



EXECUTIVE SUMMARY CONDITIONAL USE AUTHORIZATION

HEARING DATE: October 15, 2020

Record No.: 2019-017022CUA
Project Address: 2839 24th STREET
Zoning: 24th Street-Mission NCT (Neighborhood Commercial Transit) Zoning District
55-X Height and Bulk District
Calle 24 Special Use District
Block/Lot: 4267/030
Project Sponsor: Thomas Tunny, Reuben, Junius & Rose, LLP
One Bush Street
San Francisco, CA 94104
Property Owner: Rainbow 2603, LLC
1806 Balboa Street
San Francisco, CA 94121
Staff Contact: Kimberly Durandet – (628) 652-7315
Kimberly.durandet@sfgov.org

Recommendation: Approval with Conditions

Project Description

The Project is to legally establish a ground floor residential use (measuring 850 square feet) in an existing two-story mixed-use building. The project would result in a total of four dwelling units within the existing building.

Required Commission Action

In order for the Project to proceed, the Commission must grant a Conditional Use Authorization, pursuant to Planning Code Sections 145.4, 207.3, 303 and 763, to legalize an unauthorized dwelling unit in the ground floor of an existing building and grant a modification to the required ground floor commercial use requirements under Planning Code Section 145.4.

Issues and Other Considerations

- **Public Comment & Outreach.**

- **Support/Opposition:** The Department has not received any letters in support. The Department has received one letter in opposition to the Project.
 - The opposition to the Project is that the commercial space is not suitable as a residence and should be returned to an active commercial use at this location in the Calle 24 Special Use District.
- **Outreach:** The Sponsor has conducted outreach to the Calle 24 Latino Cultural District organization and has stated that the Project has their support.
- **Existing Tenant & Eviction History:** The existing unit is occupied by tenants.
- **Entertainment Commission:** The project is located within 300 feet of a Place of Entertainment and is subject to review by the Entertainment Commission under Chapter 116 of the Administrative Code. Entertainment Commission staff determined that a hearing on this project was not required. The Entertainment Commission has adopted a set of standard “Recommended Noise Attenuation Conditions for Chapter 116 Projects,” and request they be imposed on the Building Permit and are included in the Conditions of Approval for this Conditional Use Authorization.

Environmental Review

The project is not a project under CEQA Guidelines Sections 15060(c) and 15378 because there is no direct or indirect physical change in 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 loss of a commercial space, it has been occupied by a residential tenant for at least a decade. Allowing the legalization of this residential space will prevent displacement and add to the housing stock which is a goal for the City's. The Department also finds the project to be necessary, desirable, and compatible with the surrounding neighborhood, and not to be detrimental to persons or adjacent properties in the vicinity.

Attachments:

Draft Motion – Conditional Use Authorization
Exhibit A- Conditions of Approval
Exhibit B- Plans
Exhibit C- Maps and Context Photos
Exhibit D- Project Sponsor Brief



PLANNING COMMISSION DRAFT MOTION

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ADOPTING FINDINGS RELATING TO A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTION 145.4, 207.3, 303 AND 763, TO MODIFY THE REQUIRED GROUND FLOOR COMMERCIAL USE AND LEGALIZE AN UNAUTHORIZED DWELLING UNIT ON THE GROUND FLOOR OF AN EXISTING TWO-STORY MIXED-USE BUILDING WHICH WOULD RESULT IN A TOTAL OF FOUR DWELLING UNITS WITHIN THE EXISTING BUILDING LOCATED AT 2839 24TH STREET, LOT 030 IN ASSESSOR'S BLOCK 4267, WITHIN THE 24TH STREET-MISSION NCT (NEIGHBORHOOD COMMERCIAL TRANSIT) ZONING DISTRICT, CALLE 24 SPECIAL USE DISTRICT, AND A 55-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On September 26, 2019, Thomas Tunny of Reuben, Junius and Rose (hereinafter "Project Sponsor") filed Application No. 2019-017022CUA (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Conditional Use Authorization to legalize and establish a ground floor residential use in existing two-story mixed-use building, pursuant to Planning Code Sections 145.4, 207.3, 303 and 763, and modify the required ground floor commercial use under Planning Code Section 145.4. The project would result in a total of four dwelling units within the existing building (hereinafter "Project") at 2839 24th Street, Block 4267, Lot 030 (hereinafter "Project Site").

The project is not a project under CEQA Guidelines Sections 15060(c) and 15378 because there is no direct or indirect physical change in the environment.

On September 17, 2020, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2019-017022CUA. At this hearing, the Project was continued to the public hearing on October 15, 2020.

The Planning Department Commission Secretary is the custodian of records; the File for Record No. 2019-017022CUA 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 Conditional Use Authorization as requested in Application No. 2019-017022CUA, 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 is to legalize and establish a ground floor residential use (measuring 850 square feet) in an existing two-story mixed-use building. The project would result in a total of four dwelling units within the existing building.
- 3. Site Description and Present Use.** The Project is located on a large corner lot (with a lot area of approximately 10,000 square feet), which has approximately 100-ft of frontage along 24th Street and 100-ft of frontage along Bryant Street. The Project Site contains three existing buildings: a one-story commercial building, a two-story residential over commercial buildings that front on 24th Street, and a three-story residential building that fronts on Bryant Street. The current use of the building at the ground floor includes a corner market (d.b.a. Samy's Liquors), a commercial space that was formerly a television repair shop, and the subject ground floor space which has been used as a residence. The second floor has three residential units.
- 4. Surrounding Properties and Neighborhood.** The Project Site is located within the 24th Street and Mission NCT (Neighborhood Commercial Transit) Zoning Districts in the Mission Area Plan. The immediate context is mixed in character with residential, commercial, and public uses. The immediate neighborhood includes two-to-three-story residential development to the south, York Mini Park to the north, and a series of one-to-two-story commercial properties to the east and west along 24th Street. The project site is located within the boundaries of the Calle 24 Special Use District. Other zoning districts in the vicinity of the project site include: P (Public), RH-2 (Residential House, Two-Family), RH-3 (Residential House, Three-Family), RM-1 (Residential Mixed, Low Density), RM-3 (Residential Mixed, Medium Density), and NC-2 (Neighborhood Commercial-Small Scale) Zoning District.
- 5. Public Outreach and Comments.**
 - **Support/Opposition:** The Department has not received any letters in support. The Department has received one letter in opposition to the Project.
 - The opposition to the Project is that the commercial space is not suitable as a residence and should be returned to an active commercial use at this location in the Calle 24 Special Use District.
 - **Outreach:** The Sponsor has conducted outreach to the Calle 24 Latino Cultural District organization and has stated that the Project has their support.
- 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. **Use.** *Residential uses are permitted in the 24th Street Mission NCT and Calle 24 Special Use District. However, a Conditional Use Authorization is required if residential use is located on the ground floor*

per Planning Code Section (Section) 763.

- B. **Rear Yard.** *The subject property's existing conditions do not have a conforming rear yard. Legalization of the dwelling unit under Section 207.3(e) grants an exception for this requirement.*
- C. **Open Space.** *The subject property's existing conditions do not provide additional usable open space. Legalization of the dwelling unit under Section 207.3(e) grants an exception for this requirement.*
- D. **Dwelling Unit Exposure.** *The existing dwelling unit fronts a public street and complies with this Section of the Planning Code.*
- E. **Street Frontage in Neighborhood Commercial Districts.** Planning Code Section 145.1 requires active uses within NC Zoning Districts for the first 25 feet of building depth on the ground floor. Frontages with active uses must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

The subject project will convert a commercial space into a residential use with direct access to the street. The windows are to be clear and transparent with no fixed obstructions. There are no changes proposed to the exterior design of the commercial frontage.

- F. **Required Ground Floor Commercial Uses.** Section 145.4 requires commercial uses at the ground floor for the entirety of the 24th Street-Mission NCT Zoning District.

The project is seeking a modification to this requirement through the Conditional Use Authorization process as allowed in Section 145.4(e).

- 7. **Conditional Use Findings.** Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the project complies with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The existing building is a mixed use residential-over-commercial, two-story building constructed circa 1913. The subject unit appears to have been used as a residential dwelling for at least a decade and is currently occupied. There are no other proposed changes to the building at this time; therefore, the proposed change of use is desirable to retain existing tenants to prevent their displacement and is compatible with the neighborhood and community.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- (1) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The height and bulk of the existing building will remain the same and will not alter the existing appearance or character of the project vicinity. The proposed work will not affect the building envelope.

- (2) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The Planning Code does not require parking or loading for a new residential dwelling unit.

- (3) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed use is a residential use that is not considered a use that would generate offensive emissions.

- (4) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

The existing building will remain the same and will not alter the appearance or character of the structure. Any proposed work will not affect the building envelope.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The 24th Street-Mission NCT Zoning District and the Calle 24 Special Use District principally permits residential use.

- 8. 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.

OBJECTIVE 2

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEPARDIZING AFFORDABILITY.

Policy 2.4

Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

OBJECTIVE 4

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

Policy 4.4

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

MISSION AREA PLAN

Land Use

Objectives and Policies

OBJECTIVE 1.1

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

POLICY 1.1.3

Maintain the successful Mission Street, 24th Street, and Valencia Street Neighborhood Commercial districts; recognize the proximity to good transit service by eliminating residential density limits and minimum parking requirements.

OBJECTIVE 2.2

RETAIN AND IMPROVE EXISTING HOUSING AFFORDABLE TO PEOPLE OF ALL INCOMES

Policy 2.2.2

Preserve viability of existing rental units.

POLICY 2.2.4

Ensure that at-risk tenants, including low-income families, seniors, and people with disabilities, are not evicted without adequate protection.

The subject unit to be legalized has been used as a residential unit for at least a decade and is occupied by a family. The ground floor residential unit is small and affordable due to the size and location. Although, the Project would remove a small-scale retail use, the overall conditions of the mixed-use zoning district would be affected by this conversion. Therefore, on balance, the Project is consistent with the Objectives and Policies of the General Plan.

9. 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 complies 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.

The project site does possess neighborhood-serving retail uses. Although the Project would legally convert an existing retail space into a residential unit, the Project would result in retaining an existing tenant, which is a high priority for the City and the surrounding neighborhood. The adjacent retail spaces will remain and be preserved.

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

The project site does possess existing housing that will be retained. The Project would legalize one new dwelling unit, thus resulting in an overall increase in the neighborhood housing stock. For these reasons, the 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 Property does not currently possess any existing affordable housing.

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

There is no effect on traffic or transit services by this Project.

- 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 does not include commercial office development. The Project retains the adjacent retail use, thus maintaining diversity of the neighborhood economic base.

- 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.

The Project does not propose any changes to the building exterior and will preserve the historic resource.

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

The Project will not affect our parks or open space.

- 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 Conditional Use 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 Conditional Use Authorization Application No. 2019-017022CUA** subject to the following conditions attached hereto as “EXHIBIT A” in general conformance with plans on file, dated June 23, 2020, and stamped “EXHIBIT B”, which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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 October 15, 2020.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: October 15, 2020

EXHIBIT A

Authorization

This authorization is for a conditional use to legalize an authorized dwelling unit on the ground floor of an existing two-story mixed-use building and to grant a modification to the required ground floor commercial use under Planning Code Section 145.4. The project would result in a total of four dwelling units within the existing building located at 2839 24th Street, Block 4267, and Lot 030 pursuant to Planning Code Sections **207.3, 303 and 763** within the **24th Street-Mission NCT** Zoning District and a **55-X** Height and Bulk District; in general conformance with plans, dated **June 23, 2020**, and stamped “EXHIBIT B” included in the docket for Record No. **2019-017022CUA** and subject to conditions of approval reviewed and approved by the Commission on **October 15, 2020** 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 **October 15, 2020** 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 628-652-7300, 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 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 628-652-7300, 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 628-652-7300, 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 628-652-7300, 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 628-652-7300, www.sf-planning.org

Entertainment Commission – Noise Attenuation Conditions

6. Chapter 116 Residential Projects. The Project Sponsor shall comply with the “Recommended Noise Attenuation Conditions for Chapter 116 Residential Projects,” which were recommended by the Entertainment Commission on October 5, 2020. These conditions state:

- A. **Community Outreach.** Project Sponsor shall include in its community outreach process any businesses located within 300 feet of the proposed project that operate between the hours of 9PM-5AM. Notice shall be made in person, written or electronic form.
- B. **Sound Study.** Project sponsor shall conduct an acoustical sound study, which shall include sound readings taken when performances are taking place at the proximate Places of Entertainment, as well as when patrons arrive and leave these locations at closing time. Readings should be taken at locations that most accurately capture sound from the Place of Entertainment to best of their ability. Any recommendation(s) in the sound study regarding window glaze ratings and soundproofing materials including but not limited to walls, doors, roofing, etc. shall be given highest consideration by the project sponsor when designing and building the project.
- C. **Design Considerations.**
 - i. During design phase, project sponsor shall consider the entrance and egress location and paths of travel at the Place(s) of Entertainment in designing the location of (a) any entrance/egress for the residential building and (b) any parking garage in the building.
 - ii. In designing doors, windows, and other openings for the residential building, project sponsor should consider the POE’s operations and noise during all hours of the day and night.
- D. **Construction Impacts.** Project sponsor shall communicate with adjacent or nearby Place(s) of Entertainment as to the construction schedule, daytime and nighttime, and consider how this schedule and any storage of construction materials may impact the POE operations.
- E. **Communication.** Project Sponsor shall make a cell phone number available to Place(s) of Entertainment management during all phases of development through construction. In addition, a line of communication should be created to ongoing building management throughout the occupation phase and beyond.

Design – Compliance at Plan Stage

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 628-652-7300, www.sf-planning.org

planning.org

8. **Noise, Ambient.** Interior occupiable spaces shall be insulated from ambient noise levels. Specifically, in areas identified by the Environmental Protection Element, Map1, “Background Noise Levels,” of the General Plan that exceed the thresholds of Article 29 in the Police Code, new developments shall install and maintain glazing rated to a level that insulate interior occupiable areas from Background Noise and comply with Title 24.

For information about compliance, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

9. **Bicycle Parking.** The Project shall provide no fewer than one Class 1 bicycle parking spaces for the new/legalized unit as required by Planning Code Sections 155.1 and 155.2.

For information about compliance, contact Code Enforcement, Planning Department at 628-652-7300, www.sf-planning.org

Provisions

10. **Residential Child Care Impact Fee.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.

For information about compliance, contact the Case Planner, Planning Department at 628-652-7300, www.sf-planning.org

11. **Eastern Neighborhoods Infrastructure Impact Fee.** The Project is subject to the Eastern Neighborhoods Infrastructure Impact Fee, as applicable, pursuant to Planning Code Section 423.

For information about compliance, contact the Case Planner, Planning Department at 628-652-7300, www.sf-planning.org

Monitoring - After Entitlement

12. **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 628-652-7300, www.sf-planning.org

13. **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 628-652-7300, www.sf-planning.org

- 14. 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.

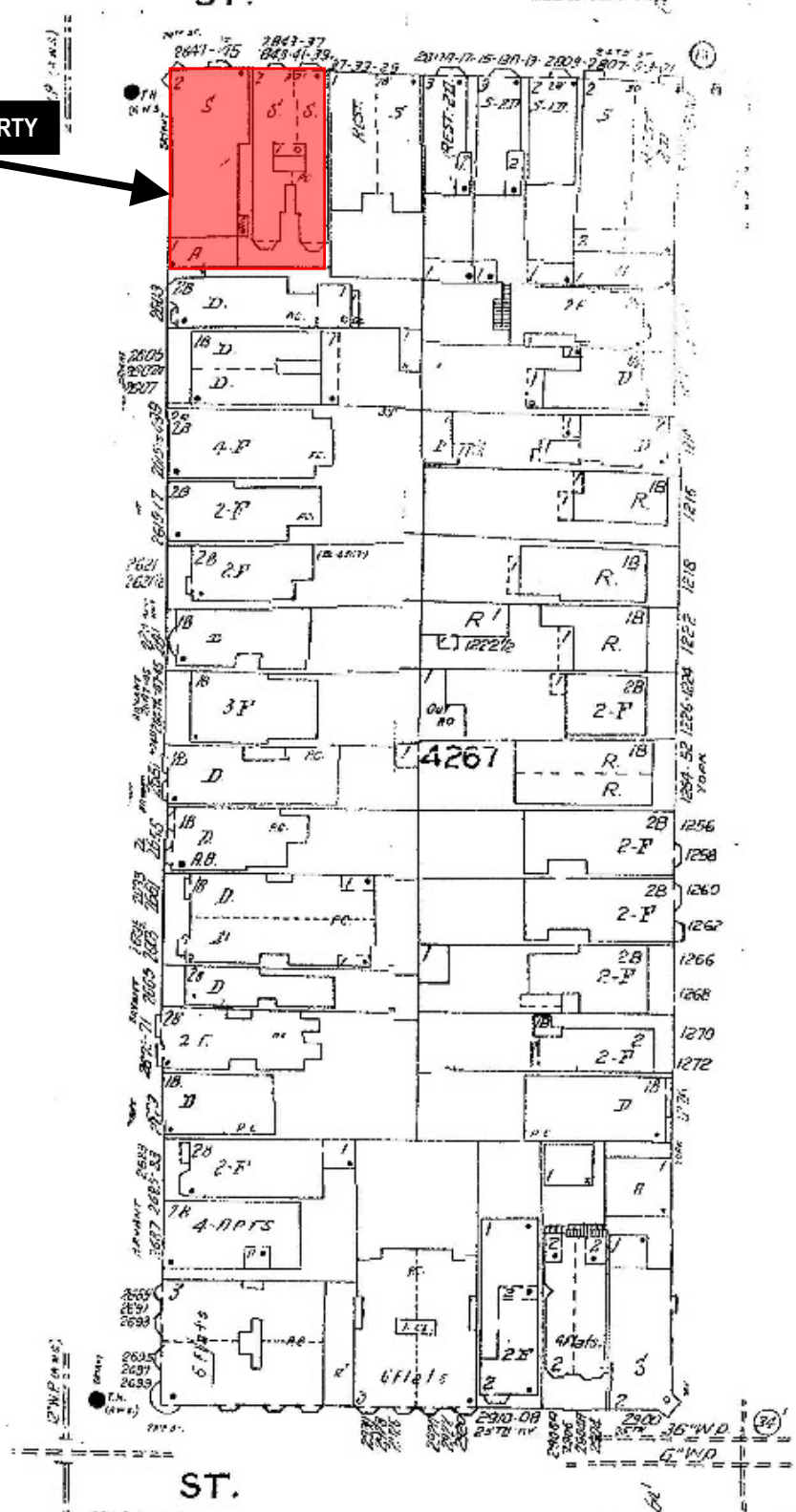
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

- 15. 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 and all registered neighborhood groups for the area with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator and registered neighborhood groups 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 628-652-7300, www.sf-planning.org

Sanborn Map*

SUBJECT PROPERTY



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



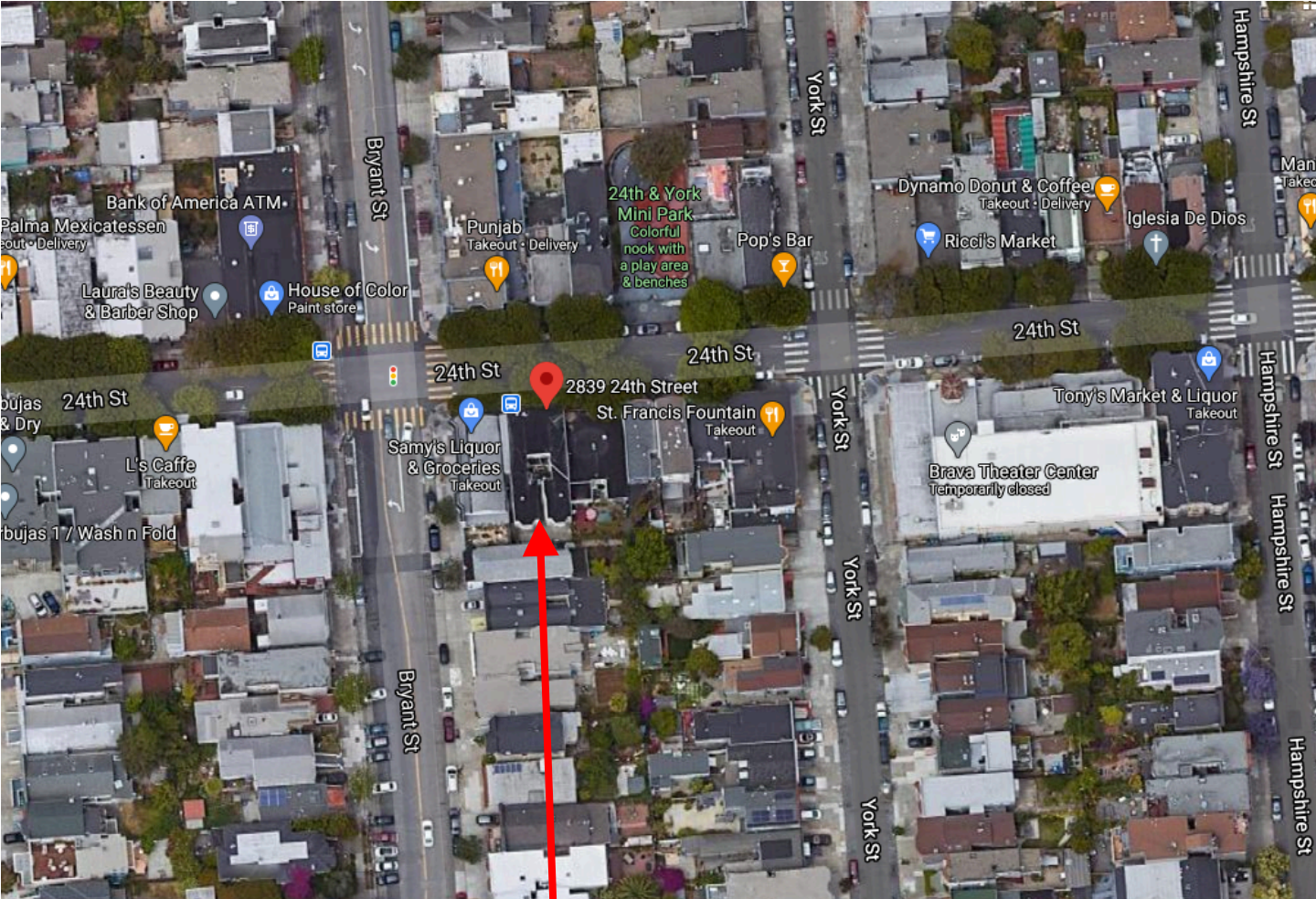
Conditional Use Authorization Hearing
Case Number 2019-017022CUA
2839 24th Street

Zoning Map



Conditional Use Authorization Hearing
Case Number 2019-017022CUA
2839 24th Street

Aerial Photo – View 1



SUBJECT PROPERTY



Conditional Use Authorization Hearing
Case Number 2019-017022CUA
2839 24th Street

Site Photo



Conditional Use Authorization Hearing
Case Number 2019-017022CUA
2839 24th Street

REUBEN, JUNIUS & ROSE, LLP

Thomas Tunny
ttunny@reubenlaw.com

October 5, 2020

Delivered Via Email

President Joel Koppel
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

**Re: Support of Proposed Project at 2839 24th Street
Conditional Use Authorization for Ground Floor Residential Use
Planning Department Case No. 2019-017022CUA
Hearing Date: October 15, 2020**

Dear President Koppel and Commissioners:

Our office is working with Rainbow 2603, LLC, the owner of 2839 24th Street. The request before the Commission is a Conditional Use Authorization (the “CU”) for a ground floor residential use. The subject building, located on the southeast corner of 24th and Bryant Streets, was constructed in 1913, and has a mix of residential and commercial uses.

- The CU would legalize a residential use that has existed for many decades, perhaps since the building’s original construction. It is a small (approximately 850 sq. ft.), lower-rent unit currently occupied by a small family. The father is the manager of the small convenience store also located in the building. This CU is sought to allow the family to remain in the residential unit. The rent will be kept at the same amount it was when this legalization process began.
- This ground floor residential unit is necessary and desirable for the neighborhood because small, affordable, family-occupied rental units are rare and highly desired in the City, and it allows the current occupants to remain in the neighborhood where they otherwise would be unlikely to be able to remain.
- The residential use is appropriate given the Planning Code’s controls seeking a mix of residential and neighborhood-serving commercial uses in this district. Having this residential use is far preferable to a vacancy seeking a commercial use in these difficult times for retail.
- The proposed project is supported by staff and the Calle 24 Latino Cultural District.

For all of these reasons, we urge the Planning Commission to approve the CU.

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One Bush Street, Suite 600, San Francisco, CA 94104
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office
492 9th Street, Suite 200, Oakland, CA 94607
tel: 510-527-5589

www.reubenlaw.com

I. PROJECT DESCRIPTION

The subject property is a 10,000 sq. ft. lot, located on the southeast corner of 24th and Bryant Streets, in the 24th-Mission Neighborhood Commercial transit Zoning District and Calle 24 Special Use District. The subject building is two stories, with a mix of residential and commercial uses. (See photos attached as **Exhibit A.**) The subject residential unit is approximately 850 sq. ft. in floor area with two bedrooms. The unit has been residential for many years, long before the City imposed the current requirement of a CU for ground floor residential. The owner was unaware of the CU requirement and now seeks to legalize the use. Project drawings are attached as **Exhibit B.**

II. THE FINDINGS OF PLANNING CODE SECTION 303 ARE MET

In order to approve the CU, Planning Code Section 303(c) requires that facts be established that demonstrate certain findings. We submit that these findings are met as follows:

(1) That the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.

The subject building was constructed in 1913, and has a mix of residential and commercial uses. The subject unit in the building has been used as residential for many decades, perhaps since the building's original construction. The subject unit is a small rental unit currently occupied by a small family. The father is the manager of the small convenience store also located in the building. Approval of the CU will allow the family to remain in the residential unit.

This ground floor residential unit is necessary and desirable for the neighborhood because small, affordable, family-occupied rental units are rare and highly desired, and allows the current occupants to remain in the neighborhood where they otherwise would be unlikely to be able to remain. The residential use is appropriate given the Planning Code's controls seeking a mix of residential and neighborhood-serving commercial uses in this district.

(2) That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:

(a) The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of the structure;

The small size of this unit, and location on the ground floor, make it rare and desirable because it is a rental unit affordable to small families.

(b) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

No off-street parking is required by the Planning Code, and none is provided. The property has excellent access to public transit, with the 9. 9R and 48 Muni bus lines nearby, and the 24th Street Muni/BART station within walking distance.

(c) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed project will not produce any noxious or offensive emissions.

(d) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and

The proposed project will comply with all code requirements concerning landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs.

(3) That such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the Master Plan.

*The proposed project will affirmatively promote, is consistent with, and will not adversely affect the General Plan, and specifically the **Housing Element of the General Plan**, as follows:*

Issue 2, Objective 2

Retain existing housing units, and promote safety and maintenance standards.

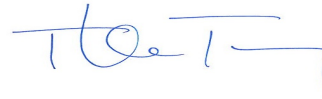
The proposed project affirmatively promotes this Objective of the Master Plan by retaining an existing housing unit that will meet all building and safety codes.

III. CONCLUSION

The City is in a dire housing crisis with a significant need for affordable housing for families. This project addresses not only that need, but preserves such housing for a family already occupying the space. For these reasons, we urge the Planning Commission to approve this CU. Thank you for your consideration.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP



Thomas Tunny

Enclosures

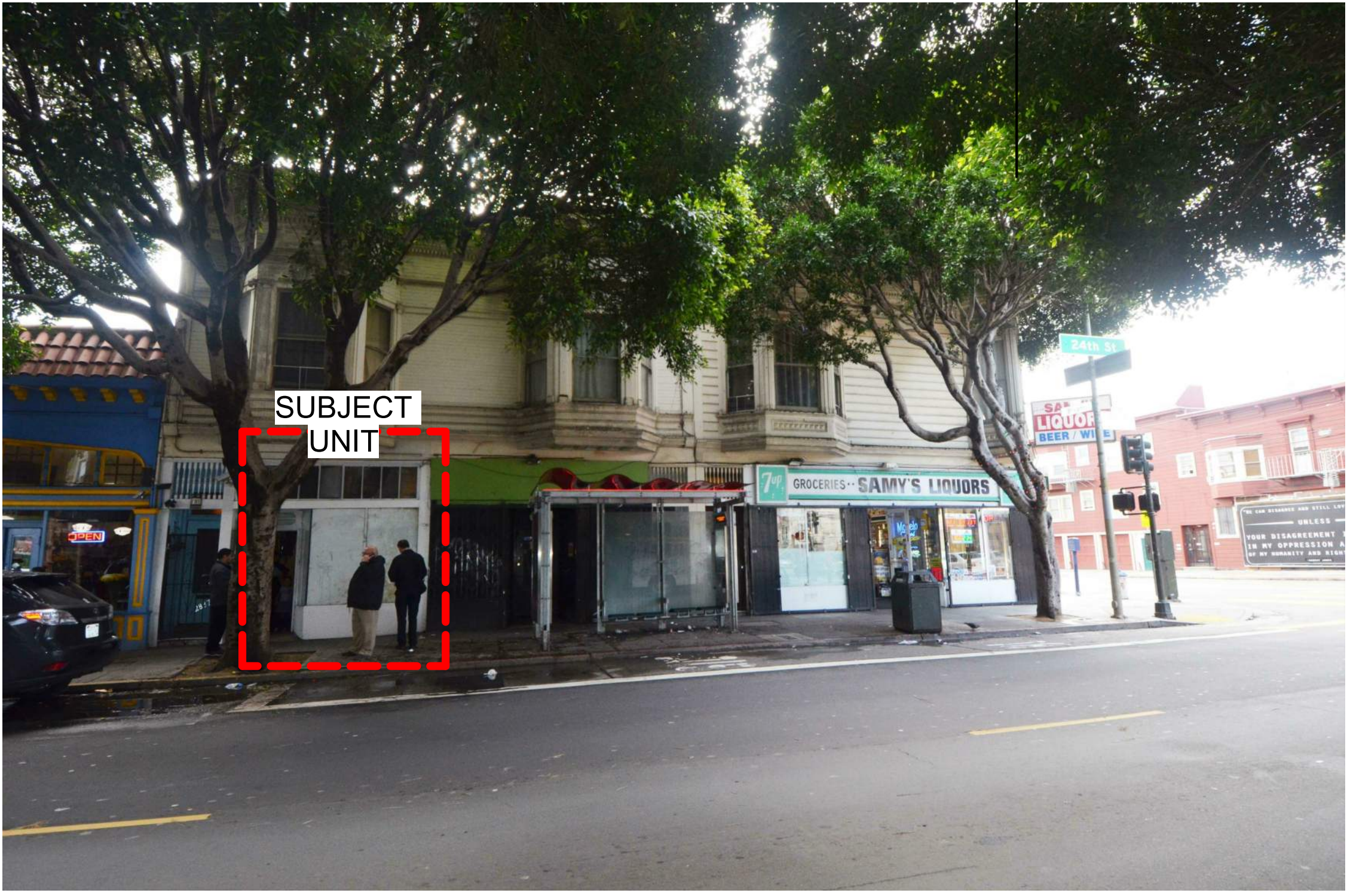
cc: Rainbow 2603, LLC
Kerman Morris Architects

EXHIBIT A

ADJ. PROPERTY

SUBJECT PROPERTY

BRYANT ST.



24TH STREET

24TH ST.

SUBJECT PROPERTY

ADJ. PROPERTY



BRYANT STREET

km

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Revisions

2839 & 2841
24TH ST:
UNIT
LEGALIZATION
& CUA
4267 / 030

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PHOTOS

DATE

9 / 1 / 2020

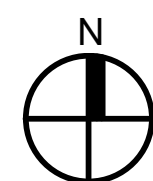
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CHECKED BY

JOB NO.

EXHIBIT B



THE WORK CONSISTS OF THE FOLLOWING:

1. THE LEGALIZATION OF THE (E) GROUND FLOOR RESIDENTIAL UNIT 2839. SPRINKLERING OF UNIT TO BE PROVIDED AS REQ'D UNDER SEPARATE PERMIT.
2. LIVE WORK UNIT REMOVAL, UNIT 2841(AS REQUESTED BY SF PLANNING); REMOVAL OF LOFT, RANGE, TUB, AND CORRECTION OF FRONTAGE VIEW.

UNIT LEGALIZATION, UDU, VARIANCE, & CONDITIONAL USE AUTHORIZATION IS REQUIRED FOR GROUND FLOOR RESIDENTIAL PER SF PLANNING CODE SEC. 763. ALL EXISTING VENTILATING, LIGHTING, EXHAUST COMPLIES AND NO NEW WORK SHALL OCCUR IN THESE AREAS. COMPLIANCE OF (E) CARBON MONOXIDE AND SMOKE DETECTORS TO BE CONFIRMED ON SITE.

OWNER/APPLICANT:

OWNER/APPLICANT: RAINBOW 2603, LLC
1650 BOREL PL. , SUITE 222
SAN MATEO, CA 94402-3508

ARCHITECT:

ARCHITECT: CONTACT: TOBY MORRIS
KERMAN MORRIS ARCHITECTS, LLP
139 NOE STREET
SAN FRANCISCO, CA 94114
T: 415 749 0302
EMAIL: TOBY@KERMANMORRIS.COM

PROJECT ADDRESS: 2837-2847 24TH STREET (SUBJECT TENANT(S) 2839 & 2841)
SAN FRANCISCO, CA 94110

BLOCK/LOT 4267 / 030

ZONING DISTRICT: NCT-24TH MISSION NEIGHBORHOOD COMMERCIAL TRANSIT

HEIGHT AND BULK DISTRICT: 55-X

(E) LOT SIZE: 10,000 SQUARE FEET (100'-0" X 100'-0")

CONSTRUCTION TYPE: (E) TYPE-VB (NO CHANGE)
OCCUPANCY(S): R-3,R-2, B, M, & A

2016 C.B.C. With San Francisco Amendments

CONSTRUCTION TYPE:
Existing: various buildings 1-3 Stories of Type-VB, Non-Rated Construction, Non-Sprinklered
Proposed: No change except for the sprinklering of the unit to be legalized (Sprinklering under separate permit).

OCCUPANCY CLASSIFICATIONS: (By Address on lot)

2824 24th Street:	B Occupancy
2833 24th Street:	A-2, and S Occupancies
2837-2843 24th Street:	R-2 Occupancy, and M Occupancy
2845 24th Street:	R-3 Occupancy
2847 24th Street:	M Occupancy
2603 Bryant:	R-3 Occupancy

Project Location: 2839 & 2841 24th St., Block/Lot: 4267/030

LOT SIZE: 100' X 100' 10,000 SQ FT
Zoning District: Valencia NCT-24TH Mission Neighborhood Commercial Transit
Special Use District: Mission Alcohol Restrict. Within 1/4 Mile of an Existing Fringe Financial Service, & Fringe Financial Services RUD
Historic Standing: Planning Department Historic Resourc Status "A" - Historic Resource Present
Building Height Limit: 55'-X
Building Use: Proposed unit legalization. No change to existing building occupancy

Article 1.2: Dimensions Areas and Open Space

Sec. 134 REAR YARDS
 Sec. 134(1)(A) Rear yard required is 25% at lowest level of dwelling unit. Project requires Zs waiver
 Sec. 135 ACCESSORY OPEN SPACE: NCT-24th Mission
 NCT-24th Mission: s. 135 s. 136: A minimum of 80 square feet private area (unit) or 100 square feet common open space per unit required. Project complies
 2603 Bryant - Common open space provided at rear yard (see floor plans A2.00 for area)
 2839 24th - Not req'd for legalized unit, common open space req'd at ground floor
 2837 24th - No existing SFPC compliant open space (no change to unit open space status proposed)
 2839 24th - No existing SFPC compliant open space (no change to unit open space status proposed)
 2845 24th - Existing Private open space at 2nd level (see floor plan for area)
 Sec. 140 DWELLING UNIT EXPOSURE: Compliant space along 24th Street. Project complies
 Sec. 151.1 PARKING: None required
 Sec. 155: (1) Class-1 Bicycle parking space not required for legalized unit. none provided. Project complies
 Sec. 207(c) DWELLING UNIT DENSITY: No density limit

Article 16: Street Trees

Street trees are required for projects of new construction and a minimum of (1) tree of 24" box size for each 20 feet of frontage of the property along the streets. Street trees to be compliant with the applicable water use requirements of the administrative code chapter 63 and species and locations are subject to approval by the department of public works. Installation, maintenance and protection of trees are subject to article 16 of public works code. complying street trees are provided and comply with this section. Street tree layout may change subject to b.u.f. review and approval. No new street trees proposed as existing street layout does not allow space

Related Planning Record Number(s)

GENERAL SHEETS

G 0.0	COVER SHEET, SITE PLAN, & NOTES
G 0.3	PHOTOS
G 0.4	EGRESS, PRE-APPLICATION, & FIRE FLOW

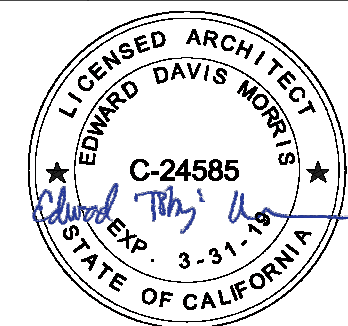
ARCHITECTURAL

A-2.00	(E) FLOOR PLANS
A-2.01	(E) FLOOR PLANS
A-2.10	(N) FLOOR PLANS
A-5.10	(E) ELEVATIONS & SECTIONS
A-5.11	(E) ELEVATIONS
A-5.14	(E) ELEVATIONS

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Revisions



**2839 & 2841
24TH ST:
UNIT
LEGALIZATION
& CUA
4267 / 030**

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COVER SHEET,
SITE PLAN, &
NOTES

DATE 6/23/2020

SCALE As indicated

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ADJ. PROPERTY

SUBJECT PROPERTY

BRYANT ST.



24TH STREET

24TH ST.

SUBJECT PROPERTY

ADJ. PROPERTY



BRYANT STREET

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PHOTOS

DATE6/23/2020

SCALE

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CHECKED BYChecker

JOB NO.

G 0.3

km

April 9, 2018
Department of Building Inspection
1660 Mission Street, 2nd Floor
San Francisco, CA 94103

PRE-APPLICATION MEETING - FINDINGS
CODE RULING REGARDING LEGALIZATION OF GROUND FLOOR
RESIDENTIAL UNITS 4267/030
2837-2847 24th Street
Existing: Ground floor residential units
Proposed: Ground floor residential units (legalized)
2016 California Building Code, SFCB

Project Information:
Property Addresses: 2837-2847 24th Street
Block/Lot: 4267/030

Type of Construction: (no change)
Existing: Type V-B (non-rated/wood frame)
Proposed: Type V-B (non-rated/wood frame)

Stories/Use: (Existing and Proposed - no change)
• 2837-2843 24th Street: (2) stories residential.

Occupancies: (only occupancies affected by proposal shown below)
2837-2843 24th Street:
• 2837 24th Street: 2nd floor residential (R-2 occupancy)
• 2839 24th Street: 1st floor residential (R-2 occupancy)
• 2841 24th Street: 1st floor residential (R-2 occupancy)
• 2843 24th Street: 2nd floor residential (R-2 occupancy)
2845-2847 24th Street:
• 2845 24th Street: 2nd floor residential (R-3 occupancy)
• 2847 24th Street: 1st floor market (M occupancy)

Meeting Information:
• Meeting with Janice Hayes (SFFD), Richard Tam (DBI), Orrin Goldsby (Kerman Morris Architects, LLP)

Scope of Work:
The proposed scope of work consists exclusively of code upgrades as required to make the existing buildings code compliant with the legalization of the existing ground floor residential units 2839 and 2841 24th Street. This includes the addition of a 3-hr egress passageway, but shall not include the implementation of sprinklers. Subdivision of lot under separate permit and not part of this scope

Our Basic Code Assumptions to be Confirmed and Questions/ Code Ruling Requested:

General Outline

The current ground floor residential units, 2839 & 2841, are occupied and are shown on the PIM as containing residential units. The SF Planning Department is requesting that these units receive additional verification of legal status through the unit legalization process. It is the goal of this Pre-Application Meeting to demonstrate that these units can be legalized in their current state without the addition of a fire sprinkler system.

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2603 Bryant_PRE APP response.docx

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Fire-Resistance Rated Construction

1. Exterior Walls: All exterior walls (Excluding Exit Passageway) to remain V-B construction per Table 601. Please confirm that increased fire protection is not required to legalize the ground floor units.

Not Confirmed as written. Alternative Confirmed below per Notes

Notes: The ground floor units shall add (or verify that existing conditions contain) one layer of 5/8" Type X Gypsum board on one interior face of all ceilings that abut other units. The existing ground floor units to be legalized shall be sprinklered per FS-05 (see question #2)

2. Please confirm that no fire sprinkler system shall be required for the legalization of the existing ground floor units per CBC 903.1.

Not Confirmed as written. Alternative Confirmed below per Notes

Notes: Per FS-05 A2 the two existing ground floor units to be legalized, as well as the proposed 2-HR egress passageway, shall be fully sprinklered per CBC section 903.2.8 & NFPA 13. Per FS-05 B3, as building is only 2 stories and the story count has not changed, no sprinklers shall be required in the rest of the structure.

Egress/Exit:

3. 2 Means of Egress: Please confirm per CBC 1006.2.1 that the two provided means of egress shall be required, because the common path of egress travel exceeds Table 1006.2.1

Confirmed

4. Exit Separation: Please confirm that the existing exit door and the proposed egress passageway door meet the requirements of CBC Section 1007.1.1 as they are separated by greater than 1/2 the diagonal distance of the building, and no sprinkler system is required nor provided.

Confirmed

Notes: 1/2 the horizontal distance is being used as this building will not be fully sprinklered

5. Egress through intervening spaces: Please confirm that exit access for units 2837, 2839, 2841, 2843, & 2845 shall not be prohibited to pass through a kitchen area of each of the respective dwelling units per CBC Section 1016.2 Exception 5 Exception 1.

Confirmed

Notes: (E) ground floor units and proposed 2-HR egress passageway shall be sprinklered

6. Exit Access Travel distance: Please confirm that from the most remote point in each unit to either the unit's door to the public R.O.W. or to the newly created exit passageway door, shall be up to 200 feet in this R-2 Occupancy. Non-sprinklered building per CBC Table 1017.2 (Exit access travel distance without sprinkler system).

Confirmed

Notes: (E) ground floor units and proposed 2-HR egress passageway shall be sprinklered

7. Exit Passageways: Please confirm that the proposed exit 1-hr passageway, with opening protectives per CBC Section 716, is allowed to serve all 5 of the existing units per CBC section 1024

Confirmed

Notes: 2-HR egress passageway shall be sprinklered.

Accessibility

8. Please confirm that chapter 11A shall not be applicable to this proposal

Confirmed

Notes: Buildings constructed prior to 1991

Confirmed

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(E) FLOOR PLANS

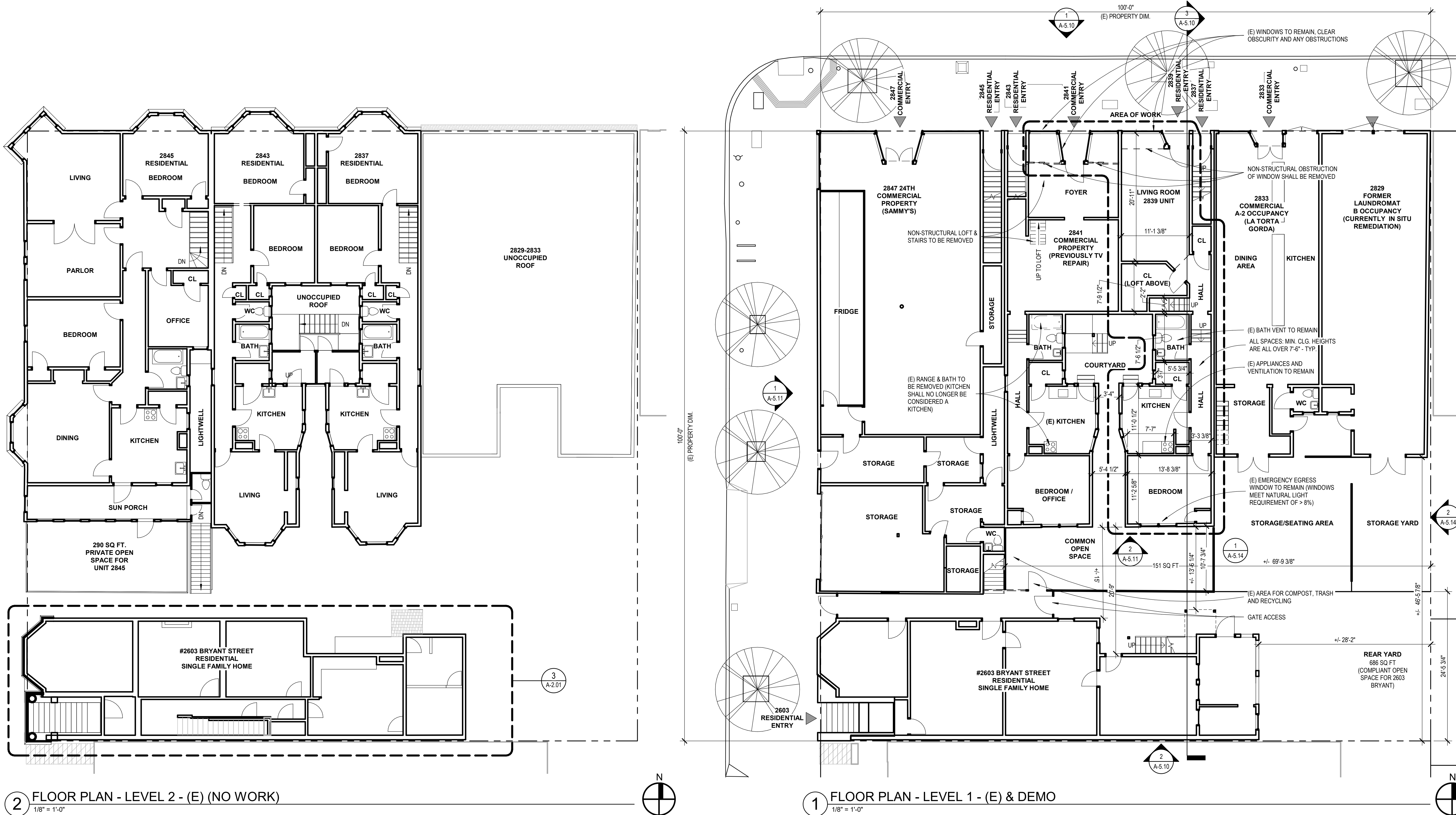
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Revisions

LICENSED ARCHITECT

LEONARD DAVIS MORRIS

C-24585

EXP. 3-31-2021

STATE OF CALIFORNIA

2839 & 2841
24TH ST:
UNIT
LEGALIZATION
& CUA
4267 / 030

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(E) FLOOR PLANS

DATE6/23/2020

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DRAWN BYAuthor

CHECKED BYChecker

JOB NO.

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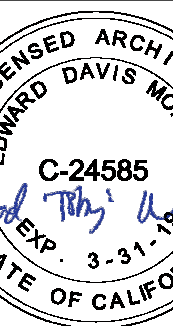
2 LEVEL 2 - 2603 BRYANT (NO WORK)

1/8" = 1'-0"

1 LEVEL 1 - 2603 BRYANT (NO WORK)

1/8" = 1'-0"

Revisions



2839 & 2841
24TH ST:
UNIT
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(N) FLOOR
PLANS

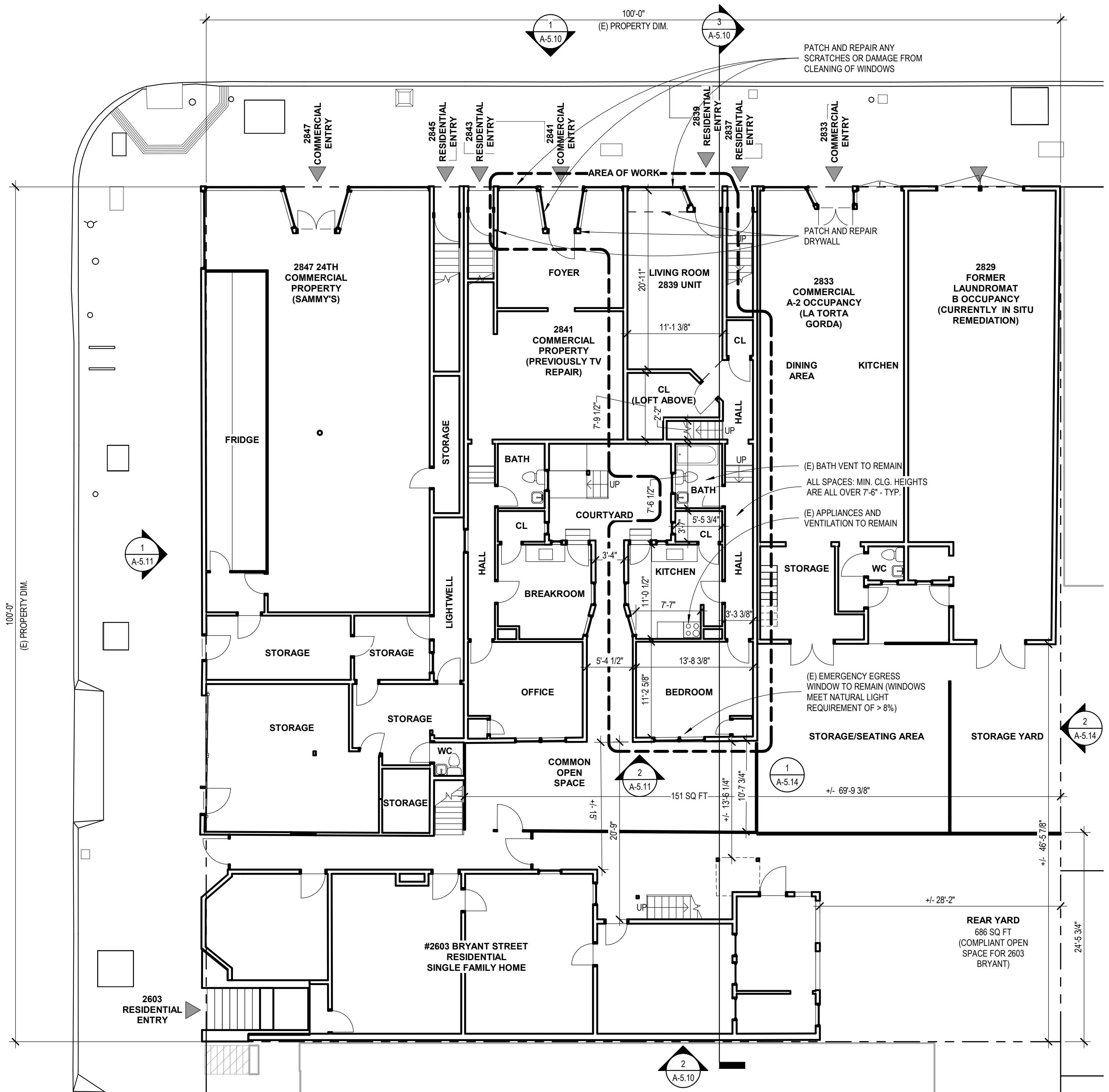
DATE 6/23/2020

SCALE 1/8" = 1'-0"

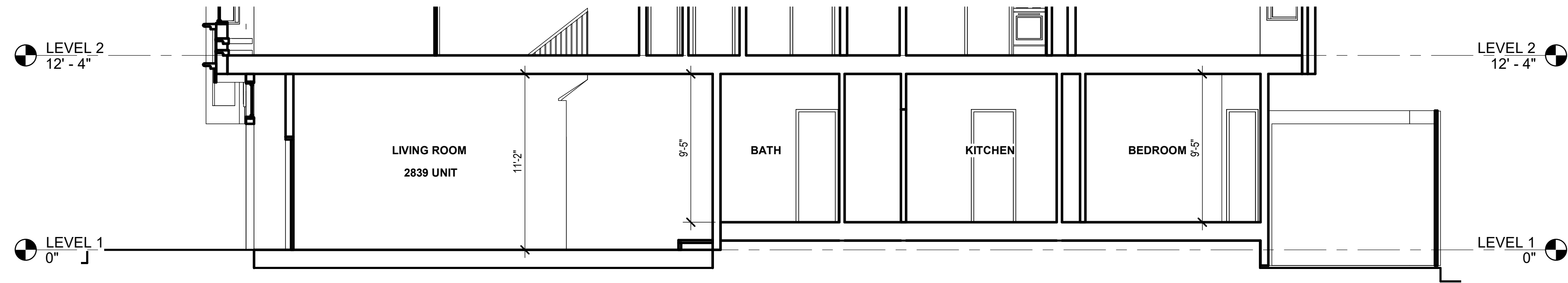
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CHECKED BY Checker

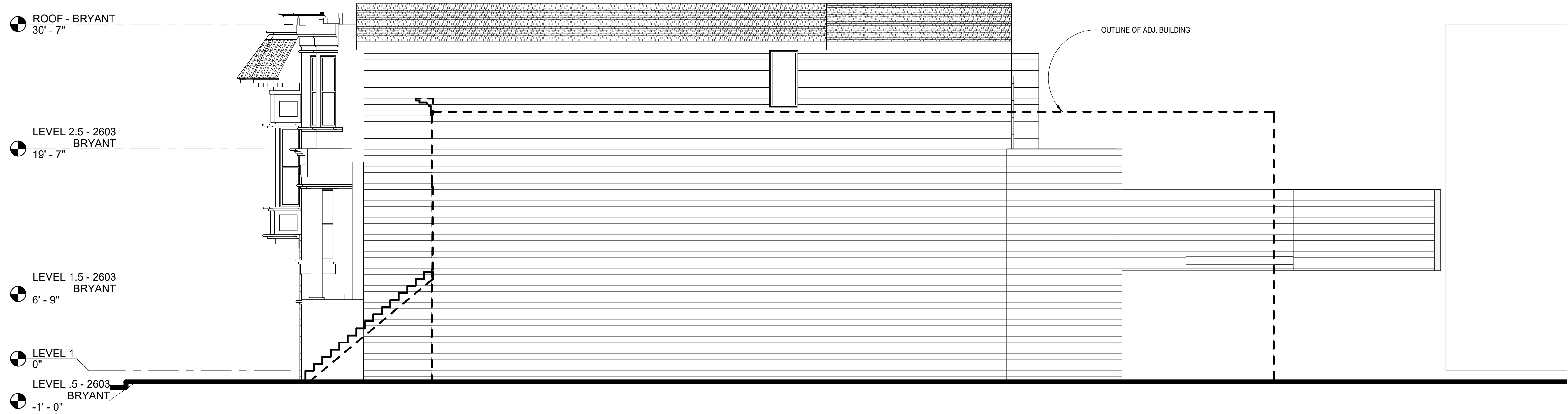
JOB NO.



1 FLOOR PLAN - LEVEL 1 - PROPOSED
1/8" = 1'-0"



3 (E) NORTH - SOUTH SECTION (NO WORK)
3/16" = 1'-0"

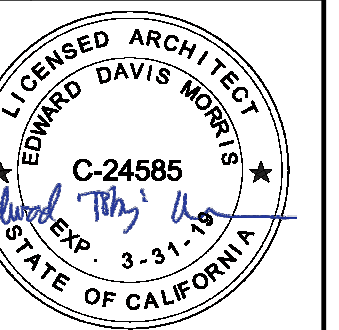


2 (E) - SOUTH ELEVATION (NO WORK)
3/16" = 1'-0"



1 (E) - NORTH ELEVATION
3/16" = 1'-0"

Revisions



2839 & 2841
24TH ST:
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These drawings are an industry standards builders set for building permit and to assist the contractor in construction. The drawings show limited and only representative typical details.

All attachments, connections, fastenings, etc. are to be properly secured in conformance with best practice, and the Contractor shall be responsible for providing and installing them.

(E) ELEVATIONS & SECTIONS

DATE 6/23/2020

SCALE 3/16" = 1'-0"

DRAWN BY OG

CHECKED BY Checker

JOB NO.

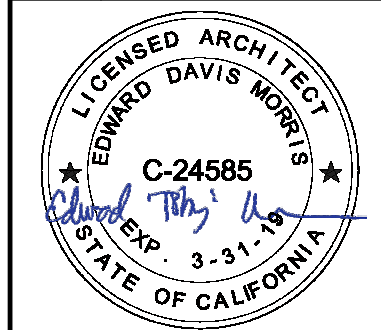
A-5.10

km

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(E) ELEVATIONS

DATE 6/23/2020

SCALE 3/16" = 1'-0"

DRAWN BY Author

CHECKED BY Checker

JOB NO.

A-5.11



2 (E) - SOUTH ELEVATION (BETWEEN BLDGS.) (NO WORK)

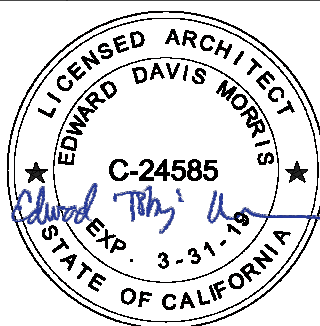
3/16" = 1'-0"



1 (E) - WEST ELEVATION (NO WORK)

3/16" = 1'-0"

Revisions



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All attachments, connections, fastenings, etc. are to be properly secured in conformance with best practice, and the Contractor shall be responsible for providing and installing them.

(E) ELEVATIONS

DATE 6/23/2020

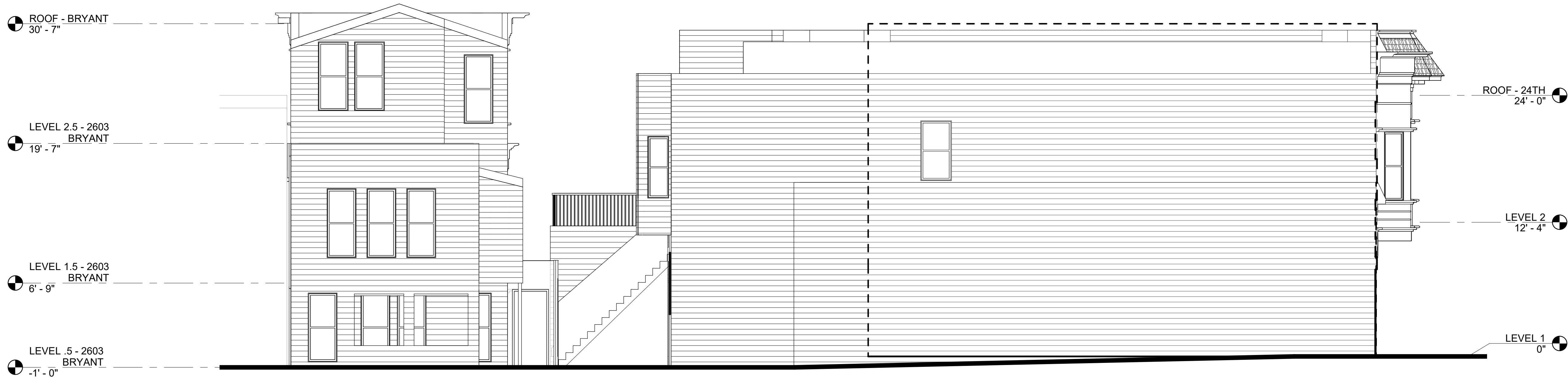
SCALE 3/16" = 1'-0"

DRAWN BY Author

CHECKED BY Checker

JOB NO.

A-5.14



2 (E) - EAST ELEVATION (NO WORK)
3/16" = 1'-0"



1 (E) - NORTH ELEVATION (BETWEEN
BLDGS.) (NO WORK)
3/16" = 1'-0"