



DISCRETIONARY REVIEW ABBREVIATED ANALYSIS

HEARING DATE: November 12, 2020

Record No.: 2020-007450DRP-02
Project Address: 428 Liberty Street
Permit Applications: 2020.0812.1624
Zoning: RH-1 [Residential House, One-Family] Dolores Heights SUD
40-X Height and Bulk District
Block/Lot: 3604 / 046
Project Sponsor: Tuija Catalano
Reuben Junius and Rose
1 Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: David Winslow – (628) 652-7335
david.winslow@sfgov.org

Recommendation: Do Not Take DR and Approve

Project Description

The project proposes to correct existing building height dimensions from 29'-4" to 27'-10" measured to the mid-point of the existing sloped roof – resulting in a discrepancy of 2'-9" from the approved Building Permit #201710242502 to construct a third-floor vertical addition, and a rear horizontal addition to an existing two-story, single family house.

Site Description and Present Use

The site is a 25' wide x 114'-0" steeply deep lateral sloping lot containing an existing 2-story, one-family home. The existing building is a Category 'B' - potential historic resource built in 1912.

Surrounding Properties and Neighborhood

The buildings on this block of Liberty Street are predominantly 2- story houses setback from the street. The immediate mid-block open space is defined by a relatively consistent alignment of buildings.

Building Permit Notification

Type	Required Period	Notification Dates	DR File Date	DR Hearing Date	Filing to Hearing Date
311 Re-Notice	15 days	August 31, 2020– September 14, 2020	9.14. 2020	11.12. 2020	59 days

Hearing Notification

Type	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	20 days	October 23, 2020	October 23, 2020	20 days
Mailed Notice	20 days	October 23, 2020	October 23, 2020	20 days
Online Notice	20 days	October 23, 2020	October 23, 2020	20 days

Public Comment

	Support	Opposed	No Position
Adjacent neighbor(s)	2	0	0
Other neighbors on the block or directly across the street	2	0	0
Neighborhood groups	0	0	0

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).

DR Requestors

1. Bruce Bowen on behalf of the Dolores Heights Improvement Club and;
2. David and Raquel Johnson of 437 Liberty, residents of the property across the street to the southwest.

DR Requestor's Concerns and Proposed Alternatives

DR requestor 1 Is concerned that the proposed vertical addition deviates from what was represented in the original 311 notification plans and deprived the neighbors of an opportunity to review.

DR requestor 2 Is concerned that the proposed vertical addition deviates from what was represented in the original 311 notification and is out of character and scale with the pattern of scale and massing at the street face.

Proposed alternatives:

1. The top floor should be removed completely, or reduced in height to the originally communicated height, or set back from the east and west property lines.

See attached *Discretionary Review Applications*, dated September 14, 2020.

Project Sponsor's Response to DR Application

The proposal is a code-complying proposal to provide usable space for a growing family. No exceptional or extraordinary circumstances are present. The overall height of the project has not increased from the administrative approval. The addition is 2'-9" taller than the existing roof ridge line.

See attached Response to Discretionary Review, dated October 2, 2020

Department Review

The Planning Department's review of this proposal confirms support for this Code-conforming project as it also conforms to the Residential Design Guidelines. Despite the misrepresentation from the original 311 plans, as built, the vertical addition is higher in relation to the existing roof, but still retains minimal visibility with view from the street and retains the appropriate scale relationship with the predominant 2-story context. The vertical alteration is set back 18' from the front of the house which along with the shape and height of the existing gable roof provide the minimal visibility of this vertical alteration.

This is not an exceptional or extraordinary circumstance.

Recommendation: Do Not Take DR and Approve

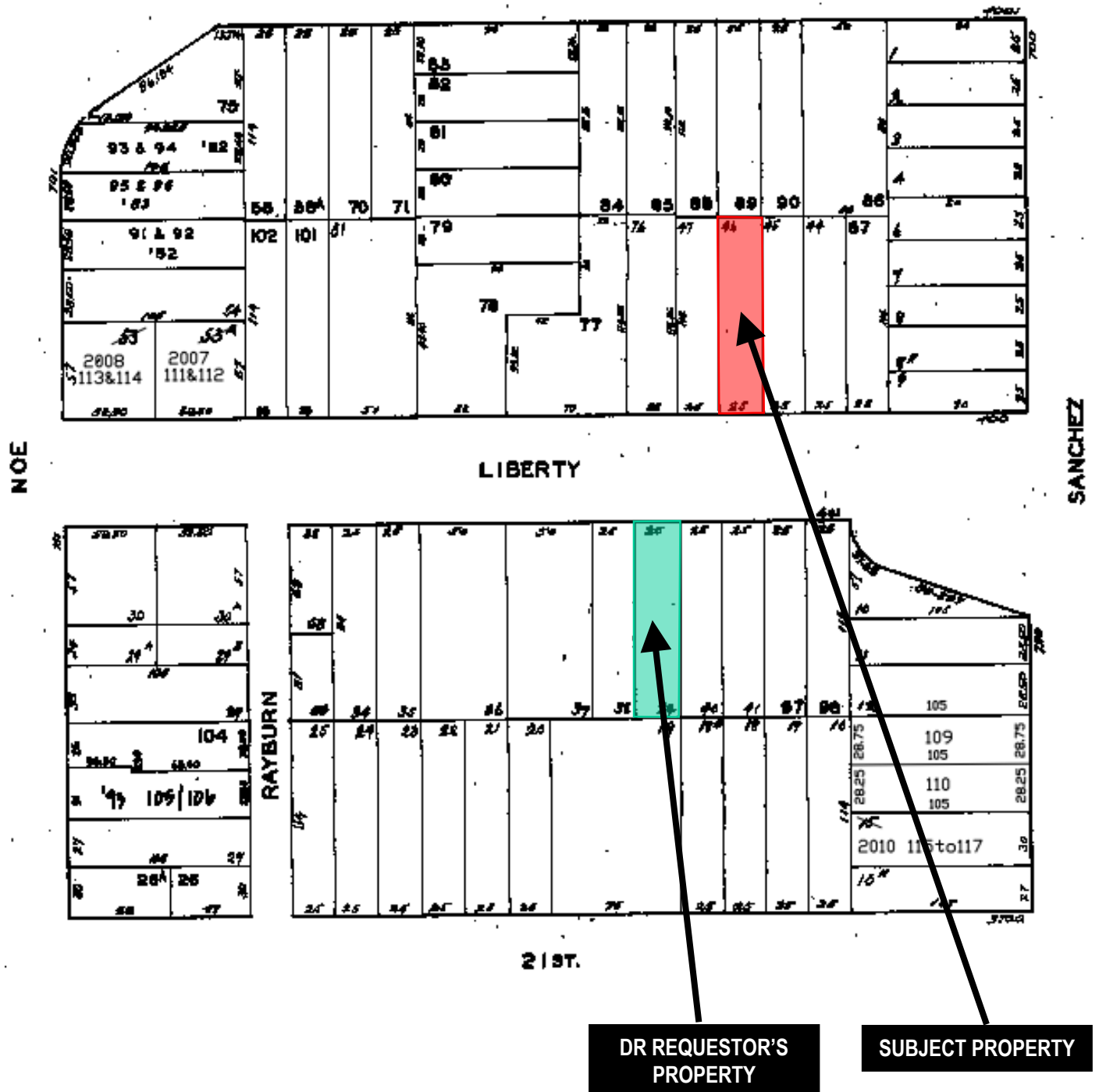
Attachments:

Block Book Map
Sanborn Map
Zoning Map
Aerial Photographs
Context Photographs
Section 311 Notice
CEQA Determination
DR Application
Response to DR Application, dated October 2, 2020
311 plans

Exhibits

Parcel Map

Revised 20



Discretionary Review Hearing
Case Number 2020-007450DRP-02
428 Liberty Street

Sanborn Map*

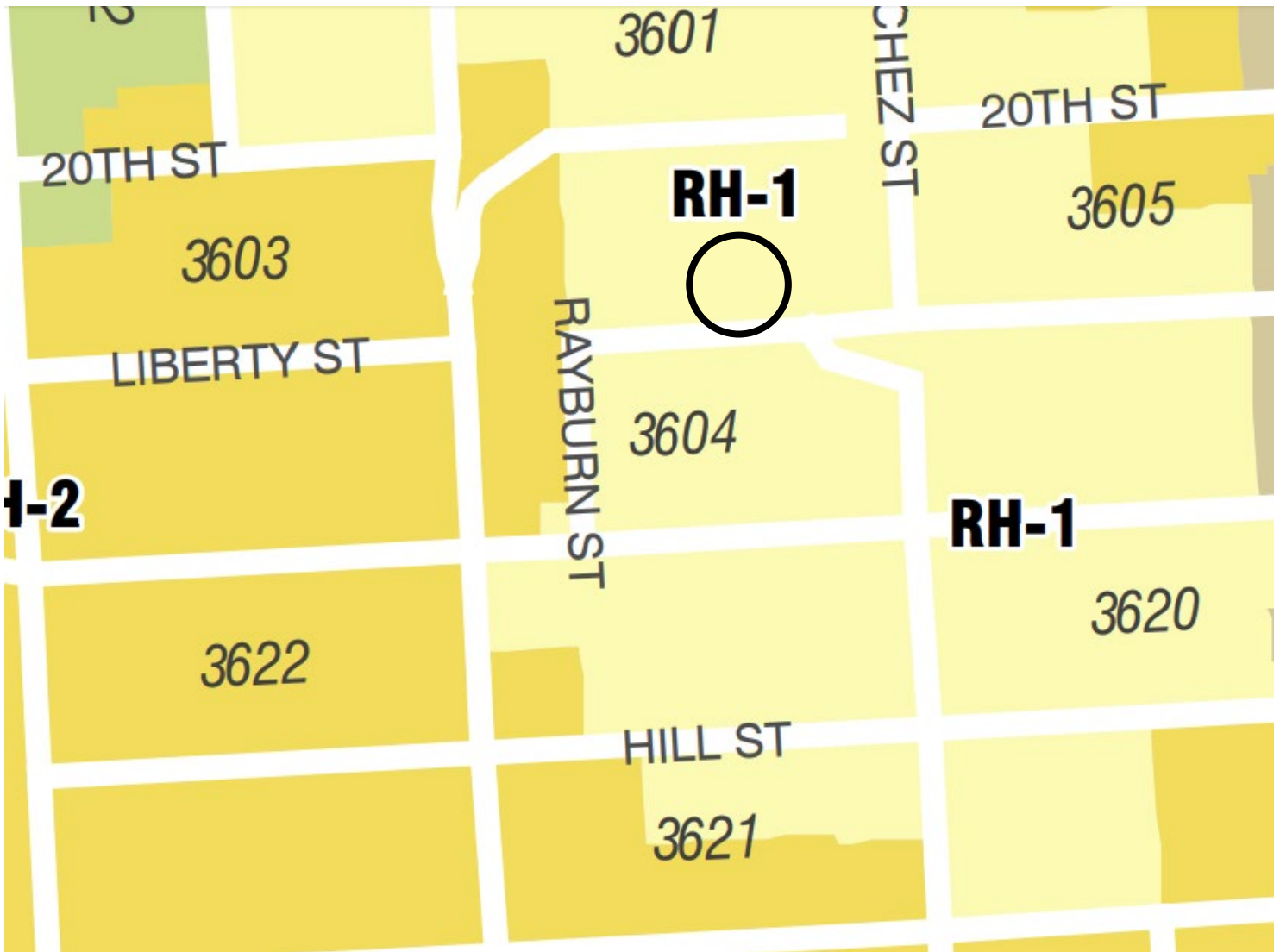


*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Discretionary Review Hearing
Case Number 2020-007450DRP-02
428 Liberty Street

Zoning Map



Discretionary Review Hearing
Case Number 2020-007450DRP-02
428 Liberty Street

Aerial Photo



DR REQUESTOR'S
PROPERTY

SUBJECT PROPERTY



Discretionary Review Hearing
Case Number 2020-007450DRP-02
428 Liberty Street

Aerial Photo

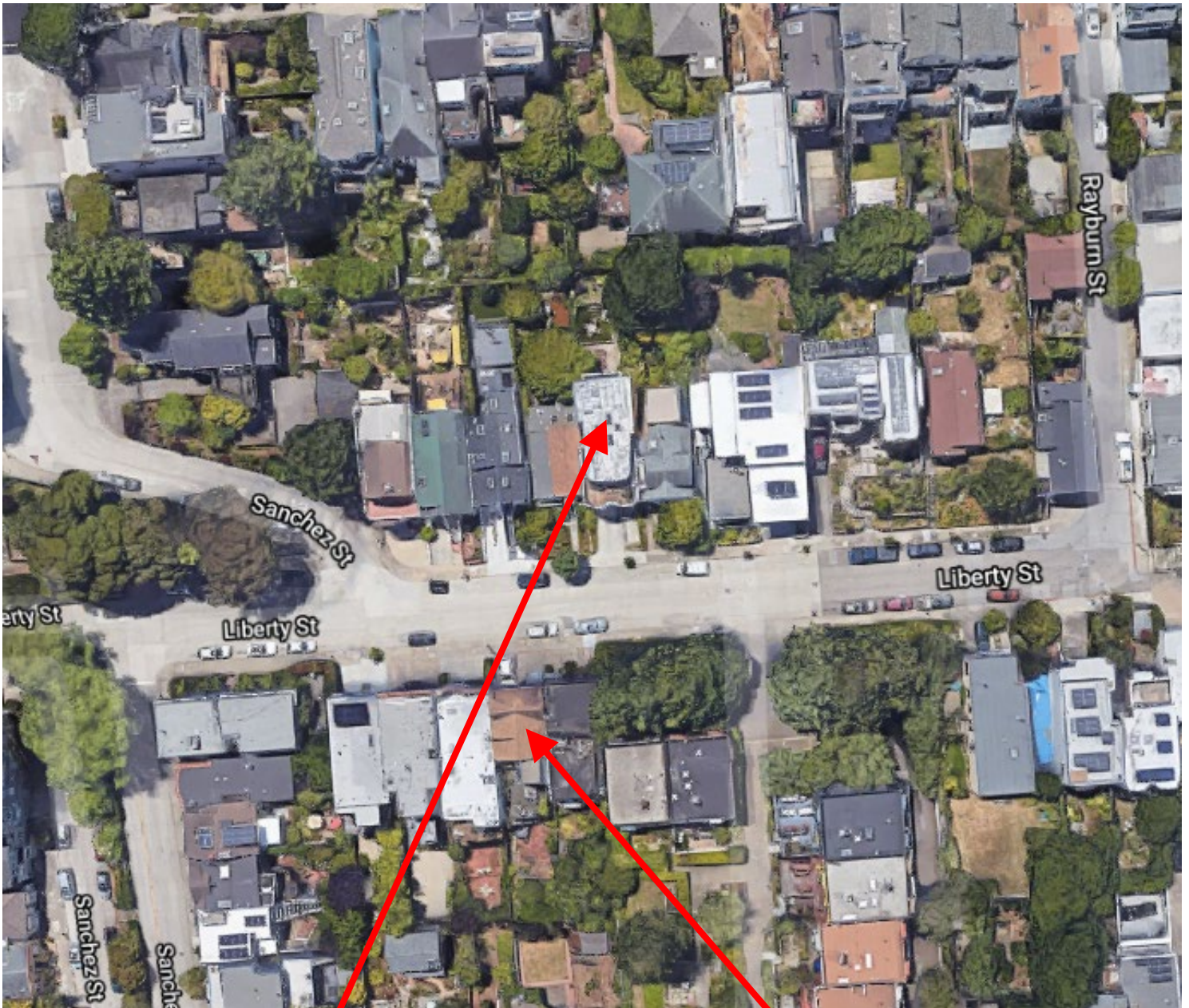


**DR REQUESTOR'S
PROPERTY**

SUBJECT PROPERTY



Aerial Photo



**DR REQUESTOR'S
PROPERTY**

SUBJECT PROPERTY



Discretionary Review Hearing
Case Number 2020-007450DRP-02
428 Liberty Street

Aerial Photo



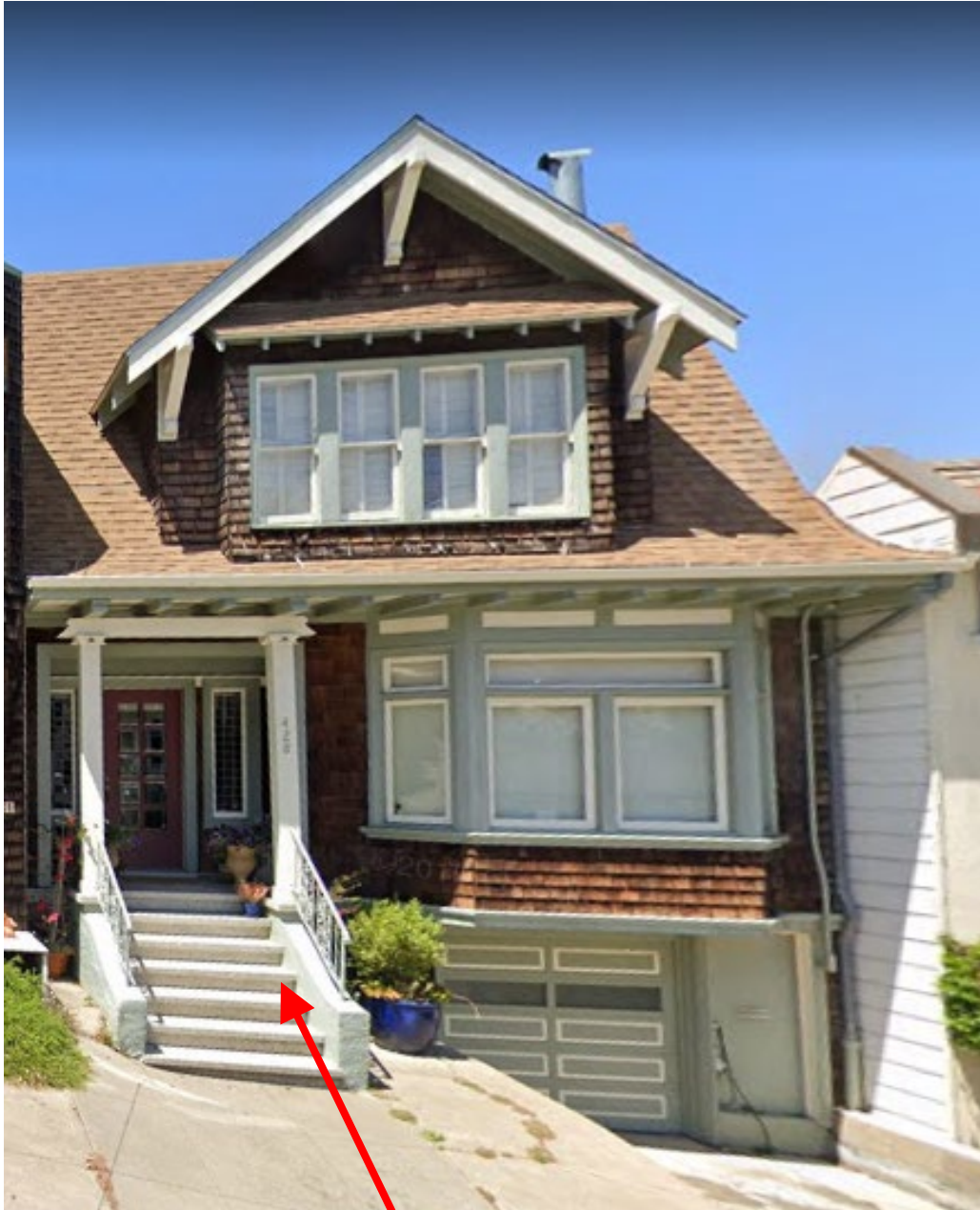
SUBJECT PROPERTY

**DR REQUESTOR'S
PROPERTY**



Discretionary Review Hearing
Case Number 2020-007450DRP-02
428 Liberty Street

Site Photo



SUBJECT PROPERTY

Discretionary Review Hearing
Case Number 2020-007450DRP-02
428 Liberty Street



SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission Street Suite 400 San Francisco, CA 94103

REVISED NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311)

On **August 12, 2020** Building Permit Application Nos. **202008121624** was filed for work at the Project Address below.

Notice Date: August 31, 2020

Expiration Date: September 14, 2020

PROJECT INFORMATION		APPLICANT INFORMATION	
Project Address:	428 LIBERTY STREET	Applicant:	Tuija Catalano
Cross Street(s):	Sanchez & Rayburn Streets	Address:	One Bush Street, Suite 600
Block/Lot No.:	3604/046	City, State:	San Francisco, CA 94104
Zoning District(s):	RH-1 & Dolores Heights SUD / 40-X	Telephone:	(415) 567-9000
Record Number:	2020-007450PRJ	Email:	tcatalano@reubenlaw.com

You are receiving this revised notice as an owner or occupant of property within 150 feet of the proposed project. **You are not required to take any action.** For more information about the proposed project, or to express concerns about the project, please contact the Applicant listed above or the Planner named below as soon as possible. If you believe that there are exceptional or extraordinary circumstances associated with the project, you may request that the Planning Commission review this application at a public hearing for Discretionary Review. Requests for a Discretionary Review hearing must be filed during the **15-day** review period, prior to the close of business on the Expiration Date shown above, or the next business day if that date is on a weekend or a legal holiday. If no Requests for Discretionary Review are filed, this project will be approved by the Planning Department after the Expiration Date.

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

PROJECT SCOPE		
<input type="checkbox"/> Demolition	<input type="checkbox"/> New Construction	<input checked="" type="checkbox"/> Alteration
<input type="checkbox"/> Change of Use	<input type="checkbox"/> Façade Alteration(s)	<input type="checkbox"/> Front Addition
<input checked="" type="checkbox"/> Rear Addition	<input type="checkbox"/> Side Addition	<input checked="" type="checkbox"/> Vertical Addition
PROJECT FEATURES	EXISTING	PROPOSED
Building Use	Residential	No Change
Front Setback	6' 4 1/2"	No Change
Side Setbacks	N/A	N/A
Building Depth	41' 6"	56' 3 7/2"
Rear Yard	66' 1 1/2" & 44' 9 3/4" to edge of deck	51' 3 5/8"
Building Height	27 feet 10 inches	34 feet 2 inches
Number of Stories	3 Story with basement	4 Story
Number of Dwelling Units	1	No Change
Number of Parking Spaces	2	No Change
PROJECT DESCRIPTION		
The subject permit does not change the scope of work of approved per Building Permit No. 201710272502. The subject permit is to correct the existing building height dimensions, which were shown incorrectly on BP No. 201710242502 as height of 29 feet 4 inches. The subject permit also includes minor revisions to a bathroom location at level 4. Please see the attached plans.		
Please note that a previous notice for BP No. 201710242502 was mailed on September 5, 2018 with an expiration date of October 5, 2018. However, that notice did not include the correct existing building height. This notice is being resent with revised plans and a new notice expiration date. Please contact the applicant or staff planner with any questions.		
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.		

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

For more information, please contact Planning Department staff:

Planner: Cathleen Campbell

Telephone: (628) 652-7387

E-mail: Cathleen.campbell@sfgov.org

GENERAL INFORMATION ABOUT PROCEDURES DURING COVID-19 SHELTER-IN-PLACE ORDER

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 specific questions about the proposed project, you should contact the planner listed on the front of this notice. If you have general questions about the Planning Department's review process, contact the Planning Information Center (PIC) via email at pic@sfgov.org.

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. Contact the project Applicant to get more information and to discuss the project's impact on you.
2. Contact the nonprofit organization Community Boards at (415) 920-3820, or online at www.communityboards.org for a facilitated. 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 that 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 ("DR"). If you believe the project warrants Discretionary Review by the Planning Commission, **you must file a DR Application prior to the Expiration Date shown on the front of this notice.**

To file a DR Application, you must:

1. Create an account or be an existing registered user through our Public Portal (<https://accsf.accela.com/ccsf/Default.aspx>).
2. Complete the Discretionary Review PDF application (<https://sfplanning.org/resource/drp-application>) and email the completed PDF application to CPC.Intake@sfgov.org. You will receive follow-up instructions via email on how to post payment for the DR Application through our Public Portal.

To determine the fee for a Discretionary Review, please refer to the Planning Department Fee Schedule available at www.sfplanning.org. If the project includes multiple building permits, i.e. demolition and new construction, a separate request for Discretionary Review must be submitted, with all required materials and fee, for each permit that you feel will have an impact on you. Incomplete applications will not be accepted.

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

BOARD OF APPEALS

An appeal of the Planning Commission's decision on a Discretionary Review case may be made to the **Board of Appeals within 15 calendar days after the building permit is issued** (or denied) by the Department of Building Inspection. The Board of Appeals is accepting appeals via e-mail. 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 at www.sfplanning.org. An appeal of the decision **to exempt the proposed project from CEQA may be made to the Board of Supervisors within 30 calendar days** after the project approval action identified on the determination. The procedures for filing an appeal of an exemption determination are available from the Board of Supervisors at bos.legislation@sfgov.org, 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.



CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
428 Liberty Street		3604046
Case No.		Permit No.
2020-007450PRJ		202008121624
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRE for Category B Building)	<input type="checkbox"/> New Construction
Project description for Planning Department approval. Administrative Permit to File More Precise Existing Conditions Under BPA#201710242502. The subject permit does not change the scope of work of approved per Building Permit No. 201710272502. The subject permit is to correct the existing building height dimensions, which were shown incorrectly on BP No. 201710242502 as height of 29 feet 4 inches. The subject permit also includes minor revisions to a bathroom location at level 4.		

STEP 1: EXEMPTION CLASS

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA).	
<input checked="" type="checkbox"/>	Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 - New Construction. Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services. FOR ENVIRONMENTAL PLANNING USE ONLY
<input type="checkbox"/>	Class ____

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

<input type="checkbox"/>	Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks, etc.)? (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollution Exposure Zone)
<input type="checkbox"/>	Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? Note that a categorical exemption shall not be issued for a project located on the Cortese List if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).
<input type="checkbox"/>	Transportation: Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
<input type="checkbox"/>	Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non -archeological sensitive area? If yes, archeo review is required (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)
<input type="checkbox"/>	Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography). If yes, Environmental Planning must issue the exemption.
<input type="checkbox"/>	Slope = or > 25%: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.
<input type="checkbox"/>	Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.
<input type="checkbox"/>	Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required and Environmental Planning must issue the exemption.
Comments and Planner Signature (optional): Cathleen Campbell	

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

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

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

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

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

Check all that apply to the project.	
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .

<input checked="" type="checkbox"/>	<p>8. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):</p> <p>Administrative permit to correct the existing conditions of the existing building. No work proposed.</p>
<input type="checkbox"/>	<p>9. Other work that would not materially impair a historic district (specify or add comments):</p> <p><i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i></p>
<input type="checkbox"/>	<p>10. Reclassification of property status. <i>(Requires approval by Senior Preservation Planner/Preservation)</i></p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> Reclassify to Category A</p> <p style="margin-left: 20px;">a. Per HRER or PTR dated</p> <p style="margin-left: 20px;">b. Other (specify):</p> </div> <div style="width: 45%;"> <p><input type="checkbox"/> Reclassify to Category C</p> <p style="margin-left: 20px;"><i>(attach HRER or PTR)</i></p> </div> </div>
<p>Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.</p>	
<input type="checkbox"/>	<p>Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.</p>
<p>Comments (optional):</p> 	
<p>Preservation Planner Signature: Cathleen Campbell</p>	

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

<input checked="" type="checkbox"/>	<p>No further environmental review is required. The project is categorically exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.</p>	
	<p>Project Approval Action:</p> <p>Building Permit</p>	<p>Signature:</p> <p>Cathleen Campbell</p>
	<p>If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</p>	<p>09/21/2020</p>
	<p>Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.</p> <p>In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the approval action.</p> <p>Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.</p>	

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

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

MODIFIED PROJECT DESCRIPTION

Modified Project Description:

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | Result in expansion of the building envelope, as defined in the Planning Code; |
| <input type="checkbox"/> | Result in the change of use that would require public notice under Planning Code Sections 311 or 312; |
| <input type="checkbox"/> | Result in demolition as defined under Planning Code Section 317 or 19005(f)? |
| <input type="checkbox"/> | Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption? |

If at least one of the above boxes is checked, further environmental review is required.

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

- | | |
|--------------------------|---|
| <input type="checkbox"/> | The proposed modification would not result in any of the above changes. |
|--------------------------|---|

If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice. In accordance with Chapter 31, Sec 31.08j of the San Francisco Administrative Code, an appeal of this determination can be filed within 10 days of posting of this determination.

Planner Name:

Date:



DISCRETIONARY REVIEW PUBLIC (DRP) APPLICATION

Discretionary Review Requestor's Information

Name: Dolores Heights Improvement Club

Address: PO Box 14426, San Francisco CA 94114
Email Address: bruce.r.bowen@gmail.com
Telephone: 415-533-0586

Information on the Owner of the Property Being Developed

Name: Julie Kim and Justin Majors

Company/Organization: c/o Tuija Catalano, Reuben, Junius & Rose LLP
Address: One Bush Street, Suite 600, San Francisco CA 94104
Email Address: tcatalano@reubenlaw.com
Telephone: 415-567-9000

Property Information and Related Applications

Project Address: 428 Liberty Street, San Francisco CA 94114

Block/Lot(s): 3604/046

Building Permit Application No(s): 202008121624

ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST

PRIOR ACTION	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you participate in outside mediation on this case? (including Community Boards)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Changes Made to the Project as a Result of Mediation.

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

None

DISCRETIONARY REVIEW REQUEST

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

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

See Attached

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

See Attached

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

See Attached

DISCRETIONARY REVIEW REQUESTOR'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

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

Bruce R Bowen
Signature

Bruce R Bowen
Name (Printed)

Chair, Planning and Land Use Committee
Relationship to Requestor
(i.e. Attorney, Architect, etc.)

415-533-0586
Phone

bruce.r.bowen@gmail.com
Email

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____



DOLORES HEIGHTS IMPROVEMENT CLUB

P.O. Box 14426, San Francisco, CA 94114

September 11, 2020

Planning Information Center
San Francisco Planning Department
1660 Mission Street
San Francisco, California 94103

**SUBJECT: Fee Waiver Request for Discretionary Review Application - Subject
Property 428 Liberty Street. Building Permit #202008121624**

To Whom It May Concern:

This letter is being written in order to qualify for a fee waiver for the above-referenced Discretionary Review application. I am the Chair of the Dolores Heights Improvement Club (DHIC). I state that:

- Our organization has been in existence since 1949
- We are on the Planning Department's list of neighborhood associations
- Bruce Bowen is the named appellant filing on behalf of DHIC
- He is a member in good standing and the Chair of our Planning & Land Use Committee
- He has been authorized by our Board to file this discretionary review on behalf of DHIC.

Please contact me if you have any other questions.

Sincerely,

Carolyn Kenady

Carolyn Kenady
Chair, Dolores Heights Improvement Club
P.O. Box 14426
San Francisco, CA 94114
info@doloresheights.org
408-218-3115

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

A. The addition to 428 Liberty was built with inaccurate public notification, based on erroneous plans and flawed review by the Planning Department.

Building Permit Application 201710272502 for 428 Liberty Street was issued (Site permit only) on November 16, 2018. The 311 public notification (the "2018 311 Notice") was mailed on September 5, 2018 and expired on October 5, 2018. (Note: this was the second 311 notice - the first contained an error regarding the extent of the horizontal addition and a second 311 notice was required.)

The 2018 311 Notice included plans (the "2018 311 Plans"; see Attachment 1) that show an existing peak at the front of the existing house, with a proposed new vertical and horizontal addition to the rear. The 2018 311 Plans clearly indicate that the height of the new addition is the same height, or within an inch, as the existing peak, at 34'2". (Attachment 1; pp A202, A203).

In addition to the representation of the heights in the 2018 311 Plans, the assigned Planner explained, in an October 3, 2018 email, that "...the roof pitch change of the attic is less than an inch higher than the existing ridge of the extreme pitched roof to the front of the house." (Attachment 2; note the use of the term "attic" to describe the top floor of the addition.)

Liberty Street neighbors also report discussions with the owners who said, at or about the time of the Pre-Application Meeting in October 2017, that the height of the vertical addition would be no higher than the existing peak at the front of the existing building.

In May 2020, neighbors on Liberty Street observed that the new addition, now being built, appeared to be substantially taller than the existing peak, and therefore inconsistent with the publicly noticed plans. On May 28, 2020, an inspector from DBI confirmed that the new addition is 2'9" higher than the existing peak, and that this was consistent with the stamped approved drawings.

We subsequently learned that the stamped approved drawings were the result of Revision Permit 202002144574, filed on February 14, 2020 and approved over the counter on February 28, 2020. This revision permit was determined at the time to not require public notification because it had resulted from discovery of more precise existing conditions and involved no change to proposed building volume. The Zoning Administrator has since acknowledged that his determination that no public notification was required for this Revision Permit was based upon a misunderstanding.

Neither the owners (who are builders) nor the Planning Department told the neighbors that the project had changed significantly. This major change - that the new addition is 2'9" taller than the existing roof - should have been shared immediately with the neighbors. The new addition is significantly more visible from the street and by the neighbors. The impact of this change is material.

On May 28, 2020, the Dolores Heights Improvement Club ("DHIC") sent the first of a series of urgent emails to the Planning Department about the height difference between what had been publicly noticed and what was being built. On July 15, 2020, Building Permit 202002144574 was suspended, after a July 8 letter from the Zoning Administrator. (Attachment 3.) This letter states that the 2018 311 Plans "...had not merely mislabeled the height dimension, but had actually shown the height of the existing building incorrectly, which created an inaccurate perspective of the proposed addition relative to the existing building."

B. The errors in the 2018 311 Plans and the Planning's Department's mistaken determination that the Revision Permit did not require public notification deprived neighbors of the opportunity to meaningfully review the proposed addition.

The neighbors were told orally, in the 2018 311 Plans, and by the assigned Planner that the new addition would be no taller than the existing peak. In fact, the assigned Planner, in the October 3 email, told the neighbors that she believed they would not "...be able to see the rear addition." (Note: This was a reasonable statement to make, as it was based on the 2018 311 Plans, later found to be erroneous.) The result was that neighbors were not provided a reason or the opportunity to discuss alternatives to a roofline that is now significantly higher than the existing gabled roofline.

In fact, by the time the neighbors recognized the impact of the errors, framing on the top floor had already begun. By the time the Revision Permit was suspended, the framing was complete and walls built.

The plans for the Revision Permit were not available online or available through a public records request from the Planning Department. The plans were not provided to DHIC or the neighbors by the owners, although they were requested. The revised plans were only available to us from the SF PIM after the current building permit application was filed on August 12.

We are in the difficult but necessary position of asking the Commission to take action on this project after the structure was substantially built.

Question 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:

Neither the public nor the Planning Department had the opportunity to evaluate the proposed project properly during the planning process. Both the plans shared at the Pre-Application meeting and reviewed by Planning as well as the final 2018 311 plans misrepresented the vertical addition's height relative to the existing gabled roofline. The RDAT produced three NOPDRs for this project. All three NOPDRs were based on the erroneous plans. If they had received a correct planset, would the Planning Department have determined that the proposed project complied with the RDGs? The Revised Permit was approved OTC. In fact, it is impossible to determine what review may have occurred for the Revision Permit. Because it was an over the counter review, the Planning Department retained no records. However, DHIC and the neighbors would have objected to the vertical addition being higher than the gabled roof. Both DHIC and the neighbors would have sought changes in the project plan. Since seeing the height difference and then receiving the corrected plan information, both parties have pursued direct discussions with the owners and every administrative avenue.

The public relies upon accurate information from Planning, just as Planning and the public both rely upon accurate information from architects and project sponsors. The public trust is subverted when architects and project sponsors submit erroneous information. Public trust is further undermined when neither the sponsor nor the Department inform the public when errors are corrected - corrections which have a material effect on the impact of the project on the neighbors. Most neighbors do not perceive compliance with height limits or building volumes. They can, on the other hand, easily visualize and understand changes in relative heights. When the relative height of a residential building changes by almost 3 feet, that creates an unreasonable burden on the public and the public trust.

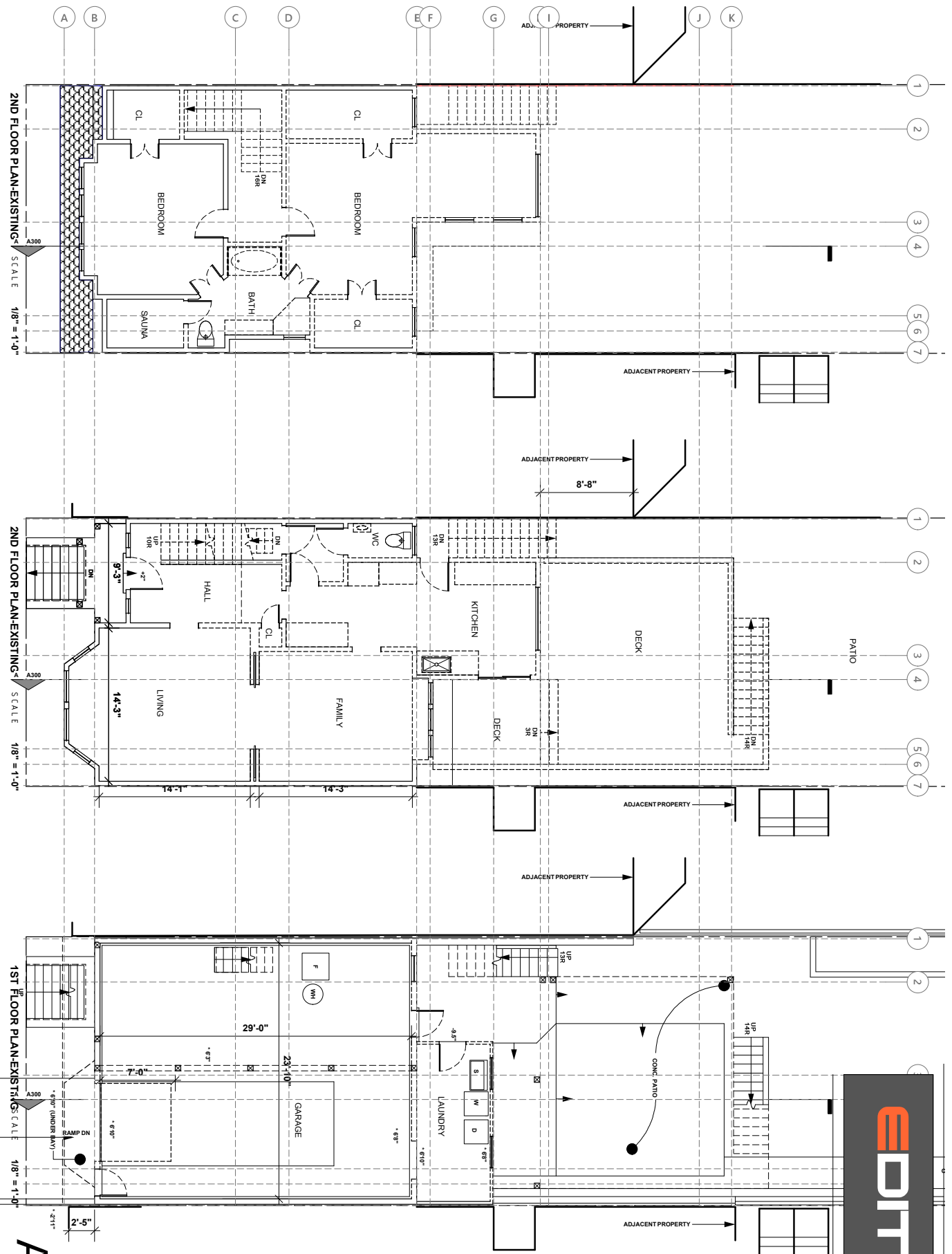
Question 3: What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

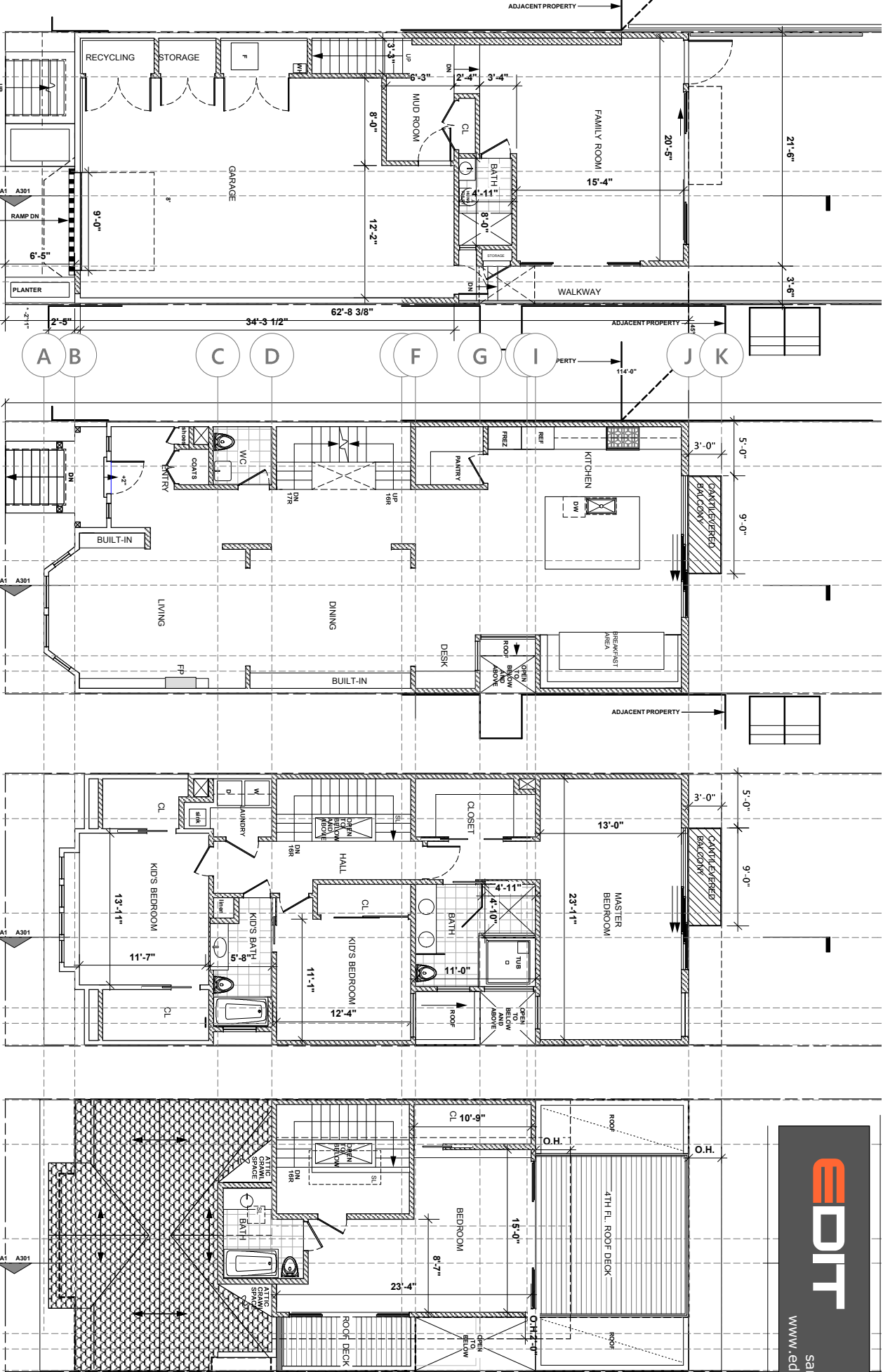
Neighbors were deprived of their rights in this flawed administrative process -- not just once but several times (at the Pre-App meeting, by the 311 Notice, and by the opaque Revision Permit processing) before the project was built. The lack of transparency in the process completely subverted the neighbors' opportunity to discuss significant design elements that affect them.

Because of the nature of the errors and the lack of public notice, the adverse impacts of the errors were not able to be identified until construction had begun. The opportunity to review the revised plans only came when the plans were filed as part of the latest (August 12) building permit application. This process has put us and the neighbors at an unreasonable disadvantage.

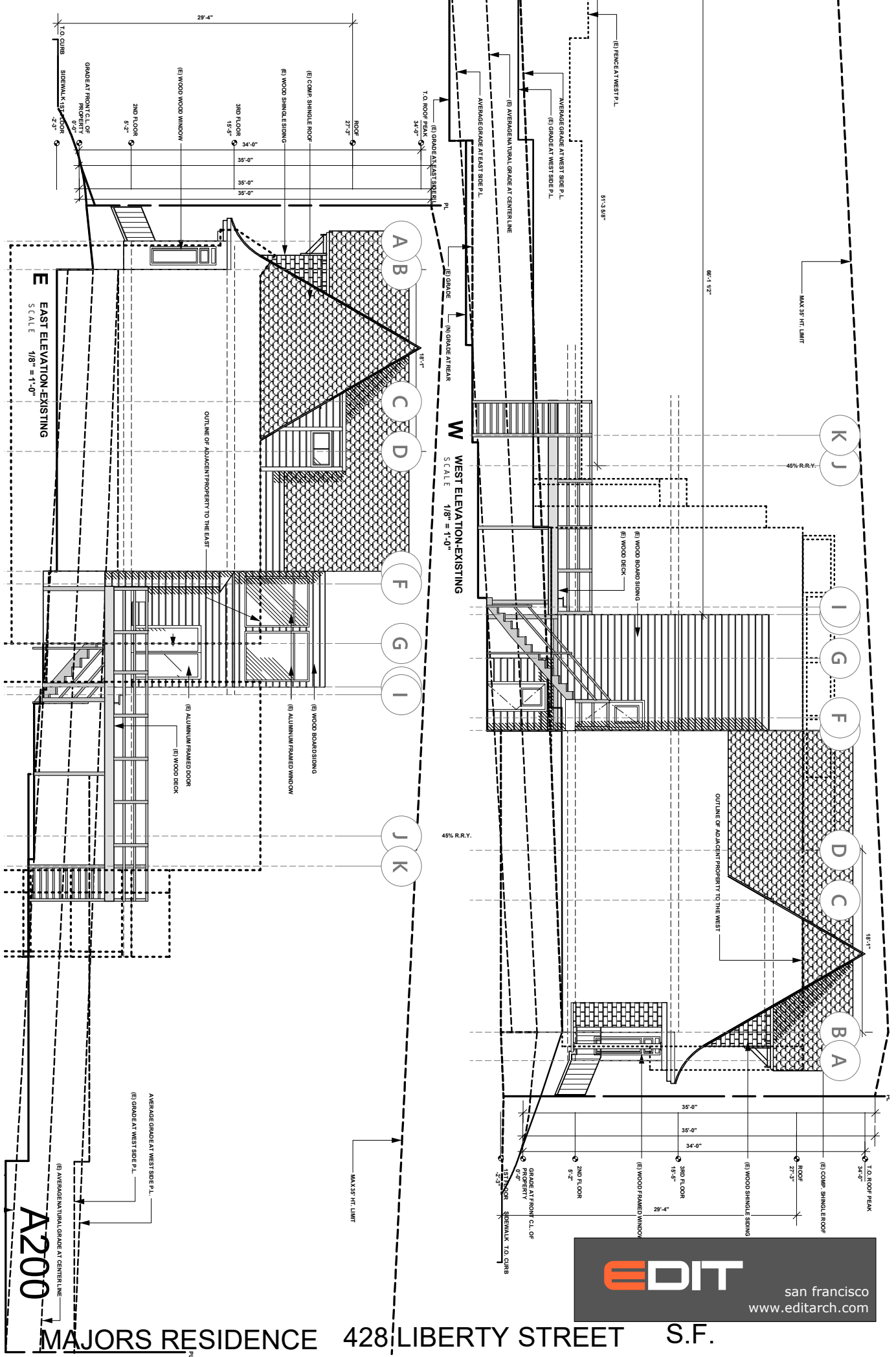
The neighbors are initiating an architectural review to determine whether and what changes will be sought to mitigate the impact of the significant change in the project's impact that resulted from the errors. This architectural review will require, among other things, access to a site survey. (The Department has not provided one from its files. We hope the Sponsor will provide one upon request.) This will help us understand the changes in the Revision Permit and the new 311 plans. It will verify compliance with the Code and the requirements of the Special Use District, and consistency with the Residential Design Guidelines. We are hopeful that we and the neighbors can work with the Sponsor and the Department during discussions based on the results and recommendations from this architectural review.

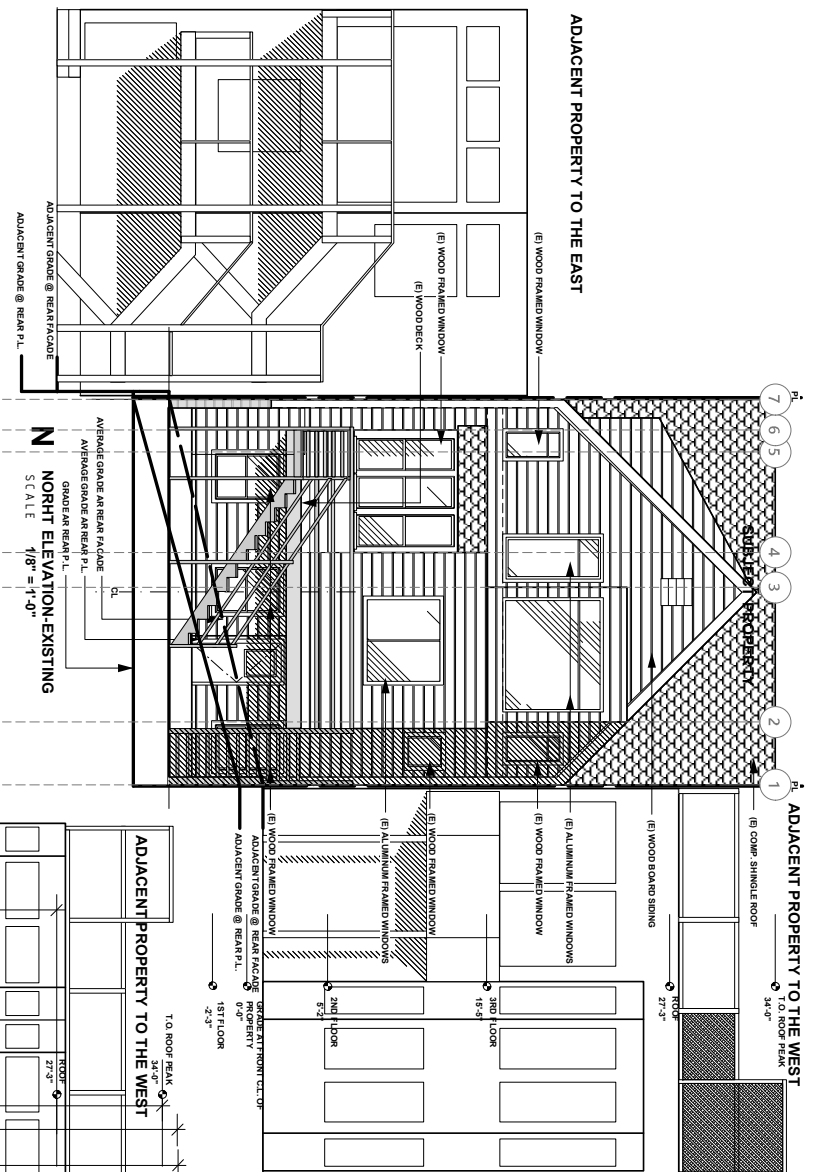
Attachment 1



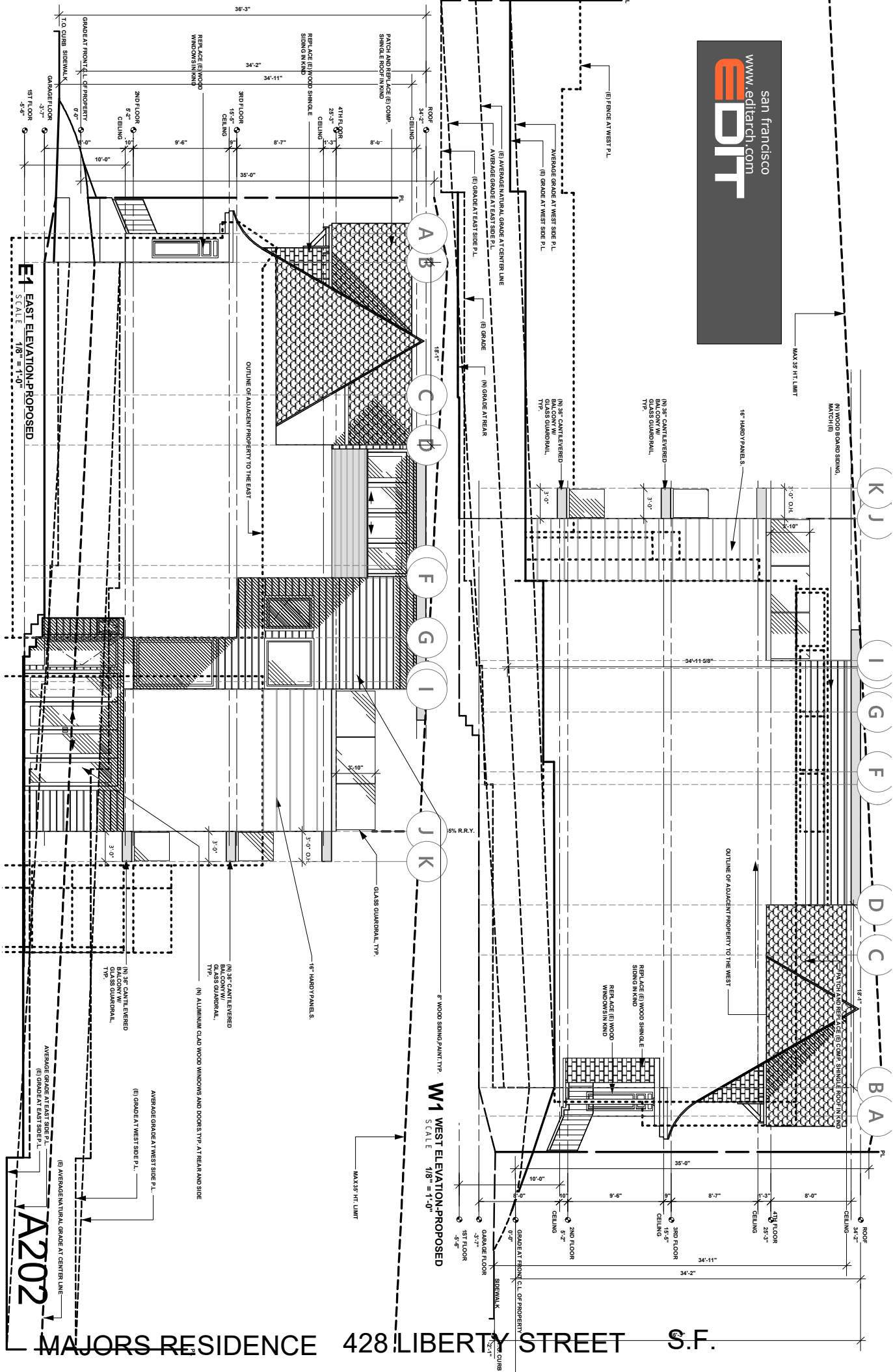


A102





A201



OUTLINE OF (E) ROOF LINE

- 7
- 5
- 4
- 3
- 2
- 1

ADJACENT PROPERTY TO THE WEST

(N) ALUMINUM CLAD AT REAR
(N) WOOD BOARD SIDING MATCH (E)
(N) GLASS GUARDRAIL, TYP.

(N) METAL CLAD WOOD WINDOWS, TYP.
AT REAR

ADJACENT PROPERTY TO THE EAST

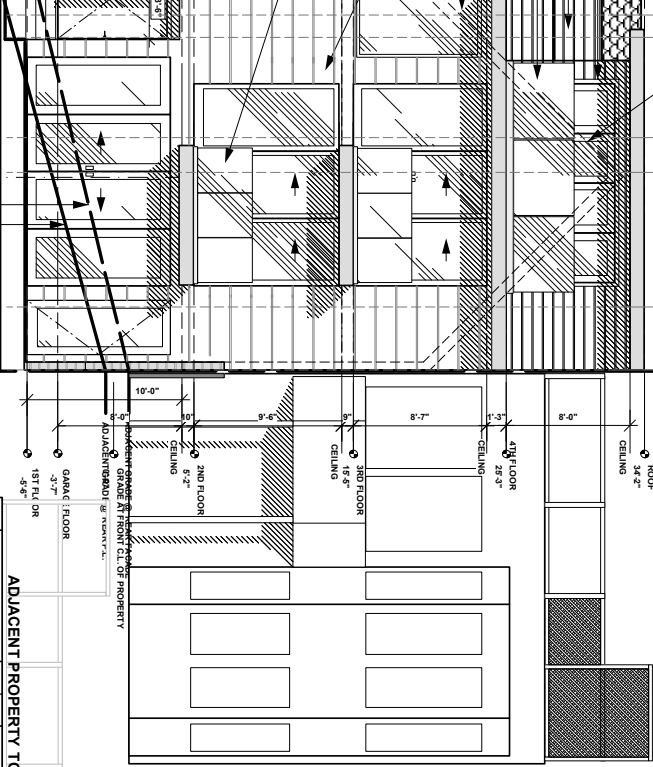
16" HARDY PANELS

GLASS GUARDRAIL AT BALCONY, TYP.

ADJACENT GRADE @ REAR P.L.

N1 NORTH ELEVATION-PROPOSED
SCALE 1/8" = 1'-0"

AVERAGE GRADE AT REAR FACADE
AVERAGE GRADE AT REAR P.L.
GRADE AT REAR P.L.



ADJACENT PROPERTY TO THE WEST

SUBJECT PROPERTY

- 1
- 2
- 3
- 4
- 7

GRADE AT FRONT CL. OF PROPERTY

(E) T.O. OF GARAGE FLOOR
(N) GARAGE FLOOR
(N) 1ST FLOOR

AV. GRADE @ FACADE
GRADE @ FACADE
GRADE @ P.L.
GRADE @ CURB

S1 SOUTH ELEVATION-PROPOSED
SCALE 1/8" = 1'-0"

(N) CONCRETE PLANTER

(N) WOOD SECTIONAL GARAGE DOOR MATCH (TRIM TO E)

(N) WOOD ALUMINUM CLAD WINDOWS REPLACED IN-KIND

REPLACE (E) WOOD SHINGLE SIDING IN-KIND

PATCH AND REPLACE (E) CORR. SHINGLE ROOF IN-KIND

ADJACENT PROPERTY TO THE EAST

Attachment 2

Subject: RE: Proposed project at 428 Liberty St. Permit# 2017.10.27.2502
Date: Wednesday, October 3, 2018 at 11:40:25 AM Pacific Daylight Time
From: Dave Johnson
To: Campbell, Cathleen (CPC), rn4m@yahoo.com
CC: 'Ilyas Iliya', Raquel Johnson
Attachments: image001.png, image002.png

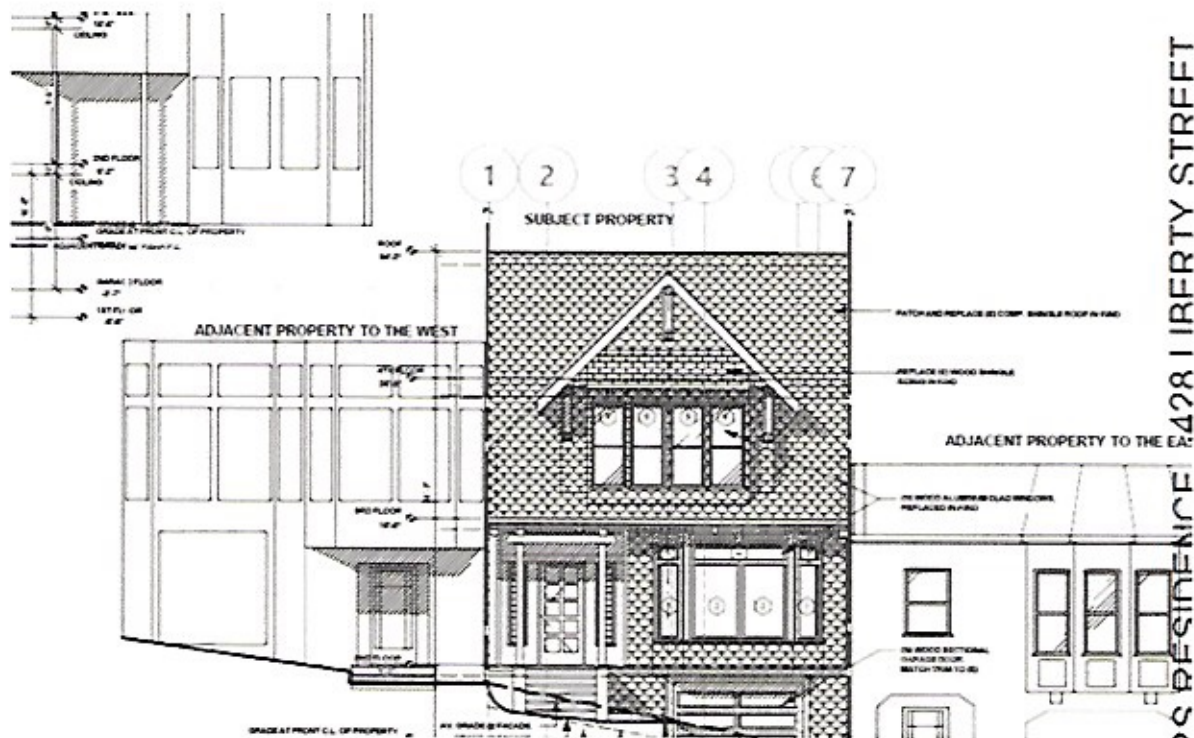
than what I had envisioned.

Let me also discuss with Ilyas and get back to you if we need further discussion.

Thank you,
Dave Johnson

From: Campbell, Cathleen (CPC) [mailto:cathleen.campbell@sfgov.org]
Sent: Wednesday, October 03, 2018 11:27 AM
To: dave@coupage.com; m4m@yahoo.com
Cc: Ilyas Iliya
Subject: RE: Proposed project at 428 Liberty St. Permit# 2017.10.27.2502

Hi Dave and Ilyas,
Would you like to visit my office or have a discussion over the phone?
If you decide to come to the planning department you may take a look at the plans.





The roof pitch change of the attic is less than an inch higher than the existing ridge of the extreme pitched roof to the front of the house.



From: Dave Johnson [mailto:dave@coupage.com]
Sent: Wednesday, October 03, 2018 10:48 AM
To: m4m@yahoo.com
Cc: Campbell, Cathleen (CPC); ilyas iliya
Subject: Proposed project at 428 Liberty St. Permit# 2017.10.27.2502

Attachment 3



SAN FRANCISCO PLANNING DEPARTMENT

Suspension Request

July 8, 2020

Patrick O'Riordan
Interim Director
Department of Building Inspection
1660 Mission Street
San Francisco, CA 94103

Building Permit Nos.: 201710272502 & 202002144574
Property Address: 428 Liberty Street
Block and Lot 3604/046
Zoning District: RH-1 / 40-X
Staff Contact: Cathleen Campbell – (415) 575-8732
Cathleen.campbell@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Dear Patrick O'Riordan,

This letter is to request that the Department of Building Inspection (DBI) suspend **Building Permit (BP) No. 202002144574** in its entirety, and only that portion of **BP No. 201710272502** that authorizes the top floor (i.e. 4th Floor) addition, for the property at 428 Liberty Street. This request does not pertain to any scope of work under **BP No. 201710272502** related to the lower three floors.

BP No. 201710272502 underwent neighborhood notice per Planning Code Section 311 between August 15 and September 14, 2018. It was approved by Planning on October 17, 2018 and issued by DBI on April 24, 2019. During construction, measurements in field confirmed that the height of the existing building was not accurately depicted in the plans for **BP No. 201710272502**. More specifically, those plans showed the existing building being several feet taller than it actually was.

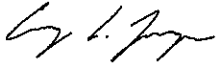
BP No. 202002144574 was filed on February 14, 2020 to revise the scope of work authorized under **BP No. 201710272502** to correct the height discrepancy, plus a few other minor revisions. Because the plans used for the neighborhood notice for **BP No. 201710272502** provided incorrect height information, **BP No. 202002144574** should have been subject to Planning Code Section 311 and an updated neighborhood notice, and **BP No. 201710272502** should have been at least partially suspended at that time. Unfortunately, due to a misunderstanding with the Planning Department, those actions did not occur. Instead, Planning approved **BP No. 202002144574** on February 25, 2020 and it was issued by DBI on February 28, 2020.

It was later brought to my attention that the plans for **BP No. 201710272502** had not merely mislabeled the height dimension, but had actually shown the height of the existing building incorrectly, which created an inaccurate perspective of the proposed addition relative to the existing building. Therefore, the Planning Department respectfully requests that DBI suspend **Building Permit (BP) No. 202002144574** in its entirety, and only that portion of **BP No. 201710272502** that authorizes the top floor (i.e. 4th Floor) addition, for the property at 428 Liberty Street. This request does not pertain to any scope of work under **BP No. 201710272502** related to the lower three floors.

Patrick O'Riordan, Interim Director
Suspension Request
428 Liberty Street
July 8, 2020

APPEAL: Any aggrieved person may appeal this letter to the Board of Appeals within fifteen (15) days after the date of the issuance of this letter. For further information, please contact the Board of Appeals in person at 1650 Mission Street, 3rd Floor (Room 304), call 575-6880, or visit www.sfgov.org/bdappeal.

Sincerely,



Corey A. Teague, AICP
Zoning Administrator

CC: Justin Majors and Julie Kim, 2015 Douglass St, SF, CA 94114 (Property Owner)
Tuija Catalano, Reuben, Junius & Rose, LLP
Ed Sweeney, Deputy Director, Department of Building Inspection
Cathleen Campbell, Planning Department



DISCRETIONARY REVIEW PUBLIC (DRP)

APPLICATION PACKET

Pursuant to Planning Code Section 311, the Planning Commission may exercise its power of Discretionary Review over a building permit application.

For questions, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Please read the [Discretionary Review Informational Packet](#) carefully before the application form is completed.

WHAT TO SUBMIT:

- ☐ Two (2) complete applications signed.
- ☐ A Letter of Authorization from the DR requestor giving you permission to communicate with the Planning Department on their behalf, if applicable.
- ☐ Photographs or plans that illustrate your concerns.
- ☐ Related covenants or deed restrictions (if any).
- ☐ A digital copy (CD or USB drive) of the above materials (optional).
- ☐ Payment via check, money order or debit/credit for the total fee amount for this application. (See [Fee Schedule](#)).

HOW TO SUBMIT:

To file your Discretionary Review Public application, please email the completed application to cpc.intake@sfgov.org.

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 628.652.7550. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder.

中文: 如果您希望獲得使用中文填寫這份申請表的幫助，請致電628.652.7550。請注意，規劃部門需要至少一個工作日來回應。

Filipino: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 628.652.7550. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.



DISCRETIONARY REVIEW PUBLIC (DRP)

APPLICATION

Discretionary Review Requestor's Information

Name: David and Raquel Johnson

Address: 437 Liberty St. SF, 94114

Email Address: dave@coupage.com

Telephone: 415-642-4853

Information on the Owner of the Property Being Developed

Name: Justin Majors and Julie Kim

Company/Organization: c/o Tuija Catalano; Reuben, Junius & Rose, LLP

Address: One Bush St. Suite 600, SF, CA 94104

Email Address: juliekim45@gmail.com; tcatalano@reubenlaw.com

Telephone: 415-567-9000

Property Information and Related Applications

Project Address: 428 Liberty St., SF 94114

Block/Lot(s): 3604/046

Building Permit Application No(s): 202008121624

ACTIONS PRIOR TO A DISCRETIONARY REVIEW REQUEST

PRIOR ACTION	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you participate in outside mediation on this case? (including Community Boards)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Changes Made to the Project as a Result of Mediation. If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes that were made to the proposed project.		
No Changes have been made as a result of our discussions.		

DISCRETIONARY REVIEW REQUEST

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

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

We reviewed the original project plans, which showed a new structure behind the original gabled roof on the front of the building. We were given a 311 notice, that showed that new structure to be the same height as the front original roof height. When construction started, they built the new structure behind the gabled roof nearly 3 feet higher than that original front gabled roof which is completely different than what was shown in the 311 notice. The new structure is extraordinarily different than what was shown in the plans and highly detrimental to the neighbors at the west and east property lines (blocking decks, etc.). It is also highly detrimental to several neighbors across the street (out of character size, aesthetic mismatch, and not correctly represented to the neighbors or the Dolores Heights Improvement Club). After seeing the construction that did not match the plans, we brought this to the attention of the owners (who are also the builders). They said their architect made a mistake and that the planning department made a mistake in not notifying us that they were changing the building and raising the height. At no point have we been able to review a site survey to confirm these mistakes and we need to see one.

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

The new structure is extraordinarily different than what was shown in the plans. The additional 3 feet of height to the structure is highly detrimental to the neighbors at the west and east property lines (presenting a wall in front of a deck, etc.). It also has an unreasonable impact on several neighbors across the street (out of character size, aesthetic mismatch with the neighborhood and the property's own architecture, and was not correctly represented to the neighbors or the Dolores Heights Improvement Club). We have attached a photo at the end of this application which shows the new construction behind the existing gable roof. It clearly shows the additional 3 feet of height added to the new construction.

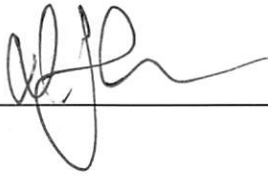
3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

The top floor (which was represented to us as an attic) should be removed completely. Alternatively, it could be reduced back to the originally communicated height, or set back from east and west property lines along with roof height reductions. We have also hired an architect to help us explore other alternatives.

DISCRETIONARY REVIEW REQUESTOR'S AFFIDAVIT

Under penalty of perjury the following declarations are made:

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



Signature

Self

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

415-642-4853

Phone

David Johnson

Name (Printed)

dave@coupage.com

Email

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____





RESPONSE TO DISCRETIONARY REVIEW

Project Information

Property Address:	Zip Code:
Building Permit Application(s):	
Record Number:	Discretionary Review Coordinator:

Project Sponsor

Name:	Phone:
Email:	

Required Questions

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

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

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

Project Features

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

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

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

Signature:	Date:
Printed Name:	<input type="checkbox"/> Property Owner <input type="checkbox"/> Authorized Agent

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

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

We have worked diligently to design a functional home for our young family that is sensitive to both the neighbors and neighborhood. We have consistently endeavored to communicate with our neighbors since late May/early June and solicit feedback and proposed solutions once we understood their concerns. Based on the neighbors' availability, we met with them on August 28, 2020, and have offered to meet again and continue to be available.

We have been willing to discuss and accommodate reasonable requests but have received none other than a request to remove the top floor. As stated by the Johnsons in an email on September 3, 2020: "Residents buy homes on Liberty Street for the views. Your view remains intact. Ours no longer does."

No exceptional or extraordinary circumstances have been presented or claimed by either of the DR requesters, and thus this Code-complying project should be approved. The only physical impacts the Johnsons' stated in their DR filing were: "out of character size", "aesthetic mismatch", and detriment due to "blocking decks etc." and "presenting a wall in front of a deck, etc." The DHIC DR filing cites no impacts.

The proposed plans provide for a home of approximately 3,746 square feet. The home is not "out of character size" for the neighborhood where homes range considerably larger and even span double lots on our own block. [See Exhibit A for two aerial and one pedestrian view of the 400 block of Liberty Street.] The addition is also set back over 18 feet from the facade of the house. We took particular care to ensure the home was not "an aesthetic mismatch" and have provided a rendering to the DR Requesters to demonstrate its compatibility with the existing, preserved architecture and style. [See Exhibit B.]

As detailed in the DHIC's filing, the DHIC primarily complains of a "flawed administrative process" in which no 311 notice was received in connection with the February administrative permit. They principally object on the basis that the public deserves an opportunity to be heard. The initiation of the current 311 process and DR they have filed provides the redress that they seek. DHIC and the neighbors have now received a 311 notice, and thus the DHIC's DR filing does not create or result in any exceptional or extraordinary impacts (and, as noted, they cite none).

The Johnsons and DHIC seek access to a site survey--a request first mentioned in the DR filings. This was not required by Planning in connection with the submitted plans and thus was not undertaken. Further, as the property is already under substantial construction it has already been excavated. On September 8, 2020 the DHIC representative stated in a phone call with us to discuss the calculation of the building's height that the issue was now, in his own words, "moot". It is our understanding that the neighbors/DHIC had, prior to the call, spoken to

Planning (and consulted with a lawyer and hired a private surveyor as well as filed a complaint with the Department of Building Inspection) and no discrepancies had been found.

The DR requesters (Johnsons) mistakenly state that the top floor was represented as an attic. The original 311 plans sent to the neighbors in 2018 (page A102 noting a bath, bedroom and closet) clearly denote the space as “BEDROOM”, detailing further the proposed locations for a “BATH” and “CL” (closet) on the floor.

For the avoidance of doubt and interest of clarity, the addition does not comprise an “additional 3 feet of height”; the height of the addition is 2’9” taller than the existing roof line as perceived from an uphill perspective of the home.

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

During and since our August meeting with the DR Requesters and other neighbors, we have repeatedly asked for constructive feedback on solutions that could address the neighbors’ concerns. The only physical change that has been suggested so far is removal of the top floor.

In the course of our planning since our pre-application meeting in 2017, we have either made or offered to make the following accommodations. Those asterisked were changes made before filing our application with the City:

- We substantially withdrew the extension of the rear of the home from the originally submitted plans*
- We agreed to maintain the existing style of the front facade of the home to retain its original character and limit an appearance of change to the block*
- We did not seek a roof deck*
- We are willing to consider foregoing solar panels, notwithstanding the environmental and energy cost savings*
- Subject to arriving at an amicable resolution with the DR requesters, we are willing to consider relocating the existing metal vent on the current roof to limit its visibility
- Subject to arriving at an amicable resolution with the DR requester, we are willing to consider using a roofing system that will keep the roof slope as seen from the exterior to approximately 4.5" inches with an additional 2.5" inch curb at considerable additional expense

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

Having received an administrative permit in February 2020, we have already constructed the addition that the DR Requesters now complain of. The DR Requesters (Johnsons) are across the street and uphill from our property. [See Exhibit C for photo of 428 Liberty as seen from in front of the DR Requester's (Johnsons) home.] The street alone is approximately 30 feet wide curb-to-curb, and each side of the street further benefits from homes set back from wide sidewalks.

Our immediately adjacent neighbors have no objections to the project as constructed. It is also important to note that the addition is over 18 feet from the front facade of the home. We have included as Exhibit D are current photograph of the home under construction to demonstrate a straight-on view of the home and the addition's lack of visibility from the street.

As mentioned above, the neighbors have suggested no solutions other than removing the top floor. The top floor ceiling height is only 8 feet for this bedroom. As we have explained to our neighbors, this bedroom is necessary for my father, as my mother has begun chemotherapy treatment during Covid. Having been married for over 50 years and heavily dependent on my mother, my father will need to reside with us. This is the only space in the home where he will be able to have a private bedroom.

In sum, our project complies with all of the Residential Design Guideline requirements and we have carefully designed the project in order to be considerate towards our neighbors. Although no exceptional or extraordinary circumstances exist or have been presented by the DR Requesters, we remain open to an on-going dialogue with our neighbors and some potential revisions, if the DR Requesters are interested in cooperative settlement prior to the DR hearing.

EXHIBIT A

Exhibit A: Block Aerial View

BLOCK AERIAL VIEW



SUBJECT STREET (NORTH SIDE)

DR REQUESTER'S PROPERTY



SUBJECT STREET (SOUTH SIDE)

NEIGHBORING PROPERTY
434 LIBERTY STREET

SUBJECT
PROPERTY

NEIGHBORING PROPERTY
424 LIBERTY STREET



SUBJECT STREET (REAR SIDE)

Exhibit A: Block Aerial View



** As seen under current construction*

Exhibit A: Pedestrian Block View

PEDESTRIAN BLOCK VIEW

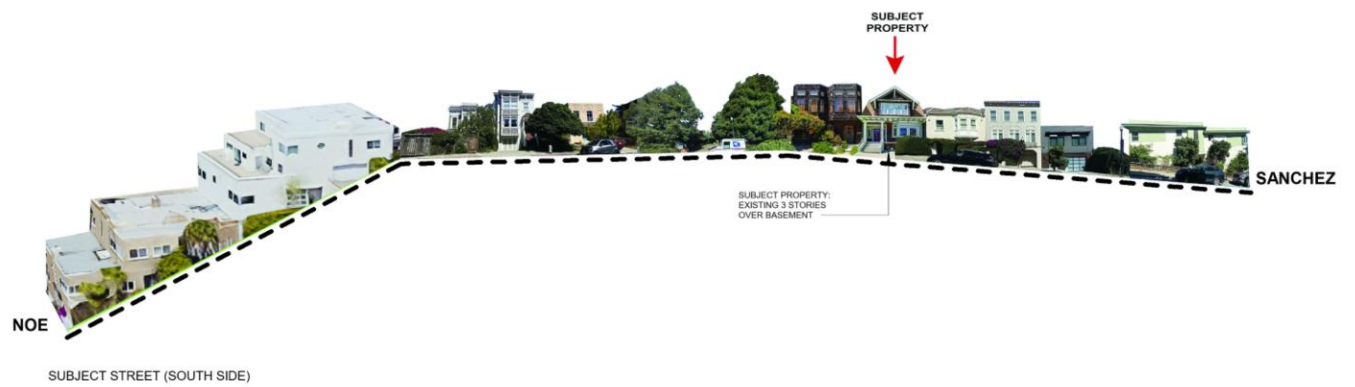


EXHIBIT B

Exhibit B: Rendering Sent to DR Requesters



EXHIBIT C

Exhibit C: Photo from in Front of DR Requester's (Johnsons) Home



EXHIBIT D

Exhibit D: Photo from in Front of 428 Liberty Street (Subject House)



REUBEN, JUNIUS & ROSE, LLP

Tuija Catalano

tcatalano@reubenlaw.com

November 4, 2020

Delivered Via Messenger

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

Re: 428 Liberty Street
Brief in Support of the Project (and in Opposition of DR Requests)
Planning Dept. Case No. 2020-007450DPR
Hearing Date: November 12, 2020
Our File No.: 8668.02

Dear President Koppel and Commissioners:

Our office represents Julie Kim and Justin Majors ("**Project Sponsor**"), the owners of the property at 428 Liberty Street, Assessor's Block 3604, Lot 046 ("**Property**"). The Property is improved with a single-family home that is currently under construction (and fully framed) for alterations that were previously approved by Planning and DBI. The permit and plans that are subject to this DR, and for which a new 311 notice was sent out (the third of such notices for the project), are related to a permit that was issued in February 2020 that corrected the existing building height dimensions after the Property owners noticed the error and voluntarily and at their own discretion immediately sought to correct it ("**Project**").

The Project benefits include:

- Project is Code compliant and consistent with the Residential Design Guidelines;
- Project is appropriately sized and the scope and design is consistent with the neighborhood context;
- The overall project allows the owners to create a functional home for their young and extended family, and the Project before you today, with the corrected dimensions, allows for complete accuracy in the permit records; and
- No exceptional or extraordinary circumstances have been established that would be necessary in a DR case or to justify denial of the Project.

Photos and renderings of the Property, Project, DR Requesters' home and overall context are included in **Exhibit B**.

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

Oakland Office
827 Broadway, 2nd Floor, Oakland, CA 94607
tel: 510-527-5589

www.reubenlaw.com

A. PROJECT DESCRIPTION

The Project before you consists of a correction to the existing building height dimension, by difference of 2'9", which causes the height of the Project addition to be 2'9" taller than the existing roof line as it is perceived from an uphill neighbors' perspective of the home. The Project does not change the scope of work for the overall project that was already approved by building permit no. 2017.1027.2502 in September 2019, with the sole exception that the Project includes minor revisions to interior bathroom location at level four which reduced the overall square footage. The overall project was already subject to a 311 notice that was mailed in September 2018, and no DRs were filed at the time. This Project, 311 notice and DR only involves the Project appearing 2'9" taller than was originally envisioned due to the correction. The mistake in the existing building height dimension was discovered during construction, and was not a mistake made by the Project Sponsor. The measurement of height for the subject building is somewhat complicated given the steep topography and the varying roof form.

When the Project Sponsor's team discovered the error in January 2020, the Project Sponsor proactively and at their own initiative contacted Planning Department staff in order to correct it. They were advised to file an administrative building permit with the corrected dimensions, which was determined by Planning Department to not require 311 notification. The administrative permit was issued in February 2020. Only after receiving such permit, the top floor was framed. A few months later, Planning Department was contacted by some of the neighbors, at which time the Department decided to reverse its February determination, by requiring 311 notification after all. The Project Sponsors voluntarily agreed to subject the correction permit to 311 notification, which resulted in the filing of two DRs, by (1) Raquel and Dave Johnson, and (2) Dolores Height Improvement Club ("**DHIC**").

B. OUTREACH AND PROJECT HISTORY

The overall project has been under construction since October 2019, and the building has been fully framed. Any change to the project at this point would require removal of already constructed parts and/or framing. The Project Sponsor initially connected June 5, 2020 with Bruce Bowen (with DHIC), who informed the Project Sponsors that certain neighbors had concerns. The Project Sponsors repeatedly expressed an interest to speak directly with those neighbors in order to understand the specific concerns, but their identities were not disclosed until months later in August 2020, which finally allowed for a meeting between all parties. For example, Bruce Bowen wrote on July 22: "Yesterday I spoke with one of your neighbors and passed on the desire for a meeting (which I strongly endorsed) along with some of the other things we talked about. I am waiting for this neighbor to coordinate with others who've been involved and get back to me. *I hope they agree.*" (Emphasis added.)

The Project Sponsor has been willing and available to talk and meet with the DR Requesters on an on-going basis. Moreover, the Project Sponsor has offered multiple revisions and concessions to the overall Project in order to resolve the concerns neighborly, between the parties and without a hearing. The key concern for the Project Sponsors is to retain a functional

top floor. A summary of the key meetings with neighbors is attached as **Exhibit A**. Even as we approach the DR hearing, the Project Sponsor is actively discussing with the DR Requesters and we remain hopeful of reaching a solution before the hearing date.

Copies of support letters from those neighbors who would be most impacted by the Project (i.e. the immediate next door neighbor, the neighbor directly across the street, and the neighbor who shares the rear yard boundary with the Property) are attached as **Exhibit D**.

C. THE STANDARD FOR DISCRETIONARY REVIEW HAS NOT BEEN SATISFIED

Discretionary review is a “special power of the Commission, outside of the normal building permit approval process. It is supposed to be used only when there are exceptional and extraordinary circumstances associated with the proposed project.” The discretionary review authority is based on Sec. 26(a) of the Business & Tax Regulations Code, and moreover, pursuant to the City Attorney’s advice, it is a “sensitive discretion ... which must be exercised with the utmost restraint”. Exceptional or extraordinary circumstances have been defined as complex topography, irregular lot configuration, unusual context, or other circumstances not addressed in the design standards.

The DR power provides the Planning Commission with the authority to modify a project that is otherwise Code compliant, and while the Commission has a lot of latitude in hearing DR cases, the DR power can be exercised only in situations that contain exceptional or extraordinary circumstances. No such circumstances exist here.

The Project sponsor had previously prepared a DR response, which is included in your packets and also attached as **Exhibit C** to this brief.

Ultimately, we believe that the DR Requesters' concerns are primarily driven by concerns over private views enjoyed from their homes. In fact, on September 3, 2020, one of the DR Requesters stated quite clearly that: *"Residents buy homes on Liberty Street for the views. Your view remains intact. Ours no longer does."*¹ In a phone call with the DR Requester and their adjacent uphill neighbor on August 28, 2020, they specifically cited a loss of the view of City Hall. Given the distance between the DR Requester's third floor deck/home and top floor addition (which is set back significantly from the front property line), we believe the impact on views, if any, is minimal. However, as is well known, neither the Planning Code nor the Residential Design Guidelines protect views from private property.

Two (2) separate DR requests were filed. The concerns raised by DHIC have been resolved with the 311 notice and this DR hearing. DHIC primarily complained of a "flawed administrative process" due to the fact that no 311 notice was sent for the February 2020

¹ Indeed, the DR Requester’s concern regarding his private view is well documented. In 2018, when the second 311 notice was sent due to a typographical error by Planning, the DR Requester and his adjacent neighbor, misunderstanding the plans but assuming a 5 foot increase wrote to Planning: *“This would have substantial impacts on our view of the city.”*

administrative permit. That concern has been fully satisfied since a 311 notice was sent out, which allowed for the filing of DRs, and has now caused the matter to be scheduled for a Planning Commission hearing wherein the neighbors' concerns can be heard and reviewed. Thus, the DHIC's DR filing does not establish any exceptional or extraordinary circumstances that are necessary in a DR case, or any concerns that remain unresolved, and thus DHIC's DR should be denied. Prior filing their DR, the DHIC did not ask or suggest that the Project Sponsor make a single change or cite a single impact to the neighbors or neighborhood other than Planning should have required a 311 notice. In a call with the DHIC on July 20, 2020, the DHIC specifically said it did not intend to file a DR, as Bruce said he viewed this a "bilateral" matter between neighbors.

The other DR was filed by Raquel and Dave Johnson, who live across the street at 437 Liberty Street. Their DR filing cited "out of character size", "aesthetic mismatch", and detriment due to "blocking decks etc." and "presenting a wall in front of a deck etc." However, no elaboration was provided as to how these cause an extraordinary or exceptional impact -- because they don't. In subsequent conversations, they continued to decline to describe any impact whilst attempting to employ a strategy designed to deflect from this fatal deficiency. In general, the DR Requester has engaged with the Project Sponsor with a mistaken view that they are entitled to modifications because a mistake was made even though subsequently corrected prior to construction of the addition. Nevertheless, the Project Sponsors have worked tirelessly to attempt to accommodate their shifting concerns.

The Project's overall height, massing and roofline are reasonable and consistent with the varying features found along the subject block of Liberty Hill, as is shown e.g. in the exhibits attached to the original DR response (**Exhibit C**). The addition is only 2'9" above the existing roofline of the Project, substantially set back. The Project is 3,746 square feet, which is by no means out of character size for the neighborhood. The visibility of the Project's top floor is also limited, given that the top floor is located across the street, and additionally 18' from the building façade and 24'5" from the property line. The top floor is barely visible from a pedestrian perspective, and thus the visibility is only from private properties' decks and windows facing City Hall and Downtown (**Exhibit C**).

The building height, even with the 2'9" correction to the existing building dimension, is not out of character and does not result in exceptional height or massing. The shape of the roofline is also not inconsistent with the neighborhood. Other buildings on Liberty Street between Noe and Sanchez on both sides of the street include a variation of heights and roofline styles. **Exhibit C** includes a photo collage of the different buildings on the block face and those across the street. The existing roofs on Liberty Street (between Noe and Sanchez) also include variety, from gabled roof to flat roofs, so that there is no "cookie-cutter" standard or a predominant style or shape. Thus, the building height and (flat) roofline is entirely consistent with the context. The home two houses away from the Project also stands 4 stories tall.

Due to the mix of building styles, materials, shapes, rooflines, and overall design, as is illustrated in the photo collage included as **Exhibit C**, the Project does not propose anything

exceptional or extraordinary. The top floor is set back 18'1" feet from the building facade, and 24'5" feet from the front property line, which practically eliminates its visibility from pedestrian perspective and makes any view impacts from the homes across the street minimal, without causing any undue impacts to the neighbors. The Property is located in the 40-X height and bulk district, and the Dolores Heights SUD (thus triggering a maximum height of 35'), on a street where many buildings are similar e.g. with respect to height.

Overall, the Project proposes a fair and reasonable addition and renovation that is not intended to maximize building height or area, but rather to produce some additional floor area taking the neighboring buildings into consideration. The Project before you today only involves a 2'9" correction of the existing building height, which does not trigger any exceptional or extraordinary circumstances.

D. CONCLUSION

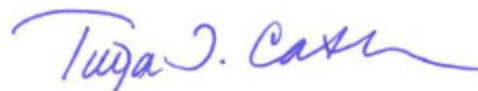
No exceptional or extraordinary circumstances relating to the Project were provided by the DR Requesters that would justify Planning Commission's exercise of its DR power. The Project, as presented in the 311 notice, is appropriate and compatible for the context, considerate to the neighbors, and as a Code compliant, minimal addition, the Project should be approved.

While we remain hopeful that as a result of pending discussions with the DR Requesters we are successful in resolving the DRs prior to the hearing date, in the event the hearing takes place, for all of the above reasons, we respectfully request the Planning Commission to deny both DRs and approve the Project as proposed, thus allowing the Project to move forward. Thank you for your consideration.

Please contact me should you have any questions.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP



Tuija Catalano

cc: Vice President Kathrin Moore
Commissioner Deland Chan
Commissioner Sue Diamond
Commissioner Frank Fong
Commissioner Theresa Imperial
Commissioner Rachel Tanner
Jonas Ionin, Commission Secretary
Rich Hillis, Planning Director
David Winslow, Project Planner

Planning Commission

November 4, 2020

Page 6 of 6

Enclosures:

Exh. A – Chronology of meetings with DR Requesters and neighbors

Exh. B – Photos and Renderings of the Project and Context

Exh. C – Project Sponsor's DR response (10-1-2020)

Exh. D – Support letters from three (3) most immediate neighbors

Chronology of Meetings with DR Requesters and Neighbors

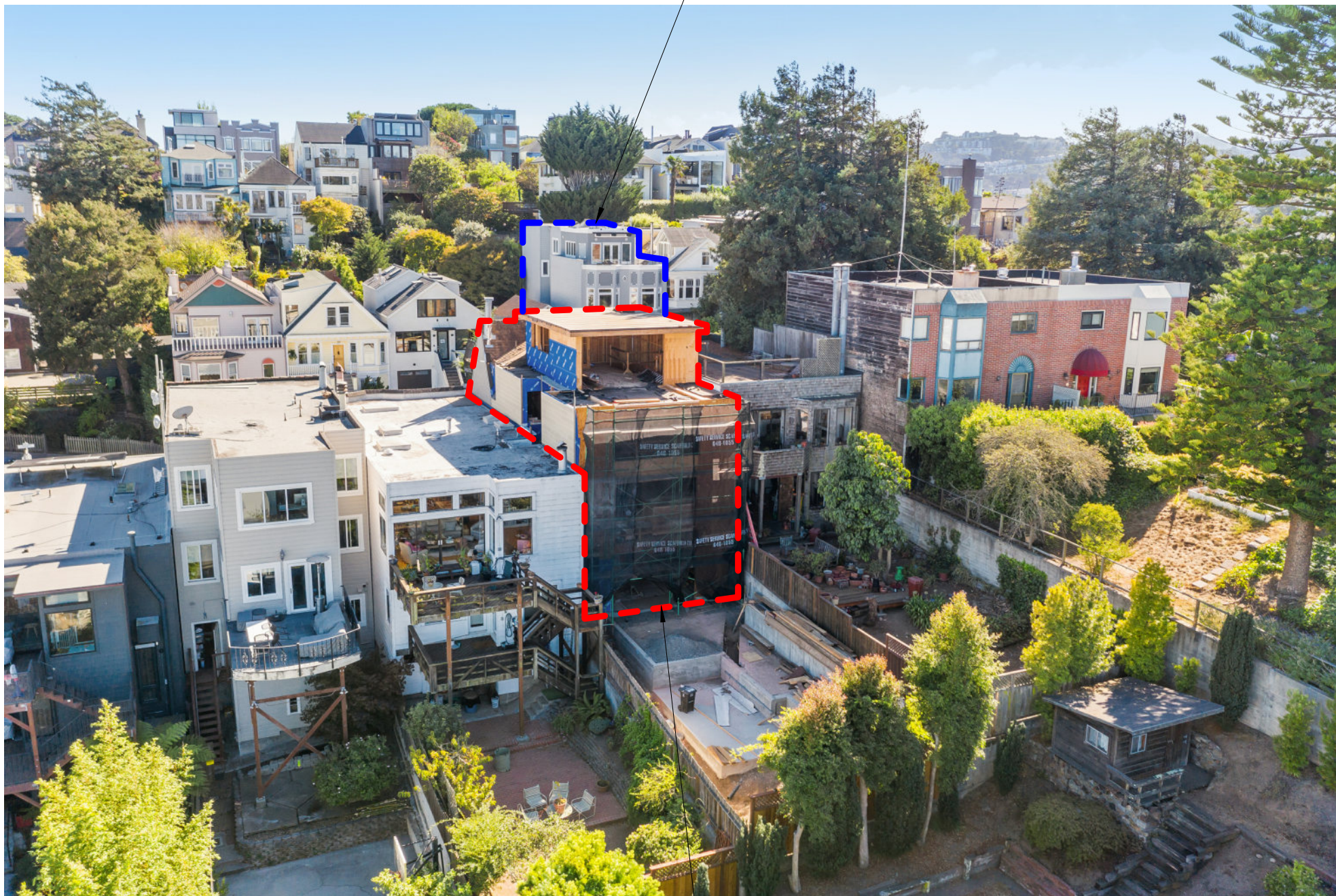
- **August 17, 2020** - Bruce Bowen of the Dolores Heights Improvement Club (“**DHIC**”) sends an email revealing the neighbors identities *for the first time since contacting the Project Sponsors June 5, 2020*
 - **Background:** Project Sponsors had continually sought since June 8, 2020 to speak with the neighbors, which was repeatedly ignored and denied; a sample of the correspondence follows below
 - *June 8, 2020*; Project Sponsor to Mr. Bowen: “I’m a bit surprised by your email as Justin has already spoken to several of our neighbors. Could you please tell me who has reached out to you?”
 - *July 22, 2020*; Mr. Bowen to Project Sponsor: “Yesterday I spoke with one of your neighbors and passed on the desire for a meeting (which I strongly endorsed) along with some of the other things we talked about. I am waiting for this neighbor to coordinate with others who’ve been involved and get back to me. I hope they agree.” (Emphasis added.)
 - *August 12, 2020*; Project Sponsor to Mr. Bowen: “. . . I thought I would reach out to again extend the invitation to connect. We remain hopeful that the neighbors want to talk with us.”
- **August 28, 2020** - Project Sponsors, DHIC, DR Requester, Ilyas Iliya (441 Liberty Street) and Carlene Laughlin (437 Liberty Street) (the “**Across the Street Neighbors**”) had first Zoom call; no solutions are suggested by the neighbors other than removing the top floor
- **September 8, 2020** - Project Sponsors have Zoom call with Mr. Bowen of DHIC
- **September 10-29, 2020** - Project Sponsors email the DHIC and Across the Street Neighbors September 10, 21, 28 and 29 to request a follow up meeting
- **October 5, 2020** - Project Sponsors have Zoom call with DHIC and Across the Street Neighbors and their architect; Project Sponsor asks for David Winslow of Planning to join, but Bruce Bowen of DHIC writes: “In my opinion, I think this discussion would be better without David.”
- **October 15, 2020** - Project Sponsors have Zoom call with DHIC and Across the Street Neighbors and their architect
- **October 23, 2020** - Project Sponsors have Zoom call with DR Requester, DHIC and David Winslow of Planning
- **October 27, 2020** - Project Sponsors have Zoom call with DHIC and Across the Street Neighbors and their architect



DR REQUESTOR

PROJECT SPONSOR

DR REQUESTOR'S PROPERTY
437 LIBERTY STREET



SUBJECT PROPERTY
428 LIBERTY STREET

**AS SEEN UNDER CURRENT
CONSTRUCTION*



SUBJECT STREET (NORTH SIDE)

DR REQUESTER'S PROPERTY
437 LIBERTY STREET

441 LIBERTY STREET

445 LIBERTY STREET



SUBJECT STREET (SOUTH SIDE)

NEIGHBORING PROPERTY
434 LIBERTY STREET

SUBJECT
PROPERTY

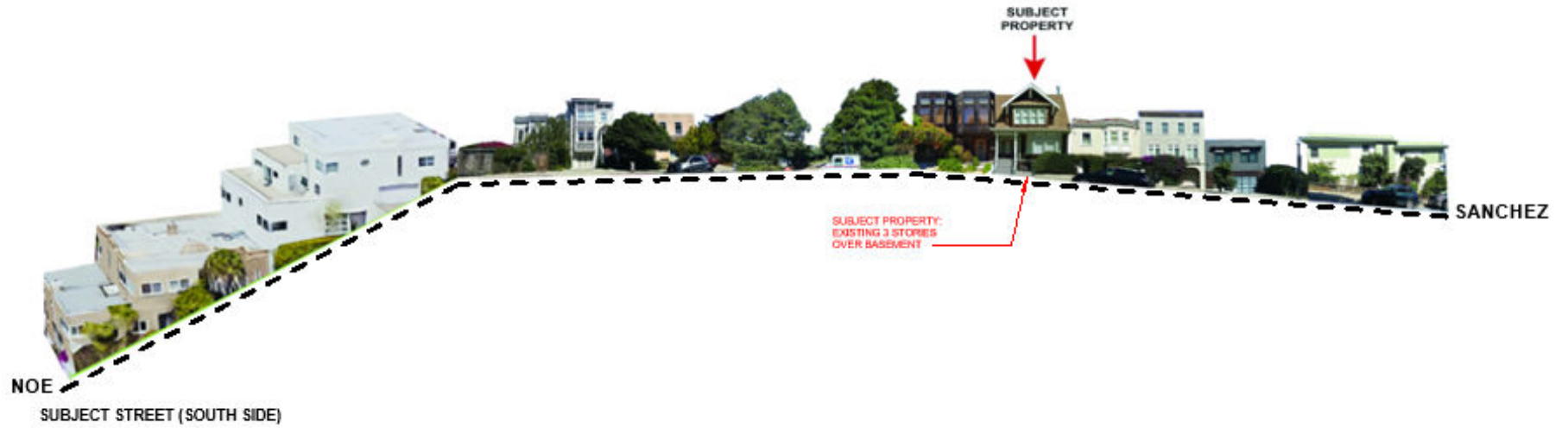
NEIGHBORING PROPERTY
424 LIBERTY STREET



SUBJECT STREET (REAR SIDE)

PEDESTRIAN BLOCK VIEW

EXHIBIT B



428 LIBERTY ST; PHOTO TAKEN DIRECTLY ACROSS THE STREET
WITH ADDITION FULLY FRAMED AND BUILT (SEP. 2020)



RENDERING OF HOME WITH ADDITION



**RENDERING SENT TO DR REQUESTOR SEP. 4, 2020 ILLUSTRATING PERSPECTIVE
FROM UPHILL, ACROSS THE STREET FROM 428 LIBERTY STREET**



428 LIBERTY ST; PHOTO TAKEN IN FRONT OF DR
REQUESTOR'S HOUSE AT 437 LIBERTY ST (SEP. 2020)



**428 LIBERTY STREET; PHOTO TAKEN SHOWING
ADDITION FROM THE EAST PERSPECTIVE (SEP. 2020)**







RESPONSE TO DISCRETIONARY REVIEW

Project Information

Property Address:	Zip Code:
Building Permit Application(s):	
Record Number:	Discretionary Review Coordinator:

Project Sponsor

Name:	Phone:
Email:	

Required Questions

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

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

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

Project Features

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

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

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

Signature:	Date:
Printed Name:	<input type="checkbox"/> Property Owner <input type="checkbox"/> Authorized Agent

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

**428 Liberty Street
DR Response**

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

We have worked diligently to design a functional home for our young family that is sensitive to both the neighbors and neighborhood. We have consistently endeavored to communicate with our neighbors since late May/early June and solicit feedback and proposed solutions once we understood their concerns. Based on the neighbors' availability, we met with them on August 28, 2020, and have offered to meet again and continue to be available.

We have been willing to discuss and accommodate reasonable requests but have received none other than a request to remove the top floor. As stated by the Johnsons in an email on September 3, 2020: "Residents buy homes on Liberty Street for the views. Your view remains intact. Ours no longer does."

No exceptional or extraordinary circumstances have been presented or claimed by either of the DR requesters, and thus this Code-complying project should be approved. The only physical impacts the Johnsons' stated in their DR filing were: "out of character size", "aesthetic mismatch", and detriment due to "blocking decks etc." and "presenting a wall in front of a deck, etc." The DHIC DR filing cites no impacts.

The proposed plans provide for a home of approximately 3,746 square feet. The home is not "out of character size" for the neighborhood where homes range considerably larger and even span double lots on our own block. [See Exhibit A for two aerial and one pedestrian view of the 400 block of Liberty Street.] The addition is also set back over 18 feet from the facade of the house. We took particular care to ensure the home was not "an aesthetic mismatch" and have provided a rendering to the DR Requesters to demonstrate its compatibility with the existing, preserved architecture and style. [See Exhibit B.]

As detailed in the DHIC's filing, the DHIC primarily complains of a "flawed administrative process" in which no 311 notice was received in connection with the February administrative permit. They principally object on the basis that the public deserves an opportunity to be heard. The initiation of the current 311 process and DR they have filed provides the redress that they seek. DHIC and the neighbors have now received a 311 notice, and thus the DHIC's DR filing does not create or result in any exceptional or extraordinary impacts (and, as noted, they cite none).

The Johnsons and DHIC seek access to a site survey--a request first mentioned in the DR filings. This was not required by Planning in connection with the submitted plans and thus was not undertaken. Further, as the property is already under substantial construction it has already been excavated. On September 8, 2020 the DHIC representative stated in a phone call with us to discuss the calculation of the building's height that the issue was now, in his own words, "moot". It is our understanding that the neighbors/DHIC had, prior to the call, spoken to

**428 Liberty Street
DR Response**

Planning (and consulted with a lawyer and hired a private surveyor as well as filed a complaint with the Department of Building Inspection) and no discrepancies had been found.

The DR requesters (Johnsons) mistakenly state that the top floor was represented as an attic. The original 311 plans sent to the neighbors in 2018 (page A102 noting a bath, bedroom and closet) clearly denote the space as “BEDROOM”, detailing further the proposed locations for a “BATH” and “CL” (closet) on the floor.

For the avoidance of doubt and interest of clarity, the addition does not comprise an “additional 3 feet of height”; the height of the addition is 2’9” taller than the existing roof line as perceived from an uphill perspective of the home.

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

During and since our August meeting with the DR Requesters and other neighbors, we have repeatedly asked for constructive feedback on solutions that could address the neighbors’ concerns. The only physical change that has been suggested so far is removal of the top floor.

In the course of our planning since our pre-application meeting in 2017, we have either made or offered to make the following accommodations. Those asterisked were changes made before filing our application with the City:

- We substantially withdrew the extension of the rear of the home from the originally submitted plans*
- We agreed to maintain the existing style of the front facade of the home to retain its original character and limit an appearance of change to the block*
- We did not seek a roof deck*
- We are willing to consider foregoing solar panels, notwithstanding the environmental and energy cost savings*
- Subject to arriving at an amicable resolution with the DR requesters, we are willing to consider relocating the existing metal vent on the current roof to limit its visibility
- Subject to arriving at an amicable resolution with the DR requester, we are willing to consider using a roofing system that will keep the roof slope as seen from the exterior to approximately 4.5" inches with an additional 2.5" inch curb at considerable additional expense

**428 Liberty Street
DR Response**

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

Having received an administrative permit in February 2020, we have already constructed the addition that the DR Requesters now complain of. The DR Requesters (Johnsons) are across the street and uphill from our property. [See Exhibit C for photo of 428 Liberty as seen from in front of the DR Requester's (Johnsons) home.] The street alone is approximately 30 feet wide curb-to-curb, and each side of the street further benefits from homes set back from wide sidewalks.

Our immediately adjacent neighbors have no objections to the project as constructed. It is also important to note that the addition is over 18 feet from the front facade of the home. We have included as Exhibit D are current photograph of the home under construction to demonstrate a straight-on view of the home and the addition's lack of visibility from the street.

As mentioned above, the neighbors have suggested no solutions other than removing the top floor. The top floor ceiling height is only 8 feet for this bedroom. As we have explained to our neighbors, this bedroom is necessary for my father, as my mother has begun chemotherapy treatment during Covid. Having been married for over 50 years and heavily dependent on my mother, my father will need to reside with us. This is the only space in the home where he will be able to have a private bedroom.

In sum, our project complies with all of the Residential Design Guideline requirements and we have carefully designed the project in order to be considerate towards our neighbors. Although no exceptional or extraordinary circumstances exist or have been presented by the DR Requesters, we remain open to an on-going dialogue with our neighbors and some potential revisions, if the DR Requesters are interested in cooperative settlement prior to the DR hearing.

EXHIBIT A

Exhibit A: Block Aerial View

BLOCK AERIAL VIEW



SUBJECT STREET (NORTH SIDE)

DR REQUESTER'S PROPERTY



SUBJECT STREET (SOUTH SIDE)

NEIGHBORING PROPERTY
434 LIBERTY STREET

SUBJECT
PROPERTY

NEIGHBORING PROPERTY
424 LIBERTY STREET



SUBJECT STREET (REAR SIDE)

Exhibit A: Block Aerial View



** As seen under current construction*

Exhibit A: Pedestrian Block View

PEDESTRIAN BLOCK VIEW

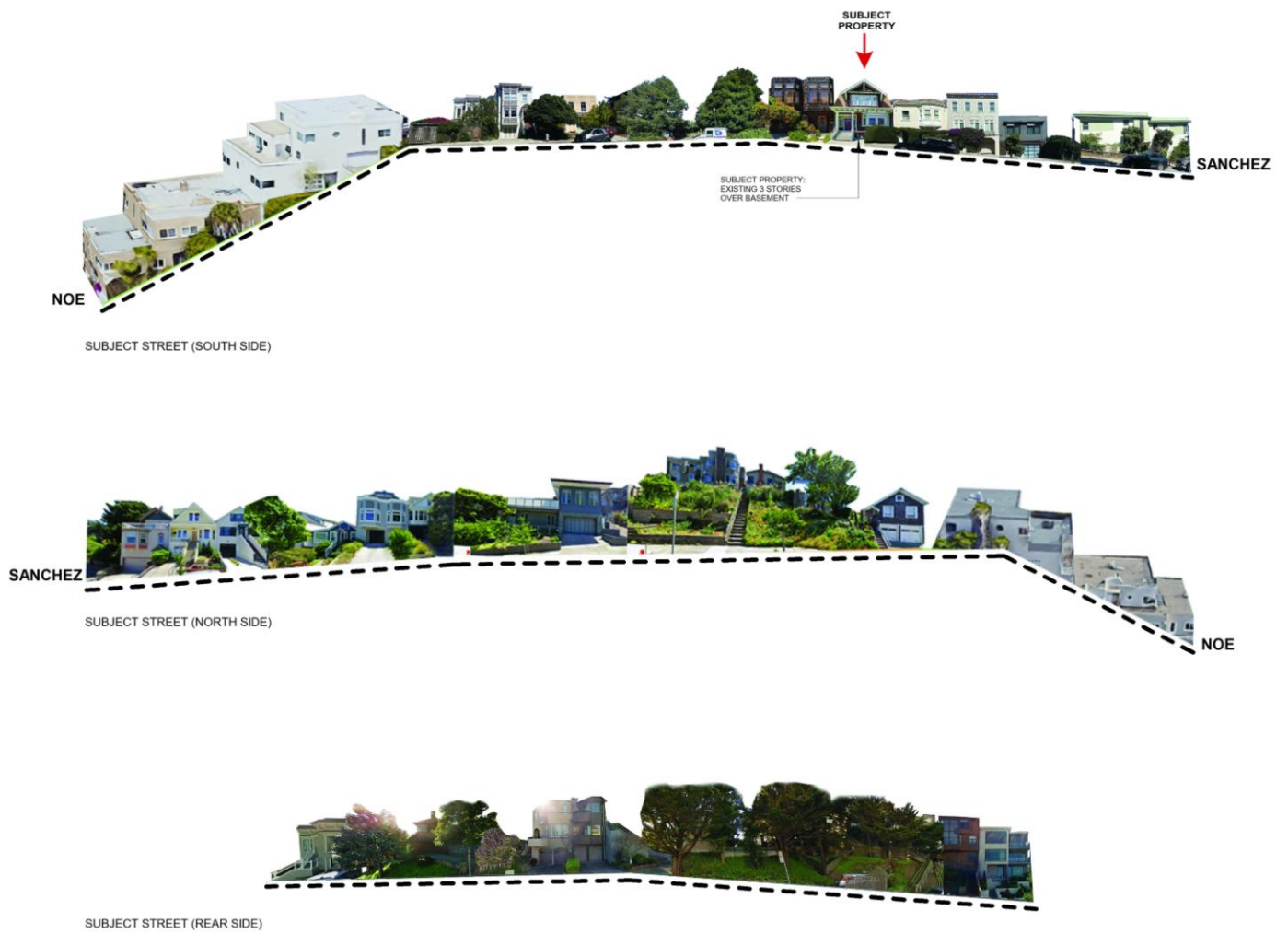


EXHIBIT B

Exhibit B: Rendering Sent to DR Requesters



EXHIBIT C

Exhibit C: Photo from in Front of DR Requester's (Johnsons) Home



EXHIBIT D

Exhibit D: Photo from in Front of 428 Liberty Street (Subject House)



Date: November 3, 2020

Planning Department
City and County of San Francisco
1650 Mission Street, Suite 400
San Francisco, CA 94103

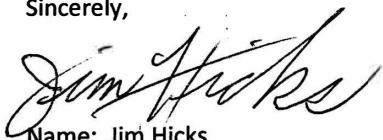
RE: 428 Liberty Street
Letter in Support of the Project
Planning Commission DR Hearing on November 12, 2020

Dear Planning Commissioners:

I live at 434 Liberty Street immediately adjacent to the proposed project. I am fully supportive of Julie and Justin's proposed alterations and supported the initial project and continue to support it as it is built.

I would like to express my support for the project, and I urge the Planning Commission to approve the project as proposed.

Sincerely,

A handwritten signature in black ink that reads "Jim Hicks". The signature is written in a cursive, flowing style.

Name: Jim Hicks

Address: 434 Liberty Street



Justin Majors <jmajors8008@gmail.com>

428 Liberty

1 message

Ofer Elitzur <ofer_elitzur@yahoo.com>

Wed, Nov 4, 2020 at 8:26 PM

To: "jmajors8008@gmail.com" <jmajors8008@gmail.com>

Cc: Courtney Phillips <courtneyjphillips@yahoo.com>

Justin:

As your neighbors across the street, at 429 Liberty St., Courtney and I are writing to let you know that we do not oppose your renovation project at 428 Liberty St. We're fine with your renovation project as approved by the City of San Francisco and as built.

Best regards,
Courtney and Ofer



Justin Majors <jmajors8008@gmail.com>

428 Liberty St

Chet Williams <bvrity@sbcglobal.net>

Mon, Nov 2, 2020 at 3:08 PM

To: Justin & Julie Majors <jmajors8008@gmail.com>

To whom it may concern:

We own the property at 4025 20th Street, directly behind 428 Liberty. We supported the project when plans were submitted, and continue to approve of the remodel underway.

Thank you,

Linda and Chet Williams

4025 20th St
SF 94114

Date: November 3, 2020


Planning Department
City and County of San Francisco
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: 428 Liberty Street
Letter in Support of the Project
Planning Commission DR Hearing on November 12, 2020

Dear Planning Commissioners:

I live at 3766 21st which runs parallel to the proposed project. I am writing to express my support for the proposed project at 428 Liberty Street. I urge the Planning Commission to approve the project as proposed, without taking DR or modifying the project.

Sincerely,

DocuSigned by:

40B4B4D51621403...

Gabrielle Toledano, owner
3766 21st Street

DocuSigned by:

94CA1D446817498...

Kurt Gantert, owner
3766 21st Street



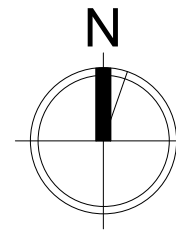
1. DIMENSIONS ARE ROUNDED TO THE INCH ON THIS PLAN
2. DIMENSIONS ARE TO FINISH UNLESS OTHERWISE NOTED.
3. DATUM POINTS, INCLUDING FOR HEIGHTS IN ELEVATIONS AND SECTIONS, ARE TO SUPERSEDE OTHER MEASUREMENTS IN THE PLANS, INCLUDING BUT NOT LIMITED TO FLOOR TO CEILING HEIGHTS.
4. THE GENERAL CONTRACTOR IS TO REPORT ANY DISCREPANCIES BETWEEN THE DRAWING AND ACTUAL SITE CONDITIONS WITH DESIGN TEAM BEFORE PERFORMING THE WORK.

REVISION TO APPROVED PERMIT 201710272502 TO
COMPLY WITH PLANNING DEPARTMENT
REQUIREMENTS ONLY

ADMINISTRATIVE PERMIT TO FILE MORE PRECISE
EXISTING CONDITIONS UNDER APP#201710242502,

AND MINOR REVISION TO BATHROOM LOCATION AT
LEVEL 4.

REVISE TO NFPA 13R SPRINKLER SYSTEM.



LIBERTY STREET RESIDENCE
428 LIBERTY STREET
SAN FRANCISCO, CA 94114
BLOCK 3604 - LOT 046

SITE PLAN / PROJECT DATA

A1.0

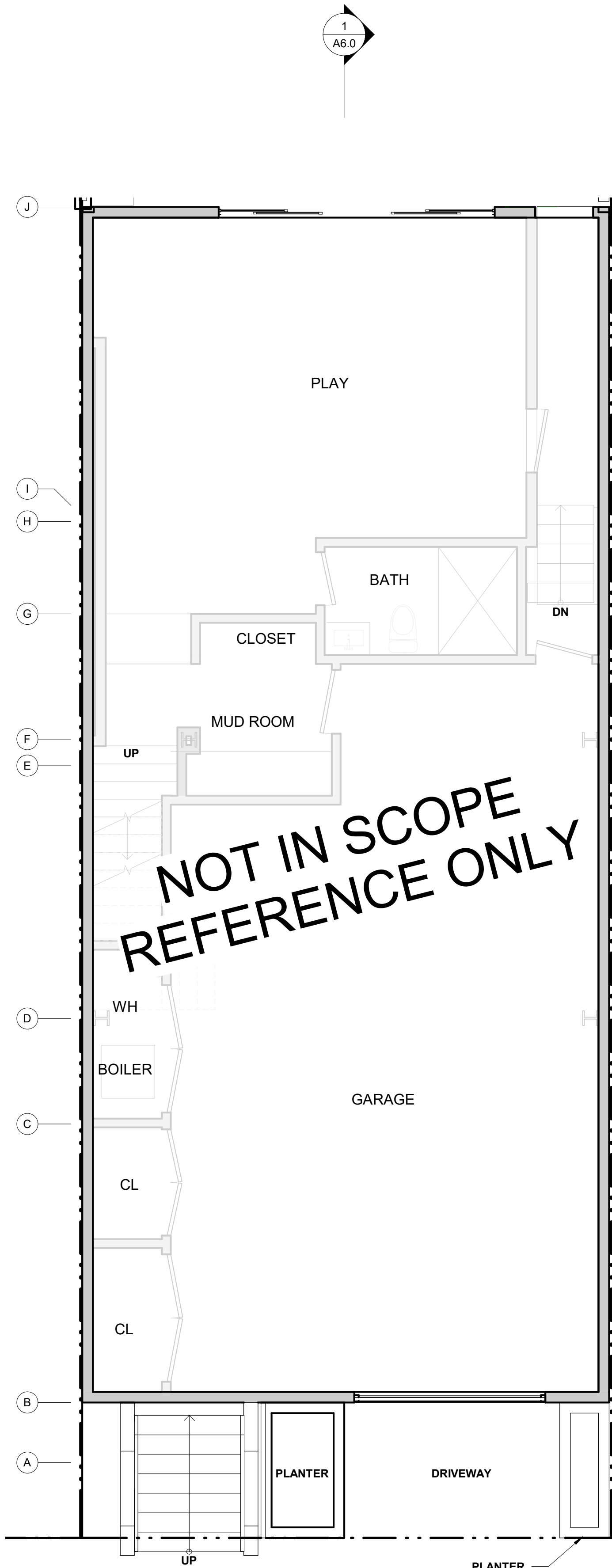
PHONE
415-300-0585

EMAIL
EMAIL@EAGSTUDIO.COM

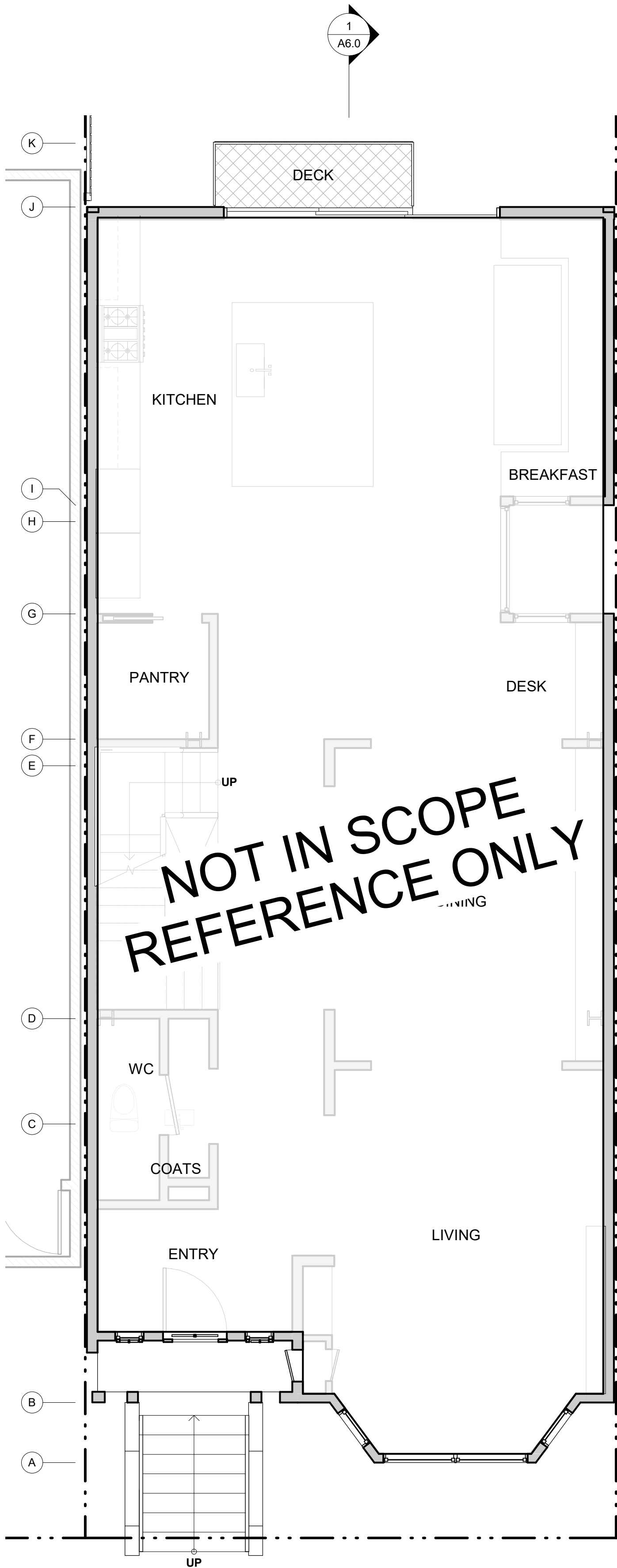
ADDRESS
1553 FOLSOM STREET
SAN FRANCISCO, CA 9410



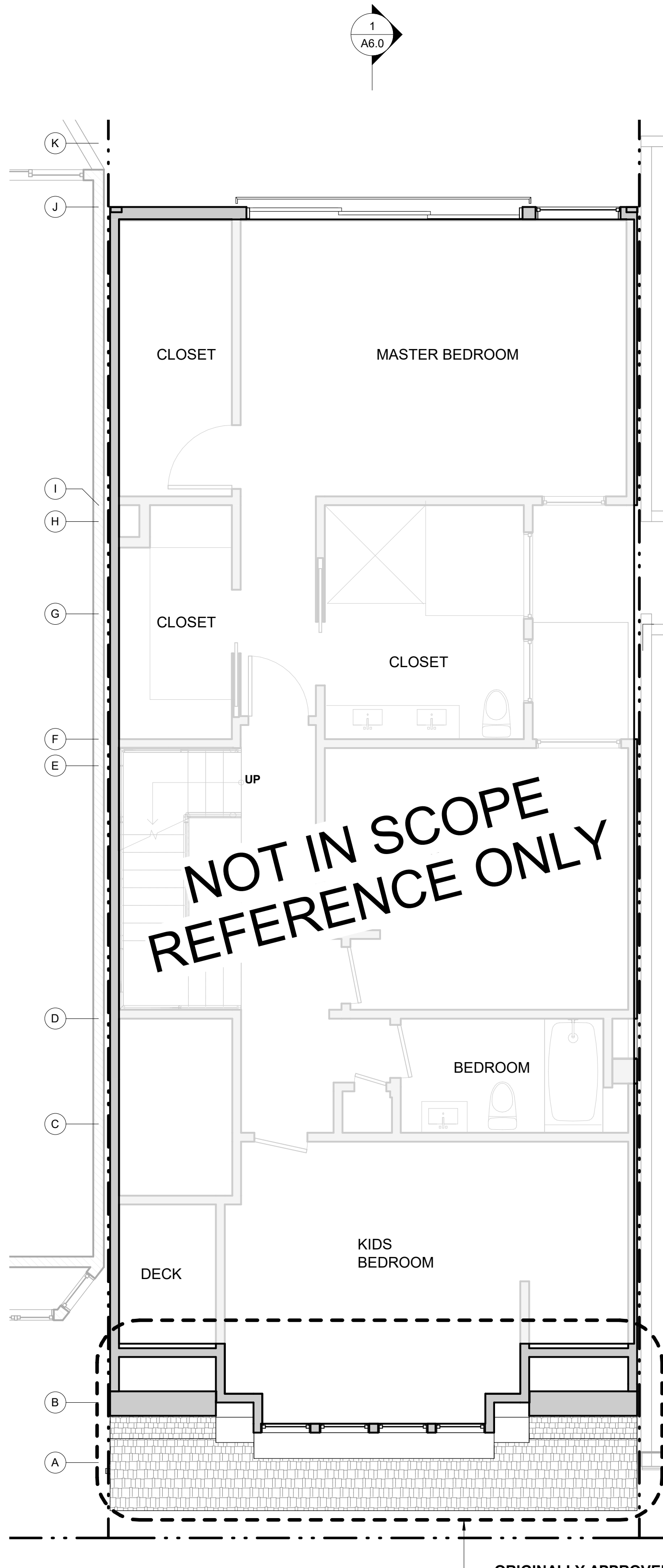
#	REVISIONS	DATE
	INITIAL SUBMITTAL	10/27/17
	INITIAL APPROVAL	4/24/19
	SUBMIT ADMIN PERMIT TO CORRECT (E) HEIGHT	2/14/20
	ADMIN PERMIT APPROVED	2/28/20
	NEW 311 SET	7/24/20



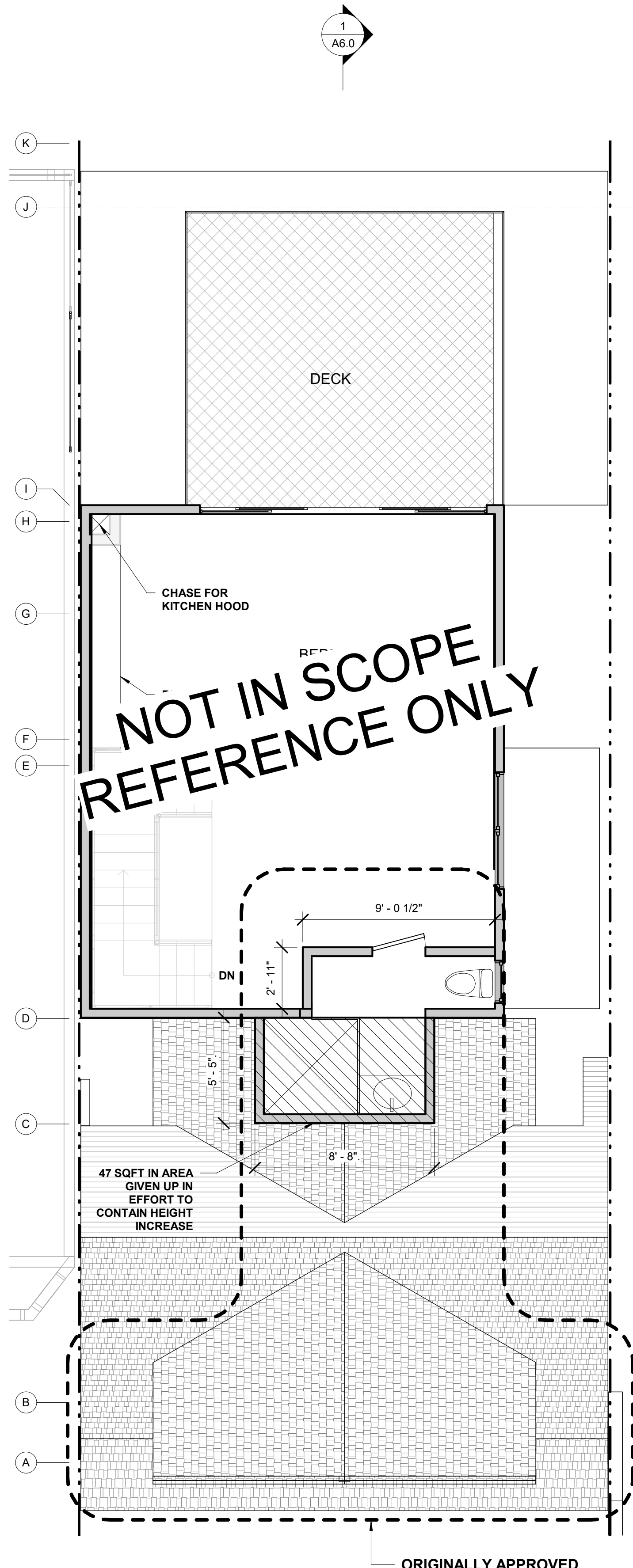
1 PREVIOUSLY APPROVED - LEVEL 1
1/4" = 1'-0"



2 PREVIOUSLY APPROVED - LEVEL 2
1/4" = 1'-0"



4 PREVIOUSLY APPROVED - LEVEL 3
1/4" = 1'-0"



3 PREVIOUSLY APPROVED - LEVEL 4
1/4" = 1'-0"

EAG
STUDIO

PHONE
415-350-0585
EMAIL
EMAIL@EAGSTUDIO.COM
ADDRESS
1533 FOLSOM STREET
SAN FRANCISCO, CA 94103



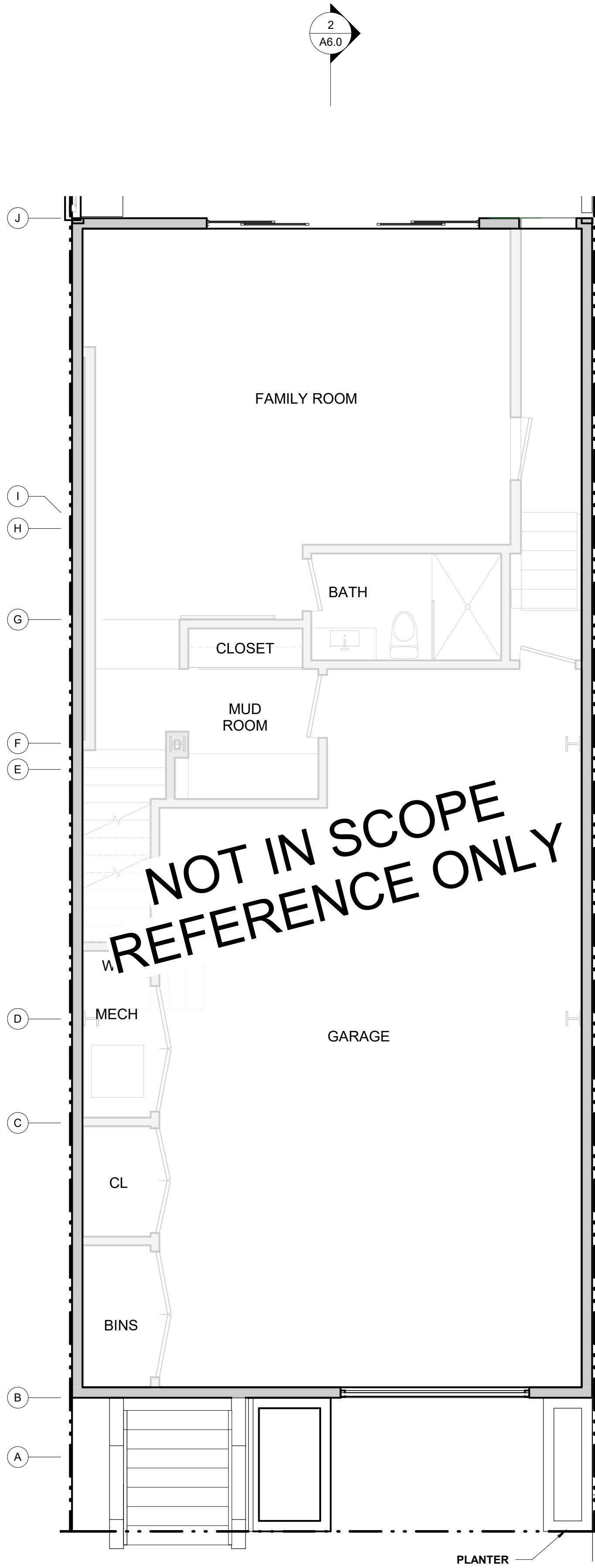
#	REVISIONS	DATE
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5	NEW 311 SET	7/24/20
6		
7		
8		
9		
10		

LIBERTY STREET RESIDENCE

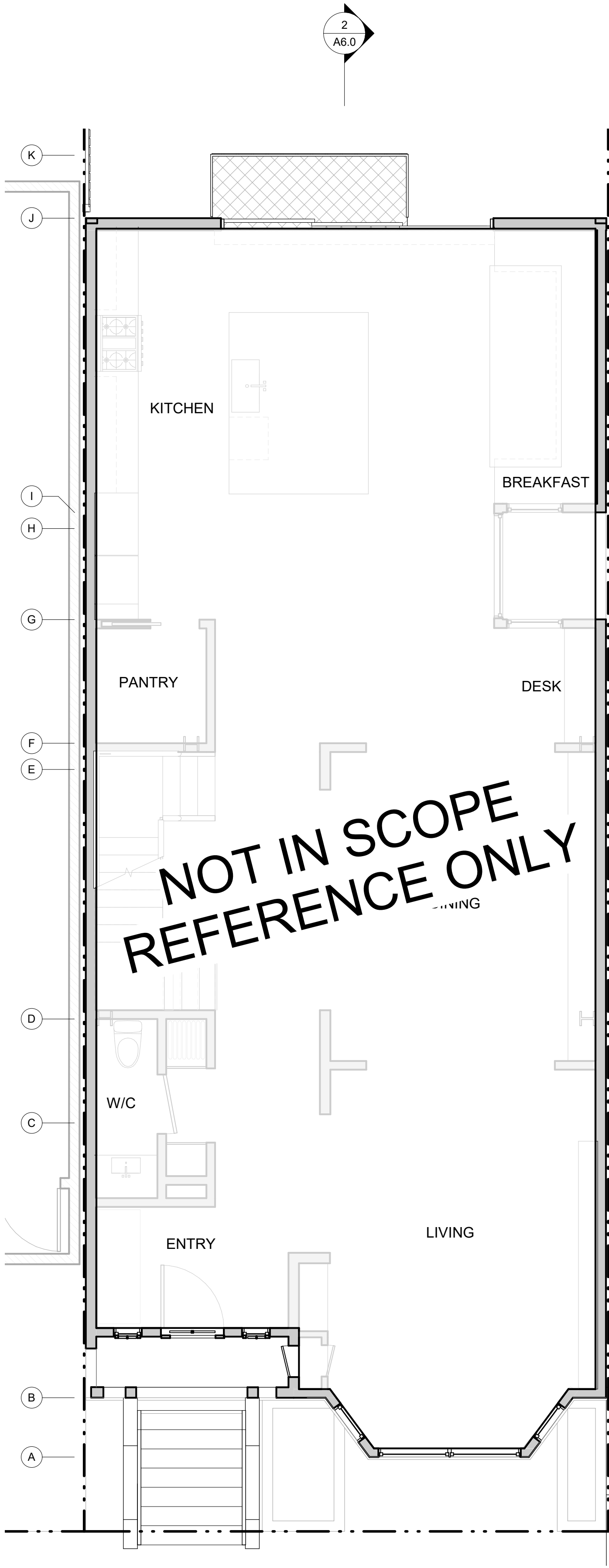
428 LIBERTY STREET
SAN FRANCISCO, CA 94114
BLOCK 3604 - LOT 046

PREVIOUSLY
APPROVED PLANS

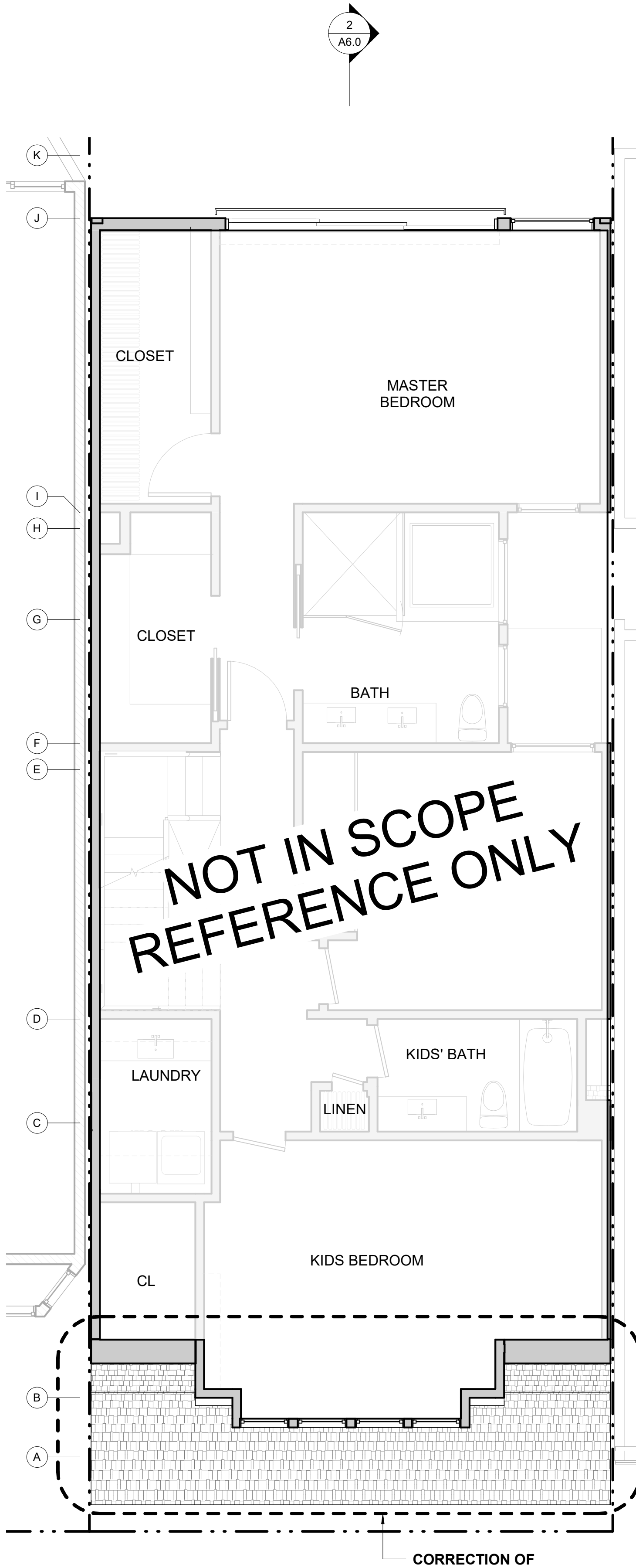
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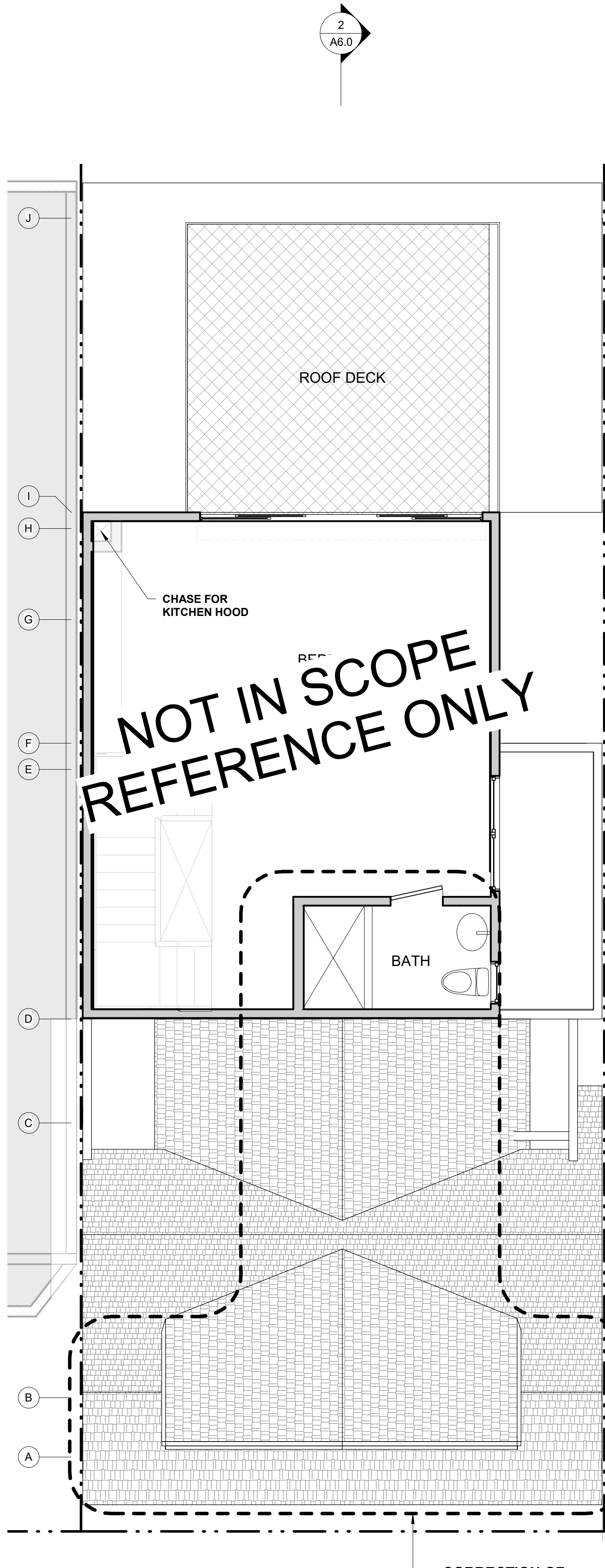
1 PROPOSED - LEVEL 1
1/4" = 1'-0"



2 PROPOSED - LEVEL 2
1/4" = 1'-0"



3 PROPOSED - LEVEL 3
1/4" = 1'-0"



4 PROPOSED - LEVEL 4
1/4" = 1'-0"

EAG
STUDIO

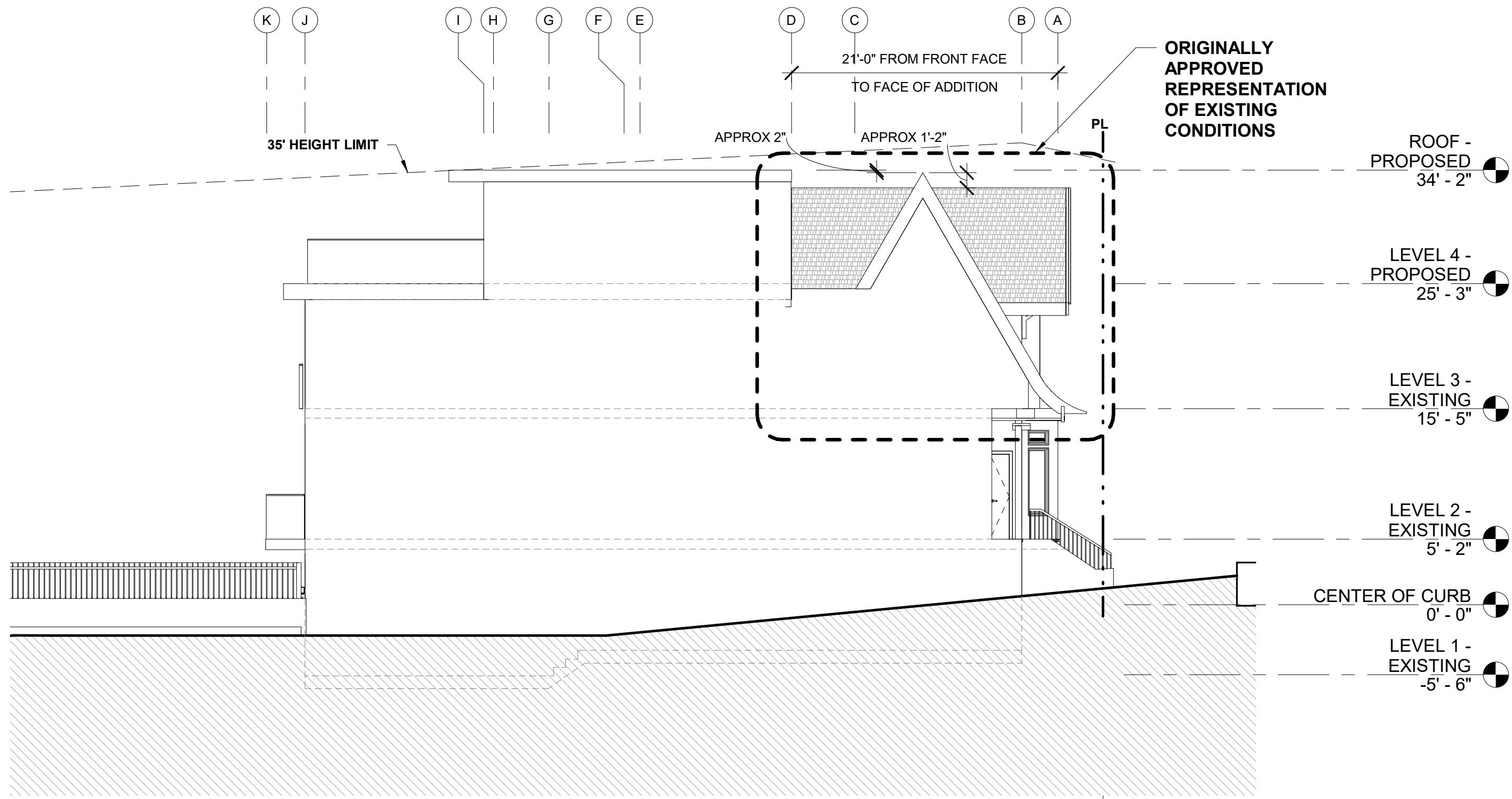
PHONE
415-360-0585
EMAIL
EAGSTUDIO.COM
ADDRESS
1533 FOLSOM STREET
SAN FRANCISCO, CA 94103

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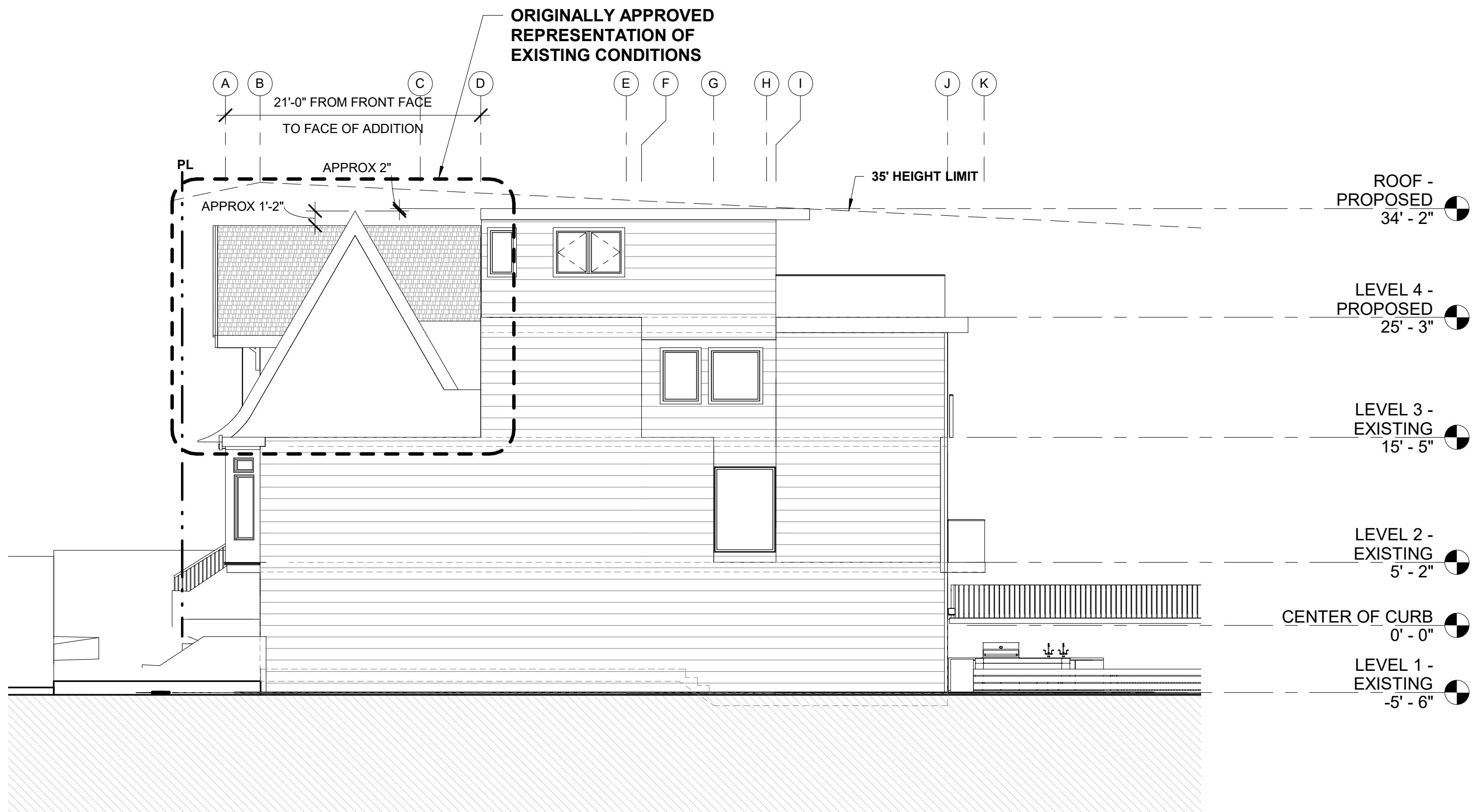
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SAN FRANCISCO, CA 94114
BLOCK 3604 - LOT 046

PROPOSED PLANS

A3.0



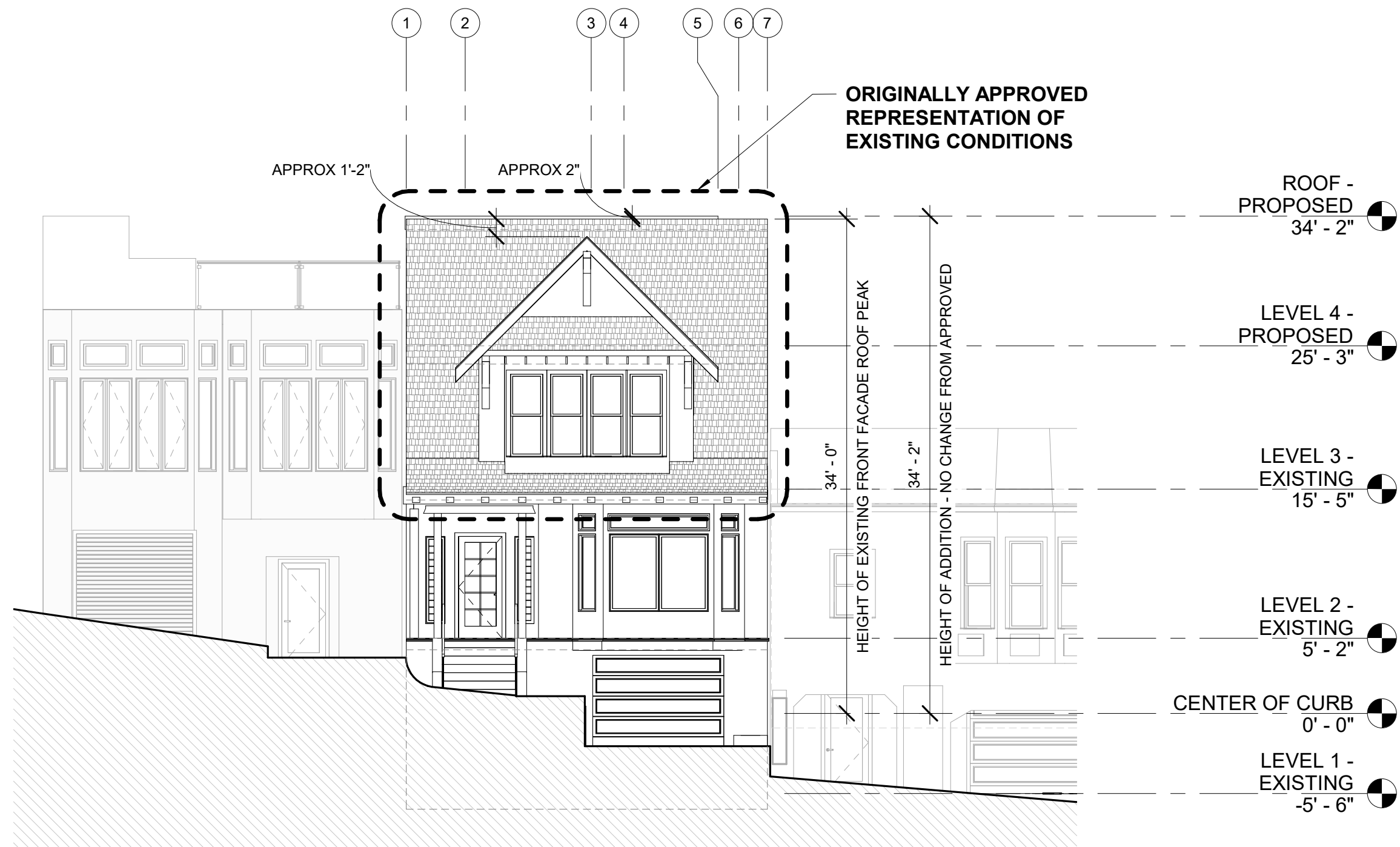
2 PREVIOUSLY APPROVED - WEST ELEVATION
1/8" = 1'-0"



1 PREVIOUSLY APPROVED - EAST ELEVATION
1/8" = 1'-0"

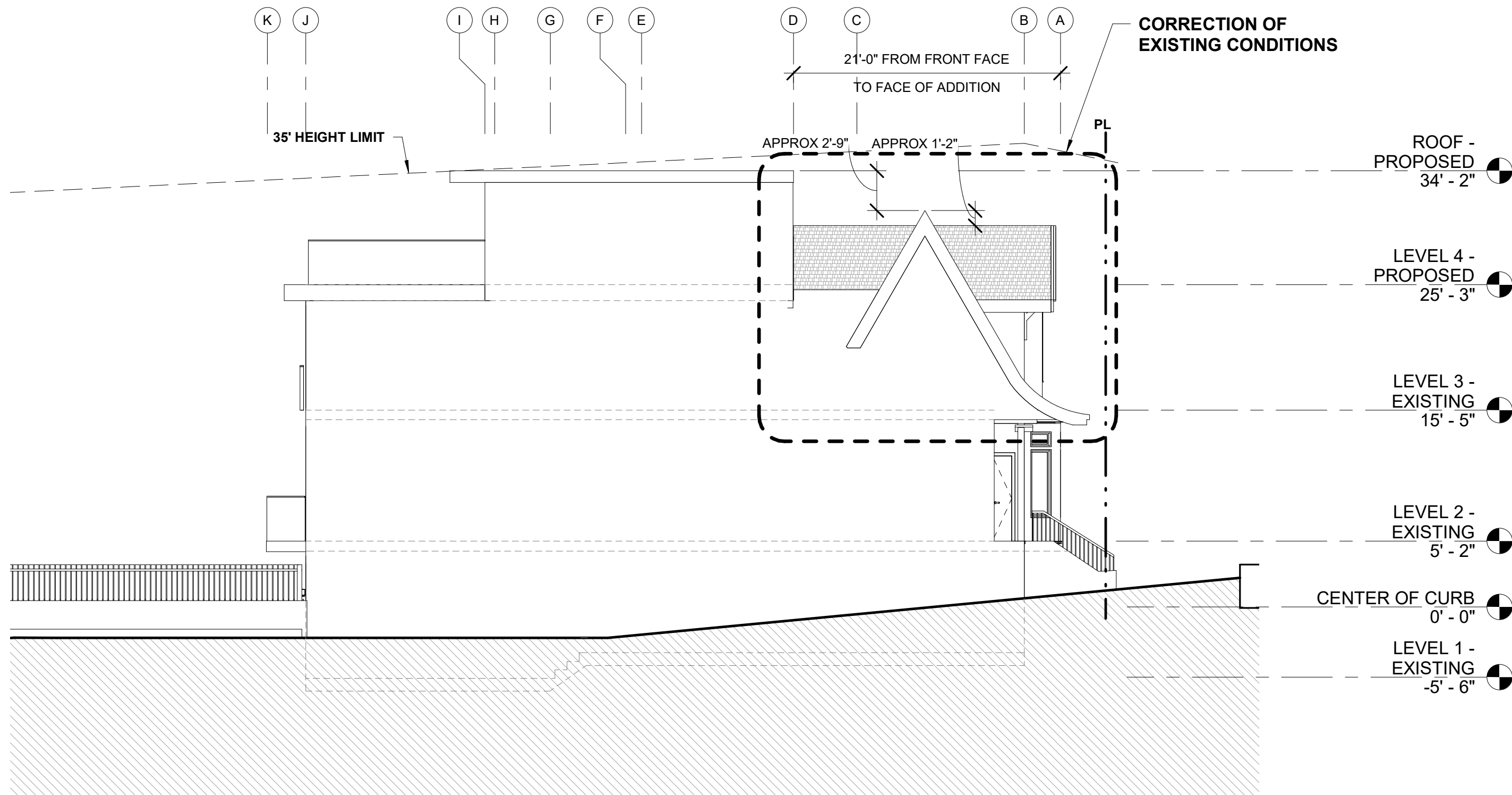


4 PREVIOUSLY APPROVED - NORTH ELEVATION - NO CHANGE IN VOLUME FROM APPROVED
1/8" = 1'-0"

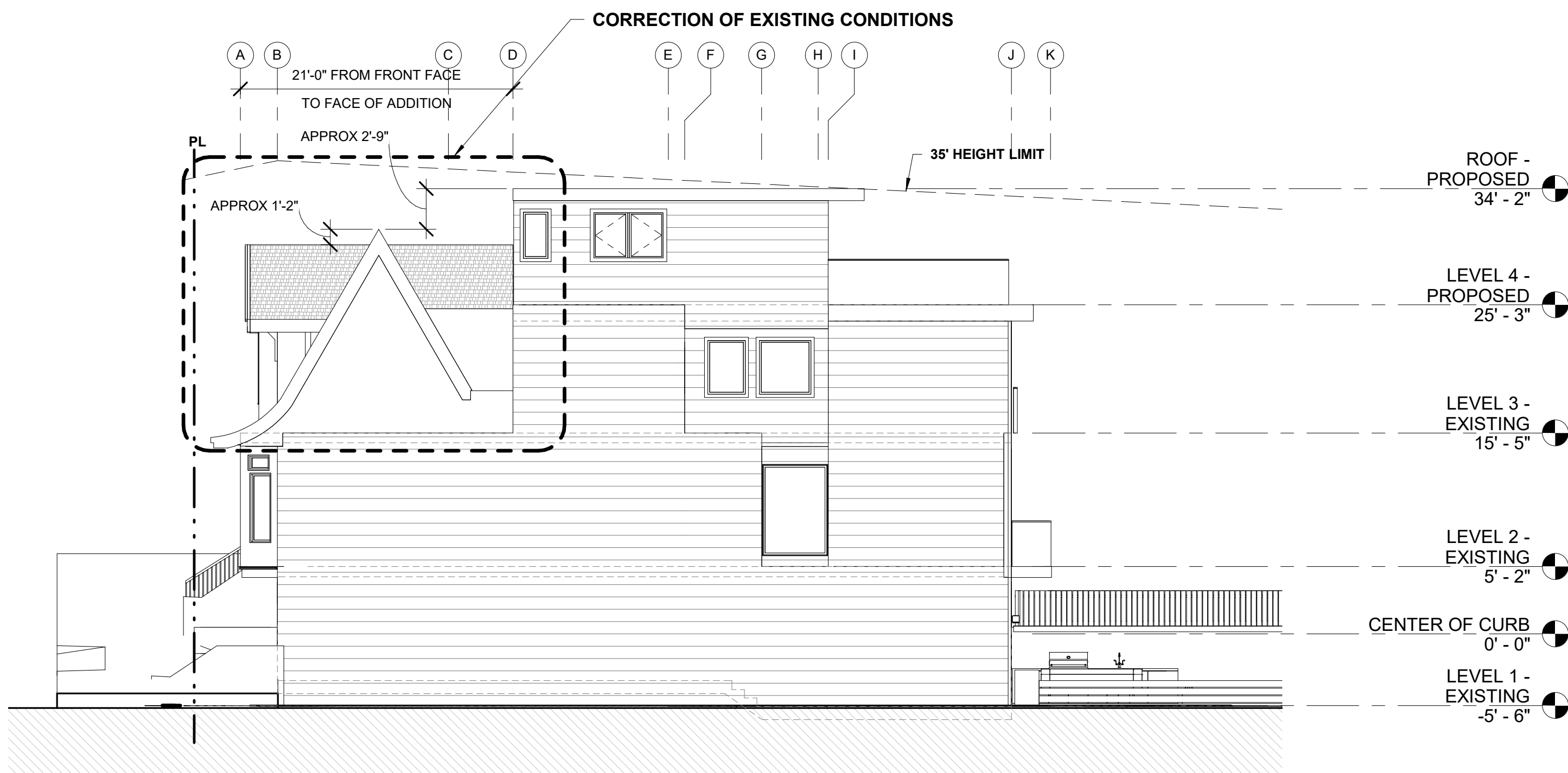


3 PREVIOUSLY APPROVED - SOUTH ELEVATION
1/8" = 1'-0"

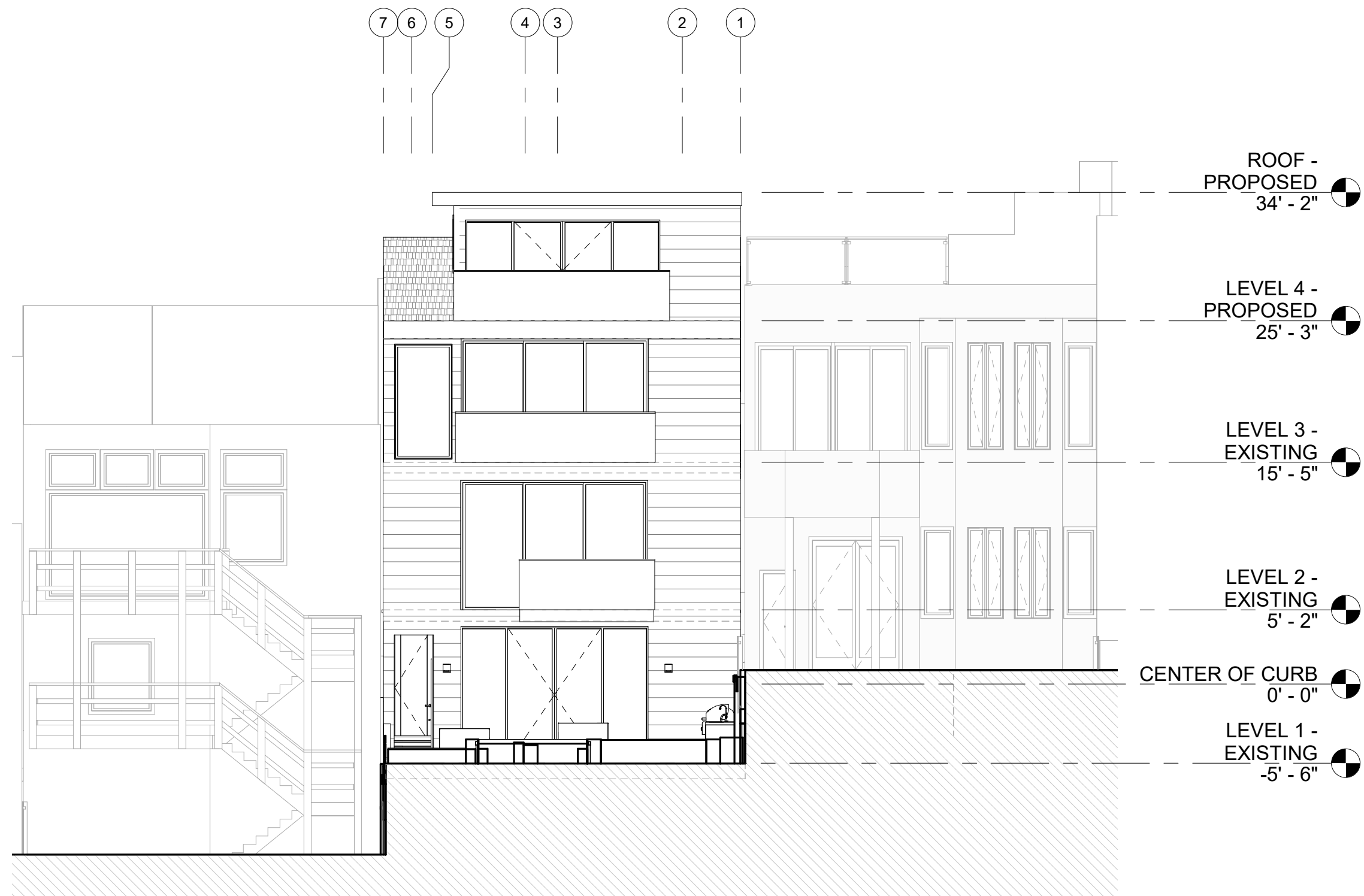
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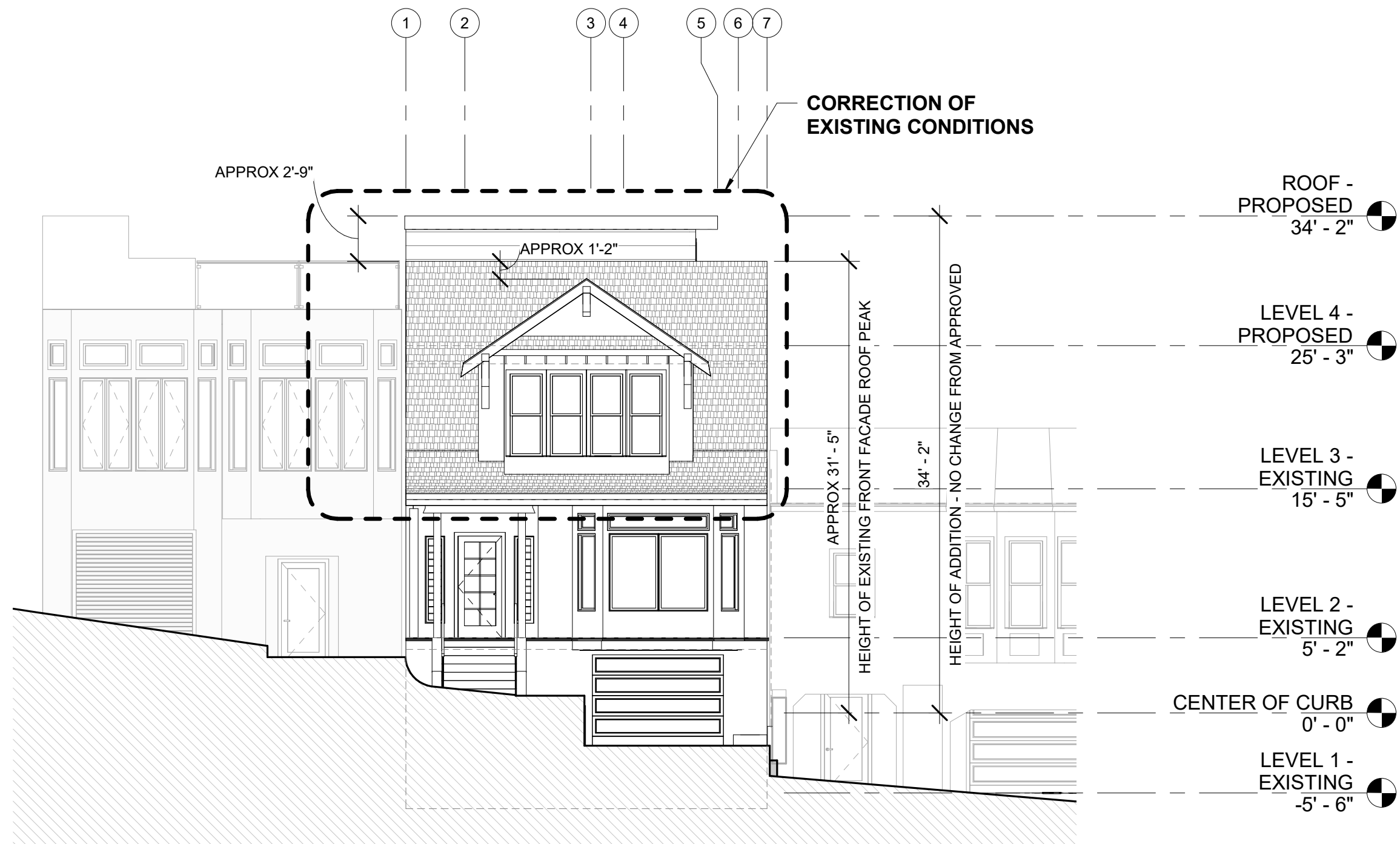
2 PROPOSED - WEST ELEVATION
1/8" = 1'-0"



1 PROPOSED - EAST ELEVATION
1/8" = 1'-0"

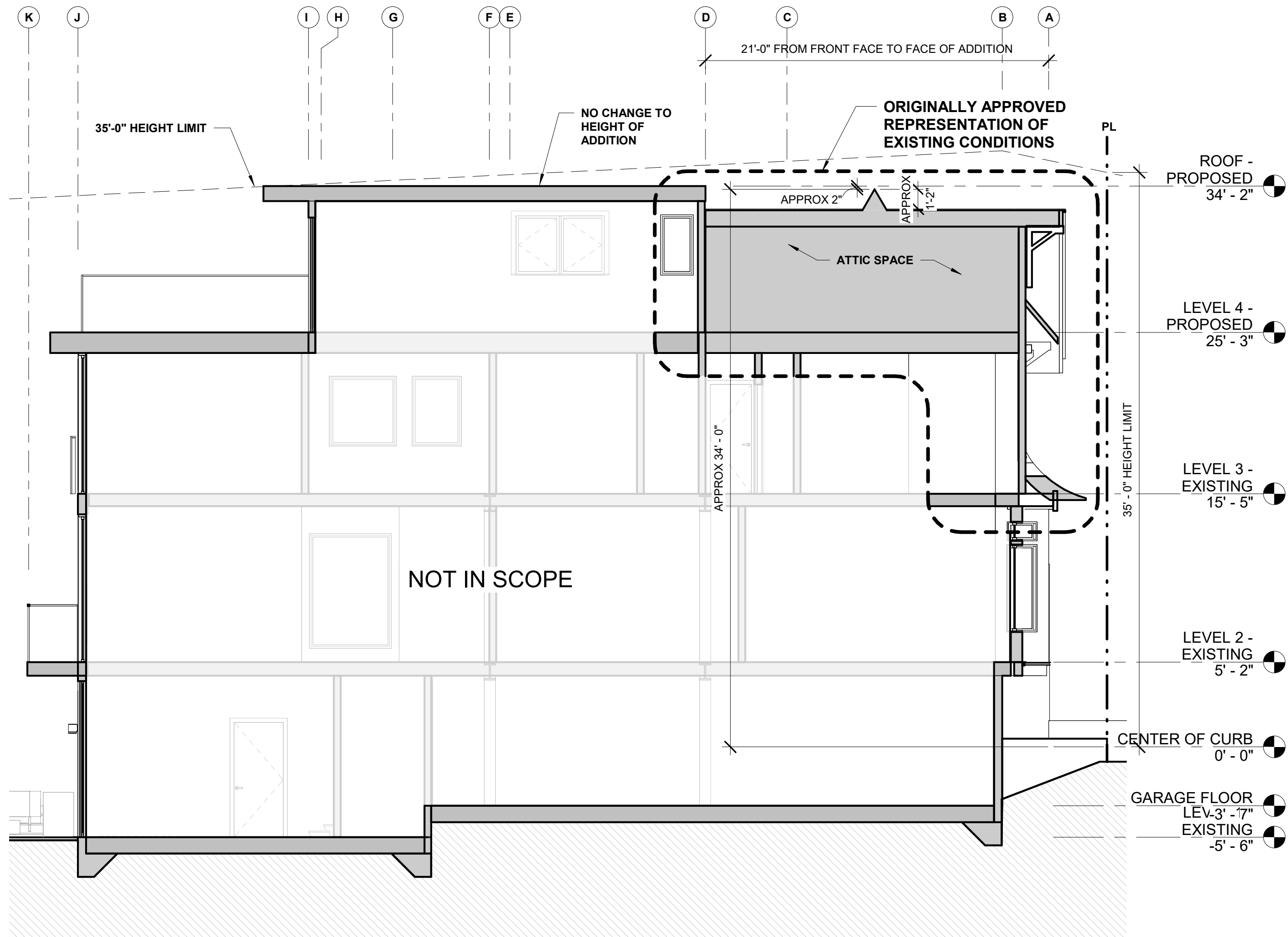


4 PROPOSED - NORTH ELEVATION - NO CHANGE IN VOLUME FROM APPROVED
1/8" = 1'-0"

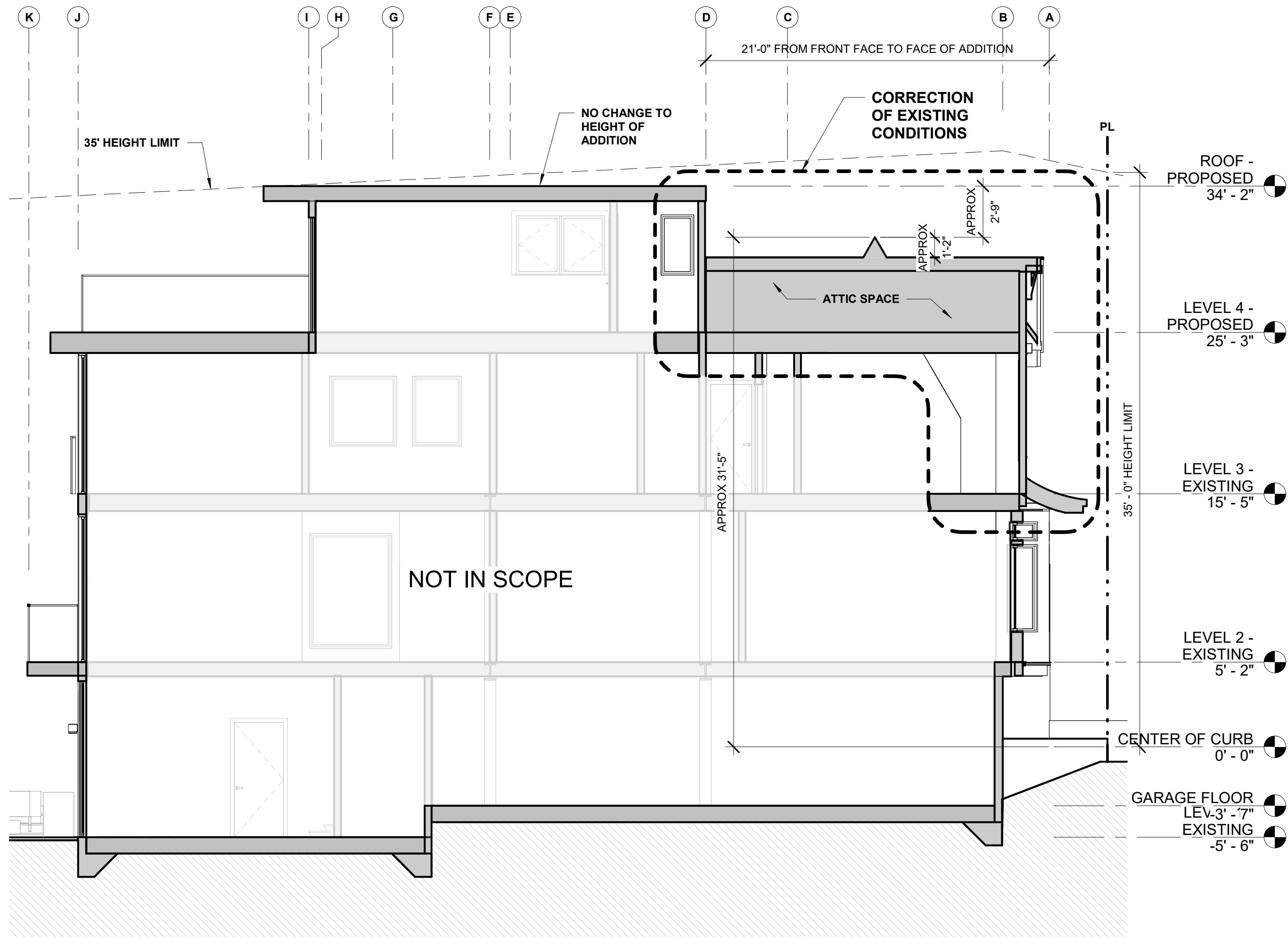


3 PROPOSED - SOUTH ELEVATION
1/8" = 1'-0"

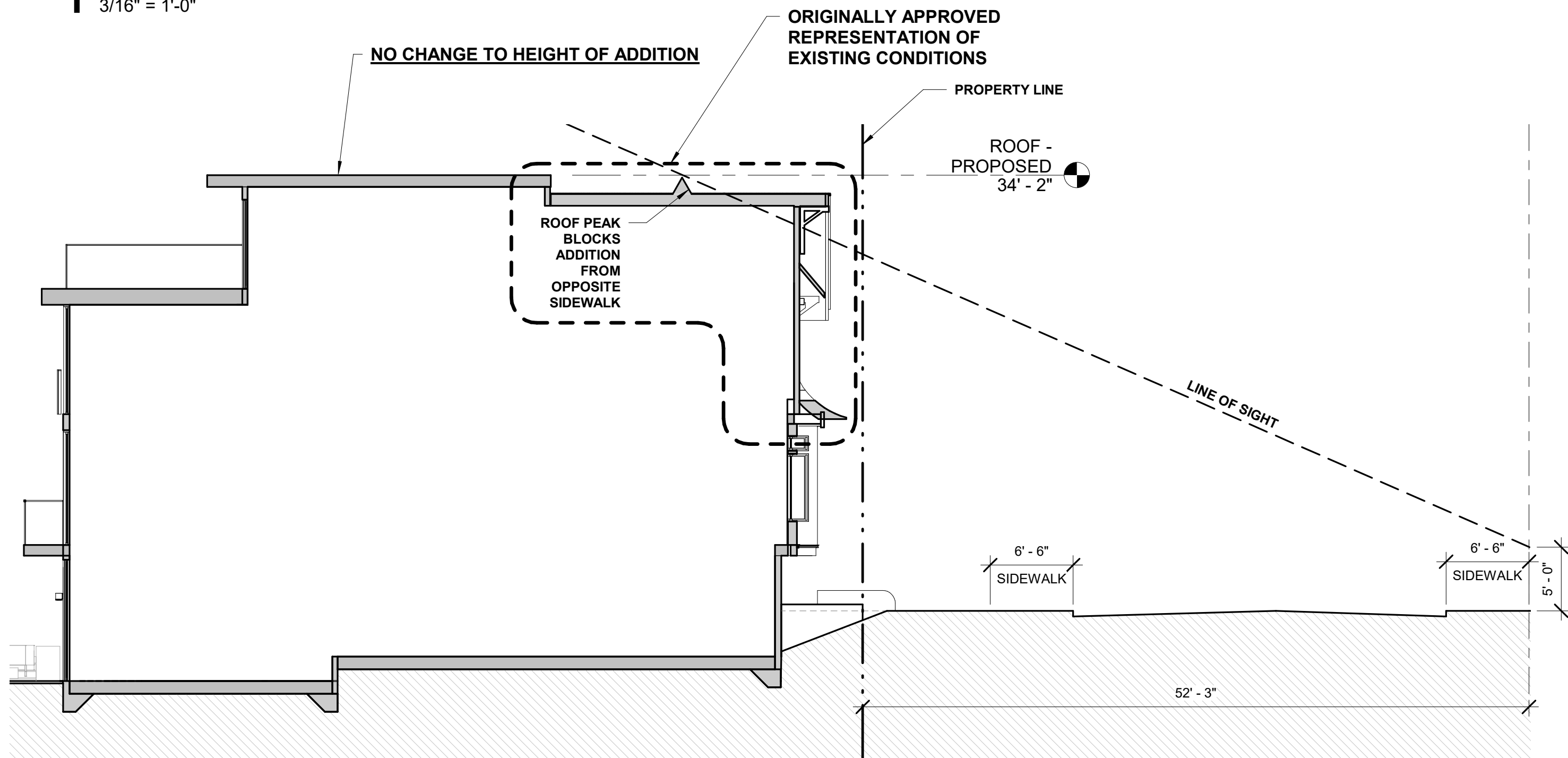
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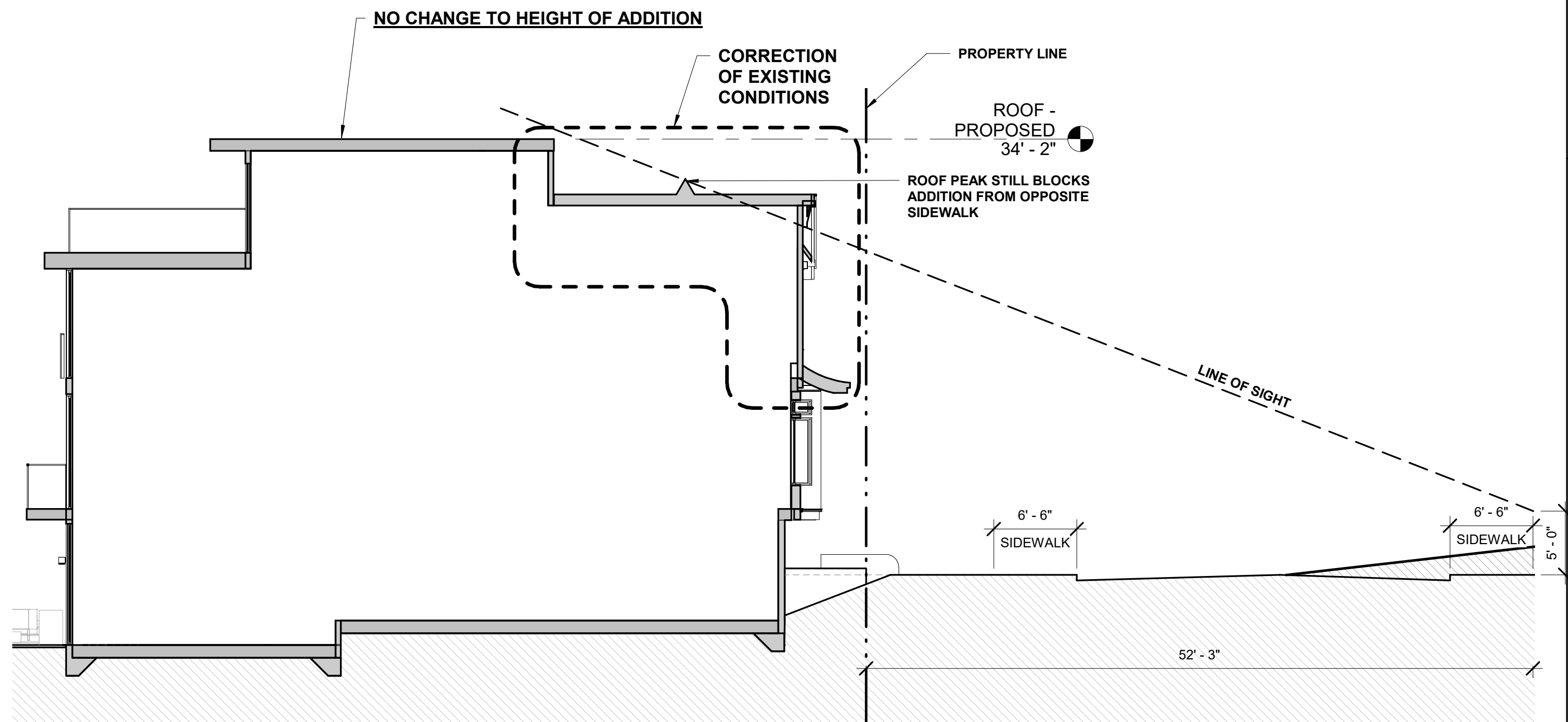
1 PREVIOUSLY APPROVED - SECTION
3/16" = 1'-0"



2 PROPOSED - SECTION
3/16" = 1'-0"



3 PREVIOUSLY APPROVED - SECTION VISIBILITY STUDY
1/8" = 1'-0"



4 PROPOSED - SECTION VISIBILITY STUDY
1/8" = 1'-0"

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