



# SAN FRANCISCO PLANNING DEPARTMENT

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## Discretionary Review Abbreviated Analysis

HEARING DATE: MAY 9, 2019

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*Date:* April 26, 2019  
*Case No.:* **2017-013328DRP-04**  
*Project Addresses:* **2758 Filbert Street**  
*Permit Applications:* 2017.1013.1247  
*Zoning:* RH-2[Residential House, Two-Family]  
40-X Height and Bulk District  
*Area Plan:* N/A  
*Block/Lot:* 0952/013,  
*Project Sponsor:* Kaileen Yen  
Winder Gibson Architects  
1898 Mission,  
San Francisco, CA 94103  
*Staff Contact:* David Winslow – (415) 575-9159  
[David.Winslow@sfgov.org](mailto:David.Winslow@sfgov.org)  
*Recommendation:* **Take DR and approve with proposed modifications**

### PROJECT DESCRIPTION

The project consists of construction of a 4<sup>th</sup> story vertical addition set back 12' from the front building wall, and 3-story horizontal addition to the Front, the West side, and the rear -to the average between the adjacent neighboring rear building walls; and a one-story pop-out that extends into the required rear yard as allowed by Code Section 136 for a total of 5,855 s.f.

### SITE DESCRIPTION AND PRESENT USE

The site is a 25' x 107'-6" irregularly shaped lateral and down sloping lot with an existing 3-story, 3,594 s.f single-family residence built in 1900. The building is classified as a category 'C' historic resource.

### SURROUNDING PROPERTIES AND NEIGHBORHOOD

The street face of this block of Filbert Street has a consistent pattern of 3- story buildings of varying styles steeping with the slope of the street. The subject property and buildings to the east are setback from the front property line, while the buildings to the west abut the front property line. The mid-block open space is bounded by consistent alignment of buildings. The Cow Hollow Playground a Recreation and Park property occupies the center of the mid-block open space.

## BUILDING PERMIT NOTIFICATION

TYPE	REQUIRED PERIOD	NOTIFICATION DATES	DR FILE DATE	DR HEARING DATE	FILING TO HEARING TIME
311 Notice	30 days	January 10, 2019– February 11, 2019	02.11. 2019	5.9. 2019	87 days

## HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	20 days	April 20, 2019	April 20, 2019	20 days
Mailed Notice	20 days	April 20, 2019	April 20, 2019	20 days
Online Notice	20 days	April 20, 2019	April 20, 2019	20 days

## PUBLIC COMMENT

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)	0	0	0
Other neighbors on the block or directly across the street	0	7	0
Neighborhood groups	0	1	0

## DR REQUESTORS

1. Irene Holmes of 2763 Filbert St. across the street neighbor to the North.
2. Howard and Kerry Dallmar of 2752 Filbert St. adjacent neighbors to the East.
3. Nancy Leavens of 2729 Filbert St. across the street neighbor to the North.
4. Grace Bertolozzi pierce and Victor Bertolozzi of 2762 Filbert St. adjacent neighbors to the West.

## DR REQUESTORS' CONCERNS AND PROPOSED ALTERNATIVES

1. DR requestor 1:

### Issues:

1. Parking on uphill side of frontage eliminates one on-street parking space and one street tree;
2. 4th story that extends to irregular side property line is wider and higher than the prevailing neighborhood pattern;
3. The rear “pop-out” and decks compromises mid-block open space and privacy;

### Request:

1. Retain existing location of garage consistent with topography



2. Reconfigure 4<sup>th</sup> floor addition to maintain building height of 35' and no wider than building's front facade.
3. Delete pop-out addition in the rear yard.
4. Place floor to ceiling doors and windows away from street face.

See attached *Discretionary Review Application*, dated February 11, 2019

2. DR requestor 2:

Issues:

1. The massing creates unreasonable impacts to light and air to neighboring properties at the rear and front.
2. The addition to the rear will cast additional shadows on Cow Hollow Playground.
3. The proposed mass and scale is inconsistent with the neighboring context.
4. The materials and design features are incompatible with the neighborhood character.
5. The project extends beyond the 45% rear yard by using averaging, which is inconsistent with the Cow Hollow Residential Design Guidelines.

Request:

1. Reduce the proposed building height to three stories.
2. Reduce the rear extension to be within the 45% rear yard
3. Incorporate 5' side setbacks at the rear addition.

See attached *Discretionary Review Application*, dated February 11, 2019

3. DR requestor 3:

Issues: The project does not meet several Cow Hollow Neighborhood Design guidelines with respect to rear yard, height, and neighborhood defining character. And as a result the project is out of scale with rest of neighborhood.

Request:

1. Angle the eastern wall at the front to reduce light impacts to adjacent neighbor's bay window;
2. Reduce the size of the 4<sup>th</sup> floor;
3. Size and proportion of fenestration should be more in keeping with adjacent properties;
4. Maintain a 45% rear yard to preserve adjacent neighbors' windows.

See attached *Discretionary Review Application*, dated February 11, 2019

4. DR requestor 4:

Issues:

1. Rear extension blocks adjacent neighbors' window and boxes in access to mid-block open space.
2. The 4<sup>th</sup> floor is out of scale and sets bad precedent casts shadows on Cow Hollow Playground.
3. Privacy impacts to rear yards from rear decks.

Request:

1. Provide 5' side setbacks at rear addition.
2. Limit extension to 45% rear yard line.
3. Eliminate elevated rear deck.

4. Eliminate rear ‘pop-out’.

See attached *Discretionary Review Application*, dated February 11, 2019.

## PROJECT SPONSOR’S RESPONSE TO DR APPLICATION

The sponsor has complied with the intent of the Residential Design Team (RDAT) recommendations (attached), in relation to building massing at the front and rear to address issues related to scale, light and mid-block access.

See attached *Response to Discretionary Review*, dated March 26, 2019.

## ENVIRONMENTAL REVIEW

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

## RESIDENTIAL DESIGN TEAM REVIEW

The project is subject to the Cow Hollow Design Guidelines. The Residential Design Advisory Review (RDAT) team requested had 5’ side setbacks at the rear extension to alleviate the issues related to building scale at the rear and access to mid-block open space brought forth by the neighbors. This is a typical request in similar circumstances. Staff review amended this request based on the limited horizontal addition at the rear and location of the neighbor’s existing stair and firewall. The proposed addition incorporates a 5’ side set back matching the property to the east at 4<sup>th</sup> story; and the 3<sup>rd</sup> story incorporates a 3’ side setback from the property to the East.

Extending the building to the irregular shaped side lot line was not deemed to produce a building that was out of scale at the street, since that width is within the 25’ -30’ wide range of typical lots. And since it is against an interior property line (“blind”) wall does it impact light and air to the adjacent neighbors.

With respect to the height, RDAT did not find any exceptional or extraordinary conditions were created with the addition of the fourth story. The fourth story massing set back 12’ with a low ceiling height retains the prevailing 3-story scale at the street.

The project sponsor has proposed some modifications to respond to neighbors’ concerns. These include:

1. Reduce the massing of northeast corner at second floor by providing a 12” x 24” notch.
2. Reduce extent of rear second floor deck by pulling railing back 3’.
3. Remove solid parapet at fourth floor and provide glass or metal railing.
4. Pay to infill property line windows in closet and stairs, or provide light boxes.
5. Reduce the massing at the northwest corner of the second floor by providing a 12” x 12” notch.
6. Provide a 5’ wide notch at the front west side of the 4<sup>th</sup> floor.
7. Paint the northeast side wall a light color.

Since they are intended as an offer to improve the project with respect to the DR requestors’ issues, staff recommends taking DR to accept the proposed modifications to so memorialize.

<b>RECOMMENDATION:</b>	<b>Take DR and approve project with proposed modifications</b>
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**Attachments:**

Block Book Map  
Sanborn Map  
Zoning Map  
Aerial Photographs  
Context Photographs  
Section 311 Notice  
CEQA Determination  
RDAT Notes  
DR Application  
Letters of opposition  
Summary letter dated 4.29.19  
Response to DR Application dated March 25, 2019  
Reduced Plans  
3D renderings, shadow studies



# SAN FRANCISCO PLANNING DEPARTMENT

## RESIDENTIAL DESIGN ADVISORY TEAM REVIEW

DATE: January 8, 2018 RDT MEETING DATE: January 17, 2018

### PROJECT INFORMATION:

Planner:	<u>Chris May</u>
Address:	<u>2758 Filbert St</u>
Cross Streets:	<u>Baker &amp; Broderick Streets</u>
Block/Lot:	<u>0942 / 013</u>
Zoning/Height Districts:	<u>RH-2/40-X</u>
BPA/Case No.	<u>2017.10.13.1247</u>
Project Status	<input checked="" type="checkbox"/> Initial Review <input type="checkbox"/> Post NOPDR <input type="checkbox"/> DR Filed
Amount of Time Req.	<input type="checkbox"/> 5 min (consent) <input checked="" type="checkbox"/> 15 minutes <input type="checkbox"/> 30 minutes (required for new const.)

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### RDAT Members in Attendance:

David Winslow, David Lindsay, Allison Albericci, Marcelle Boudreaux, Luiz Barata, Glenn Cabrerros, Maia Small (notes)

**Project Description:** Removal of 1- and 2-story portions of front façade, construction of 1-story horizontal rear addition with deck above, 3- and 4-story west side horizontal additions, 4<sup>th</sup> floor vertical addition with front and rear decks above 3-story portion.

**Project Concerns:** Existing building has 4-5 foot west side setbacks – side addition would provide one light well but would cover 3 neighboring property line windows. Adjacent property to the east has generous side setback at rear which is not matched by proposed horizontal or vertical additions. 4<sup>th</sup> floor vertical addition set back only 10 feet from main front wall. Window and door openings on front façade could be more symmetrically aligned.

### **RDAT Comments:**

To comply with the Residential Design Guideline to “Design the height and depth of the building to be compatible with the existing building scale at the mid-block open space” (pages 25-26), provide 5’ setbacks from any side lot lines for any new construction at the rear.

To comply with the Residential Design Guideline to “Design the height and depth of the building to be compatible with the existing building scale at the street” (page 24), provide a 15’ setback of the 4<sup>th</sup> floor from the front building face.

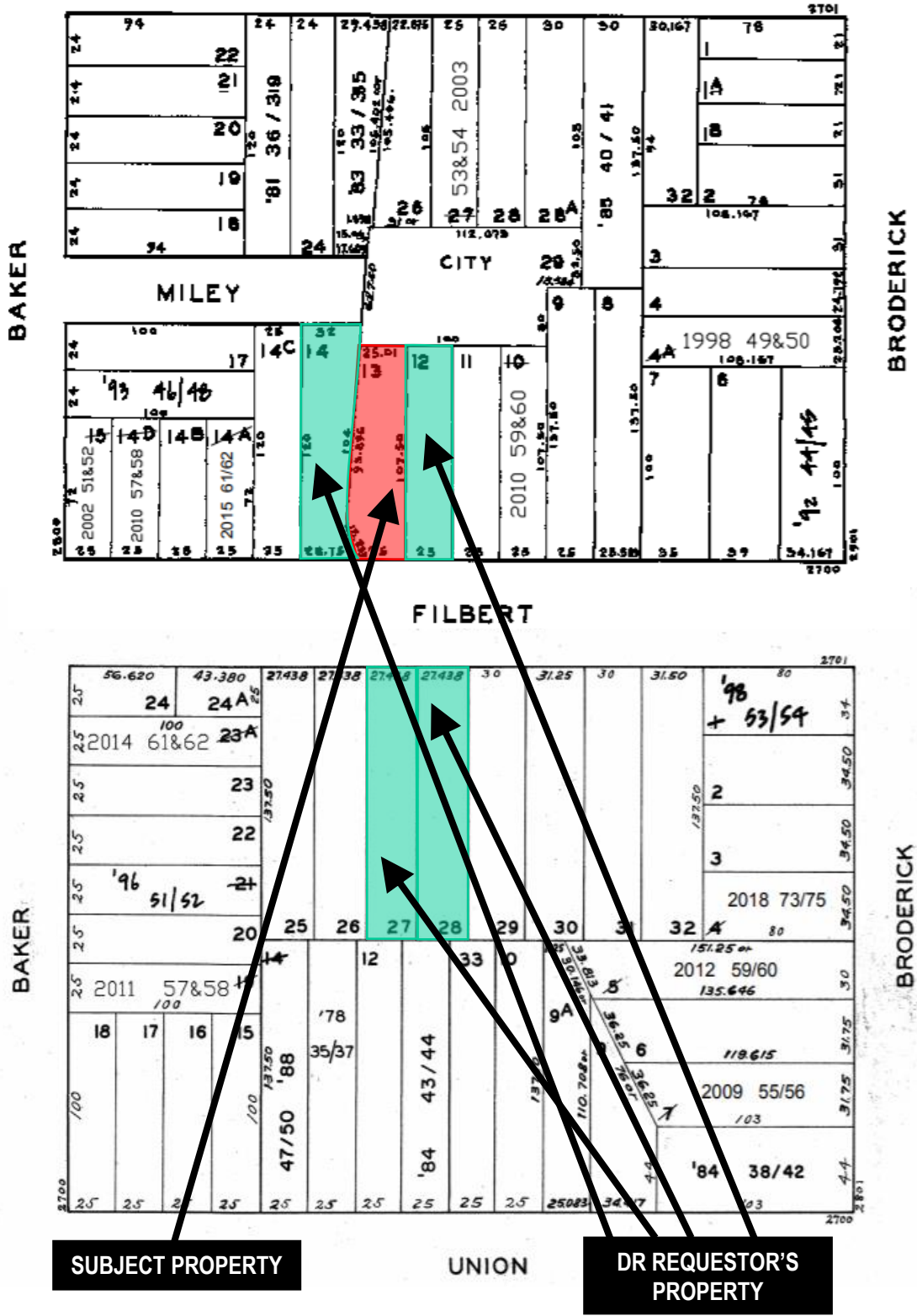
To comply with the Residential Design Guideline to “Articulate the building to minimize impacts on light and privacy to adjacent properties” (pages 16-17), provide a 5’ setback for guardrails at the front building face and east lot line. The Juliet-type deck at the front is acceptable however it should include a solid guardrail and be continuous with the façade material and adjacent plane.

To comply with the Residential Design Guidelines to “Design and place garage entrances and doors to be compatible with the building and the surrounding area” (page 35, including diagrams) and “Respect the existing pattern of building entrances,” (page 32), switch the placement of the garage door and pedestrian entry to match the adjacent building pattern on the same side of the street. Please align or intentionally compose the front façade elements, specifically the garage entry with the upper building façade.

# Exhibits

# Parcel Map

**GREENWICH**



Discretionary Review Hearing  
**Case Number 2017-013328DRP-02**  
 2758 Filbert Street

# Sanborn Map\*



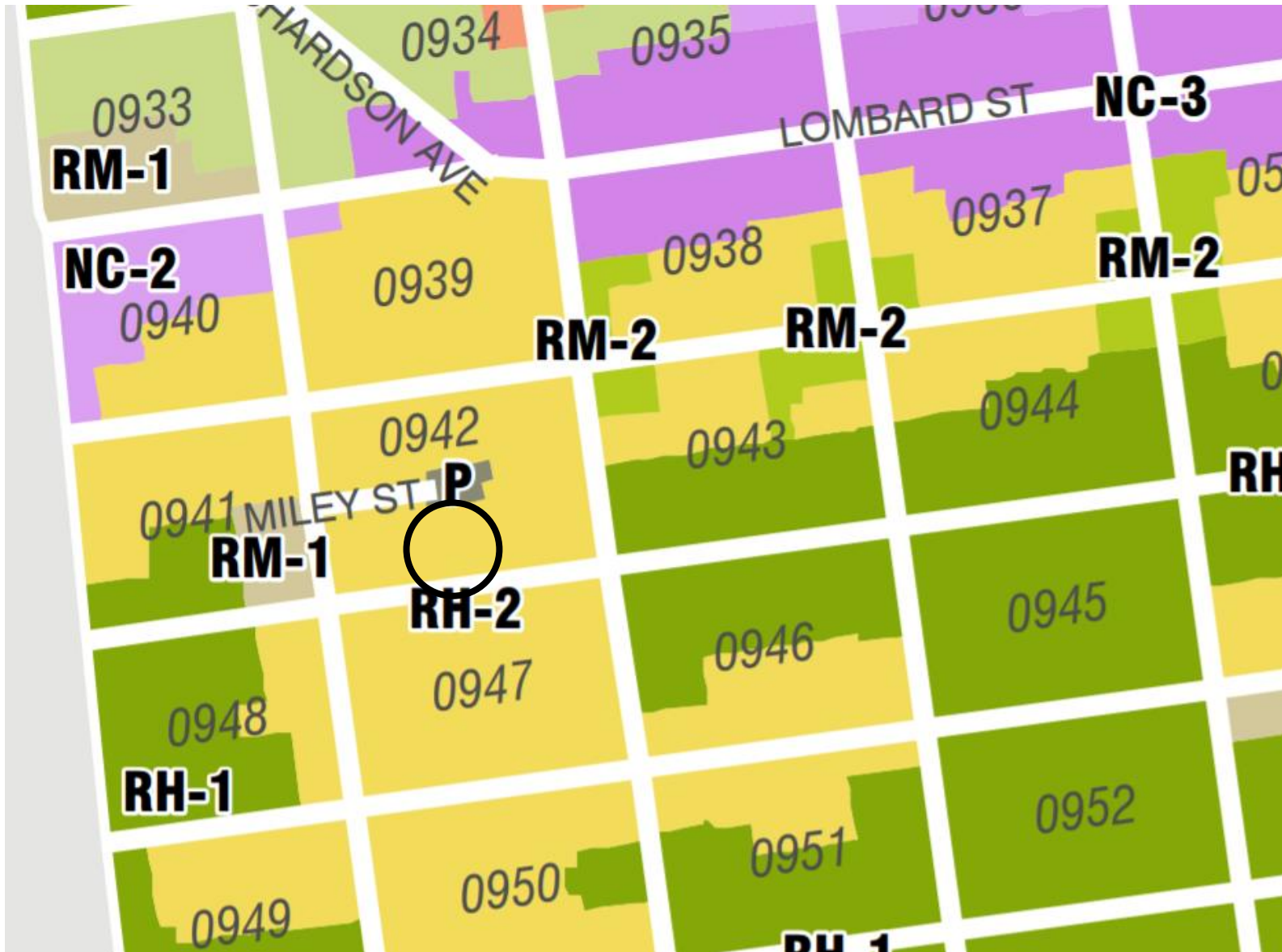
\*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



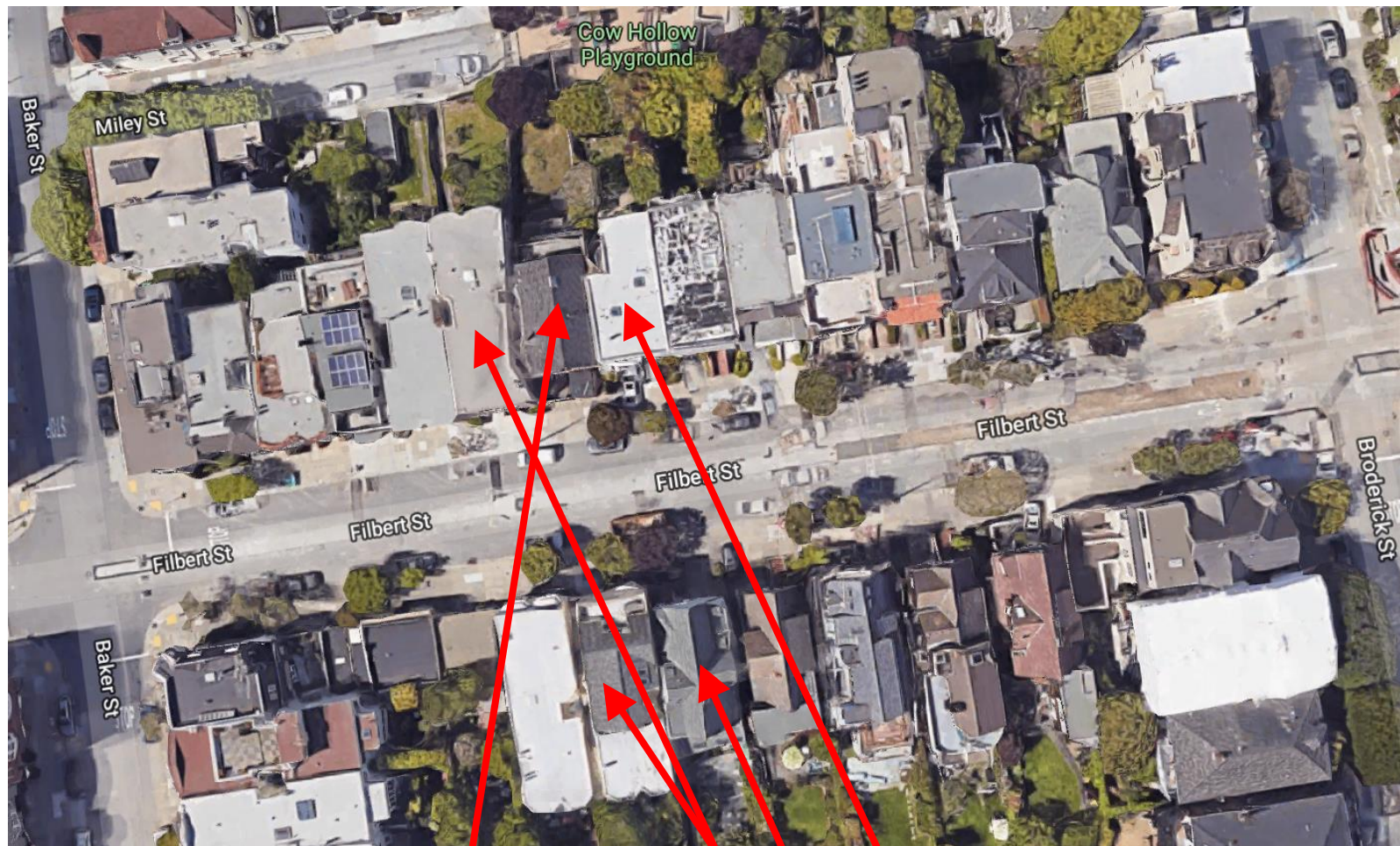
Discretionary Review Hearing  
Case Number 2017-013328DRP-02  
2758 Filbert Street



# Zoning Map



# Aerial Photo



**SUBJECT PROPERTY**

**DR REQUESTOR'S  
PROPERTY**



Discretionary Review Hearing  
Case Number 2017-013328DRP-02  
2758 Filbert Street



# Aerial Photo



DR REQUESTOR'S  
PROPERTY

SUBJECT PROPERTY



Discretionary Review Hearing  
Case Number 2017-013328DRP-02  
2758 Filbert Street



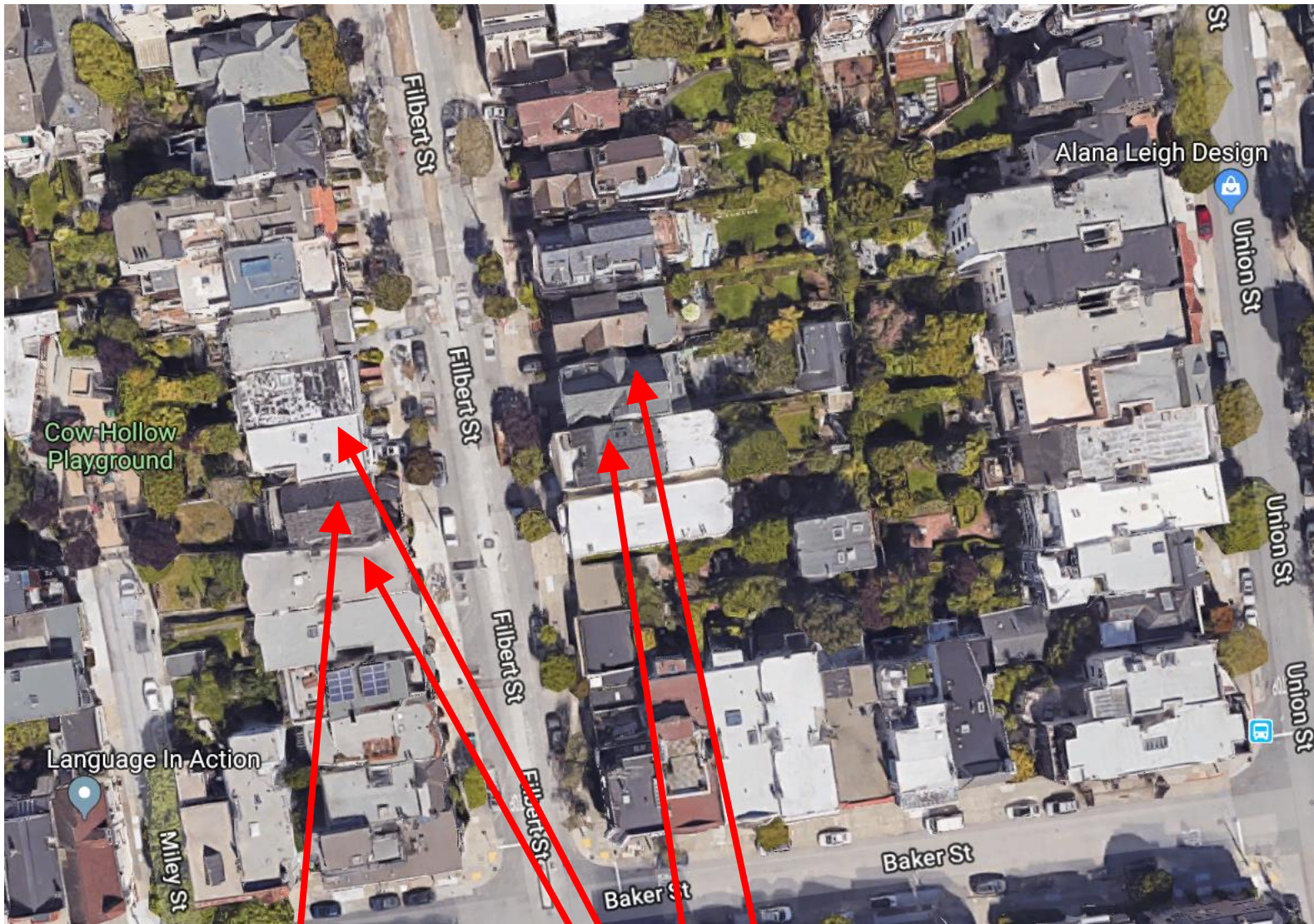
# Aerial Photo



Discretionary Review Hearing  
Case Number 2017-013328DRP-02  
2758 Filbert Street



# Aerial Photo



**SUBJECT PROPERTY**

**DR REQUESTOR'S  
PROPERTY**



Discretionary Review Hearing  
Case Number 2017-013328DRP-02  
2758 Filbert Street

# Site Photo



**SUBJECT PROPERTY**

Discretionary Review Hearing  
Case Number 2017-013328DRP-02  
2758 Filbert Street





# SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission Street Suite 400 San Francisco, CA 94103

## NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311)

On **October 13, 2017**, the Applicant named below filed Building Permit Application No. **2017.1013.1247** with the City and County of San Francisco.

PROJECT INFORMATION		APPLICANT INFORMATION	
Project Address:	<b>2758 Filbert Street</b>	Applicant:	<b>Kaileen Yen, Winder Gibson Architects</b>
Cross Street(s):	<b>Baker &amp; Broderick Streets</b>	Address:	<b>1898 Mission Street</b>
Block/Lot No.:	<b>0942/013</b>	City, State:	<b>San Francisco, CA 94103</b>
Zoning District(s):	<b>RH-2 / 40-X</b>	Telephone:	<b>(415) 318-8634</b>
Record No.:	<b>2017-013328PRJ</b>	Email:	<b><a href="mailto:yen@archsf.com">yen@archsf.com</a></b>

You are receiving this notice as a property owner or resident within 150 feet of the proposed project. You are not required to take any action. For more information about the proposed project, or to express concerns about the project, please contact the Applicant listed above or the Planner named below as soon as possible. If you believe that there are exceptional or extraordinary circumstances associated with the project, you may request the Planning Commission to use its discretionary powers to review this application at a public hearing. Applications requesting a Discretionary Review hearing must be filed during the 30-day review period, prior to the close of business on the Expiration Date shown below, or the next business day if that date is on a week-end or a legal holiday. If no Requests for Discretionary Review are filed, this project will be approved by the Planning Department after the Expiration Date.

Members of the public are not required to provide personal identifying information when they communicate with the Commission or the Department. All written or oral communications, including submitted personal contact information, may be made available to the public for inspection and copying upon request and may appear on the Department's website or in other public documents.

PROJECT SCOPE		
<input type="checkbox"/> Demolition	<input type="checkbox"/> New Construction	<input type="checkbox"/> Alteration
<input type="checkbox"/> Change of Use	<input checked="" type="checkbox"/> Façade Alteration(s)	<input type="checkbox"/> Front Addition
<input checked="" type="checkbox"/> Rear Addition	<input checked="" type="checkbox"/> Side Addition	<input checked="" type="checkbox"/> Vertical Addition
PROJECT FEATURES	EXISTING	PROPOSED
Building Use	Residential	No Change
Front Setback	None	5 feet
Side Setbacks	0-8 feet (west), 0 feet (east)	0 feet (west), No Change (east)
Building Depth	59 feet	69 feet
Rear Yard	48 feet	34 feet (1 <sup>st</sup> floor), 44 feet (2 <sup>nd</sup> & 3 <sup>rd</sup> floors), 54 feet (4 <sup>th</sup> floor)
Building Height	32 feet	38 feet
Number of Stories	3	4
Number of Dwelling Units	1	No Change
Number of Parking Spaces	1	2

### PROJECT DESCRIPTION

The project proposes the removal of the 1- and 2-story front portions of the existing dwelling, the construction of a 1-story horizontal rear addition with a roof deck above, 3- and 4-story horizontal west side and rear additions, a 4<sup>th</sup> floor vertical addition and roof decks above the 3<sup>rd</sup> floor at the front and rear of the building. The floor area would increase from approximately 3,594 square feet to approximately 5,844 square feet. See attached plans.

The issuance of the building permit by the Department of Building Inspection or the Planning Commission project approval at a discretionary review hearing would constitute as the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.

**For more information, please contact Planning Department staff:**

Planner: Christopher May  
Telephone: (415) 575-9087  
E-mail: [christopher.may@sfgov.org](mailto:christopher.may@sfgov.org)

Notice Date: 1/10/2019  
**Expiration Date: 2/11/2019**

# GENERAL INFORMATION ABOUT PROCEDURES

Reduced copies of the proposed project plans have been included in this mailing for your information. If you have questions about the plans, please contact the project Applicant listed on the front of this notice. You may wish to discuss the plans with your neighbors or neighborhood association, as they may already be aware of the project. If you have general questions about the Planning Department's review process, please contact the Planning Information Center at 1660 Mission Street, 1st Floor (415/ 558-6377) between 8:00am - 5:00pm Monday-Friday. If you have specific questions about the proposed project, you should contact the planner listed on the front of this notice.

If you believe that the impact on you from the proposed project is significant and you wish to seek to change the project, there are several procedures you may use. **We strongly urge that steps 1 and 2 be taken.**

1. Request a meeting with the project Applicant to get more information and to explain the project's impact on you.
2. Contact the nonprofit organization Community Boards at (415) 920-3820, or online at [www.communityboards.org](http://www.communityboards.org) for a facilitated discussion in a safe and collaborative environment. Community Boards acts as a neutral third party and has, on many occasions, helped reach mutually agreeable solutions.
3. Where you have attempted, through the use of the above steps or other means, to address potential problems without success, please contact the planner listed on the front of this notice to discuss your concerns.

If, after exhausting the procedures outlined above, you still believe that exceptional and extraordinary circumstances exist, you have the option to request that the Planning Commission exercise its discretionary powers to review the project. These powers are reserved for use in exceptional and extraordinary circumstances for projects which generally conflict with the City's General Plan and the Priority Policies of the Planning Code; therefore the Commission exercises its discretion with utmost restraint. This procedure is called Discretionary Review. If you believe the project warrants Discretionary Review by the Planning Commission, **you must file a Discretionary Review application prior to the Expiration Date shown on the front of this notice.** Discretionary Review applications are available at the Planning Information Center (PIC), 1660 Mission Street, 1st Floor, or online at [www.sfplanning.org](http://www.sfplanning.org). You must submit the application in person at the Planning Information Center (PIC) between 8:00am - 5:00pm Monday-Friday, with all required materials and a check payable to the Planning Department. To determine the fee for a Discretionary Review, please refer to the Planning Department Fee Schedule available at [www.sfplanning.org](http://www.sfplanning.org). If the project includes multiple building permits, i.e. demolition and new construction, a **separate request for Discretionary Review must be submitted, with all required materials and fee, for each permit that you feel will have an impact on you.**

**Incomplete applications will not be accepted.**

If no Discretionary Review Applications have been filed within the Notification Period, the Planning Department will approve the application and forward it to the Department of Building Inspection for its review.

## BOARD OF APPEALS

An appeal of the Planning Commission's decision on a Discretionary Review case may be made to the **Board of Appeals within 15 calendar days after the building permit is issued** (or denied) by the Department of Building Inspection. Appeals must be submitted in person at the Board's office at 1650 Mission Street, 3rd Floor, Room 304. For further information about appeals to the Board of Appeals, including current fees, contact the Board of Appeals at (415) 575-6880.

## ENVIRONMENTAL REVIEW

This project has undergone preliminary review pursuant to California Environmental Quality Act (CEQA). If, as part of this process, the Department's Environmental Review Officer has deemed this project to be exempt from further environmental review, an exemption determination has been prepared and can be obtained through the Exemption Map, on-line, at [www.sfplanning.org](http://www.sfplanning.org). An appeal of the decision **to exempt the proposed project from CEQA may be made to the Board of Supervisors within 30 calendar days** after the project approval action identified on the determination. The procedures for filing an appeal of an exemption determination are available from the Clerk of the Board at City Hall, Room 244, or by calling (415) 554-5184.

Under CEQA, in a later court challenge, a litigant may be limited to raising only those issues previously raised at a hearing on the project or in written correspondence delivered to the Board of Supervisors, Planning Commission, Planning Department or other City board, commission or department at, or prior to, such hearing, or as part of the appeal hearing process on the CEQA decision.





# SAN FRANCISCO PLANNING DEPARTMENT

## CEQA Categorical Exemption Determination

### PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
2758 Filbert Street		0942/013	
Case No.	Permit No.	Plans Dated	
2017-013328ENV		10/12/2017	
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRER if over 45 years old)	<input type="checkbox"/> New Construction	<input type="checkbox"/> Project Modification (GO TO STEP 7)
Project description for Planning Department approval. Renovation of an existing single family house. New addition includes one new story, 3 additional bedrooms, 2.5 additional bathrooms and a rear yard addition.			

### STEP 1: EXEMPTION CLASS

#### TO BE COMPLETED BY PROJECT PLANNER

<b>*Note: If neither class applies, an <i>Environmental Evaluation Application</i> is required.*</b>	
<input checked="" type="checkbox"/>	<b>Class 1 – Existing Facilities.</b> Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	<b>Class 3 – New Construction/ Conversion of Small Structures.</b> Up to three (3) new single-family residences or six (6) dwelling units in one building; commercial/office structures; utility extensions; .; change of use under 10,000 sq. ft. if principally permitted or with a CU. Change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	<b>Class</b> _____

### STEP 2: CEQA IMPACTS

#### TO BE COMPLETED BY PROJECT PLANNER

<b>If any box is checked below, an <i>Environmental Evaluation Application</i> is required.</b>	
<input type="checkbox"/>	<b>Air Quality:</b> Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks)? <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Article 38 program and the project would not have the potential to emit substantial pollutant concentrations. (refer to EP_ArcMap &gt; CEQA Catex Determination Layers &gt; Air Pollutant Exposure Zone)</i>
<input type="checkbox"/>	<b>Hazardous Materials:</b> If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? If yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the</i>

	<i>Mahe program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap &gt; Maher layer).</i>
<input type="checkbox"/>	<b>Transportation:</b> Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
<input type="checkbox"/>	<b>Archeological Resources:</b> Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)
<input type="checkbox"/>	<b>Subdivision/Lot Line Adjustment:</b> Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)
<input type="checkbox"/>	<b>Slope = or &gt; 20%:</b> Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	<b>Seismic: Landslide Zone:</b> Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	<b>Seismic: Liquefaction Zone:</b> Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required.
If no boxes are checked above, GO TO STEP 3. If one or more boxes are checked above, an <u>Environmental Evaluation Application</u> is required, unless reviewed by an Environmental Planner.	
<input checked="" type="checkbox"/>	Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.
Comments and Planner Signature (optional): Laura Lynch <div style="float: right; font-size: small;"> Digitally signed by Laura Lynch  DN: cn=Laura Lynch, o=City of San Francisco, ou=Department of Planning and Community Development, email=Laura.Lynch@sfplanning.org, c=US  Date: 2017.03.17 12:05:05 -0700 </div>	

### STEP 3: PROPERTY STATUS – HISTORIC RESOURCE TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: (refer to Parcel Information Map)	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input checked="" type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

**STEP 4: PROPOSED WORK CHECKLIST**  
TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. <b>Change of use and new construction.</b> Tenant improvements not included.
<input type="checkbox"/>	2. <b>Regular maintenance or repair</b> to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. <b>Window replacement</b> that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. <b>Garage work.</b> A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. <b>Deck, terrace construction, or fences</b> not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. <b>Mechanical equipment installation</b> that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. <b>Dormer installation</b> that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. <b>Addition(s)</b> that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
<b>Note: Project Planner must check box below before proceeding.</b>	
<input checked="" type="checkbox"/>	Project is not listed. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project <b>does not conform</b> to the scopes of work. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project involves <b>four or more</b> work descriptions. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project involves <b>less than four</b> work descriptions. <b>GO TO STEP 6.</b>


**STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW**  
TO BE COMPLETED BY PRESERVATION PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Project involves a <b>known historical resource (CEQA Category A)</b> as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. <b>Interior alterations to publicly accessible spaces.</b>
<input type="checkbox"/>	3. <b>Window replacement</b> of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. <b>Façade/storefront alterations</b> that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. <b>Raising the building</b> in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. <b>Restoration</b> based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	7. <b>Addition(s)</b> , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .
<input type="checkbox"/>	8. <b>Other work consistent</b> with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):



<input type="checkbox"/>	<b>9. Other work</b> that would not materially impair a historic district (specify or add comments):  <i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i> _____
<input checked="" type="checkbox"/>	<b>10. Reclassification of property status.</b> <i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i> <input type="checkbox"/> Reclassify to Category A <input checked="" type="checkbox"/> Reclassify to Category C a. Per HRER dated: PTR form dated 12/13/17 <i>(attach HRER)</i> b. Other <i>(specify)</i> :
<b>Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.</b>	
<input type="checkbox"/>	<b>Further environmental review required.</b> Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. <b>GO TO STEP 6.</b>
<input checked="" type="checkbox"/>	<b>Project can proceed with categorical exemption review.</b> The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. <b>GO TO STEP 6.</b>
<b>Comments (optional):</b>  	
Preservation Planner Signature: Jorgen Cleemann     Digitally signed by Jorgen Cleemann Date: 2017.12.18 10:07:36 -08'00'	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION**  
**TO BE COMPLETED BY PROJECT PLANNER**

<input type="checkbox"/>	<b>Further environmental review required.</b> Proposed project does not meet scopes of work in either <i>(check all that apply)</i> : <input type="checkbox"/> Step 2 – CEQA Impacts <input type="checkbox"/> Step 5 – Advanced Historical Review <b>STOP! Must file an <i>Environmental Evaluation Application</i>.</b>	
<input checked="" type="checkbox"/>	<b>No further environmental review is required. The project is categorically exempt under CEQA.</b>	
	<b>Planner Name:</b> Jorgen Cleemann  <b>Project Approval Action:</b>  Building Permit  <small>If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</small>	<b>Signature:</b>   Digitally signed by Jorgen Cleemann Date: 2017.12.18 10:07:59 -08'00'
Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action.		



# SAN FRANCISCO PLANNING DEPARTMENT

## PRESERVATION TEAM REVIEW FORM

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

<b>Preservation Team Meeting Date:</b>	10/24/2017	<b>Date of Form Completion</b>	12/12/2017
--	------------	--------------------------------	------------

PROJECT INFORMATION:		
Planner:	Address:	
Jørgen G. Cleemann	2758 Filbert Street	
Block/Lot:	Cross Streets:	
0942/013	Baker and Broderick Streets	
CEQA Category:	Art. 10/11:	BPA/Case No.:
B	N/A	2017-013328ENV

PURPOSE OF REVIEW:			PROJECT DESCRIPTION:	
<input checked="" type="radio"/> CEQA	<input type="radio"/> Article 10/11	<input type="radio"/> Preliminary/PIC	<input checked="" type="radio"/> Alteration	<input type="radio"/> Demo/New Construction

<b>DATE OF PLANS UNDER REVIEW:</b>	10/12/2017
------------------------------------	------------

PROJECT ISSUES:	
<input checked="" type="checkbox"/>	Is the subject Property an eligible historic resource?
<input type="checkbox"/>	If so, are the proposed changes a significant impact?
Additional Notes:	
Submitted: Historic Resource Evaluation (dated June 2017) prepared by Tim Kelley Consulting, LLC	
Proposed Project: Renovation of an existing single family house. New addition includes one new story, 3 additional bedrooms, 2.5 additional bathrooms and a rear yard addition.	

PRESERVATION TEAM REVIEW:	
Category:	<input type="radio"/> A <input type="radio"/> B <input checked="" type="radio"/> C
Individual	Historic District/Context
Property is individually eligible for inclusion in a California Register under one or more of the following Criteria:	Property is in an eligible California Register Historic District/Context under one or more of the following Criteria:
Criterion 1 - Event: <input type="radio"/> Yes <input checked="" type="radio"/> No	Criterion 1 - Event: <input type="radio"/> Yes <input checked="" type="radio"/> No
Criterion 2 - Persons: <input type="radio"/> Yes <input checked="" type="radio"/> No	Criterion 2 - Persons: <input type="radio"/> Yes <input checked="" type="radio"/> No
Criterion 3 - Architecture: <input type="radio"/> Yes <input checked="" type="radio"/> No	Criterion 3 - Architecture: <input type="radio"/> Yes <input checked="" type="radio"/> No
Criterion 4 - Info. Potential: <input type="radio"/> Yes <input checked="" type="radio"/> No	Criterion 4 - Info. Potential: <input type="radio"/> Yes <input checked="" type="radio"/> No
Period of Significance: <input type="text"/>	Period of Significance: <input type="text"/>
	<input type="radio"/> Contributor <input type="radio"/> Non-Contributor

Complies with the Secretary's Standards/Art 10/Art 11:	<input type="radio"/> Yes	<input type="radio"/> No	<input checked="" type="radio"/> N/A
CEQA Material Impairment to the individual historic resource:	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
CEQA Material Impairment to the historic district:	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Requires Design Revisions:	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Defer to Residential Design Team:	<input checked="" type="radio"/> Yes	<input type="radio"/> No	

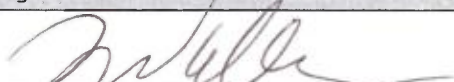
**PRESERVATION TEAM COMMENTS:**

According to the Historic Resource Evaluation (dated June 2017) prepared by Tim Kelley Consulting and information found in the Planning Department, the subject property at 2758 Filbert Street contains a wood-frame, two-story over-garage, gable-end, single-family residence located in the Cow Hollow neighborhood. Constructed in 1901 by builder John A. Hoots, the subject building's front facade is clad in a variety of materials, contains several different window types, and features a projecting one-story garage with a roof deck. The shingle-clad rear facade, visible from mid-block public spaces, projects at the basement and first stories and features a roof deck and projecting bays at the second story. Recorded alterations at the subject property include the extension of the garage and creation of the front deck (1948), and extensions into the side and rear yards (1963, 1975, 1993). Additional unrecorded alterations include the replacement of siding.

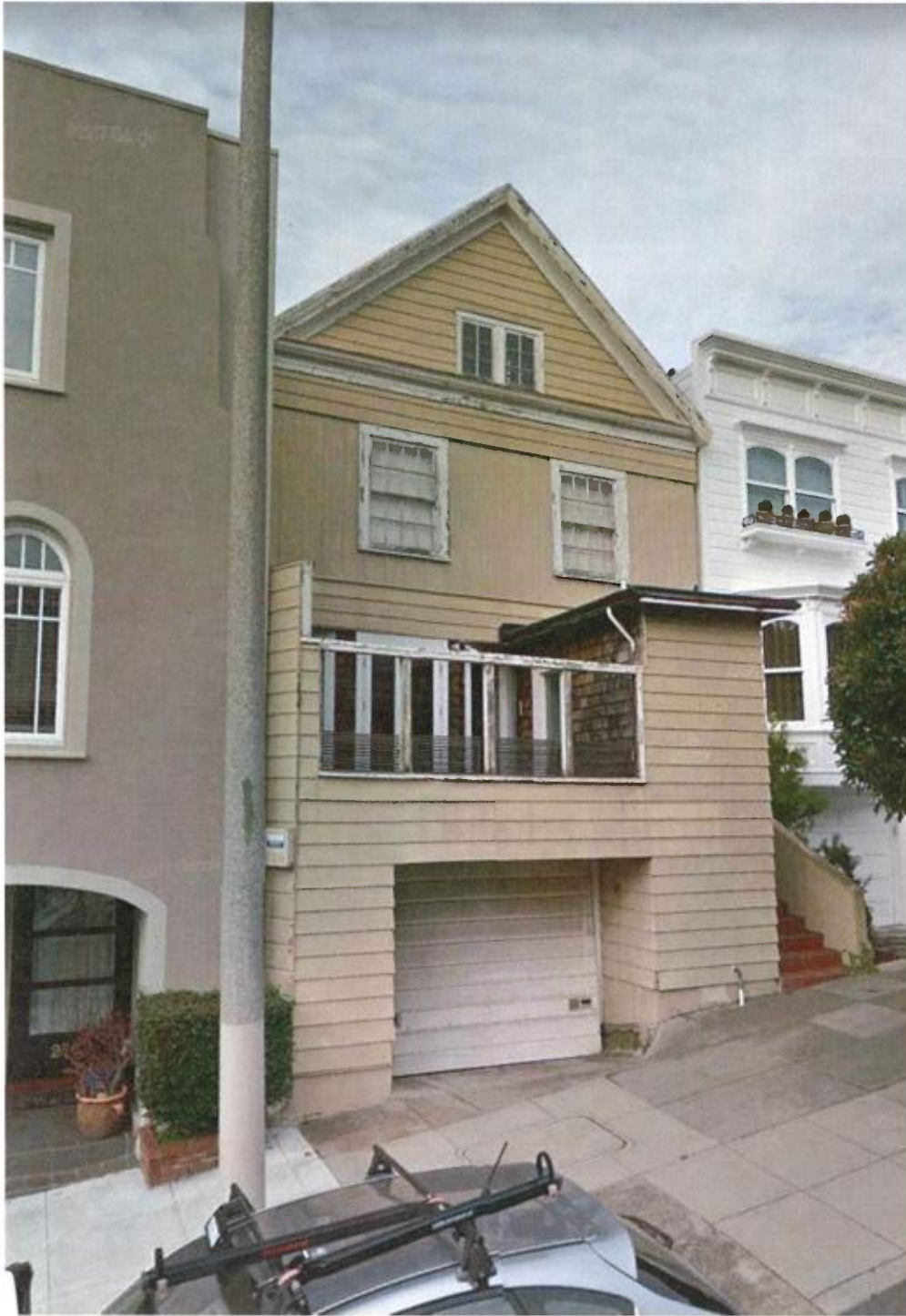
The subject building does not appear eligible for individual listing in the California Register of Historical Resources (CRHR) under any Criterion. The building does not possess a specific association with any historical events that would support a finding of significance under Criterion 1. None of the owners or occupants has been identified as sufficiently important to history to justify a finding of significance under Criterion 2. Architecturally, the subject building does not embody the distinctive characteristics of a type, is not the work of a master, and does not possess high artistic values, and therefore is not significant under Criterion 3. The building does not embody a rare construction type and therefore is not eligible for listing under Criterion 4 as it applies to buildings. (The potential archeological significance of the site, as opposed to the building, is not addressed herein.)

The subject property is located just outside of the northern boundary of the CRHR-eligible Cow Hollow First Bay Tradition Historic District. While partially developed during the district's period of significance (1888-1914), the north side of Filbert Street generally possesses less integrity and a less coherent architectural character than can be found within the district (see, e.g., the row of five distinctive gabled houses on the opposite side of Filbert Street). To the north of Filbert, the neighborhood gradually becomes denser and more commercial as it slopes down toward Lombard Street. There does not appear to be justification for extending the district boundaries to include the subject building.

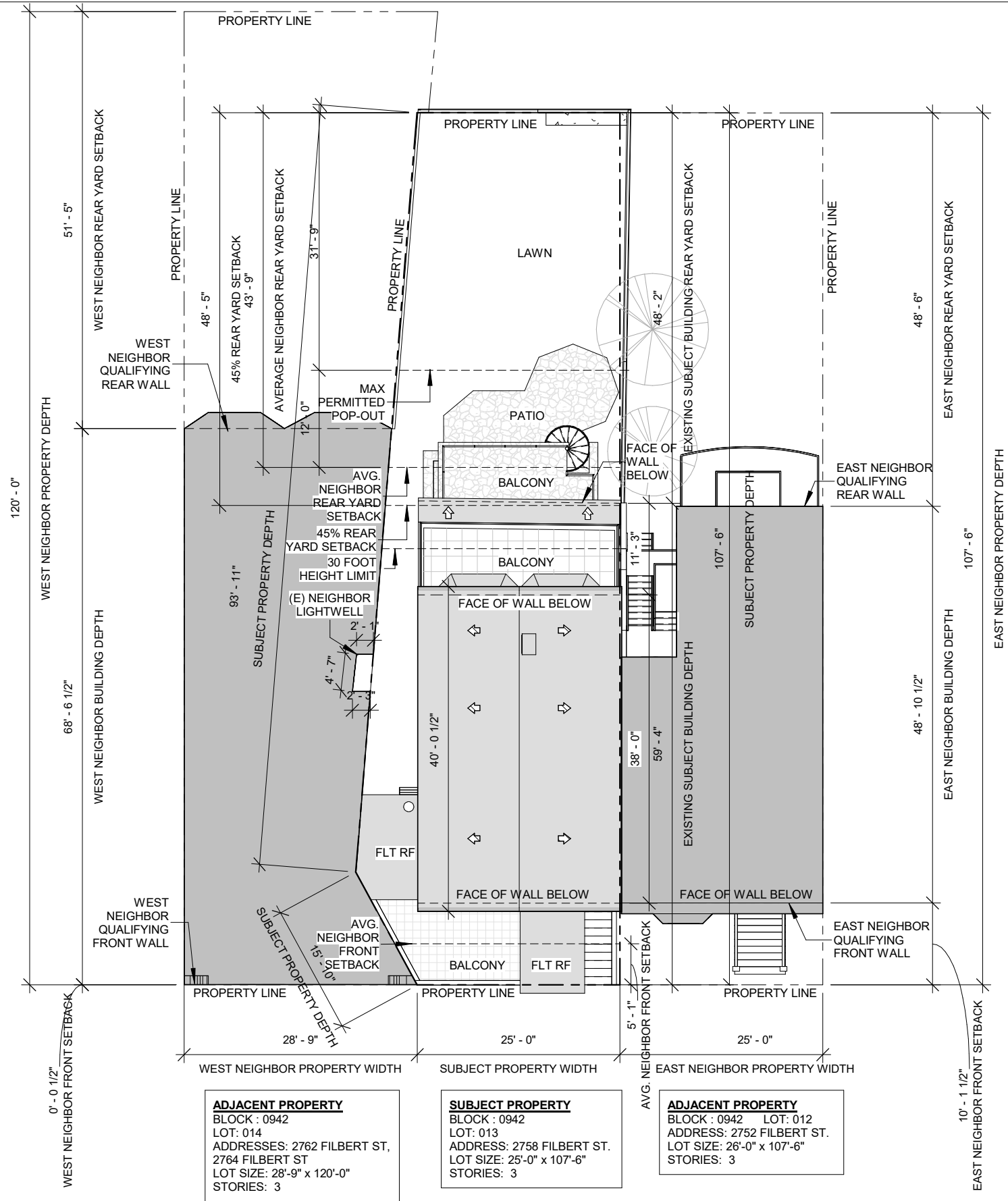
Therefore the subject building has been found ineligible for listing in the CRHR, either individually or as a contributor to a historic district.

Signature of a Senior Preservation Planner / Preservation Coordinator:	Date:
	12/13/17





**Figure 1.** 2758 Filbert Street. Screenshot of 2017 Google Streetview.



1 (E) EXISTING SITE PLAN (311)  
1/16" = 1'-0"

**ADJACENT PROPERTY**  
BLOCK : 0942  
LOT: 014  
ADDRESSES: 2762 FILBERT ST,  
2764 FILBERT ST  
LOT SIZE: 28'-9" x 120'-0"  
STORIES: 3

**SUBJECT PROPERTY**  
BLOCK : 0942  
LOT: 013  
ADDRESS: 2758 FILBERT ST.  
LOT SIZE: 25'-0" x 107'-6"  
STORIES: 3

**ADJACENT PROPERTY**  
BLOCK : 0942 LOT: 012  
ADDRESS: 2752 FILBERT ST.  
LOT SIZE: 26'-0" x 107'-6"  
STORIES: 3

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san francisco, ca 94103



2758 FILBERT STREET  
SAN FRANCISCO, CA 94123

311 NOTIFICATION

EXISTING SITE PLAN

PROJECT  
NORTH

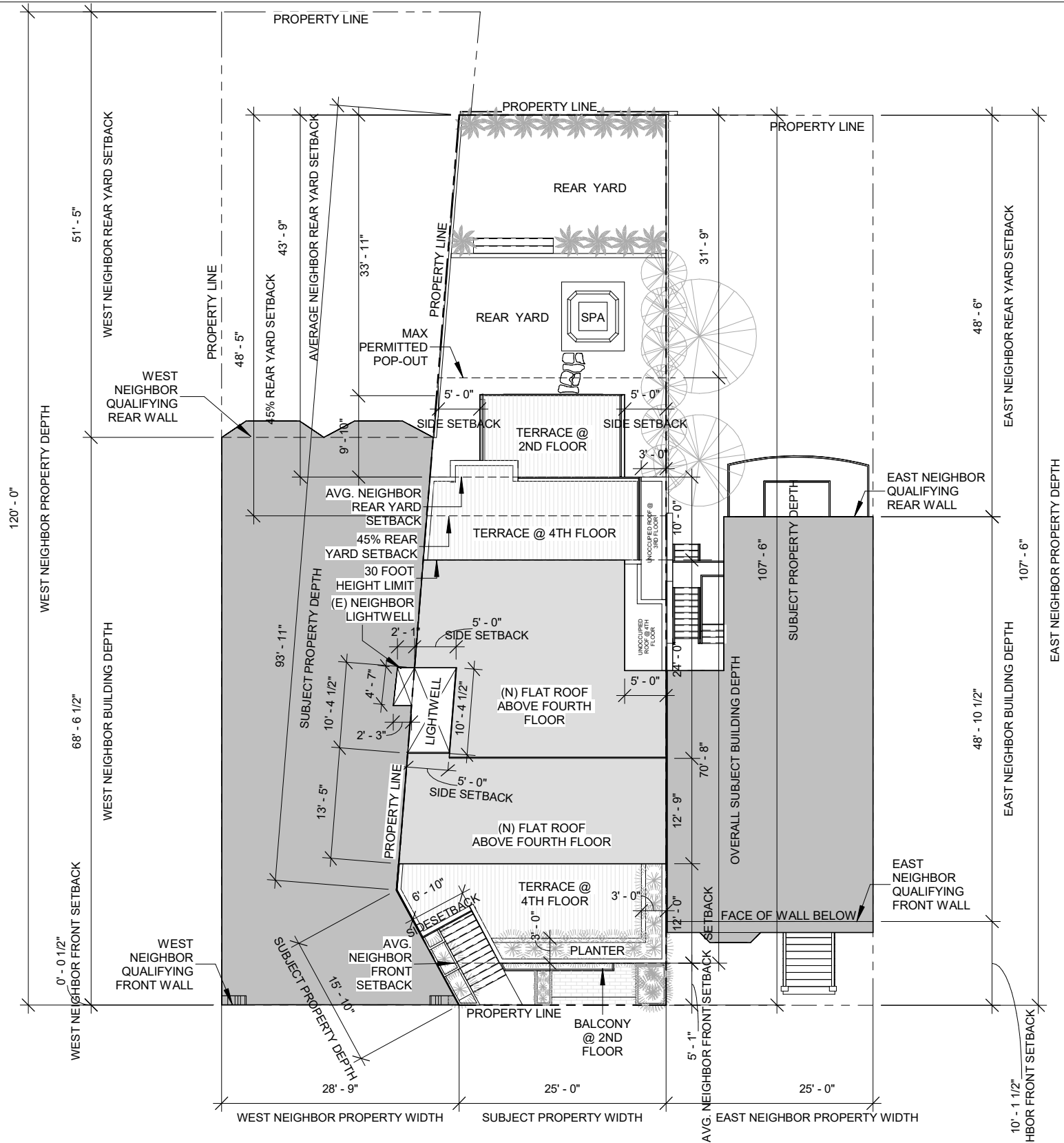
311 1

DATE 12/21/18

SCALE 1/16" = 1'-0"

DRAWN Author





**ADJACENT PROPERTY**  
BLOCK : 0942 LOT: 014  
ADDRESSES: 2762 FILBERT ST, 2764 FILBERT ST  
LOT SIZE: 28'-9" x 120'-0"  
STORIES: 3

**SUBJECT PROPERTY**  
BLOCK : 0942 LOT: 013  
ADDRESS: 2758 FILBERT ST.  
LOT SIZE: 25'-0" x 107'-6"  
STORIES: 3

**ADJACENT PROPERTY**  
BLOCK : 0942 LOT: 012  
ADDRESS: 2752 FILBERT ST  
LOT SIZE: 26'-0" x 107'-6"  
STORIES: 3

1 PROPOSED SITE PLAN (311)  
1/16" = 1'-0"

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311 NOTIFICATION

PROPOSED SITE PLAN

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\_\_\_\_\_  
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\_\_\_\_\_

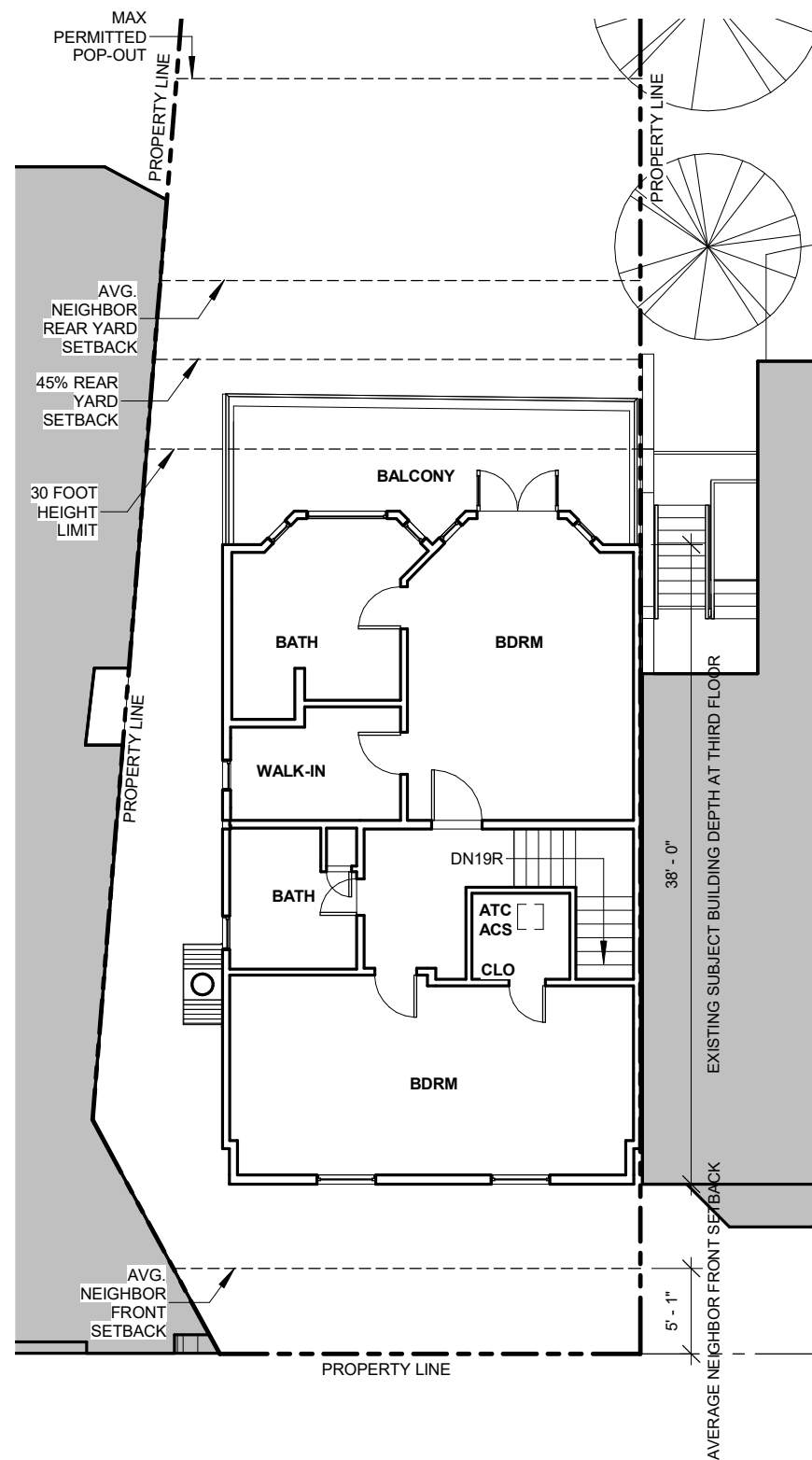


311 2

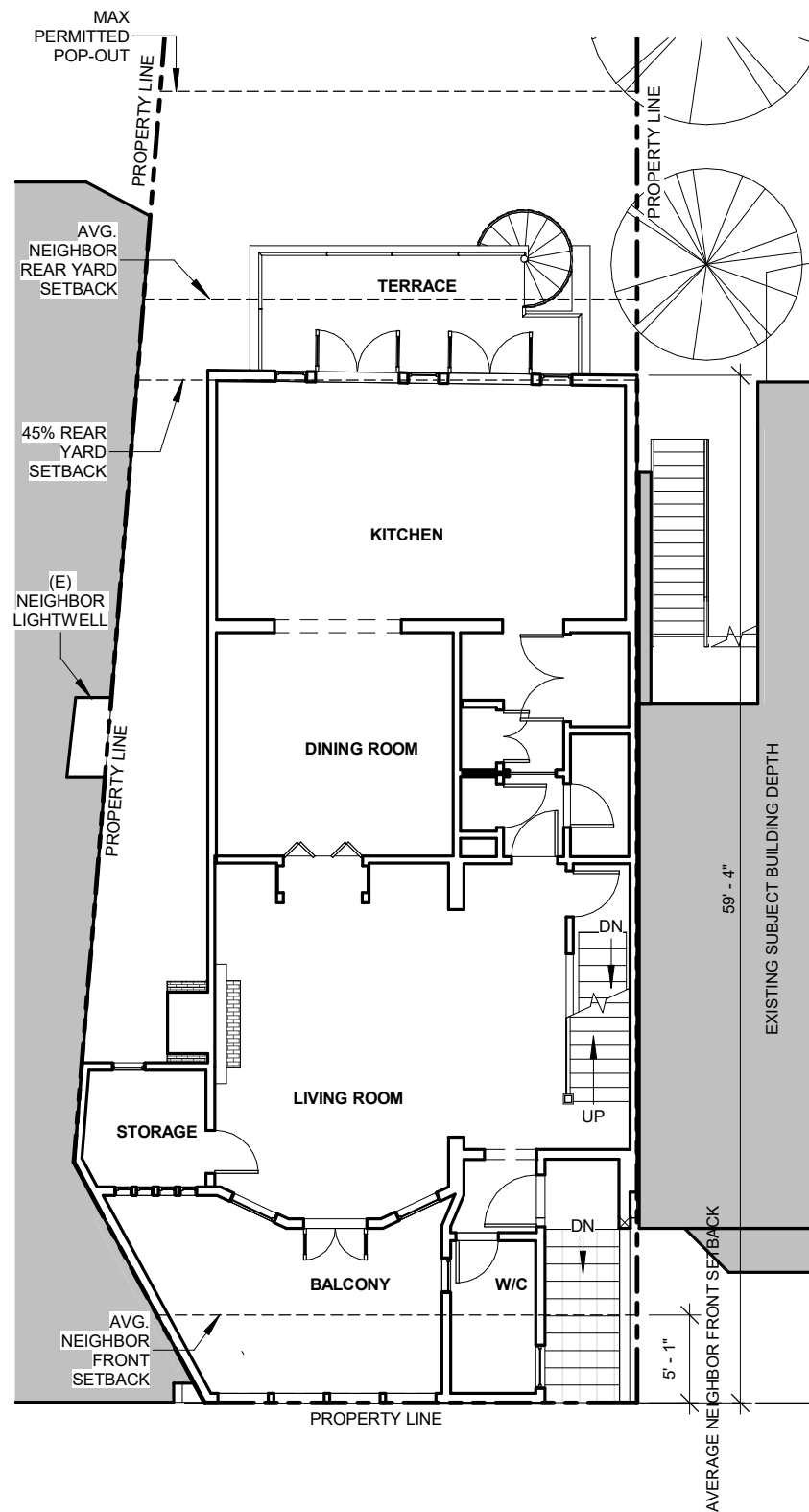
DATE 12/21/18

SCALE 1/16" = 1'-0"

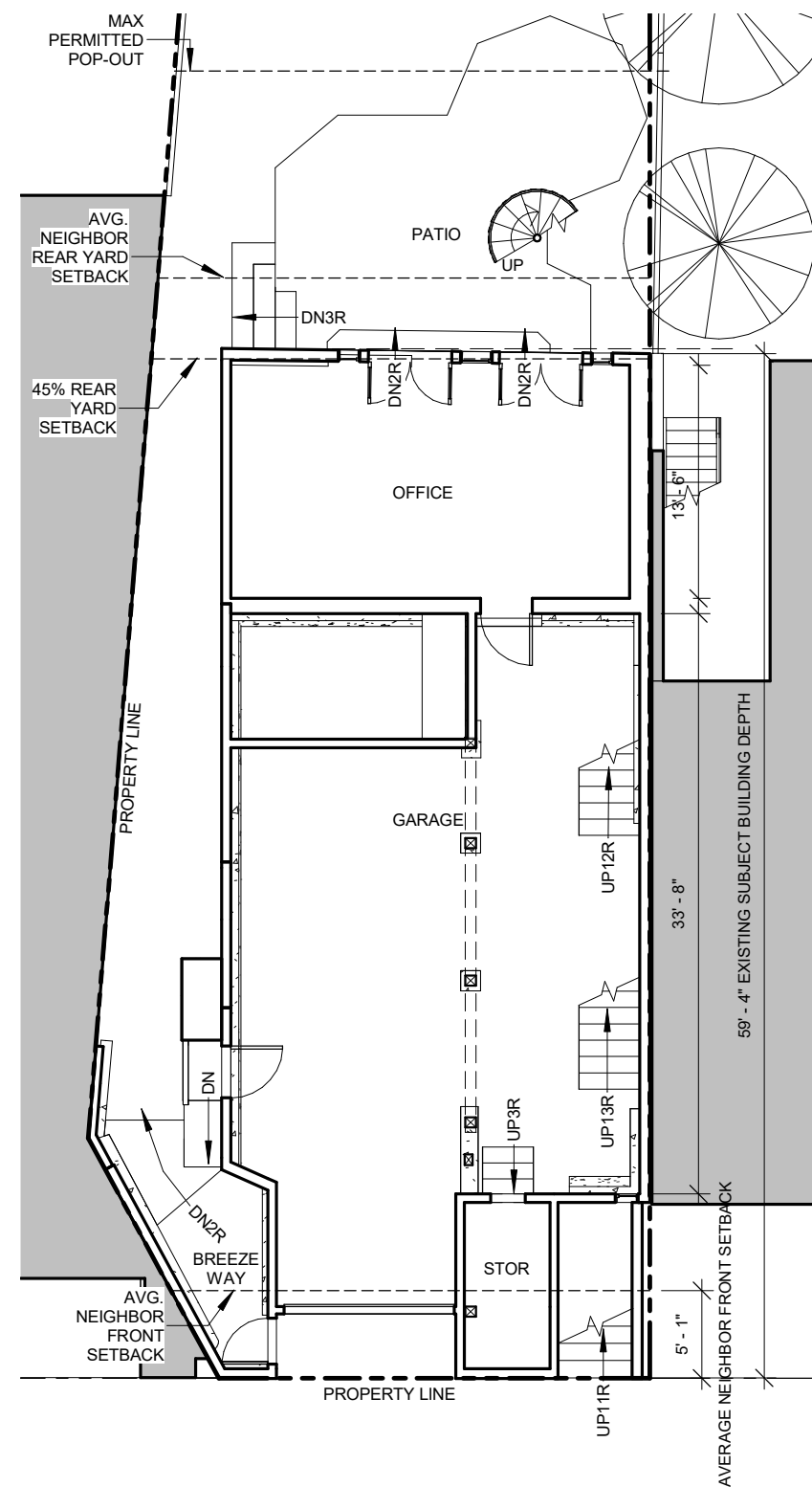
DRAWN Author



③ EXISTING THIRD FLOOR (311)  
3/32" = 1'-0"



② EXISTING SECOND FLOOR (311)  
3/32" = 1'-0"



① EXISTING FIRST FLOOR (311)  
3/32" = 1'-0"

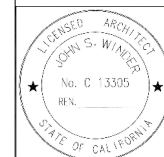
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311 NOTIFICATION

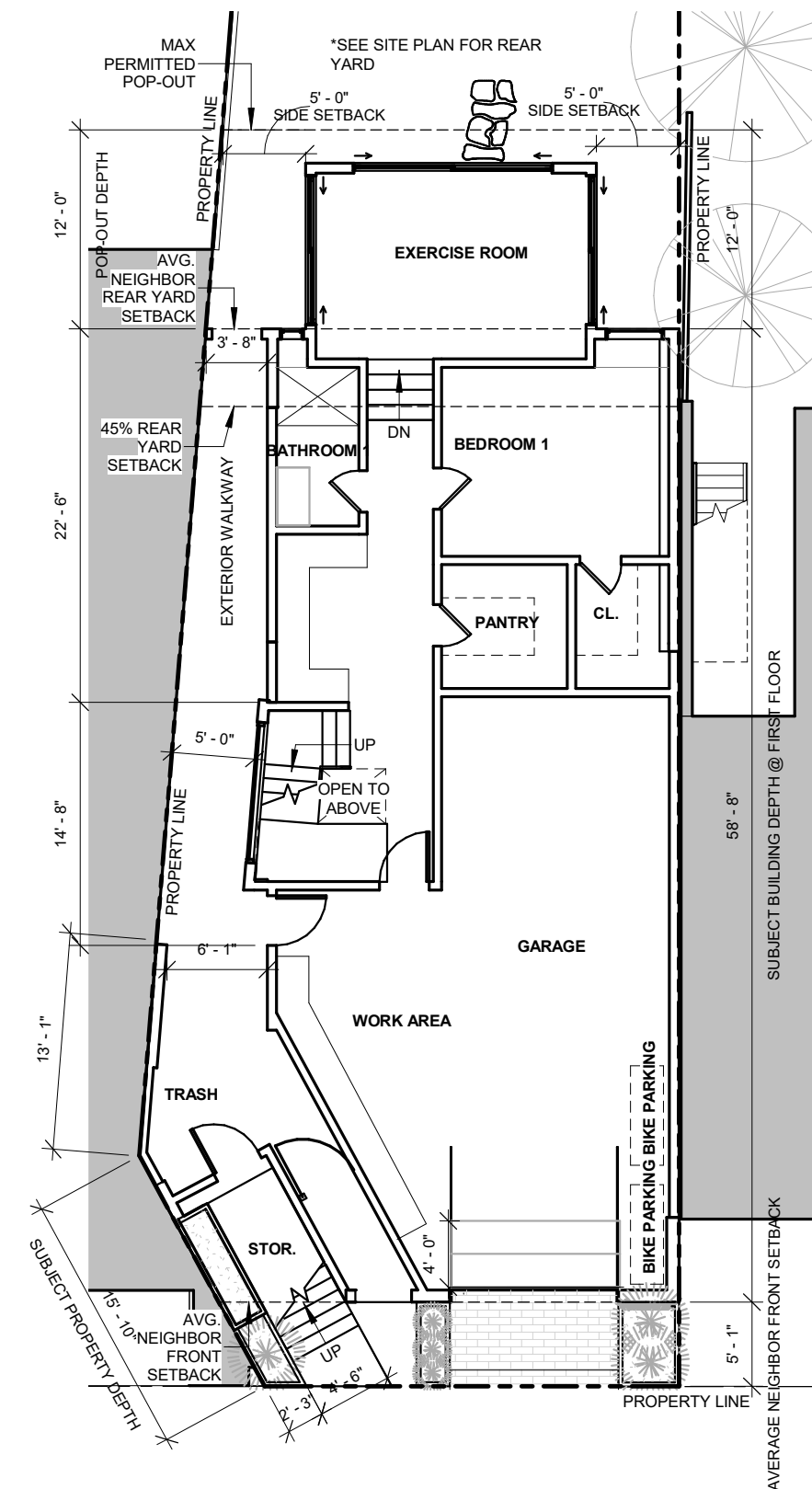
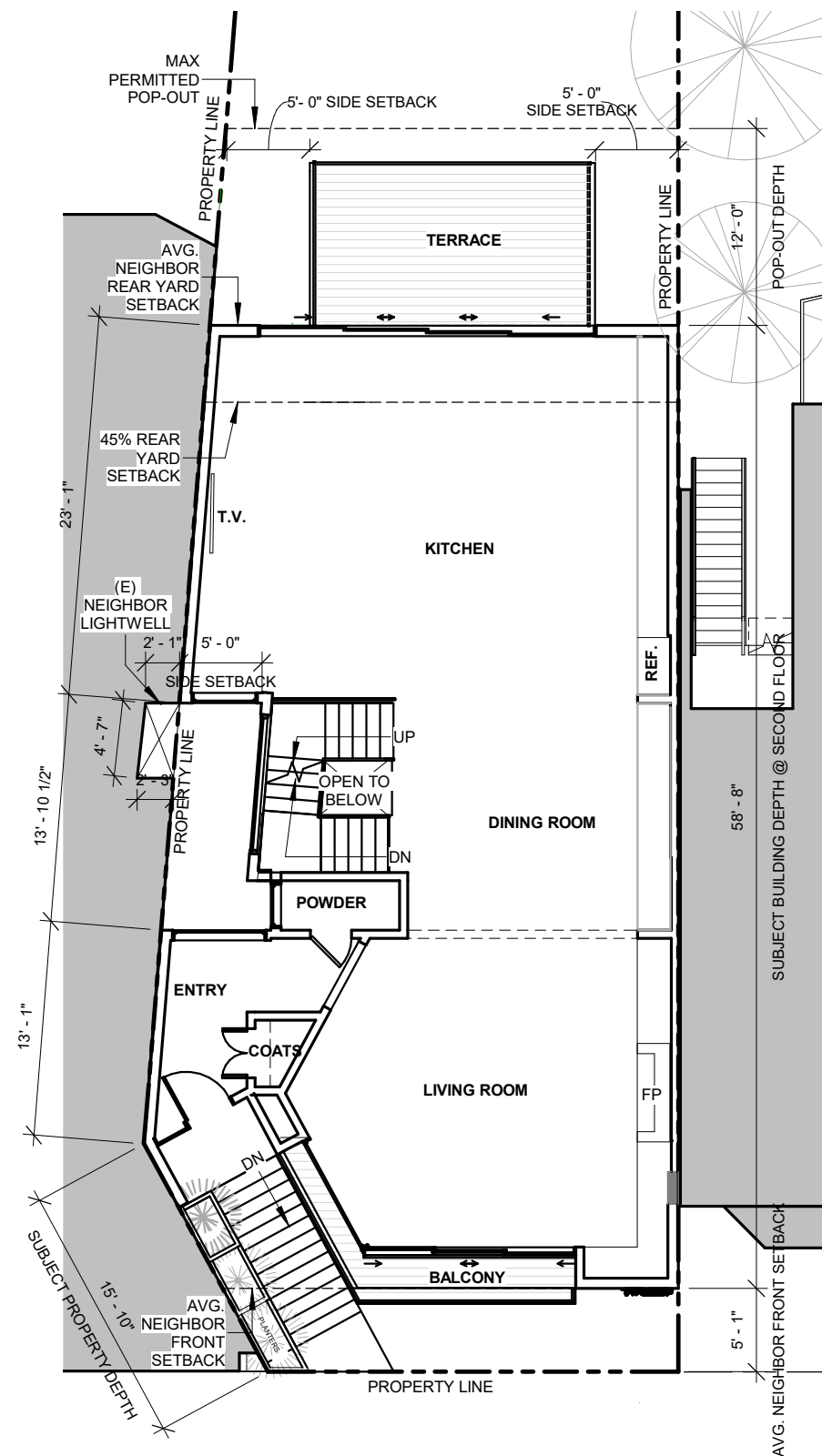
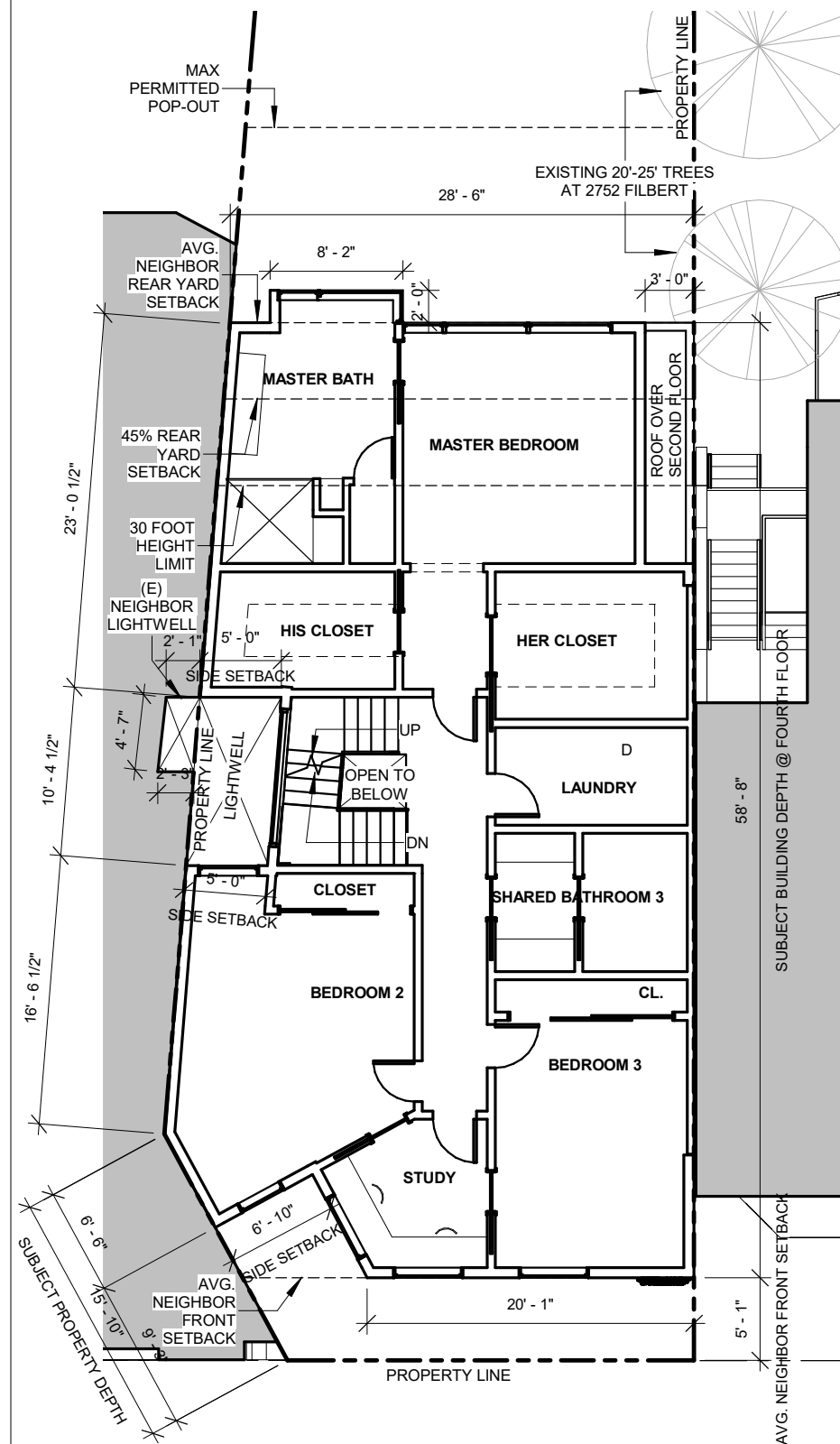
EXISTING FLOOR PLANS

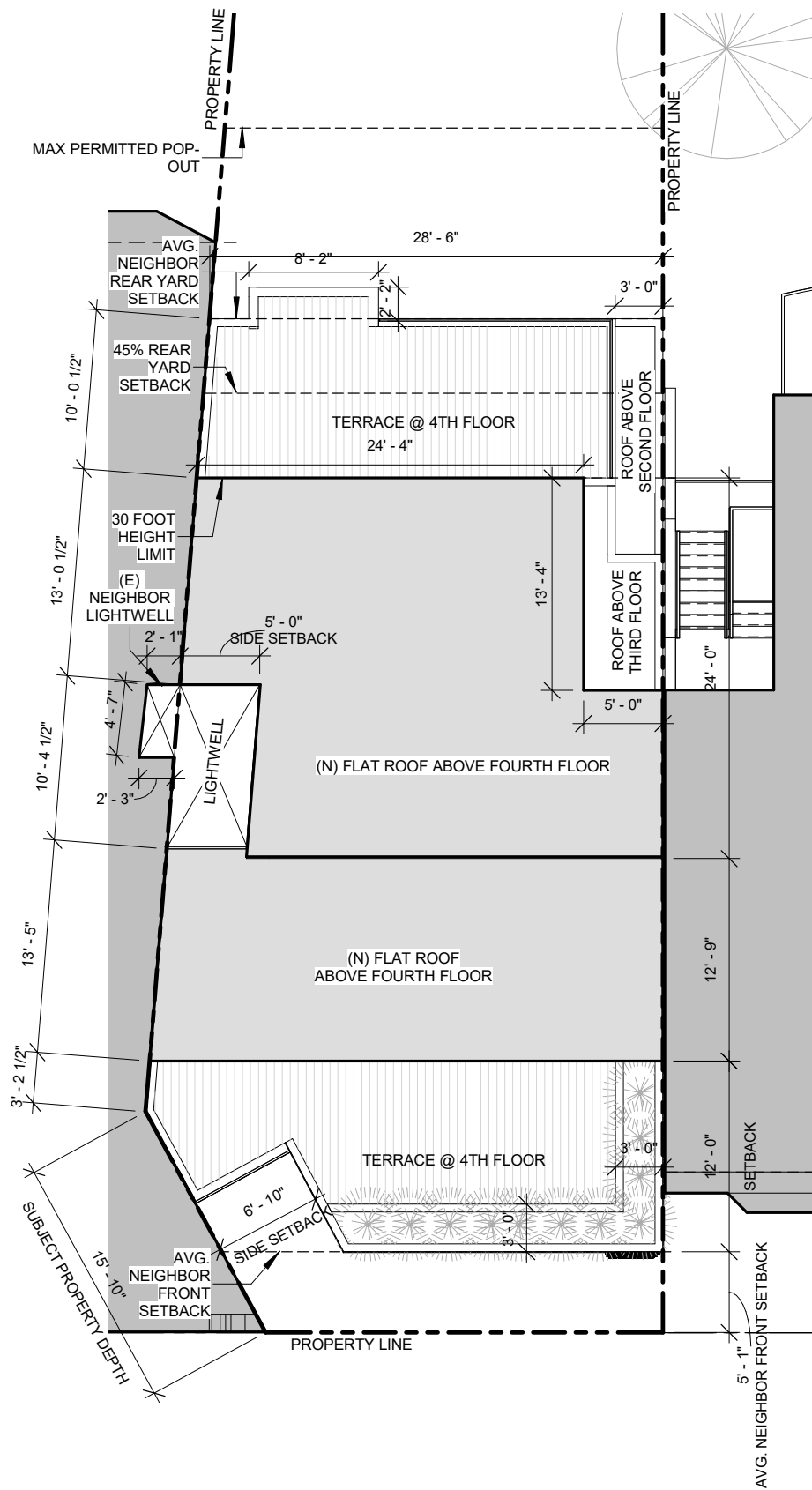



DATE 12/21/18

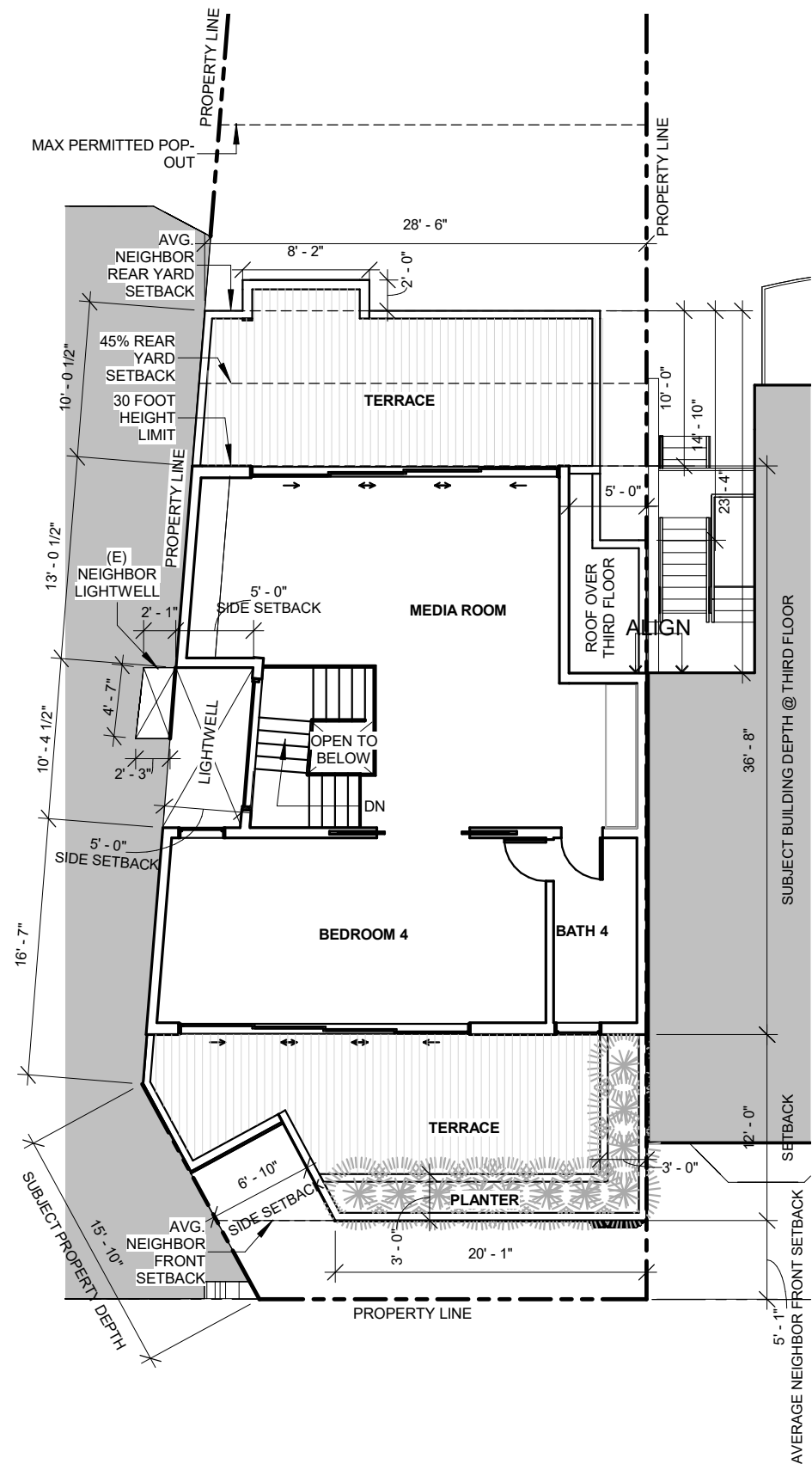
SCALE 3/32" = 1'-0"

DRAWN Author





2 PROPOSED ROOF PLAN (311)  
3/32" = 1'-0"



1 PROPOSED FOURTH FLOOR (311)  
3/32" = 1'-0"

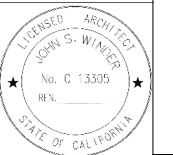
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SAN FRANCISCO, CA 94123

311 NOTIFICATION

PROPOSED FLOOR PLANS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROJECT  
NORTH  
311 5

DATE 12/21/18

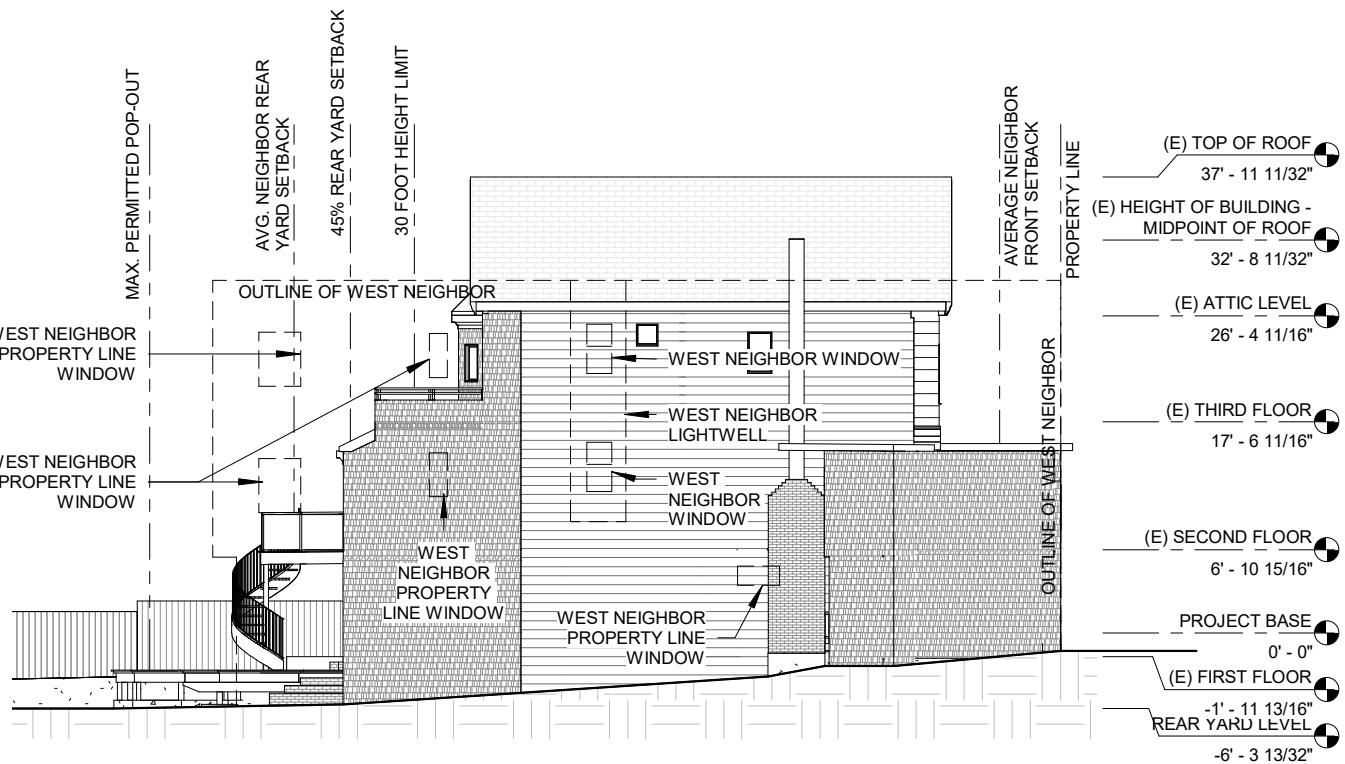
SCALE 3/32" = 1'-0"

DRAWN Author

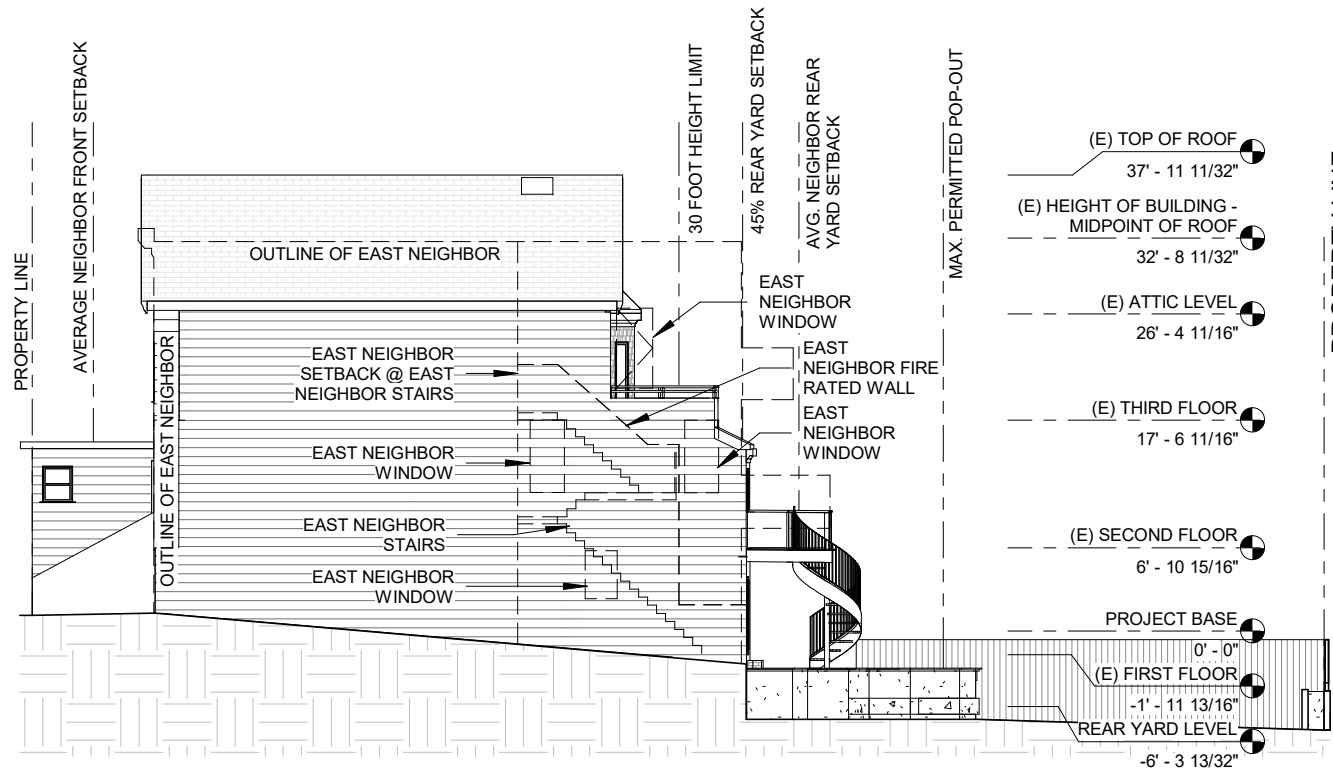




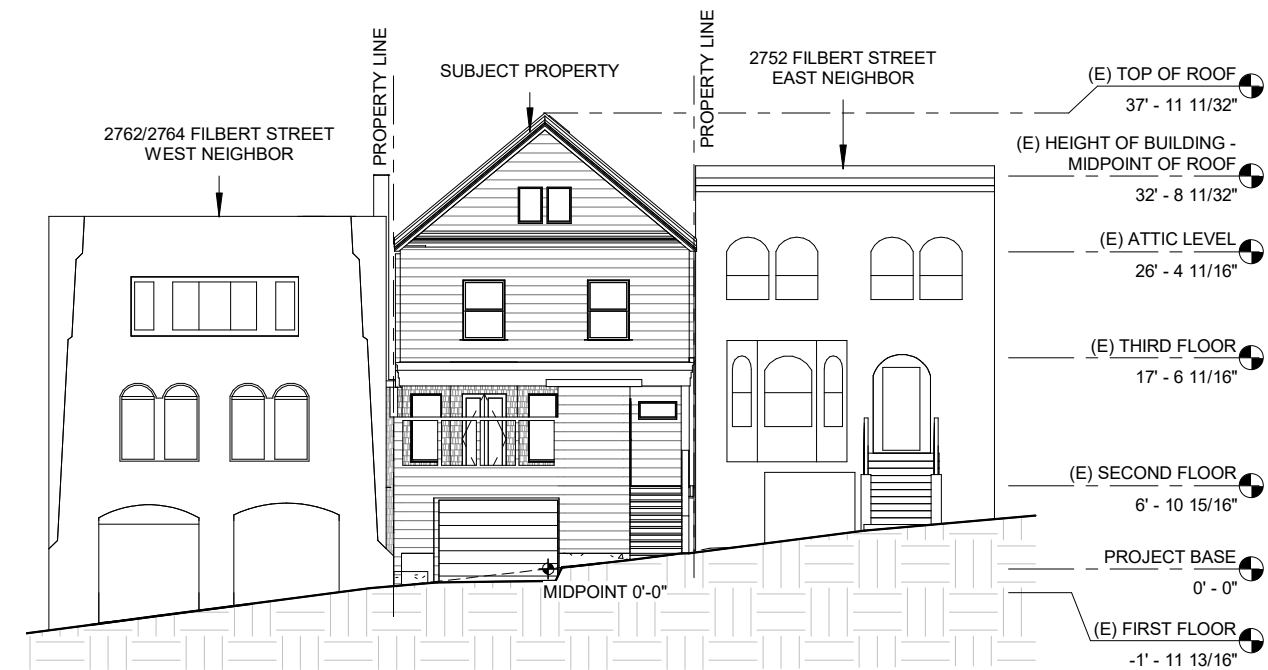
3 EXISTING NORTH ELEVATION - REAR  
1/16" = 1'-0"



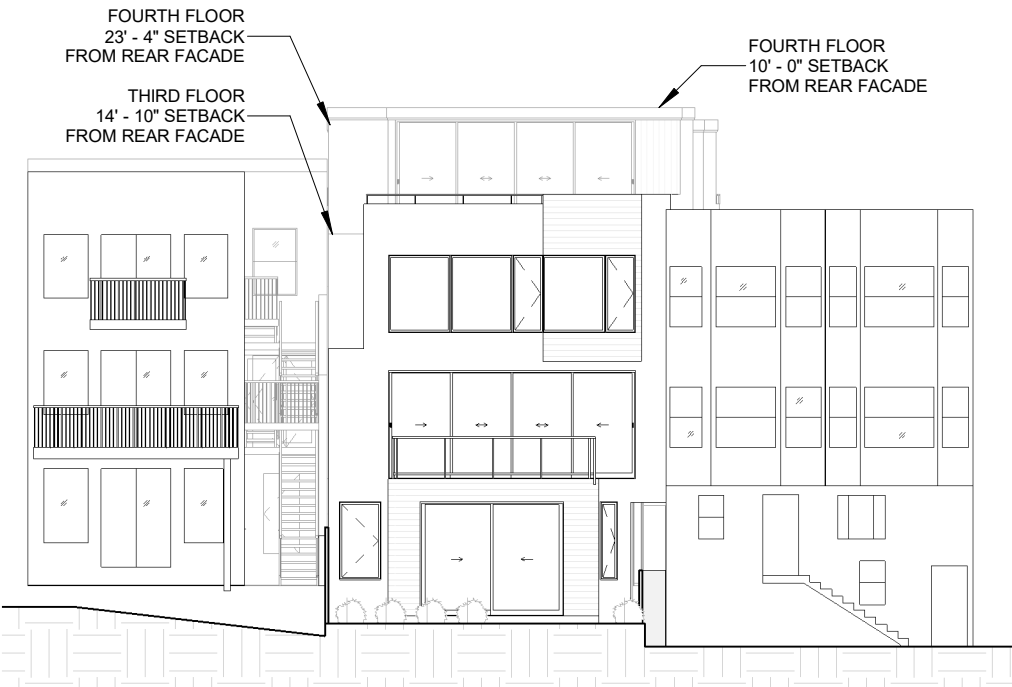
2 EXISTING WEST ELEVATION - SIDE  
1/16" = 1'-0"



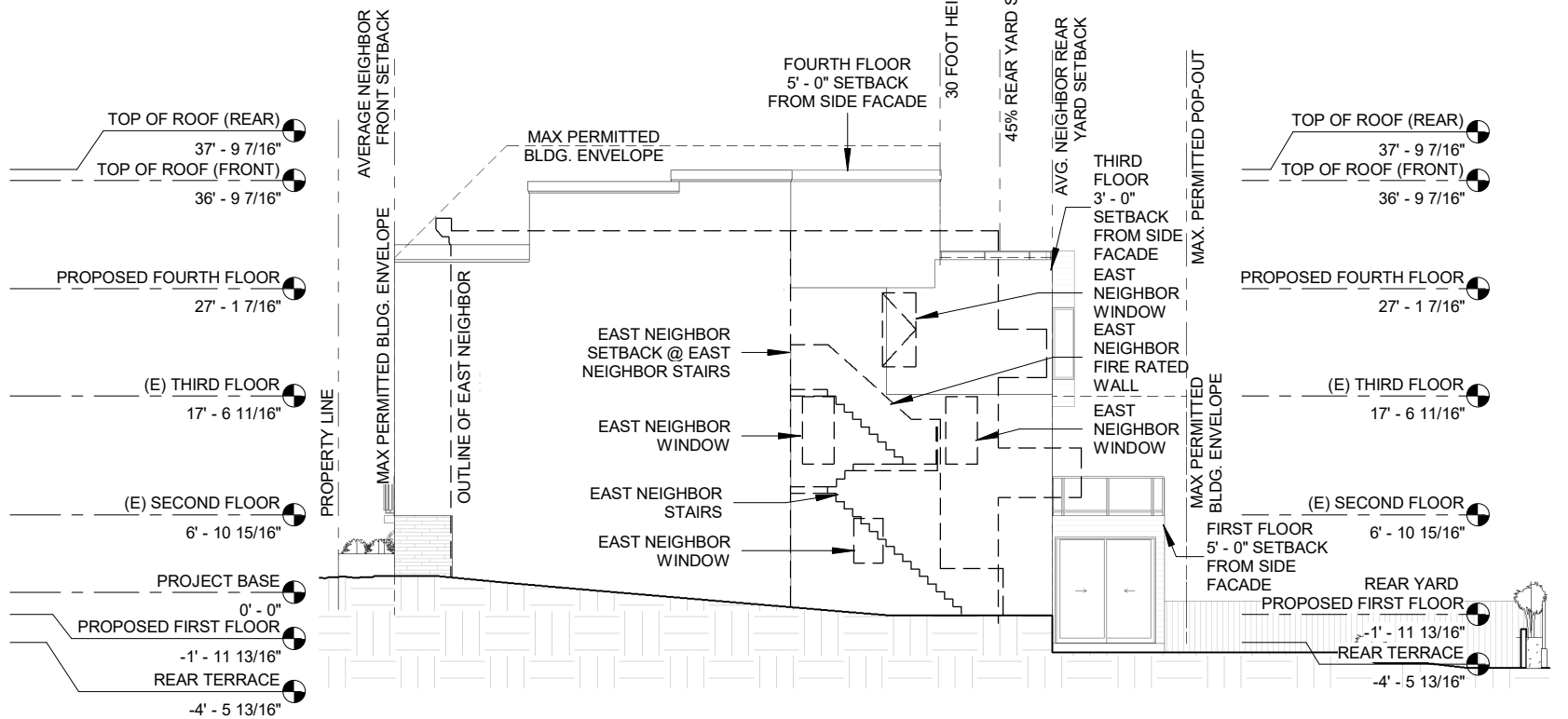
4 EXISTING EAST ELEVATION - SIDE  
1/16" = 1'-0"



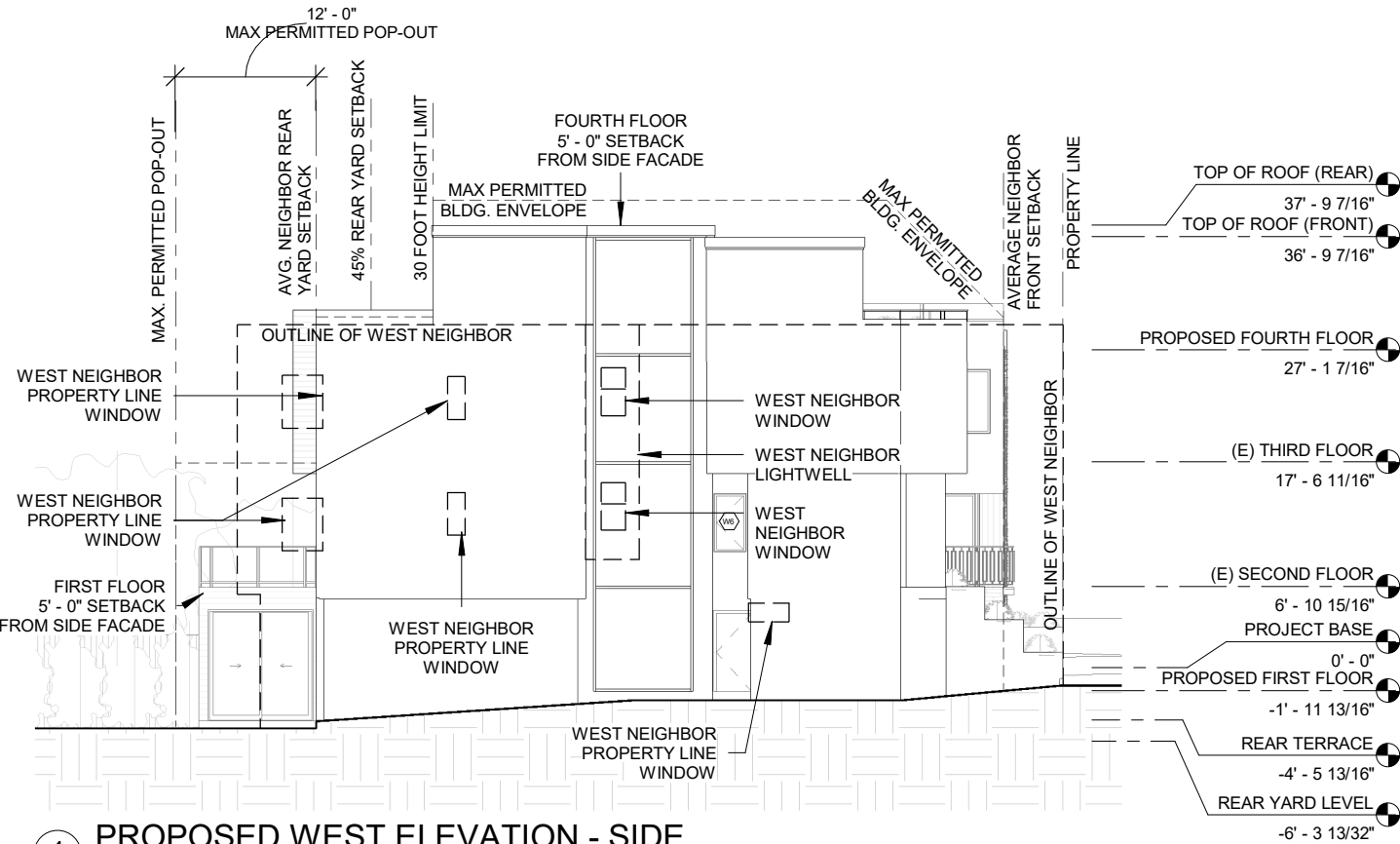
1 EXISTING SOUTH ELEVATION - FRONT  
1/16" = 1'-0"



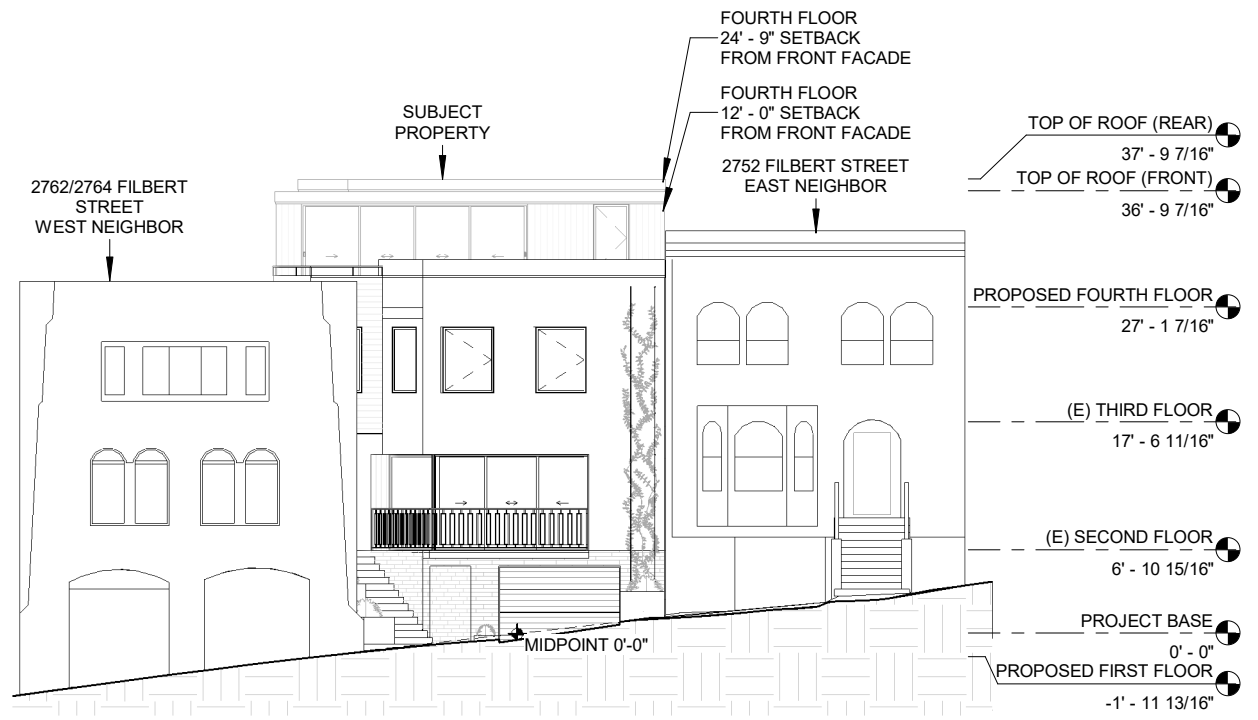
3 PROPOSED NORTH ELEVATION - REAR  
1/16" = 1'-0"



4 PROPOSED EAST ELEVATION - SIDE  
1/16" = 1'-0"



1 PROPOSED WEST ELEVATION - SIDE  
1/16" = 1'-0"



2 PROPOSED SOUTH ELEVATION - FRONT  
1/16" = 1'-0"



2758 FILBERT STREET

SAN FRANCISCO, CA 94123

311 NOTIFICATION

SECTIONS

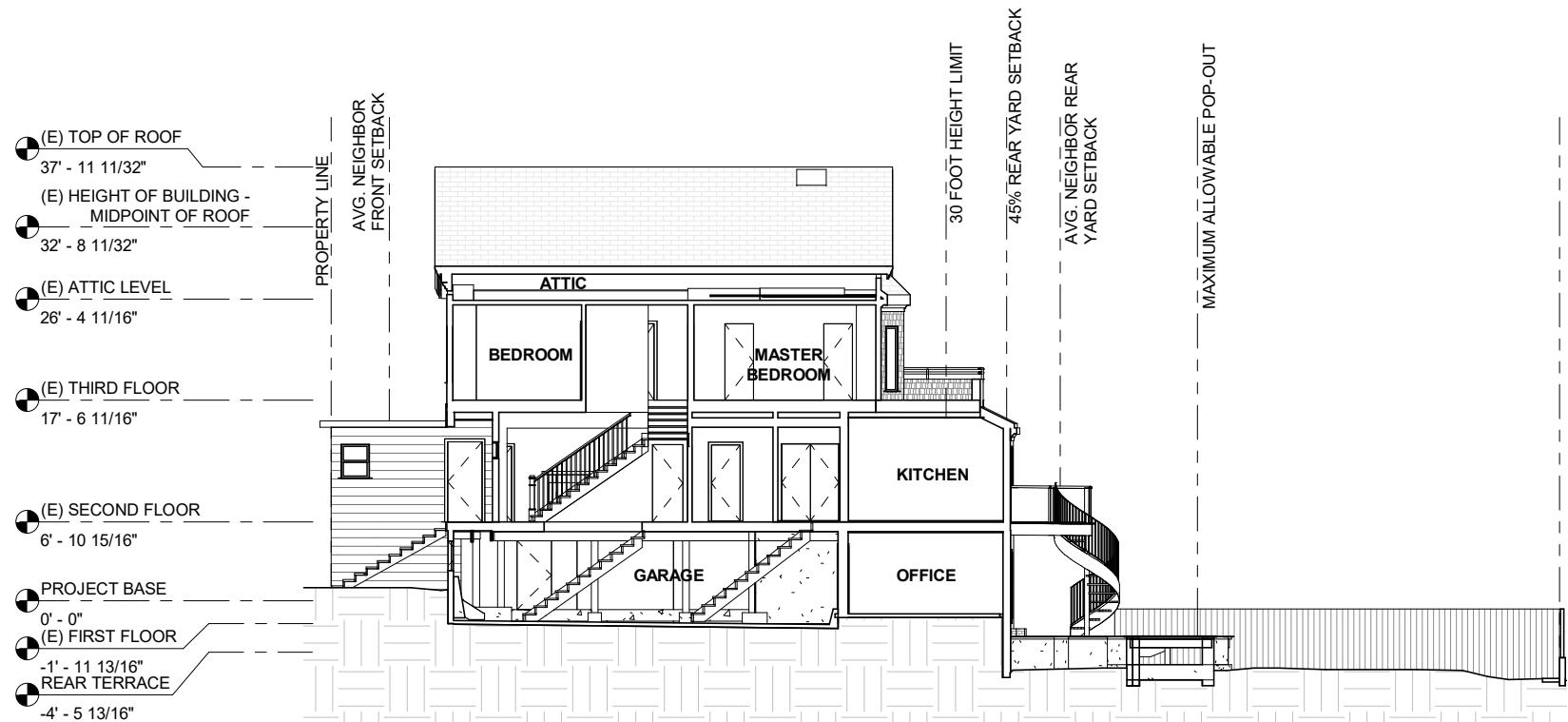
PROJECT  
NORTH

311 8

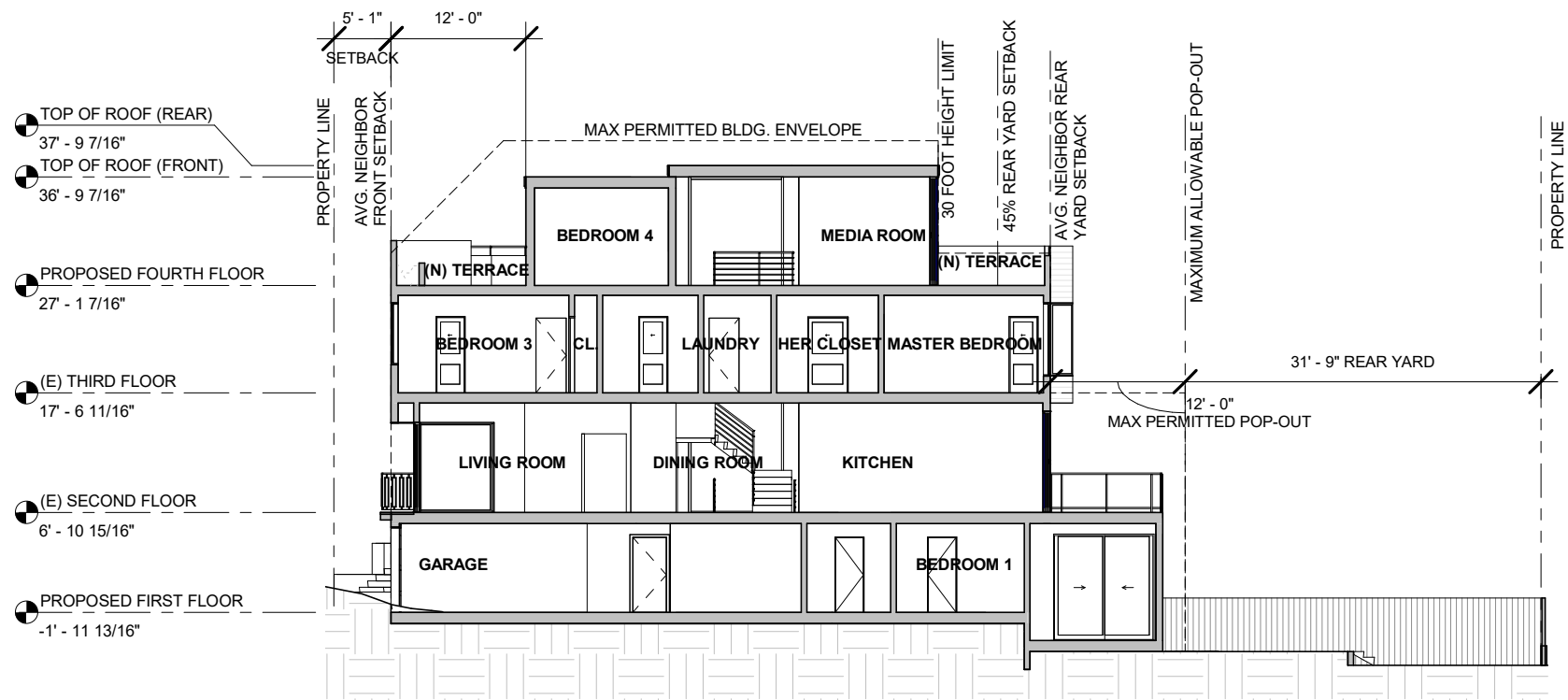
DATE 12/21/18

SCALE 1/16" = 1'-0"

DRAWN Author



2 EXISTING LONGITUDINAL SECTION  
1/16" = 1'-0"



1 PROPOSED LONGITUDINAL SECTION  
1/16" = 1'-0"





**DISCRETIONARY REVIEW PUBLIC (DRP)**  
**APPLICATION**

**RECEIVED**

FEB 11 2019

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
PIC

**Discretionary Review Requestor's Information**

Name: Irene Holmes

Address: 2763 Filbert Street

Email Address: ireneholmes@yahoo.com

Telephone: 415-567-8072

**Information on the Owner of the Property Being Developed**

Name: William W. Higgins Jr.

Company/Organization: unknown

Address: 2758 Filbert Street

Email Address: william.w.jr@higginsfamily.org

Telephone: 415-771-5280; 603-569-1085

**Property Information and Related Applications**

Project Address: 2758 Filbert Street

Block/Lot(s): 0942/013

Building Permit Application No(s): 2017.1013.1247

**ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST**

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

1. I attended the September 19, 2017 Pre-Application meeting with the applicant and his architect, and met with the architect on June 21, 2018 and February 6, 2019.
2. I submitted a detailed letter to the Planning Department permit review planner by email on June 13, 2018, which he acknowledged. I have not met or had a conversation with the planner.
3. No outside mediation on this case has taken place.



## DISCRETIONARY REVIEW REQUEST

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

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

1. Relocating the garage to the uphill side of the lot will eliminate one street parking space and the existing established street tree. This change is inconsistent with the block pattern. Attachment 1 includes applicable Guidelines, and photographs of the subject facade and neighboring facades.  
2. Extending the added fourth floor to the outermost point of the irregular lot widens it beyond the street frontage, to the adjoining property. Attachment 2 is an aerial photo, and applicable Guidelines.

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be unreasonably affected, please state who would be affected, and how.

1. The rear "Pop-out" and additional decks and hot tub occupy most of the 45% rear yard setback, unreasonably and unnecessarily eliminating mid-block greenery, affecting the playground and neighbors' quiet enjoyment.  
2. The building height sloping up from 30 feet in front to over 40 feet at the rear is inconsistent with the neighborhood. This expansion of the building envelop sets a precedent of increasing height and bulk and will be emulated in future, destroying the existing neighborhood character.

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

1. Consistent with the topography, leave the garage entry where it now is, on the downhill slope of the lot, as the neighboring houses are configured.  
2. Consistent with neighborhood character, configure the fourth floor addition to keep to the neighborhood height limit of 35 feet, and no wider than the building's front facade.  
3. To preserve mid-block greenery, delete the "pop-out" addition into the rear setback.  
4. To control light, place floor-to-ceiling doors and windows away from the street face.



# DISCRETIONARY REVIEW REQUESTOR'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

- a) The information presented is true and correct to the best of my knowledge.
- b) Other information or applications may be required.

 2/11/19  
Signature

Irene S. Holmes

Name (Printed)

Neighbor

415-567-8072

ireneholmes@yahoo.com

Relationship to Project  
(i.e. Owner, Architect, etc.)

Phone

Email

For Department Use Only

Application received by Planning Department:

By: J. BINTLIFF

Date: 2/11/19

page 5

ATTACHMENT TO APPLICATION REQUESTING DISCRETIONARY REVIEW

PROPERTY ADDRESS: 2758 Filbert Street 94123

APPLICATION NO: 2017.1013.1247

ATTACHMENT 1, including two photographs

**Residential Design Guideline: Respect the topography of the site and the surrounding area.**

Relocating the garage entrance to the uphill side of the site eliminates one street parking space and one street tree, and requires a steep ramp from the sidewalk into the garage, with attendant protective half-walls.

Renovating the property with the garage in its current location allows a straight-in entry, and gives more flexibility to design an east-facing wall that does not block the neighbor's living room bay window.

**Residential Design Guideline: Respect the existing pattern of building entrances.**

The attached aerial photo of this block, from the Planning Department website data, shows the existing pattern. The photo is dated 2013, but the entry pattern has not changed.



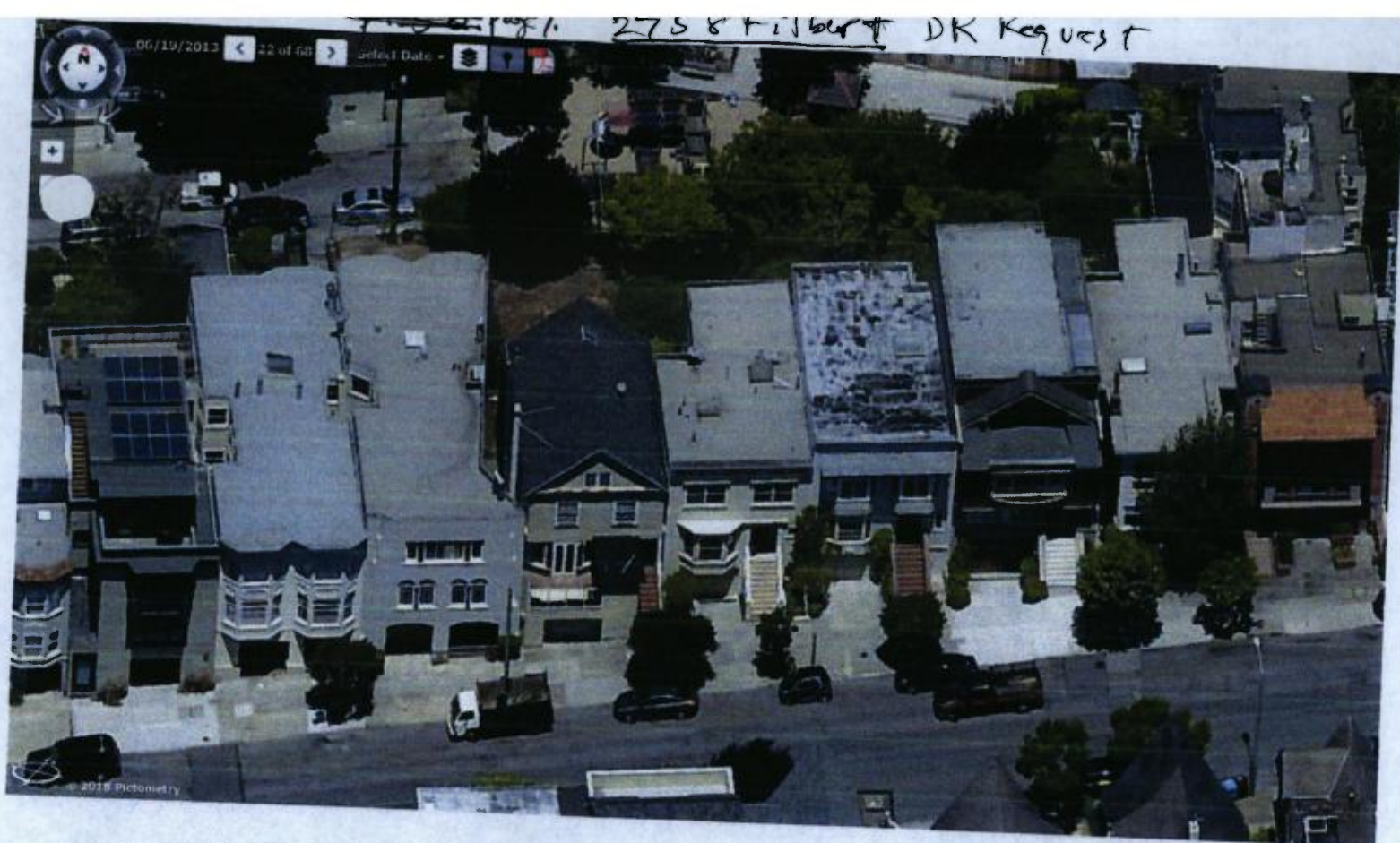
~~7.5~~ page 6

2758 Filbert Street at street level.

photo of facade taken from across the street on 1/19/19.  
taken by Irene Holmes







2758 Filbert Street street block aerial view,  
taken from Planning Department web site



ATTACHMENT TO APPLICATION REQUESTING DISCRETIONARY REVIEW

PROPERTY ADDRESS: 2758 Filbert Street 94123

APPLICATION NO: 2017.1013.1247

ATTACHMENT 2, including one photograph

**Residential Design Guideline: Design the building's form to be compatible with that of surrounding buildings.**

There are a number of incompatibilities, but one is the extension of the fourth floor to the widest point of the building lot. The attached aerial photograph shows the irregular shape of the lot, and of the adjoining two-flat building to the west. The applicant's site diagram shows the top floor addition extending out into the airspace above that adjoining building.

This is the appearance from the street.

In this instance, rote application of the planning code creates an unacceptable result.

**Residential Design Guideline: Design the building's proportions to be compatible with those found on surrounding buildings.**

Floor-to-ceiling doors and windows planned on each floor at the facade and in the rear, and beyond the recommended 45% rear setback, are a departure from surrounding character.

The added height exceeds the recommended 35 foot limit in the Appendix to the Cow Hollow Neighborhood Design Guidelines. That limit has been observed by both existing and new construction in the area. Any added fourth floor should stay within these height and bulk constraints.



page 9.

2758 Firbut Street DR Request

Google Earth aerial view of applicant's property.  
Downloaded by Irene Holmes on 6/13/18.







## DISCRETIONARY REVIEW PUBLIC (DRP) APPLICATION

### Discretionary Review Requestor's Information

Name: Howard and Kerry Dallmar

Address: 2752 Filbert Street, San Francisco, CA 94115

Email Address: HDallmar@ngkf.com

Telephone: 650-804-0527

### Information on the Owner of the Property Being Developed

Name: William W. Higgins Jr.

Company/Organization:

Address: 2758 Filbert Street San Francisco, CA 94115(part time) also lives in Alton, New Hampshire.

Email Address: yen@archsf.com

Telephone: 415-318-8634

### Property Information and Related Applications

Project Address: 2758 Filbert Street

Block/Lot(s): 0942/ 013

Building Permit Application No(s): 2017.1013.1247

### ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST

PRIOR ACTION	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Did you participate in outside mediation on this case? (including Community Boards)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Neighbors requested meetings with the Project Planner, Planning Dept. and the Project Sponsor prior to seeking DR review. The Project Planner refused any meeting and the Dept. advised the neighbors to seek DR because the Dept. would not meet with the neighbors to discuss the project and its impacts in the community. The neighbors sought a meeting with the Dept and senior staff prior to the 311 Notification so that perhaps a DR might be avoided but the planner would not hold a meeting. The Planner informed the neighbors: "Planning staff often holds pre-application meetings at our office, but does not convene neighborhood meetings for small-scale residential projects like the subject project once a formal application has been submitted. The Discretionary Review process is the process that allows neighborhood residents to express their concerns with regards to a project, and it is up to the Planning Commission to review the Department's interpretation of all applicable design guidelines. That said, once a DR is filed, projects are automatically scheduled for a follow-up meeting with RDAT staff, who will revisit the project (including their previous comments) in the context of any issues raised in the DR request."



## DISCRETIONARY REVIEW REQUEST

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

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

The project is confusing and the 311 Notification provides incorrect data on the true size of the proposed project. The 311 Notification incorrectly claims that the existing square footage of the subject building is 3,594 and the intention is to expand it to 5,844. The plans state existing square footage is 2735. However, the Assessor's Office Official Records show the building size as 1,807 existing square feet, about 1/2 of the claimed "starting point" now being put forward by the sponsor to try and justify nearly doubling the size of the building. The project creates what is a 6-7 bedroom single family home as no new units are being added to the building. A Notice of Special Restrictions was imposed on this sponsor in 1992 requiring this home remain a single family residence (only). This fact alone is "exceptional and extraordinary" given the modest homes on all sides of the proposed project. (See Attachment).

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be unreasonably affected, please state who would be affected, and how.

The proposal expands the building substantially to the west and east where setbacks now exist to provide light and air to neighboring buildings. The building proposes a rear yard extension past the building to the east at 2752 Filbert Street at four different levels creating an unreasonable blockage of light. The Sponsors were requested to incorporate five foot (5') setbacks for all new construction past the existing front facade and into the rear yard. This setback as required by Planning is not incorporated into the final proposal. The extension into the rear yard is not reasonable as it uses unfair "averaging" with the lot to the west which is longer than the subject lot and the other lots on the block. The addition of a fourth floor in direct violation to the Cow Hollow Guidelines and recommendations is absolutely unprecedented in this neighborhood and will cast shadow on the public children's playground which is directly adjacent and north of site. (See Attachment)

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

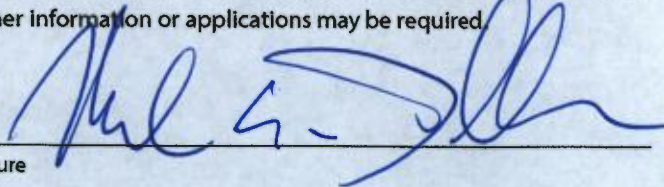
The side setbacks originally requested by the Dept. and requested by the Cow Hollow Association should be incorporated into the design. The impacts to the east and west neighbors are extraordinary and unreasonable especially given the fact that no new housing units are being created with the project. The neighbors would like to have the following changes incorporated into the design. (1) An angled front facade to allow light to the building to the east (2) Limit the rear yard extension to the 45% limit as mandated by Cow Hollow (3) Incorporate the five foot (5') setbacks as requested by the Planning Staff and Cow Hollow (4) Eliminate the elevated rear deck which will cause great privacy concerns with the neighbors (5) eliminate the "pop-out" as it invades the rear yard dramatically past the 45% limit (See Attachment).



# DISCRETIONARY REVIEW REQUESTOR'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

- a) The information presented is true and correct to the best of my knowledge.
- b) Other information or applications may be required.

  
Signature

Howard Dallmar

Name (Printed)

Adjacent Neighbors

650-804-0527

HDallmar@ngkf.com

Relationship to Project  
(i.e. Owner, Architect, etc.)

Phone

Email

For Department Use Only

Application received by Planning Department:

By: \_\_\_\_\_

Date: \_\_\_\_\_



## **ATTACHMENT TO APPLICATION REQUESTING DISCRETIONARY REVIEW**

PROPERTY ADDRESS: 2758 Filbert Street  
ASSESSOR'S PARCEL NO: Block 0942, Lot 013  
ZONING DISTRICT RH-2/ Cow Hollow Neighborhood Design Guidelines  
APPLICATION NO. 2017.1013.1247

### **ACTIONS PRIOR TO DISCRETIONARY REVIEW REQUEST**

The owner/sponsor is William W. Higgins Jr., a long-time resident of the neighborhood. He also has a home in Alton, New Hampshire. After holding the mandatory one community pre-application meeting in the Fall 2017, the owner has eschewed all further personal contact with neighbors until a meeting was held February 7, 2019, where the neighbors laid out very specifically their objections and requests for mitigations. The architect and sponsor did respond to requests from the surrounding neighbors as of this writing. To date, no changes have been made in response to in-put and neighborhood objections only in response to directives from Planning....and the architect and sponsor were able to lobby their way around much of what was required by Planning and the RDT.

### **B. DISCRETIONARY REVIEW REQUEST**

#### **1. Reasons for Requesting Discretionary Review**

The Commission is urged to take Discretionary Review because this is an exceptional and extraordinary circumstance where the proposed project violates the letter and the spirit of the Cow Hollow Neighborhood Design Guidelines. We are asking you to please take discretionary review in this instance because we believe that the depth, mass and height of the proposed replacement structure is also inconsistent with the City's *Residential Design Guidelines* as well as the City's rules to prevent shadows on public parks.... especially children's playgrounds.

#### **The Proposed Project's Height and Depth Violates the Cow Hollow Guidelines**

The Cow Hollow Neighborhood Design Guidelines are meant to be more restrictive than the Planning Code and to protect this special neighborhood. This area is within the Cow Hollow Neighborhood Association boundaries yet, the review documents from Planning Staff and the building applications makes absolutely no mention of the Cow Hollow Design Guidelines nor does it offer any analysis of whether the project complies with those Guidelines. The Guidelines were adopted by the Planning Commission in 2001. The project gives the distinct impression of a demolition. The front and rear façade will be completely demolished as will every partition in the building and every floor, ceiling and the roof. An unprecedented fourth floor is to be added well about the 35' foot Cow Hollow height limit. The project also proposes an extension into the rear



yard past both adjacent buildings and far past the 45% found the Planning Code and emphasized in the Cow Hollow Design Guidelines. The proposed new fourth floor violates the guidelines and the rear yard extension past both neighboring homes and the 45% limit also violates the guidelines. The guidelines state as follows:

### **"Height**

The Cow Hollow Neighborhood Design Guidelines generally include lower building heights as compared with what is permitted under existing zoning requirements.

***Cow Hollow Neighborhood Policy: The overriding policy established in these Cow Hollow Neighborhood Design Guidelines is a 35-foot height for RH-1(D), RH-1 and RH-2.***

Height policies include lower heights for some lot configurations, where appropriate to help preserve neighborhood views, and access to light and air. Diagrams are included for clarification of the neighborhood height policy for level lots, steep up-sloping lots, and steep downsloping lots in RH-1(D), RH-1 and RH-2 zoning districts. The figures included in the following pages diagram level, steep down-sloping, and steep upsloping height requirements for RH-1(D), RH-1 and RH-2 zoning districts.

*(Cow Hollow Neighborhood Design Guidelines, page 65, emphasis added)*

In this instance, the Project Sponsor plans a new fourth floor *structural addition*. This is not a simple roof deck, but an entire new floor of occupancy. The entire new floor is proposed in excess of 35 feet in height and clearly ignores the 35' foot limit recommended in Cow Hollow. As set forth in the Cow Hollow Neighborhood Design Guidelines, **LESS THAN 2%** of the buildings have a fourth floor and those that do are multi-family dwellings.

*Analysis of Cow Hollow building heights reveals that 98 percent of the structures are from two stories to three- and one-half stories. 56 percent of the homes are three stories. The few taller structures, 4 stories and taller, are confined to less than two percent of the total number of neighborhood buildings. Among the 4 story structures, roughly one third occur in the RM multifamily zoning districts located primarily at the northern edge of the Cow Hollow Neighborhood. The other taller structures, 5 and 7 stories, are anomalies in the neighborhood, such as the few larger apartment buildings and foreign government consulates. (CHND, page 60)*

This building is forbidden by the NSR placed on it (due to a prior project by this sponsor) from adding any additional units. The creation of a completely new and modern, nearly 6,000 square foot single family home is a complete aberration in Cow Hollow and flies in the face of the Guidelines adopted for Cow Hollow and everything they stand for.

### **Rear Yard**

The Cow Hollow Neighborhood Association is particularly sensitive to the disappearing rear yard space and shared green open space in the neighborhood. The Association has adopted an official policy to oppose the 55% lot coverage allowed by RH-2 zoning (such as applicable to the



present case) unless both adjacent homes have such coverage. The Cow Hollow Guidelines state as follows:

#### **“D. Cow Hollow Association Policies**

##### **D.1 Rear Yard Setbacks and Open Space**

As described above in the section Cow Hollow Neighborhood Character, the Cow Hollow Neighborhood is zoned predominately RH-1 and RH-2. The San Francisco Planning Code establishes a 25 percent rear yard open space requirement for the RH-1 zone, meaning the building may cover 75 percent of the lot. The Planning Code requirement for the RH-2 zone is a 45 percent open space requirement, or, the building may cover 55 percent of the lot. Because the RH-1 and RH-2 zones are intermingled, as shown in zoning diagram figure in Section 1, the Cow Hollow Neighborhood would benefit from a consistent rear yard open space requirement.

#### **Cow Hollow Neighborhood Policy:**

**New construction and additions outside of the existing building envelope in both RH-1 and RH-2 zones must follow an overriding 45 percent rear yard open space policy. (See Next Page for Diagram)**

This policy will primarily limit expansions of existing homes within the RH-1 zone. According to analysis performed by the Cow Hollow Association, presented in greater detail in the Cow Hollow Neighborhood Character section of this document, 34 percent of the RH-1 lots can expand under this policy (169 lots). The remainders of the lots (328 lots) are built out, with 55% or greater lot coverage. This rear yard policy, however, must be considered along with the rear yard equalization policy, described immediately below.”

**Cow Hollow Neighborhood Policy: The only time an extension into the 45 percent rear yard open space requirement is allowed is when both adjacent neighbors intrude into that space. The extension must be measured by “equalization” to the more complying of the two adjacent properties.**  
(See Next Page for Diagram)

The Commission should at a minimum, require the proposed project to be modified to comply with the Guidelines. 1) Require the height be reduced by eliminating the new top floor 2) Reduce or eliminate the rear yard extension based on the neighboring buildings; 3) make the façade compatible with surrounding neighborhood character as required by the Guidelines. Eliminate the expanses of glass in the front of the building.

#### **Adverse Effects on the Neighborhood**

**Cow Hollow is a special place that should be protected—That is Why the Guidelines Exist!**



The Cow Hollow Neighborhood is only 35 square blocks, with a clear context of three-story buildings of the age and design of the historic buildings near-by. The roof pattern on Filbert Street generally steps up as the street ascends from west to east. Although there are four-story structures in the area, they do not predominate, and they are apartment buildings. The prevalent style of the block, consistent with the surrounding area that was constructed following the Earthquake and Fire, is Classical Revival and "marina" style.

Because of the current heights and building pattern on Filbert Street, sun and sky are now available to residents and visitors on what is now a charming and pleasant place for pedestrians.

**The project as proposed would have the following adverse effects:**

- A. **The height and scale of the proposed project would negatively impact the prevailing scale of the built environment on Filbert Street and will shadow the Children's Playground.**
- B. **The height and scale of the proposed project is inconsistent with the Planning Department's Cow Hollow Neighborhood Design Guidelines.**
- C. **The design features and materials of the proposed project are incompatible with neighborhood character/in conflict with the Residential Design Guidelines.**
- D. **Fourth Floor Features:** Even though the project is not in compliance with the Guidelines' exclusions for adding fourth floors and is above the height limit of 30-35 feet, the addition of a new floor proposed for this project would be inconsistent with the Design Guidelines and would further impact the livability for the surrounding neighbors. **THERE IS NO OTHER BUILDING IN THE VICINITY THAT HAS A FOURTH FLOOR OF THIS SIZE**—a deck on top of the built out third floor, with a solid wall parapet and glass on top of that structure.

The Guidelines contain specific exclusions for fourth floor addition. Although the plans are totally inadequate in that they do not accurately show the dimensions of the proposed new fourth floor, they appear to be incongruous not only with the Cow Hollow Neighborhood Guidelines but also with several of the City's General Residential Design Guidelines, which call for the following:

**Cow Hollow Neighborhood Policy: The overriding policy established in these Cow Hollow Neighborhood Design Guidelines is a 35-foot height for RH-1(D), RH-1 and RH-2.** Height policies include lower heights for some lot configurations, where appropriate to help preserve neighborhood views, and access to light and air.



As stated on page 17 of the Cow Hollow Design Guidelines, "*A small deviation in this neighborhood pattern would draw a great deal of attention to a new structure—attention that is damaging to the existing street character, as shown below.*"



The Proposed Project is nearly exactly what is pictured in the Cow Hollow Design Guidelines as what should **NOT** be allowed in Cow Hollow.

### 3. Suggested Changes to the Proposed Project

The neighbors would not object to a reasonable development. This current plan is not reasonable for the above-stated reasons.

- (1) **The first and foremost, reduce the proposed building to three stories, eliminating the fourth floor completely.** The elimination of the new fourth floor would open up the property to allow more light to be cast on the both the alley and playground behind, and also would allow more light into the two adjacent properties. Reducing the height and mass would further achieve greater compatibility with the neighboring structures on Filbert Street.
- (2) **Do Not Permit Any Extension Past 45% Rear Yard.** This request is consistent with the *Cow Hollow Neighborhood Design Guidelines* and fairness given the need to preserve the rear yards emphasized in the CHNDG's and the fact that it will block windows to allow the extension past the 45% line.
- (3) **Incorporate Setback for All New Construction.** Staff and the RDT asked for five-foot setbacks and then let it drop.... why!? These must be returned to the project given its overwhelming size and intrusion into the neighborhood.



## DISCRETIONARY REVIEW PUBLIC (DRP) APPLICATION

### Discretionary Review Requestor's Information

Name:	nancy leavens		
Address:	2729 filbert St	Email Address:	nleavbiz@gmail.com
		Telephone:	415-990-8196

### Information on the Owner of the Property Being Developed

Name:	William Higgins		
Company/Organization:			
Address:	2758 Filbert St	Email Address:	william.w.jr@higginfamilyorg
		Telephone:	

### Property Information and Related Applications

Project Address:	2758 filbert St		
Block/Lot(s):	0942/013		
Building Permit Application No(s):	201710131247		

### ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST

PRIOR ACTION	YES	NO
Have you discussed this project with the permit applicant?		<input checked="" type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?		<input checked="" type="checkbox"/>
Did you participate in outside mediation on this case? (Including Community Boards)		<input checked="" type="checkbox"/>

I met twice with the architect, Goff Gibson. The project sponsor would not meet with the neighbors until accompanied by his architect and attorney after the 311 notice was issued.



## DISCRETIONARY REVIEW REQUEST

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

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

The subject property is across the street from a designated "historic District" in Cow Hollow. The property was built in 1900 +/- and is within the Cow Hollow Neighborhood Guideline. The sponsor's plan is to take the existing property (1800 square feet expanded to 2700 square feet) to approximately 5844 square feet by maximizing options in the Code but ignoring the Guidelines. (eg. rear yard setback, building height, defining neighborhood character). The lot size is irregular and only 107 feet deep making this project even more massive. Section 101.1 of the Planning code for neighborhood character.

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be unreasonably affected, please state who would be affected, and how.

This will be the 4th major renovation that lasted for over a year in this block. Since almost every wall will be removed or altered, new foundation and 4th floor addition, we calculate this project will last over 16 months. If approved as designed, this will be the largest single family home in the neighborhood and will set a precedent for future renovations.

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

1. Angle the eastern wall on the first floor so it doesn't take light and air from the bay window of 2752. It will then balance the entry stairs to the west.(see photo)  
2. Reduce the size of the forth floor as submitted in the Proposed Roof of 6/25/18 (see addendum)  
This will reduce the bulk of the building and reduce light pollution to the uphill and across the street neighbors. See Addendum for additional comments.



# DISCRETIONARY REVIEW REQUESTOR'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

- a) The information presented is true and correct to the best of my knowledge.
- b) Other information or applications may be required.

Dorey Leavens  
Signature

Nancy Leavens  
Name (Printed)

neighbor  
Relationship to Project  
(i.e. Owner, Architect, etc.)

415-990-8196  
Phone

nleavbize@gmail.com  
Email

For Department Use Only

Application received by Planning Department:

By: \_\_\_\_\_

Date: \_\_\_\_\_

Addendum to comments for 2758 Filbert Street

3. The fenestration should be more in keeping with the adjacent properties.(See photo)
4. The property should comply with the 45% rear yard set back so that neighbor windows are not covered and their light and privacy are respected.
5. If approved as designed, this project pushes the square footage envelope in every way...up,and out. It will set a precedent for all SINGLE family homes in the neighborhood.

2758

2752 Filbert



Sent from my iPhone









Thanks to the early efforts of the Improvement Club, residents today continue to enjoy the first and only park in the neighborhood, Cow Hollow Playground, which is hidden in the center of the block bounded by Filbert, Greenwich, Baker and Broderick streets. With only a handful of grandfathered commercial establishments Cow Hollow remains today an exclusively residential and historic neighborhood.

## **DEFINING NEIGHBORHOOD CHARACTER**

Ultimately, the concern to preserve neighborhood character extends beyond individual neighborhoods to the well-being of the City as a whole. As the San Francisco Residential Design Guidelines point out, "...to a large degree the character of San Francisco is defined by the visual quality of its neighborhoods. A single building out of context with its surroundings can have a remarkably disruptive effect on the visual character of a place. It affects nearby buildings, the streetscape, and if repeated often enough, the image of the City as a whole."

Concern for the visual quality of the neighborhoods gave rise, in part, to the November 1986 voter initiative known as Proposition M, which...established as a priority policy, "that existing neighborhood character be conserved and protected." With respect to specific neighborhoods, the San Francisco Residential Design Guidelines define particular criteria and guidelines that will be described and made specific to Cow Hollow in this and the next section. Neighborhood character is first defined, as follows.

### **What is the Neighborhood?**

In assessing whether the physical characteristics and visual appearance of a building expansion or construction of a new one conserves the existing neighborhood character, neighborhood is considered at two levels:

*The broader context.* Here the concern is how the building relates to the character and scale created by the collection of other buildings in the general vicinity. The buildings on both sides of the street in which the project is located are particularly relevant.

*The immediate context.* Here the concern is how the building relates to its adjacent buildings or, in the case of an enlargement, how the addition relates to the existing structure and how the form of the new or enlarged building impacts the adjacent buildings.

### **What is the Block Face?**

The block face is defined as the row of front facades, facing the street, for the length of one block.





**San Francisco**  
**Planning**

**RECEIVED**

FEB 11 2019

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
PIC

## DISCRETIONARY REVIEW PUBLIC (DRP) APPLICATION

### Discretionary Review Requestor's Information

Name: Grace Bertolozzi-Pierce and Victor Bertolozzi

Address: 2762 Filbert Street, San Francisco, CA 94115

Email Address: gracebertolozzipierce@gmail.com

Telephone: 925-381-9464

### Information on the Owner of the Property Being Developed

Name: William W. Higgins Jr.

Company/Organization:

Address: 2758 Filbert Street San Francisco, CA 94115(part time) lives in Alton, New Hampshire.

Email Address: yen@archsf.com

Telephone: 415-318-8634

### Property Information and Related Applications

Project Address: 2758 Filbert Street

Block/Lot(s): 0942/ 013

Building Permit Application No(s): 2017.1013.1247

### ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST

PRIOR ACTION	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you participate in outside mediation on this case? (Including Community Boards)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Neighbors requested meetings with the Project Planner, Planning Dept. and the Project Sponsor prior to seeking DR review. The Project Planner refused any meeting and the Dept. advised the neighbors to seek DR because the Dept. would not meet with the neighbors to discuss the project and its impacts in the community. The neighbors sought meetings with the Dept and senior staff prior to the 311 Notification so that perhaps a DR might be avoided but the planner would not hold a meeting and told the neighbors to file a DR to have their concerns addressed. A meeting with the neighbors, sponsor and architect was finally held February 6, 2019 at the architects office where, at the request of the sponsor, the neighbors VERY specifically detailed exactly what their objections are and asked for VERY specific (but small) mitigations. No response was given by the sponsors at the meeting and none has been forth coming as of this writing in time to avoid the DR filing deadline.



## DISCRETIONARY REVIEW REQUEST

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

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

There is currently an irregular lot line between the project site and our building that has a substantial setback between the two unit building to the west (2762 Filbert) that has been in place for over 100 years. The project seeks to create what is a 6-7 bedroom approx 6,000 s.f. single family home. No new units can be added to the building as a NSR is in place from prior expansions by the sponsor. This fact alone is "exceptional and extraordinary" given the modest homes on all sides of the proposed project and the highly unusual situation of the oddly configured lot line. The proposed project violates numerous provisions of the Cow Hollow Design Guidelines and the RDG's by invading the 45% rear yard and in doing so blocks bedroom windows on the neighboring building to the west. The Cow Hollow Association wrote a strongly worded letter asking the Dept to maintain the existing setback between the buildings and to enforce the CHNDG's. The RDAT issued a memo in January 2018 requiring the sponsor to include a five foot "S" setbacks from any side lot lines for any new construction at the rear," citing RDG's "pages 25-26." The architect and sponsor engaged in more than one year of private lobbying of the planner and the RDAT requirements, "To comply with the Residential Design Guidelines" all fell by the wayside. All of the construction on the west side is new construction and no five foot set back is incorporated. The building is flush to the property line the entire length.

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be unreasonably affected, please state who would be affected, and how.

The proposal expands the building substantially to the west and east where setbacks now exist to provide light and air to neighboring buildings. The building proposes a rear yard extension past the both adjacent buildings. The expansion at four different levels creates an unreasonable blockage of light. The Sponsors were requested to incorporate five foot (5') setbacks for all new construction past the existing front facade and into the rear yard and it is unreasonable to allow private lobbying to set that aside. This setback as requested by Planning is not incorporated into the final proposal---at all on the west side and the impacts to completely blocking all light and air to 6 different windows is not reasonable given that no new housing is being created and the impacts are extreme to the neighbors. The extension into the rear yard is not reasonable as it uses unfair "averaging" with the lot to the west which is longer than the subject lot and the other lots on the block. The addition of a fourth floor in direct violation to the Cow Hollow Guidelines and the recommendations from the Cow Hollow Association were completely ignored as were the RDAT requirements. The addition of a fourth floor is absolutely unprecedented in this neighborhood and will cast shadow on the public children's playground which is directly adjacent and north of site.

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

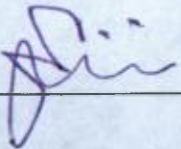
The side setbacks originally requested by the RDAT and requested by the Cow Hollow Association should be incorporated into the design. The impacts to the east and west neighbors are extraordinary and unreasonable especially given the fact that no new housing units are being created with the project. The neighbors would like to have the following changes incorporated into the design. (1) An angled front facade to allow light to the building to the east (2) Limit the rear yard extension to the 45% limit as mandated by Cow Hollow (this will save the bedroom windows to the west) (3) Incorporate the five foot (5') setbacks as requested by the RDAT and Cow Hollow (4) Eliminate the elevated rear deck which will cause great privacy concerns with the neighbors (5) eliminate the "pop-out" as it invades the rear yard dramatically past the 45% limit.



# DISCRETIONARY REVIEW REQUESTOR'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

- a) The information presented is true and correct to the best of my knowledge.
- b) Other information or applications may be required.

  
\_\_\_\_\_  
Signature

Stephen M. Williams  
\_\_\_\_\_  
Name (Printed)

Attorney for Neighbors  
\_\_\_\_\_

415-292-3656  
\_\_\_\_\_

smw@stevewilliamsllaw.com  
\_\_\_\_\_

Relationship to Project  
(i.e. Owner, Architect, etc.)

Phone

Email

For Department Use Only

Application received by Planning Department:

By: Xline

Date: 2/11/19



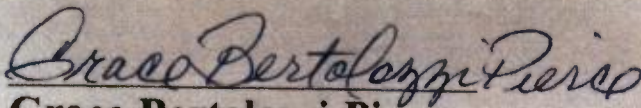
**Grace Bertolozzi-Pierce  
2762 Filbert Street  
San Francisco, CA 94115**

February 8, 2019

To Whom It May Concern:

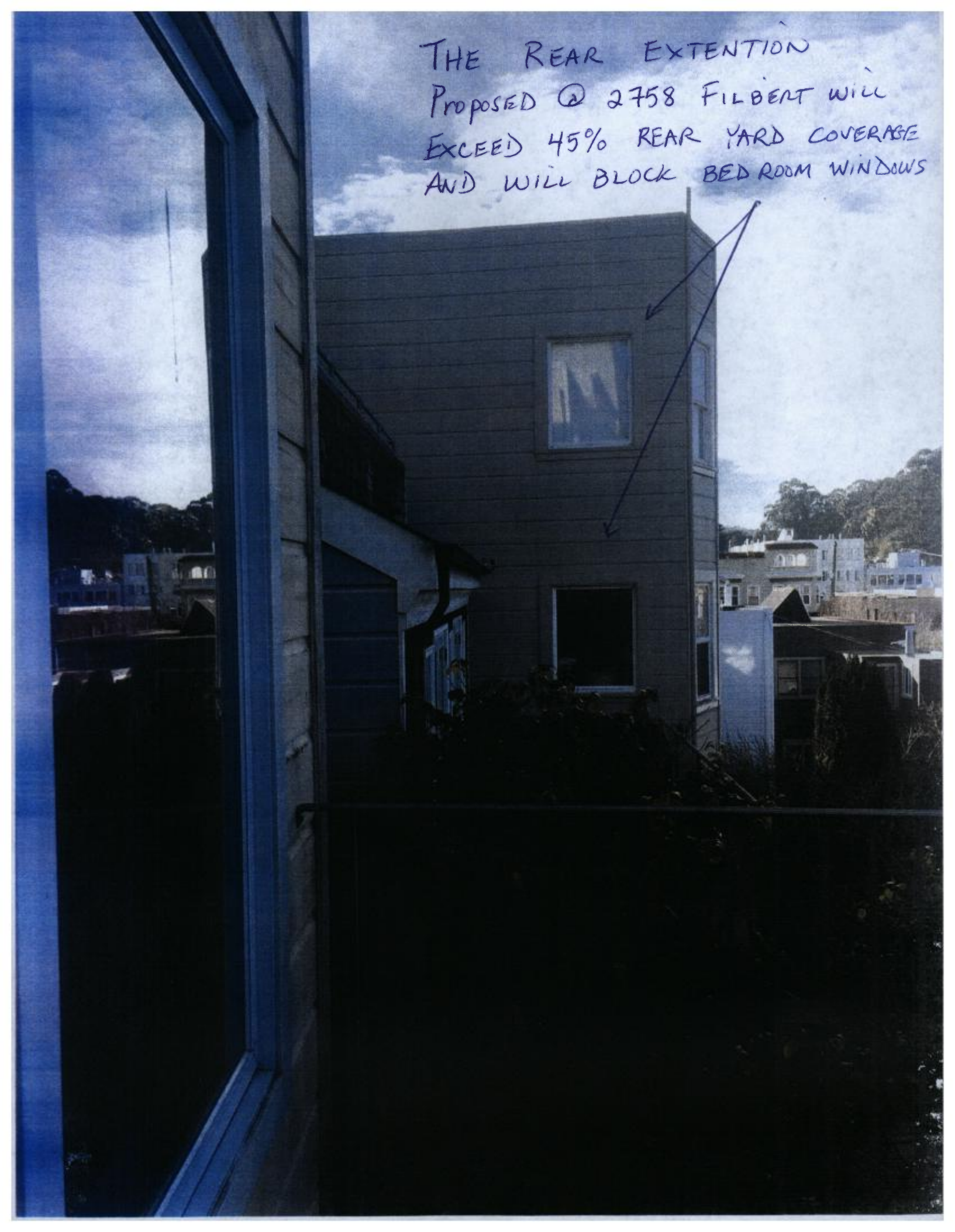
This will confirm that I have retained the Law Office of STEPHEN M. WILLIAMS to represent my interests in a DR Application matter before the Planning Department concerning the proposed project at 2758 Filbert Street, San Francisco, CA. I hereby authorize STEPHEN WILLIAMS to pursue and complete said application for the DR opposing the proposed project including executing documents as needed.

Sincerely,

  
**Grace Bertolozzi-Pierce**



THE REAR EXTENTION  
PROPOSED @ 2758 FILBERT WILL  
EXCEED 45% REAR YARD COVERAGE  
AND WILL BLOCK BED ROOM WINDOWS



April 28, 2019

RE: 2758 Filbert St. William Higgins home plans

Dear Mr. Winslow,

The project sponsor has spent the last year and one half negotiating with the city of San Francisco and zero time negotiating with the neighbors. Now we are at the eleventh hour before the Discretionary Review hearing and being forced to make decisions without adequate time to negotiate terms that would suffice for all parties. No one who has filed for the DR feels like we have much to lose by seeing this issue through to the DR.

This argument is over square footage, not quality of life for the project sponsor. He is doubling the size of his home. Our current "ask" is defined below. It aligns with the letter to the Commission from Geoff Wood on April 22.

In our DR filing we asked for the project sponsors to honor the Cow Hollow Association Guidelines. This would keep the integrity of the new home's design and have a minimal effect on the square footage of the home. To do this would answer both the Dallmar and Bertolozzi concerns. This issue was discussed in our last meeting and was turned down by the project sponsor.

The question in front of the Planning Commission is whether one person's home plans should be allowed to negatively effect their neighbors home value and enjoyment simply because the design has been thus far deemed as fitting into the City's code.

Letters have been written by other concerned neighbors and petitions have been signed in the



hopes of ratcheting back Mr. Higgin's home plans. The Cow Hollow Association has written a strong letter in support of a reduction in size and scope. We hope that these comments and concerns of ours as well as other neighbors in Cow Hollow will be heard and addressed.

Thank you,

Howard and Kerry Dallmar

San Francisco Planning Commission  
San Francisco Planning Department

RE: Response to 311 DR claims from William Higgins 2758 Filbert St DR and additions to our Discretionary Review filing from Howard and Kerry Dallmar 2752 Filbert St. the east side neighbor to William Higgins.

The project sponsor has done many "studies" regarding our privacy concerns along with our concerns over the loss of light, air and shadows. Since we live in our home we feel we are best to judge what effect the project sponsors rebuild will have on our home if it is allowed to be built as planned. How is it fair to the adjacent neighbors to allow a project sponsor to build out into the rear yard area past an adjacent neighbor's rear wall, blocking light, air and privacy so that the new sponsor can now enjoy those very same benefits that they will be cutting off from the neighbors?

This letter along with enclosed photographs, and signed petitions from concerned neighbors and the Cow Hollow Association are our response to the 311 filing from the project sponsor.

- Our concerns regarding our second floor windows are over light, air and privacy not our "view" as was the assertion in their rebuttal.
- Please see the photos that show precisely what our view looks like from our second floor family room area.
- The light in our family room area will be dramatically altered by the current design since it will block the sunlight currently afforded in our side window . Please see photos.
- If the proposed terrace over the first floor exercise room is built it will create a viewing platform that will look directly into our family area. The suggested use of blinds or other window coverings as suggested by the Higgins rebuttal is dismissive and ridiculous.
- Many neighbors homes have decks, including ours however, the decks currently on the



Higgins home , our home and Ms. Whittings home on the other side of us (three in a row) are all at the same depth so that no one looks back on the neighbors.

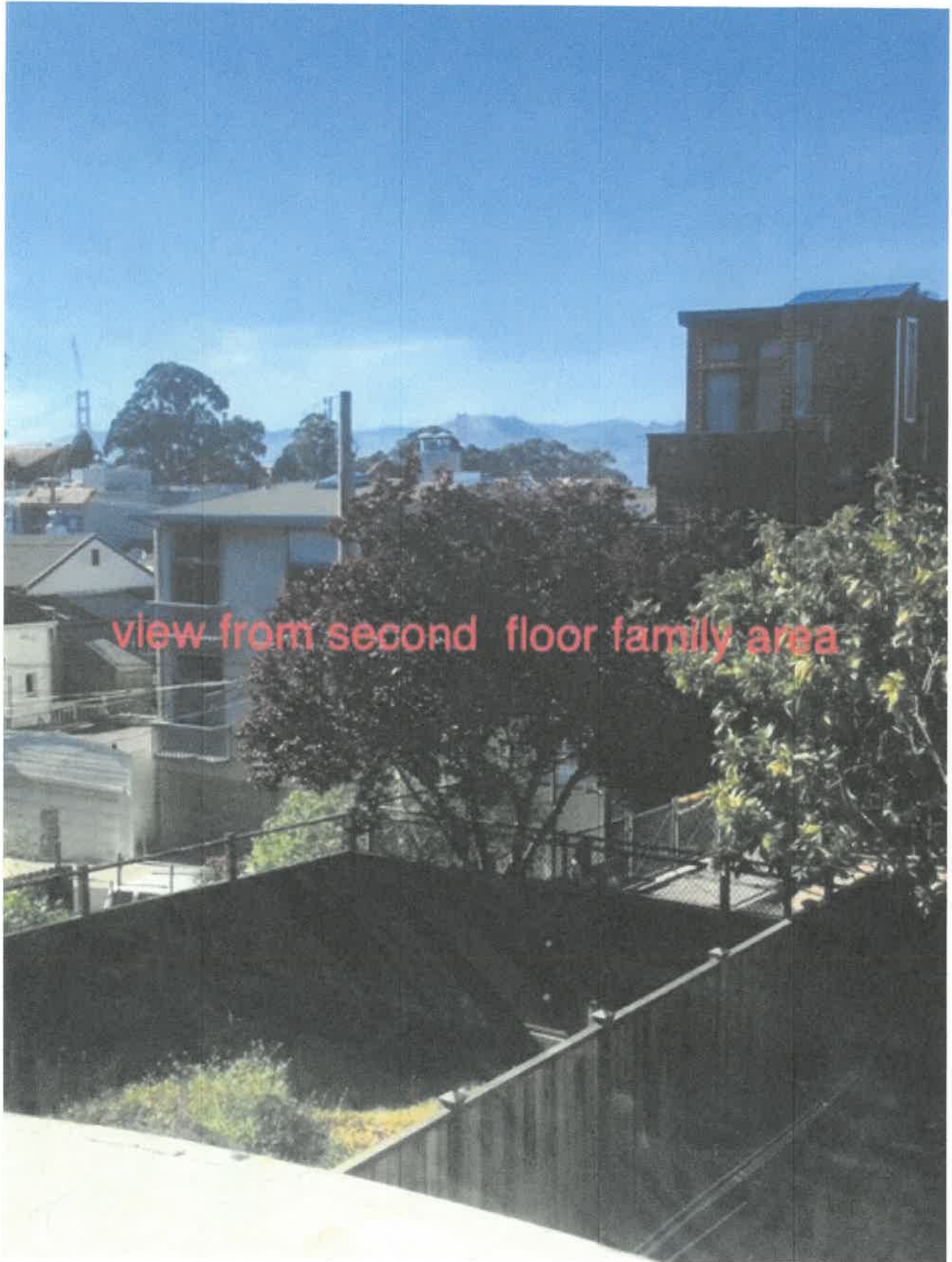
- Our third floor office will be heavily shadowed by the deep push out of the proposed Higgins home. The dismissive recommendation from Mr. Higgins is for us to build a larger window.

We understand that city living means that homes are closer in proximity to one another. Our families are long time San Franciscans. However, as San Franciscans and as folks in other cities and suburbs we know it is important to respect one another's home space and show courtesy between neighbors when considering the design of a new home. That is the purpose of the CHA Guideline (adopted by the city) that urges sponsors to be "Good Neighbors" and to "compromise neighbor's amenities".

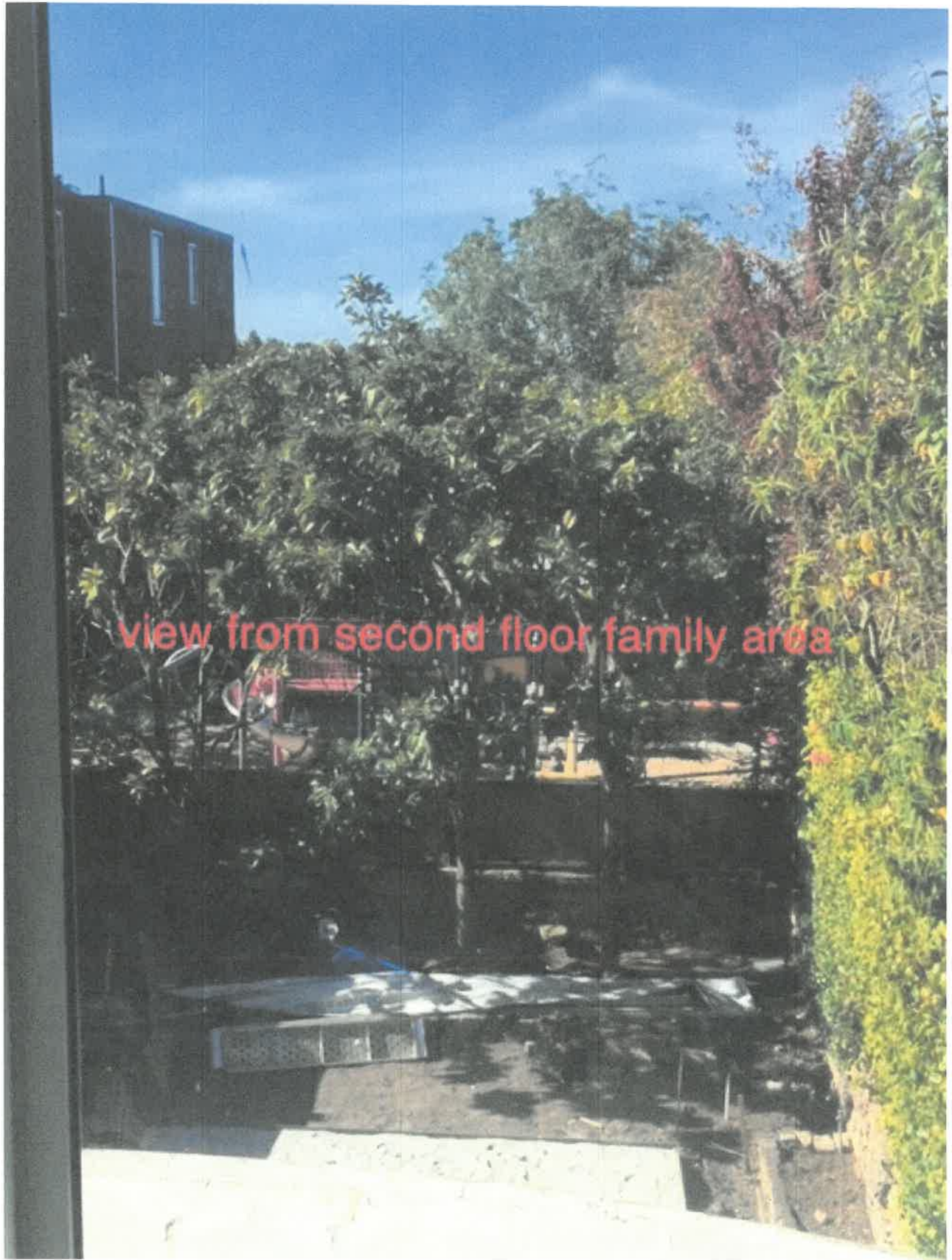
We are glad that Mr Higgins is building a new home but we ask for some give in the proposed design that would still allow him to build a sizable home while accommodating the concerns of the neighbors.

Thank you,

Howard and Kerry Dallmar

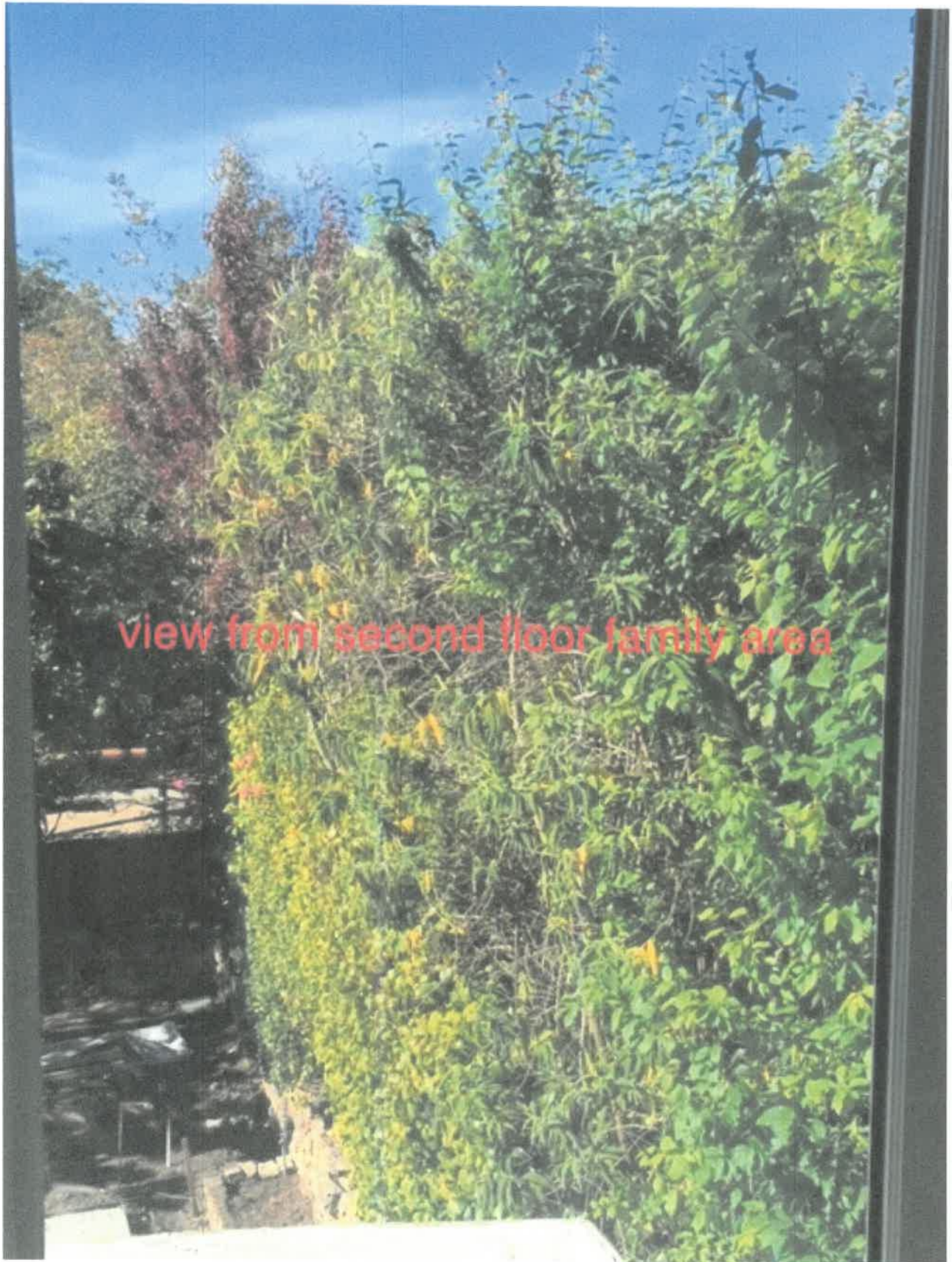






view from second floor family area

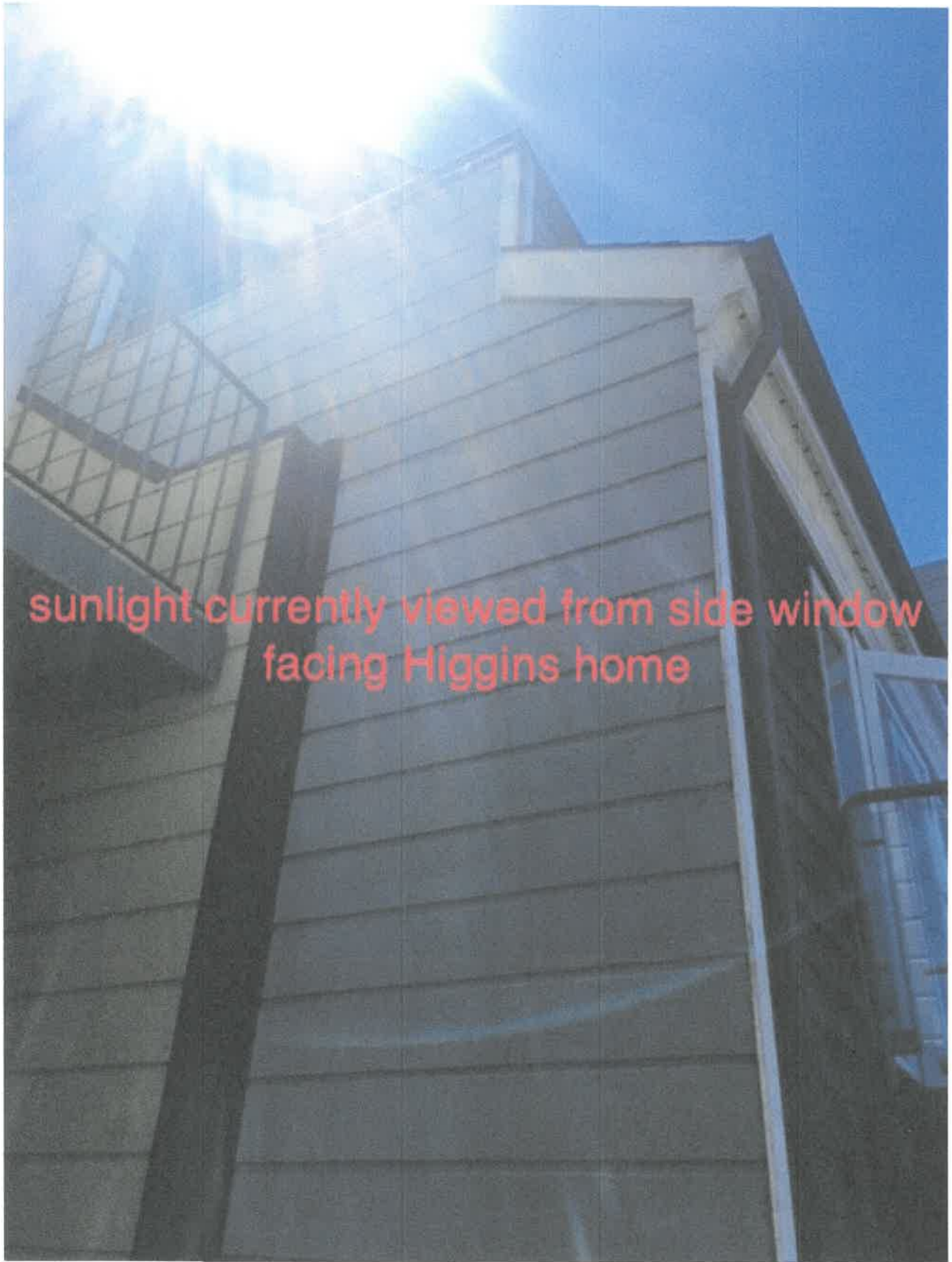






A photograph of a family area. A side window is the central focus, with a woven blind partially open, allowing bright sunlight to stream in. The light creates a strong, warm glow and casts shadows on the surrounding surfaces. To the left of the window, a striped armchair is visible, with a throw blanket featuring a bold black and white zigzag pattern draped over its back. To the right, a lamp with a white shade sits on a dark surface. The walls are a neutral, light color, and the overall atmosphere is cozy and bright.

direct sunlight from side window in family area



sunlight currently viewed from side window  
facing Higgins home



**COW HOLLOW ASSOCIATION INC.**  
**Box 471136, SAN FRANCISCO, CA 94147**

April 22, 2019

San Francisco Planning Commission  
San Francisco Planning Department  
1650 Mission Street #400  
San Francisco, CA 94113

**RE: 2758 Filbert Street - 311 DR**

Dear President Myrna Melgar and Commission Members:

Increasing the size of the subject residence from 2,700 to more than 5,800 SF should not cause a negative impact on adjacent properties when these impacts can be avoided. The existing building is set back along the west side of the property four to seven feet for most of its length. The existing rear wall already protrudes into the 45% rear yard area. The subject plans attempt to "average" the rear wall with the two adjacent neighbors which moves it farther into the rear yard. This runs afoul of the Cow Hollow Neighborhood Guidelines adopted by the City in 2001. An earlier Cow Hollow Association letter (June 11, 2018), addressed to Planning Staff and the project architect dealt with these same issues.

**Keep Rear Wall Even with Rear Wall to East.**

Page 42 of the adopted section says:

"Extensive rear additions on down-sloping lots, even if they preserve the amenities of neighborhood homes, can result in out-of-scale structures that fill up the hillsides and eliminate open space.

However, should a rear extension be desired, it may be necessary to limit the addition so as not to create out-of-scale structures or compromise neighbors' amenities."

The fact that the appendix to the Guideline was not adopted in 2001, does not alter the authority of the adopted section as it governs neighborhood remodels. Page 42 was adopted and should be followed. Keeping the proposed rear wall even with the wall to the east will improve the light and air in the rear rooms and deck of the neighbor to the east immensely. It will also benefit the neighbor to the west. This can be done without surrendering any significant space. The exercise room on the first floor can be kept at its full size, but moved back 3 or 4 feet by relocating the adjoining pantry across the hall and reconfiguring the adjacent closet space. The family room and kitchen could be reduced in size slightly from 38 feet in length to 34 feet, still offering a very large

room. Following this procedure incorporates "Good Neighbor" policy, a very important part of the adopted section of the Guidelines (pg. 35) and it reduces privacy, light and air issues at these floor levels for all parties. Averaging rear lot wall distances which the current plan resorts to, results in a game where rear walls can be constantly averaged further into rear yards, reducing important mid-block open space and benefits for everyone.

### Protect Lot Line Windows

The multifamily property to the west contains lot-line windows on the property line. The present west wall location of the subject property provides a five to seven foot wide side space that runs the full length of the subject building.

Cow Hollow Guidelines, page 35. "Where side yards exist, new buildings or expansions should be designed so as to preserve these side yards in their entirety and thus to protect the privacy of and light to neighboring buildings. When rear additions impinge on light and air to adjacent homes, setbacks can be used to preserve the extent of light and air intended in the existing design."

In discounting the un-adopted sections, we don't want to lose sight of the fact that the above section was adopted and directs the project sponsor to preserve side yard space or provide setbacks so as not to impinge on the intended light and air for the lot-line windows — regardless of their current use. As a "Good Neighbor" policy, setbacks should be applied to the rear portion of the west wall as is given to the property to the east at the rear. The property line is irregular and a setback could be supplanted with light wells. The argument that lot-line windows are not protected is self-serving. Does the City say that they no longer protect buildings from fire because they have no modern sprinkler system, or because the electrical system is no longer approved? Of course not!

Adopting these suggested changes will improve nearby neighbor's privacy and important light benefits which they have historically enjoyed.

The CHA Zoning Committee has tried to work with the project sponsor and neighbors to balance each parties' wishes. Lately, the sponsor has been responsive in settling some concerns, but the above important issues still need addressing. We appreciate the role of the Planning Commission in this and ask they consider incorporating our requests in finalizing this proposed extensive home renovation. Thank you.



Sincerely,

A handwritten signature in black ink that reads "Geoff Wood". The signature is written in a cursive, slightly slanted style. The first name "Geoff" is written with a large, looping "G" that extends over the second name "Wood".

Geoff Wood

Cynthia Gissler  
Cow Hollow Association  
Zoning Committee

Cc: Myrna Melgar, Planning Commission President

Christopher May

David Winslow

Elizabeth Gordon-Jonckheer

Geoff Gibson

The Cow Hollow Association (CHA) is bounded by Lyon, Pierce, Greenwich, and Pacific Streets, and represents the interests of approximately 1, 100 homeowners. Our Association is dedicated to the preservation of the residential character of the Cow Hollow neighborhood.

From: **Joseph Desautels** joseph.desautels@gmail.com  
Subject: 2758 Filbert St  
Date: February 11, 2019 at 10:06 AM  
To: david.winslow@sfgov.org, christopher.may@sfgov.org  
Cc: Kerry Dalmar dallmarfamily@comcast.net



Dear Mr. Winslow and Mr. May,

As a neighbor on Filbert Street, I am writing you of our concerns about how casually planning seems to be setting aside the Cow Hollow Guidelines and allowing the excessive development of this property. The reasonable modifications that Mr. & Mrs Dalmar are requesting seem like a reasonable compromise and appear to have minimal impact on the quality of what is being proposed. We are concerned about the many excessive developments that have or are working their way through planning that are and will have substantial detrimental impact on our community. These developments do nothing to help meet the city's housing problems of availability and affordability of housing.

The proposal for this property, while an improvement over the sorry state of the existing structure, continues the "over expansion" that is destroying the character of the neighborhood. Of particular concern is the massive expansion to the rear. On the plans, there are three lines dealing with rear yard setback:

- 40% rear yard setback
  - Avg rear yard setback
- Max permitted setback

As you can see from the plans, the property to the East nicely conforms to the 40% setback. The property to the west exceeds it, thus the average. The project proposes to exceed the 40% by 8-9 ft. This should not be allowed. Using the "average" becomes a slippery slope, because it now enters into future calculations as to what might be the "average". Exceeding the setback to the "max permitted" now becomes a huge step backward in terms of preserving rear yard setback. If this is permitted we will eventually have no setbacks and the "Manhattanization" of the neighborhood will be complete.

Projects should not be allowed to exceed limits because someone else exceeded them. If we are to have limits, we shouldn't be looking for ways to break them, but rather encourage them to be met.

One of the prime motivations behind these excessive developments is to simply produce square footage, which makes them more profits and further increases the cost of housing. Almost none of these developments taking place in our neighborhood are being done by people who intend to live in the community. If they were, they would be much more willing to find a solution that works for all parties.

Thank you for your consideration.

Joseph Desautels  
2720 Filbert St



From: **Michelle Sangiacomo** michelle.sangiacomo@gmail.com  
Subject: 2758 Filbert Street  
Date: February 10, 2019 at 4:55 PM  
To: david.winslow@sfgov.org, christopher.may@sfgov.org

Dear Mr. Winslow and Mr. May,

This is in regards to the proposed build at [2758 Filbert Street](#). I understand a few of the neighbors have filed for Discretionary Review. I want to add my two cents about this, and support those neighbors who have filed for the DR.

I went through this process in 2011 - we did a full remodel. The initial plans were contested by some neighbors and, after numerous discussions with the neighbors, and our own DR, we decided it was very important to comply with the Cow Hollow Guidelines. I understand the property owner, Mr. Higgins, does NOT intend to comply with the Cow Hollow Guidelines. If this is the case, and the City is going to support him in failing to do so, why are the Guidelines there in the first place?

We have a lovely neighborhood in Cow Hollow, but specifically this block. The neighbors, however, are concerned that Mr. Higgins's property will turn into another version of the building at [2736 Filbert Street](#), which was clearly built by someone who does not live in the neighborhood, who is trying to make as much money as possible without being concerned about what it is doing to the neighborhood. I realize this is unsubstantiated, but the word on the street is Mr. Higgins plans to sell immediately after the remodel, or even before.

Please consider the neighborhood and the neighbors before you allow Mr. Higgins to so openly disregard the Cow Hollow Guidelines. We're not asking you to deny planning permission but to urge him to scale back on his project.

Thank you for considering my email.

Michelle Sangiacomo

I SUPPORT THE DR APPLICANT'S POSITION ON 2758 FILBERT STREET  
BUILDING PERMIT APPLICATION NUMBER: 2017.1013.1247

[illegible]



## BUILDING PERMIT APPLICATION NUMBER: 2017.1013.1247

NAME (print)	NAME (sign)	ADDRESS	DATE	E-MAIL
KARINE LARKIN	<i>Karine Larkin</i>	2648 UNION	3-23-19	eklar@comcast.net
DAVID KANTER	<i>David Kanter</i>	2719 FIBERT	3-24-19	DEKANTER@comcast.net
KERIN LEMASTER	<i>Kerine</i>	2757 UNION	3-26-19	LEMASTERKM@gmail.com
Ross Sim	<i>Ross</i>	3020 Legion	3-26-19	rsim@minn.com
DOY MOETHEAD	<i>Don Mouthead</i>	2715 FIBERT ST	3-26-19	lwm@ae@aol.com
Ann Morehead	<i>Ann Morehead</i>	2715 FIBERT	3-29-19	ann94123@gmail.com
Stacy Metcalf	<i>Stacy Metcalf</i>	2719 FIBERT ST	4/3/19	ms.metcalf@gmail.com
MS. SCHULTZ	<i>MS. Schultz</i>	2827 Union	4/15/19	ms.schultz@gmail.com
John Schults	<i>John Schults</i>	2800 Union	4/15/19	schultsjr@gmail.com
Donna Schults	<i>Donna Schults</i>	2729 FIBERT ST	4/15/19	
Nancy Schults	<i>Nancy Schults</i>	2729 FIBERT	4/15/19	

I SUPPORT THE DR APPLICANT'S POSITION ON 2758 FILBERT STREET  
BUILDING PERMIT APPLICATION NUMBER: 2017.1013.1247

[illegible]



# COW HOLLOW NEIGHBORHOOD - PRE

Address: 2758 Filbert Street

## QUESTION

### A. NEIGHBORHOOD ON-SITE PRE-APP MEETING

Pre-App Meeting Notice received by neighbors in Project Area? DR Reform 2009
Notice of Meeting mailed. (Minimum 14 days in advance). DR Reform 2009
Was CHA notified of Pre-App Meeting?
List created of those in attendance with email/phone? DR Reform 2009
Were Design Phase plans available for viewing at meeting?
Did Project Sponsor or Architect ask for comments or suggestions from neighbors? <u>List Made?</u>
Did Project Sponsor or Architect offer ways to possibly mitigate concerns of neighbors (i.e. "Good Neighbor" gestures) or the CHA?
Prior to this meeting, did the Project Architect review the CHNDG (Neighborhood Guidelines) to determine how the proposed project may be affected, limited or restricted by the Guidelines? CHNDG Section 1, Section 3
Has the Project Sponsor met with the CHA Zoning Committee to discuss the project?
Would an additional Pre-App meeting be helpful in resolving significant issues of concern?

### B. NEIGHBORHOOD CHARACTER & SITING

Block-face character: Clearly Defined __ Complex <u>X</u> or Mixed
Does the building respect the topography of the site (on hill, valley, slope) to preserve natural light for nearby residents? Location (CHNDG pgs. 11-12, 21-27)
Does the position of the building on the block relate to other buildings and other significant urban features? Location (pgs. 21-25)
Does the building design respect the pattern of building setbacks? Setback (pgs. 25-28)
Does the building design respect rear yard patterns and mid-block open space? Rear Yards (pgs. 28-29)

Add'l Comment Box: A few changes could make the remodel more tense of 3 feet on the west side would have slight affect on the project but prov

## QUESTION

### B. NEIGHBORHOOD CHARACTER & SITING Cont'd

Does the building design respect the pattern of side spacing between buildings? Side Spacing (pgs. 30-31)

Does the building design adequately incorporate "good neighbor" gestures?

Do the "good neighbor" gestures significantly address the concerns of the neighbors?

### C. BUILDING ENVELOPE

Is the building roofline compatible with the pattern of the rooflines on the block-face? Roofline (pgs. 32-33)

Is the buildings volume and mass compatible with that of the surrounding buildings? Volume & Mass (pgs. 34-36)

### D. SCALE

Are the building's dimensions (length, width and height) compatible with neighboring buildings? Dimensions (pgs.37-39)

Are the buildings overall vertical and horizontal proportions compatible with the patterns along the block-face?

### E. NEIGHBOR'S LIGHT AND VIEW

Does the building scale preserve the natural light and views for nearby residents? Light and View (pgs.11,27,35,42)

### F. TEXTURE AND DETAILING

Do the building's materials compliment those used in the surrounding area? Exterior Materials (pgs.40-41)

Are finished materials used on all exposed facades of the building?

Does the building respect the amount and level of detail and ornamentation on surrounding buildings?

### G. OPENINGS

Does the building respect the pattern of entryways along the block-face?

Is the building's entry compatible in size, placement and details with surrounding buildings?



<b>QUESTION</b>
Are the buildings windows compatible with the proportion size and detailing of windows of surrounding buildings?
Is the width of the garage door compatible with adjacent garage doors on the block-face?
Does the proposed garage door compliment the style and the design of the rest of the building?
<b>H. LANDSCAPING</b>
Is the area designated for landscaping in the front setback area of appropriate size and shape? Landscaping (p. 48)
<b>I. PERSPECTIVE, STORY POLES</b>
Has Applicant submitted a Perspective, Model, or erected Story Poles to show scale as requested by Planning Staff or Neighbors? DR Reform 2009
<b>J. HISTORICAL SIGNIFICANCE</b>
Is the subject property more than 50 years old?
Is the subject property part of any historical survey? (REF:2626 Filbert St. HRER 2007)
Are there historically significant aspects of the building: association with significant events, persons, architecture, or history?
Was a Cat Ex from Environmental Review issued with no limiting concerns?
<b>Additional Comments:</b>

# -APP CHECKLIST

Submitted By CHA

DATE: September 19, 2017

REFERENCE OR COMMENTS	Yes	No	Submit	Not
-----------------------	-----	----	--------	-----

	X			
	X			
		X		
	X			
	X			
	X			
Architect was going to study how to get more light to neighbor to west. Was going to study how to give neighbor to east more view and light.			X	
	X			
	X			
			X	

			X	
			X	
See comment below.		X		
			X	

able for adjacent neighbors. Pulling the rear back a few feet and adding a light corridor  
side neighbors important relief.

REFERENCE OR COMMENTS	YES	NO	SOME	N/A?
<b>Address: 2758 Filbert Street</b>				
			X	
			X	
			X	
Kept roofline in front. Went to flat roof at rear to stay within height limits.	X			
Building area expands from approx. 2,750 sf to over 5,200 sf. Almost a doubling of space.		X		
			X	
Height is close to allowable limites, but horizontal expansion extends past neighbor's deck and rear living space blocking light.			X	
See above.			X	
	X			
	X			
	X			
	X			
	X			



REFERENCE OR COMMENTS	YES	NO	NO	NO

Address: 2758 Filbert Street

	X			
	X			
	X			
	X			
	X			
	X			
		X		
		X		
		X		

# ZACKS, FREEDMAN & PATTERSON

A PROFESSIONAL CORPORATION

235 Montgomery Street, Suite 400  
San Francisco, California 94104  
Telephone (415) 956-8100  
Facsimile (415) 288-9755  
[www.zfplaw.com](http://www.zfplaw.com)

April 29, 2019

President Myrna Melgar  
San Francisco Planning Commission  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Re: Project Sponsor's Response to Request for Discretionary Review  
Case No. 2017-013328DRP – 2758 Filbert Street, San Francisco

Dear President Melgar and Members of the Planning Commission:

Our office represents Bill Higgins (the "Project Sponsor"), the owner-occupant of 2758 Filbert Street (the "Property"). The Project Sponsor has proposed to refurbish the dilapidated condition of the Property and improve the livability of his home by building a reasonable vertical and horizontal addition to provide bedrooms and living space. The Project will *reduce* the overall height of the existing building. It will also enhance the streetscape by improving the condition of the front façade and making room for an additional street tree.

There are no "exceptional or extraordinary circumstances" justifying Discretionary Review. The DR requests were filed to preserve light and air to frosted, inoperable lot-line windows, and views from one window in a room that already has four large windows. The Project Sponsor has gone to great lengths to address neighbors' concerns and has made numerous revisions to the Project, including reducing the height of the Project, creating notches to preserve light and airflow, and reducing the height and depth of the rear-yard pop-out. The Project is Code-compliant and consistent with the character and scale of the neighborhood. It should be approved.

**There are no "exceptional or extraordinary" circumstances.**

The DR requestors' rote concerns about light, air, and neighborhood character could be raised in relation to *any* addition to any building in any part of San Francisco. Most of their objections are based on a false assertion: that the height and depth limits in Cow Hollow are more restrictive than the Planning Code. The DR requestors assert that the Project violates the Cow Hollow Neighborhood Design guidelines, including a purported 35' height limit and ban on rear-yard averaging. But the guidelines' appendix was never adopted by the Planning Commission and is not applicable.

The Project will not increase the height of the existing building. Rather, the addition will be lower than the peak of the existing building. There are many single-family homes in this neighborhood with four stories, including the home of one of the DR requestors. Similarly, the depth of the horizontal addition is authorized by Planning Code §§ 134(c) and 136, and is commonplace in this neighborhood. Indeed, the DR requestors at 2752 Filbert Street have benefited from the pop-out rule to build their own rear deck. The DR requestors have also falsely asserted that the Project will cast shadows on the adjacent Cow Hollow playground. However, the Project's sun study shows no significant new shadow on the Cow Hollow playground. There is nothing exceptional or extraordinary about the Project.

**There are no significant “light and air” impacts.**

The Project Sponsor has made numerous revisions to the Project to address neighbors' concerns. The DR requestors at 2752 Filbert Street, to the east of the Subject Property, claim the Project will reduce light and air to a side-facing living room window. But this room already has ample light and air, provided by four large windows at the rear of the same room. And the DR requestors' purported lightwell is already obstructed by their fire escape staircase and a solid firewall. It appears their real objective is to preserve views of the Golden Gate Bridge from their side-facing window. Views are not protected in San Francisco, but in any event, superior views are already provided by their large rear-facing windows in the same room.

The DR requestors at 2762-2764 Filbert Street, to the west of the Subject Property, state the Project will block their lot-line windows. But lot-line windows are disfavored by the Code because they create privacy and fire safety issues. Existing lot line windows are not protected, particularly if they are not needed to provide light or airflow. Here, the only windows to be blocked are closet and stair windows. Closets and stairs do not need windows. In any event, the Project has proposed an oversized lightwell that will provide light to the DR requestors' property. The lot-line windows at the rear of the requestors' property are frosted and inoperable, providing minimal light and no airflow, and will only be obstructed by a few inches. These rooms have large windows at the rear of the requestors' property for light and airflow, so the lot-line windows are not necessary.

The DR requestors across the street from the Property are principally concerned about the look of the front façade, and light pollution from the Project's windows. But the Project has been designed to be contextual with the neighborhood character, and all of the houses on this street have front-facing windows. The actual source of any light pollution is a streetlight in front of the Property, which will necessitate the use of curtains in the Property's front-facing rooms.



**Numerous revisions have been made to the Project, and substantial further revisions have been offered.**

The Project Sponsor has made the following revisions to address the DR requestors' concerns:

- a. A 5-foot notch was created at the northeast corner of the fourth floor of the Project to provide additional light and air to a third-story office window at 2752 Filbert Street.
- b. A 3-foot notch was also created at the northeast corner of the third-floor of the Project to provide additional light and air to the second-floor window at 2752 Filbert Street.
- c. The height of the building has been lowered from 40 feet to 37 feet, 9 inches.
- d. The depth of the rear yard pop-out has been reduced from 12 feet to 10 feet.
- e. The height of the pop-out has been reduced to one story rather than utilize the full two stories permitted by Code.
- f. An exterior stair at the east side of the Project has been removed.
- g. The front setback at the fourth story has been increased from 10 to 12 feet.
- h. More traditional French casement windows will be installed.
- i. Drapes or blinds will be installed at the front-facing windows to prevent light pollution.

The Project Sponsor has also offered to:

- a. Add a 12" x 24" notch to the northeast corner of the Project at the second floor.
- b. Reduce the size of the rear second-floor deck by pulling the railing back 3'.
- c. Remove the solid parapet at the fourth-floor rear deck and install a glass or open railing, which will reduce the Project's mass and facilitate additional light and air to the adjacent properties.
- d. Pay to infill the affected lot-line closet and stair windows, or install energy-efficient light boxes in these windows.
- e. Create additional a 12" x 12" notch at the northwest corner of the second floor of the Project and a 12" x 24" notch at the third floor, so that the Project will not affect the frosted lot-line windows at 2762-2764 Filbert Street.
- f. Create a 5' notch at the southwest corner of the fourth floor of the Project, adjacent to 2762-2764 Filbert Street.
- g. Paint the northeast wall a light color (chosen by the neighbor) to bring additional light to 2752 Filbert Street.

President Melgar and Commissioners  
April 29, 2019  
Page 4

**Conclusion**

The only thing extraordinary about this Project is the lengths the Project Sponsor has gone to in addressing his neighbors' concerns. He has significantly scaled down a fully Code-compliant Project, and has offered to make numerous additional changes to accommodate the DR requestors. We respectfully request that the Planning Commission approve the Project as proposed.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC



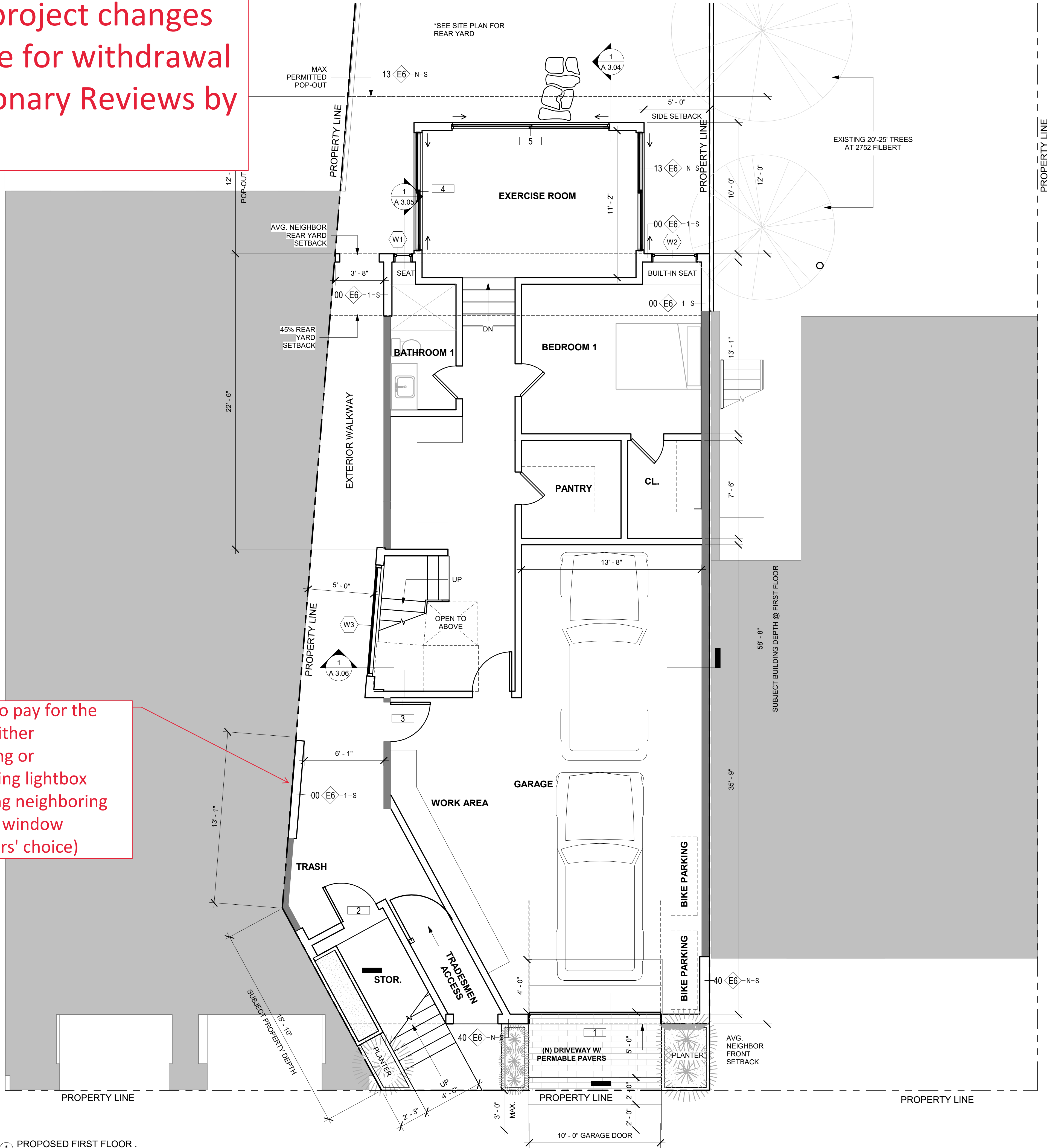
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Ryan J. Patterson

Encl.

Proposed project changes  
in exchange for withdrawal  
of Discretionary Reviews by  
all parties.

Higgins to pay for the  
cost of either  
(a) infilling or  
(b) creating lightbox  
at existing neighboring  
stairwell window  
(neighbors' choice)



1 PROPOSED FIRST FLOOR .  
1/4" = 1'-0"

WALL LEGEND

(E) WALL TO REMAIN

DEMO WALL

NEW WALL

TO BE DEMOLISHED

FLOOR PLATE TO BE DEMOLISHED

GENERAL NOTES

SEE STRUCTURAL, CIVIL, LANDSCAPE, FOR ADDITIONAL COORDINATION.

◇

WALL ASSEMBLIES, SEE A5.00

⬡

WINDOW SCHEDULE, SEE A8.20

□

DOOR SCHEDULE, SEE A8.30

WINDER GIBSON architects

interiors  
planning  
architecture

www.archsf.com

t: 415. 318.8634

1898 mission street  
san francisco, ca 94103

LICENSED ARCHITECT

JOHN WINDER

NO. C13805

Ren. 4/19

STATE OF CALIFORNIA

2758 FILBERT STREET

SAN FRANCISCO, CA 94123

Revision Schedule

Revision Number	Revision Date

SITE PERMIT

PROPOSED FIRST FLOOR PLAN

PROJECT NORTH

A 2.01

DATE

12/21/2018

SCALE

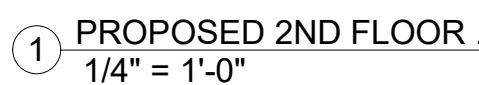
1/4" = 1'-0"

DRAWN

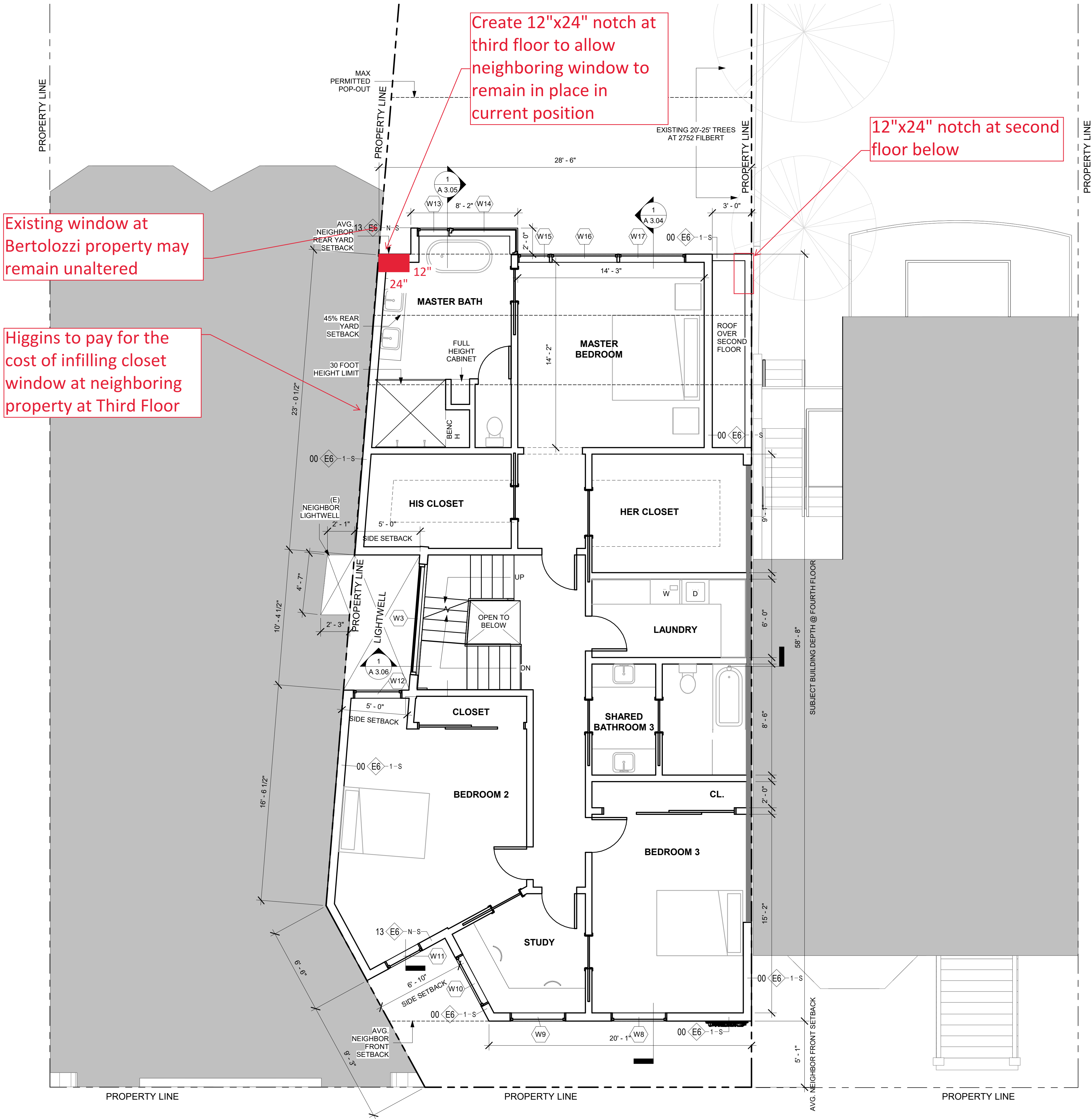
Author

1707





1707



1 PROPOSED THIRD FLOOR  
1/4" = 1'-0"

WALL LEGEND

(E) WALL TO REMAIN

DEMO WALL

NEW WALL

TO BE DEMOLISHED

FLOOR PLATE TO BE DEMOLISHED

GENERAL NOTES

SEE STRUCTURAL, CIVIL, LANDSCAPE, FOR ADDITIONAL COORDINATION.

◇

WALL ASSEMBLIES, SEE A5.00

◻

WINDOW SCHEDULE, SEE A8.20

□

DOOR SCHEDULE, SEE A8.30

WINDER GIBSON architects

interiors  
planning  
architecture

www.archsf.com

t: 415. 318.8634

1898 mission street  
san francisco, ca 94103

LICENSED ARCHITECT  
JOHN WINDER  
No. C13805  
Ren. 4/19  
STATE OF CALIFORNIA

2758 FILBERT STREET  
SAN FRANCISCO, CA 94123

Revision Schedule

Revision Number	Revision Date

SITE PERMIT

PROPOSED THIRD FLOOR PLAN

PROJECT NORTH

A 2.03

DATE

12/21/2018

SCALE

1/4" = 1'-0"

DRAWN

Author

1707





5'-0" setback to  
4th story here

Remove 4th story building volume here

90 degree angle  
between walls.  
Side wall does not  
follow property  
line angle.

WALL LEGEND

(E) WALL TO REMAIN  
DEMO WALL  
NEW WALL  
TO BE DEMOLISHED  
FLOOR PLATE TO BE DEMOLISHED

GENERAL NOTES

SEE STRUCTURAL, CIVIL, LANDSCAPE, FOR ADDITIONAL COORDINATION.

WALL ASSEMBLIES, SEE A5.00  
WINDOW SCHEDULE, SEE A8.20  
DOOR SCHEDULE, SEE A8.30

www.archsf.com

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1898 mission street  
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LICENSED ARCHITECT  
NORTH DOWLING & WINDY LLC  
No. C-13805  
Ren 4/19  
STATE OF CALIFORNIA

2758 FILBERT STREET  
SAN FRANCISCO, CA 94123

Revision Schedule

Revision Number	Revision Date
-----------------	---------------

SITE PERMIT

PROPOSED FOURTH FLOOR PLAN

PROJECT NORTH

A 2.04

DATE	12/21/2018
SCALE	1/4" = 1'-0"
DRAWN	Author

1707



# RESPONSE TO DISCRETIONARY REVIEW (DRP)



**San Francisco  
Planning**

SAN FRANCISCO PLANNING DEPARTMENT  
1650 MISSION STREET, SUITE 400  
SAN FRANCISCO, CA 94103-2479  
MAIN: (415) 558-6378 SFPLANNING.ORG

---

## Project Information

Property Address: 2758 Filbert Street

Zip Code: 94123

Building Permit Application(s): 2017.1013.1247

Record Number: 2017-013328DRP (01-04)

Assigned Planner: Christopher May

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## Project Sponsor

Name: William W. Higgins Jr

Phone: (415) 771-5380

Email: william.w.jr@higginsfamily.org

---

## Required Questions

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

Please see attached written and graphic response.

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

Please see attached written and graphic response.

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

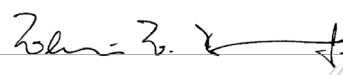
Please see attached written and graphic response.

## Project Features

Please provide the following information about the project for both the existing and proposed features. **Please attach an additional sheet with project features that are not included in this table.**

	EXISTING	PROPOSED
Dwelling Units (only one kitchen per unit - additional kitchens count as additional units)	1	1
Occupied Stories (all levels with habitable rooms)	3	4
Basement Levels (may include garage or windowless storage rooms)	0	0
Parking Spaces (Off-Street)	2	2
Bedrooms	2	5
Height	32'-8" (midpt)	37'-9" (flat)
Building Depth	59'-4"	70'-8"
Rental Value (monthly)	n/a	n/a
Property Value	n/a	n/a

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

<b>Signature:</b> 	William W. Higgins Jr. San Francisco, California, USA 2019.03.25 14:00:45 -07'00'	<b>Date:</b>
<b>Printed Name:</b> William W. Higgins Jr.	<input checked="" type="checkbox"/> Property Owner <input type="checkbox"/> Authorized Agent	

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

## Discretionary Review Response

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### Executive Summary:

There are no “exceptional or extraordinary circumstances” justifying a Discretionary Review concerning this project. The sponsor, who has lived in this building for over 25 years, is merely undertaking a long-overdue renovation of this dilapidated single-family home. The project is 100% compliant with all height, width, depth, and setback requirements of the applicable San Francisco Planning Code. The proposed building fits nicely within its lot while maintaining an ample rear yard (nearly 1,000 sq. ft.), has a fresh and contemporary look—as do other recently renovated homes on this block and in the neighborhood—and its scale is consistent with that of other nearby buildings. The finished product will be a significant improvement to the block and the neighborhood.



The sponsors have made numerous revisions in response to feedback from both RDAT and the neighbors including: (i) reducing the overall height of the building—which is now a bit lower than the existing building; (ii) increasing the front setback several feet at the fourth-story; (iii) reducing both the height and the depth of the rear pop-out (one story instead of two; 10 feet deep instead of 12); (iv) “notching” at the northeast corner of the third- and fourth-stories; and (v) removing an exterior stair at the east side of the rear pop-out. All of these serve to reduce the building’s final scale and are made in an effort to compromise with and address the concerns of the neighbors.

The complaints that the DR Applicants lodge cover a broad range of topics, which we will discuss in further detail in the main body of this document. None of their complaints, however, rise to the level of “exceptional or extraordinary.” All are equitably resolved via either: (a) citation of the actual Planning Code that applies; (b) reference to well-established Planning Department policy or precedent; (c) comparison with other homes in the surrounding neighborhood; (d) application of simple and straightforward mitigations; or (e) a combination of the above.



## Discretionary Review Response

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Several of the DR Applicants, for instance, cite the addition of a fourth story as “unprecedented” and (in a similar vein) say that the subject building violates a 35-foot neighborhood height limit. There are, however, 11 other buildings on the same block as the subject property—including one owned by a DR Applicant—that have fourth stories, and the actual Planning Code stipulates a height limit of 40 feet, not 35 feet. The proposed building—at 37 feet, 9 inches high—is thus neither exceptional nor extraordinary: it’s comfortably below the Planning Code height limit of 40 feet and its four stories are comparable to other homes in its immediate vicinity.

The DR Applicants make similar arguments concerning the subject building’s rear wall and pop-out, claiming these elements violate rear yard requirements. That claim is likewise unfounded. The use of rear-wall averaging (per Section 134) and pop-outs (per Section 136) is expressly permitted by code, and is commonplace both in this neighborhood and in San Francisco generally. Neither of these elements warrant Discretionary Review.

The DR Applicants base many of their objections on a faulty premise—that the height, depth, and certain other limits specified in the appendices of the Cow Hollow Neighborhood Design Guidelines (a.k.a., “CHNDG”) take precedence over the actual San Francisco Planning Code. That premise is incorrect. The Planning Commission explicitly declined to adopt the limitations prescribed in the CHNDG Appendices. The limits that the DR Applicants cite referencing the CHNDG simply do not apply.

DR Applicants Bertolozzi (west neighbor; owners and landlords—not occupants—at 2762-2764 Filbert Street) argue that the project will block their side-facing property-line windows. However, property-line windows are not protected by the Planning Code, except when those windows (i) serve a bedroom or other living room AND (ii) that bedroom does not have access to another source of light or air. Clothes closet and foyer windows, as is the case here, do not qualify for the above exception. The project will partially obstruct two property-line windows, but only by a few inches. These windows are frosted and inoperable, and the rooms they serve have large rear-facing bay windows that provide ample light and air. The impact of the project on the frosted, side-facing, and inoperable property-line windows will be negligible.

DR Applicants Dallmar (east neighbor at 2752 Filbert Street) claim that the project will block their side-facing kitchen window, impacting light and air. However, this room already has four full-height windows/doors at its rear which provide access to their exterior deck. These four windows/doors provide more than enough light and air to the same room as the side-facing window at issue. The Dallmars’ true objection is that they don’t want to lose their view of the Golden Gate Bridge from that particular window. But it is well-established that views are not protected in San Francisco, and that same view is available to them via the rear-facing windows and doors that access their exterior deck.

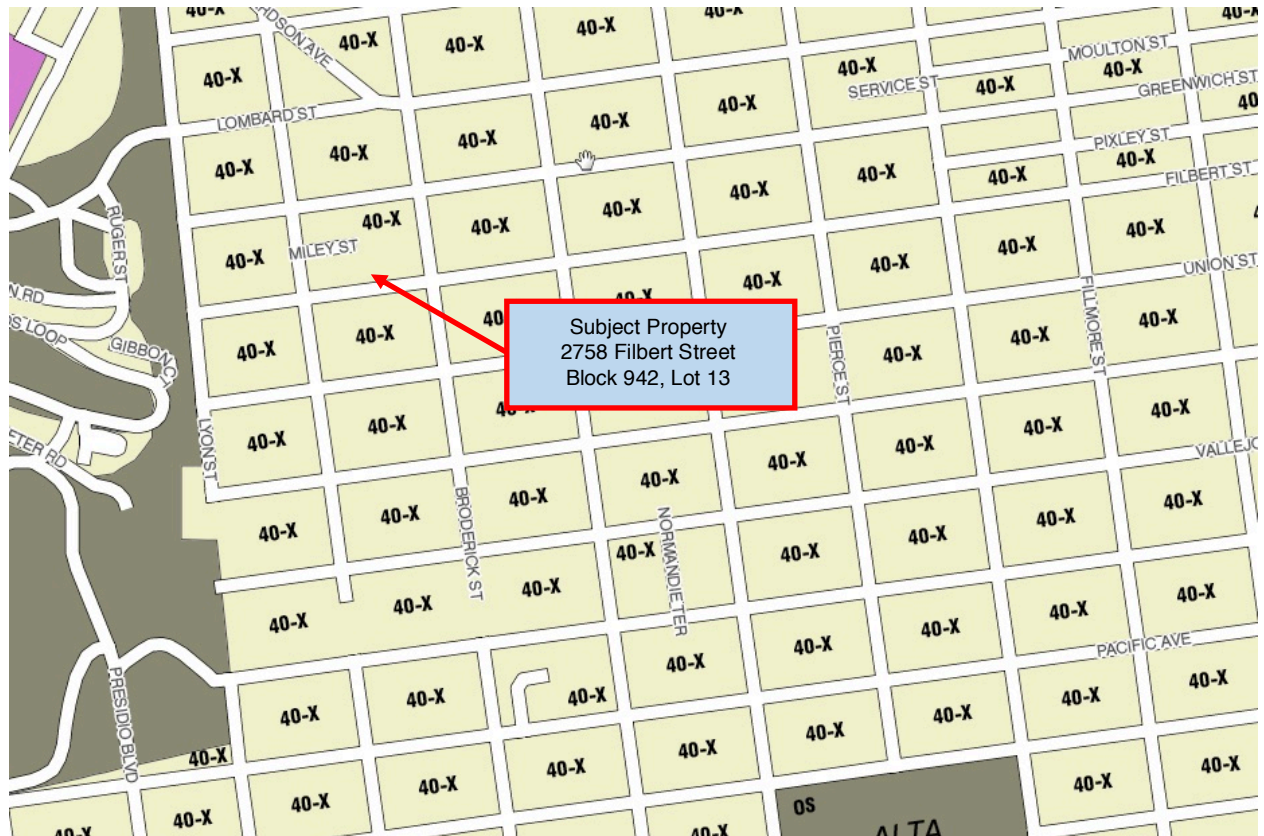
The homeowners have already made several mass reductions to the project that respond to RDAT’s feedback and the neighbors’ concerns. These revisions include lowering the height of the building, increasing the front setback at the fourth story, reducing the height and depth of the rear yard pop-out, and notching at the third and fourth stories at the northeast corner. The design has undergone numerous iterations throughout the RDAT process, and it would not be reasonable to require further revisions.

## Discretionary Review Response

1. DR Complaint: The height of the proposed building exceeds 35 feet, and the fourth-floor should be removed.

### Response:

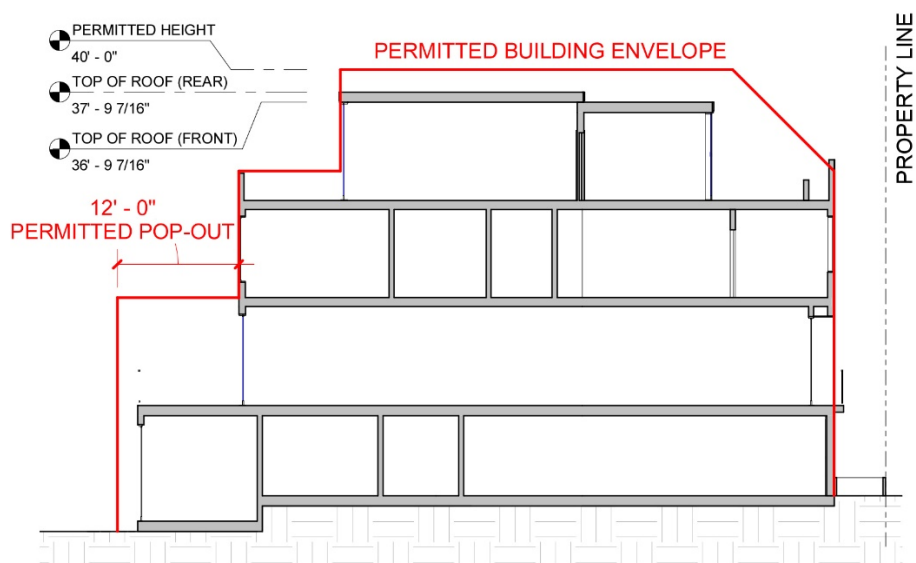
- 1.1. The subject property (2758 Filbert Street; Block 942, Lot 13) is zoned RH-2 and is sited in a 40-X height and bulk district. The height limit is 40 feet.



Source: San Francisco Planning Department[

## Discretionary Review Response

- 1.2. The proposed building is 37 feet, 9 inches at its highest point, 2+ feet below the 40-foot height limit (and 2 inches below the roof height of the existing building at its peak). The fourth-floor of the proposed building is well within the permitted building envelope. The discussion of whether the subject building is compliant with applicable height limits really ought to end here.



- 1.3. However, the DR applicants argue that the height limit in Cow Hollow is actually 35 feet. That assertion is incorrect. The 35-foot height “limit” cited by the DR Applicants is from the Appendix of the Cow Hollow Neighborhood Design Guidelines (a.k.a., “CHNDG;” height is covered in Appendix D.3 on page 65). The Planning Commission explicitly declined to adopt the limitations prescribed in the CHNDG Appendix. The highlighted text below memorializes this.



**San Francisco**  
**Planning**

1650 MISSION STREET, #400  
SAN FRANCISCO, CA 94103  
WWW.SF-PLANNING.ORG/INFO

### MEMO

DATE: March 23, 2017  
RE: Cow Hollow Neighborhood Design Guidelines

The Cow Hollow Neighborhood Design Guidelines, **exempting the appendix which would require changes to existing city codes**, were endorsed by the Planning Commission on April 26, 2001.

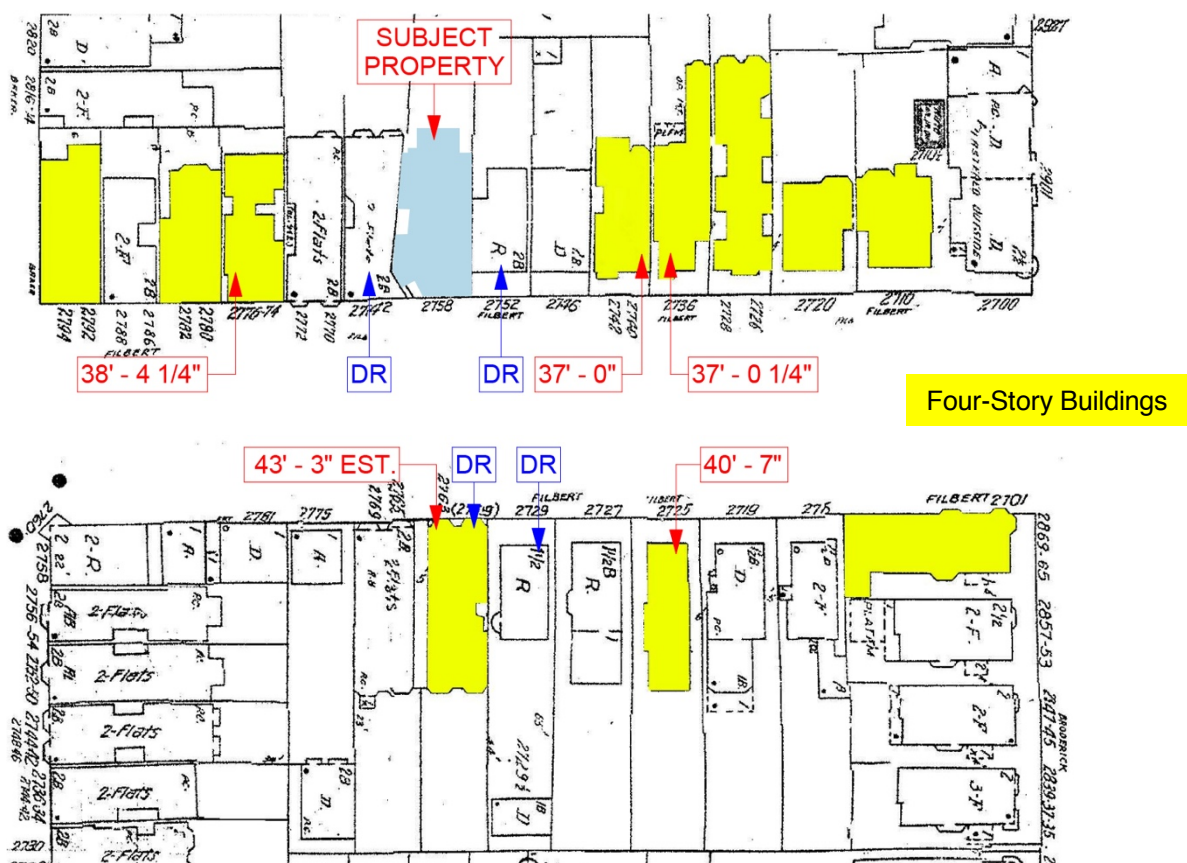
The height limit is therefore 40 feet, not 35. This is well established and beyond debate.



## Discretionary Review Response

- 1.4. The DR Applicants claim that four-story buildings are “unprecedented” in the neighborhood. However, they are actually quite common, and there are 11 four-story buildings—both older and recently renovated—on the same block as the subject building. None of the highlighted four-story buildings is an apartment building.

### Four-Story Buildings on the 2700 Block of Filbert Street



### Additional 4-Story Buildings Nearby

2636 Filbert Street	2611 Filbert Street	2826 Broderick Street
2644 Filbert Street	2639 Filbert Street	2827-2833 Broderick Street
2656 Filbert Street	2651 Filbert Street	2830 Broderick Street
2660 Filbert Street	2671, 2673, and 2675 Filbert Street	2832 Broderick Street
2662 Filbert Street	2699 Filbert Street	2844 Broderick Street
2672 Filbert Street	2851 Filbert Street	2853 Broderick Street
2682 Filbert Street	2855 Filbert Street	2869 Broderick Street
2690 Filbert Street	2859 Filbert Street	2937 Broderick Street
2698 Filbert Street		2709-2711 Baker Street
2870 Filbert Street		2728-2730 Baker Street
		2837-2839 Baker Street
		2845-2847 Baker Street

Note: Apartment buildings in the neighborhood —which are invariably 4 stories or higher— are NOT included in the above list.

## Discretionary Review Response

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- 1.5. The sponsors have already reduced the massing at the fourth story as a concession to neighbors' concerns.
  - 1.5.1. The height of the proposed building has been lowered from 40 feet to 37 feet, 9 inches in the current permit application.
  - 1.5.2. The front setback at the fourth story has similarly been increased from 10 feet initially to 12 feet in the current permit application.
  - 1.5.3. A 5-foot side-setback (a.k.a., "a notch") was created at the northeast corner of the fourth story to provide additional light and air to a third-story office window at 2752 Filbert Street.

## Discretionary Review Response

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2. DR Complaint: The project's fourth story will cast a shadow on the Cow Hollow Playground.

**Response:**

- 2.1. This claim is unfounded and unsupported by evidence.
- 2.2. The project is not subject to Proposition K. Nevertheless, the sponsors have conducted a shadow study and found no significant impact on the playground. See Exhibit 1.
- 2.3. Several trees—three at the rear of the east neighbor's property (Dallmars at 2752 Filbert Street); and a tree on the grounds of the Cow Hollow Playground itself (at the southwest corner of the playground)—have the greatest shadow impact.
- 2.4. Other trees—at the rear of 2746 Filbert Street; two doors east of the subject property; not shown in the shadow study—also add significant shadows to the Cow Hollow Playground.
- 2.5. There are no trees in the rear yard of the subject property at 2758 Filbert Street, so it does not contribute to the primary source of shadowing.



Photo 1: Shadows in Cow Hollow Playground.



## Discretionary Review Response

3. DR Complaint: The rear wall of the proposed building should not intrude into the 45% “required” rear yard.

### Response:

- 3.1. “Rear wall averaging” is an accepted and established practice—and is explicitly permitted by the San Francisco Planning Code.
- 3.2. The DR Applicants cite Appendix D.1 (pages 62 thru 64) of the CHNDG as governing, but that appendix was never adopted by the Planning Commission. San Francisco Planning Code Section 134 governs rear-yard setbacks and explicitly allows rear wall averaging.

“Generally, the depth of the rear yard requirement in these districts [RH-2, RH-3, RM-1, RM-2, and RTO] is between 25% and 45% of the depth of the lot with the exact depth dependent upon the depth of the rear walls of the two adjacent buildings. Specifically, the maximum required rear yard depth is 45% of the lot depth...However, if one or both of the existing buildings on the two adjacent lots go back further than that, your rear yard requirement may be reduced. If the average of the locations of the rear walls of these two buildings is deeper than 45% of your lot’s depth, your required rear yard would begin at that location (see Figure 5...).

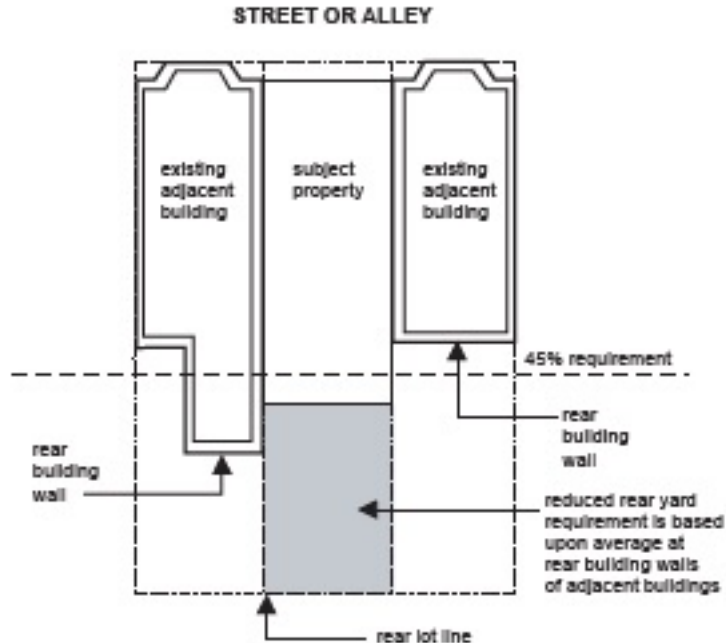
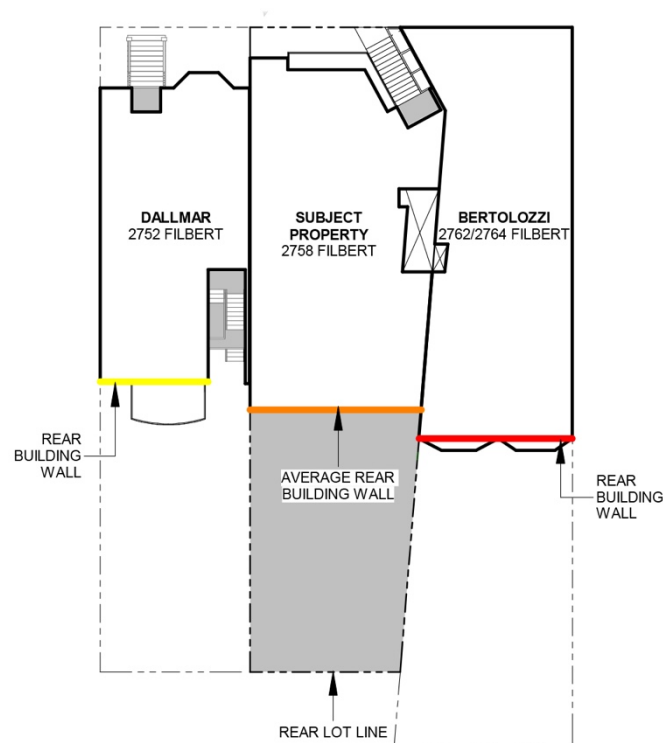


Figure 5  
Rear Yard Averaging

—Zoning Administrator Bulletin No. 5, page 3 and 4.

## Discretionary Review Response

In the diagram below, the rear wall (in orange) of the proposed building is shown with the qualifying rear walls (yellow and red) of its adjacent neighbors—just like in Figure 5 from “Zoning Administrator Bulletin No. 5” shown on the previous page.



Rear wall averaging is a well-established and common practice, both in San Francisco at large and in the surrounding neighborhood. That it is employed here is neither exceptional nor extraordinary.

## Discretionary Review Response

3.3. The DR applicants claim that the averaging performed above is “unfair” due to the different lot depths of the three lots. However, the “Zoning Administrator Bulletin No. 5” continues:

“Note that one must consider the adjacent rear walls relative to the subject lot rather than to their own. (Since adjacent lots may not have the same depth as the subject lot, the size of their rear yards may vary. However, the relevant measurement is not the adjacent rear yards but the location of the adjacent rear building walls.)” [SIC]

— Zoning Administrator Bulletin No. 5, page 4.

An existing and close-by example of the same circumstance (i.e., different lot sizes and rear yards) is shown in the photo below, also from the 2700 block of Filbert Street. The rear wall of the middle building (in orange) averages the rear walls of: (a) the top building (in red); and (b) the bottom building (in yellow), despite three vastly different rear yards and lot sizes.

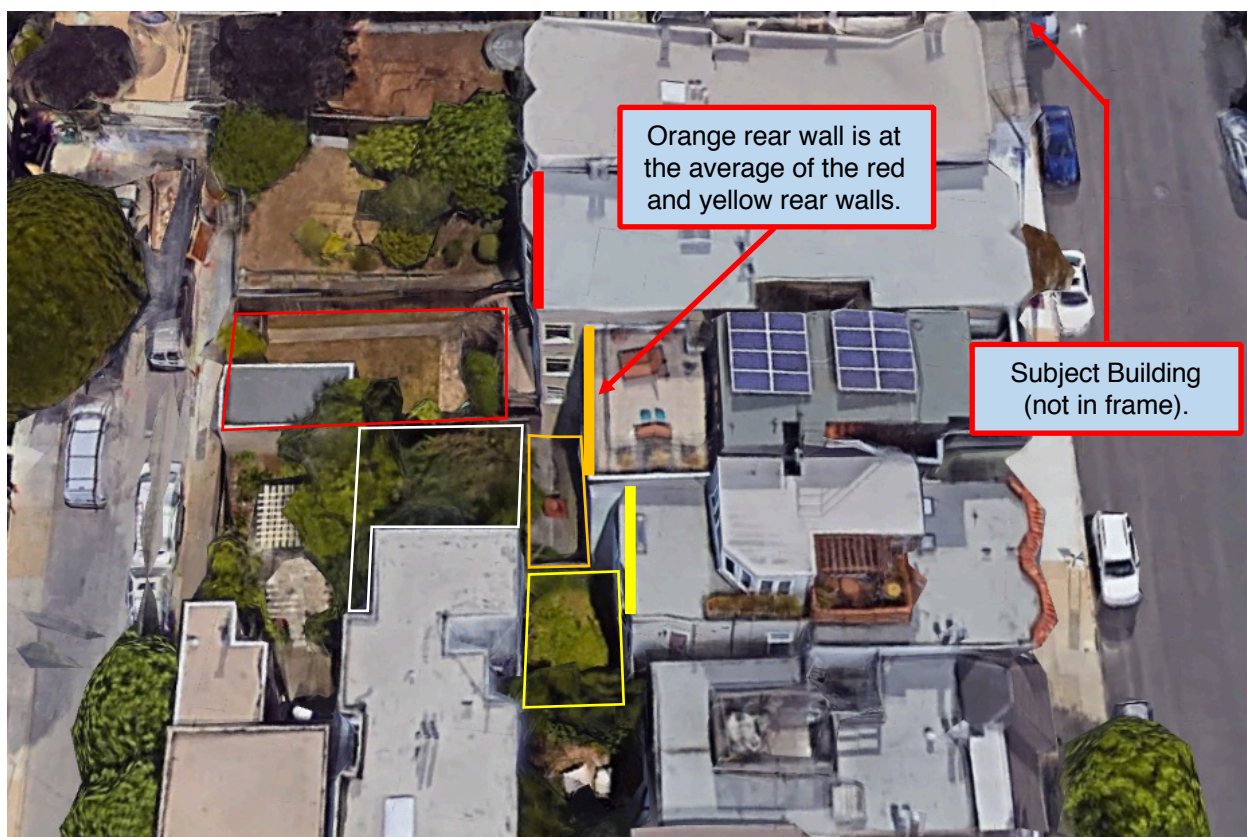


Photo 2: Example of Rear Wall Averaging on Filbert Street.

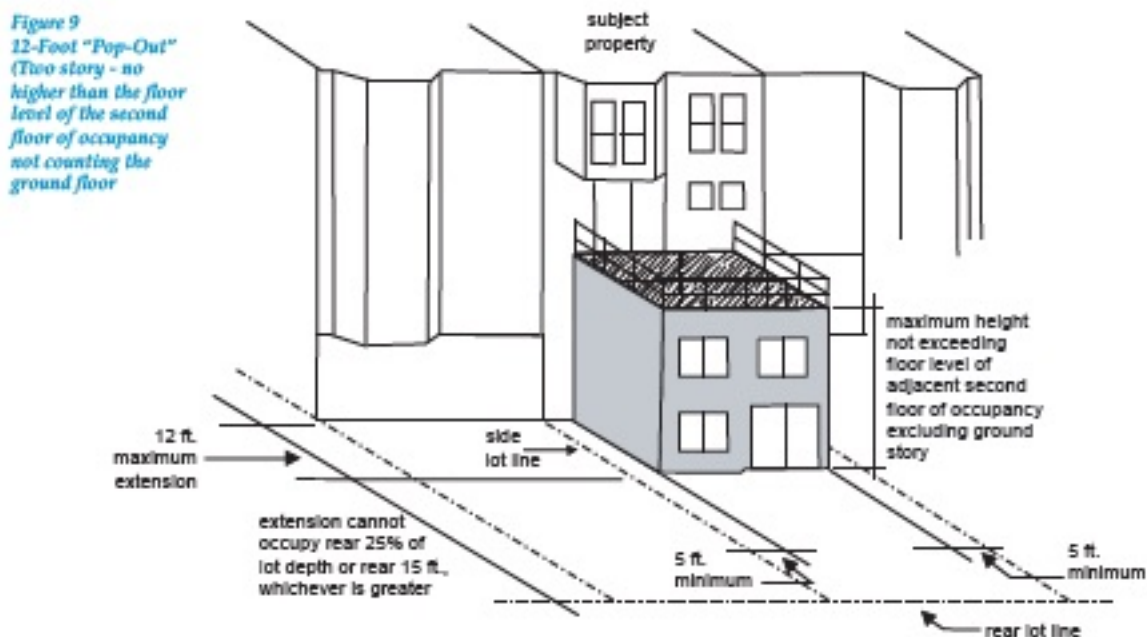


## Discretionary Review Response

4. DR Complaint: The subject property's "pop-out" at the rear yard is not permitted.

### Response:

- 4.1. The pop-out at the rear yard is explicitly permitted by Planning Code Section 136. The diagram below indicates the specific limits that apply under Section 136(c)(25)(A) and (B)(ii):



—Zoning Administrator Bulletin No. 5, page 7.

- 4.2. The pop-out on the subject building is just one-story high, not two-stories (as permitted by the Planning Code) and just 10 feet deep, not 12 feet deep (also permitted by the Planning Code).
- 4.3. The DR applicants again cite material in the Appendix of the CHNDG (specifically, Appendix D.2; page 64). However, and as before, the appendices in the CHNDG were not adopted by the Planning Commission, and so do not apply.

## Discretionary Review Response

4.4. The pop-out does not materially reduce the existing mid-block open space.



Photo 3: Mid-block open space on Block 942.

4.5. The sponsors have already reduced the massing of the pop-out in order to mitigate any possible impact on neighbors.

4.5.1. The depth of the pop-out has been reduced from 12 feet to 10 feet.

4.5.2. An exterior stair from the subject building's second-floor kitchen to the rear yard at the pop-out's eastern side has been removed.

4.5.3. The height of the pop-out has been reduced to one story rather than utilize the full two-stories permitted by code.

## Discretionary Review Response

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5. DR Complaint: The garage ought to be located downslope of the building entry, rather than upslope of the main entry as proposed by the sponsors.

**Response:**

- 5.1. There are many garages in the immediate neighborhood that are located on the upslope side of the main building entryway, as the sponsors are proposing with the subject building. Two of 32 (!) examples that were photographed in the immediate vicinity of the subject building are shown below.



Photo 4: 2774-2776 Filbert Street



Photo 5: 2786-2788 Filbert Street



## Discretionary Review Response

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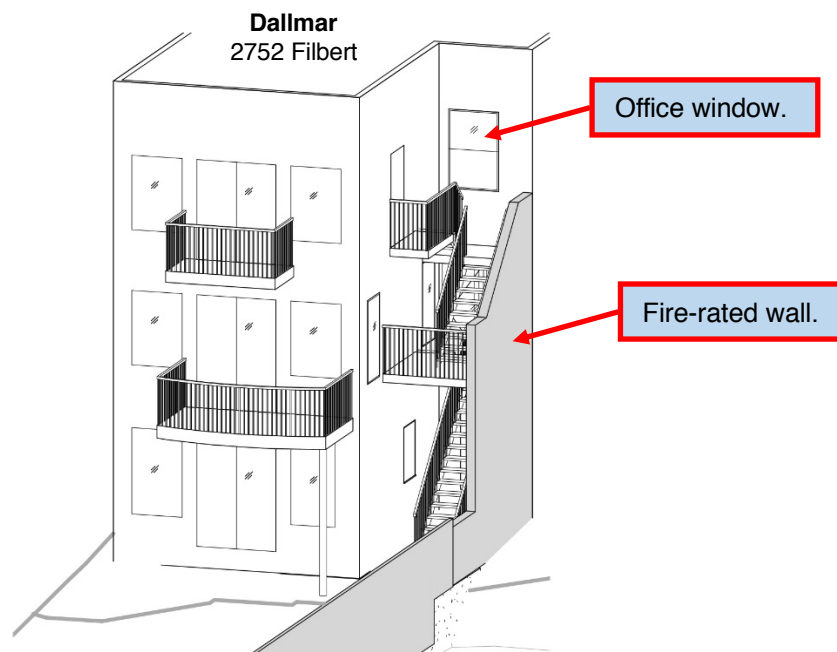
- 5.2. Exhibit 2 contains 30 more photographs just like those above showing upslope garages in the immediate vicinity of the subject building. Upslope garages are neither exceptional nor extraordinary in this neighborhood.
- 5.3. The Planning Department/RDAT reviewed the 32 upslope garage photographs that were taken in the immediate vicinity of the subject building and concluded that their initial directive to locate the garage downslope was not warranted.
- 5.4. On the subject parcel, locating the garage upslope from the entry has several advantages. It makes use of the unique shape of the lot and simultaneously serves to “soften” the offset that exists between adjacent building facades. The irregular shaped lot provides an opportunity to create architectural interest at the building entry where previously there was a bland and uninteresting side wall at the front façade offset.

## Discretionary Review Response

6. DR Complaint: The subject property ought to incorporate 5-foot side-setbacks into all new construction.

**Response:**

- 6.1. The subject property is zoned RH-2, and side-setbacks are not required on RH-2 lots (see San Francisco Planning Code Section 133).
- 6.2. The DR Applicants have misconstrued a comment by the Planning Department/RDAT to assert that a 5-foot side-setback is required at the front, sides, and rear of the subject property. This is incorrect. The original side-setback request from Planning/RDAT applied only to “new construction at the rear.”
- 6.3. Planning/RDAT quickly clarified their original side-setback request by explaining that it applied only to the northeast corner of the subject building. Their original side-setback request was issued in order to match a perceived notch in the adjacent east neighbor’s building at 2752 Filbert Street (DR Applicants Dallmar).
- 6.4. However, the neighbor’s notch (at the northwest corner of 2752 Filbert; DR Applicants Dallmar) is already obstructed by an exterior stair and a fire-rated, property-line wall that rises to their third-story. When Planning/RDAT became aware of these obstructions, they confirmed that a 5-foot matching notch would not be required at all levels of the subject building’s northeast corner.



- 6.5. Accordingly, the proposed building provides a 3-foot notch at the third-floor and a 5-foot notch at the fourth-floor in its northeast corner. This “stepped” notching approach is a concession by the homeowners to provide light and air to the neighbor’s third-floor office window. It comes with the significant cost of reducing the size of the subject building’s third-floor master bedroom and fourth-floor entertainment area. It would be unreasonable to require a further side-setback, given both the nature of the window (it serves the neighbor’s home office) and the fact that the project is already providing a larger side-setback than is required by the Planning Code.

## Discretionary Review Response

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- 6.6. Finally, the stepped notching seems excessive and unnecessary in relation to providing “light and air” relief to an office window at the third-floor of the east neighbor’s building (Dallmars at 2752 Filbert). If that office window truly needs more light and air—and it likely does *not* (based on back-of- the-envelope estimates)—the burden ought to be on those owners (i.e., the Dallmars) to *enlarge* their own window, rather than on their neighbor (the subject property) to “enlarge the outdoors” via expanding an already substantial building notch.



## Discretionary Review Response

7. DR Complaint: The side-facing property-line windows at the west neighbor (2762-2764 Filbert Street) should be protected.

### Response:

- 7.1. Property-line windows are not protected.

**From:** Christensen, Michael (CPC) [mailto:michael.christensen@sfgov.org]  
**Sent:** Tuesday, June 19, 2018 2:22 PM  
**To:** Geoff Gibson <Gibson@archsf.com>  
**Subject:** RE: General question - neighbor property line windows

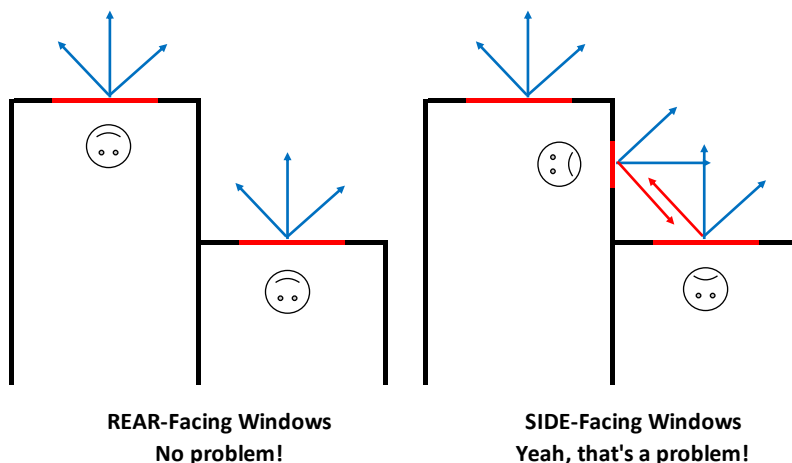
Hi Geoff,

Property line windows are not protected, and in new cases property owners are required to record an NSR prior to installing new ones to note that they understand that the windows must be covered if the adjacent property is developed. It's very possible the property you are working by may have such an NSR recorded. The only case I have ever seen where a property line window was protected was where the window was on a historic rated property and the window was highly visible, so the argument was made that the alteration would impact the historic resource.

Respectfully,

**Michael Christensen, Planner**  
Southeast Team, Current Planning Division  
San Francisco Planning Department  
1650 Mission Street, Suite 400 San Francisco, CA 94103  
Direct: 415.575.8742 | [www.sfplanning.org](http://www.sfplanning.org)  
[San Francisco Property Information Map](#)

- 7.2. The logic behind this Planning Department policy is sound. Side-facing windows on narrow lots create privacy problems between adjacent neighbors.



The neighbor having the side-facing window creates the privacy problem (vs. rear-facing windows only). That side-facing window should NOT be protected as a matter of public policy.

- 7.3. There is a circumstance in which Planning will make an exception and *instead* protect a side-facing property-line window—counter to their own policy. That circumstance is when the side-facing property-line window in question: (i) serves a bedroom or other living room; AND (ii) that bedroom does not have other access to light and air.

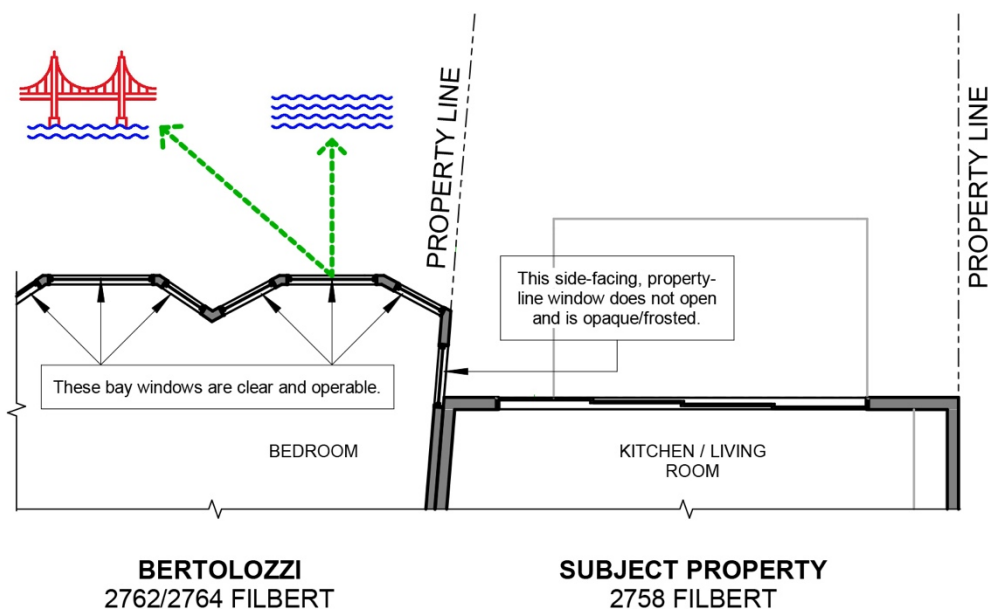
## Discretionary Review Response

**From:** Lindsay, David (CPC) [<mailto:david.lindsay@sfgov.org>]  
**Sent:** Tuesday, June 19, 2018 2:25 PM  
**To:** Geoff Gibson <[Gibson@archsf.com](mailto:Gibson@archsf.com)>  
**Subject:** RE: General question - neighbor property line windows

Geoff – if the window blocking is an issue raised in the DR or if the PL window provides the only real light to a room such as a bedroom or other living room (other than a kitchen or stairwell), the Commission tends to ask for setbacks or lightwells – at staff level, we will take into account the type of space behind the PL window and whether that space has other sources of light, etc.

**David Lindsay, Principal Planner**  
**Northwest Team, Current Planning Division**  
San Francisco Planning Department  
1650 Mission Street, Suite 400, San Francisco, CA 94103  
Direct: 415.558.6393 [www.sfplanning.org](http://www.sfplanning.org)

- 7.4. This circumstance *does not* qualify for the above exception. As shown in the rendering below, the bedrooms at 2762-2764 Filbert Street (west neighbor; DR Applicants Bertolozzi) have access to light and air via their large, operable rear-facing bay windows.



## Discretionary Review Response

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- 7.5. The side-facing, property-line windows at the west neighbor (DR Applicants Bertolozzi; 2762-2764 Filbert Street) are: (a) inoperable; (b) frosted; and (c) not really used as windows by the Bertolozzi's own tenants. This begs the question: "is there any point in protecting these windows when the occupants themselves don't even use them as windows?"



Photo 6: Third-floor West Neighbor at 2762-2764 Filbert Street



Photo 7: Second-floor West Neighbor at 2762-2764 Filbert Street



## Discretionary Review Response

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8. DR Complaint: The east-facing wall adjacent to the subject buildings' front façade should be angled to either: (a) "soften" the offset; or (b) provide additional light and air to the east neighbor's bay window (Dallmars at 2752 Filbert Street).

**Response:**

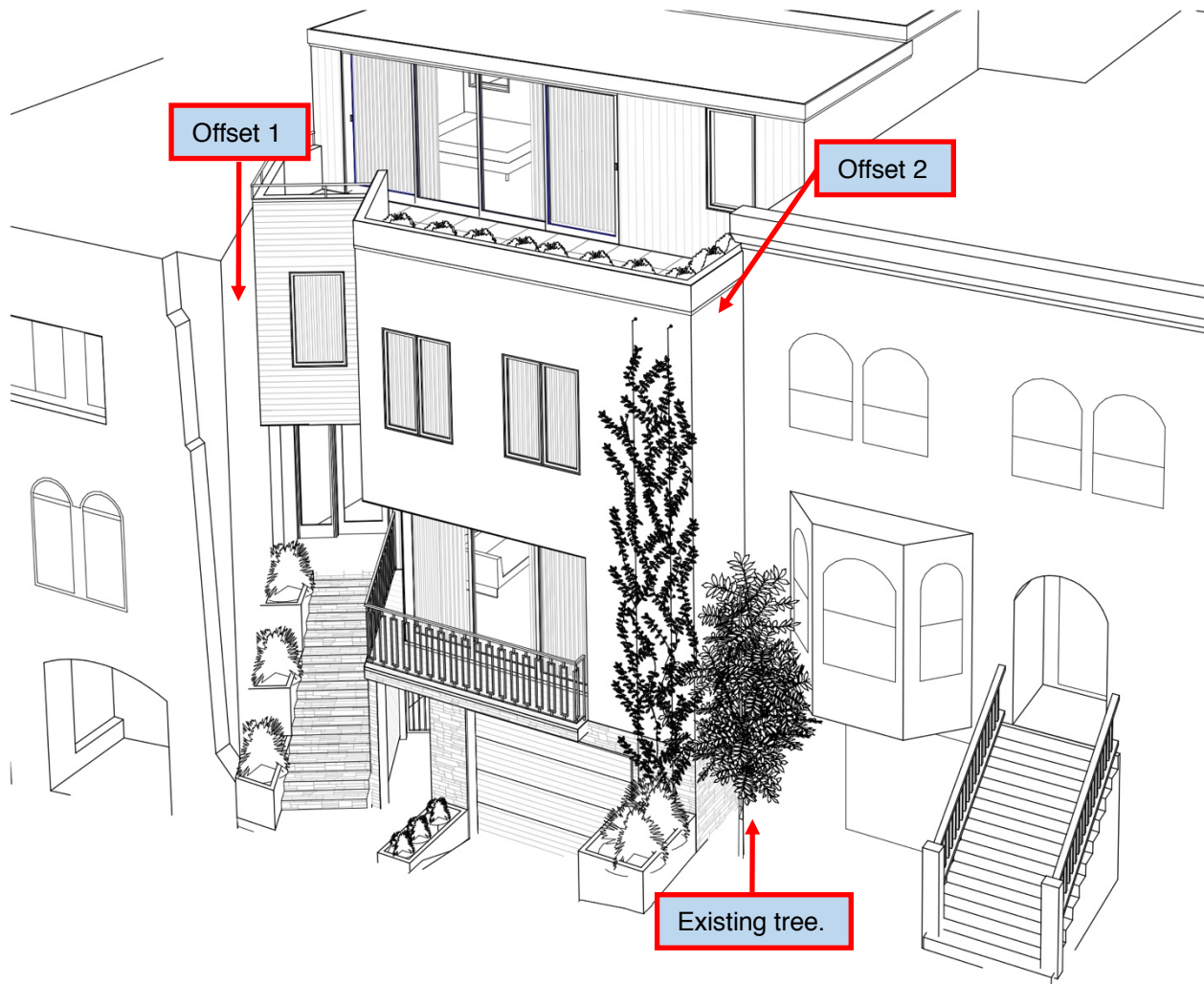
- 8.1. Three methods are universally employed to "soften" this kind of offset: (a) an entryway, usually including a stair; (b) a bay window on the "more inset" of the two buildings; and (c) landscaping.



Photo 8: Entryways, bay windows, and landscaping soften the offset in adjacent building facades.

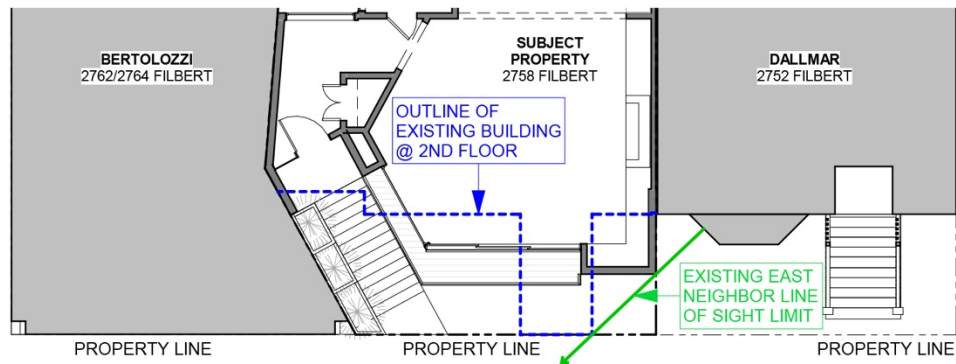
## Discretionary Review Response

- 8.2. The sponsors have employed the first method—an entryway stair—to soften Offset 1 in the rendering below.
- 8.3. The Dallmars can employ landscaping (the third method) to soften Offset 2—as they already have, in fact, done with an existing tree. Their own bay window also helps soften Offset 2 (via the second method).



## Discretionary Review Response

- 8.4. It is notable that the sight lines from the east neighbor's bay window (DR Applicants Dallmar; 2752 Filbert Street) are not affected. Those sight lines are identical, before and after.





## Discretionary Review Response

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### 9. DR Complaint: Elevated decks compromise privacy.

#### **Response:**

- 9.1. Exterior decks are abundant in Cow Hollow, and indeed throughout San Francisco. In fact, the east neighbor (DR Applicants Dallmar; 2752 Filbert Street) has two exterior decks. The next three neighbors to the east (2746, 2740-2742, and 2736 Filbert Street) all have exterior decks. There are two more decks at neighboring buildings across the street. The existing subject property has three decks: one each at the second- and third-story at the rear; and one more at the second-story on the street side of the existing building. All of the aforementioned decks are within plain sight of other neighbors and have sightlines to the subject property's living spaces and bedrooms. And yet, with all those decks, there's never been a privacy issue. The judicious use of blinds and/or curtains solves all privacy concerns, and neighbors have been respectful of each other's privacy from their own respective decks.
- 9.2. It's notable and ironic that the projecting rear decks on the neighbors' buildings described above—including that deck belonging to DR Applicants Dallmar—are permitted via the pop-out code, which the DR Applicants earlier sought to disallow.
- 9.3. Exterior decks are neither extraordinary nor exceptional in this neighborhood, and privacy concerns are mitigated via common courtesy between neighbors that both respect each other and understand that living in a city—any city—requires a certain amount of decency and discretion. Architectural remedies are not warranted for this occasional and de minimis concern.

## Discretionary Review Response

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10. DR Complaint: Street-facing windows create “light pollution.”

**Response:**

- 10.1. The streetlight in the photo below creates the majority of nighttime “light pollution” on its own—and it is not going to “go away.” Any light shining from the subject property would be insignificant compared to that coming from the more powerful and closer-range streetlight.
- 10.2. **The sponsors intend to install blinds on all street-facing windows in order to eliminate the glare from this streetlight.** These blinds will also prevent light emanating from the subject building.
- 10.3. Many of the close-by neighbors similarly utilize blinds to cure the “light pollution” issue.

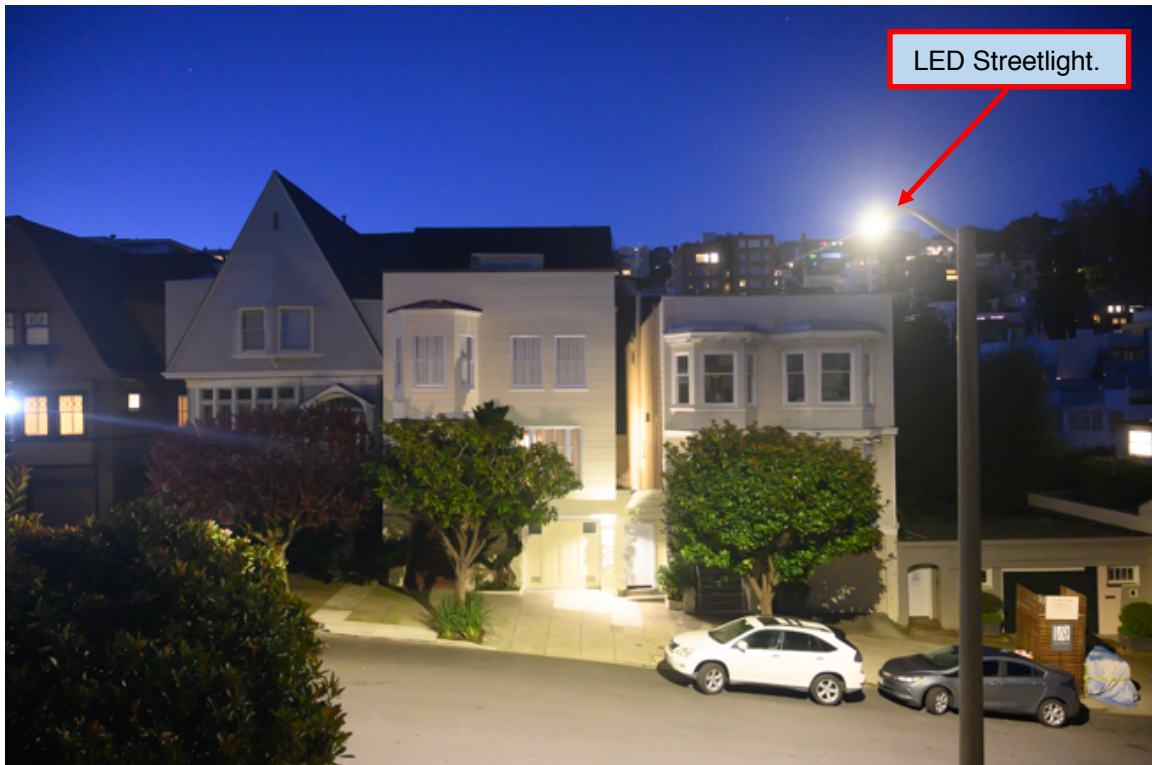
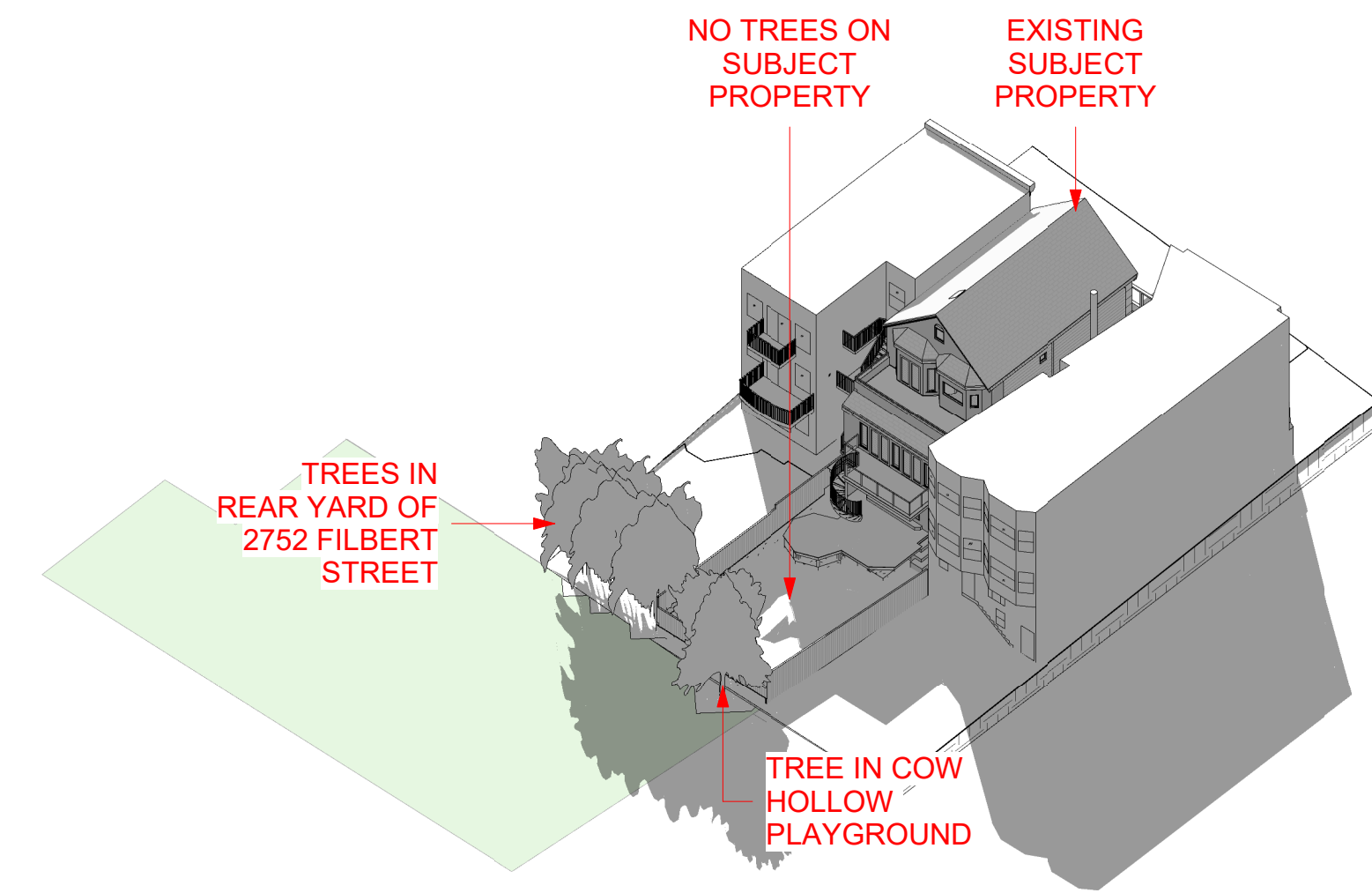


Photo 9: Light pollution from streetlight.

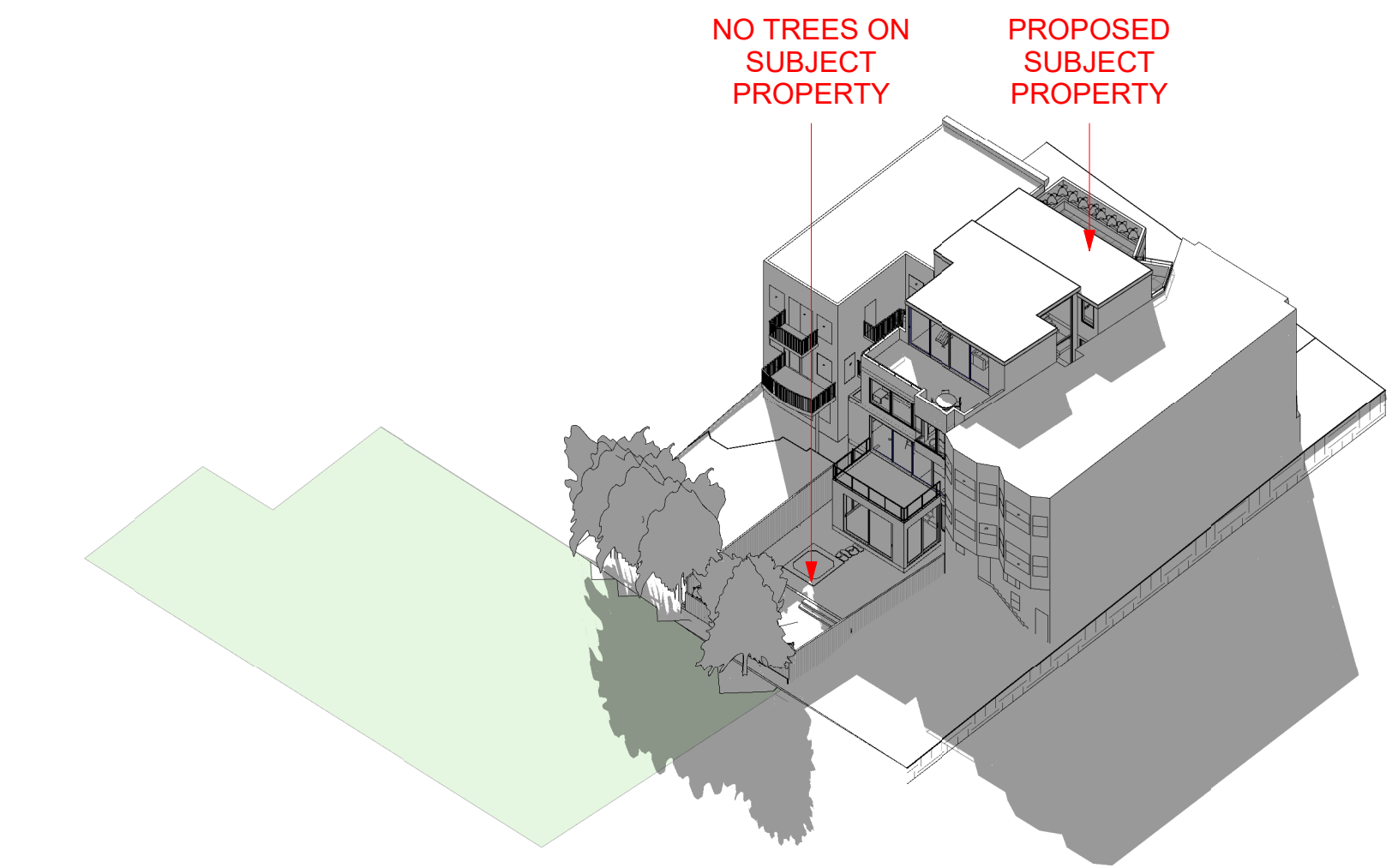
Exhibit 1

2758 FILBERT STREET

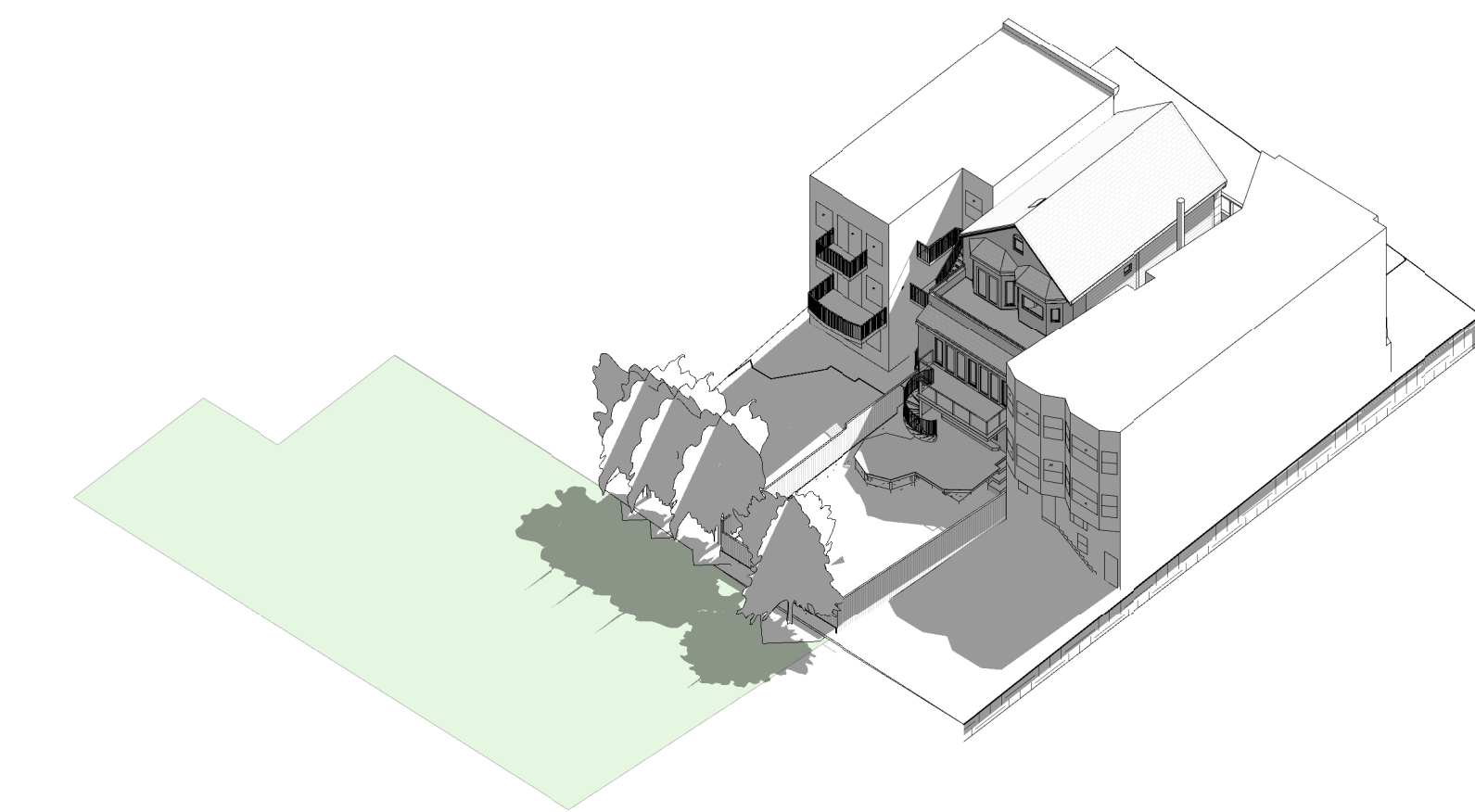
SHADOW STUDIES - SPRING EQUINOX



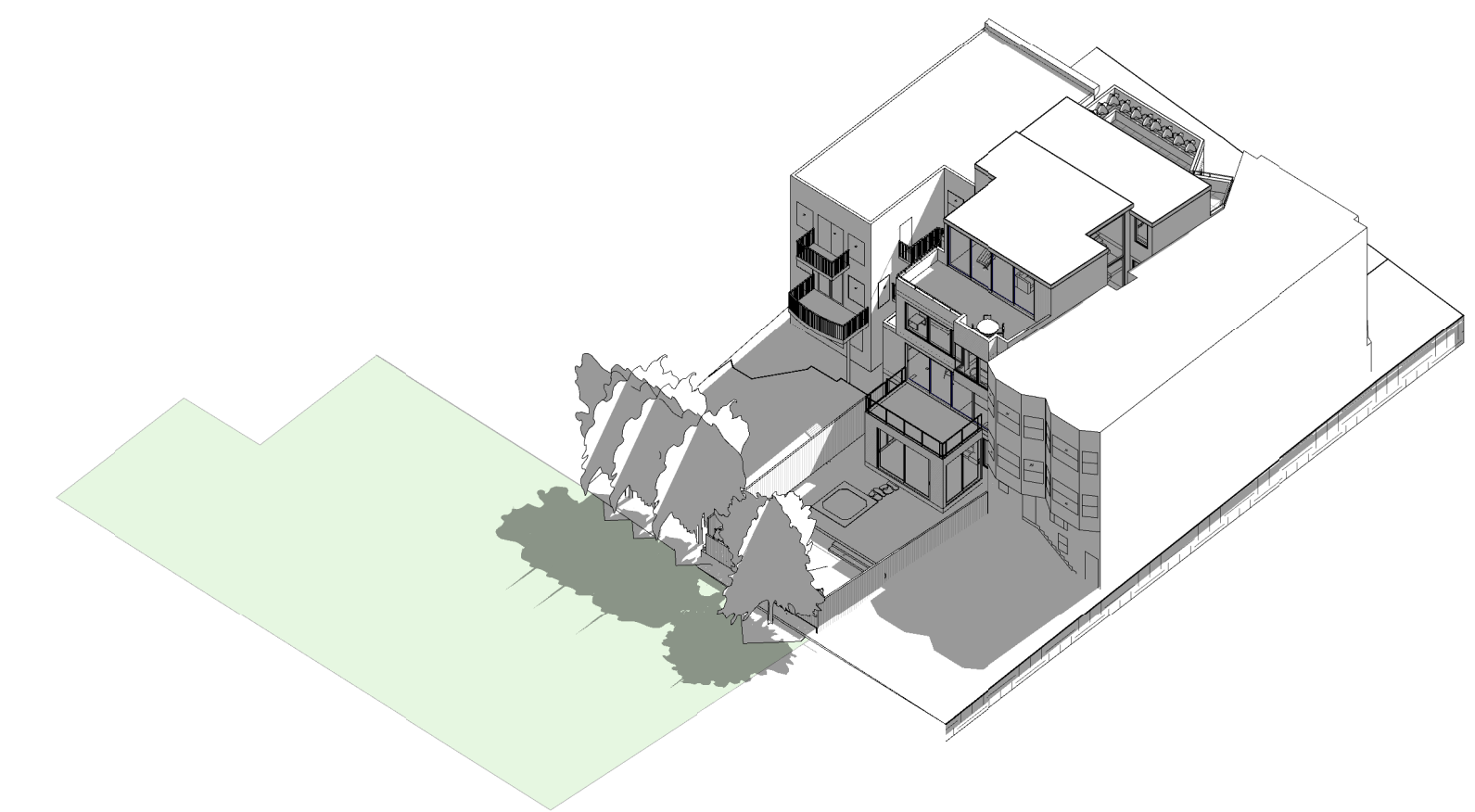
9 EXISTING - SPRING EQUINOX 9 AM



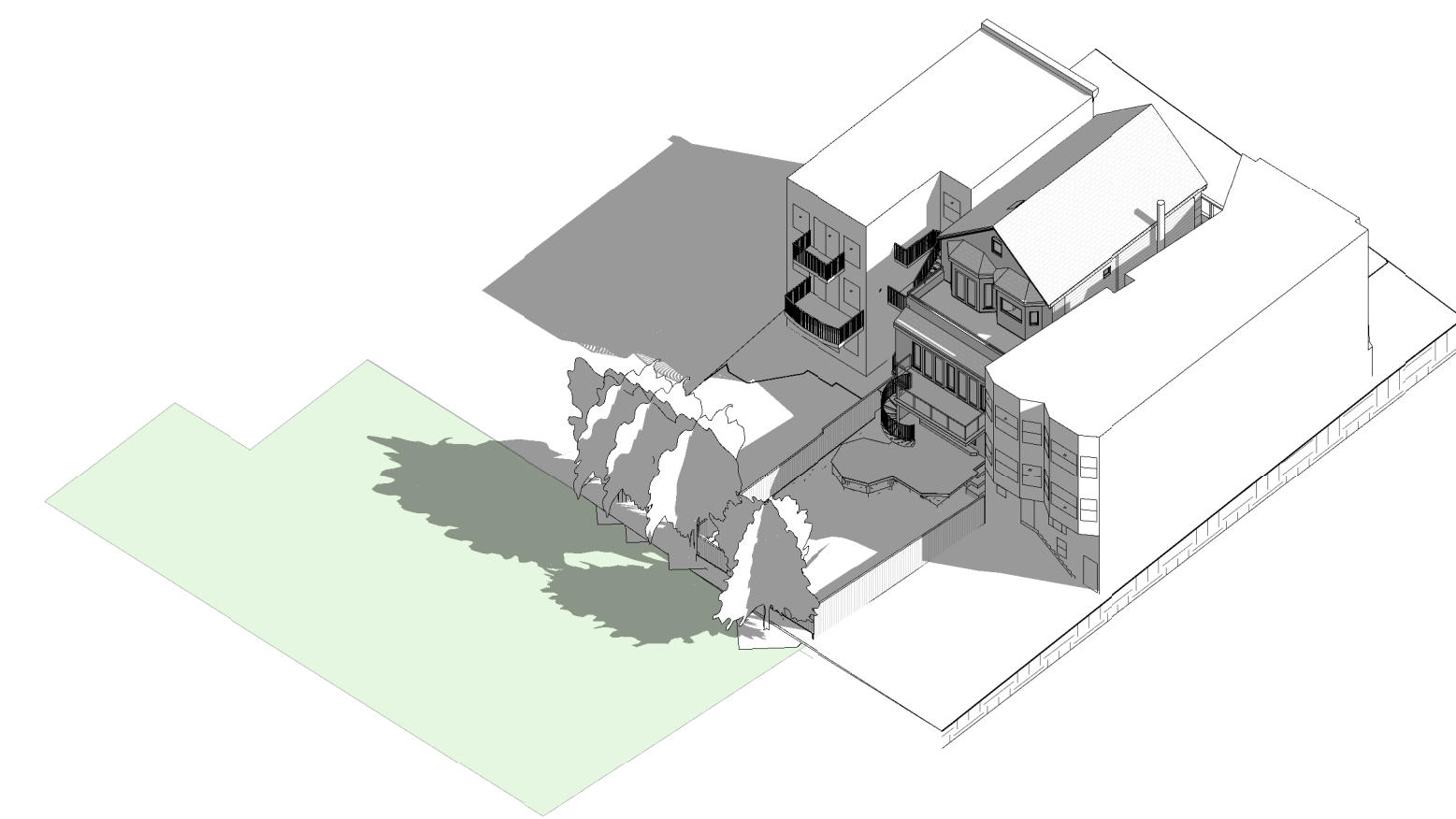
13 PROPOSED - SPRING EQUINOX 9 AM



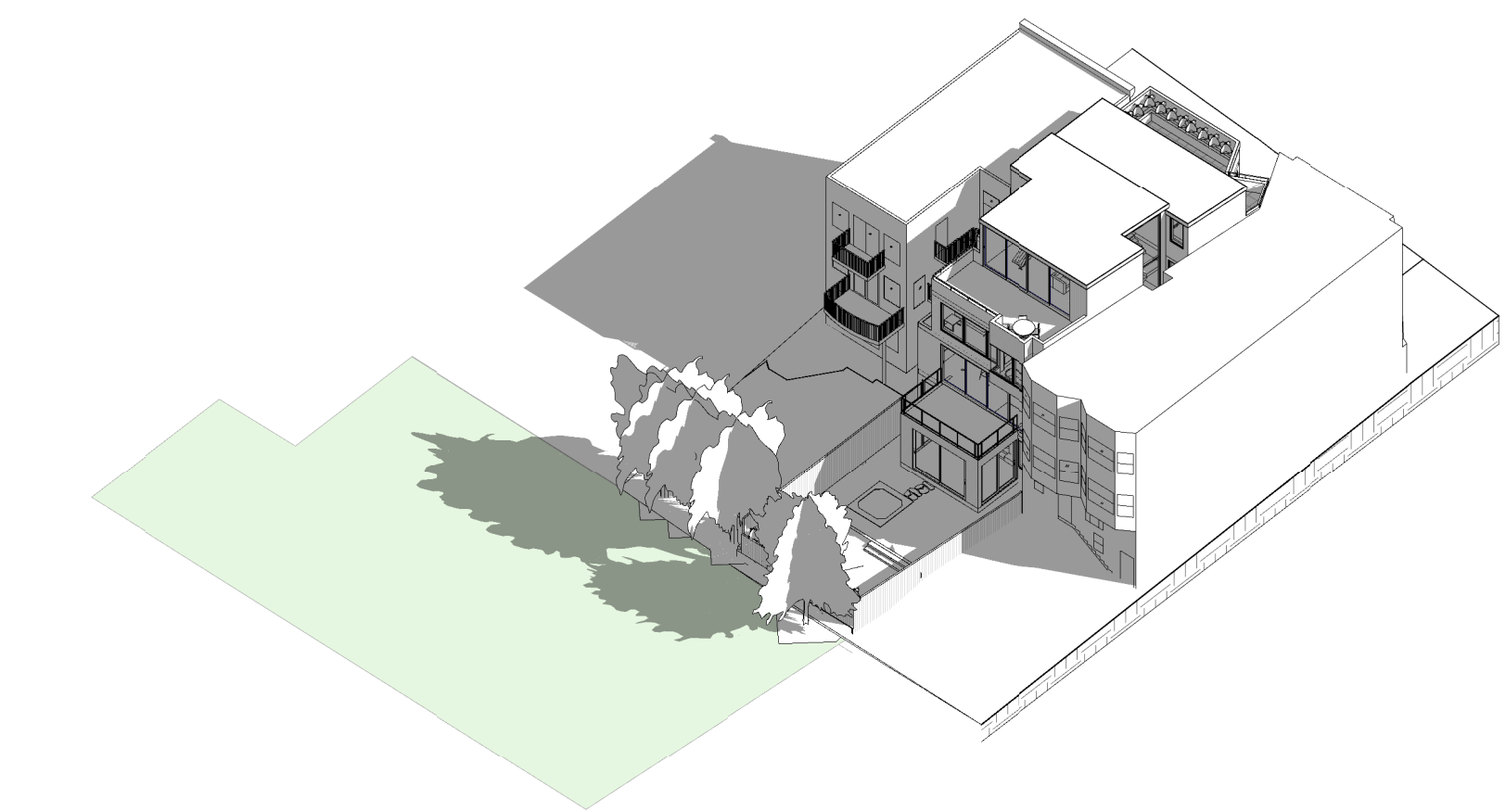
10 EXISTING - SPRING EQUINOX 12 PM



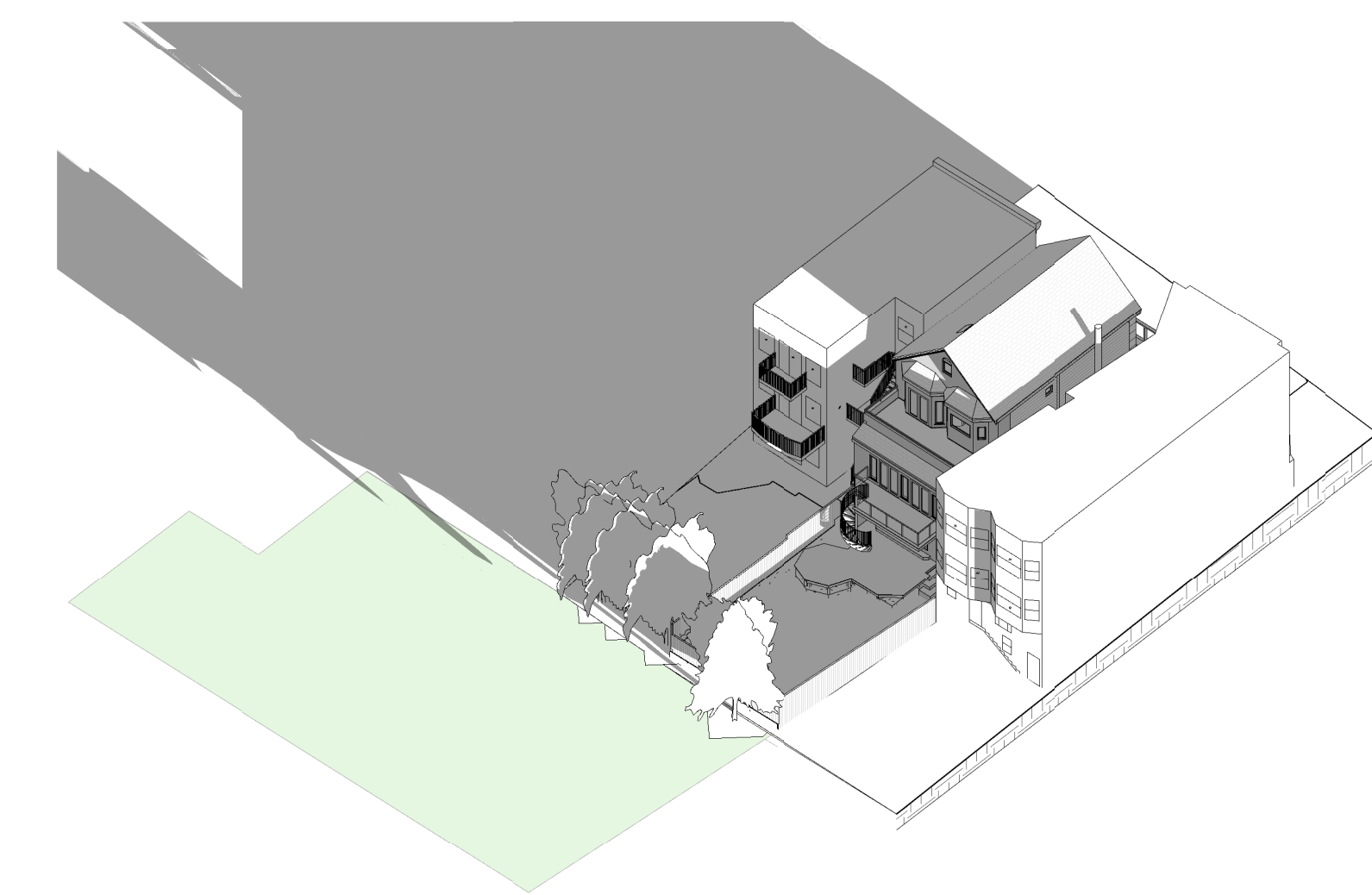
14 PROPOSED - SPRING EQUINOX 12 PM



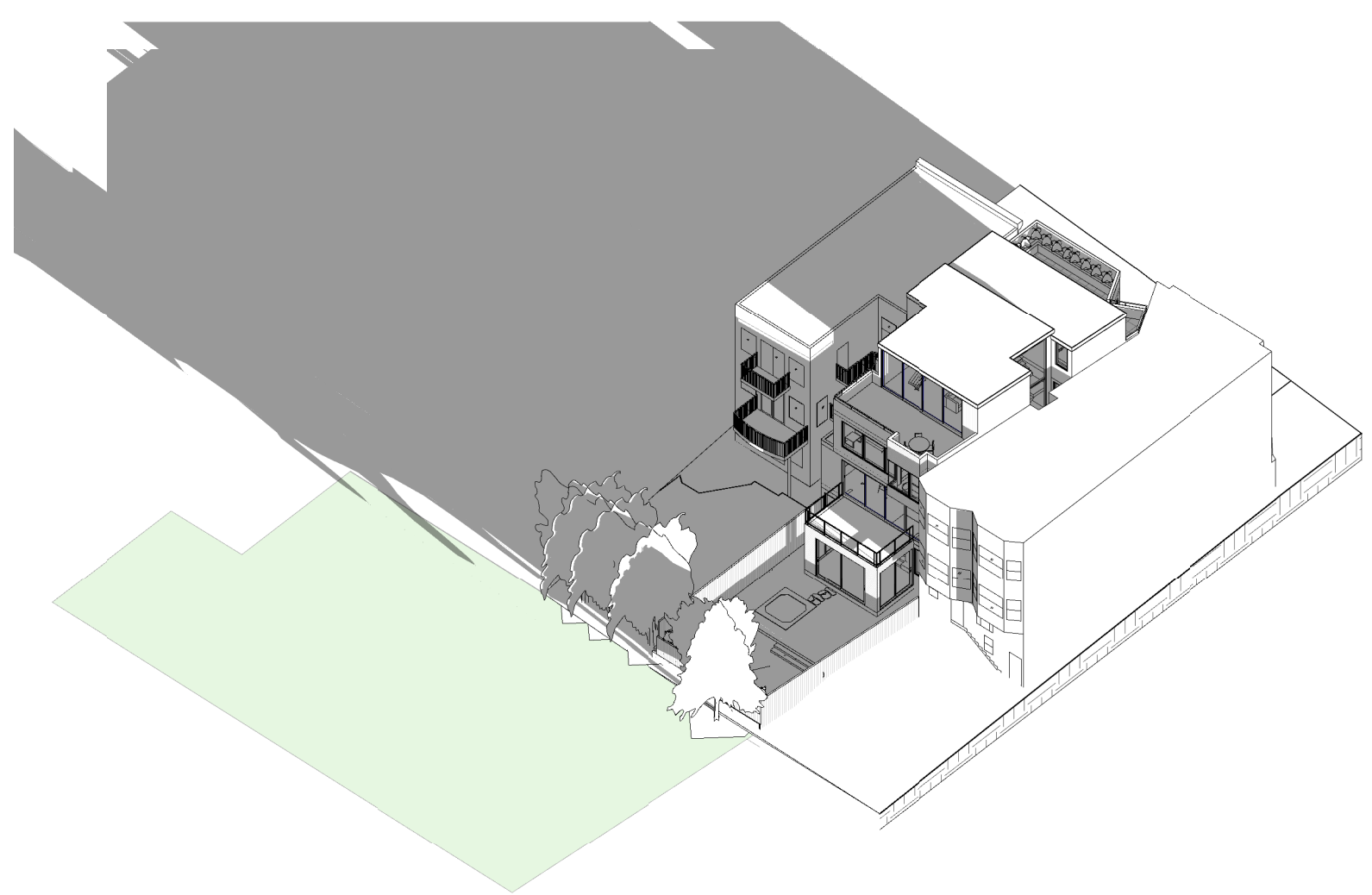
11 EXISTING - SPRING EQUINOX 3 PM



15 PROPOSED - SPRING EQUINOX 3 PM



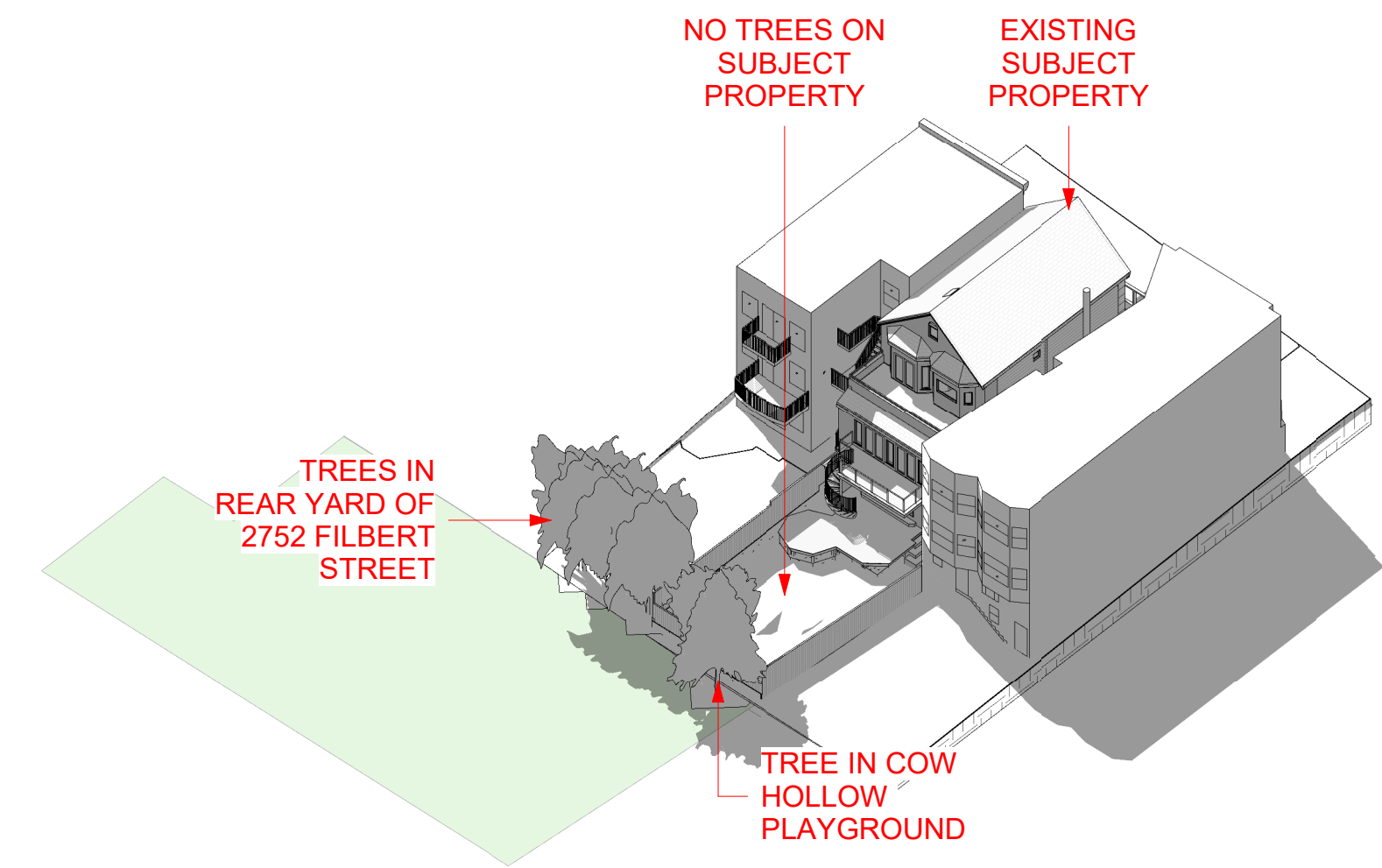
12 EXISTING - SPRING EQUINOX 6 PM



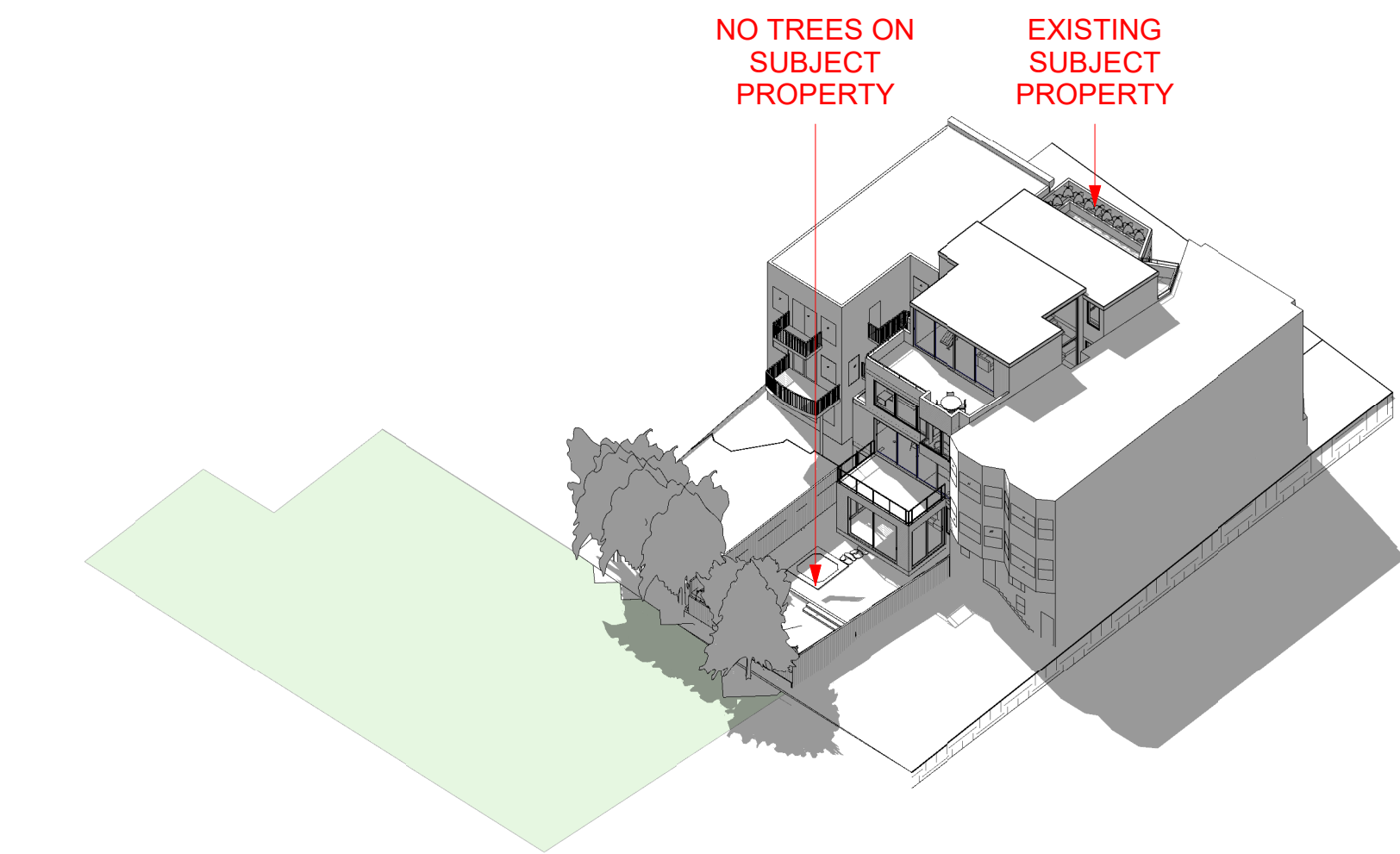
16 PROPOSED - SPRING EQUINOX 6 PM



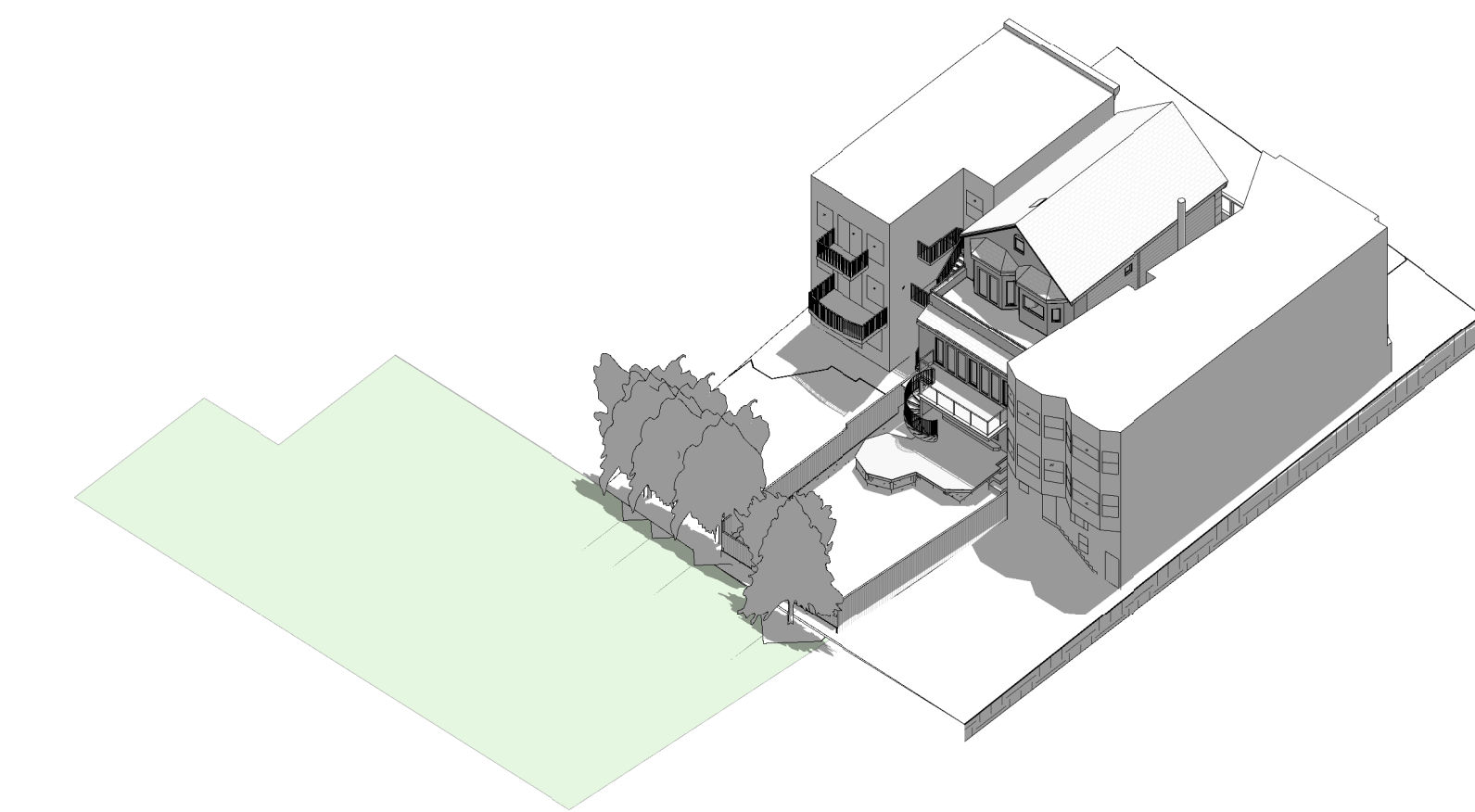
Exhibit 1  
2758 FILBERT STREET  
SHADOW STUDIES - SUMMER SOLSTICE



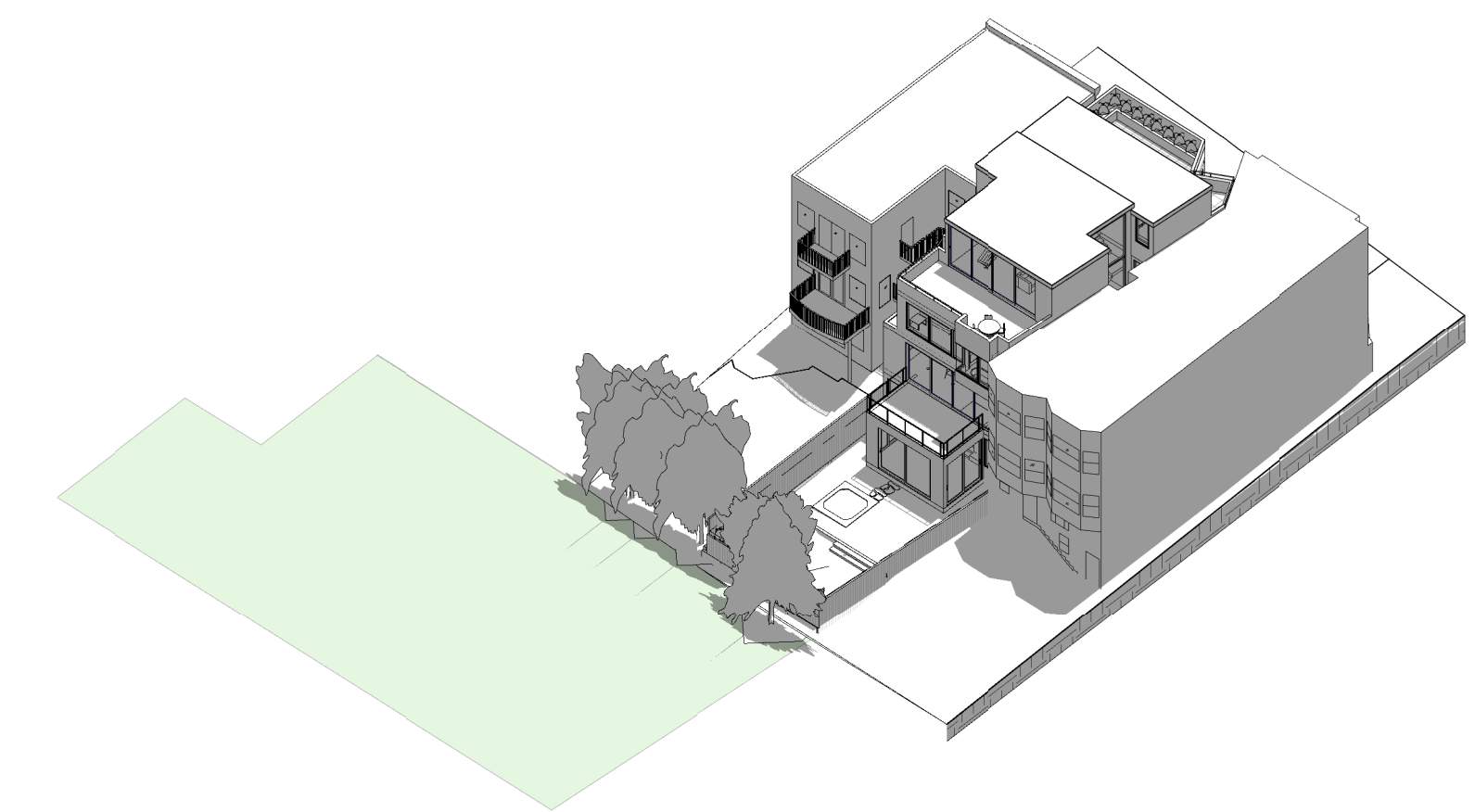
9 EXISTING - SUMMER SOLSTICE 9 AM



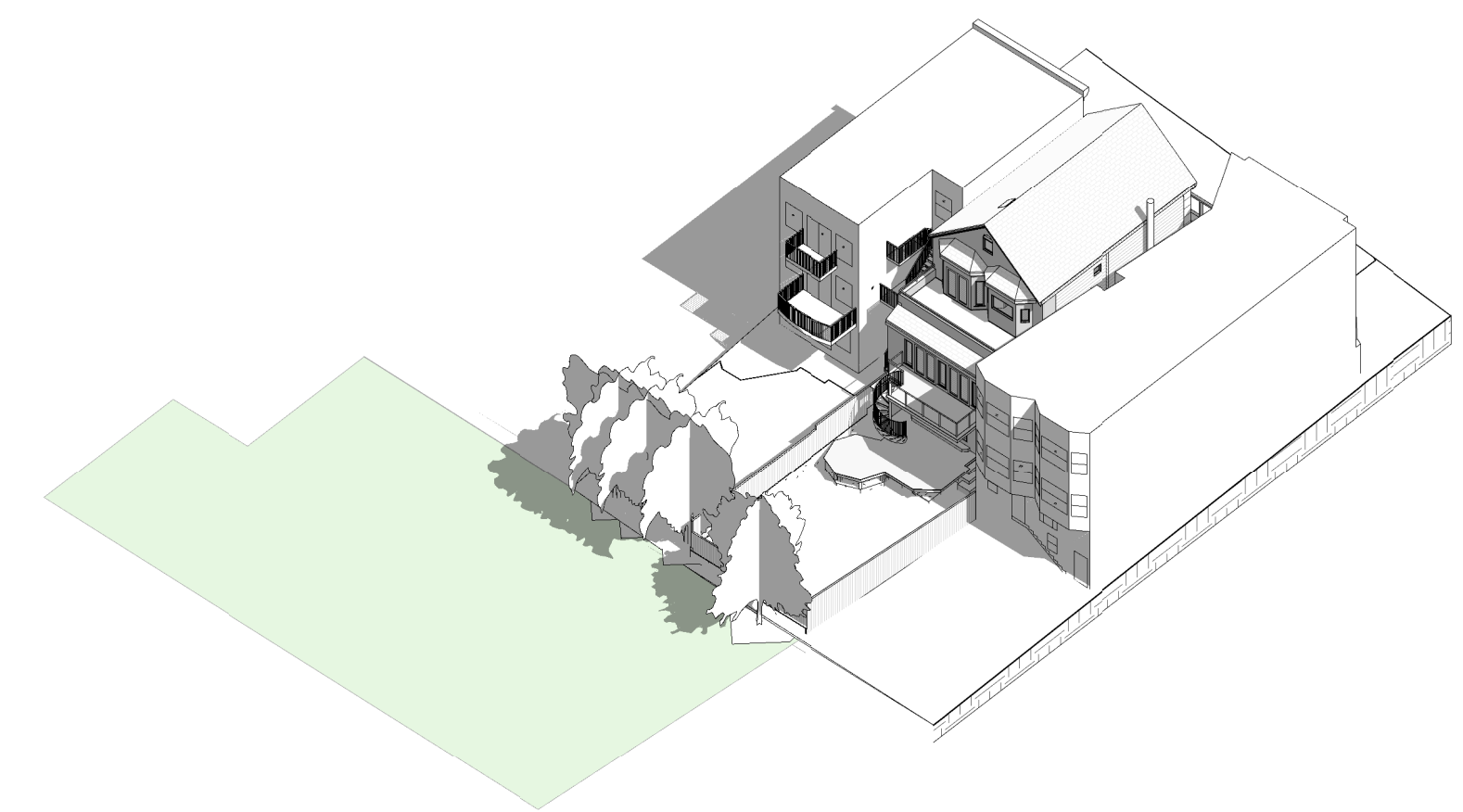
13 PROPOSED - SUMMER SOLSTICE 9 AM



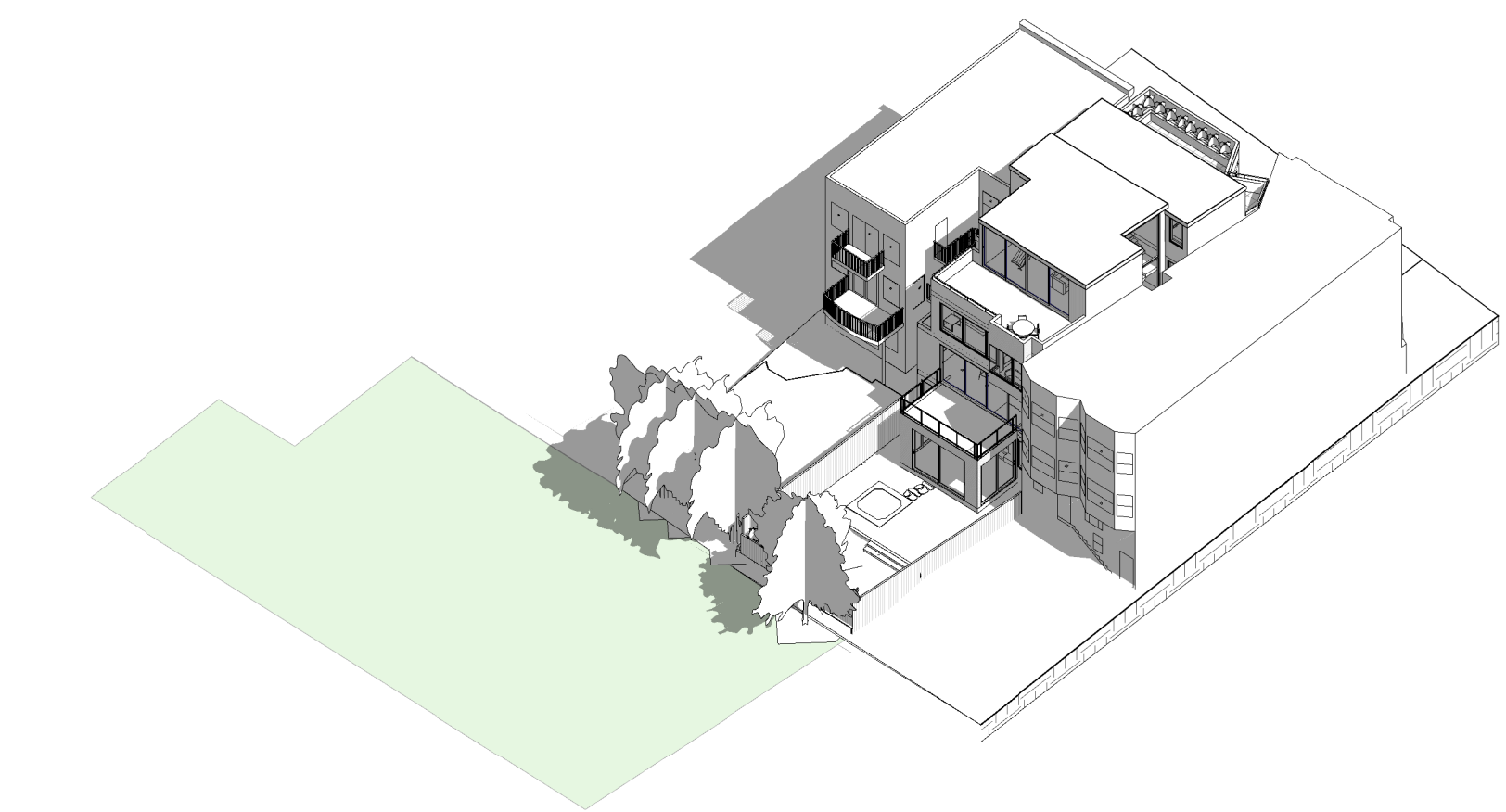
10 EXISTING - SUMMER SOLSTICE 12 PM



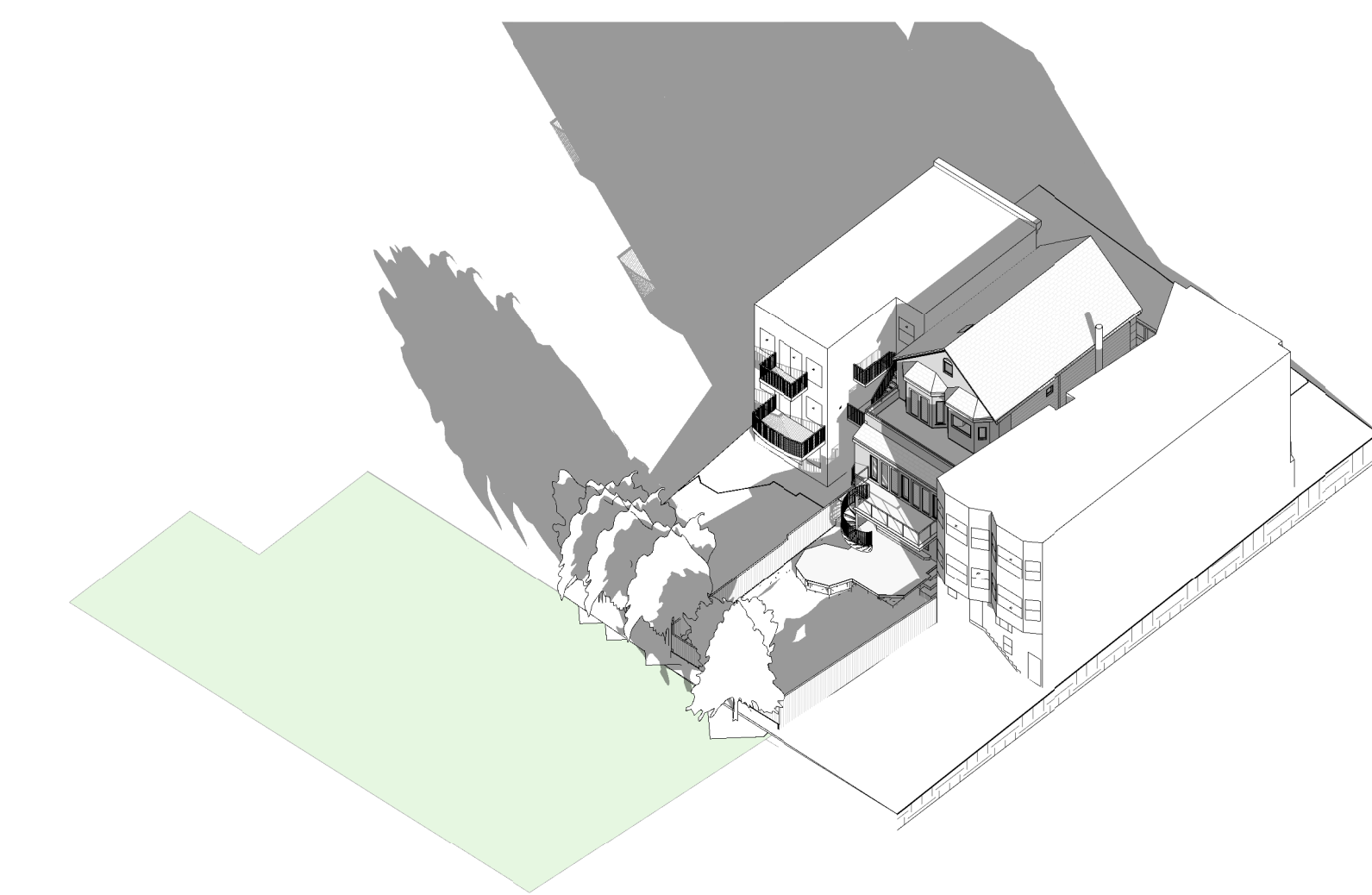
14 PROPOSED - SUMMER SOLSTICE 12 PM



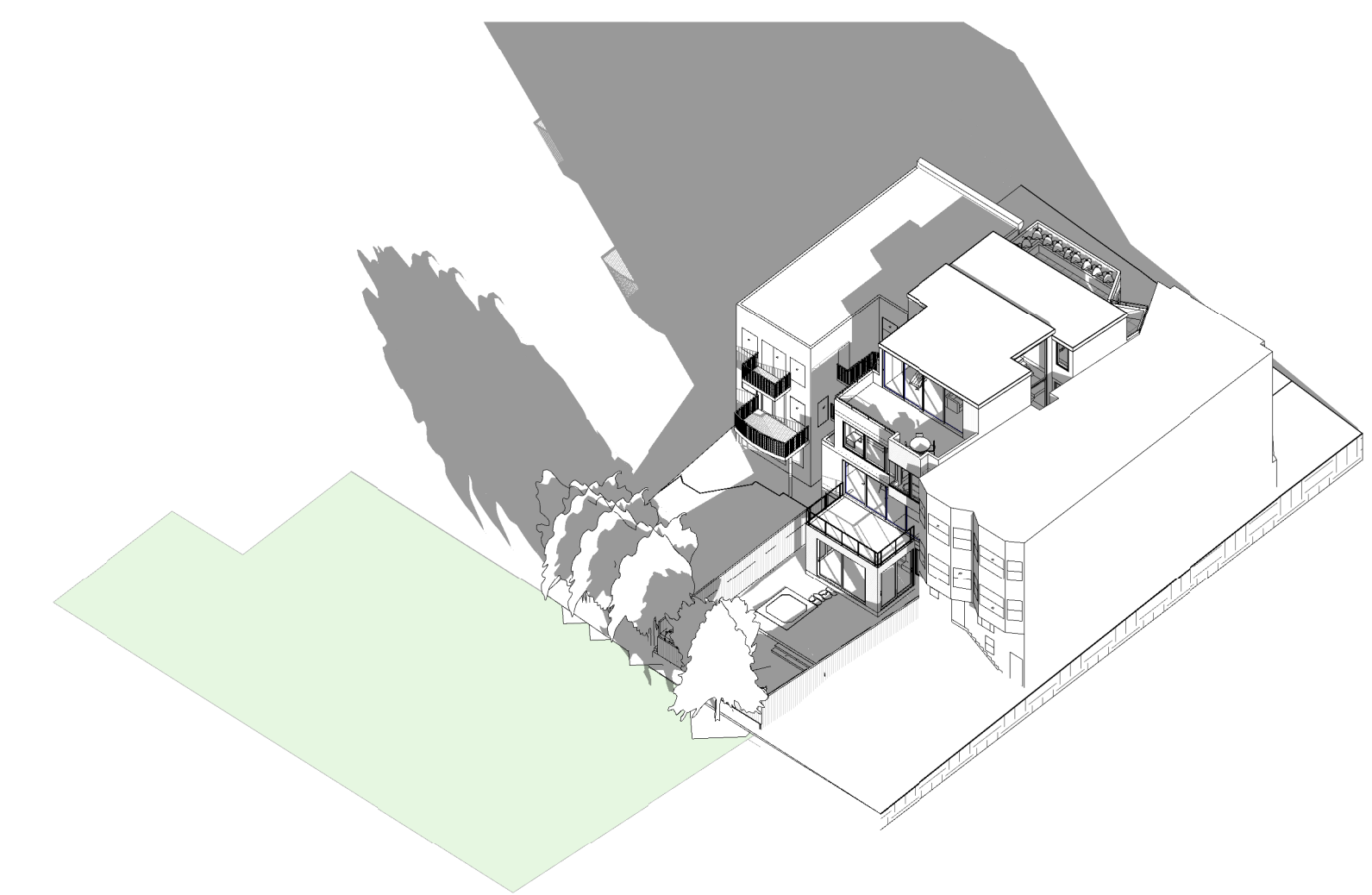
11 EXISTING - SUMMER SOLSTICE 3 PM



15 PROPOSED - SUMMER SOLSTICE 3 PM



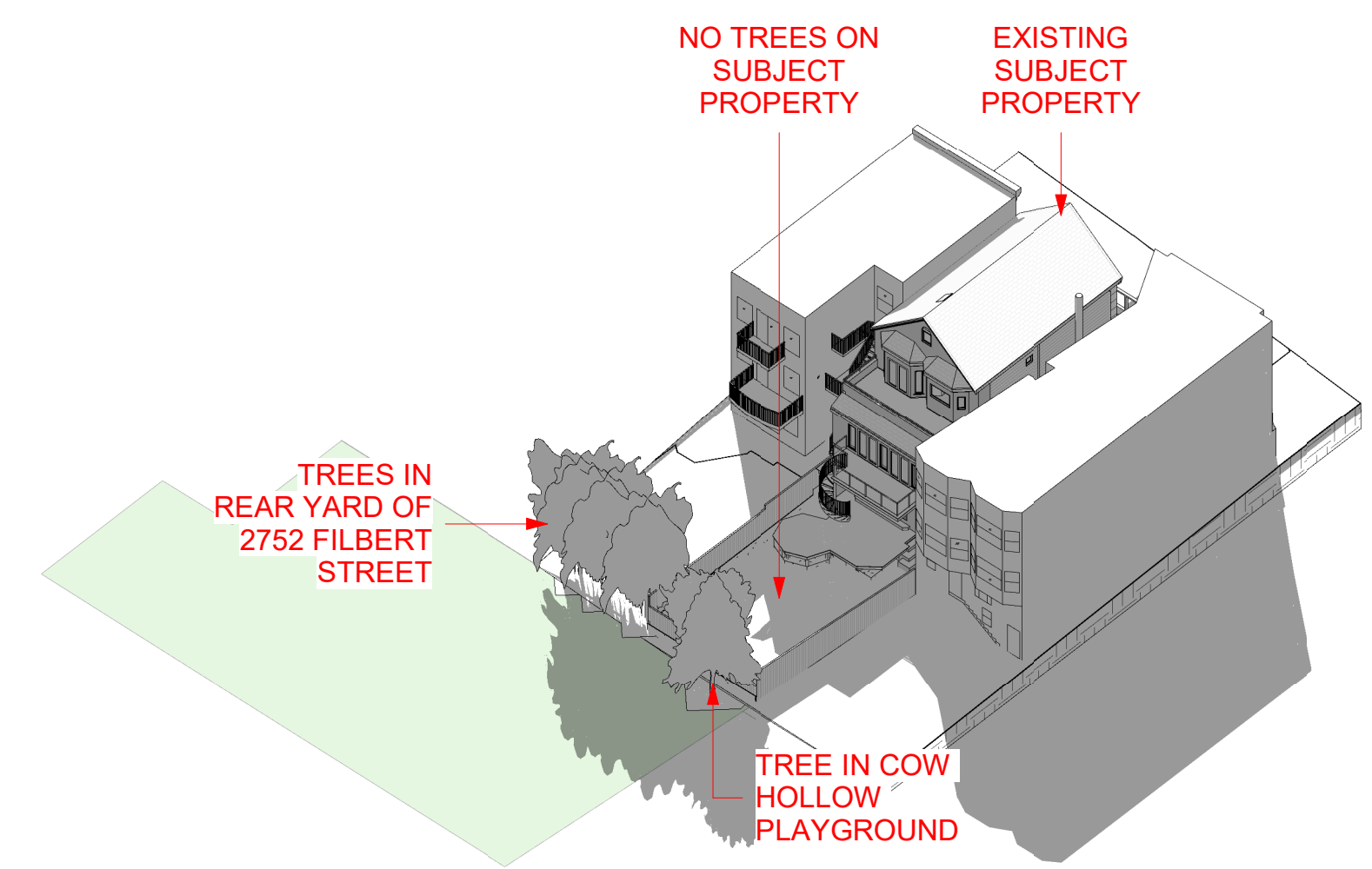
12 EXISTING - SUMMER SOLSTICE 6 PM



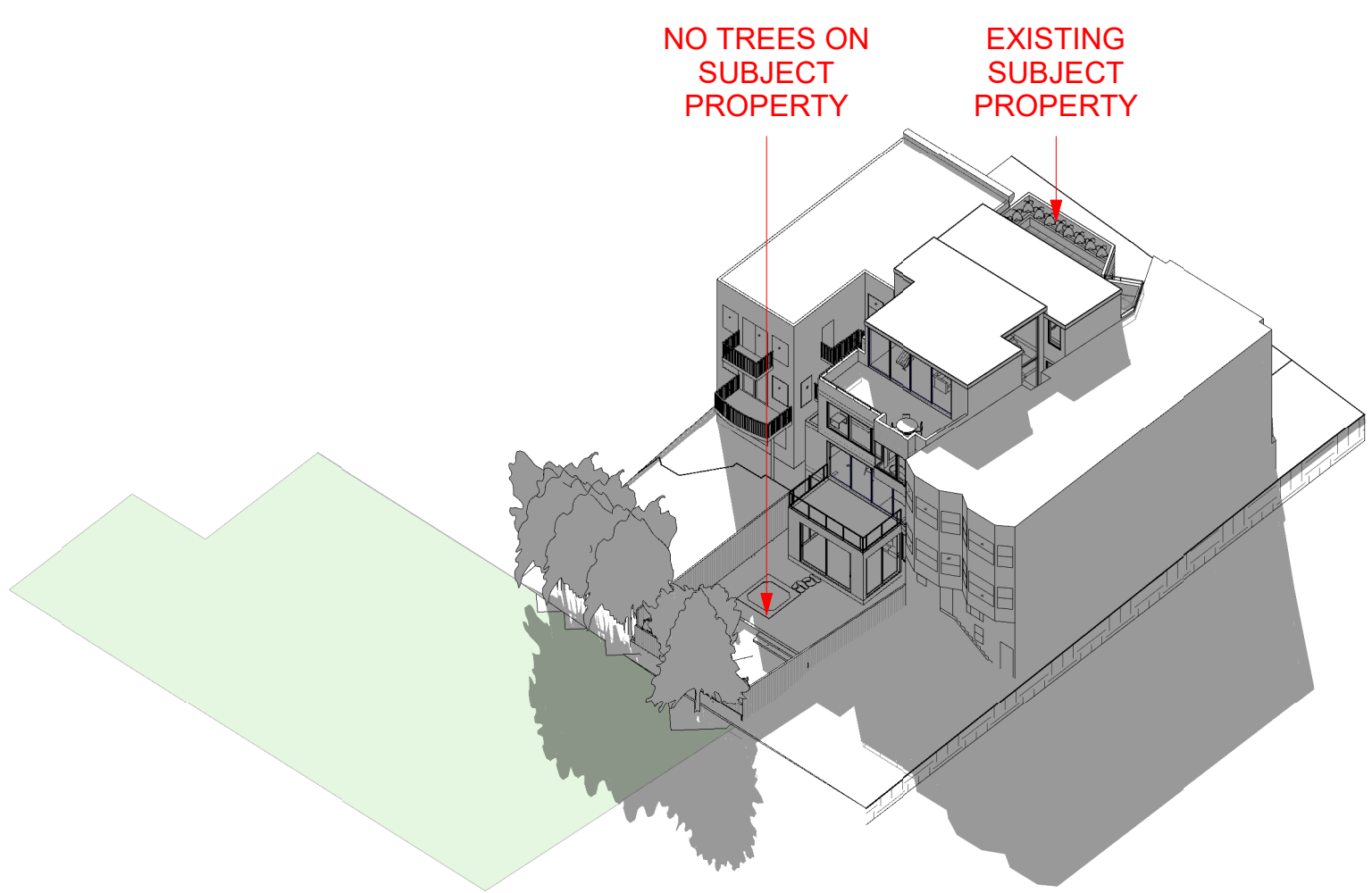
16 PROPOSED - SUMMER SOLSTICE 6 PM



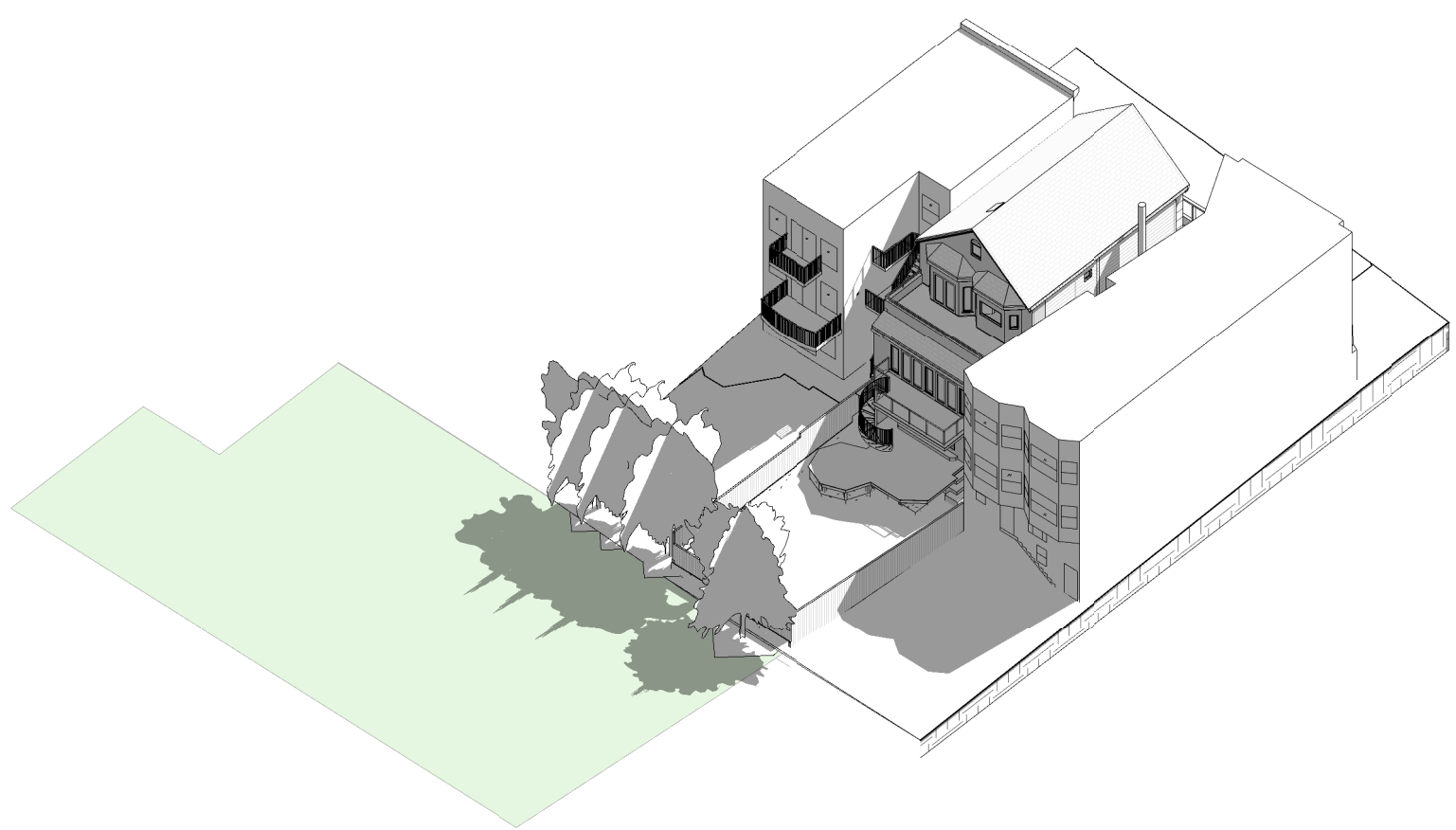
Exhibit 1  
2758 FILBERT STREET  
SHADOW STUDIES - FALL EQUINOX



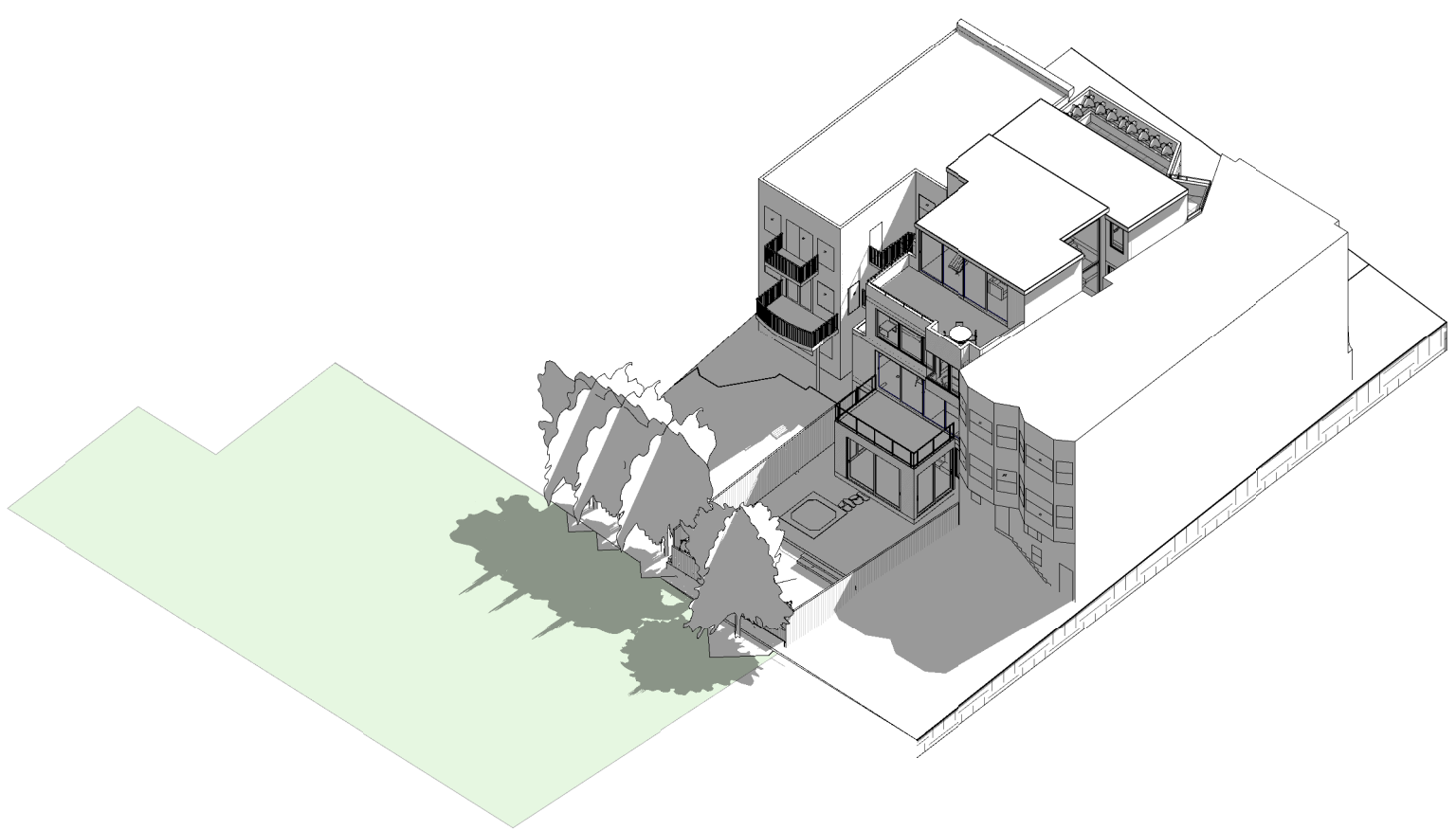
11 EXISTING - FALL EQUINOX 9 AM



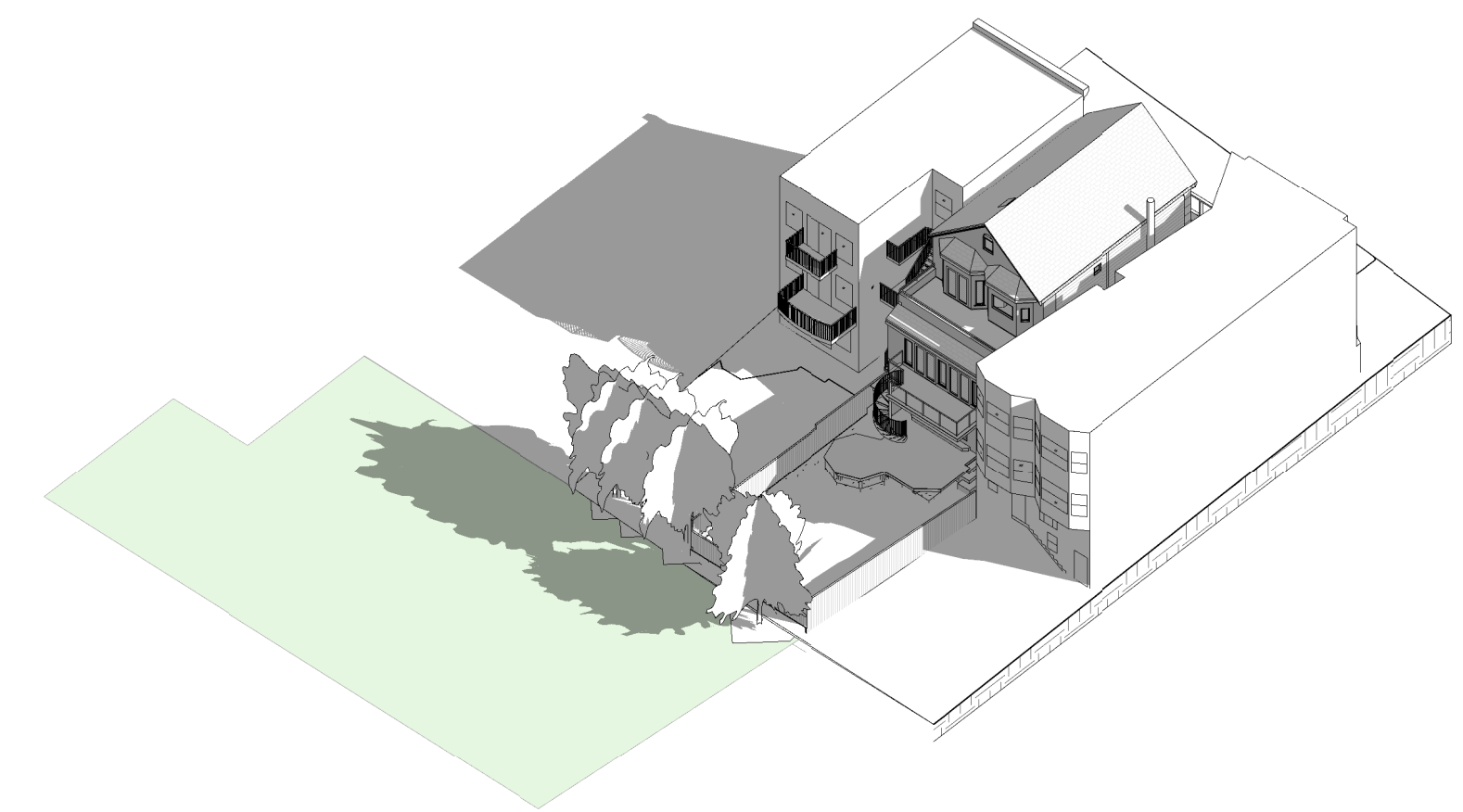
13 PROPOSED - FALL EQUINOX 9 AM



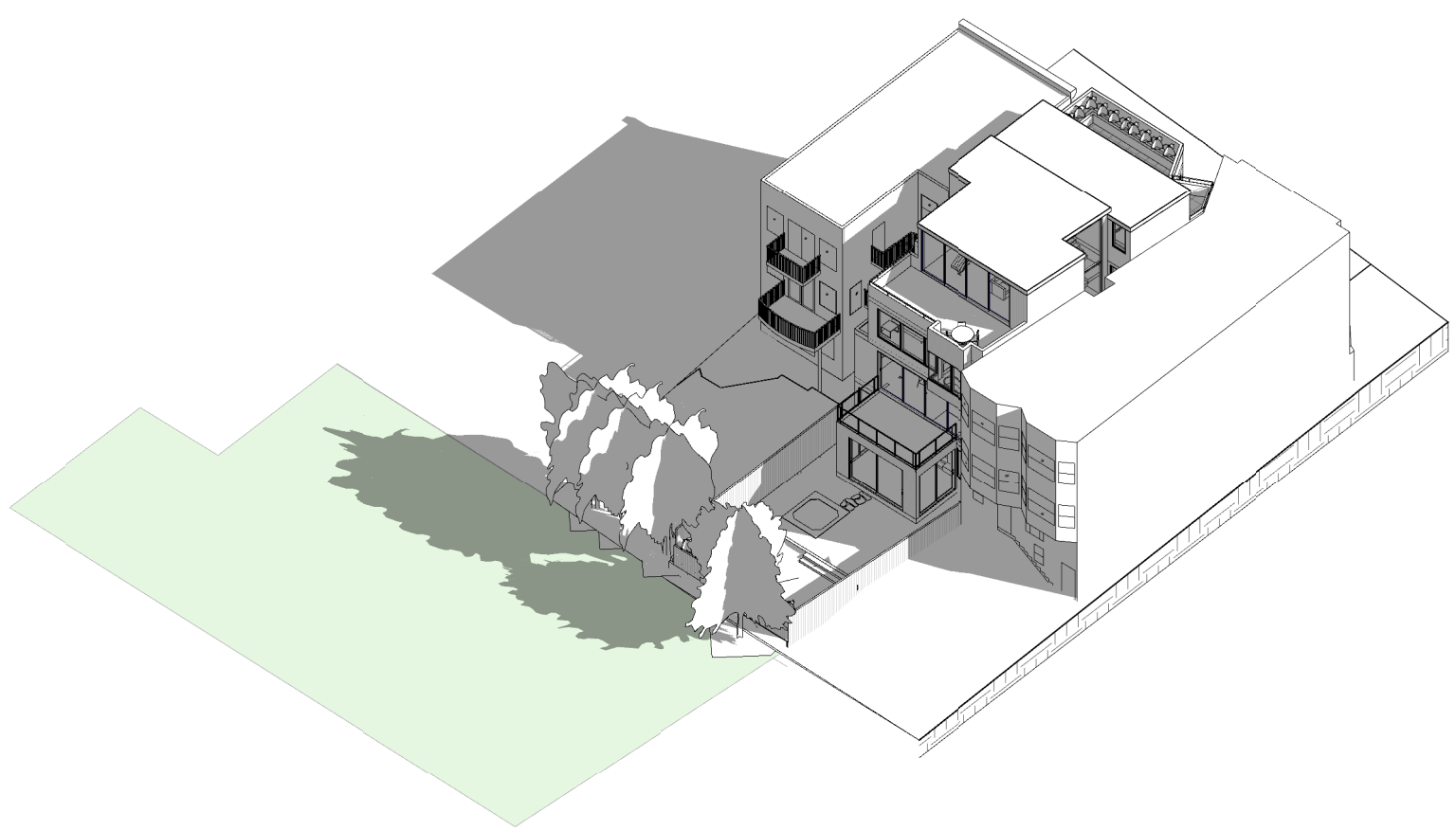
12 EXISTING - FALL EQUINOX 12 PM



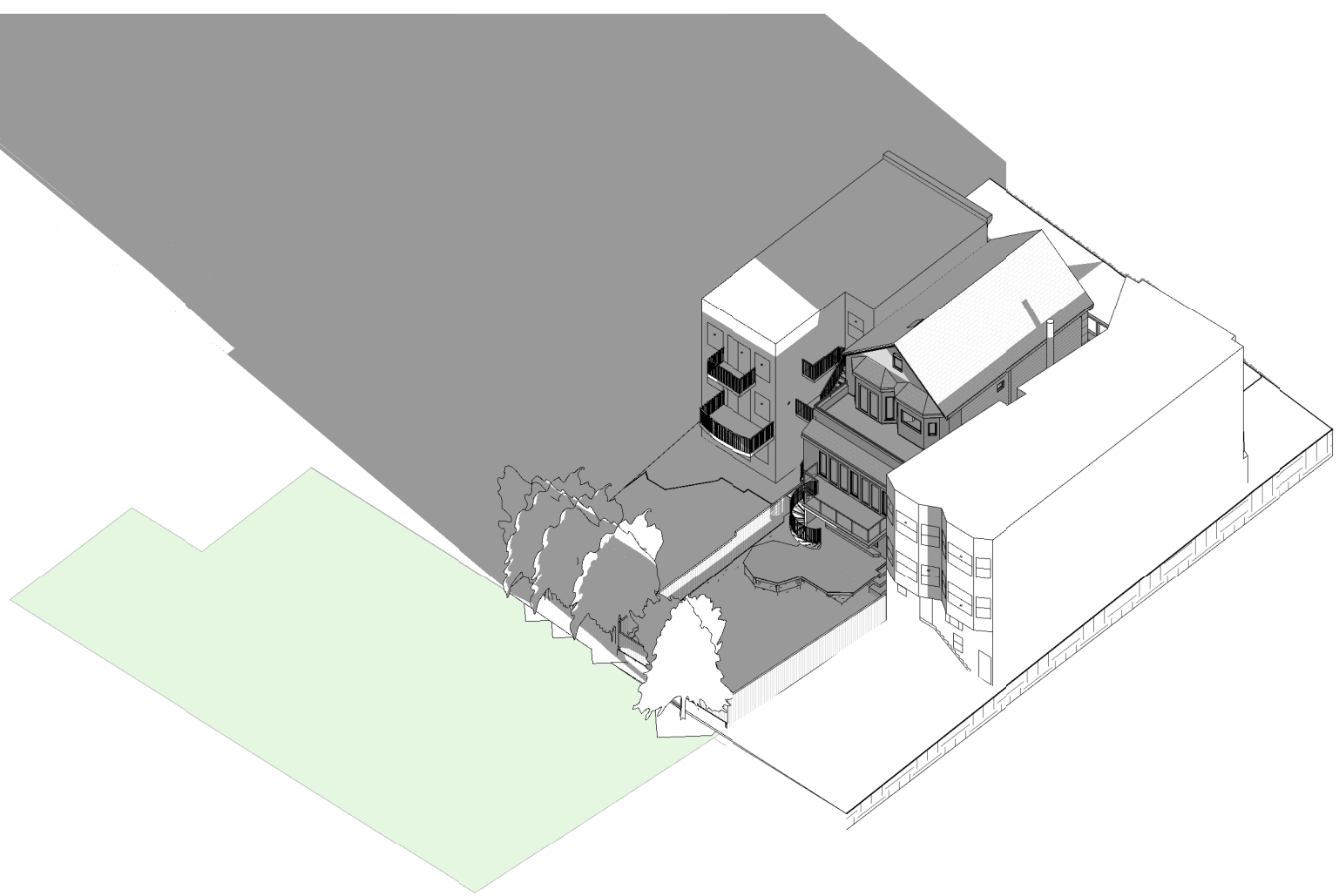
14 PROPOSED - FALL EQUINOX 12 PM



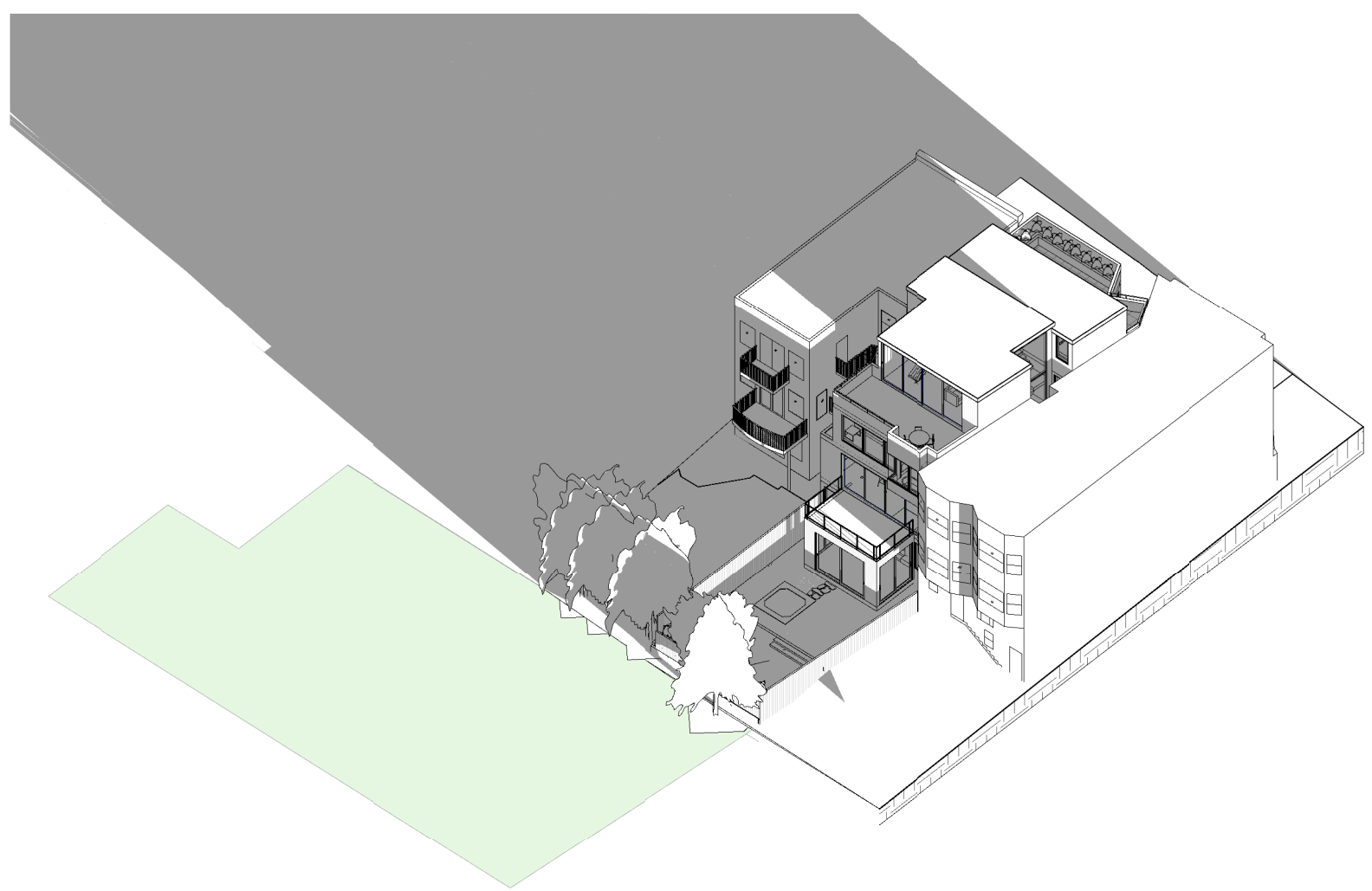
9 EXISTING - FALL EQUINOX 3 PM



15 PROPOSED - FALL EQUINOX 3 PM



10 EXISTING - FALL EQUINOX 6 PM



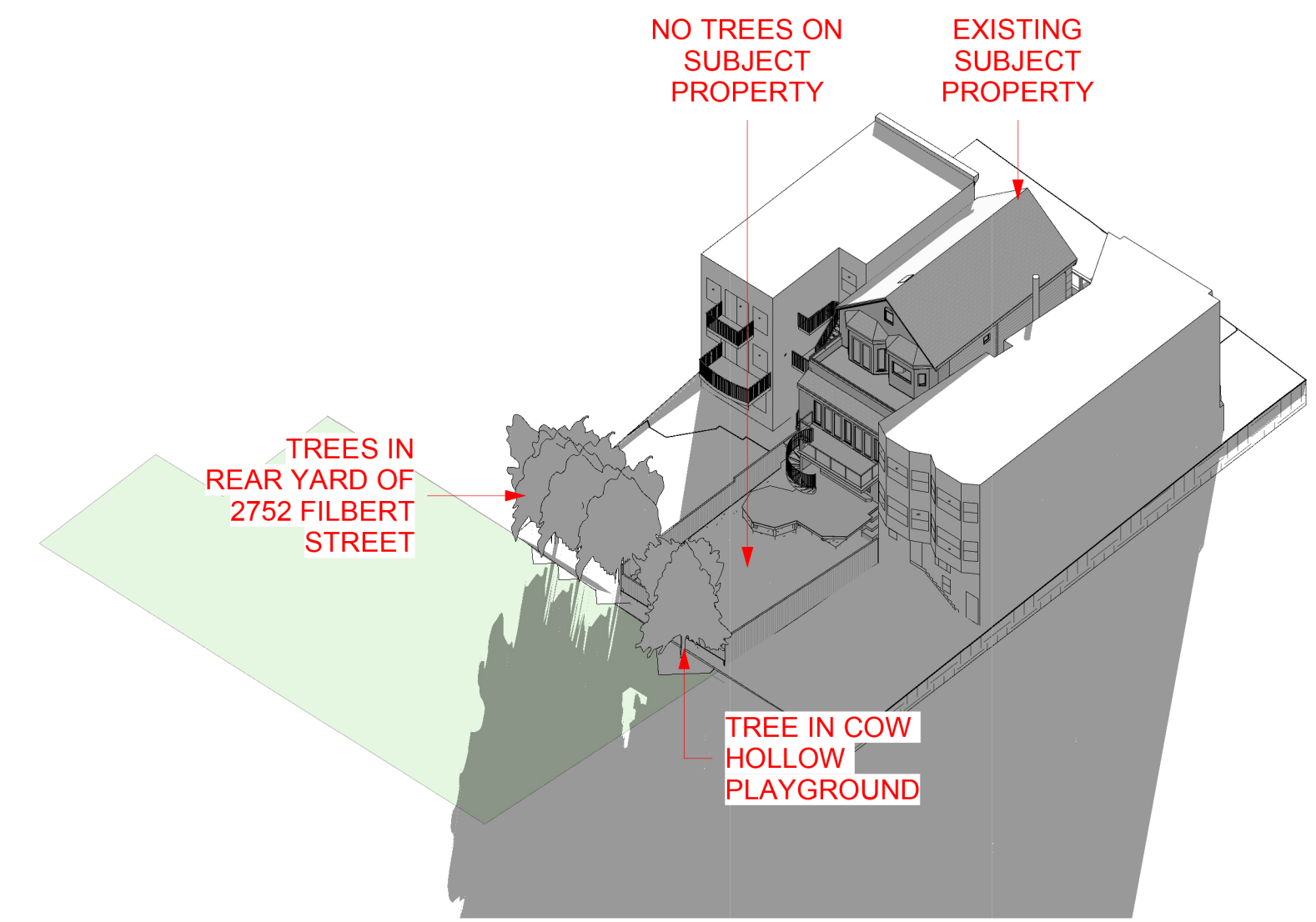
16 PROPOSED - FALL EQUINOX 6 PM



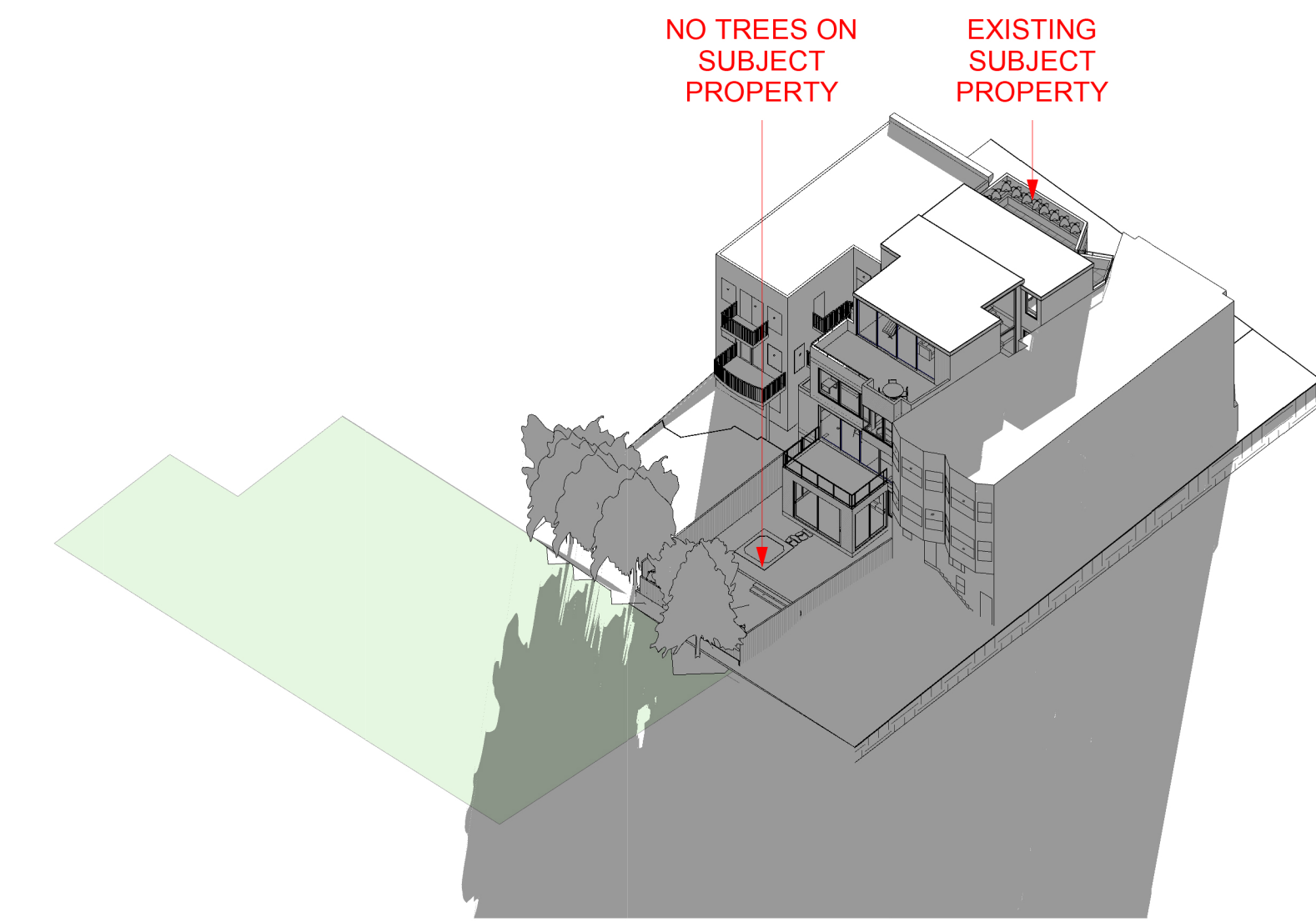
Exhibit 1

2758 FILBERT STREET

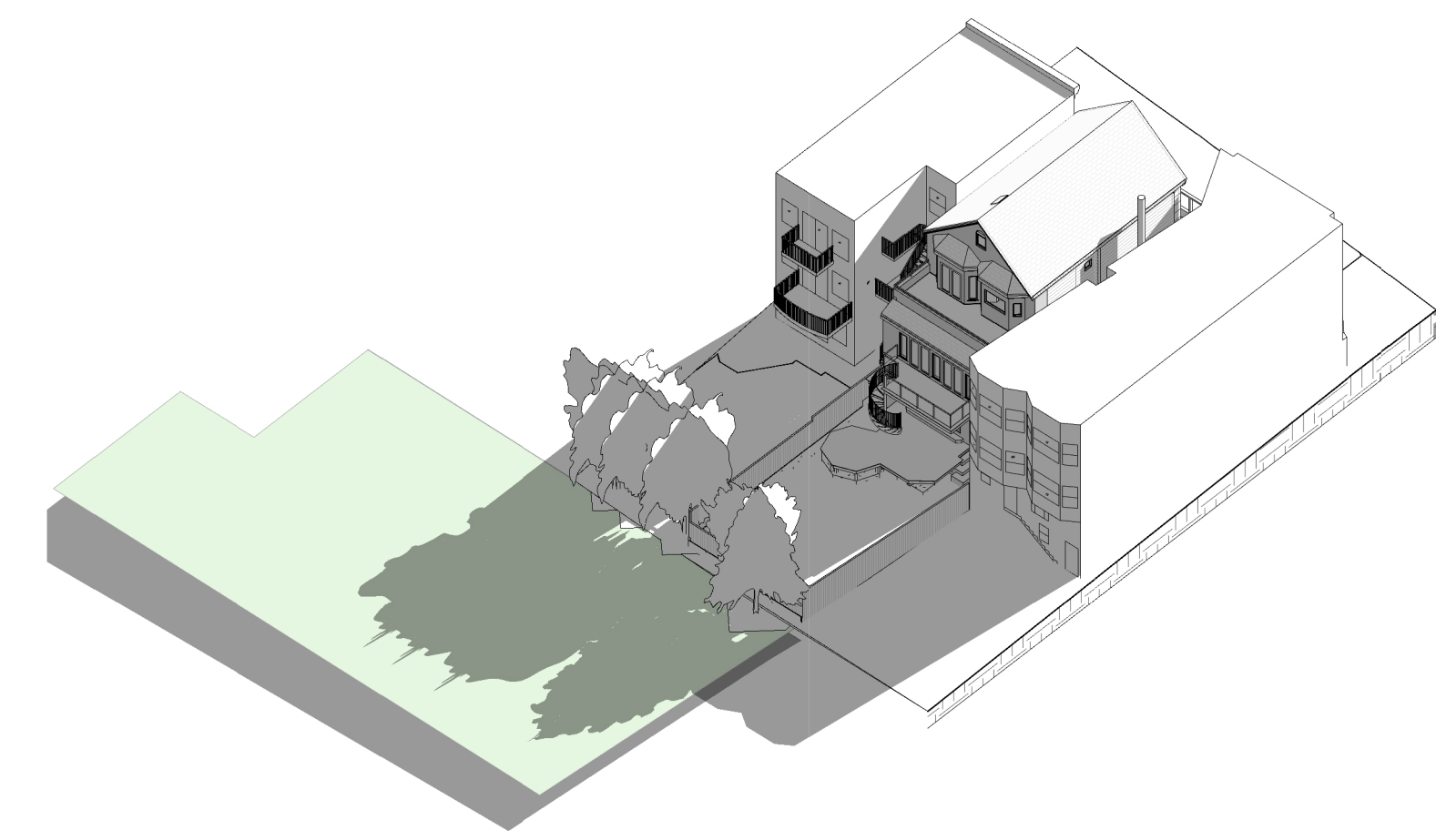
SHADOW STUDIES - WINTER SOLSTICE



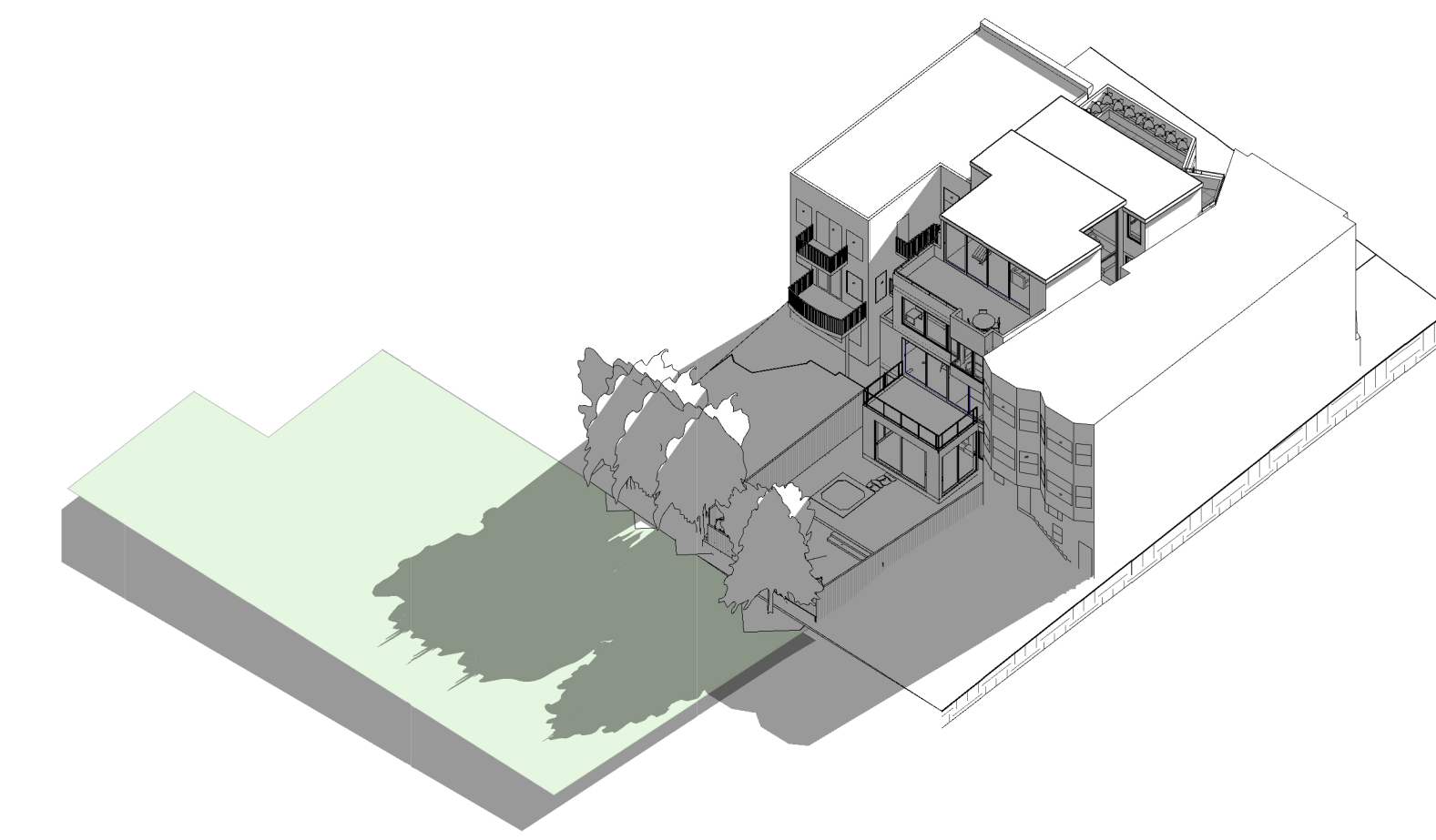
1 EXISTING - WINTER SOLSTICE 9 AM



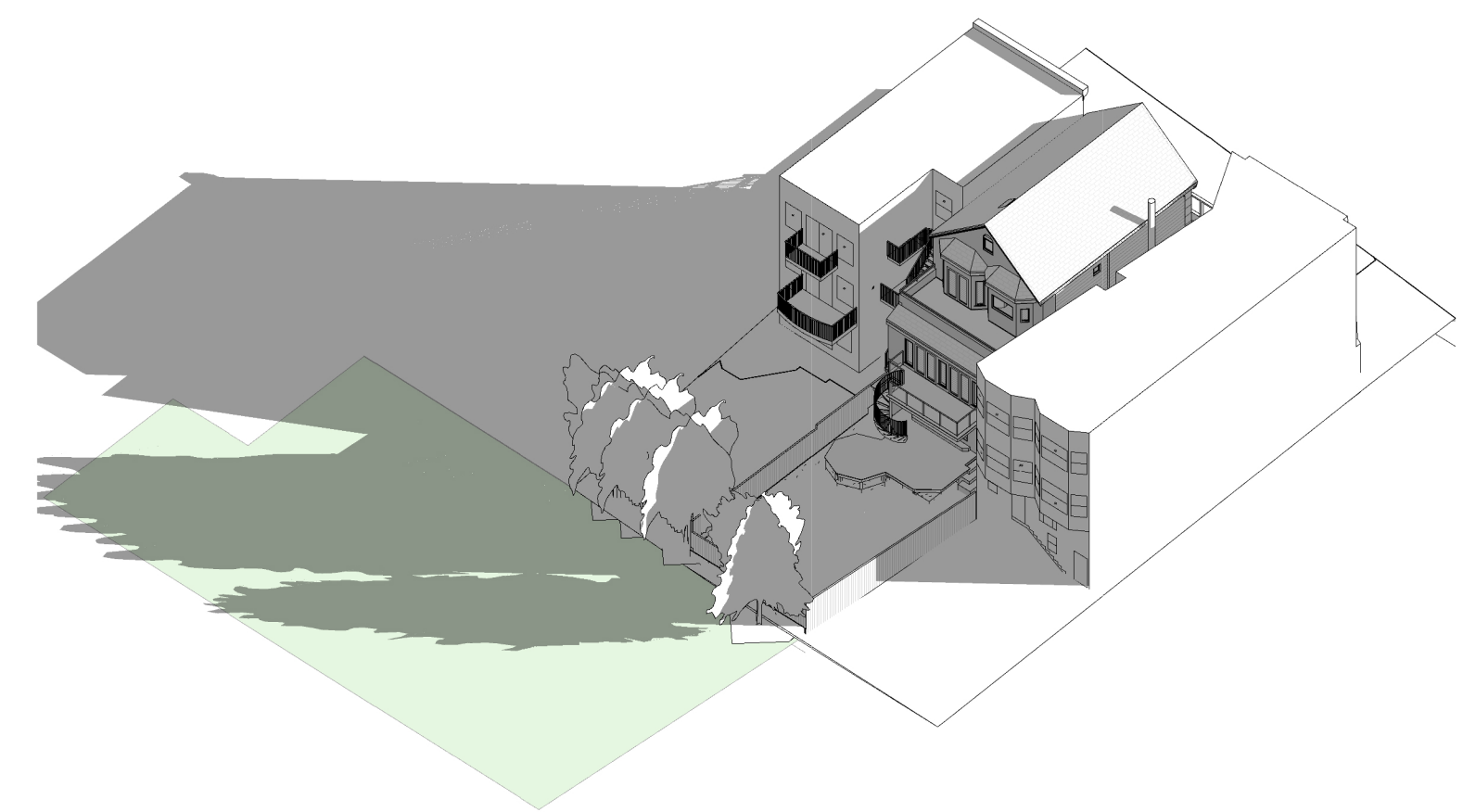
2 PROPOSED - WINTER SOLSTICE 9 AM



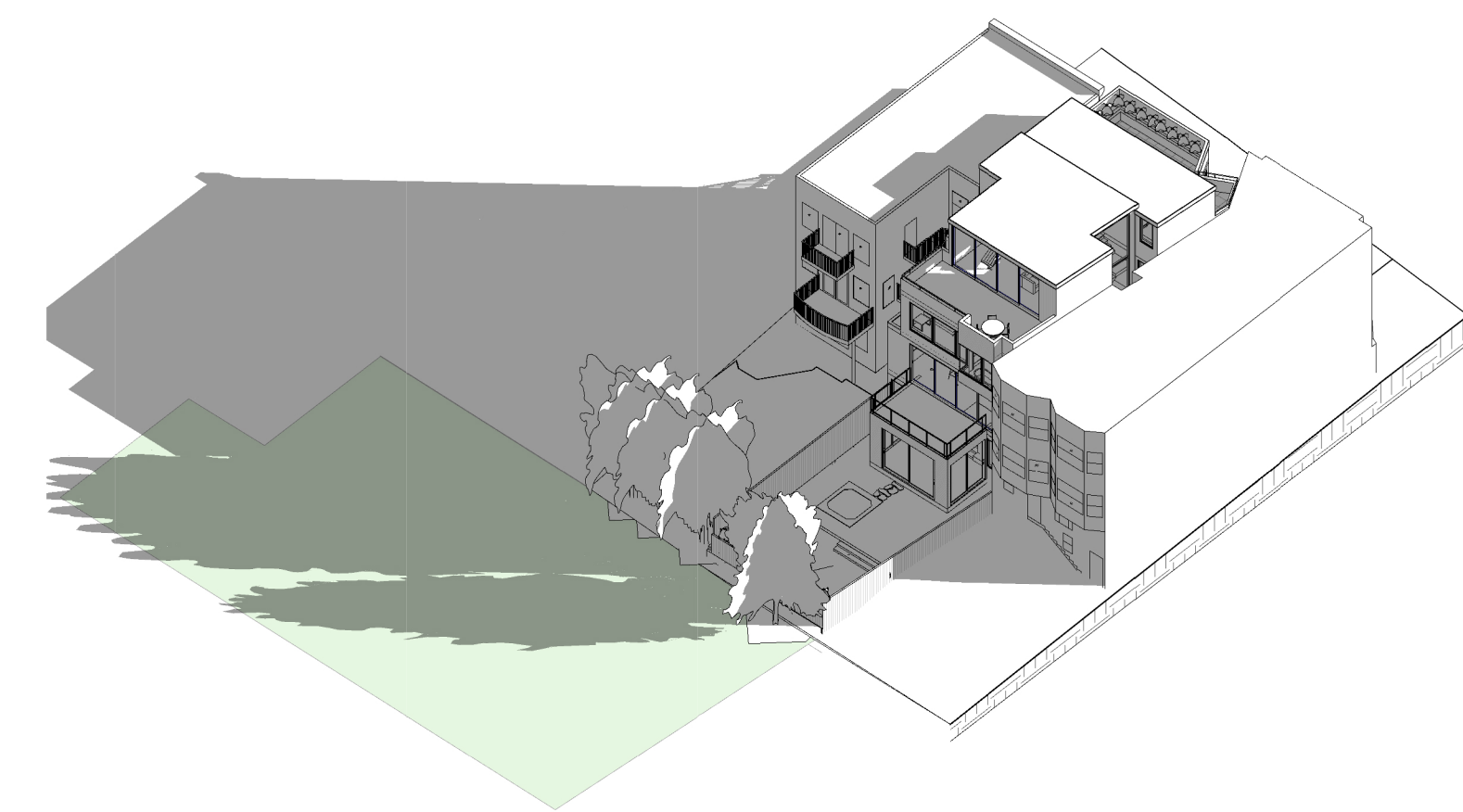
3 EXISTING - WINTER SOLSTICE 12 PM



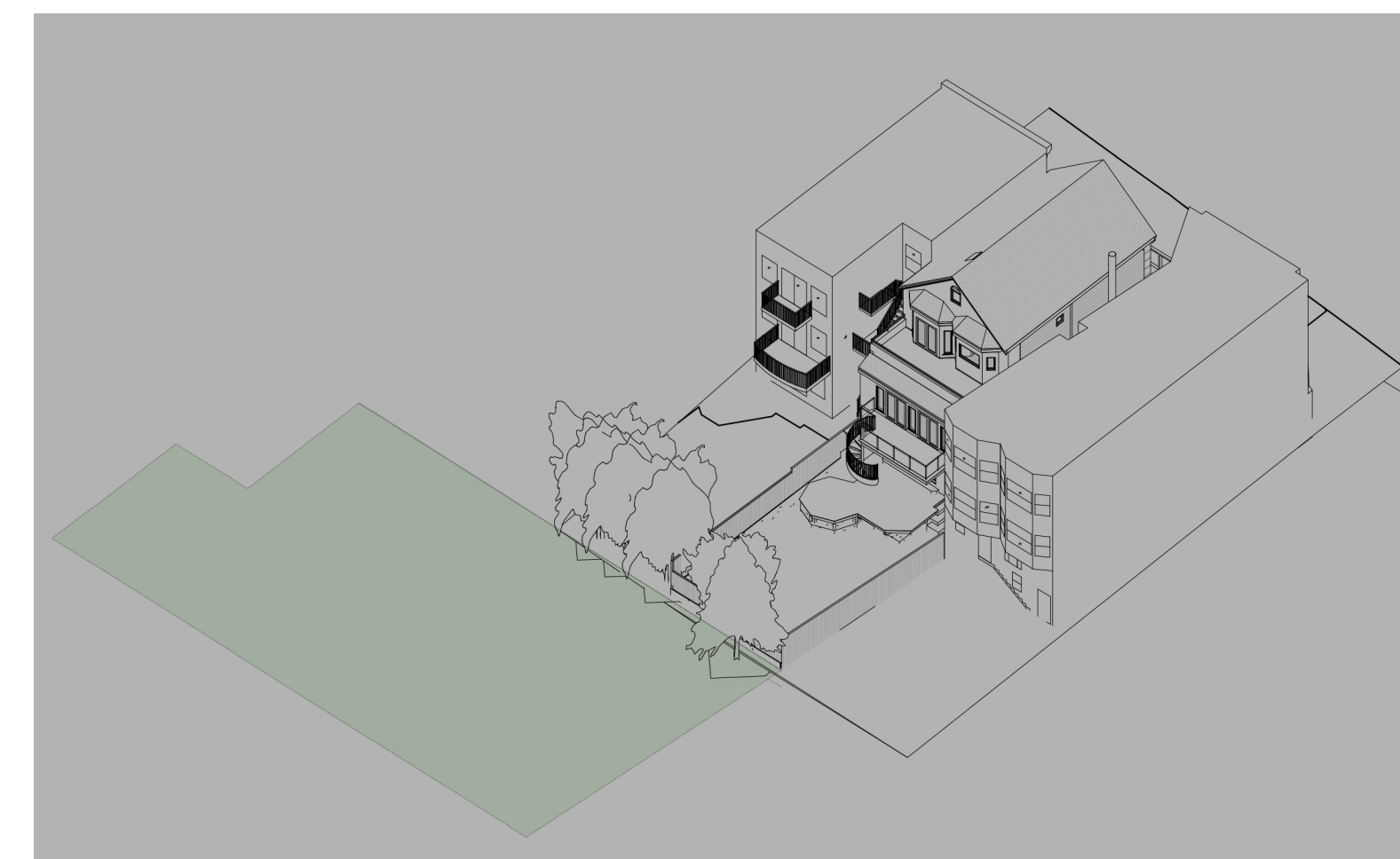
4 PROPOSED - WINTER SOLSTICE 12 PM



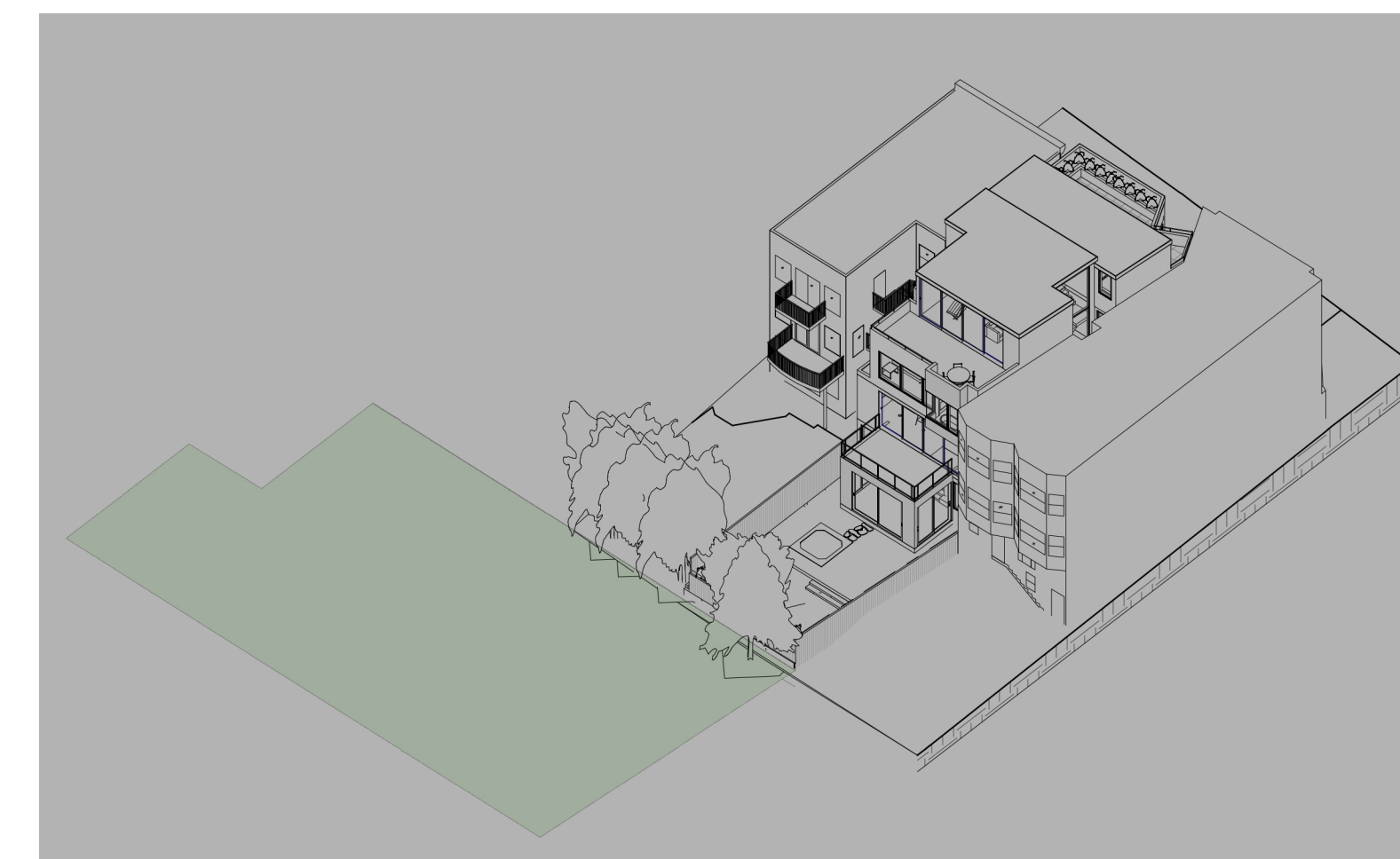
5 EXISTING - WINTER SOLSTICE 3 PM



6 PROPOSED - WINTER SOLSTICE 3 PM



13 EXISTING - WINTER SOLSTICE SUNSET 4:54 PM



15 PROPOSED - WINTER SOLSTICE SUNSET 4:54 PM



## Exhibit 2: Upslope Garages in the Immediate Vicinity of the Subject Property



Photo 1: 2774-2776 Filbert Street



Photo 2: 2786-2788 Filbert Street



Photo 3: 2715 Filbert Street



Photo 4: 2725 Filbert Street



## Exhibit 2: Upslope Garages in the Immediate Vicinity of the Subject Property



Photo 5: 2729 Filbert Street



Photo 6: 2758 Baker Street (garage is on Filbert Street)



Photo 7: 2825 Filbert Street



Photo 8: 2835 Filbert Street



## Exhibit 2: Upslope Garages in the Immediate Vicinity of the Subject Property



Photo 9: 2830 Filbert Street



Photo 10: 2754 Baker Street



Photo 11: 2734-2736 Baker Street



Photo 12: 2722-2724 Baker Street



## Exhibit 2: Upslope Garages in the Immediate Vicinity of the Subject Property



Photo 13: 2710 Baker Street



Photo 14: 2753-2755 Baker Street



Photo 15: 2747 Baker Street



Photo 16: 2743 Baker Street



## Exhibit 2: Upslope Garages in the Immediate Vicinity of the Subject Property



Photo 17: 2735 Baker Street



Photo 18: 2709-2711 Baker Street



Photo 19: 2728 Union Street



Photo 20: 2740 Union Street



## Exhibit 2: Upslope Garages in the Immediate Vicinity of the Subject Property



Photo 21: 2750-2752 Union Street



Photo 22: 2774 Union Street



Photo 23: 2757-2759 Union Street



Photo 24: 2741-2745 Union Street



## Exhibit 2: Upslope Garages in the Immediate Vicinity of the Subject Property



Garage is upslope  
from main entry.

Photo 25: 2729-2731 Union Street



Garage is upslope  
from main entry.

Photo 26: 2711 Union Street



Garage is upslope  
from main entry.

Photo 27: 2830 Broderick Street



Garage is upslope  
from main entry.

Photo 28: 2821 Broderick Street



## Exhibit 2: Upslope Garages in the Immediate Vicinity of the Subject Property



Photo 29: 2835-2839 Broderick Street



Photo 30: 2934 Broderick Street



Photo 31: 2946 Broderick Street



Photo 32: 2937 Broderick Street

## Exhibit 3: False Statements

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1. "The addition of a fourth floor...is absolutely unprecedented in this neighborhood..."

—Bertolozzis' DR, page 2.  
—Dallmars' DR, page 2. Also: similar language/same intent on pages 4 and 7.

**The Facts:** Not true. There are 11 four-story buildings on the 2700 block of Filbert Street alone—including DR Applicant Holmes' own residence. None of these 11 are apartment buildings. There are numerous other four-story buildings on other adjacent and nearby blocks. Four-story buildings are, in fact, quite common in the neighborhood.

2. "The addition of a fourth floor...will cast shadow on the public children's playground which is directly adjacent and north of the site."

—Bertolozzis' DR, page 2.  
—Dallmars' DR, page 2. Also: similar language/same intent on pages 4 and 8.

**The Facts:** Not true. See the shadow study included as Exhibit 1. The shadows in the Cow Hollow playground are mostly the result of neighbors' trees (there are no trees in the rear yard of the subject property). Even so, the shadows themselves—even those from the close-by neighbor trees—are negligible except in the dead of winter (e.g., winter solstice, usually December 21 or 22) when shadow impact is at its greatest.

3. "As set forth in the Cow Hollow Neighborhood Design Guidelines, less than 2% of the buildings have a fourth floor..."

—Dallmars' DR, page 5.

**The Facts:**

- 1) There's a calculation error in the "less than 2%" figure cited by DR Applicant Dallmar (the figure was lifted from page 61 of the Cow Hollow Neighborhood Design Guidelines a.k.a, "CHNDG"). Mathematically, the four-story buildings are shown (on page 61) counted as 166, while the total number of buildings is 1,101. That works out to just over 15%, not "less than 2%."
- 2) The document DR Applicant Dallmar cites—The Cow Hollow Neighborhood Design Guidelines—is dated May 2001, so the data behind the "less than 2%" statement—which mathematically is supposed to read "greater than 15%"—predates that May 2001 date. That is to say, these figures are old/stale/obsolete and likely understate the true proportion of four-story buildings in the neighborhood.



## Exhibit 3: False Statements

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4. "The building height sloping up from 30 feet in front to over 40 feet at the rear..."

—Irene Holmes' DR, page 2.

**The Facts:** The proposed building is 37 feet, 9 inches at its highest point (which, of course, is not "over 40 feet"). This is clearly shown on the project's Section 311 Notice.

5. "[The 35-foot height] limit has been observed by both existing and new construction in the area."

—Irene Holmes' DR, page 7.

**The Facts:** Not true. DR Applicant Holmes' own building is "over 40 feet" high (per her own Section 311 Notice dated Dec-22-2003; we estimate her building to be 43 feet, 3 inches high). Other buildings that have expanded upwards on the 2700 block of Filbert Street have, per their respective Section 311 Notices, been higher than the 35 feet "limit" cited by DR Applicant Holmes but less than the 40 foot height limit stipulated by the San Francisco Planning Code (excepting cases where the existing building already exceeded 40 feet; i.e., "legal, non-conforming").

6. "...this will be the largest single family home in the neighborhood..."

—Nancy Leavens' DR, page 2.

**The Facts:** Not true. The proposed building will not even be the largest single-family home on the block: 2736 Filbert Street is 5,941 sq. ft. 2869 Broderick Street (southwest corner of Broderick and Filbert Streets; the majority of the building runs along the 2700 block of Filbert Street) is approximately 6,500 sq. ft. There are numerous other examples in the surrounding neighborhood.

7. "[the project will]...create a 6-7 bedroom...single family home."

—Bertolozzi's DR, page 2.

—Dallmars' DR, page 2.

**The Facts:** The project's Section 311 Notice clearly shows the project having four secondary bedrooms plus a master bedroom for a total five bedrooms, not "6-7."

### Exhibit 3: False Statements

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8. "The rear 'Pop-out' and additional decks and hot tub occupy most of the 45% rear yard setback..."

—Irene Holmes' DR, page 2.

**The Facts:** The pop-out is 10 feet deep (vs. a permitted 12 feet deep) and occupies just under 175 square feet or about 15% of the rear yard that would otherwise exist without the pop-out. 15% is not “most” or even near to “most.” With the pop-out included as proposed, there remains nearly 1,000 square feet of landscaped rear yard on the subject property.

9. "...the top floor addition extending out into the airspace above that adjoining building."

—Irene Holmes' DR, page 7.

**The Facts:** The fourth-floor and all other floors of the proposed building are entirely within the property lines and airspace of the subject's own lot. The proposed building does not intrude into other property owners' airspace.

10. "...completely blocking all light and air to 6 different windows..."

—Bertolozzis' DR, page 2.

**The Facts:** Only three windows are completely covered over. All three of these are side-facing, property-line windows which are not protected by the Planning Department as a matter of policy. Two of these three side-facing windows are narrow and serve clothes closets. The third is frosted and serves an entry foyer that is already well lighted by an entry door with multiple glass panes.

11. "...an NSR is in place from prior expansions [plural] by the sponsor."

—Bertolozzis' DR, page 2.

**The Facts:** The only previous renovation that the sponsor has undertaken occurred in the early-1990s—over 25 years ago! The NSR was put in place because the Planning Department—at that time—did not want any "in-law" units created in single-family homes.

## Exhibit 3: False Statements

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12. Q: Have you discussed this project with the permit applicant?

A: No.

—Nancy Leavens' DR, page 1.

**The Facts:** At the project sponsor's direction, the project architect met with DR Applicant Leavens on Oct-19-2017 since she could not attend the pre-application meeting with other neighbors (held at the project site on Sep-19-2017). The project architect also met with DR Applicant Leavens on Apr-30-2018 and Jun-21-2018. The latest meeting was held with all DR Applicants (including DR Applicant Leavens) on Feb-6-2019. Each of the aforementioned meetings lasted an hour or longer. Additionally, there have been dozens of emails between Leaves and the project team.

13. "A meeting with the neighbors, sponsor and architect was finally held February 6, 2019..."

—Bertolozzi's DR, page 1.

**The Facts:** DR Applicant Bertolozzi attended the pre-application meeting with other neighbors held at the project site on Sep-19-2017. At the project sponsor's direction, the project architect also met with DR Applicant Bertolozzi on Apr-30-2018 for over an hour. A call was scheduled for Jun-21-2018 but was cancelled unilaterally by Bertolozzi. Additionally, there have been dozens of emails between the Bertolozzis and the project team.

14. "...keep to the neighborhood height limit of 35 feet..."

—Irene Holmes' DR, page 2.

**The Facts:** The subject building is in a 40-X height and bulk district, so the true applicable height limit is 40 feet per San Francisco Planning Code, not 35 feet as stated by DR Applicant Holmes.

15. "He also has a home in Alton, New Hampshire."

—Dallmars' DR, page 4.

**The Facts:** That home is not owned by the sponsor, but by other members of the sponsor's family. The sponsor does not own any real property in any other state besides California.



# ZACKS, FREEDMAN & PATTERSON

A PROFESSIONAL CORPORATION

235 Montgomery Street, Suite 400  
San Francisco, California 94104  
Telephone (415) 956-8100  
Facsimile (415) 288-9755  
[www.zfplaw.com](http://www.zfplaw.com)

April 29, 2019

President Myrna Melgar  
San Francisco Planning Commission  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Re: Project Sponsor's Response to Request for Discretionary Review  
Case No. 2017-013328DRP – 2758 Filbert Street, San Francisco

Dear President Melgar and Members of the Planning Commission:

We are responding to the letter dated April 22, 2019 from the Cow Hollow Association (the "CHA") regarding the above referenced project. There are numerous incorrect statements in the CHA letter. Our letter focuses on the CHA's two principal arguments.

In its section titled "Keep Rear Wall Even with Rear Wall to East," the CHA asserts that the Cow Hollow Guidelines preempt the San Francisco Planning Code and its well-established rules for rear yards. CHA's argument and their proposed solution deals exclusively with the depth of the subject's rear wall and pop-out, which they wish to limit to the depth of the lesser of the two adjacent rear walls (i.e., that of the east neighbor, the Dallmars at 2752 Filbert). However, "rear wall averaging" is explicitly permitted via San Francisco Planning Code Section 134. Pop-outs are likewise explicitly permitted via Code Section 136. These are both well established and are applied correctly in relation to the sponsors' project.

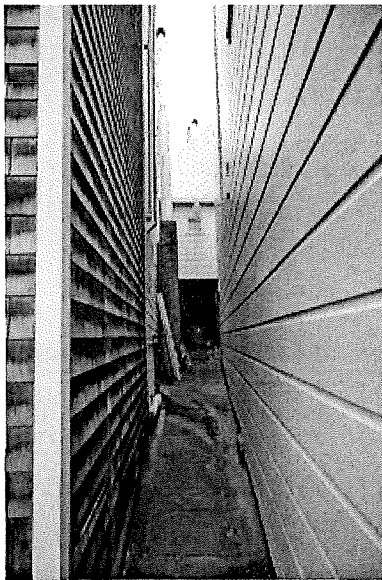
The text that the CHA excerpts from page 42 of the CHNDG and the accompanying CHA arguments refer and apply solely to rear additions on "down-sloping lots." The Project Sponsor's property is not a down-sloping lot, as defined by the CHNDG. The CHNDG defines a "down-sloping lot" (at p. 65) as being an elevation difference of 10 feet or more between: (a) the elevation at the front lot line; and (b) the elevation at the rear yard setback line. According to CHA, lots having less than that 10 foot elevation difference are considered "level lots." The actual elevation difference between the front lot line and the rear yard setback line on the subject property is 4 feet, 6 inches. This qualifies the subject property—per CHA's own definition—as a "level lot," not a "down-sloping lot." This means the guideline cited by CHA does not apply to this Project.

Out of an abundance of caution, we also considered an argument not yet posed by the CHA: what if the downslope is actually east-to-west, rather than the more typical south-to-north? That twist, however, is also not valid: the difference between the elevation of the east neighbor and the subject property is just a 2 feet, 6 inches, far less than the 10 feet difference needed to qualify this circumstance as “down-sloping.”

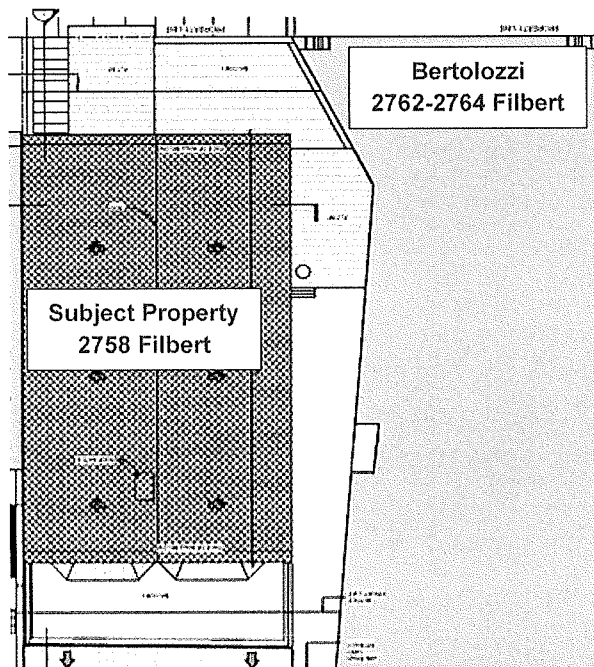
The DR Requestors’ entire argument regarding the proposed location of the subject property’s rear wall initially relied on on the proposed limits in the CHNDG Appendices. The Planning Commission explicitly declined to adopt those CHNDG Appendices and the limits therein, because they conflicted with the San Francisco Planning Code. That is well-established. The CHA now attempts to end-run that argument by advancing the “page 42 down-sloping” lot argument. That too fails here because the subject lot is not down-sloping—by CHA’s own definition—in neither the typical south-north direction nor the east-west direction.

In its section titled “Protect Property Line Windows,” the CHA has misapplied a well-intended guideline designed to preserve green space and to provide modest protections to property owners that had willingly created side-yards for their own benefit (e.g., for light and air or to create a modest separation from their neighbors). First and foremost, the space between the two buildings in this particular case is not a “side-yard.” It has never been used as such, does not

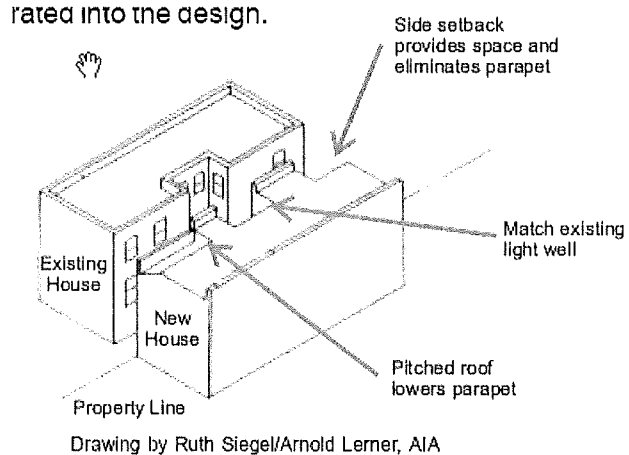
receive enough light to grow grass, has no planting whatsoever, and its walking surface is paved with concrete. Its width narrows to as little as 3 feet (not 5 feet as CHA contends) and the wider portion is not in fact “open space”—it already has a room built at the second-floor of the subject property that extends from the Project Sponsors’ Living Room over to the common property-line with the west neighbor (Bertolozzis at 2762-2764 Filbert Street). The space between the two buildings is not a side-yard. It’s a tradesman alley, which is already partially encumbered.



Tradesman alley at 2758 Filbert Street



Secondly, the quoted section of the CHNDG (page 35) must be read in context and taken together with the accompanying diagram on page 35 (shown below). The intent of this subsection is to provide modest protections to the “Existing House” since it incorporates a legitimate side-yard on its own side of the property-line. That’s not the same situation as here. The Bertolozzis’ building—the “Existing House” in this circumstance—has no side-yard on its own side of the property-line—rather, it sits on the lot line. Stated more directly: the Bertolozzis did not give-up a portion of their buildable area—as a side yard—in order to secure light/air benefits for their own living spaces. Instead, they built lot-line to lot-line on their buildable area. CHA’s argument says that the Bertolozzis can now lay claim to their next-door neighbor’s tradesmen alley as their own “side-yard” and for their own benefit, having “maxied out” their own lot. That is clearly not the intent of this section of the CHNDG.



Thirdly, the nature and location of the Bertolozzis’ side-facing property-line windows is significant. There are three windows that will be covered over by the project. All three are inoperable. That is, they do not provide a source of fresh air or building ventilation. None of those three windows serve living spaces. One is located in a first-floor entry foyer/stairwell which is already well served by an entry door having three (3) large (17”Hx32”W) panes of clear glass. That foyer/stairwell window is much smaller by comparison to the doorway glass, is amber colored, is frosted, and (again) is inoperable. The two other windows that will be covered over are narrow (36”Hx12”W) and serve second- and third-floor clothes closets. They too are inoperable. Again, none of these three windows are operable. None serve actual living spaces. Light and air arguments are therefore unjustified.

Next, side-setbacks are not required of either neighbor—the subject property’s entire block is zoned RH-2. Buildings on the vast majority of RH-2 zoned lots run lot-line to lot-line across the width dimension. It’s not unusual or extraordinary. It’s the norm. The Bertolozzis’ own building does it. The notion of preventing the sponsors from building on this portion of their RH-2 lot so that their next-door neighbors could max-out their own lot and then protest “we need light and air for our closets and entry foyer” is unjust. The project already provides an oversized lightwell to match the existing Bertolozzi lightwell. This practice for lightwells is common and well-established. But lot-line windows are not protected by the Planning Code, particularly where, as here, they provide no light or air.

Finally, the “fire response and sprinkler- or electrical-system” counter-argument that CHA puts forth is not at all analogous to lot-line windows . Fighting fire is a matter of public



safety, and the City protects all properties from fire, regardless of the state of their individual sprinkler- or electrical-systems. In contrast, the dispute here is a matter of property rights—not public safety—and between just two neighbors.


**Conclusion**

Neither argument advanced by the CHA holds-up on further analysis. The Subject Property's lot is not down-sloping, so the CHA's "page 42 down-sloping" lot argument—which attempts to prohibit ordinary and permissible rear wall averaging—is not applicable. The quoted section of the CHNDG on page 35 is designed to provide modest protections to property owners that have given-up a portion of their own property to create a side-yard for their own benefit. That is not the circumstance here. The Project should be permitted to build on the entire width of its lot, as have many, many other buildings in the neighborhood (no side-setbacks are required for RH-2 lots). It would be absurd to require the Project to protect closet and stairway windows.

The Project Sponsor has made numerous changes to the Project to address the DR Requestor's concerns. The Project is Code-compliant, and we respectfully request that the Planning Commission approve the Project as proposed.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC

A handwritten signature in dark ink, appearing to read "Ryan J. Patterson", written over a horizontal line.

Ryan J. Patterson

**From:** [Elaine Larkin](#)  
**To:** [May, Christopher \(CPC\)](#); [Winslow, David \(CPC\)](#); [Eliazbeth.Gordon-Jonckheer@sfgov.org](mailto:Eliazbeth.Gordon-Jonckheer@sfgov.org)  
**Subject:** 2758 Filbert request for Design Review  
**Date:** Sunday, February 10, 2019 5:39:35 PM

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

Dear San Francisco City Planners,

This project sponsor is proposing to build the largest single family home in the neighbor. He has not followed or honored the Cow Hollow Neighborhood Guidelines in holding the appropriate meeting with neighbors and is adding a fourth floor which would exceed the neighborhood guidelines. They have made no attempt to have it fit in architecturally with the area. This has raised great concerns with neighbors.

Elaine Larkin  
2648 Union Street

**From:** [Joseph Desautels](#)  
**To:** [Winslow, David \(CPC\)](#); [May, Christopher \(CPC\)](#)  
**Cc:** [Kerry Dalmar](#)  
**Subject:** 2758 Filbert St  
**Date:** Monday, February 11, 2019 10:06:20 AM

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

Dear Mr. Winslow and Mr. May,

As a neighbor on Filbert Street, I am writing you of our concerns about how casually planning seems to be setting aside the Cow Hollow Guidelines and allowing the excessive development of this property. The reasonable modifications that Mr. & Mrs Dalmar are requesting seem like a reasonable compromise and appear to have minimal impact on the quality of what is being proposed. We are concerned about the many excessive developments that have or are working their way through planning that are and will have substantial detrimental impact on our community. These developments do nothing to help meet the city's housing problems of availability and affordability of housing.

The proposal for this property, while an improvement over the sorry state of the existing structure, continues the "over expansion" that is destroying the character of the neighborhood. Of particular concern is the massive expansion to the rear. On the plans, there are three lines dealing with rear yard setback:

- 40% rear yard setback
- Avg rear yard setback
- Max permitted setback

As you can see from the plans, the property to the East nicely conforms to the 40% setback. The property to the west exceeds it, thus the average. The project proposes to exceed the 40% by 8-9 ft. This should not be allowed. Using the "average" becomes a slippery slope, because it now enters into future calculations as to what might be the "average". Exceeding the setback to the "max permitted" now becomes a huge step backward in terms of preserving rear yard setback. If this is permitted we will eventually have no setbacks and the "Manhattanization" of the neighborhood will be complete.

Projects should not be allowed to exceed limits because someone else exceeded them. If we are to have limits, we shouldn't be looking for ways to break them, but rather encourage them to be met.

One of the prime motivations behind these excessive developments is to simply produce square footage, which makes them more profits and further increases the cost of housing. Almost none of these developments taking place in our neighborhood are being done by people who intend to live in the community. If they were, they



would be much more willing to find a solution that works for all parties.

Thank you for your consideration.

Joseph Desautels  
2720 Filbert St

**From:** [dkiesel@pacbell.net](mailto:dkiesel@pacbell.net)  
**To:** [May, Christopher \(CPC\)](#); [Winslow, David \(CPC\)](#); [elizabeth.gordon-jonkheer@sfgov.org](mailto:elizabeth.gordon-jonkheer@sfgov.org)  
**Cc:** [Leavens, Nancy](#)  
**Subject:** 2758 Filbert Street Request for Design Review  
**Date:** Thursday, February 14, 2019 3:13:34 PM

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

Gentlemen: We have lived in Cow Hollow for approximately 30 years, and I am currently a member of the Cow Hollow Association's Advisory Board. While serving as an active member of the Board, I was involved in the development of the Cow Hollow Design Guidelines. An enormous amount of thought, time and effort was spent by many of us to develop development guidelines that would preserve the residential integrity of our Cow Hollow neighborhood. Building height, building coverage, rear yard setbacks and architectural design are but a few of the integral components we addressed in these guidelines.

Although I am not familiar with the specific plans for the modifications planned for the above referenced project, I would strongly encourage the sponsors to conform to the Cow Hollow Neighborhood Guidelines that have served us well for many years.

Sincerely,

Don and Colleen Kieselhorst  
2731 Green Street  
[dkiesel@pacbell.net](mailto:dkiesel@pacbell.net)  
415-931-9991



Virus-free. [www.avast.com](http://www.avast.com)

**From:** [Michelle Sangiacomo](#)  
**To:** [Winslow, David \(CPC\)](#); [May, Christopher \(CPC\)](#)  
**Subject:** 2758 Filbert Street  
**Date:** Sunday, February 10, 2019 4:55:13 PM

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

Dear Mr. Winslow and Mr. May,

This is in regards to the proposed build at [2758 Filbert Street](#). I understand a few of the neighbors have filed for Discretionary Review. I want to add my two cents about this, and support those neighbors who have filed for the DR.

I went through this process in 2011 - we did a full remodel. The initial plans were contested by some neighbors and, after numerous discussions with the neighbors, and our own DR, we decided it was very important to comply with the Cow Hollow Guidelines. I understand the property owner, Mr. Higgins, does NOT intend to comply with the Cow Hollow Guidelines. If this is the case, and the City is going to support him in failing to do so, why are the Guidelines there in the first place?

We have a lovely neighborhood in Cow Hollow, but specifically this block. The neighbors, however, are concerned that Mr. Higgins's property will turn into another version of the building at [2736 Filbert Street](#), which was clearly built by someone who does not live in the neighborhood, who is trying to make as much money as possible without being concerned about what it is doing to the neighborhood. I realize this is unsubstantiated, but the word on the street is Mr. Higgins plans to sell immediately after the remodel, or even before.

Please consider the neighborhood and the neighbors before you allow Mr. Higgins to so openly disregard the Cow Hollow Guidelines. We're not asking you to deny planning permission but to urge him to scale back on his project.

Thank you for considering my email.

Michelle Sangiacomo



**From:** [Diane Blanchard](#)  
**To:** [May, Christopher \(CPC\)](#); [Winslow, David \(CPC\)](#)  
**Subject:** 2758 Filbert Street/William Higgins  
**Date:** Monday, February 11, 2019 9:06:34 AM

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

My address is: 2746 Filbert Street and I am two houses over on the same side of the street. I have lived at this address for over 14 years.

I am very concerned over the fact that Bill wants to double the size of his home as my family and I will loose light and air. It's looming presence on the street will also compromise the historic feel of the neighborhood.

I am also very worried about the domino effect this project will have on the Cow Hollow neighborhood. Developers have discovered our area as a way to make huge bank by demolishing or heavily reconstructing existing. I have counted at lease 7 projects in just a two block radius from our home. Many others have completed projects in this past year. Bill's is the largest on our street.

We feel that Bill needs to follow the guidelines carefully written by the Cow Hallow Association for precisely this kind of predatory build out.

Thank you and please consider all the neighbors concerns of this matter.

Diane Blanchard Whiting  
(415)517-7074

Sent from my iPad

February 14, 2019

San Francisco Planning Department  
1650 Mission Street  
Suite 400  
San Francisco, CA 94103

Dear Planning Commissioners,

We absolutely oppose the height and expansion of the new plans the current owner Bill Higgins has submitted to the City for 2758 Filbert St. He is exceeding and pushing all limits and will no doubt not only compromise the beauty and integrity of his home but the surrounding neighborhood.

Please bear in mind that these quaint homes have been part of the Cow Hollow Neighborhood for over 100 years. Turning them into garish monstrosities is not the answer.

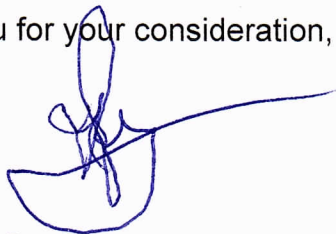
We are neighbors across the road from 2758 Filbert St. Adding height and width will definitely compromise the overall look toward the West for us and hundreds of our neighbors beside and behind us.

We have just completed a renovation ourselves and stayed within the current envelope and structure. Our neighbors have appreciated this.

We are here to stay for the long term. Bill Higgins plan as we understand it is to maximize the square footage and sell.

Why allow homeowners to push all limits and compromise a wonderful neighborhood?

Thank you for your consideration,

A handwritten signature in blue ink, appearing to read "Tony Brett Kelly". The signature is stylized with a large, looped initial "T" and a long horizontal stroke extending to the right.

Tony and Grace Brett Kelly  
2725 Filbert St  
San Francisco, CA 94123

A handwritten signature in blue ink, appearing to read "Grace Brett Kelly". The signature is written in a cursive style with a large, looped initial "G" and a long horizontal stroke extending to the right.

BPA 2017.1013.1247

Responding to Project Sponsor's Response to Discretionary Review, submitted April 10, 2019:

Page 5: "43'3" EST" pertains to the height of 2763 Filbert, the across-the-street neighboring house.

The house referred to is in the photograph at page 24 of the Response, showing that the estimate is clearly incorrect. The ridge of the pitched roof is 39'.

Page 7: Shadowing of the playground "unsupported by evidence." Below is the shadowing study showing that the infant swings will be entirely in the Project's shadow in mid-December afternoons.

Page 10: The building used as an example of rear setback averaging was renovated entirely within its existing footprint. It is irrelevant to rear yard averaging.

Demolition calculations and application of Planning Code Section 317(b)(2)(B) and (C) regarding "residential demolition."

The subject structure was built in 1901. Project Sponsor contemplates excavating for a new garage, and replacing the existing foundation.

The following exchange with Planner May was to obtain assurances that removing and replacing the foundation would not constitute "removal" for purposes of the 317 determination.

Project Sponsor architect Gibson informed Planner May that the three new built stories would cantilever off the existing west foundation. PRR 041519 at page 163.

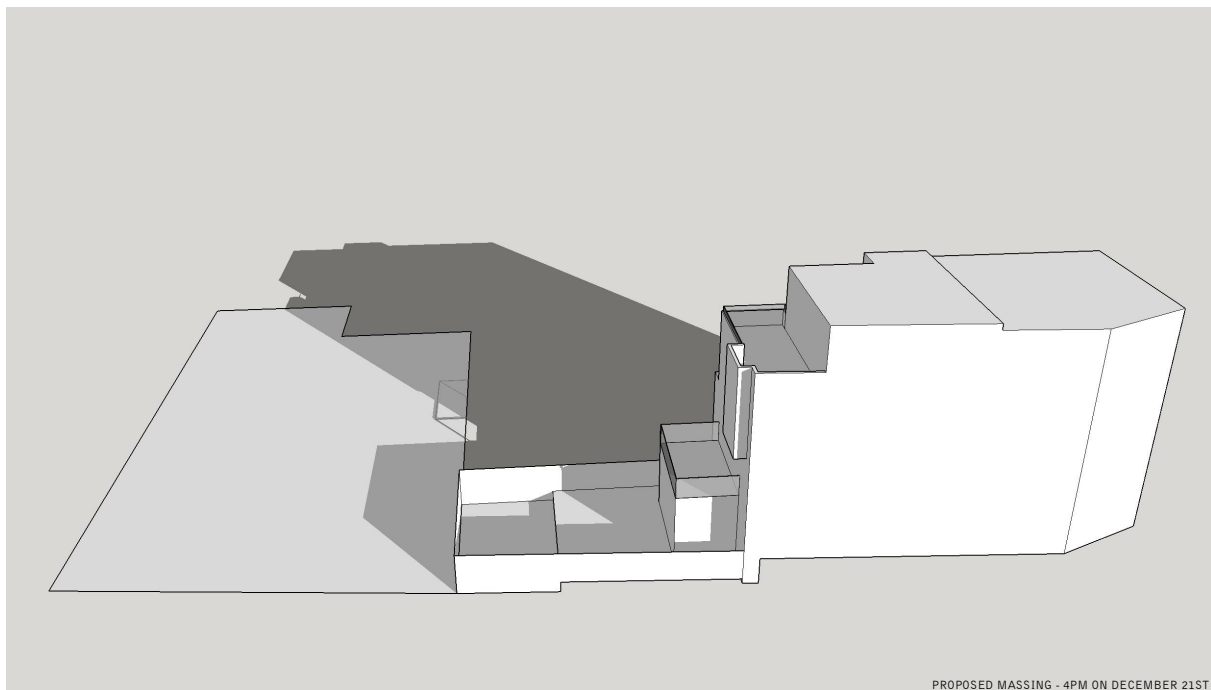
May responded: "Given the heightened attention given to building alterations that approach the S.317 demolition thresholds, I wanted to reach out to you to confirm that the retained ground floor wall and foundation on the west side will be sufficient to support the cantilevered floors above, and won't require additional foundations/walls along the property line? [stet] The could affect your demo calcs, and I am sure that these will be scritinized in the event of a DR, so I want to make sure everything is accurate." PRR 041519 at page 30 (12/21/18)



Gibson's response was that the existing foundation would not be retained, but that "it would be ok to completely remove a wall and then rebuild it in the same location with new (or reused) materials and still count that wall as 'not removed' in the demolition calculations." PRR 041519 at page 162.

May responded "Thanks for confirming that your project will stay within the thresholds and will not be considered tantamount to demolition."

In addition to the calculations being inaccurate, the above exchange is a sophistry designed to circumvent the obvious conclusion that the existing foundation and west wall will be demolished, putting the project beyond the 317 "threshold."



PROPOSED MASSING - 4PM ON DECEMBER 21ST



DAN PHIPPS ARCHITECTS PC  
1031 POST STREET  
SAN FRANCISCO, CA 94109  
p. 415-776-1600 f. 415-776-3972  
www.dpaweb.com

2758 FILBERT STREET - SHADOW STUDY  
SAN FRANCISCO, CA 94109  
DATE: FEBRUARY 12, 2019  
SCALE: NA

SHEET NO.  
A - 2.3

April 28, 2019

RE: 2758 Filbert St. William Higgins home plans

Dear Mr. Winslow,

The project sponsor has spent the last year and one half negotiating with the city of San Francisco and zero time negotiating with the neighbors. Now we are at the eleventh hour before the Discretionary Review hearing and being forced to make decisions without adequate time to negotiate terms that would suffice for all parties. No one who has filed for the DR feels like we have much to lose by seeing this issue through to the DR.

This argument is over square footage, not quality of life for the project sponsor. He is doubling the size of his home. Our current "ask" is defined below. It aligns with the letter to the Commission from Geoff Wood on April 22.

In our DR filing we asked for the project sponsors to honor the Cow Hollow Association Guidelines. This would keep the integrity of the new home's design and have a minimal effect on the square footage of the home. To do this would answer both the Dallmar and Bertolozzi concerns. This issue was discussed in our last meeting and was turned down by the project sponsor.

The question in front of the Planning Commission is whether one person's home plans should be allowed to negatively effect their neighbors home value and enjoyment simply because the design has been thus far deemed as fitting into the City's code.

Letters have been written by other concerned neighbors and petitions have been signed in the

hopes of ratcheting back Mr. Higgin's home plans. The Cow Hollow Association has written a strong letter in support of a reduction in size and scope. We hope that these comments and concerns of ours as well as other neighbors in Cow Hollow will be heard and addressed.

Thank you,

Howard and Kerry Dallmar



San Francisco Planning Commission  
San Francisco Planning Department

RE: Response to 311 DR claims from William Higgins 2758 Filbert St DR and additions to our Discretionary Review filing from Howard and Kerry Dallmar 2752 Filbert St. the east side neighbor to William Higgins.

The project sponsor has done many "studies" regarding our privacy concerns along with our concerns over the loss of light, air and shadows. Since we live in our home we feel we are best to judge what effect the project sponsors rebuild will have on our home if it is allowed to be built as planned. How is it fair to the adjacent neighbors to allow a project sponsor to build out into the rear yard area past an adjacent neighbor's rear wall, blocking light, air and privacy so that the new sponsor can now enjoy those very same benefits that they will be cutting off from the neighbors?

This letter along with enclosed photographs, and signed petitions from concerned neighbors and the Cow Hollow Association are our response to the 311 filing from the project sponsor.

- Our concerns regarding our second floor windows are over light, air and privacy not our "view" as was the assertion in their rebuttal.
- Please see the photos that show precisely what our view looks like from our second floor family room area.
- The light in our family room area will be dramatically altered by the current design since it will block the sunlight currently afforded in our side window . Please see photos.
- If the proposed terrace over the first floor exercise room is built it will create a viewing platform that will look directly into our family area. The suggested use of blinds or other window coverings as suggested by the Higgins rebuttal is dismissive and ridiculous.
- Many neighbors homes have decks, including ours however, the decks currently on the

Higgins home , our home and Ms. Whittings home on the other side of us (three in a row) are all at the same depth so that no one looks back on the neighbors.

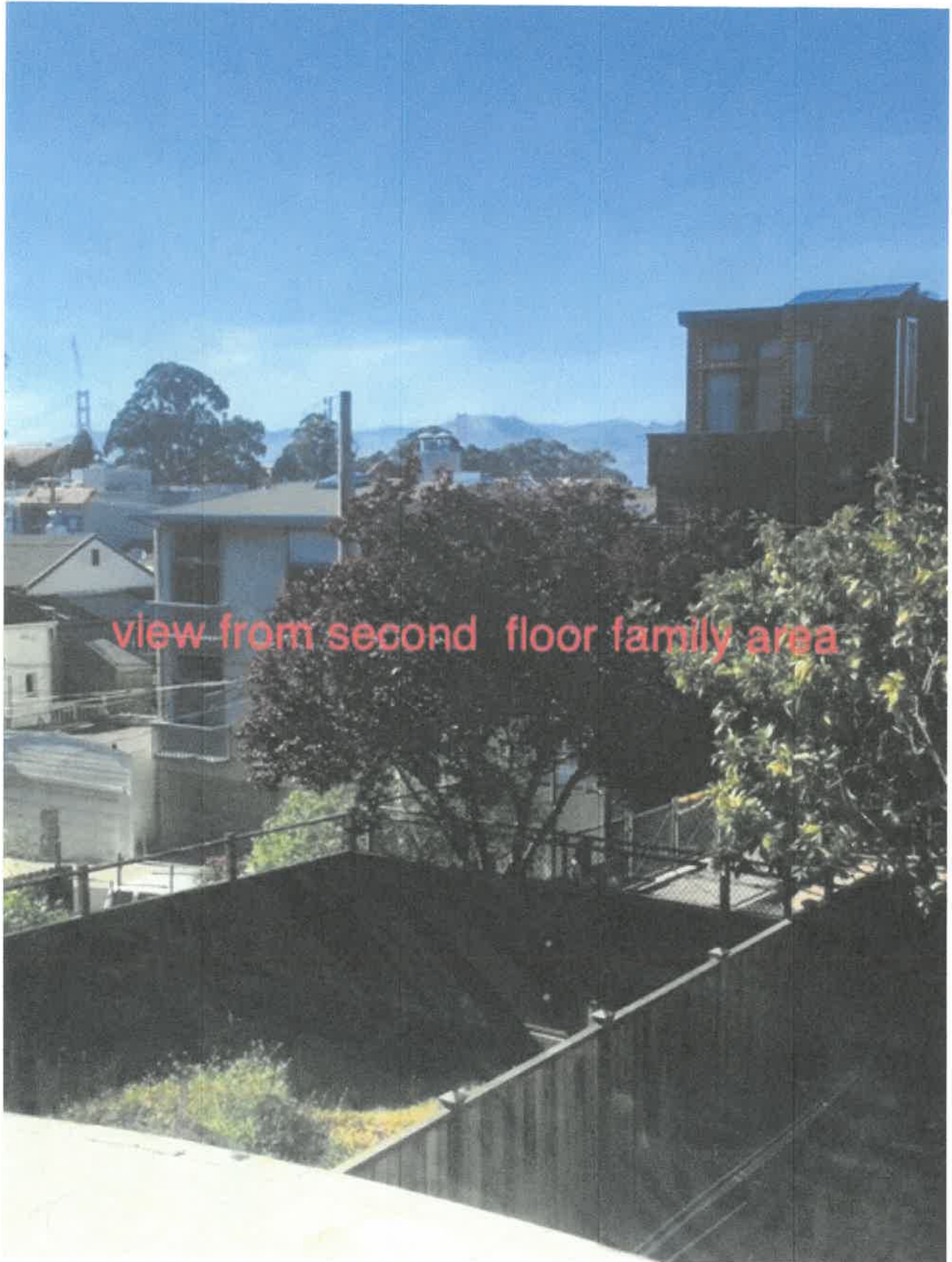
- Our third floor office will be heavily shadowed by the deep push out of the proposed Higgins home. The dismissive recommendation from Mr. Higgins is for us to build a larger window.

We understand that city living means that homes are closer in proximity to one another. Our families are long time San Franciscans. However, as San Franciscans and as folks in other cities and suburbs we know it is important to respect one another's home space and show courtesy between neighbors when considering the design of a new home. That is the purpose of the CHA Guideline (adopted by the city) that urges sponsors to be "Good Neighbors" and to "compromise neighbor's amenities".

We are glad that Mr Higgins is building a new home but we ask for some give in the proposed design that would still allow him to build a sizable home while accommodating the concerns of the neighbors.

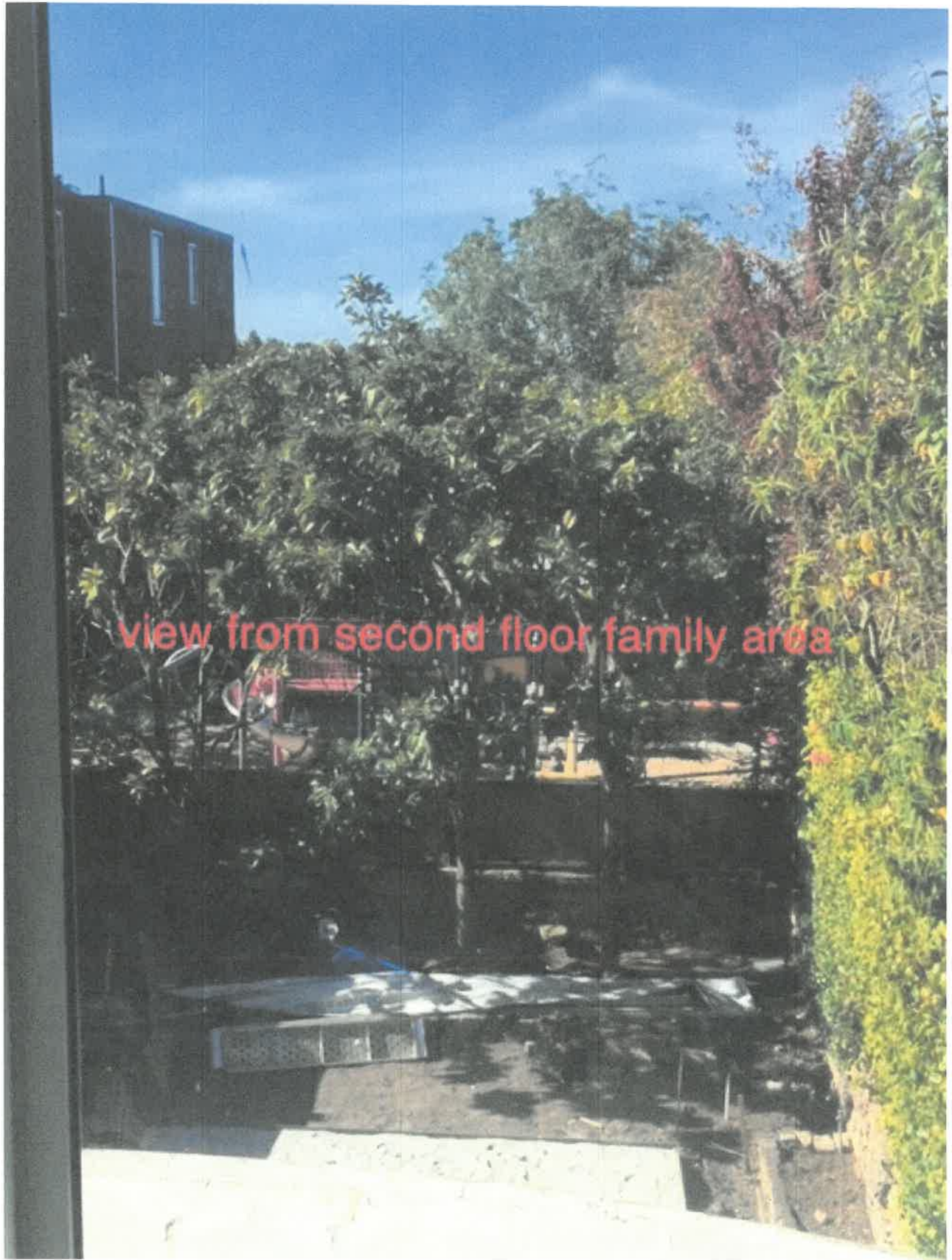
Thank you,

Howard and Kerry Dallmar

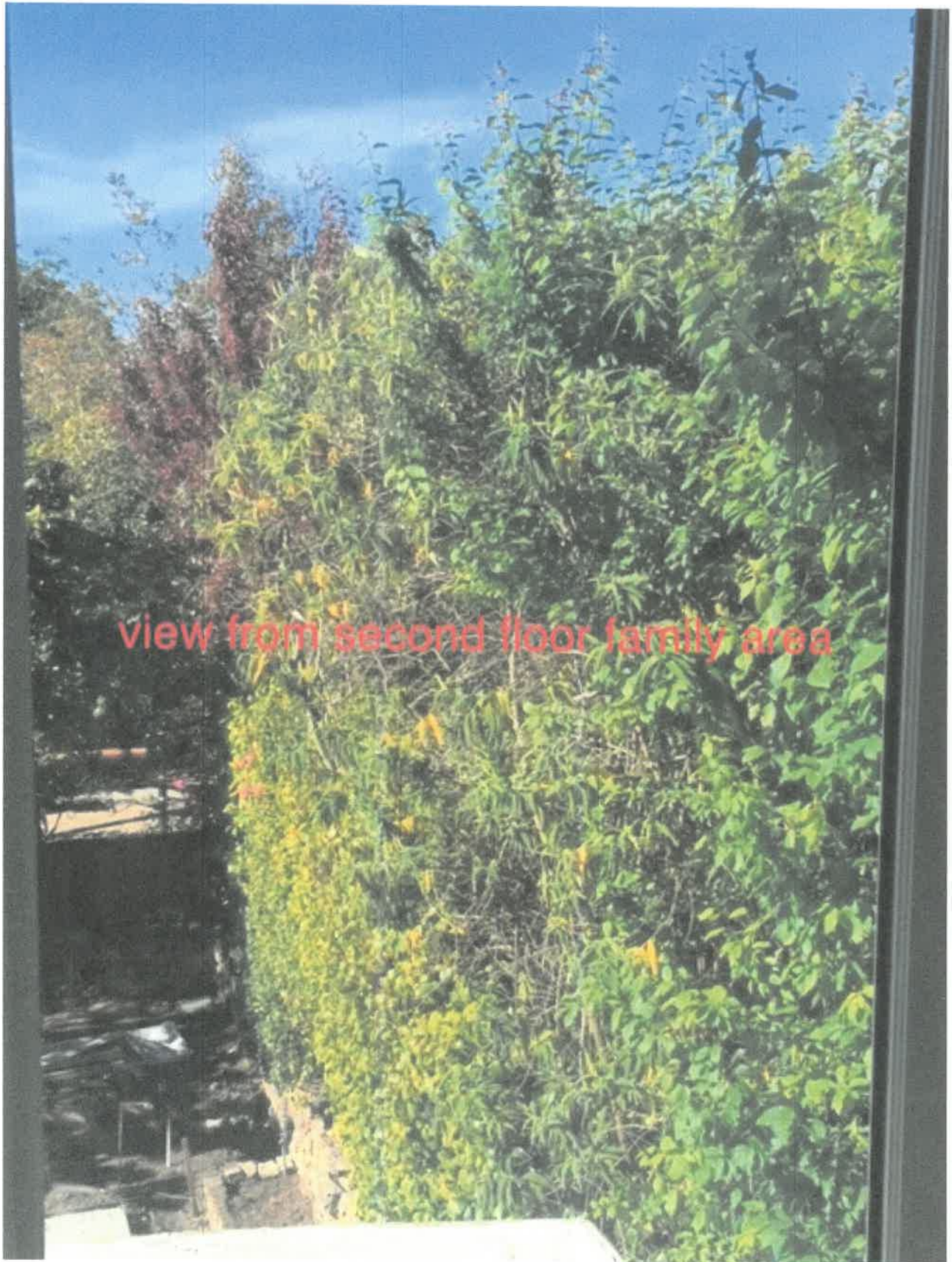


view from second floor family area







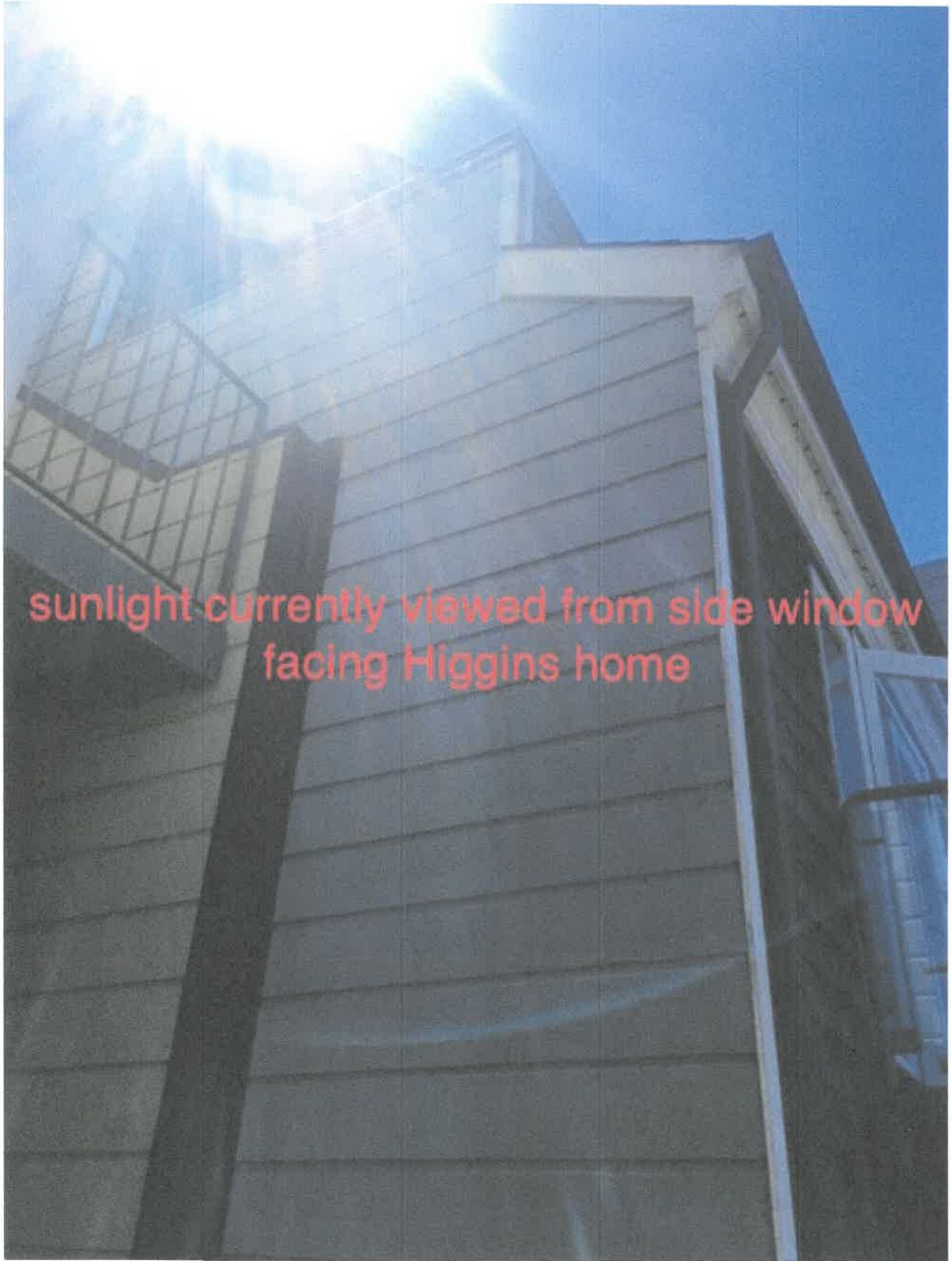




A photograph of a family area. A side window is the central feature, with a woven blind partially open, allowing bright sunlight to stream in. The light creates a strong glare and casts shadows on the interior. To the left of the window, a striped armchair is visible, with a black and white geometric patterned throw blanket draped over its back. To the right, a lamp with a white shade sits on a dark surface. The walls are a neutral, light color. The overall atmosphere is bright and airy due to the direct sunlight.

direct sunlight from side window in family area





sunlight currently viewed from side window  
facing Higgins home

**COW HOLLOW ASSOCIATION INC.**  
**Box 471136, SAN FRANCISCO, CA 94147**

April 22, 2019

San Francisco Planning Commission  
San Francisco Planning Department  
1650 Mission Street #400  
San Francisco, CA 94113

**RE: 2758 Filbert Street - 311 DR**

Dear President Myrna Melgar and Commission Members:

Increasing the size of the subject residence from 2,700 to more than 5,800 SF should not cause a negative impact on adjacent properties when these impacts can be avoided. The existing building is set back along the west side of the property four to seven feet for most of its length. The existing rear wall already protrudes into the 45% rear yard area. The subject plans attempt to "average" the rear wall with the two adjacent neighbors which moves it farther into the rear yard. This runs afoul of the Cow Hollow Neighborhood Guidelines adopted by the City in 2001. An earlier Cow Hollow Association letter (June 11, 2018), addressed to Planning Staff and the project architect dealt with these same issues.

**Keep Rear Wall Even with Rear Wall to East.**

Page 42 of the adopted section says:

"Extensive rear additions on down-sloping lots, even if they preserve the amenities of neighborhood homes, can result in out-of-scale structures that fill up the hillsides and eliminate open space.

However, should a rear extension be desired, it may be necessary to limit the addition so as not to create out-of-scale structures or compromise neighbors' amenities."

The fact that the appendix to the Guideline was not adopted in 2001, does not alter the authority of the adopted section as it governs neighborhood remodels. Page 42 was adopted and should be followed. Keeping the proposed rear wall even with the wall to the east will improve the light and air in the rear rooms and deck of the neighbor to the east immensely. It will also benefit the neighbor to the west. This can be done without surrendering any significant space. The exercise room on the first floor can be kept at its full size, but moved back 3 or 4 feet by relocating the adjoining pantry across the hall and reconfiguring the adjacent closet space. The family room and kitchen could be reduced in size slightly from 38 feet in length to 34 feet, still offering a very large

room. Following this procedure incorporates "Good Neighbor" policy, a very important part of the adopted section of the Guidelines (pg. 35) and it reduces privacy, light and air issues at these floor levels for all parties. Averaging rear lot wall distances which the current plan resorts to, results in a game where rear walls can be constantly averaged further into rear yards, reducing important mid-block open space and benefits for everyone.

### Protect Lot Line Windows

The multifamily property to the west contains lot-line windows on the property line. The present west wall location of the subject property provides a five to seven foot wide side space that runs the full length of the subject building.

Cow Hollow Guidelines, page 35. "Where side yards exist, new buildings or expansions should be designed so as to preserve these side yards in their entirety and thus to protect the privacy of and light to neighboring buildings. When rear additions impinge on light and air to adjacent homes, setbacks can be used to preserve the extent of light and air intended in the existing design."

In discounting the un-adopted sections, we don't want to lose sight of the fact that the above section was adopted and directs the project sponsor to preserve side yard space or provide setbacks so as not to impinge on the intended light and air for the lot-line windows — regardless of their current use. As a "Good Neighbor" policy, setbacks should be applied to the rear portion of the west wall as is given to the property to the east at the rear. The property line is irregular and a setback could be supplanted with light wells. The argument that lot-line windows are not protected is self-serving. Does the City say that they no longer protect buildings from fire because they have no modern sprinkler system, or because the electrical system is no longer approved? Of course not!

Adopting these suggested changes will improve nearby neighbor's privacy and important light benefits which they have historically enjoyed.

The CHA Zoning Committee has tried to work with the project sponsor and neighbors to balance each parties' wishes. Lately, the sponsor has been responsive in settling some concerns, but the above important issues still need addressing. We appreciate the role of the Planning Commission in this and ask they consider incorporating our requests in finalizing this proposed extensive home renovation. Thank you.



Sincerely,

A handwritten signature in black ink that reads "Geoff Wood". The signature is written in a cursive, slightly slanted style. The first name "Geoff" is written with a large, looping "G" that extends over the second name "Wood".

Geoff Wood

Cynthia Gissler  
Cow Hollow Association  
Zoning Committee

Cc: Myrna Melgar, Planning Commission President

Christopher May

David Winslow

Elizabeth Gordon-Jonckheer

Geoff Gibson

The Cow Hollow Association (CHA) is bounded by Lyon, Pierce, Greenwich, and Pacific Streets, and represents the interests of approximately 1, 100 homeowners. Our Association is dedicated to the preservation of the residential character of the Cow Hollow neighborhood.

From: **Joseph Desautels** joseph.desautels@gmail.com  
Subject: 2758 Filbert St  
Date: February 11, 2019 at 10:06 AM  
To: david.winslow@sfgov.org, christopher.may@sfgov.org  
Cc: Kerry Dalmar dallmarfamily@comcast.net



Dear Mr. Winslow and Mr. May,

As a neighbor on Filbert Street, I am writing you of our concerns about how casually planning seems to be setting aside the Cow Hollow Guidelines and allowing the excessive development of this property. The reasonable modifications that Mr. & Mrs Dalmar are requesting seem like a reasonable compromise and appear to have minimal impact on the quality of what is being proposed. We are concerned about the many excessive developments that have or are working their way through planning that are and will have substantial detrimental impact on our community. These developments do nothing to help meet the city's housing problems of availability and affordability of housing.

The proposal for this property, while an improvement over the sorry state of the existing structure, continues the "over expansion" that is destroying the character of the neighborhood. Of particular concern is the massive expansion to the rear. On the plans, there are three lines dealing with rear yard setback:

- 40% rear yard setback
  - Avg rear yard setback
- Max permitted setback

As you can see from the plans, the property to the East nicely conforms to the 40% setback. The property to the west exceeds it, thus the average. The project proposes to exceed the 40% by 8-9 ft. This should not be allowed. Using the "average" becomes a slippery slope, because it now enters into future calculations as to what might be the "average". Exceeding the setback to the "max permitted" now becomes a huge step backward in terms of preserving rear yard setback. If this is permitted we will eventually have no setbacks and the "Manhattanization" of the neighborhood will be complete.

Projects should not be allowed to exceed limits because someone else exceeded them. If we are to have limits, we shouldn't be looking for ways to break them, but rather encourage them to be met.

One of the prime motivations behind these excessive developments is to simply produce square footage, which makes them more profits and further increases the cost of housing. Almost none of these developments taking place in our neighborhood are being done by people who intend to live in the community. If they were, they would be much more willing to find a solution that works for all parties.

Thank you for your consideration.

Joseph Desautels  
2720 Filbert St

From: **Michelle Sangiacomo** michelle.sangiacomo@gmail.com  
Subject: 2758 Filbert Street  
Date: February 10, 2019 at 4:55 PM  
To: david.winslow@sfgov.org, christopher.may@sfgov.org

Dear Mr. Winslow and Mr. May,

This is in regards to the proposed build at [2758 Filbert Street](#). I understand a few of the neighbors have filed for Discretionary Review. I want to add my two cents about this, and support those neighbors who have filed for the DR.

I went through this process in 2011 - we did a full remodel. The initial plans were contested by some neighbors and, after numerous discussions with the neighbors, and our own DR, we decided it was very important to comply with the Cow Hollow Guidelines. I understand the property owner, Mr. Higgins, does NOT intend to comply with the Cow Hollow Guidelines. If this is the case, and the City is going to support him in failing to do so, why are the Guidelines there in the first place?

We have a lovely neighborhood in Cow Hollow, but specifically this block. The neighbors, however, are concerned that Mr. Higgins's property will turn into another version of the building at [2736 Filbert Street](#), which was clearly built by someone who does not live in the neighborhood, who is trying to make as much money as possible without being concerned about what it is doing to the neighborhood. I realize this is unsubstantiated, but the word on the street is Mr. Higgins plans to sell immediately after the remodel, or even before.

Please consider the neighborhood and the neighbors before you allow Mr. Higgins to so openly disregard the Cow Hollow Guidelines. We're not asking you to deny planning permission but to urge him to scale back on his project.

Thank you for considering my email.

Michelle Sangiacomo



I SUPPORT THE DR APPLICANT'S POSITION ON 2758 FILBERT STREET  
BUILDING PERMIT APPLICATION NUMBER: 2017.1013.1247

[illegible]

## BUILDING PERMIT APPLICATION NUMBER: 2017.1013.1247

[illegible]

## BUILDING PERMIT APPLICATION NUMBER: 2017.1013.1247

[illegible]



# COW HOLLOW NEIGHBORHOOD - PRE

Address: 2758 Filbert Street

## QUESTION

### A. NEIGHBORHOOD ON-SITE PRE-APP MEETING

Pre-App Meeting Notice received by neighbors in Project Area? DR Reform 2009
Notice of Meeting mailed. (Minimum 14 days in advance). DR Reform 2009
Was CHA notified of Pre-App Meeting?
List created of those in attendance with email/phone? DR Reform 2009
Were Design Phase plans available for viewing at meeting?
Did Project Sponsor or Architect ask for comments or suggestions from neighbors? <u>List Made?</u>
Did Project Sponsor or Architect offer ways to possibly mitigate concerns of neighbors (i.e. "Good Neighbor" gestures) or the CHA?
Prior to this meeting, did the Project Architect review the CHNDG (Neighborhood Guidelines) to determine how the proposed project may be affected, limited or restricted by the Guidelines? CHNDG Section 1, Section 3
Has the Project Sponsor met with the CHA Zoning Committee to discuss the project?
Would an additional Pre-App meeting be helpful in resolving significant issues of concern?

### B. NEIGHBORHOOD CHARACTER & SITING

Block-face character: Clearly Defined __ Complex <u>X</u> or Mixed
Does the building respect the topography of the site (on hill, valley, slope) to preserve natural light for nearby residents? Location (CHNDG pgs. 11-12, 21-27)
Does the position of the building on the block relate to other buildings and other significant urban features? Location (pgs. 21-25)
Does the building design respect the pattern of building setbacks? Setback (pgs. 25-28)
Does the building design respect rear yard patterns and mid-block open space? Rear Yards (pgs. 28-29)

Add'l Comment Box: A few changes could make the remodel more tense of 3 feet on the west side would have slight affect on the project but prov

## QUESTION

### B. NEIGHBORHOOD CHARACTER & SITING Cont'd

Does the building design respect the pattern of side spacing between buildings? Side Spacing (pgs. 30-31)

Does the building design adequately incorporate "good neighbor" gestures?

Do the "good neighbor" gestures significantly address the concerns of the neighbors?

### C. BUILDING ENVELOPE

Is the building roofline compatible with the pattern of the rooflines on the block-face? Roofline (pgs. 32-33)

Is the buildings volume and mass compatible with that of the surrounding buildings? Volume & Mass (pgs. 34-36)

### D. SCALE

Are the building's dimensions (length, width and height) compatible with neighboring buildings? Dimensions (pgs.37-39)

Are the buildings overall vertical and horizontal proportions compatible with the patterns along the block-face?

### E. NEIGHBOR'S LIGHT AND VIEW

Does the building scale preserve the natural light and views for nearby residents? Light and View (pgs.11,27,35,42)

### F. TEXTURE AND DETAILING

Do the building's materials compliment those used in the surrounding area? Exterior Materials (pgs.40-41)

Are finished materials used on all exposed facades of the building?

Does the building respect the amount and level of detail and ornamentation on surrounding buildings?

### G. OPENINGS

Does the building respect the pattern of entryways along the block-face?

Is the building's entry compatible in size, placement and details with surrounding buildings?

<b>QUESTION</b>
Are the buildings windows compatible with the proportion size and detailing of windows of surrounding buildings?
Is the width of the garage door compatible with adjacent garage doors on the block-face?
Does the proposed garage door compliment the style and the design of the rest of the building?
<b>H. LANDSCAPING</b>
Is the area designated for landscaping in the front setback area of appropriate size and shape? Landscaping (p. 48)
<b>I. PERSPECTIVE, STORY POLES</b>
Has Applicant submitted a Perspective, Model, or erected Story Poles to show scale as requested by Planning Staff or Neighbors? DR Reform 2009
<b>J. HISTORICAL SIGNIFICANCE</b>
Is the subject property more than 50 years old?
Is the subject property part of any historical survey? (REF:2626 Filbert St. HRER 2007)
Are there historically significant aspects of the building: association with significant events, persons, architecture, or history?
Was a Cat Ex from Environmental Review issued with no limiting concerns?
<b>Additional Comments:</b>



## -APP CHECKLIST

Submitted By CHA

**DATE: September 19, 2017**

REFERENCE OR COMMENTS		Yes	No	Study	Yes
		X			
		X			
			X		
		X			
		X			
		X			
	Architect was going to study how to get more light to neighbor to west. Was going to study how to give neighbor to east more view and light.			X	
		X			
		X			
				X	

		X	
		X	
See comment below.	X		
		X	

**able for adjacent neighbors. Pulling the rear back a few feet and adding a light corridor  
side neighbors important relief.**

REFERENCE OR COMMENTS	YES	NO	SOME	N/A?
<b>Address: 2758 Filbert Street</b>				
			X	
			X	
			X	
Kept roofline in front. Went to flat roof at rear to stay within height limits.	X			
Building area expands from approx. 2,750 sf to over 5,200 sf. Almost a doubling of space.		X		
			X	
Height is close to allowable limites, but horizontal expansion extends past neighbor's deck and rear living space blocking light.			X	
See above.			X	
	X			
	X			
	X			
	X			
	X			





# ZACKS, FREEDMAN & PATTERSON

A PROFESSIONAL CORPORATION

235 Montgomery Street, Suite 400  
San Francisco, California 94104  
Telephone (415) 956-8100  
Facsimile (415) 288-9755  
[www.zfplaw.com](http://www.zfplaw.com)

April 29, 2019

President Myrna Melgar  
San Francisco Planning Commission  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Re: Project Sponsor's Response to Request for Discretionary Review  
Case No. 2017-013328DRP – 2758 Filbert Street, San Francisco

Dear President Melgar and Members of the Planning Commission:

We are responding to the letter dated April 22, 2019 from the Cow Hollow Association (the "CHA") regarding the above referenced project. There are numerous incorrect statements in the CHA letter. Our letter focuses on the CHA's two principal arguments.

In its section titled "Keep Rear Wall Even with Rear Wall to East," the CHA asserts that the Cow Hollow Guidelines preempt the San Francisco Planning Code and its well-established rules for rear yards. CHA's argument and their proposed solution deals exclusively with the depth of the subject's rear wall and pop-out, which they wish to limit to the depth of the lesser of the two adjacent rear walls (i.e., that of the east neighbor, the Dallmars at 2752 Filbert). However, "rear wall averaging" is explicitly permitted via San Francisco Planning Code Section 134. Pop-outs are likewise explicitly permitted via Code Section 136. These are both well established and are applied correctly in relation to the sponsors' project.

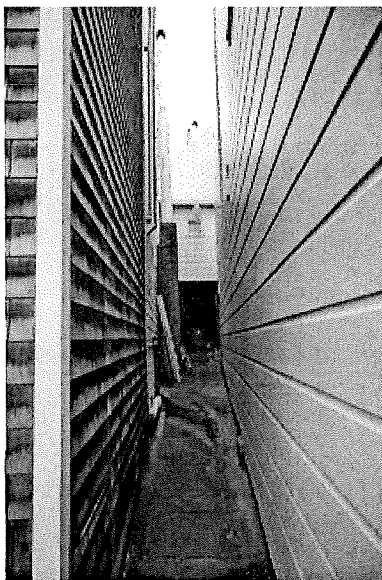
The text that the CHA excerpts from page 42 of the CHNDG and the accompanying CHA arguments refer and apply solely to rear additions on "down-sloping lots." The Project Sponsor's property is not a down-sloping lot, as defined by the CHNDG. The CHNDG defines a "down-sloping lot" (at p. 65) as being an elevation difference of 10 feet or more between: (a) the elevation at the front lot line; and (b) the elevation at the rear yard setback line. According to CHA, lots having less than that 10 foot elevation difference are considered "level lots." The actual elevation difference between the front lot line and the rear yard setback line on the subject property is 4 feet, 6 inches. This qualifies the subject property—per CHA's own definition—as a "level lot," not a "down-sloping lot." This means the guideline cited by CHA does not apply to this Project.

Out of an abundance of caution, we also considered an argument not yet posed by the CHA: what if the downslope is actually east-to-west, rather than the more typical south-to-north? That twist, however, is also not valid: the difference between the elevation of the east neighbor and the subject property is just a 2 feet, 6 inches, far less than the 10 feet difference needed to qualify this circumstance as “down-sloping.”

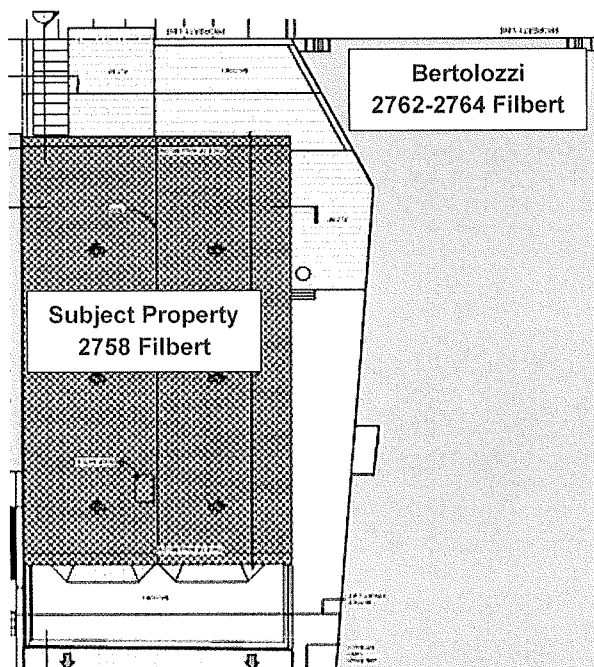
The DR Requestors’ entire argument regarding the proposed location of the subject property’s rear wall initially relied on on the proposed limits in the CHNDG Appendices. The Planning Commission explicitly declined to adopt those CHNDG Appendices and the limits therein, because they conflicted with the San Francisco Planning Code. That is well-established. The CHA now attempts to end-run that argument by advancing the “page 42 down-sloping” lot argument. That too fails here because the subject lot is not down-sloping—by CHA’s own definition—in neither the typical south-north direction nor the east-west direction.

In its section titled “Protect Property Line Windows,” the CHA has misapplied a well-intended guideline designed to preserve green space and to provide modest protections to property owners that had willingly created side-yards for their own benefit (e.g., for light and air or to create a modest separation from their neighbors). First and foremost, the space between the two buildings in this particular case is not a “side-yard.” It has never been used as such, does not

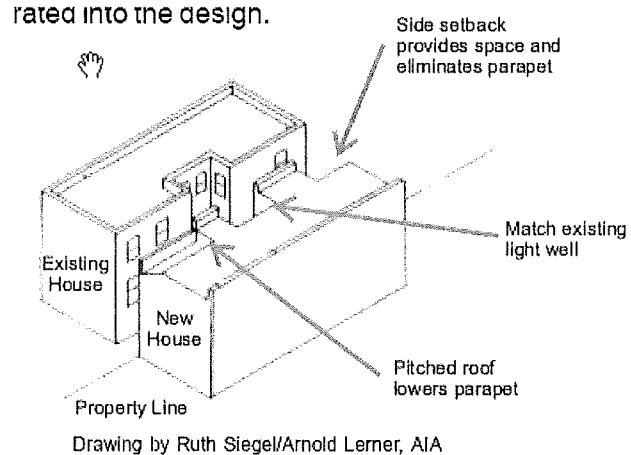
receive enough light to grow grass, has no planting whatsoever, and its walking surface is paved with concrete. Its width narrows to as little as 3 feet (not 5 feet as CHA contends) and the wider portion is not in fact “open space”—it already has a room built at the second-floor of the subject property that extends from the Project Sponsors’ Living Room over to the common property-line with the west neighbor (Bertolozzis at 2762-2764 Filbert Street). The space between the two buildings is not a side-yard. It’s a tradesman alley, which is already partially encumbered.



Tradesman alley at 2758 Filbert Street



Secondly, the quoted section of the CHNDG (page 35) must be read in context and taken together with the accompanying diagram on page 35 (shown below). The intent of this subsection is to provide modest protections to the “Existing House” since it incorporates a legitimate side-yard on its own side of the property-line. That’s not the same situation as here. The Bertolozzis’ building—the “Existing House” in this circumstance—has no side-yard on its own side of the property-line—rather, it sits on the lot line. Stated more directly: the Bertolozzis did not give-up a portion of their buildable area—as a side yard—in order to secure light/air benefits for their own living spaces. Instead, they built lot-line to lot-line on their buildable area. CHA’s argument says that the Bertolozzis can now lay claim to their next-door neighbor’s tradesmen alley as their own “side-yard” and for their own benefit, having “maxied out” their own lot. That is clearly not the intent of this section of the CHNDG.



Thirdly, the nature and location of the Bertolozzis’ side-facing property-line windows is significant. There are three windows that will be covered over by the project. All three are inoperable. That is, they do not provide a source of fresh air or building ventilation. None of those three windows serve living spaces. One is located in a first-floor entry foyer/stairwell which is already well served by an entry door having three (3) large (17”Hx32”W) panes of clear glass. That foyer/stairwell window is much smaller by comparison to the doorway glass, is amber colored, is frosted, and (again) is inoperable. The two other windows that will be covered over are narrow (36”Hx12”W) and serve second- and third-floor clothes closets. They too are inoperable. Again, none of these three windows are operable. None serve actual living spaces. Light and air arguments are therefore unjustified.

Next, side-setbacks are not required of either neighbor—the subject property’s entire block is zoned RH-2. Buildings on the vast majority of RH-2 zoned lots run lot-line to lot-line across the width dimension. It’s not unusual or extraordinary. It’s the norm. The Bertolozzis’ own building does it. The notion of preventing the sponsors from building on this portion of their RH-2 lot so that their next-door neighbors could max-out their own lot and then protest “we need light and air for our closets and entry foyer” is unjust. The project already provides an oversized lightwell to match the existing Bertolozzi lightwell. This practice for lightwells is common and well-established. But lot-line windows are not protected by the Planning Code, particularly where, as here, they provide no light or air.

Finally, the “fire response and sprinkler- or electrical-system” counter-argument that CHA puts forth is not at all analogous to lot-line windows . Fighting fire is a matter of public



safety, and the City protects all properties from fire, regardless of the state of their individual sprinkler- or electrical-systems. In contrast, the dispute here is a matter of property rights—not public safety—and between just two neighbors.

**Conclusion**

Neither argument advanced by the CHA holds-up on further analysis. The Subject Property's lot is not down-sloping, so the CHA's "page 42 down-sloping" lot argument—which attempts to prohibit ordinary and permissible rear wall averaging—is not applicable. The quoted section of the CHNDG on page 35 is designed to provide modest protections to property owners that have given-up a portion of their own property to create a side-yard for their own benefit. That is not the circumstance here. The Project should be permitted to build on the entire width of its lot, as have many, many other buildings in the neighborhood (no side-setbacks are required for RH-2 lots). It would be absurd to require the Project to protect closet and stairway windows.

The Project Sponsor has made numerous changes to the Project to address the DR Requestor's concerns. The Project is Code-compliant, and we respectfully request that the Planning Commission approve the Project as proposed.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC

A handwritten signature in dark ink, appearing to read "Ryan J. Patterson", is written over a horizontal line.

Ryan J. Patterson

# ZACKS, FREEDMAN & PATTERSON

A PROFESSIONAL CORPORATION

235 Montgomery Street, Suite 400  
San Francisco, California 94104  
Telephone (415) 956-8100  
Facsimile (415) 288-9755  
[www.zfplaw.com](http://www.zfplaw.com)

May 1, 2019

President Myrna Melgar  
San Francisco Planning Commission  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Re: Project Sponsor's Response to CHA Letter  
Case No. 2017-013328DRP – 2758 Filbert Street, San Francisco

Dear President Melgar:

Further to our letter dated April 29, 2019 (enclosed), we write to address misstatements in the Cow Hollow Association's response letter dated April 29, which was sent to us on April 30, 2019.

CHA first asserts that its own definition of "down-sloping lot" does not apply to the Cow Hollow Neighborhood Design Guidelines ("CHNDG") because, as CHA acknowledges, the Appendix to the CHNDG was never adopted. Instead, the CHA is asking the Planning Commission to ignore its own prior definition of "down-sloping," and apply the guideline at p. 42 to any lot that is not perfectly level. As a practical matter, that means nearly every lot in Cow Hollow. This is an absurd interpretation of the CHNDG, which contains many requirements that are only triggered when certain conditions exist (i.e., if X, then Y). Here, the Planning Commission decided not to adopt the "then Y" part, so CHA is now saying we should ignore "X" (the CHNDG definition of "down-sloping lot") and apply "Z" (restrictions on rear additions) to all projects, including on level lots, even if "X" does not exist. This is an attempt to usurp the Planning Code and the Planning Commission's authority.

The CHA's approach is also counter to the Planning Code, which treats a lot as down-sloping "where the average ground elevation at the rear line of the lot is lower by **20 or more feet** than at the front line thereof." (Planning Code, § 261.) Here, the elevation difference at the Subject Property is considerably less than 10 feet and far less than 20 feet. With only a 4'6" elevation change between the front of the lot and the rear yard line, the subject property is effectively level for San Francisco, where truly flat lots are rare. It cannot be treated as a "down-sloping" lot for the purposes of the CHNDG or the Planning Code.

Even if the "down-slope" guideline at p. 42 applied to the Subject Property, this guideline certainly would not require the rear wall of the Project to be pulled back, as CHA has requested.

The Project has already been significantly scaled back, with notching and side setbacks created at the third and fourth floors. Now the CHA wants to also pull the rear wall due to a nonexistent down-slope condition. In any event, the guideline relied on by CHA warns of two negative impacts: (a) out of scale structures; and (b) neighbors having their “amenities” “compromised.” Neither of these impacts is defined in the CHNDG, but the Project satisfies these objectives under any definition.

### **Scale**

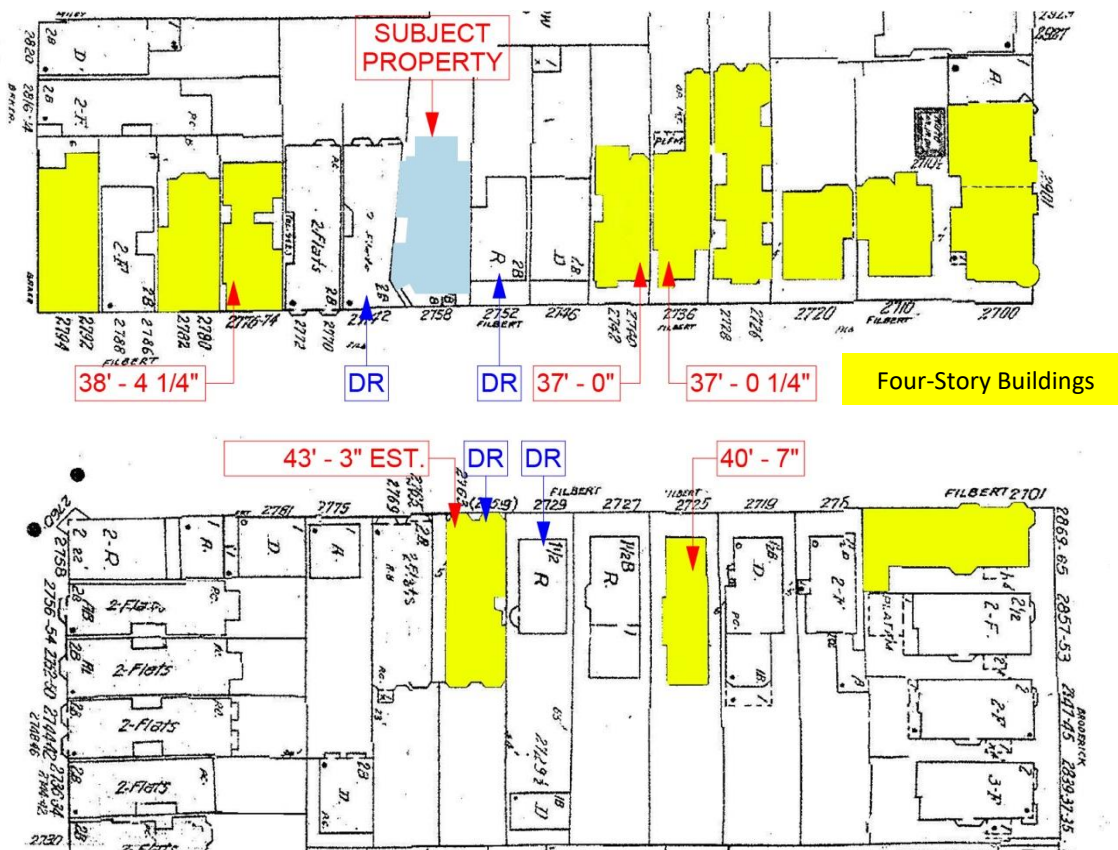
The Project is in scale with the homes in its vicinity. The vast majority of buildings in the immediate neighborhood are three- and four-story buildings. All are sited within a very large, continuous and contiguous 40-X district. There are 12 four-story buildings on the 2700 block of Filbert Street alone (on both sides of the street), and many more on adjacent and nearby blocks.

The project is a four-story building and is 37 feet, 9 inches tall. It is Code-compliant and “steps back” at both the front and the rear. It is by no means the tallest building on the block—there are several other buildings that are over 40 feet tall. The Project does not tower over either of its adjacent neighbors. In fact, the renovated building will be 2 inches lower in overall height than the existing building at its peak. By all height measures, the project is not out of scale.

Similarly, the depth of the rear addition is based on the average depth of the adjacent buildings, as the Planning Code allows. The project retains an ample rear yard of nearly 1,000 square feet, preserving the mid-block open space. It fits nicely within its lot. There are other properties on this block that extend far more into their rear yards and contribute far less to the mid-block open space. Indeed, the DR Requestor’s building to the west (at 2762-2764 Filbert Street) already extends beyond the Project Sponsor’s home, and is deeper than the proposed Project. That neighbor’s building impacts the Subject Property at the rear, not the other way around. It is incongruous for a neighbor living in a larger building to claim the Project is “out of scale.”

The images on the following page highlight four-story buildings in the vicinity of the Project and show that numerous existing buildings are taller than the Project, and extend into their respective rear yards to a greater extent than the Project will:





## Amenities

The term “amenities” is not defined in the CHNDG. The CHA is attempting to take advantage of this by characterizing it as anything they want it to be – including closet and stairway windows. The CHA’s April 29 letter draws an absurd false equivalence between a closet window and the Project’s proposed rear windows, which will provide light to living spaces. If an “amenity” means anything that the neighbor wants to preserve (as CHA suggests), the CHNDG would allow disgruntled neighbors to block *any* project they don’t like, no matter how trivial the “amenity” may be. For the purposes of the CHNDG, a closet or stairway window cannot be characterized as an “amenity.”

Similarly, lot-line windows are not an “amenity.” Rather, they represent an improper attempt by neighboring owners to control what the Project Sponsor is allowed to build. It is notable that the west neighbors’ building extends across the entire width of its own lot, from lot-line to lot-line, yet they seek to prevent the Sponsors from doing the same with their own lot. The CHA and DR Requestors’ are claiming that the right to continue to impose on the Project Sponsor’s property, by preserving lot-line windows, is an “amenity.” This is not correct.

In any event, the Project has no significant impact on neighbors' amenities. As we have noted in our previous correspondence:

- The Project's rear-yard pop-out does not impact light and air to either neighbor at all. The pop-out is below the elevation of all neighboring second-floor windows, and was voluntarily reduced in both height and depth by the Project Sponsor.
- The east neighbor (2752 Filbert Street) also has an exterior egress stair (i.e., a permanently installed fire escape) and an accompanying fire-wall that abuts the Subject Property at their common property-line. The projects' rear extension has no effect on these "amenities" whatsoever. The fire escape remains useable. The project's rear extension does not affect, nor does the fire escape require, light and air.
- A full 7 feet beyond that fire escape is the east neighbor's kitchen/family room at the second-floor. The Project's rear addition does not block light or air to this room. There is extensive light and air already present via their four full-height rear-facing windows/doors. In fact, these windows would meet Code requirements for light and air for a room double the size (per the enclosed calculations). The DR Requestors' true goal appears to be to protect their view of the Golden Gate Bridge through a side-facing window. However, views are not protected in San Francisco and – more significantly – the same view of the Golden Gate Bridge is retained through the four rear-facing windows/doors at their exterior deck:



This photo shows the four large windows at the rear of the second floor of 2752 Filbert, and the fire escape and fire-wall adjacent to the Subject Property.

- The only windows to be blocked at the adjacent property to the west (2762-2764 Filbert Street) are two lot-line closet windows and a stairway window. These are not amenities, but in any event they are all inoperable. The Planning Code does not protect lot-line windows, particularly if they are inoperable closet/stair windows that provide no air, and are not needed to provide light to living spaces.

As we have previously noted, numerous revisions have been made to the Project, and further revisions have been offered. These revisions include:

- The addition of notches in the northwest, southwest, and northeast corners of the Project.
- Providing an oversized lightwell adjacent to 2762-2764 Filbert Street.
- A reduction in the depth and height of the pop-out.
- A reduction in the size of the rear deck.
- Side-setbacks at the Project's third and fourth stories

### **Conclusion**

The CHA argument essentially demands the preservation of anything they consider to be an "amenity," no matter how trivial the amenity is. This was not the intent of the Planning Commission in adopting only the front section of the CHNDG.

The CHA is effectively arguing for a ban on the use of rear-yard averaging and pop-outs in Cow Hollow, but these are expressly allowed by the Planning Code. Given this proposed ban was specifically not adopted by the Planning Commission, it would be improper to interpret the "down-slope" guideline to impose a de facto ban on these features, after the Planning Commission has already decided to the contrary. We respectfully request that the Planning Commission approve the Project as proposed.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC



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Ryan J. Patterson



## Exhibit 4: Light and Air Calculations



### California Building Code

#### Section 1203.5.1 Ventilation Area:

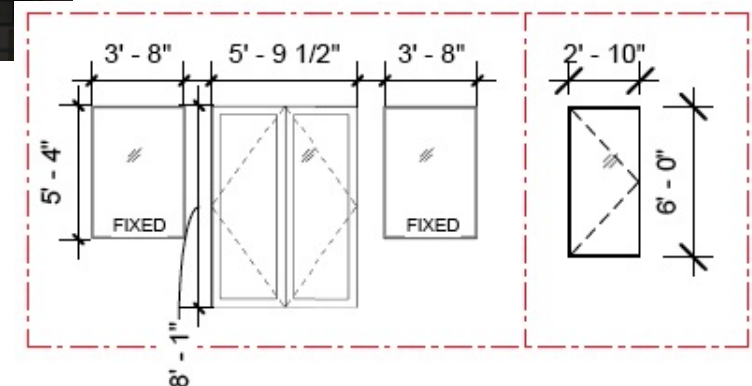
The openable area of the openings to the outdoors shall be not less than 4% of the floor area being ventilated.

### California Building Code

#### Section 1205.2 Natural Light:

The minimum net glazed area shall not be less than 8% of the floor area of the room served.

		< Decimal >		Area of	% Used	Quantity	Area	Supported
Width	Height	Width	Height	Each	in Calc			Sq Ft
Air Calculations								
3'-8"	5'-4"	3.67	5.33	19.56	0.0%	2	0.00	
5'-9 1/2"	8'-1"	5.79	8.08	46.82	50.0%	1	23.41	
2'-10"	6'-0"	2.83	6.00	17.00	100.0%	1	17.00	
							40.41	1,010
Light Calculations								
3'-8"	5'-4"	3.67	5.33	19.56	100.0%	2	39.11	
5'-9 1/2"	8'-1"	5.79	8.08	46.82	100.0%	1	46.82	
2'-10"	6'-0"	2.83	6.00	17.00	100.0%	1	17.00	
							102.93	1,287



## Exhibit 4: Light and Air Calculations



### California Building Code

#### Section 1203.5.1 Ventilation Area:

The openable area of the openings to the outdoors shall be not less than 4% of the floor area being ventilated.

### California Building Code

#### Section 1205.2 Natural Light:

The minimum net glazed area shall not be less than 8% of the floor area of the room served.

		< Decimal >		Area of Each	% Used in Calc	Quantity	Area	Supported
Width	Height	Width	Height					Sq Ft
Air Calculations								
3'-0"	5'-0"	3.00	5.00	15.00	50.0%	1	7.50	
5'-0"	5'-0"	5.00	5.00	25.00	0.0%	1	0.00	
3'-4"	5'-0"	3.33	5.00	16.67	50.0%	1	8.33	
							15.83	396
Light Calculations								
3'-0"	5'-0"	3.00	5.00	15.00	100.0%	1	15.00	
5'-0"	5'-0"	5.00	5.00	25.00	100.0%	1	25.00	
3'-4"	5'-0"	3.33	5.00	16.67	100.0%	1	16.67	
							56.67	708

