



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Conditional Use

HEARING DATE: DECEMBER 21, 2017

*Date:* December 14, 2017  
*Case No.:* **2016-002914CUA**  
*Project Address:* **2722 FOLSOM STREET**  
*Zoning:* RH-2(Residential House- Two Family) District  
40-X Height and Bulk District  
*Block/Lot:* 3641/002  
*Project Sponsor:* Brett Gladstone, Hanson Bridgett LLP  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
*Property Owner:* Michael Turon  
180 Montgomery Street, Suite 600  
San Francisco, CA 94104  
*Staff Contact:* Kimberly Durandet – (415) 575-6816  
[kimberly.durandet@sfgov.org](mailto:kimberly.durandet@sfgov.org)  
*Recommendation:* **Disapproval**

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### PROJECT DESCRIPTION

The project sponsor proposes a merger of two dwelling units at the ground floor of a three unit, three-story residential building. The two units proposed for merger were legalized and approved by Planning in 1975, and received a Certificate of Final Completion and Occupancy (CFC) for that scope of work under Permit Application No. 449293 from DBI (formerly BBI) on June 30, 1976.

### SITE DESCRIPTION AND PRESENT USE

The subject property is located on the west side of Folsom Street, between 23<sup>rd</sup> and 24<sup>th</sup> Streets, and is located within the Residential House, Two Family (RH-2) Zoning and the 40-X Height and Bulk District. The property is developed with a three-story residential building that was constructed in 1895 and currently contains two dwelling units at the ground floor and the third unit occupying the second and third floors.

### SURROUNDING PROPERTIES AND NEIGHBORHOOD

The area immediately surrounding the project site is predominately residential in character with RH-2 and RH-3 zoned properties located in the Mission neighborhood. One block south is the 24<sup>th</sup> Street Mission NCT (Neighborhood Commercial Transit) Zoning District with a variety of commercial establishments located within ground floor storefronts, including restaurants, bars, apparel stores, convenience stores, personal service businesses, and other types of retailers. Buildings in the vicinity range in height from one to three stories, with upper floors generally occupied by residential units.

Beyond the immediate area, the surrounding neighborhood is primarily zoned for Urban Mixed Use (UMU) and Public (P) uses.

## ENVIRONMENTAL REVIEW

The denial of a Conditional Use Authorization is not defined as a “project” pursuant to CEQA Guidelines Sections 15050(c)(2) and 15378 because there is no corresponding action that would result in a physical change in the environment.

Should the Commission indicate intent to approve the Conditional Use Authorization, the project will return at a future hearing in order to provide the Commission with an approval motion and an amended CEQA analysis for the corresponding project.

## HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	December 1, 2017	November 29, 2017	22 days
Posted Notice	20 days	December 1, 2017	December 1, 2017	20 days
Mailed Notice	20 days	December 1, 2017	December 1, 2017	20 days

The proposal requires a Section 311 neighborhood notification, including notification to all units in the subject building, whether authorized or unauthorized. The mailed notice covered the various noticing requirements.

## PUBLIC COMMENT/COMMUNITY OUTREACH

- To date, the Department has received communications in opposition to the proposal from the current tenants of the dwelling units proposed for merger.

## ISSUES AND OTHER CONSIDERATIONS

- Planning Code Section 317 sets forth additional criteria for the Planning Commission to consider when reviewing applications for the merger of dwelling units. A full discussion of these additional criteria may be found within the draft motion, with a short summary provided below:
  - The merger does not involve owner occupied housing nor is it intended for use by the property owner.
  - The appraisal found that there was no change to the value of the property as a result of the dwelling unit merger.
  - The units subject to the merger have been legally existing units since 1975. Merger of the units would result in the displacement of one or more of the existing tenants, and the direct elimination of a unit subject to the Residential Rent Stabilization and Arbitration Ordinance.
  - The project sponsor alleges that the CFC issued in 1975 was done so in error, that the work under Permit Application No. 449293 was never completed, and the units should be merged to return the ground floor to its original configuration as one dwelling unit. The Department of Building Inspection issued a CFC in 1976 that deemed the work

complete for the legalization of three dwelling units. Subsequently, another CFC for Building Permit Application No. 8608636 was issued for the property identifying that the building contained three dwelling units that were occupied as apartments. The project sponsor has filed the application to merge the dwelling units of his own volition. The existing units are habitable, and there has been no action from DBI's Housing Division deeming the subject units are an imminent hazard, or that the units are currently not in compliance with the Housing Code standard.

- The proposed dwelling unit merger is located within the RH-2 Zoning District, and the project proposes to reduce the number of dwelling units from three to two. Although this will bring the property into closer conformance with the zoning, the City has adopted policies to allow additional density in all zoning districts to help in alleviating the current housing crisis. Therefore, there is insufficient rational in this criteria to support the merger of the dwelling units.
- Department staff conducted a site visit of the property, and during the inspection two additional unauthorized dwelling units were found on the site.; One unit was located in the attic with a kitchen that was accessible only through the rear deck and stairs because the connection to the 2<sup>nd</sup> floor unit was permanently locked, and the second unit was discovered in an ancillary structure, or cottage in the rear yard. The project sponsor stated that he did not want to seek legalization of these unauthorized units and was seeking to remove them.
- Department staff directed the property owner to proceed through DBI review to determine if there was a path to legalize the unauthorized units under Section 106A.3.1.3 of the Building Code. On October 20, 2017, the Department of Building Inspection confirmed that the dwelling units located in the attic and rear cottage had no path to legalization and therefore, were exempt from Conditional Use authorization for the removal of unauthorized dwelling units under Planning Code Section 317(c)(4). The property owner has filed a permit to remove the unauthorized units and a subsequent site inspection has confirmed that there are no tenants currently residing in those units. Therefore, the only matter before the Commission is the merger of the ground floor units under 317(f).

## **REQUIRED COMMISSION ACTION**

In order for the project to proceed, the Commission must grant Conditional Use Authorization pursuant to Planning Code Sections 303 and 317 to allow the merger of two dwelling units at the ground floor, within the RH-2 Zoning and a 40-X Height and Bulk District.

## **BASIS FOR RECOMMENDATION**

- The project would result in the displacement of an existing tenant, and the elimination of a dwelling unit that is subject to the Residential Rent Stabilization and Arbitration Ordinance

<b>RECOMMENDATION:</b>	<b>Disapproval</b>
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**Executive Summary**  
**Hearing Date: December 21, 2017**

**CASE NO. 2016-002914CUA**  
**2722 Folsom Street**

**Attachments:**

Block Book Map  
Sanborn Map  
Zoning Map  
Context Photographs  
Site Photographs

Attachment Checklist

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

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

\_\_\_\_\_KJD\_\_\_\_\_

Planner's Initials



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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## Planning Commission Draft Motion

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[kimberly.durandet@sfgov.org](mailto:kimberly.durandet@sfgov.org)

**ADOPTING FINDINGS RELATING TO THE DISAPPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 317 OF THE PLANNING CODE TO ALLOW THE MERGER OF TWO DWELLING UNITS INTO ONE AT THE GROUND FLOOR OF AN EXISTING THREE-STORY, THREE-FAMILY DWELLING, WITHIN THE RH-2 ZONING DISTRICT, MISSION 2016 INTERIM ZONING CONTROLS (PLANNING COMMISSION RESOLUTION NO. 19686) AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On March 03, 2016, Michael Turon, (hereinafter “property owner”) filed Building Permit Application No. 2016.0310.1720, to merge two legal units into one at the ground floor.

On March 3, 2016, the project sponsor filed an application with the Department for Conditional Use Authorization under Planning Code Sections 303 and 317, to allow the merger of two units into one on the ground floor within the Residential House-Two Family and a 40-X Height and Bulk District.

On November 2, 2016, Department staff conducted a site visit and in addition to the three authorized dwelling units, there were two additional unauthorized dwelling units located in a rear structure and on the top floor attic space.

On October 20, 2017, the Department of Building Inspection provided a determination to the Planning Department that the two unauthorized units located in the rear structure and the attic space had no path for legalization, and therefore were exempt under Section 317(c)(4) from Conditional Use authorization to remove the unauthorized units.

On December 21, 2017, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2016-002914CUA.

The denial of a Conditional Use Authorization is not defined as a "project" pursuant to CEQA Guidelines Sections 15050(c)(2) and 15378 because there is no corresponding action that would result in a physical change in the environment.

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

**MOVED**, that the Commission hereby does not authorize the Conditional Use requested in Application No. 2016-002914CUA, to merge two legal units into one at the ground floor, based on the following findings:

## FINDINGS

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

The above recitals are accurate and constitute findings of this Commission.

1. **Site Description and Present Use.** The subject property is located on the west side of Folsom Street, between 23<sup>rd</sup> and 24<sup>th</sup> Streets, and is located within the Residential House, Two Family (RH-2) Zoning and the 40-X Height and Bulk District. The property is developed with a three-story residential building that was constructed in 1895 and currently contains two dwelling units at the ground floor and the third unit occupying the second and third floors.
2. **Surrounding Properties and Neighborhood.** The area immediately surrounding the project site is predominately residential in character with RH-2 and RH-3 zoned properties located in the Mission neighborhood. One block south is the 24<sup>th</sup> Street Mission NCT (Neighborhood Commercial Transit) Zoning District with a variety of commercial establishments located within ground floor storefronts, including restaurants, bars, apparel stores, convenience stores, personal service businesses, and other types of retailers. Buildings in the vicinity range in height from one to three stories, with upper floors generally occupied by residential units. Beyond the immediate area, the surrounding neighborhood is primarily zoned for Urban Mixed Use (UMU) and Public (P) uses.
3. **Project Description.** The project sponsor proposes a merger of two dwelling units at the ground floor of a three unit, three-story residential building. The two units proposed for merger were legalized and approved by Planning in 1975, and received a Certificate of Final Completion and

Occupancy (CFC) for that scope of work under Permit Application No. 449293 from DBI (formerly BBI) on June 30, 1976.

4. **Public Comment.** To date, the Department has received communications in opposition to the proposal from the current tenants of the dwelling units.
5. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Residential Merger.** Planning Code Section 317(g)(2) The Planning Commission shall consider the following criteria in the review of applications to merge Residential Units or Unauthorized Units:
    - i. whether removal of the unit(s) would eliminate only owner occupied housing, and if so, for how long the unit(s) proposed to be removed have been owner occupied;  
*The proposal does not involve owner occupied housing.*
    - ii. whether removal of the unit(s) and the merger with another is intended for owner occupancy;  
*The proposal is not intended for owner occupied housing.*
    - iii. whether removal of the unit(s) will remove an affordable housing unit as defined in Section [401](#) of this Code or housing subject to the Residential Rent Stabilization and Arbitration Ordinance;  
*The units proposed for merger are not affordable housing units per Section 401, but are subject to the Residential Rent Stabilization and Arbitration Ordinance.*
    - iv. if removal of the unit(s) removes an affordable housing unit as defined in Section 401 of this Code or units subject to the Residential Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the units being removed;  
*No replacement units are proposed.*
    - v. how recently the unit being removed was occupied by a tenant or tenants;  
*The units are currently occupied by tenants.*
    - vi. whether the number of bedrooms provided in the merged unit will be equal to or greater than the number of bedrooms in the separate units;  
*The proposed unit merger will result in a unit with the equal or greater number of bedrooms.*
    - vii. whether removal of the unit(s) is necessary to correct design or functional deficiencies that cannot be corrected through interior alterations;  
*The project sponsor alleges that the CFC issued in 1975 was done so in error, that the work under Permit Application No. 449293 was never completed, and the units should be merged to return the ground floor to its original configuration as one dwelling unit. The Department of Building*



*Inspection issued a CFC in 1976 that deemed the work complete for the legalization of three dwelling units. Subsequently, another CFC for Building Permit Application No. 8608636 was issued for the property identifying that the building contained three dwelling units that were occupied as apartments. The project sponsor has filed the application to merge the dwelling units of his own volition. The existing units are habitable, and there has been no action from DBI's Housing Division deeming the subject units are an imminent hazard, or that the units are currently not in compliance with the Housing Code standard.*

- viii. the appraised value of the least expensive Residential Unit proposed for merger only when the merger does not involve an Unauthorized Unit.

*The project sponsor submitted two appraisals, one for a two unit building and another for a three unit building with the assumption that there would be \$230,000 in associated costs to renovate the existing units to meet current Code requirements. In the appraisals summary the reported values for the property are as follows: 1<sup>st</sup> floor unit A (front) at 601 sq ft is \$275,893.30; 1<sup>st</sup> floor unit B (rear) at 959 sq ft is \$440,235.73; and upper floor unit at 2,470 sq ft is \$1,133,870.97. The appraised value of the combined units A and B if merged at 1,560 sq ft is \$716,129.03. The total building value is appraised at \$1,850,000 whether it is deemed a two or three unit building. Please note, there has been no action from the Housing Division of the Department of Building Inspection deeming the subject units to be an imminent hazard or requires to be renovated to meet current Housing Code standards.*

- ix. The Planning Commission shall not approve an application for Residential Merger if any tenant has been evicted pursuant to Administrative Code Sections [37.9\(a\)\(9\)](#) through [37.9\(a\)\(14\)](#) where the tenant was served with a notice of eviction after December 10, 2013 if the notice was served within 10 years prior to filing the application for merger. Additionally, the Planning Commission shall not approve an application for Residential Merger if any tenant has been evicted pursuant to Administrative Code Section [37.9\(a\)\(8\)](#) where the tenant was served with a notice of eviction after December 10, 2013 if the notice was served within five (5) years prior to filing the application for merger. This Subsection (g)(2)(H) shall not apply if the tenant was evicted under Section [37.9\(a\)\(11\)](#) or [37.9\(a\)\(14\)](#) and the applicant(s) either (A) have certified that the original tenant reoccupied the unit after the temporary eviction or (B) have submitted to the Planning Commission a declaration from the property owner or the tenant certifying that the property owner or the Rent Board notified the tenant of the tenant's right to reoccupy the unit after the temporary eviction and that the tenant chose not to reoccupy it.

*Planning Department staff requested an eviction history for the subject property from the Rent Board, and the property does not have a history of evictions pursuant to the Administrative Code Sections referenced above for "No Fault" evictions. The eviction history documents are part of the Conditional Use Authorization request and are available for review per Case No. 2016-002914CUA.*

6. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does not comply with said criteria in that:

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

*The proposed dwelling unit merger has no physical expansion of the building envelope. All changes are interior only. However, the proposed merger would result in the elimination of a residential dwelling unit, which are currently occupied by tenants, and is subject to rent control. The displacement of one or both unit tenants and the elimination of a rent-controlled unit of housing is not necessary nor desirable when considering the City's current housing and affordability crisis. It would be very difficult for the tenants to secure any comparable replacement housing.*

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

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

*The proposed project would not alter the exterior building envelope and would therefore have no impact on the proposed site, structures in the vicinity, or neighborhood.*

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

*The proposed merger would not affect traffic patterns and vehicle parking and loading.*

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

*The proposed project would not result in any noxious or offensive emissions such as noise, glare, dust and odor.*

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

*The proposed project would not require any additional treatments related to landscaping, screening, open spaces, parking and loading areas, service areas, lighting or signs.*

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

*The Project complies with all relevant requirements and standards of the Planning Code, however is not consistent with objectives and policies of the General Plan as detailed below.*

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

*The proposed dwelling unit merger is located within the RH-2 Zoning District. The project proposes to reduce the number of dwelling units from 3 to 2. Although this will bring the property into closer conformance with the Zoning, the removal of a dwelling unit requires careful consideration at this time. The City has adopted many policies to allow additional density in all Zoning Districts to assist in alleviating the current housing crisis. Therefore, there is insufficient rational in this criteria to support the merger of the dwelling units.*

7. **Mission Interim Zoning Controls.** Planning Commission Resolution No. 19548 requires that any project resulting in the loss or a rent controlled unit provide additional information that shall be considered by the Planning Commission in its deliberation of the application.
- a. Whether there are any new units in the proposed project and whether the newly created unit would be subject to San Francisco Rent Stabilization and Arbitration Ordinance; would be considered replacements units to be occupied by low or very low income households under the State Density Bonus Law; and would be a designated Below Market Rental Unit for the purposes of meeting the Inclusion Housing requirements under Code Section 15. Further discuss how the project addresses the loss of the rent controlled units, and whether there project proposes to construct new rental units.

*The newly merged unit would be subject to Rent Control. This project is not using the State Density Bonus Law and the building is not subject to he City's Inclusionary Housing Requirements. There will be a loss of one rent controlled unit and there will not be development of a new rental unit to take its place.*

- b. The Commission shall find in making a determination to approve the project that the project meets the majority of the following criteria:
  - i. The property is free of a history of serious, continuing Code violations;  
*The subject property had an enforcement case related to short-term rental that was opened on March 14, 2017 and closed as abated on June 5, 2017. There are no other violations in the property record.*
  - ii. the housing has been maintained in a decent, safe and sanitary conditions;  
*The housing appears to have been maintained in a decent, safe, and sanitary conditions with routine inspections by DBI.*
  - iii. the project does not convert rental housing to other forms of tenure or occupancy such as tenancy in common;  
*The project does not seek to convert rental housing into another form of occupancy such as a tenancy in common.*
  - iv. the project conserves housing to preserve neighborhood cultural and economic diversity;  
*The Project does not conserve existing housing as it would eliminate one dwelling unit from the housing stock. In removing a rent controlled unit, the economic diversity of the neighborhood would be diminished.*
  - v. the project conserves neighborhood character.  
*This project does not propose exterior alterations on an A-rated historic resource which will conserve the neighborhood character.*

- vi. the project protects the relative affordability of existing housing;  
*The Project does not protect existing housing as it would eliminate one relatively affordable dwelling unit from the housing stock.*
- vii. The project increases the number of permanently affordable units as governed by section 415;  
*Section 415 is not applicable to this project.*
- viii. the project increases the number of family-size units on-site;  
*The newly created unit in this project will increase the family-size units on-site. The new family-size unit will be protected under the SF Rent control ordinance.*

8. **General Plan Compliance.** The Project is, on balance, not consistent with the following Objectives and Policies of the General Plan:

## HOUSING

### Objectives and Policies

#### **OBJECTIVE 2:**

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

#### **Policy 2.1:**

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

#### **Policy 2.4:**

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

#### **OBJECTIVE 3:**

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

#### **Policy 3.1:**

Preserve rental units, especially rent controlled units, to meet the City's affordable housing needs.

*The proposed dwelling unit merger will not retain existing housing units, nor will it protect the affordability of the existing housing stock. The removal of the subject unit would result in a net decrease of one unit to the City's overall housing stock. Conversely, the proposed project would result in the elimination of an affordable rental unit, one that is both subject to rent control, and considered naturally affordable due to its modest size of approximately 601 square feet and with one bedroom.*

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does not comply with said policies in that:

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

*The proposed project has no retail or business component.*

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

*The proposed project would eliminate one existing housing unit that is currently occupied, subject to rent control, and naturally affordable due to its small size.*

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

*The proposed project would eliminate one existing housing unit that is currently occupied, subject to rent control, and naturally affordable due to its small size.*

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

*The proposed project would have no effect on commuter traffic or neighborhood parking.*

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

*The proposed project would not displace any service or industry establishment.*

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

*The proposed project if approved would be required to be constructed to conform to the structural and seismic safety requirements of the City Building Codes.*

- G. That landmarks and historic buildings be preserved.

*A Category A historic resource does occupy the Project site. The proposed merger would have no exterior modifications to the building.*

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

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

10. The Project is inconsistent with and would not promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would not contribute to the character and stability of the neighborhood and would not constitute a beneficial development.

11. The Commission hereby finds that approval of the Conditional Use authorization would not promote the health, safety and welfare of the City.

## DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **DISAPPROVES Conditional Use Application No. 2016-002914CUA.**

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

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on September 14, 2017.

Jonas P. Ionin  
Commission Secretary

AYES:

NAYS:

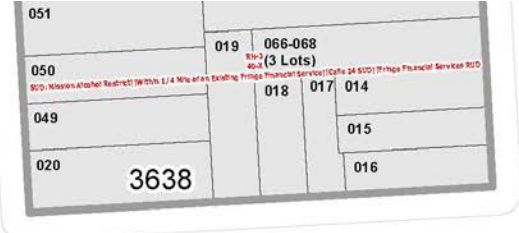
ABSENT:

ADOPTED: December 21, 2017

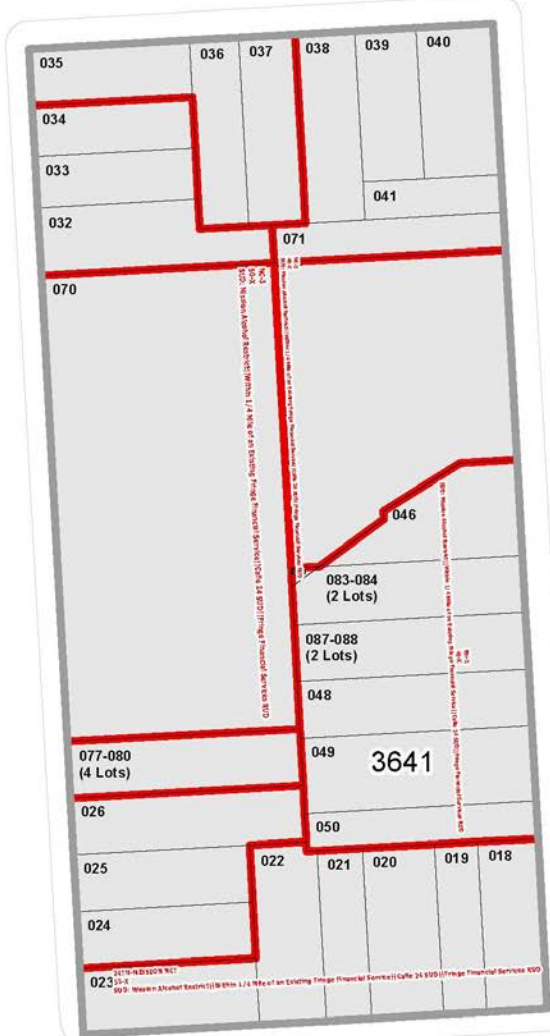
# Parcel Map



23rd St

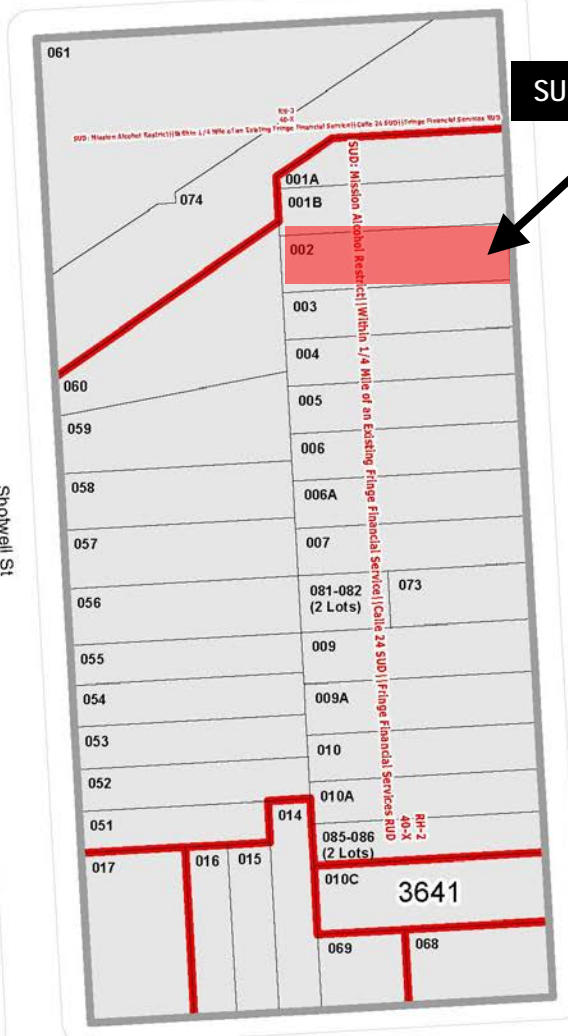


3638



South Van Ness Ave

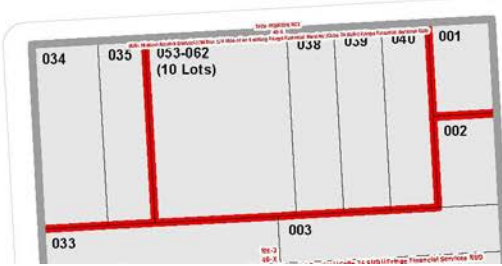
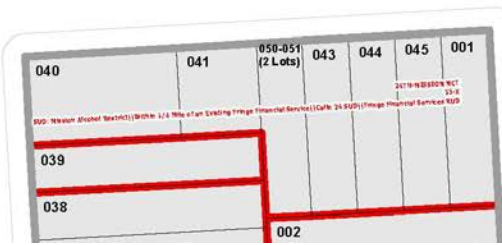
24th St



Shotwell St

Folsom St

SUBJECT PROPERTY



Conditional Use Authorization  
Case Number 2016-002914CUA  
2722 Folsom Street



# Sanborn Map\*

SUBJECT PROPERTY

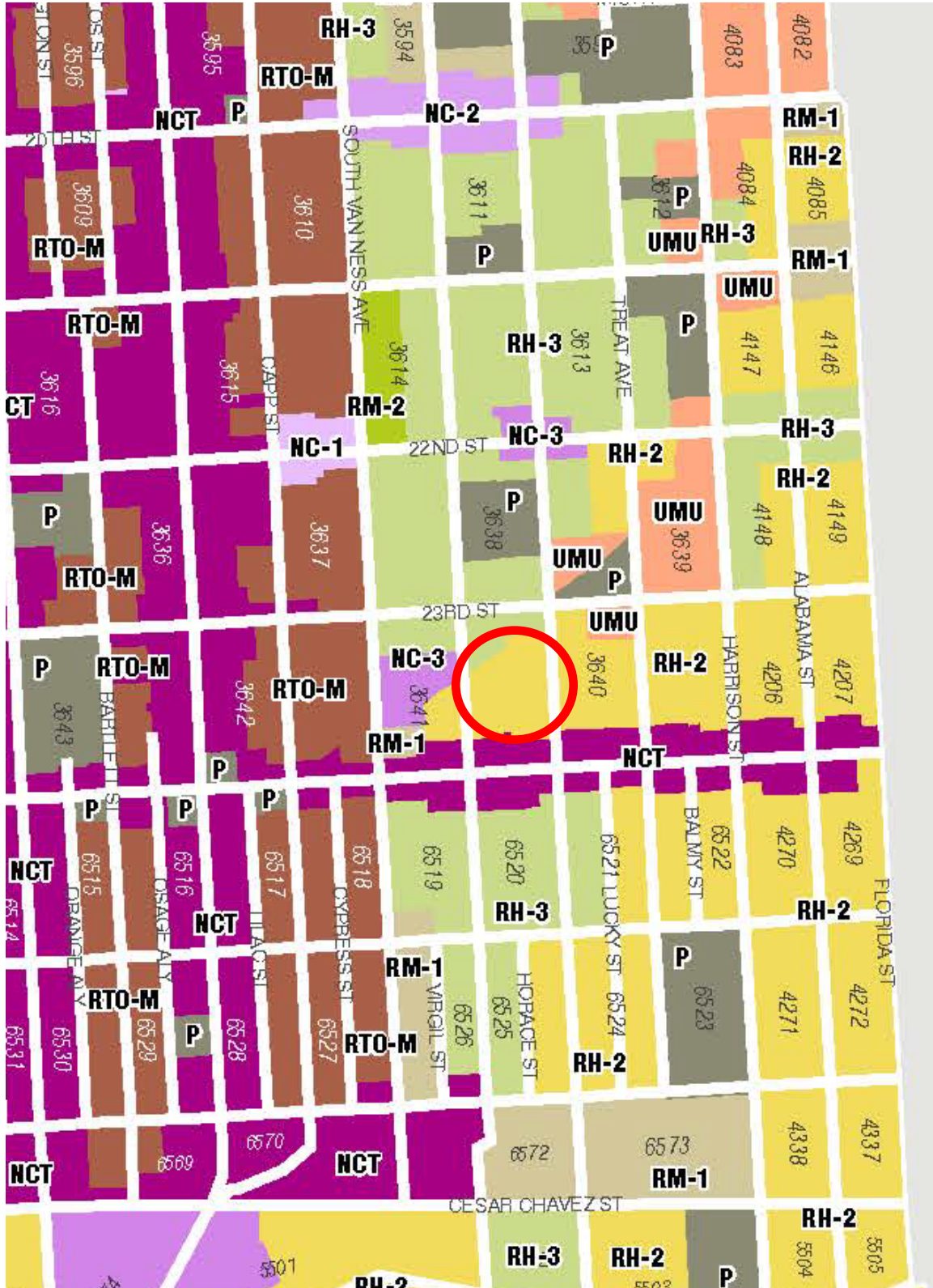


\*The Sanborn Map

conditions.



# Zoning Map



Conditional Use Authorization  
Case Number 2016-002914CUA  
2722 Folsom Street

# Site Photo



Conditional Use Authorization  
Case Number 2016-002914CUA  
2722 Folsom Street



# Context Photo



BRETT GLADSTONE  
PARTNER  
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DIRECT FAX (415) 995-3517  
E-MAIL [BGladstone@hansonbridgett.com](mailto:BGladstone@hansonbridgett.com)

December 13, 2017

Rich Hillis, President  
San Francisco Planning Commission  
1660 Mission Street, Suite 400  
San Francisco, CA 94103

Re: 2722-2724 Folsom Street - Conditional Use Hearing  
Our File No. 34668.1

Dear President Hillis and Commissioners:

I represent Michael Turon, the sole owner of an apartment building in the Mission, located on Folsom St between 23<sup>rd</sup> and 24<sup>th</sup> Street. According to the Records Division of the Building Department, the property contains a three unit building. (See 3R Report attached as Exhibit A.) This Conditional Use Approval requests permission to remove one unit in the building, a unit that the Building Department has stated to be illegally created by a 1976 Certificate of Occupancy and Final Completion (CFC) that was issued in error to take the building from two legal units to two legal units and one illegal unit. The illegal one bedroom unit is the front unit on the ground floor of the building, See Plans as Exhibit B.

### **Introduction.**

Michael Turon lost his job in New York City earlier this summer due to downsizing. He decided to return to San Francisco to better assist his mother who has cancer and seek a job here. Michael is still unemployed, and is seeking a job and assisting his sick mother while managing the building. He needs the rents from units in the building in question to cover the mortgage and expenses. As a result, he has become a roommate of a tenant elsewhere in the City, and he expects to continue to pay to be someone's roommate. Another reason for that is that he has learned from contractors and Fire Department and DBI during this Planning Department application process that there are many serious hazards with his building through the resulting fire code and building code deficiencies that the departments discovered in 1976, and those departments have now written that these deficiencies were never cured.

An eviction, such as an Owner Move-In, would also disqualify Michael's ability to remedy the hazards in his building. Michael worries about the safety of his tenants, particularly the ones in areas that the Fire Department and Department of Building Inspection (DBI) recently advised your Staff that should never have been the subject of a division from one unit to two. In fact, Michael's insurance company (as required by his policy) is aware of the Fire Department and DBI's determination as to safety, and Michael is concerned were there to be property damage and personal injury due to these conditions, he would have huge damages to pay given he is aware of the dangers.

### **Applicable Regulations.**

Property owners may only remove an illegal unit (Unauthorized Unit) administratively without a Planning Commission hearing when there is "no path for legalize" the Unauthorized Unit. Otherwise, the removal of the Unauthorized Unit requires Conditional Use Authorization under Section 317.

DBI determines if it is infeasible to legalize an Unauthorized Unit because there is "no path for legalization" or for other reasons. The front ground floor unit is not the subject of a "no path for legalization" letter from DBI, but is in fact the subject of a statement from both the DBI and the Fire Department that the unit is not safe as it is not fire-rated; and yet it was approved as a new unit in 1976 without being fire-rated (and without other required work to legalize being done). See requirements 52, 56, & 60 in the CFC shown in page 1 of Exhibit C. They were not done. See also the check list report at page 2 of Exhibit C.

When there is a path to legalization, the Fire Department and DBI came up with a written statement to the Public, approved by the Mayor's Office, as to whether the City should force an owner to legalize. That written statement to the public states that there are limited circumstances in which illegal units should be removed where there is a path for legalization. The Criteria are based on whether the legalization is very expensive to do so, whether the expense to legalize is covered by the appreciation of the property value, and whether it would be a hardship to the owner (assuming no City funds exist to assist the owner) to force the owner to legalize a unit.

### **Findings for Removal of Dwelling Unit Are Met.**

The proposed merger satisfies all four of the review criteria that the Planning Commission shall consider when reviewing applications to remove an Unauthorized Unit (317(g)(6)):

*(A) Whether the unit is eligible for legalization;*

One of the two units being removed (the front ground floor unit) has been found by the Fire Department and Building Department (see Exhibit D) to be an unauthorized unit, and thus it is eligible for legalization under Section 207.3.

*(B) Whether the cost to legalize the unit is reasonable based on the average cost to legalize;*

The cost to legalize the Unauthorized Unit under applicable codes, especially the Building Code, Housing Code and Fire Code, is unreasonable here. This has been demonstrated to Planning Staff here. It is (as required by the regulation) based on how such cost compares to the average cost of legalization per unit as such average cost of legalization is described in Section 207 et seq. of the Planning Code.

Section 317(d)(3)(B) of the Code takes into account a "soundness factor" for a unit or structure. The "soundness factor" is stated as the ratio of a construction upgrade cost (i.e., an estimate of the cost to repair specific habitability deficiencies), in this case \$230,000 for the smallest unit

per DBI Determination (attached as Exhibit E), to the replacement cost<sup>1</sup> per DBI determination (i.e., an estimate of the current cost of building a structure, or unit, the same size as the existing building or unit proposed for demolition or merger) expressed as a percent. For the smallest unit, and per the DBI Determination, the calculated "upgrade cost" is \$366.06 per square foot. A building is "unsound if its soundness factor exceeds 50%". Under Section 317 (d)(3) a building or unit that is unsound may be approved for demolition or merger. See Exhibit F for a clearer explanation.

In the instance of this application, the soundness criteria is met.

The cost of \$230,000 is comprised of work for Fire Safety, Electrical, Plumbing, Carpentry, Drywall, & Lead Abatement, as per a letter from Jimmy Chen of DBI of October 24 of 2017 to Planning Department. DBI has agreed in its October 24, 2017 (Exhibit E) letter that this amount may be low given the great increase in construction costs due to the Napa and Sonoma fires, and the contractor has estimated that the cost is now about \$287,000 (See page 2 of Exhibit E).

Planning Staff has a report from a general contractor, read and accepted as accurate by the Building Department, dealing with the high cost of the work.

*(C) Whether it is financially feasible to legalize the unit.*

Planning Staff is asked to evaluate the gain in property value by legalizing the unit and to compare this value to the cost to legalize the unit. A licensed California Appraiser has found (See Exhibit G) that the appreciated value gained by legalizing the unit does not cover the upgrade costs needed to address deficiencies in the building. Therefore, the legalization is fiscally unfeasible under the Planning Department formula. Since legalizing a third unit did not increase the property value according to the attached appraiser report, it stands to reason that the cost of \$230,000 to legalize this particular unit did not result in a value gain to this property.

*(D) If there are no City funds to assist the property owner with legalization costs, whether the cost to legalize would constitute a financial hardship.*

There are no City funds to assist the property owner with the legalization costs. Michael is out of a job and has been unemployed since June 30th, 2017. His last job was in New York City, and a downsizing of the company has left him without work. There is no assistance program that would help this owner with the cost of legalization. After being terminated from his position, Michael has moved back to San Francisco to look for a job, to assist his mother who is battling cancer, and to manage this property.

The cost to legalize the smallest unit, which is now about \$287,000, is not an amount Michael can afford to pay or obtain financing to do. Michael has approached lenders but because he is out of a job and because the building has so many code deficiencies besides those in the unit in question, he has not been able to find a loan. Documentation on job loss, financing, and Michael's mother's illness has all been sent to Planning Staff.

---

<sup>1</sup> The "replacement cost" stated in Section 317(d)(3)(B) and used to calculate the "Soundness factor" is defined in the Department's "Soundness Report Requirements" as \$200 a square foot.

This predicament means that if this merger is not approved, then Michael might sell the building and a new owner of the building would use the building as a single family dwelling and not re-rent units as they become available through natural attrition. Such a family could (as many families do today) live in all three units at the same time. The top two floors would be the main living area. One of the bottom two units would be a guest unit (and vacant when not in use). And the second small unit would be a home office and/or family recreation area.

**A Majority of The Residential Merger Criteria Are Met.**

See attached Exhibit H.

**The Planning Commission Shall Not Approve a Merger If Certain Evictions Have Taken place.**

The property has no history of evictions pursuant to the Administrative Code Sections mentioned above, all of which are the "No Fault" evictions (such as owner move-in, Ellis Acts, etc.) per Administrative Code Sections 37.9(a)(9) through 37.9(a)(14).

**Preserve Neighborhood Character.**

The property is a class "A" Historical Resource eligible for the California Register of Historic Resources, built in 1896 and located near the "Central Mission Shotwell Street" Historic District. However, it has reached the end of its useful life and needs a huge and expensive upgrade to preserve it another one hundred years. The property is located in a district of mostly original single family and 2-family dwellings. All adjacent properties to the project site are single family dwellings and not apartments buildings, and as such, approval of the project would bring the property compatible with the surrounding neighborhood. For that reason, the San Francisco Historic Association asks that you approve (Exhibit I).

**Preserve the Cultural and Economic Diversity.**

The "Zoning Controls on the Removal of Dwelling Units" first paragraph on page 4 under "Policies & Objectives", states:

"San Francisco's wellbeing and vitality depend on the City having a range of housing types and prices for all its inhabitants."

This project seeks to support this goal by increasing the diversity of housing stock through the creation of a housing type which does **not** exist today in the building, that is, a true family-size unit consisting of 3 bedrooms and 2.5 bath on the ground floor. Today, the units consist of only one small one bedroom unit and a small two bedroom unit. A three bedroom unit type has been identified by the Planning Commission as a priority to satisfy the tremendous need for units of 3 or 4 bedrooms, which represent only 8% of the housing stock in the City today, according to the Planning Department Housing Resources Report.

**Unit Deficiencies.**

The two units being merged are currently a danger to its occupants, violating many health and safety regulations (as per DBI's recent letter), particularly those regulations found in the Fire



Code. A previous owner was cited by the Building Department in writing in the mid-1970's that the units in the building were unsafe. For reasons unknown to the Building and Fire Departments (with whom we have met), a Building Inspector issued a Certificate of Occupancy and Final Completion (CFC) in the year 1976 stating that all the physical problems with the building (as noted earlier in No. 52 and No. 56 of a "Division of Apartment House and Hotel Inspection Report" in page 2 of Exhibit C) had been cured, and then issued a CFC as if the work to creating two units on the ground floor had been completed. However, recent inspections by DBI and private consultants have indicated the work was never done.

For example, in 1975 DBI had required that the owner "fireproof entire building with approved 1 hour fire resistive materials" in order for the building to be converted from a 2-unit dwelling to a 3-unit apartment building in Permit 405964. But the work was never done. This can be seen in each of the property's "Certificate of Occupancy and Final Completion" (CFC), under "Type of Bldg." As a result, today the building is still a Type-5 non-fire rated building ("5N") of two units, consisting of the downstairs unit and the two-floor upstairs unit and further confirmed in by DBI and Fire in their response to the project owner's pre-application meeting minutes (Exhibit D). They state:

"The building is a Type-5 Non-Rated building ("5N"). Records show that the building has not been 1-hour fire rated."

DBI has indicated that Issuance of a CFC does not abate nor can it be construed as an approval of a violation within the building code. In fact, Section 111 of the Building Code states the following:

"A building or structure shall not be used or occupied, and a change in the existing use or occupancy classification of a building or structure or portion thereof shall not be made, until the building official has issued an occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or other ordinances of the jurisdiction. [emphasis added.]"

Please note from the underlined language in the last sentence above that a CFC showing the legality of units (such as the one showing 2 legal units at the ground floor) is not the final word, and is changeable when there is evidence (as DBI acknowledges in Exhibit D) that the CFC was issued in error.

### **The Project Satisfies a Majority of the Mission Interim Controls.**

The project complies with the Mission Interim Controls as described in Exhibit J by meeting a majority of the criteria. Meeting a majority of them is deemed by the Mission Interim Controls to be sufficient compliance with those Controls.

### **Owner's Intentions Should Unit Merger Fail.**

As soon as tenants leave on their own accord, Michael will not continue to rent the units because his insurance company is aware they are dangerous, and aware that there is an illegal unit and likely would not pay in the event of a fire. He is so concerned about the harm would cause tenants in a fire that he would rather take these two units off the market. He would sell the building to a party who would use it as a single family home because it is safer, and that

new owner and they would likely keep the units (when they learn this merger proposal failed) but use them all together. The new owner would do this by using one as a place for guests, another for a place for a home office and building storage, and another as their residence. That means that two units would be removed from the housing stock, not the one unit he is proposing be removed from the housing stock.

Please note that in a memo to you early this year Staff stated:

In addition to the cost to provide appraisals, several applicants have indicated that there are other financial hardships which would result from their inability to remove the Unauthorized Unit. Such hardships have taken several forms in active cases; one sponsor would need to refinance their mortgage for a multi-unit building with over three units, which they cannot afford to maintain.

Your staff also stated:

To date, 258 units have been legalized, and there are a total of 443 projects in the legalization pipeline. However, several applicants seeking to remove Unauthorized Units have attempted to legalize the units but could not afford to do so. In some cases, required portions of the Conditional Use Authorization application have been too costly for the property owner to submit a completed application. In other cases, unforeseen circumstances arise from legalizing the unit, such as modified mortgage structures or greater costs of condominium conversions that make the legalization infeasible.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Brett Gladstone', with a long horizontal flourish extending to the right.

Brett Gladstone

cc: Kimberly Durandet  
Michael Turon

A



**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 *2722 - 2724 FOLSOM ST* Block *3641* Lot *002*

**Other Addresses**

- 1. A. Present authorized Occupancy or use: *THREE FAMILY DWELLING (FRONT)*
- 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-2* 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): *UNKNOWN*
- 6. Original Occupancy or Use: *UNKNOWN*
- 7. Construction, conversion or alteration permits issued, if any:

<u>Application #</u>	<u>Permit #</u>	<u>Issue Date</u>	<u>Type of Work Done</u>	<u>Status</u>
.15925	15925	Apr 01, 1908	MOVE AND RAISE HOUSE, UNDERPIN HOUSE, REBUILD FRONT/REAR PORCHES AND STAIRS, BATHROOM IN CENTER OF BUILDING	N
85264	85264	Mar 28, 1919	INSTALL GARAGE	N
181488	139481	Sep 27, 1929	ALTERATION TO GARAGE	N
198630	155800	Apr 11, 1932	REPAIR ROOF	N
273285	291913	Oct 19, 1962	REPAIR FRONT AND BACK STAIRS	C
449293	405964	Dec 08, 1975	BRING BUILDING UP TO CODE PER DAHI (CFC - 3FD)	C
8608636	717492	Mar 15, 1993	TO BRING BUILDING INTO FULL COMPLIANCE AS REQUIRED BY DEPARTMENT OF APARTMENT AND HOTEL INSPECTIONS CHECKLIST (CFC - 3FD)	C
200601192481	1077016	Jan 19, 2006	REROOFING	C
201003238760	1207622	Mar 23, 2010	2 X 4 RAFTER APPROX 4' AND RE-SHEETROCK CEILING	C
201004059649	1208613	Apr 05, 2010	REROOFING	C
201103293028	1234480	Mar 29, 2011	UNIT #2722 - INSTALL NEW TUB WITH NEW VALVE, RERFRAME TUB WALL, INSTALL NEW TILE, INSTALL 1 GFI	I
201201132234	1255811	Jan 13, 2012	REPLACE EXISTING 6' ALUMINUM HORIZONTAL SLIDING DOOR WITH NEW WHITE VINYL OF SAME	C

Address of Building 2722 - 2724 FOLSOM ST

Block 3641

Lot 002

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: 09 MAR 2017

Date of Expiration: 09 MAR 2018

By: NANCY GUTIERREZ

Report No: 201703064432

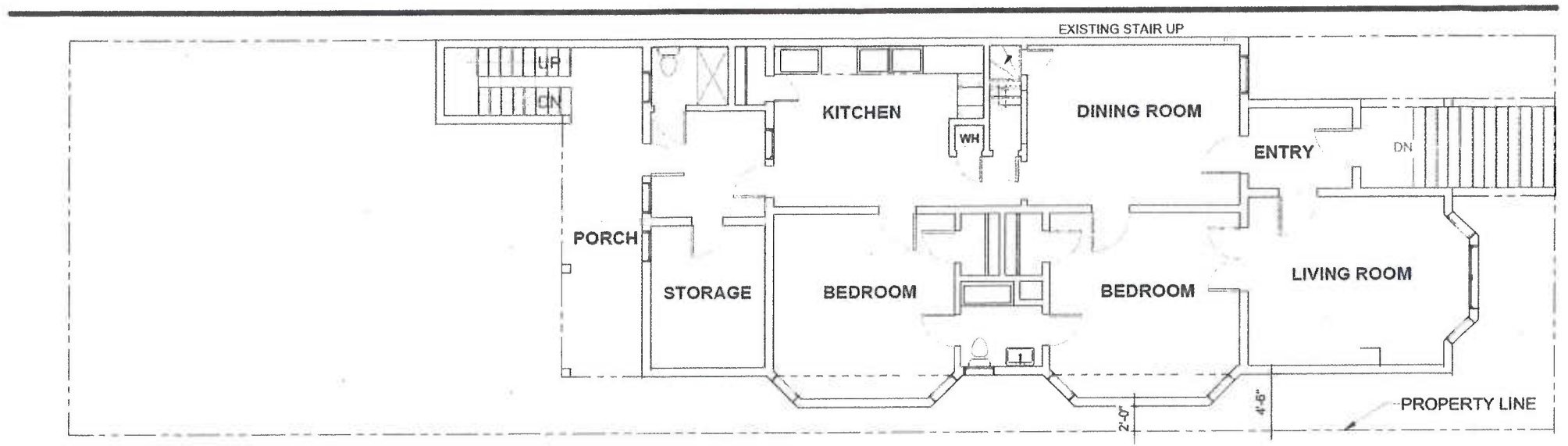
Patty Herrera, Manager  
Records Management Division

THIS REPORT IS VALID FOR ONE YEAR ONLY.

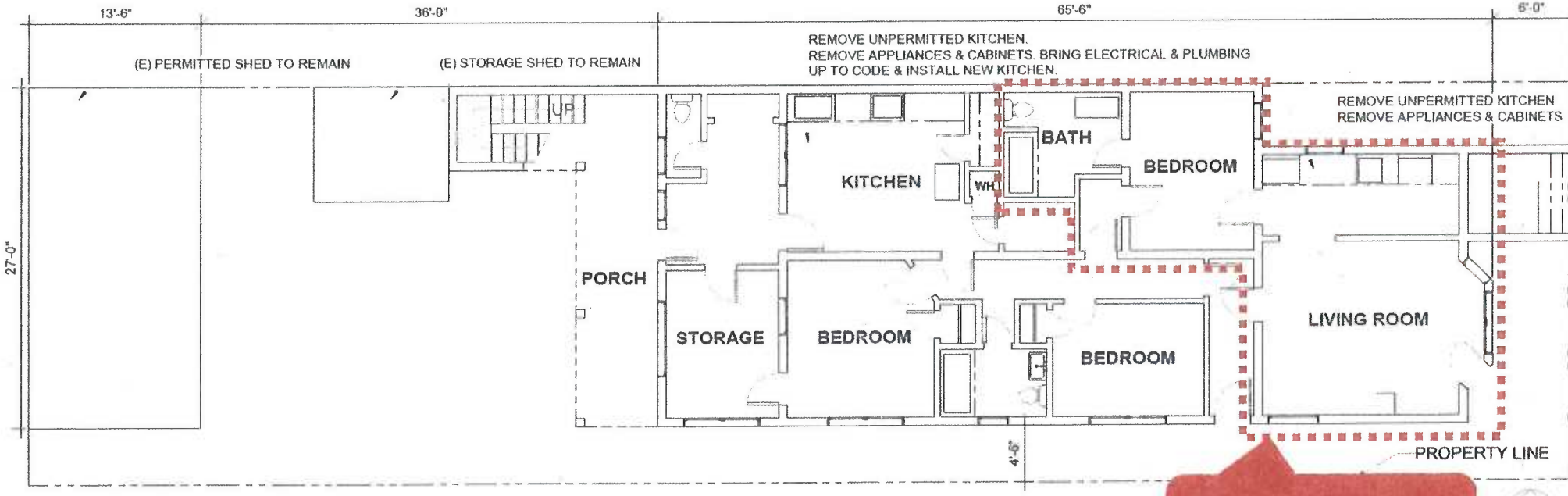
The law requires that, prior to the consummation of the sale or exchange of this property, the seller must deliver this report to the buyer and the buyer must sign it.

(For Explanation of terminology, see attached)

B



EXISTING FIRST FLOOR PLAN  
1/4" = 1'-0"



EXISTING GROUND FLOOR PLAN  
1/4" = 1'-0"

**Drawing Index:**

A1	Site Plan
A2	Existing Floor Plans
A3	Existing Floor Plans
A4	Proposed Floor Plans
A5	Proposed Floor Plans

2724 Folsom #A:  
"Front Ground Unit"

**David Locicero architect**  
California Registration C19152  
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Emeryville, CA 94608  
415.342.2204  
d.locicero@gmail.com  
www.dslocicero.architect.com

2722 - 2724 Folsom Street  
**3- UNIT TO 2- UNIT  
CONVERSION**

Michael Turon  
2722 - 2724 Folsom Street  
San Francisco, CA 94110  
turon@cantab.net

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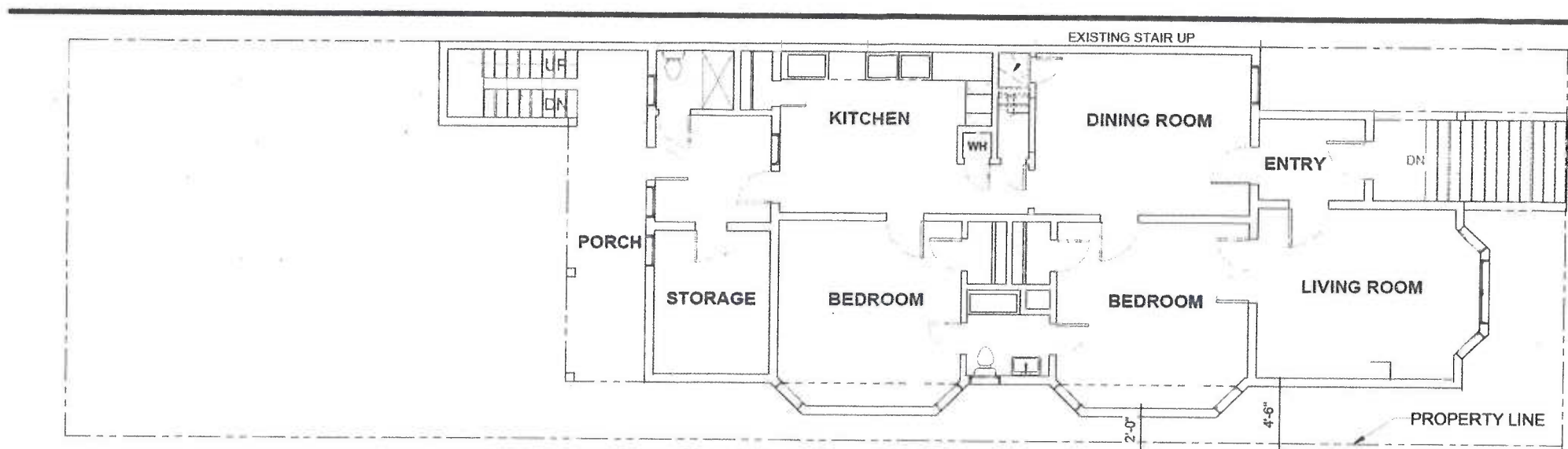
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Job Number:	

7/12/2017  
As Noted  
DLocicero  
DLocicero  
1706

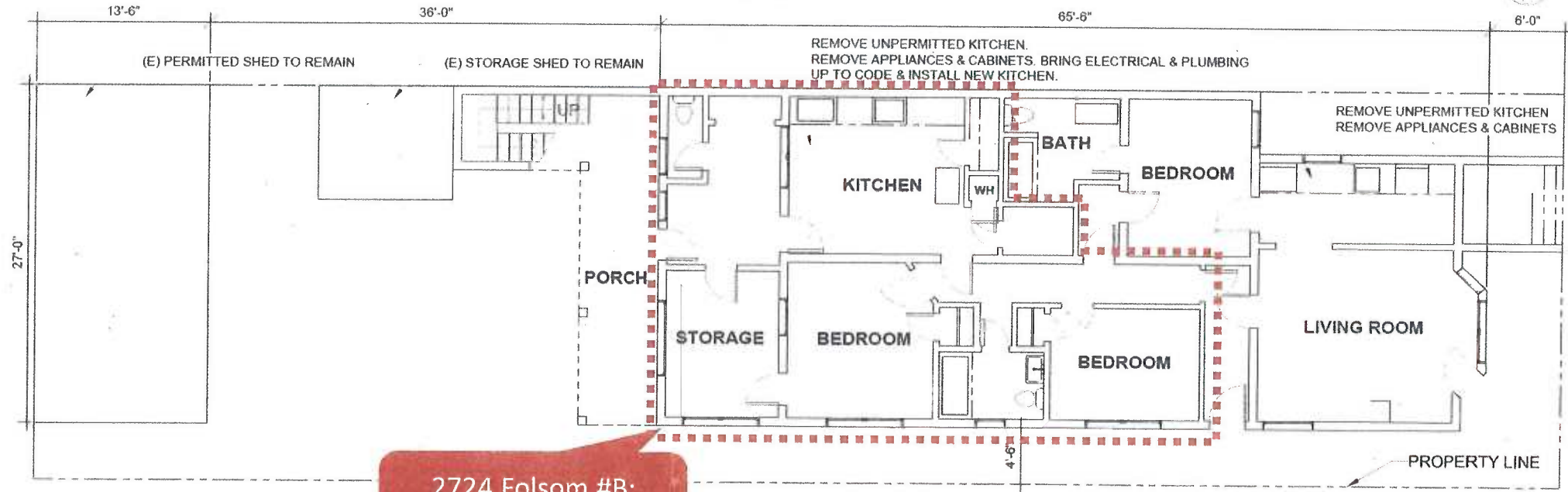
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**A-2**





EXISTING FIRST FLOOR PLAN  
1/4" = 1'-0"



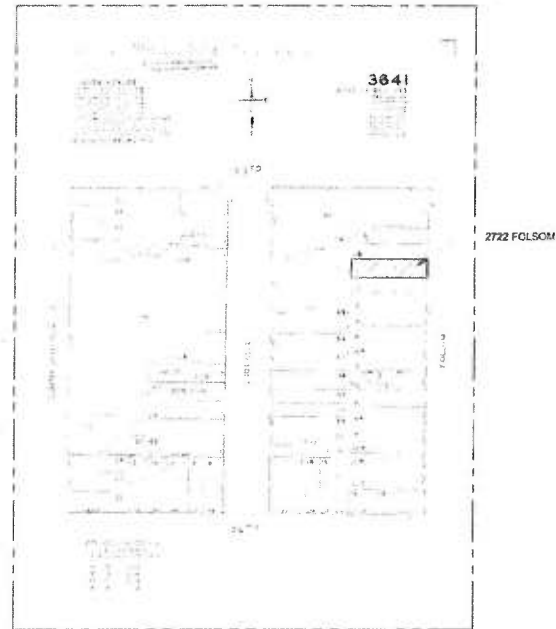
EXISTING GROUND FLOOR PLAN  
1/4" = 1'-0"

2724 Folsom #B:  
"Back Ground Unit"

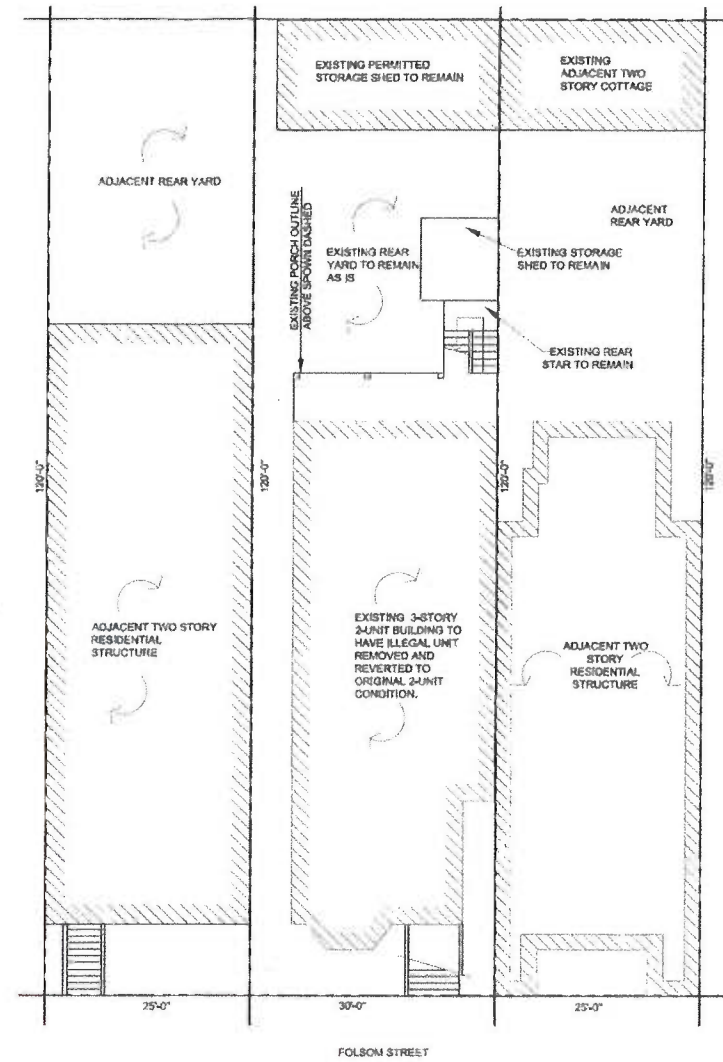
- Drawing Index:**
- A1 Site Plan
  - A2 Existing Floor Plans
  - A3 Existing Floor Plans
  - A4 Proposed Floor Plans
  - A5 Proposed Floor Plans

<b>David Locicero</b> architect <small>California Registration C19452</small>	2340 Powell Street, No. 290 Emeryville, CA 94608  415.342.2204 dlocicero@gmail.com www.dslociceroarchitect.com	2722 - 2724 Folsom Street 3- UNIT TO 2- UNIT CONVERSION	Michael Turon 2722 - 2724 Folsom Street San Francisco, CA 94110  turon@cantab.net	<small>Complete the Designation ALL RIGHTS RESERVED. The information on this drawing is for informational purposes only and is not intended to be used for any other purpose. The information on this drawing is for informational purposes only and is not intended to be used for any other purpose.</small>	Stamp 	<table border="1"> <thead> <tr> <th>Rev.</th> <th>Date</th> <th>Comments</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	Rev.	Date	Comments																Date: 7/13/2017 Scale: As Shown Drawn By: DSLocicero Checked By: DSLocicero Job Number: 1705	<b>SHEET TITLE</b>  <h1>A-2</h1>
	Rev.	Date	Comments																							





ASSESSORS MAP  
NO SCALE



SITE PLAN  
1/8" = 1'-0"

Drawing Index:

- A1 Site Plan
- A2 Existing Floor Plans
- A3 Existing Floor Plans
- A4 Proposed Floor Plans
- A5 Proposed Floor Plans

PROJECT DATA:

ADDRESS: 2722 - 2724 FOLSOM STREET  
SAN FRANCISCO, CA 94110

BLOCK: 3641  
LOT: 002

CONST. TYPE: V  
STORIES: 3  
ZONING: RH-2  
RESIDENTIAL, 2 FAMILY

PRESENT USE: RESIDENTIAL  
PROPOSED USE: RESIDENTIAL

LOCATION MAP  
NO SCALE

David Locicero  
architect

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2722 - 2724 Folsom Street  
3- UNIT TO 2- UNIT  
CONVERSION

Michael Turon  
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Check by the Applicant ALL SCALES SHALL BE TO THE PROJECT SCALE UNLESS OTHERWISE NOTED TO THE CONTRARY. THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND SHALL BE KEPT IN CONFIDENCE. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.

Stamps



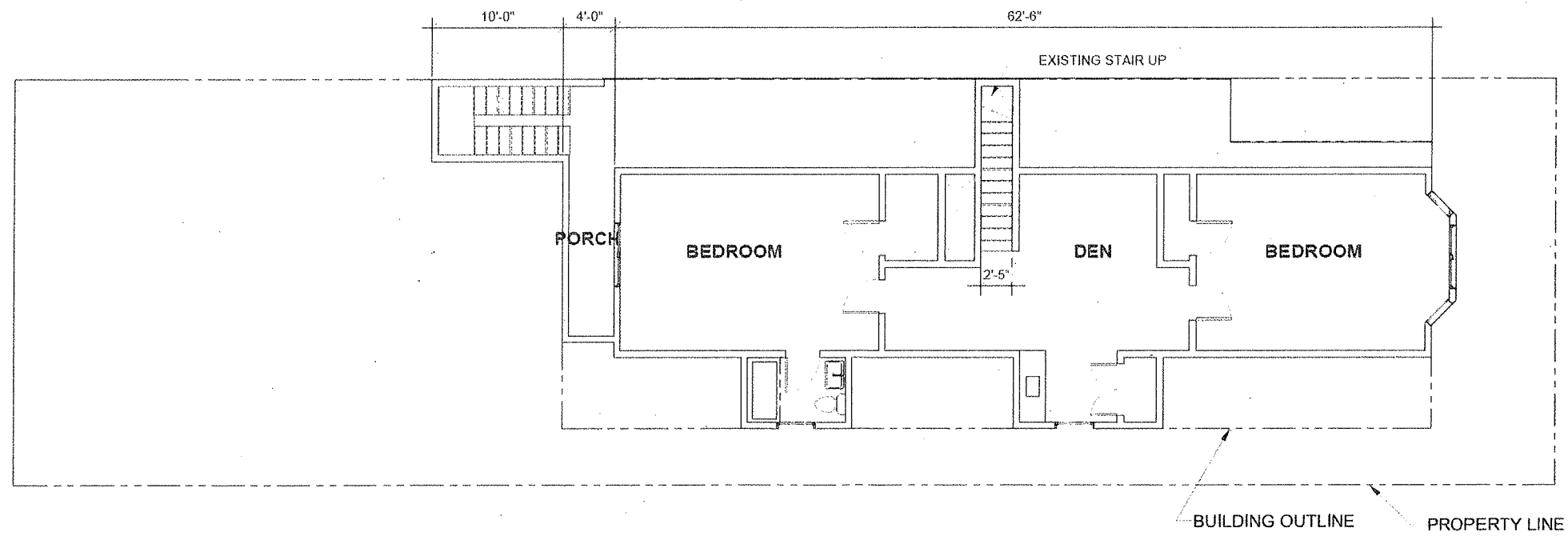
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Date: 7/13/2017  
Scale: As Shown  
Drawn By: DSLocicero  
Checked By: DSLocicero  
Job Number: 1706

SHEET TITLE  
**A-1**

**Drawing Index:**

- A1 Site Plan
- A2 Existing Floor Plans
- A3 Existing Floor Plans
- A4 Proposed Floor Plans
- A5 Proposed Floor Plans



**EXISTING ATTIC FLOOR PLAN**

1/4" = 1'-0"

**David Locicero**  
architect

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2722 - 2724 Folsom Street  
3- UNIT TO 2- UNIT  
CONVERSION

Michael Turon  
2722 - 2724 Folsom Street  
San Francisco, CA 94110

turon@cantab.net

David Locicero, AIA, PLS10570, is the principal architect and registered professional architect in charge of the design for this project. He is licensed in the State of California. The design was prepared by the architect's staff under his direct supervision and control.

Stamp



Rev.	Date	Comments

Date: 7/13/09  
Scale: As Noted  
Drawn By: DSLocicero  
Checked By: DSLocicero  
Job Number: 1776

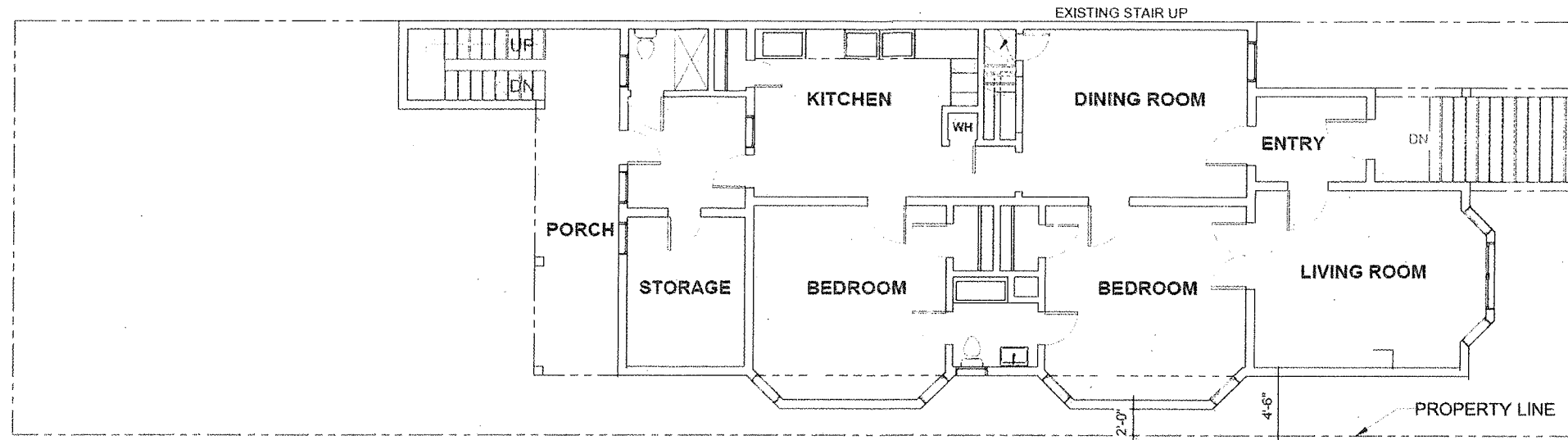


SHEET TITLE

**A-3**

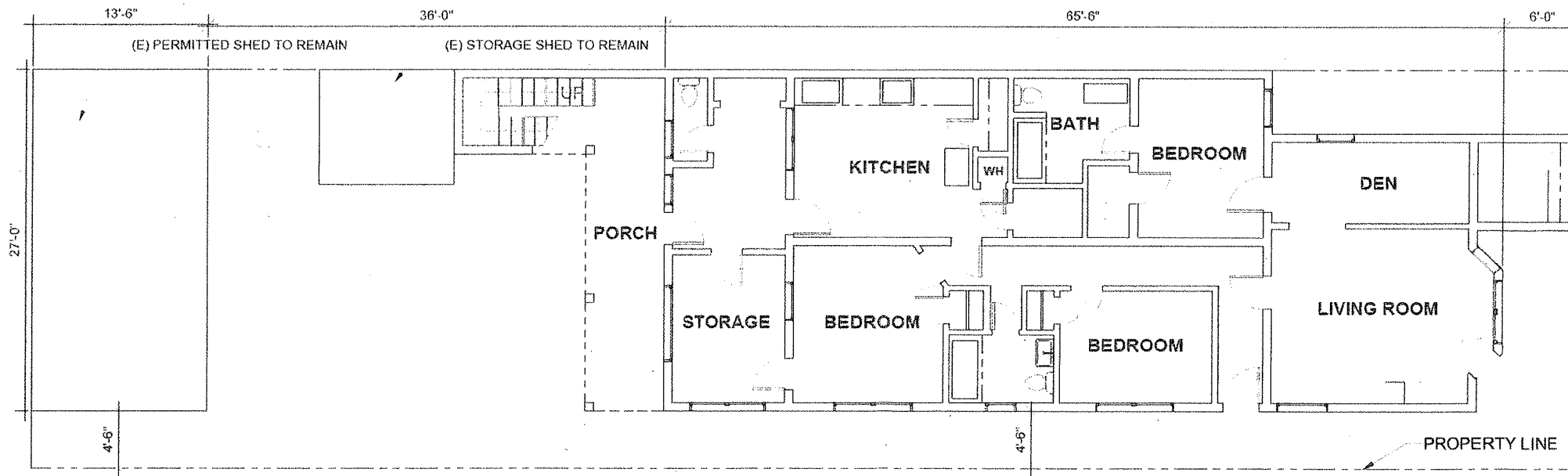
**Drawing Index:**

- A1 Site Plan
- A2 Existing Floor Plans
- A3 Existing Floor Plans
- A4 Proposed Floor Plans
- A5 Proposed Floor Plans



**PROPOSED FIRST FLOOR PLAN**

1/4" = 1'-0"



**PROPOSED GROUND FLOOR PLAN**

1/4" = 1'-0"

**David Locicero**  
architect

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2722 - 2724 Folsom Street  
**3- UNIT TO 2- UNIT  
CONVERSION**

Michael Turon  
2722 - 2724 Folsom Street  
San Francisco, CA 94110

turon@cmf.tb.net

Client: All drawings are the property of the architect. The architect shall retain the right to use the drawings for the project. The architect shall not be responsible for any errors or omissions in the drawings. The architect shall not be responsible for any construction or other work not shown on the drawings.

Stamp



Rev.	Date	Comments

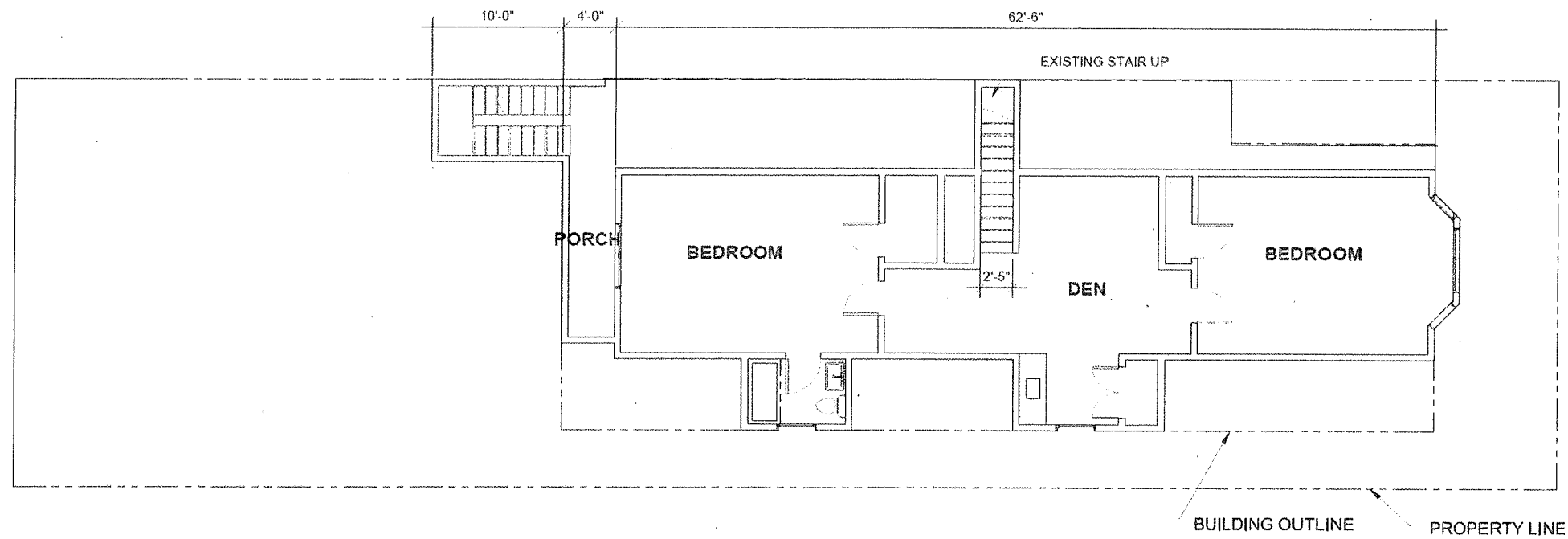
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Drawn By: DSLocicero  
Checked By: DELocicero  
Job Number: 1706

**SHEET TITLE**

**A-4**

**Drawing Index:**

- A1 Site Plan
- A2 Existing Floor Plans
- A3 Existing Floor Plans
- A4 Proposed Floor Plans
- A5 Proposed Floor Plans



**PROPOSED ATTIC FLOOR PLAN**

1/4" = 1'-0"



**David Locicero**  
architect

2310 Powell Street, No. 290  
Emeryville, CA 94608

415.342.2204  
dslocicero@gmail.com  
www.dslociceroarchitect.com

California Registration C19452

2722 - 2724 Folsom Street  
3- UNIT TO 2- UNIT  
CONVERSION

Michael Turon  
2722 - 2724 Folsom Street  
San Francisco, CA 94110

turon@cantab.net

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Stamp



Rev.	Date	Comments

Date: 7/15/2017  
Scale: As Noted  
Drawn By: DS Locicero  
Checked By: DS Locicero  
Job Number: 1706

**SHEET TITLE**

**A-5**

C

OFFICIAL COPY



FB-501a

CITY AND COUNTY OF SAN FRANCISCO  
DEPARTMENT OF PUBLIC WORKS  
BUREAU OF BUILDING INSPECTION

Application Number 449293

# CERTIFICATE OF FINAL COMPLETION AND OCCUPANCY

NOTE: A separate PERMIT OF OCCUPANCY is required for buildings with a class H occupancy)

Location 2722-24 Folsom St  
House Number (Street or Avenue) (Metes & Bounds if Applicable)

Type of Bldg. 5 N 3 stories Occupancy H 3 units

Description of Construction At. Comply with D.P.H.I. Item #5-40-49-52-56-60-

The hereinabove described construction is completed and conforms to Ordinances of the City and County of San Francisco and Laws of the State of California effective as of the date on which the hereinabove mentioned application for building permit was filed and proposed occupancy is approved in pursuance to Sec. 306 C, Article J, Chapter I, Part II of the San Francisco Municipal Code.

NOTE: BEFORE CERTAIN AREAS ARE OCCUPIED AND BEFORE CERTAIN BUSINESSES ENTERPRISES OR ACTIVITIES ARE CONDUCTED, SEPARATE AND ADDITIONAL LICENSES AND PERMITS MAY BE REQUIRED IN ACCORDANCE WITH PART III OF THE SAN FRANCISCO MUNICIPAL CODE AS WELL AS OTHER APPLICABLE CODES

Approved: \_\_\_\_\_ 19\_\_\_\_  
BUREAU OF FIRE PREVENTION & PUBLIC SAFETY

This certificate posted on  
E-30-1976  
SUPERINTENDENT, BUREAU OF BUILDING INSPECTION

Approved: \_\_\_\_\_ 19\_\_\_\_  
DEPT. OF PUBLIC HEALTH

COPY TO DPH 6/30/76 By D. Kelchun  
Building Inspector



DIVISION OF APARTMENT HOUSE AND HOTEL INSPECTION REPORT

Location 2772-24 FOLSOM
Owner KIRIL & VERA ILYIN
Address 2772 FOLSOM 94110

Prepared By R. FUNG
RESIDENTIAL ENVIRONMENT INSPECTOR
Date JUNE 10, 1975

The following items that are circled require correction in accordance with the San Francisco Housing Code and/or other applicable Codes and Ordinances:

- 1. Repair/replace broken sidewalk/paving at front/rear/side (see sidewalk Inspector's report) 747 PW
2. Remove all rubbish from yard/court/basement/cellar 402-1006 HC
3. Raise foundation and replace deteriorated materials by approved method at 403 HC
4. Install approved type floor/deck, yard drain at 402-507 HC
5. Provide gas shutoff VALVE ON GAS HEATER IN FRONT ROOM, 2ND FLOOR. 409 HC
6. Ratproof ground area in basement/cellar/under stairs 92 DPH-402 HC
7. Eliminate rodent and/or cockroach infestation on premises 402 HC
8. Clean and maintain hotel room(s) dwelling unit(s) at in a sanitary manner 402 HC
9. Provide legal ventilation for furnace room/water heater space/garage/under floor area/gas meters 402-702 HC
10. Provide/fireproof garage/rear yard to street passageway/basement ceiling with approved fire rated materials 414 HC
11. Repair/provide fireproofing in 414 HC
12. Provide fire sprinkler system in garbage/linen chute, garbage/linen room, storage area in plans req'd. 903-906 HC
13. Enclose stairs to basement/cellar with approved materials and self-closing doors plans req'd 803 HC
14. Eliminate paint/hazardous storage in 411-706 HC
15. Provide approved type flues/connectors for gas appliances in 407 HC
16. Rebuild/repair front/rear stairway. Provide handrails 402-403-802 HC
17. Replace all broken window glass. Repair sash and reputty. Check & repair hardware. 402-408 HC
18. Repair stucco/siding on. Renew and paint exterior/trim 408 HC
19. Replace/repair roofing. Provide/repair roof gutters for drainage and connect to sewer 402-408 HC
20. Remove/rebuild/fireproof roof deck. Provide/replace defective chimney/flue caps 403-712 HC
21. Provide/repair/replace/fireproof stair penthouse door/closer. Install railing around vent shaft 412-805 HC
22. Provide stairway/scuttle hole from public hallway/stair to roof in approved location 806 HC
23. Provide approved means of ventilation for stairway/public halls/elevator shaft 502-808 HC
24. Enclose interior stairway(s) in an approved manner or comply with item 25 807 HC
25. Provide complete fire sprinkler system in all public halls, corridors, stairways per plan 807 HC
26. Install approved type fire doors/closers to basement/main stair enclosure 803-806 HC
27. Provide stairway/fire escape for second means of egress plans req'd 801 HC
28. Provide corridor to fire escape at front/rear/side and install directional signs 801 HC
29. Provide approved type ladder/stair from lowest fire escape balcony to ground 801 HC
30. Provide approved type fire extinguishers in public halls at each floor and in 904 HC
31. Remove or raise all wires, ropes, etc. 8 feet above roof 24.10 FC
32. Install approved type fire alarm system as directed. Close transom openings in public hall(s) in approved manner 502-901 HC
33. Repair/replace loose and missing plaster in 412 HC
34. Remove lot line windows, close opening in an approved manner ( ) ( ) wall TABLE 5-A BC
35. Install wet/dry standpipe as directed by Fire Dept. 906 HC
36. Provide a bath, lavatory, and water closet within each apartment 402 HC
37. Provide additional bath(s)/lavatory(ies) on floor(s) 503 HC
38. Provide additional water closet(s) on floor(s) 503 HC
39. Water-proof bath/water closet compartment floor(s) on floors with approved material(s) 510 HC
40. Provide legal light and ventilation for GROUND FLOOR & 2ND FLOOR KITCHENS. 402-501 HC
41. Remove torn, worn, insanitary floor covering in 412 HC
42. Provide approved type heating facilities for each hotel room/dwelling unit 707 HC
43. Provide separation where water closet compartment opens into kitchen in 503.1D HC
44. Discontinue use and remove cooking facilities in illegal community kitchen on 503.1B HC
45. Remove and cap gas lines for stove/heater in at source of supply 407 HC
46. Submit plan of each floor, showing correction of all items listed hereon 301 BC
47. Clean/paper or paint walls and ceilings in 1001 HC
48. Provide/replace garbage receptacles, provide tight-fitting covers 1004 HC
49. Remove cord wiring and install one plug receptacle in each room and 2 in the kitchen(s) (GROUND FLOOR UNITS) 05-505 HC
50. Remove/repair/and/or replace deteriorated/substandard ART 4 HC
51. Fireproof public halls and soffit of stairs with approved 1 hour fire resistive materials details req'd 701 HC
52. Fireproof entire building with approved 1 hour fire resistive materials plans req'd 701 HC
53. Provide 1 hour fire separation between business use and residential use 414 HC
54. Remove closet under stairs at or close/fire protect 802.D HC
55. Repair/provide retaining wall at plans req'd 410 HC
56. Provide and maintain ONE (1) usable off street parking spaces, install driveway 136 PC
57. Replace insanitary wood drainboards in kitchens on 402 HC
58. Remove all non-conforming partitions and/or construction in 403 HC
59. Applicability of item(s) depends upon date of conversion. Submit proof of earliest date of conversion-affidavits attached. (Submit with building permit application).
60. Compliance with the items will establish legality of the structure as an apt/hotel with THREE (3) units/rooms on THREE (3) floors of occupancy, or comply with item 61. 105 HC
61. Item(s) 52 & 56 do not apply if structure is reverted to its original last legal use as an apartment/hotel dwelling with TWO (2) units/rooms on 3 floors of occupancy or comply with item 60 105 HC

The following permits are required to be applied for before commencing any work:

- Building
Electrical
Plumbing

After filing for Building Permit, if you have any questions with regard to this report, please contact the following Inspector:

Building Inspector - 558-3851 Call between 8-9 a.m. or 4-5 p.m.

- HC - Housing Code
FC - Fire Code
PW - Public Works Code
BC - Bid's Code
DPH - Health Code
PC - Plan Code

D



November 9, 2017

Mr. Jeffery Ma  
Department of Building Inspection  
1660 Mission St  
San Francisco, CA 94013

Michael Turon  
Building Owner  
856 Fell St.  
San Francisco, CA 94110

### Pre-Application Meeting

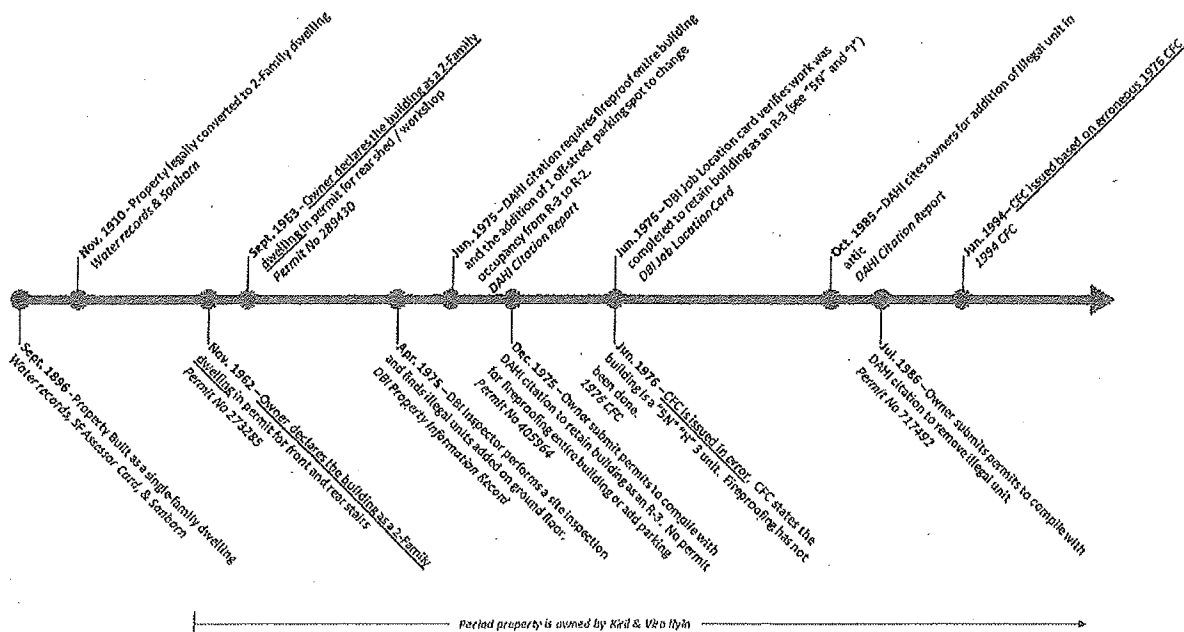
Project: 2722-24 Folsom Street (Block 3641 Lot 002)

Dear Mr. Ma,

As the building owner, I am requests a pre-application meeting for the above-mentioned property with members of DBI and Fire to verify the building's correct code occupancy classification, type of construction of the building, construction date, and original use. The building's first "Certificate of Occupancy and Final Completion" (CFC) issued in 1976 was issued in error. Critical fire and life safety improvements necessary to change the occupancy classification from a R-3 to and R-2<sup>1</sup> was never done. The error in the 1976 CFC was further compounded when a CFC was issued in 1994 based on the erroneous 1976 CFC.

#### Brief Timeline of Building

Below<sup>2</sup> is a brief timeline of the building based on available records and related to this application that showing how the building evolved from a legal single-family dwelling to a legal 2-family dwelling to various iterations of a legal 2-family dwelling with various illegal units added [Exhibit A].



<sup>1</sup> Historical occupancy classification at the time: "R-3" was known as "I" and "R-2" was known as "H"

<sup>2</sup> A larger copy of the timeline can be found in [Exhibit A]

## Type of Construction & Building Code Occupancy Classification


### *Background on Question (1)*

The building at 2722-2724 Folsom St. has two "Certificate of Occupancy and Final Completion" (CFC) that were issued and are on file with the records department. In both CFCs the building's construction type is stated to be a Type-5 non-rated structure ("5N") [Exhibit B]. The permits (405964 & 717492) associated with both CFCs support that the building is a Type-5 non-rated building ("5N") [Exhibit C].

**Question (1) – Based on the building's Certificate of Occupancy and Final Completion and existing building records<sup>3</sup>, is the building a Type-5 Non-Rated building ("5N")?**

**Response: The building is a Type-5 Non-Rated building ("5N"). Records show that the building has not been 1-hour fire rated.**

  
\_\_\_\_\_  
Jeffery Ma (SF DBI)

  
\_\_\_\_\_  
Marcus Berona (SF FD)

### *Background on Question (2)*

In 1975, DBI Housing Inspection Services (HIS)<sup>4</sup> cited the owner at the time for illegally adding a third unit to the building. In HIS's citation report<sup>5</sup>, DBI offers the owner two paths to abate the violation. For the pathway to legally change the building's occupancy from an R-3 to an R-2 and retain the third illegal unit, the DBI required that the owner to "Fireproof entire building with approved 1 hour fire resistive materials" and "Provide and maintain ONE (1) usable off street parking spaces, install driveway," among other applicable Building and Fire code requirements deemed necessary at that time. [Exhibit D].

**Question (2) – Does DBI agree that the building would require to be 1-hour fire rated, have parking added, and address any additional Fire and Building code requirements applicable at the time to undergo a change of occupancy from an R-3 to an R-2<sup>6</sup> for its 1976 CFC to be issued correctly?**

**Response: Both DBI and Fire agree that the requirements to change the building's occupancy from and R-3 to an R-2 had not been satisfied. Those requirements:**

- 1. 1-Hour fireproof the entire building**
- 2. Add one (1) off street parking spot**

<sup>3</sup> Submitted are full copies of the building records on file with the city (DBI, Water, and Assessor)

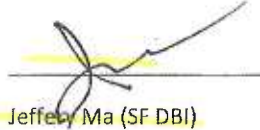
<sup>4</sup> DBI Housing Inspection Services was then known as Division of Apartment House and Hotel Inspection (DAHI)

<sup>5</sup> DBI Housing Inspection Services records obtained from HIS.

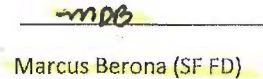
<sup>6</sup> Historical occupancy classification at the time: "R-3" was known as "I" and "R-2" was known as "H"

3. Any additional Building and Fire code applicable at the time to change occupancy from a R-3 (2-Family Dwelling) to a R-2 (3-unit Apartment)

The required work to change the building's occupancy from an R-3 to an R-2 was not performed.



Jeffery Ma (SF DBI)



Marcus Berona (SF FD)

*Background on Question (3)*

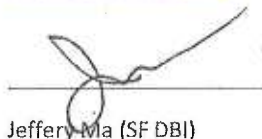
Given that the necessary Building and Fire requirements, including 1-hour fireproofing of the entire building, was never done, the conclusion is that the 1976 CFC was issued in error. California Building Code 11.1 states:

*A building or structure shall not be used or occupied, and a change in the existing use or occupancy classification of a building or structure or portion thereof shall not be made, until the building official has issued an occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or other ordinances of the jurisdiction.*

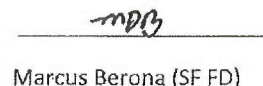
Under California Building Code 11.1, the issuance of a CFC does not mean that violations Issued have been abated.

Question (3) – Given California Building Code 11.1 and that the entire building was never fire rated, does DBI and Fire consider the current legal Building Code Occupancy Classification of this building is to be an R-3?

Response: The 1976 CFC was issued in error. The work required, most importantly the fire and life safety upgrades of "Fireproof entire building with approved 1 hour fire resistive materials", to change the building's occupancy class from an R-3 to an R-2 was not performed. This error was compounded with the issuance of the CFC in 1993. The building is an R-3 and the owner should work with DBI records department to get the CFC of the building reissued and correctly reflect the building as a R-3 2-Family Dwelling.



Jeffery Ma (SF DBI)



Marcus Berona (SF FD)

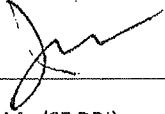
Construction date and Original Occupancy Use

*Background on Question (4) & (5)*

The building's current 3R report shows that the building's Original Occupancy as "Unknown" and that its Building Construction Date as "Unknown" [Exhibit E]. Water tap records show that initial water service to the building was established in September of 1896 as for a single-family dwelling [Exhibit F]. Water records further show that the building's occupancy class was legally changed to 2-family dwelling when new water service was established for a 2-family dwelling in November of 1910. The change from a single-family dwelling to a 2-family dwelling is also reflected in the historical Sanborn maps and referenced in the DBI's Property Information Record used to establish the building's legal use for the 1976 CFC.

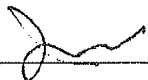
Question (4) – Does DBI agree that the Building Construction Date (Completed Date) is 1896 when water service was established to the building as a single-family dwelling?

Response: DBI agrees that the Completed Date for the building should be corrected in the 3R report from "Unknown" to 1896.

  
\_\_\_\_\_  
Jeffery Ma (SF DBI)

Question (5) – Does DBI agree that the "Original Occupancy or Use" of the building when it was originally constructed was as a single-family dwelling based on the water service established when the building was constructed?

Response: DBI agrees that the "Original Occupancy or Use" of the building when it was originally constructed was as a single-family dwelling. The 3R report should be corrected from "Unknown" to a single-family dwelling.


  
\_\_\_\_\_  
Jeffery Ma (SF DBI)

Respectfully submitted,

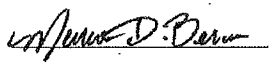


Michael J. Turon, Owner  
(415) 938-7855

Agreed to the above responses:

  
\_\_\_\_\_  
Jeffery Ma, P.E., SF DBI

11/30/17  
Date

  
\_\_\_\_\_  
Marcus D. Berona, P.E., SF FD

12/4/17  
Date

E



October 24, 2017

Ms. Kimberly Durandet  
San Francisco Planning Department  
1650 Mission St.  
San Francisco, CA 94103

Re: 2724 Folsom St. Cost of Legalization

Dear Ms. Durandet:

This letter is in response to the San Francisco Planning Department's request to confirm the construction costs to legalize the three illegal units located at 2722-2724 Folsom St. It was concluded in a DBI pre-application meeting, (Attachment A), that the Attic Unit and rear Cottage Unit has no path to legalization.

I have compared the Architect's pre-application meeting package with the Department of Building Inspection's 2017 Cost Schedule and concluded that the **cost bring up the ground floor "Front Unit" "up to code" to be approximately \$230,000.** The pre-application meeting package consisted of architectural drawings by David Locicero dated 8/7/17 and a construction cost estimate by Kearney & O'Banion dated 9/5/17 (Attachment B). NOTE: **The original cost to bring the ground floor "Front Unit" "up to code" did not take into account the possible increase in labor and material costs associated with the Napa and Sonoma fires.**

Factors that may affect construction costs include actual site conditions, seasonality, the state of the local economy, and natural disasters. As such, this letter should be used as an estimate for administrative purposes only.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jimmy Cheung".

Jimmy Cheung, PE  
Associate Engineer  
Technical Services Division

For:  
David Leung, Manager, Permit Submittal & Issuance  
Dan Lowery, Deputy Director of Permit Services

CC: Michael Turon (Owner)



K E A R N E Y  
& O B A N I O N  
I N C O R P O R A T E D

October 26, 2017

Jimmy Cheung  
Department of Building Inspection  
1660 Mission St.  
San Francisco, CA 94103

*Re: 2722 -2724 Folsom St (3641/002) San Francisco, Ca 94110. Estimate to bring front bottom unit up to current building code*

Dear Mr. Cheung,

In our meeting with the Planning Department on October 18, 2017, the Planning Department requests that a revised estimate to legalize the ground unit be provided. This request was driven by the increase in labor and material costs in the area due to the increased demand generated by the Napa and Sonoma Fires. I have been working on insurance claims in the affected area for over a half-dozen properties lost in the fires.

Based on the increased demand for labor and materials in the area, construction costs have increase upward to 30%. Given current conditions in the market, I believe the costs to legalize this unit has increase to \$287,500.

The estimated time to complete this project is 8 months and would require that the occupants of 2722-Main, 2724A, and 2724B vacate the property as the shared walls, floors and ceilings are fireproofed and the necessary lead-paint and asbestos abatement performed.

If you have any questions, please feel free to contact me.

Regards,

  
Kevin Kearney

F



**“Soundness” – an economic measure of the feasibility of upgrading a residence that is deficient.**

“Replacement Cost” is the cost to build the smallest unit in the building as new.

The Planning Department defines the “Replacement Cost” to be \$200 x existing square footage for all occupied, finished spaces in the unit to be merged.

If the “Upgrade Cost” is greater than 50% of the “Replacement Cost”, then the building is “unsound” per Section 317(d)(3)(B) of the Planning Code.

**For this project:**

The appraised size of the smallest unit is 601 square feet.

“Replacement Cost” = \$120,200 (\$200 per SQFT X 601 SQFT)

DBI has written to say that the “Upgrade Cost” for this unit = \$230,000

$$\frac{\$230,000}{601 \text{ SQFT}} = \$366.06 \text{ SQFT} = \text{“Upgrade Cost”, what owner must pay contractor per SQFT to make the unit sound}$$

A “Soundness Factor” of 50% of \$200 per SQFT for this unit = \$100.

This would be \$100 per SQFT X 601 SQFT = \$60,100

\$60,100 is what the Planning Department says (per regulation) is the maximum that should be spent to upgrade the unit.

If the amount spent is to be more than \$60,100, which is what the City calls the “Reasonable Amount”, then the unit may be approved for demolition; the rules say it would be unreasonable to force the owner to spend more than this amount to preserve the unit.

SEE LANGUAGE OF THE CODE IN 317(d)(3)(B)

Given that \$230,000 not \$60,100 is what it will take to fix the unit (not adjusted upward yet after the recent fires), and given that \$230,000 is 191% of \$60,100, the “Soundness Factor” for this project is 191%, not 50%.

G

Property:  
2722 – 2724 Folsom St  
San Francisco, CA 94110  
Block: 3641 Lot: 002

October 2, 2017

SF Planning,

I am a licensed Appraiser in the State of California and have been appraising properties in San Francisco for the last 28 years. This report is based on a physical analysis of the site and improvements, a locational analysis of the neighborhood and city, and an economic analysis of the market for properties such as the subject property with the addition of a unit.

The cost to legalize a unit was based on the cost estimates from the DBI determination through the pre-application process. The financial analysis to determine the appreciation of the property post-legalization was based on the written information provided to my client by the SF Planning Department as to the property methodology for an application to remove one or more dwellings from a lot. I have also reviewed building records from the DBI and Assessor office as well as the letter/report from Mario Ballard dated April 6<sup>th</sup>. The appraisal was developed and the report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice.

The value conclusions reported are as of the effective date stated in the body of the report and contingent upon the certification and limiting conditions attached.

**Overview:**

This analysis pertains to the property located at 2722 – 2724 Folsom St. (3641/002). There are two structures on the property, a front building with the addresses of 2722 – 2724 Folsom St. (Units: 2722-Attic (3<sup>rd</sup> floor), 2722-Main (2<sup>nd</sup> Floor), 2724-A, & 2724-B (Ground floor)) that is a legal residential building and a rear-structure (Unit: 2722-Cottage (Rear structure)) that is not a legal residential building per the DBI's record department through a 3R request.

Although the current 3R report for the front building shows the building as a legal three-unit building, DBI records show that the necessary fire and life safety work required to change the buildings occupancy from an R-3 to an R-2 was never completed. Therefore, this analysis includes the cost to legalize the ground units to ensure the necessary fire and life safety conditions are met for the occupants. Based on the DBI determination letter dated September 29<sup>th</sup>, two units cannot be legalized (2722-attic and 2722-cottage). Therefore, this analysis has been done **to identify the value of the property with the unit that can be legalized:**

1. As a legal 2-unit property with approximately 4,030 square feet
2. As a legal 3-unit property with approximately 4,030 square feet

In each of these hypothetical situations the cost of the final legal building is determined. The value of each unit, pre- and post-legalization, is determined by the unit's actual residential space as a percentage of the entire buildings current total actual residential space in each scenario. The determination of whether a hypothetical situation is reasonable or not reasonable is determined by taking the appreciated value of the unit post renovation minus the cost to legalize. If the value is negative, the cost to legalize is not reasonable. If the value is positive, then the cost to legalize is reasonable.

Example:

If the value of the entire lot with units upgraded to code level is **less** as a 4-unit building than as a 3-unit building, then legalizing the property as a 4-unit **would not be reasonable**. On the other hand, if the value of the entire lot with units upgrade to code level is **greater** as a 3-unit building then as a 2-unit building, then legalizing the property as a 3-unit **would be reasonable**.

These results will be shown in the attached table for each hypothetical situation (See Attachment A).

The measured size of the units are as follows:

1. Front Building – 2722 Folsom St. which is the 2<sup>nd</sup> and 3<sup>rd</sup> floor unit: 2470 sqft
2. Front Building – 2724 Folsom St. #A 1<sup>st</sup> floor front unit: 601 sqft
3. Front building – 2724 Folsom St. #B 1<sup>st</sup> floor rear unit: 959 sqft

**Findings:**

Summary (See Attachment A):

- **2 Unit:** It is **reasonable** to legalize the property as a 2-unit building, the cost to legalize minus the appreciated value is \$0.
- **3 Unit:** It is **not reasonable** to legalize the unit as a 3-unit building, the cost to legalize, \$<sup>230,000</sup>~~200,000~~, minus the appreciated value, \$0, is \$<sup>230,000</sup>~~200,000~~.

Sincerely,



Max Mendoza  
License No. AL 011277

Attachment A

Summary of appreciated value of 2722-2724 Folsom St as a 2-unit and 3-unit property

Value	
SqFt Front Building	4,030
Current appraised value	\$ 1,850,000
2 unit legal appraised value	\$ 1,850,000
3 unit legal appraised value	\$ 1,850,000

**Costs per DBI**  
 Cost to legalize 2724A \$ 230,000.00

<u>Unit</u>	<u>Square Feet</u>	<u>Pre-legalization Value</u>	<u>Legalized Value</u>	<u>Appreciated Value</u>	<u>Legalization Costs</u>	<u>Appreciation - Cost</u>
Front Building - 2722 Folsom St. 2nd and 3rd floor:	2470	\$1,133,870.97	\$1,133,870.97	\$0.00	\$0.00	\$0.00
Front Building - 2724 Folsom St. 1st floor unit:	1560	\$716,129.03	\$716,129.03	\$0.00	\$0.00	\$0.00
<b>Total:</b>	<b>4030</b>	<b>\$1,850,000.00</b>	<b>\$1,850,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

<u>Unit</u>	<u>Square Feet</u>	<u>Pre-legalization Value</u>	<u>Legalized Value</u>	<u>Appreciated Value</u>	<u>Legalization Costs</u>	<u>Appreciation - Cost</u>
Front Building - 2722 Folsom St. 2nd and 3rd floor:	2470	\$1,133,870.97	\$1,133,870.97	\$0.00	\$0.00	\$0.00
Front Building - 2724 Folsom St. #A 1st floor front unit:	601	\$275,893.30	\$275,893.30	\$0.00	\$230,000.00	(\$230,000.00)
Front Building - 2724 Folsom St. #B 1st floor rear unit:	959	\$440,235.73	\$440,235.73	\$0.00	\$0.00	\$0.00
<b>Total:</b>	<b>4030</b>	<b>\$1,850,000.00</b>	<b>\$1,850,000.00</b>	<b>\$0.00</b>	<b>\$230,000.00</b>	<b>(\$230,000.00)</b>

H

## FINDINGS TO SATISFY THE RESIDENTIAL MERGER CRITERIA

The proposal is to merge the front ground floor illegal unit into the legal rear ground floor unit.

**The following Criteria, a majority of the Residential Merger Criteria, are met. Thus, the merger should be approved.**

(E) Whether the unit being removed was occupied recently by a tenant or tenants;

The units being merged continue to be occupied by tenants. Prior to applying for a permit to merge the units, the building owner notified the tenants on March 2, 2016. Since that time, none of the affected tenants have attempted to contact the owner regarding this application. New Rent Board regulations discourage Michael from any negotiations with them now. In either instance of an approved merger or legalization of the front ground unit, both tenants would need to be relocated. Statutory relocation payments would be made.

(F) whether the number of bedrooms provided in the merged unit will be equal to or greater than the number of bedrooms in the separate units;

**Yes** – The proposed project will result in a unit with the same or greater number of bedrooms than the number of bedrooms in the separate units.

(G) whether removal of the unit(s) is necessary to correct design or functional deficiencies that cannot be corrected through interior alterations;

**Yes** – There are hazardous deficiencies which cannot be corrected through mere interior alterations. Moreover, the cost to legalize these deficiencies exceeds the amount found by undertaking the analysis required in Section 317(d)(3)(B). The Planning Commission has adopted a policy that a residential building or unit is considered “unsound” if the cost to upgrade construction deficiencies exceeds 50% of the replacement cost (Replacement Cost meaning the cost to build it). The Replacement Cost is defined by the City as \$200 x existing square footage of the unit, in the City's Soundness Report Requirements. When the Upgrade Cost exceeds 50% of the Replacement Cost (\$100 per square foot), the City deems it economically unfeasible. For this application, DBI confirmed to Planning Department that the Upgrade Cost to address the hazardous deficiencies to be \$366.06 x existing square footage, which exceeds the economically unfeasible hurdle set by the City of \$100 x existing square footage.

For this application, DBI confirmed to Planning Department that the Upgrade Cost to address the hazardous deficiencies to be \$366.06 x existing square feet.

Because of the cost and the liability (from harm to residents) for renting such a deficient unit, the current owner would not place a new tenant in the unit if the unit were not to be merged and the existing tenant move out. The cost of upgrading the unit to be removed is based on the fire and life safety deficiencies which were required by DBI in 1975 and never installed (notwithstanding that the owner at the time somehow persuaded DBI to issue a CFC without the work that DBI required being performed).

(H) Determination of the appraised value of the least expensive Residential Unit proposed for merger only when the merger does not involve an Unauthorized Unit.



The merger involves an Unauthorized Unit, as one can see from the signatures of Jeffrey Ma and Marcus Barona of the DBI and Fire Departments, respectively, within a DBI pre application Meeting Minutes letter that project owner wrote on November 9, 2017. The Meeting Minutes are attached to this letter from Brett Gladstone to the Commission.

We believe Unit #A is the illegal unit <sup>1</sup>as the work to be performed in 1975 was never done to it, even though required by the Building Department. This smallest unit, at 601 square feet, was appraised by the licensed appraiser at \$459.06 per square foot if it were made legal with upgrades. The upgrade cost is \$366.06 per square foot which is more than the value per square foot to build the unit new, at \$200 per square foot.

DBI and the Fire Department very recently responded to certain questions from the property owner in a pre-application meeting summary earlier this year. We refer to it as the Meeting Minutes which are attached to the letter to the Commission. In these Meeting Minutes both DBI and the Fire Department agree that the requirements to change the building's occupancy from and R-3 (Two Units) to an R-2 (Three or More Units) had not been satisfied, and thus the CFC was issued by mistake. The front unit does not legally exist as a result. In it, you will find the following question written to DBI. Their response is in the paragraph below that.

*Question (2) - Does DBI agree that the building would require to be 1-hour fire rated, have parking added, and address any additional Fire and Building code requirements applicable at the time to undergo a change of occupancy from an R-3 to an R- 2 for its 1976 CFC to be issued correctly?*

" Response: Both DBI and Fire agree that these requirements to change the building's occupancy from an R-3 to an R-2 had not been satisfied. Those requirements:

1. 1-Hour fireproofing of the entire building
2. Adding one (1) off street parking spot.
3. Any additional Building and Fire code applicable at the time to change occupancy from a R-3 (2-Family Dwelling) to a R-2 (3-unit Apartment).

The required work to change the building's occupancy from an R-3 to an R-2 was not performed. "

Signed. Jeffrey Ma (SF DBI)

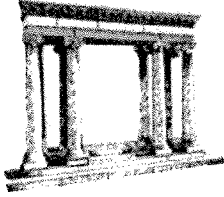
Marcus Berona (SF FD)

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1

Although Unit #A is the illegal unit, both kitchens have been installed without permit, and could thus be called illegal. Neither kitchen on the ground -floor complied with code in effect at the time when they were built, thus requiring the removal of both kitchens and a new one installed in compliance with current code if the merger were approved.





# San Francisco History Association

December 12, 2017

Kimberly Durandet  
SF Planning Department  
1650 Mission St. Suite 400  
San Francisco, CA 94103

Dear Ms. Durandet,

The San Francisco History Association Board of Directors is writing in support of the building owner's application to merge and preserve the building at 2722 – 2724 Folsom as a two-family dwelling. We see the building as an historically crucial asset to the city. It was the family home of Mr. William Helbing Sr., an historically important person to San Francisco, for his significant contributions towards the financing and rebuilding of our city after the 1906 Earthquake and Fire.

Mr. Helbing built the building located at 2722-2724 Folsom St. specifically for his family. He lived at the property for nearly two decades with his wife, Jeannie, and their six children. Mr. Helbing also ran his construction business, Helbing Construction Company, from the building and the adjacent lumber yards.

We are amazed how much of the original exterior and interior from the Helbing era is still intact. Preservation of this structure in the Shotwell Historical District should be of great importance to our city. The work required to make the unoriginal third unit safe and up to code would require destruction of the historical fabric of the building that has survived for 121 years.

It would be a regrettable loss for the city to require the property owner to make renovations on the unoriginal unit that would destroy period details of this historic building. The SFHA asks that the City approves the owner's application to merge the ground unit back to its original Helbing design and preserve this historical asset.

Respectfully,

Ron Ross  
President and Founder



## Findings for Mission Interim Controls

Any project that would result in the loss of a rent-controlled unit shall require an information regarding the following:

1. Whether there are any new units in the proposed project (there will be one new unit created from two units), and whether the newly created unit:

(a) would be subject to Rent Control.

RESPONSE. The newly created unit that follows the merger would be subject to Rent Control.

(b) would be considered replacements units to be occupied by low or very low income households under the State Density Bonus Law.

RESPONSE. Inapplicable. This project is not using the State Density Bonus Law.

(c) would be a designated Below Market Rental Unit for the purposes of meeting the Inclusion Housing requirements under Code Section 15.

RESPONSE. Inapplicable, as this building is not subject to the City's Inclusionary Housing Requirements.

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**This section lists 8 Findings, and states that the Commission shall make a determination to approve the project if the majority of those 8 findings can be made. We believe the Project meets 6 of the 8 criteria (specifically a, b, c, d, e, & h):**

(a) the property is free of a history of serious, continuing Code violations;

RESPONSE: There are no Notices of Violation recorded on the property.

(b) the housing has been maintained in a decent, safe and sanitary conditions

RESPONSE: The housing has been maintained in a decent, safe, and sanitary conditions.

(c) the project does not convert rental housing to other forms of tenure or occupancy such as tenancy in common.

RESPONSE: The project does not seek to convert rental housing into another form of occupancy such as a tenancy in common.

(d) the project conserves housing to preserve neighborhood cultural and economic diversity

RESPONSE: The Project conserves existing housing, since the existing units will have their useful life extended by up to 75 years once renovated from their poor condition today. And the project will be providing a family sized three-bedroom unit in the building for the first time. As a result of the creation of family sized housing, the Project creates an opportunity to preserve families in the Mission, which has been a goal of the Mission Interim Controls. Currently, the three or four bedroom units constitute about 8% of the housing stock, according to the Planning

Department's Inventory. Housing that is not safe and whose useful life has ended or is at or near the end will not count as a housing resource unless properly upgraded.

(e) the project conserves neighborhood character

RESPONSE: This project will restore the façade of an A-rated historic resource which is currently in poor condition, and will preserve historic interior elements, and as a result will conserve the neighborhood character.

(f) the project protects the relative affordability of existing housing;

RESPONSE: No, one unit will be removed to address Fire and Life safety deficiencies at the property.

(g) The project increases the number of permanently affordable units as governed by section 415:

RESPONSE: No, section 415 is not applicable to this project.

(h) the project increases the number of family-size units on-site;

RESPONSE: The newly created unit in this project will increase the family-size units on-site. The new family-size unit will be protected under the SF Rent control ordinance.