farrell Street and 532 Jones Street project, and an informational letter from the Clerk of the Board.

[Appeal Letter - July 21, 2021](#)

[Clerk of the Board Letter - July 23, 2021](#)

I invite you to review the entire matters on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 210858](#)

Best regards,

Lisa Lew

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

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BOARD of SUPERVISORS



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TDD/TTY No. (415) 554-5227

July 23, 2021

File Nos. 210858-210861

Planning Case No. 2013.1535CUA-02

Received from the Board of Supervisors Clerk's Office one check, in the amount of Six Hundred Sixty Five Dollars (\$665), representing the filing fee paid by the Tenderloin Housing Clinic for the appeal of the Conditional Use Authorization for the proposed 450-474 O'Farrell Street and 532 Jones Street project:

Planning Department

By:

Tony Young
Print Name

[Signature] 7/23/21
Signature and Date

From: [BOS Legislation. \(BOS\)](#)
To: ["pratibha@thclinic.org"](#); ["Michael.Shonafelt@ndlf.com"](#); ["greg.tross@ndlf.com"](#)
Cc: [PEARSON, ANNE \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Varat, Adam \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Teague, Corey \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Grob, Carly \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS Legislation. \(BOS\)](#)
Subject: Appeal of Conditional Use Authorization - Proposed 450-474 O'Farrell Street and 532 Jones Street Project - Appeal Hearing September 7, 2021
Date: Friday, July 23, 2021 10:30:02 AM
Attachments: [image001.png](#)

Greetings,

The Office of the Clerk of the Board has scheduled for a hearing, Special Order before the Board of Supervisors on **September 7, 2021**, at 3:00 p.m. Please find linked below an appeal letter regarding the proposed 450-474 O'Farrell Street and 532 Jones Street project, and an informational letter from the Clerk of the Board.

[Appeal Letter - July 21, 2021](#)

[Clerk of the Board Letter - July 23, 2021](#)

I invite you to review the entire matters on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 210858](#)

Best regards,

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
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BOARD of SUPERVISORS



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July 23, 2021

Pratibha Tekkey
Tenderloin Housing Clinic
126 Hyde Street
San Francisco, CA 94102

Michael Shonafelt
Newmeyer & Dillion, LLP
895 Dove Street, 5th Floor
Newport Beach, CA 92660

Gregory Tross
Newmeyer & Dillion, LLP
895 Dove Street, 5th Floor
Newport Beach, CA 92660

**Subject: File No. 210858 - Appeal of Conditional Use Authorization
450-474 O'Farrell Street and 532 Jones Street**

Dear Ms. Tekkey, Mr. Shonafelt, and Mr. Tross:

Thank you for your appeal filing regarding the proposed project at 450-474 O'Farrell Street and 532 Jones Street. The filing period to appeal the conditional use authorization closes on Monday, July 26, 2021. The conditional use appeal was filed with the subscription of five members of the Board of Supervisors, and therefore meets the filing requirements of Planning Code, Section 308.1.

Pursuant to Planning Code, Section 308.1, a hearing date has been scheduled for **Tuesday, September 7, 2021, at 3:00 p.m.**, at the Board of Supervisors meeting.

Please provide to the Clerk's Office by noon:

20 days prior to the hearing:
Wednesday, August 18, 2021

names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and

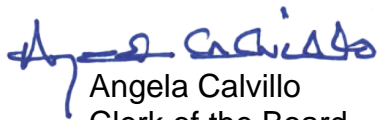
11 days prior to the hearing:
Friday, August 27, 2021

any documentation which you may want available to the Board members prior to the hearing.

For the above, the Clerk's office requests electronic files be sent to bos.legislation@sfgov.org.

If you have any questions, please feel free to contact Legislative Clerks Lisa Lew at (415) 554-7718, Jocelyn Wong at (415) 554-7702, or Brent Jalipa at (415) 554-7712.

Very truly yours,



Angela Calvillo
Clerk of the Board

jw:ll:ams

c: Anne Pearson, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Kristen Jensen, Deputy City Attorney
Lisa Gibson, Environmental Review Officer, Planning Department
Devyani Jain, Deputy Environmental Review Officer, Planning Department
Adam Varat, Acting Director of Citywide Planning, Planning Department
Joy Navarrete, Environmental Planning, Planning Department
Laura Lynch, Environmental Planning, Planning Department
Corey Teague, Zoning Administrator, Planning Department
Scott Sanchez, Acting Deputy Zoning Administrator, Planning Department
Dan Sider, Director of Executive Programs, Planning Department
Aaron Starr, Manager of Legislative Affairs, Planning Department
Jonas Ionin, Planning Commission Secretary
Carly Grob, Staff Contact, Planning Department
Julie Rosenberg, Executive Director, Board of Appeals
Alec Longaway, Legal Process Clerk, Board of Appeals

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- ☐ 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- ☐ 2. Request for next printed agenda Without Reference to Committee.
- ☒ 3. Request for hearing on a subject matter at Committee.
- ☐ 4. Request for letter beginning "Supervisor inquires"
- ☐ 5. City Attorney request.
- ☐ 6. Call File No. from Committee.
- ☐ 7. Budget Analyst request (attach written motion).
- ☐ 8. Substitute Legislation File No.
- ☐ 9. Reactivate File No.
- ☐ 10. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- ☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission
- ☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Subject:

The text is listed below or attached:

Hearing of persons interested in or objecting to the approval of a Conditional Use Authorization pursuant to Sections 303, 304, 415, 166, and 155 of the Planning Code, for a proposed project at 450-474 O'Farrell Street and 532 Jones Street, Assessor's Parcel Block No. 0317, Lot Nos. 007, 009, and 011, identified in Planning Case No. 2013.1535CUA-02, issued by the Planning Commission by Motion No. 20935, dated June 24, 2021, to amend the Conditions of Approval Nos. 24, 25, 26, and 32 of Planning Commission Motion No. 20281, adopted on September 13, 2018, for a revised project scope to include demolition of three buildings, construction of a 13-story mixed-use building with similar massing, ground floor commercial and a new church, and up to 316 group housing rooms instead of 176 residential units located in a RC-4 (Residential-Commercial, High Density) Zoning District, North of Market Residential Special Use District and 80-130-T Height and Bulk District. (District 6) (Appellants: Pratibha Tekkey, on behalf of the Tenderloin Housing Clinic, and Michael Shonafelt and Gregory Tross of Newmeyer &

Dillion LLP, on behalf of the Pacific Bay Inn, Inc.) (Filed July 21, 2021)

Signature of Sponsoring Supervisor: _____

For Clerk's Use Only: