Discretionary Review Abbreviated Analysis

HEARING DATE: MARCH 17, 2011

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

Reception:

415.558.6378

Fax:

415.558.6409

Planning Information: **415.558.6377**

 Date:
 March 10, 2011

 Case No.:
 2009.0229D

Project Address: **2709 Larkin Street** Permit Application: 2010.10.19.3380

Zoning: RH-2 [Residential House, Two-Family]

40-X Height and Bulk District

Block/Lot: 0477/002

Project Sponsor: John Maniscalco / Architecture

442 Grove Street

San Francisco, CA 94102

Staff Contact: Aaron Starr – (415) 558-6362

aaron.starr@sfgov.org

Recommendation: Do not take DR and approve as proposed

PROJECT DESCRIPTION

The proposed scope of work is to extend the existing roof deck located above the garage at the rear of the property approximately 11' further into the rear yard so that it covers the entire garage structure. The new railing on the proposed expansion will be clear tempered glass railing 42" in height. The garage structure is wholly or partially located within the required rear yard and is therefore considered a legal noncomplying structure. No expansion of the garage or the building envelope is proposed under this permit.

SITE DESCRIPTION AND PRESENT USE

The subject property, located on the west side of Larkin between Francisco and Chestnut Streets, is developed with a three-story-over-basement, one-unit residential building that is listed on the Junior League's 1969 "Here Today" Survey. The subject property contains a non-conforming garage structure in the rear yard that currently has a deck above part of it. The proposal includes expanding this deck.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The subject property is located in the City's Russian Hill neighborhood up the hill from Ghirardelli Square and near Russian Hill Park. This portion of Larkin Street is divided by a wall and grade change; the west side of the street dead-ends into a staircase while the east side has two directions of traffic and connects to the rest of the City's street grid. At the subject property's north side property line is a private alleyway created by an easement that extends over the rear of five properties that front on Francisco Street. This easement is used to access garages including that of the subject property, and is a main access point for some residential units. The immediate area is residential and contains multi-unit apartment buildings and larger single-family homes.

BUILDING PERMIT NOTIFICATION

ТҮРЕ	REQUIRED PERIOD	NOTIFICATION DATES	DR FILE DATE	DR HEARING DATE	FILING TO HEARING TIME
10-Day Notice	10 days	December 10, 2010 – December 20, 2010	December 20, 2010	March 17, 2011	87 days

HEARING NOTIFICATION

ТҮРЕ	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	10 days	March 7, 2011	March 7, 2011	10 days
Mailed Notice	10 days	March 7, 2011	March 7, 2011	10 days

PUBLIC COMMENT

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)		1	
Other neighbors on the			
block or directly across			
the street			
Neighborhood groups			

Other than the DR Requestor, the Department has not received any comments or objections about the proposed project.

DR REQUESTOR

Adam Landsdorf

2735 Larkin Street

San Francisco, CA 94109

Mr. Landsdorf's rear property line abuts the subject property's northern side property line

DR REQUESTOR'S CONCERNS AND PROPOSED ALTERNATIVES

See attached *Discretionary Review Application*, dated 12/20/11 and additional information provided on 3/9/11.

PROJECT SPONSOR'S RESPONSE TO DR APPLICATION

See attached Response to Discretionary Review, dated 3/9/11.

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).

RESIDENTIAL DESIGN TEAM REVIEW

The RDT found that the proposed project does not demonstrate an exceptional or extraordinary circumstance. The expansion of the existing deck would not create a significant adverse impact to the adjacent buildings or the DR Requestor's property. The project is within acceptable tolerances for privacy to be expected when living in a dense urban environment. In addition, the proposed deck is located 15' away from the DR Requestor's property.

Under the Commission's pending DR Reform Legislation, this project would not be referred to the Commission as this project does not contain or create any exceptional or extraordinary circumstances.

RECOMMENDATION:

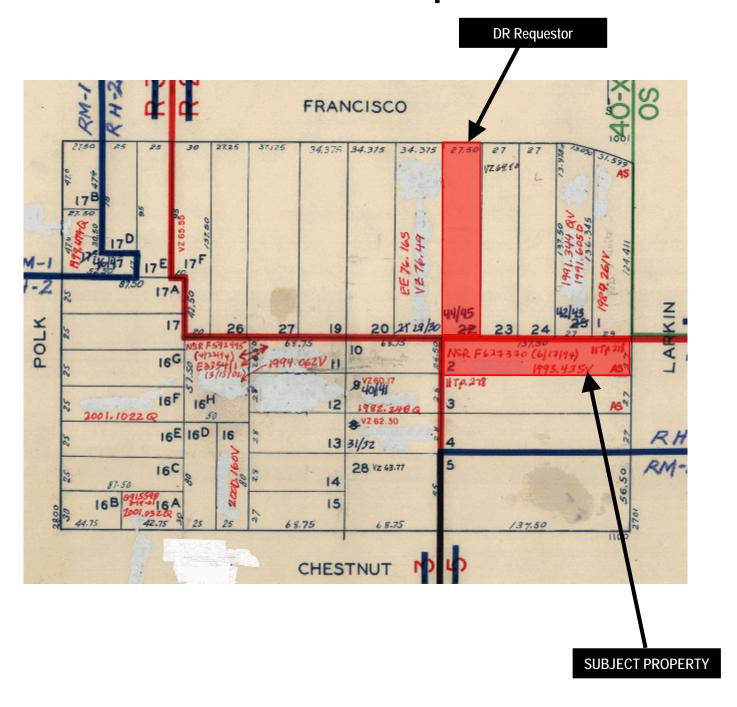
Do not take DR and approve project as proposed

Attachments:

Block Book Map
Sanborn Map
Zoning Map
Aerial Photographs
10-Day Letter notice
DR Application w/ Context Photographs
Additional Submittal from DR Applicant
Response to DR Application dated March 9, 2011
Reduced Plans

AS: G:|DOCUMENTS|Discretionary Review|2709 Larkin Street|2709 Larkin St. CaseReport.doc

Parcel Map

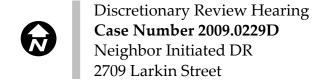




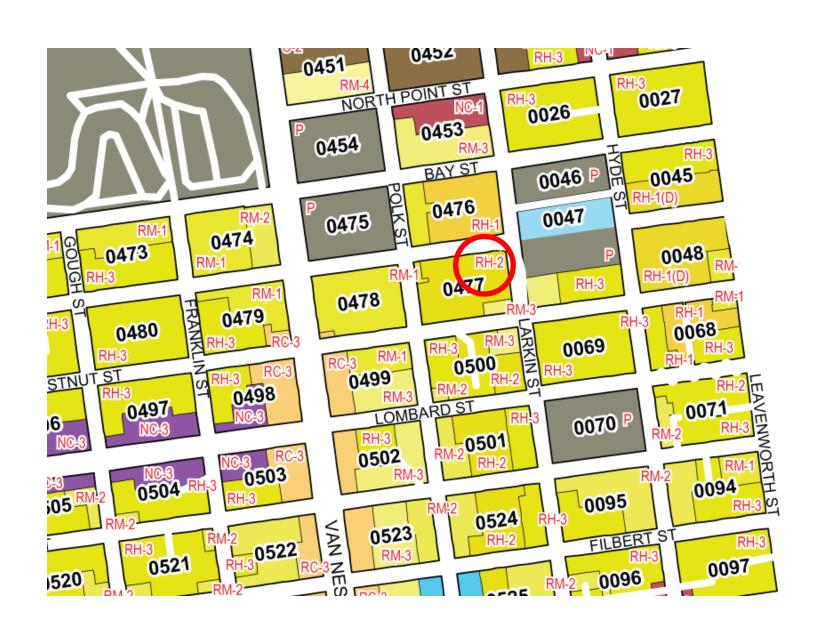
Sanborn Map*



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



Zoning Map





Discretionary Review Hearing Case Number 2009.0229D Neighbor Initiated DR 2709 Larkin Street

Aerial Photo

DR Requestor



SUBJECT PROPERTY



Discretionary Review Hearing Case Number 2009.0229D Neighbor Initiated DR 2709 Larkin Street

10-Day Notice

Deck on a Noncomplying Structure

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

Reception: 415.558.6378

Fax: 415.558.6409

Planning Information: 415.558.6377

December 10, 2010

RE:

To Whom It May Concern:

2709 Larkin Street (Address of Permit Work) 0477/002 (Assessor's Block/Lot)

2010.10.19.3380 (Building Permit Application Number)

This letter is to inform you that the Planning Department received a Building Permit Application to construct a roof deck on a noncomplying structure for the property located at 2709 Larkin Street. This letter serves as the required 10-day notice for adding decks onto noncomplying structures, per the Zoning Administrator's interpretation of Planning Code Section 188.

The proposed scope of work is to extend the existing roof deck located above the garage at the rear of the property approximately 11' further into the rear yard so that it covers the entire garage structure. The new railing on the proposed expansion will be an open glass railing 42" in height. The garage structure is wholly or partially located within the required rear yard and is therefore considered a legal noncomplying structure. No expansion of the garage or the building envelope is proposed under this permit.

If you would like to review the full-size plans or have any questions about this application, please contact the assigned planner for this project, Aaron Starr, at (415) 558-6362 within 10 days from the date of this letter. This project will be approved by the Planning Department if no request for Discretionary Review is filed by the end of the 10-day noticing period, December 20, 2010.

Sincerely,

Aaron D Starr, Planner NW Team

APPLICATION FOR

Discretionary Review Application

1. Owner/Applicant Information		
DRAPPLICANT'S NAME: Adam Landsdorf		
DR APPLICANTS ADDRESS: 2735 Larkin St. SF CA	94109	TELEPHONE: (415) 885 - 540
PROPERTY OWNER WHO IS DOING THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION TO SHOW THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTED ON THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETION OF THE PROJECT ON THE PROJE		
2709 Larkin ST, SF CA	ZIP CODE: 94109	TELEPHONE: (415) 652-1800
CONTACT FOR DR APPLICATION: Same as Above	SV PARAGONI	URBINARO DE RECEISOR DE LA COMPONIO DEL COMPONIO DE LA COMPONIO DEL COMPONIO DE LA COMPONIO DEL COMPONIO DE LA COMPONIO DEL COMPONIO DE LA COMPONIO DEL COMPONIO DE LA COMPONIO DEL COMPONIO DE LA COMPONIO DE LA COMPONIO DE LA COMPONIO DE LA COMPONIO DEL COMPONIO DEL COMPONIO DE LA COMPONIO DEL C
ADDRESS:	ZIP CODE:	TELEPHONE:
E-MAIL ADDRESS:		(1-280 ID F1-16-16-16-16-16-16-16-16-16-16-16-16-16
2. Location and Classification STREET ADDRESS OF PROJECT: 2709 Larkin St SF, CROSS STREETS: Larkin St/chestnut St ASSESSORS BLOCK/LOT: LOT DIMENSIONS: LOT AREA (SO ET): ZONING DISTI	•	zip code: 94109
ASSESSORS BLOCK/LOT: LOT DIMENSIONS: LOT AREA (SQ FT): 20NING DISTI O 4 7 7 / CO 2 27 x 137,5 37/2,5 R	4-2	HEIGHT/BULK DISTRICT:
3. Project Description		
Please check all that apply Change of Use Change of Hours New Construction	Alterations D	Demolition Other
Additions to Building: Rear Front Height Sid		
Present or Previous Use: Garage in rear you	rd	
Proposed Use: Roof Deck in rear yar		
Building Permit Application No. 2010 10 19 3380	Date Fil	ed: 10/19/2010

RECEIVED

DEC 2 0 2010

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT

09.022977

4. Actions Prior to a Discretionary Review Request

Prior Action	YES	NO
Have you discussed this project with the permit applicant?		为
Did you discuss the project with the Planning Department permit review planner?		
Did you participate in outside mediation on this case?		×

5.	Changes	Made t	o the	Project	as a	a Result	of Mediation
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If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes there were made to the proposed project.	
	Notice of the last

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 minimum standards of the Planning Code. 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.
- NSRS exist on property, restricting further expansion (atta- - New expansion would violate agreements with Graitho
neighbors surrounding recent rear yard expansion + variance - Proposed expansion exceeds 25% rear yard
requirement for decks (Sec 136.25.A)
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 adversely affected, please state who would be affected, and how:
- Proposed expansion would create privacy concerns and loss of enjoyment of property to neighbors surrounding rear - Proposed expansion would create new line of site into
DR applicants living areas + those of other neighbors. Proposed deck would tower 14 feet over Dr applicants Property at properly line
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?
None. All issues and concerns were addressed + agreed upon prior to recent rear yard expansion + variance. Further expansion contradicts these agreements.

Applicant's Affidavit

Under penalty of perjury the following declarations are made:

a: The undersigned is the owner or authorized agent of the owner of this property.

b: The information presented is true and correct to the best of my knowledge.

c: The other information or applications may be required.

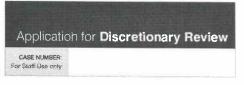
Signature:

Date:

12/14/

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

Owner Authorized Agent (circle one)



Discretionary Review Application Submittal Checklist

Applications submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and signed by the applicant or authorized agent.

REQUIRED MATERIALS (please check correct column)	DR APPLICATION
Application, with all blanks completed	Y
Address labels (original), if applicable	0
Address labels (copy of the above), if applicable	0
Photocopy of this completed application	4
Photographs that illustrate your concerns	
Convenant or Deed Restrictions	
Check payable to Planning Dept.	
Letter of authorization for agent	
Other: Section Plan, Detail drawings (i.e. windows, door entries, trim), Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new elements (i.e. windows, doors)	

NOTES:

Montal Material.

O Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

For Department Use Only Application received by Planning Department:		
Ву:	Date:	



SAN FRANCISCO

PLANNING DEPARTMENT

Variance Decision

Date:

July 28, 2009

Case No .:

2009.0229V

Project Address:

2709 LARKIN STREET

Zoning:

RH-2 (Residential, House, Two-Family)

40-X Height and Bulk District

Block/Lot:

0477/002

Applicant:

Matt Williams

John Maniscalco Architecture

1501 Waller Street

San Francisco, CA 94117

Staff Contact:

Aaron Starr – (415) 558-6362

aaron.starr@sfgov.org

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

Reception: 415,558.6378

Fax-

415.558.6409

Planning Information: 415.558.6377

DESCRIPTION OF VARIANCE - REAR YARD AND NONCOMPLYING STRUCTURE VARIANCES SOUGHT:

The proposal is to remove the three-story bay window located on the south side of the rear of this three-story-over-basement, one-unit building and extend the north side of the rear of the building at the first, second and third floors approximately 6' into the rear yard to align with the south side of the rear of the building.

Section 134 of the Planning Code requires that the subject property maintain a rear yard that measures approximately 61' in depth. The proposed addition is located entirely within the required rear yard.

Section 188 of the Planning Code prohibits the expansion of a noncomplying structure. The existing building is considered a legal noncomplying structure because portions of the building already encroach into the required rear yard. Therefore, the proposed expansion would be contrary to Section 188 of the Planning Code.

PROCEDURAL BACKGROUND:

- 1. This proposal was determined to be categorically exempt from Environmental Review.
- 2. The Zoning Administrator held a public hearing on Variance Application No. 2009.0229V on Wednesday, June 24, 2009.

DECISION:

GRANTED, to remove the three-story bay window located on the south side of the rear of this three-story-over-basement, one-unit building and extend the north side of the rear of the building at the first, second and third floors approximately 6' into the rear yard to align with the south side of the rear of the building in general conformity with the plans on file with this application, shown as Exhibit A, is subject to the following conditions:

09.02293



Variance Decision July 28, 2009 CASE NO. 2009.0229V 2709 Larkin Street

- 1. Any future physical expansion, even within the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character, scale, and parking. 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.
- 2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls shall apply.
- 3. Minor modifications as determined by the Zoning Administrator may be permitted.
- 4. The owners 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.

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.

A. The circa 1903 subject building is listed on the Junior League's 1969 Here Today Survey, which makes it a "Category A" building, known historic resource. The subject building is therefore a historic resource for the purposes of CEQA, and appears to be eligible for the California Register of Historic Properties.

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.

A. Because the property is a historic resource, its development potential is limited. Additions to this building can only be accommodated at the rear of the property where it will not alter any of the building's character-defining features, such as height, bulk or detailing.

Variance Decision July 28, 2009 <u>CASE NO. 2009.0229V</u> 2709 Larkin Street

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.

A. Other properties in the same class of district have been granted rear yard variances to compensate for lost development potential due to being historic resources.

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.

A. The proposed project will remove some of the existing structure which will improve the situation for the adjacent neighbor to the south. The proposed new addition is minimal and will not be materially detrimental to adjacent properties.

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.

- A. The proposal is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. The proposal is in harmony with the Residence Element of the General Plan to encourage residential development when it preserves or improves the quality of life for residents of the City.
- B. Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. Review of the relevant priority planning policies yielded the following determinations:
 - 1. That the proposed project will be in keeping with the existing neighborhood character.
 - 2. That the proposed project will have no detrimental effect on the City's supply of affordable housing, public transit or neighborhood parking, preparedness to protect against injury and loss of life in an earthquake, commercial activity, business or employment, landmarks and historic buildings, or public parks and open space.

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.

2709 Lavkin (13)

Variance Decision July 28, 2009 CASE NO. 2009.0229V 2709 Larkin Street

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a 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 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 the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

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 1650 Mission Street, 3rd Floor (Room 304) or call 575-6880.

Very truly yours,

Lawrence B. Badiner Zoning Administrator

THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.

AS Y:\DOCUMENTS\Variances\2709 Larkin Street\2709 Larkin Street.Granted.doc

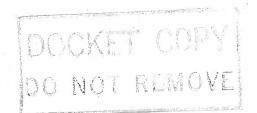


City and County of San Francisco Department of City Planning

2709 Larkin (5)

450 McAllister Street San Francisco, CA 94102

October 13, 1993



VARIANCE DECISION

UNDER THE CITY PLANNING CODE CASE NO. 93.435V

APPLICANT:

Kate Black

368 Valley Street

San Francisco, CA 94131

PROPERTY IDENTIFICATION:

2709 LARKIN STREET, west side between Francisco and Chestnut Streets; Lot 2 in Assessor's Block 477 in an

RH-2 (House, Two-Family) District.

DESCRIPTION OF VARIANCE SOUGHT:

REAR YARD VARIANCE SOUGHT: The proposal is to construct a detached one-story, two car garage at the rear of the existing three-story, single-family dwelling. The proposal is also to construct a connecting bridge from the proposed garage to the subject house.

Section 134 of the Planning Code requires a minimum rear yard depth of 61.875 feet for the subject property, measured from the rear property line. The proposed garage and connecting bridge would extend to within approximately 23.5 feet from the rear property line and encroach into the required rear yard.

PROCEDURAL BACKGROUND:

- 1. This proposal was determined to be categorically exempt from Environmental Review.
- 2. The Zoning Administrator held a public hearing on Variance Application No. 93.435V on August 25, 1993.

DECISION:

GRANTED, to construct a detached one-story, two car garage at the rear of the existing three-story, single-family dwelling in general conformity with plans on file with this application, shown as Exhibit A and dated August 25, 1993; subject to the following conditions:

09.02297

CASE NO. 93.435V 2709 Larkin Street October 13, 1993 Page Two

- 1. No further vertical or horizontal expansion of the subject building shall be allowed unless such expansion is specifically authorized by the Zoning Administrator after the property owner or authorized agent has sought and justified a new variance request pursuant to the public hearing and all other applicable procedures of the City Planning Code. However, the Zoning Administrator, after finding that such expansion complies with applicable Codes, is compatible with existing neighborhood character and scale, and does not cause significant loss of light, air, view or privacy to adjacent buildings, may determine that a new variance is not required.
- The owners 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.
- 3. The proposed project must meet these conditions and all applicable City Codes in case of conflict, the more restrictive controls shall apply.

Section 305(c) of the City 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:

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 property or uses in the same class of district.

REQUIREMENT MET.

- The subject property is in a residential subdivision having independent garages at the rear of many of the lots. Therefore, the proposed garage on the subject property will be in character with existing homes in the area.
- o The proposed garage construction is the most practical, efficient, and reasonable way to provide an off-street parking facility. The proposed construction could not be accomplished elsewhere without significant changes in the layout of the building.
- o Although the proposed garage will be within the required 61 foot deep rear yard, the subject property will still be left with an approximately 23 foot deep undeveloped rear yard area.

CASE NO. 93.435V 2709 Larkin Street October 13, 1993 Page Three

FINDING 2. That owing to such exception and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property.

REQUIREMENT MET.

- The subject property owners cannot create an off-street parking space anywhere else on their lot without creating a more obtrusive addition. Building in the front yard would destroy the character of the front building facades along Larkin Street. The provision of parking within the existing building is also unfeasible as it would eliminate much of the existing ground floor space and pose substantial structural and architectural modification to the existing dwelling. The only other alternative would be to build as proposed in the rear yard area.
- FINDING 3. That such variance is necessary for prevention and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

REQUIREMENT MET.

- The granting of this variance is necessary for the applicant/owner to have adequate parking space and a convenient access from the dwelling to their garage. Such parking facility is a property right possessed by most other property in the neighborhood.
- o Approving the rear yard variance is necessary for the property to enjoy lot coverage and rear yard usability comparable to surrounding properties.
- o Granting this variance is the best and most feasible manner by which the owners of the subject property can enjoy the right to convenient parking space that similarly situated property owners enjoy.
- 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.

CASE NO. 93.435V 2709 Larkin Street October 13, 1993 Page Four

REQUIREMENT MET.

- The effect of the proposed addition will be insignificant as it will block neither light nor views.
- The existing house already encroaches into the currently required rear yard and has been in this configuration for many years with no apparent effect or impact on the neighborhood.
- The subject property is in a neighborhood where many properties have similar size garages and the proposed garage will not look out of character with the homes in the vicinity.
- 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 Master Plan.

REQUIREMENT MET.

- The proposal is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. The proposal is in harmony with the Residence Element of the Master Plan to encourage residential development when it preserves or improves the quality of life for residents of the City.
- O Code Section 101.1 establishes eight priority planning policies and requires review of variance applications for consistency with said policies. Review of the relevant priority planning policies yielded the following determinations:
 - A. That the proposed project will be in keeping with the existing housing and neighborhood character.
 - B. That the proposed project will have no effect on the City's supply of affordable housing, public transit or neighborhood parking, preparedness to protect against injury and loss of life in an earthquake, commercial activity, business or employment, landmarks and historic buildings, or public parks and open space.

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 Permit Appeals.

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

CASE NO. 93.435V 2709 Larkin Street October 13, 1993 Page Four

The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if a Building Permit has not been issued within three years from the effective date of this decision; however, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit is delayed by a City agency or by appeal of the issuance of such a permit.

APPEAL: Any aggrieved person may appeal this variance decision to the Board of Permit Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Permit Appeals in person in City Hall (Room 154-A) or call 554-6720.

Very truly yours,

Robert W. Passmore
Assistant Director of
Planning-Implementation
(Zoning Administrator)

THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.

RWP/AMF:pg\n:\variance\2709 Larkin Street

CERTIFIED COPY

RECORDING REQUESTED BY:

And When Recorded Mail To:

Name: NAY E BLACK

Address: 2769 LARKIN ST

City: SAN FRANCISCO

State: California 94/09

San Francisco: Co Recorder's Office Bruce Jamison: County Recorder

709 Larkir

DOC - 94-F627370-00 Friday, JUN 17, 1994 11:27:01

REC \$8.00!PAG \$4.00!MIC \$1.00 STP \$3.00!

REEL G155 IMAGE 0381 Nbr-0000186538

Space Above this Line For Recorder's Use

NOTICE OF SPECIAL RESTRICTIONS UNDER THE CITY PLANNING CODE

I(We) ANDREWSD BLACK KAY E. BLACK, the owner(s) of that certain real property situated in the City and County of San Francisco, State of California more particularly described as follows:

(PLEASE ATTACH THE LEGAL DESCRIPTION AS ON DEED)

BEING Assessor's Block 477; Lot: 2,

commonly known as 2709 Larkin Street

hereby give notice that there are special restrictions on the use of said property under Part II, Chapter II of the San Francisco Municipal Code (City Planning Code).

Said Restrictions consist of conditions attached to a variance granted by the Zoning Administrator of the City and County of San Francisco on October 13, 1993 (Case No. 93.435V) permitting the construction of a detached one-story, two car garage at the rear of the existing three-story, single-family dwelling.

The restrictions and conditions of which notice is hereby given are:

- No further vertical or horizontal expansion of the subject building shall be allowed unless such expansion is specifically authorized by the Zoning Administrator after the property owner or authorized agent has sought and justified a new variance request pursuant to the public hearing and all other applicable procedures of the City Planning Code. However, the Zoning Administrator, after finding that such expansion complies with applicable Codes, is compatible with existing neighborhood character and scale, and does not cause significant loss of light, air, view or privacy to adjacent buildings, may determine that a new variance is not required.
- 2. The proposed project must meet these conditions and all applicable City Codes in case of conflict, the more restrictive controls shall apply.

DOCKET COPY DO NOT REMOVE

Page 1 of 2

09.02207

2709 Larkin (3



NOTICE OF SPECIAL RESTRICTIONS UNDER THE CITY PLANNING CODE

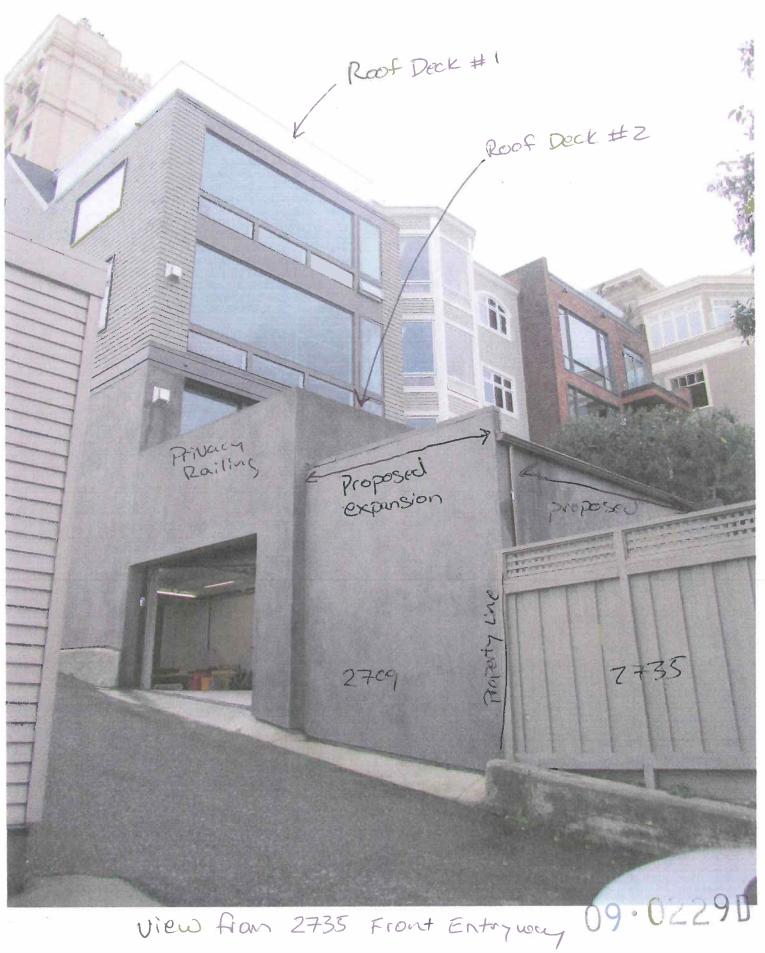
The use of said property contrary to these special restrictions shall constitute a violation of the City Planning Code, and no release, modification or elimination of these restrictions shall be valid unless notice thereof is recorded on the Land Records by the Zoning Administrator of the City and County of San Francisco.

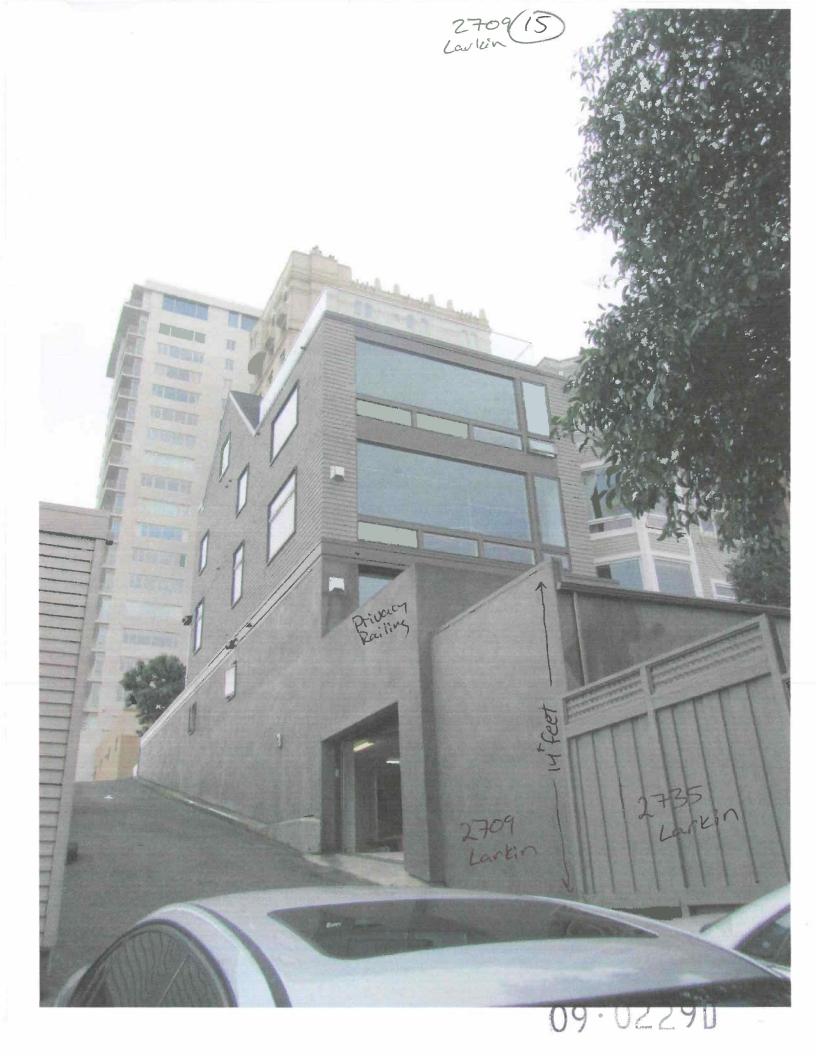
Dated: 17 fun 4 1994 at San Francisco, California.

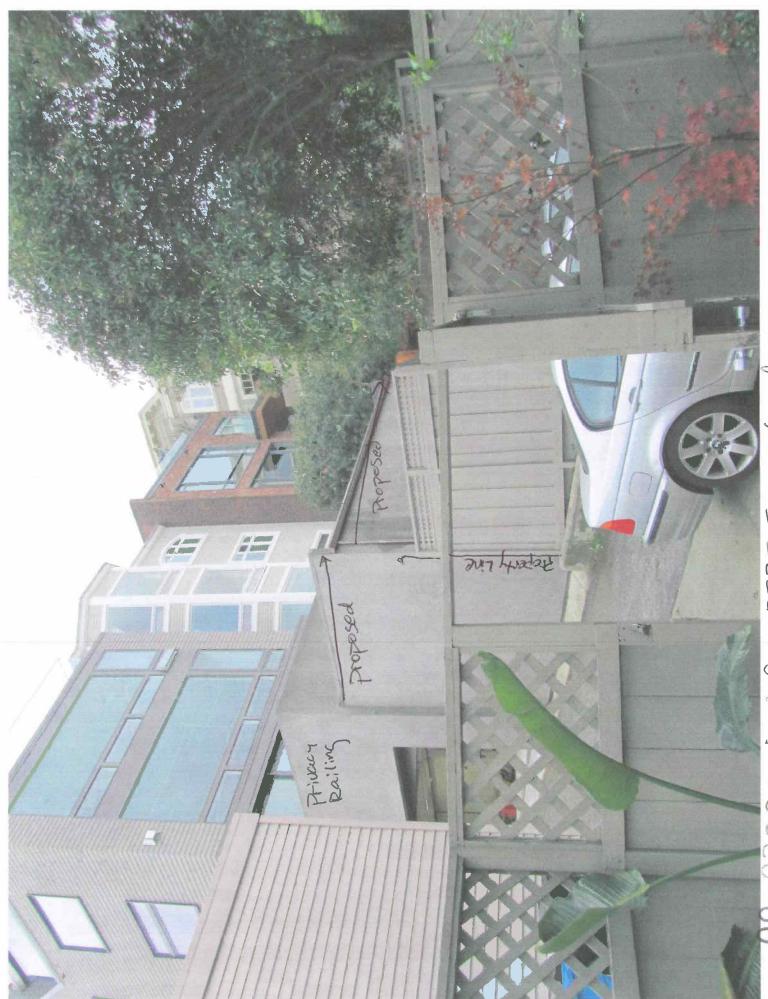
This signature must be notarized prior to recordation; add Notary Public Certification and Official Notarial Seal below:

Hay & Flack

ANIA ALL-PURPOSE ACKNOWLEDGMENT arkin State of CALIFORNIA County of Son Francisco before me, VIC+oria NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC personally appeared Andrews D. Black & KAY Eppich Black \square personally known to me - OR - $ot \Sigma$ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. WITNESS my hand and official seal. Victoria Ann Raffetto COMM. #953237 Notary Public-California San Francisco County My Comm. Exp. Mar. 30, 1996 Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form. DESCRIPTION OF ATTACHED DOCUMENT CAPACITY CLAIMED BY SIGNER INDIVIDUAL CORPORATE OFFICER potice of Special Restric TITLE OR TYPE OF DOCUMENT TITLE(S) LIMITED PARTNER(S) **GENERAL** NUMBER OF PAGES ATTORNEY-IN-FACT TRUSTEE(S) **GUARDIAN/CONSERVATOR** 6.17.94 OTHER: DATE OF DOCUMENT SIGNER IS REPRESENTING: NAME OF PERSON(S) OR ENTITY(IES) SIGNER(S) OTHER THAN NAMED ABOVE







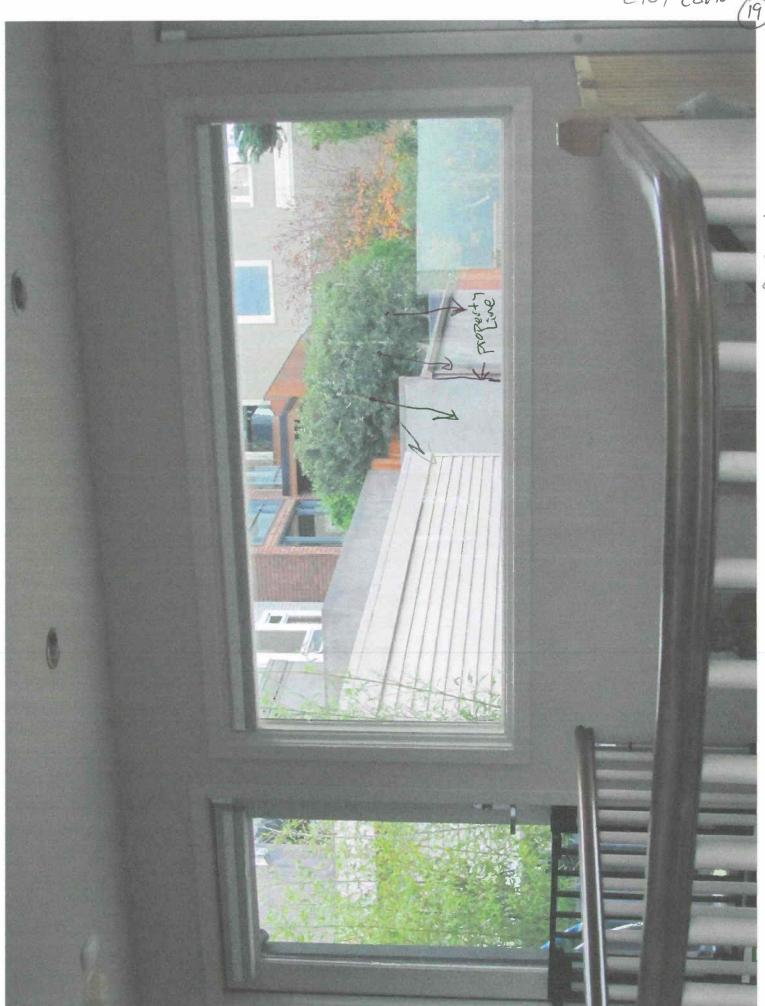
下かり 1911 View from 2735



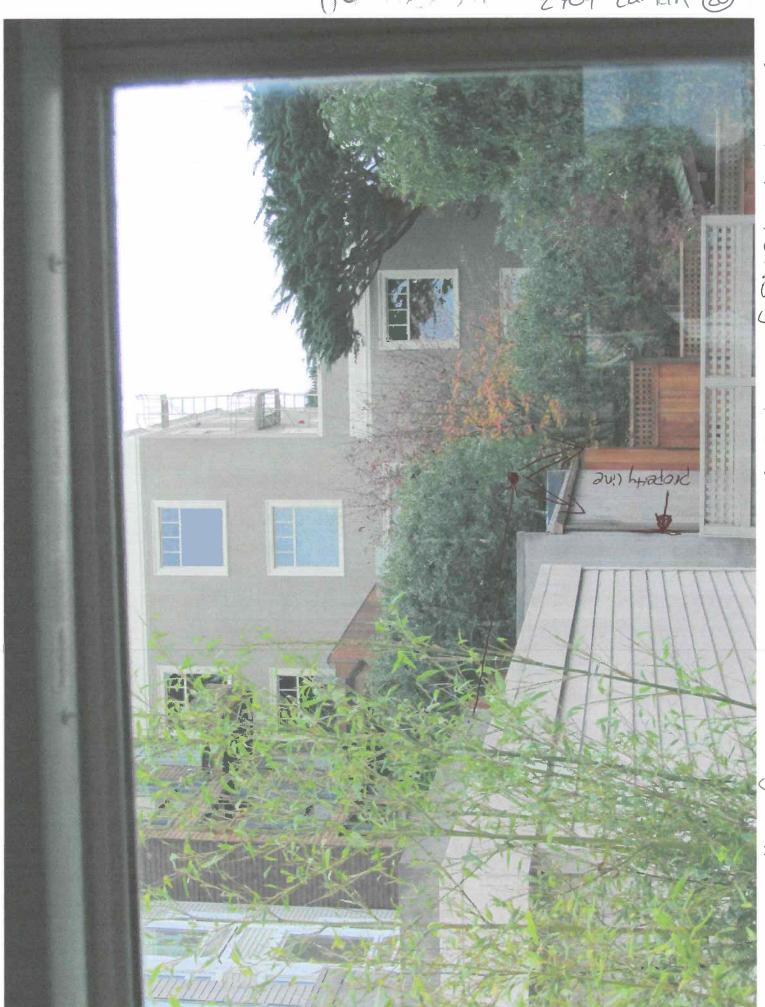
View from 2735 Living Area



Lastin View from Living area 2735



New Line of Sight Living Area 2735 Larkin



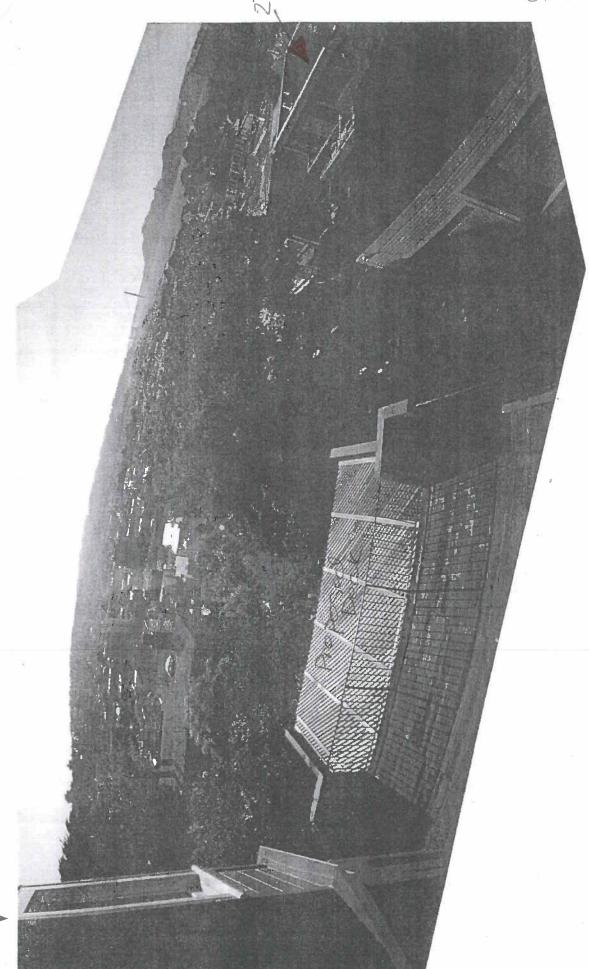
of Signt into Civing Area Dew Line

View from 2735 Learlein,



concer from 2735 Laskin





SUBJECT PROPERTY

6 View Looking West from Subject Property 2nd Floor Window 09 • 02290

09-02290 1 level ap 2735

DISCRETIONARY REVIEW OF PERMIT# 201010193380

Case Number: 2009.0229V

SUBJECT PROPERTY: 2709 LARKIN STREET

March 17, 2011

DR requestor: Adam Landsdorf, M.D.

2735 Larkin St



REASONS FOR REQUESTING DISCRETIONARY REVIEW

Subject property requests to create a new roof deck as a horizontal expansion on a non conforming structure in the required rear yard. A significant permit history exists with this property, and the surrounding neighborhood. We request the Planning Commission deny this permit application.

This proposed expansion:

- Violates two Notice of Special Restrictions on the property
- Contrary to various sections of SF Planning Code and intent of General Plan
- Violates previous agreements with neighbors
- Has neighborhood opposition to significant negative impact
- Has significant negative impact on DR Requestor property

These exceptional and extraordinary circumstances justify Discretionary Review, or more appropriately, denial of the permit application.

Subject Property

- 2709 Larkin St is a historical building
- Completely remodeled in 2010 into a 6000+ sq foot SFR after Variance #2009.0229V
- Rear of the house has been transformed into a 40 foot wall of glass, grossly out of character with the historical nature of the building, and negatively impacting the neighbors' privacy.
- Garage in the required rear yard (allowed only by 1993 Variance), has been excavated and transformed into a 960 square foot 4+ car underground parking garage eliminating extraordinary circumstances required for variance at time of building.
- New 275 sq foot roof deck in the required rear yard towering 40+ feet over all of the neighbors
- Additional new 400 sq foot deck placed over garage, located entirely in the required rear yard.
- Proposal: Horizontal expansion of garage roof deck further into the required rear yard, to property line of DR requestor, creating new 700 sq foot deck, and over 1000 sq feet of deck at rear of property.
- **Impact:** New outdoor living space would tower at least 15 feet above the outdoor space of 2735 Larkin and other neighboring properties, is inconsistent with neighborhood, and has significant negative impact on privacy and enjoyment of neighboring properties



Violates Two Notices of Special Restrictions

<u> 1993:</u>

- Variance was sought to build a 2 car garage in the required rear yard at the subject property (See DR Application, pages 2-9)
- Intent of this variance was to provide parking due to 'extraordinary circumstances'.
- Not intended for living space
- Notice of Special Restriction was placed on the property which states:

'No further vertical or horizontal expansion of the subject building shall be allowed unless such expansion is specifically authorized by the Zoning Administrator after the property owner or authorized agent has sought and justified a new variance request pursuant to the public hearing and all other applicable procedures of the City Planning Code. (DR application pages 2-4)

2009:

- Second Variance was sought to extend the entire house and to create two new large decks in the required rear yard. Case #2009.0229V, same case as this Discretionary Review
- Roof deck over garage located entirely in the required rear yard.
- After significant input from neighbors, variance was approved with the conditions set forth in permit # 2009.03.24.4770.
- No proposal to expand over lower garage, shown as garage roof only.
- Additional Notice of Special Restriction was placed on the property which states:

"Any future physical expansion, even within the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character, scale, and parking. 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...

<u>In case of conflict, the more restrictive controls shall apply</u> (DR Application pages 10-13)

> Project sponsor is ignoring, and attempting to avoid Restrictions, by using sequential permits



Violates San Francisco Planning Codes

Contrary to Section 134 of the Planning Code, Rear yard

- Rear yards are required by the General Plan to preserve open space and the privacy and enjoyment of neighboring properties by limiting expansion into required rear yard.
- Rear yard at subject property required to be 61+ feet. Proposed deck would extend 34 feet into required rear yard (56% of required rear yard), and tower 15 feet above ground.
- No need for expansion: Currently has 700 sq feet of deck space at rear of property, in required rear yard.
- Poses NO hardship to subject property to deny further expansion into required rear yard.

Contrary to Section 136.25.A of the Planning code

- Section 136.25.A of SF Planning Code: Decks "shall extend no more than 12 feet into the required open area: and shall not occupy any space within the rear 25% of the total depth of the lot..."
- Proposed deck protrudes 34 feet into required rear yard, and well beyond rear 25% of lot. (see diagram, attached)

Contrary to Section 188(a) of the Planning code:

Conditions to altering a non complying structure include "that the interior block open space formed by the rear yards of abutting properties will not be adversely affected."



Violates previous neighbor agreements

- In conjunction with application for variance# 2009.0229V, the owner of 2709 Larkin made an express agreement with the DR Requestor (attached.)
- No development of the lower garage into a living space "in exchange for Mr. Landsdorf's support for the Variance/311 proposal...nor has the space ever been shown as anything but garage space in any of our drawings."
- This Discretionary Review holds the same case # of previous Variance request.
- Project sponsor is attempting to avoid agreements in conjunction with prior variance, by using sequential permits
- It was intended by the owner of 2709 Larkin, and communicated to the neighbors at time of variance, that the area over the lower garage would be built into a living roof to enhance the privacy and enjoyment of surrounding neighbors.

Significant Impact and Neighborhood Opposition

- Neighborhood is unique in character, offering quiet open space as intended by General Plan and Planning Code.
- Proposed expansion creates an enormous living space perched over the neighborhoods' quiet open space.
- Negative impact: loss of quiet enjoyment, and loss of privacy, and new direct line of sight into neighbors' homes.
- **To be submitted at time of DR Hearing**: Letters in opposition to the project from surrounding neighbors

Effect on DR Requestor's Property

- **The DR requestor's property**: 1600 sq foot condo which lies perpendicular and adjacent to the applicant's required rear yard. (map)
- This condo is rear facing, it's only entrance and outdoor living space is adjacent to the rear yard of 2709 Larkin, and immediately below the proposed roof deck.
- Would create new living space 15 feet above ground at the property line of 2735 Larkin.
 (photos)
- New direct line of sight directly into 2735 Larkin.
- Impact: Loss of privacy and enjoyment of the DR requestors' property.
- Proposed Alternative: Deny further expansion. DR Requestor endorses living roof as previously planned during 311/Variance.



June 22, 2009

To Whom It May Concern:

Per my conversation with Mr. Adam Landsdorf on Sunday, June 21, 2009, I would like to document the following understanding.

In exchange for Mr. Landsdorf's support for the Variance/311 proposal related to my renovations of 2709 Larkin, I will:

1. Agree to not convert any part of my existing garage into a rental unit. Just for clarification purposes, a second unit has never appeared in any of permit applications or documents in any form, nor has the space ever been shown as anything but garage space in any of our drawings.

2.

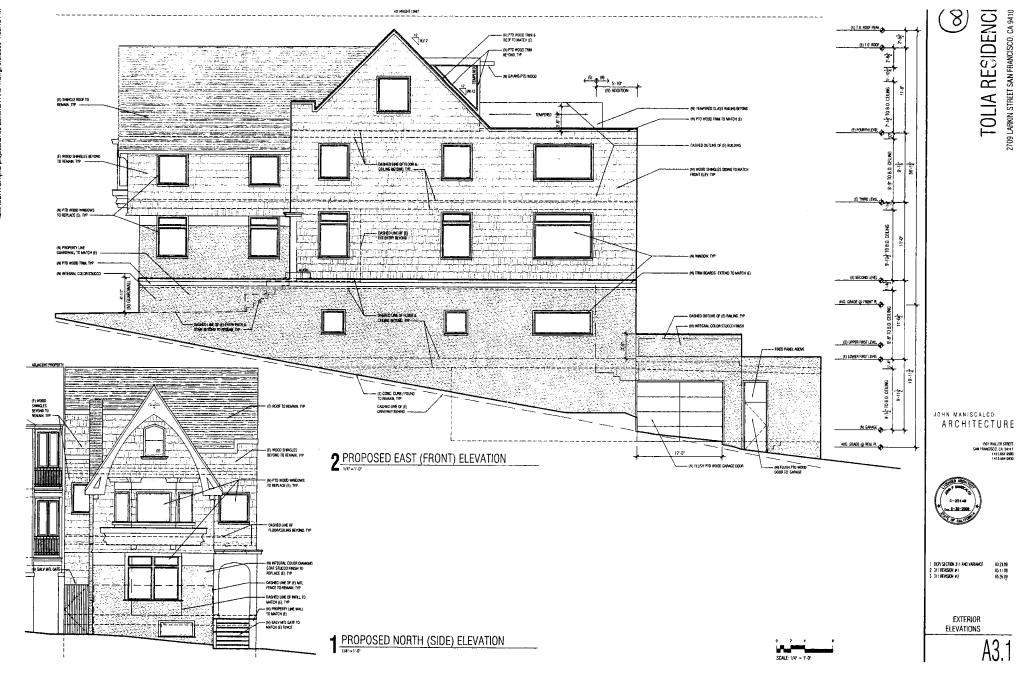
(Not relevant to DR hearing)

Please let me know if you have questions or need additional information.

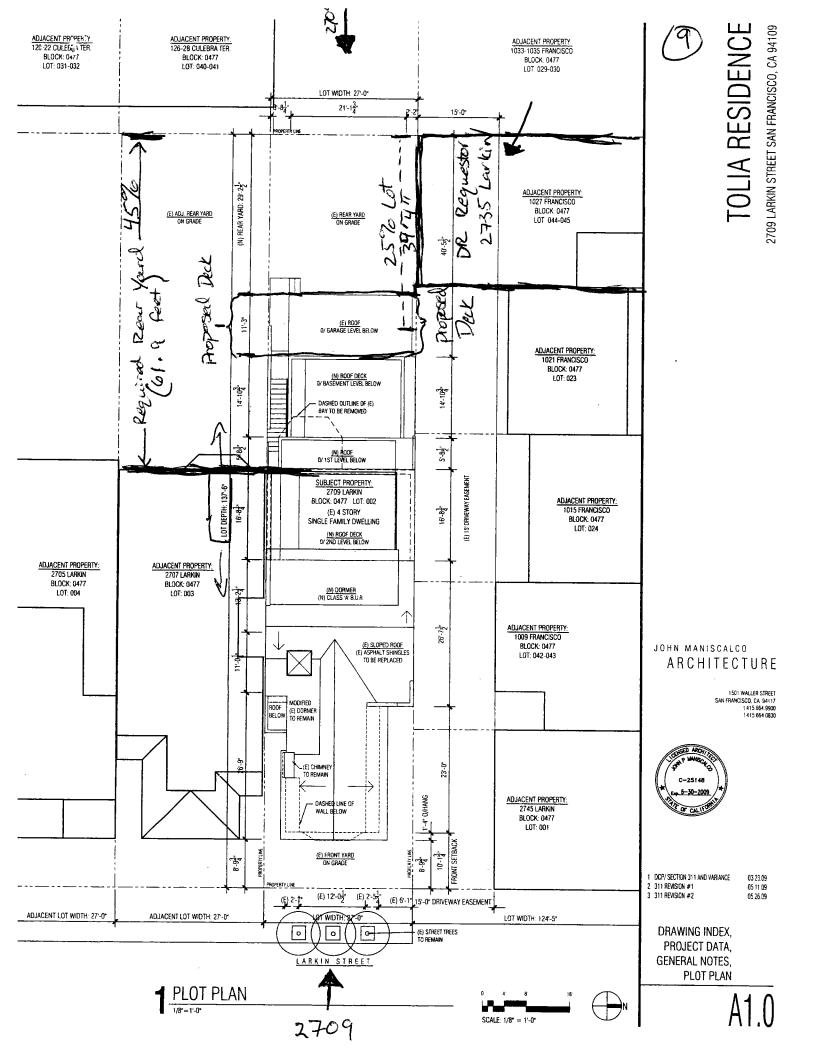
Sincerely,

Nirav Tolia

Owner 2709 Larkin









SAN FRANCISCO PLANNING DEPARTMENT

RESPONSE TO DISCRETIONARY REVIEW

Case No.: 09. 0229 Þ

1650 Mission St.

San Francisco, CA 94103-2479

415.558.6409

Suite 400

Reception: 415.558.6378

Planning Information: 415.558.6377

	Building Permit No.: 20101019	
	Address: 2709 CARKIN C	2
Sponsor's Name: JA	MES STAFFORD (JOHN MANISCA 00 x 201 (for Planning Department to	LCO ARCHI
Given the concerns of the feet your proposed pro	he DR requester and other concerned parties oject should be approved? (If you are not be DR requester, please meet the DR request ted DR application.	s, why do you aware of the ter in addition
order to address the co If you have already ch explain those changes	nanges to the proposed project are you willing oncerns of the DR requester and other concerning the project to meet neighborhood con. Indicate whether the changes were made e City or after filing the application.	erned parties cerns, pleas
order to address the colf you have already cheexplain those changes your application with the See Auracus	oncerns of the DR requester and other conce anged the project to meet neighborhood con . Indicate whether the changes were made e City or after filing the application.	erned parties cerns, pleas e before filin

If you have any additional information that is not covered by this application, please feel free to attach additional sheets to this form.

4. Please supply the following information about the proposed project and the existing improvements on the property.

Number of	Existing	Proposed
Dwelling units (only one kitchen per unit –additional kitchens count as additional units) Occupied stories (all levels with habitable rooms)	3	1 NO CHANGE
Basement levels (may include garage or windowless storage rooms) Parking spaces (Off-Street) Bedrooms	2	2 N/C 2 N/C 4 N/C
Gross square footage (floor area from exterior wall to exterior wall), not including basement and parking areas Height		38'-2 P/C
Building Depth	. 96 ⁶	965
Most recent rent received (if any)	NA	NA
Projected rents after completion of project	~/~	NA
Current value of property	MA	n/A
Projected value (sale price) after completion of project (if known)	4./	m/m

I attest that the above information is true to the best of my knowledge.

3.9.11 JOHN MANISCALCO, ARCHITECT

Signature Date Name (please print)



Planning Commissioners
Department of City Planning
1660 Mission Street
San Francisco, CA

Response to Discretionary Review

1. Given the concerns of the DR requester and other concerned parties, why do you feel your proposed project should be approved? (If you are not aware of the issues of concern to the DR requester, please meet the DR requester in addition to reviewing the attached DR application.)

The entire proposed scope of work represented by BPA 201010193380 is as follows: add tile and railings to an existing roof surface to make it usable as an occupied roof deck. No new mass is created, no increase in building volume, and no expansion of the structure. It is a diminutive proposal with extremely limited impact, and nothing about the proposal or the meets the base Discretionary Review standards of "exceptional and extraordinary circumstances."

The purpose of the expansion is simply to take an unused roof surface and create usable open space for the occasional use of the project sponsor's young children, whom he shares part-time custody for . The slope of the property and limited dimension of the landscaped rear yard set the landscape at an elevation that makes it difficult to use, especially for young children. By comparison, the proposed deck area, which is directly outside of an interior playroom, is more usable and practical, especially for young children under parental supervision. The intention is to occupy a significant portion of the proposed deck area with landscape planters to bring currently unseen landscape elements up to the deck level.

The proposal is entirely code compliant and fully meets the Residential Design Guidelines. The DR requestor has misinterpreted the Code requirements attached to the NSR's for 2709 Larkin, as well as the Planning Code sections he has cited. Planning staff has found the proposal compliant, confirming the misinterpretation as well.

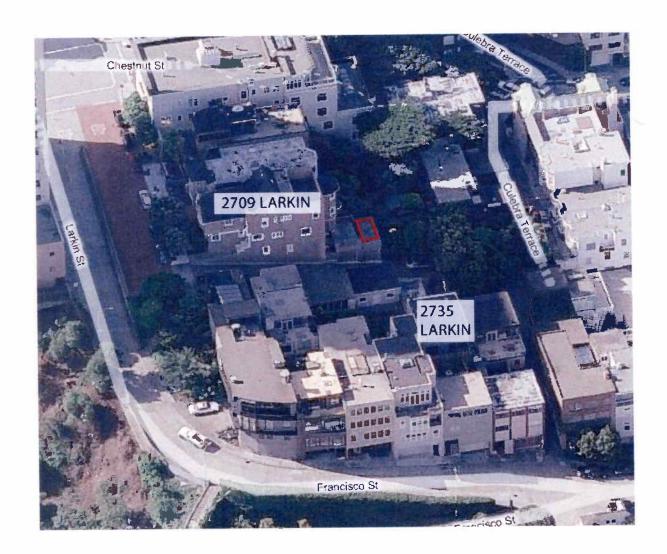
2. What alternatives or changes to the proposed project are you willing to make in order to address the concerns of the DR requester and other concerned parties? If you have already changed the project to meet neighborhood concerns, please explain those changes. Indicate whether the changes were made before filing your application with the City or after filling the application.

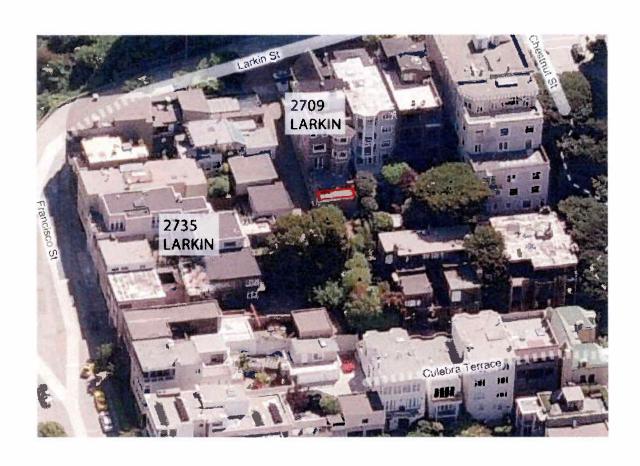
The privacy concerns expressed by the DR requestor (and also desired by the Project Sponsor) were carefully considered in the design process prior to filing the application. The distance between structures (over 50 feet at the closest point), the limited use periods, and the mutual desire for privacy ensures that privacy for both parties. Although there is limited view shared between properties, the Project Sponsor has offered to add planted screening to a height of 5 feet along the northern edge of the proposed deck to help alleviate the DR requestor's concerns. He did not receive a response to that proposal. Please note. Though the DR requestor references privacy issues for multiple neighbors, only the DR requestor has filed.

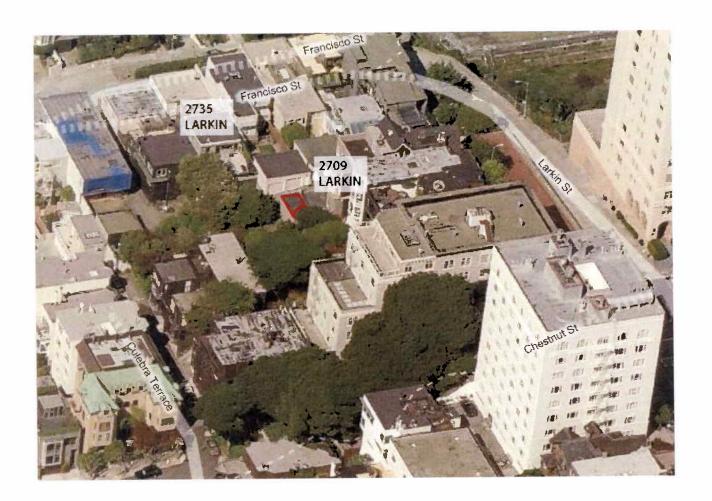
3. If you are not willing to change the proposed project or pursue other alternatives, please state why you feel that your project would not have any adverse effect on the surrounding properties. Please explain your needs for space or other personal requirements that prevent you from making the changes requested by the DR requester.

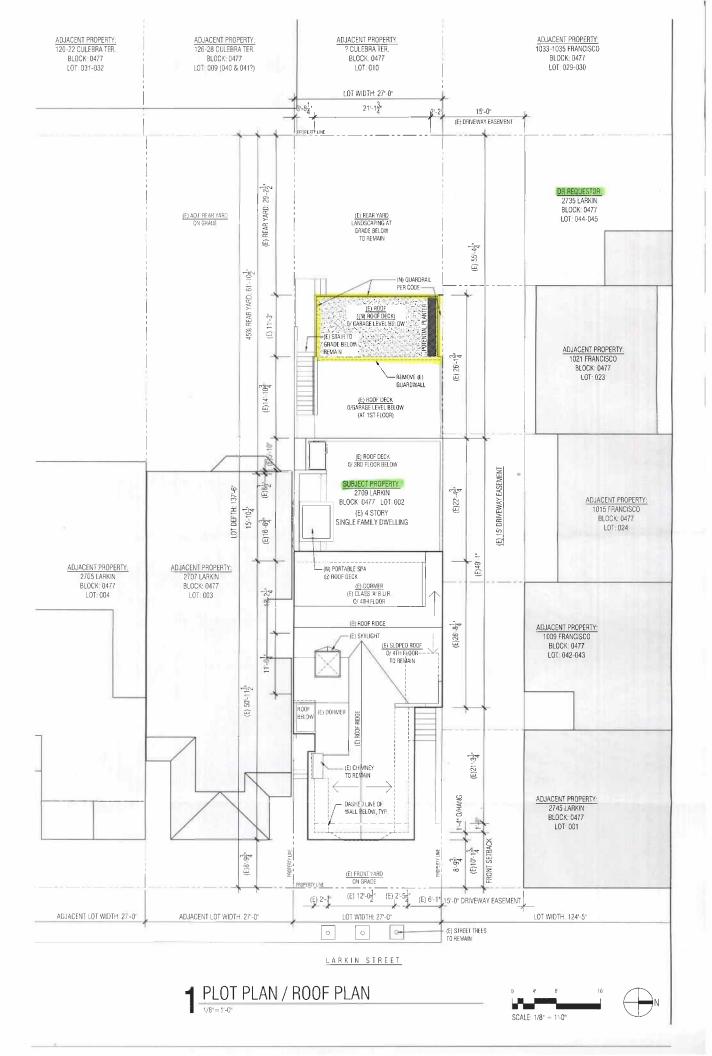
The proposed modification of a roof surface to occupied deck creates no new mass or volume, and as such has no measurable impact on adjacent neighbors. The railings were designed as glass rails, not for the transparency of the material, but for the lightness of expression and to minimize the appearance of the rails. The Project Sponsor's intends to add significant planter based landscaping to the proposed deck. He is also willing to increase the height and density of the planting along the northern edge of the proposed deck to help address the concerns of the DR requestor. This is critical usable outdoor open space for the Project Sponsor's family. It transforms an unfinished roof surface into a finished tiled and planted area, creates usable space for his young children, and has no detrimental effect on the adjacent neighbors.

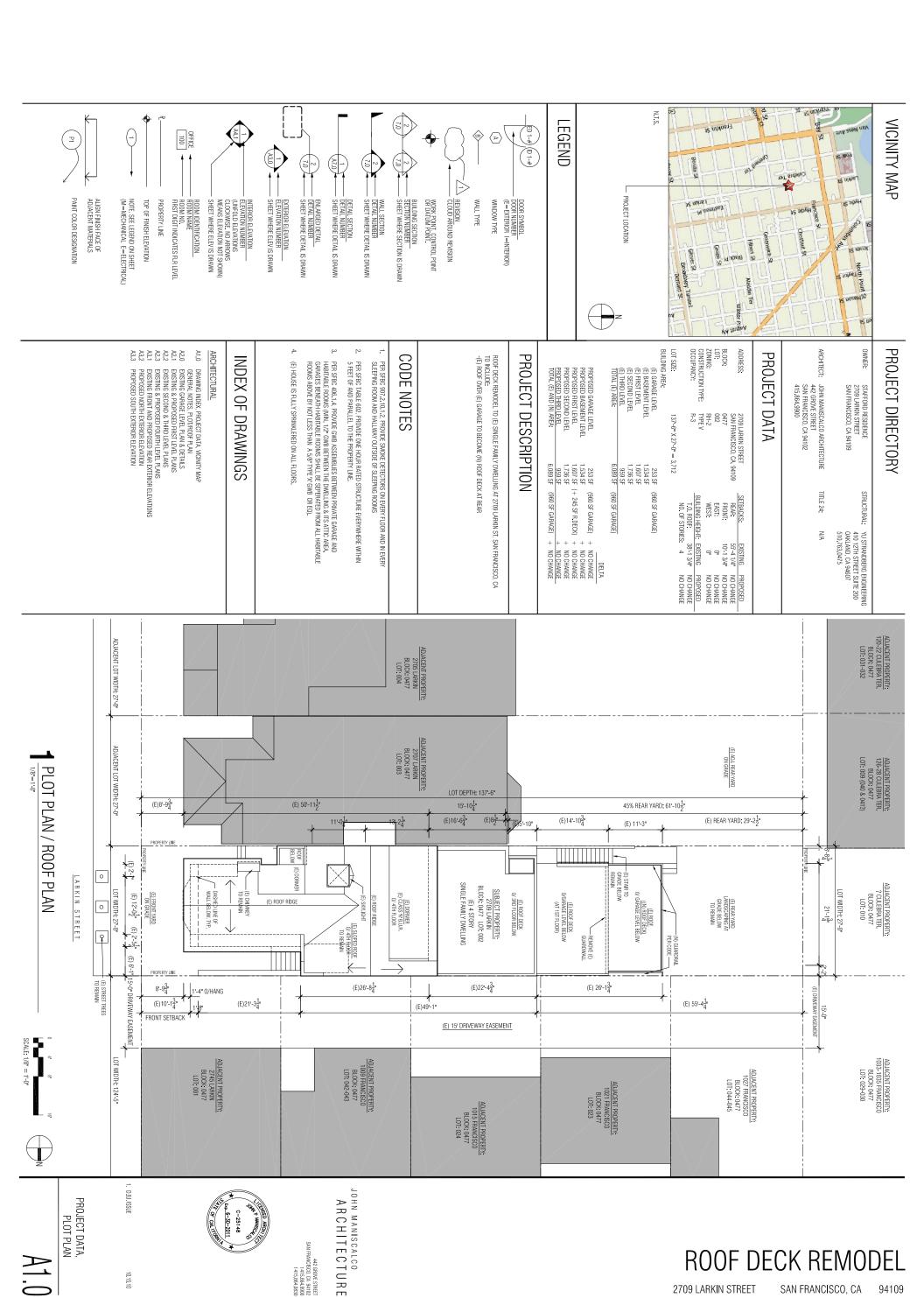




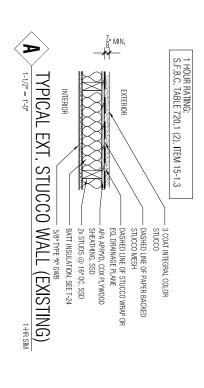


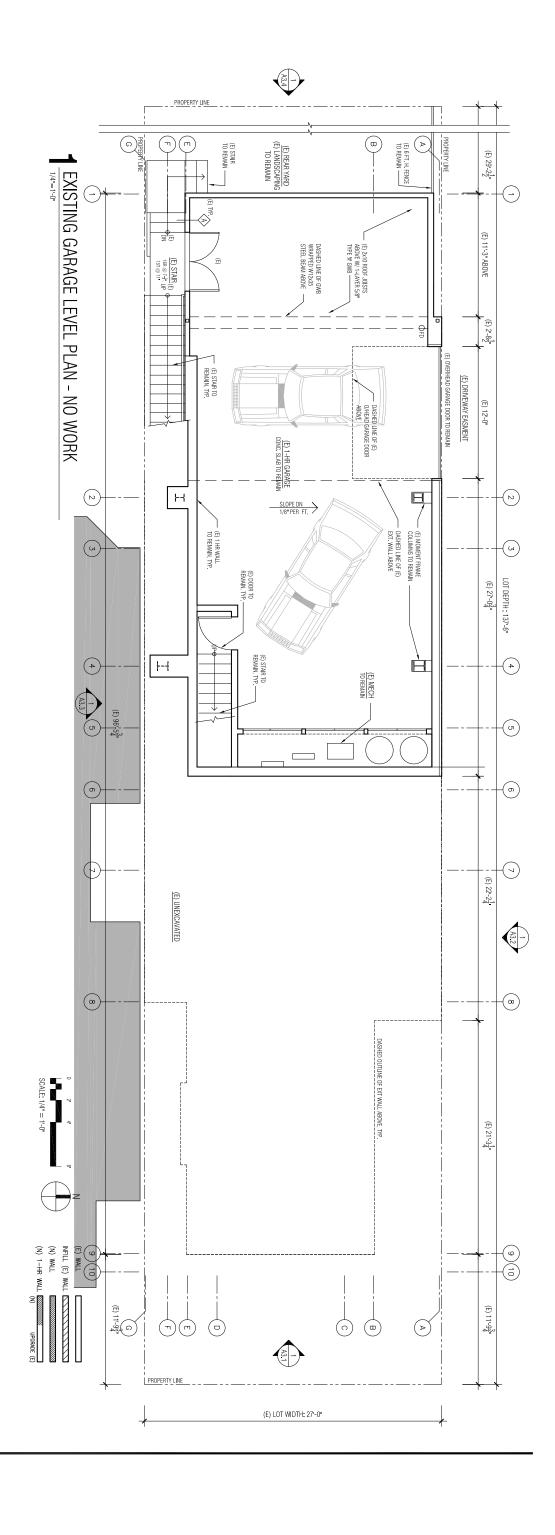






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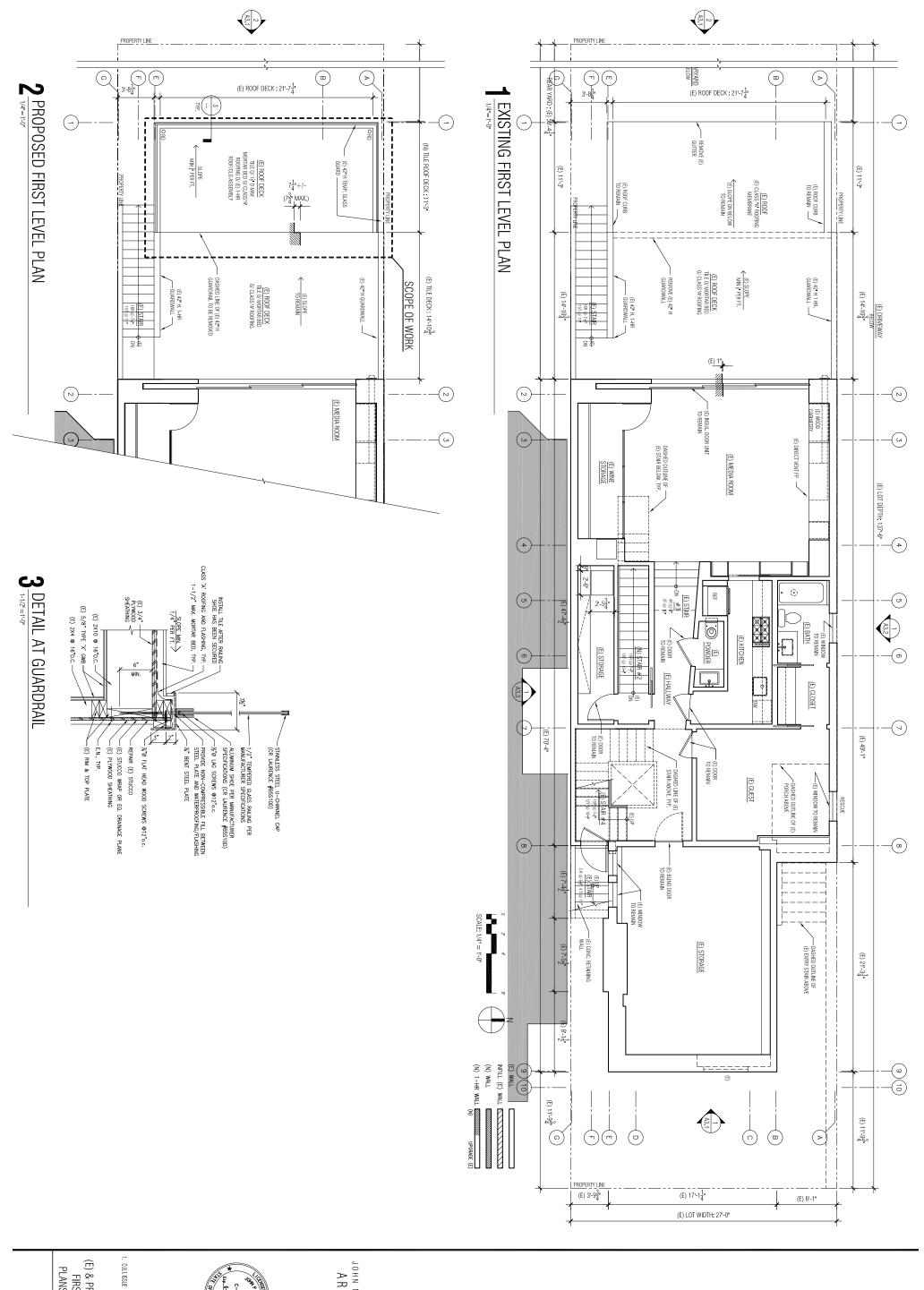




ARCHITECTURE

EXISTING GARAGE LEVEL & FIRST FLOOR PLANS

1. D.B.I. ISSUE



(E) & PROPOSED
FIRST FLOOR
PLANS, DETAIL

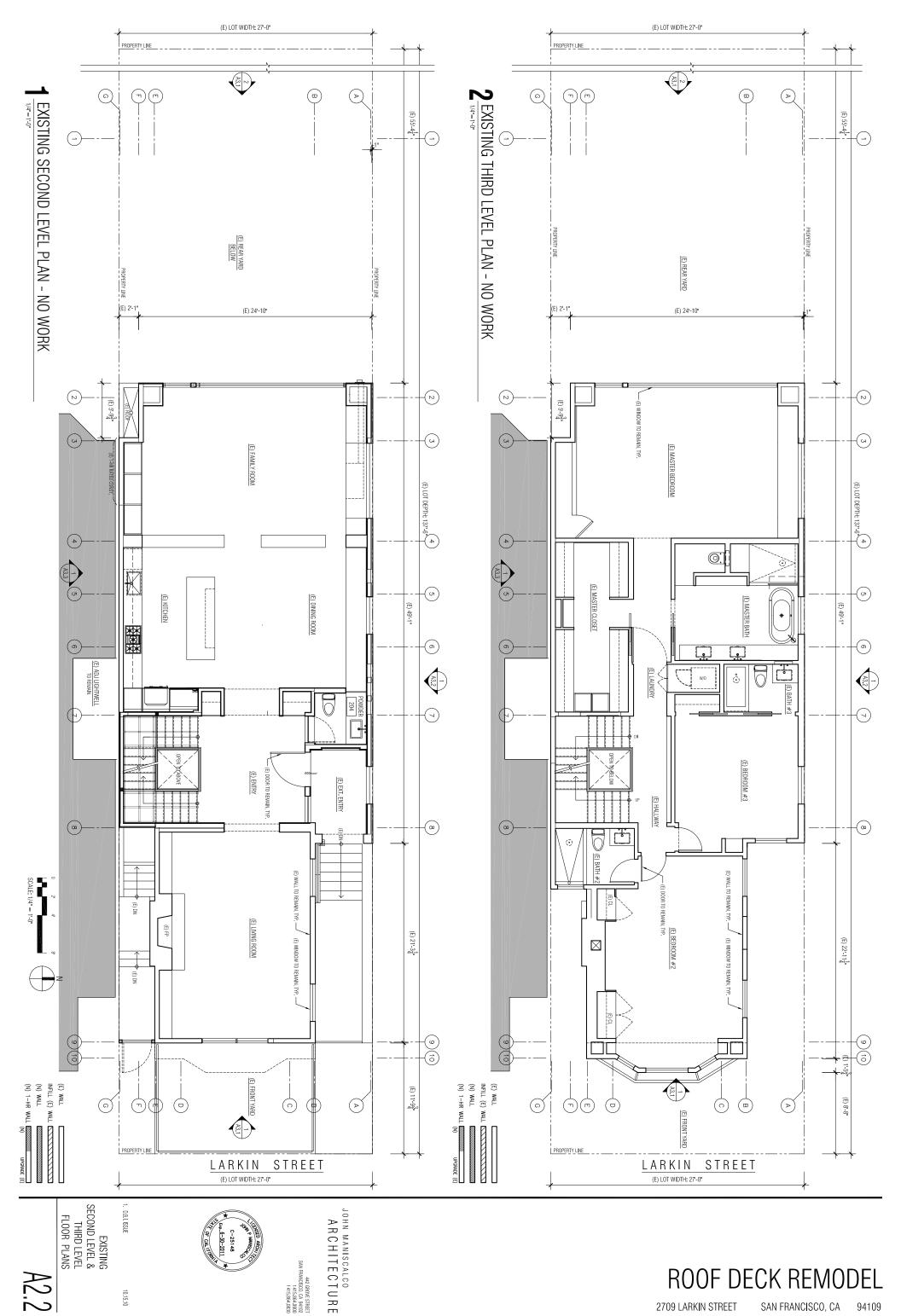
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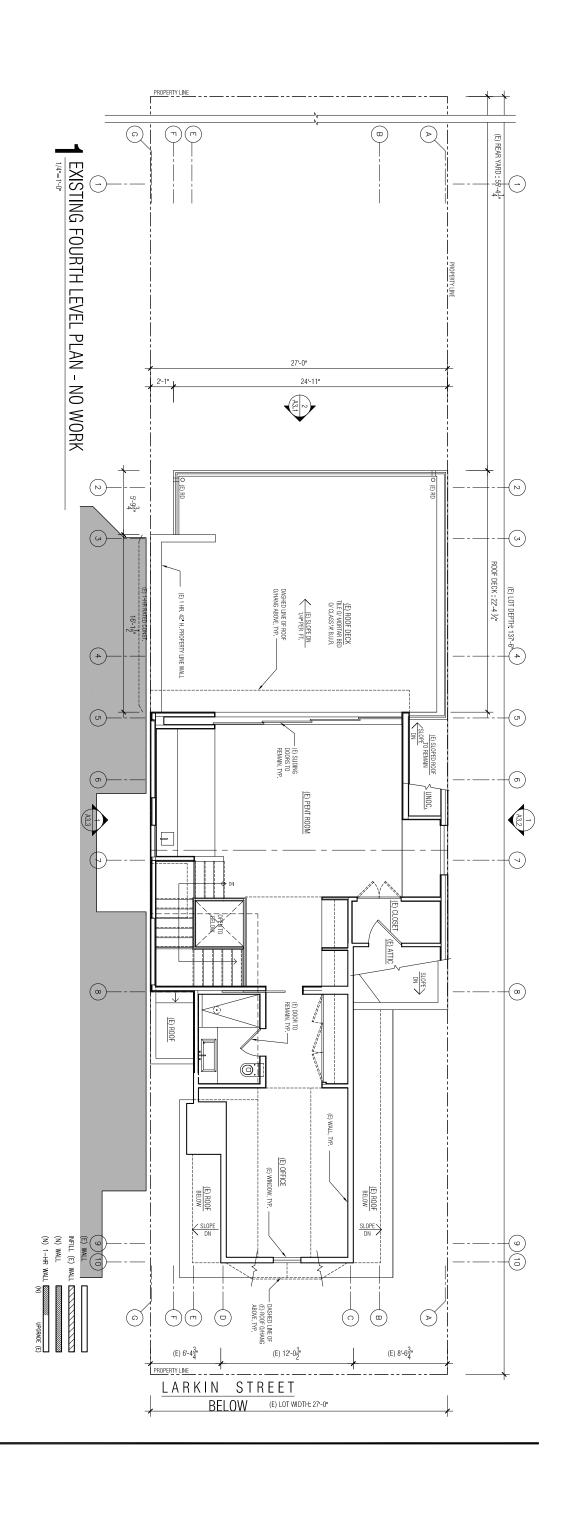
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C-25148

(Cop. 6-30-2011

JOHN MANISCALCO
ARCHITECTURE







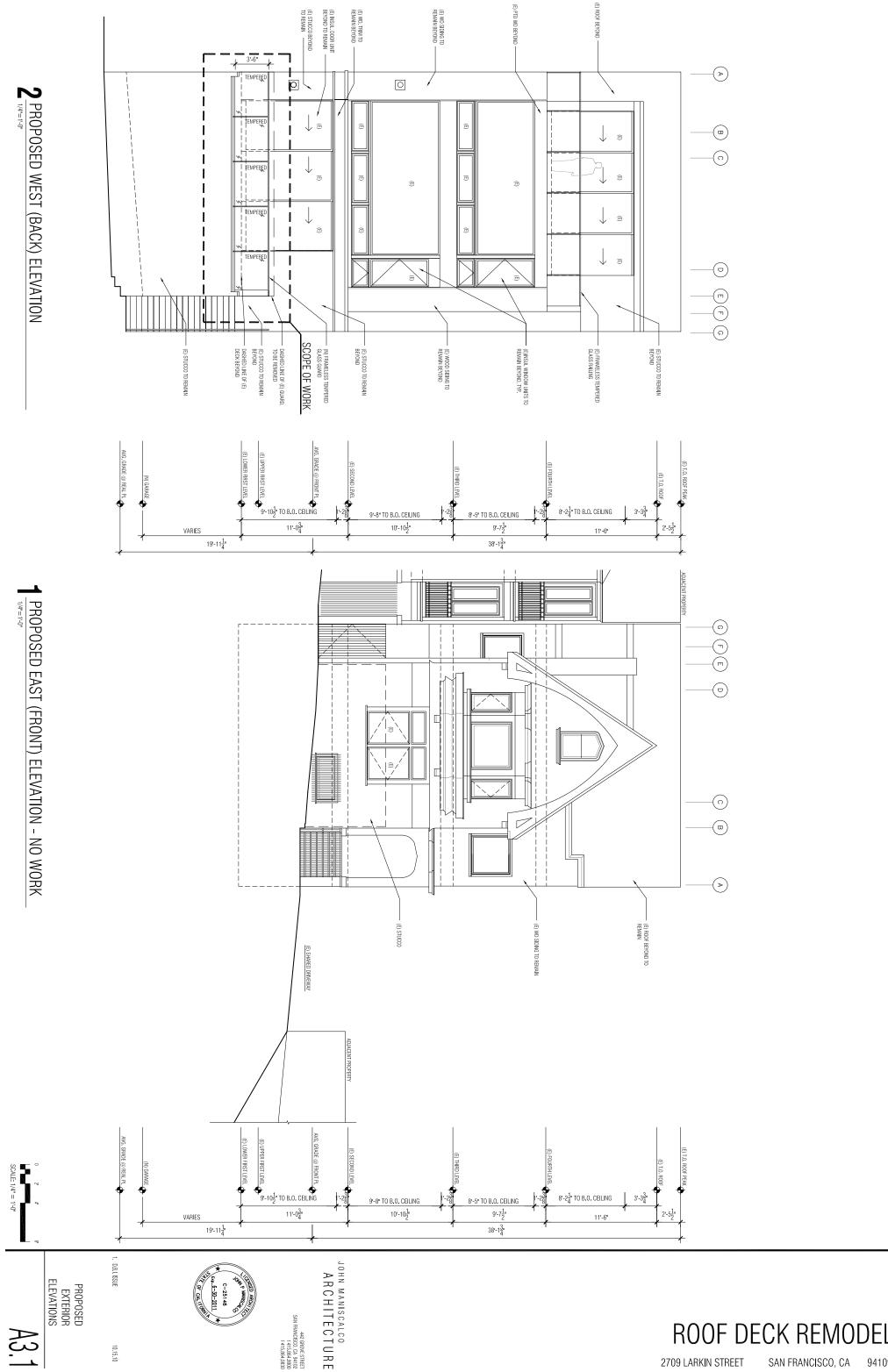
EXISTING FOURTH LEVEL FLOOR PLANS

1. D.B.I. ISSUE

10.15.10

JOHN MANISCALCO
ARCHITECTURE

442 GROVE STREET
SAN FRANCISCO CA. 94102
1415.8845,00830
1415.8842,00830



ROOF DECK REMODEL

