



# SAN FRANCISCO PLANNING DEPARTMENT

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## Discretionary Review Full Analysis

HEARING DATE JULY 19, 2018

*Date:* July 12, 2018  
*Record No.:* 2018-004675DRP-02  
*Project Address:* 310 MONTCALM STREET  
*Permit Application:* 2018.01.16.8744  
*Zoning:* RH-1 (Residential, House, One-Family) Zoning District  
40-X Height and Bulk District  
Bernal Heights Special Use District  
*Block/Lot:* 5527/007  
*Project Sponsor:* SIA Consulting  
1256 Howard Street  
San Francisco, CA, 94105  
*Staff Contact:* Alexandra Kirby – (415) 575-9133  
[Alexandra.Kirby@sfgov.org](mailto:Alexandra.Kirby@sfgov.org)  
*Recommendation:* **Do not take DR and approve the project as proposed.**

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

### BACKGROUND

The proposed scope of work is to abate an outstanding Planning Enforcement case relating to the project sponsor exceeding the scope of work of a permit issued over the counter. Below is an outline of the permit and complaint history of the subject property:

- March 18, 2016 – Building Permit Application (“BPA”) No. 2016.03.18.2505 filed and issued for exploratory demo to determine sheetrock and termite damage. No Planning review required.
- April 5, 2016 – Violation No. 2016100171 filed with Dept. of Building Inspections (“DBI”) for work exceeding scope of exploratory demo permit.
- April 11, 2016 – BPA No. 2016.04.11.4470 filed to abate Violation No. 2016100171. Scope includes interior remodel, new roof deck at rear, three new dormers and window replacement. Permit approved over the counter by Planning Staff and issued April 27, 2016.
- July through December 2016 – three additional building permits submitted and approved to address foundation work and removal of an unsound rear structure. No Planning review required.
- February 27, 2017 – Enforcement Case No. 2017-002370ENF opened with the Planning Department, citing significant exterior alterations, addition of a new story and generally exceeding scope of BPA No. 2016.04.11.4470.

Following a site inspection, Planning Department Staff issued a Notice of Enforcement on April 12, 2017 to inform the project sponsor (previous architect for the project) of the violation. Plans were provided via email for initial review and a revised Notice of Enforcement was issued on June 21, 2017, which outlined

all required revisions and information, and the Zoning Administrator issued a suspension of all active permits. On August 16, 2017, a Notice of Violation was issued due to the fact that an adequate permit had not yet been submitted via DBI for review. No plans were submitted in response and on October 20, 2017, a Notice of Penalty was issued with a penalty totaling \$10,000 plus staff time and materials. Following ongoing communication with a new architect (SIA Consulting), the subject permit (BPA No. 2018.01.16.8744) was submitted to DBI on January 8, 2018.

In November 2017, the Planning Department referred the case, in conjunction with other ongoing violations with the subject property owner to the City Attorney’s office for investigation. As of June 21, 2018, the City Attorney filed for legal action against the property owner for similar violations at seven properties throughout the city.

### **PROJECT DESCRIPTION**

The proposed scope of work includes

- Removal of a previously existing unpermitted rear addition
- Addition of a small third story roof deck
- Reduction of illegally constructed dormers to comply with Department guidelines
- Addition of a proposed parking space within the side setback that would be screened by a low fence at the front property line
- Restoration of the primary façade, and
- Interior remodel.

The additional square footage at the attic level would offset the removal of the rear bump-out, thus maintaining the existing habitable area of 2,160 square feet.

### **SITE DESCRIPTION AND PRESENT USE**

The subject property is located on Lot 007 in Assessor’s Block 5527 on the north side of Montcalm Street between Alabama Street and Peralta Boulevard in the Bernal Heights neighborhood. The project site contains a two-story single-family dwelling constructed circa 1900 on a 25-foot wide by 100-foot deep lot.

### **SURROUNDING PROPERTIES AND NEIGHBORHOOD**

The surrounding neighborhood is residential in character and comprised primarily of one- to three-story single-family residences that were predominantly constructed between 1900 and 1910 in varying styles; a number of buildings were constructed after the Second World War and many have undergone significant alterations, so the character of the neighborhood is eclectic. The subject block is located in RH-1 (Residential, House, One Family) Zoning District and features a large mid-block open space. Mullen Peralta Mini Park is located one block to the east, overlooking the Mission District.

### **BUILDING PERMIT APPLICATION NOTIFICATION**

TYPE	REQUIRED PERIOD	NOTIFICATION DATES	DR FILE DATE	DR HEARING DATE	FILING TO HEARING TIME
311 Notice	30 days	April 16, 2018 – May 16, 2018	May 15, 2018 and May 15, 2018	July 19, 2018	65 days

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	10 days	July 9, 2018	July 9, 2018	10 days
Mailed Notice	10 days	July 9, 2018	July 9, 2018	10 days

PUBLIC COMMENT

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)	0	2	0
Other neighbors on the block or directly across the street	0	0	0
Neighborhood groups	0	0	1

The Bernal Heights East Slope Design Review Board provided a letter (attached) stating that the proposed design is in conformance with their design guidelines; however it states that they find it reasonable to require remediation of damage to both adjacent properties.

DR REQUESTOR

The following individuals filed a Request for Discretionary Review:

- Marianne Bachers, property owner of 312 Montcalm Street, immediately west of the subject building; and,
- Susanne Thackrey, property owner of 308 Montcalm Street, immediately east of the subject building.

DR REQUESTOR’S CONCERNS AND PROPOSED ALTERNATIVES

The first DR Requestor outlined the following issues:

**Issue #1:** Requests removal of the proposed parking space in the existing 7’ side setback. The proposed parking space is adjacent to a ground story bedroom window at 312 Montcalm Street. There is no pattern of parking in side setbacks on the subject block.

**Issue #2:** The proposed front dormer, which would be a reduction of the illegally constructed vertical addition, is not characteristic of Queen Anne cottages like the subject building.

**Issue #3:** The proposed rear dormers conflict with the rooflines of the surrounding homes and would impact light and air in the neighboring rear yards.

The second DR Requestor outlined the following issues:

**Issue #1:** The property owner should be required to remediate impacts to the foundation of 308 Montcalm Street prior to approval of the subject building permit. The project sponsor has violated legal agreements to address damage to the adjacent property.

Reference the attached *Discretionary Review Applications* for additional information.

## PROJECT SPONSOR'S RESPONSE

No response was provided by the project sponsor or their representatives.

## PROJECT ANALYSIS

The proposed scope of work is based on ongoing collaboration with the new project architect, SIA Consulting, and Department Staff to bring the subject building into compliance with the Planning Code following egregious illegal work performed by the project sponsor, as described below:

- The proposed dormers reflect the plans originally approved by Planning Staff over the counter and are in compliance with the Planning Department Dormer Guidelines. The new massing was determined by preservation staff to comply with the *Secretary of the Interior's Standards* and will not cause an extraordinary or unusual impact to light and air access for surrounding properties.
- The proposed parking space is located within the buildable envelope of the building and appears to have been historically present at the property considering the existing curb cut. The plans note a 7'-6" side setback, which is the minimum width permissible for a compact parking space under Planning Code Section 154(a). No parking is required for the project.
- While the Department is deeply concerned about the project sponsor's impacts to the adjacent properties through prior unpermitted construction, the Planning Department does not have jurisdiction over structural plans or construction timelines. No excavation is proposed under the current scope of work. Any structural concerns on adjacent properties will require separate permits for each lot.

Overall the Planning Department supports the project as proposed, additional Residential Design Guideline review is outlined below.

## ENVIRONMENTAL REVIEW

The Department has determined that the proposed project is exempt from environmental review, pursuant to CEQA Guideline Sections 15301(1)(4) and 15303(a). No evaluation of the historic status of the building was required for this project for CEQA purposes.

## RESIDENTIAL DESIGN ADVISORY TEAM REVIEW

The Residential Design Advisory Team (RDAT) found that the proposed scope of work was fully in conformance with the Residential Design Guidelines and the Bernal Heights East Slope Building Guidelines. RDAT noted:



- The proposed parking space has historically had a curb cut at the front of the property and would be adequately screened. Off-street parking would occur within the buildable envelope of the building and is therefore not subject to setback requirements.
- All proposed dormers meet the Department’s Dormer Guidelines in dimensions and design.

**Under the Commission’s pending DR Reform Legislation, this project would not be referred to the Commission, as this project does not involves new construction.**

### **BASIS FOR RECOMMENDATION**

Department Staff recommend approving the subject building permit as proposed, as the design presents no extraordinary or exceptional conditions. The Planning Department and DBI are working in conjunction with the City Attorney’s office to address the property owner’s pattern of disregard for City Codes and policies. The proposed project would retain the existing legal footprint of the subject building and all minor additions, such as dormers, would be in compliance with the Planning Code and the relevant Design Guidelines. Planning staff does not recommend that the permit be held until a legal agreement is made with the project sponsor through the larger lawsuit, as the subject property has been an abandoned construction site since June 21, 2017.

<b>RECOMMENDATION:</b> <b>Do not take DR and approve the project as proposed.</b>
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**Attachments:**

- Block Book Map
- Sanborn Map
- Zoning Map
- Aerial Photographs
- Context Photos
- Map showing lot size development pattern
- Enforcement Notices
- Section 311 Notice
- CEQA Determination
- DR Applications and supplemental materials
- Reduced Plans



# SAN FRANCISCO PLANNING DEPARTMENT

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## Discretionary Review Action Draft

HEARING DATE: JULY 19, 2018

*Date:* July 12, 2018  
*Record No.:* 2018-004675DRP-02  
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*Permit Application:* 2018.01.16.8744  
*Zoning:* RH-1 (Residential House, One-Family)  
40-X Height and Bulk District  
*Block/Lot:* 5527/007  
*Project Sponsor:* SIA Consulting  
1256 Howard Street  
San Francisco, CA, 94105  
*DR Requestor:* Marianne Bachers, Property Owner  
312 Montcalm Street  
San Francisco, CA 94110  
*DR 2 Requestor:* Susan Thackrey, Property Owner  
308 Montcalm Street  
San Francisco, CA 94110  
*Staff Contact:* Alexandra Kirby – (415) 575-9133  
[alexandra.kirby@sfgov.org](mailto:alexandra.kirby@sfgov.org)

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**ADOPTING FINDINGS RELATED TO NOT TAKING DISCRETIONARY REVIEW OF CASE NO. 2018-004675DRP-02 AND THE APPROVAL OF BUILDING PERMIT 2018.01.16.8744 PROPOSING CONSTRUCTION OF THREE DORMERS AND A REAR ROOFDECK ON A TWO-STORY, SINGLE-FAMILY DWELLING WITHIN THE RH-1 (RESIDENTIAL, HOUSE, ONE-FAMILY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On January 8, 2018, Ash Gujral of SF Realty, LLC, filed for Building Permit Application No. 2018.01.16.8744 proposing abatement of a Planning Code violation for exceeding a previously permitted scope of work that involved new dormers and an interior remodel of a two-story single-family dwelling within the RH-1 (Residential, House, One-Family) District and a 40-X Height and Bulk District..

On May 16, 2018, Marianne Bachers and Susan Thackrey (hereinafter “Discretionary Review (DR) Requestors”) filed two separate applications with the Planning Department (hereinafter “Department”) for Discretionary Review (2018-004675DRP-02) of Building Permit Application No. 2018.01.16.8744.

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

On July 19, 2018, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Discretionary Review Application 2018-004675DRP-02.

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

#### **ACTION**

The Commission hereby does not take Discretionary Review requested in Application No. 2018-004675DRP-02 and approves the Building Permit Application 2018.01.16.8744.

#### **BASIS FOR RECOMMENDATION**

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

1. There are no extraordinary or exceptional design conditions in the case. The proposal complies with the Planning Code, the General Plan, and conforms to the Residential Design Guidelines. The Planning Department and DBI are working in conjunction with the City Attorney's office to address the property owner's pattern of disregard for City Codes and policies. The proposed project would retain the existing legal footprint of the subject building and all minor additions, such as dormers, would be in compliance with the Planning Code and the relevant Design Guidelines.
2. The Commission determined that no modifications to the project were necessary and they instructed staff to approve the project per plans marked Exhibit A on file with the Planning Department.

**APPEAL AND EFFECTIVE DATE OF ACTION:** Any aggrieved person may appeal this Building Permit Application to the Board of Appeals within fifteen (15) days after the date the permit is issued. For further information, please contact the Board of Appeals at (415) 575-6881, 1650 Mission Street # 304, San Francisco, CA, 94103-2481.

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

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

I hereby certify that the Planning Commission did not take Discretionary Review and approved the building permit as reference in this action memo on September 8, 2011.

Jonas P. Ionin  
Commission Secretary

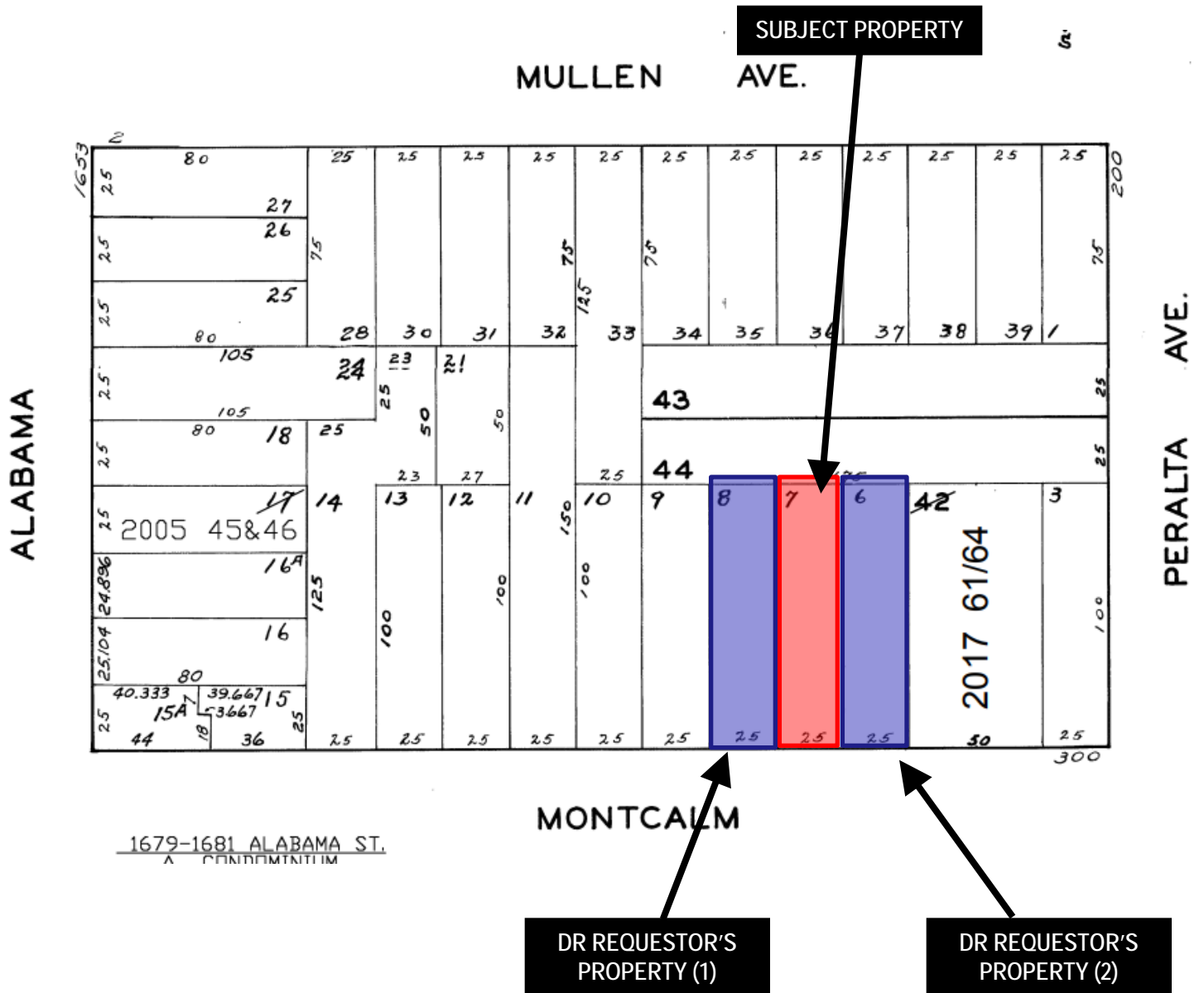
AYES:

NAYS:

ABSENT:

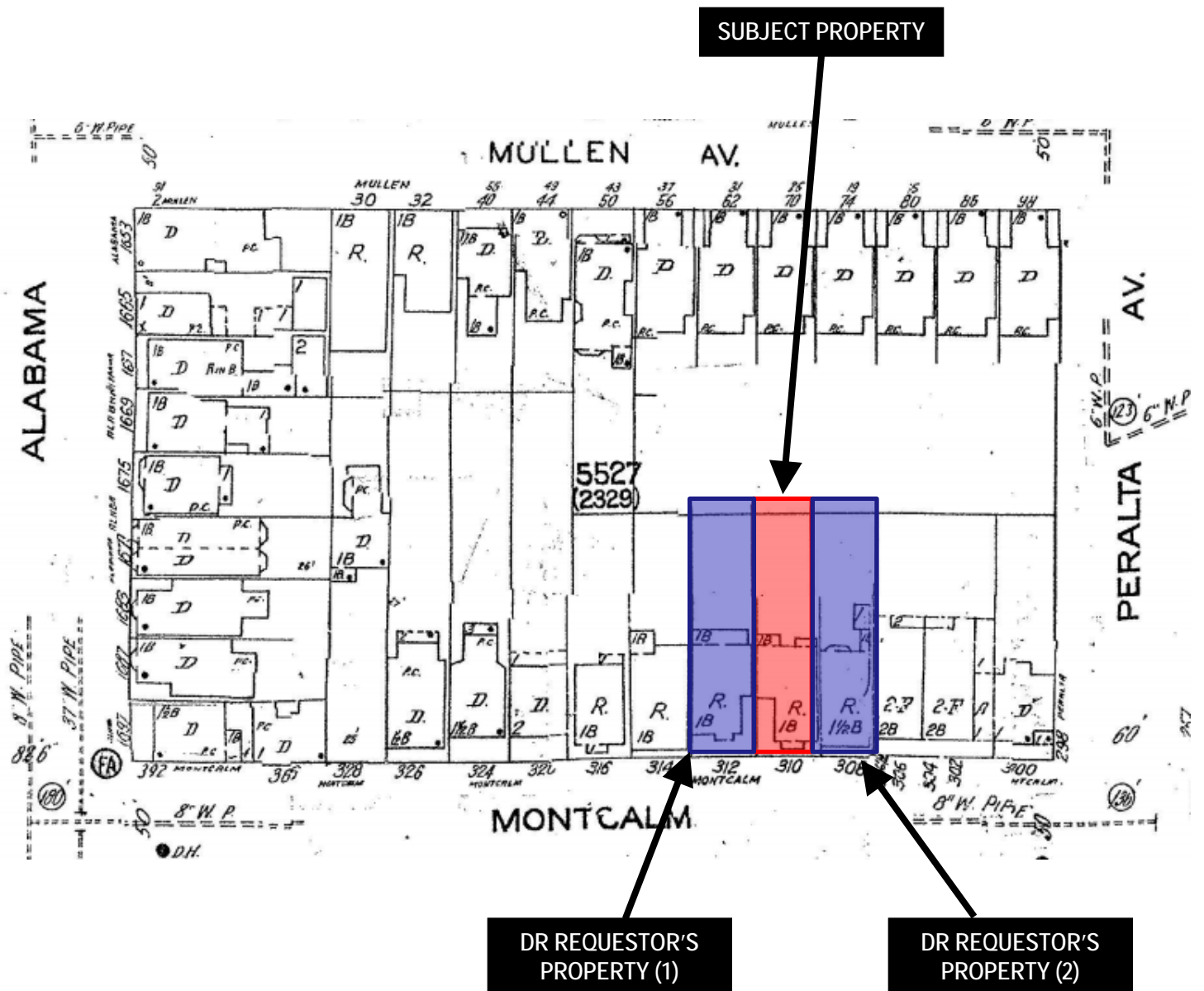
ADOPTED:

# Parcel Map



Discretionary Review Hearing  
 Case Number 2018-004657DRP-02  
 310 Montcalm Street  
 Block 5277 Lot 007

# 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 2018-004657DRP-02  
310 Montcalm Street  
Block 5277 Lot 007



# Aerial Photo

(looking north, following unpermitted construction)



DR REQUESTOR'S  
PROPERTY (1)

SUBJECT PROPERTY

DR REQUESTOR'S  
PROPERTY (2)

Discretionary Review Hearing  
Case Number 2018-004657DRP-02  
310 Montcalm Street  
Block 5277 Lot 007

# Aerial Photo

(looking north, following unpermitted construction)



DR REQUESTOR'S  
PROPERTY (1)

SUBJECT PROPERTY

DR REQUESTOR'S  
PROPERTY (2)

Discretionary Review Hearing  
Case Number 2018-004657DRP-02  
310 Montcalm Street  
Block 5277 Lot 007



# Aerial Photo (looking south, prior to construction)



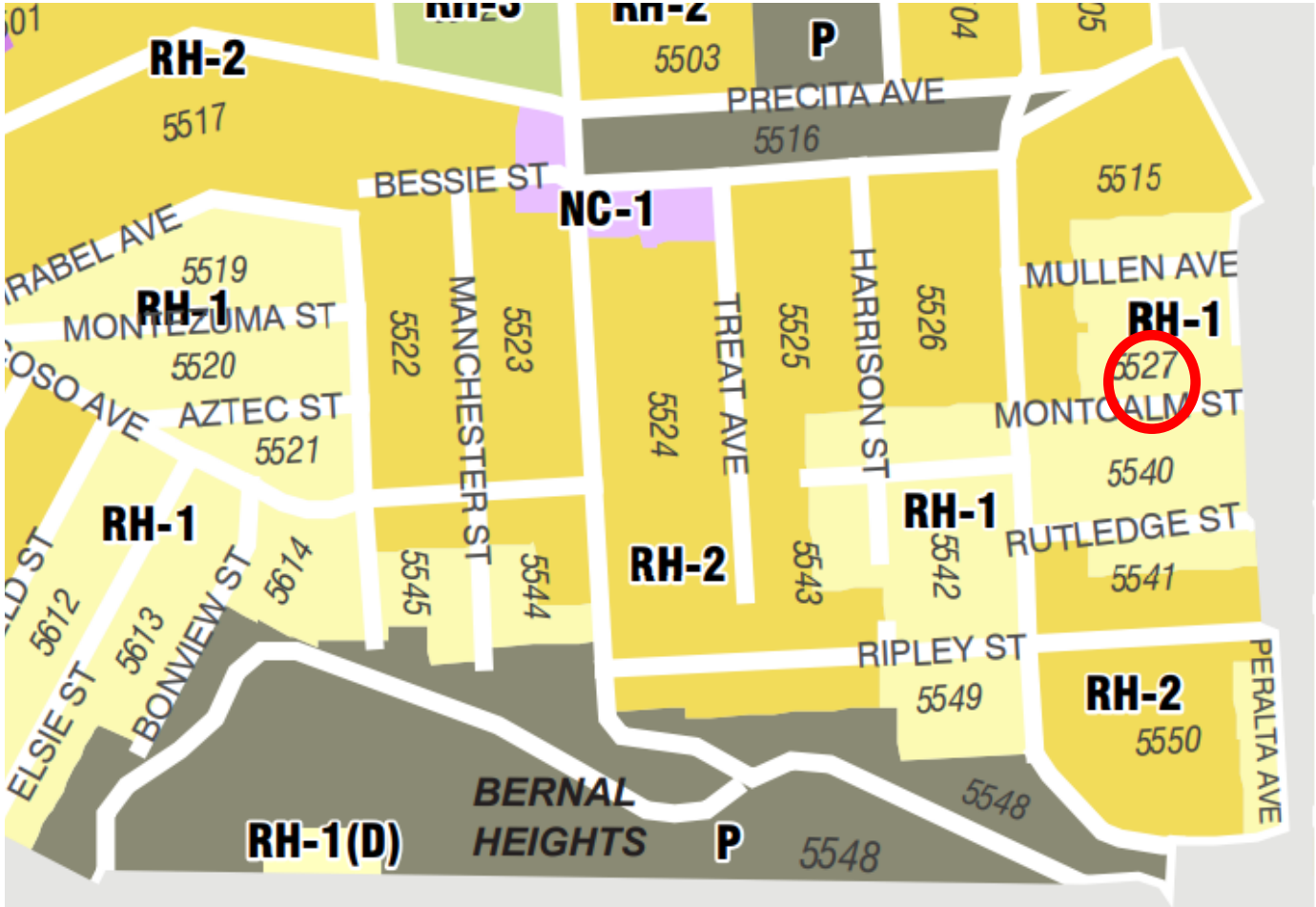
DR REQUESTOR'S  
PROPERTY (2)

SUBJECT PROPERTY

DR REQUESTOR'S  
PROPERTY (1)

Discretionary Review Hearing  
Case Number 2018-004657DRP-02  
310 Montcalm Street  
Block 5277 Lot 007

# Zoning Map



Discretionary Review Hearing  
Case Number 2018-004657DRP-02  
310 Montcalm Street  
Block 5277 Lot 007



# Site Photo

(Prior to unpermitted construction)



DR REQUESTOR'S  
PROPERTY (1)

SUBJECT PROPERTY

DR REQUESTOR'S  
PROPERTY (2)

# Site Photo

(Following unpermitted construction)



DR REQUESTOR'S  
PROPERTY (1)

SUBJECT PROPERTY

DR REQUESTOR'S  
PROPERTY (2)



# SAN FRANCISCO PLANNING DEPARTMENT

## NOTICE OF ENFORCEMENT

April 12, 2017

### Property Owner

SF Realty Partners, LLC  
2010 Ocean Ave Ste E  
San Francisco, CA 94127

### Business Owner

Shatara Architecture  
890 7<sup>th</sup> Street  
San Francisco, CA, 94107

**Site Address:** 310 Montcalm St  
**Assessor's Block/Lot:** 5527/ 007  
**Zoning District:** RH-1, Residential- House, One Family  
**Complaint Number:** 2017-002370ENF  
**Code Violation:** 174: Exceeding scope of permit  
**Administrative Penalty:** Up to \$250 Each Day of Violation  
**Response Due:** Within 15 days from the date of this Notice  
**Staff Contact:** Alexandra Kirby, (415) 575-9133, alexandra.kirby@sfgov.org

The Planning Department has received a complaint that a Planning Code violation exists on the above referenced property that needs to be resolved. As the owner and/or leaseholder of the subject property, you are a responsible party. The purpose of this notice is to inform you about the Planning Code Enforcement process so you can take appropriate action to bring your property into compliance with the Planning Code. Details of the violation are discussed below:

### DESCRIPTION OF VIOLATION

The violation pertains to exceeding the scope of work under permit number 2016.04.11.4470.

On February 27, 2017, the Planning Department sent you a Notice of Complaint to inform you about the complaint. You did not contact the Planning Department to respond to this notice. On April 7, 2017, Department Staff conducted a site visit to verify that the scope of work appears to have been exceeded. It was observed that the proposed dormers are larger than originally proposed and there is new massing that is not clearly depicted in the approved set of plans at the roof level.

Pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation under the Planning Code shall be complied with in the development and use of land and structures. Failure to comply with any of Planning Code provisions constitutes a violation of Planning Code and is subject to enforcement process under Code Section 176.

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## HOW TO CORRECT THE VIOLATION

The Planning Department requires that you immediately proceed to abate the violation by filing for a building permit to legalize the complete scope of work completed. This shall include original, as-built and proposed plans, specifications on all exterior materials, and demolition calculations.

The responsible party will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated. Please provide evidence including dimensioned plans and photos of the subject building prior to construction and in its current condition. A site visit will also be required to verify compliance.

Please contact the Department of Building Inspection (DBI), 1660 Mission Street, San Francisco, CA 94103, telephone: (415) 558-6088, website: [www.sfgov.org/dbi](http://www.sfgov.org/dbi), regarding the Building Permit Application process. Please visit the Planning Information Counter located at the first floor of 1660 Mission Street or website: [www.sf-planning.org](http://www.sf-planning.org) for any questions regarding the planning process.

## TIMELINE TO RESPOND

The responsible party has **fifteen (15) days from the date of this notice** to contact the staff planner noted at the top of this notice and submit evidence to demonstrate that the corrective actions have been taken to bring the subject property into compliance with the Planning Code. A site visit may also be required to verify the authorized use at the above property. The corrective actions shall be taken as early as possible. Any unreasonable delays in abatement of the violation may result in further enforcement action by the Planning Department.

## PENALTIES AND APPEAL RIGHTS

Failure to respond to this notice by abating the violation or demonstrating compliance with the Planning Code **within fifteen (15) days from the date of this notice** will result in issuance of a **Notice of Violation** by the Zoning Administrator. Administrative penalties of up to **\$250 per day** will also be assessed to the responsible party for each day the violation continues thereafter. The Notice of Violation provides appeal processes noted below.

- 1) Request for Zoning Administrator Hearing. The Zoning Administrator's decision is appealable to the Board of Appeals.
- 2) Appeal of the Notice of Violation to the Board of Appeals. The Board of Appeals may not reduce the amount of penalty below \$100 per day for each day the violation exists, excluding the period of time the matter has been pending either before the Zoning Administrator or before the Board of Appeals.

## ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting Planning Code violations and violations of Planning Commission and Planning Department's Conditions of Approval. Accordingly, the responsible party may be subject to an amount of \$1,308 plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of violation. This fee is separate from the administrative

penalties as noted above and is not appealable.

### **OTHER APPLICATIONS UNDER CONSIDERATION**

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any new applications that you may wish to pursue in the future. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until the violation is corrected. We want to assist you in ensuring that the subject property is in full compliance with the Planning Code. You may contact the enforcement planner as noted above for any questions.

**cc:** Ed Sweeny, Department of Building Inspection  
Patrick O’Riordan, Department of Building Inspection



# SAN FRANCISCO PLANNING DEPARTMENT

## REVISED NOTICE OF ENFORCEMENT

June 21, 2017

### Property Owner

SF Realty Partners LLC  
2010 Ocean Ave Ste E  
San Francisco, CA 94127

**Site Address:** 310 Montcalm St  
**Assessor's Block/Lot:** 5527/ 007  
**Zoning District:** RH-1, Residential- House, One Family  
**Complaint Number:** 2017-002370ENF  
**Code Violation:** 174 – Exceeding Scope of Permit  
**Administrative Penalty:** Up to \$250 Each Day of Violation  
**Response Due:** Within 15 days from the date of this Notice  
**Staff Contact:** Alexandra Kirby, (415) 575-9133, alexandra.kirby@sfgov.org

The Planning Department has received a complaint that a Planning Code violation exists on the above referenced property that needs to be resolved. As the owner and/or leaseholder of the subject property, you are a responsible party. The purpose of this notice is to inform you about the Planning Code Enforcement process so you can take appropriate action to bring your property into compliance with the Planning Code. Details of the violation are discussed below:

### DESCRIPTION OF VIOLATION

The violation pertains to exceeding the scope of work under permit number 2016.04.11.4470. On February 27, 2017, the Planning Department sent you a Notice of Complaint to inform you about the complaint. You did not contact the Planning Department to respond to this notice. On April 7, 2017, Department Staff conducted a site visit to verify that the scope of work appears to have been exceeded. It was observed that the proposed dormers are larger than originally proposed and there is new massing that is not clearly depicted in the approved set of plans at the roof level. A Notice of Enforcement was issued on April 12, 2017 and no plans have been formally submitted to date. Below is a response to the plans emailed to staff for review.

Pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation under the Planning Code shall be complied with in the development and use of land and structures. Failure to comply with any of Planning Code provisions constitutes a violation of Planning Code and is subject to enforcement process under Code Section 176.

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## HOW TO CORRECT THE VIOLATION

The Planning Department requires that you immediately proceed to abate the violation by filing for a building permit to legalize the complete scope of work completed and applying for a variance for the required rear yard. Plans shall include (1) original, (2) as-built and (3) proposed plans, specifications on all exterior materials, and demolition calculations. This permit shall address the cumulative scope of work prior to the issuance of all 2016 permits to accurately convey the full project.

### 1. Plans.

- a. **Demolition Calculations.** Provide a table and graphic depiction of the cumulative scope of removal on vertical and horizontal planes to address Section 317. Any sections required to be removed by DBI are not subject to this calculation but are subject to any applicable code sections. As such the reconstruction of the basement level rear bump-out does appear to trigger a variance. All previously removed roof framing shall be counted into the calculations.
  - b. **Required Rear Yard.** Please note the required rear yard line for the subject property in the existing and as-built site plans in accordance with Section 242(e)(2)(A), Bernal Heights Special Use District.
  - c. **Mass Reduction Requirement for RH-1 in Bernal Heights.** Provide calculations for the existing and proposed square footage of the subject building in accordance with Section 242 (e)(3). Additional parking may be triggered by the new habitable space at the attic level.
  - d. **Side Elevations.** Please provide original, as-built and proposed elevations. All side elevations should include outlines of immediately adjacent properties and any neighboring windows.
  - e. **Sections.** Please provide existing and proposed lateral sections through the residence.
  - f. **Details.** Provide general design details, descriptions of doors and windows including dimensions, operation (double-hung, casement etc.), and materials and finishes for all exterior surfaces. Any rehabilitation of the front façade shall be clearly addressed.
2. **Variance Application.** Please schedule an intake appointment for the variance at your earliest convenience and provide confirmation of the appointment.
  3. **Photos.** Provide exterior photos of the existing conditions at the rear, roof, and front façade.

Please contact the Department of Building Inspection (DBI), 1660 Mission Street, San Francisco, CA 94103, telephone: (415) 558-6088, website: [www.sfgov.org/dbi](http://www.sfgov.org/dbi), regarding the Building Permit Application process. Please visit the Planning Information Counter located at the first floor of 1660 Mission Street or website: [www.sf-planning.org](http://www.sf-planning.org) for any questions regarding the planning process.

## TIMELINE TO RESPOND

The responsible party has **fifteen (15) days from the date of this notice** to contact the staff planner noted at the top of this notice and submit evidence to demonstrate that the corrective actions have been taken to bring the subject property into compliance with the Planning Code. A site visit may also be required to verify the authorized use at the above property. The corrective actions shall be taken as early as possible. Any unreasonable delays in abatement of the violation may result in further enforcement action by the Planning Department.

## PENALTIES AND APPEAL RIGHTS

Failure to respond to this notice by abating the violation or demonstrating compliance with the Planning Code **within fifteen (15) days from the date of this notice** will result in issuance of a **Notice of Violation** by the Zoning Administrator. Administrative penalties of up to **\$250 per day** will also be assessed to the responsible party for each day the violation continues thereafter. The Notice of Violation provides appeal processes noted below.

- 1) Request for Zoning Administrator Hearing. The Zoning Administrator's decision is appealable to the Board of Appeals.
- 2) Appeal of the Notice of Violation to the Board of Appeals. The Board of Appeals may not reduce the amount of penalty below \$100 per day for each day the violation exists, excluding the period of time the matter has been pending either before the Zoning Administrator or before the Board of Appeals.

## ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting Planning Code violations and violations of Planning Commission and Planning Department's Conditions of Approval. Accordingly, the responsible party may be subject to an amount of \$1,308 plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of violation. This fee is separate from the administrative penalties as noted above and is not appealable.

## OTHER APPLICATIONS UNDER CONSIDERATION

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any new applications that you may wish to pursue in the future. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until the violation is corrected. We want to assist you in ensuring that the subject property is in full compliance with the Planning Code. You may contact the enforcement planner as noted above for any questions.

cc: Ed Sweeny, Deputy Director, Department of Building Inspection  
John Hinchion, Senior Building Inspector, Department of Building Inspection  
Shatara Architecture, 890 7<sup>th</sup> Street, San Francisco, CA, 94107, via email  
Kate McGee, 3S Consulting, via email



# SAN FRANCISCO PLANNING DEPARTMENT

## NOTICE OF VIOLATION

August 16, 2017

**Property Owner**

SF Realty Partners LLC  
2010 Ocean Ave Ste E  
San Francisco, CA 94127

**Architect**

Shatara Architecture  
890 7<sup>th</sup> Street  
San Francisco, CA, 94107

**Site Address:** 310 Montcalm St  
**Assessor's Block/Lot:** 5527/ 007  
**Zoning District:** RH-1, Residential- House, One Family  
**Complaint Number:** 2017-002370ENF  
**Code Violation:** 174: Exceeding scope of permit  
**Administrative Penalty:** Up to \$250 Each Day of Violation  
**Response Due:** Within 15 days from the date of this Notice  
**Staff Contact:** Alexandra Kirby, (415) 575-9133, [alexandra.kirby@sfgov.org](mailto:alexandra.kirby@sfgov.org)

The Planning Department has determined that the above referenced property is in violation of the Planning Code. As the owner and/or leaseholder of the subject property, you are a 'responsible' party to bring the above property into compliance with the Planning Code. Details of the violation are discussed below:

### DESCRIPTION OF VIOLATION

The violation pertains to exceeding the scope of work under Building Permit Application No. 201604114470.

On February 27, 2017, the Planning Department sent you a Notice of Complaint to inform you about the complaint. You did not contact the Planning Department to respond to this notice.

On April 7, 2017, Department Staff conducted a site visit to verify that the scope of work appears to have been exceeded. It was observed that the proposed dormers are larger than originally proposed and there is new massing that is not clearly depicted in the approved set of plans at the roof level.

A Notice of Enforcement was issued on April 12, 2017; however, no permits or plans to correct the violation have been formally submitted to date. Plans were emailed to staff and a response to these plans can be found below.

On June 20, 2017, the Planning Department requested that the Department of Building Inspection (DBI) suspend Building Permit Application Nos. 201603182505, 201604114470 and 201607142394 because it was found that the scope of work had been exceeded multiple times by the project sponsor.

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

[www.sfplanning.org](http://www.sfplanning.org)

Further, work that has been performed (exceeding the scope of work approved under the subject permits) requires a variance from the Planning Code. No appeals were filed on this suspension request and it has since become final.

Pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation under the Planning Code shall be complied with in the development and use of land and structures. Failure to comply with any of Planning Code provisions constitutes a violation of Planning Code and is subject to enforcement process under Code Section 176.

## TIMELINE OF INVESTIGATION

On February 27, 2017, the Planning Department sent you a Notice of Complaint. In that notice, you were advised to contact the Planning Department to resolve the complaint. You did not contact the Planning Department. On April 7, 2017, Planning Department staff Alexandra Kirby conducted the site visit and confirmed the violation. On April 12, 2017, the Planning Department sent you a Notice of Enforcement informing you about the violation and the abatement process. A second Notice of Enforcement was issued on June 21, 2017, with additional information regarding the abatement of the violation. In that notice, you were advised to take corrective actions and provide evidence of compliance to the Planning Department within fifteen (15) days from June 21, 2017. To date, no permit, plans or the required variance have been formally submitted for review and the City has not been provided with any indication that the violations will be corrected in a timely manner.

## HOW TO CORRECT THE VIOLATION

The Planning Department requires that you immediately proceed to abate the violation by filing for a building permit to legalize the complete scope of work completed and applying for a variance for the required rear yard. Plans shall include (1) original, (2) as-built and (3) proposed plans, specifications on all exterior materials, and demolition calculations. This permit shall address the cumulative scope of work prior to the issuance of all 2016 permits to accurately convey the full project. The following comments include initial feedback on plans that were previously submitted to staff by email.

### 1. Plans.

- a. **Demolition Calculations.** Provide a table and graphic depiction of the cumulative scope of removal on vertical and horizontal planes to address Section 317. Any sections required to be removed by DBI are not subject to this calculation but are subject to any applicable code sections. As such the reconstruction of the basement level rear bump-out does appear to trigger a variance. All previously removed roof framing shall be counted into the calculations.
- b. **Required Rear Yard.** Please note the required rear yard line for the subject property in the existing and as-built site plans in accordance with Section 242(e)(2)(A), Bernal Heights Special Use District.
- c. **Mass Reduction Requirement for RH-1 in Bernal Heights.** Provide calculations for the existing and proposed square footage of the subject building in accordance with Section 242 (e)(3). Additional parking may be triggered by the new habitable space at the attic level.

- d. **Side Elevations.** Please provide original, as-built and proposed elevations. All side elevations should include outlines of immediately adjacent properties and any neighboring windows.
- e. **Sections.** Please provide existing and proposed lateral sections through the residence.
- f. **Details.** Provide general design details, descriptions of doors and windows including dimensions, operation (double-hung, casement etc.), and materials and finishes for all exterior surfaces. Any rehabilitation of the front façade shall be clearly addressed.

2. **Photos.** Provide exterior photos of the existing conditions at the rear, roof, and front façade.

Please contact the Department of Building Inspection (DBI), 1660 Mission Street, San Francisco, CA 94103, telephone: (415) 558-6088, website: [www.sfgov.org/dbi](http://www.sfgov.org/dbi), regarding the Building Permit Application process. Please visit the Planning Information Counter located at the first floor of 1660 Mission Street or website: [www.sf-planning.org](http://www.sf-planning.org) for any questions regarding the planning process.

## TIMELINE TO RESPOND

The responsible party has **fifteen (15) days from the date of this notice** to either;

- 1) Correct the violation as noted above; or
- 2) Appeal this Notice of Violation as noted below.

The corrective actions shall be taken as early as possible. Please contact the enforcement staff as noted above to submit evidence of correction. Any unreasonable delays in abatement of the violation will result in further enforcement action by the Planning Department.

## APPEAL PROCESSES

If the responsible party believes that this order to remove violation of the Planning Code is an abuse of discretion by the Zoning Administrator, the following appeal processes are available **within fifteen (15) days from the date of this notice**:

- 1) The responsible party may request a Zoning Administrator Hearing under Planning Code Section 176 to show cause why this Notice of Violation is issued in error and should be rescinded by submitting the Request for Zoning Administrator Hearing Form and supporting evidence to the Planning Department. The Zoning Administrator shall render a decision on the Notice of Violation within 30 days of such hearing. The responsible party may appeal the Zoning Administrator's decision to the Board of Appeals within 15 days from the date of the decision.
- 2) The responsible or any interested party may waive the right to a Zoning Administrator Hearing and proceed directly to appeal the Notice of Violation to the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, CA 94103, telephone: (415) 575-6880, website: [www.sfgov.org/bdappeal](http://www.sfgov.org/bdappeal). The Board of Appeals may not reduce the amount of penalty below \$100 per day for each day the violation continues unabated, excluding the period of time the matter has been pending either before the Zoning Administrator or before the Board of Appeals.

## ADMINISTRATIVE PENALTIES

If any responsible party does not request any appeal process and does not take corrective action to abate the violation **within the 15-day time limit** as noted above, this Notice of Violation will become final. Beginning on the following day, administrative penalties of up to **\$250 per day** to the responsible party will start to accrue for each day the violation continues unabated. The penalty amount shall be paid **within 30 days** from the final date of the Notice of Violation. After 30 days, the Planning Department may forward the matter to the Bureau of Delinquent Revenue for collection as authorized by Article V, Section 10.39 of the San Francisco Administrative Code. Please be advised that payment of penalty does not excuse failure to correct the violation or bar further enforcement action. Additional penalties will continue to accrue until a corrective action is taken to abate the violation.

## ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting the Planning Code violations. Accordingly, the responsible party is currently subject to a fee of **\$1,308** for 'Time and Materials' cost associated with the Code Enforcement investigation. **Please submit a check payable to 'San Francisco Planning Department' for Code Enforcement within 15 days from the date of this notice.** Additional fees will continue to accrue until the violation is abated. This fee is separate from the administrative penalties as noted above and is not appealable.

## OTHER APPLICATIONS UNDER CONSIDERATION

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any new applications that you may wish to pursue in the future. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until the violation is corrected. We want to assist you in ensuring that the subject property is in full compliance with the Planning Code.

Please contact the enforcement planner noted above if you have any questions or wish to review the enforcement file related to the above matter. The enforcement file may be available for public inspection at the Planning Department during normal office hours (Monday to Friday, 8:00 a.m. to 5:00 p.m., 1650 Mission Street, Room 400) and in the hearing room on the date the matter is scheduled to be heard upon receipt of a request for a hearing.

Sincerely,



Scott F. Sanchez  
Zoning Administrator

Enc.: Notice of Enforcement dated June 21, 2017

cc: Ed Sweeny, Deputy Director, Department of Building Inspection  
John Hinchion, Senior Building Inspector, Department of Building Inspection  
Shatara Architecture, 890 7<sup>th</sup> Street, San Francisco, CA, 94107, via email  
Kate McGee, 3S Consulting, via email



# SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission Street Suite 400 San Francisco, CA 94103

## NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311)

On **January 16, 2018**, the Applicant named below filed Building Permit Application No. **20180116874** with the City and County of San Francisco.

PROPERTY INFORMATION		APPLICANT INFORMATION	
Project Address:	<b>310 MONTCALM ST</b>	Applicant:	<b>SIA Consulting</b>
Cross Street(s):	<b>Peralta Ave and Alabama St</b>	Address:	<b>1256 Howard Street</b>
Block/Lot No.:	<b>5527 / 007</b>	City, State Zip:	<b>San Francisco, CA, 94105</b>
Zoning District(s):	<b>RH-1-Residential, One Family / 40-X</b>	Telephone:	<b>(415) 741-1292</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 checked="" type="checkbox"/> Alteration
<input type="checkbox"/> Change of Use	<input type="checkbox"/> Façade Alteration(s)	<input type="checkbox"/> Front Addition
<input type="checkbox"/> Rear Addition	<input type="checkbox"/> Side Addition	<input checked="" type="checkbox"/> Vertical Addition
PROJECT FEATURES	EXISTING	PROPOSED
Building Use	Single Family Residence	Single Family Residence
Front Setback	9'-2"	9'-2", no change
Side Setbacks	None	No change
Building Depth	46'-6"	40'-6"
Rear Yard	43'-6"	50'-4"
Building Height	26'-5" (midpoint of ridge)	No Change
Number of Stories	Two-over-basement	Two-over-basement
Number of Dwelling Units	1	1
Number of Parking Spaces	0	1 off-street, no new garage
PROJECT DESCRIPTION		
<p>The proposed scope of work includes removal of unpermitted rear addition, reduction of dormers to comply with Dept. dormer guidelines and restoration of the primary façade. Compliance with Planning Enforcement case no. 2017-002370ENF &amp; DBI compliant nos. 2017.87861, 2017.65203, and 2016.10071 to bring the proposed renovation into compliance with all applicable codes.</p> <p>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.</p>		

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

Planner: Alexandra Kirby  
 Telephone: (415) 575-9133  
 E-mail: alexandra.kirby@sfgov.org

**Notice Date:**  
**Expiration Date:**

# 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

<b>Project Address</b>		<b>Block/Lot(s)</b>
310 MONTCALM ST		5527007
<b>Case No.</b>		<b>Permit No.</b>
2018-004675PRJ		201801168744
<input checked="" type="checkbox"/> <b>Addition/ Alteration</b>	<input type="checkbox"/> <b>Demolition (requires HRE for Category B Building)</b>	<input type="checkbox"/> <b>New Construction</b>
<p><b>Project description for Planning Department approval.</b>          COMPLIANCE WITH NOTICE OF VIOLATION: PLANNING COMPLAINT# 2011-002370ENF. DBI COMPLIANT# 2017.87861 &amp; 2017.65203 &amp; 2016.10071. TO BRING THE PROPOSED REMODELING INTO COMPLIANCE. EXPANSION OF PREVIOUSLY APPROVAL DORMERS PA# 2016/07/14/2394 &amp; PA# 2016/04/11/4470, REDUCTION OF REAR MASSING.</p>		

### STEP 1: EXEMPTION CLASS

<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.</b> Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	<p><b>Class 32 - In-Fill Development.</b> New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below:</p> <p>(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.</p> <p>(b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.</p> <p>(c) The project site has no value as habitat for endangered rare or threatened species.</p> <p>(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.</p> <p>(e) The site can be adequately served by all required utilities and public services.</p> <p><b>FOR ENVIRONMENTAL PLANNING USE ONLY</b></p>
<input type="checkbox"/>	<b>Class _____</b>

**STEP 2: CEQA IMPACTS**  
**TO BE COMPLETED BY PROJECT PLANNER**

If any box is checked below, an *Environmental Evaluation Application* is required.

<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, etc.)? (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollution Exposure Zone)
<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 Maher 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) <b>If box is checked, a geotechnical report is required.</b>
<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) <b>If box is checked, a geotechnical report is required.</b>
<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) <b>If box is checked, a geotechnical report will likely be required.</b>

**If no boxes are checked above, GO TO STEP 3. If one or more boxes are checked above, an *Environmental Evaluation Application* is required, unless reviewed by an Environmental Planner.**

**Comments and Planner Signature (optional):**                      Alexandra Kirby  
 No excavation proposed

**STEP 3: PROPERTY STATUS - HISTORIC RESOURCE  
TO BE COMPLETED BY PROJECT PLANNER**

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

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

<b>Check all that apply to the project.</b>	
<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 checked="" 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 checked="" 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 checked="" 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 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 checked="" 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 PROJECT PLANNER**

<b>Check all that apply to the project.</b>	
<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"/>	9. <b>Other work</b> that would not materially impair a historic district (specify or add comments):  (Requires approval by Senior Preservation Planner/Preservation Coordinator)
<input type="checkbox"/>	10. <b>Reclassification of property status.</b> (Requires approval by Senior Preservation Planner/Preservation <input type="checkbox"/> Reclassify to Category A <input type="checkbox"/> Reclassify to Category C a. Per HRER dated    (attach HRER) b. Other (specify):
<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 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>	
<b>Preservation Planner Signature:</b> Alexandra Kirby	

**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 (check all that apply): <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. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.</b>	
	<b>Project Approval Action:</b> Building Permit	<b>Signature:</b> Alexandra Kirby
	If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	06/28/2018
	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. Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.	

## STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

### TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

### PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address (If different than front page)		Block/Lot(s) (If different than front page)
310 MONTCALM ST		5527/007
Case No.	Previous Building Permit No.	New Building Permit No.
2018-004675PRJ	201801168744	
Plans Dated	Previous Approval Action	New Approval Action
	Building Permit	
Modified Project Description:		

### DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:	
<input type="checkbox"/>	Result in expansion of the building envelope, as defined in the Planning Code;
<input type="checkbox"/>	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;
<input type="checkbox"/>	Result in demolition as defined under Planning Code Section 317 or 19005(f)?
<input type="checkbox"/>	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?
<b>If at least one of the above boxes is checked, further environmental review is required.</b>	

### DETERMINATION OF NO SUBSTANTIAL MODIFICATION

<input type="checkbox"/>	The proposed modification would not result in any of the above changes.
If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice.	
Planner Name:	Signature or Stamp:



San Francisco  
PLANNING

PLANNING APPLICATION - DISCRETIONARY REVIEW

2018-004675 DRP-02

RECEIVED

MAY 15 2018

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
PIC

F.O 5/15/18

# DISCRETIONARY REVIEW APPLICATION

## Property Owner's Information

Name: SF Realty Partners and Ashok Gugal  
Address: 2010 Ocean Ave. Suite E, SF CA 94127  
Email Address: unknown  
Telephone: unknown

## Applicant Information (if applicable)

Name: Marianne Bachers & Rafael Trujillo Same as above   
Company/Organization:  
Address: 312 Montcalm St, SF CA 94110  
Email Address: marianne.bachers@gmail.com  
Telephone: 415-308-1662

**Please Select Billing Contact:**  Owner  Applicant  Other (see below for details)

Name: Marianne Bachers Email: marianne.bachers@gmail.com Phone: 415-308-1662

**Please Select Primary Project Contact:**  Owner  Applicant  Billing

## Property Information

Project Address: 310 Montcalm St. Block/Lot(s): 5527/007  
Plan Area: East Slope Design Review Board (Bernal Heights)

## Project Description:

Please provide a narrative project description that summarizes the project and its purpose. Please state which section(s) of the Planning Code from which you are requesting a variance. Please list any special authorizations or changes to the Planning Code or Zoning Maps if applicable.

Complete renovation of a potentially historic single family dwelling. This is on a steeply sloped hill/street in Bernal Heights with abutting properties on either side.

**Project Details:**

- Change of Use     New Construction     Demolition     Facade Alterations     ROW Improvements  
 Additions     Legislative/Zoning Changes     Lot Line Adjustment-Subdivision     Other remodel

**Estimated Construction Cost:** \$250.000

- Residential:**     Special Needs     Senior Housing     100% Affordable     Student Housing     Dwelling Unit Legalization  
 Inclusionary Housing Required     State Density Bonus     Accessory Dwelling Unit

- Non-Residential:**     Formula Retail     Medical Cannabis Dispensary     Tobacco Paraphernalia Establishment  
 Financial Service     Massage Establishment     Other: \_\_\_\_\_

**Related Building Permits Applications**

---

Building Permit Applications No(s): 201801168744

---

## Discretionary Review Request

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

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

see attached sheets and exhibits

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

see attached sheets and exhibits

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?

see attached sheets and exhibits



**ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST**

In reviewing applications for Certificate of Appropriateness the Historic Preservation Commission, Department staff, Board of Appeals and/or Board of Supervisors, and the Planning Commission shall be governed by *The Secretary of the Interior's Standards for the Treatment of Historic Properties* pursuant to Section 1006.6 of the Planning Code. Please respond to each statement completely (Note: Attach continuation sheets, if necessary). Give reasons as to *how* and *why* the project meets the ten Standards rather than merely concluding that it does so. IF A GIVEN REQUIREMENT DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

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

**CHANGES MADE TO THE PROJECT AS A RESULT OF MEDIATION**

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

see attached sheets and exhibits

## Addendum to Discretionary Review Request

### 1. What are the reasons for requesting Discretionary Review?

We seek supervisory review by the planning commission of a deeply troubled project which has multiple, substantive permit violations, multiple abatement orders, and multiple referrals to the city attorney's office by the planning department and by DBI. This home is a potentially historic building and we are very concerned, given the history of this project and this developer (Ashok Gujral, SF Realty Partners and other LLC entities which he controls) that the building form and materials will not comply with the overall requirements of the Design Guidelines for such a structure. (See Design Guidelines, section VII, entirety.)

We seek removal of parking spot - car port - proposed for this property on what is now a sidewalk of this potentially historic home. This addition does not constitute a garage. It is an open air parking spot. Therefore, it does not meet the "garage" residential design guidelines. (See Design Guidelines, section V, pages 34-37 and section VII, pages 49-53.)

We seek removal of a first front dormer which conflicts with the overall scheme and design of this house and with neighborhood character. (See Design Guidelines, section V, page 40, and section VII, pages 49-53.)

We seek removal of top floor dormers which alter the roof line of this property and which conflict with neighborhood character and also interfere with light into our back yard. (See Design Review Guidelines, section IV, pages 23-30, and section V, page 40.)

Finally, there is a long-standing problem with drainage from 310 Montcalm into our abutting and downhill property. Despite our having brought this attention to the developer at the very beginning of this project, no design solution appears in these plans for solving this problem. We request that these plans include a drainage solution before any permit is issued.

### 2. How this project would cause an unreasonable impact to 312 Montcalm Street?

There have been permit violations from the very beginning of this project which have forced us to be the project police and which have damaged our home. Mr. Gujral and those working for him have already damaged our property by covering up our foundation when we were entitled to repair it when it was uncovered during initial construction at 310 Montcalm. (See copy of civil suit filed in December 2016, attached as Exhibit A.) The on-going and virtually ceaseless permit violations have required us to

spend tens of thousands of dollars on attorney and expert fees, and hundreds of hours of our own time to stop this unscrupulous activity so our property is protected. The developer and those working for him have ignored the orders of the planning department and DBI to bring the property into compliance. At this stage, the only way to get his attention and force compliance with the planning and building code appears to be through this commission.

The parking spot proposed for this project is supposed to go where a sidewalk now exists. We have lived at 312 Montcalm for nearly 30 years so we are well aware of the uses of the neighboring property. In April 2018, we met with one of the architects at the property in order to inspect the area where the parking space would be placed. We took photos (Exhibits B and C) to document the location and size of this area. From the side of the house to the temporary fence which is next to our sidewalk, there is an 84" wide enclosure. This is the area in which the car is supposed to fit.

Our bedroom is on the bottom floor of our house. There is a sidewalk next to our bedroom window, which is directly across from the area where the car would be parked. There is 77" from the temporary concrete fence at 310 Montcalm Street to our bedroom window. (See Exhibit D.) We object to having a car parked so close to our bedroom window. Car exhaust and noise would adversely impact our house and our bedroom. There has never been a car parked at this location. There is no house on our block which has a car port of this nature. Thus, the car port would adversely impact us as neighbors, and it would be out of character for the neighborhood, which is primarily composed of Victorian and Edwardian cottages and homes, which do not have open air parking next to the house.

Obviously, this proposal does not comply with any of the requirements for garages because it is not a garage.

The new dormer proposed at the front of the house, above the entry way, appears inconsistent with the Victorian and Edwardian designs of the surrounding homes. The single side dormer is out of character to this design. We request that it be removed.

Likewise, the dormers proposed at the rear of the house conflict with the roof lines of the surrounding homes. They will also impact the flow of light into our back yard. We ask that they be removed.

3. What changes would respond to the exceptional and extraordinary circumstances and reduce the adverse impact to 312 Montcalm Street?

The intervention of the planning commission at this juncture is compelled because this developer, Ashok Gujral, has brazenly, repeatedly and continually violated the

planning and building permits he received for this property. He has damaged both of the adjoining homes. He built an unpermitted third floor on the property that was never part of any permit. (See Exhibit E, photo of third floor as built in February 2017.) There were no architectural drawings or weight bearing studies provided for this addition. It is simply a rogue addition to the property. Although the current proposal shows this addition will be removed, the fact that this construction occurred at all is evidence of the problems we have endured with this development.

The developer has violated the agreements reached with the adjoining neighbors which caused us to sue him. A lawsuit did not deter him. The permit violations continued. He has squandered our good faith efforts to resolve these problems at every turn. It appears the only way to get him to pay attention and comply with the requirements of the planning department and the building department is to invoke the authority of this commission. All of our private efforts and that of these agencies have failed. This has been going on for nearly 3 years, with no end in sight.

In sum, the planning commission must ensure that the proposed alterations to this potentially historic home are removed. The commission must also mandate that the quality of the construction that does occur ensures that this potential historic resource continues to stand the test of time.

#### 5. Changes made to the project as the result of mediation

As mentioned above, we have attached as Exhibit A to this application a copy of a civil lawsuit we were forced to file against Mr. Gujral and others concerning the development of this property. The lawsuit describes our efforts to resolve the problems presented by this construction on a steep slope with abutting properties, the legal agreements signed by the parties, and Mr. Gujral's immediate, material and devastating breach of these agreements. The lawsuit best explains what happened. We urge that the commissioners read it in order to understand our objections to this construction, the remedies that are required, and our deep concerns about quality of the work to be done in the future.

We have spent tens of thousands of dollars on attorneys and experts in an attempt to solve the problems with the 310 Montcalm development. These problems have been going on for almost 3 years. While we were paid a modest amount to compensate us for covering up our foundation when he had contracted to leave it open for us to repair, the problems next door have continued. The erection of the unpermitted third floor came just a couple of months after this settlement. We are in a state of disbelief about how a developer can be permitted to do such a thing in this city. We have had to spend hundreds of hours of our own time to address the problems with this project and its impact on our homes and lives.

Instead of making the changes to the design and construction of the property to which he legally agreed, Mr. Gujral violated these agreements and continues to demonstrate disingenuous behavior in his dealings with us, to this very day. Our continued attempts to resolve this situation have stalled yet again, as Mr. Gujral and his representatives ignored our most recent attempt at resolution until a few days before this application had to be filed.

This project is in violation of DBI and planning department abatement orders. It has been referred to the city attorney by both agencies. We suggest the commission obtain complete reports about the agency investigations and actions so that you have official reports about what has occurred.

The vehemence of our objections and concerns are not based just on what we have personally experienced. Mr. Gujral has been sued three times - aside from our lawsuit - since late 2016 in connection with his real estate development activities. These lawsuits all claim fraud and serious construction defects, some of which mirror those which have occurred at 310 Montcalm Street. These civil suits can be viewed on the San Francisco Superior Court website online database. The suits are: Diab et al. v. Growth Equity and Ashok Gujral, et al., No. CGC 16-555767; Fors v. SF Realty Partners and Growth Equity Partners, No. CGC 17-557800; and Cuevas et. al. v. 421-423 Oak, Ashok Gujral, et al., No. CGC 17-557865.

All of this information supports a finding that the circumstances surrounding this project are exceptional and extraordinary. We therefore urge the planning commission to accept discretionary review of this project in the hopes that the modifications we have requested will be ordered and that this potentially historic structure will be protected from permanent degradation.

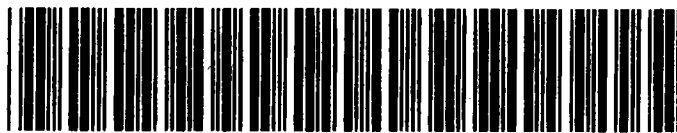
# Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

*Marianne Baeffle*      5/15/18  
Signature: \_\_\_\_\_ Date: 5/15/18

Print name, and indicate whether owner, or authorized agent:  
owners -> 312 Montcalm Street  
Owner / Authorized Agent (circle one)



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**Document Scanning Lead Sheet**

Dec-20-2016 2:05 pm

Case Number: CGC-16-556074

Filing Date: Dec-20-2016 1:59

Filed by: KALENE APOLONIO

Image: 05677689

COMPLAINT

RAFAEL TRUJILLO ET AL VS. SF REALTY PARTNERS, LLC ET AL

001C05677689

**Instructions:**

Please place this sheet on top of the document to be scanned.

EXHIBIT A

82 pages

**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

SF Realty Partners, LLC; Ash Gujral; Stay Covered Builders, Inc. and  
DOES 1-20, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Rafael Trujillo, Marianne Bachers, Susan Thackrey and Stephen Anker

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):

Superior Court of California, County of San Francisco  
400 McAllister Street, San Francisco, CA 94102

CASE NUMBER:  
(Número del Caso):  
**CGC-16-556074**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Robert H. Staley, Epstein, Englert, Staley & Coffey, 425 California St., Suite 1700, San Francisco, CA 94104

Phone: (415) 398-6392 Facsimile: (415) 398-6938

DATE: **DEC 20 2016**  
(Fecha)

**CLERK OF THE COURT**

Clerk, by *Solene Polornis*, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)



**NOTICE TO THE PERSON SERVED: You are served**

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify):
- by personal delivery on (date):



1 ROBERT H. STALEY (SBN 122101)  
2 EPSTEIN, ENGLERT, STALEY & COFFEY  
3 A Professional Corporation  
4 425 California Street, Suite 1700  
5 San Francisco, CA 94104  
6 Telephone: 415/398-2200  
7 Facsimile: 415/398-6938

8 Attorneys for Plaintiffs Rafael Trujillo, Marianne Bachers,  
9 Susan Thackrey and Stephen Anker

**FILED**  
Superior Court of California  
County of San Francisco

DEC 20 2016

CLERK OF THE COURT  
BY: *Tolene Polonio*  
Deputy Clerk

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SAN FRANCISCO, UNLIMITED JURISDICTION

12 RAFAEL TRUJILLO, MARIANNE BACHERS, )  
13 SUSAN THACKREY and STEPHEN ANKER )

14 Plaintiffs, )

15 v. )

16 SF REALTY PARTNERS, LLC; ASH GUJRAL; )  
17 STAY COVERED BUILDERS, INC. and )  
18 DOES 1 THROUGH 20, inclusive, )

19 Defendants. )

Case No. **CGC-16-556074**

**COMPLAINT FOR INJUNCTIVE  
AND MONETARY RELIEF FOR:**

1. **Breach of Contract**
2. **Fraudulent Promise**
3. **Nuisance**
4. **Negligence**

20 Come now plaintiffs Rafael Trujillo and Marianne Bachers (husband and wife), and  
21 Susan Thackrey and Stephen Anker (husband and wife), who allege as follows:

22 1. Plaintiffs are the victims of defendant SF Realty Partners, LLC's ("SFRP")  
23 wanton refusal to repair the foundation of its single family home in a responsible way that avoids  
24 damaging the adjacent foundations and structures— i.e. the foundations supporting plaintiffs'  
25 homes which sit on either side of SFRP's home. Defendants' work was previously "red tagged"  
26 and stopped by the Department of Building Inspection ("DBI") until the parties entered into two  
27 substantially identical License & Underpinning Agreements wherein defendant SFRP promised

1 to install underpinning under plaintiffs Thackrey and Anker's home, promised to pay for design  
2 professionals to inspect the Trujillo and Bachers foundation while it was exposed and easily  
3 accessible, and then allow Trujillo and Bachers to repair their foundation as needed, particularly  
4 with respect to the historical drainage problems. Yet no sooner were the License and  
5 Underpinning Agreements executed and the "red tag" lifted, then defendants charged ahead  
6 without installing the underpinning, without allowing the design professionals to inspect the  
7 other foundation when access was available, and without installing the promised markers to track  
8 any settlement. As predicted, defendant SFRP's work undermined the structural integrity of the  
9 Thackrey/Anker foundation. And the failure to inspect and allow plaintiffs Trujillo and Bachers  
10 to repair the drainage/foundation issues at the coterminous property line as promised will result  
11 in continuing damages to their home in the future. The focus has now shifted to mitigating the  
12 immediate emergency with 308 Montcalm's undermined foundation, but this lawsuit is brought  
13 to address both the immediate problems (via injunction relief) as well as the significant damages  
14 stemming from defendants misconduct and blatant disregard of their obligations under the  
15 License & Underpinning Agreements.

16 2. Plaintiffs Susan Thackrey and Stephen Anker, husband and wife, are the owners  
17 of the residential real property commonly known as 308 Montcalm, San Francisco, California  
18 ("308 Montcalm"). 308 Montcalm sits uphill from 310 Montcalm as defined by Civil Code 832.

19 3. Plaintiffs Rafael Trujillo and Marianne Bachers, husband and wife, are the owners  
20 of the residential real property commonly known as 312 Montcalm, San Francisco, California  
21 ("312 Montcalm"). 312 Montcalm sits downhill from 310 Montcalm.

22 4. Plaintiffs are informed and believe that Defendant SFRP is the owner of the  
23 residential real property commonly known as 310 Montcalm, San Francisco, California ("310  
24 Montcalm"); and that SFRP purchased 310 Montcalm in or about November 2015 with the  
25 intention of remodeling and quickly "flipping" the home. Henceforth the term "Project" shall  
26 refer to defendant SFRP's remodel of 310 Montcalm.

1           5.       Plaintiffs are informed and believe that defendant Ash Gujral, aka Ashok Gujral,  
2 owns and controls defendant SFRP and is the managing member. Defendant Gujral executed the  
3 License Agreements on behalf of defendant SFRP.

4           6.       Defendant Gujral has been involved in San Francisco real estate for many years  
5 and has left many victims and fraud lawsuits in his wake. Up until March 15, 2011 defendant  
6 Gujral held a broker license issued by the California Bureau of Real Estate. On March 15, 2011,  
7 he surrendered his license after the California Bureau of Real Estate filed a formal complaint  
8 containing seven causes of action against defendant Gujral for: (1) mishandling of owner's  
9 deposits in connection with the collection and disbursement of trust funds; (2) failure to comply  
10 with standard accounting and reporting requirements of the California Bureau of Real Estate; (3)  
11 improper solicitation of lenders' notes and interests; (4) failure to disclose minimum lender  
12 information; (5) failure to disclose to borrowers mortgage disclosure statements; (6) improper  
13 use of fictitious business names; and (7) failure to exercise control and supervision over  
14 brokerage activities. In surrendering his real estate license, defendant Gujral admitted all  
15 charging allegations in the Bureau's complaint. In due course, defendant Gujral turned his  
16 predatory skills to purchasing, remodeling and flipping residential properties, including the  
17 subject property – 310 Montcalm.

18           7.       Plaintiffs are informed and believe that defendant Stay Covered Builders, Inc. is a  
19 California corporation engaged by defendant SFRP and operating as the general contractor on  
20 the Project.

21           8.       Plaintiffs do not know the true names of Defendants DOES 1 through 20,  
22 inclusive, and therefore sue them by those fictitious names. The names, capacities, and  
23 relationships of DOES 1 through 20 will be alleged by amendment to this complaint when they  
24 are discovered. Plaintiffs are informed and believe and on that basis allege that each of the DOE  
25 Defendants claims, or may claim, some interest in the Property at a time relevant hereto.

26           9.       Plaintiffs are informed and believe and thereon allege that at all times mentioned  
27 in this complaint, Defendants DOES 1 through 20 were the agents and employees of their

1 codefendants, and in doing the things alleged in this Complaint were acting within the course and  
2 scope of that agency and employment.

3 10. The three homes on 308 Montcalm, 310 Montcalm and 312 Montcalm are  
4 immediately adjacent to each other (i.e. they have coterminous property lines). They are situated  
5 along a steep hill with 308 Montcalm sitting above, 310 Montcalm in the middle and 312  
6 Montcalm sitting below 310 Montcalm. Each residence steps down and each foundation's lateral  
7 support is impacted by the downhill neighbor's foundation as well as any excavation by a  
8 downhill neighbor.

9 11. From the very beginning of the Project, defendant SFRP was cutting corners and  
10 working in violation of its permits. Plaintiffs' concerns led them to engage a consultant, Tom  
11 Reeves with TR&A, who then opened discussions with Defendant SFRP's civil engineer Mark  
12 Waldman. Mr. Waldman provided various project plans and specifications and subsequently the  
13 geotechnical report required by the DBI permit. After reviewing this material, Mr. Reeves met  
14 and conferred with Mr. Waldman and together they completed water elevation studies to confirm  
15 the elevations of the foundations of each of these respective properties. While this work was in  
16 process, on or about August 17, 2016, DBI issued a Stop Work order on the Project because  
17 work had been proceeding outside the scope of the approved permit and because the coterminous  
18 property line stabilization issues had to be addressed.

19 12. Once the additional site condition data was gathered and processed, Mr. Waldman  
20 agreed that changes needed to be made to the Project plans. He and Mr. Reeves then developed  
21 terms and conditions for two substantially identical License & Underpinning Agreements – one  
22 for 308 Montcalm and one for 312 Montcalm. The License and Underpinning Agreements  
23 govern everything from the coterminous property line issues, foundations, structural support,  
24 drainage, excavation, flashing, and water proofing, to the construction sequencing. Any changes  
25 to the Project plans that related to the coterminous property line or plaintiffs' properties required  
26 disclosure to and consent by plaintiffs, which consent shall not be unreasonably withheld.  
27

1           13.    The two License & Underpinning Agreements were entered into by the parties in  
2 November 2016. (See Exhibits A and B hereto.)

3           14.    Pursuant to the License & Underpinning Agreements, defendant SFRP agreed to  
4 make certain changes to the existing Project plans and the construction process in order to  
5 address and mitigate risks to the adjoining foundations and properties. Most importantly,  
6 defendant SFRP agreed a) to have its authorized design professionals and contractor design and  
7 install underpinning to protect 308 Montcalm, all at SFRP's expense; and b) to have its design  
8 professionals investigate 312 Montcalm's foundation at the coterminous property line while it  
9 was exposed in connection with SFRP's work, and then allow plaintiffs Trujillo and Bachers to  
10 make the repairs deemed necessary to resolve what had been a long history of drainage problems  
11 and water penetration through the 312 Montcalm foundation at the location.

12           15.    Once the License Agreements became effective and the DBI Stop Work order was  
13 lifted, Defendant SFRP moved quickly to recommence construction. Inexplicably, defendant  
14 SFRP and its general contractor, defendant Stay Covered Builders, proceeded to ignore every  
15 key provision and pushed ahead with their Project work as if the License & Underpinning  
16 Agreements never existed. For example:

- 17           a. Defendants proceeded without installing the settlement markers required by  
18           the License Agreements.
- 19           b. Defendants proceeded without installing the promised and required  
20           underpinning at 308 Montcalm, and the contractor's work has now  
21           undermined 308 Montcalm's foundation and created the need for a temporary  
22           emergency repair to "shore up" the structure.
- 23           c. Defendants proceeded with work at the coterminous property line between  
24           310 and 312 Montcalm without notice to plaintiffs. Instead of SFRP's design  
25           professionals and Mr. Reeves having the chance to inspect the existing  
26           conditions to assess the drainage and foundation, and allow for the repairs,  
27           Defendant Stay Covered Builders buried the whole area under new concrete.

- 1 d. After installing the concrete and the coterminous property line between 310  
2 and 312 Montcalm, defendants submitted a plan change to DBI for the work  
3 without disclosure to or consent by Plaintiffs.
- 4 e. Defendants started work to mitigate the dangerous condition they created with  
5 308 Montcalm's foundation, but defendant Stay Covered Builders failed to do  
6 the remedial work in accordance with the recommendations of SFRP's design  
7 professionals. Moreover, SFRP has, to date, failed to provide Mr. Reeves and  
8 Mr. Lai, Plaintiff's structural engineer, with a complete set of structural  
9 calculations supporting the design they are in the middle of implementing due  
10 to these exigent circumstances. And, the design involves temporarily using a  
11 new retaining wall on 310 Montcalm to support the home on 308 Montcalm,  
12 which means defendants will have to go back and install the underpinning or  
13 equivalent foundation support as originally agreed.

14  
15 **FIRST CAUSE OF ACTION**

16 (Breach of Trujillo/Bachers License and Underpinning Agreement)

17  
18 16. Paragraphs 1 through 15 above are incorporated by reference as though fully set  
19 forth herein.

20 17. Plaintiffs Trujillo and Bachers have performed all conditions, covenants and  
21 promises required of it under the terms of their License & Underpinning Agreement (for 312  
22 Montcalm) entered into with Defendant SFRP, except where plaintiff Trujillo's and Bachers'  
23 performance has been prevented, waived or excused by reason of Defendants' conduct.

24 18. Commencing in November 2016 and continuing thereafter, defendant SFRP  
25 materially breached the License & Underpinning Agreement with plaintiffs Trujillo and Bachers  
26 as follows:  
27

- 1 a. Under the License & Underpinning Agreement for 312 Montcalm, once the  
2 coterminous property line between 310 and 312 Montcalm was opened and  
3 exposed, failed to have its design professionals investigate the drainage and  
4 foundation issues at that location and allow and coordinate with Plaintiffs for  
5 the repairs as needed. Instead, Defendant SFRP prevented any inspection  
6 when the contractor, Defendant Stay Covered Builders, covered the exposed  
7 coterminous property line with a new concrete foundation approximately 4  
8 feet high.
- 9 b. Only after the concrete work at the coterminous property line between 310  
10 and 312 Montcalm was completed did defendant SFRP submit to DBI an  
11 amended plan for approval of this work. Submitting the amended plan to DBI  
12 without plaintiffs' knowledge and consent also constituted a material breach.  
13 Specifically on December 8, 2016 defendant SFRP's agent/contractor  
14 submitted a revised plan (detail 3/S3) under permit 2016-01208-4452 for 310  
15 Montcalm without notice to or approval by plaintiffs.
- 16 c. SFRP's contractor proceeded without installing the settlement markers  
17 required under the License Agreements.

18 19. As a direct and proximate result of defendant SFRPs' breach, plaintiffs Trujillo  
19 and Bachers have been materially damaged in an amount to be proven at trial.

20 WHEREFORE, Plaintiffs Trujillo and Bachers pray for relief as set forth below.

21  
22 **SECOND CAUSE OF ACTION**

23 (Breach of Thackrey/Anker License and Underpinning Agreement)

24  
25 20. Paragraphs 1 through 19 above are incorporated by reference as though fully set  
26 forth herein.

1           21.     Plaintiffs Thackrey and Anker have performed all conditions, covenants and  
2 promises required of it under the terms of the License & Underpinning Agreement entered into  
3 with defendant SFRP (Exhibit B hereto), except where plaintiff Thackrey's and Anker's  
4 performance has been prevented, waived or excused by reason of defendants' conduct.

5           22.     Commencing in November 2016 and continuing thereafter, defendant SFRP  
6 materially breached the License & Underpinning Agreement with plaintiffs Thackrey and Anker  
7 as follows:

- 8                   a.     Defendant SFRP and its agent, Stay Covered Builder, proceeded with its  
9                   excavation and foundation work before the underpinning was installed at 308  
10                  Montcalm in accordance with the recommendations of their geotechnical  
11                  engineer, and as promised in the License & Underpinning Agreement  
12                  governing 308 Montcalm.
- 13                  b.     Defendant SFRP and its agent, Stay Covered Builders, proceeded without  
14                  installing the settlement markers required under the License Agreements.
- 15                  c.     SFRP and its agent, Stay Covered Builder, have started work to mitigate the  
16                  dangerous condition they created with 308 Montcalm's foundation, but they  
17                  have failed to do the work in accordance with the recommendations of SFRP's  
18                  design professionals. Moreover, to date, they have failed to provide Mr.  
19                  Reeves and plaintiff's structural consultant, Ben Lai, with a complete set of  
20                  structural calculations supporting the design they are in the middle of  
21                  implementing due to these exigent circumstances. And, the design involves  
22                  temporarily using a new retaining wall on 310 Montcalm to support the home  
23                  on 308 Montcalm, which means defendants will have to go back and install  
24                  the underpinning or its equivalent support.

25           23.     As a direct and proximate result of defendant SFRP's material breaches of the  
26 License & Underpinning Agreement, plaintiffs Thackrey and Anker have been materially  
27 damaged in an amount to be proven at trial.



1 WHEREFORE, Plaintiffs Thackrey and Anker pray for relief as set forth below.

2  
3 **THIRD CAUSE OF ACTION**  
4 (Fraud – Promise Without Intent to Perform)  
5 (Defendants SFRP and GUJRAL)

6 24. Paragraphs 1 through 23 above are incorporated by reference as though fully set  
7 forth herein.

8 25. As alleged above, Defendant Gujral executed both License & Underpinning  
9 Agreements with Plaintiffs on behalf of Defendant SFRP. These contracts are substantially  
10 identical. In them Defendants made the following material promises to Plaintiffs:

- 11 a. The promise to install settlement markers before commencing the work.  
12 (License Agreements at ¶6.)
- 13 b. The promise to seek and obtain Plaintiffs' consent for any amendments to the  
14 foundation, drainage and/or cross-property elements of the permit plans.  
15 (License & Underpinning Agreements at ¶1.)
- 16 c. The promise not to commence work on 310 Montcalm's foundation until after  
17 SFRP's design professionals and contractor had designed and installed the  
18 underpinning at 308 Montcalm under contract with Plaintiffs Thackrey and  
19 Anker, but at SFRP's expense. (License & Underpinning Agreements at ¶3.)
- 20 d. The promise to inspect 312 Montcalm's foundation and drainage and allow  
21 and coordinate the repairs as needed while the coterminous property line was  
22 exposed for the work on 310 Montcalm. (License & Underpinning  
23 Agreements at ¶3.)
- 24 e. The promise to "coordinate the shoring/underpinning design and work on 308  
25 Montcalm with the Project Work." (License & Underpinning Agreements at  
26 ¶3 (A).)
- 27



1 Thackrey and Anker did not consent to the conduct resulting in such interference and the  
2 interference constitutes a nuisance within the meaning of Civil Code section 3479.

3 33. Plaintiffs are informed and believe and thereon allege that Defendants created the  
4 nuisance affecting 308 Montcalm intentionally in that before recommencing the Project  
5 excavation work in November 2016 Defendants knew or should have known, based on the  
6 reports and recommendations prepared by Defendants' structural and geotechnical engineers,  
7 that 308 Montcalm's foundation needed underpinning before the work on 310 Montcalm's  
8 foundation proceeded; otherwise, the work would result in undermining 308 Montcalm's  
9 foundation. By proceeding before the underpinning was installed, Defendants' work has in fact  
10 undermined 308 Montcalm and left the foundation at serious risk of settlement and even failure.

11 34. Alternatively, Plaintiffs are informed and believe and thereon allege that  
12 Defendants created the nuisance by negligently proceeding with their Project excavation before  
13 any underpinning was installed under 308 Montcalm.

14 35. Plaintiffs are informed and believe and thereon allege that a) unless restrained or  
15 enjoined by order of this court, Defendants will continue with their Project work, including  
16 further excavation, and continue causing irreparable harm to Plaintiffs Thackrey and Anker by  
17 undermining the foundation and diminishing the value of the 308 Montcalm; and b) the threat of  
18 this irreparable and permanent damage justifies the issuance by this court of an injunction, as  
19 well as an award of money damages, as expressly authorized in Code Civ. Proc., §§ 526 and 731.

20 36. Plaintiffs Thackrey and Anker are informed and believe and thereon allege that  
21 they have no adequate remedy at law for the continuing interference with their home, as alleged  
22 above.

23 37. As a direct and proximate result of the nuisance created by Defendants as alleged  
24 herein, Plaintiffs Thackrey and Ankers have been damaged in an amount to be determined at  
25 trial.

26 38. Plaintiffs are further informed and believe and thereon allege that Defendants,  
27 caused and/or authorized the Project excavation and foundation work that has caused, and will

1 continue to cause, the harm to Plaintiffs' home with conscious disregard of Plaintiff's rights and  
2 with malice, fraud or oppression, justifying an award of exemplary damages under California  
3 Civil Code § 3294.

4 Wherefore, Plaintiffs Thackrey and Anker pray for judgment as set forth below.

5  
6 **FIFTH CAUSE OF ACTION**

7 (Nuisance – 312 Montcalm)

8 39. Plaintiffs allege and incorporate by reference paragraphs 1 through 38 as though  
9 fully set forth herein.

10 40. Plaintiff Trujillo and Bachers are informed and believe, and thereon allege, that  
11 310 Montcalm's drainage systems and controls are broken and/or inadequate, and that as a  
12 consequence excessive water is collected and diverting onto and over 312 Montcalm, which  
13 excessive water had caused, and will continue to cause, flooding and damage to Plaintiffs' home.

14 41. The current harm and threat of future harm is obstructing Plaintiff Trujillo's and  
15 Bachers' free use of, and interferes with, the enjoyment of their home. Plaintiffs Trujillo and  
16 Bachers did not consent to the conduct resulting in such interference and the interference  
17 constitutes a nuisance within the meaning of Civil Code section 3479.

18 42. Plaintiffs are informed and believe and thereon allege that unless restrained or  
19 enjoined by order of this court, Defendant SFRP will not remediate its broken and/or inadequate  
20 drainage systems and abate the nuisance harming Plaintiffs' property; the discharge of excess  
21 water will continue onto and over Plaintiffs' property; and, Plaintiffs will continue to suffer  
22 irreparable harm in the form of continuing and repeated water damage and the potential risks  
23 posed by mold and mildew.

24 43. Plaintiffs Trujillo and Bachers are informed and believe and thereon allege that  
25 they have no adequate remedy at law for the continuing interference with their home, as alleged  
26 above.



1 WHEREFORE, Plaintiffs Thackrey and Anker pray for relief against SFRP, Stay  
2 Covered Builders and Does 1 through 20 as set forth below.

3  
4 **PRAYER**

5 1. For a preliminary and permanent injunctive relief prohibiting Defendants and  
6 their agents and all others acting in concert with them from performing any further work on the  
7 Project unless and until:

8 a. The underpinning to protect 308 Montcalm is installed and paid for in accordance  
9 with the terms of the 308 Montcalm License & Underpinning Agreement, which  
10 in turn means in accordance with the recommendations set out in the May 2016  
11 report from Defendant SFRP's geotechnical engineer.

12 b. Defendant SFRP exposes the coterminous property line between 310 and 312  
13 Montcalm and allows for the inspection and repairs, as necessary, in accordance  
14 with the terms and conditions of the License & Underpinning Agreement for 312  
15 Montcalm.

16 2. For general damages according to proof at trial, but in no event less than the  
17 jurisdiction minimum for this this Court;

18 3. For punitive damages in an amount according to proof;

19 4. For reasonable attorney's fees, expenses and costs of suit;

20 5. For such other and further relief that the court considers proper.

21  
22 DATED: December 19, 2016

EPSTEIN, ENGLERT, STALEY & COFFEY,  
A Professional Corporation

23  
24 By: 

25 Robert H. Staley, Esq.  
26 Attorneys for Plaintiffs Rafael Trajillo,  
27 Marianne Bachers, Susan Thackrey and  
Stephen Anker



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**EXHIBIT A**

## LICENSE AND UNDERPINNING AGREEMENT

This License Agreement (the "Agreement") is made this 4th day of November, 2016 (the "Effective Date"), by and between the following parties:

1. SF Realty Partners LLC, on behalf of itself and all of its agents, representatives, heirs and/or successors in interest (hereinafter collectively referred to as "SF Realty Partners");
2. Rafael Trujillo and Marianne Bachers, husband and wife, on behalf of themselves and all of their agents, representatives, heirs and/or successors in interest (hereinafter collectively referred to as "Trujillo/Bachers"). SF Realty Partners and Trujillo/Bachers are at times referred to in this Agreement individually as a "Party" and collectively as the "Parties."

### RECITALS

WHEREAS, SF Realty Partners is the owner of the residential real property commonly known as 310 Montcalm Street, San Francisco, California 94110 ("310 Montcalm").

WHEREAS, SF Realty Partners has applied for and obtained building permit #201604114470 (the "Permit") from the San Francisco Building Department ("SFBD") for a proposed extensive renovation of 310 Montcalm that includes significant excavation (the "Project").

WHEREAS Trujillo/Bachers are the owners of the residential real property immediately adjacent to 310 Montcalm and commonly known as 312 Montcalm Street, San Francisco, California 94110 ("312 Montcalm").

WHEREAS, Trujillo/Bachers have appealed the Permit in Board of Appeals Case No. 16-093 (the "Appeal"), and the Permit is suspended pending resolution of the Appeal.

WHEREAS, Trujillo/Bachers agree, subject to the terms and conditions set forth herein, to withdraw their Permit Appeal.

WHEREAS, SF Realty Partners agrees, subject to the terms and conditions set forth herein, a) to amend the plans submitted and approved in connection with the Permit application (the "Permit Plans") in favor of a turn down, slab on grade foundation; b) to perform all Project work (the "Project Work") in accordance with the Permit Plans, as amended, with the exception of any work within the permitted building envelope or any work that will not have any impact on 312 Montcalm's drainage or lateral/subjacent support, which may be changed at SF Realty Partners' sole discretion; and c) to timely pay for the shoring/underpinning design services and work on 312 Montcalm that are reasonably necessary to protect 312 Montcalm from the risk of the Project.

WHEREAS, Trujillo/Bachers and SF Realty Partners agree to grant each other licenses as provided herein.

WHEREAS, subject to the terms of this Agreement, SF Realty Partners agrees to defend, indemnify and protect against, and hold Trujillo/Bachers harmless from, any and all claims, damages and losses arising from or related to any work performed by SF Realty Partners on either 310 Montcalm or 312 Montcalm, excepting only those claims, damages or losses related to the work of Trujillo/Bachers' Shoring Professionals or caused entirely by Trujillo/Bachers' gross negligence or willful misconduct.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and in the foregoing recitals, the Parties agree as follows:

#### AGREEMENT

1. **The Project Work:** SF Realty Partners shall perform and finish the Project Work in a safe, prudent and professional manner in accordance with the Permit Plans, and any modifications thereto agreed to by the Parties or required by this Agreement or the Department of Building Inspection, and in accordance with all applicable laws, ordinances and building codes. The Parties agree that the foundation and drainage aspects of the Permit Plans may be amended as reasonably necessary to address site conditions. This includes a change in the foundation design in favor of a turn down, slab on grade foundation. Any amendments to the foundation, drainage and/or cross-property elements of the Permit Plans must be approved by Trujillo/Bachers, which approval shall not be unreasonably withheld. However, any minor field changes may be agreed to by the Parties' consultants and shall not require the Parties' written consent or amendment of this Agreement.

2. **Protecting 312 Montcalm:** SF Realty Partners, at its sole cost and expense, shall perform all work reasonably necessary to protect 312 Montcalm and its improvements from damage or loss arising out of or related to the Project, including the Drainage & Flashing work (as defined below) reflected on the Project Plans, and taking into account the actual site conditions. Notwithstanding the foregoing, SF Realty Partners shall not be obligated to provide lateral or subjacent support for 312 Montcalm or its improvements, or to protect against loss of such support.

3. **The Shoring/Underpinning Work on 312 Montcalm:** Benjamin P. Lai & Associates Structural Engineers, Inc. and Ampex Engineering & Construction, Inc. will review the foundation conditions at 312 Montcalm to determine whether shoring or underpinning is necessary. (The cost of this review will be paid by SF Realty Partners.) If they determine that shoring or underpinning is necessary, then Trujillo/Bachers shall shore/underpin the home at 312 Montcalm on the following terms and conditions:

A. The Parties shall coordinate the shoring/underpinning design and work on 312 Montcalm with the Project Work. All of the 312 Montcalm shoring/underpinning

design and work shall be performed by Trujillo/Bachers' contractor(s) and engineer(s) in consultation with and with the reasonable cooperation of SF Realty Partners and its consultants. SF Realty Partners shall execute any documents reasonably necessary for Trujillo/Bachers to obtain entitlements for the 312 Montcalm shoring/underpinning work. Trujillo/Bachers agree that SF Realty Partners' obligations under CA Civil Code section 832 have been satisfied and superseded by this Agreement. The Shoring/Underpinning Work (as defined below) shall not significantly delay the Project Work.

- B. Trujillo/Bachers shall contract with Benjamin P. Lai & Associates Structural Engineers, Inc. or a replacement engineer should such replacement become necessary, ("Trujillo/Bachers' Shoring/Underpinning Professionals") to design a shoring/underpinning system for the protection of 312 Montcalm and its lateral and subjacent support (the "312 Montcalm Shoring/Underpinning Design Plans and Specifications"); and,
- C. Trujillo/Bachers shall contract with Ampex Engineering & Construction, Inc. or a replacement contractor should such replacement become necessary ("Trujillo/Bachers' Shoring/Underpinning Contractor") to perform the 312 Montcalm Shoring/Underpinning Design Plans and Specifications scope of work (the "Shoring/Underpinning Work").
- D. SF Realty Partners shall timely pay to Trujillo/Bachers all sums due and owing by Trujillo/Bachers to their Shoring/Underpinning Professionals and Contractor under their respective contracts for the 312 Montcalm shoring/underpinning design and work, including permit fees and special inspection costs. These sums shall not exceed the amount that would be charged by Benjamin P. Lai & Associates Structural Engineers, Inc. and contractor Ampex Engineering & Construction, Inc. to design and install an underpinning system at 312 Montcalm.
- E. The Parties further understand and agree that Trujillo/Bachers may also, at their own cost and expense, engage the Trujillo/Bachers' Shoring/Underpinning Professionals and Contractor to develop plans and specifications for, and complete, repairs to the 312 Montcalm foundation deemed reasonably necessary by the Trujillo/Bachers' consultant based on site conditions uncovered during the course of the Shoring/Underpinning Work.
- F. Any and all plans, specifications and work by the Trujillo/Bachers Shoring Underpinning Professionals and Contractor shall be performed in a safe, prudent and professional manner in accordance with the approved 312 Montcalm Shoring/Underpinning Design Plans and Specifications and permit, and any modifications thereto agreed to by the Parties or required by this Agreement or the Department of Building Inspection, and in accordance with all applicable laws, ordinances and building codes.

4. **The Appeal:** Trujillo/Bachers shall withdraw or dismiss the Appeal within 24 hours of the execution of this Agreement. Trujillo/Bachers shall not otherwise challenge or oppose

the Project, whether directly or indirectly, whether in their own capacity or through any agent, representative or surrogate, in any way.

5. **Agreement re: TR&A Role:** The Parties agree that TR&A, Inc. ("TR&A") as 312 Montcalm's consultant shall be granted reasonable access to 310 Montcalm as reasonably needed for any cross-property-line issues that may arise.

6. **Monitoring 312 Montcalm:** Prior to initiating any excavation at 310 Montcalm, SF Realty Partners shall place settlement marker(s) at the coterminous property line foundation(s) of 312 Montcalm or as practical to be referenced to singular bench on the opposite street location from both 310 and 312 Montcalm. Settlement markers shall be monitored on a minimum of once bi-weekly until foundation has been completed, at which time monitoring may be suspended. Markers are to remain in place until 1 year after a Certificate of Final Completion and Occupancy (CFCO) has been issued. SF Realty Partners agrees that the water level and site finish crack survey readings obtained by TR & A. and attached hereto as Exhibit C (hereinafter "Baseline Readings") accurately represent elevations prior to commencement of the Work and shall represent a baseline for identifying the existence and amount of any settlement, deflection or change. Readings shall be taken as often as reasonably necessary to identify any movement to protect 312 Montcalm, including all improvements thereon. Either Party to this Agreement shall have the right to engage engineers or consultants to monitor and review the foundation and Shoring/Underpinning Work and make recommendations to ensure completion of the Shoring/Underpinning Work in accordance with the 312 Montcalm Shoring/Underpinning Design Plans and Specifications.

7. **Full Disclosure:** SF Realty Partners shall promptly disclose to Trujillo/Bachers any material change(s) in either a) the condition of 312 Montcalm, including the improvements thereon, or b) the risks posed by the excavation or construction activities to 312 Montcalm, upon SF Realty Partners learning of same.

8. **Problems Arising During Construction:** If at any time during the course of the Project SF Realty Partners' engineers, consultants or contractors recommends that additional measures should be undertaken to protect 312 Montcalm, including the improvements thereon, SF Realty Partners shall 1) promptly seek Trujillo/Bachers' written consent for such additional work as needed, which consent shall not be unreasonably withheld, and 2) upon receiving Trujillo/Bachers' written consent, complete such additional work in consultation with Trujillo/Bachers' engineers or consultants. This provision does not apply to the Shoring/Underpinning Work, which shall be completed by Trujillo/Bachers as provided for in this Agreement.

9. **Reciprocal License Cross-Property Line Improvements:** The Project Work includes certain improvements that will extend across the coterminous property line and are intended to benefit both 310 Montcalm and 312 Montcalm. Accordingly, each Party hereby grants the other a reciprocal license for installation and maintenance of the following improvements:

A. **Eaveline and Dutch Gutter:** License is granted by Trujillo/Bachers to SF Realty

Partners for installation of eaveline remediation, Dutch gutter, and cross-property-line flashing (collectively "Drainage & Flashing") to extend from 312 Montcalm sidewall to Dutch gutter of 310 Montcalm or opposite direction. SF Realty Partners will prepare Drainage & Flashing details and provide them to Trujillo/Bachers (and their consultants) for review and approval, which approval shall not be unreasonably withheld. Promptly following the installation of the Drainage & Flashing, Trujillo/Bachers (including their expert(s)) will inspect the work to ensure that the Drainage & Flashing is installed in accordance with the approved details. The Parties hereby agree to hold each other harmless from any claims and or liability arising out of the design or installation of Drainage & Flashing. The Parties reserve all of their respective rights against the design professionals, contractors, subcontractors and all others involved in designing and performing the Drainage & Flashing work that arise out of or are related to the design and installation of the Drainage & Flashing. The Parties will eliminate any foundation-level cross-property-line encroachments during the Project Work to the extent practicable.

**B. Waterproofing Remediation.** SF Realty Partners hereby grants Trujillo/Bachers a license to enter onto 310 Montcalm for the purpose of remediating the waterproofing of 312 Montcalm if they so desire. Said access shall be coordinated with SF Realty Partners and take place at reasonable times so as not to interfere with work at 310 Montcalm.

**C. Sidewall Preparation by 310 Montcalm:** License is granted by Trujillo/Bachers to SF Realty Partners for access to enter and work from 312 Montcalm to complete 310 Montcalm sidewalls and foundation of 310 Montcalm. This access will be coordinated in phases as construction progresses.

**D. Sidewall Scaffold and Protection by 310 Montcalm:** License is granted by Trujillo/Bachers to SF Realty Partners for access and permission to erect scaffold and safety tie offs on 312 Montcalm for construction at 310 Montcalm (as needed) to complete exterior 310 Montcalm work. Tie offs, if used, shall be waterproofed with details submitted for approval by 312 Montcalm designated consultant, which approval shall not be unreasonably withheld. If Project Work activities by SF Realty Partners may potentially cause damage to 312 Montcalm, SF Realty Partners shall install protection panels on the roof of 312 Montcalm and shall include netting to prevent debris from entering the drift space between the 310 Montcalm and 312 Montcalm buildings.

**E. Foundation Drainage and Waterproofing:** License is granted by Trujillo/Bachers to SF Realty Partners for installation of subsurface foundation-level flashing, waterproofing, and subsurface drainage to be installed in the drift space between the two properties. The drift space drainage shall be maintained by SF Realty Partners and shall include clean-outs for future maintenance installed on 310 Montcalm.

**F. Foundations.** SF Realty Partners grants to Trujillo/Bachers, and their authorized agents and contractors, a license to enter upon 310 Montcalm to perform the 312 Montcalm Shoring/Underpinning Work.



G. SF Realty Partners further agrees to brace the light wells, if any, of the 312 Montcalm building. Before any excavation is begun, Trujillo/Bachers' engineer and Contractor shall, if necessary, cause the Shoring/Underpinning Plans to be modified to conform to field conditions and shall furnish a copy of the modified Shoring/Underpinning Plans to SF Realty Partners. Trujillo/Bachers represent and warrant that all Shoring/Underpinning Work shall be done in accordance with the soils report recommendations and protocols (for structural support only, and not for drainage unless an addendum is issued) outlined in the cross property geotechnical report by GeoEngineering Consultants dated May 2016 and attached hereto as Exhibit D.

10. **Protection of Permit Work.** Trujillo/Bachers will not be responsible for securing the Project Work or any material, equipment or other thing employed in the Project Work, including, but not limited to, loss or damage due to theft, trespass or vandalism. SF Realty Partners shall take reasonable measures to secure 310 Montcalm during the Project Work.

11. **Liens.** SF Realty Partners shall at all times keep 312 Montcalm free from any attachment, lien, claim of lien, or other encumbrance arising out of the Project Work, and SF Realty Partners shall indemnify, defend and hold Trujillo/Bachers harmless from and against all Claims, losses, demands, causes of action or expenses (including attorneys' fees and other costs of defense incurred by Trujillo/Bachers in defending against the foregoing or in enforcing this indemnity and defense obligation) of whatever nature, arising by reason of any such lien, claim of lien, attachment or encumbrance. If any Claim is filed to enforce any laborers, materialmen, mechanics, or other similar lien against 312 Montcalm, SF Realty Partners will promptly cause such lien to be released and discharged and if SF Realty Partners fails to do so, then Trujillo/Bachers will have a right to pay all sums, including attorneys' fees and other costs and expenses incurred necessary to obtain such release and discharge, and hold SF Realty Partners liable for the amount thereof.

Trujillo/Bachers shall at all times keep 310 Montcalm free from any attachment, lien, claim of lien, or other encumbrance arising out of the 312 Montcalm Shoring/Underpinning Work, and Trujillo/Bachers shall indemnify, defend and hold SF Realty Partners harmless from and against all Claims, losses, demands, causes of action or expenses (including attorneys' fees and other costs of defense incurred by SF Realty Partners in defending against the foregoing or in enforcing this indemnity and defense obligation) of whatever nature, arising by reason of any such lien, claim of lien, attachment or encumbrance. If any Claim is filed to enforce any laborers, materialmen, mechanics, or other similar lien against 310 Montcalm, Trujillo/Bachers will promptly cause such lien to be released and discharged and if Trujillo/Bachers fail to do so, then SF Realty Partners will have a right to pay all sums, including attorneys' fees and other costs and expenses incurred necessary to obtain such release and discharge, and hold Trujillo/Bachers liable for the amount thereof.

12. **Indemnification:** To the fullest extent of the law, and excepting only minor settlement cracks, SF Realty Partners will indemnify, defend, protect and hold harmless Trujillo/Bachers from and against any suit, demand, claim, cause of action, loss, damage or injury arising out of or related to the Project Work, excepting only any damage, loss or injury related to

the 312 Montcalm Shoring/Underpinning Work or other work performed by or under Trujillo/Bachers or caused entirely by the gross negligence or willful misconduct of Trujillo/Bachers. TRUJILLO/BACHERS AND SF REALTY PARTNERS UNDERSTAND AND ACKNOWLEDGE THAT THE INDEMNIFICATION AND DEFENSE OBLIGATIONS UNDER THIS AGREEMENT EXTEND TO AND INCLUDE CLAIMS ARISING FROM THE ACTIVE OR PASSIVE NEGLIGENCE OR STRICT LIABILITY OF TRUJILLO/BACHERS BUT DO NOT INCLUDE CLAIMS THAT ARE FINALLY DETERMINED TO RESULT FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF TRUJILLO/BACHERS (INCLUDING THEIR CONSULTANTS), IN WHICH EVENT TRUJILLO/BACHERS SHALL REIMBURSE SF REALTY PARTNERS FOR ALL FEES AND COSTS INCURRED. Prior to SF Realty Partners' commencement of excavation at 310 Montcalm, Trujillo/Bachers shall inform SF Realty Partners of any conditions or defects at 312 Montcalm which might affect the Permit Work or Shoring/Underpinning Work.

13. **Insurance:** SF Realty Partners or its contractor(s)/engineers shall maintain at all times during the course of any of the Work undertaken pursuant to this Agreement Commercial General Liability Insurance with Broad Form Completed Operations coverage providing commercially reasonable, acceptable limits of not less than \$1,000,000 per occurrence, and \$2,000,000 aggregate, covering liability for bodily injury and property damage arising out of or related to the Work. The insurance afforded by the policy for the benefit of Trujillo/Bachers will be primary and no contribution shall be permitted from any insurance or self-insurance maintained by Trujillo/Bachers. Such insurance shall be consistent with industry standards for projects involving similar excavation and construction, and shall name Trujillo/Bachers as an additional insured. SF Realty Partners shall provide Trujillo/Bachers with a Certificate of Insurance and a copy of the endorsement adding Trujillo/Bachers as an additional insured showing that coverage is in full force and effect prior to commencing the excavation. This coverage is to remain in force from the start of excavation on this Project until the completion of the Project, and replacement certificates and endorsements must be submitted to Trujillo/Bachers if the insurance is renewed, or should the insurance carrier be replaced.

Trujillo/Bachers or their contractor(s)/engineers shall maintain at all times during the course of any of the Work undertaken pursuant to this Agreement Commercial General Liability Insurance with Broad Form Completed Operations coverage providing commercially reasonable, acceptable limits of not less than \$1,000,000 per occurrence, and \$2,000,000 aggregate, covering liability for bodily injury and property damage arising out of or related to the Shoring/Underpinning Work. ~~The insurance afforded by the policy for the benefit of SF Realty Partners will be primary and no contribution shall be permitted from any insurance or self-insurance maintained by SF Realty Partners.~~ Such insurance shall be consistent with industry standards for projects involving similar shoring/underpinning work, and shall name SF Realty Partners as an additional insured. Trujillo/Bachers shall provide SF Realty Partners with a Certificate of Insurance and a copy of the endorsement adding SF Realty Partners as an additional insured showing that coverage is in full force and effect prior to commencing the Shoring/Underpinning Work. This coverage is to remain in force from the start of the Shoring/Underpinning Work until the completion of the Project, and replacement certificates and

endorsements must be submitted to SF Realty Partners if the insurance is renewed, or should the insurance carrier be replaced.

14. Miscellaneous:

A. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

B. Counterparts/Time Is of the Essence. This Agreement may be executed in multiple counterparts and signatures may be exchanged by facsimile or electronically, each of which shall be deemed to be an original document (except as may be required for recordation), and all of which together shall constitute one and the same document. In the event that any representation, warranty, acknowledgment, covenant, agreement, clause, provision, promise, or undertaking made by either Party contained in this Agreement (collectively, a "Term") is deemed, construed, or alleged to be illegal, invalid, or unenforceable under present or future laws, in whole or in part, such Term shall be replaced by a legal, valid and enforceable term that as closely as possible reflects the intent of the Parties with respect to such Term and the Parties acknowledge that each and every other term of this Agreement shall remain valid and enforceable. Time is of the essence for the completion of the acts described in and required by this Agreement.

C. Integration. This Agreement constitutes the final, complete and exclusive statement of the terms of the agreement between the Parties and it supersedes any and all prior or contemporaneous agreements, communications or representations between the parties, either oral or in writing, relating to the subject matter of this Agreement.

D. Attorney's Fees. The Parties acknowledge and agree that if either Party commences litigation to interpret or enforce the terms of this Agreement, the prevailing Party or Parties in such action shall be entitled to recover costs and attorneys' fees incurred in such an action, including experts' fees and costs. For purposes of this Section, the "prevailing Party" shall mean the Party that obtains substantially the result sought, whether by settlement, judgment, or dismissal. Each Party, however, shall otherwise bear their own attorneys' fees and costs incurred to the extent such Party is not the prevailing Party.

E. Assignment: The license granted herein may be assigned by either party or their respective successors in interest in the properties upon prior written notice by the assigning party to the other.

F. Arbitration: Any controversy or claim arising out of or relating to this Agreement or any breach thereof shall be settled by binding arbitration if the Parties agree thereto.

G. Severability: The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of the remainder of this Agreement.

H. Incorporation of Exhibits: All exhibits referenced herein and attached hereto are hereby incorporated by reference into this Agreement.

I. Waiver and Other Action. This Agreement constitutes the entire agreement between the Parties. Any prior agreements, negotiations, or representation not expressly set forth in this Agreement are of no force or effect. Any amendment to this Agreement shall be of no force or effect unless it is in the writing and signed by the Parties.

J. Headings. The headings used herein are for purposes of convenience only and shall not be used in construing the provisions hereof or in determining any of the rights or obligations of the Parties to the Agreement.

K. Successors and Assigns. This Agreement and all the respective rights, interests and obligations hereunder shall be binding upon, inure to the benefit of and be enforceable by the Parties hereto and their respective members, partners, directors, managers, officers, trustees, employees, affiliates, subsidiaries, related corporations or entities, heirs, devisees, executors, administrators, personal or legal representatives, successors (in interest, or in title, or in both), assigns, and the like. Each Party shall provide a copy of this Agreement to any heir, successor, assign, or the like prior to transfer of its respective property.

L. Representations and Warranties. The persons signing this Agreement hereby warrant and represent that they have the power and authority to bind their respective Parties, and owners of their respective properties, on whose behalf this Agreement is signed. Each Party agrees to indemnify, defend, and hold harmless the other Party for any loss, costs, expenses, claims, or damages resulting from any breach of this paragraph.

M. Effective Waiver. No waiver by a Party of any provision in this Agreement shall be deemed a waiver of any other provision or any subsequent breach of the same or any other provision, including but not limited to the time for performance of any such provision. The exercise by a Party of any remedy provided in this Agreement or at law shall not prevent the exercise by that Party of any other remedy provided in this Agreement or at law.

N. No Agency. Nothing in this Agreement shall be construed as permitting or authorizing any Party to act in any capacity as an agent of the other. Any intention to create a joint venture, partnership or principal and agent relationship between the Parties is hereby expressly disclaimed.

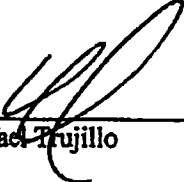
O. Advice of Counsel. The Parties represent and acknowledge that they have read and understood the terms of this Agreement, and they have either obtained the advice of counsel on the meaning and effect of this Agreement or have freely chosen not to do so. The Parties have had an opportunity to fully participate in preparing this Agreement and acknowledge that it is the product of the draftsmanship of the Parties. Accordingly, this Agreement shall not be construed for or against either Party by virtue of their participation, or lack of participation, in the drafting hereof.

IN WITNESS WHEREOF, SF Realty Partners and Trujillo/Bachers have executed this Agreement as of the Effective Date.

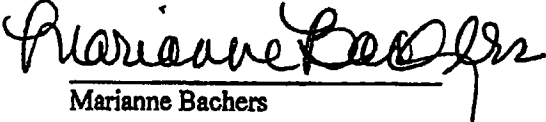
Dated: 11-04, 2016

  
\_\_\_\_\_  
SF Realty Partners LLC  
By: Ash Gujral  
Its: Managing Member

Dated: 11-5, 2016

  
\_\_\_\_\_  
Rafael Trujillo

Dated: Nov. 5, 2016

  
\_\_\_\_\_  
Marianne Bachers

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**EXHIBIT B**

## LICENSE AND UNDERPINNING AGREEMENT

This License Agreement (the "Agreement") is made this 4th day of November, 2016 (the "Effective Date"), by and between the following parties:

1. SF Realty Partners LLC, on behalf of itself and all of its agents, representatives, heirs and/or successors in interest (hereinafter collectively referred to as "SF Realty Partners");
2. Stephen Anker and Susan Thackrey, husband and wife, on behalf of themselves and all of their agents, representatives, heirs and/or successors in interest (hereinafter collectively referred to as "Anker/Thackrey"). SF Realty Partners and Anker/Thackrey are at times referred to in this Agreement individually as a "Party" and collectively as the "Parties."

### RECITALS

WHEREAS, SF Realty Partners is the owner of the residential real property commonly known as 310 Montcalm Street, San Francisco, California 94110 ("310 Montcalm").

WHEREAS, SF Realty Partners has applied for and obtained building permit #201604114470 (the "Permit") from the San Francisco Building Department ("SFBD") for a proposed extensive renovation of 310 Montcalm that includes significant excavation (the "Project").

WHEREAS Anker/Thackrey are the owners of the residential real property immediately adjacent to 310 Montcalm and commonly known as 308 Montcalm Street, San Francisco, California 94110 ("308 Montcalm").

WHEREAS, Anker/Thackrey have appealed the Permit in Board of Appeals Case No. 16-094 (the "Appeal"), and the Permit is suspended pending resolution of the Appeal.

WHEREAS, Anker/Thackrey agree, subject to the terms and conditions set forth herein, to withdraw their Permit Appeal.

WHEREAS, SF Realty Partners agrees, subject to the terms and conditions set forth herein, a) to amend the plans submitted and approved in connection with the Permit application (the "Permit Plans") in favor of a turn down, slab on grade foundation; b) to perform all Project work (the "Project Work") in accordance with the Permit Plans, as amended, with the exception of any work within the permitted building envelope or any work that will not have any impact on 308 Montcalm's drainage or lateral/subjacent support, which may be changed at SF Realty Partners' sole discretion; and c) to timely pay for the shoring/underpinning design services and work on 308 Montcalm that are reasonably necessary to protect 308 Montcalm from the risk of the Project.

WHEREAS, Anker/Thackrey and SF Realty Partners agree to grant each other licenses as provided herein.

WHEREAS, subject to the terms of this Agreement, SF Realty Partners agrees to defend, indemnify and protect against, and hold Anker/Thackrey harmless from, any and all claims, damages and losses arising from or related to any work performed by SF Realty Partners on either 310 Montcalm or 308 Montcalm, excepting only those claims, damages or losses related to the work of Anker/Thackrey's Shoring Professionals or caused entirely by Anker/Thackrey's gross negligence or willful misconduct.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and in the foregoing recitals, the Parties agree as follows:

#### AGREEMENT

1. **The Project Work:** SF Realty Partners shall perform and finish the Project Work in a safe, prudent and professional manner in accordance with the Permit Plans, and any modifications thereto agreed to by the Parties or required by this Agreement or the Department of Building Inspection, and in accordance with all applicable laws, ordinances and building codes. The Parties agree that the foundation and drainage aspects of the Permit Plans may be amended as reasonably necessary to address site conditions. This includes a change in the foundation design in favor of a turn down, slab on grade foundation. Any amendments to the foundation, drainage and/or cross-property elements of the Permit Plans must be approved by Anker/Thackrey, which approval shall not be unreasonably withheld. However, any minor field changes may be agreed to by the Parties' consultants and shall not require the Parties' written consent or amendment of this Agreement.

2. **Protecting 308 Montcalm:** SF Realty Partners, at its sole cost and expense, shall perform all work reasonably necessary to protect 308 Montcalm and its improvements from damage or loss arising out of or related to the Project, including the Drainage & Flashing work (as defined below) reflected on the Project Plans, and taking into account the actual site conditions. Notwithstanding the foregoing, SF Realty Partners shall not be obligated to provide lateral or subjacent support for 308 Montcalm or its improvements, or to protect against loss of such support.

3. **The Shoring/Underpinning Work on 308 Montcalm:** Anker/Thackrey shall shore/underpin the home at 308 Montcalm on the following terms and conditions:

A. The Parties shall coordinate the shoring/underpinning design and work on 308 Montcalm with the Project Work. All of the 308 Montcalm shoring/underpinning design and work shall be performed by Anker/Thackrey's contractor(s) and engineer(s) in consultation with and with the reasonable cooperation of SF Realty Partners and its consultants. SF Realty Partners shall execute any documents reasonably necessary for Anker/Thackrey to obtain entitlements for the 308 Montcalm shoring/underpinning work. Anker/Thackrey agree that SF Realty Partners's obligations under CA Civil Code section 832 have been satisfied and superseded by this Agreement. The



Shoring/Underpinning Work (as defined below) shall not significantly delay the Project Work.

- B. Anker/Thackery shall contract with Benjamin P. Lai & Associates Structural Engineers, Inc. or a replacement engineer should such replacement become necessary, ("Anker/Thackrey's Shoring/Underpinning Professionals") to design a shoring/underpinning system for the protection of 308 Montcalm and its lateral and subjacent support (the "308 Montcalm Shoring/Underpinning Design Plans and Specifications"); and,
  - C. Anker/Thackery shall contract with Ampex Engineering & Construction, Inc. or a replacement contractor should such replacement become necessary ("Anker/Thackrey's Shoring/Underpinning Contractor") to perform the 308 Montcalm Shoring/Underpinning Design Plans and Specifications scope of work (the "Shoring/Underpinning Work").
  - D. SF Realty Partners shall timely pay to Anker/Thackrey all sums due and owing by Anker/Thackrey to their Shoring/Underpinning Professionals and Contractor under their respective contracts for the 308 Montcalm shoring/underpinning design and work, including permit fees and special inspection costs. These sums shall not exceed the amount that would be charged by Benjamin P. Lai & Associates Structural Engineers, Inc. and contractor Ampex Engineering & Construction, Inc. to design and install an underpinning system at 308 Montcalm
  - E. Any and all plans, specifications and work by the Anker/Thackery Shoring Underpinning Professionals and Contractor shall be performed in a safe, prudent and professional manner in accordance with the approved 308 Montcalm Shoring/Underpinning Design Plans and Specifications and permit, and any modifications thereto agreed to by the Parties or required by this Agreement or the Department of Building Inspection, and in accordance with all applicable laws, ordinances and building codes.
4. **The Appeal:** Anker/Thackrey shall withdraw or dismiss the Appeal within 24 hours of the execution of this Agreement. Anker/Thackrey shall not otherwise challenge or oppose the Project, whether directly or indirectly, whether in their own capacity or through any agent, representative or surrogate, in any way.
5. **Agreement re: TR&A Role:** The Parties agree that TR&A, Inc. ("TR&A") as 308 Montcalm's consultant, shall be granted reasonable access to 310 Montcalm as reasonably needed for any cross-property-line issues that may arise.
6. **Monitoring 308 Montcalm:** Prior to initiating any excavation at 310 Montcalm, SF Realty Partners shall place settlement marker(s) at the coterminous property line foundation(s) of 308 Montcalm or as practical to be referenced to singular bench on the opposite street location from both 310 and 308 Montcalm. Settlement markers shall be monitored on a minimum of once bi-weekly until foundation has been completed, at which time monitoring may be suspended. Markers are to remain in place until 1 year after a Certificate of Final Completion and Occupancy

(CFCO) has been issued. SF Realty Partners agrees that the water level and site finish crack survey readings obtained by TR & A. and attached hereto as Exhibit C (hereinafter "Baseline Readings") accurately represent elevations prior to commencement of the Work and shall represent a baseline for identifying the existence and amount of any settlement, deflection or change. Readings shall be taken as often as reasonably necessary to identify any movement to protect 308 Montcalm, including all improvements thereon. Either Party to this Agreement shall have the right to engage engineers or consultants to monitor and review the foundation and Shoring/Underpinning Work and make recommendations to ensure completion of the Shoring/Underpinning Work in accordance with the 308 Montcalm Shoring/Underpinning Design Plans and Specifications.

7. **Full Disclosure:** SF Realty Partners shall promptly disclose to Anker/Thackrey any material change(s) in either a) the condition of 308 Montcalm, including the improvements thereon, or b) the risks posed by the excavation or construction activities to 308 Montcalm, upon SF Realty Partners learning of same.

8. **Problems Arising During Construction:** If at any time during the course of the Project SF Realty Partners' engineers, consultants or contractors recommends that additional measures should be undertaken to protect 308 Montcalm, including the improvements thereon, SF Realty Partners shall 1) promptly seek Anker/Thackrey's written consent for such additional work as needed, which consent shall not be unreasonably withheld, and 2) upon receiving Anker/Thackrey's written consent, complete such additional work in consultation with Anker/Thackrey's engineers or consultants. This provision does not apply to the Shoring/Underpinning Work, which shall be completed by Anker/Thackrey as provided for in this Agreement.

9. **Reciprocal License Cross-Property Line Improvements:** The Project Work includes certain improvements that will extend across the coterminous property line and are intended to benefit both 310 Montcalm and 308 Montcalm. Accordingly, each Party hereby grants the other a reciprocal license for installation and maintenance of the following improvements:

A. **Eaveline and Dutch Gutter:** License is granted by Anker/Thackrey to SF Realty Partners for installation of eaveline remediation, Dutch gutter, and cross-property-line flashing (collectively "Drainage & Flashing") to extend from 308 Montcalm sidewalk to Dutch gutter of 310 Montcalm or opposite direction. SF Realty Partners will prepare Drainage & Flashing details and provide them to Anker/Thackrey (and their consultants) for review and approval, which approval shall not be unreasonably withheld. Promptly following the installation of the Drainage & Flashing, Anker/Thackrey (including their expert(s)) will inspect the work to ensure that the Drainage & Flashing is installed in accordance with the approved details. The Parties hereby agree to hold each other harmless from any claims and or liability arising out of the design or installation of Drainage & Flashing. The Parties reserve all of their respective rights against the design professionals, contractors, subcontractors and all others involved in designing and performing the Drainage & Flashing work that arise out of or are related to the design and installation of the Drainage & Flashing. The Parties will eliminate any foundation-level cross-property-line encroachments during the Project Work to the extent practicable.

B. **Waterproofing Remediation.** SF Realty Partners hereby grants Anker/Thackrey a license to enter onto 310 Montcalm for the purpose of remediating the waterproofing of 308 Montcalm if they so desire. Said access shall be coordinated with SF Realty Partners and take place at reasonable times so as not to interfere with work at 310 Montcalm. SF Realty Partners states that it appears there are significant problems with the existing waterproofing of 308 Montcalm at the roof level.

C. **Sidewall Preparation by 310 Montcalm:** License is granted by Anker/Thackrey to SF Realty Partners for access to enter and work from 308 Montcalm to complete 310 Montcalm sidewalls and foundation of 310 Montcalm. This access will be coordinated in phases as construction progresses.

D. **Sidewall Scaffold and Protection by 310 Montcalm:** License is granted by Anker/Thackrey to SF Realty Partners for access and permission to erect scaffold and safety tie offs on 308 Montcalm for construction at 310 Montcalm (as needed) to complete exterior 310 Montcalm work. Tie offs, if used, shall be waterproofed with details submitted for approval by 308 Montcalm designated consultant, which approval shall not be unreasonably withheld. If Project Work activities by SF Realty Partners may potentially cause damage to 308 Montcalm, SF Realty Partners shall install protection panels on the roof of 308 Montcalm and shall include netting to prevent debris from entering the drift space between the 310 Montcalm and 308 Montcalm buildings.

E. **Foundation Drainage and Waterproofing:** License is granted by Anker/Thackrey to SF Realty Partners for installation of subsurface foundation level flashing, waterproofing, and subsurface drainage to be installed in the drift space between the two properties. The drift space drainage shall be maintained by SF Realty Partners and shall include clean-outs for future maintenance installed on 310 Montcalm.

F. **Foundations.** SF Realty Partners grants to Anker/Thackrey, and their authorized agents and contractors, a license to enter upon 310 Montcalm to perform the 308 Montcalm Shoring/Underpinning Work.

G. SF Realty Partners further agrees to brace the light wells, if any, of the 308 Montcalm building. Before any excavation is begun, Anker/Thackrey's engineer and Contractor shall, if necessary, cause the Shoring/Underpinning Plans to be modified to conform to field conditions and shall furnish a copy of the modified Shoring/Underpinning Plans to SF Realty Partners. Anker/Thackrey represent and warrant that all Shoring/Underpinning Work shall be done in accordance with the soils report recommendations and protocols (for structural support only, and not for drainage unless an addendum is issued) outlined in the cross property geotechnical report by GeoEngineering Consultants dated May 2016 and attached hereto as Exhibit D.

10. **Protection of Permit Work.** Anker/Thackrey will not be responsible for securing the Project Work or any material, equipment or other thing employed in the Project Work,

including, but not limited to, loss or damage due to theft, trespass or vandalism. SF Realty Partners shall take reasonable measures to secure 310 Montcalm during the Project Work.

11. **Liens.** SF Realty Partners shall at all times keep 308 Montcalm free from any attachment, lien, claim of lien, or other encumbrance arising out of the Project Work, and SF Realty Partners shall indemnify, defend and hold Anker/Thackrey harmless from and against all Claims, losses, demands, causes of action or expenses (including attorneys' fees and other costs of defense incurred by Anker/Thackrey in defending against the foregoing or in enforcing this indemnity and defense obligation) of whatever nature, arising by reason of any such lien, claim of lien, attachment or encumbrance. If any Claim is filed to enforce any laborers, materialmen, mechanics, or other similar lien against 308 Montcalm, SF Realty Partners will promptly cause such lien to be released and discharged and if SF Realty Partners fails to do so, then Anker/Thackrey will have a right to pay all sums, including attorneys' fees and other costs and expenses incurred necessary to obtain such release and discharge, and hold SF Realty Partners liable for the amount thereof.

Anker/Thackrey shall at all times keep 310 Montcalm free from any attachment, lien, claim of lien, or other encumbrance arising out of the 308 Montcalm Shoring/Underpinning Work, and Anker/Thackrey shall indemnify, defend and hold SF Realty Partners harmless from and against all Claims, losses, demands, causes of action or expenses (including attorneys' fees and other costs of defense incurred by SF Realty Partners in defending against the foregoing or in enforcing this indemnity and defense obligation) of whatever nature, arising by reason of any such lien, claim of lien, attachment or encumbrance. If any Claim is filed to enforce any laborers, materialmen, mechanics, or other similar lien against 310 Montcalm, Anker/Thackrey will promptly cause such lien to be released and discharged and if Anker/Thackrey fail to do so, then SF Realty Partners will have a right to pay all sums, including attorneys' fees and other costs and expenses incurred necessary to obtain such release and discharge, and hold Anker/Thackrey liable for the amount thereof.

12. **Indemnification:** To the fullest extent of the law, and excepting only minor settlement cracks, SF Realty Partners will indemnify, defend, protect and hold harmless Anker/Thackrey from and against any suit, demand, claim, cause of action, loss, damage or injury arising out of or related to the Project Work, excepting only any damage, loss or injury related to the 308 Montcalm Shoring/Underpinning Work or other work performed by or under Anker/Thackrey or caused entirely by the gross negligence or willful misconduct of Anker/Thackrey. ANKER/THACKREY AND SF REALTY PARTNERS UNDERSTAND AND ACKNOWLEDGE THAT THE INDEMNIFICATION AND DEFENSE OBLIGATIONS UNDER THIS AGREEMENT EXTEND TO AND INCLUDE CLAIMS ARISING FROM THE ACTIVE OR PASSIVE NEGLIGENCE OR STRICT LIABILITY OF ANKER/THACKREY BUT DO NOT INCLUDE CLAIMS THAT ARE FINALLY DETERMINED TO RESULT FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANKER/THACKREY (INCLUDING THEIR CONSULTANTS), IN WHICH EVENT ANKER/THACKREY SHALL REIMBURSE SF REALTY PARTNERS FOR ALL FEES AND COSTS INCURRED. Prior to SF Realty Partners's commencement of excavation at 310 Montcalm, Anker/Thackrey shall

inform SF Realty Partners of any conditions or defects at 308 Montcalm which might affect the Permit Work or Shoring/Underpinning Work.

13. **Insurance:** SF Realty Partners or its contractor(s)/engineers shall maintain at all times during the course of any of the Work undertaken pursuant to this Agreement Commercial General Liability Insurance with Broad Form Completed Operations coverage providing commercially reasonable, acceptable limits of not less than \$1,000,000 per occurrence, and \$2,000,000 aggregate, covering liability for bodily injury and property damage arising out of or related to the Work. The insurance afforded by the policy for the benefit of Anker/Thackrey will be primary and no contribution shall be permitted from any insurance or self-insurance maintained by Anker/Thackrey. Such insurance shall be consistent with industry standards for projects involving similar excavation and construction, and shall name Anker/Thackrey as an additional insured. SF Realty Partners shall provide Anker/Thackrey with a Certificate of Insurance and a copy of the endorsement adding Anker/Thackrey as an additional insured showing that coverage is in full force and effect prior to commencing the excavation. This coverage is to remain in force from the start of excavation on this Project until the completion of the Project, and replacement certificates and endorsements must be submitted to Anker/Thackrey if the insurance is renewed, or should the insurance carrier be replaced.

Anker/Thackrey or their contractor(s)/engineers shall maintain at all times during the course of any of the Work undertaken pursuant to this Agreement Commercial General Liability Insurance with Broad Form Completed Operations coverage providing commercially reasonable, acceptable limits of not less than \$1,000,000 per occurrence, and \$2,000,000 aggregate, covering liability for bodily injury and property damage arising out of or related to the Shoring/Underpinning Work. The insurance afforded by the policy for the benefit of SF Realty Partners will be primary and no contribution shall be permitted from any insurance or self-insurance maintained by SF Realty Partners. Such insurance shall be consistent with industry standards for projects involving similar shoring/underpinning work, and shall name SF Realty Partners as an additional insured. Anker/Thackrey shall provide SF Realty Partners with a Certificate of Insurance and a copy of the endorsement adding SF Realty Partners as an additional insured showing that coverage is in full force and effect prior to commencing the Shoring/Underpinning Work. This coverage is to remain in force from the start of the Shoring/Underpinning Work until the completion of the Project, and replacement certificates and endorsements must be submitted to SF Realty Partners if the insurance is renewed, or should the insurance carrier be replaced.

14. **Miscellaneous:**

A. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of California.

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all of which together shall constitute one and the same document. In the event that any representation, warranty, acknowledgment, covenant, agreement, clause, provision, promise, or undertaking made by either Party contained in this Agreement (collectively, a "Term") is deemed, construed, or alleged to be illegal, invalid, or unenforceable under present or future laws, in whole or in part, such Term shall be replaced by a legal, valid and enforceable term that as closely as possible reflects the intent of the Parties with respect to such Term and the Parties acknowledge that each and every other term of this Agreement shall remain valid and enforceable. Time is of the essence for the completion of the acts described in and required by this Agreement.

C. Integration. This Agreement constitutes the final, complete and exclusive statement of the terms of the agreement between the Parties and it supersedes any and all prior or contemporaneous agreements, communications or representations between the parties, either oral or in writing, relating to the subject matter of this Agreement.

D. Attorney's Fees. The Parties acknowledge and agree that if either Party commences litigation to interpret or enforce the terms of this Agreement, the prevailing Party or Parties in such action shall be entitled to recover costs and attorneys' fees incurred in such an action, including experts' fees and costs. For purposes of this Section, the "prevailing Party" shall mean the Party that obtains substantially the result sought, whether by settlement, judgment, or dismissal. Each Party, however, shall otherwise bear their own attorneys' fees and costs incurred to the extent such Party is not the prevailing Party.

E. Assignment: The license granted herein may be assigned by either party or their respective successors in interest in the properties upon prior written notice by the assigning party to the other.

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H. Incorporation of Exhibits: All exhibits referenced herein and attached hereto are hereby incorporated by reference into this Agreement.

~~I. Waiver and Other Action. This Agreement constitutes the entire agreement between the Parties. Any prior agreements, negotiations, or representation not expressly set forth in this Agreement are of no force or effect. Any amendment to this Agreement shall be of no force or effect unless it is in the writing and signed by the Parties.~~

J. Headings. The headings used herein are for purposes of convenience only and shall not be used in construing the provisions hereof or in determining any of the rights or obligations of the Parties to the Agreement.

K. Successors and Assigns. This Agreement and all the respective rights, interests and obligations hereunder shall be binding upon, inure to the benefit of and be enforceable by the Parties hereto and their respective members, partners, directors, managers, officers, trustees, employees, affiliates, subsidiaries, related corporations or entities, heirs, devisees, executors, administrators, personal or legal representatives, successors (in interest, or in title, or in both), assigns, and the like. Each Party shall provide a copy of this Agreement to any heir, successor, assign, or the like prior to transfer of its respective property.

L. Representations and Warranties. The persons signing this Agreement hereby warrant and represent that they have the power and authority to bind their respective Parties, and owners of their respective properties, on whose behalf this Agreement is signed. Each Party agrees to indemnify, defend, and hold harmless the other Party for any loss, costs, expenses, claims, or damages resulting from any breach of this paragraph.

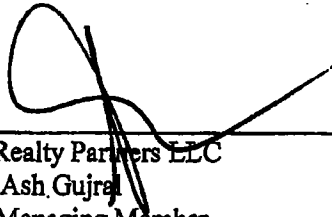
M. Effective Waiver. No waiver by a Party of any provision in this Agreement shall be deemed a waiver of any other provision or any subsequent breach of the same or any other provision, including but not limited to the time for performance of any such provision. The exercise by a Party of any remedy provided in this Agreement or at law shall not prevent the exercise by that Party of any other remedy provided in this Agreement or at law.

N. No Agency. Nothing in this Agreement shall be construed as permitting or authorizing any Party to act in any capacity as an agent of the other. Any intention to create a joint venture, partnership or principal and agent relationship between the Parties is hereby expressly disclaimed.

O. Advice of Counsel. The Parties represent and acknowledge that they have read and understood the terms of this Agreement, and they have either obtained the advice of counsel on the meaning and effect of this Agreement or have freely chosen not to do so. The Parties have had an opportunity to fully participate in preparing this Agreement and acknowledge that it is the product of the draftsmanship of the Parties. Accordingly, this Agreement shall not be construed for or against either Party by virtue of their participation, or lack of participation, in the drafting hereof.

IN WITNESS WHEREOF, SF Realty Partners and Anker/Thackrey have executed this Agreement as of the Effective Date.

Dated: 11/04/2016

  
\_\_\_\_\_  
SF Realty Partners LLC  
By: Ash Gujral  
Its: Managing Member

Dated: November 5, 2016

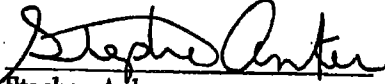
Stephen Anker  
Stephen Anker

Dated: November 5, 2016

Susan Thackrey  
Susan Thackrey



Dated: November 8, 2016

  
Stephen Arker

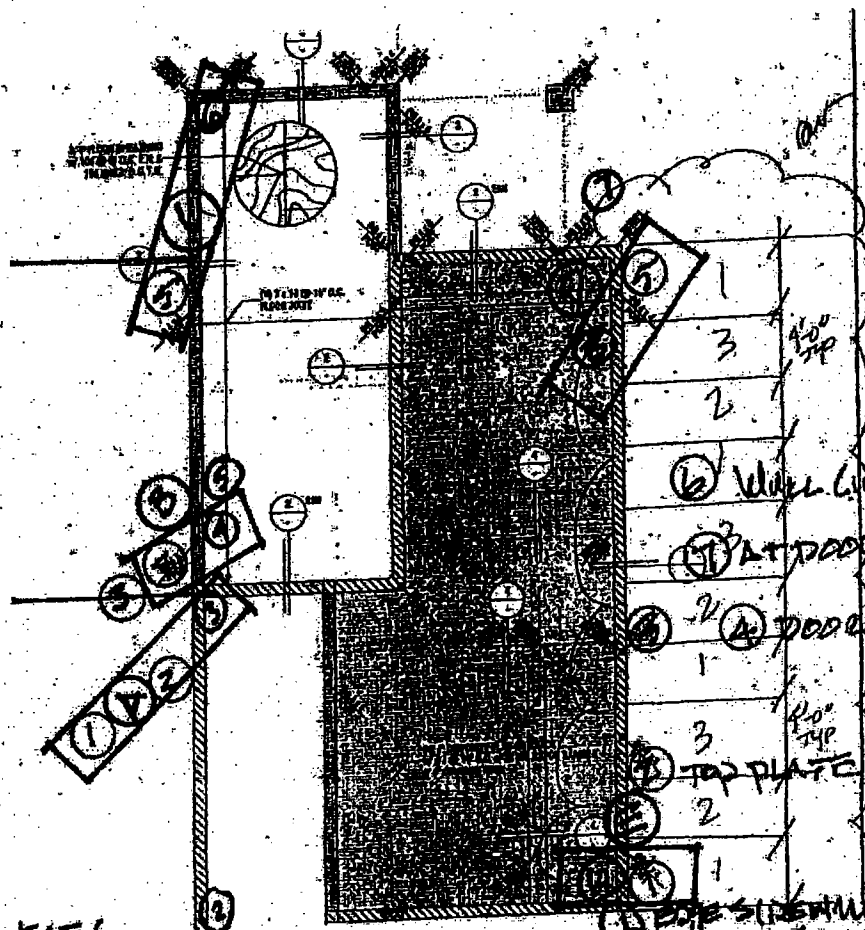
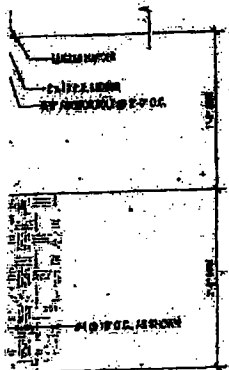
Dated: \_\_\_\_\_, 2016

\_\_\_\_\_  
Susan Thackrey

STA+ADD					
312	0	VENT	ALL ELEVATIONS SET TO STA. 5 LOW		
310	5.2292	PGE GAS	3.83		9.0592
308	9.8437	VENT	3.83		13.6737
312					
0	0		3.83		3.83
1	-2.948	A	3.83	A	0.882
2	0.9588	CURB	3.83		4.7888
3	-2.5625	SILL	3.83		1.2675
4	-3.7708	B	3.83	B	0.0592
	-3.83	C	3.83	C	0
310					
0	0		9.0075		9.0075
1	4.208	ENTRY	9.0075		13.2155
2	-1.1708		9.0075		7.8367
3	-6.2604	A	9.0075	A	2.7471
4	-6.59375	B	9.0075	B	2.41375
5	-4.08	STEP	9.0075		4.9275
6	-7.972	C	9.0075	C	1.0355
7	-4.792	STEP	9.0075		4.2155
8	-5.24	D	9.0075	D	3.7675
9	-3.885	FLR	9.0075	(1.355ft)	6.4725
10	-3.8185	FLR	9.0075	E	6.539
308					
0	0		13.6608		13.6608
1	-0.6354	E	13.6608	E	13.0254
2	-0.17708	PLATE	13.6608		13.48372
3	-1.0313		13.6608		12.6295
4	-1.2396		13.6608		12.4212
5	-1.125	D	13.6608	D	12.5358
6	-1.2396		13.6608		12.4212
7	-1.25		13.6608		12.4108

ELV DIFF	310	312	308	DIFF
A	2.7471	0.882		1.8651
B	2.41375	0.0592		2.35455
C	1.0355	0		1.0355
D	3.7675		12.5358	8.7683
E	6.539		13.0254	6.4864

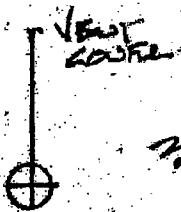
TRANSFER ELEV.	
312	φ
310	5'-2 3/4" (PREF CUR) φ
308	9'-10 1/8"
5/20/2016	



Pacific  
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 SAN FRANCISCO, CA 94110



312 ELEV.

DRUM	1	< 2-11 5/8"
CUB	2	+ 11 1/2"
DOOR	3	< 2-6 3/4"
	4	< 3-9 1/4"
	5	< 3-10"

NEW φ (\*)

⑥ < 3-9 3/4" (ELEV. PL)

①	+ 4'-2 1/8"
②	< 1'-2 1/8"
③	< 6'-3 1/8"
④	< 6'-7 1/8"
⑤	< 4'-1" (TS)
⑥	< 7'-11 3/4"
⑦	< 4'-9 1/2"
⑧	< 5'-2 1/8"
⑨	< 3'-10 5/8" (TS)

308 ELEV.	
1	< 7 5/8"
2	< 2 1/2" PL
3	< 1'-0 7/8"
4	< 1'-2 7/8"
5	< 1'-11 1/2"
6	< 1'-2 7/8"
7	< 1'-3"

EX 2

**FINAL REPORT  
GEOTECHNICAL STUDY**

**PROPOSED RESIDENTIAL REMODELING  
310 MONTCALM STREET  
SAN FRANCISCO, CALIFORNIA**

**Prepared for:  
Pacific Engineering and Construction, Inc.**

Prepared by:  
**GeoEngineering Consultants**

MAY 2016

EXHIBIT D



GeoEngineering Consultants (GEC)  
4125 Blackford Avenue, Suite 145  
San Jose, CA 95117  
Phone: 925-321-5550

Project No. P16.0200  
May 23, 2016

Mr. Mark Waldman  
Pacific Engineering and Construction, Inc.  
470 3rd Street Suite # 105  
San Francisco, CA 94107

Subject: Proposed Residential Remodeling  
310 Montcalm Street  
San Francisco, California  
**Geotechnical Investigation Report**

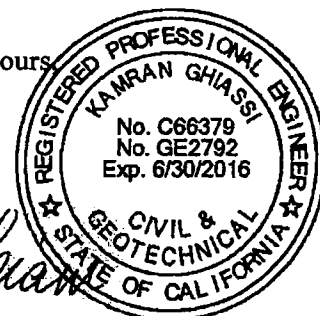
Dear Mark:

In accordance with your authorization, *GeoEngineering Consultants (GEC)* has investigated the geotechnical conditions at the subject site located in San Francisco, California.

The accompanying report presents our conclusions and recommendations based on our investigation. Our findings indicate that, from a geotechnical point of view, the proposed residential remodeling are feasible for construction on the subject site provided the recommendations of this report are carefully followed and are incorporated into the project plans and specifications.

Should you have any questions relating to the contents of this report or should you require additional information, please do not hesitate to contact us at your convenience.

Sincerely yours,  
GEC,



*K. Ghiassi*

Kamran Ghiassi, Ph.D., G.E.  
Principal Geotechnical Engineer

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## 1. GEOTECHNICAL INVESTIGATION

This report summarizes our findings, conclusions and recommendations for use in consideration of proposed residential remodeling at the above-referenced address, based on the subsurface investigation performed to date.

### 1.1. Purpose and Scope

The purpose of the investigation was to determine the surface and subsurface soil conditions at the proposed residential remodeling located in San Francisco, California.

Based on the results of the investigation, design criteria were established for the grading of the site, design of foundations for the proposed residential remodeling and the construction of other related facilities on the property.

Our investigation included the following:

- a. Field reconnaissance by the Soil Engineer;
- b. Evaluation of the general geology and seismicity of the site;
- c. Drilling and sampling of the subsurface soils;
- d. Additional tests on the field samples;
- e. Analysis of the data and formulation of conclusions and recommendations, and
- f. Preparation of this written report.

Details of our field investigation are presented in Appendix A.

### 1.2. Project Description

Based on our discussions with you, it is our understanding that the proposed project consists of remodeling of the existing single family house in each site at the subject sites.

## 2. FINDINGS

### 2.1. Site Description

The roughly rectangular-shaped site is located on gently sloping ground and is located on the north side of Montcalm Street in San Francisco, California and is one parcel. The site is bounded by Montcalm Street to the south and other existing residences to the other directions. Currently, the lot is occupied by a wood-framed single family house.

Topographically, the site is on gentle sloping ground and drainage follows general topography to the west. The approximate location of the site is shown on Plate 1, "Site Vicinity Map" in Appendix A.

### 2.2. Regional Geologic Setting

The subject site is located within the Coast Ranges geomorphic province and consists of a belt of sedimentary, volcanic, and metamorphic rocks, which extend from southern California to Oregon. The structural geology of the Coast Ranges is complex and dominated by transpressive stress (combined transform and compressional) concentrated along faults within the San Andreas Fault system. On the eastern portion of the San Francisco Bay, bedrock geology consists of sedimentary and metamorphic rocks ranging from Cretaceous through Quaternary periods (up to 144 million years to present).

The San Andreas fault system is a complex network of faults that extends throughout the Bay area. While no known active faults exist in San Francisco, major earthquakes occurring on the faults surrounding the City have resulted in substantial damage within the City.

The hills along the central spine of the San Francisco peninsula are composed of rock and soils that are less likely to magnify ground shaking, although they are sometimes vulnerable to landsliding during an earthquake. The soils most vulnerable during an earthquake are in low-lying and filled land along the Bay, in low-lying valleys and old creek beds, and to some extent, along the ocean. Those soils, as well as those at steep hillsides, are at the most serious risk during earthquakes from ground shaking and ground failure such as earthquake liquefaction and



landslides. The subject property is underlain by Quaternary Hillslope Deposits (Qls) (Knudsen et al., 2000).

San Francisco is located in the San Andreas Fault Zone, one of the most seismically active regions in the United States. The San Andreas Fault Zone has generated numerous moderate to strong earthquakes in northern California and the San Francisco Bay Area. The region experienced large and destructive earthquakes in 1838, 1868, 1906 and 1989. Earthquakes of equally destructive force are a certainty in the San Francisco Bay region according to the Working Group on California Earthquake Probabilities (Working Group on California Earthquake Probabilities, 2012), established by the United States Geological Survey (USGS).

### **2.3. Subsurface Conditions**

Two borings were performed at the location of the proposed residential at the subject site. The approximate locations of the boring is shown on Plate 2, "Site Plan and Boring Location Map" in Appendix-A. In all borings, medium stiff to stiff sandy clay and silty clay with varying amount of sand and gravel was encountered immediately below ground surface to maximum depths of exploration of 21.5 and 11.5 feet in Borings B-1 and B-2, respectively.

Groundwater was not encountered in either one of the borings. According to Seismic Hazard Zone Report for the City and County of San Francisco, (CGS, 2000), the highest groundwater is between 10 and 30 feet. However, fluctuations in the groundwater table can be expected with changes in seasonal rainfall, urbanization, and construction activities at or in the vicinity of the site.

This study did not assess contamination of on-site soils and water. A more thorough description and stratification of the soils conditions encountered, along with the results of the laboratory tests, are presented on the respective "Logs of Borings" within Appendix-A.

#### 2.4. Seismic Considerations

Damage to structures related to fault movement may be divided into two categories:

- a) Primary deformation such as displacement of a structure located directly on a fault and violent ground shaking, and
- b) Secondary failure such as lurch cracking, landsliding, liquefaction, and differential compaction.

Surface faulting or ground rupture tends to occur along lines of previous faulting. Since fault lines are not within the site or project toward the site, the possibility of surface fault rupture is negligible within the subject property.

Ground shaking is a complex concept related to velocity, amplitude, and duration of earthquake vibrations. Damage from ground shaking is caused by the transmission of earthquake vibrations from the ground to the structure. The most destructive effects of an earthquake are usually seen where the ground is unstable and structures are poorly designed and constructed.

Using a 2% probability of exceedance within 50 years, a maximum horizontal ground acceleration of 0.60g was calculated for the site. This calculation considered all active earthquake fault zones within a 100-kilometer radius of the site and a return period of 2,475 years.

The secondary hazards of liquefaction, lateral spreading, differential compaction and ground lurching are low due to the nature of the subsurface materials. The site will experience strong ground shaking if a large earthquake occurs along the San Andrea or Monte Vista Faults.

The property is situated on flat land; therefore the secondary risk of landsliding is not probable. Since the subject site is not located near the ocean or on a lakefront, the secondary hazards of tsunamis and seiches are not probable.

## 2.5. CBC Earthquake Design Criteria

The 2013 California Building Code (UBC) Chapter 16, Division IV- Earthquake Design- requires that structures be constructed using certain earthquake design criteria. The criteria are based in part on the seismic zone, soil profile and the proximity of the site to active seismic sources (faults). During an earthquake event, structures located very close to active faults can be subjected to near source energy motions that may be damaging to structures, if the effects of these energy motions are not considered in the structural design.

Based on the geotechnical data in this report and the selection of criteria of the 2013 CBC (Chapter 16, Division IV, Earthquake Design), a summary of the earthquake design criteria for use in the design of future structures and improvements is as follows:

**TABLE 1- 2013 CBC SEISMIC PARAMETERS**

Site Class/Soil Profile Type	C
Site Coefficient, $F_a$	1.0
Site Coefficient, $F_v$	1.3
Mapped MCE Spectral Acceleration (0.2 sec), $S_s$ , (g)	1.501
Mapped MCE Spectral Acceleration (1.0 sec), $S_1$ , (g)	0.674
MCE Spectral Acceleration (0.2 sec), $S_{MS}$ , (g)	1.501
MCE Spectral Acceleration (1.0 sec), $S_{M1}$ , (g)	0.877
Design Spectral Acceleration (0.2 sec), $S_{DS}$ , (g)	1.001
Design Spectral Acceleration (0.2 sec), $S_{D1}$ , (g)	0.584

## 2.6. Liquefaction Potential Evaluation

Liquefaction occurs primarily in relatively loose, saturated, cohesionless soils. Under earthquake stresses, these soils become “quick”, lose their strength and become incapable of supporting the weight of the overlying soils or structures. The data used for evaluating liquefaction potential of the subsurface soils consisted of the penetration resistance, and the relative density of the materials and depth of groundwater. Based on the data obtained from this investigation and our review of a

liquefaction susceptibility prepared by the Association of Bay Area Government (ABAG), it is our opinion that the liquefaction potential of the soil materials is considered low.

### 3. DISCUSSION, CONCLUSIONS AND RECOMMENDATIONS

#### 3.1. General

From a geotechnical point of view, the proposed residential remodeling are feasible provided the recommendations presented in this report are incorporated into the project plans and specifications.

The most prominent geotechnical feature of the site is the presence of medium stiff soil. Spread footings may be used to support the proposed residential remodeling to the existing building. Recommendations for the foundation system are provided later under the heading "Foundations".

A permanent ground water table may be expected to impact the design, construction or future performance of the proposed development. Grading activities may be performed during the rainy season, however, achieving proper compaction may be difficult due to excessive moisture; and delays may occur. Grading performed during the dry months will minimize the occurrence of the above problems.

The native soils as encountered during our field investigation are anticipated to be excavatable with conventional construction equipment.

#### 3.2. Excavation and Earthwork

##### 3.2.1. Site Preparation

All surface and subsurface structures are known within the new foundation, if encountered, must be completely removed prior to grading. If any subsurface structures are encountered during site preparation or grading, they must be removed. If any of the following are encountered: concrete, septic tanks, gas and oil tanks, storm inlets, machinery, equipment, debris and trash, these should also be removed, with the exception of items specified by the owner for salvage. Any stumps to be removed should be properly grubbed to adequately remove all major root systems. In improvements, all known underground structures must be located on the grading plans so that proper removal may be carried out. It is vital that GEC intermittently observe the removal of any subsurface structures and be notified in ample time to ensure that no subsurface structures are

covered and that the root systems from grubbing operations are completely removed. If GEC is not contracted to observe the demolition and removal of existing structures, backhoe investigation in the areas of demolition will need to be performed prior to the commencement of mass grading.

Excavations made by the removal of any structure should be left open by the demolition contractor for backfill in accordance with the requirements for engineered fill. The removal of underground structures should be done under the observation of the Soil Engineer to assure adequacy of the removal and that subsoils are left in proper condition for placement of engineered fills. Any soil exposed by the demolition operations which are deemed loose or unsuitable by the Soil Engineer, shall be excavated as uncompacted fill or saturated soil and be removed as required by the Soil Engineer during grading. Any resulting excavations should be properly backfilled with engineered fill under the observation of the Soil Engineer. It is important that GEC be present during demolition to ensure that all excavations created by grubbing or removal of subsurface structures are left open and located on a grading plan. If any excavations are loosely backfilled without our knowledge and these excavations are not located and backfilled during grading, future settlement of these loosely filled excavations will occur and may cause damage to structures and improvements.

### 3.2.2. Grading

We do not expect any major grading for this site; however, for sake of completeness, we included this section. The grading requirements presented herein are an integral part of the grading specifications presented in Appendix B of this report and should be considered as such.

Fill may exist at the site. All fills, if encountered, underneath of the footings or foundation, driveways, and slab-on-grade should be removed and replaced with engineered fill. Following removal of any loose and/or soft soil of fill, the top 8 inches of exposed native ground for fill areas should be scarified and compacted to a minimum degree of relative compaction of 90% at a moisture content of 2 to 4 percent above optimum as determined by ASTM D1557-91 Laboratory Test Procedure. After recompacting the native subgrade, the site may be brought to the desired finished grades by placing engineered fill in lifts not to exceed 8 inches in uncompacted thickness and compacted. All soils encountered during our investigation except those within the top few inches of

predominately organic plant material would be suitable for use as engineered fill when placed and compacted at the recommended moisture content.

### 3.2.3. Underpinning

Underpinning of a portion or the entire foundations of the existing building as well as the neighboring buildings may be required. The design of the underpinning as a footing should conform to the recommendations given in this section. If the neighboring foundation is made of brick, soil improvement should be performed prior to any underpinning. Otherwise, if the foundation is concrete, temporary jack should be installed. After soil reinforcement and/or jack placement were performed, underpinning should be performed to avoid excessive deflections of the existing wall being underpinned. To minimize excessive deflections of the existing wall due to progressive subsidence of the existing footing as underpinning excavations are made, the underpinning should be excavated and poured in units not exceeding 3 feet in width, with 6 feet clear between units; thus 3 increments of excavation and pouring would be required. To provide safety against shear failure, as well as to limit progressive shear deflections, temporary bearing pressures on remaining bearing elements should not exceed the value provided this report. Settlement due to subsequent transfer of loads to the new underpinning should be minimized by jacking the new underpinning units before the load transfer.

Based on the foregoing considerations, the following specific recommendations are given regarding underpinning:

1. Underpin any existing footing which bears at an elevation higher than the elevation of the bottom of proposed basement excavation and meets the criteria for underpinning shown in Plate 6.
2. Underpinning excavations should not be left open for a long time period, especially during the rainy season. The intent of this recommendation is to avoid the introduction of loose materials into the bottoms of excavations by erosion and/or through on-going construction activities. The excavations should be covered to minimize ponding or infiltration of rainwater.
3. Underpinning excavations should be cleaned of all loose materials prior to concrete. The Geotechnical Engineer should observe the bearing conditions in the excavations immediately before concrete placement and the excavations should be deepened if and as deemed

- necessary. Also, remedial work should be performed, if necessary, to maintain suitable bearing conditions until concrete is placed.
4. Size underpinning elements such that the temporary bearing pressure does not exceed 1,200 psf and extend underpinning unit at least 12 inches below the bottom of the adjacent foundation or basement excavation.
  5. Check for the lateral stability of the underpinning units (if the underpinning units are to serve as temporary shoring) prior to the completion of basement installation, assuming that the top of each underpinning unit is restrained.
  6. Jack each underpinning element to its full temporary bearing pressure prior to dry-packing.
  7. Remove pieces of rubble that may be encountered in the excavations.

**Alternative Approach:** Conventional underpinning, which involves incremental soil excavation and concrete placement, can be time consuming. An alternative approach to conventional underpinning would involve using slightly battered drilled piers spaced along the wall footing to be underpinned. The top of each pier hole is then enlarged to form a cap that connects the bottom of the footing to be underpinned to the pier or alternatively, the top of each pier can be pushed beneath the footing to be underpinned until the pier situated vertically (slant pier).

The underpinning pier can be designed by assuming that its vertical capacity is based on friction contribution along the perimeter of the portion of the pier below the adjacent excavation level. The vertical capacity of the pier can be obtained by using the skin friction of 250 psf in soil. The design should also account for the potential for buckling in the relatively unsupported portion of the soldier beam exposed in the excavation.

Wood lagging is required between adjacent piers during the basement excavation operations. Also, because of the presence of sand in the soil materials, casing or slurry will be required to prevent caving of the pier holes.

Underpinning excavations must be inspected by the Geotechnical Engineer, and deepened if and as deemed necessary.



### 3.2.4. Surface and Subsurface Drainage

No ponding of storm water is to be permitted on the building pad during prolonged periods of inclement weather.

Surface drainage atop any slopes should be designed by the project Civil Engineer and maintained by the property owner such that no ponding of water occurs behind the top of slopes or that no surface water flows over the top.

All finished grades should provide a positive gradient away from all foundations to an adequate discharge point in order to provide rapid removal of surface water runoff. No ponding of water should be allowed on the pad or adjacent to the foundations. Surface drainage must be provided as designed by the project Civil Engineer and maintained by the property owners in perpetuity.

Ponded water adjacent to the structure will cause a loss of soil strength and may also seep under structures. Should surface water be allowed to seep persistently under the structures, foundation movement resulting in structural damage and/or standing water under the slab will occur. This may cause dampness to the floor which may result in mildew, staining, and/or warping of floor coverings. All compacted, finished grades should be sloped at a minimum 2% gradient away from the exterior foundation for a distance of 3 feet. Should the recommended surface gradient not be constructed by the contractor as designed by the project Civil Engineer, or should the owner or tenant alter the surface drainage provided by the contractor, then a subdrain system may be required around the perimeter of the structures. Specific recommendations for subdrain construction will be provided upon request. Surface drainage requirements should be maintained during landscaping. In particular, the creation of planter areas confined on all side by concrete walkway or decks and the building foundation is not desirable as any surface water due to rain or irrigation becomes trapped in the planter with no outlet. If such a landscape feature is necessary, surface area drains in the planter area or a subdrain along the foundation perimeter must be installed.

Continuous roof gutters are recommended. Downspouts from the gutters should be provided with closed pipe conduits to carry storm water away from the structures and graded areas and, thus reduce the possibility of soil saturation adjacent to the foundations and engineered fills.

Flower bed or planters are not recommended adjacent to the building foundations because of the possibility of irrigation water affecting the foundations or slabs. Should planters be constructed, foliage requiring little irrigations should be planted. It is preferred that irrigation adjacent to the building foundations consists of a drip system. Sprinkler systems may be used; however, it is preferred that sprinkler heads do not water closer than 3 feet from the building foundations. If sprinklers are used within 3 feet, then excessive watering should not be allowed; and good surface drainage in the planter area must be provided. In any case, it is recommended that area surface drains be incorporated into the landscaping to discharge any excessive irrigation or rainwater that may accumulate in the planter area. These surface drains must be constructed in a manner that easy flow of surface water runoff is allowed into the pipe inlets. Ground cover must be maintained to provide uninterrupted flow of surface water to the area drains.

### 3.3. Foundations

The proposed structure may be founded on spread and/or continuous footings. The following foundation recommendations are contingent upon adequate surface drainage being constructed as recommended in this report as designed by the project Civil Engineer, and maintained by the property owners at all times.

Continuous and/or spread footings should extend at least 24 inches below adjacent grade. At this depth, the recommended design bearing pressure for continuous footings should not exceed 1,800 p.s.f. due to dead plus sustained live loads, and 2,400 p.s.f. due to all loads which includes wind and seismic. The specification of structural reinforcement for all foundations is to be performed by a structural engineer.

Settlement of new footings, designed and constructed in accordance with the aforementioned criteria, is estimated to be less than one inch. The differential settlement between individual column or wall footings can be estimated as the difference between the settlements at any two points and should not exceed one-half inch.

To accommodate lateral loads, the passive resistance of the foundation soil can be utilized. The passive soil pressures can be assumed to act against the side face of the footing below a depth of one foot under the ground surface. It is recommended that a passive pressure equivalent to that of a fluid weighing 300 p.c.f. be used. For design purposes, an allowable friction coefficient of 0.30 can be assumed at the base of the spread footings.

### 3.4. Retaining Walls

Since the site is lower than the eastern neighbor, retaining wall may be needed to provide grade separation. Any retaining wall should be designed to resist lateral pressures exerted from a material having an equivalent fluid weight as follows:

Active Condition	= 50 p.c.f. for horizontal backslope
At-rest Condition	= 70 p.c.f.
Passive Condition	= 300 p.c.f.
Coefficient of Friction	= 0.30

For a non-horizontal backslope, the active condition for equivalent fluid weight can be increased by 1.5 p.c.f. for each 2 degree rise in slope from the horizontal.

Active conditions occur when the top of a retaining wall is free to move outward. At-rest conditions apply when the top of wall is restrained from any movement. It should be noted that the effects of any surcharge and/or compaction loads behind the walls must be accounted for in the design of the walls.

The above criteria are based on fully drained conditions. If drained conditions are not possible, then hydrostatic pressure must be included in the design of the wall. In this case, an additional lateral fluid pressure of 63 p.c.f. must be added to half of the active pressure.

In order to achieve fully-drained conditions, a drainage filter blanket should be placed behind the wall. The blanket should be a minimum of 12 inches thick and should extend the full height of the wall to within 12 inches of the surface. If the excavated area behind the wall exceeds 12 inches, the entire excavated space behind the 12-inch blanket should consist of compacted engineered fill or

blanket material. The drainage blanket material may consist of either granular crushed rock and drain pipe fully encapsulated in geotextile filter fabric or Class-II permeable material that meets CalTrans Specification, Section 68, with drainage pipe but without fabric. A 4-inch perforated drain pipe should be installed in the bottom of the drainage blanket and should be underlain by at least 4 inches of filter type material.

As an alternate to the 12-inch drainage blanket, a pre-fabricated strip drain (such as Miradrain) may be used between the wall and retained soil. In this case, the wall must be designed to resist an additional lateral hydrostatic pressure of 30 p.c.f.

Horizontal accelerations during seismic events will momentarily increase lateral earth pressures on underground structures. The proposed retaining walls will experience seismically-induced earth pressures from a major earthquake on the regional faults. The seismically-induced earth pressures are in addition to the static lateral earth pressures and should be considered in combination with the static lateral earth pressures. For a simplified analysis, we recommend using an equivalent seismically-induced earth pressure with a rectangular pressure distribution of  $F \times H$  psf, where the coefficient  $F$  depends on the magnitude of the ground acceleration and  $H$  is the depth to the bottom of the wall in feet. The resultant seismic force would act at  $0.5H$  above the base of the wall. The seismic earth pressures are in addition to the static earth pressures and should be considered in design of the wall.

We recommend that for retaining walls taller than 6 feet, a value of 16 be used for  $F$  to calculate the magnitude of the seismically-induced earth pressure calculated assuming sloping ground surface conditions with a flat backfill behind the wall. The magnitude of seismically induced earth pressures was calculated based on the simplified procedures developed by Seed and Whitman (1970) and Ebeling and Morrison (1992).

Piping with adequate gradient shall be provided to discharge water that collects behind the walls to an adequately controlled discharge system away from the structure's foundations.

The retaining walls may be founded on drilled pier foundation using the criteria given in "Foundations" above

### 3.5. Construction Considerations

A Visqueen-type membrane at least 10 mil thick should be placed between the prepared subgrade and the slab to provide an effective vapor retarder, and to minimize potential moisture condensation under floor coverings. The vapor retarder membrane shall be lapped adequately to provide a continuous vapor proof retarder under the entire slab. Care must be taken to assure that the membrane does not become torn and entangled with the reinforcing.

A minimum of two inches of moistened sand should be placed over the vapor retarder to facilitate curing of the concrete and to act as a cushion to protect the membrane. The perimeter of the mat should be thickened to bear on the prepared building pad and to confine the sand. During winter construction, sand may become saturated due to rainy weather prior to pouring. Saturated sand is not desirable because there exists a high probability of creating sand pockets within the slab section during the concrete pour. As an alternate, a sand-fine gravel mixture that is stable under saturated conditions may be used. However, the material must be approved by the Soil Engineer prior to use.

Any concrete flatwork such as steps, patios, or sidewalks should be designed independently of the slab, and expansion joints should be provided between the flatwork and the structural unit.

Since the foundation subgrade will consist of clayey material, saturation of slab subgrade prior to pouring is needed. The soils expected near finished grade are highly expansive and therefore the slab subgrade should be soaked to saturation (minimum 5% above optimum) to a depth of 18 to 24 inches prior to placement of the capillary break. This should be verified and approved by the Soil Engineer. The penetration of a thin metal probe to a depth of 12 inches generally indicates sufficient saturation.

Four (4) inch (minimum thickness) layer of gravel should be placed to provide a capillary break beneath concrete slab.

Slabs may be constructed at pad grade. The perimeter of the slab should be thickened to bear on the prepared building pad and to confine the sand.

As an alternate to the placement of the sand, the sand may be omitted and the concrete placed directly on the moisture-vapor barrier, provided the concrete mix used has a maximum water/cement ratio of 0.45, and two layers of 10 mil visqueen, one layer of 20 mil high-strength plastic vapor retarder, or one layer of 10 mil Class A retarder is used.

Any concrete flatwork such as steps, patios, or sidewalks should be designed independently of the slab, and expansion joints should be provided between the flatwork and the structural unit.

### **3.6. Interior Slabs and Exterior Concrete Flatwork**

The finished near surface soil is expected to be relatively expansive and therefore slab subgrade saturation is anticipated prior to pouring the slab.

- a. Slabs should be underlain by a minimum of 12 inches of angular gravel or clean crushed rock material placed between the finished subgrade and the slabs to serve as a capillary break between the subsoil and the slab. See the "Guide Specifications For Rock Under Floor Slabs", Appendix B. The 4-inch layer of gravel (capillary break) may be considered as part of the 12-inch non-expansive soil.
- b. We note that some 4" thick slab-on-grade foundation systems with conventional footings have experienced excessive cracking. In order to provide better slab performance with respect to cracking, a slab thicker than 4 inches reinforced with reinforcement bars must be used. We recommend that the slabs be a minimum 5 inches thick and be reinforced with a minimum of No. 3 bars spaced 18 inches center to center, each way or as determined by the project structural engineer for the anticipated floor loads. The reinforcement shall be placed in the center of the slab unless otherwise designated by the structural engineer. Alternatively, the slab may be reinforced with welded wire fabric sheets. Wire mesh must not be used for reinforcement. The project structural engineer will design the floor slab thickness and actual reinforcement.
- c. Where floor coverings are anticipated, a 10-mil or thicker Visqueen-type membrane should be placed between the rock cushion and the slab to provide an effective vapor retarder and to minimize moisture condensation under the floor covering. It is suggested

that a two inch thick sand layer be placed on top of the membrane to assist in the curing of the concrete and to prevent puncture of the membrane.

- d. Slabs at door openings should be constructed with a curl or a thickened edge extending a minimum of 12 inches into native ground or compacted fill
- e. A minimum of two inches of moistened sand should be placed over the vapor barrier to facilitate curing of the concrete and to act as a cushion to protect the membrane. The perimeter of the slab should be thickened to bear on the prepared building pad and to confine the sand. During winter construction, sand may become saturated due to rainy weather prior to pouring. Saturated sand is not desirable because there exists a high probability of creating sand pockets within the slab section during the concrete pour. As an alternate, a sand-fine gravel mixture that is stable under saturated conditions may be used. However, the material must be approved by the Special Inspector prior to use.
- f. Since the foundation subgrade will consist of clayey material, saturation of slab subgrade prior to pouring is needed. The upper 12 inches of subgrade should be compacted to 90 percent with moisture content of 3 to 5 percent above the optimum moisture content as determined by ASTM 1557. The slab subgrade should be wetted to seal the cracks. In this case the soil engineer should observe and verify the subgrade soil wetting before the slabs are poured.
- g. It is expected that the concrete slabs-on-grade including public sidewalks, driveways and other landscape flatwork may experience some cracking due to the expansive nature of the soil on the site. To reduce the potential cracking of concrete, the following are recommended:
  1. To decrease the amount of potential swelling, the driveway subgrade soil in the upper 12 to 18 inches of the subgrade shall be saturated until a moisture equilibrium is achieved (minimum 5% above optimum moisture) before the slab is poured. The Soil Engineer should observe and verify the subgrade soil saturation before the slabs are poured. Typically, 12 inches penetration with a thin metal probe may indicate sufficient saturation. The subgrade for other flatwork slabs should be thoroughly wetted prior to the pouring of concrete.
  2. Driveway slabs should be a minimum 4 inches in thickness and be underlain by a minimum of 4 inches of crushed gravel over subgrade. The perimeter edge of the

driveway slab may be constructed with an 8 inch thickened perimeter edge to contain the gravel and minimize the potential future migration of surface water into the driveway subgrade from the adjoining landscape area. See the "Guide Specifications for Rock under Floor Slabs", Appendix B. Alternatively a thicker slab without gravel may be used. Concrete flatwork for walkways can be cast directly on prepared subgrade and the typical layer of crushed gravel between the flatwork and subgrade can be omitted.

3. The flatwork and driveway slabs should be reinforced at a minimum with welded wire fabric sheets and not wire mesh. Reinforcing bars may also be used, if desired. Reinforcement is to be placed in the center of the slab by utilizing chairs or other equivalent support systems unless otherwise designated by the design engineer. Slabs should be properly reinforced to meet structural design criteria. The actual reinforcement to use is to be determined by others.
4. All exterior flatwork slabs such as steps, patios, or sidewalks should be poured structurally independent of the foundations. A 30-pound felt strip, expansive joint material, or other positive separator should be provided around the edge of all floating slabs to prevent bond to the structure foundation.

### **3.7. Utility Trenches**

Applicable safety standards require that trenches in excess of 5 feet must be properly shored or that the walls of the trench slope back to provide safety for installation of lines. If trench wall sloping is performed, the inclination should vary with the soil type. The underground contractor should request an opinion from the Soil Engineer as to the type of soil and the resulting inclination.

With respect to state-of-the-art construction or local requirements, utility lines are generally bedded with granular materials. These materials can convey surface or subsurface water beneath the structures. It is, therefore, recommended that all utility trenches which possess the potential to transport water be sealed with a compacted impervious cohesive soil material or lean concrete where



the trench enters/exits the building perimeter. This impervious seal should extend a minimum of 2 feet away from the building perimeter.

Utility trenches extending underneath all traffic areas must be backfilled with native or approved import material and compacted to a minimum relative compaction of 90% at a moisture content above optimum to within 6 inches of the subgrade. The upper 6 inches should be compacted to a minimum of 95% relative compaction in accordance with Laboratory Test Procedure ASTM D1557-91. Backfilling and compaction of these trenches must meet the requirements set forth by the City of San Francisco, Department of Public Works. Utility trenches within landscape areas may be compacted to a relative compaction of 85%.

### **3.8. Project Review and Construction Monitoring**

All grading and foundation plans for the development must be reviewed by the Soil Engineer prior to contract bidding or submitted to governmental agencies so that plans are reconciled with soil conditions and sufficient time is allowed for suitable mitigative measures to be incorporated into the final grading specifications.

GEC should be notified at least two working days prior to site clearing, grading, and/or foundation operations on the property. This will give the Soil Engineer ample time to discuss the problems that may be encountered in the field and coordinate the work with the contractor.

Field observation and testing during the grading and/or foundation operations must be provided by representatives of GEC, to enable them to form an opinion regarding the adequacy of the site preparation, the acceptability of fill materials, and the extent to which the earthwork construction and the degree of compaction comply with the specification requirements. Any work related to the grading and/or foundation operations performed without the full knowledge and under the direct observation of the Soil Engineer will render the recommendations of this report invalid. This does not imply full-time observation. The degree of observation and frequency of testing services would depend on the construction methods and schedule, and the item of work. Please refer to "Guidelines For Required Services" for an outline of our involvement during project development.

Should another geotechnical consultant be engaged to perform project review and/or construction monitoring, then GEC must receive a letter of indemnification releasing us of any responsibility on the project.

#### 4. REFERENCES

Blake, Thomas F., 2004. EQFAULT Computer Program, Version 3.0.

Blake, Thomas. F., 2004. FRISKSP Computer Program, Version 4.00.

Continuing Education in Environmental Management & Engineering, University Extension, University of California, Berkeley. *Evaluation and Mitigation of Seismic Hazards Handbook*, May 17 – 19, 2000.

Jennings, 1977, *Geologic Map of California*, California Division of Mines And Geology

Petersen, M., Topozada, T., et. al., 1998. *New Geologic Maps Lend Support to Better Building Design in California Earthquake Country*, California Geology, Vol. 51, No. 2, p. 3-9.

Sadigh, K. and Chang, C.-Y., et. al., May/May 1997. *Attenuation Relationships for Shallow Crustal Earthquakes Based on California Strong Motion Data*. Seismological Research Letters, Volume 68, Number 1, Pages 180 – 189.

Uniform Building Code, 2013. Section 16, Tables 16-J, 16-Q through 16-U.

## 5. GUIDELINES FOR REQUIRED SERVICES

The following list of services is the services required and must be provided by *GEC* during the project development. These services are presented in check list format as a convenience to those entrusted with their implementation.

The items listed are included in the body of the report in detail. This list is intended only as an outline of the required services and does not replace specific recommendations and, therefore, must be used with reference to the total report. This does not imply full-time observation. The degree of observation and frequency of testing services would depend on the construction methods and schedule, and the item of work.

The importance of careful adherence to the report recommendations cannot be overemphasized. It should be noted, however, that this report is issued with the understanding that each step of the project development will be performed under the direct observation of *GEC*.

The use of this report by others presumes that they have verified all information and assume full responsibility for the total project.

Item Description	Required	Not Required
1. Provide foundation design parameters	X	
2. Review grading plans and specifications	X	
3. Review foundation plans and specifications	X	
4. Observe and provide recommendations regarding demolition	X	
5. Observe and provide recommendations regarding site stripping	X	
6. Observe and provide recommendations on moisture conditioning, removal, and/or precompaction of unsuitable existing soils	X	
7. Observe and provide recommendations on the installation of subdrain facilities	X	
8. Observe and provide testing services on fill areas and/or imported fill materials	X	
9. Review as-graded plans and provide additional foundation recommendations, if necessary	X	
10. Observe and provide compaction tests on sanitary sewers, storm drain, water lines and PG&E trenches	X	
11. Observe foundation excavations and provide supplemental recommendations, if necessary prior to placing concrete	X	
12. Observe and provide moisture conditioning recommendations for foundation areas prior to placing concrete	X	
13. Provide design parameters for retaining walls	X	
14. Provide observations and recommendations for keyway excavations and cutslopes during grading		X
15. Excavate and recompact all geologic trenches and/or test pits		X
16. Observe installation of subdrains behind retaining walls	X	

## 6. LIMITATIONS AND UNIFORMITY OF CONDITIONS

1. It should be noted that it is the responsibility of the owner or his representative to notify *GEC* in writing, a minimum of two working days before any clearing, grading, or foundation excavations can commence at the site.
2. The recommendations of this report are based upon the assumption that the soil conditions do not deviate from those disclosed in the borings and from a reconnaissance of the site. Should any variations or undesirable conditions be encountered during the development of the site, *GEC*, will provide supplemental recommendations as dictated by the field conditions.
3. This report is issued with the understanding that it is the responsibility of the owner, or his representative, to ensure that the information and recommendations contained herein are brought to the attention of the Architect and Engineer for the project and incorporated into the plans and that the necessary steps are taken to see that the Contractor and Subcontractors carry out such recommendations in the field.
4. At the present date, the findings of this report are valid for the property investigated. With the passage of time, significant changes in the conditions of a property can occur due to natural processes or works of man on this or adjacent properties. In improvements, legislation or the new knowledge may result in changes in applicable standards. Changes outside of our control may render this report invalid, wholly or partially. Therefore, this report should not be considered valid after a period of two (2) years without our review, nor should it be used, or is it applicable, for any properties other than those investigated.
5. Notwithstanding, all the foregoing applicable codes must be adhered to at all times.

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**APPENDIX A**

**Field Investigation**

**Site Location Map**

**Site Plan**

**Exploratory Boring Logs**

## **FIELD INVESTIGATION**

The field investigation was performed on May 12, 2016 and included a reconnaissance of the site and the drilling of two exploratory borings at the approximate locations shown on Plate 2, "Site Plan and Boring Location Map"

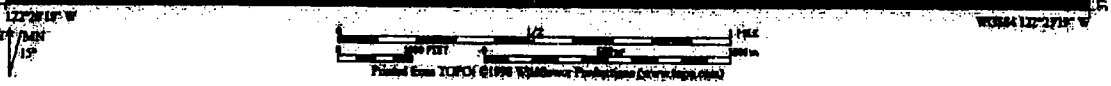
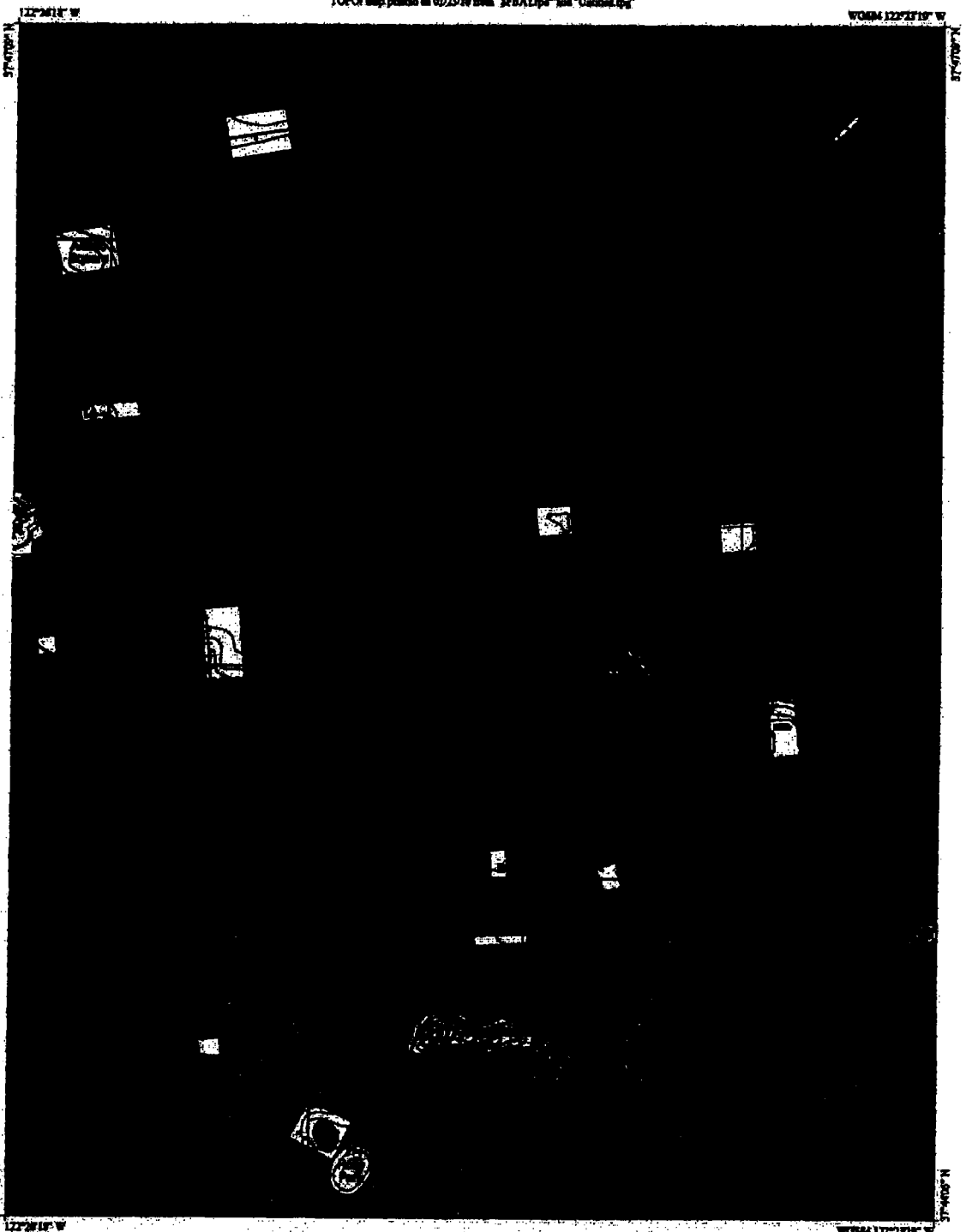
The drillings were performed with a drilling rig equipment using power-driven, 4.5-inch diameter, hollow stem augers. Visual classifications were made from auger cuttings and the samples in the field. As the drilling proceeded, relatively undisturbed core samples were obtained by means of a 2.5 inch O.D. Modified California split-tube sampler containing 2 inch O.D. brass liners. The sampler was advanced into the soils at various depths under the impact of a 70-pound hammer having a free fall of 30 inches. The number of blows required to advance the sampler 12 inches into the soil, after seating the sampler 6 inches, were adjusted to the standard penetration resistance (N-Value).

The samples were sealed and returned to our laboratory for testing. Classifications made in the field were verified in the laboratory after further examination and testing.

The stratification of the soils, descriptions, location of undisturbed soil samples and standard penetration resistance are shown on the respective "Exploratory Boring Logs" contained within this appendix. For general information, the boring logs from the previous investigation completed on the site have been included in this appendix.



TOPOI map printed in 01/23/16 from "JFB/ADP" and "Unifield by"



### SITE VICINITY MAP

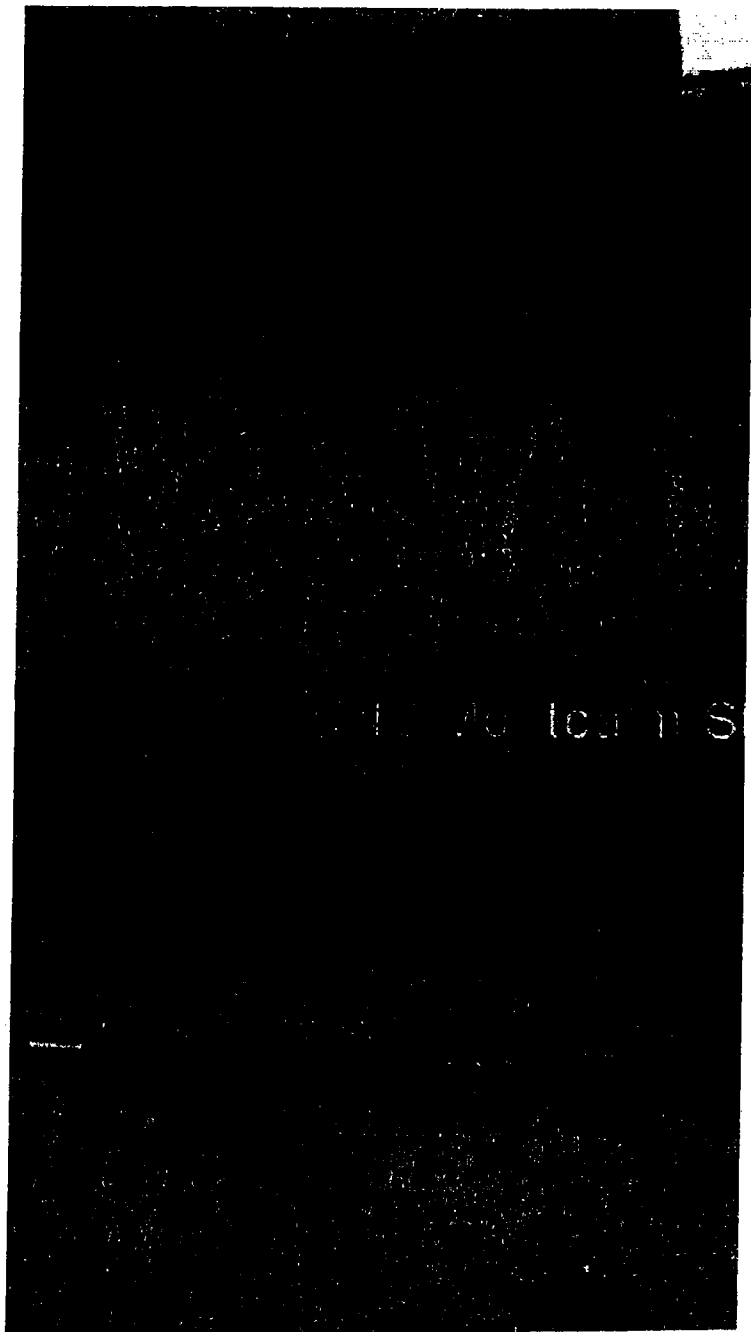
310 Montcalm St.  
San Francisco, California



JOB NO. P16-0200

DATE: 5/16

PLATE 1



**B-1**

**⊕ Approximate Boring Locations**

The image is courtesy of Google Earth Pro. The scale is shown on the upper left corner of the image.

**SITE PLAN AND BORING LOCATION MAP**

310 Montcalm St.  
San Francisco, California

DATE: 5/16

PLATE 2



PROJECT: 20/ Lombard Street  
San Francisco, CA

# Log of B-1

BORING LOCATION: See site plan

ELEVATION AND DATUM:  
---

DRILLING CONTRACTOR: Geo\_Ex Drilling

DATE STARTED: 4.01/2016      DATE FINISHED: 4.01/2016

DRILLING METHOD: Hollow Stem Auger

TOTAL DEPTH (ft.): 21.5      MEASURING POINT: Ground Surface

DRILLING EQUIPMENT: Minuteman

DEPTH TO WHERE FREE WATER FIRST ENCOUNTERED:  
N/A

SAMPLING METHOD: Modified California & SPT samplers

DEPTH TO WATER AT COMPLETION:

HAMMER WEIGHT: 70 lbs

DROP: 30 inches 4.01

LOGGED BY: YB

DEPTH (feet)	SAMPLES			MATERIAL DESCRIPTION	LABORATORY TESTS		
	Sample No.	Sample	Blows/ Foot		Moisture Content (%)	Dry Density (pcf)	Other
0	1	[Black]	4,4,5	Clayey SILT with Sand (ML), reddish brown to brown, very moist to wet, medium stiff	11	117	LL=26% PI=8%
1							
2							
3							
4							
5	2	[Diagonal Hatching]	2,3,5	Sandy CLAY with Silt and Gravel (CL), dark brown, wet, medium stiff to stiff, fine to coarse grained sand, fine to coarse subrounded gravel	18	#200=78%	
6							
7							
8	3	[Black]	5,7,8	Clayey Sandy SILT with Gravel (ML), brown, wet, stiff, fine to coarse grained sand, fine to coarse subrounded gravel	22		
9							
10							
11							
12	4	[Black]	4,6,6	Clayey Sandy SILT with Gravel (ML), brown, wet, stiff, fine to coarse grained sand, fine to coarse subrounded gravel	19	LL=37% PI=13%	
13							
14							
15							
16							
17	5	[Black]	5,5,7	Boring was terminated at about 21.5 feet. Boring backfilled.			
18							
19							
20							
21							
22							



PROJECT: **310 Malcolm Street  
San Francisco, CA**

## Log of B-2

BORING LOCATION: <b>See site plan</b>		ELEVATION AND DATUM: ---	
DRILLING CONTRACTOR: <b>Geo_Ex Drilling</b>		DATE STARTED: <b>1/12/2016</b>	DATE FINISHED: <b>1/12/2016</b>
DRILLING METHOD: <b>Hollow Stem Auger</b>		TOTAL DEPTH (ft.): <b>16.5</b>	MEASURING POINT: <b>Ground Surface</b>
DRILLING EQUIPMENT: <b>Minuteman</b>		DEPTH TO WHERE FREE WATER FIRST ENCOUNTERED: <b>N/A</b>	
SAMPLING METHOD: <b>Modified California &amp; SPT samplers</b>		DEPTH TO WATER AT COMPLETION:	
HAMMER WEIGHT: <b>70 lbs</b>	DROP: <b>30 inches</b>	LOGGED BY: <b>YB</b>	

DEPTH (feet)	SAMPLES			MATERIAL DESCRIPTION	LABORATORY TESTS		
	Sample No.	Sample	Blows/ Foot		Moisture Content (%)	Dry Density (pcf)	Other
0				Clayey SILT with Sand (ML), reddish brown to brown, very moist to wet, medium stiff	13	119	
1	1		2,5,6				
2				Sandy CLAY with Silt (CL), dark brown, wet, medium stiff to stiff, fine to coarse grained sand	18		LL=32% PI=13%
3							
4							
5							
6	2		3,7,8				
7							
8							
9							
10							
11	3		3,8,9				
12				Boring was terminated at about 11.5 feet. Boring backfilled.			

## UNIFIED SOIL CLASSIFICATION SYSTEM (ASTM D-2487)

MAJOR DIVISIONS			SOIL SYMBOL	SOIL DESCRIPTION
<b>COARSE GRAINED SOILS</b> More than half material is larger than # 200 sieve	<b>GRAVELS</b> (More than 50 % material larger than # 4 sieve)	<b>CLEAN GRAVEL</b> Less than 5% fines	GW	Well Graded Gravels, Gravel-Sand Mixtures, little or Fines
		<b>GRAVEL</b> With Fines (More than 12% fines)	GP	Poorly Graded Gravels or Gravel-Sand Mixtures, little or No Fines
		<b>GRAVEL</b> With Fines (More than 12% fines)	GM	Silty Gravels, Gravel-Sand-Silt Mixtures, Non-Plastic Fines.
		<b>GRAVEL</b> With Fines (More than 12% fines)	GC	Clayey Gravels, Gravel-Sand-Clay Mixtures, Plastic Fines.
	<b>SANDS</b> (More than 50 % material smaller than # 4 sieve)	<b>CLEAN SAND</b> (Less than 5% fines)	SW	Well Graded Sands, Gravelly Sands, Little or No Fines.
		<b>CLEAN SAND</b> (Less than 5% fines)	SP	Poorly Graded Sands or Gravelly Sands, Little or No Fines.
		<b>SAND</b> With Fines (More than 12% fines)	SM	Salty Sands, Sand-Silt Mixtures, Non-Plastic Fines.
		<b>SAND</b> With Fines (More than 12% fines)	SC	Clayey Sands, Sand-Clay Mixtures, Plastic Fines.
<b>FINE GRAINED SOILS</b> More than half material is smaller than the #200 sieve	<b>SILTS &amp; CLAYS</b> Liquid Limit is less than 50%		ML	Inorganic Silts, Sandy or Clayey Silts, Low to no Plasticity.
	<b>SILTS &amp; CLAYS</b> Liquid Limit is less than 50%		CL	Inorganic Clay, Sandy or Silty Clay, Low to Medium Plasticity.
	<b>SILTS &amp; CLAYS</b> Liquid Limit is less than 50%		OL	Organic Silt or Organic Silty Clay, Low to Medium Plasticity.
	<b>SILTS &amp; CLAYS</b> Liquid limit is greater than 50%		MH	Inorganic Silts, Diatomaceous or Micaceous, Fine Sandy or Silty Soils.
	<b>SILTS &amp; CLAYS</b> Liquid limit is greater than 50%		CH	Inorganic Clays of High Plasticity, Fat Clays.
	<b>SILTS &amp; CLAYS</b> Liquid limit is greater than 50%		OH	Organic Clays of Medium to High Plasticity, Organic Silts.
<b>HIGHLY ORGANIC SOILS</b>			PT	Peat and Other Highly Organic Soils.

### PARTICLE SIZE LIMITS

(Sieve Openings in mm.)								.074	.425	2.00	4.75	19.0	75.0	300.0	
SILT OR CLAY	SAND			GRAVEL		COBBLES	BOULDERS								
		FINE	MEDIUM	COARSE	FINE			COARSE							
(U.S. Standard sieve Sizes)	# 200	# 40	# 10	# 4	.75 in	3 in	12 in								

RELATIVE DENSITY		CONSISTENCY	
SANDS, GRAVELS AND NON- PLASTIC SILTS	BLOWS / FOOT*	CLAYS AND PLASTIC SILTS	STRENGTH†
VERY LOOSE	0 - 4	VERY SOFT	0 - 1/4
LOOSE	4 - 10	SOFT	1/4 - 1/2
MEDIUM DENSE	10 - 30	FIRM	1/2 - 1
DENSE	30 - 50	STIFF	1 - 2
VERY DENSE	OVER 50	VERY STIFF	2 - 4
		HARD	OVER 4

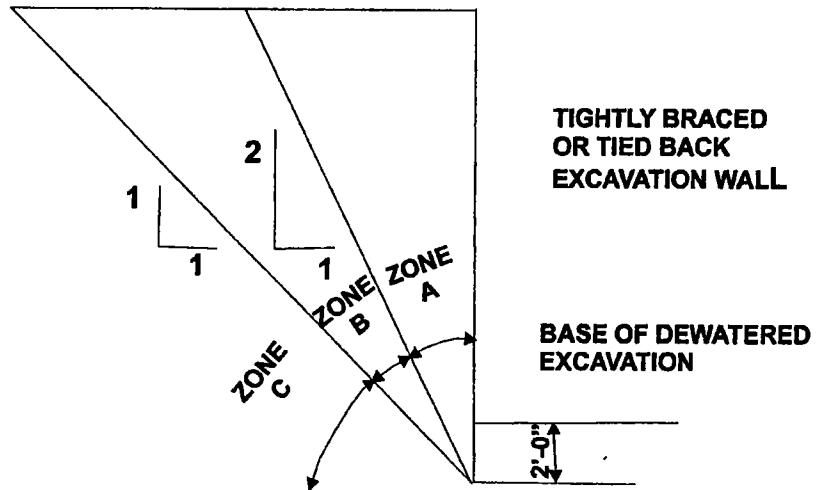
\* Numbers of blows of 140 pound hammer falling 30 inches to drive a 2-inch O.D. (1 - 3 / 8 inch I. D.) split spoon (ASTM D -1586).

† Unconfined compressive strength in tons/sq. ft. as determined by laboratory testing or approximated by the Standard Penetration test (ASTM D - 1586), pocket penetrometer, torvane or visual observation.



**GeoEngineering Consultants**

**KEY TO EXPLORATORY BORING LOGS**



**NOTES:**

1. Foundation within Zone A generally required underpinning.
2. Foundation within Zone B generally required underpinning depending on the type of structure and loading conditions.
3. Underpinning if used must be founded in Zone C.

REFERENCE: NAVFAC DM-7.2 (1986)

**UNDERPINNING CRITERIA**

310 Montcalm St.  
San Francisco, California

DATE: 5/16

PLATE 6

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**APPENDIX B**

**The Grading Specifications**

**Guide Specifications For Rock Under Floor Slabs**

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**THE GRADING SPECIFICATIONS**  
on  
**PROPOSED RESIDENTIAL**  
310 montcalm Street  
San Francisco, California

**B.1. General Description**

B.1.1 These specifications have been prepared for the grading and site development of the subject project. *GEC*, hereinafter described as the Soil Engineer, should be consulted prior to any site work connected with site development to ensure compliance with these specifications.

B.1.2 The Soil Engineer should be notified at least two working days prior to any site clearing or grading operations on the property in order to observe the stripping of organically contaminated material and to coordinate the work with the grading contractor in the field.

B.1.3 This item shall consist of all clearing or grubbing, preparation of land to be filled, filling of the land, spreading, compaction and control of fill, and all subsidiary work necessary to complete the grading of the filled areas to conform with the lines, grades, and slopes as shown on the accepted plans. The Soil Engineer is not responsible for determining line, grade elevations, or slope gradients. The property owner, or his representative, shall designate the person or organizations who will be responsible for these items of work.

B.1.4 The contents of these specifications shall be integrated with the soil report of which they are a part, therefore, they shall not be used as a self-contained document.

**B.2. Tests**

The standard test used to define maximum densities of all compaction work shall be the ASTM D1557-91 Laboratory Test Procedure. All densities shall be expressed as a relative compaction in terms of the maximum dry density obtained in the laboratory by the foregoing standard procedure.

**B.3. Demolition, Clearing, Grubbing, and Preparing Areas To Be Filled**

B.3.1 All vegetable matter, trees, root systems, shrubs, debris, and organic topsoil shall be removed from all structural areas and areas to receive fill.

B.3.2 Any soil deemed soft or unsuitable by the Soil Engineer shall be removed. Any existing debris or excessively wet soils shall be excavated and removed as required by the Soil Engineer during grading.

B.3.3 All underground structures shall be removed from the site such as old foundations, abandoned pipe lines, septic tanks, and leach fields.



B.3.4 The final stripped excavation shall be approved by the Soil Engineer during construction and before further grading is started.

B.3.5 After the site has been cleared, stripped, excavated to the surface designated to receive fill, and scarified, it shall be disked or bladed until it is uniform and free from large clods. The native subgrade soils shall be moisture conditioned and compacted to the requirements as specified in the grading section of this report. Fill can then be placed to provide the desired finished grades. The contractor shall obtain the Soil Engineer's approval of subgrade compaction before any fill is placed.

#### **B.4. Materials**

B.4.1 All fill material shall be approved by the Soil Engineer. The material shall be a soil or soil-rock mixture which is free from organic matter or other deleterious substances. The fill material shall not contain rocks or lumps over 6 inches in greatest dimension and not more than 15% larger than 2-1/2 inches. Materials from the site below the stripping depth are suitable for use in fills provided the above requirements are met.

B.4.2 Materials existing on the site are suitable for use as compacted engineered fill after the removal of all debris and organic material. All fill soils shall be approved by the Soil Engineer in the field.

B.4.3 Should import material be required, it must meet the requirements as specified in the body of this report prior to transporting it to the project.

#### **B.5. Placing, Spreading, and Compacting Fill Material**

B.5.1 The fill materials shall be placed in uniform lifts of not more than 8 inches in uncompacted thickness. Each layer shall be spread evenly and shall be thoroughly blade mixed during the spreading to obtain uniformity of material in each layer. Before compaction begins, the fill shall be brought to a water content that will permit proper compaction by either (a) aerating the material if it is too wet, or (b) spraying the material with water if it is too dry.

B.5.2 After each layer has been placed, mixed, and spread evenly, either import material or native material shall be compacted to a relative compaction of 90% at a moisture content 2 to 3% above optimum as determined by ASTM D1557-91 Laboratory Test Procedure.

B.5.3 Compaction shall be by footed rollers or other types of acceptable compacting rollers. Rollers shall be of such design that they will be able to compact the fill to the specified density. Rolling shall be accomplished while the fill material is within the specified moisture content range. Rolling of each layer shall be continuous over its entire area and the roller shall make sufficient trips to ensure that the required density has been obtained. No ponding or jetting shall be permitted.

B.5.4 Field density tests shall be performed by the Soil Engineer in accordance with Laboratory Test Procedure ASTM D2922-91 and D3017-88. When footed rollers are used for compaction, the density tests shall be taken in the compacted material below the surface disturbed by the roller. When these tests indicate that the compaction requirements on any layer of fill, or portion

thereof, has not been met, the particular layer, or portion thereof, shall be reworked until the compaction requirements have been met.

B.5.5 No soil shall be placed or compacted during periods of rain nor on ground which contains free water. Soil which has been soaked and wetted by rain or any other cause shall not be compacted until completely drained and until the moisture content is within the limits hereinbefore described or approved by the Soil Engineer. Approval by the Soil Engineer shall be obtained prior to continuing the grading operations.

**B.6. Utility Trench Backfill**

B.6.1 The utility trenches extending under concrete slabs-on-grade shall be backfilled with native on-site soils or approved import materials and compacted to the requirements pertaining to the adjacent soil. No ponding or jetting will be permitted.

B.6.2 Utility trenches extending under all pavement areas shall be backfilled with native or approved import material and properly compacted to meet the requirements set forth by the City of San Francisco, Department of Public Works.\*

B.6.3 Where any opening is made under or through the perimeter foundations for such items as utility lines and trenches, the openings must be resealed so that they are watertight to prevent the possible entrance of outside irrigation or rain water into the underneath portion of the structures.

**B.7. Subsurface Line Removal**

B.7.1 The methods of removal will be designated by the Soil Engineer in the field depending on the depth and location of the line. One of the following methods will be used.

B.7.2 Remove the pipe and fill and compact the soil in the trench according to the applicable portions of sections pertaining to compaction and utility backfill.

B.7.3 The pipe shall be crushed in the trench. The trench shall then be filled and compacted according to the applicable portions of Section 5.

B.7.4 Cap the ends of the line with concrete to prevent entrance of water. The length of the cap shall not be less than 5 feet. The concrete mix shall have a minimum shrinkage.

**B.8. Unusual Conditions**

In the event that any unusual conditions not covered by the special provisions are encountered during the grading operations, the Soil Engineer shall be immediately notified for additional recommendations.

## GUIDE SPECIFICATIONS FOR ROCK UNDER FLOOR SLABS

### Definition

Graded gravel or crushed rock for use under slabs-on-grade shall consist of a minimum thickness of mineral aggregate placed in accordance with these specifications and in conformance with the dimensions shown on the plans. The minimum thickness is specified in the accompanying report.

### Material

The mineral aggregate shall consist of broken stone, crushed or uncrushed gravel, quarry waste, or a combination thereof. The aggregate shall be free from deleterious substances. It shall be of such quality that the absorption of water in a saturated dry condition does not exceed 3% of the oven dry weight of the sample.

### Gradation

The mineral aggregate shall be of such size that the percentage composition by dry weight, as determined by laboratory sieves (U.S. Sieves) will conform to the following gradation:

Sieve Size	Percentage Passing
3/4"	90-100
No. 4	25-40
No. 8	18-33
No. 200	0-3

### Placing

Subgrade, upon which gravel or crushed rock is to be placed, shall be prepared as outlined in the accompanying soil report.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
 Robert H. Staley, (Bar # 122101)  
 Epstein, Englert, Staley & Coffey  
 425 California Street, Suite 1700  
 San Francisco, CA 94104  
 TELEPHONE NO.: (415) 398-6392 FAX NO.: (415) 398-6938  
 ATTORNEY FOR (Name): Plaintiffs, Rafael Trujillo, Marianne Bachers, et. al.

FOR COURT USE ONLY

**FILED**

Superior Court of California  
 County of San Francisco

DEC 20 2016

CLERK OF THE COURT  
 BY: *Karen [Signature]* Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO

STREET ADDRESS: 400 McAllister Street

MAILING ADDRESS:

CITY AND ZIP CODE: San Francisco, CA 94102

BRANCH NAME: Civic Center

CASE NAME:  
 Rafael Trujillo, et. al. v. SF Realty Partners, LLC, et. al.

**CIVIL CASE COVER SHEET**

**Unlimited** (Amount demanded exceeds \$25,000)  **Limited** (Amount demanded is \$25,000 or less)

**Counter**  **Joinder**

Complex Case Designation  
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:  
**CGC-16-556074**

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<p><b>Auto Tort</b></p> <p><input type="checkbox"/> Auto (22)</p> <p><input type="checkbox"/> Uninsured motorist (46)</p> <p><b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b></p> <p><input type="checkbox"/> Asbestos (04)</p> <p><input type="checkbox"/> Product liability (24)</p> <p><input type="checkbox"/> Medical malpractice (45)</p> <p><input type="checkbox"/> Other PI/PD/WD (23)</p> <p><b>Non-PI/PD/WD (Other) Tort</b></p> <p><input type="checkbox"/> Business tort/unfair business practice (07)</p> <p><input type="checkbox"/> Civil rights (08)</p> <p><input type="checkbox"/> Defamation (13)</p> <p><input type="checkbox"/> Fraud (16)</p> <p><input type="checkbox"/> Intellectual property (19)</p> <p><input type="checkbox"/> Professional negligence (25)</p> <p><input type="checkbox"/> Other non-PI/PD/WD tort (35)</p> <p><b>Employment</b></p> <p><input type="checkbox"/> Wrongful termination (36)</p> <p><input type="checkbox"/> Other employment (15)</p>	<p><b>Contract</b></p> <p><input checked="" type="checkbox"/> Breach of contract/warranty (06)</p> <p><input type="checkbox"/> Rule 3.740 collections (09)</p> <p><input type="checkbox"/> Other collections (09)</p> <p><input type="checkbox"/> Insurance coverage (18)</p> <p><input type="checkbox"/> Other contract (37)</p> <p><b>Real Property</b></p> <p><input type="checkbox"/> Eminent domain/Inverse condemnation (14)</p> <p><input type="checkbox"/> Wrongful eviction (33)</p> <p><input type="checkbox"/> Other real property (26)</p> <p><b>Unlawful Detainer</b></p> <p><input type="checkbox"/> Commercial (31)</p> <p><input type="checkbox"/> Residential (32)</p> <p><input type="checkbox"/> Drugs (38)</p> <p><b>Judicial Review</b></p> <p><input type="checkbox"/> Asset forfeiture (05)</p> <p><input type="checkbox"/> Petition re: arbitration award (11)</p> <p><input type="checkbox"/> Writ of mandate (02)</p> <p><input type="checkbox"/> Other judicial review (39)</p>	<p><b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b></p> <p><input type="checkbox"/> Antitrust/Trade regulation (03)</p> <p><input type="checkbox"/> Construction defect (10)</p> <p><input type="checkbox"/> Mass tort (40)</p> <p><input type="checkbox"/> Securities litigation (28)</p> <p><input type="checkbox"/> Environmental/Toxic tort (30)</p> <p><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)</p> <p><b>Enforcement of Judgment</b></p> <p><input type="checkbox"/> Enforcement of judgment (20)</p> <p><b>Miscellaneous Civil Complaint</b></p> <p><input type="checkbox"/> RICO (27)</p> <p><input type="checkbox"/> Other complaint (not specified above) (42)</p> <p><b>Miscellaneous Civil Petition</b></p> <p><input type="checkbox"/> Partnership and corporate governance (21)</p> <p><input type="checkbox"/> Other petition (not specified above) (43)</p>
---	--	---

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive
4. Number of causes of action (specify): 5
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 20, 2016

Robert H. Staley

(TYPE OR PRINT NAME)

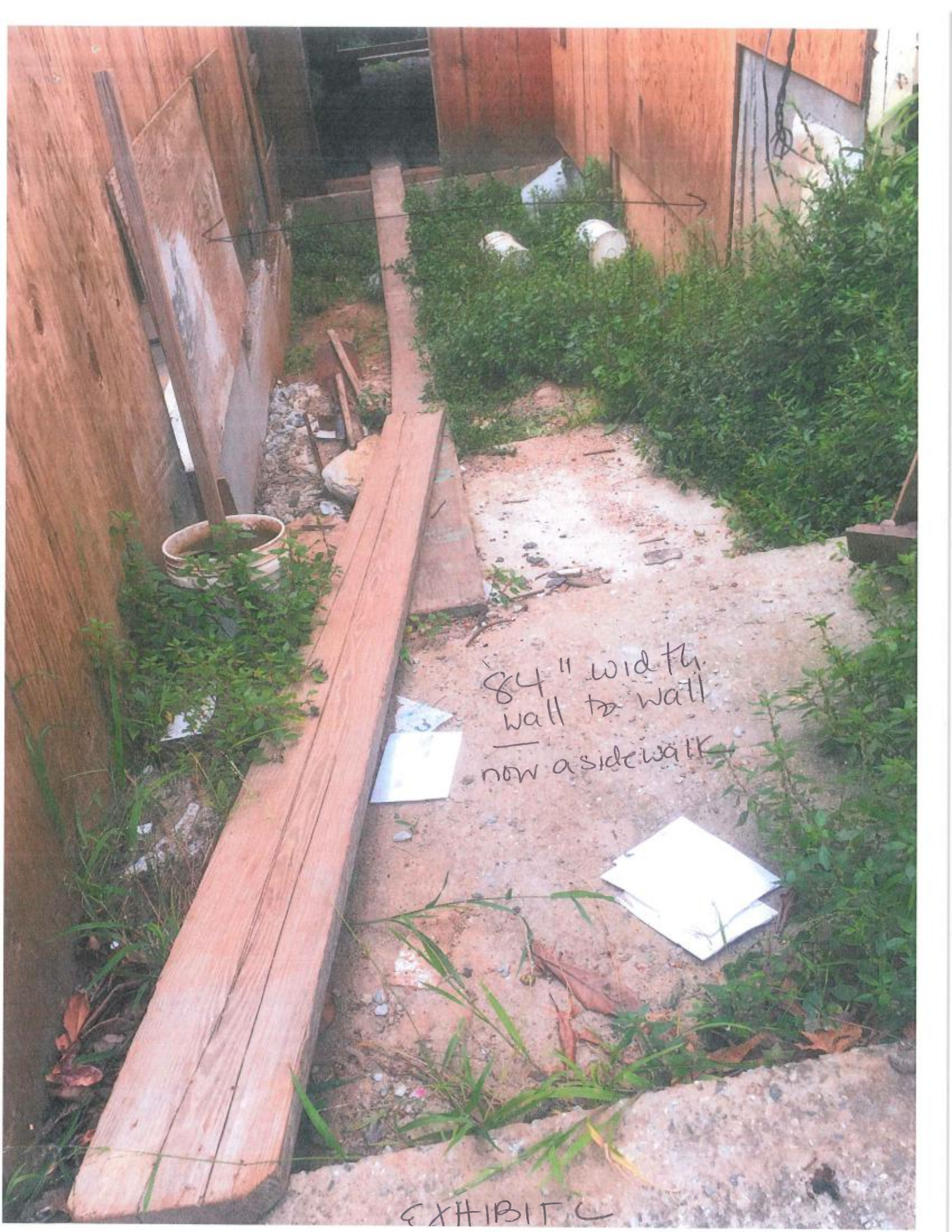
*[Signature]*

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.





84" width  
wall to wall  
—  
now a sidewalk

EXHIBIT C

4/4/18

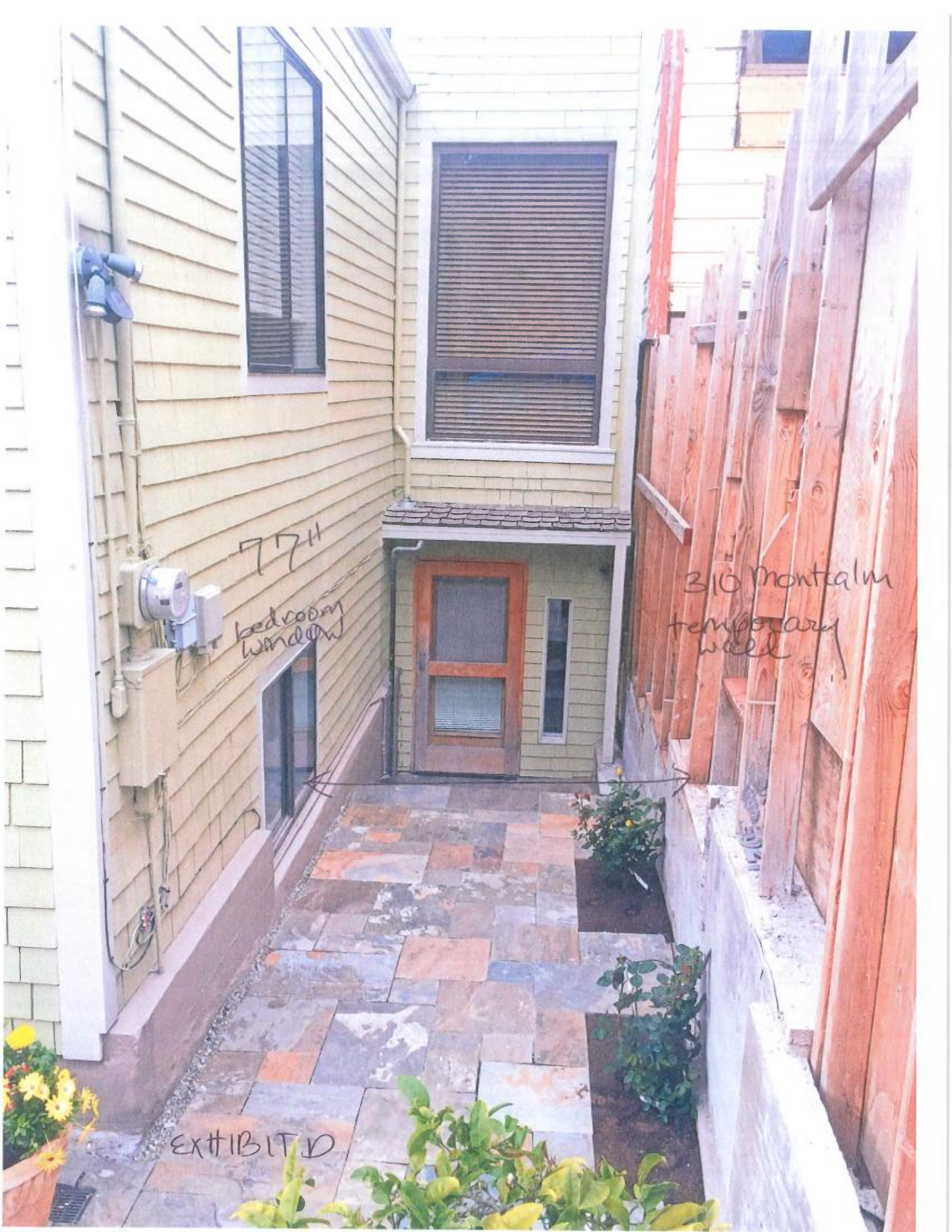
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310 montcalm (5)

84" width

26 1/2' deep





7711  
bedroom  
window

310 Montcalm  
temporary  
well

EXHIBIT D

4/4/18

312 Montreal

(5)

75"

width

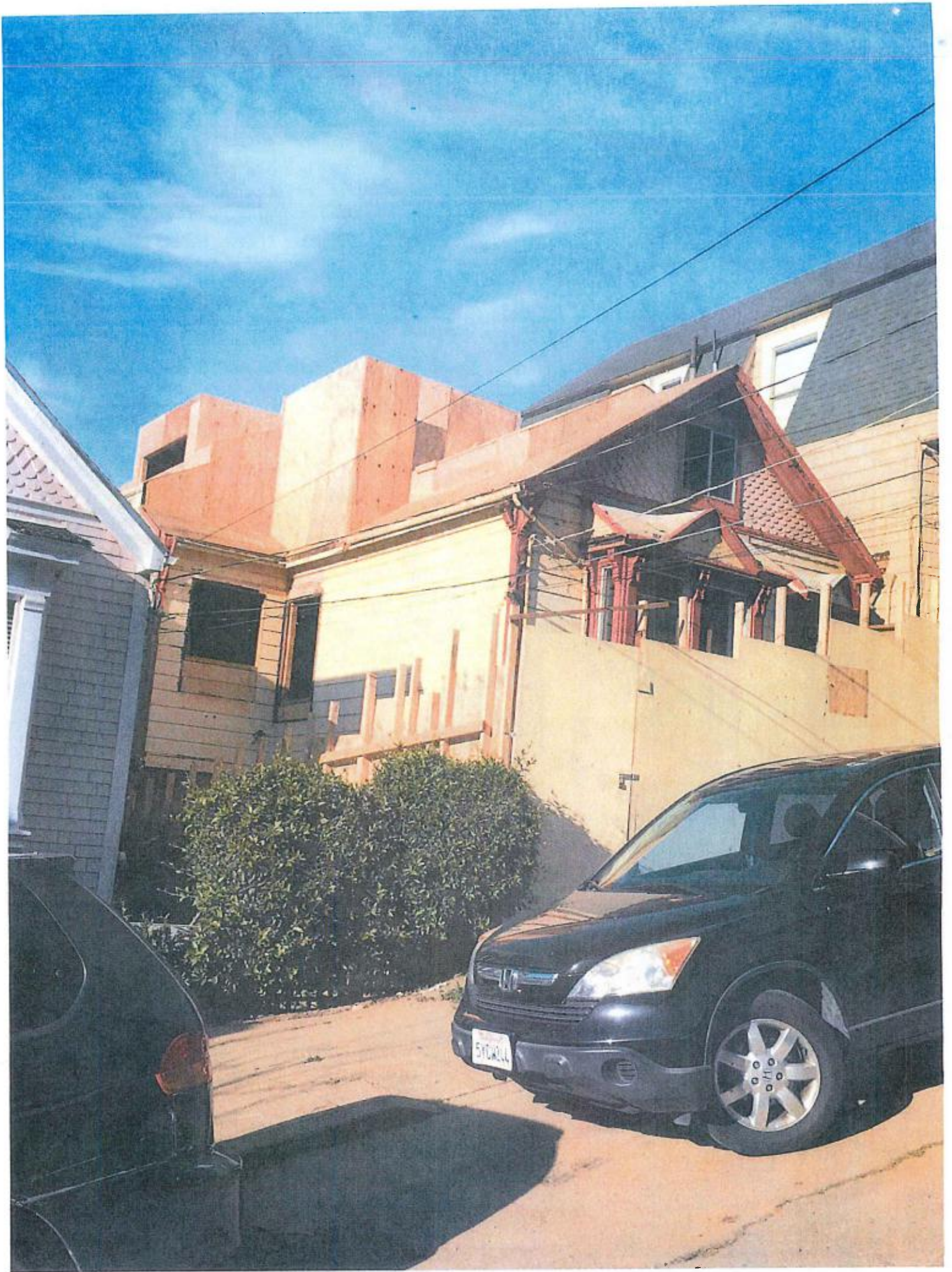




unpermitted  
third floor  
February  
↓ 2017

EXHIBIT E





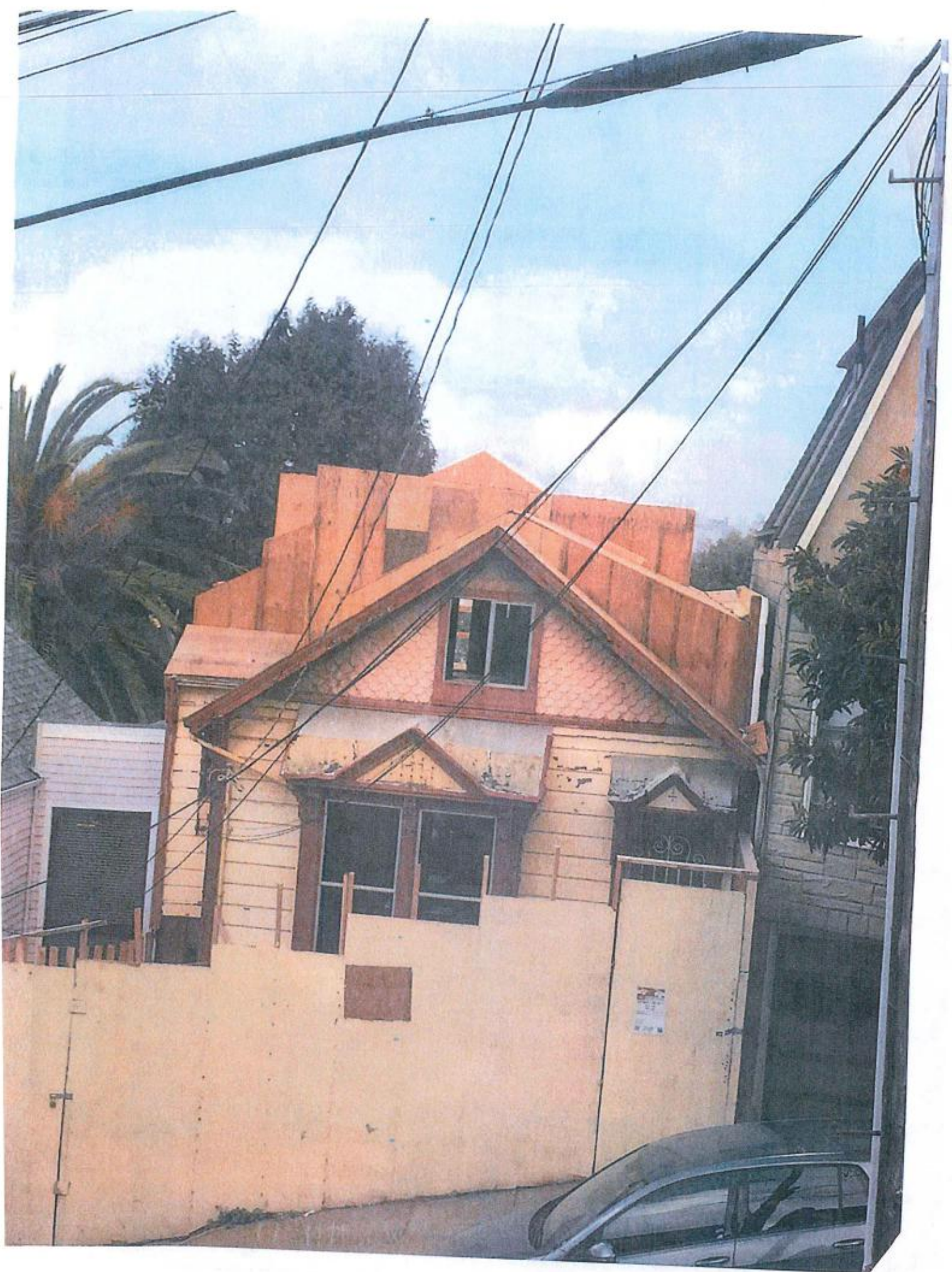


unpermitted third floor  
February 2017



EXHIBIT 2





**SUPPLEMENTAL SUBMISSION CONCERNING REQUEST FOR  
DISCRETIONARY REVIEW OF 310 MONTCALM STREET DEVELOPMENT  
PROJECT**

**Property Owner: Ashok Gujral and SF Realty Partners  
Property Address: 310 Montcalm Street  
Permit Number: 201801168744**

**Discretionary Review Applicants: Marianne Bachers and Rafael Trujillo,  
adjoining/abutting neighbors at 312 Montcalm Street**

**SUPPLEMENTAL FACTS, EXHIBITS AND DISCUSSION**

On June 21, 2018, the City Attorney's office for the City and County of San Francisco filed a suit for injunctive relief against Ashok Gujral in San Francisco Superior Court. That lawsuit is attached as Exhibit A. The lawsuit details a pattern and practice of failing to obtain permits for work on multiple projects throughout the city, and for building beyond over the counter permits that were obtained. Plans were filed with the city which understated and misstated the work that was to be done. The 310 Montcalm project is included in this lawsuit.

This is not the first time Mr. Gujral's real estate activities have run afoul of the law. In 2011, the State Board of Real Estate sued Mr. Gujral in connection with multiple counts of misconduct, fraud/dishonesty, negligence and incompetence, with respect to his real estate brokerage and sales licenses. Mr. Gujral admitted each and every factual allegation made against him by the Real Estate Board and voluntarily surrendered his real estate brokerage and sales licenses. The Real Estate Board's charging documents and Mr. Gujral's factual admissions, and the documents concerning the surrender of his licenses, are attached as Exhibit B.

Finally, there is also evidence of what happens when Mr. Gujral's development projects are not strictly scrutinized during the construction phase, as we discussed in our application for discretionary review. Three lawsuits<sup>1</sup> have been filed since 2016 concerning Mr. Gujral's developments. These lawsuits allege extraordinary defects: improper or substandard drainage systems which resulted in sewage spewing throughout a \$4,000,000 Noe Valley house; an adjoining foundation being undermined on Oak Street; and construction defects throughout a \$2,000,000 house on Folsom Street.

---

<sup>1</sup> We filed a fourth lawsuit concerning 310 Montcalm Street, which was attached to our original application for discretionary review.

310 Montcalm Street is a project gone very wrong from its beginning. Every permit has been violated, beginning with the exploratory demolition permit. This house turned into a public nuisance very soon after Mr. Gujral bought it. The house was filled with raccoons, squirrels and other vermin. Soon after that, it became a homeless encampment, which included an open air toilet and drug shooting gallery. Police had to be called multiple times to deal with these issues. Scaffolding with netting was erected which posed a danger to both adjoining homes during windy days. The scaffolding eventually fell down on the uphill (Thackery/Anker) home and on the sidewalk. We repeatedly complained about these conditions and our pleas to address these problems were ignored. We spent tens of thousands of dollars in attorney and expert fees in order to get Mr. Gujral to sign contracts to protect our homes and provide legally required access to our foundation during the construction process, only to have the most important provisions of these contracts materially breached within weeks of Mr. Gujral signing them. A settlement agreement to repair the Thackery/Anker foundation was ignored and then an unpermitted third floor was built - all without plans, engineering or weight bearing studies - and on a property where the adjoining foundation had been damaged. Multiple abatement orders by DBI and the planning department telling Mr. Gujral to remove the third floor were ignored. This third floor still stands today. The project is unsafe and presents a threat to our health and safety. It has been declared a public nuisance by DBI. This project is still only in its earliest stages.

Mr. Gujral's abject failure to address the problems we have told him about since the beginning of this project - the drainage from 310 Montcalm directly into our home - has required us to consult lawyers, pay for the structural expert's assistance over and over again, attend numerous hearings at DBI, and spend perhaps a thousand hours of our own time researching, investigating, writing and otherwise working to protect our home from destruction by this developer who acts as if the law does not apply to him. Our expenses continue to mount due to his behavior and there is no end in sight.<sup>2</sup>

In summary, this commission is faced with a developer who has been sued by the city attorney for multiple acts of rampant, flagrant abuse of the permit process and building far beyond that which was authorized, all of which has occurred at 310 Montcalm; a developer who voluntarily surrendered his real estate sales and brokerage licenses, while admitting factual allegations which were the basis for the charges of misconduct, fraud and deception, negligence and incompetence by the state Board of Real Estate; and a developer who has faced and is facing multi-million dollar lawsuits for

---

<sup>2</sup> We adopt, refer to and incorporate all submissions made by our neighbors, Susan Thackery and Steven Anker, concerning their discretionary review application. We do this so as to avoid unnecessary duplication of exhibits and arguments.



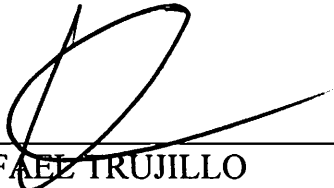
seriously defective construction across the city. Most importantly, Mr. Gujral signed legal contracts with us to allow us access to repair our foundation. He covered up the foundation just a few weeks later. Mr. Gujral does not even think he has to abide by contracts that he signs.

It is also significant that no response has yet been filed to our request for discretionary review. This is just another attempt to gain a tactical advantage with respect to this project. If any response is filed, it is a delayed response, and yet another insult to us as adjoining homeowners.

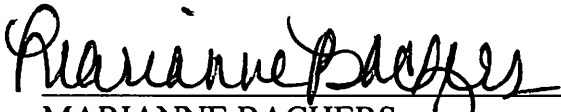
We request the planning commission take the following actions:

1. Accept our request for discretionary review;
2. Order that Mr. Gujral return with new plans which return the house to its original, as built, footprint;
3. Remove the foundation that was poured before any permit was issued, and remove the additions to the foundation that are outside the original footprint of the house;
4. Deny the request to add any dormers or to expand the house in any way;
5. Remove the open air car port situated right next to our bedroom;
6. Hold the issuance of any permit in abeyance until the San Francisco Superior Court holds a hearing on the city attorney's request for an injunction and join in the city attorney's request that a receiver be appointed to handle Mr. Gujral's development projects;
7. Order that Mr. Gujral must not damage us or our home;
8. Enter any other equitable orders about this project that this commission deems appropriate given the extraordinary and exceptional circumstances presented by this development, this developer, and his admitted history of real estate misconduct.

DATED: 7/2/18

  
\_\_\_\_\_  
RAFAEL TRUJILLO

DATED: July 2, 2018

  
\_\_\_\_\_  
MARIANNE BACHERS

## **EXHIBIT A**



COPY

1 DENNIS J. HERRERA, State Bar #139669  
City Attorney  
2 PETER J. KEITH, State Bar #206482  
Chief Attorney  
3 Neighborhood and Resident Safety Division  
JENNIFER E. CHOI, State Bar #184058  
4 Deputy City Attorney  
1390 Market Street, Sixth Floor  
5 San Francisco, California 94102-5408  
Telephone: (415) 554-3887  
6 Facsimile: (415) 437-4644  
E-Mail: Jennifer.Choi@sfcityatty.org

ENDORSED  
FILED  
San Francisco County Superior Court

JUN 21 2018  
CLERK OF THE COURT  
BY: KALENE APOLONIO  
Deputy Clerk

7 Attorneys for Plaintiffs  
8 CITY AND COUNTY OF SAN FRANCISCO and  
PEOPLE OF THE STATE OF CALIFORNIA  
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SAN FRANCISCO  
12 UNLIMITED JURISDICTION

13 CITY AND COUNTY OF SAN  
FRANCISCO, a Municipal Corporation; and  
14 the PEOPLE OF THE STATE OF  
CALIFORNIA, by and through Dennis J.  
15 Herrera, City Attorney for the City and County  
of San Francisco,

16 Plaintiffs,

17 vs.

18 ASHOK GUJRAL, an individual, SF  
19 REALTY PARTNERS, LLC, a California  
Limited Liability Corporation, GEP SPV 1,  
20 LLC, a California Limited Liability  
Corporation, GROWTH EQUITY  
21 PARTNERS, LLC, a California Limited  
Liability Corporation, and DOE ONE through  
22 DOE FIFTY, inclusive,

23 Defendants.

Case No. CGC-18-567469

COMPLAINT FOR INJUNCTIVE AND OTHER  
RELIEF

Type of Case: (42) Other Complaint

24  
25 The CITY AND COUNTY OF SAN FRANCISCO ("CITY"), a municipal corporation, and the  
26 PEOPLE OF THE STATE OF CALIFORNIA, by and through San Francisco City Attorney DENNIS  
27 J. HERRERA, (collectively "PLAINTIFFS") file their Complaint against ASHOK GUJRAL, SF  
28 REALTY PARTNERS, LLC, GEP SPV 1, LLC, GROWTH EQUITY PARTNERS, LLC and DOE

1 ONE through DOE FIFTY (collectively "DEFENDANTS"). PLAINTIFFS hereby allege as set forth  
2 below:

### 3 INTRODUCTION

4 1. Defendant ASHOK GUJRAL is a real estate developer and investor in San Francisco.  
5 He owns a large number of properties in San Francisco through various LLCs that he personally  
6 controls. Between June 2015 and September 2016, Defendant ASHOK GUJRAL purchased seven  
7 residential properties in San Francisco through Defendants SF REALTY PARTNERS, LLC, GEP  
8 SPV 1, LLC, and GROWTH EQUITY PARTNERS, LLC. DEFENDANTS followed a similar  
9 approach at each of the seven properties. Shortly after purchase, DEFENDANTS sought permits for  
10 what they represented to be simple and uncomplicated construction at each property. Based on the  
11 representations made by DEFENDANTS on the permit applications, the permits were issued quickly,  
12 with no additional time or fees consumed by further review by the CITY. DEFENDANTS then set  
13 about conducting major renovations at each property, well beyond the scope of what they had  
14 represented on their permit applications and without proper oversight by the CITY. Some of the work  
15 included the unpermitted demolition of a historic facade, additions to buildings and foundation work  
16 that threatened neighboring properties.

17 2. Had DEFENDANTS accurately described their intended scope of work on their permit  
18 applications, they would have had to pay significantly higher permit fees, been subjected to a more  
19 rigorous and time-consuming review by the CITY, and been subject to greater oversight by the CITY.  
20 Only after being caught and cited by the CITY for work without permit and work beyond the scope of  
21 permit, did DEFENDANTS file permit applications attempting to legalize what had already been  
22 illegally done. Even then, DEFENDANTS failed to timely provide all required documents and  
23 information to complete the permit application and review process, further delaying the issuance of the  
24 permit.

25 3. DEFENDANTS' actions violate San Francisco's Municipal Codes, California's Unfair  
26 Competition Law and State Housing Law, and constitute a public nuisance.

**PARTIES AND SUBJECT PROPERTY**

1  
2 4. Plaintiff CITY AND COUNTY OF SAN FRANCISCO (the "CITY") is a consolidated  
3 charter city and county under the laws of the State of California. The CITY brings this Action under  
4 the San Francisco Building Code, California Civil Code section 3480, California Code of Civil  
5 Procedure section 731, and California Health and Safety Code sections 17910-17998.3.

6 5. Plaintiff PEOPLE OF THE STATE OF CALIFORNIA, by and through San Francisco  
7 City Attorney Dennis J. Herrera (the "PEOPLE"), brings this action pursuant to California Business  
8 and Professions Code sections 17200 and 17204.

9 6. The seven residential properties involved in this Action are located at the following  
10 addresses:

- 11 • 531 33rd Avenue, San Francisco, California 94121
- 12 • 120 Brewster Street, San Francisco, California 94110
- 13 • 1613 Church Street, San Francisco, California 94131
- 14 • 437 Ellsworth Street, San Francisco, California 94110
- 15 • 4068 Folsom Street, San Francisco, California 94110
- 16 • 903 Minnesota Street, San Francisco, California 94107
- 17 • 310 Montcalm Street, San Francisco, California 94110

18 (jointly referred to as "PROPERTIES").

19 7. Defendant ASHOK GUJRAL is an individual directly involved in the purchase,  
20 construction, and maintenance of the PROPERTIES. Defendant ASHOK GUJRAL is the sole  
21 member, manager and agent for service of process of Defendant SF REALTY PARTNERS, LLC.  
22 Defendant ASHOK GUJRAL is the sole member and manager of Defendant GEP SPV 1, LLC.  
23 Defendant ASHOK GUJRAL is the agent for service of process, manager, and one of two members of  
24 Defendant GROWTH EQUITY PARTNERS, LLC.<sup>1</sup>

25 8. Defendant SF REALTY PARTNERS, LLC is a California limited liability company.  
26 Defendant SF REALTY PARTNERS, LLC is the named owner of the San Francisco properties

27 \_\_\_\_\_  
28 <sup>1</sup> The other member of Defendant GROWTH EQUITY PARTNERS, LLC is Susan Gujral,  
wife of Defendant ASHOK GUJRAL.

1 located at 531 33rd Avenue, 120 Brewster Street, 1613 Church Street, 437 Ellsworth Street, and 310  
2 Montcalm Street.

3 9. Defendant GEP SPV 1, LLC is a California limited liability company. Defendant GEP  
4 SPV 1, LLC is the named owner of 903 Minnesota Street in San Francisco, California.

5 10. Defendant GROWTH EQUITY PARTNERS, LLC is a California limited liability  
6 company. Defendant GROWTH EQUITY PARTNERS, LLC is the named owner of 4068 Folsom  
7 Street in San Francisco, California.

8 11. At all times herein mentioned in this Complaint, DEFENDANTS have been the legal  
9 owners and managers of the PROPERTIES. Defendants Doe One through Doe Fifty are sued herein  
10 under fictitious names. PLAINTIFFS do not at this time know the true names or capacities of said  
11 defendants, but pray that the same may be inserted herein when ascertained.

12 12. DEFENDANTS are sued as the owners, operators, managers, and maintainers of the  
13 PROPERTIES, as well as the persons committing the acts and/or omissions alleged in the Complaint  
14 or the persons allowing or directing the commission of the acts and/or omissions alleged in this  
15 Complaint.

16 13. At all times herein mentioned, each Defendant was an agent, officer, and employee of  
17 each other defendant and at all times was acting within the course and scope of said agency, service,  
18 and employment.

19 14. At all times herein mentioned, all the acts and omissions described in this Complaint by  
20 any Defendant were aided and abetted by all other Defendants. DEFENDANTS were aware of the  
21 illegality of the acts and omissions described in this Complaint, and either directly participated in, or  
22 encouraged, these acts and omissions.

23 15. Whenever reference is made in this Complaint to any act of "DEFENDANTS" each  
24 such allegation shall mean that each defendant acted both individually and jointly with the other  
25 defendants. Actions taken by or omissions made by DEFENDANTS' employees, officers, directors,  
26 or agents in the course of their employment or agency are considered to be actions or omissions of  
27 DEFENDANTS for the purposes of this Complaint.

**GENERAL ALLEGATIONS**

1  
2       16.     Between June 2015 and September 2016, DEFENDANTS purchased the  
3     aforementioned seven residential properties in San Francisco and conducted work without permit and  
4     work beyond the scope of permit at all seven properties.

5     **I.     531 33RD AVENUE**

6       17.     The property located at 531 33rd Avenue in San Francisco is a two bedroom, two  
7     bathroom, single family home. A detailed description of this property is attached as **Exhibit A** and  
8     incorporated as part of this Complaint. Defendant SF REALTY PARTNERS, LLC purchased 531  
9     33rd Avenue, with Defendant ASHOK GUJRAL acting on its behalf, on June 19, 2015 for \$850,000.

10     **A.     San Francisco Department of Building Inspection NOV No. 201768281**

11       18.     On March 10, 2016, DEFENDANTS filed Permit No. 201603101699 with the San  
12     Francisco Department of Building Inspection (“DBI”) to construct a ground floor dwelling unit,  
13     horizontal rear yard addition, and interior renovations. DBI issued the permit on July 22, 2016.

14       19.     On August 10, 2016, DEFENDANTS filed Permit No. 201608104626 with DBI for a  
15     soft demolition consisting of nonstructural work within the building’s envelope. Given  
16     DEFENDANTS’ representation that the demolition did not involve structural work nor encompass  
17     anything beyond the building’s envelope, DBI did not circulate the permit for review by other  
18     agencies, such as the San Francisco Planning Department (“PLANNING”), and issued the permit that  
19     same day.

20       20.     DEFENDANTS did construction work significantly beyond the scope of both permits.  
21     Specifically, DEFENDANTS demolished the front façade of 531 33rd Avenue and enlarged the front  
22     deck on the top floor, both of which would have required review and approval from PLANNING prior  
23     to the issuance of the original permit.

24       21.     On March 30, 2017, DBI issued Notice of Violation (“NOV”) No. 201768281 against  
25     DEFENDANTS for demolition beyond the scope of permits and work without permit, a violation of  
26     San Francisco Building Code sections 106.1.1 and 106.4.7. A true and correct copy of the March 30,  
27     2017 NOV is attached as **Exhibit B** and incorporated as part of this Complaint. DBI demanded that  
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1 DEFENDANTS file a permit within five days, subject the permit to PLANNING's review, and obtain  
2 a permit within thirty days. DEFENDANTS failed to do so.

3 22. On May 18, 2017, DBI sent DEFENDANTS a NOV Final Warning notifying them that  
4 they had failed to timely comply with NOV No. 201768281, and the matter had been referred to DBI's  
5 Code Enforcement Division. A true and correct copy of the May 18, 2017 NOV Final Warning is  
6 attached as **Exhibit C** and incorporated as part of this Complaint.

7 23. On June 12, 2017, DBI served DEFENDANTS with a "Notice of Director's Hearing,"  
8 notifying DEFENDANTS that a Director's Hearing had been set for August 8, 2017 based on their  
9 failure to comply with the NOV. A true and correct copy of the June 12, 2017 Notice of Director's  
10 Hearing is attached as **Exhibit D** and incorporated as part of this Complaint.

11 24. On July 12, 2017, DEFENDANTS filed Permit No. 201707121649 with DBI in  
12 response to NOV No. 201768281. DEFENDANTS, however, failed to provide all required  
13 information and documentation with their permit application, and this permit has not been issued.

14 25. The August 8, 2017 Director's Hearing was continued to September 12, 2017 at  
15 DEFENDANTS' request.

16 26. On September 12, 2017, DBI held a Director's Hearing related to NOV No.  
17 201768281. DEFENDANTS were represented at the hearing. Following the hearing, DBI issued a  
18 thirty-day advisement ordering DEFENDANTS to obtain a permit within ten days and to complete all  
19 work under the permit, including final sign-off from DBI, within thirty days.

20 27. DEFENDANTS failed to comply with the September 12, 2017 thirty-day Advisement.  
21 On May 9, 2018, DBI issued an Order of Abatement against DEFENDANTS for their failure to  
22 comply with the advisement. DBI also found that 531 33rd Avenue constitutes a public nuisance. The  
23 Order of Abatement was served on DEFENDANTS by mail and posted at 531 33rd Avenue. A true  
24 and correct copy of the May 9, 2018 Order of Abatement is attached as **Exhibit E** and incorporated as  
25 part of this Complaint. NOV Nos. 201768281 and 201709001, and the May 9, 2018 Order of  
26 Abatement, remain outstanding and unabated.

**B. San Francisco Planning Department Administrative Action**

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2 28. On September 11, 2017, PLANNING issued a Notice of Complaint against  
3 DEFENDANTS. In the Notice of Complaint, PLANNING required DEFENDANTS to contact  
4 PLANNING to determine how to resolve the violations at 531 33rd Avenue. DEFENDANTS failed to  
5 do so. A true and correct copy of the September 11, 2017 Notice of Complaint is attached as **Exhibit**  
6 **F** and incorporated as part of this Complaint.

7 29. On September 27, 2017, PLANNING sent a letter to DBI requesting suspension of  
8 Permit No. 201603101699 based on the violations committed by DEFENDANTS. A true and correct  
9 copy of the September 27, 2017 Suspension Request is attached as **Exhibit G** and incorporated as part  
10 of this Complaint.

11 30. On September 29, 2017, DBI issued NOV No. 201709001 suspending Permit No.  
12 201603101699. DBI ordered DEFENDANTS to stop all work and to contact PLANNING and submit  
13 a revised permit containing a full and accurate description of the actual scope of work intended by  
14 DEFENDANTS. A true and correct copy of NOV No. 201709001 is attached as **Exhibit H** and  
15 incorporated as part of this Complaint. These permits remain suspended, and all violations at 531 33rd  
16 Avenue remain unabated.

17 **II. 120 BREWSTER STREET**

18 31. The property located at 120 Brewster Street in San Francisco is a two-unit, residential  
19 property. A detailed description of this property is attached as **Exhibit I** and incorporated as part of  
20 this Complaint. Defendant SF REALTY PARTNERS, LLC purchased 120 Brewster Street, with  
21 Defendant ASHOK GUJRAL acting on its behalf, on March 22, 2016 for \$850,000.

22 32. On April 7, 2016, DEFENDANTS filed Permit No. 201604074194 for a soft  
23 demolition on the first and second floors. DEFENDANTS represented that there would be no exterior  
24 work, no change of use, no building expansion, and no removal of interior drywall or plaster. Because  
25 DEFENDANTS represented on the permit that there would be no change of use or any work beyond  
26 the building's envelope, the permit was not subjected to PLANNING's review, and DBI issued the  
27 permit on April 12, 2016.

1           33.    On May 13, 2016, DEFENDANTS filed Permit No. 201605137445 to repair the  
2 existing foundation. DBI issued the permit on August 15, 2016.

3           34.    On September 22, 2016, DEFENDANTS filed Permit No. 201609228558 to add a  
4 horizontal and vertical addition, a garage at the front of 120 Brewster Street, a dining room, kitchen,  
5 family room and laundry room on the first floor, a bedroom and bathroom on the second floor, and a  
6 living room on the third floor. DEFENDANTS failed to timely provide all the necessary documents  
7 and information for the permit to be processed. As a result, the permit was not routed to PLANNING  
8 for review until May 2017. On November 27, 2017, PLANNING sent DEFENDANTS a Notice of  
9 Planning Department Requirements #1, listing additional required information and documents missing  
10 from DEFENDANTS' permit application. A true and correct copy of the Notice of Planning  
11 Department Requirements #1 is attached as **Exhibit J**. This permit has not been issued.

12           35.    In the meantime, in early November 2016, PLANNING received a complaint about  
13 work being done without permit at 120 Brewster Street. On November 16, 2016, PLANNING issued  
14 a Notice of Enforcement against DEFENDANTS for loss of a dwelling unit through demolition,  
15 merger and conversion, a violation of Planning Code section 317. Specifically, DEFENDANTS had  
16 converted 120 Brewster Street from a two-unit dwelling to a single family home. The San Francisco  
17 Planning Code requires that a property owner obtain a conditional use authorization before merging or  
18 removing dwelling units. PLANNING ordered DEFENDANTS to set up an inspection of 120  
19 Brewster Street by PLANNING within fifteen days and then file a building permit to restore 120  
20 Brewster Street back to two dwelling units or seek a conditional use authorization to merge the two  
21 units. DEFENDANTS failed to do so. A true and correct copy of the Notice of Enforcement is  
22 attached as **Exhibit K** and incorporated as part of this Complaint.

23           36.    On December 1, 2017, PLANNING inspected 120 Brewster Street. They found all of  
24 the interior walls had been removed. On December 11, 2017, PLANNING sent a letter to DBI,  
25 requesting that Permit No. 201604074194 be suspended. A true and correct copy of the Suspension  
26 Request is attached as **Exhibit L**.

27           37.    The violations alleged in the November 16, 2016 Notice of Enforcement for 120  
28 Brewster Street remain unabated and outstanding.



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### III. 1613 CHURCH STREET

38. The property located at 1613 Church Street in San Francisco is a two bedroom, one bathroom, single family home. A detailed description of this property is attached as Exhibit M and incorporated as part of this Complaint. Defendant SF REALTY PARTNERS, LLC purchased 1613 Church Street, with Defendant ASHOK GUJRAL acting on its behalf, on March 22, 2016 for 1.46 million dollars.

**A. San Francisco Department of Building Inspection NOV No. 201775421**

39. On May 31, 2016, DEFENDANTS filed Permit No. 201605318760 to remove cabinets, interior doors, trim, old carpeting, close shelves, bath vanities, lights, stove, towel bars and coat hooks. Because DEFENDANTS represented on the permit that all work would remain within the envelope of the building, the permit was not referred to PLANNING for additional review, and DBI issued the permit the same day.

40. On July 20, 2016, DEFENDANTS filed Permit No. 201607202851 to upgrade the foundation for future work within the existing envelope of the building. Because DEFENDANTS represented on the permit that any work would remain within the envelope of the building, the permit was not referred to PLANNING for additional review. DBI issued the permit on July 26, 2016.

41. On August 5, 2016, DEFENDANTS filed Permit No. 201608054399 for structural strengthening in wall and floor framing within the existing envelope of the building. Because DEFENDANTS represented on the permit that any work would remain within the envelope of the building, the permit was not referred to PLANNING for additional review. DBI issued the permit on August 10, 2016.

42. On November 29, 2016, DEFENDANTS filed Permit No. 201611293712 to remodel the basement, first floor and second floor within the existing envelope of the building. Because DEFENDANTS represented on the permit that any work would remain within the envelope of the building, the permit was not referred to PLANNING for additional review. DBI issued the permit on December 1, 2016.

43. Sometime in April 2017, DBI received a complaint of work exceeding the scope of permit at 1613 Church Street.

1           44. DBI went out to 1613 Church Street on April 26, 2017 and found that, contrary to  
2 representations made in DEFENDANTS' permits, DEFENDANTS had done the following work on  
3 1613 Church – all without permit:

4           a. Expanded the building's envelope by adding both vertical and horizontal additions;

5           b. Converted the ground floor into habitable space by adding a recreation room, bathroom  
6 and storage;

7           c. Constructed a master bedroom, master bathroom, master closet and guest room on the  
8 first floor;

9           d. Constructed two bedrooms, a kitchen/family room, dining room and living room on the  
10 second floor;

11           e. Constructed interior stairs from the ground floor all the way up to the roof deck.

12           45. On April 27, 2017, DBI issued NOV No. 201775421 for work exceeding the scope of  
13 Permit Nos. 201607202851, 201608054399, and 201611293712, a violation of San Francisco Building  
14 Code section 106.4.7. DBI ordered DEFENDANTS to stop all work, obtain permits for the work  
15 subject to approval by PLANNING, and complete all work within ninety days. DEFENDANTS,  
16 however, did not abate all violations. A true and correct copy of NOV No. 201775421 is attached as  
17 **Exhibit N** and incorporated as part of this Complaint.

18           46. On June 14, 2017, DBI sent DEFENDANTS a NOV Final Warning notifying them that  
19 they had failed to timely comply with NOV No. 201775421, and the matter had been referred to DBI's  
20 Code Enforcement Division. A true and correct copy of the June 14, 2017 NOV Final Warning is  
21 attached as **Exhibit O** and incorporated as part of this Complaint.

22           47. On August 15, 2017, DBI issued a Notice of Director's Hearing set for September 19,  
23 2017. The Notice of Director's Hearing was mailed to DEFENDANTS and posted at 1613 Church  
24 Street. A true and correct copy of the Notice of Director's Hearing is attached as **Exhibit P** and  
25 incorporated as part of this Complaint. The Director's Hearing was thereafter continued to October  
26 17, 2017.

27           48. On October 17, 2017, DBI held a Director's Hearing. DEFENDANTS did not appear  
28 for the hearing. On October 23, 2017, DBI issued an Order of Abatement against DEFENDANTS

1 finding that 1613 Church Street constitutes a public nuisance. DBI ordered DEFENDANTS to obtain  
2 a permit and abate all violations within thirty days. The Order of Abatement was served on  
3 DEFENDANTS by mail and posted at 1613 Church Street. A true and correct copy of the October 23,  
4 2017 Order of Abatement is attached as **Exhibit Q** and incorporated as part of this Complaint.

5 49. The October 23, 2017 Order of Abatement for 1613 Church Street remains outstanding  
6 and unabated.

7 **B. San Francisco Planning Department Administrative Action**

8 50. In April 2017, PLANNING received a complaint concerning construction at 1613  
9 Church Street. On April 25, 2017, PLANNING inspected 1613 Church Street, and issued a Notice of  
10 Complaint against DEFENDANTS that same day notifying them of Planning Code violations at 1613  
11 Church Street. PLANNING requested that DEFENDANTS contact PLANNING for information on  
12 the violation and assistance on abating the violations. DEFENDANTS failed to contact PLANNING  
13 or abate the violations. A true and correct copy of the April 25, 2017 Notice of Complaint is attached  
14 as **Exhibit R** and incorporated as part of this Complaint.

15 51. On May 4, 2017, PLANNING issued a Notice of Enforcement against DEFENDANTS.  
16 In the Notice of Enforcement, PLANNING found that DEFENDANTS had undertaken work at 1613  
17 Church Street that exceeded the scope of multiple permits. Based on the work DEFENDANTS  
18 intended to do, and actually did do, at 1613 Church Street, PLANNING found that all four permits  
19 issued to DEFENDANTS should have been first reviewed by PLANNING. PLANNING also found  
20 that 1613 Church Street is a potential historic resource. PLANNING found DEFENDANTS' work at  
21 1613 Church Street in violation of San Francisco Planning Code section 174. PLANNING ordered  
22 DEFENDANTS to file a revised permit accurately describing the full scope of the work intended for  
23 1613 Church Street, subject to review by PLANNING. A true and correct copy of the May 4, 2017  
24 Notice of Enforcement is attached as **Exhibit S** and incorporated as part of this Complaint.

25 52. On May 16, 2017, PLANNING sent a letter to DBI requesting suspension of Permit  
26 No. 201611293712 for DEFENDANTS to submit a revised permit that included a description of the  
27 full scope of work intended by DEFENDANTS and neighborhood notification. A true and correct  
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1 copy of the May 16, 2017 Suspension Request is attached as **Exhibit T** and incorporated as part of this  
2 Complaint.

3 53. On May 22, 2017, DBI issued NOV No. 201781152 suspending Permit No.  
4 201611293712. DBI ordered DEFENDANTS to stop all work and contact PLANNING. A true and  
5 correct copy of NOV No. 201781152 is attached as **Exhibit U** and incorporated as part of this  
6 Complaint.

7 54. On June 13, 2017, DEFENDANTS filed Permit No. 201706139265 in response to  
8 NOV Nos. 201775421 and 201781152. The permit was submitted to PLANNING for review. In late  
9 August 2017, PLANNING required that DEFENDANTS provide additional information and  
10 documentation in support of their permit. DEFENDANTS did not provide all of the information until  
11 early 2018. Accordingly, this permit has not yet been issued, and the violations at 1613 Church Street  
12 remain unabated and outstanding.

#### 13 **IV. 437 ELLSWORTH STREET**

14 55. The property located at 437 Ellsworth Street in San Francisco is a one bedroom, one  
15 bathroom single family home. A detailed description of this property is attached as **Exhibit V** and  
16 incorporated as part of this Complaint. Defendant SF REALTY PARTNERS, LLC purchased 437  
17 Ellsworth Street, with Defendant ASHOK GUJRAL acting on its behalf, on January 8, 2016 for  
18 \$925,000.

##### 19 **A. San Francisco Department of Building Inspection NOV No. 201604011**

20 56. On February 23, 2016, DEFENDANTS filed Permit No. 201602230300 for a remodel  
21 of a bathroom and kitchen with no structural work or change in layout. Because DEFENDANTS  
22 represented on the permit that any work would remain within the envelope of the building, the permit  
23 was not referred to PLANNING for additional review, and DBI issued the permit that same day.

24 57. In early March 2016, DBI received a complaint of work beyond the scope of permit at  
25 437 Ellsworth Street. DBI investigated the complaint and found that DEFENDANTS were  
26 remodeling the entire building and had removed all interior walls – all without permit.

27 58. On March 14, 2016, DBI issued NOV No. 201604011 against DEFENDANTS for  
28 work without permit, a violation of San Francisco Building Code section 106.1.1. DBI ordered

1 DEFENDANTS to stop all work, file a permit in fifteen days, obtain a permit in thirty days, and  
2 complete all work in ninety days. A true and correct copy of NOV No. 201604011 is attached as  
3 **Exhibit W** and incorporated as part of this Complaint.

4 59. On May 4, 2016, DEFENDANTS filed Permit No. 201605046547 to remodel the entire  
5 house. DEFENDANTS failed to provide all of the information required by DBI, and this permit was  
6 never issued. DEFENDANTS eventually withdrew the permit on October 5, 2017.

7 60. On June 6, 2016, DEFENDANTS filed Permit No. 201606099513 to remodel the  
8 second floor kitchen, rearrange the interior layout of the second floor, add a bathroom, bedroom and  
9 storage in the basement, and an interior stairway between the basement and first floor. Because  
10 DEFENDANTS represented on the permit that any work would remain within the envelope of the  
11 building, the permit was not referred to PLANNING for additional review, and DBI issued the permit  
12 on July 19, 2016.

13 61. On June 24, 2016, DEFENDANTS filed Permit No. 201606240851 for foundation  
14 repair. DEFENDANTS failed to provide all of the information required by DBI, and this permit was  
15 never issued. DEFENDANTS eventually withdrew the permit on October 5, 2017.

16 62. DEFENDANTS failed to timely abate the violations listed in DBI NOV No.  
17 201604011. On August 31, 2016, DBI issued a second NOV for failure to completely comply with  
18 NOV No. 201604011. DBI notified DEFENDANTS that the matter would be referred to DBI's Code  
19 Enforcement Unit. A true and correct copy the second NOV is attached as **Exhibit X** and  
20 incorporated as part of this Complaint.

21 63. On March 23, 2017, DEFENDANTS filed Permit No. 201703232233 to install a partial  
22 light well in the basement, add two bathrooms, one bedroom, laundry room and mud room in the  
23 basement, and an interior stairwell. DEFENDANTS failed to provide all of the information required  
24 by DBI, and this permit was never issued. DEFENDANTS withdrew the permit on October 5, 2017.

25 64. On April 24, 2017, based on DEFENDANTS' failure to completely abate all violations  
26 at 437 Ellsworth Street, DBI issued a Notice of Director's Hearing set for May 30, 2017. Notice was  
27 mailed to DEFENDANTS on April 25, 2017, and posted at 437 Ellsworth Street on May 4, 2017. A  
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1 true and correct copy of the Notice of Director's Hearing is attached as Exhibit Y and incorporated as  
2 part of this Complaint.

3 65. The May 30, 2017 Director's Hearing was continued to July 18, 2017.

4 66. On July 18, 2017, DBI held a Director's Hearing. DEFENDANTS were represented at  
5 the hearing. On August 21, 2017, DBI issued an Order of Abatement finding 437 Ellsworth Street to  
6 be a public nuisance. DBI ordered DEFENDANTS to abate all violations within thirty days. The  
7 Order of Abatement was mailed to DEFENDANTS on August 22, 2017, and posted at 437 Ellsworth  
8 Street on September 6, 2017. A true and correct copy of the August 21, 2017 Order of Abatement is  
9 attached as Exhibit Z and incorporated as part of this Complaint. The August 21, 2017 Order of  
10 Abatement issued for 437 Ellsworth Street remains unabated and outstanding.

11 67. On April 25, 2018, DBI inspected 437 Ellsworth Street and found further work done  
12 without permit, including, but not limited to, the installation of new foundation without approval or  
13 inspection, the reframing of all exterior and interior walls, floor systems and roof systems, the  
14 reconfiguration of the building's footprint, the installation of new stucco on the building's front façade  
15 without approval or inspection, and new siding on rear walls without approval or inspection. DBI  
16 issued NOV No. 201859971 that same day for work without permit and work beyond the scope of  
17 permit and declared 437 Ellsworth Street to be unsafe. DBI ordered DEFENDANTS to stop all work,  
18 file permits within thirty days, obtain permits within sixty days, and complete all work within ninety  
19 days. A true and correct copy of the April 25, 2018 NOV is attached as Exhibit AA and incorporated  
20 as part of this Complaint. The April 25, 2018 NOV for 437 Ellsworth Street remains unabated and  
21 outstanding.

22 **B. San Francisco Planning Department Administrative Action**

23 68. In September 2017, DBI referred 437 Ellsworth Street to PLANNING. On September  
24 21, 2017, PLANNING issued a Notice of Enforcement against DEFENDANTS for unauthorized  
25 construction at 437 Ellsworth Street, including, but not limited to, filling in an existing light well, in  
26 violation of San Francisco Planning Code sections 171 and 174. PLANNING ordered  
27 DEFENDANTS to submit evidence demonstrating actions taken by DEFENDANTS to abate the  
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1 violations within fifteen days. A true and correct copy of the September 21, 2017 Notice of  
2 Enforcement is attached as **Exhibit BB** and incorporated as part of this Complaint.

3 69. On November 3, 2017, DEFENDANTS filed Permit No. 201711033087 to restore an  
4 existing light well, modify the floor plan, replace all windows and replace the stucco on the front  
5 façade. DEFENDANTS failed to provide all of the information required by DBI, and this permit has  
6 not been issued.

7 70. On January 9, 2018, PLANNING issued a Notice of Violation against DEFENDANTS  
8 for their continued failure to abate the violations at 437 Ellsworth Street. Specifically, PLANNING  
9 found unauthorized construction at 437 Ellsworth in violation of San Francisco Planning Code  
10 sections 171 and 174. PLANNING ordered DEFENDANTS to correct the violations within fifteen  
11 days. A true and correct copy of the January 9, 2018 Notice of Violation is attached as **Exhibit CC**  
12 and incorporated as part of this Complaint.

13 71. On January 30, 2018, DEFENDANTS filed a permit in response to the January 9, 2018  
14 Notice of Violation issued by PLANNING. DEFENDANTS, however, failed to provide complete  
15 details on the illegal work already done on at 437 Ellsworth Street.

16 On May 3, 2018, PLANNING issued a Notice of Penalty against DEFENDANTS notifying  
17 them that penalties were being accrued against them starting February 2, 2018. PLANNING ordered  
18 DEFENDANTS to file a new permit application with plans showing: (1) the previously existing  
19 conditions before the unauthorized work began, (2) the current existing conditions, and (3) the  
20 proposed work. PLANNING also advised, "Unlike the last permit you filed [on 1/30/18], the cost of  
21 the project should not be \$1.00." A true and correct copy of the May 3, 2018 Notice of Penalty is  
22 attached as **Exhibit DD** and incorporated as part of this Complaint.

23 72. To date, the January 9, 2018 Notice of Violation for 437 Ellsworth Street remains  
24 unabated and outstanding.

25 **V. 4068 FOLSOM STREET**

26 73. The property located at 4068 Folsom Street in San Francisco is a three bedroom, one  
27 bathroom, single family home. A detailed description of this property is attached as **Exhibit EE** and  
28 incorporated as part of this Complaint. Defendant GROWTH EQUITY PARTNERS purchased 4068

1 Folsom Street, with Defendant ASHOK GUJRAL acting on its behalf, on September 16, 2016 for  
2 \$858,000.

3 74. On November 3, 2016, DEFENDANTS filed Permit No. 201611031803 to strengthen  
4 the foundation within the building's envelope and to conduct a "soft demolition" of non load-bearing  
5 walls, floors, finishes baths and kitchens. Because DEFENDANTS represented on the permit that any  
6 work would remain within the envelope of the building, the permit was not referred to PLANNING for  
7 review, and DBI issued the permit on November 14, 2016.

8 75. On March 9, 2017, DEFENDANTS filed Permit No. 201703091099 for an interior  
9 renovation within the building's envelope. Again, because DEFENDANTS represented on the permit  
10 that any work would remain within the envelope of the building, the permit was not referred to  
11 PLANNING for review, and DBI issued the permit on April 4, 2017.

12 76. In June 2017, PLANNING received a complaint from a neighbor of work without  
13 permit at 4068 Folsom Street. On June 13, 2017, PLANNING issued a Notice of Complaint against  
14 DEFENDANTS and demanded that DEFENDANTS contact PLANNING to address the complaint. A  
15 true and correct copy of the June 13, 2017 Notice of Complaint is attached as **Exhibit FF** and  
16 incorporated as part of this Complaint.

17 77. DEFENDANTS failed to timely comply with the June 13, 2017 Notice of Complaint  
18 for 4068 Folsom Street.

19 78. On June 28, 2017, PLANNING issued a Notice of Enforcement against  
20 DEFENDANTS for work without permit and for unapproved work on a rear yard deck, a violation of  
21 San Francisco Planning Code sections 174 and 242. PLANNING ordered DEFENDANTS to contact  
22 PLANNING within fifteen days and submit evidence showing corrective actions taken by  
23 DEFENDANTS to abate the violations. A true and correct copy of the June 28, 2017 Notice of  
24 Enforcement is attached as **Exhibit GG** and incorporated as part of this Complaint.

25 79. DEFENDANTS failed to timely comply with the June 28, 2017 Notice of Enforcement  
26 for 4068 Folsom Street.

27 80. On July 25, 2017, PLANNING requested that DBI suspend Permit Nos. 201703091099  
28 and 201611031803 because DEFENDANTS had expanded the building's envelope and failed to



1 accurately reflect the existing conditions of 4068 Folsom Street on their permits. A true and correct  
2 copy of the July 25, 2017 Suspension Request is attached as **Exhibit HH** and incorporated as part of  
3 this Complaint. On August 14, 2017, DBI suspended Permit Nos. 201703091099 and 201611031803.

4 81. On October 25, 2017, PLANNING issued a Notice of Violation against  
5 DEFENDANTS for misrepresenting existing conditions at 4068 Folsom Street on permits, expanding  
6 the building's envelope, and demolishing and reconstructing the building's façade without review and  
7 approval, a violation of Planning Code section 242 and 174. PLANNING demanded that  
8 DEFENDANTS immediately start the process of abating the violations by submitting revised plans  
9 that accurately reflect the existing conditions at 4068 Folsom Street prior to the issuance of the permits  
10 and to include all proposed work for work already done at 4068 Folsom Street without permit,  
11 including, but not limited to: a new rear yard deck on the second floor, expansion of the building's  
12 envelope, a new patio in the rear yard at basement level, new walls and fences at the property line, and  
13 a new building facade. Defendants were given fifteen days to correct the violations or appeal the  
14 Notice of Violation. A true and correct copy of the October 25, 2017 Notice of Violation is attached  
15 as **Exhibit II** and incorporated as part of this Complaint.

16 82. DEFENDANTS failed to timely comply with the October 25, 2017 Notice of Violation  
17 for 4068 Folsom Street.

18 83. The extent of DEFENDANT's expansion of the building's envelope can be seen in  
19 side-by-side, overhead photos of 4068 Folsom Street taken in 2015 and 2017. A true and correct  
20 printout of the photographs are attached as **Exhibit JJ** and incorporated as part of this Complaint.

21 84. On January 16, 2018, DEFENDANTS filed Permit No. 201801168745 to revise Permit  
22 No. 201703091099 in response to PLANNING's October 25, 2017 Notice of Violation. The permit  
23 has been referred to PLANNING, and is currently under review. The scope of the work proposed by  
24 DEFENDANTS in their permit application, however, is prohibited within the Bernal Heights Special  
25 Use District, where 4068 Folsom is located. Had DEFENDANTS accurately described the intended  
26 scope of work on their original permit applications filed before any work had started, those permits  
27 would never have been issued.

1 85. PLANNING's October 25, 2017 Notice of Violation for 4068 Folsom Street remains  
2 outstanding and unabated.

3 **VI. 903 MINNESOTA STREET**

4 86. The property located at 903 Minnesota Street in San Francisco is a two bedroom, one  
5 bathroom, single family home, and is considered a historic resource. A detailed description of this  
6 property is attached as **Exhibit KK** and incorporated as part of this Complaint. Defendant GEP SPV  
7 1, LLC purchased 903 Minnesota Street, with Defendant ASHOK GUJRAL acting on its behalf, on  
8 August 30, 2016 for \$950,000.

9 **A. San Francisco Planning Department Administrative Action**

10 87. On September 7, 2016, DEFENDANTS filed Permit No. 201609076933 to remove  
11 plumbing and electrical fixtures, flooring and carpet, and damaged sheet rock and to make the rear  
12 portion of the building safe. Because DEFENDANTS represented on the permit that any work would  
13 remain within the envelope of the building, the permit was not referred to PLANNING for additional  
14 review, and DBI issued the permit that same day.

15 88. On November 14, 2016, DEFENDANTS filed Permit No. 201611142585 to repair dry  
16 rot within the building's envelope. Because DEFENDANTS represented on the permit that any work  
17 would remain within the envelope of the building, the permit was not referred to PLANNING for  
18 additional review. DBI issued this permit that same day.

19 89. On November 30, 2016, PLANNING inspected 903 Minnesota Street after receiving a  
20 complaint. PLANNING observed significant damage to the front of 903 Minnesota Street and  
21 extensive work already underway inside 903 Minnesota Street, without permit.

22 90. On December 9, 2016, PLANNING issued a Notice of Enforcement against  
23 DEFENDANTS for unpermitted alterations and unpermitted alterations of a historic resource, a  
24 violation of San Francisco Planning Code sections 175 and 1005. PLANNING ordered  
25 DEFENDANTS to submit evidence within fifteen days demonstrating corrective actions taken to abate  
26 the violations at 903 Minnesota. A true and correct copy of the Notice of Enforcement is attached as  
27 **Exhibit LL** and incorporated as part of this Complaint.

1 91. DEFENDANTS failed to timely comply with the December 9, 2016 Notice of  
2 Enforcement for 903 Minnesota Street.

3 92. On January 10, 2017, PLANNING requested that DBI suspend Permit No.  
4 201611142585, and DBI suspended the permit on January 13, 2017. A true and correct copy of the  
5 Suspension Request is attached as **Exhibit MM**.

6 93. On January 12, 2017, PLANNING issued a Notice of Violation against  
7 DEFENDANTS for unpermitted alterations and unpermitted alterations of a historic resource, a  
8 violation of San Francisco Planning Code sections 175 and 1005. PLANNING ordered  
9 DEFENDANTS to file a permit with plans showing the original conditions of 903 Minnesota Street,  
10 the current condition of 903 Minnesota Street and the proposed scope of work within fifteen days. A  
11 true and correct copy of the January 12, 2017 Notice of Violation is attached as **Exhibit NN** and  
12 incorporated as part of this Complaint.

13 94. On January 26, 2017, DEFENDANTS filed Permit No. 201701268054 to comply with  
14 NOV Nos. 201756151 and 201646696. During the permit application process, DEFENDANTS  
15 changed architects, causing delays. As a result, this permit has not been issued.

16 95. To date, the January 12, 2017 Notice of Violation for 903 Minnesota Street remains  
17 unabated and outstanding.

18 **B. San Francisco Department of Building Inspection NOV Nos. 201646696 and**  
19 **201756151**

20 96. In December 2016, DBI received a complaint that DEFENDANTS were doing work  
21 without permit and beyond the scope of permits at 903 Minnesota Street. DBI inspected 903  
22 Minnesota Street and found that approximately 20 feet of the rear portion of 903 Minnesota Street had  
23 been entirely replaced without permit.

24 97. On December 12, 2016, DBI issued NOV No. 201646696 against DEFENDANTS for  
25 work beyond the scope of permit, a violation of San Francisco Building Code section 106.4.7. DBI  
26 ordered DEFENDANTS to file a permit within 30 days, obtain PLANNING's approval, and complete  
27 all work within 90 days. A true and correct copy of NOV No. 201646696 is attached as **Exhibit OO**  
28 and incorporated as part of this Complaint.

1 98. In early January 2017, DBI further discovered that DEFENDANTS had done work on  
2 the front stairs of 903 Minnesota Street and started removing the front façade, all without permits.

3 99. On January 5, 2017, DBI issued NOV No. 201756151 against DEFENDANTS for  
4 work without permit, a violation of San Francisco Building Code section 106.4.7. DBI ordered  
5 DEFENDANTS to file a permit within 7 days, obtain PLANNING's approval and complete all work  
6 within 90 days. A true and correct copy of NOV No. 201756151 is attached as **Exhibit PP** and  
7 incorporated as part of this Complaint.

8 100. DBI's NOV Nos. 201646696 and 201756151 for 903 Minnesota Street remain  
9 unabated and outstanding.

10 **VII. 310 MONTCALM STREET**

11 101. The property located at 310 Montcalm Street in San Francisco is a three bedroom, two  
12 bathroom, single family home. A detailed description of this property is attached as **Exhibit QQ** and  
13 incorporated as part of this Complaint. Defendant SF REALTY PARTNERS, LLC purchased 310  
14 Montcalm Street, with Defendant ASHOK GUJRAL acting on its behalf, on November 5, 2015 for  
15 \$925,000.

16 **A. San Francisco Department of Building Inspection NOV No. 201610071**

17 102. On March 18, 2016, DEFENDANTS filed Permit No. 201603182505 for an  
18 exploratory demolition to verify dry rot and termite damage. Because DEFENDANTS represented on  
19 the permit that any work would remain within the envelope of the building, the permit was not referred  
20 to PLANNING for additional review, and DBI issued the permit that same day.

21 103. During a routine inspection of 310 Montcalm on April 5, 2016, DBI discovered that the  
22 entire interior of 310 Montcalm Street had been gutted and demolished. That same day, DBI issued  
23 NOV No. 201610071 against DEFENDANTS for exceeding the scope of Permit No. 2016031882505,  
24 a violation of San Francisco Building Code section 106.4.7. DBI ordered DEFENDANTS to stop all  
25 work, obtain permits and complete all work within thirty days. A true and correct copy of NOV No.  
26 201610071 is attached as **Exhibit RR** and incorporated as part of this Complaint.

27 104. On July 7, 2016, DBI issued a Correction Notice against DEFENDANTS ordering  
28 DEFENDANTS to submit a revised demolition permit reflecting the removal of a rear addition,

1 framing, foundation supporting area, posts supporting the second floor, walls, and floor joists. A true  
2 and correct copy of the Correction Notice is attached as **Exhibit SS**.

3 105. On July 14, 2016, DEFENDANTS filed Permit No. 201607142394 in response to the  
4 July 7, 2016 Correction Notice. DEFENDANTS failed to provide all information and documents  
5 required to complete review, and this permit has never been issued. DBI ultimately suspended this  
6 permit on June 21, 2017 at PLANNING's request.

7 106. On August 17, 2016, DBI issued a second NOV for DEFENDANTS' failure to comply  
8 with NOV No. 201610071. A true and correct copy of the second NOV is attached as **Exhibit TT** and  
9 in incorporated as part of this Complaint.

10 107. On May 1, 2017, DBI issued a Notice of Director's Hearing for NOV No. 201610071  
11 set for June 13, 2017. This Notice of Director's Hearing was served on DEFENDANTS by mail and  
12 posted at 310 Montcalm Street. A true and correct copy of the Notice of Director's Hearing and  
13 Proofs of Service are attached as **Exhibit UU** and incorporated as part of this Complaint.

14 108. On June 13, 2017, DBI held a Director's Hearing. DEFENDANTS were represented at  
15 the hearing.

16 109. On August 1, 2017, DBI issued an Order of Abatement against DEFENDANTS. The  
17 Order of Abatement was served on DEFENDANTS by mail and posted at 310 Montcalm Street. A  
18 true and correct copy of the August 1, 2017 Order of Abatement is attached as **Exhibit VV** and  
19 incorporated as part of this Complaint.

20 110. The August 1, 2017 Order of Abatement for 310 Montcalm Street remains outstanding  
21 and unabated.

22 **B. San Francisco Department of Building Inspection NOV No. 201765203**

23 111. On April 11, 2016, DEFENDANTS filed Permit No. 201604114470 in response to  
24 NOV No. 201610071. The Permit sought to remodel the kitchen and balcony, relocate bathrooms,  
25 move walls, add a new rear deck, add a new sliding door, add dormers at roof, add skylights,  
26 reconfigure the layout, add new siding, replace all windows, and add bathrooms and bedrooms. DBI  
27 issued Permit No. 201604114470 on April 27, 2016. DBI suspended the permit on May 5, 2016 after

1 a neighbor appealed the issuance. DBI reinstated the permit on November 8, 2016 when the same  
2 neighbor withdrew the appeal.

3 112. On March 2, 2017, DBI received a complaint of work beyond scope of permit. Upon  
4 inspection, DBI found significant framing not authorized by permit throughout 310 Montcalm Street  
5 and demolition on the first and second floor significantly more extensive than had been represented on  
6 the permit.

7 113. On March 23, 2017, DBI issued NOV No. 201765203 against DEFENDANTS for  
8 exceeding the scope of Permit No. 201604114470, a violation of San Francisco Building Code section  
9 106.4.7. DBI ordered DEFENDANTS to stop all work, obtain revised permits, and complete all work  
10 within 90 days. A true and correct copy of NOV No. 201765203 is attached as **Exhibit WW** and  
11 incorporated as part of this Complaint.

12 114. On March 31, 2017, DBI issued an amended NOV against DEFENDANTS. In the  
13 amended NOV, DBI noted that the demolition done on the first and second floors had exceeded the  
14 scope of the permit and the framing on all floors had been replaced, in excess of the scope of permit  
15 and in violation of San Francisco Building Code section 106.4.7. DBI ordered DEFENDANTS to stop  
16 all work, obtain revised permits, and complete all work within 90 days. A true and correct copy of the  
17 amended NOV is attached as **Exhibit XX** and incorporated as part of this Complaint. DEFENDANTS  
18 failed to comply with the March 31, 2017 amended NOV.

19 115. On June 14, 2017, DBI issued a Final Warning letter to DEFENDANTS notifying them  
20 that Abatement proceedings would be initiated for their failure to comply. A true and correct copy of  
21 the Final Warning letter is attached as **Exhibit YY** and incorporated as part of this Complaint.

22 116. On August 2, 2017, DBI issued a Notice of Director's Hearing set for September 12,  
23 2017. This Notice of Director's Hearing was served on DEFENDANTS by mail and posted at 310  
24 Montcalm. A true and correct copy of the Notice of Director's Hearing and Proofs of Service are  
25 attached as **Exhibit ZZ** and incorporated as part of this Complaint.

26 117. On September 12, 2017, DBI held a Director's Hearing. DEFENDANTS were  
27 represented at the hearing.

28

1           118. On September 14, 2017, DBI issued an Order of Abatement against DEFENDANTS  
2 finding that the conditions found at 310 Montcalm Street constitute a public nuisance. DBI ordered  
3 DEFENDANTS to abate all violations within sixty days. The Order of Abatement was served on  
4 DEFENDANTS by mail and posted at 310 Montcalm Street. A true and correct copy of the  
5 September 14, 2017 Order of Abatement is attached as **Exhibit AAA** and incorporated as part of this  
6 Complaint.

7           119. The September 14, 2017 Order of Abatement for 310 Montcalm Street remains  
8 outstanding and unabated.

9           **C. San Francisco Planning Department Administrative Action**

10           120. On February 27, 2017, PLANNING received a complaint of work exceeding permits at  
11 310 Montcalm Street. That same day, PLANNING issued a Notice of Complaint against  
12 DEFENDANTS. In the Notice of Complaint, PLANNING advised DEFENDANTS to contact  
13 PLANNING for information on how to resolve the complaint. A true and correct copy of the February  
14 27, 2017 Notice of Complaint is attached as **Exhibit BBB** and incorporated as part of this Complaint.

15           121. On April 7, 2017, PLANNING inspected 310 Montcalm Street and observed that  
16 DEFENDANTS had exceeded the scope of permit by constructing dormers that were significantly  
17 larger than proposed and new massing at the roof level.

18           122. On April 12, 2017, PLANNING issued a Notice of Enforcement against  
19 DEFENDANTS for exceeding the scope of permits, a violation of San Francisco Planning Code  
20 section 174. PLANNING demanded that DEFENDANTS contact PLANNING within fifteen days  
21 and submit evidence demonstrating corrective actions taken to abate the violations. A true and correct  
22 copy of the April 12, 2017 Notice of Enforcement is attached as **Exhibit CCC** and incorporated as  
23 part of this Complaint. DEFENDANTS failed to comply with the April 12, 2017 Notice of  
24 Enforcement.

25           123. On June 20, 2017, PLANNING requested that DBI suspend all active permits for 310  
26 Montcalm Street. On June 22, 2017, DBI issued NOV No. 201787861 suspending Permit Nos.  
27 201603182505, 201604114470, and 2016071442394, at PLANNING's Request. A true and correct  
28 copy of NOV No. 201787861 is attached as **Exhibit DDD** and incorporated as part of this Complaint.





1           129. Plaintiff PEOPLE OF THE STATE OF CALIFORNIA hereby incorporate by reference  
2 paragraphs 1 through 128 above, as though fully set forth herein.

3           130. The PEOPLE bring this cause of action in the name of the People of the State of  
4 California pursuant to Business and Professions Code Section 17200-17210 in order to protect the  
5 public as consumers and competitors from unlawful practices committed by DEFENDANTS in the  
6 maintenance, management and ownership of the PROPERTIES as a public nuisance and in violation  
7 of the laws within the City and County of San Francisco, State of California.

8           131. DEFENDANTS transact business, or have transacted business, by owning, operating,  
9 and managing the PROPERTIES within the City and County of San Francisco, State of California.  
10 DEFENDANTS' actions are in violation of the laws and public policies of the City and County of San  
11 Francisco and the State of California, and are inimical to the rights and interest of the general public.

12 **I. 531 33RD AVENUE**

13           132. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
14 times pertinent to the allegations of this Complaint, have engaged in unlawful business practices  
15 prohibited by California's Unfair Competition Law, Business and Professions Code Sections 17200-  
16 17210, by maintaining 531 33rd Avenue, in San Francisco, California in the following ways, in  
17 violation of the following laws:

- 18           a. Conducting work without permit at 531 33rd Avenue, in violation of San Francisco  
19 Building Code section 106.1.1 and San Francisco Planning Code section 175;
- 20           b. Conducting work beyond the scope of permits at 531 33rd Avenue, in violation of  
21 San Francisco Building Code section 106.4.7 and San Francisco Planning Code section  
22 174;
- 23           c. Creating and/or maintaining a public nuisance at 531 33rd Avenue, in violation of  
24 California Civil Code sections 3479 and 3480, San Francisco Building Code section  
25 102, and San Francisco Planning Code section 176.

26           133. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
27 times pertinent to the allegations of this Complaint, have engaged in, unfair business practices  
28 prohibited by California's Unfair Competition Law at 531 33rd Avenue, in San Francisco, California

1 as follows:

- 2 a. By misrepresenting and minimizing the scope of work in permit applications for 531  
3 33rd Avenue, DEFENDANTS avoided additional review by other CITY agencies and  
4 obtained permits faster than those who submitted accurate and complete permit  
5 applications;
- 6 b. By failing altogether to apply for permits and conducting construction at 531 33rd  
7 Avenue without permits, DEFENDANTS avoided the costs and time associated with  
8 obtaining permits;
- 9 c. By conducting work without permits or work beyond the scope of permits at 531 33rd  
10 Avenue, DEFENDANTS avoided the CITY's oversight into their construction, and  
11 jeopardized the health and safety of adjoining and/or nearby properties and the  
12 occupants of those properties.

13 **II. 120 BREWSTER STREET**

14 134. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
15 times pertinent to the allegations of this Complaint, have engaged in unlawful business practices  
16 prohibited by California's Unfair Competition Law, Business and Professions Code Sections 17200-  
17 17210, by maintaining 120 Brewster Street in San Francisco, California in the following ways, in  
18 violation of the following laws:

- 19 a. Conducting work without permit at 120 Brewster Street, in violation of San Francisco  
20 Building Code section 106.1.1 and San Francisco Planning Code section 175;
- 21 b. Conducting work beyond the scope of permits at 120 Brewster Street, in violation of  
22 San Francisco Building Code section 106.4.7 and San Francisco Planning Code section  
23 174;
- 24 c. Illegally removing dwelling units through demolition, merger and conversion at  
25 120 Brewster Street, in violation of Planning Code section 317;
- 26 d. Creating and/or maintaining a public nuisance at 120 Brewster Street in violation of  
27 California Civil Code sections 3479 and 3480, San Francisco Building Code section  
28 102, and San Francisco Planning Code section 176.

1 135. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
2 times pertinent to the allegations of this Complaint, have engaged in, unfair business practices at 120  
3 Brewster Street prohibited by California's Unfair Competition Law as follows:

4 a. By misrepresenting and minimizing the scope of work in permit applications for 120  
5 Brewster Street, DEFENDANTS avoided additional review by other CITY agencies  
6 and obtained permits faster than those who submitted accurate and complete permit  
7 applications;

8 b. By failing altogether to apply for permits and conducting construction at 120 Brewster  
9 Street without permits, DEFENDANTS avoided the costs and time associated with  
10 obtaining permits;

11 c. By conducting work without permits or work beyond the scope of permits at 120  
12 Brewster Street, DEFENDANTS avoided the CITY's oversight into their construction,  
13 and jeopardized the health and safety of adjoining and/or nearby properties and the  
14 occupants of those properties.

15 **III. 1613 CHURCH STREET**

16 136. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
17 times pertinent to the allegations of this Complaint, have engaged in unlawful business practices  
18 prohibited by California's Unfair Competition Law, Business and Professions Code Sections 17200-  
19 17210, by maintaining 1613 Church Street in San Francisco, California in the following ways, in  
20 violation of the following laws:

21 a. Conducting work without permit at 1613 Church Street, in violation of San Francisco  
22 Building Code section 106.1.1 and San Francisco Planning Code section 175;

23 b. Conducting work beyond the scope of permits at 1613 Church Street, in violation of  
24 San Francisco Building Code section 106.4.7 and San Francisco Planning Code section  
25 174;

26 c. Creating and/or maintaining a public nuisance at 1613 Church Street in violation of  
27 California Civil Code sections 3479 and 3480, San Francisco Building Code section  
28 102, and San Francisco Planning Code section 176.

1           137. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
2 times pertinent to the allegations of this Complaint, have engaged in, unfair business practices at 1613  
3 Church Street prohibited by California's Unfair Competition Law as follows:

- 4           a. By misrepresenting and minimizing the scope of work in permit applications for 1613  
5 Church Street, DEFENDANTS avoided additional review by other CITY agencies and  
6 obtained permits faster than those who submitted accurate and complete permit  
7 applications;
- 8           b. By failing altogether to apply for permits and conducting construction at 1613 Church  
9 Street without permits, DEFENDANTS avoided the costs and time associated with  
10 obtaining permits;
- 11           c. By conducting work without permits or work beyond the scope of permits at 1613  
12 Church Street, DEFENDANTS avoided the CITY's oversight into their construction,  
13 and jeopardized the health and safety of adjoining and/or nearby properties and the  
14 occupants of those properties.

15 **IV. 437 ELLSWORTH STREET**

16           138. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
17 times pertinent to the allegations of this Complaint, have engaged in unlawful business practices  
18 prohibited by California's Unfair Competition Law, Business and Professions Code Sections 17200-  
19 17210, by maintaining 437 Ellsworth Street, in San Francisco, California in the following ways, in  
20 violation of the following laws:

- 21           a. Conducting work without permit at 437 Ellsworth Street, in violation of San Francisco  
22 Building Code section 106.1.1 and San Francisco Planning Code section 175;
- 23           b. Conducting work beyond the scope of permits at 437 Ellsworth Street, in violation of  
24 San Francisco Building Code section 106.4.7 and San Francisco Planning Code section  
25 174;
- 26           c. Filling in an existing light well without permit at 437 Ellsworth Street, in violation of  
27 San Francisco Planning Code section 171;
- 28

1 d. Creating and/or maintaining a public nuisance at 437 Ellsworth in violation of  
2 California Civil Code sections 3479 and 3480, San Francisco Building Code section  
3 102, and San Francisco Planning Code section 176.

4 139. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
5 times pertinent to the allegations of this Complaint, have engaged in, unfair business practices at 437  
6 Ellsworth Street prohibited by California's Unfair Competition Law as follows:

7 a. By misrepresenting and minimizing the scope of work in permit applications for 437  
8 Ellsworth Street, DEFENDANTS avoided additional review by other CITY agencies  
9 and obtained permits faster than those who submitted accurate and complete permit  
10 applications;

11 b. By failing altogether to apply for permits and conducting construction at 437 Ellsworth  
12 Street without permits, DEFENDANTS avoided the costs and time associated with  
13 obtaining permits;

14 c. By conducting work without permits or work beyond the scope of permits at 437  
15 Ellsworth Street, DEFENDANTS avoided the CITY's oversight into their construction,  
16 and jeopardized the health and safety of adjoining and/or nearby properties and the  
17 occupants of those properties.

18 **V. 4068 FOLSOM STREET**

19 140. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
20 times pertinent to the allegations of this Complaint, have engaged in unlawful business practices  
21 prohibited by California's Unfair Competition Law, Business and Professions Code Sections 17200-  
22 17210, by maintaining 4068 Folsom Street, in San Francisco, California in the following ways, in  
23 violation of the following laws:

24 a. Conducting work without permit at 4068 Folsom Street, in violation of San Francisco  
25 Building Code section 106.1.1 and San Francisco Planning Code section 175;

26 b. Conducting work beyond the scope of permits at 4068 Folsom Street, in violation of  
27 San Francisco Building Code section 106.4.7 and San Francisco Planning Code section  
28 174;

1 d. Conducting illegal demolition and construction at 4068 Folsom Street, located within  
2 the Bernal Heights Special Use District, in violation of San Francisco Planning Code  
3 section 242;

4 e. Creating and/or maintaining a public nuisance at 4068 Folsom Street in violation of  
5 California Civil Code sections 3479 and 3480, San Francisco Building Code section  
6 102, and San Francisco Planning Code section 176.

7 141. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
8 times pertinent to the allegations of this Complaint, have engaged in, unfair business practices at 4068  
9 Folsom Street prohibited by California's Unfair Competition Law as follows:

10 a. By misrepresenting and minimizing the scope of work in permit applications for 4068  
11 Folsom Street, DEFENDANTS avoided additional review by other CITY agencies and  
12 obtained permits faster than those who submitted accurate and complete permit  
13 applications;

14 b. By failing altogether to apply for permits and conducting construction at 4068 Folsom  
15 Street without permits, DEFENDANTS avoided the costs and time associated with  
16 obtaining permits;

17 c. By conducting work without permits or work beyond the scope of permits at 4068  
18 Folsom Street, DEFENDANTS avoided the CITY's oversight into their construction,  
19 and jeopardized the health and safety of adjoining and/or nearby properties and the  
20 occupants of those properties.

21 **VI. 903 MINNESOTA STREET**

22 142. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
23 times pertinent to the allegations of this Complaint, have engaged in unlawful business practices  
24 prohibited by California's Unfair Competition Law, Business and Professions Code Sections 17200-  
25 17210, by maintaining 903 Minnesota Street, in San Francisco, California in the following ways, in  
26 violation of the following laws:

27 a. Conducting work without permit at 903 Minnesota Street, in violation of San Francisco  
28 Building Code section 106.1.1 and San Francisco Planning Code section 175;

- 1 b. Conducting work beyond the scope of permits at 903 Minnesota Street, in violation of  
2 San Francisco Building Code section 106.4.7 and San Francisco Planning Code section  
3 174;  
4 c. Conducting unpermitted alterations of a historic resource at 903 Minnesota Street, in  
5 violation of San Francisco Planning Code section 1005;  
6 d. Creating and/or maintaining a public nuisance at 903 Minnesota Street in violation of  
7 California Civil Code sections 3479 and 3480, San Francisco Building Code section  
8 102, and San Francisco Planning Code section 176.

9 143. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
10 times pertinent to the allegations of this Complaint, have engaged in, unfair business practices at 903  
11 Minnesota Street prohibited by California's Unfair Competition Law as follows:

- 12 a. By misrepresenting and minimizing the scope of work in permit applications for 903  
13 Minnesota Street, DEFENDANTS avoided additional review by other CITY agencies  
14 and obtained permits faster than those who submitted accurate and complete permit  
15 applications;  
16 b. By failing altogether to apply for permits and conducting construction at 903 Minnesota  
17 Street without permits, DEFENDANTS avoided the costs and time associated with  
18 obtaining permits;  
19 c. By conducting work without permits or work beyond the scope of permits at 903  
20 Minnesota Street, DEFENDANTS avoided the CITY's oversight into their  
21 construction, and jeopardized the health and safety of adjoining and/or nearby  
22 properties and the occupants of those properties.

23 **VII. 310 MONTCALM STREET**

24 144. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
25 times pertinent to the allegations of this Complaint, have engaged in unlawful business practices  
26 prohibited by California's Unfair Competition Law, Business and Professions Code Sections 17200-  
27 17210, by maintaining 310 Montcalm Street, in San Francisco, California in the following ways, in  
28 violation of the following laws:

- 1 a. Conducting work without permit at 310 Montcalm Street, in violation of San Francisco  
2 Building Code section 106.1.1 and San Francisco Planning Code section 175;
- 3 b. Conducting work beyond the scope of permits at 310 Montcalm Street, in violation of  
4 San Francisco Building Code section 106.4.7 and San Francisco Planning Code section  
5 174;
- 6 c. Creating and/or maintaining a public nuisance at 310 Montcalm Street in violation of  
7 California Civil Code sections 3479 and 3480, San Francisco Building Code section  
8 102, and San Francisco Planning Code section 176.

9 145. DEFENDANTS are now engaging in, and, for a considerable period of time and at all  
10 times pertinent to the allegations of this Complaint, have engaged in, unfair business practices at 310  
11 Montcalm Street prohibited by California's Unfair Competition Law as follows:

- 12 a. By misrepresenting and minimizing the scope of work in permit applications for 310  
13 Montcalm Street DEFENDANTS avoided additional review by other CITY agencies  
14 and obtained permits faster than those who submitted accurate and complete permit  
15 applications;
- 16 b. By failing altogether to apply for permits and conducting construction at 310 Montcalm  
17 Street without permits, DEFENDANTS avoided the costs and time associated with  
18 obtaining permits;
- 19 c. By conducting work without permits or work beyond the scope of permits at 310  
20 Montcalm Street, DEFENDANTS avoided the CITY's oversight into their construction,  
21 and jeopardized the health and safety of adjoining and/or nearby properties and the  
22 occupants of those properties.

23 146. As described above, DEFENDANTS in the course of their business as the owner,  
24 agent, officer, operator, lessor, director and manager of the PROPERTIES, have engaged, and are  
25 engaging, in a pattern and practice of unlawful and unfair acts and courses of conduct constituting  
26 unlawful business practices and unfair competition as prohibited by Business and Professions Code  
27 Section 17200-17210.

28 147. The PEOPLE are informed and believe that as a direct and proximate result of the



1 foregoing acts and practices, DEFENDANTS have received and will receive income and other  
2 benefits, which they would not have received if they had not engaged in the violations of Business and  
3 Professions Code Section 17200 described in this Complaint.

4 148. As a direct and proximate result of the foregoing acts and practices, DEFENDANTS  
5 have obtained a competitive unfair advantage over similar property owners and operators who have  
6 not engaged in such practices.

7 149. The PEOPLE have no adequate remedy at law in that damages are insufficient to  
8 protect the public from the present harm caused by the conditions described in this Complaint. Unless  
9 injunctive relief is granted to enjoin DEFENDANTS' unlawful business practices, DEFENDANTS  
10 will continue to engage in violations of the law, and Plaintiff will suffer irreparable injury and damage.

11 150. By engaging in unfair and unlawful business practices described herein,  
12 DEFENDANTS are subject to civil penalties in the amount of up to \$2,500.00 per violation, pursuant  
13 to California Business and Professions Code Section 17206.

14 **SECOND CAUSE OF ACTION**

15 **FOR VIOLATIONS OF THE STATE HOUSING LAW AT THE PROPERTY BROUGHT BY**  
16 **PLAINTIFF CITY AND COUNTY OF SAN FRANCISCO AGAINST DEFENDANTS SF**  
17 **REALTY PARTNERS, LLC, GEP SPV 1, LLC, AND GROWTH EQUITY PARTNERS, LLC**

18 **(California Health and Safety Code Sections 17910-17998.3)**

19 151. Plaintiff CITY AND COUNTY OF SAN FRANCISCO hereby incorporates by  
20 reference paragraphs 1 through 150 above, as though fully set forth herein.

21 152. Defendants SF REALTY PARTNERS, LLC, GEP SPV 1, LLC, and GROWTH  
22 EQUITY PARTNERS, LLC now are, and for a considerable period of time heretofore and at all times  
23 herein mentioned have been, maintaining the PROPERTIES as substandard buildings within the  
24 meaning of California Health and Safety Code section 17920.3, commonly referred to as the State  
25 Housing Law. The conditions creating said substandard building are the on-going violations of the  
26 San Francisco Building and Planning Codes. The substandard conditions at the PROPERTIES  
27 substantially endanger the health and safety of the residents of homes adjacent to, or nearby, the  
28 PROPERTIES as well as the general public.

1 153. The CITY has no adequate remedy at law in that damages are insufficient to protect the  
2 public from the harm caused by the conditions described herein.

3 154. Unless said substandard conditions are abated, the occupants of the PROPERTIES and  
4 the residents and citizens of the City and County of San Francisco, will suffer irreparable injury and  
5 damage, in that said conditions will continue to endanger the health and safety of the residents of  
6 adjacent and/or nearby homes and the general public.

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10 **THIRD CAUSE OF ACTION**  
11 **FOR NON-COMPLIANCE WITH SAN FRANCISCO BUILDING AND PLANNING CODES**  
12 **BROUGHT BY PLAINTIFF CITY AND COUNTY OF SAN FRANCISCO**  
13 **AGAINST ALL DEFENDANTS**

14 **(San Francisco Building Code Section 103, San Francisco Planning Code Section 176)**

15 155. Plaintiff CITY AND COUNTY OF SAN FRANCISCO hereby incorporates by  
16 reference paragraphs 1 through 154 above, as though fully set forth herein.

17 156. As described above, and as set forth in the incorporated Exhibits to this Complaint, DBI  
18 and PLANNING issued Notices of Violation to DEFENDANTS, for violations of the San Francisco  
19 Building and Planning Codes.

20 157. DEFENDANTS failed to comply with the Notices of Violations.

21 158. Pursuant to the San Francisco Building Code, multiple public hearings on  
22 DEFENDANTS' multiple violations of the Building Codes at the PROPERTIES were held before a  
23 designee of the Director of DBI. DEFENDANTS were given notice of the hearings and had the  
24 opportunity to attend. After each, separate, full hearing, a designee of the Director of DBI issued an  
25 Order of Abatement. DEFENDANTS failed to comply with, and disobeyed, the Orders of Abatement,  
26 and these Orders of Abatement remain outstanding.

27 159. Pursuant to the San Francisco Planning Code, PLANNING cited DEFENDANTS with  
28 notices of DEFENDANTS' multiple violations of the Planning Code at the PROPERTIES.  
DEFENDANTS nevertheless failed to completely comply.



1           166. By permitting the conditions that violate the San Francisco Building and Planning  
2 Codes to remain unabated at the PROPERTIES, DEFENDANTS now are and for a considerable  
3 period of time and at all times herein mentioned has been, causing and maintaining a continuing public  
4 nuisance within the meaning of California Civil Code Sections 3479 and 3480. The manner in which  
5 DEFENDANTS maintains the PROPERTIES is injurious to the health and safety of the public and is  
6 dangerous to human life so as to interfere with the comfortable enjoyment of life or PROPERTIES of  
7 an entire community or neighborhood.

8           167. PLAINTIFFS have no adequate remedy at law in that damages are insufficient to  
9 protect the public from the present danger and harm caused by the conditions described herein.

10           168. Unless said nuisance is abated, the surrounding community and neighborhood, and the  
11 residents and citizens of the City and County of San Francisco, will suffer irreparable injury and  
12 damage, in that said conditions will continue to be injurious to the enjoyment and free use of the  
13 PROPERTIES and dangerous to the life, safety or health of the residents of home adjacent to or  
14 nearby the PROPERTIES and the general public.

15           WHEREFORE, PLAINTIFFS pray that:

16           **Declaratory Relief**

17           1. Each of the PROPERTIES be declared a public nuisance in violation of Civil Code  
18 Sections 3479 and 3480, the San Francisco Building Code, and the San Francisco Planning Code;

19           2. This Court declare that the PROPERTIES are in a condition that substantially  
20 endangers the health and safety of the residents of homes adjacent to, or nearby, and the general  
21 public;

22           **Injunctive Relief**

23           3. The public nuisance be abated;

24           4. DEFENDANTS be enjoined and restrained from renting, leasing, occupying, or  
25 otherwise using any currently unoccupied areas of the PROPERTIES while the conditions described in  
26 this Complaint exist and until the PROPERTIES and any structures on the PROPERTIES and all parts  
27 thereof have been repaired and restored to conform to law;

1           5.     DEFENDANTS be ordered to cause the PROPERTIES and any structures on the  
2 PROPERTIES and all parts thereof to conform to law, and maintain such structures and all parts  
3 thereof in accordance with law;

4           6.     That DEFENDANTS be ordered to not claim any tax benefits for the PROPERTIES,  
5 pursuant to Health and Safety Code section 17980.7(b)(2);

6           7.     That a receiver be appointed to abate the violations at the PROPERTIES, pursuant to  
7 Health and Safety Code section 17980.7(c);

8           8.     If a receiver is appointed, DEFENDANTS be prohibited from collecting rents from any  
9 tenants, interfering with the receiver in the operation of the PROPERTIES, and encumbering or  
10 transferring the PROPERTIES, pursuant to Health and Safety Code section 17980.7(c)(3);

11          9.     DEFENDANTS, and each of them, inclusive, be enjoined from spending, transferring,  
12 encumbering, or removing from California any money received from the PROPERTIES or in payment  
13 for the unfair and unlawful acts alleged in the Complaint;

14           **Penalties**

15          10.    DEFENDANTS be ordered to pay civil penalties of up to \$500.00 for each day any  
16 violation of the San Francisco Building Code was committed, or is permitted to continue, at each of  
17 the PROPERTIES, pursuant to San Francisco Building Code Section 103;

18          11.    DEFENDANTS be ordered to pay civil penalties of at least \$200 for each day any  
19 violation of the San Francisco Planning Code was committed, or is permitted to continue, at each of  
20 the PROPERTIES, pursuant to San Francisco Planning Code Section 176;

21          12.    Pursuant to Business and Professions Code Section 17206, DEFENDANTS be ordered  
22 to pay a civil penalty of up to \$2,500 for each violation;

23          13.    PLAINTIFFS shall have a lien upon the PROPERTIES in the amount expended  
24 pursuant to authority and to have judgment in that amount against DEFENDANTS, their successors  
25 and assigns;

26          14.    Pursuant to California Health and Safety Code section 17980.7(b)(1), the Court order  
27 DEFENDANTS to not claim any deduction with respect to state taxes for interest, taxes, expenses,  
28

1 depreciation, or amortization paid or incurred with respect to the PROPERTIES for the taxable year of  
2 the initial order or notice to the present until all such orders and notices are abated;

3 **Fees and Costs**

4 15. PLAINTIFFS be awarded attorneys' fees and other expenses recoverable pursuant to  
5 San Francisco Building Code Section 102A.8, San Francisco Planning Code Section 176(c)(2), and  
6 California Health and Safety Code section 17980.7(d);

7 16. DEFENDANTS pay all costs incurred by the San Francisco Department of Building  
8 Inspection and the San Francisco Planning Department in their attempts to enforce compliance with  
9 the law at the PROPERTIES;

10 17. PLAINTIFFS be awarded their costs incurred herein pursuant to San Francisco  
11 Planning Code Section 176(c)(2) and California Code of Civil Procedure Section 1032;

12 18. The Court find that recordation of an Abstract of Judgment in this case constitute a  
13 prior lien over any lien that may be held on the PROPERTIES by any DEFENDANTS to this action;  
14 and

15 19. The Court grant such other and further relief as this Court should find just and proper.

16  
17 Dated: 6/21/18

18 DENNIS J. HERRERA  
19 City Attorney  
20 PETER J. KEITH  
21 Chief Attorney  
22 JENNIFER E. CHOI  
23 Deputy City Attorney

24 By:   
25 JENNIFER E. CHOI

26 Attorneys for Plaintiffs  
27 CITY AND COUNTY OF SAN FRANCISCO and  
28 PEOPLE OF THE STATE OF CALIFORNIA

**INDEX TO EXHIBITS**

<b><u>Exhibit</u></b>	<b><u>Description</u></b>
A	Property Description for 531 33rd Avenue, San Francisco, California 94121
B	San Francisco Department of Building Inspection Notice of Violation No. 201768281 for 531 33rd Avenue, dated March 30, 2017
C	San Francisco Department of Building Inspection Notice of Violation Final Warning for 531 33rd Avenue, dated May 18, 2017
D	San Francisco Department of Building Inspection Notice of Director's Hearing for 531 33rd Avenue, dated June 12, 2017
E	San Francisco Department of Building Inspection Order of Abatement for 531 33rds Avenue, dated May 9, 2018
F	San Francisco Planning Department Notice of Complaint for 531 33rd Avenue, dated September 11, 2017
G	San Francisco Planning Department Suspension Request for 531 33rd Avenue, dated September 27, 2017
H	San Francisco Department of Building Inspection Notice of Violation No. 201709001 for 531 33rd Avenue, dated September 29, 2017
I	Property Description for 120 Brewster Street, San Francisco, California 94110
J	San Francisco Planning Department Notice of Planning Requirements #1 for 120 Brewster Street, dated November 27, 2017
K	San Francisco Planning Department Notice of Enforcement for 120 Brewster Street, dated November 16, 2016
L	San Francisco Planning Department Suspension Request for 120 Brewster Street, dated December 11, 2017
M	Property Description for 1613 Church Street, San Francisco, California 94131
N	San Francisco Department of Building Inspection Notice of Violation for 1613 Church Street, dated April 27, 2017
O	San Francisco Department of Building Inspection Notice of Violation Final Warning for 1613 Church Street, dated June 14, 2017
P	San Francisco Department of Building Inspection Notice of Director's Hearing for 1613 Church Street, dated August 15, 2017
Q	San Francisco Department of Building Inspection Order of Abatement for 1613 Church Street, dated October 23, 2017

**EXHIBIT LIST**

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- R San Francisco Planning Department Notice of Complaint for 1613 Church Street, dated April 25, 2017
- S San Francisco Planning Department Notice of Enforcement for 1613 Church Street, dated May 4, 2017
- T San Francisco Planning Department Suspension Request for 1613 Church Street, dated May 16, 2017
- U San Francisco Department of Building Inspection Notice of Violation No. 201781152 for 1613 Church Street, dated May 22, 2017
- V Property Description for 437 Ellsworth Street, San Francisco, California 94110
- W San Francisco Department of Building Inspection Notice of Violation No. 201604011 for 437 Ellsworth Street, dated March 14, 2016
- X San Francisco Department of Building Inspection Second Notice of Violation No. 201604011 for 437 Ellsworth Street, dated August 31, 2016
- Y San Francisco Department of Building Inspection Notice of Director's Hearing for 437 Ellsworth Street, dated April 24, 2017
- Z San Francisco Department of Building Inspection Order of Abatement for 437 Ellsworth Street, dated August 21, 2017
- AA San Francisco Department of Building Inspection Notice of Violation No. 201859971 for 437 Ellsworth Street, dated April 25, 2018
- BB San Francisco Planning Department Notice of Enforcement for 437 Ellsworth Street, dated September 21, 2017
- CC San Francisco Planning Department Notice of Violation for 437 Ellsworth Street, dated January 9, 2018
- DD San Francisco Planning Department Notice of Penalty for 437 Ellsworth Street, dated May 3, 2018
- EE Property Description for 4068 Folsom Street, San Francisco, California 94110
- FF San Francisco Planning Department Notice of Complaint for 4068 Folsom Street, dated June 13, 2017
- GG San Francisco Planning Department Notice of Enforcement for 4068 Folsom Street, dated June 28, 2017
- HH San Francisco Planning Department Suspension Request for 4068 Folsom Street, dated July 25, 2017
- II San Francisco Planning Department Notice of Violation for 4068 Folsom Street, dated October 25, 2017
- JJ 2015 and 2017 Photographs of 4068 Folsom Street
- KK Property Description for 903 Minnesota Street, San Francisco, California 94107

EXHIBIT LIST



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- LL San Francisco Planning Department Notice of Enforcement for 903 Minnesota Street, dated December 9, 2016
- MM San Francisco Planning Department Suspension Request for 903 Minnesota, dated January 10, 2017
- NN San Francisco Planning Department Notice of Violation for 903 Minnesota, dated January 12, 2017
- OO San Francisco Department of Building Inspection Notice of Violation No. 201646696 for 903 Minnesota Street, dated December 12, 2016
- PP San Francisco Department of Building Inspection Notice of Violation No. 201756151 for 903 Minnesota Street, dated January 5, 2017
- QQ Property Description for 310 Montcalm Street, San Francisco, California 94110
- RR San Francisco Department of Building Inspection Notice of Violation No. 201610071 for 310 Montcalm, dated April 5, 2016
- SS San Francisco Department of Building Inspection Correction Notice for 310 Montcalm, dated July 7, 2016
- TT San Francisco Department of Building Inspection Second Notice of Violation No. 201610071 for 310 Montcalm, dated August 17, 2016
- UU San Francisco Department of Building Inspection Notice of Director's Hearing for 310 Montcalm, dated May 1, 2017
- VV San Francisco Department of Building Inspection Order of Abatement for 310 Montcalm, dated August 1, 2017
- WW San Francisco Department of Building Inspection Notice of Violation No. 201765203 for 310 Montcalm, dated March 23, 2017
- XX San Francisco Department of Building Inspection Amended Notice of Violation No. 201765203 for 310 Montcalm, dated March 31, 2017
- YY San Francisco Department of Building Inspection Notice of Violation Final Warning for 310 Montcalm, dated June 14, 2017
- ZZ San Francisco Department of Building Inspection Notice of Director's Hearing for 310 Montcalm, dated August 2, 2017
- AAA San Francisco Department of Building Inspection Order of Abatement for 310 Montcalm, dated September 14, 2017
- BBB San Francisco Planning Department Notice of Complaint for 310 Montcalm, dated February 27, 2017
- CCC San Francisco Planning Department Notice of Enforcement for 310 Montcalm, dated April 12, 2017
- DDD San Francisco Department of Building Inspection Notice of Violation No. 201787861 for 310 Montcalm, dated June 22, 2017

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- EEE San Francisco Planning Department Revised Notice of Enforcement for 310 Montcalm, dated June 21, 2017
- FFF San Francisco Planning Department Notice of Violation for 310 Montcalm, dated August 16, 2017
- GGG San Francisco Planning Department Notice of Penalty for 310 Montcalm, dated October 20, 2017

**EXHIBIT LIST**

**EXHIBIT B**



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## Summary of Enforcement Actions (3/1/2011 - 3/31/2011)

1

The Bureau of Real Estate is a licensing and regulatory agency empowered to seek disciplinary action through the State Office of Administrative Hearings against licensees who violate specific sections of the State Business and Professions Code. We also are empowered to file orders to desist and refrain against licensed and unlicensed individuals and entities. Available on this report are the following listings: disciplinary actions initiated against real estate licensees; filed orders to desist and refrain from unlawful activities; decisions on petition applications to reinstate/remove restrictions from licenses; applications for licenses that have been denied and/or were issued restricted licenses; and licenses that have been voluntarily surrendered.

**NOTE:** Click on the headings to sort by a specific column.

H-NUMBER	REGION	ACTION	NAME	LICENSE TYPE	ADDRESS	PLEAD	EFFECTIVE	VIOLATIONS	TYPE
• H36580LA	Los Angeles	Outright Revocation	Marquez Investments Inc.	Corporation	9190 SIERRA AVE STE 206 FONTANA, CA 92335	2/7/2011	3/9/2011	B&P 10177(g) Reg 2970 B&P 10176(i) Reg 2731(a) Reg 2831 B&P 10177(j) B&P 10137 B&P 10176(e) B&P 10236.4 B&P 10085 B&P 10177(d) Reg 2831.1 B&P 10240 Reg 2831.2 Reg 2832 B&P 10085.5 B&P 10159.5 B&P 10146 B&P 10145 Reg 2840	Transactional Accusation
• H36580LA	Los Angeles	Suspension with Stay - Monetary Penalty	Marquez, Manuel	Broker Officer	7950 CHERRY AVE UNIT 104 FONTANA, CA 92336	2/7/2011	3/9/2011	B&P 10177(g) Reg 2970 B&P 10176(i) B&P 10176(b) B&P 10176(c) Reg 2731(a) B&P 10177(h) Reg 2831 B&P 10177(j) B&P 10137 B&P 10159.2 B&P 10176(e) B&P 10236.4 B&P 10085 B&P 10177(d) Reg 2831.1 B&P 10176(a) B&P 10240 Reg 2831.2 Reg 2832 B&P 10085.5 B&P 10159.5 B&P 10145 B&P 10146 Reg 2840	Transactional Accusation
• H36586LA	Los Angeles	Outright Revocation	Emeritus Mortgage Inc.	Corporation		12/10/2010	3/10/2011	B&P 10177(g) B&P 10165 B&P 10177(d) B&P 10177(f)	Audit Accusation
• H36611LA	Los Angeles	Outright Revocation	New Horizon R E Inc.	Corporation	5379 LYONS RD #226 COCONUT CREEK, FL 33073	2/1/2011	3/4/2011	Reg 2831 B&P 10236.4 B&P 10137 B&P 10148 Reg 2831.1 B&P 10177(d) B&P 10240 Reg 2726 B&P 10145 Reg 2840 Reg 2753 B&P 10160	Audit Accusation
• H05310SAC	Sacramento	Outright Revocation	Bermejo, Melvic B	Salesperson	44 DELANEY CT ROSEVILLE, CA	11/19/2009	3/9/2011	B&P 490 B&P 10177(b)	Rap Accusation

Summary of Enforcement Actions - BRE

• H36573LA	Los Angeles	Suspension[with stay]	Estrada, Antonio	Salesperson	95678 10359 O'MELVENY AVE PACOIMA, CA 91331	10/7/2010	3/7/2011	B&P 10177(g) B&P 10137 B&P 10177(d)	Transactional Accusation
• H10924SF	Sacramento	Voluntary License Surrender	Bayview Capital Inc.	Corporation		2/23/2011	3/15/2011	B&P 10177(g) Reg 2832.1 B&P 10238(a,b) B&P 10176(i) Reg 2731 Reg 2831 B&P 10232 B&P 10238(h) B&P 10232.2 B&P 10148 B&P 10238(e) B&P 10177(j) B&P 10177(d) Reg 2831.1 Reg 2846.5 B&P 10232.5 B&P 10238(f) B&P 10240 Reg 2832 B&P 10145 B&P 10232(e) B&P 10238(l) B&P 10159.5	Audit Accusation
• H10924SF	Sacramento	Voluntary License Surrender	Gujral, Ashok Kumar	Broker Officer	2010 OCEAN AVENUE SUITE E SAN FRANCISCO, CA 94127	2/23/2011	3/15/2011	B&P 10177(g) Reg 2832.1 B&P 10238(a,b) B&P 10176(i) Reg 2831 B&P 10232 B&P 10238(h) B&P 10177(h) B&P 10232.2 B&P 10148 B&P 10238(e) B&P 10177(j) B&P 10159.2 B&P 10177(d) Reg 2831.1 Reg 2846.5 B&P 10232.5 B&P 10238(f) B&P 10240 Reg 2832 B&P 10145 B&P 10232(e) B&P 10238(l) Reg 2725	Audit Accusation
• H36614LA	Los Angeles	Outright Revocation	Castro, Henry Allen	Broker Officer	6621 EASTERN AVE BELL, CA 90201	4/27/2010	3/10/2011	B&P 10177(g) Reg 2832.1 Reg 2834 Reg 2831 B&P 10177(h) B&P 10159.2 Reg 2951 Reg 2752 B&P 10177(d) Reg 2831.2 B&P 10176(a) B&P 10161.8 Reg 2950(g) B&P 10176(g) Reg 2950(h) Reg 2726 B&P 10145 Reg 2950(d) B&P 10160 Reg 2753 Reg 2725	Audit Accusation
• H36614LA	Los Angeles	Outright Revocation	H & M Investments Inc.	Corporation	6621 EASTERN AVE BELL GARDENS, CA 90201	4/27/2010	3/10/2011	B&P 10177(g) Reg 2832.1 Reg 2834 Reg 2831 B&P 10177(h) B&P 10159.2 Reg 2951 Reg 2752 B&P 10177(d) Reg 2831.2 B&P 10176(a) B&P 10161.8 Reg 2950(g) B&P 10176(g) Reg 2950(h) Reg 2726 B&P 10145 Reg 2950(d) B&P 10160 Reg 2753 Reg 2725	Audit Accusation

**Bayview Capital:**

B&P 10177(g): negligence or incompetence in performing licensed acts  
Reg 2832.1: failure to obtain permission to reduce trust fund balance from a multi beneficiary account  
B&P 10238(a,b): failure to file multi lender notice within 30 days  
B&P 10176(I): fraud or dishonest dealings in licensed capacity  
Reg 2731: unauthorized use of fictitious business name  
Reg 2831: failure to seek proper trust fund records  
B&P 10232: failure to notify the DRE of threshold status  
B&P 10238(h): encumbrance limits, disclosures/construction loans  
B&P 10232.2: failure to file trust deed annual report  
B&P 10148: failure to retain records and make available for inspection  
B&P 10238(e): improper interest in property securing note  
B&P 10177(j): fraud or dishonest dealings as principal  
B&P 10177(d): violation of real estate law or regulation  
Reg 2831.1: inadequate separate trust fund beneficiary records  
Reg 2846.5: annual independent public accountant trust fund account reporting requirements  
B&P 10232.5: failure to provide required information in lender disclosure statement  
B&P 10238(f): number of purchasers - lack of signed statements  
B&P 10240: failure to give mortgage loan statement  
Reg 2832: failure to comply with trust fund handling provisions  
B&P 10145: trust fund handling  
B&P 10232(e): failure to notify DRE of threshold status  
B&P 10238(l): disclosure of material facts  
B&P 10159.5: fictitious name

**Sacramento Voluntary**

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**Gujral**

B&P 10177(g) : negligence or incompetence in performing licensed acts  
  
Reg 2832.1: failure to obtain permission to reduce trust fund balance in a multiple beneficiary account  
  
B&P 10238(a,b): failure to file multi lender notice within 30 days  
  
B&P 10176(I): fraud or dishonest dealing in license capacity  
Reg 2831: failure to keep proper trust fund records  
B&P 10232: failure to notify DRE of threshold status  
B&P 10238(h): encumbrance limits, disclosures/construction loans  
B&P 10177(h): failure to supervise salespersons for licensed acts of corporation  
B&P 10232.2: failure to file trust deed annual reports  
B&P 10148: failure to retain records and make available for inspection  
B&P 10238(e): improper interest in property securing note  
B&P 10177(j): fraud or dishonest dealings as principal  
B&P 10159.2: failure by designated officer to supervise licensed acts of corporations

B&P 10177(d): violation of real estate law or regulations  
Reg 2831.1: inadequate separate trust fund beneficiary records

Reg 2846.5: annual independent public trust fund account reporting requirements  
B&P 10232.5: failure to provide required information in lender disclosure statement  
B&P 10238(f): number of purchasers less than 10/lack of signed statements  
B&P 10240: failure to give mortgage loan disclosure statement  
Reg 2832: failure to comply with trust fund handling provisions  
B&P 10145: trust fund handling  
B&P 10232(e): failure to notify DRE of threshold status  
B&P 10238(l): disclosure of material facts  
Reg 2725: failure to exercise reasonable supervision

FLAG

**FILED**

FEB 23 2011

DEPARTMENT OF REAL ESTATE

*[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	
	)	NO. H-10924 SF
	)	
BAYVIEW CAPITAL, INC. and	)	
ASKOK KUMAR GUJRAL,	)	
	)	
Respondents.	)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On May 13, 2010, an Accusation was filed in this matter against Respondent ASKOK KUMAR GUJRAL.

On January 27, 2011, Respondent petitioned the Commissioner to voluntarily surrender his real estate broker license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent ASKOK KUMAR GUJRAL's petition for voluntary surrender of his real estate broker license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated January 27, 2011 (attached as Exhibit "A" hereto).

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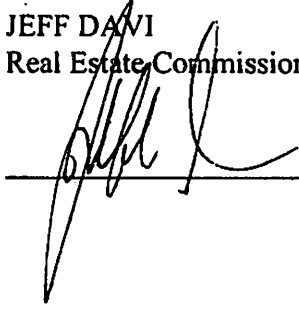
Respondent's license certificate(s), pocket card(s) and any branch office license certificate(s) shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

DEPARTMENT OF REAL ESTATE  
Attn: Licensing Flag Section  
P. O. Box 187000  
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on MAR 15 2011

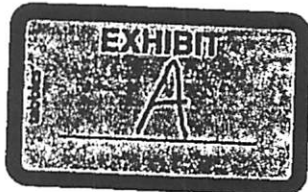
DATED: 2-16-2011

JEFF DAVI  
Real Estate Commissioner



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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of )  
 ) NO. H-10924 SF  
 )  
BAYVIEW CAPITAL, INC., a California )  
Corporation, and ASHOK KUMAR GUJRAL, )  
 )  
Respondents. )

DECLARATION

My name is ASHOK KUMAR GUJRAL, and I am currently licensed as a real estate broker and/or have license rights with respect to said license. I am represented in this matter by Maxine Monaghan, Attorney at Law.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), I wish to voluntarily surrender my real estate license(s) issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

I understand that by voluntarily surrendering my license(s), I may be relicensed as a broker or as a salesperson only by petitioning for reinstatement pursuant to Section 11522

1 of the Government Code. I also understand that by so voluntarily surrendering my license(s), I  
2 agree to the following:

3 1. I admit that all allegations contained in the Accusation filed in this matter  
4 are true and correct.

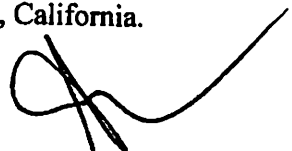
5 2. The filing of this Declaration shall be deemed as my petition for  
6 voluntary surrender.

7 3. It shall also be deemed to be an understanding and agreement by me that I  
8 waive all rights I have to require the Commissioner to prove the allegations contained in the  
9 Accusation filed in this matter at a hearing held in accordance with the provisions of the  
10 Administrative Procedure Act (Government Code Sections 11400 et seq.), and that I also waive  
11 other rights afforded to me in connection with the hearing such as the right to discovery, the  
12 right to present evidence in defense of the allegations in the Accusation and the right to cross-  
13 examine witnesses.

14 4. I further agree that upon acceptance by the Commissioner, as evidenced  
15 by an appropriate order, all affidavits and all relevant evidence obtained by the Department in  
16 this matter prior to the Commissioner's acceptance, and all allegations contained in the  
17 Accusation filed in the Department Case No. H-10924 SF, may be considered by the  
18 Department to be true and correct for the purpose of deciding whether to grant re-licensure or  
19 reinstatement pursuant to Government Code Section 11522.

20 5. I freely and voluntarily surrender all my licenses and license rights under  
21 the Real Estate Law.

22 I declare under penalty of perjury under the laws of the State of California  
23 that the above is true and correct and that this declaration was executed on JANUARY 29<sup>TH</sup>  
24 \_\_\_\_\_, 2011, at SAN FRANCISCO, California.



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\_\_\_\_\_  
ASHOK KUMAR GUJRAL

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**FILED**  
FEB 23 2011

DEPARTMENT OF REAL ESTATE  
By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of	)	
	)	NO. H-10924 SF
	)	
BAYVIEW CAPITAL, INC. and	)	
ASKOK KUMAR GUJRAL,	)	
	)	
Respondents.	)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On May 13, 2010, an Accusation was filed in this matter against Respondent BAYVIEW CAPITAL, INC.

On January 27, 2011, Respondent petitioned the Commissioner to voluntarily surrender its real estate corporation license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent BAYVIEW CAPITAL, INC.'s petition for voluntary surrender of its real estate corporation license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated January 27, 2011 (attached as Exhibit "A" hereto).

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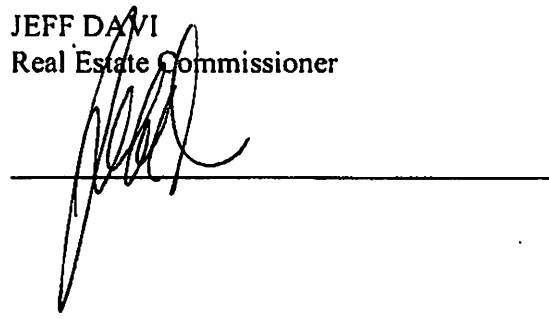
Respondent's license certificate(s), pocket card(s) and any branch office license certificate(s) shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

DEPARTMENT OF REAL ESTATE  
Attn: Licensing Flag Section  
P. O. Box 187000  
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on MAR 15 2011

DATED: 2-16-2011

JEFF DAVI  
Real Estate Commissioner



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BEFORE THE DEPARTMENT OF REAL ESTATE.  
STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of )  
 ) NO. H-10924 SF  
 )  
BAYVIEW CAPITAL, INC., a California )  
Corporation, and ASHOK KUMAR GUJRAL, )  
 )  
Respondents. )  
 )

DECLARATION

My name is ASHOK KUMAR GUJRAL, and I am currently an officer of BAYVIEW CAPITAL, INC., which is licensed as a real estate broker and/or has license rights with respect to said license. I am authorized and empowered to sign this declaration on behalf of BAYVIEW CAPITAL, INC., which is represented in this matter by Maxine Monaghan, Attorney at Law.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), BAYVIEW CAPITAL, INC., wishes to voluntarily surrender its real estate license(s) issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

1                   BAYVIEW CAPITAL, INC., understands that by so voluntarily surrendering its  
2 license(s), it may be relicensed as a broker only by petitioning for reinstatement pursuant to  
3 Section 11522 of the Government Code. BAYVIEW CAPITAL, INC., also understands that by  
4 so voluntarily surrendering its license(s), it agrees to the following:

5                   1.       BAYVIEW CAPITAL, INC., admits that all allegations contained in the  
6 Accusation filed in this matter are true and correct.

7                   2.       The filing of this Declaration shall be deemed as the petition of  
8 BAYVIEW CAPITAL, INC., for voluntary surrender.

9                   3.       It shall also be deemed to be an understanding and agreement by  
10 BAYVIEW CAPITAL, INC., that it waives all rights it has to require the Commissioner to  
11 prove the allegations contained in the Accusation filed in this matter at a hearing held in  
12 accordance with the provisions of the Administrative Procedure Act (Government Code  
13 Sections 11400 et seq.), and that it also waives other rights afforded to it in connection with the  
14 hearing such as the right to discovery, the right to present evidence in defense of the allegations  
15 in the Accusation and the right to cross-examine witnesses.

16                  4.       BAYVIEW CAPITAL, INC., further agrees that upon acceptance by the  
17 Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence  
18 obtained by the Department in this matter prior to the Commissioner's acceptance, and all  
19 allegations contained in the Accusation filed in the Department Case No. H-10924 SF, may be  
20 considered by the Department to be true and correct for the purpose of deciding whether to grant  
21 relicensure or reinstatement pursuant to Government Code Section 11522.

22                  5.       BAYVIEW CAPITAL, INC., surrenders all of its licenses and license  
23 rights under the Real Estate Law.

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I declare under penalty of perjury under the laws of the State of California that  
the above is true and correct and that this declaration was executed JANUARY 29TH  
2011, at SAN FRANCISCO, California.

BAYVIEW CAPITAL, INC.,

By:   
ASHOK KUMAR GUJRAL  
PRESIDENT  
(Title)



FAE

1 MICHAEL B. RICH, Counsel  
2 State Bar No. 84257  
3 Department of Real Estate  
4 P. O. Box 187007  
5 Sacramento, CA 95818-7007  
6 Telephone: (916) 227-1126 (Direct)  
7 or (916) 227-0789

**FILED**

MAY 13 2010

DEPARTMENT OF REAL ESTATE  
By [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of	)	
	)	NO. H-10924 SF
	)	
13 BAYVIEW CAPITAL, INC., a California	)	ACCUSATION
14 Corporation, and ASHOK KUMAR GUJRAL,	)	
	)	
15 Respondents.	)	

16  
17 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the  
18 State of California, for Accusation against Respondent BAYVIEW CAPITAL, INC., a  
19 California Corporation, and Respondent ASHOK KUMAR GUJRAL, is informed and alleges  
20 as follows:

21 1

22 The Complainant, E. J. HABERER II, a Deputy Real Estate Commissioner of the  
23 State of California, makes this Accusation against Respondents in his official capacity.

24 2

25 Respondents BAYVIEW CAPITAL, INC., and ASHOK KUMAR GUJRAL are  
26 presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of  
27 the California Business and Professions Code (hereafter "the Code").

1 3

2 At all times herein mentioned, Respondent BAYVIEW CAPITAL, INC.,  
3 (hereafter "Respondent BAYVIEW") was and is licensed by the Department of Real Estate  
4 (hereinafter "the Department") as a corporate real estate broker.

5 4

6 At all times herein mentioned, Respondent ASHOK KUMAR GUJRAL  
7 (hereinafter "Respondent GUJRAL") was and is licensed by the Department as an individual  
8 real estate broker.

9 5

10 At all times herein mentioned, Respondent GUJRAL was and is licensed by the  
11 Department as the designated broker/officer of Respondent BAYVIEW. As said designated  
12 broker/officer, Respondent GUJRAL was at all times mentioned herein responsible pursuant to  
13 Section 10159.2 and Section 10177(h) of the Code and Section 2725 of Chapter 6, Title 10,  
14 California Code of Regulations (hereinafter "the Regulations") for the supervision and control  
15 of the activities of the officers, agents, real estate licensees and employees of Respondent  
16 BAYVIEW and of the activities of the corporation for which a real estate license is required.

17 6

18 At all times herein mentioned, Respondent GUJRAL is and was the chief  
19 executive officer, agent for service of process, and principal stockholder of Respondent  
20 BAYVIEW, and, therefore, Respondent BAYVIEW was and is the alter ego of Respondent  
21 GUJRAL, and whenever a reference is made to an act, omission or representation of Respondent  
22 BAYVIEW, such allegation shall be deemed to mean that Respondent GUJRAL, was so acting,  
23 failing to act, and/or speaking.

24 7

25 Whenever reference is made in an allegation in this Accusation to an act or  
26 omission of Respondent BAYVIEW, such allegation shall be deemed to mean that the officers,  
27 directors, employees, agents and real estate licensees employed by or associated with

1 Respondent BAYVIEW committed such act or omission while engaged in the furtherance of the  
2 business or operations of Respondent BAYVIEW and while acting within the course and scope  
3 of their corporate authority and employment.

4 8

5 At all times herein mentioned, Respondent BAYVIEW, and Respondent  
6 GUJRAL, engaged in the business of, acted in the capacity of, advertised, or assumed to act as a  
7 real estate broker within the State of California within the meaning of Section 10131(d) of the  
8 Code, including on behalf of others, for compensation or in expectation of compensation,  
9 solicited borrowers or lenders for or negotiated loans or collected payments or performed  
10 services for borrowers or lenders or note owners in connection with loans secured directly or  
11 collaterally by liens on real property or on a business opportunity.

12 FIRST CAUSE OF ACTION

13 9

14 There is hereby incorporated in this First, separate and distinct, Cause of Action,  
15 all of the allegations contained in Paragraphs 1 through 8, inclusive, of the Accusation with the  
16 same force and effect as if herein fully set forth.

17 10

18 Within the three-year period prior to the filing of this Accusation, in acting as a  
19 real estate broker as described in Paragraph 8, above, Respondent BAYVIEW and Respondent  
20 GUJRAL accepted or received funds in trust (hereinafter "trust funds") from or on behalf of  
21 lenders, note owners, buyers, borrowers, and/or others in connection with the said mortgage  
22 activities and loan services.

23 11

24 Within the three-year period prior to the filing of this Accusation, in connection  
25 with the collection and disbursement of trust funds, the aforesaid trust funds accepted or  
26 received by Respondents BAYVIEW and GUJRAL, were deposited or caused to be deposited  
27 by said Respondents into bank accounts maintained by Respondent BAYVIEW as follows:

- 1 a.) At First National Bank, 975 El Camino Avenue, in South San Francisco,  
2 California, Account No. 63002062, entitled "Bayview Capital Inc. DBA  
3 Bayview Funding Corp Trustee Transfer Account" (hereinafter "Trust  
4 Account #1) with Respondent GUJRAL, and Rajiv Gujral as the  
5 authorized signatories on said account;
- 6 b.) At First National Bank, 975 El Camino Avenue, in South San Francisco,  
7 California, Account No. 63002089, entitled "Bayview Capital Inc. DBA  
8 Bayview Funding Corp Escrow Trustee Account" (hereinafter "Trust  
9 Account #2) with Respondent GUJRAL, and Rajiv Gujral as the  
10 authorized signatories on said account;
- 11 c.) At First National Bank, 975 El Camino Avenue, in South San Francisco,  
12 California, Account No. 63002321, entitled "Bayview Capital Inc. DBA  
13 Bayview Funding Corp ATF Gloria Tran 'Impound' " (hereinafter "Bank  
14 Account #1) with Respondent GUJRAL, and Rajiv Gujral as the  
15 authorized signatories on said account; and,
- 16 d.) At First National Bank, 975 El Camino Avenue, in South San Francisco,  
17 California, Account No. 63002313, entitled "Bayview Capital Inc. DBA  
18 Bayview Funding Corp ATF Gloria Tran 'Construction Hold' "  
19 (hereinafter "Bank Account #2) with Respondent GUJRAL, and Rajiv  
20 Gujral as the authorized signatories on said account.

21 12

22 In connection with the collection and disbursement of trust funds, as alleged in  
23 Paragraph 10, above, Respondents BAYVIEW and GUJRAL failed to deposit and maintain the  
24 trust funds in a trust account or neutral escrow depository, or to deliver them into the hands of  
25 the owners of the funds, as required by Section 10145 of the Code, in such a manner that there  
26 was a trust fund shortage in Trust Account #1 in the approximate sum of \$4,587.50 as of March  
27 31, 2009.

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Within the three-year period prior to the filing of this Accusation, in connection with the collection and disbursement of trust funds, as alleged in Paragraphs 10, 11 and 12, above, Respondents BAYVIEW and GUJRAL failed to obtain the prior written consents of the principals for the reduction of the aggregate balance of trust funds in Trust Account #1 and Trust Account #2 to an amount less than the existing aggregate trust fund liability to the owners of said funds as required by Section 2832.1 of the Regulations (requiring written consent of every principal whose funds in the account shall be obtained by broker prior to each disbursement if such reduces the balance of funds in account to an amount less than existing trust fund aggregate liability of broker to all owners of funds).

14

Within the three-year period prior to the filing of this Accusation, in connection with the collection and disbursement of trust funds, as alleged in Paragraph 10, above, Respondents BAYVIEW and GUJRAL deposited trust funds held as interest impounds concerning the multilender loan for Gloria Tran into Bank Account #1, which was not designated as a trust account in the name of the broker as trustee as required by Section 2832 of the Regulations (requiring deposit of trust funds into neutral escrow depository or into trust fund account in a bank in the name of broker as trustee . . .).

15

Within the three-year period prior to the filing of this Accusation, in connection with the collection and disbursement of trust funds, as alleged in Paragraph 10, above, Respondents BAYVIEW and GUJRAL deposited trust funds held as construction installment impounds concerning the multilender loan for Gloria Tran into Bank Account #2, which was not designated as a trust account in the name of the broker as trustee as required by Section 2832 of the Regulations (requiring deposit of trust funds into neutral escrow depository or into trust fund account in a bank in the name of broker as trustee . . .).

///

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2 Within the three-year period prior to the filing of this Accusation, in connection  
3 with the collection and disbursement of trust funds, as alleged above, Respondents BAYVIEW  
4 and GUJRAL:

- 5 (a) Failed to maintain a control record for trust funds received and disbursed  
6 and containing the information required by Section 2831 of the  
7 Regulations (requiring record of trust funds received and disbursed in  
8 columnar form, in chronological sequence, dates of receipt, from whom  
9 received, dates disbursed, date deposited, identity of depository, daily  
10 balance, etc.) for Trust Account #1;
- 11 (b) Failed to maintain for Trust Account #1 a separate record for each  
12 beneficiary of trust funds received and disbursed for Trust Account #1 as  
13 required by Section 10145 of the Code and Section 2831.1 of the  
14 Regulations (broker shall keep separate record for each beneficiary,  
15 accounting for all funds deposited to trust account, in columnar  
16 chronological form deposit date and amount, disbursement dates,  
17 disbursement check numbers, and balance after posting); and,
- 18 (c) Failed to perform, at least once a month, a reconciliation of all the  
19 separate beneficiary records with the control record, and/or failed  
20 to maintain a record of such reconciliations as required by Section 2831.2  
21 of the Regulations (maintain balance of all separate beneficiary and  
22 reconcile funds received with funds disbursed, etc.) for Trust Account #1  
23 and Trust Account #2.

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25 The acts and/or omissions of Respondents as alleged above constitute cause for  
26 the suspension or revocation of the licenses and license rights of Respondents under the  
27 following provisions:

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- (a) As alleged in Paragraph 12, under Section 10145 of the Code (broker accepting funds belonging to others shall deposit such funds not placed immediately into hands of principal or into neutral escrow depository shall deposit into a trust account maintained by broker in a bank until disbursed in accordance with principal's instructions) in conjunction with Section 10177(d) of the Code (suspension or revocation of license for willful disregard or violation of the Real Estate Law, §§ 10000 et seq. of the Code, or of the Regulations);
- (b) As alleged in Paragraph 13, under Section 2832.1 of the Regulations (requiring written consent of every principal whose funds in the account shall be obtained by broker prior to each disbursement if such reduces the balance of funds in account to an amount less than existing trust fund aggregate liability of broker to all owners of funds) in conjunction with Section 10177(d) of the Code;
- (c) As alleged in Paragraphs 14 and 15, under Section 2832 of the Regulations (requiring deposit of trust funds into neutral escrow depository or into trust fund account in bank in the name of broker as trustee . . . ) in conjunction with Section 10177(d) of the Code;
- (d) As alleged in Paragraph 16(a), under Section 2831 of the Regulations (requiring record of trust funds received and disbursed in columnar form, in chronological sequence, dates of receipt, from whom received, dates disbursed, date deposited, identity of depository, daily balance, etc.) in conjunction with Section 10177(d) of the Code;
- (e) As alleged in Paragraph 16(b), under Section 2831.1 of the Regulations (broker shall keep separate record for each beneficiary, accounting for all funds deposited to trust account, in columnar chronological form deposit date and amount, disbursement dates, disbursement check numbers, and

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balance after posting) in conjunction with Section 10177(d) of the Code;  
and,

- (f) As alleged in Paragraph 16(c), under Section 2831.2 of the Regulations (maintain balance of all separate beneficiary and reconcile funds received with funds disbursed, etc.) in conjunction with Section 10177(d) of the Code.

SECOND CAUSE OF ACTION

18

There is hereby incorporated in this Second, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 17, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

19

Within the three-year period prior to the filing of this Accusation, in connection with the loan brokerage business described in Paragraph 8, and at all times herein mentioned, Respondents BAYVIEW and GUJRAL accepted or received trust funds from or on behalf of lenders or investors, borrowers, and others in connection with the solicitation, negotiation, processing, packaging, consummation, and servicing of mortgage loans, and, Respondents BAYVIEW and GUJRAL:

- (a) Met the "threshold" criteria of Section 10232 of the Code (intends or reasonably expects in a successive 12 month period negotiates 10 or more transactions under Section 10131(d) in the aggregate amount of more than one million dollars secured by liens on real property, or collects payments in an aggregate amount of \$250,000.00 on behalf of owners of notes secured by liens on real property . . .); and/or,
- (b) Met the "multilender" criteria of Section 10237 of the Code (sale or offer to sell series of notes secured directly by interests in one or more parcels of real property or the sale of undivided interests in a note secured



1 directly by one or more parcels of real property, in that at all times  
2 mentioned herein Respondent was a servicing agent meeting the criteria  
3 of Section 10238(j) of the Code (governing the handling, record keeping,  
4 and disbursing of multilender trust funds) with respect to notes or  
5 interests sold or serviced pursuant to Section 10238 of the Code  
6 (governing the brokering of promissory notes secured by real property to  
7 multiple lenders).

8 20

9 Within the three-year period prior to the filing of this Accusation, in connection  
10 with the activities set forth in Paragraphs 8 and 19, above, Respondents BAYVIEW and  
11 GUJRAL collected loan payments of \$539,248.64 in the process of the servicing of loans from  
12 December 1, 2007 to November 30, 2008.

13 21

14 Within the three-year period prior to the filing of this Accusation, in connection  
15 with the activities set forth in Paragraphs 8, 19 and 20, above, Respondents BAYVIEW and  
16 GUJRAL failed to notify the Department in writing that Respondent BAYVIEW met the  
17 threshold criteria of Section 10232 of the Code in violation of section 10232(e) of the Code  
18 (broker meeting the criteria of subdivision (a) or (b) of Section 10232 of the Code shall notify  
19 the department in writing within 30 days after determining that threshold has been met).

20 22

21 Within the three-year period prior to the filing of this Accusation, in connection  
22 with the activities set forth in Paragraphs 8, 19 and 20, above, Respondents BAYVIEW and  
23 GUJRAL failed to file with the Department an annual report of a review prepared by certified  
24 public accountant of trust fund financial statements in violation of Section 10232.2 of the Code  
25 (broker meeting threshold criteria of section 10232 shall file with Department annual report of  
26 review of trust fund financial statements prepared by licensed certified public accountant),  
27 Section 2846.5 of the Regulations (requiring certified public accountant's confirmation that

1 funds are handled and records maintained in accordance with Sections 2831, 2831.1, 2831.2,  
2 and 2832 of the Regulations), and Section 2846.7 of the Regulations (setting forth deadlines for  
3 filing of required reports by certified public accountant).

4 23

5 Within the three-year period prior to the filing of this Accusation, in connection  
6 with the activities set forth in Paragraphs 8, 19 and 20, above, Respondents BAYVIEW and  
7 GUJRAL failed to file with the Department within 30 days after the end of each of the first three  
8 quarters of Respondent BAYVIEW's 2008 fiscal year a quarterly trust fund status report in  
9 violation of Section 10232.25 of the Code (broker meeting threshold criteria of section 10232  
10 shall file with Department quarterly trust fund status reports within 30 days after the end of each  
11 of the first three quarters of broker's fiscal year).

12 24

13 Within the three-year period prior to the filing of this Accusation, in connection  
14 with the activities set forth in Paragraphs 8, 19 and 20, above, Respondents BAYVIEW and  
15 GUJRAL acted as real estate brokers within the meaning of Sections 10237 and 10238 of the  
16 Code (governing the brokering of promissory notes to multiple lenders secured by real  
17 property), in that at all times herein mentioned Respondents BAYVIEW and GUJRAL solicited  
18 and negotiated the sales to lenders of undivided interests in notes secured directly by real  
19 property and failed to file with the Department the required notice after the first multilender  
20 transaction in violation of Section 10238(a) of the Code (with respect to notes or interests sold  
21 pursuant to Section 10237 of the Code, broker shall file with the commissioner the notice  
22 prescribed in section 10238(a) of the Code within 30 days after first multilender transaction)  
23 when Respondents made the following loan:

24	<b>Lenders</b>	<b>Undivided Interest</b>	<b>Amount Loaned</b>	<b>Close Date</b>	<b>Borrowers</b>	<b>Property</b>
25	Isa Gucciardi	50%	\$100,000	12/13/07	Adebowale & Susannah Sodipo	325 Ginger Court San Ramon, CA
26	Foundation of the Sacred Stream	50%	\$100,000	12/13/07	Adebowale & Susannah Sodipo	325 Ginger Court San Ramon, CA

Within the three-year period prior to the filing of this Accusation, in connection with the activities set forth in Paragraphs 8, 19 and 20, above, Respondents BAYVIEW and GUJRAL solicited and negotiated the sales to lenders of undivided interests in notes secured directly by real property and failed, in violation of Section 10238(f) of the Code, to determine if lender Sawraj Gujral's investment in the loan she purchased exceeded 10% of said lender's net worth or exceeded 10% of said lender's adjusted gross income for federal income tax purposes for the lender's last tax year or estimate for the current year, or failed to obtain, and/or failed to maintain or make available to the Department's representative in violation of Section 10148 of the Code, a copy of a written statement from and signed by said lender stating that the lender's investment did not exceed 10% of the lender's net worth or did not exceed 10% of the lender's adjusted gross income for federal income tax purposes for the lender's last tax year or estimate for the current year, in regard to the following loan:

<b>Lenders</b>	<b>Undivided Interest</b>	<b>Amount Loaned</b>	<b>Close Date</b>	<b>Borrower</b>	<b>Property</b>
Theodore Gradman	80%	\$200,000	7/16/08	Margaret Feeney	268 Grand Ave. San Francisco, CA
Sawraj Gujral	20%	\$ 50,000	7/16/08	Margaret Feeney	268 Grand Ave San Francisco, CA

Within the three-year period prior to the filing of this Accusation, in connection with the activities set forth in Paragraphs 8, 19 and 20, above, Respondents BAYVIEW and GUJRAL solicited and negotiated the sale to lenders of undivided interests in a note secured directly by real property when such loans had an aggregate principal amount together with unpaid principal amount of pre-existing senior encumbrances that exceeded 80% of the current market value of the property in violation of Section 10238(h) of the Code (multilender note secured by real property together with senior encumbrances shall not have a total loan-to-current value ratio exceeding 80% for borrower occupied single family residence, 75% for not owner

1 occupied single family residence, 65% for commercial income producing properties, and in no  
 2 event exceed 80% of improved real property . . .) in regard to the following loan:

3	<b>Lenders</b>	<b>Undivided Interest</b>	<b>Amount Loaned</b>	<b>Close Date</b>	<b>Borrower</b>	<b>Property</b>	<b>Senior Liens</b>	<b>Loan to Value</b>
4	Piret A.	11.37%	\$ 27,300	6/13/08	Preferred	175 Cotter Street		
5	Amak				Asset LLC	San Francisco, CA		
6	Pensco	88.62%	\$212,700	6/13/08	Preferred	175 Cotter Street		
7	Trust Co.				Asset LLC	San Francisco, CA		
8			<u>\$240,000</u>		<u>Property value: \$625,000</u>		<u>\$382,000</u>	<u>100.04%</u>

9 27

10 Within the three-year period prior to the filing of this Accusation, in connection  
 11 with the activities set forth in Paragraphs 8, 19 and 20, above, Respondents BAYVIEW and  
 12 GUJRAL solicited and negotiated the sales to lenders of undivided interests in notes secured  
 13 directly by real property and made such loans without providing an independent appraisal of the  
 14 property to the lenders or without obtaining, or failing to maintain or make available to the  
 15 Department's representative in violation of Section 10148 of the Code a copy, of the lender's  
 16 written waiver of the requirement for an independent appraisal securing the loan in violation of  
 17 Section 10232.5 of the Code (requiring broker negotiating multilender loan secured by real  
 18 property to deliver multiple lender disclosure statement that includes independently appraised  
 19 value or obtain lender's written waiver) and Section 10232.6 of the Code (delivery by broker to  
 20 lender of written appraisal by licensed independent appraiser fulfills requirement of section  
 21 10232.5(a)(2) of the Code) in regard to the following loan:

22	<b>Lenders</b>	<b>Undivided Interest</b>	<b>Amount Loaned</b>	<b>Close Date</b>	<b>Borrower</b>	<b>Property</b>
24	Theodore Gradman	80%	\$200,000	7/16/08	Margaret Feeney	268 Grand Ave. San Francisco, CA
26	Sawraj Gujral	20%	\$ 50,000	7/16/08	Margaret Feeney	268 Grand Ave San Francisco, CA

27 ///

The acts and/or omissions of Respondents BAYVIEW and GUJRAL as alleged above constitute cause for the suspension or revocation of the licenses and license rights of said Respondents under the following provisions:

- (a) As alleged in Paragraph 21 under Section 10232(e) of the Code in conjunction with Section 10177(d) of the Code (suspension or revocation of license for willful disregard or violation of the Real Estate Law, §§ 10000 et seq. of the Code, or of the Regulations) ;
- (b) As alleged in Paragraph 22 under Section 10232 of the Code, Section 2846.5 of the Regulations, and Section 2846.7 of the Regulations all in conjunction with Section 10177(d) of the Code;
- (c) As alleged in Paragraph 23, under Section 10232.25 of the Code all in conjunction with Section 10177(d) of the Code;
- (d) As alleged in Paragraph 24, under Section 10238(a) of the Code all in conjunction with Section 10177(d) of the Code;
- (e) As alleged in Paragraph 25, under Section 10238(f) of the Code (broker must determine if lenders meet minimum income or net worth qualification and/or must obtain lenders' signed written statement that lender's investment did not exceed 10% of the lender's net worth or did not exceed 10% of the lender's adjusted gross income for federal income tax purposes for the last tax year or estimate for the current year) all in conjunction with Section 10177(d) of the Code, and under Section 10177(g) of the Code (demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license), and/or Section 10148 of the Code (licensed broker shall retain for three years all listings, deposit receipts, canceled checks, trust records, documents executed or obtained by broker in connection with

1 transactions requiring a broker license, and shall make such records  
2 available after notice to the Commissioner or his designated  
3 representative for examination, inspection, and copying);

4 (f) As alleged in Paragraph 26, under Section 10238(h) of the Code all in  
5 conjunction with Section 10177(d) of the Code and under Section  
6 10177(g) of the Code; and,

7 (g) As alleged in Paragraph 27, under Section 10232.5 and 10232.6 of the  
8 Code all in conjunction with Section 10177(d) of the Code and under  
9 Section 10177(g) of the Code, and/or under Section 10148 of the Code.

10 THIRD CAUSE OF ACTION

11 29

12 There is hereby incorporated in this Third, separate and distinct, Cause of Action,  
13 all of the allegations contained in Paragraphs 1 through 28, inclusive, of the Accusation with the  
14 same force and effect as if herein fully set forth.

15 30

16 Within the three-year period prior to the filing of this Accusation, and at all times  
17 herein mentioned, Respondent GUJRAL was the sole stockholder and/or sole owner of, and was  
18 the manager of Preferred Assets, LLC, a California limited liability company, and, therefore, at  
19 all times herein mentioned, Preferred Assets, LLC, was an affiliate of Respondent BAYVIEW  
20 and of Respondent GUJRAL within the provisions of Section 10238(e) of the Code (prohibiting  
21 broker or an affiliate of the broker from having an interest as owner, lessor, or developer of the  
22 property securing the loan, or prohibiting the broker or an affiliate of the broker from having any  
23 contractual right to acquire, lease or develop the property securing the loan.)

24 31

25 Within the three-year period prior to the filing of this Accusation, in connection  
26 with the activities set forth in Paragraphs 8, 19 and 20, above, Respondents BAYVIEW and  
27 GUJRAL solicited and negotiated the sales to lenders of undivided interests in notes secured

1 directly by real property within the meaning of Sections 10237 and 10238 of the Code in the  
 2 following loan transactions:

3 Rudden Avenue Transaction;

4 Lenders	Undivided	Amount	Close	Borrower	Property
5	Interest	Loaned	Date		Securing Loan
6 Pensco Trust Company	66%	\$212,721.44	4/14/08	Preferred Asset LLC	32 Rudden Ave. San Francisco, CA
8 Piret A. Amak	34%	\$107,728.56	4/14/08	Preferred Asset LLC	32 Rudden Ave. San Francisco, CA

9 Cotter Street Transaction;

10 Lenders	Undivided	Amount	Close	Borrower	Property
11	Interest	Loaned	Date		Securing Loan
12 Yakov & Yula Gelfenbeyn	83.76%	\$320,000.00	6/13/08	Preferred Asset LLC	175 Cotter Street San Francisco, CA
14 Chi-Leung & Alice Cheng	8.376%	\$ 32,000.00	6/13/08	Preferred Asset LLC	175 Cotter Street San Francisco, CA
16 Shella Cervantes Shirley Cervantes	6.544%	\$ 25,000.00	6/13/08	Preferred Asset LLC	175 Cotter Street San Francisco, CA
18 Mark Cervantes Shirley Cervantes	1.309%	\$ 5,000.00	6/13/08	Preferred Asset LLC	175 Cotter Street San Francisco, CA

19 Cambridge Street Transaction;

20 Lenders	Undivided	Amount	Close	Borrower	Property
21	Interest	Loaned	Date		Securing Loan
22 Pensco Trust Company	34%	\$170,000.00	6/10/08	Preferred Asset LLC	401 Cambridge Street San Francisco, CA
24 Piret A. Amak	16%	\$ 80,000.00	6/10/08	Preferred Asset LLC	401 Cambridge Street San Francisco, CA
26 Sunil & Rujni Arora	30%	\$150,000.00	6/10/08	Preferred Asset LLC	401 Cambridge Street San Francisco, CA
27 Michael & Jennifer Glickman	20%	\$100,000.00	6/10/08	Preferred Asset LLC	401 Cambridge Street San Francisco, CA

1  
2 Within the three-year period prior to the filing of this Accusation, in connection  
3 with each of the loan transactions set forth in Paragraph 31, above, Respondent GUJRAL and  
4 Respondent BAYVIEW failed to submit to the lenders in violation of Section 10238(e) of the  
5 Code, or failed to maintain or make available to the Department's representative in violation of  
6 Section 10148 of the Code a copy of, a written disclosure statement conforming to the  
7 requirements of Section 10238(l) of the Code disclosing the ownership interest of Respondent  
8 GUJAL in and/or the affiliate relationship of Respondents GUJAL and BAYVIEW with  
9 Preferred Asset, LLC, the borrower, and which disclosed that Respondent GUJAL or the  
10 affiliate:

- 11 1.) Acquired or was acquiring an interest in the property securing the loan  
12 pursuant to foreclosure or trustee's sale pursuant to a deed of trust  
13 securing a note for which Respondent BAYVIEW was the broker  
14 servicing agent or that Respondent BAYVIEW sold the note to the holder  
15 or holders; or,
- 16 2.) Acquired or was acquiring an interest in the property securing the loan  
17 pursuant to a transaction in which Respondent BAYVIEW or the affiliate  
18 is reselling from inventory property acquired by Respondent BAYVIEW  
19 pursuant to foreclosure or trustee's sale pursuant to a deed of trust  
20 securing a note for which Respondent BAYVIEW was the broker  
21 servicing agent or that Respondent BAYVIEW sold the note to the holder  
22 or holders.

24 Within the three-year period prior to the filing of this Accusation, in connection  
25 with each of the loan transactions set forth in Paragraph 31, above, Respondent GUJRAL and  
26 Respondent BAYVIEW solicited, negotiated and sold the notes or interests, whether acting as  
27 principal or as agent, while Respondent GUJAL had an ownership interest and/or controlling



1 interest in the affiliate borrower, Preferred Assets, LLC, and when said affiliate of Respondents  
2 had an ownership interest in the property securing each loan in violation of Section 10238(e) of  
3 the Code (when interests in note are originally sold or assigned, neither the broker nor an  
4 affiliate of the broker shall have an interest as owner, lessor, or developer of the property  
5 securing the loan, or have any contractual right to acquire, lease or develop the property securing  
6 the loan).

7 34

8 The acts and omissions of Respondent GUJRAL and Respondent BAYVIEW  
9 described in Paragraphs 30, 31, 32 and 34, above, constitute misrepresentation, fraud, deceit,  
10 and dishonest dealing.

11 35

12 The acts and/or omissions of Respondents BAYVIEW and GUJRAL as alleged  
13 above constitute cause for the suspension or revocation of the licenses and license rights of said  
14 Respondents under the following provisions:

- 15 (a) As alleged in Paragraph 32 under Section 10238(e) of the Code (requiring  
16 broker to provide written disclosure of broker's or affiliate's interest in  
17 transaction and that broker or affiliate acquired or is acquiring property  
18 securing loan under foreclosure or trustee sale under trust deed in which  
19 broker was note servicer or was broker who sold note to holders or  
20 reselling property from inventory acquired through foreclosure or trustee  
21 sale) and/or under Section 10148 of the Code (licensed broker shall retain  
22 for three years all listings, deposit receipts, canceled checks, trust records,  
23 documents executed or obtained by broker in connection with  
24 transactions requiring a broker license, and shall make such records  
25 available after notice to the Commissioner or his designated  
26 representative for examination, inspection, and copying), all in  
27 conjunction with Section 10177(d) of the Code (suspension or revocation

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of license for willful disregard or violation of the Real Estate Law, §§ 10000 et seq. of the Code, or of the Regulations);

(b) As alleged in Paragraph 32 under Section 10177(g) of the Code (demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license);

(c) As alleged in Paragraph 33 under Section 10238(e) of the Code (when interests are originally sold or assigned, neither the broker nor an affiliate of the broker shall have an interest as owner, lessor, or developer of the property securing the loan, or have any contractual right to acquire, lease or develop the property securing the loan) in conjunction with Section 10177(d) of the Code; and,

(d) As alleged in Paragraphs 33 and 34 under Section 10176(i) and/or Section 10177(j) of the Code (any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing).

FOURTH CAUSE OF ACTION

36

There is hereby incorporated in this Fourth, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 35, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

37

Within three years prior to the filing of this Accusation, and at all times herein mentioned, in the course and scope of soliciting lenders to purchase and negotiating the sale of undivided interests in promissory notes to multiple lenders as set forth in Paragraphs 8, 19 and 20, above, Respondents BAYVIEW and GUJRAL were required under Section 10238(l) of the Code to provide a Lender Purchaser Disclosure Statement (hereinafter "LPDS") to each lender containing the information required by Section 10232.5 of the Code (broker must provide

1 disclosure to lender containing property address, estimated fair market value, type of  
 2 construction, borrower income and credit, note terms, property encumbrances, other anticipated  
 3 loans, loan servicing provisions, broker's commissions, joint beneficiary arrangements) and  
 4 containing additional information as required under Section 10238(l) of the Code (disclosure  
 5 form shall include terms upon which note and trust deed are sold, and undivided interests: for  
 6 existing note aggregate sale price, discount of principal, accrued interest, effective return rate,  
 7 escrowholder name and address, costs payable by seller; for origination note, escrowholder  
 8 name and address, closing date, costs payable by borrower; or, for note secured by multiple  
 9 parcels, address and description for each parcel, available equity in each parcel, loan-to-value  
 10 ratio for each parcel).

12 Within three years prior to the filing of this Accusation, and at all times herein  
 13 mentioned, in the course and scope of soliciting lenders to purchase and negotiating the sale of  
 14 undivided interests in promissory notes to multiple lenders as set forth in Paragraph 37, above,  
 15 Respondents BAYVIEW and GUJRAL failed to provide the LPDS to the lenders in violation of  
 16 Section 10238(l) of the Code, and/or failed to maintain or make available a copy of the LPDS to  
 17 the Department's representative in violation of Section 10148 of the Code, in the following  
 18 transactions:

19 Rudden Avenue Transaction;

20 Lenders	Undivided Interest	Amount Loaned	Close Date	Borrower	Property Securing Loan
22 Pensco Trust Company	66%	\$212,721.44	4/14/08	Preferred Asset LLC	32 Rudden Ave. San Francisco, CA
24 Piret A. Amak	34%	\$107,728.56	4/14/08	Preferred Asset LLC	32 Rudden Ave. San Francisco, CA
25 ///					
26 ///					
27 ///					

1 Knight Court Transaction;

2

Lenders	Undivided Interest	Amount Loaned	Close Date	Borrowers	Property Securing Loan
TMA, LLC Gelfenbeyn	9.1%	\$ 10,000.00	12/17/08	Paul Valls Michael Vallegos	100 Knight Court Novato, CA
Laura Chandler	90.9%	\$100,000.00	12/17/08	Paul Valls Michael Vallegos	100 Knight Court Novato, CA

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4

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7

8 39

9 The acts and/or omissions of Respondents BAYVIEW and GUJRAL as alleged  
10 in Paragraphs 37 and 38, above, constitute cause for the suspension or revocation of the licenses  
11 and license rights of said Respondents under the following provisions:

- 12 (a) Under Section 10238(l) of the Code (requiring broker to provide written  
13 disclosure to lenders that includes all information set forth in Section  
14 10232.5 of the Code and Section 10238(l) of the Code), and/or under  
15 Section 10148 of the Code (licensed broker shall retain for three years all  
16 listings, deposit receipts, canceled checks, trust records, documents  
17 executed or obtained by broker in connection with transactions requiring  
18 a broker license, and shall make such records available after notice to the  
19 Commissioner or his designated representative for examination,  
20 inspection, and copying), all in conjunction with Section 10177(d) of the  
21 Code (suspension or revocation of license for willful disregard or  
22 violation of the Real Estate Law, §§ 10000 et seq. of the Code, or of the  
23 Regulations); and,
- 24 (b) Under Section 10177(g) of the Code (demonstrated negligence or  
25 incompetence in performing an act for which he or she is required to hold  
26 a license).

27 ///

1 FIFTH CAUSE OF ACTION

2 40

3 There is hereby incorporated in this Fifth, separate and distinct, Cause of Action,  
4 all of the allegations contained in Paragraphs 1 through 39, inclusive, of the Accusation with the  
5 same force and effect as if herein fully set forth.

6 41

7 Within three years prior to the filing of this Accusation, and at all times herein  
8 mentioned, in the course and scope of soliciting borrowers and negotiating loans secured by real  
9 property as set forth in Paragraph 8, above, Respondents BAYVIEW and GUJRAL were  
10 required under Section 10240 of the Code to provide to borrowers a Mortgage Lender  
11 Disclosure Statement (hereinafter "MLDS") showing the name of the broker negotiating the  
12 loan, the broker license number, and/or showing the license number of the broker's  
13 representative, and/or as signed by the borrower, and containing a statement that the MLDS  
14 does not constitute a loan commitment, in conformance with and containing the information  
15 required by Section 10241 of the Code (requiring MLDS to disclose: all costs and expenses of  
16 loan; commissions, points and bonuses paid to broker; liens encumbering property; amounts to  
17 be paid by borrower to others; loan balance; funds due to borrower; principal; interest rate;  
18 balloon payments; name, address and license number of broker; inclusion of broker controlled  
19 funds; prepayment terms; etc.)

20 42

21 Within three years prior to the filing of this Accusation, and at all times herein  
22 mentioned, in the course and scope of soliciting borrowers and negotiating promissory notes  
23 secured by real property as set forth in Paragraph 41, above, Respondents BAYVIEW and  
24 GUJRAL failed to provide the MLDS to the borrower in violation of Section 10240 of the Code  
25 (within 3 business days after receipt of written loan application or before borrower becomes  
26 obligated on the note, whichever is earlier, broker negotiating a loan secured by real property  
27 shall deliver to borrower as signed by borrower copy of the disclosure containing information

1 required by section 10241 of the Code), and/or failed to maintain and make available to the  
2 Department's representative in violation of Section 10148 of the Code a copy of the MLDS as  
3 signed by the borrower, in the following transaction:

4 Rudden Avenue Transaction;

5 <b>Lenders</b>	<b>Undivided</b>	<b>Amount</b>	<b>Close</b>	<b>Borrower</b>	<b>Property</b>
6	<b>Interest</b>	<b>Loaned</b>	<b>Date</b>		<b>Securing Loan</b>
7 Pensco Trust	66%	\$212,721.44	4/14/08	Preferred	32 Rudden Ave.
8 Company				Asset LLC	San Francisco, CA
9 Piret A. Amak	34%	\$107,728.56	4/14/08	Preferred	32 Rudden Ave.
				Asset LLC	San Francisco, CA

10  
11 43

12 The acts and/or omissions of Respondents BAYVIEW and GUJRAL as alleged  
13 in Paragraphs 41 and 42, above, constitute cause for the suspension or revocation of the licenses  
14 and license rights of said Respondents under the following provisions:

- 15 (a) Under the provisions of Section 10240 of the Code (every broker  
16 negotiating loans secured by real property shall within 3 business days  
17 after receipt of loan application deliver MLDS to borrower) in  
18 conjunction with 10177(d) of the Code, and/or Section 10148 of the Code  
19 all in conjunction with Section 10177(d) of the Code (suspension or  
20 revocation of license for willful disregard or violation of the Real Estate  
21 Law, §§ 10000 et seq. of the Code, or of the Regulations); and/or,
- 22 (b) Under the provisions of Section 10177(g) of the Code (demonstrated  
23 negligence or incompetence in performing an act for which he or she is  
24 required to hold a license).

25 ///  
26 ///  
27 ///

1 SIXTH CAUSE OF ACTION

2 44

3 There is hereby incorporated in this Sixth, separate and distinct, Cause of Action,  
4 all of the allegations contained in Paragraphs 1 through 43, inclusive, of the Accusation with the  
5 same force and effect as if herein fully set forth.

6 45

7 Within the three-year period prior to the filing of this Accusation and at all times  
8 herein mentioned, Respondent BAYVIEW utilized and conducted its real estate brokerage  
9 activities as set forth in Paragraph 8, including, but not limited to, the loan transactions set forth  
10 in Paragraphs 24, 25, 26, 27, 31, and 38, above, under the fictitious business name of  
11 "BAYVIEW FUNDING CORP."

12 46

13 At no time did the Department issue a real estate license to Respondent  
14 BAYVIEW bearing the fictitious business name recited in Paragraph 45, above.

15 47

16 The facts, as alleged in Paragraphs 45 and 46, above, constitute a violation of  
17 Section 2731 of the Regulations (licensee shall not use fictitious name to conduct licensed  
18 activity unless license bears fictitious name) and Section 10159.5 of the Code (every license  
19 applicant desiring to have fictitious business name shall file application with certified copy of  
20 fictitious business statement filed with county).

21 48

22 The acts and/or omissions of Respondent BAYVIEW as alleged in Paragraphs  
23 45, 46 and 47, above, constitute cause for the suspension or revocation of the licenses and  
24 license rights of said Respondents under the provisions of Section 2731 of the Regulations and  
25 section 10159.5 of the Code all in conjunction with 10177(d) of the Code (suspension or  
26 revocation of license for willful disregard or violation of the Real Estate Law, §§ 10000 et seq.  
27 of the Code, or of the Regulations).

1 SEVENTH CAUSE OF ACTION

2 49

3 There is hereby incorporated in this Seventh, separate and distinct, Cause of  
4 Action, all of the allegations contained in Paragraphs 1 through 48, inclusive, of the Accusation  
5 with the same force and effect as if herein fully set forth.

6 50

7 At all times herein mentioned, Respondent GUJRAL was responsible, as the  
8 designated broker officer of Respondent BAYVIEW, for the supervision and control of the  
9 activities conducted on behalf of the corporation by its officers and employees and of the  
10 corporate activities requiring a real estate license. Respondent GUJRAL failed to exercise  
11 reasonable supervision and control over the loan services and mortgage brokering activities of  
12 Respondent BAYVIEW and its employees. In particular, Respondent GUJRAL participated in,  
13 permitted, ratified, and/or caused the conduct described in the First, Second, Third, Fourth,  
14 Fifth, and Sixth Causes of Action, above, to occur, and failed to take reasonable steps to insure,  
15 including, but not limited to, the proper handling of trust funds, proper trust fund record  
16 keeping, review of trust fund records and accounts, review and approval and submission of  
17 Lender/Purchaser Disclosure Statements, review and approval and submission of Mortgage  
18 Lending Disclosure Statements, proper maintenance and retention of transactional records,  
19 proper disclosure of interests in affiliated borrower, proper supervision of employees, and to  
20 insure the implementation of policies, rules, procedures, and systems to ensure the compliance  
21 of the corporation and its employees with the Real Estate Law (Business and Professions Code  
22 Sections 10000 et seq. and Sections 11000 et seq.) and the Commissioner's Regulations  
23 (Chapter 6, Title 10, California Code of Regulations).

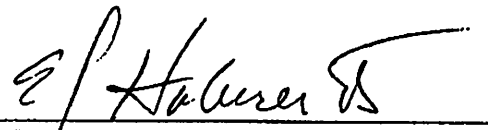
24 51

25 The acts and/or omissions of Respondent GUJRAL as described in Paragraph 50,  
26 above, constitute grounds for the suspension or revocation of the licenses and license rights of  
27 Respondent GUJRAL under the provisions Section 10159.2 of the Code (designated



1 broker/officer responsible for supervision and control of activities conducted on behalf of  
2 corporation by officers, licensed salespersons and employees to secure compliance with the Real  
3 Estate Law) and Section 2725 of the Regulations (broker shall exercise reasonable supervision  
4 over: licensed employees; establish policies and procedures for compliance with Real Estate  
5 Law; supervise transactions requiring a real estate license; trust fund handling; etc.), all in  
6 conjunction with Section 10177(d) of the Code and/or of Section 10177(h) of the Code  
7 (suspension or revocation for broker or designated broker/officer who fails to exercise  
8 reasonable supervision of licensed employees or licensed activities of broker corporation).

9 WHEREFORE, Complainant prays that a hearing be conducted on the  
10 allegations of this Accusation and that upon proof thereof a decision be rendered imposing  
11 disciplinary action against all licenses and license rights of Respondents under the Real Estate  
12 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further  
13 relief as may be proper under other provisions of law.

14  
15  
16   
17 E. J. HABERER II  
18 Deputy Real Estate Commissioner

19 Dated at Oakland, California,  
20 this 11<sup>th</sup> day of May, 2010.

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Application for Discretionary Review  
 CASE NUMBER: 2018-0046 BDRP  
 For Staff Use only

**RECEIVED**

MAY 15 2018

FP  
 5/13/18

CITY & COUNTY OF S.F.  
 PLANNING DEPARTMENT  
 PIC

4:10 PM

# APPLICATION FOR Discretionary Review

## 1. Owner/Applicant Information

DR APPLICANT'S NAME: SUSAN E. THACKREY AND STEPHEN B. ANKER

DR APPLICANT'S ADDRESS: 308 MONTCALM STREET ZIP CODE: 94110 TELEPHONE: (415) 826-7670

PROPERTY OWNER WHO IS DOING THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETIONARY REVIEW NAME: SF REALTY PARTNERS

ADDRESS: 2010 OCEAN AVE SUITE ZIP CODE: 94127 TELEPHONE: ( ) UNKNOWN

CONTACT FOR DR APPLICATION: Same as Above  SUSAN THACKREY

ADDRESS: 308 MONTCALM STREET ZIP CODE: 94110 TELEPHONE: 826-7670 (H)  
(415) 346-3511 (W)

E-MAIL ADDRESS: serthackrey@earthlink.net

## 2. Location and Classification

STREET ADDRESS OF PROJECT: 310 MONTCALM STREET ZIP CODE: 94110

CROSS STREETS: ALABAMA ST AND PERALTA AVENUE

ASSESSORS BLOCK/LOT: 5527/007 LOT DIMENSIONS: UNKNOWN LOT AREA (SQ FT): UNKNOWN ZONING DISTRICT: UNKNOWN HEIGHT/BULK DISTRICT: UNKNOWN

## 3. Project Description

Please check all that apply

Change of Use  Change of Hours  New Construction  Alterations  Demolition  Other  Vertical Addition

Additions to Building: Rear  Front  Height  Side Yard

Present or Previous Use: Single Family Residence

Proposed Use: Single Family Residence

Building Permit Application No. 201801168744 Date Filed: 1-16-2018

4. 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 type="checkbox"/>
Did you participate in outside mediation on this case?	<input type="checkbox"/>	<input type="checkbox"/>

5. Changes Made to the Project as a Result of Mediation

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

*See following page 3 for item 5*

### Discretionary Review Application

Page 2, Item 5

The present new permit application for 310 Montcalm Street was brought about by two and a half years of struggle by the owners of 308 and 312 Montcalm Street, involving multiple and unavailing attempts to communicate directly with the owner and developer of 310. Two contractual Agreements between 310 and 308 were subsequently abrogated by the owner of 310. The owners of 308 Montcalm filed suit after the first abrogation (Trujillo et al vs. SF Realty Partners, San Francisco Superior Court, LGC 16-556074, available on-line). The result was another Agreement, signed by Ashok Gujral for San Francisco Realty Partners, which also was not fulfilled. Seeking help from the City in this situation resulted in multiple violations of permits (NOV's) by the owner of 310 Montcalm, three Orders of Abatement, and declaration of the 310 site as a Public Nuisance.

The Bernal Heights East Slope Review Board was presented with new plans from the new Architect, SIA Consultants in February 2018. They concurred that the terms of the License Agreements between 308 and 310 Montcalm Street should be

completed prior to any new construction with the revised plans.

(See attached copy of Bernal Heights East Slope Review Board Letter, Exhibit 1.)

42

## Discretionary Review Request

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

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

*see attached page 5.*

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

*see attached page 6*

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?

*see attached page 7*

Discretionary Review Request

1. What are the reasons for requesting Discretionary Review?  
What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project.

Please be specific and cite specific sections of the Residential Design Guidelines.

The 310 Montcalm Street property design at the coterminous property line (310 Montcalm directly abuts 308 Montcalm on the uphill side) impacts the structural support and drainage for the 308 Montcalm property. There has not been an agreement with the developers of 310 Montcalm Street on how to resolve these issues.

In regard to the Residential Design Guidelines, (p. 3), it is stated that there are "...expectations...(of) enhancing the quality of life in the City." On p.4 it is stated that development should "encourage a quality living environment". My and my husband's quality of life is exceptionally and extraordinarily negatively impacted by the years-long violations of both the City's construction permits and of our own License Agreements with the owner/developer of 310 Montcalm Street.

2. Please explain how this project would cause unreasonable impacts. 6.  
Please state who would be affected and how.

As stated above, the 310 Montcalm Street property design at the coterminous property line impacts the structural support and drainage for the 308 property. There has not been an agreement with the developers of 310 Montcalm Street on how to resolve these issues.

The specifics of the unreasonable impacts on 308 Montcalm Street are as follows.

310 Montcalm, which directly abuts 308 Montcalm on the uphill side, failed to comply with two prior License Agreements, executed on November 4, 2016 and December 26, 2016, between the owners of 308 and 310 Montcalm Street, and Ashok Gujral, SF Realty Partners, that required constructions relative to and at 308 Montcalm Street be completed in order to proceed with construction at 310 Montcalm Street. 310 Montcalm Street was required to complete the following

1. 310 Montcalm owed 308 Montcalm underpinning and stabilization at the coterminous property line foundation. This was not done.
2. 310 Montcalm owed 308 Montcalm sub-surface foundation drainage control at the coterminous property line foundation. It is improperly installed and is defective. This requires correction.
3. 310 Montcalm failed to install mitigation measures at 308 Montcalm which included grout densification at the foundation, or in the alternate, underpinning of 308 Montcalm foundation from inside the 308 Montcalm property.
4. 310 Montcalm failed to construct shear-walls and seismic connections at the 308 Montcalm property included in the license obligations.
5. 310 Montcalm has not completed hardscape and sidewalk design to mitigate drainage impacts to 308 Montcalm driveway and property.

These issues are creating continuing damage to 308 Montcalm property and are jeopardizing the stability of the 308 Montcalm residence and its foundation.

308 Montcalm has attempted to deal with these issues in yet another

(Continued)

Agreement, and 310 Montcalm has failed to respond in a timely manner, making it necessary for 308 Montcalm to file a request for Discretionary Review.



Discretionary Review Request

7,

3. What alternatives or changes to the proposed project would respond to the exceptional and extraordinary circumstances and reduce the adverse effects?

These changes are outlined above, as well as in the signed agreements that remain unfulfilled by the developer/owner of 310 Montcalm Street. We believe that a new and binding legal Agreement must be agreed to and signed. Several meetings were held to try and accomplish this, but the failure of 310 Montcalm to respond in a timely manner made it necessary to file this request.

Note: I will file supplemental materials at sometime in the future.

8.

## Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

Signature: Susan E. Thackrey

Date: May 14, 2018

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

SUSAN E. THACKREY OWNER  
Owner / Authorized Agent (circle one)



**SAN FRANCISCO  
PLANNING  
DEPARTMENT**

**FOR MORE INFORMATION:**  
Call or visit the San Francisco Planning Department

**Central Reception**  
1650 Mission Street, Suite 400  
San Francisco CA 94103-2479

TEL: **415.558.6378**  
FAX: **415.558.6409**  
WEB: <http://www.sfplanning.org>

**Planning Information Center (PIC)**  
1660 Mission Street, First Floor  
San Francisco CA 94103-2479

TEL: **415.558.6377**  
*Planning staff are available by phone and at the PIC counter.  
No appointment is necessary.*



# Bernal Heights

## East Slope Design Review Board

Terry Milne, external secretary • 321 Rutledge • San Francisco 94110 • [285-8978]

March 12, 2018

Mr. Reza Khoshnevisan  
Sia Consulting Corporation  
1256 Howard Street  
San Francisco CA 94103  
[reza@siaconsult.com](mailto:reza@siaconsult.com)

RE: 310 Montcalm Street  
Block/Lot #5527/007  
CC: Ms. Alexandra Kirby  
SF Planning Department  
[alexandra.kirby@sfgov.org](mailto:alexandra.kirby@sfgov.org)

Dear Mr. Khoshnevisan,

The Bernal Heights East Slope Design Review Board held a neighborhood meeting on March 1, 2018 to review the proposed remodel of 310 Montcalm Street. The meeting was attended by a group of approximately eight neighbors and the owner's representative.

We understand that the project has been a source of neighbor concern for a number of years, that work was carried out beyond permitted plans, and that enforcement action has been taken to stop the work. At the meeting, the owners of 308 and 312 Montcalm described significant adverse impacts to their properties as a result of the work carried out at 310 Montcalm, and a history of the owner of 310 Montcalm failing to fulfill agreements to remediate those adverse impacts.

The owners of 308 and 312 Montcalm expressed strongly that work on 310 Montcalm should not be permitted to go forward until the owner of 310 Montcalm has remediated the adverse impacts to their properties; an agreement to remediate was not viewed as sufficient, since prior agreements with the owner of 310 Montcalm have not been fulfilled. The Board supports their position. The owner's representative in attendance at the meeting concurred that this was reasonable.

We understand that the intent is to remove recent non-complying work such as the raised roof, oversized dormers, etc. At the meeting, we were presented with a comparison of the "existing" building as it was before the recent work began, and proposed modifications. By this measure, the Board believes that the project is in general conformance with the Bernal Heights East Slope Building Guidelines. The proposed modifications are relatively minor, consisting of new dormers that are set back from the street and adjacent property lines; removal of a rear addition and its replacement with an addition that complies with rear setback requirements; and an interior remodel that otherwise retains the previously existing building envelope.

The owner of 312 Montcalm noted that the project proposes car parking in an exterior area adjacent to their bedroom, and requested that the design incorporate a fence, wall or similar screening element to address their privacy and car exhaust concerns. This could be combined with a front gate that would screen the parked car from the street, as required by the Guidelines. The neighbor across the street requested information that would help him better understand the impact of the dormers on his views, which Mr. Khoshnevisan said he would provide. Neighbors have concerns with stormwater management on 310 Montcalm, which should also be addressed.

The Board wishes to thank the project sponsor for presenting the plans to the neighborhood. Since the Board is not a City agency, it does not have the power to either approve or disapprove the permit application.

Cordially,



Wendy Cowles, Chair  
On Behalf of the Bernal Heights ESDRB

Application for Discretionary Review

CASE NUMBER: \_\_\_\_\_  
For Staff Use only

# Discretionary Review Application Submittal Checklist

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

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

NOTES:  
 Required Material.  
 Optional Material.  
 Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

For Department Use Only

Application received by Planning Department:

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

SUPPLEMENTAL SUBMISSION CONCERNING REQUEST FOR  
DISCRETIONARY REVIEW OF 310 MONTCALM STREET DEVELOPMENT  
PROJECT

Property Owner: Ashok Gujral and SF Realty Partners  
Property Address: 310 Montcalm Street  
Permit Number: 201801168744

Discretionary Review Applicants: Susan Thackrey and Stephen Anker  
Adjoining/Abutting neighbors at 308 Montcalm Street

SUPPLEMENTAL FACTS, DISCUSSION, AND EXHIBITS (A,B,C,D,E,F,G)

EXHIBIT A

Since our filing with the Planning Department on May 15, 2018 requesting Discretionary Review for the current application for the above Development Project, City Attorney Dennis Herrera filed suit on June 21 against Ashok Gujral for injunctive relief in regard to, among other causes, failing to obtain construction permits for construction projects, and intentionally going beyond the scope of permits obtained on false premises.

Pages most specifically addressing the project at 310 Montcalm are Introduction pp. 2-4; General Allegation VII, 310 Montcalm, pp. 20-24, which helpfully gives a clear and accurate account and timeline of 310 Montcalm's and Gujral's interactions with BID, and the Planning Department ; Unlawful Business Practices VII, 310 Montcalm , pp. 31-33. All four Causes of Action pertain of course, to 310 Montcalm.

In addition, please note that since the very limited original exploratory Demolition permit was severely violated, there has been no work done at 310 under declared permit. All Orders of Abatement remain unfulfilled, and outstanding, and all permits are revoked.

EXHIBIT B

Our consultant, Thomas Reeves, has at our request compiled a factual, historical, and technical memorandum of our on-going situation as neighbors of 310 Montcalm. It details the two and a half year history of our painful relationship to this project, which has drained us of tens of thousands of dollars in legal and consulting fees, many hundreds of hours of time, energy and focus in attempting to get relief via the San Francisco City agencies of DBI and the Planning Department, as well as through legal means. It has caused an untold amount of worry and concern as we attempted to deal with a developer, Ashok Gujral, who did not deal or act in "good faith" as this and the other Exhibits demonstrate. Susan Thackrey and Stephen Anker, in addition, have had to live in a damaged home that is subject to seismic event since the License and Underpinning Agreement of November 4, 2016

signed by all four neighbors and Ashok Gujral , was ignored and violated by the unpermitted pouring of a foundation, without notice, on November 29 2016. This foundation made agreed upon underpinning impossible, while plywood was used to shore the exposed soil under 308's foundation, exacerbating the risks posed by the unsupported foundation. The technical information is in the body of this Exhibit B, together with the history and technical situations following this event.

#### EXHIBIT C

License and Underpinning Agreement

Dated November 4, 2016, signed

Ashok Gujral November 4, Susan Thackrey and Stephen Anker, November 5

An identical copy was signed November 4 by Marianne Bachers and Rafael Trujillo.

As noted in the discussion of Exhibit B, this document, meant by our Consultant, Thomas Reeves, and our Attorney, Robert H. Staley, to protect our homes at 308 and 312, respectively the uphill and downhill neighbors of the 310 Montcalm project, was egregiously violated within the month it was signed, endangering our property and ourselves.

#### EXHIBIT D

Suit brought in Superior Court, December 12, 1016

Case No. CGC-16-556074

Rafael Trujillo, Marianne Bachers, Susan Thackrey and Stephen Anker v. SF Realty Partners, LLC, Ash Gujral, Stay Covered Builders, Inc. and Does 1 through 20, inclusive

This Exhibit contains the first 14 pages of the suit to demonstrate what our next step was in attempting to find a solution and to obtain relief from our endangered situation. In order to reduce the bulk of these exhibits we have not included other documents, including the statement of Thomas Reeves in support of the TRO, which contains detailed technical and engineering information about the untenable situation of our home at this date, which has not been remediated.

#### Exhibit E

First Amendment to License and Underpinning Agreement

Signed December 27, 2016 by Ashok Gujral

Signed December 28, 2016 by Susan Thackrey and Stephen Anker

An identical copy was signed December 27 by Rafael Trujillo and Marianne Bachers

#### Exhibit E (continued)

This document was requested by Attorney for Ashok Gujral. In return for not continuing with the law-suit, we were offered a legal contract negotiated by our attorneys, which was meant to remediate the damage caused by the illegal action discussed above. In retrospect this was only a tactic. No work to restore and remediate our home was ever done. Instead, in February 2017, an entire, completely illegal, unpermitted third floor was added to 310 Montcalm. Actions of NOV's, and Orders of Abatement began to be issued in March, following our complaints and DBI's inspections. This is where the situation stands.

#### Exhibit F

This is the Agreement noted at the end of Thomas Reeves' report, which was hammered out, again at 308's and 312's expense, in a final attempt to reach an agreement, this time with the new architects of record as well as purported representatives of Ashok Gujral. It was never returned by those representatives. It was at this point that we decided to ask for Discretionary Review by the Planning Department.

#### Exhibit G

Upon attorney's advice, we have included California Civil Code Section 832 as relevant to this situation.

#### Petition

As stated in the City Attorney's suit against Ashok Gujral, we have been deprived of the comfort and safety of our home, and of our own personal comfort, health and safety in this long process.

We respectfully request that the Planning Commission accept our request for Discretionary Review.

We respectfully request that at the point any work, by any agent, is permitted to take place, that all the conditions and considerations of the License and Underpinning Agreements, be required of the agent, in addition to any issues and considerations that have arisen or arise necessary to the protection of our home.



We respectfully request that any work done be under technical and engineering supervision continuously, since Ashok Gujral has never fulfilled any obligation or responsibility either in regard to the City of San Francisco and its agencies, in legal documents signed by himself, or by the tenets, values and ethics of this community.

We adopt, refer to, and incorporate submissions made by our neighbors at 312 Montcalm, Marianne Bachers and Rafael Trujillo, concerning their discretionary review application. We have wanted to avoid unnecessary duplication of exhibits and arguments.

DATED:

July 6, 2018

Susan ER Thackrey  
SUSAN THACKREY

DATED:

July 6, 2018

Stephen Anker  
STEPHEN ANKER

EXHIBIT B

THACKREY/ANKER REQUEST FOR DR  
THOMAS REEVES'S TECHNICAL AND HISTORICAL REPORT



July 6, 2018.

Dr. Susan Thackrey and Mr. Stephen Anker  
308 Montcalm  
San Francisco, CA 94110

and

Marianne Bachers, Esq and Rafael Trujillo, Esq.  
312 Montcalm  
San Francisco, CA. 94110

Reference: 310 / 308 / 312 Montcalm: Construction Issues

Dear Clients,

This letter report will follow up your request that I summarize the construction issues involving the planned, and to date as built, construction activities at 310 Montcalm and their effect upon your property. 308 and 312 Montcalm. As a point of reference your residence located at 308 Montcalm sits uphill and East from the 310 Montcalm project. Your residence at 312 sits downhill and West from 310 Montcalm.

**HISTORY:** I was first retained on your behalf, by attorney Rob Staley for whom I previously worked as an expert in construction related issues. I first came to the site on March 16, 2016 and met with both neighbors to 310 Montcalm. I was told about the planned project, and the prior complaints regarding erected scaffold that had not been maintained, homeless encampments found within the abandoned structure, and lack of information regarding the planned construction by the developer Ashok Gujral and SF Realty Partners, LLC. TRA was authorized during that meeting to complete crack surveys in both 308 and 312 Montcalm and to complete water level surveys of the ground floor elevation for determination of potential movement, or settlement caused by the contractors at 310 Montcalm. TRA completed those studies March 24, 2016 and organized the files for future use in dealing with the 310 project.

I obtained copies of the permit drawings on April 29, 2016 and completed a review that same day. I then emailed the engineer of record Mr. Mark Waldman, PE, my concerns with an annotated drawing (Ex 1) showing concerns for the lateral support which might require underpinning of the adjacent properties to 310 for the foundation. Between the April 29th email and May 19, 2016. I had contact with Pacific Engineering and Mark Waldman to review issues with the proposed foundation construction raised by both clients at 308 and 312 Montcalm.. On May 19th TRA and Waldman completed water level

survey along the coterminous property lines between 310 and 308 and between 310 and 312. These water level elevations became the baseline for determination of potential settlement resulting from construction activities at 310. It was during that interval, Pacific Engineering agreed that a cross property line license should be developed for the coterminous neighbors to the 310 project.

**THE LICENSES:** From the interval of May 24 until November 4, 2016, 308 and 312 worked with attorney Rob Staley generating a cross property line license to address the concerns and issues of both property owners during construction of the 310 Montcalm project. I consulted with the owners and attorney in generating this document and worked on occasion with Mark Waldman as the engineer of record for the 310 project, to make sure that consideration was provided during construction to address the license requirements and obligations. On June 6 2016, drone photos of the three properties were provided to Mark Waldman with an updated set of details to address concerns of the property owners:

- Sub surface drainage and water control between the foundations of the 310 building and those of 308 and 312.
- Cross property line flashing at the roof to wall interface between the 310 building and the uphill 308 building and the downhill 312 building.
- Hardscape drainage control at the Street side of the three properties as modified by 310 during their construction.
- Subjacent and lateral support for the 308 property from the construction activities and excavation to be completed by the 310 project.

These issues were subsequently codified and agreed between the parties in the first cross property line license dated November 4, 2016<sup>1</sup>. In those discussions 310 agreed that

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<sup>1</sup> "2. **Protecting 308 Montcalm:** SF Realty Partners LLC, at its sole cost and expense, shall perform all Work necessary to protect 308Montcalm and its improvements from any damage or loss arising out of or related to the Project, including, without limitation, all shoring and underpinning Work and cross property line work to be reflected on the Plans and Permit, based on actual site conditions"

E. Foundation Drainage and Waterproofing: License is granted by 308 Montcalm to 310 Montcalm for installation of subsurface foundation level flashing waterproofing and subsurface drainage installed in the drift space between the two properties. The drift space drainage shall be maintained by 310Montcalm and shall include clean outs for future maintenance installed on 310 Montcalm's side of property.

"F. Underpinning: Underpinning requires:

- A) Engineering by 308 Montcalm paid for by 310 Montcalm.
- B) Permits obtained by 308 Montcalm paid by 310 Montcalm.
- C) Contractor to do all work to be paid by 310 Montcalm.
- D) Lien Releases (by Contractor) doing work on 308 Montcalm.
- E) Insurance (by Contractor) doing work on 308 Montcalm. "

"8. SF Realty Partners LLC further agrees (a) to cause its cross property line underpinning engineer to monitor the excavation and make field adjustments, as appropriate; (b) to brace the light wells, if any, of the 308 Montcalm building. Before any excavation is begun, the engineer and Contractor shall, if necessary, cause the structural drawings referred to in the license to be modified to conform to field conditions and shall furnish a copy to Anker/Thackrey. SF Realty Partners LLC represents and warrants that all excavation work shall be done in accordance with the soils report recommendations and protocols outline in the cross property geotechnical report by Geo Engineering Consultants dated May 2016."

engineer Ben Lai, SE would represent 308 and 312 for shoring and necessary lateral support issues involving the foundation of 310. It was during this same interval that 310 engaged the services of Kamran Ghiassi, Ph.D., G.E a geotechnical engineer for compliance with the permit because no soils report had been completed. It was also during this interval that conditions were discussed between the owners of the properties until the license agreement could be agreed and finalized so that 310 could proceed with construction per its permit 201604114470 . Pacific Engineering during this interval from May through mid October secured the building to limit habitation by homeless, removed the exterior scaffolding, and attempted to develop plans for lateral support of the 308 property. They also continued substantial demolition of the interior which resulted in a Correction Notice (EX 2) July 7, 2016 for the exploratory demolition permit. The correction notice required upgraded and revised plans accurately showing what the revised demolition would encompass.

During the interval from July through November the demo permit remained suspended and work activities at the site were significantly reduced. It was during this time that additional details for the original license agreement were negotiated imposing additional duties upon the developer and contractor completing 310 work.

Following this interval a TRO (Temporary Restraining Order) was filed December 20, 2016 by attorney Rob Staley against Ashok Gujral and SF Realty Partners, LLC. It was necessary because SF Realty partners breached the first license agreement under permit 201604114470 approved April 21, 2016 when they failed to provide access for the 312 foundation remediation (EX 3), failed to complete the underpinning, failed to properly shore the 308 property during the demolition prior to retaining wall construction, and proceeded with framing not in compliance with the permit as agreed. Work during this interval was supposed to include revised architectural and engineering plans that had been submitted April 11, 2016. In the meantime the revised Demo permit 201607142394 submitted in July 2016 was apparently never approved by DBI because requested "all information and documents required to complete review" were not submitted to validate the permit process. In spite of the July 2016 submittal the retaining wall work and foundation work at 310 Montcalm proceeded

**FIELD ISSUES:** Job site conditions: from the outset when the investigation permit was issued and wholesale demolition proceeded contrary to the scope described in the permit (Ex 2), the property had been inhabited by homeless, had not been protected from the weather, and access into the building was achieved by abandoned scaffolding that was unsafe and in disrepair. Garbage, used syringes, and human feces was found in numerous locations in the building during the first inspection, which TRA completed with Mark Waldman from Pacific Engineering construction.

During the interval from June 10, 2016 until December 4, 2016 construction activities at the 310 project prompted numerous job site meetings between TRA, Ben Lai SE, and Mark Waldman PE. Several meetings included geotechnical engineer Kamran Ghiassi, Ph.D., G.E who was insistent that underpinning be provided for the 308 uphill neighbor

during the construction of the retaining wall for the 310 property<sup>2</sup>. Ghiassi, also insisted that the retaining wall have drainage at the coterminous property line to mitigate potential loading of the retaining wall and undermining of the soils and foundation supporting the 308 property<sup>3</sup>. Once permit 201604114470 (April 21, 2016) had been issued Pacific Engineering proceeded to complete the downhill coterminous foundation wall adjacent to the 312 property line (Ex 3). This work was not in compliance with the permit plans.

Although the license agreement and understanding was that 312 would be given access through the 310 property to enter and work on their foundation, the concrete sub-contractor proceeded to form and pour stem wall and footing in November 2016 changing

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### <sup>2</sup> "3.2.3. Underpinning

Underpinning of a portion or the entire foundations of the existing building as well as the neighboring buildings may be required. The design of the underpinning as a footing should conform to the recommendations given in this section. If the neighboring foundation is made of brick, soil improvement should be performed prior to any underpinning. Otherwise, if the foundation is concrete, temporary jack should be installed. After soil reinforcement and/or jack placement were performed, underpinning should be performed to avoid excessive deflections of the existing wall being underpinned. To minimize excessive deflections of the existing wall due to progressive subsidence of the existing footing as underpinning excavations are made, the underpinning should be excavated and poured in units not exceeding 3 feet in width, with 6 feet clear between units; thus 3 increments of excavation and pouring would be required. To provide safety against shear failure, as well as to limit progressive shear deflections, temporary bearing pressures on remaining bearing elements should not exceed the value provided in this report. Settlement due to subsequent transfer of loads to the new underpinning should be minimized by jacking the new underpinning units before the load transfer. Based on the foregoing considerations, the following specific recommendations are given regarding underpinning:

1. Underpin any existing footing which bears at an elevation higher than the elevation of the bottom of proposed basement excavation and meets the criteria for underpinning shown in Plate 6.
2. Underpinning excavations should not be left open for a long time period, especially during the rainy season. The intent of this recommendation is to avoid the introduction of loose materials into the bottoms of excavations by erosion and/or through on-going construction activities. The excavations should be covered to minimize ponding or infiltration of rainwater.
3. Underpinning excavations should be cleaned of all loose materials prior to concrete. The Geotechnical Engineer should observe the bearing conditions in the excavations immediately before concrete placement and the excavations should be deepened if and as deemed necessary. Also, remedial work should be performed, if necessary, to maintain suitable bearing conditions until concrete is placed.
4. Size underpinning elements such that the temporary bearing pressure does not exceed 1,200 psf and extend underpinning unit at least 12 inches below the bottom of the adjacent foundation or basement excavation.
5. Check for the lateral stability of the underpinning units (if the underpinning units are to serve as temporary shoring) prior to the completion of basement installation, assuming that the top of each underpinning unit is restrained.
6. Jack each underpinning element to its full temporary bearing pressure prior to dry-packing.
7. Remove pieces of rubble that may be encountered in the excavations.

Alternative Approach: Conventional underpinning, which involves incremental soil excavation and concrete placement, can be time consuming. An alternative approach to conventional underpinning would involve using slightly battered drilled piers spaced along the wall footing to be underpinned. The top of each pier hole is then enlarged to form a cap that connects the bottom of the footing to be underpinned to the pier or alternatively, the top of each pier can be pushed beneath the footing to be underpinned until the pier situated vertically (slant pier)"

<sup>3</sup> "Surface drainage atop any slopes should be designed by the project Civil Engineer and maintained by the property owner such that no ponding of water occurs behind the top of slopes or that no surface water flows over the top. All finished grades should provide a positive gradient away from all foundations to an adequate discharge point in order to provide rapid removal of surface water runoff. No ponding of water should be allowed on the pad or adjacent to the foundations. Surface drainage must be provided as designed by the project Civil Engineer and maintained by the property owners in perpetuity. Ponded water adjacent to the structure will cause a loss of soil strength and may also seep under structures. Should surface water be allowed to seep persistently under the structures, foundation movement resulting in structural damage and/or standing water under the slab will occur. This may cause dampness to the floor which may result in mildew, staining, and/or warping of floor coverings. All compacted, finished grades should be sloped at a minimum 2% gradient away from the exterior foundation for a distance of 3 feet. Should the recommended surface gradient not be constructed by the contractor as designed by the project Civil Engineer, or should the owner or tenant alter the surface drainage provided by the contractor, then a subdrain system may be required around the perimeter of the structures. Specific recommendations for subdrain construction will be provided upon request. Surface drainage requirements should be maintained during landscaping. In particular, the creation of planter areas confined on all side by concrete walkway or decks and the building foundation is not desirable as any surface water due to rain or irrigation becomes trapped in the planter with no outlet. If such a landscape feature is necessary, surface area drains in the planter area or a subdrain along the foundation perimeter must be installed."

the elevation of the plate line, which prevented access to the 312 property line foundation. Waldman indicated the change was made by the sub-contractor completing the concrete work at the direction of Ashok Gujral . It was during this time that Mr. Waldman issued a revised sketch (Ex 4) of that foundation to accommodate the change in elevation of the footing. The work was done. The permit for this work was suspended on March 23, 2017. after a complaint filed with DBI. The clients at 312 were then exposed to additional cost completing the remediation and repair of their foundation from inside their property line at 312.

Although site meetings and discussions with the geotechnical engineer Kamran Ghiassi, Ph.D., G.E.,<sup>4</sup> Ben Lai structural engineer for 308 and 312, Waldman and I confirmed that underpinning would be required along the 308 property line before the staggered sequence retaining wall could be installed. The underpinning required engineering, permits, inspections, and to be complete before the retaining wall could then be sequentially constructed on 310 Montcalm. These conditions were in compliance with the soils engineer's adamant recommendations for the work to proceed. They were also conditions of the original license agreement and subsequent TRO amendment.

The 310/308 Coterminous Property Line Retaining Wall Shoring and Underpinning: the 310 retaining wall was to be poured in a sequenced fashion, 1-2-3 (EX 5) to reduce the extent of the unsupported foundation length from the uphill neighbor foundation (Ex 6 ). This alternating sequence for the pour of the retaining wall still required that underpinning be completed on the uphill 308 foundation before the 310 work could then be poured. It required that appropriate drainage blanket, drain, and as necessary waterproofing and/or shoring be completed on the 308 supporting subgrade soils before work could commence on the retaining wall at 310.

The 310 foundation retaining wall was not designed as a loaded wall condition, meaning that saturated soils with water were not included in the design load calculations. Neither was the overturning or the lateral (sliding) resulting from the surcharge of the 308

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<sup>4</sup> **3.4. Retaining Walls** Since the site is lower than the eastern neighbor, retaining wall may be needed to provide grade separation. Any retaining wall should be designed to resist lateral pressures exerted from a material having an equivalent fluid weight as follows:  
Active Condition = 50 p.c.f. for horizontal backslope  
At-rest Condition = 70 p.c.f.  
Passive Condition = 300 p.c.f.  
Coefficient of Friction = 0.30  
For a non-horizontal backslope, the active condition for equivalent fluid weight can be increased by 1.5 p.c.f. for each 2 degree rise in slope from the horizontal. Active conditions occur when the top of a retaining wall is free to move outward. At-rest conditions apply when the top of wall is restrained from any movement. It should be noted that the effects of any surcharge and/or compaction loads behind the walls must be accounted for in the design of the walls. The above criteria are based on fully drained conditions. If drained conditions are not possible, then hydrostatic pressure must be included in the design of the wall. In this case, an additional lateral fluid pressure of 63 p.c.f. must be added to half of the active pressure. In order to achieve fully-drained conditions, a drainage filter blanket should be placed behind the wall. The blanket should be a minimum of 12 inches thick and should extend the full height of the wall to within 12 inches of the surface. If the excavated area behind the wall exceeds 12 inches, the entire excavated space behind the 12-inch blanket should consist of compacted engineered fill or blanket material. The drainage blanket material may consist of either granular crushed rock and drain pipe fully encapsulated in geotextile filter fabric or Class-II permeable material that meets CalTrans Specification, Section 68, with drainage pipe but without fabric. A 4-inch perforated drain pipe should be installed in the bottom of the drainage blanket and should be underlain by at least 4 inches of filter type material. As an alternate to the 12-inch drainage blanket, a pre-fabricated strip drain (such as Miradrain) may be used between the wall and retained soil. In this case, the wall must be designed to resist an additional lateral hydrostatic pressure of 30 p.c.f. "

foundation and building against the 310 retaining wall. Because the wall was constructed under the original design, in sequence "1" it was agreed that sequence "2-3" would be reviewed by Ben Lai SE, and geotechnical engineer, to confirm the additional steel and design details needed to accommodate this changed loading condition.

This problem was created when the concrete sub-contractors installed the retaining wall without executing the underpinning of the 308 foundation along the property line. However, as noted, on November 29, 2016, without a permit, and in violation of the License and Underpinning Agreement of November 4, 2016, signed by Ashok Gujral and Thackrey, Anker, Bachers and Trujillo, detailing the shoring and underpinning to be executed, concrete sub-contractors, without notice entered 310 Montcalm and poured a foundation. The installation of the subgrade, drainage mat, and drainage was also completed in a haphazard fashion since the underpinning was not done. What had been done instead was to remove the 310 brick foundation, expose the brick foundation of 308, complete the excavation, cut the subgrade 308 soil neat then utilize plywood to mitigate the cross property line contamination to the 310 concrete. After this sequence (Ex 7), they then did installation of the drainage mat, waterproofing, and the drain before the retaining wall concrete was installed in board of the 310 p/line. Inspection during this process confirmed that the perforated pipe used to conduct sub surface drainage water away from the foundation was in fact reversed with holes side up (Ex 8). What also was confirmed that the phase "2" sequence was still inadequate and undersized, so a outside consultant made additional recommendations for sliding by extending the footing to transverse the width of the property to the west side adjacent to the 312 foundation.

Framing and Architectural Issues: Concurrent with un approved changes in the retaining wall foundation, framing at the ground floor and the floors above commenced beginning November 23, 2016. The ground floor framing included non-conforming, and non-permitted extensions that pre-existed the purchase of the property by the developer. In addition, this limited area at the West side of the building also had been fire damaged (Ex 9) and was subject to structural revision to correct potential failure in the framing. Once framing started on the top level third floor, the contractor made changes by enlarging the footprint and square footage of the enclosed space (Ex 9+10+11). They extended the elevation of the roof line at the South face, enlarged and added to the West face dormer(s) vertical walls, and enlarged the elevation of the East side dormers adjacent to the 308 property line.

The second complaint was filed on March 3, 2017 and a NOV was issued on March 23, 2017. On March 31, 2017 and amended NOV was issued against SF Realty and all work at the project stopped pending revised and all-encompassing permit drawings information. The work, as presently stopped includes the incomplete retaining wall installation, incomplete foundation concrete, enclosure or removal of the nonconforming and non-permitted north side ground floor elevation area, and modification of the third floor nonconforming framed enclosure for the habitable areas and nonconforming roof line.

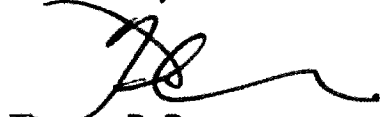


**CURRENT STATUS:** Since April 1, 2017 based upon request by Mark Waldman, PE, Amy Lee apparently representing SF Realty Partners, LLC and Ashok Gujral, and other professionals we followed up with meetings to try and sort out the problems with the project in yet a third document that would represent the current conditions for the project. The condition included agreement for what SF Realty, would do to proceed further with the project. This included its obligations to 308 Montcalm for its foundation work, and drainage at the property line between 308/310 and 312/310 and the hardscape drainage affecting all three properties. This 3<sup>rd</sup> document was prepared by attorney Mike Miller, on your behalf, and submitted to SF Realty and group on April 18, 2018. It was anticipated this document would represent the current understanding for the work to proceed and would be quickly negotiated and turned around to not hold up the construction for 310 further. I received return markups from Amy Lee May 12, 2017 three (3) days before the DR had to be filed. All references to Bachers/Trujillo at 312 Montcalm were struck. This indicates no agreement.

At present, the underpinning for 308 Montcalm has never been completed and represent risk to the foundation. Testing of the apparent defective drain installation has not been completed, and grouting of the annular space behind the plywood for the completed retaining wall is not done. Obligations outlined in the license agreement for underpinning or grouting for the 308 foundation and installation of first floor shear walls has not been engineered, detailed, permitted, or completed and no details have been developed for the hardscape drainage control or cross property line flashings.

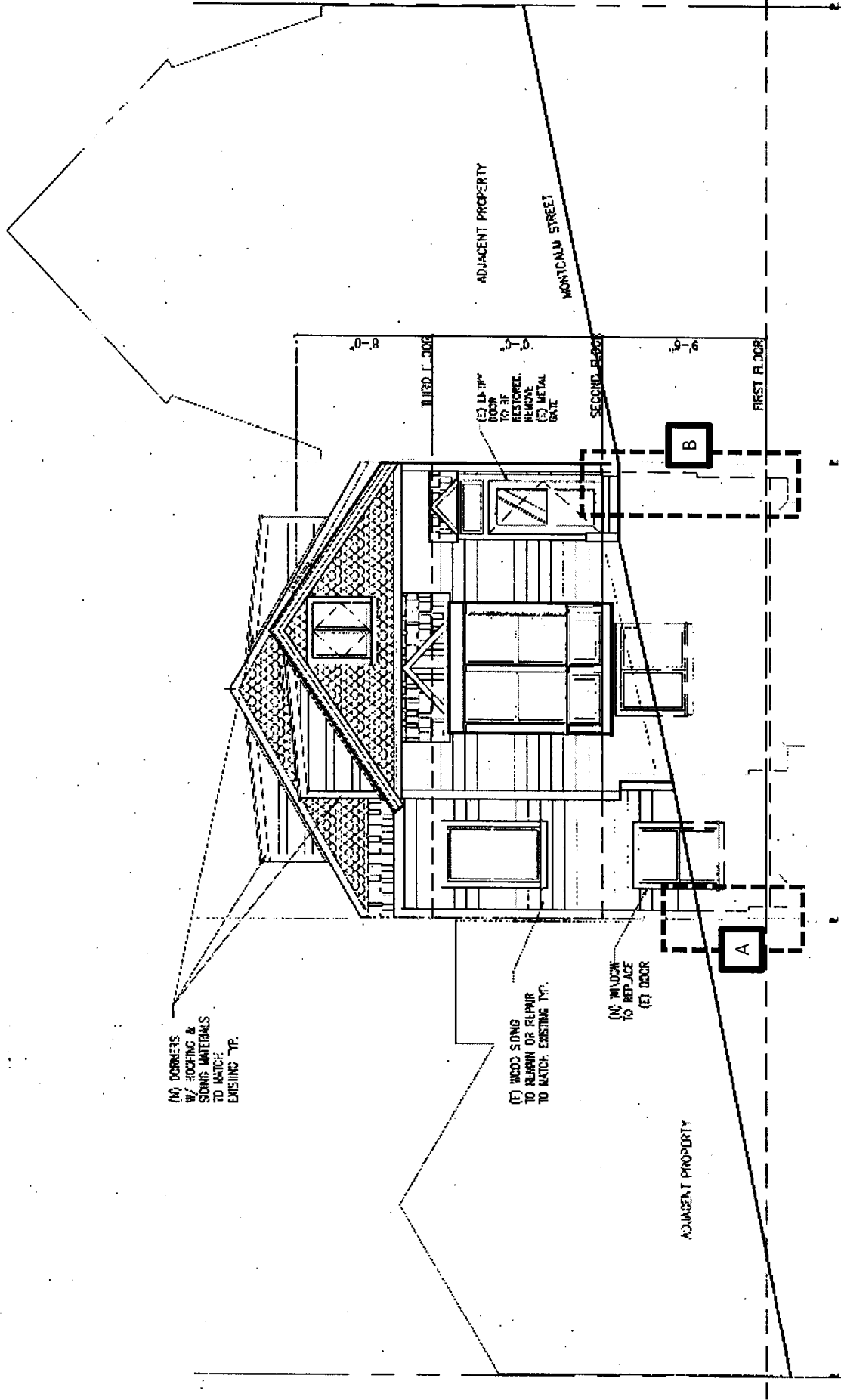
The attached exhibits 1-12 represent exemplars of the issues outlined in this report.

Respectfully Submitted



Thomas P. Reeves  
for TR&A, Inc.

Cc: Mr. Michael Miller, Esq.

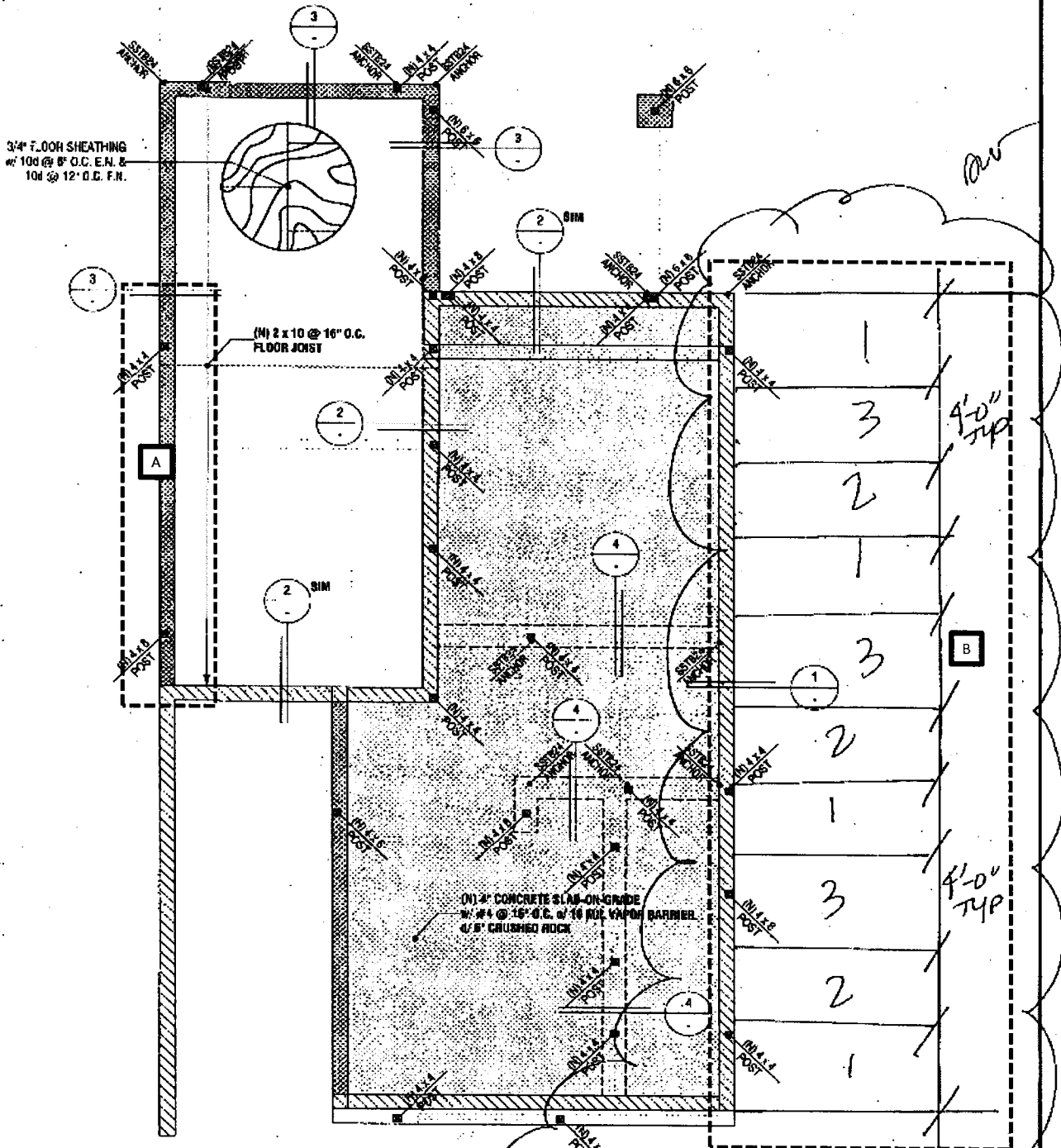


2 PROPOSED SOUTH ELEVATION

SCALE: 3/16"=1'-0"

EX 1

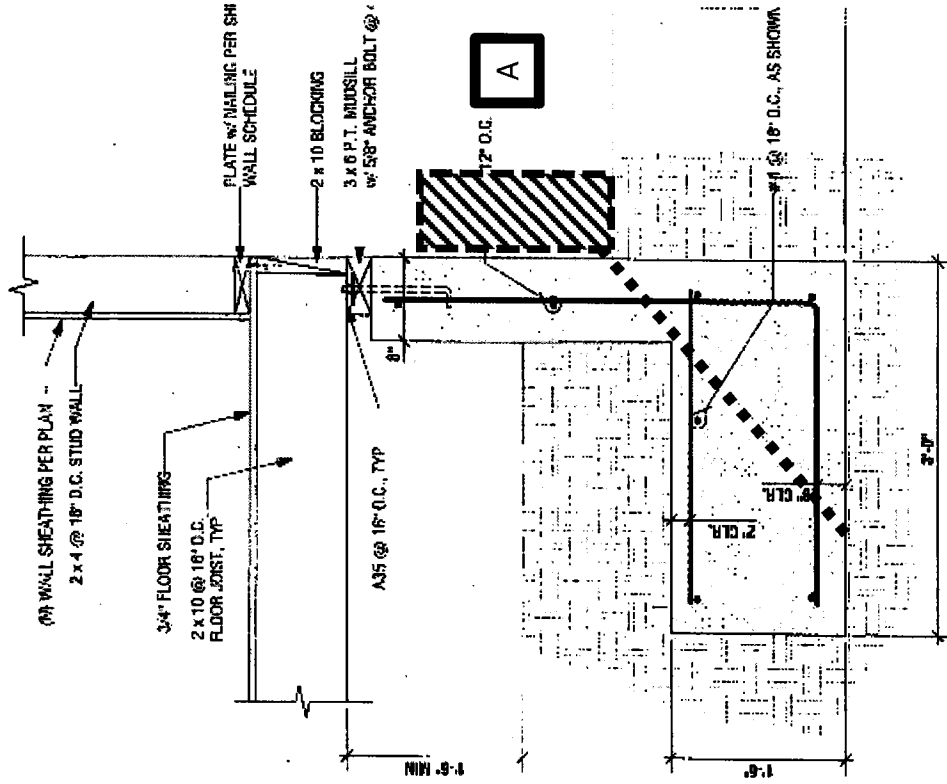
PRELIMINARY:  
SUBJECT TO REVISION



REMOVABLE EXCAVATION OF THE (E)  
FOOTING SHALL BE PERFORMED IN THE  
SEQUENCE SHOWN ABOVE WITH  
NO EXCAVATION CORRECTIONS ALLOW  
HORIZONTALLY

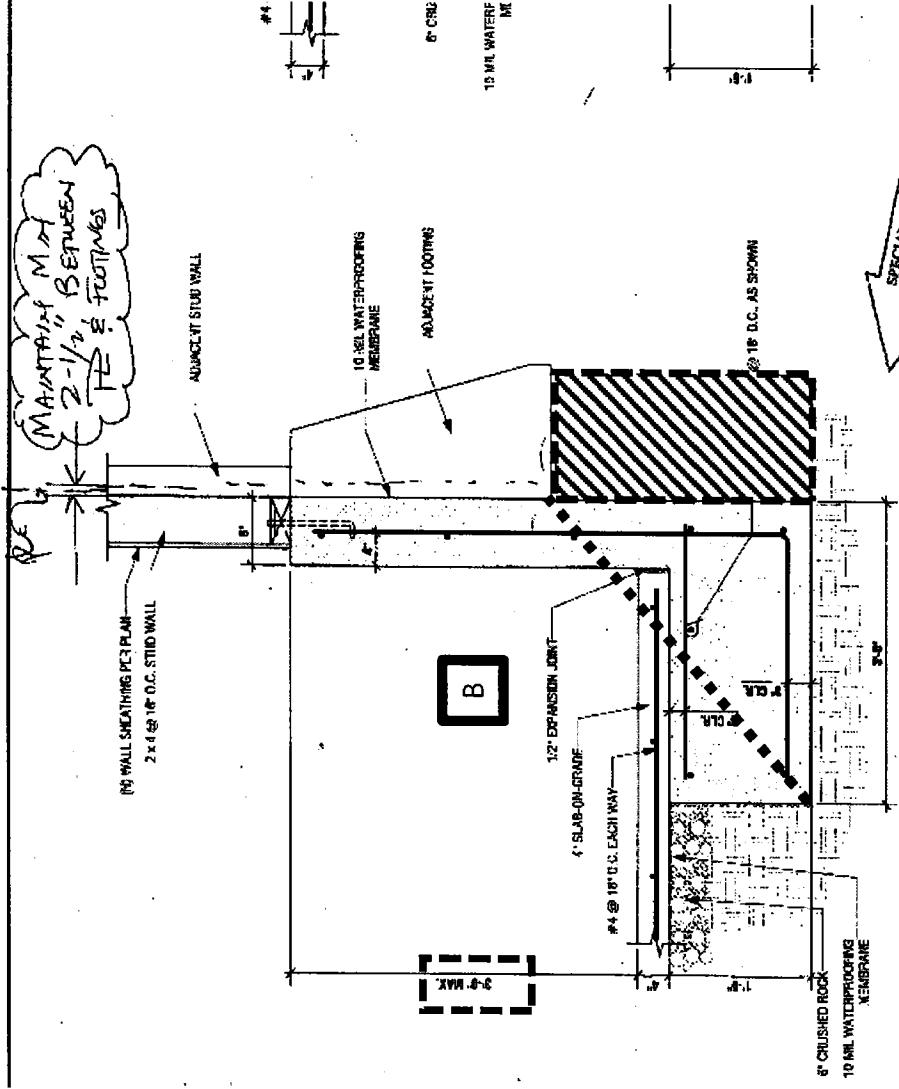
**FOUNDATION PLAN**  
1/8" = 1'-0"

PRELIMINARY:  
SUBJECT TO REVISION



3 FOOTING @ EXTERIOR WALL  
1" = 1'-0"

PRELIMINARY  
SUBJECT TO REVISION



MAINTAIN MIN 2-1/2" BETWEEN FE & FOOTINGS

1 RETAINING WALL @ ADJACENT PROPERTY  
1" = 1'-0"

NOTE: NOTIFY THE DESIGN ENGINEER ON PROJECT CONSTRUCTION TO INSPECT THE EXCAVATION

2 SPECIAL INSPECTION REQUIRED PER SFRC SECTION 1704  
1" = 1'-1"

Where underpinning of adjacent property is necessary, complete details must be approved by the Department of Building Inspection before any excavation begins. Notify adjacent property owner - Sec. 8522 Civil Code. Excavation is required by law - Sec. 8522 Civil Code. State of California. All underpinning to be supervised by registered civil engineer including temporary shoring and sequence of operation.

**NOTICE OF VIOLATION**

ADDRESS: 310 MONTCALM ST. CITY: SAN FRANCISCO  
 OCCUPANCY: COMMERCIAL  
 ZONING: ZONING 1001  
 DATE: 4/18/14  
 BLOCK: 327 LOT: 007

**DESCRIPTION:**  
 The above described property is being used for the purpose of a demo project. The structure is being demolished. The structure is being demolished. The structure is being demolished.

**ACTION:**  
 STOP ALL WORK ON THE PROPERTY IMMEDIATELY.

No. Zell0031825 Date 7/7 2014

CITY AND COUNTY OF SAN FRANCISCO  
 DEPARTMENT OF BUILDING INSPECTION

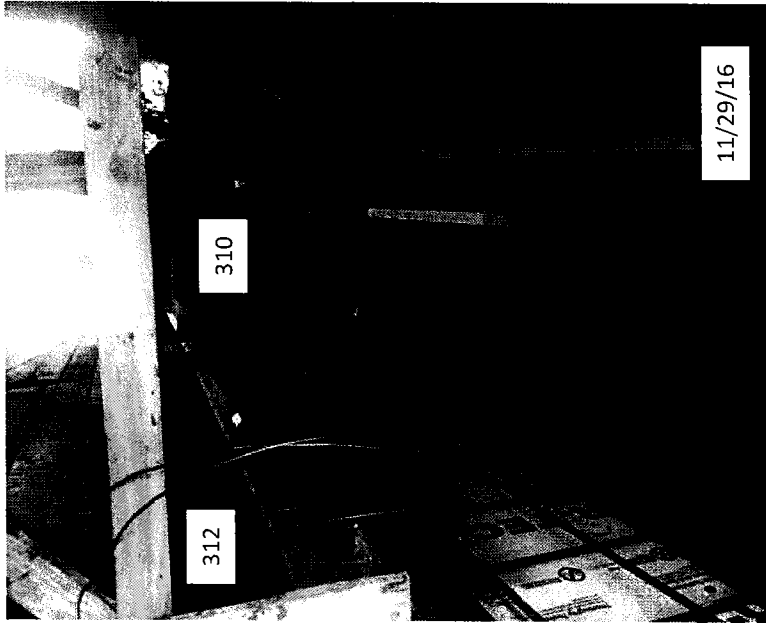
**CORRECTION NOTICE AND REPORT**

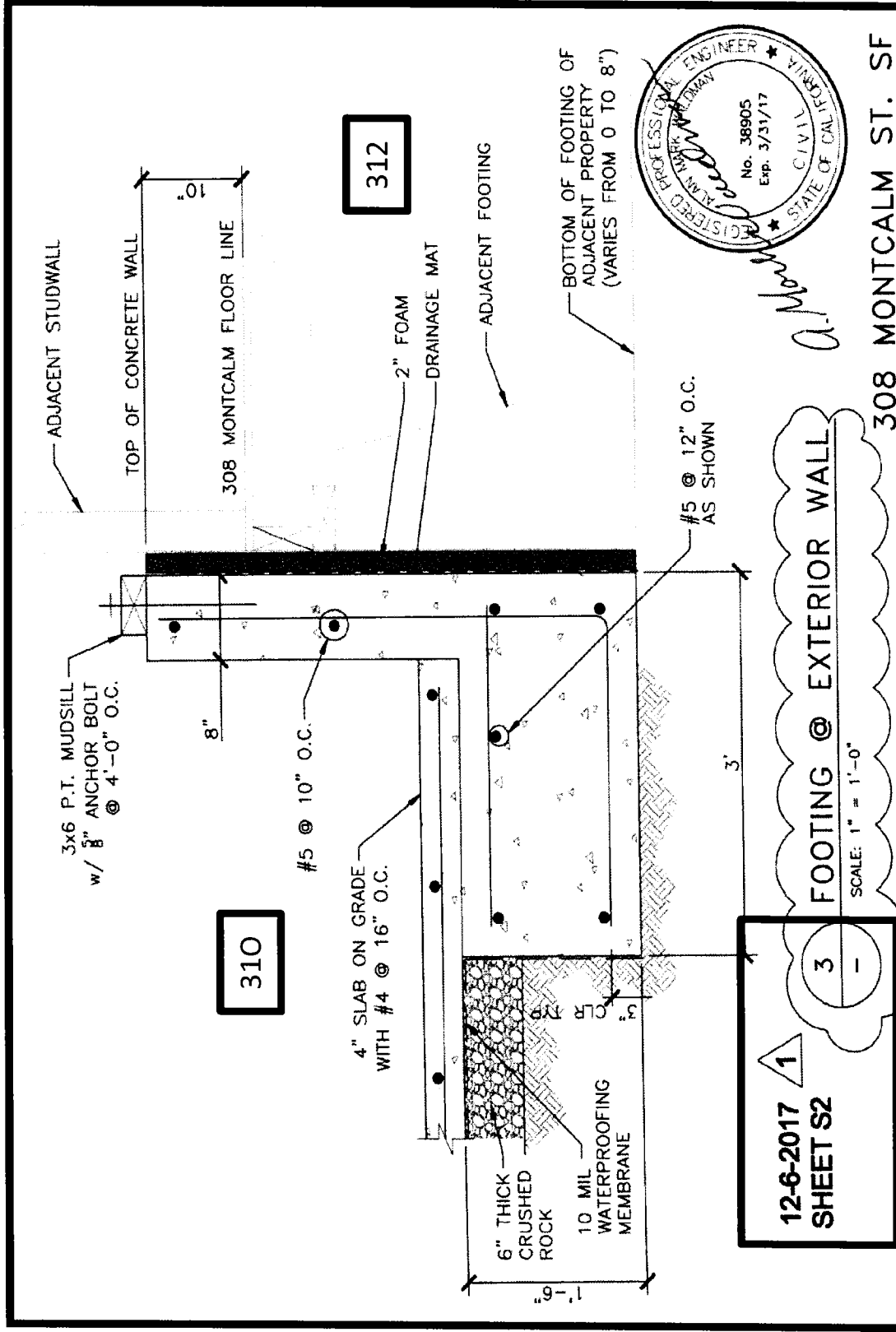
Project: 310 Montcalm St.

Code Section:

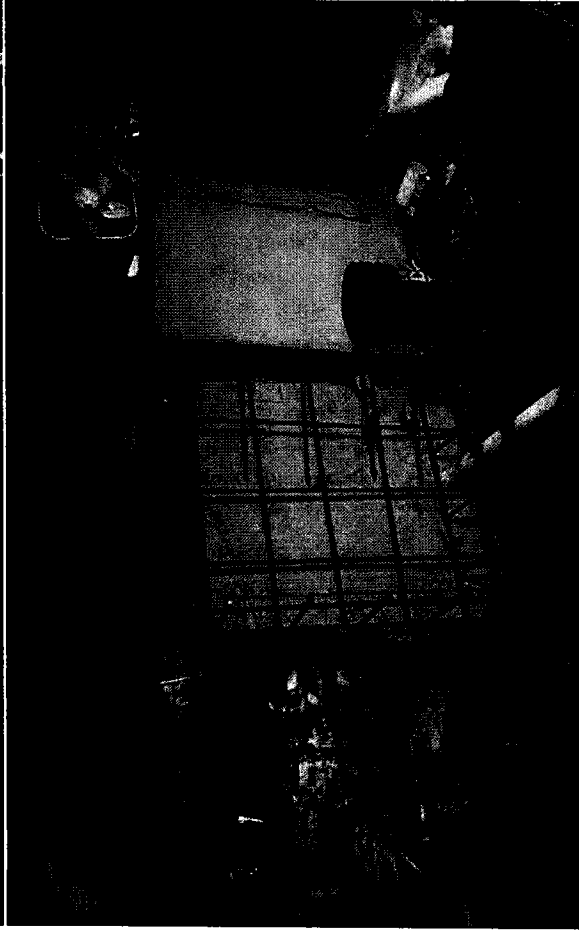
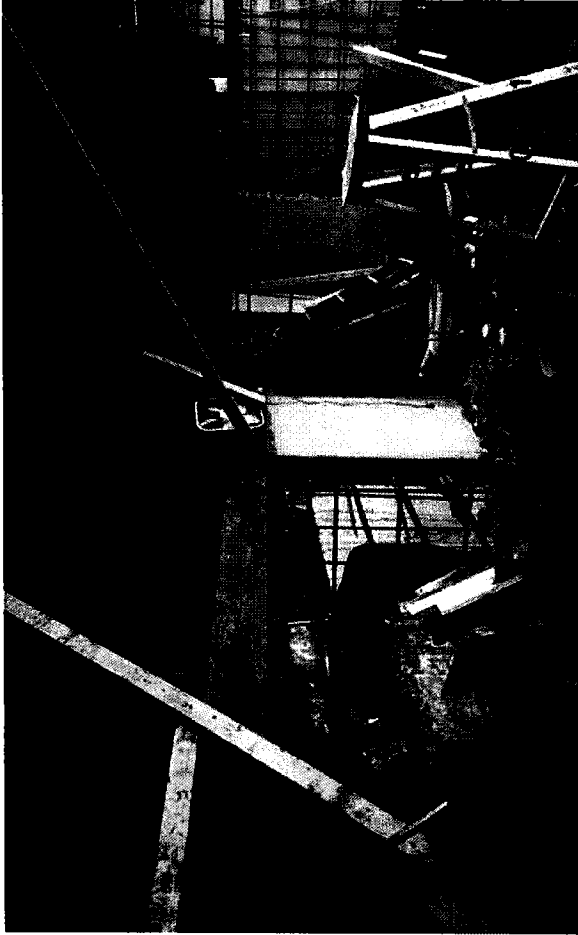
① Revoke Demo Permit to Remove a 12 x 12 Addition to the rear of Building. This portion has dry rot and unsafe framing. No foundation supporting this area.  
 ② Remove 4x4 posts that support second floor to frame proper wall fire wall.  
 ③ Remove west wall - 4x4 Magal Ply Kot.  
 ④ Floor Joists at second floor all Event. Replace w/ Rumble.

Contact Inspector: Don Simas 415-550-6210  
 1880 Mission Street or phone: 415-550-6210  
 Supervisor

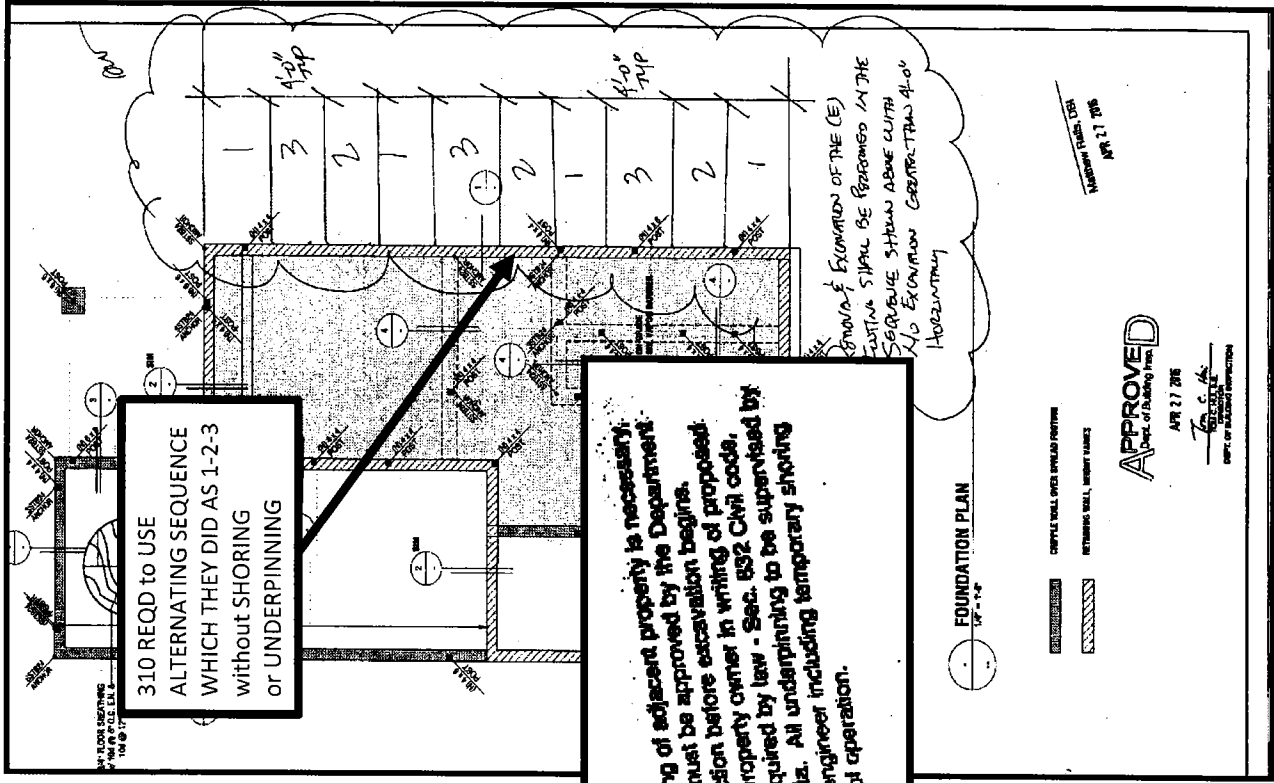
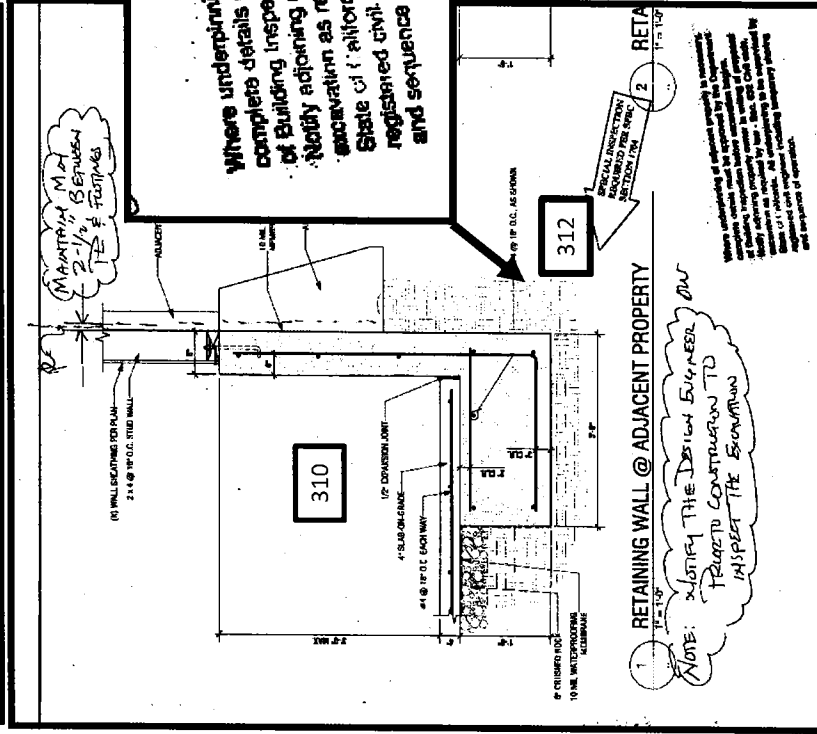
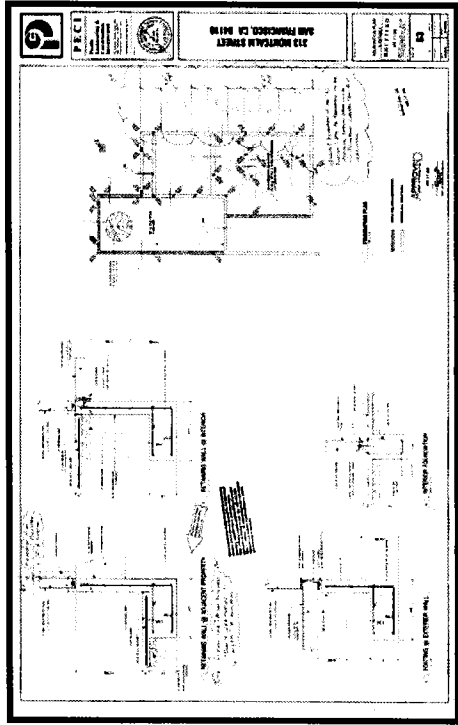


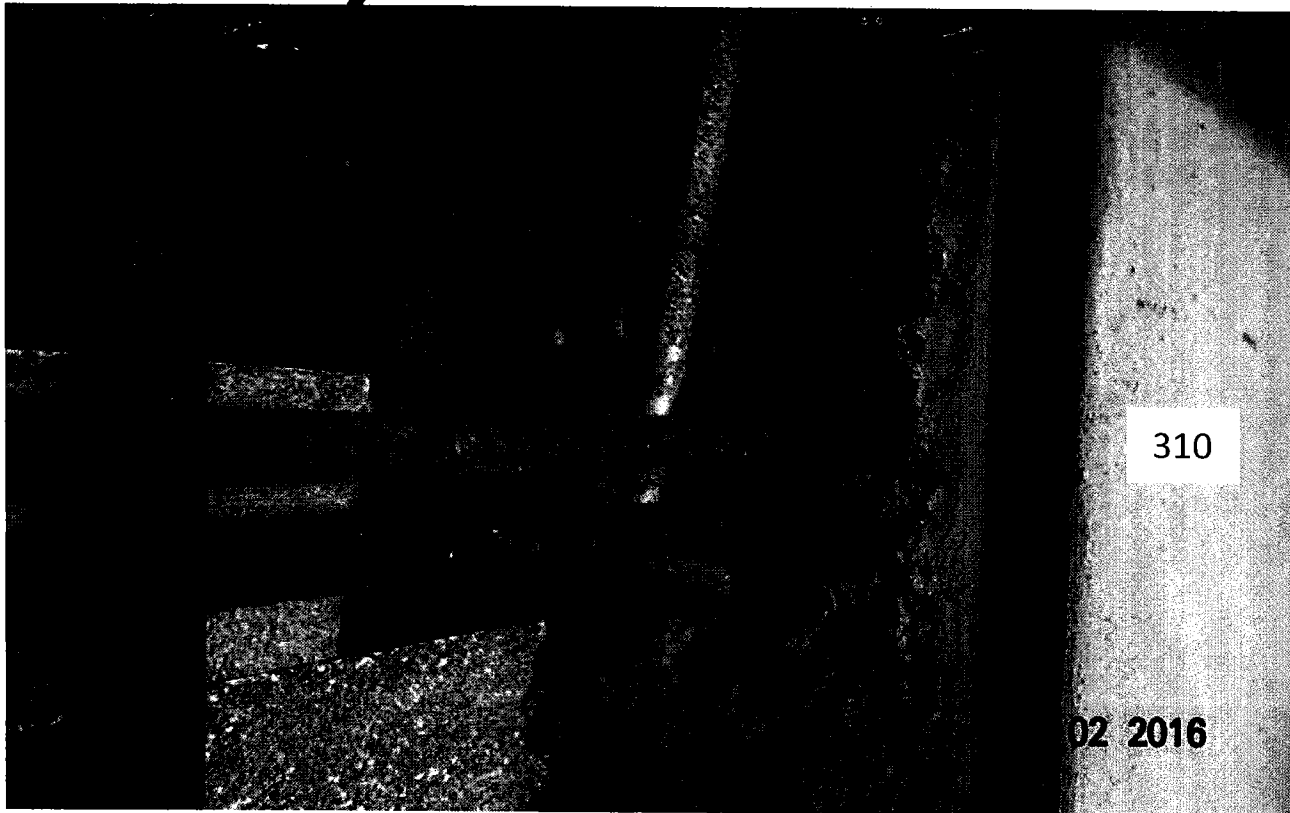
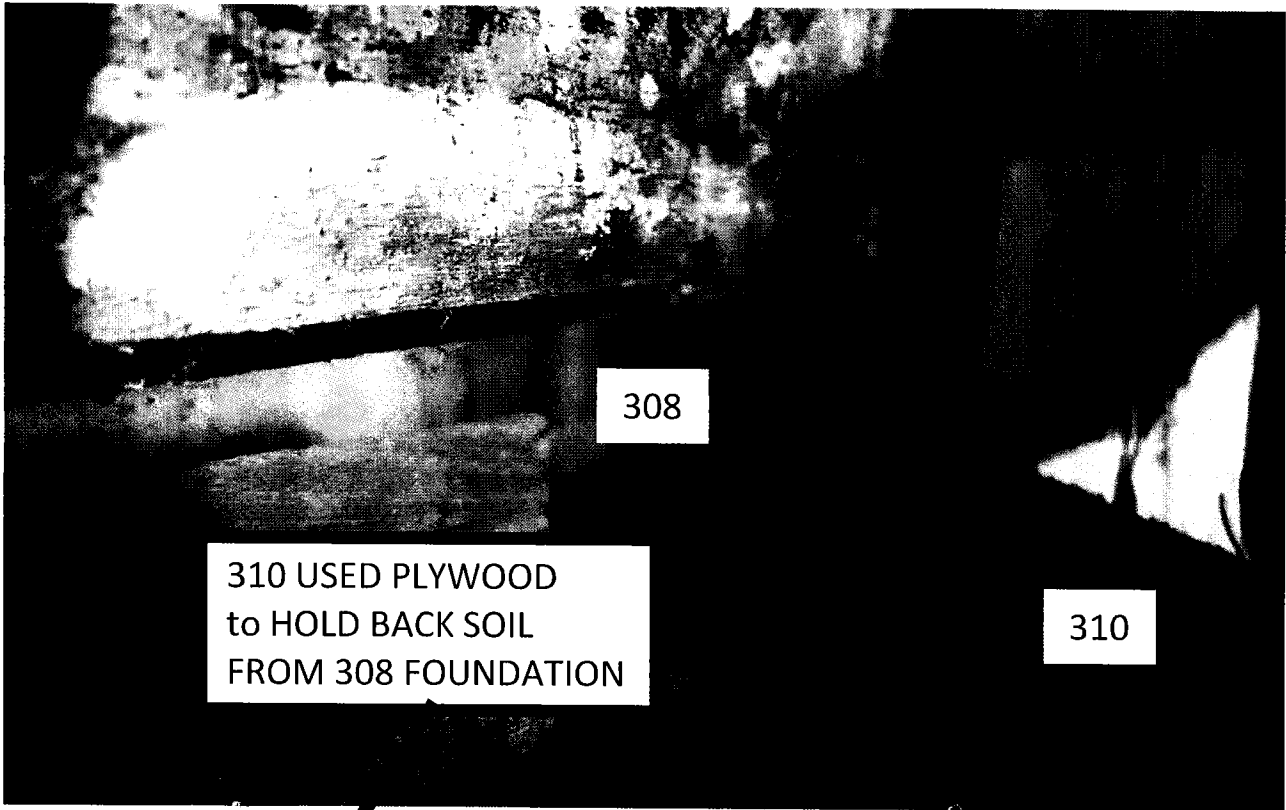






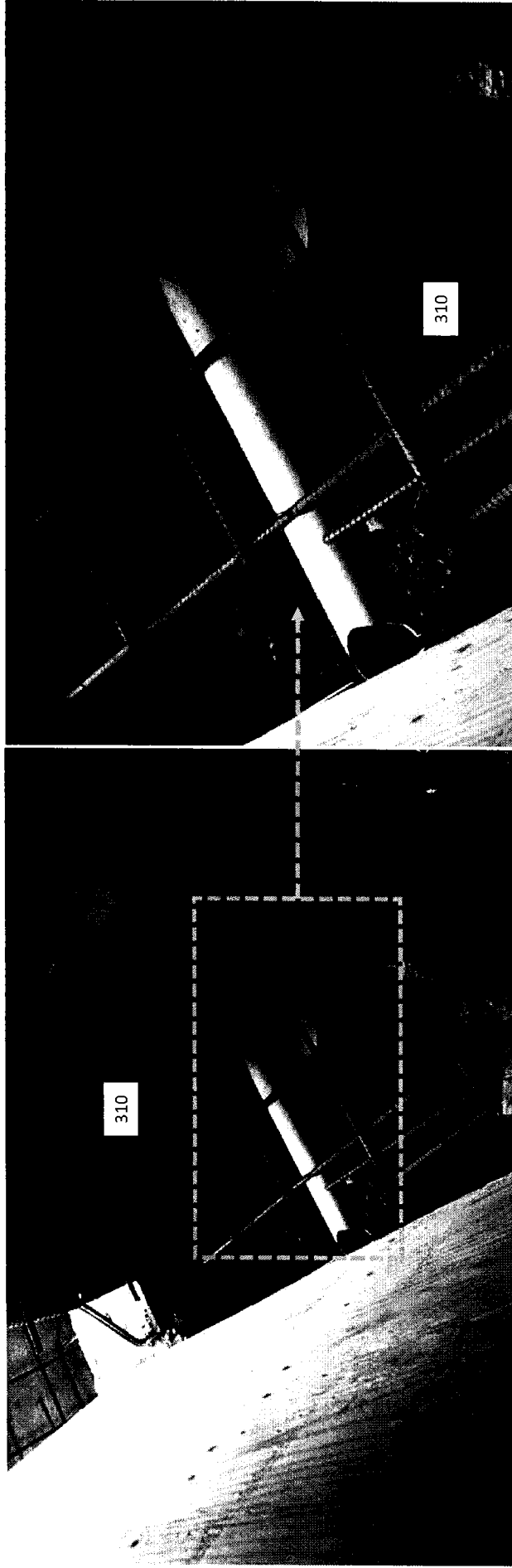
310 USED PLYWOOD  
to HOLD BACK SOIL  
FROM 308 FOUNDATION

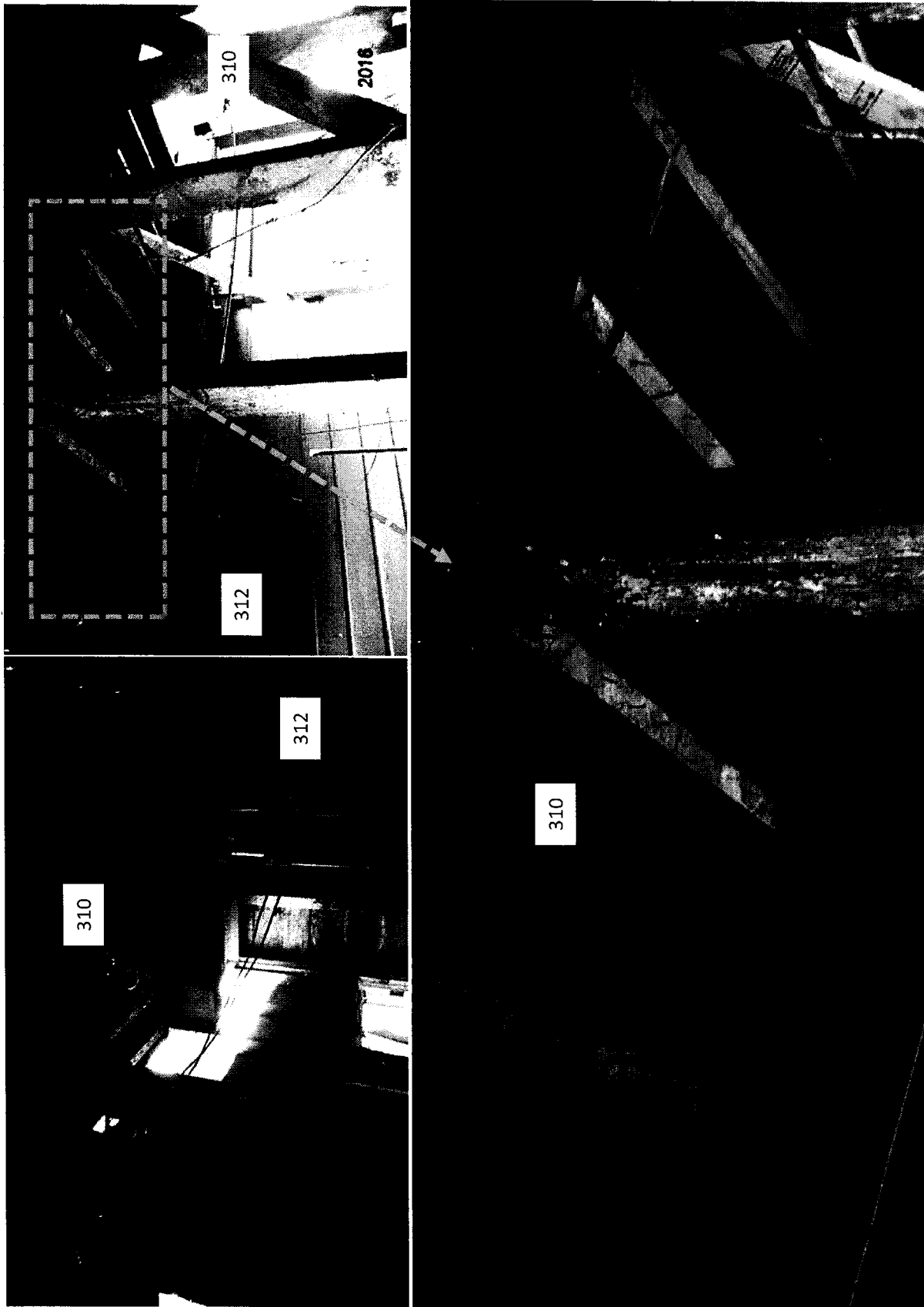


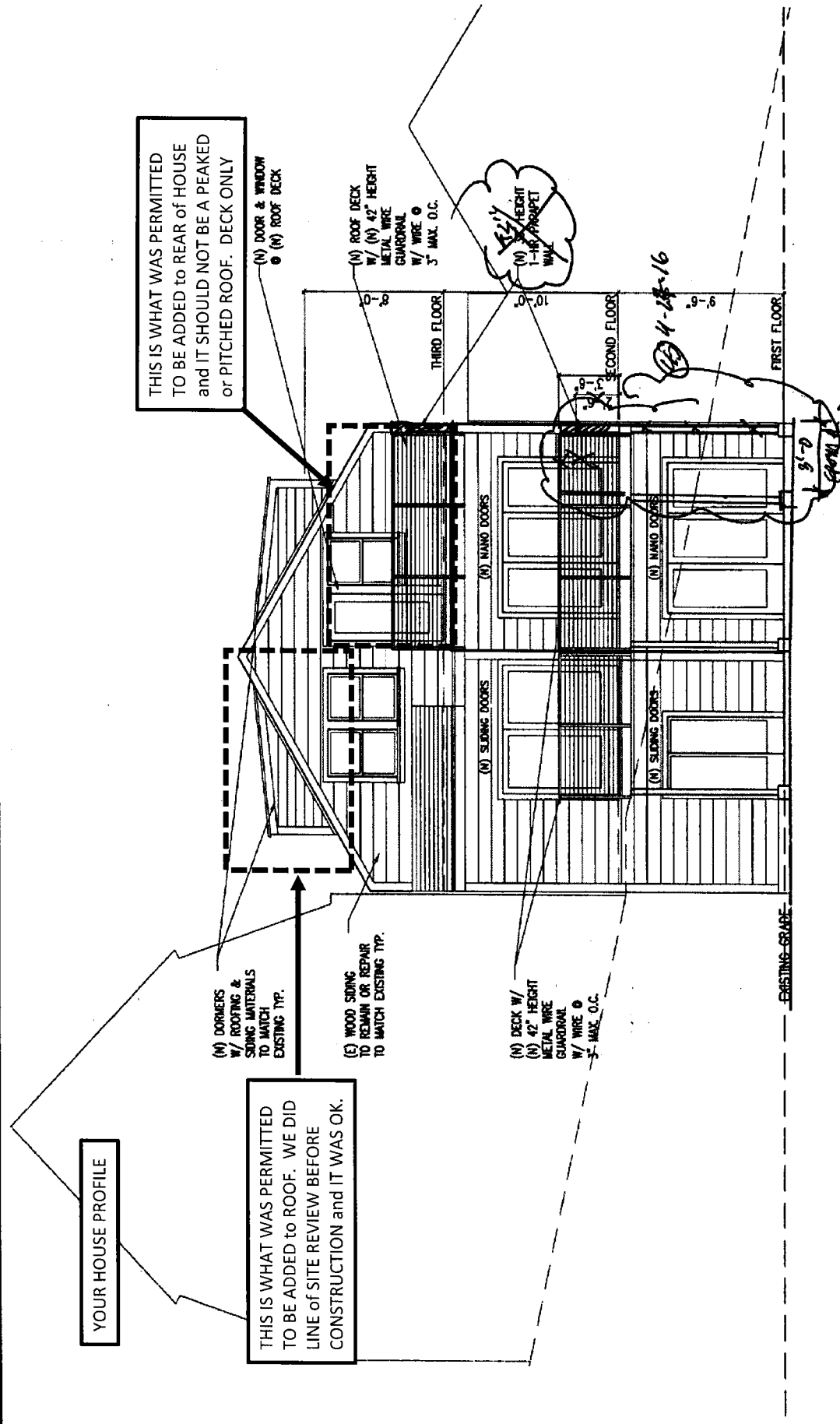


CLOSEUP SHOWING

LAST SECTION of RETAIN WALL (POUR 3)  
SHOWING SUB DRAIN with HOLES SIDE UP  
(SHOULD BE NO HOLES to MAIN DRAIN



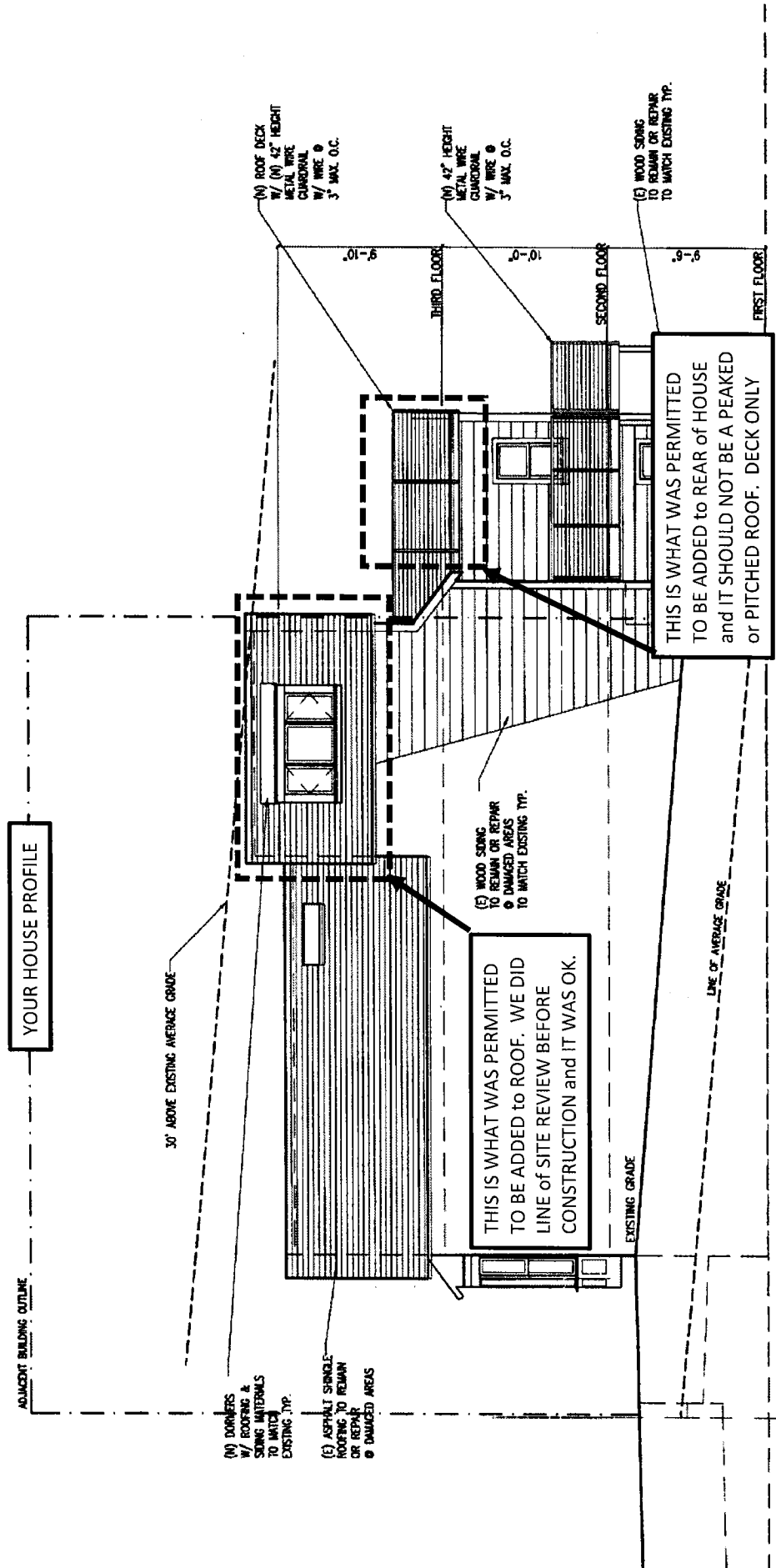




THIS IS WHAT WAS PERMITTED TO BE ADDED TO REAR OF HOUSE and IT SHOULD NOT BE A PEAKED or PITCHED ROOF. DECK ONLY

THIS IS WHAT WAS PERMITTED TO BE ADDED TO ROOF. WE DID LINE of SITE REVIEW BEFORE CONSTRUCTION and IT WAS OK.

**2** PROPOSED NORTH ELEVATION  
SCALE: 3/16"=1'-0"



YOUR HOUSE PROFILE

30' ABOVE EXISTING AVERAGE GRADE

ADJACENT BUILDING OUTLINE

(M) DOWNERS  
W/ ROOFING &  
SIDING MATERIALS  
TO MATCH  
EXISTING TYP.

(E) ASPHALT SHINGLE  
ROOFING TO REMAIN  
OR REPLACE  
IN DAMAGED AREAS

THIS IS WHAT WAS PERMITTED  
TO BE ADDED TO ROOF. WE DID  
LINE OF SITE REVIEW BEFORE  
CONSTRUCTION and IT WAS OK.

(E) WOOD SIDING  
TO REMAIN OR REPAIR  
IN DAMAGED AREAS  
TO MATCH EXISTING TYP.

THIS IS WHAT WAS PERMITTED  
TO BE ADDED TO REAR OF HOUSE  
and IT SHOULD NOT BE A PEAKED  
or PITCHED ROOF. DECK ONLY

(M) ROOF DECK  
W/ (M) 42" HEIGHT  
METAL WIRE  
CIRCULAR  
W/ WIRE @  
3" MAX. O.C.

(M) 42" HEIGHT  
METAL WIRE  
CIRCULAR  
W/ WIRE @  
3" MAX. O.C.

(E) WOOD SIDING  
TO REMAIN OR REPAIR  
TO MATCH EXISTING TYP.

THIRD FLOOR

SECOND FLOOR

FIRST FLOOR

EXISTING GRADE

LINE OF AVERAGE GRADE

**APPROVED**  
Dept. of Building Insp.

APR 27 2016

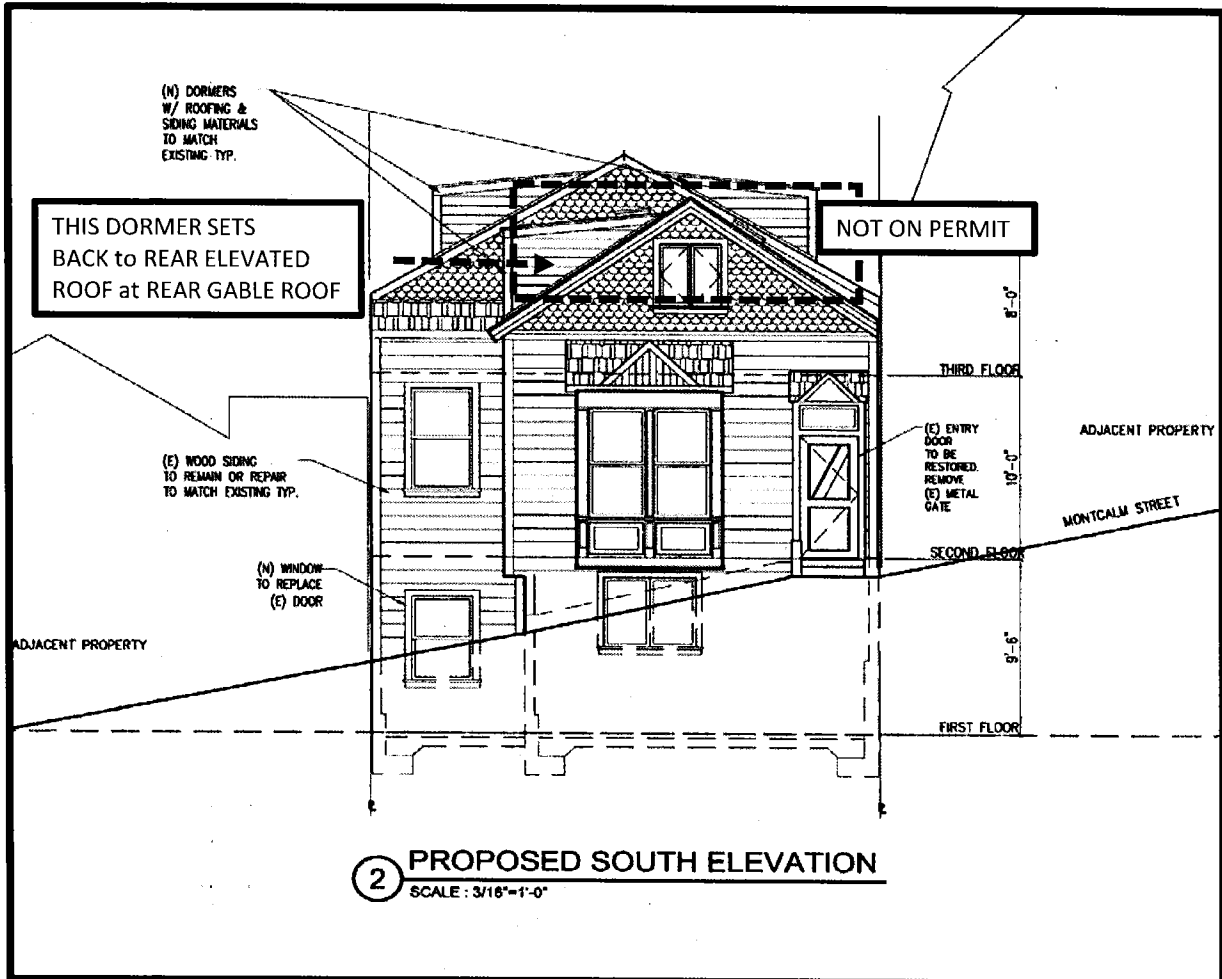
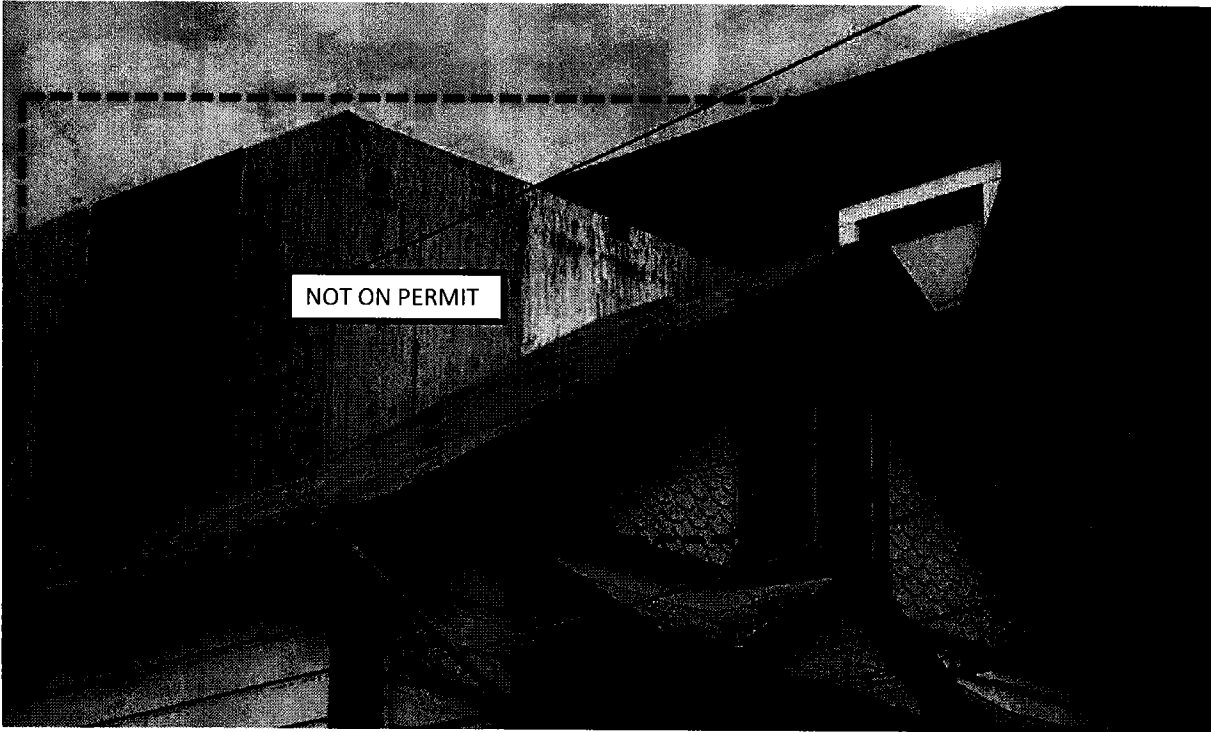
*Tom C. He...*  
1001 COLUMBIA BLVD.  
ANN ARBOR, MI 48106  
DEPT. OF BUILDING INSPECTION

**1** PROPOSED EAST ELEVATION  
SCALE: 3/16"=1'-0"

ELEVATION SIDE VIEW

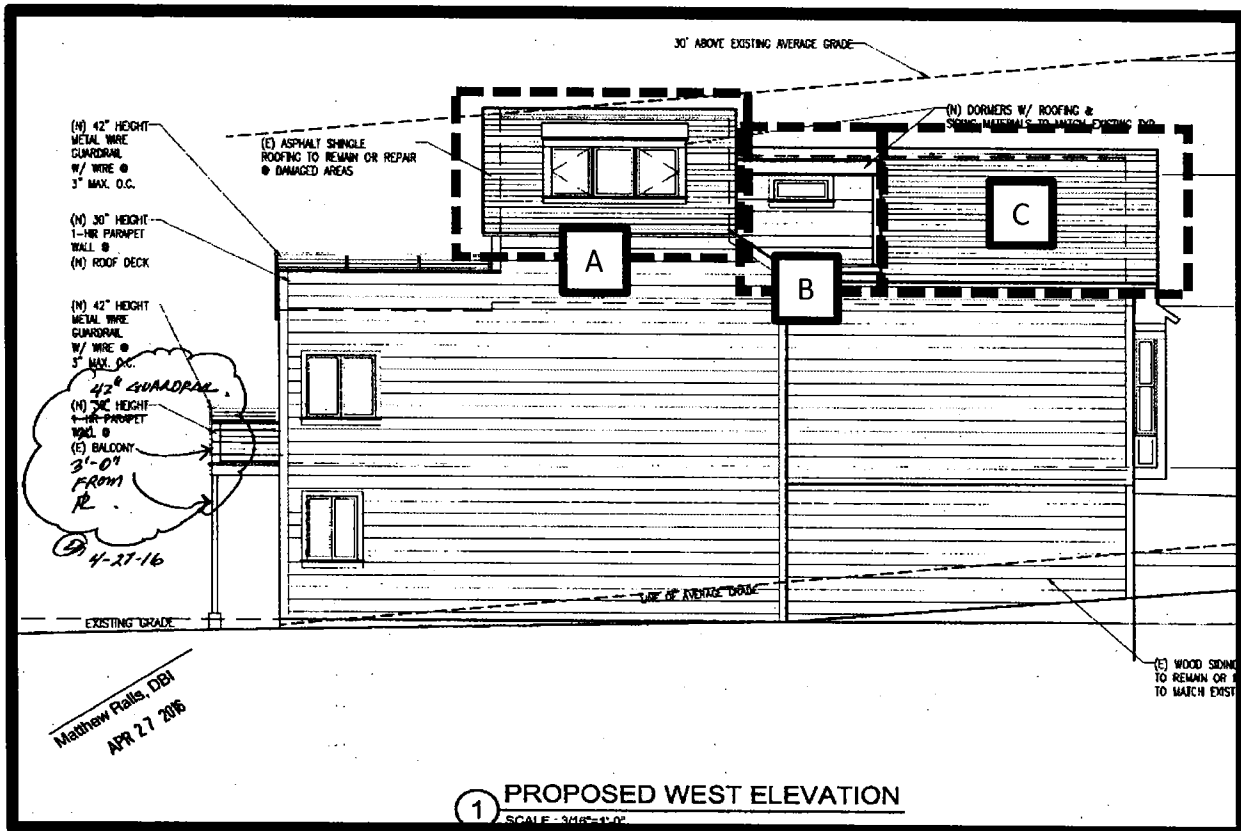
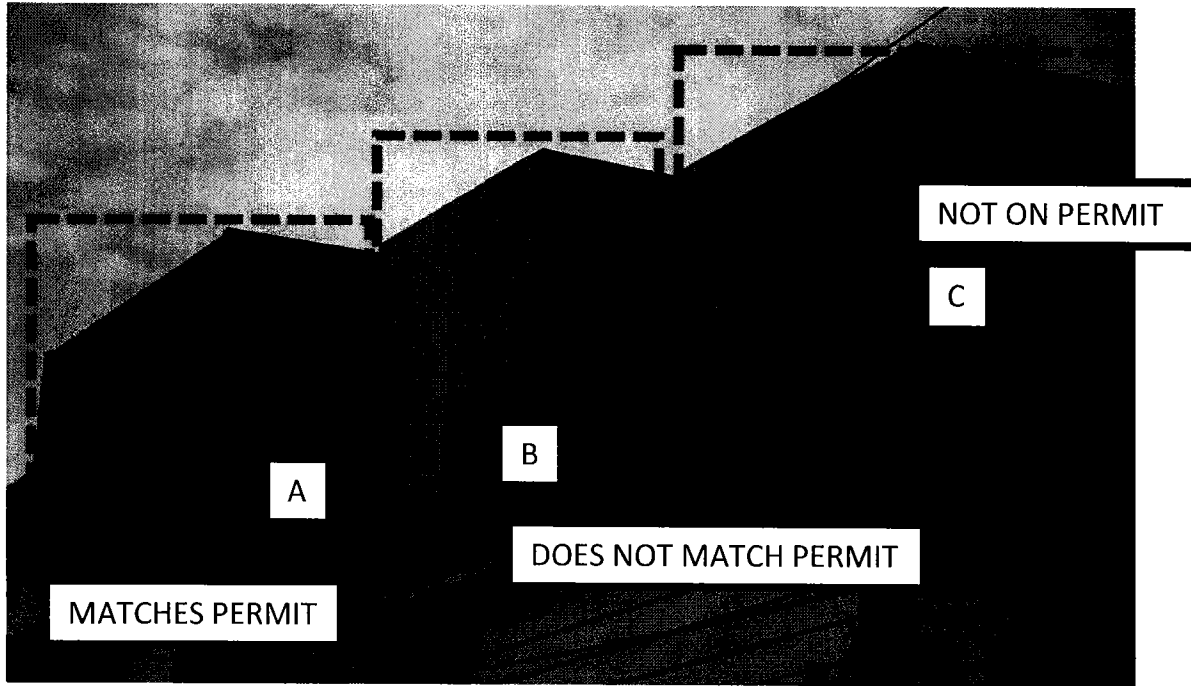
PRELIMINARY  
SUBJECT TO REVISION

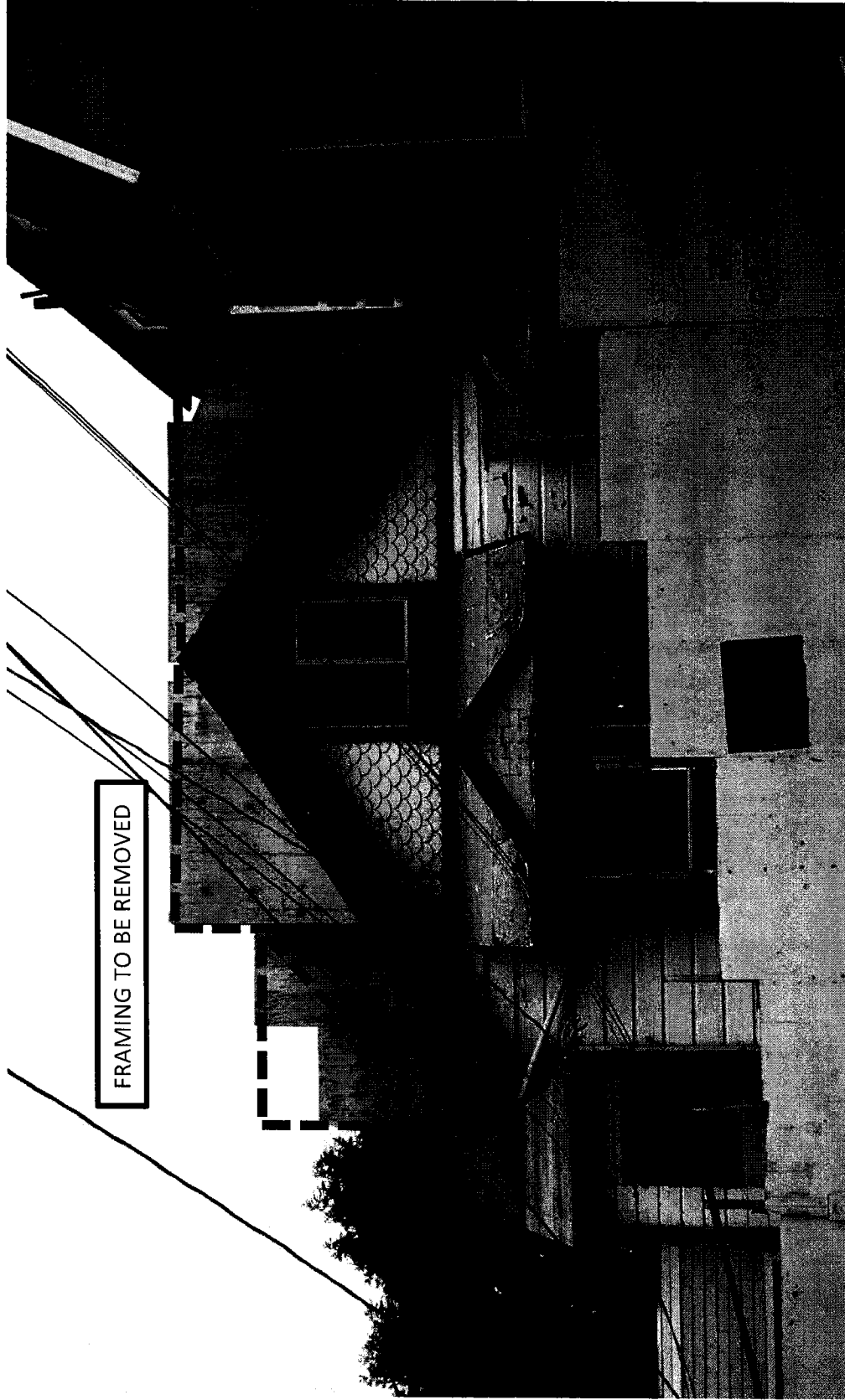
719 BUILD CHK 022017.xls



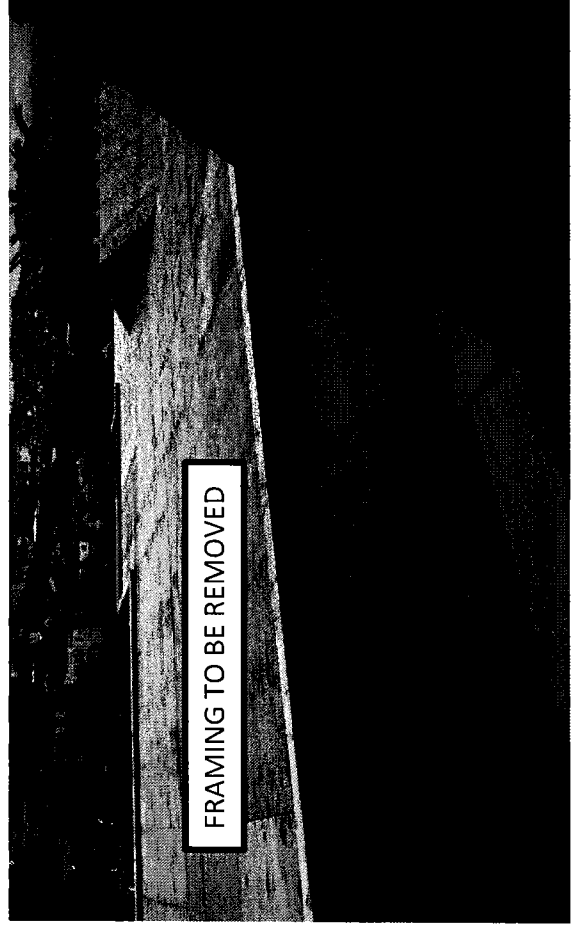
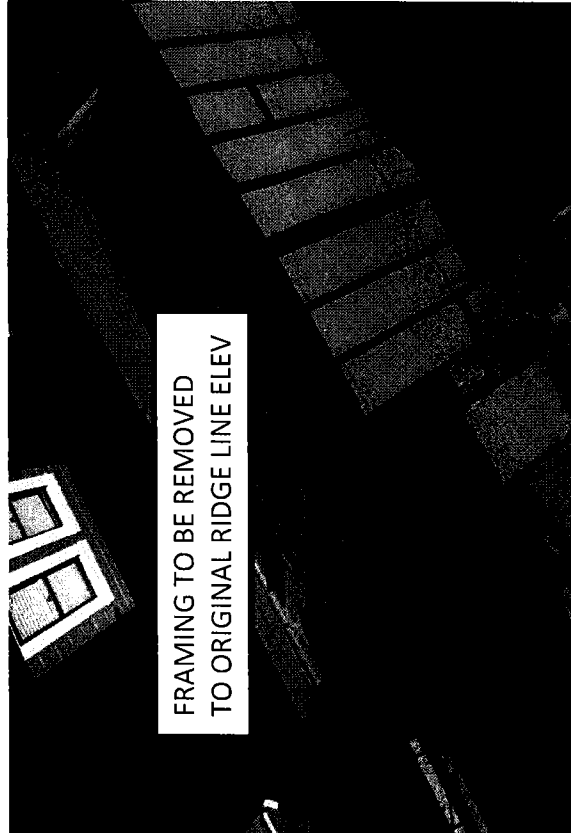
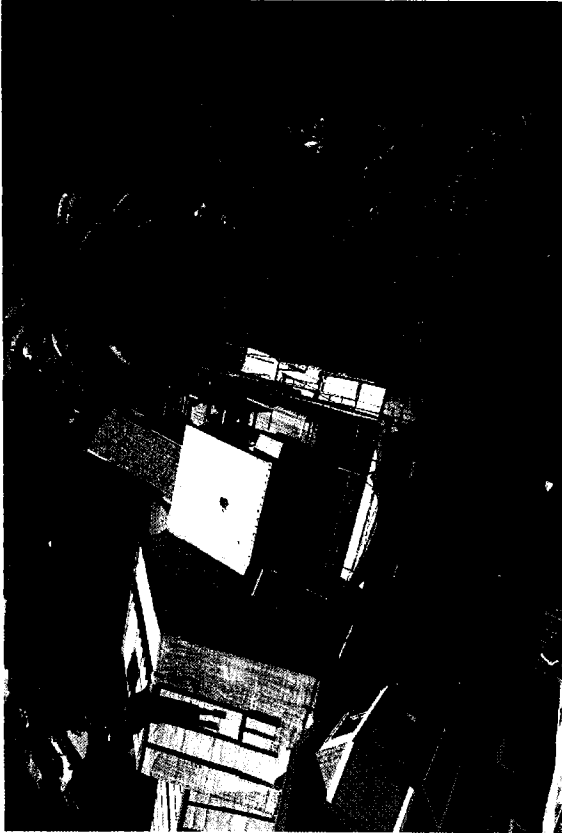
2 PROPOSED SOUTH ELEVATION  
SCALE: 3/16"=1'-0"







EX 12



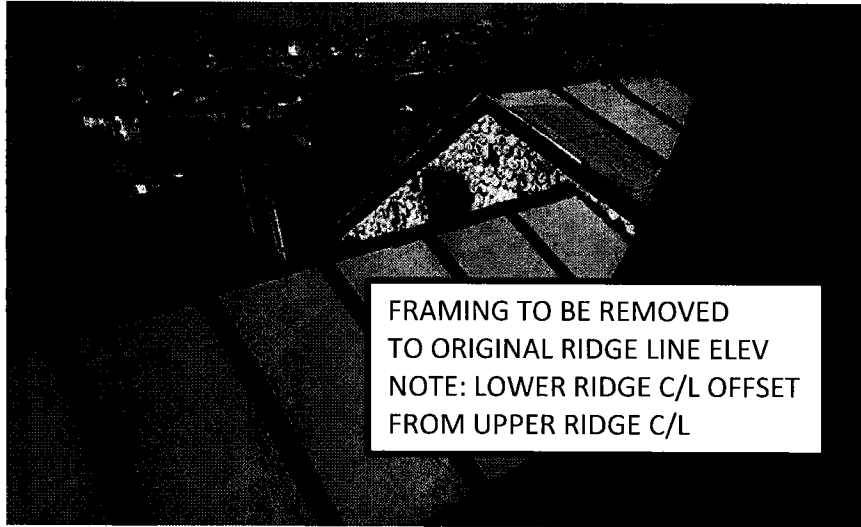


EXHIBIT F

THACKREY/ANKER REQUEST FOR DR  
UNSIGNED AGREEMENT BETWEEN THACKREY/ANKER AND  
BACHERS/TRUJILLO WITH ASHROK GUJRAL

Agreement

This Agreement is made this \_\_\_\_ th day of April, 2018 (the effective date by and between the following parties:

1. Ashok Gujral, personally and as managing member of SF Realty Partners LLC, (herein collectively referred to as "SF Realty Partners").
2. Rafael Trujillo and Marianne Bachers, husband and wife, on behalf of themselves, their agents, representative's, heirs and/or successors in interest (hereinafter referred to as "Trujillo/Bachers)
3. Susan Thackrey and Steve Anker, husband and wife, on behalf of themselves, their agents, representatives, heirs and/or successors in interest (hereinafter referred to as "Trujillo/Bachers)

RECITALS

WHEREAS, SF Realty Partners LLC is the owner of the residential real property commonly known as 310 Montcalm Street, San Francisco, California 94110, (310 Montcalm)

WHEREAS, SF Realty Partners LLC has either itself or engaged others to perform certain construction work on 310 Montcalm,

WHEREAS, Gujral Ashok is the manager of SF Realty Partners LLC and has actively managed construction work on 310 Montcalm,

WHEREAS Trujillo/Bachers are the owners of the residential real property immediately adjacent to and downhill from 310 Montcalm, commonly known as 312 Montcalm Street, San Francisco, California 94110 (312 Montcalm)

WHEREAS, Thackrey /Anker are the owners of the residential real property immediately adjacent to and uphill from 310 Montcalm, commonly known as 312 Montcalm, San Francisco, California (312 Montcalm) and

WHEREAS, the condition of and construction work on 310 Montcalm has caused various damages (hereafter, damage) to 312 Montcalm, among which is the passage of surface water from 310 Montcalm, as well as other damage, and

WHEREAS, the construction work on 310 Montcalm has caused various damages (hereafter damage) to 308 Montcalm, including but not limited to undermining its foundation, and

WHEREAS, the City and County of San Francisco has stopped work on 310 Montcalm due to both Planning and Building code violations,

The Parties agree as follows:

1. SF Realty Partners will obtain all necessary permits from the City and County of San Francisco to perform such work as is necessary to correct and repair such damages to 312 Montcalm and 308 Montcalm that has resulted from either the construction work on 310 Montcalm or other conditions of 310 Montcalm according to the terms of this agreement.

2. SF Realty Partners will undertake such work as is necessary to a) resolve all damage to 308 Montcalm, including but not limited to underpinning its foundation, b) resolve all damage to 312 Montcalm and c) complete the work on 310 Montcalm in accordance with plans approved by the City and County of San Francisco Planning and Building Departments and as further detailed in Attachment A to this agreement.
  - a. All work will be at the sole cost and expense of SF Realty Partners or their agents and/or Ashok Gujral.
  - b. SF Realty Partners will pay any engineering consultants necessary to accomplish the work. In addition, SF Realty Partners will promptly pay Trujillo/Bachers and/or Thackery/Anders for expenses incurred by them for any contractor or engineer retained to repair any damage to the property of either of them resulting from work related to 310 Montcalm, including the cost of any engineer, contractor and expenses related thereto such as permit fees.
  - c. SF Realty Partners will engage and promptly pay Kamran Ghiassi, Geotechnical Engineer, from Geo-Engineering consultants (GEC) 4125 Blackford Ave., Suite 145 San Jose, CA 95117 phone 925-321-5550 as soils engineer for any work related to either 308, 310 or 312 Montcalm. His report for project number P16-0200 is dated May 23, 2016.
  - d. Trujillo/Bachers hereby grant a license to SF Realty Partners and/or Ashok Gujral for the contractors it hires to enter upon 312 Montcalm to perform such work as needed on 312 Montcalm to remedy the damages caused by the work on 310 Montcalm.
  - e. Thackrey/Anker hereby grant a license to SF Realty Partners and/or Ashok Gujral for the contractors it hires to enter upon 308 Montcalm to perform such work as needed on 308 Montcalm to remedy the damages caused by the work on 310 Montcalm.
  - f. SF Realty Partners hereby grants a license to either or both Trujillo/Bachers or Thackrey/Anker, or their agents and contractors, to enter upon 310 Montcalm should they need to perform any work to correct the damage.
  - g. SF Realty Partners will execute such contracts as necessary to perform the remediation to both 308 Montcalm and 312 Montcalm. Such contracts will among other matters, include:
    - a. A description of the scope of work as stated on Attachment A, attached hereto and made part of this contract, and the property on which the work is to be performed. SF Realty Partners and/or agree to comply with Exhibit A in all respects while performing the work. The work restoring 312 Montcalm and 308 Montcalm and correcting any damage thereto must be performed before any work on other aspects of 310 Montcalm.
    - b. Any such contracts will fully comply with Business & Professions Code 7159.

- c. Prior to the commencement of any work, all parties to such contracts, except Thackrey/Anker and Trujillo/Bachers, will purchase Commercial General Liability insurance policies that cover the work to be performed and contain the following:
  1. Such policies will not contain any exclusions that restrict the policy from indemnifying either or both Trujillo/Bachers and Thackery/Anders from any property damage incurred while the work is being performed and must not exclude residential construction from coverage.
  2. Such policies must have completed operations coverage.
  3. Each such policy must name Trujillo/Bachers and Thackrey/Anders as additional named insureds.
  4. Such policies and Certificates of Insurance must be produced to Trujillo/Bachers and Thackrey/Anker, or their designated representatives, for review to insure that coverage complies with this contract.
  5. The insurance policies must be issued by Companies that are admitted insurers in California.
  6. Each insurance policy will provide at least \$1 million in coverage.
- d. If either or both Trujillo/Bachers or Thackery are not parties to the contracts, they must be identified in each such contract as third party beneficiaries and the contracts must state that the contract is specifically for the benefit of either or both as may be appropriate.
- e. Only those contractors who have executed the contracts required herein and provided the required insurance may perform any work on 308, 310 or 312 Montcalm. Said contractors may employ subcontractors that are licensed by the State of California, have signed the necessary contracts and provided insurance as required herein. Only the employees of such contractors or subcontractors may perform any work on any of these properties.
- f. SF Realty Partners will deposit \$100,000 into escrow with ten days of execution of this agreement to pay for such work as may be required to correct the damage to 308 and 312 Montcalm. These funds will be disbursed to pay those who perform the work as determined by the neutral engineer as stated below. Should any funds remain in the escrow account upon completion of any work needed to cure the damage, such will be returned to SF Realty Partners. This contract will become effective only upon deposit of the escrow funds.





escrow account until the dispute is resolved. The party prevailing in such arbitration will be entitled to reasonable attorney's fees and costs.

4. This agreement supersedes and replaces any contract, agreement or promise, whether oral or written, made by any of the parties prior to the execution of this agreement. This agreement constitutes the entire agreement between the parties. Should the parties execute construction contracts hereafter, such contracts must not contradict any term of this agreement. This agreement must be an exhibit to any such contract and its terms must be incorporated into any such contract.
5. The recitals above are part of this agreement.
6. Thackrey/Anker and Trujillo/Bachers will be entitled to reasonable attorney's fees and the cost of any expert or consultant engaged after this agreement and any construction contracts are signed.
7. Should any dispute arise concerning this agreement, such will be resolved by an arbitrator appointed by ADR Services, Inc. and according to its rules. The prevailing party will be entitled to reasonable attorneys' fees and costs.
8. Should SF Realtors sign any contract to sell the property prior to completion of all work necessary to correct any damage to either 308 Montcalm, 312 Montcalm or to comply with any code, regulation or requirement of the City and County of San Francisco, this agreement and the obligations contained herein must be disclosed to the prospective buyer and must be made part of the contract of sale so that the buyer assumes all of the obligations of SF Realtors. Such assumption will not relieve SF Realtors from any obligation contained herein or from any obligation to fully repair any damage

Dated: SF Realty Partners LLC

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

Dated:

\_\_\_\_\_  
Ashok Gujral

Dated

\_\_\_\_\_  
Susan Thackrey

Dated

\_\_\_\_\_  
Steve Anker

Dated

\_\_\_\_\_  
Marianne Bachers

Dated:

\_\_\_\_\_  
Rafael Trujillo

EXHIBIT G

THACKREY/ANKER REQUEST FOR DR  
CALIFORNIA CIVIL CODE SECTION 832

**State of California**

**CIVIL CODE**

**Section 832**

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832. Each coterminous owner is entitled to the lateral and subjacent support which his land receives from the adjoining land, subject to the right of the owner of the adjoining land to make proper and usual excavations on the same for purposes of construction or improvement, under the following conditions:

1. Any owner of land or his lessee intending to make or to permit an excavation shall give reasonable notice to the owner or owners of adjoining lands and of buildings or other structures, stating the depth to which such excavation is intended to be made, and when the excavating will begin.

2. In making any excavation, ordinary care and skill shall be used, and reasonable precautions taken to sustain the adjoining land as such, without regard to any building or other structure which may be thereon, and there shall be no liability for damage done to any such building or other structure by reason of the excavation, except as otherwise provided or allowed by law.

3. If at any time it appears that the excavation is to be of a greater depth than are the walls or foundations of any adjoining building or other structure, and is to be so close as to endanger the building or other structure in any way, then the owner of the building or other structure must be allowed at least 30 days, if he so desires, in which to take measures to protect the same from any damage, or in which to extend the foundations thereof, and he must be given for the same purposes reasonable license to enter on the land on which the excavation is to be or is being made.

4. If the excavation is intended to be or is deeper than the standard depth of foundations, which depth is defined to be a depth of nine feet below the adjacent curb level, at the point where the joint property line intersects the curb and if on the land of the coterminous owner there is any building or other structure the wall or foundation of which goes to standard depth or deeper then the owner of the land on which the excavation is being made shall, if given the necessary license to enter on the adjoining land, protect the said adjoining land and any such building or other structure thereon without cost to the owner thereof, from any damage by reason of the excavation, and shall be liable to the owner of such property for any such damage, excepting only for minor settlement cracks in buildings or other structures.

(Amended by Stats. 1968, Ch. 835.)

# Public Correspondence



## East Slope Design Review Board

Terry Milne, external secretary • 321 Rutledge • San Francisco 94110 • [285•8978]

March 12, 2018

Mr. Reza Khoshnevisan  
Sia Consulting Corporation  
1256 Howard Street  
San Francisco CA 94103  
[reza@siaconsult.com](mailto:reza@siaconsult.com)

RE: 310 Montcalm Street  
Block/Lot #5527/007  
CC: Ms. Alexandra Kirby  
SF Planning Department  
[alexandra.kirby@sfgov.org](mailto:alexandra.kirby@sfgov.org)

Dear Mr. Khoshnevisan,

The Bernal Heights East Slope Design Review Board held a neighborhood meeting on March 1, 2018 to review the proposed remodel of 310 Montcalm Street. The meeting was attended by a group of approximately eight neighbors and the owner's representative.

We understand that the project has been a source of neighbor concern for a number of years, that work was carried out beyond permitted plans, and that enforcement action has been taken to stop the work. At the meeting, the owners of 308 and 312 Montcalm described significant adverse impacts to their properties as a result of the work carried out at 310 Montcalm, and a history of the owner of 310 Montcalm failing to fulfill agreements to remediate those adverse impacts.

The owners of 308 and 312 Montcalm expressed strongly that work on 310 Montcalm should not be permitted to go forward until the owner of 310 Montcalm has remediated the adverse impacts to their properties; an agreement to remediate was not viewed as sufficient, since prior agreements with the owner of 310 Montcalm have not been fulfilled. The Board supports their position. The owner's representative in attendance at the meeting concurred that this was reasonable.

We understand that the intent is to remove recent non-complying work such as the raised roof, oversized dormers, etc. At the meeting, we were presented with a comparison of the "existing" building as it was before the recent work began, and proposed modifications. By this measure, the Board believes that the project is in general conformance with the Bernal Heights East Slope Building Guidelines. The proposed modifications are relatively minor, consisting of new dormers that are set back from the street and adjacent property lines; removal of a rear addition and its replacement with an addition that complies with rear setback requirements; and an interior remodel that otherwise retains the previously existing building envelope.

The owner of 312 Montcalm noted that the project proposes car parking in an exterior area adjacent to their bedroom, and requested that the design incorporate a fence, wall or similar screening element to address their privacy and car exhaust concerns. This could be combined with a front gate that would screen the parked car from the street, as required by the Guidelines. The neighbor across the street requested information that would help him better understand the impact of the dormers on his views, which Mr. Khoshnevisan said he would provide. Neighbors have concerns with stormwater management on 310 Montcalm, which should also be addressed.

The Board wishes to thank the project sponsor for presenting the plans to the neighborhood. Since the Board is not a City agency, it does not have the power to either approve or disapprove the permit application.

Cordially,

Wendy Cowles, Chair  
On Behalf of the Bernal Heights ESDRB















PROJECT NAME  
**310 Montcalm Street**  
 SAN FRANCISCO, CA



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SHEET TITLE

**3D Isometric View**

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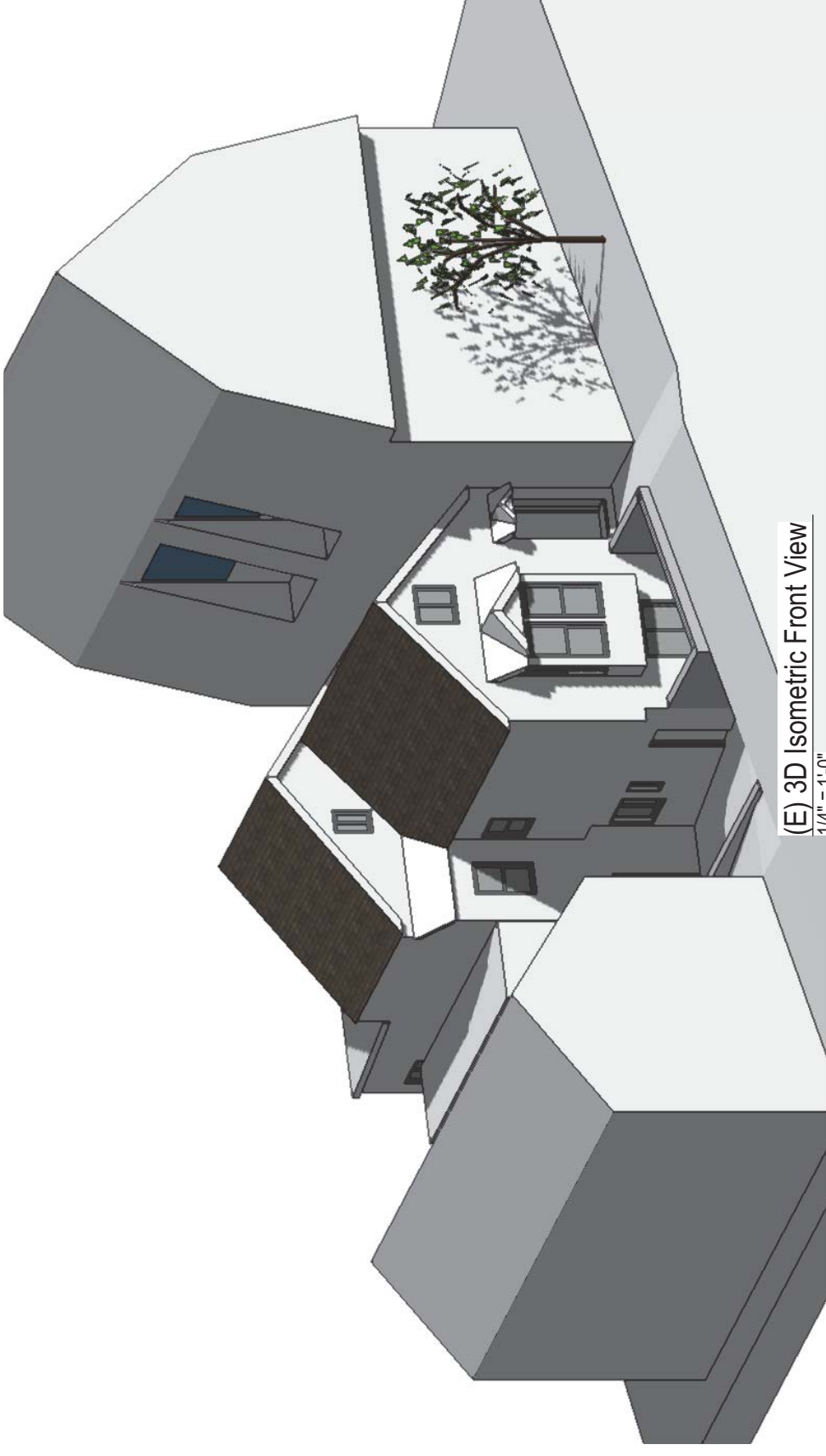
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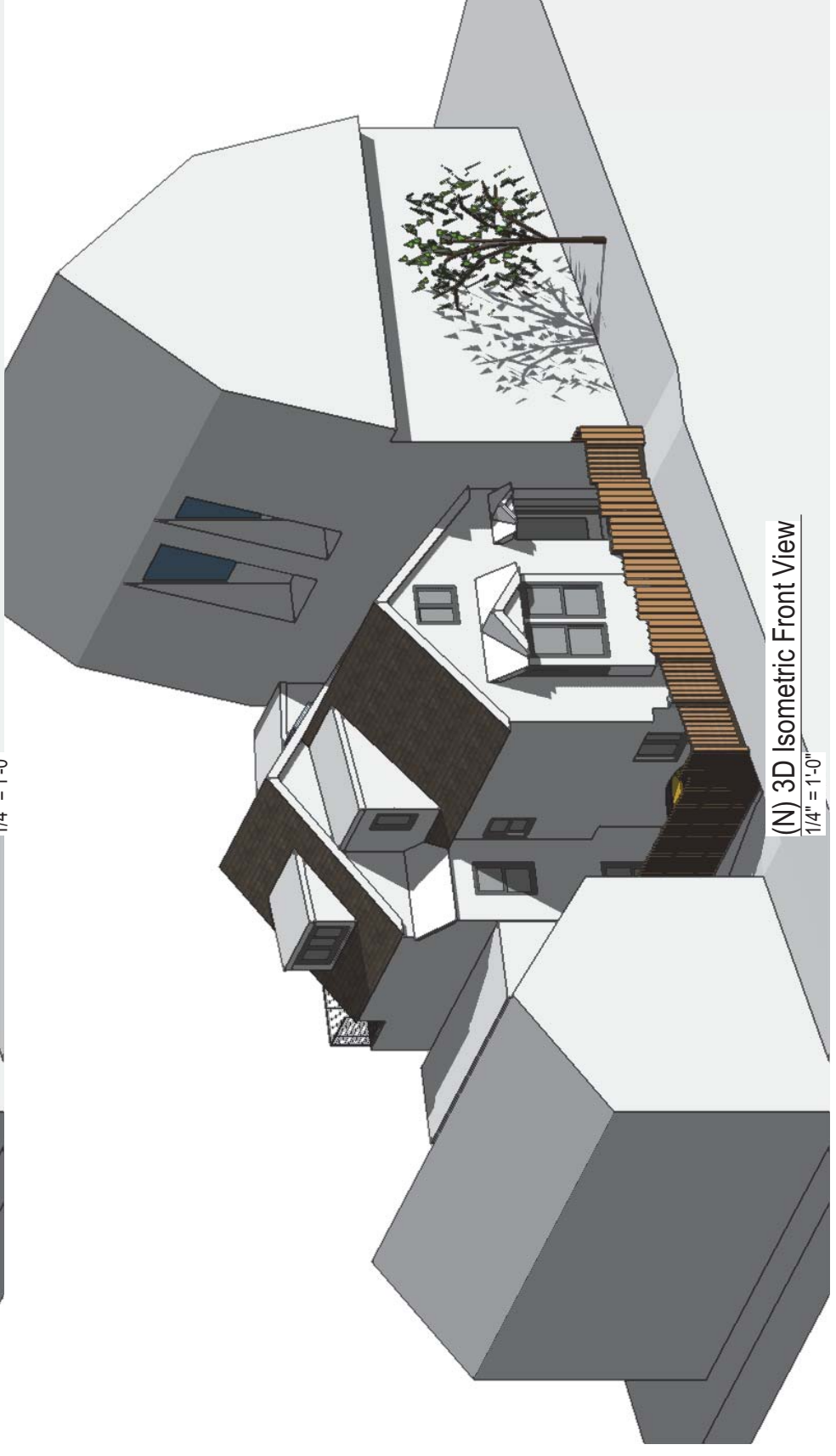
JOB NO. 17-1762

SHEET NO.

**A-0.5**



**(E) 3D Isometric Front View**  
 1/4" = 1'-0"



**(N) 3D Isometric Front View**  
 1/4" = 1'-0"

PROJECT NAME  
**310 Montcalm Street**  
 SAN FRANCISCO, CA

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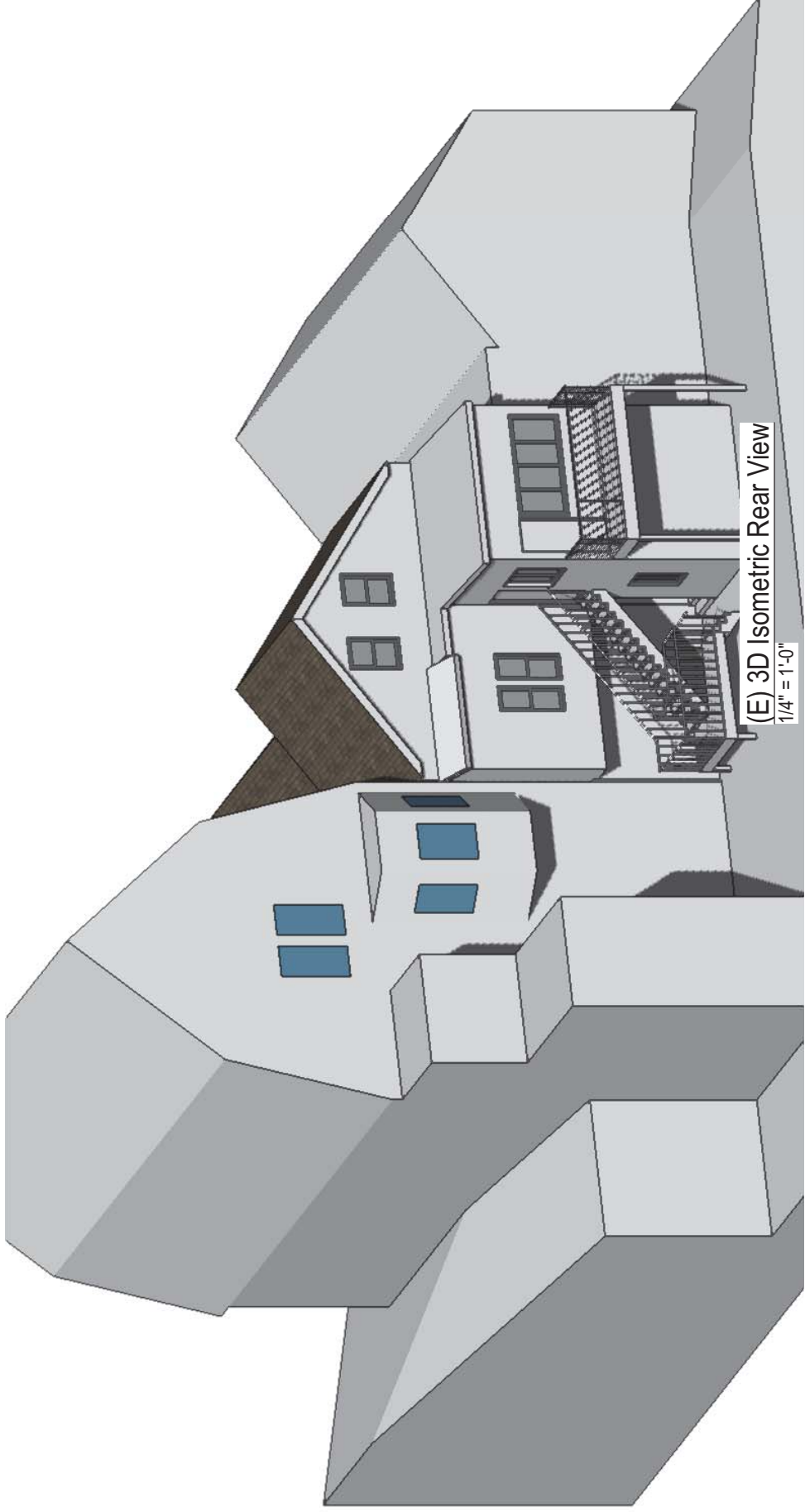


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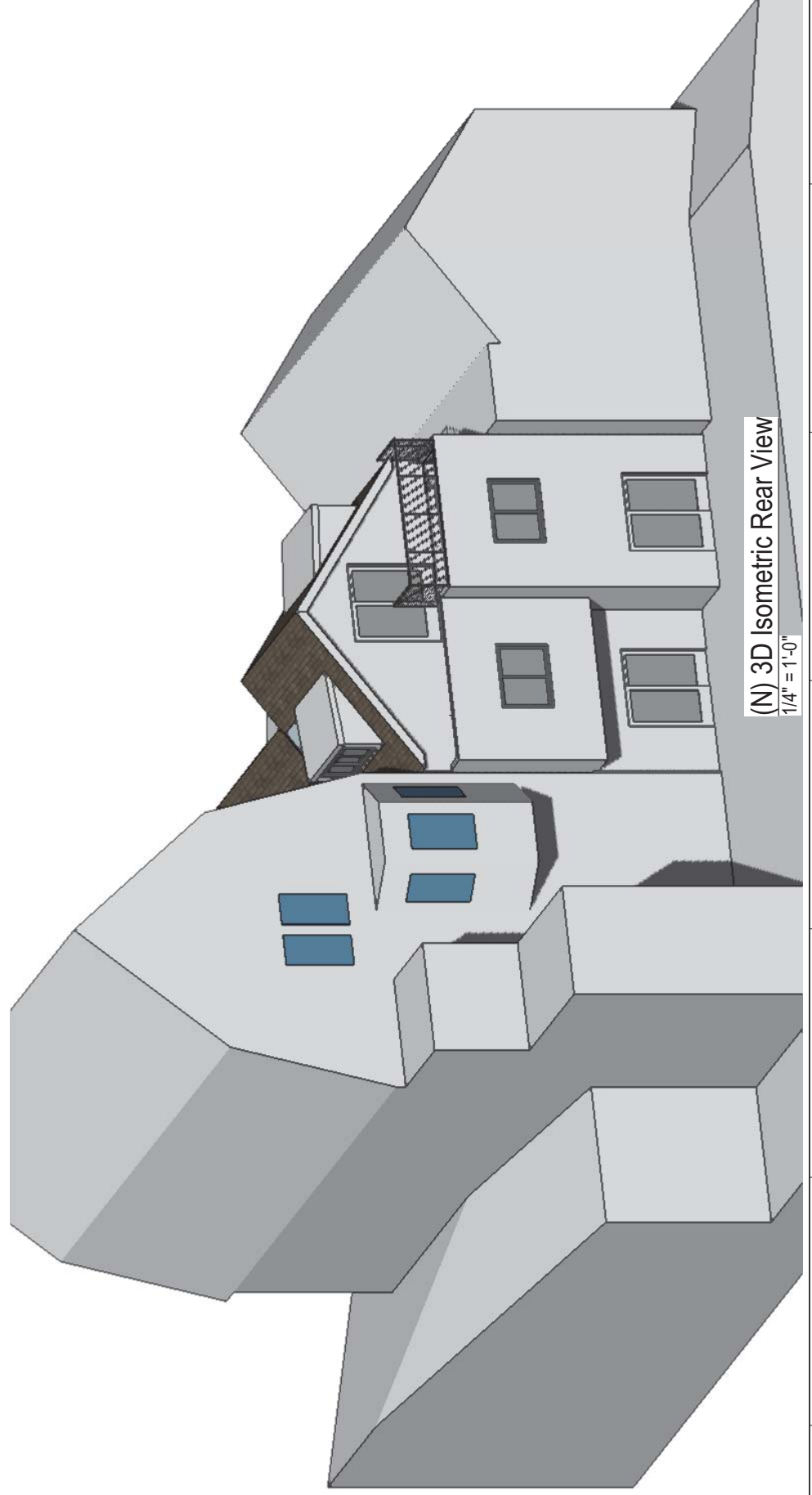
SHEET TITLE

**3D Isometric View**

C



(E) 3D Isometric Rear View  
 1/4" = 1'-0"



(N) 3D Isometric Rear View  
 1/4" = 1'-0"

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**A-0.6**

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**Site Plans**

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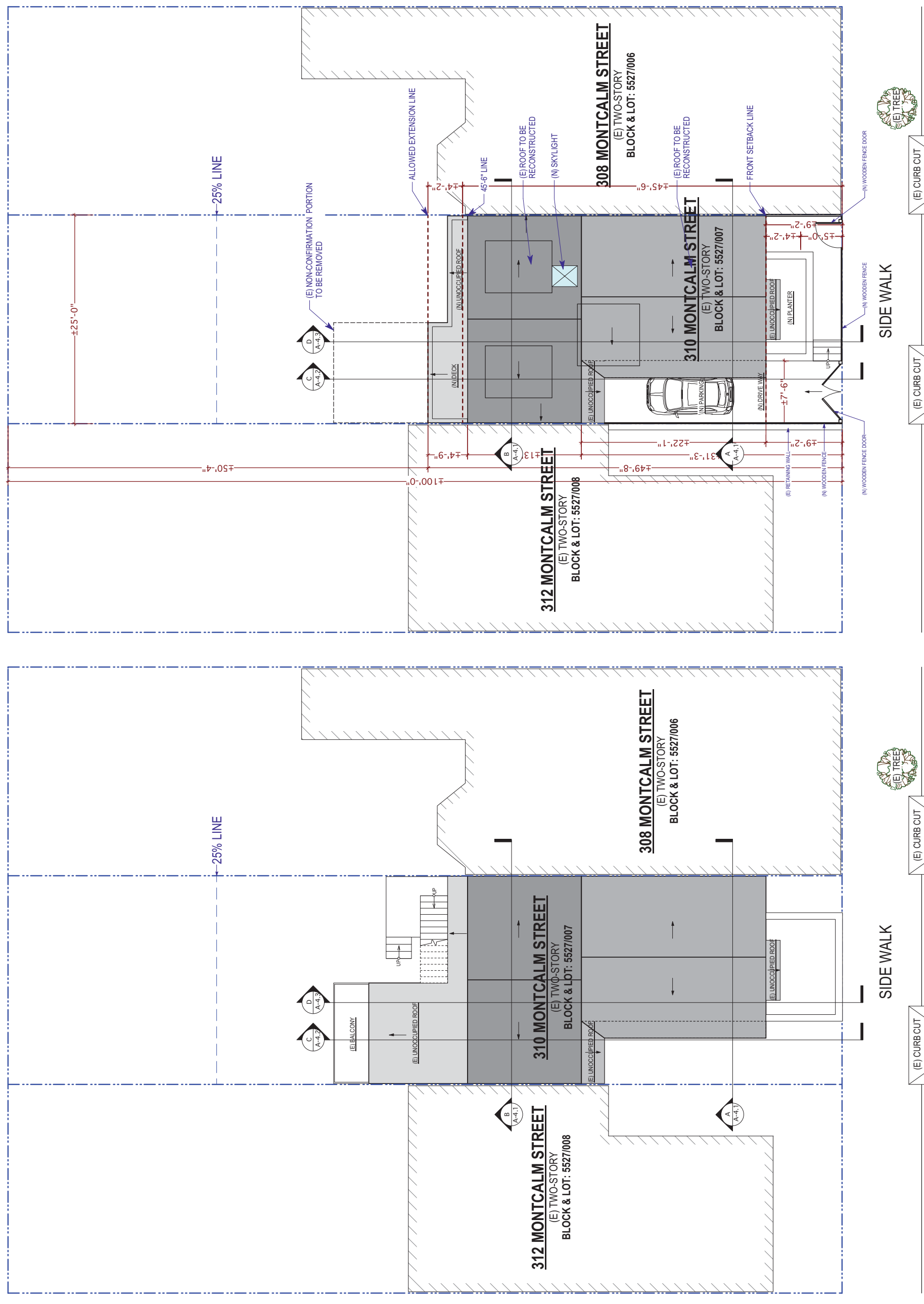
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SHEET NO. **A-1.1**



**Existing Site Plan**  
 3/16" = 1'-0"

**Proposed Site Plan**  
 3/16" = 1'-0"

Legend:  
 BLOCK & LOT: 5527/007  
 PROPERTY LINE:  
 (E) OUTLINE OF SUBJECT BLDG.:  
 (E) OUTLINE OF NEIGHBORS:

**Existing Site Plan**  
 3/16" = 1'-0"

**Proposed Site Plan**  
 3/16" = 1'-0"

Legend:  
 BLOCK & LOT: 5527/007  
 PROPERTY LINE:  
 (E) OUTLINE OF SUBJECT BLDG.:  
 (E) OUTLINE OF NEIGHBORS:

**Existing Site Plan**  
 3/16" = 1'-0"

**Proposed Site Plan**  
 3/16" = 1'-0"

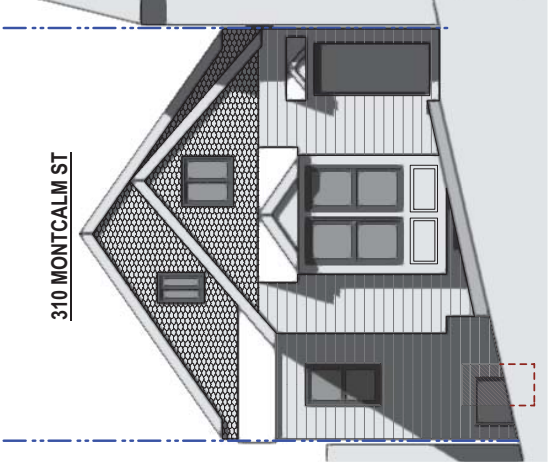
Legend:  
 BLOCK & LOT: 5527/007  
 PROPERTY LINE:  
 (E) OUTLINE OF SUBJECT BLDG.:  
 (E) OUTLINE OF NEIGHBORS:



10 9 8 7 6 5 4 3 2 1

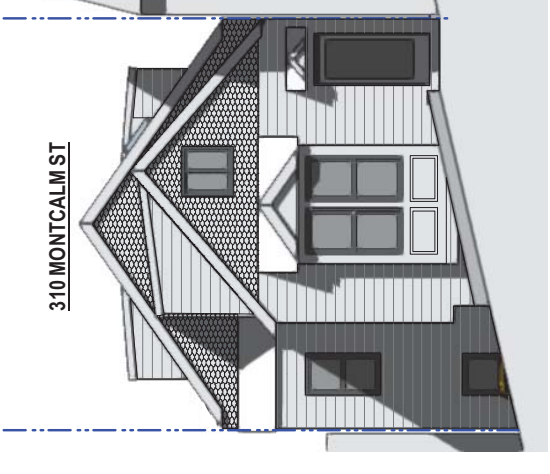
PROJECT NAME  
**310 Montcalm Street**  
SAN FRANCISCO, CA

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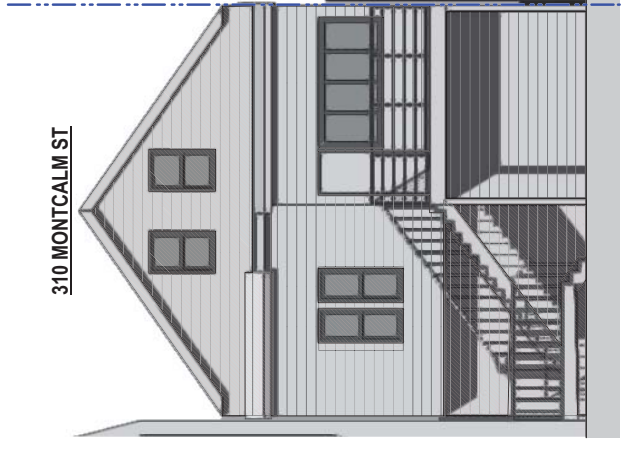
310 MONTCALM ST

Existing Front Elevation (South)  
3/16" = 1'-0"



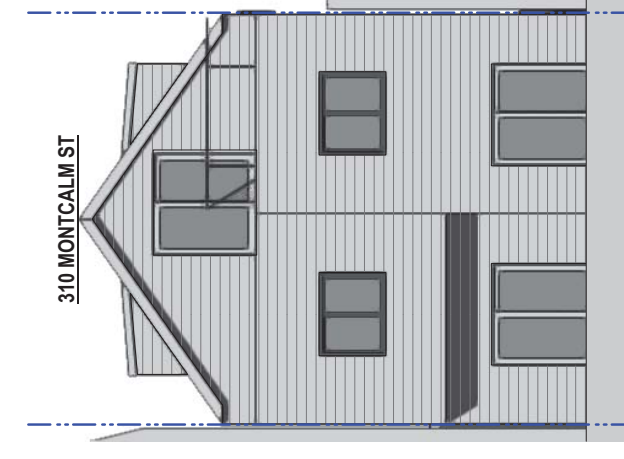
310 MONTCALM ST

Proposed Front Elevation (South)  
3/16" = 1'-0"



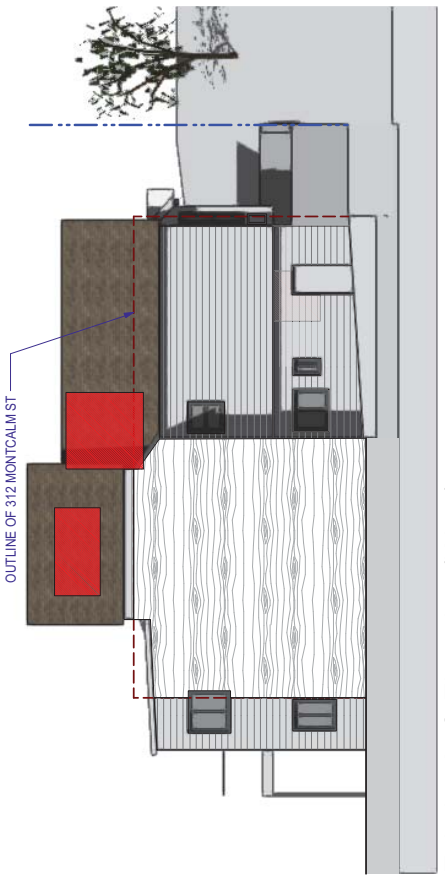
310 MONTCALM ST

Existing Rear Elevation (North)  
3/16" = 1'-0"

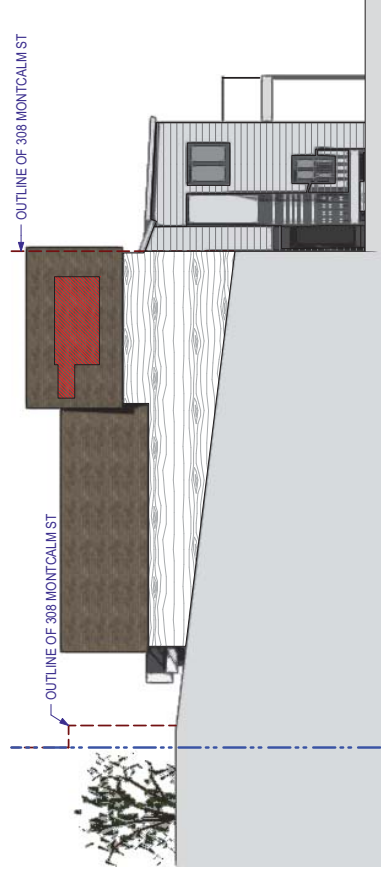


310 MONTCALM ST

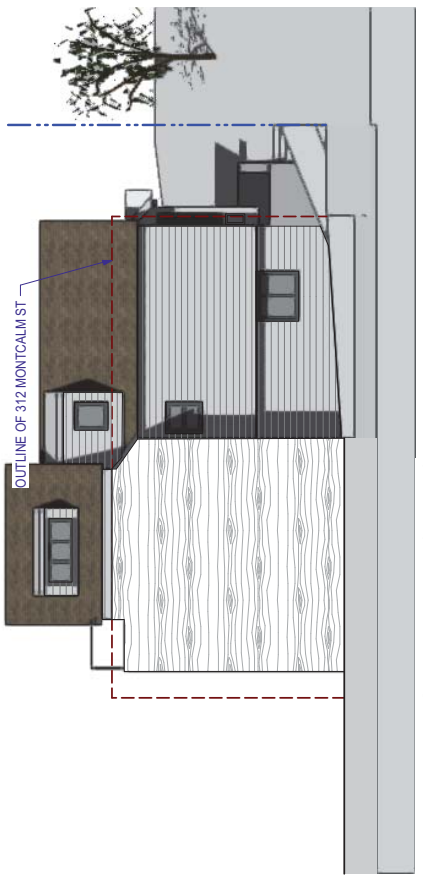
Proposed Rear Elevation (North)  
3/16" = 1'-0"



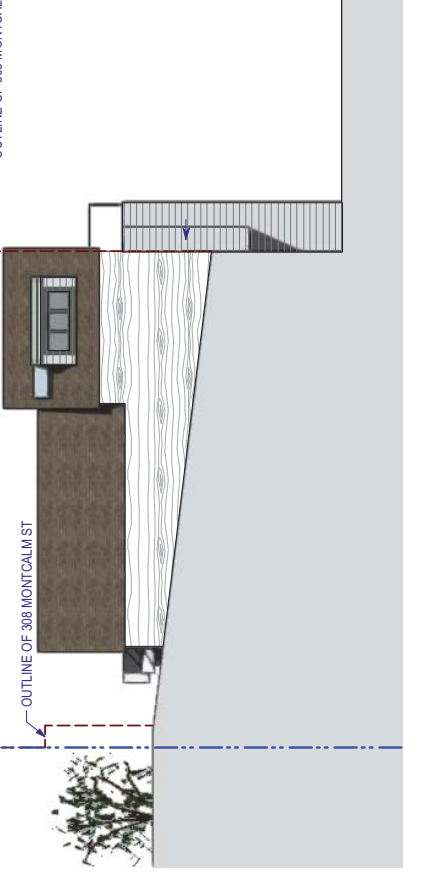
Existing Left Elevation (West)  
1/8" = 1'-0"



Proposed Left Elevation (West)  
1/8" = 1'-0"



Existing Right Elevation (East)  
1/8" = 1'-0"



Proposed Right Elevation (East)  
1/8" = 1'-0"



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**Demo**  
**Calc. Diagram**

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SHEET NO.

**A-1.2**

10 9 8 7 6 5 4 3 2 1









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**Third Floor Plans**

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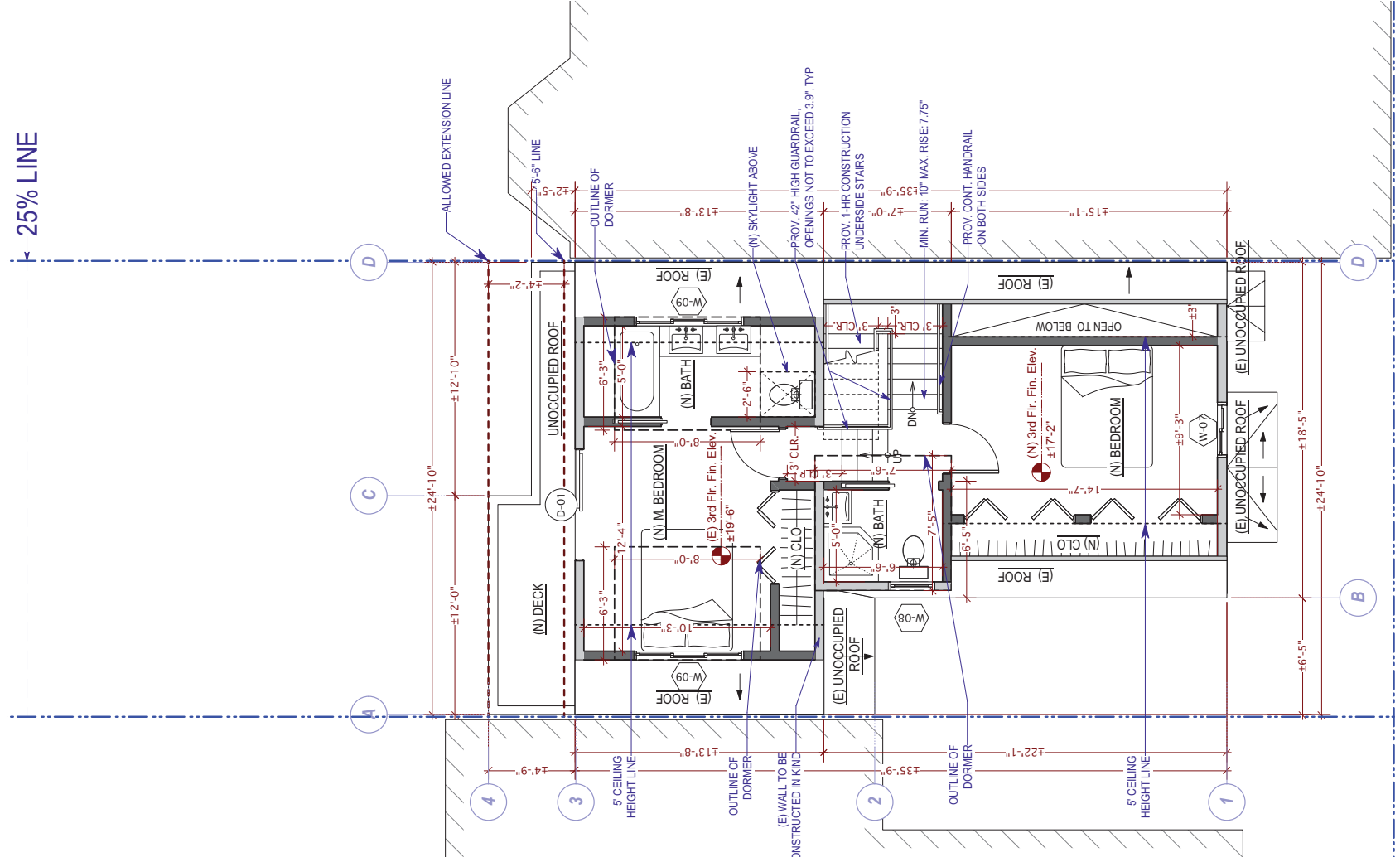
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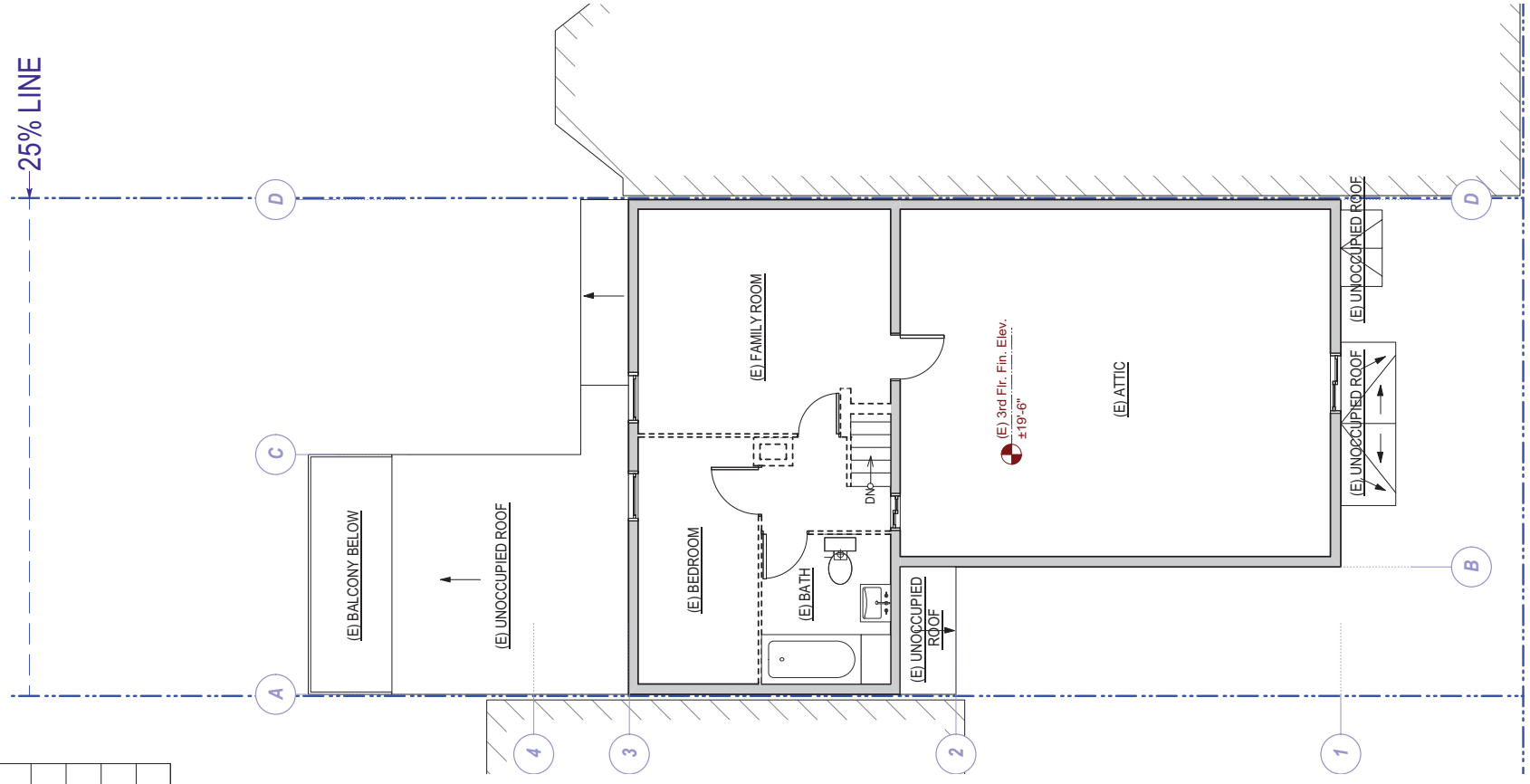
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SHEET NO.

**A-2.3**



**Proposed Third Floor Plan**  
 1/4" = 1'-0"



**Existing Third Floor Plan**  
 1/4" = 1'-0"

--- --	PROPERTY LINE
----	(E) WALL TO BE REMOVED
----	(E) WALL TO REMAIN
----	(E) WALL TO BE RETROFITTED TO 1-HR FIRE RATED
----	(N) WALL TO BE CONSTRUCTED
----	(N) WALL TO BE 1-HR. FIRE RATED
----	(N) CONCRETE WALL TO BE CONSTRUCTED





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# Front Elevations Door/Window Schedule & Demolition Calculations

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SHEET NO.

**A-3.1**

Door Schedule			
Mark	Nominal Size	Door Operation	Slab Style
D-1_01	6'0" x 6'8" x 1 3/4" Thickness	Slider	Glass

Window Schedule			
Mark	Nominal Size	O.A. Height	Comments
W-01	4'6"	3'10" Horizontal Slider	Safety Glass
W-02	5'0"	9'0" Single Hung	Safety Glass
W-03	5'6"	11'8" Single Hung	Safety Glass
W-04	2'0"	11'8" Single Hung	Safety Glass
W-05	10'0"	8'0" Horizontal Slider	Safety Glass
W-06	2'10"	3'3" Single Hung	Safety Glass
W-07	3'0"	3'11" Horizontal Slider	Safety Glass
W-08	2'6"	3'0" Casement	Safety Glass
W-09	6'0"	2'6" Horizontal Slider	Safety Glass

**NOTE:**

ALL THE FRONT FACADE WINDOWS VISIBLE FROM PUBLIC RIGHT OF WAY TO BE ALUMINUM CLAD WOOD FRAME, SELECTED FROM MARVIN ULTIMATE MAGNUM LINE

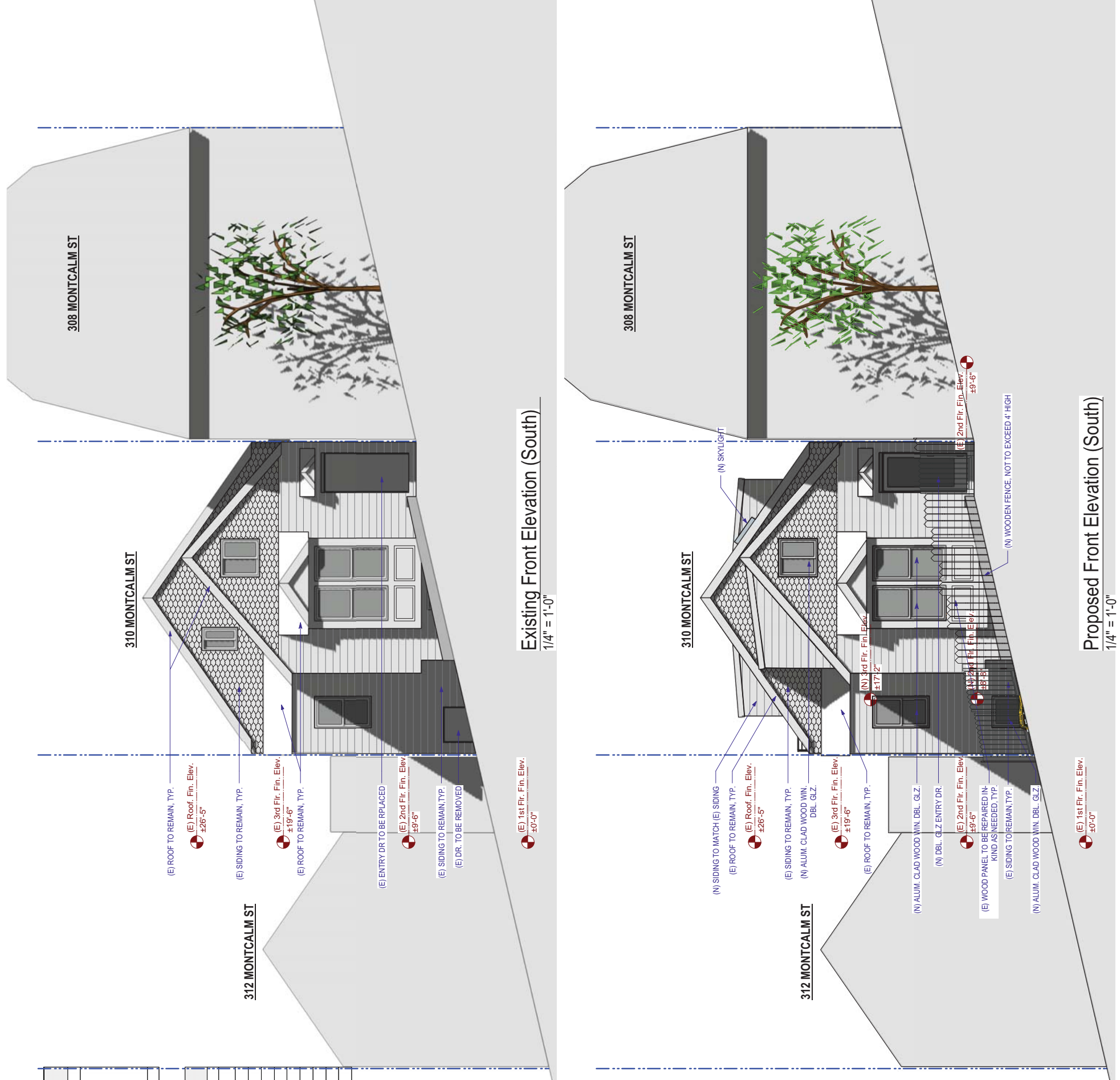
DEMOLITION JUSTIFICATION PER SFPC 317(b)(2)(B) - PART 1			
LEVEL	(E) AREA Sq.Ft.	REMOVED	% REMOVED
FRONT FACADE	73.1	11.8	16.14 %
FIRST FLOOR	248.3	0	0 %
SECOND FLOOR	199.8	0	0 %
THIRD FLOOR	199.8	0	0 %
<b>TOTAL</b>	<b>521.2</b>	<b>11.8</b>	<b>2.26 %</b>
REAR FACADE			
FIRST FLOOR	118	118	100 %
SECOND FLOOR	148	36	24.32 %
THIRD FLOOR	199.7	199.7	100 %
<b>TOTAL</b>	<b>465.7</b>	<b>353.7</b>	<b>75.95 %</b>
<b>FRONT &amp; REAR TOTAL:</b>	<b>986.9 ± S.F.</b>	<b>365.5 ± S.F.</b>	<b>37.03 % &lt; 50 %</b>

DEMOLITION JUSTIFICATION PER SFPC 317(b)(2)(B) - PART 2			
LEVEL	(E) LENGTH FL	REMOVED	% REMOVED
EXT. WALLS @ THE FOUNDATION	120'48"	41'23"	34.22 %
FIRST FLOOR	120'48"	41'23"	34.22 %
<b>TOTAL:</b>	<b>120'48"</b>	<b>41'23"</b>	<b>34.22 % &lt; 65 %</b>

DEMOLITION JUSTIFICATION PER SFPC 317(b)(2)(C) - PART 1			
LEVEL	(E) AREA Sq.Ft.	REMOVED	% REMOVED
THIRD FLOOR	743.13	276.18	37.16 %
ROOF	896.04	155.5	17.35 %
<b>FRONT &amp; REAR TOTAL:</b>	<b>1639.174 ± S.F.</b>	<b>431.68 ± S.F.</b>	<b>26.34 % &lt; 50 %</b>

DEMOLITION JUSTIFICATION PER SFPC 317(b)(2)(C) - PART 2			
ELEVATION	(E) AREA Sq.Ft.	REMOVED	% REMOVED
FRONT	521.2	11.8	2.26 %
LEFT	1202.83	83	6.90 %
RIGHT	972.68	38	3.90 %
REAR	465.7	353.7	75.95 %
<b>TOTAL:</b>	<b>3162.41 ± S.F.</b>	<b>486.5 ± S.F.</b>	<b>15.38 % &lt; 50 %</b>

INTERIOR WALLS DEMOLITION JUSTIFICATION			
LEVEL	(E) LENGTH FL	REMOVED	% REMOVED
FIRST FLOOR	96.58'	56.10'	58.09 %
SECOND FLOOR	94.76'	77.42'	81.71 %
THIRD FLOOR	56.0'	36.56'	65.29 %
<b>TOTAL</b>	<b>247.33'</b>	<b>172.10'</b>	<b>69.58 % &lt; 75 %</b>

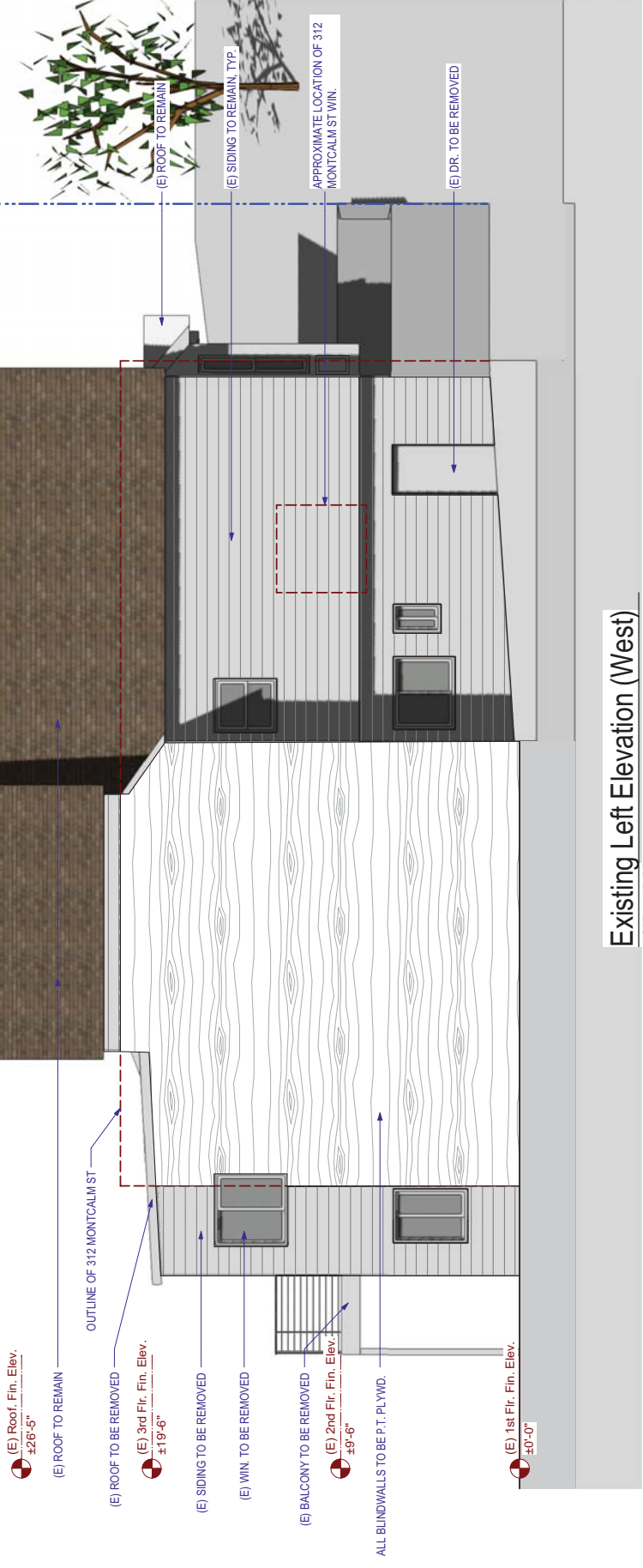


Existing Front Elevation (South)  
 1/4" = 1'-0"

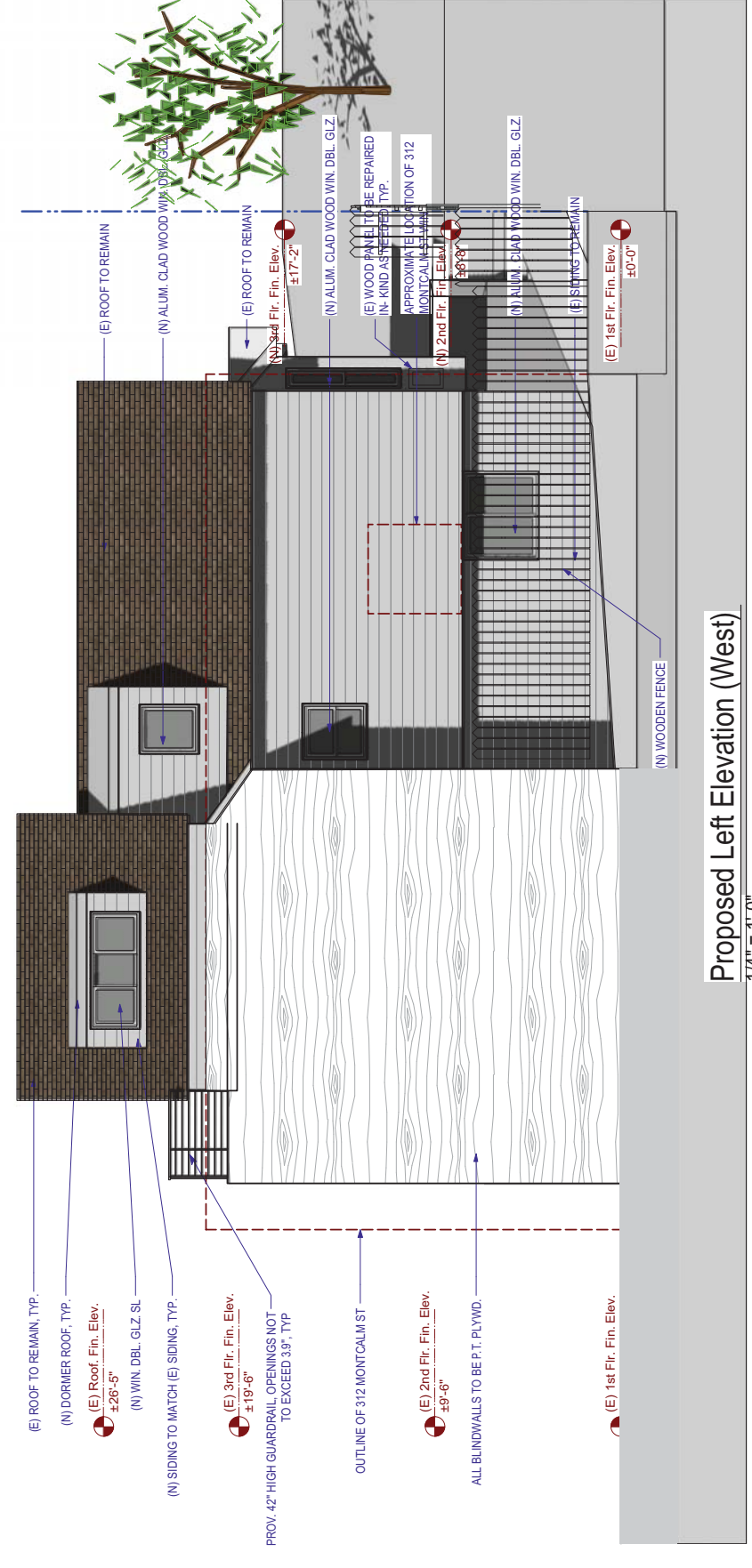
Proposed Front Elevation (South)  
 1/4" = 1'-0"



A



**Existing Left Elevation (West)**  
 1/4" = 1'-0"



**Proposed Left Elevation (West)**  
 1/4" = 1'-0"

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A



SHEET TITLE

**Right Elevations**

C

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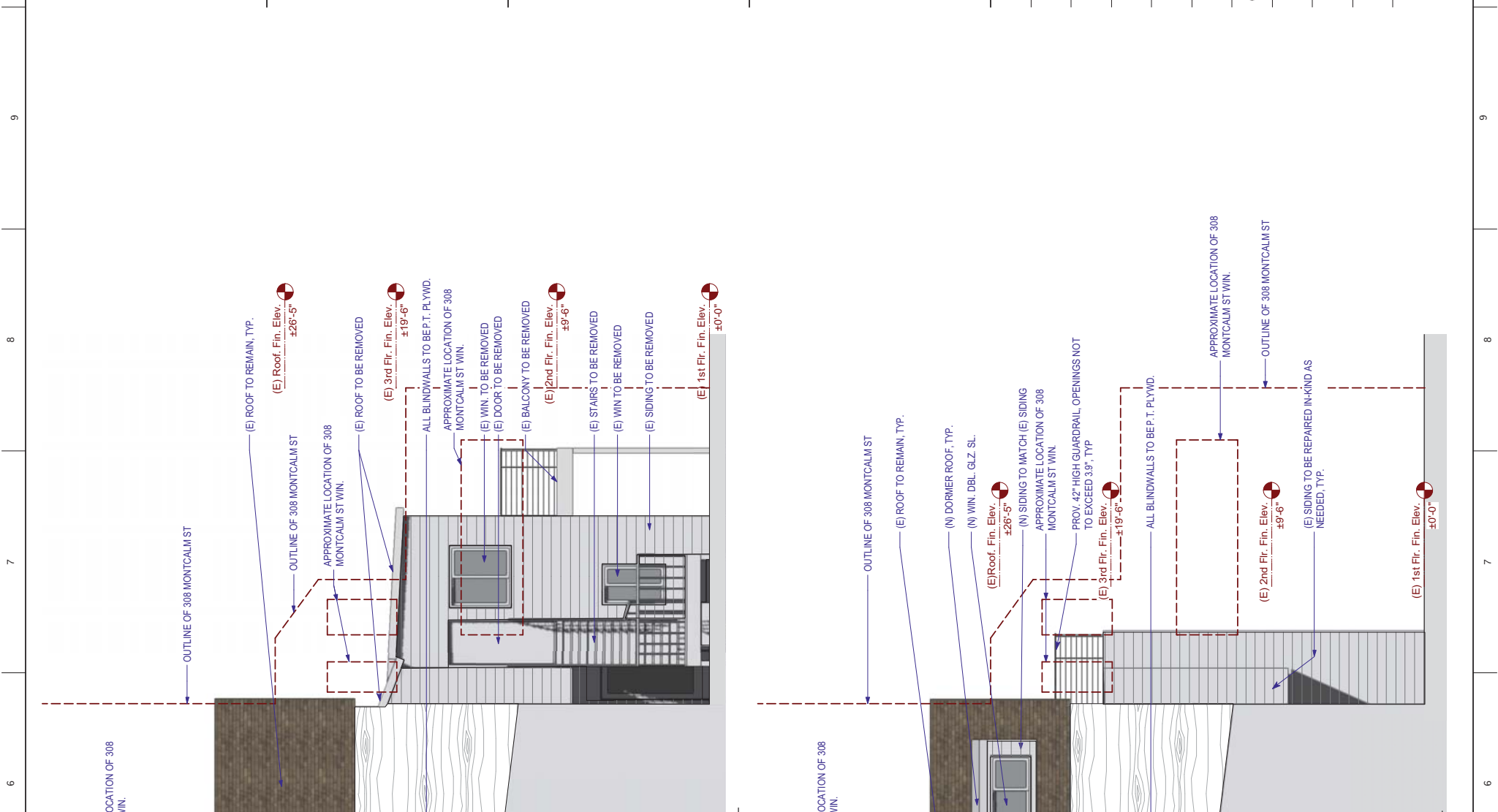
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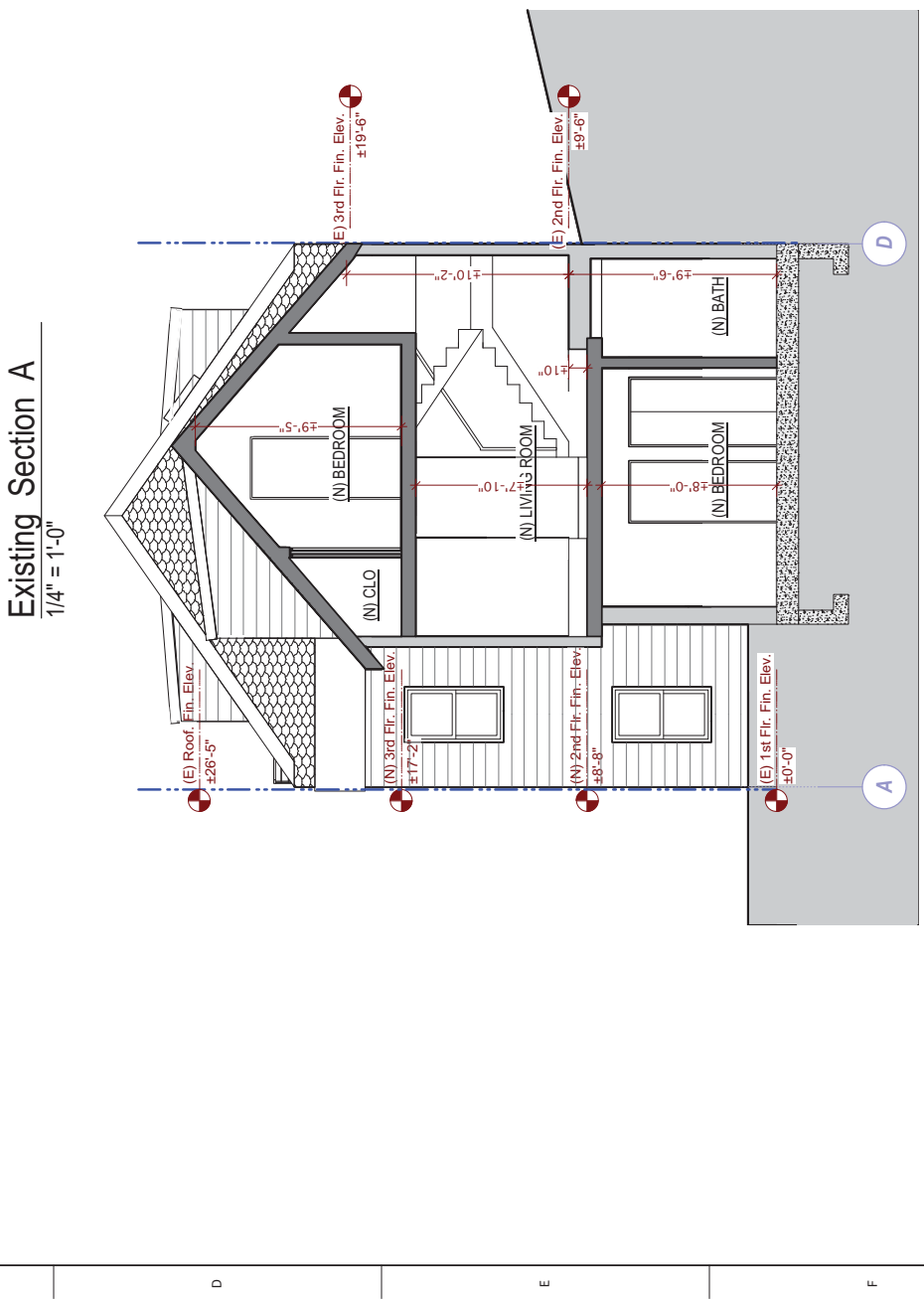
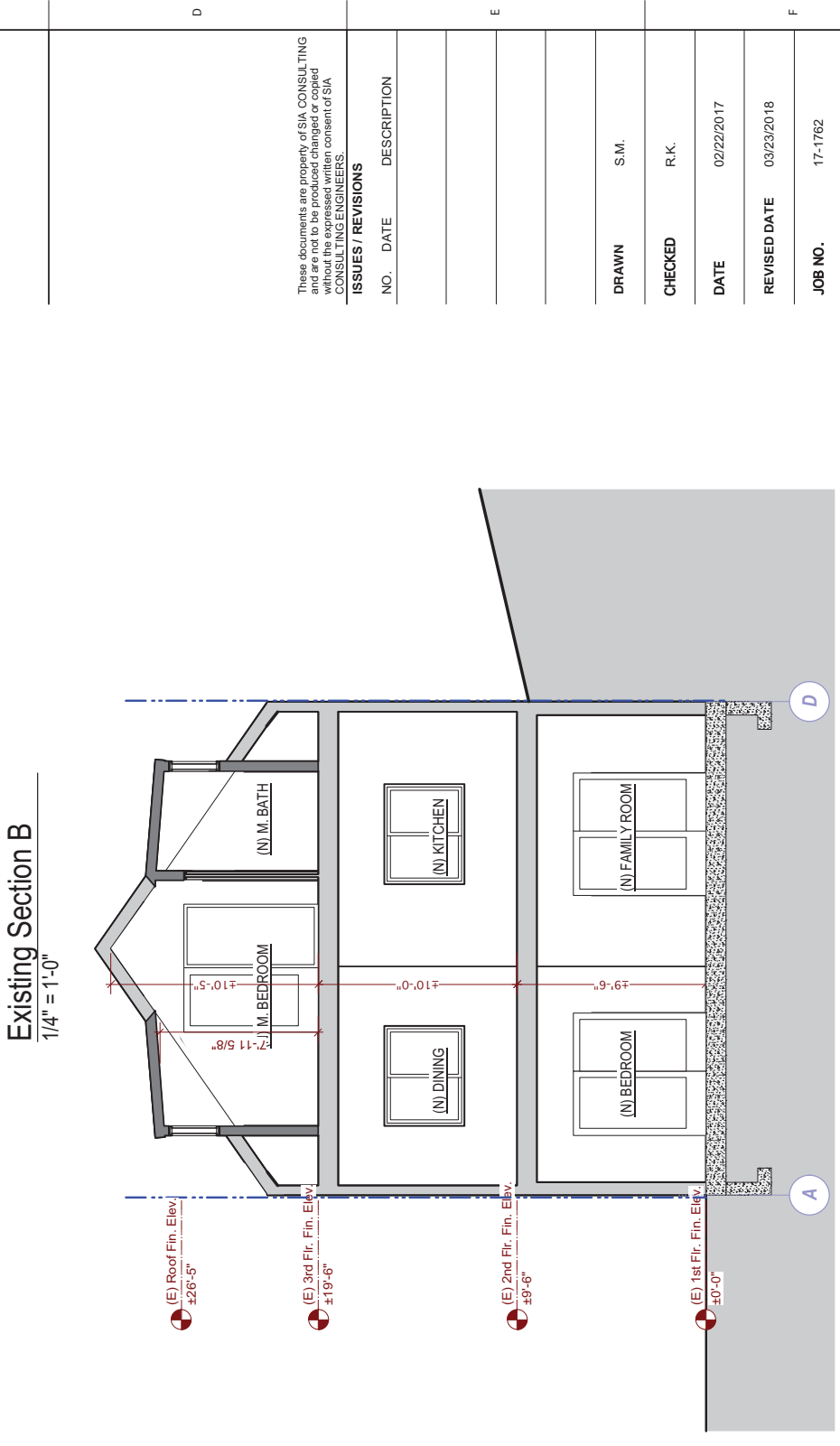
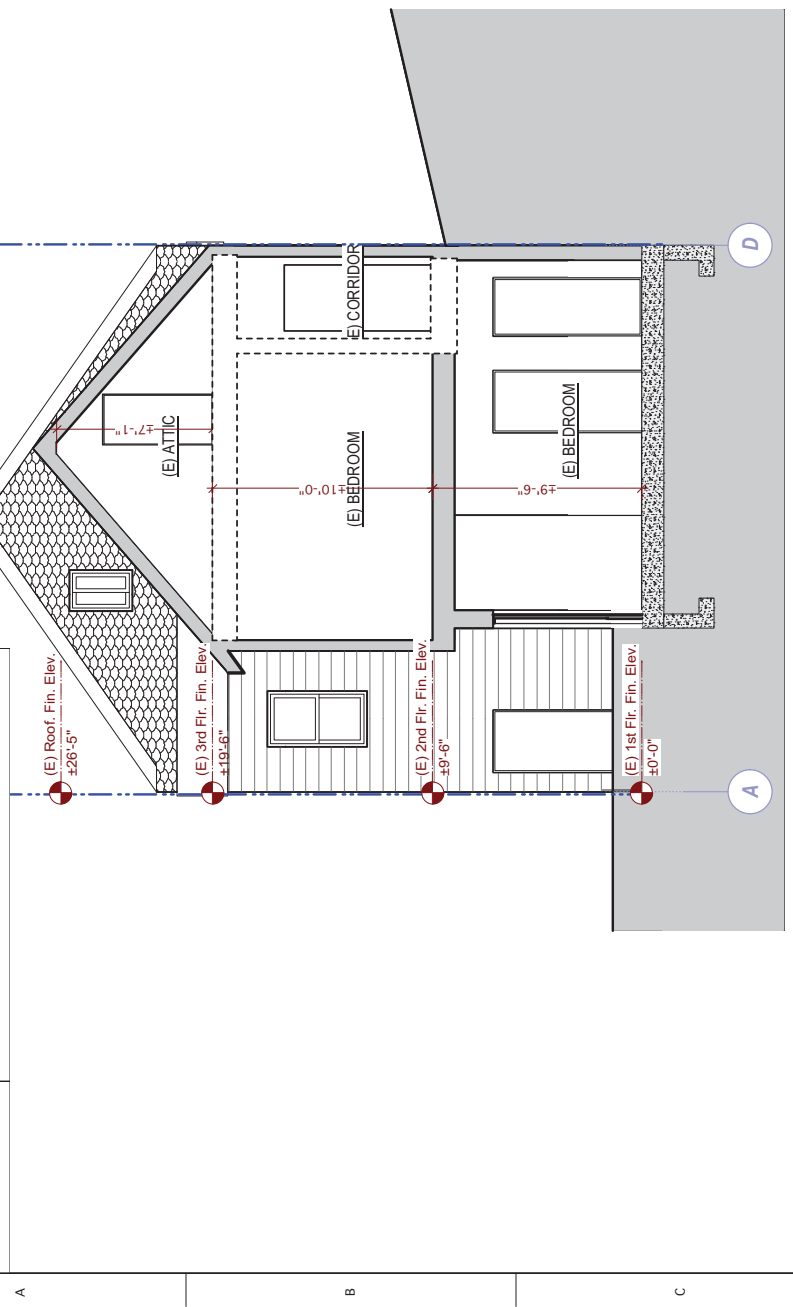
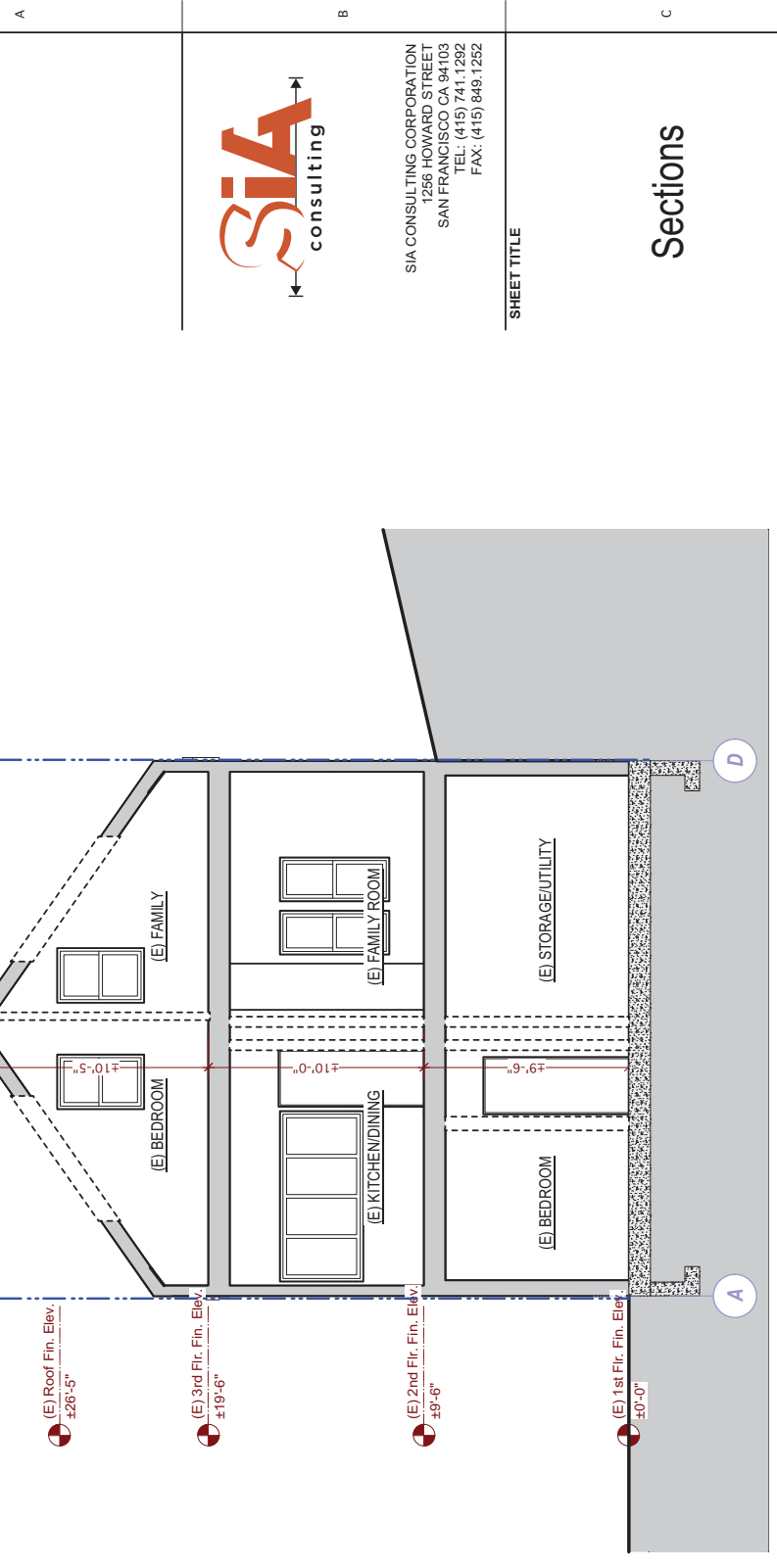
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**A-3.3**





---	PROPERTY LINE
---	(E) WALL/FLOOR SLAB TO BE REMOVED
---	(E) WALL/FLOOR SLAB TO REMAIN
---	(N) WALL/FLOOR SLAB TO BE CONSTRUCTED



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