



# SAN FRANCISCO PLANNING DEPARTMENT

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## Memo to the Planning Commission

HEARING DATE: November 5, 2015

*Date:* October 26, 2015  
*Case No.:* 2014.0973D  
*Project Address:* 458 Grove Street  
*Zoning:* Hayes Neighborhood Commercial District (NCD)  
40-X Height and Bulk District  
*Block/Lot:* 0793/014  
*Project Sponsor:* Tuija Catalano  
Reuben, Junius and Rose  
One Bush Street, #600  
San Francisco, CA 94104  
*Staff Contact:* Carly Grob – (415) 575-9138  
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### BACKGROUND

On September 11, 2014, the Planning Commission reviewed Case No. 2014.0973D for a Public Initiated request for Discretionary Review for a change of use from retail to restaurant, d.b.a. Birba. The Planning Commission took discretionary review and placed the following conditions on the property in Discretionary Review Action (DRA) No. 0377:

1. **Access to Rear Yard.** All doors that access the rear yard shall remain closed and locked during business hours.
2. **Informational Hearing.** The project sponsor shall, within six months of commencing the operation of the restaurant, provide the Planning Commission with an informational hearing regarding the business's operation.
3. **Outdoor Activity Use.** The Planning Commission shall not hear any application for the Outdoor Activity Area until after the restaurant has been in operation for at least 6 months and the project sponsor has fulfilled their obligation to provide the required informational hearing.
4. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

The current owner and operator of Birba, Angela Valguisti, began operation in April 1, 2015. Since that time, she has satisfied the conditions of approval of DRA-0377 in the following ways:

1. **Access to Rear Yard.** All doors that access the rear yard shall remain closed and locked during business hours.

*Although fire regulations have prevented the operator from fulfilling this Condition (see Complaint No. 2015-010770ENF below), she has satisfied the intent of the Commission by preventing patrons from exiting into the rear yard.*

2. **Informational Hearing.** The project sponsor shall, within six months of commencing the operation of the restaurant, provide the Planning Commission with an informational hearing regarding the business's operation.

*The intent of this memorandum and presentation is to satisfy the Informational Hearing Condition included in DRA No. 0377.*

3. **Outdoor Activity Use.** The Planning Commission shall not hear any application for the Outdoor Activity Area until after the restaurant has been in operation for at least 6 months and the project sponsor has fulfilled their obligation to provide the required informational hearing.

*To date, there have not been any applications filed with the Planning Department for Conditional Use Authorization to use the rear yard as an Outdoor Activity Area.*

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

*Angela Valguisti has elected to act as the community liaison for Birba, and has provided notice to the Zoning Administrator with the aforementioned information.*

Since opening, there have not been any recorded calls or complaints to the San Francisco Police Department. Two Planning Code complaints filed by one adjacent neighbor to the business:

- **Complaint No. 2015-010770ENF – Conditions of Approval.** The first enforcement case was opened on August 20, 2015, in which complainant stated that the owner refused to comply with the first Condition of Approval, in that she refused to close and lock the door that accesses the rear yard. Enforcement staff within the department researched and reviewed this complaint, and determined that although the Planning Commission conditioned that the door shall be locked during business hours, the door must remain unlocked during business hours per fire code regulations. The operator has kept the door closed during business hours, and has taken steps to prevent patrons from exiting from the restaurant into the rear yard, including adding signage by the back door and using verbal warnings. The enforcement case was closed on September 10, 2015.

- **Complaint No. 2015-012140ENF – Unauthorized Expansion of Use.** The second enforcement case was opened on September 10, 2015, in which the complainant stated that there had been an unauthorized expansion of the restaurant into the garage area, which was not authorized for restaurant use. Enforcement staff conducted a site visit on September 17 and determined that there was no violation. This enforcement case was closed on September 21, 2015.

### **Bona Fide Eating Place**

Birba was approved as a change of use from Retail to Restaurant through Building Permit Application No. 2014.1125.2534. By definition, a Restaurant must operate as a Bona Fide Eating Place, defined in Planning Code Section 790.142. Per subsection (e), a minimum of 51% of the restaurant's gross receipts shall be from food sales prepared and sold to guests on the premises. The department has requested records of Birba's gross receipts to determine compliance with the permitted use.

From April 1, 2015 to October 27, 2015, 34.3% of the Birba's gross sales were from food, and 58% of sales were from on-site beverages. The remaining 7.7% of gross sales included merchandise, off-sale wine, and miscellaneous fees.

Although the Department has not found the operator to be in violation of any conditions of approval, Birba has not been operating as a Bona Fide Eating Place for six months. The Department is currently pursuing enforcement action, and has contacted the California Department of Alcohol and Beverage Control to alert them of the violation.

### **REQUIRED COMMISSION ACTION**

None required. This memorandum is intended to update the Commission on the operation of "Birba" at 458 Grove Street following six months of operation. The Department will work with the project sponsor to abate the violation prior to reviewing a Conditional Use Authorization Application to operate an Outdoor Activity Area at the rear of the property.

### **ATTACHMENTS**

Project Sponsor submittal

Floor Plan

# REUBEN, JUNIUS & ROSE, LLP

October 26, 2015

President Rodney Fong  
San Francisco Planning Commission  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

**Re: 458 Grove Street (0793/014)**  
**Birba Wine Bar**  
**Planning Department Case No. 2014.0973D**  
**Informational Hearing Date: November 5, 2015**  
Our File no. 893301

Dear President Fong and Commissioners,

Our office represents Angela Valgiusti, the owner and operator of Birba at 458 Grove Street. On September 11, 2014, the Planning Commission declined to take Discretionary Review and approved a project authorizing a change of use at 458 Grove Street into a restaurant d.b.a. Birba. Per Discretionary Review Action No. 0377, one of the conditions of approval required that the project sponsor to provide the Commission with an informational update regarding the business' operation after six (6) months. Birba opened for business on April 1, 2015. In accordance with the conditions of approval, we provide you with this letter and submittal as a 6-month update in accordance with the Commission's conditions of approval and look forward to answering any questions the Commission may have on November 5, 2015.

Background. Ms. Valgiusti opened Birba after spending 12 years as a sommelier at the acclaimed Slanted Door and after designing the wine menu at the popular Hayes Valley eatery Bar Jules. Inspired by the outdoor cafes of Florence, she spent ten years dreaming of a wine-focused restaurant with a garden. Ms. Valgiusti wanted to create an intimate gathering place where symphony, ballet, and opera goers could grab a bite before a show, where locals could gather over a glass of wine and food, and where travelers could stop in for a bite on their way up the hill to see the Painted Ladies at Alamo Square.

Across from the Days Inn hotel in Hayes Valley and in the heart of the city, Birba's location at 458 Grove Street is ideal. It is within walking distance of a number of arts and music venues, as well as the businesses and government institutions just blocks away at Civic Center. This location gives Birba the potential to serve as a hub for the community and all the walks of city life that cross paths in this neighborhood.

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin | John Kevlin  
Jay F. Drake | Lindsay M. Petrone | Sheryl Reuben<sup>1</sup> | Tuija I. Catalano | Thomas Tunny  
David Silverman | Melinda A. Sarjapur | Mark H. Loper | Jody Knight | Stephanie L. Haughey  
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1. Also admitted in New York 2. Of Counsel 3. Also admitted in Massachusetts

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Operations. Birba serves lunch and dinner Tuesday through Friday, dinner on Saturday, and brunch on Sunday. The clientele is varied from young locals, old time neighborhood homeowners and families with children to young tech company employees and tourists. Frequent customers also include nearby City employees and patrons for jazz, opera, ballet and symphony. Birba has become a social melting pot for the community and a great example of the positive impact small businesses can have in San Francisco's neighborhoods. what small.

Restaurant operation. Birba Wine Bar is a bona fide eating place operating with a Type 41 license from the California Department of Alcoholic Beverage Control. Pursuant to that license, Birba serves a full food menu along with beer and wine. Birba is open for lunch Tuesday through Friday from 12 pm-3 pm and for dinner 3 pm-10 pm. On weekends, dinner is served on Saturdays from 3 pm-10 pm, and brunch is served on Sundays from 11 am-3 pm.

Food menu is created by Chef Jill Hanson, who spent five years as a chef at Bar Jules. The lunch menu generally consists of a soup, two salads, a quiche, and two sandwich options. The dinner menu changes depending on seasonal ingredients, but recently included appetizers such as deviled eggs and baked goat cheese with nectarines and honey, and entrée options including an empanada stuffed with lentils and yogurt sauce, a picnic platter of cheeses and salamis, and a chickory salad. A mainstay on the menu is meatball dish with polenta. A copy of a recent menu is attached.

Neighborhood Consciousness. Since opening, Angie has been very conscious about her role as a respectful neighbor. The staff at Birba is small, typically with just Ms. Valgiusti, the chef and one server working at a time. Trash is collected on Tuesdays (with the rest of the neighborhood) and Fridays, and Angie implements a policy of not dumping bottles into the recycling bins during the evening hours in order to avoid any excessive noise. Over \$20,000 has been spent on sound proofing for the building and Birba's staff makes every effort to keep customers from gathering on the sidewalk out front so as not to disrupt the neighbors.

Neighborhood Support. Since the opening in April of this year, Birba has received an overwhelmingly positive response from the neighborhood, and Hayes Valley residents and merchants alike have welcomed the restaurant. Birba often hears compliments from neighbors who say they enjoy bringing out of town guests to the space because it feels like their own neighborhood spot. Birba has managed to become a popular and intimate gathering place. As a May 6, 2015 article in the San Francisco Chronicle (attached) put it, Angie is striving to make Birba "the kind of place where locals leave keys for friends coming in from the airport—a corner bar that serves as a meeting place and second living room."

The only complaints have come from one neighboring couple (Mr. John Colton and Mr. Rafi Sarkus), who have objected to the business on many aspects and have made many (unfounded and untrue) accusations to Ms. Valgiusti and her staff. Ms. Valgiusti has not received a single complaint from anyone other than this one couple during the restaurant's 6 months of operation.

Recognition beyond the Neighborhood. In addition to neighborhood support, Birba has been recognized nationally as well. The October 2015 issue of the Wine and Spirits Magazine, wherein Birba is featured on page 40 along side not only the best restaurants in San Francisco, but among internationally recognized Michelin Star award winners as well.

Future Plans. At the time of the Birba's initial approval, the authorization provided only for the use of the indoor area with approx. 550 sf, with a condition that outdoor activity use could only be sought after the restaurant has been in operation for six (6) months and after the informational hearing regarding the initial operations has taken place. Many of the regular patrons frequently ask about the future use of the back patio, and Ms. Valgiusti's plan is to seek for the conditional use authorization after this informational hearing that would allow the use of the rear patio by Birba.

All in all, 6 months after opening, Birba is operating very smoothly, and the community has embraced Birba as a neighborhood hub and gathering place that Ms. Valgiusti envisioned creating.

Very truly yours,

**REUBEN, JUNIUS & ROSE, LLP**



Tuija I. Catalano

Enclosures:

Exhibit A - Photos of Birba

Exhibit B - Sample menu

Exhibit C - May 2015 SF Chronicle article

cc: Vice President Cindy Wu  
Commissioner Michael Antonini  
Commissioner Rich Hillis  
Commissioner Christine Johnson  
Commissioner Kathrin Moore  
Commissioner Dennis Richards  
John Rahaim – Planning Director  
Scott Sanchez – Zoning Administrator  
Jonas Ionin – Commission Secretary  
Carly Grob – Project Planner





birba  
food  
+  
WINE

BENEFIT CORPORATION - CAPTION'S NOTICE





460

birba  
snacks  
+ dinner  
+ WINE









460

birba  
snacks  
dinner  
WINE















Unfortunately, the back patio  
is NOT OPEN to the  
public.

Please help us contain the  
noise by NOT OPENING  
this door.

Thank YOU!!!

♡♡♡  
Birba









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[INFO](#) [WINE LIST](#) [LUNCH](#) [DINNER](#) [EVENTS](#)

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## LUNCH

### SNACKS

olives 5

boquerones 7 marinated white anchovies

almonds w/ rosemary & sea salt 7

deviled eggs 5

### SOUP - SANDWICHES & QUICHE

lentil soup w/ cumin & creme fraiche 10

chicken salad w/ dates & fennel 13

preserved tuna w/ celery hearts, piquillo peppers & hard cooked egg 13

quiche w/ summer squash, basil & fromage blanc w/ a little salad 12

### SALADS

duck confit salad w/ fregola sarda, yellow peaches & arugula 14

little gem lettuces w/ cucumber, almonds and preserved lemon 10

### SWEETS

homemade chocolate chip cookie 2.5





BIRBA - HAYES VALLEY'S WINE BAR

[INFO](#) [WINE LIST](#) [LUNCH](#) [DINNER](#) [EVENTS](#)

## DINNER

**olives 5**

**boquerones 7** marinated white anchovies

**almonds w/ rosemary & sea salt 7**

**deviled eggs 5**

**caviar w/ potato blini & creme fraiche 13**

**stuffed piquillo peppers w/ preserved tuna, hard cooked egg & celery hearts 8**

**flatbread w/ feta, sun gold tomatoes & oregano 8**

**baked goat cheese w/ nectarines & honey 10**

**little gem lettuces w/ cucumber, almonds & meyer lemon 10**

**heirloom tomato and melon salad w/ chili, basil & feta 12**

**octopus carpaccio w/ chickpea cherry tomato salad 15**

**Galician style empanada stuffed w/ spiced lentils and cucumber yogurt sauce 14**

**pork and veal meatballs in a spicy tomato sauce 16**

**picnic platter: chicken liver mousse, spicy coppa, soppressata, aged cheddar & pickled vegetables 20**

**homemade chocolate chip cookie 2.5**

**almond cake 7**

**boncora biscotti 2.5**



**nonna's meatballs 17** in spicy tomato sauce

**mediterranean plate 15** chickpea puree, vegetables & flat bread

**picnic platter 20** chicken liver mousse, spicy coppa, bresaola w/ pickled vegetables & smokey blue cheese

**SWEETS/ strawberry & lemon trifle 9** chocolate chip cookie 2.5 boncora biscotti 5





RESTAURANTS

# Birba: A wine bar with a difference

By Anna Roth | May 6, 2015 | Updated: May 6, 2015 8:35pm

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Photo: John Storey / Special To The Chronicle

San Francisco, Calif., on





“Just what Hayes Valley needs, another wine bar,” I thought when I heard about Birba’s opening in early April. The neighborhood already has at least four others, each with its own niche — Hôtel Biron for Tinder dates, Fig & Thistle for pre-theater drinks, Arlequin for sitting in the sun, and so on.

It turns out there’s room for one more. Tiny Birba offers a neighborhood-y, European-style vibe that puts the emphasis on hanging out.

Birba owner Angela Valgiusti had a long time to hone her vision. She spent the past decade working as a sommelier at the Slanted Door and a consultant for other restaurants, while dreaming of opening an intimate wine bar like the kind she had frequented when she lived in Florence.

An acquaintance pointed her to the 575-square-foot space, hardly bigger than a studio apartment. She turned it around on a shoestring and named it Birba after her nickname, Italian for “little troublemaker.”

Valgiusti’s wine bona fides show on her list of mostly European wines by the glass and bottle; you’ll find more varietals like Barbaresco than Chardonnay and Cabernet Sauvignon, and vermouths and sherries have their own sections.

You’ll also find many affordable selections. You can get a \$19 glass of Champagne, or a \$10 glass of Banquette de Limoux with depth and nuance.

Valgiusti says that she wants Birba to be the kind of place where locals leave keys for friends coming in from the airport — a corner bar that serves as a meeting place and second living room.



That kind of intimacy can't be invented, but must be earned. It may already be beginning to take root. The bar is a sliver of a space off the beaten Hayes Valley path, and was full on a recent Sunday. Voices bouncing off the concrete walls were convivial more than deafening, and groups blended together in the narrow room.

Small details save it from feeling like a bunker, like a rustic metal bucket holding white wines in ice, Spanish tiles behind the bar and a blue bench in back for groups or couples.

Its best potential feature isn't even open yet: a pocket garden in back. Valgiusti has to wait six months to apply for a conditional-use permit to open the space, prompted by neighbor concerns about noise.

Food comes from former Bar Jules chef Jill Hanson, in the form of tapas — like boquerones and Spanish tortilla — and a short lunch menu of sandwiches, salads and soups.

I realized that I hadn't eaten salty, briny fish with toothpicks and paired with a lively white wine since the last time I was in Spain. And that's when I welcomed the latest addition to San Francisco's wine bar belt.

*Anna Roth is a freelance writer. E-mail: [food@sfchronicle.com](mailto:food@sfchronicle.com)*

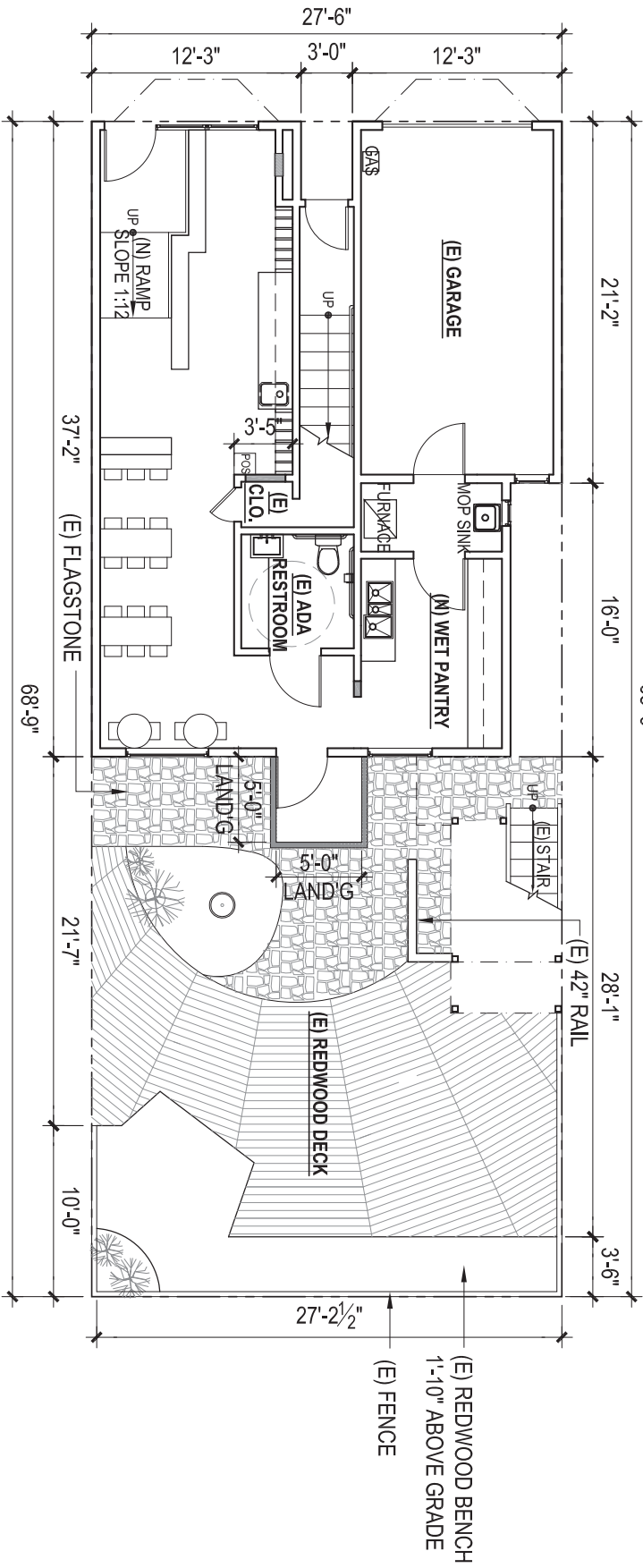
## **If you go**

**To drink:** Vergues Blanquette de Limoux Languedoc (\$10); Easkoot 2014 “Perseverance” Chileno Valley Rosé of Pinot Noir (\$12); Renato Corino 2013 Barbera d'Alba (\$13).

**Where:** Birba, 458 Grove St. (near Octavia Street), S.F. (415) 549-7612.  
[www.birbawine.com](http://www.birbawine.com).

**When:** 5-10 p.m. Tuesday-Friday, 3-10 p.m. Saturday-Sunday.





1 PROPOSED FIRST FLOOR PLAN



NO.	REVISIONS	BY

**HTAI**

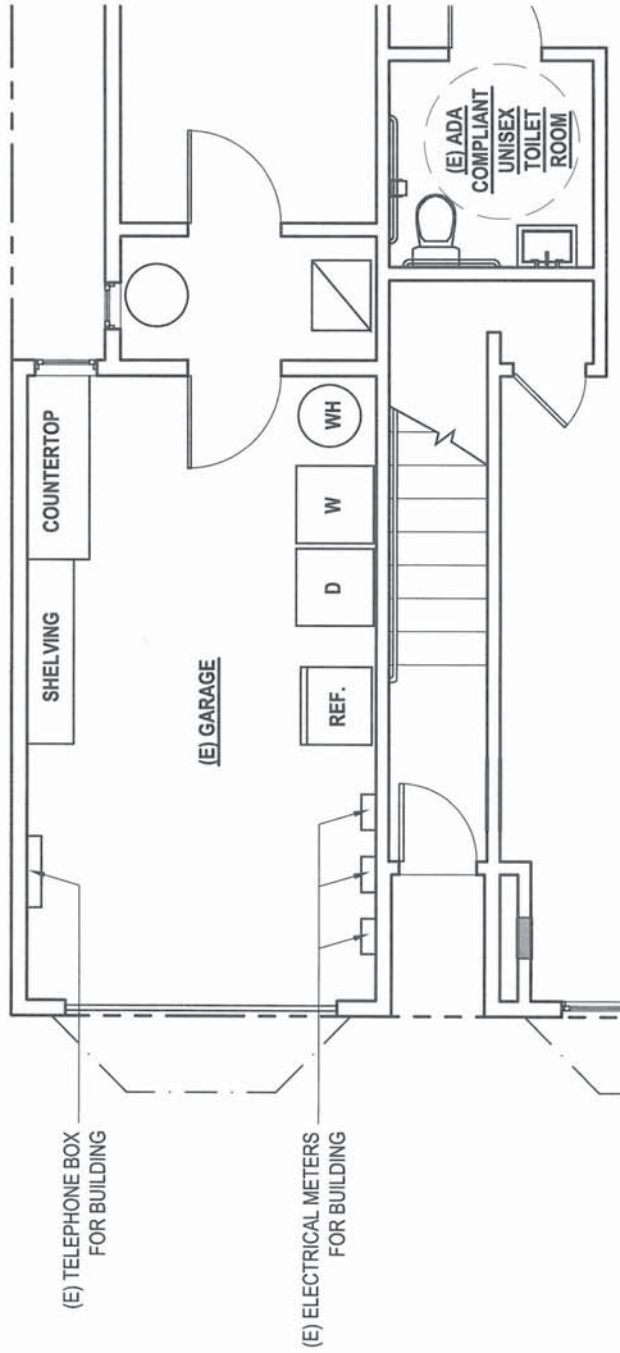
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 TEL: 415-554-5005



**458 GROVE STREET**  
 458 GROVE STREET - SAN FRANCISCO, CALIFORNIA 94102  
 BLOCK: 0793 LOT: 014

SHEET TITLE  
**PROPOSED FLOOR PLAN**  
 DATE: 06/05/14  
 DRAWN: KR  
 JOB: A1.2





**EXISTING GARAGE PLAN**

1

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