

# Discretionary Review Abbreviated Analysis

**HEARING DATE: FEBRUARY 5, 2015** 

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

Reception:

415.558.6378

Fax:

415.558.6409

Planning Information: 415.558.6377

Date: January 29, 2015
Case No.: 2014-002064DRP

Project Address: 2570 JACKSON STREET

Permit Application: 2014.04.08.2705

Zoning: RH-1 (Residential, House, One-Family)

40-X Height and Bulk District

*Block/Lot:* 0586/008

Project Sponsor: Federico Engel

Butler Armsden Architects 1420 Sutter Street, First Floor San Francisco, CA 94109

Staff Contact: Christine Lamorena – (415) 575-9085

christine.lamorena@sfgov.org

Recommendation: Do not take DR and approve as proposed

### PROJECT DESCRIPTION

The project proposes to replace approximately 5-foot tall windscreens around a deck above the one-story garage at the front of the property as well as around a side terrace at the northwest corner towards the rear of the property and to construct a new one-story high, three-foot deep cantilevered deck with spiral stairs at the rear of the three-story-over-garage, single-family dwelling.

The project requires front setback and rear yard variances. A variance hearing for the project occurred on April 23, 2014, but is being re-heard following the request for Discretionary Review.

### SITE DESCRIPTION AND PRESENT USE

The project site contains a three-story-over-garage, single-family dwelling constructed in 1924 on an approximately 50-foot wide by 128-foot deep lot with a lot area of approximately 6,400 square feet. The subject lot is located on the north side of Jackson Street between Pierce and Steiner Streets in the Pacific Heights neighborhood.

### SURROUNDING PROPERTIES AND NEIGHBORHOOD

On the subject block-face, the buildings consist of three to four-story, single-family dwellings. Alta Plaza Park is located opposite the property. The subject block-face is zoned RH-1 (Residential, House, One-Family) while the opposite block is zoned P (Public).

The building immediately to the east is located on a corner lot and is a three-story over garage, single-family dwelling while the building located immediately to the west is a four-story, single-family dwelling with a detached garage located in the rear yard.

### **BUILDING PERMIT NOTIFICATION**

TYPE	REQUIRED PERIOD	NOTIFICATION DATES	DR FILE DATE	DR HEARING DATE	FILING TO HEARING TIME
311 Notice	30 days	10/23/14 - 11/22/14	11/20/14	2/5/15	77 days

### **HEARING NOTIFICATION**

ТҮРЕ	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	10 days	January 26, 2015	January 26, 2015	10 days
Mailed Notice	10 days	January 26, 2015	January 26, 2015	10 days

### **PUBLIC COMMENT**

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)			
Other neighbors on the			
block or directly across			
the street			
Noi abbanda a damana		1 (DR Requestor, Pacific Heights	
Neighborhood groups		Residents Association)	

### DR REQUESTOR

Greg Scott, on behalf of the Pacific Heights Residents Association.

### DR REQUESTOR'S CONCERNS AND PROPOSED ALTERNATIVES

See attached Discretionary Review Application, dated November 20, 2014.

### PROJECT SPONSOR'S RESPONSE TO DR APPLICATION

See attached Response to Discretionary Review, dated December 16, 2014.

### **ENVIRONMENTAL REVIEW**

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

### RESIDENTIAL DESIGN TEAM REVIEW

The Residential Design Team (RDT) found that the proposed project meets the standards of the Residential Design Guidelines (RDGs) and that the project does not present any exceptional or extraordinary circumstances for the following reasons:

• RDT supports the proposed spiral stair and deck design because it is compact, will not require a fire-rated wall, and will provide direct access to the rear yard.

Under the Commission's pending DR Reform Legislation, this project would not be referred to the Commission as this project does not contain or create any exceptional or extraordinary circumstances.

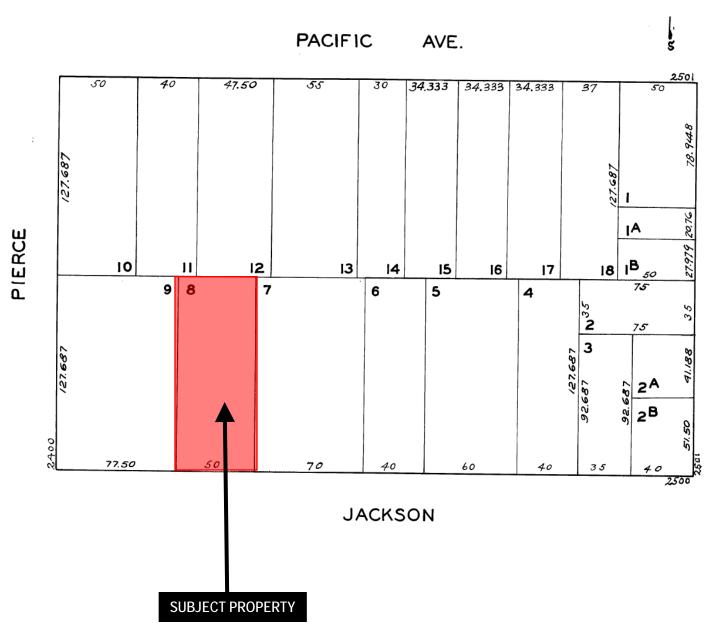
RECOMMENDATION: Do not take DR and approve project as proposed

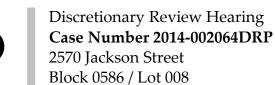
### **Attachments:**

Block Book Map
Sanborn Map
Zoning Map
Aerial Photographs
Section 311 Notice
DR Application, dated November 20, 2014
Response to DR Application, dated December 16, 2014
Brief in Opposition to Discretionary Review Request, dated January 22, 2015
Reduced Plans

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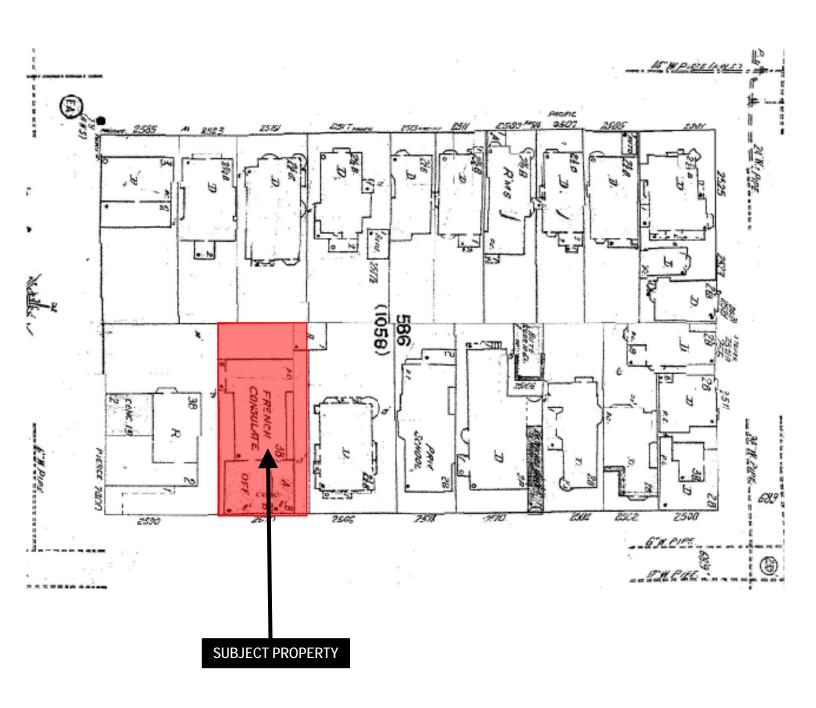
## **Block Book Map**







## Sanborn Map\*



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

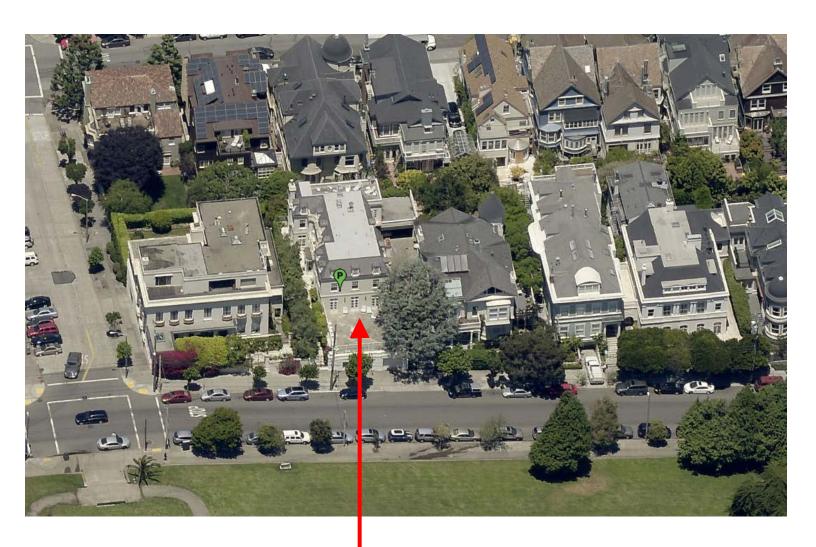


### **Zoning Map**



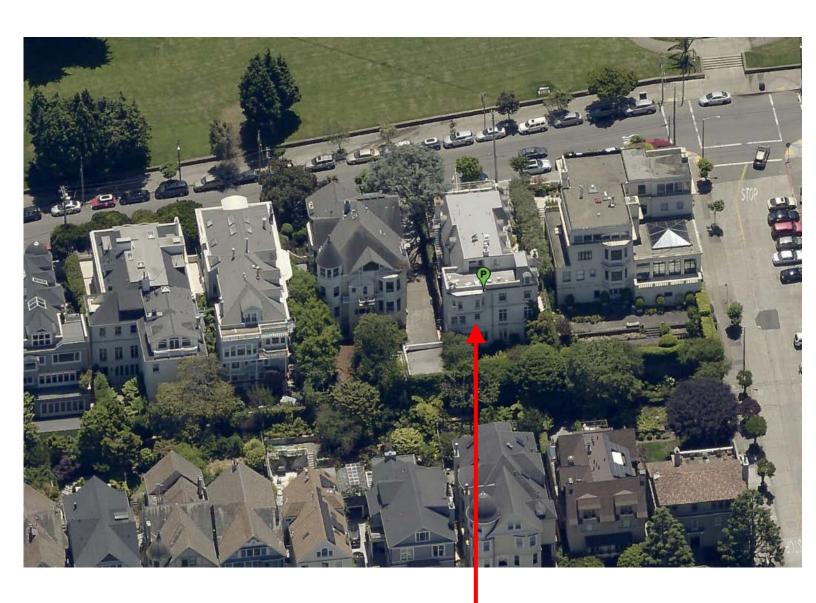


## **Aerial Photo (looking north)**



SUBJECT PROPERTY

## **Aerial Photo (looking south)**



SUBJECT PROPERTY

1650 Mission Street Suite 400 San Francisco, CA 94103

### NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311/312)

On **April 8, 2014**, the Applicant named below filed Building Permit Application No. **2014.04.08.2705** with the City and County of San Francisco.

PROP	ERTY INFORMATION	APPLICANT INFORMATION		
Project Address:	2570 Jackson Street	Applicant:	Federico Engel	
Cross Street(s):	Pierce & Steiner	Address:	1420 Sutter Street, First Floor	
Block/Lot No.:	0586/008	City, State:	San Francisco, CA 94109	
Zoning District(s):	RH-1 / 40-X	Telephone:	(415) 674-5554	

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

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

PROJECT SCOPE						
□ Demolition	□ New Construction	☑ Alteration				
☐ Change of Use	☐ Façade Alteration(s)	☐ Front Addition				
■ Rear Addition	☐ Side Addition	□ Vertical Addition				
PROJECT FEATURES	EXISTING	PROPOSED				
Building Use	Residential	No Change				
Front Setback	None	No Change				
Side Setbacks	Approx. 5-11 feet	No Change				
Building Depth	Approx. 103 feet	No Change				
Rear Yard	Approx. 24 feet	No Change				
Building Height	Approx. 40 feet	No Change				
Number of Stories	3 over garage	No Change				
Number of Dwelling Units	1	No Change				
Number of Parking Spaces	3	No Change				
PROJECT DESCRIPTION						

The project proposes to replace approximately 5-foot tall windscreens around a deck above the one-story garage at the front of the property and around a side terrace at the northwest corner towards the rear of the property and to construct a deck with spiral stairs at the rear of the three-story-over-garage, single-family dwelling.

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

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

Planner:

Christine Lamorena

Telephone: E-mail: (415) 575-9085

christine.lamorena@sfgov.org

Notice Date: 10/23/2014 Expiration Date: 11/22/2014

中文詢問請電: (415) 575-9010

Para información en Español llamar al: (415) 575-9010

### GENERAL INFORMATION ABOUT PROCEDURES

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

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

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

If, after exhausting the procedures outlined above, you still believe that exceptional and extraordinary circumstances exist, you have the option to request that the Planning Commission exercise its discretionary powers to review the project. These powers are reserved for use in exceptional and extraordinary circumstances for projects which generally conflict with the City's General Plan and the Priority Policies of the Planning Code; therefore the Commission exercises its discretion with utmost restraint. This procedure is called Discretionary Review. If you believe the project warrants Discretionary Review by the Planning Commission, you must file a Discretionary Review application prior to the Expiration Date shown on the front of this notice. Discretionary Review applications are available at the Planning Information Center (PIC), 1660 Mission Street, 1st Floor, or online at <a href="https://www.sfplanning.org">www.sfplanning.org</a>). You must submit the application in person at the Planning Information Center (PIC) between 8:00am - 5:00pm Monday-Friday, with all required materials and a check payable to the Planning Department. To determine the fee for a Discretionary Review, please refer to the Planning Department Fee Schedule available at <a href="https://www.sfplanning.org">www.sfplanning.org</a>. If the project includes multiple building permits, i.e. demolition and new construction, a <a href="https://www.sfplanning.org">separate request</a> for Discretionary Review must be submitted, with all required materials and fee, for <a href="https://www.sfplanning.org">each</a> permit that you feel will have an impact on you. Incomplete applications will not be accepted.

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

### **BOARD OF APPEALS**

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

#### **ENVIRONMENTAL REVIEW**

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

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

### **APPLICATION FOR**

## **Discretionary Review**

### RECEIVED

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·	Y & COUNTY OF S.F.
21P CÓDE: 94115	TELEPHONE: (415) 713 47-34
7	
21P CODE:	TELEPHONE:
ZIP CODE: 94109	TELEPHONE: (415) 674 5554
	A CONTRACTOR OF THE CONTRACTOR
	ZIP CODE: 94115
CT:	HEIGHT/BULK DISTRICT:
Alterations Z L	Demolition
Alterations 🗾 L	Demolition  Other
	Demolition   Other
	ZIP CODE: 94115  ARY REVIEW NAME: 21P CODE: 94115

DOCKET COPY DO NOT REMOVE 4. Actions Prior to a Discretionary Review Request

Prior Action	YES	NO
Have you discussed this project with the permit applicant?	¥	
Did you discuss the project with the Planning Department permit review planner?		X
Did you participate in outside mediation on this case?		X.
Planner did NOT N	etur	n
phone calls or e-mai	1.	

5. Changes Made to the Project as a Result of Mediation
If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes there were made to the proposed project.

### Discretionary Review Request

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

l.	What are the reasons for requesting Discretionary Review? The project meets the minimum standards of the Planning Code. What are the exceptional and extraordinary circumstances that justify Discretionary Review of
	the project? How does the project conflict with the City's General Plan or the Planning Code's Priority Policies or Residential Design Guidelines? Please be specific and site specific sections of the Residential Design Guidelines.
	Building afready intrudes into
	required rear yard. Proposed Addition
	Building already intrudes into required rear yard. Proposed Addition will INCREASE this REAT YARD INTRUSION
2.	The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:
	Neighbors will loose privacy light
	+ Air with this proposed further
	INTRUSION INTO REAR YARD
3.	What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?
	Delete this Rear yard intrusion
	Building already has access to rear
	yard through an interior Stairway

### Applicant's Affidavit

Under penalty of perjury the following declarations are made:

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

Signature:

Date: 1-19-2014

Print name, and indicate whether owner, or authorized agent:

Owner Authorized Agent (circle one)

# Discretionary Review Application Submittal Checklist

Applications submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and signed by the applicant or authorized agent.

REQUIRED MATERIALS (please check correct column)	DR APPLICATION
Application, with all blanks completed	
Address labels (original), if applicable	0
Address labels (copy of the above), if applicable	0
Photocopy of this completed application	
Photographs that illustrate your concerns	
Convenant or Deed Restrictions	
Check payable to Planning Dept.	
Letter of authorization for agent	
Other: Section Plan, Detail drawings (i.e. windows, door entries, trim), Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new elements (i.e. windows, doors)	8

0		

Required Material.

Optional Material.
 Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

	trivent Use Only						3	
Applic	receive	ed by Plan	ning Depa	rtment:			1 1	7
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December 16, 2014

#### RESPONSE TO DISCRETIONARY REVIEW

CASE NO		
BUILDING PERMIT	2014-0408-2705	
ADDRESS	2570 JACKSON ST	

Our office represents Dan and Meagan Nye, owners of the property located at 2570 Jackson (the "Property"). The Property is currently improved with a single family residence with three levels over basement. The residence was built in 1924 and became the French Consulate in the 1960s. The Property was purchased by Dan and Meagan in 2013 and they are currently undergoing an extensive interior renovation, under an existing permit, to bring the Property back to use as a single family residence for them and their two children.

As part of the renovation and modernization of the house, we are currently proposing an addition (the "Project") consisting of a cantilevered balcony on the second floor and a one-story spiral stair at the rear facade. The Project is purposefully modest in scope and does not have an unreasonable impact to adjacent properties in the form of loss of privacy, light and air. As such, we respectfully request that you deny the request for Discretionary Review and approve the modest expansion proposed.

### A. Project Overview:

The Project proposes the following alterations to the existing single family home:

- Front façade: replace and upgrade the existing glass guardrail at the front façade. The existing guardrail consists of a heavy metal frame that has deteriorated past its usable life and we propose to replace it with a new 'frameless' glass rail that is much less obtrusive and attractive. The removal of the existing guardrail and installation of the new guardrail will help restore the historical significance of the Property and improve the aesthetics of the home. The front 15' of the guardrail extends into the required front yard setback and as such is subject to a variance. This part of the Project is not part of the DR request and as such won't be discussed in detail in the following pages.
- Rear façade: add a new balcony on the second floor and a one-story spiral stair. The proposed balcony is
  designed as 3' wide, a minimum dimension for access, cantilevered from the existing rear façade and will
  have a glass guardrail. The proposed spiral stair will be 5'diameter- a minimum dimension for a functional

spiral stair, and one story in height-connecting the second floor with the rear yard. The proposed balcony and spiral stair are within the rear yard setback and as such are subject to a variance. The purpose of the project is to provide direct exterior access to the rear yard from the front property line, a feature that exists in both adjacent properties. The Project will also improves access from the main living area on the second floor to the rear yard making this remote outdoor area more functional and valuable for Dan, Meagan and their children.

### **B.** Project Design Development:

- Pre-Application meeting: Held on September 25, 2013. The Pre-Application meeting was attended by Jacqueline Mohanna as a representative of the Pacific Heights Residents Association (PHRA), who is now the DR requestor. At the time Ms. Mohanna wanted to confirm that adjacent neighbors were aware of the Project and the project sponsor stated that they were notified via the required 311 mailing. In addition the two adjacent neighbors at 2590 and 2546 were contacted directly via telephone since they are the ones most impacted by the Project. The two adjacent neighbors did not have any concerns at that time regarding the Project.
- Variance Submitted on September 24, 2013:
- Per email comment from the Project planner, Christine Lamorena, on January 7, 2014. The RDT directs that the
  spiral stair be relocated to the east side of the house to eliminate the need for a 1hr wall adjacent to the west
  property line. This redesign has the advantage of grouping our proposed rear yard encroachment with the
  neighbor to the east, 2546 Jackson, that also has a rear yard encroachment in the form of a two car garage.
- Variance hearing is held on April 23, 2014.
- Per email from planner on October 1, 2014. The ZA is 'inclined to grant the variance and....will finish out the 311 notification.'
- 311-30 Day notification runs 10/23-11/22.
  - On November 13, Federico Engel of Butler Armsden Architects speaks with Greg Scott of the PHRA. Mr. Scott states that he wants the balcony and spiral stair removed from the Project or a DR will likely be filed. Mr. Scott was not willing to meet to review the project or look at alternates. On November 17, Lewis Butler also spoke with Mr. Scott without reaching a compromise.
- Butler Armsden has contacted the two adjacent neighbors at 2590 and 2546 jackson, as well as a neighbor to the
  north at 2523 Pacific. These neighbors do not have concerns about the Project. No neighbor, except for Greg
  Scott of the PHRA, has contacted us with concerns about the Project.
- C. Project Complies with Neighbor Residential Design Guidelines and Does Not Create Unreasonable Impacts:



The DR Requestor cites one reason of extraordinary circumstances that justify Discretionary Review of the Project, "Building already Intrudes into the required rear yard. Proposed Addition will increase this Rear Yard Intrusion."

And the DR requestor cites two unreasonable impacts: "Neighbors will lose Privacy...and Light and Air."

#### Minor Rear Yard Intrusion Is Not An Exceptional or Extraordinary Circumstance:

- None of the immediately adjacent neighbors have expressed a concern about exceptional or extraordinary impacts to their properties as a result of the Project.
- The existing building currently encroaches into the 25% required rear yard by 6'10" for a total existing rear yard of 25'9", while a 31'-8" setback is required. The proposed second floor balcony will encroach an additional 3' for a new setback of 22'9". It is a modest encroachment that would exist only on the second floor given that the balcony is fully cantilevered, open above and below, and will create a minimal change to the envelope of the Property.
- The encroachment into the rear yard is a hardship created by the 1924 siting of the house, which creates an existing non-conforming condition, leaving 35'2"± as a front setback when only 15' is required. The Property was built in 1924 for the Ghirardelli family and designed by Albert Farr, today considered a 'Master Architect'. While the property does not have a historical survey it carries a Historic Resource status of 'B- Potential Historic Resource'. Thus it is not desirable or feasible to expand at the front façade, despite the excessive front setback, and a minimal expansion as currently proposed is appropriate.
- The DR requestor argues that rear yard access already exists through the inside of the house. However, the
  purpose of the proposed balcony and stair is also to provide direct exterior access to the rear yard from the front
  of the property. This is a feature that currently does not exist with the Property, but is a feature shared with
  many homes in this area including both adjacent properties, 2546 Jackson and 2590 Jackson.
- Interior access from the primary living area on the second floor to the rear yard will also be improved by the
  Project. The Planning Code calls for usable open space to be "as close as practical to the dwelling...with
  convenient private access." (Sec. 135.) Providing direct access to the rear yard is consistent with the policies
  embodied in the Planning Code.
- The existing drawings from 1924 show a spiral stair in the rear yard, and this is a feature that Dan and Meagan want to re-introduce. Exhibit D.
- Out of the (8) properties along the 2500 block of Jackson Street, (5) properties have existing encroachments into
  the rear yard, including the (3) neighbor directly to the east of the Property. In addition (3) properties will still
  have rear yard encroachments exceeding the proposed Project. Exhibit A.



Thus the Project will not create an extraordinary circumstance. The spiral stair is likely an original element of the house that at some point was removed and there are many examples of more substantial encroachments into the rear yard along the 2500 block of Jackson. Exhibits A & D.

### Loss of Light and Air:

Although the DR requestor does not state a specific property that will be affected by loss of light and air we will analyze the impact or lack of impact of the Project on immediate neighbors. Again, no neighboring property owner has objected to the project. The Residential Design Guidelines confirm that "some reduction of light to neighboring building can be expected with a building expansion" and recommends "open railings and decks and stair".

The Project, balcony and spiral stair, is located on the existing north façade of the Property and north of the adjacent properties at 2590 and 2546 Jackson by 25'± & 31'± respectively, Exhibit B. As such the Project will not cast a shadow or impact Light and Air into the adjacent habitable structures. The proposed balcony is cantilevered with a glass rail and the spiral stair is an open structure with an open metal guardrail as recommended by the Guidelines, thus minimizing the casting of shadows into adjacent open space.

The property contiguous to the north at 2519 Pacific is currently 68' horizontal feet to the north of the Property and the proposed balcony will reduce this distance by 3' to 65' only at the second floor of the Property, Exhibit B. A reduction of 3' will have no impact on light and air especially since the proposed balcony is located on the second level well below the height and mass of the existing house. The shadow of the balcony will be dwarfed and shrouded by the existing shadow of the existing Property resulting in a 0% increase of shadow.

### **Loss of Privacy:**

No immediate neighbor has expressed a concern about a loss of privacy. Nonetheless, the Residential Design Guidelines expressly recognize that some loss of privacy to existing neighboring building can be expected with a building expansion. In this case, the Project has virtually no impact on neighbor's privacy for the reasons stated above and the existing and proposed separation to structures.



The loss of privacy with 2519 Pacific will also be minimal as the balcony represents a reduction of 3' separating the two structures, from 68' to 65'. In addition the existing topography is such that Pacific is approximately 30-40 lower in elevation that Jackson St. As such the proposed balcony is level with the roof of 2519 Jackson and this vertical privacy is maintained by an existing retaining wall, fence and vegetation., Exhibit C.

#### D. Conclusion:

Dan and Meagan are excited to improve their home in a way that accommodates their family and restores its historical significance after 50 years of neglect and use by the French Government. The Project is purposefully very modest in scale and scope to minimize the encroachment into the rear yard, which will remain smaller than other existing encroachments on the 2500 block of Jackson St. The architects worked with the RDT during the early permitting stages to locate the spiral in the most inconspicuous and appropriate location and have designed an elegant and open balcony and stair. It has no impact on the light, air and privacy of adjacent neighbors and greatly enhances the property, in the form of direct exterior access to the rear yard, shared by adjacent properties.

Dan and Meagan now ask the Planning Commission to confirm that the Project is reasonable and modest in nature and does not rise to the threshold of "exceptional and extraordinary circumstances" that are required to approve the DR request. We respectfully request that the Planning Commission deny the Discretionary Review Request and allow the project to move forward. Thank you for your consideration.

Very Truly Yours,

**Federico Engel** 

**Butler Armsden Architect** 

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### REUBEN, JUNIUS & ROSE, LLP

January 22, 2015

### **By Messenger**

President Rodney Fong Commission President San Francisco Planning Commission 1650 Mission Street, Suite 400 San Francisco, CA 94103

Re: 2570 Jackson Street- Brief In Opposition to Discretionary Review

Request

Our File No.: 8741.01

Dear President Fong:

Our office represents Dan and Meagan Nye, owners of the property located at 2570 Jackson (the "Property"). The Property is currently improved with a single family residence with three levels over basement. The residence was built in 1924 and became the French Consulate in the 1960s. The Property was purchased by Dan and Meagan in 2013 and they are currently undergoing an extensive interior renovation, under an existing permit, to bring the Property back to use as a single family residence for them and their two children.

As part of the renovation and modernization of the house, the Nyes propose to replace an existing guardrail at the front façade and, at the rear façade, add a cantilevered balcony on the second floor and a one-story spiral stair ("Project"). The Project will improve access from the main living level to the rear yard and provide direct access from this level to the front of the Property.

The Project is purposefully modest in scope and does not have an unreasonable impact to adjacent properties in the form of loss of privacy, light and air. Immediate neighbors support the Project; no one other than the DR requestor has objected. As such, we respectfully request that you deny the request for Discretionary Review and approve the new features proposed.

### A. Project Overview

The Project proposes the following alterations to the existing single family home:

• Rear façade: add a new balcony on the second floor and a one-story spiral stair (Exhibit F). The proposed balcony is 3' wide, a minimum dimension for access,

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin Sheryl Reuben¹ | David Silverman | Thomas Tunny | Jay F. Drake | John Kevlin Lindsay M. Petrone | Melinda A. Sarjapur | Mark H. Loper | Jody Knight | Jared Eigerman².³ | John McInerney III²

1. Also admitted in New York 2. Of Counsel 3. Also admitted in Massachusetts

One Bush Street, Suite 600 San Francisco, CA 94104

cantilevered from the existing rear façade. It will have a glass guardrail. The proposed spiral stair will be 5' in diameter- a minimum dimension for a functional spiral stair, and one story in height-connecting the second floor with the rear yard. The proposed balcony and spiral stair are within the rear yard setback and as such are subject to a variance. The purpose of the project is to provide direct exterior access to the rear yard from the front property line, a feature that exists in both adjacent properties. The Project will also improve access from the main living area on the second floor to the rear yard, making this remote outdoor area more functional for Dan, Meagan and their children.

• Front façade: The DR request did not suggest modifications to the proposed 'frameless' glass rail at the front façade, which will replace a heavy metal guardrail, improve the aesthetics of the home and bring the Property closer to its historic condition. The front 15' of the guardrail extends into the required front yard setback and as such is subject to a variance. Because the DR did not object to this part of the Project, it won't be discussed in detail in the following pages.

### B. Project Design Development

- Pre-Application meeting: Held on September 25, 2013. The Pre-Application meeting was attended by Jacqueline Mohanna as a representative of the Pacific Heights Residents Association (PHRA). At the time Ms. Mohanna wanted to confirm that adjacent neighbors were aware of the Project and the project sponsor stated that they were notified via the required 311 mailing. In addition the two adjacent neighbors at 2590 and 2546 were contacted directly via telephone since they are the ones most impacted by the Project. The two adjacent neighbors did not have any concerns at that time, or since, regarding the Project.
- Variance Submitted on September 24, 2013.
- Per email comment from the Project planner, Christine Lamorena, on January 7, 2014. The RDT directs that the spiral stair be relocated to the east side of the house to eliminate the need for a wall adjacent to the west property line. This redesign has the advantage of grouping our proposed rear yard encroachment with the neighbor to the east, 2546 Jackson. That building also has a rear yard encroachment in the form of a two-car garage.
- Variance hearing is held on April 23, 2014.

One Bush Street, Suite 600 San Francisco, CA 94104

- Per email from planner on October 1, 2014 stating that the ZA is "inclined to grant the variance and...will finish out the 311 notification."
- 311-30 Day notification runs 10/23-11/22.

•

- On November 13, Federico Engel of Butler Armsden Architects speaks with Greg Scott of the PHRA. Mr. Scott states that he wants the balcony and spiral stair removed from the Project or a DR will likely be filed. Mr. Scott was not willing to meet to review the project or review site impacts on neighbors. On November 17, Lewis Butler also spoke with Mr. Scott without reaching a compromise.
- Butler Armsden has contacted the two adjacent neighbors at 2590 and 2546
  Jackson, as well as a neighbor to the north at 2523 Pacific. These neighbors do
  not have concerns about the Project. No neighbor, except for Greg Scott of the
  PHRA, has contacted us with concerns about the Project.

## C. <u>Project Complies with Residential Design Guidelines and Does Not Create Any Unreasonable Impacts</u>

The DR Requestor cites one reason of extraordinary circumstances to justify Discretionary Review of the Project, that the "Building already Intrudes into the required rear yard. Proposed Addition will increase this Rear Yard Intrusion. And the DR requestor cites two unreasonable impacts: (1) "Neighbors will lose Privacy, and (2) light and air."

### Minor Rear Yard Intrusion Is Not An Exceptional or Extraordinary Circumstance:

- 1. None of the immediately adjacent neighbors have expressed a concern about exceptional or extraordinary impacts to their properties as a result of the Project.
- 2. The existing building currently encroaches into the 25% required rear yard by 6'10" for a total existing rear yard of 25'9", while a 31'-8" setback is required. The proposed second floor balcony will encroach an additional 3' for a new setback of 22'9". It is a modest encroachment that would exist only on the second floor given that the balcony is fully cantilevered, open above and below, and will create a minimal change to the envelope of the Property. (Exhibit C)
- 3. The encroachment into the rear yard is a hardship created by the 1924 siting of the house, that creates an existing non-conforming condition, leaving 35'2"± as a front setback when only 15' is required. The Property was built in 1924 for the Ghirardelli family and designed by Albert Farr, today considered a 'Master

One Bush Street, Suite 600 San Francisco, CA 94104

Architect'. While the property has not had a historical survey performed, it carries a Historic Resource status of 'B- Potential Historic Resource'. Thus it is not desirable or feasible to expand at the front façade, despite the excessive front setback, and a minimal expansion as currently proposed is appropriate. (Exhibit C)

- 4. The DR requestor argues that rear yard access already exists through the inside of the house. However, the purpose of the proposed balcony and stair is also to provide direct exterior access to the rear yard from the front of the property. This is a feature shared with many homes in this area including both adjacent properties, 2546 Jackson and 2590 Jackson. (Exhibit B)
- 5. Interior access from the primary living area on the second floor to the rear yard will also be improved by the Project. The Planning Code calls for usable open space to be "as close as practical to the dwelling...with convenient private access." (Sec. 135.) Providing direct access to the rear yard is consistent with the policies embodied in the Planning Code.
- 6. The existing drawings from 1924 show a spiral stair in the rear yard, and this is a feature that Dan and Meagan want to re-introduce. (Exhibit G)
- 7. Out of the 8 properties along the 2500 block of Jackson Street, 5 properties have existing encroachments into the rear yard, including the 3 neighbor directly to the east of the Property. In addition 3 properties will still have rear yard encroachments exceeding the proposed Project. (Exhibit A)

Thus the Project will not create an extraordinary circumstance. The spiral stair is likely an original element of the house that at some point was removed and there are many examples of more substantial encroachments into the rear yard along the 2500 block of Jackson.

### **Loss of Light and Air:**

Although the DR requestor does not state a specific property that will be affected by loss of light and air, we will analyze the impact or lack of impact of the Project on immediate neighbors. Again, no neighboring property owner has objected to the project. The Residential Design Guidelines confirm that "some reduction of light to neighboring building can be expected with a building expansion" and recommends "open railings and decks and stair".

One Bush Street, Suite 600 San Francisco, CA 94104

The Project's balcony and spiral stair is located on the existing north façade of the Property and north of the adjacent properties at 2590 and 2546 Jackson by 25'± & 31'± respectively. As such the Project will not cast a shadow or impact Light and Air into the adjacent habitable structures. The proposed balcony is cantilevered with a glass rail and the spiral stair is an open structure with an open metal guardrail as recommended by the Guidelines, thus minimizing the casting of shadows into adjacent open space. (See Exhibit L for light and shadow studies)

The property contiguous to the north at 2519 Pacific is currently 68 horizontal feet to the north of the Property and the proposed balcony will reduce this distance by 3' to 65' only at the second floor of the Property, (Exhibit B). A reduction of 3' will have no impact on light and air especially since the proposed balcony is located on the second level well below the height and mass of the existing house. The shadow of the balcony will be dwarfed and shrouded by the existing shadow of the existing Property.

### **Loss of Privacy:**

No immediate neighbor has expressed a concern about a loss of privacy. Nonetheless, the Residential Design Guidelines expressly recognize that some loss of privacy to existing neighboring buildings can be expected with a building expansion. In this case, the Project has virtually no impact on either neighbor's privacy for the reasons stated above and the existing and proposed separation to structures.

The loss of privacy with 2519 Pacific will also be minimal as the balcony represents a reduction of 3' separating the two structures, from 68' to 65'. In addition, the existing topography is such that Pacific is approximately 30-40 feet lower in elevation than Jackson Street. As such the proposed balcony is level with the roof of 2519 Jackson. This vertical privacy is maintained by an existing retaining wall, fence and vegetation. (Exhibit C, H, I).

### D. Conclusion:

Dan and Meagan are excited to improve their home in a way that accommodates their family and returns it closer to its historical condition after 50 years of intensive use by the French Government. The Project is purposefully very modest in scale and scope to minimize the encroachment into the rear yard, which will remain smaller than other existing encroachments on the 2500 block of Jackson St. The architects worked with the RDT during the early permitting stages to locate the spiral in the most inconspicuous and appropriate location and have designed an elegant and open balcony and stair. It has no impact on the light, air and privacy of adjacent neighbors and greatly enhances the property, in the form of direct exterior access to the rear yard, shared by adjacent properties.

One Bush Street, Suite 600 San Francisco, CA 94104

No immediate neighbor has objected to the Project; in fact both immediate neighbors support it. The lone objection comes from the DR Requestor. Dan and Meagan now ask the Planning Commission to confirm that the Project is reasonable and modest in nature and does not rise to the threshold of "exceptional and extraordinary circumstances" that are required to approve the DR request. We respectfully request that the Planning Commission deny the Discretionary Review Request and allow the project to move forward. Thank you for your consideration.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP

Daniel a. Frattin

Daniel A. Frattin

### **Enclosures**

cc: Vice President Cindy Wu

Commissioner Michael Antonini

Commissioner Rich Hills

Commissioner Christine D Johnson

Commissioner Katherin Moore

Commissioner Dennis Richards

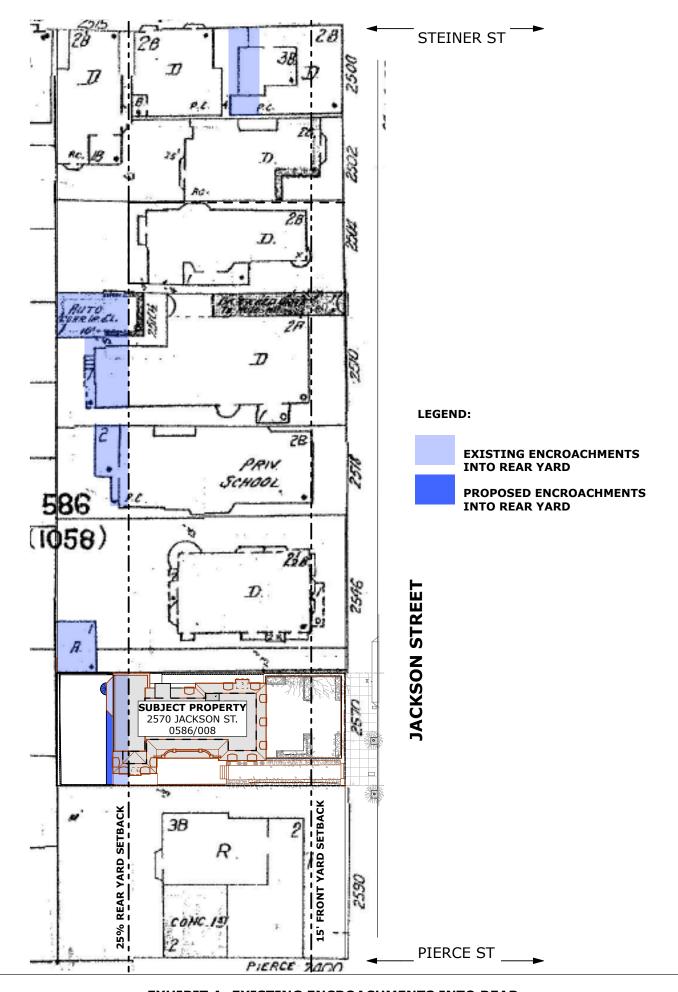
Dan and Meagan Nye- project sponsors

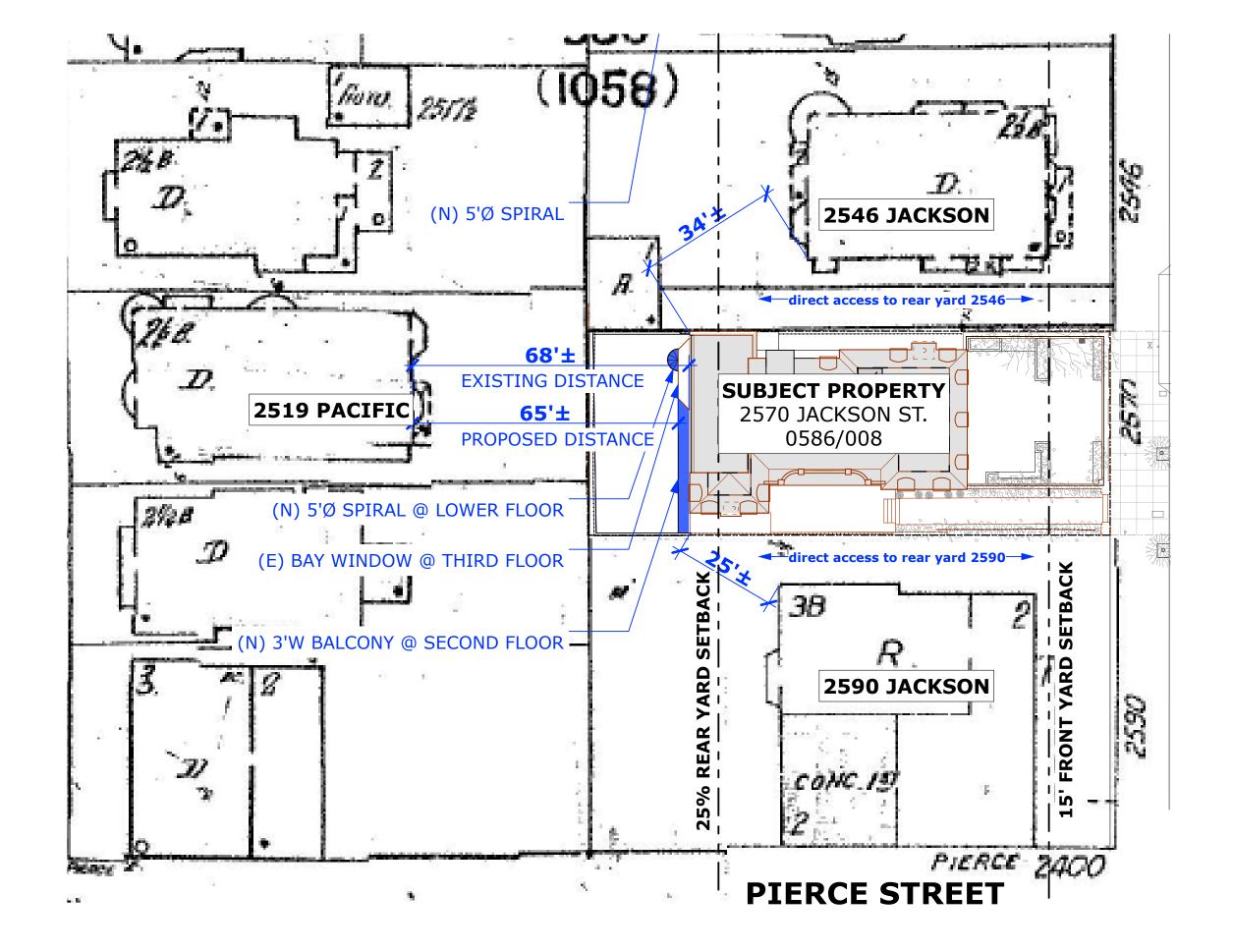
Jim Reuben- Project Attorney

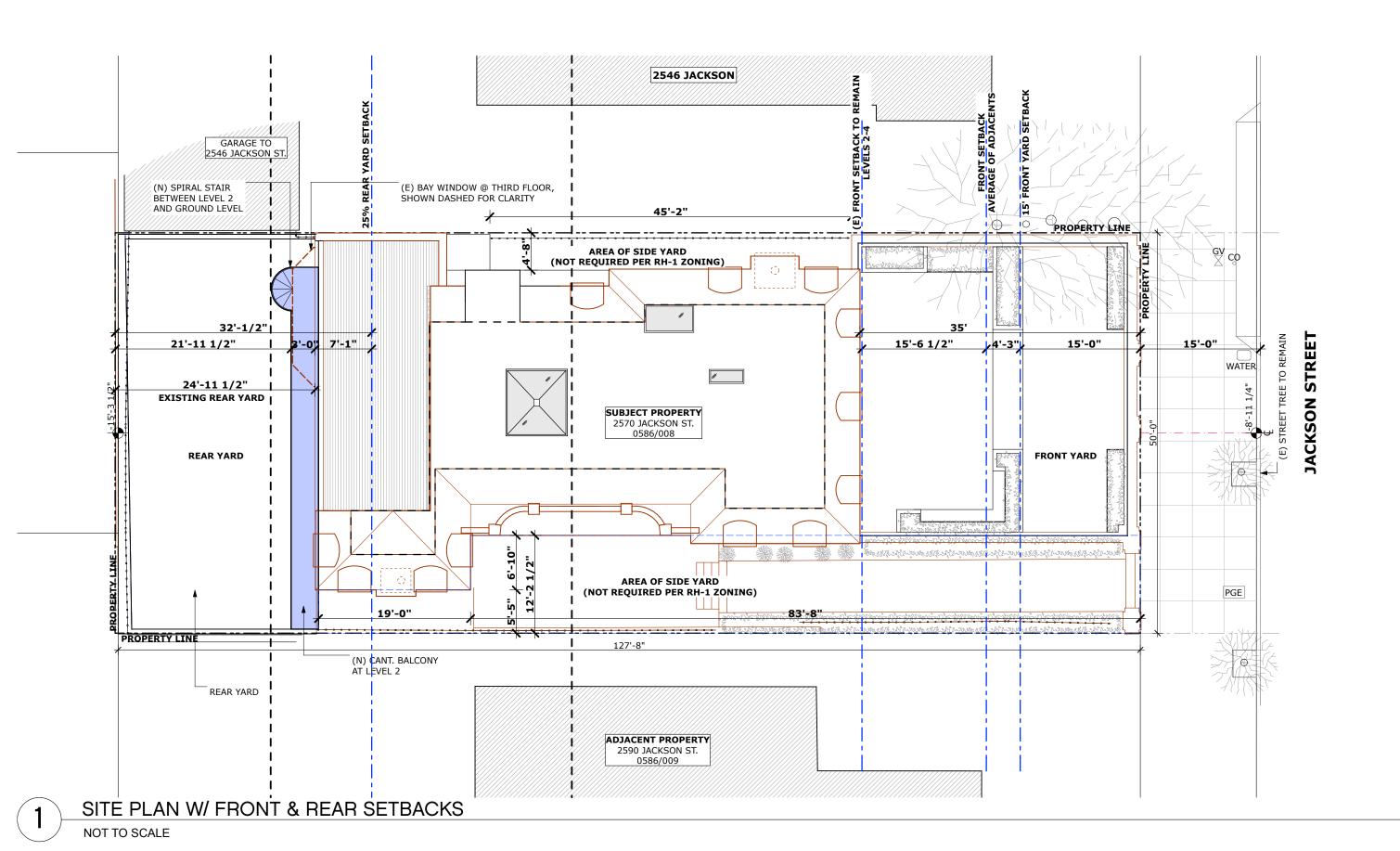
Dan Frattin- Project Attorney

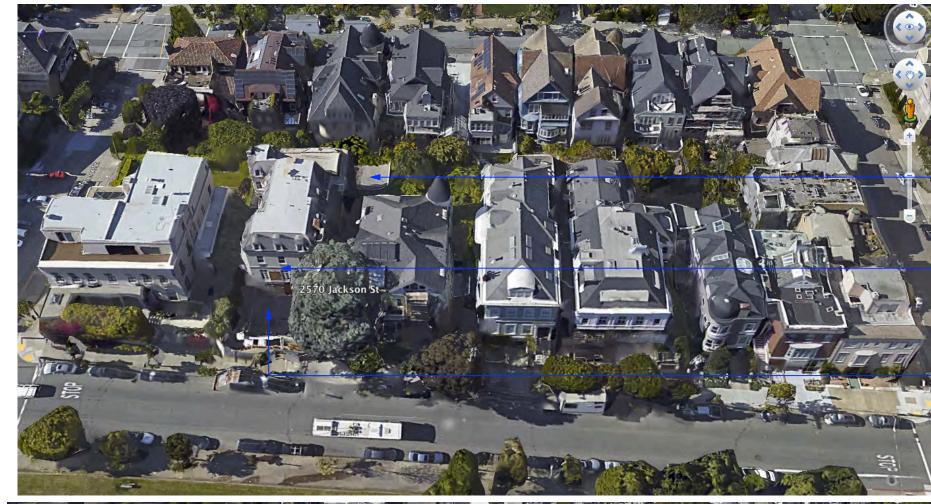
Christine Lamorena- project planner SFPlanning

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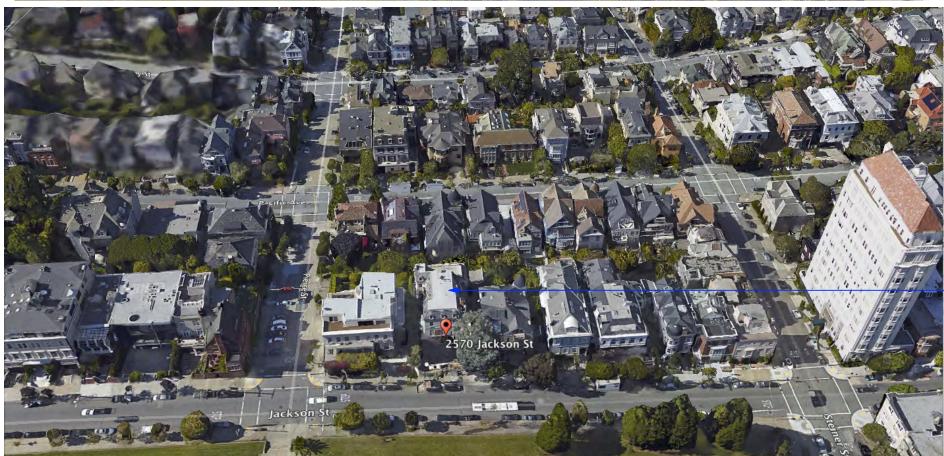




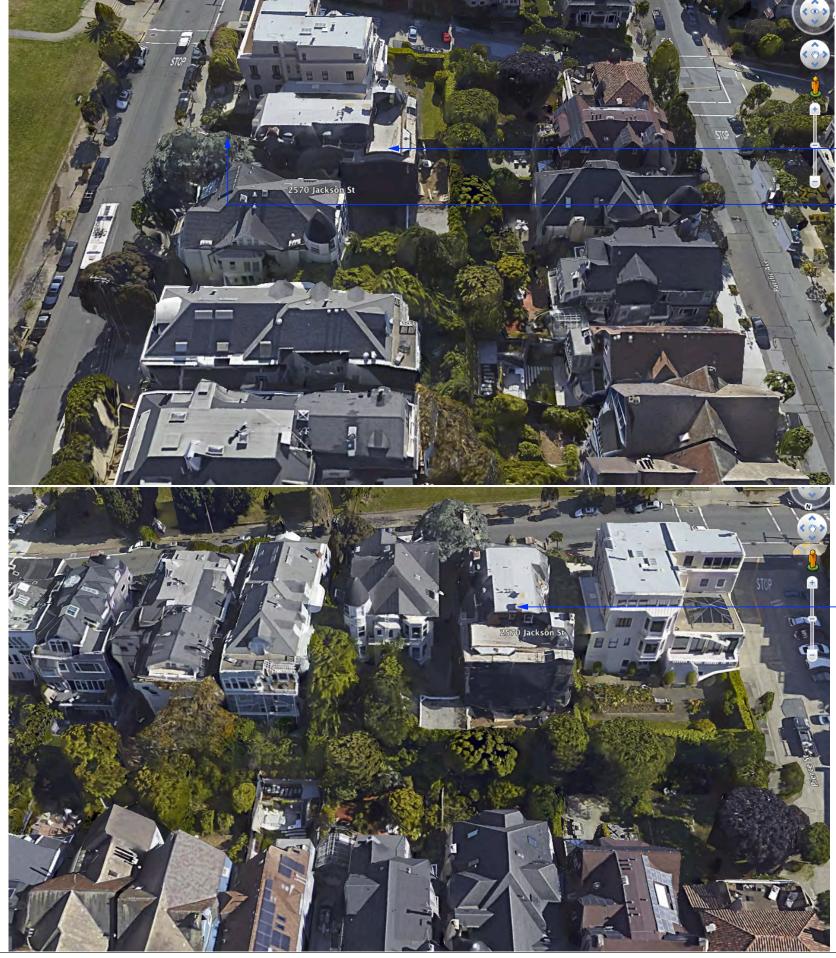
2 CAR GARAGE AT 2548 JACKSON

SUBJECT PROPERTY FRONT AERIAL

LARGER THAN TYPICAL FRONT SETBACK AT LEVELS 2-4



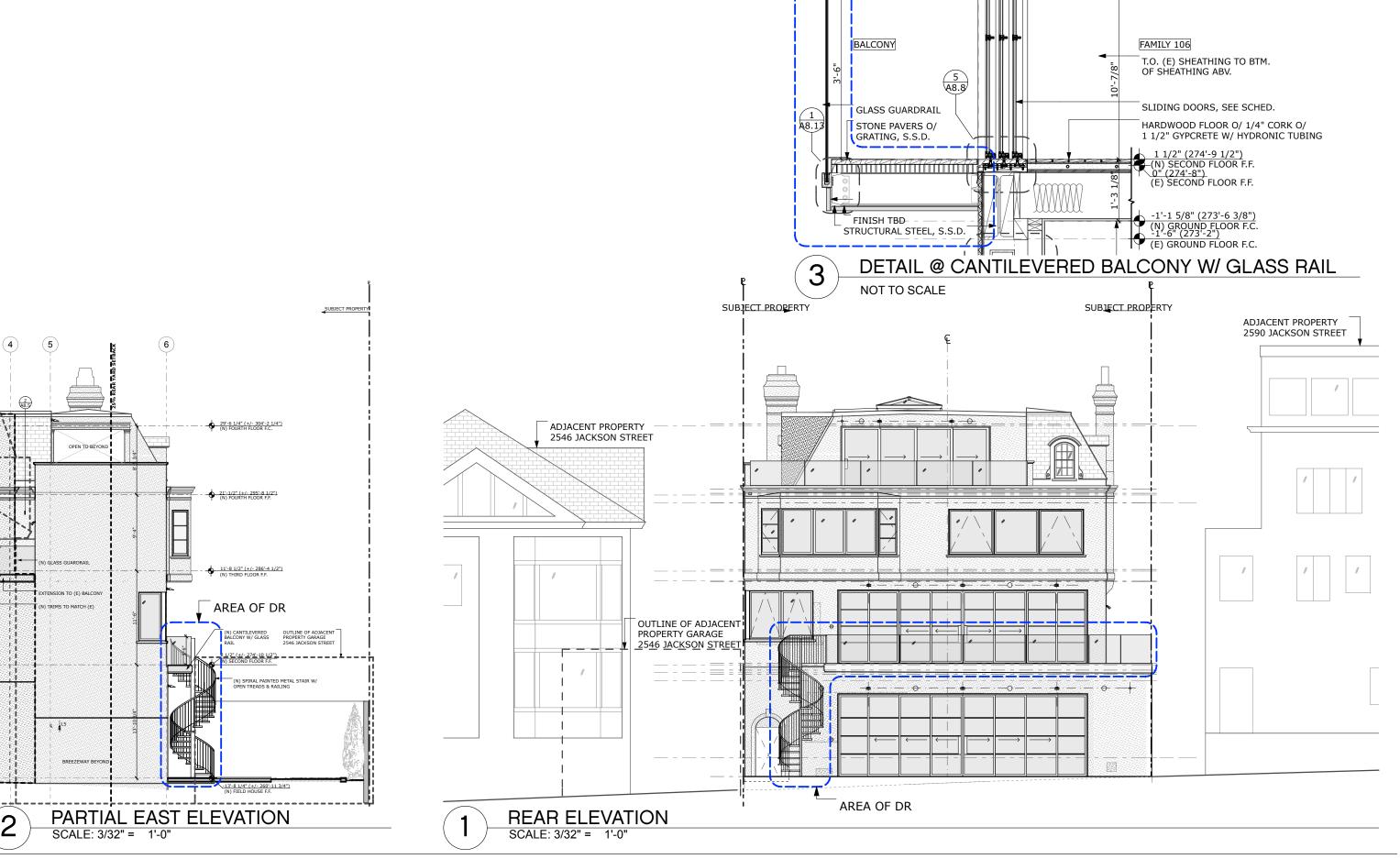
SUBJECT PROPERTY

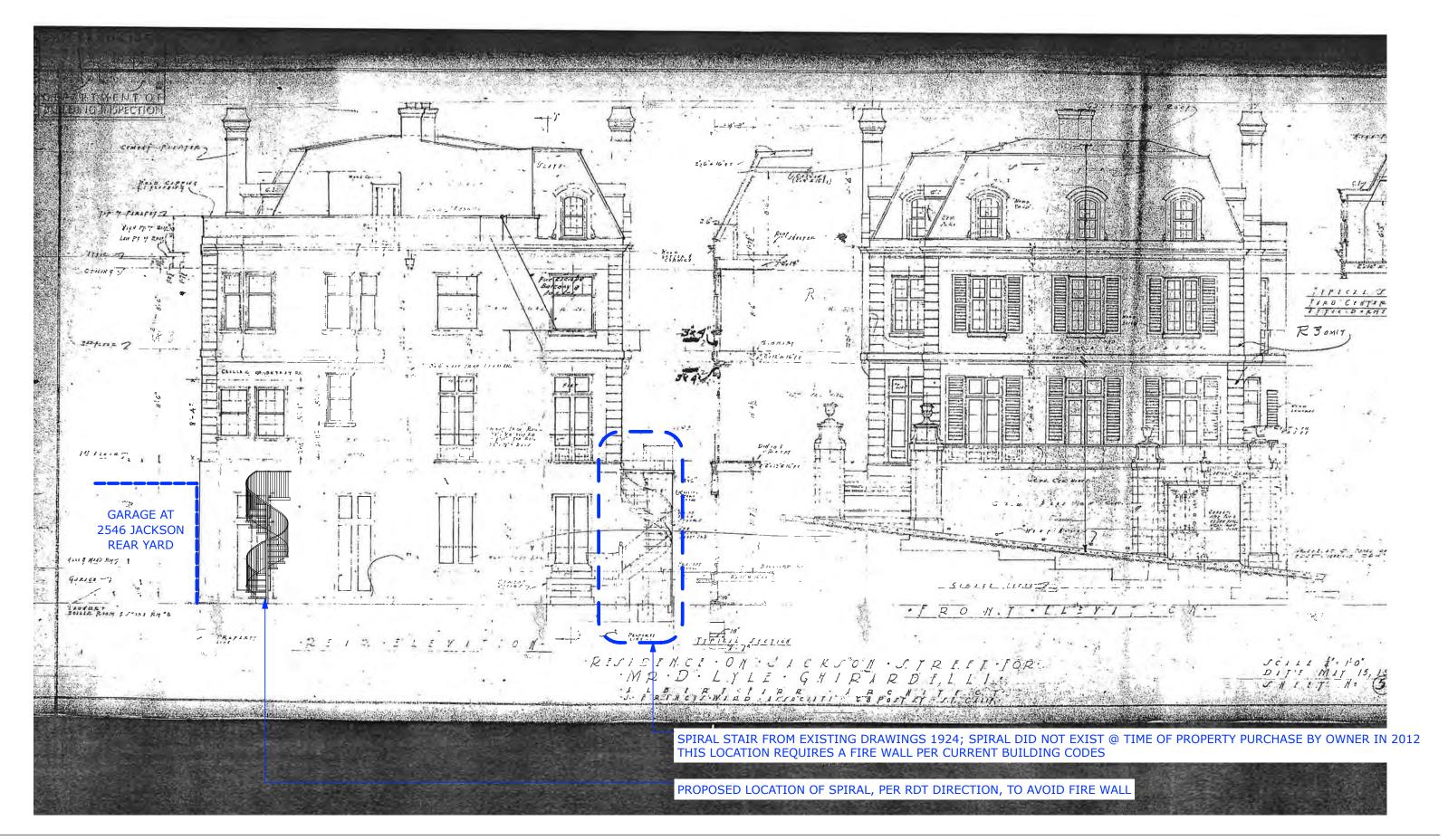


SUBJECT PROPERTY, EAST FACADE LOOKING WEST

LARGER THAN TYPICAL FRONT SETBACK AT LEVELS 2-4

SUBJECT PROPERTY REAR VIEW









PANORAMIC PHOTO IS TAKED FROM LIVING ROOM AT EYE HEIGHT

PLAN @ 2ND FLOOR

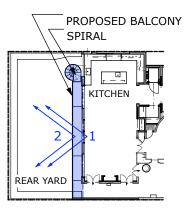


PHOTO LEGEND: PARTIAL PLAN @ 2ND FLOOR

2519 PACIFIC IS 65'± AWAY

2519 PACIFIC IS 68'± AWAY



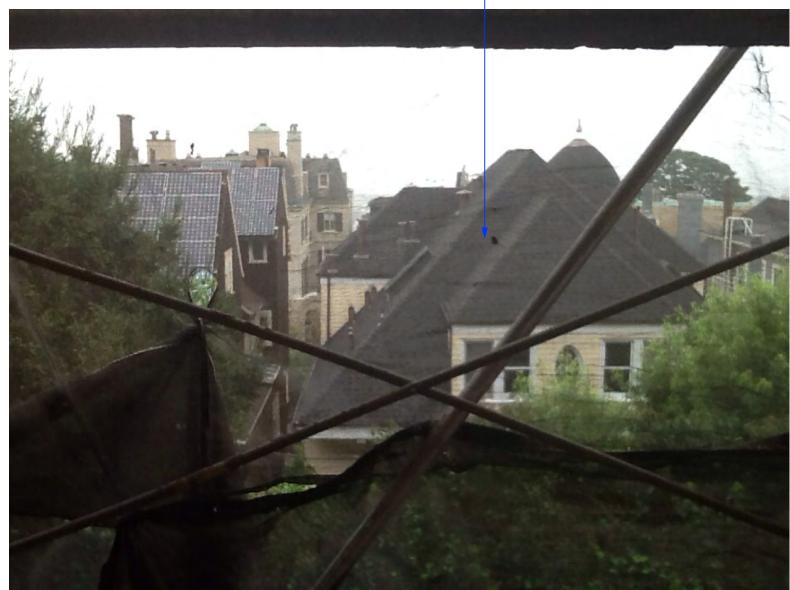


PHOTO LOOKING NORTH FROM SCAFFOLDING (SIMILAR TO BALCONY)

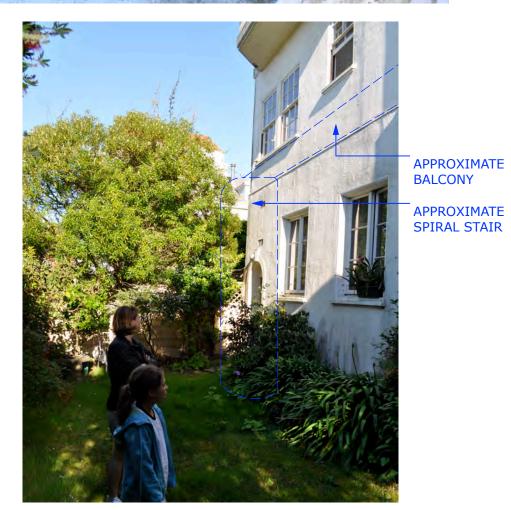
PHOTO LOOKING NORTH FROM EXISTING LIVING ROOM WINDOWS





APPROXIMATE TOP OF FENCES





**REAR YARD PHOTO SOUTH EAST** 





**LEGEND:** 

**NEW SHADOW DUE TO PROJECT** 

**EXISTING SHADOW (NO CHANGE)** 

DEC 21, 4:00PM



MODEL REFERENCES & AIDS: -GOOGLE MAPS TOPOGRAPHIC MAP

-SITE SURVEY
-SITE PHOTOS
-SANDBORN MAPS

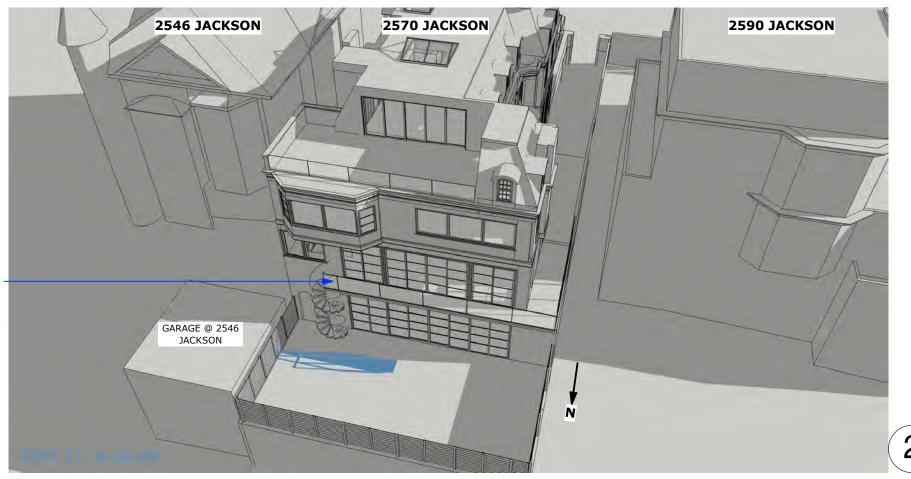
DEC 21, 8:00AM



ALTA PLAZA RESIDENCE

JUNE 21, 8:00 AM

JUNE 21, 8:00AM



PROJECT: CANTILEVERED BALCONY W/ GLASS GUARDRAIL & OPEN SPIRAL STAIR

LEGEND:

**NEW SHADOW DUE TO PROJECT** 

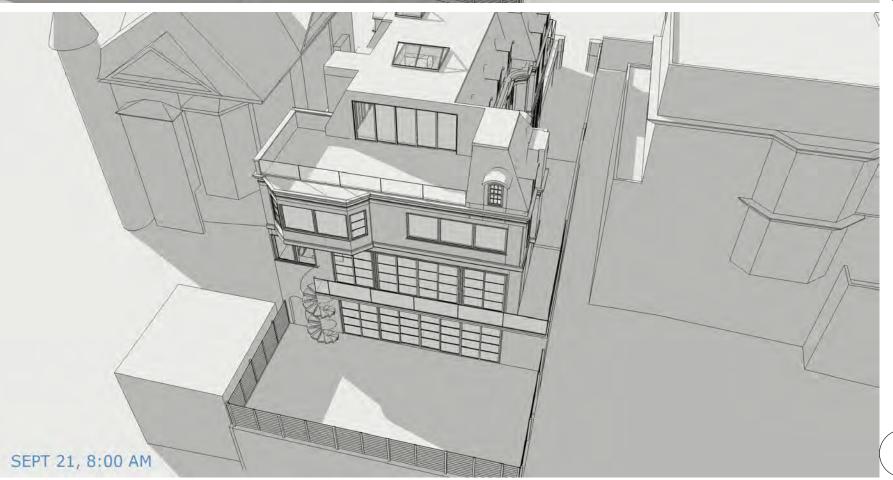


**EXISTING SHADOW (NO CHANGE)** 

2

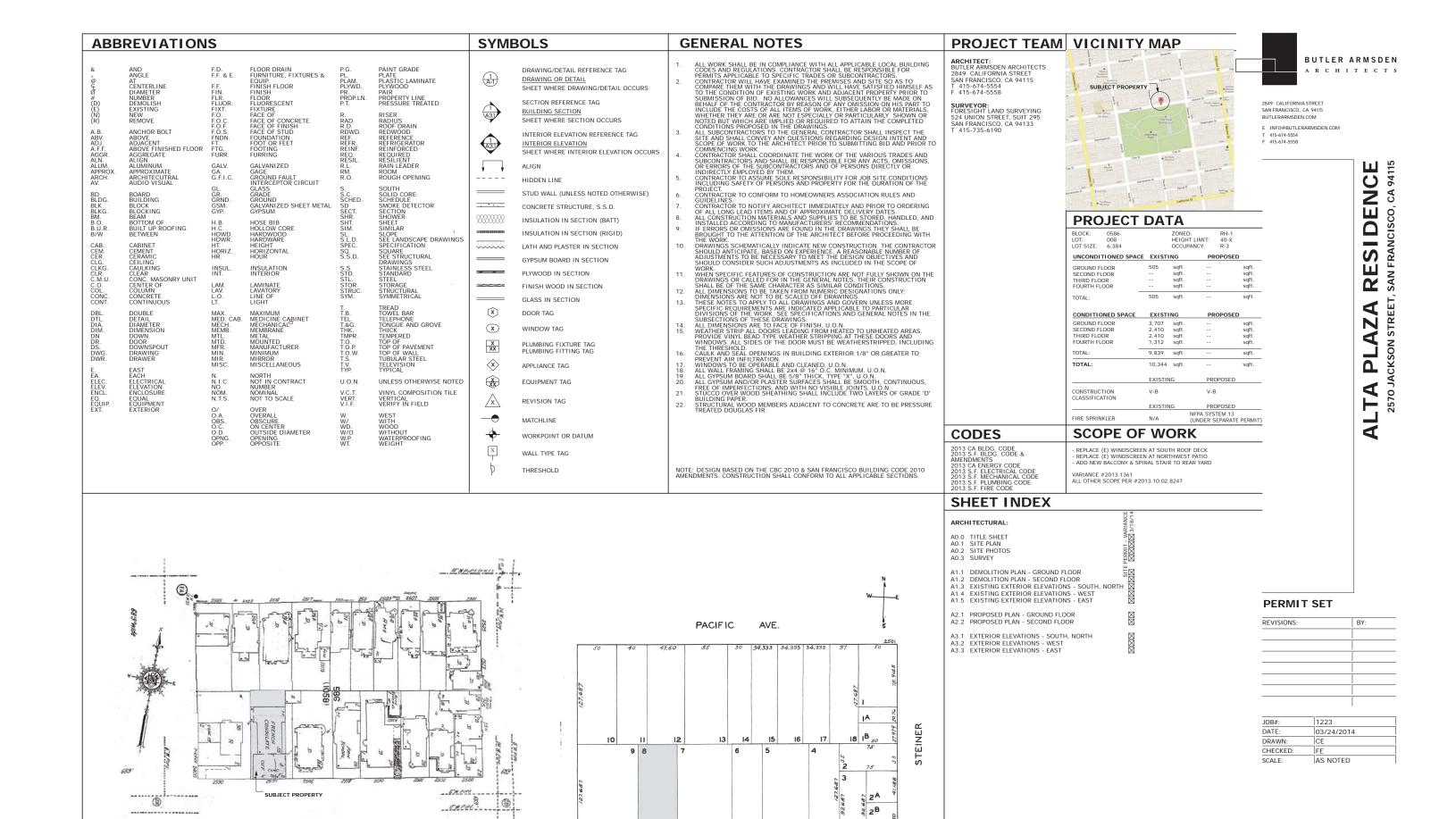
SEPT 21, 4:00PM

MARCH 20, SIM.



SEPT 21, 8:00AM

MARCH 20, SIM.



SUBJECT PROPERTY

**BLOCK MAP** 

NOT TO SCALE

**JACKSON** 

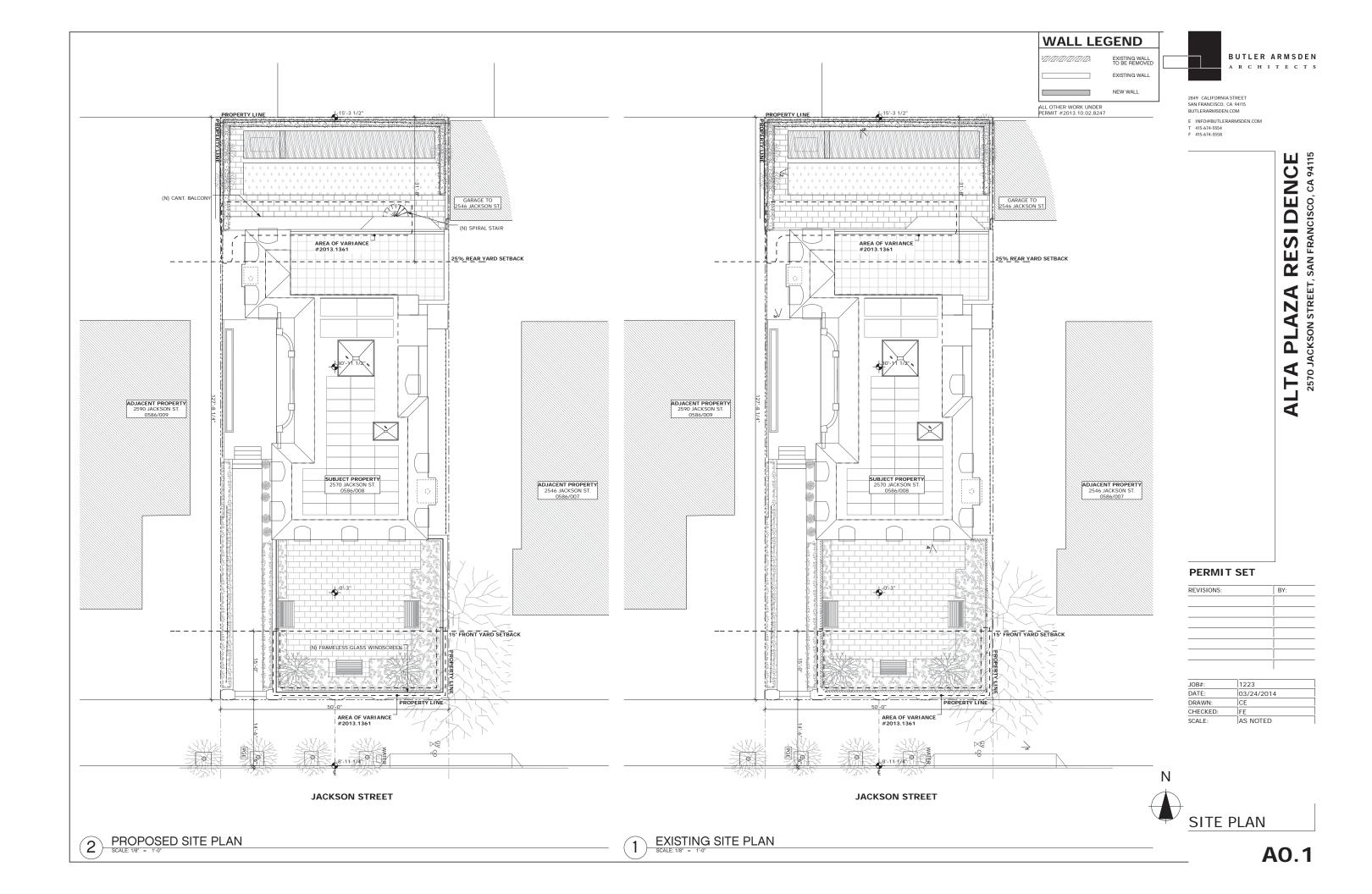
PLAZA

NOT TO SCALE

HISTORIC SANBORN MAP

607

TITLE SHEET





ALTA PLAZA RESIDENCE 2570 JACKSON STREET, SAN FRANCISCO, CA 94115

2849 CALIFORNIA STREET SAN FRANCISCO, CA 94115 BUTLERARMSDEN.COM

- E INFO@BUTLERARMSDEN.COM T 415-674-5554 F 415-674-5558

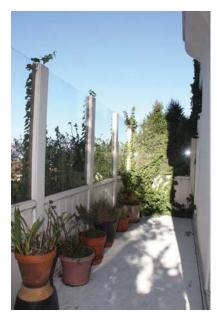




REAR FACADE



(E) METAL & GLASS WINDSCREEN @ S. ROOF DECK



(E) WINDSCREEN @ NW PATIO



REAR YARD



SOUTHEAST CORNER - VIEW OF GARAGE FROM SIDEWALK

## PERMIT SET

REVISIONS:	BY:
JOB#:	1223
DATE:	03/24/2014

JOB#:	1223
DATE:	03/24/2014
DRAWN:	CE
CHECKED:	FE
SCALE:	AS NOTED

SITE PHOTOS

