



SAN FRANCISCO PLANNING DEPARTMENT

Discretionary Review Abbreviated Analysis HEARING DATE: JUNE 20, 2019

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: May 29, 2019
Case No.: **2018-016871DRP**
Project Address: **3600 Scott Street**
Permit Application: 2018.1213.8275
Zoning: RH-3 [Residential House, Three-Family]
 40-X Height and Bulk District
Block/Lot: 0441A/017
Project Sponsor: Joram Altman
 819 Alvarado Street
 San Francisco, CA 94114
Staff Contact: Katie Wilborn – (415) 575-9114
Katherine.Wilborn@sfgov.org
Recommendation: **Do not take DR and approve**

PROJECT DESCRIPTION

The project consists of a 2'-0" x 7'-0" horizontal extension to an existing 2nd story rear deck as a permitted obstruction within the required rear yard.

SITE DESCRIPTION AND PRESENT USE

The site is a 25'-0" x 100' lot with an existing 3-story, two-family house built in 1925. The building is listed as a category 'A' historic resource.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

This block of Scott Street has an extremely consistent mid-block open space pattern comprised of 2- and 3-story buildings aligning with either enclosed pop-outs or 2-story deck structures.

BUILDING PERMIT NOTIFICATION

TYPE	REQUIRED PERIOD	NOTIFICATION DATES	DR FILE DATE	DR HEARING DATE	FILING TO HEARING TIME
311 Notice	30 days	February 14, 2019 – March 18, 2019	3.15. 2019	6.20.2019	97 days

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	20 days	June 1, 2019	June 1, 2019	20 days
Mailed Notice	20 days	June 1, 2019	June 1, 2019	20 days
Newspaper Notice	20 days	June 1, 2019	June 1, 2019	20 days

PUBLIC COMMENT

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

DR REQUESTOR

Patrick Mulligan of 3606 Scott Street, adjacent neighbor to the North of the proposed project.

DR REQUESTORS’ CONCERNS AND PROPOSED ALTERNATIVES

1. The deck will violate a private agreement to preclude a functional deck and enable cooking that will produce smells to the DR requestor’s adjacent bedroom window.

See attached *Discretionary Review Applications*, dated March 15, 2019.

PROJECT SPONSOR’S RESPONSE TO DR APPLICATION

The sponsor has complied with the Residential Design Team (RDAT) recommendations enumerated below, in relation to building massing at the rear to address issues related to scale, light and privacy.

See attached *Response to Discretionary Review*, dated May 10, 2019.

ENVIRONMENTAL REVIEW

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

DEPARTMENT REVIEW

The conditions imposed by the previous Discretionary Review approval (attached for reference) were with respect to a roof deck. They were:

1. The windscreen posts shall be painted a neutral color; and
2. Upon sale of the residence the windscreen shall be removed and a 42" high glass guardrail be restored.

The proposed project is a separate deck at the second floor. Staff review found that no exceptional or extraordinary circumstances exist with respect to the 2'-0" extension of the deck, since it is minimal, adding enough space to enable reasonable use, and set back 8'-0" from the DR requestor's lot line, and 9'-5 from the adjacent neighbor to the South. It is worth noting that 6 adjacent neighbors to the South enjoy similar decks at the 2nd and 3rd floors.

Whether or not a legal agreement exists and is enforceable is not the domain of the Planning Department, which is not privy to such an agreement.

RECOMMENDATION: Do not take DR and approve
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Attachments:

Block Book Map
Sanborn Map
Zoning Map
Aerial Photographs
Context Photographs
Section 311 Notice
CEQA Determination
DR Application
Response to DR Application dated May 10, 2019
Reduced Plans

Exhibits

Sanborn Map*



DR REQUESTOR'S PROPERTY

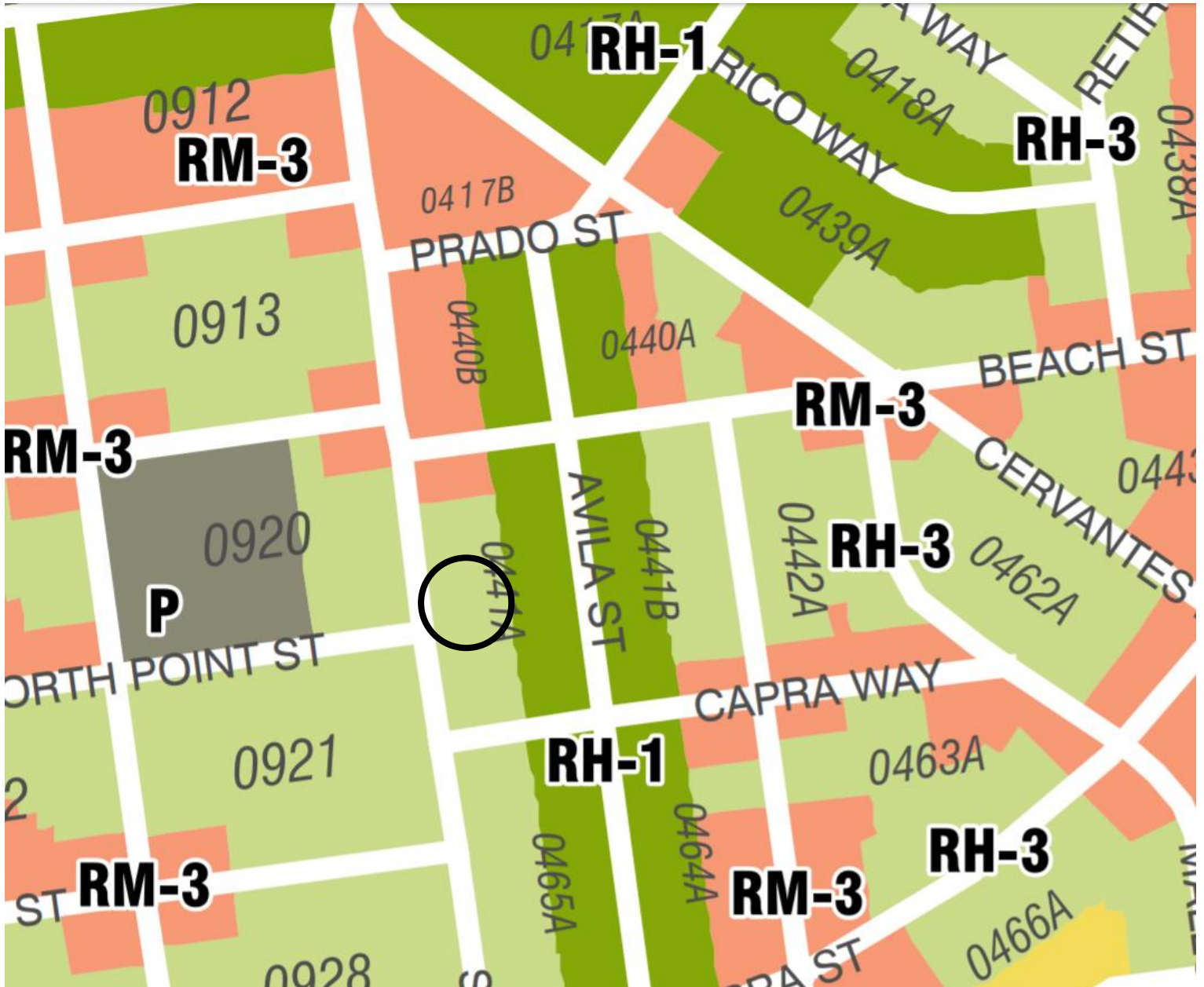
SUBJECT PROPERTY

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



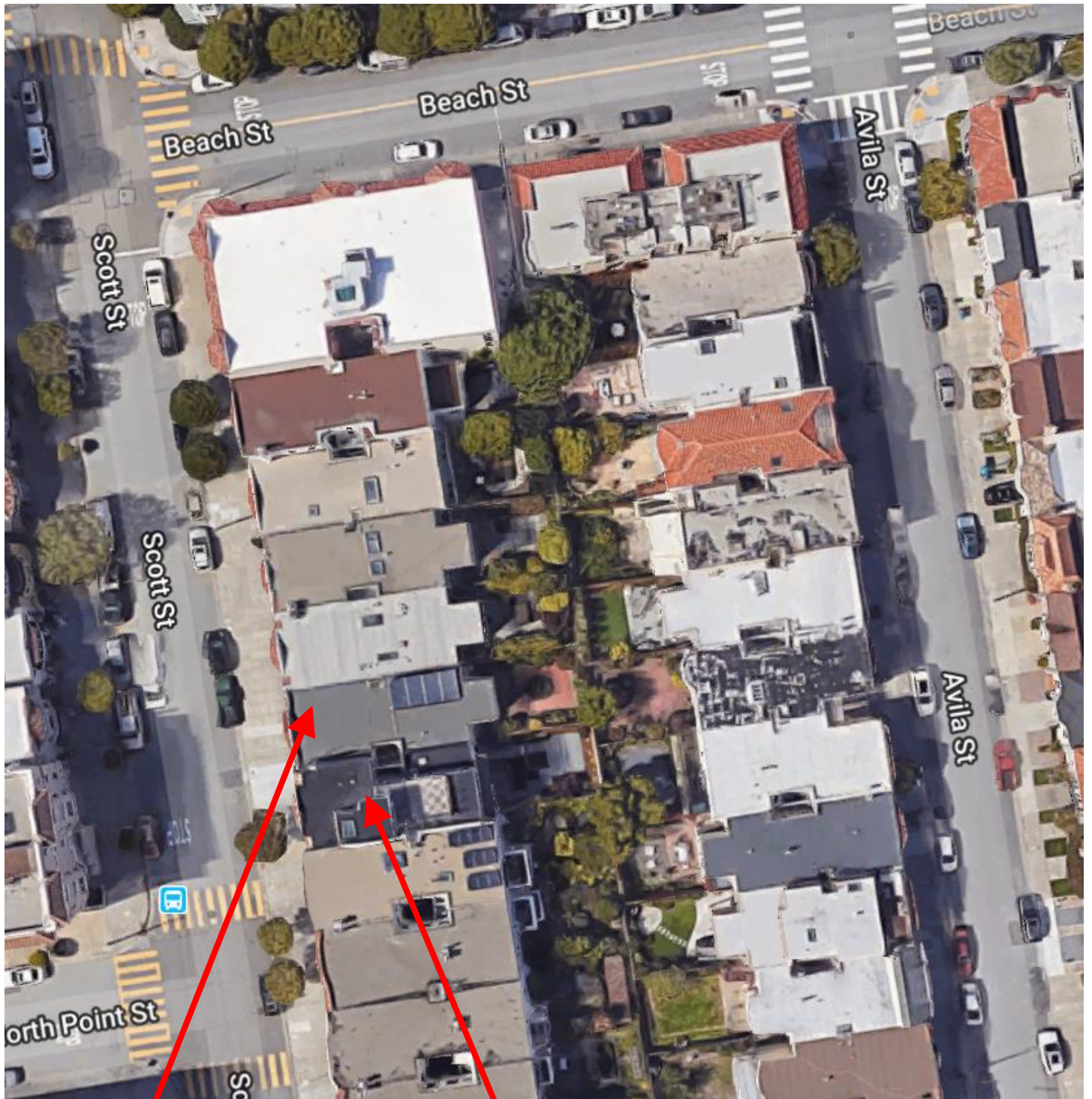
Discretionary Review Hearing
Case Number 2018-016871DRP
3600 Scott Street

Zoning Map



Discretionary Review Hearing
Case Number 2018-016871DRP
3600 Scott Street

Aerial Photo



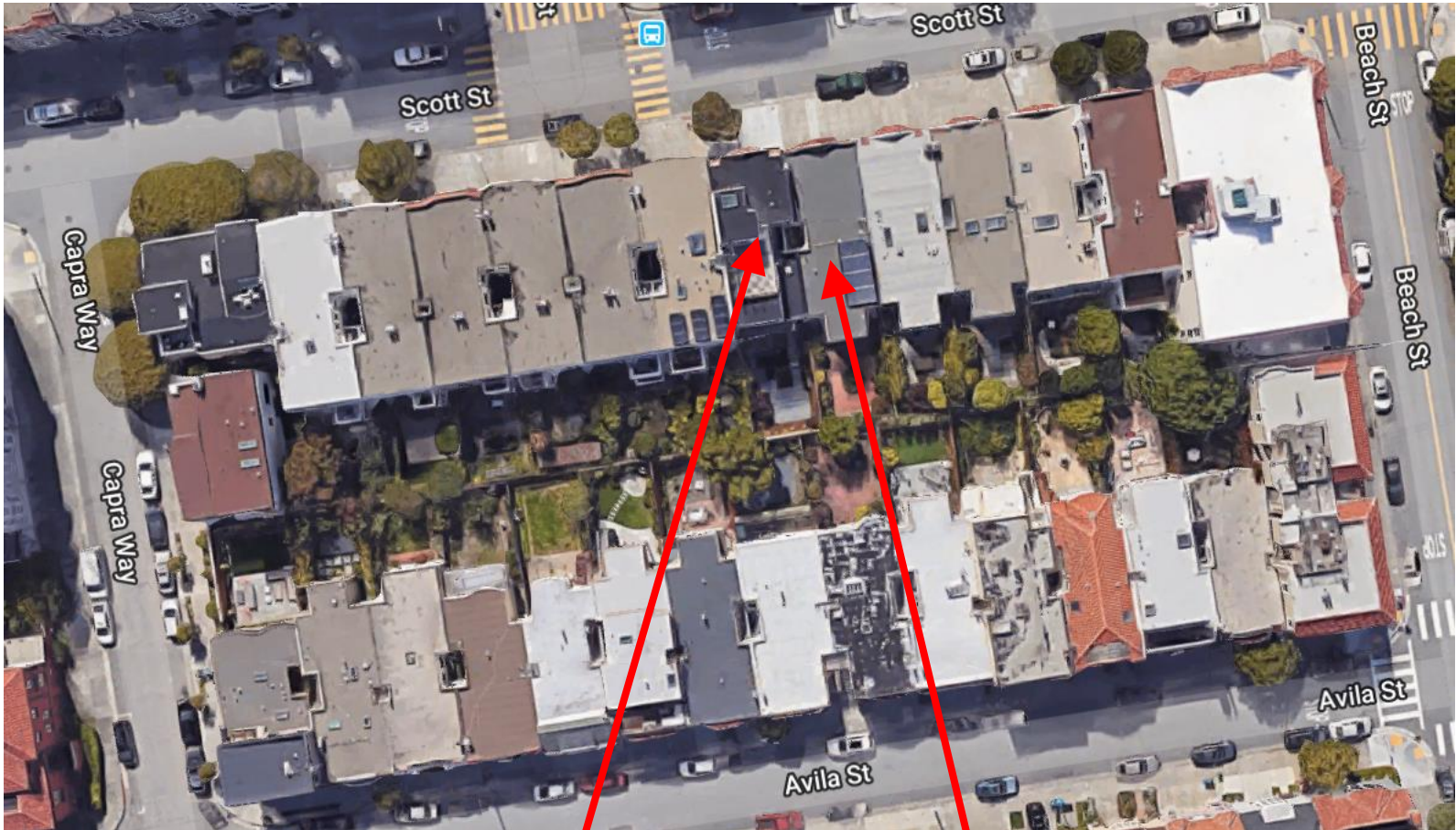
**DR REQUESTOR'S
PROPERTY**

SUBJECT PROPERTY



Discretionary Review Hearing
Case Number 2018-016871DRP
3600 Scott Street

Aerial Photo



SUBJECT PROPERTY

DR REQUESTOR'S PROPERTY



Discretionary Review Hearing
Case Number 2018-016871DRP
3600 Scott Street

Aerial Photo



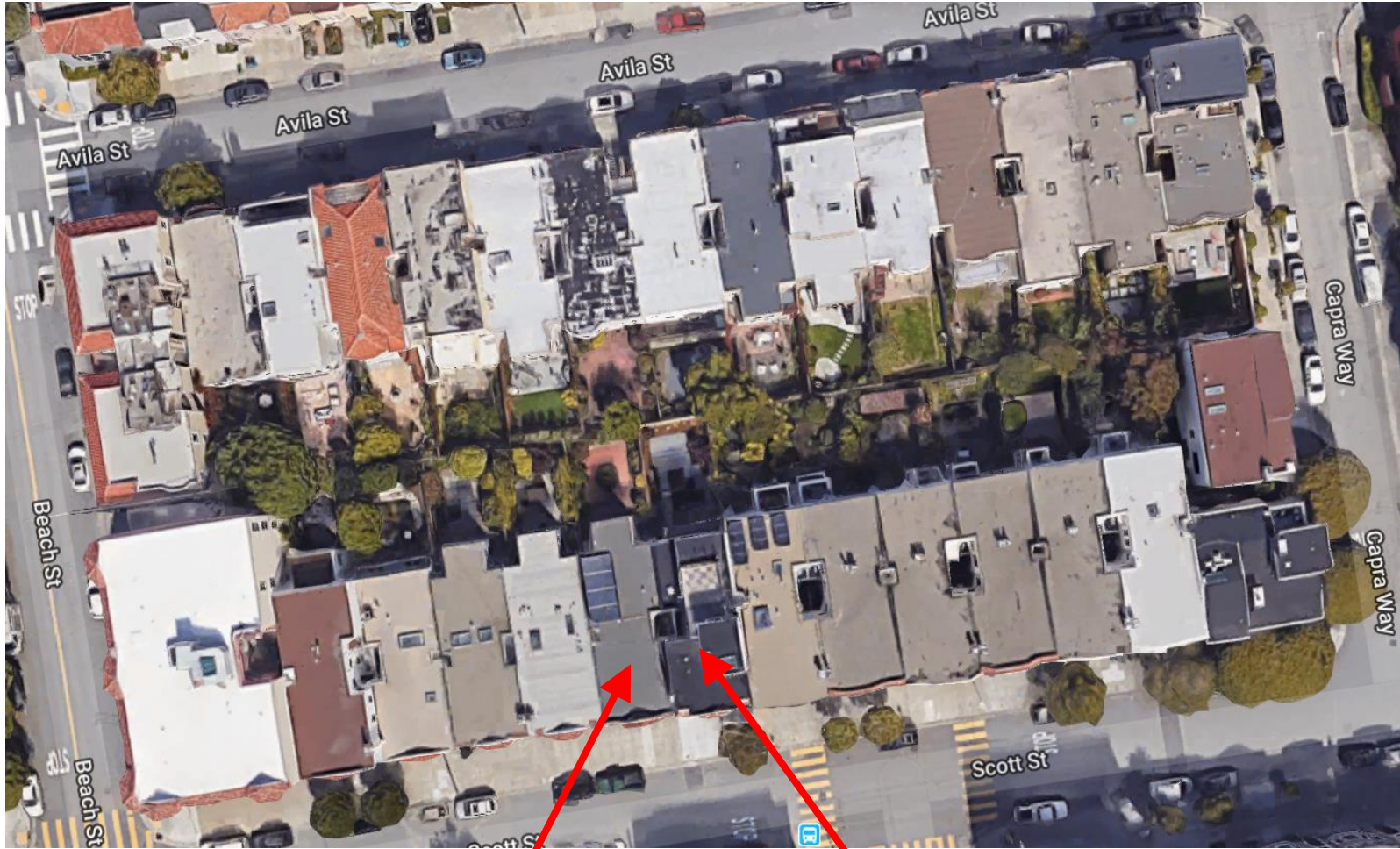
SUBJECT PROPERTY

DR REQUESTOR'S
PROPERTY



Discretionary Review Hearing
Case Number 2018-016871DRP
3600 Scott Street

Aerial Photo



**DR REQUESTOR'S
PROPERTY**

SUBJECT PROPERTY



Discretionary Review Hearing
Case Number 2018-016871DRP
3600 Scott Street

Site Photo



SUBJECT PROPERTY

Discretionary Review Hearing
Case Number 2018-016871DRP
3600 Scott Street



SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission Street Suite 400 San Francisco, CA 94103

NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311)

On **12/14/2018** Building Permit Application No.201812138275 was filed for work at the Project Address below.

Notice Date: 2/14/2019

Expiration Date: 3/18/2019

PROJECT INFORMATION		APPLICANT INFORMATION	
Project Address:	3600 SCOTT ST	Applicant:	Joram Altman
Cross Street(s):	Beach Street	Address:	819 Alvarado Street
Block/Lot No.:	0441A / 017	City, State:	San Francisco, CA
Zoning District(s):	RH-3 /40-X	Telephone:	415-282-2626
Record Number:	2018-016871PRJ	Email:	joram@jsaarchitect.com

You are receiving this notice as an owner or occupant of property 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 that the Planning Commission review this application at a public hearing for Discretionary Review. Requests for a Discretionary Review hearing must be filed during the 30-day review period, prior to the close of business on the Expiration Date shown above, or the next business day if that date is on a week-end or a legal holiday. If no Requests for Discretionary Review are filed, this project will be approved by the Planning Department after the Expiration Date.

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

PROJECT SCOPE		
<input type="checkbox"/> Demolition	<input type="checkbox"/> New Construction	<input type="checkbox"/> Alteration
<input type="checkbox"/> Change of Use	<input type="checkbox"/> Façade Alteration(s)	<input type="checkbox"/> Front Addition
<input checked="" type="checkbox"/> Rear Addition	<input type="checkbox"/> Side Addition	<input type="checkbox"/> Vertical Addition
PROJECT FEATURES	EXISTING	PROPOSED
Building Use	Residential, 2-Unit	No Change
Front Setback	5'-0"	No Change
Side Setbacks	None	No Change
Building Depth	54'-6"	No Change
Rear Yard	35'-6"	No Change
Building Height	40'-0"	No Change
Number of Stories	4	No Change
Number of Dwelling Units	2	No Change
Number of Parking Spaces	1-2	No Change
PROJECT DESCRIPTION		
<p>The project includes a 2'-0" horizontal addition of an existing deck, measuring 6'-11-1/2" wide, located on the rear of the second story. The existing guardrail will be re-used at the extension. The extension of said deck is within the required rear yard but is a permitted obstruction, per Planning Code Section 136(c)(25).</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>		

To view plans or related documents, visit sf-planning.org/notices and search the Project Address listed above. Once the property is located, click on the dot(s) to view details of the record number above, its related documents and/or plans.

For more information, please contact Planning Department staff:

Katherine Wilborn, Katherine.wilborn@sfgov.org, 415-575-9114

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, contact the Planning Information Center (PIC) at 1660 Mission Street, 1st Floor (415) 558-6377 or pic@sfgov.org. 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 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. **You must submit the application in person** at the Planning Information Center (PIC), 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. 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.

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



SAN FRANCISCO PLANNING DEPARTMENT

CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
3600 SCOTT ST		0441A017
Case No.		Permit No.
2018-016871PRJ		201812138275
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRE for Category B Building)	<input type="checkbox"/> New Construction
Project description for Planning Department approval. HORIZONTAL EXTENSION OF (E) REAR DECK @ 2ND FLOOR.		

STEP 1: EXEMPTION CLASS

Note: If neither class applies, an <i>Environmental Evaluation Application</i> is required.	
<input checked="" type="checkbox"/>	Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 - New Construction. 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"/>	Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below: (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. (b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services. FOR ENVIRONMENTAL PLANNING USE ONLY
<input type="checkbox"/>	Class _____

STEP 2: CEQA IMPACTS
TO BE COMPLETED BY PROJECT PLANNER

<p>If any box is checked below, an <i>Environmental Evaluation Application</i> is required.</p>	
<input type="checkbox"/>	<p>Air Quality: 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)</p>
<input type="checkbox"/>	<p>Hazardous Materials: 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 > Maher layer).</i></p>
<input type="checkbox"/>	<p>Transportation: 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?</p>
<input type="checkbox"/>	<p>Archeological Resources: 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)</p>
<input type="checkbox"/>	<p>Subdivision/Lot Line Adjustment: 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)</p>
<input type="checkbox"/>	<p>Slope = or > 20%: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required.</p>
<input type="checkbox"/>	<p>Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required.</p>
<input type="checkbox"/>	<p>Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required.</p>
<p>If no boxes are checked above, GO TO STEP 3. If one or more boxes are checked above, an <i>Environmental Evaluation Application</i> is required, unless reviewed by an Environmental Planner.</p>	
<p>Comments and Planner Signature (optional):</p> 	

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

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

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

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. 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. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) 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.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

**STEP 5: CEQA IMPACTS - ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PROJECT PLANNER**

Check all that apply to the project.	
<input checked="" type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.

<input type="checkbox"/>	7. Addition(s) , 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. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):
<input type="checkbox"/>	9. Other work that would not materially impair a historic district (specify or add comments): (Requires approval by Senior Preservation Planner/Preservation Coordinator)
<input type="checkbox"/>	10. Reclassification of property status. (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):
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.	
<input type="checkbox"/>	Further environmental review required. Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. GO TO STEP 6.
<input checked="" type="checkbox"/>	Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.
Comments (optional):	
Preservation Planner Signature: Katherine Wilborn	

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

<input type="checkbox"/>	Further environmental review required. 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 STOP! Must file an <i>Environmental Evaluation Application</i>.	
<input type="checkbox"/>	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.	
	Project Approval Action: Building Permit	Signature: Katherine Wilborn
	If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	05/28/2019
	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)
3600 SCOTT ST		0441A/017
Case No.	Previous Building Permit No.	New Building Permit No.
2018-016871PRJ	201812138275	
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?
If at least one of the above boxes is checked, further environmental review is required.	

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:	Date:



San Francisco Planning

PROJECT APPLICATION RECORD NUMBER (PAR)

2018-016871 DRP

RECEIVED

MAR 15 2019

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
PIC

DISCRETIONARY REVIEW PUBLIC (DRP) APPLICATION

Discretionary Review Requestor's Information

Name: PATRICK MULLIGAN
Address: 3606 Scott St
SF. CA 94123

Email Address: PMIREALESTATE1@GMAIL.COM
Telephone: 415-690-3005

Information on the Owner of the Property Being Developed

Name: MAURI MILLER
Company/Organization:
Address: 3600 Scott St
SF. CA 94123

JORAM @ JSAARCHITECT.COM
Email Address: MAURI @ ENVISIONWIND.COM
Telephone: 415-282-2628 JORAM ACTMAN ARCHITECT

Property Information and Related Applications

Project Address: 3600 Scott St - SF - CA 94123
Block/Lot(s): 0441A/017
Building Permit Application No(s): 201812138275

ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST

PRIOR ACTION	YES	NO
Have you discussed this project with the permit applicant?	X	
Did you discuss the project with the Planning Department permit review planner?	X	
Did you participate in outside mediation on this case? (including Community Boards)	PREVIOUS	X
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 that were made to the proposed project.		
NONE		

DISCRETIONARY REVIEW REQUEST

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

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

①

The applicant seeks to set aside a previous mediation agreement in which it was agreed to limit the 2nd floor landing space & use to ingress/egress activity only (please see emails). Specifically, in our Agreement, they eliminated a proposed 2 floor rear deck addition to just a landing. Applicant has already breached this agreement by placing and utilizing a cooking apparatus on this landing location. We ask the commission to have this and any cooking apparatus removed forever from this space.

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

②

Furthermore, by using this landing area for cooking exposes our bedroom just 5 feet away to gas and food aromas, that can linger into any nocturnal time frame.

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?

PLEASE ABIDE TO OUR ORIGINAL AGREEMENT

DISCRETIONARY REVIEW REQUESTOR'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

a) The undersigned is the DR requestor or their authorized representation.

Patrick Mulligan

Signature

PATRICK MULLIGAN

Name (Printed)

OWNER

Relationship to Requestor
(i.e. Attorney, Architect, etc.)

415-690-3005

Phone

PMIREALESTATE1@GMAIL.COM

Email

For Department Use Only

Application received by Planning Department:

By: JEFF SPEIRS

Date: 3/15/19

Subject: Re: 3600 Scott, permit201601288204
From: Joram <joram@jsaarchitect.com>
Date: 2/10/2016 12:03 PM
To: Patrick Mulligan <pmirealestate1@gmail.com>
CC: Mauri Miller <mauri@envisionwind.com>

Hi Patrick,

Thanks for getting back to me. I discussed with Mauri your request to move the landing and stair 5' away from your property line and he is OK with this.

Can we then get your support for the project and your signature on the light well infill letter I gave you when we met on 1/6/16?

Joram

Joram S Altman, Architect
819 Alvarado Street
San Francisco, CA 94114
(415) 282-2626
joram@jsaarchitect.com
www.jsaarchitect.com

On Feb 10, 2016, at 10:34 AM, Patrick Mulligan
<pmirealestate1@gmail.com> wrote:

.Hi Joram:

Many thanks for the revision. It would be great if the landing and stairs could be 5 feet setback from the property line rather than 3 feet. Is that possible?...Patrick

Subject: Re: 3600 Scott, permit201601288204
From: Joram Altman <joram@jsaarchitect.com>
Date: 2/8/2016 10:29 AM
To: Patrick Mulligan <pmirealestate1@gmail.com>
CC: Mauri Miller <mauri@envisionwind.com>

Hi Patrick,

Mauri asked that I send you the attached revised design for his project, in response to your concerns about the rear deck and privacy. We decided to eliminate the rear deck, and only keep a minimum 4' deep landing area so Mauri can exit out of the rear family room glass door and descent down to the rear yard. The narrow deck will preclude any functional activity on the deck and will only serve as an access path to the rear yard. Mauri also wanted to extend his study room on the 2nd level by the same 4' depth, so he can get an exit door from this room to the yard as well.

Hopefully this change (in addition to the other changes made since we first met) will alleviate your concerns and you will be willing to now support the project.

Thanks,

Joram

Joram S Altman, Architect
819 Alvarado Street
San Francisco, CA 94114
V.415.282.2626 F.415.795.4143
www.jsaarchitect.com
joram@jsaarchitect.com

On Feb 2, 2016, at 10:41 AM, Patrick Mulligan <pmirealestate1@gmail.com> wrote:

.Mauri:

I doubt a personal meeting would be productive?. In fact it may even be counter productive, but if you insist, I will meet. I see you have applied for a permit listing \$50k as the cost, low balling the city permit fee. Likely it will be closer to \$500k. Your family room replacing the existing normal bedroom pattern of these residences will then abut my bedroom wall, where today I can even hear

a person walking around there. Imagine what it will be like as the family room, with TV blaring and activities flowing from the open deck into this family activity area. Your big backyard deck as proposed is located 3 feet away from my property line, and likely directly looking into my bedroom window. Even our pop out sunroom is located at least 5+ feet from your property line. You moved the roof setback 8 feet, but still I will end up there with less air and light than I have now, and you didn't lose any square footage there, you just just added it on to the back into a previous setback area. Who know how and if my solar panels may be affected?. The backyard deck stair advances into the backyard area reducing even the small open garden space remaining, and 3 feet from my property line, when it could be more neighborly friendly by just turning this stairs 90 degrees south, and thereby making it less conspicuous. In affect you want 3 decks and a back garden, way excessive in my opinion

Our next store neighbors at 3612 Scott, Ingrid & Charlie, told me they especially were determined to respect their existing building envelope during their rehab as a good neighbor principal, even though their architect enthusiastically urged them to add another floor. Architects seductively lure their clients these days with little regard that their suggestions have consequences to others, such as us, your neighbors.

Your agent told me in your hearing when we first met, that little new construction was contemplated , just adding an elevator and a few minor adjustments, thereby respecting the existing building envelope. Imagine our dismay when you showed us your plans. Over 30 years living here, and 50 years in the SF Marina, and now somebody wishes to enhance their interests to the detriment of mine, and I'm supposed to feel neighborly through 12-18 months of dust & noise?

As I said, I'm willing to meet, but to what effect?

Sincerely,

Patrick Mulligan
(Owner...3606 Scott St, SF)

Attachments:

21512_160204_REVISION PER NEIGHBOR.pdf

1.8 MB

Subject: 3600 Scott Street

From: Joram Altman <joram@jsaarchitect.com>

Date: 1/20/2016 6:34 PM

To: <pmirealestate1@gmail.com>

CC: Mauri Miller <mauri@envisionwind.com>

Hi Patrick,

We revised the proposed design for the project, based on comments we received, primarily from you and your north side neighbors Ingrid and Charlie. I am attaching revised drawings for your review. We made the following changes:

1. On the 2nd floor level, we modified the rear deck and stair so its now offset from our common property line by 3 feet; we also shorted the depth of the deck so it aligns with your and Ingrid/Charlie's rear pop-out room. By offsetting the deck 3' we no longer need to construct a fire wall, so now the side of the stair and deck facing your side will be open railing. We are unable to move further from the property line as we also need to maintain an open space above the lower level unit's rear facing windows to provide the required light and air for that unit.

2. On the 3rd floor we re-configured the rear bedroom and bath/laundry room addition to be narrower in width and longer in length so as to reduce its impact on your property and PV array to the north. The addition is now 8'-3" away from your south property line. We also removed the existing 3' high parapet along our north property line and lightwell to further improve light penetration into your property.

Please refer to the revised rear elevations, attached, where we indicate (with yellow lines) the southerly sun angle variations from summer peak to winter lows. Note that in the summer, the new addition is set back beyond the cutoff of the south sun and the removal of the parapets actually bring more sun into your lightwell and roof. The winter sun is slightly reduced, but not significantly.

3. Please refer to attached sanborn map where we indicate the mid block open space pattern, which is defined by the existing buildings setbacks, including the pop-outs on your and your northern neighbors.

The proposed 3rd floor addition is within the existing building envelope so is not encroaching into the open space pattern. The same is the case for the rear deck. Refer to page 26 of the Design Guidelines for this subject. <http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=5356>

Please review and let me know if you would like to meet to further discuss the revised design.

Thanks,

Joram Altman.

Joram S Altman, Architect

819 Alvarado Street

San Francisco, CA 94114

V.415.282.2626 F.415.795.4143

www.jsaarchitect.com

a person walking around there. Imagine what it will be like as the family room, with TV blaring and activities flowing from the open deck into this family activity area. Your big backyard deck as proposed is located 3 feet away from my property line, and likely directly looking into my bedroom window. Even our pop out sunroom is located at least 5+ feet from your property line. You moved the roof setback 8 feet, but still I will end up there with less air and light than I have now, and you didn't lose any square footage there, you just added it on to the back into a previous setback area. Who know how and if my solar panels may be affected?. The backyard deck stair advances into the backyard area reducing even the small open garden space remaining, and 3 feet from my property line, when it could be more neighborly friendly by just turning this stairs 90 degrees south, and thereby making it less conspicuous. In affect you want 3 decks and a back garden, way excessive in my opinion

Our next store neighbors at 3612 Scott, Ingrid & Charlie, told me they especially were determined to respect their existing building envelope during their rehab as a good neighbor principal, even though their architect enthusiastically urged them to add another floor. Architects seductively lure their clients these days with little regard that their suggestions have consequences to others, such as us, your neighbors.

Your agent told me in your hearing when we first met, that little new construction was contemplated , just adding an elevator and a few minor adjustments, thereby respecting the existing building envelope. Imagine our dismay when you showed us your plans. Over 30 years living here, and 50 years in the SF Marina, and now somebody wishes to enhance their interests to the detriment of mine, and I'm supposed to feel neighborly through 12-18 months of dust & noise?

As I said, I'm willing to meet, but to what effect?

Sincerely,

Patrick Mulligan
(Owner...3606 Scott St, SF)

Attachments:

21512_160204_REVISION PER NEIGHBOR.pdf

1.8 MB

Subject: Re: 3600 Scott, permit201601288204

From: Mauri Miller <mauri@envisionwind.com>

Date: 2/3/2016 9:07 AM

To: Patrick Mulligan <pmirealestate1@gmail.com>

CC: Joram Altman <joram@jsaarchitect.com>

Thanks for the note Patrick. Joram will correct some of your mis-impressions below. We're removing the back deck from the plans, replacing it with a simple staircase to the back yard and small landing at the top of the stairs. We hope that satisfies you.

I think you are probably right about meeting.

Mauri

On Feb 2, 2016, at 10:41 AM, Patrick Mulligan <pmirealestatel@gmail.com> wrote:

.Mauri:

I doubt a personal meeting would be productive?. In fact it may even be counter productive, but if you insist, I will meet. I see you have applied for a permit listing \$50k as the cost, low balling the city permit fee. Likely it will be closer to \$500k. Your family room replacing the existing normal bedroom pattern of these residences will then abut my bedroom wall, where today I can even hear a person walking around there. Imagine what it will be like as the family room, with TV blaring and activities flowing from the open deck into this family activity area. Your big backyard deck as proposed is located 3 feet away from my property line, and likely directly looking into my bedroom window. Even our pop out sunroom is located at least 5+ feet from your property line. You moved the roof setback 8 feet, but still I will end up there with less air and light than I have now, and you didn't lose any square footage there, you just just added it on to the back into a previous setback area. Who know how and if my solar panels may be affected?. The backyard deck stair advances into the backyard area reducing even the small open garden space remaining, and 3 feet from my property line, when it could be more neighborly friendly by just turning this stairs 90 degrees south, and thereby making it less conspicuous. In affect you want 3 decks and a back garden, way excessive in my opinion

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Your agent told me in your hearing when we first met, that little new construction was contemplated, just adding an elevator and a few minor adjustments, thereby respecting the existing building envelope. Imagine our dismay when you showed us your plans. Over 30 years living here, and 50 years in the SF Marina, and now somebody wishes to enhance their interests to the detriment of mine, and I'm supposed to feel neighborly through 12-18 months of dust & noise?

As I said, I'm willing to meet, but to what effect?

Sincerely,

Patrick Mulligan
(Owner...3606 Scott St, SF)

Subject: Re: 3600 Construction
From: Mauri Miller <mauri@envisionwind.com>
Date: 7/7/2016 12:04 PM
To: Patrick Mulligan <pmirealestate1@gmail.com>
CC: WxSi@pge.com

Patrick,

In our email exchange in April you gave me permission to work with PG&E to relocate the wire connecting your house to PG&E. Will Strickland, who works for PG&E and is copied on this email, is doing the engineering work on the project.

The email from you to me (included below) did not include any information related to the project. He has asked that you give a slightly more formal consent to the work. Can you please respond to this email with your consent (like below) to the following:

PG&E asks your permission to relocate the wire interconnecting PG&E electric service to 3606 Scott Street, San Francisco, CA 94123. The wire will be relocated to follow the property line between 3600 Scott St and 3606 Scott St, rather than cross the rear yard of 3600 Scott St.

Please reply all to this email, with this email included, granting your permission for this work.

Thank you.

Mauri

Maurice Miller
3600 Scott St.
San Francisco, CA 94123
415-244-6592 cell

On Apr 25, 2016, at 9:41 AM, Patrick Mulligan <pmirealestate1@gmail.com> wrote:

Hi Mauri:

Permission granted. We did not upgrade with our solar I believe...Patrick

Subject: RE: 3600 Scott St./31233568
From: "Strickland, Will James" <WxSi@pge.com>
Date: 7/9/2016 10:45 AM
To: Mauri Miller <mauri@envisionwind.com>, Patrick Mulligan <pmirealestate1@gmail.com>

Mauri,

Just to recap, I spoke with Mr. Mulligan yesterday at length and he explained to me his position. I will not be able to move forward with moving his overhead electric line until I receive something in writing from him.

In addition, if you were planning to sue PG&E so you could move Mr. Mulligan's overhead line, the terminology we use is "open and notorious".

Have a safe day.

Thanks,

Will James Strickland

Senior Electric Engineering Estimator
2180 Harrison St., 2nd Floor
San Francisco, CA., 94110
Office: 415-695-3234

From: Mauri Miller [mailto:miller.mauri@gmail.com] **On Behalf Of** Mauri Miller
Sent: Thursday, July 07, 2016 12:04 PM
To: Patrick Mulligan
Cc: Strickland, Will James
Subject: Re: 3600 Construction

This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments.

Patrick,

In our email exchange in April you gave me permission to work with PG&E to relocate the wire connecting your house to PG&E. Will Strickland, who works for PG&E and is copied on this email, is doing the engineering work on the project.

The email from you to me (included below) did not include any information related to the project. He has asked that you give a slightly more formal consent to the work. Can you please respond to this email with your consent (like below) to the following:

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Please reply all to this email, with this email included, granting your permission for this work.

Thank you.

Mauri

Maurice Miller
3600 Scott St.
San Francisco, CA 94123
415-244-6592 cell

On Apr 25, 2016, at 9:41 AM, Patrick Mulligan <pmirealestate1@gmail.com> wrote:

Hi Mauri:

Permission granted. We did not upgrade with our solar I believe...Patrick

RESPONSE TO
DISCRETIONARY
REVIEW (DRP)



San Francisco
Planning

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

Project Information

Property Address: **3600 Scott St.**

Zip Code: **94123**

Building Permit Application(s): **2018.1213.8275**

Record Number: **2018-016871PRJ**

Assigned Planner: **Katie Wilborn**

Project Sponsor

Name: **Maurice E. Miller**

Phone: **(415) 244-6592**

Email: **maurimiller@yahoo.com**

Required Questions

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

SEE ATTACHED

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

NONE

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

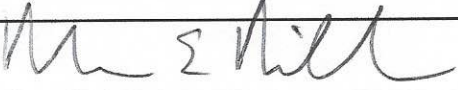
SEE ATTACHED. PROJECT IS A MINIMAL CHANGE TO AN EXISTING SMALL DECK.

Project Features

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

	EXISTING	PROPOSED
Dwelling Units (only one kitchen per unit - additional kitchens count as additional units)	2	2
Occupied Stories (all levels with habitable rooms)	3	3
Basement Levels (may include garage or windowless storage rooms)	1	1
Parking Spaces (Off-Street)	2	2
Bedrooms	3	3
Height	38'	38'
Building Depth	70'	70'
Rental Value (monthly)	NA	NA
Property Value	unknown	unknown

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

Signature: 	Date:
Printed Name: Maurice E. Miller	<input checked="" type="checkbox"/> Property Owner <input type="checkbox"/> Authorized Agent

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

QUESTIONS WITH YES/NO ANSWERS:

1. Mr. Mulligan has not discussed the application with me. This response from Mr. Mulligan is not truthful.
3. Mr. Mulligan commented on preliminary plans in the planning phase during the permit process in early 2016, as did other neighbors, and the plans were modified to take his concerns into account. He has never participated in a mediation either for this permit application or my applications in 2016. This response from Mr. Mulligan is not truthful.

My response to the claims of Patrick Mulligan: 1) Patrick Mulligan and I have no agreement regarding permitting activities at 3600 Scott St.; and 2) the project has no significant impacts on Mr. Mulligan's property or any other property:

1. PATRICK CLAIMS AN ENFORCEABLE AGREEMENT REGARDING FUTURE PERMITTING AT 3600 SCOTT ST.
 - A. He has not produced such an agreement. As an agreement regarding real estate, it would have to be in writing and subscribed by me. No such agreement exists. As shown below, it is inconceivable that such an agreement could exist.
 - B. Even an oral or informal agreement requires all the elements of an agreement between the parties – and none exist. Mr. Mulligan's printout of an exchange of emails during the planning phase – mostly between Mr. Mulligan and my architect - do not constitute an agreement.
 - C. There is no evidence that either party intended to form a contract – I certainly did not believe Mr. Mulligan ever had any rights with regard to future permits (or even the existing application in 2016) at 3600 Scott Street (other than rights contained in the Planning Code). Mr. Mulligan never acted as if he had made an agreement. He did not ever 'agree' not to file a DR after the plans were submitted – he simply didn't file for a DR. Much later, he spoke at the Planning Commission hearing at a DR filed by another neighbor asking that my roof deck – already permitted and constructed and an integral part of the plans forming the basis of our so-called agreement – be removed. This behavior is completely at odds with Mr. Mulligan's so-called agreement.
 - D. THE IMPLICATIONS OF MR. MULLIGAN'S CLAIMS REACH FAR AND WIDE. Essentially, Mr. Mulligan claims that any changes made to a developer's plans in response to a neighbor's concerns during the planning phase of a project – the time period after preliminary plans are shown to neighbors but before plans are submitted – result in a binding agreement with neighbors that give the neighbors veto rights over future permitting, potentially forever, if the neighbor does not file a DRP Application. THE NOTION IS NOT A RATIONAL READING OF ANY PLANNING CODE PROVISION.

For example, if a developer proposed to build a three unit building on a vacant lot and a neighbor opposed the project, and after discussions the developer decided not to continue with the project, Mr. Mulligan would say that the developer could not move forward without the neighbors consent. This result is ridiculous.

If Mr. Mulligan's interpretation of the planning process were to be adopted, it would turn the planning process on its head. No developer would ever have an incentive to take comments into

account in the planning stage. After all, the developer would then be at the mercy of a neighbor – perhaps tens of neighbors - for any future development. **Mr. Mulligan's proposition creates an effective 'lien' or 'easement' in favor of a neighbor or many neighbors and gives them effective veto rights with regard to further development of a property. This would indeed be a very effective deterrent to any cooperation between neighbors during the planning phase of a project – exactly opposite the purpose of the planning phase.**

- E. And, finally, the purported agreement is not a necessary for a neighbor. If a future development has severe impacts on a neighbor, the neighbor retains all rights to make his case to the Planning Commission. Mr. Mulligan wants to rely on a purported agreement because he cannot point to any impacts on his property.
2. The acceptance of a DR by the Planning Commission requires exceptional and extraordinary circumstances and significant impacts on neighboring properties. The Commission has stated:

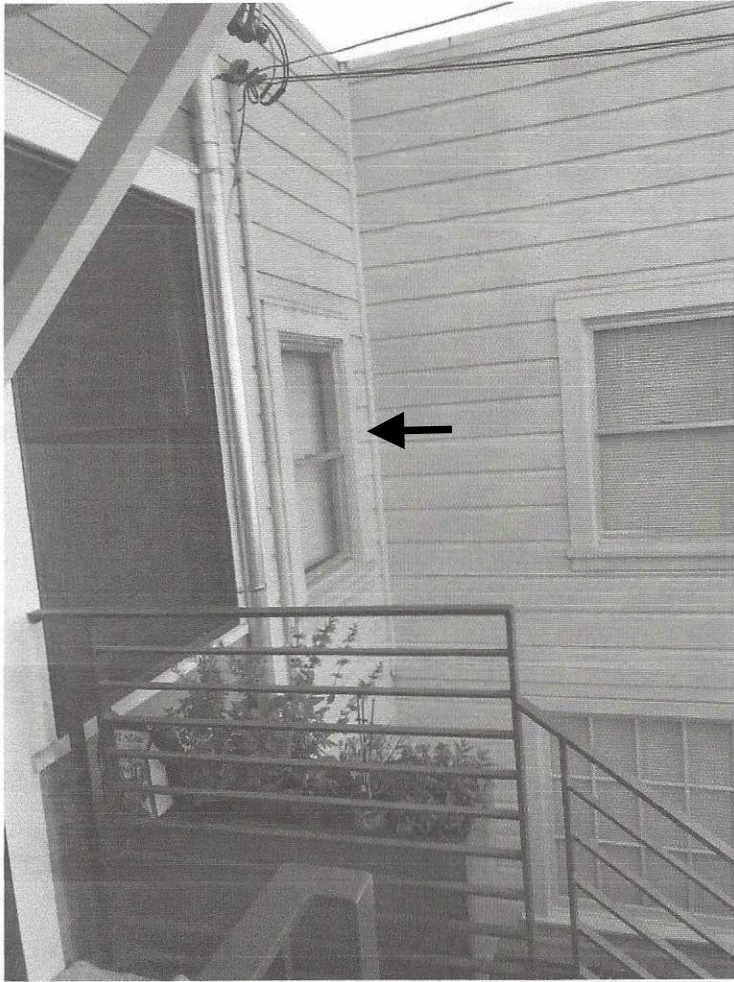
“Exceptional and extraordinary circumstances occur where the common-place application of adopted design standards to a project does not enhance or conserve neighborhood character, or **balance the right to develop** the property with **impacts on near-by properties or occupants**. These circumstances may arise due to complex topography, irregular lot configuration, **unusual context or other conditions not addressed in the design standards.**”

The proposed project will have no impact or negligible impact on Mr. Mulligan. He has not been articulate about his concerns (his letter to me and his DR Application do not overlap in any respect except the claim of an agreement), but he has generically expressed concerns about privacy, noise, and (most recently) lingering cooking odors. First, adding two feet to the deck that is already 9 feet from the property line is not a material change. Second, none of the purported impacts are real, as they are simply a new version of Mr. Mulligan's repeated attempts to impose his subjective development standards on neighbors.

- A. Noise. No additional traffic on the small deck would be expected. The purpose of the project is to allow cooking on the deck with greater safety for the cook. The deck will continue to be very small and not large enough to expect noise that effects Mr. Mulligan's property – Mr. Mulligan refers to it as 'frivolous activity'. Mr. Mulligan has complained about our use of the room as a family room. Again, he has never complained about noise, he has just complained about our use of the room. The minor improvement of the deck will not change the use of the room – it will still be a family room - or the use of the deck. The deck will be safer, but the noise level will not change – it will remain very low.
- B. Privacy. Mr. Mulligan has expressed concerns about the privacy of his bedroom window. He claims the improvement will be 5 feet from his bedroom window. Again, Mr. Mulligan has some difficulty with the truth. His bedroom window begins two feet from the property line and is probably 3 or 4 feet wide. The stair case is 5 feet from the property line, and the stair is about 4 feet wide. The beginning of the improvement is 11 feet from the window. Center to center (window to deck), the distance is about 16 or 17 feet. For perspective, my property, and his, are 25 feet wide. The middle of the deck is more than ½ the width of the property from his window and looks at it from a very severe angle. At least three neighbors' windows on Avila look directly into Mr. Mulligan's bedroom. There is no privacy issue between Mr. Mulligan's property and the deck - either now or as improved.

I have attached two photos – the first showing Mr. Mulligan’s bedroom window approximately from a point on the deck after the project is completed. (At arm’s length from the existing deck.) It is a severe angle that does not give any view of Mr. Mulligan’s interior. The second photo shows the windows of Avila Street neighbors who have a direct line of site through Mr. Mulligan’s window directly into his bedroom. The concern about privacy is not real. If Mr. Mulligan wants privacy, he should pull his blinds – the same as all of us who have rear neighbors.

- C. Outdoor Cooking. Mr. Mulligan recently decided that outdoor cooking on my small deck (a) is not allowed by my ‘agreement’ with Mr. Mulligan – FOREVER and (b) results in ‘lingering odors’ that impact the enjoyment of his property. The entire notion is absurd. Mr. Mulligan in a letter dated 2/17/19 (attachment A - letter only) did not mention cooking as a reason for a possible DR, and in 18 months of cooking outdoors has not complained once about such ‘lingering odors’. Only after I explained the reason for the project (in my letter to him – attachment B), did he ‘discover’ our agreement not to cook on the deck and the severe impact to his enjoyment of his life. Cooking on decks for one- and two-unit buildings is expressly allowed in the fire code. Finally, before undertaking construction in 2016 and 2017, we removed two outdoor grills, one from the garden directly below Mr. Mulligan’s window and one from a roof used as a deck by the previous tenant. It seems Mr. Mulligan decided that outdoor cooking is another use of a property that he doesn’t like. As I said, the idea that the Planning Commission would forever determine that outdoor cooking is not allowed on a property is absurd.
 - D. All of the purported reasons are specious, and none arise to the level of impacts on Mr. Mulligan’s property that outweigh the rights of a homeowner to complete a small improvement project.
 - E. **I PROPOSE THAT THE PROJECT HAS NO IMPACT ON MR. MULLIGAN’S PROPERTY. IN FACT, IN WEIGHING THE RIGHTS OF A DEVELOPER AGAINST THE IMPACTS ON A NEIGHBOR, MAKING 3600 SCOTT SAFER FAR OUTWEIGHS ANY MINOR IMPACTS (IF ANY) TO 3606 SCOTT ST.**
- 3. Mr. Mulligan has made his position clear to me many times, and that position is clear in the emails attached to his DRP Application – he is opposed to any modification of a home that is outside the envelope of the existing home. THAT IS NOT THE LAW. Implicit in all of the rhetoric is the threat of a DR – he has bragged that he had taken many projects to DR. (Although he has disparaged the Planning Commission when commenting that the commission rules against Mr. Mulligan in all cases.) If a project has a schedule, it is a formidable threat. It is also an abuse.
 - 4. For better or worse, Mr. Mulligan doesn’t agree with the Planning Code of the City of San Francisco. Rather than waste everyone’s time, money and energy with DRP Applications with regard to projects that have no or little impact on his property, he should attempt to persuade the San Francisco Board of Supervisors to amend the Planning Code to his liking, and then hope it is constitutional under the State and Federal Constitutions. Until then, he should be required to meet the standards the Planning Code and of impacts that are exceptional and extraordinary. He has failed to meet that test and the DR should not be accepted.



Bedroom window
(aluminum window on
left) of 3606 Scott Street
taken from approximate
location of new deck.

Note – window on right
looks directly at 3600
Scott Street property.
Dark window on left is
window for 3600 Scott.



Back windows of homes
on Avila St. The three
windows on the right
look directly into the
bedroom window on
3606 Scott and directly at
the project. (The
leftmost window is
probably blocked by a
tree from a view of 3606
Scott.) None of the
owners have commented
on the plans.

ATTACHMENT A

2/17/2019

Mr Mauri Miller
3600 Scott St
San Francisco CA 94123

Dear Mauri:

It is with regret that I noticed your application to expand your 2nd floor rear deck walkway by 2 feet. As you know, I had many reservations when you presented at the initial neighborhood meeting your extensive remodeling expansion plans a few years ago, after you purchased 3600 Scott St in San Francisco. After extensive negotiation, we agreed on certain parameters, which modified your plans.

It was agreed then I thought between both of us, that the setback on any addition to your building footprint would be 5 feet from the property line of 3606 Scott St, our property line South wall. In return, we did not contest your expansion at all, which included a 600 Sq.ft building addition resulting in our losing much of our kitchen light; plus a major new roof deck, an elevator 4th story extension without any frontal setback thereof, and a rear yard building expansion Easterly of 2 feet, which would encapsulate a 2nd floor horizontal walkway alcove leading to a garden stairway, and entry to your back garden. We especially demanded that this stairway could not be within 3 feet of our bedroom window, and you moved it to 5 feet from our property line. You reconfigured the building's bedrooms on to your newly expanded 3rd floor, and located your activity room in their former location, on the 2nd floor at the rear, which abuts our bedroom wall.

Activity rooms, and their intent, suggest frivolous activity, and certainly suggest greater noise use emanating thereof, rather than any traditional bedroom use, whose usual purpose is the quiet enjoyment of sleeping. By expanding your walkway an extra 2 feet easterly as per your application, our bedroom privacy is further impaired by an increase in the angle of view thereof, and subsequently the view into our bedroom. Activity room behavior will inevitably lead to deck activity, and likely in after evening entertainment. Right now, only your dog "Bob" uses this rear walkway with his restful towel overlay. There is a cooking device there also. The overlay roof shields the walkway from inclement weather.

I did not file a DR against your original expansion, although recently Planning Commission Members voiced reservations and reprimanded their staff for allowing it without some modifications and frontal setbacks, which could have been done easily as the alterations then were very extensive. I did not file a DR against your 6 foot deck perimeter either, although a nearby neighbor did so, hence my familiarity with the Planning Commission Members comments as to your project outcome in that DR hearing. I hope you will cancel your application, now that I have indicated my concerns, which I suspect you might not have been aware of! I have acted as a responsible neighbor since you bought your property. Good neighboring is important, especially in earthquake country as was evident in the area's response to the "Loma Prieta" earthquake.

Sincerely,



Patrick Mulligan
(Owner of 3606 Scott ST, SF)

cc: The Planning Department

Attachment B

February 21, 2019

Dear Patrick,

I am responding to your letter, copied to the Planning Department, stating that you will request a Discretionary Review of the minor modification to my back deck. I hope I can persuade you to change your mind. The modification is extremely minor and has no impact on your enjoyment of your property.

I state for the record that 1) the modification is the minimum necessary for the limited purpose, and 2) completely consistent with the San Francisco Planning and Building Code. It will not entail any change in the use of my property.

The modification is required for only one reason: the existing size of the landing and the location of the barbecue grill on the landing create a safety concern for persons using the grill or passing the grill. I have burned myself several times, and just going into the back yard past the grill is hazardous. The modification is designed as a minimal expansion of the deck that allows a safer relocation of the barbecue grill. The depth of the expansion – two feet – is the minimum necessary for the grill.

We initially believed that the existing deck would allow access to the yard and allow for the safe use of the barbecue grill. It does not. Adding two feet to the width of the deck will fix the safety issue without any modification of the use of the property or effect on neighbors.

In direct response to your claims, the two extra feet will not allow for additional 'frivolous' use. Nor will it inevitably lead to more noise. The deck behind the house will continue to be very small and useful only for access to the barbecue grill and to the back yard. In fact, nothing will change except the safety of my property. There will be no additional room for people, no added 'angle' of view, no additional noise. Your claim that the use of the property will change is false and difficult to understand. It is an extremely minor addition to a very small deck area.

Further, you ignore completely the fact that our southerly neighbor already has two large decks a mere 30 feet from your window. The decks both extend far beyond my house. They have the same angle to look at your property. The noise from either would inevitably be heard on your property. All of this has existed since before our remodel began.

Finally, our use of the property over the past 17 months shows that your concerns about noise and privacy are overblown.

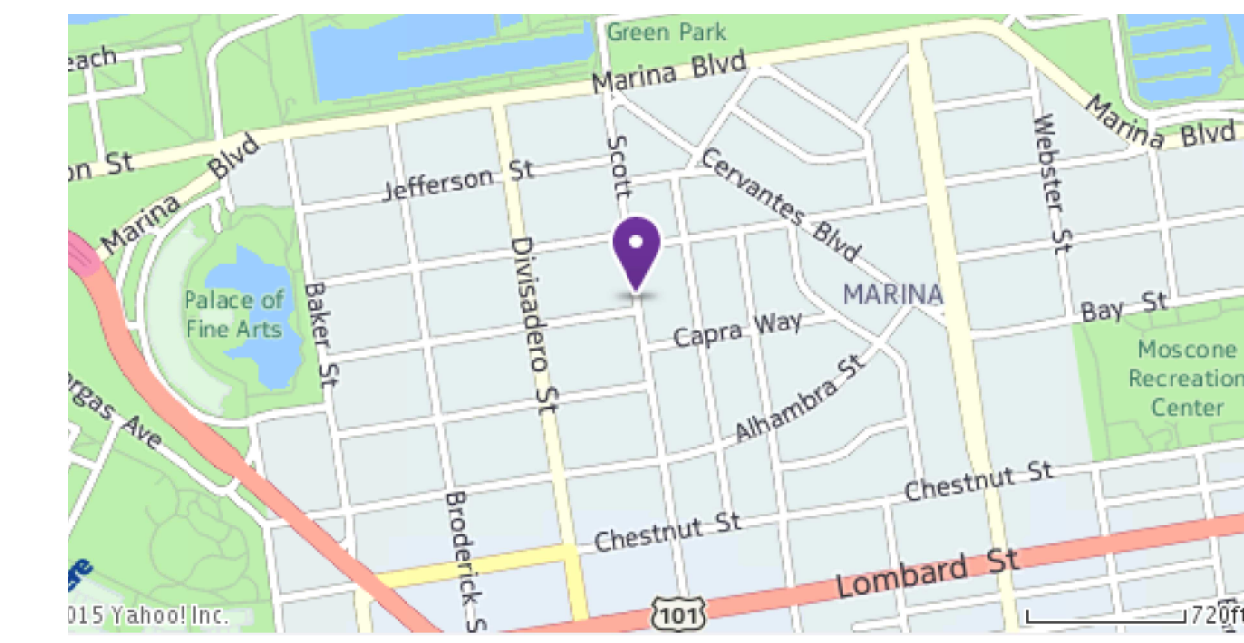
Your description of our agreement regarding the remodel in your letter is not accurate. We agreed to not have a deck on the main floor that would allow entertainment. We instead agreed that we would rely on the roof deck for entertaining. We honor that agreement with the proposed modification. (I remind you that you then testified at the DR hearing to try to eliminate the roof deck. Your claim that it wasn't a violation of our agreement on the technicality that another person filed the DR is disingenuous.)

In any event, an extension of two feet on the landing, which will allow safer and more convenient outdoor cooking, has no effect on any aspect of the enjoyment and ownership of your property. I will press my case at the Planning Commission if required, although I fail to see how this rises to the level of a substantial change to our relative uses of our properties.

I ask that you please withdraw your request for a hearing. This minor change is completely consistent with the San Francisco planning and building codes, and with our agreement, and makes no changes to the relative uses of our properties.

Sincerely,

Mauri Miller



LOCATION MAP

SHEET INDEX

ARCHITECTURAL:

- A0.1 SITE PLAN & PROJECT DATA
- A0.2 EXISTING CONDITIONS SITE PHOTOS
- A2.1 REMODELED PLANS
- A3.1 REMODELED EXTERIOR ELEVATIONS
- A3.2 REMODELED EXTERIOR ELEVATIONS & PARTIAL SECTION
- A4.1 REMODELED SECTION & DECK DETAILS

PROJECT SCOPE OF WORK

2'-0" HORIZONTAL EXTENSION OF (E) REAR DECK @ 2ND FLOOR

PROJECT INFORMATION

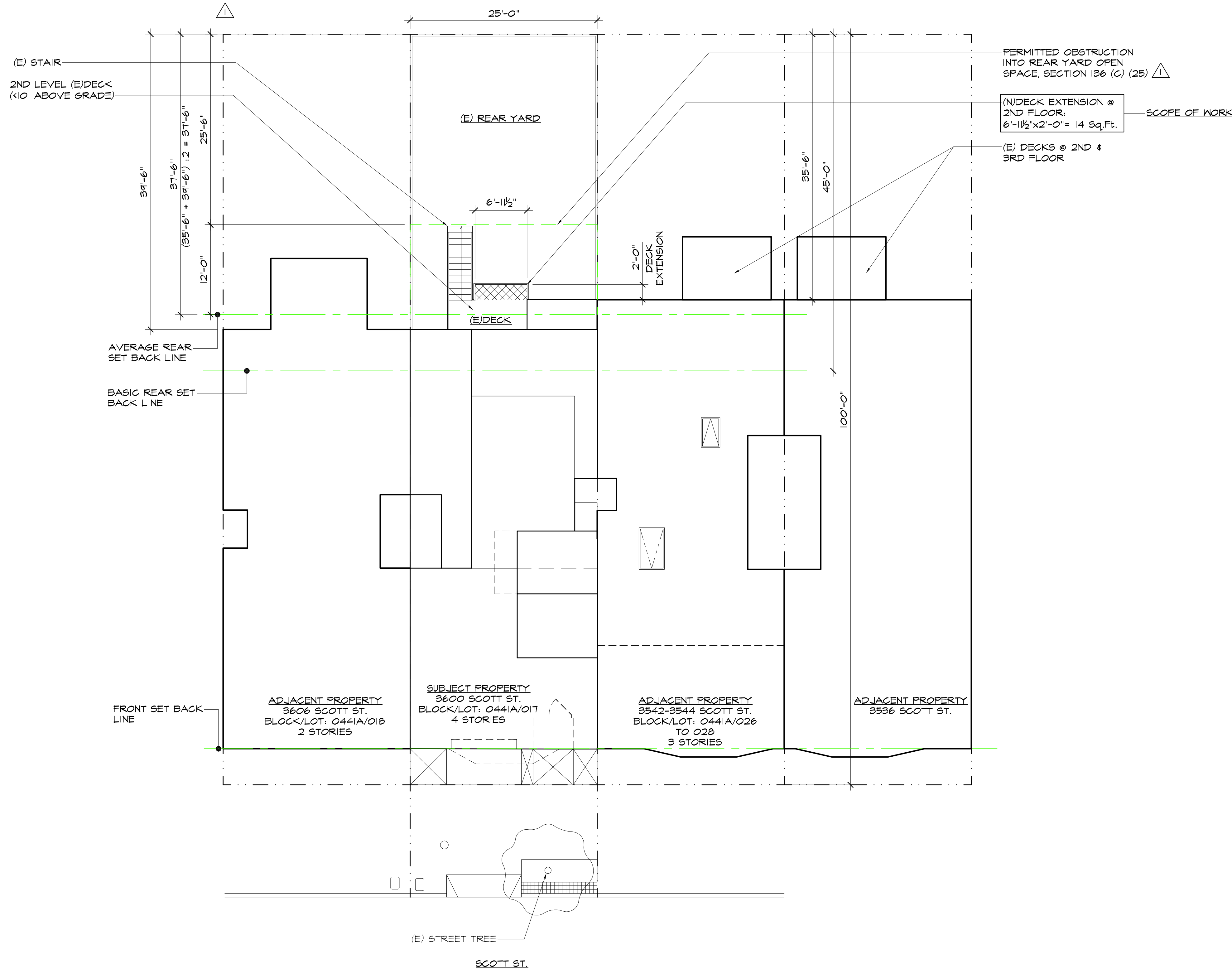
APPLICABLE CODES: 2016 CALIFORNIA CBC W/SAN FRANCISCO AMENDMENTS, CPC, CMC, CEC AND SFBC

OCCUPANCY GROUP: R-3, 2 UNITS

CONSTRUCTION TYPE: V-B

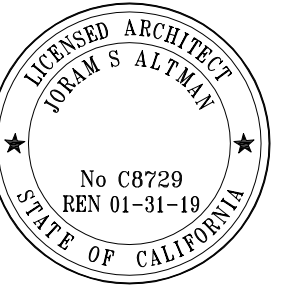
STORIES: (E) 4 STORIES

	AREA TABLE (SF)		
	EXISTING	ADDITION	NEW
FIRST FLOOR	1414	-	1414
SECOND FLOOR	1422	-	1422
THIRD FLOOR	1165	-	1165
ROOFDECK /PENTHOUSE	94	-	94
TOTAL	4095	-	4095
REAR DECK	40	14	54



REMODELED SITE PLAN
SCALE: 1/8" = 1'-0" ← NORTH

JORAM S. ALTMAN
ARCHITECT
819 Alvarado Street
San Francisco CA 94114
415. 282. 2626 tel
joram@jsaarchitect.com



RESIDENCE REMODEL
3600 SCOTT - SAN FRANCISCO, CA 94123
APN : 0441A/017

- ISSUED FOR:
- 12/13/18 Deck Extension Permit
- 01/31/19 Response to Planning Department letter
- 05/30/19 Add Neighbor Profiles

SHEET TITLE
Site Plan & Project Information

JOB #: 21512
DATE: 01/27/19
DRAWN BY: JMK
SCALE: AS NOTED

A0.1

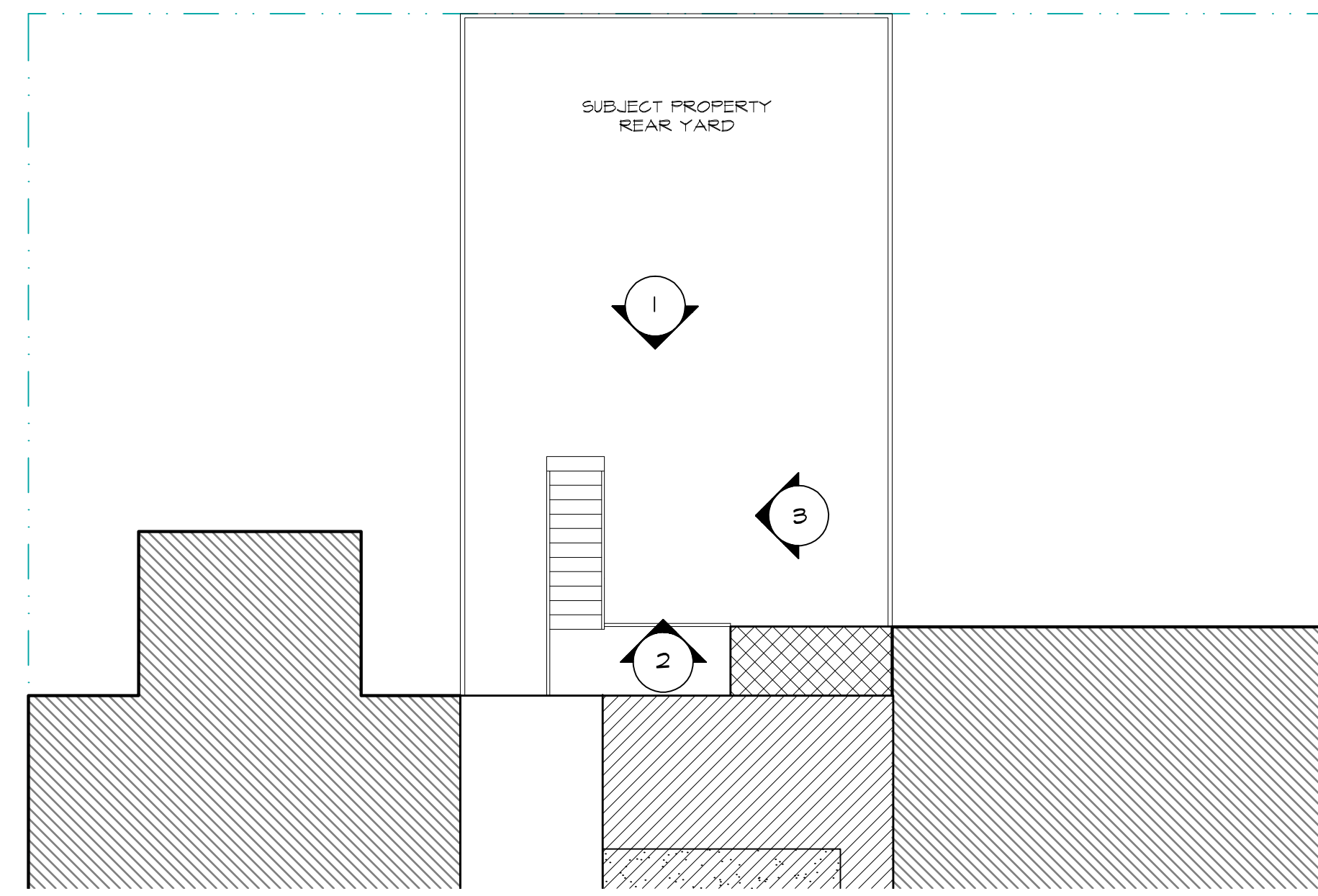
3600 SCOTT ST.
SUBJECT PROPERTY



1 - REAR FACADE AND ADJACENT BUILDINGS



2 - REAR FACADES OF ADJACENT BUILDINGS

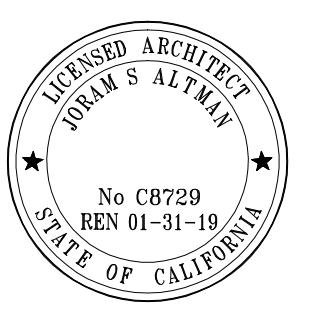


REAR YARD PLAN / PHOTO KEY
NTS



3 - (E) DECK DETAIL

JORAM S. ALTMAN
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819 Alvarado Street
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415.282.2626 tel
joram@jsearchitect.com



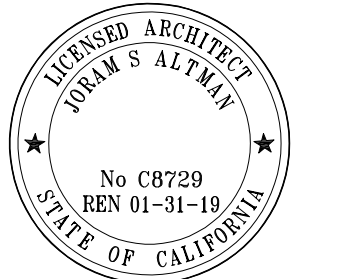
RESIDENCE REMODEL
3600 SCOTT - SAN FRANCISCO, CA 94123
APN : 0441A017

ISSUED FOR:
12/13/18 Deck Extension Permit

SHEET TITLE
**Existing Conditions
Photos**

JOB #: 21512
DATE: 12/03/18
DRAWN BY: JMK
SCALE: AS NOTED

A0.2



RESIDENCE REMODEL
 3600 SCOTT - SAN FRANCISCO, CA 94123
 APN : 0441A017

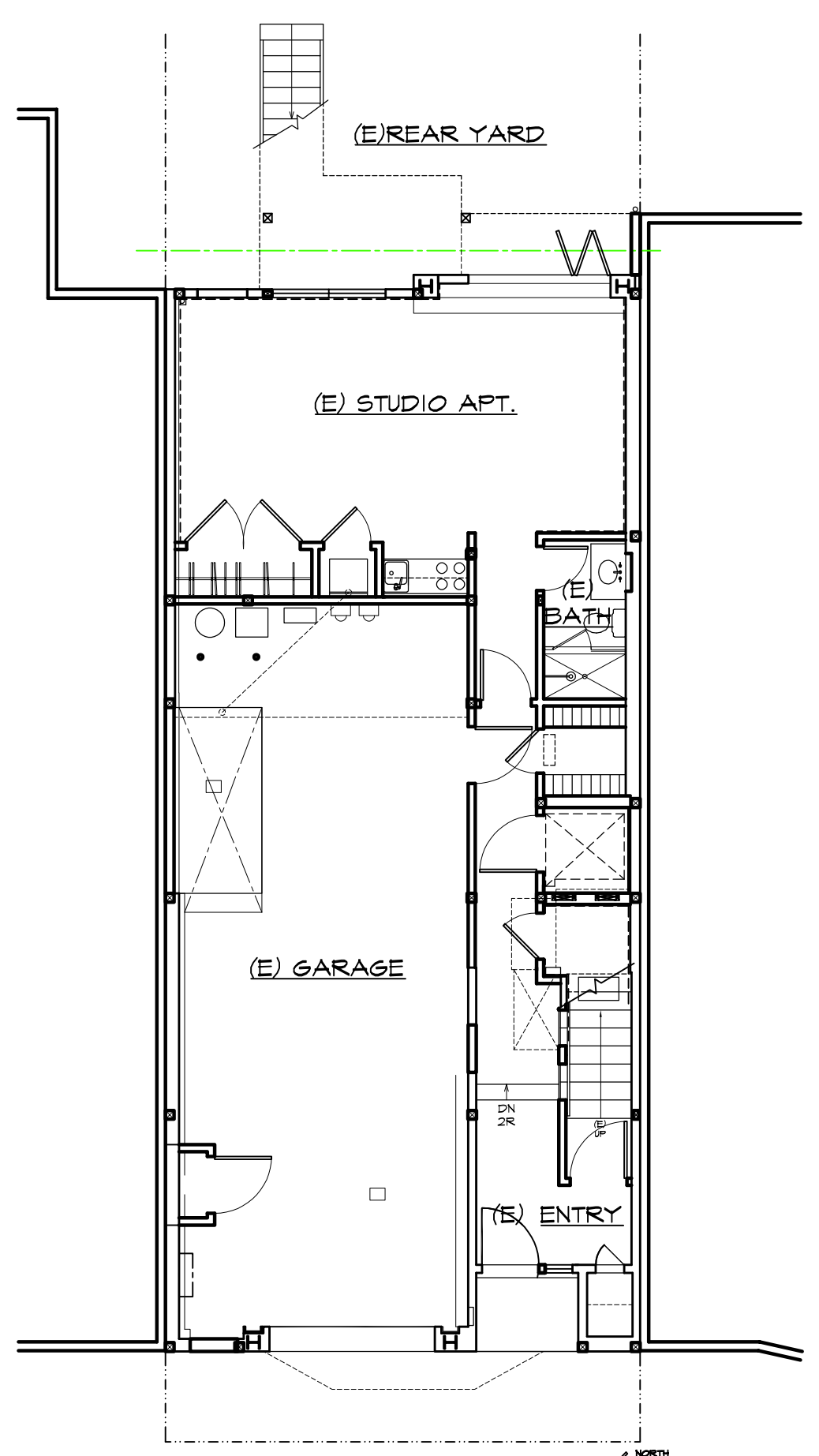
ISSUED FOR:
 12/13/18 Deck Extension Permit
 01/31/19 Response to Planning Department letter

SHEET TITLE

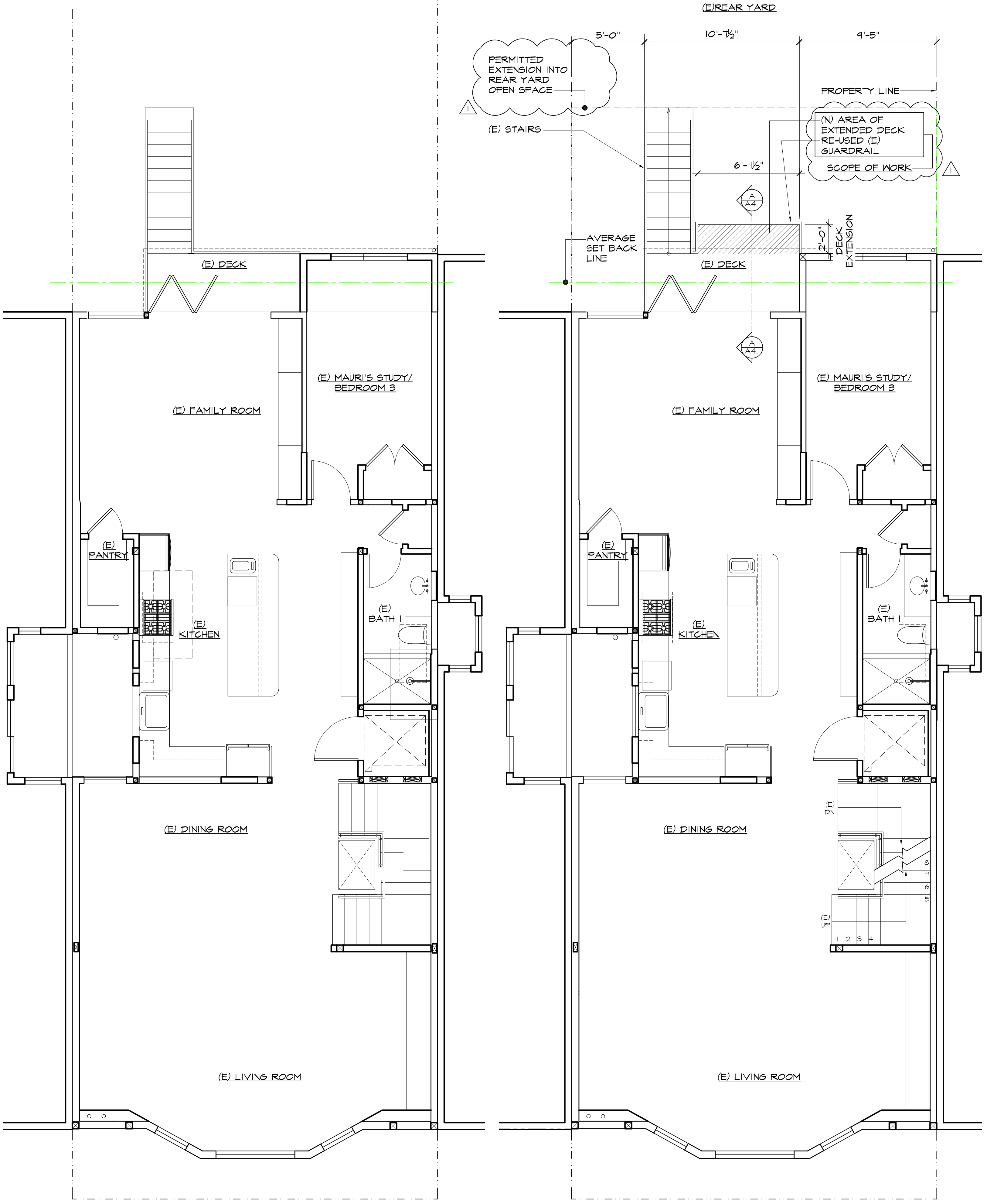
Existing & Remodeled Plans

JOB #: 21512
 DATE: 01/27/19
 DRAWN BY: JMK
 SCALE: AS NOTED

A2.1

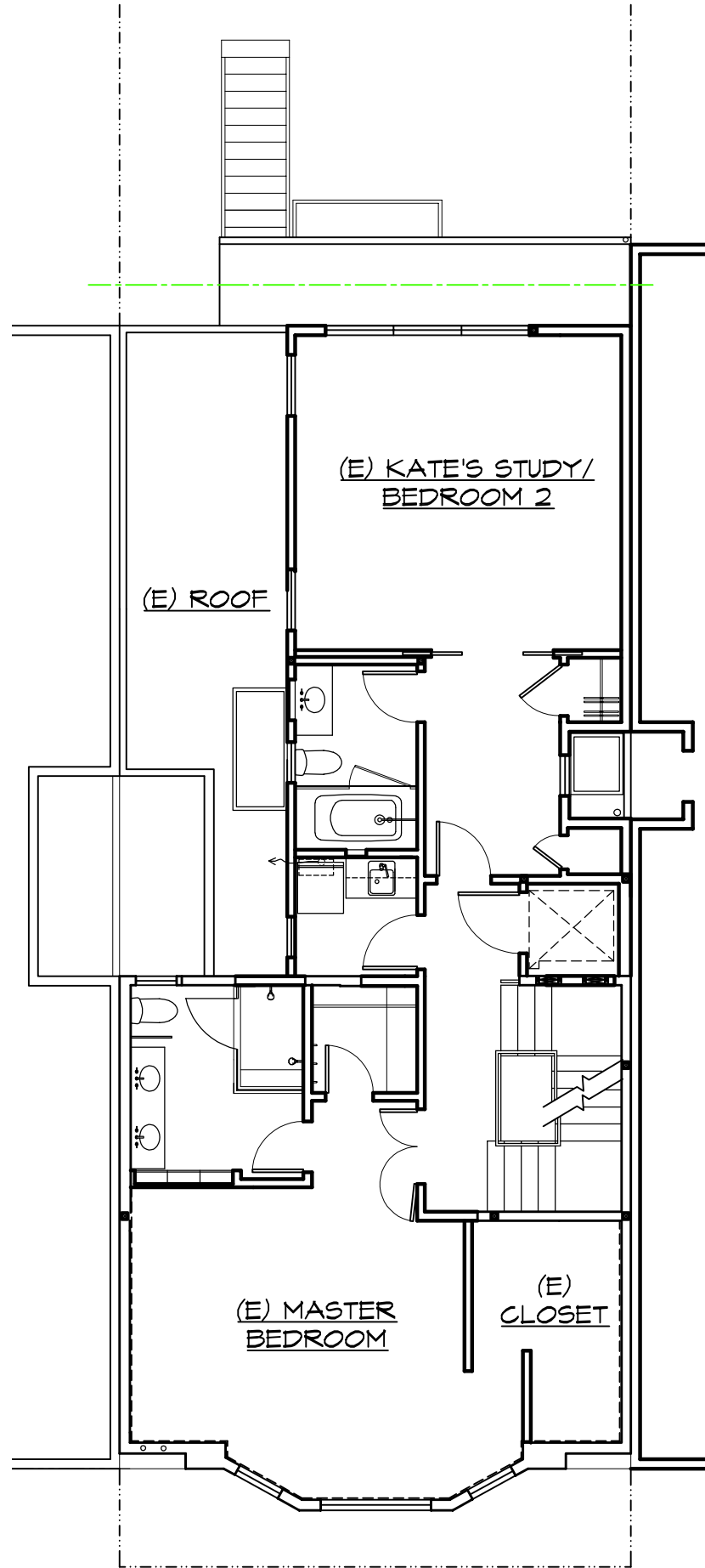


(E) 1ST FLOOR PLAN
 NO WORK THIS LEVEL
 SCALE 1/8"=1'-0"

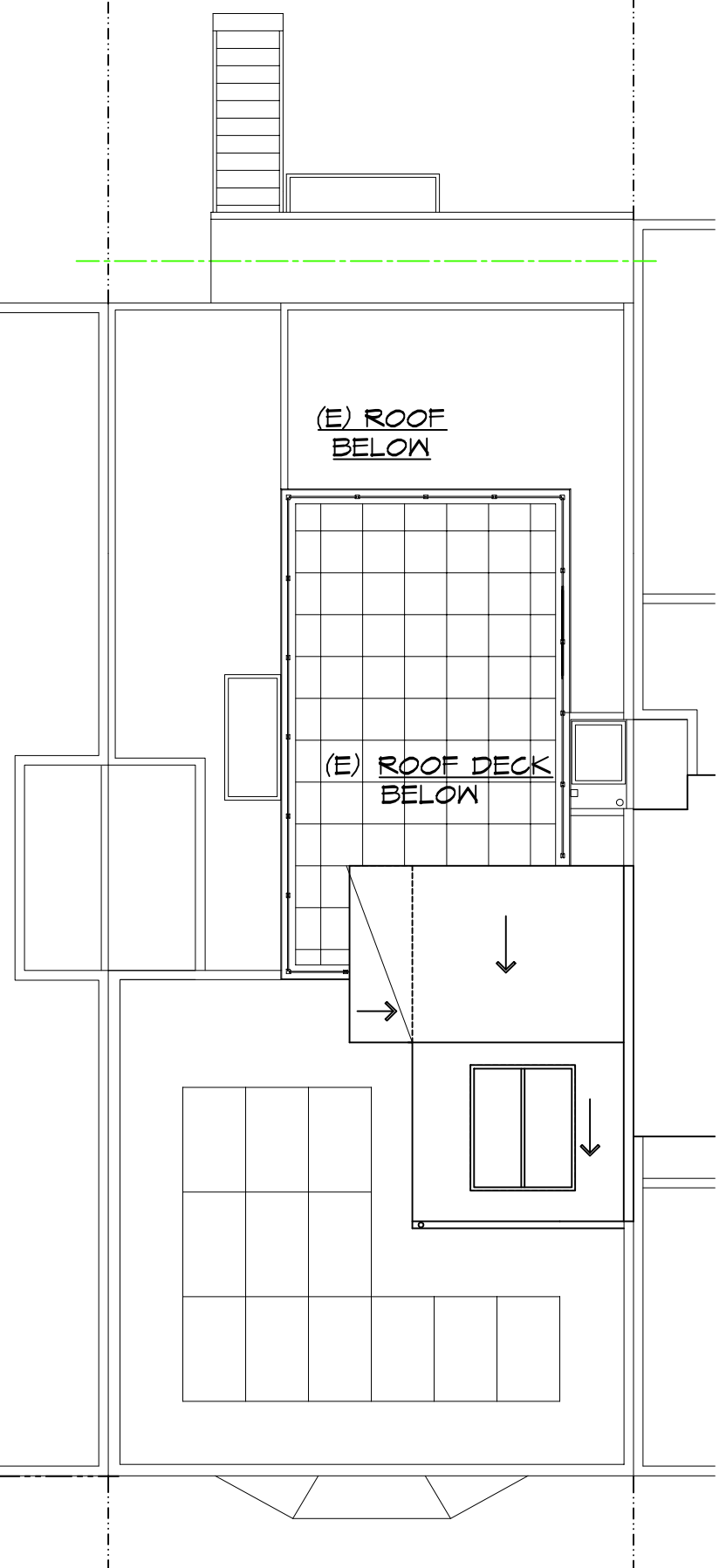


EXISTING 2ND FLOOR PLAN
 SCALE 1/4"=1'-0"

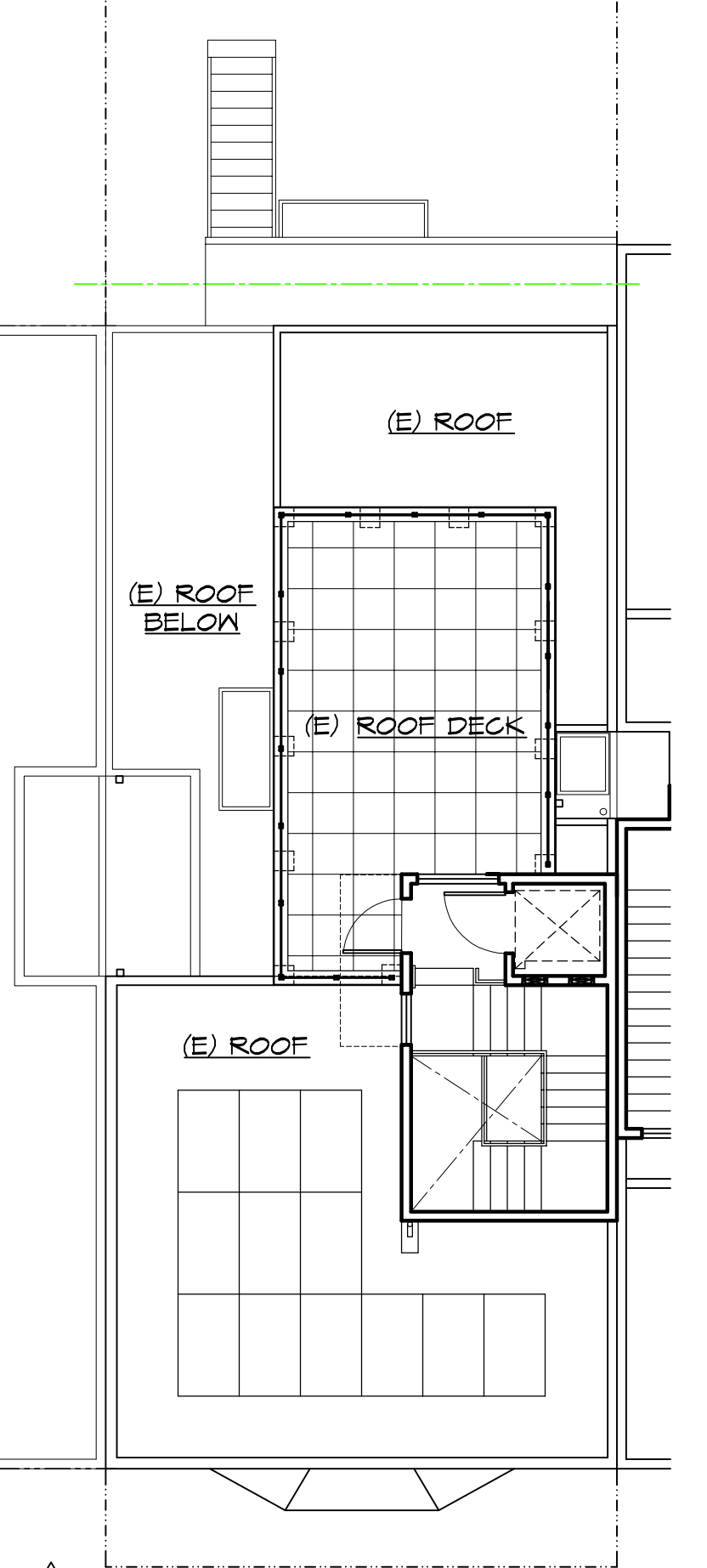
REMODELED 2ND FLOOR PLAN
 SCALE 1/4"=1'-0"



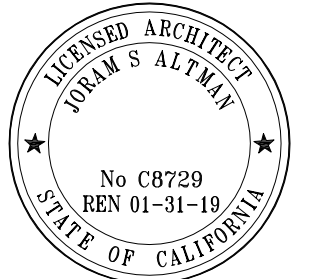
(E) 3RD FLOOR PLAN
 NO WORK THIS LEVEL
 SCALE 1/8"=1'-0"



NEW UPPER ROOF PLAN
 NO WORK THIS LEVEL
 SCALE 1/8"=1'-0"



(E) 4TH FLOOR PLAN
 NO WORK THIS LEVEL
 SCALE 1/8"=1'-0"



RESIDENCE REMODEL
 3600 SCOTT - SAN FRANCISCO, CA 94123
 APN : 0441A017



REMODELED EAST ELEVATION
 SCALE 1/4"=1'-0"



EXISTING EAST ELEVATION
 SCALE 1/4"=1'-0"

ISSUED FOR:

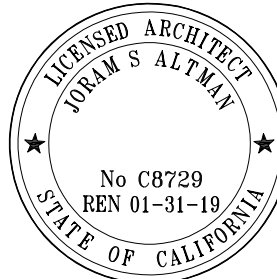
12/13/18	Deck Extension Permit
01/31/19	Response to Planning Department letter
05/30/19	Add Neighbor Profiles

SHEET TITLE

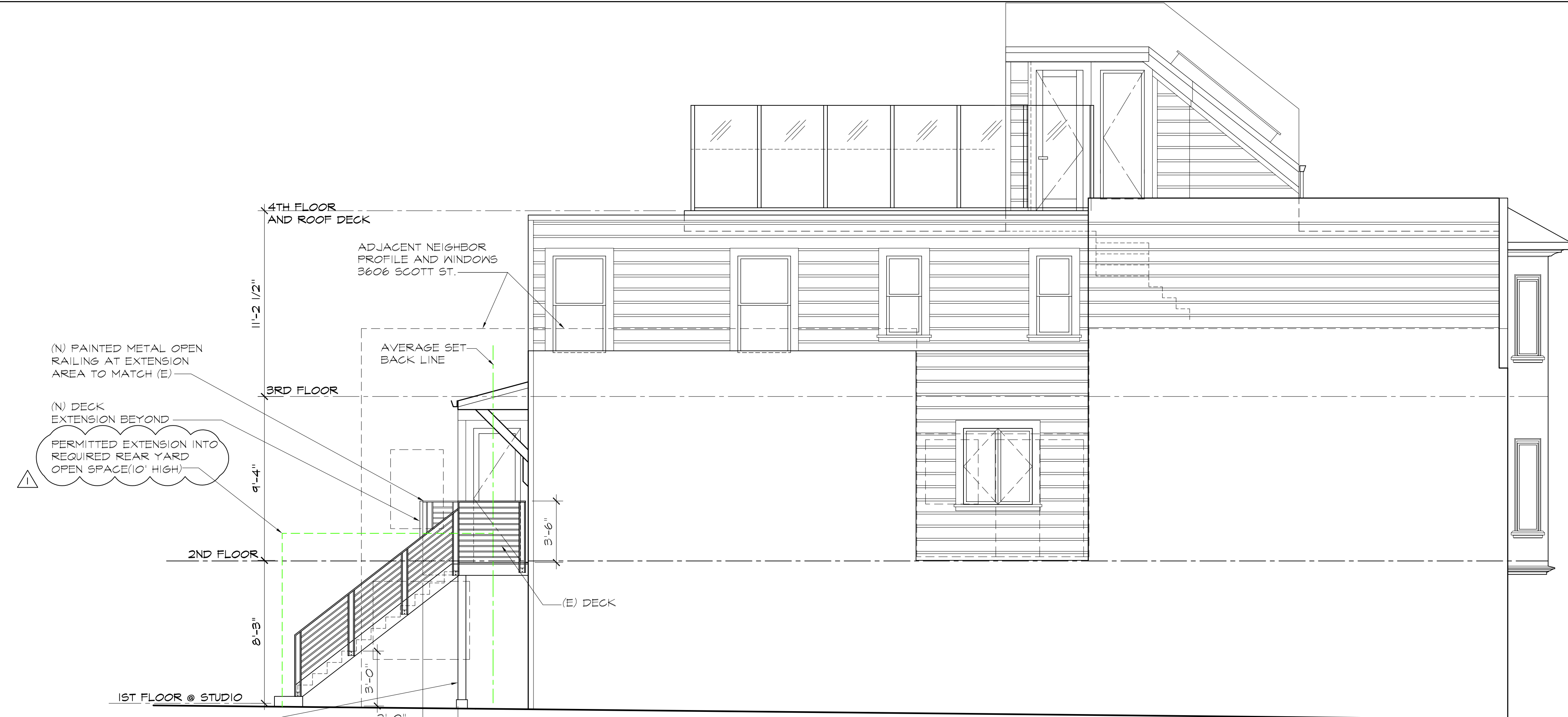
Existing & Remodeled Elevations

JOB #: 21512
 DATE: 01/27/19
 DRAWN BY: JMK
 SCALE: AS NOTED

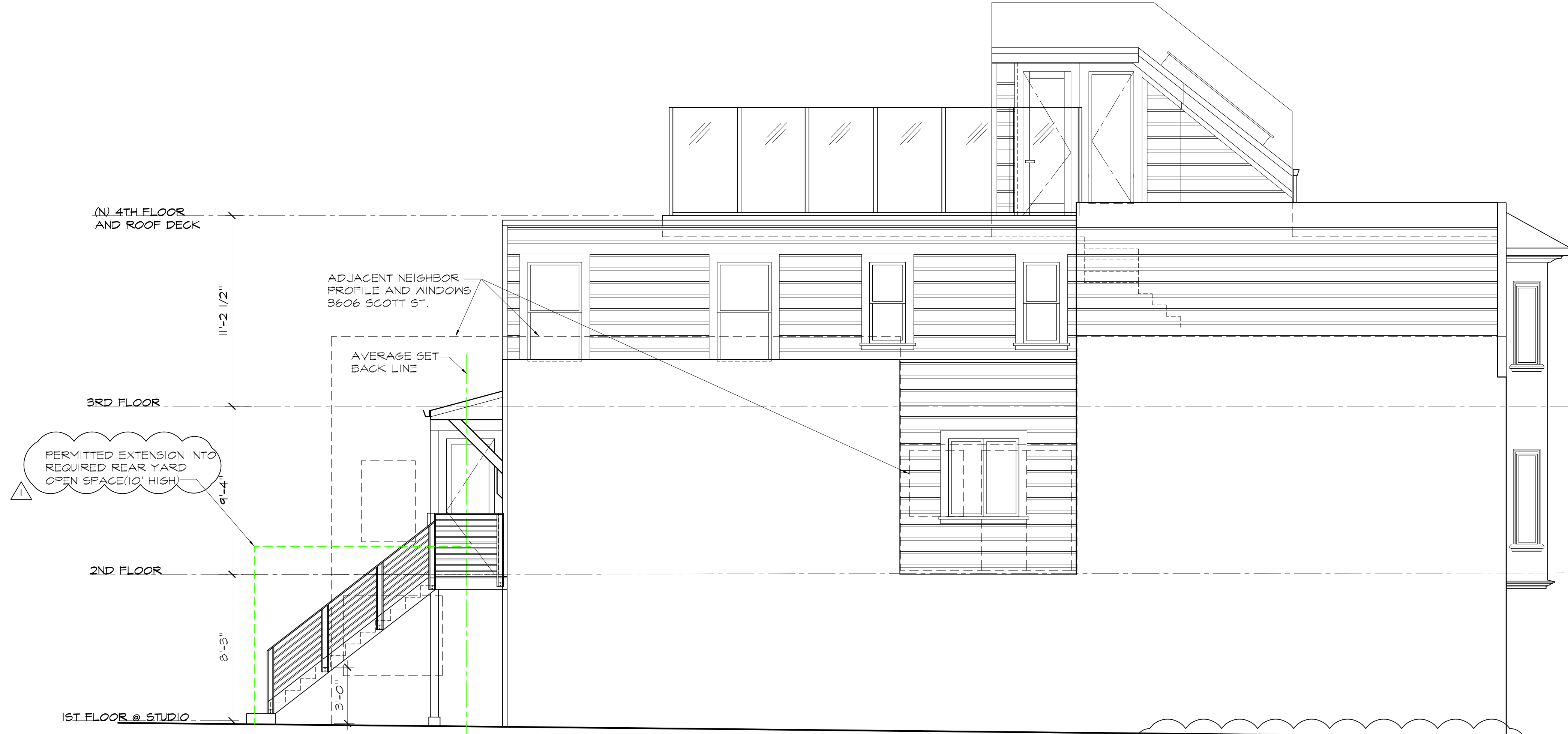
A3.1



RESIDENCE REMODEL
 3600 SCOTT - SAN FRANCISCO, CA 94123
 APN : 0441A017



REMODELED NORTH ELEVATION
 SCALE 1/4"=1'-0"

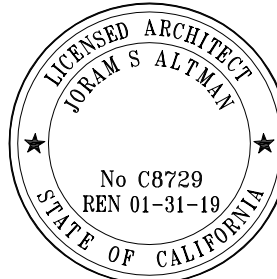


EXISTING NORTH ELEVATION
 SCALE 1/4"=1'-0"

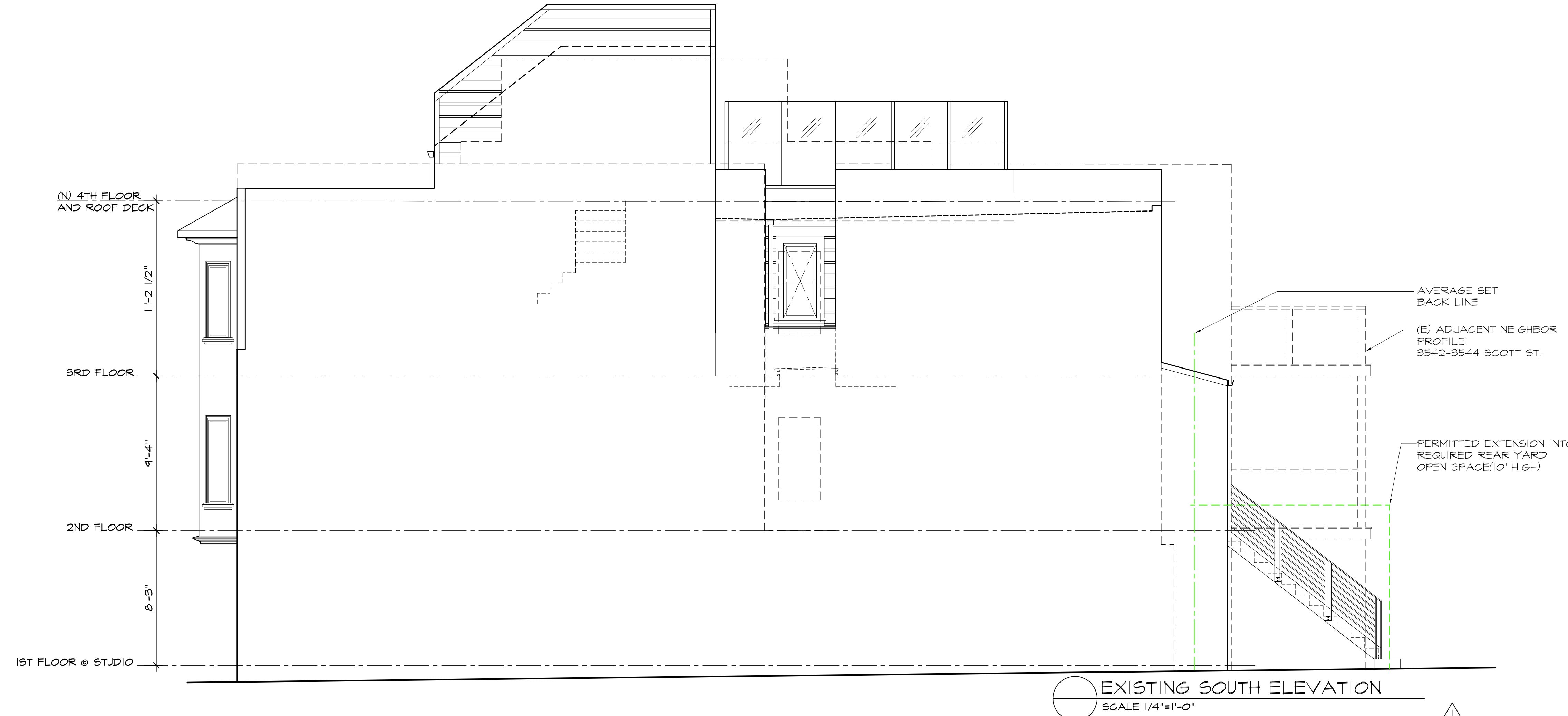
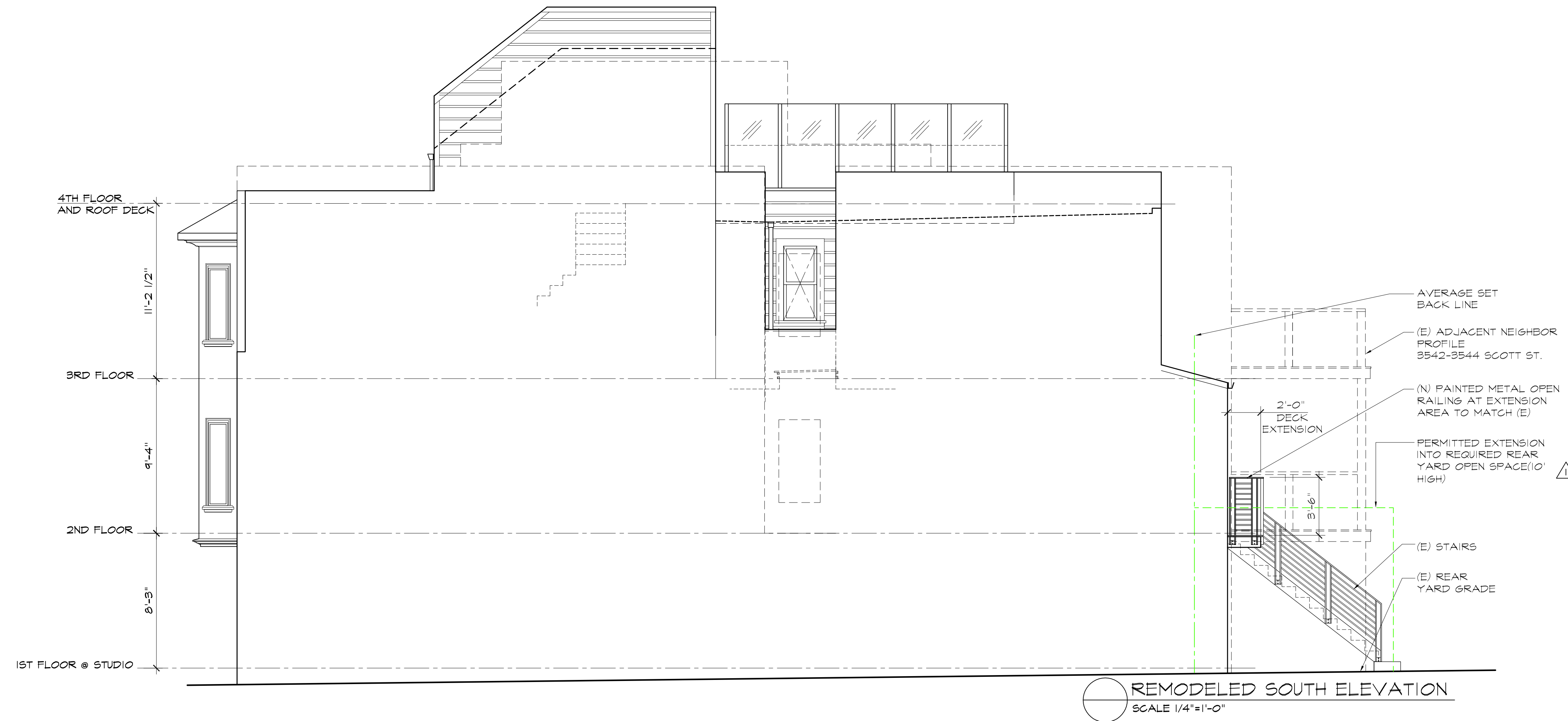
ISSUED FOR:
 12/13/18 Deck Extension Permit
 01/31/19 Response to Planning Department letter

SHEET TITLE
 Existing & Remodeled Elevations
 JOB #: 21512
 DATE: 01/27/19
 DRAWN BY: JMK
 SCALE: AS NOTED

A3.2

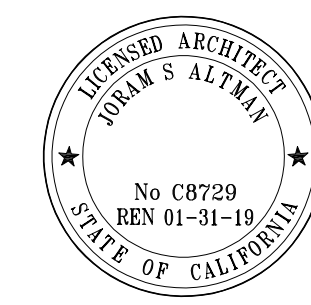


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 3600 SCOTT - SAN FRANCISCO, CA 94123
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ISSUED FOR:
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 Existing & Remodeled Elevations
 JOB #: 21512
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 DRAWN BY: JMK
 SCALE: AS NOTED



ISSUED FOR:
 12/13/18 Deck Extension Permit
 01/31/19 Response to Planning Department letter

SHEET TITLE

Existing & Proposed Sections & Details

JOB #: 21512
 DATE: 01/27/19
 DRAWN BY: JMK
 SCALE: AS NOTED

