

**REVISED PLANS SUBMITTED FOR HEARING
DATED 5/29/2024**

BERNARD ST. 3 UNIT APARTMENT SEISMIC RETROFIT/REMODEL

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

CONTACT INFORMATION

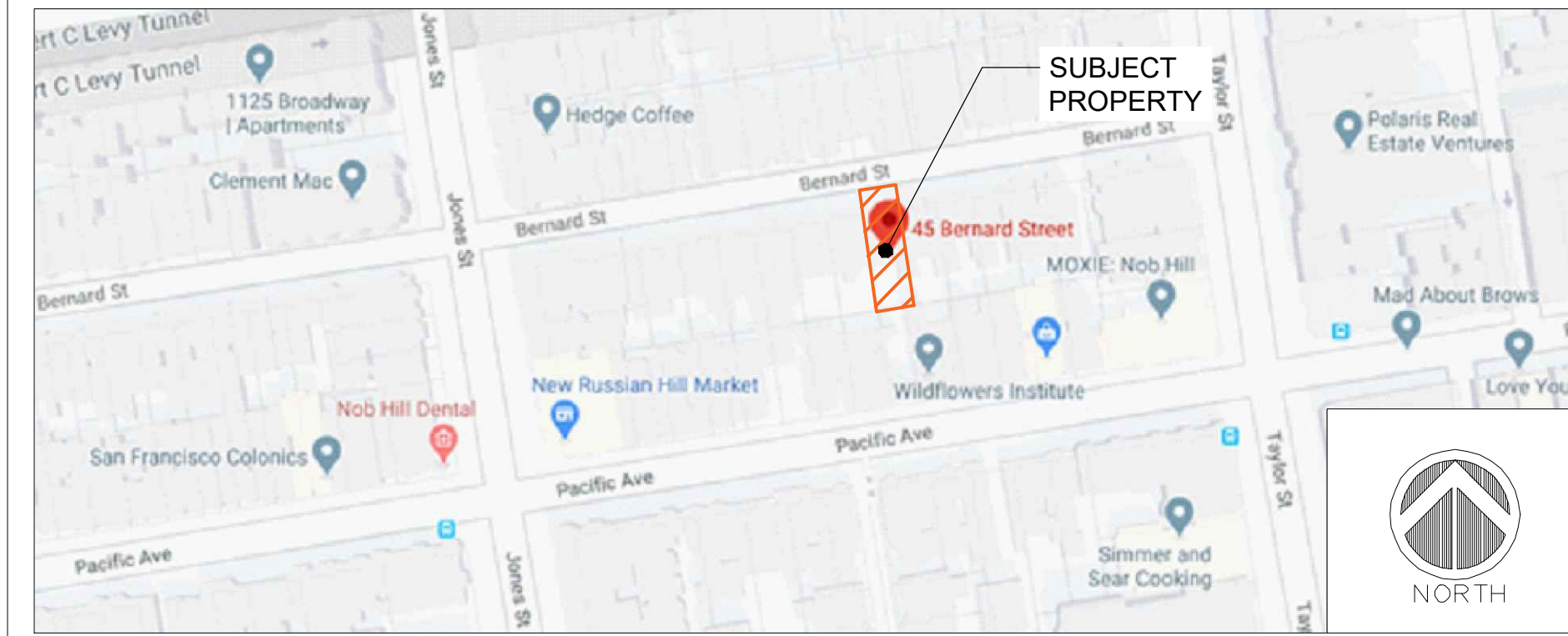
OWNER: TINA HUSTON C: 925.337.1755 LINDSEY HUSTON C: 925.337.9532	CONTRACTOR: HGCI 101 LUCAS VALLEY RD, STE 150 SAN RAFAEL, CA 94903 P: 415.597.6880 C: 415.509.0304 E: JH@HGCI.COM	ARCHITECT: HGCI NATHAN WATKINS 101 LUCAS VALLEY RD, STE 150 SAN RAFAEL, CA 94903 C: 415.300.6392 E: NATHANW@HGCI.COM
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SHEET INDEX

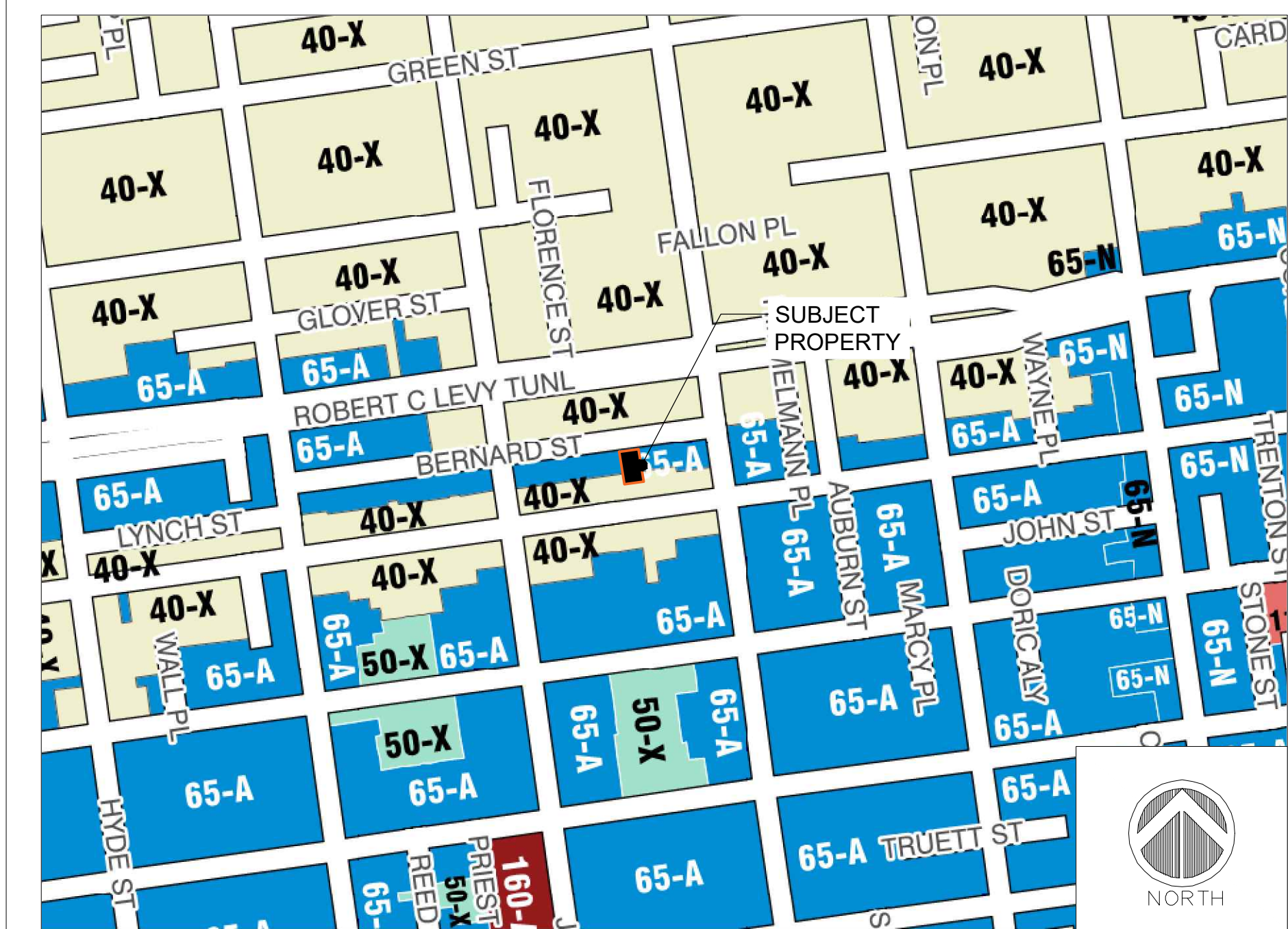
ARCHITECTURAL:

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LOCATION MAP



ZONING MAP



PROJECT DATA

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

BLOCK/ LOT: 0157/ 030

LOT SIZE: 23'-0" X 60'-0" = ±1,380 SF

ZONING: RH-3 (RESIDENTIAL HOUSE - THREE FAMILY)

HEIGHT & BULK DISTRICT: 65-A

PLANNING DISTRICT: DISTRICT 3 NORTHEAST

SETBACK REQUIREMENTS:

- FRONT SETBACK:** (E) SETBACK= 0'-0" OR AVERAGE OF ADJACENT BUILDINGS= 0'-0". PROVIDED: 0'-0"
- REAR SETBACK:** AVERAGE OF ADJACENT BUILDING PER SFPC 134 = 17'-9". PROVIDED: 17'-9"
- SIDE SETBACK:** NOT REQUIRED PER SF PC 133. PROVIDED: 0'-0"

EXISTING BUILDING INFO:

- YEAR BUILT:** 1906
- NUMBER OF STORIES:** 3 STORIES + 1 BASEMENT
- USABLE GFA:** 3,531 GSF
- OCCUPANCY CLASS:** R-2
- USE TYPE:** MULTI UNIT APARTMENTS
- NO. OF DWELLING UNITS (DU):** 3 DU
- BUILDING HEIGHT:** 32'-6"
- CONSTRUCTION TYPE:** V-B
- GARAGE PARKING:** NONE
- BIKE RACKS:** NONE
- FIRE SPRINKLERS:** BASEMENT ONLY
- FIRE ALARM:** NONE
- SMOKE ALARM:** YES
- CARBON MONOXIDE ALARM:** YES

PROPOSED BUILDING INFO:

- NUMBER OF STORIES:** 3 STORIES + BASEMENT (NO CHANGE)
- USABLE GFA:** 3,783 GSF. INCREASE OF 232 GSF/ 7% OF THE (E) USABLE GFA
- OCCUPANCY CLASS:** R-2 (NO CHANGE)
- USE TYPE:** MULTI UNIT APARTMENTS (NO CHANGE)
- NO. OF DWELLING UNITS (DU):** 3 DU
- BUILDING HEIGHT:** 32'-6" (NO CHANGE)
- CONSTRUCTION TYPE:** V-B (NO CHANGE)
- GARAGE PARKING:** NOT REQUIRED AS PER SFPC 151
- BIKE RACKS:** NOT REQUIRED AS PER SFPC 155.2
- FIRE SPRINKLER:** BASEMENT FLOOR: RE LAYOUT (E) SPRINKLER AT BASEMENT FLOOR FOR SHARED CORRIDOR. GRD, 2ND AND 3RD UNITS: NOT REQUIRED AS PER CFC TABLE 1104.18
- FIRE ALARM:** AUTOMATIC FIRE ALARM AS PER CEBC 313.12.1 AND CFC 1113.12.1. MANUAL NOT REQUIRED AS PER CFC 1103.7.6
- SMOKE ALARM:** REQUIRED AS PER CFC 1103.8
- CARBON MONOXIDE ALARM:** REQUIRED AS PER CFC 1103.9

SCOPE OF WORK

THIS RESIDENTIAL REMODEL WORK PROPOSES:

- FOUNDATION / SEISMIC UPGRADES WITH CEILING HEIGHT INCREASE TO COMPLY TO CURRENT BUILDING CODE
- REMOVAL OF REAR WALL AND REAR STAIR OF THE EXISTING BUILDING FOR NEW HORIZONTAL ADDITION AS PER PLAN.
- NEW FIRE ESCAPE STAIR, DECK AREA FOR REQUIRED OPEN SPACE, REMODEL OF RESIDENTIAL UNIT, MODIFY/RELOCATE PG&E AND TEL/DATA SERVICE METERS, EXTEND ROOF AS PER REAR ADDITION, WOOD DECK WITH SPIRAL STAIR ACCESS FOR 49 BERNARD OPEN SPACE.
- REMOVAL OF EXISTING STAIRS FROM STREET LEVEL TO BASEMENT AND REPLACE WITH NEW FLOOR FRAME.
- NEW STAIR AND EXIT CORRIDOR AT BASEMENT AS FOR EGRESS REQUIREMENT OF REAR YARD AND FIRE EXIT STAIR.
- PLUMBING, MECHANICAL AND ELECTRICAL WORKS AS PER PLAN

RELATED PERMITS/ APPLICATIONS

- PERMIT: 2022.0107.5581
- SUBMITTAL: 2021-011324PRJ
- PROJECT BLUEBEAM ID: 663-214-013
- SESSION BLUEBEAM ID: 961-744-939

DEFERRED SUBMITTALS

- FIRE SPRINKLER SYSTEM IF REQUIRED
- FIRE ALARM AND DETECTION SYSTEM IF REQUIRED
- EMERGENCY RESPONDER RADIO COVERAGE SYSTEM IF REQUIRED

APPLICABLE CODES

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

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

101 LUCAS VALLEY RD, STE 150
SAN RAFAEL, CA 94960
T: 415.597.6880 F: 925.558.4814



BERNARD ST. 3-UNIT APARTMENT SEISMIC RETROFIT/ REMODEL
 APN # 0157030

PERMIT NUMBER:
 • SITE PERMIT: 202008222415
 • SUBMITTAL: 2020-05176PRJ

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

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

STAMP

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REVISIONS

DATE	DESCRIPTION
01.26.2024	ADDENDUM SET
05.22.2024	APPEAL SET

DATE	01.26.2024
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MD
CHECKED BY	NW

COVER SHEET

SHEET TITLE

SHEET NO.

A0.00

SHEET NO.

101 LUCAS VALLEY RD, STE 150
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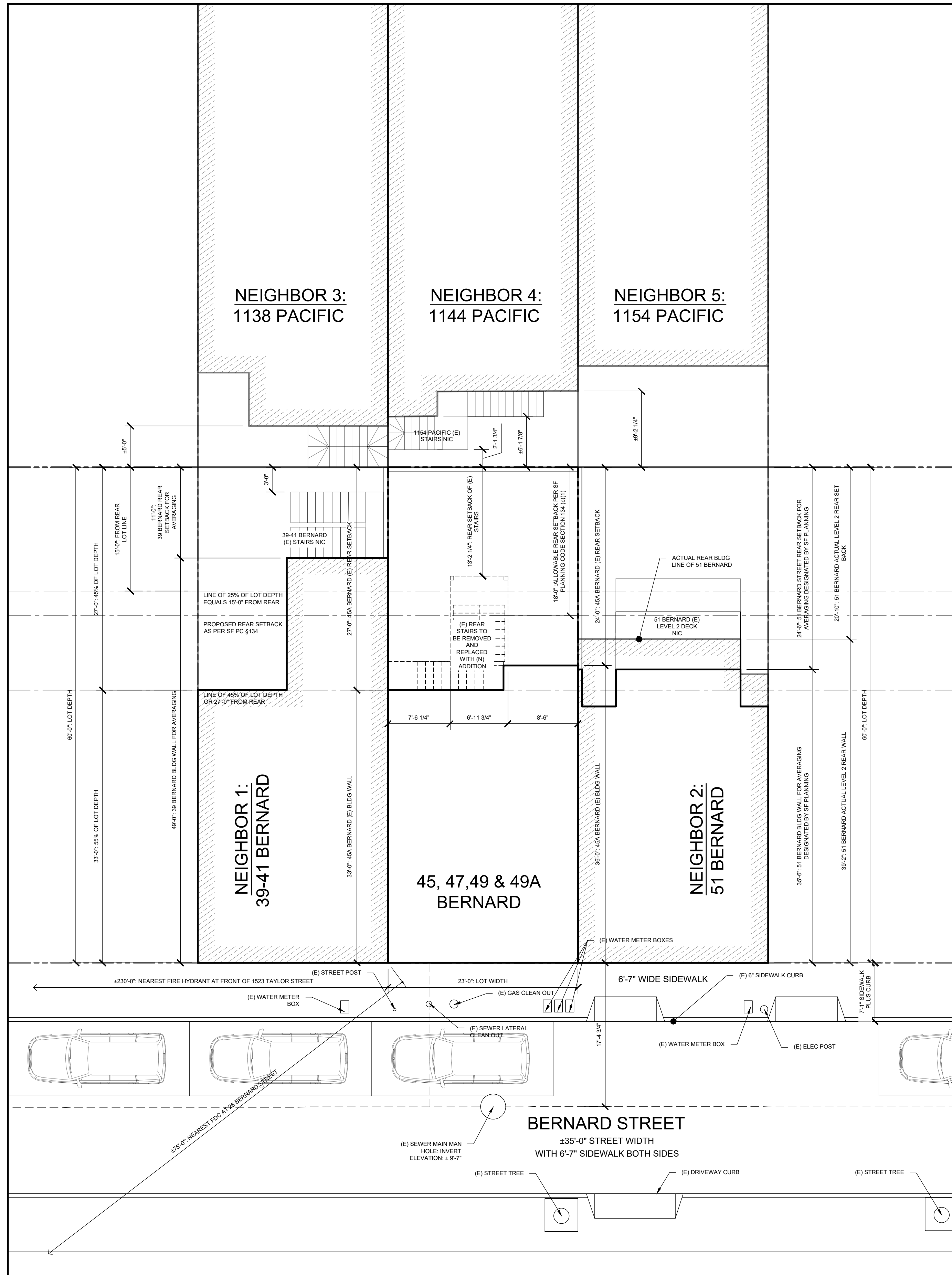
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**EXISTING AND PROPOSED
SITE PLAN**

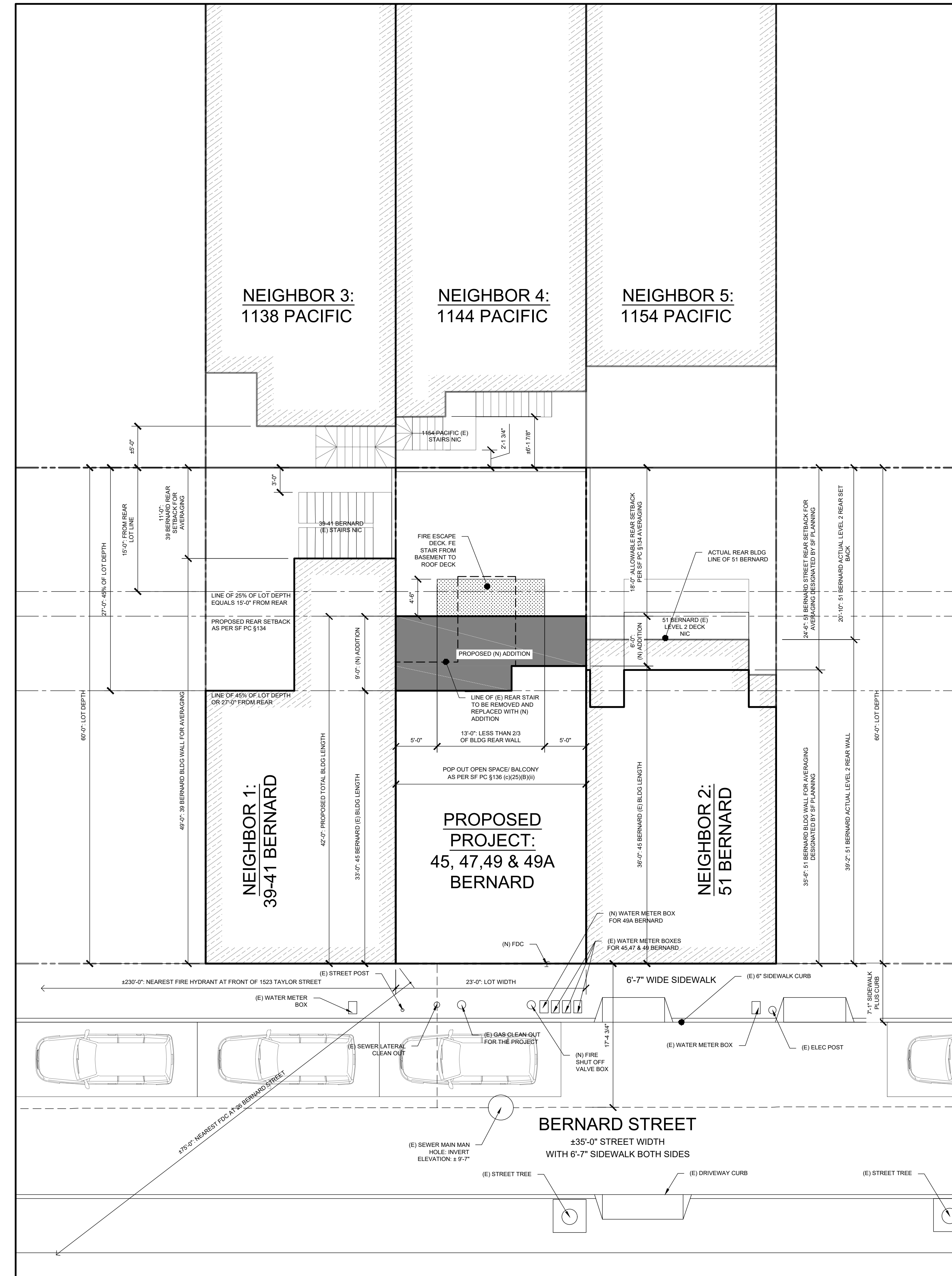
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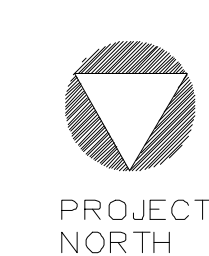
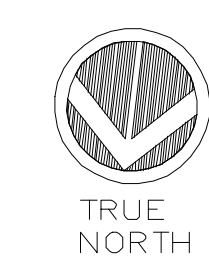
A1.00



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



2 PROPOSED SITE PLAN
SCALE: 1/8" = 1'-0"



5/17/2024 11:39:48 AM

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**BERNARD ST. 3-UNIT APARTMENT
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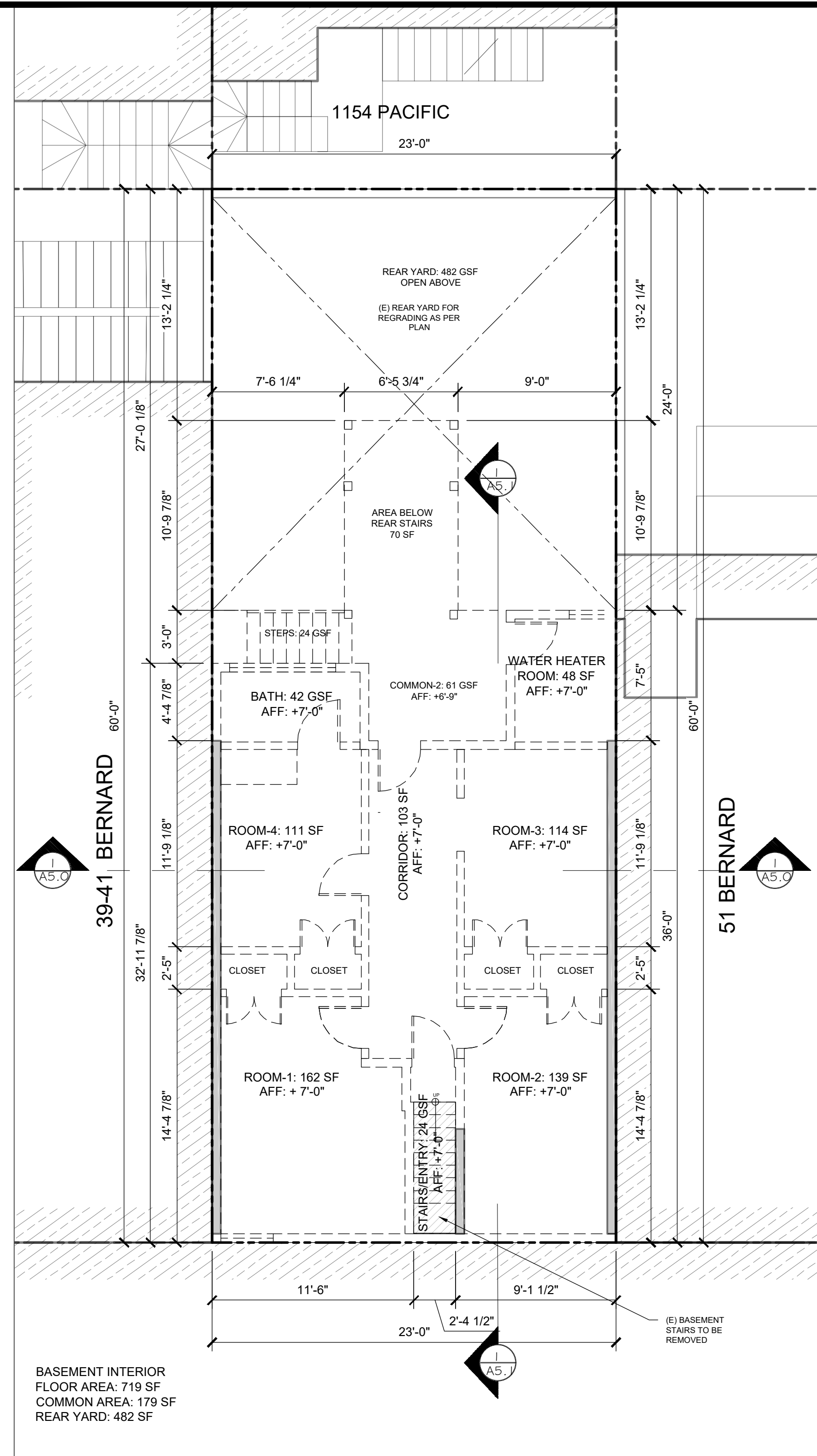
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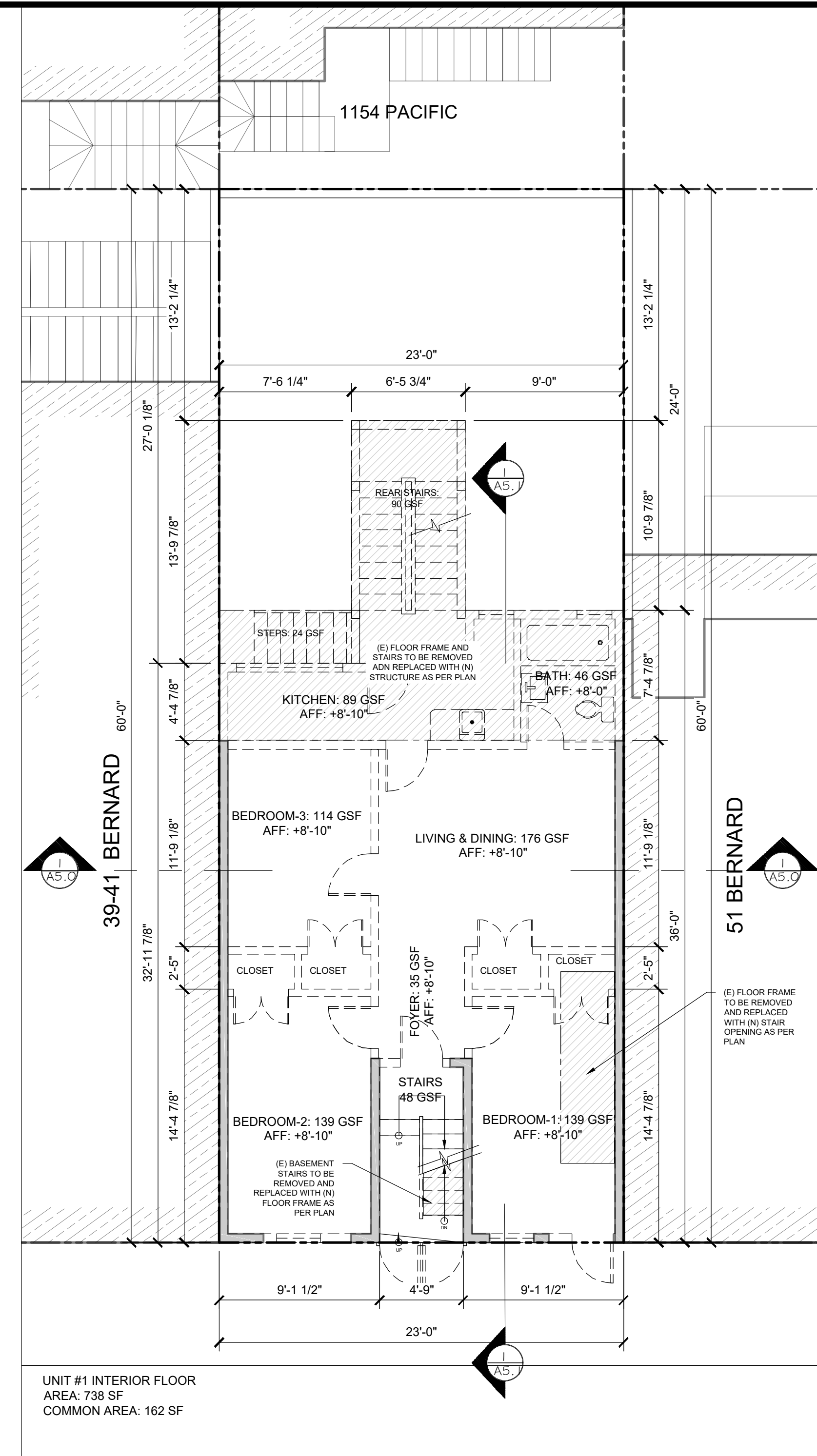
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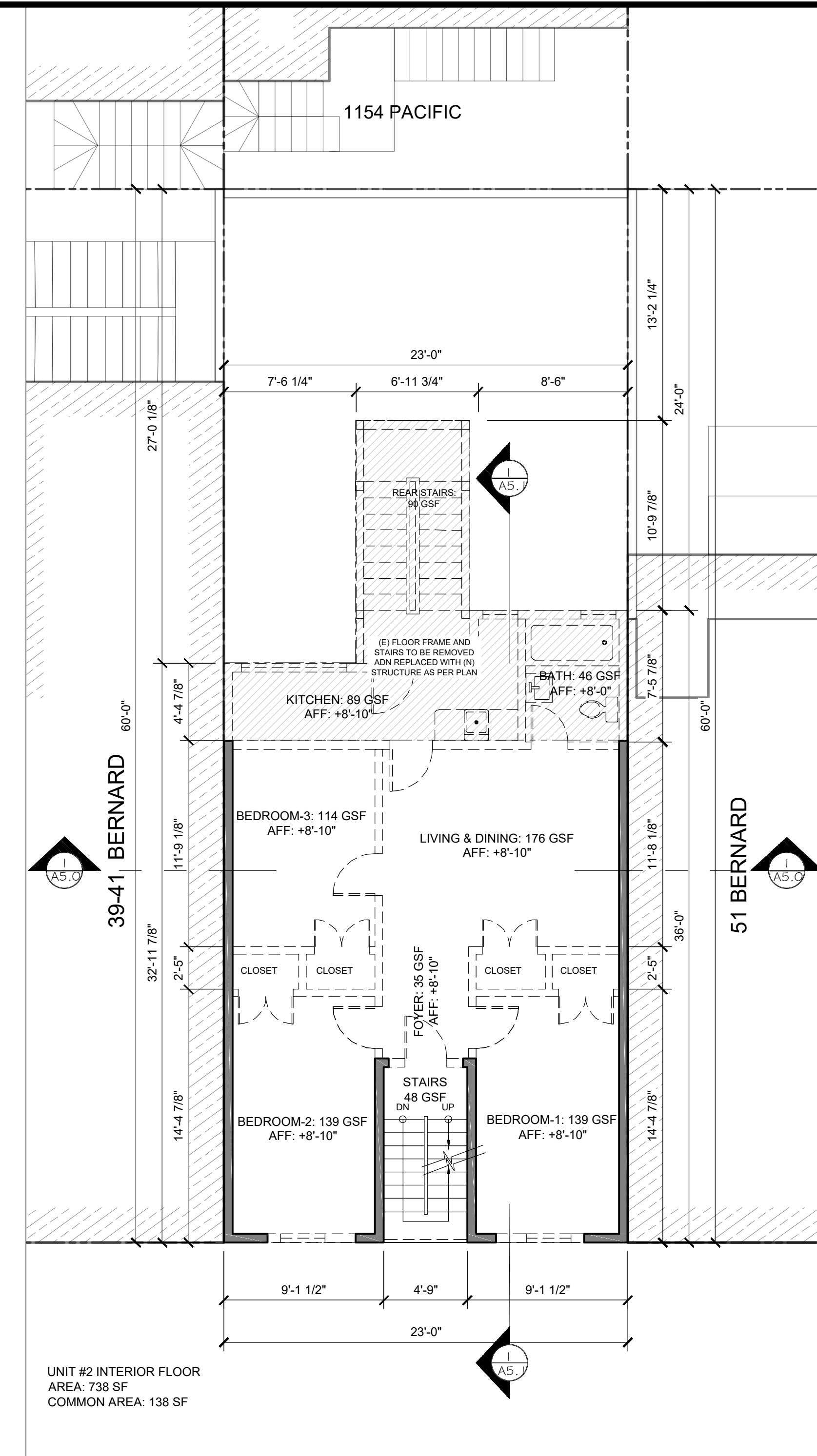
DATE	DESCRIPTION
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1 EXISTING AND DEMOLITION PLAN: BASEMENT FLOOR
SCALE: 3/16" = 1'-0"



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



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

LEGEND

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

TANTAMOUNT TO DEMOLITION CALCULATION AS PER SF PC SECT 317

FLOOR	HORIZONTAL ELEMENTS			COMPLIANCE
	EXISTING BLDG			
	AREA TO REMAIN	AREA TO DEMOLISH	TOTAL	
BASEMENT	0	898	898	
GRD FLR	606	294	900	
2ND FLR	651	225	876	
3RD FLR	656	225	881	
ROOF AREA	680	148	828	
TOTAL	2593	1790	4383	
	59.16%	40.84%	100%	YES
		MAX 50%		

FACADE	ALL EXTERIOR WALLS			COMPLIANCE
	AREA TO REMAIN	AREA TO DEMOLISH	TOTAL	
	LF	LF	LF	
FRONT/ NORTH	23	0	23	
REAR/ SOUTH	0	55	55	
LEFT/ EAST	28.58	4.42	33	
RIGHT/ WEST	28.58	7.42	36	
TOTAL	80.16	66.84	147.00	
	54.53%	45.47%	100%	YES
		MAX 65%		

DATE	01.26.2024
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MD
CHECKED BY	NW

**EXISTING AND
DEMOLITION FLOOR
PLANS- 1 OF 2**

SHEET TITLE

A2.00

SHEET NO.

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T: 415.597.6880 F: 925.558.4814



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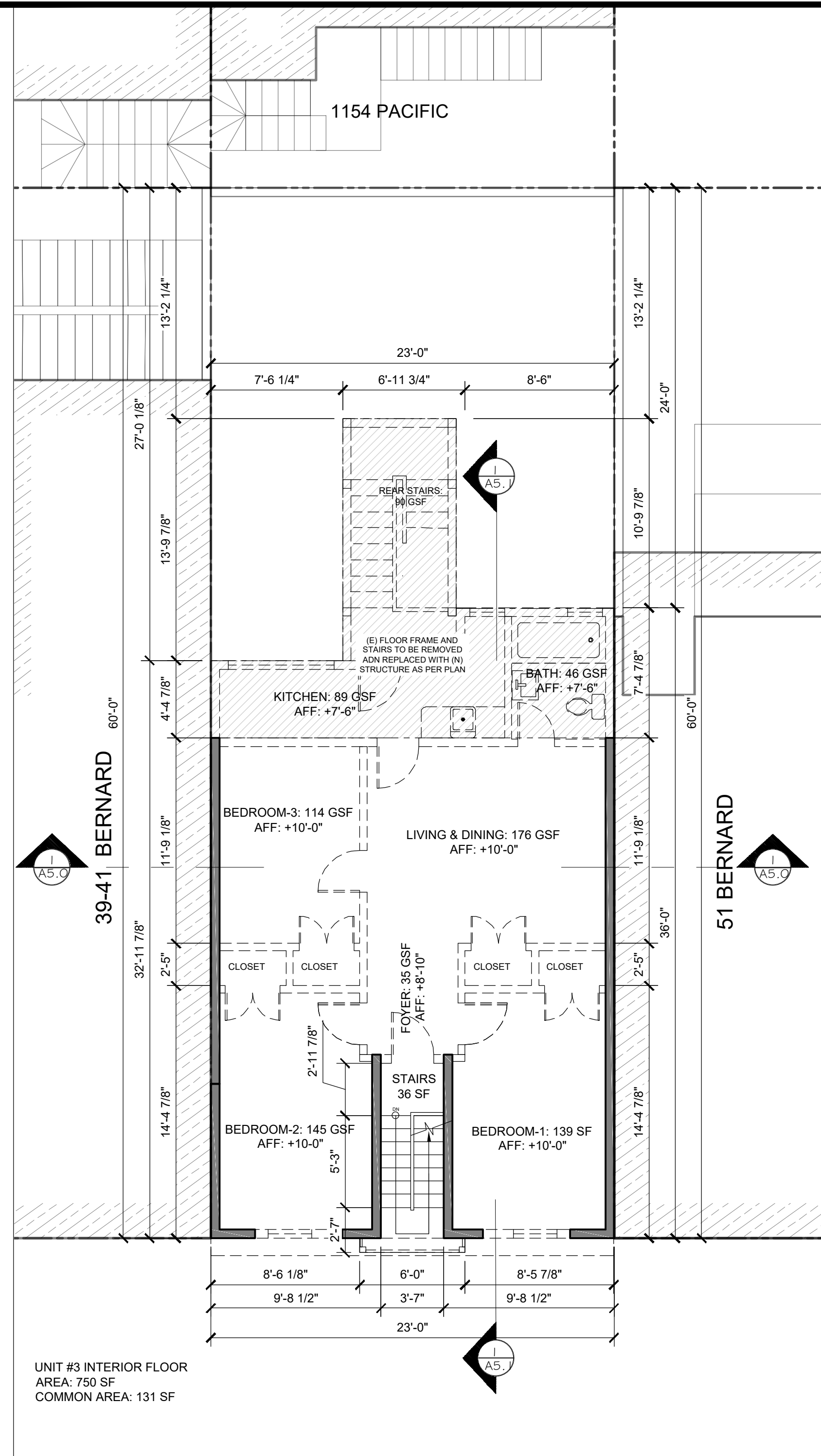
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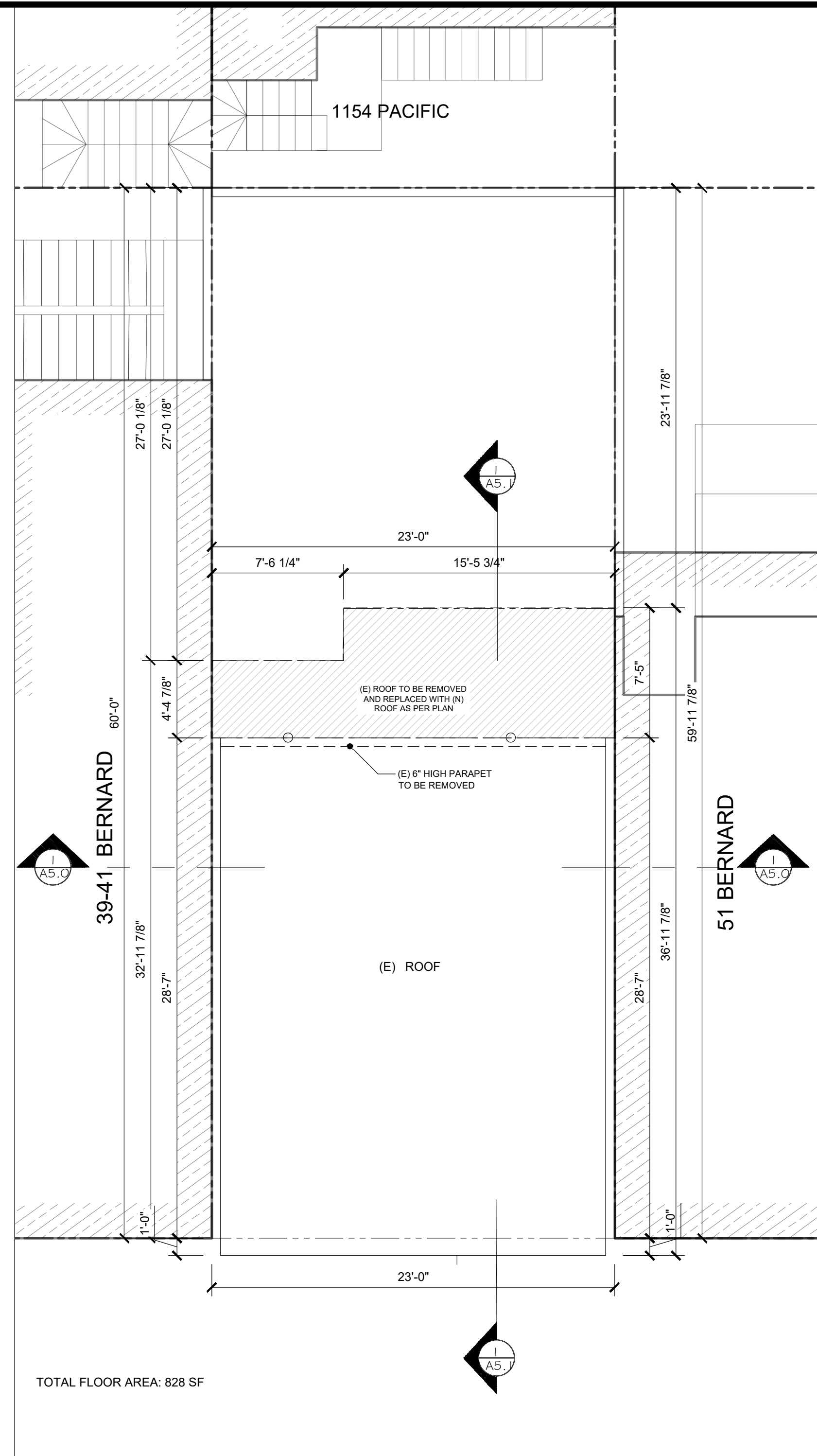
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EXISTING AND
DEMOLITION FLOOR
PLANS - 2 OF 2

SHEET NO.
A2.01



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



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

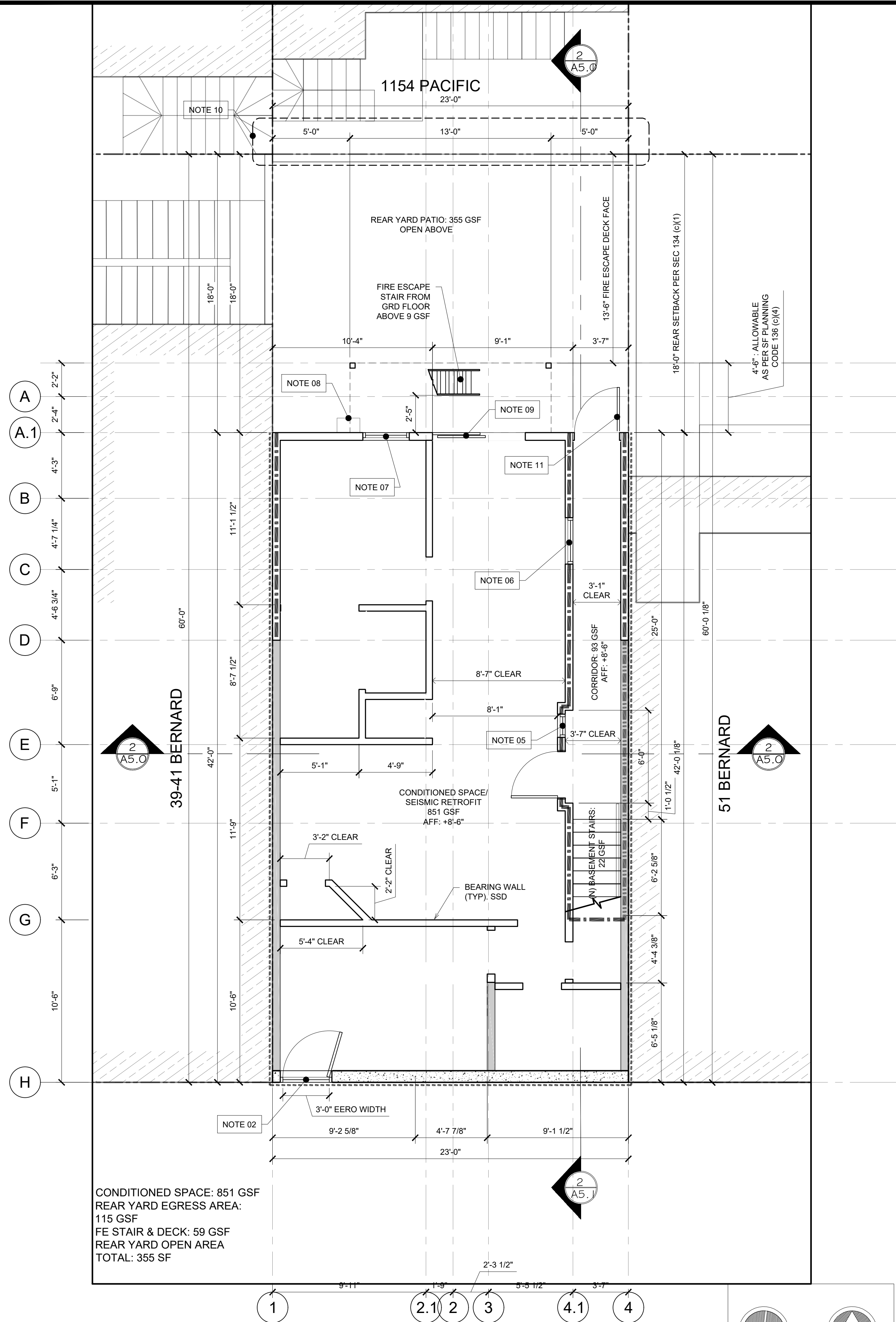
LEGEND

(E) WALL TO REMAIN

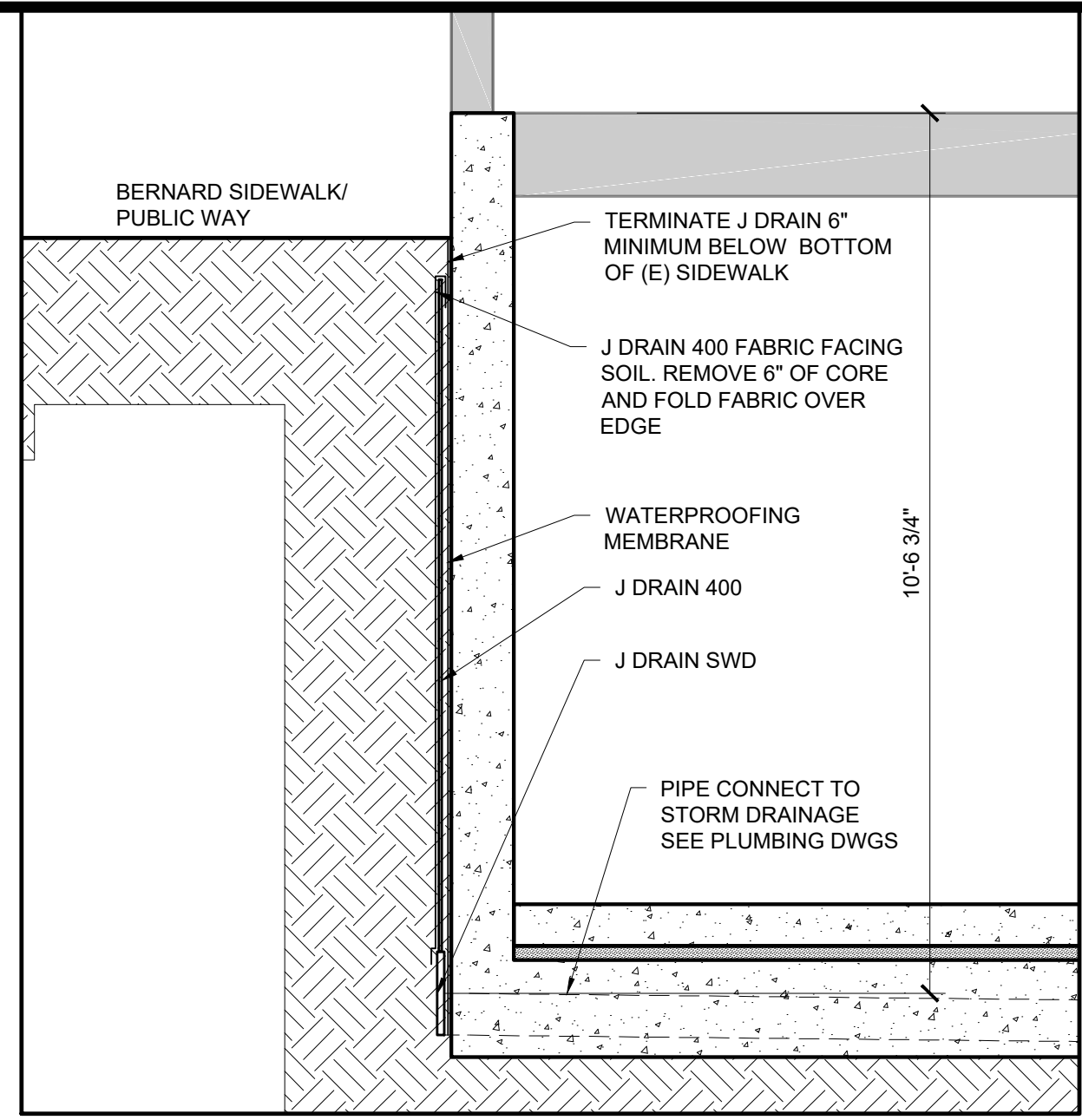
(E) WALL TO BE DEMO

TRUE NORTH

PROJECT NORTH



2 RETAINING WALL DRAINAGE
SCALE: 1/2" = 1'-0"



LEGEND

- (E) DRY WALL TO REMAIN
- (E) WALL TO BE DEMO
- (N) DRY WALL:
2X4 INTERIOR WALL UON
2X6 EXTERIOR WALL UON
- (N) CONCRETE WALL. SSD
- 1 HR RATED (E) EXTERIOR WALL.
FIRE RATED FROM INSIDE ONLY
- 1 HR RATED (N) EXTERIOR WALL.
- WATERPROOFING AND
DRAINAGE CONNECTED TO BLDG
STORM/ SEWER SYSTEM ALONG
FOUNDATION/ RETAINING WALL

BASEMENT FLOOR PLAN NOTES

- NOTE 01 NOT USED
- NOTE 02 40W X 28H IN-SWING CASEMENT SECURITY WINDOW AS EERO (6 SF OPENING). WINDOW SILL HEIGHT @ 44" HIGH ABOVE 42" HIGH PLATFORM. NATURAL LIGHT: 5.19 SF. NATURAL VENTILATION: 6 SF
- NOTE 03 NOT USED
- NOTE 04 NOT USED
- NOTE 05 18"WX30"H INSWING SIDELITE. NATURAL LIGHT: 4.50 SF. NATURAL VENTILATION: 5.444 SF
- NOTE 06 36"WX36"H SLIDER WINDOW. NATURAL LIGHT: 7.392 SF. NATURAL VENTILATION: 3.498 SF
- NOTE 07 36"WX60"H SINGLE HUNG WINDOW. NATURAL LIGHT: 12.829 SF. NATURAL VENTILATION: 6.216 SF
- NOTE 08 STACKED WALL MOUNTED TANKLESS GAS WATER HEATER 45 BERNARD
- NOTE 09 72"WX96"H SLIDER DOOR. NATURAL LIGHT: 40.726 SF (10% OF ROOM SERVED). NATURAL VENTILATION: 21.716 SF (5% OF ROOM SERVED). ROOM AREA SERVED: 408.487 SF
- NOTE 10 ALLOWABLE OBSTRUCTION AS PER SF PLANNING CODE 136 (c)(25)(B)(ii)
- NOTE 11 GRILLE GATE

101 LUCAS VALLEY RD, STE 150
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DESIGN | CONSTRUCT | WORK | LIVE

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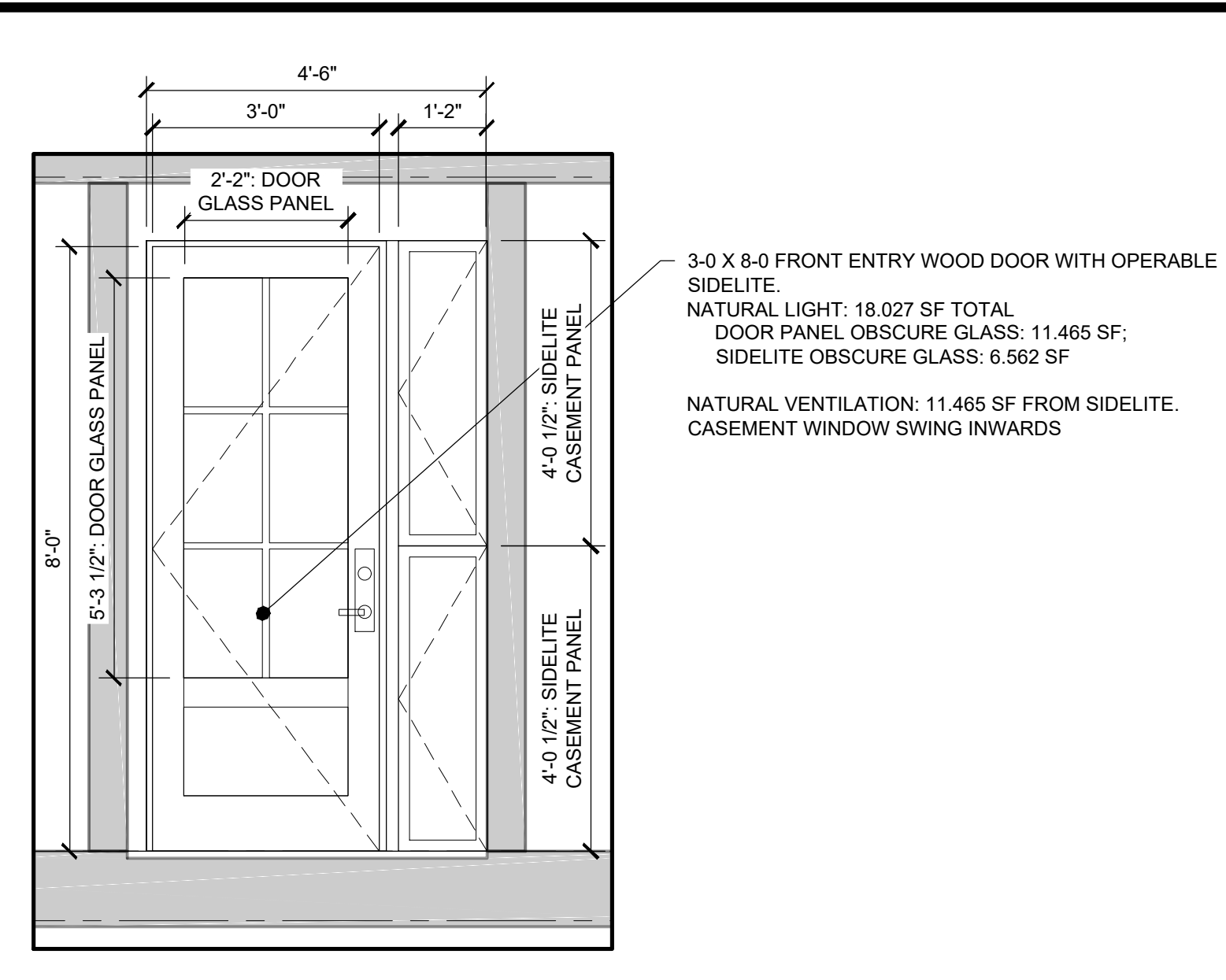
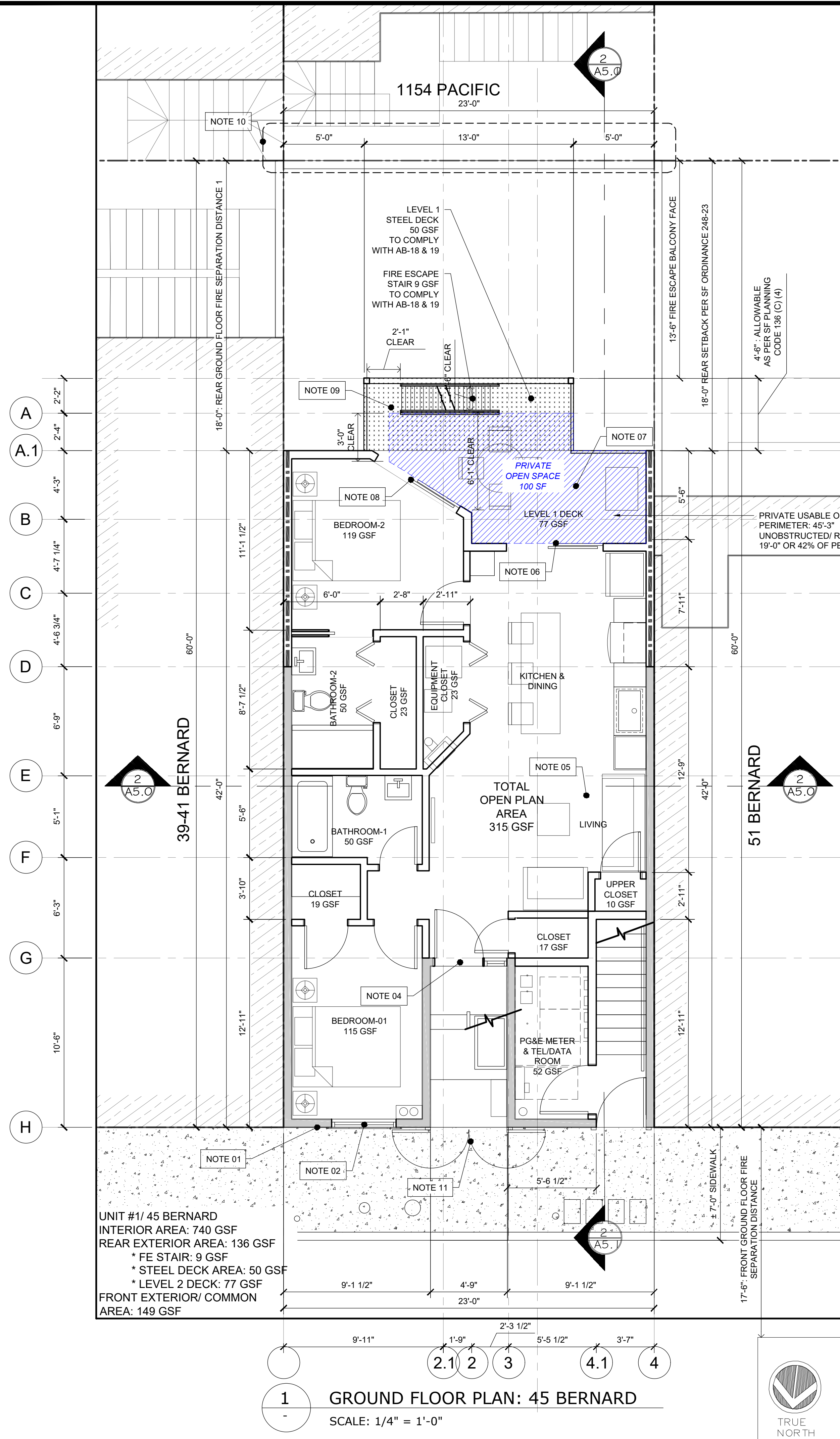
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CHECKED BY	NW

BASEMENT FLOOR PLAN
SHEET TITLE

A3.00

SHEET NO.



2 FRONT ENTRY DOOR: 45 BERNARD
SCALE: 1/2" = 1'-0"

LEGEND

- (E) DRY WALL TO REMAIN
- (E) WALL TO BE DEMO
- (N) DRY WALL:
2X4 INTERIOR WALL UON
2X6 EXTERIOR WALL UON
- (N) CONCRETE WALL. SSD

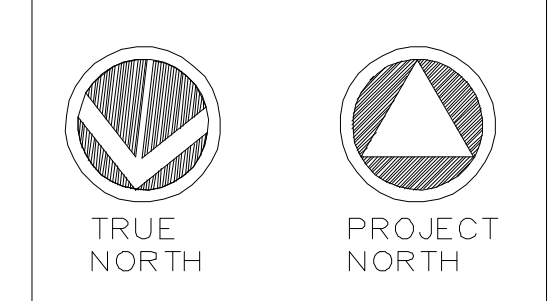
- 1 HR RATED (E) EXTERIOR WALL. FIRE RATED FROM INSIDE ONLY
- 1 HR RATED (N) EXTERIOR WALL.

WATERPROOFING AND DRAINAGE CONNECTED TO BLDG STORM/ SEWER SYSTEM ALONG FOUNDATION/ RETAINING WALL

GROUND FLOOR PLAN NOTES

- NOTE 01 40W X 28H IN-SWING CASEMENT SECURITY WINDOW
- NOTE 02 48"WX60"H SINGLE HUNG WINDOW. NATURAL LIGHT: 17,548 SF (18% OF ROOM SERVED) NATURAL VENTILATION: 8,503 SF (9% OF ROOM SERVED) ROOM AREA SERVED: 97,510 SF
- NOTE 03 24W X 40L OBSCURE SKYLIGHT. NATURAL LIGHT: 5 SF (4% OF ROOM SERVED). NATURAL VENTILATION: 0. ROOM AREA SERVED: 125 SF
- NOTE 04 3-0 X 8-0 ENTRY DOOR WITH OPERABLE SIDELITE. SEE DWG 2 / A3.01
- NOTE 05 OPEN AREA NATURAL LIGHT AND VENTILATION BREAKDOWN AREA SERVED: 288,501 SF NATURAL LIGHT: 58,753 SF TOTAL (20% OF ROOM SERVED) NOTE 06/ PATIO SLIDER DOOR: 40,726 SF NOTE 04/ FRONT ENTRY DOOR WITH OPERABLE SIDELITE: 18,027 SF NATURAL VENTILATION: 33,181 SF TOTAL (10% OF ROOM SERVED) NOTE 08/ PATIO SLIDER DOOR: 21,716 SF NOTE 04/ FRONT ENTRY DOOR WITH OPERABLE SIDELITE: 11,465 SF
- NOTE 06 72"WX96"H SLIDER DOOR. NATURAL LIGHT: 40,726 SF NATURAL VENTILATION: 21,716 SF
- NOTE 07 PRIVATE USABLE OPEN SPACE: 100 NSF PERIMETER: 45'-3" UNOBSTRUCTED/ RAILING PERIMETER: 19'-0" OR 42% OF PERIMETER
- NOTE 08 72"WX96"H SLIDER DOOR. NATURAL LIGHT: 40,726 SF (33% OF ROOM SERVED) NATURAL VENTILATION: 21,716 SF (18% OF ROOM SERVED) ROOM AREA SERVED: 99,962 SF
- NOTE 09 FIRE EXIT DECK. DIAMOND PLATE AS FLOORING TO COUNT AS OPEN SPACE AS PER SEC 135 (F) (3)
- NOTE 10 ALLOWABLE OBSTRUCTION AS PER SF PLANNING CODE 136 (c)(25)(B)(i)
- NOTE 11 REMOVE AND REPLACE (E) OUT SWING GRILLE GATE WITH (N) OUT SWING GRILLE GATE. SEE SCHEDULE.

1 GROUND FLOOR PLAN: 45 BERNARD
SCALE: 1/4" = 1'-0"



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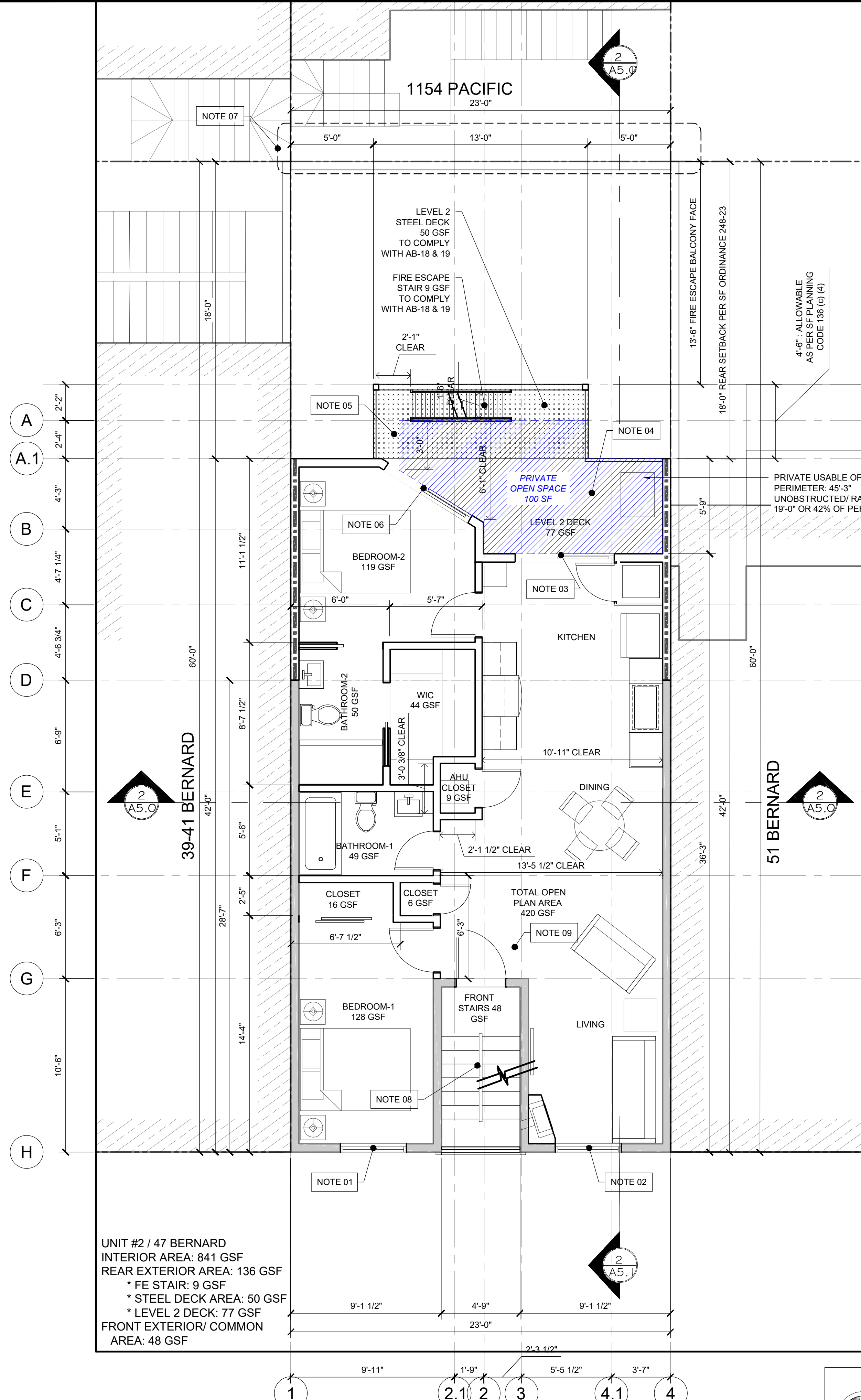
REVISIONS	
01.26.2024	ADDENDUM SUBMITTAL
05.22.2024	APPEAL SET

DATE	01.26.2024
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MD
CHECKED BY	NW

GROUND FLOOR PLAN
SHEET TITLE

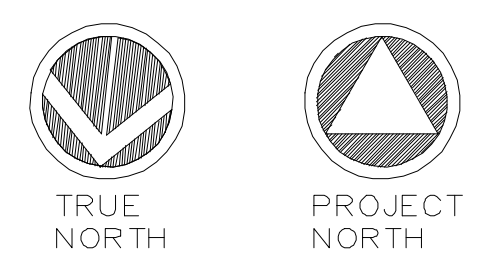
A3.01

SHEET NO.



UNIT #2 / 47 BERNARD
 INTERIOR AREA: 841 GSF
 REAR EXTERIOR AREA: 136 GSF
 * FE STAIR: 9 GSF
 * STEEL DECK AREA: 50 GSF
 * LEVEL 2 DECK: 77 GSF
 FRONT EXTERIOR/ COMMON
 AREA: 48 GSF

2 SECOND FLOOR PLAN: 47 BERNARD
 SCALE: 1/4" = 1'-0"



LEGEND

- (E) DRY WALL TO REMAIN
- (E) WALL TO BE DEMO
- (N) DRY WALL:
2X4 INTERIOR WALL UON
2X6 EXTERIOR WALL UON
- (N) CONCRETE WALL. SSD
- 1 HR RATED (E) EXTERIOR WALL.
FIRE RATED FROM INSIDE ONLY
- 1 HR RATED (N) EXTERIOR WALL.
- WATERPROOFING AND
DRAINAGE CONNECTED TO BLDG
STORM/ SEWER SYSTEM ALONG
FOUNDATION/ RETAINING WALL

SECOND FLOOR PLAN NOTES

- NOTE 01 48"WX60"H SINGLE HUNG WINDOW. NATURAL LIGHT: 17.548 SF (16% OF ROOM SERVED) NATURAL VENTILATION: 8.503 SF (8% OF ROOM SERVED) ROOM AREA SERVED: 109.01 SF
- NOTE 02 48"WX60"H SINGLE HUNG WINDOW. NATURAL LIGHT: 17.548 SF NATURAL VENTILATION: 8.503 SF
- NOTE 03 72"WX96"H SLIDER DOOR. NATURAL LIGHT: 40.726 SF NATURAL VENTILATION: 21.716 SF
- NOTE 04 PRIVATE USABLE OPEN SPACE 2: 60 NSF PERIMETER: 34'-2" UNOBSTRUCTED/ RAILING PERIMETER: 13'-2" OR 39 % OF PERIMETER
- NOTE 05 STEEL DECK. DIAMOND PLATE AS FLOORING TO COUNT AS OPEN SPACE AS PER SEC 135 (F) (3)
- NOTE 06 72"WX96"H SLIDER DOOR. NATURAL LIGHT: 40.726 SF (31% OF ROOM SERVED) NATURAL VENTILATION: 21.716 SF (16% OF ROOM SERVED) ROOM AREA SERVED: 113.333 SF
- NOTE 07 ALLOWABLE OBSTRUCTION AS PER SF PLANNING CODE 136 (c)(25)(B)(II)
- NOTE 08 (E) NON COMPLIANT STAIRS/STEPS FROM GROUND TO 3RD FLOOR TO REMAIN
- NOTE 09 OPEN AREA NATURAL LIGHT AND VENTILATION BREAKDOWN
 AREA SERVED: 402.263 SF
 NATURAL LIGHT: 52.62 SF TOTAL (14% OF ROOM SERVED)
 NOTE 02/ SINGLE HUNG WINDOW: 17.548 SF
 NOTE 03/ SLIDER DOOR: 40.726 SF
 NATURAL VENTILATION: 30.66 SF TOTAL (8% OF ROOM SERVED)
 NOTE 02/ SINGLE HUNG WINDOW: 8.503 SF
 NOTE 03/ SLIDER DOOR: 21.716 SF

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 SAN RAFAEL, CA 94960
 T: 415.597.6880 F: 925.558.4814



BERNARD ST. 3-UNIT APARTMENT
 SEISMIC RETROFIT/ REMODEL
 APN # 0157030

PERMIT NUMBER:
 • SITE PERMIT: 202008222415
 • SUBMITTAL: 2020-05176PRJ

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

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

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REVISIONS

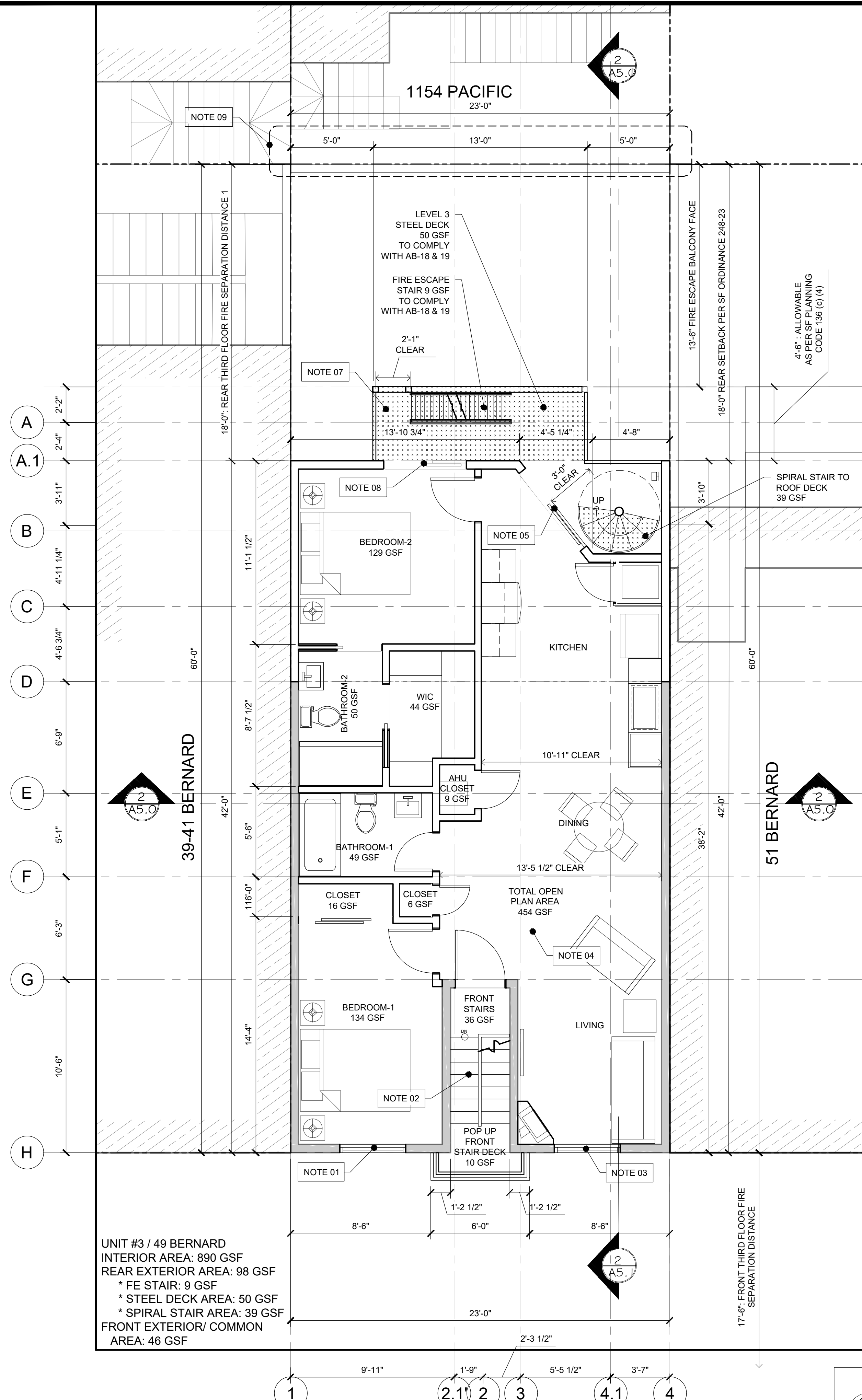
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SECOND FLOOR PLAN
 SHEET TITLE

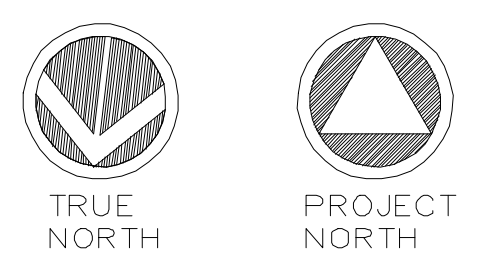
A3.02

SHEET NO.



UNIT #3 / 49 BERNARD
 INTERIOR AREA: 890 GSF
 REAR EXTERIOR AREA: 98 GSF
 * FE STAIR: 9 GSF
 * STEEL DECK AREA: 50 GSF
 * SPIRAL STAIR AREA: 39 GSF
 FRONT EXTERIOR/ COMMON AREA: 46 GSF

2 THIRD FLOOR PLAN: 49 BERNARD
 SCALE: 1/4" = 1'-0"



LEGEND

- (E) DRY WALL TO REMAIN
- (E) WALL TO BE DEMO
- (N) DRY WALL:
2X4 INTERIOR WALL UON
2X6 EXTERIOR WALL UON
- (N) CONCRETE WALL. SSD
- 1 HR RATED (E) EXTERIOR WALL.
FIRE RATED FROM INSIDE ONLY
- 1 HR RATED (N) EXTERIOR WALL.
- WATERPROOFING AND DRAINAGE CONNECTED TO BLDG STORM/ SEWER SYSTEM ALONG FOUNDATION/ RETAINING WALL

THIRD FLOOR PLAN NOTES

- NOTE 01 48"WX60"H SINGLE HUNG WINDOW. NATURAL LIGHT: 17.548 SF (15% OF ROOM SERVED)
NATURAL VENTILATION: 8.503 SF (7% OF ROOM SERVED) ROOM AREA SERVED: 114.592 SF
- NOTE 02 (E) NON COMPLIANT STAIRS/STEPS FROM GROUND TO 3RD FLOOR TO REMAIN
- NOTE 03 48"WX60"H SINGLE HUNG WINDOW. NATURAL LIGHT: 17.548 SF (4% OF ROOM SERVED)
NATURAL VENTILATION: 8.503 SF (2% OF ROOM SERVED) ROOM AREA SERVED: 410.854 SF
- NOTE 04 OPEN AREA NATURAL LIGHT AND VENTILATION BREAKDOWN
AREA SERVED: 402.283 SF
NATURAL LIGHT: 52.62 SF TOTAL (14% OF ROOM SERVED)
NOTE 02/ SINGLE HUNG WINDOW: 17.548 SF
NOTE 03/ PORCH SLIDER DOOR: 40.726 SF
NATURAL VENTILATION: 30.66 SF TOTAL (8% OF ROOM SERVED)
NOTE 02/ SINGLE HUNG WINDOW: 8.503 SF
NOTE 03/ PORCH SLIDER DOOR: 21.716 SF
- NOTE 05 72"WX84"H PATIO SLIDER DOOR. NATURAL LIGHT: 35.184 SF (9% OF ROOM SERVED)
NATURAL VENTILATION: 18.914 SF (5% OF ROOM SERVED) ROOM AREA SERVED: 410.854 SF
- NOTE 06 NOT USED
- NOTE 07 FIRE ESCAPE DECK. DIAMOND PLATE AS FLOORING TO COUNT AS OPEN SPACE AS PER SEC 135 (F) (3)
- NOTE 08 60"WX84"H PATIO SLIDER DOOR. NATURAL LIGHT: 35.184 SF (31% OF ROOM SERVED)
NATURAL VENTILATION: 18.914 SF (16% OF ROOM SERVED) ROOM AREA SERVED: 113.33 SF
- NOTE 09 ALLOWABLE OBSTRUCTION AS PER SF PLANNING CODE 136 (c)(25)(B)(ii)

101 LUCAS VALLEY RD. STE 150
 SAN RAFAEL, CA 94960
 T: 415.997.6880 F: 925.558.4814



BERNARD ST. 3-UNIT APARTMENT SEISMIC RETROFIT/ REMODEL
 APN # 0157030

PERMIT NUMBER:
 • SITE PERMIT: 202008222415
 • SUBMITTAL: 2020-05176PRJ

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

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

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CHECKED BY	NW

SHEET TITLE
THIRD FLOOR PLAN

SHEET NO.
A3.03

ROOF PLAN NOTES

- NOTE 01 42" HIGH WOOD GUARDRAIL
- NOTE 02 42" HIGH LOW WALL
- NOTE 03 42" HIGH STEEL GUARDRAIL
- NOTE 04 42" HIGH STEEL FENCE GATE

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**BERNARD ST. 3-UNIT APARTMENT
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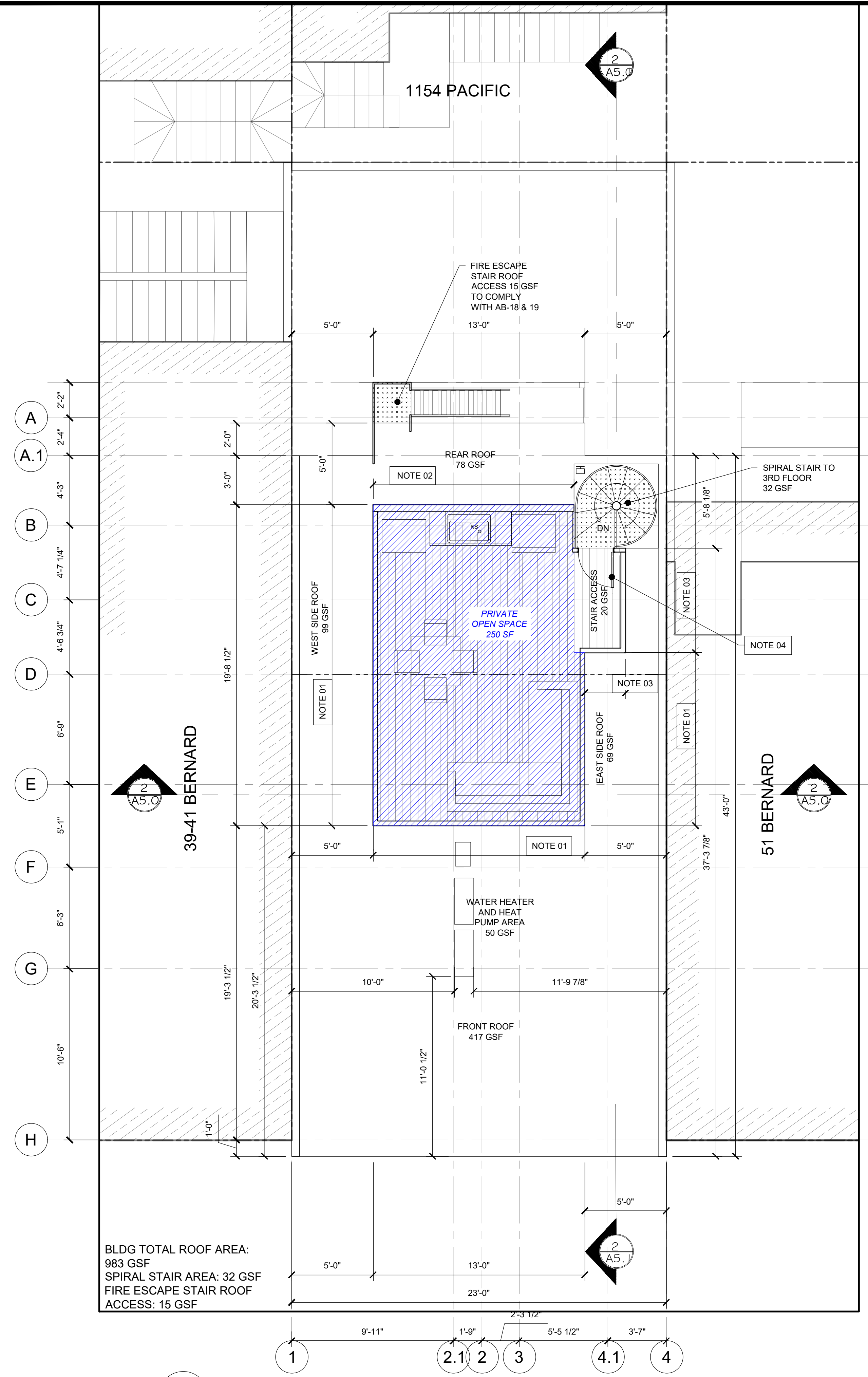
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ROOF DECK PLAN
SHEET TITLE

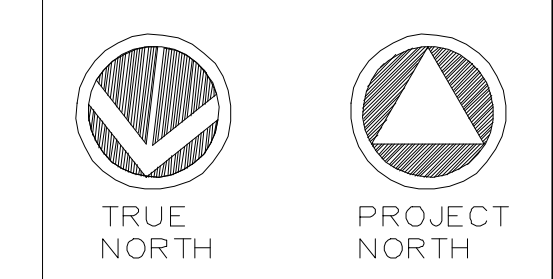
A3.04

SHEET NO.



BLDG TOTAL ROOF AREA:
983 GSF
SPIRAL STAIR AREA: 32 GSF
FIRE ESCAPE STAIR ROOF
ACCESS: 15 GSF

1 ROOF DECK PLAN- 49 BERNARD
SCALE: 1/4" = 1'-0"



LEGEND

(E) ELEMENTS TO BE REMOVED

101 LUCAS VALLEY RD, STE 150
SAN RAFAEL, CA 94960
T: 415.597.6880 F: 925.558.4814



**BERNARD ST. 3-UNIT APARTMENT
SEISMIC RETROFIT/ REMODEL
APN # 0157030**

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SAN FRANCISCO, CA 94133**

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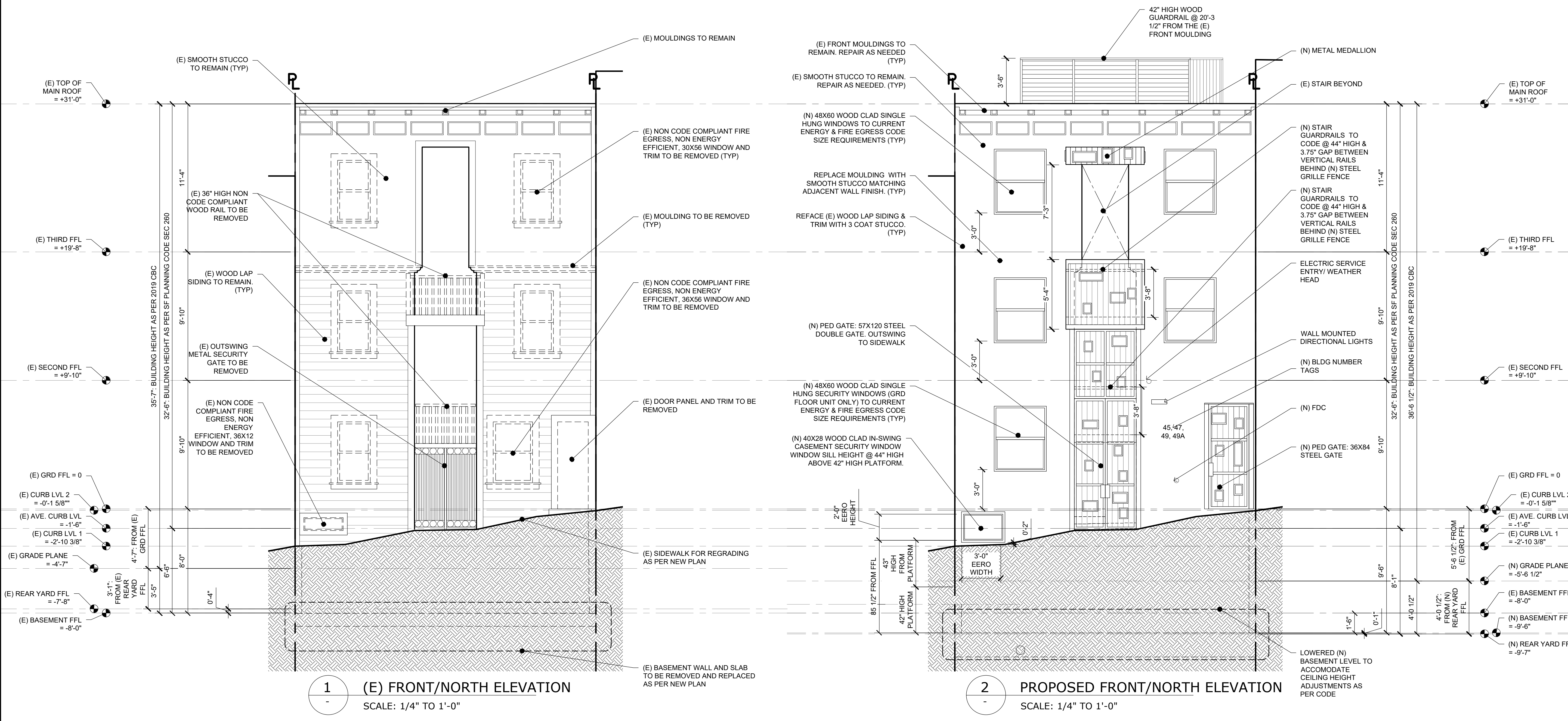
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**EXISTING AND PROPOSED
FRONT/ NORTH ELEVATION
SHEET TITLE**

A4.00

SHEET NO.



1 (E) FRONT/NORTH ELEVATION
SCALE: 1/4" TO 1'-0"

2 PROPOSED FRONT/NORTH ELEVATION
SCALE: 1/4" TO 1'-0"

LEGEND

 (E) ELEMENTS TO BE REMOVED

101 LUCAS VALLEY RD. STE 150
SAN RAFAEL, CA 94903
T: 415.597.6880 F: 925.556.4614



**BERNARD ST. 3-UNIT APARTMENT
SEISMIC RETROFIT/ REMODEL
APN # 0157030**

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PROJECT ADDRESS
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SAN FRANCISCO, CA 94133

MANAGED BY: HGCI
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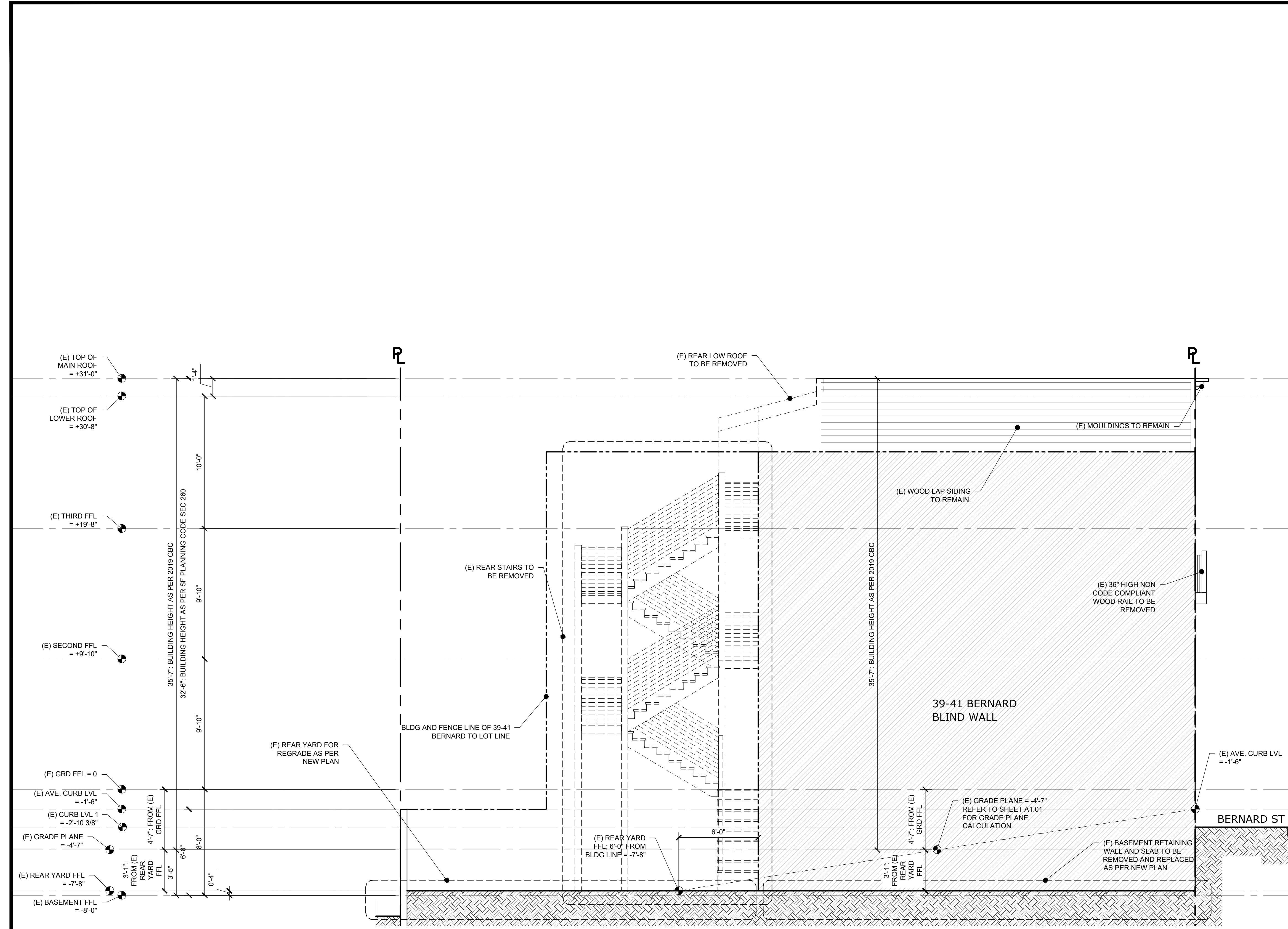
DATE	01.26.2024
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MD
CHECKED BY	NW

**EXISTING LEFT/ EAST
ELEVATION**

SHEET TITLE

A4.02

SHEET NO.



1 (E) LEFT/EAST ELEVATION
SCALE: 1/4" TO 1'-0"

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**BERNARD ST. 3-UNIT APARTMENT
 SEISMIC RETROFIT/ REMODEL
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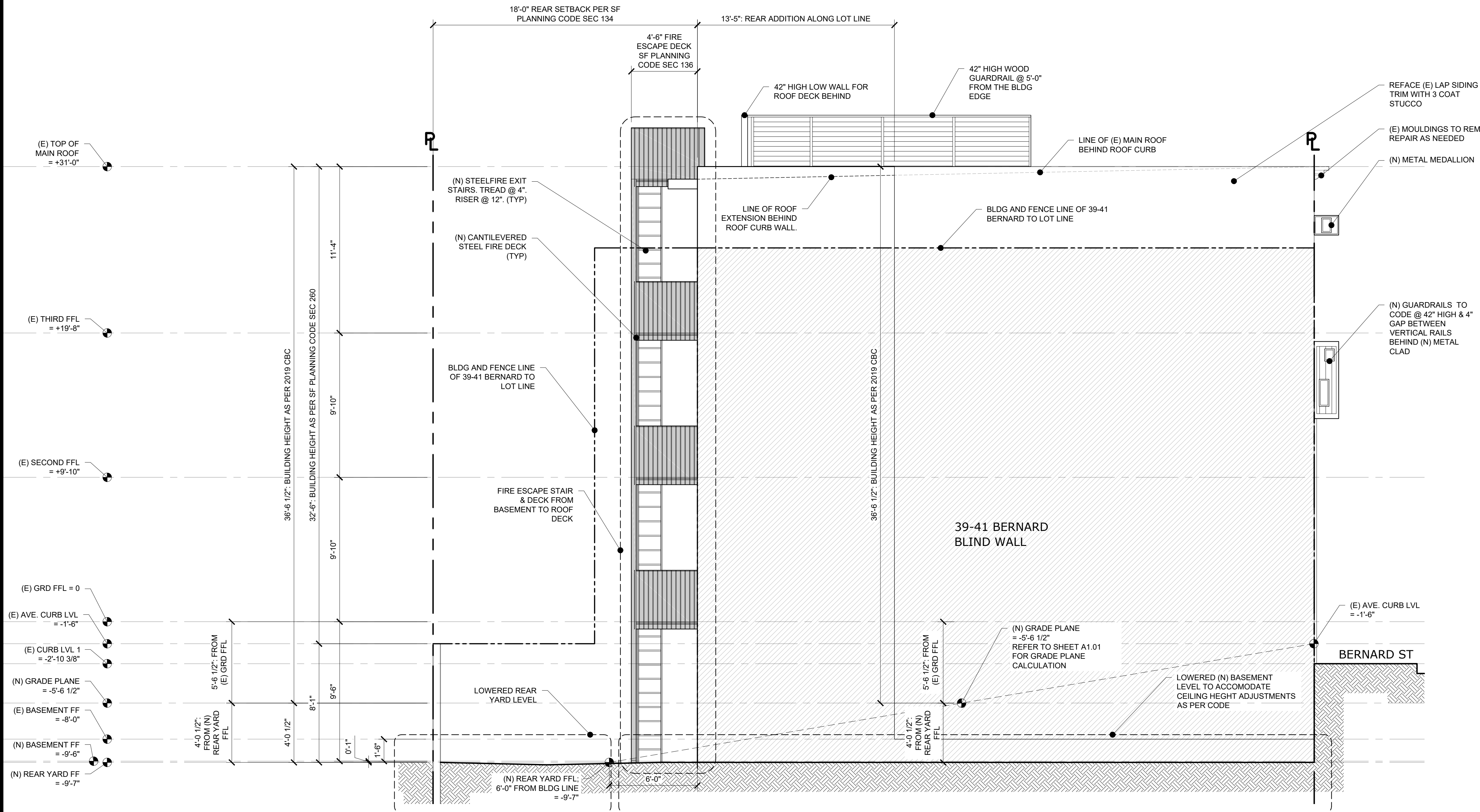
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**PROPOSED
 LEFT/ EAST ELEVATION**
 SHEET TITLE

A4.02b

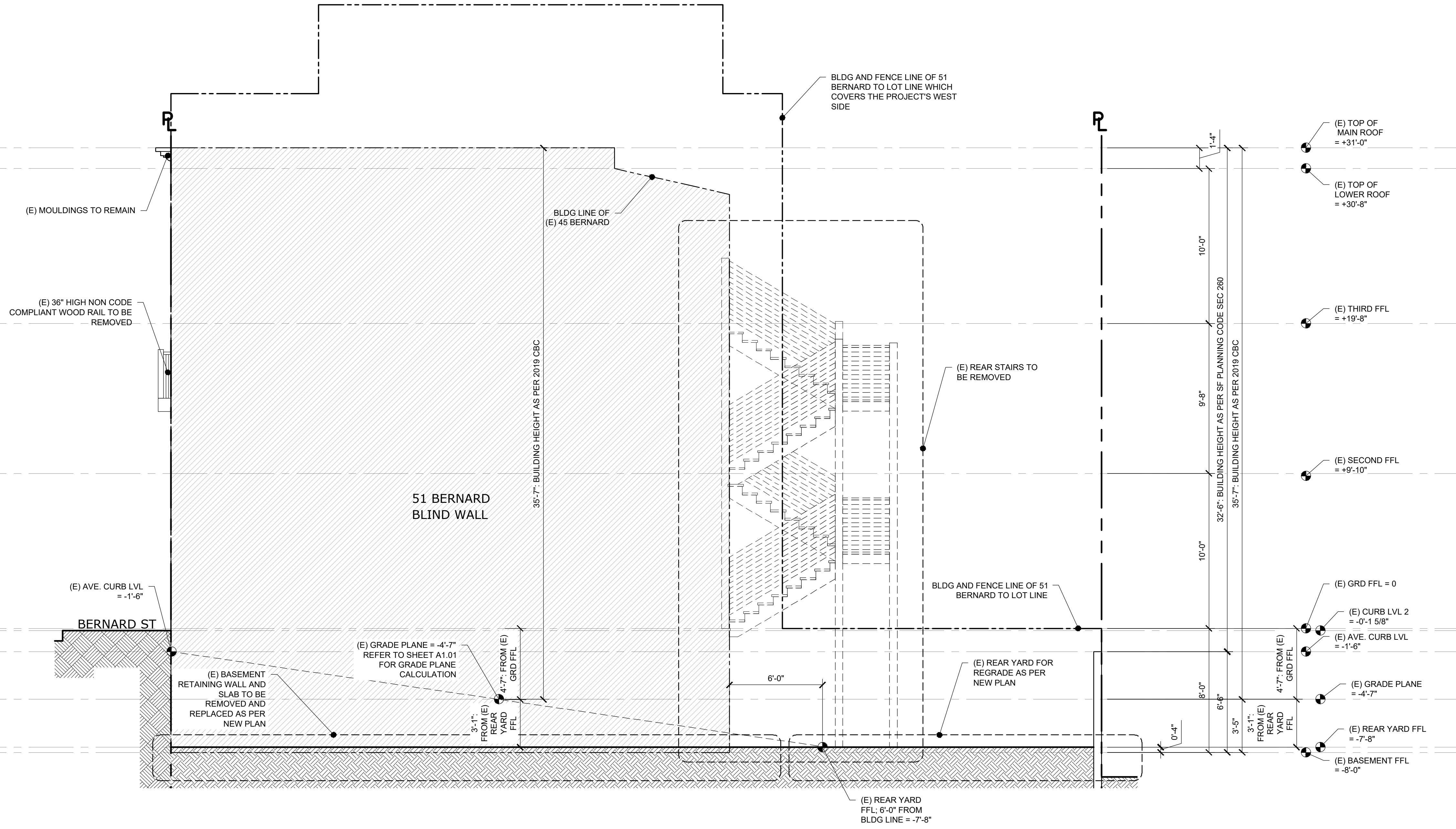
SHEET NO.



2 PROPOSED LEFT/EAST ELEVATION
 SCALE: 1/4" TO 1'-0"

LEGEND

(E) ELEMENTS TO BE REMOVED



1 (E) RIGHT/WEST ELEVATION
SCALE: 1/4" TO 1'-0"

101 LUCAS VALLEY RD, STE 150
SAN RAFAEL, CA 94960
T: 415.697.6880 F: 925.558.4814



**BERNARD ST. 3-UNIT APARTMENT
SEISMIC RETROFIT/ REMODEL
APN # 0157030**

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**EXISTING RIGHT/ WEST
ELEVATION**
SHEET TITLE

A4.03a

SHEET NO.

101 LUCAS VALLEY RD, STE 150
SAN RAFAEL, CA 94960
T: 415.997.6880 F: 925.588.4814



**BERNARD ST. 3-UNIT APARTMENT
SEISMIC RETROFIT/ REMODEL**
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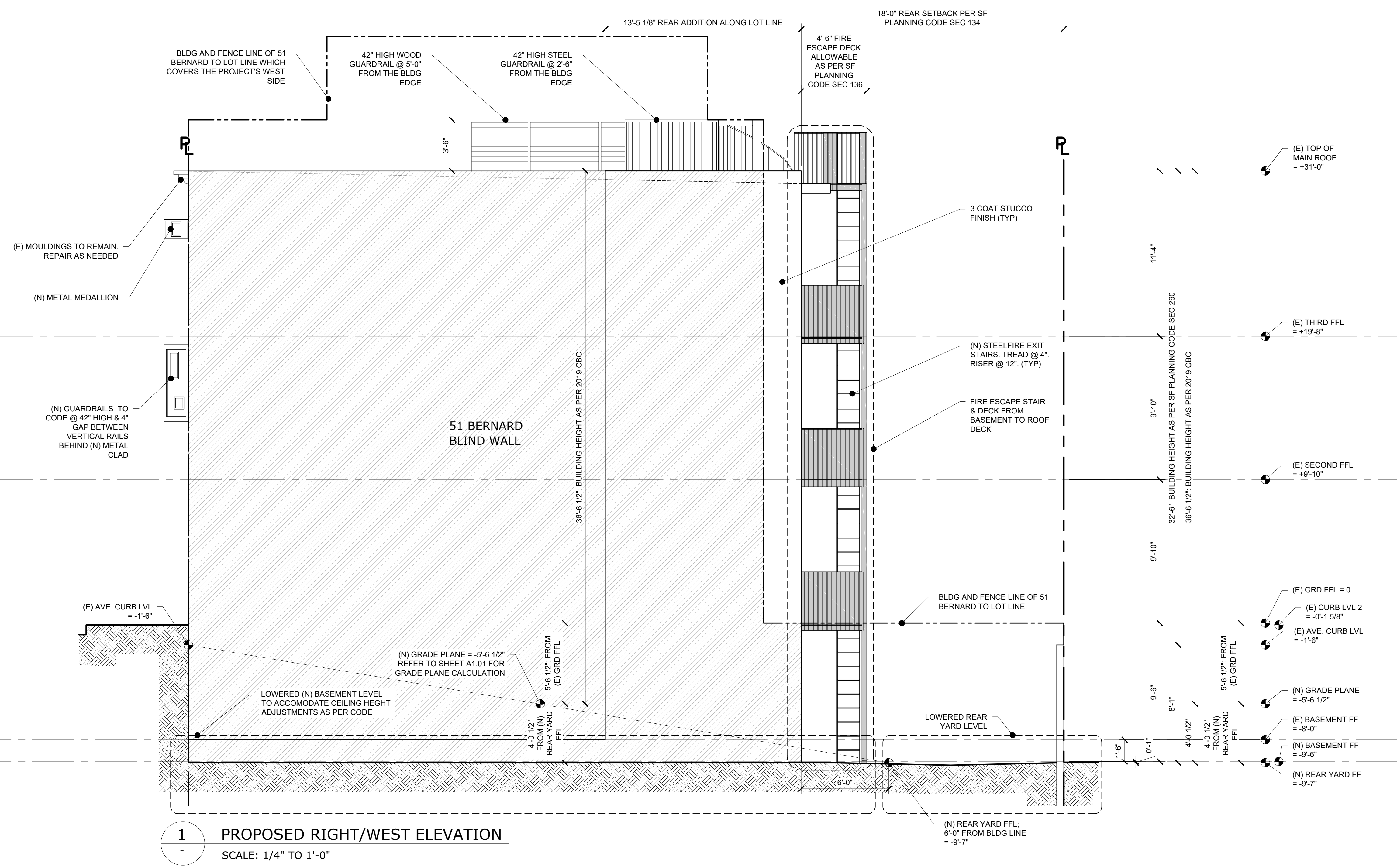
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PROPOSED
RIGHT/ WEST ELEVATION
SHEET TITLE

A4.03b

SHEET NO.



1 PROPOSED RIGHT/WEST ELEVATION
SCALE: 1/4" TO 1'-0"

101 LUCAS VALLEY RD, STE 150
SAN RAFAEL, CA 94901
T: 415.597.6880 F: 925.555.4514



**BERNARD ST. 3-UNIT APARTMENT
SEISMIC RETROFIT/REMODEL**
APN # 0157030

PERMIT NUMBER:
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• SUBMITTAL: 2020-05176PRJ

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SAN FRANCISCO, CA 94133

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

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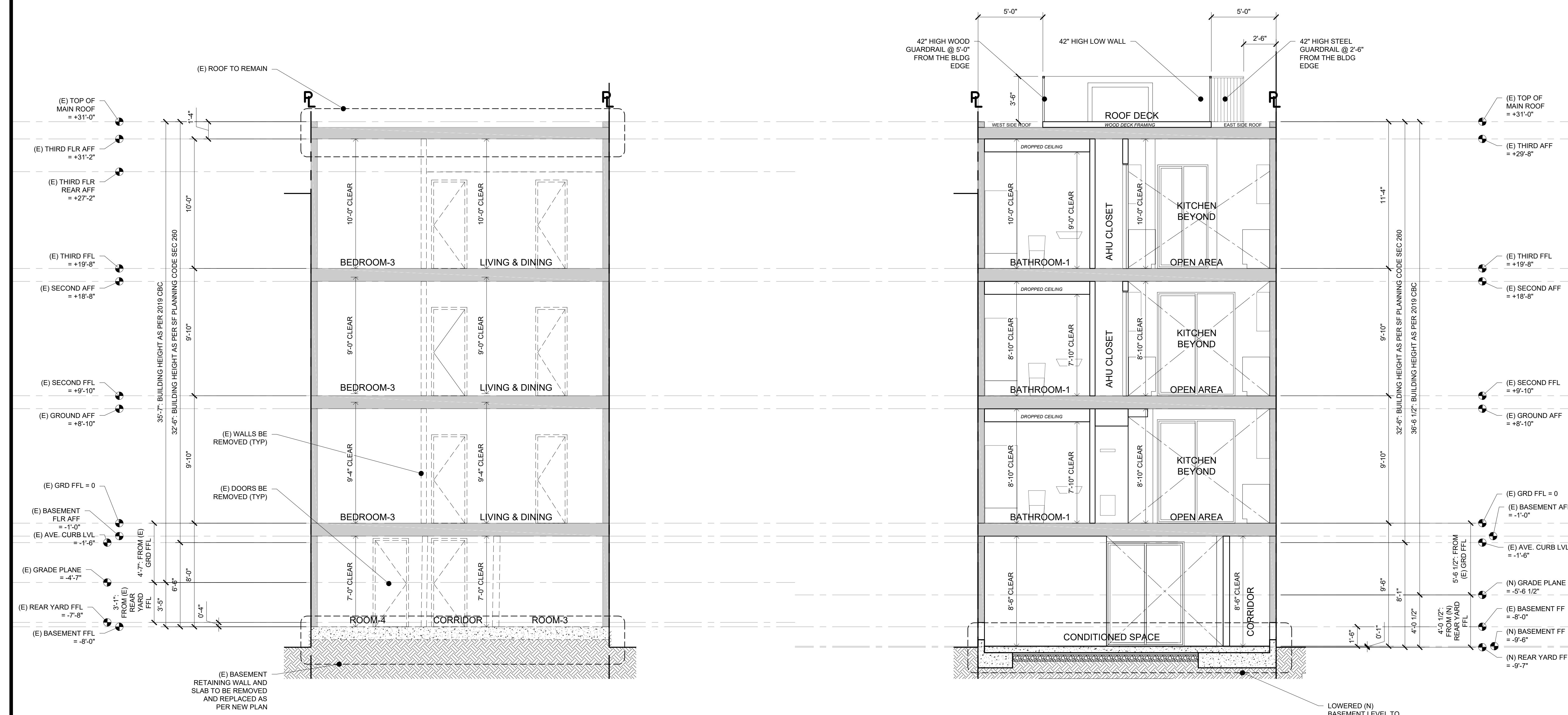
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EXISTING AND PROPOSED SECTION
SHEET TITLE

A5.00

SHEET NO.



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

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

LEGEND

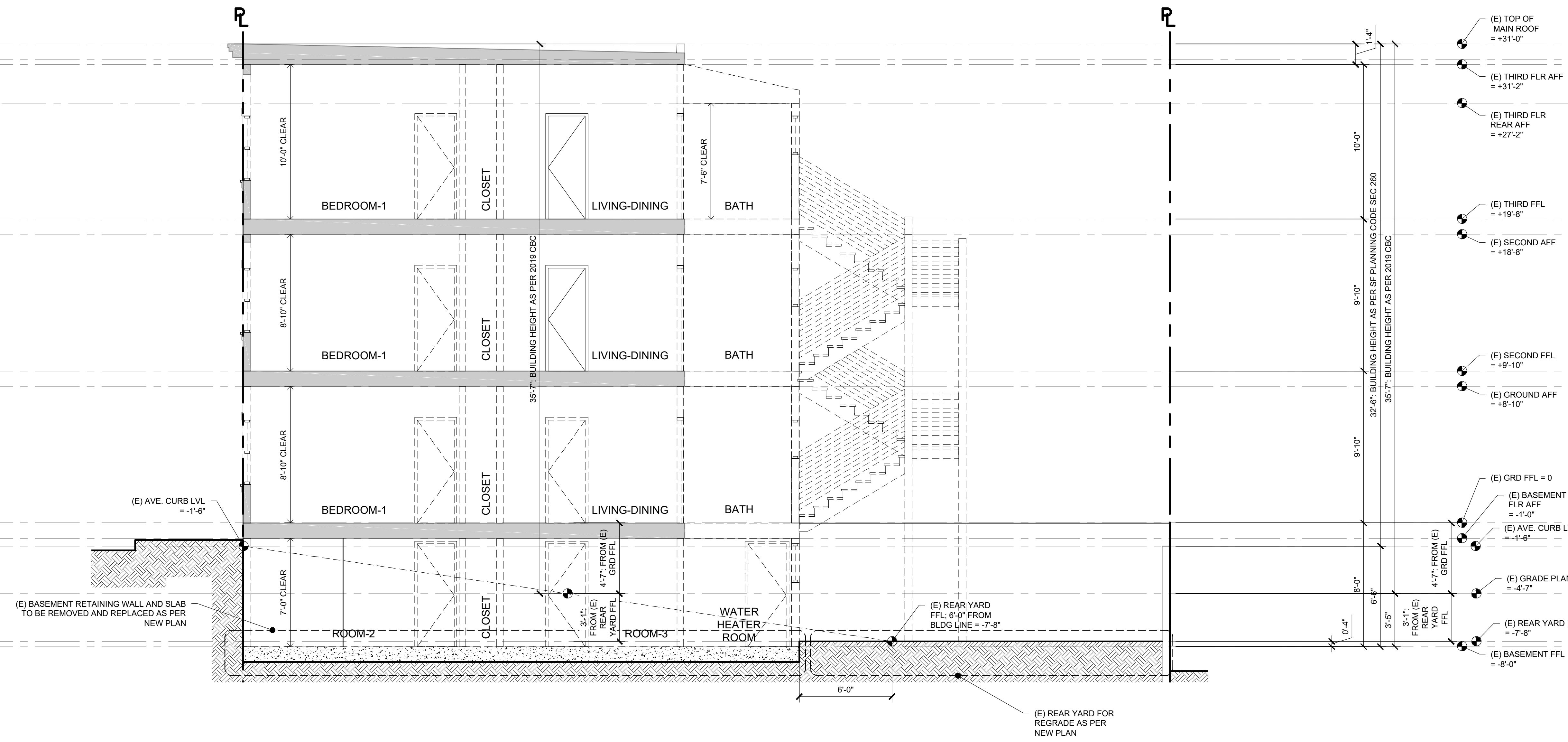
- (E) WALL/FLOOR/ROOF TO REMAIN
- (E) WALL/FLOOR/ROOF TO BE REMOVED

SECTION LEGEND

FOR WALL, FLOOR & ROOF ELEMENTS

(E) ELEMENTS TO RETAIN 

(E) ELEMENTS TO BE REMOVED 



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

112 SPAU
T. 415.
101 LUCAS VALLEY RD, STE 150
SAN RAFAEL, CA 94901
T. 415.597.6880 F. 925.554.4814



BERNARD ST. 3-UNIT APARTMENT SEISMIC RETROFIT/ REMODEL
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PROJECT ADDRESS
45,47, & 49 BERNARD ST. SAN FRANCISCO, CA 94133

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

STAMP
ALL DESIGNS, DRAWINGS AND WRITTEN MATERIALS INDICATED HEREIN ARE THE WORK AND PROPERTY OF HUSTON GENERAL CONTRACTING, INC. THIS DOCUMENT MAY NOT BE REPRODUCED, COPIED OR DISCLOSED BY ANY METHOD WITHOUT THE WRITTEN CONSENT OF HUSTON GENERAL CONTRACTING, INC. ALL RIGHTS RESERVED.
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REVISIONS	
01.26.2024	ADDENDUM SUBMITTAL
05.17.2024	APPEAL SET

DATE	01.26.2024
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MD
CHECKED BY	NW

EXISTING TRANSVERSE SECTION
SHEET TITLE

A5.01

SHEET NO.



BERNARD ST. 3-UNIT SEISMIC RETROFIT/REMODEL
 APN # 0157030

PERMIT NUMBER:
 • SITE PERMIT: 202008222415
 • SUBMITTAL: 2020-05176PRJ

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

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

STAMP

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REVISIONS

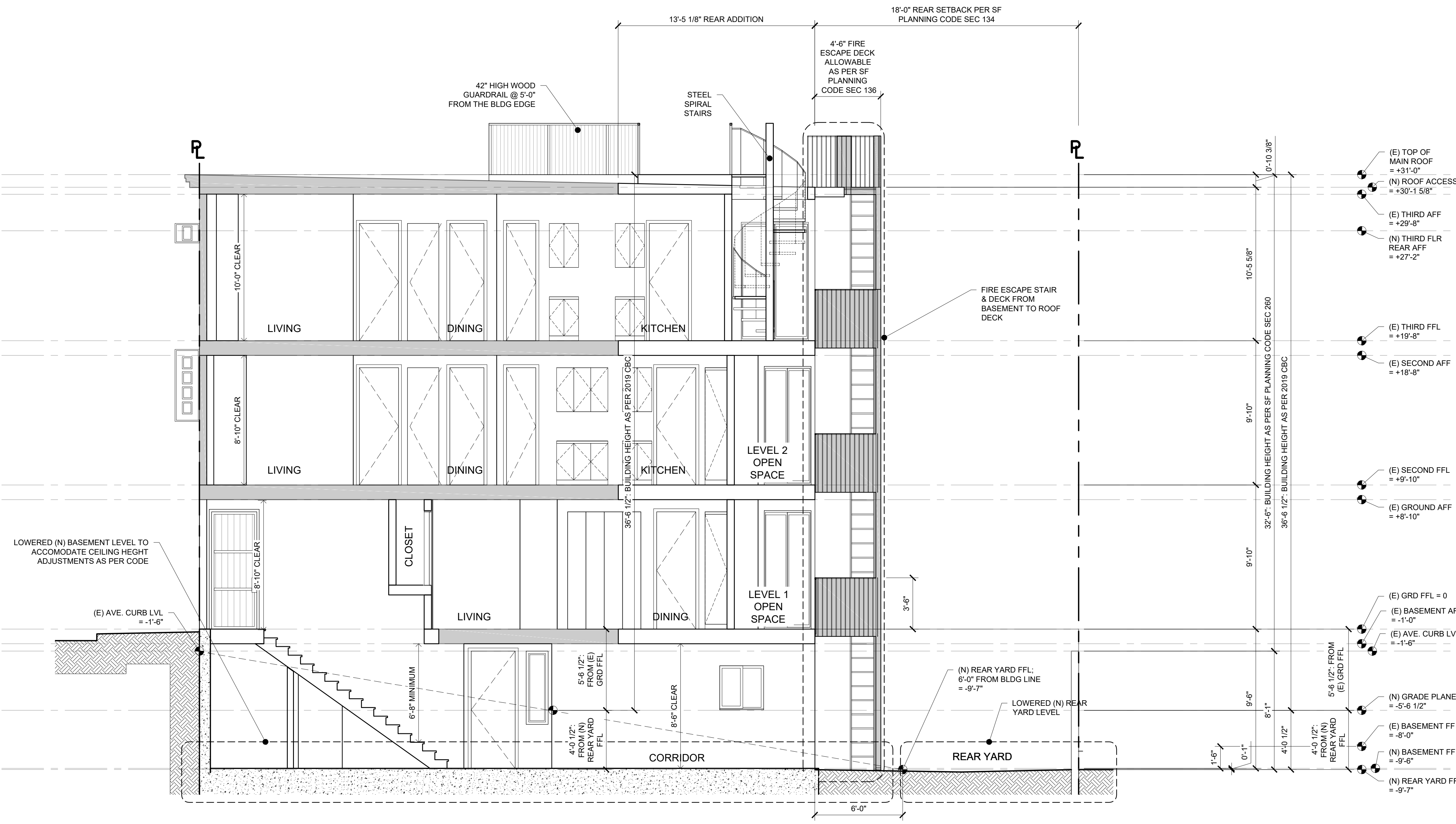
DATE	DESCRIPTION
01.26.2024	ADDENDUM SUBMITTAL
05.22.2024	APPEAL SET

DATE	01.26.2024
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MD
CHECKED BY	NW

PROPOSED TRANSVERSE SECTION
 SHEET TITLE

A5.01b

SHEET NO.



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

Documents Submitted for the hearing on April 3, 2024

Appeal No. 24-011 (starts at page 22)

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
JENNIFER MEI and HANMIN LIU,)
Appellant(s))
vs.)
DEPARTMENT OF BUILDING INSPECTION,)
PLANNING DEPARTMENT APPROVAL Respondent)

Appeal No. **24-011**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on February 8, 2024, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on January 24, 2024 to Tina and Lindsey Huston, of a Site Permit (upgrade 3-story, 4-unit apartment consisting of brick foundation, wood frame structure, combination siding, etc.; project work consists of seismic/soft-story foundation upgrade (with nine-foot, rear-yard addition) and includes bringing front bedroom windows to fire exit code size with finish to match existing) at 45, 47 & 49 Bernard Street.

APPLICATION NO. 2020/08/22/2415

FOR HEARING ON May 29, 2024

Address of Appellant(s):

Address of Other Parties:

<p>Jennifer Mei and Hanmin Liu, Appellant(s) c/o Scott Emblidge, Attorney for Appellant(s) Moscone Emblidge & Rubens 220 Montgomery Street, Suite 2100 San Francisco, CA 94104</p>	<p>Tina Huston & Lindsey Huston, Permit Holder(s) 334 Santana Row, No. 211 San Jose, CA 95128</p>
--	---



Date Filed: February 8, 2024

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 24-011

I / We, **Jennifer Mei and Hanmin Liu**, hereby appeal the following departmental action: **ISSUANCE of Alteration Permit No. 2020/08/22/2415** by the **Department of Building Inspection** which was issued or became effective on: **January 24, 2024**, to: **Tina Huston and Lindsey Huston**, for the property located at: **45, 47 & 49 Bernard Street**.

BRIEFING SCHEDULE:

Appellants' Brief is due on or before: 4:30 p.m. on **March 14, 2024, (no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, corey.teague@sfgov.org, tina.tam@sfgov.org, matthew.greene@sfgov.org, tinahuston07@gmail.com and linlin4soccer@gmail.com.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **March 28, 2024, (no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be doubled-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, corey.teague@sfgov.org, tina.tam@sfgov.org, matthew.greene@sfgov.org, deborah@holleyconsulting.com and plumblossom@icloud.com.

Hard copies of the briefs do NOT need to be submitted to the Board Office or to the other parties.

Hearing Date: **Wednesday, April 3, 2024, 5:00 p.m., Room 416 San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place**. The parties may also attend remotely via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any changes to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a hard copy of the hearing materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

See attachment.

Appeal filed by email by Deborah Holley, agent for appellants.

**STATEMENT OF APPEAL FOR BUILDING PERMIT NO. 202008222415 ISSUED
JANUARY 24, 2024**

We are filing this appeal because there are inconsistencies between previous versions of the plans and the approved permit set for which a building permit was issued for the following work under permit # 202008222415: “Upgrade 3-story, 4-unit apartment consisting of brick foundation, wood frame structure, combination siding, etc. Project work consists of seismic/soft-story foundation upgrade (w/9 ft rear-yard addition) and includes bringing front bedroom windows to fire exit code size with finish to match existing.”

In addition, the work on the building has been split up into two permits and we are concerned about work proceeding on the building under this overall permit without having a final, approved plan for the other permit #202201075581 which entails “Legalizing an existing illegal and unoccupied basement unit into 2BD/2BR 837SF ADU. Includes 232SF extension in the rear yard to the allowable depth.”

Permit Details Report

Report Date: 2/8/2024 2:26:27 PM

Application Number: 202008222415

Form Number: 3

Address(es): 0157 /030 /1 45 BERNARD ST
 0157 /030 /1 47 BERNARD ST
 0157 /030 /1 49 BERNARD ST

Description: Upgrade 3-story, 4-unit apartment consisting of brick foundation, wood frame structure, combination siding, etc. Project work consists of seismic/soft-story foundation upgrade (w/9 ft rear-yard addition) and includes bringing front bedroom windows to fire exit code size with finish to match existing

Cost: \$389,642.00

Occupancy Code: R-2

Building Use: 24 - APARTMENTS

Disposition / Stage:

Action Date	Stage	Comments
8/22/2020	TRIAGE	
8/22/2020	FILING	
8/22/2020	FILED	
12/4/2023	APPROVED	
1/24/2024	ISSUED	

Contact Details:

Contractor Details:

License Number: 720437
 Name: JAMES HUSTON
 Company Name: HUSTON GENERAL CONTRACTING INC.
 Address: 1615 SECOND STREET * LIVERMORE CA 94550-0000
 Phone:

Addenda Details:

Description:

SITE

Station	Rev#	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Review Result	Hold Description
CPB		8/22/20	9/14/20	9/14/20	9/22/20	9/22/20	TORRES SHIRLEY		#368-912-764 ELECTRONICALLY SUBMITTED. invoice sent. 09/22/20: PMT RCVD, OK TO PROCESS. ST
PRE-PLN		9/24/20	9/25/20			9/25/20	RUSSELL ERICA		
PRE-FIRE		9/24/20	9/24/20			9/24/20	HIGGINS PAT		pre-screen accepted
CP-ZOC		9/29/20	11/2/23			11/2/23	ASBAGH CLAUDINE	Approved	Approved
CP-NP		1/6/22	1/6/22			1/10/22	GUY KEVIN		1/6/22: Emailed the 311 cover letter. (JL) 1/10/22: Mailed the 311 notice on 1/24/22; expires on 2/23/22. (JL)
CP-DR		2/22/22	11/7/23			11/7/23	ASBAGH CLAUDINE	Approved	DR was heard at planning commission in 2021. This line is complete.
BLDG		2/27/23	5/9/23	5/26/23		9/22/23	OSPITAL JOSEPH	Administrative	REASSIGNED 9/22/2023 comments issued during google meeting on 5/26 at 9 am w/AOR and assoc. Waiting for PDF to be emailed to Jeffrey.barnes@sfgov.org prior to upload in BB session email to Property owner & AOR

									TINAHUSTON07@GMAIL.COM & ANDREWS@HGCI.COM, project on hold until response. seismic upgrade & new adu to be reviewed together.
BLDG		2/27/23	9/22/23			9/28/23	OSPITAL JOSEPH	Issued Comments	
BLDG	1	10/26/23	10/26/23			10/26/23	OSPITAL JOSEPH	Approved	
SFFD		3/6/23	4/6/23	4/6/23	5/30/23	5/30/23	TOLENTINO NEIL		4/6/2023 Not approved and on hold. Comments on bluebeam (994-436-227). - NT
SFFD		5/30/23	7/18/23	7/18/23		9/19/23	TOLENTINO NEIL	Issued Comments	7/18/2023 Not approved and on hold. Comments on bluebeam (994-436-227). - NT
SFFD	1	9/19/23	9/19/23			9/19/23	TOLENTINO NEIL	Approved-Stipulated	9/19/2023 Approved, comments addressed. As-built needed to include signed pre-application meeting minutes on plans. Inspection Fees. -NT
DPW-BSM		3/1/23	3/1/23			3/1/23	DENNIS RASSENDYLL		3.1.23 Approve. EPR- No alteration or construction of City Right-of-Way under this permit . -RD
SFPUC		2/27/23	8/16/23			8/16/23	IMSON GRACE	Approved	08/16/2023. Approved.
SFFD	1	10/31/23	11/3/23			11/3/23	TOLENTINO NEIL	Approved	11/3/2023 Approved. Re-check. Inspection Fees. -NT
DPW-BSM	1	10/31/23	11/27/23			11/27/23	DENNIS RASSENDYLL	Approved	Restamped EPR- No alteration or construction of City Right-of-Way under this permit . -RD
SFPUC	1	10/31/23	11/2/23			11/2/23	IMSON GRACE	Approved	11/02/2023 - APPROVED
PPC		9/22/20	9/24/20			11/30/23	PHAM ANH HAI	Administrative	11/30/23 02:47 PM Invite sent to CPB to close out permit; HP 11/28/23: Email sent to BSM to stamp REV2 permit application form. Email sent to applicant to update sheet index on REV3 drawing; HP 10/31/2023: Invite sent to plan checkers to review and stamp REV3 drawing;nl 2/27/2023: Concurrent review approved by Planning plan checker Clauding Asbagh on email dated 2/27. Invite sent to BLDG, SFFD, BSM, PUC to start electronic plan review (back dated, email was sent on 2/27 to all departments);nl 2/13/2023: Invite sent to Planning Plan checker to review and stamp REV1 drawing;nl 9/29/20: Pre-screening complete, invite planning to BB session; cm 9/24/20: Bluebeam session created; Invite Pre-Fire, Pre-Planning, and applicant; cm
CPB		11/30/23	12/4/23			1/24/24	GUTIERREZ NANCY	Administrative	1/24/2024: Issued to agent in BB.ng 12/18/2023: Cancellation/Extension Notification Letter Sent. Cancel Date:02/22/2024. 1st extension fee \$1,028.21. When pay fee, new cancel date: 02/16/2025.ay : WAITING FOR CONTRACTOR STATEMENT

SFFD INSP.
FEES REQ.

FIRE

APPROVED FOR ISSUANCE

BLDG. FORM 3/8

APPLICATION NUMBER
202008222415-S

OSHA APPROVAL REQ'D
APPROVAL NUMBER

January 24, 2024
202008222415_Form 3 SITE_signed_REV2

Patrick O'Riordan
PATRICK O'RIORDAN
DIRECTOR
DEPT. OF BUILDING INSPECTION

BUILDING ENLARGEMENT
DESCRIPTION
 VERTICAL
 HORIZONTAL



Capacity Charges

Water: \$ 0

Wastewater: \$ 0

GI 110/02/2023

APPLICATION FOR BUILDING PERMIT ADDITIONS, ALTERATIONS OR REPAIRS

CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT OF BUILDING INSPECTION

DCP
FEE

APPLICATION IS HEREBY MADE TO THE DEPARTMENT OF
BUILDING INSPECTION OF SAN FRANCISCO FOR
PERMISSION TO BUILD IN ACCORDANCE WITH THE PLANS
AND SPECIFICATIONS SUBMITTED HERewith AND
ACCORDING TO THE DESCRIPTION AND FOR THE PURPOSE
HEREINAFTER SET FORTH.

FORM 3 OTHER AGENCIES REVIEW REQUIRED

FORM 8 OVER-THE-COUNTER ISSUANCE

2 NUMBER OF PLAN SETS

DO NOT WRITE ABOVE THIS LINE

DATE FILED 06/11/2020	FILING FEE RECEIPT NO.	(1) STREET ADDRESS OF JOB 45,47,49 & 49A Bernard Street	BLOCK & LOT 0157/030
RECEIPT NO. 20240123-124OL	ISSUED 1/24/2024	(2A) ESTIMATED COST OF JOB \$ 389,642.00	(2B) REVISED COST: 389,642.00 BY: J. Ospital DATE: 11/07/2023

INFORMATION TO BE FURNISHED BY ALL APPLICANTS

LEGAL DESCRIPTION OF EXISTING BUILDING

(4A) TYPE OF CONSTR. V-B	(5A) NO. OF STORIES OF OCCUPANCY: 3	(6A) NO. OF BASEMENTS AND CELLARS: 1	(7A) PRESENT USE: 3 Residential units + 1 ADU	(8A) OCCUP. CLASS R-2	(9A) NO. OF DWELLING UNITS: 4
-----------------------------	-------------------------------------	--------------------------------------	--	--------------------------	-------------------------------

DESCRIPTION OF BUILDING AFTER PROPOSED ALTERATION

(4) TYPE OF CONSTR. V-B	(5) NO. OF STORIES OF OCCUPANCY: 3	(6) NO. OF BASEMENTS AND CELLARS: 1	(7) PROPOSED USE (LEGAL USE) 3 Residential units + 1 ADU	(8) OCCUP. CLASS R-2	(9) NO. OF DWELLING UNITS: 4
----------------------------	------------------------------------	-------------------------------------	---	-------------------------	------------------------------

(10) IS AUTO RUNWAY TO BE CONSTRUCTED OR ALTERED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(11) WILL STREET SPACE BE USED DURING CONSTRUCTION? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	(12) ELECTRICAL WORK TO BE PERFORMED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	(13) PLUMBING WORK TO BE PERFORMED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
---	---	---	---

(14) CONTRACTOR HGCI	ADDRESS 101 Lucas Valley Rd, Ste 150, San Raf	ZIP 94603	PHONE (415) 509-0072	CALIF. LIC. NO. C 720437	EXPIRATION DATE 01/31/2025
-------------------------	--	--------------	-------------------------	-----------------------------	-------------------------------

(15) OWNER -LESSEE-(CROSS OUT ONE) Tina Huston (Owner)	ADDRESS 334 Santana Row, 211, San Jos	ZIP 95128	BTRC#	PHONE (FOR CONTACT BY DEPT.) 925.338.1755
---	--	--------------	-------	--

(16) WRITE IN DESCRIPTION OF ALL WORK TO BE PERFORMED UNDER THIS APPLICATION (REFERENCE TO PLANS IS NOT SUFFICIENT)
Foundation/ seismic upgrades; Ceiling height increase to comply with the current code for Basement Floor/ADU; Removal of rear wall and rear stairs for new horizontal addition for each levels; new fire exit stair deck, patio area for required open space, remodel of 3 residential units, relocate PG&E and Tel/data service meters/boxes, new roof as per new rear addition; removal of existing stairs from street level to basement to be replaced with new stairs
---See Plans for complete scope of works--- Related permit application: BPA# 202201075581

ADDITIONAL INFORMATION

(17) DOES THIS ALTERATION CREATE ADDITIONAL HEIGHT OR STORY TO BUILDING? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(18) IF (17) IS YES, STATE NEW HEIGHT AT CENTER LINE OF FRONT N/A	(19) DOES THIS ALTERATION CREATE DECK OR HORIZ. EXTENSION TO BUILDING? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	(20) IF (19) IS YES, STATE NEW GROUND FLOOR AREA 928 SQ. FT.
--	--	--	---

(21) WILL SIDEWALK OVER SUB-SIDEWALK SPACE BE REPAIRED OR ALTERED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	(22) WILL BUILDING EXTEND BEYOND PROPERTY LINE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(23) ANY OTHER EXISTING BLDG. ON LOT? (IF YES, SHOW ON PLOT PLAN) YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(24) DOES THIS ALTERATION CONSTITUTE A CHANGE OF OCCUPANCY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
--	---	---	---

(25) ARCHITECT OR ENGINEER (DESIGN <input checked="" type="checkbox"/> CONSTRUCTION <input checked="" type="checkbox"/> Nathan Watkins	ADDRESS 101 Lucas Valley Rd, Ste 150, San Raf	CALIF. CERTIFICATE NO. C 38960
---	--	-----------------------------------

(26) CONSTRUCTION LENDER (ENTER NAME AND BRANCH DESIGNATION IF ANY. IF THERE IS NO KNOWN CONSTRUCTION LENDER, ENTER "UNKNOWN") Unknown	ADDRESS
---	---------

IMPORTANT NOTICES

No change shall be made in the character of the occupancy or use without first obtaining a Building Permit authorizing such change. See San Francisco Building Code and San Francisco Housing Code.

No portion of building or structure or scaffolding used during construction is to be closer than 6'0" to any wire containing more than 750 volts. See Sec 385, California Penal Code.

Pursuant to San Francisco Building Code, the building permit shall be posted on the job. The owner is responsible for approved plans and application being kept at building site.

Grade lines as shown on drawings accompanying this application are assumed to be correct. If actual grade lines are not the same as shown, revised drawings showing correct grade lines, cuts and fills, and complete details of retaining walls and wall footings must be submitted to this department for approval.

ANY STIPULATION REQUIRED HEREIN OR BY CODE MAY BE APPEALED.

BUILDING NOT TO BE OCCUPIED UNTIL CERTIFICATE OF FINAL COMPLETION IS POSTED ON THE BUILDING OR PERMIT OF OCCUPANCY GRANTED, WHEN REQUIRED.

APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS. A SEPARATE PERMIT FOR THE WIRING AND PLUMBING MUST BE OBTAINED. SEPARATE PERMITS ARE REQUIRED IF ANSWER IS "YES" TO ANY OF ABOVE QUESTIONS (10) (11) (12) (13) (22) OR (24).

THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED.

In dwellings, all insulating materials must have a clearance of not less than two inches from all electrical wires or equipment.

CHECK APPROPRIATE BOX
 OWNER ARCHITECT
 LESSEE AGENT
 CONTRACTOR ENGINEER

NOTICE TO APPLICANT

HOLD HARMLESS CLAUSE. The permittee(s) by acceptance of the permit, agree(s) to indemnify and hold harmless the City and County of San Francisco from and against any and all claims, demands and actions for damages resulting from operations under this permit, regardless of negligence of the City and County of San Francisco, and to assume the defense of the City and County of San Francisco against all such claims, demands or actions.

In conformity with the provisions of Section 3800 of the Labor Code of the State of California, the applicant shall have worker's compensation coverage under (I) or (II) designated below, or shall indicate item (III), (IV), or (V), whichever is applicable. If however item (V) is checked, item (IV) must be checked as well. Mark the appropriate method of compliance below.

I hereby affirm under penalty of perjury one of the following declarations:

() I. I have and will maintain a certificate of consent to self-insure for worker's compensation, as provided by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

() II. I have and will maintain worker's compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My worker's compensation insurance carrier and policy number are:
Carrier
Policy Number

() III. The cost of the work to be done is \$100 or less.

() IV. I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California. I further acknowledge that I understand that in the event that I should become subject to the worker's compensation provisions of the Labor Code of California and fail to comply forthwith with the provisions of Section 3800 of the Labor Code, that the permit herein applied for shall be deemed revoked.

() V. I certify as the owner (or the agent for the owner) that in the performance of the work for which this permit is issued, I will employ a contractor who complies with the worker's compensation laws of California and who, prior to the commencement of any work, will file a completed copy of this form with the Central Permit Bureau.

APPLICANT'S CERTIFICATION


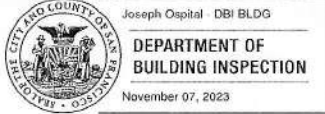



I HEREBY CERTIFY AND AGREE THAT IF A PERMIT IS ISSUED FOR THE CONSTRUCTION DESCRIBED IN THIS APPLICATION, ALL THE PROVISIONS OF THE PERMIT AND ALL LAWS AND ORDINANCES THERETO WILL BE COMPLIED WITH.

Signature of Applicant or Agent

10/2/2023

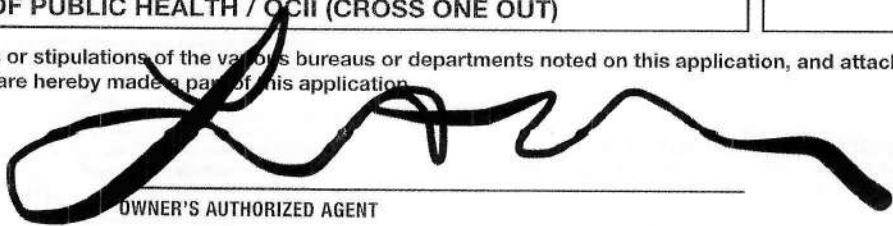
Date

CONDITIONS AND STIPULATIONS

REFER TO:	APPROVED:		DATE: _____ INSPECTOR: _____
<input type="checkbox"/>		<hr/> HOUSING INSPECTION DIVISION, DEPT. OF BLDG. INSPECTION	<hr/> BUILDING INSPECTION DIVISION
<input type="checkbox"/>		 PLANNING <small>November 07, 2023</small>	<hr/> ELECTRICAL INSPECTION DIVISION
<input type="checkbox"/>		 <small>Joseph Ospital DBI BLDG</small> DEPARTMENT OF BUILDING INSPECTION <small>November 07, 2023</small>	<hr/> PLUMBING INSPECTION DIVISION
<input type="checkbox"/>		<hr/> CIVIL ENGINEER, DEPT. OF BLDG. INSPECTION	<hr/> CODE ENFORCEMENT SERVICES
<input type="checkbox"/>		<hr/> MECHANICAL ENGINEER, DEPT. OF BLDG. INSPECTION	<hr/> DATE: _____ INSPECTOR: _____
<input type="checkbox"/>		 PLEASE NOTIFY DISTRICT FIRE INSPECTOR AT THE START OF WORK 415-554-8968 <small>Neil Jacob Tolentino - FIRE</small> FIRE <small>November 03, 2023</small>	<hr/> DATE: _____ INSPECTOR: _____
<input type="checkbox"/>		 <small>DENNIS</small> PUBLIC WORKS <small>November 30, 2023</small>	<hr/> DATE: _____ INSPECTOR: _____
<input type="checkbox"/>		<hr/> SF DEPARTMENT OF PUBLIC WORKS / MAYOR'S OFFICE OF DISABILITY (CROSS ONE OUT)	<hr/> DATE: _____ INSPECTOR: _____
<input type="checkbox"/>		 <small>Grace Imson</small> PUBLIC UTILITIES COMMISSION <small>November 02, 2023</small>	<hr/> DATE: _____ INSPECTOR: _____
<input type="checkbox"/>		<hr/> SF PUBLIC UTILITIES COMMISSION	<hr/> DATE: _____ INSPECTOR: _____
<input type="checkbox"/>		<hr/> DEPT. OF PUBLIC HEALTH / OCII (CROSS ONE OUT)	<hr/> DATE: _____ INSPECTOR: _____

HOLD SECTION - NOTE DATES AND NAMES OF ALL PERSONS NOTIFIED DURING PROCESSING

I agree to comply with all conditions or stipulations of the various bureaus or departments noted on this application, and attached statements of conditions or stipulations, which are hereby made a part of this application.



 OWNER'S AUTHORIZED AGENT

BRIEF(S) SUBMITTED BY APPELLANT(S)

EVAN M. ROSENBAUM, State Bar No. 310414
MOSCONE EMBLIDGE & RUBENS LLP
220 Montgomery Street, Suite 2100
San Francisco, CA 94104
Telephone: (415) 362-3599
Facsimile: (415) 362-2006
Email: rosenbaum@mosconelaw.com

Attorneys for
Appellants Hanmin Liu and Jennifer Mei

SAN FRANCISCO BOARD OF APPEALS

Hanmin Liu and Jennifer Mei

Appellant,
vs.

DEPARTMENT OF BUILDING INSPECTION,

Respondent.

Case No. 24-0011

Hearing Date: April 3, 2024

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I.	INTRODUCTION.....	1
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III.	EXCEPTIONAL CIRCUMSTANCES WARRANT GRANTING THIS APPEAL..	3
IV.	CONCLUSION.....	12

EXHIBITS

1. DISCRETIONARY REVIEW ACTION MEMO AND PLANS
2. RELEVANT PLANNING COMMISSION HEARING EXCERPTS
3. ADU PLANS
4. UPPER CHINATOWN OPEN SPACE MAP
5. COMMUNITY SUPPORT FOR PLAN MODIFICATIONS REQUESTED IN DR
6. 51 BERNARD STREET PLANS
7. LETTER FROM JOHN LUM, AIA

I. INTRODUCTION

So many questions have been raised about this proposed project that it is hard to know where to begin: should it be, for example, the misconduct towards neighbors in a tight-knit upper Chinatown community, evictions of elderly tenants, multiple contradictory statements by the project sponsors? While those issues are significant, this brief focuses primarily on two glaring problems with the proposed project.

First, as a threshold matter, this project should not even be before this Board given the unclear and internally inconsistent plans the project sponsors have submitted. The project consists of an internal remodel, building expansion, and legalization of an ADU, but the project sponsors present only the remodel and expansion to this Board, ignoring the cumulative impact and interrelation of the ADU aspect of the project thereby depriving this Board of a clear picture of what is proposed. Moreover, the various plan sets the project sponsors have submitted to the Planning Department, the Building Department, and this Board have strikingly different measurements, raising serious questions about whether the plans before this Board are even accurate. Serious code issues related to life safety and open space also abound.

Second, regardless of which plan set (if any) is accurate, the project will excessively impinge on the mid-block open space in a block already starving for shared greenery. To preserve mid-block open space and light and air to neighboring buildings in accordance with the Residential Design Guidelines, this Board should require that the horizontal expansion be reduced by no less than 20'-10" from the rear property line. In addition, the second and third floors should be set back 24'-6" and 25', respectively, mirroring the adjacent building to the west at 51 Bernard Street.

II. BACKGROUND

Lindsey Huston and her mother, Tina Huston, purchased 45-49 Bernard, the subject four-unit apartment building, located in Upper Chinatown, in 2019. Lindsey Huston lives at 49 Bernard

Street (owner move-in) and her sister, Taylor Huston, resides at 47 Bernard Street (relative move-in). Lindsey and Taylor’s father, James Huston of Huston General Contracting, Inc. (HGCI), prepared the plans for the building permit that is the subject of this appeal. The plans reviewed by the Planning Commission and the Discretionary Action Memo that modifies those plans are included as *Exhibit 1*.

On August 25, 2022, the Planning Commission determined that there were extraordinary or exceptional circumstances and voted 4-1 (2 commissioners were absent) to take Discretionary Review. It determined that the project did not “...conform with the Residential Design Guidelines with respect to articulating the building to minimize impacts to light and air to the adjacent buildings.” The Commission determined that modifications to the plans were necessary and instructed staff to approve the project with the following plan modifications: (1) Eliminate the roof deck, (2) Eliminate the spiral stair from the third floor to the roof, (3) Configure the third floor to be identical to the second floor. (See *Exhibit 1*.) The Planning Commissioner robustly discussed and offered objective justifications for the required modifications. Relevant quotes from the hearing with these justifications are included in *Exhibit 2*.

On January 24, 2024, DBI issued building permit no. 202008222415 for renovation of a 3-story, 4-unit apartment building including a seismic/soft-story foundation upgrade with a rear-yard addition (referred herein as “the Project,” “2024 plans,” “overall project,” and “subject project”). This is the permit that is the subject of our appeal. Appellants’ agents reviewed the 2024 plans at the DBI Records Department but were not permitted to reproduce them, and to date, the project sponsors have been unwilling to provide us with a copy of these plans. These plans are different from those which the Planning Commission approved as modified by the Discretionary Review Action Memo at least because the square footages are substantially different: compared to the plans approved by the Planning Commission, the January 2024 plans state that the building currently has more than 500 gross square feet (GSF) of space and that the project will add more

than 300 new GSF.

The Hustons submitted a separate permit on January 7, 2022 to convert the existing UDU to an ADU under the state ADU program, which is currently under review by Planning and DBI. This plan is included as *Exhibit 3* and is referred to as the “ADU plan” or “ADU project.” Because the ADU is located entirely within the subject building and simply expands the existing UDU, the ADU really is part of one overall project, and, therefore, the Board needs to understand both permits to properly evaluate the appeal.

III. EXCEPTIONAL CIRCUMSTANCES WARRANT GRANTING THIS APPEAL

Appellants request this appeal for the following reasons:

- A. The permitted 2024 plan set is inconsistent with the plans approved by the Planning Commission.
 - B. There are substantial inconsistencies between the ADU Plans currently under review by Planning and the Project Plans.
 - C. The Project as approved will have a significant impact on the midblock open space and does not conform with the Residential Design Guidelines.
 - D. There are clarity and Enforceability Issues with DR Action Memo.
 - E. There are substantial life safety and open space code compliance deficiencies.
- A. There are substantial inconsistencies between the plan set approved by the Planning Commission and the plan set stamped and approved for the permit that is the subject of the appeal.**

The project sponsor needs to provide one consistent, accurate set of plans that include the overall project under permit #202008222415 (“overall permit”). Because the Hustons have failed to do this, the hearing should be continued until they provide an accurate, consistent plan set, perhaps after preparing as-built plans to accurately show the existing square footage. In short, the Board cannot evaluate the project or the appeal until it has an accurate set of plans.

As shown below, there are significant inconsistencies in the square footages for the 311 plans, the plans that were approved by DBI, and those approved by the Planning Commission. We have asked Planning about these differences but to date have not received a response.

Existing GSF: (a) 2,944 on 311 plans, (b) 2,994 on the Planning Commission-approved plan set shown in *Exhibit 1*, and (c) 3,531 on the plan set attached to the issued permit 202008222415 reviewed at the DBI Records Department. We do not know why there is a **587 GSF difference** between the 311 Plans and the permit-issued plans and a **537 GSF difference** between the Planning Commission-approved plans and the permit-issued plans approved by DBI. Note that the ADU plans (BPA 20220107558) use the 3,531 GSF figure to represent the existing building square footage.

Proposed GSF: 3,478 on the Planning Commission-approved plans vs. 3,783 on plan set attached to the issued permit 202008222415 reviewed at the DBI Records Department. An **increase of 305 GSF** appears to be proposed. The ADU plans (BPA 20220107558) use this same 3,783 figure. To add to the confusion, the Planning Department describes the project as **adding approximately 996 square feet of space:**

	Existing GSF	Proposed GSF	Net Additional GSF
a.311 Plans	2,944	3,741	797
b.Planning Commission	2,994	3,478	484
Approved Plans			
c.Issued Permit Plans	3,531	3,783	252
d.ADU Plans	3,531	3,783	252
Differences	537-587	42-305	172-545

B. There are substantial inconsistencies between the ADU Plans currently under review by Planning and the Overall Plans.

The current proposed state ADU plans (*Exhibit 2*) include the roof deck and spiral staircase, which the Planning Commission removed when approving the overall project. These elements must be removed from the ADU plans as well.

In addition, the Planning Department has issued comments on the ADU plan that require 4' setbacks from both property lines at this lower level to provide compliance with state ADU regulations. The overall plans do not include the required 4' setbacks and need to be revised.¹ The recently issued 2024 overall permit (#202008222415) and ADU application and plans should be reviewed and approved *simultaneously* to ensure consistency and compliance with the Discretionary Review Action Memo adopted by the Planning Commission (*Exhibit 2*). It does not make sense to separate the approval process for the projects, especially when the plans are inconsistent. The overall permit should be suspended until the ADU permit has been issued to assure consistency with the project the Planning Commission approved.

C. Even if the plans were consistent and ripe for review by this Board, the project as approved will have a significant impact on the midblock open space and does not conform with the Residential Design Guidelines.

The approved plans include an approximately 9'-3" extension of the building into the 27'-11" existing rear yard. At the Discretionary Review hearing, the Planning Commission took DR and determined that there were exceptional and extraordinary circumstances. However, the required changes were minimal – the Commission did not require reduction of the horizontal extension to protect the neighborhood mid-block open space. But the Project impacts the Appellant's and the neighbors' visual access to the mid-block open space, light, and air

¹ Planning Department comments: "The ADU is proposed within a portion of the building that is proposed under Building Permit Application No. 202008222415, which has not received a certificate of final completion (CFC) and is not considered to be part of the existing building envelope for purposes of this review. The State ADU Program requires 4-ft setbacks from the side property lines for any portion of the building containing the ADU and within the expansion proposed under Building Permit Application No. 202008222415."

in contravention of several key San Francisco Residential Design Guidelines.

For example, because the proposed expansion into the rear yard significantly impacts the midblock open space and would contribute to the erosion of the social and cultural fabric it conflicts with the design principle to “Provide architectural features that enhance the neighborhood’s character and ensure that the building respects mid-block open space.”²

The project also Reduces light to adjacent properties. The proposed plans will limit the visual access to midblock open space and will reduce the amount of light and air to bedrooms and living-area windows of the buildings adjacent to and directly opposite the development. The light to adjacent neighbors on all three sides of 45-49 Bernard Street will be affected. This expansion encroaches on the rear neighbor at 1144-1146 Pacific Avenue. If the plans are implemented, light and air quality in the mid-block open space will be reduced.

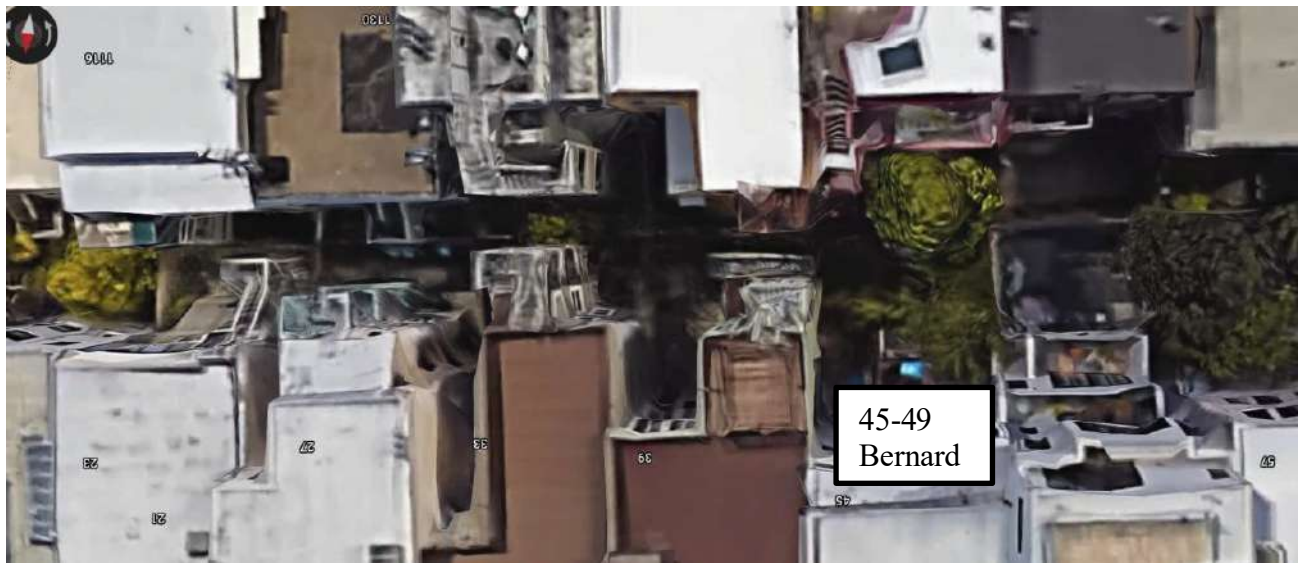


Figure 1. Aerial photo of the mid-block open space on Bernard Street and Pacific Avenue between Taylor and Jones.

² San Francisco Planning, *Residential Design Guidelines, Introduction: Design Principles*, p. 5, December 2013.

As shown in *Figure 2* below, and *Exhibit 4*, the amount of access to midblock open space in Upper Chinatown is much more limited than in most other San Francisco neighborhoods.

Mid-Block OPEN SPACE
Pacific Avenue - Taylor Street - Bernard Street - Jones Street

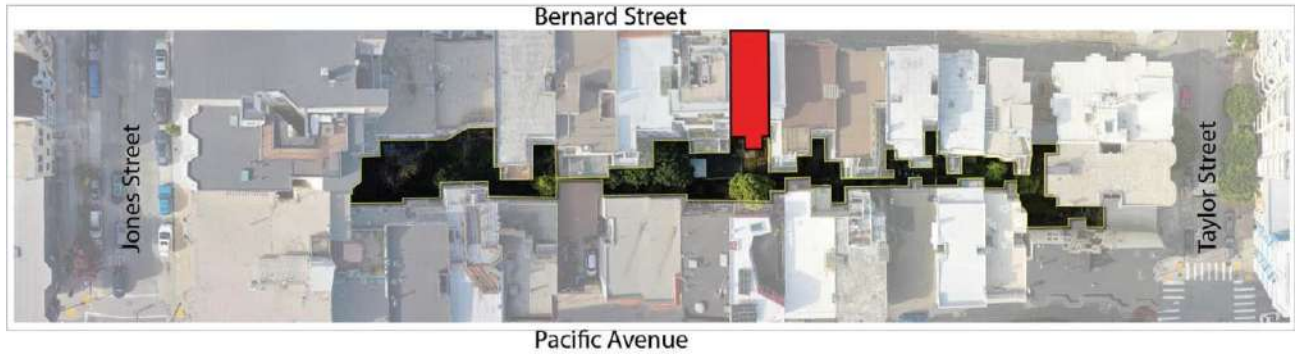


Figure 2. Aerial Photos of Mid-Block Open Space on Subject Block

As shown in **Figure 3** below, the proposed project would greatly reduce the rear yard from the current depth of 27'-11" to 17'-9" with decks extending an additional 2'-9" effectively providing a rear yard of just 15'.

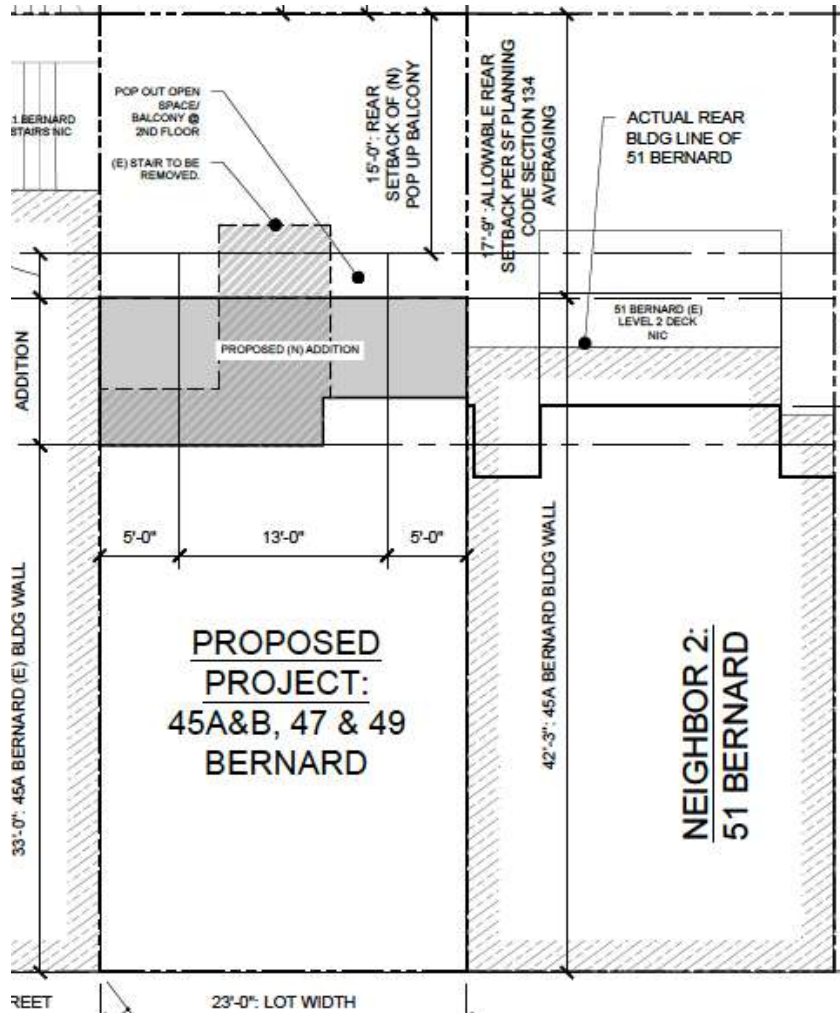


Figure 3. Project and 51 Bernard Street Site Plans

The limited midblock open space is precious on this block; hence, the significant community support to protect this vital outdoor refuge. Over 1,000 individuals have signed a petition supporting the original DR request, including 80 percent of the properties on this block. (See **Exhibit 5**) The following five associations have also submitted letters of support: The Community Improvement Service, Community Youth Center, Community Tenants Association, Lao Iu Mien Culture

Association, and Tenderloin Chinese Rights Association (See *Exhibit 5*).

We request that the Board require the project sponsor to modify the project design to maintain the midblock open space and increase the rear yard setbacks to align with the setbacks for 51 Bernard Street. The setback design of the adjacent building at 51 Bernard Street is a good precedent. The 1st floor has a 20'-10" setback from the rear yard. The 2nd floor has a 24'-6" setback, the 3rd floor has a 25' setback.

We request that the rear yard setback for the project mirror those of 51 Bernard stated above and be no less than 20'-10" from the rear property line. See the "As-Built" plans for 51 Bernard are shown in *Exhibit 6*.

D. The DR Action Memo Contains Clarity and Enforceability Issues.

First, the highlighted portion of the following provision of the DR Action Memo adopted as revised October 4, 2022 does not make sense:

"The Commission further encourages that the duration of any relocation of the existing tenant will be as short as possible **and a green rear yard open space.**" Second, it is not clear who will enforce provision 2 of the DRA:

"2. The Commission recognizes the Rent Control Ordinance and its direct impact as it relates to tenant rights, owner move-in evictions, the need to be able to locate previous tenants, first right of refusal at their previous rent rates, and that the current tenant may continue their tenancy for as long as they wish."

Third, it is not clear what would be done in six months if the DRA provision 4 -- required update -- reveals that the project sponsors are not in compliance. It is also not clear if staff or the project sponsors are to provide the update:"4. Provide the Commission with an update report within six months of BPA issuance."

We ask the board of appeals to Require the Planning Commission and Planning Department to revise the Discretionary Review Action Memo so that the language is specific and enforceable.

E. There are significant life safety and open space code compliance deficiencies in the approved plans.

As previously mentioned, to date, the project sponsor has not agreed to provide a copy of the 2024 approved plan set that is the subject of this appeal and their own appeal. However, we were able to view the plans at the DBI Records Department. John Lum, a licensed architect with more than 30 years of experience, including extensive work in San Francisco, reviewed the plans and, in a thorough letter to this Board included as *Exhibit 7*, determined that the plans are deficient in many ways ranging from minor formatting issues (e.g., failing to include a clear space for stamps) to curable code violations (a proposed out-swinging gate twice as wide as the current double gate that overly narrows the sidewalk space) to serious life safety issues limiting emergency egress.

Most importantly, the life safety of the building is affected by (i) Emergency Escape and Rescue Openings that are only operable from the inside thereby preventing rescuers from accessing the building, (ii) the careless placement of gas appliances in exit ways, and (iii) the replacement of a full stairway with a fire escape while simultaneously increasing occupancy (by increasing the square footage) and in light of the already very narrow front entry stairway. Mr. Lum concludes: “The series of blatant code and process violations in the approved Site Permit raise series concerns about the rigor in which this permit application was reviewed. Errors have been found in the reviews of each department including Planning, Building, Fire and Public Works.”

This is not something that can wait until later in the process: “These errors are germane to the Site Permit review and should not simply be addressed in later addenda applications. If the same level of rigor is applied to the reviews of the addenda, this project would pose a life-safety concern to future occupants and adjacent neighbors. There is no mechanism to appeal flawed addenda approvals. We therefore urge the Board of Appeals to rescind the approval of this flawed Site Permit and require the necessary corrections be made before each department approves the proposed work.”

Additionally, Mr. Lum notes that the removal of the rear stairs eliminates convenient access to common open space as required by Planning Code § 135 because there is no way to get to the rear yard from within the property. The actual proposed private usable open space (39 square feet as opposed to the incorrectly tabulated 134 square feet), including proposed private decks, is also insufficient to meet each unit's required minimum (100 square feet), and the backyard open space has been calculated incorrectly.

IV. CONCLUSION

For the foregoing reasons, Appellants request that the Board of Appeals approve this appeal and take the following actions:

- A. Require the project sponsors to modify the plans to reduce the horizontal expansion into the rear yard so that no elements of the building, including decks, extend further than the adjacent building to the west at 51 Bernard Street.
- B. Require the subject permit to remain on hold until the review of the ADU permit has been reviewed so that the Planning Department and DBI can verify that both plan sets are accurate, code-compliant, and consistent.
- C. Require the Planning Commission and Planning Department to revise the Discretionary Review Action Memo so that the language is specific and enforceable.

Dated: March 14, 2024

Respectfully Submitted,

MOSCONE EMBLIDGE & RUBENS LLP

By: _____
Evan M. Rosenbaum
Attorneys for Appellants

EXHIBIT 1

DISCRETIONARY REVIEW ACTION MEMO AND PLANS



DISCRETIONARY REVIEW ACTION DRA-793

HEARING DATE: AUGUST 25, 2022

AMENDED DATE: OCTOBER 4, 2022

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

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

Preamble

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

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

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

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

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

Action

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

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

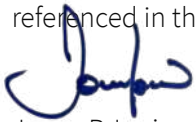
1. There are extraordinary or exceptional circumstances in the case. The proposal complies with the Planning Code and the General Plan, but does not conform with the Residential Design Guidelines with respect to articulating the building to minimize impacts to light and air to the adjacent buildings.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

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

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

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

I hereby certify that the Planning Commission takes Discretionary Review and approved the building permit as referenced in this action memo on August 25, 2022 and amended on October 4, 2022.



Jonas P. Ionin
Commission Secretary

AYES: Ruiz, Imperial, Koppel, Moore

NOES: Diamond

ABSENT: Fung, Tanner

ADOPTED: August 25, 2022

AMENDED: October 4, 2022

BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/REMODEL

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



BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/ REMODEL

APN # 0157030

PERMIT NUMBER:

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

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

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

STAMP

ALL DESIGNS, DRAWINGS AND WRITTEN MATERIALS INDICATED HEREIN ARE THE WORK AND PROPERTY OF HUSTON GENERAL CONTRACTING, INC. THIS DOCUMENT MAY NOT BE DUPLICATED, REUSED OR DISCLOSED BY ANY METHOD WITHOUT THE WRITTEN CONSENT OF HUSTON GENERAL CONTRACTING, INC. ALL RIGHTS RESERVED.

THE DESIGN DOCUMENTS ARE PREPARED ASSUMING HGCI WILL BE THE INSTALLING CONTRACTOR. SHOULD THE OWNER CHOOSE ANOTHER CONTRACTING FIRM OTHER THAN HGCI TO PERFORM THE WORK INCLUDED IN THESE DOCUMENTS, THE OWNER WILL ASSUME FULL RESPONSIBILITY FOR ANY ERRORS AND/OR OMISSIONS, WHETHER ONLY CLAIMED OR ACTUAL AND WILL DEFEND HGCI AGAINST SAID ERRORS AND OMISSIONS AND HOLD HGCI HARMLESS FOR SAME.

REVISIONS

DATE	REVISION	DESCRIPTION
10.08.2021	2	PLAN REVIEW RESPONSE #1
06.28.2022	3	PLAN SET UPDATE
07.15.2022	4	PLAN SET UPDATE 2

DATE	04.27.2020
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	PR, MD
CHECKED BY	JH

COVER SHEET

SHEET TITLE

A0.0

SHEET NO.

CONTACT INFORMATION

OWNER:
Tina Huston
c: 925.337.1755

Lindsey Huston
c: 925.337.9532

GENERAL CONTRACTOR:
HGCI
112 Spaulding St., Unit - A
San Anselmo, CA - 94960
p: 415.597.6880 c: 415.509.0304

ENGINEER:
CRES Engineering
Andres Stambuk
2420 Sand Creek Rd, Suite C-1252
Brentwood, CA. 94513
c: 925.487.0895

PROJECT DATA

ADDRESS: 45, 47 & 49 Bernard St., SAN FRANCISCO, CA. 94133

BLOCK/ LOT : 0157 / 030

LOT SIZE : 23' 0" X 60' 0" = ± 1380 SF

ZONING : RH - 3 (RESIDENTIAL HOUSE - THREE FAMILY)

HEIGHT & BULK DISTRICT : 65 - A

PLANNING DISTRICT: DISTRICT-3 NORTHEAST

SET BACK REQUIREMENTS:

- FRONT SETBACK: (E) SETBACK 0'0" OR AVERAGE OF ADJACENT BUILDINGS = 0'0"
- REAR SETBACK: AVERAGE OF ADJACENT BUILDING per SF PLANNING CODE SECTION 134 = NO LESS THAN 17'-9". SEE SITE PLAN.
- SIDE SETBACKS: NOT REQUIRED PER SF PLANNING CODE SECTION 133

EXISTING BUILDING :

- YEAR BUILT: 1906
- NUMBER OF STORIES: 3 STORIES + BASEMENT
- BUILDING AREA: 2944 SQFT
- OCCUPANCY CLASS: R-2
- USE TYPE: MULTI-UNIT APARTMENTS
- NO. OF DWELLING UNITS: 3 DU
- BUILDING HEIGHT: 32'-6"
- CONSTRUCTION TYPE V-B

PROPOSED BUILDING SIZE :

- PROPOSED NUMBER OF STORIES: 3 STORIES + BASEMENT (NO CHANGE)
- PROPOSED BUILDING AREA: 3478 SQFT
- PROPOSED OCCUPANCY CLASS: R-2 (NO CHANGE)
- PROPOSED USE TYPE: MULTI-UNIT APARTMENT (NO CHANGE)
- PROPOSED NO. OF DWELLING UNITS: 3 DU
- OCCUPANCY LOAD: 1 PER 200 SQFT
- BUILDING HEIGHT: 32'-6" (NO CHANGE)
- CONSTRUCTION TYPE V-A

(E) GARAGE PARKING: NONE

REQUIRED PARKING: NONE

FIRE SPRINKLERS: Yes - Existing in Basement Unit
(N) Sprinklers for Grd to 3rd floors

FIRE ALARM: Yes

APPLICABLE CODES

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

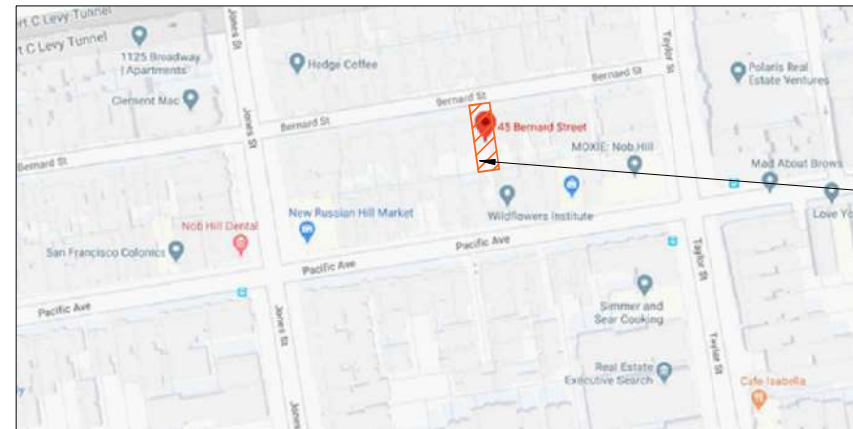
SHEET INDEX

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

SCOPE OF WORK

THIS RESIDENTIAL REMODEL WORK PROPOSES:

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



1. LOCATION MAP

SCALE: NTS



2. ZONING MAP

SCALE: NTS



SUBJECT PROPERTY

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

AREA CALCULATIONS

UPDATED CALCULATIONS



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

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

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

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

112 SPALDING STREET, SUITE A
SAN ANSELMO, CA 94060
T: 415.597.6890 F: 925.559.4814



BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/ REMODEL

APN # 0157030

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

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

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

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REVISIONS

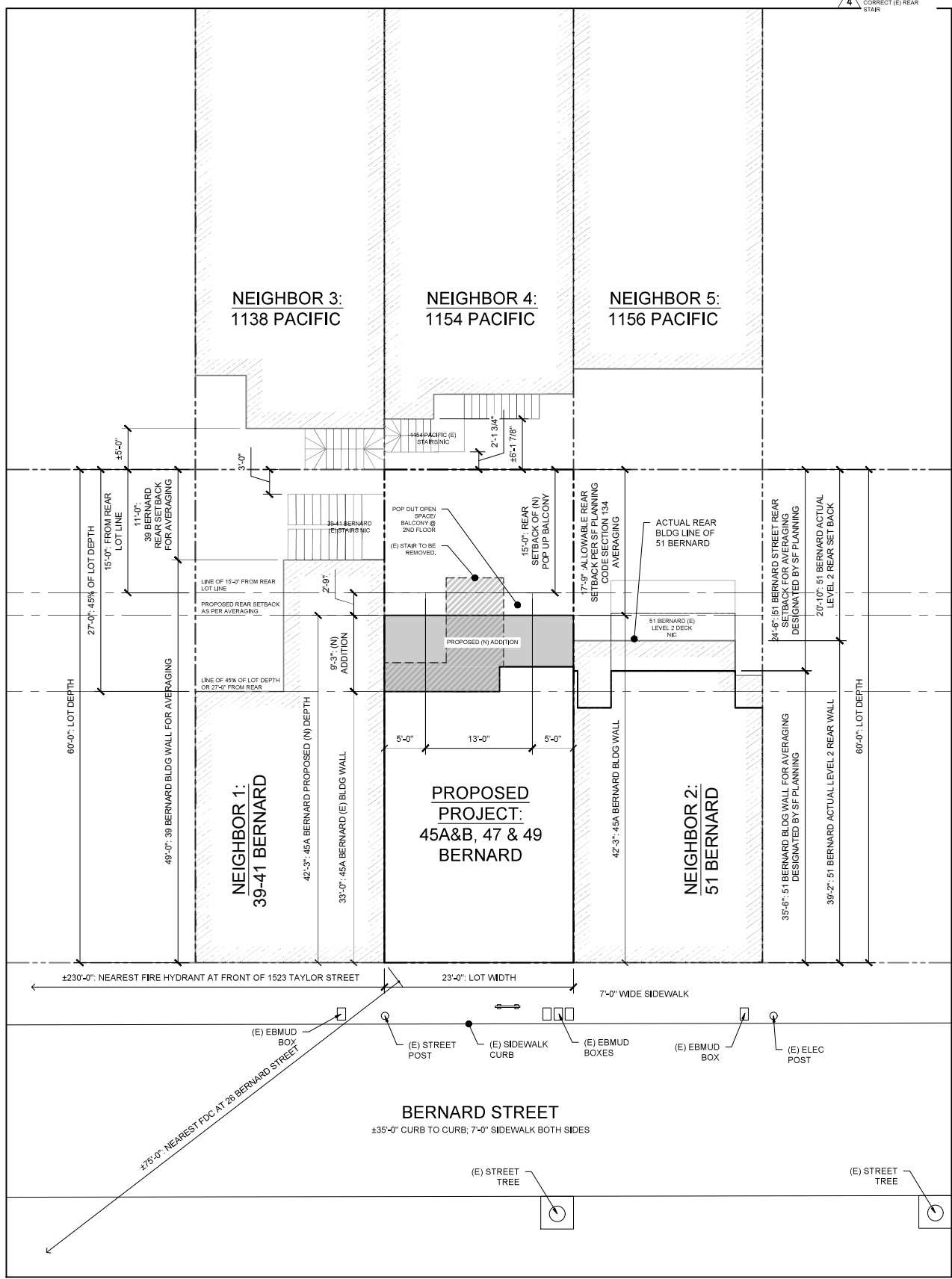
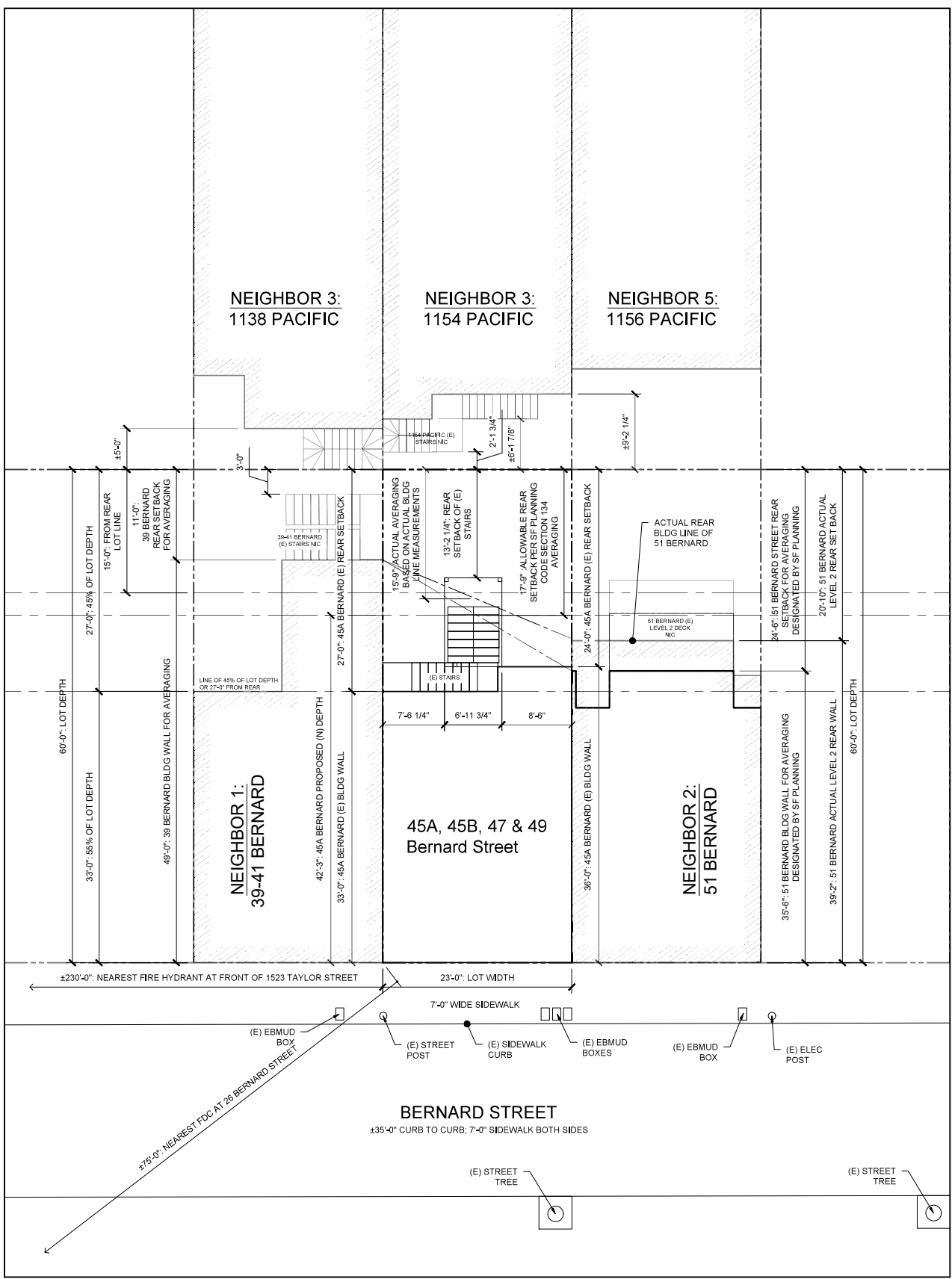
DATE	NO.	DESCRIPTION
10.08.2021	2	PLAN REVIEW RESPONSE #1
06.24.2022	3	PLAN SET UPDATE
07.15.2022	4	PLAN SET UPDATE 2

DATE	04.27.2020
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	PR, MD
CHECKED BY	JH

EXISTING AND PROPOSED SITE PLAN

SHEET TITLE

SHEET NO.



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

2 PROPOSED SITE PLAN
SCALE: 1/8" = 1'-0"



A1.0

112 SPALDING STREET, SUITE A
SAN ANSELMO, CA 94060
T: 415.597.6880 F: 025.559.4814



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

APN # 0157030

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

PROJECT ADDRESS
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FRANCISCO, CA 94133

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

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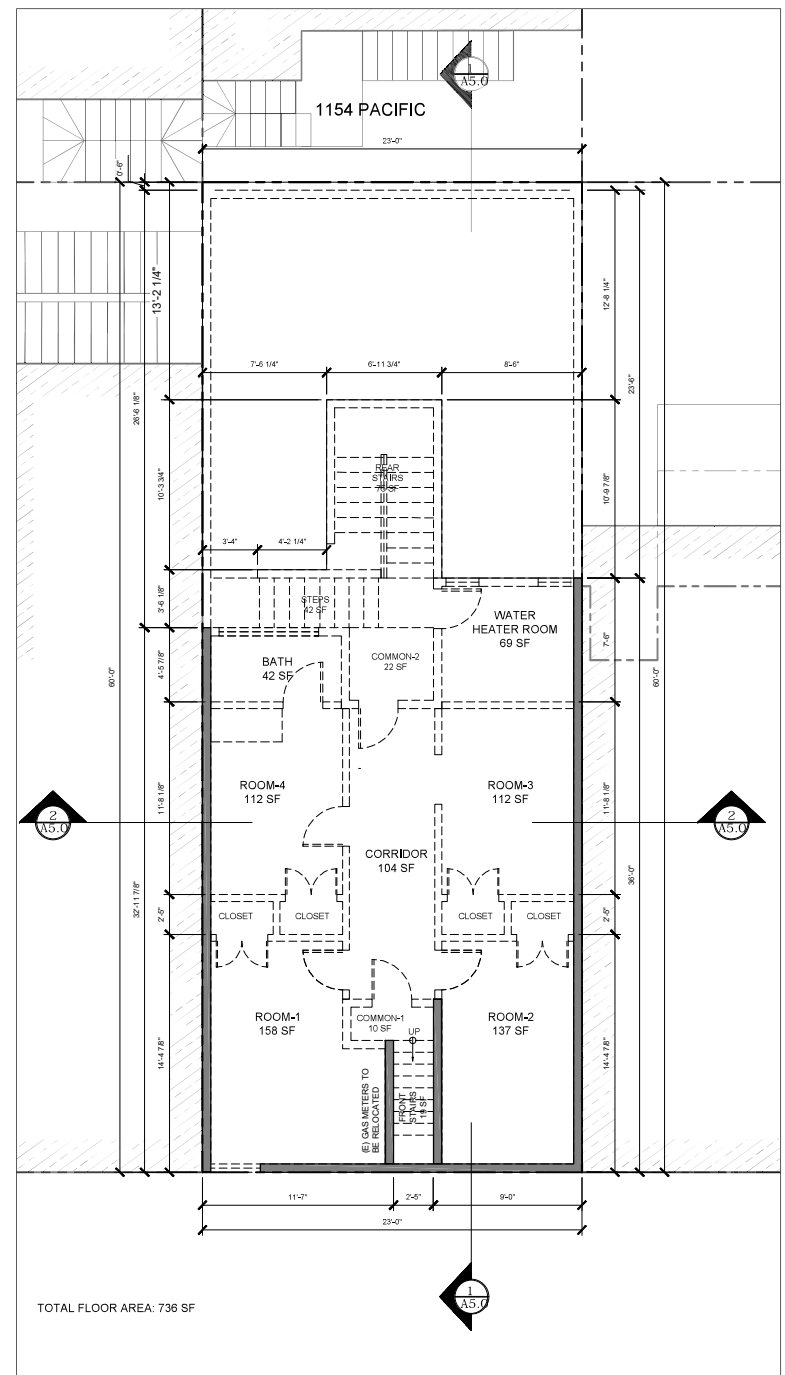
10.08.2021	2	PLAN REVIEW RESPONSE #1
08.28.2022	3	PLAN SET UPDATE

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DRAWN BY	PR, MD
CHECKED BY	JH

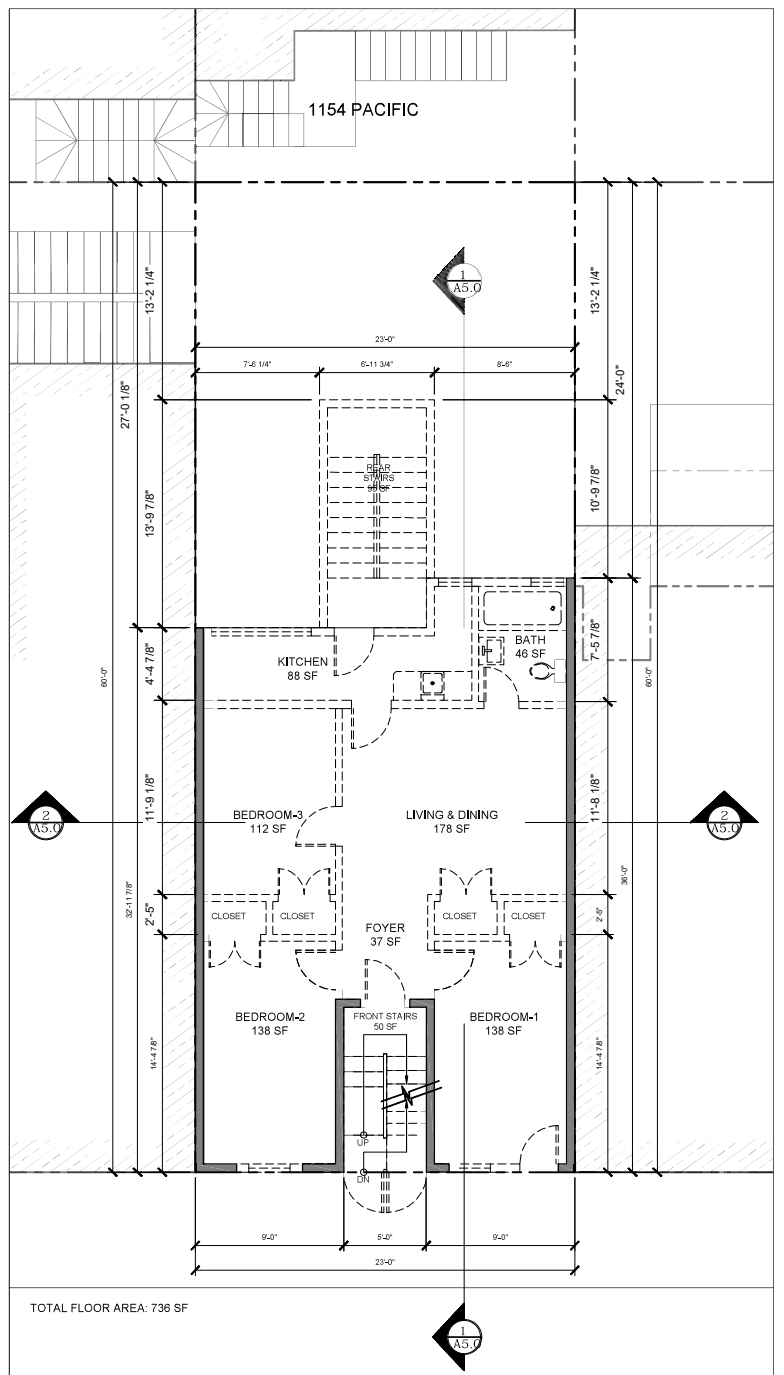
EXISTING/ DEMO FLOOR
PLANS - REFERENCE
1 OF 2

SHEET TITLE

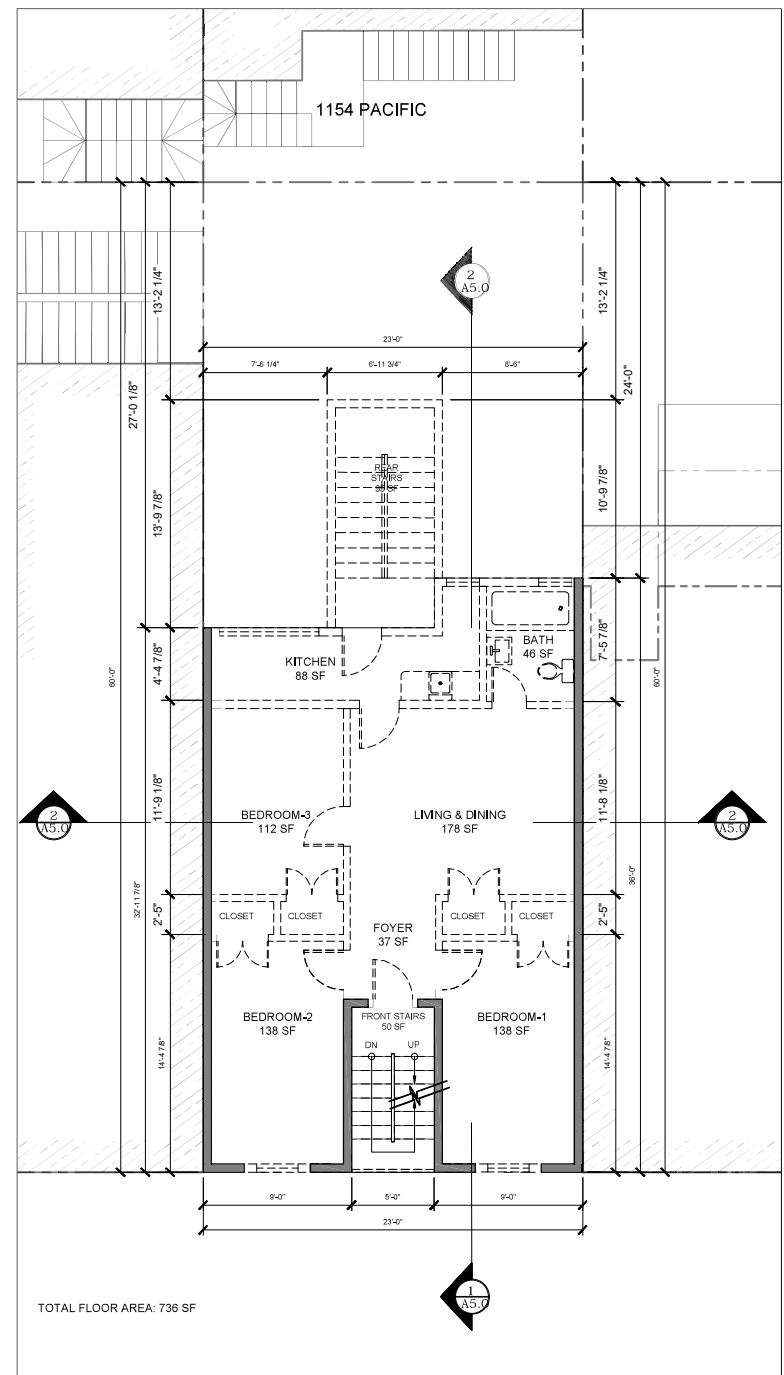
SHEET NO.



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



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



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

3 THIRD FLOOR REMOVED
TO SHOW ADJACENT
BLOCKS

LEGEND

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

TANTAMOUNT TO DEMOLITION CALCULATION

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

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

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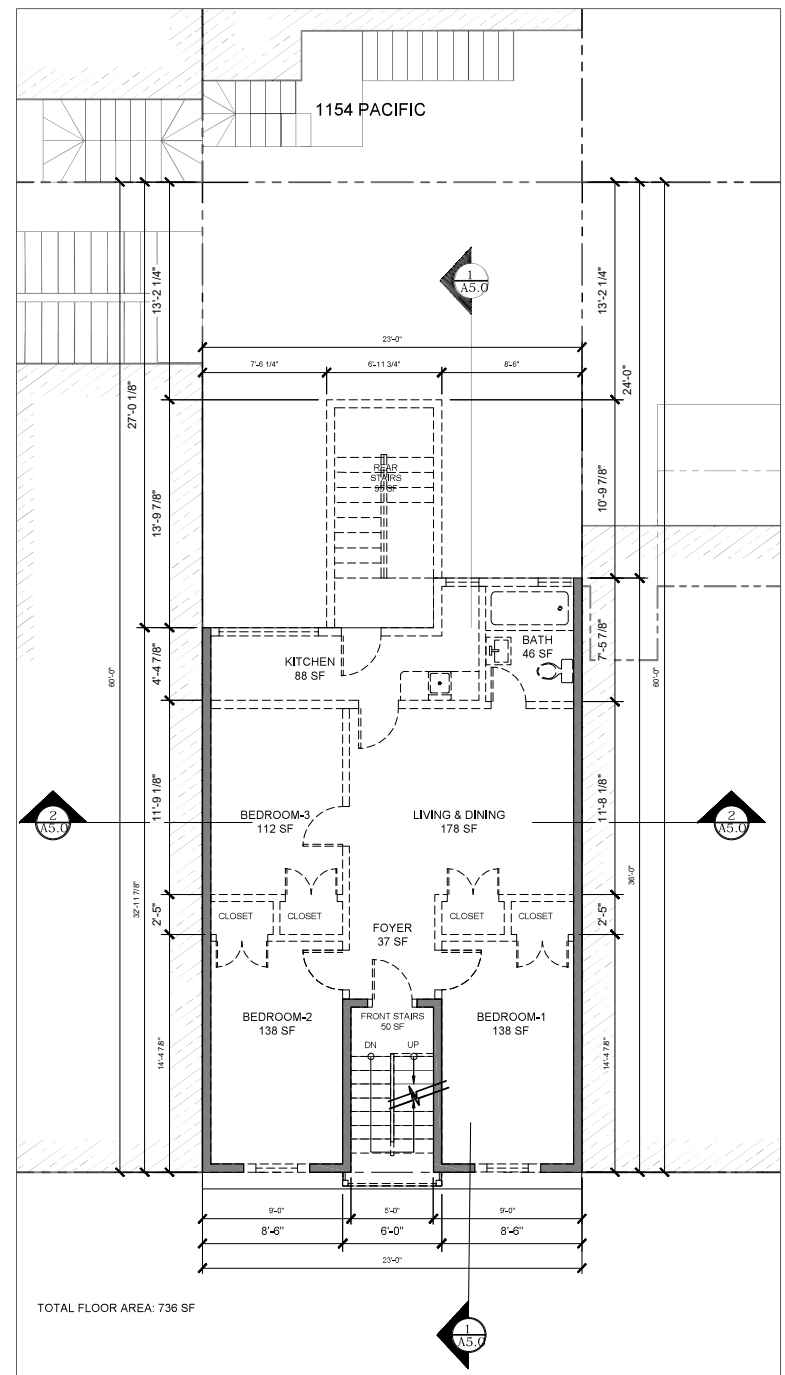
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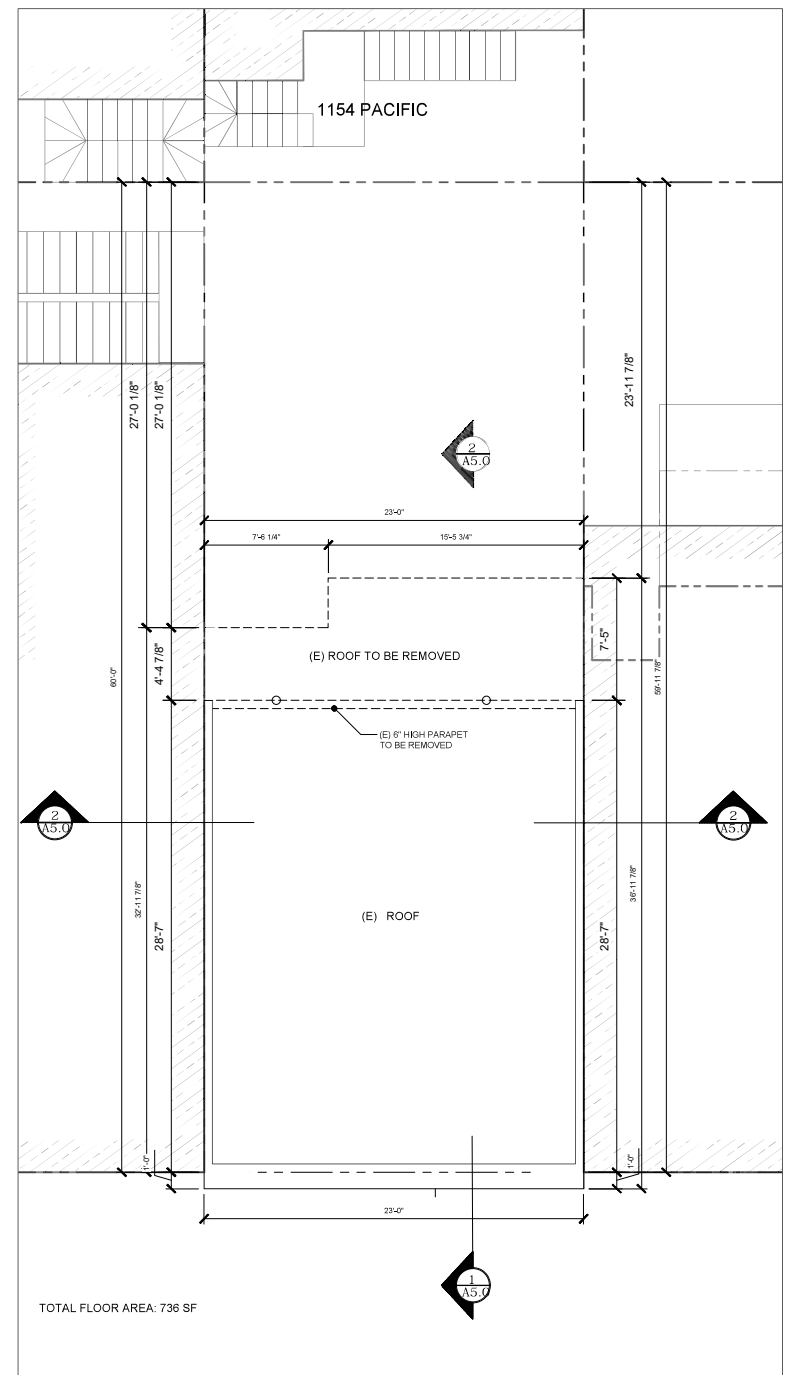
DATE	04.27.2020
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	PR, MD
CHECKED BY	JH

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

SHEET TITLE	3
NEW SHEET FOR THIRD AND ROOF EXISTING AND DEMO PLANS	A2.1
SHEET NO.	



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



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

LEGEND

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



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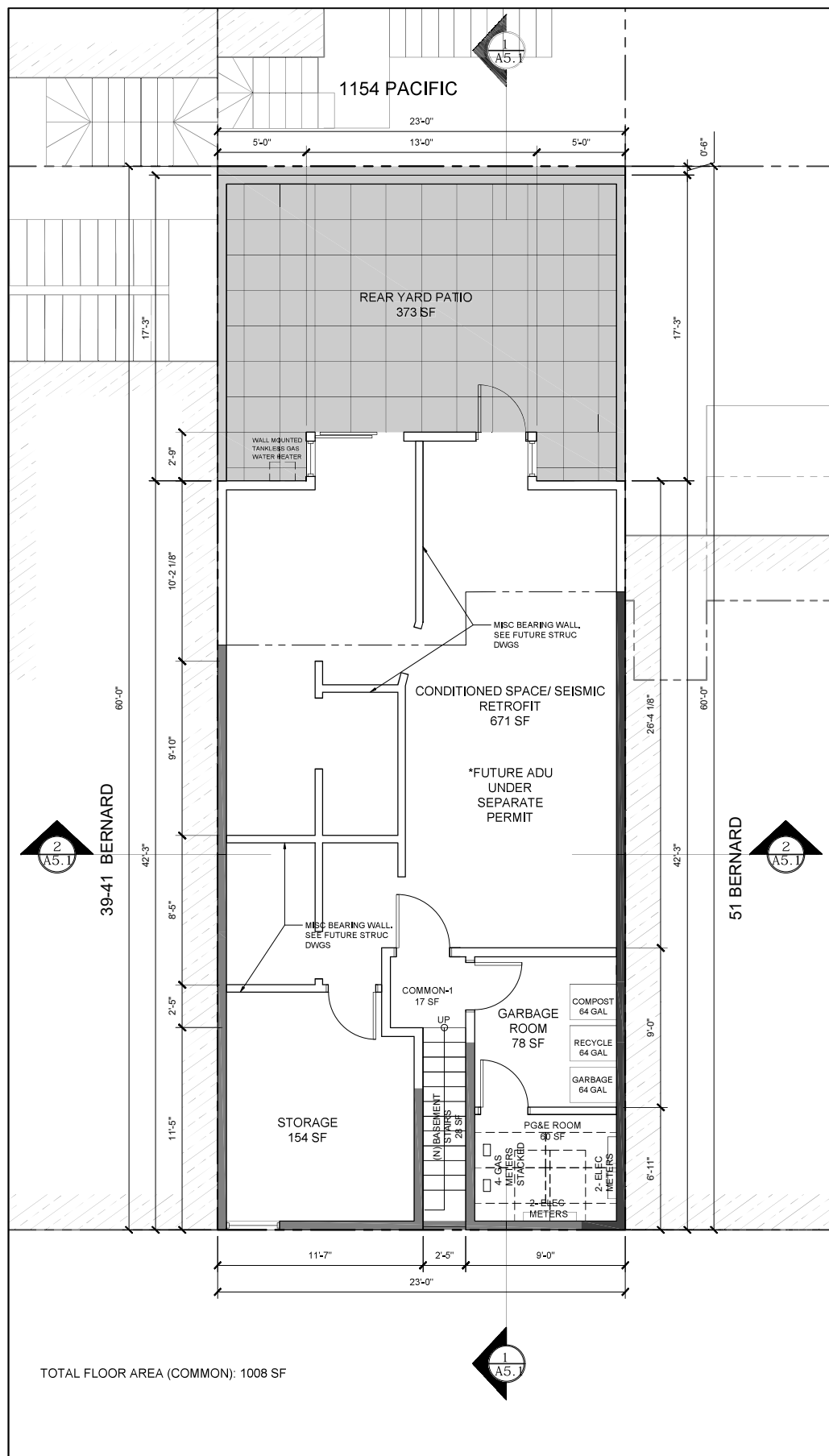
DATE	05.26.2022
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MDC
CHECKED BY	JH

**BASEMENT SEISMIC
 UPGRADE
 GROUND FLOOR PLAN**

SHEET TITLE

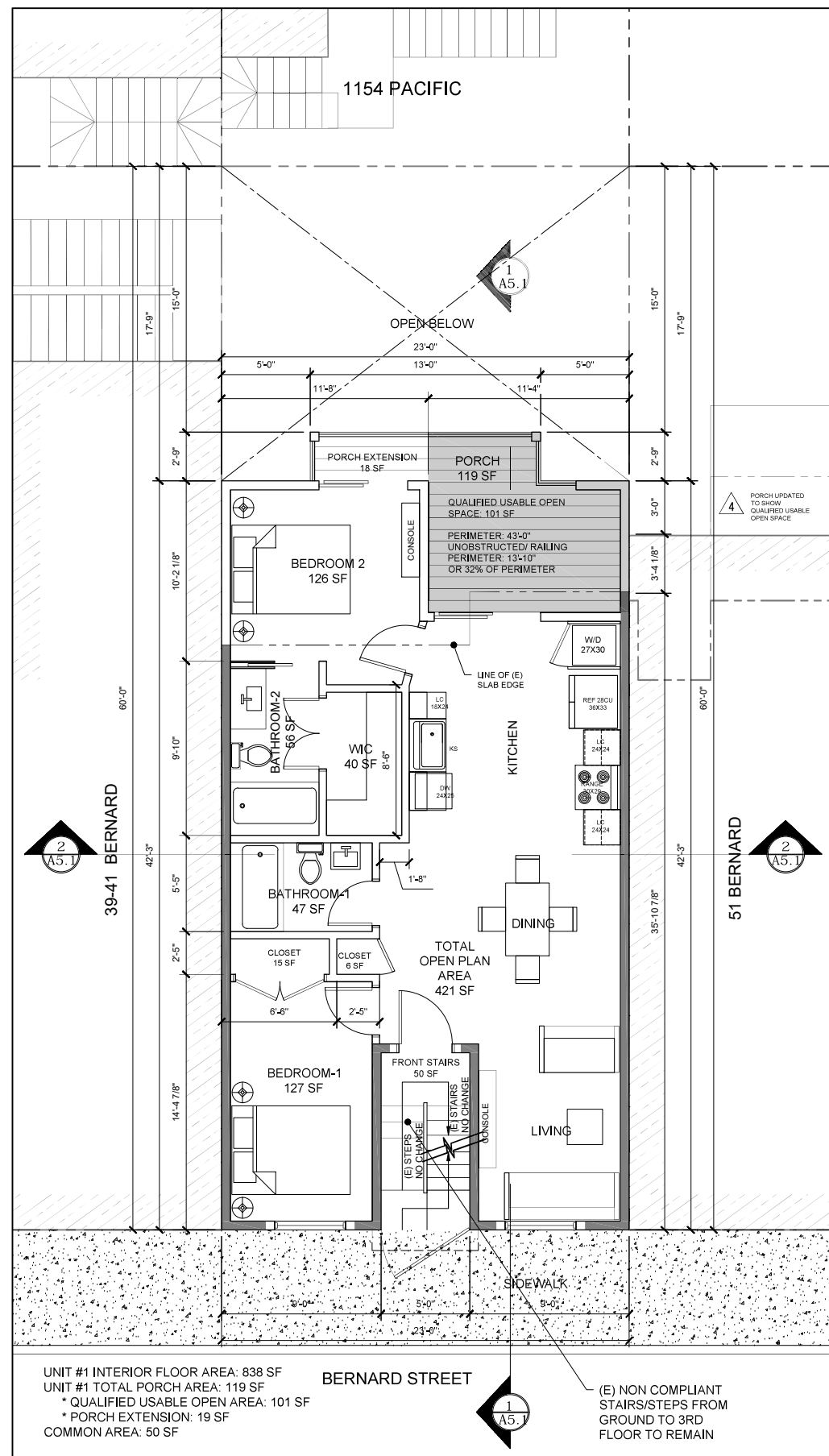
SHEET NO.

A3.0



TOTAL FLOOR AREA (COMMON): 1008 SF

1 BASEMENT FLOOR PLAN-SEISMIC UPGRADE
 SCALE: 1/8" = 1'-0"



UNIT #1 INTERIOR FLOOR AREA: 838 SF
 UNIT #1 TOTAL PORCH AREA: 119 SF
 * QUALIFIED USABLE OPEN AREA: 101 SF
 * PORCH EXTENSION: 19 SF
 COMMON AREA: 50 SF

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

LEGEND

(E) WALL/FLOOR/ROOF TO REMAIN



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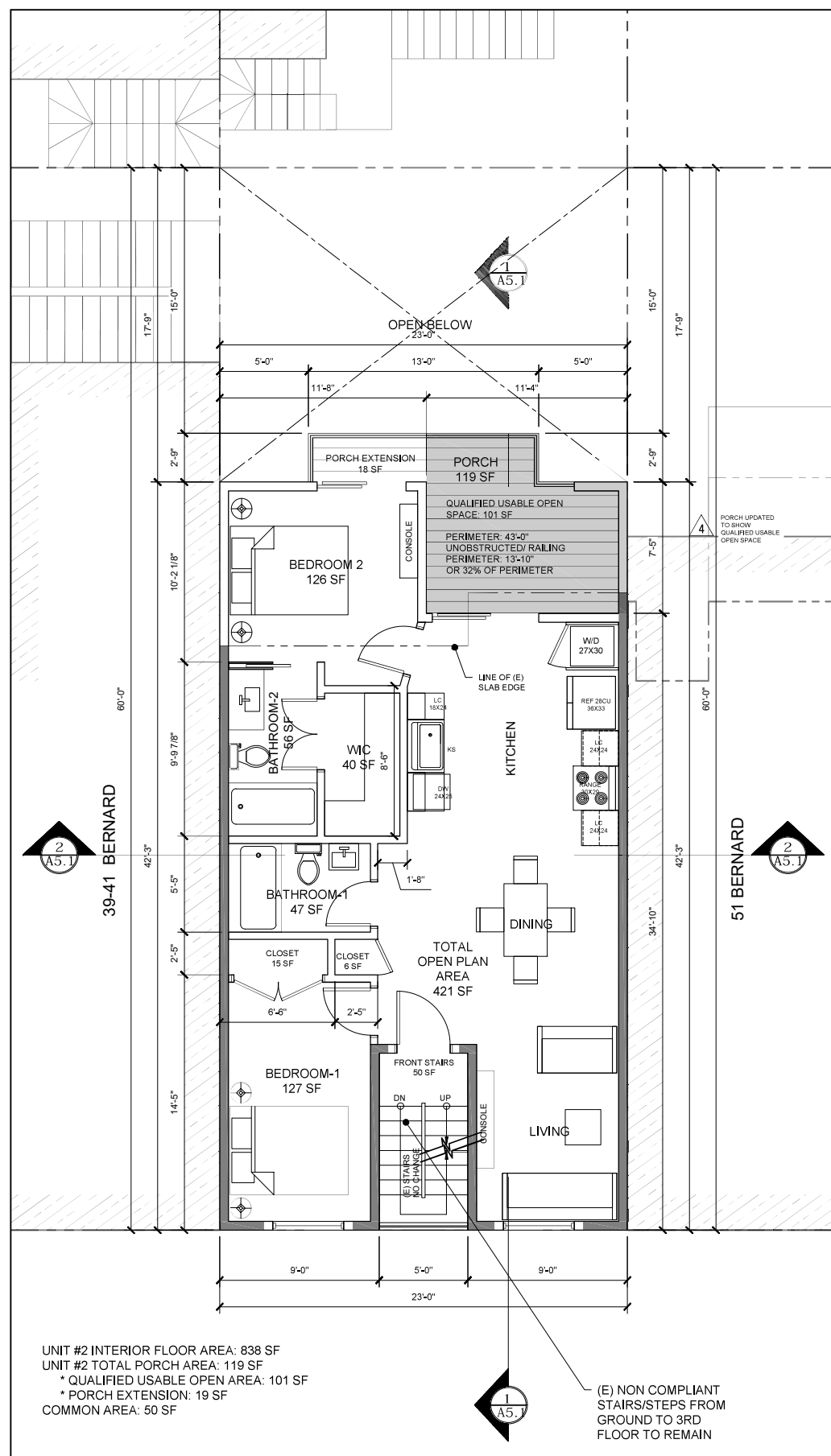
DATE	05.26.2022
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MDC
CHECKED BY	JH

**SECOND FLOOR PLAN
 THIRD FLOOR PLAN**

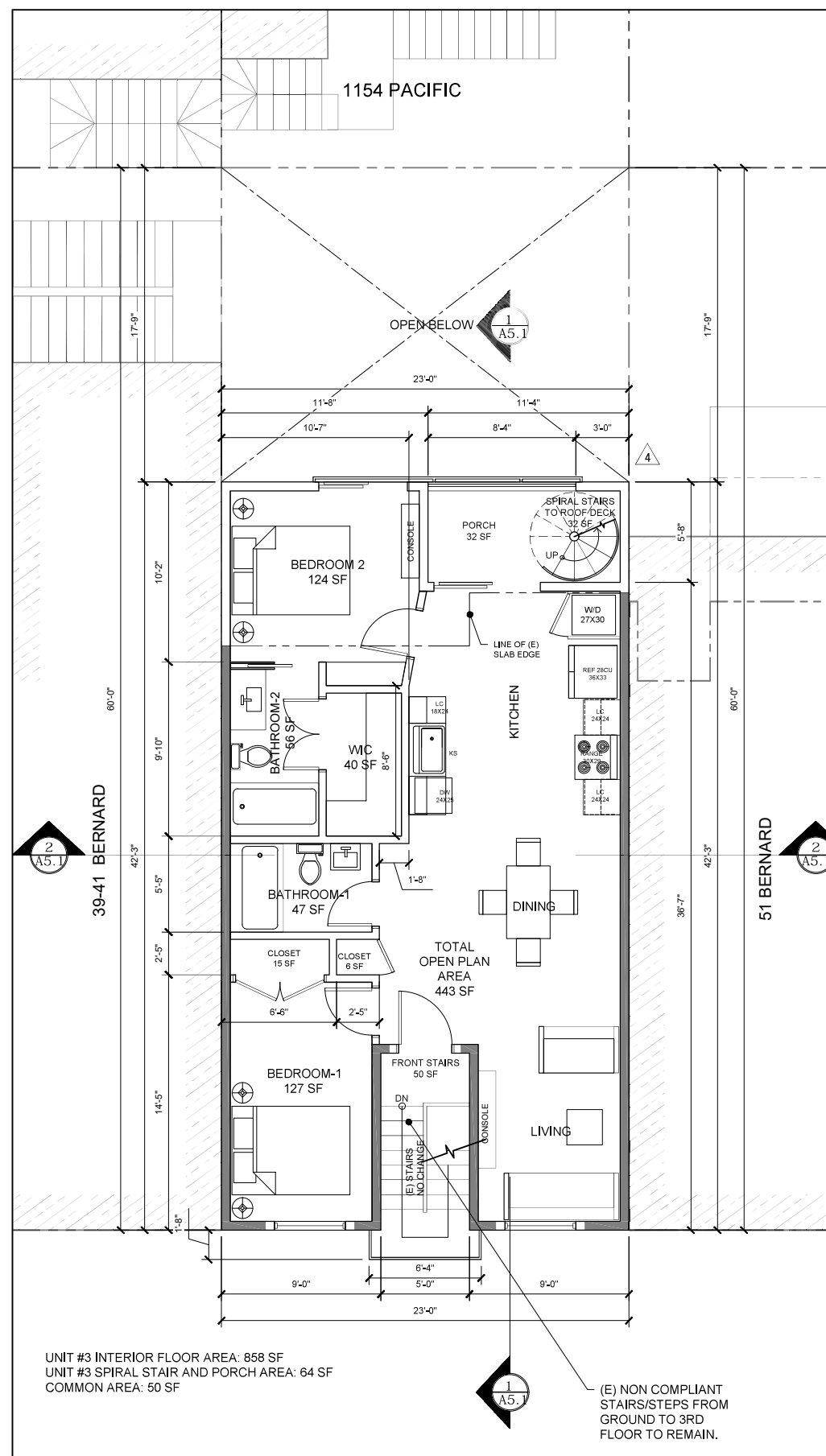
SHEET TITLE

SHEET NO.

A3.0a



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



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

LEGEND

(E) WALL/FLOOR/ROOF TO REMAIN



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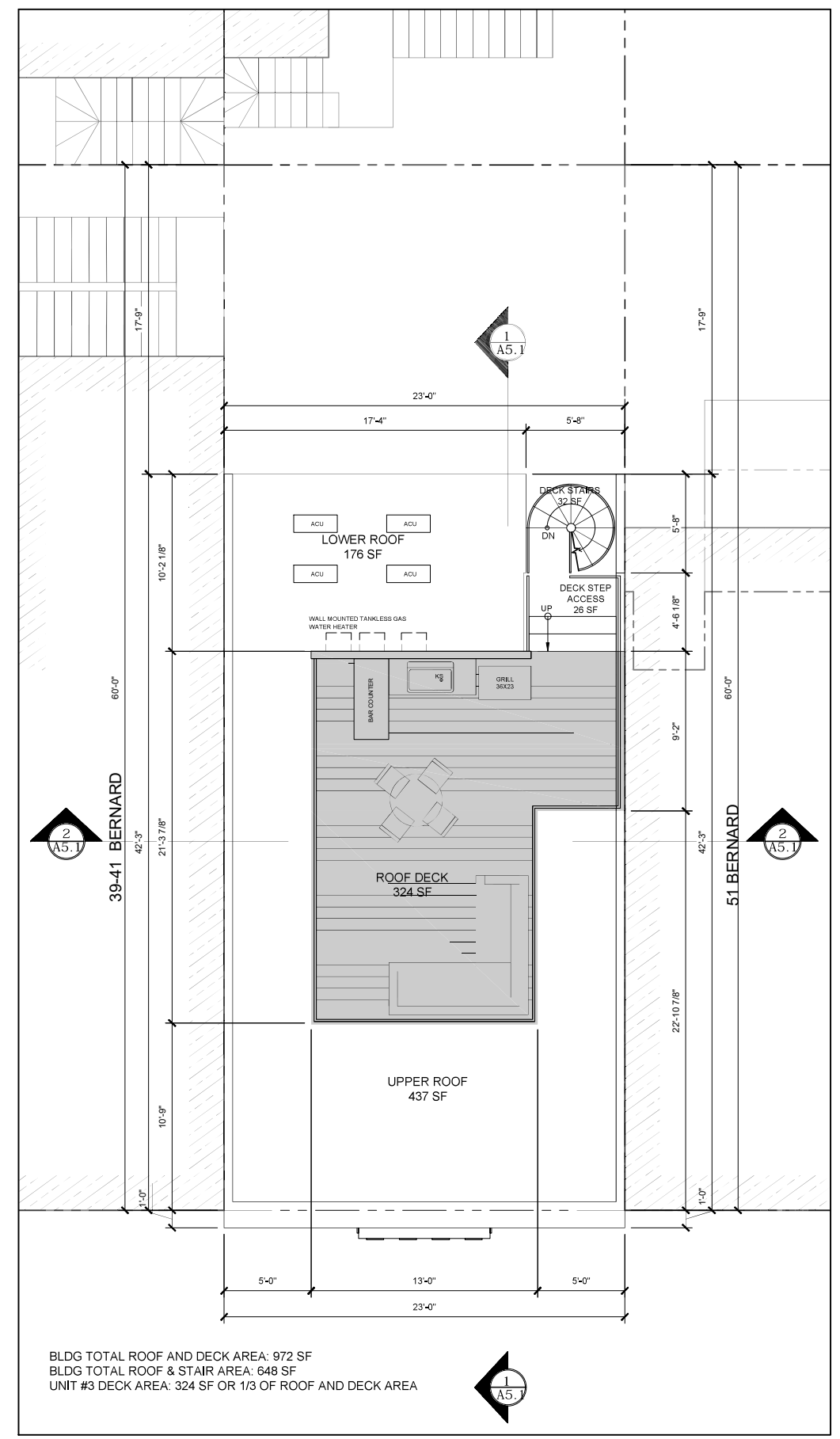
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CHECKED BY	JH

**ROOF DECK FLOOR PLAN
 ROOF PLAN**

SHEET TITLE

SHEET NO.





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



A3.1

LEGEND

-  PROPOSED ADDITION
-  (E) ELEMENTS TO BE REMOVED



SUBJECT PROPERTY
45 BERNARD ST. SAN FRANCISCO, CA

1 (E) BERNARD STREET VIEW
SCALE: NTS



SUBJECT PROPERTY
45 BERNARD ST. SAN FRANCISCO, CA

2 (E) REAR/SOUTH VIEW
SCALE: NTS



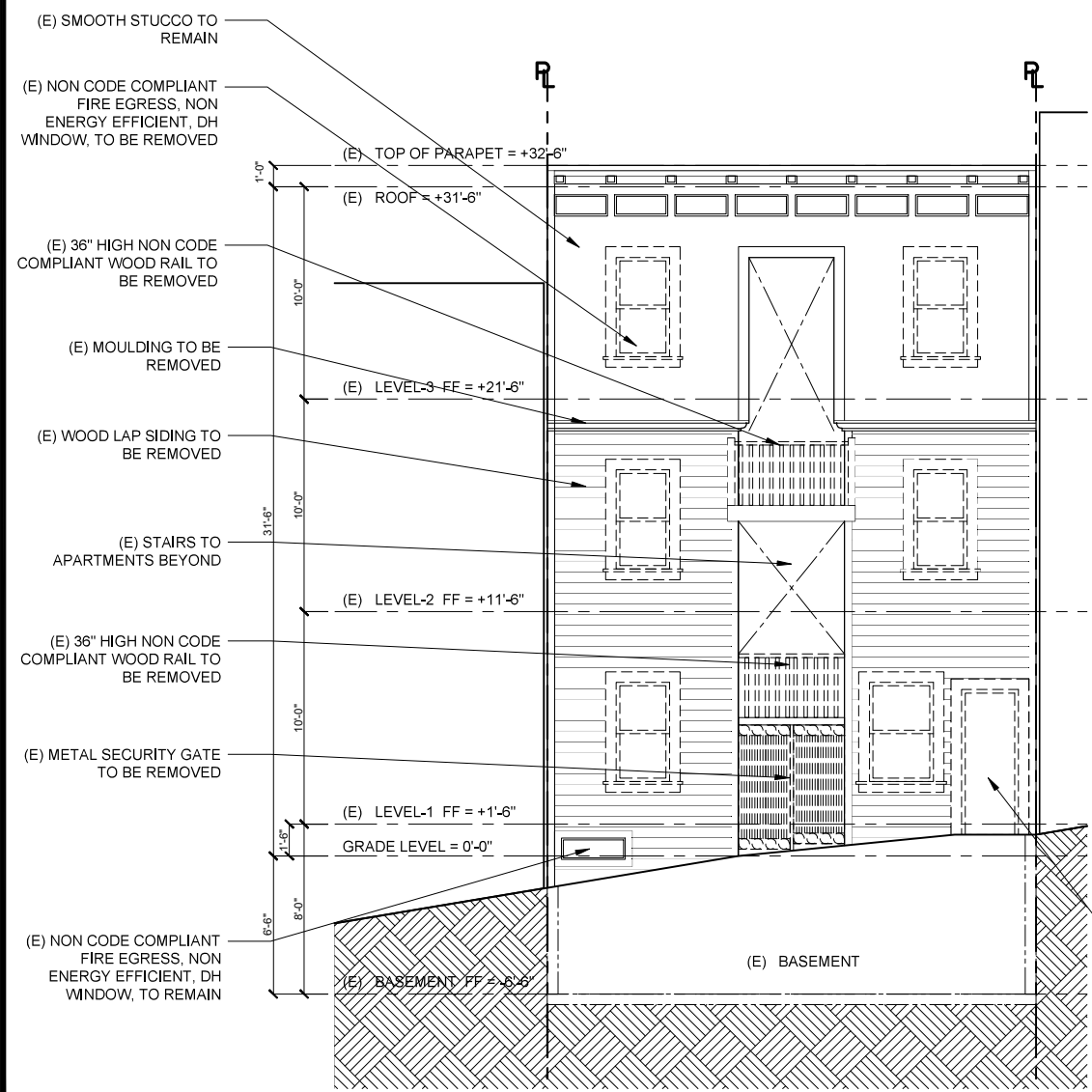
BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/ REMODEL

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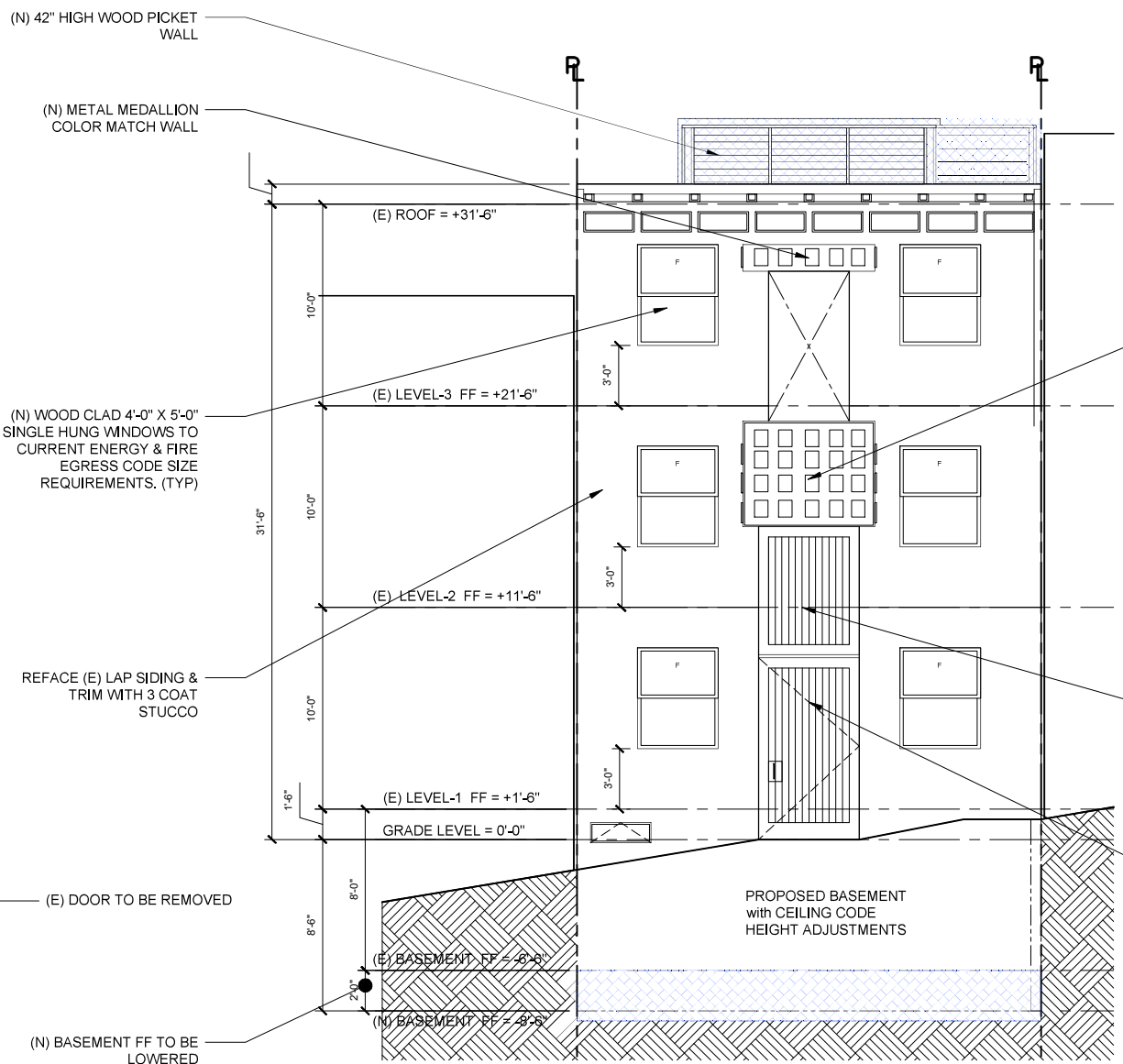
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3 (E) FRONT/NORTH ELEVATION
SCALE: 1/4" TO 1'-0"



4 PROPOSED FRONT/NORTH ELEVATION
SCALE: 1/4" TO 1'-0" ELEVATION UPDATED

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DRAWN BY	MDC
CHECKED BY	JH

FRONT ELEVATION

SHEET TITLE

A4.0

SHEET NO.

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BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/ REMODEL

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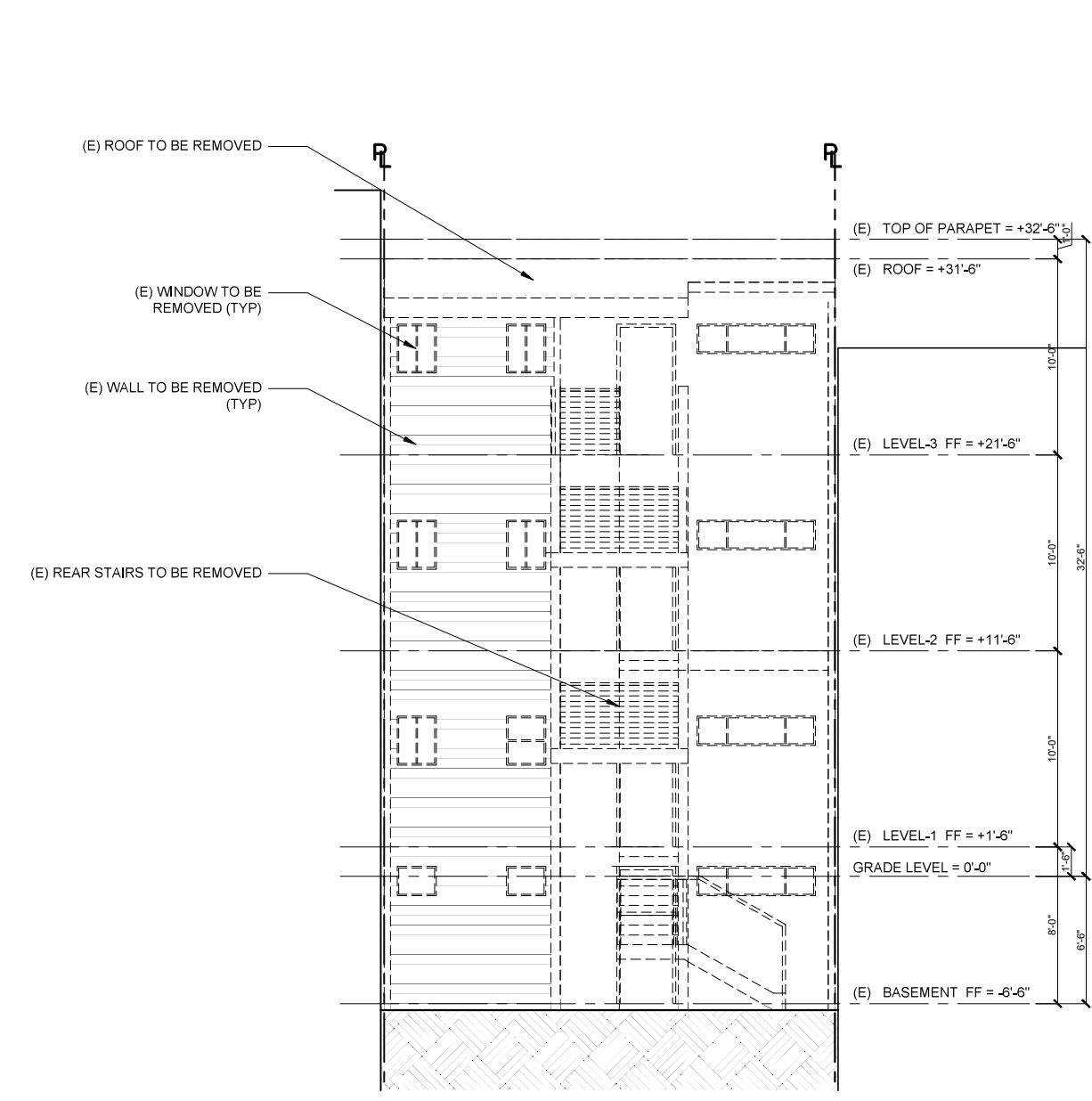
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REAR ELEVATION

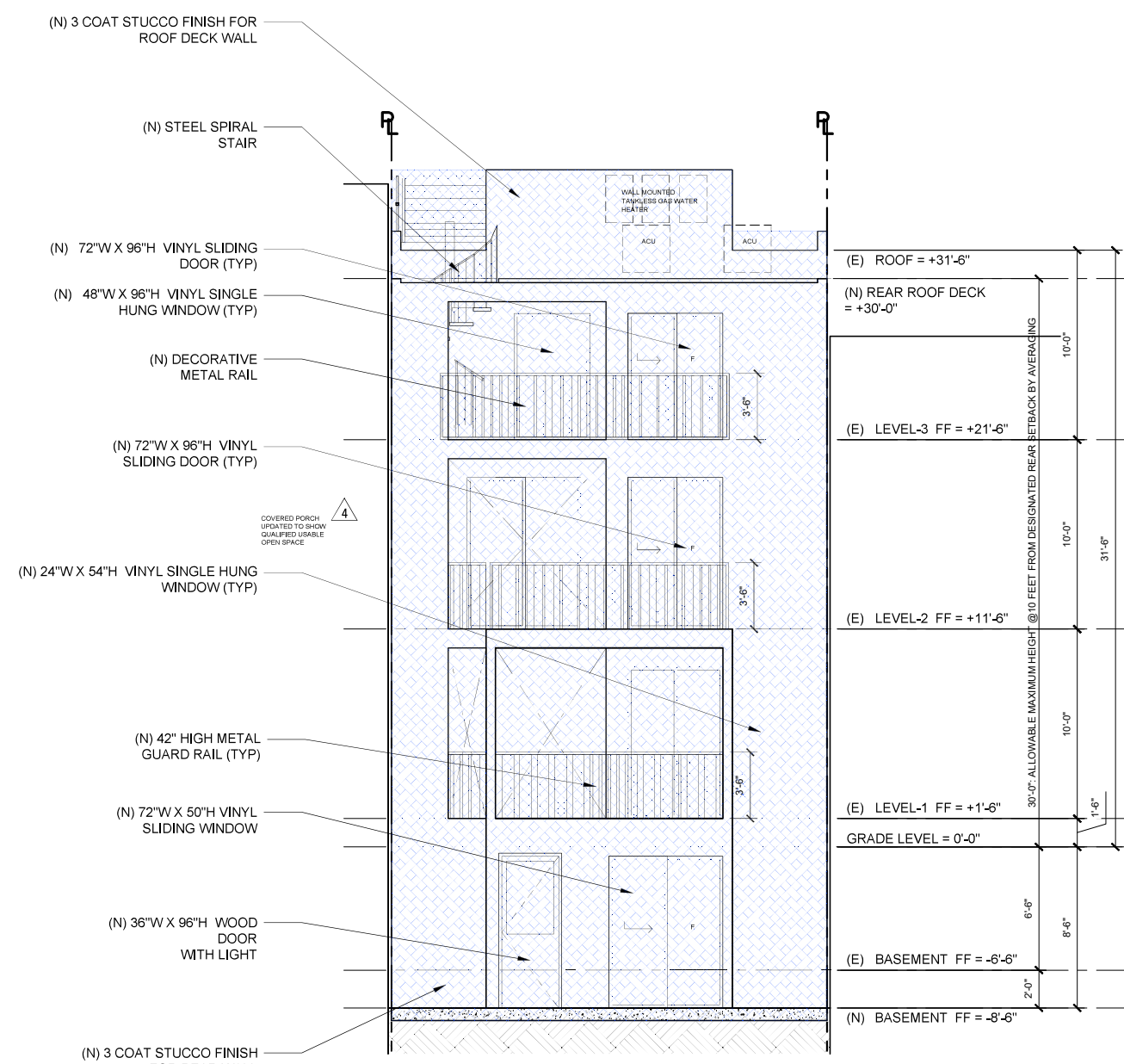
SHEET TITLE

A4.1

SHEET NO.



1 (E) REAR/SOUTH ELEVATION
SCALE: 1/4" TO 1'-0"

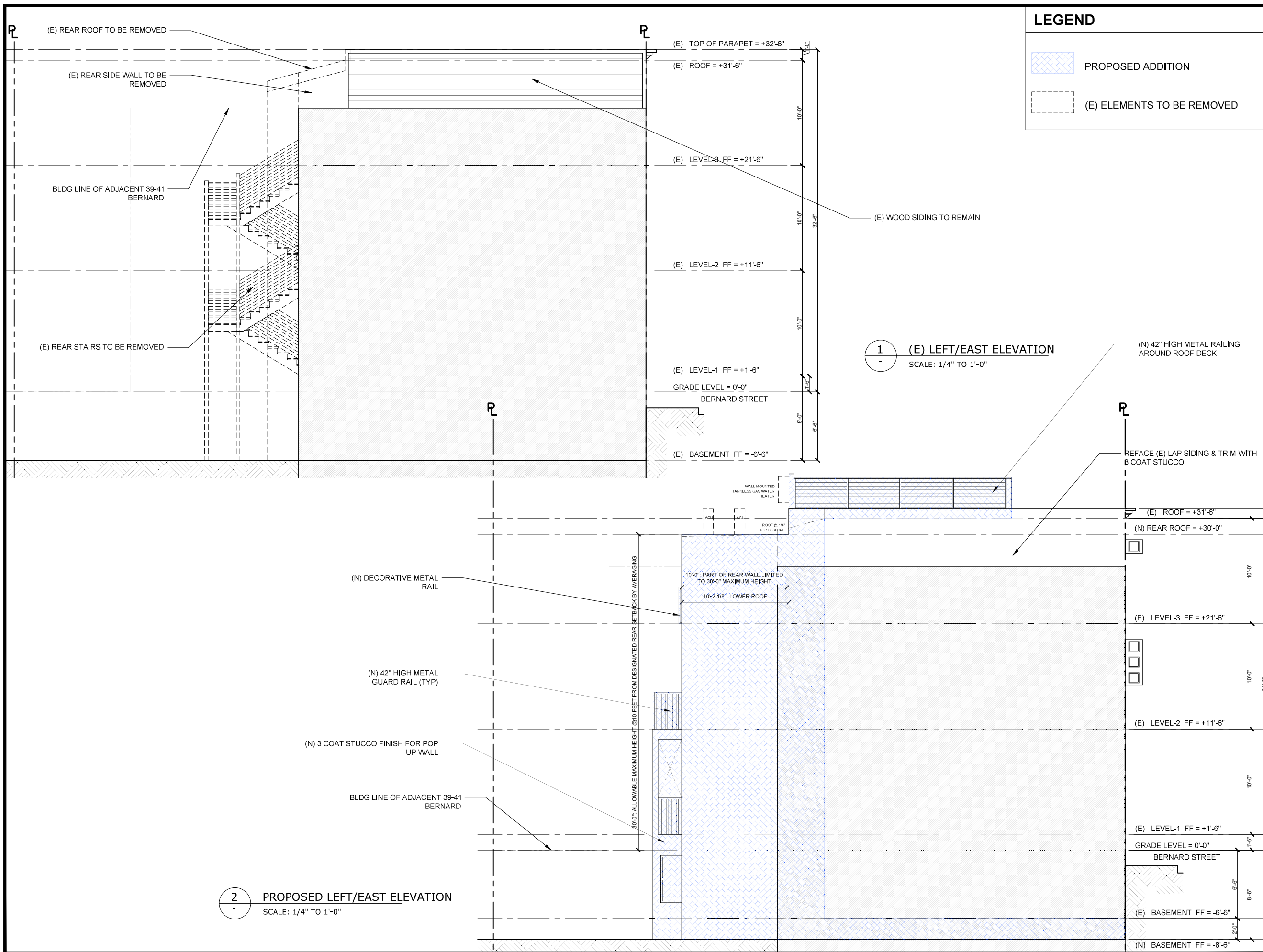


2 PROPOSED REAR/SOUTH ELEVATION
SCALE: 1/4" TO 1'-0"

LEGEND

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

TANTAMOUNT TO DEMOLITION CALCULATION						VERTICAL ENVELOP ELEMENTS TO REMAIN					
FRONT + REAR FACADE (LFT AT FOUNDATION)											
ELEVATION SIDE	(E) EXT WALL in LFT	(E) EXT WALL TO DEMOLISH in LFT	WALL TO ADD in LFT	(P) EXT TO REMAIN in LFT	COMPLIANCE	ELEVATION SIDE	(E) ENVELOP AREA in SQFT	AREA TO DEMOLISH in SQFT	AREA TO ADD in SQFT	(P) ENVELOP AREA TO REMAIN in SQFT	COMPLIANCE
NORTH/FRONT ELEVATION	23 = 100%	0 = 0%	N.A.	23 < 50%	YES	NORTH/FRONT ELEVATION	806 = 100%	43 = 5.33%	25.6 = 3.18%	788.6 < 50%	YES
SOUTH/REAR ELEVATION	23 = 100%	22 = 95.65%	N.A.	1 > 50%		SOUTH/REAR ELEVATION	962 = 100%	856 = 89%	N.A.	106 < 50%	
TOTAL	46	22	N.A.	24		EAST ELEVATION	NO CHANGE	NO CHANGE	N.A.	100%	
						WEST ELEVATION	NO CHANGE	NO CHANGE	N.A.	100%	
						TOTAL	1768	899	25.600	894.6 > 50%	



LEGEND

PROPOSED ADDITION

(E) ELEMENTS TO BE REMOVED

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SAN ANSELMO, CA 94060
T: 415.597.6880 F: 925.559.4814

HGCI
DESIGN | CONSTRUCT | WORK | LIVE

BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/ REMODEL

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EAST ELEVATION


SHEET TITLE

A4.2

SHEET NO.

LEGEND

 PROPOSED ADDITION

 (E) ELEMENTS TO BE REMOVED

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REVISIONS

DATE	REVISION	DESCRIPTION
10.08.2021	2	PLAN REVIEW RESPONSE #1
08.28.2022	3	PLAN SET UPDATE
07.15.2022	4	PLAN SET UPDATE 2

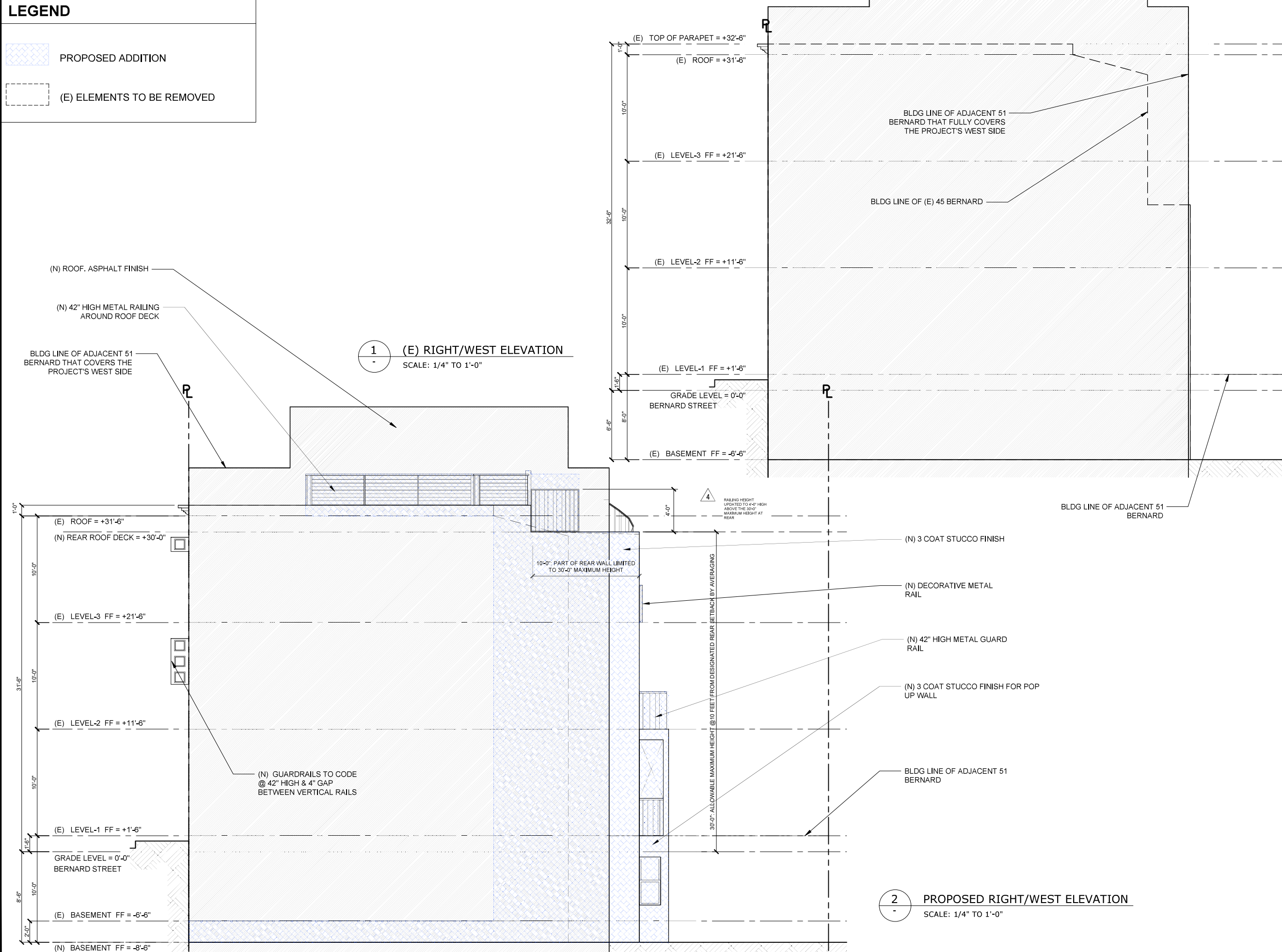
DATE	05.26.2022
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MDC
CHECKED BY	JH

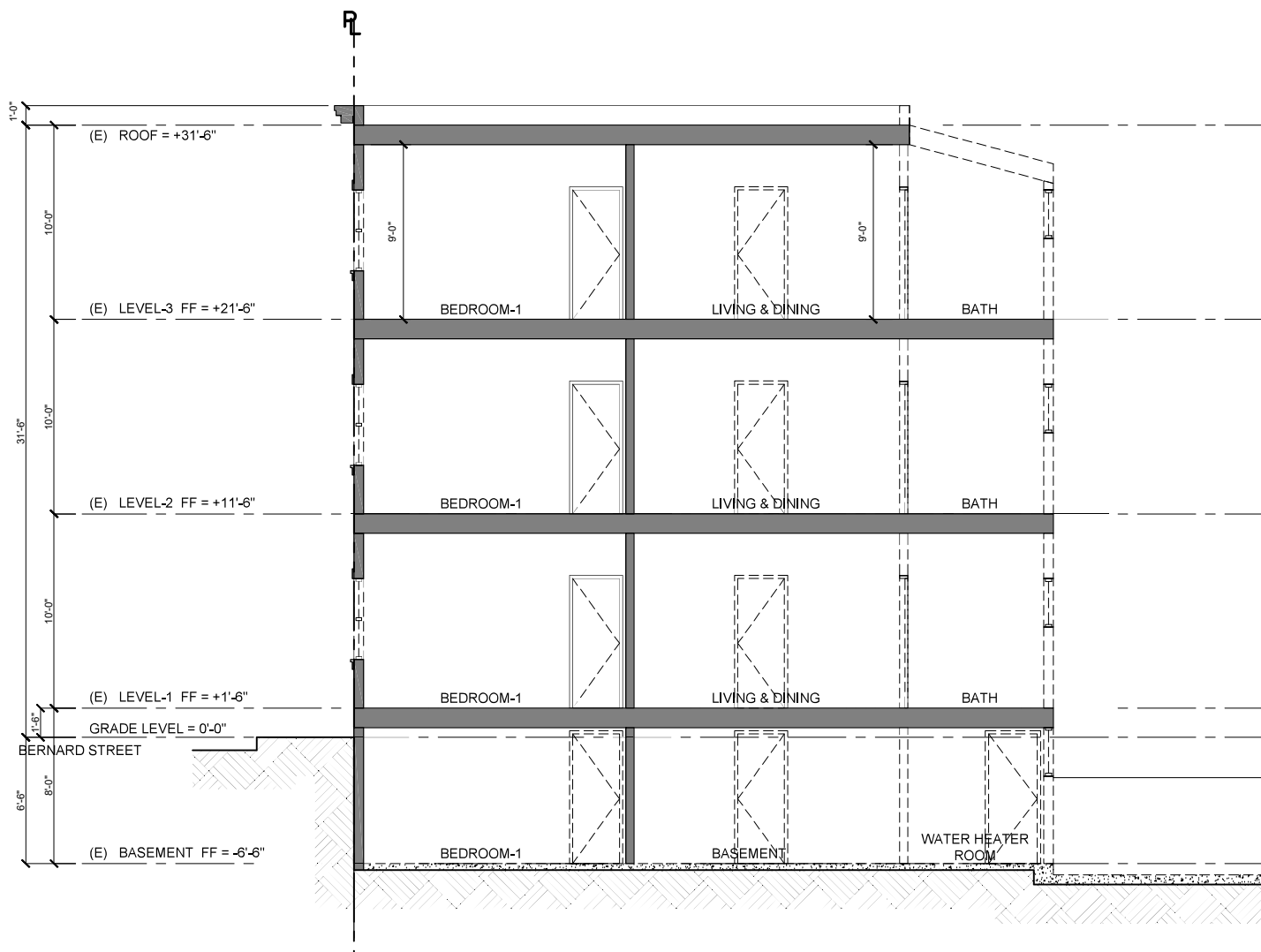
WEST ELEVATION

SHEET TITLE

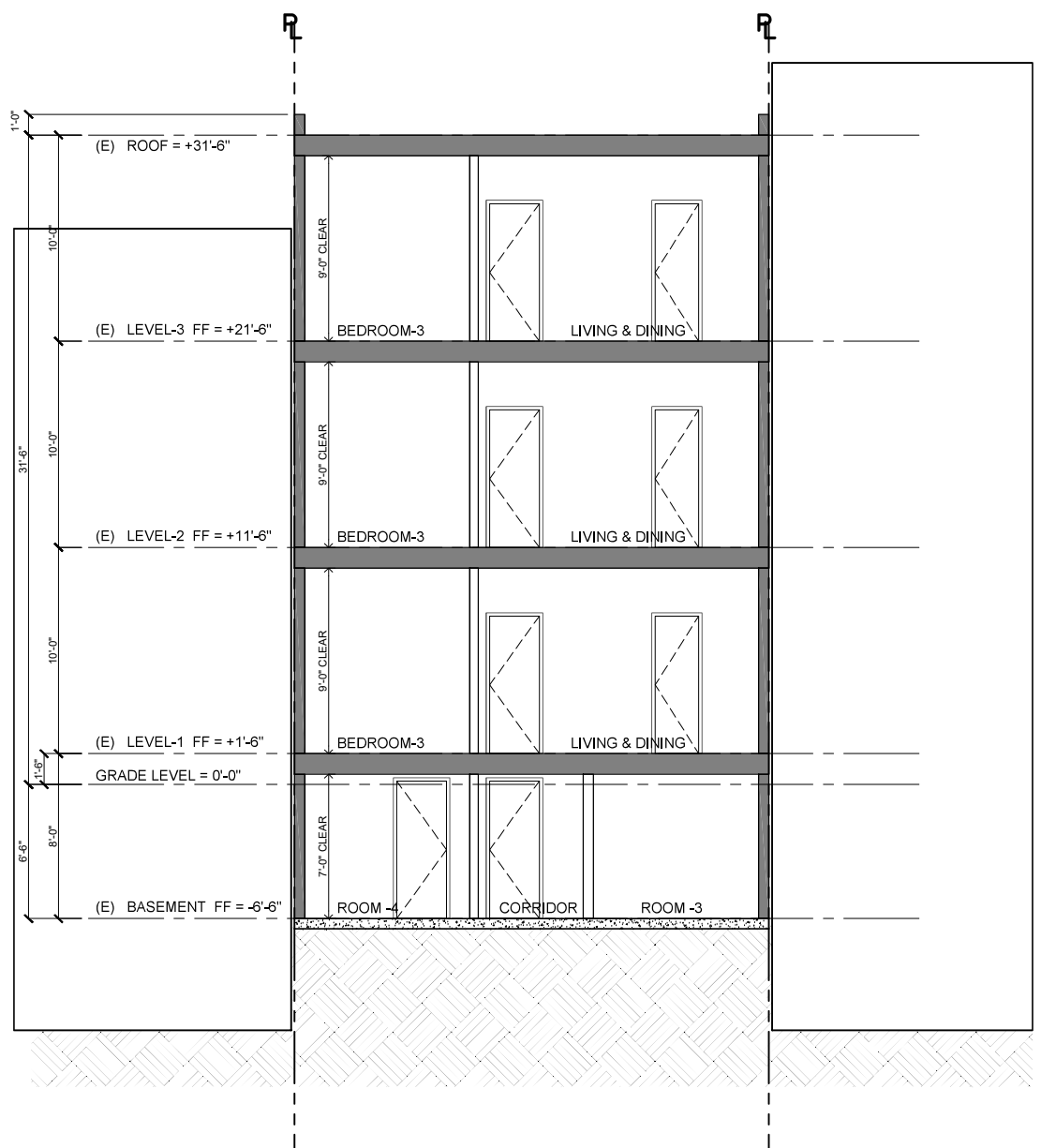
A4.3

SHEET NO.





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



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

LEGEND

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

112 SPALDING STREET, SUITE A
SAN ANSELMO, CA 94960
T: 415.597.6880 F: 925.556.4814



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

APN # 0157030

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

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

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

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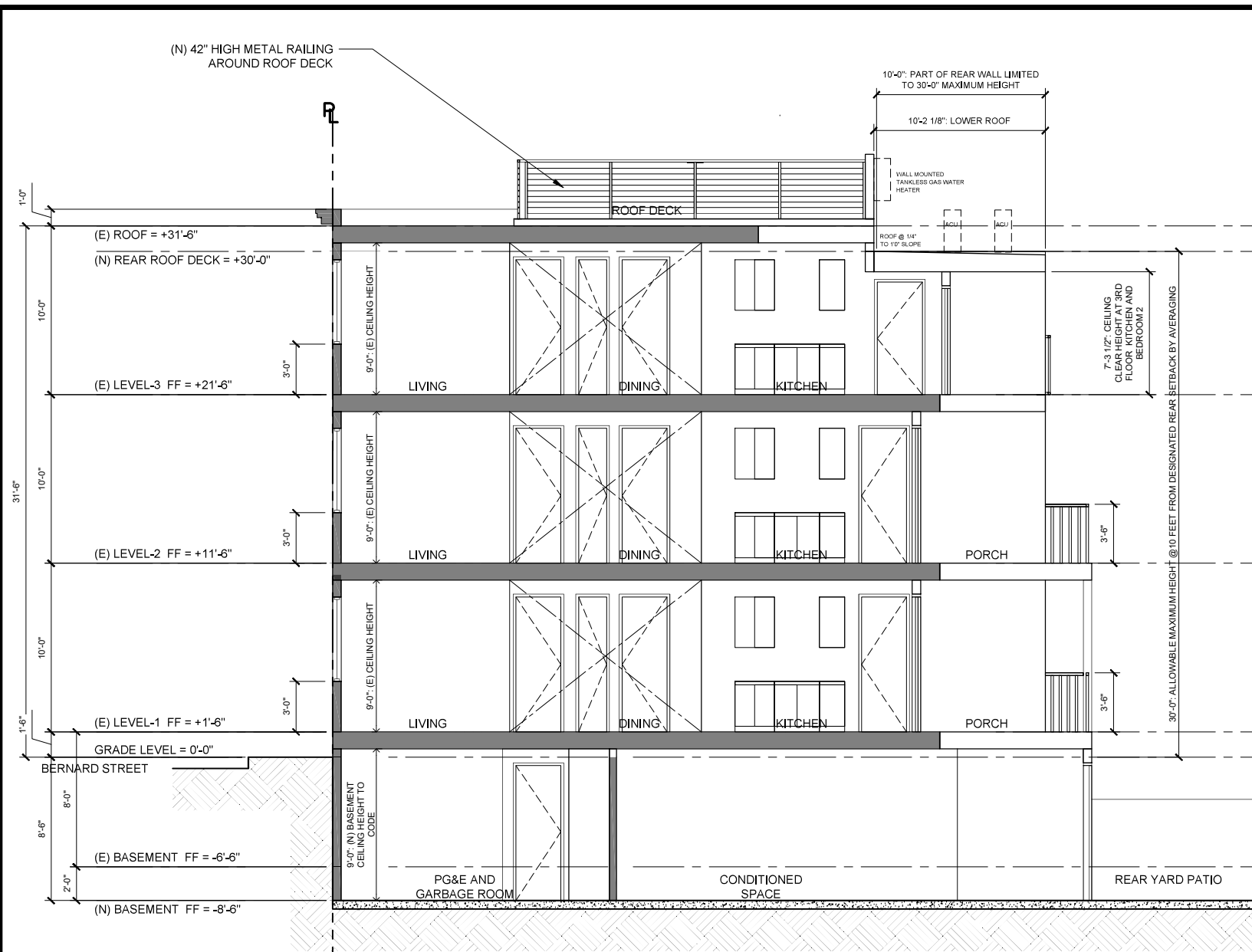
DATE	05.26.2022
SCALE	AS NOTED
PROJECT ID	00000
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**EXISTING BUILDING
SECTION**

SHEET TITLE

A5.0

SHEET NO.

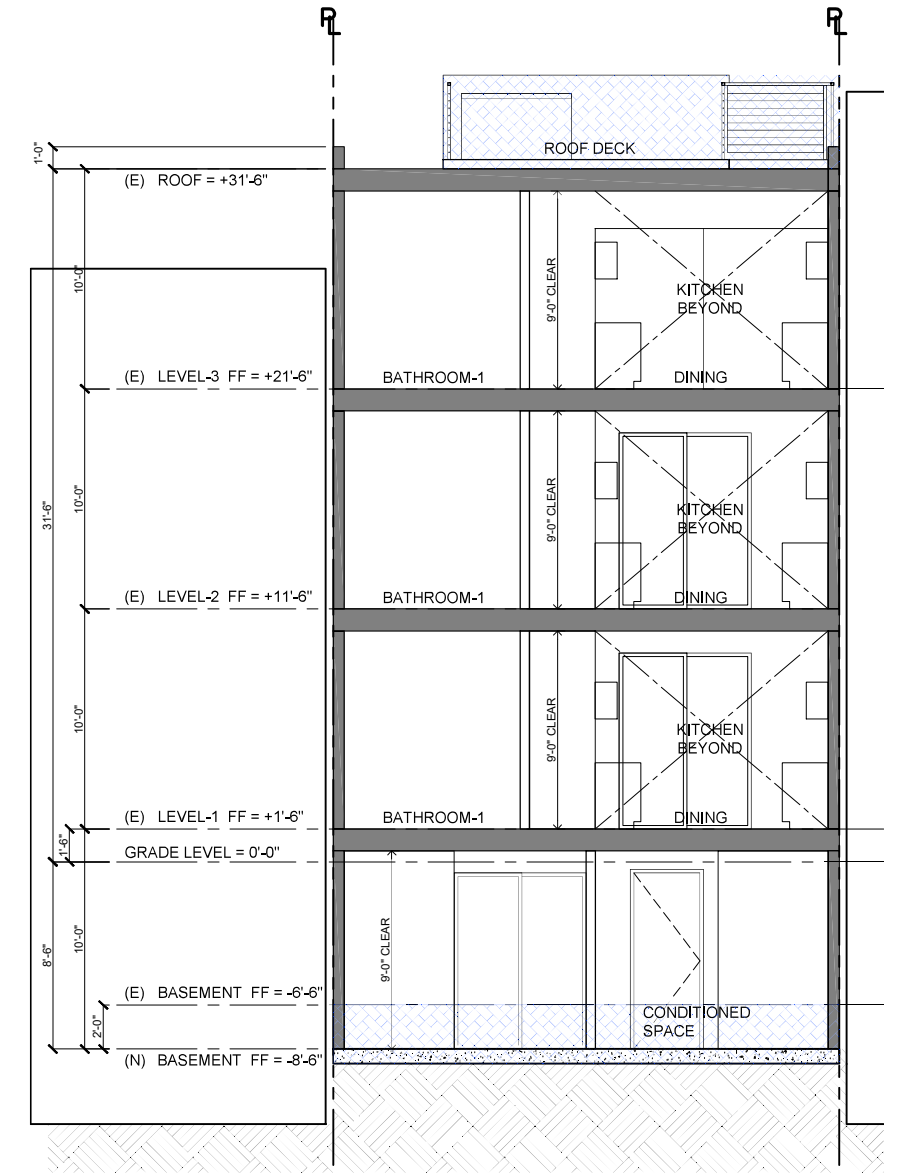


1 PROPOSED SECTION
SCALE: 1/4" TO 1'-0"

4 SECTION UPDATED AS PER FLOOR PLAN CHANGES

LEGEND

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



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

HGCI
DESIGN | CONSTRUCT | WORK | LIVE

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PROPOSED SECTION

SHEET TITLE

A5.1

SHEET NO.

EXHIBIT 2
RELEVANT PLANNING COMMISSION EXCERPTS

The following excerpts from the Planning commission hearing were copied from the closed captions in the hearing video provided in this link:

https://sanfrancisco.granicus.com/player/clip/41915?view_id=20&redirect=true

Commissioner Moore:

1. My concerns are where we are asked to approve a building that when it ultimately goes through the sausage factory and DBI it becomes something completely different.”
2. “We are struggling with too many issues given the hundreds of comments the minimum I expect of them that what is in front of us is something that meets in a way to minimum expectations of an approvable building. “
3. “Why we are not having the details we are not substitute for the building department and fire department to look at the final grain of code compliant building or with air function in building be this is what our responsibility is here we are working hard to have that discussion...”
4. "... when I look to the building to the west, I regret it is overshooting in I mean that is too much. I would like to find a middle ground in terms of how deep the building can function. In addition to that and this is my personal opinion and I stated that opinion in many other cases, I believe that the rear spiral stair case to the roof is an abnormality and is bulking out too much. I'm not prepared to support it. It requires a tall fire separating wall from the other building bulking it out even further.”
5. “Why would you not choose a porch like you did on the other floors for that floor? Would you explain that to me please?”... Project Sponsor: "I want to have kids. It is a little bit of a space issue for us on there we both work from home."... Commissioner Moore: "This was a space in which families with multiple family members lived at a square footage that was by far smaller than anything you will move into. I don't want to entertain a conversation I'm speaking. And I think we need to understand the measure of scale here. For us as commissioners who are in the middle of the most brutal times I've experienced in my adult life. People are being displaced and people homeless and no affordable housing available this is a very tough project and I'm trying to find a middle ground and have been basically not been able to come to land on when we need to do.”
6. We need to see it now and if an adu occupied in 5 years I like to know what I'm approving if I don't get it 5 years from now. It is those things and I have issues with the massing of the building in the rear...The stair case is not a consideration for me. Nor is the roof deck. A porch would be great and make it a fitting building...

7. The stair case is on property line and because it is a stepping situation will require full height fire wall against the adjoining property will by appearance bulk up the building in the rear....However it requires a fire wall. So it is not like an open stair it is a stair that is wall in the on one side and it sits on the property line with the neighbor going to the west.

Commissioner Imperial

8. "...in terms of the context of the neighborhood that is when I'm trying to see here that the DR requestor is referring to the cultural preservation of this neighborhood...I'll take this as a DR. Evictions that happened and the fact that we have concern It is code compliant but not culturally designed for people who live in this area."

Commissioner Moore

9. I would like to interject a comment and that is that I would like to find this larger middle grounds that deals with the physicality of the building as I see potential issues, relative to the buildability of the building changing what is going to come out of this, I want to both make sure that the applicant who bought a building that needs improvements is habitable and gives them more space. But is also compliant with all the other things which can significantly alter the building from that which is in front of us.

EXHIBIT 3
ADU PLANS

BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/REMODEL

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



BERNARD ST. 3-UNITS APARTMENT SEISMIC RETROFIT/ REMODEL

APN # 0157030

PERMIT NUMBER:
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 • BB#368-912-764
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PROJECT ADDRESS
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MANAGED BY: HGCI
 B-GENERAL BUILDING CONTRACTOR LIC.# 720437

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07.15.2022	4	PLAN SET UPDATE 2

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SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	PR, MD
CHECKED BY	JH

COVER SHEET

SHEET TITLE

A0.0

SHEET NO.

CONTACT INFORMATION

OWNER:
 Tia H
 c:925.337.1755

GENERAL CONTRACTOR:
 HGCI
 112 S
 SA, CA - 94960
 c: 415.597.6880

ENGINEER:
 CRES E
 2420 S
 CA. 94513
 c: 925.487.0895

PROJECT DATA

ADDRESS: 45, 47 & 49 Bernard St, SAN FRANCISCO, CA. 94133

BLOCK/ LOT : 0157 / 030

LOT SIZE : 23' 0" X 60' 0" = ± 1380 SF

ZONING : RH - 3 (RESIDENTIAL HOUSE - THREE FAMILY)

HEIGHT & BULK DISTRICT : 65 - A

PLANNING DISTRICT: DISTRICT-3 NORTHEAST

SET BACK REQUIREMENTS:

- FRONT SETBACK: (E) SETBACK 0'0" OR AVERAGE OF ADJACENT BUILDINGS = 0'0"
- REAR SETBACK: AVERAGE OF ADJACENT BUILDING SF PLANNING CODE SECTION 134 = NO LESS THAN 17'-9". SEE SITE PLAN.
- SIDE SETBACKS: NOT REQUIRED PER SF PLANNING CODE SECTION 133

EXISTING BUILDING :

- YEAR BUILT: 1906
- NUMBER OF STORIES: 3 STORIES + BASEMENT
- BUILDING AREA: 2944 SQFT
- OCCUPANCY CLASS: R-2
- USE TYPE: MULTI-UNIT APARTMENTS
- NO. OF DWELLING UNITS: 3 DU
- BUILDING HEIGHT: 32'-6"
- CONSTRUCTION TYPE V-B

PROPOSED BUILDING SIZE :

- PROPOSED NUMBER OF STORIES: 3 STORIES + BASEMENT (NO CHANGE)
- PROPOSED BUILDING AREA: 3478 SQFT
- PROPOSED OCCUPANCY CLASS: R-2 (NO CHANGE)
- PROPOSED USE TYPE: MULTI-UNIT APARTMENT (NO CHANGE)
- PROPOSED NO. OF DWELLING UNITS: 3 DU
- OCCUPANCY LOAD: 1 PER 200 SQFT
- BUILDING HEIGHT: 32'-6" (NO CHANGE)
- CONSTRUCTION TYPE V-A

(E) GARAGE PARKING: NONE

REQUIRED PARKING: NONE

FIRE SPRINKLERS: Y - E Ba U

FIRE ALARM: Y - (N) S Grd 3rd

APPLICABLE CODES

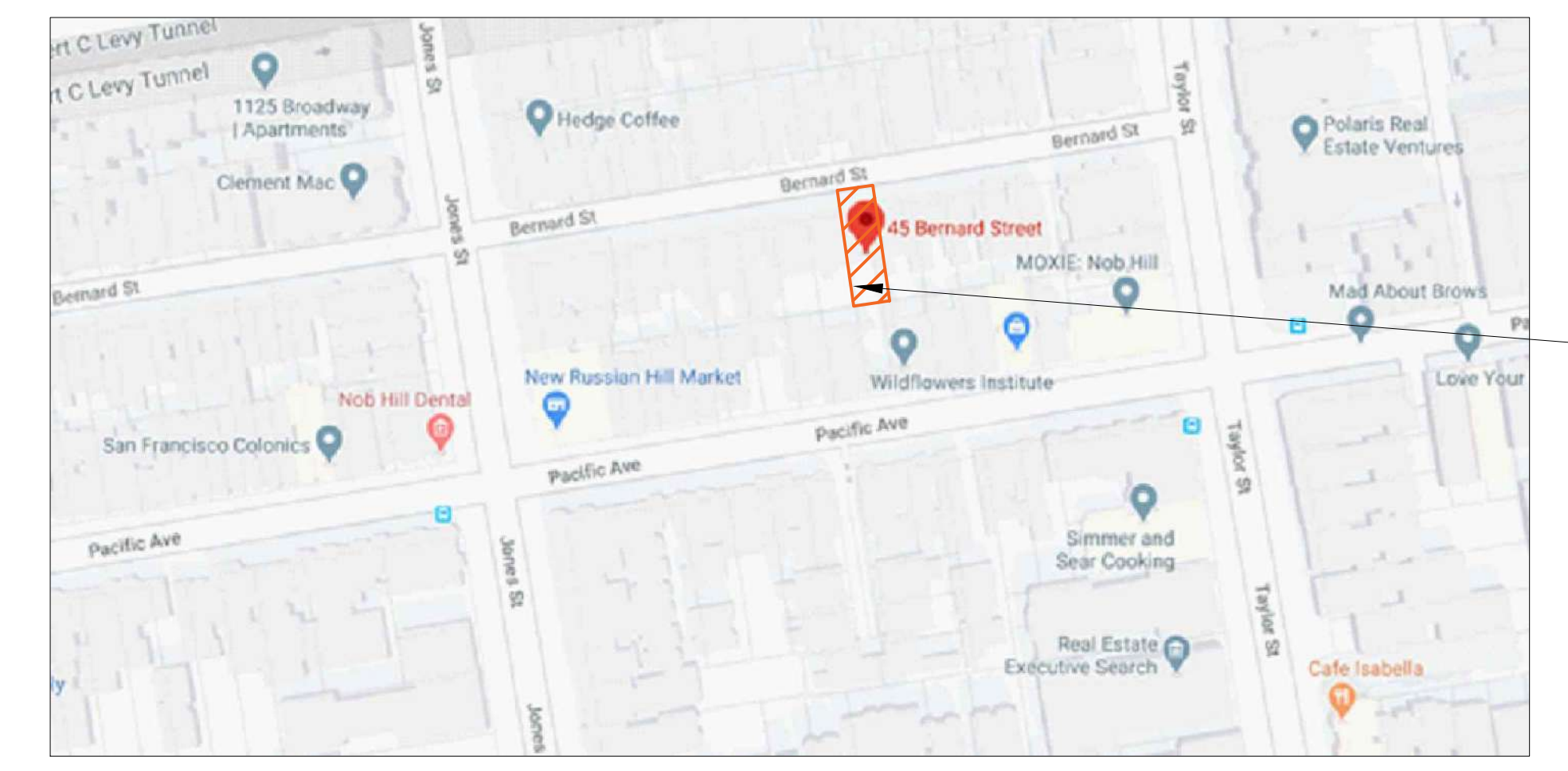
- APPLICABLE CODES:
- 2019 CALIFORNIA BUILDING CODE
 - 2019 CALIFORNIA RESIDENTIAL CODE
 - 2019 CALIFORNIA ELECTRICAL CODE
 - 2019 CALIFORNIA MECHANICAL CODE
 - 2019 CALIFORNIA PLUMBING CODE
 - 2019 CALIFORNIA ENERGY CODE
 - 2019 CALIFORNIA FIRE CODE
 - SAN FRANCISCO RESIDENTIAL DESIGN GUIDELINES
 -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

SHEET INDEX

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

SCOPE OF WORK

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

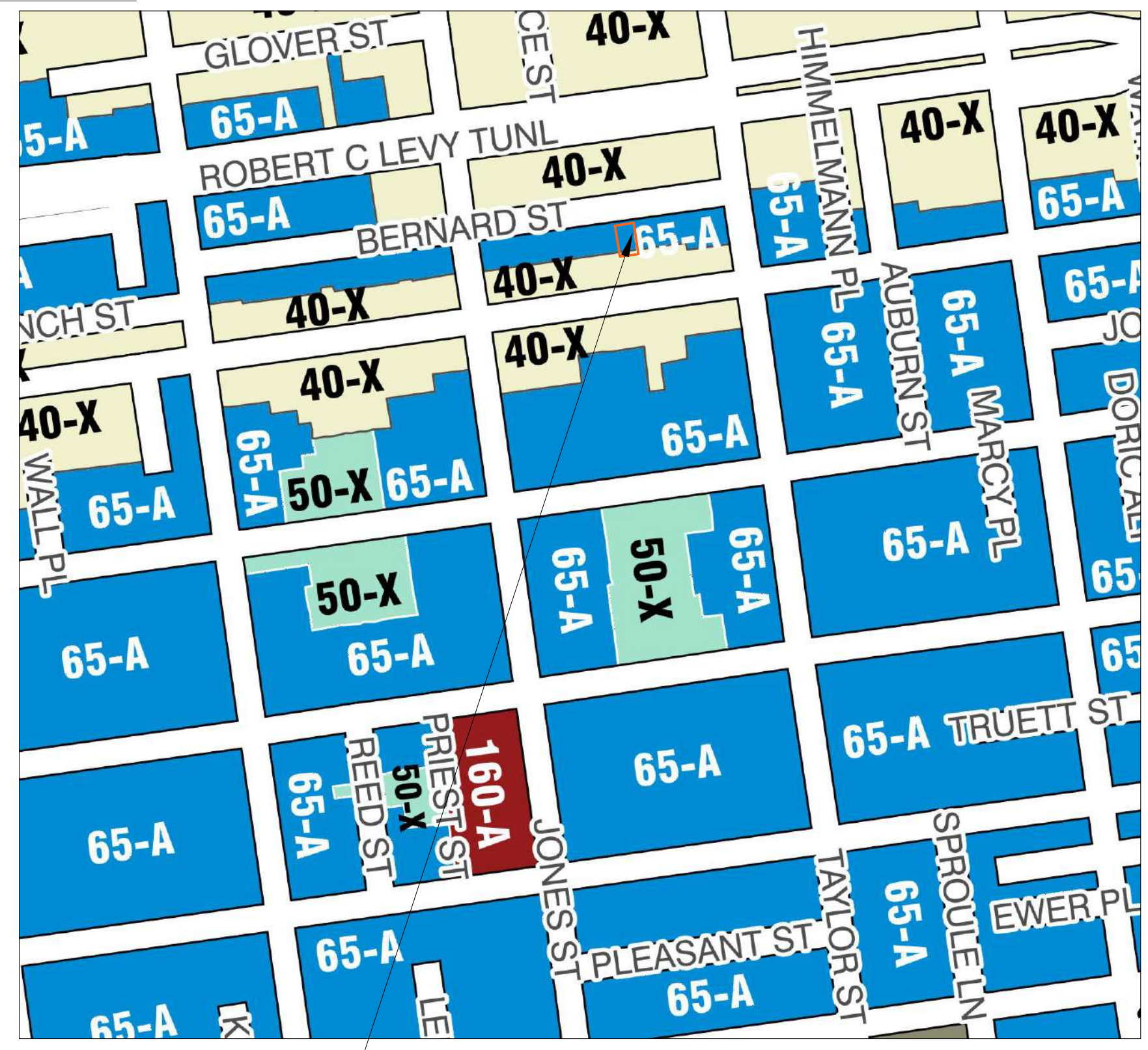


1 LOCATION MAP
 SCALE: NTS

AREA CALCULATIONS

DWELLING UNITS (DU)	(E) AREA SF	(N) ADDITION IN SF	TOTAL UNIT AREA IN SF
UNIT # 1 - (E) GRD FLR	736 SF	102 SF	838 SF
UNIT # 2 - (E) 2ND FLR	736 SF	102 SF	838 SF
UNIT # 3 - (E) 3RD FLR	736 SF	122 SF	858 SF
TOTAL DU FLOOR AREA	2,208 SF	326 SF¹	2,534 SF
OTHER			
(E) BASEMENT	786 SF	222 SF	1008 SF
GROSS USABLE			
BLDG TOTALS (E) & (N)	2994 SF	548 SF	3542 SF

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



SUBJECT PROPERTY

ZONING MAP
 SCALE: NTS

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

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

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

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T: 415.597.8800 F: 925.556.4814



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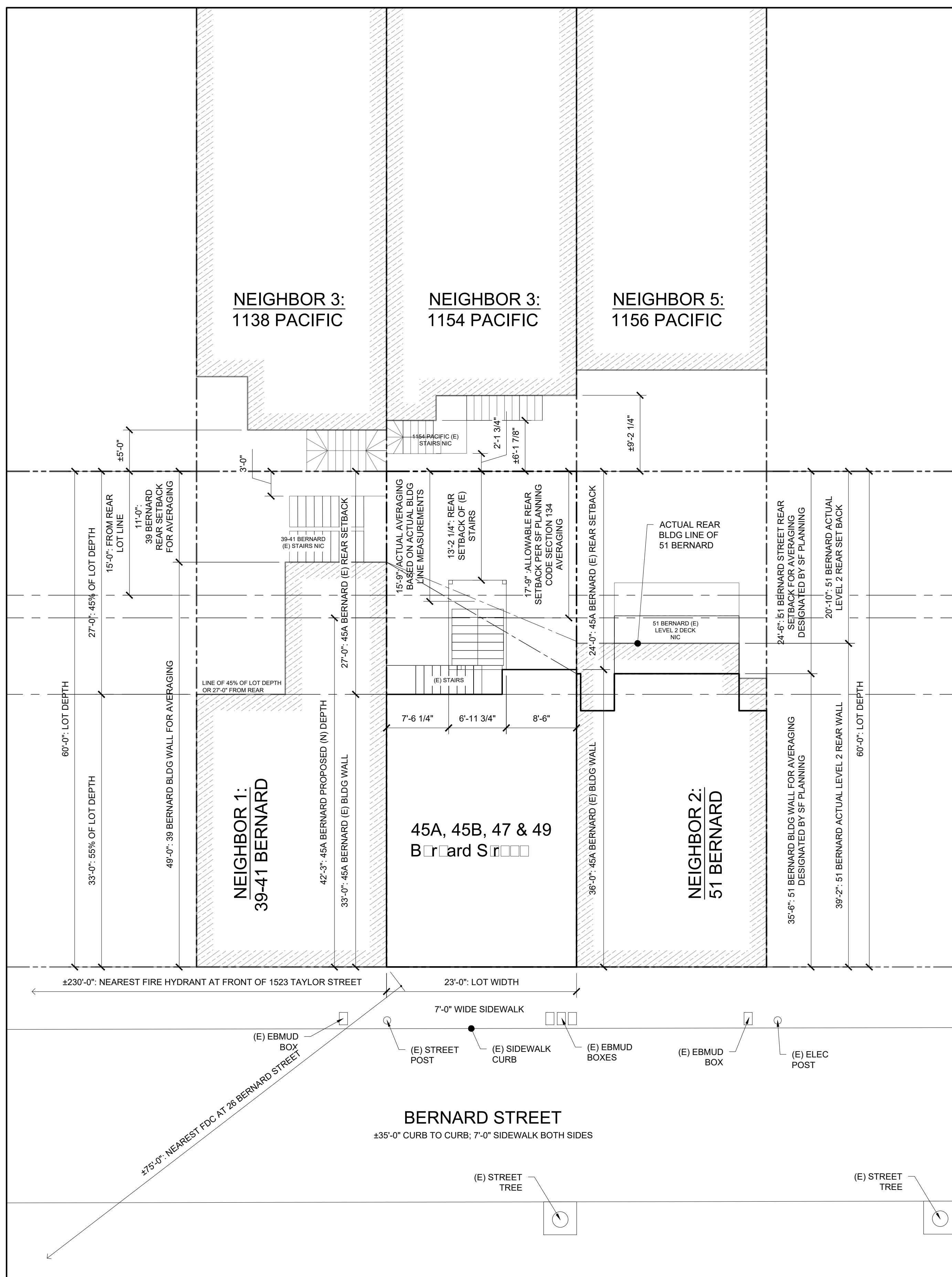
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DRAWN BY	PR, MD
CHECKED BY	JH

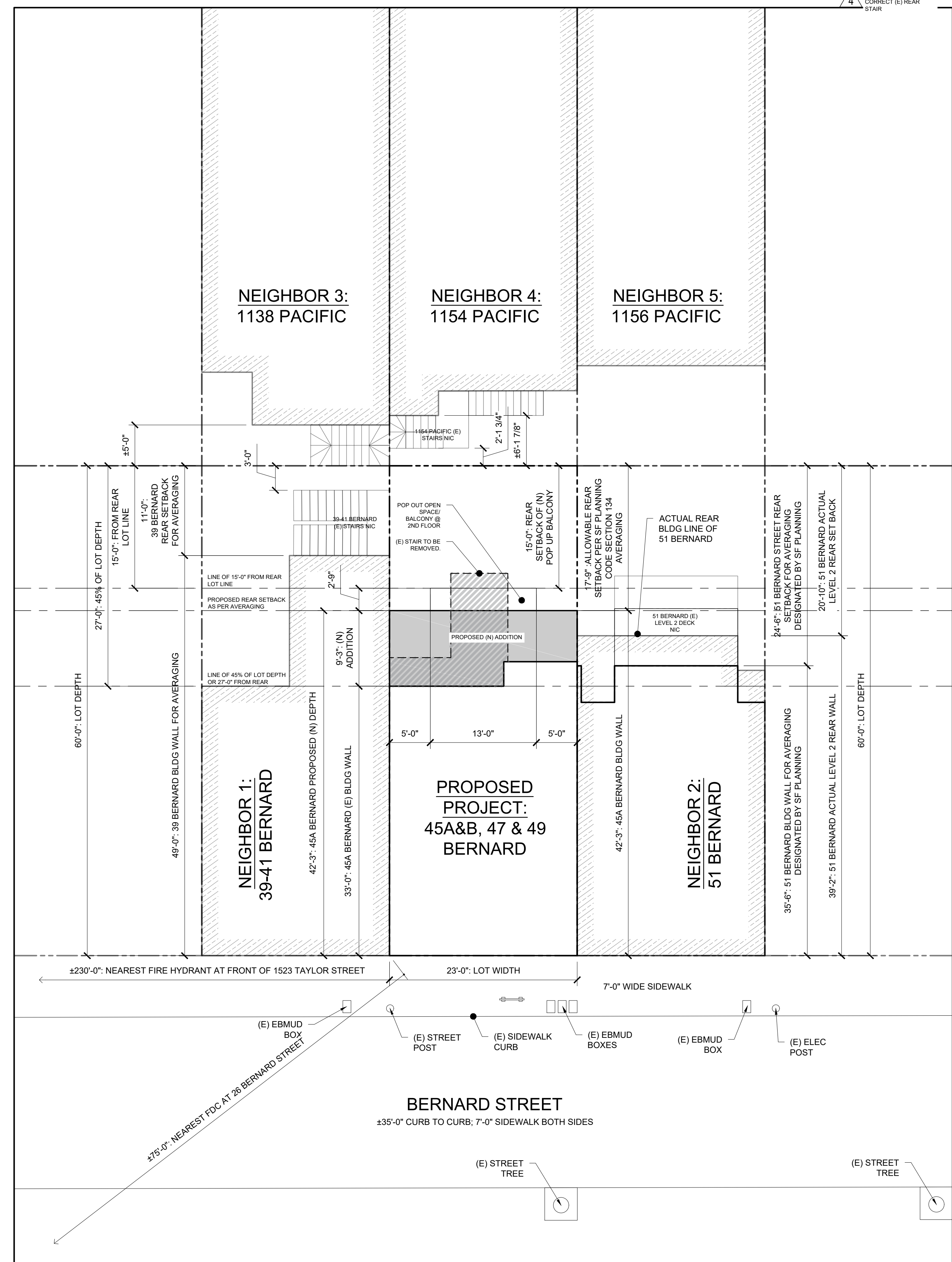
**EXISTING AND PROPOSED
SITE PLAN**

SHEET TITLE

SHEET NO.



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



2 PROPOSED SITE PLAN
SCALE: 1/8" = 1'-0"



A1.0

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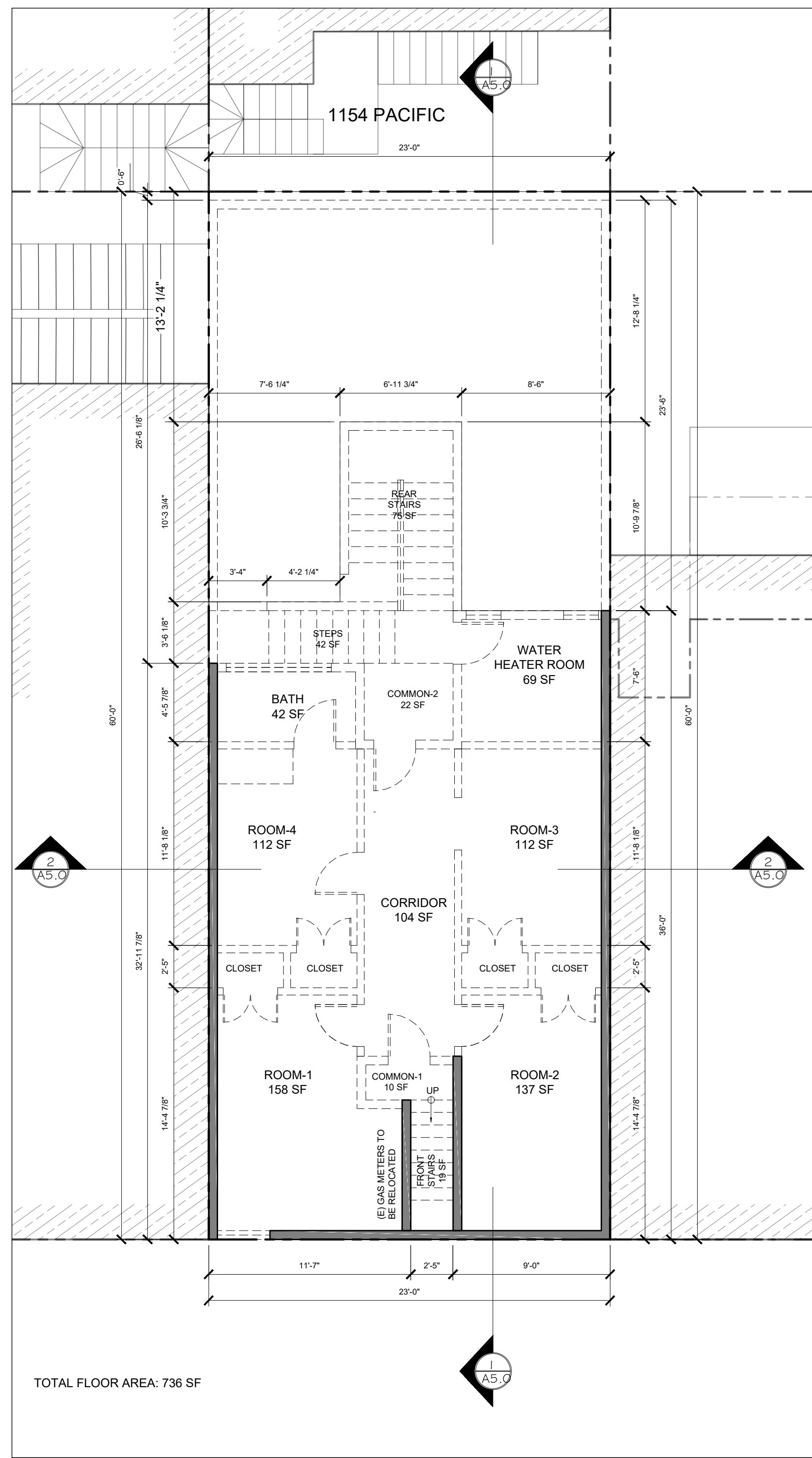
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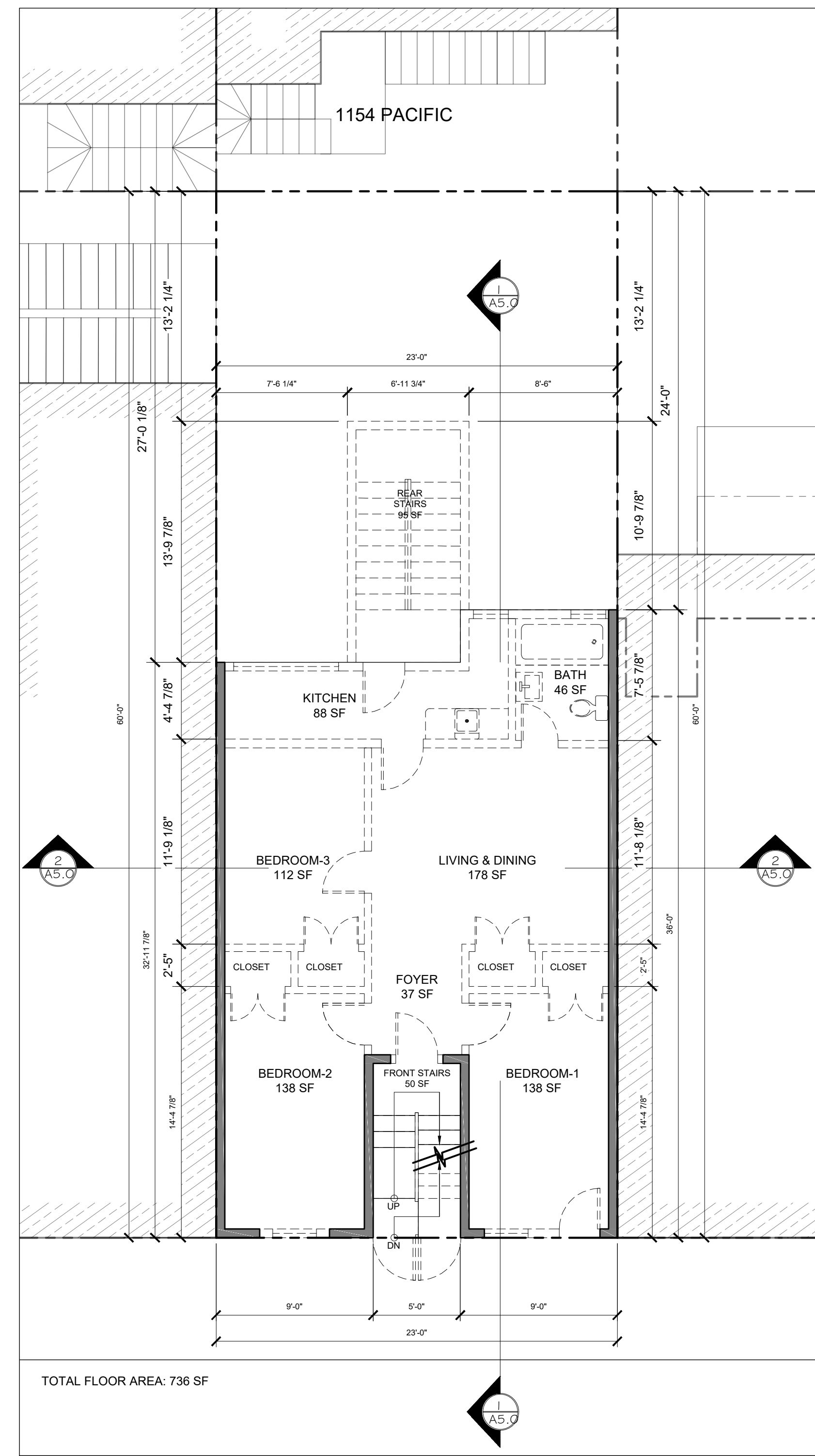
**EXISTING/ DEMO FLOOR
PLANS - REFERENCE
1 OF 2**

SHEET TITLE

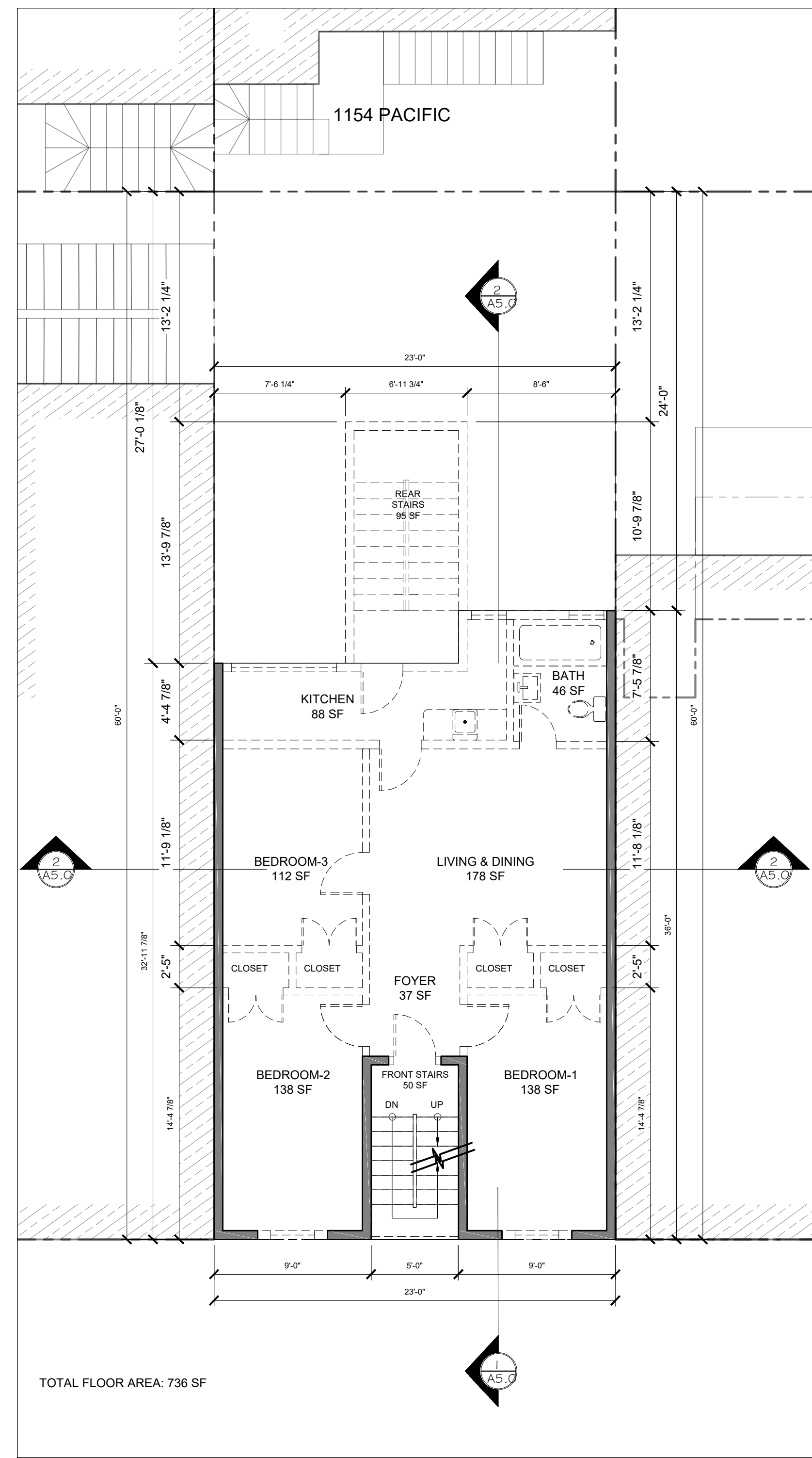
SHEET NO.



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

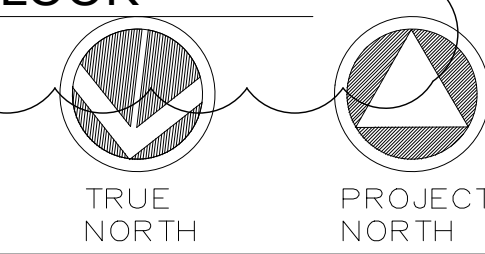


2 EXISTING AND DEMO PLAN: GROUND FLOOR
SCALE: 3/16" = 1'-0"



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

3 THIRD FLOOR REMOVED TO SHOW ADJACENT BLOCKS



LEGEND

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

TANTAMOUNT TO DEMOLITION CALCULATION

FLOOR	HORIZONTAL ELEMENTS S ² FT				COMPLIANCE
	E ² AREA S ² FT	AREA TO DEMOLISH S ² FT	AREA TO ADD S ² FT	TOTAL AREA REMAIN S ² FT	
LEVEL - 01	736 = 100%	0 = 0%	236	736 □ 50%	YES
LEVEL - 02	736 = 100%	0 = 0%	236	736 □ 50%	
LEVEL - 03	736 = 100%	0 = 0%	236	736 □ 50%	
ROOF AREA	736 = 100%	0 = 0%	236	736 □ 50%	
BASEMENT	736 = 100%	0 = 0%	236	736 □ 50%	

ALL EXTERIOR WALLS					
EXTERIOR WALL	E ² EXTERIOR WALL LFT	EXTERIOR WALL TO DEMOLISH LFT	AREA TO ADD LFT	TOTAL EXTERIOR WALL TO REMAIN IN LFT	COMPLIANCE
NORTH	23 = 100%	0 = 0%	N.A.	23 □ 50%	YES
SOUTH	23 = 100%	22 = 95.6%	N.A.	1 □ 50%	
EAST	33 = 100%	0 = 0%	N.A.	33 □ 50%	
WEST	36 = 100%	0 = 0%	N.A.	36 □ 50%	
TOTAL	115 = 100%	22 = 19%	N.A.	93 □ 50%	

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**EXISTING/ DEMO FLOOR
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 2 OF 2**

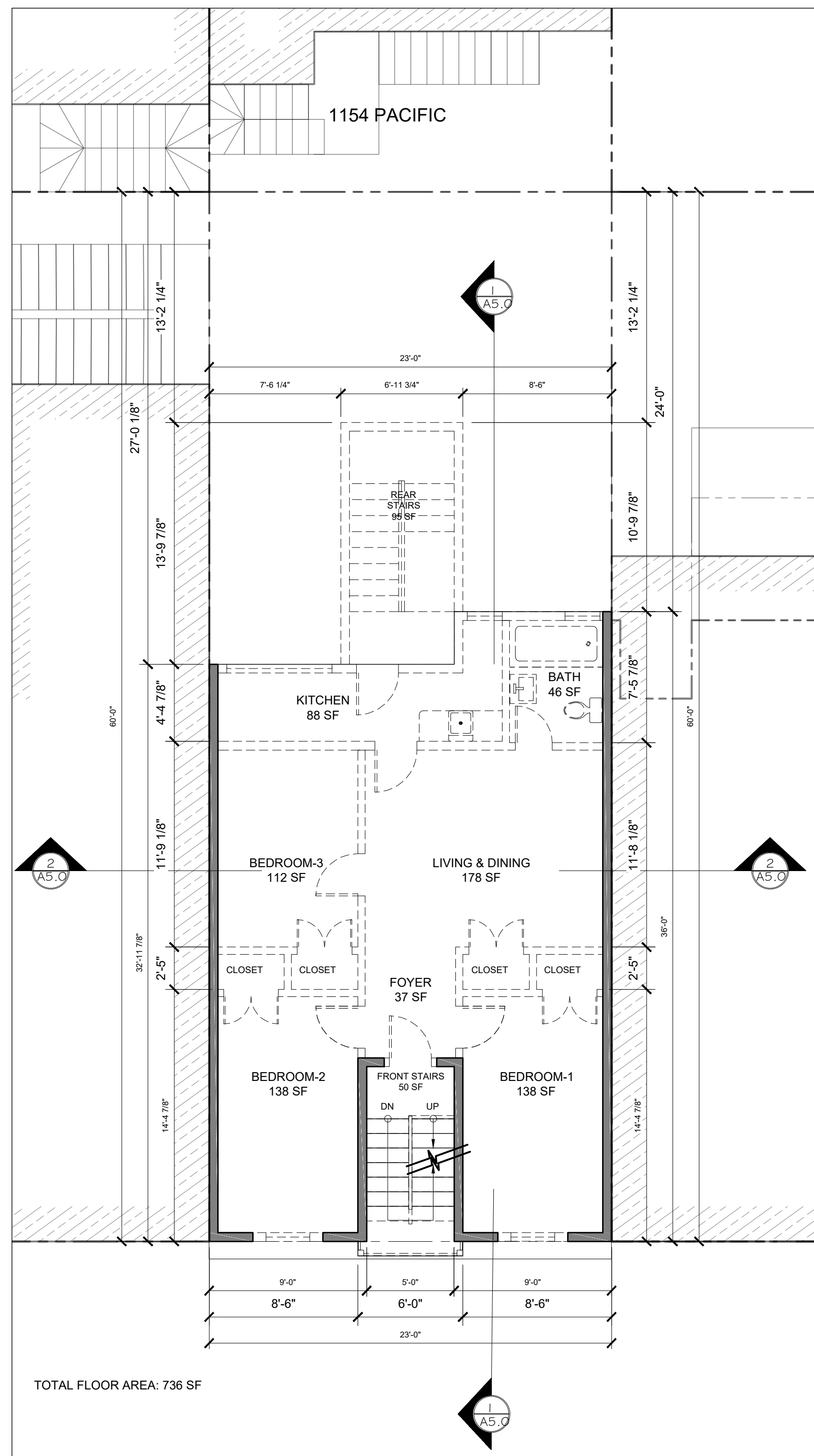
SHEET TITLE

NEW SHEET FOR THIRD AND ROOF EXISTING AND DEMO PLANS

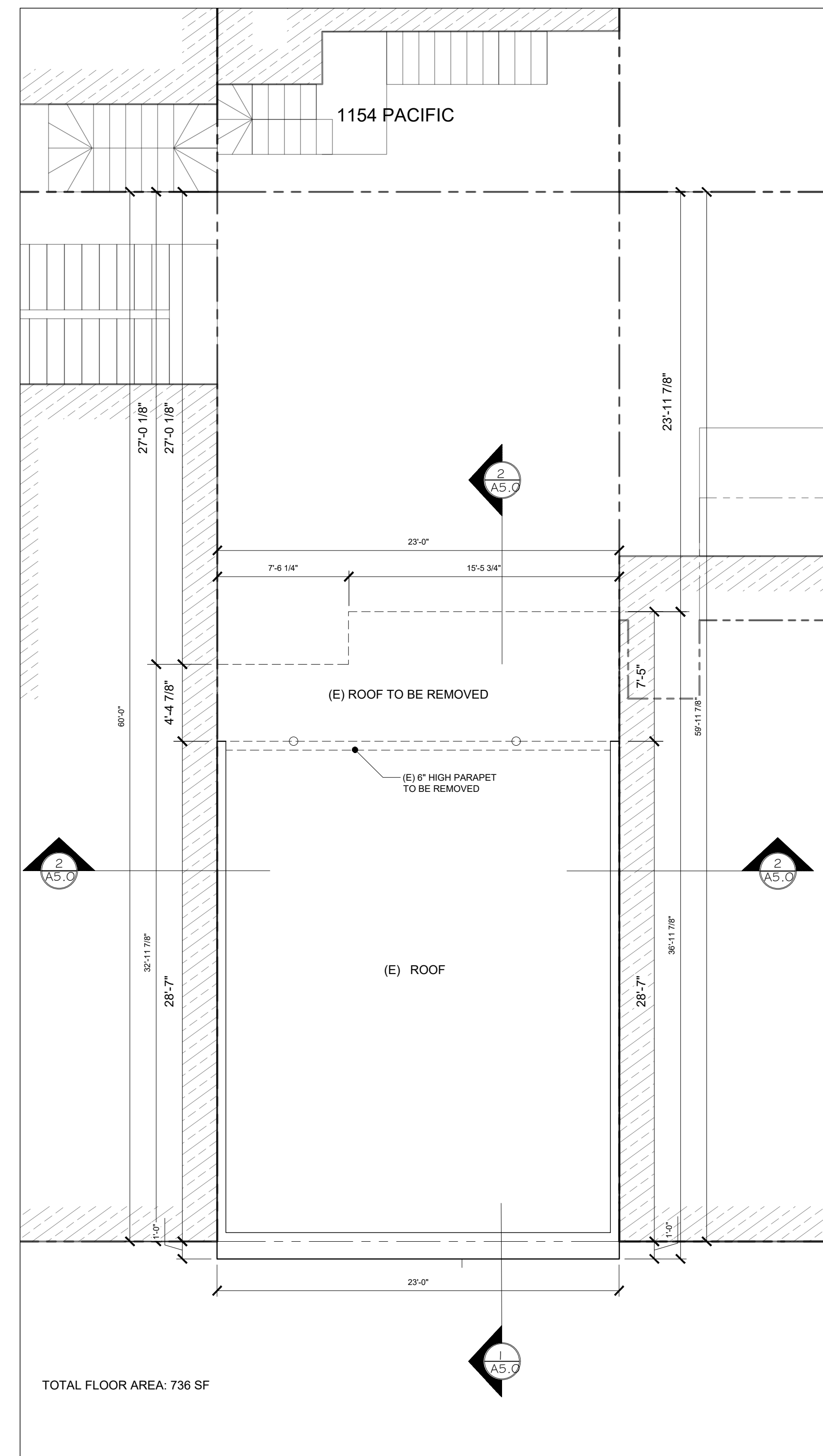
SHEET NO.



A2.1



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



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

LEGEND

(E) WALL TO REMAIN

(E) WALL TO BE DEMO

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

APN # 0157030

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

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

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

STAMP

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REVISIONS

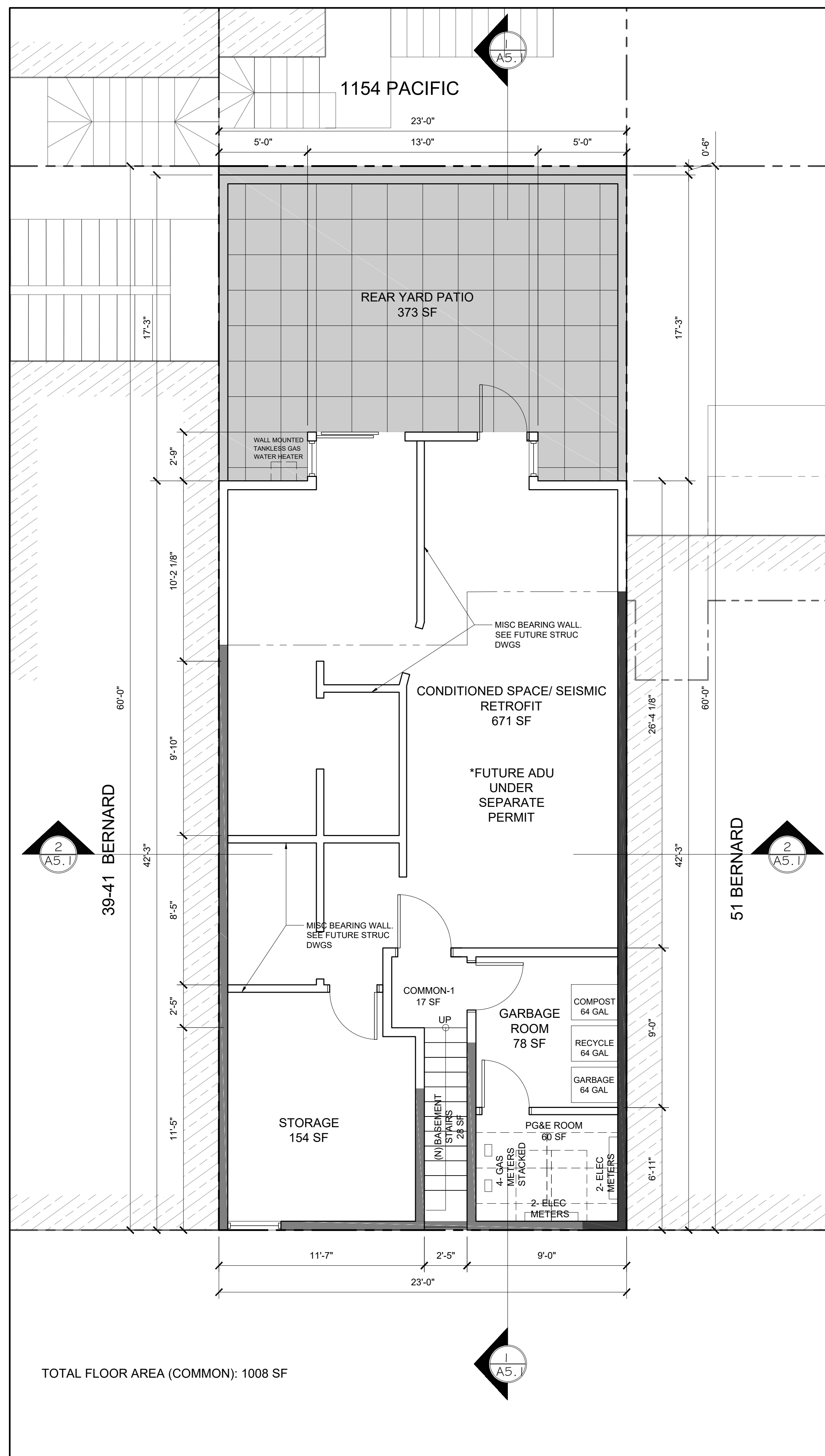
DATE	REVISION	DESCRIPTION
10.01.2021	2	PLAN REVIEW RESPONSE #1
06.21.2022	3	PLAN SET UPDATE
07.15.2022	4	PLAN SET UPDATE 2

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

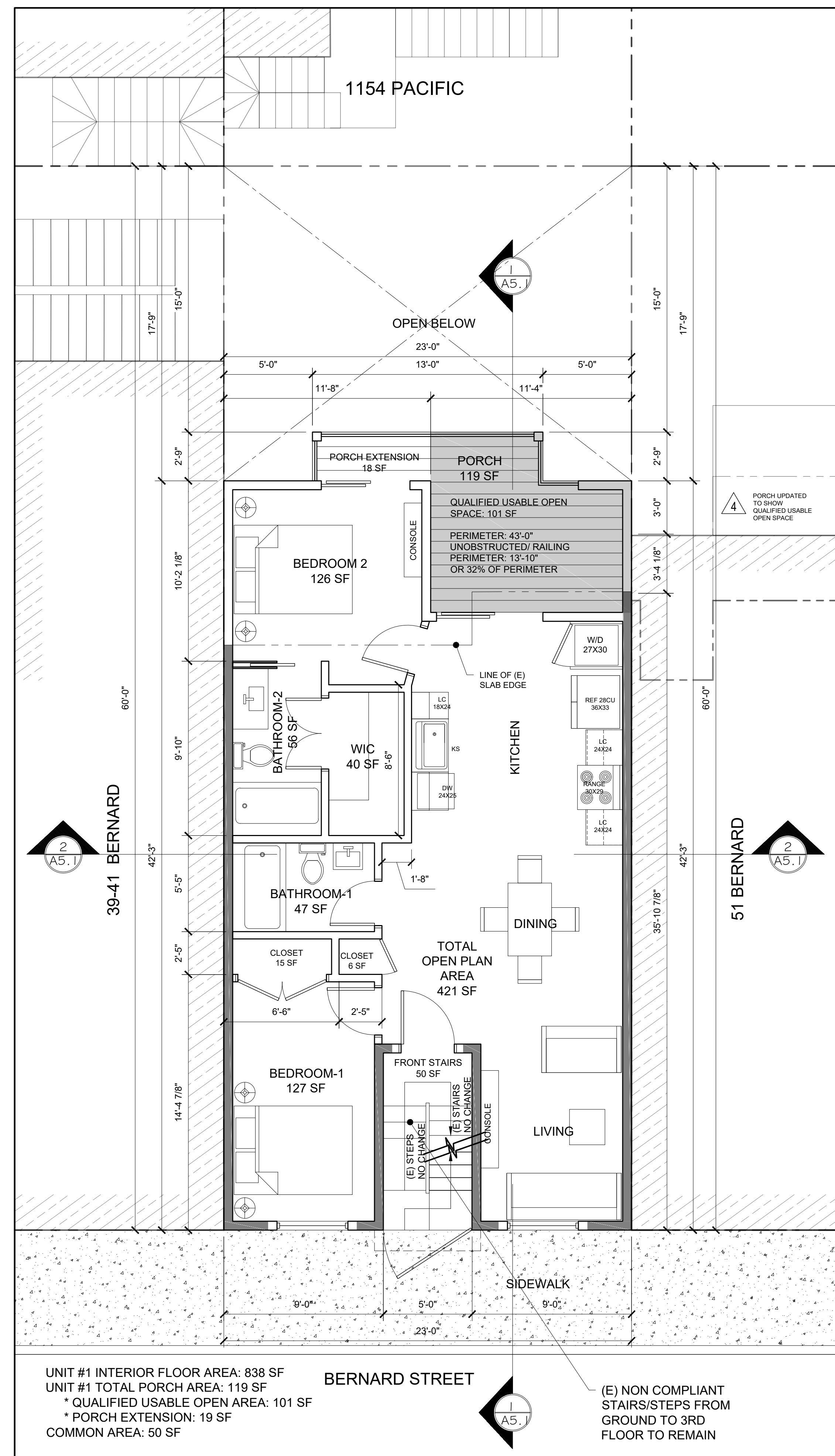
**BASEMENT SEISMIC
 UPGRADE
 GROUND FLOOR PLAN**

SHEET TITLE

SHEET NO.



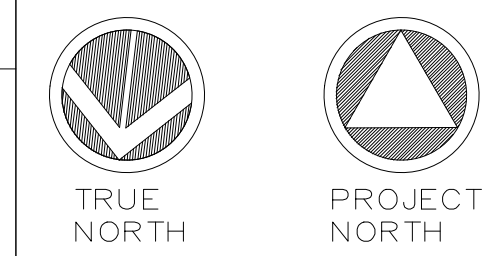
1 BASEMENT FLOOR PLAN-SEISMIC UPGRADE
 SCALE: 1/8" = 1'-0"



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

LEGEND

(E) WALL/FLOOR/ROOF TO REMAIN



A3.0

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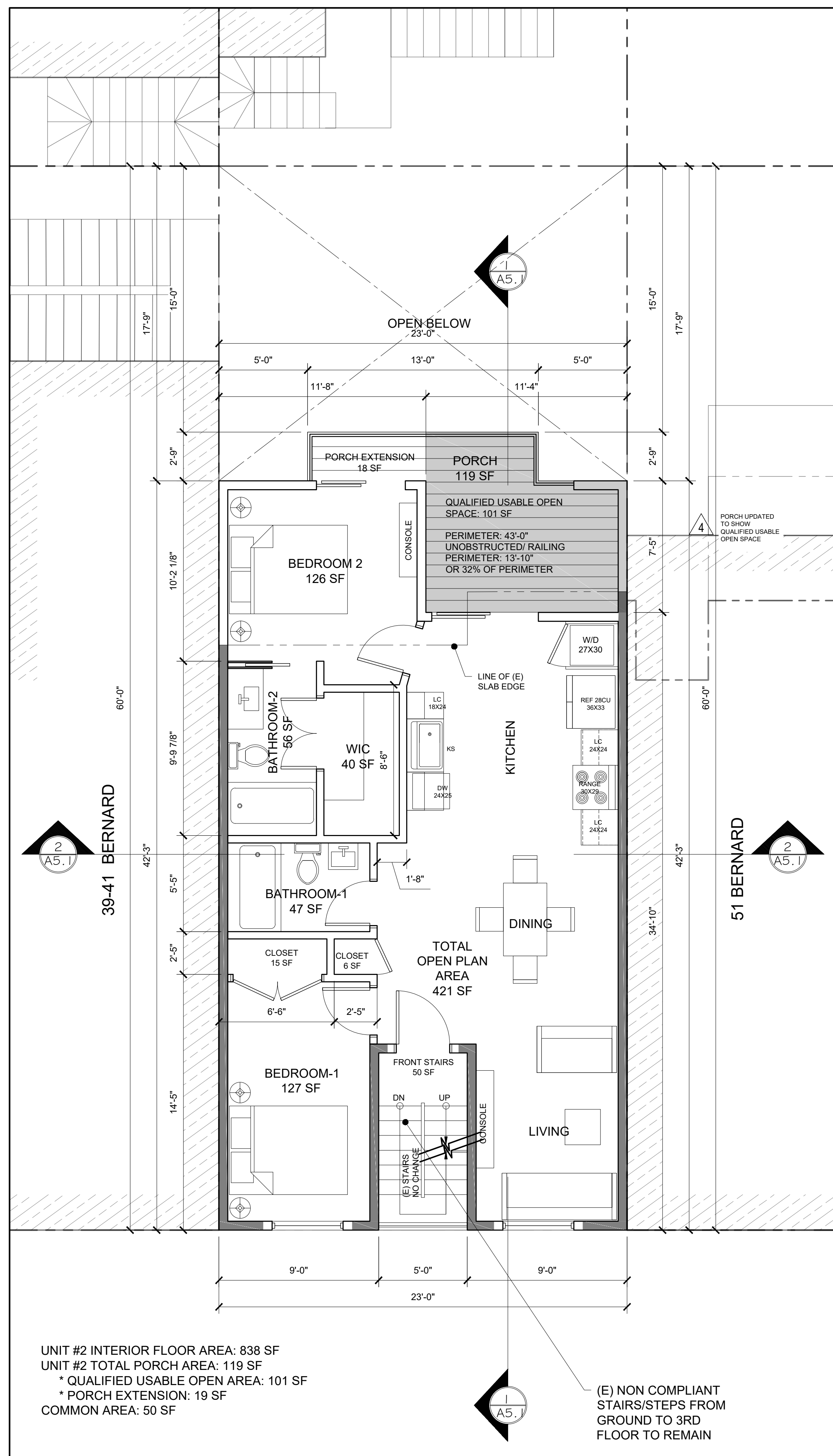
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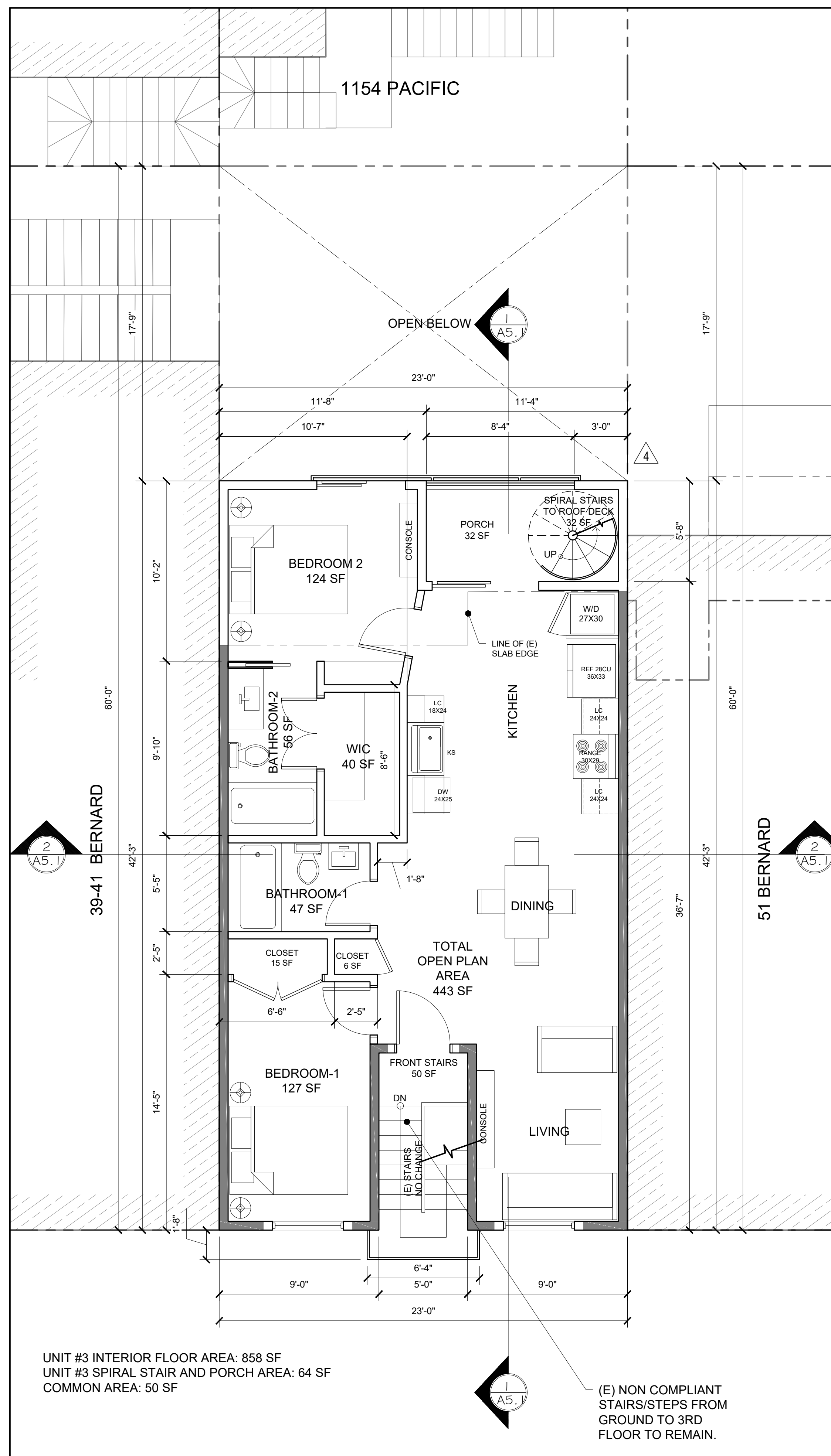
**SECOND FLOOR PLAN
 THIRD FLOOR PLAN**

SHEET TITLE

SHEET NO.



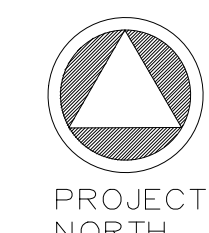
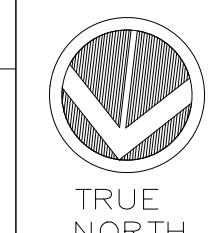
1 SECOND FLOOR PLAN
 SCALE: 1/8" = 1'-0"



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

LEGEND

(E) WALL/FLOOR/ROOF TO REMAIN



A3.0a

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**BERNARD ST. 3-UNITS APARTMENT
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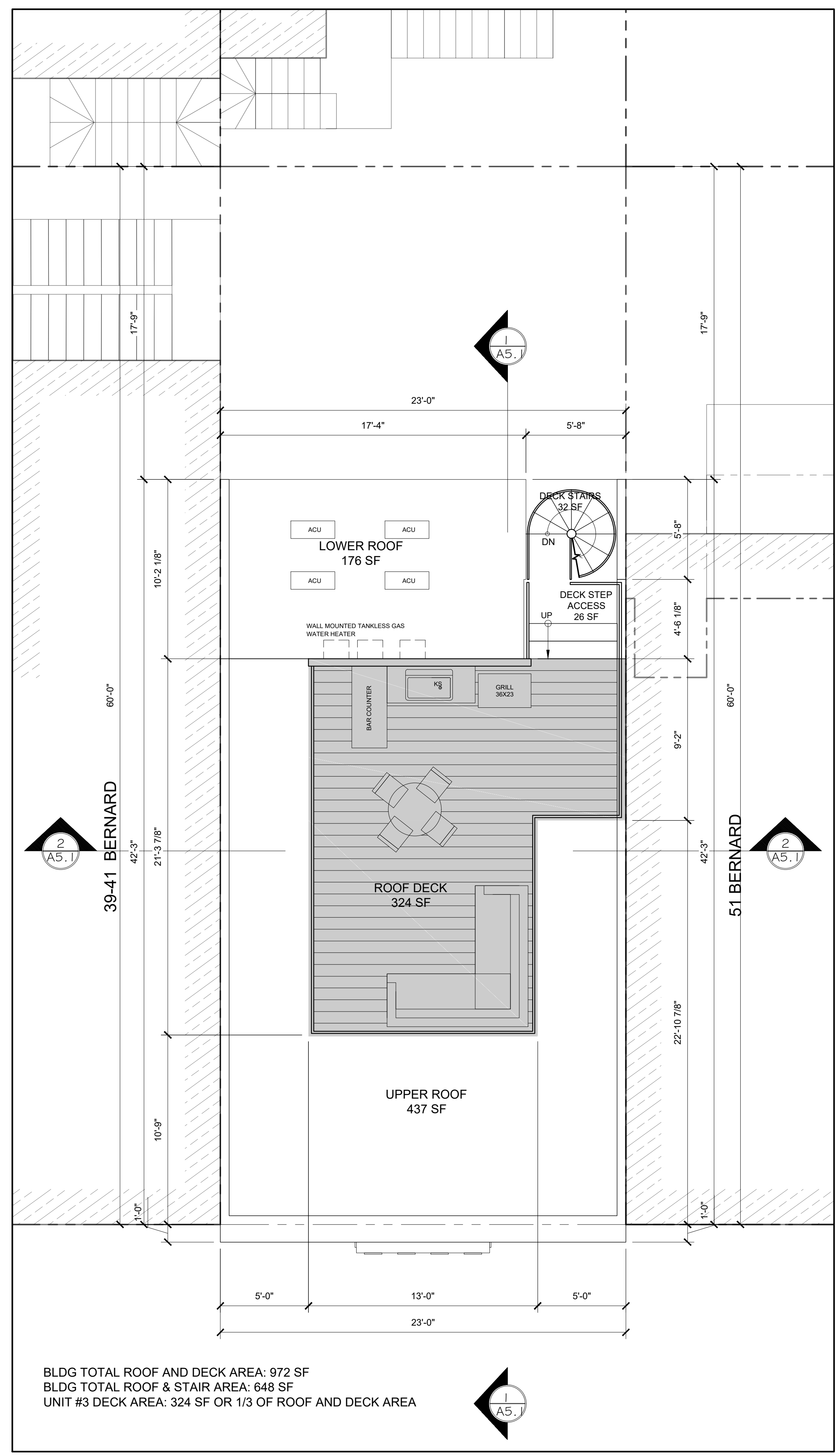
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CHECKED BY	JH

**ROOF DECK FLOOR PLAN
 ROOF PLAN**

SHEET TITLE

SHEET NO.





BLDG TOTAL ROOF AND DECK AREA: 972 SF
 BLDG TOTAL ROOF & STAIR AREA: 648 SF
 UNIT #3 DECK AREA: 324 SF OR 1/3 OF ROOF AND DECK AREA

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



A3.1

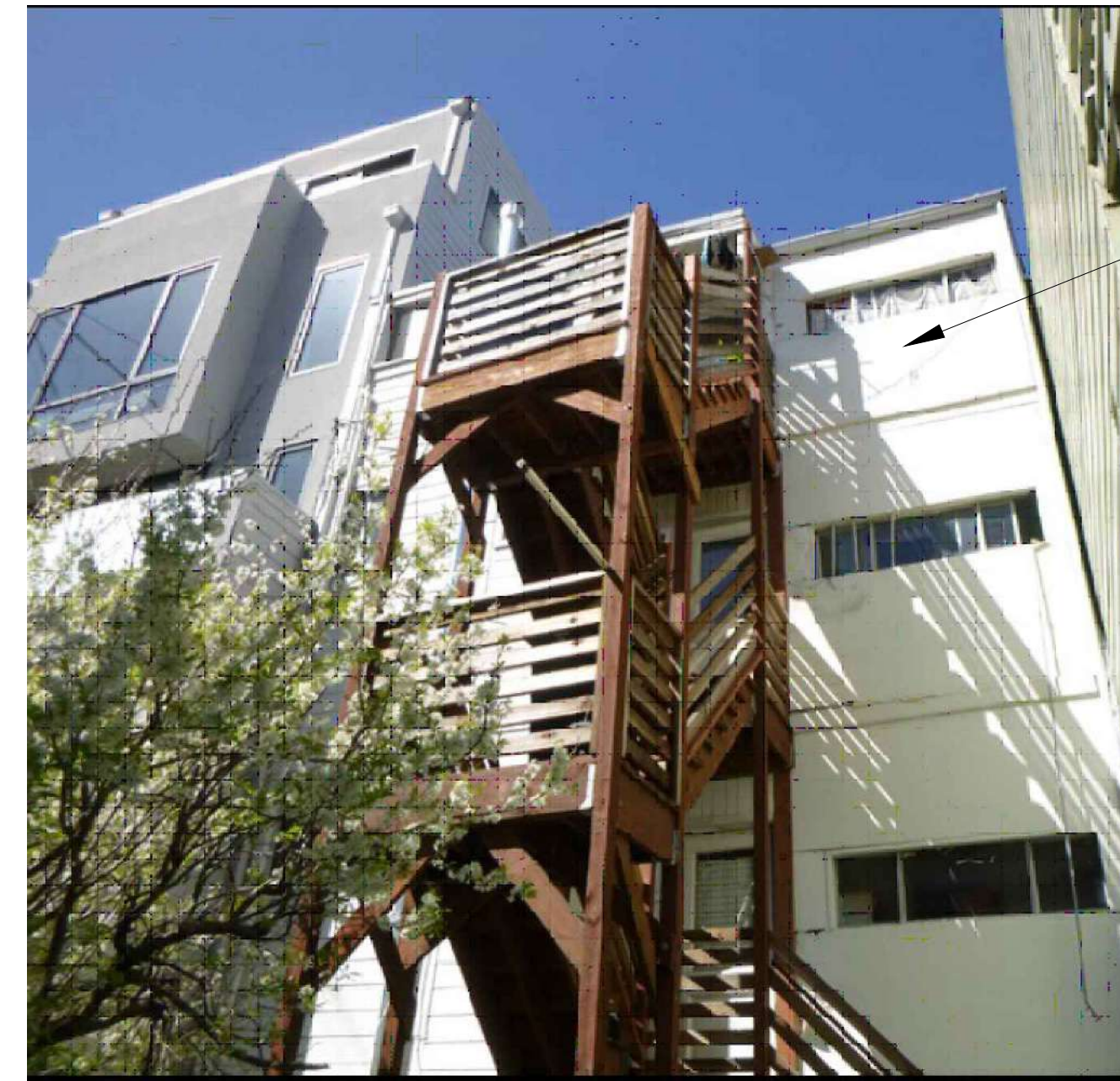
LEGEND

-  PROPOSED ADDITION
-  (E) ELEMENTS TO BE REMOVED



SUBJECT PROPERTY
45 BERNARD ST. SAN FRANCISCO, CA

1 (E) BERNARD STREET VIEW
SCALE: NTS



SUBJECT PROPERTY
45 BERNARD ST. SAN FRANCISCO, CA

2 (E) REAR/SOUTH VIEW
SCALE: NTS

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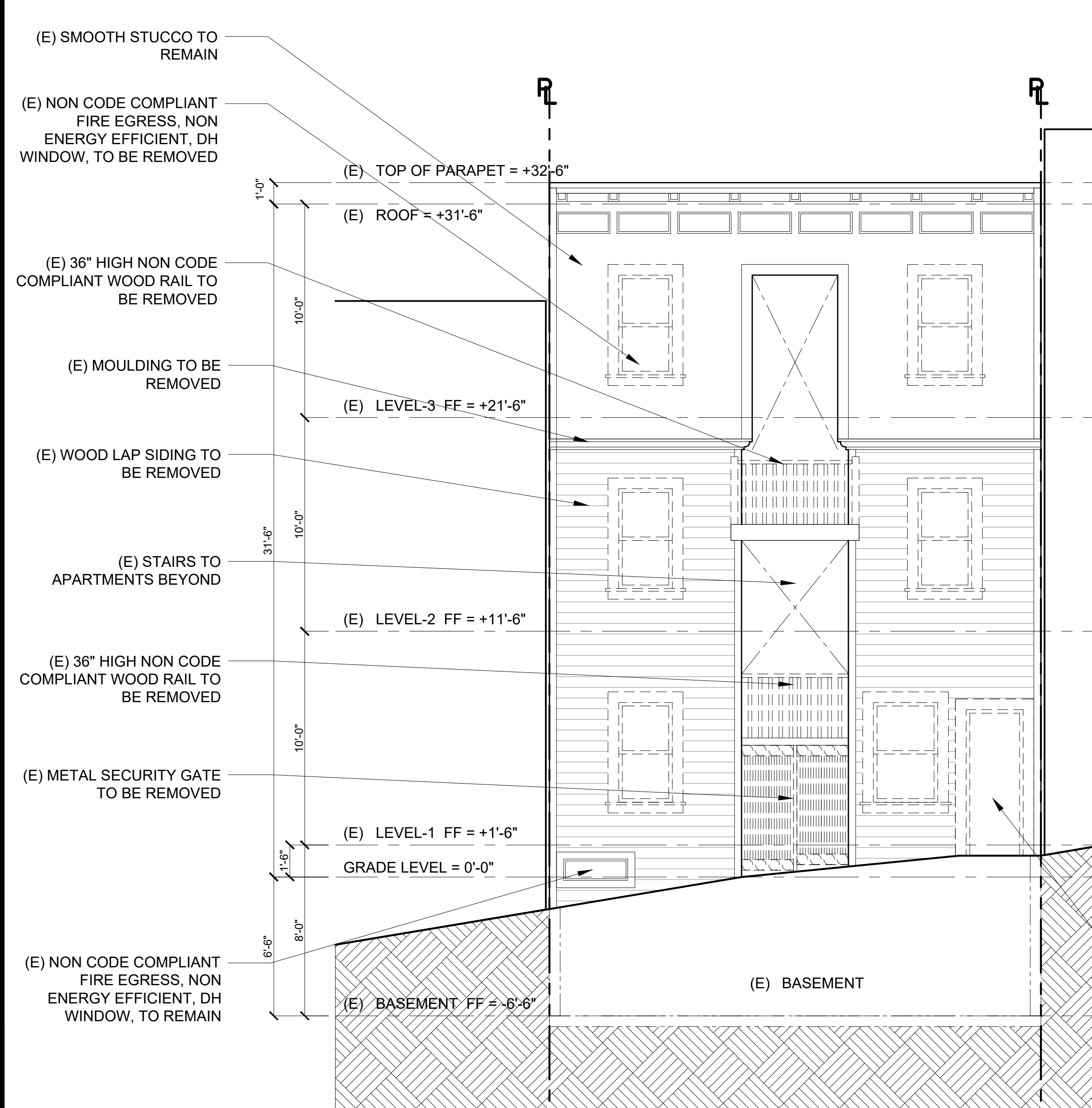
**BERNARD ST. 3-UNITS APARTMENT
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APN # 0157030

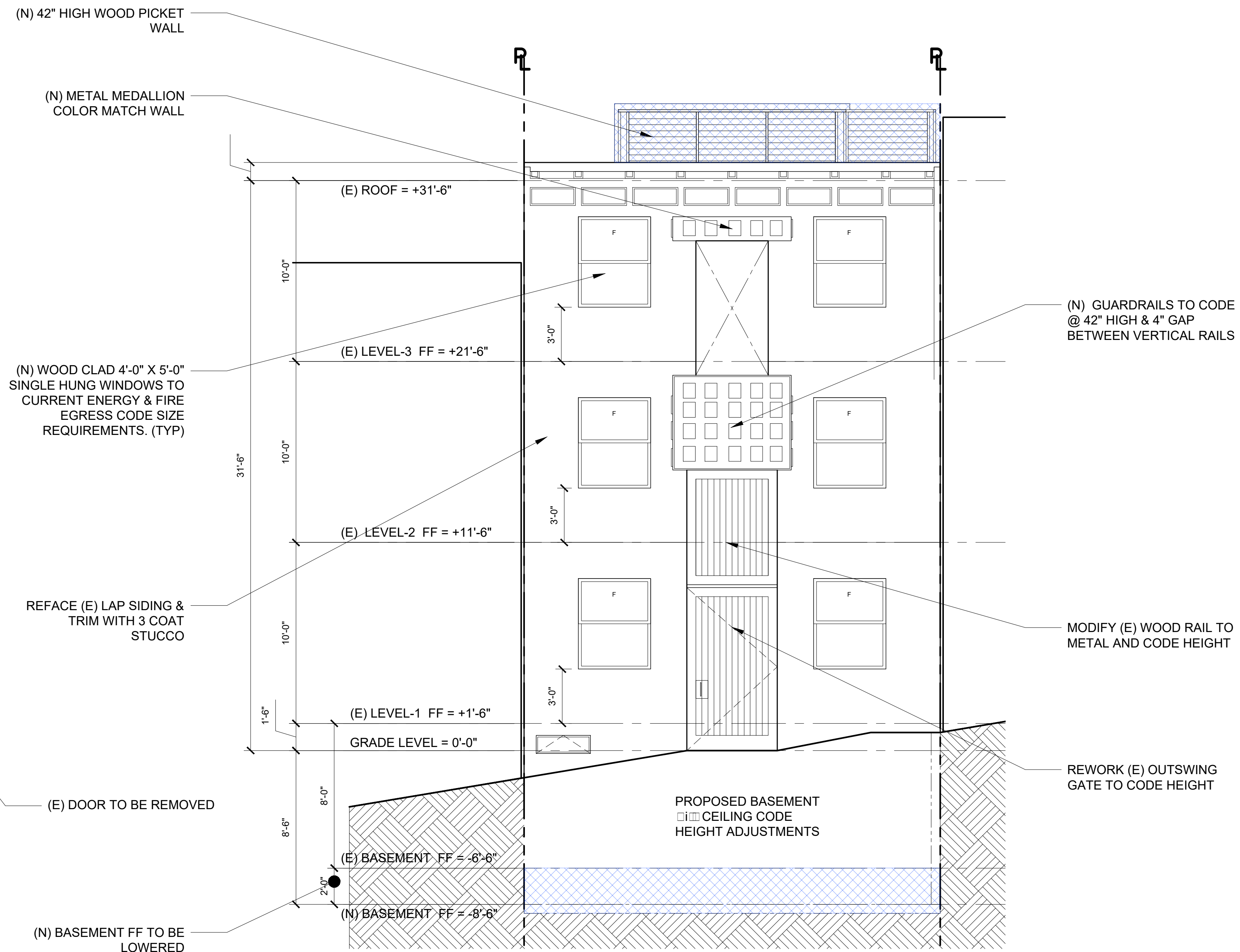
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PROJECT ADDRESS
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3 (E) FRONT/NORTH ELEVATION
SCALE: 1/4" TO 1'-0"



4 PROPOSED FRONT/NORTH ELEVATION
SCALE: 1/4" TO 1'-0"

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DRAWN BY	MDC
CHECKED BY	JH

FRONT ELEVATION

SHEET TITLE

SHEET NO.

A4.0

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**BERNARD ST. 3-UNITS APARTMENT
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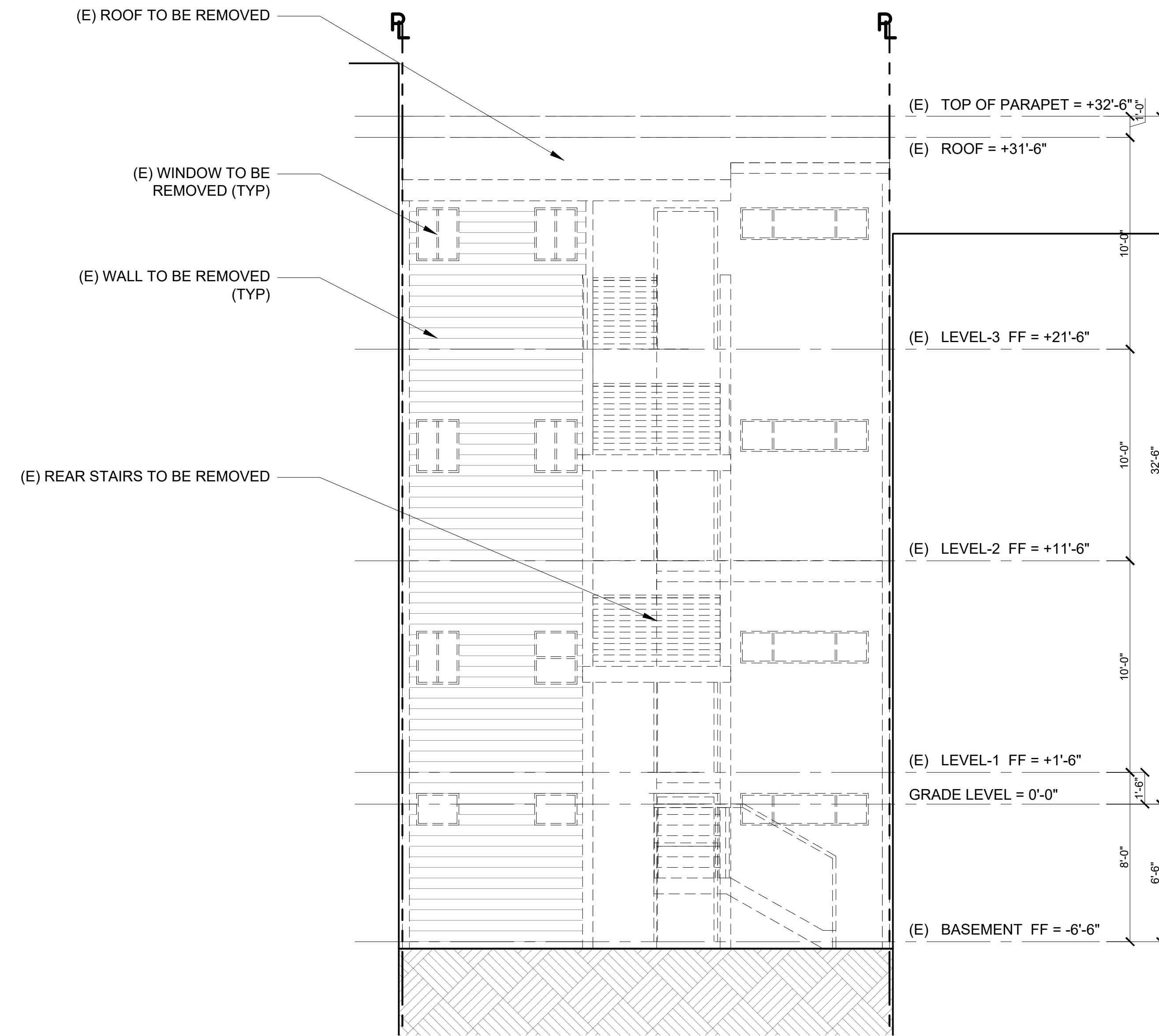
DATE	05.26.2022
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PROJECT ID	00000
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REAR ELEVATION

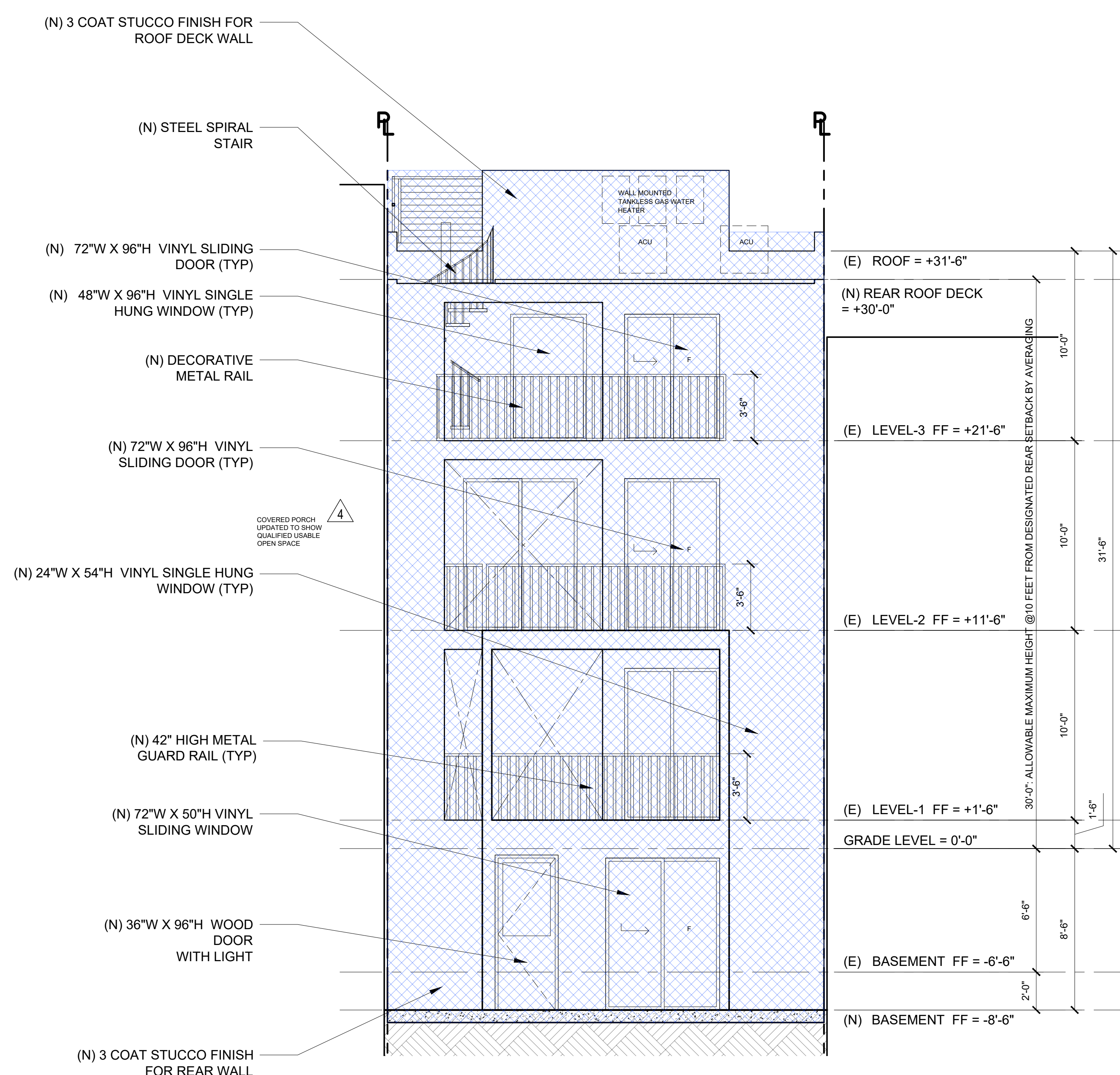
SHEET TITLE

SHEET NO.

A4.1



1 (E) REAR/SOUTH ELEVATION
SCALE: 1/4" TO 1'-0"



2 PROPOSED REAR/SOUTH ELEVATION
SCALE: 1/4" TO 1'-0"

LEGEND

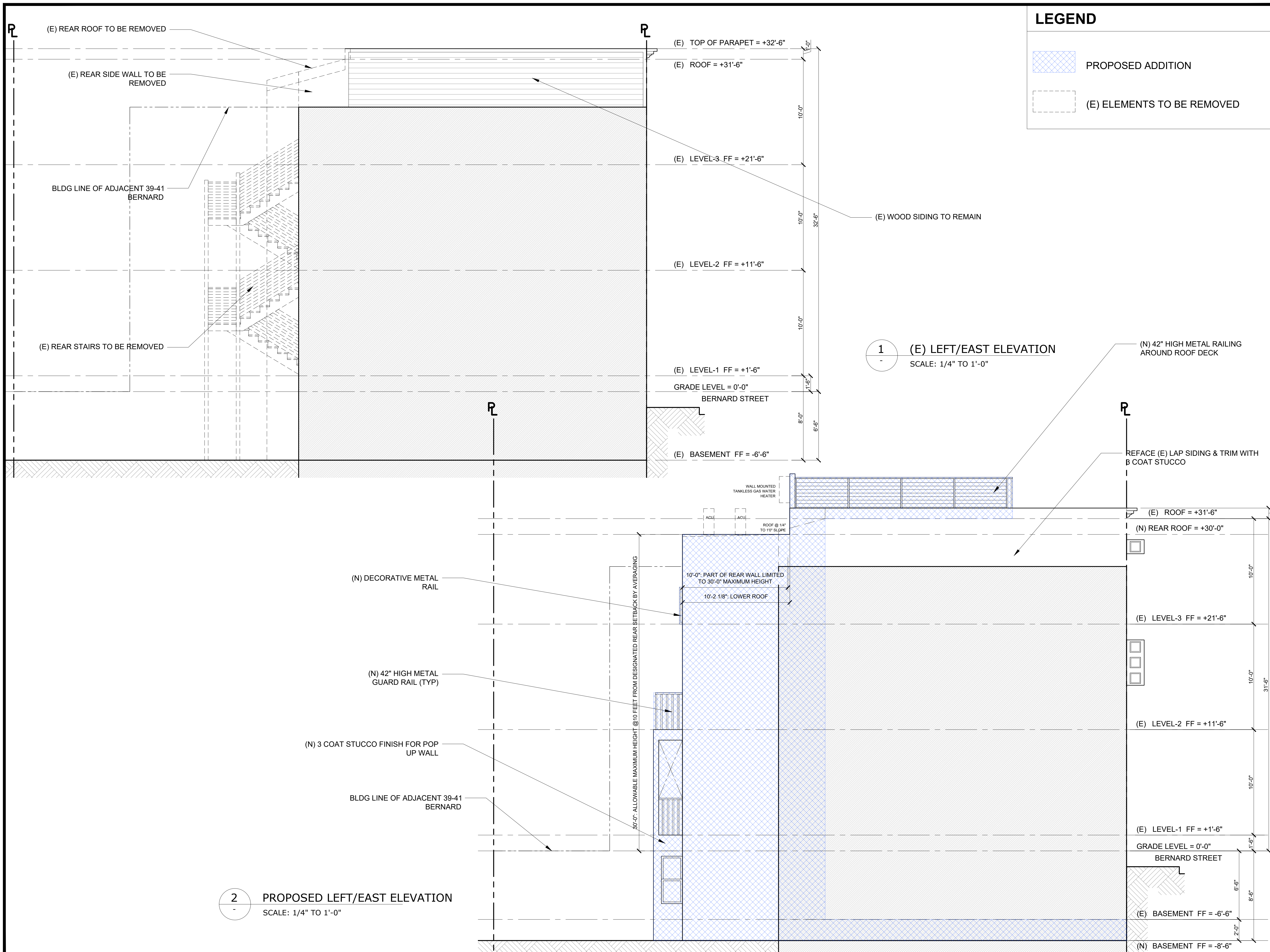
	EXTERIOR WITH CEMENT SIDING
	EXTERIOR FACADE ADDITION
	3 COAT STUCCO - COLOR 1

TANTAMOUNT TO DEMOLITION CALCULATION

ELEVATION SIDE	FRONT REAR FACADE		LFT AT FOUNDATION		COMPLIANCE
	ELENT ALL	ELENT LFT	ELENT ALL TO DEMOLISH	ELENT LFT	
NORTH/FRONT ELEVATION	23 = 100%	0 = 0%	N.A.	23 = 50%	YES
SOUTH/REAR ELEVATION	23 = 100%	22 = 95.65%	N.A.	1 = 50%	
TOTAL	46	22	N.A.	24	

VERTICAL ENVELOPE ELEMENTS TO REMAIN

ELEVATION SIDE	ELENT ENVELOPE AREA	AREA TO DEMOLISH	AREA TO ADD	ELENT ENVELOPE AREA TO REMAIN	COMPLIANCE
NORTH/FRONT ELEVATION	806 = 100%	43 = 5.33%	25.6 = 3.18%	788.6 = 50%	YES
SOUTH/REAR ELEVATION	962 = 100%	856 = 89%	N.A.	106 = 50%	
EAST ELEVATION	NO CHANGE	NO CHANGE	N.A.	100%	
WEST ELEVATION	NO CHANGE	NO CHANGE	N.A.	100%	
TOTAL	1768	899	25.600	894.6 = 50%	



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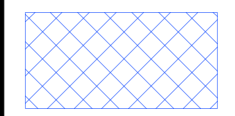

EAST ELEVATION

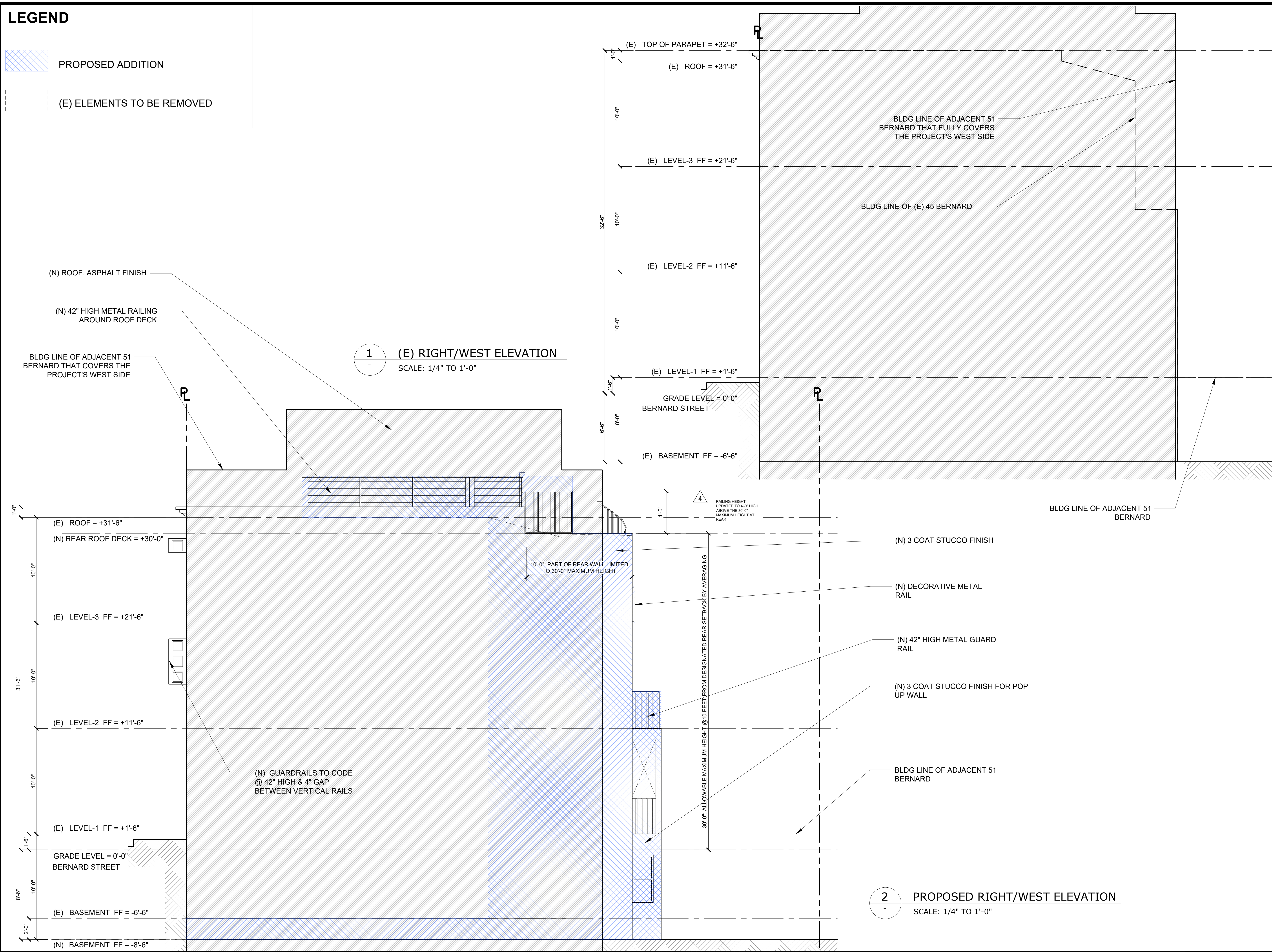
SHEET TITLE

SHEET NO.

A4.2

LEGEND

-  PROPOSED ADDITION
-  (E) ELEMENTS TO BE REMOVED



1 (E) RIGHT/WEST ELEVATION
SCALE: 1/4" TO 1'-0"

2 PROPOSED RIGHT/WEST ELEVATION
SCALE: 1/4" TO 1'-0"

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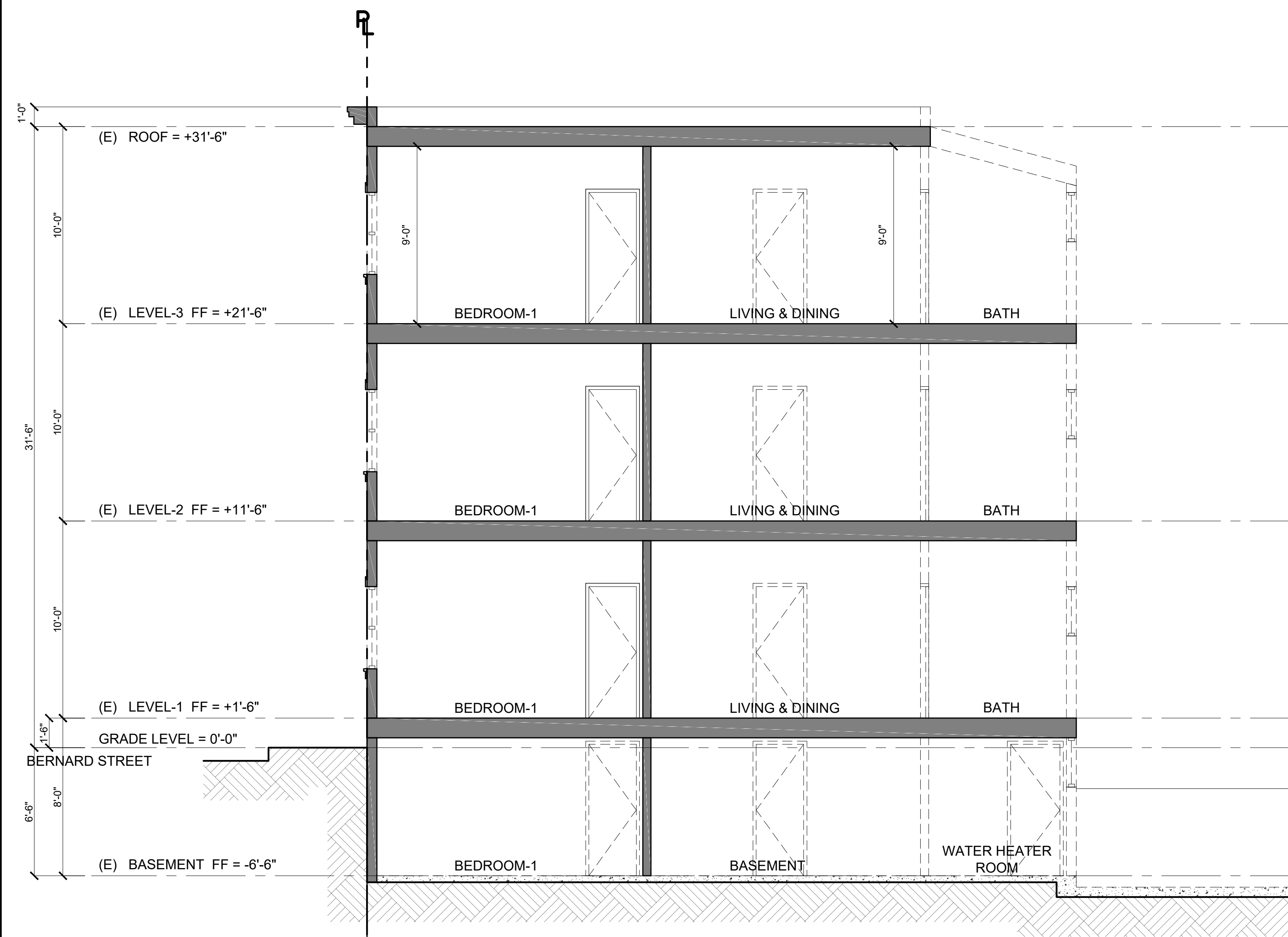
DATE	05.26.2022
SCALE	AS NOTED
PROJECT ID	00000
DRAWN BY	MDC
CHECKED BY	JH

WEST ELEVATION

SHEET TITLE

A4.3

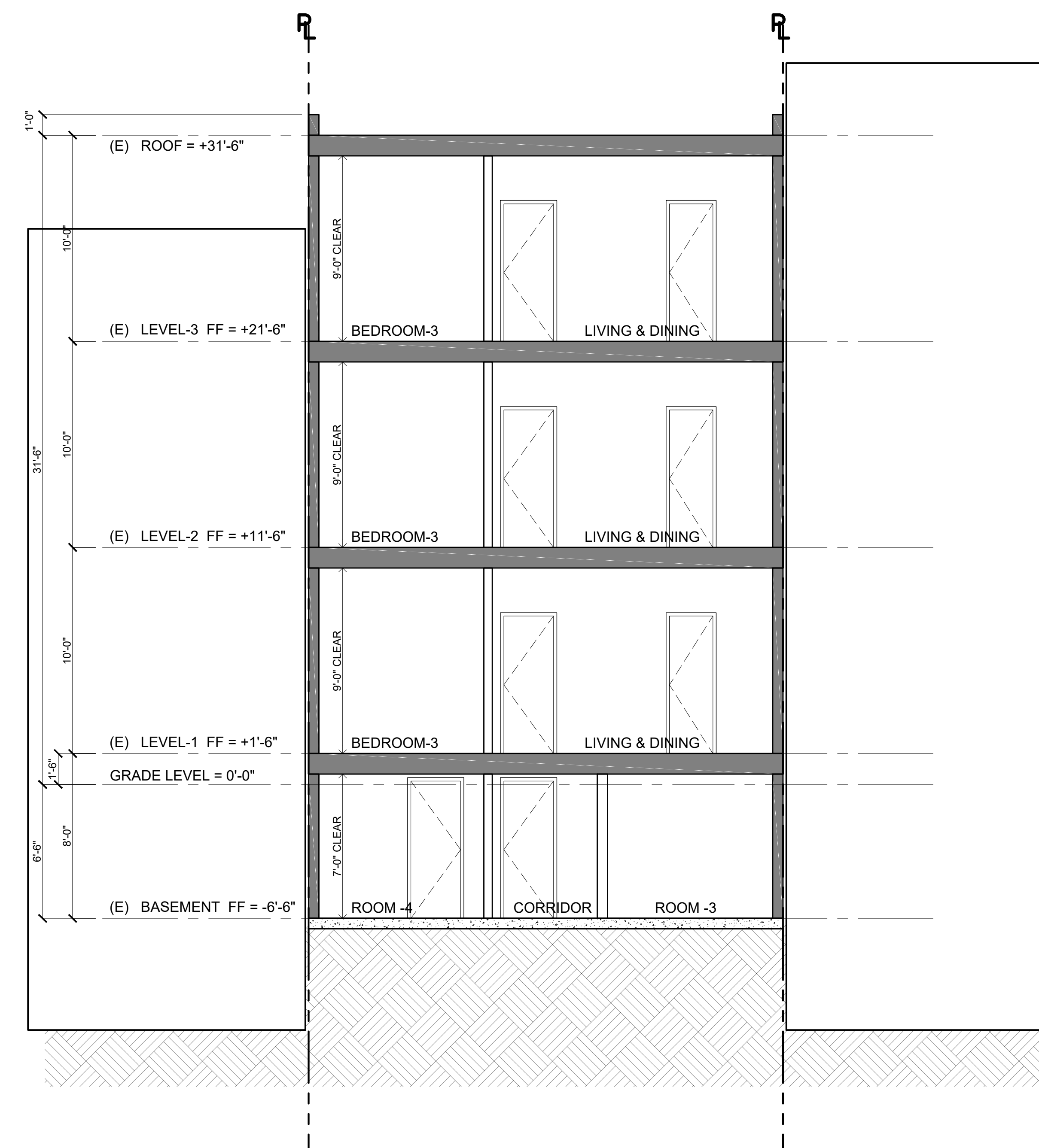
SHEET NO.



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

LEGEND

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



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

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EXISTING BUILDING SECTION

SHEET TITLE

SHEET NO.

A5.0

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PROPOSED SECTION

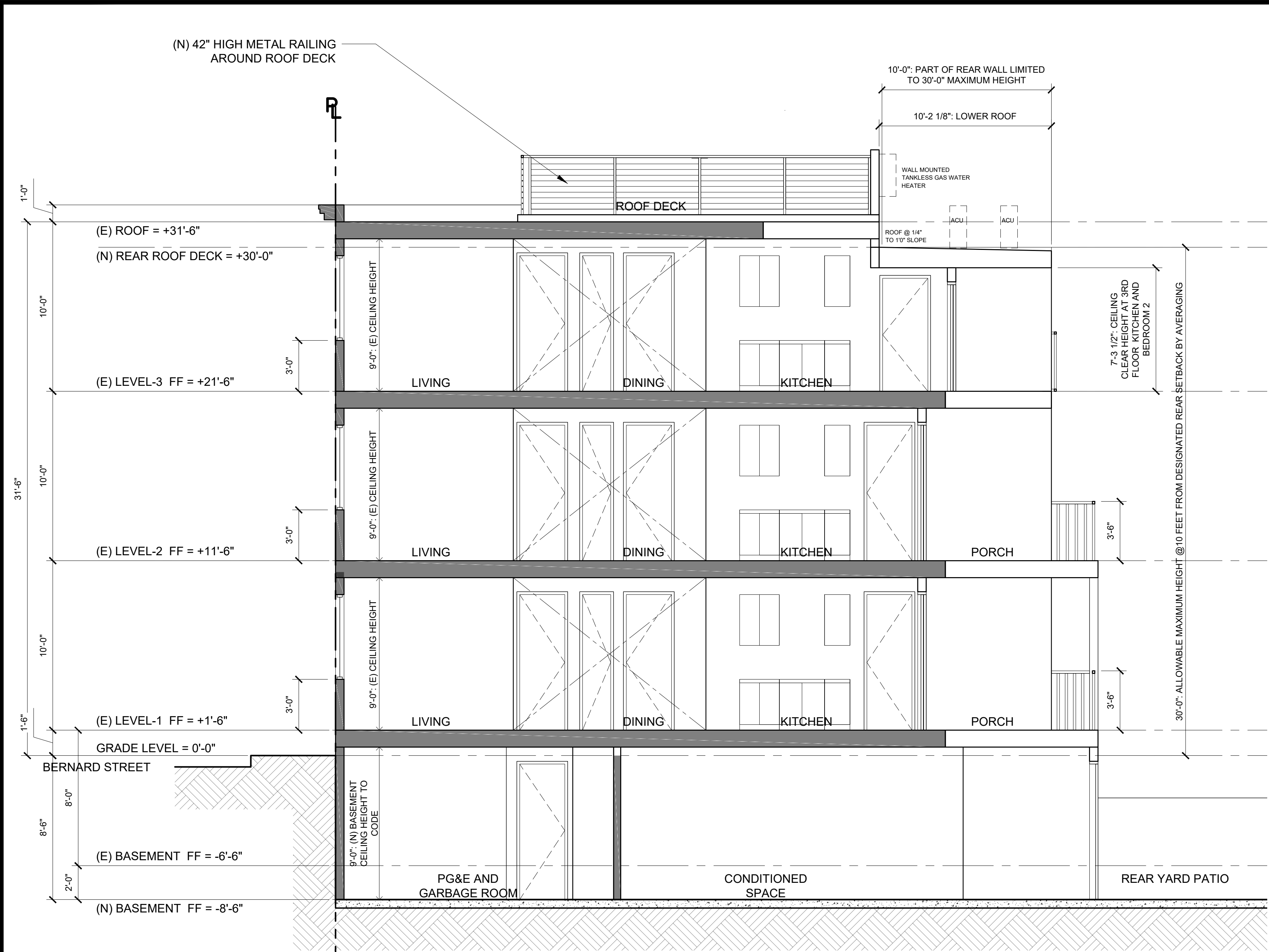
SHEET TITLE

A5.1

SHEET NO.

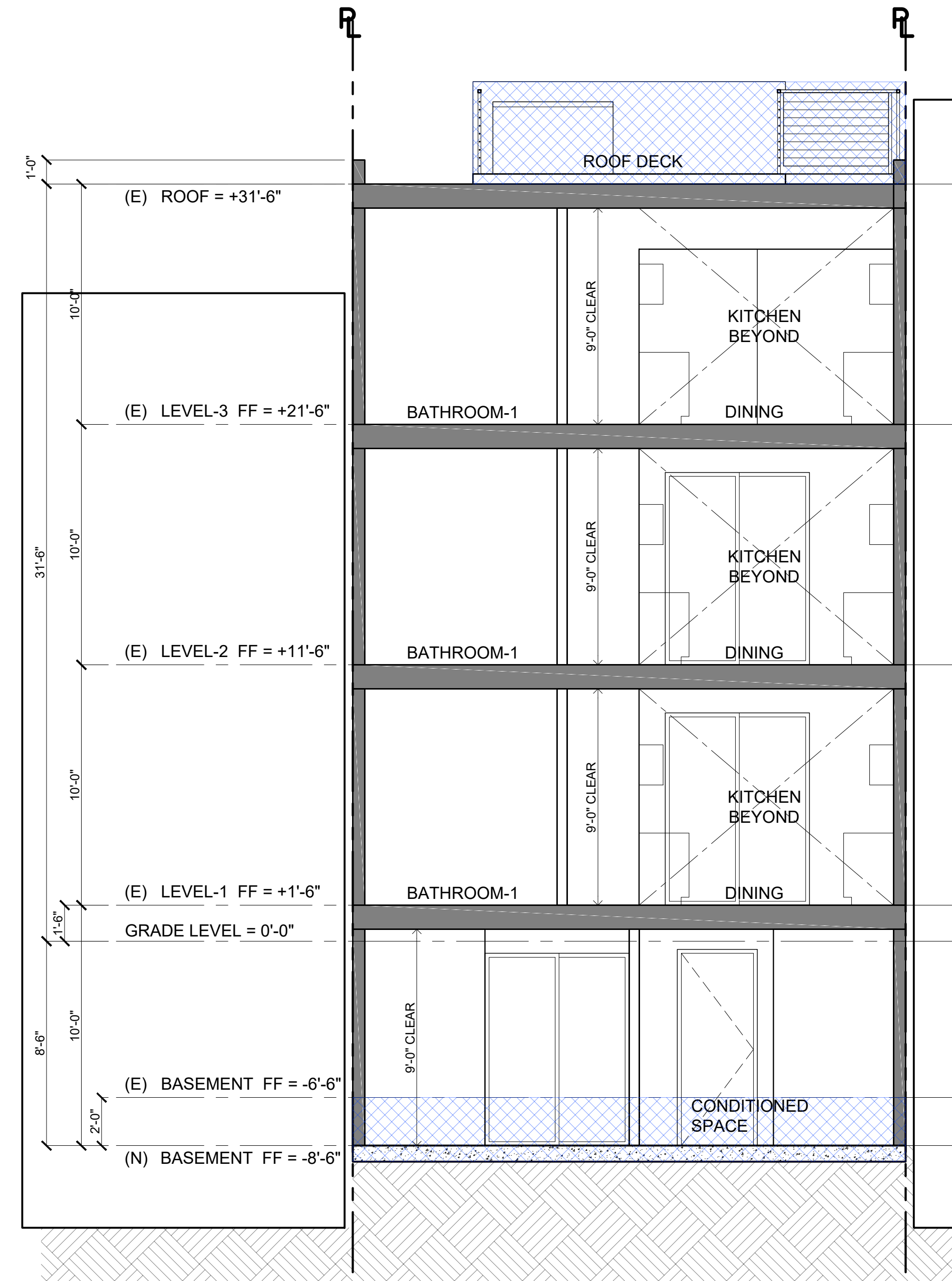
LEGEND

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



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

SECTION UPDATED AS PER FLOOR PLAN CHANGES

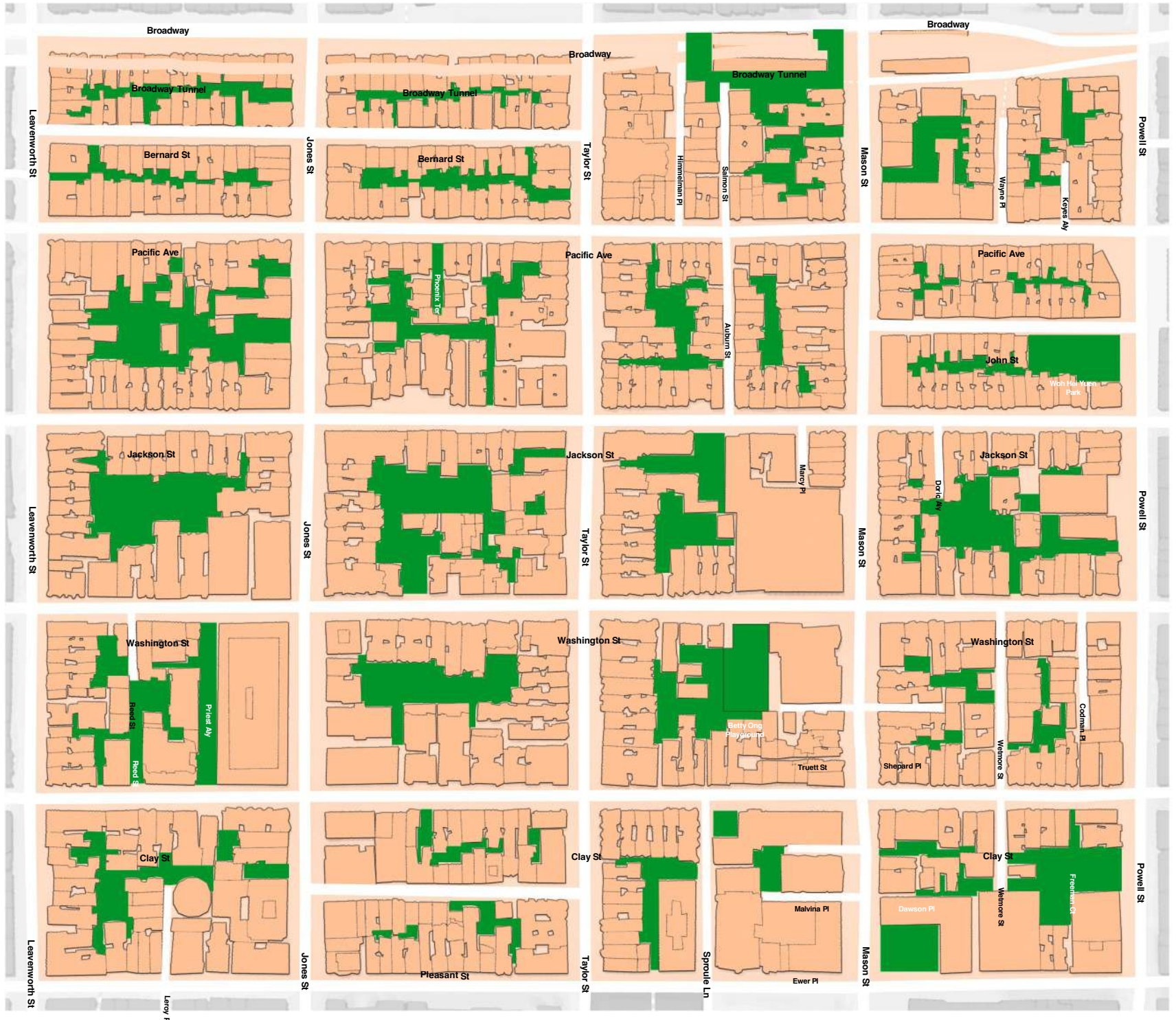
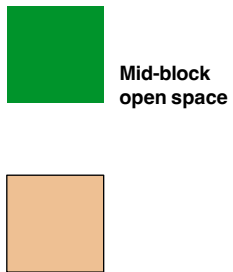


2 PROPOSED TRANSVERSE SECTION
 SCALE: 1/4" TO 1'-0"

EXHIBIT 4
UPPER CHINATOWN MIDBLOCK OPEN SPACE MAP



MAP OF UPPER CHINATOWN: HOUSING, MID-BLOCK OPEN SPACES AND ALLEYWAYS



Structures

Map source:
San Francisco Property Information Map

Sacramento St

Sacramento St

Sacramento St

EXHIBIT 5
COMMUNITY SUPPORT FOR PLAN MODIFICATIONS REQUESTED IN DR

Stop Profits from Evictions and Expansions & Preserve Mid-Block Open Spaces

Upper Chinatown Neighborhood Association Petition

President Rachel Turner and Commissioners
San Francisco Planning Commission
40 South Van Ness Ave, Suite 1400
San Francisco, CA 94103

Re: Support for the Preservation of Open Space in Upper Chinatown, San Francisco
45-49 Bernard Street (Case No. 2020-0051703RP)

Dear President Turner and Commissioners:

Eleven Chinese immigrants, eight of whom are elderly and/or disabled, were evicted from 45-49 Bernard Street. The families who were evicted were part of our community for many years. For these families to find another affordable place to live nearby services, markets, and employment is difficult. Now our physical heritage is also being erased. The owner of 45 Bernard Street plans to expand the building into the rear courtyard and destroy our mid-block light and air.

We want to preserve the traditional outdoor spiritual refuge in our mid-block open space. The rear courtyard was designed to strengthen communal and familial connections in densely populated living quarters. The emergence of the courtyard strengthens our cultural fabric, provides stability and comfort, and advances livability in the face of hardship.

Our precious mid-block open space is being imperiled by this residential expansion project that does not create more housing. The encroachment into the courtyard will perpetuate and expand a tenement-like atmosphere. We merely ask that the project be set back 22 feet from the rear property line to preserve our sacred communal space.

The project sponsor's actions erode the culture of the neighborhood and should be rejected. We ask for you to grant the Upper Chinatown Neighborhood Association's emergency request.

Signature: *Stephan E. Yu*
Print Name: *Stephan E. Yu*
Address: *1701 Divisadero Street, San Francisco, CA 94133*
Date: *8 April 2022*

Tenderloin Chinese Rights Association Petition

Oppose the owners of 45-49 Bernard Street to propose an expansion project. Signature Movement

We have signature to support Upper Chinatown Neighborhood Association to oppose the owners of 45-49 Bernard Street to propose an expansion project that will significantly encroach into the rear courtyard and destroy the mid-block open space without creating more housing. The rear courtyard, designed to strengthen communal and familial connections in densely populated living quarters, is important to our traditional Chinese heritage. The courtyard strengthens our cultural fabric, provides stability and comfort, and advances livability in the face of hardship. This proposed project will greatly reduce the livability of the neighborhood and destroy neighbors' outdoor spaces and perpetuate a tenement-like atmosphere. We support the Upper Chinatown Neighborhood Association for the concept of traditional Chinese heritage, and environmental protection. We support the Upper Chinatown Neighborhood Association to propose an expansion project. Upper Chinatown is a historic neighborhood. In the past ten years, 37 tenants have been evicted or displaced on this block. In the month of the pandemic, the owners are not helping people to have an affordable place to live. Making more homeless housing is a human rights issue. We defend our neighborhood. Tenderloin Chinese Rights Association.

反對將後院擴充 45-49 號東區舊城區後院擴充項目簽名運動

我們支持上區唐人街鄰區協會反對將 45-49 號東區舊城區後院擴充項目。該項目將嚴重侵佔後院並破壞中區舊城區的開放空間，而不會增加住房。後院旨在和舊人口稠密的居住區的社區和家園聯繫，對我們傳承中國的傳統很重要。這增加了我們的文化傳統，提供了穩定和舒適，並在困難時期提高了宜居住性。這個擴充的項目將大大減少到這鄰居室外空間的光線和空氣，並在附近保持一種類似公寓的環境。對於傳承中國的傳統和關係的概念，請停止後院擴充 45-49 號東區舊城區。上區唐人街鄰區協會一場聯名運動。在過去十年中，該街區有 37 名租客被驅逐或搬遷，11 名中國移民，其中 7 名是老年人和/或殘疾人。在大流行期間能繼續住出 45-49 號，真正沒有幫助人們擁有負擔得起的住房！真正是無家可歸受害者！住屋是人權！我們捍衛我們的權利！我們是舊城區華人權益協會。

	Signature 簽名	Signature 簽名	Signature 簽名
1.	<i>Bo Yan Yu</i>	<i>Lu Thang</i>	<i>YAN Situ</i>
2.	<i>Fan Lan Chen</i>	<i>Ling Xue</i>	<i>Mandy Fong Chao</i>
3.	<i>Sin Yan Wu</i>	<i>Wu Ngan Guan</i>	<i>Jian Ming Wang</i>
4.	<i>Lian Kwan</i>	<i>Ma Chang</i>	<i>Yuk Loui Thong</i>
5.	<i>Luang Hong</i>	<i>Xin Zhen Zhang</i>	<i>Sally Lu</i>

Combined total: 1001 signed copies

Rachael Tanner 主席和各位委員
三藩市規劃委員會
49 South Van Ness Ave, Suite 1400
San Francisco, CA 94103

有關：支持保留華埠上區開放空間，三藩市 Bernard 街 45 至 49 號（個案編號
No. 2020-005176DRP）

親愛的 Tanner 主席和各位委員：

多達 11 名華裔移民，當中有 8 名是長者以及/或者是殘障人士，已經從 Bernard 街 45 至 49 號被遷徙。這些被遷徙的家庭許多年來都是我們社區的一分子。對於這些家庭而言，能夠找到一個可負擔並靠近服務、市場和工作的居所是一件極為困難的事情。但值此之際我們的傳統面貌更是將會被抹除。Bernard 街 45 號的業主計劃將大樓向後庭院方向擴建，從而摧毀了我們街區中段的燈光和空氣。

我們希望保留我們街區中段的開放空間作為傳統的戶外精神寄托地。這個後庭院的設計，是用於加強在人口稠密居住地內社區和家庭之間的關係。這個後庭院的出現強化了我們的文化紐帶，提供了一個穩定和舒適的場所，讓我們在面對困難的時候仍能安居樂業。

我們珍貴的中段開放空間將會被這個大樓擴展計劃所侵害，而且該計劃並沒有創造更多的房屋單位。對後庭院的侵蝕將延續和擴大公寓化的風潮。我們僅僅是要求該計劃從後方的地界線後退 22 英尺，從而可以保留我們神聖的社區共用空間。

該計劃負責人的行為傷害了社區的文化，更不應受到獎勵。我們要求你同意給予“Upper Chinatown Neighborhood Association”所提出的全權委託審查請求。

簽名：Xiao Ying Feng

姓名（正體）：XIAO YING FENG

地址：1122 Pacific Ave San Francisco CA 94133

日期：4/1/22

President Rachael Tanner and Commissioners
San Francisco Planning Commission
49 South Van Ness Ave, Suite 1400
San Francisco, CA 94103

Re: Support for the Preservation of Open Space in Upper Chinatown, San Francisco
45-49 Bernard Street (Case No. 2020-005176DRP)

Dear President Tanner and Commissioners:

Eleven Chinese immigrants, eight of whom are elders and/or disabled, were evicted from 45-49 Bernard Street. The families who were evicted were part of our community for many years. For these families to find another affordable place to live nearby services, markets, and employment is difficult. Now our physical heritage is also being erased. The owner of 45 Bernard Street plans to expand the building into the rear courtyard and destroy our mid-block light and air.

We want to preserve the traditional outdoor spiritual refuge in our mid-block open space. The rear courtyard was designed to strengthen communal and familial connections in densely populated living quarters. The emergence of the courtyard strengthens our cultural fabric, provides stability and comfort, and advances livability in the face of hardship.

Our precious mid-block open space is being imperiled by this residential expansion project that does not create more housing. The encroachment into the courtyard will perpetuate and expand a tenement-like atmosphere. We merely ask that the project be set back 22 feet from the rear property line to preserve our sacred communal space.

The project sponsor's actions erode the culture of the neighborhood and should not be rewarded. We ask for you to grant the Upper Chinatown Neighborhood Association's Discretionary Review Request.

Signature:



Print Name:

ERIC CHAN

Address:

18 BERNARD STREET
SAN FRANCISCO, CA 94133

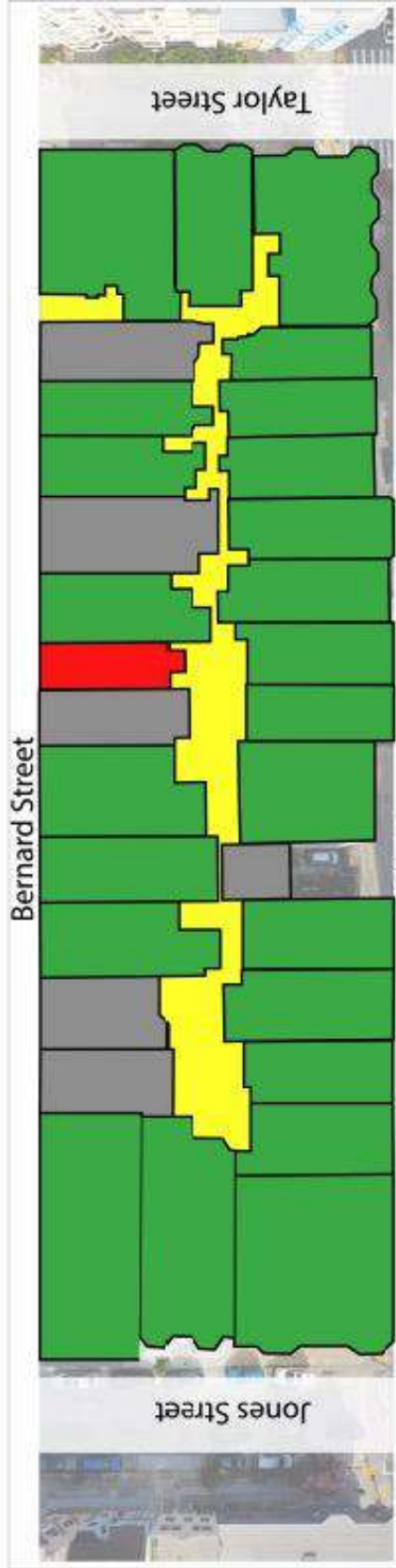
Date:

April 4, 2022

A copy of all signatures can be found here: <https://zacks.egnyte.com/fl/7R7axohAU2>

Signed Petitioners
Pacific Avenue - Taylor Street - Bernard Street - Jones Street

- Petitioner
- Open Space
- Sponsor





August 2, 2022

Rachael Tanner
President
San Francisco Planning Commission
49 South Van Ness Ave, Suite 1400
San Francisco, CA 94103

Dear President Tanner and Planning Commissioners,

It is our pleasure to be able to write this letter opposing the project of 45-49 Bernard Street. Our mission is to lead youth and young adults to serve the community, develop their leadership skills and guide them to explore their careers of interest. Community Improvement Service (CIS) was established at George Washington High School in 2009 and expanded to Balboa High School in 2015, and to Lowell High School in 2021. Community Improvement Service is now explained to a 501(c)(3) organization; we hope to make a positive impact on the community through our efforts of community service. We have a total of about 1500 volunteers (from the year of 2009 to 2022) who have been involved in helping community events. For the past years, we have served the community and underrepresented groups by volunteering in community events and hosting holiday celebration parties around San Francisco, mainly in Chinatown, SF. During the pandemic, we continue to provide support and influence on the community by hosting informational workshops virtually.

Through our projects, we have seen outdoor communal spaces being used for recreational activities like Tai Chi and exercising community building, and quality family time. The usage is especially profound in youth from underserved low-income immigrant families. A safe space to spend time with family where there is no language barrier, unlike school, is crucial to come together with family members who may spend most of their time working. This open space is crucial for the residents of 45-47 Bernard Street as it is a channel to connect with others of their culture and to build healthy social relationships with other neighbors of Chinese ancestry.

We acknowledge and feel with those who are negatively affected by the project of 45-49 Bernard Street; we ask the Planning Commission to accept the Discretionary Review Request at 45-49 Bernard Street.

Yours sincerely,

Tiffany Liao, Executive Assistant
Community Improvement Service (CIS)



July 21, 2022

Rachael Tanner
President
San Francisco Planning Commission
49 South Van Ness Ave, Suite 1400
San Francisco, CA 94103

Dear Planning Commissioners,

I am writing this letter on behalf of the Community Tenants Association (CTA) to support the Discretionary Review filed by the Upper Chinatown Neighborhood Association for the project at 45-49 Bernard St. The Community Tenants Association was formed in 1987 and has a membership of over 2,500 members, most of whom are low-income tenants living in Chinatown. Our mission is to defend the rights of low-income tenants throughout San Francisco. CTA focuses on tenants' rights, preservation of affordable housing, protection of existing tenants from displacement, and awareness on issues impacting the city's most vulnerable immigrant populations.

Throughout the pandemic, eleven Chinese immigrants were evicted at 45-49 Bernard St. Eight of the former residents are elderly and/or disabled. Nob Hill is home to a significant Chinese American population due to its proximity to Chinatown. However, with the influx of owner move in evictions and the condoization of formerly affordable multifamily homes, we are concerned that the last renter at 49 Bernard will face indirect displacement.

We strongly urge the Planning Commission move forward with the Discretionary Review Request for the project at 45-49 Bernard St.

Sincerely,

Wing Hoo Leung, President
Community Tenants Association



August 1, 2022

Rachael Tanner
President
San Francisco Planning Commission
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

Dear Planning Commissioners,

On behalf of the Community Youth Center of San Francisco (CYC), I am writing to the San Francisco Planning Commission to give my full support to the Discretionary Review filed by the Upper Chinatown Neighborhood Association for the project at 45-49 Bernard Street. CYC's mission is to encourage a diverse population of high-need young people to explore their full potential through academic, career, family, and community life. CYC has been serving the API community since 1970. We help immigrant youth and their families acculturate to a new life in the United States through programs in the areas of enrichment, health and wellness, workforce development, and leadership.

Our youth are residing in very densely populated living quarters and neighborhoods. They share their living space with multiple generations. Our young people are the caretakers of their younger siblings, grandparents, and parents. The pandemic has now put extra stresses on API immigrant youth and their families. We have heard countless stories about our youth and their families worrying about their financial stability as many of them rely on low-wage jobs that put them in danger of catching COVID. But they are afraid to go to work because they can't afford to catch COVID. To further their stresses, API youth and families are afraid to go outside due to anti-Asian hate and the fear of being attacked.

Where there are mid-block open spaces, the sunlight, fresh air, and spiritual refuges give our youth and their families respite. The proposed destruction of the outdoor refuge and evictions are additional stressors that families are dealing with. This is why it's very important for the Planning Commission to support the Discretionary Review application in order to protect low-income families from being adversely affected by sponsors who want to profit from evictions and expansion.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Wan', is written over a light blue horizontal line.

Sarah Wan
Executive Director

MAIN OFFICE
1038 Post Street
San Francisco, CA 94109
TEL: 415.775.2636

BAYVIEW OFFICE
5009 Third Street
San Francisco, CA 94124
TEL: 415.550.1151

RICHMOND OFFICE
319 Sixth Avenue, Suite 201
San Francisco, CA 94118
TEL: 415.752.9675

CHINATOWN OFFICE
830 Sacramento Street
San Francisco, CA 94108
TEL: 415.988.1962

WEBSITE: www.cycsf.org
EMAIL: hello@cycsf.org



Lao Iu Mien Culture Association, Inc.
485-105th Avenue, Oakland, CA 94603

July 29, 2022

Rachael Tanner
President
San Francisco Planning Commission
49 South Van Ness Ave, Suite 1400
San Francisco, CA 94103

Dear Planning Commissioners,

I am writing this letter on behalf of the Lao Iu Mien Culture Association (LIMCA) to support the Discretionary Review filed by the Upper Chinatown Neighborhood Association for the project at 45-49 Bernard St.

The Lao Iu Mien Culture Association (LIMCA) was incorporated in March 1982 and serves over 8,000 people in Northern California. LIMCA's mission is to preserve the cultural heritage of the Iu Mien who came from tribal villages in the highlands of Laos. LIMCA develops social and cultural programs to facilitate the Iu Mien integration into the economic and cultural life of the United States. We are people who are spiritually connected to nature and to one another. This is our way of healing and strengthening our health and wellbeing. This is how we maintain our identity while adapting and growing.

The Iu Mien supported the US Secret War in Laos (1962-1975). After the fall of Vietnam (1975), we came as refugees to the United States. When we arrived in the America, our families were separated and placed in low-income housing in neighborhoods throughout the Bay Area. Thousands of us, young and old, had no command of the English language nor the American culture. The 1980s were fraught with fear and desperation. But we have always relied on family members and our clan in the village. So over time, we drew from what already worked for us to rebuild our community. It has taken our families, clans, and local leaders over 20 years to achieve some level of stability. But we are proud to say that we are settled in America and we have been able to raised sufficient funds from our own community to build a center and a spiritual temple.

So when we learned about eleven Chinese immigrants being evicted from 45-49 Bernard Street, San Francisco, we felt compelled to write this letter of support to the DR application. We know what it is like for the extended family to be broken up and to be disconnected from one another

485-105th Avenue, Oakland, Ca 94603
www.limccenter.org

and from local ethnic resources. We know how it feels to be evicted and to be displaced. We know how difficult it is for extended families to be isolated from nature; and from not having access to open spaces where we are spiritually connected to one another,

Therefore, we strongly urge the Planning Commission to move forward with the Discretionary Review Request for the project at 45-49 Bernard Street.

Sincerely,

Leo O Saephan
Chairman of the Board Of Directors
Lao Lu Mien Culture Association (LIMCA)
Leosaephan@limccenter.org
<http://www.limccenter.org>



Tenderloin Chinese Rights Association

田德隆華裔權益協會

210 Golden Gate Ave, San Francisco, CA 94102

COPY

Rachael Tanner, President,
San Francisco Planning Commission,
49 South Van Ness Avenue, Suite 1400,
San Francisco, CA 94103
(Case no. 2020-005176DRP)

8-1-2022

Dear President Tanner,

How are you doing? My name is Siu Cheung. I am a consultant of Tenderloin Chinese Rights Association, I write this letter to represent 300 members of Tenderloin Chinese Rights Association to support Upper Chinatown Neighborhood Association to oppose the owners of 45-49 Bernard Street to propose an expansion project that will significantly encroach into the rear courtyard and destroy the mid-block open space without creating more housing.

The rear courtyard, designed to strengthen communal and familial connections in densely populated living quarters, is important to our traditional Chinese heritage. The courtyard strengthens our cultural fabric, provides stability and comfort, and advances livability in the face of hardship. This proposed project will greatly reduce the light and air that reaches neighbors' outdoor spaces and perpetuate a tenement-like atmosphere in the neighborhood. For the concept of traditional Chinese heritage and environmental protection, please STOP the 45-49 Bernard Street to propose an expansion project.

Upper Chinatown is experiencing an eviction crisis. In the past ten years, 37 tenants have been evicted or displaced on this block. Eleven Chinese immigrants, eight of whom are elders and/or disabled, were evicted from 45-49 Bernard Street during the pandemic, the owners are not helping people to have an affordable Housing! The owners are making more homeless people! Housing is a human Rights! We defend our Rights! We are member of Tenderloin Chinese Rights Association, because we are people of grassroots! And we have grassroots support from Tenderloin community over 417 people who have signed the petition. Thank you!

PS: Signature petition letter are attached

Sincerely,

Siu Cheung, Consultant
Tenderloin Chinese Rights Association

EXHIBIT 6
51 BERNARD STREET PLANS

CITY INFORMATION	
51 BERNARD STREET	
LOT: 029	AS BUILT BUILDING:
BLOCK: 0157	BASEMENT:
ZONING: RH-3	NON-HABITABLE: 660 S.F.
HT. LIMIT: 40'-X	HABITABLE: 217 S.F.
OCCUPANCY: R-3	1 ST FLOOR:
CONSTRUCTION: V-B	NON-HABITABLE: 459 S.F.
SPRINKLERS: NO	HABITABLE: 309 S.F.
	2 ND FLOOR:
SQUARE FOOTAGE:	NON-HABITABLE: 435 S.F.
LOT SIZE: 1,376 S.F.	HABITABLE: 261 S.F.
	3 RD FLOOR:
	NON-HABITABLE: 428 S.F.
	HABITABLE: 288 S.F.
	4 TH FLOOR:
	NON-HABITABLE: 58 S.F.
	HABITABLE: 347 S.F.
	TOTAL: 2,733 S.F.
(E) BUILDING:	NON-HABITABLE: 1,311 S.F.
BASEMENT:	HABITABLE: 1,422 S.F.
NON-HABITABLE: 465 S.F.	
HABITABLE: 0 S.F.	
2 ND FLOOR:	
NON-HABITABLE: 196 S.F.	
HABITABLE: 612 S.F.	
TOTAL: 1,311 S.F.	
NON-HABITABLE: 661 S.F.	
HABITABLE: 612 S.F.	
PERMITTED BUILDING:	BUILDING CODE:
BASEMENT:	2019 CALIFORNIA BUILDING CODE (CBC)
NON-HABITABLE: 661 S.F.	2019 SAN FRANCISCO BUILDING CODE & ADDENDUMS TO CBC
HABITABLE: 219 S.F.	2019 CALIFORNIA TITLE 24
1 ST FLOOR:	2019 SAN FRANCISCO MECH. & ELEC. CODES
NON-HABITABLE: 414 S.F.	2019 SAN FRANCISCO FIRE CODE
HABITABLE: 297 S.F.	2019 CALIFORNIA PLUMBING CODE
2 ND FLOOR:	
NON-HABITABLE: 451 S.F.	
HABITABLE: 261 S.F.	
3 RD FLOOR:	
NON-HABITABLE: 367 S.F.	
HABITABLE: 317 S.F.	
4 TH FLOOR:	
NON-HABITABLE: 58 S.F.	
HABITABLE: 347 S.F.	
TOTAL: 3,392 S.F.	
NON-HABITABLE: 1,951 S.F.	
HABITABLE: 1,441 S.F.	

DRAWING SCHEDULE	
TOTAL SHEET COUNT: 12	
ARCHITECTURAL	
A1.0 SITE & CITY INFO	
A2.0 ORIGINAL, PERMITTED & PROPOSED BASEMENT PLANS	
A2.1 ORIGINAL, PERMITTED & PROPOSED 1ST FLOOR PLANS	
A2.2 ORIGINAL ROOF PLAN, PERMITTED & PROPOSED 2ND FLOOR PLANS	
A2.3 PERMITTED & PROPOSED 3RD FLOOR PLANS	
A2.4 PERMITTED & PROPOSED 4TH FLOOR PLANS	
A2.5 PERMITTED & PROPOSED ROOF FLOOR PLANS	
A3.0 ORIGINAL, PERMITTED & PROPOSED NORTH ELEVATIONS & AS BUILT NORTH SIDE PHOTOS	
A3.1 ORIGINAL, PERMITTED & PROPOSED EAST ELEVATIONS	
A3.2 ORIGINAL, PERMITTED & PROPOSED WEST ELEVATIONS	
A3.3 ORIGINAL, PERMITTED & PROPOSED SOUTH ELEVATIONS & AS BUILT SOUTH SIDE PHOTOS	
A4.0 ORIGINAL, PERMITTED & PROPOSED SOUTH SECTIONS	

GENERAL NOTES

- ALL DIMENSIONS SHOWN ARE TO FACE OF STUD, FACE OF CONCRETE, OR FACE OF BLOCK, U.O.N. VERTICAL DIMENSIONS ARE SHOWN TO TOP OF SLAB, FLOOR JOISTS OR FLOOR FRAMING.
- CONTRACTOR AND SUBCONTRACTORS SHALL FAMILIARIZE THEMSELVES WITH EXISTING CONDITIONS PRIOR TO COMMENCING WORK.
- DO NOT SCALE DRAWINGS. WRITTEN DIMENSIONS TAKE PRECEDENCE. CONTRACTOR TO NOTIFY ARCHITECT OF ANY DISCREPANCIES BETWEEN FIELD CONDITIONS AND DIMENSIONS/CONDITIONS SHOWN IN THESE DRAWINGS.
- MECHANICAL, PLUMBING, ELECTRICAL AND SPRINKLER PERMITS SHALL BE THE RESPONSIBILITY OF THOSE SUBCONTRACTORS.
- AUTOMATIC FIRE SPRINKLER SYSTEM DESIGN AND CONSTRUCTION IS TO BE PERFORMED UNDER A SEPARATE PERMIT OBTAINED BY THE FIRE PROTECTION SUBCONTRACTOR. FIRE SPRINKLERS ARE DESIGNED TO BE ZONED BY FLOOR. FIRE ALARM ZONED BY FLOOR AND DEVICE.
- STREET AND SIDEWALK IMPROVEMENTS SHALL BE CONDUCTED UNDER SEPARATE PERMITS.
- CONTRACTOR SHALL REVIEW AND UTILIZE SPECIFICATIONS PROVIDED IN CONJUNCTION WITH THIS SET OF CONSTRUCTION DOCUMENTS. ARCHITECT SHOULD BE NOTIFIED OF ANY DISCREPANCY BETWEEN DRAWINGS AND SPECIFICATIONS.
- ELEVATOR TO COMPLY WITH CODES SET FORTH IN CHAPTER 30 OF THE UBC. INSTALLATION OF THE ELEVATOR ACCESS HATCH WILL BE IN COMPLIANCE WITH NFPA 72, 1996 EDITION, UNDER SEPARATE PERMIT.
- SHORING AND UNDERPINNING WORK TO BE UNDER SEPARATE PERMITS.
- ALL WORK PERFORMED WILL COMPLY WITH THE AMERICAN DISABILITIES ACT OUTLINED IN SECTIONS 108.11 IN THE CBC. SEE SHEET A1.2 FOR STANDARD ACCESSIBILITY DETAILS APPLICABLE THROUGHOUT PROJECT.
- SOUND TRANSMISSION CONTROL TO BE PROVIDED AS REQUIRED BY APPENDIX CHAPTER 35, 1992 SFGBC (STC AND IIC OF 50 BETWEEN UNITS).
- THE BUILDING SHALL COMPLY WITH VENTILATION REQUIREMENTS. SEE CODE SECTION 1202.2.7

ABBREVIATIONS					
&	AND	FDN	FOUNDATION	PT.	POINT
<	ANGLE	FIN.	FINISH	PTN.	PARTITION
@	AT	FL.	FLOOR	R.	RISER
C	CENTERLINE	FLOR.	FLUORESCENT	R.D.	ROOF DRAIN
#	DIAMETER OR ROUND	F.O.C.	FACE OF CONCRETE	REF.	REFRIGERATOR
P	POUND OR NUMBER	F.O.F.	FACE OF FINISH	REF.	REFINISHED
ABV	ABOVE	F.T.C.	FACE OF STUDS	REQ.	REQUIRED
AC	AIR CONDITIONER	FT.	FOOT OR FEET	RM.	ROOM
ADJ.	ADJUSTABLE	FURR.	FURRING	R.O.	ROUGH OPENING
A.F.F.	ABOVE FINISH FLOOR	FUT.	FUTURE	RWD.	REWORK
AL.	ALUMINUM	GA.	GAUGE	R.W.L.	RAIN WATER LEADER
APPROX.	APPROXIMATE	GALV.	GALVANIZED	S.C.	SOLID CORE
ARCH.	ARCHITECTURAL	GD.	GRADE	SCHED.	SCHEDULE
BD.	BOARD	GYP.	GYPSONUM	SECT.	SECTION
BLDG.	BUILDING	H.B.	HOSE BIB	SHT	DRAWING SHEET
BLK.	BLOCK	H.C.	HANDICAPPED	SIM.	SIMILAR
BLKG.	BLOCKING	H.C.	HOLLOW CORE	SPEC.	SPECIFICATION
BM.	BEAM	HOW.	HARDWARE	SQ.	SQUARE
B.W.	BOTTOM OF WALL	HDWD.	HARDWOOD	SST.	STAINLESS STEEL
CAB.	CABINET	HT.	HEIGHT	STD.	STANDARD
CEM.	CEMENT	HT.	HOLLOW METAL	STL.	STEEL
CER.	CERAMIC	HWH.	HOT WATER HEATER	STR.	STRUCTURAL
CL.	CEILING	INSUL.	INSULATION	SUSP.	SUSPENDED
CLG.	CLOSET	INT.	INTERIOR	SYM.	SYMMETRICAL
CLR.	CLEAR	INT.	INTERIOR	S.S.D.	SEE STRUCTURAL DRAWINGS
COL.	COLUMN	JAN.	JANITOR	T	TREAD
CONC.	CONCRETE	JT.	JOINT	T.B.D.	TO BE DETERMINED
CONT.	CONTINUOUS	LAM.	LAMINATE	T.B.S.	TO BE SELECTED
CTR.	CENTER	LAV.	LAVATORY	T.C.	TOP OF CURB
		LT.	LIGHT	TEL.	TELEPHONE
DBL.	DOUBLE	MAX.	MAXIMUM	T&G	TONGUE & GROOVE
DEPT.	DEPARTMENT	MECH.	MECHANICAL	THK.	THICK
D.F.	DRINKING FOUNTAIN	MEMB.	MEMBRANE	T.P.	TOP OF PAVEMENT
DET.	DETAIL	MFR.	MANUFACTURER	T.W.	TOP OF WALL
DIA.	DIAMETER	MIN.	MINIMUM	TYP.	TYPICAL
DIM.	DIMENSION	MISC.	MISCELLANEOUS	U.O.N.	UNLESS OTHERWISE NOTED
DN.	DOWN	M.O.	MASONRY OPENING	V.I.F.	VERIFY IN FIELD
DTL.	DETAIL	MTD.	MOUNTED	VERT.	VERTICAL
DW.	DISHWASHER			W.	WITH
DWG.	DRAWING	(N)	NEW	W.C.	WATER CLOSET
(E)	EXISTING	N.I.C.	NOT IN CONTRACT	W/D	WASHER/DRYER
EA.	EACH	NO. OR #	NUMBER	W.D.	WOOD
EL.	ELEVATION	N.T.S.	NOT TO SCALE	WID.	WINDOW
ELEC.	ELECTRICAL	O.C.	ON CENTER	W/O	WITHOUT
ELEV.	ELEVATOR	O.D.	OUTSIDE DIAMETER	WP.	WATERPROOF
EQ.	EQUAL	PL.	PLATE	WT.	WEIGHT
EQPT.	EQUIPMENT	P.LAM.	PLASTIC LAMINATE		
EXP.	EXPANSION	PLYWD.	PLYWOOD		
EXT.	EXTERIOR	PR.	PAIR		
FAU	FORCED AIR UNIT	P.T.	PRESSURE TREATED		
F.D.	FLOOR DRAIN				

PROJECT DIRECTORY	
CLIENT	Enda Keane 51 Bernard Street San Francisco, CA. 94133 415-828-4981
ARCHITECT	Tony Pantaleoni Kotas/Pantaleoni Architects 70 Zoe Street, Suite 200 San Francisco, CA. 94107 415-495-4051 415-495-6885 FAX



SYMBOLS			
3	DOOR NO.	5	INTERIOR & EXTERIOR ELEVATION NO.
8	WINDOW NO.	A-3	SHEET NO.
6	DETAIL NO.	1	INTERIOR ELEV. NO.
A-1	SHEET NO.	4 (A-1)	SHEET NO.
4	SECTION NO.	DINING ROOM	ROOM NAME
A-4	SHEET NO.	EL=164'-2"	ELEVATION

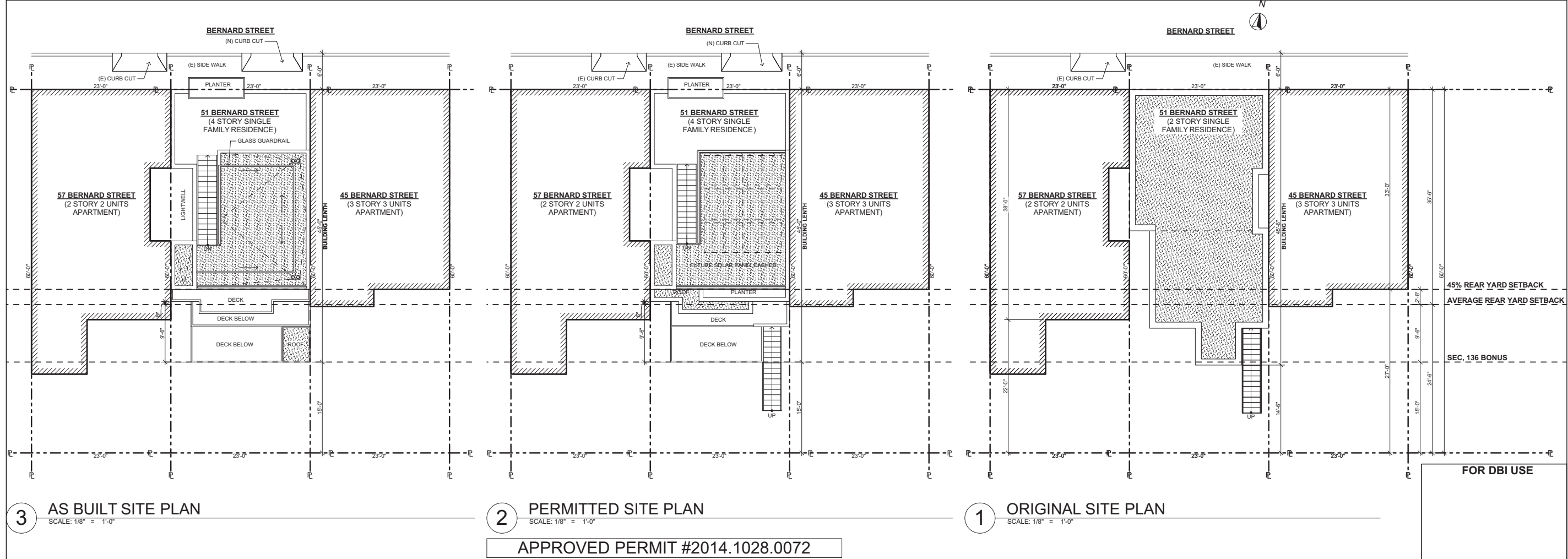
SCOPE OF WORK

Permit to Comply with Code Enforcement Case No. 2022-005109ENF. To seek legalization of rear ground floor (6 foot extension) remove preexisting rear stairs and enclose this area, change in building materials from siding to stucco as shown on proposed elevations, conversion of planter into deck on the 4th floor, and reconfiguration of each floor layout and other alterations to last approved plans, permit #2014.1028.0072. Changes include new interior elevator and rearranging of interior rooms/floors.

REAR YARD 45% 60'-0"x45%= 27'-0" REAR YARD SETBACK

REAR YARD EVERAGE CALCULATIONS

45 BERNARD STREET 27'-0"
57 BERNARD STREET 22'-0"
49'-0" ÷ 2 = 24'-6"



KEANE RESIDENCE REVISION TO PERMIT #2014.0128.0072

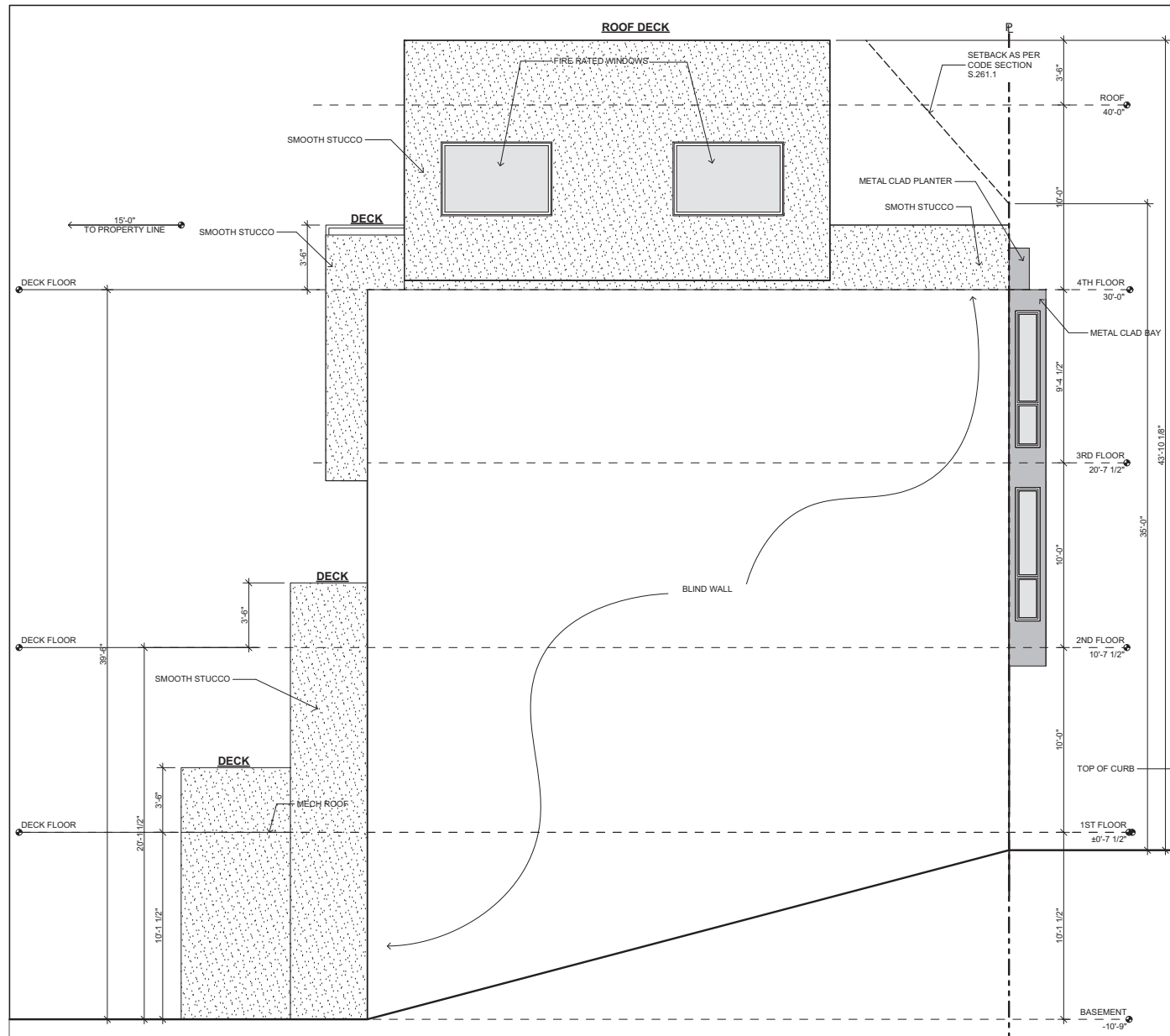
51 BERNARD STREET
SAN FRANCISCO, CA 94133

Sheet Title:
Project Info:
SITE & CITY INFO

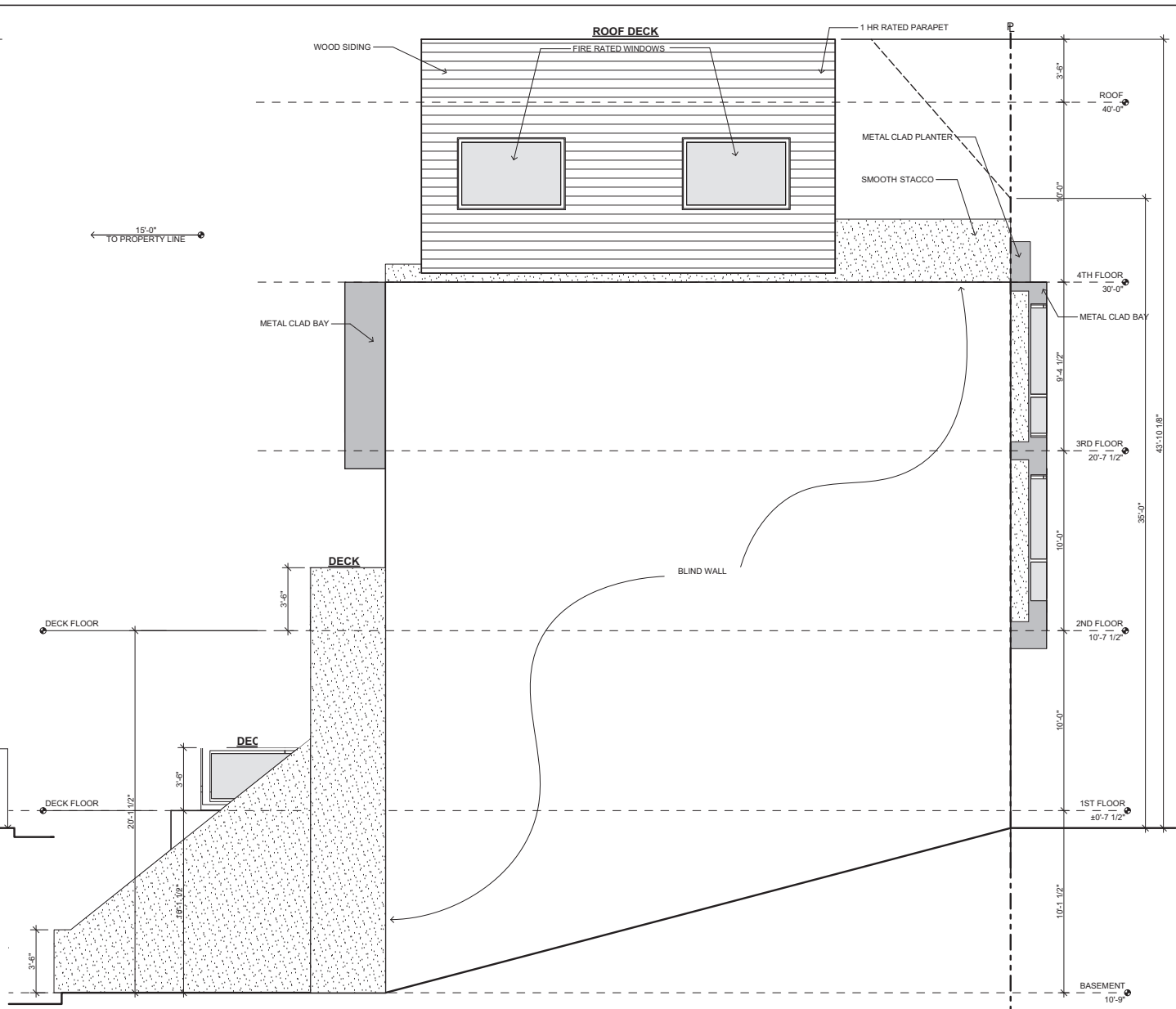
Date: 1.25.23
Drawn By: AZ
Job Number: 1-820

FOR DBI USE

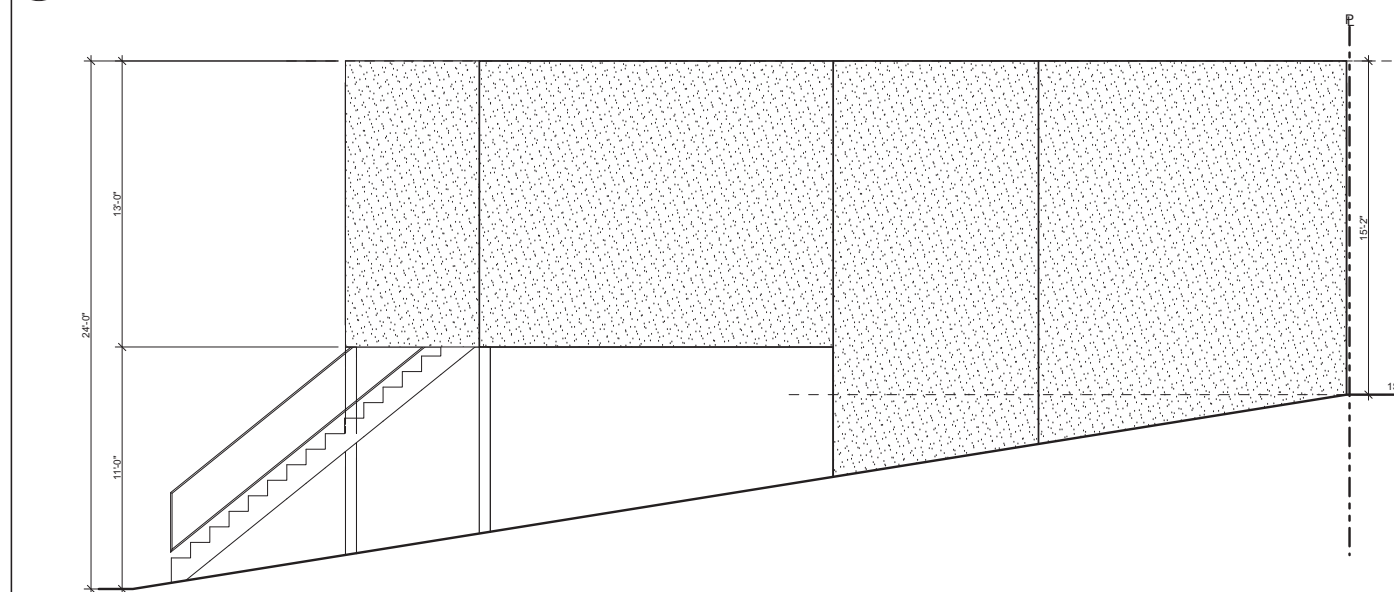
A1.0



3 AS BUILT EAST ELEVATION
SCALE: 1/4" = 1'-0"



2 PERMITTED EAST ELEVATION
SCALE: 1/4" = 1'-0"



1 ORIGINAL EAST ELEVATION
SCALE: 1/4" = 1'-0"



**Kotas/
Pantaleoni
Architects**
Anthony A. Pantaleoni
LEED AP
70 Zee Street Suite 200
San Francisco, California 94107
t. 415 495 4051
f. 415 495 6885
design@kp-architects.com



Revisions	By

**KEANE RESIDENCE REVISION
TO PERMIT #2014.0128.0072
51 BERNARD STREET
SAN FRANCISCO, CA 94133**

Sheet Title:
**Exterior Elevs:
EAST ELEVATIONS**

Date: 1.25.23
Drawn By: AZ
Job Number: 1-820

FOR DBI USE

A3.1

EXHIBIT 7
LETTER FROM JOHN LUM, AIA

March 13, 2024

Board of Appeals
49 South Van Ness
Suite 1475 (14th Floor)
San Francisco, CA 94103

Re: Appeals Nos. 24-010 and 24-011
Subject Property: 45, 47 and 49 Bernard Street
Site Permit No.: 2020-0822-2415
Letter of Support to Appeal Approved Site Permit



JOHN LUM ARCHITECTURE INC.
3246 SEVENTEENTH STREET SAN FRANCISCO, CA 94110
TEL 415 558 9550 FAX 415 558 0554

Dear President Swig and Members of the Board,

We have reviewed the plans for 49 Bernard that were recently approved for site permit.

We have found numerous inconsistencies and violation of codes ranging from improper drawings standards, to Planning code violations, to egregious violations that would affect life-safety of the building occupants and adjacent structures. We are concerned that this project continues to have code violations that will affect the welfare of the occupants and the public, and thus should not have been approved in its flawed state.

Our review of the approved Site Permit is organized in the order of the drawing set. We apologize in advance if the sheet numbers are not correct and lacking titles, as the Appellant refused to share the documents, forcing our review at DBI's Records room without the benefit of a hard copy. As such, we were not able to accurately assess the GFA calculations without being provided a copy of the Approved Site Permit drawings.

Sheet A0.00

- 1) Cover sheet does not meet DBI required standards for an 8.5" x 11" clear box for stamps. The title block also lacks the required clear space for stamps.
- 2) Cover sheet reference drawings by other professionals that are not included in the approved Site Permit set.

Existing conditions, Sheet A2.00

- 1) Incorrectly shows the west door on façade at the sidewalk to be swinging over the public right of way. This is a door that open into the floor unit and is a door that swings inward. Code violation: SFBC 2019 §3202.2 - DPW should not have approved this violation without requiring a Minor Site Encroachment Permit. See additional information under Sheet A3.00 focusing on the proposed gate in the proposed floor plan.

Sheet A2.04

- 1) Existing 1'-0" x 3'-0" window denoted as an escape window for basement ADU (the plan of which is not included in the Approved Site Permit). The proposed drawings show an enlarged EERO (Emergency Escape and Rescue Opening) with a light well providing access from the sidewalk through an opening that is covered by a 2'-0" x 3'-0" grill. This security grill is noted as being operable only from the interior. Code violation SFBC 2019 §1030.1.1. In addition to its dubious size and arrangement, this EERO would not allow a firefighter to rescue someone from the basement due to the proposed non-compliant locking mechanisms.

Sheet A3.00

- 1) New ADU plans are not included in the approved drawing set, nor are any references to a separate permit number for the ADU. As a condition of approval, the removal of the existing non-compliant dwelling unit in the basement requires the construction of a replacement ADU. When the Site Permit is approved without the ADU information, there is nothing to hold or allow the City to enforce the return of this removed dwelling unit. The Project would be in violation of Planning Code §317 if ADU is not included.
- 2) A new gate is shown swinging out over the public right of way in the location of the existing in-swinging door on the west of the front façade. Code violation: SFBC 2019 §3202.2. DPW should not have approved this violation without requiring a Minor Site Encroachment Permit. As shown, the extent of the door's encroachment into the public right of way violates the allowed limitation of 25% of the sidewalk width. The 7' sidewalk allows 1'-9" of encroachment, but the door is a minimum 36" as an Exit. The *SF Better Streets Plan* requires a minimum width of 4'-0" for the Pedestrian Through Way at narrow sidewalks, reduced from a typical standard of 6'-0". Additionally, the proposed gate is shown as swinging 180 degrees, placing it in front of the garage door of the adjacent west neighbor. Sheet A0.03's Preapplication Approval does not allow new gates to swing over the property line.
- 3) A new 4'-9" gate is shown swinging out over the public right of way in the location of the two smaller existing gates, approximately 2'-3", which do swing out over the public right of way. Sheet A0.03's Preapplication Agreement states that the replacement gate should match the existing conditions (two separate gates). The proposed gate more than doubles the non-compliance of the existing gates in regards to Code violation: SFBC 2019 §3202.2. DPW should not have approved this violation without requiring a Minor Site Encroachment Permit. As shown, the extent of the door's encroachment into the public right of way violates the allowed limitation of 25% of the sidewalk width. The 7' sidewalk allows 1'-9" encroachment. The slope of the sidewalk as shown on the front elevation conflicts with the floor plan's depiction of the gate opening 180°. The sidewalk slope would appear to only allow the gate to open 90°. Thus, the sidewalk would be reduced from 7'-0" wide to 2'-3", much less than the required 4'-0" minimum width of the Pedestrian Through Way required by the *SF Better Streets Plan*.

- 4) Replacing existing stair at the rear, which provides the second means of egress to the upper units, with a fire escape appears to be a reduction in the safety of this non-compliant structure. The reasoning for allowing the provision of a fire escape is for an exception due to a hardship, versus a simply equivalent option to providing a code-compliant stair. In this case the hardship is caused by the Project Sponsor, who is electing to remove the existing stair and exit-access corridor through the basement due to increasing the square footage of the units, hence increasing the occupancy load. Increasing non-conformity, while asking for an exception is problematic. No AB-019 documentation for the proposed fire escape is included in the approved Site Permit. The required description of “the practical difficulties presented in meeting the specific conditions of the code” is not provided. Additionally, a detailed description of the fire-escape’s conditions of approval in the formal Request for Approval of Local Equivalency is required for issuance of the Site Permit. Code violation: SFBC §106A.3.4.2 (3)(d)
- 5) The Fire Department allows for existing non-compliant egress conditions to remain, such that changes to a building result in a condition that is no less safe or further non-compliant than the existing conditions. This typically allows for interior remodels of units without needing to address non-conforming common exiting conditions. In the case of the proposed project, the Fire Department appears to be allowing the extremely non-compliant front stairs to remain in their very narrow condition (approximately 1’-9” at the topflight and approximately 2’-4” at the lower flights – 3’-0” is the SFBC’s clear width requirement) while simultaneously allowing the increase of occupancy in the building – as the units are enlarged towards the rear. Since occupancy is a measurement of floor area, the horizontal addition in the approved Site Permit increases the occupant load on these non-compliant stairs. This is further exacerbated by the replacement of the rear exit stair with a less-functional, less-accessible fire escape. It is unclear why the Fire Department does not appear to have required any mitigations or local equivalency documentation for these changes to the egress conditions. A commonly applied requirement to mitigate the reduction of safety as shown in the approved Site Permit would be the inclusion of new fire-suppression sprinklers throughout the building – or at least to cover the units that add occupancy without addressing the non-compliant stairs.
- 6) The proposed gas meter location is quite problematic. It does not comply with the requirements of the PG&E Greenbook, which would require the meters be placed at the front façade and to ventilate outside of the building. Furthermore, the gas meters are located within the exit-access corridor that provides the sole means of egress to the theoretical ADU, and second means of egress for the upper units. Code violation: SFBC 2019 Definition of Means of Egress as “a continuous and unobstructed path of vertical and horizontal egress travel”. Fuel-burning appliances obstruct the safe path through the Means of Egress.
- 7) Natural light and ventilation calculations for the first-floor unit are shown including the front door’s operable sidelites for ventilation. The door, at approximately 10’-4”, is too deeply recessed to comply with the 9’-0” limitation for overhangs and simply cannot be used for ventilation due to fire rating requirements for openings into the exit-access stair: Code violation SFBC 2019 §420.2 and §1204.2.2.

- 8) A tankless gas water heater is shown adjacent to the rear yard entrance to the exit-access corridor connecting the fire escape to the public right of way. This gas-fueled equipment is a hazard, which violates the safety of the second means of egress for the upper units. Code violation: SFBC 2019 Definition of Means of Egress as “a continuous and unobstructed path of vertical and horizontal egress travel”. Fuel-burning appliances obstruct the safe path through the Means of Egress.

Sheet 3.04: Reflected Ceiling Plans

- 1) The proposed reflected ceiling plans for the upper two units show the gas fireplace vents exhausting into the front exit-access staircase, including under the interstitial landing leading to the top unit! Violation of Code SFBC 2019 §420.2, and SFMC 2019 §802.8.2

Sheet 4.00. Existing and Proposed Front North Elevation

- 1) The Emergency Escape & Rescue Openings (EERO's) for the first-floor unit and theoretical ADU are covered with security grills that are noted to open from the inside only. This prevents firefighters from rescuing the occupants of the front sleeping rooms, negating the function of the EERO's. Code violation: SFBC2019 §10301.1.

Sheet 4.01. Rear Facade

- 1) Removal of the stair at rear, replacing it with a fire escape, removes access to common usable open space as required by Planning Code §135. Where occupants could previously conveniently access their rear yard via the rear stairs, now they are forced to exit the property, traverse the public right of way, re-enter the building at the side gate and access the rear yard through the exit-access corridor. As approved the Project, therefore, removes the common usable open space as *there is no convenient way* to get to the rear yard from within the property. The proposed private usable open space is insufficient to meet each unit's required minimum area. The proposed private decks were further reduced in size since the Planning Commission set, to provide only 39 square feet of private usable open space per unit, substantially less than the required 100 square foot minimum. The tabulation on sheet A0.02 erroneously states that each unit has 134 square feet of usable open space. Additionally, usable open space at grade must have a minimum horizontal dimension of 10' to count, and thus the backyard open space has been calculated incorrectly where it appears to include the narrow spaces to the side of the rear pop-out, were it even accessible.

Sheet 4.02 East Façade

- 1) No AB-009 documentation is included in the approved Site Permit. Neither Attachment A, which outlines the conditions of approval, nor Attachment B – Declaration of Use Limitation are included. There is no indication that the Declaration of Use Limitation is Recorded to the property deed, as required for Building's approval of the Site Permit. Code violation: SFBC §106A.3.4.2(3)(c)

Sheet GS-5

- 1) GS-5 is included in the approved Site Permit. This is the wrong sheet. GS-1 is the correct sheet to include in a Site Permit. GS-5 would be the correct sheet to include in a future Addendum application.

The life safety of the building with gas appliances carelessly placed in exit components, a fire escape being allowed for a second means of egress versus a previously existing staircase, the violation of usable open space requirements, and lapses in documentation violates the standards of Site Permit application reviews. The series of blatant code and process violations in the approved Site Permit raise series concerns about the rigor in which this permit application was reviewed. Errors have been found in the reviews of each department including Planning, Building, Fire and Public Works. These errors are germane to the Site Permit review and should not simply be addressed in later addenda applications. If the same level of rigor is applied to the reviews of the addenda, this project would pose a life-safety concern to future occupants and adjacent neighbors. There is no mechanism to appeal flawed addenda approvals. We therefore urge the Board of Appeals to rescind the approval of this flawed Site Permit and require the necessary corrections be made before each department approves the proposed work.

I will be attending the hearing and available for questions or discussion.

A handwritten signature in black ink, appearing to be 'John Lum', with a long horizontal stroke extending to the right.

Sincerely,
John Lum, AIA
Founding Principal
John Lum Architecture, Inc.

BRIEF SUBMITTED BY THE PERMIT HOLDER(S)

SAN FRANCISCO BOARD OF APPEALS

RESPONSE TO Hanmin Liu and Jennifer Mei Appeal of Building Permit

Appeal 24-011

45 – 49 Bernard Street, San Francisco

Hearing Date: April 3, 2024

Appeal No. 24-010 (Owner Appeal)

- Brief is due by 4:30 p.m. on 3/14/24.
- Department's brief due 3/28/24 4:30pm.

Appeal No. 24-011 (Neighbor Appeal)

- Appellant brief is due 3/14/24.
- Owner Response due 3/28/24 4:30pm



Project Summary & Overview of Appellants

45-49 Bernard is a 3-unit residential property over basement situated in Nob Hill on the Russian Hill border w/ a lot size 23' wide x 60' deep (Appendix 3). The property is bound by the street in front and two adjacent neighbors. It is a zero lot line on the East and West (See Appendix 1). The building was originally permitted in 1906 for a 47' depth (13' setback) (Appendix 2), a depth which is common throughout this midblock. Over 90% of the midblock space has denser, more limited rear yards than 45-49 Bernard (current or proposed). The block is made up of a mix of SFR & MFR that primarily range from 30' - 40' in height. The actual construction and/or current building is less deep than 13', though there are no associated records found and it is unclear when or why the property depth was reduced. 45-49 Bernard currently has the shortest rear yard set back of any building on the block.

Unfortunately, 45-49 Bernard was not appropriately maintained by the prior landlord. It is 120+ years old and in severely dilapidated condition. The building's kitchen and bathroom are appended to the back of the building, and slope due to settlement. Kitchens are tiny, and not functional. Rooms that were previously used as bedrooms do not have EERO standard windows. In almost all ways, our building is not up to current code. Under this permit, we seek to make critically necessary improvements, including electrical, plumbing, foundational, and structural improvements –for the benefit of our family and our tenant (who supports the project), as well as perform a minor extension of the rear of the property – one which SQUARELY fits into the character of the midblock space. The proposed extension will result in a building that is still shorter than the two appellate neighbor's properties, even after completion. My partner and I are getting married in May and are seeking to start a family. We both live and work in the City and intend to continue to do so, unless we cannot get our home updated to meet the needs of our family (and our tenant), which has been on hold due to years of appeals by our neighbors. Furthermore, outside of the critically necessary enhancements being made from this permit/project, we may at some future point like to create a legal unit in the basement for my mother or in-laws to live in so they can support us with our children. Nevertheless, that future work is not relevant to this permit.

The Appellant in this appeal owns the property directly to the South, though in previous appeals also included the neighbors to the East at 39-41 Bernard, who are involved but not declared under this appeal. They sometimes call themselves the Upper Chinatown Neighborhood Association or “UCNA.” Per existing permits, 1144-1146 Pacific is supposed to be a Residence with *separate* Commercial space. The rear face of the Appellant building is ~9’3” from the rear property line with stairs within 3’ of the property line; it is 4 stories high; and it has a large roof deck. Notably, the bulk of Appellant’s 4-story mega-single family residence (SFR) extends significantly into the rear yard, which is characteristic, common, and historic for the block. However, it is also the result of further HORIZONTAL/VERTICAL expansions undertaken by the Appellants in the late 90s/early 2000s (Appendix 4). Furthermore, after maximizing the gross square footage of their SFR as much as possible, they also maintain a large, 4-story high tree, 11’ + wide in their tiny rear yard that hangs over adjacent property lines (See Appendix 1). Since the Appellant is south of the subject property, the building and tree casts shade on the properties to the north (on Bernard) adjacent neighbors, and the midblock year-round, as is common throughout the block.

Plan Submission to Now: Timeline of Nuisance Appellants Campaign Against Our Home Renovation

For the last 3 years, our family has been subject to a strategic and malicious campaign by these two neighbors (39-41 Bernard and 1144/6 Pacific Avenue) to block, delay or make difficult our home renovation. Our politically-connected neighbors have never sought to follow due process. They have refused to meet, discuss, or compromise, despite our 14+ attempts to do so (Appendix 5). Instead, they communicate to everyone except us, hiring lawyers, planning consultants, and architects, to litigate our permit to death. Prior to this hearing, we offered to provide plans in exchange for the opportunity to meet, discuss and try to find compromise and resolution. While we attempted, the meeting was less than 5 minutes, and they stated they had nothing to discuss if we were not willing to adjust our permit to adhere to their requested rear yard setbacks. We provided plans nonetheless.

It is very disappointing. Our neighbors were strategizing how to delay, block or modify our project from almost the inception of our project; in 2021, after my mom stopped by and asked them politely if they could trim back their rear tree, neighbor escalated the situation and responded, that he “knew people” and if we ever wanted to develop the property he could “make getting permits difficult for us” which unfortunately has materialized. Accordingly, over the years, they have made zero efforts to work with us. They decided they were going to DR our project before our plans were ever approved by the Planning Department (based on emails written by them to the Planning Department & Planning Commission). They skipped 2 pre-planning meetings, both of which they were aware of. They also ignored 12+ other informal requests by us to meet and discuss their concerns. Once plans were approved by Planning, on the last day, in the last hour of the appeal period (seeking to maximize delays) they filed their DR. In response to their DR & prior to the DR Hearing, we modified the building to compromise on every single concern they had—including reducing the rear yard set back from its legally allowable depth by 2 feet (15’ 9" to 17’ 9"), inseting half the buildings windows to create more privacy, etc. Nevertheless, these compromises were not enough, and they insisted we have the DR Hearing. It is our belief that they felt they did not need to participate in City processes because they decided to circumvent due process to get what they wanted, rather than following protocols defined by the City. Specifically, prior to our DR hearing, they circumvented due process prior to our quasi-judicial hearing (see & approve our Appeal).

Ultimately, we attended the DR hearing, and the project was inappropriately modified further (again, see our Appeal). And still, these modifications were not enough. After our DR hearing, they filed a CEQA appeal, on the last day in the last hour of the appeal period (maximizing delays). This CEQA appeal argued that our private rear yard, visible to nobody from the public but them, was actually historically, “culturally significant” backyard, and the City should spend its finite resources researching whether or not this singular, private backyard was a historic resource. It is important to reiterate - these neighbors themselves have done vertical extensions, horizontal expansions, and added roof decks. The City spent hours

responding and preparing for the CEQA Appeal, providing data and research on how there is no support for their historicity argument (Appendix 6), only for it to be dropped by our neighbors the day of the hearing. We believe they withdrew because they didn't believe they had sufficient political support given the absurdity of the argument: **the space where these neighbors themselves had previously expanded their building, maximizing the GSF of their SFR was now suddenly “sacred and historic” when a neighbor attempts to do a lesser version of the same thing.** As they withdrew their CEQA appeal on the day of the hearing, we had to attend the Board of Supervisors hearing, and the Board of Supervisors had to formally approve the withdrawal. And while we thought—this HAS to be it—their campaign against our extension continued on. In March 2023, they tried to force our other neighbor, at 51 Bernard, into signing a “confidential agreement” in which the owner of 51 Bernard would be required to issue a letter opposing our extension (among other things); otherwise they would “oppose his variance request”. This behavior by our neighbors was undertaken before our permits were even approved post-CEQA/DR hearing, **proving that they intended to appeal this permit to the Board of Appeals all along—no matter what our permit looked like— and were just trying to force the 3rd neighbor’s support to strengthen their less-than-strong argument.** Our neighbor at 51 Bernard, thankfully, refused to sign the agreement, saying it was written “in the spirit of something he could ever be comfortable being a part of”.

That brings us to today. Here we are again, responding to this new appeal, fighting with neighbors to fix up our home and complete a minor extension that fits squarely in with the character of the existing mid-block. Unfortunately, there are many stories that are like ours where the planning process, DRs, and appeals have extended projects/housing timelines. A recent SF Chronicle noted a typical home-building project approval in San Francisco takes close to 500 days, more than any other City in the State. Our permit, which is a SMALL PROJECT, stands at **1,322 days and counting.**

Request the Following of the Board of Appeals (BOA)

Overall Request: Respectfully, Deny the Appellants Appeal and APPROVE our Appeal

In total, there is one thing this neighbor cares about: they do not want our building closer to their building. At its core, these neighbors are asking you to overrule code, guidelines, basic human logic, and approvals and further validations by the City that fully support our proposed depth. They ask you to apply an arbitrary setback, based on the setback of a neighboring SFR, to a MFR building. It is totally unreasonable given the context of neighboring properties. Respectfully, we ask you to please deny their appeal, and approve our appeal. We respectfully ask you to consider that these are continued, nuisance Appeals. We respectfully ask that you direct the city to issue this permit so we can make necessary improvements to our home that enable our family and our tenant to live in a better, more habitable place. Furthermore, given the neighbors, through circumvention of due process, have tainted and eliminated our ability to have an impartial Planning Commission hearing, we respectfully ask, whatever decision you make, please do not send us back to the Planning Commission. It risks restarting this appeals process all over - this has been incredibly stressful and has already held up our life for many years. Specifically, in relation to this appeal, we ask you:

Deny Appellant Request #1: “Require the project sponsors to modify the plans to reduce the horizontal expansion into the rear yard so that no elements of the building, including decks, extend further than the adjacent building to the west at 51 Bernard Street.”

Owner Request: Reject their request and do not reduce our building further from the already compromised set back of 17’9”. Refer to supporting analysis in midblock space below.

Deny Appellant Request #2: “Require the subject permit to remain on hold until the review of the ADU permit has been reviewed so that the Planning Department and DBI can verify that both plan sets are accurate, code-compliant, and consistent.”

Owner Request: Allow the permit to proceed (though grant our Appeal with DR Action memo modifications sticken) given:

1. There is no basis for this request. Based on feedback provided by our initial Planner, owners had until very recently believed that due to the physical aspects of the bathroom/sink and “independent access” (debatable), the basement was automatically considered a UDU. However, despite the bathroom/sink in the basement, the basement does not meet the second requirement for a UDU outlined in the UDU screening form: that the space “has been used, without the benefit of a building permit, as a separate and distinct living or sleeping space.” Owners purchased the property in 2019. No one occupied the basement at that time, nor has anyone occupied the basement since that time. Owners have submitted UDU screening form attesting to the fact that they have NO personal knowledge, or verifiable legal documentation, as defined in the UDU screening form or otherwise, evidencing that the basement space was ever occupied as a separate sleeping/living space (See Appendix 7). As such, it does not qualify as a UDU, as initially thought. Statements supporting this analysis:
 - 1.1. In 2019, 45-49 Bernard building was sold and legally disclosed to us by prior owners as a 3-bedroom over basement home. See Appendix 8 for attached legal disclosures related to sale and independent inspection report.
 - 1.2. Prior owners, who owned the property for several decades (since at least the 70s we believe), did not disclose in disclosure agreements, as would be legally required, any historical occupancy in the basement
 - 1.3. Prior owners did not provide any rental agreements for the basement in legal estoppels; and we have not been able to find any rental agreements specific to the basement space
 - 1.4. Tax records and historical building permits reference the building as a 3-unit building
 - 1.5. There are no individual electrical or gas utility statements related to the basement. There is no gas at all and no individual electric service.
 - 1.6. Rent board documentation do not evidence anyone ever occupying the basement
 - 1.7. Census records from 1920-1960 (all that are available) do reference anyone at this address other than occupants at 45-47-49 Bernard

1.8. Conversations with current tenant/tenant's daughter (40+ year occupant of the building) did not confirm the basement was occupied as a separate living/sleeping area

Thus, their argument is irrelevant. Regarding other statements, made by the neighbor's architect that our plans are not accurate/not code compliant are:

1.9. subjective and misleading; go against supported City decisions; and/or incorrect

1.10. Irrelevant and/or not applicable, as they refer to the basement. Once this permit/project is completed, we will begin again working on the legally separate State ADU permit. Again, there is nothing nefarious here - despite repeated attempts to insinuate that.

1.11. Minor, and would be handled as a normal part of the addendum process, if required, by the City's more detailed addendum review. The architect has already begun addressing addendum feedback but has been forced to pause due to this appeal.

See detailed analysis by our architect in Appendix 10, in response to their architect, to address every single point of concern in detail, if required.

Deny Appellant Request #3 "Require the Planning Commission and Planning Department to revise the Discretionary Review Action Memo so that the language is specific and enforceable."

Owner Request: Instead, approve our appeal and remove the DR action language altogether based on the fact there is no exceptional and extraordinary circumstances that warranted changes to the project (see our Appeal & response below to their "impact to open space" argument). Rather, given private, ex-parte communications that influenced the Commission prior to our hearing, DR action memo modifications are unable to be validated as being made impartially. To promote and reinforce expectations that quasi-judicial commission bodies throughout San Francisco maintain due impartiality and unbiased behaviors prior to hearing and arbitrating a matter before them, the board of appeals should remove these modifications.

Also, we ask that you do not send our permit back to the Planning Commission. We believe the request to send us back to the Planning Commission is a further strategy by the Appellants to continue appealing and delaying our project. It is our belief they would like to reopen the DR Action Memo because that will result in an additional hearing, and could then in theory reopen CEQA (as CEQA is tied to DR) which potentially means even further delays. Furthermore, Appellants have tainted and eliminated the ability of the Planning Commission to provide us a fair, unbiased hearing given their private, ex parte communication with Commissioners, so sending us back would force us in front of the same Commission.

Detailed Response to the Appellant's 5 Arguments

As a basis for their request, the Appellant makes 5 Arguments in their Appeal, which are opposed below.

Item 1: Impact on midblock open space relative to Residential Design Guidelines.

Application of City Documents. The BOA should see that the heart of the issue here is that the Appellant does not like the Planning Code and the allowable rear yard setback. They are attempting to use a single design consideration in the Residential Design Guidelines (RDG) to alter the Planning Code in their favor. Zoning Ordinances are a set of rules that regulate land use. Planning Codes implement Zoning ordinances by providing more specificity. Building Codes provide requirements that focus on safety, structural integrity, and habitability. San Francisco also has Residential Design Guidelines (RDG). Per the RDG itself, these Architectural guidelines state *“it is important that the design of new buildings and renovations to existing buildings be compatible with nearby buildings.”* These guidelines are to preserve neighborhood uniformity and the use of these guidelines should be within that context. On this basis, we argue, in opposition to the Appellants, our proposed rear yard setback is fully supported by code and RDG, and is in fact uniform with the midblock open space, as the building will fit squarely into the context of the midblock open space. At the time of our permit submission, the Planning Code required a 45% setback, but allowed the use of the ‘averaging’ to set the depth of the property, not less than 15’. The ability to average is specifically for cases like ours, where the existing block has limited rear yards.

Specific to the directly adjacent neighboring properties, the Appellants make unfounded statements that this will cast shadows on appellant neighbors and bedrooms. We assert the opposite - there is no unreasonable impact in terms of light, shade or privacy to our adjacent neighbors or their 'bedrooms' given a) existing height and depth condition of adjacent neighboring properties b) the path of sun travel precludes any shadows. See Appendix 11 for sun study making this plainly evident. The property to the East at 39-41 Bernard has a blind wall (less an unpermitted lot line window near the base of the building) that goes ~ 11' to the property line. No bedrooms or living spaces exist along that blind wall for us to cast shadows. As noted earlier and as evident in the above photo, the Appellant to the South has a large tree that blocks all 4 stories of their open windows on the rear wall. Even if that tree, functioning as privacy and light barrier didn't exist, the spaces at the rear of the Southern property include a bathroom (4th floor), an "office" (3rd floor) and a 2nd floor Commercial space, which is not a residential living space. Accordingly, there is no bedroom to cast shadows into, as they state.

Specific to the broader midblock, as noted earlier, the original 1906 Permit for 45-49 Bernard was approved as 13' setback. It is unclear from records why the actual condition is less, but that setback is the common, historic precedent of the Block - deep, generally tall properties, with limited rear yards. Currently, 45-49 Bernard has the greatest setback of any property on the block. Specifically, over 90% of the greater mid-block has a building that goes deeper into the rear yard than ours. Furthermore, even after our proposed extension, the setbacks in neighboring properties & the greater midblock will still be DEEPER into the rear yard than our building, with buildings almost all of equal height (typically 30' - 40'). Importantly, given the movement towards promoting more dense, multi-family housing across San Francisco, effective shortly, Planning Code Section 134 has further reduced the Rear Setback from 45% to 30% in RH Districts like ours. Thus, under the more current generous guidelines, the default setback (without averaging) would be $30\% \times 60 = 18'$.

Item 2: Clarity and Enforceability Issues with DR Action Memo

The Appellant in Appeal 24-011 highlights a few areas they are concerned with clarity and enforcement. We agree that these DR Action modifications were made on a faulty basis and were not well supported. However, we argue these modifications should simply be removed. This is what we request in our appeal. Under our appeal, we are challenging modifications made by the Planning Commission at the DR in its entirety. The Planning Commission's decision to take the DR and signal "exceptional" circumstances at all was flawed given the current configuration of the entire block. What is exceptional and/or extraordinary when the neighbors are at 9'-3", 11', and some nearly zero? Plus, there was no consideration, as discussed above, about the application of RDG vs. Planning Code and neighborhood uniformity. The Planning Commission removed the roof deck and the corresponding spiral stairs and required us to apply, instead, a porch design on the 3rd floor, when the DR Requester did not even ask for any of this. Every neighbor on all sides of us have a roof deck, so there is nothing exceptional about that feature, and no basis for the modification. Furthermore, the roof deck has no impact on midblock space anyways - it was located on the roof, and was set back 5' on every side. To include specific language removing the roof deck was based on the desire to be punitive, not because it was exceptional or extraordinary.

Provisions regarding tenant-related language, provisions dictating "keeping our rear yard green" and other modifications made are so evidently outside the scope, stature, and authority of the Planning Commission, that it clearly reinforces our argument that they were made not on exceptional or extraordinary circumstances, but rather based on the undue influence of our neighbors, personal biases against OMI, and disparate application of planning code and guidelines based on our "culture." *Note: it was brought to our attention that a response via public comment contradicts statements re: potential conflicts. We respectfully disagree. We want to make clear we purposefully chose to omit names in our written brief to reduce any focus on specific people or organizations, but rather focus on the circumstances themselves. We are not intimately familiar w/ any of these organizations or people; we are not politically active, aware or connected people. However, these are just the basic facts: letter of support was provided stating support for*

DR at project address; letter was included in DR package provided to Commissioners as it was a public comment, so it is assumed to be read per protocol; support letter was sent from employer's email address, NOT a personal email address; letter was signed including employer's signature and contact information, giving the appearance to external parties, like us (or anyone who didn't know), that they were a representative of that organization. We appreciate the attestation years later that this is 'not a conflict.' With respect, the point is the letter & connection was not discussed/disclosed at or prior to our hearing to eliminate the appearance of a conflict to those, like us, who don't know the organization or its potential influence. We found out about the connection post-hearing; a concerning connection given hearing modifications were made that were tenant-focused, which was the basis of the support letter.

Item 3: Permitted 2024 plan set inconsistent with plans apv'd Planning Commission

Statement is misleading and impractical. Plans were reviewed by the Planning Department post-DR hearing, prior to being released for review by DBI/Fire. Post-DR Hearing updates were made to address: 1) Planning Commission modifications (even if flawed), 2) Planning Department Feedback, 3) Fire Department Feedback, 4) DBI and other City review comments. It is a permit going through review by different City departments, adjustment and changes to address feedback are bound to occur. The architect and team began to address addendum comments as well, though have not been able to continue because of this appeal. Again, this statement made by the Appellants architect is irrelevant. To assume that a set of plans will remain static, despite comments and updates from Planning Commission/Planning/DBI/Fire in the regular course of the permitting process does not make sense. We will continue to follow the direction of the City of San Francisco in whatever way required.

Comments Made Regarding Square Footage. Appellants, attempting to suggest something nefarious is going on, suggest the GSF may not be "accurate." This is not true. This is a very simple building. The building did not grow within a smaller footprint. The reason for the variance is the initial plans did not include the GSF of the external stairs in the overall GSF, whereas Issued Permit plans do. This change

influences the calculation of the proposed column as well. In addition, changes in the proposed column are further influenced by changes related to pre-DR compromises made for the benefit of these neighbors (reduction in set back, etc.), DR modifications, and further changes required by DBI/Fire. Again, there is nothing nefarious about this.

Item 4: Substantial life safety and open space code compliance deficiencies.

This is not a fact, it is the subjective opinion of someone being paid to make subjectively opposing statements. Their architect's language misleads the significance of his comments. There are no "substantial" deficiencies. Please see Appendix 10 for our architect's response to each point, if necessary.

Item 5: Inconsistencies with the ADU Plans currently under review by Planning v Project Plans

Not relevant. The State ADU is a legally separate permit that is on hold until we can make critically necessary updates under this permit. As such, we have not updated those plans - as evident on the date of the planning documents. We will address any feedback, comments, and requirements from the City, and seek approval for said plans when and if we are able to continue our State ADU project, which, again, is under a separate permit and not relevant.

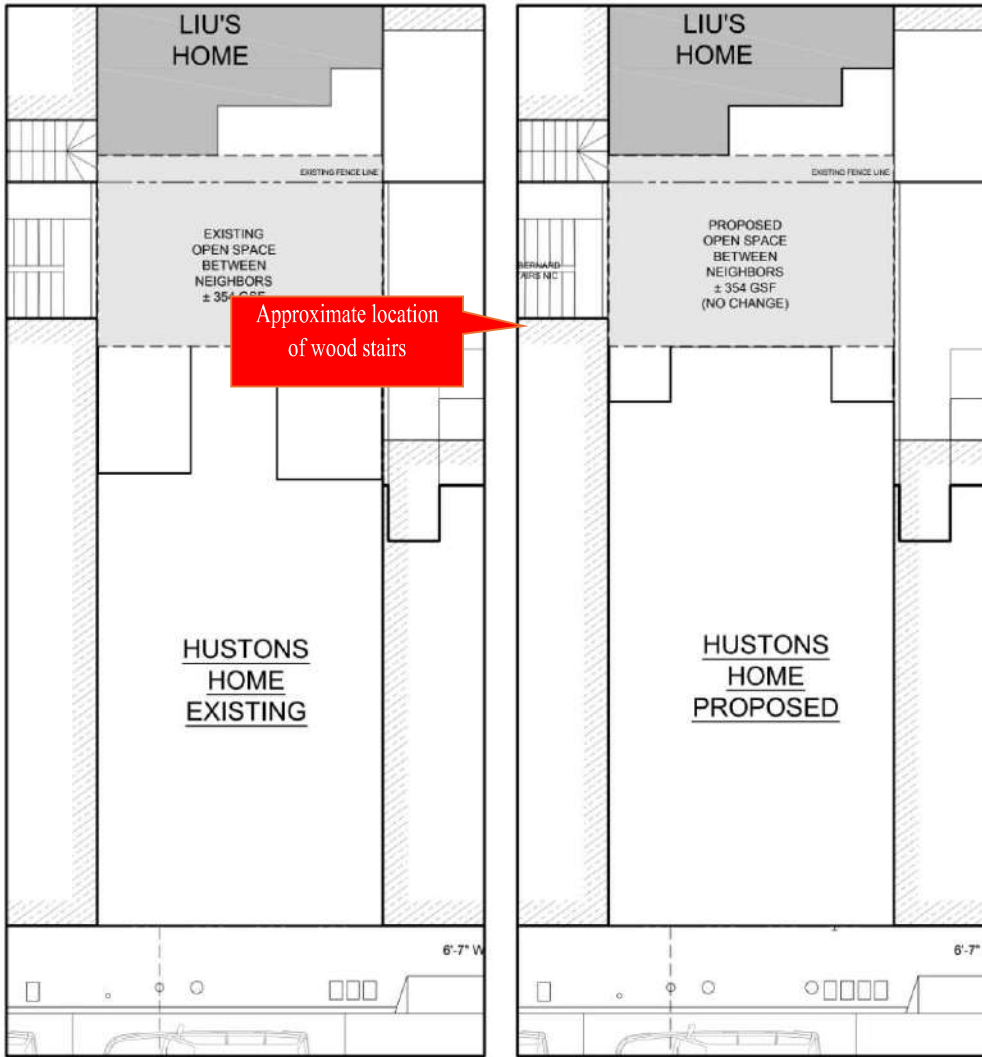
In summary, we apologize in advance for the countless hours spent by the City and this commission, to consider this small project. We are certainly ready ourselves for this to be over. We appreciate the consideration of the BOA, and are willing to answer any questions you may have. Thank you.

Respectfully,

Lindsey Huston & Tina Huston

Appendices

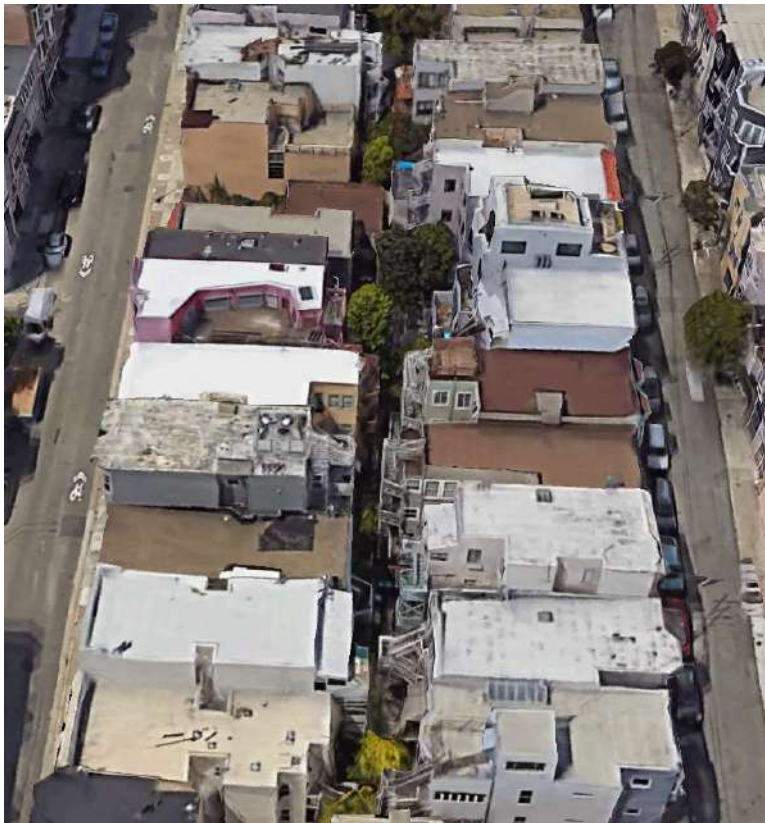
Appendix 1: Neighboring & Midblock Property Pictures



Example of Impact to Midblock space

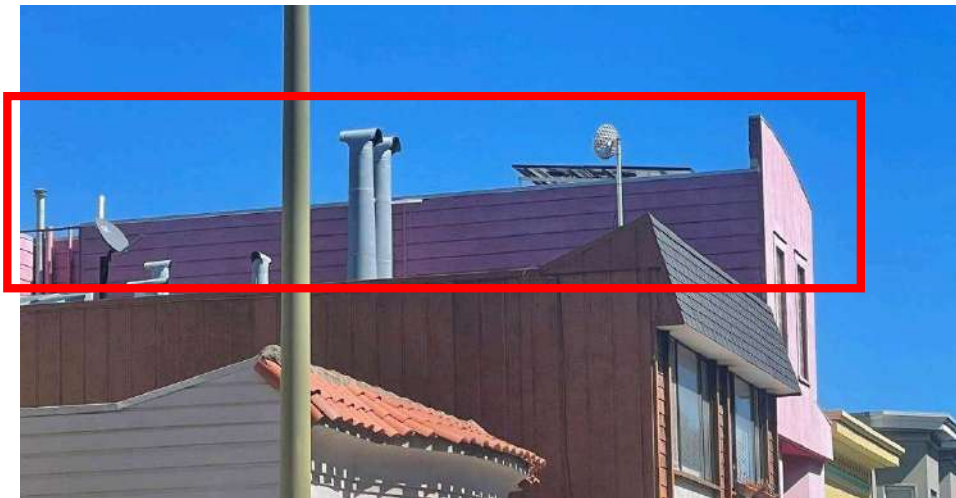


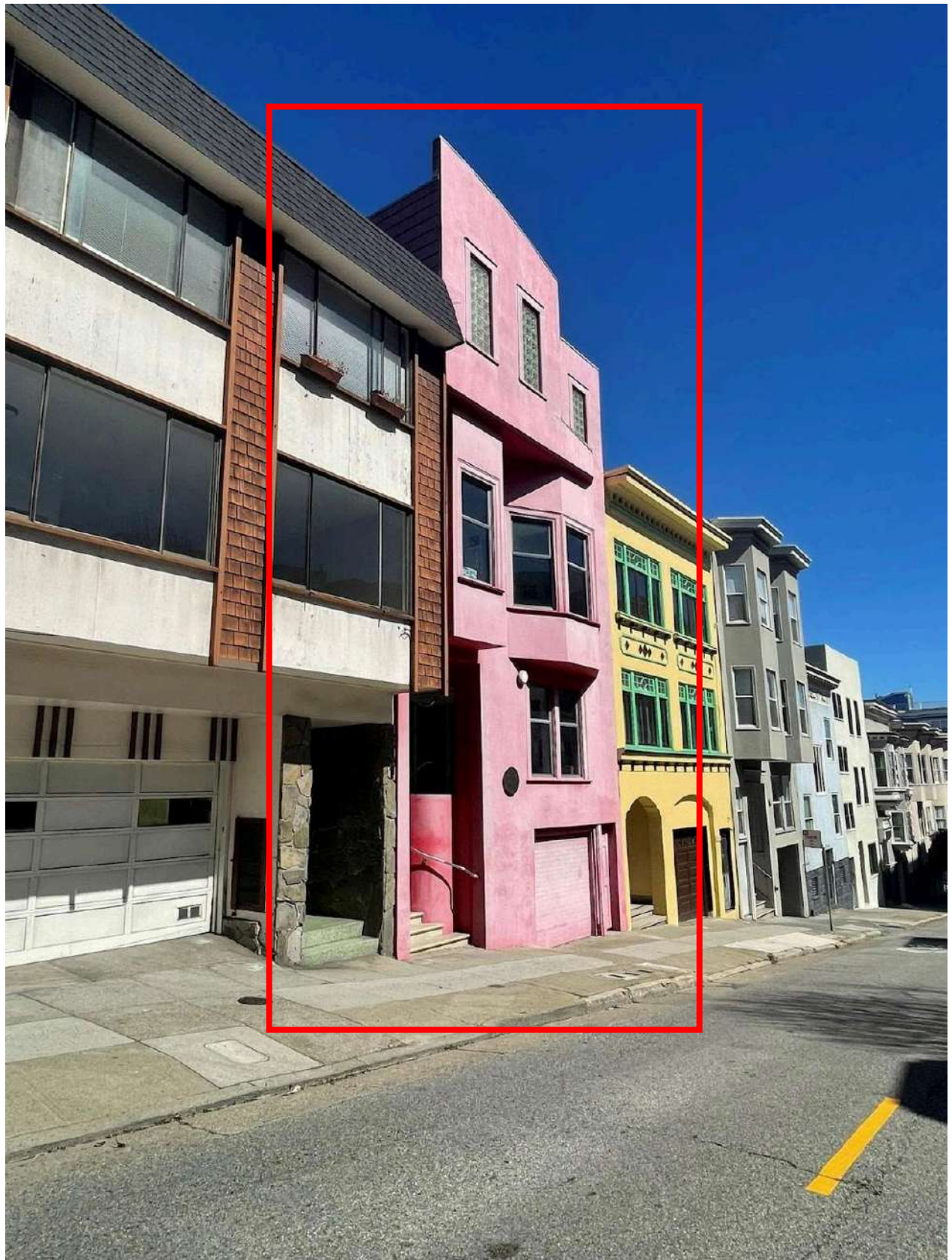
Midblock space



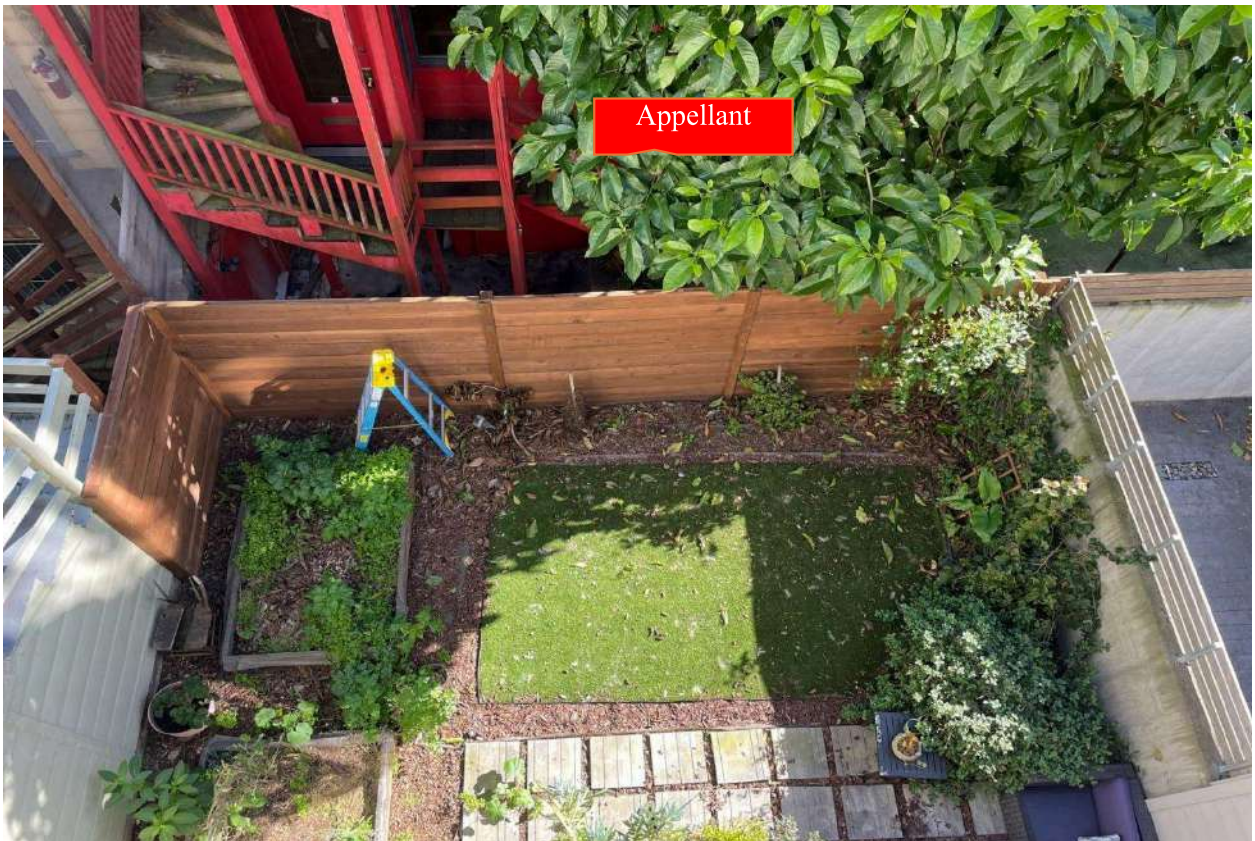


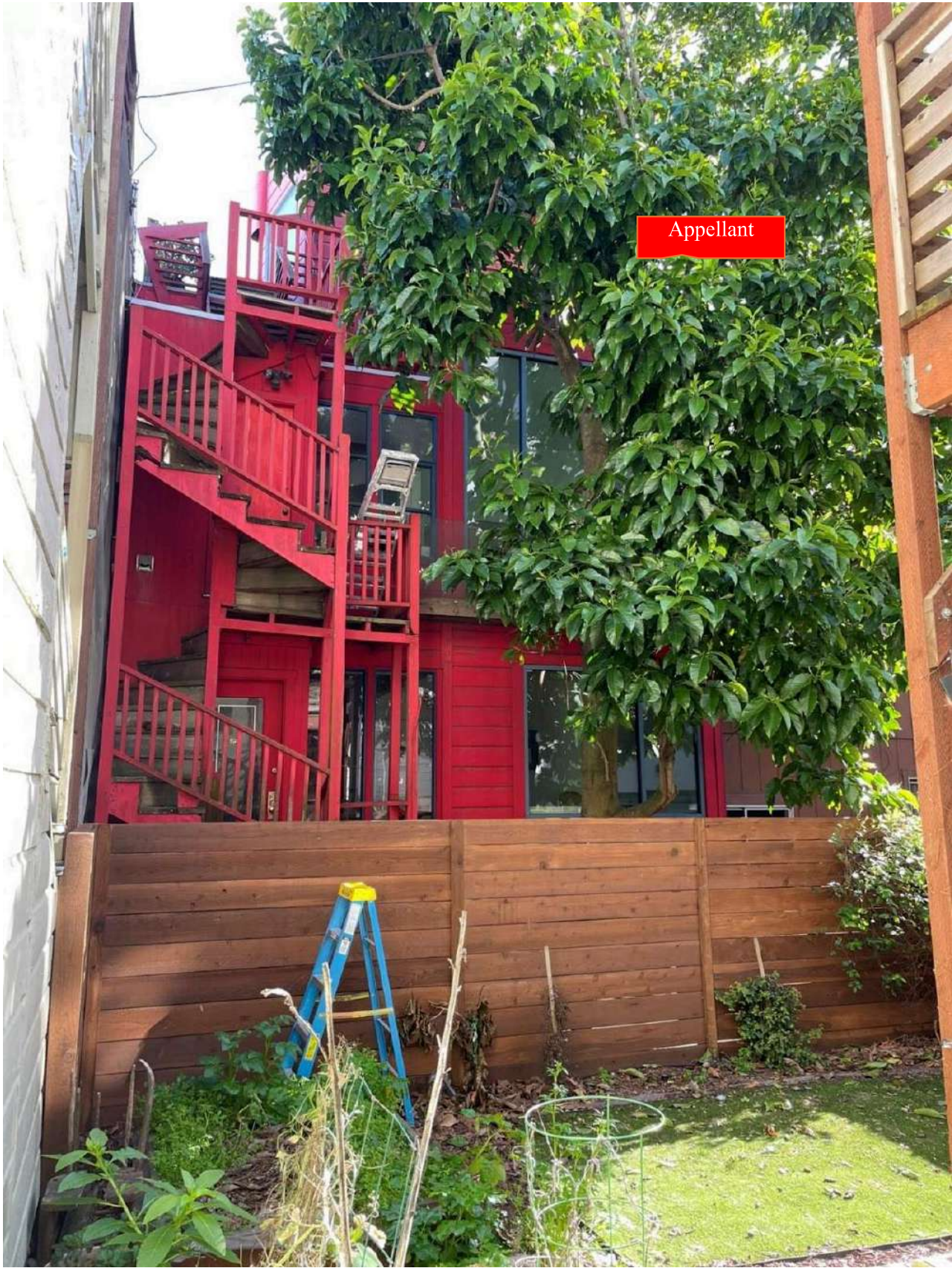
Front





Rear Yard of Appellant Property





Appellant



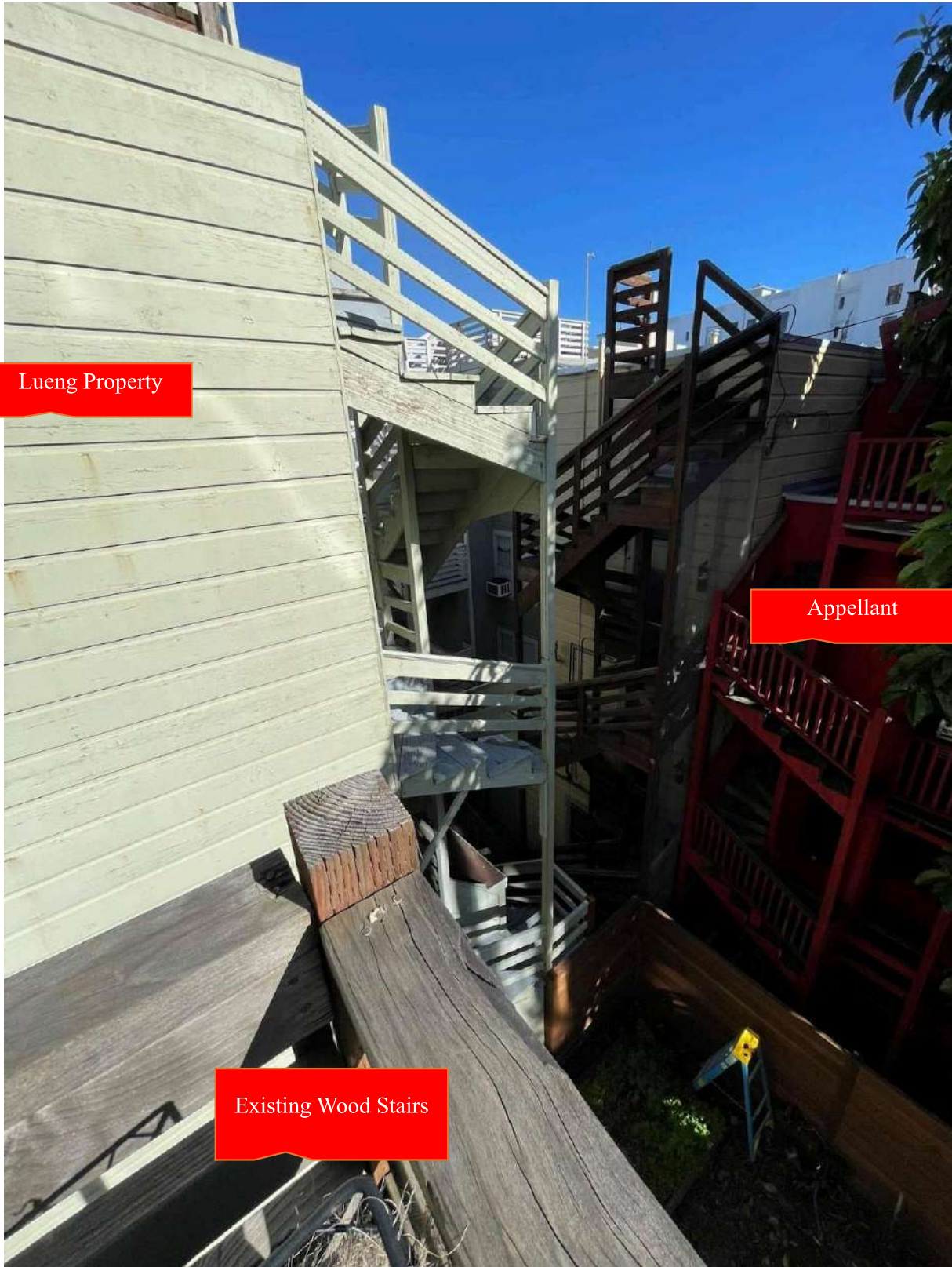
Appellant's Stairs, if built to code, would be in our yard.



Commercial Space likely joined to residential.



Appellant installed floor to ceiling windows but does not want us to do the same.

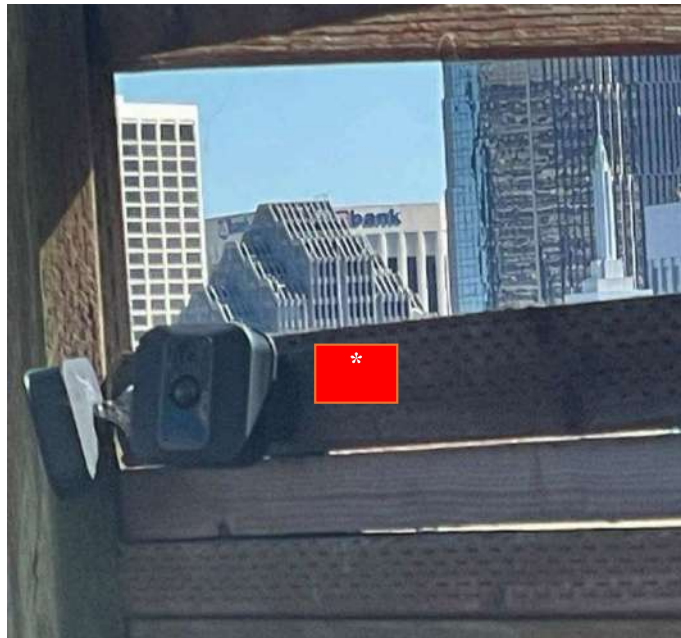




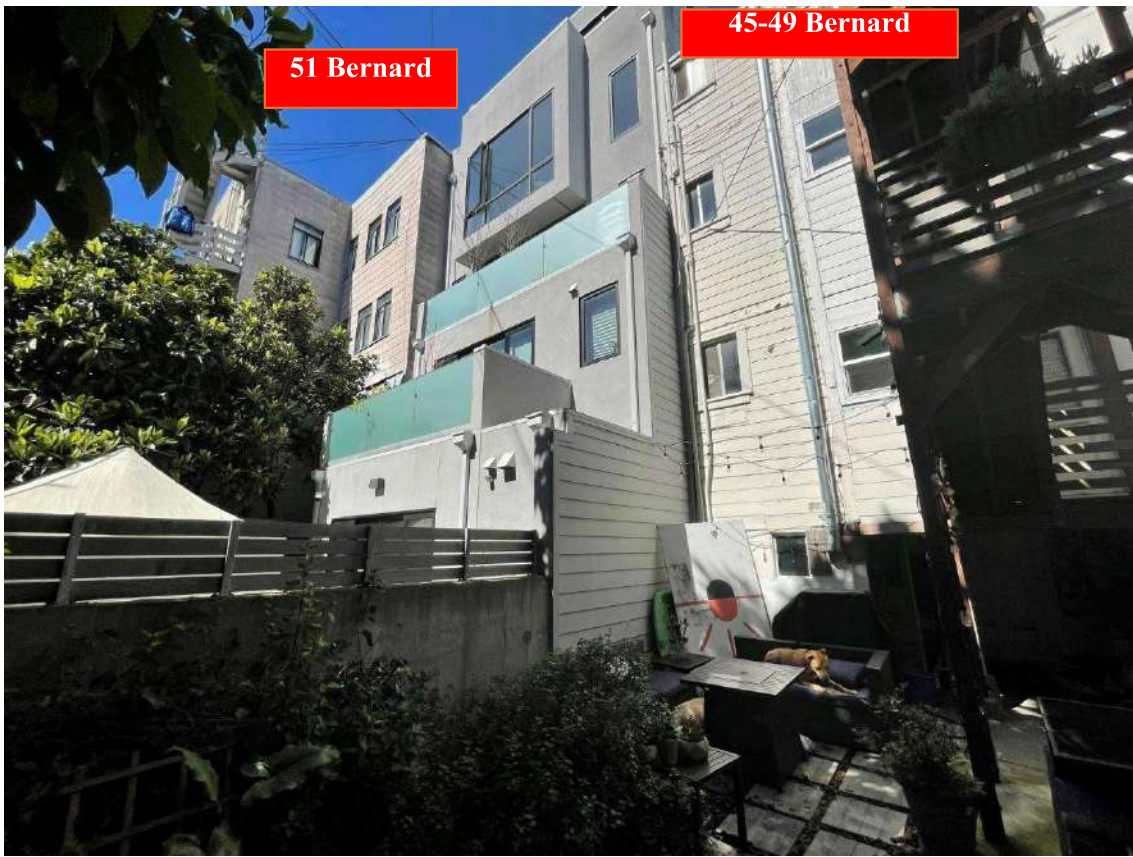
** Deck installed to edge of roof overlooking our property*



** Looking thru our 3rd floor back window can see camera pointed at window / side of building*



** Cameras Installed only after we moved in compromising our privacy*



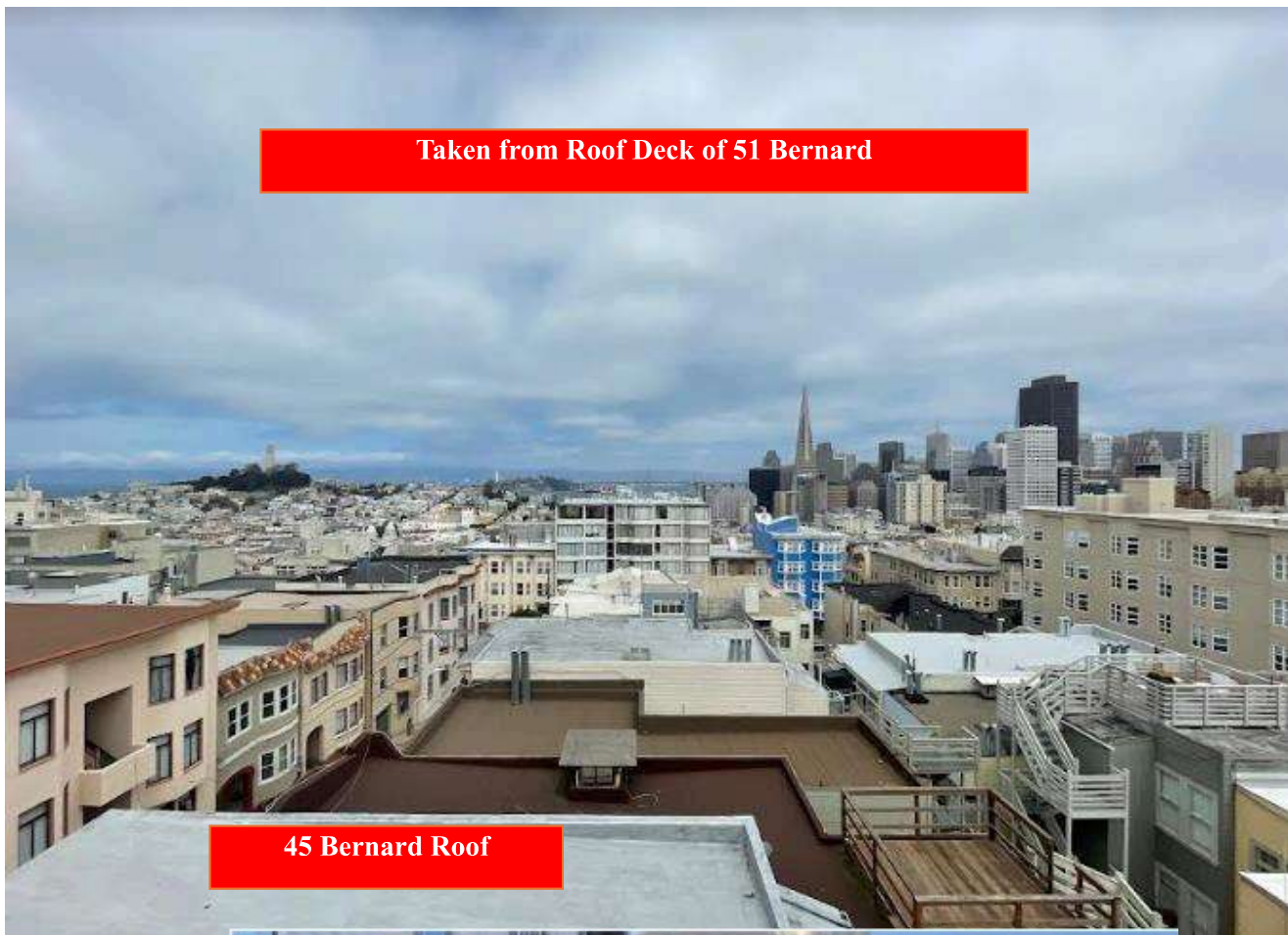
45-49 Bernard Rear of Building



Shows impact of Appellant's
4 story structure and tree on
45-49 Bernard yard



Taken from Roof Deck of 51 Bernard



45 Bernard Roof



Taken from Appellant Property

Appendix 2: Original 1906 Building Permit

OFFICIAL COPY

SAN FRANCISCO
 Bd. of Pub. Works.
 DEPARTMENT OF
 BUILDING INSPECTION

Applicant must indicate in ink correctly and distinctly on the back of this sheet, a diagram of the lot with street, alleys, location of existing buildings on the lot, if any, and location and dimensions of proposed buildings. Plans and Specifications must be fastened together.

APPLICATION FOR BUILDING PERMIT.

FRAME BUILDING

Application is hereby made to the Board of Public Works of the City and County of San Francisco for permission to build Flats on the lot situated 45 ft west of Taylor 175 on Benard St in accordance with the plans and specifications submitted herewith.

All provisions of the building laws shall be complied with in the erection of said building, whether specified herein or not. Estimated cost of building \$ 48,000. Building to be occupied as dwelling by (No.) 3 families.

Size of Lot. 23'-6" feet front. 23'-8" feet rear. 47 feet deep.

Size of proposed building. 23'-4" ft. by 47 ft. Extreme height of building 3.

Height in clear of cellar. Height in clear of first story 8'-9".

Height in clear of second story 9'-3". Height in clear of third story 8'-9".

Height in clear of fourth story. Height in clear of fifth story.

Foundation to be of (material) Concrete (thickness) 8 inches.

Size footings 16 inches. Greatest height 2'.

Size of studs in basement. by inches inches on centers.

Size of studs in first story 2 by 4 inches 16 inches on centers.

Size of studs in second story 2 by 4 inches 16 inches on centers.

Size of studs in third story 2 by 4 inches 16 inches on centers.

Size of studs in fourth story. by inches inches on centers.

Size of studs in fifth story. by inches inches on centers.

Wall covering to be of Rustic.

First floor joists 2 by 10 inches 16 inches on centers. Longest span between supports 12 ft.

Second floor joists 2 by 10 inches 16 inches on centers. Longest span between supports 12 ft.

Third floor joists 2 by 10 inches 16 inches on centers. Longest span between supports 12 ft.

Fourth floor joists. by inches inches on centers. Longest span between supports. ft.

Fifth floor joists. by inches inches on centers. Longest span between supports. ft.

Rafters 2 by 4 inches 24 inches on centers. Longest span between supports. ft.

Roof covered with tin. Steep or Flat? flat.

Studs in bearing partitions 2 by 4 inches 16 inches on centers. } Bearing partitions must be same as outside ones.

Chimneys of brick lined with True Cotton plastered yes.

Any gas grates? yes. Any patent Sues? no. Is the building to be heated, and how? no.

Any opening to basement in sidewalk? no. Any elevator (freight-passage or dumb)? no.

There are to be 2 stairways 3'-6" ft. wide, located front & back.

I hereby agree to save, indemnify and keep harmless the City and County of San Francisco against all liabilities, judgments, costs and expenses which may in anywise accrue against said city and county in consequence of the granting of this permit, or from the use or occupancy of any sidewalk, street or sub-sidewalk place by virtue thereof, and will in all things strictly comply with the conditions of this Permit.

Name of Architect. H. Ratcliff

Address. 2424 Fulton St. San Francisco

Name of Builder. George V. Smith

Address. 228 30th St. Oakland

By H. Ratcliff Owner

(NOTE—The owner's name must be signed by himself or by his Architect or authorized Agent)

Note: 47' Depth

3 unit ceiling heights

No. 4936

APPLICATION
— OF —
C. Kurie Owner

For Permit to Erect
S. B. West of Taylor
45-47-49 Beards
Location West 30th

Filed OCT 17 1906

Area + Steps to
be clear of the
sidewalk
Agreed
H. Smith

Approved OCT 22 1906
J. S. Morgan
Oct 18/06 Architect.

SAN FRANCISCO
DEPARTMENT OF
BUILDING INSPECTION

OFFICIAL COPY

WEST STREET
NORTH STREET
EAST STREET
SOUTH STREET
Taylor

1906 Approval

Appendix 4: Documents Evidencing Appellant's Vertical And Horizontal Extensions

1144-1146 Pacific Plan List Only			Block: 157		Lot: 013
APPLKEY	DocID	Roll	Approval I	Scope	Job No
7811178	608471		12/8/1978	Not Clear - 4th Floor did not exist	Unknown
7905006	610101		6/27/1979	Health Center in Basement	Unknown
8917428	741345		10/5/1989	Not Clear	Unknown
9202474S	515579		6/23/1992	Remodel, includes Roof Deck Proposed	090491
9220604	486833		6/1/1993	Remodel / Front Windows Changes	090491
9312411R1	489529		9/24/1993	Remodel / Fire Spr	090491
9317171	490212		10/14/1993	Remodel	090491
9321650	492748		1/21/1994	Roof Deck	090491
9613294R1	435802		7/30/1997	Roof Deck	070196
200712311588	38050		8/27/2008	2008 Remodel (Rev Permit -Ground Floor Foundation, Addn -First Floor - Reconfig -Second Floor - Reconfig -Third Floor - Reconfig	
200904025368	143860		4/2/2009	Window Enlargements	
200909026077	154580		9/30/2009	Electrical / Alarm	
				Where is Permit for Solar?	

City and County of San Francisco

Department of Public Works
Bureau of Building Inspection



NOTIFICATIONS OF STRUCTURAL ADDITION

MAILED: 10/14/93

PAGE: 1

APPLICATION NUMBER: 9312173
BUILDING LOCATED AT: 1146 -
PERMIT HOLDER: LIU & HANMIN

PERMIT NUMBER: 731984
PACIFIC AV

PERMIT ISSUED: 10/14/93
BLOCK/LOT: 0157 /073
ADDRESS: 1146 PACIFIC AV
SAN FRANCISCO CA 94133

USE CODE:
ESC1 HORIZONTAL ADDITION,

ADDRESSEE

MAILING ADDRESS

ADJACENT PARCEL LOCATION

COLTON ROBERT F & DIANE E

2175 14TH AV
SAN FRANCISCO CA

94118

1156 - 1158 PACIFIC AV
BLOCK/LOT: 0157 /074

LEE JACK KWAN

1485 18TH AV
SAN FRANCISCO CA

94122

33 BERNARD ST
BLOCK/LOT: 0157 /029

CHAK WAI O

147 BERNARD ST
SAN FRANCISCO CA

94109

43 - 49 BERNARD ST
BLOCK/LOT: 0157 /030

SAM SHUI YAU LEE

1142 PACIFIC AV
SAN FRANCISCO CA

94133

1140 - 1142 PACIFIC AV
BLOCK/LOT: 0157 /063

TANG KENNETH S PUI HING

1826 20TH AV
SAN FRANCISCO CA

94122

39 - 41 BERNARD ST
BLOCK/LOT: 0157 /064

Appendix 5: Table from DR Describing All Attempts to Connect with Appellant

Date	Communication
05/31/2021	petitioner emails sponsor and writes she (Jennifer) is in touch with the SF Planning department regarding concerns with the plans.
06/01/2021	Sponsor responds offering to meet and discuss concerns. Petitioner does not respond.
06/06/2021	Sponsor emails petitioner again, offering to meet to discuss concerns and indicates she will be in the rear yard at 45 Bernard each day that week at 10 AM in hopes to discuss. Petitioner does not respond.
06/07/2021	Sponsor waits in the rear yard at 45 Bernard at 10 AM for 30 minutes. Petitioner does not come.
06/08/2021	Sponsor waits in the rear yard at 45 Bernard at 10 AM for 30 minutes. Petitioner does not come.
06/09/2021	Sponsor waits in the rear yard at 45 Bernard at 10 AM for 30 minutes. Petitioner does not come.
06/10/2021	Sponsor waits in the rear yard at 45 Bernard at 10 AM for 30 minutes. Petitioner does not come.
06/16/2021	Sponsor responds with other dates and times to meet. Petitioner does not respond.
08/19/2021	Meeting with Planner to review initial plan check comments.
10/12/2021	Sponsor resubmits second iterations of plans that include a reduction in depth and a change of stairs to address concerns relayed to planner by petitioner
11/30/2021	Petitioner sends initial UCNA memo to SF Planning, citing concerns regarding greenhouse gasses, parking, and other concerns
11/17/2021	Sponsor meets with SF Planning on second iteration of plans. SF Planning confirms plans aligned with RPG
11/17/2021	Given ongoing emails from petitioners, SF Planning directs sponsors to hold a formal pre-planning meeting before beginning the 311 processes.
11/30/2021	Distributed pre-planning notices to neighbors within 150 feet, with an in-person meeting location (at local coffee shop)
12/10/2021	Petitioners complain to SF Planning that the sponsor has not provided plans in pre-planning notice and complain there is no call-in code.
12/10/2021	Petitioner inquires with SF Planning about how to file a discretionary review
12/10/2021	Sponsor provides call-in code directly to petitioner, and indicates to petitioners she is open to meeting outside 12/14 should those dates and times not work
12/14/2021	Held a pre-planning meeting. Petitioner do not attend, nor respond to Sponsor's offer to meet.
12/14/2021	Planner Guy indicates sponsor should hold a second pre-planning meeting given concerns from petitioner about first notice
12/17/2021	Sponsor sends out a second set of notices, and includes plan and call in code for a second pre-planning meeting. Also offers to make herself available outside of the formal date and time.
12/31/2021	Second pre-planning meeting held. Petitioner do not attend, and do not respond to sponsors.
01/07/2022	Petitioner sends second UCNA memo to SF Planning, SF Planning Commission, and SF politicians
01/12/2022	Sponsor offers to meet and discuss concerns with the petitioners. Petitioner does not respond.
01/24/2022	311 Period Begins
02/22/2022	DR Request submitted by Petitioners
02/23/2022	311 Period Ends
03/03/2022	Sponsor reaches out again to petitioners to meet and discuss plans. Petitioner do not respond.

Date	Communication
3/28/2022	First / only communication from petitioners to directly speak regarding the project. They asked for copies of checks from the relocation payment, which have nothing to do with the Project plans
4/6/2022	Sponsor email follow-up regarding scheduling meetings with petitioners/Planning. Petitioner/Planning do not respond.
4/9/2022	Sponsor email follow-up with potential times to meet.
4/12/2022	Petitioner responded to email stating they were unclear if meeting as neighbors. Petitioner responds to 4/9 (2-) email.
4/12/2022	Sponsor responds that they are “ willing to meet as neighbors ” and provided 2 dates during week. Planning is optional. Petitioner/Planning do not respond.
4/17/2022	Instead of Meeting: Petitioner is observed handing out and soliciting signatures from people walking in the neighborhood (see below). Letter is inflammatory, refers to the neighborhood being eroded by our presence and stating that Sponsors evicted 11 elderly and disabled people. The letter contained facts or misstatements. See Appendix D.
4/17/2022	Sponsor obtains a copy of the letter. Sponsor notifies Planning, but given nature of the letter, requests planning involvement. Planning does not respond.
4/20/2022	UNCA responds to Sponsor’s 4/17/2022 email stating that they Sponsors were “willing to meet as neighbors” and hence did not respond.
4/22/2022	<p>Received confirmation from Kevin Guy that the plans were reviewed by the SF Zoning Administrator and that setbacks are code-compliant.</p> <p>“We determined that your rear yard calculation as currently shown on your plans is correct, and the dimension does not need to be increased. To get into the weeds a little bit on the seeming discrepancy... the Code allows the rear yard to be averaged with adjacent properties, but specifically states that “permitted obstructions” (such as the rear-most stairs at the 39-41 Bernard property) cannot be used for the benefit of averaging. In looking at the plans for 51 Bernard Street, it appeared that the both the first and second floor decks fell into the category of a permitted obstruction.. a feature that is allowed to extend into the required rear yard. However, upon closer inspection and consultation with the ZA, we determined that the second floor deck is located inside of the required rear yard, and can therefore be utilized as the wall plane for averaging your required rear yard.”</p> <p>.... “bottom line again is that your current rear yard calculation is correct and Code-complying.”</p> <p>3/28/24 NOTE: This determination changed later – causing a 2’ change in the building.</p>

Appendix 6: CEQA Excerpts Regarding Validity of “Cultural” Argument Previously Used

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

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

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

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

Appendix 7: UDU Attestation



San Francisco
Planning

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

UNAUTHORIZED UNIT SCREENING REQUEST FORM AND AFFIDAVIT

An Unauthorized Unit, or UDU, is defined in Planning Code Section 317(b)(13) as one or more rooms within a building that have been used, without the benefit of a permit, as a separate and distinct living or sleeping space independent from other Residential Units on the property.

For questions, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 628.652.7550. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder.

中文: 如果您希望獲得使用中文填寫這份申請表的幫助, 請致電628.652.7550。請注意, 規劃部門需要至少一個工作日來回應。

Filipino: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 628.652.7550. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.

CRITERIA FOR AN UNAUTHORIZED UNIT (UDU)

A UDU must meet two criteria:

1. An UDU must be independent from other Residential Units on the property, which means that the space has independent access, and there is no open, visual connection to a Residential Unit on the property.
2. Use as Independent dwelling Space. A UDU must have been used as a separate and distinct living or sleeping space.

Please note that the definition of a UDU does not rely on the existence of any cooking facilities, so a space may still be considered a UDU even if it doesn't have a kitchen; however a full bathroom is required to be considered a UDU.

Planning Staff may request a UDU screening for permits for interior work to determine if a project removes certain features that allow the space to operate as a separate unit. Scopes of work that may require UDU screening include but are not limited to:

- Removal of direct or indirect access doors
- Removal of a full bathroom
- Removal of a kitchen
- Removal of a wet bar
- Addition of a staircase to create an interior connection between floors

SUBMITTAL INSTRUCTIONS

Please complete the form below and submit it to CPC.UDU@sfgov.org with the following materials:

1. A completed Unauthorized Unit Affidavit (attached);
2. A digital set of existing and proposed plans (.pdf or .jpeg); and
3. Photographs of the space that may be a UDU.

Planning Staff will contact you with a determination if the space in question is considered a UDU.

Please note that if the Planning Department determines that a UDU is present at the site, the property owner will be required to legalize the unit, which can usually be completed administratively, or seek a Conditional Use Authorization from the Planning Commission to remove the unit. If a UDU is not present at the site, Planning Staff will review the plans for any unpermitted work on the premises. Staff may provide comments to bring the work into compliance with the Planning Code, which may include removal of the unpermitted work. If Planning Code violations persist, Staff may refer the property to the Code Enforcement Division.

Supporting Documentation. Plans under #202008222415

Attestation: UDU Requirement Assessment

Requirement	Source	Pass	Comment
<p>Criteria 1: An UDU must be independent from other Residential Units on the property, which means that the space has independent access, and there is no open, visual connection to a Residential Unit on the property.</p>	<p>“Unauthorized Dwelling Unit” (UDU) provisions of the Planning Code [Planning Code Section 317(b)(13)]</p>	<p>Partial</p>	<p>Though there is a separate entrance from 45-47-49 Bernard, the residents of those units must access the shared space for Trash and Access to Electric Panels and Gas Meters.</p>
<p>Criteria 2: Use as independent dwelling Space. A UDU must have been used as a separate and distinct living or sleeping space.</p>	<p>Same as Above</p>	<p>No</p>	<p>Not to our knowledge and could not find any records thereof</p>
<p>Planning Staff may request a UDU screening for permits for interior work to determine if a project removes certain features that allow the space to operate as a separate unit. Scopes of work that may require UDU screening include but are not limited to:</p> <ul style="list-style-type: none"> • Removal of direct or indirect access doors • Removal of a full bathroom • Removal of a kitchen • Removal of a wet bar • Addition of a staircase to create an interior connection between floors 	<p>UDU form</p>		<p><u>Cannot remove indirect access as it services the rest of the building.</u></p> <p>Bathroom not functional. No Kitchen. No wet bar. No connection between units.</p>

ADU Attestation: Rent Board Records

The Only Rent Board records for this property are those listed below. With the exception of the April 2018 Estoppels, are ALL records that the Huston family. This indicates there were no PRIOR rental records for 45-49 Bernard, including the Basement.

Estoppels Documents

- M190824 - 45 Bernard 4/18/2019
- M190829 - 47 Bernard 4/18/2019
- M190830 - 49 Bernard 4/18/2019

Buyout Agreements

- B192009 8/13/2019 45 Bernard – Buy Out Disclosure
- B192010 8/13/2019 47 Bernard – Buy Out Disclosure
- B192011 8/13/2029 49 Bernard– Buy Out Disclosure

Landlord Partitions

- L201111 11/9/2020 45-49 Bernard
- L201112 11/9/2020 45-49 Bernard
- L201113 11/9/2020 45-49 Bernard

OMI Notice

- M201229 8/19/2020 – 47 Bernard
- M200042 1/6/2020 – 47 Bernard
- M201289 8/31/2020 – 49 Bernard
- M201400 10/1/2020 – 49 Bernard
- M200043 1/6/2020 – 49 Bernard

Attestation: Habitability Requirements / Condition

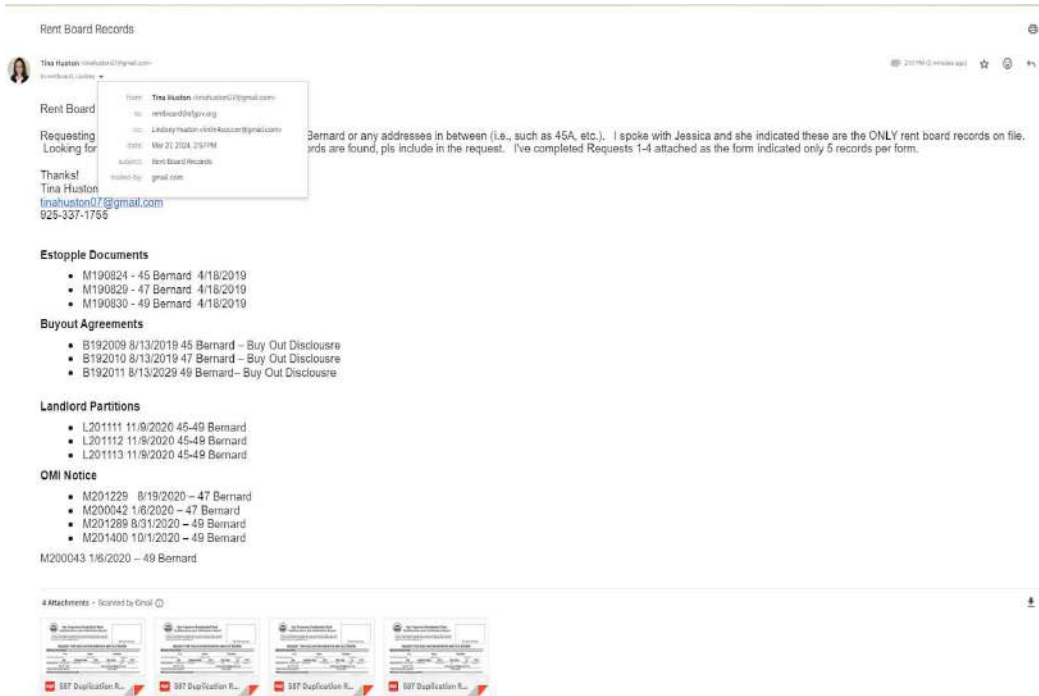
Requirement	Source	Pass?	Comment
Adequate and safe heat	Law/Tenants Union Website	No	No heat or AC. Poor Ventilation in General.
Effective waterproofing, including doors, windows, and roofs	Law/Tenants Union Website	No	Basement floods in winter; doors not properly fitting due to settlement, windows leak; no water sealing on walls, ceiling
Housing, in areas under control of the landlord, free of garbage, cockroaches, rats, and vermin.	Law/Tenants Union Website	No	Only place to store trash bins

Requirement	Source	Pass?	Comment
Plumbing and gas facilities in good order.	Law/Tenants Union Website	No	Inoperable
Hot and cold running water.	Law/Tenants Union Website	No	Inoperable – only by hose from back yard – cold water only. No piping for hot water or hot water heater.
Electrical equipment in good order	Law/Tenants Union Website	No	Electric not working in some rooms
Stairs and common areas maintained in good order.	Law/Tenants Union Website	Partial	Narrow but serviceable
Additionally, San Francisco Police Code Article 52 requires landlords allow tenants in buildings with at least four units the freedom to choose the communication service provider (internet, cable, satellite, etc.) of their choice.	Law/Tenants Union Website	No	No networking in basement at all
Ceiling Height	Building Code	No	Ranges to as low as 6’-2” Ceiling is not level.
Air and Ventilation	Building Code and Emergency Escape	No	Almost no light and no ventilation. Only 3 windows. 1 – 10”x30” opening, window is smaller near ceiling in one room 1 – in Bathroom – near ceiling (short wide) 1 – Storage Room 4 – approx. 2’x30”
Separate Individual Entry	UDU Requirement	Partial	Yes, it has a separate entry from 45,47,49 Bernard. However – the Basement must be accessed by residents of 45,47,49 Bernard as it services trash

Requirement	Source	Pass?	Comment
			and utilities and serves as egress path.
Gas Meters	Building Code	No	No Gas available for Basement Unit. Gas Meters for other 3 units are hanging from the Ceiling in Storage Room #1.
Electrical Panel	Building Code	No	Electrical Panels for Building are in Storage Room #2. There is no separate Electric Meter for the Basement. Basement Electricity appears to be on the Circuit for the First Floor (45 Bernard).
Separate Address	Planning Code	No	

Rent Board Records

Rent Board records requested. Jessica at rent board indicated the below are ALL the records on file for the building. All of these are 2019 or later and associated with most recent sale and occupancy. Property was purchased in Oct 2019.



Construction Cost

Construction (remodeling) costs range between \$450-\$600 per sq foot in metropolitan areas of California.

Conservatively taking $\$500 \times 989 \text{ sf} = \$494,500$. This is not unreasonable given the foundation work that has to be done to excavate down to garner a code-compliant ceiling height. It is expected that the exterior, foundation, hall way, utilities and all of that work would be done under the main permit. But it is not unreasonable to estimate \$100 per SF for remodeling the interior walls, appliances, plumbing/electrical.

References:

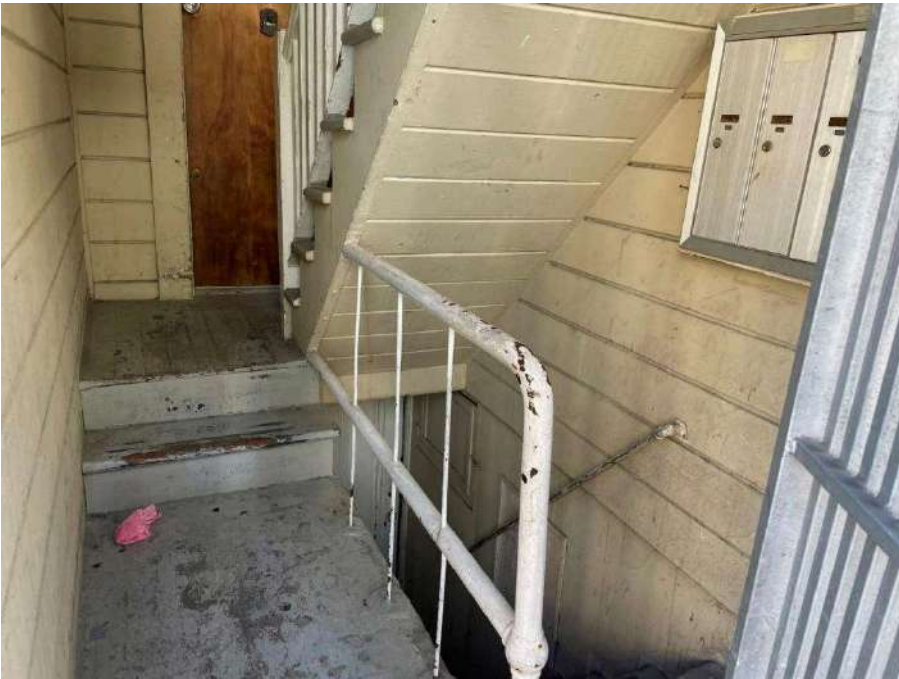
<https://www.home-cost.com/building-a-house-in-california/>.

<https://www.homequalityremodeling.com/resources/per-square-foot-cost-to-remodel-a-house-in-the-bay-area#:~:text=With%20the%20%24450%20per%20square,of%20all%20the%20finish%20materials.>

Photos – Exterior and Interior

Entrance





Entrance – No evidence of fourth address. Left door wider than right door. Right door goes to basement. Opens over right of way.

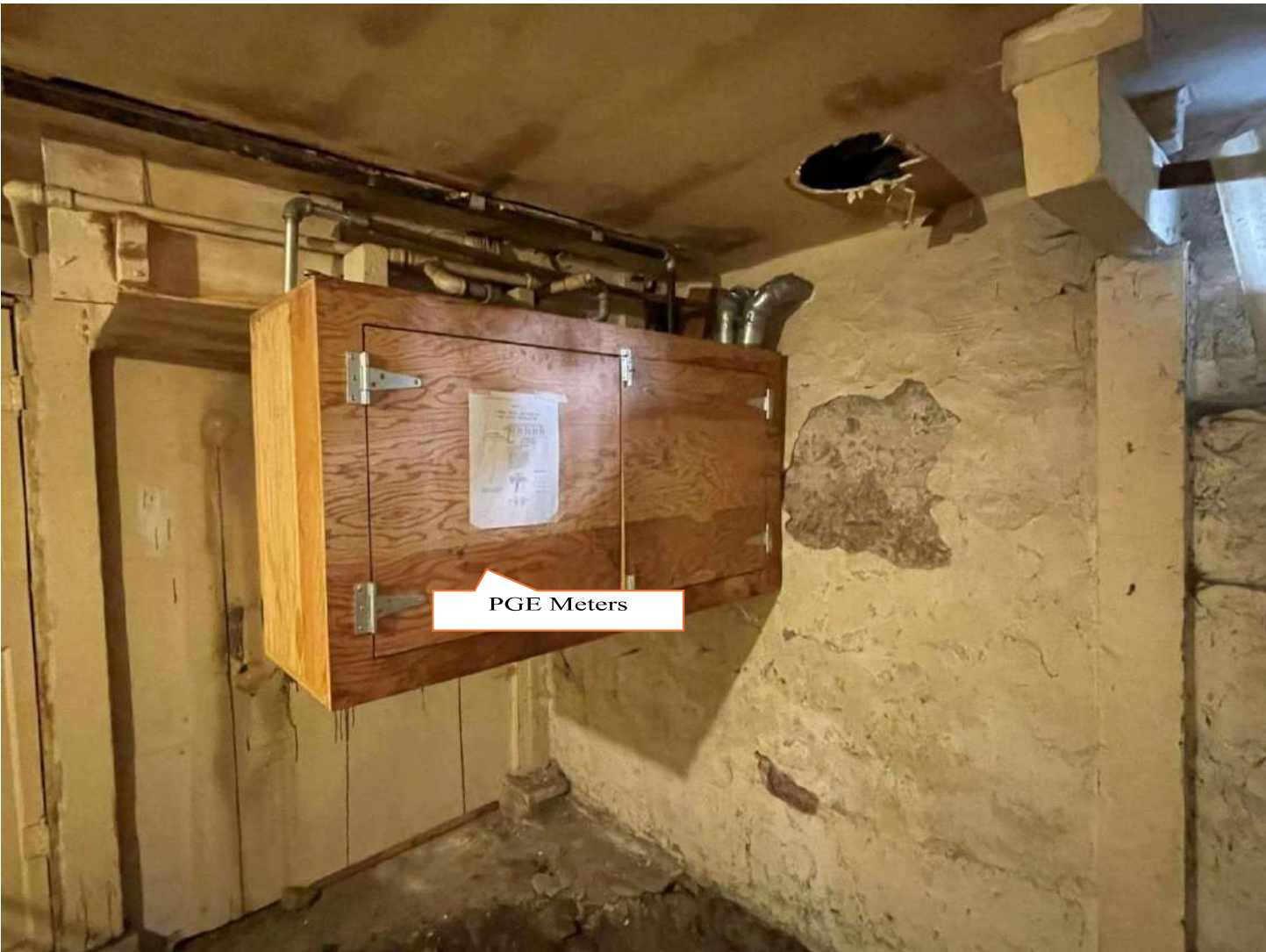


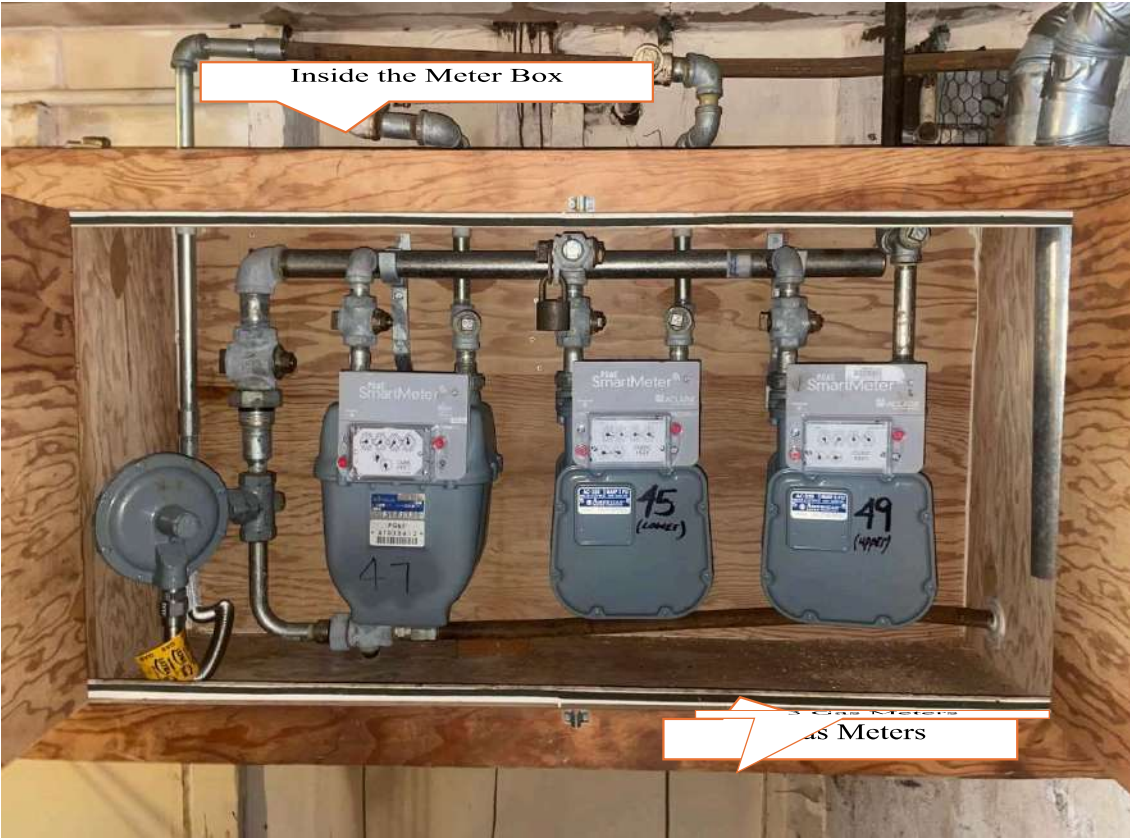
Interior Hallway



Water enters under the door – basement below grade of rear yard

Storage Room 1: PGE Utility Room





Storage Room 2: Trash Room (Now Windows) – 3 Electric Panels on Wall behind door



Storage Room 3: Electrical Does not Work (Low Ceiling Height, No Windows)



Storage room 4: Storage with Window to Rear Yard (No Egress from Yard to Street)



Dysfunctional Bathroom + Sink – Low Ceiling Height, No Hot Water, Cold Water Not Functional, Toilet/Plumbing inoperable.





Rear Door and Water Barrier. Entry is below grade.



Concrete slopes to building and watering grass or rain in the winter floods into basement.

3 Hot Water Heaters in Room Outside of Basement – servicing 45, 47, 49 Bernard

Census Records (1920-1950)

Census records show demographics and occupancy of this 45-49 Bernard through 1950. Note – records online from 1920 – 1950. 1960s+ was not available. Property was constructed in 1906. *NOTE: no addresses other than 45, 47, 49 Bernard.*

PLACES OF BIRTH	RELATION	TIME	RESIDENCE	EDUCATION	FATHER			MOTHER			OCCUPATION
					Place of Birth	Color	Sex	Place of Birth	Color	Sex	
1631	son in law	M 30 M	1900	High School	Italy	White	M	Italy	White	M	Merchant
1632	son	M 18 S	1902	High School	Italy	White	M	Italy	White	M	Merchant
1633	son	F 17 W	1903	High School	Italy	White	F	Italy	White	F	Merchant
1634	son	M 15 S	1905	High School	Italy	White	M	Italy	White	M	Merchant
1635	son	M 14 S	1906	High School	Italy	White	M	Italy	White	M	Merchant
1636	son	M 13 S	1907	High School	Italy	White	M	Italy	White	M	Merchant
1637	son	M 12 S	1908	High School	Italy	White	M	Italy	White	M	Merchant
1638	son	M 11 S	1909	High School	Italy	White	M	Italy	White	M	Merchant
1639	son	M 10 S	1910	High School	Italy	White	M	Italy	White	M	Merchant
1640	son	M 9 S	1911	High School	Italy	White	M	Italy	White	M	Merchant
1641	son	M 8 S	1912	High School	Italy	White	M	Italy	White	M	Merchant
1642	son	M 7 S	1913	High School	Italy	White	M	Italy	White	M	Merchant
1643	son	M 6 S	1914	High School	Italy	White	M	Italy	White	M	Merchant
1644	son	M 5 S	1915	High School	Italy	White	M	Italy	White	M	Merchant
1645	son	M 4 S	1916	High School	Italy	White	M	Italy	White	M	Merchant
1646	son	M 3 S	1917	High School	Italy	White	M	Italy	White	M	Merchant
1647	son	M 2 S	1918	High School	Italy	White	M	Italy	White	M	Merchant
1648	son	M 1 S	1919	High School	Italy	White	M	Italy	White	M	Merchant
1649	son	M 0 S	1920	High School	Italy	White	M	Italy	White	M	Merchant

45 Bernard - Italian (3)
 47 Bernard - Italian (4)
 49 Bernard - Italian (2 min)

Serial	Name	Sex	Age	Color	Marital Status	Place of Birth	Race	Ethnicity	Date of Arrival	Naturalized	Citizenship	Occupation	Industry	Employment	Value	Tenure	Mortgage	Other	Remarks	
																				Place of Birth
45	Bernard	Male	6	Italian	Not Found															
47	Bernard	Male	1 min	Salvador	Not Found															
49	Bernard	Male	Not Found																	

45 Bernard - Italian (6)
 47 Bernard - Salvador (1 min - Head)
 49 Bernard - Not Found

45 Bernard -

CONFIDENTIAL
U. S. DEPARTMENT OF COMMERCE
BUREAU OF ECONOMIC ANALYSIS
1950 CENSUS OF POPULATION AND HOUSING

April 19
James Chen
George S. Bueck

FOR HEAD OF HOUSEHOLD		FOR ALL PERSONS										FOR PERSONS 14 YEARS OF AGE AND OVER										
NAME	RELATIONSHIP	SEX	AGE	DATE OF BIRTH	PLACE OF BIRTH	US BORN	WHITE	Hispanic or Latino	What single language spoken at home?	What language spoken at work?	What language spoken at school?	What language spoken at church?	What language spoken at other places?	What language spoken at home last year?	What language spoken at work last year?	What language spoken at school last year?	What language spoken at church last year?	What language spoken at other places last year?	What kind of work was he doing last year?	What kind of business or industry was he working in?	CLASS OF WORKER	LIFE RACE
45	Pineda, Pete D.	Head	M	52	Nov 1894	Cal	W		Spanish										40 Dishwasher	Restaurant	P	318 421
	Mary Y. wife	Wife	F	48	Mar 1892	Cal	W		Spanish													
	Rudolph Y. son	Son	M	20	Mar 1930	Cal	W		Spanish													
	Richard Y. son	Son	M	18	Nov 1931	Cal	W		Spanish													
	Emma Y. daughter	Daughter	F	15	Nov 1934	Cal	W		Spanish													
	Rudolph Y. son	Son	M	14	Nov 1935	Cal	W		Spanish													
	Eva Y. daughter	Daughter	F	12	Nov 1937	Cal	W		Spanish													
	Blonia Y. daughter	Daughter	F	10	Nov 1939	Cal	W		Spanish													
	Colina Y. daughter	Daughter	F	8	Nov 1941	Cal	W		Spanish													
	Peter Y. son	Son	M	3	Nov 1946	Cal	W		Spanish													
41	no one at home	see		sheet 77	line 37																	
39	no one at home	see		sheet 75	line 20																	
37	321 no no	Zoo, Bao Chen	Head	M	63	Mar 1894	China		Chinese										60 Bookkeeper	Retail Dept goods store	P	318 421
	Wong Shee	wife	F	62	Mar 1895	China			Chinese													
	Poon, Henry M.	Head	M	35	Mar 1915	China			Chinese													
	Alice	wife	F	32	Mar 1918	China			Chinese													
	Kenneth	son	M	4	Mar 1946	China			Chinese													
	Louise	son	M	3	Mar 1947	China			Chinese													
33	324 no no	no one at home	see	sheet 85	line 14																	
29	325 no no	Cava, Josephine	Head	F	43	Mar 1907	Cal		French													
	Ronald F.	son	M	17	Mar 1933	Cal			French													
27	326 no no	Gale, Virginia	Head	F	68	Mar 1892	France		French										40 manager	Hotel	P	318 421
25	327 no no	Yee, Quock	Head	M	63	Mar 1894	China		Chinese													
	Mar Shee	wife	F	51	Mar 1903	China			Chinese													
	Eva	daughter	F	21	Mar 1929	China			Chinese													
	Mabel	daughter	F	17	Mar 1933	China			Chinese													
	Harry	son	M	15	Mar 1935	China			Chinese													
	Ellie	daughter	F	14	Mar 1936	China			Chinese													

THE QUESTIONS BELOW ARE FOR PERSONS LISTED ON SAMPLE LINES

Sample Line	Name	Age	Sex	Race	Ethnicity	What every and State was he doing in a year ago?		LIFE RACE	LIFE RACE	FOR PERSONS 14 YEARS OF AGE AND OVER																																																																																											
						What every and State was he doing in a year ago?	What every and State was he doing in a year ago?			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92
1	Margaret	46	F	W	US																																																																																																
2	Margaret	46	F	W	US																																																																																																
3	China	40	F	W	US																																																																																																
4	China	40	F	W	US																																																																																																
5	China	65	F	W	US																																																																																																

Appendix 8: Legal Disclosures showing 3 Units (Further Disclosures available upon Request)

NOTE: 3 Rental Agreements were Provided as well.



Report of Residential Building Record (3R) (Housing Code Section 351(a))

BEWARE: This report describes the current legal use of this property as compiled from records of City Departments. There has been no physical examination of the property itself. This record contains no history of any plumbing or electrical permits. The report makes no representation that the property is in compliance with the law. Any occupancy or use of the property other than that listed as authorized in this report may be illegal and subject to removal or abatement, and should be reviewed with the Planning Department and the Department of Building Inspection. Errors or omissions in this report shall not bind or stop the City from enforcing any and all building and zoning codes against the seller, buyer and any subsequent owner. The preparation or delivery of this report shall not impose any liability on the City for any errors or omissions contained in said report, nor shall the City bear any liability not otherwise imposed by law.

Address of Building **45 - 49 BERNARD ST** **3 Family Dwelling** Block **0157** Lot **030**

Other Addresses

- 1. A. Present authorized Occupancy or use: **THREE FAMILY DWELLING**
- B. Is this building classified as a residential condominium? Yes No
- C. Does this building contain any Residential Hotel Guest Rooms as defined in Chap. 41, S.F. Admin. Code? Yes No
- 2. Zoning district in which located: **RH-3** 3. Building Code Occupancy Classification **R-2**
- 4. Do Records of the Planning Department reveal an expiration date for any non-conforming use of this property? Yes No
If Yes, what date? **The zoning for this property may have changed. Call Planning Department, (415) 558-6377, for the current status.**
- 5. Building Construction Date (Completed Date): **1906**
- 6. Original Occupancy or Use: **THREE FAMILY DWELLING**
- 7. Construction, conversion or alteration permits issued, if any:

Application #	Permit #	Issue Date	Type of Work Done	Status
4926	4926	Oct 22, 1906	NEW CONSTRUCTION	N
34844	34844	Mar 28, 1911	AS PER PLANS & SPECIFICATION ACCOMPANY THIS APPLICATION	N
168577	168577	Mar 08, 1928	UNDERPINNING EAST WALL OF BUILDING WITH CONCRETE WALL	N
380286	342475	Apr 02, 1970	COMPLY WITH DIVISION OF APARTMENT & HOTEL CHECKLIST REPORT	N
466645	415815	Nov 22, 1976	REPIAR ALL BROKEN WINODW GLASS, PROVIDE LEGAL LIGHT & VENTILATION FOR KITCHEN ON EACH FLOOR. REMOVE ALL PORTABLE ELECTRICAL CORDS AND ASSOCIATED PLUGS SWITCHES ELECTRIC, REMOVE DEFECTIVE HOPPER & HOPPER STACK, PROVIDE APPROVED WASTED & VENT FOR LAUNDRY TRASH & LAVATORY ON EACH 3 UNITS. PROVIDE APPROVED SINK TRAT ARM ON EACH 3 UNITS. REAR OF BUILDING ALL UNITS. REPLACE DEFECTIVE BATH TUB WASTE, VENTS AND TRAPS. REPLACE DEFECTIVE HOT & COLD WATER PIPING. COMPLY WITH DEPARTMENT OF PUBLIC WORK - BUREAU OF BUILDING INSPECTION COMPLAINT #12939 - CFC 3FD	C
200808118814	1162706	Aug 11, 2008	REROOFING	I
201609299202	1413145	Dec 28, 2016	REAR STAIR REPAIR IN KIND. COMPLY WITH COMPLAINT#201603291	C

**Records Management Division
1660 Mission Street - San Francisco CA 94103
Office (415) 558-6080 - FAX (415) 558-6402 - www.sfdbi.org**

Address of Building 45 - 49 BERNARD ST

Block 0157

Lot 030

Other Addresses

8. A. Is there an active Franchise Tax Board Referral on file? Yes No ✓
B. Is this property currently under abatement proceedings for code violations? Yes No ✓
9. Number of residential structures on property? 1
10. A. Has an energy inspection been completed? Yes No ✓ B. If yes, has a proof of compliance been issued? Yes No ✓
11. A. Is the building in the Mandatory Earthquake Retrofit of Wood-Frame Building Program? Yes No ✓
B. If yes, has the required upgrade work been completed? Yes No

Date of Issuance: 27 MAR 2019

Date of Expiration: 27 MAR 2020

By: MAY YU

Report No: 201903202058

Patty Herrera, Manager
Records Management Division

THIS REPORT IS VALID FOR ONE YEAR ONLY.

The law requires that, prior to the consummation of the sale or exchange of this property, the seller must deliver this report to the buyer and the buyer must sign it.

(For Explanation of terminology, see attached)

Appendix 9: Inspection Report provided at Time of Purchase (Key Excerpts)

PROPERTY REPORT
45 BERNARD STREET
SAN FRANCISCO, 94133
March 21, 2019

PREVENTION INSPECTION SERVICES, INC.
Contractor's License 551626 – B, C10, C36, SPCB OPR 11737
ICC Certified Residential Combination Inspector 5273803
(650) 992-6630 Office
(415) 370-9961 Cellular

Inspection ordered by:
DENNIS YANG – INTERO REAL ESTATE

Weather condition: FAIR
Estimated year of building construction: 1906
Number of units: THREE
Property occupied at the time of inspection: YES

3 Units

This report is used based on the condition of the visible components of the building and adjoining portions of the property at the time of the inspection. **THIS IS NOT A CODE COMPLIANCE INSPECTION.** Our inspection is primarily designed to report serviceability of the components and systems of the property and was not meant to be technically exhaustive. This report is based on standards adopted by CREIA (California Real Estate Inspection Association) and ASHI (American Society of Home Inspectors).

Wood destroying pest infestation, dry rot, atrium and stall showers water tests are not addressed in this inspection. A pest control operator should be contacted for a termite report, as they have met state requirements for performing these types of inspections. SEE PREVENTION INSPECTION SERVICES REPORT DATED THE SAME.

No evaluation is included of the following: Private water, waste system, water softener systems, including water potability or quality, asbestos, indoor air, lead paint, security and fire alarm/sprinkler systems, elevators and lifts, central vacuum systems, intercoms, pools, spas, water tightness of the roof, exterior stairs, patio, deck and porch, anything not exposed to view or inaccessible for inspection.

NO WARRANTY IS EITHER EXPRESSED OR IMPLIED. THIS REPORT IS NOT AN INSURANCE POLICY, NOR A WARRANTY SERVICE. IF A WARRANTY IS REQUIRED CONTACT A WARRANTY SERVICE COMPANY.

This report is prepared 'presale' for the seller. Certain conditions and systems may be best described in a walk through with the buyer. The buyer is encouraged to perform separate inspections or to meet with the inspector preparing this report for a more in depth and individually tailored interpretation of the report. A walk through will be performed at a reduced fee on request from the buyer, (typically 1/2 original fee).


The buyer is also required to perform a diligent visual inspection of the property as soon as possible after the contract has been signed. It is very important to perform a "final walk through" immediately after a seller has removed belongings. This will insure nothing was hidden by personal belongings or damaged during the move out. Call us if something warrants out attention.

Thank you for selecting us to do your home inspection.

Sincerely,

Bret Husted
ASHI & CREIA CERTIFIED INSPECTOR




1.07	Porch: 		X	REAR PORCH AREAS OF THE UNITS HAVE BEEN CONVERTED TO AD HOC KITCHEN SPACES. SAFETY CONCERNS ARE NOTED WITH OBSTRUCTED ACCESS WAYS AND GAS APPLIANCES LOCATED WITH LIMITED CLEARANCES. DAMAGED FRAMING IS PRESENT THE REAR PORCH AREA - SEE THE PEST REPORT FOR ADDITIONAL INFORMATION.
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PROPERTY REPORT
 45 BERNARD STREET
 SAN FRANCISCO, 94133

PART 3: FOUNDATION

While the drainage appears adequate, except if noted below, no evaluation is given or implied in this report of soil stability or geological conditions in heavy rains. For more information contact the appropriate engineers and obtain disclosure from the seller.





Type of foundation: BRICK PERIMETER WITH SLAB INFILL
 Accessibility percent: 30%

		NO	YES	COMMENT/TYPE
3.01	Anchor bolts:	X		ANCHOR BOLTS WERE NOT VISIBLE.
3.02	Seismic upgrades:	X		NONE ARE NOTED – THIS IS AN OLDER STRUCTURE WITH BRICK FOUNDATIONS. IMPROVEMENT OF SEISMIC BRACING IS ADVISED AS PART OF ONGOING BUILDING IMPROVEMENT.
3.03	Damaged slab:	X		MINOR CRACKS NOTED AT THE BASEMENT. NO ACTION IS REQUIRED.
3.04	Visible cracks:	X		THE BRICK HAS BEEN COATED WITH PLASTER MATERIALS AND IS INACCESSIBLE FOR INSPECTION.
3.05	Visible settlement:		X	THE REAR PORCH AREAS ARE SETTLED. SLOPING FLOORS ARE NOTED IN THE STRUCTURE.
3.07	Inadequate pier / post base:	X		ISOLATED POST AND PIER CONSTRUCTION SUPPORTS THE STRUCTURAL GIRDERS. THIS CAN ALLOW INDEPENDENT SETTLEMENT OF THE STRUCTURE AS THERE IS NO CONTINUOUS FOOTING BETWEEN THE POSTS.
3.08	Debris in subarea:	X		
3.09	Basement / subarea seasonally wet:	X		SEE 1.08
3.10	Sump pump:	X		
3.11	Inadequate foundation:	X		
3.12	Inadequate drainage: 	X		THERE IS A PARTIAL COMPREHENSIVE EXTERIOR DRAINAGE SYSTEM. THE SYSTEM IS LIMITED TO COLLECTING ROOF DRAINAGE AND A SINGLE COLLECTOR AT THE REAR PATIO. THERE IS NO DRAIN AT THE BOTTOM OF THE FRONT ENTRY STAIRWELL. A BOARD IS PLACED IN THE DOOR OPENING AT THE REAR OF THE BASEMENT TO PREVENT WATER INTRUSION.

PART 5: ELECTRICAL

Most of the electrical is not visible for inspection and only a representative number of switches and outlets are tested for operation. All lights should be tested during the final walkthrough. Components and wiring concealed in the junction boxes, panels and other building cavities are not inspected. Tracing of individual circuitry and electrical distribution is also not within the scope of our inspection. Consult the owner as to any unusual conditions that could not be determined through a visual inspection, but should be known under normal living conditions.





Service drop location: FRONT OVERHEAD SERVICE Location: INTERIOR ENTRYWAY AND BASEMENT
 Type of panel: Circuit breaker Location: COMBO BOX. SAME AS ABOVE
AMPS: 100 – 40 AMP DISCONNECTS AT EACH UNIT 110 VOLT 15-20 AMP: 3
VOLT: 110/220 220 VOLT 30-60 AMP: 0
 Grounding method: GROUNDING ROD & WATER PIPES
 Branch wiring: COPPER – KNOB AND TUBE, NON- METALLIC SHEATHED CABLE – 'ROMEX' & CONDUIT

		NO	YES	COMMENT/TYPE
5.00	Service equipment conductors, cables and raceways: 		X	THERE IS NO SERVICE MAIN FOR THE WHOLE BUILDING. THERE ARE THREE METERS – NO 'HOUSE' METER IS PRESENT. 
5.01	Subpanel: 	X		THE PANEL IS NOT FULLY LABELED.  <div data-bbox="1154 1087 1539 1230" style="background-color: red; color: white; padding: 5px; font-weight: bold;">Service for 3 Units upgrade was as of 1978</div>
5.02	Upgrades:		X	THE SERVICE WAS UPGRADED IN 1978
5.03	Adequate access to the panel:		X	
5.04	Additional circuit slots available:	X		
5.05	Outlets grounded:	X	X	MIX. SOME HAVE BEEN UPGRADED TO THREE PRONG OUTLETS, AND SOME REMAIN UNGROUNDED. SOME THREE

PART 6: PLUMBING

Due to the finished walls, concealed interior and underground, most of the plumbing lines are inaccessible for inspection and items such as air chambers, fittings, pipes, vents and traps are not inspected and therefore not included on this report. Our inspection is limited to review of the visually accessible plumbing lines at the time of inspection. Water was run through fixtures to determine water pressure and drainage flow conditions at the time of inspection. The testing is of short duration and should not be considered as a complete inspection of the plumbing system. Washers and dryers are not normally tested in this inspection. Water heaters have a 10 year expected life.



Water on at the time of inspection: YES
 Water main location: FRONT EXTERIOR
 Gas main location: GAS IS SUPPLIED BY THE UTILITY FROM THE STREET

		NO	YES	COMMENT/TYPE
6.00	Gas meter: THE GAS METERS ARE LOCATED IN THE BASEMENT IN AN AIR TIGHT ENCLOSURE.  GAS SHUTOFF LOCATION			WE RECOMMEND THE INSTALLATION OF AN AUTOMATIC EARTHQUAKE SHUTOFF VALVE FOR FIRE SAFETY. 
6.01	Water heater: 40 GALLON (UNIT 45 ONLY) AND 30 GALLON GAS 			REAR UTILITY CLOSET / UNIT 49 RHEEM 2017 UNIT 45 RHEEM 2017 UNIT 43 GENERAL ELECTRIC 2007 
6.02	Strapped:		X	THE WATER HEATERS ARE STRAPPED.
6.03	Raised 18" off the ground:	X		ONLY REQUIRED IN A GARAGE.
6.04	Water lines insulated 5' from the heater:	X		
6.05	Insulation blanket:	X		NOT NECESSARY FOR NEWER MODELS THAT ARE R-6 PLUS.

PART 7: HEATING SYSTEM

Furnaces have a 15 to 20 year life expectancy.

Type of furnace: FORCED AIR ELECTRIC WALL HEATERS
 (NO AIR CONDITIONING SYSTEM INSTALLED)

		NO	YES	COMMENT/TYPE
7.00	Heaters operational:  49	X	X	THE HEATERS WERE OPERATIONAL IN TWO OF THE UNITS ONLY. THE EXISTING HEATERS ARE OLD AND SHOULD BE REPLACED WITH MODERN DEVICES.  47
7.01	Rusted / visible damage on furnace:	X		
7.12	Needs cleaning:		X	

Not really Kitchens but we appreciate when we would be happy to have functional kitchen.

PART 10: KITCHENS

We assume no responsibility about the condition of appliances. Refer to the seller for disclosure.

Type of stove hookup: GAS

		NO	YES	COMMENT/TYPE
10.01	Appliance comments:			
	49 			
	47 			
	45 			
				THE STOVES ARE NOT PROVIDED WITH ANTI TIP BRACKETS. OLD VALVES ARE NOTED. POTENTIAL FIRE SAFETY HAZARDS ARE NOTED.
10.02	Hood / fan vented to the exterior:	X		THERE IS NO VENTILATION PRESENT.

Appendix 10: John Lum (Appellant Architect) Notes and HGCI Response

Comments and Architect Responses

Lum Comment	Response	Action to be Taken
<p>1. Sheet A0.00</p> <p>1) Cover sheet does not meet DBI required standards for an 8.5" x 11" clear box for stamps. The title block also lacks the required clear space for stamps.</p> <p>2) Cover sheet reference drawings by other professionals that are not included in the approved Site Permit set.</p>	<p>1) It is up to SF DBI to address what they will accept. Size was sufficient to stamp plans.</p> <p>2) Consultants were added as needed to provide Building Permit requirements.</p>	<p>1) None</p> <p>2) None</p>
<p>2. Existing conditions, Sheet A2.00</p> <p>1) Incorrectly shows the west door on façade at the sidewalk to be swinging over the public right of way. This is a door that open into the floor unit and is a door that swings inward.</p> <p><i>Code violation: SFBC 2019 §3202.2 - DPW should not have approved this violation without requiring a Minor Site Encroachment Permit. See additional information under Sheet A3.00 focusing on the proposed gate in the proposed floor plan.</i></p>	<p>SF DBI & DPW will evaluate plans as project progresses through addendum process and HGCI will review and adjust as needed.</p>	<p>1) None</p>
<p>3. Sheet A2.04</p> <p>1) Existing 1'-0" x 3'-0" window denoted as an escape window for basement ADU (the plan of which is not included in the Approved Site Permit). The proposed drawings show an enlarged EERO (Emergency Escape and Rescue Opening) with a light well providing access from the sidewalk through an opening that is covered by a 2'-0" x 3'-0" grill. This security grill is noted as being operable only from the interior.</p> <p><i>Code violation SFBC 2019 §1030.1.1. In addition to its dubious size and arrangement, this EERO would not allow a firefighter to rescue someone from the basement due to the proposed non-compliant locking mechanisms.</i></p>	<p>1) Not applicable - this is basement space; EERO not currently required.</p>	<p>1) None</p>
<p>4. Sheet A3.00</p> <p>1) New ADU plans are not included in the approved drawing set, nor are any references to a separate permit number for the ADU. As a condition of approval, the removal of the existing non-compliant dwelling unit in the basement requires the construction of a replacement ADU. When the Site Permit is approved without the ADU information, there is nothing to hold or allow the City to enforce the return of this removed dwelling unit. <i>The Project would be in violation of Planning Code §317 if ADU is not included.</i></p> <p>2) A new gate is shown swinging out over the public right of way in the location of the existing in-swinging door on the west of the front façade. Code violation: SFBC 2019 §3202.2. DPW should not have approved this violation without requiring a Minor Site Encroachment Permit. As shown, the extent of the door's encroachment into the public right of way violates the allowed limitation of 25% of the sidewalk width. The 7' sidewalk allows 1'-9" of encroachment, but the door is a minimum 36" as an Exit. The <i>SF Better Streets Plan</i> requires a minimum width of 4'-0" for the Pedestrian Through Way at narrow sidewalks, reduced from a typical standard of 6'-0". Additionally, the proposed gate is shown as swinging 180 degrees, placing it in front of the garage door of the adjacent west neighbor. Sheet A0.03's Preapplication Approval does</p>	<p>1) There is no condition of approval. State ADU is under legal, separate permit, and is not required to be completed at the same time.</p> <p>2) Duplicate. See #2 above.</p> <p>3) Gate required to be provided for safety. SF DBI & DPW will evaluate plans as project progresses through addendum process and HGCI will review and adjust as needed.</p>	<p>1) No action</p> <p>2) No Action</p> <p>3) Minor change can be made to the gate sizing if required</p>

Lum Comment	Response	Action to be Taken
<p>not allow new gates to swing over the property line.</p> <p>3) A new 4'-9" gate is shown swinging out over the public right of way in the location of the two smaller existing gates, approximately 2'-3", which do swing out over the public right of way. Sheet A0.03's Preapplication Agreement states that the replacement gate should match the existing conditions (two separate gates). The proposed gate more than doubles the non-compliance of the existing gates in regards to</p> <p><i>Code violation: SFBC 2019 §3202.2. DPW should not have approved this violation without requiring a Minor Site Encroachment Permit. As shown, the extent of the door's encroachment into the public right of way violates the allowed limitation of 25% of the sidewalk width. The 7' sidewalk allows 1'-9" encroachment. The slope of the sidewalk as shown on the front elevation conflicts with the floor plan's depiction of the gate opening 180°. The sidewalk slope would appear to only allow the gate to open 90°. Thus, the sidewalk would be reduced from 7'-0" wide to 2'-3", much less than the required 4'-0" minimum width of the Pedestrian Through Way required by the SF Better Streets Plan.</i></p>		
<p>5. Sheet Number?</p> <p>1) Replacing existing stair at the rear, which provides the second means of egress to the upper units, with a fire escape appears to be a reduction in the safety of this non-compliant structure. The reasoning for allowing the provision of a fire escape is for an exception due to a hardship, versus a simply equivalent option to providing a code-compliant stair. In this case the hardship is caused by the Project Sponsor, who is electing to remove the existing stair and exit-access corridor through the basement due to increasing the square footage of the units, hence increasing the occupancy load. Increasing non-conformity, while asking for an exception is problematic. No AB-019 documentation for the proposed fire escape is included in the approved Site Permit. The required description of "the practical difficulties presented in meeting the specific conditions of the code" is not provided. Additionally, a detailed description of the fire-escape's conditions of approval in the formal Request for Approval of Local Equivalency is required for issuance of the Site Permit. <i>Code violation: SFBC §106A.3.4.2 (3)(d)</i></p>	<p>1) Proposed structure was detailed, reviewed and approved by DBI and Fire per pre-planning application notes signed by City, as documented in Site Permit, which was also approved. All forms provided to HGCI by DBI/Planning, etc. have been completed.</p>	<p>1) Continue to complete forms required through the addendum check process, as necessary</p>
<p>6. Sheet No?</p> <p>The Fire Department allows for existing non-compliant egress conditions to remain, such that changes to a building result in a condition that is no less safe or further non-compliant than the existing conditions. This typically allows for interior remodels of units without needing to address non-conforming common exiting conditions. In the case of the proposed project, the Fire Department appears to be allowing the extremely non-compliant front stairs to remain in their very narrow condition (approximately 1'-9" at the topflight and approximately 2'-4" at the lower flights – 3'-0" is the SFBC's clear width requirement) while simultaneously allowing the increase of occupancy in the building – as the units are enlarged towards the rear.</p> <p>Since occupancy is a measurement of floor area, the horizontal addition in the approved Site Permit increases the occupant load on these non-compliant stairs. This is further exacerbated by the replacement of the rear exit stair with a less-functional, less-accessible fire escape. It is unclear why the Fire Department does not appear to have required any</p>	<p>1) This is a subjective opinion. Proposed plans reflect what was agreed to during the pre-planning meeting and approved by DBI and Fire. Proposed plans are an improvement to current conditions. Plans include removal of non-compliant rear wooden stairs that discharge into rear yard. The exit passageway through basement from the rear yard includes 2 locked doors, one from the inside, and has a non-functioning sprinkler. The egress pathway and egress pathway doors have dimensions that do not comply with current egress code. Multiple enhancements are proposed and approved, including creating a 1-hour fire-rated passageway expanded in width, which will be provided with a functioning sprinkler. Rear wooden stairs are replaced with fire-rated metal escape. Windows throughout all units of the building are also being expanded to provide further emergency escape options. Project proposes a substantially safer building than what</p>	<p>1) No Action</p>

Lum Comment	Response	Action to be Taken
mitigations or local equivalency documentation for these changes to the egress conditions. A commonly applied requirement to mitigate the reduction of safety as shown in the approved Site Permit would be the inclusion of new fire-suppression sprinklers throughout the building – or at least to cover the units that add occupancy without addressing the non-compliant stairs.	exists today.	
7. Sheet No? 1) The proposed gas meter location is quite problematic. It does not comply with the requirements of the PG&E Greenbook, which would require the meters be placed at the front façade and to ventilate outside of the building. Furthermore, the gas meters are located within the exit-access corridor that provides the sole means of egress to the theoretical ADU, and second means of egress for the upper units. <i>Code violation: SFBC 2019 Definition of Means of Egress as “a continuous and unobstructed path of vertical and horizontal egress travel”. Fuel-burning appliances obstruct the safe path through the Means of Egress.</i>	1 - PG&E evaluates sites and provides their discretion/evaluation. Further, there is no obstruction in the fire-rated corridor (including fire-rated doors).	1) No Action
8. Sheet No? Natural light and ventilation calculations for the first-floor unit are shown including the front door’s operable side lights for ventilation. The door, at approximately 10’-4”, is too deeply recessed to comply with the 9’-0” limitation for overhangs and simply cannot be used for ventilation due to fire rating requirements for openings into the exit-access stair: <i>Code violation SFBC 2019 §420.2 and §1204.2.2.</i>	Comment unclear. Should feedback be provided by DBI, can be handled via addendum process, currently on pause.	1) None currently
9. Sheet No? A tankless gas water heater is shown adjacent to the rear yard entrance to the exit-access corridor connecting the fire escape to the public right of way. This gas-fueled equipment is a hazard, which violates the safety of the second means of egress for the upper units. <i>Code violation: SFBC 2019 Definition of Means of Egress as “a continuous and unobstructed path of vertical and horizontal egress travel”. Fuel-burning appliances obstruct the safe path through the Means of Egress.</i>	1) Incorrect. Tankless water heater is mounted on the exterior wall, not in the path of the emergency egress. Specificity to be provided in addendums on elevation and location, which can easily be moved if required.	1) Clarify in the addendum
10. Sheet No? Sheet 3.04: Reflected Ceiling Plans 1) The proposed reflected ceiling plans for the upper two units show the gas fireplace vents exhausting into the front exit-access staircase, including under the interstitial landing leading to the top unit! <i>Violation of Code SFBC 2019 §420.2, and SFMC 2019 §802.8.2</i>	Further specificity and clarity of a vent can be provided in the addendum.	1) Clarify in the addendum
11. Sheet 4.00. Existing and Proposed Front North Elevation 1) The Emergency Escape & Rescue Openings (EERO’s) for the first-floor unit and theoretical ADU are covered with security grills that are noted to open from the inside only. This prevents firefighters from rescuing the occupants of the front sleeping rooms, negating the function of the EERO’s. <i>Code violation: SFBC2019 §10301.1.</i>	1) Duplicate re: basement– See #2 Above 2) Balance of security and safety. Clarity of latching can be provided or grills can be easily removed via addendum comments, if required.	1) Duplicate, No Action 2) Continue to address feedback in addendums, as required.
12. Sheet 4.01. Rear Facade 1) Removal of the stair at rear, replacing it with a fire escape, removes access to common usable open space as required by Planning Code §135. Where occupants could previously conveniently access their rear yard via the rear stairs, now they are forced to exit the property, traverse the public right of way, re-enter the building at the side gate and access the rear yard through the exit-access corridor. As approved the Project,	1) Duplicate – See #5 Above	1) Duplicate, No Action

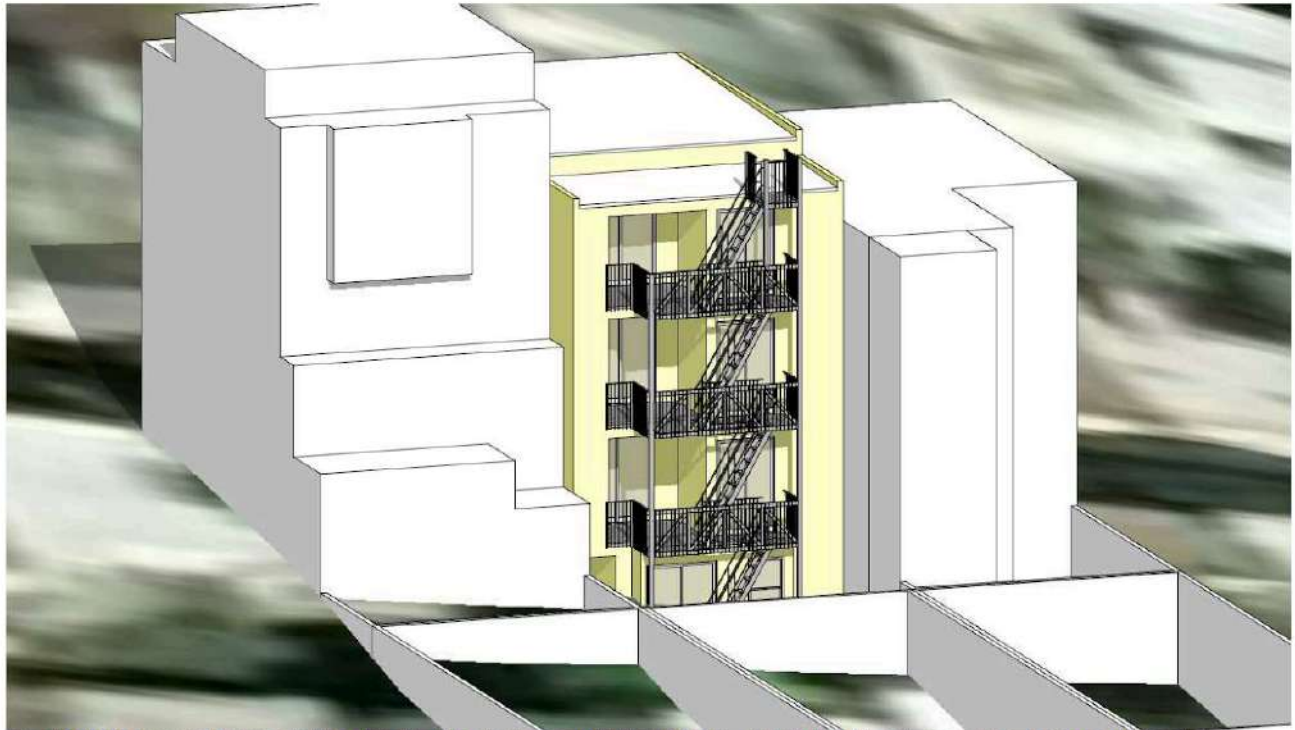
Lum Comment	Response	Action to be Taken
<p>therefore, removes the common usable open space as <i>there is no convenient way</i> to get to the rear yard from within the property. The proposed private usable open space is insufficient to meet each unit's required minimum area. The proposed private decks were further reduced in size since the Planning Commission set, to provide only 39 square feet of private usable open space per unit, substantially less than the required 100 square foot minimum. The tabulation on sheet A0.02 erroneously states that each unit has 134 square feet of usable open space. Additionally, usable open space at grade must have a minimum horizontal dimension of 10' to count, and thus the backyard open space has been calculated incorrectly where it appears to include the narrow spaces to the side of the rear pop-out, were it even accessible.</p>		
<p>13. Sheet 4.02 East Façade</p> <p>1) No AB-009 documentation is included in the approved Site Permit. Neither Attachment A, which outlines the conditions of approval, nor Attachment B – Declaration of Use Limitation are included. There is no indication that the Declaration of Use Limitation is Recorded to the property deed, as required for Building's approval of the Site Permit. <i>Code violation: SFBC §</i></p>	<p>N/A - features have been removed in existing addendums currently on hold due to appeal. No longer applicable.</p>	<p>1) No further Action required</p>
<p>14. Sheet GS-5</p> <p>1) GS-5 is included in the approved Site Permit. This is the wrong sheet. GS-1 is the correct sheet to include in a Site Permit. GS-5 would be the correct sheet to include in a future Addendum application.</p>	<p>1) Noted</p>	<p>1) No action required. We will continue to complete all required forms at direction of DBI, etc. through the continuing review process</p>
<p>15. No Seet Number</p> <p>The life safety of the building with gas appliances carelessly placed in exit components, a fire escape being allowed for a second means of egress versus a previously existing staircase, the violation of usable open space requirements, and lapses in documentation violates the standards of Site Permit application reviews. The series of blatant code and process violations in the approved Site Permit raise series concerns about the rigor in which this permit application was reviewed. Errors have been found in the reviews of each department including Planning, Building, Fire and Public Works. These errors are germane to the Site Permit review and should not simply be addressed in later addenda applications. If the same level of rigor is applied to the reviews of the addenda, this project would pose a life-safety concern to future occupants and adjacent neighbors. There is no mechanism to appeal flawed addenda approvals. We therefore urge the Board of Appeals to rescind the approval of this flawed Site Permit and require the necessary corrections be made before each department approves the proposed work.</p>	<p>1) Duplicate. Covered Above Several times. Architect is apparently repeating comments to overstate substance and number of comments.</p>	<p>1) Duplicate – No Action.</p>
<p>Removal of the rear stairs eliminates convenient access to common open space as required by Planning Code § 135 because there is no way to get to the rear yard from within the property. The actual proposed private usable open space (39 square feet as opposed to the incorrectly tabulated 134 square feet), including proposed private decks, is also insufficient to meet each unit's required minimum (100 square feet), and the backyard open space has been calculated incorrectly.</p>	<p>Private space is correctly tabulated.Plans were reviewed by Planning prior to going to DBI. P.C. 134 states public open space should be independently accessible from the bedroom, unit or other common area of the building or lot. The open space is accessible from a common area.</p>	<p>1) None</p>

Appendix 11: Sun Study

Study 1: Shademap: <https://shademap.app/@37.79619,-122.41425,19.22128z,1711209632178t,0b,0p,0m,qNDUGYmYybmFyZA==137.796341-122.41423>



Study 2: Specific Building Footprint (Projected with New Construction)



45 BERNARD REAR SHADOW STUDY REAR ELEVATION: JANUARY 01 2024 @ 12:00PM PST



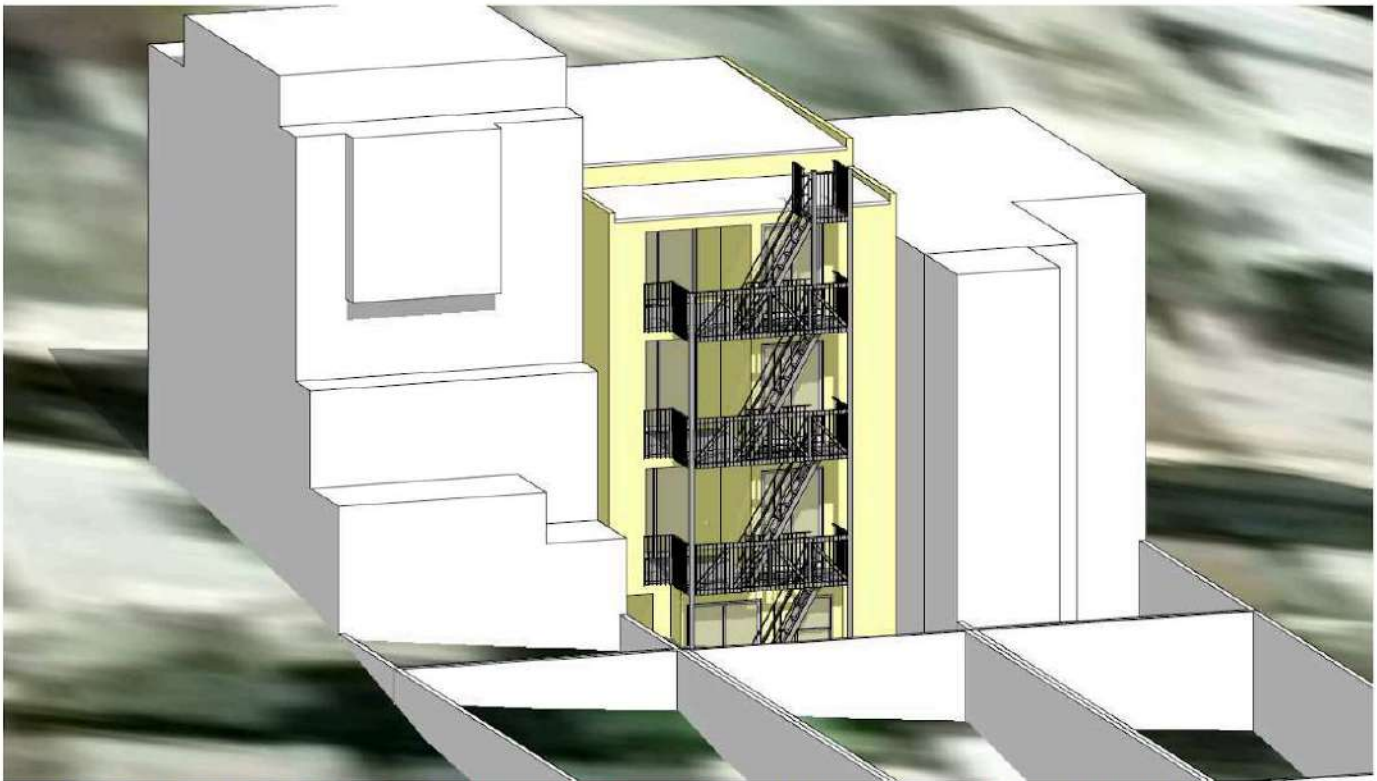
45 BERNARD REAR SHADOW STUDY PLAN VIEW: JANUARY 01 2024 @ 12:00PM PST



45 BERNARD REAR SHADOW STUDY REAR ELEVATION: FEBRUARY 01 2024 @ 12:00PM PST



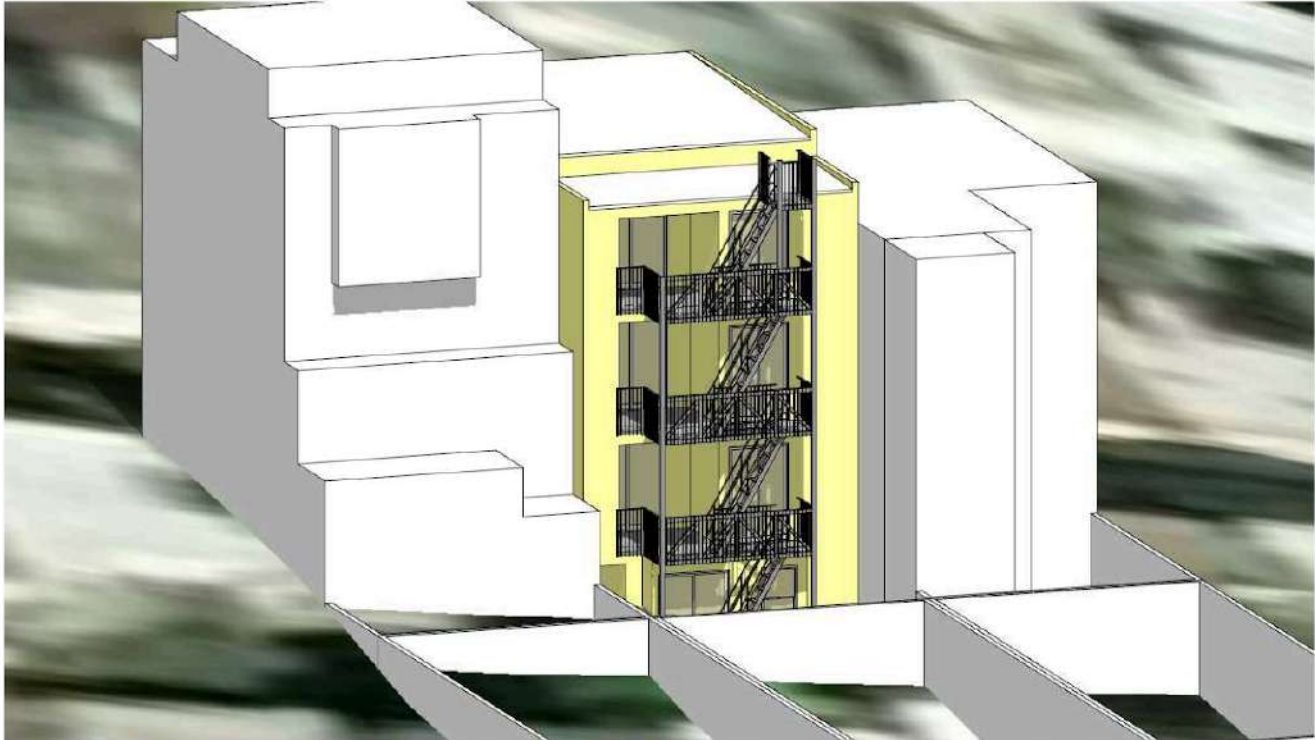
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45 BERNARD REAR SHADOW STUDY REAR ELEVATION: MARCH 01 2024 @ 12:00PM PST



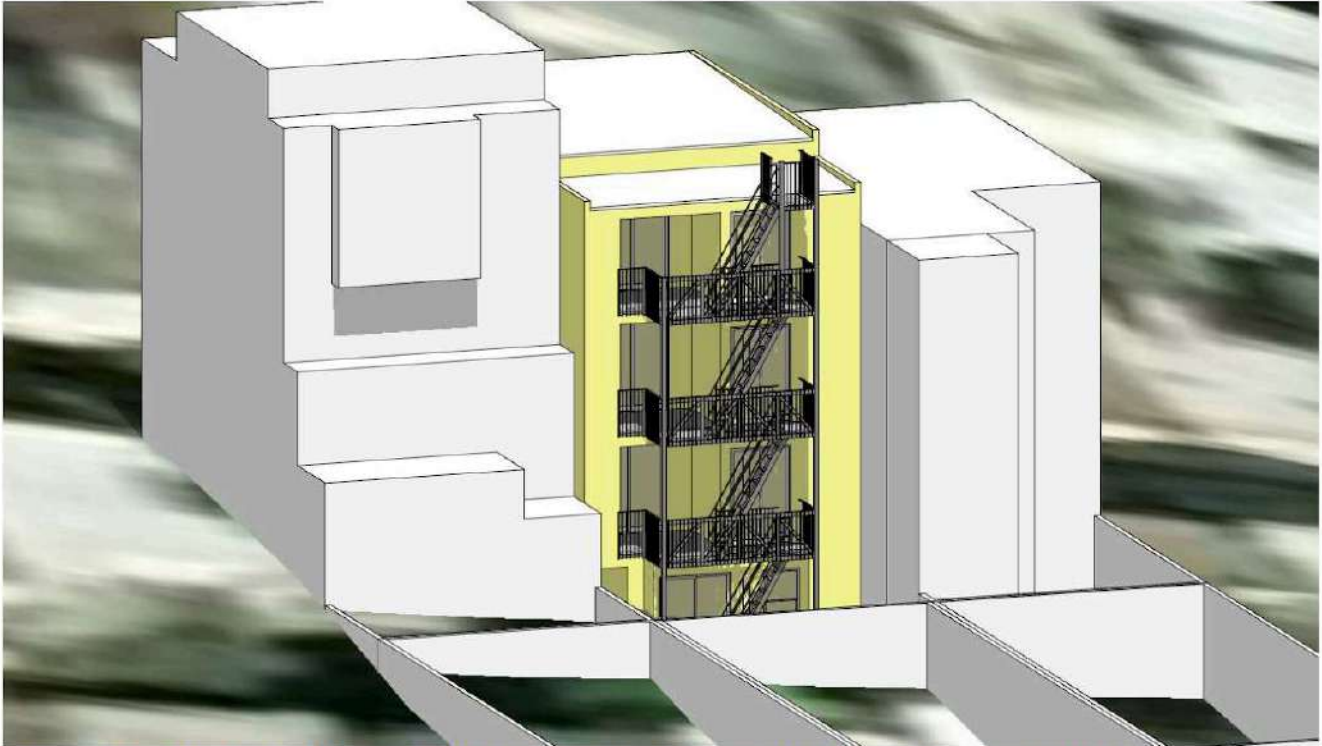
45 BERNARD REAR SHADOW STUDY PLAN VIEW: MARCH 01 2024 @ 12:00PM PST



45 BERNARD REAR SHADOW STUDY REAR ELEVATION: APRIL 01 2024 @ 1:00PM PDT



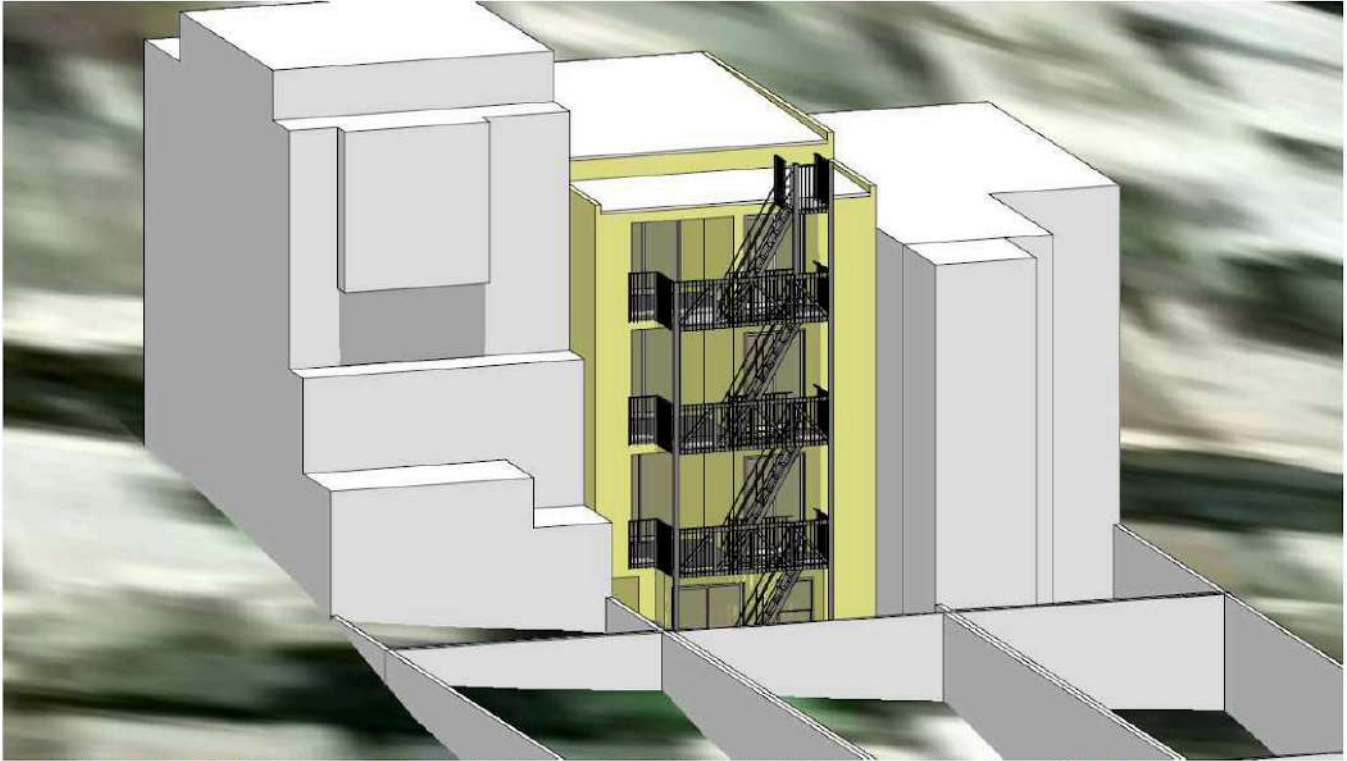
45 BERNARD REAR SHADOW STUDY PLAN VIEW: APRIL 01 2024 @ 1:00PM PDT



45 BERNARD REAR SHADOW STUDY REAR ELEVATION: MAY 01 2024 @ 1:00PM PDT



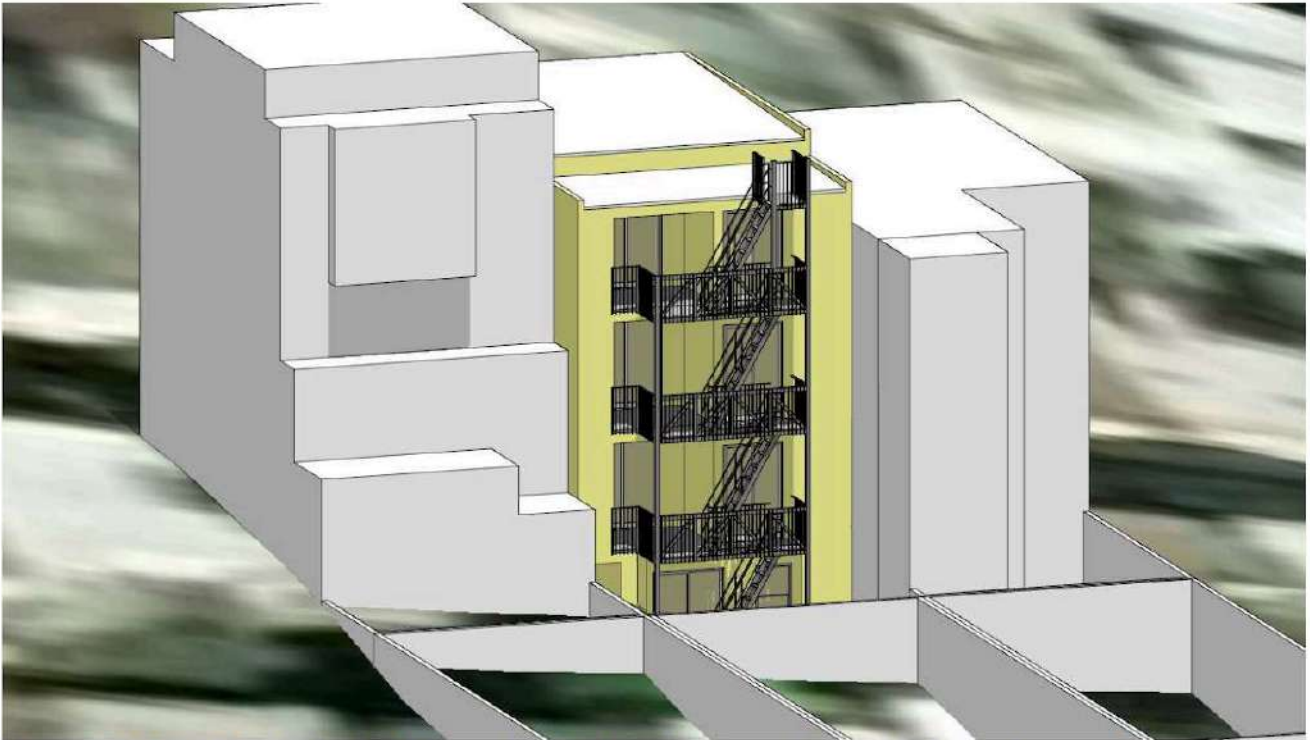
45 BERNARD REAR SHADOW STUDY PLAN VIEW: MAY 01 2024 @ 1:00PM PDT



45 BERNARD REAR SHADOW STUDY REAR ELEVATION: JUNE 01 2024 @ 1:00PM PDT



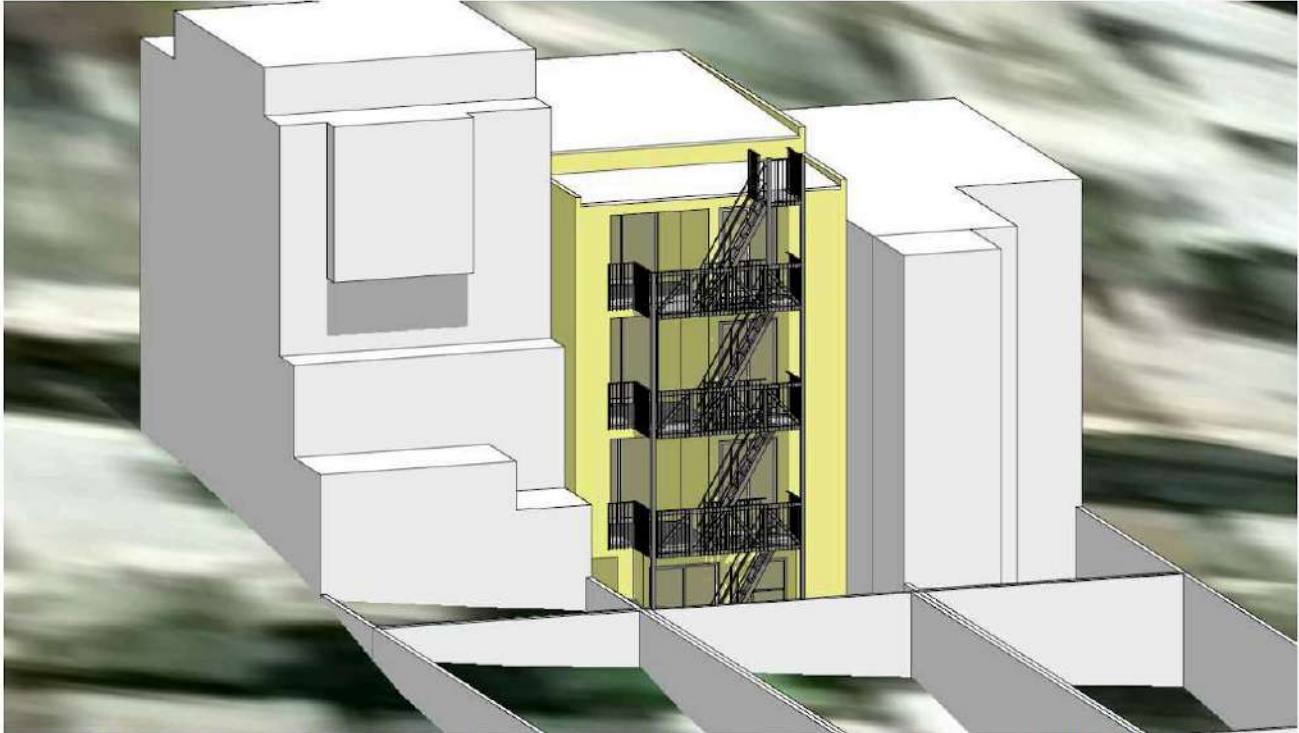
45 BERNARD REAR SHADOW STUDY PLAN VIEW: JUNE 01 2024 @ 1:00PM PDT



45 BERNARD REAR SHADOW STUDY REAR ELEVATION: JULY 01 2024 @ 1:00PM PDT



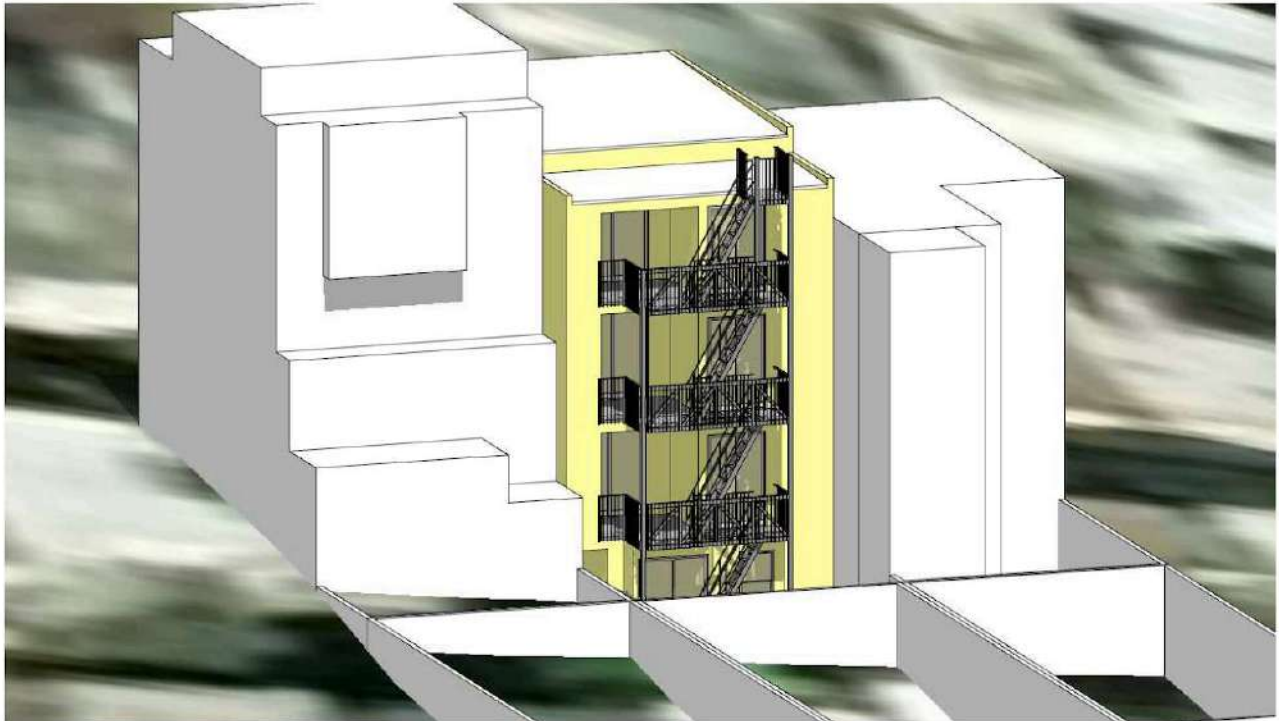
45 BERNARD REAR SHADOW STUDY PLAN VIEW: JULY 01 2024 @ 1:00PM PDT



45 BERNARD REAR SHADOW STUDY REAR ELEVATION: AUGUST 01 2024 @ 1:00PM PDT



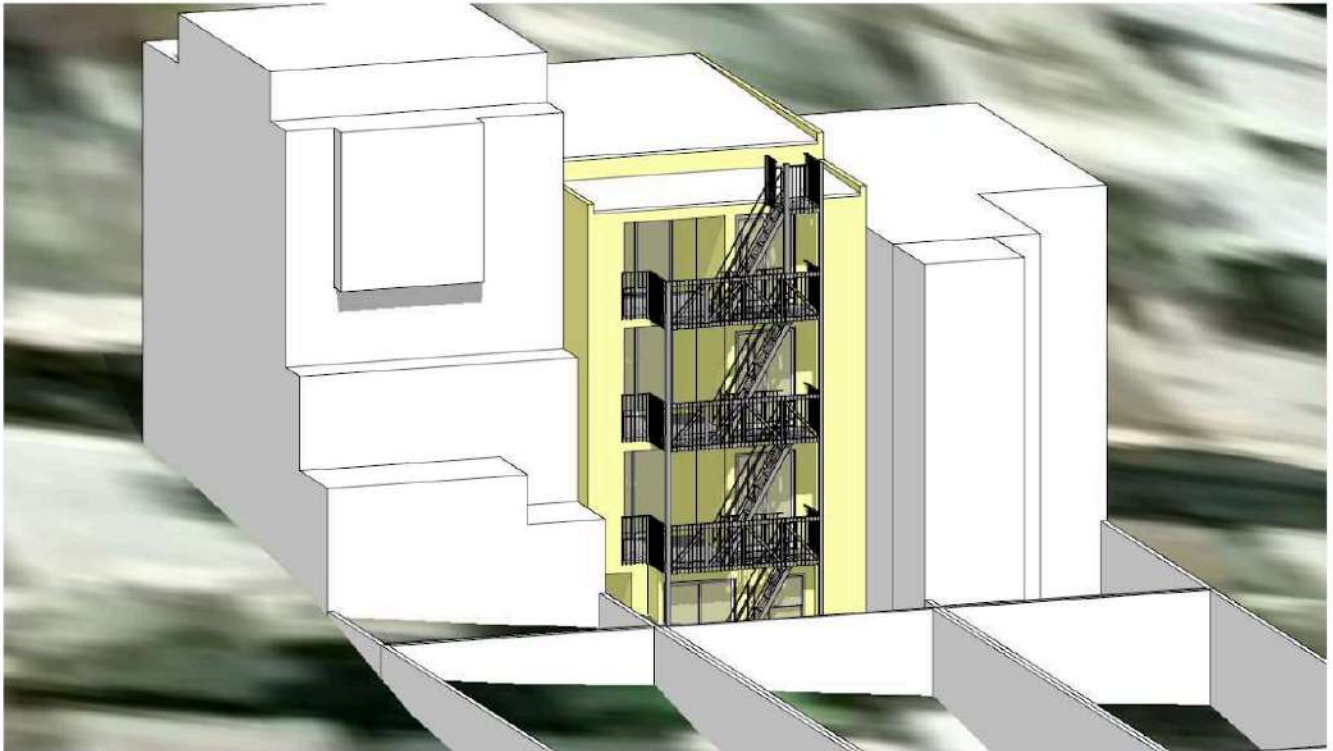
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45 BERNARD REAR SHADOW STUDY REAR ELEVATION: SEPTEMBER 01 2024 @ 1:00PM PDT



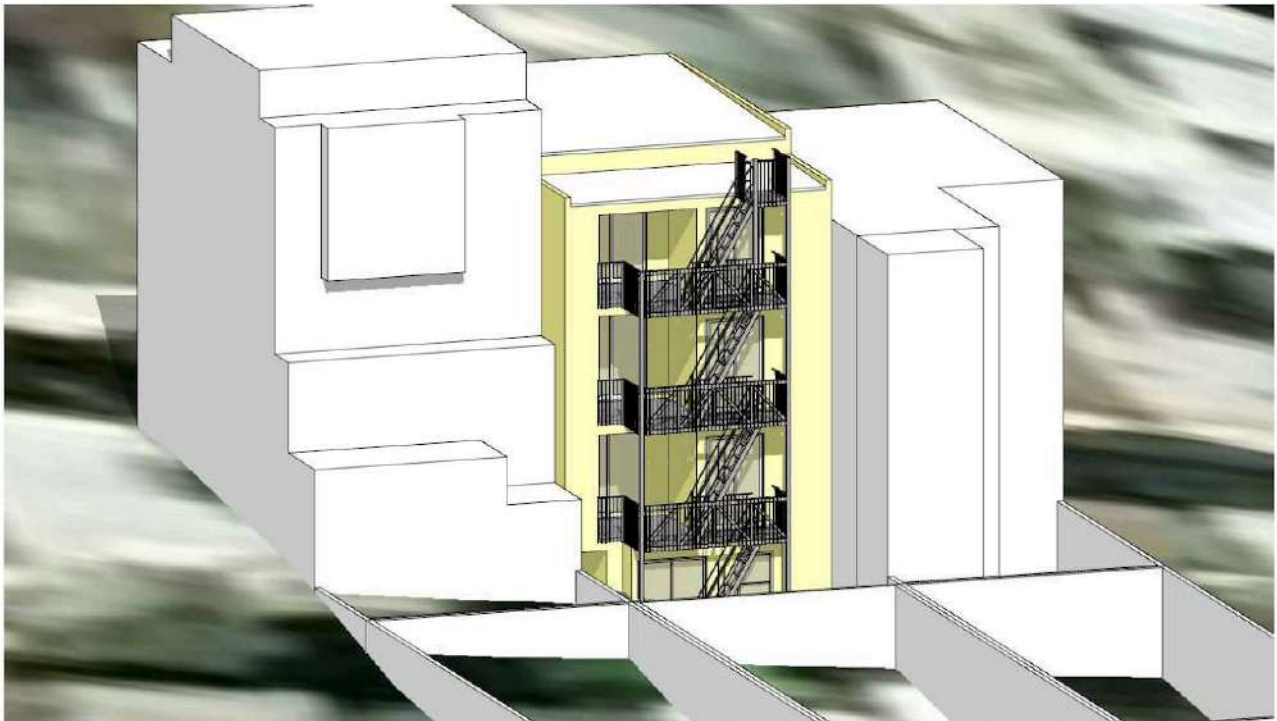
45 BERNARD REAR SHADOW STUDY PLAN VIEW: SEPTEMBER 01 2024 @ 1:00PM PDT



45 BERNARD REAR SHADOW STUDY REAR ELEVATION: OCTOBER 01 2024 @ 1:00PM PDT



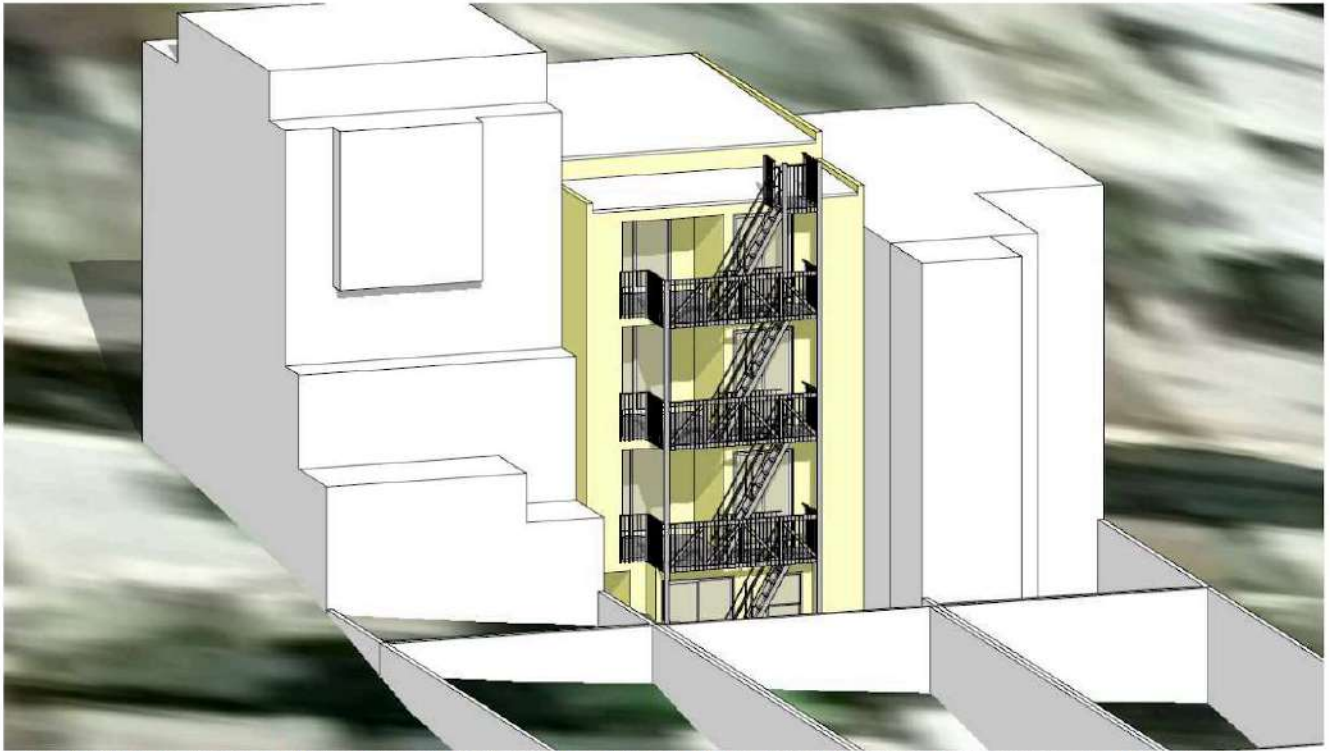
45 BERNARD REAR SHADOW STUDY PLAN VIEW: OCTOBER 01 2024 @ 1:00PM PDT



45 BERNARD REAR SHADOW STUDY REAR ELEVATION: NOVEMBER 01 2024 @ 1:00PM PDT



45 BERNARD REAR SHADOW STUDY PLAN VIEW: NOVEMBER 01 2024 @ 1:00PM PDT



45 BERNARD REAR SHADOW STUDY REAR ELEVATION: DECEMBER 01 2024 @ 12:00PM PST



45 BERNARD REAR SHADOW STUDY PLAN VIEW: DECEMBER 01 2024 @ 12:00PM PST

Appeal No. 24-010 (starts at page 200)

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
TINA HUSTON and LINDSEY HUSTON, _____)
Appellant(s))
vs.)
DEPARTMENT OF BUILDING INSPECTION, _____)
PLANNING DEPARTMENT APPROVAL Respondent

Appeal No. **24-010**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on February 8, 2024, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on January 24, 2024, of a Site Permit (upgrade 3-story, 4-unit apartment consisting of brick foundation, wood frame structure, combination siding, etc.; project work consists of seismic/soft-story foundation upgrade (with nine-foot, rear-yard addition) and includes bringing front bedroom windows to fire exit code size with finish to match existing) at 45, 47 and 49 Bernard Street.

APPLICATION NO. 2020/08/22/2415

FOR HEARING ON May 29, 2024

Address of Appellant(s):

Address of Other Parties:

Tina Huston and Lindsey Huston, Appellant(s) 334 Santana Row, No. 211 San Jose, CA 95128	N/A
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Date Filed: February 8, 2024

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 24-010

I / We, **Tina Huston and Lindsey Huston**, hereby appeal the following departmental action: **ISSUANCE** of **Alteration Permit No. 2020/08/22/2415** by the **Department of Building Inspection** which was issued or became effective on: **January 24, 2024**, for the property located at: **45, 47 and 49 Bernard Street**.

BRIEFING SCHEDULE:

Appellants' Brief is due on or before: 4:30 p.m. on **March 14, 2024, (no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, corey.teague@sfgov.org, tina.tam@sfgov.org, and matthew.greene@sfgov.org.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **March 28, 2024, (no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be doubled-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, corey.teague@sfgov.org, tina.tam@sfgov.org and tinahuston07@gmail.com.

Hard copies of the briefs do NOT need to be submitted to the Board Office or to the other parties.

Hearing Date: **Wednesday, April 3, 2024, 5:00 p.m., Room 416 San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place**. The parties may also attend remotely via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any changes to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a hard copy of the hearing materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

See attachment to the Preliminary Statement of Appeal.

Appellant or Agent:

Signature: Via Email

Print Name: Tina Huston, appellant

Request for Appeal

Background

This document serves as a formal Request to Appeal the San Francisco Planning Commission's Discretionary Review (DR) action pursuant to <https://www.sf.gov/file-appeal-permit-or-decision> against the proposed project at 45-49 Bernard Street in the Russian Hill/Nob Hill district.

Executive Summary

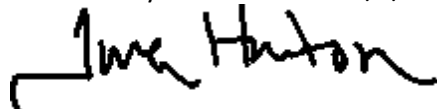
Our family respectfully appeals the Planning Commission's modifications to our project, believing we did not receive a fair and unbiased hearing. We contend that three commissioners disregarded the Planning Commission's requirement of "exceptional or extraordinary circumstances". We argue that the Planning Commission over-reached and modified our project NOT based on either Planning Code or "Exceptional or Extraordinary Circumstances" as defined by their mandate; rather, we assert that the Commission's decision chose to modify the project based on the influences below. The Planning Commission therefore put constraints on the project that were not even requested by the DR nor required by Planning Code.

1. **Unethical behavior:** Certain Commissioners that motioned and voted to modify the project engaged in undisclosed, ex-parte communication (private meetings at their homes, emails, and phone calls) with project opponents that influenced their decision-making process.
2. **Conflict of interest:** Furthermore, a representative of one Commissioner's employer sent a letter of support for the project opponents, opposing our project, representing a conflict of interest that should have been disclosed but was not. This raises concerns about potential conflicts of interest.
3. **Motivated by Other Interests:** Commissions were obviously biased against the project and our family due to the OMI on our property. Their decisions, discussions, and actions in the hearing and after the fact communications support.
4. **Disparate treatment:** The Commission applied different standards to our project compared to neighboring properties, based on "cultural" demographics.

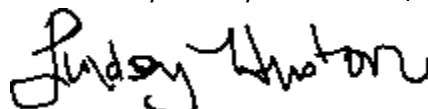
Relief Sought

Reverse the decision of the Planning Commission and allow the project to have a Roof Deck consistent with San Francisco Planning Guidelines, as per the above. See Appendices for further details (if req'd).

Submitted By Tina Huston on 2/8/2024



Submitted By Lindsey Huston on 2/8/2024:



Permit Details Report

Report Date: 2/8/2024 2:26:27 PM

Application Number: 202008222415

Form Number: 3

Address(es): 0157 /030 /1 45 BERNARD ST
 0157 /030 /1 47 BERNARD ST
 0157 /030 /1 49 BERNARD ST

Description: Upgrade 3-story, 4-unit apartment consisting of brick foundation, wood frame structure, combination siding, etc. Project work consists of seismic/soft-story foundation upgrade (w/9 ft rear-yard addition) and includes bringing front bedroom windows to fire exit code size with finish to match existing

Cost: \$389,642.00

Occupancy Code: R-2

Building Use: 24 - APARTMENTS

Disposition / Stage:

Action Date	Stage	Comments
8/22/2020	TRIAGE	
8/22/2020	FILING	
8/22/2020	FILED	
12/4/2023	APPROVED	
1/24/2024	ISSUED	

Contact Details:

Contractor Details:

License Number: 720437
 Name: JAMES HUSTON
 Company Name: HUSTON GENERAL CONTRACTING INC.
 Address: 1615 SECOND STREET * LIVERMORE CA 94550-0000
 Phone:

Addenda Details:

Description:

SITE

Station	Rev#	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Review Result	Hold Description
CPB		8/22/20	9/14/20	9/14/20	9/22/20	9/22/20	TORRES SHIRLEY		#368-912-764 ELECTRONICALLY SUBMITTED. invoice sent. 09/22/20: PMT RCVD, OK TO PROCESS. ST
PRE-PLN		9/24/20	9/25/20			9/25/20	RUSSELL ERICA		
PRE-FIRE		9/24/20	9/24/20			9/24/20	HIGGINS PAT		pre-screen accepted
CP-ZOC		9/29/20	11/2/23			11/2/23	ASBAGH CLAUDINE	Approved	Approved
CP-NP		1/6/22	1/6/22			1/10/22	GUY KEVIN		1/6/22: Emailed the 311 cover letter. (JL) 1/10/22: Mailed the 311 notice on 1/24/22; expires on 2/23/22. (JL)
CP-DR		2/22/22	11/7/23			11/7/23	ASBAGH CLAUDINE	Approved	DR was heard at planning commission in 2021. This line is complete.
BLDG		2/27/23	5/9/23	5/26/23		9/22/23	OSPITAL JOSEPH	Administrative	REASSIGNED 9/22/2023 comments issued during google meeting on 5/26 at 9 am w/AOR and assoc. Waiting for PDF to be emailed to Jeffrey.barnes@sfgov.org prior to upload in BB session email to Property owner & AOR

									TINAHUSTON07@GMAIL.COM & ANDREWS@HGCI.COM, project on hold until response. seismic upgrade & new adu to be reviewed together.
BLDG		2/27/23	9/22/23			9/28/23	OSPITAL JOSEPH	Issued Comments	
BLDG	1	10/26/23	10/26/23			10/26/23	OSPITAL JOSEPH	Approved	
SFFD		3/6/23	4/6/23	4/6/23	5/30/23	5/30/23	TOLENTINO NEIL		4/6/2023 Not approved and on hold. Comments on bluebeam (994-436-227). - NT
SFFD		5/30/23	7/18/23	7/18/23		9/19/23	TOLENTINO NEIL	Issued Comments	7/18/2023 Not approved and on hold. Comments on bluebeam (994-436-227). - NT
SFFD	1	9/19/23	9/19/23			9/19/23	TOLENTINO NEIL	Approved-Stipulated	9/19/2023 Approved, comments addressed. As-built needed to include signed pre-application meeting minutes on plans. Inspection Fees. -NT
DPW-BSM		3/1/23	3/1/23			3/1/23	DENNIS RASSENDYLL		3.1.23 Approve. EPR- No alteration or construction of City Right-of-Way under this permit . -RD
SFPUC		2/27/23	8/16/23			8/16/23	IMSON GRACE	Approved	08/16/2023. Approved.
SFFD	1	10/31/23	11/3/23			11/3/23	TOLENTINO NEIL	Approved	11/3/2023 Approved. Re-check. Inspection Fees. -NT
DPW-BSM	1	10/31/23	11/27/23			11/27/23	DENNIS RASSENDYLL	Approved	Restamped EPR- No alteration or construction of City Right-of-Way under this permit . -RD
SFPUC	1	10/31/23	11/2/23			11/2/23	IMSON GRACE	Approved	11/02/2023 - APPROVED
PPC		9/22/20	9/24/20			11/30/23	PHAM ANH HAI	Administrative	11/30/23 02:47 PM Invite sent to CPB to close out permit; HP 11/28/23: Email sent to BSM to stamp REV2 permit application form. Email sent to applicant to update sheet index on REV3 drawing; HP 10/31/2023: Invite sent to plan checkers to review and stamp REV3 drawing;nl 2/27/2023: Concurrent review approved by Planning plan checker Clauding Asbagh on email dated 2/27. Invite sent to BLDG, SFFD, BSM, PUC to start electronic plan review (back dated, email was sent on 2/27 to all departments);nl 2/13/2023: Invite sent to Planning Plan checker to review and stamp REV1 drawing;nl 9/29/20: Pre-screening complete, invite planning to BB session; cm 9/24/20: Bluebeam session created; Invite Pre-Fire, Pre-Planning, and applicant; cm
CPB		11/30/23	12/4/23			1/24/24	GUTIERREZ NANCY	Administrative	1/24/2024: Issued to agent in BB.ng 12/18/2023: Cancellation/Extension Notification Letter Sent. Cancel Date:02/22/2024. 1st extension fee \$1,028.21. When pay fee, new cancel date: 02/16/2025.ay : WAITING FOR CONTRACTOR STATEMENT

BRIEF SUBMITTED BY THE APPELLANT(S)

Subject: Appeal of Constraints Placed on Permit by Planning Department & Commission in Discretionary Review Action Memo (DRA-793) for 45-49 Bernard Street

Dear President Lopez and Fellow Commissioners,

For 5 years, our family has lived in our 3-unit over basement property on the Nob Hill/Russian Hill border. As it is 120+ years old & was not historically maintained by the prior landlord, the building is in significant disrepair, and desperately needs structural, mechanical, plumbing, and electrical upgrades. Our longtime tenant (40+ years) & our prior tenants, fully support these renovations (Appendix A). We filed for permits to make improvements 4 years ago, & since then, our wealthy, mega-SFR neighbors have waged a vitriolic, concerted campaign to delay, block or significantly alter our project. Their tactics include attempting to bully other neighbors into opposing us (Appendix B). Over the last 4 years, we aimed to just accommodate our neighbors' appeals & continue to move forward, but their relentless and continued campaign has forced us to defend ourselves & appeal for our right to make improvements & critically necessary updates to our home.

Appeal Request – (A/B) Primary Request & Secondary Request

A - Primary Request: We ask that you direct the Department to issue our permit, but direct them first to remove the constraints applied to our permit but Planning Commission's (PC) Discretionary Review (DR) Action Memo. We appeal these modifications/constraints **on the basis that we did not receive a fair and unbiased DR hearing due to the following:**

1. **Disregard for "Exceptional or Extraordinary Circumstances":** The PC's modifications exceeded their authority, failing to demonstrate "exceptional or extraordinary circumstances" prior to making modifications. It is still not clear what was exceptional

about our project given the opposing neighbors have all the same features on their properties (deeper setbacks, roof decks, horizontal expansions, vertical expansions, etc.).

2. **Bias and Circumvention of Due Process:** Three commissioners, taking advantage of a temporary lack of a full commission (5 Commissioners vs. 7 Commissioners), were influenced by:

- 2.1. Undisclosed communications, meetings & private records exchanged w/ project opponents
- 2.2. Undisclosed conflicts of interest
- 2.3. Personal beliefs about owner-move-in evictions (OMI)
- 2.4. Disparate treatment of planning code based on our “cultural” background

Therefore, we request the overturning of the following constraints place on our permit by the PC

(See Appendix D & I):

- “Removal of the roof deck”
- “Removal of the spiral staircase”
- “Requirement for a third floor identical to the second”

We acknowledge there is tenant protection language in the DRA memo and are okay if it remains, but its inclusion reinforces our argument of inappropriate influence on project modifications.

B - Secondary Request: We argue that modifications required by the Planning Department & Zoning Administrator, made after our 311 Notice as a condition for support by the Planning Department for the PC hearing, were erroneous, as the depth of the neighbors property were already legal as the existence of stairs had in fact been approved by the Planning Department, which was further confirmed via a recent variance approval. We ask that the Board confirm the depth approved in our 311 notice is the legally permissible depth into the rear yard at 15’9” (vs. the currently approved depth 17’9”)(See Appendix C)

Background: Our permitting process has been a frustrating journey. Three years ago, a simple request to our neighbors, Hanmin and Jennifer, to trim their tree blocking the midblock open space escalated dramatically. Hanmin intimated that he would use his political connections to stall our permits, saying that he “knew people” at the City and could “make getting permits difficult for us” – a comment that has unfortunately materialized. We've faced a relentless barrage of hearings: a DR hearing (See Appendix D), a CEQA appeal (Appendix E), and now this BoA hearing. While we can't control our neighbors' actions, our appeal argues that they leveraged political influence with our local supervisor to bypass due process and gain support against our project before we received a fair and unbiased Planning Commission hearing, and that Planning Commissioners participated in this circumvention in bad faith with our neighbors/Project Opponents (see Appendix F). Specifically, Planning Commissioners:

1. Partook in Undisclosed, Private Communications/Meetings and Exchanged Private Records with Our Neighbors

Commissioner A (Seconded Motion & Voted to Modify Project): Commissioner A had several private calls with the project opponents prior to the hearing and did not disclose these meetings prior to our hearing. After these phone calls, the Commissioner explicitly requested that the project opponents send her records directly regarding our OMI. Furthermore, the Commissioner held private meetings with our neighbor’s architect and, during our hearing, Commissioner A referenced that information gained from meetings with the neighbors architect (which was not in any public records submitted to the Commission) and used such references as reasons to act against our project. Despite records requests, Commissioner A still has not provided the records and emails sent to her by Project Opponent and their prior architect.

Commissioner B (Voted to Modify Project): After project opponents reached out to her directly with concerns and complaints about the project and their DR request (See Appendix H), prior to our hearing,

Commissioner B accepted an offer from the Project Opponents to have lunch at their home (next door to 45-49 Bernard) specifically to discuss the project and their Discretionary Review. The Commissioner did not disclose she had met with the project opponent privately and been to their home to discuss the project. During the hearing, Commissioner B (when supporting removing the roof deck and modifying the project) acted as if she did not know about the design of the neighboring properties—acting in bad faith considering she had been next door for lunch. The meetings and communications were never disclosed to us prior to or at our hearing.

***Impact:** These actions create the appearance of bias and raise concerns about potential influence on the Commission's decision. This behavior is in violation of San Francisco's Good Government Guide issued by the City Attorney which states: "First, commissioners should avoid engaging in "ex parte communications"—private communications with one interested party concerning the subject matter of the proceeding, whether a private party or a City department—when the other party or parties are not present. To address this concern, some boards and commissions have adopted rules that expressly prohibit ex parte communications. Even if the board or commission has not adopted a rule regarding ex parte communications, members who elect to engage in ex parte communications prior to a quasi-judicial hearing should disclose the substance of those communications on the record at the start of the public hearing."*

2. Did Not Disclose Potential Conflicts of Interest

Commissioner C: (Motioned to Modify Project & Voted to Modify): Months prior to our DR hearing, Hanmin emailed his political contact (our local supervisor) and said, based on the local supervisors suggestion, Hanmin had started forming relationships with the Director of the employer of Commissioner C. Project opponents then made a donation to the non-profit employer of Commissioner C. Based on this donation, leadership of that non-profit organization sent an email saying that Hanmin “funded” them and

that the organization must “support” the project opponent at the DR hearing. Accordingly, the non-profit organization sent a letter of opposition against our project to the Planning Commission. Despite a representative and colleague of Commissioner C’s employer taking a stance on the project by sending a letter of opposition, Commissioner C did not disclose this conflict of interest, nor recuse themselves, and acted against our project.

3. Made Changes Motivated by Anti-OMI Interests, Not Exceptional or Extraordinary Reasons

The Planning Commission hearing deviated from the expected focus on zoning codes and exceptional and extraordinary circumstances within the scope of the Commission’s authority. Commissioners raised concerns and made modifications based on their dislike of owner-move-in evictions (OMIs) that fell outside their legal purview. These concerns seemed based on personal beliefs rather than exceptional or extraordinary circumstances. For example, in addition to their final modifications, the 3 commissioners tried to propose conditions like “guaranteeing the tenant's current rent in perpetuity”, “applying rent control” to the future ADU, and even tried to dictate landscaping choices in the yard (See Appendix G). It became so egregious, the City Attorney ultimately had to step in during the hearing and clarify that these conditions were not within the Planning Commission's purview, but rather the purview of the Rent Board.

4. Applied Disparate Treatment because We Were Not the Same “Culture” As the Neighbors

The actions taken by the Planning Commission suggest disparate application of planning guidelines. Though located in Nob Hill/Russian Hill with no designated cultural districts or special land use controls in the area, project opponents argued against expanding the building further into our private backyard, claiming it significantly impacted the Chinese community on the block due to the "cultural significance" of "mid-block open space." **However, in direct opposition to this logic, the project opponents—our neighbors – have undertaken vertical and horizontal expansions into their own "mid-block" spaces, and have built roof decks (See Appendix I). Their buildings go deeper into the mid-block**

space than ours will be at completion - no matter if we build to 15'9" or 17'9" (See Appendix I).

Furthermore, there was no support via historical records to support their claims (See Appendix J).

Regardless, this hypocritical argument was overlooked, as Commissioner B explicitly referenced "culturally contexting" the building before proposing modifications, despite the lack of designated cultural districts or special land use controls in the area. Again, the selective application of "cultural preservation" and overlooking similar features on neighboring properties suggests potential disparate treatment. *Direct Quotes by Commissioner B (Beginning Hour 4:34 of August 25, 2022 DR Hearing):*

- "In terms of the context of the neighborhood, the DR requestor is referring to the cultural preservation of this neighborhood. **Yes, it's a code-complaint project. Yes, it might be the shortest in the neighborhood,** [but] for me that's something that still sticks out is the roof deck."
- "There is no special land use controls for this area, this is a regular 25% rear yard, which this building is complaint for, however, what the DR requestor is asking for is for us to look into the **cultural aspect of this neighborhood**, of the people living in this 2-block radius, the importance of that.
- "The planning department, we have not looked at that, outside of Chinatown, where neighborhoods, where there is **a predominant Chinese community and they [project opponent] keep emphasizing the importance of the mid-block open space.** So, I am trying to.. Yes, this is a code complaint project, however, perhaps there is something we can do to **culturally context it.** Especially since **the DR requestor keeps emphasizing that.** And what still **bothers me is the OMI...** and the families are no longer there. **I cannot take this as no DR."**

Thank you for your consideration in these matters, and kindly ask you take a second look at these decisions. We only ask for an unbiased, fair hearing.

Warmly, Lindsey Huston & Tina Huston

Appendices

Appendix A: Tenants Letters of Support

Appendix B: Project Opponents Attempts to Force Neighbor at 51 Bernard into Supporting Them

Appendix C: Original 311 3rd Floor Plan vs. Current

Appendix D: DRA Memo & Discretionary Review Request & Response

Appendix E: CEQA Appeal, Response and Withdrawal Letter

Appendix F: Emails & Other Communications with Planning Commissioners Prior to DR Hearing

Appendix G: Transcript Showing Rent Control Language Attempted to Be Imposed

Appendix H: Pre-DR Memo Direct to Planning Commissioners

Appendix I: Visuals of Mid-Block Open Space & Roof Decks on Neighboring Properties

Appendix J: Census Records – thru 1920s-50s

Appendix A: Tenants Letters of Support Provided to Planning Commission

President Rachel Tanner and Commissioners
SF Planning Commission
49 South Van Ness Avenue
San Francisco, CA 94103

SF Planning Commission & Other Relevant Parties:

As the prior tenants of 47 Bernard Street, we can attest to the poor condition of the building. While we lived there, the prior landlord did not maintain the property for us as a responsible landlord should. Through this process, we moved into new housing in San Francisco that is in much better condition, and we support Lindsey's efforts to renovate the property for herself, her sister, and the tenant in Unit 45.

Sincerely,

Zerong He (for the He Family)

For Privacy Considerations, Contact Information Available Upon Request for Verification by
Planning Commission/Planning Department
President Rachel Tanner and Commissioners
SF Planning Commission
49 South Van Ness Avenue
San Francisco, CA 94103

Dear SF Planning Commission & Other Relevant Parties:

This letter is a qualified letter of support for the project at 45-49 Bernard street. The rear-yard extension is supportable as many buildings in the neighborhood are of similar depth. The project would be a great benefit to the neighborhood, as the building is in need of significant repair. I cannot stress enough how dire it is for this building to be renovated, including the rear-yard. The living conditions of this building prior to Ms. Lindsey Huston's acquisition was almost uninhabitable due to the following reasons

1. Rear-yard rat infestation due to the lack of maintenance for greater than 30 years - it is **VERY IMPORTANT** to note that this rear-yard was **NEVER** used by anyone except for the previous landlord to discard construction spoils and when my brothers and I would go play there as young children. Also note that the rear-yard extension will help the renovation of my mother's unit which will finally give the master bedroom a window (it is currently windowless), and will also help get the kitchen and sun-room area up to code.
2. Approximately 15 years ago, the ceiling collapsed in the bathroom and tons of termites and other unidentified insects landed on me in the tub. I was fortunate to not have the drywall collapse on me.
3. There has not been any insulation in the walls or between each floor so it often gets very cold, damp and noisy. This has been the case for as long as I can recall.
4. Water damage in my bedroom which leaked from the ceiling - I believe the previous landlord redid the roof after ~15 years of leakage and this has stopped.
5. Mosquitoes infestation due to inoperable windows that couldn't close. I had to buy my own wood planks to hold up the double-hung windows just to keep warm and also keep insects out.
6. Major water damage in the rear-yard entrance, kitchen and sun-room due to clogged gutters - this had gone on for approximately 15-20 years. Note that each time it rained, my elderly mother would have to lay down at least 10 articles of clothing to soak up the rain water. Ms. Huston has resolved this issue.
7. Gas and electric systems that are inefficient and are 50+ years old needing significant maintenance. Despite the little gas my mother (who lives alone) uses, the PG&E bill shows very high gas usage on a monthly basis. Note that my mother's gas usage for this ~700 square foot unit is nearly triple the amount I use in a 1,300 square foot single-family home.
8. Electrical issues - lights flicker due to deteriorated electrical lines (note that they will easily flicker if someone upstairs is walking).

In summary, almost every aspect of the building is not up to code. Please note that approximately 30 years ago, I had let in a building/safety inspector which led to my previous landlord getting fined. Following the incident, my family was reprimanded by the landlord.

Since Ms. Huston acquired the building, many improvements have been made. However, the key improvements that need to be made will not be completed unless the SF Planning Commission approves the upgrades Ms. Huston has requested for this project. Ms. Huston has been very active in keeping us up-to-date on the project and discussing any concerns we may have.

Furthermore, I can vow that Ms. Huston has been very kind to my mother as her tenant. Since the building was acquired by Ms. Huston in 2019: rent has not increased, the rear-yard is actually decent looking now and can be enjoyed, water seepage during rainy days no longer occurs, and best of all, Ms. Huston helps my elderly mother take out the trash on a weekly basis.

Sincerely,

Stella Lew

Former tenant at 45 Bernard (resided from 1983-2011)

Representative of mother, Qi Pin Lei - current tenant at 45 Bernard (since 1983-present) E-mail:

lew.stella@gmail.com

Appendix B: Project Opponents Attempts to Force Neighbor at 51 Bernard into Supporting Them

This is an email thread where these same 4 neighbors are attempting to coerce another neighbor to contest the project and ask him to “spy” on our project and not help us in any way.... In this particular exchange they are attempting to threaten the variance at 51 Bernard in order to sway the Owner to contest our project / support their cause to block us at every step. **This exchange occurred AFTER the DR and CEQA hearing and BEFORE any new plans were submitted, showing their intention all along was to continue to appeal the project.**

From: [Enda Keane](#)
To: [Teague, Corey \(CPC\)](#); [Tam, Tina \(CPC\)](#)
Cc: [Tara Sullivan](#); [Tony Pantaleoni](#)
Subject: 51 Bernard
Date: Monday, April 10, 2023 7:50:20 AM
Attachments: [51 Bernard Street.pdf](#)

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

Hello Corey & Tina ,

As suggested at the March 22nd hearing I met with UCNA Wednesday (April 5th) to discuss my variance application for 51 Bernard. Like all of the previous meetings with UCNA our conversation was cordial and respectful, the meeting was focused primarily around their concerns about 45 Bernard with little time spent on any aspect of the variance for 51 Bernard. I asked for their support and their response was they hadn't decided what position they were going to take.

Prior to the March 22nd hearing UCNA stated they would support my variance if I signed an agreement which I felt wasn't constructive and had little relevance to this particular situation, I decided not sign.

If there is any other information you need do not hesitate to reach out.

Kind Regards

Enda Keane

From: Enda Keane <endapkeane@gmail.com>
Date: March 22, 2023 at 8:56:15 AM PDT
To: UCNA <upperchinatownassociation@gmail.com>
Subject: Re: Summary of our Agreement

Jennifer, Hanmin, Sandy & Johnny,
After careful review I decided not sign the agreement you emailed last night, March 21st 2023. Apart from being one sided the 'agreement' lacks the spirit in which I could ever be comfortable in being part off.
Each of the obligations have either technical issues, are unenforceable and at worst could have legal consequences which is a road I'm sure neither of us want to go

down.

From a practical perspective access may need to be provided for health and safety issues should the situation arise during construction and also if the integrity of 51 or any other property is in any way compromised during their work it might be prudent to allow their contractor to be given access to mitigate whatever issues had occurred.

While I have no problem providing insight and making observations on the construction work at 45 this would be based probably on not having construction drawings and not having access to the interior of their property, but best efforts would be made to track the progress.

On Friday March 3rd at Peet's Coffee on Polk we discussed, reached an agreement and shook hands on this which was witnessed by Jennifer, Sandy and Johnny, I still intend to honor that handshake.

Kind Regards

Enda Keane

Confidential Agreement

This agreement is between Enda Keane Revocable Trust (the "Owner"), and Jennifer Mei, Hanmin Liu, Sandy Leung, and Johnny Leung, (collectively, the "Neighbors").

A. Owner owns the real property commonly known as 51 Bernard Street, San Francisco, CA 94133, Block 0157, Lot 029 (the "Owner's Property").

B. Jennifer Mei and Hanmin Liu own the real property commonly known as 1144 Pacific Street, San Francisco, CA 94133, Block 0157, Lot 013. Sandy Leung and Johnny Leung own the real property commonly known as 39-41 Bernard Street, San Francisco, CA 94133, Block 0157, Lot 064.

C. Neighbors have raised concerns related to Owner's proposed variance, including that it will set a precedent to allow future extensions into rear yard open space at the real property commonly known as 45-49 Bernard Street, San Francisco, CA 94133, Block 0157, Lot 030 (the "Huston Property").

1. Owner's Obligations

- a) Owner will presently execute the attached letter of opposition to any further expansion of the Huston Property.
- b) Owner shall not grant access to Owner's Property to the owners of the Huston Property, or any of their personnel, to install shoring (including underpinning and/or tiebacks), complete foundation work on the Huston Property, install scaffolding, store construction equipment, or any other activity related to construction on the Huston Property.
- c) Owner will assist the Neighbors in monitoring construction on the Huston Property for compliance with code and construction requirements by documenting and reporting any suspected violations.

2. Neighbors' Obligations

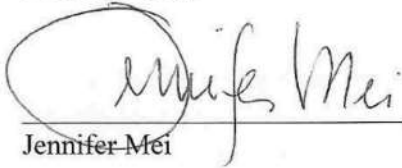
- a) Neighbors and their agents will not oppose the approval of Owner's variance application No. 2022-005109VAR (the "Project").

This Agreement is executed by the Parties as of March 21, 2023.

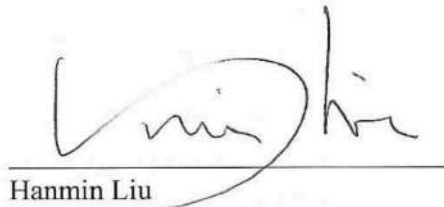
OWNER

Enda Keane, as trustee of Enda Keane Revocable Trust

NEIGHBORS



Jennifer Mei



Hanmin Liu



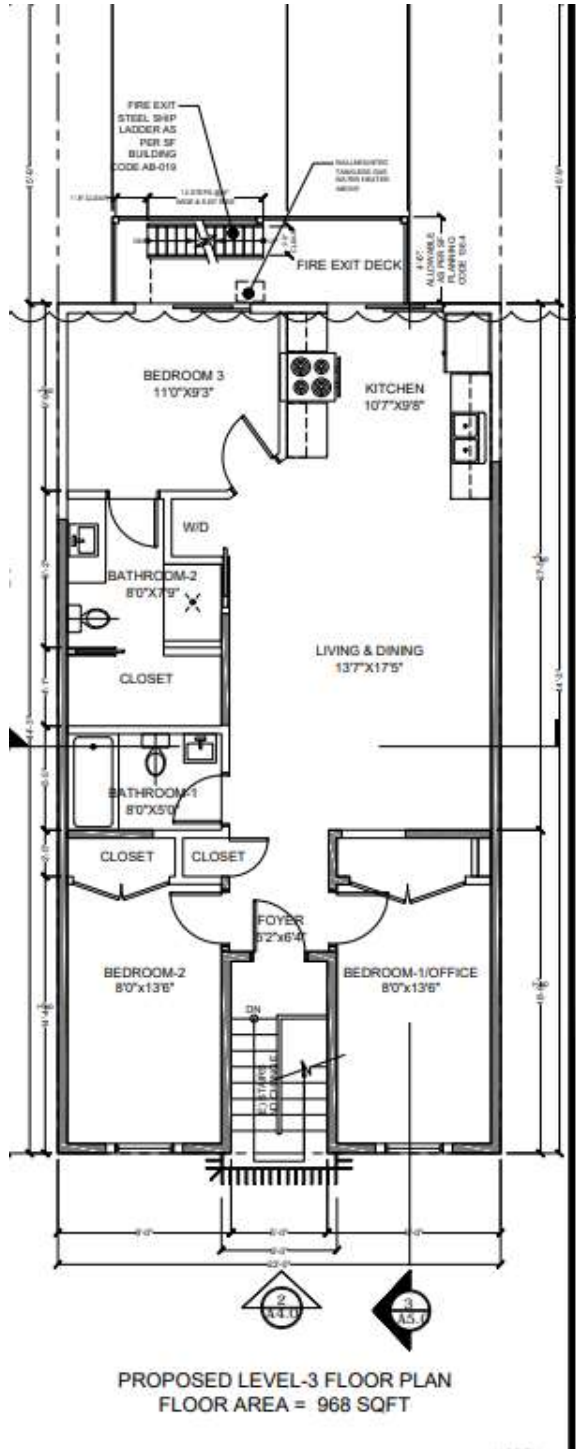
Johnny Leung



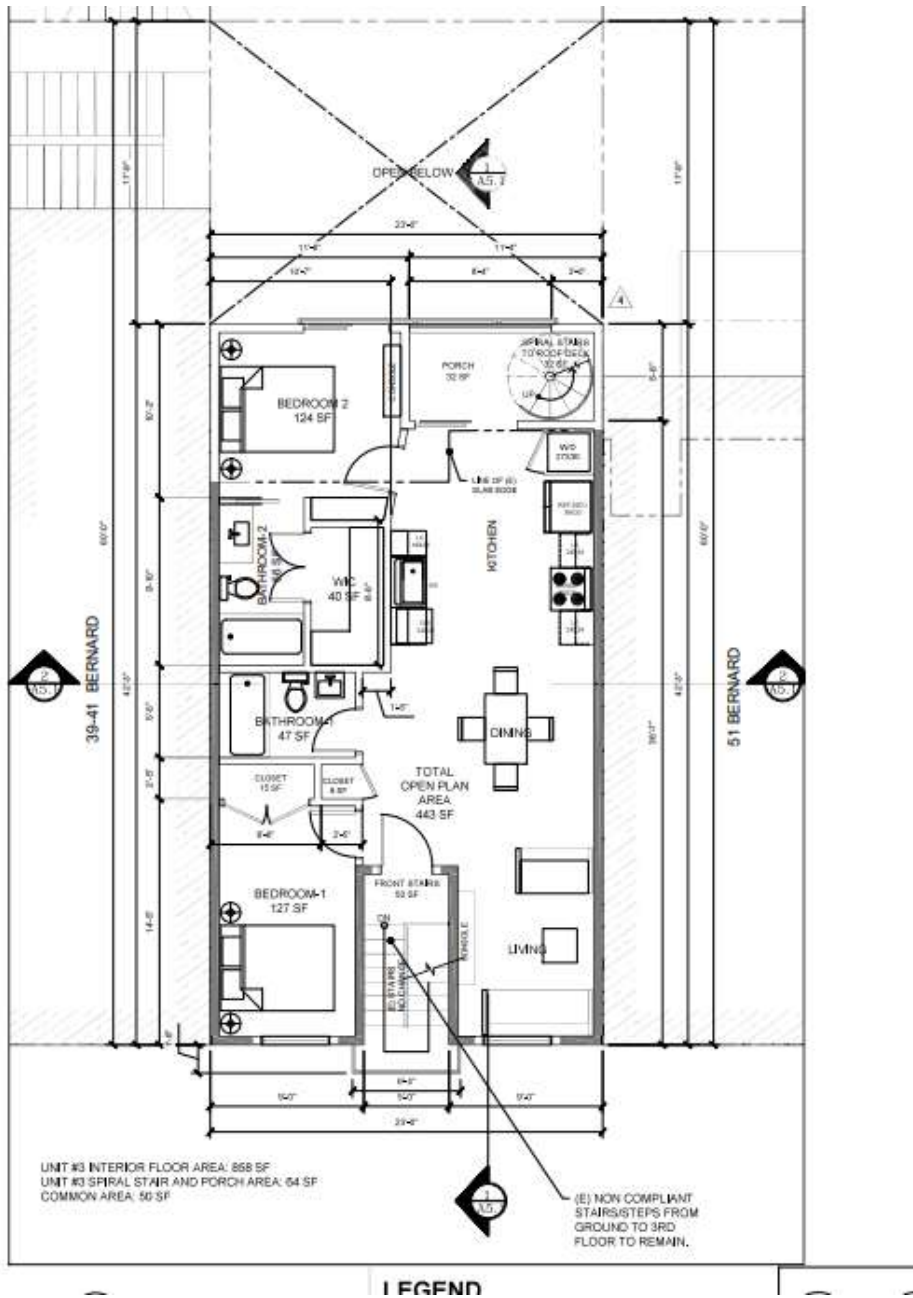
Sandy Leung

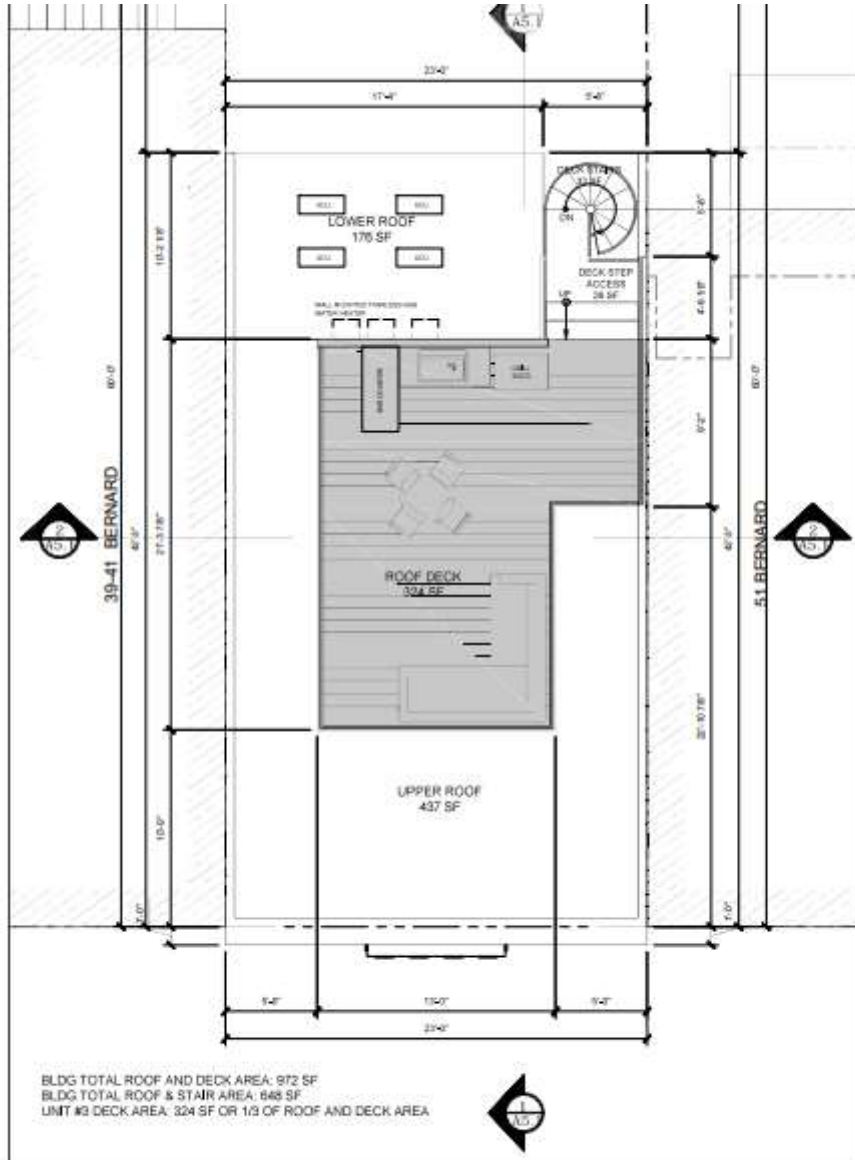
Appendix C: Original 311 Notice Depth Vs. Planning Commission Depth

Original 311 3rd Floor Dimensions (Setback of 15'9")



Modified PC Depth & Roof Deck





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

Appendix D: DRA Memo, Project Opponent Appeal, Our Response

Please refer to Supplemental Attachments given File Size

1. DRA Memo
2. Project Opponents Appeal
3. Our Response



DISCRETIONARY REVIEW ANALYSIS

HEARING DATE: August 25, 2022

Continued from July 21, 2022

Continued from May 26, 2022

Record No.: 2020-005176DRP
Project Address: 45 Bernard Street
Permit Application: 2020.0822.2415
Zoning: RH-3 [Residential House, Three Family]
40-X Height and Bulk District
Block/Lot: 0157 / 030
Project Sponsor: Taylor Huston
59 Grove Hill South
San Anselmo, CA 94960
Staff Contact: David Winslow – (628) 652-7335
david.winslow@sfgov.org

Recommendation: Do Not Take DR and Approve as Modified

Project Description

The project proposes to construct a rear addition and legalize an existing unauthorized dwelling unit to an existing 3-story, 4-family residence.

Site Description and Present Use

The site is an approximately 23' wide x 60'-0" deep lateral and down sloping lot that contains an existing 3-story, four-family building. The existing building is a Category 'C' – No historic resource present - built in 1900.

Surrounding Properties and Neighborhood

Bernard is a 35' wide east-west street. The buildings on this block of Bernard consist of 3-story, multi-unit residential buildings with flat roofs. This building is shorter than the adjacent buildings on the block. The existing neighboring buildings fronting Bernard and Pacific Avenue vary in depth but extend deep into the lots to leave a constrained mid-block open space.

Building Permit Notification

Type	Required Period	Notification Dates	DR File Date	DR Hearing Date	Filing to Hearing Date
311 Notice	30 days	January 24, 2022– February 23, 2022	February 23, 2022	July 28, 2022	156 days

Hearing Notification

Type	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	20 days	May 6, 2022	May 6, 2022	20 days
Mailed Notice	20 days	May 6, 2022	May 6, 2022	20 days
Online Notice	20 days	May 6, 2022	May 6, 2022	20 days

Public Comment

	Support	Opposed	No Position
Adjacent neighbor(s)	0	0	0
Other neighbors on the block or directly across the street	2	2 (1006 petition)	0
Neighborhood groups	0	4	0

Environmental Review

The Department has determined that the proposed project is exempt/excluded from environmental review, pursuant to CEQA Guideline Section 15301 (Class One - Minor Alteration of Existing Facility, (e) Additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet).

DR Requestor

DR requestor: Jennifer Mei of the Upper Chinatown Neighborhood Association.

DR Requestors’ Concerns and Proposed Alternatives

DR requestor is concerned that the proposed project will undermine the cultural fabric of this community...; violates the Residential Design Guideline related to impacting mid-block open space; **General Plan Housing Element Objective 11** to ‘*Maintain and Preserve the Unique and Diverse Character of San Francisco’s Neighborhoods*’; and **Housing Element Policy 11.9**: *Foster Development that Strengthens Local Culture, Sense of Place, and History*’

Proposed alternatives:

1. Increase rear yard setbacks of the building.
2. Relocate rear stairways inside building.
3. Reduce the size of all glazing at rear of building.

See attached *Discretionary Review Application*, dated February 23, 2022.

Project Sponsor’s Response to DR Application

The proposed project is Code compliant and adheres to residential guidelines. The criteria for exceptional and extraordinary has not been met. The owner move in evictions were done in accordance with the laws and exceeded required relocation expenses with free rent and financial support. Letters of support are included from two of those tenants. The private rear yard is proposed to be reduced but will be consistent with the prevailing neighborhood and provide a common courtyard for the residents of 45 Bernard. In doing so it does not remove a neighborhood common space or courtyard

See attached Response to Discretionary Review, dated April 23, 2022.

Department Review

The Planning Department’s review confirms support of this proposal as it conforms to the Residential Design Guidelines and Planning Code. The proposal maximizes allowable density by legalizing an unauthorized dwelling unit.

Since this is the shortest building on the block, the proposed rear extension fits into the already constrained mid-block open space by using the average the depth of the adjacent buildings to derive a code-complying rear yard to produce a context appropriate building and rear yard. The removal of an existing rear wood stair that extends deep into the existing rear yard helps to alleviate the sense of constrained mid-block open space.

The proposed roof deck is minimal in size, serves one unit and is set back from all building edges by at least 5’.

From the eviction history it appears that the proper legal procedures were invoked for owner move-in evictions.

The project has been modified from the original 311 notification drawing set, The rear wall of adjacent building at 51 Bernard used for the purpose of rear yard averaging did not qualify and resulted in the reduction of the rear extension being reduced by 2’. Several other changes have been incorporated into the revised drawings of the proposed project dated 7.15.22. These include removing the proposed fire escape at the rear, adding exterior decks, and adding a spiral stair to a roof deck – which has been reduced in sized from the 311 proposal.

Therefore, staff deems there are no exceptional and extraordinary circumstances and recommends not taking Discretionary Review and approving as modified.

Recommendation: Do Not Take DR and Approve as Modified

Attachments:

Block Book Map
Sanborn Map
Zoning Map
Aerial Photographs
Context Photographs
Section 311 Notice
CEQA Determination
DR Application
Response to DR Application, dated April 23, 2022.
Letters of support and opposition
Eviction history documentation
311 plans
Revised drawings dated 7.15.22



DISCRETIONARY REVIEW ACTION DRA-793

HEARING DATE: AUGUST 25, 2022

AMENDED DATE: OCTOBER 4, 2022

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

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

Preamble

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

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

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

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

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

Action

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

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

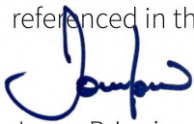
1. There are extraordinary or exceptional circumstances in the case. The proposal complies with the Planning Code and the General Plan, but does not conform with the Residential Design Guidelines with respect to articulating the building to minimize impacts to light and air to the adjacent buildings.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

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

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

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

I hereby certify that the Planning Commission takes Discretionary Review and approved the building permit as referenced in this action memo on August 25, 2022 and amended on October 4, 2022.



Jonas P Ionin Digitally signed by Jonas P Ionin
Date: 2022.10.04 11:48:02 PST

Jonas P. Ionin
Commission Secretary

AYES: Ruiz, Imperial, Koppel, Moore

NOES: Diamond

ABSENT: Fung, Tanner

ADOPTED: August 25, 2022

AMENDED: October 4, 2022



DISCRETIONARY REVIEW PUBLIC (DRP)

APPLICATION

Discretionary Review Requestor's Information

Name: _____

Email Address: _____

Address: _____

Telephone: _____

Please Select Billing Contact: _____

Applicant

Other (see below for details)

Name: _____ Email: _____ Phone: _____

Information on the Owner of the Property Being Developed

Name: _____

Company/Organization: _____

Email Address: _____

Address: _____

Telephone: _____

Property Information and Related Applications

Project Address: _____

Block/Lot(s): _____

Building Permit Application No(s): _____

ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST

PRIOR ACTION	YES	NO
Have you discussed this project with the permit applicant?		
Did you discuss the project with the Planning Department permit review planner?		
Did you participate in outside mediation on this case? (including Community Boards)		

Changes Made to the Project as a Result of Mediation.

If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes that were made to the proposed project.

DISCRETIONARY REVIEW REQUEST

In the space below and on separate paper, if necessary, please present facts sufficient to answer each question.

1. What are the reasons for requesting Discretionary Review? The project meets the standards of the Planning Code and the Residential Design Guidelines. What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project? How does the project conflict with the City's General Plan or the Planning Code's Priority Policies or Residential Design Guidelines? Please be specific and site specific sections of the Residential Design Guidelines.

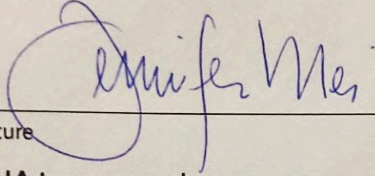
-
2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be unreasonably affected, please state who would be affected, and how.

-
3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

DISCRETIONARY REVIEW REQUESTOR'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

a) The undersigned is the DR requestor or their authorized representation.



Signature

Jennifer Mei

Name (Printed)

UCNA team member

415.775.1151

nectar.wildflowers@gmail.com

Relationship to Requestor
(i.e. Attorney, Architect, etc.)

Phone

Email

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

**ATTACHMENT ONE:
EXCEPTIONAL AND EXTRAORDINARY CIRCUMSTANCES**

Exceptional and Extraordinary Circumstances

In light of the sociocultural impact of the proposed plans at 45 Bernard Street on the Chinese character of the neighborhood and on Chinese immigrants, elders, and residents, and of SF Planning’s commitment to racial and social equity, we bring this matter to the attention of the San Francisco Planning Commissioners.

The plans and design of 45 Bernard Street undermine the cultural fabric of this community by eliminating the Chinese courtyard experience, a local asset of the neighborhood. Consider the disruption that has already been done to eleven Chinese immigrants, eight of whom are elders and/or disabled with little to no command of the English language. The new owners evicted members of the Chen and Yu family and members of the He and Cen family.¹ The plans eliminate the spiritual refuge of afforded by a secluded open space. (See figure 1 below of the Chinese courtyard.) The sponsors will not benefit from this courtyard experience nor will anyone else on the block. If approved as submitted, this project will only accelerate the transformation of our neighborhood away from being a community of Chinese American families—the social and economic unit of stability.



Figure 1. The Chinese courtyard outlined in white at 45 Bernard Street.

¹ According to San Francisco Rent Stabilization and Arbitration Board (case numbers M201229 and M201400), the evicted tenants all received a Relocation Assistance Payment. Each of the three elders and/or disabled who lived at 47 Bernard Street received \$9,151.80, and each of the other two received \$4,334.80. Each of the five elders and/or disabled at 49 Bernard Street received \$8,429.33, and Huang Zhang Chen received \$3,612.33. There were no owner buy-outs; constraints are placed on both 47-49 Bernard Street until the fall of 2025.

For over thirty-five years, we observed that the Chinese families who lived at 45-49 Bernard Street relied innately on the open space in their modest courtyard as their unofficial temple. It was a space where family members of all ages would freely come and go as they pleased, but they were more stable and connected when they were undisturbed and together in the courtyard. As Professor Laurence G. Liu, head of Architectural Design and Graduate Programmes at Southeast University, Nanjing, Jiangsu, China, wrote in a landmark reference book: “. . . people actually lived in an unstable, transient world . . . the communistic character of the family system, the inward feeling of withdrawal from the outside world, and the idea of plain living . . . contributed to the formation of the courtyard house. . . . Because the center of all activities was the courtyard, there was no privacy concerning the movement and activities of all family members . . . it was an organization which had the distinction of seclusion. Furthermore, it created a layout and a form which rallied all the members of a family psychologically to live in a spiritual refuge together. . . . Only through the unity of thought and the force of a family were they able to confront and survive the misfortunes of life.”² (See figure 2.)

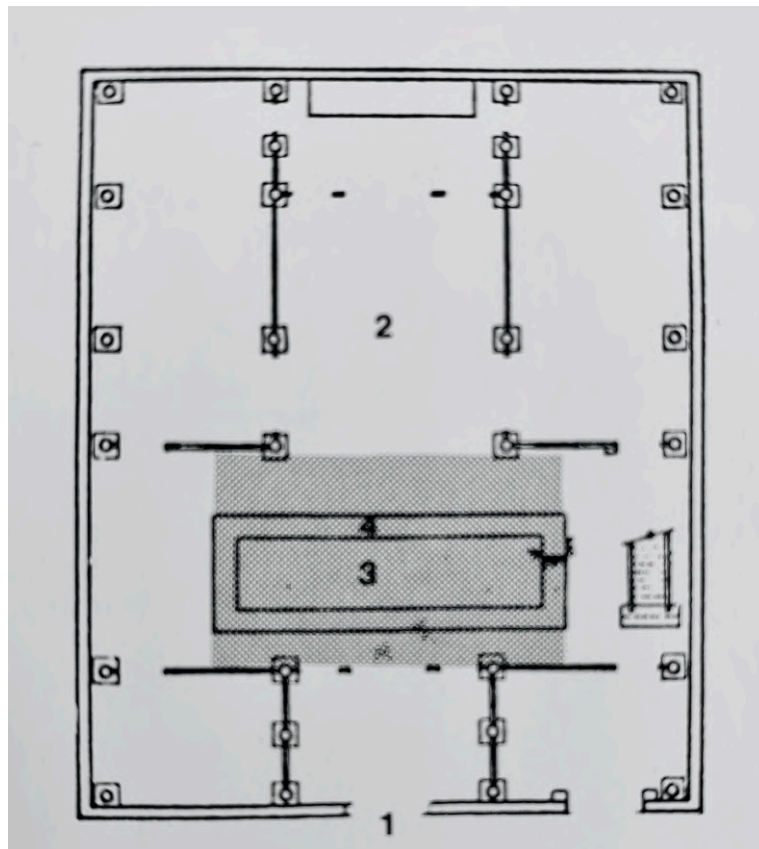


Figure 2. An illustration from *Chinese Architecture* showing a compact courtyard house in Anhui Province, China. 1. Entrance. 2. Hall. 3. Pavement. 4. Courtyard, p. 165.

² Laurence G. Liu, *Chinese Architecture* (London: Academy Editions, 1989), p. 164. The research for this book was supported by a grant from the Graham Foundation for Advanced Studies in the Fine Arts, Chicago, Illinois.

Since 1840 when individuals and families began to emigrate from China to San Francisco, generation after generation, they have inherently adopted this way of maintaining stability and unity and being a force of change in America. The Chinese people have experienced the courtyard as one of the means for strengthening the family structure and maintaining harmony within one's self and among others. An ordinary backyard serves as the sacred space for reflection and introspection. The spiritual dimension of the courtyard is not only what is in the space, but is the space itself, which makes it sacred. Given the high density of block 157, the elimination of the Chinese courtyard at 45 Bernard Street will further reduce the feeling of freedom from hardship and the opportunities for informal and spiritual connectedness with family.

The residents of Bernard Street, Pacific Avenue, Phoenix Terrace, and between Taylor and Jones are predominately Chinese families, small-business owners in Chinatown, and mid-level professionals of different races and ethnicities. Many immigrants and first-generation families live in the neighborhood because it is affordable and because it is near Chinatown where they work, attend American and Chinese schools, shop for food, and receive health care and social services. Two bus lines go in east and west directions on Pacific Avenue and bring elders to and fro. Residents live in the two- and three-story properties where whole families are together. Grandparents, parents, children, grandchildren, and other relatives assume responsibility and develop trusting relationships to help one another with child care, interpreting services, elderly care, and the family business. Family members gather to share meals while telling stories, solving problems, and supporting one another. This family system is the bedrock of the culture and maintains the social sustainability of the neighborhood.

In 2013, 80% of the homeowners were Chinese American. In 2021, their homeownership dropped to 60% and Chinese immigrants and low-income Chinese American individuals and families were displaced. (See figure 3.) What is emerging in our neighborhood is a younger, less diverse, and more affluent population of individual tenants who will likely be more transient.

Lindsey Huston and her mother, Tina Huston, are new owners of the building. Lindsey lives at 49 Bernard Street (owner move-in) and her sister, Taylor Huston, resides at 47 Bernard Street (relative move-in). Lindsey and Taylor's father, James Huston of Huston General Contracting, Inc. (HGCI), located in San Anselmo, California, is the builder. The sponsor's plans do not create more housing. The ADU in the basement is already there but needs to be legalized. And the sponsors are not adding new bedrooms to the building.

These proposed plans would further contribute to the erosion of the social and cultural fabric and do not seem to be in accord with:

(1) *Residential Design Guidelines, Introduction: Design Principles*: "Provide architectural features that enhance the neighborhood's character and ensure that the building respects mid-block open space."³

³ San Francisco Planning, *Residential Design Guidelines, Introduction: Design Principles*, p. 5, December 2013.

(2) *Residential Design Guidelines, Building Scale and Form, Building Scale at the Mid-Block Open Space*: “The height and depth of a building expansion into the rear yard can impact the mid-block open space. Even when permitted by the Planning Code, building expansions into the rear yard may not be appropriate if they are uncharacteristically deep or tall, depending on the context of the other buildings that define the mid-block open space. An out-of-scale rear yard addition can leave surrounding residents feeling “boxed-in” and cut-off from the mid-block open space. The following design modifications may reduce the impacts of rear yard expansions; other modifications may also be appropriate depending on the circumstances of a particular project: Set back upper floors to provide larger rear yard setbacks . . . reduce the footprint of the proposed building or addition.”⁴

(3) *The San Francisco General Plan, 2014 Housing Element, Part II, Objectives and Policies, Issue 6: Maintain the Unique and Diverse Character of San Francisco’s Neighborhoods, Objective 11*: “As each neighborhood progresses over time the distinct characters will form the foundation to all planning and preservation work in the area. . . . the City also values a variety of neighborhood types to support the varying preferences and lifestyles of existing and future households. Changes planned for an area should build on the assets of the specific neighborhood while allowing for change.”⁵

(4) *The San Francisco General Plan, 2014 Housing Element, Part II: Objectives and Policies, Policy 11.9, Foster Development That Strengthens Local Culture Sense of Place and History* states that “neighborhood character is also defined by long-standing heritage, community assets, institutional and social characteristics. Maintaining the linkages that such elements bring, by connecting residents to their past, can contribute to the distinctiveness of community character and unique sense of place; as well as foster community pride and participation.”⁶

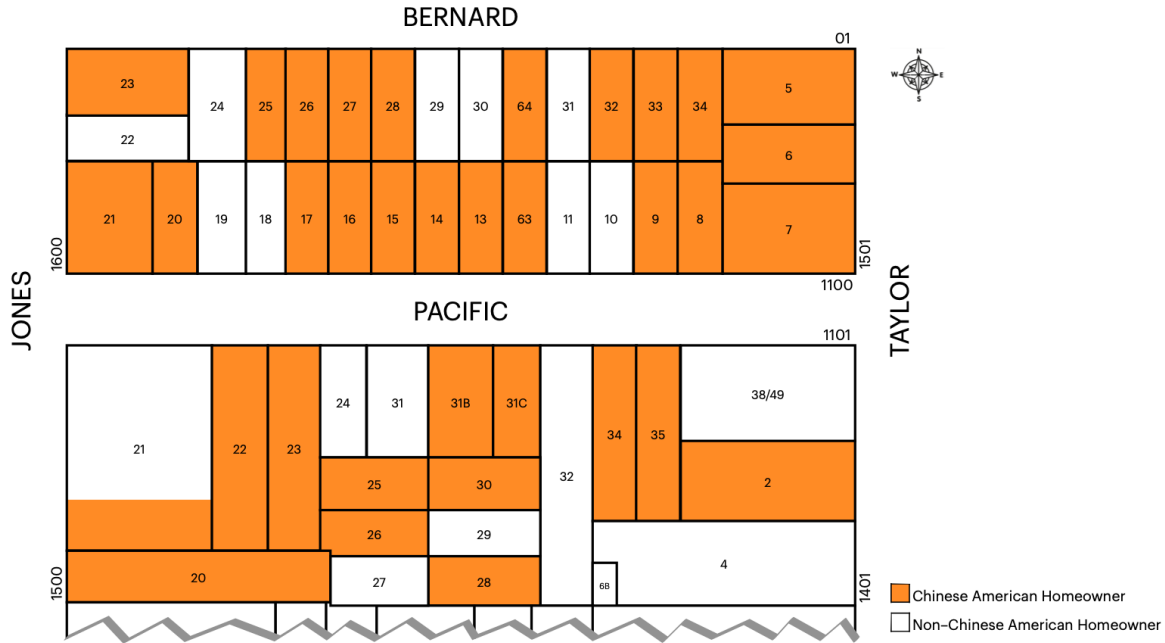
⁴ San Francisco Planning, *Residential Design Guidelines, Building Scale and Form, Building Scale at the Mid-Block Open Space*, pp 25-26, December 2013.

⁵ *The San Francisco General Plan, 2014 Housing Element, Part II: Objectives and Policies, Issue 6: Maintain the Unique and Diverse Character of San Francisco’s Neighborhoods*, p. 36, Updated August 2020.

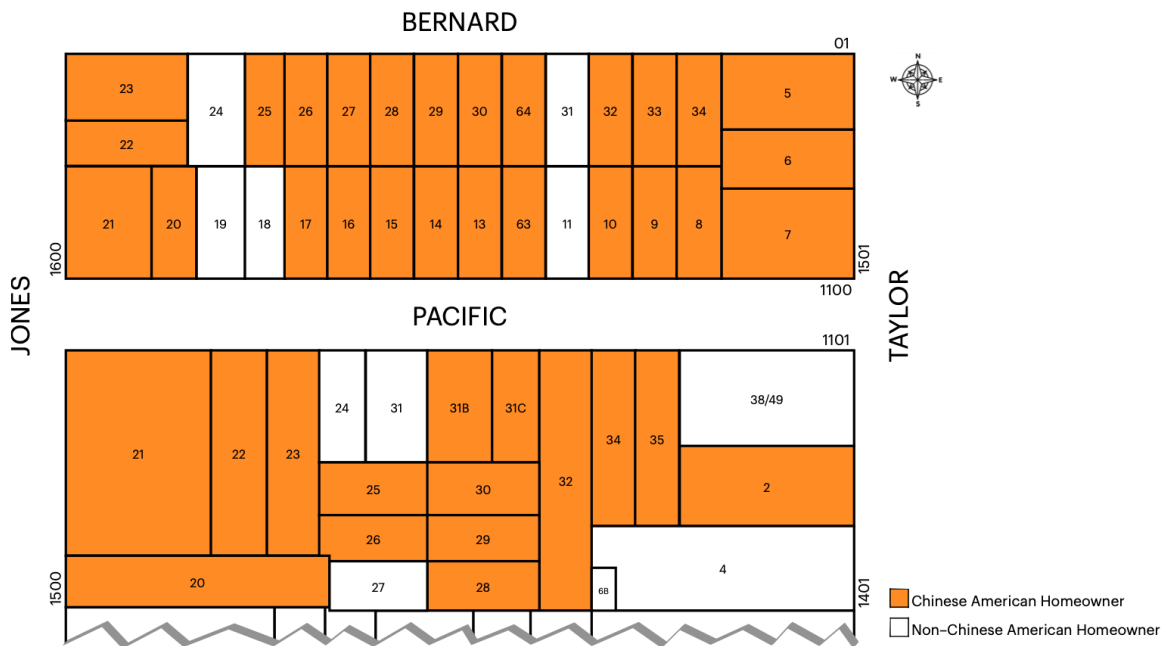
⁶ *The San Francisco General Plan, 2014 Housing Element, Part II: Objectives and Policies, Policy 11.9, Foster Development That Strengthens Local Culture Sense of Place and History*, p. 39, Updated August 2020.

Figure 3. 2013–2021 Changes in Homeownership⁷

2021 Homeownership by Lot



2013 Homeownership by Lot



⁷ Block/lot map source: Assessor-Recorder’s Office, City and County of San Francisco, <http://sfplanninggis.org/blockbooks/AssessorBlock0157.pdf> and <http://sfplanninggis.org/blockbooks/AssessorBlock0182.pdf>.

**ATTACHMENT TWO:
UNREASONABLE IMPACT**

Unreasonable Impact

1. The Proposed Increase in Size and Scale of the Building Eliminate the Chinese Courtyard

By proposing the setback at 45 Bernard to 10 feet when including the exterior stairway, the sponsor is destroying a cultural space for maintaining a personal and collective balance in life. The setback should be 15 feet but the proposed plans actually go back to just under 16 feet. The plans maximize the indoor footprint and minimize outdoor open space.

Bernard Street between Taylor and Jones Streets is highly dense with limited mid-block open spaces. The encroachment will perpetuate and expand a tenement-like situation over roughly half the block's interior open space. (See figure 4.)

While over 70% of the residents on block 157 (Bernard Street and Pacific Avenue between Jones and Taylor Streets) are Chinese American and will be the most negatively impacted, everyone on the block who wants and needs a secluded mid-block open space will also be adversely affected.



Figure 4. The tenement-like situation immediately east of 45-49 Bernard Street.

2. Rear Yard: The Project Further Reduces Light to Adjacent Properties

The proposed plans will limit the amount of light and air to bedrooms and living-area windows of the buildings adjacent to and directly opposite the development. The light to adjacent neighbors on all three sides of 45-49 Bernard Street will be affected. This expansion encroaches on the rear neighbor at 1144-1146 Pacific Avenue. If the plans are implemented, light and air quality in the mid-block open space will be further reduced, and the privacy and the security of adjacent buildings will be lessened. (See figure 5.)



↑
45-49 Bernard Street

Figure 5. Aerial photo of the mid-block open space on Bernard Street and Pacific Avenue between Taylor and Jones. The blue arrow points to 45-49 Bernard Street.

3. Rear Yard: The Project Does Not Provide Adequate Setbacks on the Upper Floors

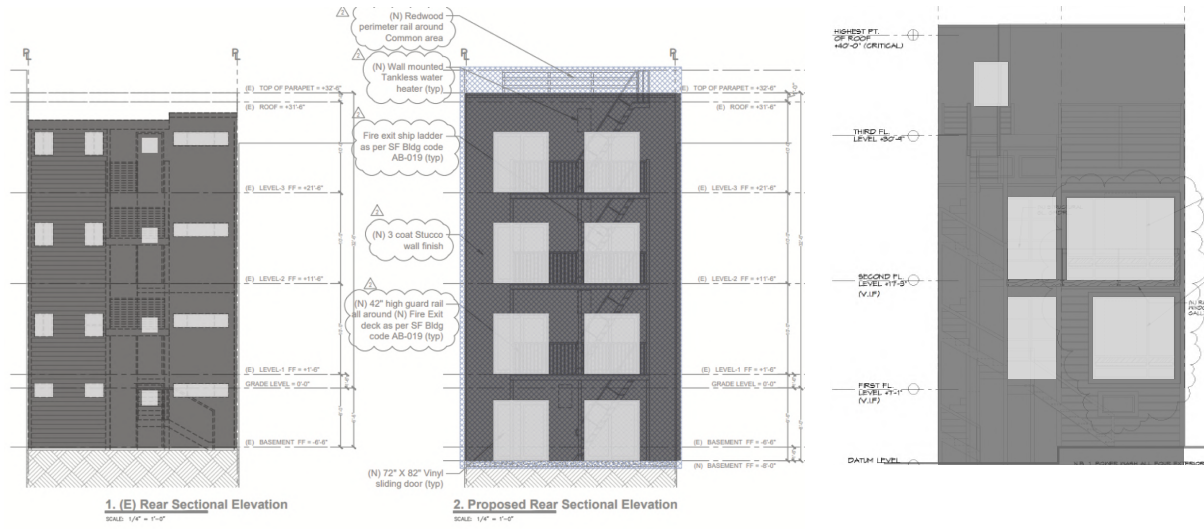
The proposed addition does not step down with grade toward the rear. The San Francisco Planning Department required the developer and owner of 51 Bernard Street (adjacent to 45-49 Bernard Street) to set back the three floors of the building in order to increase mid-block access to light and air for surrounding neighbors. The image on the left in figure 6 shows 51 Bernard Street (four-story gray building) and the existing setback of 45-49 Bernard Street.



Figure 6. Renderings of existing rear elevation and the proposed elevation of 45-49 Bernard Street. The image on the right illustrates how the proposed plans will block eastern sunlight and air flow and reduce mid-block open spaces.

4. Rear Yard: Lack of Privacy to Neighboring Interior Living Spaces

The encroachment to within 10 feet of the property line has a significant impact on the privacy of 1144-1146 Pacific Avenue, 1154-1156 Pacific Avenue, 39-41 Bernard Street, and 51 Bernard Street. The top three floors including the roof deck in the proposed plans are directly in the line of neighbors' sight and will further compromise their privacy. See figure 7 for the existing rear-window sizes at 45-49 Bernard Street; the proposed plans of two double glass doors with decks on each of three stories; and the rear windows of 1144-1446 Pacific Avenue.



Existing 45-49 Bernard St.

Proposed 45-49 Bernard St.

1144-1146 Pacific Ave.

Figure 7. Elevation drawings of 45-49 Bernard Street (existing and proposed) and a rear elevation drawing of 1144-1146 Pacific Avenue, with window sizing and placement.

**ATTACHMENT THREE:
AN ALTERNATIVE**

An Alternative to the Proposed Project: Maintaining the Chinese Courtyard Experience and Providing Greater Privacy

Sponsor to Redesign the Project to Increase the Rear Yard Setbacks So That They Align with the Setbacks of 51 Bernard Street⁸

The setback design of the adjacent building at 51 Bernard Street is a good precedent. UCNA recommends the design of 45-49 Bernard Street to mirror the 51 Bernard Street setbacks.

The backyard setback should be no less than 20 feet 6 inches from the property line. The second and third floors should have a 7-foot setback on each of the two floors. (These setback measurements need to be confirmed on site.)

Figure 7 shows a rendering of 45 Bernard Street with the “Preferred Set-Back Edge” as a dotted white line. The line is aligned with the second floor of 51 Bernard Street.

Sponsor to Install the Rear Stairway Indoors

UCNA also recommends that the rear stairs be located in the interior of the building instead of outdoors.

Sponsor to Reduce the Size of All of the Glazing in the Rear of the Building

UCNA suggests that the new owners reduce the size of all the glazing on the top two floors.

All glazing and the roof deck should be configured to break the line of sight to 39-41 Bernard Street, 51 Bernard Street, 1154-1156 Pacific Avenue, and 1144-1146 Pacific Avenue.

The owners should also use translucent glazing or frosted glass facing openings and abutting structures.

⁸ The *Planning Code Section 101* and the *Residential Design Guidelines Rear Yard, Light, and Privacy* recommend the following: “provide setbacks on the upper floors of the building”; “develop window configurations that break the line of sight between houses”; and “use translucent glazing such as glass block or frosted glass on windows and doors facing openings on abutting structures.” pp. 16-17, December 2013.

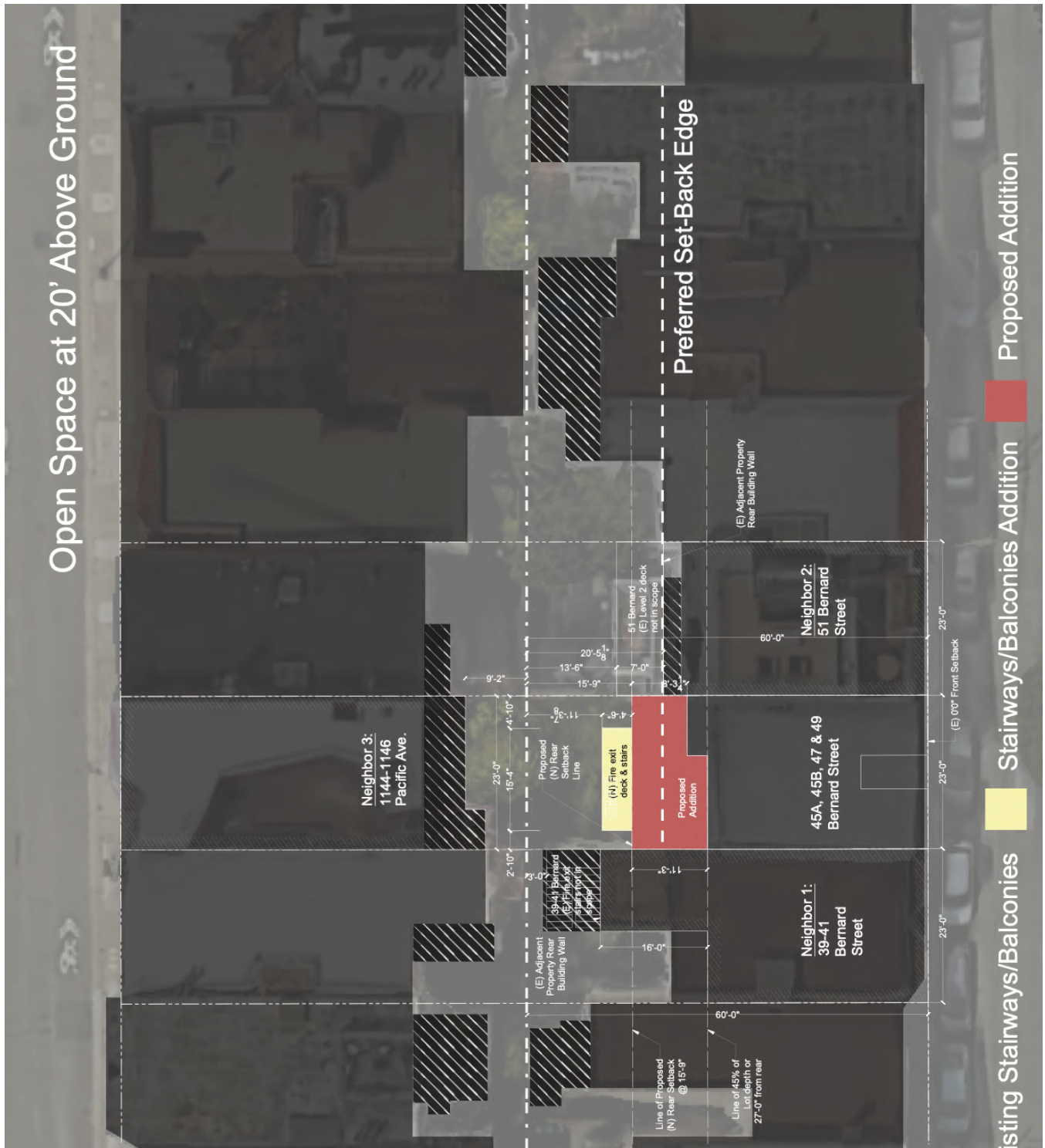


Figure 7. Site view of the existing open space, with the proposed addition (in red) and the proposed decks and stairs (in yellow). We wish to note that the illustration does not include all the existing egresses and walkways of the other buildings on our block. The Google Maps image that we used to develop this illustration did not have sufficient details for us to show accurately all the structures and dimensions.

City of San Francisco

Supplemental DR Response

45-49 Bernard Street
San Francisco, CA 94133



Last Revised: April 22, 2022

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1. Overview

Owner Occupancy

The 3-unit building was purchased in September 2019 by Tina Huston (mother) and Lindsey Huston (daughter) who are the Permit Requesters (Sponsors) in this request. The property was explicitly purchased to occupy as a family with the intention of Lindsey occupying one unit as an “Owner” and her sister Taylor moving into a second unit as a “Relative”. At that time, both Lindsey Huston and Taylor Huston were living in separate apartments in San Francisco and working for Companies in the City. Unit #49 was planned as an OMI and #47 as an RMI.

Unit #45 was occupied (and continues to be) occupied by a Tenant, Ms. Qi.

Property Condition

This Project will provide critically necessary updates to a property that is severely dilapidated and has had decades (over 30 years) of deferred maintenance. Feedback from prior and current tenants is consistent with the fact that the prior landlord knowingly neglected the property and specific concerns raised by the tenants. This is evident from the condition of the property, which is highlighted in the third-party inspection report which was provided by the Sellers of the building in 2019. The report recommended many critical repairs, and the upgrade plans below address items outlined in that report. See **Appendix A.1**.

Project Overview

The project is in complete compliance with City Planning code and has passed the City Planning process to achieve the following:

1. Complete critical foundation work (soft story).
2. Remove the back porch replacing it with code compliant construction.
3. Extend the depth to the required minimum setback, thereby increasing the square footage of each 3-bedroom unit by 232 sf, from 736 sf to 968sf within the City-approved setback.
 - Provide for a ‘normal’ size kitchen (current kitchen is on the porch and approximately 5’ square)
 - Add second bathroom
4. Replace windows (many of which will not fully close at this point) and doors
5. Exterior / Siding improvements and repainting
6. Interior improvements, flooring, cabinets, and repainting
7. Add shared space on roof
8. Under a separate permit, the Project will also legalize the basement unit that has existed for years, and was unlawfully rented by the prior owner (it is currently not occupied)

Existing Tenant

As for the petitioner’s “concerns” about tenants: once proposed upgrades have been made, our wonderful tenant, Ms. Qi, will have a fully remodeled home, which she will return to at her rent-protected price. In response to concerns prior evictions, the petitioners (our neighbors), claim to care

deeply for the tenants in hopes that, from a political perspective, with the hope that this will sway your opinion. However, in the 8+ years the tenants were residing here, Jennifer/Hanmin never reached out to the prior landlord to help advocate for better habitable conditions.

[Ms. Qi and her daughter have provided a letter of support that is provided under separate cover.](#)

UNCA Care for Tenants

The UCNA never advocated for the Prior tenants when it mattered to improve their overall living conditions. Even now, they do not stop in to check on or support Ms. Qi in any way.

The Commission see this for what it is—two neighbors who don't want construction because of personal reasons. We have great respect for all cultures, and the San Francisco community, we only aim to preserve and support the neighborhood character to flourish.

Prior Evictions

We reviewed the San Francisco Rent Board, OMI, and eviction laws in detail before purchasing the property and believe that have not only abided by the laws but gone above and beyond to provide financial support for the family members displaced, time to relocate, and months of free rent. We hired an Attorney to ensure that the procedures were followed, as they are quite complex.

The Tenants also were represented by an attorney with expertise in San Francisco Tenant Law during the process. Due to COVID, the overall process was at a standstill. Within one and two years respectively, the Tenants in #47 and #49 secured better housing. Once they signed leases and intended to move, they approached us to arrange relocation payments. At that time, COVID restrictions were still in place and so evictions were not being enforced. In theory, the Tenants could have remained in possession, but they elected to pursue the new housing that they had identified. In the end, the process financially benefitted the prior Tenants and their families and they were able to secure better housing.

[Furthermore, the prior Tenant from Unit #47 also provided a letter of support for the project, which is included under separate cover.](#)

2. Conclusion: Burden of DR Not Met

2.1 Criteria for Granting Request

Upon reviewing the discretionary review request, it is apparent that the petitioners have not sufficiently demonstrated why the project should be denied or modified and have failed to describe any *exceptional* or *extraordinary* circumstances.

The burden of demonstrating why a project should be denied or modified rests on the DR applicant.

The City Attorney has made it clear that the standard for exceptional and extraordinary circumstances is high and “the Commission’s discretion is sensitive and must be exercised with utmost constraint.”

2.2 Exceptional or Extraordinary Circumstances

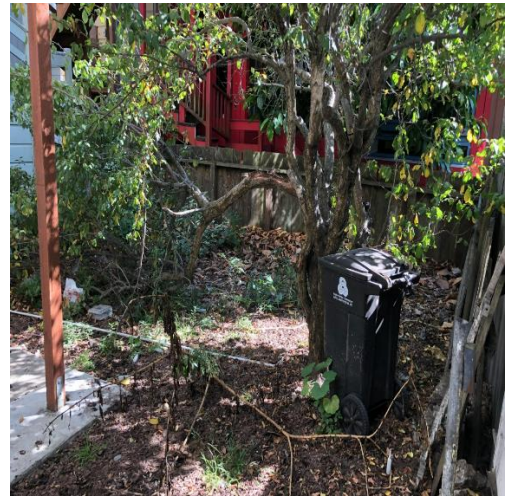
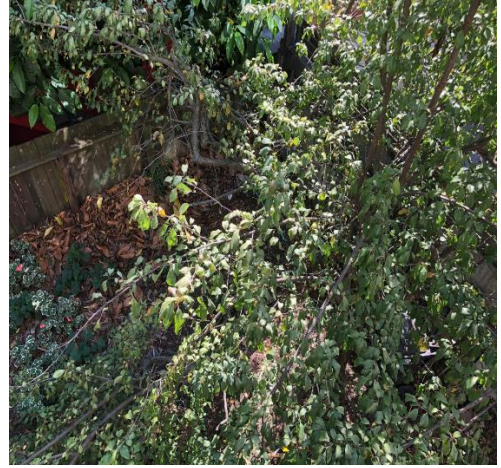
The petitioner has not described any *exceptional* or *extraordinary* circumstances, or provided any specific, detailed analysis that is supported by RPG. It is not even clear what they are deeming to be extraordinary or exceptional, besides that, ***“plans and design of 45 Bernard Street undermine the cultural fabric of this community by eliminating the Chinese courtyard experience, a local asset of the neighborhood.”***

The courtyard is not a public space, but a private rear-yard, and the features they call out as worth protecting are improvements that were made by us to ensure the yard was usable for themselves and tenants. Importantly:

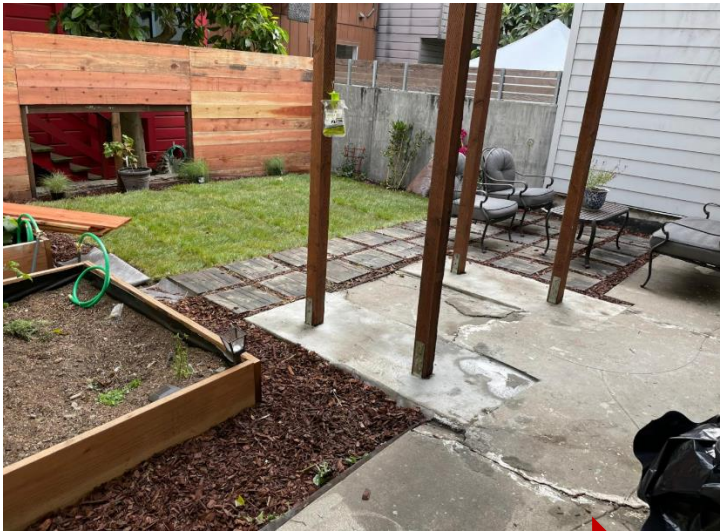
- This Yard is part of the subject property.
- There is no public access to make it any kind of neighborhood courtyard.
- The yard that is depicted in Ms. Liu’s diagram – was just installed last year ***after moving in.***
- Prior to our occupancy, it appears that the back yard not as a shared Courtyard (or even a yard really), but as a place to dump construction debris, trash, etc.
 - This has been reaffirmed by the Ms. Qi’s daughter’s letter of support – who was a resident of Unit #45 from 1983 to 2011.
 - While planting grass in the back yard, we removed ~6 cubic yards of trash buried, including glass, plastic, and other debris.
- The yard is and will remain in a common space for the Owners and Tenants of the building and the existing Tenant has been informed of same.

While we recognize the rear-yard will be reduced slightly, 362 square feet will remain as courtyard space, in addition to shared roof area. This is a modest request for expansion, while maintaining dense/family-oriented housing. There is strong demonstration that the current plans are consistent with the prevailing neighborhood, and, in fact, the properties of the petitioners themselves.

Images of Yard When We Purchased It (Note: No Chinese Courtyard, Public Access, etc)



**Images During Our Work to Improve the Yard
(Installed in 2021)**



Yard Referred to here and layout was installed in 2021 by Sponsors

**Image in the Petitioner's Response – Referring to
Chinese Courtyard used for 35 years**

For over thirty five years, we observed that the Chinese families who lived at 45-49 Bernard Street relied intimately on the open space in their modest courtyard as their unofficial temple. It was a space where family members of all ages would freely come and go as they pleased, but they were more stable and connected when they were undisturbed and together in the courtyard. As Professor Laurence G. Liu, head of Architectural Design and Graduate Programmes at Southeast University, Nanjing, Jiangsu, China, wrote in a landmark reference book: "... people actually lived in an unstable, transient world ... the communistic character of the family system, the inward feeling of withdrawal from the outside world, and the idea of plain living ... contributed to the formation of the courtyard house ... Because the center of all activities was the courtyard, there was no privacy concerning the movement and activities of all family members ... it was an organization which had the distinction of seclusion. Furthermore, it created a layout and a form which rallied all the members of a family psychologically to live in a spiritual refuge together. ... Only through the unity of thought and the force of a family were they able to confront and survive the misfortunes of life." (See figure 2.)

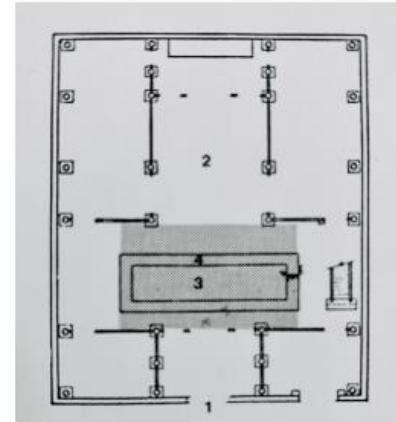


Figure 2. An illustration from *Chinese Architecture* showing a compact courtyard house in Anhui Province, China. 1. Entrance. 2. Hall. 3. Pavement. 4. Courtyard, p. 165.



2.3 Petitioner and Direct Neighbors

Upper Chinatown Neighborhood Association (UCNA). The petitioner who has requested discretionary review under the name UCNA are in actuality the owners of 39A-39-41 Bernard, and 1144-1146 Pacific Avenue, adjacent properties to 45-47-49 Bernard.

- **39A-39-41 Bernard is owned by Sandra and John Leung**, and is a 3-unit multi-family property. It is unclear if the property is used solely as it's intended MFR purpose or is instead used as a SFR.
- **1144-1146 Pacific is owned by Jennier Mei and Hanmin Liu**, and is a four-story, single-family residence with a commercial unit on the first floor that is used by Mrs. Mei and Mr. Liu. It was indicated to us by Mr Liu that they occasionally use their commercial unit to host overnight guests, and that the fact that guests could see into our units was a concern.

51 Bernard St. We have discussed the project extensively with the owner of 51 Bernard. In conversations with the owner at 51 Bernard, the owner stated to us that he does not think the project is unreasonable and that, "because it was a multi-family project, it would have different design considerations" than the project at 51 Bernard. Overall, he is supportive of the project, and recognizes the building needs considerable upgrades which will benefit the neighborhood. Although the petitioners claim to represent the owner at 51 Bernard, they do not, so it is a surprise that the petitioners claim they represent the owner at 51 Bernard in their DR submission. Though Sandra Lueng repeatedly contacted the 51 Bernard Owner and tried to persuade the Owner to contest the project, the owner at 51 Bernard declined to support the discretionary review.

2.4 Housing Act

The Housing Accountability Act compels approval of this project, as the design maintains the number of bedrooms in existing units, and creates a new, legal unit under a separate permit and via the State of California ADU program for legalization.

3. Response to Specific DR Response Questions

3.1 DR Response Question #1: Why Approve?

Given the concerns of the DR requester and other concerned parties, why do you feel your proposed project should be approved?

3.1.1 Approval Rationale No Exceptional Impact and Plans are to Code

- The Project does not have an exceptional or extraordinary impact on the neighboring properties; rather, the design is supported by the character and designs of the neighboring buildings, and the depth is calculated based on the average of adjacent neighbors.
- Project plan is code complaint and adheres to residential planning guidance (RPG)
- Plans were thoughtfully designed to:
 - Preserve the number of bedrooms that currently exist in the units
 - Continue to promote dense, family-oriented housing, while allowing for a more functional/safe kitchen and shared space.
- We have already amended plans based on SF planning feedback and the petitioner's concerns, to reflect a reduction in the rear yard setback and redesign of the rear fire-exit stairs.
- Plans do not require variance.
- Adjacent and rear neighbors have built within the 15' setback (meaning their properties are deeper than the required setback).
- The City Zoning Administrator and City Planner have both agreed to the setback calculation given the adjacent properties.

3.1.2 Petitioners did not meet requirements for Discretionary Review Request

- First and foremost, as outlined in Section 2 above, the Petitioner's request does not demonstrate exceptional or extraordinary impact.
- Communication attempts were made with the UNCA on multiple occasions. Refer to **Appendix C** for the Communication Log.
- In addition to the legitimacy and conceptual soundness of the project itself, we have made continuous efforts to meet and communicate with the petitioners John and Sandra Leung (39A-39-41 Bernard), and Hanmin Liu and Jennifer Mei (1144-1146 Pacific), to hear their concerns, attempt to discuss resolution, and come to mutual agreement. petitioners did not respond to our requests to meet via call/email or in-person, would occasionally respond but never agree to meet, and ignored our offer to meet with a Mediator.

- After the scheduled pre-planning meeting was held, petitioners communicated concern regarding in-person nature to Planner, and that the initial pre-planning meeting notices did not include a call-in code for scheduled pre-planning meeting on December 14th. We apologized, provided a call-in code for December 14th, provided copies of the plans to petitioners (though was not required to), and made themselves available to meet/converse at any point during the pre-planning phase. We then held a second pre-planning meeting on December 31st to try to ensure all neighborhood concerns would be addressed. The petitioners did not attend either of the two neighborhood review meetings that were held.
- Meanwhile, in the almost 2 years we have been awaiting approvals from SF Planning, the petitioners were communicating directly with a City Supervisor to circumvent normal procedure and inflict undue criticism and pressure on the Planning Department. They have also contacted the planning commission, our tenant, the tenant’s daughter, and reached out to other neighbors in the neighborhood in attempts to get them to support a discretionary review. The petitioners have left us out of all of these communications.
- Per discretionary review directions, before submitting a DR request (see below image from DR request submitted), the petitioners are responsible to attempt communication with permit applicants and/or participate in outside mediation, and we have created ample space for them to do so.
- Refer to Appendix C for the numerous attempts to meet and discuss the project.

ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST

PRIOR ACTION	YES	NO
Have you discussed this project with the permit applicant?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you participate in outside mediation on this case? (including Community Boards)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

3.2 DR Response Question #2: Alternatives?

What alternatives or changes to the proposed project are you willing to make to address the concerns of the DR requester /concerned parties? If you have already changed the project to meet neighborhood concerns, please explain those changes and indicate whether they were made before or after filing your application with the City.

3.2.1 Petitioner Request: Preserve the Neighborhood Chinese Courtyard Experience

This item discussed in depth in **Section 2**.

3.2.2 Petitioners Request: Reduce the Size of All of the Glazing in the Rear of the Building

- It is essential to retain the size of the windows in proposed plans, as it is the primary source of light for each of the unit's kitchen and primary bedroom. To reiterate, this is a MFR, and we need to ensure adequate light is provided to each unit as outlined in RPG.
- This character is consistent with all adjacent properties and the block and neighborhood conditions. In fact, even the petitioners Jennifer and Hanmin increased the size of their rear-windows to be large and allow light into their home. They did elect to glaze these large new windows.
- The petitioner's lower floor(s) is a commercial unit; though they have stated that they have company there who stay overnight (which our understanding is that this is not permissible)

Alternative

- We are planning and willing to install curtains and/or shutters to preserve privacy of both properties and request petitioners do the same.

3.2.3 Petitioners Request: Install the Rear Stairway Indoors

- It is not feasible for rear stairs to be moved indoors - this is a fire exit requirement and, as such, a permissible obstruction into the rear yard as noted in Section 136.4 of Planning Code:
Fire Escapes: leaving at least 7½ feet of headroom exclusive of drop ladders to grade, and not projecting more than necessary for safety or in any case more than four feet six inches into the required open area. In the case of yards, the aggregate length of all bay windows, balconies, fire escapes and chimneys that extend into the required open area shall be no more than 2/3 the buildable width of the lot along a rear building wall, 2/3 the buildable length of a street side building wall, or 1/3 the buildable length of an interior side lot line;
- We have attempted to be considerate in design after the petitioners' voiced concerns, and subsequently redesigned the fire exit to be less obtrusive. Photos of the current stairs, initial designs and final plans are shown below. The current/final plan set has a fire escape that is far less intrusive, maintains more open space in the yard, and from an appearance perspective is consistent with the character of the city.

Alternative

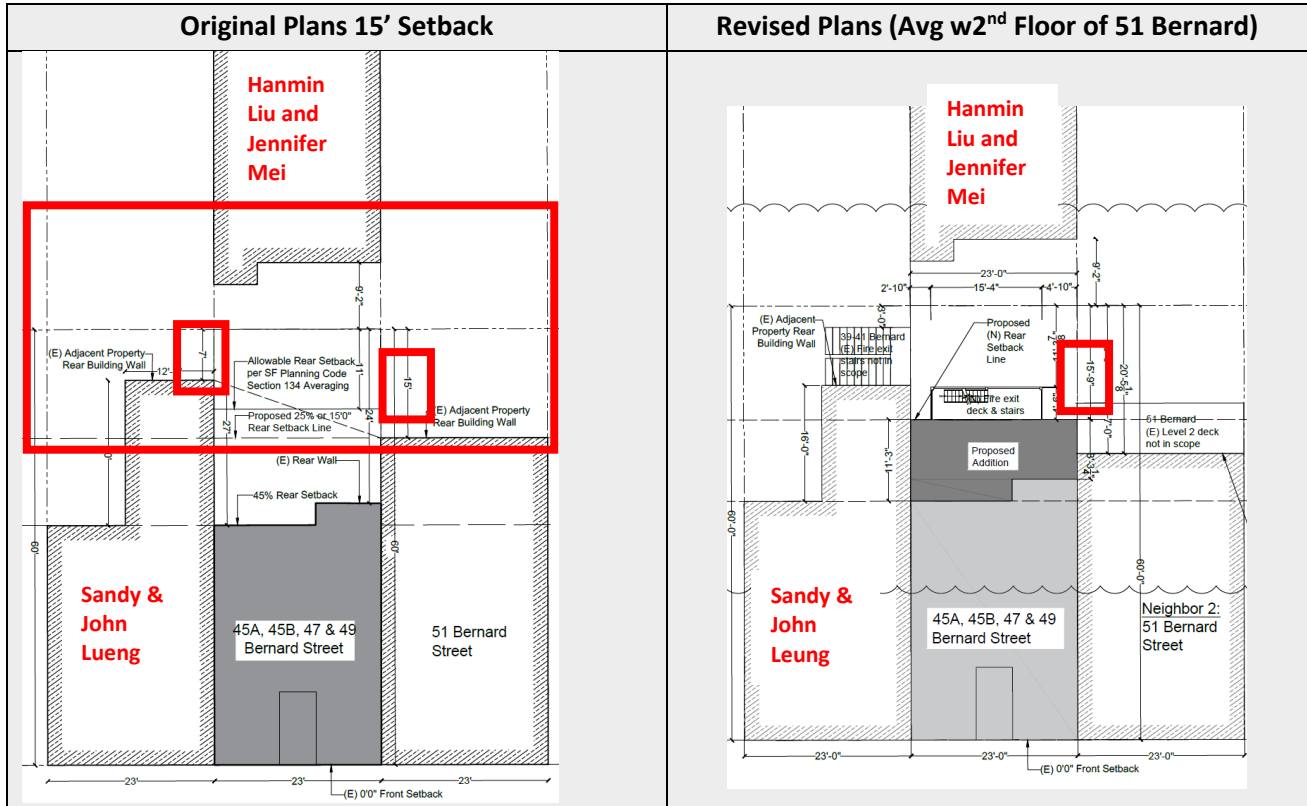
- None proposed

3.2.4 Petitioner Request: Redesign Project to increase Setbacks

Redesign the Project to Increase the Rear Yard Setbacks So That They Align with the Setbacks of 51 Bernard Street.

- The project's proposed rear yard setback is determined by averaging the rear-yard setback of the adjacent buildings at 39A-39-41 Bernard and 51 Bernard; therefore, the context of the surrounding buildings determine the Project's allowable depth.
- The setbacks were already reduced from the 'minimum' of 15', as described above. Setback was increased to 15'-9" by considering only the 2nd floor depth of 51 Bernard.
- The petitioners at 39A-39-41 Bernard and 1144-1146 Bernard quote RPG: "building expansions into the rear yard may not be appropriate if they are uncharacteristically deep or tall, depending on the context of the other buildings that define the mid-block open space." as reasons to deny the Project, though give no actual analysis to support this statement. In fact, RPG supports the approval of the project:
 - The Project's proposal is not out of scale, does not propose an increase to height, and is not uncharacteristically deep when compared to the adjacent neighbors, nor the greater mid-block.
 - As the petitioner notes in their argument, the block is full of deep buildings and is dense.
 - ***In fact, 21 of 23 or 91% of the lots with identical lot configurations (23'X 60') have rear yard setbacks at or deeper than the proposed Project's rear yard setback.***
 - These properties are primarily made up of two-to-five story duplex, triplex and SFR properties.
- Both petitioner's properties extend significantly into the 15' required minimum; hence petitioners are trying to hold us to a Standard that is neither per Code – nor did it apply to them
 - Mei and Lui Property at 1144-1146 Pacific (to the South)
 - 1144-1146 Pacific is owned by Jennifer Mei and Hanmin Liu, and is a four-story, single-family residence with a commercial unit on the first floor.
 - 1144-1146 Pacific constructed a third story and private residential roof deck
 - The Liu's property is within approximately **9'-2" of the rear property line**
 - Stairs are around 3' of the back property line / rear fence
 - There is also a massive tree (approx 40+') located within just a few feet of the property line
 - The Tree itself blocks light, is over 3 stories high, encroaches on the surrounding properties (overhanging the rear fence)
 - Leung Property at 39A-41 Bernard (to the East)
 - 39A-39-41 Bernard is owned by Sandra and John Leung, and is a 3-unit multi-family property.
 - 39A-39-41 Bernard has a three-story multi-family unit, with rear-yard setback of 11 feet (3' when including the fire exit stairs), and no upper setback on the second or third floor.

- They also built a roof deck, without the benefit of a permit, that looks directly into the rear of 49 Bernard and into the private rear yard.
- **Adjustments have already been made.** The plans were revised during the initial Planning review. Depth was reduced by 9" (from 15') to 15'-9" to average between the 51 Bernard's Second Story (which is set back) and the 11' depth of the other adjacent neighbor. 15' is the Zoning minimum, but the Code permits averaging as well if adjacent property owners have built deeper.



- **Zoning Administrator Review.** We recently received confirmation from the Zoning Administrator via City Planning that the setback is appropriate. This was a secondary review initiated by City Planning as part of this DR Review. In concert with the Zoning Administrator, City planning has determined that the that the plans meet Code, including the setbacks.

51 Bernard Single Family Residence (in Gray) - Staggered Floor Design



~20'6" Qualifying Rear
for Averaging

Existing Building

Proposed Building

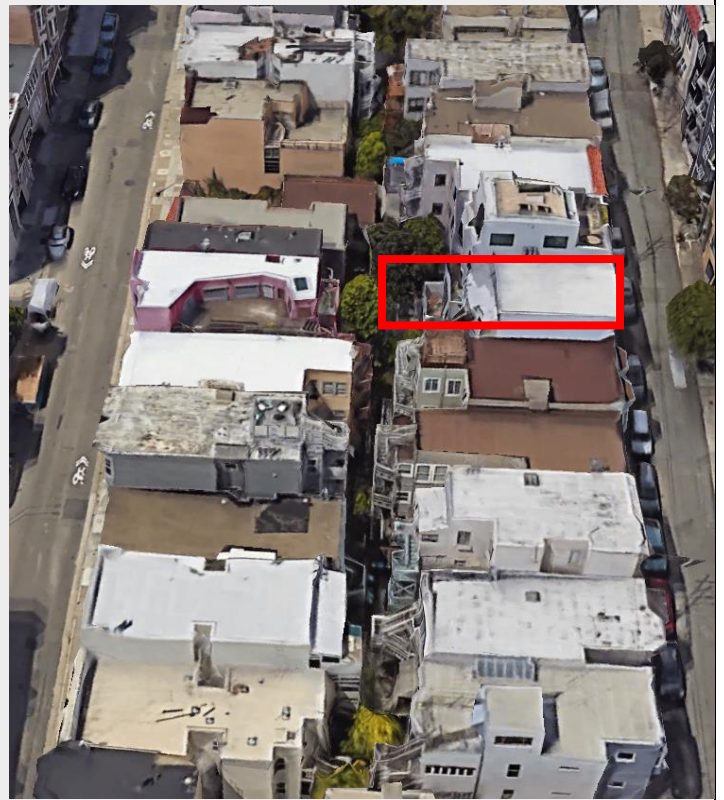
Legend

- Stairways/Balconies Volume
- Building Volume

Prevailing Neighborhood Setbacks
(See Appendix A.3 for Additional Images)



Rear Yard Setbacks between Bernard and Pacific
(See Appendix A.3 for Additional Images)



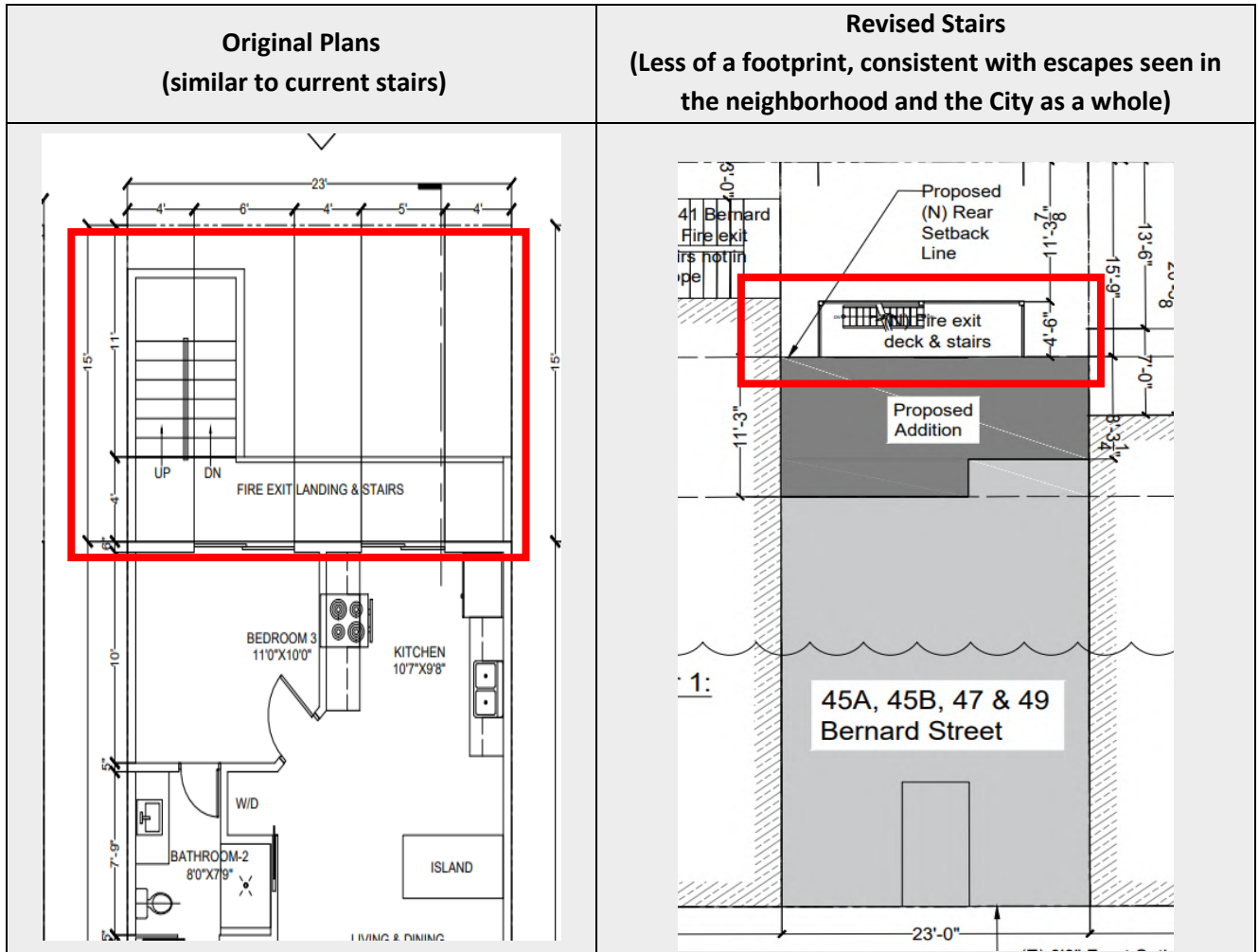
- **Reduces Family-Oriented Housing:** If required to further reduce the building, we would not be able to maintain a primary bedroom in the rear of the building and would be forced to redesign the project in totality. Our current design thoughtfully preserves the character of the building and avoids tantamount-to-demolition by leaving the front facade and two (of three) bedrooms as they currently exist. The front two bedrooms are small, fitting only a full-sized bed that consumes most of the width of the room, and do not functionally serve as a primary bedroom. These spaces were designed for 1906 living conditions. By extending the back of the unit, we are able to create space for a decent sized primary bedroom, maintain the 3-bedroom density, and allow for more functional and usable kitchen and shared living space, which does not currently exist. If further reduction in the rear-yard setback is required, we would need to resign the project to allow for a functional primary bedroom, which only leaves enough space for 2-bedroom units, effectively reducing the density of each unit and ability of 45-47-49 Bernard to house families with multiple children. This would be devastating to our family as we want to start families and raise children here.
- **Density of Proposed ADU Considerations & Legal Considerations:** As described in the project overview, the plans propose a basement ADU (under separate permit) which is currently designed as a two-bedroom unit. These designs are supported by RPG. The same logic above

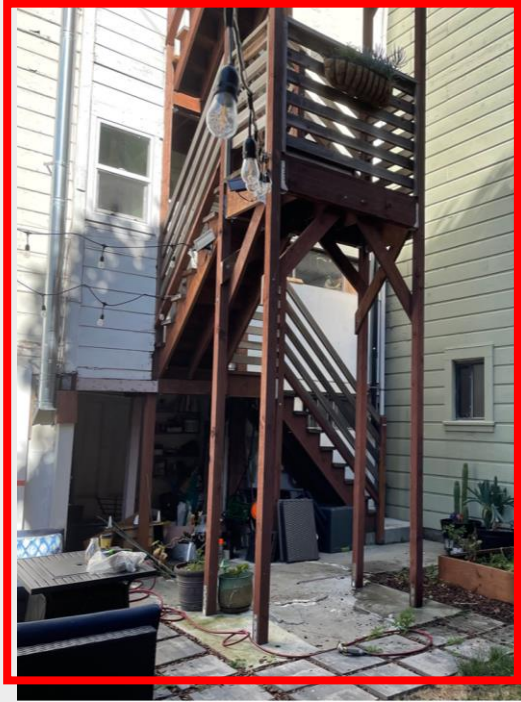
applies to the additional proposed housing unit. If the depth of the building is reduced any further, the neighbors (and Planning Commission) would be in effect reducing the density of the ADU at 45A Bernard, given the depth of 22 feet would only allow for a small 1-bedroom unit. This is in direct opposition to the City's overall plan to build dense, family-oriented housing. As such, the Commission is compelled to approve the project under the Housing Accountability Act, as we are creating a unit via ADU, qualifying the project as a housing project, and our plans have been determined to meet code and RPG.

- **Design Considerations for a MFR vs. SFR (51 Bernard).** The SFR does not have the same design considerations as our MFR and should not be applied to the 45-49 Bernard project design. The character and context of the neighborhood supports the design of the project. Effectively every other MFR on the block goes deep into the rear yard and an external stairwell.

Alternative

- Per the original feedback provided last summer, plans have already been revised (as referenced below).
- No further changes required.





3.3 DR Response Question #3: Why No Adverse Effect

If you are not willing to change the proposed project or pursue other alternatives, please state why you feel that your project would not have any adverse effect on the surrounding properties. Include an explanation of your needs for space or other personal requirements that prevent you from making the changes requested by the DR requester.

3.3.1 Personal / Homeowner Needs and Rights

As described above, Lindsey and Taylor Huston currently occupy Unit #47 and #49. They wish to have families here, which is why we designed the property to preserve the number of bedrooms that exist. The proposed expansion is modest and balances our family-oriented needs with the maintenance of a sizable, shared yard for our tenants and mid-block space/light.

The current design has minimal impact on neighboring properties, given the context of the adjacent properties (including our petitioner's properties) themselves, while preserving the character of the neighborhood.

Notably, RPG states that in areas with "*dense building pattern, some reduction of light to neighboring buildings can be expected with a building expansion.*" Similarly, "*as with light, some loss of privacy to existing neighboring buildings can be expected with a building expansion.*"

3.3.3 Limited Impact to Light and Privacy of "Adjacent" Properties

The petitioner has not provided any analysis demonstrating the validity of the claim that personal privacy or light will be "**extraordinarily**" impacted. They simply comment that the project "will limit the amount of light and air to bedrooms and living-area windows of the buildings adjacent to and directly opposite the development." Conversely, we assert that:

- Character of as-built conditions in the surrounding buildings guarantees the proposed designs create little or no impact to light and privacy generally. Refer to **Appendix A.4** for supplemental arial photos showing the full mid block.
- The tree at 1144-1146 Pacific provides total privacy for Jennifer and Hanmin, no matter the condition of our property.

All these features described below indicate that preservation of privacy and light for adjacent properties is not extraordinary or unreasonable.

3.3.3.1 Consideration of 1144-1146 Pacific

- 45-47-49 Bernard is positioned to the North of 1144-1146 Pacific
 - Therefore it is impossible for the rear of the Project at 45-47-49 Bernard to cast shadows on the property. See sun ray calculations below.
- The rear facade of 1144-1146 Pacific is completely covered by their own 4+ story tree:

- The petitioners tree blocks any mid-block light and air to the rear facade of their property, and further ensures there is no direct line of sight into the property from the Project.
- The appellant Hamin Liu’s own admission in an email to Planner Guy regarding project (dated April 6, 2021), he indicates, “*in an earlier email to you [Planner Guy], “you know that we have a 40 year old Michelia Alba tree which does offer the privacy we need.”*”
- Conversely, the tree (as mentioned above) casts shade, overhangs the property line of 45-47-49 Bernard
- A more reasonable alternative would be for petitioners at 1144-1146 Pacific to hang curtains or install shutters to provide additional privacy, as we intend to do in the units at 45-47-49 Bernard.
- Finally, it is worth reminding the commission that 1144 Pacific is a commercial unit, not a residential unit, and is therefore not afforded the same light or privacy design considerations as a residential unit.

3.3.3.2 *Consideration for 39A-39-41 Bernard*

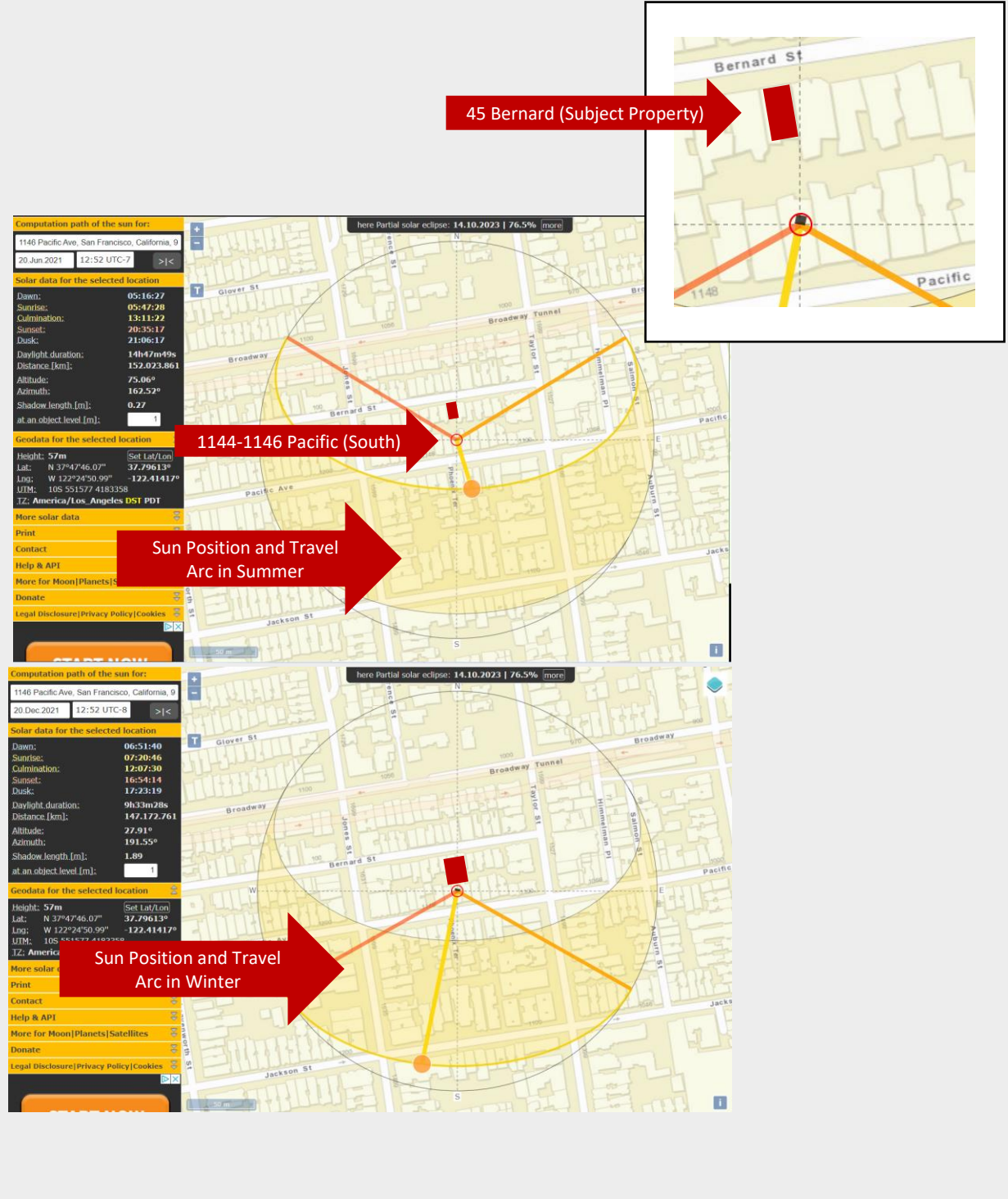
- 39A-39-41 Bernard has a deeper rear-yard setback than the proposed Project at 45-47-49 Bernard. The setback at 39A-39-41 Bernard goes 11 feet to the property line, and is 3 feet from the property line when including their fire exit stairs (a permissible obstruction), and is half the width of their property. Given this, it is impossible that the Project would cast any additional meaningful shadows into any open space or bedrooms or have line of sight into 39A-39-41 Bernard property. The photo below shows the rear yard setback, the fire exit stairs, and also captures shadows cast by the petitioner’s tree at 1144-1146 Pacific on neighboring properties and mid-block open space.
- Though privacy is a concern for petitioners, Johnny and Sandra Leung have installed a private roof deck that has a direct line of sight into the top unit at 45-47-49 Bernard (we could not find a permit filed with the City for this)
- The petitioners have installed a security camera on this roof deck, pointed at the back/side of the property – violating privacy.
- The Leung’s property blocks light (casts shade) on the property in the morning as the sun comes from the East. But, there is nothing to be done regarding remediate the direction of the sun.

3.3.3.3 *Considerations for 51 Bernard*

- While the property may cast a morning shadow on the upper levels of 51 Bernard, the impact is not extraordinary or unreasonable.
- As noted above, the depth of the property at 39A-39-41 Bernard already creates a shadow in the morning hours so the impact. Further, 51 Bernard is south facing, the same as 49 Bernard, and will still enjoy direct sunlight from the early afternoon through the evening.
- The property owner at 51 Bernard supports the project and is not represented by the DR petitioner.

<p>Prevailing Block – Facing East (Setbacks < 15')</p> <p>Note: Exist Stairs within a few feet of back Property Line</p>	<p>Rear Neighbor (Hanim Liu & Jennifer Mei) – petitioners</p> <p>Setback: ~9'2" (Stairs within ~3')</p>	<p>Side Neighbor (Sandy & John Leung) – petitioners</p> <p>Setback: ~ 11' (Stairs within ~ 7')</p>
		

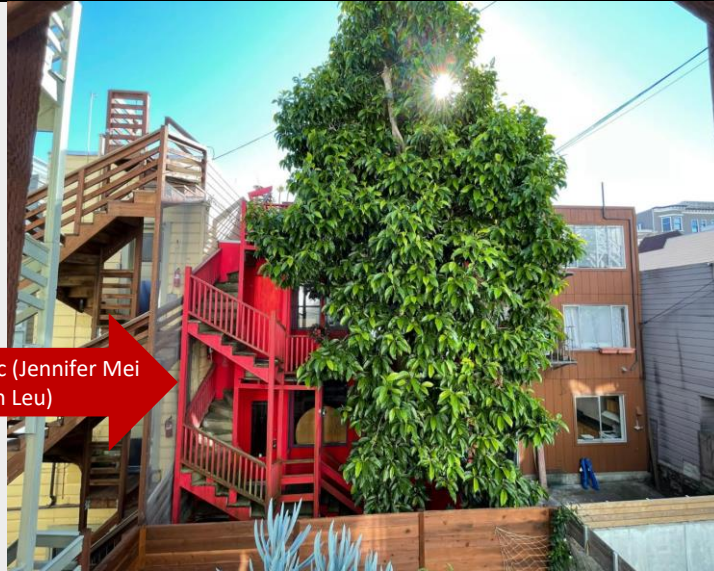
Sunlight Analysis per <https://www.suncalc.org/#/37.7961,-122.4142,18/2021.12.20/12:52/1/3>



**Hanmin Liu & Jennifer Mei Home on Pacific
Shows direction / position of Sun as well as Tree**

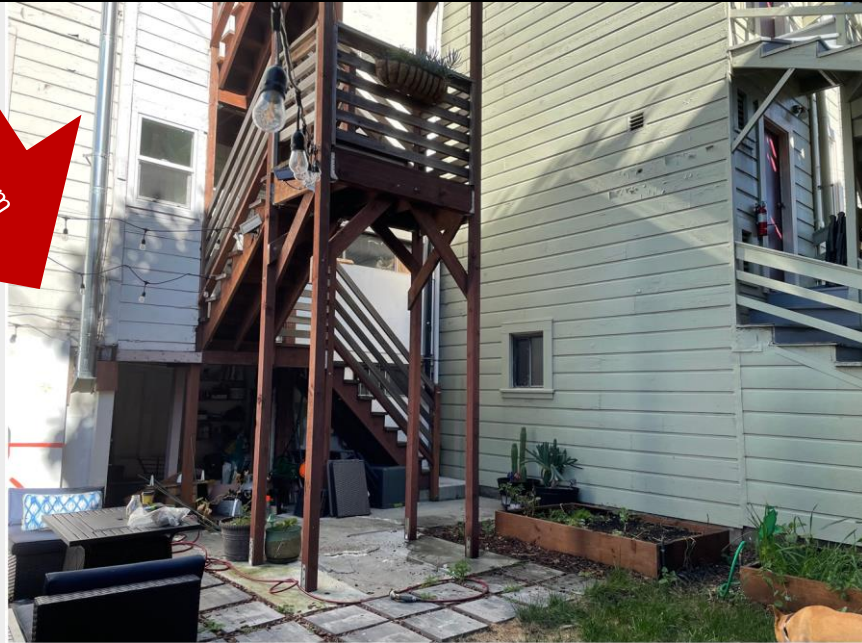
Property is within 9'3" of the property line and a large tree which shades the subject property, overhangs property line, and sheds large leaves into the yard year-round.

1144-1146 Pacific (Jennifer Mei
& Hanim Leu)

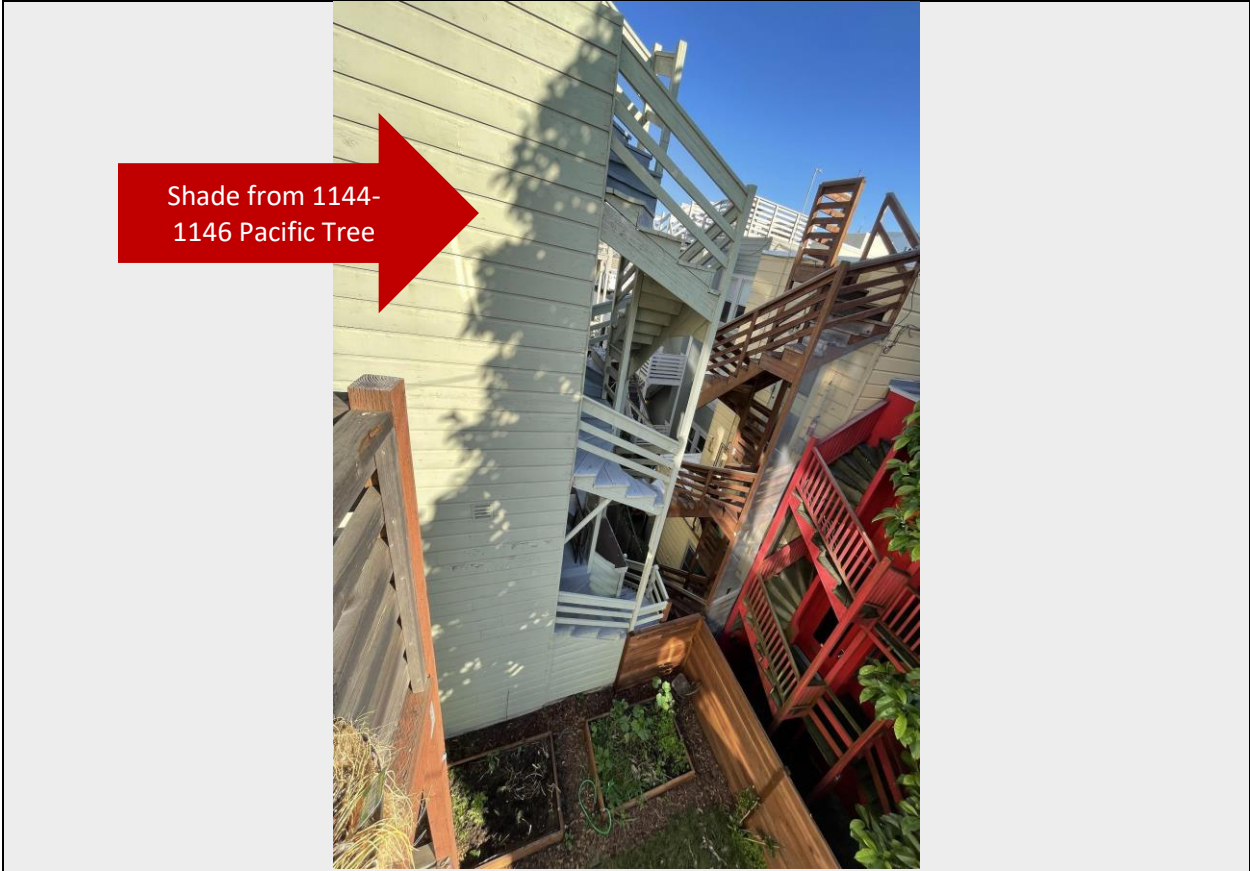


John & Sandy Leung Residence

In Photo, you can also see the Shade Being Cast by the Properties on Pacific, which are to the South



Shows the current back porch and stairs of 44-49 Bernard and the Lueng Residence on the right side.
The Red line reflects approximately where a 15' min setback would be.



The petitioner at 39A-39-41 Bernard’s rear-yard setback from the top floor, and **the unpermitted roof deck** they installed after re-roofing. Sun can also be seen from the South and 39 Bernard is casting Shade on the subject Property.

Appendix A: Supporting Photos and Images

Full Report available for review upon request. Report was prepared by the following Inspector with excerpts below. Photos of makeshift kitchens and bathrooms are provided below as well from the inspection report:

PROPERTY REPORT
45 BERNARD STREET
SAN FRANCISCO, 94133
March 21, 2019
PREVENTION INSPECTION SERVICES, INC.
Contractor's License 551626 – B, C10, C36, SPCB OPR 11737
ICC Certified Residential Combination Inspector 5273803
(650) 992-6630 Office
(415) 370-9961 Cellular

A.1: Property Inspection Report Excerpts

- Part 1: Property Overall
 - 1.07 Porch (Yes): REAR PORCH AREAS OF THE UNITS HAVE BEEN CONVERTED TO AD HOCK KITCHEN SPACES. SAFETY CONCERNS ARE NOTED WITH OBSTRUCTED ACCESS WAYS AND GAS APPLIANCES LOCATED WITH LIMITED CLEARANCES. DAMAGED FRAMING IS PRESENT THE REAR PORCH AREA - SEE THE PEST REPORT FOR ADDITIONAL INFORMATION.
 - 1.08 Grading (Yes): THE PROPERTY IS LOCATED ON A HILLSIDE LOT WITH OLDER SITE GRADING. WATER MAY COLLECT AT THE BASEMENT DURING PERIODS OF HEAVY RAIN. THE FOUNDATION SUBAREA IS EXCAVATED BELOW THE EXTERIOR GRADE.
- Part 2: Exterior
 - 2.01 Damage Noted on Walls (Yes): THERE IS DAMAGED FRAMING AT THE SIDE OF THE EA DOORS OF THE UNITS
 - 2.02 Peeling Paint (Yes): OLDER WOOD EXTERIORS WITH PEELING PAINT ARE NOTED. NEW GUIDELINES FOR LEAD SAFE PAINT REMOVAL PRACTICES SHOULD BE FOLLOWED DURING ANY RENOVATION. CALIFORNIA BUILDING CONSTRUCTION DATING PRIOR TO 1979 IS ASSUMED TO HAVE BEEN PAINTED AT SOME TIME WITH LEAD BEARING MATERIALS.
 - 2.04 Damaged Window Ledge (Yes): THE REAR PORCH AND BATHROOM WINDOWS ARE LEAKING AND THERE IS VISIBLE IN WALL DAMAGE.
- Part 3: Foundation
 - 3.02 Seismic Upgrades (No):NONE ARE NOTED – THIS IS AN OLDER STRUCTURE WITH BRICK FOUNDATIONS. IMPROVEMENT OF SEISMIC BRACING IS ADVISED AS PART OF ONGOING BUILDING IMPROVEMENT.
 - 3.05 Foundation, Visible Settlement (Yes): THE REAR PORCH AREAS ARE SETTLED. SLOPING FLOORS ARE NOTED IN THE STRUCTURE.

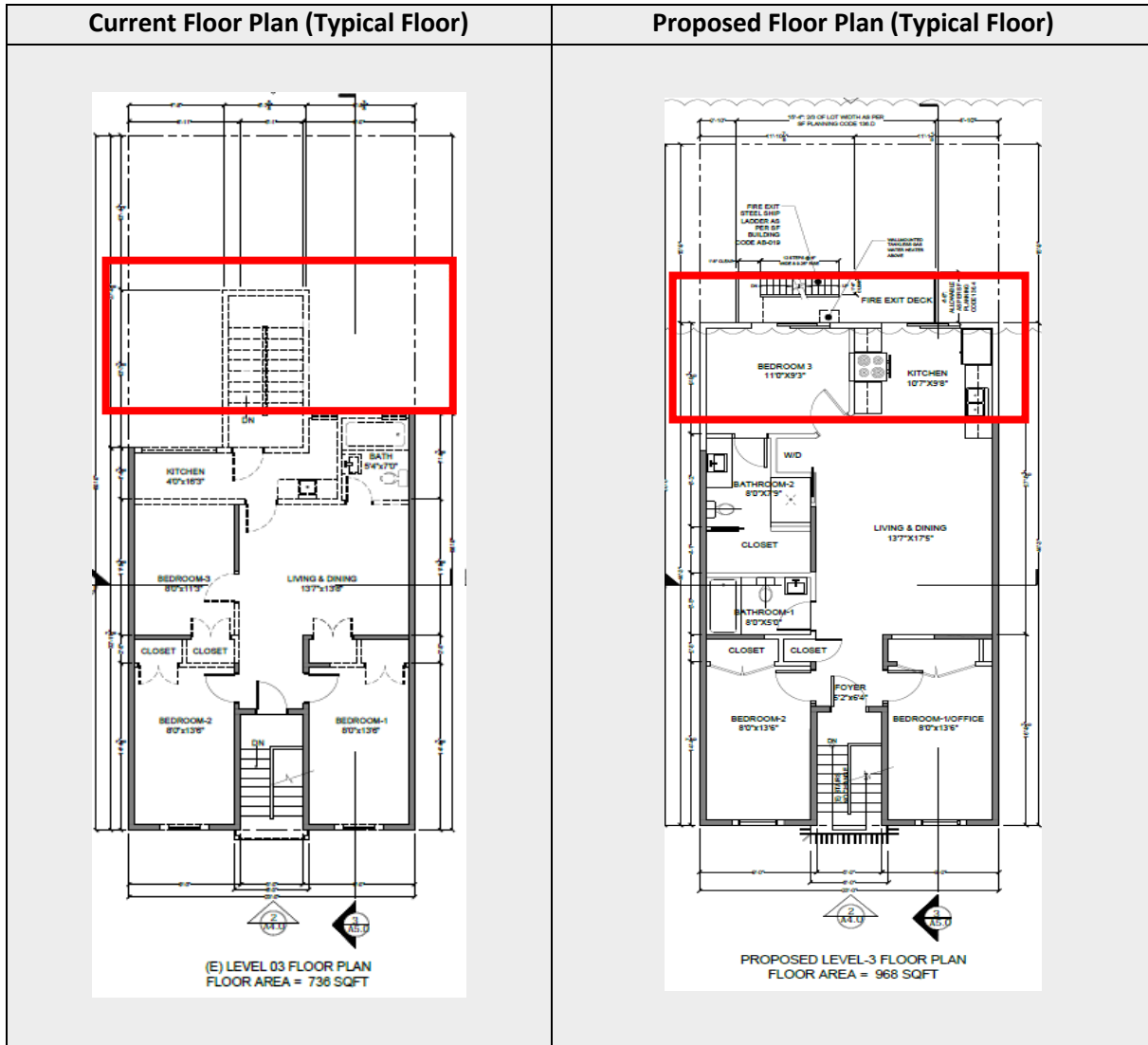
- 3.12 Inadequate Drainage (No): THERE IS A PARTIAL COMPREHENSIVE EXTERIOR DRAINAGE SYSTEM. THE SYSTEM IS LIMITED TO COLLECTING ROOF DRAINAGE AND A SINGLE COLLECTOR AT THE REAR PATIO. THERE IS NO DRAIN AT THE BOTTOM OF THE FRONT ENTRY STAIRWELL. A BOARD IS PLACED IN THE DOOR OPENING AT THE REAR OF THE BASEMENT TO PREVENT WATER INTRUSION.
- Part 4: Structure and Framing
 - 4.05 Wall Framing: THERE IS CONVENTIONAL WOOD FRAME VERTICAL WALL CONSTRUCTION.
 - 4.06 Floor Joist Framing: THERE IS CONVENTIONAL WOOD FRAME FLOOR JOIST CONSTRUCTION.
 - 4.07 Damaged subflooring or subarea framing: DAMAGED FRAMING IS NOTED AT THE REAR OF THE BUILDING ADJACENT TO THE BATHROOMS AND THE REAR EXTERIOR DOORS.
- Part 5: Electrical
 - 5.10 Recommended system upgrade (Yes)
 - 5.11 Panel grounding, busway, or neutral deficiencies (Yes)
- Part 10: Kitchen
 - 10.02 Hood / fan vented to the exterior: THERE IS NO VENTILATION PRESENT.
- Part 11: Bathrooms
 - 11.01 Bath tub: SHOWER OVER (Yes): LEAK DAMAGE IS NOTED BELOW THE DRAIN STACK IN THE BATHROOM. (45 Bernard)
 - 11.06 Stall Shower (Yes): THERE IS AN ABANDONED STALL SHOWER IN THE BASEMENT THAT IS NO LONGER VIABLE. REMOVAL IS REQUIRED. AN ADJACENT TOILET IS A HEALTH CONCERN.
- Property Inspection Report Foundation Recommendations from March 21, 2019 included:
 - 1.08 THE PROPERTY SHOULD HAVE POSITIVE SLOPE AWAY FROM THE STRUCTURE AT A MINIMUM OF 1/4" PER FOOT TO PREVENT EXCESSIVE MOISTURE AT THE FOUNDATION OR IN THE SUBAREA.
 - 2.05 CONTACT APPROPRIATE TRADES TO REMOVE WINDOW BARS OR TO INSTALL SAFETY RELEASE LATCHES FOR FIRE SAFETY. WINDOW BAR RELEASE MECHANISMS WERE NOT TESTED FOR OPERATION.
 - 3.00 BRICK FOUNDATIONS ARE OLDER AND LESS DESIRABLE THAN CAST CONCRETE. THESE FOUNDATIONS ARE BY NATURE NOT REINFORCED AND ARE PRONE TO MOISTURE DAMAGE, MORTAR DECAY AND STRUCTURAL FAILURE. WHILE THE FOUNDATIONS AT THIS TIME APPEAR TO BE FUNCTIONING AS ORIGINALLY INTENDED THE BUYER SHOULD RECOGNIZE FUTURE UPGRADES WILL BE REQUIRED.
 - 3.02 WE RECOMMEND INSTALLATION OF SEISMIC REINFORCEMENT STRAPS AT THE SUBSTRUCTURE POST AND BEAM CONNECTIONS.
 - 3.09, 3.12 REFER TO THE SELLER FOR FULL DISCLOSURE AS TO CONDITIONS DURING HEAVY RAINS.
 - 3.13 CONTACT A DRAINAGE SPECIALTY CONTRACTOR, IF FURTHER INFORMATION IS REQUIRED CONCERNING CONTROL OF SURFACE AND SUBTERRANEAN WATER.

- 5.05, 5.06, 5.09, 5.10 WE ADVISE THE OWNER TO CONTACT A QUALIFIED ELECTRICIAN TO MAKE ALL NECESSARY CORRECTIVE WORK, INCLUDING, GROUNDING ALL RECEPTACLES, TO PROVIDE GROUND FAULT (GFCI) PROTECTIVE DEVICES FOR ALL KITCHEN COUNTERS, SINKS, GARAGES AND ALL EXTERIOR OUTLETS TO PREVENT ELECTRICAL SHOCK AND TO INSTALL ARC FAULT BREAKERS AT THE HABITED ROOM OUTLETS AS AN UPGRADE.
- 9.01 LATHE AND PLASTER WALLS AND CEILINGS ARE PRONE TO CRACKING AND DELAMINATION. WE RECOMMEND THE REPLACEMENT OF THE MATERIAL AS CRACKS BECOME MORE EVIDENT AND THE MATERIAL BECOMES LOOSE. CONTACT A DRYWALL CONTRACTOR FOR MORE INFORMATION.
- 10.00 THE KITCHENS ARE IN NEED OF A GENERAL OVERHAUL. NO APPLIANCES OR MODERN CONVENIENCES ARE PRESENT AND THE CABINETRY OFFERS LIMITED FUNCTIONALITY. CONTACT THE APPROPRIATE TRADES FOR BIDS.
- 11.00 THE BATHROOMS ARE IN NEED OF A COMPLETE REMODEL. CONTACT THE APPROPRIATE TRADES FOR FURTHER INSPECTION AND RECOMMENDATION.

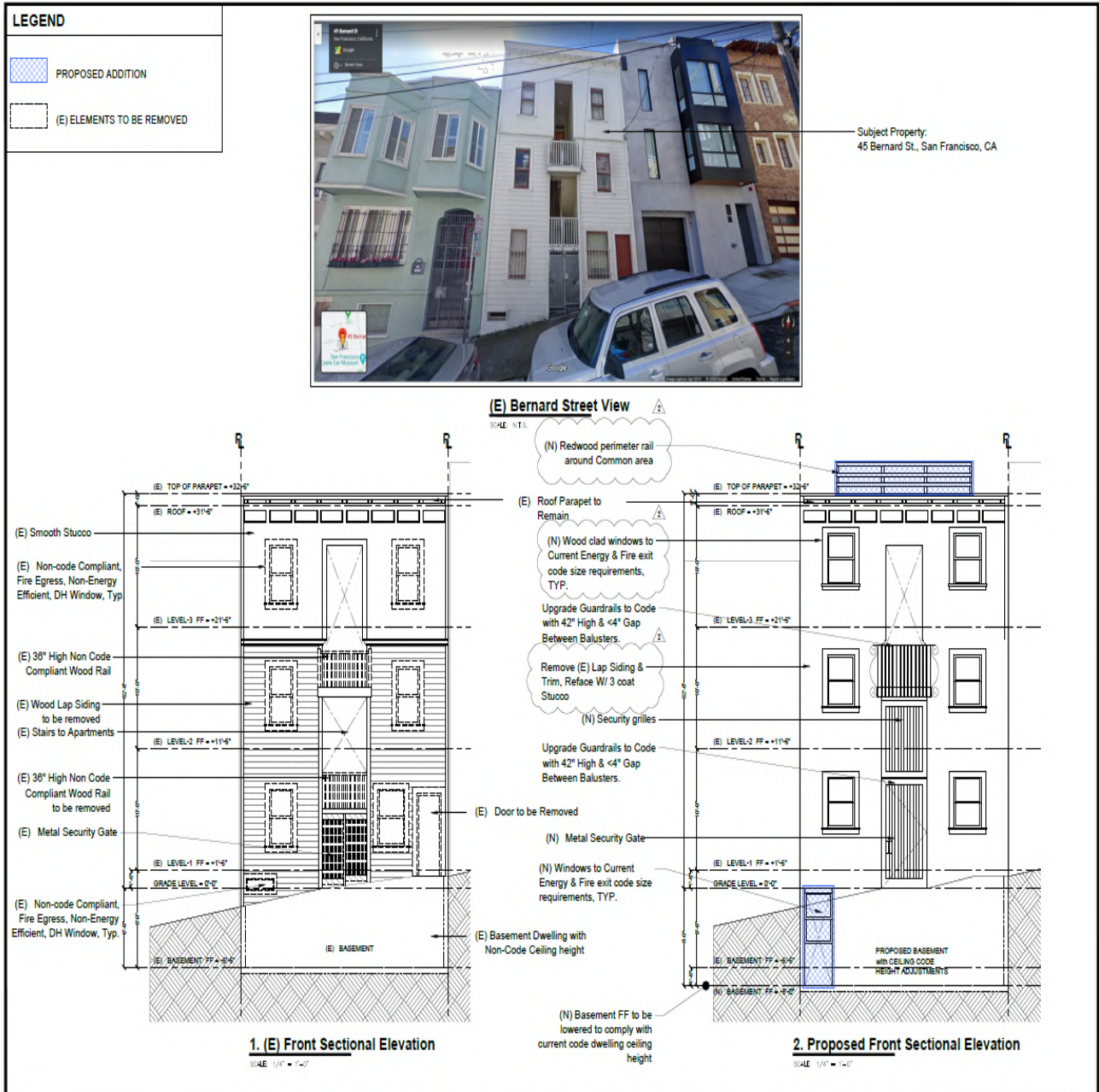
49			
47			
45			 <p data-bbox="1003 1266 1469 1333">LEAK DAMAGE IS NOTED BELOW THE DRAIN STACK IN THE BATHROOM.</p>

49			
47			
45			

A.2: Interior Floor Plans



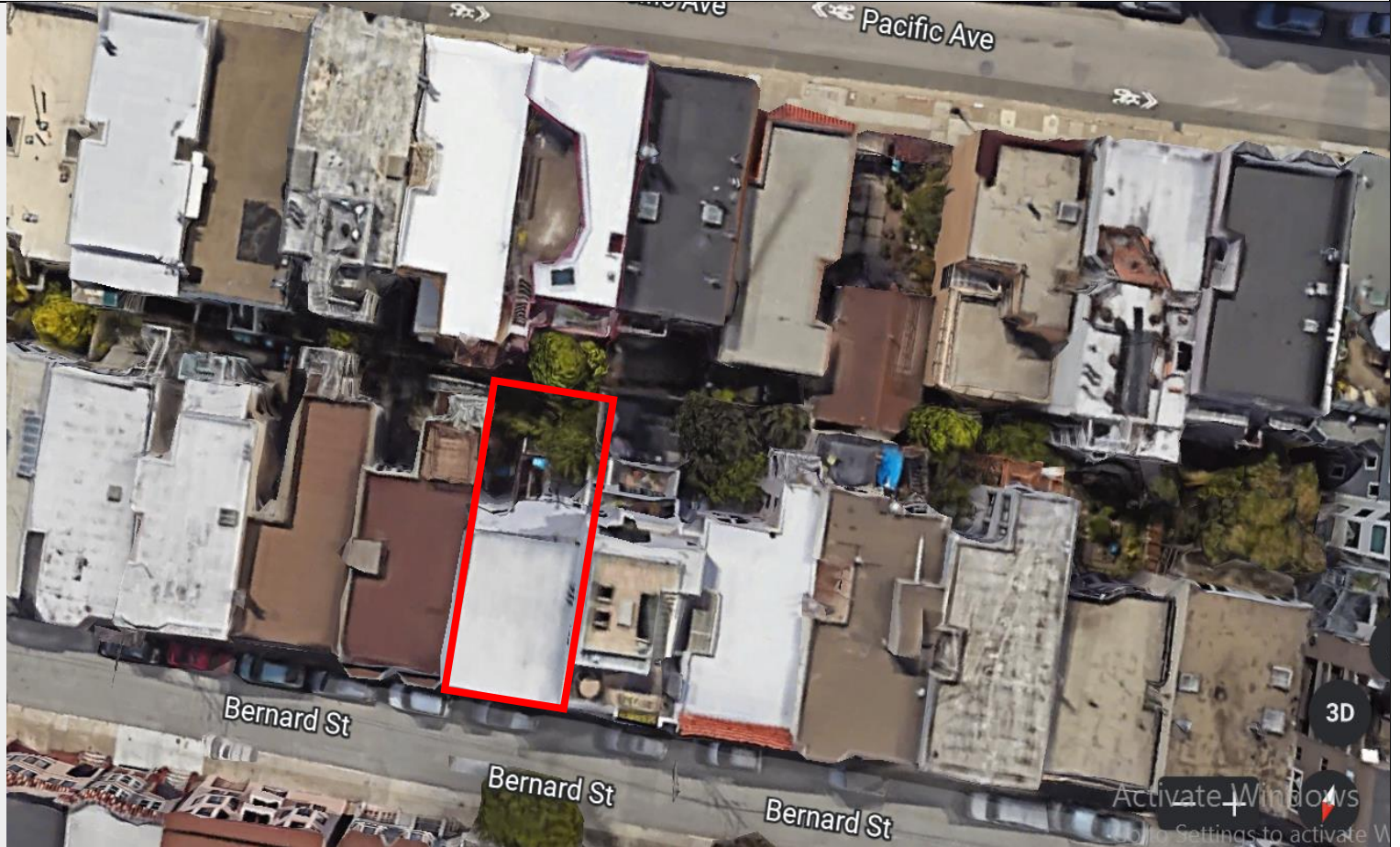
A.3: Exterior Elevation (Front)



A.4: Additional Views

Additional Mid Block Views

Photos: Character of mid-block space between Pacific and Bernard from the West. Demonstrates 23'X60' lot configurations with rear-yard setbacks at or close to the rear property line. Project is not out of character with the neighborhood; in fact, it is more conservative.



Additional Mid Block Views

Photos: Character of mid-block space between Pacific and Bernard from the West. Demonstrates 23'X60' lot configurations with rear-yard setbacks at or close to the rear property line. Project is not out of character with the neighborhood; in fact, it is more conservative.



Additional Mid Block Views

Photos: Character of mid-block space between Pacific and Bernard from the West. Demonstrates 23'X60' lot configurations with rear-yard setbacks at or close to the rear property line. Project is not out of character with the neighborhood; in fact, it is more conservative.



Appendix B: Planning Timetable

Key Planning Date Recap is approaching 2 years in duration:

- Initial Project Application submitted: 5/19/2020
- Initial Project Application accepted: 8/25/2020
- Project 'Under Review' by Planning: 9/04/2020
- Secondary (revised) Plans submitted: 10/14/21
- Pre-Check Completed 11/11/2021 **← 18 Months**
- 2 Neighborhood Review Meetings (12/21)
- 311 Filing 1/2022
- 311 Response 2/23/2022
- Formal Sponsor DR notice: 3/14/2022
- DR Response: 4/22/2022
- DR Hearing scheduled for: 5/26/2022 **← 24 Months**

Appendix C: Communication Log

Date	Communication
05/31/2021	petitioner emails sponsor and writes she (Jennifer) is in touch with the SF Planning department regarding concerns with the plans.
06/01/2021	Sponsor responds offering to meet and discuss concerns. Petitioner does not respond.
06/06/2021	Sponsor emails petitioner again, offering to meet to discuss concerns and indicates she will be in the rear yard at 45 Bernard each day that week at 10 AM in hopes to discuss.
06/07/2021	Sponsor waits in the rear yard at 45 Bernard at 10 AM for 30 minutes. Petitioner does not come.
06/08/2021	Sponsor waits in the rear yard at 45 Bernard at 10 AM for 30 minutes. Petitioner does not come.
06/09/2021	Sponsor waits in the rear yard at 45 Bernard at 10 AM for 30 minutes. Petitioner does not come.
06/10/2021	Sponsor waits in the rear yard at 45 Bernard at 10 AM for 30 minutes. Petitioner does not come.
06/16/2021	Sponsor responds with other dates and times to meet. Petitioner does not respond.
08/19/2021	Meeting with Planner to review initial plan check comments.
10/12/2021	Sponsor resubmits second iterations of plans that include a reduction in depth and a change of stairs to address concerns relayed to planner by petitioner
11/30/2021	petitioner sends initial UCNA memo to SF Planning, citing concerns regarding greenhouse gasses, parking, and other concerns
11/17/2021	Sponsor meets with SF Planning on second iteration of plans. SF Planning confirms plans aligned with RPG
11/17/2021	Given ongoing emails from petitioners, SF Planning directs sponsors to hold a formal pre-planning meeting before beginning the 311 processes.
11/30/2021	Distributed pre-planning notices to neighbors within 150 feet, with an in-person meeting location (at local coffee shop)
12/10/2021	petitioners complain to SF Planning that the sponsor has not provided plans in pre-planning notice and complain there is no call-in code.
12/10/2021	petitioner inquires with SF Planning about how to file a discretionary review
12/10/2021	Sponsor provides call-in code directly to petitioner, and indicates to petitioners she is open to meeting outside 12/14 should those dates and times not work
12/14/2021	Held a pre-planning meeting. Petitioner do not attend, nor respond to Sponsor's offer to meet.
12/14/2021	Planner Guy indicates sponsor should hold a second pre-planning meeting given concerns from petitioner about first notice
12/17/2021	Sponsor sends out a second set of notices, and includes plan and call in code for a second pre-planning meeting. Also offers to make herself available outside of the formal date and time.
12/31/2021	Second pre-planning meeting held. Petitioner do not attend, and do not respond to sponsors.
01/07/2022	petitioner sends second UCNA memo to SF Planning, SF Planning Commission, and SF politicians
01/12/2022	Sponsor offers to meet and discuss concerns with the petitioners. Petitioner does not respond.
01/24/2022	311 Period Begins
02/22/2022	DR Request submitted by Petitioners
02/23/2022	311 Period Ends
03/03/2022	Sponsor reaches out again to petitioners to meet and discuss plans. Petitioner do not respond.
3/28/2022	First / only communication from petitioners to directly speak regarding the project. They asked for copies of checks from the relocation payment, which have nothing to do with the Project plans
4/6/2022	Sponsor email follow-up regarding scheduling meetings with petitioners/Planning. Petitioner/Planning do not respond.
4/9/2022	Sponsor email follow-up with potential times to meet.

Date	Communication
4/12/2022	Petitioner responded to email stating they were unclear if meeting as neighbors. Petitioner responds to 4/9 (2nd) email.
4/12/2022	Sponsor responds that they are “ willing to meet as neighbors ” and provided 2 dates during week. Planning is optional. Petitioner/Planning do not respond.
4/17/2022	<i>Instead of Meeting:</i> Petitioner is observed handing out and soliciting signatures from people walking in the neighborhood (see below). Letter is inflammatory, refers to the neighborhood being eroded by our presence and stating that Sponsors evicted 11 elderly and disabled people. The letter contained facts or misstatements. See Appendix D.
4/17/2022	Sponsor obtains a copy of the letter. Sponsor notifies Planning, but given nature of the letter, requests planning involvement. Planning does not respond.
4/20/2022	UNCA responds to Sponsor’s 4/17/2022 email stating that they Sponsors were “willing to meet as neighbors” and hence did not respond.
4/22/2022	Received confirmation from Kevin Guy that the plans were reviewed by the SF Zoning Administrator and that setbacks are code-compliant.

----- END OF DOCUMENT -----

Appendix E: CEQA Appeal, Our Response and their Withdrawal Letter

From: [Brian O'Neill](#)
To: [BOS Legislation, \(BOS\)](#)
Subject: 45 Bernard CEQA Appeal (Case No. 2020-005176APL)
Date: Tuesday, November 1, 2022 7:08:33 AM
Attachments: [UCNA CEQA Withdrawal Letter.pdf](#)

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

Hello,

Please accept the attached letter from Upper Chinatown Neighborhood Association as a withdrawal of their CEQA Exemption Appeal regarding the 45 Bernard Project (Case No. 2020-005176APL). Can you please distribute this letter to the Supervisors, Project Sponsor, and all other interested parties.

Thank you,
Brian

Brian O'Neill
Zacks, Freedman & Patterson, PC
601 Montgomery Street, Suite 400
San Francisco, CA 94111
Telephone: (415) 956-8100
Facsimile: (415) 288-9755
Email: brian@zfplaw.com
www.zfplaw.com

UPPER CHINATOWN NEIGHBORHOOD ASSOCIATION

President Shamann Walton and Supervisors
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94103

Re: 45-49 Bernard Street
Exemption Determination Appeal (Case No. 2020-005176APL)

Dear President Walton and Supervisors:

The Upper Chinatown Neighborhood Association (UCNA) has been working to protect the heritage and culture of Upper Chinatown since 2013. The recent trend of evictions followed by residential expansions erodes the stability of our fragile community and destroys our vital open space. The project at 45 Bernard Street, where 11 Asian immigrants were evicted to pave the way for a project that reduces affordable housing, is representative of the eviction crisis destroying our community.

We are deeply humbled by the community members who stood up to protect the cultural fabric of Upper Chinatown. Over a thousand individuals signed a petition in support of UCNA's Discretionary Review Request. The Community Improvement Service, Community Youth Center, Community Tenants Association, Lao Lu Mien Culture Association, and Tenderloin Chinese Rights Association all submitted letters of support and rallied their members to fight against evictions and expansions. UCNA is also grateful to the Planning Commissioners who listened to the concerns of the community and applied strong conditions to protect the rights of the current and former tenants of 45 Bernard. After those conditions were finalized in the Discretionary Action Memo adopted on October 6, we are comforted knowing that the tenants will be adequately protected.

There are many unanswered questions regarding the design of the project, and we have grave concerns regarding significant life and safety code-compliance issues. UCNA will continue to monitor the final design of the project to ensure the project complies with all applicable laws. However, we do not wish to overturn the Planning Commission's approval of conditions that protect the tenants. To that end, UCNA has decided to withdraw our appeal of the CEQA exemption determination for the project.

UCNA will continue to fight for the preservation of the unique character of the Upper Chinatown community, as well as the bonds of culture that have been built over many generations. We look forward to working with the City and all of our neighbors to make that goal a reality.

Sincerely,



Upper Chinatown Neighborhood Association
By: Hanmin Liu
Its: Co-Team Leader

LEADERSHIP TEAM

Kelvin Lee
Johnny Leong
Sandy Leung
Hanmin Liu
Jessie Mei
Brad Paul
Stephen White

October 21, 2022

VIA ELECTRONIC SUBMISSION

President Shamann Walton and Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102

Re: Sponsor Response to Appeal of Exemption Determination for 45 Bernard Street **(Case No. 2020-005176ENV)**

Dear President Walton and Supervisors:

We are in possession of the request for an Appeal Determination on the project to renovate our home at 45-49 Bernard Street which was lodged by the Upper Chinatown Neighborhood Association (UCNA) on September 26, 2022. The UCNA Leadership Team are our adjacent neighbors. John and Sandra Leung live at 39A-41 Bernard Street, a 3-unit property which is occupied as a single-family home. It abuts the subject property to the East. Hanmin Liu and Jennifer Mei own 1144-1146 Pacific Avenue. 1144 Pacific Avenue is a Commercial Unit, with a residential unit 1146 Pacific Avenue. It abuts the subject property to the South. The Appeal request was submitted in pursuant to Administrative Code § 31.16(e) alleging:

1. The Project Description is Not Accurate, Stable, or Finite
2. The Project May Have a Significant Effect on Historic Resources

In opposition to this Appeal, we offer the following:

Project Overview

The building at 45-49 Bernard Street is 100+ years old and in a deteriorated condition. Much of our proposed work is fixing critically necessary components of the property, including seismic/structural, electrical, and plumbing. We are also creating a legal unit in the currently uninhabitable basement. Our family lives here, and has lived here for over 2 years, and we intend to continue living here as we work in the city, and our lives, friends, and family are here. When we moved in, the “potentially historic courtyard” (i.e. our private rear yard) was, in fact, an unmaintained trash dump. This is detailed in our tenant’s letter of support for the project. In fact, we have letters of support from 2 tenants, both of which speak to the condition of the property that was maintained by the prior landlord. We respect our current tenant’s rights: she will be compensated for any needed relocation (which will be as short as possible because this is our home, too, so we want to get work done as soon as possible). Ultimately, she will be able to move into a fully refurbished unit at a rent-protected price.

The Project is Stable and Unchanged

1. **Our project has not changed in scope and is not altered from what was analyzed as part of the Exemption.** Rather, SF Planning required us to split the project into 2 permits—one for the 3 units, and 1 for the ADU, because Planning considered the state law ADU would need to be permitted separately. Because the state law ADU is ministerially approvable, it is not subject to CEQA review. Regardless of this split, the 311 notices detailed the entire project under both permits, the plans for the expansion shows the future ADU location, the scope of work has not changed, and the ADU was discussed at length at the Planning Commission hearing. This, in effect, improperly subjected a State ADU to Discretionary Review. In short, there is no danger of misleading the public simply because the Planning Department directed us to submit the ADU as a separate permit.

The Project is Extremely Modest, CEQA Exempt and Not Historic

1. **Our project qualifies for a categorical exemption under CEQA.**

Under the CEQA Guidelines, an addition to an existing structure that will result in an increase of less than 10,000 square feet is categorically exempt from CEQA review, *14 CCR section 15301*. The scope of work here includes the addition of only around 102SF of interior space per existing unit, and around 548SF total, which is very modest, and a small fraction of the threshold that triggers further CEQA review.

The Planning Department correctly determined that this Project is categorically exempt. This means the burden is on the appellants to show that the Project will “cause a substantial adverse change in the significance of a historical resource.” The appellants cannot show this because: (1) neither the property nor the neighborhood is an historic resource (as the Planning Department determined); and (2) even if there were an historic resource, the Project will not cause a substantial adverse change to it.

2. The property is **located in Nob Hill. It has no historic or cultural significance.** It is **not a known historic resource.** It is **not within a historic district.** Thus, there are **no character defining features** to protect. It is absurd for the appellants to suggest that this area is a potentially historic resource, simply on the basis it has not been surveyed. The appellants have provided no factual evidence supporting their argument that this is an historic district, or that the “pattern of mid-block open space” is a character-defining feature. To the contrary:
 - a. If there *was* a “character defining feature” of the block it would be **limited rear yards** and **dense housing**. A simple Google Earth view clearly demonstrates this.
 - b. If it *was* to be designated as a historic district, **our private rear yard is not visible from public-right of way**. Historical Districts

protect features that are visible from the public-right-of way, as they are maintained for the benefit of the public, **not for the private benefit of abutting neighbors who complain**¹.

¹ **ARTICLE 10: PRESERVATION OF HISTORICAL ARCHITECTURAL AND AESTHETIC LANDMARKS, Section 1001:** “The purpose of this legislation is to promote the health, safety and general welfare of the public”

i. Per Census records available **from at least the 1920’s to the 1970s, the midblock was an incredibly diverse area, made up of many different “countries of origin”**. This included Italians, Mexicans, Spaniards, French, Chinese, and Irish, among others. Census records have been attached, which again contradict the neighbor’s “evidence”.

3. UCNA offers **conflicting rationales for the “potential historicity” of the private rear yard**, which is **not visible from-a-public-right of way**. They state both these points regarding the midblock:

- a. It is “tenement-like” and “dense” and “unchanged for 100 years”
- b. Chinese immigrants came to this specific block seeking more open space.

Which is it? Dense and tenement like ... or has significant open space? How can something be dense, tenement-like and unchanged for 100 years, but then have open space as a character-defining feature that drew people here?

4. Though they state the block remains “unchanged” and thus “should be preserved”, Jennifer and Hanmin **conveniently omit their own vertical and horizontal extensions at 1144-46 Pacific Avenue**, which were allowed and determined to be categorically exempt (records attached) with no issue. UCNA’s concerns about expansions into mid-block space (and OMs, for that matter) seem to apply to others and not themselves. The scope of work on their property has included:

- a. **Vertical expansion** to add a 4th floor and roof deck
- b. **Horizontal expansions into the midblock open space**
- c. **Interior remodels**
- d. **Facade remodels, both facing the street, and along the back of the property**

5. As proposed, **45-49 Bernard will conservatively fit within the existing character of the block**. a. Our building is currently **the shortest on the block and will remain one of the shortest once complete**. Current planning codes set a 15’ rear yard minimum setback. Given the age of the buildings on the block, many

properties do not comply with the current 15' setback and go much deeper into the rear yard, including both petitioning neighbor's properties.

b. By removing the large stairwell that currently exists in the private rear yard, the proposed design actually **increases the amount of unobstructed rear yard**

ARTICLE 10, SEC. 1005. CONFORMITY AND PERMITS: "Where so provided in the designating ordinance for a historic district, **any or all exterior changes visible from a public street or other public place shall require approval** in accordance with the provisions of this Article 10, regardless of whether or not a City permit is required for such exterior changes."

A Certificate of Appropriateness (C of A) is the authorization designated City Landmarks and Historic Districts require for the following types of work: 1) Designated City Landmarks -- exterior alterations requiring a permit and demolitions of a site or structure; and 2) Designated City Historic Districts -- **alterations requiring a permit and other types of exterior changes visible from a public street or other public places** (as provided in the historic district ordinance, even when a permit is not required), demolitions and new construction of a site or structure within the district

(pictures attached), as well as increases the **amount of open space overall** by providing private open space on each floor.

c. This means that there will be no adverse impacts, let alone substantial adverse impacts, on the rear yard or neighborhood.

6. **We have concerns about the tactics used to** secure support for the DR and whether or not they were ethical. There were undisclosed conflicts of interest. There were several private, undisclosed meetings held with planning commissioners prior to our hearing and their quasi judicial votes. This resulted in the whittling away at our planning code-compliant project. A summary of this has been attached.

In summary, the appellants are asking the Board of Supervisors to find that *a private rear yard, in a non-historic building, and in a neighborhood not designated as having cultural or historic significance, is of such importance that a Code-compliant building expansion will destroy the cultural fabric of the neighborhood.* On the appellants' reasoning, no building in this neighborhood could ever be expanded horizontally or increase density. The Planning Code and Residential Design Guidelines already protect midblock open space, and this Project complies with them, as the Planning Department and Planning Commission concluded. It would be absurd and completely unprecedented for the City to order a full historic review of a Code compliant horizontal extension into a private rear yard.

Conclusion

We ask the Board of Supervisors to protect the City's finite resources and deny this nuisance CEQA request. Our project description is stable, and our

private rear yard, not visible from the public right-of way, is not a historical resource that would be protected. Further, this continued delay would stop critically necessary improvements to our home—including seismic—and also delay a new, legal unit from being built. CEQA was enacted to protect the environment - not adjudicate neighbor disputes. But as the Court of Appeal recently noted, it has instead devolved into “a formidable tool of obstruction, particularly against proposed projects that will increase housing density.” CEQA can too easily be leveraged as an “instrument for the oppression and delay” that has “become its own reward for project opponents.” *Tiburon Open Space Committee v. County of Marin* (May 12, 2022, A159860) __ Cal.Rptr.3d __.

This is another unfortunate example of how the SF’s permitting process allows neighbors to weaponize the Discretionary Review and CEQA processes against their fellow neighbors. **The DR process has already resulted in modifications that turned 3Br units into 2Br units due to setback interpretations, and now our neighbor seeks to reduce it more.** It has become clear to us that this is a common playbook, as noted in the Proposed Housing Element, “Opponents to residential projects may use local administrative CEQA appeal processes and courts as a threat, negotiating, or delay tactic”.

To be clear: our project should be allowed to a depth that is allowable per the Planning Code. The neighbors are asking you to delay, defer, and ultimately reduce the density of our project, and, as a result, the future ability of others to increase their own density in code-complaint manner. If our neighbors wish to continue spending *tens of thousands, if not hundreds of thousands of dollars* they could be spending in helping their community to fight our small project, they may continue to do so.

We ask the Board of Supervisors to uphold our legal right to enhance our property within the boundaries of existing Planning and Building Codes.

Thank you,

Lindsey and Tina Huston
45-49 Bernard Street

Attachment: Supporting Information

Supporting Information

Contents

Appendix 1: Hanmin and Jennifer's Permit	1
Appendix 2: Rear Yard Setback Analysis	5
Appendix 3: DR/Planning Commission Hearing Summary of Concerns	7
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Appendix 5: 45 Bernard Tenant Letter Regarding Property Condition & Yard	2
Appendix 6: Census Records	4

Appendix 1: Hanmin and Jennifer's Permit

**CEQA Assessment for Hanmin Liu & Jennifer Mei Remodel
(Categorically Exempt)**

1915 0105/972

APPROVED **4th Floor addition & rear yard**
15 08 1972

[Signature] FEB 24 1972

CATEGORICALLY EXEMPT FROM ENVIRONMENTAL REVIEW

APPROVED *[Signature]* 4/4/72

APPROVED THIS APPLICATION APPROVED FOR SITE PERMIT ONLY. NO WORK MAY BE STARTED UNTIL CONSTRUCTION PLANS HAVE BEEN APPROVED.

[Signature] 5/7/72

APPROVED *all permit only*

[Signature] 5/7/72

APPROVED **AS NOTED on Plans**

[Signature] 6-8-72

APPROVED *[Signature]*

4th floor addition and rear yard notes, with Hamin Liu's signature

4th floor addition and rear yard notes, with Hamin Liu's signature

CONDITIONS AND STIPULATIONS

APPROVED

DATE

REASON

U. F. Dang, PAD
1/14/93 4/8/93

APPROVED

Approved for work stated only

DATE

REASON

CATEGORICALLY EXEMPT FROM ENVIRONMENTAL REVIEW

The way DEC 08, 1992

APPROVED

Reviewed for routing

DATE

REASON

Robert K. Ballal 12-10-72

OFFER OF LEASE OR WORK EQUIPMENT AT VARIOUS PERIODS IS APPROVED WITHOUT ANY RESERVATION AND DOES NOT CONSTITUTE AN AWARD OF THE ROYALTY. WITH KNOWLEDGE OF THE STATE OF TEXAS AND THE FEDERAL GOVERNMENT.

SPECIAL INSPECTIONS AND TESTS
SPECIFIC SECTIONS AND TESTS
ARE REQUIRED AS PER BOILER
CODE SECTIONS 306. a b c

Any electrical or plumbing work will require appropriate separate permits.

U. F. Dang, PAD
4/8/93

APPROVED

DATE

REASON

APPROVED

DATE

REASON

APPROVED

DATE

REASON

APPROVED

DATE

REASON

City and County of San Francisco

Department of Public Works
Bureau of Building Inspection



NOTIFICATIONS OF STRUCTURAL ADDITION

MAILED: 10/14/93

PAGE: 1

APPLICATION NUMBER: 9312173
BUILDING LOCATED AT: 1144 -
PERMIT HOLDER: LIU & HANMIN

PERMIT NUMBER: 731984
PACIFIC AV

PERMIT ISSUED: 10/14/93
BLOCK/LOT: 0157 /013
ADDRESS: 1144 PACIFIC AV
SAN FRANCISCO CA 94133

USE CODE:
E&C: HORIZONTAL ADDITION,

ADDRESSEE

MAILING ADDRESS

ADJACENT PARCEL LOCATION

EOLTON ROBERT F & DIANE C

2175 14TH AV
SAN FRANCISCO CA

94116

1154 -1156 PACIFIC AV
BLOCK/LOT: 0157 /014

LEE SACK KWAN

3485 18TH AV
SAN FRANCISCO CA

94122

31 BERNARD ST
BLOCK/LOT: 0157 /029

CHAK WAI O

147 BERNARD ST
SAN FRANCISCO CA

94109

43 - 49 BERNARD ST
BLOCK/LOT: 0157 /030

SAN SHUI YAU LEE

1142 PACIFIC AV
SAN FRANCISCO CA

94133

1140 -1142 PACIFIC AV
BLOCK/LOT: 0157 /063

TANG KENNETH & PUI KING

1826 20TH AV
SAN FRANCISCO CA

94122

19 - 41 BERNARD ST
BLOCK/LOT: 0157 /064

Resident 1144 Pacific

site has a valid Business Tax Registration Certificate on file in the San Francisco Tax Collectors Office which contains the following information:

NAME: Paul Wilson
DBA: United States China Educational Institute
PLACE OF BUSINESS: 1144 Pacific
BTAC #: unknown

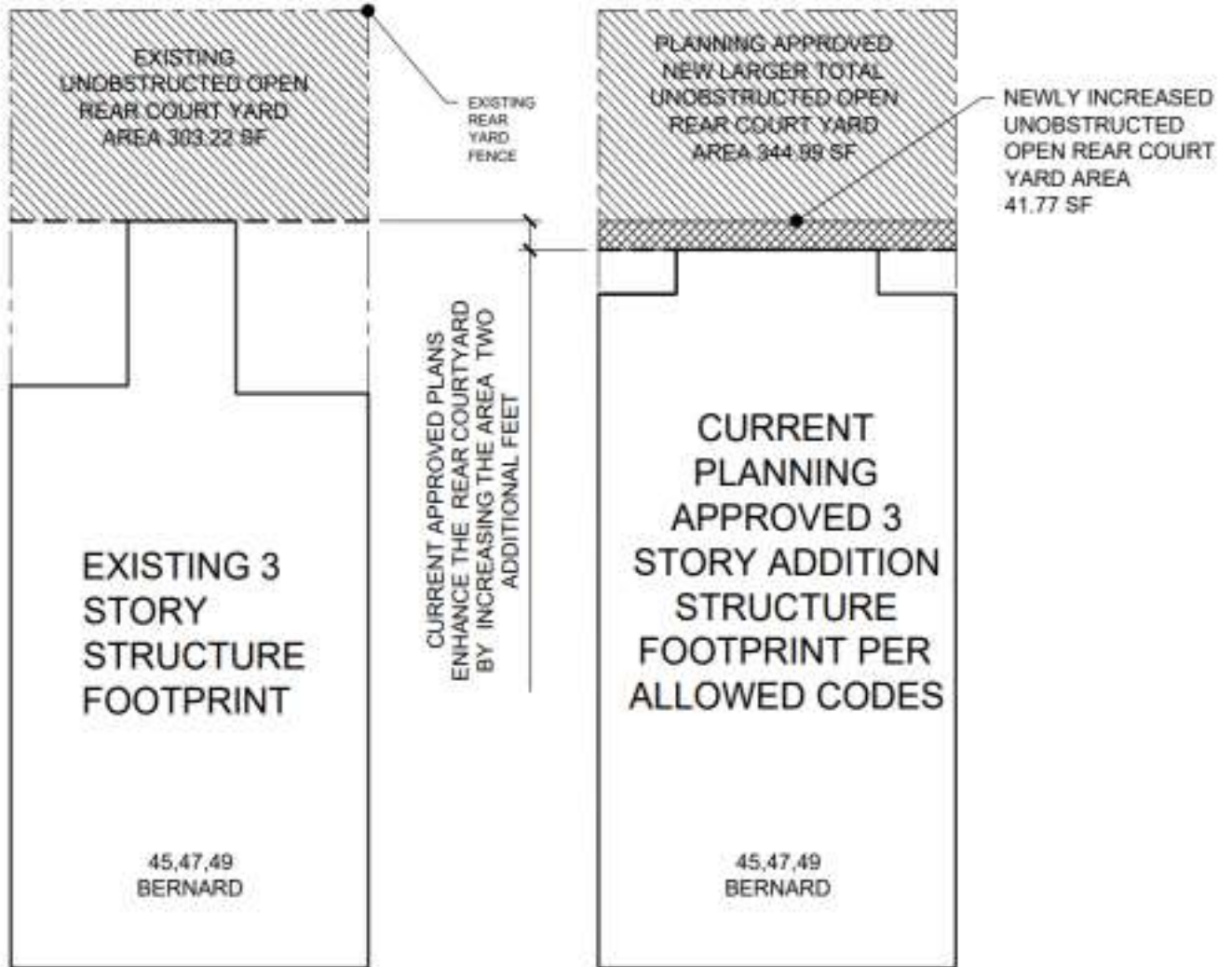
I, as owner or lessee or his authorized agent of the proposed job site address:
1144-46 Pacific
am exempt from the Business Tax Registration Certificate requirement because:

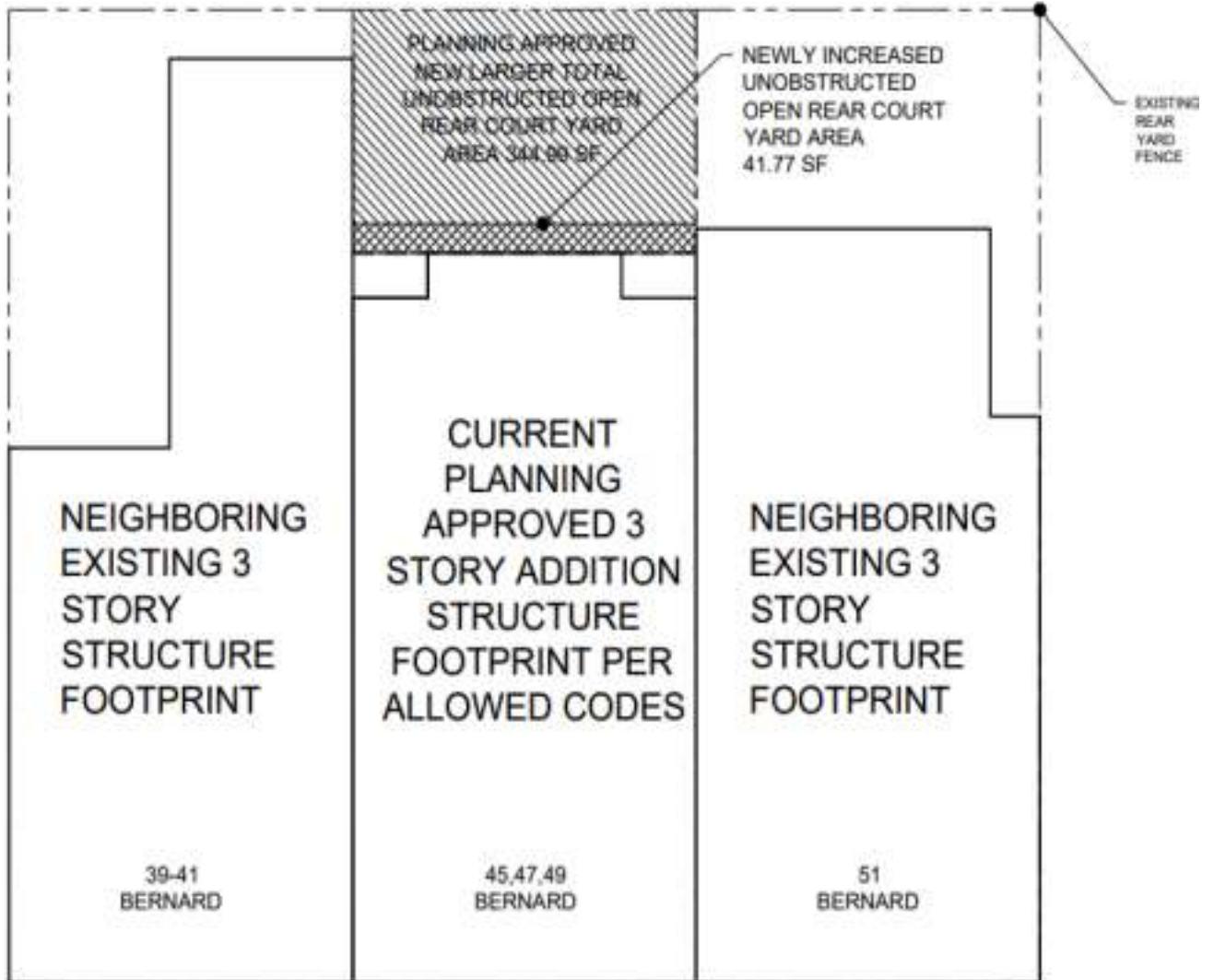
- This is my residence.
- The apartment building consists of less than four units.
- Other: Please explain: NON-profit business and residence

Date: 10-14-93 Signature: Paul Wilson

Appendix 2: Rear Yard Setback Analysis

Showing increase in total depth with existing large fire stairs removed.





ZACKS, FREEDMAN & PATTERSON

A PROFESSIONAL CORPORATION

601 Montgomery Street, Suite 400
San Francisco, California 94111
Telephone (415) 956-8100
Facsimile (415) 288-9755
www.zfplaw.com

September 26, 2022

VIA ELECTRONIC SUBMISSION

President Shamann Walton and Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102

Re: Appeal of Exemption Determination
45 Bernard Street (Case No. 2020-005176ENV)

Dear President Walton and Supervisors:

Our office represents the Upper Chinatown Neighborhood Association, a community group dedicated to protecting the heritage and culture of the Upper Chinatown community since 2013. We submit this letter pursuant to Administrative Code § 31.16(e) to appeal the Exemption Determination for the project at 45 Bernard Street (Case No. 2020-005176ENV). The Exemption Determination violates the California Environmental Quality Act (“CEQA”) because the project description is not accurate, stable, or finite, and the proposed project that was approved by the Planning Commission differs significantly from the project that was described in the Exemption Determination. Additionally, the Planning Department failed to adequately study whether the project will have a significant adverse impact on the cultural and historic resources of Upper Chinatown. Due to these deficiencies, the appellants respectfully request the Board reverse the Exemption Determination; and direct the Planning Department to conduct further review.

The Project Sponsors purchased 45 Bernard in September 2019. Within months the owners started the process to evict eleven Chinese immigrants, eight of whom are elders and/or disabled. Less than a week after the eviction of the families was complete, an application for a residential expansion project was submitted. The project application initially described the project as a renovation of a three-story, four-unit apartment building with a horizontal addition that will significantly encroach into the existing rear yard. After the Exemption Determination was published and the 311 Notice was distributed, the Sponsors submitted revised project plans. The revised plans that were approved by the Planning Commission only show a three-unit building, and the existing basement unit disappeared entirely from the project.

2. The Project Description is Not Accurate, Stable, or Finite

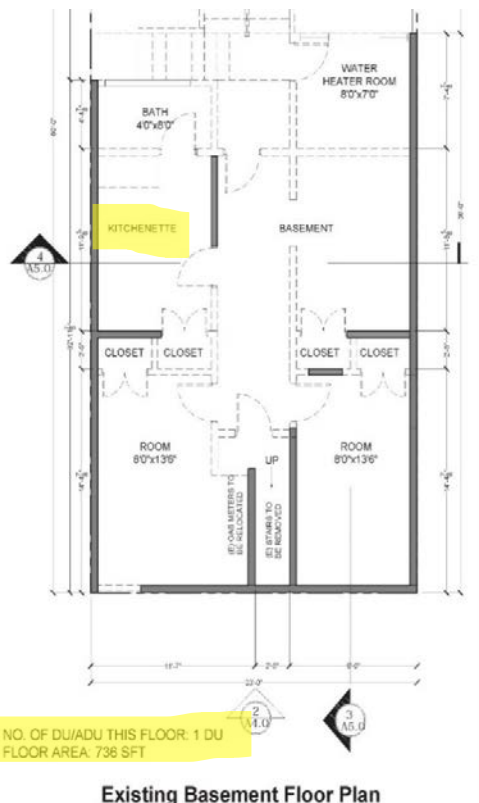
Courts have consistently stated that “an accurate, stable and finite project description” is an essential component of an informative and legally sufficient environmental document. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193; CEQA Guidelines § 15378.) On the other hand, “a project description that gives conflicting signals to decision makers and the public about the nature and scope of the project is fundamentally inadequate and misleading. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 84.)

The project description in the Exemption Determination states the project proposes “renovation of a 3-story, **4-unit** apartment building.” The original project plans similarly showed four units, and labeled the building “BERNARD ST. 4-UNITS APARTMENT.” The project plans showed a basement level with a bathroom, kitchenette, two bedrooms, and clearly stated that 1 dwelling unit was located on the basement level. The project plans proposed to legalize the basement unit as a two-bedroom ADU. The 311 Notice also stated the project proposed to legalize an existing residential unit, and described the property as containing four existing units.

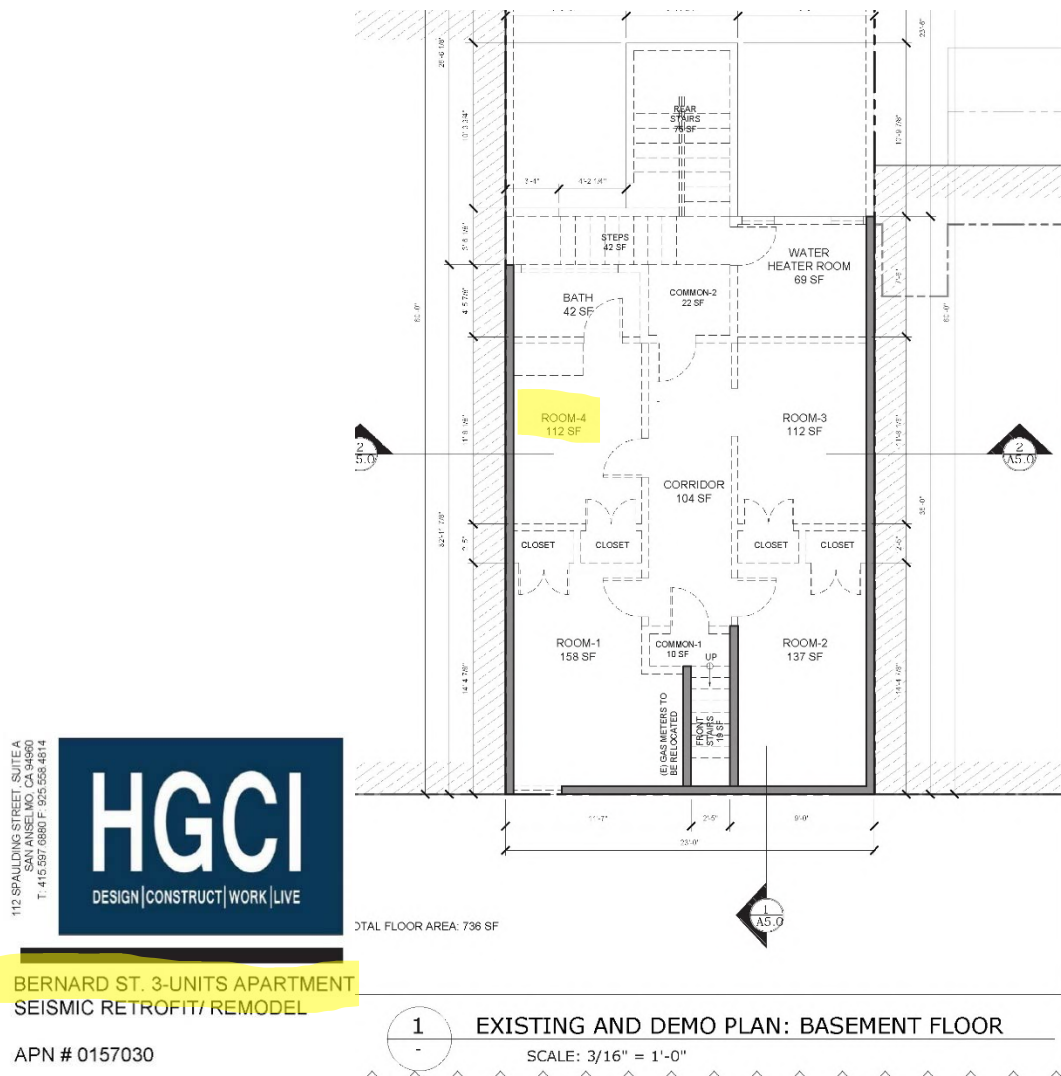
112 SPAULDING STREET, SUITE A
SAN ANSELMO, CA 94960
T: 415.597.6880 F: 925.558.4814



BERNARD ST. 4-UNITS APARTMENT
SEISMIC RETROFIT/REMODEL
APN # 0157030



However, the Project Sponsor subsequently revised the project, and submitted revised plans three months after the Exemption Determination was issued. The revised plans only show **three** dwelling units, with the building relabeled “BERNARD ST. 3-UNITS APARTMENT.” The basement unit vanished, with the kitchenette now simply labeled a “room” and the floor plan no longer showing a dwelling unit. The proposal to legalize the basement unit into a two-bedroom ADU also disappeared from the project plans. The revised plans show the demolition of the basement walls and the addition of a garbage room, utilities room, and storage room. The rest of the basement is now labeled a “future ADU.”



As noted above, a project description that gives conflicting signals to decision makers and the public is fundamentally inadequate. The project description in the Exemption Determination clearly stated that the project was for the renovation of a four unit building, but the plans that were approved by the Planning Commission only included three units. The project description gave the Planning Commission and the public conflicting signals regarding the nature and scope of the project, which makes the exemption determination fundamentally inadequate.

2. **The Project May Have a Significant Effect on Historic Resources**

CEQA guidelines state that an Exemption “shall not be used for a project which *may* cause a substantial adverse change in the significance of a historical resource.” (*See* CEQA Guidelines § 15300.2(f).) Courts are clear that the failure to adequately discuss potential impacts is a procedural error, and the “omission of required information constitutes a failure to proceed in the manner required by law.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502.) Procedural failures must be overturned in order to “scrupulously enforce all legislatively mandated CEQA requirements.” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.)

The Exemption Determination in this case is not legally adequate because the Planning Department failed to adequately analyze the potential impacts to historic resources, and there is a fair argument that the project may cause a substantial adverse change to a historic resource. The Planning Department’s Historic Resource Evaluation Response determined the project would not have an impact on any potential eligible historic district yet noted that the “subject property is outside the boundary of the Expanded North Beach Survey . . . and *there is no justification to expand the survey area.*” In other words, no historic district survey has ever been completed for the Upper Chinatown area. The Planning Department concluded, without conducting a survey and without evidence, that the project would not impact a potentially eligible historic district. The Planning Department’s omission of any information on the potential impacts to a historic district was a procedural error, and therefore the Exemption Determination must be overturned.

Moreover, the “foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Laurel Heights Improvement Assn. v.*

Regents of University of California (1988) 47 Cal.3d 376, 390.) To that end, an exemption shall not be used if there is a “fair argument” that the proposed project may cause a substantial adverse change in the significance of an historical resource. (*See Valley Advocates v. City of Fresno* (2008) 160 Cal.App.4th 1039, 1072.)

Here, there is a fair argument that the project may cause a substantial adverse change in a historic resource. CEQA defines a historic resource as “any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, *or cultural annals of California.*” (CEQA Guidelines § 15064.5.)

Asian Americans have acquired affordable homes in Upper Chinatown since the 1940s, and specifically sought homes with more open space. The rear courtyard was especially valued and the dimensions of rear yard spaces in Upper Chinatown have been relatively unchanged for over a hundred years. The concept of the traditional courtyard space followed Chinese immigrants, and they have inherently adopted this way of maintaining stability and unity and strengthening the family structure. Especially in densely populated neighborhoods like this one, family members gather outdoors to share meals while telling stories and supporting one another. This family system is the bedrock of the culture and maintains the social sustainability of the neighborhood. The pattern of mid-block open space is significant to the history and culture of the Chinese immigrant experience and must be protected. The courtyard at 45 Bernard, like other rear yards, is a character-defining feature that contributes to the uniqueness of the Upper Chinatown area.

Over a thousand individuals signed a petition supporting the protection of the traditional courtyard space, and dozens of Asian Americans testified at the Planning Commission hearing to explain the cultural significance of the rear courtyard to the families who depend on this sacred courtyard space for their spiritual wellbeing. The project at 45 Bernard significantly expands into the rear courtyard, and there is a fair argument that the project will cause a substantial adverse change in this character-defining feature of the Upper Chinatown area. Moreover, none of these potential impacts was identified or analyzed by the Planning Department before it issued the Exemption Determination. As a result, and there is a fair argument that the Exemption Determination must be overturned.

6. Conclusion

The Exemption Determination for this project violates CEQA. The project description is inaccurate and sent conflicting signals to the Planning Commission and the public on the project that was actually being approved. Moreover, the project's potential impacts were not adequately identified or evaluated, which constitutes a failure to proceed in the manner required by law.

This project, which is the result of the eviction of 11 Asian immigrants, involves the destruction of a sacred traditional courtyard space that is vital to the character, culture, and history of Upper Chinatown. The Board should therefore reverse the Exemption Determination and direct the Planning Department to conduct further review of potential impacts to historic resources and issue an environmental document that accurately describes the project.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC



Brian O'Neill

cc: Lisa Gibson, Environmental Review Officer



CEQA Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
45 BERNARD ST		0157030
Case No.		Permit No.
2020-005176ENV		202008222415
<input checked="" type="checkbox"/> Addition/Alteration	<input type="checkbox"/> Demolition (requires HRE for Category B Building)	<input type="checkbox"/> New Construction
<p>Project description for Planning Department approval. The project proposes renovation of a 3-story, 4-unit apartment building and includes a seismic/soft-story foundation upgrade with a rear-yard addition. The project includes façade alterations, and the proposed addition would add approximately 996 square feet.</p>		

STEP 1: EXEMPTION TYPE

The project has been determined to be exempt under the California Environmental Quality Act (CEQA).	
<input checked="" type="checkbox"/>	Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 - New Construction. Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	<p>Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below:</p> <p>(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.</p> <p>(b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.</p> <p>(c) The project site has no value as habitat for endangered rare or threatened species.</p> <p>(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.</p> <p>(e) The site can be adequately served by all required utilities and public services.</p> <p>FOR ENVIRONMENTAL PLANNING USE ONLY</p>
<input type="checkbox"/>	Other _____

Common Sense Exemption (CEQA Guidelines section 15061(b)(3)). It can be seen with certainty that there is no possibility of a significant effect on the environment . **FOR ENVIRONMENTAL PLANNING USE ONLY**

STEP 2: ENVIRONMENTAL SCREENING ASSESSMENT

TO BE COMPLETED BY PROJECT PLANNER

<input type="checkbox"/>	<p>Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g. use of diesel construction equipment, backup diesel generators, heavy industry, diesel trucks, etc.)? <i>(refer to The Environmental Information tab on the San Francisco Property Information Map)</i></p>
<input type="checkbox"/>	<p>Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential?</p> <p>Note that a categorical exemption shall not be issued for a project located on the Cortese List if box is checked, note below whether the applicant has enrolled in or received a waiver from the San Francisco Department of Public Health (DPH) Maher program, or if Environmental Planning staff has determined that hazardous material effects would be less than significant. (refer to The Environmental Information tab on the San Francisco Property Information Map)</p>
<input type="checkbox"/>	<p>Transportation: Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?</p>
<input type="checkbox"/>	<p>Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, archeology review is required.</p>
<input type="checkbox"/>	<p>Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? <i>(refer to The Environmental Information tab on the San Francisco Property Information Map)</i> If box is checked, Environmental Planning must issue the exemption.</p>
<input type="checkbox"/>	<p>Average Slope of Parcel = or > 25%, or site is in Edgehill Slope Protection Area or Northwest Mt. Sutro Slope Protection Area: Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than 50%, or (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area? <i>(refer to The Environmental Planning tab on the San Francisco Property Information Map)</i> If box is checked, a geotechnical report is likely required and Environmental Planning must issue the exemption.</p>
<input type="checkbox"/>	<p>Seismic Hazard: <input type="checkbox"/> Landslide or <input type="checkbox"/> Liquefaction Hazard Zone:</p> <p>Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than 50%, (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area, or (4) grading performed at a site in the landslide hazard zone? <i>(refer to The Environmental tab on the San Francisco Property Information Map)</i> If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.</p>
<p>Comments and Planner Signature (optional): Don Lewis</p>	

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

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

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

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

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

Check all that apply to the project.							
<input checked="" type="checkbox"/>	<p>1. Reclassification of property status. <i>(Attach HRER Part I)</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"><input type="checkbox"/> Reclassify to Category A</td> <td style="width: 50%; border: none;"><input checked="" type="checkbox"/> Reclassify to Category C</td> </tr> <tr> <td style="border: none;"> <p>a. Per HRER 04/13/2021</p> </td> <td style="border: none;"> <p><i>(No further historic review)</i></p> </td> </tr> <tr> <td colspan="2" style="border: none;"> <p>b. Other <i>(specify)</i>:</p> </td> </tr> </table>	<input type="checkbox"/> Reclassify to Category A	<input checked="" type="checkbox"/> Reclassify to Category C	<p>a. Per HRER 04/13/2021</p>	<p><i>(No further historic review)</i></p>	<p>b. Other <i>(specify)</i>:</p>	
<input type="checkbox"/> Reclassify to Category A	<input checked="" type="checkbox"/> Reclassify to Category C						
<p>a. Per HRER 04/13/2021</p>	<p><i>(No further historic review)</i></p>						
<p>b. Other <i>(specify)</i>:</p>							
<input type="checkbox"/>	2. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.						
<input type="checkbox"/>	3. Interior alterations to publicly accessible spaces that do not remove, alter, or obscure character defining features.						
<input type="checkbox"/>	4. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.						
<input type="checkbox"/>	5. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.						

<input type="checkbox"/>	6. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	7. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	8. Work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties (Analysis required)</i> :
<input type="checkbox"/>	9. Work compatible with a historic district (Analysis required):
<input type="checkbox"/>	10. Work that would not materially impair a historic resource (Attach HRER Part II).
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.	
<input type="checkbox"/>	Project can proceed with exemption review. The project has been reviewed by the Preservation Planner and can proceed with exemption review. GO TO STEP 6.
Comments (optional):	
Preservation Planner Signature: Elizabeth Gordon Jonckheer	

STEP 6: EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER

<input checked="" type="checkbox"/>	No further environmental review is required. The project is exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.	
	Project Approval Action: Building Permit	Signature: Elizabeth Gordon Jonckheer
	If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	04/13/2021
Once signed or stamped and dated, this document constitutes a n exemption pursuant to CEQA Guidelines and Chapter 31of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination to the Board of Supervisors can only be filed within 30 days of the project receiving the approval action. Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.		

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

MODIFIED PROJECT DESCRIPTION

Modified Project Description:

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | Result in expansion of the building envelope, as defined in the Planning Code; |
| <input type="checkbox"/> | Result in the change of use that would require public notice under Planning Code Sections 311 or 312; |
| <input type="checkbox"/> | Result in demolition as defined under Planning Code Section 317 or 19005(f)? |
| <input type="checkbox"/> | Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption? |

If at least one of the above boxes is checked, further environmental review is required.

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

- | | |
|--------------------------|---|
| <input type="checkbox"/> | The proposed modification would not result in any of the above changes. |
|--------------------------|---|

If this box is checked, the proposed modifications are exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice. In accordance with Chapter 31, Sec 31.08j of the San Francisco Administrative Code, an appeal of this determination can be filed to the Environmental Review Officer within 10 days of posting of this determination.

Planner Name:

Date:



PART I HISTORIC RESOURCE EVALUATION RESPONSE

Record No.: 2020-005176PRJ/ENV
Project Address: **45-49 Bernard Street**
Zoning: RH-3 RESIDENTIAL- HOUSE, THREE FAMILY Zoning District
65-A Height and Bulk District
Block/Lot: 0157/030
Staff Contact: Elizabeth Gordon Jonckheer 628-652-7365
elizabeth.gordon-jonckheer@sfgov.org

PART I: Historic Resource Evaluation

PROJECT SPONSOR SUBMITTAL

To assist in the evaluation of the proposed project, the Project Sponsor has submitted a:

- Supplemental Information for Historic Resource Determination Form (HRD)
- Consultant-prepared Historic Resource Evaluation (HRE)

BUILDINGS AND PROPERTY DESCRIPTION

Neighborhood: Nob Hill
Date of Construction: 1906
Construction Type: Wood-Frame
Architect: Unknown
Builder: Unknown

Stories: 3-over-basement
Roof Form: Flat
Cladding: Horizontal Wood Siding & Stucco
Primary Façade: Bernard Street (North)
Visible Facades: North

EXISTING PROPERTY PHOTOS / CURRENT CONDITIONS



Sources: Google Maps, 2021

PRE-EXISTING HISTORIC RATING / SURVEY

- Category A – Known Historic Resource, per: _____
- Category B – Age Eligible/Historic Status Unknown
- Category C – Not Age Eligible / No Historic Resource Present, per: _____

Adjacent or Nearby Historic Resources: No Yes: _____

CEQA HISTORICAL RESOURCE(S) EVALUATION

Step A: Significance

Individual Significance	Historic District / Context Significance
Property is individually eligible for inclusion in a California Register under one or more of the following Criteria: Criterion 1 - Event: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Criterion 2 - Persons: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Criterion 3 - Architecture: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Criterion 4 - Info. Potential: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Period of Significance: _____ _____	Property is eligible for inclusion in a California Register Historic District/Context under one or more of the following Criteria: Criterion 1 - Event: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Criterion 2 - Persons: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Criterion 3 - Architecture: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Criterion 4 - Info. Potential: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Period of Significance: _____ <input type="checkbox"/> Contributor <input type="checkbox"/> Non-Contributor <input checked="" type="checkbox"/> N/A

Analysis:

Per the supplemental information provided by the project sponsor and information assessed in the Planning Department’s files, 45-49 Bernard Street was constructed in 1906 as a three-flat, three story-over-basement, wood frame residence clad in horizontal clapboard siding.

To be eligible under Criterion 1 (Events), the building cannot merely be associated with historic events or trends but must have a specific association to be considered significant. No known historic events occurred at the subject property that would support a finding of individual eligibility under Criterion 1. None of the known occupants or owners appear to be of historic significance to the local, regional or national past to justify a finding of individual eligibility under Criterion 2. Therefore, 45-49 Bernard Street is not eligible under Criterion 2 (Persons).

As noted in the supplemental report, the building’s front façade consists of painted wood horizontal clapboard siding at the first two stories and the third story has been covered with a stucco finish. The front façade also contains six double hung wood windows with wood trim and ogee lugs, as well as a central recessed stairwell providing access to the apartments. The roofline exhibits a corbeled cornice. The rear of the property has four levels and is defined by stucco walls and horizontal painted wood clapboard siding. At this façade, the windows are aluminum sliders with no trim. There is also a wood exit stair which was added at some point to provide emergency exiting for the apartment units. The building permit records indicate that the following alterations have taken place: underpinning of the east wall in 1928, repairs and upgrades (1926), reroofing (2008), and repair in-kind in 2016.

The building is not architecturally distinct such that would qualify it for listing in the California Register under Criterion 3. Based the permit record, 45-49 Bernard Street retains moderate integrity (alterations include but are not limited to window modifications to the rear façade and the stucco alteration at the third story of the front façade). This structure does not appear to be eligible for listing on the California Register as an individual resource under Criterion 3. The buildings that are eligible under the architecture Criterion must represent distinctive characteristics

of its style and period and possess high artistic value. The subject property is a residence reflective of its era on its block but does not rise to the level of artistic expression that would render it eligible for Individual eligibility. Additionally, staff finds that the subject building is not located within a historic district. As noted in the HRER for adjacent neighbor 51 Bernard Street (Case No. 2013.1452E), the surrounding area exhibits a broad range of construction dates from 1900 to 1988 and no clear period of development is evident and many of the surrounding properties have experienced facade alterations that have compromised historic integrity. Additionally, the subject property is outside the boundary of the Expanded North Beach Survey, and while it shares characteristics of the Romeo Alley Flats within North Beach, it does not exemplify them and there is no justification to expand the survey area.

Based upon a review of information in the Departments records, the subject property is not significant under Criterion 4 since this significance criterion typically applies to rare construction types when involving the built environment. The subject property is not an example of a rare construction type.

CEQA HISTORIC RESOURCE DETERMINATION

- Individually-eligible Historical Resource Present
- Contributor to an eligible Historical District / Contextual Resource Present
- Non-contributor to an eligible Historic District / Context / Cultural District
- No Historical Resource Present

NEXT STEPS

- HRER Part II Review Required
- Historic Design Review Comments provided
- No further historic resource review, consult:
 - Current Planner
 - Environmental Planner

PART I: Approval

Signature: Elizabeth Jonckheer

Date: 4/23/2021

Elizabeth Gordon Jonckheer, *Principal Preservation Planner*
Current Planning Division

September 26, 2022

*Re: 45 Bernard Street
Letter of Authorization for Agent*

To Whom It May Concern:

I hereby authorize the attorneys of Zacks, Freedman & Patterson, PC to file a California Environmental Quality Act appeal to the Board of Supervisors for 45 Bernard Street, San Francisco (Case No. 2020-005176ENV) on the behalf of Upper Chinatown Neighborhood Association.

Very truly yours,

Upper Chinatown Neighborhood Association

A handwritten signature in black ink on a light-colored background. The signature is cursive and appears to read "Hanmin Liu".

By: Hanmin Liu
Its: Co-Team Leader

ZACKS, FREEDMAN & PATTERSON

A PROFESSIONAL CORPORATION

September 26, 2022

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

Re: Appeal of Exemption Determination
45 Bernard Street (Case No. 2020-005176ENV)

986
SEP 26 PM 3:15
SAN FRANCISCO, CA

Dear Clerk,

Please find enclosed a check in the amount of \$698.00 for the appeal filing fee in the above referenced matter.

Please be advised that the filing will be submitted electronically by emailing the appeal filing with supporting documents to bos.legislation@sfgov.org and this payment is being sent prior to the filing.

Sincerely,



Tiffany Stamper
Legal Administrative Assistant

Encl.

- Check No. 23858 in the amount of \$698.00 made payable to San Francisco Planning Department

ZACKS, FREEDMAN & PATTERSON A PROFESSIONAL CORPORATION 601 MONTGOMERY STREET, SUITE 400 SAN FRANCISCO, CA 94111		FIRST REPUBLIC BANK SAN FRANCISCO, CA 94111 11-8166/3210 95	23858
PAY		DATE	AMOUNT
*** SIX HUNDRED NINETY-EIGHT & 00/100 DOLLARS		09/26/2022	****\$698.00
TO THE ORDER OF:	San Francisco Planning Department 49 South Van Ness Avenue Suite 1400 San Francisco CA 94103	 AUTHORIZED SIGNATURE	
MEMO:	Appeal Filing Fee (43547.001)		

Photo Safe Deposit
Details on Back.

Appendix F: Communication Between Commissioners and Neighbors Prior to DR Hearing

Excerpt of Neighbors and Local Supervisors Office Discussing DR Before Our Project Was Even Approved by Planning:

Kevin - can you help us understand what discretion the Planning Department has to approve or modify the proposed renovation, and the timeline for notice and discretionary review? I'm particularly concerned about the allegation that multiple tenants were displaced in the midst of the pandemic. Can you explain how that impacts staff's review, and/or whether we should involve the Rent Board for follow up or verification?

Thanks,
Lee

Lee Hepner
Legislative Aide
Supervisor Aaron Peskin

Please feel free to reach me on my cell phone: (949) 412-7623.

Excerpt of Hanmin Confirming that He Met Personally With Commissioner B, and Exchanged Records with Commissioner A, Who Never Turned Over these Records or Others Despite Sunshine Request:

To: "Hillis, Rich (CPC)" <rich.hillis@sfgov.org>
Cc: "Imperial, Theresa (CPC)" <theresa.imperial@sfgov.org>, "Moore, Kathrin (CPC)" <kathrin.moore@sfgov.org>, "Peskin, Aaron (BOS)" <aaron.peskin@sfgov.org>, "Angulo, Sunny (BOS)" <sunny.angulo@sfgov.org>
Subject: 45-49 Bernard Street and Residential Design Guidelines

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

Dear Mr. Hillis,

I am writing to invite you to a meeting with the leadership team of the Upper Chinatown Neighborhood Association (UNCA). We are now applying for a Discretionary Review. The purpose of the meeting is to discuss the Residential Design Guidelines as they apply to the proposed plans for 45-49 Bernard Street. We are especially interested in the application of the guidelines to the structures and to open spaces of a predominately Chinese immigrant and Chinese American populations.

In early January 2022, we sent a memorandum to Kevin Guy, at his suggestion, regarding our concerns. I am attaching the memorandum for your review. Copies of the memorandum have also been sent to all the commissioners and to our district supervisor, Aaron Peskin. Commissioner Theresa Imperial met with our team recently and she was very helpful in our understanding of the planning process. Commissioner Kathrin Moore called us in mid-January asking for additional information about the evicted tenants. We have reached out to the SF Rent Board and will be sending her the information shortly.

We are seriously interested in gaining a deeper understanding of the design principles and guidelines as they apply to all ethnic populations. We look forward

Emails between Commissioner B and Project Opponents Where She Confirms She Read their Memo and Will Come Over For Lunch to Discuss the Memo & Their DR:

From: Wild Flowers <nectar.wildflowers@gmail.com>
Date: Monday, January 31, 2022 at 3:25 PM
To: "Imperial, Theresa (CPC)" <theresa.imperial@sfgov.org>
Subject: Re: 45-49 Bernard St. Plans

Great! The whole team is also fully vaccinated. Let's meet at 1144 Pacific Avenue, between Taylor and Jones at 4 pm on 2/8/22.
All the best, Jennifer

Sent from my iPhone

On Jan 31, 2022, at 11:11 AM, Imperial, Theresa (CPC) <theresa.imperial@sfgov.org> wrote:

Feb. 8 at 4pm sounds good. We can meet in-person. I'm also fully vaccinated. Let me know where I can meet your team.
Thanks!

From: Wild Flowers <nectar.wildflowers@gmail.com>
Date: Sunday, January 30, 2022 at 8:59 PM
To: "Imperial, Theresa (CPC)" <theresa.imperial@sfgov.org>
Subject: Re: 45-49 Bernard St. Plans

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Dear Theresa,

Thank you for your message. Tuesday, February 8, 2022 at 4pm is good for us. We are also available Friday, February 11, 2022 any time after 4:30 pm. What is your preference for our meeting? We are fully vaccinated.

All the best, Jennifer Mei and Hanmin Liu
Upper Chinatown Neighborhood Association

On Jan 30, 2022, at 7:54 PM, Imperial, Theresa (CPC) <theresa.imperial@sfgov.org> wrote:

Hi,

Apologies in delayed response. I received your memo and recently reviewed it. I can be available to meet either on Feb. 8 or 11th after 4pm. I'm generally open on Tuesdays or Fridays in the afternoon. Thanks!

Emails between Leadership Team of Non-Profit and Hanmin/Local Supervisor Discussion His Donation and Letter of Support:

From: [Tan Cho](#)
To: [Allan Lew](#), [Glen Fujioka](#), [Gordon Chan](#), [Phil Cho](#), [Tannoy Hung](#), [Ross Chan](#), [Matthias Mornino](#), [Peckin](#), [Arona \(ROS\)](#), [Ariana](#), [Sunny \(ROS\)](#), [Donna Chan](#)
Subject: Evictions - 45-45 Bernard - any review on the edge of 48 hills
Date: Monday, August 1, 2022, 8:24:43 AM
Attachments: [maggie.dong](#), [maggie.dong](#), [maggie.dong](#), [maggie.dong](#), [maggie.dong](#), [maggie.dong](#), [maggie.dong](#), [maggie.dong](#)
Hanmin's email with images attached. Leadership team of nonprofit employer

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fyi- 45 Bernard.
hanmin liu who owns the building behind the proposed backyard extension (DR) is lead organizer along with his network support brad Paul scholars and remaining Greater Chinatown group of og chinese am residents, that greater Chinatown grew in the 1970-2010 as reflected in TRIP advocacy for 10 bus up the pacific hill but by Mrs lee 2015 Jackson street eviction and subsequently we lost greater Chinatown Russian hill, now boundary back to powell with Mason consortia pretty much gentrified. Hanmin funded code below, his house has lots of open space on side!
Reference to Hanmin's donation to organization

CBPRC Chair Allan,
Let me know if you think we should send a support "solidarity" letter supporting the "private" communal courtyard open space is still an important remaining vestige of necessity in urban design form, cultural fabric and pandemic healing health space even tho the larger war of preserving greater Chinatown is lost, maybe they can build a story vertical not horizontal. **These are not public open space tho.**
See today 48 hills article below.

Excerpt of Letter of Support Email from Non-Profit Sent to Planning Commission:

From: Maggie Dong <maggie.dong@chinatowncdc.org>
To: CPC-Commissions Secretary <commissions.secretary@sfgov.org>; Ionin, Jonas (CPC) <jonas.ionin@sfgov.org>; Tanner, Rachael (CPC) <rachael.tanner@sfgov.org>; Winslow, David (CPC) <david.winslow@sfgov.org>
Subject: Community Tenants' Association Letter Supporting Discretionary Review for 45-49 Bernard (2020-005176DRP)

“On behalf of the Community Tenants Association, I am submitting a letter to support the discretionary review request for the 45 Bernard Street project. This project was originally scheduled to be heard on Thursday, July 21, 2022.”

Sincerely,
Maggie Dong (she/her)
Planner
Chinatown Community Development Center 669 Clay Street,
San Francisco, CA 94111 Phone: 415-935-2472| Email:
maggie.dong@chinatowncdc.org”

Email Between Hanmin/Jennifer/Other Neighbors & Local Supervisor Discussing “Building Relationships” with Non-Profit Employer of Commissioner C and Their Meetings:

From: [REDACTED] [Open with Google Docs](#)
To: [Peskin, Aaron \(BOS\)](#)
Subject: Thank You for Connecting Us to Theresa Flandrich
Date: Wednesday, April 20, 2022 5:11:40 PM
Attachments: [Tenant Evictions PacificBernard TaylorJones 2013-2020.pdf](#)
[Bilingual Neighbor Petition V2.DS.FINAL.1.pdf](#)

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

Dear Aaron,

I just got off the phone with Theresa Flandrich. We had a great conversation and we have so much in common. Thanks SO much for putting her in touch with us. We agreed to meet in early May. In the interim, we are sending her the information that the SF Rental Board has on 45-49 Bernard Street. We feel really hopeful that her input will advance our cause even further.

As you know, the upper Chinatown neighbors are experiencing an eviction crisis. The sponsor of 45 Bernard Street evicted 11 Chinese immigrants, eight of whom are elders/disabled. In the past ten years, 37 tenants have been evicted or displaced on our block (between Pacific Avenue, Bernard, Taylor, and Jones Streets). Our research shows that over ninety percent of these tenants were of Asian descent. (See attached spreadsheet below.)

To address this crisis and to preserve mid-block open space as a cultural and spiritual refuge, we are organizing a petition campaign, we are building relationships with Malcolm Yeung and Robyn Tucker, and we have reached out to the RHN and the Russian Hill Community Association. More than a month ago, Rich Hillis and Liz Watty attended a UCNA meeting and we discussed the sponsor's plan and its severe impact on the people and the culture of the neighborhood.

I'll keep you posted on our progress. Thanks again for bringing such a valuable resource, Theresa Flandrich, to our fight.

Yours, hanmin

Appendix G: Appendix G: Transcript Showing Rent Control Language Attempted to Be Imposed

Dear Commissioners,

I thought it might be helpful to send a written transcript of your August 25 discussion of the motion for the 45 Bernard Street DR. Attached is an unofficial transcript prepared by our paralegal.

During public comment last week, we suggested the following additions to the DR Action Memo to conform to your motion:

2. The Commission recognizes the Rent Control Ordinance and its direct impact as it relates to tenant rights, owner move-in evictions, and the obligation of the Project Sponsors to provide a first right of refusal and to exercise due diligence in locating previous evicted tenants and offering them first right of refusal at their previous rents and to provide a lifetime tenancy to the remaining tenant at the same rent, provide for relocation during construction, and to make the relocation as short as possible.

Additionally, please find a link to a short videotaped interview with a former tenant of 45 Bernard Street [here](#). Due to technical difficulties at the hearing, it could not be shown during public comment. https://zacks.egnyte.com/dl/e8aFEY81hZ/Mr_Huang_Interview.mp4

Thank you,

Ryan J. Patterson
Zacks, Freedman & Patterson, PC
601 Montgomery Street, Suite 400
San Francisco, CA 94111
Telephone: (415) 956-8100
Facsimile: (415) 288-9755

Appendix H: Memo Sent Directly to the Planning Commission Prior to Our Plans Being Approved

MEMORANDUM

TO Kevin Guy
FROM Jennifer Mei
DATE January 7, 2022
SUBJECT 45-49 Bernard Street Plans

**LEADERSHIP
TEAM**

Kelvin Lee
Johnny Leung
Sandy Leung
Hanmin Liu
Jennifer Mei
Brad Paul
Stephen White

The Upper Chinatown Neighborhood Association (UCNA) is concerned about the size and scale of 45-49 Bernard Street plans. The plans are not in concert with the context of the surrounding block. The proposed plans take the four-story structure to within the 15 feet of the rear yard line and 10 feet when taking the fire stairs into account. This expansion encroaches on the rear neighbor, 1144 and 1146 Pacific Avenue. The encroachment will roughly replicate the existing tenement-like situation over half the block's interior open space (see Figure One below). The plans will limit the amount of light and air to bedrooms and living area windows of the buildings adjacent to and directly opposite the development.

The UCNA is also concerned about the application for the legalization of the fourth dwelling unit (ADU). In 2020 and 2021, two families were evicted from 47 Bernard and 49 Bernard Street and the new owner and her sister moved into the spaces where the families were living. We have reviewed Planning Code Sec. 207.3(b)(2) and wondered whether or not the proposed new fourth unit can be approved. We are continuing to sort this out and look forward to your thoughts. As we gain a deeper understanding of this matter, we will follow up with more detail in another memo. We look forward to hearing from you regarding your search of records at the Rent Board.

The San Francisco Residential Rent Stabilization and Arbitration Board has on file a “60 Day Notice of Termination of Tenancy” for the five tenants evicted from 47 Bernard Street (case no. M201229). The file noted that “a collective total relocation assistance payment” of \$21,674. In addition, three of the five tenants are elderly and/or disabled and are each entitled to an additional relocation assistance payment of \$4,817. But there doesn’t seem to be a “60 Day Notice of Termination of Tenancy” on file for the six tenants evicted from 49 Bernard Street (case no. M201400) nor any indication of what amount of money they may have been paid to assist them in their relocation. We are worried about these eleven individuals who were displaced by the new owners—they were of two low-income Chinese families and at least three of them are elderly and/or disabled. They lived here for about a decade and they relied on one another and on Chinatown for their stability. Might it be possible, if approved, to offer the new fourth unit back to the displaced families at the same rent they were paying prior to their eviction?

The proposed plans for the fourth unit appears to be designed for upscale individuals. Such units will not be affordable to intergenerational families who need proximity to Chinatown for their employment, shopping, and services.

The plans seem to be contrary to the San Francisco Planning Department’s intention of increasing affordable housing for and bringing back displaced communities. If approved as submitted, this project will only accelerate the transformation of our neighborhood from its historic role as a stable community of intergenerational Asian American families—the social and economic unit of change. What is emerging in our neighborhood is a younger, less diverse, and more affluent population of individual tenants who will likely be more transient. After briefly describing the problems we see with this proposal, we will suggest modifications to it that we feel the City and the owner should incorporate prior to approval. We believe these modifications offer a win-win solution to these problems for the owner, the neighborhood, and the city.



Figure One: Photo of the property immediately east of 45-49 Bernard Street

The leadership team of UCNA has studied carefully the proposed plans in light of the assets that already exist in the neighborhood. We offer the following concerns and recommendations:

1. Reduction of Mid-Block Open Space

The adjacent neighbors to 45-49 Bernard Street are very concerned about the existing lack of open space on our block. See Figure Two below. We invite you to make a site visit to assess the proposed plans and its impact on further reducing light and air quality in the mid-block open space, as well as on lessening the privacy and the security of adjacent buildings.



Figure Two: Photo of Mid-Block Open Space and the “Tenement-like Situation”

Figure Three below is a rendering of the expanded footprint (in red) of 45-49 Bernard Street, which will go back an additional 11'3" and the stairways (in yellow) will further extend into the open space by 4'6". Thus, the stairways will intrude into the 15' limit. We wish to make note that the illustration below does not include all of the existing egresses and walkways of the other buildings on our block. The Google Maps image that we used to develop this illustration did not have sufficient details for us to show accurately all the structures and dimensions.



Figure Three: Site view of the existing open space, with the proposed addition (in red), and the proposed balconies and stairs (in yellow)

2. Design of 51 Bernard Street Set a Good Precedent

San Francisco Planning Department required the developer and owner of 51 Bernard Street (adjacent to 45-49 Bernard Street) to cascade the four floors of the building with setbacks to increase mid-block access to light and air for surrounding neighbors. In Figure Four below, the image on the left shows 51 Bernard Street (4-story gray building) and the existing setback of 45-49 Bernard Street. The image on the right illustrates how the proposed plans will block eastern sunlight and air flow, and reduce mid-block open spaces.

The UCNA recommends the design of 45-49 Bernard Street to mirror the 51 Bernard Street footprint and setbacks. (See “Preferred Set-Back Edge” dotted line in Figure Three above.) The Association also recommends the new owners incorporate an interior set of stairs in place of an outdoor stairway.



Figure Four: Renderings of existing rear elevation and the proposed elevation of 45-49 Bernard Street

3. Privacy and Security

The encroachment to within 10 feet of the property line has a significant impact on privacy of 1144-1146 Pacific Avenue, 1152-1156 Pacific Avenue, 39-41 Bernard Street, and 51 Bernard Street. The top three floors of the proposed plans are directly in the line of sight of neighbors and will further compromise their privacy. See Figure Five below for the existing rear window sizes of 45-49 Bernard Street, the proposed plans for two double glass doors with balconies on each of four stories, and the rear windows of 1144-1446 Pacific Avenue (scale is 1/4" = 1'0"). According to HGCI drawings A4.0, the existing back yard windows are 10% of the surface area, but the proposed rear windows is 34%.

The Association suggest the new owners reduce the double doors and balconies on the top two floors and add a light well.

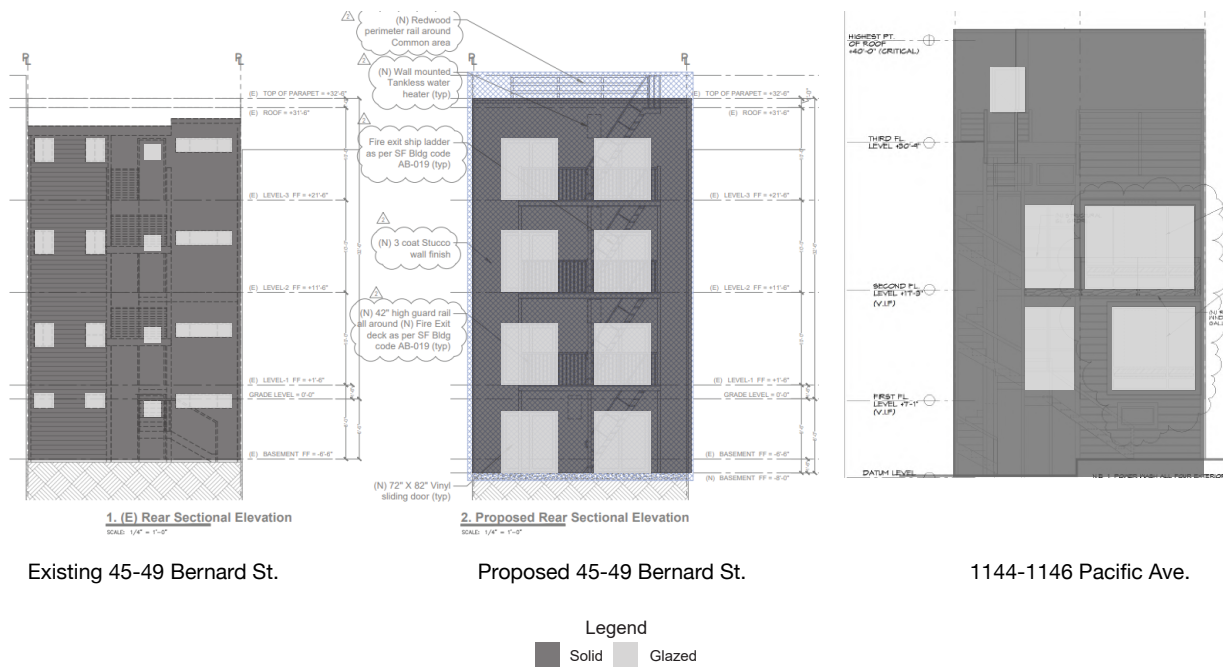


Figure Five: Elevation drawings of 45-49 Bernard Street (existing and proposed) and a rear elevation drawing of 1144-1146 Pacific Avenue, with window sizing and placement

4. Addition of Fourth Market Rate ADU Unit Adds to Traffic Problems and Existing Parking Crisis

Pacific Avenue is an active east-west traffic corridor and Taylor and Jones Streets are a busy north-south corridor. In the late afternoon, cars are frequently backed up to Jones and Bernard Streets. Heavy traffic increases greenhouse gases in the neighborhood. Moreover, parking for local residents is a nightmare. There are 88 building addresses and 61 parking/garage spaces on the block. Assuming the tenants in each address require one or two cars, 132 parking spaces are needed on any particular day. Furthermore, the San Francisco Municipal Transportation Agency conducted an evaluation of residential parking permits beginning in 2013. Our Area C had a permit saturation of 152% and this situation has only gotten worse. Many parking spaces have been removed to make way for motorcycle parking, car share parking, and red curb zones. Adding a fourth unit will add to an already dire parking availability.

One way to reduce the greenhouse gases and the need for more parking spaces would be to officially designate the proposed new fourth unit as affordable unit. As the previous residents demonstrated, lower-income renters, particularly low-income seniors, have much lower rates of car ownership than wealthier tenants.

5. Mitigating Displacement and Gentrification Pressures with Affordable Housing

The proposal to expand the footprint of the four-story building at 45-49 Bernard Street, renovate the three existing units, and add a fourth unit highlights the challenges such projects pose in neighborhoods like Upper Chinatown, particularly regarding the related issues of preserving mid-block light and air, reducing greenhouse gases, and mitigating parking impacts—as well as

reducing growth inducing gentrification pressures. After briefly describing these challenges we will propose modifications to the project we feel could help mitigate these problems in a fair and equitable way.

Gentrification and Displacement

For many years, the smaller two-or-three-story buildings in this neighborhood were owned by Chinese-American families who purchased them many decades ago for \$40,000–\$200,000 and paid off their mortgages. As a result, rents in these buildings tended to remain low enough to allow immigrant families and seniors to remain and grow old in the Upper Chinatown neighborhood. With these buildings now selling for \$1.5 million and up, the only way to cover significantly higher mortgages and still make money is to renovate, add units, and charge higher rents—rents that current residents cannot afford and force them to move out of the neighborhood.

Inclusionary Housing

With new buildings of ten units or more, the city's inclusionary housing policy requires that owners designate a least one unit (10%) as permanently affordable. Typically, the owner charges higher rents on the other nine units to make up for lost revenue from the affordable unit. The purpose of this policy is to slow gentrification and ensure a diversity of incomes in the community. As the size of housing developments increases, the percentage of inclusionary housing units required increases above 10%.

In the case of 45-49 Bernard Street, the city could, as a condition of approving a new fourth unit, require that the new unit be affordable to tenants making 60% of median income or less. Such a requirement could significantly mitigate the gentrifying impacts of the project, while lowering parking demand in the neighborhood. To lessen the financial burden of this requirement on the owner, the city could provide a subsidy that would make up the difference between what a tenant at 40–60% of median income can afford to pay and what the market rate rent would have been.

There are several ways the city could subsidize rents for a single unit (or two) at 45-49 Bernard Street that could serve as a pilot program for District 3 and the rest of San Francisco:

- Allocate 30 project-based HUD section 8 certificates to a nonprofit (such as the San Francisco Community Land Trust or Chinatown Community Development Center) to use individually or in pairs to create more affordable housing in small apartment buildings in Chinatown, North Beach, Russian Hill, and Nob Hill. This could serve as a pilot for a citywide program to preserve racial and economic diversity in smaller buildings.
- Agree to rebate a portion of the property taxes paid by 45-49 Bernard Street to compensate for the reduced rent charged for one of the units. The city could do a direct rebate or explore whether signing a long-term lease for the affordable unit with a housing nonprofit could qualify the building for a partial property tax welfare exemption.

Cities throughout the Bay Area are now making it easier to add accessory dwelling units (ADUs) to single-family homes and two-to-three-unit apartment buildings to address the region's housing crisis. In most cases the ADUs are small studio or one-bedroom apartments that tend to rent for

less than larger apartments or single-family homes nearby. The proposed fourth unit at 45-49 Bernard Street, a two-bedroom flat, will rent for quite a bit in this neighborhood.

The ideal solution for San Francisco is to add units like this while finding ways to subsidize them as affordable for low-income families and seniors so the income to the owner is the same as market rate. Partnering with nonprofits like the Chinatown Community Development Center or Self Help for the Elderly could also provide landlords with a steady source of income-qualified and vetted seniors from the neighborhood and automatically connect them to direct services ranging from culturally appropriate in-home nutrition programs to home healthcare and free paratransit services.


We urge the city to adopt this win-win approach as a condition of approval for the requested fourth unit at 45-49 Bernard Street. The city could create even more housing by allowing the proposed large two-bedroom flat to be converted into two smaller affordable units for low-income families and for seniors with a commensurate increase in the housing subsidy. This would serve the financial needs of the owner, the housing needs of nearby intergenerational families facing displacement, and the ongoing racial and financial diversity goals of the city. It would add housing units that would not add to the existing traffic and parking problems in the neighborhood and instead increase ridership on public transportation.

As of 2021, the homeowners of the block (Pacific, Bernard, Taylor, and Jones) are made up of 71% Chinese Americans and 29% others. It is one of the most affordable locations between Russian Hill and Nob Hill. For many decades, most everyone gets along with one another. It is the bedrock of intergenerational working families who live and work in the neighborhood. This community has inherently developed a safe, inclusive, and “helping hand” culture among a diverse racial and ethnic population.


Thank you for your time and consideration on this sensitive matter. We look forward to hearing from you and working together.

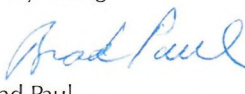

Kelvin Lee

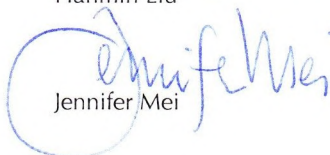

Stephen White


Johnny Leung


Sandy Leung


Hanmin Liu


Brad Paul


Jennifer Mei

CC Aaron Peskin, Supervisor, District 3
Sunny Angulo
Lee Hepner
San Francisco Planning Commissioners

Appendix I: Neighborhood Roof Decks

Figure A.1 Facing West



Figure A.2 Roof Facing North



Legend




	45-49 Bernard (Subject Property)
	Adjacent Neighbors with Roof Decks
	Other Nearby Property with Roof Deck

Figure A.3 Zoomed in View of Direct Neighbors



Figure A.4 Lueng Deck overlooking Subject Property, Unpermitted, with Video Camera pointing at us



Figure B.1 Mid Block "Open Space" does not exist – only dense, deep neighboring properties

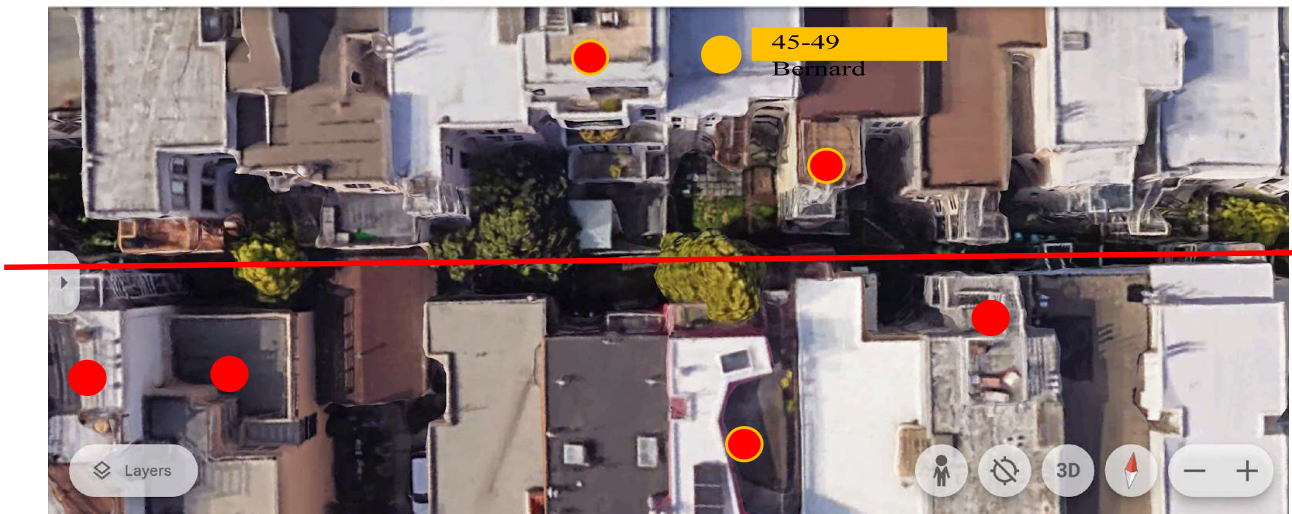


Figure B.2: Hanmin and Lueng Properties and Rear Yard Setback



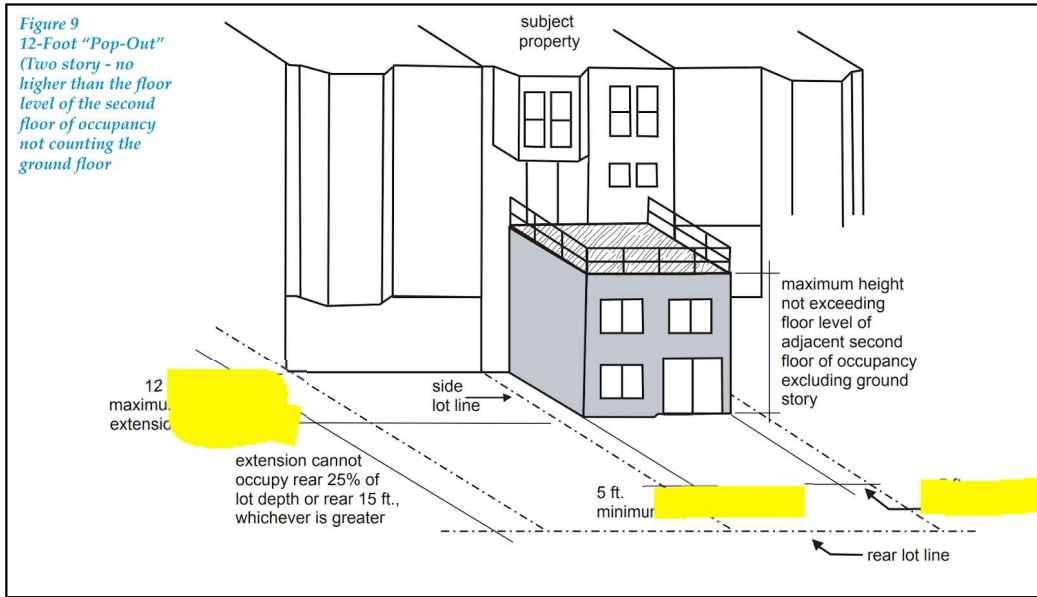
Figure B.3: 51 Bernard Recent Variance Approved

Hanmin Liu objected and raised issue given the s raised was a “precedent” on what it would have on 45-49 Bernard Street, not about the 51 Bernard Street project at all.

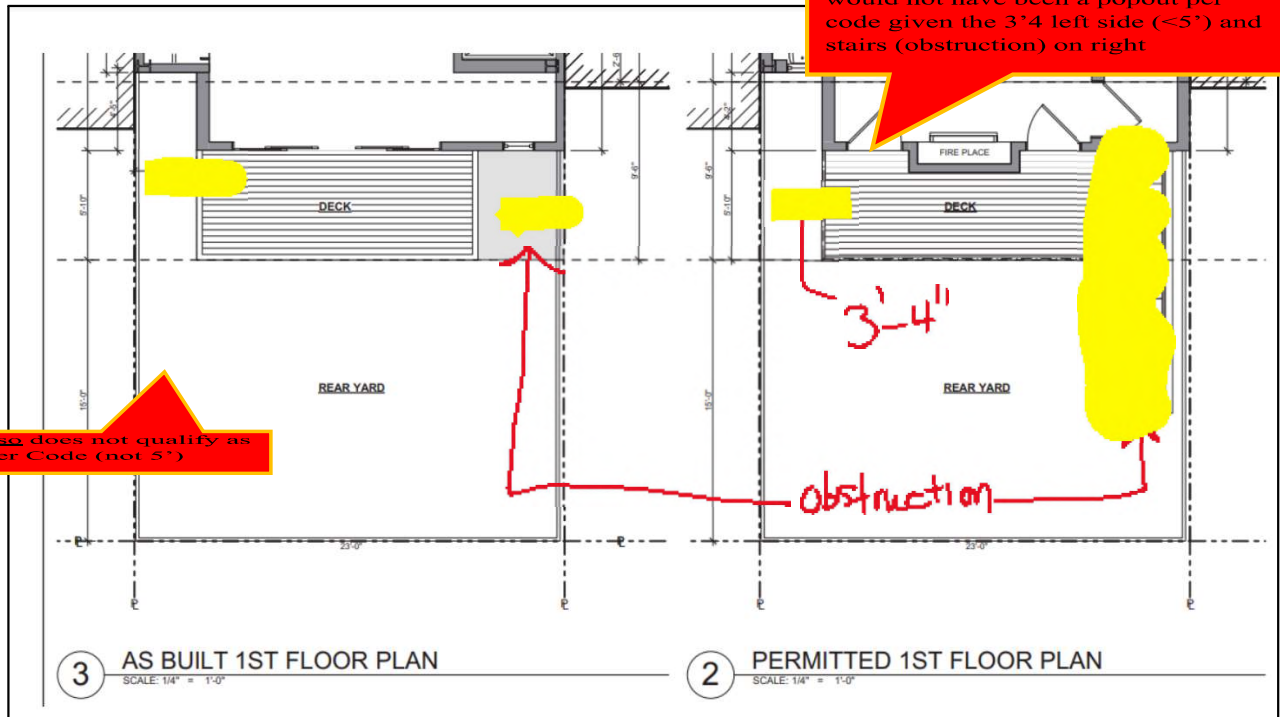
Despite the rear wall not qualifying as a pop-out given the approval of a stair well into the 5' required “unobstructed space”, we were incorrectly prohibited **from using the 51 Bernard Property’s 15’ 9” setback for averaging. As a result, the setback was calculated at 17’9” instead of 15’9” post our 311 notice and the City required us to modify it if we wanted the DR to be recommended “approved” at the DR hearing.** Again, The 51 Bernard Property (neither as-planned or as-built) did not meet the qualifications of a pop-out.

For Reference: “This 12-foot extension can cover the full width of the lot if it is no higher than 10 feet above grade. It may be as high as the floor level of the second floor of occupancy not counting the ground floor if there is a 5 foot distance completely clear of obstructions between the extension

and both side property lines”.



51 Bernard Variance (As Built and As Permitted) Drawings



As built also does not qualify as pop-out per Code (not 5')

Even in an "as permitted" state, this would not have been a popout per code given the 3'4" left side (<5') and stairs (obstruction) on right

M May, Christopher (CPC) <christopher.may@sfgov.org>
 to me, Claudine, Richard, Kevin, Corey, David, Lindsey, Taylor, Jim, Michael

Mon, Mar 13, 2023, 3:08PM

Hi Tina,

Yes, if [REDACTED]

Christopher May, Senior Planner
 District 3, Current Planning Division
 San Francisco Planning Department
 49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103
 Direct: 628.652.7359 | www.sfgplanning.org
[San Francisco Property Information Map](#)

T Teague, Corey (CPC) <corey.teague@sfgov.org>
 to me, Christopher, Tina, David

Sun, Mar 26, 2023, 7:55 AM

Tina,

Thanks for reaching out for this clarification. The reason the existing condition could not be used for averaging is because it was both approved in error and also constructed beyond the scope of the issued permit. As such, any component of the building at 51 Bernard St that is noncomplying is not a legally authorized portion of the building, and so it cannot be used for averaging. Only once a final scope of work has been authorized can it then be used for averaging purposes.

Based on this information, the prior permit at 45 Bernard St could not use the noncomplying pop-out feature at 51 Bernard St for averaging. Goal [REDACTED] the presence of the side stairs would not make the pop-out "building" useable for [REDACTED] Code requirements, so averaging is based on [REDACTED] etc.).

Please also note that if 51 Bernard St is legalized in a manner that does not meet Sec. 136(c)(25), and you decide to move forward with a new permit to take advantage of the deeper rear yard permitted at 45 Bernard St, that permit would automatically require a DR hearing before the Planning Commission because they already took DR and added conditions to the previous project/permit.

As you saw, I'm out for a while and the project at 51 Bernard St still has some process and review left before being approved in some way. I hope this helps until that project is fully resolved. Thanks.

Corey A. Teague, AICP, LEED AP
 Zoning Administrator

Current Planning Division
 San Francisco Planning
 49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103
 Direct: 628-652-7328 | sfgplanning.org
[San Francisco Property Information Map](#)

Variance Granted on 51 Bernard



San Francisco Planning

40 South Van Ness Avenue, Suite 2020
San Francisco, CA 94103
415.625.7000
www.sfplanning.org

VARIANCE DECISION

Date: May 22, 2023
Case No.: 2022-005109VAR
Project Address: 51 Bernard Street
Block/Lot: 033 / 039
Zoning: RH-3 (Residential House, Three-Family) Zoning District
Height/Bulk: 65-A Height and Bulk District
Applicant: Anthony Fontaloni
 70 2nd Street
 San Francisco, CA 94107
Owner: Enda Keane
 458 Plum Tree Court
 Sonoma, CA 94976
Staff Contact: Christopher May - (628) 652-7359
christopher.may@sfgov.org

Description of Variance – Rear Yard and Permitted Obstructions Variance Sought:

The project proposes to legalize the as-built rear ground floor extension, the removal of previously-existing rear stairs and the enclosure of that space on the basement floor, the as-built rear bay window on the 3rd floor, and the as-built front bay windows.

Planning Code Section 134 requires the subject property to maintain a rear yard of approximately 24 feet 6 inches. The features proposed to be legalized at the rear extend into the required rear yard to varying depths and are inconsistent with the obstructions permitted by Section 136. Therefore, a variance is required.

Planning Code Section 136(d) permits bay windows over the property line with a maximum width of 9 feet if the sidewalk is 9 feet wide or less, which is the case for the subject property. The front bay was built with a width of 9 feet 1.25 inches wide. Therefore, a variance is required.

Procedural Background:

- The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.
- The Zoning Administrator held a public hearing on Variance Application No. 2022-005109VAR on March 22, 2023.
- Planning Code Section 31.1 notification was mailed on February 13, 2023 and expired on March 13, 2023. No requests for Discretionary Review were filed during the notification period.

Variance Decision
May 22, 2023

CASE NO. 2022-005109VAR
51 Bernard Street

Decision:

GRANTED, in general conformity with the plans on file with this application, shown as EXHIBIT A, to legalize the as-built rear ground floor extension, the removal of previously-existing rear stairs and the enclosure of that space on the basement floor, the as-built rear bay window on the 3rd floor, and the as-built front bay windows, subject to the following conditions:

- The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Site or Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Site or Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
- Any future physical expansion, even in the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character and scale. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new variance application be sought and justified.
- The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls apply.
- Minor modifications as determined by the Zoning Administrator may be permitted.
- The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
- This Variance Decision and the recorded Notice of Special Restrictions shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the Project, if applicable.

Findings:

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

Requirement Met.

Variance Decision
May 22, 2023

CASE NO. 2022-005109VAR
51 Bernard Street

- The subject property, developed circa 1923, has a lot depth of approximately 60 feet and slopes down from the front and down laterally from east to west. Rear yards and the collective mid-block open space are limited on the subject block due to the small, shallow lots. The required rear yard is 24 feet 6 inches and the original two-story building encroached approximately 9 feet 6 inches into the rear yard, and therefore was noncomplying.
- In 2015, Building Permit No. 201410280072 was approved and issued in error proposing vertical and horizontal rear additions that also encroached into the rear yard an additional 2 feet 6 inches without 5-foot setbacks on either side, rear property line stairs, a firewall higher than 10 feet, and a front bay that were all inconsistent with the permitted obstructions of Planning Code Section 136. That work and the permit was completed in 2016. However, the completed construction project was somewhat inconsistent with the issued permit, as it removed the original rear stairs and replaced them with a small mechanical space within the rear addition.

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

Requirement Met.

- The circumstances described above result in a situation where meeting the literal requirements for the rear yard and front bay would represent a practical difficulty that is not fully created by or attributed to the property owner due to the errors approved in the original building permit and the physical challenges of correcting those issues. The original permit did not dedicate space for the water and heating systems. The rear stairs were replaced by a mechanical enclosure during construction to house the water, heating, and other systems. Relocating those systems within the existing building would be a substantial challenge.

FINDING 3.

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

Requirement Met.

- Granting this modest variance will allow the subject building to be fully legalized in a state that, despite not fully complying with the Planning Code, still meets the intent and spirit of the Code given the unique circumstances and challenges to correct, which is a substantial property right possessed by other properties in the same class of district.

FINDING 4.

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Requirement Met.

Variance Decision
May 22, 2023

CASE NO. 2022-005109VAR
51 Bernard Street

- Granting the variance will improve the livability of the subject property and will not be materially detrimental to the public welfare or materially injurious to the neighboring properties, as the project has been completed since 2016. Additionally, the small lot has limited rear yard area (approximately 345 square feet) to devote to open space. Requiring stairs would further reduce the rear yard area and require a slightly taller firewall along the eastern property line. Due to the lateral east-west downslope of the block, the slight additional mass at the rear of 51 Bernard Street will not substantially impact the adjacent lot at 45 Bernard Street. Further, the very small margin of noncompliance of the front bay is not easily perceptible to the eye and therefore has no impact on the street frontage.
- The Planning Department determined the project to be consistent with the Residential Design Guidelines and no request for Discretionary Review was filed for the associated building permit.

FINDING 5.

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

Requirement Met.

- This development is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project meets all relevant policies, including conserving neighborhood character, and maintaining housing stock.
- Existing neighborhood retail uses will not be adversely affected by the proposed project.
- The proposed project will be in keeping with the existing housing and neighborhood character. The proposal will preserve the existing dwelling unit on the property.
- The proposed project will have no effect on the City's supply of affordable housing.
- The proposed project does not adversely affect neighborhood parking or public transit.
- The project will have no effect on the City's industrial and service sectors.
- The proposed project will have no effect on the City's preparedness to protect against injury and loss of life in an earthquake.
- The project will have no effect on the City's landmarks or historic buildings.
- The project would not affect any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed, or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Variance Decision
May 22, 2023

CASE NO. 2022-005109VAR
51 Bernard Street

Once any portion of the granted variance is used, all specifications and conditions of the variance authorization become immediately operative.

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.

APPEAL: Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 49 South Van Ness Ave, Suite 1475 (14th Floor), call 628-652-1150, or visit www.sfgov.org/boappeals.

Very truly yours,

Corey A. Teague, AICP
Zoning Administrator

2022-005109VAR (CHRISTOPHER MAY) 51 BERNARD STREET, Lot 029 in Assessor's Block 0157 in an RH-3 Zoning District, and a 65-A Height and Bulk District. REAR YARD: The project proposes to legalize the as-built rear ground floor extension, the removal of previously-existing rear stairs and the enclosure of ground floor area below, and the as-built rear bay window on the 3rd floor. **PLANNING CODE SECTION 134** requires the subject property to maintain a rear yard of approximately 24 feet 6 inches. The features proposed to be legalized extend into the required rear yard to varying depths and are inconsistent with the obstructions permitted by Section 136. Therefore, a variance is required.

State California
County San Francisco

Incorporated place San Francisco City
Ward of city _____ Block No. 58

DEPARTMENT OF COMMERCE-BUREAU OF THE CENSUS
FIFTEENTH CENSUS OF THE UNITED STATES: 1930
POPULATION SCHEDULE

Enumeration District No. 38-342
Supervisor's District No. 6

Sheet No. 23 B

Enumerated by me on April 8, 1930 Lillian Chatter 7405

PLACE OF BIRTH	NAME	RELATIONSHIP	BIRTH DATA		PERSONAL DESCRIPTION	MARITAL STATUS	PLACE OF BIRTH			MOTHER, FATHER OR OTHER LANGUAGE OF PARENTS	CITIZENSHIP ETC.	OCCUPATION AND INDUSTRY		REMARKS	
			Y	M			Country	Country	Country			Occupation	Industry		
11	142121 500	Calogrese	Head	M	23	70	France	France	France	French	12 12	1929	None		
12		Frank	Head	M	32	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
13		John	Head	M	33	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
14	142121 500	Frank	Head	M	36	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
15		John	Head	M	37	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
16		John	Head	M	38	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
17		John	Head	M	39	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
18		John	Head	M	40	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
19	142121 500	John	Head	M	41	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
20		John	Head	M	42	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
21		John	Head	M	43	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
22		John	Head	M	44	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
23		John	Head	M	45	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
24		John	Head	M	46	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
25		John	Head	M	47	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
26		John	Head	M	48	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
27		John	Head	M	49	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
28		John	Head	M	50	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
29	142121 500	John	Head	M	51	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
30		John	Head	M	52	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
31		John	Head	M	53	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
32		John	Head	M	54	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
33		John	Head	M	55	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
34		John	Head	M	56	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
35		John	Head	M	57	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
36		John	Head	M	58	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
37		John	Head	M	59	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
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39		John	Head	M	61	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
40		John	Head	M	62	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
41		John	Head	M	63	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
42		John	Head	M	64	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
43		John	Head	M	65	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
44		John	Head	M	66	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
45		John	Head	M	67	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
46		John	Head	M	68	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
47		John	Head	M	69	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
48		John	Head	M	70	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
49		John	Head	M	71	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
50		John	Head	M	72	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
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52		John	Head	M	74	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
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54		John	Head	M	76	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
55		John	Head	M	77	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
56		John	Head	M	78	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
57		John	Head	M	79	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
58		John	Head	M	80	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
59		John	Head	M	81	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
60		John	Head	M	82	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
61		John	Head	M	83	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
62		John	Head	M	84	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
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71		John	Head	M	93	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
72		John	Head	M	94	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
73		John	Head	M	95	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
74		John	Head	M	96	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
75		John	Head	M	97	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
76		John	Head	M	98	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
77		John	Head	M	99	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977
78		John	Head	M	100	70	Austria	Austria	Austria	Austrian	12 12	1929	Banker	Bank	689977

1930s - Mostly from Italy, some France, Austria, Switzerland, Mexico, Spain, Salvador, California (no China)

ABBREVIATIONS TO BE USED IN COLUMNS 10 AND 11: ...

PUBLIC COMMENT

March 26, 2024

Jose Lopez
President
Board of Appeals Commission
49 South Van Ness Ave, Suite 1475
San Francisco, CA 94103

RE: Community Tenants Association Support Appeal No. 24-011

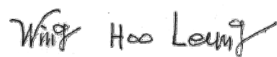
Dear Board of Appeals Commissioners,

I am writing this letter on behalf of the Community Tenants Association (CTA) to support the appeal filed by the Upper Chinatown Neighborhood Association for the project at 45-49 Bernard St (Appeal No. 24-011). The Community Tenants Association was formed in 1987 and has a membership of over 3,000 members, most of whom are low-income tenants living in Chinatown. Our mission is to defend the rights of low-income tenants throughout San Francisco. CTA focuses on tenants' rights, preservation of affordable housing, protection of existing tenants from displacement, and awareness on issues impacting the city's most vulnerable immigrant populations.

Throughout the pandemic, eleven Chinese immigrants were evicted at 45-49 Bernard St. Eight of the former residents are elderly and/or disabled. Nob Hill is home to a significant Chinese American population due to its proximity to Chinatown. However, with the influx of owner move in evictions and the condoization of formerly affordable multifamily homes, we are concerned about the potential loss of affordable housing units in proximity to Chinatown, upon which our monolingual community members heavily depend. Chinatown offers crucial in-language resources that are essential for many residents, driving their choice to reside in this area for convenient access to such amenities and affordable housing options. This would set a precedent for other buildings in the Lower Nob Hill neighborhood changing the affordability of the area.

We strongly urge the Board of Appeal to move forward with the Appeal Request for Appeal No. 24-011.

Sincerely,



Wing Hoo Leung

President of Community Tenants Association

Pacific Avenue Neighborhood Association
(PANA)

Julie Rosenberg
Executive Director
San Francisco Board of Appeals
49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103
Email: julie.rosenberg@sfgov.org

Re: Case No. 24-0011, 45, 47, & 49 Bernard Street
Hearing Date April 3, 2024

Dear President Jose Lopez, Alex Lemberg, Vice President, Commissioner Rick Swig, Commissioner *John* Trasviña, And Commissioner J.R. Eppler.

My name is Robyn Tucker. I am the Co-Chair of the Pacific Avenue Neighborhood Association (PANA). I am writing to you on behalf of the Appellants in the above-referenced case.

I have known Hanmin Liu for approximately 15+ years. During that time, we have worked together on many projects. I have known him to work only for the betterment of the neighborhood even when he is advocating on behalf of his own property interests.

The development plans that are the subject of this appeal has many problems:

1. The amount of rear yard proposed

Rear yard open space is critical to the health and well-being of our neighborhood residents. Once open space is removed, we never gain it back. The block where the subject property is located has remarkably little open space. Preserving what exists is critical. In addition, the Pacific Avenue Neighborhood Commercial District guidelines require a 45% rear yard setback. The reasoning for this guideline was to create contiguous open space for all neighbors to enjoy in our significantly dense neighborhood. Please preserve the open space that exists by requiring at least 20 feet of rear yard open space from the property line.

2. The Planning Commission justifiably denied the proposed roof deck and spiral staircase.

Residents are living on top of one another already. Add a roof deck to a very population dense neighborhood would be foolish as the entire block and for sure beyond would be negatively impacted by the many abuses that often occur on these spaces.

Please uphold the Planning Commission's decision to deny the roof deck and spiral staircase.

3. Maintain the existing building depth

Any further encroachment beyond the current depth of respondents building will have a negative impact on the Appellant's property and on the entire block. Approval of additional square footage will set a negative precedent for any new developments that follow.

Please ask the respondents to maintain the current footprint of the upper two floors.

Pacific Avenue Neighborhood Association
(PANA)

On behalf of the Pacific Avenue Neighborhood Association, its members and neighbors, thank you for your consideration in this matter.

Respectfully,

Robyn Tucker
Co-Chair, Pacific Avenue Neighborhood Association (PANA)
415-609-5607

STEPHEN E. WHITE
3 PHOENIX TERRACE
SAN FRANCISCO, CA 94133

Tel: +1-415-410-6617

E-Mail: stephen@white-us.com

24 March, 2024

Mr. José Lopez, President, San Francisco Board of Appeals

re: Appeal No. 24-0011

Dear President Lopez,

I've been a resident in the Upper Chinatown Neighborhood since 1976 and in that time I've gotten to know many of my neighbors including Hanmin Liu and Jennifer Mei.

Not only have they been a general asset to the neighborhood here, but are also known for their generosity and kindness among us. They are both held in deep respect by everyone I know who is acquainted with them, in great contrast to the characterization of them in the Appeal of Constraints by the Hustons. Their claims of a "vitriolic, concerted campaign" and "tactics... to bully other neighbors ..." are odd considering the reality of the Huston's actions and behavior.

These would include tearing down fences without first talking to the affected neighbor, altering or destroying other neighbor's property, extremely shoddy and dangerous work trying to fix it, not being truthful about a 4th unit when they wanted to evict tenants, and then later claiming the 4th unit for their benefit. Some of their immediate neighbors are concerned about their ongoing negative interactions (I'm being polite here) and the unpleasant atmosphere that creates. This is the kind of behavior they project onto others when it is the contrary. In short, they have not been very neighborly from the very beginning. In fact, it seems they have been quite the opposite.

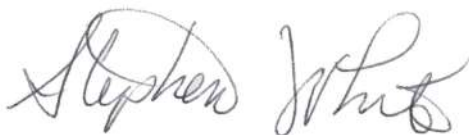
There are, in addition, other very concrete reasons to monitor and constrain their actions, and which do not need to be listed here, but include things like acting prior to obtaining permits, inconsistency in building plans between what was offered to the city and what we were shown, etc.

These actions and behaviors are not ones of trust and integrity, but rather of arrogance, indifference to the laws and rules, and clear lack of respect for city authorities, as well as for others in the community.

I might point out that there exists a blaring and stark contrast to my immediate neighbors here in the Terrace who have been engaged in renovation work during the same time period, and who have been nothing but respectful and easy to get along with during a very drawn out process.

There is no doubt the property needs work, but I strongly urge you to decline the appeal.

Sincerely,



Stephen White

From: [anastasia Yovanopoulos](#)
To: [BoardofAppeals \(PAB\)](#)
Subject: RE Appeal: 45a 45-47-49 Bernard Street
Date: Wednesday, March 27, 2024 3:53:47 PM

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

Dear President of the Board of Appeals Jose Lopez and fellow Commissioners,

RE: 45a 45-47-49 Bernard Street Appeal

I will be making public comment at the Appeals hearing on April 3, 2024 RE: 45a 45-47-49 Bernard Street asking you to deny the Appeal made by the property owners.

Attached please find the letter I wrote on 8/24/ 2022 pertaining to the Discretionary Review hearing re: 45 Bernard Street that provides background information for you and your fellow Commissioners regarding the tenants at the property address.

Sincerely,
Anastasia Yovanopoulos, Coordinator
SF Tenant Union Land Use and Planning Watch Committee

From: anastasia Yovanopoulos Date: Wednesday, August 24, 2022 at 4:53 PM To: Tanner, Rachael (CPC) , KATHRIN MOORE , Imperial, Theresa (CPC) , Ruiz, Gabriella (CPC) , Koppel, Joel (CPC) , Diamond, Susan (CPC) Cc: Ionin, Jonas (CPC)

Subject: 45a 45-47-49 Bernard Discretionary Review

Dear President Tanner and fellow Planning Commissioners,

San Francisco Tenants Union members are extremely distressed that the Huston family chose to purchase a tenant occupied building at 45a 45-47-49 Bernard, causing the permanent displacement of 11 inter-generational Chinese tenants, including people with disabilities from two 3 bedroom units at the property, using Owner Move-in and Relative move-in evictions during the pandemic. Our concern is for the remaining 73 old tenant, who speaks no English and has resided in her apartment for + 40 yrs. We fear the expansions, possibly dragging out construction, will result in a "renoviction". This is another profit driven speculator project, that had a DR not been filed, we would never have known about the evictions, nor been able to reach out to the remaining tenant to ensure that she knows her rights & has community support.

Where are the tenant services the Planning Department supposedly has put in place to investigate tenant issues?

The letter in the case file from Community Tenants Association makes note of the remaining tenant..."We are concerned that the last renter at 49 Bernard will face

indirect displacement."

Commissioners: We hope you'll ask the project sponsor to clarify exactly how the plans will impact the tenant. Will the tenant have to move out temporarily? If so will the relocation payment (of 3 months) be sufficient? What about the seismic work and the ADU project that is planned? What is the time required to complete that work? Due to the expansion plans and a contractor that can drag out construction time so that the relocation funds end, there is a possibility that she cannot return to her home. That is called "Renoviction".

Commissioners before you move to approve any plans, it would be prudent for the Commission to continue this case, so that a written agreement is put in place to ensure the elderly tenant will not also be forced out of her home.

Sincerely, Anastasia Yovanopoulos

SF Tenants Union member, Land Use & Planning Watch Committee

From: [T. Flandrich](#)
To: [Board of Appeals \(BA\)](#)
Subject: Appeal Case No. 24-0011 45a 45 47 49 Bernard Street SUPPORT Appellants Mei and Liu
Date: Wednesday, March 27, 2024 7:33:55 PM

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

27.March 2024

Dear President Lopez and Commissioners,

As the Chair of North Beach Tenants Committee, I write to you today in SUPPORT of the appeal by Appellants Mei and Liu. Our advocacy group got involved in this case starting in April 2022 as we grew very concerned with elements of a pattern & practice we have seen over the past decade in our Northeast corner which has ravaged our communities, displaced hundreds of our neighbors-Italian, Latinx and Chinese and diminished our communal support of families & elders. Below is a list that signaled a red flag for us and why we got involved:

- Owner Move-In and Relative Move-In Eviction Notices 2020;
- Omission: that a vacant unit-45a (a 4th unit) existed ;
- Only after the evictions, Plans revealed the existence of 4 units
- As the tenants' attorney Stephen Booth stated in the 8/25/22 hearing the evictions were not done in "good faith"
- Renovation plans will inevitably displace the senior tenant
- Draw out the renovations as Hustons both owner and contractor
- Will this be yet another case of permanent displacement for the remaining tenant?

Below is the letter I sent to the Planning Commissioners on August 21, 2022, I also attended & spoke at the August 25, 2022 hearing. I was pleased that Commissioners questions addressed the concerns that I and other tenant advocacy groups brought up and that urban design modifications, to mitigate the loss of yet more mid-block open space-were recommended.

Thank you for your consideration of support,
Theresa Flandrich, North Beach Tenants Committee

Discretionary Review Request (case no. 2020-005176DRP) - Please Take DR

August 21, 2022

Dear Commissioners,

We ask you to grant the DR, as the requestors show not only a disturbing history of evictions at 45-49 Bernard, but additional threats to the Upper Chinatown community. If we as a city did not have Discretionary Review we would never have known the following about 45a 45-47-49 Bernard Street:

Evictions of two intergenerational families, some members with disabilities

A total of 11 Chinese immigrants evicted from their 3 bedroom units at 47 and 49 Bernard and their long-time upper Chinatown community

Owner Move-In & Relative Move-In: Two sisters in their 20s who had homes, but chose to evict these families during the pandemic (8/31/2020 & 8/19/2020)

The new owners did not disclose at the time of evictions that there was a 4th residential unit in the building, an "unoccupied residential unit"

Their planning application dated 8/22/2020 shows 4 existing units; **owners chose not to reveal a vacancy, clearly exhibiting a "lack of good faith" behavior**

Our local ADU ordinance-does not allow an ADU if there has been an OMI in the past 5 years, and here, an end run would be choosing the State ADU program

Of grave concern today, is for the remaining 73 yo Chinese immigrant tenant, resident x 40 yrs, at 45 Bernard. We fear the expansions, a long, drawn out construction period will result in a "reno-viction"

The hearing on this case has been delayed several times due to the sponsors' non-code compliant plans and today, it is unclear what the plans are now. We ask you not to reward "the lack of good faith" behavior that forced 11 people out of their homes, in order to create a larger profit margin. We do support renovation of the 4th unit, 45A, not expansion. We ask that you deny any project that will cause further displacement and harm to this community.

We ask for a clear plan of work that may impact the remaining tenant at 45

Bernard – a timeline, any necessary relocation must be of the shortest duration

We ask for a written agreement clarifying tenant's right to return at the same rent

Lastly, we ask you to maintain, to preserve mid-block open space, especially here in this densely built part of Upper Chinatown, above all for the health, well-being and cultural traditions of this community.

Thank you for your consideration!

Theresa Flandrich

North Beach Tenants Committee

**Attachments also include SF Rent Board Eviction Notices--constraints un 1/11/2025

From: [Moe Jamil](#)
To: [BoardofAppeals \(PAB\)](#)
Cc: [Deborah Holley](#); [Scott Emblidge](#)
Subject: 51 Bernard Appeals - Correspondence in Support of the Appeal of the DR Requestor and against the appeal of the project sponsor
Date: Thursday, March 28, 2024 6:00:19 AM

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

Dear Board of Appeals,

I live close to the proposed project on Jones Street two blocks away from the proposed project. In addition to being a neighbor, my wife and I serve on the board of Russian Hill Neighbors. Today, I write for myself to strongly support the appeals of the DR requestors for proposed modifications for this project and reject the appeal of the project sponsors.

Mid-block open space in our neighborhood is in short supply and on this block in particular it is even more scarce due the smaller lot sizes of these buildings. Also in this immediate area of Russian Hill parks and other open space are in short supply. The existing mid block open space should be preserved. This project is out of scale given the context of the block. Given the nature of this block and the small lot sizes modifications to the rear yard while code-compliant present extradiority and unusual circumstances that merit this commissions attention to modify the project. Additionally, the cultural importance of this mid-block open space is well-documented by the DR requestors.

The DR requestors materials are impressive and compelling. It is important to note that under the Alien Land Law Chinese Americans were prohibited from owning property during darker moments of our City's history. When the law was struck down by the US Supreme Court, this particular area of Russian Hill was some of the first properties to be owned by Chinese Americans given the proximity to Chinatown and the Pacific Avenue Commercial Corridor linking Polk Street and Chinatown/North Beach. This corridor was the main thoroughfare prior to the construction of the Broadway Tunnel. That construction also displaced a thriving Mexican American community near Our Lady of Guadalupe church. Standing with the DR requestors and granting their appeal and rejecting the appeal of the project sponsors is the right thing to do to stave off more displacement in this important neighborhood.

The City should also consider stricter land use controls (e.g. SUD or planning code amendment) in this area to prevent future intrusions to important mid-block open space along these important alleys like Bernard, Glover, Russell, Lynch and others.

Please grant the appeal of the DR requestors and reject the appeal of the project sponsors.

Sincerely,
Moe Jamil
Russian Hill

BOARD OF APPEALS
CITY AND COUNTY OF SAN FRANCISCO

HUSTON v. DBI/PDA

APPEAL NO. 24.010

Hearing Date: April 3, 2024

DECLARATION OF GABRIELLA RUIZ

I, Gabriella Ruiz, declare:

1. I present this testimony on my own behalf in response to allegations by a party in the above matter that that I failed to comply with rules regarding conflicts of interest. I seek to clarify the record with respect to those allegations. I do not appear to support or oppose either of the appeals before this body.
2. I served as a commissioner on the San Francisco Planning Commission from April 14, 2022 to February 29, 2024. I served on the commission as a private citizen and on my own time. During that period I was also employed by Chinatown Community Development Center (CCDC). At my request, my colleagues at CCDC were instructed not to communicate with me regarding any matter that may appear before the Commission.
3. Prior to the August 25, 2022 Planning Commission hearing regarding the matter on appeal, no one at CCDC had any communication with me regarding the proposed project at 45 Bernand or the related application for Discretionary Review. Leading up to the hearing the only documents I reviewed regarding the project or the DR application were those that were submitted for the Planning Department file.
4. I had not seen the email by Tan Chow dated August 22, 2022 until last week after it was submitted as a part of Appellant's brief and that brief was brought to my attention. I was not aware, at the time of the August 25, 2022 hearing, that Hanmin Liu may have been a contributor to CCDC. Thus I could not have disclosed that information at the time of that hearing. If I had known such information it would have had no impact on my ability to fairly and impartially consider and vote on the matter.

Dated: March 27, 2024



GABRIELLA RUIZ

March 27, 2024
President Jose Lopez
San Francisco Board of Appeals
49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103
Email: julie.rosenberg@sfgov.org

RE: Case No. 24-0010, Huston v. DBJ, Hearing Date: April 3, 2024

Dear President Lopez and Commissioners,

I am the Deputy Director of Operations at Chinatown Community Development Center (CCDC). I have been on the executive leadership team for over 10 years. I am writing to address some factual errors and mischaracterizations regarding CCDC in the Appellant Hustons' brief.

In submitting this letter, CCDC is not expressing a position in favor of or opposed to the appeal presented to this commission. This letter seeks to address two issues raised in the Appellants' brief:

1. CCDC has not taken any position for or against the proposed project or the Discretionary Review Application.

The Appellants' brief at pages 4-5 claims that CCDC took a position against their project in the proceedings before the Planning Commission. This is untrue.

The Appellants' claim appears to be based upon two emails contained in their brief's Appendix F, an email by Tan Chow and another by Maggie Dong. Neither of the emails constitute or reflect any position taken by CCDC presented to the Planning Commission.

More specifically, Appellants' brief at p. 4 incorrectly describes a message by Tan Chow on his personal email account as being authored by "leadership of that non-profit

organization.”¹ Tan Chow is a valued CCDC employee, but he is not and has not ever been on CCDC’s leadership team. Furthermore, he does not make or direct CCDC’s public policy positions. As in this instance, Mr. Chow may express his personal opinions on issues but the expression of those opinions is in no way equivalent to a position taken by CCDC.

The email by Maggie Dong included in Appellants' Appendix F also did not express or indicate a position by CCDC. The email was essentially a cover sheet for a document submitted on behalf of another community organization. The document attached was curiously not included in the Appellants' Appendix. A true and correct copy of that attachment, a letter authored by Community Tenants Association, 華協中心 as Exhibit A.

The Community Tenants Association is a well-known independent nonprofit organization in Chinatown. It is not an affiliate of CCDC. It is governed by its own board and makes its own decisions on policy. It also a volunteer, immigrant-led organization. As a community service our staff will occasionally forward communications on behalf of other community organizations with limited access to the internet. That is apparently what occurred in this instance. Merely sending a position statement by another organization does not convey any position by CCDC.

2. Appellants' brief presents a false narrative regarding the relationship between respondent Hanmin Liu, CCDC, and Commissioner Ruiz.

Appellants' brief implies that because of a contribution by respondent Hanmin Liu, CCDC took a position in this matter thus creating a conflict of interest or the appearance of such a conflict.

This narrative is inaccurate for multiple reasons including:

- A. CCDC did not take a position on the project in question.
- B. While CCDC is grateful to the many individuals who contribute to our organization, whether or not a donor is a party to an issue does not determine

¹ I also note that the copy of the Tan Chow email in the Appellants’ filing has been marked to suggest that the addressees are CCDC’s “leadership team.” That is not a correct description of the addressees. The list includes other members of our community who are neither our directors or staff. For example, the text of the email seems to be primarily addressed to “Allen Low” who is neither a director or staff member of CCDC; “Gordon Chin” retired over a decade ago, etc. The list also omits others who are in fact on our leadership team, including notably myself.

our positions on public policy. That is not how our leadership team makes decisions.

- C. Commissioner Ruiz served on the Planning Commission on her own time. CCDC did not seek to influence any of her decisions on the Commission. CCDC staff who interacted with Ms. Ruiz during her time on the Commission were instructed to refrain from any communications with her on any matter that may have appeared before the Commission. Consistent with this protocol we note that the personal email from Tan Chow was not addressed to Ms. Ruiz.

Again, I submit this letter not in opposition to or support of the appeal in question, but rather to correct the record as presented in the Appellants' brief.

Thank you for your attention.

Sincerely,

Whitney Jones
Deputy Director of Operations

Attachment: Exhibit A

Cc: boardofappeals@sfgov.org; corey.teague@sfgov.org; tina.tam@sfgov.org; tinahuston07@gmail.com; hanmin.liu@icloud.com





July 21, 2022

Rachael Tanner
President
San Francisco Planning Commission
49 South Van Ness Ave, Suite 1400
San Francisco, CA 94103

Dear Planning Commissioners,

I am writing this letter on behalf of the Community Tenants Association (CTA) to support the Discretionary Review filed by the Upper Chinatown Neighborhood Association for the project at 45-49 Bernard St. The Community Tenants Association was formed in 1987 and has a membership of over 2,500 members, most of whom are low-income tenants living in Chinatown. Our mission is to defend the rights of low-income tenants throughout San Francisco. CTA focuses on tenants' rights, preservation of affordable housing, protection of existing tenants from displacement, and awareness on issues impacting the city's most vulnerable immigrant populations.

Throughout the pandemic, eleven Chinese immigrants were evicted at 45-49 Bernard St. Eight of the former residents are elderly and/or disabled. Nob Hill is home to a significant Chinese American population due to its proximity to Chinatown. However, with the influx of owner move in evictions and the condoization of formerly affordable multifamily homes, we are concerned that the last renter at 49 Bernard will face indirect displacement.

We strongly urge the Planning Commission move forward with the Discretionary Review Request for the project at 45-49 Bernard St.

Sincerely,

Wing Hoo Leung, President
Community Tenants Association

EVAN M. ROSENBAUM, State Bar No. 310414
MOSCONE EMBLIDGE & RUBENS LLP
220 Montgomery Street, Suite 2100
San Francisco, CA 94104
Telephone: (415) 362-3599
Facsimile: (415) 362-2006
Email: rosenbaum@mosconelaw.com

Attorneys for Hanmin Liu and Jennifer Mei

SAN FRANCISCO BOARD OF APPEALS

Public Comment on Case No. 24-0010

Hearing Date: April 3, 2024

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I. INTRODUCTION

In their Appeal Brief for Case No. 24-0010 appealing the issuance of building permit No. 202008222415 for their own project proposed for 45-49 Bernard Street, Lindsey and Tina Huston attack the integrity of Planning Department staff, several members of the Planning Commission, the District Supervisor, and many of their own neighbors. They do not, however, present any coherent basis for overturning the Planning Commission's discretionary review decision that *approved* the Hustons' project with very minor modifications. In fact, as Hanmin Liu and Jennifer Mei, neighbors living adjacent to the Hustons' property, explained in their Appeal Brief for the related Case No. 24-0011, the Planning Commission did not go far enough. On behalf of Dr. Liu and Ms. Mei, we submit this response to the Hustons' Appeal for Case No. 24-0010, scheduled for hearing on April 3, 2024.

II. SUMMARY OF THE HUSTONS' APPEAL REQUEST

The Hustons have made two specific requests of the Board of Appeals. First, they say the Board should reverse the Planning Commission and allow their project to proceed without the minor modifications the Planning Commission required, namely removal of the roof deck, removal of the spiral staircase leading to the roof deck, and modification of the third floor so that it is identical to the second floor. Second, they say the Board should reverse the Planning Department's and Zoning Administrator's "erroneous" determination requiring a rear yard of 17'-9" and instead allow a larger building expansion of an additional 2' into the rear yard for a rear yard of 15'-9".

The Hustons' specific charges quoted from their brief are shown below:

“We appeal these modifications/constraints on the basis that we did not receive a fair and unbiased DR hearing due to the following:

1. Disregard for "Exceptional or Extraordinary Circumstances": The PC's modifications exceeded their authority, failing to demonstrate "exceptional or extraordinary circumstances" prior to making modifications.
2. Bias and Circumvention of Due Process: Three commissioners, taking advantage of a temporary lack of a full commission (5 Commissioners vs. 7 Commissioners), were influenced by:
 - 2.1 Undisclosed communications, meetings & private records exchanged w/ project opponents
 - 2.2 Undisclosed conflicts of interest
 - 2.3 Personal beliefs about owner-move-in evictions (OMI)
 - 2.4 Disparate treatment of planning code based on our "cultural" background.”

“We argue that modifications required by the Planning Department & Zoning Administrator, made after our 311 Notice as a condition for support by the Planning Department for the PC hearing, were erroneous, as the depth of the neighbors property were already legal as the existence of stairs had in fact been approved by the Planning Department, which was further confirmed via a recent variance approval. We ask that the Board confirm the depth approved in our 311 notice is the legally permissible depth into the rear yard at 15'9" (vs. the currently approved depth 17'9").”

III. RESPONSES TO THE HUSTONS’ APPEAL BRIEF CLAIMS

The Planning Commission did not exceed their authority by taking DR, and the Planning Commission provided objective reasons for the required modifications to the plans.

A. The Hustons' claim that the Planning Commission exceeded its authority and failed to demonstrate exceptional or extraordinary circumstances is false.

The Planning Commission has authority to determine whether exceptional or extraordinary circumstances exist in Discretionary Review cases. Here, the Commission based its decision to take DR and modify the project on explicit criteria contained in the Residential Design Guidelines. As stated in the Discretionary Action Memo dated October 4, 2022, the Commission took DR because “[t]here are extraordinary or exceptional circumstances in the case. The proposal complies with the Planning Code and the General Plan, [sic] but does not conform with the Residential Design Guidelines with respect to articulating the building to minimize impacts to light and air to the adjacent buildings.” The Commission’s reasoning is sound given the highly congested nature of this block in Upper Chinatown where access to light and air is already heavily impacted.

B. The Hustons' claim that any of the Planning Commissioners denied the Hustons due process through bias and/or taking advantage of a less than full Commission is nonsensical.

The Hustons nonsensically argue that because only five Commissioners were present at the hearing, the Hustons were somehow disadvantaged. First, the Hustons could have sought a continuance of their matter if they wanted it heard by the full Commission. Second, and more importantly, the Commission’s vote to take DR and require changes to the plan was passed by a **vote of 4-1**, so even if there had been seven Commissioners (and we assume for argument’s sake that the absent commissioners would have voted against DR), the motion still would have passed.

C. The Hustons' accusations that meetings and communications between project opponents and Planning Commissioners had to be disclosed is unfounded and is not a valid reason for their appeal.

The Planning Commission regularly communicates and meets with project sponsors and opponents prior to hearings, and there is no requirement that these activities be disclosed. Communications and meetings are often important for obtaining more information about a project and any objections to supplement the written materials. Unlike the Board of Appeals, the Planning Commission is not a quasi-judicial body, and there is nothing in the San Francisco Department of Planning and Planning Commission Statement of Incompatible Activities that prohibits such communications or requires disclosure. (See <https://sfplanning.org/sites/default/files/resources/2019-03/statement-of-incompatible-activities.pdf>)

D. The Hustons' allegation that Commissioner Ruiz had "undisclosed conflicts of interest" is unfounded and disrespectful.

The Hustons claim that one Planning Commissioner had a disqualifying conflict of interest because she worked for an organization that submitted a letter in opposition to the project. The Hustons mistake two completely distinct public interest organizations. The letter came from the Community Tenants Association (CTA).¹ Commissioner Ruiz was not employed

¹ The Community Tenants Association (CTA) is the largest community-based tenant group that organizes to defend the rights of low-income tenants throughout San Francisco. With over 1700 members, CTA advocates for the interest of the community and fosters immigrant leadership to lead citywide issues impacting tenants.

by the CTA but rather by a completely separate organization, the Chinatown Community Development Center (CCDC).

E. The Hustons' accusation that they were treated unfairly due to the Planning Commissioners' opinions regarding OMI evictions is unfounded.

The Planning Commissioners did not act improperly by asking questions about evictions and including a condition in the motion taking DR stating that “The Commission recognizes the Rent Control Ordinance and its direct impact as it relates to tenant rights, owner move-in evictions, the need to be able to locate previous tenants, first right of refusal at their previous rent rates, and that the current tenant may continue their tenancy for as long as they wish.”

One of the responsibilities of the Planning Commission is to evaluate projects in the context of the San Francisco General Plan. (San Francisco Charter section 4.105.) The San Francisco Housing Element contains goals and policies aimed at “stabilizing tenants and rental housing” and “eviction prevention and anti-displacement.” The reasons for these policies are that

Tenants often face greater housing precarity because they do not own their own homes and are more likely than homeowners to be lower income, face high housing cost burdens, and are often at greater risk of displacement. A majority of San Francisco residents are tenants, so tenant stability is often key to stabilizing communities. In addition, maintaining and preserving rental housing can be an important tool for preventing displacement of renters. The Stabilizing Tenants and Rental Housing program area covers a range of programs meant to help maintain housing security for renters including

Eviction Prevention and Anti-displacement, Tenant Protections, Acquisitions and Rehabilitation for Affordability, and Preserving Rental Unit Availability.

(See https://generalplan.sfplanning.org/11_Housing.htm)

Moreover, the Planning Commission did not base its DR decision on the tenant-related issues. Rather, it expressly based its decision on the adverse impacts on adjacent neighbors of specific features of the project. The Commission's reference to the impacts of tenant displacement is simply a recognition of a general (indisputable) problem, but that reference is not tied to any required modification of the project.

F. The Hustons' statement that they received "disparate treatment of planning code based on [their] 'cultural' background" is unfounded and offensive.

Accusations of "reverse discrimination" (*i.e.*, discrimination against a member of the majority) have become widespread in recent years and are sometimes an unfortunate part of the platform of local, state, and national political candidates. Such claims are often unfounded and simply inflammatory, which is the case here.

First, the Planning Commission based their decision to take DR and modify the project on objective criteria contained in the Residential Design Guidelines. To repeat, according to the Discretionary Action Memo dated October 4, 2022, the reason for the Commission taking DR is as follows: "There are extraordinary or exceptional circumstances in the case. The proposal complies with the Planning Code and the General Plan, [*sic*] but does not conform with the Residential Design Guidelines with respect to articulating the building to minimize impacts to light and air to the adjacent buildings."

Second, this Board should decline the Hustons' invitation to speculate about what was in the minds of individual Planning Commissioners and should instead evaluate the Commission's stated reason for its decision: "[a] government official's motive for voting on a land use issue is, subject to exceptions not pertinent here, irrelevant to assessing the validity of the action." (*Breneric Associates v. City of Del Mar* (1998) 69 Cal.App.4th 166, 184.) As the California Supreme Court has cautioned, an "attempt to divine, through . . . circumstantial evidence, the 'true,' illegitimate, motive for the [agency's] decision to deny [a petitioner's] development permit" is reversible error. (*Ibid.*)

The Hustons' mud-slinging is not limited to Planning Commissioners; they attempt to smear the reputation of Dr. Liu and Ms. Mei, two remarkable philanthropists and advocates for underserved communities. For example, the Hustons allege that Dr. Liu and Ms. Mei made a donation to the Chinatown Community Development Corporation as *quid pro quo* for CCDC opposing the Hustons' project. In fact, as part of their philanthropy, Dr. Liu and Ms. Mei have provided several modest gifts to CCDC since 2012 to support CCDC's work helping the community. The contributions played no role in CCDC's decision making, and the mere fact that Dr. Liu and Ms. Mei have contributed to CCDC in the past did not disqualify Commissioner Ruiz. There is no reason to believe Commissioner Ruiz had any knowledge of the contributions.

G. The Hustons improperly ask the Board of Appeals to reverse a determination by the Planning Department and Zoning Administrator to which they acquiesced: requiring a rear yard of 17'-9".

Perhaps the strangest part of the Hustons' appeal is their request that this Board allow their project to be built further into their rear yard than even the plans the Hustons submitted to

the Planning Commission provided. The Hustons' argument seems to go like this: (1) the Hustons proposed a deeper incursion into the rear yard, (2) Planning staff pointed out that the deeper incursion was unwarranted, (3) the Hustons modified their plans based on staff's recommendation and presented those plans to the Planning Commission, but (4) the Hustons now want to revive the deeper incursion even though it was never considered by the Commission because the Hustons acquiesced in the staff's recommendation.

First, we are unaware of any authority granted to the Board of Appeals to reverse decisions made by Planning staff or the Zoning Administrator, except in the case of a Zoning Determination Letter, which would need to be appealed within 15 days of issuance, and no such letter was issued in this case.

Second, because the Hustons acquiesced in the staff's recommendation requiring the depth of the rear yard and presented revised plans to the public and the Planning Commission showing the revised depth, they cannot now "change horses" and seek a more impactful project than the one the Commission evaluated.

Third, the Planning Staff's and Zoning Administrator's reasons for the modifications are sound and were explained on page 3 of the Discretionary Review Analysis: "The project has been modified from the original 311 notification drawing set, The rear wall of adjacent building at 51 Bernard used for the purpose of rear yard averaging did not qualify and resulted in the reduction of the rear extension being reduced by 2'. Several other changes have been incorporated into the revised drawings of the proposed project dated 7.15.2 2. These include removing the proposed fire escape at the rear, adding exterior decks, and adding a spiral stair to a roof deck- which has been reduced in size from the 311 proposal."

Fourth, and more importantly, as of January 14, 2024, as part of the Constraints Reduction Ordinance, the Planning Code no longer allows rear yard averaging and instead applies a uniform 30 percent required rear yard to the property, or 18', which is 3" less than the 17'-9" setback that the Hustons are challenging in their brief. According to the Zoning Administrator, because the subject permit was issued on January 24, 2024, the new 30 percent setback rule applies to the project. Presumably, the Zoning Administrator therefore will determine that the plans need to be revised to provide an 18' rear yard in compliance with the 30 percent setback rule.


IV. CONCLUSION

For the reasons discussed above, the Hustons' claim that they did not receive a "fair and unbiased DR hearing" is invalid and the changes required by the Planning Commission are consistent with the Residential Design Guidelines. Therefore, we respectfully request that the Board deny the Hustons' appeal.

Dated: March 28, 2024

Respectfully Submitted,

MOSCONE EMBLIDGE & RUBENS
LLP

By: 
Evan M. Rosenbaum

Attorneys for Dr. Hanmin Liu and
Jennifer Mei

From: [Rosenberg, Julie \(BOA\)](#)
To: [Longaway, Alec \(BOA\)](#)
Subject: FW: Letter of Support for Case No. 24-0011
Date: Monday, April 1, 2024 9:37:57 AM

Julie Rosenberg
Executive Director
San Francisco Board of Appeals
49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103
Phone: 628-652-1151
Email: julie.rosenberg@sfgov.org

-----Original Message-----

From: Sandy Leung <Sandy_Leung@yahoo.com>
Sent: Thursday, March 28, 2024 12:35 PM
To: Rosenberg, Julie (BOA) <julie.rosenberg@sfgov.org>
Subject: Letter of Support for Case No. 24-0011

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March 28, 2024

President Jose Lopez
Vice President Alex Lemberg
Commissioners Rick Swig, John Trasviña, and J. R. Eppler San Francisco Board of Appeals
49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103

Case No. 24-0011
Hearing Date: April 3, 2024
By Email: julie.rosenberg@sfgov.org

Dear President Lopez, Vice President Lemberg, and Commissioners,

We are lifelong San Franciscans, residing in our beloved city for almost five decades. We grew up in the Upper Chinatown neighborhood and are now raising our daughter in this treasured community. We currently live at 41 Bernard Street, directly adjacent to the permit applicant's building.

We are writing in support of Hanmin Liu and Jennifer Mei's appeal of the building permit at 45-49 Bernard Street (Case No. 24-0011).

We agree with the exceptional circumstances outlined in the appeal:

- A. The permitted 2024 plan set is inconsistent with the plans approved by the Planning Commission.
- B. There are substantial inconsistencies between the ADU Plans currently under review by Planning and the Project Plans.
- C. The project approved will have a significant impact on the mid block open space and does not conform with the Residential Design Guidelines.

- D. There are clarity and Enforceability Issues with DR Action Memo.
- E. There are substantial life safety and open space code compliance deficiencies.

Furthermore, due to the Huston's intimidation tactics and threatening behavior, several monolingual Chinese neighbors who also support this appeal have been afraid to come forward. We support this appeal for ourselves and for those who are too scared to speak up.

Thank you for your time and consideration, Sandy & Johnny Leung
41 Bernard Street
San Francisco, CA 94133