



EXECUTIVE SUMMARY LARGE PROJECT AUTHORIZATION

HEARING DATE: APRIL 22, 2021

CONTINUED FROM: FEBRUARY 25, MARCH 4, APRIL 1, 2021

Record No.: 2013.0614ENX
Project Address: 600 SOUTH VAN NESS AVENUE
Zoning: UMU (Urban Mixed-Use) Zoning District
58-X Height and Bulk District
Mission Alcoholic Beverage Restricted Use District
Block/Lot: 3575/070
Project Sponsor: Steven Vettel
Faralla, Braun & Martel
235 Montgomery Street
San Francisco, CA 94104
Property Owner: 600 South Van Ness Avenue LLC
Attn: Joe Taboni
3364 Sacramento Street
San Francisco, CA 94118
Staff Contact: Michael Christensen – (628) 652-7567
Michael.Christensen@sfgov.org

Recommendation: Approval with Conditions

Project Description

The Project requests to amend Condition of Approval Numbers 22-27 of Planning Commission Motion No. 19378 to authorize the recently-constructed five-story, 27-unit residential project to comply with the inclusionary housing requirements of Planning Code Section 415 through the payment of the Affordable Housing Fee rather than by providing four on-site inclusionary units. No physical change is proposed.

As approved, the original Project included the demolition of the an 1,750 square foot automotive repair building and a twenty-nine space surface parking lot on an approximately 9,496 square foot lot, and new construction of

a five-story, mixed-use building of approximately 34,715 square feet and with a height of 58-feet, containing twenty-seven dwelling units, ground floor retail totaling approximately 3,060 square feet, seventeen off-street parking spaces, and twenty-seven Class 1 bicycle parking spaces.

Required Commission Action

In order for the Project to proceed, the Commission must grant a Large Project Authorization, pursuant to Planning Code Section 329, to authorize the recently-constructed five-story, 27-unit residential building to comply with the inclusionary housing requirements of Planning Code Section 415 through the payment of an the Affordable Housing Fee rather than by providing four on-site inclusionary units.

Issues and Other Considerations

- **Public Comment & Outreach.**
 - **Support/Opposition:** The Department has received no correspondence from the public regarding the requested authorization.
- **Limitation on Review.** Per Planning Code Section 415.5(g)(3), “if a project sponsor requests a modification to its conditions of approval for the sole purpose of complying with [the inclusionary housing requirements of Section 415], the Planning Commission shall be limited to considering issues related to Section 415 et seq. in considering the request for modification.” Additionally, per Planning Code Section 415.5(g)(2), “the Planning Commission or the Department may not require a project sponsor to select a specific Alternative” for compliance with Section 415.
- **Affordable Housing.** Planning Code Section 415 establishes affordable housing requirements for housing projects of more than ten units. Projects may comply with the requirements of this Section through the provision of on-site inclusionary units, payment of the Affordable Housing Fee, or through the provision of off-site units.
 - When approved under Planning Commission Motion No. 19378, the Project elected to comply with the requirements of the Section through the provision of on-site BMR units.
 - After construction, the Project Sponsor began discussions with the Mayor’s Office of Housing and Community Development (MOHCD) regarding the provision of on-site inclusionary units. The sponsor and MOHCD were not able to reach an agreement regarding the provision of on-site inclusionary units, as the market rate units were of a rental tenure under single ownership, and the inclusionary units were of ownership tenure. If implemented in this manner, the four BMR owners would collectively control 14.8% of the homeowner’s association, and the single owner of the rental market rate units would control the remaining 85.2% of the homeowner’s association. Such imbalance would be detrimental to the occupants of the BMR units. Additionally, Fannie Mae guidelines for lending to potential owners of the inclusionary units prohibit an ownership structure where a single owner controls more than 20% of the units, making the BMR units likely ineligible for federally backed mortgages.

- On December 27, 2019, MOHCD issued a Notice of Complaint to the property for failure to provide the required inclusionary units. The complaint provided two options for compliance: 1) payment of the affordable housing fee, or 2) by providing the on-site inclusionary units as rental units.
- The sponsor has elected to request a change in the method of compliance with Section 415 by requesting to pay the Affordable Housing Fee in-lieu of provision of on-site inclusionary units. Due to the fact that the market rate units are occupied, and the Affordable Housing Fee is being collected after first construction document, the fee is subject to interest.
- Per Planning Code Section 415(g)(3), “any subsequent change by a project sponsor [after Project approval] that results in the reduction in the number of on-site units shall require public notice for a hearing and approval from the Planning Commission.”
- **Recent Cases.** Planning Code Section 415 establishes that a change from on-site to the Affordable Housing Fee requires a public hearing. Since July 2017, four other Projects have requested this change from on-site to Affordable Housing Fee:

Case Number	Project	Planning Commission Hearing Dates	Total Unit Count	On-site Affordable Units Originally Provided
2013.0784ENX-02	2177 3rd Street (aka 590 19th Street)	Changed from on-site (January 14, 2016) to fee on July 20, 2017	114	19 ^[1]
2015-015203DNX-02	135 Hyde Street	Changed from on-site (March 29, 2018) to fee on June 6, 2019	69	10
2016-013312CUA-02	542-550 Howard Street (Transbay Parcel F)	Changed from off-site (January 9, 2020) to fee on January 28, 2021	165	54 ^[2]
2021-001410CRV	42 Otis	Changed from on-site (December 2018) to fee on March 25, 2021	24	3

^[1] Pursuant to Planning Commission Motion 19968, Eight (8) on-site units were approved in addition to the Affordable Housing Fee.

^[2] The project originally provided 54 affordable housing units via an Off-site Affordable Housing Alternative.

Environmental Review

The requested Large Project Authorization is not a 'Project' under CEQA, as it would not result in any physical change to the environment.

Basis for Recommendation

The Department finds that the Project is, on balance, consistent with the Mission Area Plan and the Objectives and Policies of the General Plan. Although the Project results in a reduction in the number of on-site inclusionary units, the Project remains in compliance with the inclusionary housing requirements of Section 415.

Attachments:

Draft Motion – Large Project Authorization with Conditions of Approval (Exhibit A)

Exhibit B – Planning Commission Motion No. 19378

Exhibit C – Maps and Context Photos

Exhibit D - Project Sponsor Brief

Exhibit E – Reference Plans



PLANNING COMMISSION DRAFT MOTION

HEARING DATE: APRIL 22, 2021

Record No.: 2013.0614ENX-02
Project Address: 600 SOUTH VAN NESS AVENUE
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ADOPTING FINDINGS RELATING TO A LARGE PROJECT AUTHORIZATION PURSUANT TO PLANNING CODE SECTION 329, TO THE AMENDMENT OF CONDITIONS OF APPROVAL NUMBERS 22-27 OF PLANNING COMMISSION MOTION NUMBER 19378 TO ALLOW THE RECENTLY CONSTRUCTED MIXED-USE BUILDING CONTAINING TWENTY-SEVEN DWELLING UNITS AND THREE GROUND FLOOR COMMERCIAL UNITS TO COMPLY WITH THE AFFORDABLE HOUSING REQUIREMENTS OF SECTION 415 THROUGH PAYMENT OF THE AFFORDABLE HOUSING FEE INSTEAD OF THROUGH THE PROVISION OF ON-SITE BELOW MARKET RATE UNITS, LOCATED AT 600 SOUTH VAN NESS AVENUE, LOT 070 IN ASSESSOR'S BLOCK 3575, WITHIN THE UMU (URBAN MIXED-USE) ZONING DISTRICT AND A 58-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On June 26, 2020, Steven Vettel (hereinafter "Project Sponsor") filed Application No. 2013.0614ENX-02 (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Large Project Authorization to authorize the amendment of Condition of Approval Numbers 22-27 of Planning Commission Motion No. 19378 to authorize a change in the method of compliance with the affordable housing requirements of Planning Code Section 415 from the provision of on-site inclusionary units to the payment of the Affordable Housing Fee (hereinafter "Project") at 600 South Van Ness Avenue, Block 3575 Lot 070 (hereinafter "Project Site").

The environmental effects of the original Project were determined by the San Francisco Planning Department to have been fully reviewed under the Eastern Neighborhoods Area Plan Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public hearing on August 7, 2008, by Motion No. 17661, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., (hereinafter, "CEQA"). The Commission has reviewed the Final EIR, which has been available for this Commission's review as well as public review.

The Eastern Neighborhoods EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required of a proposed project, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Eastern Neighborhoods Plan, the Commission adopted CEQA Findings in its Motion No. 17661 and hereby incorporates such Findings by reference.

Additionally, State CEQA Guidelines Section 15183 provides a streamlined environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, or (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

On April 9, 2015, the Department determined that the initial Large Project Authorization, approved under Planning Commission Motion No. 19378 did not require further environmental review under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3. The Project is consistent with the adopted zoning controls in the Eastern Neighborhoods Area Plan and was encompassed within the analysis contained in the Eastern Neighborhoods Final EIR. Since the Eastern Neighborhoods Final EIR was finalized, there have been no substantial changes to the Eastern Neighborhoods Area Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this project, including the Eastern Neighborhoods Final EIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

The requested Large Project Authorization under this motion does not propose any physical change to the environment and thus is consistent with the approved Community Plan Exemption issued by the Planning Department on April 9, 2015.

The requested Large Project Authorization under this motion does not propose any physical change to the environment and thus is not a 'Project' under CEQA.

On February 25, 2021, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Large Project Authorization Application No. 2013.0614ENX-02 and continued the hearing to March 4, 2021.

On March 4, 2021, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Large Project Authorization Application No. 2013.0614ENX-02 and continued the hearing to April 1, 2021.

On April 1, 2021, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Large Project Authorization Application No. 2013.0614ENX-02 and continued the hearing to April 22, 2021.

On April 22, 2021, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Large Project Authorization Application No. 2013.0614ENX-02.

The Planning Department Commission Secretary is the custodian of records; the File for Record No. 2013.0614ENX-02 is located at 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

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

MOVED, that the Commission hereby authorizes the Large Project Authorization as requested in Application No. 2013.0614ENX-02, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

- 1. The above recitals are accurate and constitute findings of this Commission.**
- 2. Project Description.** The Project requests to amend Condition of Approval Numbers 22-27 of Planning Commission Motion No. 19378 to authorize the recently-constructed five-story, 27-unit residential project to comply with the inclusionary housing requirements of Planning Code Section 415 through the payment of the Affordable Housing Fee rather than by providing four on-site inclusionary units. No physical change is proposed.
- 3. Site Description and Present Use.** The project is located at the southwest corner of the intersection of South Van Ness Avenue and 171h Street, on a rectangular corner lot of approximately 9,500 square feet. The property has approximately 100 feet of frontage on South Van Ness Avenue and 95 feet of frontage on 171h Street. The site is developed with a five-story mixed-use building containing twenty-seven residential units and three ground floor commercial spaces.
- 4. Surrounding Properties and Neighborhood.** The property is located in the UMU Zoning District along a mixed-use corridor within the northern half of the Mission Area Plan. The surrounding area is a zoned as both UMU and RTO-M (Residential Transit Oriented - Mission); however, the Mission Street NCT (Neighborhood Commercial Transit) Zoning District is one block west, and a PDR-1-G (General - Production, Distribution, and Repair) Zoning District is one block east. The immediate neighborhood reflects this zoning mix and includes two- to five-story older residential properties both west and south of the subject site, with a broader range of uses north and east of the subject property.
- 5. Public Outreach and Comments.** No comments have been received regarding the requested authorization.
- 6. Planning Code Compliance.** The Planning Code Compliance Findings set forth in Motion No. 19378, Case No. 2013.0614X (Large Project Authorization) apply to this Motion and are incorporated herein.
- 7. General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

Policy 1.10

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

OBJECTIVE 4

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.1

Promote housing for families with children in new development by locating multibedroom units near common open space and amenities or with easy access to the street; and by incorporating child-friendly amenities into common open and indoor spaces.

Policy 4.5

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Policy 4.6

Ensure that new permanently affordable housing is located in all of the city's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.6

Foster a sense of community through architectural design, using features that promote community interaction.

Policy 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

OBJECTIVE 12

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

Policy 12.1

Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

Policy 12.2

Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units.

Policy 12.3

Ensure new housing is sustainably supported by the City's public infrastructure systems.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

Policy 1.7

Recognize the natural boundaries of districts, and promote connections between districts.

MISSION AREA PLAN

Land Use

Objectives and Policies

OBJECTIVE 1.2

IN AREAS OF THE MISSION WHERE HOUSING AND MIXED-USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER.

Policy 1.2.1

Ensure that in-fill housing development is compatible with its surroundings.

Policy 1.2.2

For new construction, and as part of major expansion of existing buildings in neighborhood commercial districts, require ground floor commercial uses in new housing development. In other mixed-use districts encourage housing over commercial or PDR where appropriate.

Policy 1.2.3

In general, where residential development is permitted, control residential density through building height and bulk guidelines and bedroom mix requirements.

Policy 1.2.4

Identify portions of the Mission where it would be appropriate to increase maximum heights for residential development.

Housing
Objectives and Policies

OBJECTIVE 2.3

ENSURE THAT NEW RESIDENTIAL DEVELOPMENTS SATISFY AN ARRAY OF HOUSING NEEDS WITH RESPECT TO TENURE, UNIT MIX AND COMMUNITY SERVICES

POLICY 2.3.3

Require that a significant number of units in new developments have two or more bedrooms, except Senior Housing and SRO developments unless all Below Market Rate units are two or more bedrooms.

POLICY 2.3.5

Explore a range of revenue-generating tools including impact fees, public funds and grants, assessment districts, and other private funding sources, to fund community and neighborhood improvements.

OBJECTIVE 2.5

PROMOTE HEALTH THROUGH RESIDENTIAL DEVELOPMENT DESIGN AND LOCATION

POLICY 2.5.2

Develop affordable family housing in areas where families can safely walk to schools, parks, retail, and other services.

The Project is consistent with the Mission Area Plan and the Objectives and Policies of the General Plan, in that the project would remain compliant with the requirements of Section 415 and would allow for the use of four already constructed dwelling units in a neighborhood that is well served by transit and dense in services and retail. While the Project would authorize the change of four on-site inclusionary dwelling units to Market Rate, the change would require payment of the Affordable Housing Fee, which would be used to finance the construction of other affordable units in the City.

8. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. The Priority Planning Policies Findings set forth in Motion No. 19378, Case No. 2013.0614X (Large Project Authorization) apply to this Motion and are incorporated herein.
9. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
10. The Commission hereby finds that approval of the Large Project Authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Large Project Authorization Application No. 2013.0614ENX-02** subject to the following conditions attached hereto as “EXHIBIT A”.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 329 Large Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (628) 652-1150, 49 South Van Ness Avenue, Suite 1475, San Francisco, CA 94103.

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on April 22, 2021.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

RECUSE:

ADOPTED: April 22, 2021

EXHIBIT A

Authorization

This authorization is for a Large Project Authorization to allow the amendment of Condition of Approval Numbers 22-27 of Planning Commission Motion No. 19378 to authorize the recently-constructed five-story, 27-unit residential project to comply with the inclusionary housing requirements of Planning Code Section 415 through the payment of the Affordable Housing fee rather than by providing four on-site inclusionary units, located at 600 South Van Ness Avenue, Lot 070 in Assessor's Block 3575 pursuant to Planning Code Section 329 District and the Urban Mixed Use Zoning District and a 58-X Height and Bulk District and subject to conditions of approval reviewed and approved by the Commission on **April 22, 2021** under Motion No. XXXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

Recordation of Conditions of Approval

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **April 22, 2021** under Motion No. XXXXXX.

Printing of Conditions of Approval on Plans

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. XXXXXX shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

Severability

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

Changes and Modifications

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

CONDITIONS OF APPROVAL, COMPLIANCE, MONITORING, AND REPORTING

Performance

- 1. Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- 2. Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- 3. Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- 4. Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

- 5. Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463,

www.sfplanning.org

Affordable Housing

Affordable Units. The following Inclusionary Affordable Housing Requirements are those in effect at the time of Planning Commission action. In the event that the requirements change, the Project Sponsor shall comply with the requirements in place at the time of issuance of first construction document.

- 6. Requirement.** Pursuant to Planning Code Section 415.5, the Project Sponsor must pay an Affordable Housing Fee at a rate equivalent to the applicable percentage of the number of units in an off-site project needed to satisfy the Inclusionary Affordable Housing Program Requirement for the principal project. The applicable percentage for this project is twenty-three percent (23%) because it is a rental project located in the Urban Mixed Use Zoning District, subject to the requirements of Tier A.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- 7. Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and the terms of the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing and Community Development ("MOHCD") at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing and Community Development's websites, including on the internet at: <http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>. As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or rent.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

- a. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI within six months of the date of this authorization, plus applicable interest on the Affordable Housing Fee.
- b. Within six months of this authorization, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.

- c. A Project Sponsor's failure to comply with the requirements of Planning Code Sections 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all other remedies at law, including interest and penalties, if applicable.

8. **Prior Project Authorization.** The Project Authorization and associated conditions of approval obtained via Motion No. 19378 apply to this Motion and are incorporated herein as though fully set forth, except as modified above. Additionally, Conditions of Approval 22-27 of Planning Commission Motion No. 19378 are stricken and are no longer in effect. The conditions set forth are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|-------------------------------------------------------------------|-----------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Affordable Housing (Sec. 415) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input checked="" type="checkbox"/> Other (TIDF, EN Impact Fees) |

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CA 94103-2479

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415.558.6409

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Planning Commission Motion No. 19378 HEARING DATE: MAY 21, 2015

Date: May 14, 2015
Case No.: **2013.0614X**
Project Address: **600 South Van Ness Avenue**
Zoning: UMU (Urban Mixed Use) Zoning District
58-X Height and Bulk District
Block/Lot: 3575/070
Project Sponsor: Michael Leavitt
Leavitt Architecture Inc.
1327 Mason Street
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A LARGE PROJECT AUTHORIZATION PURSUANT TO PLANNING CODE SECTION 329 TO DEMOLISH AN AUTO REPAIR BUILDING AND CONSTRUCT A FIVE-STORY MIXED-USE BUILDING OF APPROXIMATELY 34,715 GROSS SQUARE FEET THAT CONTAINS 27 RESIDENTIAL UNITS, THREE GROUND FLOOR COMMERCIAL RETAIL SPACES TOTALING APPROXIMATELY 3,060 GROSS SQUARE FEET, AND SEEKING A MODIFICATION OF THE REQUIREMENTS FOR 1) REAR YARD (PLANNING CODE SECTION 134); 2) OPEN SPACE CONFIGURATION (PLANNING CODE SECTION 135); 3) PERMITTED OBSTRUCTIONS OVER THE STREET (PLANNING CODE SECTION 136); 4) DWELLING UNIT EXPOSURE (PLANNING CODE 140); AND 5) STREET FRONTAGE (PLANNING CODE SECTION 145.1), WITHIN A UMU (URBAN MIXED USE) ZONING DISTRICT AND A 58-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On February 13, 2014, Michael Leavitt of Leavitt Architecture Inc. (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for a Large Project Authorization to demolish an auto repair building and construct a five-story mixed-use building of approximately 34,715 gross square feet and 58 feet tall, that contains 27 residential units, three ground floor commercial units totaling 3,060 gross square feet, and seeking a modification of the requirements for 1) rear yard (Planning Code Section 134), 2) open space configuration (Planning Code Section 135); 3) permitted obstructions over the street (Planning Code Section 136), 4) dwelling unit exposure (Planning Code

Section 140), and 5) street frontage (Planning Code Section 145.1), at 600 South Van Ness Avenue (Block 3575, Lot 070) in San Francisco, California.

The environmental effects of the Project were determined by the San Francisco Planning Department to have been fully reviewed under the Eastern Neighborhoods Area Plan Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public hearing on August 7, 2008, by Motion No. 17661, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., (hereinafter, "CEQA")). The Commission has reviewed the Final EIR, which has been available for this Commission's review as well as public review.

The Eastern Neighborhoods EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required of a proposed project, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Eastern Neighborhoods Plan, the Commission adopted CEQA Findings in its Motion No. 17661 and hereby incorporates such Findings by reference.

Additionally, State CEQA Guidelines Section 15183 provides a streamlined environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, or (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

On **April 9, 2015**, the Department determined that the proposed application did not require further environmental review under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3. The Project is consistent with the adopted zoning controls in the Eastern Neighborhoods Area Plan and was encompassed within the analysis contained in the Eastern Neighborhoods Final EIR. Since the Eastern Neighborhoods Final EIR was finalized, there have been no substantial changes to the Eastern Neighborhoods Area Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this project, including the Eastern Neighborhoods Final EIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP) setting forth mitigation measures that were identified in the Eastern Neighborhoods Plan EIR that are applicable

to the project. These mitigation measures are set forth in their entirety in the MMRP attached to the draft Motion as Exhibit C.

On May 21, 2015, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Large Project Authorization Application No. 2013.0614X.

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

MOVED, that the Commission hereby authorizes the Large Project Authorization requested in Application No. 2013.0614X, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located at the southwest corner of the intersection of South Van Ness Avenue and 17th Street, on a rectangular corner lot of approximately 9,500 square feet. The property has approximately 100 feet of frontage on South Van Ness Avenue and 95 feet of frontage on 17th Street. The site is developed with a one story industrial building constructed circa 1945. The last known use, a motor vehicle repair and tow service (d.b.a. Target Auto), closed in 2011. The site is currently vacant.
3. **Surrounding Properties and Neighborhood.** The property is located in the UMU Zoning District along a mixed-use corridor within the northern half of the Mission Area Plan. The surrounding area is zoned as both UMU and RTO-M (Residential Transit Oriented – Mission); however the Mission Street NCT (Neighborhood Commercial Transit) Zoning District is one block west, and a PDR-1-G (General - Production, Distribution, and Repair) Zoning District is one block east. The immediate neighborhood reflects this zoning mix and includes two-to-five story older residential properties both west and south of the subject site, with a broader range of uses north and east of the subject property. The non-residential uses in the immediate area include three automotive repairs services (d.b.a. Powell Hydramatic; Werk Statt; and, A & A Auto Parts), two household goods and services retail uses (d.b.a. Kelly Moore Paints, and Excel Plumbing Supply and Showroom), a service station (d.b.a. Gas and Shop), two entertainment uses (d.b.a. ODC Theatre and Mission Bowling), an institutional use (d.b.a. Seven Tepees Youth Program), a personal service use (d.b.a. Halberstadt Fencing), and a light manufacturing use (d.b.a. Ocean Sash and Door).

The project site is located along South Van Ness Avenue which is a vehicular transit corridor and is approximately three blocks from the BART Station at 16th and Mission Streets. The site is also within .25 miles of five Muni bus routes.

4. **Project Description.** The proposed project includes demolition of the existing 1,750 square foot automotive repair building and a 29 space surface parking lot on an approximately 9,496 square foot lot, and new construction of a five-story, mixed-use building of approximately 34,715 square feet and with a height of 58-feet. The proposed building will contain up to 27 dwelling units, ground floor retail totaling approximately 3,060 square feet, 17 off-street parking spaces, and 27 Class 1 bicycle parking spaces. The project also includes a dwelling unit mix consisting of 12 two-bedroom units and 15 one-bedroom units. The entrance to off-street parking is located off of 17th Street through a garage opening that is 10 feet wide.
5. **Public Comment.** The Department has received six e-mails in support of the project and 157 letters of support collected by the Project Sponsor. The Department has also received 13 e-mails in opposition to the project, requesting that the applicant conduct additional public outreach to inform the broader community of the proposal. In an initial response to this request, the applicant held an open house on April 20, 2015. Accounts from both sides indicate that the focus of the meeting was the Project Sponsor's election to meet the City's affordable housing requirements through the payment of an in-lieu fee. Opponents have requested the Project Sponsor choose to provide on-site below market rate units.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Large Project Authorization for Eastern Neighborhood Projects.** Planning Code Section 329 requires that any project within an Eastern Neighborhoods Zoning District that includes construction of a new building greater than 75 feet in height, or involving new construction of more than 25,000 gross square-feet, request authorization from the Planning Commission.

The subject property is located within the UMU Zoning District, which per Planning Code Section 802.4 is considered an Eastern Neighborhood Mixed Use District. As proposed, the Project would result in the construction of a 58-foot tall building containing approximately 34,715 gross square feet; therefore, the proposed project requires a Large Project Authorization per Planning Code Section 329. The required findings are listed below under Subsection 7. The project is seeking exceptions from the rear yard, open space, permitted obstructions over streets, exposure and street frontage sections of the Planning Code through the Large Project Authorization process.

- B. **Permitted Uses in the UMU Zoning District.** Planning Code Sections 843.20 and 843.45 state that residential and retail uses are permitted as of right within the Urban Mixed Use (UMU) Zoning District.

The Project would construct new residential and retail uses within the UMU Zoning District; therefore, the Project complies with Planning Code Sections 843.20 and 843.45.

- C. **Neighborhood Notification.** Planning Code Section 312 requires notification to all owners and occupants within 150-feet of the subject property if the property converts from one land use category to another and is located in an Eastern Neighborhoods Mixed Use District.

The proposal is located in the UMU Zoning District which is considered an Eastern Neighborhoods Mixed Use District pursuant to Planning Code Section 802.4. The project proposes the demolition of an auto repair building and construction of a five story mixed use building. These changes of use require Neighborhood Notification per Planning Code Section 312. Accordingly, notification was conducted in conjunction with the noticing for the Large Project Authorization. The applicant also conducted a pre-application meeting prior to submission on August 15, 2013.

- D. Rear Yard.** Planning Code Section 134 requires that the project provide a rear yard equal to 25 percent of the total lot depth at the lowest level containing a residential unit, and at each succeeding level or story of the building. Alternatively, the project can seek an exception from the rear yard requirement through the Large Project Authorization process.

The subject property is a corner lot with a width of 100 feet and a depth of 95 feet, thereby requiring a rear yard 23.75 feet deep and 2,375 square feet in area. The Project provides a rear yard at the southwest corner of the subject property, adjacent to the existing midblock open space. The proposed rear yard is approximately 2,378 square feet and is 35.5 feet deep by 67 feet wide. The Project requires an exception through the Large Project Authorization process because the rear yard area is in a corner of the property rather than applying it to the property's full width. Overall, the modification enables the new structure to hold the street wall along both South Van Ness Avenue and 17th Street, and locate the rear yard area closer to the existing midblock open space.

- E. Useable Open Space - Residential.** Planning Code Section 135 requires that the project provide a minimum of 80 square feet of open space per dwelling unit, if not publically accessible. Further, any private usable open space shall have a minimum horizontal dimension of six feet and a minimum area of 36 square feet if located on a deck, balcony, porch or roof, and shall have a minimum horizontal dimension of 10 feet and a minimum area of 100 square feet if located on open ground, a terrace or the surface of an inner or outer court. Alternatively, common useable open space shall be at least 15 feet in every horizontal dimension and shall be a minimum of 300 square feet.

If the common open space is also an inner court, then the open space must be at least than 20 feet in every horizontal dimension and 400 square feet in area, with the height of the walls and projections above the court on at least three sides (or 75 percent of the perimeter) arranged such that no point on any such wall (or projection) is higher than one foot for each foot that such point is horizontally distant from the opposite side of the clear space in the court.

For the proposed 27 dwelling units, the Project is required to provide 2,160 square feet of open space. The project addresses the open space requirement by providing private decks on the 2nd story and roof level that will accommodate nine dwelling units and a rear yard open area that accommodates 18 dwelling units. Collectively through these amenities, the project provides 4,190 square feet of open space. However, while the provided private open space meets the minimum standards per Planning Code Section 135, the rear yard common open space area requires an exception.

As defined in Planning Code Section 102.4, the rear yard open area is considered an inner court. While the rear yard area exceeds the minimum 400 square feet required of inner courts, only 65 percent of the

perimeter meets the vertical openness requirements. Therefore, the project requires an exception from the open space requirements of the Planning Code. (See Below).

- F. **Useable Open Space – Non-Residential.** Planning Code Section 135.3 requires that new retail uses within the Eastern Neighborhoods Mixed Use Districts provide one square-foot of useable open space for every 250 square-feet of occupied floor area.

The Project proposes approximately 2,448 square feet of occupied floor area dedicated to retail uses and requires 10 square feet of useable open space for non-residential uses. The Project includes an open area of approximately 300 square feet along the South Van Ness Avenue building frontage which satisfies the non-residential useable open space requirements of Planning Code Section 135.1.

- G. **Street Trees.** Planning Code Section 138.1 requires that new developments provide one street tree for every 20 feet of frontage, as well as one tree for any remainder greater than 10 feet.

The Project includes new construction on a corner lot with 100 feet of street frontage on South Van Ness Avenue and 95 feet of frontage on 17th Street. A total of 10 street trees are required, however, trees may be substituted with landscaping. At present, the Project includes 7 trees and 83 lineal feet of sidewalk landscaping.

- H. **Dwelling Unit Exposure.** Planning Code Section 140 requires that at least one room of all dwelling units face onto a public street, rear yard or other open area that meets minimum requirements for area and horizontal dimensions. To meet exposure requirements, a public street, public alley, side yard or rear yard must be at least 25 feet in width, or an open area (inner court) must be no less than 25 feet in every horizontal dimension for the floor at which the dwelling unit is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor.

The Project organizes the dwelling units to have exposure either on 17th Street, South Van Ness Avenue or the rear yard open area. Currently, seven dwelling units have exposure only onto the rear yard area, which does not meet the dimensional requirements of the Planning Code for inner courts because the 5th story bay windows on the rear façade project into a required open area. Therefore, the Project is seeking a modification of the dwelling unit exposure requirements for seven dwelling units as part of the Large Project Authorization (See Below). The remaining 20 units face directly onto South Van Ness Avenue or 17th Street and are considered code-complying. (See Below).

- I. **Street Frontage in Mixed Use Districts.** Planning Code Section 145.1 requires that any new development include the following: 1) a 25-foot setback on the ground floor for any off-street parking provided at street grade; 2) no more than 20-feet of a street frontage dedicated to parking and loading ingress or egress, and placed to minimize interference with street-fronting active uses, as well as the movement of pedestrians, cyclists, public transit, and autos; 3) active uses on the ground floor; 4) a ground floor ceiling height of 17 feet for non-residential uses within the UMU Zoning District; 5) street-facing, ground-level, principal entrances to the interior spaces of non-residential uses; and, 6) a minimum of 60 percent of the ground-floor street frontage as transparent for non-residential uses.

The project proposes ground floor, street facing frontages on both South Van Ness Avenue and 17th Streets that satisfy all of the aforementioned requirements. Within the UMU Zoning District retail uses are principally permitted and are thereby considered active uses on the ground floor. Further, the ground floor commercial units face the street, have heights of 17 feet, and are more than 60 percent transparent to the street. In regards to vehicular access, the portion of street frontage dedicated to parking ingress and egress is limited to 14 feet 11 inches. However, two off-street parking spaces are within the required 25-foot setback. Therefore, the Project requires an exception from Planning Code Section 145.1 through the Large Authorization Process. (See Below).

- J. **Off-Street Parking.** Planning Section 151.1 of the Planning Code allows off-street parking at a maximum ratio of .75 per dwelling unit.

For the 27 dwelling units, the Project is allowed to have a maximum of 20 off-street parking spaces. Currently, the Project provides 17 off-street parking spaces, therefore, the proposed project complies with Planning Code Section 151.1.

- K. **Bicycle Parking.** Planning Section 155.2 of the Planning Code requires one Class 1 bicycle parking space per dwelling unit, one Class 2 bicycle parking spaces for every 20 dwelling units, and a minimum of two Class 2 bicycle parking spaces for retail uses occupying less than 2,500 square feet of occupied floor area.

The Project includes 27 dwelling units and a total of 2,448 square feet of occupied floor area dedicated to retail uses; therefore, the Project is required to provide 27 Class 1 bicycle parking spaces and 3 Class 2 bicycle parking spaces. The Project will provide 27 Class 1 bicycle parking spaces and 4 Class 2 bicycle parking spaces, which exceeds the requirement. Therefore, the proposed project complies with Planning Code Section 155.2.

- L. **Unbundled Parking.** Planning Code Section 167 requires that all off-street parking spaces accessory to residential uses in new structures of 10 dwelling units or more be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units.

The Project is providing off-street parking that is accessory to 27 dwelling units. These spaces will be unbundled and sold and/or leased separately from the dwelling units; therefore, the Project meets this requirement.

- M. **Dwelling Unit Mix.** Planning Code Section 207.6 requires that no less than 40 percent of the total number of proposed dwelling units contain at least two bedrooms, or no less than 30 percent of the total number of proposed dwelling units contain at least three bedrooms.

For the 27 dwelling units, the Project is required to provide at least 11 two-bedroom units or 8 three-bedroom units. The Project provides 15 one-bedroom units and 12 two-bedroom units. Therefore, the Project meets and exceeds the requirements for dwelling unit mix.

- N. **Shadow.** Planning Code Sections 147 and 295 restricts net new shadow, cast by structures exceeding a height of 40 feet, upon property under the jurisdiction of the Recreation and Park Commission. Any project in excess of 40 feet in height and found to cast net new shadow

must be found by the Planning Commission, with comment from the General Manager of the Recreation and Parks Department, in consultation with the Recreation and Park Commission, to have no adverse impact upon the property under the jurisdiction of the Recreation and Park Commission.

Based upon a detail shadow analysis, the Project does not cast any net new shadow upon property under the jurisdiction of the Recreation and Parks Commission.

- O. **Transit Impact Development Fees.** Planning Code Section 411 is applicable to new development that cumulatively creates more than 3,000 gross square feet of retail uses.

The Project includes 3,060 gross square feet of new retail use. This use is subject to Transit Impact Development Fees, as outlined in Planning Code Section 411. These fees must be paid prior to the issuance of the building permit application.

- P. **Inclusionary Affordable Housing Program in UMU.** Planning Code Sections 415 and 419 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements would apply to projects that consist of 10 or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Since the Project is located within the UMU Zoning District, the Inclusionary Affordable Housing Program requirement for payment of an in-lieu fee is calculated based on the cost of providing 23 percent of the units (6.21) off-site, as outlined in Planning Code Section 419.3.

The Project Sponsor has elected to pay the Affordable Housing Fee per Planning Code Section 415.5 and 419.3, and has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program through payment of the Fee, in an amount to be established by the Mayor's Office of Housing and Community Development at a rate equivalent to an off-site requirement of 23%. The project sponsor has not selected an alternative to payment of the Fee. The EE application was submitted on September 10, 2013.

- Q. **Eastern Neighborhood Infrastructure Impact Fees.** Planning Code Section 423 is applicable to any development project within the UMU (Urban Mixed-Use) Zoning District that results in the addition of gross square feet of residential and non-residential space.

The proposed project includes approximately 34,715 gross square feet of new development consisting of approximately 27,100 sq ft of residential use and 3,060 sq ft of retail use. These uses are subject to Eastern Neighborhood Infrastructure Impact Fees, as outlined in Planning Code Section 423. These fees must be paid prior to the issuance of the building permit application.

- R. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Section 83.4(m) of the Administrative Code), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program

approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

The Project Sponsor submitted a First Source Hiring Affidavit and prior to issuance of a building permit will execute a First Source Hiring Memorandum of Understanding and a First Source Hiring Agreement with the City's First Source Hiring Administration.

7. **Large Project Authorization in Eastern Neighborhoods Mixed Use District.** Planning Code Section 329(c) lists nine aspects of design review in which a project must comply; the Planning Commission finds that the project is compliant with these nine aspects as follows:

A. Overall building mass and scale.

The Project's mass and scale are appropriate for a large corner lot and the surrounding context, which includes larger, four-to-five story apartment complexes. The Project is of a similar height and scale as the two immediately adjacent residential buildings. Furthermore, the Project addresses and defines the corner of 17th Street and South Van Ness Avenue with articulated bay windows and an active retail use that extends along both street frontages. In addition, the Project includes projecting bay windows and massing recesses, which help to provide vertical modulation along the street facades in a manner that is contemporary, yet compatible with the vernacular of older residential buildings in the immediate area. Overall, the project is appropriate for a corner lot and consistent with the mass and scale of the surrounding neighborhood.

B. Architectural treatments, facade design and building materials:

The proposed project's architectural treatments, façade design and building materials include bay windows, open balconies, smoothed troweled stucco, anodized aluminum windows and panels, natural finish wood siding, and an architectural concrete or stone base. The Project has two street frontages that offer a unified façade treatment. Along 17th Street, the Project is primarily rendered in ceramic or stone tile at the base with stucco above, and anodized aluminum panel accents at the corner bay window. This shift in materials assists in differentiating the corner, and in defining the base/ground floor level. Along South Van Ness Avenue, the Project includes a similar façade treatment with a ceramic or stone tile base, and alternating bays of stucco and composite panels. This material palette provides vertical articulation along South Van Ness Avenue, and assists in defining the ground floor level. This street façade also includes massing setbacks, which provides for open space at the ground floor and a more gracious pedestrian environment. Overall, the Project offers an architectural treatment, which provides for contemporary, yet contextual, architectural design that appears consistent and compatible with the surrounding neighborhood.

C. The design of lower floors, including building setback areas, commercial space, townhouses, entries, utilities, and the design and siting of rear yards, parking and loading access;

The Project provides ground floor retail uses along 17th Street and South Van Ness Avenue, which will encourage street activity/life on the lower floors. In addition, the Project includes massing setbacks along South Van Ness Avenue, which provide a more open ground floor experience. Along 17th Street, the Project provides access to the off-street parking garage via a 10-foot wide garage opening, which is

the appropriate location for vehicular access. Overall, the design of the lower floors enhances the pedestrian experience and accommodates new street activity.

- D. The provision of required open space, both on- and off-site. In the case of off-site publicly accessible open space, the design, location, access, size, and equivalence in quality with that otherwise required on-site;

The Project requires a total of 2,160 square feet of open space to accommodate the 27 dwelling units. In total, the common rear yard area and the private decks and balconies include approximately 4,190 square feet of open space, thereby exceeding the general requirement. Further, the exception sought for open space is required because of the modified rear yard configuration which serves to better connect the proposed dwellings to the adjacent midblock open space.

- E. The provision of mid-block alleys and pathways on frontages between 200 and 300 linear feet per the criteria of Section 270, and the design of mid-block alleys and pathways as required by and pursuant to the criteria set forth in Section 270.2;

Planning Code Section 270.2 does not apply to the Project.

- F. Streetscape and other public improvements, including tree planting, street furniture, and lighting.

In compliance with Planning Code Section 138.1, the Project provides four new street trees along 17th Street, three new street trees along South Van Ness Avenue, and 83 linear feet of sidewalk landscaping. The Project will also add bicycle parking along the sidewalk in front of the Project for public use. These improvements will enhance the public realm.

- G. Circulation, including streets, alleys and mid-block pedestrian pathways;

Since the subject lot is a corner lot with two street frontages, the Project includes ground floor retail along 17th Street and South Van Ness. Further, the primary focal point for the residents would occur on South Van Ness Avenue through the residential lobby, which is adjacent to two retail spaces. Automobile access is limited to the one entry/exit (measuring 14 feet 11 inches wide) along 17th Street.

- H. Bulk limits;

The proposed project is within an 'X' Bulk District, which does not restrict bulk.

- I. Other changes necessary to bring a project into conformance with any relevant design guidelines, Area Plan or Element of the General Plan;

The proposed project, on balance, meets the Objectives and Policies of the General Plan.

8. **Large Project Authorization Exceptions.** Planning Code Section 329 allows exceptions for Large Projects in the Eastern Neighborhoods Mixed Use Districts:

A. Exception for rear yards, pursuant to the requirements of Section 134(f);

(f) Modification of Requirements in the Eastern Neighborhoods Mixed Use Districts. The rear yard requirement in Eastern Neighborhoods Mixed Use Districts may be modified or waived by the Planning Commission pursuant to Section 329. The rear yard requirement in Eastern Neighborhoods Mixed Use Districts may be modified by the Zoning Administrator pursuant to the procedures set forth in Section 307(h) for other projects, provided that:

(1) A comparable, but not necessarily equal amount of square footage as would be created in a code conforming rear yard is provided elsewhere within the development;

The Project provides for a comparable amount of open space, in lieu of the required rear yard. Overall, the project site is approximately 9,500 square feet in size, and would be required to provide a rear yard measuring 2,375 square feet. The Project provides 2,378 square feet of open space through a second floor terrace, thus exceeding the amount of space, which would have been provided in a code-conforming rear yard.

(2) The proposed new or expanding structure will not significantly impede the access to light and air from adjacent properties or adversely affect the interior block open space formed by the rear yards of adjacent properties; and

The Project proposes a rear yard configuration that facilitates a better connection to the midblock open space than would otherwise be accommodated by a code-complying rear yard. Furthermore, the portion of the proposal that is within the required rear area is situated against the adjacent building's five story blank wall.

(3) The modification request is not combined with any other residential open space modification or exposure variance for the project, except exposure modifications in designated landmark buildings under Section 307(h)(1).

The Project is not seeking a modification to the open space requirements; however, the Project is seeking a modification to the exposure requirements for seven of the 27 dwelling units. Overall, the majority of the Project meets the intent of exposure requirements defined in Planning Code Section 140.

B. Where not specified elsewhere in Planning Code Section 329(d), modification of other Code requirements which could otherwise be modified as a Planned Unit Development (as set forth in Section 304), irrespective of the zoning district in which the property is located;

In addition to the modification of the rear yard requirements, the proposed project is seeking modifications of the requirements for open space configuration (Planning Code Section 135), permitted obstructions over streets, alleys, yards, setbacks and usable open space (Planning Code Section 136), dwelling unit exposure (Planning Code Section 140) and street frontage (Planning Code Section 145.1).

1) *Under Planning Code Section 135 any area that contributes to the common open space requirement and is an inner court, must have a minimum horizontal dimension of 20 feet by 20*

feet and a minimum area of 400 square feet. Further, 75 percent of the inner court's perimeter must remain unobstructed at an angle of 45 degrees to the top of adjacent building walls. As proposed the inner court is 35.5 feet by 67 feet, larger than the minimum requirement. Additionally, 67 percent of the perimeter is unobstructed. The portion of the perimeter that does not comply is at an angle of 37 degrees to the top of the opposite building wall.

Given that the north-south oriented open space generates greater exposure to direct sunlight than an otherwise code-complying rear yard and provides a generous amount of open-space throughout the project, the Commission finds this modification is appropriate.

- 2) Under Planning Code Section 136(c)(2)(F) the minimum horizontal separation between bay windows projecting over the street is two feet at the line establishing the required open area (the front property line), and is increased in proportion to the distance from such line by means of 135 degree angles drawn outward from the ends of the two-foot dimension, reaching a minimum of eight feet along a line parallel to and, at a distance of three feet from, the required open area.

The Project proposes two bay windows on the South Van Ness street frontage that are only separated by 4 feet 4 inches and thereby exceed the envelope permitted by Planning Code Section 136. Given the overall design and composition, the Commission finds this modification is warranted, due to the project's quality of design and the emphasis placed upon the corner by the proposed bay windows, resulting in a strong urban design element.

- 3) Under Planning Code Section 140, all dwelling units must face onto either a public street, alley or open area at least 25-feet wide, or a rear yard meeting the requirements of the Planning Code. The Project organizes the dwelling units to have exposure either on 17th Street, South Van Ness Avenue or the rear yard open area. Currently, seven dwelling units face only onto the rear yard area, which does not meet the dimensional requirements of the Planning Code for inner courts. Specifically, the rear yard open area is not considered a code complying inner court because the open area does not increase to 40 feet by 40 feet at the 5th story and because the proposal includes projecting bay windows and balconies at the 4th and 5th stories. Despite its configuration the rear yard open area, of 35.5 feet by 67 feet, still provides sufficient access to light and air for the seven dwelling units that directly face it. Furthermore, the proposed rear balconies and bays that otherwise do not conflict with the exposure requirement are design features that facilitate connecting the affected units to the midblock open space to the south. Finally, the remaining 20 units face directly onto South Van Ness Avenue or 17th Street and are considered code-complying. Given these considerations, the Commission finds that this modification is warranted.
- 4) Under Planning Code Section 145.1 any off-street parking provided at street grade may not be within a 25-foot setback on the ground floor. The Project includes 17 off-street parking spaces; however, only two spaces encroach 3.5 feet into the required 25-foot setback. Given that the proposal includes less than the maximum amount of off-street parking otherwise principally permitted and provides well-designed active uses on both South Van Ness Avenue and 17th Street, the Commission finds this modification is warranted.

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING

Objectives and Policies

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

The Project is a higher density mixed-use development on an underutilized lot along a primary vehicular transit corridor. The Project site is an ideal infill site that is largely vacant. The project site was rezoned to UMU as part of a long range planning goal to create a cohesive, higher density residential and mixed-use neighborhood. To the east, the zoning is primarily PDR (Production, Distribution and Repair), while to the west, the zoning is primarily NCT (Neighborhood Commercial Transit). The Project Sponsor has indicated that they will pay the Affordable Housing Fee which will be calculated based on the cost of providing 23 percent of the units (6.21) off-site. The Affordable Housing Fee is then used to fund a broad range of affordable housing projects within the City.

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.6

Foster a sense of community through architectural design, using features that promote community interaction.

Policy 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

The architecture of this Project responds to the site's location as a transition between industrial zones and smaller-scale neighborhood commercial transit zones. The Project's facades provide a simple expression of form and materials, which emphasize the residential use and the ground floor. The exterior is designed with modern materials including stucco, natural wood, stone and anodized aluminum.

RECREATION AND OPEN SPACE ELEMENT

Objectives and Policies

OBJECTIVE 4:

PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

Policy 4.5:

Require private usable outdoor open space in new residential development.

The Project will create private and common open space areas in a new residential mixed-use development through private balconies, second floor courtyard and a roof deck. The project will not cast shadows over any open spaces under the jurisdiction of the Recreation and Park Department.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 24:

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

Policy 24.2:

Maintain and expand the planting of street trees and the infrastructure to support them.

Policy 24.4:

Preserve pedestrian-oriented building frontages.

The Project will install new street trees along 17th Street and South Van Ness Avenue. Frontages are designed with active spaces oriented at the pedestrian level.

OBJECTIVE 28:

PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

Policy 28.1:

Provide secure bicycle parking in new governmental, commercial, and residential developments.

Policy 28.3:

Provide parking facilities which are safe, secure, and convenient.

The Project includes 27 Class 1 bicycle parking spaces in a secure and convenient location.

OBJECTIVE 34:

RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

Policy 34.1:

Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

Policy 34.3:

Permit minimal or reduced off-street parking supply for new buildings in residential and commercial areas adjacent to transit centers and along transit preferential streets.

Policy 34.5:

Minimize the construction of new curb cuts in areas where on-street parking is in short supply and locate them in a manner such that they retain or minimally diminish the number of existing on-street parking spaces.

The Project has a parking to dwelling unit ratio of .63 spaces per unit, which is below the permitted ratio of .75 per unit. The parking spaces are accessed by one ingress/egress point measuring 10-ft wide from 17th Street. Parking is adequate for the project and complies with maximums prescribed by the Planning Code.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.7:

Recognize the natural boundaries of districts, and promote connections between districts.

OBJECTIVE 2:

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.6:

Respect the character of older development nearby in the design of new buildings.

The Project is located within the Mission neighborhood, which is characterized by the mix of residential and commercial uses. As such, the Project provides articulated street façades, which respond to form and scale and material palette of surrounding buildings, while also providing a new contemporary architectural vocabulary. Furthermore, the Project provides three commercial spaces at the ground floor level that will serve as active uses along both South Van Ness Avenue and 17th Street.

OBJECTIVE 4:

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.5:

Design walkways and parking facilities to minimize danger to pedestrians.

Policy 4.13:

Improve pedestrian areas by providing human scale and interest.

Although the project site has two street frontages, it only provides one vehicular access point for the entire project, limiting conflicts with pedestrians and bicyclists. Street trees will be planted on each street. Ample frontages, common and private open spaces, and ground floor active uses directly accessing the street will be provided. Along the project site, the pedestrian experience will be greatly improved. Currently, the site contains a vacant auto repair building.

MISSION AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.1

STRENGTHEN THE MISSION'S EXISTING MIXED USE CHARACTER, WHILE MAINTAINING THE NEIGHBORHOOD AS A PLACE TO LIVE AND WORK.

Policy 1.1.4

In higher density residential areas of the Mission, recognize proximity to good transit service by eliminating density limits and minimum parking requirements; permit small neighborhood-serving retail.

Policy 1.1.7

Permit and encourage greater retail uses on the ground floor on parcels that front 16th Street to take advantage of transit service and encourage more mixed uses, while protecting against the wholesale displacement of PDR uses.

OBJECTIVE 1.2

IN AREAS OF THE MISSION WHERE HOUSING AND MIXED-USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER.

Policy 1.2.1

Ensure that in-fill housing development is compatible with its surroundings.

Policy 1.2.2

For new construction, and as part of major expansion of existing buildings in neighborhood commercial districts, require ground floor commercial uses in new housing development. In other mixed-use districts encourage housing over commercial or PDR where appropriate.

Policy 1.2.3

In general, where residential development is permitted, control residential density through building height and bulk guidelines and bedroom mix requirements.

Housing

OBJECTIVE 2.3

ENSURE THAT NEW RESIDENTIAL DEVELOPMENTS SATISFY AN ARRAY OF HOUSING NEEDS WITH RESPECT TO TENURE, UNIT MIX AND COMMUNITY SERVICES.

Policy 2.3.5

Explore a range of revenue-generating tools including impact fees, public funds and grants, assessment districts, and other private funding sources, to fund community and neighborhood improvements.

Policy 2.3.6

Establish an impact fee to be allocated towards an Eastern Neighborhoods Public Benefit Fund to mitigate the impacts of new development on transit, pedestrian, bicycle, and street improvements, park and recreational facilities, and community facilities such as libraries, child care and other neighborhood services in the area.

OBJECTIVE 2.6

CONTINUE AND EXPAND THE CITY'S EFFORTS TO INCREASE PERMANENTLY AFFORDABLE HOUSING PRODUCTION AND AVAILABILITY.

Policy 2.6.1

Continue and strengthen innovative programs that help to make both rental and ownership housing more affordable and available.

Built Form

OBJECTIVE 3.2

PROMOTE AN URBAN FORM AND ARCHITECTURAL CHARACTER THAT SUPPORTS WALKING AND SUSTAINS A DIVERSE, ACTIVE AND SAFE PUBLIC REALM.

Policy 3.2.1

Require high quality design of street-facing building exteriors.

Policy 3.2.3

Minimize the visual impact of parking.

Policy 3.2.5

Building form should celebrate corner locations.

The Project is largely residential, but includes a ground floor retail component along both the South Van Ness Avenue and 17th Street frontages. The Project provides the mix of uses encouraged by the Area Plan for this location. In addition, the Project is located within the prescribed height and bulk guidelines, and

includes the appropriate dwelling unit mix, since approximately 44% or 12 units are two-bedroom dwelling units. The Project introduces a contemporary architectural vocabulary on a corner lot, which is sensitive to the prevailing scale and neighborhood fabric. The Project provides for a high-quality designed exterior, which features a variety of materials, colors and textures, including stucco, resin composite panel, and anodized aluminum. The Project also minimizes the off-street parking to a single entrance along 17th Street and provides less than the maximum allowed parking. The Project will also pay the appropriate development impact fees, including the Eastern Neighborhoods Impact Fees and an affordable housing in-lieu fee.

8. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

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

Currently, the project site is vacant and was formerly used as an automotive repair building. Although the Project would remove this use, the Project does provide for at least three new neighborhood-serving retail establishments. The Project improves the urban form of the neighborhood by removing a vacant lot. The Project would add new residents, visitors, and employees to the neighborhood, which would assist in strengthening nearby retail uses.

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

No housing exists on the project site. The project will provide up to 27 new dwelling units, thus resulting in a significant increase in the neighborhood housing stock. The Project will also provide three retail spaces that can provide jobs and house locally grown businesses. The Project is simple in design, and relates to the scale and form of the surrounding neighborhood by providing relationships to the smaller-scale housing stock as well as the larger-scale residential apartment complexes. For these reasons, the proposed project would protect and preserve the cultural and economic diversity of the neighborhood.

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

The Project will not displace any affordable housing because there is currently no housing on the site. The Project will comply with the City's Inclusionary Housing Program by paying the in-lieu fee, therefore increasing the available funding dedicated to construction of affordable housing units in the City.

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

The project site is well-served by public transportation. The Project is located within three blocks of the 16th and Mission BART Station, as well as the MUNI bus lines along Mission Street. Future residents would be afforded close proximity to bus or rail transit. The Project also provides sufficient off-street parking at a ratio of .63 per dwelling unit, and sufficient bicycle parking for residents and their guests.

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

The Project is consistent with the Mission Area Plan, which calls for mixed-use development along South Van Ness Avenue and 17th Street. The Project would enhance opportunities for resident employment and ownership in industrial and service sectors by providing new housing and retail spaces, which will increase the diversity of the City's housing supply (a top priority in the City) and provide new potential neighborhood-serving uses.

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

The project will be designed and will be constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

There are no landmarks or historic buildings on the project site.

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

The Project will not affect the City's parks or open space or their access to sunlight and vistas. A shadow study was completed and concluded that the Project will not cast shadows on any property under the jurisdiction of, or designated for acquisition by, the Recreation and Park Commission.

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Large Project Authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Large Project Application No. 2013.0614X** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated March 25, 2015, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission hereby adopts the MMRP attached hereto as Exhibit C and incorporated herein as part of this Motion by this reference thereto. All required mitigation measures identified in the Eastern Neighborhoods Plan EIR and contained in the MMRP are included as conditions of approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 329 Large Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.

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

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

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on May 21, 2015.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Fong, Wu, Antonini, Johnson, Moore, Hillis, and Richards

NAYS: None

ABSENT: None

ADOPTED: May 21, 2015

EXHIBIT A

AUTHORIZATION

This authorization is for a Large Project Authorization to demolish an auto repair building and construct a five-story mixed-use building of approximately 34,715 gross square feet that contains 27 residential units, three ground floor commercial units, totaling 3,060 gross square feet, and 17 off-street parking spaces, located at 600 South Van Ness Avenue (Block 3575, Lot 070) pursuant to Planning Code Section(s) 303 and 329, within the Urban Mixed-Use Zoning District and a 58-X Height and Bulk District; in general conformance with plans, dated March 25, 2015, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0614X and subject to conditions of approval reviewed and approved by the Commission on May 21, 2015, under Motion No. 19378. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on May 21, 2015 under Motion No. 19378.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19378 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Large Project Authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Large Project Authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to do so, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

6. **Mitigation Measures.** Mitigation measures described in the MMRP for the Eastern Neighborhoods Plan EIR (Case No. 2013.0614E) attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN

7. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9114, www.sf-planning.org

8. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9114, www.sf-planning.org

9. **South Van Ness Avenue Façade.** The Project Sponsor shall continue to work with Department Staff on refining the design of the South Van Ness Avenue façade.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9114, www.sf-planning.org

PARKING AND TRAFFIC

10. **Unbundled Parking.** All off-street parking spaces shall be made available to Project residents as a separate “add-on” option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner’s rules be established which prevent or preclude the separation of parking spaces from dwelling units.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

11. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

- 12. Bicycle Parking.** Pursuant to Planning Code Sections 155.1 and 155.4., the Project shall provide no fewer than 27 Class 1 and 3 Class 2 bicycle parking spaces.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

- 13. First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org

- 14. Transit Impact Development Fee.** Pursuant to Planning Code Section 411, the Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by and based on drawings submitted with the Building Permit Application. Prior to the issuance of a temporary certificate of occupancy, the Project Sponsor shall provide the Planning Director with certification that the fee has been paid.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9114, www.sf-planning.org

- 15. Eastern Neighborhoods Infrastructure Impact Fee.** Pursuant to Planning Code Section 423, the Project Sponsor shall comply with the Eastern Neighborhoods Public Benefit Fund provisions through payment of an Impact Fee pursuant to Article 4.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9114, www.sf-planning.org

MONITORING

- 16. Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

- 17. Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning

Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

- 18. Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

- 19. Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

- 20. Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

AFFORDABLE UNITS

- 22. Affordable Units. Requirement.** Pursuant to Planning Code Sections 415 and 419, the Project is required to provide 14.4% of the proposed dwelling units as affordable to qualifying households. The Project contains 27 units; therefore, 4 affordable units are required. The Project Sponsor will fulfill this requirement by providing the 4 affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing ("MOH").

For information about compliance, contact the Case Planner, Planning Department at 415-575-9114, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- 23. Unit Mix.** The Project contains 27 dwelling units, 15 one-bedroom and 12 two-bedroom units; therefore, the required affordable unit mix is 2 one-bedroom and 2 two-bedroom units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOH.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9114, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- 24. Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9114, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- 25. Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than fourteen and four-tenths percent (14.4%) of the each phase's total number of dwelling units as on-site affordable units.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9114, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- 26. Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9114, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- 27. Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOH at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9114, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

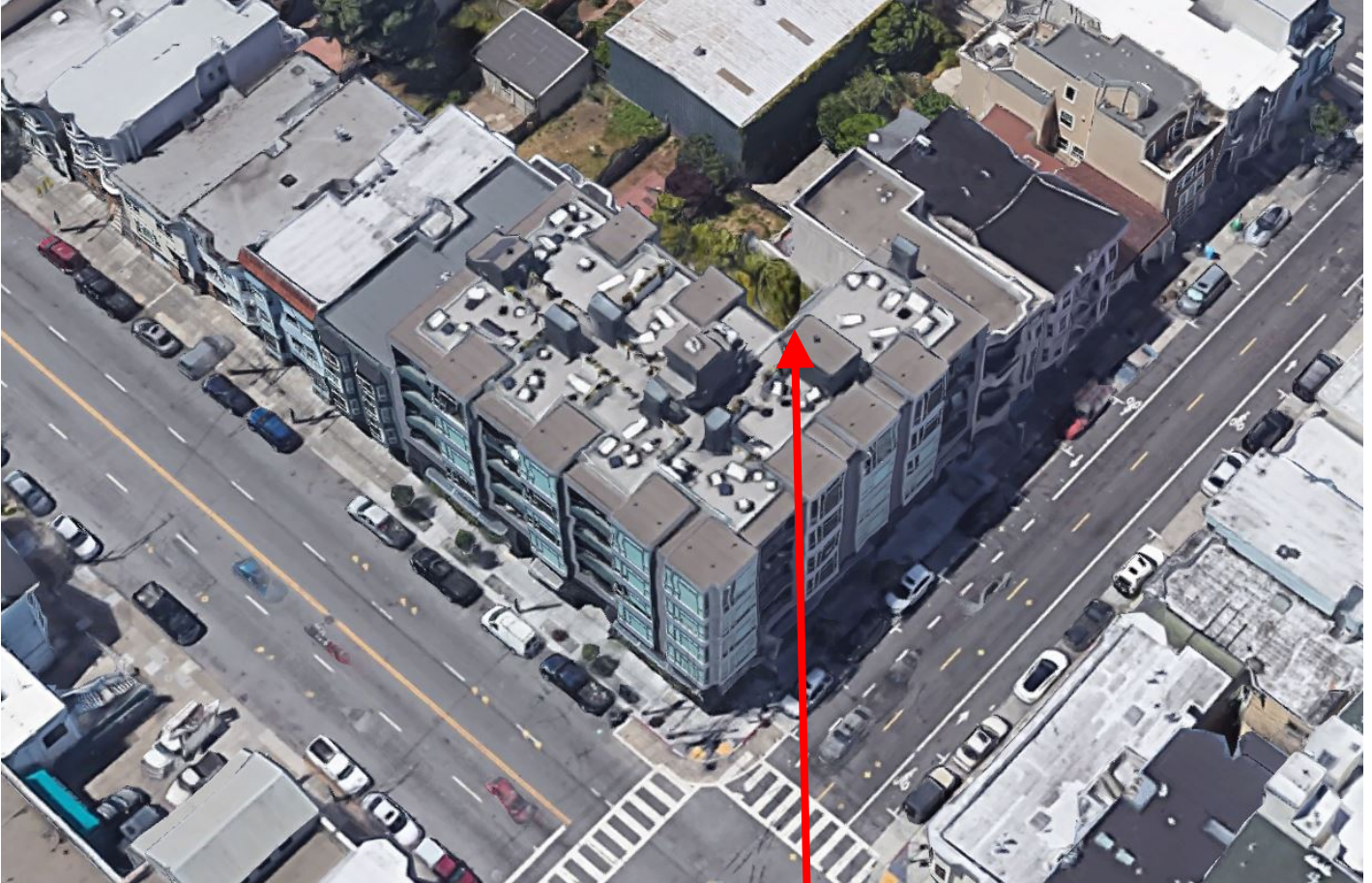
- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be distributed throughout the lower one-half of the

building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.

- b. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average ninety (90) percent of Area Median Income under the income table called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco." The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least six months prior to the beginning of marketing for any unit in the building.
- d. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.
- e. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the *Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415* to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the Project.
- f. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.
- g. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee

prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOHCD and pay interest on the Affordable Housing Fee at a rate equal to the Development Fee Deferral Surcharge Rate in Section 107A.13.3.2 of the San Francisco Building Code and penalties, if applicable.

Aerial Photo



SUBJECT PROPERTY



Site Photo



February 16, 2021

Hon. Joel Koppel, President
San Francisco Planning Commission
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

Re: 600 South Van Ness Avenue (Case No. 2013.0614ENX-02)
Hearing Date: February 25, 2021

Dear President Koppel and Commissioners:

I am writing on behalf of the Toboni Group regarding the completed 600 South Van Ness Avenue project (the "Project"). This application is to modify the Project's inclusionary housing conditions of approval to allow payment of an in lieu Affordable Housing Fee of nearly \$2 million instead of providing 4 on-site BMR units, and is before you not at the project sponsor's choice, but instead at the direction of the Mayor's Office of Housing and Community Development (MOHCD).

The Affordability Project. First, some background. The Toboni Group is a small local contractor and developer with deep roots in the City, including the Mission District. The principals of the Toboni Group, Joe Toboni, Mary Toboni and their son Joey Toboni, recently incorporated the Affordability Project as a non-profit corporation. The purpose of the Affordability Project is to develop housing for low and moderate income households in the Bay Area, using the resources of the Toboni Group and other aligned businesses to provide the capital to launch each affordable development. Recently, the Toboni Group acquired five lots comprising a potential development site at 5250 Third Street in the Bayview district and plans to soon convey that property to the Affordability Project. Using the HOME-SF local density bonus program, the 5250 Third Street project will support the development of approximately 96 dwelling units, 70 of which are proposed to be affordable to low and moderate income households, a BMR percentage of 73%. The remaining 26 units will be leased or sold at market to raise funds to capitalize the Affordability Project's next developments.

600 South Van Ness. The Toboni Group completed construction of 600 South Van Ness in 2019. The Project contains 27 units over ground floor commercial space. When approved, the project was contemplated to contain 4 on-site inclusionary BMR units that the Toboni Group proposed to sell to qualified low-income households at the MOHCD-approved restricted purchase price and then put the proceeds of those sales into capitalizing the Affordability Project. However, in December 2019, MOHCD declined to approve the Toboni Group's marketing plan (because the rest of the building's units are rentals) and required that the units either to become

rental BMR units or that the Toboni Group pay the in lieu Affordable Housing Fee (MOHCD's letter of December 27, 2019, is attached). The Toboni Group reluctantly agreed to MOHCD's demand and upon MOHCD's direction submitted this application to the Planning Department on June 26, 2020. We have waited a full seven months for this hearing to be scheduled, during which time we continued discussions with the City family to find a solution that would allow the 4 on-site BMR units to be sold to low-income households and avoid this hearing. However, just last week on February 10 the Mayor's Office advised us that option will not be allowed.

MOHCD's other option of retaining the 4 BMR units as rentals would not generate any capital to finance the Affordability Project and its 5250 Third Street project. To the contrary, adding the 4 units to the existing 23 market-rate units at 600 South Van Ness will increase the market value of the building, allowing the Toboni Group to refinance the 600 South Van Ness building and provide the resulting premium to the Affordability Project and 5250 Third Street. Also, it is much more capital efficient per unit to develop 70 affordable units in a large building than 4 affordable units in a small building. For these reasons, the Toboni Group has elected to pay the in lieu fee and then refinance the 600 South Van Ness building and dedicate the premium to the Affordability Project's 5250 Third Street development.

We believe this solution is a win-win. It will assist the Affordability Project bring to fruition its proposed 5250 Third Street project with approximately 70 BMR units, while also providing approximately \$1,939,000 in fee revenue to MOHCD to finance other 100% affordable projects, several of which are proposed in the Mission District and will require MOHCD subsidies.

We request your approval for this unusual but meritorious solution.

Very truly yours,



Steven L. Vettel

cc: Joe Toboni
Joey Toboni

Mayor's Office of Housing and Community Development
City and County of San Francisco



London N. Breed
Mayor

Daniel Adams
Acting Director

NOTICE OF COMPLAINT

Response Required by January 13, 2020

Delivery via USPS and email: joey@tobonigroup.com; jtoboni@tobonigroup.com

December 27, 2019

Joey Toboni and Joe Toboni
The Toboni Group
3364 Sacramento Street
San Francisco, CA 94118
joey@tobonigroup.com
jtoboni@tobonigroup.com

Site Address: 600 South Van Ness Avenue (the "Property")
Assessor's Block/Lot: Formerly 3575/070
Complaint Type: **Failure to market and rent vacant BMR unit**

DESCRIPTION OF VIOLATIONS

You are receiving this notice because the Mayor's Office of Housing and Community Development (MOHCD) has determined that you are in violation of the Inclusionary Affordable Housing Ordinance (Section 415 of the San Francisco Planning Code), and the Conditions of Approval as required by Planning Motion No. 19378, approved by the Planning Commission on May 21, 2015, as follows:

- A. The Certification of Final Completion ("CFC") for the Property was issued on July 20, 2017. Since then, you have failed to comply with the following:
1. You have failed to market the three (3) BMR units at the same time as the market rate units, as required by Section 415.6(e). Since the CFC was issued, only the 23 market rate units have undergone marketing efforts to be leased; the BMR units were not marketed at the same time.
 2. BMR units shall not remain vacant for a period exceeding 60 days, as required by Section 415.8(a)(2). The BMR units have remained vacant since the CFC was issued on July 20, 2017 -- a period exceeding 60 days.
- B. You are in violation of the Conditions of Approval as required by Planning Motion No. 19378, approved by the Planning Commission on May 21, 2015 as follows:
3. Failure to demonstrate financial feasibility in providing on-site affordable housing units, as required by Condition 27.e. On September 24, 2019, MOHCD requested that you reach out to lenders approved under MOHCD's BMR homeownership program ("Approved Lenders") to confirm whether the Mixed Tenure Proposal (defined below) would satisfy the underwriting requirements

of any Approved Lenders and whether any of the Approved Lenders could lend to BMR homebuyers given the unique ownership structure you proposed for the Property. MOHCD has reviewed your mixed-tenure proposal for the Property, which would include all of the market-rate rental units to be owned by a single entity, and the required below market rate (BMR) units to be sold to individual qualified buyers (“Mixed Tenure Proposal”). Based on the information you have provided, MOHCD has determined that the Mixed Tenure Proposal does not provide a sufficient level of financial feasibility and security for potential qualified homebuyers under MOHCD’s homeownership program based on the following:

- i. Despite MOHCD’s request, two of the three lenders (Tri County Bank and Bank of the West) for which you provided a letter of interest were not Approved Lenders. While these non-Approved Lenders may work towards becoming an approved lender by MOHCD, the BMR units at the Property have remained vacant for too long to go through such approval process.
- ii. The letters you provided, attached as Exhibit A, did not provide any documentation of each lender’s underwriting criteria and did not demonstrate that, under the Mixed Tenure Proposal, loans to BMR homebuyers will be available on commercially reasonable terms. Understanding the lenders’ underwriting criteria is critical to MOHCD as the regulator of the BMR units and homeownership program and for ensuring that BMR homebuyers will succeed as first-time homebuyers.
- iii. Only one Approved Lender (First Republic Bank) has expressed a willingness to lend under the Mixed Tenure Proposal. MOHCD has determined that having only one Approved Lender available to first time homebuyers will not provide the homebuyers sufficient choice among Approved Lenders, will substantially increase costs for BMR homebuyers (making homes more unaffordable), and will cause additional delays. In addition, the lack of lending options in a Mixed Tenure building will result in an unreasonable financial burden as the homeowners attempt to sell their home and future potential buyers are unable to secure financing.
- iv. According to Fannie Mae’s underwriting guidelines, which most lenders follow so that they can sell their mortgages to Fannie Mae, projects cannot have a single-entity ownership structure where one owner owns more than 20% of the units. Because most lenders rely on selling their residential mortgages to Fannie Mae, the Mixed-Tenure Proposal would make it impossible for most Approved Lenders to lend to BMR homebuyers in order for them to acquire the BMR units at the Property. Fannie Mae’s single-entity ownership requirements are attached to this Notice as Exhibit B.
- v. The Mixed Tenure Proposal would establish unequal (and unfair) voting power in the building’s homeowners association (“HOA”) for the prospective individual BMR homebuyers compared to the voting power that the single-entity owning all of the market-rate units. With such overwhelming voting power concentrated in a single entity, any prospective BMR homebuyer would have no reasonable opportunity to advocate for or oppose decisions made by the board of the HOA.

Restrictions imposed on the above BMR Units by the Inclusionary Affordable Housing Ordinance are described in the attached Planning Motion No. 19378, approved by the Planning Commission on May 21, 2015, Notice of Special Restrictions recorded on **September 15, 2016** as **Document No. 2016-K329598-00**, and the Affordable Housing Monitoring Procedures Manual (“Procedures Manual”) adopted on **October 11, 2018 or as amended from time to time**. As the property owner, you are the responsible party to comply with these restrictions.

HOW TO CORRECT THE VIOLATIONS

To resolve this complaint, you must elect one of the following two options and contact Jackie Tsou at Jackie.tsou@sfgov.org with your election by no later than **5:00 PM, January 13, 2020**. Once an election is made, you must then perform the relevant actions by the dates indicated below:

- 1. Pay the Affordable Housing Fee.** Condition 27.g of the Conditions of Approval, contained within Planning Motion No. 19378, provides that “if the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee. Planning Code Section 415.5(g)(2) states that any subsequent change by a project sponsor that results in the reduction in the number of on-site units shall require a hearing and approval from the Planning Commission. If you elect to pay the Affordable Housing Fee, please submit an intake appointment request Application no later than **January 17, 2020** to file a Conditional Use Authorization. Instructions on how to schedule an intake appointment can be found here: <https://sfplanning.org/resource/application-intake-appointment-request>.
- 2. Provide the BMR Units as On-Site Rental Units.** If you elect to provide BMR units as on-site rental units, NSR No. 2016-K2832 must be updated to reflect the rental tenure of the project.
 - Please contact Carly Grob at carly.grob@sfgov.org no later than **January 13, 2020** to request a revised Notice of Special Restrictions, which reflects a rental tenure and other requirements stated in Planning Motion 19378.
 - Record the Notice of Special Restrictions by no later than **January 31, 2020**.

Marketing and Leasing the BMR Unit

You have six months from the date of this letter (no later than **June 27, 2020**) to lease up the BMR units at the Property. To begin the lease up process for this unit, you must complete the following steps.

- Submit a revised pricing request to Sonia Delgado-Schamberg at Sonia.delgado-schamberg@sfgov.org by no later than **January 17, 2020**.
- Contact Melissa Cardoza to request a Marketing Plan template and set up a marketing meeting after receiving the pricing approval. You may contact Melissa Cardoza at melissa.cardoza@sfgov.org.
- Submit the Marketing Plan along with the resident selection criteria, building application, and building lease agreement no later than **January 31, 2020**. Please send your submission electronically to Melissa Cardoza at melissa.cardoza@sfgov.org.

TIMELINE TO RESPOND

Failure to respond to this notice by taking the above actions and demonstrating good faith efforts toward compliance with the Inclusionary Affordable Housing Ordinance within thirty (30) days from the date of this notice will result in issuance of a Notice of Enforcement. Additionally, this case may be referred to the Planning Department and the Office of City Attorney for further enforcement actions including issuance of a Notice of Violation with imposition of Administrative Penalties of \$250 per violation, per day for each day the violation continues unabated and an Enforcement Time and Materials Fee of \$1,351 plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of violation.

REMEDIES AND PENALTIES FOR VIOLATING BMR PROGRAM RULES

San Francisco Planning Code section 174 mandates that every “condition, stipulation, special restriction and other limitation imposed by administrative actions pursuant to this Code . . . shall be complied with in the development and use of land and structures.” Failure to comply with any such condition “shall constitute a violation of the provisions of this Code.” Planning Code section 176(c)(1) provides that the City may recover administrative penalties of \$250 per violation, per day for violations of the Code.

In addition, in the event that the City must initiate litigation to recover possession of the unit or to enforce the Conditions of Approval, Planning Code section 176(c)(2) authorizes the City Attorney’s Office to initiate civil action and seek civil penalties of not less than \$200 per violation for each day that the violation[s] exists under the Planning Code. This section also authorizes the City to recover its attorney’s fees and costs.

The City may also seek other remedies for noncompliance available under state law.

If you have any questions, you may contact me at jackie.tsou@sfgov.org.

Sincerely,

Jackie Tsou

Jackie Tsou
Compliance Manager
Homeownership and BMR Programs

Enclosures: Exhibit A: Letters from Tri Valley Bank and Bank of the West
Exhibit B: Fannie Mae Underwriting Guidelines
Notice of Special Restrictions No. **2016-K329598-00**
Planning Motion No. 19378
2018 Procedures Manual (by email only)

CC: Rachna Rachna, San Francisco Planning Department
Tina Tam, San Francisco Planning Department
Carly Grob, San Francisco Planning Department
Scott Sanchez, San Francisco Planning Department
Maria Benjamin, MOHCD
Alea Gage, MOHCD
Cissy Yin, MOHCD





SCOPE OF WORK

NEW CONSTRUCTION OF MIXED USE BUILDING CONTAINING A TOTAL OF 27 RESIDENTIAL UNITS ON FOUR LEVELS, OVER THREE GROUND FLOOR COMMERCIAL SPACES AND PRIVATE PARKING GARAGE FOR 17 AUTOMOBILES AND 27 BICYCLES.

PLANNING DEPARTMENT NOTES

PROJECT LOCATION:

SOUTHWEST CORNER OF SOUTH VAN NESS AVENUE & 17TH ST.

ZONING DISTRICT:

UMU

PROPOSED BUILDING USE:

27 RESIDENTIAL UNITS ON FOUR LEVELS OVER 3 GROUND FLOOR COMMERCIAL SPACES AND PRIVATE PARKING GARAGE.

BUILDING HEIGHT LIMIT:

58-X. PROPOSED BUILDING HEIGHT = 58'-0"

RESIDENTIAL DENSITY:

UNLIMITED. 40% OF UNITS REQUIRED TO BE TWO BEDROOMS, 27 UNITS PROPOSED (12 TWO BEDROOM / 15 ONE BEDROOM).

SETBACKS:

25 % (2,375 S.F.) REAR YARD REQUIRED AT FIRST LEVEL OF RESIDENTIAL OCCUPANCY PER CODE SECTION 134(a)(1). 2,378 S.F. PROVIDED AS 25% REAR YARD EQUIVALENT AT SECOND FLOOR DECK AREA.

USABLE OPEN SPACE:

80 S.F. USABLE OPEN SPACE REQUIRED PER RESIDENTIAL UNIT PER SECTION 135. 7 PRIVATE ROOF DECKS AND 2 PRIVATE DECKS AT 2ND FLR. PROVIDED (SEE SHEETS A0 & A2.1).

REMAINING 18 UNITS REQUIRE 80 S.F EACH OF SHARED USABLE OPEN SPACE, 18 X 80 = 1,440 S.F. REQUIRED. COMMON DECK AT 2ND FLOOR PROVIDED @ 1,440 S.F. (SEE SHEET A2.1), THEREFORE BUILDING COMPLIES.

VEHICULAR PARKING ALLOWANCE:

ONE SPACE PER 2 BEDROOM UNIT OF GREATER THAN 1000 S.F. ALLOWED; 0.75 SPACE PER 1 BEDROOM UNIT ALLOWED. THEREFORE, $(11 \times 1) + (16 \times 0.75) = 23$ ALLOWABLE, 17 SPACES PROVIDED.

BICYCLE PARKING REQUIRED:

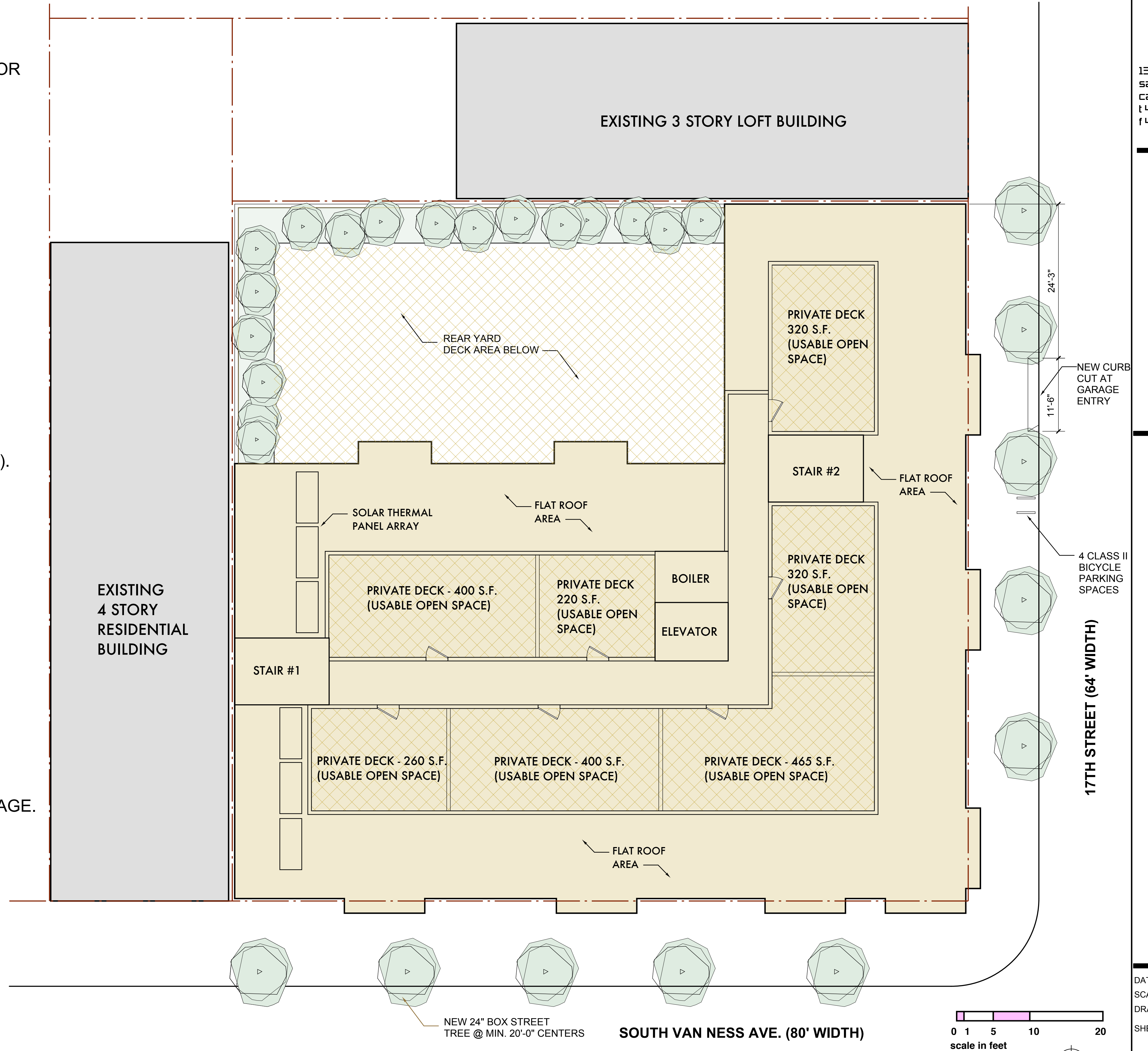
ONE CLASS I SPACE FOR EACH DWELLING UNIT REQUIRED PER SECTION 155, THEREFORE 27 PARKING SPACES REQ'D, 27 PARKING BICYCLE SPACES PROVIDED WITHIN PARKING GARAGE.

BUILDING NET AREA CALCULATIONS:

COMMERCIAL	= 3,060 S.F.
PARKING GARAGE	= 4,555 S.F.
LOBBY/STAIRS/CORRIDORS	= 4,030 S.F.
27 DWELLING UNITS	= 23,070 S.F.
BUILDING TOTAL	= 34,715 S.F.

DRAWING INDEX

A0	SITE / ROOF PLAN & GENERAL NOTES	A2.1	PROPOSED SECOND FLOOR PLAN
A0.1	SITE SURVEY	A2.2	PROPOSED THIRD FLOOR PLAN
A0.2	BLOCKFACE PHOTOS - S. VAN NESS AVE. EAST AND WEST SIDES	A2.3	PROPOSED FOURTH FLOOR PLAN
A0.3	BLOCKFACE PHOTOS - 17TH STREET NORTH AND SOUTH SIDES	A2.4	PROPOSED FIFTH FLOOR PLAN
A0.4	PHOTOS OF SUBJECT SITE/ BUILDING	A3.0	PROPOSED S. VAN NESS AVE. ELEVATION
A0.5	EXISTING SITE PLAN	A3.1	PROPOSED 17TH STREET ELEVATION
A0.6	SHADOW STUDY	A3.2	PROPOSED SOUTH ELEVATION
A2.0	PROPOSED GROUND FLOOR PLAN	A3.3	PROPOSED REAR ELEVATION
		A4.0	PROPOSED BUILDING SECTION



Revisions By

LEAVITT
architecture

1327 mason st.
san francisco
california 94133
t 415 674 9100
f 415 674 9101

SITE / ROOF PLAN &
GENERAL NOTES

600 SOUTH VAN NESS AVENUE MIXED USE DEVELOPMENT
BLOCK 3575 LOT 070
SAN FRANCISCO, CA

DATE: 21 APR. 2015
SCALE: 1/8"=1'-0"
DRAWN: ML

SHEET:

A0

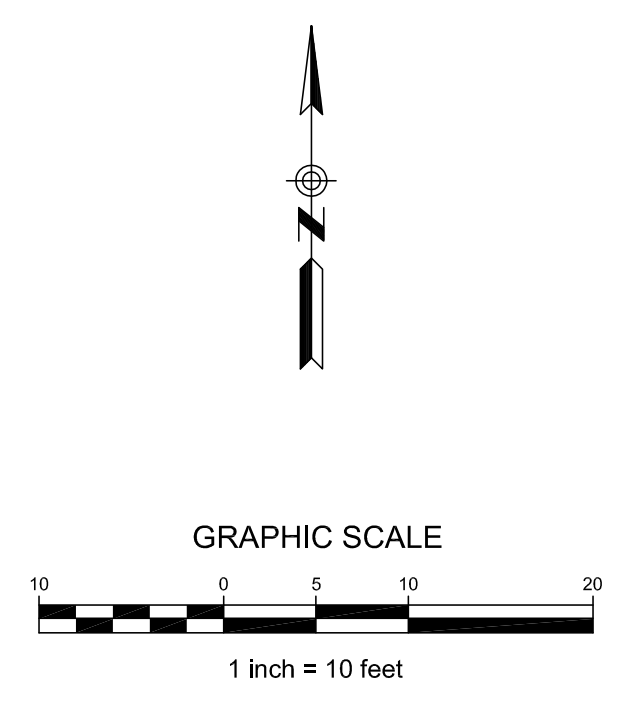
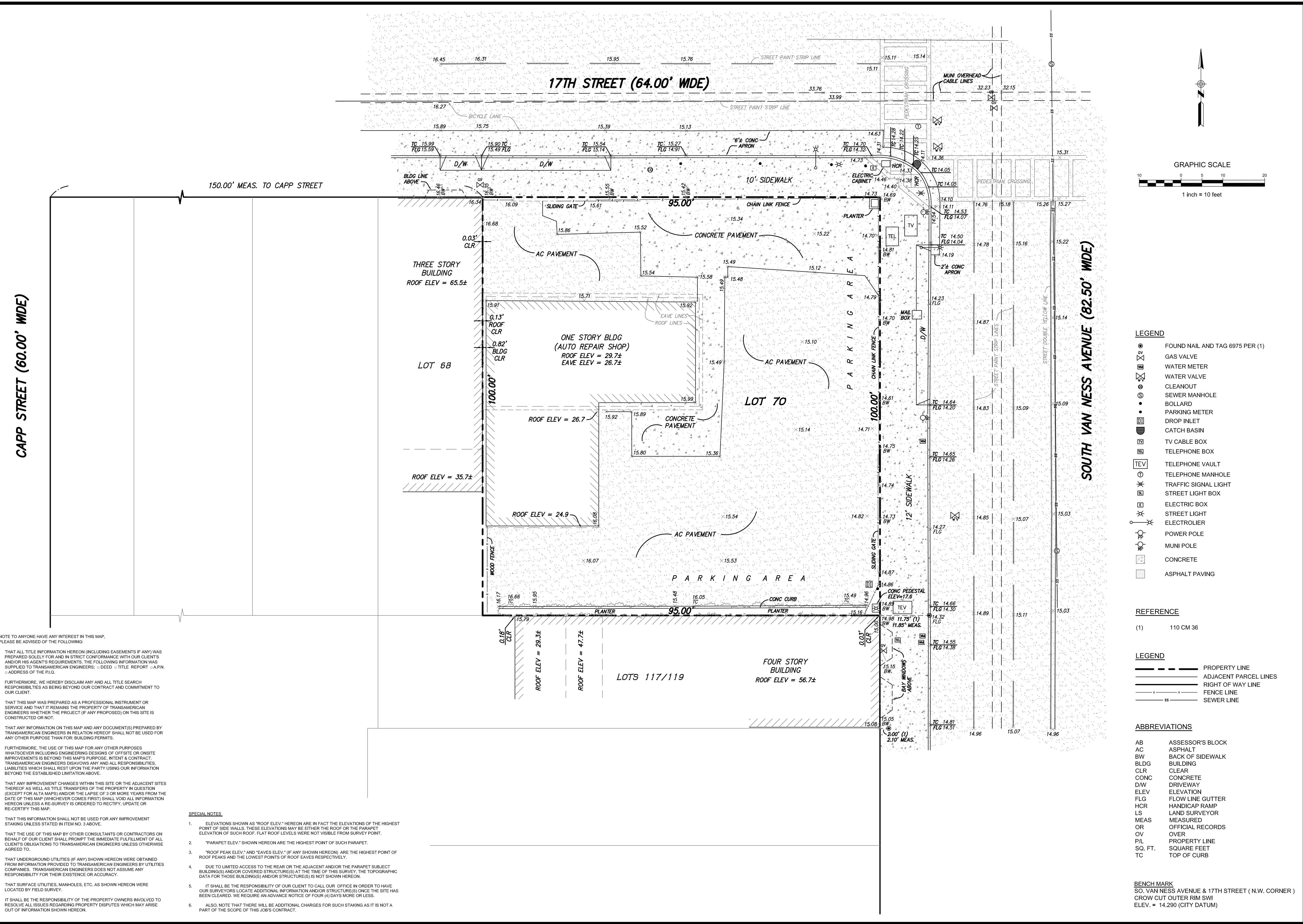
Job No.	6321
Sheet No.	1 OF 1
Date	MARCH 2013
Survey	BP 02/27/13
Design	N/A --
Drawn	JT 02/27/13
Checked	BP 03/01/13
Scale	AS SHOWN



FOX PLAZA
1390 Market St., Suite 201
San Francisco, CA 94102
Phone No. (415) 553-4022
Fax No. (415) 553-4071

ARCHITECTURAL TOPOGRAPHIC SURVEY
ASSESSOR'S BLOCK No. 3575
LOT No. 70
600 - 614 SOUTH VAN NESS AVENUE
SAN FRANCISCO, CALIFORNIA

Approved by:	Chief Engineer License No. EXP.
Approved by:	Chief Surveyor License No. 8979
Revisions	By



- LEGEND**
- FOUND NAIL AND TAG 6975 PER (1)
 - ⊗ GAS VALVE
 - ⊕ WATER METER
 - ⊖ WATER VALVE
 - ⊙ CLEANOUT
 - ⊗ SEWER MANHOLE
 - ⊕ BOLLARD
 - ⊖ PARKING METER
 - ⊙ DROP INLET
 - ⊗ CATCH BASIN
 - ⊕ TV CABLE BOX
 - ⊖ TELEPHONE BOX
 - ⊙ TELEPHONE VAULT
 - ⊗ TELEPHONE MANHOLE
 - ⊕ TRAFFIC SIGNAL LIGHT
 - ⊖ STREET LIGHT BOX
 - ⊙ ELECTRIC BOX
 - ⊗ STREET LIGHT
 - ⊕ ELECTROLIER
 - ⊖ POWER POLE
 - ⊙ MUNI POLE
 - ⊗ CONCRETE
 - ⊕ ASPHALT PAVING

- REFERENCE**
- (1) 110 CM 36

- LEGEND**
- PROPERTY LINE
 - ADJACENT PARCEL LINES
 - RIGHT OF WAY LINE
 - FENCE LINE
 - S S --- SEWER LINE

- ABBREVIATIONS**
- AB ASSESSOR'S BLOCK
 - AC ASPHALT
 - BW BACK OF SIDEWALK
 - BLDG BUILDING
 - CLR CLEAR
 - CONC CONCRETE
 - D/W DRIVEWAY
 - ELEV ELEVATION
 - FLG FLOW LINE GUTTER
 - HCR HANDICAP RAMP
 - LS LAND SURVEYOR
 - MEAS MEASURED
 - OR OFFICIAL RECORDS
 - OV OVER
 - P/L PROPERTY LINE
 - SQ. FT. SQUARE FEET
 - TC TOP OF CURB

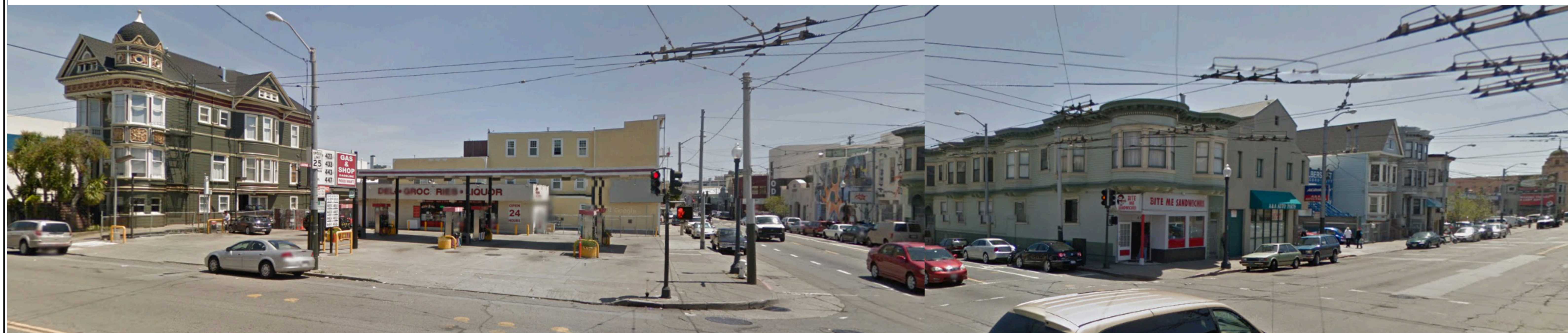
BENCH MARK
SO. VAN NESS AVENUE & 17TH STREET (N.W. CORNER)
CROW CUT OUTER RIM SWI
ELEV. = 14.290 (CITY DATUM)

- NOTE TO ANYONE HAVE ANY INTEREST IN THIS MAP, PLEASE BE ADVISED OF THE FOLLOWING:
- THAT ALL TITLE INFORMATION HEREON (INCLUDING EASEMENTS IF ANY) WAS PREPARED SOLELY FOR AND IN STRICT CONFORMANCE WITH OUR CLIENTS' AND/OR HIS AGENTS REQUIREMENTS. THE FOLLOWING INFORMATION WAS SUPPLIED TO TRANSAMERICAN ENGINEERS: DEED TITLE REPORT A.P.N. ADDRESS OF THE P.L.G.
 - FURTHERMORE, WE HEREBY DISCLAIM ANY AND ALL TITLE SEARCH RESPONSIBILITIES AS BEING BEYOND OUR CONTRACT AND COMMITMENT TO OUR CLIENT.
 - THAT THIS MAP HAS BEEN PREPARED AS A PROFESSIONAL INSTRUMENT OR SERVICE AND THAT IT REMAINS THE PROPERTY OF TRANSAMERICAN ENGINEERS WHETHER THE PROJECT (IF ANY PROPOSED) ON THIS SITE IS CONSTRUCTED OR NOT.
 - THAT ANY INFORMATION ON THIS MAP AND ANY DOCUMENTS PREPARED BY TRANSAMERICAN ENGINEERS IN RELATION HEREOF SHALL NOT BE USED FOR ANY OTHER PURPOSE THAN FOR BUILDING PERMITS.
 - FURTHERMORE, THE USE OF THIS MAP FOR ANY OTHER PURPOSES WHATSOEVER INCLUDING ENGINEERING DESIGNS OF OFF-SITE OR ON-SITE IMPROVEMENTS IS BEYOND THIS MAP'S PURPOSE, INTENT & CONTRACT. TRANSAMERICAN ENGINEERS DISCLAIMS ANY AND ALL RESPONSIBILITIES, LIABILITIES WHICH SHALL REST UPON THE PARTY USING OUR INFORMATION BEYOND THE ESTABLISHED LIMITATION ABOVE.
 - THAT ANY IMPROVEMENT CHANGES WITHIN THIS SITE OR THE ADJACENT SITES THEREOF AS WELL AS TITLE TRANSFERS OF THE PROPERTY IN QUESTION (EXCEPT FOR ALTA MAPS) AND/OR THE LAPSE OF 3 OR MORE YEARS FROM THE DATE OF THIS MAP (WHICHEVER COMES FIRST) SHALL VOID ALL INFORMATION HEREON UNLESS A RE-SURVEY IS ORDERED TO RECTIFY, UPDATE OR RE-CERTIFY THIS MAP.
 - THAT THIS INFORMATION SHALL NOT BE USED FOR ANY IMPROVEMENT STAKING UNLESS STATED IN ITEM NO. 3 ABOVE.
 - THAT THE USE OF THIS MAP BY OTHER CONSULTANTS OR CONTRACTORS ON BEHALF OF OUR CLIENT SHALL PROMPT THE IMMEDIATE FULFILLMENT OF ALL CLIENT'S OBLIGATIONS TO TRANSAMERICAN ENGINEERS UNLESS OTHERWISE AGREED TO.
 - THAT UNDERGROUND UTILITIES IF ANY SHOWN HEREON WERE OBTAINED FROM INFORMATION PROVIDED TO TRANSAMERICAN ENGINEERS BY UTILITIES COMPANIES. TRANSAMERICAN ENGINEERS DOES NOT ASSUME ANY RESPONSIBILITY FOR THEIR EXISTENCE OR ACCURACY.
 - THAT SURFACE UTILITIES, MANHOLES, ETC. AS SHOWN HEREON WERE LOCATED BY FIELD SURVEY.
 - IT SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNERS INVOLVED TO RESOLVE ALL ISSUES REGARDING PROPERTY DISPUTES WHICH MAY ARISE OUT OF INFORMATION SHOWN HEREON.

- SPECIAL NOTES**
- ELEVATIONS SHOWN AS "ROOF ELEV." HEREON ARE IN FACT THE ELEVATIONS OF THE HIGHEST POINT OF SIDE WALLS. THESE ELEVATIONS MAY BE EITHER THE ROOF OR THE PARAPET ELEVATION OF SUCH ROOF. FLAT ROOF LEVELS WERE NOT VISIBLE FROM SURVEY POINT.
 - "PARAPET ELEV." SHOWN HEREON ARE THE HIGHEST POINT OF SUCH PARAPET.
 - "ROOF PEAK ELEV." AND "EAVES ELEV." IF ANY SHOWN HEREON, ARE THE HIGHEST POINT OF ROOF PEAKS AND THE LOWEST POINTS OF ROOF SAVES RESPECTIVELY.
 - DUE TO LIMITED ACCESS TO THE REAR OR THE ADJACENT AND/OR THE PARAPET SUBJECT BUILDING(S) AND/OR COVERED STRUCTURE(S) AT THE TIME OF THIS SURVEY, THE TOPOGRAPHIC DATA FOR THOSE BUILDING(S) AND/OR STRUCTURE(S) IS NOT SHOWN HEREON.
 - IT SHALL BE THE RESPONSIBILITY OF OUR CLIENT TO CALL OUR OFFICE IN ORDER TO HAVE OUR SURVEYORS LOCATE ADDITIONAL INFORMATION AND/OR STRUCTURE(S) ONCE THE SITE HAS BEEN CLEARED. WE REQUIRE AN ADVANCE NOTICE OF FOUR (4) DAYS MORE OR LESS.
 - ALSO NOTE THAT THERE WILL BE ADDITIONAL CHARGES FOR SUCH STAKING AS IT IS NOT A PART OF THE SCOPE OF THIS JOB'S CONTRACT.



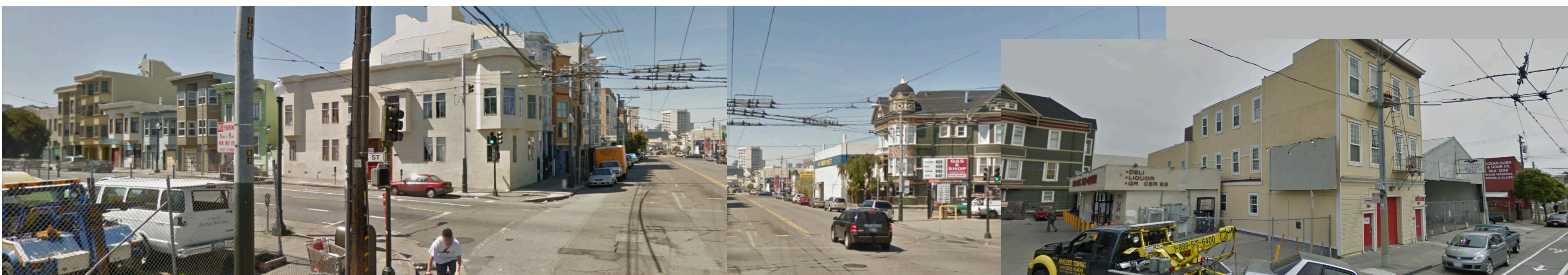
BLOCKFACE PHOTO OF S. VAN NESS AVE. - WEST SIDE (WITH SITE)



BLOCKFACE PHOTO OF S. VAN NESS AVE. - EAST SIDE



BLOCKFACE PHOTO OF 17TH STREET - SOUTH SIDE (WITH SITE)



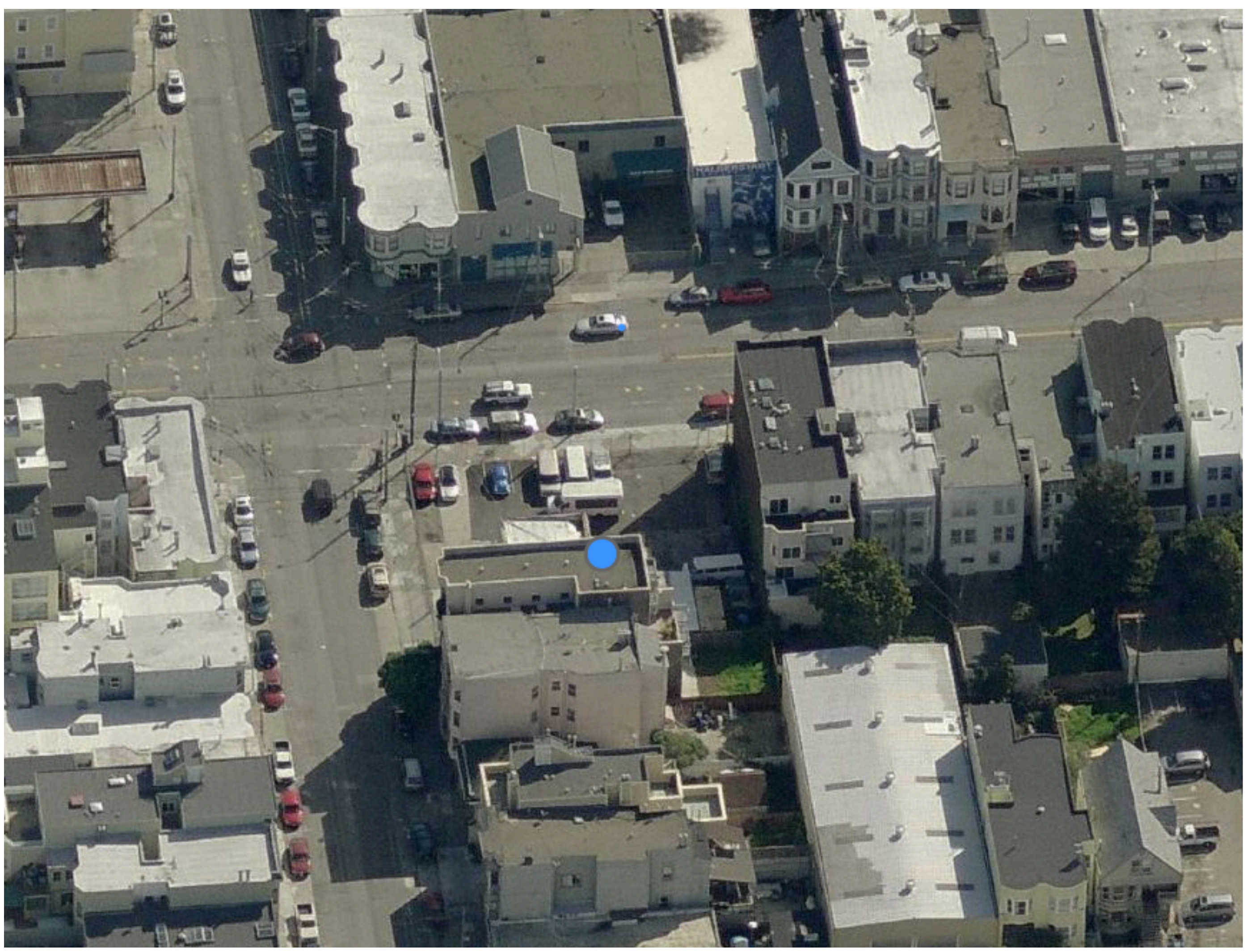
BLOCKFACE PHOTO OF 17TH STREET - NORTH SIDE



SITE ON SOUTH VAN NESS AVE. LOOKING WEST



SITE ON 17TH STREET LOOKING SOUTH



AERIAL REAR VIEW OF SITE FROM THE WEST



SITE LOOKING SOUTH WEST FROM THE CORNER OF SOUTH VAN NESS AVE. AND 17TH ST.

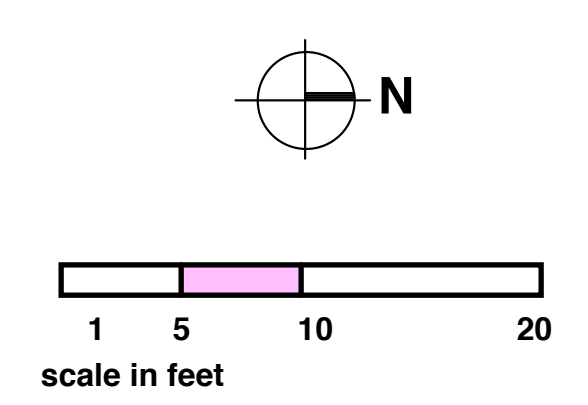
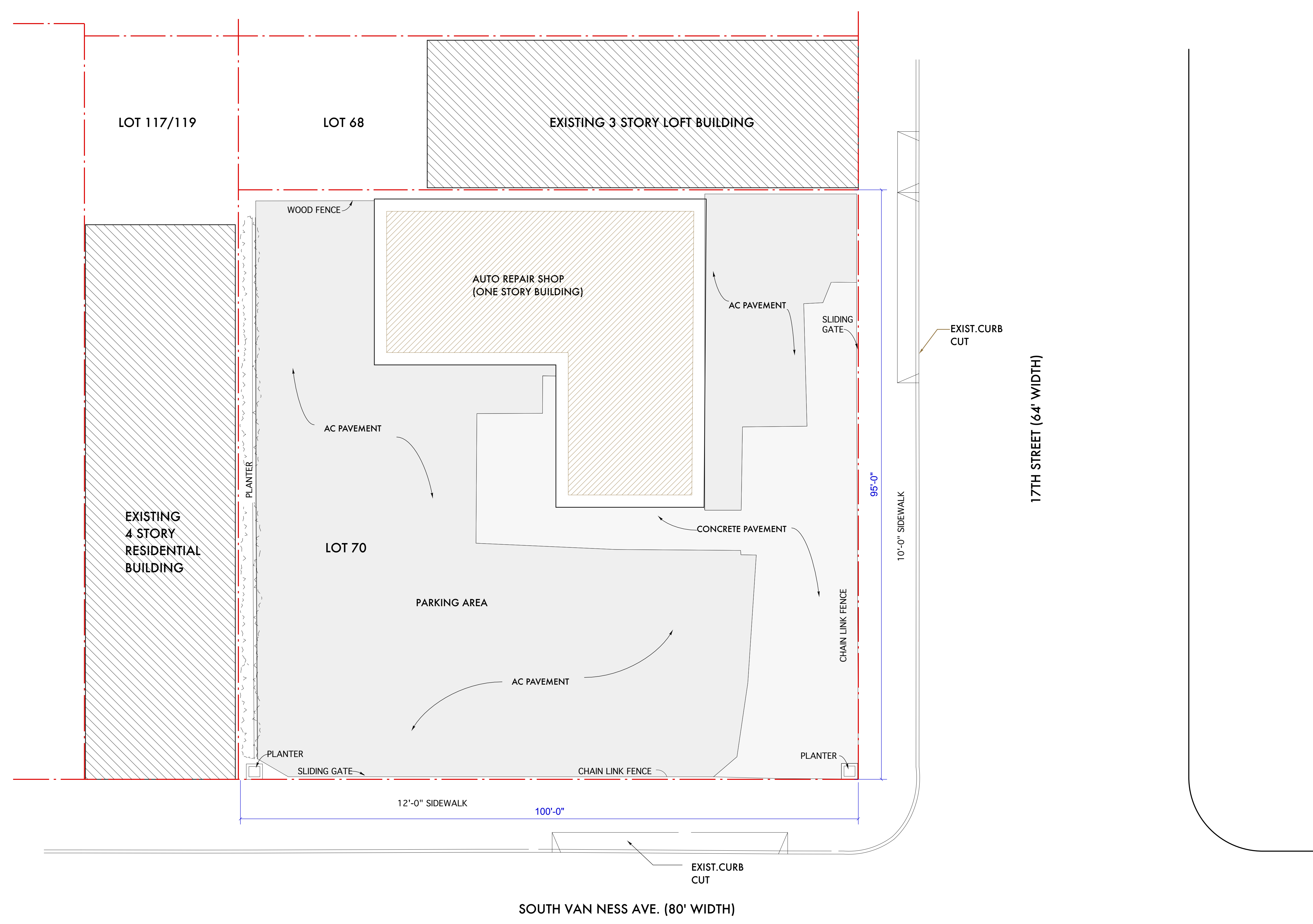
EXISTING SITE PLAN

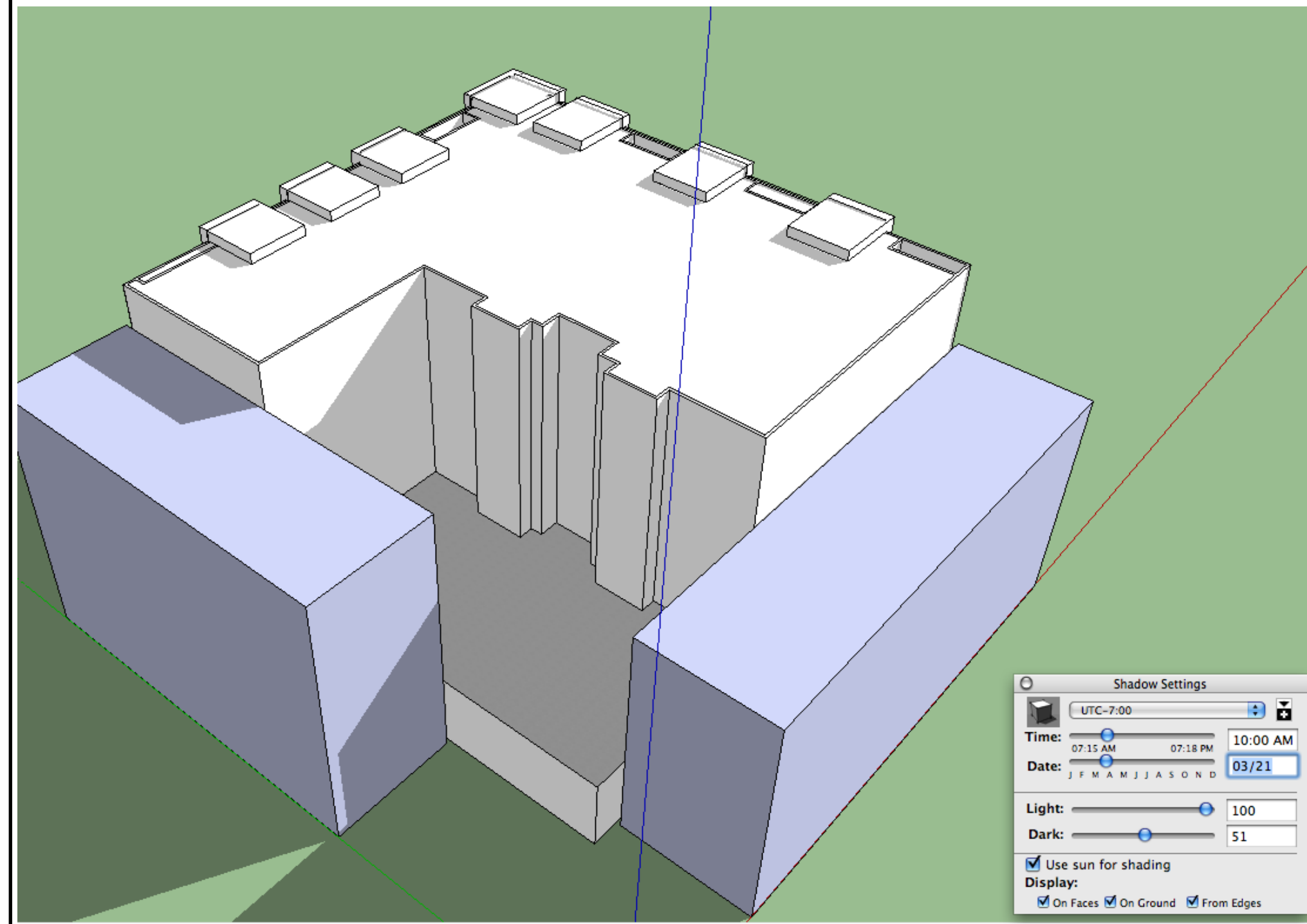
600 SOUTH VAN NESS AVENUE MIXED USE DEVELOPMENT
SAN FRANCISCO, CA

BLOCK 3575 LOT 070

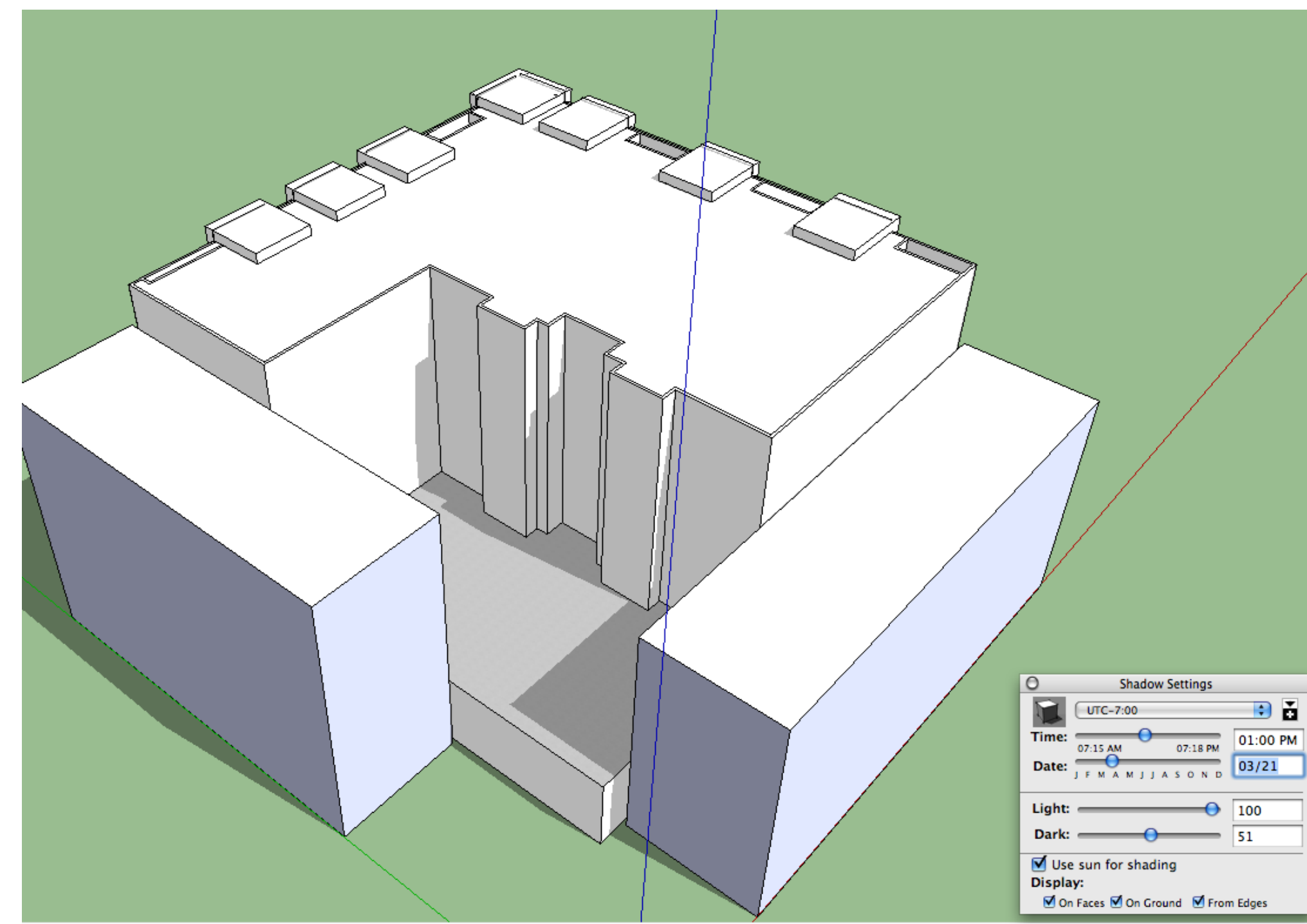
DATE: 21 APR. 2015
SCALE: 1/8"=1'-0"
DRAWN: ML
SHEET:

A0.5

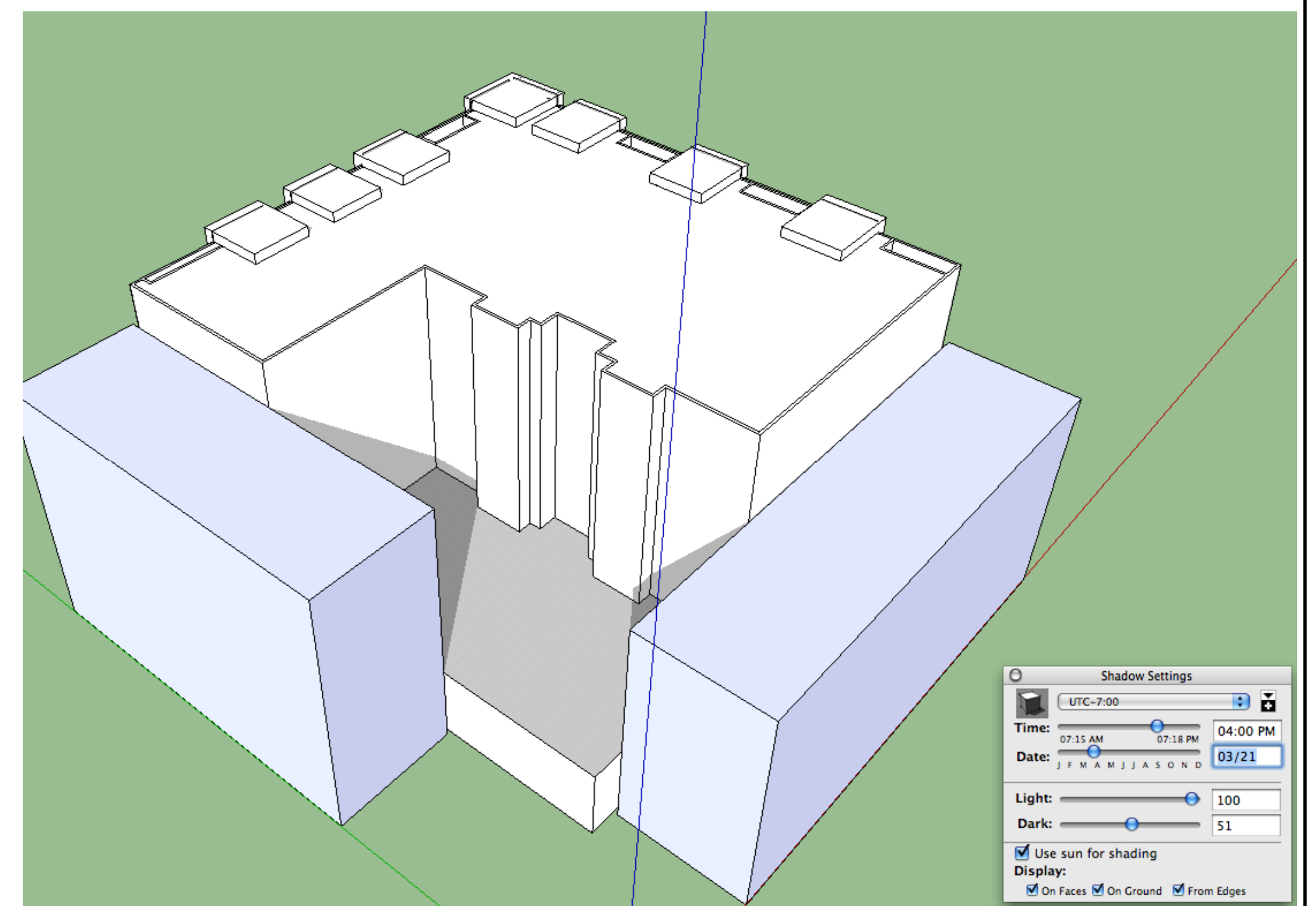




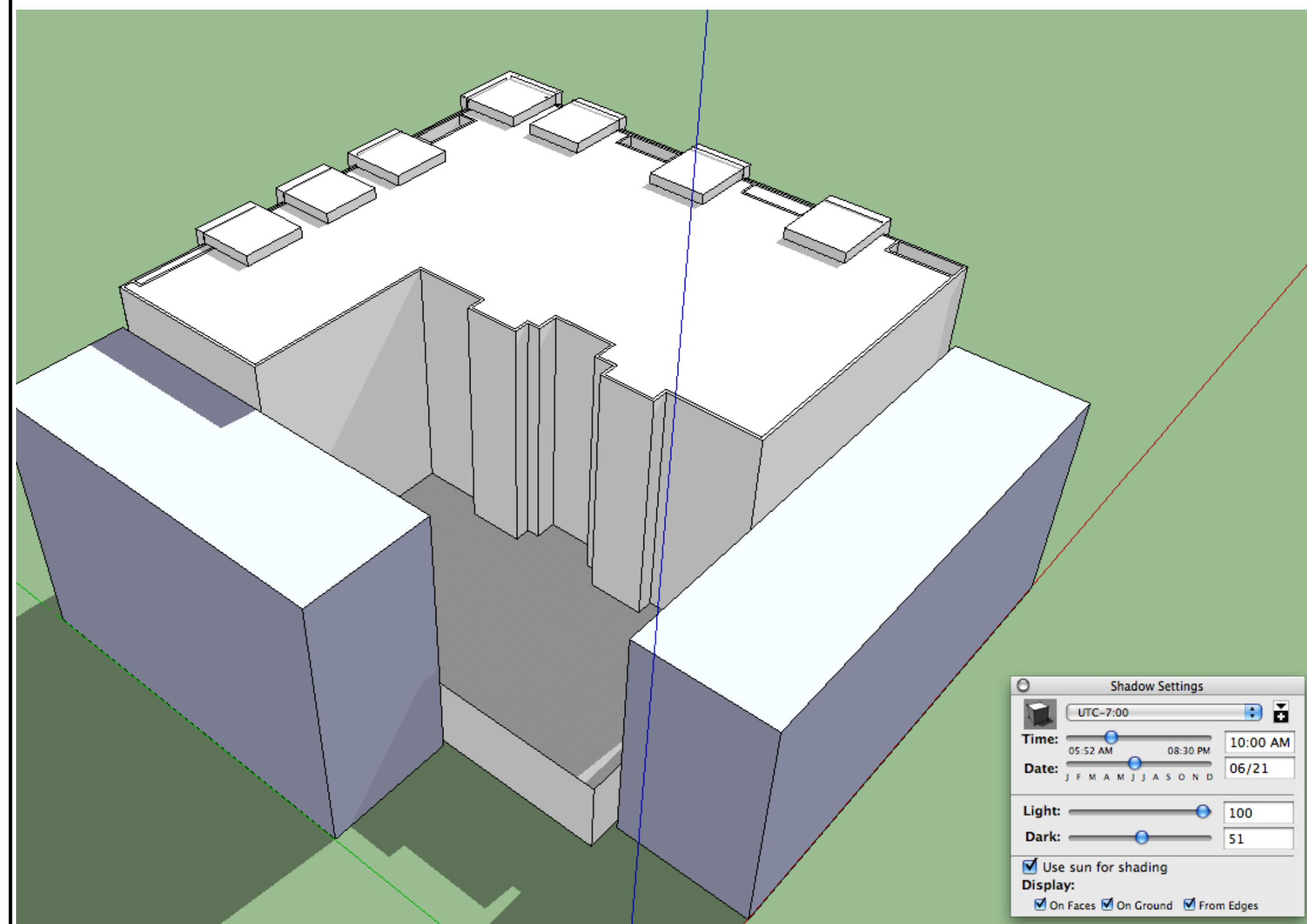
MARCH 21 - 10:00 A.M.



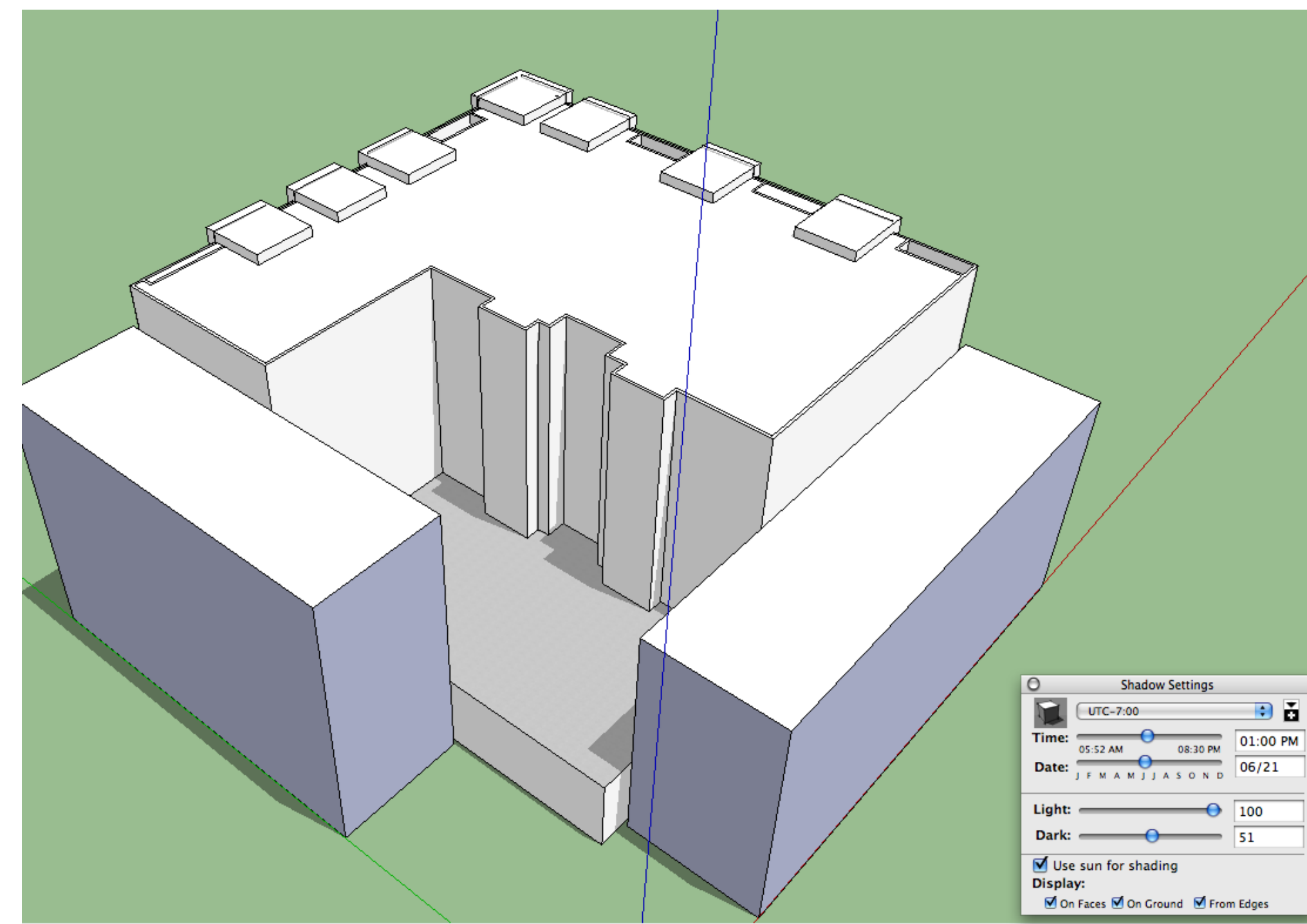
MARCH 21 - 1:00 P.M.



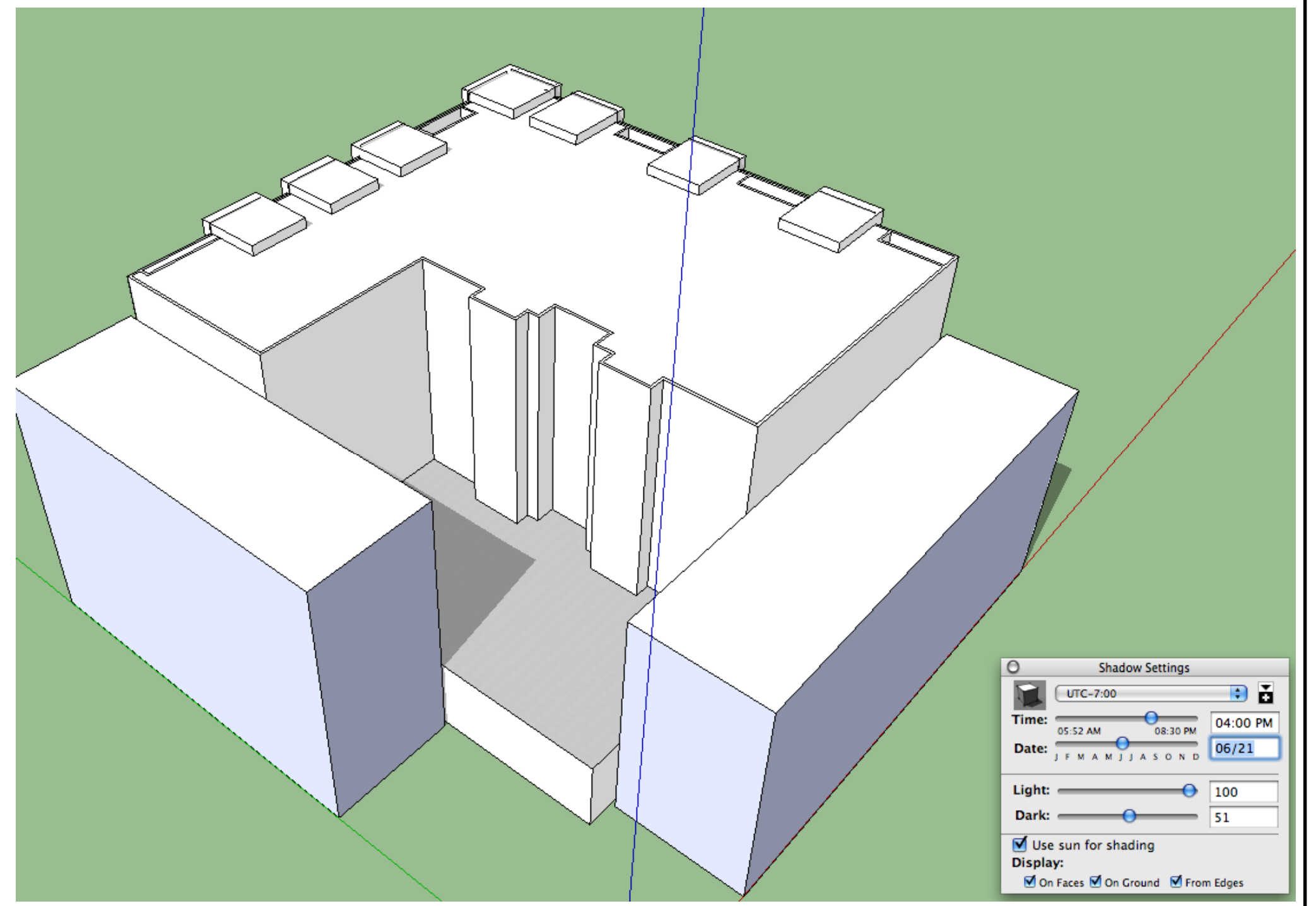
MARCH 21 - 4:00 P.M.



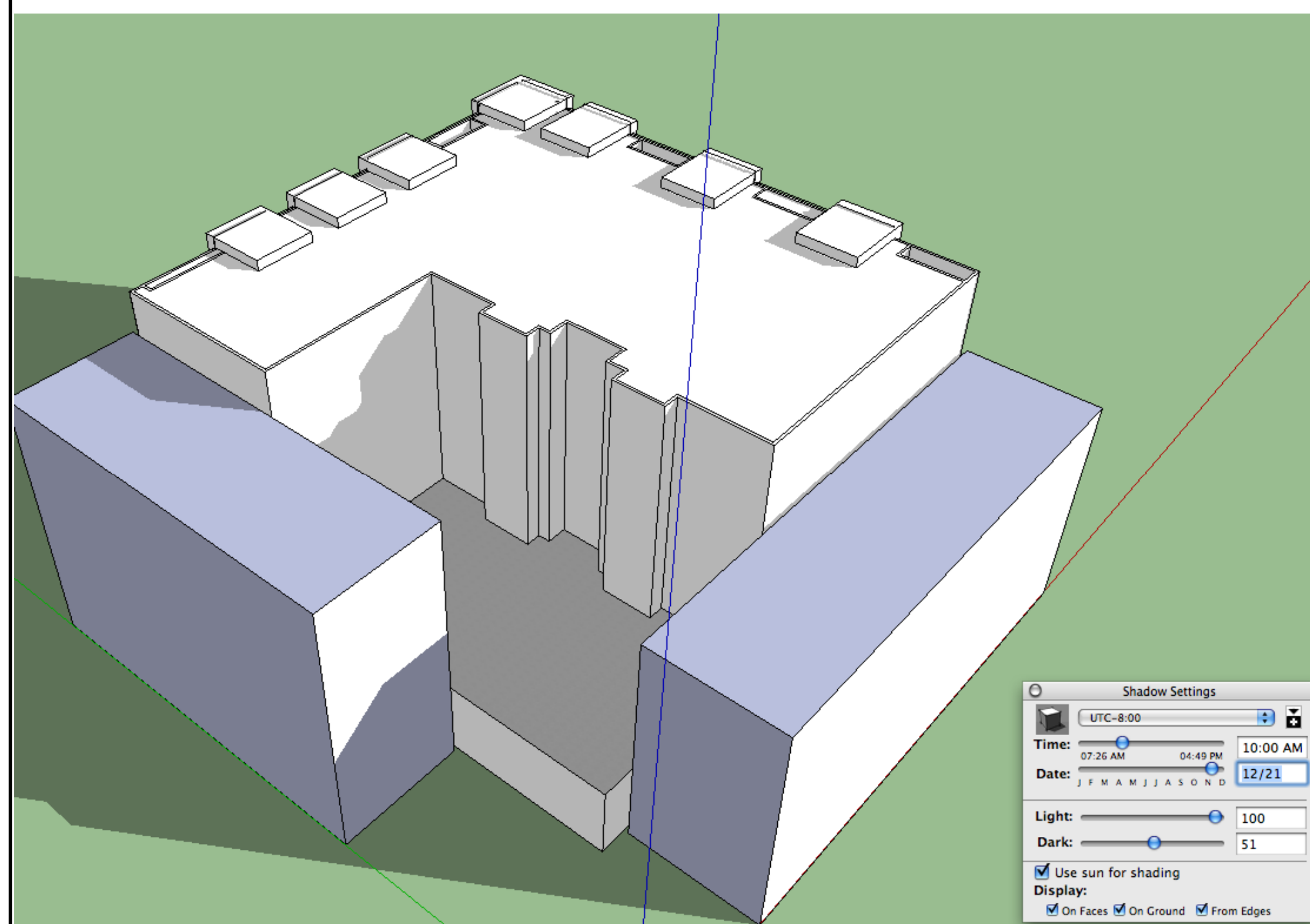
JUNE 21 - 10:00 A.M.



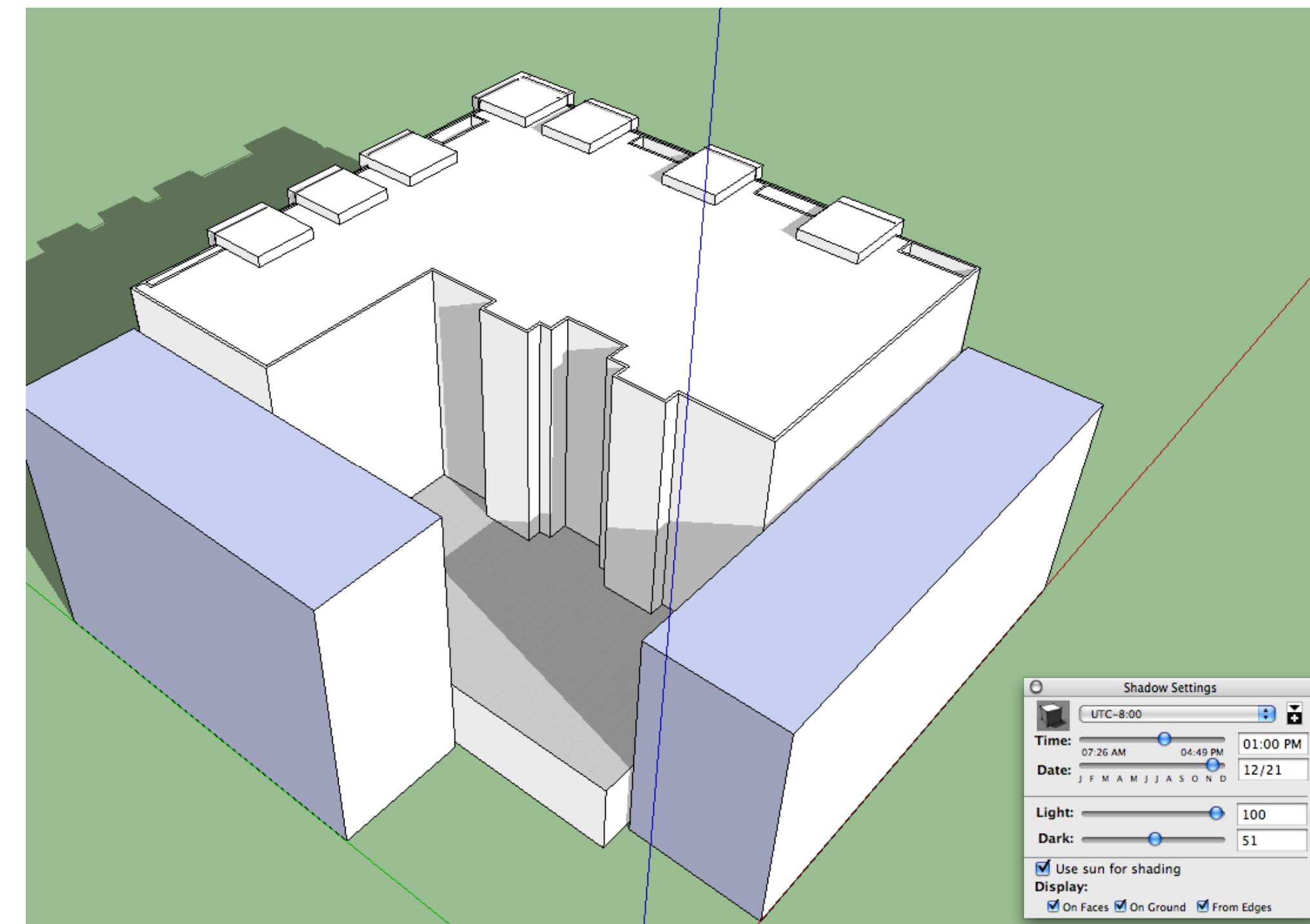
JUNE 21 - 1:00 P.M.



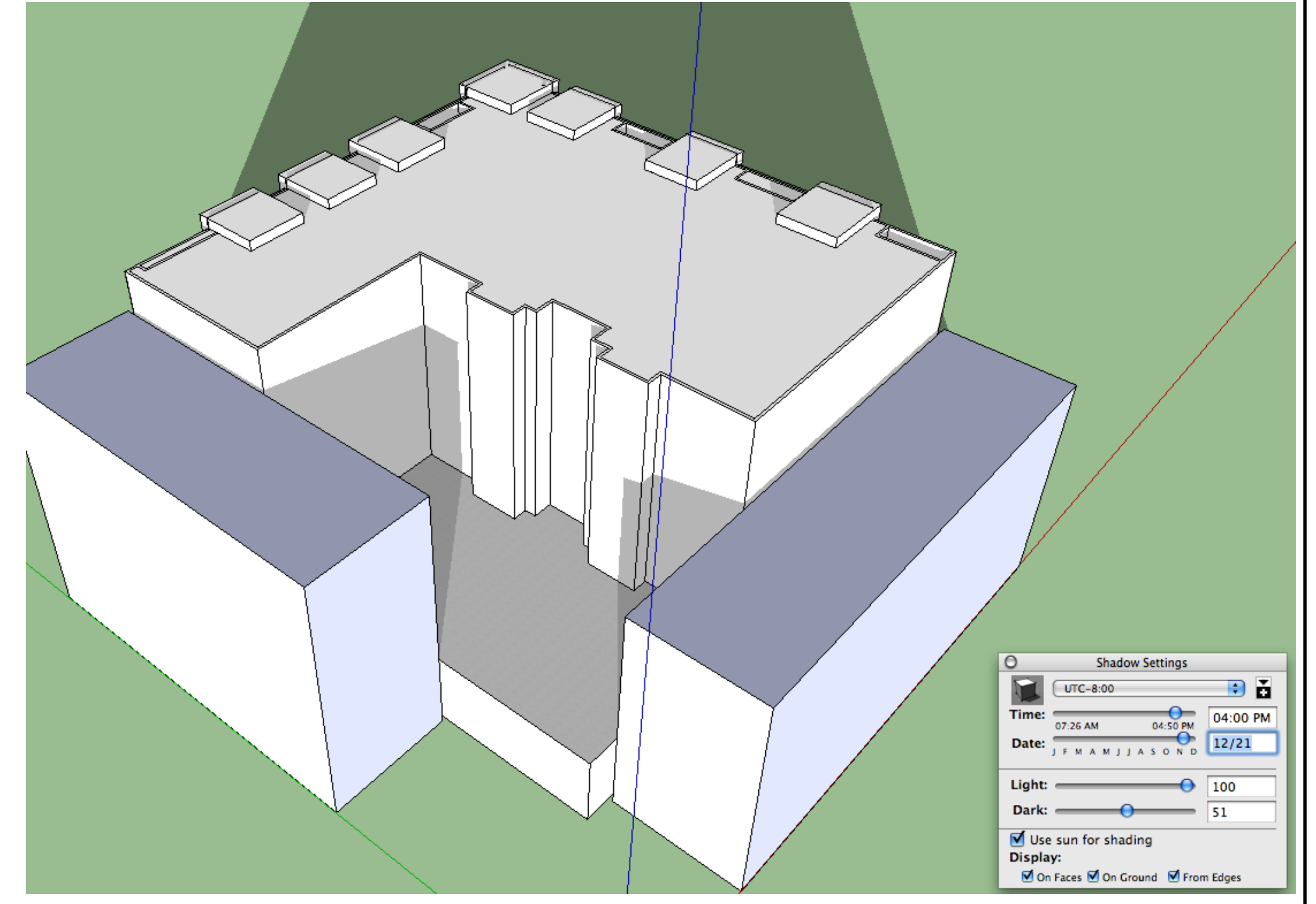
JUNE 21 - 4:00 P.M.



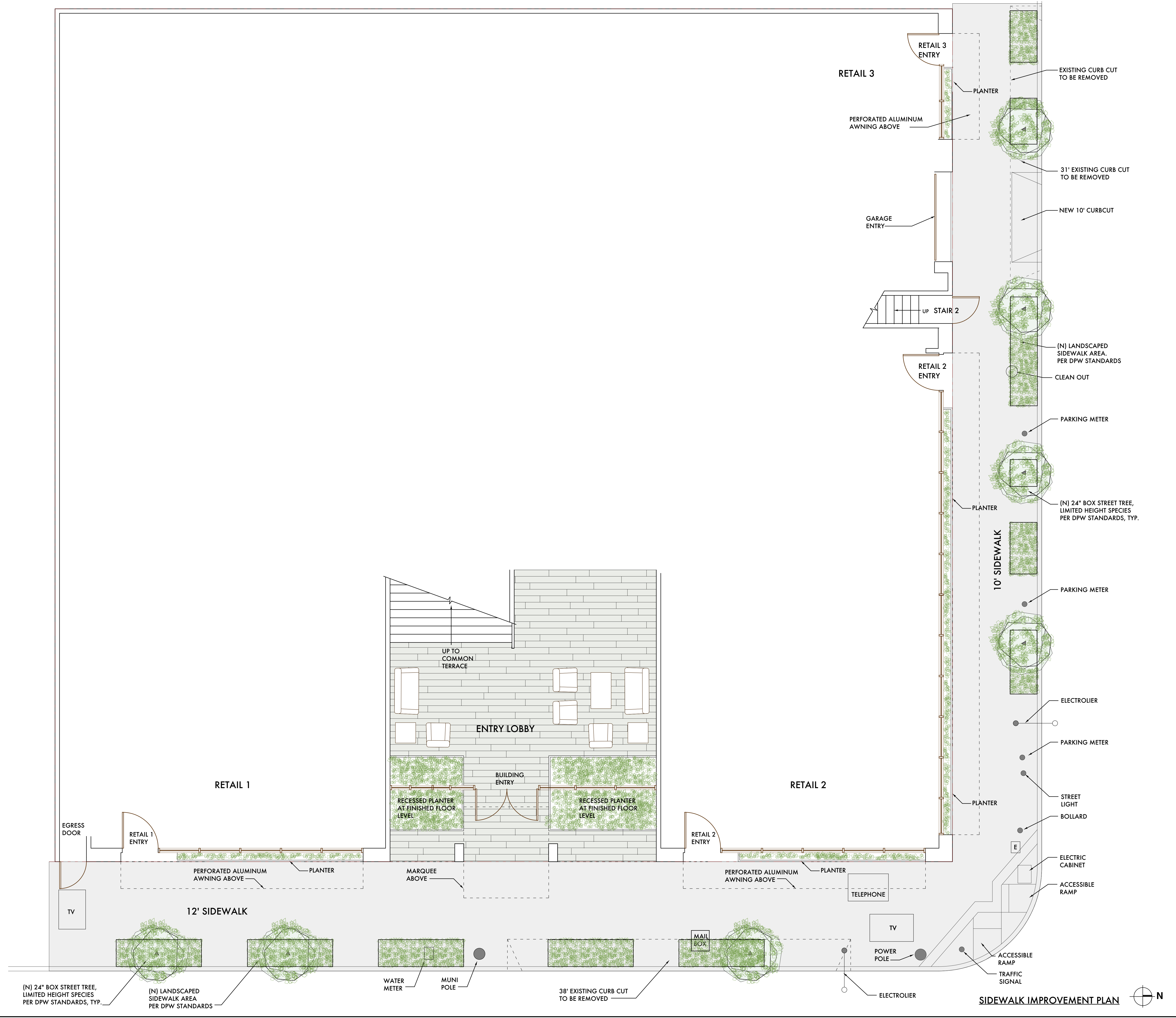
DECEMBER 21 - 10:00 A.M.



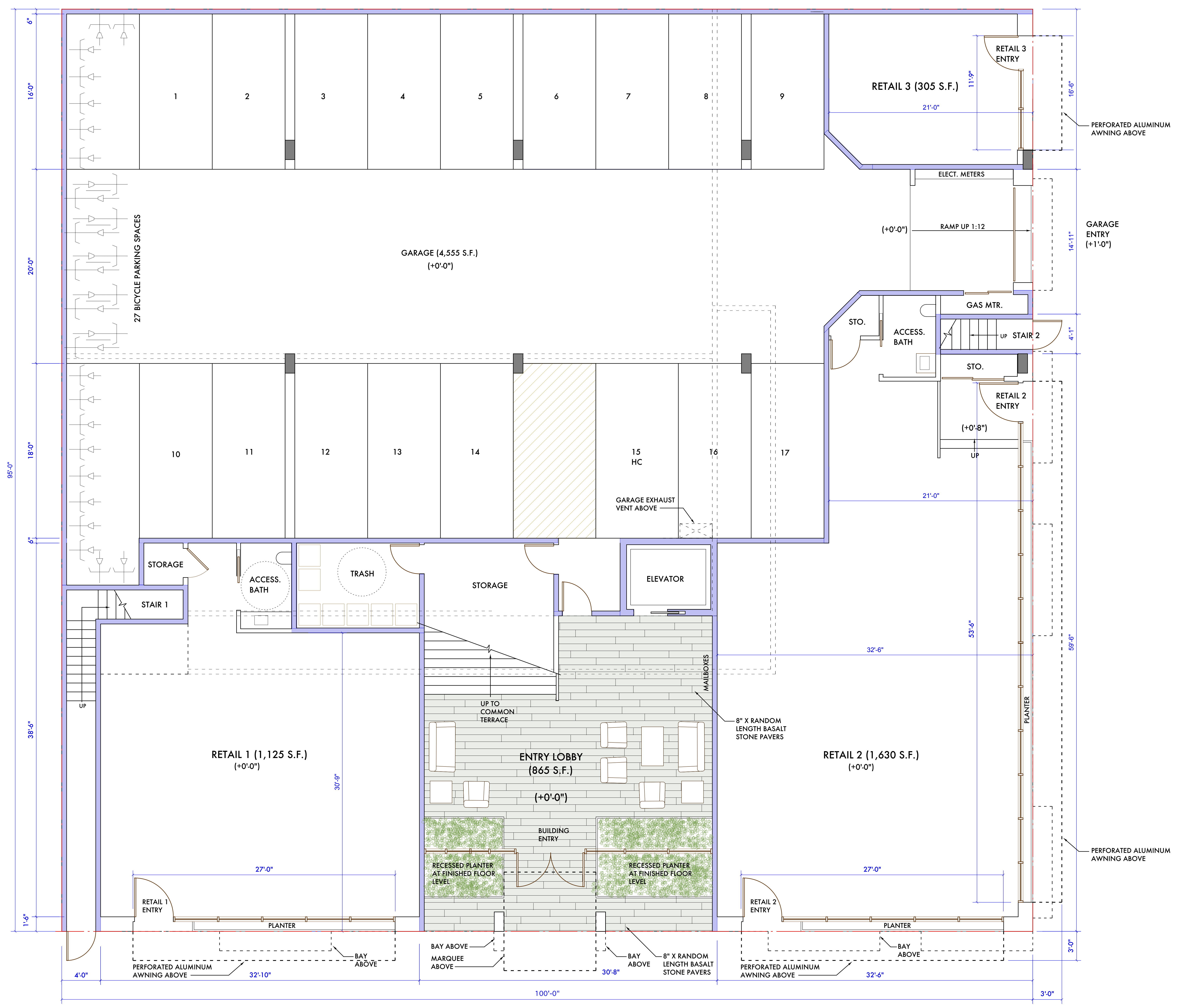
DECEMBER 21 - 1:00 P.M.



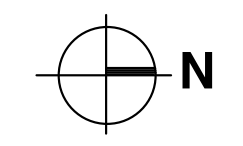
DECEMBER 21 - 4:00 P.M.

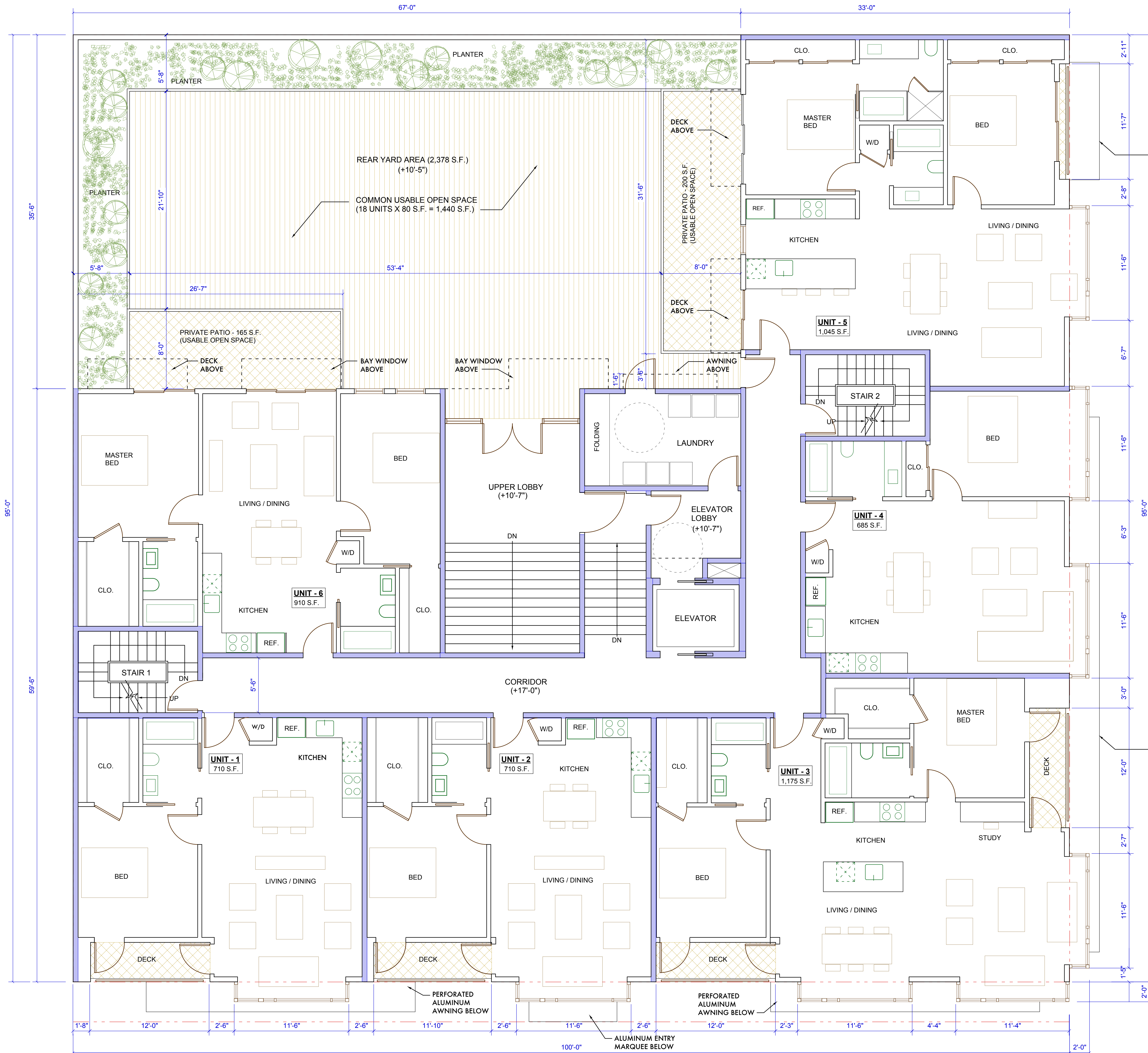


SIDEWALK IMPROVEMENT PLAN



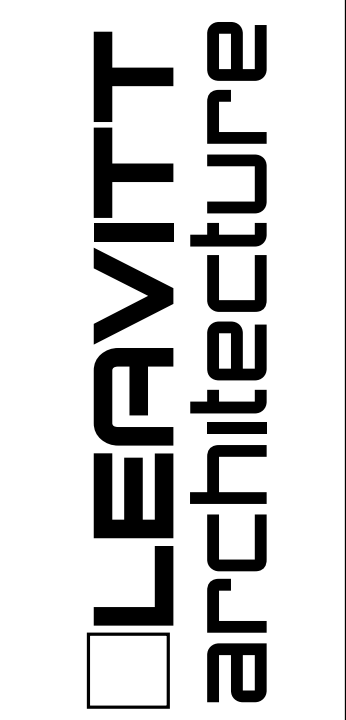
GROUND FLOOR PLAN





SECOND FLOOR PLAN

Revisions By



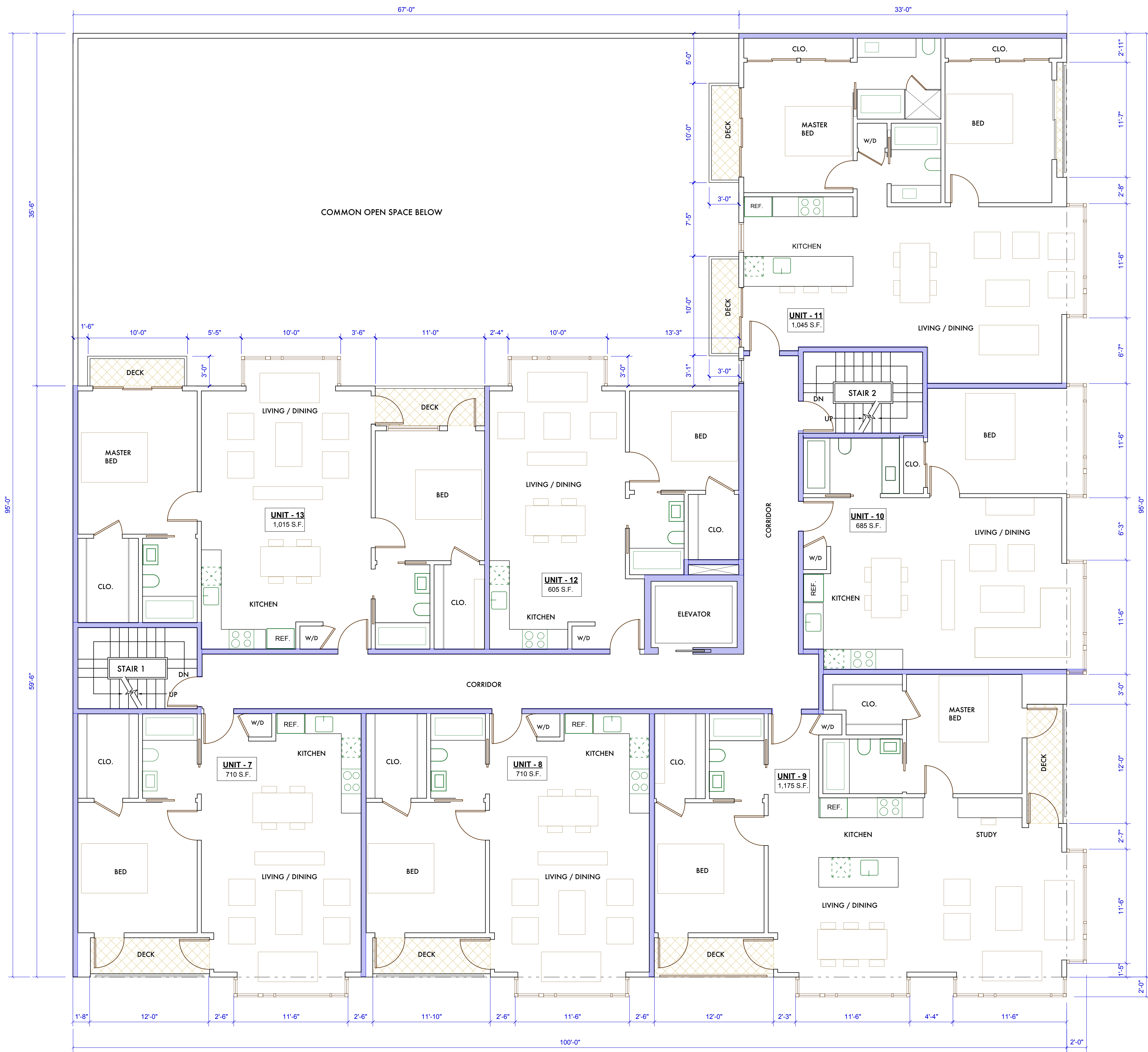
1327 mason st.
san francisco
california 94133
t 415 674 9100
f 415 674 9101

PROPOSED SECOND FLOOR PLAN

600 SOUTH VAN NESS AVENUE MIXED USE DEVELOPMENT
BLOCK 3575 LOT 070
SAN FRANCISCO, CA

DATE: 21 APR. 2015
SCALE: 1/4"=1'-0"
DRAWN: ML
SHEET:

A2.1

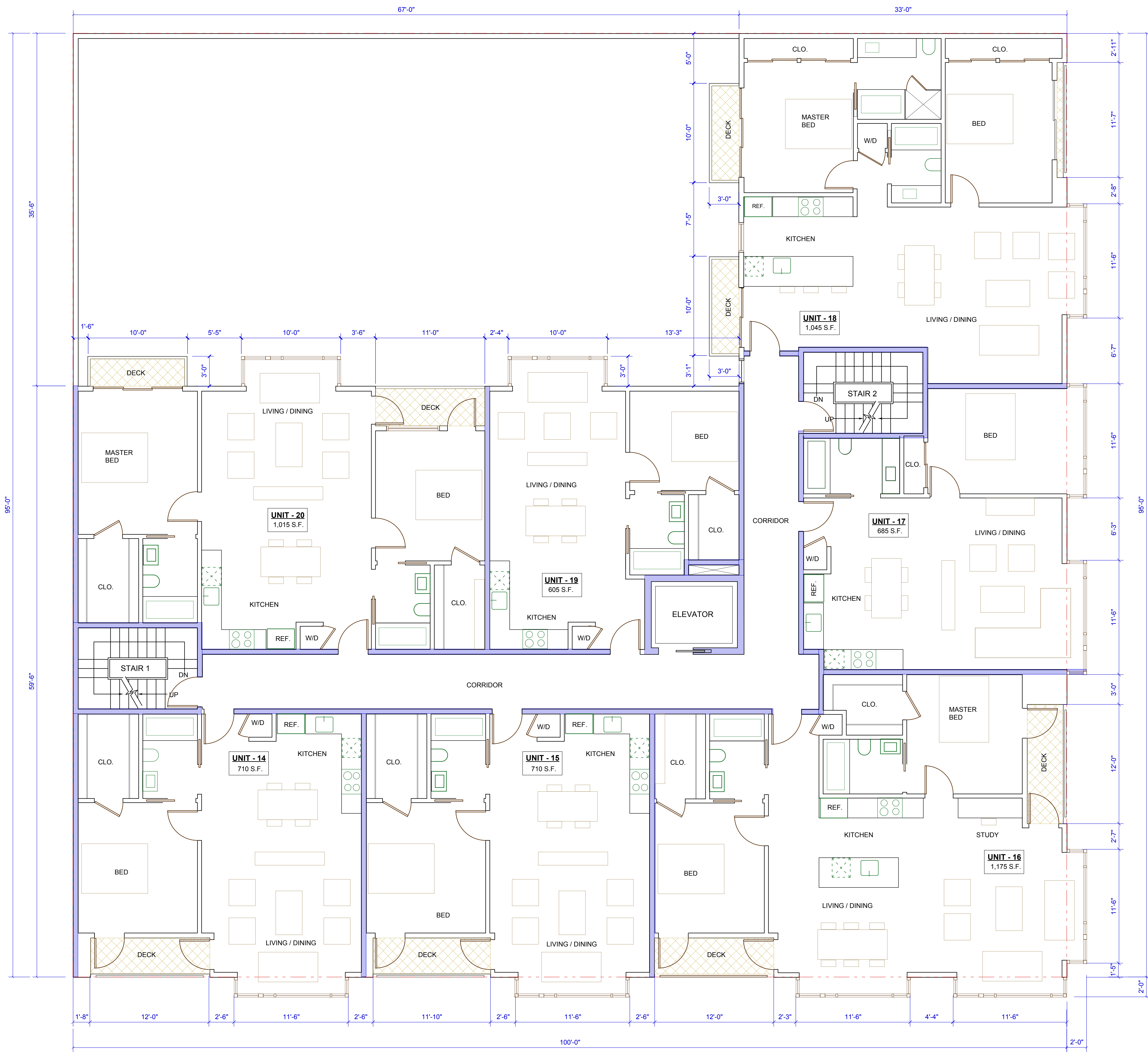


THIRD FLOOR PLAN 

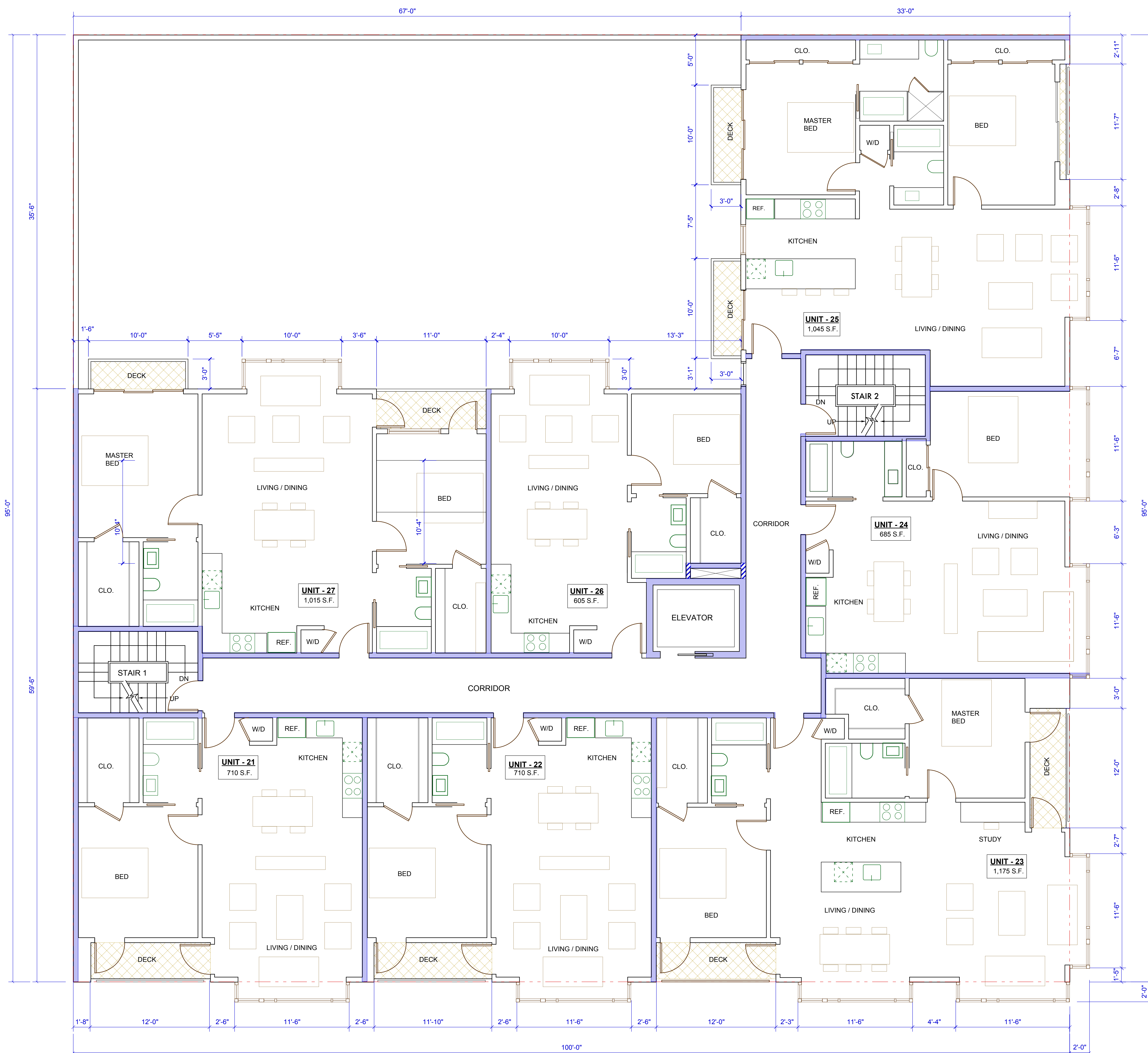
**PROPOSED FOURTH
FLOOR PLAN**

600 SOUTH VAN NESS AVENUE MIXED USE DEVELOPMENT
BLOCK 3575 LOT 070
SAN FRANCISCO, CA

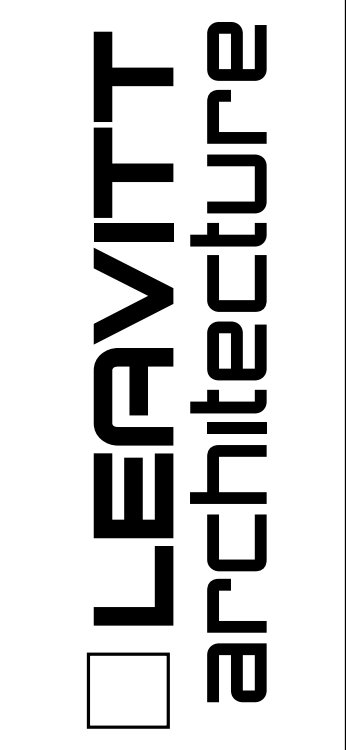
DATE: 21 APR. 2015
SCALE: 1/4"=1'-0"
DRAWN: ML
SHEET:



FOURTH FLOOR PLAN 



Revisions By



1327 mason st.
san francisco
california 94133
t 415 674 9100
f 415 674 9101

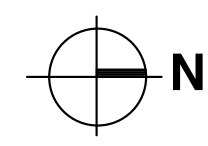
PROPOSED FIFTH FLOOR PLAN

600 SOUTH VAN NESS AVENUE MIXED USE DEVELOPMENT
BLOCK 3575 LOT 070
SAN FRANCISCO, CA

DATE: 21 APR. 2015
SCALE: 1/4"=1'-0"
DRAWN: ML
SHEET:

A2.4

FIFTH FLOOR PLAN

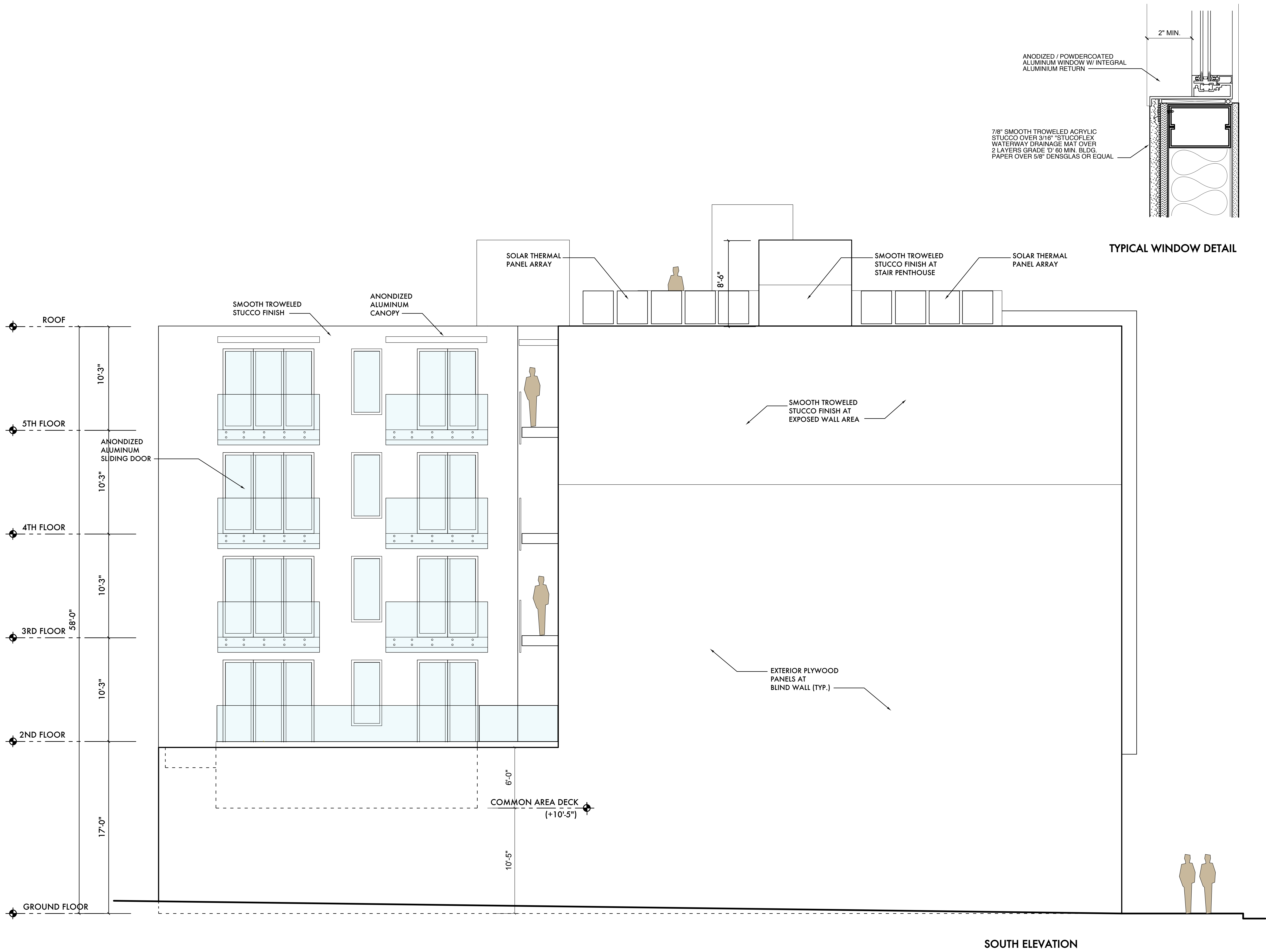




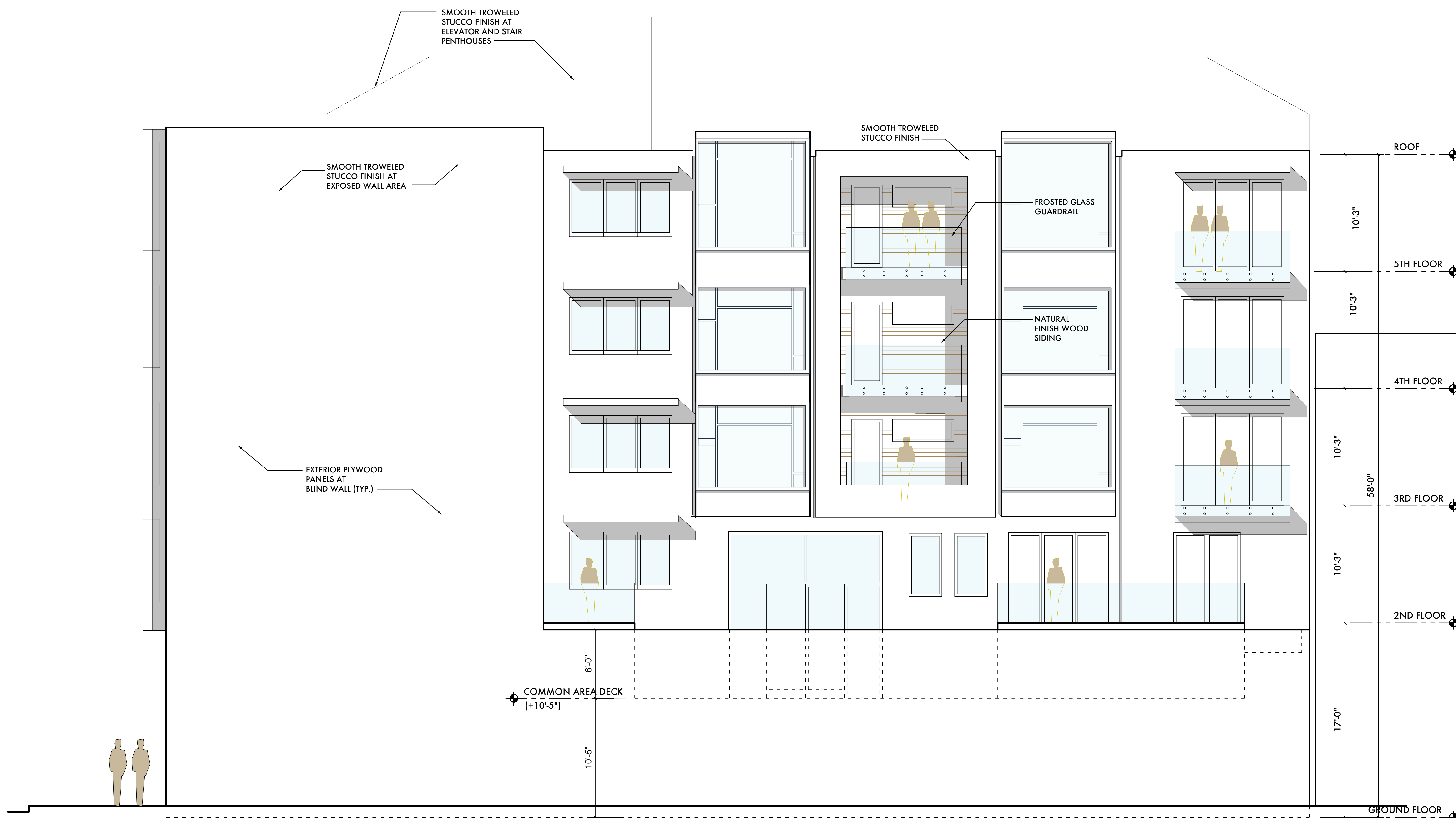
SOUTH VAN NESS ELEVATION



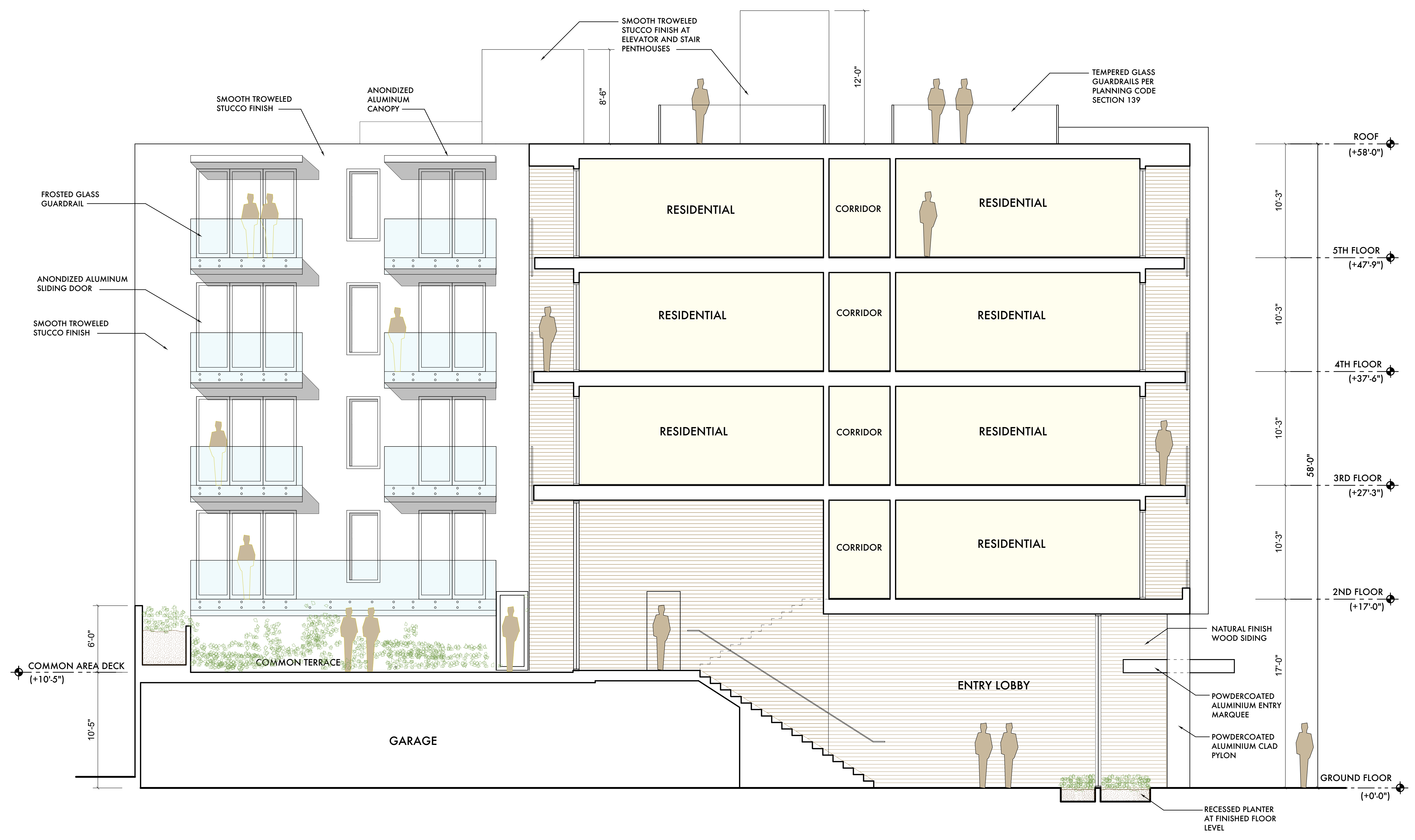
17TH STREET ELEVATION



SOUTH ELEVATION



REAR ELEVATION



BUILDING SECTION AT ENTRY